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Presidential Documents

Title 3—

The President

Presidential Determination No. 82-17 of June 2, 1982

Determination under subsection 402 (d)(5) and (d)(5)(C) of the Trade Act of 1974—Continuation of Waiver Authority

Memorandum for the Secretary of State

Pursuant to the authority vested in me under the Trade Act of 1974, (Public Law 93-618, January 3, 1975; 88 Stat. 1978) (hereinafter "the Act"), I determine, pursuant to subsection 402 (d)(5) and (d)(5)(C) of the Act, that the further extension of the waiver authority granted by subsection 402(c) of the Act will substantially promote the objectives of Section 402 of the Act. I further determine the continuation of the waivers applicable to the Socialist Republic of Romania, the Hungarian People's Republic and the People's Republic of China will substantially promote the objectives of Section 402 of the Act.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, June 2, 1982.

[FR Doc. 83-2469
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department to reflect the abolishment of the Marketing and Inspection Management Staff, and the transfer of the functions of that Staff to the Administrator, Agricultural Marketing Service.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Hooper, Administrative Services Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C., (202) 447–4906.

SUPPLEMENTARY INFORMATION: This document removes the delegations of authority to the Director, Marketing and Inspection Management Staff. The function of providing management support services for the Federal Grain Inspection Service, the Office of Transportation, the Agricultural Cooperative Service, and the Packers and Stockyards Administration, will be provided by the Administrator, Agricultural Marketing Service.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**.

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations—Government agencies.

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, 7 CFR Part 2 is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise noted.

2. Section 2.50 is amended by adding a new paragraph (a)(8) to read as follows:

§ 2.50 Administrator, Agricultural Marketing Service.

(a) * * *

(8) Provide management support services for the Federal Grain Inspection Service, the Office of Transportation, the Agricultural Cooperative Service, and the Packers and Stockyards Administration as agreed upon by the agencies with authority to take actions required by law or regulation. As used herein, the term management support services includes budget, finance, personnel, procurement, property management, communications, paperwork management, ADP support, and related administrative services.

* * * * *

§ 2.57 [Reserved]

3. Section 2.57 is removed and reserved.

Dated: January 19, 1983.

C. W. McMillan,

Assistant Secretary for Marketing and Inspection Services.

Dated: January 19, 1983.

Concurred:

John R. Block,

Secretary of Agriculture.

[FR Doc. 83–2198 Filed 1–26–83; 8:45 am]
BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

7 CFR Part 371

Organization, Functions, and Delegations of Authority

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of organization of the Animal and Plant Health Inspection Service by expanding the functions of the Deputy Administrator for Veterinary Services to include responsibility for the administration of international programs as well as national programs to protect the health of the Nation's livestock and poultry resources; to make certain editorial changes in functions of the National Brucellosis Eradication Program; and to include responsibility for EEO and Civil Rights activities in the functional statement for the Deputy Administrator for Management.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, USDA, 6505 Belcrest Rd., Hyattsville, MD 20782 (301–436–6466).

SUPPLEMENTARY INFORMATION: The changes included in this document are basically editorial. The Deputy Administrator for Veterinary Services (VS) has traditionally had the responsibility for all VS programs and related activities. This document clarifies the responsibility of the Deputy Administrator to include international programs to protect the health of the Nation's livestock and poultry as well as the more traditional national animal disease programs. The responsibility for developing objectives, policies and procedures for the National Brucellosis Eradication Program is not seen as a separate functional element but as part of the overall planning and formulation of policies, programs and activities as they affect the national effort to eradicate Brucellosis. By removing § 371.4(d)(4), the entire function is fully described by § 371.4(d)(1). Finally, the responsibility for EEO and Civil Rights activities, transferred from the Office of the Administrator to the Human Resources Division (47 FR 19961, May 10, 1982), is included in the functional

responsibilities of the Deputy Administrator for Management, who provides administrative direction to the Human Resources Division.

This rule relates to internal agency management, and therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of E.O. 12291. Finally, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 371

Organization and functions (Government agencies).

PART 317—ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Accordingly, 7 CFR Part 371 is amended as follows:

1. The authority citation for Part 371 reads as follows:

Authority: 5 U.S.C. 301.

2. Section 371.2 is amended by revising the introductory text of paragraph (d)(2) and by revising paragraph (e)(2) to read as follows:

§ 371.2 The Office of the Administrator.

* * * * *

(d) * * *

(2) Planning, providing leadership, formulating and coordinating policies, issuing regulations (including quarantines) pursuant to laws, and directing the administration of the national and international programs to protect the health of the Nation's livestock and poultry resources, assuring quality and safety of veterinary biologics, and providing for the welfare and humane treatment of certain animals, and related activities involving:

* * * * *

(e) * * *

(2) Planning, providing leadership, formulating and coordinating policies, and directing administrative management support functions of the Agency, including EEO and Civil Rights, budget and finance, personnel, administrative services, and automated data processing activities.

* * * * *

3. Section 371.4 is amended by removing and reserving paragraph (d)(4).

§ 371.4 Veterinary services.

* * * * *

(d) * * *

(4) [Reserved]

Issued at Washington, D.C., this 12th day of January 1983.

Harry C. Mussman,

Administrator.

[FR Doc. 83-2305 Filed 1-26-83; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 563]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 28, 1983—February 3, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202-447-5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982-83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on January 25, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make these regulatory provisions effective as specified, and handlers have been appraised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

1. Section 907.863 is added as follows:

§ 907.863 Navel Orange Regulation 563.

The quantities of navel oranges grown in California and Arizona which may be handled during the period January 28, 1983 through February 3, 1983, are established as follows:

(1) District 1: 1,550,000 cartons;

(2) District 2: Unlimited cartons;

(3) District 3: Unlimited cartons;

(4) District 4: Unlimited cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 26, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-1719 Filed 1-26-83; 12:52 pm]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CEF-13-AD; Amendment 39-4551]

DeHavilland Model DHC-3 (Military U-IA) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to DeHavilland Model DHC-3 (Military U-IA) airplanes which requires inspection and, if necessary, rework and replacement of the wing strut to fuselage tire-bar lugs. One case of internal corrosion in the tie-bar and several cases of corrosion in the external lug area of the tie-bar have been reported. The inspections will detect corrosion damage, allowing rework and replacement before this damage reduces the structural integrity of the tie-bar assembly sufficiently to cause failure.

EFFECTIVE DATE: February 3, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: DeHavilland Service Bulletin S/B No. 3/37 Revision "A" dated May 14, 1982, applicable to this AD may be obtained from DeHavilland Aircraft of Canada, Limited, Downsview, Ontario, Canada M3Y 145. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles Birkenholz, FAA, New England Region, New York Aircraft Certification Office, ANE-172, 181 South Franklin Avenue, Valley Stream, New York 11581 (516) 791-6220.

SUPPLEMENTARY INFORMATION: Several DeHavilland Model DHC-3 airplanes were found in service with corrosion on the wing strut to fuselage attachment tie-bar assembly. The corrosion is predominantly in the external lug area with one instance of corrosion within the tie-bar in the internal channel section under the cabin floor. The corrosion was determined to be aggravated by a saltwater environment. DeHavilland issued Service Bulletin S/B No. 3/37 in January 1982 with a revision (Revision "A") in May 1982 to provide for annual inspection of these areas. This service bulletin provides for inspection and rework of both the tie-bar and the tie-bar lugs and requires replacement if the rework results in removal of material beyond established limits. This special annual inspection has been incorporated into the DHC-3 maintenance manual. DOT, Transport Canada issued AD-CF-82-26 effective September 30, 1982, requiring these inspections, rework and replacement.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring inspection and rework and replacement, as necessary, of the tie-bar and tie-bar lugs on DeHavilland Model DHC-3 (Military U-IA) airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

DeHavilland: Applies to Model DHC-3 (Military U-IA) airplanes certificated in any category.

Compliance: Required within 30 days after the effective date of this AD unless already accomplished in the last 11 months, and at intervals not to exceed each 12 months thereafter, unless already accomplished.

To prevent corrosive deterioration of the wing strut to fuselage attachment structure, accomplish the following:

(a) Visually inspect each wing strut tie-bar for internal corrosion in accordance with paragraph 5 in the Inspection Section of Service Bulletin S/B No. 3/37 Rev. "A" dated May 14, 1982 (hereinafter referred to as the Service Bulletin).

(1) If no corrosion is found, proceed to the inspection specified in paragraph (b) of this AD.

(2) If evidence of corrosion is found, prior to further flight, remove corrosion, check for depth of corrosion and inspect for cracks using dye penetrant methods as prescribed in paragraph 6 of the Replacement Section of the Service Bulletin.

i. If corrosion is within limits and no cracks are evident, proceed to the inspection in paragraph (b) of this AD.

ii. If corrosion exceeds limits, or cracks are evident, replace the tie-bar with an airworthy part in accordance with the Replacement Section of the Service Bulletin.

(b) Visually inspect all tie-bar lugs for corrosion in accordance with paragraph 9 of the Inspection Section of the Service Bulletin.

(1) If no corrosion is found and paragraph (a) of this AD has been complied with, the airplane may be returned to service.

(2) If evidence of corrosion is found, prior to further flight, remove corrosion, check lug minimum thickness and, using a dye penetrant, check lug for cracks in accordance with paragraphs 9 through 11 of the Inspection Section of the Service Bulletin.

i. If lug minimum thickness is within limits and no cracks were found and paragraph (a) of this AD above has been complied with, the airplane may be returned to service.

ii. If lug minimum thickness does not meet minimum specified thickness or, if cracks are found, prior to further flight, replace the tie-bar in accordance with the Replacement Section of the Service Bulletin.

(c) The airplane may be flown in accordance with FAR 21.197 to a location where the requirements of this AD may be accomplished.

(d) An equivalent method of compliance with this AD may be used if approved by the Manager, New York Aircraft Certification Office, ANE-170, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

This amendment becomes effective on February 3, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on January 18, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-2204 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASW-73]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area and Control Zone: Hot Springs, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area and control zone at Hot Springs, AR. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAP's) to Memorial Field. This amendment is necessary since a review of the designated airspace revealed that it is improperly described and in some cases excessive for the protection of aircraft.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On November 22, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 52467) stating that the Federal Aviation Administration proposed to alter the Hot Springs, AR, transition area and control zone. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, and Subpart F of Part 71, § 71.171, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 GMT, April 14, 1983, as follows:

Subpart G 71.181:

Hot Springs, AR, Revised

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Memorial Field (latitude 34°28'41" N., longitude 93°05'46" W.) and within 5 miles each side of the 235° bearing of the LOM extending from the 8.5-mile radius area to 16 miles southwest of the LOM.

Subpart F 71.171:

Hot Springs, AR; Revised

Within a 5-mile radius of Memorial Field (latitude 34°28'41" N., longitude 93°05'46" W.) and within 2.5 miles each side of the Hot Springs VOR 242° radial extending from the 5-mile radius area to 7 miles southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on January 19, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-2162 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASO-56]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone, Anderson, South Carolina; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects the description of the amended Anderson, South Carolina, control zone. The final rule published in the **Federal Register** (47 FR 57486) on Monday, December 27, 1982, altered the Anderson, South Carolina, control zone by correcting the geographical coordinates of the Anderson County Airport. When the control zone was redefined, the geographical coordinates of the airport were erroneously listed. The purpose of this amendment is to correct the defectively written description. Since this action is editorial in nature, further notice and public procedure are not necessary. The effective date of this correction coincides with the effectivity of the original amendment. To avoid confusion, the complete description, as corrected, is presented in the text of this corrective amendment.

EFFECTIVE DATE: 0901 G.m.t., February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

SUPPLEMENTARY INFORMATION:

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., February 17, 1983, as follows:

Anderson County Airport, SC—Amended

By deleting the words, ". . . (latitude 34°29'40" N., longitude 82°42'30" W.) . . ." and ". . .171". . .", and substituting for them the words, ". . . (Lat. 34°29'42" N., Long. 82°42'33" W.) . . ." and ". . .176". . .".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a

substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on January 14, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-2037 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ANM-7]

Revise Control Zone; Salem, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule revises the control zone to provide controlled airspace for aircraft executing instrument approaches to McNary Field, Salem, Oregon. The intended effect of this action is to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace & Procedures Specialist, ANM-534, FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The telephone number is (206) 433-1640.

SUPPLEMENTARY INFORMATION:

Additional control zone airspace is required to accommodate the current ILS Runway 31 and NDB Runway 31 standard instrument approach procedures at McNary Field, Salem, Oregon. The area will be shown on aeronautical charts which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule conditions.

History

On page 50502 of the Federal Register dated November 8, 1982, the FAA proposed to amend § 71.171 of the Federal Aviation Regulations (14 CFR Part 71) so as to revise the control zone at McNary Field, Salem, Oregon.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Control zone, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., April 14, 1983, as follows:

"Within a 5 mile radius of McNary Field, Salem, Oregon. Latitude 44°54'36" N., Longitude 123°00'05" W.; and within 3 miles each side of the Salem ILS localizer SE course, extending from the 5 mile radius zone to 8.5 miles SE of the LOM; within 4 miles each side of the Salem ILS localizer NW course, extending from the 5 mile radius zone to 15 miles NW of the airport."

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); (Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (14 FR 11034, February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington on January 14, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-2032 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 291

[Economic Reg. Amdt. No. 11, Reg. ER-1317]

Domestic Cargo Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule; editorial amendment.

SUMMARY: This rule makes an editorial correction in the CAB's rules for filing applications for all-cargo certificates. The correction conforms the filing fee amount in those rules to the CAB's recently revised filing fee schedule.

DATES: Effective: January 21, 1983. Adopted: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION:

On December 16, 1982, the Board adopted a revised filing fee schedule (OR-204), 48 FR 635, January 6, 1983). That schedule set forth fees to be charged for services performed by the Board primarily for the benefit of private persons. The schedule was effective January 10, 1983.

The filing fee for certificate applications is listed as $250 in 14 CFR Part 291. In the revised schedule, the fee has been changed to $670.

This rule changes 14 CFR Part 291 to conform to the revised fee schedule.

List of Subjects in 14 CFR Part 291

Air carriers, Antitrust, Freight, Insurance, Reporting requirements.

PART 291—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 291, *Domestic Cargo Transportation*, as follows:

1. The authority for Part 291 is:

Authority: Secs. 102, 204, 401, 407, 408, 416, and 418, Pub. L. 85-726, as amended; 72 Stat. 740, 743, 754, 766, 767, 771, 91 Stat. 1284; 49 U.S.C. 1302, 1324, 1371, 1377, 1378, 1386, and 1388.

2. The opening language to § 291.11 is revised to read:

§ 291.11 Form and content of application.

An original and six copies, typed on 8½ x 11-inch paper, shall be filed with the Docket Section, Office of the Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. The application may be mailed or delivered to Room 714, 1825 Connecticut Avenue, N.W., Washington, D.C. The application shall be conspicuously titled "Section 418 Application," and shall be accompanied by a check or money order payable to the Civil Aeronautics Board, in the amount of $670. The original of the application shall be manually signed and dated by the applicant, or by an authorized officer, partner, trustee, etc., of the applicant. The application shall contain all of the following information:

* * * * *

By the Civil Aeronautics Board.

Ivars V. Mellups,

Acting General Counsel.

[FR Doc. 83-2144 Filed 1-26-83; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 298

[Economic Reg. Amdt. No. 24, Reg. ER-1318]

Exemption for Air Taxi Operations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule; editorial amendment.

SUMMARY: This rule makes an editorial correction in the CAB's rules for filing air taxi registrations with respect to the fee required for filing. The correction conforms the stated fee in this part of the rules to the CAB's revised filing fee schedule.

DATES: Effective: January 21, 1983. Adopted: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION:

On December 16, 1982, the Board adopted a revised filing fee schedule (OR–204, 48 FR 635, January 6, 1983). That schedule set forth fees to be charged for services performed by the Board primarily for the benefit of private persons. The schedule was effective January 10, 1983.

The registration filing fee for noncommuter registration in the revised schedule is $8, while the fee for commuter registration is $670. The fee is listed in 14 CFR Part 298 as $15.

This rule changes 14 CFR Part 298 to conform to the revised fee schedule.

List of Subjects in 14 CFR Part 298

Air taxis, Alaska, Antitrust, Consumer protection, Insurance, Reporting requirements.

PART 298—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 298, *Exemptions for Air Taxi Operators*, as follows:

1. The authority for Part 298 is:

Authority: Secs. 204, 401, 407, 416, 418, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 766, 771; 91 Stat. 1284; 49 U.S.C. 1324, 1371, 1377, 1386, 1388.

2. Section 298.21(c)(3) is revised to read:

§ 298.21 Filing for registration by air taxi operators.

* * * * *

(c) * * *

(3) An 8 (in the case of commuters, 670) dollar registration filing fee in the form of a check, draft, or postal money order payable to the Civil Aeronautics Board.

* * * * *

By the Civil Aeronautics Board

Ivars V. Mellups,

Acting General Counsel.

[FR Doc. 83–2145 Filed 1–26–83; 8:45 am]

BILLING CODE 6320–01–M

14 CFR Part 385

[Organization Reg. Amdt. No. 131, Reg. OR–207]

Delegations and Review of Action Under Delegation: Nonhearing Matters; Amendment of Delegations of Authority to the Chief, Information Management Division, Office of the Comptroller

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In ER–1319, issued simultaneously, the CAB established a limited period of confidential treatment for individual carrier fuel data reported on CAB Form 41 Schedule P–12(a). The CAB is delegating to the Chief, Information Management Division, Office of the Comptroller, the authority to grant or deny requests for these restricted fuel data in accordance with the guidelines contained in ER–1319.

DATES:

Adopted: January 12, 1983.
Effective: April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Jack M. Calloway or M. Clay Moritz, Jr., Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–6042.

SUPPLEMENTARY INFORMATION: In ER–1319, also adopted today, the CAB established a new procedure to withhold from public disclosure, for a limited period of time, fuel data reported by certificated air carriers on a revised CAB Form 41 Schedule P–12(a) "Fuel Consumption by Type of Service and Entity." In the same rule, the Board also established certain guidelines under which individual air carrier fuel data may be released before the end of the confidential treatment period. For the reasons stated in ER–1319, the CAB delegates authority to the Chief, Information Management Division, Office of the Comptroller, to grant or deny requests for data reported by certificated air carriers on Schedule P–12(a).

Since this amendment is administrative in nature, affecting rules of agency organization and procedure, we find that notice and public procedure are unnecessary.

List of Subjects in 14 CFR Part 385

Administrative practice and procedure, Authority delegations.

PART 385—[AMENDED]

Accordingly, the Board amends 14 CFR Part 385, *Delegation and Review of Action Under Delegation; Nonhearing Matters*, as follows:

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771, 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386; Reorganization Plan No. 3 of 1961, 26 FR 5989.

2. A new paragraph (i) is added to § 385.28, to read:

§385.28 Delegation to the Chief, Information Management Division, Office of the Comptroller.

The Board delegates to the Chief, Information Management Division, Office of the Comptroller, the authority to:

* * * * *

(i) Grant or deny requests for individual air carrier fuel data in accordance with the limitations on the availability of these data contained in paragraph (k) of the reporting instructions for Schedule P–12(a), which are contained in Section 24 of Part 241 of this chapter.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–2313 Filed 1–26–83; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 30120–13]

Amendments to the Commodity Control List

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final Rule.

SUMMARY: This rule, which neither expands nor limits the provisions of the Export Administration Regulations, amends the Commodity Control List (Supplement No. 1 to § 399.1) by amending two entries to conform their provisions with the rest of the Regulations regarding the export of medicines and medical supplies to Libya. Another entry is removed because its provisions are covered elsewhere in the CCL.

EFFECTIVE DATE: This rule is effective January 27, 1983. Although there is no formal comment period, public comments on this rule are welcome.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters'

Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–4811).

SUPPLEMENTARY INFORMATION: This rule amends the following entries of the Commodity Control List:

a.) Entry 6799G is amended by revising the "Validated License Required" provisions concerning the export of medicines and medical supplies to Libya.

b.) Entry 5994G is removed because its provisions are covered elsewhere in the Commodity Control List.

c.) Entry 6999G is amended by revising the "Validated License Required" provisions concerning exports to Libya under General License *G–DEST*.

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 399

Exports.

PART 399—[AMENDED]

Accordingly, Supplement No. 1 to § 399.1 of 15 CFR Part 399 of the Export Administration Regulations are amended as follows:

1. The "Validated License Required" paragraph of CCL Entry 6799G is revised to read as follows:

6799G * * *

Controls for ECCN 6799G: * * *

Unit: * * *

Validated License Required: Country Groups SZ, except that a validated license is not required for exports to Libya (Country Group S) of medicines and medical products.

* * * * *

5994G [Removed]

2. CCL Entry 5994G is removed.

3. CCL Entry 6999G is amended by revising the "Validated License Required" paragraph to read as follows:

6999G * * *

Controls for ECCN 6999G * * *

Unit: * * *

Validated License Required: Country Groups SZ. Food, agricultural commodities, and medical supplies may be exported to Country Group S under General License *G–DEST*.

* * * * *

(Secs. 6, 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980))

Dated: January 5, 1983.

John K. Boidock,

Director, Office of Export Administration International Trade Administration.

[FR Doc. 83–2165 Filed 1–26–83; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80–53]

Ceiling Prices; Maximum Lawful Prices and Inflation Adjustment Factors

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 357.307(l), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of February, March and April 1983. Section 101(b)(6) of the NGPA requires that the Commission compute and

publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Director, OPPR, (202) 357–8500.

SUPPLEMENTARY INFORMATION:

In the matter of publication of prescribed maximum lawful prices under the Natural Gas Policy Act of 1978.

Issued: January 20, 1983.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(l) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of February, March and April 1983 are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103, 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to February 1983 are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

§ 271.101 [Amended]

1. Section 271.101(a) is amended by inserting the maximum lawful prices for February, March and April 1983 in Tables I and II.

§ 271.102 [Amended]

2. Section 271.102(c) is amended by inserting the inflation adjustment for the months of February, March and April 1983 in Table III.

TABLE I.—NATURAL GAS CEILING PRICES (OTHER THAN NGPA §§ 104 AND 106(a))

Subpart of part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for deliveries in		
			February 1983	March 1983	April 1983
B	102	New natural gas, certain OCS gas	$3.321	$3.344	$3.367
C	103	New, onshore production wells	2.732	2.742	2.752
F	106(b)(1)(B)	Alternative maximum lawful price for certain intrastate rollover gas.	1.559	1.565	1.671
G	107(c)(5)	Gas produced from tight formations	5.464	5.484	5.504
H	108	Stripper gas	3.559	3.583	3.607
I	109	Not otherwise covered	2.262	2.270	2.278

TABLE II.—NATURAL GAS CEILING PRICES: NGPA §§ 104 AND 106(a) (SUBPART D, PART 271)

Category of natural gas	Type of sale or contract	Maximum lawful price per MMBtu for deliveries made in		
		February 1983	March 1983	April 1983
Post-1974 gas	All producers	$2.262	$2.270	$2.278
1973–74 biennium gas	Small producer	1.915	1.922	1.929
	Large producer	1.464	1.469	1.474
Interstate rollover gas	All producers	840	843	846
Replacement contract gas or recompletion gas	Small producer	1.076	1.080	1.084
	Large producer	822	825	828
Flowing gas	Small producer	541	543	545
	Large producer	459	461	463
Certain Permian Basin gas	Small producer	642	644	646
	Large producer	564	566	568
Certain Rocky Mountain gas	Small producer	642	644	646
	Large producer	541	543	545
Certain Appalachian Basin gas	North subarea contracts dated after October 7, 1969.	510	512	514
	Other contracts	477	479	481
Minimum rate gas [1]	All producers	281	282	283

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

TABLE III.—INFLATION ADJUSTMENT

Month of delivery 1983	Factor by which price in preceding month is multiplied
February	1.00367
March	1.00367
April	1.00367

[FR Doc. 83-2064 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 282

[Docket No. RM79-14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357-8500.

SUPPLEMENTARY INFORMATION:

Issued: January 21, 1983

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(l) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of February 1983 is issued by the publication of a price table for the applicable month.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	January	February	March	April	May	June	July	August	September	October	November	December
Calendar Year 1980												
Incremental pricing threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA section 102 threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	[illegible]	2.614	2.640
NGPA section 109 threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130 pct of No. 2 fuel oil in New York City threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.580
Calendar Year 1981												
Incremental pricing threshold	$1.891	$1.908	$1.925	$1.942	$1.954	$1.967	$1.980	$1.990	$2.000	$2.010	$2.025	$2.041
NGPA section 102 threshold	2.667	2.698	2.729	2.761	2.787	2.813	2.840	2.863	2.886	2.909	2.940	2.971
NGPA section 109 threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130 pct of No. 2 fuel oil in New York City threshold	7.610	7.760	8.260	9.010	9.510	9.430	9.360	[illegible]	8.860	8.700	8.930	[illegible]
Calendar Year 1982												
Incremental pricing threshold	$2.057	$2.071	$2.085	$2.099	$2.106	$2.113	$2.120	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
NGPA section 102 threshold	3.003	3.033	3.063	3.093	3.112	3.132	3.152	3.176	3.200	3.224	3.249	3.274
NGPA section 109 threshold	2.128	2.143	2.158	2.173	2.180	2.187	2.194	2.204	2.214	2.224	2.234	2.244
130 pct of No. 2 fuel oil in New York City threshold	9.180	9.340	9.470	9.340	9.280	[illegible]	8.170	8.670	8.660	8.950	8.640	8.890
Calendar Year 1983												
Incremental pricing threshold	$2.179	$2.187										
NGPA section 102 threshold	3.299	3.321										
NGPA section 109	2.254	2.262										
130 pct of No. 2 fuel oil in New York City threshold	9.420	9.320										

[FR Doc. 83-2065 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2616

Notice of Intent To Terminate for Non-Multiemployer Pension Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is a revision of the Notice of Intent to Terminate regulation. It prescribes a new method of filing the statutory Notice of Intent to Terminate for non-multiemployer pension plans covered under the plan termination insurance program of Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"). This amendment is necessary because the Pension Benefit Guaranty Corporation ("PBGC") and the Internal Revenue Service ("IRS") have developed a joint form and a simplified procedure for a plan administrator to follow when terminating a nonmultiemployer pension plan that is covered under Title IV of ERISA and when seeking a determination of qualification from the IRS. It is expected that the use of this form will simplify and lessen the filing obligations of non-multiemployer defined benefit pension plans covered under Title IV of ERISA. In conjunction with the issuance of this rule, the Internal Revenue Service is issuing a Revenue Procedure further explaining the new coordinated filing requirements.

EFFECTIVE DATE: February 28, 1983.

FOR FURTHER INFORMATION CONTACT: William E. Seals, Deputy Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202–254–4895. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1979, the Pension Benefit Guaranty Corporation ("PBGC") published for comment in the **Federal Register**, 44 FR 43405, a proposal to revise its regulation governing the filing of the statutory Notice of Intent to Terminate required by section 4041(a) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1341(a), as amended. This regulation finalizes the proposal and implements the use of the revised Form 5310 for terminating non-multiemployer plans. The rule and form have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. Chapter 35, OMB No. 1212–0012.

The proposal published in 1979 introduced a concept known as "one-stop service", a procedure devised by PBGC and the Internal Revenue Service ("IRS") to reduce the filing requirements imposed by ERISA upon plan administrators. Central to this concept was the introduction of a revised Form 5310, "Application for Determination upon Termination; Notice of Merger, Consolidation, or Transfer of Plan Assets or Liabilities; Notice of Intent to Terminate", developed jointly by the PBGC and the IRS for use by plan administrators of covered pension plans that wish to file a Notice of Intent to Terminate with the PBGC and to obtain a determination from the IRS regarding the qualification of the plan. The proposal did not preclude separate filings with the two agencies, and the final rule continues that option.

As the preamble to the proposal noted, the form must be used by plan administrators or plan sponsors to report to the IRS the occurrence of mergers, consolidations, or transfers of plan assets or liabilities to another plan at least thirty days in advance of the occurrence of the event. The proposal was issued with the expectation that, if notification of mergers, consolidations or transfers of plan assets or liabilities were made to the IRS on the revised form, separate notification to the PBGC pursuant to section 4043(b)(8) of ERISA would not be required. Since the proposal was issued, the PBGC's Reportable Events regulation, 29 CFR Part 2615, has been amended to waive that thirty day reporting requirement. Thus, Form 5310 is not to be used to notify PBGC of the occurrence of a plan merger, consolidation or transfer of assets or liabilities to another plan.

The final rule does not apply to multiemployer pension plans covered under Title IV of ERISA and the title of this part has been amended accordingly. The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96–264 (Sept. 26, 1980), 94 Stat. 1208 (amending 29 U.S.C. 1001 *et seq.*) (1976) established a new insurance program for multiemployer pension plans subject to Title IV. Thus, all references to multiemployer pension plans contained in the July 24, 1979 proposal have been omitted from the final rule. Those plans are governed by a separate reporting requirement under section 4231 of ERISA which was added by the Multiemployer Act. Form 5310 will not satisfy the requirement to report to PBGC pursuant to section 4231 of ERISA.

Several comments were received relating to the proposal; each has been considered during the promulgation of this final rule, and a number of changes were made in response to the comments received. The final regulation also contains some non-substantive clarifying, correcting and editorial changes initiated by PBGC staff.

Substantive public comments on the proposal and significant differences between the proposed rule and the final rule are discussed below. In the discussion that follows, citations are to sections in the final regulation unless otherwise noted. On June 24, 1981, the PBGC redesignated its regulations; in that process, this rule has been redesignated as 29 CFR Part 2616.

One-Stop Service

The "one-stop service" proposal was generally well received by the public. However, several respondents indicated some concern regarding the concept and those comments are discussed below.

One comment objected to the proposal on the grounds that the rule appeared to preclude separate filing with each agency. The respondent noted that all PBGC filings must be made with the PBGC in Washington, D.C., whereas persons filing with the IRS on pension matters generally must file with the District Director for the key District in which the plan is located. The respondent stated that a processing delay is inevitable for a West Coast plan administrator who files with the PBGC and whose filing is then returned by PBGC to the IRS key District in which the Plan is located. Because of this potential for delay, he urged that separate filings be allowed.

The rule, as proposed, did not preclude separate filings. PBGC recognizes the utility of separate filings in the situation described by the respondent. To remove any uncertainty that exists on this point, Form 5310 and its instructions have been changed to clarify that separate filings with the two agencies are allowed.

Another respondent suggested that confusion exists among some plan administrators regarding the possible public disclosure of information that will be filed with the PBGC pursuant to one-stop service. That respondent correctly noted that information submitted to the PBGC is not subject to the safeguarding restrictions mandated by the Internal Revenue Code. Thus, if filed with the PBGC, the information contained on proposed Form 5310 would be subject to public disclosure by PBGC, consistent with the applicable Privacy Act and Freedom of Information Act provisions

Filings made directly with the IRS are subject to applicable IRS disclosure rules.

IRS/PBGC Form 5310; IRS Form 6088

Form 5310 generated substantially favorable comment. However, certain changes were made to the form in response to comments as discussed below.

One comment noted that line 1(e), "Business code number" of proposed Form 5310 refers to line (e) of Annual Report Form 5500. The comment stated that such cross referencing of specific line items on other forms may be confusing to the public. This reference has been deleted and Form 5310 no longer refers to specific line items of other forms.

One comment stated that line 4, "plan entity types" of proposed Form 5310 should list the same types of plan entities as line 4 of Form 5500. Line 4 of Form 5310 has been revised so that it now refers to the same pension plan types as line 4 of Form 5500, except that "multiemployer plan" has been deleted because multiemployer plans covered under Title IV of ERISA will not use this form for filing.

Another comment stated that the "other plans" contained on line 6 (that line has been renumbered as line 7) of proposed Form 5310 is confusing and should be deleted in favor of "successor plans." That comment has not been adopted because information is sought regarding all plans involved with the merger, consolidation or transfer of assets or liabilities, and not just successor plans. To avoid confusion, however, that term has been replaced with the phrase "other plans involved in transaction".

One comment suggested that in order to avoid penalizing employers in industries with a high turnover of employees, the term "active employee participants" contained on line 14 of proposed Form 5310 should be redefined to permit a plan administrator to use his judgment to exclude those persons who quit or were discharged in anticipation or termination of the plan. Such an approach would make the participant count too subjective and the definition of participant would differ from plan to plan. Therefore, the suggestion was not adopted. However, Form 5310 no longer uses the term "active employee participants", requesting instead (line 15(d)) "the number of participants employed".

One respondent stated that line 16(k), "accumulated funding deficiency" is unclear as it does not state the time at which any accumulated funding deficiency is to be determined. The respondent suggested that the funding deficiency be measured as of the close of the prior plan year, since the plan administrator will have the information readily available. In the alternative, it could be determined as of the date of plan termination and plan administrator should be allowed to estimate any such accumulated funding deficiency. It is recognized that proposed line 16(k) requires an updating of information from the end of the prior plan year. However, using information related to the prior plan year would be inadequate because it is essential that the agencies know the amount of any funding deficiency as of the date of termination. To meet the concerns of the comment, line 16(k) (that line has been renumbered as line 17(e)) has been modified to require the plan administrator to estimate whether there will be an accumulated funding deficiency as of the end of the plan year during which the proposed termination occurs. Thus, any additional information beyond the close of the prior plan year need only be in the form of an estimate.

Another respondent suggested that the heading for Part IV of proposed Form 5310 should specifically point out that Part IV is to be completed only by those plans that are certain of coverage status, or are uncertain but wish to complete Part IV in order to avoid making a subsequent filing if PBGC rules that the plan is covered. The final form and the instructions have been changed to reflect this comment.

One comment objected to the requirement that a plan administrator file, with its Notice of Intent to Terminate, all amendments to the plan within the 5-year period preceding termination. The respondent suggested that PBGC should request only those amendments which increased plan benefits. After careful consideration, PBGC is not adopting this suggestion. PBGC's experience has been that the processing of a plan termination is unduly impeded if only a portion of the total plan document is available and there is the chance that the amendments will be read out of context. If a plan administrator estimates that the plan is sufficient to pay all vested benefits and the plan has been restated within the last five years, the plan administrator may satisfy the requirement by submitting the restated plan document in effect on the proposed date of plan termination rather than the original plan with copies of all amendments. In addition, a plan administrator may request a waiver of the requirement based on the individual circumstances of a specific termination.

Another respondent suggested that a more accurate statement of plan assets (line 19 of the proposed Form 5310) will be obtained if a plan administrator is permitted to value plan assets as of any date occurring within the 120 day period ending on the date of filing of the notice of intent to terminate, but not earlier than the close of the preceding plan year. The suggested change has been considered but not adopted. ERISA requires that for purposes of determining employer liability, unfunded guaranteed benefits be determined as of the date of plan termination and not as of a date within 120 days prior to the date of plan termination. However, estimated asset values are acceptable at the time of the filing of the notice. PBGC uses the estimated values to determine which plans must be taken into trusteeship and which plans are required to demonstrate sufficiency. In the alternative, the plan administrator has the option of deferring the filing of the asset information under § 2616.5(c)(3) of the final rule. Plan administrators should note, however, that section 7476(b) of the Internal Revenue Code provides that a taxpayer may not seek court review of IRS action prior to a date 270 days from the filing of information by the taxpayer with the Service. Thus, while § 2616.5(c)(3) of the final rule provides the option of filing an incomplete notice, the filing of an incomplete notice does not begin the 270-day period referred to in section 7476(b) of the Internal Revenue Code, ("Code") 26 U.S.C. 7476(b). That period is not triggered until all of the information required by the IRS is filed.

Two respondents pointed out an ambiguity in the designation "allocated monthly benefit" appearing as a heading for column (q) of the schedule of benefits for participants and beneficiaries. They noted that allocation could refer to an ERISA section 4044 allocation or an allocation under the terms of the plan. This problem has been corrected so that all requested benefit amounts are specifically related to the allocation under section 4044 of ERISA.

Two respondents objected to the requirement that the proposed Form 5310 be certified by the plan administrator or his duly authorized representative, since in many cases the actuarial work will be completed by an actuary who is not required to certify the accuracy of his work. The comment stated that since many plan administrators and their representatives are not actuaries, the plan administrator will be certifying to the accuracy of work with which he is not familiar. The respondents suggested that an enrolled actuary certification is needed to relieve the plan administrator of this responsibility. Many plan

administrators, when contemplating the filing of a Notice of Intent to Terminate, do obtain the services of actuaries to calculate and value plan benefits. Some plan administrators instead choose to use the services of other qualified professionals. A plan administrator who has chosen to use an actuary can and should require a certification as to the accuracy of the work product. However, to require a certification only when a plan administrator uses an actuary would be unfair. In addition, the certification only requires that the plan administrator certify to the best of his knowledge. Thus, that suggestion has not been adopted.

One comment indicated that the filing instructions for Form 6088, "Distributable Benefits From Employee Pension Benefit Plans," appear to conflict with the filing instructions for proposed Form 5310. The instructions for Form 6088 stated that it must be filed when requesting an IRS determination upon termination, whereas the instructions for proposed Form 5310 stated that for one-stop filings, a plan administrator may satisfy the Service's requirement by filing either Form 6088 or a duplicate copy of the schedules under line 23 of proposed Form 5310. To correct this problem, the instructions for Form 6088 have been changed to make them consistent with the instructions for Form 5310.

Another comment suggested that the ending date for calculation of the current 12 month compensation required by column (j) of Form 6088 should be any date within the 120-day period prior to the filing date of proposed Form 5310, but not prior to the last day of the last plan year. The instructions for Form 6088 have been modified to allow a plan administrator to choose the compensation for either the last calendar year or plan year ending before the proposed date of plan termination, or the 12 month period ending on the proposed date of plan termination as current 12 month compensation. (Column (j) has been relettered and is now column (i).)

Finally, one respondent questions the suitability of the schedules required by line 23 of proposed Form 5310 (renumbered as line 24) as a substitute for IRS Form 6088 and stated that a blanket waiver of individual participant information should be granted for plans that do not cover participants described in Section 401(a)(4) of the Code. After careful consideration, this suggestion has not been adopted. The informational requirements of each form have been carefully developed by each agency and are necessary to complete the required processing. Although no blanket waiver of the requirement to file participant data with the Service can be made, the instructions to Form 6088 exempt certain collectively bargained plans from the filing requirements.

Notice of Intent to Terminate

Several comments related to the revision of the Notice of Intent to Terminate regulation.

One comment stated that it was not clear whether the regulation allows a plan administrator to notify participants of his or her intention to terminate the plan prior to the filing of a Notice of Intent to Terminate. In response to that comment § 2616.4 of the final rule makes it clear that the required notification to employees may be given within a reasonable time prior to the date a notice is filed.

One respondent stated that although the preamble to the proposed rule stated that the notice required under section 7476(b) of the Code will satisfy PBGC's notification requirement to interested employees, the proposed rule did not provide that option. The final rule has been changed to make it clear that if the notice to interested parties required by section 7476(b) of the Code contains the information required by § 2616.4(b) of this Part and is given within a reasonable time prior to the date a Notice of Intent to Terminate is filed, no further notification need be sent to participants and beneficiaries.

Specifically, the information required by §2616.4(b), which might not otherwise be included in a notice under 26 U.S.C. 7476(b), are statements regarding the adequacy of plan assets to pay vested benefits and the possibility that benefits being received or expected may be reduced to levels payable under Title IV and overpayments may be recouped by the PBGC. The PBGC has determined that fairness to plan participants requires full disclosure of the possible effect on them of the proposed termination. The final rule also requires that former employees with vested benefits and participants in pay status covered by the plan are to be notified as well as present employees.

Several respondents objected to the proposal's requirement that a Notice of Intent to Terminate submitted by a plan administrator must contain asset amounts, participant data and/or benefit values, and that the notice must be submitted at least ten days prior to the proposed termination date, or PBGC could deem the Notice of Intent to Terminate incomplete and therefore void. Furthermore, several respondents expressed concern that the amount of information required for the initial filing might delay the filing to the detriment of the plan administrator and/or sponsor. All of these comments suggested that an extension of time to complete the filing should be granted automatically because it would be requested so frequently.

The Notice of Intent to Terminate must contain enough information to enable the PBGC to make a preliminary determination as to whether or not the plan has sufficient assets, when allocated in accordance with section 4044 of ERISA, to pay benefits guaranteed under Title IV of ERISA. In response to these comments, the PBGC has revised § 2616.5 to allow for several types of filings. Under new § 2616.5, a plan administrator may initially file (1) all the information required by the form, (2) all the information required by the form except a proposed allocation of assets to plan participants, (3) all the information required by the form except plan asset information and participant data schedules which will be filed within 90 days under an automatic extension of time, or (4) a notice requesting an extension of time to file information other than the information referred to in (3) above, or requesting that the filing requirement for certain information be waived.

A plan administrator who files a complete form including the proposed allocation of assets to insure the most expeditious processing will be providing enough information to demonstrate whether the plan's assets are sufficient to pay guaranteed benefits pursuant to PBGC's regulation on Determination of Plan Sufficiency, 29 CFR Part 2617. If the plan administrator chooses this option, he or she should check line 25(a) of Form 5310.

A plan administrator may file a complete Notice of Intent to Terminate that does not state each participant's allocable benefit under section 4044 of ERISA, but that does show each participant's vested benefit. If the paln administrator chooses this option, he or she should check line 25(b) of Form 5310. Information regarding the participant's allocable benefits under a sufficient plan must be submitted within the time limits prescribed in PBGC's regulation on Determination of Plan Sufficiency and Termination of Sufficient Plans, 29 CFR 2617.12. However, under one-stop the filing of a Form 5310 that does not contain all the information required by the IRS does not begin the 270 day period referred to in section 7476(b) of the Code.

A plan administrator who chooses to file an incomplete notice requesting an automatic extension of time to complete

the filing may exclude from the initial filing all or part of the plan asset information and/or the participant data schedules. However, this information must be submitted within 90 days of the filing of the incomplete notice. A plan administrator electing this option need not make an individual request for an extension of time to complete the filing, because he or she will be deemed to have agreed to an extension of the 90-day period set forth in Section 4041(a) of ERISA. However, if the plan administrator does not receive a Notice of Sufficiency from PBGC, the plan administrator may not make any distributions pursuant to the proposed termination of the plan until a date 90 days after the date on which the plan administrator submits the omitted information.

Finally, a plan administrator who files a notice which requests an extension of time to file information other than information referred to in § 2616.5(c)(3) must include with the filing two signed copies of an agreement, pursuant to which the plan administrator agrees that if the PBGC grants the request, the 90-day period set forth in section 4041(a) of ERISA (during which the plan administrator shall pay no amount pursuant to the plan termination) shall be automatically extended by a period of time equal to the extension of time granted by the PBGC.

One comment suggested that § 2604.5 of the proposal relating to the date on which a notice is filed with PBGC be changed to state that the date of filing is the date of mailing rather than the date of receipt. PBGC has changed this section to state that the date of filing is the date of mailing as evidenced by a valid United States Postal Service postmark. (This section has been renumbered and is now § 2616.6.)

Section 2604.4(d) of the proposal contained a special note for plans for which Title IV coverage had not been determined. A plan administrator of such a plan could elect to file Form 5310 without completing Part IV. PBGC would not deem the notice incomplete and void under these circumstances. Upon a determination by PBGC that the plan was covered, the plan administrator would be required to submit a completed Part IV. While this procedure is advantageous to a plan because it allows the plan administrator to preserve the proposed termination date, it may mislead a plan administrator who is not certain that his or her plan is covered, but who wishes to make a commitment to make his or her plan sufficient. The general rule is that a plan administrator wishing to make a commitment to make a plan sufficient can do so only prior to the proposed date of plan termination. (See Determination of Plan Sufficiency and Termination of Sufficient Plans, 29 CFR Part 2617.) Thus, in a situation where coverage is not determined until after the proposed termination date, the plan sponsor will have lost the opportunity to make a commitment to make the plan sufficient if he or she has not done so prior to the proposed date of termination. Therefore, PBGC has changed this section to alert a plan administrator that if the plan sponsor wishes to make a commitment to make a plan sufficient, and coverage has not been determined, the plan sponsor must make the commitment prior to the proposed date of plan termination. (This section has been renumbered and is now § 2616.5.)

Finally, because the final rule refers extensively to the term "vested benefits", PBGC has added a definition of "vested benefits" to § 2616.2 of the regulation.

It should be noted in connection with this regulation that on December 8, 1980, the PBGC issued a notice in the **Federal Register**, 45 FR 80941, setting forth the PBGC's policy regarding requests for retroactive plan termination. That notice continues in effect and remains the policy of the agency.

The PBGC has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor will it have significant adverse effects on competition, employment, investment, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2616

Employee benefit plans, Pension insurance, Pensions, Reporting requirements.

In consideration of the foregoing, Part 2616 of Chapter XXVI of Title 29, Code of Federal Regulations is hereby revised to read as follows:

PART 2616—NOTICE OF INTENT TO TERMINATE FOR NON-MULTIEMPLOYER PENSION PLANS

Sec.

2616.1 Purpose and scope.
2616.2 Definitions.
2616.3 Requirement of notice.
2616.4 Notice to participants and retirees.
2616.5 Effect of failure to file; Filing options.
2616.6 Date of filing.
2616.7 Computation of time.

Authority: Secs. 4002, 4041, Pub. L. 93-406, 88 Stat. 1004, 1020 (29 U.S.C. 1302, 1341) (as amended).

§ 2616.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe for non-multiemployer defined benefit pension plans the contents of and the procedures for filing the Notice of Intent to Terminate required by section 4041(a) of the Act.

(b) *Scope.* This part applies to all Notices of Intent to Terminate non-multiemployer defined benefit pension plans covered by Title IV of the Act that are required to be filed after the effective date of this Part.

§ 2616.2 Definitions.

As used in this part—

(a) "Act" means the Employee Retirement Income Security Act of 1974, as amended.

(b) "PBGC" means the Pension Benefit Guaranty Corporation.

(c) "IRS" means the Internal Revenue Service.

(d) "Vested Benefits" means nonforfeitable benefits payable with respect to a participant in a plan, other than benefits derived from voluntary employee contributions assigned to priority category 1.

§ 2616.3 Requirement of notice.

(a) *General.* A Notice of Intent to Terminate a plan shall be filed with the PBGC. Each Notice of Intent to Terminate required under this part shall be filed on IRS/PBGC Form 5310, in accordance with the instructions contained therein.

(b) *Who shall file.* The plan administrator, as defined in section 3(16) of the Act, or a duly authorized representative acting on behalf of the plan administrator, shall sign and file the Notice. When the Notice is submitted only to the PBGC by a duly authorized representative other than an attorney-at-law, it shall be accompanied by a notarized power of attorney, signed by the plan administrator, which authorizes the representative to submit the Notice, and, if desired, also authorizes the representative to act on behalf of the plan administrator in connection with the termination. When the Form 5310 is being submitted to both the PBGC and the IRS by a duly authorized representative, it shall be accompanied by a power of attorney specifically authorizing such representation in this matter or by a written declaration that the representative is currently qualified as an attorney-at-law, a certified public accountant or as an enrolled actuary or

is currently enrolled to practice before the Internal Revenue Service and that such person is authorized to represent the employer or plan administrator.

(c) *When to file.* The Notice of Intent to Terminate shall be filed with the PBGC at least 10 days prior to the proposed date of termination of the plan.

(d) *How and where to file.* The Notice of Intent to Terminate may be sent by mail or submitted by hand during normal working hours to the Office of Program Operations, Pension Benefit Guaranty Corporation, Room 5300A, CC 542, 2020 K Street, N.W., Washington, D.C. 20006.

§ 2616.4 Notice to participants and retirees.

(a) *General.* The plan administrator shall, in accordance with this section, notify participants and retirees covered by the Plan of the proposed termination no later than the date the Notice of Intent to Terminate is filed pursuant to this part.

(b) *Contents of notification.* The notification required by this section shall be in writing and shall contain (1) a statement that the plan is being terminated; (2) the date on which the Notice of Intent to Terminate is being filed with PBGC; (3) the date of plan termination proposed in the Notice of Intent to Terminate; (4) a statement regarding whether the plan administrator believes that plan assets will be adequate to provide vested benefits; and (5) if the plan administrator believes that plan assets may not be adequate to provide vested benefits, a statement that benefits being received or expected may be reduced after the date of plan termination, and overpayments may be recouped by the PBGC.

(c) *Manner of giving notice.* The notification shall be given to participants and retirees in accordance with paragraphs (1) and (2) or in accordance with subsection (d).

(1) *Notification to presently employed participants and union representative.* The notification shall be given either in person to each presently employed participant or by mail, or posted in the location or locations normally used by the employer for posting notices to employees. If the employees are represented by a union, the notification shall also be delivered to the union representative.

(2) *Notification to former employees with vested benefits or persons in pay status.* The notification shall be given in person or by mail to the last known address of the former employee, retiree or beneficiary who is receiving or is entitled to receive a monthly benefit from the plan. However, a plan administrator may notify retirees and beneficiaries in pay status (on the date of plan termination), with the monthly benefit payment next succeeding the proposed date of plan termination.

(d) *Alternative Notification.* If the notice to interested parties required under section 7476(b) of the Internal Revenue Code includes the information in paragraph (b) above, and is given within a reasonable time prior to the date a notice is filed, it will satisfy the notification requirement of this section.

§ 2616.5 Effect of failure to file; Filing options.

(a) *Effect of failure to file.* Failure to file the Notice of Intent to Terminate at least 10 days prior to the termination of a pension plan constitutes a violation of the provisions of Title IV of the Act. Filing Form 5310 marked "Reason for filing—B" (Application for an Internal Revenue Service (IRS) determination letter regarding a plan termination) is not a filing of a Notice of Intent to Terminate.

(b) *Effect of failure to file all required information.* Failure to file all of the information required by this part, as set forth in IRS/PBGC Form 5310, shall render the Notice incomplete and voidable by PBGC unless the Notice is filed under the filing options contained in paragraphs (c)(3), (c)(4), or (c)(5) of this section. If the plan administrator fails to complete a filing within the time limits prescribed within any extension period specified in subsection (c) of this section, the incomplete notice will be voidable by PBGC.

(c) *Filing options.* The plan administrator shall file under one of the methods of this paragraph and indicate the method on Form 5310. However, the filing with PBGC of a Form 5310 designated as a Notice of Intent to Terminate that does not contain all the information required by the IRS does not begin the 270 day period referred to in section 7476(b) of the Internal Revenue Code.

(1) *Filing a complete notice with proposed allocation of assets.* A plan administrator may file a Notice of Intent to Terminate that includes all information required by Form 5310 necessary to complete the termination process including a proposed allocation of assets. By filing under this method, a plan administrator may shorten the amount of time necessary to process the termination.

(2) *Filing a complete notice without a proposed allocation of assets.* A plan administrator may file a complete notice that includes all the information required by Form 5310 except a proposed allocation of assets. The participant data schedules required by Form 5310 must provide the basic data and intermediate calculations that demonstrate the plan administrator's determination of each participant's accrued and vested monthly benefits. If it appears that any required estimates are based on inadequate or outdated information, the PBGC may require an exact determination.

(3) *Filing for an automatic extension of time.* A plan administrator may file a Notice of Intent to Terminate that includes all the information required by Form 5310 except for plan asset information and/or participant data schedules. A plan administrator submitting a Notice of Intent to Terminate under this alternative will be deemed to have agreed to an extension of the 90-day period set forth in section 4041(a) of the Act, during which (absent a Notice of Sufficiency from PBGC) the plan administrator may not make any distributions pursuant to the proposed termination of the plan, until a date 90 days after the date on which the plan administrator submits the omitted information. However, the plan administrator must submit the information within 90 days of the filing of the Notice of Intent to Terminate, or apply for an extension of time pursuant to § 2616.5(c)(4).

(4) *Request for an extension of time or waiver of obligation to file information.* At the time of filing the Notice of Intent to Terminate or prior thereto, the plan administrator may request an extension of time to complete the filing or a waiver of the obligation to file any information required to be filed by this part. The request shall be in writing and state the reasons for the relief sought. A request for an extension of time shall also be accompanied by two signed copies of an agreement, pursuant to which the plan administrator agrees that if the PBGC grants the request, the 90-day period set forth in section 4041(a) of the Act shall be automatically extended by a period of time equal to the extension of time granted by the PBGC. When the PBGC grants an extension of time, an executed copy of the agreement submitted with the request for extension will be returned to the plan administrator. When the PBGC grants or denies a request to waive the filing of any information required to be filed by this part, the plan administrator will be so notified in writing.

(5) *Special rules for plans where Title IV coverage has not been determined.* If a plan administrator of a terminating pension plan is not certain whether the

plan is covered under Title IV of the Act and has not received a determination of coverage for the plan from the PBGC, he or she may submit IRS/PBGC Form 5310 without completing Part IV of the Form, as provided in the Form Instructions. However, if the plan administrator submits Form 5310 without completing Part IV thereof, and the PBGC determines that the plan is covered by Title IV of the Act, the plan administrator will be deemed to have agreed to an extension of the 90-day period set forth in section 4041(a) of the Act until a date 90 days after the date on which the plan administrator files with the PBGC a Form 5310 with Part IV completed. If the plan administrator wishes to make a commitment to make his or her plan sufficient to pay benefits guaranteed by Title IV of the Act, he or she must make a written commitment and provide it to the PBGC prior to the proposed date of plan termination.

(6) *Additional extensions.* Nothing in paragraphs (c)(3), (c)(4) and (c)(5) of this section shall in any way alter or limit the authority contained in section 4041(d) of the Act of the PBGC and a plan administrator or the duly authorized representative to agree to further extensions of the 90-day period set forth in section 4041 or of the PBGC to apply to a court for an order extending that 90-day period.

§ 2616.6 Date of filing.

(a) Any notice or document required to be filed under the provisions of this part shall be deemed filed on the date of the United States postmark stamped on the cover, in which the document is mailed, provided that—

(1) The postmark was made by the United States Postal Service; and

(2) The document was mailed postage prepaid, properly packaged and addressed to the PBGC.

(b) If the conditions stated in both paragraphs (1) and (2) are not met, the document is considered filed on the date it is received by the PBGC. Documents received after regular business hours are considered filed on the next regular business day.

§ 2616.7 Computation of time.

In computing any period of time prescribed or allowed by the rules of this part, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or Federal holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday, or Federal holiday.

Effective Date. This part is effective on February 28, 1983.

Raymond J. Donovan,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors approving this regulation and authorizing its Chairman to issue same.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 83-2103 Filed 1-26-83; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 128

Transactions in Foreign Exchange; Transfer of Credit and Export of Coin and Currency

AGENCY: Treasury Department.

ACTION: Final rule.

SUMMARY: The Department of the Treasury amends 31 CFR Part 128 regarding transactions in foreign exchanges and the transfer of credit and export of coin and currency to delete references to obsolete statutes and Executive orders and to permit Treasury to furnish to the Federal Reserve District Banks certain data reported on the forms prescribed under the Part. These amendments do not make any substantive changes in the reporting requirements nor impose any additional burden upon the public. For this reason, it is determined that notice and public procedure thereon are unnecessary.

EFFECTIVE DATE: January 27, 1983

FOR FURTHER INFORMATION CONTACT: John G. Murphy, Jr., Attorney-Advisor, Office of the General Counsel, Department of the Treasury, Room 2013, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220 (202) 566-8401.

SUPPLEMENTARY INFORMATION: The amendments made herein are intended to update Treasury's reporting requirements concerning international capital and foreign currency transactions and holdings. These amendments consist primarily of deletions of references to obsolete statutes and Executive orders and represent a continuation of the efforts taken in 47 FR 56351 to bring other portions of 31 CFR into conformity with current law. References in Part 128 to sections within Title 31 of the United States Code are amended to reflect the recodification of that Title. The amendments also reflect the reogranization of data collection authority within the Office of the Secretary by removing the Office of Data Management from the Office of the Assistant Secretary (Economic Policy) and placing it within the Office of the Assistant Secretary (International Affairs). The amendments also provide that Treasury Foreign Currency reports may be made available to the Federal Reserve District Banks. The regulations currently provide that the reports may be made available to other Federal agencies. Since the status of District Banks as "Federal agencies" is unclear, an explicit reference should be made in the regulations to the District Banks. The reasons for these changes are explained in greater detail as follows:

Title

The current title of Part 128, "Transactions in Foreign Exchange, Transfers of Credit, and Export of Coin and Currency," is misleading in that it refers to the general license granted in Sec. 128.1 authorizing transactions in foreign exchange, transfers of credit and exports of currency and coin. Since Sec. 128.1 is being removed as obsolete, the Title of Part 128 is amended to reflect the actual scope of the remaining regulations, which pertain exclusively to data collection with respect to international capital and foreign currency transactions and holdings.

Section 128.1 General license.

This section grants a general license to undertake transactions in foreign exchange, transfers of credit and exports of currency and coin insofar as such transactions are permitted by Executive Order 6560, January 15, 1934 (31 CFR Part 127). The authority to impose restrictions on transactions in foreign exchange, transfers of credit and exports of currency and coin is derived from the Trading With the Enemy Act, 12 U.S.C. 95a and various enactments issued pursuant to that Act.

Prior to the 1977 amendments, the Trading With the Enemy Act empowered the President to declare national emergencies in periods other than wartime. The 1977 amendments to the Act provided that the President can declare national emergencies under the Trading With the Enemy Act only in time of war. (The International Emergency Economic Powers Act, 50 U.S.C. App. 1701-1706, provides that the President can declare national emergencies with respect to threats which have their sources in whole or substantial part outside the United States). The 1977 amendments also provided that all declared national

emergencies in effect on the date of enactment (1977) terminated in two years, unless extended. Because these declared emergencies were not extended, they lapsed in 1979.

Since the authority to impose peacetime restrictions in the absence of a new declaration of an emergency has lapsed, there is no longer any need to provide for licenses which would exempt license-holders from such restrictions. For this reason, § 128.1 is removed.

Section 128.2 Reports.

As presently drafted, this section cites the Trading With the Enemy Act, as amended by the Emergency Banking Act of 1933 (12 U.S.C. 95a) and Executive Order 6560 as authority for the collection of data under Subparts B and C of Part 128. As discussed above, these authorities are no longer applicable, as the result of the 1977 amendments to the Trading With the Enemy Act. The other statutory bases for collection of the Treasury International Capital reports are the International Investment Survey Act of 1976, 22 U.S.C. 3101 *et seq.*, Section 8(a) of the Bretton Woods Agreements Act, 22 U.S.C. 286f and Executive Order 10033. Treasury Foreign Currency reports are collected pursuant to Pub. L. 93–110, 31 U.S.C. 5315.

Section 128.3 Use of Information reported.

This section is amended to delete reference to the Federal Reports Act, which has been superceded by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The section also is amended to permit disclosure of TFC data to Federal Reserve District Banks as well as to other Federal agencies.

Section 128.4 Penalties.

This section is revised to delete the penalties provided under the Emergency Banking Act of 1933 and substitute therefor the penalties provided under the International Investment Survey Act and Pub. L. 93–110, as applicable

Section 128.5 Modification or revocation.

This section is revised to delete reference to the "general license" since § 128.1 is being revoked.

Section 128.10 and 128.30 Copies.

These sections are amended to reflect the transfer of the Office of Data Management from the Office of the Assistant Secretary (Economic Policy) to the Office of the Assistant Secretary (International Affairs).

Executive Order 12291

The Department of the Treasury has determined that this regulation is not a "major rule" for purposes of E.O. 12291, and a regulatory impact analysis is therefore not required.

Regulatory Flexibility Act

For the reason set forth below, a notice of proposed rulemaking is not required for this rule. Accordingly, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply to this rule and a regulatory flexibility analysis is not required.

Final Rule

These amendments are presented as final rules pursuant to 5 U.S.C. 553(a) because the changes are not substantive. Notice and public procedure thereon are unnecessary.

Drafting Information

The principal author of this document was: John G. Murphy, Jr., Attorney-Adviser, Office of the General Counsel, Department of the Treasury, Room 2013, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220, (202) 566–8401. However, personnel from other Treasury offices participated in its development.

List of Subjects in 31 CFR Part 128

Banks, banking, Foreign banking, finance, Credit, Foreign claims, Foreign currencies, Foreign exchange, Money, Currency, Reporting and recordkeeping requirements.

PART 128—REPORTING OF INTERNATIONAL CAPITAL AND FOREIGN CURRENCY TRANSACTIONS AND HOLDINGS, TRANSFERS OF CREDIT, AND EXPORT OF COIN AND CURRENCY

Part 128 is amended by:

1. Revising Subpart A to read as follows:

Subpart A—Regulations

Sec.
128.2 Reports.
128.3 Use of information reported.
128.4 Penalties.
128.5 Modification or revocation.

Authority: Sec. 8(a), Pub. L. 79–171, 59 Stat. 515 (22 U.S.C. 286f; Pub. L. 93–110, 87 Stat. 352 (31 U.S.C. 5315), Pub. L. 94–472, 90 Stat. 2059 (22 U.S.C. 3103), unless otherwise noted.

Subpart A—Regulations

§ 128.2 Reports.

(a) In order to effectuate the purposes of the International Investment Survey Act of 1976 (90 Stat. 2059, 22 U.S.C. 3101 *et seq.*), and in order that information requested by the International Monetary Fund under the articles of agreement of the Fund may be obtained in accordance with section 8(a) of the Bretton Woods Agreements Act (sec. 8(a) 59 Stat. 515; 22 U.S.C. 286f and Executive Order No. 10033, 14 FR 561; 3 CFR, 1949 Supp.), every person subject to the jurisdiction of the United States engaging (1) in any transaction in foreign exchange; (2) in any transfer of credit between any person within the United States and any person outside of the United States; or (3) in the export or withdrawal from the United States of any currency or coin which is legal tender in the United States, shall furnish information relative thereto to such extent and in such manner and at such intervals as is required by report forms and instructions prescribed in Subpart B of this Part.

(b) In order to provide additional data on the nature and source of flows of mobile capital, including transactions by large United States business enterprises and their foreign affiliates, as required by Title II of Pub. L. 93–110 (87 Stat. 352, 31 U.S.C. 5315), every United States person engaging (1) in any transaction in foreign exchange; (2) in any transfer of credit between any person within the United States and any person outside the United States; or (3) in the export or withdrawal from the United States of any currency or coin which is legal tender in the United States, shall furnish information relative thereto to such extent and in such manner and at such intervals as is required by report forms and instructions prescribed in Subpart C of this Part. Information shall also be furnished by every United States person or persons with regard to any foreign person controlled by such United States person or persons as provided in Subpart C of this Part.

(c) All persons required to report, other than banks and banking institutions, shall furnish the reports required under Subparts B and C of this Part to the Federal Reserve Bank of New York. Each bank or banking institution shall furnish the required reports to the Federal Reserve Bank of the District in which such bank or banking institution has its principal place of business in the United States. In the event that any person required to report has no principal place of business within a Federal Reserve district, the information shall be furnished directly to the Office of the Assistant Secretary (International Affairs), Department of the Treasury, Washington, D.C. 20220 or to such agency as the Department of the Treasury may designate.

(Pub. L. 79–171, 59 Stat. 515 (22 U.S.C. 286f); (Title II, Pub. L. 93–110, 87 Stat. 352 (31 U.S.C.

5315); Pub. L. 94–472, 90 Stat. 2059 (22 U.S.C. 3103))

§ 128.3 Use of information reported.

The information reported on the forms required under Subparts B and C will not be disclosed publicly by the Department of the Treasury or by any other Federal agency or Federal Reserve District Bank having access to the information as provided herein. Data reported on these forms may be published or released in the aggregate in a manner which will not reveal the amounts reported by any individual reporting bank or nonbanking firm. The Department may furnish to other Federal agencies data reported on these forms to the extent permitted by applicable law. In addition, the Department may furnish other Federal agencies data reported on the forms required under Subpart B to the extent permitted by the International Investment Survey Act of 1976, 22 U.S.C. 3101, *et. seq.* and may furnish to the Federal Reserve District Banks data reported on the forms required under Subpart C.

§ 128.4 Penalties.

(a) Whoever willfully fails to submit a report required under Subpart B may be criminally prosecuted and upon conviction fined not more than $10,000 or, if an individual, may be imprisoned for not more than one year, or both. Any officer, director, employee or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(b) Whoever fails to submit a report required under Subpart C of this Part may be assessed a civil penalty not exceeding $10,000.

(Pub. L. 93–110, 87 Stat. 352 (31 U.S.C. 5321), Pub. L. 94–472, 90 Stat. 2063 (22 U.S.C. 3105))

§ 128.5 Modification or revocation.

The regulations in this Part may be modified or revoked at any time.

2. Revising § 128.10 and restating the authority for Subpart B to read as follows:

Subpart B—Description of Forms Prescribed Under This Subpart

Authority: Sec. 8, Pub. L. 79–171, 59 Stat. 515, 22 U.S.C. 286f; Sec. 4 Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3103; EO 10033, 14 FR 561, 3 CFR, 1949–1953, Comp: EO 11961, January 9, 1977, 42 FR 4321, as amended, unless otherwise noted.

§ 128.10 Copies.

Copies of the forms described in this Subpart with instructions may be obtained from any Federal Reserve bank or from the Office of the Assistant Secretary (International Affairs), Treasury Department, Washington, D.C. 20220.

3. Revising § 128.30 and restating the authority for Subpart C to read as follows:

Subpart C—Description of Forms Prescribed Under This Subpart

Authority: Title II, Pub. L. 93–110, 87 Stat. 352 (31 U.S.C. 5315), unless otherwise noted.

§ 128.30 Copies.

Copies of the forms described in this Subpart with instructions may be obtained from any Federal Reserve bank or from the Office of the Assistant Secretary (International Affairs), Department of the Treasury, Washington, D.C. 20220.

Dated: January 10, 1983.

Peter J. Wallison,

General Counsel.

[FR Doc. 83–2166 Filed 1–26–83; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

Safety Zone—Strait of Juan de Fuca and Puget Sound, Washington

AGENCY: United States Coast Guard, Transportation.

ACTION: Temporary rule.

SUMMARY: This amendment to the Coast Guard's Safety Zone Regulations establishes two safety zones within the waters of Northwestern Washington during the port call of Her Majesty's Yacht (HMY) Britannia. These safety zones are established to safeguard the Britannia and the many onlookers and well-wishers who may wish to view her at close quarters as she transits to and from her mooring place at Pier 48 through the Strait of Juan de Fuca and Puget Sound. The effect of this rule will limit the approach of vessels and maritime traffic to and near the Britannia while she is within the waters of Northwestern Washington.

DATES: This amendment is effective on 1 March 1983 or when HMY Britannia enters the waters of Northwestern Washington, whichever occurs last and will remain in effect until the vessel's departure from the navigable waters of Northwestern Washington, but in no case will its provisions extend beyond 1 April 1983.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy G. M. Balunis, c/o Captain of the Port, 1519 Alaskan Way South, Seattle, Washington 98134; Tel: (206) 442–1856.

Discussion: During March 1983, HMY Britannia will arrive within the waters of Northwestern Washington. As this arrival may reasonably result in a large number of vessels congregating near the vessel or in its path, concern is justified for both the arriving vessel and the many mariners wishing to get close for a view of that vessel. These safety zones will be enforced by representatives of the Captain of the Port, Seattle, Washington.

The Captain of the Port may be assisted in the enforcement of these safety zones by civil law enforcement authorities.

Prohibited Acts: As provided in the General Regulations for safety zones (33 CFR 165.20) no person may enter a safety zone unless authorized by the Captain of the Port or the District Commander. Each person in a safety zone who has notice of a lawful order or direction of the Captain of the Port, District Commander or his authorized representative issued to enforce that zone shall obey that order or direction.

Penalties: Violation of a safety zone will result in prosecution under the authority of 33 U.S.C. 1232.

Drafting Information: The principal person involved in the drafting of the rulemaking is LCDR Timothy G. M. Balunis, Project Officer. The project attorney is Lt. James R. Woeppel c/o Commander, Thirteenth Coast Guard District (d1), 915 Second Ave., Seattle, Washington 98174: Tel: (206) 442–7953.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Waterways.

Part 165 of Title 33 of Code of Federal Regulations is amended by adding § 165.1320 to read as follows:

§ 165.1320 Vicinity Strait of Juan de Fuca and Puget Sound, Washington.

Safety Zone A: All land, water, and structures within the area enclosed by a circle whose radius is 500 yards from HMY Britannia while she is underway in the waters of Northwestern Washington. Safety Zone A moves with the vessel whenever it is underway in the waters of Northwestern Washington.

Safety Zone B: All land, water, and structures within the area enclosed by a circle whose radius is 250 yards from the northwestern corner of Pier 48 in Seattle, Washington.

These safety zones become effective upon announcement by Captain of the Port, Seattle via radio broadcast.

Termination of these zones will be automatic as follows:

(a) Safety Zone A—When HMY Britannia departs the waters of Northwestern Washington.

(b) Safety Zone B—When HMY Britannia casts off her last line from Pier 48 in Seattle, Washington.

Dated: January 17, 1983.

J. F. Eckman,

Captain of the Port, U.S. Coast Guard.

[FR Doc. 83-2286 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Parts 221, 222, 223, 224, 225, and 265

Miscellaneous Organizational Changes and an Interpretative Rule; Correction

AGENCY: Postal Service.

ACTION: Final rule: correction.

SUMMARY: This document corrects an erroneous description of the first of the responsibilities of the Office of Data Management contained in final regulations which were published January 17, 1983 (48 FR 1968).

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245-4638.

PART 224—GROUPS AND DEPARTMENTS

Accordingly, the Postal Service is correcting 39 CFR 224.6(b)(2)(i) to read as follows:

§ 224.6 Information Resource Management.

* * * * *

(b) * * *

(2) *Office of Data Management.* The Office of Data Management is responsible for:

(i) The USPS data policy:

* * * * *

(39 U.S.C. 401(2))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-2287 Filed 1-26-83; 8:45 am]

BILLING CODE 7710-12-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM83-2; Order No. 478]

Order Amending Rules of Practice and Procedure

Issued January 21, 1983.

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: This final rule adopts the amendments to Rule 54 of the Commission's rules of practice that were proposed in the Notice of Proposed Rulemaking that the Commission issued on October 25, 1982 [47 FR 49667 (November 2, 1982)], pursuant to 39 U.S.C. 3603, 3622, and 3623. They clarify and make more specific the content and level of detail required in the cost presentation of a formal Postal Service request for changes in rates or classifications of mail. The only amendment proposed in the original Notice that is not adopted in this final rule is proposed section 54(h)(10), which pertains to supplemental cost segment presentations that are consistent with analytical methods previously recommended by the Commission. That proposal is severed from this docket and, in a companion order, made the subject of further comment.

EFFECTIVE DATE: This rule is effective on January 27, 1983.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 2000 L Street, NW., Washington, D.C. 20268 (telephone: [202] 254-3824).

SUPPLEMENTARY INFORMATION: On October 25, 1982, the Commission issued a Notice of Proposed Rulemaking proposing a set of amendments to Rule 54 of its rules of practice clarifying the content and level of detail that the Postal Service must include in the cost presentation that accompanies its formal requests for changes in postal rates and fees. Certain cost information can be identified in advance of formal Postal Service requests for changes in rates or classes of mail as essential to reaching an informed recommended decision. In the past, however, such information often has not been included in the Postal Service's request, in part because current Rule 54 is not sufficiently specific or comprehensive in identifying the cost information that such requests should include. As a result, substantial time and resources have, in the past, been consumed unnecessarily eliciting such information from the Postal Service piecemeal over the course of the hearing, through discovery and attendant motion practice.

The objective of the amendments to Rule 54 that we proposed in our October 25 Notice is to avoid this needless expense and delay by requiring categories of foreseeably necessary cost information that in the past have been obtained through discovery or Commission information requests, to be included, instead, in the Postal Service's initial filing.

Eleven parties filed comments or reply comments responding to the Commission's October 25 Notice. Having considered these comments, we adopt the amendments proposed in our initial Notice with some minor modifications. Paragraph 54(h)(10) proposed in that Notice is the only proposal that we are not adopting in this final rule. That proposed rule would require the Postal Service, where it proposed to analyze cost causality in a particular segment by a method not previously recommended by the Commission, to include a supplemental presentation with its request treating that cost segment by a method consistent with the method previously recommended by the Commission. This is the only amendment proposed in our October 25 Notice that has generated substantial controversy involving assertions of fact. For that reason it is being severed from this docket and made the subject of further rulemaking activity.

In addition to proposing specific amendments to Rule 54, the October 25 Notice solicited comment on whether it is desirable for the Commission, at the request of the Postal Service or other parties, to use informal rulemaking procedures to examine proposed methods for analyzing postal costs that have not previously been recommended by the Commission. If, as a result of such an informal rulemaking, the Commission were convinced that the party advocating the new method is likely to demonstrate, in a subsequent section 3624 proceeding, that its proposed method would be preferable to the previously recommended method, the Commission would then serve notice of its intent not to attach the customary weight of precedent to the established methodology in a subsequent section 3624 proceeding. One of the primary benefits of this proposed procedure would be the opportunity it would afford the Postal Service to secure a waiver of the requirements of proposed section 54(h)(10), if that proposal should be adopted. Because of its close relationship to proposed 54(h)(10), the Commission will defer this proposal until it reaches a decision on proposed 54(h)(10).

Several commenters advanced their own proposals for amending Rule 54. Most of them are not incorporated in our amendments adopted here, for reasons explained below.

In its Notice of Proposed Rulemaking, the Commission proposed amending section 54(h)(4). That section currently requires the Postal Service to attribute and assign segment costs to the various

mail classes and services. We proposed the following amendment to that subsection to make explicit what had formerly been an implicit standard for the costing evidence required by Rule 54:

> The submission shall be sufficiently comprehensive and detailed to allow it to be independently evaluated, verified, and replicated from primary data sources.

Dow Jones, Inc. commented that placing this language in subsection 54(h)(4) inappropriately limits its applicability to the Postal Service's functional cost presentation. Dow Jones recommends incorporating this language instead, in subsection 54(p), which establishes requirements for workpapers generally. (Comments of Dow Jones, Inc., November 24, 1982, pp. 1–2.) We concur that the standard which this recommended language embodies should apply to workpapers in general. Accordingly, we amend the language of subsection 54(p)(4) to read as follows:

> (4) Workpapers shall be sufficiently comprehensive and detailed to allow quantitative data in the testimony to be independently evaluated and verified. They shall be sufficient to enable a reviewer to trace the derivation of numbers in the testimony back to published documents or, if necessary, primary data sources. Citations shall be sufficiently detailed to enable a reviewer to identify and locate the specific data used, e.g., by reference to document, page, line, column, etc.

United Parcel Service proposed that the Postal Service be required to provide primary data sources with its request, asserting that this would eliminate delay during the hearing. (Comments of United Parcel Service, November 24, 1982, p. 1). While a need for the production of selected primary data sources has occasionally been demonstrated in past hearings, a routine need for the production of primary data sources in general has not been demonstrated. Moreover, it would be a substantial burden upon the Postal Service to provide certain categories of primary data, such as raw In Office Cost System (IOCS) tallies. Therefore, we think that a blanket requirement that primary data sources be provided at the outset of a hearing, such as UPS proposes, is not warranted.

In our Notice of Proposed Rulemaking, we proposed new sections 54(h) (5) through (9), dealing with the cost forecasting model, attributable cost final adjustments, "other services" adjustments, a summary cost table, and base year amounts for accounts included in cost segments. We proposed them on the ground that they represent categories of cost information that we have consistently relied upon to reach recommended decisions in past omnibus rate cases, but often have had to obtain through discovery or information requests rather than the Postal Service's initial filing, which has resulted in unnecessary delay in the hearing process.

Newsweek asked in its comments that we not adopt these amendments. It recommended that we wait and see whether recent amendments to section 54(p)(4), which require that numbers in Postal Service testimony be supported by workpapers that show their derivation from public documents or primary data sources, won't elicit the additional detail in costing data that they perceive to be the goal of these amendments. (Comments of Newsweek, Inc., November 24, 1982, pp. 5–8).

Newsweek misperceives the principal goal of these amendments as well as their principal effect, which is not to obtain additional detail from the Postal Service, but to obtain the detail that we have obtained in past cases at an earlier point in the proceeding, in the Postal Service's initial filing. For that reason we consider Newsweek's concern about additional data requirements to be misplaced.

The balance of the comments pertinent to our proposed new sections 54(5) through (9) were generally favorable. Significant controversy was voiced only with respect to our reference to Service Related Costs in proposed new section 54(h)(8). As proposed, this paragraph required a summary cost table that included assignable costs. We included in that paragraph some illustrative categories of assignable costs, among them Service Related Costs. The sole purpose of this list was to illustrate the point that the summary table should break out assignable costs into its constituent categories. The Notice of Proposed Rulemaking made it clear that proposed sections 54(h)(5) through (9), including 54(h)(8), were applicable only to the costing presentation advocated by the Postal Service. Therefore, any category of assignable costs, including Service Related Costs, would be included in the summary table required by proposed section 54(h)(8) only if the Postal Service chose to include them in its advocated costing analysis.

There were numerous comments both supporting and opposing the reference to Service Related Costs in proposed subsection 54(h)(8), based upon the incorrect inference that our reference to Service Related Costs in subsection (8) denoted a substantive requirement for the Postal Service's advocated costing presentation. As we have explained, that was not our intent. Because it is not strictly necessary, and has given rise to unintended inferences, we have decided to delete the list of illustrations of categories of assignable costs from subsection 54(h)(8).

United Parcel Service recommended that proposed sections 54(h)(5) and (8) be applied not only to the costing presentation advocated by the Postal Service, but to the supplemental cost segment presentations that would be required if section 54(h)(10) proposed in our Notice were ultimately adopted. (Comments of United Parcel Service, November 24, 1982, p. 2). We do not adopt this recommendation because, in our view, it is not likely to be useful. This recommendation appears to rest upon on a misperception of what our proposed new section 54(h)(10) would require in terms of supplemental costing data.

Proposed section 54(h)(10), if it is ultimately adopted as proposed, will require the Postal Service to provide the data necessary to treat individual cost segments and components by analytical methods previously recommended by the Commission. This would enable the Commission to preserve the option of accepting or rejecting methods of analyzing cost causality in individual cost segments that depart from precedent, an option that the Commission must have if it is to fulfill its statutory duty. *Time, Inc.* v. *USPS*, 685 F.2d 760, 774–75 (2nd Cir. 1982).

Proposed section 54(h)(10) rests on the premise that what has been true in past rate cases would be true in future ones, that is, the Commission would accept the majority of the methodological departures proposed by the Postal Service for particular cost segments, rejecting them in favor of established methods in relatively few cost segments. Consistent with this premise, proposed section 54(h)(10) would not require the Postal Service to prepare a comprehensive, integrated, supplemental cost presentation that conforms to methodological precedent, with all ripple effects worked through, and base-year costs rolled forward to the test year, as sections 54(h)(5) and (8) would require if they were applied to the supplemental cost segment treatments that proposed section 54(h)(10) contemplates.

To apply sections 54(h)(5) and (8) to the Postal Service's supplemental cost presentation, in our view, would not be appropriate because it approaches the point of requiring the Postal Service to become an advocate of a litigating position against its will.

To require the Postal Service to update cost segment data in a format

that conforms to an analytical method previously sanctioned in formal section 3624 proceedings, as proposed section 54(h)(10) is intended to do, would require it essentially to provide updates of numerical data previously provided, based upon methodological assumptions that it is asked to treat as given. It does not require the Postal Service to exercise a significant degree of judgmental discretion. And, because it allows the Postal Service to disclaim the underlying method, it does not require it to adopt a litigating position against its will.

This would be less true, however, if the Postal Service were required to present a comprehensive and fully developed supplemental cost presentation, which sections 54(h)(5) and (8) entail. The integrating and forecasting decisions required by sections 54(h)(5) and (8) would require the Postal Service to exercise significant judgmental discretion. Difficult due process questions might be presented if the Postal Service were required involuntarily to adopt such judgments under oath. In addition, the need for such integration and elaboration of cost segment data as paragraphs (5) and (8) require is less critical than is the need for the basic cost segment data itself, which is in the exclusive possession of the Postal Service. For these reasons we are not adopting United Parcel Service's suggestion with respect to sections 54(h)(5) and (8).

One of the remaining aspects of proposed sections 54(h)(5) through (9) that received significant comment is the proper interpretation of the requirement that the information to be provided under those paragraphs be broken out by rate category as well as subclass. Whereas current section 54(h)(4) requires that costs be attributed and assigned to rate categories "to the extent practical," the amendments proposed in our October 25 Notice, where they propose that cost data be broken out by rate category, do not include a similar qualification.

Direct Marketing Association, Inc., construed our proposed amendments to impose an unqualified requirement that cost data be broken out by rate category, and urged that current section 54(h)(4) be brought into conformity with its construction of our proposed amendments. (Comments of Direct Marketing Association, Inc., November 24, 1982, pp. 3–4). The Postal Service interprets our proposed amendments as incorporating the limitation in current section 54(h)(4) that cost data be broken out by rate category "to the extent practical." (Reply Comments of United State Postal Service, December 22, 1982, pp. 6–10). The Council of Public Utility Mailers, in their comments and reply comments, recommends that the Postal Service's obligation to break out cost data by rate category be limited in Rule 54 to data that is already being collected.

The Postal Service's interpretation of our proposed amendments in this respect is correct. It has cited valid reasons for preserving this limitation, specifically, that there are great practical difficulties in identifying certain rate categories for sampling purposes, and sample sizes, and the attendant expense of sampling, might have to be increased considerably if separate data for all rate categories were to be collected. Accordingly, section 54(h)(5) through (9), as we adopt them here, shall be understood to incorporate the qualification on the Postal Service's obligation to break out cost data by rate category that is set forth in current subsection 54(h)(4).

We are adopting section 54(h)(5) through (9) as proposed in our October 25 Notice, with the modifications described above, and certain additional changes in language made to bring them into stylistic conformity with the balance of Rule 54.

Proposed section 54(h)(11) established as a minimum level of disaggregation of cost segment data, that which was employed with respect to a particular segment in the most recent formal proceeding. It would apply not only to the supplemental cost segment presentations that would be required if proposed 54(h)(10) were adopted, but to the Postal Service's advocated cost presentation as well. Accordingly, an exception to this requirement was provided for that situation where the Postal Service's advocated treatment of a particular cost segment was based upon a method for determining cost causality that differed conceptually from that recommended by the Commission in the most recently completed formal hearing. To qualify for the exception, the Postal Service would have to be able to demonstrate that its proposed methodological departure would make the level of disaggregation achieved in the established treatment of a particular cost segment inappropriate.

Notwithstanding the inclusion of this exception, Dow Jones comments that it is not appropriate to tie requried levels of detail in cost segment data to the established methods for analyzing cost causality in that segment. It argues that if such data must be disaggregated at established levels, it might artificially inhibit the Postal Service from reflecting "changing postal conditions and circumstances." (Comments of Dow Jones, Inc., November 24, 1982, pp. 4–5). In view of the exception for changed methodology already incorporated in proposed subsection 54(h)(11), Dow Jones, presumably, is arguing that even where the basic methodological concept for analyzing cost causality remains unchanged, operational changes might make levels of disaggregation previously achieved for a cost segment inappropriate. We conceded this possibility, and agree that paragraph (11) should provide for this additional contingency. Accordingly, we are modifying the language of paragraph (11) originally proposed in our October 25 Notice to make an exception to its requirements for changes in mail operations as well as methodological changes that the Postal Service can demonstrate make the established level of disaggregation for a particular cost segment inappropriate.

In our Notice of Proposed Rulemaking of October 25, 1982, we included an "Appendix C" that illustrated the level of disaggregation of cost segment data that paragraph (11) would require. [47 FR 49667, 71–73 (November 2, 1982)]. Appendix C did not, however, specifically illustrate the requirement that the cost amounts shown there are required to be distributed to mail classes, subclasses, rate categories for which pertinent data is collected, and special services. We wish to clarify that proposed section 54(h)(11), as we adopt it here, includes that requirement. We also note that because we are severing proposed section 54(h)(10) dealing with supplemental cost segment presentations from this docket, what was designated section 54(h)(11) in our Notice of Proposed Rulemaking must be redesignated 54(h)(10), as we adopt it here.

The American Newspaper Publishers Association recommended that we amend section 54(d) to require that the Postal Service include in its request a complete set of both volume and non-volume distribution keys. (Comments of American Newspaper Association, November 26, 1982, p. 1). This information is clearly basic to understanding the manner in which the Postal Service has derived its recommended rates, and clearly must accompany any formal Postal Service request for new rates. But because it is so clearly basic to any Postal Service testimony supporting changed rates for a particular mail class, it is clearly required to be provided in the Postal Service's workpapers under current section 54(p)(2)(i). Accordingly, it is

unnecessary, in our view, to add a specific requirement with respect to distribution keys elsewhere in Rule 54.

Direct Marketing Association, Inc., has recommended a number of amendments to Rule 54. It recommends that where the Postal Service bases its rate discounts for presorted mail on cost-avoidance estimates, that it be required to update those estimates for the base year and the test year, with explanations of the differences between base- and test-year figures. (Comments of Direct Marketing Association, Inc., November 24, 1982, pp. 4–5). We agree with DMA that staleness of data upon which cost avoidance estimates have been based has been a notable deficiency in past Postal Service requests, and that updates are overdue for certain rate categories. We do not, however, think it is feasible to prescribe by a blanket rule the specific frequency with which cost avoidance studies must be updated. Passage of time is only one of several factors that determines the obsolescence of cost avoidance studies. Operational changes, for example, can also affect their continued relevance and validity. The expense of, as well as the need for updating such studies is better determined according to the individual circumstance. Accordingly, we do not adopt this solution to an admittedly significant problem with past Postal Service filings.

DMA also recommends that current section 54(h)(4)(viii) be amended to make specific reference to "cost avoidance resulting from deferred mail handling and delivery." (Comments of Direct Marketing Association, November 24, 1982, p. 5). This factor is, in our view, already subsumed under current section 54(h)(4)(iii), "[p]riority of handling", and therefore is unnecessary.

DMA recommends that Rule 54 be amended to require that the Postal Service's request identify and distribute "below the line" revenue requirement items, as well as cost items. (Comments of Direct Marketing Association, November 24, 1982, pp. 5–6). The purpose of the amendments that we adopt here is to identify information obtained in past proceedings that was necessary to illuminate otherwise obscure areas of cost allocation, and to advance the point in the proceeding at which such information is made available. The identification and distribution of "below the line" revenue requirement items has been presented in past Postal Service requests in a straight-forward and readily ascertainable fashion. We therefore see no need for additional rules on this subject.

DMA has recommended numerous amendments to current Sections 54 (i), (j), and (k). As we have noted, our Notice of Proposed Rulemaking was intended to advance the point in our formal proceedings at which the Postal Service provides essential cost information. While some of DMA's proposed amendments to subsections (i), (j), and (k) appear to have merit, they address areas other than costs, and therefore are better dealt with in a separate rulemaking.

List of Subjects in 39 CFR Part 3001

Rules of practice and procedure, content of formal requests.

PART 3001—[AMENDED]

We hereby amend § 3001.54 paragraph (h) by redesignating current paragraphs (5) and (6) as paragraphs (11) and (12) respectively, and adding new paragraphs (5) through (10) to read as follows:

§ 3001.54h Contents of formal requests.

* * * * *

(h) * * *

(5) The cost forecasting or "roll-forward" model shall be provided. It shall include the following items:

(i) For each cost segment component, a listing of all forecasting factors used in the cost level, mail volume, nonvolume workload, additional workday, productivity and other programs effects.

(ii) For each "ripple-affected" cost segment component, a listing of those segments and components that determine its level of attribution or its distribution to mail class, subclass, rate category and service.

(iii) For each longer-run cost segment component:

(*a*) A listing of all factors used in determining its overall level of attribution, and

(*b*) A listing of the specific cost segment components used in determining its level of attribution, and its distribution to mail class, subclass, rate category and service.

(iv) Workpapers showing the application of the forecasting factors and procedures to each cost segment component for each time period used in the forecasting process. Such workpapers shall include the quantification, and distribution to mail class, subclass, rate category and service, of each cost segment component, separating the short-run from the longer-run portions.

(6) Attributable cost final adjustments by mail class, subclass, rate category and service, details of the development of those adjustments, and an explanation of each adjustment shall be provided.

(7) "Other services" adjustments by mail class, subclass, rate category and service, details of the development of those adjustments, and an explanation of each adjustment shall be provided.

(8) An overall summary cost table shall be provided. It shall show by mail class, subclass, rate category and service, short-run attributable costs, longer-run attributable costs, assignable costs by category, and all adjustments made to each of the foregoing.

(9) For each cost segment, base-year amounts for each included account and subaccount shall be provided.

(10) The minimum level of disaggregation required for presenting evidence on a cost segment or component is that employed by the Commission in its most recently completed section 3624 proceeding establishing a methodological precedent for that segment or component. This requirement shall not apply.

(i) To presentations that propose to define, attribute, assign, or distribute to mail classes segment or component costs by a method not employed or recommended by the Commission in such proceeding, and the Postal Service has demonstrated that the proposed methodological departure makes the level of disaggregation most recently employed or recommended by the Commission inappropriate.

(ii) Where the Postal Service has demonstrated that changes in mail operations make the level of disaggregation most recently employed or recommended by the Commission inappropriate.

* * * * *

By the Commission.

David F. Harris,

Secretary.

[FR Doc. 83-2256 Filed 1-26-83; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 2261-8]

Approval and Promulgation of Implementation Plans, Approval of Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA approves the State of Maryland's submitted revisions to its

enabling legislation pertaining to air pollution control and its request that these changes be incorporated into the approved Maryland State Implementation Plan (SIP). The revisions meet all of the applicable requirements of the Clean Air Act and fulfill the stated purpose of streamlining the language in the State statute.

EFFECTIVE DATE: This notice will be effective March 28, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

All comments should be submitted to: Henry J. Sokolowski, P.E., Chief, MD–DE–DC Metro Section, U.S. Environmental Protection Agency, Region III, 6th & Walnut Sts., Philadelphia, PA 19106, Ref: AH041MD.

ADDRESSES: Copies of the revision and accompanying documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Media & Energy Branch, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Gaughan

Maryland Department of Health & Mental Hygiene, Air Management Administration, 201 W. Preston Street, Baltimore, Maryland 21201, ATTN: George P. Ferreri

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford (3AW12), U.S. Environmental Protection Agency, Region III, 6th & Walnut Sts., Philadelphia, PA 19106, Phone: 215/597–8392, Ref: AH041MD.

SUPPLEMENTARY INFORMATION: On July 2, 1982, the State of Maryland submitted to EPA, revisions to its Annotated Code pertaining to air quality control. The revised Code replaces Article 43 of the Annotated Code of Maryland. In general, the changes were made for the following purposes:

(1) Clarify wording to avoid differing interpretations of the meaning of a given definition or term;

(2) Renumber existing provisions under the new code without making substantive wording changes;

(3) Delete wording that the State has considered to be unnecessary;

(4) Change the wording of certain provisions so that it conforms with the wording of other provisions;

(5) Change the language of Old Article 43 to conform with the language of the new Health-Environmental Annotated Code of Maryland;

(6) Add language to a provision to state explicitly that the State Department of Health and Mental Hygiene has the power to refuse to grant a temporary fuel variance. Previously, such power had only been implied; and

(7) Revise Section 2–610 to allow the State up to 36 months to rebate a civil penalty, upon the finding that a violation has been eliminated or that the conditions of a Secretarial Order have been satisfied. Under the old provisions, the State was allowed one year to rebate such penalty.

EPA Evaluation

EPA has reviewed these changes and concludes that the revised Health-Environmental Article of the Annotated Code of Maryland still contains the necessary legal authority for the State of Maryland to carry out its SIP, including all of the elements listed under 40 CFR 51.11 (Legal Authority) of Subpart B (Plan Content and Requirements). Therefore, EPA approves the State's revised Health-Environmental Article as a revision of the Maryland SIP. Accordingly, this rulemaking action revises 40 CFR 52.1070 (Identification of Plan) of Subpart V (Maryland) to incorporate these statutory changes into the approved Maryland SIP.

The public is advised that this action will become effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and other notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 9709.)

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (insert 60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon Monoxide, Hydrocarbons, Intergovernmental relations.

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

Note. Incorporation by reference of the State Implementation Plan for the State of Maryland was approved by the Director of the Federal Register of July 1, 1982.

PART 52—[AMENDED]

Title 40, Part 52, Subpart V of the Code of Federal Regulations is amended as follows:

Subpart V—Maryland

Section 52.1070 is amended by adding paragraph (c)(68) as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(68) The revised Health-Environmental Article of the Annotated Code of Maryland, submitted on July 2, 1982 by the Director, Maryland Air Management Administration, Department of Health and Mental Hygiene.

[FR Doc. 83–2168 Filed 1–26–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Parts 60 and 61

[AD–FRL–2244–8]

Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants: Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This is a technical amendment incorporating certain materials by reference into existing new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAP) promulgated under Sections 111 and 112, respectively, of the Clean Air Act. These materials are already cited in those standards, but they have not until now been incorporated by reference under the applicable regulations of the Office of the Federal Register. The intent of this action is to comply with those regulations.

EFFECTIVE DATE: January 27, 1983. The incorporation by reference of certain

publications listed in the regulation is approved by the Director of the Federal Register as of January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Tabler, Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5624.

SUPPLEMENTARY INFORMATION: In the Freedom of Information Act, 5 U.S.C. 552, Congress authorized incorporation of materials into regulations by reference in an effort to reduce the volume of material published in the **Federal Register** and Code of Federal Regulations. Incorporation by reference allows federal agencies to comply with the requirement to publish regulations in the **Federal Register** simply by referring to material already published elsewhere, rather than reprinting such material in the published regulations. The legal effect of incorporation by reference is that the material is treated as if it were published in the **Federal Register**. This material, like any other properly issued regulation, has the force and effect of law.

In this action, EPA is incorporating by reference into several of its existing new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAP) promulgated under Clean Air Act Sections 111 and 112 (at 40 CFR Parts 60 and 61), respectively, materials that are already cited in those standards. This is because these materials have not previously been incorporated by reference pursuant to the formal procedures established in 1 CFR Part 51. The amendment sets forth the sections affected by this action and the material being incorporated into each section. All of the materials are available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street, N.W., Washington, D.C. as well as at the Library (MD–35), U.S. EPA, Research Triangle Park, North Carolina. These incorporations by reference were approved by the Director of the Federal Register on January 27, 1983.

This amendment incorporates by reference two sets of materials: (a) Materials identical in form (i.e., same edition and publication date) to the materials currently cited in NSPS and NESHAP; and (b) later editions of materials currently cited in these regulations. Regardless of the category particular materials fall within, however, all the materials that this amendment incorporates by reference are substantively the same as those currently cited in the regulations.

This amendment informs the public that the Director of the Federal Register has approved incorporation of these materials by reference. It imposes no requirements beyond those already cited in the affected NSPS and NESHAP. Therefore, additional notice and comment are "unnecessary," and the Agency has "good cause," under 42 U.S.C. 7607(d)(1) and 5 U.S.C. § 553(b), subparagraph (B), to promulgate these incorporations without further notice and comment.

For the same reason, the Agency finds that good cause exists for making these incorporations effective immediately, under 5 U.S.C. 553(d)(3).

Miscellaneous

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 28, 1983. This action may not be challenged later in proceedings to enforce the NSPS and NESHAP into which the materials discussed above are incorporated by reference [see § 307(b)(2)].

This rulemaking is issued under the authority of Sections 111, 112, and 301(a) of the Clean Air Act as amended [42 U.S.C. 7411, 7412, and 7601(a)].

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because it imposes no new requirements.

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphait, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference.

40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl choloride, Incorporation by reference.

Dated: December 20, 1982.

Anne M. Gorsuch,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended as follows:

1. A new § 60.17 is added to read as follows:

§ 60.17 Incorporations by reference.

The materials listed below are incorporated by reference in the corresponding sections noted. These incorporations by reference were approved by the Director of the Federal Register on the date listed. These materials are incorporated as they exist on the date of the approval, and a notice of any change in these materials will be published in the **Federal Register**. The materials are available for purchase at the corresponding address noted below, and all are available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street, N.W., Washington, D.C. and at the Library (MD–35), U.S. EPA, Research Triangle Park, North Carolina.

(a) The following materials are available for purchase from at least one of the following addresses: American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103; or the University Microfilms International, 300 North Zeeb Road, Ann Arbor, Michigan 48106.

(1) ASTM D388–77, Standard Specification for Classification of Coals by Rank, incorporation by reference (IBR) approved January 27, 1983 for §§ 60.41(f), 60.45(f)(4)(i), (ii), (vi), 60.41a, 60.251(b), (c).

(2) ASTM D3178–73, Standard Test Methods for Carbon and Hydrogen in the Analysis Sample of Coal and Coke, IBR approved January 27, 1983 for § 60.45(f)(5)(i).

(3) ASTM D3176–74, Standard Method fur Ultimate Analysis of Coal and Coke, IBR approved January 27, 1983 for § 60.45(f)(5)(i).

(4) ASTM D1137–53 (Reapproved 1975), Standard Method for Analysis of Natural Gases and Related Types of Gasious Mixtures by the Mass Spectrometer, IBR approved January 27, 1983 for § 60.45(f)(5)(i).

(5) ASTM D1945–64 (Reapproved 1976), Standard Method for Analysis of Natural Gas by Gas Chromatography, IBR approved January 27, 1983 for § 60.45(f)(5)(i).

(6) ASTM D1946–77, Standard Method for Analysis of Reformed Gas by Gas Choromatography, IBR approved January 27, 1983 for § 60.45(f)(5)(i).

(7) ASTM D2015–77, Standard Test Method for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter, IBR approved January 27, 1983 for §§ 60.45(f)(5)(ii), 60.46(g), Method 19, par. 5.2.2.

(8) ASTM D1826–77, Standard Test Method for Calorific Value of Gases in

Natural Gas Range by Continuous Recording Calorimeter, IBR approved January 27, 1983 for §§ 60.45(f)(5)(ii), 60.46(g), in Appendix A to Part 60, Method 19, par. 5.2.2.

(9) ASTM D240–76, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter, IBR approved January 27, 1983 for §§ 60.46(g), 60.296(f), in Appendix A to Part 60, Method 19, pars. 2.2.3 and 5.2.2.

(10) ASTM D396–78, Standard Specification for Fuel Oils, IBR approved January 27, 1983 for §§ 60.111(b), 60.111a(b).

(11) ASTM D2880–78, Standard Specification for Gas Turbine Fuel Oils, IBR approved January 27, 1983 for §§ 60.111(b), 60.111a(b), 60.335(b)(2).

(12) ASTM D975–78, Standard Specification for Diesel Fuel Oils, IBR approved January 27, 1983 for §§ 60.111(b), 60.111a(b).

(13) ASTM D233–72 (Reapproved 1977), Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method), IBR approved January 27, 1983 for §§ 60.111(l), 60.111a(g).

(14) ASTM A99–76, Standard Specification for Ferromanganese, IBR approved January 27, 1983 for § 60.261.

(15) ASTM A483–64 (Reapproved 1974), Standard Specification for Silicomanganese, IBR approved January 27, 1983 for § 60.261.

(16) ASTM A101–73, Standard Specification for Ferrochromium, IBR approved January 27, 1983 for § 60.261.

(17) ASTM A100–69 (Reapproved 1974), Standard Specification for Ferrosilicon, IBR approved January 27, 1983 for § 60.261.

(18) ASTM A482–76, Standard Specification for Ferrochromesilicon, IBR approved January 27, 1983 for § 60.261.

(19) ASTM A495–76, Standard Specification for Calcium-Silicon and Calcium Manganese-Silicon, IBR approved January 27, 1983 for § 60.261.

(20) ASTM D1072–56 (Reapproved 1975), Standard Test Method for Total Sulfur in Fuel Gases, IBR approved January 27, 1983 for § 60.335(b)(2).

(21) ASTM D2986–71 (Reapproved 1978), Standard Method for Evaluation of Air, Assay Media by the Monodisperse DOP (Dioctyl Phthalate) Smoke Test, IBR approved January 27, 1983 for Appendix A to Part 60, Method 5, par. 3.1.1; Method 12, par. 4.1.1; Method 17, par. 3.1.1.

(22) ASTM D1193–77, Standard Specification for Reagent Water, IBR approved January 27, 1983 for Appendix A to Part 60, Method 6, par. 3.1.1; Method 7, par. 3.2.2; Method 8, par. 3.1.3; Method 12, par. 4.1.3.

(23) [Reserved]

(24) ASTM D2234–76, Standard Methods for Collection of a Gross Sample of Coal, IBR approved January 27, 1983 for Appendix A to Part 60, Method 19, par. 2.1.1.

(25) ASTM D3173–73, Standard Test Method for Moisture in the Analysis Sample of Coal and Coke, IBR approved January 27, 1983 for Appendix A to Part 60, Method 19, par. 2.1.3.

(26) ASTM D3177–75, Standard Test Methods for Total Sulfur in the Analysis Sample of Coal and Coke, IBR approved January 27, 1983 for Appendix A to Part 60, Method 19, par. 2.1.3.

(27) ASTM D2013–72, Standard Method of Preparing Coal Samples for Analysis, IBR approved January 27, 1983 for Appendix A to Part 60, Method 19, par. 2.1.3.

(28) ASTM D270–65 (Reapproved 1975), Standard Method of Sampling Petroleum and Petroleum Products, IBR approved January 27, 1983 for Appendix A to Part 60, Method 19, par. 2.2.1.

(29) ASTM D737–85, Standard Test Method for Air Permeability of Textile Fabrics, IBR approved January 27, 1983 for §61.23(a).

(30) ASTM D1475–60 (Reapproved 1980), Standard Test Method for Density of Paint, Varnish, Lacquer, and Related Products, IBR approved January 27, 1983 for § 60.435(d)(1), Appendix A to Part 60, Method 24, par. 2.1, and Method 24A, par. 2.2.

(31) ASTM D2369–81, Standard Test Method for Volatile Content of Coatings, IBR approved January 27, 1983 for Appendix A to Part 60, Method 24, par. 2.2.

(32) ASTM D3792–79, Standard Method for Water Content of Water-Reducible Paints by Direct Injection Into a Gas Chromatograph, IBR approved January 27, 1983 for Appendix A to Part 60, Method 24, par. 2.3.

(33) ASTM D4017–81, Standard Test Method for Water in Paints and Paint Materials by the Karl Fischer Titration Method, IBR approved January 27, 1983 for Appendix A to Part 60, Method 24, par. 2.4.

(b) The following material is available for purchase from the Association of Official Analytical Chemists, 1111 North 19th Street, Suite 210, Arlington, Virginia 22209.

(1) AOAC Method 9, Official Methods of Analysis of the Association of Official Analytical Chemists, 11th edition, 1970, pp. 11–12, IBR approved January 27, 1983 for §§ 60.204(d)(2), 60.214(d)(2), 60.224(d)(2), 60.234(d)(2), 60.244(f)(2).

(c) The following material is available for purchase from the American Petroleum Institute, 2101 L Street, N.W., Washington, D.C. 20037.

(1) API Publication 2517, Evaporation Loss from External Floating-Roof Tanks, Second Edition, February 1980, IBR approved January 27, 1983 for §§ 60.111, 60.111a.

(d) The following material is available for purchase from the Technical Association of the Pulp and Paper Industry (TAPPI), Dunwoody Park, Atlanta, Georgia 30341.

(1) TAPPI Method T624 os–68, IBR approved January 27, 1983 for § 60.285(d)(4).

2. In § 60.41, paragraph (f) is revised to read as follows:

§60.41 Definitions.

* * * * *

(f) "Coal" means all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society and Testing and Materials, Designation D388–77 (incorporated by reference—see §60.17).

3. In § 60.45, paragraphs (f)(4)(i), (f)(4)(ii), (f)(4)(vi), (f)(5)(i), and (f)(5)(ii) are amended to read as follows:

§ 6045 Emission and fuel monitoring.

* * * * *

(f) * * *

(4) * * *

(i) For anthracite coal as classified according to ASTM D388–77 (incorporated by reference—see § 60.17), $F = 2{,}723 \times 10^{-17}$ dscm/J (10,140 dscf/million Btu and $F_c = 0.532 \times 10^{-17}$ scm CO_2/J (1,980 scf CO_2/million Btu).

(ii) For subbituminous and bituminous coal as classified according to ASTM D388–77 (incorporated by reference—see § 60.17), $F = 2.637 \times 10^{-7}$ dscm/J (9,820 dscf/million Btu) and $F_c = 0.486 \times 10^{-7}$ scm CO_2/J (1,810 scf CO_2/million Btu).

* * * * *

(vi) For lignite coal as classified according to ASTM D388–77 (incorporated by reference—see § 60.17), $F = 2.659 \times 10^{-7}$ dscm/J (9,900 dscf/million Btu) and $F_c = 0.516 \times 10^{-7}$ scm CO_2/J (1,920 scf CO_2/million Btu.

(5) * * *

(i) H, C, S, N, and O are content by weight of hydrogen, carbon, sulfur, nitrogen, and oxygen (expressed as percent), respectively, as determined on the same basis as GCV by ultimate analysis of the fuel fired, using ASTM method D3178–74 or D3176 (solid fuels) or computed from results using ASTM method D1137–53(75), D1945–64(76), or D1946–77 (gaseous fuels) as applicable. (These five methods are incorporated by reference—see § 60.17.)

(ii) GVC is the gross calorific value (kJ/kg, Btu/lb) of the fuel combusted determined by the ASTM test methods D2015–77 for solid fuels and D1826–77 for gaseous fuels as applicable. (These two methods are incorporated by reference—see § 60.17.)

* * * * *

4. In §60.46, paragraph (g) is revised to read as follows:

§ 60.46 Test methods and procedures.

* * * * *

(g) When combinations of fossil fuels or fossil fuel and wood residue are fired, the heat input, expressed in watts (Btu/hr), is determined during each testing period by multiplying the gross calorific value of each fuel fired (in J/kg or Btu/lb) by the rate of each fuel burned (in kg/sec or lb/hr). Gross calorific values are determined in accordance with ASTM methods D2015–77 (solid fuels), D240–76 (liquid fuels), or D1826–77 (gaseous fuels) as applicable. (These three methods are incorporated by reference—see §60.17.) The method used to determine calorific value of wood residue must be approved by the Administrator. The owner or operator shall determine the rate of fuels burned during each testing period by suitable methods and shall confirm the rate by a material balance over the steam generation system.

5. In §60.41a, the definitions of "subbituminous coal," "lignite," and "anthracite" are amended to read as follows:

§ 60.41a Definitions.

* * * * *

"Subbituminous coal" means coal that is classified as subbituminous A, B, or C according to the American Society of Testing and Materials (ASTM) Standard Specification for Classification of Coals by Rank D388–77 (incorporated by reference—see §60.17).

"Lignite" means coal that is classified as lignite A or B according to the American Society of Testing and Materials' (ASTM) Standard Specification for Classification of Coals by Rank D388–77 (incorporated by reference—see §60.17).

* * * * *

"Anthracite" means coal that is classified as anthracite according to the American Society of Testing and Materials' (ASTM) Standard Specification for Classification of Coals by Rank D388–77 (incorporated by reference—see §60.17).

* * * * *

6. In §60.111, paragraphs (b), (i), and (l) are revised to read as follows:

§ 60.111 Definitions.

* * * * *

(b) "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Nos. 2 through 6 fuel oils as specified in ASTM D396–78, gas turbine fuel oils Nos. 2–GT through 4–GT as specified in ASTM D2880–78, or diesel fuel oils Nos. 2–D and 4–D as specified in ASTM D975–78. (These three methods are incorporated by reference—see §60.17.)

* * * * *

(i) "True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, Evaporation Loss from External Floating-Roof Tanks, Second Edition, February 1980 (incorporated by reference—see §60.17).

* * * * *

(l) "Reid vapor pressure" is the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids, except liquified petroleum gases, as determined by ASTM D323–72 (incorporated by reference—see § 60.17).

7. In § 60.111a, paragraphs (b), (f), and (g) are revised to read as follows:

§ 60.111a Definitions.

* * * * *

(b) "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Nos. 2 through 6 fuel oils as specified in ASTM D396–78, gas turbine fuel oils Nos. 2–GT through 4–GT as specified in ASTM D2880–78, gas turbine fuel oils Nos. 2–GT through 4–GT as specified in ASTM D2880–78, or diesel fuel oils Nos. 2–D and 4–D as specified in ASTM D975–78. (These three methods are incorporated by reference—see § 60.17.)

* * * * *

(f) "True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid such as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, Evaporation Loss from External Floating-Roof Tanks, Second Edition, February 1980 (incorporated by reference—see § 60.17).

(g) "Reid vapor pressure" is the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids, except liquified petroleum gases, as determined by ASTM D323–72 (incorporated by reference—see § 60.17).

* * * * *

8. In § 60.204, paragraph (d)(2) is revised to read as follows:

§ 60.204 Test methods and procedures.

* * * * *

(d) * * *

(1) * * *

(2) Calculate the equivalent P_2O_5 feed by multiplying the percentage P_2O_5 content, as measured by the spectrophotometric molybdovanadophosphate method (AOAC Method 9), times the total mass rate of phosphorus-bearing feed. AOAC Method 9 (incorporated by reference—see § 60.17) is published in the Official Methods of Analysis of the Association of Official Analytical Chemists, 11th edition, 1970, pp. 11–12. Other methods may be approved by the Administrator.

* * * * *

9. In § 60.214, paragraph (d)(2) is revised to read as follows:

§ 60.214 Test methods and procedures.

* * * * *

(d) * * *

(1) * * *

(2) Calculate the equivalent P_2O_5 feed by multiplying the percentage P_2O_5 content, as measured by the spectrophotometric molybdovanadophosphate method (AOAC Method 9), times the total mass rate of phosphorus-bearing feed. AOAC Method 9 (incorporated by reference—see § 60.17) is published in the Official Methods of Analysis of the Association of Official Analytical Chemists, 11th edition, 1970, pp. 11–12. Other methods may be approved by the Administrator.

* * * * *

10. In § 60.224, paragraph (d)(2) is revised to read as follows:

§ 60.224 Test methods and procedures.

* * * * *

(d) * * *

(1) * * *

(2) Calculate the equivalent P_2O_5 feed by multiplying the percentage P_2O_5 content, as measured by the spectrophotometric molybdovanadophosphate method (AOAC Method 9), times the total mass rate of phosphorus-bearing feed. AOAC Method 9 (incorporated by reference—see § 60.17) is published in the Official Methods of Analysis of the Association of Official Analytical Chemists, 11th edition, 1970, pp. 11–12. Other methods may be approved by the Administrator.

* * * * *

11. In § 60.234, paragraph (d)(2) is revised to read as follows:

§ 60.234 Test methods and procedures.

* * * * *

(d) * * *

(1) * * *

(2) Calculate the equivalent P_2O_5 feed by multiplying the percentage P_2O_5 content, as measured by the spectrophotometric molybdovanadophosphate method (AOAC Method 9), times the total mass rate of phosphorus-bearing feed. AOAC Method 9 (incorporated by reference—see § 60.17) is published in the Official Methods of Analysis of the Association of Official Analytical Chemists, 11th edition, 1970, pp. 11–12. Other methods may be approved by the Administrator.

* * * * *

12. In § 60.244, paragraph (f)(2) is revised to read as follows:

§ 60.244 Test methods and procedures.

* * * * *

(f) * * *

(1) * * *

(2) Calculate the equivalent P_2O_5 feed by multiplying the percentage P_2O_5 content, as measured by the spectrophotometric molybdovanadophosphate method (AOAC Method 9), times the total mass rate of phosphorus-bearing feed. AOAC Method 9 (incorporated by reference—see § 60.17) is published in the Official Methods of Analysis of the Association of Official Analytical Chemists, 11th edition, 1970, pp. 11–12. Other methods may be approved by the Administrator.

* * * * *

13. In § 60.251, paragraphs (b) and (c) are revised to read as follows:

§ 60.251 Definitions.

* * * * *

(b) "Bituminous coal" means solid fossil fuel classified as bituminous coal by ASTM Designation D388–77 (incorporated by reference—see § 60.17).

(c) "Coal" means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by ASTM Designation D388–77 (incorporated by reference—see § 60.17).

* * * * *

14. In § 60.261, paragraphs (n), (o), (q), (s), (t), (v), and (w) are revised to read as follows:

§ 60.261 Definitions.

* * * * *

(n) "Standard ferromanganese" means that alloy as defined by ASTM Designation A99–76 (incorporated by reference—see § 60.17).

(o) "Silicomanganese" means that alloy as defined by ASTM Designation A483–64 (Reapproved 1974) (incorporated by reference—see § 60.17).

* * * * *

(q) "High-carbon ferrochrome" means that alloy as defined by ASTM Designation A101–73 (incorporated by reference—see § 60.17) grades HC1 through HC6.

* * * * *

(s) "Silvery iron" means any ferrosilicon, as defined by ASTM Designation A100–69 (Reapproved 1974) (incorporated by reference—see § 60.17), which contains less than 30 percent silicon.

(t) "Ferrochrome silicon" means that alloy as defined by ASTM Designation A482–76 (incorporated by reference—see § 60.17).

* * * * *

(v) "Calcium silicon" means that alloy as defined by ASTM Designation A495–76 (incorporated by reference—see § 60.17).

(w) "Ferrosilicon" means that alloy as defined by ASTM Designation A100–69 (Reapproved 1974) (incorporated by reference—see § 60.17) grades A, B, C, D, and E, which contains 50 or more percent by weight silicon.

* * * * *

15. In § 60.285, paragraph (d)(4) is revised to read as follows:

§ 60.285 Test methods and procedures.

* * * * *

(d) * * *

(4) When determining whether a furnace is a straight kraft recovery furnace or a cross recovery furnace, TAPPI Method T.624 (incorporated by reference—see § 60.17) shall be used to determine sodium sulfide, sodium hydroxide, and sodium carbonate. These determinations shall be made three times daily from the green liquor and the daily average values shall be converted to sodium oxide (Na_2O) and substituted into the following equation to determine the green liquor sulfidity:

$$GLS = 100\, C_{Na_2S} / (C_{Na_2} + C_{NaOH} + C_{Na_2CO_3})$$

where:

GLS = percent green liquor sulfidity

C_{Na_2S} = average concentration of Na_2O expressed as Na_2O (mg/*l*)

C_{NaOH} = average concentration of NaOH expressed as Na_2O (mg/*l*)

$C_{Na_2CO_3}$ = average concentration of Na_2CO_3 expressed as Na_2 (mg/*l*)

* * * * *

16. In § 60.296, paragraph (f) is revised to read as follows:

§ 60.296 Test methods and procedures.

* * * * *

(f) When gaseous and liquid fuels are fired simultaneously in a glass melting furnace, the heat input of each fuel, expressed in joules, is determined during each testing period by multiplying the gross calorific value of each fuel fired (in joules/kilogram) by the rate of each fuel fired in (kilograms/second) to the glass melting furnaces. The decimal percent of liquid fuel heating value to total fuel heating value is determined by dividing the heat input of the liquid fuels by the sum of the heat input for the liquid fuels and the gaseous fuels. Gross calorific values are determined in accordance with American Society of Testing and Materials (ASTM) Method D240–76 (liquid fuels) and D1826–77 (gaseous fuels), as applicable. (These two methods are incorporated by reference—see § 60.17.) The owner or operator shall determine the rate of fuels burned during each testing period by suitable methods and shall confirm the rate by a material balance over the glass melting system.

17. In § 60.335, paragraph (b)(2) is revised to read as follows:

§ 60.335 Test methods and procedures.

* * * * *

(b) * * *

(1) * * *

(2) ASTM D2880–78 for the sulfur content of liquid fuels and ASTM D1072–56 (Reapproved 1975) for the sulfur content of gaseous fuels. (These two methods are incorporated by reference—see § 60.17.) These methods shall also be used to comply with §60.334(b).

18. In Appendix A to Part 60, Method 5, paragraph 3.1.1 is revised to read as follows:

Method 5—Determination of Particulate Emissions From Stationary Sources

* * * * *

3. *Reagents*

3.1 * * *

3.1.1 Filters. Glass fiber filters, without organic binder, exhibiting at least 99.95 percent efficiency (<0.05 percent penetration) on 0.3-micron dioctyl phthalate smoke particles. The filter efficiency test shall be conducted in accordance with ASTM standard method D2986–71 (Reapproved 1978) (incorporated by reference—see § 60.17). Test data from the supplier's quality control program are sufficient for this purpose. In sources containing SO_2 or SO_3, the filter material must be of a type that is unreactive to SO_2 or SO_3. Citation 10 in Section 7 Bibliography, may be used to select the appropriate filter.

* * * * *

19. In Appendix A to Part 60, Method 6, paragraph 3.1.1. is revised to read as follows:

Method 6—Determination of Sulfur Dioxide Emissions From Stationary Sources

* * * * *

3. *Reagents*

* * * * *

3.1 * * *

3.1.1 Water. Deionized distilled to conform to ASTM specification D1193–77, Type 3 (incorporated by reference—see § 60.17). At the option of the analyst, the $KMnO_4$ test for oxidizable organic matter may be omitted when high concentrations of organic matter are not expected to be present.

* * * * *

20. In Appendix A to Part 60, Method 7, paragraph 3.2.2 is revised to read as follows:

Method 7—Determination of Nitrogen Oxide Emissions From Stationary Sources

* * * * *

3. *Reagents*

* * * * *

3.2 * * *

3.2.1 * * *

3.2.2 Water. Deionized, distilled to conform to ASTM specification D1193–77, Type 3 (incorporated by reference—see § 60.17). At the option of the analyst, the $KMnO_4$ test for oxidizable organic matter may be omitted when high concentrations of organic matter are not expected to be present.

* * * * *

21. In Appendix A to Part 60, Method 8, paragraph 3.1.3 is revised to read as follows:

Method 8—Determination of Sulfuric Acid Mist and Sulfur Dioxide Emissions From Stationary Sources

* * * * *

3. *Reagents*

3.1 * * *

3.1.3 Water. Deionized, distilled to conform to ASTM specification D1193–77, Type 3 (incorporated by reference—see § 60.17). At the option of the analyst, the $KMnO_4$ test for oxidizable organic matter may be omitted when high concentrations of organic matter are not expected to be present.

* * * * *

22. In Appendix A to Part 60, Method 12, paragraphs 4.1.1 and 4.1.3 are revised to read as follows:

Method 12—Determination of Inorganic Lead Emissions From Stationary Sources

* * * * *

4. *Reagents.*

4.1 * * *

4.1.1 Filter. Gelman Spectro Grade, Reeve Angel 934 AH, MSA 1106 BH, all with lot assay for Pb, or other high-purity glass fiber filters, without organic binder, exhibiting at least 99.95 percent efficiency (<0.05 percent penetration) on 0.3 micron dioctyl phthalate smoke particles. Conduct the filter efficiency test using ASTM Standard Method D2986–71 (incorporated by reference—see § 60.17) or use test data from the supplier's quality control program.

4.1.2 * * *

4.1.3 Water. Deionized distilled, to conform to ASTM Specification D1193–77 (incorporated by reference—see § 60.17), Type 3. If high concentrations of organic matter are not expected to be present, the analyst may delete the potassium permanganate test for oxidizable organic matter.

* * * * *

23. In Appendix A to Part 60, Method 17, paragraph 3.1.1 is revised to read as follows:

Method 17—Determination of Particulate Emissions From Stationary Sources (In-Stack Filtration Method)

* * * * *

3. *Reagents.*

3.1 * * *

3.1.1 Filters. The in-stack filters shall be glass mats or thimble fiber filters, without organic binders, and shall exhibit at least 99.95 percent efficiency (0.05 percent penetration) on 0.3 micron dioctyl phthalate smoke particles. The filter efficiency tests shall be conducted in accordance with ASTM Standard Method D2986–71 (Reapproved 1978) (incorporated by reference—see § 60.17). Test data from the supplier's quality control program are sufficient for this purpose.

* * * * *

24. In Appendix A to Part 60, Method 19, paragraphs 2.1.1, 2.1.3, 2.2.1, 2.2.3, and 5.2.2 are revised to read as follows:

Method 19—Determination of Sulfur Dioxide Removal Efficiency and Particulate, Sulfur Dioxide and Nitrogen Oxides Emission Rates From Electric Utility Steam Generators

* * * * *

2. Determination of Sulfur Dioxide Removal Efficiency of Fuel Pretreatment Systems.

2.1 * * *

2.1.1 *Sample Increment Collection.* Use ASTM D2234–76 (incorporated by reference—see § 60.17), Type I, Conditions A, B, or C, and systematic spacing. Determine the number and weight of increments required per gross sample representing each coal lot according to Table 2 or paragraph 7.1.5.2 of ASTM D2234–76. Collect one gross sample for each new coal lot and one gross sample for each product coal lot.

2.1.2 * * *

2.1.3 *Gross Sample Analysis.* Determine the percent sulfur content (% S) and gross calorific value (GCV) of the solid fuel on a dry basis for each gross sample. Use ASTM D2013–72 (incorporated by reference—see § 60.17) for sample preparation, ASTM D3177–75 (incorporated by reference—see § 60.17) for sulfur analysis, and ASTM D3173–73 (incorporated by reference—see § 60.17) for moisture analysis. Use ASTM D2015–77 (incorporated by reference—see § 60.17) for gross calorific value determination.

2.2 * * *

2.2.1 *Sample Collection.* Use ASTM D270–65 (Reapproved 1975) (incorporated by reference—see § 60.17) following the practices outlined for continuous sampling for each gross sample representing each fuel lot.

2.2.2 * * *

2.2.3 *Sample Analysis.* Determine the percent sulfur content (% S) and gross calorific value (GCV). Use ASTM D240–76 (incorporated by reference—see § 60.17) for the sample analysis. This value can be assumed to be on a dry basis.

* * * * *

5. *Calculation of Particulate, Sulfur Dioxide, and Nitrogen Oxides Emission Rates.*

* * * * *

5.2 * * *

5.2.1 * * *

5.2.2 *Calculating an F Factor.* If the fuel burned is not listed in Table 1 or if the owner or operator chooses to determine an F factor rather than use the tabulated data, F factors are calculated using the equations below. The sampling and analysis procedures followed in obtaining data for these calculations are subject to the approval of the Administrator, and the Administrator should be consulted prior to data collection.

For SI Units:

$$F_d = \frac{227.0(\%H) + 95.7(\%C) + 35.4(\%S) + 8.6(\%N) - 28.5(\%O)}{GVC}$$

$$F_w = \frac{347.4(\%H) + 95.7(\%C) + 35.4(\%S) + 8.6(\%N) - 28.5(\%O) + 13.0(\%H_2O)^2}{GCW_w}$$

For English Units:

$$F_c = \frac{20.0(\%C)}{GCV}$$

$$F_d = \frac{10603.64(\%H) + 1.53(\%C) + 0.57(\%S) + 0.14(\%N) - 0.46(\%O)_d}{GVC}$$

$$F_w = \frac{10605.57(\%H) + 1.53(\%C) + 0.57(\%S) + 0.14(\%N) - 0.46(\%O) + 0.21(\%H_2O)^2_w}{GCV_w}$$

$$F_c = \frac{10600.321(\%C)_a}{GCV}$$

[2] The $\%H_2O$ term may be omitted if %H and %O include the unavailable hydrogen and oxygen in the form of H_2O.

Where:

F_d, F_w, and F_c have the units of scm/J, or scf/million Btu; %H, %C, %S, %N, %O, and $\%H_2O$ are the concentrations by weight (expressed in percent) of hydrogen, carbon, sulfure, nitrogen, oxygen, and water from an ultimate analysis of the fuel; and GCV is the gross calorific value of the fuel in kJ/kg or Btu/lb and consistent with the ultimate analysis. Follows ASTM D2015–77 (incorporated by reference—see § 60.17) for solid fuels, D240–76 (incorporated by reference—see § 60.17) for liquid fuels, and D1826–77 (incorporated by reference—see § 60.17) for gaseous fuels as applicable in determining GCV.

* * * * *

25. In Appendix A to Part 60, Method 24 is amended by revising paragraphs 2.1, 2.2, 2.3, 2.4, 3.1, 3.2, 3.3, and by removing paragraph 6 as follows:

Method 24—Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings

* * * * *

2. *Applicable Standards Methods.*

* * * * *

2.1 ASTM D1475–60 (Reapproved 1980), Standard Test Method for Density of Paint, Varnish, Lacquer, and Related Products (incorporated by reference—see § 60.17).

2.2 ASTM D2369–81, Standard Test Method for Volatile Content of Coatings (incorporated by reference—see § 60.17).

2.3 ASTM D3792–79, Standard Test Method for Water Content of Water-Reducible Paints by Direct Injection into a Gas Chromatograph (incorporated by reference—see § 60.17).

2.4 ASTM D4017–81, Standard Test Method for Water in Paints and Paint Materials by the Karl Fischer Titration Method (incorporated by reference—see § 60.17).

3. *Procedure.*

3.1 Volatile Matter Content. Use the procedure in ASTM D2369–81 (incorporated by reference—see § 60.17) to determine the volatile matter content (may include water) of the coating. Record the following information:

W_1 = Weight of dish and sample before heating, g.

W_2 = Weight of dish and sample after heating, g.

W_3 = Sample weight, g.

Run analyses in pairs (duplicate sets) for each coating until the criterion in section 4.3 is met. Calculate the weight fraction of the volatile matter (W_v) for each analysis as follows:

$$W_v = \frac{W_1 - W_2}{W_3}$$

Eq. 24–1

Record the arithmetic average (W_v).

3.2 Water Content. For waterborne (water reducible) coatings only, determine the weight fraction of water (W_w) using either "Standard Content Method Test for Water of Water-Reducible Paints by Direct Injection into a Gas Chromatograph" or "Standard Test Method for Water in Paint and Paint Materials by Karl Fischer Method." (These two methods are incorporated by reference—see § 60.17.) A waterborne coating is any coating which contains more than 5 percent water by weight in its volatile fraction. Run duplicate sets of determinations until the criterion in section 4.3 is met. Record the arithmetic average (W_w).

3.3 Coating Density. Determine the density (D_c, kg/liter) of the surface coating using the procedure in ASTM D1475–60 (Reapproved 1980) (incorporated by reference—see § 60.17).

Run duplicate sets of determinations for each coating until the criterion in section 4.3 is met. Record the arithmetic average (D_c).

* * * * *

PART 61—[AMENDED]

40 CFR Part 61 is amended as follows:

1. A new § 61.18 is added to read as follows:

§ 61.18 Incorporations by reference.

The materials listed below are incorporated by reference in the corresponding sections noted. These incorporations by reference were approved by the Director of the Federal Register on the date listed. These materials are incorporated as they exist on the date of the approval, and a notice of any change in these materials will be published in the **Federal Register**. The materials are available for purchase at the corresponding address noted below, and all are available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street, N.W., Washington, D.C. and the Library (MD–35), U.S. EPA, Research Triangle Park, North Carolina.

(a) The following material is available for purchase from at least one of the following addresses: American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, Michigan 48106.

(1) ASTM D737–75, Standard Test Method for Air Permeability of Textile Fabrics, incorporation by reference (IBR) approved January 27, 1983 for § 61.23(a).

(2) ASTM D1193–77, Standard Specification for Reagent Water, IBR approved January 27, 1983 for Appendix B of Part 61, Method 101, par. 6.1.1; Method 101A, par. 6.1.1.

2. In § 61.23, paragraph (a) is revised to read as follows:

§ 61.23 Air-cleaning.

* * * * *

(a) Fabric filter collection devices must be used, except as noted in paragraphs (b) and (c) of this section. Such devices must be operated at a pressure drop of no more than 4 inches water gage, as measured across the filter fabric. The airflow permeability, as determined by ASTM Method D737–75 (incorporated by reference—see § 61.18), must not exceed 30 $ft^3/min/ft^2$ for woven fabrics or $35^3/min/ft^2$ for felted fabrics, except that 40 $ft^3/min/ft^2$ for woven and 45 $ft^3/min/ft^2$ for felted fabrics is allowed for filtering air from asbestos ore dryers. Each square yard of felted fabric must weigh at least 14 ounces and be at least $\frac{1}{8}$ inch thick throughout. Synthetic fabrics must not contain fill yarn other than that which is spun.

3. In Appendix B of Part 61, Method 101, paragraph 6.1.1 is revised to read as follows:

Method 101—Determination of Particulate and Gaseous Mercury Emissions from Chlor-Alkali Plants—Air Streams

* * * * *

6.1.1 *Water.* Deionized distilled, meeting ASTM Specifications for Type I Reagent Water—ASTM Test Method D1193–77 (incorporated by reference—see § 61.18). If high concentrations of organic matter are not expected to be present, the analyst may eliminate the $KMnO_4$ test for oxidizable organic matter. Use this water in all dilutions and solution preparations.

* * * * *

4. In Appendix B to Part 61, Method 101A, paragraph 6.1.1 is revised to read as follows:

Method 101A—Determination of Particulate and Gaseous Mercury Emissions From Sewage Sludge Incinerators

* * * * *

6.1.1 *Water.* Deionized distilled, meeting ASTM Specifications for Type I Reagent Water—ASTM Test Method D1193–77 (incorporated by reference—see § 61.18). If high concentrations of organic matter are not expected to be present, the analyst may eliminate the $KMnO_4$ test for oxidizable

organic matter. Use this water in all dilutions and solution preparations.

* * * * *

[FR Doc. 83-2018 Filed 1-26-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL 2279-6]

Designations of Areas for Air Quality Planning Purposes; Attainment Status Designations: Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the sulfur dioxide (SO_2) attainment status designation for a portion of Lorain County, Ohio, from nonattainment to attainment of the National Ambient Air Quality Standard (NAAQS). This revision is in response to a request from the State of Ohio to redesignate this area and is based on the supporting certifications of compliance and ambient air monitoring data submitted by the State. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change.

EFFECTIVE DATE: This final rulemaking becomes effective on Febuary 28, 1983.

ADDRESSES: Copies of the redesignation request and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20480

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6034.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act, the Administrator of EPA has promulgated the NAAQS attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant. On October 5, 1978, (43 FR 46014; 40 CFR 81.336), EPA designated the portion of Lorain County north of Route 80 and the City of Elyria as nonattainment for the primary SO_2 NAAQS.

At the time that this designation was made, a number of sources in the nonattainment portion of Lorain County, Ohio, were not complying with the Federally promulgated SO_2 emission limits. These limits were developed using reference modeling techniques and have been demonstrated to ensure attainment and maintenance of the NAAQS. Certification of compliance with these limits, thus, is an acceptable basis for redesignation to attainment.

On June 14, 1982, the State of Ohio requested that EPA revise the area of SO_2 primary nonattainment in Lorain County from the entire area north of U.S. Route 80 and the City of Elyria to the area surrounding the U.S. Steel Corporation (USS) facility in northern Lorain County.

To support the redesignation request from nonattainment to attainment, the Ohio EPA submitted recent, quality assured ambient SO_2 reference monitoring data collected by the State and two utility companies in the existing nonattainment area. All of the SO_2 monitoring data support the designation of attainment for the area.

In addition to the SO_2 monitoring data, EPA considered modeling data and compliance certifications in its review of the State's request. According to reference modeling analyses, the existing SO_2 emission limitations, which have been promulgated for sources in Lorain County, are adequate to protect the ambient air quality standards. Certifications of compliance with these limits are also an acceptable basis for a redesignation of Lorain County. All major sources of SO_2 emissions in the County have submitted data to EPA and Ohio EPA showing compliance with their Federally-approved emission limitations, except for U.S. Steel.

Therefore, on September 23, 1982 (47 FR 42001), EPA proposed to revise the SO_2 designation for that portion of Lorain County previously designated nonattainment to attainment, except for an area surrounding the U.S. Steel Lorain plant.

Public Comment

During the public comment period, U.S. Steel submitted a certification of compliance with the existing Federal SO_2 emission limitation for their Lorain plant. U.S. Steel commented that, based on their certification, all of Lorain County should be redesignated to attainment.

EPA Response

The current Federal SO_2 regulations for the Lorain plant (November 4, 1980, 45 FR 73043) limit the concentration of hydrogen sulfide in the coke oven gas to 368 gr/100 dscf. This limitation was established with the implicit understanding that the amount of coke oven gas burned in the soaking pits (process sources P006–P018) and the No. 4 Seamless Mill Rotary Furnace (process source P039) would be reduced from current levels and redistributed to other units within the plant. The attainment demonstration for the plant was based on this reduction in coke oven gas consumption in these process sources. Thus, attainment of the ambient standards depends not only on U.S. Steel meeting the hydrogen sulfide limit, but also on the lower coke oven gas consumption levels.

To accomplish the reduction in coke oven gas in P006–P018 and P039 and the subsequent redistribution to other units, some physical changes at the plant are necessary (e.g., additional pipework). To date, U.S. Steel has not made these changes.

Furthermore, proposed State rules for the Lorain plant limit both the hydrogen sulfide concentration in the coke oven gas and the total SO_2 lbs/hr for P006–P018 and P039. The lbs/hr restriction reflects the necessary reduction in coke oven gas consumption. U.S. Steel has not demonstated that the Lorain plant is currently meeting all the requirements of these State rules (i.e., that they have reduced the amount of coke oven gas burned in P006–P018 and P039). Since this reduction is necessary to ensure attainment of the NAAQS, EPA cannot redesignate the area around the U.S. Steel Lorain plant to attainment at this time.

Therefore, based on all available relevant modeling data, compliance certifications, and monitoring data, EPA is redesignating Lorain County as follows:

Primary nonattainment—Area bounded on the north by the Norfolk and Western Railroad Tracks, on the east by State Route 301 (Abbe Road), on the south by State Route 254, and on the west by Oberlin Road.

Attainment—Remainder of the County.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1), of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects of 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

§ 81.336 [Amended]

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Ohio—Sulfur Dioxide				
Lorain				
Area bounded on the north by the Norfolk and Western Railroad Tracks, on the east by State Route 301 (Abbe Road), on the south by State Route 254, and on the west by Oberlin Road	X			
The remainder of Lorain County				X

[FR Doc. 83-2137 Filed 1-26-83; 8:45 am]

BILLING CODE 6560-50-M

Dated: January 19, 1983.

Anne M. Gorsuch,
Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is amended as follows:

Section 81.336 is amended by revising Lorain County as follows:

GENERAL SERVICES ADMINISTRATION

41 CFR Part 1-30

[FPR Amdt. 227]

Federal Procurement Regulations; Revisions to Audit Thresholds and Progress Payment Provisions

Correction

In FR Doc. 82-34453, beginning on page 57023 in the issue of Wednesday, December 22, 1982, the following changes should be made:

1. On page 57023, second column, the figure in the first line of § 1-30.512-3(a)(2)(i) should read, "$1,100,000".

2. Also on page 57035, second column, the figure in the first line of § 1-30.512-3(a)(2)(ii) should read, "$1,100,000".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 420, 455, and 489

Medicare and Medicaid Programs; Suspension of Health Care Professionals for Conviction of Program-Related Crimes; Exclusion of Medicaid Providers for Fraud and Abuse

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final regulations with comment period.

SUMMARY: These regulations expand existing policy relating to suspension of individuals from participation in Medicare and Medicaid if they are convicted of program-related crimes. The suspension provisions will now apply to operators and administrators of health care facilities, pharmacists, and other individuals receiving reimbursement for services, as well as to physicians and other individual practitioners who were previously covered. The regulations provide for suspensions from participation in Medicare and Medicaid if the individual is convicted of a program-related crime relating to the delivery of medical care or services under the Medicare, Medicaid, or title XX Social Services programs.

These regulations also require State Medicaid agencies to have the ability to exclude from Medicaid program reimbursement providers who otherwise defraud or abuse the Medicaid program, and revise State Medicaid requirements for the detection and investigation of Medicaid fraud and abuse.

All of the provisions are intended to prevent or discourage abusive or fraudulent practices that increase the cost of the Medicare and Medicaid programs without benefiting beneficiaries or recipients. The suspension provisions implement Section 913 of the Omnibus Reconciliation Act of 1980. The exclusion provisions are intended to make the Medicaid policy consistent with Medicare policy. The revision of the provisions on detection and investigation of fraud and abuse will further clarify State agency responsibilities and strengthen regulatory requirements.

DATES: The regulations under Parts 420 and 489 are effective February 28, 1983, and will apply to convictions for program-related crimes made on or after October 25, 1977.

The regulations in Part 455, which contain State plan requirements, are effective on April 27, 1983. The procedures on suspension of health care professionals will apply to convictions for program-related crimes made on or after October 25, 1977.

Even though these regulations are published as final, we welcome comments on the provisions. To assure consideration, comments should be received by February 28, 1983.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17076, Baltimore, Md. 21235.

If you prefer, you may deliver comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C., or to Room 789, East High Rise Building, 6325 Security Boulevard, Baltimore, Md. In commenting, refer to file code BQC-15-FC. Agencies and organizations are requested to submit comments in duplicate. Comments will be available for public inspection approximately two weeks from today in Room 309-G of the Department's offices at 200

Independence Avenue SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: James Patton, (301) 594-8000.

SUPPLEMENTARY INFORMATION:

I. Suspensions From Medicare and Medicaid Programs

A. Previous Policy

Before enactment of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499) on December 5, 1980, section 1862(e) of the Social Security Act (the Act) provided that any physician or other individual practitioner who had been convicted on or after October 25, 1977, of a criminal offense related to his or her involvement in the Medicaid or Medicare program must be suspended from participation in Medicare. Section 1862(e) of the Act also required HCFA to notify State Medicaid agencies of this suspension. Under section 1902(a)(39) of the Act, the State agency was required to suspend the individual from the Medicaid program for at least the same length of time as the Medicare suspension. Payment under Medicare and Medicaid for services furnished by these individuals during the suspension was prohibited. However, the Act did not provide for similar action to be taken against other health care professionals such as pharmacists and operators or administrators of health care facilities.

B. Legislative Changes

Section 913 Pub. L. 96–499 amended the Social Security Act by establishing a new section 1128. Section 1128:

- Provides for suspension under Medicare of any physician or other individual who participates in the delivery of health care services if he or she is convicted of a criminal offense related to his or her participation in the delivery of medical care or services under the Medicare, Medicaid, or title XX Social Services programs. The suspension must be for a period that the Secretary considers appropriate. (Previously, the suspension provisions under section 1862(e) of the Act applied only to "physicians and other individual practitioners," and covered only Medicare and Medicaid violations.) The amendment specifies that the new requirement applies to convictions made on or after October 25, 1977, or within a period before that date as the Secretary may specify in regulations.

- Requires the Secretary to promptly notify each State agency administering or supervising the administration of a State plan approved under title XIX (Medicaid) of the facts and circumstances of a conviction and subsequent suspension under Medicare. The appropriate State agency must then suspend from the Medicaid program all physicians and other individuals who are convicted of Medicare, Medicaid, or Social Services program criminal offenses for the same period of time as the Medicare suspension. The Secretary may waive suspensions under the Medicaid program in certain circumstances if the appropriate State agency requests such waiver.

Section 913 of Pub. L. 96–499 also expanded and modified the prior suspension provisions in sections 1862(e) and 1902(a)(39) of the Act:

- Section 1862(e) of the Act was amended to provide that payments may not be made to any of the expanded categories of individuals who must be suspended from participation in Medicare under section 1128.

- Previously, under section 1902(a)(39) of the Act, the State agency could impose a suspension only in those cases in which the individual was suspended from the Medicare program. Section 1902(a)(39), as amended by section 913 of Pub. L. 96–499, now provides for suspension of any physician and other individual from Medicaid who is convicted of a Medicare, Medicaid, or Social Services program criminal offense. The effect of this change is that convicted physicians or other individuals who are not eligible to participate in the Medicare program are still subject to suspension from Medicaid. The suspension from participation under Medicaid will be for a period that the Secretary shall specify.

- The suspension requirements under Medicare and Medicaid are expanded to cover individuals who are convicted of a criminal offense related to participation in the Social Services program. The prior authorities for suspensions required suspensions only in cases where an individual practitioner was convicted of a criminal offense related to participation in the Medicare or Medicaid program.

- If the convicted individual is eligible to participate in the Medicare program, suspension under the Medicaid program must be for the same period as the Medicare program suspension. Prior requirements permitted State agencies to extend the Medicaid suspension beyond the period of the Medicare suspension. Under the new amendment, the State agency must reinstate the suspended individual's program participation effective on the same date that the individual's Medicare program participation is reinstated unless it imposes additional sanctions based on other sanction authorities provided for under its State plan.

Section 2353 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) amended section 1128 of the Act by deleting the requirement that State agencies must suspend from the Social Services programs individuals who were suspended from the Medicare or Medicaid program. However, individuals who are convicted of offenses related to their participation in the Social Service program will be suspended from the Medicare and Medicaid programs.

C. Provisions of the Regulations

The Medicare regulations under 42 CFR Part 420 are being revised to reflect the legislative changes made by the Omnibus Reconciliation Acts of 1980 and 1981. Specifically, the regulations provide for the suspension of any individual convicted on or after October 25, 1977, if the conviction relates to:

- Participation in the delivery of medical care or services under the medicare, medicaid, or social Services program; or

- Participation in the performance of management or administrative services related to delivery of medical care or services under the Medicare, Medicaid, or Social Services program.

The regulations expand the scope of the suspension sanction to include all individuals who participate in the delivery of health care services. Categories of health care professionals now subject to the suspension who were not covered by prior regulations include, but are not limited to:

- Suppliers of services that are wholly owned and operated by an individual who was convicted of a program-related criminal offense;

- Individuals who are involved in furnishing laboratory or durable medical equipment, supplies, and services;

- Owners or operators of providers of health care services; and

- Other individuals who, in any capacity, are receiving payment for providing services under the Medicare, Medicaid, or Social Services programs and who do not fall within the definition of "practitioner." (Under the existing regulations, 42 CFR 420.2, "practitioner" is defined as "a physician or other health care professional, licensed under State law to practice his or her profession, who may be eligible to receive reimbursement under the Medicare program".)

Under Medicare, a supplier or supplier of services is defined as an individual or entity other than a provider or practitioner, that furnishes health care

services under Medicare and is usually reimbursed on a reasonable charge basis. A provider of services is defined as a hospital, a skilled nursing facility, a comprehensive outpatient rehabilitation facility, or a home health agency that has in effect an agreement to participate in Medicare and be reimbursed on a reasonable cost basis, or a clinic, a rehabilitation agency, or a public health agency that has a similar agreement but only to furnish outpatient physical therapy or speech pathology services.

Under Medicaid, a provider means any individual or entity furnishing Medicaid services under a provider agreement with the Medicaid agency.

We are adopting the same requirements and procedures for the suspension of health care professionals under the legislative amendments that we have used for the past 4 years in the suspension of physicians and other individual practitioners.

Although the Act requires a suspension following a conviction for a Medicare, Medicaid, or Social Services related offense, the individual will continue to be provided with an opportunity for an administrative hearing concerning the length of the suspension; whether he or she was, in fact, convicted; and whether the conviction was related to involvement in the Medicare, Medicaid, or Social Services program. The individual is also entitled to a judicial review of the Secretary's final decision after the administrative hearing. We have clarified the language concerning the issues which will be considered at the administrative hearing on the suspension. Prior regulations stated that the individual could request a hearing to determine whether the length of the suspension is "justified." We have changed the word "justified" to "reasonable." The word "justified" has been construed by some Administrative Law Judges to mean that HCFA must prove at the hearing that the specific length of suspension was proper. The length of suspension will continue to be determined based on the criteria set forth at § 420.112 (now § 420.125). This section states that HCFA will consider, in establishing the length of suspension, whether there were any mitigating circumstances. In addition, HCFA considers other facts bearing on the nature and seriousness of the program violations. These criteria cause the determination of the length of suspension to be somewhat subjective. We believe the word "reasonable" conveys the meaning that HCFA is required at the hearing only to show that the length of suspension determined on the basis of these criteria was not extreme or excessive.

As stated above, HCFA's determination on the length of suspension and exclusion will continue to be based on the criteria set forth in § 420.103 and § 420.112 (now §§ 420.114 and 420.125). The criteria also apply to Medicaid state agency determinations of the length of exclusions under § 455.232(d). However, we have added, as an additional criterion, that HCFA may consider the previous sanction record of the excluded party under the Medicare or Medicaid program in determining the length of suspension or exclusion.

Also, questions have arisen concerning what information HCFA will consider as "any other facts bearing on the nature and seriousness of the violation or related offenses" (§ 420.114(b)(5), § 420.125(b)(6), and § 455.232(d)). Under this criterion, HCFA may consider information contained in the indictment, investigative reports, presentencing reports, prior convictions, reports from fiscal agents regarding previous problems arising from the subject's practice and relating to Federal reimbursement or any other credible evidence which will assist HCFA in determining the degree of risk the subject poses to the integrity of the Medicare and Medicaid programs.

Payment for services will not be made under Medicare to a suspended party who has accepted assignment or to a supplier that is wholly owned by a suspended party, if the supplier has accepted assignment. (Under an assignment, the supplier of services agrees to accept the Medicare reasonable charge as payment in full.) In addition, payment will not be made to a provider for services performed after the effective date of the suspension, including services performed under contract, by a suspended party or by an entity that is wholly owned by a suspended party.

Also, if unassigned claims are received from or on behalf of a beneficiary for services furnished by a suspended party on or after the effective date of the suspension, HCFA will pay the first claim submitted by or on behalf of the beneficiary and immediately give notice of the suspension. HCFA will not pay the beneficiary for services furnished by a suspended party more than 15 days after the date on the notice to the beneficiary. However, in the case of inpatient hospital services or posthospital skilled nursing facility care furnished to a beneficiary who was admitted to a hospital or skilled nursing facility before the effective date of the suspension, payment for services furnished by the suspended party will be available for up to 30 days after that date. In the case of home health services furnished under a plan established before the effective date of the suspension, payment will be available for services furnished through the end of the calendar year in which the suspension became effective.

The Medicaid regulations under 42 CFR Part 455 are also being amended to reflect the legislative changes made by section 913 of the Omnibus Reconciliation Act of 1980. Specifically, the regulations provide for the suspension of individuals under Medicaid (1) if the individual is suspended under Medicare; and (2) in the case of an individual who is not eligible to participate in Medicare, if he or she is convicted of a Medicaid- or Social Services program-related criminal offense. Current regulations at § 455.212(b) require that Medicaid agencies report to HCFA whenever an individual has been convicted of a Medicaid-related offense. These reporting requirements will remain unchanged. They provide that, if the State is involved in the investigation or prosecution of the case, it must send notice to HCFA within 15 days after the conviction. If the State is not so involved, it must send notice to HCFA within 15 days after it learns of the conviction. HCFA will determine the length of the suspension based on the criteria contained in § 420.112(a) (now redesignated as § 420.125(b)). HCFA will then notify the appropriate Medicaid State agency that it must suspend the individual from program participation, effective on the date and for the period determined by HCFA. However, the agency may impose a sanction under its own sanction authorities which is effective before, or extends beyond, the mandated suspension period.

Under the Medicaid regulations, the agency may not make payment under the program for any services furnished directly by or under the supervision of the suspended individual during the period of the suspension. However, in the case of inpatient services furnished in a hospital, skilled nursing facility, or intermediate care facility to a recipient who was admitted before the effective date of the suspension, FFP will be available in payment for services furnished by the suspended party up to 30 days after that date. In the case of home health services furnished under a plan established before the effective date of the suspension, FFP will be available in payments for services furnished through the end of the

calendar year in which the suspension became effective. Payment may be made for services otherwise reimbursable under a State plan that are ordered by a suspended individual but furnished and billed for by a practitioner or provider in good standing.

II. Fraud and Abuse Provisions

A. Previous Notice of Proposed Rulemaking

On December 19, 1980, we published in the **Federal Register** (45 FR 83772) a notice of proposed rulemaking (NPRM) on administrative sanctions under Medicaid. The NPRM proposed to:

- Require State Medicaid agencies to exclude from Medicaid Program reimbursement providers that falsify claims for services; furnish services that are unnecessary or of inferior quality; or bill for excessive costs or charges;
- Establish requirements for suspending from Medicaid practitioners convicted of a Medicaid-only related program offense who are not eligible to participate in Medicare; and
- Revise State Medicaid requirements for the detection and investigation of Medicaid fraud and abuse. This revision was intended to further clarify State Medicaid agency responsibilities for the control of Medicaid fraud and abuse and to strengthen the regulatory requirements so that States could adequately meet their responsibilities.

The exclusion and suspension requirements of the NPRM were proposed as administrative sanctions under title XIX of the Social Security Act. As a result of enactment of the Omnibus Reconciliation Act of 1980, the suspension provisions of the NPRM are now statutory requirements. Those requirements have been discussed earlier. The proposed requirements to exclude from Medicaid program reimbursement those providers who defraud or abuse the Medicaid program are being retained as administrative sanctions. These administrative sanction mechanisms will enable the States to take effective action to deter fraud and abuse in the Medicaid program. The provisions of the regulations are minimum requirements which the State must meet. At its option and within its legal limits, a State may add further sanctions to these minimum requirements.

All of the requirements of the NPRM are being published in this document as final regulations. Changes made in the provisions on exclusions for fraud and abuse and on the detection and investigation of fraud and abuse as a result of comments received on the NPRM are discussed under section II.F. of this preamble.

B. Exclusion of Medicaid Providers

These regulations require a State Medicaid agency to have administrative procedures to enable the agency to exclude from Medicaid program reimbursement any provider that the agency determines has:

- Knowingly and willfully made or caused to be made any false statement or representation of a material fact in a request for payment under Medicaid;
- Furnished or ordered items or services under Medicaid that are substantially in excess of the recipient's needs or of a quality that does not meet professionally recognized standards of health care; or
- Submitted or caused to be submitted Medicaid bills or requests for payment containing charges or costs that are substantially in excess of customary charges or costs. This provision refers to charges that are substantially in excess of those made for the same services furnished to patients who are not program recipients.

These provisions are the same as those Medicare uses when considering an exclusion for fraud and abuse under section 1862(d)(1) of the Social Security Act, and are intended to more closely align the exclusion processes in the two programs. The exclusion will be effective only after the State Medicaid agency gives the provider a written notice of its intent to exclude and the opportunity for a hearing in accordance with procedures established by the State.

C. Medicaid Fraud Detection and Investigation Program

Amendments to the regulations under 42 CFR Part 455, Subpart A on State plan requirements for the identification, investigation, and resolution of instances of Medicaid fraud and abuse have a two-fold purpose:

- To incorporate changes that we proposed in the December 1980 notice of proposed rulemaking; and
- To make changes that are a result of our review of regulations to determine areas in which we can give States more flexibility in administering programs and reduce burdens associated with Federal requirements.

The regulations provisions associated with the December 1980 notice of proposed rulemaking are:

- *Preliminary Investigation of Fraud and Abuse.* Current regulations (§ 455.14) require that when a Medicaid agency receives a complaint of potential Medicaid fraud or abuse from any source, it must conduct a preliminary investigation to determine if the complaint warrants a full investigation. These regulations revise this section to make it clear that the agency must also act on any questionable practices it identifies through its own detection mechanisms. This is essentially a technical revision.
- *Full Investigation of Fraud and Abuse.* Section 17 of Pub. L. 95-142, the Medicare/Medicaid Anti-Fraud and Abuse Amendments, provided for the creation of separate and distinct State Medicaid Fraud Control Units to investigate and prosecute all violations of applicable State laws pertaining to Medicaid fraud committed by providers. In a State with a certified fraud control unit, the responsibility for investigation of suspected fraud rests with that unit (see § 455.300(f)(1)). There is an apparent contradiction between § 455.15, which requires that "the [State] agency must conduct a full investigation" and § 455.21(b), which requires referral to the State fraud control unit and absolves the State agency of certain responsibilities that are imposed on that unit. In order to avoid possible confusion, we have added to § 455.15 a paragraph that clarifies State agency responsibility to refer cases of suspected provider fraud to the fraud control unit for full investigation.
- *Statements of Acknowledgement.* Current regulations (§§ 455.18 and 455.19) allow States to print statements which notify providers, either on Medicaid claims forms or on the checks that reimburse the provider for its services, that they can be prosecuted for fraudulent acts. We proposed in our 1980 NPRM a requirement that these statements be placed on both claims forms and checks. However, based on our desire to increase State flexibility in complying with Federal regulations, we have decided to drop this proposed change.

In addition, we are making the following changes:

- § 455.13 Methods for identification, investigation, and referral. We have deleted the provision that the Medicaid agency must designate an agency position with responsibility for making referrals. We believe that this requirement imposes an unnecessary burden on States.
- § 455.16 Resolution of full investigation. This section contains requirements that States must satisfy before an investigation can be considered resolved. We have amended this section to include reference to resolution of cases of recipient abuse in addition to cases of provider abuse. We have also indicated that States may take

other actions provided for in their State plans that are not specifically required by statute to resolve these matters (e.g., witholding of payments to providers), and made an editorial change combining two provisions for simplicity and brevity.

• § 455.17 Reporting to HCFA. We have revised this section to provide for the reporting of fraud data to any responsible component of the Department. HCFA as well as the Office of the Inspector General in the Department has certain responsibilities for the acquisition of fraud and abuse data. We have also clarified the provision that reporting in cases warranting full investigation applies only to provider cases and is not required for suspected recipient fraud and abuse cases. In addition, we have deleted the requirement that States must submit summary reports. We now consider this an unnecessary and burdensome reporting requirement.

• § 455.20 Recipient verification procedures. This section contains requirements that a State must have a method for verifying with recipients that they received the services that are billed by providers. We have corrected an outdated cross-reference. In addition, we believe that some of the provisions for sample selection of recipients to receive a written notice are too prescriptive. We have, therefore, limited the requirements to those required in the statute.

• § 455.22 Notification of penalties. This section requires the agency to notify providers and recipients of the provisions of section 1909 of the Act that provides Federal penalties for fraudulent acts and false reporting. We believe that the retention of this requirement is an unnecessary burden on States, since provisions for informing providers and recipients of penalties are already included through statements on claims forms and checks that are required under §§ 455.18 and 455.19.

F. Comments Received on NPRM and Our Responses

In response to the 1980 NPRM, we received 28 comments. Many of the commenters supported the administrative sanctions and additional requirements that were proposed, but had questions or suggestions on specific areas. The commenters specific concerns and our responses follow:

1. *Definitions (§ 455.2).*

Comment.—Several commenters believed that the definition of "abuse" was too vague or too broad and did not clarify what practices are to be considered abuse.

Response.—The term "abuse" refers to administrative violations of the agency's rules or regulations. Typically, these violations result in losses to the Medicaid program, but do not involve prosecutable fraud. We believe that our definition conveys that meaning and should not be changed.

Comment.—One health association requested the inclusion of a definition of "provider" to clarify whether the requirements of the regulations were limited to institutional health care providers or included practitioners.

Response.—42 CFR 430.1 of the Medicaid regulations already defines "provider" as an "individual or entity furnishing Medicaid services under a provider agreement with the Medicaid agency." This definition applies to all Medicaid regulations in Subchapter C of 42 CFR Chapter IV.

Comment.—One State agency suggested that we change the definitions of "exclusion" and "suspension" to include the statement that the provider is denied or terminated from participation in the program, in addition to the fact that reimbursement will not be made for services.

Response.—The definitions of "exclusion" and "suspension" state that items or services will not be reimbursed under Medicaid. We believe that this definition is clear with respect to the effect of a suspension or exclusion.

Comment.—Two commenters also suggested that we add a provision that allows for exclusion in the case of a provider who "orders" but does not actually furnish unnecessary services.

Response.—We agree with this comment and have added the phrase "or ordered" to the criteria for imposing an exclusion specified in § 455.203.

2. *Preliminary Investigation for Fraud and Abuse (§ 455.14).*

Comment.—Several commenters believed that the provision requiring a preliminary investigation on a complaint of fraud or abuse would be interpreted to mean that a full investigation must be conducted on every complaint of fraud and abuse. Two commenters suggested that "investigation" be changed to "evaluation" or an initial review of allegation or questionable practice before a full investigation.

Response.—Section 455.14 states that when an agency receives a complaint of Medicaid fraud or abuse, it must conduct a "preliminary investigation to determine whether there is sufficient basis to warrant a full investigation." We believe that this requirement is valid and have retained it in the regulations.

Comment.—One commenter recommended that a provider be notified when an investigation is to be conducted so that it would have an opportunity to address the complaint during the investigation.

Response.—We do not believe it is appropriate for HCFA to require agencies to notify a provider when an investigation concerning fraud or abuse is to be conducted. In certain circumstances, notification of a provider would compromise the investigation and prevent adjudication.

3. *Full Investigation for Fraud and Abuse (§ 455.15).*

Comment.—Several commenters objected to the provision that suspected "abuse" cases be referred to the fraud control unit for action or be fully investigated by the State or referred to an appropriate law enforcement agency. They felt referral was inappropriate except perhaps in gross abuse cases.

Response.—In States with a State fraud control unit, cases must be referred to the unit in accordance with the terms of the agency's agreement with the fraud control unit (see § 455.300(e)). Many of these agreements provide for the referral in instances of abuse. Section 455.15 requires that abuse cases be referred to the unit only if such a referral is required under the terms of the State's agreement with the unit.

Comment.—One commenter recommended that, in a State with no certified Medicaid fraud control unit the State refer cases to the prosecutory authority in addition to an appropriate law enforcement agency (§ 455.15(a)(2)).

Response.—The statement in §455.15(a)(2) regarding referral of cases to the appropriate law enforcement agency means that the agency is required to refer cases of suspected Medicaid fraud to the entity which is responsible for prosecuting Medicaid violations. We believe that our use of the term "law enforcement" is sufficiently clear to convey the meaning.

Comment.—Section 455.15(a) of the regulations require that, if a provider is suspected of fraud and abuse after a preliminary investigation, the agency must refer the case to the fraud control unit if the State has a unit, or, if the State does not have a unit, to the appropriate law enforcement agency, or must conduct a full investigation itself.

Section 455.15(c) of the proposed regulations requires that the Medicaid agency must conduct a full investigation of abuse in cases of provider or recipient abuse that are not required to be referred to a fraud control unit or appropriate law enforcement agency. One commenter suggested that since paragraph (a) of § 445.15 explicitly refers to provider abuse, further

reference to provider abuse in paragraph (c) is redundant.

Response.—We accept this comment and have deleted the reference to provider in section 455.15(c).

4. *Provider's Statements on Claims Forms (§ 455.18) and Checks (§ 455.19)*

Comment.—Six commenters objected to the requirement that a provider's signature would be required on the claims form. They believed it would be an unnecessarily redundant requirement, burdensome on States, and not cost effective, in part due to the universal claims form being used by many States. They pointed out that many forms are completed by a person other than the provider, and that the provision would have little evidentiary value in the prosecution of fraud cases and would have no impact on the incidence of fraud.

One commenter questioned the time frame for implementation of the requirement; one requested a clarification of "comparable certifications"; and one questioned the implications when Medicaid payments are made on the basis of Medicare Part B claims.

Several commenters specifically supported the inclusion of the statement on the claims form, but suggested revised wording for the statements. Two, however, pointed out that this requirement would be difficult for hospital billing offices, for example, where the services may be performed by a number of individuals.

One commenter believed that the regulation should be more flexible in the wording required on the reverse of checks or warrants; and that the regulations should allow choices regarding the placement since in some States the Medicaid agency does not control the issuance of checks or warrants.

Response.—Current regulations (§§ 455.18 and 455.19) allow States to print penalty statements that notify providers that they may be prosecuted for fraudulent acts either on Medicaid claims forms or on the checks which reimburse the providers for their services. We were concerned that the lack of a provider signature on a form which contains these penalty statements may serve as an effective barrier to prosecuting some Medicaid fraud cases. We, therefore, proposed that this requirement be changed to require that these statements be printed on both claims forms and checks. Upon further review, we believe that the cost of implementing the expanded requirement at this time would outweigh the benefits. Consequently, we have decided not to change the existing regulation requirement at this time. We urge States to make sure through discussions with prosecuting authorities in their States that existing penalty statements are adequate to ensure that Medicaid fraud cases can be prosecuted.

5. *Denial of Federal financial participation (FFP): Parties excluded under Medicare (§ 455.202, now § 455.208).* This section specifies that FFP is not available in payments for services furnished by a Medicaid provider while that party is excluded from the Medicare program for fraud and abuse.

Comment.—One State agency, recognizing that this section was already a final rule and was reprinted in the NPRM for the convenience of the reader, recommended that a 15-day notice be provided before denial of FFP, as allowed under other provisions of the regulations in the NPRM.

Response.—FFP will be available in payments made by States until the effective date of the exclusion or suspension. States will be given a 15-day notice before the imposition of any exclusion or suspension sanction.

Comment.—Two State agencies suggested that the exclusion provision cover services that are not only furnished directly by the excluded party, but also "ordered" by that party (§ 455.202 (b) and (c)).

Response.—Some State agencies provide for the denial of reimbursement to participating providers for services that are ordered by a sanctioned provider. We will not require the denial of FFP for these services at this time. The requirements contained in our regulation are minimum requirements. However, at its option and within its legal limits, a State may impose additional or broadened sanctions.

Comment.—Several State agencies believed that FFP should not be available for home health services through the end of the calendar year in which the exclusion (or suspension under § 455.216, now § 455.213) becomes effective. Two suggested a shorter period of 30 days.

Response.—We have retained the provision which allows for the availability of FFP through the end of the calendar year in which the exclusion becomes effective to allow maximum State flexibility under existing State agreements. States may elect to cut off Medicaid reimbursement to home health agencies on the effective date of the exclusion or at any time thereafter. However, FFP will be available if they choose to pay the agency through the end of the year.

6. *Exclusion of Medicaid Providers (§ 455.203)*

Comment.—Several commenters believed that the exclusion provisions exceeded statutory authority and were inconsistent with the law. Two other commenters stated that exclusion based on a single infraction of any of the three defined rules was an unrealistic requirement and would cause undue hardship. Two commenters recommended that States should be given the discretion to impose the exclusion sanction, in some cases only after other corrective action had failed. One felt that the basis for exclusion of "knowingly making a false statement in claiming a Medicaid payment" constitutes fraud and should be referred to the fraud control unit—that a determination of fraud is not a function of the State Medicaid agency.

Response.—Based on these comments and the Administration's desire to provide flexibility to States, we have decided to change the proposed requirement. As proposed, we would have required that States must impose an administrative sanction whenever the State agency determines that certain acts of fraud or abuse were committed by a provider. The final regulation requires that State agencies have the ability to impose administrative sanctions on providers who commit these same fraudulent or abusive acts. Our change is intended to provide the agencies with greater flexibility to pursue the remedy that they believe is appropriate to resolve the fraud or abuse situation.

Comment.—One commenter stated there was no provisions to cover beneficiaries who unknowingly obtain benefits from an excluded provider, and recommended that we prohibit providers from collecting costs of services from beneficiaries in this case.

Response.—We have not included a specific provision that would prohibit providers from collecting costs of services from a recipient in cases where a recipient obtained services from a provider who was excluded or suspended from the Medicaid program because we have no legal authority to do so. In cases where a sanctioned provider leads the recipient to believe services would be reimbursed under the Medicaid program, HCFA may use this as the basis for not reinstating the provider in the program.

Comment.—One commenter recommended defining in § 455.210 what constitutes an offense related to involvement in the Medicaid program.

Response.—The term "offense related to involvement" in the Medicaid program refers to a conviction of an offense under a Federal, State, or local

statute related to performing services or obtaining reimbursement under the Medicaid program. We believe this meaning is conveyed by common use of the phrase and therefore need not be more specifically defined.

Comment.—One commenter recommended that the provisions be identical with Medicare regulations under § 420.101(c)(2). Another recommended that the Medicaid exclusions not be based on Medicare fraud and abuse provisions—that each program is separate and should be recognized as such.

Response.—The exclusion requirements contained at § 455.203 are similar to the Medicare exclusion provisions contained at § 420.101. Since the programs are both subject to the same types of fraud and abuse, they are just as appropriate in Medicaid as in Medicare. We believe that, as a minimum, agencies should have the capability to impose a sanction based on an administrative determination that a provider committed one of the acts of fraud or abuse specified in § 455.203.

Comment.—Two associations objected to exclusions without benefit of a hearing, since the determination is an administrative determination as opposed to a judicial determination.

Response.—The amended regulations under §§ 455.204 and 455.205 now provide that, before an exclusion sanction is imposed, agencies must give the provider an opportunity to submit documents and written arguments against an exclusion. The provider must also be given any additional appeal rights under procedures established by the State.

Comment.—A number of commenters stated that one of the bases for exclusion, "Furnished services under Medicaid that are substantially in excess of the recipient's needs or that fail to meet professionally recognized standards for health care", was too vague and should be clarified. One suggested adding "knowingly and willfully."

Response.—The phrase means furnishing excessive or harmful services, which we believe can be judged appropriately in each case without requiring a detailed definition. We believe that it would be inappropriate to restrict the imposition of sanctions to factual situations that meet the legal definition of "knowingly and willfully". We believe that in certain cases of provider negligence or incompetence that causes harm to recipients, a provider should be subject to exclusion from the program even though the provider did not willfully harm the recipient. For this reason, we have not made any change in the provision.

Comment.—Several State agencies objected to the language at the end of § 455.203(a)(3) which states: "The agency must not deny Medicaid payment for bills or requests for payment that are substantially in excess of customary charges or costs, if it finds the excess charges are justified by unusual circumstances or medical complications requiring additional time, effort, or expense in localities in which it is accepted medical practice to make an extra charge in such case." They believed the language sets payment requirements for States, rather than stating a basis for exclusion, and is inappropriately placed in these regulations.

Response.—We have modified the language of § 455.203(a)(3) to make it clear that the provision applies to the agency's exclusion determination and does not set new payment requirements.

Comment.—One State agency suggested the addition of a fourth provision as a basis for exclusion to cover "other reasons specified in State agency regulations or laws."

Response.—The regulations are intended to establish minimum sanction requirements. The State may continue to impose any other sanctions that are provided for in State regulations or laws.

Comment.—Several State agencies objected to the language in § 455.203(b), which specifies the sources to be used by the agency in determining if services were excessive or of unacceptable quality. They objected to HCFA's being able to mandate additional sources of information that the agency will consult. Two commenters suggested that we make it clear that any one of the listed sources could be used.

Response.—The list of sources to be used in determining whether a Medicaid provider has furnished excessive or unnecessary services is needed because this is a medical determination that should be based on the opinions of health care professionals. We have changed § 455.203(b) to indicate that this medical opinion may be obtained from any of the listed sources.

7. Notice of Proposed Exclusion and Opportunity for Review (§ 455.204)

Comment.—Several commenters specifically supported the proposed provisions regarding notice and opportunity for review. A number of commenters objected to the time limits for notifying providers, for scheduling of hearing, and for notifying a provider of final determination as being inadequate. One recommended clarification of the provision that requires consideration of evidence presented at a hearing, as well as documentary evidence and written argument submitted within the 30 days of the date of the notice (§ 455.204(c)(2)(i)). One requested clarification of whether Medicaid payments will be withheld before the final determination by the agency. Two recommended including a provision regarding the right to judicial review if a provider is dissatisfied with the administrative determination.

Response.—We have deleted the time requirements under § 455.204 (b) and (c) to allow greater State flexibility. Most States have appropriate time limits under their appeal procedures, and we, therefore, now believe the proposed time frames are unnecessary.

We have added a provision that the agency must give the provider an opportunity to submit documents and written arguments against an exclusion before the exclusion sanction is imposed. The provider must also be given any additional appeal rights under procedures established by the State. (§§ 455.205 and 455.206.)

We are not requiring that Medicaid payments be withheld before the final determination by the agency. However, at its option, the agency may withhold payment.

8. Notice of Exclusion (§ 455.205, now § 455.206))

Comment.—One commenter stated that paragraphs (a) and (b) of this section on the provision of and content of the notice to provider were redundant of § 455.204(c)(2)(ii) and should be deleted. One commenter recommended that providers of long-term care services be given a 30-day advance notice before the exclusion became effective, to permit orderly transfer of patients to other appropriate facilities, and that the 30 days would be consistent with time limits for nursing home patients in other HCFA regulations.

Response.—Section 455.204(c)(2)(ii) has been deleted in the final rule in order to make the regulation less burdensome on the States. Section 455.208(c) provides that FFP will be available for 30 days after the effective date of the exclusion in payments for services furnished to a recipient who was admitted to a hospital, skilled nursing facility, or intermediate care facility before the effective date of the exclusion. We believe the provision removes the need for a 30-day advance notice to institutional providers concerning the sanction.

Comment.—One commenter objected to the provision of reinstatement rights for excluded providers. The commenter stated that the provision did not allow

for States that do not permit reinstatement under any circumstances.

Response.—Section 455.206 requires that the agency send a notice of exclusion to the provider which states "the earliest date on which the agency will accept a request for reinstatement." If the agency has imposed a permanent exclusion, the provider will be informed in the notice that he or she may not file for reinstatement.

Comment.—Several State agencies indicated that requiring notification of the exclusion of a provider to all beneficiaries and the public under § 455.206(c) was impractical and extremely costly. They believed the regulations were not specific as to whether all beneficiaries or only those serviced by the excluded provider were to be notified. One State agency requested clarification of what "organizations" are to be notified, and one questioned notification to carriers and intermediaries as well.

Response.—The notification procedure contained in § 455.206 requires the agency to notify HCFA and the public (through appropriate public notice) of the exclusion which it imposes. The agency has the flexibility to determine which recipients or other entities listed in the regulations should be notified of the action.

9. *Practitioners Convicted of Crimes Against Medicaid (§ 455.212)*

Comment.—One agency recommended revising the section to specify what notification to HCFA is required in cases in which there is a fraud control unit and in those cases in which there is not. It recommended that in cases in which there is a certified state fraud control unit, the fraud control unit be responsible for sending the notice of conviction and sentencing to the HHS Office of the Inspector General with a copy to the State agency. If there is no fraud control unit, the State agency would be responsible.

Response.—The existing regulations provide that the State agency must notify HCFA whenever a State or local court has entered a judgment of conviction against an individual related to his or her involvement in the Medicaid program, including those convictions involving the fraud control unit. These procedures have worked well and we find no basis to change them.

Comment.—One commenter stated that, in reference to convictions relating only to a provider's participation in the Medicare program, the Medicaid agency should have the right to suspend the provider under Medicaid without having to wait for the Medicaid suspension (§ 455.210(b)).

Response.—Section 455.211 provides that, if the convicted individual is eligible to participate in Medicare, the agency must suspend the provider effective on the date established by HCFA and for the same length of time as the Medicare suspension. If the individual is not eligible to participate in the Medicare program, the agency must suspend for the period determined by the Secretary. The agency may impose a sanction under its own sanction authorities which is effective either before or after the Medicare suspension period.

Comment.—One commenter pointed out that the regulations did not require an additional hearing before the Medicaid agency for cases of suspension, and therefore conflict with Pub. L. 96–499, the Omnibus Reconciliation Act of 1980, which specified that an opportunity for a hearing must be granted in cases of suspension. The commenter also stated that the regulations do not use the terms in the statute and therefore a different meaning appears to be projected. The regulations use the term "suspension" instead of "barred" and "physicians and other individuals" instead of "practitioners". Another pointed out that in some sections we refer to "convictions" when mentioning "exclusions".

Several commenters stated that the regulations appeared to preclude an agency from suspending a provider before a hearing except if that provider had been suspended from participation in Medicare or convicted of a criminal offense related to involvement in Medicaid. They believed that States that impose suspensions before a hearing under circumstances not covered in the regulations should be permitted to continue to do so. In addition, one commenter stated that making the suspension effective 15 days after the notice conflicts with State laws which mandate termination of payment upon conviction.

Response.—Section 1128 of the Act, which was added by Public Law 96–499, provides that the Secretary must give the convicted individual the opportunity for a hearing. This provision is specified in § 420.128 of these regulations. The hearing will be conducted at the Federal level and no separate State hearing is necessary. The hearing will take place after the imposition of the program suspension. We have continued to use the terms "suspended" and "suspension", defined in the regulations to mean that an individual may not receive reimbursement under Medicare or Medicaid if he or she is convicted of a program related crime. The intent of the law was not to change the meaning of the action by the use of the term "bar". Pub. L. 96–499 also specifies the suspension of any "physician or other individual." Previously, only "physicians and other individual practitioners" were covered. As discussed earlier, we have defined the individuals to whom these regulations will apply.

Whenever the Secretary imposes a Medicare suspension, the State must impose a Medicaid suspension for the same period of time. However, the agency may withhold payments or impose a sanction under its own sanction authorities which is effective before, or extends beyond, the mandatory suspension period.

10. *Practitioners Suspended From Medicare Under § 420.111 (§ 455.212 now §§ 455.210–455.214)*

Comment.—One commenter agreed with the provision allowing the Medicaid agency the choice of suspending for a longer period, with due notice and right to hearing, but questioned the appropriateness of always offering a hearing. The commenter believed that such a hearing may be perfunctory if the agency is following a court order.

Response.—This provision was deleted due to the enactment of Section 1128 of the Act which provides that the Medicaid suspension must be for the same period as the Medicare suspension. The State may impose additional sanctions under its own authority. These additional sanctions may require a hearing to be held by the State depending on normal State practice. Even though the suspension action is required whenever an individual is convicted of a Medicare or Medicaid program violation, a hearing at the Federal level is appropriate to consider the issues of whether the individual was, in fact, convicted, whether the conviction is related to program participation, and whether the length of the suspension is reasonable.

Comment.—One commenter suggested including a time limit for the effectiveness of the suspension of no later than 30 days from the date of the notice, because there will be a time lag from the Medicare effective date of suspension to the date the State agency is notified, and States cannot terminate a Medicaid provider retroactively.

Response.—The 15-day notice to the agency provided in § 420.111(a)(1) (now §420.123) has been in effect under the prior suspension regulation. We have found that States are able to impose suspensions within this time frame. We will, therefore, retain the 15-day notice.

Comment.—One commenter stated the criteria for waiver of suspensions were not sufficient and did not take into consideration agencies that are not in designated manpower shortage areas and that may not be able to compete with monetary inducements of the private sector in attracting adequate personnel (§ 455.212(b)).

Response.—The regulatory provision contained in § 455.212(f) concerning waivers granted on the basis of designated manpower shortage areas has been deleted based on the provisions of Section 1128 of the Act. HCFA will consider an application for a waiver whenever the agency believes that the suspension would result in denial of adequate access to health care for eligible recipients.

11. *Duration and Effect of Exclusion or Suspension (§ 455.216)*

Comment.—One commenter stated that it was impossible to be "reasonably certain" that a violation would not be repeated. The commenter recommended that reinstatements should be based on past and present actions, not on future predictions.

Response.—When the agency considers the provider's application for reinstatement in the Medicaid program, it should evaluate all of the facts and circumstances bearing on the provider's suitability for reinstatement into the Medicaid program. The agency should attempt to be reasonably certain, to the best of its ability before granting reinstatement, that the violations will not recur.

Comment.—One commenter suggested deleting the provisions under § 455.216(a) on the duration of a suspension and the criteria that HCFA will use to determine the earliest date of reinstatement.

Response.—We have deleted § 455.216(a) from the final regulations. In accordance with Section 1902(a)(39) of the Act, as amended by Pub. L. 96–499, the agency must automatically reinstate the party under Medicaid effective on the date of reinstatement under Medicare, unless a longer period of suspension was established in accordance with a State's own authorities and procedures. The Medicare regulations at § 420.124 specify criteria for determining the earliest date that the party may seek reinstatement.

Comment.—Several commenters requested clarification of why the exclusion provision only applied to services "furnished" by or under the direct supervision of the provider. They believed there is no justification to exclude a provider and still pay for services that he or she orders (§§ 455.202, 455.203, and 455.216(b)(2)).

Response.—The provisions of these regulations are minimum requirements. The exclusion sanction provided under these authorities will ensure that providers who defraud or abuse the Medicaid program will not continue to be reimbursed for services which they furnish. The agency may impose broader sanctions if it has the authority to do so.

12. *Procedures for Reinstatement After Exclusion or Suspension (§ 455.220, now §§ 455.230–455.234)*

Comment.—Several commenters recommended making the time limit for issuing a decision granting or denying reinstatement more flexible to allow providers to begin services in a more timely fashion or to allow State agencies to give adequate consideration to the circumstances in a particular situation without being burdened by the time constraints imposed by the regulation.

Response.—We agree with the recommendation and have deleted from the final regulations the time limit for issuing a decision.

Comment.—One commenter pointed out the difficulty of obtaining attestations for institutional providers as a basis for granting reinstatement, stating that the acts will not be repeated. The commenter believed that the regulation provision should apply only to practitioners and other noninstitutional providers.

Response.—The reinstatement procedures contained within § 455.234 provide that the agency may not grant reinstatement until it is reasonably certain that the violations will not be repeated. There is no requirement that the State obtain attestations; it may make these determinations on any suitable basis.

13. *Effective Date of Regulations*

Comment.—One agency requested clarification on whether the regulations would be effective prospectively or retrospectively and whether fraud and abuse and suspensions cases would be treated alike.

Response.—The regulations in Part 455 are effective 90 days from the date of publication. However, after the effective date, the State may impose sanctions under these regulations based on acts of fraud or abuse that were committed before the effective date of the regulation.

14. *Payments*

Comment.—One commenter requested clarification of whether exclusion or suspension on the basis of a conviction for fraud precludes Medicaid payment in relation to work involving other State programs?

Response.—A party who is excluded or suspended under the Medicaid program may not receive reimbursement under the Medicaid program for services the party performs after the effective date of the exclusion. This exclusion has no effect on the provider's participation in other State programs unless the State has a provision to the contrary.

15. *Reference to Withholding of Payment Regulations*

Comment.—In the preamble to the NPRM, we stated that in the future we would propose regulations requiring States to establish mechanisms for withholding payments to providers who are suspected of fraud and to recover Medicaid program overpayments. One commenter stated that these would be cumbersome.

Response.—We have decided not to propose regulations that would require States to establish mechanisms for withholding payments to providers at this time.

Technical Changes

We have reorganized Part 420, Subpart B, to separate the provisions for exclusions of practitioners and providers for fraud and abuse from the provisions on suspensions of physicians and other health care professionals for program-related crimes to clearly differentiate the requirements for the two actions. We have followed the same organization pattern in the Medicaid regulations that are being amended under Part 455, Subpart C. We have also changed a cross-reference in § 489.53 to conform to changes in Part 420.

Waiver of Proposed Rulemaking

We have determined that good cause exists for publication of the requirements on suspension of health care professionals who are convicted of program-related crimes without a prior notice and public comment period. The changes are necessary to conform the regulations to the requirements of the Social Security Act as amended by the Omnibus Reconciliation Acts of 1980 and 1981. We are adopting the same requirements and procedures for these suspensions that have been used for the past 4 years in the suspension of physicians and other practitioners. In addition, we believe that it would be contrary to the public interest to allow individuals who were convicted of defrauding the Medicare, Medicaid, or Social Services program to continue program participation during the time that would be needed to obtain and analyze public comments. Since program suspension is required by the statute upon conviction, very few options are, in fact, open to comment.

Most of the provisions on exclusion on basis of fraud and abuse and

detection and investigation of Medicaid fraud and abuse were issued as an NPRM, as discussed earlier. The remaining changes are intended to relieve States of unnecessary reporting burdens and give them more flexibility in the administration of the Medicaid program. We believe that it is impracticable, unnecessary, and contrary to public interest to delay the effective date of these changes to obtain public comments, since most of the changes are of a technical nature.

Although we are issuing these regulations as final regulations, we will consider comments received by the date specified under "Comment Date." Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, if as a result of comments, we believe that changes are needed in these regulations, we will publish the changes in the **Federal Register** and respond to public comments in that document.

Impact Analyses

Executive Order 12291

We have determined that these regulations do not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291 because they will not have an annual effect on the economy of $100 million or more; cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or cause significant adverse effects on business or employment. We expect these regulations to save program costs. The amount of any costs or savings will depend on the number of convictions made and on the amount of program reimbursement that is involved in each case. Over the past 4 years, there have been an estimated 518 convictions involving reimbursement of approximately $10 million per year.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354), 5 U.S.C. 604(a), requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues regulations which would have a significant economic impact on a substantial number of small businesses. The analysis is intended to explain what effect the regulatory action by the agency would have on small businesses and other small entities and to develop lower cost or burden alternatives. The law on which these regulations are based is specific and there is little leeway in implementing the requirements. Some of the sanctions that States and the Federal Government will impose as a result of these regulations will impact on small entities such as physicians, laboratories and other medical care providers. However, we do not anticipate that a substantial number of these small entities will be significantly impacted by the regulations. Therefore, the Secretary certifies that a regulatory flexibility analysis is not required for these regulations.

Paperwork Reduction Act

These regulations contain reporting and recordkeeping requirements that are subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Specifically, States will continue to report to HCFA when sanctions have been imposed. However, we do not expect any significantly increased burden due to the requirements. The reporting required was reapproved by the Office of Management and Budget, effective on October 20, 1981 (OMB No. 0938–0076).

REDESIGNATION TABLE— 42 CFR PART 420, SUBPART B

Old section	New section
420.100	420.100
420.101	420.101
420.102(a)	420.105
420.102(b) (1)–(3)	420.107
420.102(b) (4)	420.109
420.103(a)	420.114
420.103 (b) and (c)	420.115
420.103(d)	420.114
420.110	420.122
420.111(a)	420.123
420.111(b)	420.124
420.112(a)	420.125
420.112 (b), (c), & (d)	420.126
420.113	420.128
420.120(a)	420.130
420.120(b)	420.132
420.120 (c), (d), & (e)	420.134
420.120(f)	420.136

[1] Revised heading.

List of Subjects

42 CFR Part 420

Abuse, Contracts (Agreements), Conviction, Convicted, Courts, Exclusion, Fraud, Health care, Health facilities, Health professions, Health suppliers, Medicaid, Medicare, Penalties, Suspensions.

42 CFR Part 455

Abuse, Claim, Conviction, Convicted, Exclusion, Fraud, Health professions, Investigations, Medicaid, Medicaid fraud control units, Medical personnel, Penalties, Suspensions.

42 CFR Part 489

Clinics, Health care, Health facilities, Medicare, Provider agreements, Rural health clinics, Termination procedures.

PART 420—PROGRAM INTEGRITY

A. 42 CFR Part 420 is amended as set forth below:

1. The table of contents for Subpart B and the authority statement are revised to read as follows:

Subpart B—Exclusion or Suspension of Practitioners, Providers, Suppliers of Services, and Other Individuals

Sec.
420.100 Basis and scope.

Exclusions or Terminations on Basis of Fraud or Abuse

420.101 Bases for exclusion for fraud or abuse; exceptions.
420.105 Notice of proposed exclusion or termination for fraud or abuse.
420.107 Notice of exclusion or termination to affected party.
420.109 Notice to others regarding exclusion or termination.
420.114 Duration of exclusion.
420.115 Effect of exclusion.

Suspensions on Basis of Conviction of Program-Related Crime

420.122 Bases for suspension for conviction of program-related crime and individuals affected.
420.123 Notice to affected party of suspension for conviction of program-related crime.
420.124 Notice to others regarding suspension for conviction of program-related crime.
420.125 Duration of suspension.
420.126 Effect of suspension.
420.128 Appeal procedures.

Reinstatement Procedures

420.130 Timing and method of request for reinstatement.
420.132 Criteria for action on request for reinstatement.
420.133 Notice of action on request for reinstatement
420.136 Reversed or vacated convictions of program-related crime.

* * * * *

Authority: Secs. 1102, 1128, 1862(d), 1862(e), 1866(b)(2)(D), (E), and (F), 1871, 1902(a)(39), and 1903(i)(2) of the Social Security Act (42 U.S.C. 1302, 1320a–7, 1395y(d), 1395y(e), 1395cc(b)(2)(D), (E), and (F), 1395hh, 1396a(a)(39), and 1396b(i)(2)).

2. Section 420.2 is amended by revising the definitions of "furnished" and "provided" and adding definitions of "social services program" and "supplier" or "supplier of services" in alphabetical order, to read as follows:

§ 420.2 Definitions.

* * * * *

"Furnished" refers to items and services provided directly by, or under the direct supervision of, or ordered by, a practitioner or other individual (either as an employee or in his or her own

capacity), a provider, or other supplier of services. (For purposes of denial of reimbursement within this part, it does not refer to services ordered by one party but billed for and provided by or under the supervision of another.)

"Provider" means a hospital, a skilled nursing facility, a comprehensive outpatient rehabilitation facility, or a home health agency that has in effect an agreement to participate in Medicare, or a clinic, a rehabilitation agency, or a public health agency that has a similar agreement, but only to furnish outpatient physical therapy or speech pathology services.

"Social services program" means the block grants to States program authorized under Title XX of the Social Security Act.

"Supplier" or *"supplier of services"* means an individual or entity, other than a provider or practitioner, that furnishes health care services under Medicare.

3. Section 420.3 is revised to read as follows:

§ 420.3 Applicability of other regulations.

Part 405, Subpart O of this chapter, contains detailed procedures for hearings and reviews that are made available under this part for exclusions and terminations on the basis of fraud and abuse. Appeal procedures applicable to suspension based on a conviction for a program-related crime are specified in § 420.128.

4. The title of Subpart B and § 420.100 are revised to read as follows:

Subpart B—Exclusion or Suspension of Practitioners, Providers, Suppliers of Services, and Other Individuals

§ 420.100 Basis and scope.

This subpart implements Sections 1128 and 1862 (d) and (e) of the act. It sets forth criteria and procedures for excluding practitioners, providers, and suppliers of services who have defrauded or abused the Medicare program and for suspending practitioners and other individuals convicted of crimes related to their participation in the delivery of medical care or services under the Medicare, Medicaid, or the social services programs. It also specifies the appeal rights of a suspended individual and the procedures for reinstatement of excluded and suspended individuals. The procedures set forth in § 420.101–420.115 also apply to terminations of provider agreements under § 489.53(a) (6), (7), or (8) of this chapter.

5. A new center heading is added after § 420.100 and before § 420.101, and the heading for § 420.101 is revised to read as follows:

Exclusions or Terminations on Basis of Fraud or Abuse

§ 420.101 Bases for exclusions for fraud or abuse; exceptions.

* * * * *

6. Section 420.102 is amended by redesignating it as § 420.105, and revising the section heading and paragraph (a), and redesignating paragraph (b) and as §§ 420.107 and 420.109 and revising them to read as follows:

§ 420.105 Notice of proposed exclusion or termination for fraud or abuse.

(a) If HCFA proposes to deny reimbursement in accordance with § 420.101, or to terminate a provider agreement in accordance with § 489.53(a) (6), (7), or (8) of this chapter, it will send written notice of its intent and the reasons for the proposed exclusion or termination to the practitioner, provider or other supplier of services.

(b) Within 30 days of the date on the notice, the party may submit: (1) Documentary evidence and written argument against the proposed action; or (2) A written request to present evidence or argument orally to a HCFA official.

(c) For good cause shown by the party, HCFA may extend the 30-day period.

§ 420.107 Notice of exclusion or termination to affected party.

(a) If, after a party has exhausted the procedures specified in § 420.105, HCFA decides to exclude the party under § 420.101 or to terminate a provider agreement under § 489.53(a) (6), (7), or (8), it will send written notice of its decision to the affected party at least 15 days before the decision becomes effective.

(b) The notice will state (1) the reasons for the decision; (2) the effective date; (3) the extent of its applicability to participation in the Medicare program; (4) the earliest date on which HCFA will accept a request for reinstatement; (5) the requirements and procedures for reinstatement; and (6) the appeal rights available to the excluded party.

(c) This decision and notice constitute an "initial determination" and a "notice of initial determination" for purposes of the administrative appeals procedures specified in Part 405, Subpart O of this chapter.

§ 420.109 Notice to others regarding exclusion or termination.

HCFA will also give notice of exclusion or termination and the effective date to the public, to beneficiaries (in accordance with § 420.115(b)), and, as appropriate, to:

(a) State Medicaid and title V agencies, State Medicaid Fraud Control Units, and PSROs;

(b) Hospitals, skilled nursing facilities, home health agencies and health maintenance organizations (HMOs);

(c) Medical societies and other professional organizations;

(d) Contractors, health care prepayment plans and other affected agencies and organizations; and

(e) The State or local authority responsible for licensing or certifying the excluded party.

7. Paragraphs (a) and (d) of § 420.103 are redesignated and revised as § 420.114, and paragraphs (b) and (c) are redesignated and revised as § 420.115, to read as follows:

§ 420.114 Duration of exclusion.

(a) The exclusion of a practitioner, provider, or other supplier of services will continue until the party is reinstated in accordance with § 420.130–420.136.

(b) The exclusion notice will specify the earliest date on which the excluded party may seek reinstatement. In setting that date, HCFA will consider:

(1) The number and nature of the program violations and other related offenses;

(2) The nature and extent of any adverse impact the violations have had on beneficiaries;

(3) The amount of any damages incurred by the Medicare program;

(4) Whether there are any mitigating circumstances;

(5) Any other facts bearing on the nature and seriousness of the violations or related offenses; and

(6) The previous sanction record of the excluded party under the Medicare or Medicaid program.

(c) For the effective date of termination of a provider's agreement under § 489.53(a) (6), (7), or (8), see § 489.53(b) of this chapter.

§ 420.115 Effect of exclusion.

(a) *Denial of payments during exclusion.* (1) Except as provided in paragraph (c) of this section, payment will not be made to an excluded practitioner, provider, or other supplier of services (that has accepted assignment of beneficiary claims), for items or services furnished on or after the effecitve date of exclusion specified in the exclusion notice.

(2) An assignment of a beneficiary's claim that is made on or after the effective date of exclusion will not be valid.

(b) *Denial of payment to beneficiaries.* If a beneficiary submits claims for items or services furnished by an excluded practitioner, provider, or other supplier of services after the effective date of the exclusion:

(1) HCFA will pay the first claim submitted by the beneficiary and immediately give notice of the exclusion.

(2) HCFA will not pay the beneficiary for items or services furnished by an excluded party more than 15 days after the date on the notice to the beneficiary or after the effecitve date of the exclusion, whichever is later.

(c) *Circumstances under which payment will be made.* (1) In the case of inpatient hospital services or posthospital skilled nursing facility care services furnished to a beneficiary who was admitted to a hospital or skilled nursing facility before the effective date of exclusion, payment will be available for up to 30 days after that date.

(2) In the case of home health services furnished under a plan established before the effective date of exclusion, payment will be available for services furnished through the end of the calendar year in which exclusion became effective.

8. Sections 420.110 through 420.113 are redesignated and revised as § 420.122 through 420.128, and a new center heading is added after § 420.115 as redesignated and before § 420.122, to read as follows:

Supensions on Basis of Conviction of Program-Related Crime

§ 420.122 Bases for suspension for conviction of program-related crime and individuals affected.

(a) HCFA will suspend from participation in Medicare any party specified in paragraph (b) of this section who is convicted on or after October 25, 1977, of a criminal offense related to—

(1) Participation in the delivery of medical care or services under the Medicare, Medicaid, or the social services program; or

(2) Participation in the performance of management or administrative services relating to delivery of medical care or services under the Medicare, Medicaid, or the social services program.

(b) The suspension from participation in Medicare for conviction of a program-related crime, specified in paragraph (a) of this section, will apply to—

(1) Practitioners;

(2) Suppliers that are wholly owned by a convicted individual;

(3) Individuals who are employees, administrators, or operators of providers; and

(4) Any other individuals who, in any capacity, are receiving payment for providing services under Medicare.

(c) HCFA will also require the State Medicaid agency to suspend any convicted party specified in paragraph (a) and (b) of this section whether or not that party is eligible to participate in the Medicare program.

§ 420.123 Notice to affected party of suspension for conviction of program-related crime.

(a) Whenever HCFA has conclusive information that a practitioner or other individual has been convicted of a crime related to his or her participation in the delivery of medical care or services under the Medicare, Medicaid, or the social services program, it will give the party written notice that he or she is suspended from participation in Medicare beginning 15 days from the date on the notice. In the case of a party who is not eligible to participate in Medicare, HCFA will provide written notice that the State Medicaid agency will be required to suspend the party from Medicaid participation.

(b) The written notice will set forth:

(1) The basis for the suspension;

(2) The duration of the suspension and the factors considered in setting the duration;

(3) The requirements and procedure for reinstatement;

(4) The appeal rights;

(5) The fact that the State Medicaid agency is required to suspend the person from participation in the Medicaid program for the same period as he or she is suspended from Medicare participation.

§420.124 Notice to others regarding suspension for conviction of program-related crime.

(a) HCFA will also notify the following groups of the suspension concurrently with its notification to the suspended party:

(1) Any provider or supplier in which the suspended party is known to be serving as an employee, administrator, operator, or in which the party is serving in any other capacity and is receiving payment for providing services. The purpose of the notice is to inform the provider or supplier that Medicare payment will be denied for any services performed by the suspended party on or after the effective date of the suspension. However, the lack of this notice will not affect HCFA's ability to deny payment for these services;

(2) The State Medicaid agencies, in order that they can promptly suspend the party from participation in the Medicaid program (see § 455.210 of the chapter);

(3) The State or local authority responsible for the licensing or certification of the suspended party;

(4) Beneficiaries (in accordance with § 420.115(b));

(5) The public; and

(6) As appropriate—

(i) Title V agencies, State Medicaid Fraud Control Units, and PSROs;

(ii) Hospitals, skilled nursing facilities, home health agencies, and health maintenance organizations (HMOs);

(iii) Medical societies and other professional organizations; and

(iv) Contractors, health care prepayment plans, and other affected agencies and organizations.

(b) The notice to the licensing or certifying authority will be accompanied by a request that the authority:

(1) Make appropriate investigations;

(2) Invoke any sanctions available under State law and the authority's policies; and

(3) Keep HCFA and the Inspector General of the Department fully and currently informed of any action it takes.

§ 420.125 Duration of suspension.

(a) Suspension on the basis of a conviction of a program-related crime will continue until the suspended party is reinstated in accordance with §§ 420.130 through 420.136.

(b) The suspension notice will specify the earliest date on which the suspended individual may seek reinstatement. In setting that date, HCFA will consider:

(1) The number and nature of the program violations and other related offenses;

(2) The nature and extent of any adverse impact the violations have had on beneficiaries;

(3) The amount of the damages incurred by the Medicare, Medicaid, and the social services programs;

(4) Whether there are any mitigating circumstances;

(5) The length of the sentence imposed by the court;

(6) Any other facts bearing on the nature and seriousness of the program violations; and

(7) The previous sanction record of the suspended party under the Medicare or Medicaid program.

§ 420.126 Effect of suspension.

(a) *Denial of payments to a suspended party.* (1) Payment will not be made to a suspended party (who has accepted assignment for the beneficiary's claims) for items and services furnished on or after the effective date of the

suspension, except as provided in paragraph (e) of this section.

(2) An assignment of a beneficiary's claim that is made to an individual or supplier on or after the effective date of the suspension is not valid.

(b) *Denial of payments to a supplier that is wholly owned by a suspended party.* (1) Payment will not be made to a supplier (e.g., durable medical equipment supplier or laboratory) that is wholly owned by a suspended party for items or services furnished on or after the effective date of the suspension if the supplier has accepted assignment for the beneficiary's claim.

(2) An assignment of a beneficiary's claim that is made on or after the effective date of the suspension to a supplier that is wholly owned by a suspended party is not valid.

(c) *Denial of payments to a provider for services performed by a suspended party.* Payment will not be made to a provider for services performed, including services performed under contract, by a suspended party or by a supplier which is wholly owned by a suspended party, on or after the effective date of the suspension.

(d) *Denial of payment to beneficiaries.* If a beneficiary submits claims for items or services furnished by a suspended party or by a supplier which is wholly owned by a suspended party, on or after the effective date of the suspension—

(1) HCFA will pay the first claim submitted by the beneficiary and immediately give the beneficiary notice of the suspension.

(2) HCFA will not pay the beneficiary for items or services furnished more than 15 days after the date on the notice to the beneficiary.

(e) *Circumstances under which payment may be made after a suspension.* (1) In the case of inpatient hospital services or posthospital skilled nursing facility care furnished to a beneficiary who was admitted to a hospital or skilled nursing facility before the effective date of the suspension, payment for services furnished by the suspended party will be available for up to 30 days after that date.

(2) In the case of home health services furnished under a plan established before the effective date of the suspension, payment will be available for services furnished through the end of the calendar year in which the suspension became effective.

§ 420.128 Appeal procedures.

(a) A person suspended for conviction of a program-related crime, as specified in § 420.122, may request a hearing before an Administrative Law Judge on the following issues:

(1) Whether he or she was, in fact, convicted;

(2) Whether the conviction was related to his or her participation in the delivery of medical care or services under the Medicare, Medicaid, or social services program; and

(3) Whether the length of the suspension is reasonable.

(b) A hearing under this section will be conducted in accordance with the procedures set forth in §§ 405.1531, 405.1533, 405.1534, 405.1540, 405.1541, 405.1543, and 405.1544 through 405.1558 of this chapter.

(c) If any party to the hearing is dissatisfied with the hearing decision, that party is entitled to request Appeals Council review of the decision as specified in §§ 405.1559 through 405.1595 of this chapter. A suspended party may also seek judicial review of the final administrative decision.

9. Section 420.120 is redesignated and revised as §§ 420.130 through 420.136 and a new center heading is added after § 420.128 and before § 420.130 to read as follows:

Reinstatement Procedures

§ 420.130 Timing and method of request for reinstatement.

(a) A practitioner, provider, or supplier of services excluded from participation for fraud and abuse under § 420.101 and a party suspended from participation for program-related crimes under § 420.122 may request reinstatement at any time after the date specified in the notice of exclusion or suspension by submitting to HCFA or authorizing HCFA to obtain:

(1) Statements from private health insurers, indicating whether there have been any questionable claims submitted during the period of exclusion or suspension;

(2) Statements from peer review bodies, probation officers, where appropriate, or professional associates, as required by HCFA, attesting to their belief, supported by facts, that the violations that led to exclusion or conviction will not be repeated; and

(3) A statement from the affected party setting forth the reasons why he should be reinstated.

§ 420.132 Criteria for action on request for reinstatement.

HCFA will not grant reinstatement unless it is reasonably certain that the violations that led to exclusion or conviction will not be repeated. In making this determination, HCFA will consider, among other factors:

(a) Whether the applicant has been convicted in Federal, State or local court for activities related to his program participation; and

(b) Whether the State or local licensing authority has taken any adverse action against the party since the date of exclusion or suspension.

§ 420.134 Notice of action on request for reinstatement.

(a) *Notice of approval of request.* If HCFA approves the request for reinstatement, it will:

(1) Give written notice to the excluded or suspended party specifying the date when program participation may resume; and

(2) Give notice to the public and, as appropriate, to title V State agencies, State Medicaid agencies and Medicaid Fraud Control Units, hospitals, skilled nursing facilities, home health agencies, medical societies, other professional societies or associations, contractors, health care prepayment plans, health maintenance organizations (HMOs), PSROs, the State or local licensing or certifying authority, and other affected organizations.

(b) *Notice of denial of request.* (1) If HCFA does not approve the request for reinstatement, it will give written notice to the party.

(2) Within 30 days of the date on the notice, the excluded or suspended party may submit:

(i) Documentary evidence and written argument against the continued exclusion or suspension; or

(ii) A written request to present evidence or argument orally to a HCFA official. (The decision to continue the exclusion or suspension is not an initial determination under the provisions of Part 405, subpart O of this chapter.)

(c) *Action following consideration of additional evidence.* After evaluating any additional evidence submitted by the excluded or suspended party (or at the end of the 30 day period, if none is submitted), HCFA will send written notice:

(1) Confirming the denial, and indicating that a subsequent request for reinstatement will not be accepted until 6 months after the date of confirmation; or

(2) Approving reinstatement and specifying the date when program participation may be resumed. If HCFA approves reinstatement, it will notify the public and, as appropriate, the agencies and institutions as specified in paragraph (a)(2) of this section.

§ 420.136 Reversed or vacated convictions of program-related crime.

(a) HCFA will reinstate a suspended party whose conviction has been reversed or vacated.

(b) If a reinstatement is made under paragraph (a) of this section, HCFA will make payment, either to the party or the beneficiary, if the claim was not assigned, for services covered under Medicare that are furnished or performed during the period of suspension.

PART 455—PROGRAM INTEGRITY

B. 42 CFR Part 455 is amended as set forth below:

1. The table of contents is amended by adding new §§ 455.1 and 455.2, removing §§ 455.10, 455.11 and 455.22, revising the title of § 455.17, and revising Subpart C and the authority statement to read as follows:

Sec.
455.1 Basis and purpose.
455.2 Definitions.

Subpart A—Medicaid Agency Fraud Detection and Investigation Program

455.10–455.11 [Removed]
* * * * *
455.17 Reporting requirements.
* * * * *
455.22 [Removed]

Subpart C—Exclusion of Providers and Suspension of Practitioners and Other Individuals

455.200 State plan requirement.

Exclusions on Basis of Fraud and Abuse

455.203 Exclusion of Medicaid providers for fraud and abuse.
455.204 Notice of proposed exclusion for fraud and abuse.
455.205 Right to review.
455.206 Notice of exclusion for fraud and abuse.
455.207 Denial of payment and FFP: Parties excluded under Medicaid.
455.208 Denial of FFP: Parties excluded under Medicare for fraud and abuse.

Suspensions on Basis of Conviction of Program-Related Crimes

455.210 Bases for suspension for conviction of program-related crimes.
455.211 Duration of suspension.
455.212 Notification of State or local convictions of crimes against Medicaid.
455.213 Effect of suspension.
455.214 Waiver of suspension of parties.

Reinstatement Procedures

455.230 Reinstatement of parties suspended under Medicare.
455.232 Basis for reinstatement after exclusion.
455.234 Action on request for reinstatement.
* * * * *

Authority: Secs. 1102, 1124, 1126, 1128, 1902(a)(4)(A), 1902(a)(30), 1902(a)(36), 1902(a)(39), 1903(a)(6), 1903(b)(3), 1903(i)(2), 1903(n), 1903(q), and 1909 of the Social Security Act; 42 U.S.C. 1302, 1320a–3, 1302a–5, 1302a–7, 1396a(a)(4)(A), 1396a(a)(30), 1396a(a)(36), 1396a(a)(39), 1396b(a)(6), 1396b(b)(3), 1396b(i)(2), 1396b(n), 1396b(q), and 1396h.

Note.—The reporting requirements under §§ 455.17 and 455.212 were approved by the Office of Management and Budget under control number OMB No. 0938–0076.

2. Sections 455.1 and 455.2 are added to read as follows:

§ 455.1 Basis and purpose.

This part sets forth requirements for the prevention of fraud and abuse in the Medicaid program and implements specific statutory provisions aimed at protecting the integrity of the program. This part is subdivided into four subparts.

(a) Under the authority of sections 1902(a)(4), 1903(i)(2), and 1909 of the Social Security Act, Subpart A provides State plan requirements for the identification, investigation, and referral of suspected fraud and abuse cases. In addition, the subpart requires the reporting of fraud and abuse information to Department and requires that States have a method to verify whether services reimbursed by Medicaid were actually furnished to recipients.

(b) Subpart B implements Sections 1124, 1126, 1902(a)(36), 1903(i)(2), and 1903(n) of the Act. It requires that providers and fiscal agents must agree to disclose ownership and control information to the Medicaid State agency.

(c) Subpart C is based on Sections 1128, 1902(a)(4)(A), 1902(a)(30), and 1902(a)(39) of the Act. It requires Medicaid agencies to—

(1) Have the ability to exclude from program reimbursement any provider that defrauds or abuses the Medicaid or Medicare program; and

(2) Suspend any individual receiving reimbursement under the Medicaid program who has been convicted of a crime related to delivery of medical care or services under the Medicare, Medicaid, or social services programs.

(d) Subpart D implements sections 1903(a)(6), 1903(b)(3), and 1903(q) of the Act, and prescribes requirements for the establishment and operation of State Medicaid fraud control units. It also details conditions that must be met in order for the units to receive 90 percent Federal financial participation (FFP).

§ 455.2 Definitions.

As used in Subparts A, B, C, and D of this part unless the context indicates otherwise—

"Abuse" means provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that result in unnecessary cost to the Medicaid program.

"Conviction" or "Convicted" means that a judgment of conviction has been entered by a Federal, State, or local court, regardless of whether an appeal from that judgment is pending.

"Exclusion" means that items or services furnished by a specific provider who has defrauded or abused the Medicaid program will not be reimbursed under Medicaid.

"Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law.

"Practitioner" means a physician or other individual licensed under State law to practice his or her profession.

"PSRO" stands for Professional Standards Review Organization.

"Suspension" means that items or services furnished by a specified provider who has been convicted of a program related offense in a Federal State, or local court will not be reimbursed under Medicaid.

Subpart A—Medicaid Agency Fraud Detection and Investigation Program

3. Subpart A is amended as follows:

a. Sections 455.10 and 455.11 are removed, and § 455.12 is revised to read as follows:

§§ 455.10 and 455.11 [Removed]

§ 455.12 State plan requirement.

A State plan must meet the requirements of §§ 455.13–455.21.

b. In section 455.13, the introductory paragraph is reprinted and paragraph (c) is revised to read as follows:

§ 455.13 Methods for identification, investigation and referral.

The Medicaid agency must have—
* * * * *

(c) Procedures, developed in cooperation with State legal authorities, for referring suspected fraud cases to law enforcement officials.

c. Section 455.14 is revised to read as follows:

§ 455.14 Preliminary investigation

If the agency receives a complaint of Medicaid fraud or abuse from any source or identifies any questionable practices, it must conduct a preliminary investigation to determine whether there is sufficient basis to warrant a full investigation.

d. Section 455.15 is revised to read as follows:

§ 455.15 Full investigation.

If the findings of a preliminary investigation give the agency reason to believe that an incident of fraud or abuse has occurred in the Medicaid program, the agency must take the following action, as appropriate:

(a) If a provider is suspected of fraud or abuse, the agency must—

(1) In States with a State Medicaid fraud control unit certified under Subpart D of this part, refer the case to the unit under the terms of its agreement with the unit entered into under § 455.300(e); or

(2) In States with no certified Medicaid fraud control unit, or in cases where no referral to the State Medicaid fraud control unit is required under paragraph (a)(1) of this section, conduct a full investigation or refer the case to the appropriate law enforcement agency.

(b) If there is reason to believe that a recipient has defrauded the Medicaid program, the agency must refer the case to an appropriate law enforcement agency.

(c) If there is reason to believe that a recipient has abused the Medicaid program, the agency must conduct a full investigation of the abuse.

e. In section 455.16, the introductory paragraph is reprinted and paragraph (c) is revised to read as follows:

§ 455.16 Resolution of full investigation.

A full investigation must continue until—

* * * * *

(c) The matter is resolved between the agency and the provider or recipient. This resolution may include but is not limited to—

(1) Sending a warning letter to the provider or recipient, giving notice that continuation of the activity in question will result in further action;

(2) Suspending or terminating the provider from participation in the Medicaid program;

(3) Seeking recovery of payments made to the provider; or

(4) Imposing other sanctions provided under the State plan.

f. Section 455.17 is amended by revising the section title, the introductory paragraph and paragraph (b), and removing paragraph (c) to read as follows:

§ 455.17 Reporting requirements.

The agency must report the following fraud or abuse information to the appropriate Department officials at intervals prescribed in instructions.

* * * * *

(b) For each case of suspected provider fraud and abuse that warrants a full investigation—

(1) The provider's name and number;

(2) The source of the complaint;

(3) The type of provider;

(4) The nature of the complaint,

(5) The approximate range of dollars involved; and

(6) The legal and administrative disposition of the case, including actions taken by law enforcement officials to whom the case has been referred.

g. In section 455.20, paragraph (a) is reprinted, paragraph (b) is revised, and paragraph (c) is removed, to read as follows:

§ 455.20 Recipient verification procedure.

(a) The agency must have a method for verifying with recipients whether services billed by providers were received.

(b) In States receiving Federal matching funds for a mechanized claims processing and information retrieval system under Part 433, Subpart C, of this subchapter, the agency must provide prompt written notice as required by § 433.113(e) and (f).

§ 455.22 [Removed]

h. Section 455.22 is removed.

4. Subpart C is amended by adding a new § 455.200, redesignating § 455.202 as § 455.208 and revising it, revising 455.212, and adding new §§ 455.203 through 455.207, 455.210 through 455.214, 455.230, 455.232, and 455.234 to read as set forth below. In addition, new center headings are added after § 455.200 and before § 455.203, after § 455.208 and before § 455.210, and after § 455.214 and before § 455.230.

§ 455.200 State plan requirement.

The plan must provide that the requirements of this subpart are met. However, the provisions of these regulations are minimum requirements. The agency may impose broader sanctions if it has the authority to do so under State law.

Exclusions on Basis of Fraud and Abuse

§ 455.203 Exclusion of Medicaid providers for fraud and abuse.

(a) *Basis for exclusion.* The agency must have administrative procedures which enable the agency to exclude from Medicaid reimbursement a provider who it determines has:

(1) Knowingly and willfully made or caused to be made any false statement or misrepresentation of material fact in claiming, or use in determining the right to, payment under Medicaid;

(2) Furnished or ordered services under Medicaid that are substantially in excess of the recipient's needs or that fail to meet professionally recognized standards for health care; or

(3) Submitted or caused to be submitted to the Medicaid program bills or requests for payment containing charges or costs that are substantially in excess of customary charges or costs. However, the agency must not impose an exclusion under this section if it finds the excess charges are justified by unusual circumstances or medical complications requiring additional time, effort, or expense in localities in which it is accepted medical practice to make an extra charge in such case.

(b) *Reports to be considered.* The agency may base its determination that services were excessive or of unacceptable quality on reports, including sanction reports, from any of the following sources:

(1) The PSRO for the area served by the provider;

(2) State or local licensing or certification authorities;

(3) Peer review committees of fiscal agents or contractors;

(4) State or local professional societies; or

(5) Other sources deemed appropriate by the Medicaid agency or HCFA.

§ 455.204 Notice of proposed exclusion for fraud and abuse.

If the agency proposes to exclude a provider under § 455.203 it must send the provider written notice stating the reasons for the proposed exclusion and the right to review.

§ 455.205 Right to review.

Before imposing an exclusion, the agency must give the provider the opportunity to submit documents and written argument against the exclusion. However, the provider must be given any additional appeals rights under procedures established by the State.

§ 455.206 Notice of exclusion for fraud and abuse.

After the review, if the agency makes a final decision to exclude—

(a) The agency must send the provider written notice 15 days before the exclusion becomes effective;

(b) The notice must state—

(1) The reasons for the decision;

(2) The effective date;

(3) The effect of the exclusion on the party's participation in the Medicaid program;

(4) The earliest date in which the agency will accept a request for reinstatement (see §§ 455.232 and 455.234 for reinstatement procedures); and

(5) The requirements and procedures for reinstatement.

(c) The agency must also give notice of the exclusion and the effective date to HCFA, the public, and, as appropriate, to—

(1) Recipients;

(2) PSROs;

(3) Providers and organizations;

(4) Medical societies and other professional organizations;

(5) State licensing boards and affected State and local agencies and organizations; and

(6) Medicare carriers and intermediaries.

§ 455.207 Denial of payment and FFP: Parties excluded under Medicaid.

(a) *Denial of payment.* The agency must not make payment under Medicaid for items or services furnished by a provider who has been excluded from the Medicaid program in accordance with § 455.203.

(b) *Denial of FFP.* FFP is not available in payments under any State plan for services furnished by a provider who has been excluded from the Medicaid program.

(c) *Duration of exclusion.* The exclusion will continue until the provider is reinstated in accordance with §§ 455.230 through 455.236.

(d) *When FFP will be reinstated.* FFP will be available for services furnished by a Medicaid provider after reinstatement in the Medicaid program.

§ 455.208 Denial of FFP: Parties excluded or terminated under Medicare for fraud and abuse.

(a) *Denial of FFP.* FFP is not available in payments for services furnished by a Medicaid provider while that provider is excluded or terminated from participation, or otherwise sanctioned, because of fraud and abuse under the Medicare program under § 420.101 or § 474.10 of this chapter.

(b) *Effective date of denial.* Except as specified in paragraph (c) of this section, the denial of FFP will apply to services furnished on or after the effective date of the exclusion from Medicare.

(c) *Exception: FFP available in payment made during exclusion.* (1) In the case of inpatient services furnished in a hospital, skilled nursing facility, or intermediate care facility to a recipient who was admitted before the effective date of the Medicare exclusion, FFP will be available in payments made for services furnished for up to 30 days after the exclusion date.

(2) In the case of home health services furnished under a plan established before the effective date of exclusion, FFP will be available in payments for services furnished through the end of the calendar year in which exclusion became effective.

(d) *When FFP will be reinstated.* FFP will be available for services furnished by a Medicaid provider after reinstatement in the Medicare program.

Suspensions on Basis of Conviction of Program-Related Crimes

§ 455.210 Bases for suspension for conviction of program-related crimes.

The agency must suspend from the Medicaid program any party who has been suspended from participation in Medicare under § 420.122 of this chapter for conviction of a program-related crime. The agency must also suspend any convicted party who is not eligible to participate in Medicare whenever HCFA directs such action.

§ 455.211 Duration of suspension.

(a) The suspension under Medicaid must be effective on the date established by HCFA for suspension under Medicare, and must be for the same period as the Medicare suspension. In the case of a convicted party who is not eligible to participate in Medicare, the suspension will be effective on the date and for the period established by HCFA.

(b) The agency may impose a sanction under its own sanction authorities which is effective before, or extends beyond, the mandatory suspension period under paragraph (a) of this section.

§ 455.212 Notification of State or local convictions of crimes against Medicaid.

(a) The agency must notify HCFA whenever a State or local court has entered a judgment of conviction against an individual who is receiving reimbursement under Medicaid, for a criminal offense related to participation in the delivery of medical care or services under the Medicaid program.

(b) If the agency was involved in the investigation or prosecution of the case, it must send notice within 15 days after the conviction.

(c) If the agency was not so involved, it must give notice within 15 days after it learns of the conviction.

§ 455.213 Effect of suspension.

(a) *Denial of payment.* Except as specified in paragraph (b) of this section, the agency must not make any payment under the plan for services furnished directly by, or under the supervision of, a suspended party during the period of the suspension.

(b) *Circumstances under which payment may be made after a suspension.* (1) In the case of inpatient hospital services or posthospital skilled nursing facility care furnished to a recipient who was admitted to a hospital or skilled nursing facility before the effective date of the suspension, payment for services furnished by the suspended party may be made and FFP will be available for up to 30 days after that date.

(2) In the case of home health services furnished under a plan established before the effective date of the suspension, payment may be made and FFP will be available for services furnished through the end of the calendar year in which the suspension became effective.

§ 455.214 Waiver of suspension of parties.

(a) *Request.* The agency may request HCFA to waive suspension of a party under § 455.210 if it concludes that, because of the shortage of providers or other health care personnel in the area, individuals eligible to receive Medicaid benefits would be denied adequate access to medical care.

(b) *Notice of waiver of suspension.* HCFA will notify the agency if and when it waives suspension in response to the agency's request.

Reinstatement Procedures

§ 455.230 Reinstatement of parties suspended under Medicare.

(a) The agency may not reinstate in the Medicaid program a party that has been suspended from Medicare or suspended at the direction of HCFA until HCFA notifies the agency that the party may be reinstated.

(b) If HCFA notifies the agency that it has reinstated a party under Medicare, the agency must automatically reinstate the party under Medicaid effective on the date of reinstatement under Medicare, unless a longer period of suspension was established in accordance with the State's own authorities and procedures.

§455.232 Basis for reinstatement after exclusion.

(a) The provisions of this section and § 455.234 apply to the reinstatement in the Medicaid program of all parties excluded in accordance with § 455.203, if a State affords reinstatement opportunity to those parties.

(b) A party who has been excluded from Medicaid may be reinstated only by the Medicaid agency that imposed the exclusion.

(c) A party may submit to the agency a request for reinstatement at any time after the date specified in the notice of exclusion.

(d) In setting the earliest date on which it will consider a request for reinstatement, the agency must consider—

(1) The number and nature of the program violations and other related offenses;

(2) The nature and extent of any adverse impact the violations have had on recipients;

(3) The amount of any damages;

(4) Whether there are any mitigating circumstances; and

(5) Any other facts bearing on the nature and seriousness of the program violations or related offenses.

§ 455.234 Action on request for reinstatement.

(a) *Criteria for approving reinstatement request.* The agency may grant reinstatement only if it is reasonably certain that the violation(s) that led to exclusion will not be repeated. In making this determination, the agency will consider, among other factors—

(1) Whether the party has been convicted in a Federal, State, or local court of other offenses related to participation in the Medicare or Medicaid program which were not considered during the development of the exclusion; and

(2) Whether the State or local licensing authorities have taken any adverse action against the party for offenses related to participation in the Medicare or Medicaid program which were not considered during the development of the exclusion.

(b) *Notice of action on request.* (1) If the agency approves the request for reinstatement, it must give written notice to the excluded party, and to all others who were informed of the exclusion in accordance with § 455.206, specifying the date on which Medicaid program participation may resume.

(2) If the agency does not approve the request for reinstatement, it will notify the excluded party of its decision.

PART 489—PROVIDER AGREEMENTS UNDER MEDICARE

The authority statement for Part 489 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

C. In Part 489, Section 489.53 is amended by revising paragraph (c) to read as follows:

§ 489.53 Termination by HCFA.

* * * * *

(c) *Appeal by the provider.* A provider may appeal a termination of its agreement by HCFA, in accordance with Subpart O of Part 405 of this chapter. The termination of a provider agreement on grounds specified in paragraph (a)(6), (a)(7), or (a)(8) of this section is subject to the additional procedures specified in §§ 420.105–420.109 of this chapter.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program No. 13.773, Medicare—Hospital Insurance Program; and No. 13.774, Medicare—Supplementary Medical Insurance Program)

December 3, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: January 4, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-2216 Filed 1-26-83; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

Private Land Mobile Radio Services; Amendment of the Commission's Rules to Relax Adjacent Channel Minimum Distance Reuse Standards in the 150–170 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted rules to permit licensing of private land mobile radio stations on adjacent channels in the 150–170 MHz band with reduced mileage separations. Applications must include a statement of concurrence from all existing licensees on the adjacent channels within the prescribed mileage limits. Operation will be on a secondary, non-interference basis. Up to now, many such operations have been authorized on a waiver basis, with reports of interference being minimal. This action was taken to reduce the burden on both the Commission and the public by dispensing with certain regulatory requirements no longer deemed necessary in the frequency coordination process.

EFFECTIVE DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur C. King, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Administrative practice and procedure.

Adopted: December 15, 1982.

Released: December 17, 1982.

In the matter of amendment of Part 90 of the Commission's Rules and Regulations to Relax Adjacent Channel minimum distance reuse standards in the 150–170 MHz band.

1. Section 90.173(f) prohibits the granting of applications for frequencies in the 150–170 MHz band when the proposed base station is to be located less than 10 miles from an existing base station operating on a frequency 15 kHz removed (adjacent channel). In the Taxicab Radio Service, the minimum separation is seven miles. Any requests for frequency authorizations in conflict with this provision must be supported by a waiver request in accordance with Section 90.151, setting forth the reasons for the exception, showing the unique and unusual circumstances involved, submitting test results when applicable, and explaining the alternatives explored.

2. With few exceptions, applicants normally substantiate waiver requests for adjacent channel frequencies with satisfactory field test results and/or evidence of agreement with licensees located within the prescribed mileage limits. Waivers are frequently approved, granting the applicants authority to operate on adjacent channels at variance with the rule on a secondary, non-interference basis to the primary user(s). Reports of interference caused by these types of operations have been negligible.

3. In view of its continuing actions to relax the rules when it is deemed to be in the public interest, the Commission is amending § 90.173(f) to allow operation on adjacent channels on a secondary, non-interference basis at less than the prescribed mileage limits when applications include a statement of concurrence from all existing licensees operating on adjacent channels within the prescribed mileage limits. The requirement for such statements is included in this amendment.

4. This amendment reduces the burden on the public by dispensing with the need for waiver requests, field tests (other than field study reports, as necessary, to satisfy frequency coordination requirements under § 90.175), and various other showings. Therefore, the notice and comment

requirements set forth in Section 553 of the Administrative Procedures Act are not required.

5. Accordingly, it is ordered, pursuant to § 0.231(d) of the Commission's Rules and Sections 4(i) and 303 of the Communications Act, as amended, that effective December 17, 1982, Part 90 of the Commission's Rules is amended as set forth in the attached Appendix.

6. For further information on this Rule change, contact Arthur C. King at (202) 634–2443.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Alan R. McKie,

Deputy Managing Director.

Appendix

PART 90—[AMENDED]

Part 90 of the Commission's Rules and Regulations is amended as follows:

Section 90.173 is amended by revising paragraph (f) to read:

§ 90.173 Policies governing the assignments of frequencies.

* * * * *

(f) In the 150–170 MHz band, except in the Taxicab Radio Service, applications will not ordinarily be granted in situations in which the proposed base station is located less than 16 km (10 miles) from an existing base station on a frequency 15 kHz removed, unless the adjacent channel licensee(s) has consented to the proposed facility. In the Taxicab Radio Service applications will not ordinarily be granted in situations in which the proposed base station is located less than 12 km (7 miles) from an existing base station on a frequency 15 kHz removed, unless the adjacent channel licensee(s) has consented to the proposed facility.

* * * * *

2. Section 90.175 is amended by removing the final sentence of paragraph (a)(1) and inserting a new sentence in its place as follows:

§ 90.175 Frequency coordination requirements.

* * * * *

(a) *For frequencies below 470 MHz:* (1) A report based on a field study indicating the degree of probable interference to all existing co-channel stations within 120 km (75 mi) of the proposed stations, together with a statement that all such co-channel licensees have been notified of the applicant's intention to apply. In addition, for frequencies in the range 150–170 MHz, a report based on a field study indicating the degree of probable interference to existing stations located between 16 and 56 km (10 and 35 mi) (12 and 56 km for taxicabs) from the proposed station, operating on a frequency 15 kHz removed, and a statement that the licensees of such stations have been notified of the applicant's intention to apply. In situations in which adjacent channels licensees in the 150–170 MHz band consent to spacing less than 16 km (12 km in the Taxicab Radio Service) it is unnecessary to submit with the application a report based on a field study indicating the degree of probable interference to existing stations.

* * * * *

[FR Doc. 83-2298 Filed 1-26-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 25

Relocation Assistance and Land Acquisition for Federal and Federally Assisted Programs; Schedule of Moving Expense Allowances; Individuals and Families

AGENCY: Department of Transportation, (DOT).

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to reflect changes in the moving expense schedules for displaced persons in the States of Maine, Virginia, and West Virginia. These schedules are required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and they are required to be updated semiannually.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Peter Nyberg, Relocation Division, Office of Right-of-Way (202–426–0117); or Reid Alsop, Office of the Chief Counsel (202–426–0800), Federal Highway Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Office hours: Monday–Friday from 7:45 a.m. to 4:15 p.m. ET.

SUPPLEMENTARY INFORMATION: Section 202(b) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91–646, 84 Stat. 1894, provides that a displaced individual or family may elect to the paid for moving expenses on the basis of a moving expense schedule. To ensure statewide uniformity among all agencies operating under the Act, General Services Administration regulations governing agency implementation of the Act, 41 CFR Part 101–6, provide in § 101–6.105–1 that moving expense schedules maintained by the respective State highway departments shall be used, and that the schedules will be approved on a current basis and disseminated by the Federal Highway Administration (FHWA).

The regulations of the Office of the Secretary, 49 CFR 25.153, implementing the Uniform Act, direct the FHWA to establish and maintain the moving expense schedule in Appendix A to Part 25 of Title 49 and to update it semiannually. The purpose of this amendment is to revise the current schedule, which was published on August 2, 1982 (47 FR 33270) to reflect changes in the moving expense schedules that have been made by the following State:

Table I—Personalty—Maine, Virginia, West Virginia.

Table II—Mobile Homes—West Virginia.

The FHWA has determined that this document contains neither a major rule under Exectuive Order 12291 nor a significant regulation under DOT regulatory procedures. The FHWA has also determined that the changes reflected in this action will have only minimal impact on the affected States and public. Accordingly, a full regulatory evaluation is not required and, for the foregoing reasons and under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

Notice and opportunity for comment are not required under DOT regulatory policies and procedures because it is not anticipated that such action would result in the receipt of useful information. Because the moving expense schedules are maintained by the respective State highway departments, the FHWA finds good cause to make these amendments effective on the date of issuance. Accordingly, these amendments are effective on January 27, 1983.

Neither a general notice of proposed rulemaking nor a 30-day delay in effective date is required under the Administrative Procedures Act because the matters affected relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2).

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of

OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.) (42 U.S.C. 4601 *et seq;* 41 CFR 101-6.105-1; 49 CFR 25.153)

List of Subjects in 49 CFR Part 25

Highways and roads, Land acquisition, Relocation assistance.

Issued on: January 17, 1983.

L. P. Lamm,

Deputy Administrator, Federal Highway Administration.

Appendix A

TABLE I.—PERSONALTY

State	Occupant provides furniture: Number of rooms of furniture										Occupant does not provide furniture	
	1	2	3	4	5	6	7	8	9	10	1st room	Each additional room
Alabama	90	140	190	240	[illegible]	300					[1]	
Alaska	75	150	[illegible]	250	275	300					15	15
Arizona	50	100	150	200	250	[illegible]					25	15
Arkansas	100	160	200	240	280	[illegible]					[illegible]	30
California	75	100	150	200	250	300					25	15
Colorado	120	180	240	300							30	20
Connecticut	50	90	140	170	230	260	300				15	15
Delaware	60	100	140	180	220	[illegible]	300				25	15
District of Columbia	100	135	170	210	250	290	300				35	15
Florida	75	120	165	210	255	300					25	25
Georgia	100	140	180	220	260	300					40	10
Guam	48	85	120	168	205	240	300				10	10
Hawaii	65	100	135	175	215	255	295	300			45	30
Idaho	60	100	140	180	220	260	300				[illegible]	10
Illinois	50	100	150	200	250	[illegible]					25	15
Indiana	50	100	150	200	250	300					25	15
Iowa	75	140	195	240	275	300					30	12
Kansas	60	120	180	240	300						[illegible]	10
Kentucky	65	130	195	260	300						35	25
Louisiana	100	140	180	220	260	300					40	15
Maine	50	100	150	200	250	300					25	15
Maryland	100	150	200	250	[illegible]						[illegible]	10
Massachusetts	60	130	150	190	225	250	275	300			25	15
Michigan	65	130	180	240	300						50	10
Minnesota	75	150	200	250	[illegible]						30	15
Mississippi	100	150	200	250	300						50	25
Missouri	50	100	150	200	250	300					25	10
Montana	100	150	200	250	300						[illegible]	25
Nebraska	50	100	150	200	250	300					[illegible]	10
Nevada	50	100	150	[illegible]	250	[illegible]					[illegible]	15
New Hampshire	100	150	190	230	270	300					25	15
New Jersey	80	140	195	245	300						25	15
New Mexico	158	235	[illegible]								[2]	
New York	80	130	175	215	250	275	300				25	15
North Carolina	70	110	160	210	260	[illegible]					40	30
North Dakota	75	125	150	[illegible]	250	275	300				[illegible]	15
Ohio	50	100	150	200	250	[illegible]					[illegible]	10
Oklahoma	100	150	[illegible]	250	[illegible]						40	15
Oregon	75	150	225	300							25	25
Pennsylvania	90	140	[illegible]	250	[illegible]						[illegible]	30
Puerto Rico	75	120	165	210	255	[illegible]					25	25
Rhode Island	70	140	210	250	275	[illegible]					[illegible]	10
South Carolina	105	180	220	[illegible]							[illegible]	10
South Dakota	100	150	200	250	300						50	15
Tennessee	75	100	150	200	250	300					25	15
Texas	95	140	190	245	300						50	25
Utah	75	100	130	155	180	210	240	270	300		25	15
Vermont	100	150	190	230	270	300					25	15
Virginia	60	105	150	195	240	300					[illegible]	10
Virgin Islands	105	150	195	240	275	300					35	35
Washington	100	150	[illegible]	250	300						25	25
West Virginia	100	150	200	250	[illegible]						[3]	
Wisconsin	80	150	210	260	300						50	30
Wyoming	60	120	180	240	260	300					[illegible]	20

[1] Furnished units including sleeping rooms. Occupant does not own furniture: 1st room, $30; 2d room, $50; 3d room, $75; 4th room, $95; 5th room, $120, 6th room, $140; each additional room, $15, to a maximum of $300

[2] Furnished units including sleeping rooms. Occupant does not own furniture: 1st room, $68; 2d room, $129; 3d room, $160; 4th room, $193; 5th room, $224; 6th room, $256, 7th room, $288, 8th room, $300

[3] Furnished units including sleeping rooms. Occupant does not own furniture: 1st room, $40; 2d room, $60; 3d room, $80; 4th room, $100; 5th room, $120; 6th room, $140; 7th room, $160 8th room, $180; each additional room, $20, to a maximum of $300

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

TABLE II—MOBILE HOMES

State	Miles (kilometres)		Area—square feet (square metres)		Width—feet (metres)		Allowance dollars
	More than—	But not more than—	More than—	But not more than—	More than—	But not more than—	
Alabama			0 (0)	200 (18.6)			$165
			200 (18.6)	400 (37.2)			225
			400 (37.2)	600 (55.8)			[illegible]
			600 (55.8)				[illegible]
Alaska[1]							[illegible]
Arizona			0 (0)	300 (27.9)			150

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION—Continued

State	Miles (kilometres)		Area—square feet (square metres)		Width—feet (metres)		Allowance dollars
	More than—	But not more than—	More than—	But not more than—	More than—	But not more than—	
			300 (27.9)	400 (37.2)			[illegible]
			400 (37.2)	500 (46.5)			250
			500 (46.5)				[illegible]
Arkansas					0 (0)	10 (3)	200
					12 (3.7)		300
California							(1)
Colorado							(2)
Connecticut[3]					0 (0)	8.5 (2.6)	100
					8.5 (2.6)	10.5 (3.2)	150
					10.5 (3.2)	12.5 (3.8)	200
					12.5 (3.8)		250
Delaware			0 (0)	400 (37.2)			100
			400 (37.2)	600 (55.8)			150
			600 (55.8)	800 (74.4)			200
			800 (74.4)	1,000 (93)			250
			1,000 (93)				300
Florida[3]							300
Georgia			0 (0)	400 (37.2)			125
			400 (37.2)	500 (46.5)			185
			500 (46.5)	600 (55.8)			245
			600 (55.8)				300
Guam			0 (0)	300 (27.9)			130
			300 (27.9)	400 (37.2)			180
			400 (37.2)	500 (46.5)			210
			500 (46.5)	600 (55.8)			240
			600 (55.8)	700 (65.1)			270
			700 (65.1)				300
Hawaii			0 (0)	300 (27.9)			130
			300 (27.9)	400 (37.2)			180
			400 (37.2)	500 (46.5)			210
			500 (46.5)	600 (55.8)			240
			600 (55.8)	700 (65.1)			270
			700 (65.1)				300
Idaho			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8)			200
			600 (55.8)	800 (74.4)			250
			800 (74.4)				300
Illinois	0 (0)	24 (38.6)			0 (0)	8.5 (2.6)	100
					8.5 (2.6)	10.5 (3.2)	150
					10.5 (3.2)	12.5 (3.8)	200
					12.5 (3.8)		250
	24 (38.6)	50 (80.5)			0 (0)	8.5 (2.6)	150
					8.5 (2.6)	10.5 (3.2)	200
					10.5 (3.2)	12.5 (3.8)	250
					12.5 (3.8)		[illegible]
Indiana					0 (0)	8.5 (2.6)	150
					8.5 (2.6)	10.5 (3.2)	185
					10.5 (3.2)	12.5 (3.8)	250
					12.5 (3.8)		300
Iowa	0 (0)	25 (40.2)			0 (0)	8 (2.4)	130
					8 (2.4)	10 (3)	150
					10 (3)	12 (3.7)	180
					12 (3.7)		230
	25 (10.2)	50 (80.5)			0 (0)	8 (2.4)	140
					8 (2.4)	10 (3)	170
					10 (3)	12 (3.7)	200
					12 (3.7)		300
Kansas			0 (0)	200 (18.6)			[illegible]
			200 (18.6)	400 (37.2)			160
			400 (37.2)	600 (55.8)			240
			600 (55.8)				300
Kentucky[4]					0 (0)	.8 (2.4)	285
Louisiana					8 (2.4)		300
					0 (0)	10 (3)	200
					10 (3)	12 (3.7)	250
Maine					12 (3.7)	14 (4.3)	[illegible]
					0 (0)	8 (2.4)	150
					8 (2.4)	10 (3)	200
					10 ((3)	12 (3.7)	250
					12 (3.7)		300
Maryland			0 (0)	200 (18.6)			110
			200 (18.6)	400 (37.2)			140
			400 (37.2)	600 (55.8)			165
			600 (55.8)	800 (74.4)			195
			800 (74.4)	1,000 (93)			220
			1,000 (93)	1,200 (111.6)			250
Massachusetts			1,200 (111.6)				300
			0 (0)	200 (18.6)			[illegible]
			200 (18.6)	400 (37.2)			140
			400 (37.2)	600 (55.8)			[illegible]
			600 (55.8)				[illegible]
Michigan					0 (0)	8 (2.4)	145
					8 (2.4)	10 (3)	[illegible]
					10 (3)	12 (3.7)	280
					12 (3.7)		[illegible]
Minnesota[4]					0 (0)	8 (2.4)	200
					8 (2.4)		300

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION—Continued

[illegible]	Miles (kilometres)		Area—square feet (square metres)		Width—feet (metres)		Allowance [illegible]
	More than—	But not more than—	More than—	But not more than—	More than—	But not more than—	
Mississippi			0 (0)	300 (27.9)			200
			300 (27.9)	400 937.2)			250
			400 (37.2)				300
Missoun			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8)			200
			600 (55.8)	800 (74.4)			250
			800 (74.4)				300
Montana [4]					0 (0)	10 (3)	150
					10 (3)	12 (3.7)	200
					12 (3.7)	14 (4.3)	225
					14 (4.3)		275
Nebraska			0 (0)	400 (37.2)			100
			400 (37.2)	600 (55.8)			150
			600 (55.8)	800 (74.4)			200
			800 (74.4)	1,000 (93)			250
			1,000 (93)				300
Nevada			0 (0)	400 (37.2)			150
			400 (37.2)	500 (46.5)			200
			500 (46.5)	600 (55.8)			250
			600 (55.8)				300
New Hampshire [1]							300
New Jersey			0 (0)	200 (18.6)			100
			200 (18.6)	400 (37.2)			150
			400 (37.2)	600 (55.8)			200
			600 (55.8)	800 (74.4)			250
			800 (74.4)				300
New Mexico [4, 5]	0 (0)	20 (32.2)			0 (0)	8.5 (2.6)	206
					8.5 (2.6)	10.5 (3.2)	279
					10.5 (3.2)	12.5 (3.8)	288
					12.5 (3.8)		300
	20 (32.2)	50 (80.5)			0 (0)	8.5 (2.6)	243
					8.5 (2.6)	10.5 (3.2)	288
					10.5 (3.2)		300
New York			0 (0)	300 (27.9)			150
			300 (27.9)	500 (46.5)			200
			500 (46.5)	700 (65.1)			250
			700 (65.1)				300
North Carolina [4, 6]					0 (0)	12 (3.7)	200
					12 (3.7)		300
North Dakota			0 (0)	200 (18.6)			125
			200 (18.6)	400 (37.2)			175
			400 (37.2)	600 (55.8)			225
			600 (55.8)	800 (74.4)			275
			800 (74.4)				300
Ohio [4]	0 (0)	10 (16)	0 (0)	320 (29.8)			130
			320 (29.8)	500 (46.5)			150
			500 (46.5)	840 (78.1)			170
			840 (78.1)	1,120 (104.2)			205
			1,120 (104.2)				250
	10 (16)	25 (40.2)	0 (0)	320 (29.8)			135
			320 (29.8)	500 (46.5)			155
			500 (46.5)	840 (78.1)			190
			840 (78.1)	1,120 (104.2)			220
			1,120 (104.2)				275
	25 (40.2)	50 (80.5)	0 (0)	320 (29.8)			145
			320 (29.8)	500 (46.5)			165
			500 (46.5)	840 (78.1)			200
			840 (78.1)	1,120 (104.2)			250
			1,120 (104.2)				300
Oklahoma					0 (0)	10 (3)	250
					10 (3)		300
Oregon			0 (0)	200 (18.6)			100
			200 (18.6)	600 (55.8)			200
			600 (55.8)				300
Pennsylvania [4]							300
Rhode Island					0 (0)	8 (2.4)	225
					8 (2.4)	10 (3)	250
					10 (3)	12 (3.7)	275
					12 (3.7)		300
South Carolina [4]					0 (0)	10 (3)	175
					10 (3)	12 (3.7)	[illegible]
					12 (3.7)	14 (4.3)	250
					14 (4.3)		300
South Dakota [4]							300
Tennessee [4]					0 (0)	10 (3)	100
					10 (3)		150
Texas					0 (0)	8.5 (2.6)	175
					8.5 (2.6)	10.5 (3.2)	235
					10.5 (3.2)		300
Utah [4]	0 (0)	10 (16)			0 (0)	8 (2.4)	140
					8 (2.4)	10 (3)	145
					10 (3)	12 (3.7)	165
					12 (3.7)		200
	10 (0)	25 (40.2)			0 (0)	8 (2.4)	145
					8 (2.4)	10 (3)	155
					10 (3)	12 (3.7)	175
					12 (3.7)		225

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION—Continued

State	Miles (kilometres)		Area—square feet (square metres)		Width—feet (metres)		Allowance dollars
	More than—	But not more than—	More than—	But not more than—	More than—	But not more than—	
	25 (40.2)	50 (80.5)			0 (0)	8 (2.4)	150
					8 (2.4)	10 (3)	160
					10 (3)	12 (3.7)	190
					12. (3.7)		250
Vermont[7,8]							300
Virginia			0 (0)	200 (18.6)			150
			200 (18.6)	400 (37.2)			200
			400 (37.2)	600 (55.8)			250
			600 (55 8)	800 (74.4)			300
Washington [8]							300
West Virginia			0 (0)	300 (27 9)			100
			300 (27.9)	450 (41.9)			150
			450 (41.9)	550 (51.2)			225
			550 (51 2)				300
Wisconsin					0 (0)	8 (2.4)	150
					8 (2.4)	10 (3)	200
					10 (3)	12 (3.7)	250
					12 (3.7)		300
Wyoming [8]					0 (0)	8.5 (2.6)	135
					8 5 (2.6)	10.5 (3.2)	165
					10 5 (3.2)	12.5 (3.8)	210
					12.5 (3.8)		300

[1] Width to 8' (2.4m)—Length 40' (12.2m), $200; length 40'+(12.2m), $300; width over 8' (2.4m)—length 40' (12.2m), $300; length 40'+(12.2m), $300.
[2] Under 8' (2.4m) x 40' (12.2m)—Unskirted, $150; Over 8' (2.4m) x 40' (12.2m)—$300.
[3] Plus $50 for expandable trailer.
[4] $300 for double trailer.
[5] Escort fee included
[6] Personality only: Width—Under 10 feet (3m), $60; 10 feet (3 m), $70; 12 feet (3.7 m) and over, $100; doubles, $175
[7] $50 for extras
[8] All trailers.
[9] All mobile homes

[FR Doc. 83-1881 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 21227-260]

Foreign Fishing

Correction

In FR Doc. 83-842 beginning on page 1505 in the issue of Thursday, January 13, 1983 make the following correction:

On page 1505, third column, amendatory language, paragraph designated as "2.", "Appendix 11" should read "Appendix II".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 48, No. 19
Thursday, January 27, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1430

1982-83 Milk Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determination.

SUMMARY: Commodity Credit Corporation proposes, as part of the milk price support program, that $1.00 per hundredweight be deducted from the proceeds of sale of all milk marketed commercially by producers during the period April 1, 1983, through September 30, 1983, with 50 cents per hundredweight being refunded to producers who reduce their commercial milk marketings by 10.3 percent from marketings during a designated base period. This deduction is authorized by the Agricultural Act of 1949, as amended by section 101 of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97-253, 96 Stat. 763, approved September 8, 1982).

DATE: Comments should be received by (30 days from date of publication) to be assured of consideration. Comments submitted pursuant to the notices of September 24, 1982, and December 17, 1982 (47 FR 42112, 56500), will be considered in connection with this proposed determination.

ADDRESS: Written comments should be sent to the Director, Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles N. Shaw, Leader, Dairy and Sweeteners Group, Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013; (202) 447-7601. The Preliminary Regulatory Impact Analysis describing the proposed action and its impact is available from Charles N. Shaw.

SUPPLEMENTARY INFORMATION: This proposed determination has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified as a "major" action since the determination would result in an annual effect on the economy of $100 million or more.

While the Regulatory Flexibility Act (Pub. L. 96-354) is not applicable to this proposed determination, an Initial Regulatory Flexibility Impact Analysis has been prepared. Since this action may have a significant economic impact on a substantial number of small entities, the impact analysis addresses the issues required in Section 603 of that Act. The analysis is published herein, and copies have been sent to the General Counsel of the Small Business Administration. Additional copies are available to the public from Director, Analysis Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013.

This action will not have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Enviromental Impact Statement is required.

The title and number of the federal assistance program to which this proposed determination applies are: Title—Commodity Loans and Purchases; Number—10.051, as found in the Catalog of Federal Domestic Assistance.

Statutory Authority for Proposed Determination

Section 201(c) of the Agricultural Act of 1949 (the "1949 Act") provides that the price of milk shall be supported at a level not in excess of 90 percent nor less than 75 percent of parity as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Section 201(d) of the 1949 Act, as added by the Omnibus Budget Reconciliation Act of 1982, also provides that for the period beginning October 1, 1982, and ending September 30, 1984, the price of milk shall be supported at not less than $13.10 per hundredweight for milk containing 3.67 percent milkfat.

Section 201(d) of the 1949 Act authorizes the Secretary of Agriculture, during the period October 1, 1982, through September 30, 1985, to provide for a deduction of 50 cents per hundredweight from the proceeds of the sale of all milk marketed commercially by producers. These deductions are to be remitted to the Commodity Credit Corporation to offset a portion of the cost of the price support program. This authority does not apply for any fiscal year for which the Secretary estimates that the net price support purchases will be less than 5 billion pounds milk equivalent. If at any time during a fiscal year the Secretary estimates that the net price support purchases during that year will be less than 5 billion pounds, the authority for making deductions does not apply for the balance of the year.

Section 201(d) of the 1949 Act further authorizes the Secretary of Agriculture, during the period April 1, 1983, through September 30, 1985, to provide for an additional deduction of 50 cents per hundredweight from the proceeds of sale of all milk marketed commercially by producers if a program is established whereby the second 50-cent deduction is refunded to producers who reduce their milk marketings by a specified amount. This authority does not apply to any fiscal year for which the Secretary estimates that price support purchases of dairy products will be less than 7.5 billion pounds milk equivalent during the fiscal year.

Background

A determination that, effective for the period October 1, 1982, through September 30, 1983, the level of price support shall be $13.10 per hundredweight for manufacturing grade milk of national average milkfat content, 3.67 percent, was published on September 24, 1982 (47 FR 42128). The same notice stated that estimated net price support purchases of milk or the products of milk during fiscal year 1983 would exceed 5 billion pounds. The notice further stated that a deduction of 50 cents per hundredweight would be made from the proceeds of the sale of all milk marketed commercially by producers, which would be remitted to the Commodity Credit Corporation to offset a portion of the cost of the milk price support program, beginning December 1, 1982.

Proposed regulations establishing procedures for collecting the 50-cent deduction were published on September 24, 1982 (47 FR 42112), and the regulations were published in final form on November 30, 1982 (47 FR 53831). On December 17, 198 (47 FR 56500), proposed regulations were published to revise the procedures, effective April 1, 1983, to permit the collection of an additional deduction of 50 cents per hundredweight from the proceeds of sale of milk and establish a program under which the additional 50 cents so deducted would be refunded to producers who reduced their marketings.

The collection of the first 50-cent deduction has been barred since December 21, 1982, by court order issued in litigation challenging the deduction on the ground that certain rule making procedures were not correctly followed in determining that the deduction should be implemented.

Price Support Program

The price of milk is supported by CCC through purchases of butter, cheese and nonfat dry milk at prices calculated to enable plant operators to pay dairy farmers, on average, a price equal to the support price. The effectiveness of the program depends on competition by manufacturers for available supplies of milk so that the average price received by farmers will equal the announced support price. At times of significant price support purchases, the purchase prices for these products tend to become the floor for the market prices of such products. Since most of the fluid milk prices are based on prices paid for manufacturing milk, the price support program undergirds all milk and dairy product prices.

Summary of Proposed Determination

It is proposed that deductions totaling $1.00 per hundredweight be made from the proceeds of sale of all milk marketed commercially by producers during the period April 1, 1983, through September 30, 1983. This deduction would operate in conjunction with a program whereby 50 cents per hundredweight would be refunded to producers who reduce their commercial milk marketings by 10.3 percent from such marketings during a designated base period.

The deductions and the refunds would be made in accordance with the proposed rule published on December 17, 1982 (47 FR 56500), as it will be published in final form.

Summary of Preliminary Regulatory Impact Analysis

For the period October 1, 1982, through September 30, 1983, the level of price support was established at the statutory minimum of $13.10 per hundredweight for manufacturing grade milk of national average milkfat content, 3.67 percent. (47 FR 42128, September 24, 1982)

With price support at this level and no deductions implemented for the fiscal year 1983, production is projected to be 138.6 billion pounds, an increase of about 4.3 billion pounds from the fiscal year 1982 level. Relatively low feed prices, resulting from record crop production, will keep milk-feed price relationships favorable for increased production. Commercial consumption is projected to increase 1.8 billion pounds to 123.3 billion pounds, milk equivalent, because of relatively stable retail prices and increased population. CCC removals in 1982–83 would be up about 1.2 billion pounds or about 9 percent more than a year earlier. Despite the upward trend in consumption, purchases continue to exceed dispositions, and CCC stocks continue to build—a condition that has existed since October 1979.

Even with implementation on April 1, 1983, of a 50 cents per hundredweight deduction, milk production in fiscal year 1983 is likely to increase from 1981–82 levels by 3.9 billion pounds. Implementation of a $1.00 per hundredweight deduction would result in production increasing by 3.5 billion pounds. Neither of the two deduction programs will have a great downward effect upon milk production this fiscal year because they would not become effective until the season of highest milk production (the flush) has begun.

With the support of milk at $13.10 per hundredweight and implementation of both deductions on April 1, 1983, the net price support purchases during fiscal year 1983 are projected to be $2,353 million. The net outlay, before accounting for the deductions, is projected to be $2,352 million. However, during the period April 1 through September 30, 1983, a 50-cent per hundredweight deduction will likely total $354 million and a $1.00 per hundredweight deduction will total $750 million. Therefore, the CCC net outlays for the marketing year, after accounting for the deductions, are projected to be $1,647 million. These figures compare with an estimated purchase cost of $2,297 million and a net outlay of $2,121 million for fiscal year 1982, and an estimated purchase cost of $2,476 million and a net outlay of $2,475 million for fiscal year 1983 with support at $13.10 per hundredweight and no deductions implemented.

The implementation of the deductions would principally affect farm income in the areas of greatest production. More than 60 percent of the Nation's milk production is concnetrated in eight States: Wisconsin, California, New York, Minnesota, Pennsylvania, Michigan, Ohio and Iowa. However, every milk producer in the United States who markets milk commercially will be affected by the program. The 50-cent deduction represents less than 4 percent of producer gross income from milk and the one dollar deduction represents less than 8 percent of producer gross income from milk. Those producers who comply with the specified reduction will receive a refund of 50 cents per hundredweight in conjunction with the $1.00 per hundredweight deduction.

Under Section 201(d) of the 1949 Act, a refund of 50 cents per hundredweight must be made when a $1.00 per hundredweight deduction is in effect if the producer reduces commercial marketings a specified level from marketings during the base period. The proposed regulations of December 17, 1982 (47 FR 56500) provide a base period of 24 months from October 1, 1980, through September 30, 1982. The maximum reduction which may be required under the 1949 Act is the estimated surplus as a percent of the estimated total milk production. Assuming that a $1.00 per hundredweight deduction will be in place on April 1, 1983, the estimated total milk production is 137.8 billion pounds and the estimated surplus (*i.e.*, CCC net purchases) is 14.2 billion pounds. The proposed reduction of 10.3 percent is the maximum permitted on the basis of these estimates.

In deciding whether to propose these deductions, consideration has been given not only to the statutory standards required by section 201(c) of the 1949 Act but also to the Congressional policy statement with respect to dairy production in section 204 of the Agricultural Act of 1954. The general non-binding policy of section 204 is, of course, subject to the specific statutory standards of Section 201(c). The proposal will not affect the promotion of increased use of dairy products. The proposal will assure an adequate supply of milk and dairy products and will encourage efficient production units consisting of high-grade, disease-free cattle and modern sanitary equipment. It also will assure dairy farmers as a whole of a fair return for their labor and investment while assuring an adequate

supply of pure and wholesome milk to meet current needs. The proposal will assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. The proposal also reflects the recent reduction in the cost of feed and increased efficiency in production. Some marginal operators may not be able to profit under the proposal but the statute does not guarantee each and every dairy farmer a profit while requiring the accumulation of huge CCC stocks of surplus dairy products.

Initial Regulatory Flexibility Impact Analysis

I. Reasons for Action

Milk production exceeds milk consumption in the United States by about 10 percent. The price of milk is supported by removing surplus milk from the market in the form of butter, cheese and non-fat dry milk through purchases at prices calculated to enable processors to pay farmers the announced support price. Commodity Credit Corporation (CCC) has been, and is expected to continue, purchasing about 10 percent of the annual milk production at a net purchase cost of about $2 billion per year.

II. Objectives and Legal Basis

A. The objective of this proposal is to defray part of the cost of the milk price support program and to bring milk production into balance with commercial consumption.

B. The Agricultural Act of 1949, as amended by the Omnibus Budget Reconciliation Act of 1982, authorizes the Secretary of Agriculture to defray part of the cost of the support program by:

1. Effective October 1, 1982, deducting 50 cents per hundredweight from the proceeds of sale of all milk marketed commercially. This deduction shall be allowed only when price support purchases are estimated to exceed 5 billion pounds milk equivalent per year, and;

2. Effective April 1, 1983, deducting an additional 50 cents per hundredweight from the proceeds of sale of all milk marketed commercially. This additional deduction is authorized only when price support purchases are estimated to exceed 7.5 billion pounds milk equivalent per year, and a program is in place to refund the additional amounts so deducted to farmers who reduce their commercial milk marketings.

III. Estimated Number of Small Entities To Which the Proposed Determination Applies

The Statistical Reporting Service, United States Department of Agricuture, reports that in 1981 there were more than 323,000 operations with one or more dairy cows. Of the operations with dairy cows, 5.7 percent have 100 or more cows. The Small Business Administration (SBA) has defined the size standard for small farms as those for which average annual receipts for the preceeding three fiscal years do not exceed $1 million. Using the average production per cow of 12,214 pounds per year and the average price of all milk of $13.58 per hundredweight, the break point with respect to cow numbers for defining small farms in accordance with the SBA size standard would be over 600 cows. Thus, well over 95 percent of all farms with dairy cows may be classified as small businesses. The total number of "responsible persons," those who will be required to deduct and remit funds to CCC, is estimated to be 2,500. While the Department does not maintain any size data regarding such entities, it is apparent that the vast majority come within the SBA's definition of "small business."

Small organizations and small governmental jurisdictions will not be substantially affected by this proposed determination.

IV. Projected Reporting, Recordkeeping and Other Compliance Requirements

A. *Classes of small entities subject to each requirement.* Those defined as "responsible persons" will have the responsibility of providing documentation upon which deductions will be assessed. As those entities which purchase milk from producers maintain records of individual producer marketings in the normal course of business, the additional paperwork and recordkeeping costs involved with remitting deducted amounts are negligible.

Farmers who wish to reduce their production and apply for a refund would be required to verify at their local ASC county office their milk marketings for the base period, October 1, 1980, through September 30, 1982, in addition to marketings for the months that the additional 50-cent deduction and the refund program are in effect. The records required for verification of marketings should already be in the hands of farmers, since handlers presently provide this information to farmers with their milk checks. In some States, this information is available from State agencies.

B. *Professional skills necessary to prepare reports and records.* No additional professional skills are required in order to comply with the requirements of this proposal.

V. Federal Rules Which Duplicate, Overlap or Conflict With This Proposal

This rule does not duplicate, overlap or conflict with the provisions or requirements of any other rules promulgated by the Federal Government. Any duplication of State or local government rules will be minimal.

VI. Significant Alternatives

A. *Extent to which the alternatives accomplish the stated objectives.* Commodity Credit Corporation has considered three alternative programs. These alternatives are: (1) No deduction; (2) a 50 cents per hundredweight deduction effective April 1, 1983 (without any refund program); and (3) a $1.00 per hundredweight deduction (two 50-cent deductions) in conjunction with a refund program, effective April 1,1983.

Failure to implement any deduction would fail to accomplish CCC's stated objectives and would result in a continuation of the present situation where milk production exceeds commercial consumption and Commodity Credit Corporation purchases large amounts of dairy products under the milk price support program at great expense.

Neither of the two deduction programs will have a great downward effect upon milk production during this fiscal year because they would not become effective until the season of highest milk productions (the flush) has begun. The effect upon milk production will begin to be felt after the flush in the summer months as pastures begin to deteriorate, and later in the fall when cows are taken off pastures and moved into barns. However, the effect upon farm incomes will be almost immediate because the deduction will be made on milk marketed on and after April 1, 1983. The 50-cent deduction represents less than 4 percent of producer gross income from milk and the one dollar deduction is less than 8 percent of producer gross income from milk. Either of these levels of deduction could have a significant impact upon individual farmers depending upon any given farmer's financial condition.

The alternative of implementing a $1.00 per hundredweight deduction effective April 1, 1983, in conjunction with a 50-cent per hundredweight refund program has tentatively been selected because it will: (1) Return the greatest amount of money to CCC and thus

defray the maximum amount of milk price support program costs; and (2) will result in the greatest long-term incentive for prodcuers to reduce output or hold production steady.

B. *Extent to which the alternatives minimize the significant economic impact on small entities.* 1. Differing compliance or reporting requirements and timetables. The Corporation believes that having "responsible persons," as the first payor, withhold the deducted funds from farmers and remit payments to CCC is the most efficient and practicable method of implementing a deduction plan. Under this method, all dairy farms will be treated similarly without regard to size classification and will be relieved of the burden of keeping the necessary records. Such records are already necessary for handlers to make payments to farmers for their milk.

A refund will only be available if the $1.00 deduction is in effect. Thus, only those farmers that wish to reduce their production in accordance with the Corporation's proposal will be required to establish their production during the base period, or their production for the months during which the refund program is available. Information necessary to comply with these requirements normally accompanies a farmer's milkcheck and may also be readily available from other sources.

2. Clarification, consolidation or simplification of compliance and reporting requirements for small entities. The Corporation believes that the compliance and reporting requirements are as simple as the purpose of this proposal permits.

3. Use of performance rather than design standards. No performance or design standards are involved in any of the proposals under consideration.

4. Exemptions for small entities. Since more than 95 percent of all dairy farms are small businesses under SBA size standards, all classes of dairy farms must be included under any proposal in order to make a program work.

VII. Effects on Small Entities of the Department's Proposal

A. *Direct and indirect costs of compliance.* The deduction of $1.00 per hundredweight will, on the average, result in a cash flow reduction of less than 8 percent for dairy farms which are small businesses.

B. *Effect on small entities cash flow and liquidity.* Cash flow will be reduced for dairy farmers, but in most cases not to an extent which threatens the continued viability of dairy enterprises. The deductions could have a significant impact upon individual farmers, large or small, depending upon a given farmer's financial condition.

Dairy farm assets, consisting for the most part of land, buildings, equipment and livestock, do not posses a high degree of liquidity. While any deduction will reduce cash flow for dairy farmers, this should not have a great effect upon a farmer's continued viability unless the farmer is finanically unstable to begin with.

C. *Effect on competitive position of small and large entities.* Large and small businesses will be affected in direct relation to the volume of output, and their competitive positions relative to each other will not be affected as the per unit effect of this proposal will be the same for both small and large enterprises.

Proposed Determinations

It is estimated that net price support purchases by the Commodity Credit Corporation of milk or milk products will exceed 7.5 billion pounds milk equivalent during the 1983 fiscal year. Deductions totaling $1.00 per hundredweight shall be made from the proceeds of sale of all milk marketed commercially by producers during the period April 1, 1983, through September 30, 1983, which shall be remitted to the Commodity Credit Corporation to offset a portion of the cost of the milk price support program. Refunds of 50 cents per hundredweight shall be made to producers who reduce their commercial marketings by 10.3 percent from marketings during the base period. The collection of the deductions and the making of the refunds shall be done in accordance with the proposed determination published on December 17, 1982 (47 FR 56500) as published in final form. The implementation of the $1.00 per hundredweight deduction as a part of a program which supports the price for manufacturing grade milk of national average milkfat content, 3.67 percent, at $13.10 per hundredweight will assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

Comments are requested on these proposed determinations and the analyses on which they are based. Comments submitted pursuant to the notices of September 24, 1982 and December 17, 1982 (47 FR 42112, 56500), will be considered in connection with this proposed determination.

List of Subjects in 7 CFR Part 1430

Milk, Agriculture, Price support programs, Dairy products.

(Sec. 201 (c) and (d) of the Agricultural Act of 1949, as amended (7 U.S.C. 1446); and secs. 4 and 5 of the Commodity Corporation Charter Act, as amended (15 U.S.C. 714b and 714c))

Signed at Washington, D.C., on January 25, 1983.

John R. Block,

Secretary of Agriculture.

[FR Doc. 83-2468 Filed 1-26-83, 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-83-1]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before, March 28, 1983.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the

Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB–10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

PART 11—[AMENDED]

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on January 19, 1983

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the petition
23474	AECMA Aviation Lighting Committee	Description of petition: To change the anticollision light color coordinate upper limit requirements for Aviation Red from a "y" value of 0.335 to 0.350 and a "z" value of 0.002 to 0.020 as defined by the Planckian radiator scale. This change will increase the overall perceived collision light intensity for the same electrical power input. Regulations affected: 14 CFR 25.1397, Para. (A). Petitioner's reason for rule: On an international level during the last meeting in Paris on September 19/20, 1982, it was decided to reach a unification of color coordinates for anticollision lights in the civil and military field of aviation.

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description and disposition of the rule requested
22774	Karen M. Woodside	Description of petition: To amend § 137.39 to require (1) written approval by an official or a governing body of a political subdivision when operations dispensing economic poisons are planned; (2) that the public be informed of such operations via some effective means (i.e., newspapers, television, etc.), (3) that a plan for each complete operation be approved by the FAA district office having jurisdiction; and (4) that the operations plan specify what registered economic poison is to be used and the time of the intended operations (including rain dates). Denied 11/30/82.

[FR Doc. 83–2036 Filed 1–26–83, 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 83–ASO–2]

Alteration of Transition Area, Augusta, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to increase the size of the Augusta, Georgia, transition area to accommodate Instrument Flight Rule (IFR) operations at Burke County Airport. This action will lower the base of controlled airspace from 1,200 to 700 feet above the surface. An instrument approach procedure, based on a new nondirectional radio beacon which is to be installed on the airport, is being developed to serve the airport and additional controlled airspace is required to protect IFR operations. In addition, the coordinates of several airports already contained within the transition area, as well as the name of an airport, will be corrected.

DATES: Comments must be received on or before: February 28, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn.: Manager, Airspace and Procedures Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administraion, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. ———." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Augusta, Georgia, 700-foot transition area. This action will provide controlled airspace for aircraft executing a new instrument approach procedure at Burke County Airport. A nondirectional radio beacon is being established on the airport to support the approach procedure. In addition, the coordinates of several airports already contained within the transition area, as well as the name of an airport, will be corrected. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Augusta Bush Field, GA—Revised

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Bush Field (Lat. 32°22'11" N., Long. 81°57'55" W.); within 9.5 miles west and 4.5 miles east of Augusta ILS localizer south course, extending from the 11-mile radius area to 18.5 miles south of the LOM; within a 9-mile radius of Daniel Field (Lat. 33°28'00" N., Long. 82°02'30" W.); within a 7-mile radius of Thomson-McDuffie County Airport (Lat. 33°1'45" N., Long. 82°31'55" W.); within 9.5 miles north and 4.5 miles south of the 090° bearing from McDuffie RBN (Lat. 33°31'45" N., Long. 82°26'19" W.), extending from the 7-mile radius area to 18.5 miles east of the RBN; within a 6.5-mile radius of Burke County Airport (Lat. 32°02'28" N., Long. 82°00'07" W.); within 3.5 miles each side of the 249° bearing from the Burke County RBN (Lat. 33°02'32" N., Long. 82°00'18" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on January 18, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-2164 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-ASW-1]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Designation of Transition Area: Brackettville, TX

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposed designation of a transition area at Brackettville, TX. The intended effect of the proposed action is to provide controlled airspace for aircraft executing new standard instrument approach procedures (SIAP's) to the Los Medanos Ranch Airport. This action is necessary since there are proposed special RNAV SIAP's to Runways 12 and 30 at the Los Medanos Ranch Airport. Coincident with this action, the airport will be changed from visual flight rules (VFR) to instrument flight rules (IFR)

DATE: Comments must be received on or before February 28, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 67101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:20 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation regulation Part 71, Subpart G 71.181 as republished in advisory Circular AC 70-3A dated January 1, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activy. Designation of the transition area at Bracketville, TX, will necessitate an amendment to this subpart. This amendment will be required at Brackettville, TX, since there is a proposed change in IFR procedures to the Los Medanos Ranch Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASW-1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Brackettville, TX New

That airspace extending upward from 700 feet above the surface within a 5-mile radius

of the Los Medanos Ranch Airport (latitude 29°23'42" N., longitude 100°28'07" W.) and within 2.5 miles each side of a 128° and 308° bearing from the airport to 9 miles southeast and 8.5 miles northwest.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on January 19, 1983

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc 83-2163 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 290

[Docket No. RM83-9-000]

Proposed Rulemaking on Exemption From, and Revisions to, Procedures Governing Collection and Reporting of Information Concerning Cost of Providing Retail Electric Service

January 19, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend Part 290 of its regulations to exempt electric utilities from the reporting requirements of section 133 of the Public Utility Regulatory Policies Act (PURPA). As an alternative to a blanket exemption, the Commission is also considering revision of the Part 290 requirements in order to significantly reduce the reporting burden on electric utilities.

The proposed exemption from the information gathering requirements of section 133 of PURPA, and the proposed alternative reductions in the reporting requirements under Part 290, are part of the Commission's ongoing program of reviewing its reporting and recordkeeping requirements and reducing or eliminating unnecessary regulatory burdens on entities subject to the Commission's jurisdiction.

DATES: Comments must be submitted to the Secretary of the Commission on or before March 28, 1983.

ADDRESSES: All filings should refer to Docket No. RM83-9-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Maureen R. Thompson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8529.

Daniel G. Lewis, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. 307-RB, Washington, D.C. 20426, (202) 376-9227.

SUPPLEMENTARY INFORMATION: In the matter of exemption from, and revisions to, procedures governing collection and reporting of information concerning cost of providing retail electric service.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to exempt electric utilities from the reporting requirements of section 133 of the Public Utility Regulatory Policies Act (PURPA).[1] The amendment would relieve all electric utilities from compliance with Part 290 of the Commission's regulations which govern the collection of the cost of service data required by section 133 of PURPA. The proposed exemption would be provided pursuant to subsection 133(b) of PURPA upon a showing by the utilities, and a finding by the Commission, that the gathering by any utility of the cost of service information described in section 133(a) is not likely to carry out the purposes of section 133 of PURPA.

As an alternative to full exemption, the Commission is also considering other methods of reducing or eliminating the reporting burdens of section 133 of PURPA in a manner that would significantly reduce the amount of cost of service information required to be collected and submitted under Part 290 of its regulations. Specifically, these alternatives would involve such modifications of Part 290 as eliminating the requirement that utilities file marginal cost information and calculated costs, reducing the amount of required accounting cost information and load data, reducing duplication between Part 290 and other Federal and state reporting requirements, and providing exemptions from portions of Part 290 for certain classes of utilities.

The proposed exemption from the information gathering requirements of section 133 of PURPA, and the proposed alternative reductions in the reporting requirements under Part 290 discussed in this notice, are part of the Commission's ongoing program of reviewing its reporting and recordkeeping requirements and reducing or eliminating unnecessary regulatory burdens on entities subject to the Commission's jurisdiction.

II. Background

A. The Statute.

Section 133 of PURPA does not itself contain an express statement of its purpose. However, the legislative history of section 133 indicates that, in establishing the extensive reporting requirements in that section, the aim of Congress was to ensure that "good information with regard to costs of providing service . . . be readily available on a timely basis to everyone concerned." The purpose of the section, as stated in the Joint Explanatory Statement of the Committee of Conference, is "to require electric utilities to gather information (under rules prescribed by the Commission) which is necessary to determine the costs associated with providing electric service . . ." [2]

In subsection 133(a) of PURPA, the Congress established four informational reporting requirements which it deemed "basic to any determination with respect to the cost of providing electric service" [3] and necessary for carrying out its intended purposes. Under that provision, the Commission is required to include in its rules the following cost of service information:

(1) The costs of serving each electric consumer class, including costs of serving different consumption patterns within such class, based on voltage level, time of use, and other appropriate factors;

(2) Daily kilowatt demand load curves for all electric consumer classes combined representative of daily and seasonal differences in demand, and daily kilowatt demand load curves for

[1] 16 U.S.C. 2601-2645 (1978).

[2] House Conference Report No. 95-1750, 95th Cong. 2d Sess. 86 (1978).

[3] *Id.*

each electric consumer class for which there is a separate rate, representative of daily and seasonal differences in demand;

(3) Annual capital, operating and maintenance costs—

(A) For transmission and distribution services, and

(B) For each type of generating unit; and

(4) Costs of purchased power, including representative daily and seasonal differences in the amount of such costs.

The statute further provides that this information must be filed biennially with the Commission and any state regulatory authority which has ratemaking authority for the utility.

The Commission is provided broad discretion to implement and administer section 133. The Congress left the Commission free to prescribe the method and format to be used for reporting section 133 cost-of-service information and to require additional information not specifically listed in the statute. In addition, the Congress granted the Commission authority to extend the initial filing deadline for a reasonable additional period, for good cause shown. The statute affords the Commission great latitude in the exercise of its authority to exempt. Under section 133(b), the Commission may exempt any electric utility, or class of electric utilities, from gathering any or all of the information required by that section. Such exemptions may be made, however, only upon a showing by the utility or utilities, and a finding by the Commission, after public notice and an opportunity for comment, that gathering such information is not likely to carry out the purposes of the section.

B. The Commission's Regulations.

1. *Procedural history.* When PURPA was enacted, the Congress afforded the Commission 180 days from enactment within which to prescribe, by rule, the form and manner to be used by utilities in gathering the information required by section 133. Pursuant to this mandate, the Commission promulgated a final rule on June 5, 1979,[4] which established the Commission's procedures for collection of cost-of-service information in Part 290 of the regulations.

As provided by statute, these regulations apply to all electric utilities that have total sales of electric energy for purposes other than resale exceeding 500 million kilowatt-hours during any calendar year beginning after December 31, 1975. The statute further provides that, not later than two years after the enactment of PURPA, each electric utility must make its first filing of section 133 cost of service information, unless the Commission provides otherwise.

In implementing section 133, the Commission was concerned that immediate imposition of the reporting requirements would adversely affect small utilities. An extension of time to file was therefore provided to utilities having annual retail sales of less than one billion kilowatt hours to make their initial filing not later than June 30, 1982. On May 12, 1982, the Commission again extended the initial filing period for smaller electric utilities until June 30, 1983.[5] The additional extension was provided in light of a reexamination of whether the reporting requirements under Part 290 can be made more useful and appropriate.

In addition to the extensions afforded small utilities, the Commission provided other means for accommodating the special circumstances of any utility. The regulations contain procedures for obtaining an exemption from filing all or part of the section 133 information on a case-by-case basis (18 CFR 290.601). An application for such an exemption must be submitted to the Commission at least 18 months prior to the applicable filing date and must contain an explanation as to why the gathering of the information is not likely to carry out the purposes of section 133.

Since the promulgation of Part 290, electric utilities with annual retail sales in excess of one billion kilowatt-hours, constituting nearly two-thirds of the affected electric utilities, have made two filings. The initial filing was made in November, 1980, and the second filing was made on June 30, 1982. The next filing is due on or before June 30, 1984.

2. *Substantive requirements.* Part 290 requires the collection of four types of information. The requirements are divided into four categories of data: accounting cost information, marginal cost information, load data, and calculated costs. These data requirements include the cost-of-service items specifically required under section 133 and much information that is not specifically described in section 133 but that was believed by the Commission to be data relevant to the objectives of the statute.

Subpart B of Part 290 requires the filing of accounting cost information. Accounting cost information is data concerning a utility's rate base, depreciation, fixed operation and maintenance expenses, taxes, and cost of capital. Accounting cost information is required by the regulations because it is necessary to the calculation of a utility's total cost of providing service for a past time period. This total cost, allocated among rate classes, has been, and in most jurisdictions is now, the principal basis for establishing rates. The accounting cost details required by the regulations (§§ 290.201—.204) are those necessary to calculate the total cost for the prescribed time period and are, for the most part, readily available from a utility's books of account.

Subpart C of Part 290 requires the filing of marginal cost data. Marginal cost information is information concerning the expected change in the total cost of production to supply each additional unit of output. Many regulatory economists are of the opinion that electric rates should be based on marginal costs, rather than accounting costs. This opinion is based on the theory that optimal allocation of resources occurs, in the long run, when commodities are priced at their marginal production costs. Because electric service consists of supplying both energy and capacity, both marginal energy cost information and marginal capacity cost information are useful in applying the marginal cost theory to electric rates. Marginal cost information is required by the regulations because the Commission wanted to make available to state regulatory authorities and non-regulated utilities a broad informational base from which they would be able to compare whether marginal or embedded costs are more relevant for utility cost of service calculations. For this reason, the Commission stated in the preamble to the final rule that it would not "interpret section 133 so as to bar the reporting or marginal cost information and thus hinder such an inquiry" [6] by the states and non-regulated utilities.

Subpart D of Part 290 requires the filing on load data. Load data describe the amount of electric power being

[4] Final Regulations, "Collection of Cost of Service Information Under Section 133 of the Public Utility Regulatory Policies Act of 1978" (Docket No. RM79–6), issued June 5, 1979, 44 FR 33847 (June 13, 1979), *codified at* 18 CFR Part 290 [Final Regulations]. These rules were substantially revised by the following orders: Order No. 48, (Docket No. RM79–6), issued September 28, 1979, 44 FR 58687 (October 11, 1979); Order No. 48–A, (Docket No. RM79–6), issued January 4, 1980, 45 FR 2023 (January 10, 1980); Order No. 48–B, (Docket No. RM79–6), issued August 7, 1980, 45 FR 54033 (August 14, 1980).

[5] Order No. 231, (Docket No. RM82–28), issued May 19, 1982, 47 FR 22947 (May 26, 1982). The Commission believes another, similar extension of the filing deadline is appropriate, pending completion of this proceeding and will consider such a measure in the near future.

[6] Final Regulations, 44 FR. 33847 (June 13, 1979).

supplied in a specific time period either for a utility's entire system or for a part of the system, such as a particular class of consumers. Such data are usually expressed hourly for an entire day, hourly for an entire year, or for particular hours, such as the hour of highest load in a given month. Load data is required by the regulations because subsection 133(a)(2) requires information on daily and seasonal demand for each electric consumer class for which there is a separate rate. The statute does not specify the level of accuracy with which load data must be reported. However, the Commission set forth in the regulations those levels of accuracy which it believed, at the time, were necessary to provide reasonably useful information.

Subpart E of Part 290 requires the filing of calculated costs. Calculated costs, as defined in the regulations (§§ 290.501–290.502), are the overall costs of providing service. These costs are expressed in terms of the cost per kilowatt hour of energy or the cost per kilowatt or demand (capacity costs), according to different customer groups and different voltage levels. They are derived from either the accounting cost information or the marginal cost information required in Subpart B and Subpart C of the regulations. Although the statute does not specifically require the filing of calculated costs, the Commission believed, when it promulgated the final regulations, that this information would make the filings more useful, especially to parties who may not have the technical resources to perform the required calculations from the raw accounting cost or marginal cost data. The Commission believed that the availability of calculated costs would lead to more informed participation by interested parties in retail rate proceedings, minimize confusion about what the raw data really means, avoid unnecessary duplication of effort among intervenors in a proceeding, and enable users of the information to understand more fully the unique circumstances of the particular utility

C. Reassessment of the Reporting Burdens under Part 290.

The cost to utilities of complying with the regulations under section 133 has been a source of continuing concern to the Commission, the Congress, and the Presidential Task Force on Regulatory Relief.

1. *GAO Report.* On September 14, 1981, the General Accounting Office (GAO) reported to Congress on the Commission's regulations implementing section 133. In its report, the GAO found that use of the section 133 data was generally very limited and that compliance with section 133 had proved to be expensive and burdensome. It therefore recommended that the Commission "review and, as appropriate, revise its regulation for implementing section 133 in order to reduce the cost and burden on utilities." In conjunction with review of Commission regulations, the GAO suggested that the Commission—

Review the extent to which data collected under section 133 duplicates other data submitted to the Federal Government,

Assess whether the number of utilities required to comply with section 133 should be reduced in terms of size, number of utilities reporting per state, etc., and

Determine whether the data is actually being used by the parties for which it was intended and whether the benefits received from use of the data outweigh the costs.

2. *The Commission's Notice of Inquiry and Responses to It.* In response to the GAO report, the Presidential Task Force, and as part of a general reexamination of the costs and benefits of all its information gathering requirements, the Commission undertook to evaluate both the need of state regulators and the need of the public for information collected under section 133. On January 29, 1982, the Commission issued a Notice of Inquiry (NOI) [7] in an effort to obtain information about the usefulness of the data submitted under Part 290. Specifically, the Commission requested comments and data in three areas.

First, the Commission inquired about the actual use being made of the data collected and reported under Part 290. The Commission solicited information on how the information contained in the Commission's regulations has been employed in regulatory proceedings, e.g., proceedings implementing sections 111 and 210 of PURPA, retail or wholesale rate cases, and state "Need for Power" proceedings.

Second, the Commission solicited information on the extent to which information requested under Part 290 duplicates other Federal or state reporting requirements, and the added costs of providing such duplicative information.

Third, the Commission sought information on practical alternatives to, or revisions of, the existing regulations which would carry out the purpose of section 133 in a less burdensome manner.

[7] Docket No. RM82–13, issued January 29, 1982, 47 FR 5437 (February 5, 1982).

The Commission has received approximately 150 comments in response to its NOI. Participants in the inquiry include electric utilities, state regulatory authorities, industrial customers, consumer representatives, and consultants. In general, most utilities and industrial customers suggest that the Congress should rescind section 133 and the Commission should withdraw its regulations implementing that section. On the other hand, consumer representatives, several consultants, and several states urge the Commission to retain the present regulations implementing section 133. Several utilities, consumer representatives, and state regulatory authorities advocate revising the present regulations in order to reduce the reporting burden and eliminate duplication.

In direct response to the Commission's inquiries, commenters focus primarily on three areas of concern. [8] First, they evaluate the usefulness of Part 290 information. Although the comments indicate that section 133 data have been used to varying degrees in state proceedings, they suggest that this usefulness is relatively limited. Many electric utilities contend that the information collected is not used at all. In contrast, an environmental organization reports that 17 state regulatory authorities have used the Part 290 information in more than 25 cases. In addition, one state regulatory authority states that is has made use of the Part 290 information in power plant licensing proceedings, weatherization studies (i.e., analyses of the cost-effectiveness of insulation), and power production cost studies.

Second, commenters discuss duplication between Part 290 and other Federal and state reporting requirements. Electric utilities report that the Part 290 requirements duplicate state, and FERC reporting requirements to an extensive degree. Utilities also point out that the Part 290 reporting requirements duplicate information already available in FERC Forms 1 and 12. [9] In addition, utilities contend that the

[8] The comments will be examined more specifically with regard to the changes to Part 290 proposed in this rulemaking.

[9] Form 1 (18 CFR 141.1) is filed by all class A and B electric utilities and collects information regarding the utility's organization, accounts, and finances. Form 12 (18 CFR 141.5) is filed by public and private entities which operate facilities for the generation, transmission, or distribution of electric energy. It collects information regarding the electric generating and transmission facilities, electric utility systems, and transactions with other electric utility systems.

historic data required in each Part 290 report duplicates information reported in prior Part 290 reports. One state regulatory authority contends that there is extensive duplication between §§ 290.201–.204 (accounting cost information), § 290.305 (distribution cost information), and § 290.402 (load data for the total of all customers), and the FERC Forms 1 and 12.

Electric utilities also cite duplication with state reporting requirements. A trade association for investor-owned electric utilities reports that, while the reporting requirements vary from state to state, the state requirements often parallel the Part 290 information. In addition, most comments by state regulatory authorities claim that there is duplication between state reporting requirements and Part 290. In contrast, analysis by one commenter points to the fact that the Part 290 reports do not duplicate the reporting requirements of Colorado, Arizona or Idaho. Another commenter, located in the Pacific Northwest, states that the Part 290 requirements do not duplicate reports filed with the Bonneville Power Administration.

Third, commenters present a variety of proposals for change. Several commenters support the complete elimination of Part 290. One state regulatory authority supports the elimination of Part 290 because the information is not used in that state and, in any event, is otherwise available in regulatory proceedings. With respect to possible amendments to Part 290, commenters divide into two groups. On one hand, several states urge the Commission to retain or expand the Part 290 requirements. One state urges the Commission to retain Part 290 in the present form and contends that utilities have the required data available and the burden of reporting is not too great. Other states recommend retaining the current requirements with only slight additions. These suggested additions include the specification of an accuracy level for individual load date (§§ 290.401–.406), requiring an analysis reconciling class sales data and system sales data, and instituting a limited reporting requirement for utilities with annual retail sales less than 500 million kilowatt hours.

On the other hand, several commenters advocate a reduced Part 290. The suggestions for modification include exemption from Part 290 of municipally, and cooperatively-owned utilities, reduction of duplication between Part 290 and other Federal and state reporting requirements, the modification of the load data requirements, the adoption of flexible filing dates under Part 290, and basing the Part 290 reporting requirements on state reporting requirements.

III. Proposed Changes

A. Blanket Exemption.

As stated above, section 133 authorizes the Commission to exempt "an electric utility or class of electric utilities from gathering all or part of such information, in cases where such utility or utilities show and the Commission finds, after public notice and opportunity for the presentation of written data, views, and arguments, that gathering such information is not likely to carry out the purposes of [the] section." If the Commission is to make any such finding under this provision, it may do so only as a result of the appropriate showing made by utilities subject to the Part 290 requirements. This Notice of Proposed Rulemaking is designed and intended to afford both notice and an opportunity for all interested persons to present written comments with respect to whether the Part 290 requirements continue to carry out the original purposes of section 133. The Commission anticipates that all utilities that wish to be exempted from the requirements of section 133 will make, or attempt to make, the statutory showing required under subsection 133(b), in their comments on this proposal.

The Commission believes that there are several strong indications that the purposes of section 133 have been served and the objectives of that section accomplished, by the promulgation of the Part 290 regulations and the subsequent filings of cost information by utilities in November 1980 and in June 1982. For example, many comments received in response to the NOI indicate that (1) the gathering and filing of section 133 information is no longer necessary as an aid to state regulatory authorities in retail ratemaking; (2) the use of section 133 information is, in any case, very limited; and (3) the costs of gathering section 133 information are a significant burden on companies and ratepayers and far outweigh the benefits that accrue from maintaining the requirements as they exist. It may therefore be unlikely that further gathering of the section 133 information would carry out the purposes of the section. The Commission, therefore, proposes to exempt all utilities that are currently subject to Part 290 from any further gathering of the information outlined in section 133 of PURPA and Part 290 of the regulations. The Commission's tentative bases for a blanket exemption are discussed below, as focal points for further public comment.

1. *Part 290 Data are Unnecessary as an Aid to State Regulatory Authorities.* Although the purposes of section 133 are not express, it appears that one of the original purposes of section 133 was to aid state regulatory authorities in a thorough reevaluatin of retail rate structures as well as aid in the retail ratemaking process. Yet, the responses of state regulators to the Commission's NOI provide very little support for the notion that state agencies rely on the section 133 data, or for the proposition that the continued filing of Part 290 information will improve the process of retail ratemaking.

The two state commissions offering the responses most supportive of Part 290 (Florida and Kansas) appear to base their support for the current data requirements primarily on the value of that data as a way of comparing utilities nationally. While there may be such a value, the Commission does not believe that the Congress wanted section 133 to serve as a means of comparing the cost of electric service in one part of the Nation with that in another. Rather, the purpose of section 133 was to aid in case-by-case analyses of particular utilities' costs. Furthermore, the analyses of particular utilities by state commissions appears to be based, in the great preponderance of states that have offered comments, on cost information supplied by utilities under state, not Federal, laws.

Several state commissions point out that, while section 133 information may have aided them in the past, the continuation of section 133 filings is not necessary as an aid in future retail rate proceedings. The comments of two state commissions are particularly useful on this point. First, the Idaho Public Utilities Commission states:

> Historically, PURPA served a valuable catalytic function for states of limited resources such as Idaho. It provided us with out first exposure to solid marginal cost data and jogged our utilities into the expenditures necessary to collect such data and to engage in sophisticated load research program.
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> * * * * *
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> There is no longer a valid federal role to be played in requiring that data be reported. The Federal Government is not a logical depository for such data. Moreover, Washington is not well situated to gauge the validity of requests for extensions or to encourage flexibility in accord with each utility's needs.

Second, the Iowa State Commerce Commission points out that:

> This Commission [Iowa] has completed its generic proceedings regarding PURPA sections 111 and 210. We believe this Commission has the authority, under Iowa law, to require the submission of the data necessary to fully implement decisions in these proceedings. Section 133 filings have been useful in providing information to parties in these cases. With administrative rules and analytical methods adopted in each case, the necessity of requiring extensive data on a continuing basis is diminished.

Idaho and Iowa appear to be representative of those states that have found the Part 290 regulations to be useful, but have concluded that it would suit their purposes to proceed on the basis of information requirements established at the state level and under state law.

An additional indication that section 133 filings may no longer be necessary to state regulatory authorities stems not from the response to the NOI but from the lack of response. Only twenty states responded to the NOI. It may, therefore, be fair to assume that the thirty states that did not respond have relatively little interest in the continuation of the section 133 data collection.

Of the nine states that tended to support the existing regulations, almost all qualified their support in some way. Some indicated that they believed the data collection should be limited to large utilities. Others indicated that they did not need the information for their own rate proceedings but that it was desirable to have this type of information available on a national basis for comparison purposes. However, almost all of these states indicated that they already have the authority to require the filing of this type of information from utilities whose rates are subject to their jurisdiction. None of the states responding to the NOI indicated that a continuation of the section 133 reporting requirements is a necessity to them. Therefore, it appears that states could, or do, require on their own initiative information which is useful and relevant to state rate proceedings and which replicates information required by Part 290.

To the extent that the section 133 filings are intended to provide a base for a reevaluation of retail rate structures, the Commission believes that this purpose has now been served. The state regulatory authorities have had ample opportunity to engage in a reevaluation using the 1980 and 1982 section 133 filings as a data base. Therefore, it is highly likely that the reevaluation of retail rate structures, which was promoted by section 133, is well underway at this time.

2. *Limited Use of Section 133 Information.* Several consumer and environmental groups generally support the continuation of the cost information filings. These comments state that the cost information reports filed under Part 290 are used in a number of retail rate proceedings in various states. The comments of state commissions confirm that there has been some use of the information. However, most electric utilities, and several states, indicate that the information is not used extensively in PURPA-related proceedings, retail rate proceedings, wholesale rate proceedings, or "Need for Power" proceedings. In fact, many states have found either that (1) although the section 133 information was somewhat useful in the past, the states are now proceeding primarily on the basis of state information requirements, or (2) the state requirements are similar, and frequently preferable, to section 133 requirements. As the Michigan Public Service Commission states:

> The data on section 133 cost of service which utilities are required to report on a regular basis duplicates that which the affected utilities are required to file in connection with requests for rate relief. Michigan already has filing requirements which specify cost-of-service including load data and cost allocation methods. In addition, data filed under section 133 is really not reviewed in any depth . . . if that utility does not have a rate case pending. If the utility does have a rate case pending, the studies submitted with the rate application, which meet the [state] Commission filing requirements, are the studies which will be utilized by the staff of the Commission.

Still other states, such as Georgia and Arizona, have indicated that they have not found the Part 290 reports at all useful.

3. *Costs of Gathering Section 133 Information.* In the NOI, the Commission requested information on costs incurred to gather and file the information required by Part 290. The responses by the utilities indicate that, as a general proposition, the expense is a considerable one. Utilities report costs incurred in connection with the 1980 filing ranging from $14,860 to $1,012,000, and costs incurred in connection with the 1982 filing ranging from $55,000 to $400,000.

The significance of these data is not made especially clear. In any case, not all utilities responding to the NOI provided information regarding the cost of compliance, and much of the cost data provided was not presented on a consistent basis. Therefore, the Commission is again requesting utilities to provide data showing, in specific terms, the costs of compliance. The Commission requests that, to the extent possible, the data be presented according to the following categories:

(1) Calendar year 1982 internal expense resulting from compliance requirements, excluding class load data requirements, expressed both in dollar expense and full-time staff positions.

(2) Calendar year 1982 internal expense resulting from load data requirements, excluding capital cost of metering equipment, expressed both in annual dollar expense and full-time staff positions.

(3) Additional internal expense associated with compilation, reproduction, and filing of the most recent (June 1982) report.

(4) Capital cost of metering and related equipment acquired for the purpose of compliance with the Part 290 requirements.

(5) External expenses incurred, such as consultant fees, in connection with both the November 1980 report and the June 1982 report.

The expenses which the Commission is seeking to identify are those incurred solely as a result of the Part 290 requirements, not including similar expenses related to compliance with other Commission regulations or those of any other governmental agency. In cases where new state requirements have been adopted that are essentially the same as those of Part 290, or where a utility has been granted an exemption from the Part 290 requirements and has been allowed, alternatively, to report in the manner of similar state requirements, the Commission would expect the corresponding expenses to be identified and the circumstances explained.

B. Alternatives to a Blanket Exemption.

The Commission recognizes that an exemption for all electric utilities from gathering the cost of service information prescribed by section 133 and Part 290 of the regulations is possible only if electric utilities show that gathering the information required by section 133 is not likely to carry out the purposes of section 133. Therefore, the Commission proposes the following alternatives to a blanket exemption which would apply in the absence of the appropriate showing necessary for complete or partial exemption.

1. *Partial Exemptions.* Several comments on the NOI point out that particular geographic and operating conditions make a number of the present Part 290 reporting requirements inappropriate for several utilities. The Commission finds merit in these contentions and proposes to exempt

certain types of utilities from various reporting requirements. First, the Commission proposes to exempt utilities that rely primarily on hydroelectric power from gathering and filing marginal energy cost information. The average hourly energy costs and hourly marginal costs for a system relying primarily on hydroelectric generation, are dependent upon factors, such as scheduled coordinated reservoir operation, that do not follow a similar pattern from day to day. There appears to be no generally accepted method of determining these data for typical days. For purposes of this proposed exemption provision, a hydro-based system will be defined as one having 75 percent or more of its system load, at the time of its annual peak, supplied from hydroelectric generation. Such utilities are admittedly few in number.

Second, the Commission proposes to exempt any utility that purchases all the electric power needed to serve its load from gathering and filing marginal cost information on generating facilities and energy cost (§§ 290.301–.302). These data are not relevant to these so-called "full requirements" utilities because their marginal costs are determined by the wholesale rate schedules under which they are served. These rate schedules are available to the public from several sources, including the Commission.

2. *Complete Exemption for Smaller Utilities.* When the Congress enacted PURPA, it exempted certain small utilities, those with annual retail sales of 500 million kilowatt hours or less, from the Act. Although the statute and the legislative history are silent regarding the reasons for excluding these small utilities, arguably the Congress was recognizing that compliance with PURPA would impose certain financial burdens on utilities and did not believe the burdens on small utilities were warranted.

The Commission has always been concerned about the economic impact the Part 290 filing requirements would have on smaller utilities. Accordingly, the Commission included in the final regulations an extension of the first filing time to June 30, 1982, for covered utilities having annual retail sales less than one billion kilowatt hours. Recently, the Commission extended this filing time for an additional year, to June 30, 1983.

The Commission's concern regarding this issue persists. Comments on the original proposed regulations and on the NOI noted that Part 290 compliance is proportionately more costly for small utilities. This is because many of the costs are fixed and are not a function of size. The number of data elements to be gathered, the amount of special metering that may be required, and the amount of staff time necessary to prepare the report may be as great, or nearly as great, for a small utility as for a large one. Therefore, small utilities, with small revenues, must allocate a higher percentage of their revenues to gathering and filing the section 133 information than larger utilities. Inasmuch as the expenses related to data collection under section 133 are a necessary cost of regulation, they are ultimately borne by the ratepayers. The Commission believes the point has been reached at which this cost, for the small number of ratepayers of a small utility, is not justified by the benefit that may be derived from the availability of additional information.

It is also the Commission's view that, in light of the purposes of section 133 and the Commission's experience in implementing and administering section 133, the size threshold for reporting under the Part 290 regulations should be revised upward. Therefore, the Commission proposes to exempt all utilities having annual retail sales below two billion kilowatt hours from gathering any of the information required by section 133.[10] Such a change would reflect the same concern, that Part 290 creates an undue economic burden for this group of utilities, as the Commission has previously expressed with respect to utilities with retail sales below one billion kilowatt hours.

3. *Eliminate the Requirements for Marginal Cost Information.* Since the enactment of PURPA, substantial disagreement has existed concerning the inclusion of marginal cost data in the Part 290 requirements and the nature and extent of the data to be required. Section 133 itself does not specifically require utilities to file marginal cost information, even though it is quite specific in referring to other kinds of information. The Commission included a requirement for marginal cost data in its regulations in order to provide state regulatory authorities and non-regulated utilities with an informational base from which they could "make decisions on the issue of whether marginal or embedded costs are more relevant for utility cost of service calculations."[11]

[10] There are about 260 utilities covered by Title I of PURPA, that is, having annual retail sales above 500 million kilowatt hours. Of these, 74 have annual retail sales below one billion kilowatt hours and an additional 38 have sales between one billion kilowatt hours and two billion kilowatt hours. Of these 112 covered utilities with annual retail sales under two billion kilowatt hours, 84 are publicly-owned or cooperatively-owned entities. The remaining 28 are investor-owned.

[11] 44 FR 33847 (1979).

The use of marginal cost pricing in establishing electric rates has been a matter of controversy in the regulatory community generally since the early 1970's. Most of the debate has occurred at the state level. The Commission has not engaged in that debate for reasons that relate primarily to the types of rate schedules over which it has jurisdiction. In a number of states, regulators have determined the relative merits of using marginal costs in rate proceedings and are using or excluding that information. Elsewhere, the debate continues. It is now unlikely that there is any state regulatory authority that has not had the opportunity to study the issue using the 1980 and 1982 filings as a data base. Accordingly, it appears unnecessary for the Commission to continue to take the initiative in obtaining marginal cost information from utilities in every state, especially in light of the fact that the states may require marginal cost information if they want it, and PURPA does not require the Federal Government to collect it. Therefore, the Commission proposes to eliminate the requirements in Subpart C under which utilities must not file marginal cost information.

4. *Reduce the Requirements for Marginal Cost Information.* Although there are very compelling reasons for eliminating the marginal cost information requirement altogether, the Commission recognizes that this is a controversial matter. It may be that comments on the proposal will demonstrate to the Commission that there are good reasons for retaining some marginal cost information requirements. In order to estimate, and solicit comment on, the relative importance of a certain limited amount of marginal cost information to various interested persons, the Commission is proposing an option that would substantially reduce this particular reporting burden while retaining requirements for reporting the more significant information.

First, the Commission believes that the marginal cost requirements could be reduced so that utilities would be required to provide marginal cost information on existing generation for one unit in each of several categories of units. The categories would cover each of the common fuel types, the base-load, intermediate, and peaking service categories, as well as several size ranges. The Commission believes that reducing these reporting requirements would lessen the burden on utilities while still providing interested persons with a core of information regarding the marginal cost of existing generation. For

planned additions to generating capacity, the information required would be limited to estimates of overall capacity costs for units actually planned. The requirements to provide more general information on generating capacity expansion would be eliminated because similar information is available for the larger utilities from other sources, such as Form 12.

Second, with respect to marginal energy cost, the requirements would be amended to include estimates of hourly marginal energy costs for the next five years for only four specified months rather than twelve months, reducing the data volume by two-thirds. The four months would be the month of the winter peak, the month of the summer peak, and, the two mid-season months having the lowest system peak. Inasmuch as these estimates are required in order to provide a basis for determining whether, and how much, a utility's marginal costs fluctuate according to the seasons, the significant estimates are those which relate to a utility's extremes of operation. The Commission also proposes to eliminate the requirement that utilities file a calculation of a single marginal energy cost for each defined costing period (§ 290.303(g) and (h)). While this information may provide a basis for comparison among utilities, it does not appear to be useful in a rate analysis of a particular utility's marginal energy costs.

Third, the requirements for marginal transmission costs would be simplified by eliminating the requirement for historical information, system maps, and other minor items. Historical information on transmission facilities appears to be of very limited usefulness. In those cases where it may be of interest, anyone may obtain this information from the Commission's files of Form 1 and Form 12 data. The same is true of system maps. In the rare instances where they are needed, the Commission's files or State commission files can be used. The requirements for distribution and customer cost information would not be changed.

The Commission understands that the compilation of marginal cost information under any reduced Subpart C requirements may not be a sufficient basis for the preparation of a complete marginal cost-of-service study for a given utility. However, the Commission believes that the marginal cost information, reduced as proposed above, is adequate to alert interested parties in retail rate proceedings to the effects and trends that may be of sufficient importance to warrant a more detailed study of marginal costs. The Commission also believes that state regulators are in a better position than is the Commission to recognize when circumstances deserve such detailed attention.

5. *Elimination of Requirement for Calculated Costs.* Part 290 currently requires utilities to develop and present two summaries of cost information by costing period and by voltage level, according to major customer groups. The first summary is to be based on accounting costs, the second on marginal costs. These costs summaries are, in effect, statements of the results of cost-of-service studies. The data are presented in a form more or less understandable to lay persons, in terms of various uses or users of power. Most retail regulatory authorities require utilities to make such studies in connection with rate change applications. Some jurisdictions require accounting cost-based studies, some require marginal cost-based studies, and some require both. The studies made to support retail rate proceedings are often more comprehensive than those that would be required to provide information for the Part 290 requirement.

Most utilities have sufficient expertise to perform these studies based on accounting costs due to the important role that each study has played in ratemaking for many years. As with other Part 290 provisions, most state regulatory authorities have the authority to require calculated cost information from utilities according the the states' practices and needs. Two facts nevertheless appear certain. First, no portion of Part 290 is more duplicative than this requirement, in those cases where states already require such studies. Second, no portion of Part 290 is more wasteful, if a state has decided not to require such studies. In any case, utilities have twice filed calculated cost data in 1980 and 1982 and the states have had an opportunity to assess the prospective usefulness of this type of information for state proceedings.

The proposed elimination of calculated cost studies is within the province of Commission discretion. Section 133, while specifically identifying certain types of information required to be filed, does not mention calculated costs. The Commission recognized, in the final regulations establishing Part 290, that it was exercising its discretion under PURPA by requiring that raw data be calculated and reported under Subpart C of Part 290 according to costing periods, customer group, and voltage level.[12] The question which faced the Commission was whether to burden utilities with the cost of those calculations or to require only raw data and thereby burden the potential users of the information. The Commission decided at that time to require the utilities to calculate costs. Since that decision was made, the Commission has had the experience of two section 133 filings. This experience, plus the information available through the NOI on the cost to the utilities in complying with Part 290, suggests that the cost of requiring calculated cost data is a burden disproportionate to the usefulness of the data. The Commission, therefore, proposes to eliminate the requirement of providing information on calculated costs.

6. *Reduction of Accounting Cost Data.* The Commission proposes two modifications of the data required by Part 290 with respect to accounting costs. First, the Commission proposes to simplify § 290.201(d), concerning data related to construction work in progress (CWIP). Since establishing Part 290, the Commission has received a number of indications that the regulations governing the data concerning CWIP are confusing and complicated. In addition, a number of persons have indicated that the required level of detail is greater than that used by most utilities in maintaining their records. The Commission invites specific comment on how these regulations may best be revised.

Second, the Commission proposes to modify §290.202(a), dealing with operating expense information. The Commission has received numerous inquiries regarding the proper method for eliminating variable operating and maintenance expense. In order to clarify this point, the Commission proposes to revise the regulations on the estimation of variable operating and maintenance expense to indicate that variable operation and maintenance expense is to be estimated by the utility in accord with its current practice in planning studies.

7. *Reduction of Requirements for Load Data.* Section 133 is fairly specific in identifying the load data to be included in utility filings. Subsection 133(a)(2) calls for "daily kilowatt demand load curves", both for a utility's total load and for the load of "each consumer class for which there is a separate rate." These two types of load data have different uses in rate analysis and involve different costs and effort in gathering them. Therefore, they are discussed separately below.

a. *System load data.*

[12] 44 FR 33847 (1979)

The total load, or system load, is necessary for the utility's day to day control of operations as well as for planning and forecasting. Most utilities record this data on an hourly basis as a matter of standard procedure.

In developing the Part 290 regulations, the Commission considered whether system load data should be required in detail for the entire reporting period (*i.e.*, a full calendar year—8,760 hours) or expressed in some other way. The decision was made to require the complete hour-by-hour data, for two reasons. First, certain methods for performing marginal cost analysis require the data in this form. Second, the requirement was perceived as not excessively burdensome because utilities record and retain the data in this form for their own purposes.[13] While the Commission proposes to leave the basic system load data requirements in § 290.402(c) unchanged, it proposes as an alternative to exemptions, modifications with respect to pool data, historic peak load information, and projected load data. These amendments are proposed as follows:

Section 290.402(b) requires pool load data from all covered utilities that are members of a single integrated power pool. The Commission proposes to change this section to permit each pooling organization to supply this data on behalf of its member utilities, rather than require each member utility to file. This approach would avoid duplicative filings.

Section 290.402(c) requires historic peak load information. Each utility must report the summer and winter peak loads on its system for the previous ten years. The reports filed in November 1980 and in June 1982 are now a matter of record, and include the required historic peak information for the periods 1970–1980, and 1972–1980, respectively. It is unnecessary to continue to require information for each ten year period. The Commission now has this information for each year dating back to 1970 and further such reports are unlikely to yield new information. Therefore, the Commission proposes to require historic data only for the one year preceding the reporting period.

Section 290.402(e) requires projected load data. This projected load data is used principally for marginal cost analysis. If it is determined that marginal cost information is necessary, it would be advisable to retain this projected load data as well. Even in this case, however, the Commission proposes to reduce the amount of data to be reported to cover only four specified months of each future year instead of every month. These four months would represent the utility's extremes of operation. In addition, the Commission recognizes that the requirement for annual load duration curves in §290.402(e) may be unnecessarily burdensome. The Commission solicits comments on how this filing requirement might be simplified while providing equally useful information.

b. *Class load data.* The load data requirements for individual customer classes are by far the most burdensome portion of the Part 290 regulations. The regulations currently require hour-by-hour load data for specified typical and peak days for a number of defined individual classes of customers.

Load data for individual consumer classes is useful for determining allocations of costs among classes and for planning new capacity. Load data for individual customer classes have been gathered by some utilities for a number of years. This "load research," as the activity is called, has provided useful system planning and market development information. Some utilities have considered it, along with studies of population growth, construction practices, appliance saturation, and other factors, as essential in projecting their load growth. Load research is expensive, however. It involves special metering of selected customers (a "sample") and processing of the metered data to derive estimates of hour-by-hour consumption for the class of customers. Investment in special recording meters is required, together with customer surveys, sample design, frequent collection of metered records, and processing and interpretation of the data.

In Subpart D of Part 290, three groups of customer classes are identified for purposes of classifying types of load data to be collected and reported. Those groups are (1) large rate classes, served under a separate rate and accounting for 10% or more of system demand at the time of any monthly peak; (2) small rate classes, served under a separate rate but accounting for less than 10 percent of system demand at the time of every monthly peak, and (3) end use classes, with six such classes identified. The regulations require class load data based on metering for large rate classes. Load data for the other groups of classes may be reported on a "best-estimate" basis, which means that a utility may use less expensive and, presumably, less reliable means of developing estimates of hour-by-hour loads for these classes.

The requirement for class load data constitutes a heavy reporting burden and is by far the largest element of the total burden of the Part 290 regulations. The utilities responding to the NOI report that the metering required for large rate classes involves investment of about $100,000 to $1.5 million, with an average of about $300,000. Although some utilities indicate that some of the metering expense would have been incurred for reasons other than compliance with Part 290, the annual costs of load research are certain to be a relatively large part of the total Part 290 burden.

As with marginal cost information, a request for a specific body of class load information may not be appropriate to all utilities. Load research is most useful when a specific study is designed to assist in resolving a specific issue.[14] Moreover, there is an inherent inefficiency in requiring many utilities to perform sample metering on groups of customers that have common characteristics of use.

Inasmuch as the statutory language is explicit with respect to load data, reduction of the requirements in Part 290 of the regulations, absent an exemption, is somewhat problematic even if done to ease the burden on utilities. Nonetheless, the Commission is proposing, as an alternative to exemption, to reduce future burdens by modifying the data to be reported. The Commission is aware that the utilities required to engage in load research have already, in most instances, made an investment in metering equipment which is a burden that cannot be removed. However, the Commission hopes the proposed modifications will delay or eliminate additional investment on the part of utilities that are still "phasing in" to full compliance, and on the part of small utilities that have not yet been required to file.

The Commission is proposing the following modifications of the class load data provisions in the regulations. First, separate jurisdictional reporting (§ 290.401(b)) would no longer be required. Electric utilities would be permitted to report data for either the predominant jurisdiction or for the entire system, at their option. The reason for this change is that, as a

[13] The complete hour-by-hour compilation is lengthy. The problem of sheer bulk is addressed in the present regulations (§ 290.402(d)(2)) by offering utilities the option of supplying system load data for certain typical days and certifying that the complete data would be made available upon request.

[14] In the last few years a number of states have ordered jurisdictional utilities to perform load research studies for specific purposes. A number of exemptions from this section of the Part 290 regulations have been based on accepting a state-imposed report instead.

practical matter, separate jurisdictional reporting has not been needed. A number of instances raising this question have come to the Commission's attention through the exemption process, and in all cases the requirement for separate reporting has been waived, for good reason, and with the concurrence of the retail regulatory authorities involved. There appears to be no reason to continue to include the requirement.

Second, the regulations (§ 290.403(b)) will be modified to make clear that the accuracy specification for sample metering is to be interpreted as a target or guideline to be used in the design of the sampling procedure, and not as a criteria for the acceptability of the data. The reason for this is that sample metering is a statistical procedure in which the accuracy of the results can not be assured in advance. Load research practice in the industry reflects this and it is the Commission's intention to state its requirement in this area so as to be in accord with such practice.

Third, the requirement for a sampling plan (§ 290.403(c)) will be eliminated. To the Commission's knowledge, no use has been made of this information. Now that the regulations have been in place for two reporting periods, it appears superfluous to require a utility to report its sampling plan.

Fourth, the requirement for reporting load data for end-use classes (§ 290.40(d)) will be eliminated. It appears that there has been very little interest in these data, and at the same time, the requirement has been confusing and cumbersome for respondents.

Each of the above-mentioned modifications would reduce the reporting burden on the utilities without significantly impairing the usefulness of the reports. In addition to the above modifications, the Commission is proposing to exempt all utilities from reporting load data for certain rate classes. The exemption would relieve utilities from reporting load data for any rate class that accounts for less than five percent of the utility's demand at the time of the monthly peak for every month. The Commission believes that it is unlikely that any issues in retail rates policy are going to arise out of classes that constitute less than five percent of a utility's demand. If demand data are not available, the exemption would apply to any rate class that accounts for less than five percent of the utility's retail electric energy sales for every month. Again, since this change would involve an exemption, utilities must show in their comments to this proposal why gathering the information covered by the exemption is not likely to carry out the purposes of section 133.

8. *Modification of the Time of Filing.* In response to its NOI, the Commission received a number of comments that express concern that, because of the current schedule of filing times, the cost information is not sufficiently current to be useful in retail rate proceedings. The Commission is considering amending Part 290 to include optional filing times that may be used to correct this inefficiency. Specifically, regulated utilities would be given the option of filing the cost information at the time an application is filed with a retail regulatory authority for a general rate increase, or a rate increase affecting two or more large rate classes, as defined in § 290.404(a). The Commission would allow non-regulated utilities a similar option. In those instances, the optional filing time would coincide with the time a general rate increase is proposed to the utility's governing agency.

The reporting period for these optional filing times would be the same period as normally used by a utility to support a proposed rate increase before the retail regulatory authority or governing agency. If the retail regulatory authority or governing agency does not require, and the utility does not use, a specified reporting period, the reporting period under this option would be defined in a similar manner to the present regulation (§ 290.103(b)). In addition, a state regulatory authority would be permitted, with respect to any utility over which it has rate approval authority, to specify a modified filing date and reporting period to correspond to existing state regulations.

The Commission believes that this amendment, together with the optional reporting periods currently available under § 290.103(c), would give utilities the opportunity to avoid duplication between the filings required under Part 290 and similar information filed in support of retail rate increase proposals. Moreover, such an amendment would tend to promote the availability of cost information that is current at the time that retail rates are under active review.

9. *Reduce Duplication.* The comments to the NOI indicate that there is a good deal of duplication between filings under section 133 of PURPA and various other Commission and state reporting requirements. Among the Commission's reporting requirements, Part 290 and Form 1 seem to be the most duplicative. Thjis duplication is limited to the accounting cost information required in Subpart B of Part 290 and in Form 1. State requirements, on the other hand, tend to be more or less duplicative of the entire section 133 filing. The Commission is therefore proposing to reduce much of the duplication in both of these areas.

First, the Commission proposes to allow any utility that files Form 1 the option of either supplying the accounting cost information required by Subpart B or filing Form 1 with the appropriate state regulatory authority when the utility submits its section 133 filing. Those utilities that do not file Form 1 would continue to be required to supply the accounting cost information of Subpart B in the section 133 filing.

Second, in order to reduce the amount of duplication between state cost of service filing requirements and filings under Part 290, the Commission proposes to allow a utility to substitute the data filed with a state for the data required by Part 290, to the extent that the state and Part 290 require similar information. For instance, if a state has an existing requirement which is substantially similar to the load data requirement of Part 290, any utility regulated by that state would be allowed to file load data which complies with state regulations in lieu of the load data requirements of Part 290.

IV. Regulatory Flexibility Act Certification

Whenever the Commission publishes a general notice of proposed rulemaking, under section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553) it is required by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) to determine whether the proposed rule will, if promulgated, have a significant economic impact on a substantial number of small entities.

As elaborated above, the Commission is proposing to exempt all jurisdictional electric utilities from gathering and filing the information required by section 133 of PURPA and Part 290 of the Commission's regulations. The Commission is also proposing, as an alternative, certain modifications of Part 290 which would significantly reduce the reporting burden imposed by Part 290.

This proposal would not apply to any small entities. The entities which are currently subject to Part 290 of the regulations are electric utilities with annual retail sales in excess of 500 million kilowatt hours. *See* 16 U.S.C. 2612. Generally, this would mean annual revenues of at least $25 million.[15] The

[15] For purposes of this discussion, the estimate of annual revenues is based on five cents per kilowatt hour. Most electric utilities charge between four and eight cents per kilowatt hour for retail electricity.

entities subject to the rule are not small entities under the RFA or under the SBA Small Business Size Standards. *See* 13 CFR 121.3–10(d)(1), 121.3–10(d)(11).

In addition, since this proposal would substantially reduce the reporting requirements of Part 290, the amount of money needed to prepare the biennial reports would be substantially reduced. For this reason, there is no significant economic impact on entities subject to the proposed changes.

Other entities which may incidentally make use of the Part 290 reports (such as intervenors and other persons) can obtain cost of service information from state rate filings and also through data requests made during a Commission hearing. The impact of the elimination or reduction of the Part 290 reports on these entities is unlikely to be significant.

Accordingly, pursuant to section 605(b) of the RFA, the Commission certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

V. Written Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting data, views, or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, not later than 60 days after publication in the **Federal Register**. Each person submitting a comment should indicate that the comments are being submitted in Docket No. RM83–9–000, and should give reasons, including any supporting data, for any recommendations. Comments should also indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Commission. All comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. during business hours.

(Department of Energy Organization Act, 42 U.S.C. 7101–7; E.O. 12009, 3 CFR Part 142 (1978); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–45 (1978))

List of Subjects in 18 CFR Part 290

Electric utilities, Penalties, Reporting requirements, Uniform system of accounts.

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18 Code of Federal Regulations as discussed above.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2241 Filed 1–26–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Public Comment and Opportunity for Public Hearing on Modified Portions of the Kentucky Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of certain program amendments submitted by the State of Kentucky as modifications to the Kentucky Permanent Regulatory Program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMRCA). These amendments are submitted (1) to partially satisfy conditions imposed by the Secretary of the Interior in the approval of the Kentucky program, and (2) as further modifications to the Kentucky program.

This notice sets forth the times and locations that the Kentucky program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments must be received on or before 4:00 p.m., February 28, 1983 to be considered.

A public hearing on the proposed modifications will be held on request only, on February 9, 1983, from 7:00 p.m. to 9:00 p.m., or until all comments have been heard.

Any person interested in making an oral or written presentation at the hearing should contact W. H. Tipton at the address and phone number listed below by the close of business four working days before the date of the hearing. If no one has contacted Mr. Tipton to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Tipton, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: W. H. Tipton, Director, Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Ky. 40504.

The public hearing, if held, will be at the Harley Hotel, 2143 North Broadway, Lexington, Ky. 40505.

Copies of the Kentucky program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Kentucky Field Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Ky. 40504.

Bureau of Surface Mining Reclamation and Enforcement, Capitol Plaza Tower, Third Floor, Frankfort, Ky. 40601.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Kentucky Field Office, 340 Legion Drive, Suite 28, Lexington, Ky. 40505, Telephone: (606) 233–7320.

SUPPLEMENTARY INFORMATION: On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of twelve minor deficiences. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982, **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register** notice (47 FR 21404–21435).

Deficiencies (d) and (i) of the Kentucky program for which the Secretary required correction as conditions of approval were as follows:

(d) Kentucky failed to specify what rules of civil procedure shall apply to hearings before the Kentucky Department for Natural Resources and Environmental Protection (DNREP).

(i) Unlike the Federal regulations, the Kentucky rules allow DNREP the discretion to exclude emergency

spillways from the design requirements for sedimentation ponds.

Submission of Material To Satisfy Conditions

In accepting the Secretary's approval, Kentucky agreed to correct deficiency (d) by submitting to the Secretary by December 31, 1982, copies of guidelines of civil procedures which are no less effective than those at 43 CFR 4 for use in administrative hearings. Kentucky further agreed to submit copies of promulgated regulations to provide for such civil procedures by October 31, 1983. Regarding deficiency (i), Kentucky agreed to submit, by October 31, 1983, copies of promulgated regulations or otherwise amend its program to provide standards acceptable to the Secretary for the design of sedimentation ponds without emergency spillways. On December 29, 1982, and January 7, 1983, Kentucky submitted material to OSM to partially satisfy these deficiencies as follows:

(d) Draft procedural regulations as guidelines, covering the areas of service of documents, discovery, and burden of proof in State administrative proceedings.

(i) Technical Reclamation Memorandum #7 of the DNREP, dated January 7, 1983, regarding the design of single spillway ponds with open spillways and no embankment. This document sets forth the design and construction criteria for such spillway ponds, and is intended to partially satisfy condition (i).

The Secretary seeks public comment on whether the material submitted partially satisfies these two conditions. If the program amendments are approved, conditions (d) and (i) in 30 CFR 917.11 will be modified accordingly.

Submission of Additional Program Amendments

On January 11, 1983, OSM received from the Commonwealth of Kentucky, pursuant to the 30 CFR 732.17 procedures, the following proposed revisions to the State program, which became effective by their own terms on January 6, 1983:

1. Revisions to 405 KAR 7:020 Section 1 (13) and (27), changing the names of the Department for Natural Resources and Environmental Protection and the Bureau of Surface Mining Reclamation and Enforcement to the Natural Resources and Environmental Protection Cabinet and the Department for Surface Mining Reclamation and Enforcement, respectively.

2. A revision to 405 KAR 7:020 Section 1(34), modifying the definition of "existing structure" to include only those structures for which construction began prior to January 18, 1983.

3. The addition of a definition of "incidental boundary revision" at 405 KAR 7:020 Section 1(57) to specify under what circumstances an extension to a permit area would be allowed as a revision rather than as an amendment or new permit.

4. A revision to 405 KAR 12:010 Section 6, allowing any person the opportunity to request an inspection and to participate in enforcement actions of DNREP as provided in 405 KAR 12:030.

5. A revision to 405 KAR 16:060 Section 6(2)(c), allowing the recharge capacity of ground water to be increased or decreased, when warranted by actual conditions, if approved by the cabinet.

6. Revisions to 405 KAR 16:060 Section 9(2) and 18:060 Section 7(3) adding the words, "*or settleable solids*" (emphasis added), after, "total suspended solids." Kentucky states that these revisions are required because of recent changes to the U.S. Environmental Protection Agency's effluent limitations.

7. Revisions to 405 KAR 16:060 Section 11(1) and 18:060 Section 9(1) so that buffer zone requirements now apply to perennial and intermittent streams. Also, 405 KAR 16:060 Section 1(3) and 18:060 Section 9(3), which define a "biologic community", have been deleted.

8. Revision to 405 KAR 16:090 Section 2 and 18:090 Section 2 to delete the specific numerical design standard for sediment storage volume and to replace it with a site-specific standard.

9. Revisions to 405 KAR 16:090 Section 5(5) and 18:090 Section 5(5) to provide for ponds designed with a single spillway rather than ponds designed with a principal spillway, but no emergency spillway.

10. Revisions to 405 KAR 16:110 Section 2(2) and 18:110 Section 2(2) to delete the requirement that monitoring for water discharges be continued for such period as is necessary to demonstrate achievement of the postmining land use.

11. Revisions to 405 KAR 16:130 Section 2(2) and 18:130 Section 2(2) to include the requirement that alternate materials to be used in underdrains be nondegradable and non-acid or toxic forming.

12. Revisions to 405 KAR 16:140 Section 3(2) and 18:140 Section 3(2) to allow flexibility in the method for water diversion for coal waste banks during construction by means of the approval of designs for temporary diversions utilized during the construction phase.

13. Revisions to 405 KAR 16:220 Section 4 and 18:230 Section 4 to require bridge and approach fills to pass the 100-year flood event or, where appropriate, the 100-year, 24-hour precipitation event.

14. A revision to 405 KAR 24:030 Section 3, regarding designation of lands unsuitable for surface coal mining, to add the following sentence: "A petition shall be deemed incomplete if the department finds the petition does not contain all information required by 405 KAR 24:020, Sections 3 and 4."

The Secretary seeks public comment on these proposed amendments to the Kentucky program. If these amendments are approved, they will become part of the Kentucky program.

Additional Information

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no Environmental Impact Statement need be prepared on this proposed rule. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, these proposed program amendments are exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: January 21, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 83-2311 Filed 1-26-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 8-82-09]

Anchorage Regulations—Mississippi River Below Baton Rouge, Louisiana, Including South and Southwest Passes, Size Limitations

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: This notice withdraws an advance notice of proposed rulemaking (ANPR) regarding the limitation of vessels by size in the General and Quarantine Anchorages in the Port of New Orleans on the Lower Mississippi River. The Coast Guard is withdrawing ANPR because the comments have indicated that vessels weather vaning into the navigable channel in New Orleans Harbor was not a problem. Establishing a size limitation on vessels would have a negative financial impact on the Port of New Orleans.

FOR FURTHER INFORMATION CONTACT: LCDR R. E. FORD (504) 589–7117, Port Safety Officer, Captain of the Port, New Orleans, LA, U.S. Coast Guard, 4640 Urquhart Street, New Orleans, LA 70117, Tel: (504) 589–7118.

SUPPLEMENTARY INFORMATION: There was concern on the part of the Coast Guard that during periods of slack water on the Lower Mississippi River, the wind would force larger vessels to weather vane into the channel in New Orleans Harbor and cause a hazard to navigation. Because of this the Coast Guard solicited comments and suggestions in an ANPRM published in FR 15145 dated Thursday, April 8, 1982 (CGD 08–82–09). The Coast Guard was interested in whether or not there was a problem, and if a problem did exist, whether or not vessel size limitations were a potential solution.

A total of four comments were received. The comments indicated that vessels weather vaning into the navigable channel was not a problem. The commentators also indicated that a size limitation would have a negative financial impact on the Port of New Orleans. Because of the comments the Coast Guard has determined that a regulation regarding size limitations is not needed and would not be in the public interest at this time. Accordingly the advance notice of proposed rulemaking is withdrawn.

Drafting Information

The principal persons involved in drafting this notice are LT. M. W. BROWN, c/o Commander, Eighth Coast Guard District (mps) and LT J. C. HELFRICH, Project Counsel, c/o Commander, Eighth Coast Guard District (dl), 500 Camp St., New Orleans, Louisiana 70130, (504) 589–6901.

Dated: January 7, 1983.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 83–1973 Filed 1–26–83; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD13 83–03]

Drawbridge Operation Regulations; Cowlitz and Lewis Rivers, Washington

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Burlington Northern Railroad Company, the Coast Guard will consider changing the regulations governing the railroad drawbridge across the Cowlitz River, mile 1.5, at Kelso, Washington, by requiring 24-hour advance notice for openings. Also, with the concurrence of the City of Kelso, the Coast Guard will consider changing the regulations governing the City of Kelso's Allen Street highway bridge across the Cowlitz River, mile 5.5, at Kelso, Washington, by requiring 24-hour advance notice for openings. These proposals are being made because of a decrease in the level of vessel activity on the waterway and to provide consistent operating regulations for bridges across this reach of the Cowlitz River. This action should relieve the Burlington Northern Railroad Company of the burden of having a person constantly available to open the draw. Also, the action should provide for consistency in the advance notice requirements for the Burlington Northern Railroad Company bridge and City of Kelso's Allen Street bridge, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before March 14, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, at the office of the Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174 (Telephone: (206) 442–5864).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Thirteenth Coast Guard District, will evaluate all communications received and determine a course of final action on the proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: Commander Richard E. Cunningham, Bridge Section, Aids to Navigation Branch, Thirteenth Coast Guard District; and Lieutenant Commander D. Gary Beck, Project Attorney, Thirteenth Coast Guard District.

Discussion of the Proposed Regulations

The Burlington Northern Railroad Company bridge across the Cowlitz River, mile 1.5, at Kelso, Washington, was constructed in 1934 to replace a previous bridge at the same location which had been partially destroyed by a flood. In the past the waterway was used extensively for log towing and for tug and barge operations. On May 18, 1980 the volcanic eruption of nearby Mt. St. Helens resulted in a gigantic mudflow down the Toutle River and into the Cowlitz and Columbia Rivers. The mudflow substantially blocked the navigation channels in the Cowlitz River downstream from the mouth of the Toutle, and the Columbia River at the mouth of the Cowlitz. Subsequent dredging by the U.S. Army Corps of Engineers restored the channel in the Columbia, but only partially restored the channel in the Cowlitz. The Corps of Engineers indicates that because of funding constraints the Cowlitz channel will not be maintained until the Mt. St. Helens situation has stabilized. The Cowlitz is presently only navigated by small craft that do not require bridge openings. Under existing regulations, the Burlington Northern Railroad Company bridge is required to open on signal for the passage of vessels. The proposed change would require that vessels desiring openings of the Burlington Northern Railroad Company bridge provide at least 24 hours advance notice. Existing regulations also require that opening requests for the City of Kelso highway bridge at Allen Street across the Cowlitz River, mile 5.5, at Kelso, be made at least two hours in advance. In order to provide consistency in the operating regulations for bridges across this reach of the Cowlitz River, the proposed change also would require that vessels desiring openings of the City of Kelso highway bridge at Allen

Street provide at least 24 hours advance notice.

The proposal would allow both the City of Kelso and the Burlington Northern Railroad Company, to maintain the bridges in the closed position without a drawtender in attendance unless required by advance notice. This would result in savings of operating costs to the bridge owners and would not unreasonably affect the limited navigation on the waterway.

Other than the City of Kelso and the Burlington Northern Railroad Company, there are no known businesses, including small entities, that would be affected by the proposed change. There are only minimal economic impacts on navigation or other interests. Therefore, an economic evaluation has not been prepared for this action. The bridge owners would benefit because they would be able to reduce drawtender staffing levels for their bridges thereby effecting savings in operating costs.

Existing regulations incorrectly identify the railroad bridge across the Lewis River, mile 2.0, as a "Northern Pacific Railway Company" bridge. This has been corrected in the proposed change to read "Burlington Northern railroad bridge".

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). As explained above, an economic evaluation has not been conducted. In accordance with § 605(b) of the Regulatory Flexibility act (94 Stat. 1164), it is also certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.765(b) (1) and (2), to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.765 Cowlitz and Lewis Rivers, Wash.; bridges.

* * * * *

(b) *Special regulations.*—(1) *The Burlington Northern railroad bridge across the Lewis River, mile 2.0, near Woodland, Washington.* The draw of the bridge need not open for the passage of vessels and paragraph (a) of this section shall not apply to this bridge.

(2) *The Burlington Northern railroad bridge across the Cowlitz River , mile 1.5, at Kelso, Washington, and the City of Kelso highway bridge at Allen Street across the Cowlitz River, mile 5.5, at Kelso, Washington.*

(i) The draws of either bridge shall open on signal if at least 24-hours advance notice is given.

(ii) The owners of the bridges shall keep conspicuously posted on both the upstream and downstream sides of each bridge, in a manner that it can be easily read at any time, a summary of these regulations, together with a notice stating exactly how the drawtender or authorized representative of the owner may be reached by telephone or otherwise.

(iii) The operating machinery of the draws shall be maintained in a serviceable condition and the draws opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: January 13, 1983.

C. F. DeWolf,

Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 83-2284 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD3 82-016]

Drawbridge Operation Regulations; Oceanport Creek, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the New Jersey Transit Corporation and the Consolidated Rail Corporation, the Coast Guard is considering a change to the regulations governing the Oceanport Creek drawbridge at Oceanport, New Jersey by permitting the draw to remain closed from September 15 through May 14 (24 hours per day) and from May 15 through September 14 from 9 p.m. to 5 a.m. It is also proposed that the bridge not be required to open during commuter rush hours. Exceptions shall be made for vessels with tows and federal, state and local agency vessels at all times. This proposal is being made because minimal openings have been requested from May 15 through September 14 between 9 p.m. to 5 a.m., and few if any openings are normally requested between September 15 and May 14. This action should relieve the bridge owner of the burden of having a person on call for drawbridge openings, and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before March 14, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 9 a.m. to 3 p.m. Monday through Friday, except holidays, at the office of the Commander (oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District, (212) 668-7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written: Views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or for any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District, will evaluate all communications received and determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Richard A. Gomez, project manager and LCDR Frank E. Couper, project attorney.

Discussion of the Proposed Regulations

The Oceanport Creek drawbridge provides access across Oceanport Creek for railroad traffic traveling between Monmouth County, and Newark, New Jersey. This drawbridge provides a vertical clearance of four feet above mean high water while in the closed position. In 1967 the bridge owner was authorized to operate the draw on a four hour advance notice basis throughout the year. Between 1967 and 1976, there was a decrease in requests for openings, and from 1976 to 1980 no openings were provided. Sometime prior to 1976 the railroad owners, without Coast Guard approval, removed the miter rails from the bridge and installed fixed rails, thus removing capability of the bridge to open. To meet the present and future

needs of navigation, New Jersey Transit and Conrail are restoring the bridge to full operation but have requested implementation of the proposed regulations. No economic evaluation has been performed because, based on preliminary meetings with mariners, the proposed regulations will meet the needs of navigation.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities, because waterway users will be accommodated.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising § 117.225(f)(7) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) * * *

(7) Oceanport Creek; the New Jersey Transit Corporation bridge, mile 8.4 near Oceanport. The bridge shall open on signal from May 15 through September 15 from 5 a.m. to 9 p.m., except, from 6:00 a.m. to 7:45 a.m. and 5:30 p.m. to 7:30 p.m. the draw need not open except for the passage of a public vessel of the U.S. or a vessel with a tow. The draw need not open at any time from September 15 through May 14, and between 9 p.m. and 5 a.m. from May 15 through September 14.

* * * * *

[33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: January 10, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander Third Coast Guard District.

[FR Doc. 83–2285 Filed 1–26–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Hampton Roads, VA REG 83–01]

Safety Zone Regulations; Elizabeth River, Norfolk, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to permanently establish a moving safety zone in the Elizabeth River, Norfolk, Virgina to be effective whenever a naval aircraft carrier transits the river either to or from the Norfolk Naval Shipyard, Portsmouth, Virginia. The circumstances creating the need for this action are the restricted nature of the Elizabeth River and the reduced amount of maneuverability of aircraft carriers which, in turn, pose a threat to other watercraft in the area. Excluding vessels moored prior to transit and which remain so moored, waterborne traffic will be prohibited from entering or remaining in the safety zone when in effect.

DATE: Comments must be received on or before March 14, 1983.

ADDRESSES: Comments should be mailed to Commanding Officer, Coast Guard Marine Safety Office, Hampton Roads, Norfolk Federal Building, 200 Granby Mall, Norfolk, Virginia 23510. The comments will be available for inspection and copying at Coast Guard Marine Safety Office, Hampton Roads, Seventh Floor, Norfolk Federal Building, 200 Grandby Mall, Norfolk, Virginia 23510. Normal working hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W. K. SIX, Chief, Port Operations Department, Coast Guard Marine Safety Office, Hampton Roads, Norfolk, Virginia 23510 (804) 441–3296.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (COTP Hampton Roads, VA REG 83–01) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

Drafting Information

The drafters of this notice are Lieutenant Commander W. K. SIX, project officer, Coast Guard Marine Safety Office, Hampton Roads, and Commander D. J. Kentor, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Proposed Regulation

To prevent possible damage to watercraft and possible injury to their occupants during the transit, no watercraft will be permitted to remain in, enter, moor in, anchor in, or transit this safety zone unless specifically authorized by the Captain of the Port, Hampton Roads, Virginia. Vessels moored at waterfront facilities within the safety zone shall remain moored until the carrier movement has passed. U.S. Coast Guard patrol vessels will be on scene to enforce the safety zone monitoring VHF-FM channels 13 and 16. This action is necessary due to the hazards involved in moving an aircraft carrier through a restricted waterway such as the Elizabeth River. During movement these vessels will have a reduced amount of maneuverability due to the slow speed at which they must proceed in order to safely transit. This rule is in response to a request by the U.S. Navy for Coast Guard assistance in providing traffic control and vessel escorts for the movement of these vessels. This action is designed to prevent damage to watercraft and injury to their occupants in the event of a collision with these vessels and will accomplish this end by preventing all such traffic from closing within 500 yards of the transiting vessel.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since the safety zone will

be implemented on an average of only ten to twelve times per year and will generally only be in effect for a few hours each time. Further, the safety zone is a moving zone around the transiting vessel, and will not significantly impede the movement of other vessels. Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulations and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety navigation—water, Security measures, Vessels, Waterways.

Proposed Regulation

PART 165—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations, by adding § 165.511 to read as follows:

§ 165.511 Elizabeth River, Norfolk, Virginia.

(a) The water and waterfront facilities located within the following boundaries are a safety zone when a naval aircraft carrier is transiting the Elizabeth River to or from the Norfolk Naval Shipyard, Portsmouth, Virginia: a circle with a radius of 500 yards with the transiting vessel as its center.

(b) The Coast Guard Marine Safety Office will notify the maritime community of periods which this safety zone will be effective through Notice to Mariners and other normal means of notification.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46(n)(4); and 33 CFR 165.3)

Dated: January 13, 1983.

J. D. Webb,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads, U.S. Coast Guard.

[FR Doc. 83-2263 Filed 1-26-83: 8:45 am]

BILLING CODE 4910-14-M

PANAMA CANAL COMMISSION

35 CFR Part 133

Tolls for Use of Canal; Proposed Revision

AGENCY: Panama Canal Commission.

ACTION: Proposed Rule; recommendation to the President.

SUMMARY: The Panama Canal Commission proposes that the rates of tolls for use of the Panama Canal be increased by approximately 9.8%. The Commission recommends that the President approve the 9.8% increase, to become effective as soon as practicable after March 1, 1983. Since November 1982, the Panama Canal has experienced a significant loss of tolls revenue as a result of the diversion of Alaskan North Slope oil traffic from the Canal route to a trans-Panama oil pipeline. The recommended increase is necessary to comply with the requirements of law that tolls be set to produce revenues to cover as nearly as practicable all costs of maintaining and operating the Panama Canal, including capital for plant replacement and improvements.

Proposed Effective Date: As soon as practicable after March 1, 1983.

FOR FURTHER INFORMATION CONTACT: Michael Rhode, Jr., Secretary, Panama Canal Commission, Room 312, Pennsylvania Building, 425 13th Street, NW., Washington, D.C. 20004. Telephone (202) 724-0104.

SUPPLEMENTARY INFORMATION: Section 1602(b) of the Panama Canal Act of 1979, Pub. L. 96-70, 93 Stat. 489, requires that Canal tolls be prescribed at rates calculated to produce revenues to cover, as nearly as practicable, all costs of maintaining and operating the Panama Canal and the facilities and appurtenances related thereto, and capital for plant replacement, expansion and improvements. The rates of tolls for use of the Panama Canal were last increased on October 1, 1979. That increase, which averaged 29.3%, was required in order to compensate for the added cost imposed on Canal operations by the new treaty with the Republic of Panama. The rates placed in effect at that time have proven adequate to provide, in the aggregate, sufficient revenues to cover all operating and capital costs of the Canal for fiscal years 1980 through 1982.

In fiscal year 1983, however, the canal began experiencing a substantial loss in toll revenues resulting from the diversion of Alaskan North Slope oil shipments from the Canal to a trans-Panama oil pipeline. In anticipation of the pending loss of this important segment of Canal revenues, the Commission management has taken action over the past thirty months to minimize costs and increase productivity. These efforts have resulted in revised cost estimates for fiscal year 1983 which are significantly less than originally anticipated. Despite this continuing and successful effort to reduce costs and increase efficiency, the loss of the North Slope oil trade revenues is so significant that, for the Canal to reamain self-sufficeint, a 9.8% toll rate increase is required beginning March 1, 1983.

Section 1604 of the Panama Canal Act of 1979, Pub. L. 96-70, 93 Stat. 490, establishes the procedures that the Panama Canal Commission must follow in proposing a toll rate increase. Those procedures have been supplemented by regulations codified in 35 CFR Part 70. The statute and regulation require that advance notice of the proposed change in rates of tolls be published in the **Federal Register**. A written analysis is also made available to the public showing the basis and justification for the change. Interested parties are then afforded the opportunity to submit written data, views or arguments and to participate in a public hearing. After consideration of all relevant information, the Canal Commission's final recommendation is published in the **Federal Register** and is forwarded, along with a complete record of the proceedings, to the President for his consideration. In considering the proposal, the President may approve, disapprove or modify the recommendation of the Commission. The final rule, approved and published by the President, will be effective no earlier than 30 days from the date of publication in the **Federal Register**.

On April 16, 1982, an advance notice of proposed rulemaking was published in the **Federal Register** (47 FR 16360) recommending a 9.8% increase in the rates of Canal tolls, to become effective at the beginning of Fiscal Year 1983. At that time a written analysis showing the basis and justification for the proposed toll increase was made available to interested parties. Written comments were solicited and received from the public and a hearing was held in New York on June 2, 1982. The views presented by interested parties, as well as other relevant information, were considered by the nine-member Commission Board at its quarterly meeting of July 1982. The Board decided to defer the toll increase while awaiting more definite information on the completion and impact of the trans-Panama oil pipeline, as well as information on other matters affecting costs and revenues during 1983. On January 26, 1983, after considering the actual impact of the trans-Panama pipeline on Canal revenues and reviewing other pertinent data, the Board voted to recommend to the President that the proposed 9.8%

increase be implemented as soon as practicable after March 1, 1983. A complete record of the proceedings since initiation of the tolls proposal, including the data, views and arguments submitted by interested parties, has been forwarded to the President with the Commission's recommendation. The President is authorized to issue the final rule concerning this proposal.

This proposed rule does not constitute a "major rule" as defined in Section 1(b) of Executive Order 12291, dated February 17, 1981. Analysis of the proposed toll increase indicates that it will not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

An assessment of the environmental effect of the proposed increase in the rates of tolls concludes that the proposed increase will not have a significant effect on the quality of the human environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969. Furthermore, the Regulatory Flexibility Act is inapplicable since this regulation is one relating to "rates" or "practices relating" thereto [5 U.S.C. 601(2)].

List of Subjects in 35 CFR Part 133

Panama Canal, Vessels.

Accordingly, it is proposed that 35 CFR 133.1 be amended to read as follows:

§ 133.1 Rates of toll.

The following rates of toll shall be paid by vessels using the Panama Canal:

(a) On merchant vessels, yachts, army and navy transports, colliers hospital ships, and supply ships, when carrying passengers or cargo, $1.83 per net vessel ton of 100 cubic feet each of actual earning capacity—that is, the net tonnage determined in accordance with Part 135 of this chapter.

(b) On vessels in ballast without passengers or cargo, $1.46 per net vessel ton.

(c) On other floating craft including warships, other than transports, colliers, hospital ships, and supply ships, $1.02 per ton of displacement.

Dated: January 26, 1983.

Michael Rhode, Jr.,

Secretary.

[FR Doc. 83-2329 Filed 1-26-83; 8:45 am]

BILLING CODE 3640-01-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM83-6; Order No. 479]

Order Granting Postal Service Motion for Hearing and Establishing a Service List

Issued January 21, 1983

AGENCY: Postal Rate Commission.

ACTION: Order Establishing Service List and Conditionally Granting Postal Service Motion for Hearing.

SUMMARY: The Commission proposed amendments to section 54 of our rules of practice in its October 25, 1982, Notice of Proposed Rulemaking (47 FR 49667, November 2, 1982). In a companion order in Docket No. RM83-2, we have adopted those proposed amendments, with the exception of proposed section 54(h)(10). That proposed rule would require the Postal Service to include in its formal requests for changes in rates, supplemental cost segment presentations consistent with methodological precedent, if the Postal Service advocates departing from precedent. In this Order, the Commission conditionally grants, in a separate docket, the Postal Service's motion for a "legislative-type" hearing on the costs and benefits of proposed section 54(h)(10).

DATE: Direct testimony must be filed on or before February 8, 1983.

ADDRESS: Responses to this Order should be sent to David F. Harris, Secretary of the Commission, 2000 L St., NW., Washington, D.C. 20268 (telephone: [202] 254-3880).

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 2000 L Street, NW., Washington, D.C. 20268 (telephone: [202] 254-3824).

SUPPLEMENTARY INFORMATION: On October 25, 1982, the Commission issued a Notice of Proposed Rulemaking, proposing to amend section 54 of its rules of practice. Section 54 describes the data the Postal Service must submit with a requested change in postal rates or classifications. The principal effect of these proposed amendments would be to advance the point in the hearing process at which certain cost data must be provided by the Postal Service.

Among those proposed amendments was proposed section 54(h)(10). If the Postal Service proposes to apply a method of analyzing cost causality to a particular cost segment that departs from the method recommended by the Commission in its most recent section 3624 proceeding, proposed section 54(h)(10) would require the Postal Service to include with its formal request, supplemental cost segment data that is consistent with the method that was recommended by the Commission. In its supplemental cost segment presentations, the Postal Service would be required to provide updated numerical data for the particular cost segments affected, in a format that is consistent with the analytical method most recently recommended by the Commission. Because it would be applying the same method, and employ the same discretionary judgments that were previously approved by the Commission, it would not be required to exercise a significant degree of judgmental discretion in preparing its supplemental cost segment presentations. Because it would remain free to disclaim those methods and judgements, it would not be required to adopt a litigating position that it does not advocate.

In Docket No. RM83-2 the Postal Service alleged that proposed section 54(h)(10) would result in additional expenses for maintaining parallel data collection systems of $60 to $120 million. The Postal Service declined to substantiate this allegation in its initial comments, reply comments, and in its response to the Commission's Notice of Inquiry, which specifically requested such substantiation. Instead it requested that a "legislative-type hearing" be held for this purpose,[1] as well as to demonstrate "that the Postal Service's systems and procedures for data collection and costing must reflect the changing nature of the Postal Service and the environment in which it operates."[2]

The Commission had hoped to avoid a time-consuming hearing process by issuing the Notice of Inquiry. But the Postal Service's comments in response to the Notice of Inquiry do not provide a basis for evaluating the Service's claims of undue burden with respect to the proposed section 54(h)(10). They do not contain an analysis of the specific language of the proposed requirement, nor do they provide concrete

[1] Motion for a Hearing and Preliminary Comments of the United States Postal Service, November 29, 1982, p. 5; Reply Comments of United States Postal Service, December 22, 1982, p. 11; Initial Comments of the United States Postal Service on the Notice of Inquiry, December 16, 1982, p. 11.

[2] November 29 Comments at 5.

substantiation of the claim that complying with it could cost the Postal Service $60 million or more per year.

The Postal Service does not indicate what it has in mind when it requests "legislative-type hearings." If the Postal Service has extensive and detailed claims with respect to the burden of complying with proposed section 54(h)(10), we would have been pleased to receive them in a written showing in its response to our Notice of Inquiry, or any of its other pleadings requesting a hearing. Then, if it had appeared from such showing that the Postal Service's burden estimate were based in substantial measure upon specific, controvertible allegations of fact, we would be in a position to decide whether "live" hearings, that is, hearings in which evidence is taken and responded to orally, are needed.

Since a showing sufficient to evaluate the need for live hearings has not yet been made, we will conditionally grant the Postal Service's motion, provide the Postal Service with an opportunity to file the equivalent of direct testimony supporting its estimate of the burden of complying with proposed section 54(h)(10), and then determine what, and what form, of additional inquiry might be necessary to fully evaluate the Postal Service's evidence. If oral proceedings prove warranted, the Commission, at present, anticipates conducting them as a House or Senate committee would—that is, participants would present prepared testimony and Commissioners or staff would ask oral or written questions.

The Postal Service's testimony need not be sworn, initially, but should be capable of being affirmed under oath if that should later be deemed necessary. It should be complete, both as to the facts and the arguments upon which the Postal Service wishes to rely. It should analyze the specific language of proposed section 54(h)(10), and the desirability of making it subject to current section 54(a)(2). It should set forth expiicitly all the assumptions underlying its estimated burden of complying with the proposed rule. It should also identify the categories of data which, in the Postal Service's understanding, it would have to provide under the proposed rule that it has not provided in past formal proceedings, or would not be obligated to provide in future formal proceedings absent the proposed rule. It should, in addition, comment on the desirability of allowing a waiver of the requirements of the rule to be sought through informal rulemaking proceedings, as described in the Commission's Notice of Proposed Rulemaking in Docket RM83–2.

The main purpose of these further proceedings involving proposed section 54(h)(10) is to evaluate the Postal Service's allegation that it would have to maintain dual collection systems in order to comply with it. Accordingly, if the Postal Service alleges that a basic data-collection form that provided a basis for the Commission's findings of fact with respect to a particular cost segment in Docket No. R80–1 has since changed in a way that would require data to be collected by both the current form, and the superseded form, in order to comply with proposed section 54(h)(10), the Postal Service's presentation should include a copy of that form. The superseded, as well as the current form should be provided, unless the Postal Service cites the record of prior Commission dockets where the superseded form has already been supplied. The Postal Service's presentation should analyze the specific language in proposed section 54(h)(10) that it alleges requires this dual effort, and it should particularize the cost of that effort.

In addition to the Postal Service, other interested parties are invited to submit presentations addressing the issues described above. Such presentations shall be due on or before February 8, 1983.

It does not appear to us necessary that every intermediate document likely to issue in this docket need be published in the **Federal Register**, though any further or amended Notice, or Final Rule, would be. Rather, the Commission is establishing a service list for this docket consisting of parties who have previously filed comments in Docket No. RM83–2. Any other person desiring to be placed on the service list should file a request or petition pursuant to sections 19a, 19b, or 20 of the rules of practice (39 CFR sections 3001.19a, .19b, or .20). Further filings in this docket by any party shall conform with sections 9–12 of the rules of practice (39 CFR 3001.9–.12).

The Commission orders:

(A) The motion of the Postal Service for a hearing, dated November 29, 1982, and renewed December 16 and 22, 1982, is conditionally granted.

(B) Prepared testimony shall be filed by the Postal Service and any other interested party, on or before February 8, 1983.

(C) Attachment A constitutes the service list for this proceeding. The Secretary shall maintain it prusuant to section 12(d) of the rules of practice [39 CFR 3001.12(d)].

List of Subjects in 39 CFR Part 3001

Rules of practice and procedure, Content of formal requests.

By the Commission.

David F. Harris,

Secretary.

Attachment A—Service List

Docket No. RM83–2, Supplemental Cost Segment, Presentations

Name and Representative

United States Postal Service—Frances G. Beck, Associate General Counsel, Office of Rate & Classification Law (Rate Division), U.S. Postal Service, 475 L'Enfant Plaza West SW., Room 9127, Washington, D.C. 20260–1100

American Newspaper Publishers Association—Jerry W. Friedheim, Executive Vice President, American Newspaper Publishers Association, The Newspaper Center, Box 17407, Dulles International Airport, Washington, D.C. 20041

Council of Public Utility Mailers—Eugene E. Threadgill, Esquire, Connole and O'Connell, One Farragut Square South, Washington, D.C. 20006

Direct Mail/Marketing Association, Inc.—Dana T. Ackerly, Esquire, Covington & Burling, 1201 Pennsylvania Avenue NW., P.O. Box 7566, Washington, D.C. 20044

Dow Jones & Company, Inc.—George L. Mahoney, Esquire, Dow Jones & Company, Inc., P.O. Box 300, Princeton, New Jersey 08540

Meredith Corporation—William J. Potts, Jr., Esquire, Haley, Bader & Potts, Suite 600, 2000 M Street NW., Washington, D.C. 20036

Magazine Publishers Association—David Minton, Esquire, Loomis, Owen, Fellman & Howe, 2020 K Street NW., Washington, D.C. 20006

Newsweek, Inc.—Edward Berlin, Esquire, Swidler, Berlin & Strelow, Chartered, 1000 Thomas Jefferson Street NW., Suite 500, Washington, D.C. 20006 and Diana Daniels, Vice President, Newsweek, Inc., 444 Madison Avenue, New York, New York 10022

Third Class Mail Association—J. Edward Day, Esquire, Ann J. LaFrance, Esquire, Squire, Sanders & Dempsey, 1201 Pennsylvania Avenue NW., Washington, D.C. 20004

Time Incorporated—John M. Burzio, Esquire, Hydeman, Mason, Burzio & Lloyd, 1220–19th Street NW., Washington, D.C. 20036

United Parcel Service—Robert L. Kendall, Jr., Esquire, John E. McKeever, Esquire, Schnader, Harrison, Segal & Lewis, 1719 Packard Building, Philadelphia, Pennsylvania 19102

Officer of the Commission, Postal Rate Commission—Stephen A. Gold, Esquire, Officer of the Commission, Postal Rate Commission, 2000 L Street NW., Suite 500, Washington, D.C. 20268.

[FR Doc. 83–2257 Filed 1–26–83; 8:45 am]

BILLING CODE 7715–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL 2243-5]

Approval and Promulgation of State Implementation Plan; Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to invite public comment on EPA's proposal to approve revisions to the Alaska State Implementation Plan (SIP) submitted on January 18, 1980; February 29, 1980; and September 29, 1982. These revisions were submitted to satisfy the requirements of Sections 110 (Implementation Plans) and 123 (Stack Heights), Part C (Prevention of Significant Deterioration of Air Quality and Visibility Protection for Federal Class I Areas), and Part D (Plan Requirements for Nonattainment Areas) of the Clean Air Act (hereinafter the Act). This proposal covers all portions of these submittals except the attainment plans for Anchorage and Fairbanks. The 1982 revisions to the previously approved attainment plans for Anchorage and Fairbanks are being addressed in separate rulemakings. Approval of these revisions, together with the previously approved ambient monitoring plan and emergency episode plan, will result in an entirely new Alaska SIP which will allow the State to operate the Prevention of Significant Deterioration (PSD) program and will remove the Act's construction moratorium in the nonattainment areas.

DATE: Comments will be accepted until February 28, 1983.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at the following locations:

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

State of Alaska, Department of Environmental Conservation, 3220 Hospital Drive, Juneau, Alaska 99811.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1980, FTS: 399-1980.

SUPPLEMENTARY INFORMATION: EPA is today proposing to approve a number of revisions to the Alaska SIP which were submitted on January 18, 1980; February 29, 1980; and September 29, 1982. The primary effects of these proposed revisions are to add a PSD program, a nonattainment area permit program, a visibility protection program for Federal Class I areas, and provisions restricting the use of stack heights and dispersion techniques, and to revise the emission limitations for many existing, new, and modified sources. The following sections describe each of the three submittals and discuss the proposed revisions to the existing SIP.

I. Description of Submittal

The 1977 Amendments to the Clean Air Act required States to revise their SIPs to include, among other things, plans to attain the National Ambient Air Quality Standards (NAAQS) in areas which exceeded them. In conjunction with the development of these plans, the Alaska Department of Environmental Conservation (ADEC) took the opportunity to completely revise and restructure the Alaska SIP. On January 18, 1980, the Governor of Alaska submitted an entirely new SIP as a revision to the existing, EPA-approved SIP. This State Air Quality Control Plan contained all of the State and local control actions as well as all of the supporting material. The contents of the submittal are as follows:

Volume II. Analysis of Problems, Control Actions

Section I. *Introduction*
- A. Summary
- B. Air Quality Control Regions
- C. Attainment/Nonattainment Designations

Section II. *Alaskan Air Quality Control Programs*
- A. State Program
- B. Local Programs
- C. Resource Needs

Section III. *Areawide Pollutant Control Efforts*
- A. Carbon Monoxide
- B. Total Suspended Particulate Matter
- C. Ice Fog
- D. Open Burning-Forest Practices

Section IV. *Point Source Control Efforts*
- A. Summary
- B. Description of Source Categories and Pollutants
- C. Summary of Major Emitting Sources
- D. History of Alaskan Point Source Program
- E. Status of Non-Compliant Sources
- F. Local Program Enforcement
- G. New Source Review and Approval
- H. Compliance Assurance
- I. State Air Quality Control Regulations

Section V. *Ambient Air Monitoring*
- A. Purpose
- B. Description of Previous Air Monitoring Network
- C. Air Monitoring Network
- D. Episode Monitoring
- E. Annual Review

Volume III. Appendices

I-1 Summary of Public Hearings, Written Testimony, etc.
I-2 Recommendations for attainment/nonattainment designations
II-1 Alaska Statutes
II-2 Regulations of the Fairbanks North Star Borough
II-3 Fairbanks North Star Borough/Alaska Department of Environmental Conservation Agreement
II-4 Municipality of Anchorage/Alaska Department of Environmental Conservation Agreement
II-5 Alaska State Department of Law Legal Opinion
III-1 A Review of Carbon Monoxide Emissions from Motor Vehicles during Cold Temperature Operation
III-2 Cold Weather Related Strategy Support Development
III-3 Preliminary Assessment of Meteorological Conditions during Days of Ambient Air Quality Violations in Anchorage
III-4 Summary of the 1978 Fairbanks Voluntary Vehicle Emissions Inspection Program
III-5 Approach to Evaluating an Alaska I/M Program
III-6 Appendices to the Anchorage Air Quality Plan
III-7 Appendices to the Fairbanks Air Quality Plan
IV-1 Summaries of Emission Inventories
IV-2 Air Quality Control Permits to Operate, Variances for Non-compliant Sources and Supporting Documents
IV-3 Testing Procedures
V-1 Air Quality Data

(Note: Volume I is a public information document which has not been submitted for inclusion in the SIP.

On February 29, 1980, the State submitted a revised Appendix II-5, "Alaska State Department of Law Legal Opinion," to update their revised statutory authority.

On December 30, 1980 (45 FR 85744), EPA approved those portions of the January 18, 1980 submittal dealing with the attainment plans for the Anchorage and Fairbanks carbon monoxide (CO) nonattainment areas, specifically Volume II, Section III, Subsection A, except subparts 1.c (Other areas) and 5.h (Fairbanks Emergency Avoidance Plan), and Volume III, Appendices III-1 through III-7. On April 15, 1981 (46 FR 21994), EPA approved those portions of the January 18, 1980 submittal dealing with the state and local ambient monitoring programs, specifically Volume II, Section V, Subsections A, C, and E.

On March 10, 1982 ADEC withdrew the variances which had been submitted

with the January 18, 1980 submittal, specifically Volume III, Appendix IV–2, Sections A through C and E through J.

On September 29, 1982 ADEC submitted a number of revisions to the January 18, 1980 submittal. These revisions made changes or additions to the following sections:

Volume II. Analysis of Problems, Control Actions

Section I. *Introduction*
- C. Attainment/Nonattainment Designations

Section III. *Areawide Pollutant Control Efforts*
- A. Carbon Monoxide
- D. Open Burning—Forest Practices

Section IV. *Point Source Control Efforts*
- C. Summary of Major Emitting Sources
- D. History of Alaskan Point Source Program
- E. Status of Non-Compliant Sources
- F. Local Program Enforcement
- G. New Source Review and Approval
- H. Compliance Assurance
- I. State Air Quality Control Regulations

Section V. *Ambinent Air Monitoring*
- C. Air Monitoring Network
- E. Annual Review

Volume III. Appendices

III–6 Appendices to the Anchorage Air Quality Plan

III–7 Appendices to the Fairbanks Air Quality Plan

These revisions also added one new item to the previously submitted SIP: Volume III: Appendices—IV–4 ADE Ambient Analysis Procedures.

The revisions which relate to the previously approved attainment plans for the Anchorage and Fairbanks nonattainment areas, specifically Volume II Section III Subsection A, and Volume III Appendices III–6 and III–7, are being addressed in separate rulemakings. As discussed below, this action addresses those portions of the January 18, 1980 submittal, as amended by the February 29, 1980 and September 29, 1982 submittals and the March 10, 1982 withdrawal of variances, which do not relate to the transportation plans for Anchorage and Fairbanks.

II. Discussion of SIP Revisions

In addition to restructuring the SIP and making numerous "housekeeping" type revisions, these submittals revise the emission limitations for many existing, new and modified sources; add provisions for restricting the use of stack heights and dispersion techniques (Section 123 of the Act); add a PDS program (Part C of the Act); add a visibility protection program for mandatory Federal Class I areas (Section 169A of the Act); and add a permit program for new and modified major stationary sources in nonattainment areas (Section 173 of the Act). Because the Alaska Air Quality Control Plan is designed along functional lines rather than programmatic lines, the various components of an individual Clean Air Act program are found in various locations throughout the plan. In order to clearly identify the components of the Act's required programs and the revisions, additions, and deletions which are proposed for approval, each section of the submitted revisions is briefly discussed below.

Volume II: Analysis of Problems, Control Actions

Section I: Introduction. This section summarizes the plan; describes each Air Quality Control Region; lists the attainment and nonattainment areas; identifies the PSD Class I, II, and III areas; and contains the provisions for reclassifying PSD areas. The attainment, nonattainment, and PSD language was added to carry out the requirements of Parts C and D of the Act.

Section II: Alaskan Air Quality Control Programs. This section describes the State and local agency programs, including their organization, legal authority, regulations, and projected program and resource needs.

Section III: Areawide Pollutant Control Efforts. Subsection III.A.1.c. *Other Areas* describes the program for evaluating the potential carbon monoxide problem in cities which are currently designated as attainment. This section also describes the program for the control of Total Suspended Particulate Matter, Ice Fog, and Open Burning—Forest Practices in all areas of the State.

Section IV: Point Source Control Program. This section describes the program for the control of stationary sources. Subsection IV.A summarizes the program; Subsection IV.B describes the types of sources in Alaska; Subsection IV.C presents a summary emissions inventory for major point sources; Subsection IV.D is a brief history of the permit program and describes its point source control activities; Subsection IV.F discusses the role of the local air program in the point source compliance program; Subsection IV.G describes the permit program which includes preconstruction review, certain of the New Source Performance Standards, Prevention of Significant Deterioration and Nonattainment Area permit requirements, provisions for the protection of visibility in mandatory Class I Federal areas, provisions restricting the use of stack heights and dispersion techniques, a program for operating permits, and procedures for the annual review of the permit program. Subsection IV.H describes the compliance assurance program, including its procedures for inspection and surveillance. Subsection IV.I presents the ADEC Air Quality Control Regulations.

The Alaska permit program uses the concept of "net emissions increase," but does not include a specific provision per EPA regulations (40 CFR 51.24(b)(3)(vi)(*c*)) that a decrease in emissions must have approximately the same qualitative significance for public health and welfare as the increase in emissions. However, the State has indicated that it will add such a program within one year of EPA approval. EPA is, therefore, proposing to approve the Alaska permit program with the understanding that the State will amend its program within a year and submit the new provision to EPA as a revision to the SIP.

ADEC has opted to utilize the "emissions allowance" approach, per Section 173(1)(B) of the Act, in their nonattainment area permit program. ADEC's regulations (18 AAC 50.900(18)) require that this emissions allowance be defined in each applicable local air quality control plan. Since the submitted plans for the Anchorage and Fairbanks CO nonattainment areas do not contain a defined emissions allowance, the effect of the regulations is to prohibit the permitting of new or modified major sources of CO in these two areas. The nonattainment area permit program also fails to include provisions for alternatives analyses, as required by Section 172(b)(11)(A) of the Act. However, as long as the approved SIP regulations prohibit the permitting of new or modified major sources of CO, provisions for alternative analyses are not needed. Before new or modified major sources of CO can be permitted in either the Anchorage or Fairbanks CO nonattainment areas, the SIP will have to be revised to define the applicable emissions allowance and provide for alternatives analyses.

The Alaska permit program is designed to regulate existing nonattainment areas, existing Class I areas, and areas presently identified for visibility protection. If additional nonattainment, Class I, or visibility protection areas are designated by the State or responsible Federal agencies in the future, the Alaska program will have to be revised to expand program coverage to include protection of such newly designated areas. Until relevant revisions to the Alaska program are approved by EPA, the Alaska SIP will be deficient with respect to any newly designated areas.

ADEC's Air Quality Control Regulations, 18 AAC Chapter 50, as in effect on November 1, 1982, are extensively revised from previous versions. The following is a discussion of the differences between the current SIP regulations and those proposed today for approval:

Section 18 AAC 50.020 Ambient Air Quality Standards has been revised to include an ambient standard for lead, to change the photochemical oxidant standard to an ozone standard, and to include the Class I, II, and III PSD increments.

Section 18 AAC 50.021 State Air Quality Classifications has been added to identify the nonattainment areas, Class I, II, and III PSD areas, and the areas to receive visibility protection (mandatory Class I Federal areas and integral vistas identified by the National Park Service).

Section 18 AAC 50.030 Open Burning has been revised to further restrict the practice.

Section 18 AAC 50.040 Incinerators has been revised to relax the grain loading emission limits for small incinerators while tightening the emission limits for large incinerators (2000 pounds per hour rated capacity or larger). Emission limitations for municipal wastewater treatment plant sludge incinerators are added whereas separate limits for teepee (woodwaste) burners and air curtain incinerators are deleted.

Section 18 AAC 50.050 Industrial Processes and Fuel Burning Equipment has been revised to add specific opacity limits for power boilers which burn more than 20 percent woodwaste, existing urea prilling towers, new or modified asphalt plants, new or modified coal preparation facilities, and new or modified portland cement plants. Although the revisions to the first two source categories are relaxations of the previous limits from 20 percent to 30 percent opacity, the revisions would not allow an increase in actual emissions since the affected sources currently exceed 30 percent opacity. Specific emission limitations, equivalent to New Source Performance Standards (NSPS), were added for new and modified asphalt plants, petroleum refineries, coal preparation facilities, and portland cement plants. Finally, a provision which prohibits the release of other materials other than air pollutants through a stack was added.

Section 18 AAC 50.060 was revised by deleting the emission limitations for kraft pulp mills since there are no such mills in the State of Alaska.

Section 18 AAC 50.070 Motor Vehicle Emissions was revised to include a five second exemption for visible emissions from motor vehicles.

Section 18 AAC 50.080 Carbon Monoxide Limitations was deleted as it was superseded by the Anchorage and Fairbanks attainment strategies.

Section 18 AAC 50.085 Wood-Fired Residential Heating Devices was added to restrict the use of such devices during an air quality alert and to prevent the emission of black smoke.

Section 18 AAC 50.100 Marine Vessels was revised to provide for greater opacity during initial startup of diesel-driven vessels.

Sections 18 AAC 50.120 Permit To Operate, 50.130 Revocation or Suspension of Permit, 50.140 Air Episodes, 50.150 Source Testing, 50.160 Circumvention, 50.170 Air Quality Control Plan, and 50.190 Definitions were revoked as they were replaced in their entirety by new sections.

Section 18 AAC 50.180 Penalties was revoked as it was superseded by revised statutes regarding penalties (AS 46.03.760).

A new section 18 AAC 50.300 Permit to Operate was added which contains some of the provisions of the old 18 AAC 50.120, adds permit requirements for certain NSPS source categories, PSD sources and major sources of CO in the Anchorage and Fairbanks nonattainment areas, and describes the requirements for a permit application.

A new section 18 AAC 50.310 was added which contains the provisions of the old 18 AAC 50.130.

A new section 18 AAC 50.400 Review and Issuance of Permit To Operate was added which contains the remaining provisions of the old 18 AAC 50.120, adds public participation procedures, requirements which must be met to receive a permit, and conditions which may be included in the permit to operate.

A new section 18 AAC 50.500 Source Testing was added which contains the provisions of old 18 ACC 50.150 and adds new procedures for testing NSPS sources.

A new section 18 AAC 50.510 Ambient Analysis Methods was added which includes the ambient monitoring and modeling requirements for sources subject to PSD permits.

A new section 18 AAC 50.520 Emission and Ambient Monitoring was added to include the monitoring requirements of the PSD and NSPS programs.

A new section 18 AAC 50.530 Circumvention was added which contains the provisions of the old section 18 AAC 50.160 and adds provisions restricting the use of stack heights and dispersion techniques.

A new section 18 AAC 50.600 Reclassification Procedures and Criteria was added which includes the procedures for revising the PSD area classifications.

A new section 18 AAC 50.610 Air Episodes was added which contains the provisions of old 18 AAC 50.140 and revises the alert, warning, and emergency levels for Total Suspended Particulates by deleting the coefficient of haze units.

A new section 18 AAC 50.620 Air Quality Control Plan was added which updates the provisions of the original 18 AAC 50.170. With respect to this provision, EPA is proposing only to approve the State's incorporation of the air quality control plan into their regulations. The provisions of the plan itself must be specifically approved by EPA before the SIP is revised.

A new section 18 AAC 50.900 Definitions was added which includes the provisions of the old 18 AAC 50.190 and adds definitions of the terms: actual emissions, allowable emissions, asphalt plant, baseline concentration, baseline date, best available control technology, coal preparation facility, construct, deputy commissioner, dispersion technique, elevated terrain, emission allowance, excessive concentrations, good engineering practice, impairment of visibility, lowest achievable emission rate, maximum combustion efficiency, modify, nearby, petroleum refinery, practical means available, reconstruct, regulated air pollutant, and smolder. The definitions of the terms "ambient air," "commissioner," "department," "facility," "incinerator," "opacity," "reduction of visibility," and "source" have been revised. The definitions of the terms "ppm" and "person" have been deleted.

EPA has reviewed the revised regulations, especially the relaxation of emission standards and the deletion of current provisions, and has determined that they satisfy the applicable requirements of the Act.

Section V: Ambient Air Monitoring

As discussed above, Subsections A, C, and E have previously been approved. Subsection B contains a description of the historical air monitoring network. The September 29, 1982 revision to Subsection C Air Monitoring Network update the network description, station designations, and air quality monitoring procedures. The revisions to Subsection C and Subsection E Annual Review update the timetables for review and implementation of the monitoring program.

Volume III: Appendices

Appendix I–1 contains public hearing information and information on the changes made to the air quality control regulations. Appendix I–2 contains recommendations for attainment/nonattainment designations. Appendix II–1 contains the Alaska statutes, as amended in 1976, 1977, and 1978, relating to air pollution control. Appendix II–2 contains the regulations of the Fairbanks North Star Borough in effect as of April 15, 1975. Appendices II–3 and II–4 contain agreements between the Alaska Department of Environmental Conservation and Fairbanks North Star Borough and the Municipality of Anchorage, respectively. Appendix II–5 contains an Alaska State Department of Law legal opinion on the authority for implementing and enforcing air quality controls. Appendix IV–1 contains summaries of the emissions inventories for each air quality control region. Appendix IV–2.D contains the permit to operate for the Fairbanks Municipal Utilities System. Appendix IV–3 contains ADEC's source testing procedures. Appendix IV–4 contains ADEC's ambient analysis procedures, including ambient monitoring, modeling and stack height plume impaction procedures. Appendix V–1 contains a summary of ambient air quality data for the State.

In addition to the nonattainment plans for Anchorage and Fairbanks which are being addressed in separate actions, there are four portions of the submittals which are not proposed for approval herein. Subsection IV.E Status of Non-Compliant Sources discusses the sources which are currently under State variances. Since these variances are not submitted for EPA approval, EPA will take no action on the subsection which discusses them. Subsection V.D. Episode Monitoring refers to the local agencies' CO control plans for the episode monitoring programs. However, no episode provisions have been submitted to date. Therefore, EPA will take no action on this subsection at this time. Appendix II–1: Alaska Statutes, Section 46.03.170 Variances, and Appendix II–2:

Fairbanks North Star Borough Air Pollution Control Ordinance, Section 8.04.070 VARIANCES, are provisions which provide discretion to the directors of ADEC and the Fairbanks North Star Borough regarding source compliance. However, since these provisions are not consistent with the EPA requirements on variances (40 CFR 51.34) and need not be included in the EPA-approved SIP in order to implement 40 CFR 51.34, EPA will take no action on these sections.

Finally, as previously mentioned, the provision included in these submittals are intended to replace the existing, EPA-approved SIP (37 FR 10848 and 38 FR 22737). Through this proposed approval EPA intends to replace or delete the provisions of the existing SIP where there are new provisions which supersede the old or where deletion has been justified. However, there is one section of the existing SIP which has not been superseded nor can deletion be justified. This is the old SECTION V: AIR EPISODE PLAN. Since the submittals do not contain a replacement for this section and the Clean Air Act requires the SIP to contain an emergency episode plan, EPA is not proposing to remove this section from the existing SIP.

In summary, EPA proposes to approve the following submittals as revisions to the Alaska SIP:

January 18, 1980—VOLUME II: Section I; Section II; Section III, subsections A.1.c, B and C; Section IV, subsections A, B, C, D, F, G and H; Section V, subsection B; VOLUME III: Apendices I–1, I–2, II–1, II–2, II–3, II–4, IV–1, IV–2.D, IV–3, and V–1;

February 29, 1980—VOLUME III: Appendix II–5;

September 29, 1982 amendments to previous submittals—VOLUME II: Section I subsection C; Section III subsection D; Section IV subsections C, D, F, G, H, and I; Section V subsections C and E; VOLUME III: Appendix IV–4.

EPA is taking no action on VOLUME II: Section IV.E and Section V.D, and VOLUME III: Appendix II–1, Section 46.03.170 and Appendix II–2, Section 8.04.070.

Interested parties are invited to comment on all aspects of these proposed revisions to the Alaska SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by February 28, 1983 will be considered in any final action EPA takes on this proposal.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the locations listed in the ADDRESSES section above.

Portions of this action constitute SIP approvals under Section 110, 161, and 172. Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals under Section 110, 161 and 172 of the Act do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709 and 47 FR 35192). The remaining portions of this action constitute SIP approvals under Sections 123 and 169A of the Act. Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator will, if approved, certify that SIP approvals under Sections 123 and 169A will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

Air pollution contol, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Sections 110(a), 123, 160 to 169, 169A, 171 to 173, 301(a) of the Clean Air Act (42 U.S.C. 7410(a), 7423, 7470 to 7479, 7491, 7501 to 7503 and 7601(a)))

Dated: October 28, 1982.

John R. Spencer,

Regional Administrator.

[FR Doc. 83–2270 Filed 1–26–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 80–739; FCC 82–508]

Implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission proposes to amend Part 2 of its Rules to implement domestically the Final Acts of the 1979 World Administrative Radio Conference. This action will bring the Commission's Rules into conformity with international regulations. This will provide domestic radio spectrum users with international recognition and rights to protection from harmful interference as provided for by international regulations.

DATE: Comments are due by March 10, 1983 and replies by April 11, 1983.

ADDRESS: Federal Communications Commission, 2025 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Thomas/Mr. William Torak, Office of Science and Technology, 2025 M Street, NW., Washington, D.C. 20554 (202) 653–8171/(202) 632–7025

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 2

Frequency allocations, Treaties.

Action in Docket Case

In the matter of Report No. 17265; comments sought on rulemaking to implement final acts of 1979 WARC, November 19, 1982–G; (Gen. Docket 80–739).

The Commission has issued a notice of proposed rulemaking in the matter of amending Part 2 of its rules (Frequency Allocations and Radio Treaty Matters, General Rules and Regulations) to implement the Final Acts of the 1979 World Administrative Radio Conference (WARC).

The Commission began the rulemaking in anticipation of the U.S. Congress ratification of the Final Acts; the Acts became effective internationally last January for administrations that have ratified the treaty. The 1979 WARC, sponsored by the International Telecommunication Union, was the broadest attempt since 1959 to modify international radio regulations in light of changes by individual nations and technical advances. The conference considered more than 15,000 proposals dealing with numerous aspects of world telecommunications. The U.S. presented some 900 proposals, most of which were attained entirely or in substantial part. Those proposals are reflected in this rulemaking

Due to the broad scope of this proceeding, the Commission previously issued five notices of inquiry soliciting comment on proposed modifications to Part 2. The notices presented proposals intended to make Part 2 allocations as consistent as possible with international allocations in light of foreseen domestic needs and U.S. proposals to accommodate those needs going into the WARC. This rulemaking notice will be limited in scope to the issues of the first four notices, but will exclude the emission designators discussed in the fourth notice. Further rulemaking notices will be issued to cover implementation of the remaining issues.

Generally, the proposals involve a change in format for the Table of Frequency Allocations, § 2.106, and a "clean-up" of Part 2 to eliminate redundancy, remove obsolete rules and update others to make them current and consistent with other parts of the rules.

For reference, the four notices that form the basis of this rulemaking are:

First Notice (FCC 80–695), released December 30 1980 (January 13, 1981; 46 FR 3060). Proposed modifications to §§ 2.100–2.105, 2.106 (Table of Frequency Allocations) up through 28 MHz, and the addition of § 2.107.

Second Notice (FCC 81–247), released June 15, 1981 (June 17, 1981; 46 FR 31693). Proposed modifications to § 2.106 from 28 MHz through 1215 MHz.

Third Notice (FCC 81–323), released August 7, 1981 (August 10, 1981; 46 FR 40536). Proposed modifications to § 2.1 (Definitions) and to § 2.106 from 1215 MHz through 40.5 GHz.

Fourth Notice (FCC 81–457), released October 16, 1981 (December 9, 1981; 46 FR 60221). Proposed modifications to § 2.106 from 40.5 GHz, through 400 GHz, and to Subpart C of Part 2, Emission Designators. (Emission designators will not be covered in this phase of the rulemaking.)

Action by the Commission November 18, 1982, by Notice of Proposed Rulemaking (FCC 82–508). Commissioners Fowler (Chairman), Jones, Dawson and Sharp; with Commissioners Quello and Rivera dissenting in part and issuing statements, and Commissioner Fogarty dissenting.

For more information contact Fred Thomas at 202–653–8171.

William J. Tricarico,

Secretary, Federal Communications Commission.

Note.—Because of the continuing effort to minimize publishing costs, the Notice of Proposed Rule Making will not be printed herein. However, copies are available from any of the distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St., NW., Washington, D.C. (202) 254–7674. Also, a copy is available for public inspection in the FCC Dockets Branch, Room 239, and the FCC Library, Room 639, both located at 1919 M St., NW., Washington, D.C.

Statement of FCC Commissioner James H. Quello Dissenting in Part

In re: Notice of Proposed Rulemaking, General Docket 80–739

November 18, 1982.

The United States proposed that the 1979 World Administrative Radio Conference (WARC) add fixed and mobile radio allocations to the band now occupied domestically by the UHF television service. The rationale for the U.S. position was that flexibility was desirable in this band, insofar as the *international* tables are concerned, so that we would have an additional option to be considered at some future date should a need be demonstrated for additional fixed and land mobile radio spectrum. The WARC adopted the U.S. proposal, and we now have the flexibility that we sought.

In the Notice of Proposed Rulemaking adopted by the Commission today, the majority seeks to go a step further and actually provide for fixed and land mobile use of this band (1) without having established a need, (2) without due consideration of alternatives in the event a need is established, and (3) without having established that sharing the band by UHF television and fixed and land mobile radio is feasible. This action is being taken while thousands of Low Power Television (LPTV) applications are pending before this Commission, many of which are likely to remain in pending status for some time to come.

Much has been made of the proposal that fixed and land mobile radio would be given "secondary" status in the band. It must be noted, however, that LPTV is also a secondary service. Thus, under the majority proposal, both LPTV and fixed and mobile radio services would have co-equal status and would be assigned according to a first-come, first-served rationale.

It goes without saying that, once the spectrum in the UHF television band is made available, establishment of a "need" by fixed and land mobile radio interests will not be far behind. I submit, however, that this approach to "spectrum management" is hardly the reasoned process which the American people have a right to expect. It has all of the sophistication of an Oklahoma land rush where the fastest horses often determined the outcome. The plodding comparative hearing "horse" which the broadcast services are forced to ride is clearly no match for the high-speed assignment processes of the Private Radio Services. Even given the problematical implementation of the Commission's new-found lottery authority, the process is likely to still suffer from protracted delays.

Samuel Taylor Coleridge once wrote:

The juggle of sophistry consists, for the most part, in using a word in one sense in the premises, and in another sense in the conclusion.

I'm concerned that the word, is this instance, is "need."

Therefore, to that portion of the Notice of Proposed Rulemaking which refers to adding fixed and mobile radio assignments to the UHF television band, I most emphatically dissent.

[FR Doc. 83–2025 Filed 1–26–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–17; RM–4208]

FM Broadcast Station in Key West, Florida; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 228A to Key West, Florida, in response to a petition filed by Paul L. Crogan. The proposal could provide a fifth FM service to that community.

DATES: Comments must be filed on or before March 4, 1983, and reply comments must be received on or before March 21, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 12, 1983.

Released: January 18, 1983.

In the matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations; (Key West, Florida); MM Docket No. 83–17; RM–4208.

1. A petition for rule making was filed September 24, 1982, by Paul L. Crogan ("petitioner") seeking the assignment of Channel 228A to Key West, Florida, as its fifth FM assignment. Petitioner expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In a recent action, Station WWUS in Big Pine Key, Florida, had its license modified to change from Channel 228A to Channel 284 (BC Docket No. 81–777). That change must take place before Channel 228A can be assigned to Key West. Thus it appears that Channel 228A should be available to Key West in the near future.

3. In view of the fact that the assignment could provide a fifth FM service to Key West, Florida, the Commission believes it is appropriate to propose amending the FM Table of Assignments (73.202(b) of the Commission's Rules) with respect to the following community:

City	Present	Proposed
Key West, Florida	223 254, 258 296A	223 228A, 254, 258, 296A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before March 4, 1983, and reply comments on or before March 21, 1983, and advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. It is requested that the Secretary send a copy of this *Notice of Proposed Rule Making* by Certified Mail, Return Receipt Requested, to Station WWUS, Lower Keys Broadcasting Corporation, Rt. 3 Box 183E, Big Pine Key, Florida 33043.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in the Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference

Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-2260 Filed 1-26-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-18; RM-4210]

FM Broadcast Station in Marathon, Florida; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of Channel 292A to Marathon, Florida, in response to a petition filed by Paul L. Crogan. The proposed assignment could provide a second FM service to Marathon.

DATES: Comments must be filed on or before March 4, 1983, and reply comments must be filed on or before March 21, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 12, 1983.

Released: January 18, 1983.

In the matter of amendment of § 73 202(b), Table of Assignments, FM Broadcast Stations (Marathon, Florida); MM Docket No. 83-18; RM-4210.

1. A petition for rule making was filed October 4, 1982, by Paul L. Crogan ("petitioner") proposing the assignment of Channel 292A to Marathon, Florida, as its second FM assignment. Petitioner expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the provision of a second local FM service to Marathon, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Marathon, Florida	292A	232A, 292A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before March 4, 1983, and reply comments on or before March 21, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments,

reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-2281 Filed 1-26-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Bufo hemiophrys baxteri (Wyoming Toad)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Bufo hemiophrys baxteri* (Wyoming toad), to be an Endangered species. This toad is presently known from only one 40-acre area in Albany County, Wyoming. Formerly abundant in the Laramie Basin, the toad had apparently disappeared from all but one breeding site. The cause of its precipitous decline is not known although habitat alteration and the use of varioius biocides may be contributing to the decline. The Service is requesting biological information on the species. This proposal, if made final, would implement Federal protection provided by the Endangered Species Act of 1973, as amended.

DATES: Comments must be received by March 28, 1983. Public hearing requests must be received by March 14, 1983.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Comments and materials received will be available for public inspection by appointment during normal business hours at the Service's Endangered Species Office, 134 Union, 5th Floor, Lakewood, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Olin Bray, Endangered Species Office, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/234-2496).

SUPPLEMENTARY INFORMATION: *Bufo hemiophrys baxteri* (Wyoming toad) was discovered by Dr. George T. Baxter in 1946 (Porter, 1968). A related toad, *Bufo hemiophrys hemiophrys* (Canadian toad) still occurs in Manitoba, Minnesota, and North and South Dakota. The Wyoming toad is thought to be a relict population left behind as glaciers retreated. Some (i.e., Packard, 1971) argue that the Wyoming toad is a valid species, but Porter (1968) recommended subspecific status and most subsequent workers have followed his designation (Baxter and Stone, 1980). The toad is small (2-inches) with cranial crests fused into a medial "boss" (Baxter and Stone, 1980). It is the only toad in the Laramie Basin. Since its discovery, Dr. George Baxter has taken students in summer from the University of Wyoming to observe the Wyoming toad. Known breeding places have been visited regularly for over 30 years. Baxter's field notes indicate that the toad was common in the Laramie Basin from the 1950's through the early 1970's. However, Baxter and Stromberg (1980) noted that since 1975 populations have declined. Toads became extremely rare between 1976 and 1978; field work in 1979 did not reveal any toads (Stromberg, 1981).

An intensive survey was conducted throughout the Laramie Basin in 1980 (Vankirk, 1980). A reward for information on the toad was advertised in the local newspaper and it resulted in one population being located on private land in Albany County, Wyoming. Only a few males were heard calling, and no females were found nor were any tadpoles or egg masses found when the area was checked later in the summer. The population exists within a 40-acre area and has an estimated size of no more than 25 individuals. Surveys in 1981 revealed only one male and one female calling at this site (Baxter and Meyer, 1982); in 1982, no toads were located. The reasons for the basin-wide disapperance of the Wyoming toad are unknown. The leopard frog (*Rana pipiens*) has also been found to be suddenly absent from the Laramie Basin; however, the northern chorus frog (*Pseudacris triseriata*) remains abundant. Baxter *et al.* (in press) have reviewed possible causes for the species' disappearance.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accomodate 1982 amendments) states that the Secretary of the Interior shall determine whether any species is an Endangered Species or a Threatened Species due to one or more of the five factors described in Section 4(a)(1) of the Act. This authority has been delegated to the Assistant Secretary for Fish and Wildlife and Parks. These factors and their application to *Bufo hemiophrys baxteri* (Wyoming toad) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Historic ranching practices involved flooding the plains adjacent to the Little Laramie River. Changes in irrigation practices due to current increased demand for irrigation water may have resulted in the drying of former habitat before tadpole development was complete. The specific use and timing of irrigation waters is largely left up to landowners. Local irrigation districts control regional water use.

Drainage of habitat for non-irrigated uses may have contributed to the decline of the toad.

The use of the herbicide Atrazene is known to decimate *Bufo* populations (Beebee, 1973) and can be introduced into watersheds in sufficient levels to kill *Bufo* eggs or tadpoles. Atrazene is widely available throughout the Laramie Basin. Other herbicides, such as Tordon, are more commonly used than Atrazene, but the effects of these chemicals on amphibians are largely unknown. Herbicides are often used by the Weed and Pest Districts, Wyoming Department of Agriculture, for "noxious" weed control in roadside ponds and along field edges typically used by the Wyoming toad. Basinwide aerial application of Baytex (Fenthion) with diesel fuel began in 1975. This mosquito control technique, applied with little control on drift of the spray, may be highly toxic to bufonids. Some evidence shows that diesel alone is toxic to amphibians.

B. *Overutilization for Commercial, recreational, scientific, or educational purposes.* Not applicable for this species.

C. *Disease or predation.* Disease in *Bufo hemiophrys baxteri* has not been studied. Because the extremely small population exists in a very small area, a disease outbreak could be catastrophic. Predation, however, may be a threat to the Wyoming toad. The California gull (*Larus Californicus)* population has increased dramatically in recent years. Local ranchers report that the fields are literally white with gulls in early spring. Raccoons, foxes, and skunks have all shown population increases. All these factors combined could be a serious threat to the Wyoming toad, especially due to the small population size.

D. *The inadequacy of existing regulatory mechanisms.* The use of herbicides and other chemicals in Wyoming is regulated with regard to effect on fish, but not amphibians. In fact, bioassay data are lacking on the effects that widely applied chemicals have on amphibians. This perceived inadequacy in regulations is probably due to the lack of recognition of a problem with amphibians. The only protection provided by the State is that a scientific collecting permit is required before it can be collected for commercial uses.

E. *Other natural or manmade factors affecting its continued existence.* None are known.

Critical Habitat

Section 4(a)(3) of the Act requires the Secretary to designate Critical Habitat for a species, to the maximum extent prudent and determinable, concurrent with the determination that such species is an Endangered or Threatened species. Critical Habitat is presently considered neither prudent nor determinable for the Wyoming toad for the following reasons:

1. The Wyoming toad was last reported in 1981 from two individuals located in the Laramie Basin; surveys in 1982 did not reveal any toads. The Service therefore believes that Critical Habitat is not determinable. The Service notes, however, that only a relatively small amount of the potential habitat in the Laramie Basin has been surveyed. The Wyoming Game and Fish Department has also noted the need for thorough surveys. Should future surveys discover significant breeding populations, these areas could then be considered as Critical Habitat.

2. The Wyoming toad is considered an extremely rare amphibian. The publication of the exact area where the toads last bred could lead to jeopardy to any remaining individuals through collection. The best available biological data indicate that, due to apparent low population size, removal of any individuals from the population other than for purposes directly related to conservation could be detrimental to the species' survival.

Effects of this Proposal

In addition to the effects discussed above, the effects of this proposal if published as a final rule would include, but would not necessarily be limited to, those mentioned below.

The Act and implementing regulations published in the June 24, 1977, **Federal Register** (42 FR 32372–32381) set forth a series of general prohibitions and exceptions which apply to all Endangered wildlife. These regulations are found at § 17.21 of 50 CFR and are summarized below.

With respect to the Wyoming toad, all prohibitions of Section 9(a)(1) of the Act, as implemented by § 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate of foreign commerce. It would also be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activites involving Endangered species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, the enhancement or propagation or survival of the species, and economic hardship.

Subsection 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered or Threatened. Agencies are required under Section 7(a)(3) to confer informally with the Service on any action that is likely to jeopardize the species. If published as a final rule, this action would require Federal agencies to consult with the Service concerning any action that may affect the species, to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of the Wyoming toad. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Regional Endangered Species Office, 134 Union, Lakewood, Colorado, and may be examined during regular business hours (7:45–4:15pm). A determination will be made at the time of a final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

1. Biological or other relevant data concerning any threat (or the lack thereof) to the Wyoming toad;

2. The location of any habitat of this species and the reasons why it should or should not be determined to be Critical Habitat;

3. Additional information concerning the range and distribution of this species; and

4. Current or planned activities in the subject area and the probable impact of such activities on the Wyoming toad.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such request should be made in writing to the Regional Director, U.S. Fish and Wildlife, Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

Final promulgation of the regulations on *Bufo hemiophrys baxteri* will take into consideration the comments and any additional information received by the Service, and such communications may lead it to adopt a funal rule that differs from this proposal.

Author

The primary author of this proposed rule is Mr. Olin E. Bray, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, with technical assistance from Dr. Mark R. Stromberg, The Nature Conservancy, Denver, Colorado. Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, Washington, D.C., served as editor.

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List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subpart B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below.

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.)*

2. It is proposed to amend § 17.11(h) by adding, in alphabetical order, the following to the list under amphibians:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Toad, Wyoming	*Bufo hemiophrys baxteri*	U.S.A.(WY)	Entire	E	NA	NA	NA

Dated: December 28, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–2248 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 48, No. 19
Thursday, January 27, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section

CIVIL AERONAUTICS BOARD

[Docket 41071]

Akron/Canton Airlines, Inc., Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., January 21, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-2300 Filed 1-26-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41221]

California-Alberta Service Case; Postponement of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter scheduled to be held on February 16, 1983, is hereby postponed until February 17, 1983, at 10:00 a.m. (local time), in Room 540, 2120 L Street, NW., Washington, D. C., before the undersigned administrative law judge.

Dated at Washington, D.C., January 24, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-2302 Filed 1-26-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-1-83]

Fitness Determination of Mesa Aviation Service, Inc., d.b.a. Mesa Air Shuttle

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 83-1-83, Order to Show Cause.

SUMMARY: The Board is proposing to find that Mesa Aviation Services, Inc. d/b/a Mesa Air Shuttle is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than February 10, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carolyn S. Kramp, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5919.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-1-83 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-1-83 to that address.

By the Civil Aeronautics Board: January 21, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2301 Filed 1-26-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Bicycle Tires and Tubes From Taiwan; Extension of Period for Final Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Extension of Period for Final Antidumping Determination.

SUMMARY: The Department of Commerce hereby extends the period for determination with respect to its antidumping investigation of bicycle tires and tubes from Taiwan. The final determination will be made no later than April 21, 1983.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Paul Nichols, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230. (202) 377-1768).

SUPPLEMENTARY INFORMATION: On November 26, 1982, the Department of Commerce ("the Department") determined preliminarily that bicycle tires and tubes from Taiwan were being, or were likely to be, sold at less than fair value within the meaning of section 731, Tariff Act of 1930, as amended (19 U.S.C. 1673) ("the Act"). Our affirmative preliminary determination notice which was published in the Federal Register of December 7, 1982 (47 FR 54996), indicated that, if this investigation proceeds normally, we would make our final determination on February 8, 1983. On January 19, 1983, counsel for the respondents requested that the Department extend the period for the final determination until not later than 135 days after the date of the preliminary determination, in accordance with section 735(a)(2)(B) of the Act.

We have determined that the additional time is needed in order that a proper analysis may be completed with regard to this investigation. Accordingly, the period for determination in this case is hereby extended. A final determination will be made not later than April 21, 1983.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration

January 21, 1983.

[FR Doc. 83-2247 Filed 1-26-83; 8:45 am]

BILLING CODE 3510-25-M

Lightweight Polyester Filament Fabric From Japan and Korea; Initiation of Antidumping Investigations

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping duty investigations.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating antidumping investigations to

determine whether lightweight polyester filament fabric from Japan and Korea is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of these actions so that it may determine whether there is a reasonable indication that imports of this merchandise are materially injuring, or are threatening to materially injure, a United States industry. If these investigations proceed normally, the ITC will make its determinations on or before February 18, 1983, and we will make our preliminary determinations on or before June 13, 1983.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–5288.

SUPPLEMENTARY INFORMATION:

Petition

On January 4, 1983, we received an antidumpoing petition in proper form from counsel for Burlington Industries, Inc., Milliken & Co., J.P. Stevens & Co., Inc., Dan River, Inc., Texfi Industries, Frank Ix & Sons, Inc., and Bloomsburg Mills, Inc. on behalf of the U.S. industry producing lightweight polyester filament fabric. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Japan and Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegations of sales at less than fair value include an allegation that home market sales are being made at less than cost of production in Japan and in Korea.

The allegations are supported by comparisons of the petitioner's calculation of the constructed value of the subject merchandise in Japan and in Korea with prices (based on price quotes or actual sales) for sales of the subject merchandise in the United States

Initiation of the Investigations

Under section 732(c) of the Act, we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumpiong investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on the subject merchandise and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping investigations to determine whether lightweight polyester filament fabric from Japan and Korea is being, or is likely to be, sold at less than fair value in the United States. Additionally, we will investigate whether sales in the Japanese and Korean home markets are made at less than the cost of production. If our investigations proceed normally, we will make our preliminary determinations by June 13, 1983.

Scope of the Investigations

The merchandise covered by these investigations is lightweight polyester filament fabric currently provided for in items 338.5009, 383.5011, 338.5012, 338.5013, and 338.5015, of the *Tariff Schedules of the United States Annotated*.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by February 18, 1983, whether there is a reasonable indication that imports of lightweight polyester filament fabric from Japan and Korea are materially injuring, or are likely to materially injure, a United States industry. If its determinations are negative, these investigations will terminate; otherwise, they will continue according to the statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 24, 1983.

[FR Doc. 83-2304 Filed 1-26-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Herring Working Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has appointed a Herring Working Committee to propose modifications to the draft Bering/Chuckchi Sea Herring Fishery Management Plan (FMP). This Committee will hold an open meeting to discuss issues relating to establishment of the FMP.

DATES: The Committee will meet on Wednesday, February 16, 1983, from approximately 9 a.m., until 5 p.m., in the Third Floor Conference Room at 605 West Fourth Avenue (the old Federal Court Building), Anchorage, Alaska.

PROPOSED AGENDA: The Committee will review and discuss the current and previous drafts of the Bering/Chuckchi Sea Herring FMP, along with comments expressed by the Scientific and Statistical Committee regarding the management scheme. The Committee will also propose modifications to the FMP to integrate the management procedures voted upon by the Council in July 1982. The Committee will focus its attention on developing proposals to the Council on how the agreed upon management scheme may be integrated into the FMP and, in the process, may address any management options it feels appropriate for inclusion into the FMP. Public testimony will be accepted if time permits. Limited seating is available on a first come, first serve basis.

BACKGROUND: The Council began preparation of the Herring FMP in 1978 for management of stocks of Pacific Herring (*Clupea harengus pallasi*) in the eastern Bering Sea. A great deal of controversy has surrounded this FMP, and extended public hearings and comment periods have been provided over the past four years. In July 1982, the Council proposed a new management approach which restricts the potential offshore harvest to levels below those which would have been allowed by earlier drafts. The Committee, established by the Council in December 1982, will review this proposed management scheme and determine how it can be incorporated into the FMP. If the Committee determines that an alternative management approach is

more appropriate, the Committee will present those recommendations to the Council at the March 1982, Council meeting. It is the intent of the Council to approve the FMP at that meeting and to submit it to the Secretary of Commerce for implementation.

FURTHER INFORMATION: North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Dated: January 24, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–2315 Filed 1–26–83; 8:45 am]

BILLING CODE 3510–22–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange No. 2 Fuel Oil Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Mercantile Exchange ("CME") has applied for designation as a contract market in No. 2 fuel oil. The Commission has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making available the proposed contract for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before March 28, 1983.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CME No. 2 fuel oil futures contract.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., (202) 254–7303.

A copy of the terms and conditions of the CME proposed No. 2 fuel oil futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CME in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the CME in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by March 28, 1983. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on January 21, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83–2205 Filed 1–26–83; 8:45 am]

BILLING CODE 6371–01–M

MidAmerica Commodity Exchange Long-Term U.S. Treasury Note Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The MidAmerica Commodity Exchange ("MCE") has applied for designation as a contract market in long-term U.S. Treasury notes. The Commission has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making available the proposed contract for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before March 28, 1983.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the MCE long-term U.S. Treasury note futures contract.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., (202) 254–7303.

A copy of the terms and conditions of the MCE proposed long-term U.S. Treasury note futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the MCE in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1982)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the MCE in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by March 28, 1983. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on January 21, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83–2206 Filed 1–26–83; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Modification of CH–47 Helicopters; Finding of No Significant Impact

FOR FURTHER INFORMATION CONTACT: Robert L. Thompson, DRCPM–CH–47M–L, AVRADCOM, 4300 Goodfellow

Boulevard, St. Louis, MO 63120; telephone (314) 263–1415.

NOTICE: An Environmental Assessment for the modification of CH–47 helicopters to the CH–47D configuration and the fielding of these CH–47D helicopters has been prepared. This assessment is available for public review at the office of the Project Manager for the CH–47 Modernization program (address above).

This project involves the modification of CH–47 helicopters incorporating seven major changes. These include, fiberglass rotor blades, a modernized drive system, a modularized hydraulic system, an improved electrical system, a three hook cargo suspension system, an improved Auxiliary Power Unit and an advanced flight control system.

The Environmental Assessment indicates that this project is a major Army action which will have little impact on the environment. It has therefore been determined that an Environmental Impact Statement is not required. This determination was based upon consideration of the following factors which are discussed in detail in the Environmental Assessment:

(a) There are no significant environmental impacts identified in the assessment;

(b) There are no serious impacts on physical resources.

The Department of the Army will receive comments on this action for a thirty day period from the date this notice appears in the **Federal Register**. Comments should be directed to Robert L. Thompson at the address shown above.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA(IL&FM).

January 20, 1983.

[FR Doc 83–2298 Filed 1–26–83; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, March 1, 1983; Tuesday, March 8, 1983; Tuesday, March 15, 1983; Tuesday, March 22, 1983; Tuesday, March 29, 1983 at 10:00 a.m. in Room 3D265, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 24, 1983.

[FR Doc 83–2308 Filed 1–26–83; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total numbers of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Survey of Implementation of Cost/Schedule Control Systems Criteria within DoD/Industry.

DoD instituted the Cost/Schedule Control Systems Criteria (C/SCSC) to ensure that DoD contractors use effective management control systems and procedures, and can provide valid contract cost/schedule status performance to DoD program managers. The survey investigates the effectiveness of the implementation of the C/SCSC and related contract performance reporting.

The survey respondents include both DoD and Defense contractor program managers and business managers. The public information requirement relates only to Defense contractor respondents.

The Phase I survey questionnaire will be mailed to approximately 320 Defense contractor program managers and 320 Defense contractor business managers. The Phase II interview effort will include approximately 64 Defense contractor program managers and 64 Defense contractor business managers.

The total number of burden hours required to complete the Phase I survey questionnaire (336 hours) plus the Phase II interview effort (320 hours) is 656 burden hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from Edward J. Haese, OASD(C)C&A/ACM, Room 4B915, Pentagon, Washington, D.C. 20301, telephone (202) 695–5166.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 24, 1983.

[FR Doc 83–2309 Filed 1–26–83; 8:45 am]

BILLING CODE 3810–01–M

Foreign Assistance; Determination

Pursuant to section 515(c)(1) of the Foreign Assistance Act of 1961 relating to overseas management of assistance and sales programs, and in accordance with the authority delegated by Executive Order 12163 and redelegated on February 12 and February 24, 1972, to the Director, Defense Security Assistance Agency, Philip C. Gast, Lieutenant General, USAF, Director, Defense Security Assistance Agency, has determined that United States national interests require that more than six members of the Armed Forces be assigned under section 515 of that Act to carry out international security assistance programs in Tunisia, and therefore waives the limitation that the number of members of the Armed Forces assigned to a foreign country under section 515 of that Act may not exceed six unless specifically authorized by the Congress.

The increase from six to seven in the total number of military personnel authorized for the United States Liaison Office, Tunisia (USLOT), shall be effective 30 days after the date on which this determination is reported to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

Dated: January 20, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-2223 Filed 1-26-83; 8:45 am]

BILLING CODE 3810-01-M

President's Commission on Strategic Forces; Advisory Committee Meeting

The President's Commission on Strategic Forces will meet in closed session on January 27 and 28, 1983 at the Pentagon, Washington, D.C.

The mission of the Commission is to review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

Because of the significance of the project to national security and the urgent need for the Commission's recommendation, the President has directed that the Commission submit its report to him by February 18, 1983. Because of the stringent deadline imposed by the President, timely notice of the meeting cannot be provided.

Discussions during the meeting will involve classified matters of national security concern throughout. Such discussion cannot reasonably be segregated into separate classified and unclassified categories without defeating the effectiveness and purpose of the overall meetings.

Accordingly, consistent with section 10(d) of Pub. L. 92-463, the "Federal Advisory Committee Act," and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 24, 1983.

[FR Doc. 83-2223 Filed 1-26-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: February 14 and 15, 1983.

TIME: Beginning at 9:00 a.m. each day.

ADDRESS: Room 823, 1200 19th St., NW, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Theodore H. Drews, Executive Director, 400 Maryland Avenue SW, (Presidential Bldg. Room 205), Washington, D.C. 20202. Telephone—(301) 436-7876.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under Section 406 (c)(1) of the Education Amendments of 1974, Pub. L. 93-380. The Council is established to review general policies for the operation of the National Center for Education Statistics and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting of the Council is open to the public. The proposed agenda includes:

A review of the draft of the Council's Eighth Annual Report.

A presentation and discussion of the National Center's policies on the enhancement of the National Center's data bases and their utility.

A progress report and discussion of the National Center's program of cooperative surveys and joint ventures.

A progress report and discussion of the National Center's research project on teacher supply and demand.

A report by the Administrator, National Center for Education Statistics, on recent activities of the National Center.

Such new business as the chairman or the membership may put before the Council.

Records are kept of all Council proceedings, and are available for public inspection at the office of the Executive Director, Advisory Council on Education Statistics, 6525 Belcrest Rd., (Presidential Bldg., Room 205), Hyattsville, Maryland.

Dated: January 11, 1983.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 83-2193 Filed 1-26-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Managment and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the Federal Register on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since Thursday, January 13, 1983.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill

out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last Notice published Thursday, January 13, 1983 (48 FR 1533).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M. S. 1H-023, Forrestal Building, 1000 Independence Ave., NW., Washington, D.C. 20585, (202) 252-2308.

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395-7340.

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395-3087.

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., January 21, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE FORMS UNDER REVIEW BY OMB

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
EIA-176	Annual Report of Natural and Supplemental Gas Supply and Disposition	New	Annual	Mandatory	Natural gas pipelines and distributors	1802	33,347	Data will be used to produce the "Natural Gas Annual," to provide input to the State Energy Data Report, and as input to natural gas energy supply, demand and price forecasting models. Data are needed to determine quantities of natural gas available by State.
EIA-759	Monthly Power Plant Report	Revision	Monthly	Mandatory	Electric Utilities	814	46,476	EIA-759 is designed to collect data on generation, consumption, and stocks of fuel at electric generating plants. The data are published in the Electric Power Monthly, the Electric Power Annual, the Monthly Energy Review, and reports to Congress. The data are also used in Energy Information Administration models

[FR Doc. 83-2192 Filed 1-26-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

DOE/NSF Nuclear Science Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee.

Date and Time: Wednesday, February 16, 1983, 9:00 a.m. to 6:00 p.m.

Place: U.S. Department of Energy, Room 8E-089, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C.

Contact: John R. Erskine, Division of Nuclear Physics, ER-23 GTN, U.S. Department of Energy, Washington, D.C. 20545. Telephone: 301-353-3613, FTS 233-3613.

Purpose of Committee: To provide advice to the Department of Energy and the National Science Foundation on the management of and long range planning for basic nuclear research programs.

Tentative Agenda:

- Discussion of DOE and NSF budgets,
- Presentation of future plans at BNL, LBL, and LANL,
- Planning for revision of the Long Range Plan,
- Reports of Subcommittees,
- Discussion of availability of stable isotopic target materials.

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gloria Decker at 202-252-5187. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except for Federal holidays.

Issued at Washington, D.C., on January 24, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-2191 Filed 1-26-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

Advisory Committee on Federal Assistance for Alternative Fuel Demonstration Facilities; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Advisory Committee on Federal Assistance for Alternative Fuel Demonstration Facilities.

Date and Time: Friday, February 25, 1983, 1:45 p.m. to 5:00 p.m.

Place: The Capitol Hill Club, 300 First Street, SE., Washington, D.C. 20003.

Contact: Patricia Dickinson, Office of Oil, Gas, Shale and Coal Liquids, U.S. Department of Energy, Germantown, Maryland 20545, Room D-119, Mail Stop D-107. Telephone: (301) 353-2700.

Purpose: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to the development of alternative fuels.

Tentative Agenda:

- Welcome,
- Great Plains Coal Gasification Project (GPCGP) Status Review Presentation,
- Advisory Committee Deliberations,

- Synthetic Fuels Corporation (SFC) Presentation,
- Public Commentary and Discussion,
- Closing Remarks.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Mr. Keith N. Frye at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between 8:30 a.m. and 4 p.m., Monday through Friday, except federal holidays.

Issued at Washington, D.C. on January 24, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83–2190 Filed 1–26–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Volume 815]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued January 21, 1983

JD NO	DATE RCT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION								
-ALADDIN PETROLEUM CORP				RECEIVED:	12/27/82 JA: KS			
8314992	K-82-0771	1503521767	103		LEMERT #3	WALNUT BEND	21.6	COLONIAL CORP
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED:	12/27/82 JA: KS			
8314993	K-82-0839	1505320723	103		MARIE WAMHOFF #1	GREEN GARDENS	100.0	
-ANADARKO PRODUCTION COMPANY				RECEIVED:	12/27/82 JA: KS			
8314984	K-82-0770	1518920218	108		BANE G #1	PANOMA	18.0	PANHANDLE EASTERN
8315018	K-82-1048	1506700000	108		BROLLIER C-2	PANOMA	18.3	PANHANDLE EASTERN
8315023	K-82-1053	1512920636	102-4		EAGLEY "D" #1	DUNKLE	82.0	PANHANDLE EASTERN
8315015	K-82-1186	1515520517	108		MAXWELL A-1	LANGDON	20.0	PANHANDLE EASTERN
8314986	K-82-0481	1517520410	108		NIX D-1	SHUCK	1.0	CIMARRON-QUINQUE
8315016	K-82-1185	1506700000	108		TOWLER B-1	PANOMA	19.1	PANHANDLE EASTERN
-ASSOCIATED PETROLEUM CONSULTANTS IN				RECEIVED:	12/27/82 JA: KS			
8315070	K-82-1114	1500721412	102-4		HAAS BROTHERS #1 1-15-007-21412	AMBERMILLS SOUTH (NEW	1.1	DELHI GAS PIPELIN
8315068	K-82-1110	1500721141	102-4		MOTT RANCH #1 1-15-007-141	AMBERMILLS SOUTH (NEW	1.1	DELHI GAS PIPELIN
8315069	K-82-1111	1500721304	102-4		MOTT RANCH #2 1-15-007-21304	AMBERMILLS SOUTH (NEW	1.1	DELHI GAS PIPELIN
8315067	K-82-1113	1500721469	102-4		MOTT RANCH #6 1-15-007-21469	AMBERMILLS SOUTH (NEW	1.1	DELHI GAS PIPELIN
-BENSON MINERAL GROUP				RECEIVED:	12/27/82 JA: KS			
8314971	K-82-1128	1514520798	102-2		SALES #2-14	BRYANT SE	8.4	INTER NORTH INC
8314972	K-82-1127	1514520786	102-2		THOMPSON E #1-17	BRYANT SE	14.7	INTER NORTH INC
8315004	K-81-0447	1500922051	108		UMMEN A 1-14	OTIS ALBERT	21.2	NORTHERN GAS PROD
-CENTENNIAL ENERGY CO				RECEIVED:	12/27/82 JA: KS			
8314999	K-82-1081	1518120043	108		LOVELACE #2-5	GOODLAND	1.8	KANSAS-NEBRASKA N
-CITIES SERVICE COMPANY				RECEIVED:	12/27/82 JA: KS			
8314991	K-82-1001	1501520483	103		GARDEN CITY E #2	PANOMA	41.3	COLORADO INTERSTA
8314990	K-82-1026	1509320744	103		GARDEN CITY P #1	PANOMA	36.5	COLORADO INTERSTA
8314989	K-82-1045	1517520587	103		HITCH M #1	SHUCK	45.9	PANHANDLE EASTERN
8314988	K-82-1139	1503320429	103		RICH "A" #1	J B COLDWATER	17.5	
-COASTAL OIL & GAS CORP				RECEIVED:	12/27/82 JA: KS			
8315000	K-82-0875	1505720255	102-2		ASKEW #1	MINNEOLA	91.0	KANSAS POWER & LI
-DAKOTA RESOURCES INC				RECEIVED:	12/27/82 JA: KS			
8315065	K-82-1218	1515520853	102-4		PAINE #1	HUNTSVILLE	0.0	PEOPLES NATURAL G
-DERNICK RESOURCES INC				RECEIVED:	12/27/82 JA: KS			
8315050	K-82 0911	1507520370	103		KERR #1	BRADSHAW	43.0	NATURAL GAS SALES
-DORCHESTER EXPLORATION INC				RECEIVED:	12/27/82 JA: KS			
8315001	K-82-0967	1507120096	108		ETW #1	BRADSHAW	17.7	SUNFLOWER ELECTRI
-E S ENERGY SOURCES INC				RECEIVED:	12/27/82 JA: KS			
8314955	K-82-1059	1512520416	102-2		ALDERMAN #1 (API NO 15-125-24 416	DEARING	14.4	PELICAN PIPELINE
-EAGLE EXPLORATIONS INC				RECEIVED:	12/27/82 JA: KS			
8315025	K-82-0840	1515121001	102-4		BLACKBURN #1	WILDCAT	80.3	PANHANDLE EASTERN
-EDMISTON OIL CO INC				RECEIVED:	12/27/82 JA: KS			
8315031	K-82-1130	1500721234	103		ALBERDING #1	STRANAHAN	11.0	KANSAS GAS SUPPLY

JD NO	DATE RCT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8315054	K-82-1132	1500721265	103		MARSHALL #1	WILDCAT	80.3	PANHANDLE EASTERN
-EXCHANGE OIL & GAS CORP				RECEIVED:	12/27/82 JA: KS			
8315062	K-82-1208	1515520855	102-4		PAINE #2	HUNTSVILLE	0.0	PEOPLES NATURAL G
-FRED A WOOD				RECEIVED:	12/27/82 JA: KS			
8315063	K-82-1209	1515520854	102-4		PAINE #3	HUNTSVILLE	0.0	PEOPLES NATURAL G
-GRAHAM-MICHAELIS CORP				RECEIVED:	12/27/82 JA: KS			
8315020	K-82-1050	1507520369	103		KERR #2	BRADSHAW	43.0	NATURAL GAS SALES
-HARRIS OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315010	K-82-1180	1515520516	108		MAXWELL A-2	SHUCK	1.0	CIMARRON-QUINQUE
-HELMERICH & PAYNE INC				RECEIVED:	12/27/82 JA: KS			
8315009	K-82-1179	1515520515	108		MAXWELL A-3	SHUCK	1.0	CIMARRON-QUINQUE
-HUTCHINSON OIL CO				RECEIVED:	12/27/82 JA: KS			
8315066	K-82-1216	1515520852	102-4		PAINE #4	HUNTSVILLE	0.0	PEOPLES NATURAL G
-INTERNATIONAL PETROLEUM CORP				RECEIVED:	12/27/82 JA: KS			
8315024	K-82-1052	1512920635	102-4		EAGLEY "D" #2	DUNKLE	82.0	PANHANDLE EASTERN
-JAMES D LIEBER				RECEIVED:	12/27/82 JA: KS			
8315026	K-82-1141	1515121002	102-4		BLACKBURN #2	WILDCAT	80.3	PANHANDLE EASTERN
-KANSAS NATURAL GAS INC				RECEIVED:	12/27/82 JA: KS			
8315027	K-82-1142	1515121003	102-4		BLACKBURN #3	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315028	K-82-1143	1515121004	102-4		BLACKBURN #4	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315029	K-82-1144	1515121005	102-4		BLACKBURN #5	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315030	K-82-1145	1515121006	102-4		BLACKBURN #6	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315032	K-82-1146	1515121007	102-4		BLACKBURN #7	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315033	K-82-1147	1515121008	102-4		BLACKBURN #8	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315034	K-82-1148	1515121009	102-4		BLACKBURN #9	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315035	K-82-1149	1515121010	102-4		BLACKBURN #10	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315036	K-82-1150	1515121011	102-4		BLACKBURN #11	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315037	K-82-1151	1515121012	102-4		BLACKBURN #12	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315038	K-82-1152	1515121013	102-4		BLACKBURN #13	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315039	K-82-1153	1515121014	102-4		BLACKBURN #14	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315040	K-82-1154	1515121015	102-4		BLACKBURN #15	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315041	K-82-1155	1515121016	102-4		BLACKBURN #16	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315042	K-82-1156	1515121017	102-4		BLACKBURN #17	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315043	K-82-1157	1515121018	102-4		BLACKBURN #18	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315044	K-82-1158	1515121019	102-4		BLACKBURN #19	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315045	K-82-1159	1515121020	102-4		BLACKBURN #20	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315046	K-82-1160	1515121021	102-4		BLACKBURN #21	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315047	K-82-1161	1515121022	102-4		BLACKBURN #22	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315048	K-82-1162	1515121023	102-4		BLACKBURN #23	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315049	K-82-1163	1515121024	102-4		BLACKBURN #24	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315051	K-82-1164	1515121025	102-4		BLACKBURN #25	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315052	K-82-1165	1515121026	102-4		BLACKBURN #26	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315053	K-82-1166	1515121027	102-4		BLACKBURN #27	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315055	K-82-1167	1515121028	102-4		BLACKBURN #28	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315056	K-82-1168	1515121029	102-4		BLACKBURN #29	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315057	K-82-1169	1515121030	102-4		BLACKBURN #30	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315058	K-82-1170	1515121031	102-4		BLACKBURN #31	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315059	K-82-1171	1515121032	102-4		BLACKBURN #32	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315060	K-82-1172	1515121033	102-4		BLACKBURN #33	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315061	K-82-1173	1515121034	102-4		BLACKBURN #34	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315064	K-82-1174	1515121035	102-4		BLACKBURN #35	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315071	K-82-1175	1515121036	102-4		BLACKBURN #36	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315072	K-82-1176	1515121037	102-4		BLACKBURN #37	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315073	K-82-1177	1515121038	102-4		BLACKBURN #38	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315074	K-82-1178	1515121039	102-4		BLACKBURN #39	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315075	K-82-1179	1515121040	102-4		BLACKBURN #40	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315076	K-82-1180	1515121041	102-4		BLACKBURN #41	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315077	K-82-1181	1515121042	102-4		BLACKBURN #42	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315078	K-82-1182	1515121043	102-4		BLACKBURN #43	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315079	K-82-1183	1515121044	102-4		BLACKBURN #44	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315080	K-82-1184	1515121045	102-4		BLACKBURN #45	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315081	K-82-1185	1515121046	102-4		BLACKBURN #46	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315082	K-82-1186	1515121047	102-4		BLACKBURN #47	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315083	K-82-1187	1515121048	102-4		BLACKBURN #48	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315084	K-82-1188	1515121049	102-4		BLACKBURN #49	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315085	K-82-1189	1515121050	102-4		BLACKBURN #50	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315086	K-82-1190	1515121051	102-4		BLACKBURN #51	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315087	K-82-1191	1515121052	102-4		BLACKBURN #52	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315088	K-82-1192	1515121053	102-4		BLACKBURN #53	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315089	K-82-1193	1515121054	102-4		BLACKBURN #54	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315090	K-82-1194	1515121055	102-4		BLACKBURN #55	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315091	K-82-1195	1515121056	102-4		BLACKBURN #56	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315092	K-82-1196	1515121057	102-4		BLACKBURN #57	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315093	K-82-1197	1515121058	102-4		BLACKBURN #58	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315094	K-82-1198	1515121059	102-4		BLACKBURN #59	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315095	K-82-1199	1515121060	102-4		BLACKBURN #60	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315096	K-82-1200	1515121061	102-4		BLACKBURN #61	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315097	K-82-1201	1515121062	102-4		BLACKBURN #62	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315098	K-82-1202	1515121063	102-4		BLACKBURN #63	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315099	K-82-1203	1515121064	102-4		BLACKBURN #64	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315100	K-82-1204	1515121065	102-4		BLACKBURN #65	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315101	K-82-1205	1515121066	102-4		BLACKBURN #66	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315102	K-82-1206	1515121067	102-4		BLACKBURN #67	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315103	K-82-1207	1515121068	102-4		BLACKBURN #68	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315104	K-82-1208	1515121069	102-4		BLACKBURN #69	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315105	K-82-1209	1515121070	102-4		BLACKBURN #70	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315106	K-82-1210	1515121071	102-4		BLACKBURN #71	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315107	K-82-1211	1515121072	102-4		BLACKBURN #72	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315108	K-82-1212	1515121073	102-4		BLACKBURN #73	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315109	K-82-1213	1515121074	102-4		BLACKBURN #74	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315110	K-82-1214	1515121075	102-4		BLACKBURN #75	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315111	K-82-1215	1515121076	102-4		BLACKBURN #76	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315112	K-82-1216	1515121077	102-4		BLACKBURN #77	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315113	K-82-1217	1515121078	102-4		BLACKBURN #78	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315114	K-82-1218	1515121079	102-4		BLACKBURN #79	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315115	K-82-1219	1515121080	102-4		BLACKBURN #80	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315116	K-82-1220	1515121081	102-4		BLACKBURN #81	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315117	K-82-1221	1515121082	102-4		BLACKBURN #82	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315118	K-82-1222	1515121083	102-4		BLACKBURN #83	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315119	K-82-1223	1515121084	102-4		BLACKBURN #84	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315120	K-82-1224	1515121085	102-4		BLACKBURN #85	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315121	K-82-1225	1515121086	102-4		BLACKBURN #86	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315122	K-82-1226	1515121087	102-4		BLACKBURN #87	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315123	K-82-1227	1515121088	102-4		BLACKBURN #88	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315124	K-82-1228	1515121089	102-4		BLACKBURN #89	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315125	K-82-1229	1515121090	102-4		BLACKBURN #90	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315126	K-82-1230	1515121091	102-4		BLACKBURN #91	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315127	K-82-1231	1515121092	102-4		BLACKBURN #92	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315128	K-82-1232	1515121093	102-4		BLACKBURN #93	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315129	K-82-1233	1515121094	102-4		BLACKBURN #94	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315130	K-82-1234	1515121095	102-4		BLACKBURN #95	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315131	K-82-1235	1515121096	102-4		BLACKBURN #96	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315132	K-82-1236	1515121097	102-4		BLACKBURN #97	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315133	K-82-1237	1515121098	102-4		BLACKBURN #98	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315134	K-82-1238	1515121099	102-4		BLACKBURN #99	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315135	K-82-1239	1515121100	102-4		BLACKBURN #100	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315136	K-82-1240	1515121101	102-4		BLACKBURN #101	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315137	K-82-1241	1515121102	102-4		BLACKBURN #102	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315138	K-82-1242	1515121103	102-4		BLACKBURN #103	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315139	K-82-1243	1515121104	102-4		BLACKBURN #104	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315140	K-82-1244	1515121105	102-4		BLACKBURN #105	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315141	K-82-1245	1515121106	102-4		BLACKBURN #106	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315142	K-82-1246	1515121107	102-4		BLACKBURN #107	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315143	K-82-1247	1515121108	102-4		BLACKBURN #108	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315144	K-82-1248	1515121109	102-4		BLACKBURN #109	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315145	K-82-1249	1515121110	102-4		BLACKBURN #110	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315146	K-82-1250	1515121111	102-4		BLACKBURN #111	WILDCAT	80.3	PANHANDLE EASTERN
-KEITH OIL & GAS CO				RECEIVED:	12/27/82 JA: KS			
8315147	K-82-1251	1515121112	102-4		BLACKBURN #112

JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME
8315054	K-82-1172	1500721265	103		ALBERDING #2
8315056	K-82-1197	1500721266	103		ALBERDING #3
8315030	K-82-1131	1500721376	103		ALBERDING #4
8315029	K-82-1132	1500721292	103		BURGESS "A" #1
8315055	K-82-1215	1500721377	103		BURGESS "A" #2
8315038	K-82-1133	1500721396	103		BURGESS "A" #3
8315058	K-82-1195	1500721378	103		BURGESS "B" #1
8315037	K-82-1135	1500721397	103		BURGESS "B" #3
8315036	K-82-1136	1500721414	103		BURGESS "B" #4
8315051	K-82-1171	1500721243	103		CITY #1
8315052	K-82-1170	1507720610	103		DAVIS "A" #1
8315035	K-82-1137	1500721160	103		GRAVES "B" #1
8315053	K-82-1169	1500721380	103		GRAVES "B" #2
8315064	K-82-1008	1507720672	103		GREEN #3
8315063	K-82-1009	1507720728	103		GREEN #4
8315059	K-82-1191	1507720798	103		JACOBSEN #1
8315061	K-82-1011	1507720598	103		MUIR "B" #2
8315062	K-82-1010	1507720609	103		MUIR "B" #3
8315048	K-82-1155	1500721159	103		RICHARDSON "B" #1
8315039	K-82-1154	1500721009	103		TERWORT #1
8315040	K-82-1153	1500721010	103		TERWORT #2
8315041	K-82-1152	1500721011	103		TERWORT #3
8315042	K-1151	1500721012	103		TERWORT #4
8314998	K-82-1012	1500721145	103		VOGEL "A" #6
8315032	K-82-1013	1500721146	103		VOGEL "A" #7
8315033	K-82-1014	1500721147	103		VOGEL "A" #8
8315034	K-82-1138	1500721031	103		VOGEL "C" #1
8315057	K-82-1196	1500721032	103		VOGEL "C" #2
-F G HOLL			RECEIVED: 12/27/82		JA: KS
8314994	K-82-0819	1504720838	108		TUBBS-BURR #1-11
			RECEIVED: 12/27/82		JA: KS
-GEAR PETROLEUM CO INC					
8315022	K-82-0655	1509521023	102-4		KROESCH #1
			RECEIVED: 12/27/82		JA: KS
-GETTY OIL COMPANY					
8315046	K-82-1146	1511920581	103		J N EDIGER #2
			RECEIVED: 12/27/82		JA: KS
-IMPERIAL OIL COMPANY					
8315019	K-82-1018	1502520425	108		BRENSING #4-13
8314976	K-82-1097	1511920541	102-4		CARTZDAFNER #1-7
8315012	K-81-1237	1509720719	108		GRIMM UNIT #2-2
8314987	K-82-0427	1509720925	108		HUCK #1-18
8315009	K-82-0409	1509720852	102-2		WINKLEPLECK #3-12
-J MARK RICHARDSON			RECEIVED: 12/27/82		JA: KS
8314963	K-82-1051	1507720663	102-2		MILLER #1
			RECEIVED: 12/27/82		JA: KS
-JOHN H BOOTH INC					
8315011	K-82-1033	1502500000	108		ELLA MCMINIMY #1
			RECEIVED: 12/27/82		JA: KS
-KAISER-FRANCIS OIL COMPANY					
8315013	K-82-1080	1507700000	108		DARNES C #1
8315017	K-82-1064	1507700000	108		GRABS B #4
			RECEIVED: 12/27/82		JA: KS
-KAN-GO INC					
8315014	K-82-1187	1511520509	108		DIXON #1
			RECEIVED: 12/27/82		JA: KS
-KANSAS PETROLEUM INC					
8314996	K-82-1219	1509521174	103		CLARK #1
			RECEIVED: 12/27/82		JA: KS
-KIMBARK OIL & GAS CO					
8314975	K-82-0783	1512121050	102-2		BORTZ #1-25

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FIELD NAME	PROD	PURCHASER
STRANATHAN	10.0	KANSAS GAS SUPPLY
STRANATHAN	10.0	KANSAS GAS SUPPLY
STRANATHAN	26.0	KANSAS GAS SUPPLY
STRANATHAN	20.0	KANSAS GAS SUPPLY
STRANATHAN WILDCAT	20.0	KANSAS GAS SUPPLY
STRANATHAN	10.0	KANSAS GAS SUPPLY
STRANATHAN	12.0	KANSAS GAS SUPPLY
STRANATHAN	50.0	KANSAS GAS SUPPLY
STRANATHAN	66.0	KANSAS GAS SUPPLY
HARDTNER	60.0	KANSAS GAS SUPPLY
SHARON EAST	20.0	KANSAS GAS SUPPLY
HARDTNER	7.5	KANSAS GAS SUPPLY
HARDTNER	7.5	KANSAS GAS SUPPLY
SPIVEY-GRABS-BASIL	12.0	KANSAS GAS SUPPLY
SPIVEY-GRABS-BASIL	12.0	KANSAS GAS SUPPLY
SHARON	120.0	KANSAS GAS SUPPLY
SPIVEY-GRABS-BASIL	18.3	KANSAS GAS SUPPLY
SPIVEY-GRABS-BASIL	18.0	KANSAS GAS SUPPLY
HARDTNER	120.0	KANSAS GAS SUPPLY
STRANATHAN	7.6	KANSAS GAS SUPPLY
STRANATHAN	7.6	KANSAS GAS SUPPLY
STRANATHAN	7.5	KANSAS GAS SUPPLY
STRANATHAN	7.5	KANSAS GAS SUPPLY
STRANAHAN	7.3	KANSAS GAS SUPPLY
STRANATHAN	6.0	KANSAS GAS SUPPLY
STRANATHAN	7.3	KANSAS GAS SUPPLY
STRANATHAN	20.0	KANSAS GAS SUPPLY
STRANATHAN	20.0	KANSAS GAS SUPPLY
WAYNE SOUTH	4.0	REPUBLIC NATURAL
UNNAMED	25.0	PEOPLES NATURAL G
MCKINNEY	85.0	KANSAS POWER & LI
EXCEL EXT	17.2	INTER NORTH INC
WILDCAT	18.3	MICHIGAN-WISCONSI
FRUIT	2.5	PANHANDLE EASTERN
UNNAMED	14.6	INTER NORTH INC
CARVER ROBBINS WEST	36.5	PANHANDLE EASTERN
PAM	2000.0	QUIVERA GAS CO
SITKA	13.0	INTER NORTH INC
SPIVEY-GRABS	6.8	CITIES SERVICE OI
SPIVEY GRABS	17.0	CITIES SERVICE OI
LOST SPRINGS	9.8	CLOVER PIPELINE C
SPIVEY-GRABS	21.0	PEOPLES NATURAL G
BORTZ	87.5	CENTRAL STATES GA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8315010	K-82-1002	1509521231		102-2		ZRUBEK #1	WILDCAT	60.0	CENTRAL STATES GA
-LAURIER RESOURCES (U S) INC				RECEIVED:	12/27/82	JA: KS			
8314995	K-82-1220	1514520921		103		FLESKE #1	SWEENEY SW	182.0	KANSAS -NEBRASKA
-LEACH & ASSOCIATES INC				RECEIVED:	12/27/82	JA: KS			
8314957	K-82-1208	1515520868		102-2		CANTWELL 1-B		108.0	PEOPLE'S NATURAL
-MANNA PRODUCTION CO INC				RECEIVED:	12/27/82	JA: KS			
8314965	K-82-1179	1509921721		102-2		FRED COOPER "A" WELL #1	EDNA	91.3	H E WACKERLE CO I
8314960	K-82-1178	1509921722		102-2		KNEWTSON #1	EDNA	82.5	H E WACKERLE CO I
-MARCO PRODUCTION CO				RECEIVED:	12/27/82	JA: KS			
8315006	K-82-1203	1511520703		103		BOWERS #1	LOST SPRINGS	3.1	CLOVER PIPELINE C
8315005	K-82-1204	1511520784		103		BOWERS #2	LOST SPRINGS	3.1	CLOVER PIPELINE C
8315007	K-82-1202	1511520704		103		KJELLIN #1	LOST SPRINGS	5.4	CLOVER PIPELINE C
8315008	K-82-1201	1511520889		103		KJELLIN #5	LOST SPRINGS	5.4	CLOVER PIPELINE C
-MARION DALE				RECEIVED:	12/27/82	JA: KS			
8315003	K-82-0083	1509300000		108		KLEEMAN #1 (27-22-36 KEARNY CO KS)	HUGOTON (CHASE)	15.0	CITIES SERVICE GA
-MCNEISH OIL OPERATIONS				RECEIVED:	12/27/82	JA: KS			
8314970	K-82-1106	1501922570		102-2		HADEN "A" #1	CLOVERDALE NW	54.0	BUCKEYE GAS SERVI
8314967	K-82-1105	1501922571		102-2		HADEN "B" #1	CLOVERDALE NW	36.5	BUCKEYE GAS SERVI
8314969	K-82-1107	1501923085		102-2		NEAL #1	CLOVERDALE NORTHWEST	54.8	BUCKEYE GAS SERVI
8314973	K-82-0493	1503522971		102-2		STEWART "A" #1	CLOVERDALE NORTHWEST	55.0	BUCKEYE GAS SERVI
-MIDWESTERN EXPLORATION CO				RECEIVED:	12/27/82	JA: KS			
8314997	K-82-1217	1518920599		103		DE CAMP #1-10	WILDCAT	60.0	INTER NORTH INC
-MOLZ OIL CO				RECEIVED:	12/27/82	JA: KS			
8315060	K-82-1027	1500721415		103		ANTRIM #1	MCGUIRE-GOEMANN	72.0	PANHANDLE EASTERN
8315043	K-82-1150	1500721487		103		ANTRIM #2	MCGUIRE-GOEMANN	80.0	PANHANDLE EASTERN
-NIELSON ENTERPRISES INC				RECEIVED:	12/27/82	JA: KS			
8314985	K-82-0764	1502320070		108		HENDRICKS #1	SO ST FRANCIS GAS ARE	5.0	PEOPLE'S NATURAL
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	12/27/82	JA: KS			
8315047	K-82-1211	1518920582		103		CHAFFIN #2 UNIT #3	PANOMA COUNCIL GROVE	32.4	INTERNORTH INC
-OSWEGO OIL & GAS CO INC				RECEIVED:	12/27/82	JA: KS			
8314978	K-82-0883	1509920848		108		LIPPS #5	SO BARTLETT	0.0	CITIES SERVICE GA
8314979	K-82-0882	1509920869		108		LIPPS #8	SO BARTLETT	0.0	CITIES SERVICE GA
8314981	K-82-0880	1509920977		108		MARIE OLSON #4	SO BARTLETT	0.0	CITIES SERVICE GA
8314980	K-82-0881	1509920843		108		NOBLE #1	SO BARTLETT	0.0	CITIES SERVICE GA
8314982	K-82-0879	1509920993		108		OLSON #5	SO BARTLETT	0.0	CITIES SERVICE GA
8314983	K-82-0878	1509920917		108		PATTERSON #2	SO BARTLETT	0.0	CITIES SERVICE GA
8314977	K-82-0884	1509920508		108		ROBISON #2	BARLETT	0.0	CITIES SERVICE GA
8315002	K-82-0886	1509920925		108		SCHREPPEL #5	SO BARTLETT	7.0	CITIES SERVICE GA
-PETRO-DYNAMICS CORP				RECEIVED:	12/27/82	JA: KS			
8314956	K-82-1216	1519121403		102-2		CURRY #1	ERSKINE	130.0	DELHI GAS PIPELIN
-R J PATRICK OPERATING CO				RECEIVED:	12/27/82	JA: KS			
8315045	K-82-1148	1512920551		103		ORA BAKER #2	COLLIER FLATS SOUTH	27.4	INTER NORTH INC
8315044	K-82-1149	1512920551		103		ORA BAKER #3	COLLIER FLATS SOUTH	88.7	INTER NORTH INC
-ROBINSON OIL CO				RECEIVED:	12/27/82	JA: KS			
8314974	K-82-1147	1519121293		102-2		SMITH "A" #1	LATTA N	109.5	GETTY OIL CO
-SAGE DRILLING CO INC				RECEIVED:	12/27/82	JA: KS			
8314964	K-82-1108	1517520620		103		BLACK #3-1	SOUTH KISMET	100.0	PANHANDLE EASTERN
-SHAWMAR OIL CO INC				RECEIVED:	12/27/82	JA: KS			
8314966	K-82-1005	1511520760		108		OPDENHOFF-BUETHE 00173-000003	ANTELOPE POOL	4.0	CITIES SERVICE GA
8315020	K-82-1004	1511520760		108		OPDENHOFF-BUETHE 00173-000003	ANTELOPE POOL	4.0	CITIES SERVICE GA
-STRATA TECH OIL CO INC				RECEIVED:	12/27/82	JA: KS			
8314959	K-82-1188	1510320167		102-2		PERDUE #1	WILDCAT	360.0	CITIES SERVICE CO
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314962	K-82-1109	1517520621		103		BLACK #3-2	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314963	K-82-1110	1517520622		103		BLACK #3-3	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314961	K-82-1111	1517520623		103		BLACK #3-4	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314971	K-82-1112	1517520624		103		BLACK #3-5	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314972	K-82-1113	1517520625		103		BLACK #3-6	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314976	K-82-1114	1517520626		103		BLACK #3-7	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314975	K-82-1115	1517520627		103		BLACK #3-8	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314968	K-82-1116	1517520628		103		BLACK #3-9	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314996	K-82-1117	1517520629		103		BLACK #3-10	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314994	K-82-1118	1517520630		103		BLACK #3-11	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314993	K-82-1119	1517520631		103		BLACK #3-12	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314992	K-82-1120	1517520632		103		BLACK #3-13	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314991	K-82-1121	1517520633		103		BLACK #3-14	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314990	K-82-1122	1517520634		103		BLACK #3-15	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314989	K-82-1123	1517520635		103		BLACK #3-16	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314988	K-82-1124	1517520636		103		BLACK #3-17	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314987	K-82-1125	1517520637		103		BLACK #3-18	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314986	K-82-1126	1517520638		103		BLACK #3-19	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314984	K-82-1127	1517520639		103		BLACK #3-20	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314955	K-82-1128	1517520640		103		BLACK #3-21	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314954	K-82-1129	1517520641		103		BLACK #3-22	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314953	K-82-1130	1517520642		103		BLACK #3-23	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314952	K-82-1131	1517520643		103		BLACK #3-24	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314951	K-82-1132	1517520644		103		BLACK #3-25	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314950	K-82-1133	1517520645		103		BLACK #3-26	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314949	K-82-1134	1517520646		103		BLACK #3-27	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314948	K-82-1135	1517520647		103		BLACK #3-28	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314947	K-82-1136	1517520648		103		BLACK #3-29	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314946	K-82-1137	1517520649		103		BLACK #3-30	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314945	K-82-1138	1517520650		103		BLACK #3-31	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314944	K-82-1139	1517520651		103		BLACK #3-32	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314943	K-82-1140	1517520652		103		BLACK #3-33	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314942	K-82-1141	1517520653		103		BLACK #3-34	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314941	K-82-1142	1517520654		103		BLACK #3-35	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314940	K-82-1143	1517520655		103		BLACK #3-36	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314939	K-82-1144	1517520656		103		BLACK #3-37	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314938	K-82-1145	1517520657		103		BLACK #3-38	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314937	K-82-1146	1517520658		103		BLACK #3-39	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314936	K-82-1147	1517520659		103		BLACK #3-40	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314935	K-82-1148	1517520660		103		BLACK #3-41	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314934	K-82-1149	1517520661		103		BLACK #3-42	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314933	K-82-1150	1517520662		103		BLACK #3-43	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314932	K-82-1151	1517520663		103		BLACK #3-44	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314931	K-82-1152	1517520664		103		BLACK #3-45	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314930	K-82-1153	1517520665		103		BLACK #3-46	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314929	K-82-1154	1517520666		103		BLACK #3-47	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314928	K-82-1155	1517520667		103		BLACK #3-48	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314927	K-82-1156	1517520668		103		BLACK #3-49	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314926	K-82-1157	1517520669		103		BLACK #3-50	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314925	K-82-1158	1517520670		103		BLACK #3-51	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314924	K-82-1159	1517520671		103		BLACK #3-52	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314923	K-82-1160	1517520672		103		BLACK #3-53	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314922	K-82-1161	1517520673		103		BLACK #3-54	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314921	K-82-1162	1517520674		103		BLACK #3-55	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314920	K-82-1163	1517520675		103		BLACK #3-56	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314919	K-82-1164	1517520676		103		BLACK #3-57	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314918	K-82-1165	1517520677		103		BLACK #3-58	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314917	K-82-1166	1517520678		103		BLACK #3-59	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314916	K-82-1167	1517520679		103		BLACK #3-60	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314915	K-82-1168	1517520680		103		BLACK #3-61	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314914	K-82-1169	1517520681		103		BLACK #3-62	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314913	K-82-1170	1517520682		103		BLACK #3-63	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314912	K-82-1171	1517520683		103		BLACK #3-64	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314911	K-82-1172	1517520684		103		BLACK #3-65	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314910	K-82-1173	1517520685		103		BLACK #3-66	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314909	K-82-1174	1517520686		103		BLACK #3-67	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314908	K-82-1175	1517520687		103		BLACK #3-68	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314907	K-82-1176	1517520688		103		BLACK #3-69	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314906	K-82-1177	1517520689		103		BLACK #3-70	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314905	K-82-1178	1517520690		103		BLACK #3-71	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314904	K-82-1179	1517520691		103		BLACK #3-72	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314903	K-82-1180	1517520692		103		BLACK #3-73	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314902	K-82-1181	1517520693		103		BLACK #3-74	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314901	K-82-1182	1517520694		103		BLACK #3-75	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314900	K-82-1183	1517520695		103		BLACK #3-76	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314899	K-82-1184	1517520696		103		BLACK #3-77	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314898	K-82-1185	1517520697		103		BLACK #3-78	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314897	K-82-1186	1517520698		103		BLACK #3-79	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314896	K-82-1187	1517520699		103		BLACK #3-80	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314895	K-82-1188	1517520700		103		BLACK #3-81	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314894	K-82-1189	1517520701		103		BLACK #3-82	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314893	K-82-1190	1517520702		103		BLACK #3-83	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314892	K-82-1191	1517520703		103		BLACK #3-84	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314891	K-82-1192	1517520704		103		BLACK #3-85	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314890	K-82-1193	1517520705		103		BLACK #3-86	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314889	K-82-1194	1517520706		103		BLACK #3-87	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314888	K-82-1195	1517520707		103		BLACK #3-88	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314887	K-82-1196	1517520708		103		BLACK #3-89	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314886	K-82-1197	1517520709		103		BLACK #3-90	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314885	K-82-1198	1517520710		103		BLACK #3-91	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314884	K-82-1199	1517520711		103		BLACK #3-92	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314883	K-82-1200	1517520712		103		BLACK #3-93	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314882	K-82-1201	1517520713		103		BLACK #3-94	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314881	K-82-1202	1517520714		103		BLACK #3-95	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314880	K-82-1203	1517520715		103		BLACK #3-96	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314879	K-82-1204	1517520716		103		BLACK #3-97	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314878	K-82-1205	1517520717		103		BLACK #3-98	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314877	K-82-1206	1517520718		103		BLACK #3-99	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314876	K-82-1207	1517520719		103		BLACK #3-100	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314875	K-82-1208	1517520720		103		BLACK #3-101	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314874	K-82-1209	1517520721		103		BLACK #3-102	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314873	K-82-1210	1517520722		103		BLACK #3-103	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314872	K-82-1211	1517520723		103		BLACK #3-104	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314871	K-82-1212	1517520724		103		BLACK #3-105	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314870	K-82-1213	1517520725		103		BLACK #3-106	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314869	K-82-1214	1517520726		103		BLACK #3-107	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314868	K-82-1215	1517520727		103		BLACK #3-108	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314867	K-82-1216	1517520728		103		BLACK #3-109	SOUTH KISMET	100.0	PANHANDLE EASTERN
-TEMPLETON ENERGY INC				RECEIVED:	12/27/82	JA: KS			
8314

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME
8315021	K-82-1047	1511920543	102-4		HALLOCK #1
-TEXACO INC			RECEIVED:	12/27/82	JA: KS
8314968	K-82-1054	1519121064	102-2		MARY LOWRY #6
8315024	K-82-1054A	1519121064	103		MARY LOWRY #6
-TRANSOIL CO			RECEIVED:	12/27/82	JA: KS
8314962	K-82-0483	1512921946	102-2		VEITH #2
-TXO PRODUCTION CORP			RECEIVED:	12/27/82	JA: KS
8315027	K-82-1174	1507720831	102-4		FULTON #1
8315071	K-82-1126	1511920579	102-4		LOEWEN "D" #1
8315028	K-82-1104	1507720585	102-4		TRINITY UMC #1
-W G WORTHEN & ASSOCIATES			RECEIVED:	12/27/82	JA: KS
8314958	K-82-1206	1509921582	102-2		NEIDIGH SOUTH #2
8314961	K-82-1207	1509921618	102-2		NEIDIGH SOUTH #5
-WENERT TRICH OIL & GAS			RECEIVED:	12/27/82	JA: KS
8315049	K-82-1180	1509720866	103		KESTER HORN #1
-ZENITH PETROLEUM CORP			RECEIVED:	12/27/82	JA: KS
8315026	K-82-1144	1514520927	102-4		MAX BIRD #1
8315066	K-82-1143	1514520927	102-4		MAX BIRD #1
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NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION					
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-DORAN & ASSOCIATES INC			RECEIVED:	12/27/82	JA: NY
8314888	2885	3101321596	107-TF		S JOHNSON #1 KA-99
-ECLIPSE MANAGEMENT ASSOCIATES INC			RECEIVED:	12/27/82	JA: NY
8314871	2932	3101314399	108		DAY (SWEETMAN) #3130
-ENVIROGAS INC			RECEIVED:	12/27/82	JA: NY
8314939	4401	3101314161	108		A DAVIDSON #1
8314914	4426	3101314353	108		A GRIPPE #1
8314901	4373	3101313887	108		A JONES #1
8314891	4383	3101315269	108		A STRINE #1
8314946	4394	3101314859	108		ALDEWEIN ACRES #1
8314926	4414	3101314860	108		ALDEWEIN ACRES #2
8314925	4415	3101314861	108		ALDEWEIN ACRES #3
8314932	4408	3101314428	108		BARGER #1
8314930	4410	3101314634	108		BOSTWICK VINEYARDS #1
8314938	4402	3101314365	108		BOSTWICK VINEYARDS #2
8314931	4409	3101314366	108		BURGESS #1
8314913	4202	3101312942	108		CATANIA #1
8314943	4397	3101314589	108		CHAUTAUQUA INSTITUTION #1
8314944	4396	3101314451	108		CHAUTAUQUA INSTITUTION #2
8314945	4395	3101314452	108		CHAUTAUQUA INSTITUTION #3
8314942	4398	3101314453	108		CHAUTAUQUA INSTITUTION #4
8314940	4400	3101314454	108		CHAUTAUQUA INSTITUTION #5
8314949	4391	3101314618	108		CORNELL #1
8314950	4390	3101314291	108		DARLING #2
8314921	4419	3101314357	108		E MCCUTCHEAN #1
8314920	4420	3101314358	108		E MCCUTCHEAN #2
8314917	4423	3101314359	108		E MCCUTCHEAN #3
8314951	4389	3101314365	108		E NELSON #1A
8314952	4388	3101314179	108		E NELSON #2
8314928	4412	3101314152	108		EGGLESTON #1
8314894	4380	3101314292	108		EWER #1
8314910	4201	3101312871	108		FRANKLIN #1

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FIELD NAME	PROD	PURCHASER
BORCHERS N W	1300.0	PANHANDLE EASTERN
LATTA N W POOL	0.0	GETTY OIL CO
LATTA N W POOL	65.7	GETTY OIL CO
JEFFERSON-SYCAMORE	12.7	HENRY OIL & GAS I
SULLIVAN	150.0	DELHI CORP
BORCHERS NORTH	180.0	
SULLIVAN	140.0	NORTHERN GAS PROD
EDNA	91.3	H E MACKERLE CO I
EDNA	79.9	H E MACKERLE CO I
WILDCAT	90.0	PANHANDLE EASTERN
SWEENEY	72.0	KANSAS - NEBRASKA
SWEENEY	72.0	KANSAS - NEBRASKA
	30.0	COLUMBIA GAS TRAN
LAKE SHORE	6.0	NATIONAL FUEL GAS
LAKESHORE	8.0	NATIONAL FUEL GAS
LAKESHORE	11.0	NATIONAL FUEL GAS
LAKESHORE	4.0	NATIONAL FUEL GAS
LAKESHORE	4.0	NATIONAL FUEL GAS
LAKESHORE	13.0	NATIONAL FUEL GAS
LAKESHORE	11.0	NATIONAL FUEL GAS
LAKESHORE	17.0	NATIONAL FUEL GAS
LAKESHORE	12.0	NATIONAL FUEL GAS
LAKESHORE	20.0	NATIONAL FUEL GAS
LAKESHORE	15.0	NATIONAL FUEL GAS
LAKESHORE	7.0	NATIONAL FUEL GAS
LAKESHORE	3.0	NATIONAL FUEL GAS
STEBBINS CORNERS	0.8	NATIONAL FUEL GAS
STEBBINS CORNERS	1.0	NATIONAL FUEL GAS
STEBBINS CORNERS	2.0	NATIONAL FUEL GAS
STEBBINS CORNERS	6.0	NATIONAL FUEL GAS
WILDCAT	8.0	NATIONAL FUEL GAS
STEBBINS CORNERS	1.0	NATIONAL FUEL GAS
LAKESHORE	12.0	NATIONAL FUEL GAS
LAKESHORE	4.0	NATIONAL FUEL GAS
LAKESHORE	1.0	NATIONAL FUEL GAS
LAKESHORE	8.0	NATIONAL FUEL GAS
PANAMA	4.0	NATIONAL FUEL GAS
PANAMA	3.0	NATIONAL FUEL GAS
WILDCAT	5.0	NATIONAL FUEL GAS
WILDCAT	1.0	NATIONAL FUEL GAS
LAKESHORE	6.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314915	4425	3101314352		108		G LAPORTE #2	LAKESHORE	13.0	NATIONAL FUEL GAS
8314929	4411	3101314633		108		G NUTBROWN #1	LAKESHORE	4.0	NATIONAL FUEL GAS
8314896	4378	3101314313		108		GLASSER	LAKESHORE	2.0	NATIONAL FUEL GAS
8314912	4203	3101312872		108		HEPPNER #2	LAKESHORE	4.0	NATIONAL FUEL GAS
8314935	4405	3101314361		108		I COCHRANE #3	LAKESHORE	11.0	NATIONAL FUEL GAS
8314919	4421	3101314368		108		J HITZ #1	LAKESHORE	7.0	NATIONAL FUEL GAS
8314933	4407	3101314587		108		J LARSON #1	WILDCAT	9.0	NATIONAL FUEL GAS
8314903	4371	3101314159		108		J NERATKO #1	LAKESHORE	0.2	NATIONAL FUEL GAS
8314924	4416	3101314795		108		J NERATKO #2	LAKESHORE	8.0	NATIONAL FUEL GAS
8314899	4375	3101314250		108		KELSO #1	LAKESHORE	6.0	NATIONAL FUEL GAS
8314900	4374	3101314251		108		KELSO #2	LAKESHORE	4.0	NATIONAL FUEL GAS
8314890	4384	3101314180		108		LANE #1	PANAMA	1.0	NATIONAL FUEL GAS
8314936	4404	3101314431		108		LEFEVER #1	LAKESHORE	17.0	NATIONAL FUEL GAS
8314941	4399	3101314432		108		LEFEVER #2	LAKESHORE	7.0	NATIONAL FUEL GAS
8314923	4417	3101314319		108		M WHITE #1	LAKESHORE	1.0	NATIONAL FUEL GAS
8314953	4387	3101313977		108		MCCONNON #1	PANAMA	2.0	NATIONAL FUEL GAS
8314918	4422	3101314836		108		MONROE #1	LAKESHORE	7.0	NATIONAL FUEL GAS
8314937	4403	3101314591		108		MOONBROOK COUNTRY CLUB #1	WILDCAT	5.0	NATIONAL FUEL GAS
8314898	4376	3101314249		108		PALERMO #1	LAKESHORE	2.0	NATIONAL FUEL GAS
8314893	4381	3101314316		108		PENNELL #2	LAKESHORE	9.0	NATIONAL FUEL GAS
8314895	4379	3101314153		108		R JOHNSON #2	PANAMA	8.0	NATIONAL FUEL GAS
8314902	4372	3101314433		108		R MILLER #1	WILDCAT	7.0	NATIONAL FUEL GAS
8314934	4406	3101315321		108		SCHUSTER #2	LAKESHORE	18.0	NATIONAL FUEL GAS
8314948	4392	3101313200		108		SEBLINK #2	LAKESHORE	8.0	NATIONAL FUEL GAS
8314947	4393	3101313201		108		SEBLINK #3	LAKESHORE	3.0	NATIONAL FUEL GAS
8314889	4386	3101313976		108		SHERMAN #1	PANAMA	3.0	NATIONAL FUEL GAS
8314911	4204	3101312855		108		SPODEN FARMS #1	LAKESHORE	3.0	NATIONAL FUEL GAS
8314927	4415	3101313916		108		SULLIVAN #1	PANAMA	2.0	NATIONAL FUEL GAS
8314922	4418	3101314294		108		SULLIVAN #2	PANAMA	3.0	NATIONAL FUEL GAS
8314892	4382	3101313202		108		T SMITH #1	LAKESHORE	6.0	NATIONAL FUEL GAS
8314897	4377	3101314361		108		WATERS #1	LAKESHORE	5.0	NATIONAL FUEL GAS
8314916	4424	3101313755		108		WHITTINGTON #1	WILDCAT	1.0	NATIONAL FUEL GAS
-JOYCE MANAGEMENT CORP				RECEIVED:	12/27/82	JA: NY			
8314870	4477	3100317108		103		PUTNAM LEASE WELL #1 LOT #52	RICHBURG	4.0	NATIONAL FUEL GAS
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	12/27/82	JA: NY			
8314874	4197	3100916924		103		DOROTHY BEZELJAK #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-LENAPE RESOURCES CORP				RECEIVED:	12/27/82	JA: NY			
8314885	4211	3112117613		103		A J DRIES #1 LRC #136	LEICESTER	20.0	ELIZABETHTOWN GAS
8314886	4210	3112117047		103		A J DRIES UNIT #1 LRC #135	WILDCAT	20.0	ELIZABETHTOWN GAS
8314875	4208	3112117237		103		A S ELIGH UNIT #1 LRC #127	LEICESTER	20.0	ELIZABETHTOWN GAS
8314881	4215	3112117079		103		D G BUTLER #1 LRC #111	PERRY	20.0	ELIZABETHTOWN GAS
8314887	4209	3112117612		103		D H SHEARING #1 LRC #134	WILDCAT	20.0	ELIZABETHTOWN GAS
8314880	4216	3112117200		103		EMERLING FARMS UNIT #1 LRC #112	LEICESTER	20.0	ELIZABETHTOWN GAS
8314879	4217	3112117618		103		H B GOOD UNIT #1 LRC #113	WILDCAT	20.0	ELIZABETHTOWN GAS
8314883	4213	3112114289		103		HALMA #2 LRC #30	LEICESTER	20.0	ELIZABETHTOWN GAS
8314884	4212	3112113996		103		O'NEIL #1 LRC #29	LEICESTER	20.0	ELIZABETHTOWN GAS
8314882	4214	3112117047		103		R L HALMA #3 LRC #107	PERRY	20.0	ELIZABETHTOWN GAS
8314878	4205	3112117295		103		TAYLOR FARMS UNIT #1 LRC #117	LEICESTER	20.0	ELIZABETHTOWN GAS
8314877	4206	3112117231		103		TAYLOR FARMS UNIT #2 LRC #118	LEICESTER	20.0	ELIZABETHTOWN GAS
8314876	4207	3112117232		103		TAYLOR FARMS UNIT #3 LRC #119	LEICESTER	20.0	ELIZABETHTOWN GAS
-NYS NATURAL GAS COMPANY				RECEIVED:	12/27/82	JA: NY			
8314869	4475	3101317865		103		BEST #3	RIPLEY	20.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314871	4476	3100317109		103		PUTNAM LEASE WELL #1 LOT #53	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314872	4474	3100317110		103		PUTNAM LEASE WELL #1 LOT #54	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314873	4473	3100317111		103		PUTNAM LEASE WELL #1 LOT #55	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314867	4472	3100317112		103		PUTNAM LEASE WELL #1 LOT #56	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314868	4471	3100317113		103		PUTNAM LEASE WELL #1 LOT #57	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314866	4470	3100317114		103		PUTNAM LEASE WELL #1 LOT #58	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314865	4469	3100317115		103		PUTNAM LEASE WELL #1 LOT #59	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314864	4468	3100317116		103		PUTNAM LEASE WELL #1 LOT #60	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314863	4467	3100317117		103		PUTNAM LEASE WELL #1 LOT #61	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314862	4466	3100317118		103		PUTNAM LEASE WELL #1 LOT #62	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314861	4465	3100317119		103		PUTNAM LEASE WELL #1 LOT #63	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314860	4464	3100317120		103		PUTNAM LEASE WELL #1 LOT #64	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314859	4463	3100317121		103		PUTNAM LEASE WELL #1 LOT #65	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314858	4462	3100317122		103		PUTNAM LEASE WELL #1 LOT #66	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314857	4461	3100317123		103		PUTNAM LEASE WELL #1 LOT #67	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314856	4460	3100317124		103		PUTNAM LEASE WELL #1 LOT #68	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314855	4459	3100317125		103		PUTNAM LEASE WELL #1 LOT #69	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314854	4458	3100317126		103		PUTNAM LEASE WELL #1 LOT #70	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314853	4457	3100317127		103		PUTNAM LEASE WELL #1 LOT #71	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314852	4456	3100317128		103		PUTNAM LEASE WELL #1 LOT #72	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314851	4455	3100317129		103		PUTNAM LEASE WELL #1 LOT #73	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314850	4454	3100317130		103		PUTNAM LEASE WELL #1 LOT #74	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314849	4453	3100317131		103		PUTNAM LEASE WELL #1 LOT #75	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314848	4452	3100317132		103		PUTNAM LEASE WELL #1 LOT #76	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314847	4451	3100317133		103		PUTNAM LEASE WELL #1 LOT #77	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314846	4450	3100317134		103		PUTNAM LEASE WELL #1 LOT #78	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314845	4449	3100317135		103		PUTNAM LEASE WELL #1 LOT #79	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314844	4448	3100317136		103		PUTNAM LEASE WELL #1 LOT #80	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314843	4447	3100317137		103		PUTNAM LEASE WELL #1 LOT #81	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314842	4446	3100317138		103		PUTNAM LEASE WELL #1 LOT #82	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314841	4445	3100317139		103		PUTNAM LEASE WELL #1 LOT #83	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314840	4444	3100317140		103		PUTNAM LEASE WELL #1 LOT #84	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314839	4443	3100317141		103		PUTNAM LEASE WELL #1 LOT #85	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314838	4442	3100317142		103		PUTNAM LEASE WELL #1 LOT #86	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314837	4441	3100317143		103		PUTNAM LEASE WELL #1 LOT #87	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314836	4440	3100317144		103		PUTNAM LEASE WELL #1 LOT #88	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314835	4439	3100317145		103		PUTNAM LEASE WELL #1 LOT #89	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314834	4438	3100317146		103		PUTNAM LEASE WELL #1 LOT #90	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314833	4437	3100317147		103		PUTNAM LEASE WELL #1 LOT #91	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314832	4436	3100317148		103		PUTNAM LEASE WELL #1 LOT #92	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314831	4435	3100317149		103		PUTNAM LEASE WELL #1 LOT #93	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314830	4434	3100317150		103		PUTNAM LEASE WELL #1 LOT #94	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314829	4433	3100317151		103		PUTNAM LEASE WELL #1 LOT #95	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314828	4432	3100317152		103		PUTNAM LEASE WELL #1 LOT #96	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314827	4431	3100317153		103		PUTNAM LEASE WELL #1 LOT #97	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314826	4430	3100317154		103		PUTNAM LEASE WELL #1 LOT #98	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314825	4429	3100317155		103		PUTNAM LEASE WELL #1 LOT #99	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314824	4428	3100317156		103		PUTNAM LEASE WELL #1 LOT #100	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314823	4427	3100317157		103		PUTNAM LEASE WELL #1 LOT #101	RICHBURG	4.0	NATIONAL FUEL GAS
-RELIAGAS & CO				RECEIVED:	12/27/82	JA: NY			
8314822	4426	3100317158		103		PUTNAM LEASE WELL #1 LOT #102	RICHBURG	4.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8314954	18	3101311512		108		MANLY I #3
-RICHARDSON PETROLEUM CORP				RECEIVED:	12/27/82	JA: NY
8314905	4191	3100317658		103		HESELTON #16
8314907	4195	3100317659		103		HESELTON #17
8314906	4194	3100317668		103		HESELTON #18
8314909	4192	3100317787		103		HESELTON #19
8314908	4196	3100317786		103		HESELTON #20
8314904	4190	3100317785		103		HESELTON #21
8314873	4193	3100317784		103		HESELTON #22
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	12/27/82	JA: NY
8314872	4512	3101315410		103		O OLSON #1
-21 WEST GREEN ST ASSOCIATES				RECEIVED:	12/27/82	JA: NY
8314868	4370	3101313064		108		CASTILE II 27
**********						
OKLAHOMA CORPORATION COMMISSION						
**********						
-ALTMAN OPERATING CO				RECEIVED:	12/22/82	JA: OK
8314783	18594	3508300000		103		POLLARD 1-A
8314786	18597	3508320933		103		JONES 1
8314785	18596	3508320979		103		SCHAEFER 1-30
8314784	18595	3503702245		103		WOOLF 2-A
-AMES OIL AND GAS CORP				RECEIVED:	12/23/82	JA: OK
8314850	18629	3511700000		102-4		EDWARDS #API #A 117-00016
8314851	18630	3511700000		102-4		WILLS #1 API #11721558
-AMOCO PRODUCTION CO				RECEIVED:	12/23/82	JA: OK
8314860	18720	3513921140		103		ANDERSON GAS UNIT C #2
8314844	16473	3504535258		108		PITTMAN UNIT "A" #1 (2ND)
-AMSTAR OIL INC				RECEIVED:	12/23/82	JA: OK
8314859	18669	3510920606		102-4		SHILOH #1
-ANDOVER OIL COMPANY				RECEIVED:	12/23/82	JA: OK
8314835	18819	3501722140		103		ADAMS PARK #7-2
8314861	18726	3507323209		103		CATRON #13-1
8314823	18760	3503920522		103		PENNER #1-1
-APOLLO PRODUCTION LTD				RECEIVED:	12/23/82	JA: OK
8314805	18709	3507322597		102-4		TUTTY #25-2
-BABOUR ENERGY CORP				RECEIVED:	12/23/82	JA: OK
8314845	15309	3508320498		102-4		FRUENDT "A" #1-31
-BART SMITH				RECEIVED:	12/23/82	JA: OK
8314841	18020	3511100000		103		LARNEY #2
-BEEDE & STEPHENS OIL CO				RECEIVED:	12/23/82	JA: OK
8314863	18737	3510121232		103		WILKINS #4
-BLUE QUAIL ENERGY INC				RECEIVED:	12/23/82	JA: OK
8314839	18797	3510920614		103		ROGERS #1
-CANADIAN EXPLORATION CORP				RECEIVED:	12/23/82	JA: OK
8314862	18728	3501722336		103		BRINDLEY #19-2
-CANAMCO RESOURCES CORP				RECEIVED:	12/22/82	JA: OK
8314798	18626	3508121680		103		KINNAMON #2-26
-CARL E GUNGOLL				RECEIVED:	12/23/82	JA: OK
8314836	18802	3504723041		103		INEZ #1
-CHAMPLIN EXPLORATION INC				RECEIVED:	12/23/82	JA: OK
8314818	18708	3504723071		103		JOANNA "B"
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/23/82	JA: OK
8314843	16483	3507320746		108		H PETERSEN #1

FIELD NAME	PROD	PURCHASER
LAKESHORE	6.6	NATIONAL FUEL GAS
INDEPENDENCE	8.0	NATIONAL FUEL GAS
INDEPENDENCE	7.0	NATIONAL FUEL GAS
INDEPENDENCE	10.0	NATIONAL FUEL GAS
INDEPENDENCE	8.0	NATIONAL FUEL GAS
INDEPENDENCE	7.0	NATIONAL FUEL GAS
INDEPENDENCE	8.0	NATIONAL FUEL GAS
INDEPENDENCE	9.0	NATIONAL FUEL GAS
GERRY	20.0	COLUMBIA GAS TRAN
LAKESHORE	8.6	NATIONAL FUEL GAS
CRESCENT-LOVELL	19.0	EASON OIL CO
CRESCENT-LOVELL	13.0	EASON OIL CO
MARSHALL	15.0	EASON OIL CO
CUSHING	25.0	ARCO OIL & GAS CO
PAWNEE LAKE	0.0	COLORADO GAS COMP
PAWNEE LAKE	0.0	COLORADO GAS COMP
GUYMON-HUGOTON (COUNC	80.0	PHILLIPS PETROLEU
MOCANE-LAVERNE (MORRO	11.0	INTER NORTH INC
	75.0	WESTWIND GAS CO
	180.0	DELHI GAS PIPELIN
	70.0	CONOCO INC
	180.0	DELHI GAS PIPELIN
OKARCHE	9.1	PHILLIPS PETROLEU
WILDCAT	0.0	NATURAL GAS ENTER
HONEY CREEK	36.0	PHILLIPS PETROLEU
COLE	36.5	PHILLIPS PETROLEU
ROGERS #1	985.0	CONOCO INC
NORTHWEST MUSTANG	25.0	DELHI GAS PIPELIN
NORTH STROUD	127.8	KERR MCGEE CORP
SOUTH COVINGTON	350.0	EASON OIL CO
N W ENID	50.0	PANHANDLE EASTERN
SOONER TREND	8.0	PHILLIPS PETROLEU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-CITIES SERVICE COMPANY				RECEIVED:	12/23/82	JA: OK
8314837	18800	3504521025		103		CORAM B #1
8314867	22305	3505121175		107-DP		LAWSON E - 1
-CLIFFORD RESOURCES INC				RECEIVED:	12/22/82	JA: OK
8314774	18462	3508700000		103		REFORD BOND TRUST #3-12
-CURT BROWN DRILLING CO				RECEIVED:	12/23/82	JA: OK
8314815	18656	3511921319		103		BELL #1
8314816	18657	3511921490		103		BELL #2
-DAVIS OIL COMPANY				RECEIVED:	12/22/82	JA: OK
8314789	18483	3504722990		103		ALFRED #1
8314775	18482	3503920628		103		STUBBS #1
-DAWN ENERGY CO				RECEIVED:	12/22/82	JA: OK
8314776	18637	3505921091		103		SMITH #1-13
-F C D OIL CORP				RECEIVED:	12/23/82	JA: OK
8314840	18215	3507323515		103		EARL 1-27
-GIN INC				RECEIVED:	12/23/82	JA: OK
8314858	18649	3507323394		103		NATURAL #1
-GULF OIL CORPORATION				RECEIVED:	12/22/82	JA: OK
8314781	18581	3505121173		103		MAINKA RING /C/ #1-1
8314780	18580	3501721986		103		ROSE MEABEK #1-24
-GULF OIL CORPORATION				RECEIVED:	12/23/82	JA: OK
8314834	18582	3500722248		103		E E MILLER #2-15
8314866	22297	3501521187		107-DP		LAVERTY #1-12
-HAMM PRODUCTION CO				RECEIVED:	12/23/82	JA: OK
8314802	18640	3508320872		103		CASSIDAY #1
8314803	18641	3508320941		103		CASSIDAY #2
8314804	18642	3508320914		103		MOTT #1
-HIGHLANDS GOODALL & GREER INC				RECEIVED:	12/23/82	JA: OK
8314825	16608	3507322391		102-%		SCHWARZ TRUST #1
-HPC INC				RECEIVED:	12/22/82	JA: OK
8314768	17980	3501722301		103		BUNKHEAD #1-6
8314770	18088	3501721895		103		NITZEL #1
-HPC INC				RECEIVED:	12/23/82	JA: OK
8314801	18608	3501722054		103		JULIAN #1
-J L WHEELER				RECEIVED:	12/23/82	JA: OK
8314847	14655	3503723216		103		J L WHEELER #1
-JET OIL COMPANY				RECEIVED:	12/22/82	JA: OK
8314799	18631	3504775669		103		HAFNER #1
-JET OIL COMPANY				RECEIVED:	12/23/82	JA: OK
8314824	18761	3504722781		103		SCHOELING #1
-KELLOIL INC				RECEIVED:	12/23/82	JA: OK
8314852	18702	3513921418		102-2		GLEN BRILES #1
-KENNEDY & MITCHELL INC				RECEIVED:	12/23/82	JA: OK
8314819	18715	3505921068		103		HOWARD #37-342
8314853	18714	3515321219		103		BONSON #37-558
8314821	18748	3505921004		103		PHILLIPS #36-487
-LARIO OIL & GAS COMPANY				RECEIVED:	12/22/82	JA: OK
8314771	18152	3504921855		103		THOMPSON #6
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:	12/23/82	JA: OK
8314865	19603	3501521373		107-DP		ENTZ #1-7
-LLOYD H BRACKSIECK				RECEIVED:	12/22/82	JA: OK
8314792	18535	3503700000		108		KELLY WEST 1A
-LLOYD H BRACKSIECK				RECEIVED:	12/23/82	JA: OK

FIELD NAME	PROD	PURCHASER
S E HARMON	776.0	PANHANDLE EASTERN
WEST BRADLEY	57.0	
N E NEWCASTLE	1.5	SUN GAS CO
WILDCAT	16.1	PHILLIPS PETROLEU
WILDCAT	0.0	PHILLIPS PETROLEU
HILLSDALE	0.0	TRANSOK PIPELINE
HACKBERRY	0.0	PANHANDLE EASTERN
NORTHWEST FORT SUPPLY	183.0	DELHI GAS PIPELIN
N E DOVER	54.8	ONG WESTERN INC
SOONER TREND	0.0	DALCO PETROLEUM I
GOLDEN TREND	286.0	TRANSOK PIPE LINE
MUSTANG NORTH	36.0	
FORGAN SOUTH	600.0	PANHANDLE EASTERN
LAVERTY NW (SPRINGER)	510.0	EL PASO NATURAL G
S E MARSHALL	13.6	EASON OIL CO
S E MARSHALL	13.6	EASON OIL CO
S E MARSHALL	10.8	EASON OIL CO
N OKARCHE	0.0	PHILLIPS PETROLEU
N CALUMET	0.0	PHILLIPS PETROLEU
WEST EL RENO	0.0	PHILLIPS PETROLEU
N W PIEDMONT	0.0	PHILLIPS PETROLEU
OLIVE	0.0	COLORADO GAS COMP
BROWN EAST	15.0	EASON OIL CO
WILSON	35.0	EASON OIL CO
	191.0	KANSAS-NEBRASKA N
UNDESIGNATED C E/2 SE	360.0	MICHIGAN WISCONSI
UNDESIGNATED C SE 30-	400.0	MICHIGAN WISCONSI
LAVERNE	160.0	INTER NORTH INC
WEST WHITEBEAD	82.1	BUCKEYE NATURAL G
WILDCAT	2.5	EL PASO NATURAL G
MOSQUITO CREEK	1.8	ARCO OIL & GAS CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314842	18643	3508320911		103		CASSIDAY #1
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314843	18644	3508320912		103		CASSIDAY #2
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314844	18645	3508320913		103		MOTT #1
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314845	18646	3508320915		103		MOTT #2
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314846	18647	3508320916		103		MOTT #3
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314841	18648	3508320917		103		MOTT #4
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314839	18650	3508320918		103		MOTT #5
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314838	18651	3508320919		103		MOTT #6
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314835	18652	3508320920		103		MOTT #7
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314836	18653	3508320921		103		MOTT #8
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314833	18654	3508320922		103		MOTT #9
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314832	18655	3508320923		103		MOTT #10
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314831	18657	3508320924		103		MOTT #11
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314830	18658	3508320925		103		MOTT #12
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314829	18659	3508320926		103		MOTT #13
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314828	18660	3508320927		103		MOTT #14
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314827	18661	3508320928		103		MOTT #15
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314826	18662	3508320929		103		MOTT #16
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314823	18663	3508320930		103		MOTT #17
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314822	18664	3508320931		103		MOTT #18
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314820	18665	3508320932		103		MOTT #19
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314818	18666	3508320933		103		MOTT #20
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314817	18667	3508320934		103		MOTT #21
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314814	18668	3508320935		103		MOTT #22
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314813	18669	3508320936		103		MOTT #23
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314812	18670	3508320937		103		MOTT #24
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314811	18671	3508320938		103		MOTT #25
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314810	18672	3508320939		103		MOTT #26
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314809	18673	3508320940		103		MOTT #27
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314808	18674	3508320942		103		MOTT #28
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314807	18675	3508320943		103		MOTT #29
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314806	18676	3508320944		103		MOTT #30
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314805	18677	3508320945		103		MOTT #31
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314798	18678	3508320946		103		MOTT #32
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314797	18679	3508320947		103		MOTT #33
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314796	18680	3508320948		103		MOTT #34
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314795	18681	3508320949		103		MOTT #35
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314794	18682	3508320950		103		MOTT #36
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314793	18683	3508320951		103		MOTT #37
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314791	18684	3508320952		103		MOTT #38
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314790	18685	3508320953		103		MOTT #39
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314788	18686	3508320954		103		MOTT #40
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314787	18687	3508320955		103		MOTT #41
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314786	18688	3508320956		103		MOTT #42
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314785	18689	3508320957		103		MOTT #43
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314784	18690	3508320958		103		MOTT #44
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314783	18691	3508320959		103		MOTT #45
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314782	18692	3508320960		103		MOTT #46
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314779	18693	3508320961		103		MOTT #47
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314778	18694	3508320962		103		MOTT #48
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314777	18695	3508320963		103		MOTT #49
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314773	18696	3508320964		103		MOTT #50
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314772	18697	3508320965		103		MOTT #51
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314769	18698	3508320966		103		MOTT #52
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314767	18699	3508320967		103		MOTT #53
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314766	18700	3508320968		103		MOTT #54
-MAGNOLIA PETROLEUM CO				RECEIVED:	12/23/82	JA: OK
8314765

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8314826	18534	3503721987		103		KELLY/EAST #1
-LOBAR OIL CO INC				RECEIVED:	12/23/82	JA: OK
8314808	10948	3510920291		102-4		GOLSEN-BROWN #1
8314809	12225	3508320876		102-4		NELLIE BLY #1
8314807	10551	3508321334		102-4		TRIGG #1
-MACK OIL CO				RECEIVED:	12/23/82	JA: OK
8314827	18544	3500320972		103		LOTT #3
-MICHIGAN WISCONSIN PIPE LINE CO				RECEIVED:	12/23/82	JA: OK
8314838	18798	3504321445		103		FUGUA #1-7
-MORAN EXPLORATION INC				RECEIVED:	12/23/82	JA: OK
8314855	18753	3501722199		103		HIRSCH #1
-MULTISTATE OIL PROPERTIES NV				RECEIVED:	12/22/82	JA: OK
8314793	18569	3501922435		103		S G D S U #12-2A
-NATIONAL OIL COMPANY				RECEIVED:	12/22/82	JA: OK
8314787	16259	3509321688		103		WAHL #1 (MISSISSIPPI)
-PETRO-LEWIS CORPORATION				RECEIVED:	12/22/82	JA: OK
8314767	17384	3508321983		103		UPCHURCH #1-20
-PETRO-LEWIS CORPORATION				RECEIVED:	12/23/82	JA: OK
8314832	18577	3507300000		103		FRANK 4 #2
8314833	18578	3507323587		103		PERIGO 8 #2
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/23/82	JA: OK
8314811	18238	3504721421		108		CRIDER A #1
8314813	18242	3504721241		108		HEDGES A #1
8314812	18239	3504721234		108		MAXEY B #1
-PLAINS PRODUCTION INC				RECEIVED:	12/23/82	JA: OK
8314842	17611	3510524910		102-4	103	GLASS ESTATE #3
-PUBLIC ENERGY CORP				RECEIVED:	12/23/82	JA: OK
8314829	18564	3514722969		103		ROBINSON #5-A
8314830	18565	3514722208		103		ROBINSON #5-C
8314828	18563	3514722970		103		ROBINSON #7
-RATLIFF EXPLORATION CO				RECEIVED:	12/23/82	JA: OK
8314822	18756	3502700000		103		PENICK #6-1
-REO RESOURCES				RECEIVED:	12/23/82	JA: OK
8314848	18299	3504723046		103		ADELLA #1
-RICKS EXPLORATION CO				RECEIVED:	12/22/82	JA: OK
8314779	18567	3502720545		103		TULLIUS 15B
8314797	18625	3502720568		103		TULLIUS 15C
8314796	18624	3502720655		103		WARD 31C
-RICKS EXPLORATION CO				RECEIVED:	12/23/82	JA: OK
8314864	18738	3509322345		103		NILE 1A
-ROBINSON BROS DRILLING CO INC				RECEIVED:	12/23/82	JA: OK
8314806	22343	3514920271		107-DP		PALMER #4-1
-ROY EDWARDS & CO INC				RECEIVED:	12/23/82	JA: OK
8314820	18744	3511920411		103		EDWARDS A #5
-SEDCO INC				RECEIVED:	12/22/82	JA: OK
8314772	18266	3501722231		103		BOLLINGER #1
-SENECA OIL COMPANY				RECEIVED:	12/22/82	JA: OK
8314794	18617	3501722097		102-4	103	BEULAH #1-32
8314795	18618	3501722121		102-4		MARSHALL #1-29
-SENECA OIL COMPANY				RECEIVED:	12/23/82	JA: OK
8314854	18750	3508322475		103		THOMAS #1-23
-SERVICE DRILLING CO				RECEIVED:	12/23/82	JA: OK
8314849	18540	3506100000		103		KAISNER #1-22

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FIELD NAME	PROD	PURCHASER
MOSQUITO CREEK	75.0	ARCO OIL & GAS CO
N PRAIRIE BELL	0.0	PHILLIPS PETROLEU
CRESCENT-LOVELL	0.0	EASON OIL CO
CRESCENT-LOVELL	0.0	EASON OIL CO
S E GOLTRY	120.0	UNION TEXAS PETRO
RICHMOND	365.0	
N W MUSTANG	0.0	PHILLIPS PETROLEU
SHO-VEL-TUM	28.0	MOBIL OIL CORP
RINGWOOD	0.0	AMINOIL USA INC
	31.0	EASON OIL CO
SOONER TREND	0.0	CITIES SERVICE GA
SOONER TREND	0.0	CITIES SERVICE GA
SOONER TREND	11.5	TRANSOK PIPELINE
SOONER TREND	12.7	TRANSOK PIPELINE
SOONER TREND	9.8	TRANSOK PIPELINE
WOODY	100.0	ENICO PIPELINE CO
EAST COPAN	109.5	WELLHEAD ENTERPRI
EAST COPAN	182.5	WELLHEAD ENTERPRI
EAST COPAN	109.5	WELLHEAD ENTERPRI
NOT AVAILABLE	0.0	MOBIL OIL CORP
SOONER TREND	259.0	EXXON CO USA
N W NORMAN	67.0	SUN EXPLORATION &
N W NORMAN	9.0	SUN EXPLORATION &
N W NORMAN	89.0	SUN EXPLORATION &
CHEYENNE VALLEY	28.0	DELHI GAS PIPELIN
SOUTH WEATHERFORD	511.0	
	0.0	SUN GAS TRANSMISS
EAST YUKON	180.0	PHILLIPS PETROLEU
	84.0	PHILLIPS PETROLEU
	41.9	PHILLIPS PETROLEU
	433.3	
	73.0	DELHI GAS PIPELIN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SIMCOE OIL CO				RECEIVED:	12/22/82	JA: OK			
8314769	18016	3507323611		103		HELEN #2	SOONER TREND	30.0	EASON OIL CO
-STONE MOUNTAIN CORP				RECEIVED:	12/22/82	JA: OK			
8314790	18517	3511100000		103		CHANCEY #1	S E BRYANT	27.4	PHILLIPS PETROLEU
-STONE MOUNTAIN CORP				RECEIVED:	12/23/82	JA: OK			
8314814	18518	3510721266		103		CURRY #1	S E BRYANT	47.1	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	12/23/82	JA: OK			
8314817	18659	3507323617		103		K SCHROEDER #2	OKARCHE N E	0.0	CONOCO INC
-TEXASGULF INC				RECEIVED:	12/22/82	JA: OK			
8314782	18592	3511721010		103		NAIL 1-14	SOUTH HALLETT	35.0	EMPIRE PIPELINE C
-TRANSCO OIL CO				RECEIVED:	12/22/82	JA: OK			
8314777	18643	3511123402		103		MORGAN #2-3		0.0	PHILLIPS PETROLEU
8314778	18644	3511123809		103		STORTS RAMSEY #1-34		49.3	PHILLIPS PETROLEU
-TRANSCO OIL CO				RECEIVED:	12/23/82	JA: OK			
8314857	18645	3511123644		103		GRAF VICTOR #1-3		401.5	PHILLIPS PETROLEU
-TRIGG DRILLING COMPANY INC				RECEIVED:	12/22/82	JA: OK			
8314773	18454	3508720757		103		FUTURE BROOKS #1	WALNUT CREEK	250.0	
-TRIGG DRILLING COMPANY INC				RECEIVED:	12/23/82	JA: OK			
8314846	15168	3500920360		102-4	103	K B WALTER #1	ELK CITY	547.0	EL PASO NATURAL G
-TXO PRODUCTION CORP				RECEIVED:	12/23/82	JA: OK			
8314856	18754	3501722274		103		HECKES #1	RICHLAND	764.0	DELHI GAS PIPELIN
8314831	18571	3509322504		103		KLIEWER "B" #1		322.0	DELHI GAS PIPELIN
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	12/22/82	JA: OK			
8314800	18636	3504521085		103		BERRYMAN #1-27	S E ARNETT	50.8	PANHANDLE EASTERN
-WARD PETROLEUM CORP				RECEIVED:	12/23/82	JA: OK			
8314810	16467	3502720598		103		LUDEMAN #2	N W NORMAN	3.7	SUN GAS CO
-WOODS PETROLEUM CORPORATION				RECEIVED:	12/22/82	JA: OK			
8314791	18524	3504930015		103		MCDANIEL #15-2	E ANTOICH	113.0	
8314788	16614	3503920468		102-4	103	NEWCOMB #8-1	N STAFFORD	689.8	ARKANSAS LOUISIAN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

	Orig. Date FERC Pub. 4a

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C: Correction to prior Fed. Register notice
82-18313	OH	Page B. Blakemore	Corbett #1	604	3-05-82	C: Well Name
82-33149	TX	Dorchester Gas Produ Co	Bell #2	664	6-14-82	C: Applicant Name
82-51102	OH	Doran & Associates Inc	John V. Holton #1	733	9-16-82	C: 107-DV Approved; not 107-TF
82-54012	TX	W W West	James A Neal #4	743	9-30-82	C: Well Name
82-54018	TX	Dan Lankford	Cora McMurtry(19107) #1	743	9-30-82	C: Well Name
82-54141	TX	Gulf Oil Corporation	C. A Goldsmith #1296	743	9-30-82	C: Well Name
82-54268B	OH	HOPCO Resources Inc	Edwards #2	744	10-7-82	C: 107-TF Denied by JA
82-54553	TN	Continental Energy	Oneida Wood #2	745	10-7-82	C: Well Name
82-54565	TN	Mid South Oil Inc	Charles Whithead #3	745	10-7-82	C: Applicant Name
82-54566	TN	Mid South Oil Co	Haw Heirs #2	745	10-7-82	C: Applicant Name
82-54701	OK	Astro Energy Corp	Earlsboro #4	746	10-14-82	C: Well Name
82-55032	PA	Robert E. Iseman	Iseman Well #2	748	10-14-82	C: Well Name
82-55033	PA	Robert E. Iseman	Iseman Well #3	748	10-14-82	C: Well Name
82-55034	PA	Robert E. Iseman	Iseman Well #1	748	10-14-82	C: Well Name
82-55884	WV	Cabot Oil & Gas Corp	Siler Coal A-13	751	10-14-82	C: Well Name
82-55946	OH	Collins-McGregor Op Co	Brinkley #4	752	10-14-82	C: 103 Approved; 107-TF Denied
82-56098	PA	Cardinal Oil Co	E. Ertman #2 81-71	753	10-14-82	C: 103 & 107-TF Approved
82-56165	PA	MDM Account	S. J. Duke No. 1	753	10-14-82	C: 107-PE Approved; not 107-TF
82-56735	LA	OXY Petroleum Inc	Lee Hollowell #1	755	10-25-82	C: 107-PE Approved; not 107-TF
82-56773	LA	Sun Expl & Prod. Co	BIN VUA #1-47	755	10-25-82	C: 108-ER Approved; not 107-PE
82-57763	LA	Shell Offshore Inc	MP 37 OCS-G-4125 No. JA-2	759	10-27-82	C: Well Name
82-57769	LA	Shell Offshore Inc	MP 37 OCS-G 4125 #JA-6	759	10-27-82	C: Well Name
82-57770	LA	Union Oil Co. of Calif	OCS-G 2869 #2 ST-1	759	10-27-82	C: Well Name
82-57786	NM	Mobil Prodg. Tx & NM Inc	Brainard Gas Com #2	759	10-27-82	C: 108 Approved; not 108-SA
82-57824	NM	Yates Petroleum Corp	Shadden "TN" #1	760	11-02-82	C: 102-2 & 107-TF Approved
82-58100	MT	Shell Oil Co	Pennell Unit 33-31C	760	11-02-82	C: Well Name
83-00067	TX	T.W.Phillips Gas & Oil	J.A. Lambing #1	763	11-02-82	C: Well Name
83-00189	TX	The Long Trusts	Rebecca Wright Hewes #1	761	11-02-82	C: Well Name
83-01654	OH	Horten & Huffman	Dallas & Mary Lint #3	766	11-10-82	C: 107-TF Denied
83-01687	OH	Mustang Petroleum Inc	Richard & Gordon Tuel #1	766	11-10-82	C: 107-DV Denied by JA
83-01695	OH	North East Natural Gas	Baer #1	766	11-10-82	C: 108 Denied
83-01701	OH	North East Natural Gas	Cotton Land Co. #2	766	11-10-82	C: 108 Denied
83-02853	OK	Arapaho Petroleum Inc	West Hennessey #1-19	770	11-12-82	C: Well Name
83-08817	TX	RK Petroleum Corp	Dixieland "10" #1	790	12-14-82	C: 107-DP Approved; not 107-TF

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2279 Filed 1–26–83; 8:45 am]

BILLING CODE 6717–01–M

[Volume 816]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 21, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-MACK OIL CORP				RECEIVED:	12/29/82	JA: MI			
8315165		2105500000		102-4		MILLER #1-33	NEW FIELD	135.0	MICHIGAN CONSOLID
OKLAHOMA CORPORATION COMMISSION									
-ALPHA ENERGY CORP				RECEIVED:	12/30/82	JA: OK			
8315234	18843	3507323241		103		HARRISON #1-16	SOONER TREND	0.0	CITIES SERVICE GA
8315249	18842	3507323374		103		MOORE #1-22	SOONER TREND	0.0	CITIES SERVICE GA
-ALTMAN OPERATING CO				RECEIVED:	12/30/82	JA: OK			
8315220	18593	3508320460		108		PATOCKA	MARSHALL	21.0	EASON OIL CO
-AMCANA OIL CORP				RECEIVED:	12/30/82	JA: OK			
8315179	18863	3504921816		103		WORDEN #1-7	GOLDEN TREND	0.0	WARREN PETROLEUM
-AMOCO PRODUCTION CO				RECEIVED:	12/30/82	JA: OK			
8315204	22511	3501521468		107-DP		SHOOP UNIT #1	WILDCAT	1650.0	SOUTHERN NATURAL
-AN-SON CORPORATION				RECEIVED:	12/30/82	JA: OK			
8315256	22200	3503120823		107-DP		BERT #1-9	N STERLING	255.5	
8315254	22436	3512920780		107-DP		STERLING #1-5		1314.0	
-ANADARKO PRODUCTION COMPANY				RECEIVED:	12/30/82	JA: OK			
8315192	18924	3513900000		108		BOOTH B-1	NORTH RICHLAND CENTER	1.2	PANHANDLE EASTERN
8315185	18888	3513921539		103		VOTH "C" #2	HUGOTON	37.0	PANHANDLE EASTERN
-ANDOVER OIL COMPANY				RECEIVED:	12/27/82	JA: OK			
8315100	18818	3505121198		103		THOMPSON #33-1		15.0	PHILLIPS PETROLEU
-ARCO OIL AND GAS COMPANY				RECEIVED:	12/30/82	JA: OK			
8315227	18510	3500735337		108		ERNEST NELSON UNIT #1	MOCANE - LAVERNE	9.1	MICHIGAN WISCONSI
8315229	18532	3504730051		108		WALTER F EIFERT #1	SOONER TREND	14.6	EXXON CO U S A
-B R POLK INC				RECEIVED:	12/30/82	JA: OK			
8315236	18926	3508321963		103		SMITH #2	S ORLANDO	50.0	EASON OIL CO
-BARON EXPLORATION CO				RECEIVED:	12/27/82	JA: OK			
8315084	18792	3510300000		103		LINDEMAN #1		36.5	H-M GAS CO
8315085	18791	3510300000		103		LOYD JONES #1		36.5	H-M GAS CO
-BAYTIDE PETROLEUM INC				RECEIVED:	12/27/82	JA: OK			
8315073	18705	3511921483		102-4		TREU #3-26	UNNAMED	80.0	COLORADO GAS COMP
-BEARD OIL COMPANY				RECEIVED:	12/27/82	JA: OK			
8315080	18763	3507323437		103		LEWIS #1	SOONER TREND-DOVER EA	241.0	EXXON CO U S A
8315088	18782	3507323536		103		PAULINE #2	SOONER TREND-SOUTHWES	63.0	CITIES SERVICE GA
-BILL O ANDRESS				RECEIVED:	12/30/82	JA: OK			
8315237	18947	3512120920		103		URGUHART 1-36	ENTERPRISE	146.0	ARKANSAS LOUISIAN
-BLAIK OIL COMPANY				RECEIVED:	12/27/82	JA: OK			
8315098	18835	3504722967		103		ESTILL UNIT #3	SOONER TREND	27.0	EXXON CO U S A
8315097	18836	3504723002		103		THOMAS UNIT #4	SOONER TREND	27.0	EXXON CO U S A
-BLUE QUAIL ENERGY INC				RECEIVED:	12/30/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8315245	18894	3501722050		103		WEBB #1
-BROCK HYDROCARBONS INC				RECEIVED:	12/27/82	JA: OK
8315078	18757	3504321397		103		CHAIN RANCH #26-1A
-CANAMCO RESOURCES CORP				RECEIVED:	12/30/82	JA: OK
8315230	18627	3508121571		103		KINNAMON #1-26
-CAYMAN EXPLORATION CORP				RECEIVED:	12/27/82	JA: OK
8315075	18721	3507322962		103		HAGERS #1
-CENTRAL RESOURCES INC				RECEIVED:	12/27/82	JA: OK
8315079	18762	3510500000		103		MATTHEWS #1
-CHEROKEE RESOURCE MANAGEMENT				RECEIVED:	12/30/82	JA: OK
8315173	18952	3508121470		103		WILSON #1 081 71
8315174	18953	3508121594		103		WILSON #2
-CIMARRON MANAGEMENT CORP				RECEIVED:	12/30/82	JA: OK
8315213	18381	3511721269		108		WARD #2-A
8315214	18382	3511721329		108		WARD #2-B
8315250	18379	3511700000		108		WARD #3-A
-CLARK OPERATING SERVICES INC				RECEIVED:	12/29/82	JA: OK
8315150	18825	3510721346		103		ROBINSON #3-24
-COBRA OIL AND GAS CORPORATION				RECEIVED:	12/30/82	JA: OK
8315239	15330	3515321213		103		CHAIN "29" #1
-COQUINA OIL CORPORATION				RECEIVED:	12/30/82	JA: OK
8315166	22527	3512920781		107-DP		FOREST BAKER #1-36
-CORE OIL & GAS CORP				RECEIVED:	12/30/82	JA: OK
8315208	14488	3513321688		102-4	103	BONNIE #3
8315207	14487	3513321664		102-4	103	HOBBS #1
-COTTON PETROLEUM CORPORATION				RECEIVED:	12/29/82	JA: OK
8315162	18333	3501121502		103		BERG "A" #1
8315155	19607	3500722332		103		WEABER #1
-DAVIS OIL COMPANY				RECEIVED:	12/30/82	JA: OK
8315170	18855	3501521285		103		OTTINGER #1
-DEMCO OIL & GAS COMPANY				RECEIVED:	12/30/82	JA: OK
8315212	15882	3507122077		108		JOHNSON 1-28
-DEVON ENERGY CORP				RECEIVED:	12/30/82	JA: OK
8315196	21848	3501521283		107-DP		K E WEST #1-27
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	12/27/82	JA: OK
8315076	18727	3512920666		102-2		ROY C SMITH #1
-DONALD C SLAWSON				RECEIVED:	12/27/82	JA: OK
8315086	18785	3507720243		103		IVANHOE #1-2
-EARLSBORO OIL AND GAS CO INC				RECEIVED:	12/30/82	JA: OK
8315211	15078	3509322240		103		LINDSEY #1-21
-EASTOK PETROLEUM CORP				RECEIVED:	12/30/82	JA: OK
8315183	18878	3509100000		103		EASTOK (AVRIETT) #1
-EDWARD P O BRIEN				RECEIVED:	12/29/82	JA: OK
8315151	18647	3508322004		103		DETWILER #2
-EMI PETROLEUM CO				RECEIVED:	12/27/82	JA: OK
8315087	18784	3514322058		103		WALKER #1
-ENTEX PETROLEUM INC				RECEIVED:	12/30/82	JA: OK
8315231	18787	3508320625		103		NEKVAPIL #1
-ESKRIDGE PRODUCTION CO				RECEIVED:	12/30/82	JA: OK
8315223	18648	3511100000		108		SNELSON #10
-EXXON CORPORATION				RECEIVED:	12/29/82	JA: OK
8315148	18780	3504921677		103		MARIANNE EWERT #1
-F C D OIL CORP				RECEIVED:	12/27/82	JA: OK

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FIELD NAME	PROD	PURCHASER
	126.0	PHILLIPS PETROLEU
N OAKWOOD	0.0	
NORTH STROUD	90.5	KERR MCGEE CORP
SOONER TREND	14.0	PHILLIPS PETROLEU
	0.0	OKAN GAS CO
SOUTH STROUD PRUE	18.0	SWAB CORP
SOUTH STROUD PRUE	22.5	SWAB CORP
HALLETT	10.0	EMPIRE PIPELINE C
HALLETT	3.0	EMPIRE PIPELINE C
HALLETT	3.0	EMPIRE PIPELINE C
WELEETKA	70.0	TRANSOK PIPELINE
	438.0	INTER NORTH INC
WILDCAT	125.0	
KEOKUA	0.0	SOUTHWEST PETROGA
KEOKUA	0.0	SOUTHWEST PETROGA
NORTH ELM GROVE	0.0	TRANSOK PIPE LINE
BALKO SOUTH	0.0	INTER NORTH INC
KIMBLE	0.0	TRANSOK PIPELINE
UNNAMED	6.1	CITIES SERVICE GA
VERDEN	730.0	SOUTHERN NATURAL
RED FORK	320.0	
RED-OAK NORRIS	100.0	ARKANSAS LOUISIAN
RINGWOOD	110.0	AMINOIL USA INC
COALTON - TIGER MOUNT	109.5	CARR GAS CO
	0.0	EASON OIL CO
WALKER	25.0	PHILLIPS PETROLEU
WEST LAWRIE	1.0	EASON OIL CO
BALD HILL	3.5	PHILLIPS PETROLEU
GOLDEN TREND (HUNTON)	1.0	

JD NO JA DKT API NO D SEC(1) SEC(2) WELL NAME

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FIELD NAME PROD PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8315101	18808	3507323583		103		DINKLER 1-23
8315099	18833	3504722620		103		FLORIAN 1-17
-F C D OIL CORP				RECEIVED:	12/30/82	JA: OK
8315176	18832	3504722340		103		VOTH 1-16
-FORUM RESOURCES				RECEIVED:	12/30/82	JA: OK
8315168	18141	3505900000		108		FORUM RESOURCES MILLER #1-3
-GODFREY OIL PROPERTIES				RECEIVED:	12/29/82	JA: OK
8315145	15561	3509500000		108		TALIAFERRO 1-23
-GULF OIL CORPORATION				RECEIVED:	12/29/82	JA: OK
8315147	18579	3505921101		103		LOUIS BARBY #2-6
-HADSON PETROLEUM CORP				RECEIVED:	12/27/82	JA: OK
8315093	21999	3505121260		107-DP		BURNETT 1-4
8315089	22000	3512920789		107-DP		ROBERT #1-4
8315091	22372	3501521288		107-DP		SALYER #1-10
-HAZELWOOD PRODUCTION & EXPLORATION				RECEIVED:	12/30/82	JA: OK
8315258	18901	3508322068		103		J BULLING #2-5
-HILLSHAFER-GOODWAY CORP				RECEIVED:	12/30/82	JA: OK
8315178	18860	3508121384		103		FEUQUAY #1
-JACK BOWLES				RECEIVED:	12/30/82	JA: OK
8315209	14584	3504722695		103		NONA JOHNSON D-1
8315210	14922	3504722493		102-4		SNYDER #1
-JAMES Q MAGUIRE INC				RECEIVED:	12/30/82	JA: OK
8315167	15398	3503723504		103		JACK CARMAN "B" #2
-JAY PETROLEUM INC				RECEIVED:	12/30/82	JA: OK
8315259	18897	3508120948		103		RILEY #1
-JEFFERSON-WILLIAMS ENERGY CORP				RECEIVED:	12/30/82	JA: OK
8315243	18256	3510321583		103		K A SPAULDING #1
8315206	18257	3510321694		103		K A SPAULDING #2
-JIM L HANNA DBA HANNA OIL AND GAS C				RECEIVED:	12/29/82	JA: OK
8315140	18662	3506120523		102-4		CURLY B #1
-JIMMY W GRAY				RECEIVED:	12/27/82	JA: OK
8315077	18742	3504921488		103		WESSELY #1
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	12/27/82	JA: OK
8315102	18799	3506120522		103		KERR-MCGEE #3
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	12/30/82	JA: OK
8315221	18634	3500300000		108		C A KERNS "A" #1
8315225	18505	3501521185		102-4		FOSSETT #1
8315169	18504	3504321293		102-4	103	GAMMON #1
8315219	18583	3504500000		108		JEROME BERRYMAN E #1
8315186	18895	3501722275		103		LARSON #1
8315216	18621	3513921561		103		WHITE #2
8315226	18506	3504321309		102-4	103	WION #1
-KELLOIL INC				RECEIVED:	12/27/82	JA: OK
8315096	18837	3500722256		103		YOUNG #1
-KENNEDY & MITCHELL INC				RECEIVED:	12/27/82	JA: OK
8315074	18716	3504520956		102-4		ENLOW #35-431
-KIRBY EXPLORATION CO				RECEIVED:	12/27/82	JA: OK
8315092	22410	3503100000		107-DP		SULLIVAN #1-30
-LARIO OIL & GAS COMPANY				RECEIVED:	12/30/82	JA: OK
8315251	18150	3504921835		103		THOMPSON #4
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:	12/30/82	JA: OK
8315255	22370	3512920735		107-DP		BAKER #1-1
-LLOYD H BRACKSIECK				RECEIVED:	12/30/82	JA: OK

FIELD NAME	PROD	PURCHASER
SOONER TREND	47.5	CONOCO INC
N W KREMLIN	36.5	C R A INC
N W KREMLIN	36.5	CRA INC
	0.0	DELHI GAS PIPELIN
NORTH MADILL	6.0	PIONEER GAS PRODU
LAVERNE	314.0	COLORADO INTERSTA
NORTH RUSH SPRING	365.0	PANHANDLE EASTERN
W CARPENTER	770.0	
SOUTH WASHITA	730.0	
SOUTH LUCIEN *	182.5	EASON OIL CO
NORTH CHANDLER	91.0	TRIOK INC
SOUTH HAYWARD	0.0	AMINOIL USA INC
	0.0	EASON OIL CO
IRON POST	0.0	KERR MCGEE CORP
WEST CHANDLER	17.5	TRIOK INC
CERES SOUTH	0.0	ARCO OIL & GAS CO
CERES SOUTH	0.0	ARCO OIL & GAS CO
	0.0	
ANTIOCH	365.0	WARREN PETROLEUM
KINTA	183.0	DELHI GAS PIPELIN
SOUTHEAST ALINE	11.0	UNION TEXAS PETRO
S BRIDGEPORT	300.0	EL PASO NATURAL G
S W SEILING	150.0	DELHI GAS PIPELIN
SOUTH PEEK	16.0	PANHANDLE EASTERN
WATONGA TREND	293.0	TRANSOK PIPELINE
HOOKER SOUTHWEST	100.0	NATURAL GAS PIPEL
WATONGA TREND	180.0	TRANSOK PIPELINE
	201.0	KANSAS-NEBRASKA N
UNDESIGNATED SE/4 SEC	500.0	INTER NORTH INC
FLETCHER - SEC 30 - T	2000.0	PANHANDLE EASTERN
WEST WHITEBEAD	24.6	BUCKEYE NATURAL G
	0.5	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8315228	18521	3503700000		108		JONES #1 NE NE SEC 20-17N-7E	OLD DRUMRIGHT FIELD	4.0	ARCO OIL & GAS CO
-LOBAR OIL CO INC				RECEIVED:	12/30/82	JA: OK			
8315184	18883	3508320940		103		SOUTHLAND #1		0.0	EASON OIL CO
-M M RESOURCES INC				RECEIVED:	12/30/82	JA: OK			
8315235	18923	3509375175		103		HEIN #1		251.1	PHILLIPS PETROLEU
8315191	18922	35037□3664		103		WALTER WHITE #1		75.0	ENTERPRISE DEVELO
-MAHAN-ROWSEY INC.				RECEIVED:	12/30/82	JA: OK			
8315187	18864	3504921844		103		SEARCY #2		140.0	WARREN PETROLEUM
8315193	18933	3502720■27		103		TUBBS #1		750.0	SUN GAS CO
-MARLIN OIL CORPORATION				RECEIVED:	12/29/82	JA: OK			
8315160	17566	3500721280		108		BEDELL #1	MOCANE-LAVERNE	13.0	MICHIGAN WISCONSI
8315157	16076	3500721997		103		HARVEY #1	MOCANE-LAVERNE	73.0	INTER NORTH INC
-MARSHALL OIL CORP				RECEIVED:	12/27/82	JA: OK			
8315090	22081	350312□□□□		107-DP		HAYES #1		0.0	PANHANDLE EASTERN
-MARSHALL PLASTICS CO				RECEIVED:	12/30/82	JA: OK			
8315171	18927	351112□349		108		CLARK #1	MORRIS	36.0	PHILLIPS PETROLEU
-MESA PETROLEUM CO				RECEIVED:	12/30/82	JA: OK			
8315201	22464	35□□%2□%□8		107-DP		BENTON #1-21	NORTHEAST MAYFIELD	1800.0	
-MICHIGAN WISCONSIN PIPE LINE CO				RECEIVED:	12/27/82	JA: OK			
8315083	18794	350□%20□□6		103		B-LINE FARMS #1-9	S W THOMAS	26.0	
-MILLER EXPLORATION CO				RECEIVED:	12/30/82	JA: OK			
8315246	18893	350□1□1□□□		103		EAGLE #1	NORTHWEST CHANDLER	0.0	TRIDK INC
-MIMMS OIL & GAS INC				RECEIVED:	12/29/82	JA: OK			
8315154	18823	351□10000□		103		KING #1.		127.0	PHILLIPS PETROLEU
8315153	18822	351□100□□0		103		KING #2		98.0	PHILLIPS PETROLEU
-MOBIL OIL CORP				RECEIVED:	12/30/82	JA: OK			
8315172	18929	350□70□□0□		108		GEORGE FISH #10	SHO VEL TUM	14.0	LONE STAR GAS CO
-PCX CORP				RECEIVED:	12/30/82	JA: OK			
8315203	22476	350□15□1317		1□7-DP		JENSEN #1		0.0	EL PASO NATURAL G
8315202	22475	350□152□397		1□7-DP		TROGDEN #1		0.0	EL PASO NATURAL G
-PETRO-ENERGY EXPLORATION INC				RECEIVED:	12/29/82	JA: OK			
8315156	7343	3515□7□33□		108-ER		RAWSON-OLSON #1-14 OTC #151-43934		0.0	PANHANDLE EASTERN
-PETRO-LEWIS CORPORATION				RECEIVED:	12/30/82	JA: OK			
8315252	17085	350□1□0000		108		BURRIS #1	WEST MARLOW	14.4	ARKANSAS LOUISIAN
8315218	18545	350470□□□□		1□8		JONES 29-1	SOONER TREND	0.0	PARTNERSHIP PROPE
8315222	18655	350□7□112□		1□8		LILLIAN 29 #1	SOONER TREND	0.0	UNION TEXAS PETRO
8315253	16936	350□1□□□□□		108		T J BURRIS #1	WEST MARLOW	14.6	ARKANSAS-LOUISIAN
-PETROLEUM RESERVE CORP				RECEIVED:	12/30/82	JA: OK			
8315175	18827	350□8322□55		103		WESTERMAN 9-1	WEST GUTHRIE	11.0	EASON OIL CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/29/82	JA: OK			
8315158	16226	3505121232		103		THEODOSIA #2	BRADLEY	0.0	
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/30/82	JA: OK			
8315241	17803	350□121491		108		DETTWEILER A #1	WATONGA	1.8	ONG WESTERN INC
8315217	18537	35095□□00□		108		REDMAN #1	AYLESWORTH	5.5	
-PREMIER RESOURCES LTD				RECEIVED:	12/30/82	JA: OK			
8315233	18793	3515100000		103		BUCKLAND E02302	NORTH WAYNOKA	300.0	PANHANDLE EASTERN
-PRIME ENERGY CO				RECEIVED:	12/27/82	JA: OK			
8315094	18849	3515321172		103		GEBHART #1	S TANGIER	120.0	
8315095	18848	3515321243		103		STRICKER 6-1	S WOODWARD	1004.0	INTER NORTH INC
-PRIME ENERGY CO				RECEIVED:	12/30/82	JA: OK			
8315247	18851	351□321245		103		LEWIS DOLEZAL 20-1	FOURDEE	0.0	ARCO OIL & GAS CO
8315248	18850	351□321626		103		LEWIS DOLEZAL 20-2	FOURDEE	18.3	
-QUANAH COMPANY				RECEIVED:	12/27/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8315082	18796	3508121574		103		MILLER #1
-RATLIFF EXPLORATION CO				RECEIVED:	12/30/82	JA: OK
8315232	18755	3515300000		103		MATTESON #1
-RED EAGLE OIL CO				RECEIVED:	12/27/82	JA: OK
8315081	18767	3509322517		103		JOHN #1
-ROBINSON BROS DRILLING CO INC				RECEIVED:	12/30/82	JA: OK
8315200	22400	3514920285		107-DP		STEHR #16-1
-ROLLYSON CORP				RECEIVED:	12/30/82	JA: OK
8315197	22052	3506321709		103		THORNTON 2-25
8315198	22053	3506321709		103		THORNTON 2-25
-ROYAL OIL & GAS CORPORATION				RECEIVED:	12/27/82	JA: OK
8315072	18700	3511921640		102-A		BILL WORTHY #1
-ROYAL OIL & GAS CORPORATION				RECEIVED:	12/29/82	JA: OK
8315141	18696	3511921244		102-A		DOYLE COMBS #1
8315144	18698	3511921638		102-A		LEON SILKWOOD #1
8315142	18697	3511921506		102-A		MILLS-SANDERS #1
8315143	18699	3511921639		102-A		SAMUEL STEPHENS #1
-SAKET PETROLEUM CORP				RECEIVED:	12/29/82	JA: OK
8315164	18635	3511100000		103		BADGER TRUST #1
-SAMSON RESOURCES COMPANY				RECEIVED:	12/30/82	JA: OK
8315199	22344	3514920263		107-DP		GUNTER NO 1-14
-SENECA OIL COMPANY				RECEIVED:	12/30/82	JA: OK
8315257	18908	3501121689		103		J R CAMPBELL #1-14
-SILVAN SUPPLY CO				RECEIVED:	12/29/82	JA: OK
8315146	17936	3503722369		103		DAILEY B #2
-SILVER LAKE EXPLORATION				RECEIVED:	12/29/82	JA: OK
8315163	18632	3507122372		103		JOHN SMITH #1
-STANTON ENERGY INC				RECEIVED:	12/30/82	JA: OK
8315182	18877	3511921976		103		RAY JESKE #1
-STAR RESOURCES INC				RECEIVED:	12/30/82	JA: OK
8315195	18945	3510721355		103		HOLT #2-24
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/30/82	JA: OK
8315190	18918	3512321725		103		MOUNT GILCREASE #1-11
8315189	18917	3512321545		103		MOUNT GILCREASE #2-14
8315224	18919	3512321671		103		MOUNT GILCREASE UNIT #8-12
-TEXACO INC				RECEIVED:	12/29/82	JA: OK
8315152	18661	3507323608		103		SOUTHWEST TITLE & TRUST UNIT #2
-TEXOMA NATURAL GAS & OIL CORP				RECEIVED:	12/30/82	JA: OK
8315238	18948	3503723927		103		BROWN #5 037-73306
-THE ANSCHUTZ CORPORATION				RECEIVED:	12/30/82	JA: OK
8315240	15572	3501922173		103		ELLIS #9-18
-THETIS ENERGY CORP				RECEIVED:	12/30/82	JA: OK
8315244	18430	3504722077		108		GREGORY 31-1
-TRISUN ENERGY CORP				RECEIVED:	12/30/82	JA: OK
8315242	18093	3514321260		108		BURTON T BROWN #1
-UNION OIL COMPANY OF CALIF				RECEIVED:	12/30/82	JA: OK
8315285	22518	3500920479		107-DP		ELLIS #3-33
-UNION TEXAS PETROLEUM				RECEIVED:	12/29/82	JA: OK
8315161	17898	3504723001		103		JOHN FUKSA #2
-VAN HORN OIL & GAS INC				RECEIVED:	12/30/82	JA: OK
8315177	18856	3509322480		103		FRATZKE 34-1
-W R COOK				RECEIVED:	12/29/82	JA: OK
8315149	18824	3503120490		103		PALMER "A" WELL #11

FIELD NAME	PROD	PURCHASER
SOUTHEAST MT VERNON	100.0	TRIOK INC
	8.0	DELMI GAS PIPELIN
WEST FAIRVIEW	37.0	PHILLIPS PETROLEU
SOUTH CLINTON	1642.5	
SOUTH CALVIN	11.3	ARKANSAS LOUISIAN
SOUTH CALVIN	40.2	ARKANSAS LOUISIAN
SOONERVILLE WEST	4.8	SUN GAS CO
SOONERVILLE WEST	3.0	SUN GAS CO
SOONERVILLE WEST	4.0	SUN GAS CO
SOONERVILLE WEST	3.0	SUN GAS CO
SOONERVILLE WEST	4.0	SUN GAS CO
	0.0	PHILLIPS PETROLEU
N E BURNS FLAT	400.6	EL PASO NATURAL G
	338.4	
	5.0	ARCO OIL & GAS CO
S BRAMAN	7.3	CHESNUTT OIL PROP
	63.0	ENTERPRISE DEVELO
N E WELEETKA	110.0	PUBLIC SERVICE CO
ALLEN	37.0	ARKANSAS-LOUISIAN
ALLEN	4.0	ARKANSAS-LOUISIAN
ALLEN	4.0	ARKANSAS-LOUISIAN
OKARCHE N R	0.0	CONOCO INC
NORTH KELLYVILLE	12.0	COLORADO GAS COMP
PIKE	25.0	AMINOIL USA INC
SOONER TREND	7.0	WELLHEAD ENTERPRI
SPENCER	7.2	PHILLIPS PETROLEU
S W MAYFIELD	16.0	OKLAHOMA NATURAL
HODGE II AREA	44.2	PANHANDLE EASTERN
RINGWOOD	110.0	PANHANDLE EASTERN
EAST LAWTON	20.0	MANN INDUSTRIES I

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	VOLUME 816	PAGE 006	
							FIELD NAME	PROD	PURCHASER
+WESSELY ENERGY CORPORATION				RECEIVED:	12/30/82	JA: OK			
8315215	18384	3500721413		108		KERNS UNIT #1	SE LOGAN	3.0	INTER NORTH INC
+WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	12/29/82	JA: OK			
8315159	17387	3504722521		103		HILL #1-3	EAST AMES	365.0	CITIES SERVICE GA
-WHEATLAND OIL CO				RECEIVED:	12/30/82	JA: OK			
8315194	18935	3509320798		103		MATCHMAKER #1	CEDARDALE	146.0	PHILLIPS PETROLEU
8315180	18869	3509322538		103		SCHROEDER #2	NORTH FAIRVIEW	113.2	PIONEER GAS PRODU
8315181	18870	3504512084		103		SHAHAN #2	S PEEK	116.8	PANHANDLE EASTERN
8315188	18871	3504521088		103		SHAHAN #4	S PEEK	58.4	PANHANDLE EASTERN
WEST VIRGINIA DEPARTMENT OF MINES									
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	12/27/82	JA: WV			
8315130		4708300415		102-4		DEPOY #1A	MIDDLE FORK	35.0	COLUMBIA GAS TRAN
8315132		4708300417		102-4		EVANS #1	MIDDLE FORK	35.0	COLUMBIA GAS TRAN
8315135		4708300436		102-4		EVANS #2	MIDDLE FORK	35.0	COLUMBIA GAS TRAN
8315138		4708300513		102-4		F A DAETWYLER #2	MIDDLE FORK	0.0	EQUITABLE GAS CO
8315137		4708300482		102-4		GIMMEL #1	MIDDLE FORK	35.0	COLUMBIA GAS TRAN
8315133		4708300418		102-4		MARTI #1	MIDDLE FORK	35.0	COLUMBIA GAS TRAN
8315134		4708308433		102-4		MCNEAL #1	MIDDLE FORK	35.0	COLUMBIA GAS TRAN
8315136		4708300460		102-4		MONTI #1-C	MIDDLE FORK	35.0	COLUMBIA GAS TRAN
8315131		4708300416		102-4		MORGAN #1A	MIDDLE FORK	35.0	COLUMBIA GAS TRAN
8315139		4708300567		102-4		SMITH-ROBERTS #1-A	MIDDLE FORK	35.0	COLUMBIA GAS TRAN
-STERLING DRILLING & PROD CO INC				RECEIVED:	12/27/82	JA: WV			
8315121		4701501846		103		BOGGS #304	OTTER DISTRICT	1.5	
8315109		4702103723		103		DAVIDSON #415	DEKALB DISTRICT	52.8	
8315110		4702103724		103		DAVIDSON #416	DEKALB DISTRICT	36.0	
8315111		4702103725		103		DAVIDSON #417	DEKALB DISTRICT	14.8	
8315116		4701501800		103		DAVIS #259	OTTER DISTRICT	1.3	EQUITABLE GAS CO
8315112		4708703308		103		HALL #278	SMITHFIELD DISTRICT	2.1	
8315128		4701303316		103		HAMILTON #487	CENTER DISTRICT	5.0	
8315127		4701303315		103		HAMILTON #488	CENTER DISTRICT	19.0	
8315120		4708703227		103		HAROLD #193	GEARY DISTRICT	9.0	COLUMBIA GAS TRAN
8315117		4701501961		103		HIVELY #504	OTTER DISTRICT	4.0	
8315118		4701501962		103		HIVELY #505	OTTER DISTRICT	5.0	
8315108		4708703386		103		JARVIS #438	GEARY DISTRICT	16.0	
8315106		4701501898		103		KING #414	BUFFALO DISTRICT	83.0	
8315122		4701501973		103		MCCRACKEN #515	OTTER DISTRICT	60.0	EQUITABLE GAS CO
8315125		4701502007		103		MCCRACKEN #531	OTTER DISTRICT	14.0	EQUITABLE GAS CO
8315104		4701303213		103		MINNEY #247	LEE DISTRICT	3.0	
8315126		4701502008		103		MORRIS #532	OTTER DISTRICT	6.0	EQUITABLE GAS CO
8315119		4708703214		103		PALMER #165	GEARY DISTRICT	1.0	
8315105		4701501865		103		RHODES #335	BUFFALO DISTRICT	4.0	
8315114		4700701573		103		SHAVER #341	OTTER DISTRICT	1.5	EQUITABLE GAS CO
8315123		4701501974		103		SIRK #516	OTTER DISTRICT	14.3	EQUITABLE GAS CO
8315113		4708703402		103		SMITH #467	GEARY DISTRICT	2.2	
8315124		4708703443		103		SMITH #511	GEARY DISTRICT	45.0	COLUMBIA GAS TRAN
8315129		4701502003		103		SPINKS #502	OTTER DISTRICT	63.0	EQUITABLE GAS CO
8315107		4708703379		103		SUTTLE #422	SMITHFIELD DISTRICT	3.1	
8315115		4700701581		103		WOOLFORD #353	OTTER DISTRICT	3.0	EQUITABLE GAS CO
-UNION DRILLING INC				RECEIVED:	12/27/82	JA: WV			
8315103		4708300512		107-DV		HARRY MCMULLAN JR EST #21 1666	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb, [FR Doc. 83-2280 Filed 1-26-83; 8:45 am]

Secretary. BILLING CODE 6717-01-M

[Volume 817]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Kenneth F. Plumb, *Secretary.*

[FR Doc. 83-2280 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Volume 817]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 24, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** KANSAS CORPORATION COMMISSION **********									
-ANADARKO PRODUCTION COMPANY				RECEIVED:	12/27/82	JA: KS			
8315329	K-82-1176	1512920472		108		INTERSTATE #13	INTERSTATE RED CAVE	7.5	PANHANDLE EASTERN
8315330	K-82-1177	1512920469		108		INTERSTATE C-11	INTERSTATE RED CAVE	7.3	PANHANDLE EASTERN
8315328	K-82-1175	1506720109		108		STAINBROOK A-1	PANOMA	5.0	PEOPLES NATURAL G
-ASSOCIATED PETROLEUM CONSULTANTS IN				RECEIVED:	12/27/82	JA: KS			
8315267	K-82-1112	1500721351		102-4		MOTT RANCH #3 1-15-007-21351	AMBERMILLS SOUTH (NEW	1050.0	DELHI GAS PIPELIN
-ATTICA GAS VENTURE CORP				RECEIVED:	12/27/82	JA: KS			
8315292	K-82-1058	1507720781		103		FRANCIS #1	WILDCAT	54.0	PEOPLES NATURAL G
-BENSON MINERAL GROUP				RECEIVED:	12/27/82	JA: KS			
8315355	K-82-1032	1505720013		108		BARNGROVER #1	WILLROADS	12.6	CITIES SERVICE GA
8315306	K-82-1093	1504720907		103		LAMB A 1-26	KIRK	29.2	PANHANDLE EASTERN
8315307	K-82-1092	1504720738		103		SALSER C 1-27	WILDCAT	6.5	PANHANDLE EASTERN
8315305	K-82-1094	1504720739		103		WOOD D 1-27	WILDCAT	4.8	PANHANDLE EASTERN
-CENTENNIAL ENERGY CO				RECEIVED:	12/27/82	JA: KS			
8315334	K-82-1070	1518120051		108		BOLLIG #1-8	GOODLAND	1.8	KANSAS-NEBRASKA N
8315338	K-82-1075	1518120075		108		CRESS #1-5	GOODLAND	1.8	KANSAS-NEBRASKA N
8315336	K-82-1068	1518120040		108		GLASCO #1-6	GOODLAND	4.8	KANSAS-NEBRASKA N
8315337	K-82-1074	1518120133		108		GLASCO #2-6	GOODLAND	5.5	KANSAS-NEBRASKA N
8315297	K-82-1077	1518120041		108		LOVELACE #1-5	GOODLAND	3.7	KANSAS-NEBRASKA N
8315335	K-82-1072	1518120050		108		PINKNEY #2-32	GOODLAND	2.9	KANSAS-NEBRASKA N
8315339	K-82-1076	1518120091		108		SCHWENDENER #A-136	GOODLAND	7.3	KANSAS-NEBRASKA N
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/27/82	JA: KS			
8315324	K-82-1066	1509500000		108		STEVENS #1	E SPIVEY	3.0	CITIES SERVICE OI
-CITIES SERVICE COMPANY				RECEIVED:	12/27/82	JA: KS			
8315325	K-82-1091	1509300000		108		MILLER J #1	HUGOTON	16.4	COLORADO INTERSTA
8315327	K-82-1140	1509300000		108		PARKER "A" #1	HUGOTON	19.5	COLORADO INTERSTA
-DORCHESTER EXPLORATION INC				RECEIVED:	12/27/82	JA: KS			
8315351	K-82-0969	1507120046		108		CHEEK #1	TRIBUNE	0.0	SUNFLOWER ELECTRI
8315349	K-82-0963	1507120083		108		FECHT B-1	N BRADSHAW	9.0	SUNFLOWER ELECTRI
8315348	K-82-0962	1507120021		108		HARRIS #1	TRUBUNE	14.9	SUNFLOWER ELECTRI
8315350	K-82-0966	1507120110		108		SELL B #1	N BRADSHAW (CHASE)	17.7	SUNFLOWER ELECTRI
-EAGLE EXPLORATIONS INC				RECEIVED:	12/27/82	JA: KS			
8315300	K-82-0874	1503320522		103		EDEN #A-1	WILDCAT	75.8	KANSAS GAS SUPPLY
-EDMISTON OIL CO INC				RECEIVED:	12/27/82	JA: KS			
8315312	K-82-1193	1507720776		103		DAVIS "A" #2	SHARON EAST	20.0	KANSAS GAS SUPPLY
8315313	K-82-1192	1507720777		103		EASTERBY #1	WILDCAT	12.0	KANSAS GAS SUPPLY
8315277	K-82-1168	1500721398		103		GRAVES "B" #3	HARDTNER	7.3	KANSAS GAS SUPPLY
8315289	K-82-1007	1500720644		103		GREEN #2	SPIVEY-GRABS	12.8	KANSAS GAS SUPPLY
8315278	K-82-1167	1500720674		103		HASKARD "C" #1	HARDTNER	6.6	KANSAS GAS SUPPLY
8315279	K-82-1166	1500720681		103		HASKARD "C" #2	HARDTNER	6.6	KANSAS GAS SUPPLY
8315281	K-82-1165	1500720729		103		HASKARD "C" #3	HARDTNER	6.6	KANSAS GAS SUPPLY

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8315280	K-82-1164	1500721235		103		MORTON #2
8315340	K-82-1163	1500721236		103		MORTON #3
8315282	K-82-1162	1500721237		103		MORTON #4
8315284	K-82-1160	1500721339		103		MORTON #5
8315285	K-82-1161	1500721340		103		MORTON #6
8315283	K-82-1159	1507720611		103		MUIR "C" #1
8315286	K-82-1158	1507720643		103		MUIR "C" #2
8315288	K-82-1156	1507720673		103		MUIR "C" #3
8315287	K-82-1157	1507720729		103		MUIR "C" #4
-ENERGY RESERVES GROUP INC				RECEIVED:	12/27/82	JA: KS
8315343	K-82-0907	1512900000		108		MINOR GAS UNIT #1
-F B HOLL				RECEIVED:	12/27/82	JA: KS
8315347	K-82-0953	1504720817		108		W B CROSS "B" #2-17
-FLYNN ENERGY CORP				RECEIVED:	12/27/82	JA: KS
8315309	K-82-1182	1517520633		103		CLARK 8-2
8315308	K-82-1181	1517520634		103		HAMPTON 17-1
-GEAR PETROLEUM CO INC				RECEIVED:	12/27/82	JA: KS
8315290	K-82-0973	1500721440		103		NUCKOLLS A #1-30
-GEORGE A REED				RECEIVED:	12/27/82	JA: KS
8315332	K-82-1190	1511520541		108		FOSNOT #1
8315331	K-82-1189	1511520545		108		SCULLY "N" 27-13
-GEORGE R JONES				RECEIVED:	12/27/82	JA: KS
8315357	K-82-1046	1509520528		108		HUEY #1
-GETTY OIL COMPANY				RECEIVED:	12/27/82	JA: KS
8315276	K-82-1036	1511920565		103		C E WOOLDRIDGE #2
-GRAMLY RICHARD E				RECEIVED:	12/27/82	JA: KS
8315310	K-82-1141	1512522367		103		WITT #2
-GRANT OIL INC.				RECEIVED:	12/27/82	JA: KS
8315345	K-82-0924	1512523135		108		JABBEN #1-8
8315344	K-82-0923	1512523645		108		JABBEN #3-8
8315346	K-82-0926	1512523139		108		LOGANBILL A1-23
-GRAVES DRILLING CO INC				RECEIVED:	12/27/82	JA: KS
8315294	K-82-1209	1507720836		103		GRIGSBY #1
8315311	K-82-1210	1507720648		103		HOYT #1
-GULF OIL CORPORATION				RECEIVED:	12/27/82	JA: KS
8315352	K-82-0981	1501920924		108		KYGAR #2
8315358	K-82-1056	1517500000		108		P L MILLER #1
-IMPERIAL OIL COMPANY				RECEIVED:	12/27/82	JA: KS
8315317	K-82-0189	1515121007		102-4		LEMON #2-7
8315316	K-82-0188	1515121022		102-4		LEMON #4-7
8315319	K-82-0709	1515121144		102-4		LEMON #5-7
8315318	K-82-0703A	1509720882		102-4		WINKLEPLECK #4-12
-INTERNORTH INC				RECEIVED:	12/27/82	JA: KS
8315325	K-82-1129	1514520365		108		LUCAS "A" #1-13
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	12/27/82	JA: KS
8315360	K-82-1061	1507700000		108		DARNES A #1
8315298	K-82-1079	1507700000		108		DARNES A #2
8315359	K-82-1060	1507700000		108		GRABS B #2
8315323	K-82-1065	1507700000		108		WINGATE #5
8315322	K-82-1062	1507700000		108		WINGATE #8
-KAN-EX INC				RECEIVED:	12/27/82	JA: KS
8315302	K-82-1021	1500721410		103		LANDIS #1
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS

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FIELD NAME	PROD	PURCHASER
STRANAHAN	7.6	KANSAS GAS SUPPLY
STRANAHAN	7.6	KANSAS GAS SUPPLY
STRANAHAN	7.6	KANSAS GAS SUPPLY
STRANAHAN	7.6	KANSAS GAS SUPPLY
STRANAHAN	7.6	KANSAS GAS SUPPLY
SPIVEY-GRABS-BASIL	3.0	KANSAS GAS SUPPLY
SPIVEY-GRABS	1.2	KANSAS GAS SUPPLY
SPIVEY-GRABS-BASIL	2.0	KANSAS GAS SUPPLY
SPIVEY-GRABS-BASIL	1.8	KANSAS GAS SUPPLY
GREENWOOD	21.3	COLORADO INTERSTA
WAYNE NORTHWEST	7.0	REPUBLIC NATURAL
NORTH ARCHER	9.9	INTERNORTH INC
ARCHER	16.5	INTER NORTH INC
ILS	73.0	PEOPLES NATURAL G
BITIKOFER NORTH	10.0	CLOVER PIPELINE C
DURHAM CENTER	15.0	CLOVER PIPELINE C
REIDA EAST	13.0	KANSAS GAS SUPPLY
MCKINNEY	125.0	KANSAS POWER & LI
JEFFERSON-SYCAMORE	14.5	UNION GAS SYSTEM
JEFFERSON-SYCAMORE	0.3	UNION GAS SYSTEMS
JEFFERSON-SYCAMORE	0.3	UNION GAS SYSTEMS
JEFFERSON-SYCAMORE	9.6	UNION GAS SYSTEMS
UNKNOWN	180.0	GETTY OIL CO
WC (7/8 E OF LITTLE S	90.0	GETTY OIL CO
HEWINS	12.0	CITIES SERVICE GA
HUGOTON	5.0	INTER NORTH INC
CARVER ROBBINS WEST	15.0	PANHANDLE EASTERN
CARVER ROBBINS WEST	73.0	PANHANDLE EASTERN
CARVER ROBBINS WEST	56.5	PANHANDLE EASTERN
CARVER ROBBINS WEST	18.3	PANHANDLE EASTERN
	2.7	INTERNORTH INC
SPIVEY-GRABS	6.0	MOBIL OIL CORP
SPIVEY-GRABS	6.0	MOBIL OIL CORP
SPIVEY-GRABS	20.0	MOBIL OIL CORP
SPIVEY-GRABS	10.0	MOBIL OIL CORP
SPIVEY-GRABS	10.0	CITIES SERVICE OI
STRANATHAN	70.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8315301	K-82-1020	1500721410		103		LANDIS #2
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315300	K-82-1019	1500721410		103		LANDIS #3
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315299	K-82-1018	1500721410		103		LANDIS #4
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315297	K-82-1017	1500721410		103		LANDIS #5
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315296	K-82-1016	1500721410		103		LANDIS #6
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315295	K-82-1015	1500721410		103		LANDIS #7
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315293	K-82-1014	1500721410		103		LANDIS #8
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315292	K-82-1013	1500721410		103		LANDIS #9
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315291	K-82-1012	1500721410		103		LANDIS #10
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315289	K-82-1011	1500721410		103		LANDIS #11
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315281	K-82-1010	1500721410		103		LANDIS #12
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315279	K-82-1009	1500721410		103		LANDIS #13
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315278	K-82-1008	1500721410		103		LANDIS #14
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315277	K-82-1007	1500721410		103		LANDIS #15
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315275	K-82-1006	1500721410		103		LANDIS #16
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315274	K-82-1005	1500721410		103		LANDIS #17
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315273	K-82-1004	1500721410		103		LANDIS #18
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315272	K-82-1003	1500721410		103		LANDIS #19
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315271	K-82-1002	1500721410		103		LANDIS #20
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315270	K-82-1001	1500721410		103		LANDIS #21
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315269	K-82-1000	1500721410		103		LANDIS #22
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315268	K-82-0999	1500721410		103		LANDIS #23
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315267	K-82-0998	1500721410		103		LANDIS #24
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315266	K-82-0997	1500721410		103		LANDIS #25
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315265	K-82-0996	1500721410		103		LANDIS #26
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315264	K-82-0995	1500721410		103		LANDIS #27
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315263	K-82-0994	1500721410		103		LANDIS #28
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315262	K-82-0993	1500721410		103		LANDIS #29
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315261	K-82-0992	1500721410		103		LANDIS #30
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315260	K-82-0991	1500721410		103		LANDIS #31
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315259	K-82-0990	1500721410		103		LANDIS #32
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315258	K-82-0989	1500721410		103		LANDIS #33
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315257	K-82-0988	1500721410		103		LANDIS #34
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315256	K-82-0987	1500721410		103		LANDIS #35
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315255	K-82-0986	1500721410		103		LANDIS #36
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315254	K-82-0985	1500721410		103		LANDIS #37
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315253	K-82-0984	1500721410		103		LANDIS #38
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315252	K-82-0983	1500721410		103		LANDIS #39
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315251	K-82-0982	1500721410		103		LANDIS #40
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315250	K-82-0980	1500721410		103		LANDIS #41
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315249	K-82-0979	1500721410		103		LANDIS #42
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315248	K-82-0978	1500721410		103		LANDIS #43
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315247	K-82-0977	1500721410		103		LANDIS #44
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315246	K-82-0976	1500721410		103		LANDIS #45
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315245	K-82-0975	1500721410		103		LANDIS #46
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315244	K-82-0974	1500721410		103		LANDIS #47
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315243	K-82-0972	1500721410		103		LANDIS #48
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315242	K-82-0971	1500721410		103		LANDIS #49
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315241	K-82-0970	1500721410		103		LANDIS #50
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315240	K-82-0969	1500721410		103		LANDIS #51
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315239	K-82-0968	1500721410		103		LANDIS #52
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315238	K-82-0967	1500721410		103		LANDIS #53
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315237	K-82-0966	1500721410		103		LANDIS #54
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315236	K-82-0965	1500721410		103		LANDIS #55
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315235	K-82-0964	1500721410		103		LANDIS #56
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315234	K-82-0963	1500721410		103		LANDIS #57
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315233	K-82-0962	1500721410		103		LANDIS #58
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315232	K-82-0961	1500721410		103		LANDIS #59
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315231	K-82-0960	1500721410		103		LANDIS #60
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315230	K-82-0959	1500721410		103		LANDIS #61
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315229	K-82-0958	1500721410		103		LANDIS #62
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315228	K-82-0957	1500721410		103		LANDIS #63
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315227	K-82-0956	1500721410		103		LANDIS #64
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315226	K-82-0955	1500721410		103		LANDIS #65
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315225	K-82-0954	1500721410		103		LANDIS #66
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315224	K-82-0952	1500721410		103		LANDIS #67
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315223	K-82-0951	1500721410		103		LANDIS #68
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315222	K-82-0950	1500721410		103		LANDIS #69
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315221	K-82-0949	1500721410		103		LANDIS #70
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315220	K-82-0948	1500721410		103		LANDIS #71
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315219	K-82-0947	1500721410		103		LANDIS #72
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315218	K-82-0946	1500721410		103		LANDIS #73
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315217	K-82-0945	1500721410		103		LANDIS #74
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315216	K-82-0944	1500721410		103		LANDIS #75
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315215	K-82-0943	1500721410		103		LANDIS #76
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315214	K-82-0942	1500721410		103		LANDIS #77
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315213	K-82-0941	1500721410		103		LANDIS #78
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315212	K-82-0940	1500721410		103		LANDIS #79
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315211	K-82-0939	1500721410		103		LANDIS #80
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315210	K-82-0938	1500721410		103		LANDIS #81
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315209	K-82-0937	1500721410		103		LANDIS #82
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315208	K-82-0936	1500721410		103		LANDIS #83
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315207	K-82-0935	1500721410		103		LANDIS #84
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315206	K-82-0934	1500721410		103		LANDIS #85
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315205	K-82-0933	1500721410		103		LANDIS #86
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315204	K-82-0932	1500721410		103		LANDIS #87
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315203	K-82-0931	1500721410		103		LANDIS #88
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315202	K-82-0930	1500721410		103		LANDIS #89
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315201	K-82-0929	1500721410		103		LANDIS #90
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315200	K-82-0928	1500721410		103		LANDIS #91
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315199	K-82-0927	1500721410		103		LANDIS #92
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315198	K-82-0925	1500721410		103		LANDIS #93
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315197	K-82-0922	1500721410		103		LANDIS #94
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315196	K-82-0921	1500721410		103		LANDIS #95
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315195	K-82-0920	1500721410		103		LANDIS #96
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315194	K-82-0919	1500721410		103		LANDIS #97
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315193	K-82-0918	1500721410		103		LANDIS #98
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315192	K-82-0917	1500721410		103		LANDIS #99
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315191	K-82-0916	1500721410		103		LANDIS #100
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315190	K-82-0915	1500721410		103		LANDIS #101
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315189	K-82-0914	1500721410		103		LANDIS #102
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315188	K-82-0913	1500721410		103		LANDIS #103
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315187	K-82-0912	1500721410		103		LANDIS #104
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315186	K-82-0911	1500721410		103		LANDIS #105
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315185	K-82-0910	1500721410		103		LANDIS #106
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315184	K-82-0909	1500721410		103		LANDIS #107
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315183	K-82-0908	1500721410		103		LANDIS #108
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315182	K-82-0906	1500721410		103		LANDIS #109
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315181	K-82-0905	1500721410		103		LANDIS #110
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315180	K-82-0904	1500721410		103		LANDIS #111
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315179	K-82-0903	1500721410		103		LANDIS #112
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315178	K-82-0902	1500721410		103		LANDIS #113
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315177	K-82-0901	1500721410		103		LANDIS #114
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315176	K-82-0900	1500721410		103		LANDIS #115
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315175	K-82-0899	1500721410		103		LANDIS #116
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315174	K-82-0898	1500721410		103		LANDIS #117
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315173	K-82-0897	1500721410		103		LANDIS #118
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315172	K-82-0896	1500721410		103		LANDIS #119
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315171	K-82-0895	1500721410		103		LANDIS #120
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315170	K-82-0894	1500721410		103		LANDIS #121
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315169	K-82-0893	1500721410		103		LANDIS #122
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315168	K-82-0892	1500721410		103		LANDIS #123
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315167	K-82-0891	1500721410		103		LANDIS #124
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315166	K-82-0890	1500721410		103		LANDIS #125
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315165	K-82-0889	1500721410		103		LANDIS #126
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315164	K-82-0888	1500721410		103		LANDIS #127
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315163	K-82-0887	1500721410		103		LANDIS #128
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315162	K-82-0886	1500721410		103		LANDIS #129
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315161	K-82-0885	1500721410		103		LANDIS #130
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315160	K-82-0884	1500721410		103		LANDIS #131
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315159	K-82-0883	1500721410		103		LANDIS #132
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315158	K-82-0882	1500721410		103		LANDIS #133
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315157	K-82-0881	1500721410		103		LANDIS #134
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315156	K-82-0880	1500721410		103		LANDIS #135
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315155	K-82-0879	1500721410		103		LANDIS #136
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	12/27/82	JA: KS
8315154	K-82-0878	1500721410		103		LANDIS #137

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8315356	K-82-1043	1505500000		108		PARR #1	HUGOTON	12.0	KANSAS NEBRASKA N
-KENNEDY & MITCHELL INC				RECEIVED:	12/27/82	JA: KS			
8315291	K-82-1052	1517520422		103		AMIGO #31-399	ARKALON	300.0	INTER NORTH INC
8315293	K-82-1040	1517520600		103		JACQUART #46-760	ARALON ARKALON	360.0	INTER NORTH INC
-LADD PETROLEUM CORPORATION				RECEIVED:	12/27/82	JA: KS			
8315296	K-82-1042	1507500000		108		MCU 1411-B	BRADSHAW	96.3	KANSAS NEBRASKA N
-MARCO PRODUCTION CO				RECEIVED:	12/27/82	JA: KS			
8315315	K-82-1199	1511520776		103		KIELLIN #3	LOST SPRINGS	5.4	CLOVER PIPELINE C
8315314	K-82-1200	1511520785		103		KIELLIN #4	LOST SPRINGS	5.4	CLOVER PIPELINE C
8315333	K-82-1205	1511520711		108		VINDUSKA #1	ANTELOPE	8.3	CLOVER PIPELINE C
-MCCOY PETROLEUM CORP				RECEIVED:	12/27/82	JA: KS			
8315320	K-82-1006	1507720819		102-4		BAKER #1	ATTICA	91.0	PEOPLES NATURAL G
-OSWEGO OIL & GAS CO INC				RECEIVED:	12/27/82	JA: KS			
8315341	K-82-0885	1509920975		108		SCHREPPEL #6	SO BARTLETT	0.0	CITIES SERVICE GA
-RAINS & WILLIAMSON OIL CO INC				RECEIVED:	12/27/82	JA: KS			
8315295	K-82-1221	1511920576		103		SCHRIDDE #1	ANGELL	95.0	PANHANDLE EASTERN
-RINE DRILLING CO				RECEIVED:	12/27/82	JA: KS			
8315261	K-82-1085	1502520477		102-4		BARBY #1-27	SNAKE CREEK	60.0	INTER NORTH INC
8315264	K-82-1088	1502520544		102-4		BARBY #4-27	SNAKE CREEK	60.0	INTER NORTH INC
8315262	K-82-1084	1502520483		102-4		BARBY #5-21	SNAKE CREEK	60.0	INTER NORTH INC
8315263	K-82-1086	1502520564		102-4		BARBY #6-21	SNAKE CREEK	60.0	INTER NORTH INC
8315265	K-82-1089	1517320418		102-4		BARBY-HARPER #5-22	SNAKE CREEK	60.0	INTER NORTH INC
8315266	K-82-1090	1502520334		102-4		GWENDA LEA #1-22	SNAKE CREEK	60.0	INTER NORTH INC
8315304	K-82-1082	1502520396		103		TUTTLE #1-7	UNNAMED FIELD	73.0	INTER NORTH INC
-RUPE OIL CO INC				RECEIVED:	12/27/82	JA: KS			
8315342	K-82-0901	1509520032		108		GIBBENS #1	GIBBENS	10.9	CENTRAL STATES GA
-SAGE DRILLING CO INC				RECEIVED:	12/27/82	JA: KS			
8315299	K-82-1024	1507120257		103		SAGE-TAYLOR-ROELFS 1-16	BYERLY	110.0	NATURAL GAS SALES
-SHAWMAR OIL CO INC				RECEIVED:	12/27/82	JA: KS			
8315353	K-82-1015	1511520553		108		BUETHE 00173-000009	ANTELOPE POOL	12.0	CITIES SERVICE GA
8315354	K-82-1016	1511520231		108		BUETHE 00173-000009	ANTELOPE POOL	12.0	CITIES SERVICE GA
-THE MAURICE L BROWN COMPANY				RECEIVED:	12/27/82	JA: KS			
8315303	K-82-1037	1509720876		103		EMERSON "A" #2	ALFORD EXTENSION	15.0	KANSAS GAS SUPPLY
8315301	K-82-1044	1509720804		103		VIEUX #2	ALFORD EXTENSION	11.0	KANSAS GAS SUPPLY
-TXO PRODUCTION CORP				RECEIVED:	12/27/82	JA: KS			
8315268	K-82-1095	1507720591		102-4		ANTHONY #1	SULLIVAN	300.0	NORTHERN GAS PROD
8315269	K-82-1096	1507720572		102-4		GILL "A" #1	SULLIVAN	915.0	NORTHERN GAS PROD
8315272	K-82-1100	1507710539		102-4		MCKAIG #1	SULLIVAN	575.0	NORTHERN GAS PROD
8315270	K-82-1098	1507720647		102-4		MCKAIG "A" #1	SULLIVAN	450.0	DELHI CORP
8315271	K-82-1099	1507720684		102-4		MCKAIG "A" #2	SULLIVAN	50.0	DELHI CORP
8315273	K-82-1101	1507720554		102-4		ROBINSON "C" #1	SULLIVAN	500.0	NORTHERN GAS PROD
8315274	K-82-1102	1507720703		102-4		ROBINSON "G" #1	SULLIVAN	300.0	DELHI CORP
8315275	K-82-1103	1507720518		102-4		SANDERS "E" #1	SULLIVAN	150.0	NORTHERN GAS PROD
8315321	K-82-1049	1503320567		102-4		WILLEMS "A" #5	COLLIER FLATS	25.0	INTER NORTH INC
8315260	K-82-1050	1503320541		102-4		WILLEMS "A" #6	COLLIER FLATS	10.0	INTER NORTH INC
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MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
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-LORCAN OIL & GAS CORP				RECEIVED:	12/30/82	JA: MI			
8315468		2102500000		102-4		WILLIAMS #1-26	LEE EXTENSION ALBION	38.8	MICHIGAN GAS UTIL
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OHIO DEPARTMENT OF NATURAL RESOURCES									
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-ALTEX INC				RECEIVED:	12/30/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8315469		3404528190		103		PICKERING ETALS #1A	RICHLAND TOWNSHIP	1.5	NATIONAL GAS & OI
-ATLAS ENERGY GROUP INC				RECEIVED: 12/30/82 JA: OH					
8315474		3415522197		102-2	107-TF	B MILLER #1	HARTFORD	6.0	COLUMBIA GAS TRAN
8315471		3415522134		102-2	107-TF	K RUST #2	BROOKFIELD	49.0	COLUMBIA GAS TRAN
8315472		3415522185		102-2	107-TF	P K MILLER #3	KINSMAN	5.0	COLUMBIA GAS TRAN
8315473		3415522188		102-2	107-TF	SANCHEZ #1	HARTFORD	14.0	COLUMBIA GAS TRAN
8315470		3415522039		102-2	107-TF	WAGNER #1	GUSTAVUS	12.0	COLUMBIA GAS TRAN
-BERRESFORD ENTERPRISES INC				RECEIVED: 12/30/82 JA: OH					
8315478		3416725245		108		D ZIMMERMAN #1		1.6	
8315477		3416725130		108		LELAND BALL #1		2.0	
8315488		3416727266		103		LOUIS SCHILLING #12	WATERFORD	0.0	
8315475		3403124561		103		MJ & ARTHUR BUMPUS #3	TIVERTON	0.0	
8315476		3416724983		108		TOM DAVIS #1		7.0	
8315479		3416725281		108		WILBUR WECKBACHER #1		1.4	
-BUCKEYE CRUDE EXPLORATION INC				RECEIVED: 12/30/82 JA: OH					
8315481		3416923293		103	107-TF	SCHLABACH #1	CLINTON	13.5	COLUMBIA GAS TRAN
-CAMERON ASSOCIATES				RECEIVED: 12/30/82 JA: OH					
8315482		3402920794	D	107-TF		HUMENIUK #1	KNOX	0.0	
-ENTERPRISE ENERGY CORP				RECEIVED: 12/30/82 JA: OH					
8315484		3415123672		103		DUTTON #3	BETHLEHEM	36.5	
8315485		3415123678		103		DUTTON #4	BETHLEHEM	27.3	
8315483		3415123673		103		DUTTON #6	BETHLEHEM	18.2	
-ERIE OIL & GAS CO				RECEIVED: 12/30/82 JA: OH					
8315486		3404320080		103		M-HUNTER #2	FLORENCE	36.0	COLUMBIA GAS TRAN
8315487		3404320081		103		M-HUNTER #3	FLORENCE	18.0	COLUMBIA GAS TRAN
-HAY NATURAL ENERGY INC				RECEIVED: 12/30/82 JA: OH					
8315488		3416723765	D	103		THOMAS #1	LAWRENCE	30.0	RIVER GAS CO
-JEFFERSON OIL & GAS CO				RECEIVED: 12/30/82 JA: OH					
8315489		3412725664		103		SAMSON #2	FULTONHAM WEST	10.0	COLUMBIA GAS TRAN
-JONSU OIL CORP				RECEIVED: 12/30/82 JA: OH					
8315490		3408924523		103		KENT #2	PERRY	5.0	NATIONAL GAS & OI
-L & M EXPLORATION INC				RECEIVED: 12/30/82 JA: OH					
8315491		3412724234		108		LEWIS/PEABODY #1		9.1	FORAKER GAS CO IN
-L & M OPERATING INC				RECEIVED: 12/30/82 JA: OH					
8315496		3416725652		103		GLEN BIEHL #2	LAWRENCE	10.0	COLUMBIA GAS TRAN
8315492		3412724886		108		NEIL ADCOCK #3		10.0	COLUMBIA GAS TRAN
8315497		3416725741		103		NOLAND/MCCAIN #3	FEARING	10.0	COLUMBIA GAS TRAN
8315493		3412724895		108		RUSSELL FOLK #3		2.0	FORAKER GAS CO IN
-L & M PETROLEUM INC				RECEIVED: 12/30/82 JA: OH					
8315494		3412725170		108		FOLK/LONES #1		3.5	FORAKER GAS CO IN
8315495		3416724644		108		FRANK BALL #1		12.8	COLUMBIA GAS TRAN
-LESLIE OIL AND GAS CO INC				RECEIVED: 12/30/82 JA: OH					
8315499		3410322301		103		GIBSON UNIT #1	SPENCER	20.0	COLUMBIA GAS TRAN
8315498		3410322281		103		GIBSON UNIT #2	SPENCER	20.0	COLUMBIA GAS TRAN
8315501		3410322695		103		LEONARD WELL #5	SPENCER	20.0	COLUMBIA GAS TRAN
8315502		3410322770		103		LEONARD WELL #6	SPENCER	20.0	COLUMBIA GAS TRAN
8315503		3410322922		103		LEONARD WELL #7	SPENCER	20.0	COLUMBIA GAS TRAN
8315504		3410322923		103		LEONARD WELL #8	SPENCER	20.0	COLUMBIA GAS TRAN
8315500		3410322485		103		SPENCER VILLAGE UNIT #1	SPENCER	20.0	COLUMBIA GAS TRAN
8315505		3410322926		103		VLACK WELL #1	SPENCER	20.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED: 12/30/82 JA: OH					
8315508		3411926417		103		A MATTOS #1-B	HARRISON	12.0	COLUMBIA GAS TRAN
8315507		3411926330		103		PETTET UNIT #1	HARRISON	12.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA TKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8315506		3411522860		103		SIGNIST-HIVNOR #8-B	YORK	12.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	12/30/82	JA: OH			
8315513		3411122836		103		BERNARD BLACKSTONE #1	SUMMIT	10.0	
-RELIANCE ENERGY				RECEIVED:	12/30/82	JA: OH			
8315510		3404520520		108		FRED LOMER #1		8.0	COLUMBIA GAS TRAN
8315509		3404520519		108		ROY LYNN #1		14.0	COLUMBIA GAS TRAN
-RIVER CITY DRILLING INC				RECEIVED:	12/30/82	JA: OH			
8315514		341672709[illegible]		103		CHARLES & LUCINE WRIGHT #1	WARREN TWP	6.0	
-RONALD F MORAN				RECEIVED:	12/30/82	JA: OH			
8315512		3408924471		103		WILLIAM & JANET JONES #2	MARY ANN	0.0	NATIONAL GAS & OI
-SANTA FE DRILLING CO INC				RECEIVED:	12/30/82	JA: OH			
8315515		3416740150		103		ROBERT BIEHL #1	FEARING	50.0	
-SHAREMET OIL & GAS CO				RECEIVED:	12/30/82	JA: OH			
8315516		3411122572	D	107-DV		JAMES MCCAMMON 3411122572 14	JAMES MCCAMMON	40.0	TEXAS EASTERN GAS
-VALENTINE & MILLER				RECEIVED:	12/30/82	JA: OH			
8315536		341672[illegible]877		108		AUDREY PATTERSON #1	NEW MATAMORAS QUAD GR	2.0	RIVER GAS CO
8315535		3416720797		108		CHARLES REESE #1	NEW MATAMORAS QUAD GR	0.9	RIVER GAS CO
8315538		3416724046		108		CHARLES REESE #4	NEW MATAMORAS QUAD GR	0.9	RIVER GAS CO
8315532		3416700804		108		DAVID BURNETT #2	NEW MATAMORAS QUAD GR	0.5	RIVER GAS CO
8315530		3416700802		108		DAVID BURNETT #4	NEW MATAMORAS QUAD GR	0.0	RIVER GAS CO
8315534		3416720724		108		GILES E OLIVER NO 1	NEW MATAMORAS QUAD GR	0.5	RIVER GAS CO
8315531		3416700803		108		MARY WEBER #1	NEW MATAMORAS QUAD GR	0.5	RIVER GAS CO
8315537		3416720879		108		RAYMOND FELTON #1	NEW MATAMORAS QUAD GR	2.1	RIVER GAS CO
8315533		3416700805		108		SANFORD HANLON #1	NEW MATAMORAS QUAD GR	1.8	RIVER GAS CO
-VICTOR MCKENZIE				RECEIVED:	12/30/82	JA: OH			
8315511		3412725744		103		RUBIN WHETHERHOLT #1	HOPEWELL	0.0	COLUMBIA GAS TRAN
-WILLIAM N TIPKA				RECEIVED:	12/30/82	JA: OH			
8315517		3415722660		108		ANDERSON #1		9.0	EAST OHIO GAS CO
8315518		3415722780		108		ANDERSON #2		6.0	EAST OHIO GAS CO
8315529		3415723213		108		B COOKSON #1 (EUJEAN)		17.0	EAST OHIO GAS CO
8315520		3415722890		108		BOITNOTT-LUTE #1		4.0	EAST OHIO GAS CO
8315525		3415723027		10[illegible]		DIEMOTH #1		15.0	EAST OHIO GAS CO
8315522		3415723007		10[illegible]		HOOVER UNIT #1		6.0	EAST OHIO GAS CO
8315519		3415722809		108		KAISER #3A		12.0	EAST OHIO GAS CO
8315521		3415722956		108		KAISER #4A		4.0	EAST OHIO GAS CO
8315527		3415723044		10[illegible]		KAISER #5A		3.0	EAST OHIO GAS CO
8315528		3415723142		108		KOTTE #1		9.0	EAST OHIO GAS CO
8315526		3415723028		108		RICKLIC #1		10.0	EAST OHIO GAS CO
8315524		3415723023		108		SCHWARTZ-COOKSON #1		18.0	EAST OHIO GAS CO
8315523		3415723022		10[illegible]		SCHWARTZ-COOKSON #2		18.0	EAST OHIO GAS CO
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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
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-ADOBE OIL & GAS CORPORATION				RECEIVED:	12/28/82	JA: PA			
8315380	18040	3706522614		103		JOHN FREAS #1	PUNXSUTAWNEY	23.0	COLUMBIA GAS TRAN
-ANGERMAN ASSOCIATES INC				RECEIVED:	12/28/82	JA: PA			
8315371	17455	3700528568		108		EUGENE V WELLS #1 - ARM-22568	WEST PENNA - UPPER DE	8.0	INDUSTRIAL ENERGY
8315372	17662	3706327093		103		HARRY E JAMES #1 - IND-27093	W PENNA - UPPER DEVON	15.0	PEOPLES NATURAL G
8315379	17456	3712921756		108		R L & G E WAGNER #1 - WES-21756	W PENNA UPPER DEVONIA	17.1	INDUSTRIAL ENERGY
-ASHTOLA PRODUCTION CO				RECEIVED:	12/28/82	JA: PA			
8315383	18232	3705120297	D	102-3		CURTIS COTTOM #1	WALTERSBURG	30.0	UGI DEVELOPMENT C
8315382	18231	3705120298	D	102-3		CURTIS COTTOM #2	WALTERSBURG	31.0	UGI DEVELOPMENT C
8315384	18233	3705120306	D	102-3		DONALD O MURPHY #1	WALTERSBURG	21.0	UGI DEVELOPMENT C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8315381	18218	3751203040	D	102-3		J HAROLD ARNOLD #3	WALTERSBURG	44.9	UGI DEVELOPMENT C
-ATLAS RESOURCES INC				RECEIVED:	12/28/82	JA: PA			
8315416	18449	3706327158		102-4		CLYMER CITIZENS WATER CO #1	CHERRYHILL	245.0	COLUMBIA GAS TRAN
8315415	18448	3706327161		102-2		RUSSELLVILLE GIBSON #1	CHERRYHILL	84.0	COLUMBIA GAS TRAN
8315414	18447	3706327162		102-2		RUSSELLVILLE-GRIFFITH #1	CHERRYHILL	200.0	COLUMBIA GAS TRAN
8315412	18442	3706327154		103		SCHROTH 29A	GREEN	87.0	COLUMBIA GAS TRAN
8315413	18446	3706327061		102-2		TATE #2	GREEN	237.0	COLUMBIA GAS TRAN
-CABOT OIL & GAS CORP				RECEIVED:	12/28/82	JA: PA			
8315385	18259	3708520452		102-2		WILLIAM GUNTER #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/28/82	JA: PA			
8315444	18511	3706326875		102-2		B MOYER #1 WN-1884	MONTGOMERY	4.0	GENERAL SYSTEM PU
8315452	18519	3703321236		102-4		D SPENCER UNIT WN-1937	PENN	115.0	GENERAL SYSTEM PU
8315451	18518	3706327153		102-2		DEAN J LEARN WN-1946	GREEN	4.0	GENERAL SYSTEM PU
8315447	18514	3706327018		102-2		IONA F HUDSON WN-1918	GREEN	8.0	GENERAL SYSTEM PU
8315445	18512	3703321344		102-2		IRMA FORNEY #1 WN-1903	BURNSIDE	96.0	GENERAL SYSTEM PU
8315450	18517	3706327016		102-2		JAMES B WISSINGER #1 WN-1923	GREEN	9.0	GENERAL SYSTEM PU
8315449	18516	3706327014		102-2		JOHN MCCOY WN-1922	GREEN	8.0	GENERAL SYSTEM PU
8315443	18509	3706521620		102-2		MAGDALENE M SENIOR WN-1680	WASHINGTON	7.0	GENERAL SYSTEM PU
8315365	12071	3703321015		108		REED REITER WN 1824	BRADY TOWNSHIP	2.2	GENERAL SYSTEM PU
8315446	18513	3706327126		102-2		RHEUL STIFFLER #2 WN-1909	GREENE	27.0	GENERAL SYSTEM PU
8315442	18507	3706521441	D	102-2		THOMAS J WAYNE #1 WN-1587	WINSLOW	2.0	GENERAL SYSTEM PU
8315448	18515	3706327020		102-2		TWO LICK VALLEY ROD & GUN C WN-1920	GREEN	9.0	GENERAL SYSTEM PU
-DELTA 80 S T JOINT VENTURE				RECEIVED:	12/28/82	JA: PA			
8315361	13305	3703321028		108		GRIMMINGER #1	PENN	7.0	CONSOLIDATED GAS
-DORAN & ASSOCIATES INC				RECEIVED:	12/28/82	JA: PA			
8315378	17755	3706326934		103		LAWRENCE ELLIOTT #1 KA-133	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRAN
-EASTERN STATES EXPLORATION CO				RECEIVED:	12/28/82	JA: PA			
8315441	18502	3706522495		103		JAMES E PIERCE #3	RATHMEL	35.0	NATIONAL FUEL GAS
-ENVIROGAS INC				RECEIVED:	12/28/82	JA: PA			
8315465	18532	3704920630		108		BUCHERAL #1	NORTH EAST DEEP	3.0	NATIONAL FUEL GAS
8315466	18533	3704920573		108		D WILLATS #1	NORTH EAST DEEP	0.5	NATIONAL FUEL GAS
8315455	18522	3704920649		108		ELIASON #1	ERIE DEEP	5.0	NATIONAL FUEL GAS
8315464	16531	3704920558		108		EVANS #1	NORTH EAST DEEP	0.4	NATIONAL FUEL GAS
8315454	18521	3704920642		108		G ORTON #1	NORTH EAST	6.0	NATIONAL FUEL GAS
8315463	18530	3704920577		108		GARFIELD #1	HARBORCREEK	1.0	NATIONAL FUEL GAS
8315461	18528	3704920679		108		KEARNY #1	ERIE DEEP	1.0	NATIONAL FUEL GAS
8315467	18534	3704920589		108		KOEHLER #1	NORTH EAST DEEP	4.0	NATIONAL FUEL GAS
8315453	18520	3704920687		108		KOZLOWSKI #1	ERIE DEEP	0.2	NATIONAL FUEL GAS
8315462	18529	3704920720		108		MORTON #2	WILDCAT	0.2	NATIONAL FUEL GAS
8315458	18525	3704920556		108		NORTH EAST TOWNSHIP #1	NORTH EAST	18.0	NATIONAL FUEL GAS
8315459	18526	3704920702		108		OCHS #1	ERIE DEEP	17.0	NATIONAL FUEL GAS
8315457	18524	3704920636		108		R MEEHL #1	NORTH EAST	17.0	NATIONAL FUEL GAS
8315456	18523	3704920667		108		SHUNK #1	ERIE DEEP	1.0	NATIONAL FUEL GAS
8315460	18527	3704920680		108		TUTTLE #2	ERIE DEEP	8.0	NATIONAL FUEL GAS
-EPSILON 1980 S T JOINT VENTURE				RECEIVED:	12/28/82	JA: PA			
8315363	11626	3703321014		108		DELARME #1	BRADY	25.0	CONSOLIDATED GAS
8315362	11625	3703321019		108		DELARME #2	BRADY	25.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:	12/28/82	JA: PA			
8315417	18457	3703321448		103		LEVI A LEAMER #1	BURNSIDE	0.0	CONSOLIDATED GAS
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	12/28/82	JA: PA			
8315390	18370	3706327027		103		BRUNER #4	BLACKLICK	39.9	COLUMBIA GAS TRAN
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315388	18358	3706522428		103		EBERHART #2	BELLS MILLS	19.8	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315387	18357	3706522427		103		EBERHART #3	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315386	18356	3706522426		103		EBERHART #4	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315385	18355	3706522425		103		EBERHART #5	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315384	18354	3706522424		103		EBERHART #6	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315383	18353	3706522423		103		EBERHART #7	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315382	18352	3706522422		103		EBERHART #8	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315381	18351	3706522421		103		EBERHART #9	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315380	18350	3706522420		103		EBERHART #10	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315379	18349	3706522419		103		EBERHART #11	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315378	18348	3706522418		103		EBERHART #12	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315377	18347	3706522417		103		EBERHART #13	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315376	18346	3706522416		103		EBERHART #14	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315375	18345	3706522415		103		EBERHART #15	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315374	18344	3706522414		103		EBERHART #16	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315373	18343	3706522413		103		EBERHART #17	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315372	18342	3706522412		103		EBERHART #18	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315371	18341	3706522411		103		EBERHART #19	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315370	18340	3706522410		103		EBERHART #20	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315369	18339	3706522409		103		EBERHART #21	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315368	18338	3706522408		103		EBERHART #22	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315367	18337	3706522407		103		EBERHART #23	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315366	18336	3706522406		103		EBERHART #24	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315365	18335	3706522405		103		EBERHART #25	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315364	18334	3706522404		103		EBERHART #26	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315363	18333	3706522403		103		EBERHART #27	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315362	18332	3706522402		103		EBERHART #28	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315361	18331	3706522401		103		EBERHART #29	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315360	18330	3706522400		103		EBERHART #30	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315359	18329	3706522399		103		EBERHART #31	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315358	18328	3706522398		103		EBERHART #32	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315357	18327	3706522397		103		EBERHART #33	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315356	18326	3706522396		103		EBERHART #34	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315355	18325	3706522395		103		EBERHART #35	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315354	18324	3706522394		103		EBERHART #36	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315353	18323	3706522393		103		EBERHART #37	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315352	18322	3706522392		103		EBERHART #38	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315351	18321	3706522391		103		EBERHART #39	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315350	18320	3706522390		103		EBERHART #40	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315349	18319	3706522389		103		EBERHART #41	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315348	18318	3706522388		103		EBERHART #42	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315347	18317	3706522387		103		EBERHART #43	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315346	18316	3706522386		103		EBERHART #44	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315345	18315	3706522385		103		EBERHART #45	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315344	18314	3706522384		103		EBERHART #46	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315343	18313	3706522383		103		EBERHART #47	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315342	18312	3706522382		103		EBERHART #48	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315341	18311	3706522381		103		EBERHART #49	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315340	18310	3706522380		103		EBERHART #50	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315339	18309	3706522379		103		EBERHART #51	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315338	18308	3706522378		103		EBERHART #52	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315337	18307	3706522377		103		EBERHART #53	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315336	18306	3706522376		103		EBERHART #54	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315335	18305	3706522375		103		EBERHART #55	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315334	18304	3706522374		103		EBERHART #56	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315333	18303	3706522373		103		EBERHART #57	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315332	18302	3706522372		103		EBERHART #58	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315331	18301	3706522371		103		EBERHART #59	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315330	18300	3706522370		103		EBERHART #60	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315329	18299	3706522369		103		EBERHART #61	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315328	18298	3706522368		103		EBERHART #62	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315327	18297	3706522367		103		EBERHART #63	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315326	18296	3706522366		103		EBERHART #64	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315325	18295	3706522365		103		EBERHART #65	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315324	18294	3706522364		103		EBERHART #66	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315323	18293	3706522363		103		EBERHART #67	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315322	18292	3706522362		103		EBERHART #68	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315321	18291	3706522361		103		EBERHART #69	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315320	18290	3706522360		103		EBERHART #70	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315319	18289	3706522359		103		EBERHART #71	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315318	18288	3706522358		103		EBERHART #72	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315317	18287	3706522357		103		EBERHART #73	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315316	18286	3706522356		103		EBERHART #74	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315315	18285	3706522355		103		EBERHART #75	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315314	18284	3706522354		103		EBERHART #76	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315313	18283	3706522353		103		EBERHART #77	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315312	18282	3706522352		103		EBERHART #78	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315311	18281	3706522351		103		EBERHART #79	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315310	18280	3706522350		103		EBERHART #80	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315309	18279	3706522349		103		EBERHART #81	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315308	18278	3706522348		103		EBERHART #82	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315307	18277	3706522347		103		EBERHART #83	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315306	18276	3706522346		103		EBERHART #84	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315305	18275	3706522345		103		EBERHART #85	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315304	18274	3706522344		103		EBERHART #86	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315303	18273	3706522343		103		EBERHART #87	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315302	18272	3706522342		103		EBERHART #88	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315301	18271	3706522341		103		EBERHART #89	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315300	18270	3706522340		103		EBERHART #90	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315299	18269	3706522339		103		EBERHART #91	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315298	18268	3706522338		103		EBERHART #92	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315297	18267	3706522337		103		EBERHART #93	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315296	18266	3706522336		103		EBERHART #94	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315295	18265	3706522335		103		EBERHART #95	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315294	18264	3706522334		103		EBERHART #96	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315293	18263	3706522333		103		EBERHART #97	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315292	18262	3706522332		103		EBERHART #98	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315291	18261	3706522331		103		EBERHART #99	BELLS MILLS	19.8	
-KRIEBEL WELLS 1981				RECEIVED:	12/28/82	JA: PA			
8315290	18260	3706522330		103		EBERHART #100	BELLS MILLS	19.8	

JD NO	DA EKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-KRIEBEL WELLS 82				RECEIVED:	12/28/82	JA: PA
8315389	18359	3706522658		103		LASKA #1
-PHILLIPS PRODUCTION CO				RECEIVED:	12/28/82	JA: PA
8315368	17375	3706522183		108		FRED ROBERTS #1
8315369	17374	3706522184		108		FRED ROBERTS #2
8315370	17376	3706325503		108		JOHN VALKOSKY #1
-PNB PETROLEUM CORP				RECEIVED:	12/28/82	JA: PA
8315386	18280	3708520382		103		H MILLER UNIT #1
8315387	18281	3708520382		107-TF		H MILLER UNIT #1
-RINDFUSS ROBERT P & BARBARA J				RECEIVED:	12/28/82	JA: PA
8315366	15996	3704921189		107-TF		RINDFUSS #1 ERI-21189
8315367	15997	3749211890		102-2		RINDFUSS #1 ERI-21189
-T W PHILLIPS GAS & OIL CO				RECEIVED:	12/28/82	JA: PA
8315425	18486	3702100000		108		A B WESTOVER #1
8315397	18425	3712900000		108		AMANDA J LUTZ #1
8315435	18496	3700500000		108		B COHEN #1
8315410	18439	3712900000		108		CYRUS BEATTY #1
8315439	18500	3700500000		108		D K SRADER #1
8315440	18501	3700500000		108		D K SRADER #3
8315405	18433	3712900000		108		E H NEWELL #1
8315423	18484	3702100000		108		ELIJAH BAKER #1
8315393	18421	3712900000		108		FRANK M WATT #3
8315432	18493	3703300000		108		G S & G P TOZER #1
8315409	18437	3712900000		108		GEORGE RIDENOUR #1
8315436	18497	3700500000		108		H P HUDSON #1
8315433	18494	3700500000		108		J A BEAL #3
8315434	18495	3700500000		108		J A BEALE #6
8315394	18422	3712900000		108		J C COLE #1
8315395	18423	3712900000		108		J M ELLIOTT #3
8315429	18490	3703300000		108		J M GALLAGHER #1
8315401	18429	3712900000		108		J S CROOKS #1
8315406	18434	3712900000		108		J S MCLAUGHLIN #1
8315398	18426	3712920294		108		JOHN HAMILTON #1
8315399	18427	3712900000		108		JONATHAN REMALEY #1
8315391	18419	3717120468		108		LORENZ BRUNECKE #2
8315408	18436	3712900000		108		M E LUDWICK #2
8315430	18491	3703300000		108		M J & R D TONKIN EXRS #1
8315431	18492	3703300000		108		M J & R D TONKIN EXRS #2
8315424	18485	3702100000		108		NATHALIA G GIBSON #1
8315400	18428	3712900000		108		PETER BEIGHLEY #2
8315411	18438	3712900000		108		PHILIP RIDENOUR #1
8315438	18498	3700500000		108		ROBISON KENNEDY #1
8315437	18499	3700500000		108		ROBISON KENNEDY #2
8315404	18432	3712900000		108		VICTOR L ANDERSON #1
8315403	18431	3712900000		108		VICTOR L ANDERSON #2
8315392	18420	3712920389		108		W A YOUNG #3
8315396	18424	3712900000		108		W G KANE #2
8315402	18430	3712900000		108		W H & G F CROOKS #1
8315407	18435	3712900000		108		W H & M A CUPPS #1
8315428	18489	3703320439		108		W P CLARK #5
8315426	18487	3703300000		108		WINIFRED P CLARK #2
8315427	18484	3703320431		108		WINIFRED P CLARK #4
-VINEYARD OIL & GAS CO				RECEIVED:	12/28/82	JA: PA

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FIELD NAME	PROD	PURCHASER
BELLS MILLS	19.0	
BELL	12.0	CONSOLIDATED GAS
BELL	12.0	CONSOLIDATED GAS
CANOE	18.0	CONSOLIDATED GAS
FRENCH CREEK	27.0	TENNESSEE GAS PIP
FRENCH CREEK	27.0	TENNESSEE GAS PIP
WATERFORD	0.0	COLUMBIA GAS TRAN
WATERFORD	0.0	COLUMBIA GAS TRAN
SUSQUEHANNA	3.0	T W PHILLIPS GAS
FRANKLIN	1.8	T W PHILLIPS GAS
SOUTH BUFFALO	1.0	T W PHILLIPS GAS
FRANKLIN	2.5	T W PHILLIPS GAS
SOUTH BUFFALO	2.2	T W PHILLIPS GAS
SOUTH BUFFALO	1.8	T W PHILLIPS GAS
ALLEGHENY	0.9	T W PHILLIPS GAS
SUSQUEHANNA	1.8	T W PHILLIPS GAS
FRANKLIN	2.0	T W PHILLIPS GAS
BURNSIDE	1.2	T W PHILLIPS GAS
WASHINGTON	2.3	T W PHILLIPS GAS
SOUTH BUFFALO	6.5	T W PHILLIPS GAS
SOUTH BUFFALO	0.3	T W PHILLIPS GAS
SOUTH BUFFALO	1.5	T W PHILLIPS GAS
FRANKLIN	3.1	T W PHILLIPS GAS
FRANKLIN	2.3	T W PHILLIPS GAS
BURNSIDE	3.1	T W PHILLIPS GAS
WASHINGTON	9.4	T W PHILLIPS GAS
ALLEGHENY	0.4	T W PHILLIPS GAS
FRANKLIN	2.7	T W PHILLIPS GAS
FRANKLIN	2.4	T W PHILLIPS GAS
FRANKLIN	2.2	T W PHILLIPS GAS
WASHINGTON	1.9	T W PHILLIPS GAS
BURNSIDE	0.8	T W PHILLIPS GAS
BURNSIDE	0.6	T W PHILLIPS GAS
SUSQUEHANNA	0.6	T W PHILLIPS GAS
WASHINGTON	1.2	T W PHILLIPS GAS
WASHINGTON	3.4	T W PHILLIPS GAS
SOUTH BUFFALO	1.0	T W PHILLIPS GAS
SOUTH BUFFALO	2.1	T W PHILLIPS GAS
ALLEGHENY	2.2	T W PHILLIPS GAS
WASHINGTON	2.1	T W PHILLIPS GAS
FRANKLIN	2.6	T W PHILLIPS GAS
FRANKLIN	1.1	T W PHILLIPS GAS
WASHINGTON	2.8	T W PHILLIPS GAS
ALLEGHENY	3.4	T W PHILLIPS GAS
BURNSIDE	2.1	T W PHILLIPS GAS
BURNSIDE	0.2	T W PHILLIPS GAS
BURNSIDE	2.8	T W PHILLIPS GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8315419	18470	3704920890		108		MARTEN #1 E-795	LEBOEUF	5.0	NATIONAL FUEL GAS
8315418	18469	3704920941		108		MARTENS #2 E-807	LEBOEUF	20.8	NATIONAL FUEL GAS
8315420	18471	3704920867		108		MAZZA #1 E-793	NORTH EAST	14.4	NATIONAL FUEL GAS
8315421	18472	3704920798		108		MCINTOSH #1 E-711	NORTH EAST	5.3	NATIONAL FUEL GAS
8315422	18473	3704920646		108		WAGNER #1 E-637	NORTH EAST	12.0	NATIONAL FUEL GAS
-WAINOCO OIL & GAS CO				RECEIVED:	12/28/82	JA: PA			
8315377	17743	3703921744		107-TF		M KUNZ #1 (W-131A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8315375	17727	3703921650		107-TF		ROBERT C JOHNSON #1 (W-139A)	ATHENS	35.4	COLUMBIA GAS TRAN
8315376	17728	3703921650		102-3		ROBERT C JOHNSON #1 (W-139A)	ATHENS	35.4	COLUMBIA GAS TRAN
8315373	17720	3703921742		102-3		RUSSELL E HUMMER #1 (W 168A)	ATHENS	35.4	COLUMBIA GAS TRAN
8315374	17721	3703921742		107-TF		RUSSELL E HUMMER #1 (W-168A)	ATHENS	35.4	COLUMBIA GAS TRAN
-ZETA S T JOINT VENTURE 80				RECEIVED:	12/28/82	JA: PA			
8315364	11627	3706522188		108		GEORGE DAY #1	REYNOLDSVILLE	25.0	NATIONAL FUEL GAS

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

UMI VOL 48 ISS 19 JAN 27 1983

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.3 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2281 Filed 1–26–83; 8:45 am]

BILLING CODE 6717–01–M

[Volume 818]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 24, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** TEXAS RAILROAD COMMISSION **********									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	12/15/82	JA: TX			
8315608	F-09-60053	4209731889		102-4	103	BURRELL #1	NORTH DELAWARE BEND	373.0	LONE STAR GAS CO
8315547	F-03-48296	4247730444		102-2		NEINAST "A" #10	GIDDINGS (AUSTIN CHAL	730.0	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	12/15/82	JA: TX			
8315643	F-7C-60824	4243531266		108		E S MAYER JR U #3	SAWYER (CANYON)	16.3	LONE STAR GAS CO
8315644	F-7C-60829	4210530686		108		R A HARRELL A #1	WHITEHEAD (STRAWN)	18.3	VALERO TRANSMISSI
-ARCO OIL AND GAS COMPANY				RECEIVED:	12/15/82	JA: TX			
8315600	F-04-59591	4213135848		107-DP		GORMAN GAS UNIT #3	E SEVEN SISTERS (HOWE	5000.0	TEXAS EASTERN TRA
-BENNETT & GUINN INC				RECEIVED:	12/15/82	JA: TX			
8315620	F-09-60290	4207732606		102-4		R R WELLS #1	BELLEVUE N (CONGL OIL	0.0	LONE STAR GAS CO
-BLANKS ENERGY CORP				RECEIVED:	12/15/82	JA: TX			
8315627	F-08-60515	4243111163		103	107-TF	MCENTIRE 2-C	CREDO E (CISCO UP)	219.0	INTRATEX GAS CO
-BLUCO PRODUCTION CO INC				RECEIVED:	12/15/82	JA: TX			
8315619	F-01-60279	4249331046		102-2		GERACI	J Y F	0.0	J L DAVIS
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/15/82	JA: TX			
8315558	F-06-54266	4236500000		103	107-TF	CARTHAGE GAS UNIT 25 #3	CARTHAGE (COTTON VALL	0.0	TENNESSEE GAS PIP
8315542	F-04-043602	4235531844		102-4	103	J S ELIFF #20-U	STRATTON (H-37 RES 2)	0.0	TENNESSEE GAS PIP
-COBRA OIL AND GAS CORPORATION				RECEIVED:	12/15/82	JA: TX			
8315556	F-03-53111	4214930099		102-2	103	SHIROCKY-RIVERBED UNIT #1	GIDDINGS (AUSTIN CHAL	100.0	PHILLIPS PETROLEU
-COCKRELL OIL CORP				RECEIVED:	12/15/82	JA: TX			
8315555	F-02-52591	4225530904		102-4		E W FREE JR #1	WEST CHOATE FIELD	200.0	VALERO TRANSMISSI
-COLLIER DIAMOND C OILS INC				RECEIVED:	12/15/82	JA: TX			
8315571	F-08-55701	4231732518		103		ANELLA #1	SULPHUR DRAW (8790 DE	18.0	GETTY OIL CO
-CONOCO INC				RECEIVED:	12/15/82	JA: TX			
8315605	F-08-59982	4210931644		103		RAMSEY "44" #1 ID # NOT ASSIGNED	GERALDINE/DELAWARE 34	20.7	EL PASO NATURAL C
8315611	F-08-60152	4238931301		103		L E BELL "44" #9 ID #NOT ASSIGNED	SULLIVAN/CHERRY CANYO	40.2	EL PASO NATURAL G
-CONVEST ENERGY CORP				RECEIVED:	12/15/82	JA: TX			
8315613	F-8A-60175	4226330899		102-2		G B CLARK #P-1	POLLAN CANYON	0.0	
8315576	F-7C-56954	4243532355		103	107-TF	NANCY BLOODWORTH #1	BLOODWORTH	0.0	EL PASO NATURAL G
8315590	F-8A-59054	4226300000		102-2		WAYNE WILLIAMS #7 63332	POLLAN (STRAWN "C")	0.0	EL PASO NATURAL G
-COTTON PETROLEUM CORPORATION				RECEIVED:	12/15/82	JA: TX			
8315598	F-7C-59382	4246131294		103		JACKSON "A" #1	AMAKER - TIPPETT (WOL	0.0	EL PASO NATURAL G
-CROMERA OIL & GAS CO				RECEIVED:	12/15/82	JA: TX			
8315641	F-7B-60808	4241734735		102-4		JOHN SEDWECH NO 4	CROMERA (MORAN)	2.5	WARREN PETROLEUM
8315603	F-7B-59650	4241734693		102-4		JOHN SEDWICK #5	CROMERA (MORAN)	720.0	WARREN PETROLEUM
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	12/15/82	JA: TX			
8315746	F-06-61045	4206730374		102-4		PEACOCK "A" #1	RODESSA N W (HILL)	219.0	BRECKENRIDGE GASO
-D MARTIN OIL CO				RECEIVED:	12/15/82	JA: TX			
8315616	F-06-60219	4200131338		103		MAJOR VICKERY -A- #1	SLOCUM W (WOODBINE-B-	300.0	LONE STAR GAS CO
-DAMSON OIL CORPORATION				RECEIVED:	12/15/82	JA: TX			
8315562	F-03-54926	4236130362		103		TODD ROYALTY SYNDICATE #3	N PORT NECHES	180.0	UNITED TEXAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8315561	F-03-54925	4236130363		103		TODD ROYALTY SYNDICATE #4
				RECEIVED:	12/15/82	JA: TX
-DAVIS OIL COMPANY						
8315618	F-7C-60229	4209530616		102-4		SMITH LAND & CATTLE CO #2
				RECEIVED:	12/15/82	JA: TX
-DORCHESTER EXPLORATION INC						
8315630	F-08-60547	4217331259		102-3		BERRY 20-1
				RECEIVED:	12/15/82	JA: TX
-DYCO PETROLEUM CORPORATION						
8315654	F-10-60882	4248330655		102-4		MAXWELL #1-23
				RECEIVED:	12/15/82	JA: TX
-EADS OPERATING CO						
8315595	F-04-59202	4242731585		102-4		LYDIA HINOJOSA #1
8315594	F-04-59201	4242731663		102-4		MILLER FLORES #1
				RECEIVED:	12/15/82	JA: TX
-EDWIN L COX						
8315599	F-03-59475	4216730741		102-4		CRESTON KING #6
				RECEIVED:	12/15/82	JA: TX
-ESENJAY PETROLEUM CORP						
8315617	F-02-60223	4229732994		102-4	103	H F MEYER #1
				RECEIVED:	12/15/82	JA: TX
-EXPORT PETROLEUM CORP						
8315566	F-7C-55297	4239900000		102-4		EUBANKS #1
8315564	F-09-55289	4223734454		102-4		HAMMON #1
				RECEIVED:	12/15/82	JA: TX
-EXXON CORPORATION						
8315607	F-08-60042	4222732728		103		DOUTHIT UNIT #212
8315592	F-08-59071	4210332848		103		J B TUBB -C- #31U
8315604	F-08-59975	4210332900		103		J B TUBB B26L
				RECEIVED:	12/15/82	JA: TX
-FELDERHOFF PRODUCTION CO						
8315747	F-09-61064	4207732626		103		BRENNEIS #1 (22410)
				RECEIVED:	12/15/82	JA: TX
-FIRST CALGARY USA INC						
8315596	F-7B-59275	4236331255		108		WARREN-JENKINS #1
				RECEIVED:	12/15/82	JA: TX
-GENERAL PRODUCTION CORP						
8315664	F-03-60904	4247730544		102-2		SCOTT-LEWIS #1
				RECEIVED:	12/15/82	JA: TX
-GETTY OIL COMPANY						
8315544	F-03-46174	4205100000		102-2		W H GIESENSCHLAG "C" #1
				RECEIVED:	12/15/82	JA: TX
-GOLDKING PRODUCTION COMPANY						
8315577	F-03-56973	4224130373		102-4		LANIER #2
				RECEIVED:	12/15/82	JA: TX
-GORDON OIL CO INC						
8315626	F-09-60506	4218100000		108		M J TURNER 1-T 08783
				RECEIVED:	12/15/82	JA: TX
-GULF ENERGY PRODUCING COMPANY						
8315579	F-7B-57361	4236332926		103		HART RANCH #8762 (101841)
				RECEIVED:	12/15/82	JA: TX
-GULF OIL CORPORATION						
8315551	F-06-51772	4236531343		103	107-TF	CARTHAGE UNIT 111 #3
8315659	F-09-60897	4249732395		103		I G YATES #11
8315660	F-09-60898	4223734434		103		I G YATES WELL #10
8315661	F-09-60899	4249732394		103		L O FANCHER #3
				RECEIVED:	12/15/82	JA: TX
-HAILEY ENERGY						
8315650	F-7B-60854	4209330746		103		VAUGHN M C #3-B (16690)
				RECEIVED:	12/15/82	JA: TX
-HANLEY PETROLEUM INC						
8315642	F-7B-60816	4241331059		103	107-TF	UNIVERSITY 54-21 #1
				RECEIVED:	12/15/82	JA: TX
-HANSON MINERALS CO						
8315601	F-04-59594	4247933302		102-4		AVIATORS GAS UNIT #1
				RECEIVED:	12/15/82	JA: TX
-HORIZON OIL & GAS CO OF TEXAS						
8315645	F-10-60838	4219530767		103		MC CLELLAN #2-12
				RECEIVED:	12/15/82	JA: TX
-HOUSTON OIL & MINERALS CORPORATION						
8315540	F-03-39747	4207130945		102-3		STATE TRACT 305 #1
				RECEIVED:	12/15/82	JA: TX
-HUMBLE EXPLORATION CO INC						
8315546	F-03-048276	4228700000		102-2	103	FRANK M TYE JR #1
8315541	F-03-41955	4214900000		103		LETHA EHLER #1 -

FIELD NAME	PROD	PURCHASER
NORTH PORT NECHES	180.0	UNITED TEXAS TRAN
SW PAINT ROCK (GARDNE	400.0	LONE STAR GAS CO
DEWEY LAKE (FUSSELMAN	157.0	
DYCO (GRANITE WASH)	0.0	PIONEER NATURAL G
SALINAS (GUERRA B-1)	65.7	INTRASTATE GATHER
SALINAS GUERRA (B-1)	65.7	INTRASTATE GATHER
GREEN"S LAKE	12.0	GULFTIDE GAS CORP
MEYER (3900)	0.0	
BO-JO (GARDNER SAND)	29.0	LONE STAR GAS CO
CAMPBELL (ATOKA CONGL	55.0	
HOWARD-GLASSCOCK	1.0	PHILLIPS PETROLEU
SAND HILLS (MCKNIGHT)	15.0	EL PASO NATURAL G
SAND HILLS (TUBB)	15.0	EL PASO NATURAL G
SCALING RANCH S (ELLE	1.0	FAGADAU ENERGY CO
PALO PINTO COUNTY REG	6.0	SOUTHWESTERN GAS
GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
CALDWELL NE (GEORGETO	275.0	FERGUSON CROSSING
S E CALL (3775")	0.0	HOUSTON PIPE LINE
SHERMAN TURNER SAND	1.9	LONE STAR GAS CO
MINERAL WELLS N (BIG	0.0	TEXAS UTILITIES F
CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPE L
BOONSVILLE (CADDO CON	2.8	NATURAL GAS PIPEL
BOONSVILLE (CADDO CON	17.0	NATURAL GAS PIPEL
BOONSVILLE (CADDO CON	37.2	NATURAL GAS PIPEL
COMANCHE COUNTY REGUL	6.0	ENERGY PIPELINE C
UNIVERSITY 54 (CANYON	182.5	PRODUCER"S GAS CO
GEORGE BUCK (4TH MINN	1277.5	VALERO TRANSMISSI
GRUVER N W (MORROW UP	14.6	PHILLIPS PETROLEU
PROPOSED SHIPCHANNEL	0.0	UNITED TEXAS TRAN
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8315539	F-03-32826	4214900000		103		MARY OLLE #1
-INTERNATIONAL OIL & GAS CORP				RECEIVED:	12/15/82	JA: TX
8315570	F-7C-55467	4210533596		102-4	103	PERNER "31" #1
8315569	F-7C-55459	4210533597		102-4	103	UNIVERSITY "2" #2
8315621	F-7C-60303	4210533980		102-4		VERNON B COX "A" #5
-J R HAMILTON				RECEIVED:	12/15/82	JA: TX
8315623	F-04-60397	4213100000		102-4		CUELLAR #B-3
-JOHN G MIDDLETON				RECEIVED:	12/15/82	JA: TX
8315635	F-04-60730	4247932033		103		MIDDLETON #20-1 80266
8315634	F-04-60728	4247932023		103		MIDDLETON #22-1 80267
8315636	F-04-60732	4247932265		103		MIDDLETON FEE #14-1 80430
-JOHN L COX				RECEIVED:	12/15/82	JA: TX
8315580	F-08-57370	4231700000		103		HOLLOWAY #3 (RRC #21899)
8315549	F-7C-50991	4238300000		103		ROCKER B "M" #8-X RRC #04855
8315550	F-7C-51034	4238332216		103		ROCKER B "M" #9-X RRC #04855
8315584	F-7C-58262	4238332323		103		ROCKER B "O" #14-X RRC #05289
8315585	F-7C-58263	4238332325		103		ROCKER B "R" #9-X
-KEITH-STEVENS RESOURCES INC				RECEIVED:	12/15/82	JA: TX
8315563	F-09-55038	4250300000		103		BENSON #1 18506
-LYRIC ENERGY INC				RECEIVED:	12/15/82	JA: TX
8315612	F-10-60170	4217931023		103		CITY OF MCLEAN #2
-MAGNUM RESOURCES INC				RECEIVED:	12/15/82	JA: TX
8315631	F-09-60550	4250300000		103		TAYLOR "A" #1----21018
-MAY PETROLEUM INC				RECEIVED:	12/15/82	JA: TX
8315647	F-7C-60845	4238332205		103		ROCKER "B" 42-1
-MCR OIL CORP OF TEXAS				RECEIVED:	12/15/82	JA: TX
8315622	F-10-60324	4221100000		108		STUDER #5
-MIDWAY OIL CORP				RECEIVED:	12/15/82	JA: TX
8315606	F-03-60006	4205131024		102-4		KAZMIR #2
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/15/82	JA: TX
8315565	F-05-55292	4229300000		103	107-TF	ALICE COX #1
8315633	F-09-60675	4249700000		108		BERTHA FLOWERS - CONT-#1 #028643
8315574	F-09-56621	4249700000		108		BILBERRY-MCCLURE #1 #028568
8315587	F-09-58556	4223700000		108		EUGENE MOSER #2 #051098
8315632	F-09-60673	4249700000		108		L L BURRESS #1 #032286
8315602	F-09-59647	4223700000		108		W R RICHARDS #1 #042316
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	12/15/82	JA: TX
8315748	F-04-61065	4224900000		108		BOERJAN UNIT #2
8315749	F-06-61066	4220330488		108		C M ABNEY GAS UNIT #1 #4
8315581	F-08-57384	4237133589		107-DP		FRED SCHLOSSER ESTATE B #3
-MORRISON DRILLING & PRODUCING CO				RECEIVED:	12/15/82	JA: TX
8315628	F-7C-60520	4239900000		102-4		O D REED #1 (09791)
-NATURAL RESOURCES CORP				RECEIVED:	12/15/82	JA: TX
8315625	F-03-60484	4208900000		107-PE		NRC PRIESMEYER #1
-PALO PETROLEUM INC				RECEIVED:	12/15/82	JA: TX
8315557	F-08-54027	4217331256		103		AUDIE MCDANIEL #1
8315553	F-7C-51950	4238332185		103		UNIVERSITY 2-BLOCK 12 #1
8315548	F-7C-48971	4238332101		103		UNIVERSITY 24 BLK 1 #1
-PENNZOIL PRODUCING COMPANY				RECEIVED:	12/15/82	JA: TX
8315545	F-04-047259	4235504825		108-ER		W W WALTON #2
-PEPPER OIL & GAS INC				RECEIVED:	12/15/82	JA: TX
8315655	F-7C-60888	4208333085		102-2		HEMPHILL 84 #3 101997
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/15/82	JA: TX

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FIELD NAME	PROD	PURCHASER
GIDDINGS	0.0	PHILLIPS PETROLEU
DUDLEY EAST (DEVONIAN	60.0	INTRASTATE GATHER
INGHAM (QUEEN)	25.0	DELHI GAS PIPELIN
DUDLEY EAST (DEVONIAN	47.0	INTRASTATE GATHER
J R (5618)	100.0	VALERO TRANSMISSI
LAS TIENDAS (OLMOS)	144.0	LONE STAR GAS CO
LAS TIENDAS (OLMOS)	360.0	LONE STAR GAS CO
LAS TIENDAS (OLMOS)	132.0	LONE STAR GAS CO
SPRABERRY (TREND AREA	10.0	NORTHERN GAS PROD
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
W & H MISSISSIPPI	18.0	GAS ASSOCIATED SY
PANHANDLE WEST	8.0	EL PASO NATURAL G
YOUNG COUNTY REGULAR	2.5	SUN GAS GATHERING
SPRABERRY (TREND AREA	11.0	INTER NORTH INC
CANADIAN S E - DOUGLA	9.0	ARKANSAS LOUISIAN
CALDWELL AUSTIN CHAL	183.0	CLAJON GAS CO
POKEY (COTTON VALLEY	274.0	TEXAS UTILITIES F
BOONSVILLE (BEND CONG	1.6	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	13.2	NATURAL GAS PIPEL
CRAFTON WEST (CONGL)	0.0	CITIES SERVICE CO
BOONSVILLE (BEND CONG	5.6	NATURAL GAS PIPEL
CARY-MAG (SOUTH CONGL	12.2	SOUTHWESTERN GAS
SHARP RANCH	21.6	TRANSCONTINENTAL
WASKOM/COTTON VALLEY	21.2	TEJAS GAS CORP
ROJO CABALLOS SOUTH (	264.6	EL PASO NATURAL G
MORRISON (FRY)	34.0	LONE STAR GAS CO
EAST RAMSEY	0.0	AMOCO PRODUCTION
SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	0.0	
SPRABERRY (TREND AREA	0.0	
AGUA DULCE (5,000')	15.0	UNITED GAS PIPE L
LAKE COLEMAN (CROSS P	301.9	GALLAGOLE PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8315538	F-03-32826	4214900000		103		MARY OLLE #1
-INTERNATIONAL OIL & GAS CORP				RECEIVED:	12/15/82	JA: TX
8315570	F-7C-55467	4210533596		102-4	103	PERNER "31" #1
8315569	F-7C-55459	4210533597		102-4	103	UNIVERSITY "2" #2
8315621	F-7C-60303	4210533980		102-4		VERNON B COX "A" #5
-J R HAMILTON				RECEIVED:	12/15/82	JA: TX
8315623	F-04-60397	4213100000		102-4		CUELLAR #B-3
-JOHN G MIDDLETON				RECEIVED:	12/15/82	JA: TX
8315635	F-04-60730	4247932033		103		MIDDLETON #20-1 80266
8315634	F-04-60728	4247932023		103		MIDDLETON #22-1 80267
8315636	F-04-60732	4247932265		103		MIDDLETON FEE #14-1 80430
-JOHN L COX				RECEIVED:	12/15/82	JA: TX
8315580	F-08-57370	4231700000		103		HOLLOWAY #3 (RRC #21899)
8315549	F-7C-50991	4238300000		103		ROCKER B "M" #8-X RRC #04855
8315550	F-7C-51034	4238332216		103		ROCKER B "M" #9-X RRC #04855
8315584	F-7C-58262	4238332323		103		ROCKER B "O" #14-X RRC #05289
8315585	F-7C-58263	4238332325		103		ROCKER B "R" #9-X
-KEITH-STEVENS RESOURCES INC				RECEIVED:	12/15/82	JA: TX
8315563	F-09-55038	4250300000		103		BENSON #1 18506
-LYRIC ENERGY INC				RECEIVED:	12/15/82	JA: TX
8315612	F-10-60170	4217931023		103		CITY OF MCLEAN #2
-MAGNUM RESOURCES INC				RECEIVED:	12/15/82	JA: TX
8315631	F-09-60550	4250300000		103		TAYLOR "A" #1----21018
-MAY PETROLEUM INC				RECEIVED:	12/15/82	JA: TX
8315647	F-7C-60845	4238332205		103		ROCKER "B" 42-1
-MCR OIL CORP OF TEXAS				RECEIVED:	12/15/82	JA: TX
8315622	F-10-60324	4221100000		108		STUDER #5
-MIDWAY OIL CORP				RECEIVED:	12/15/82	JA: TX
8315606	F-03-60006	4205131024		102-4		KAZMIR #2
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/15/82	JA: TX
8315565	F-05-55292	4229300000		103	107-TF	ALICE COX #1
8315633	F-09-60675	4249700000		108		BERTHA FLOWERS - CONT-#1 #028643
8315574	F-09-56621	4249700000		108		BILBERRY-MCCLURE #1 #028568
8315587	F-09-58556	4223700000		108		EUGENE MOSER #2 #051098
8315632	F-09-60673	4249700000		108		L L BURRESS #1 #032286
8315602	F-09-59647	4223700000		108		W R RICHARDS #1 #042316
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	12/15/82	JA: TX
8315748	F-04-61065	4224900000		108		BOERJAN UNIT #2
8315749	F-06-61066	4220330488		108		C M ABNEY GAS UNIT #1 #4
8315581	F-08-57384	4237133589		107-DP		FRED SCHLOSSER ESTATE B #3
-MORRISON DRILLING & PRODUCING CO				RECEIVED:	12/15/82	JA: TX
8315628	F-7C-60520	4239900000		102-4		O D REED #1 (09791)
-NATURAL RESOURCES CORP				RECEIVED:	12/15/82	JA: TX
8315625	F-03-60484	4208900000		107-PE		NRC PRIESMEYER #1
-PALO PETROLEUM INC				RECEIVED:	12/15/82	JA: TX
8315557	F-08-54027	4217331256		103		AUDIE MCDANIEL #1
8315553	F-7C-51950	4238332185		103		UNIVERSITY 2-BLOCK 12 #1
8315548	F-7C-48971	4238332101		103		UNIVERSITY 24 BLK 1 #1
-PENNZOIL PRODUCING COMPANY				RECEIVED:	12/15/82	JA: TX
8315545	F-04-047259	4235504825		108-ER		W W WALTON #2
-PEPPER OIL & GAS INC				RECEIVED:	12/15/82	JA: TX
8315655	F-7C-60888	4208333085		102-2		HEMPHILL 84 #3 101997
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/15/82	JA: TX

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FIELD NAME	PROD	PURCHASER
GIDDINGS	0.0	PHILLIPS PETROLEU
DUDLEY EAST (DEVONIAN	60.0	INTRASTATE GATHER
INGHAM (QUEEN)	25.0	DELHI GAS PIPELIN
DUDLEY EAST (DEVONIAN	47.0	INTRASTATE GATHER
J R (5618)	100.0	VALERO TRANSMISSI
LAS TIENDAS (OLMOS)	144.0	LONE STAR GAS CO
LAS TIENDAS (OLMOS)	360.0	LONE STAR GAS CO
LAS TIENDAS (OLMOS)	132.0	LONE STAR GAS CO
SPRABERRY (TREND AREA	10.0	NORTHERN GAS PROD
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
W & H MISSISSIPPI	18.0	GAS ASSOCIATED SY
PANHANDLE WEST	8.0	EL PASO NATURAL G
YOUNG COUNTY REGULAR	2.5	SUN GAS GATHERING
SPRABERRY (TREND AREA	11.0	INTER NORTH INC
CANADIAN S E - DOUGLA	9.0	ARKANSAS LOUISIAN
CALDWELL AUSTIN CHAL	183.0	CLAJON GAS CO
POKEY (COTTON VALLEY	274.0	TEXAS UTILITIES F
BOONSVILLE (BEND CONG	1.6	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	13.2	NATURAL GAS PIPEL
CRAFTON WEST (CONGL)	0.0	CITIES SERVICE CO
BOONSVILLE (BEND CONG	5.6	NATURAL GAS PIPEL
CARY-MAG (SOUTH CONGL	12.2	SOUTHWESTERN GAS
SHARP RANCH	21.6	TRANSCONTINENTAL
WASKOM/COTTON VALLEY	21.2	TEJAS GAS CORP
ROJO CABALLOS SOUTH (	264.6	EL PASO NATURAL G
MORRISON (FRY)	34.0	LONE STAR GAS CO
EAST RAMSEY	0.0	AMOCO PRODUCTION
SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	0.0	
SPRABERRY (TREND AREA	0.0	
AGUA DULCE (5,000')	15.0	UNITED GAS PIPE L
LAKE COLEMAN (CROSS P	301.9	GALLAGOLE PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8315572	F-10-55760	4223300000		108		BIVENS LEE #3
8315583	F-10-57941	4217931221		103		HUSTED #5
8315575	F-10-56702	4223331434		102-4		IVY A #5
8315559	F-10-54768	4223300000		108		OTIS P #1
8315629	F-10-60529	4217900000		108		PHIL-PAMPA 13-7
8315552	F-10-51926	4234130790		103		REUTER #2
8315684	F-08-60936	4237103778		108		ROSA L MITCHELL #1
8315543	F-10-45842	4229531025		103		SUESS B #3
8315609	F-10-60081	4235700000		108		SWINK B #4
8315683	F-08-60935	4200304603		108		UNIVERSITY ANDREWS #33 (01270)
8315610	F-10-60084	4235700000		108		UNRUH B #2
8315614	F-10-60181	4223300000		108		WHITTENBURG #103
8315615	F-10-60182	4223300000		108		WHITTENBURG 62 #8
-PLANTATION GAS CO				RECEIVED:	12/15/82	JA: TX
8315578	F-7C-57016	4210500000		108		AMOCO - UNIVERSITY #1
-R A W ENERGY CORP				RECEIVED:	12/15/82	JA: TX
8315582	F-09-57705	4223734389		102-4		WIMBERLY #1-X
-RIDGE OIL CO				RECEIVED:	12/15/82	JA: TX
8315586	F-7B-58417	4213333890		102-4	103	BOND #1
-ROCKWOOD RESOURCES INC				RECEIVED:	12/15/82	JA: TX
8315568	F-03-55438	4248132100		102-4		KOUNTZE & COUCH #1-A
-RYDER SCOTT OIL CO				RECEIVED:	12/15/82	JA: TX
8315646	F-7B-60841	4244731733		102-4		DAVIS "G" #12 RRC 085024
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	12/15/82	JA: TX
8315573	F-02-56073	4229733018		102-4		BODDEN FROST GAS UNIT 1 #2
-SANTA FE-ANDOVER OIL CO				RECEIVED:	12/15/82	JA: TX
8315637	F-06-60759	4220330800		103	107-TF	MATTIE DIXON ESTATE GAS UNIT #1
-SCANDRILL INC				RECEIVED:	12/15/82	JA: TX
8315560	F-09-54822	4223734436		102-4	103	SANDERS #5
-SECURE TRUSTS				RECEIVED:	12/15/82	JA: TX
8315687	F-7B-60957	4208333163		103		A R NEFF #3
8315686	F-7B-60956	4208333170		103		A R NEFF #4
-SHAWNEE PETROLEUM CORP				RECEIVED:	12/15/82	JA: TX
8315624	F-03-60482	4205132193		102-2		WHITENER "N" #1
-SHELL OIL CO				RECEIVED:	12/15/82	JA: TX
8315667	F-08-60811	4213500000		108		E HARPER UNIT #312
8315665	F-8A-60906	4216500000		108		GAINE WASSON CLEARFORK UNIT #66056
8315674	F-09-60918	4218100000		108		GODSEY O #1
8315668	F-08-60912	4200300000		108		LOGSDON C W "E" #2
8315669	F-08-60913	4200300000		108		LOGSDON-D- #13
8315666	F-8A-60910	4216500000		108		S WASSON CLEARFORK UNIT #6403S
8315670	F-08-60914	4247500000		108		SEALY SMITH FOUNDATION #158
8315671	F-08-60915	4213500000		108		THOMAS-D- #2
8315673	F-08-60917	4213500000		108		TXL-E- #7
8315672	F-08-60916	4213500000		108		TXL-L-A/C III #6
8315677	F-08-60921	4213500000		108		UNIVERSITY-D- #12
8315676	F-08-60920	4200300000		108		UNIVERSITY-N- #1
8315675	F-08-60919	4200300000		108		UNIVERSITY-O- #1
-SNOW OIL CO				RECEIVED:	12/15/82	JA: TX
8315648	F-7B-60850	4213332540		102-4		BOND #1 (18461)
8315640	F-7B-60804	4213333959		102-4		CLINTON KELLAR #2 (18760)
8315638	F-7B-60802	4213334127		102-4		TEXFEL-CASTLEBERRY #2 (18462)
8315639	F-7B-60803	4213334141		102-4		TEXFEL-CASTLEBERRY #3 (18462)

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FIELD NAME	PROD	PURCHASER
PANHANDLE HUTCHINSON	0.0	EL PASO NATURAL G
PANHANDLE GRAY	0.0	
HUTCHINSON N MISSISSI	0.0	INTER NORTH INC
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE GRAY	0.0	GETTY OIL CO
WEST PANHANDLE	0.0	EL PASO NATURAL G
PUCKETT (DEVONIAN)	19.0	INTER NORTH INC
BRADFORD CLEVELAND	0.0	
HORIZON - CLEVELAND	0.0	
EMBAR (PERMIAN)	13.0	EL PASO NATURAL G
HORIZON - CLEVELAND	0.0	MICHIGAN WISCONSI
PANHANDLE HUTCHINSON	0.0	EL PASO NATURAL G
PANHANDLE HUTCHINSON	0.0	GETTY OIL CO
WAMOCO (YATES)	0.0	EL PASO NATURAL G
LENORA (D-ZONE CONGL)	100.0	TEXAS UTILITIES F
RANGER NW (MARBLE FAL	36.0	COMPRESSOR RENTAL
LOUISE (5500) J P	0.0	LONE STAR GAS CO
THROCKMORTON SW (STOC	26.0	HST GATHERING CO
GEORGE WEST WEST (10.	0.0	UNITED TEXAS TRAN
(COTTON VALLEY) SABIN	0.0	ESPERANZA PIPELIN
SHAR-PAT (CONGL)	81.0	LONE STAR GAS CO
GAYLE	80.0	SOUTHWESTERN GAS
GAYLE	44.0	SOUTHWESTERN GAS
GIDDINGS "AUSTIN CHAL	0.0	CLAJON GAS CO
HARPER	0.3	PHILLIPS PETROLEU
WASSON 72	6.1	SHELL OIL CO
HUDGINS SW (FLT BLK O	1.9	UNION TEXAS PETRO
FULLERTON (SAN ANDRES	1.7	PHILLIPS PETROLEU
FULLERTON (SAN ANDRES	1.2	PHILLIPS PETROLEU
WASSON 72	1.5	SHELL OIL CO
MONAHANS (CLEAR FORK)	3.1	EL PASO NATURAL G
TXL (DEVONIAN)	0.8	SHELL OIL ET AL
TXL (SAN ANDRES)	20.4	SHELL OIL ET AL
TXL (DEVONIAN)	4.8	SHELL OIL ET AL
JORDAN (TUBB)	1.0	PHILLIPS PETROLEU
ANDREWS SOUTH (WOLFCA	5.1	EL PASO NATURAL G
ANDREWS SOUTH (WOLFCA	1.5	PHILLIPS PETROLEU
REB (MARBLE FALLS)	2.0	LONE STAR GAS CO
REB (MARBLE FALLS)	33.0	LONE STAR GAS CO
REB (MARBLE FALLS)	98.0	LONE STAR GAS CO
REB (MARBLE FALLS)	88.0	LONE STAR GAS CO

JD NO	DA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8315649	F-78-60851	4213352018		102-4		THOMPSON #1 (18459)
-SOUTHLAND ROYALTY CO				RECEIVED:	12/15/82	JA: TX
8315653	F-7C-60869	4246131752		108		WOOLEY "7" #4
-STRAGO PETROLEUM CORP				RECEIVED:	12/15/82	JA: TX
8315554	F-06-59571	4200131032		102-4	103	J W MILLS #1
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/15/82	JA: TX
8315764	F-04-61084	4224700000		108		A C JONES #64
8315750	F-04-61069	4221500000		108		A W BEAURLINE #3
8315588	F-04-58683	4242731653		102-4		CAFFARELLI #12
8315755	F-08-61075	4222700000		108		DORA ROBERTS #2-42
8315756	F-08-61076	4222700000		108		DORA ROBERTS #3-10
8315757	F-08-61077	4222700000		108		DORA ROBERTS #4-50
8315760	F-04-61080	4224900000		108		E G CANALES #21
8315758	F-04-61078	4242700000		108		GEO H COATES #11
8315759	F-04-61079	4242700000		108		I V MONTALVO -C-#36
8315754	F-6E-61073	4218300000		108		J C GRAY #10
8315752	F-6E-61071	4218300000		108		J C MCKINLEY #1
8315763	F-08-61083	4222700000		108		M & B ROB #13
8315751	F-08-61070	4222700000		108		M & B ROB #3
8315765	F-08-61085	4246100000		108		MCELROY S W UNIT #31
8315766	F-08-61086	4246100000		108		MCELROY S W UNIT #36
8315768	F-08-61088	4246100000		108		MCELROY S W UNIT #40
8315769	F-08-61089	4246100000		108		MCELROY S W UNIT#41
8315767	F-08-61087	4213500000		108		PAUL MOSS UNIT #71
8315753	F-08-61072	4231700000		108		PETERS #1
8315593	F-78-59162	4242932467		102-4		ROBERTSON-CROWLEY #1
8315770	F-08-61090	4246100000		108		STANOLIND-HENDERSON #1
8315761	F-8A-61081	4250100000		108		WASSON N CLEARFORK UNIT #32
8315762	F-8A-61082	4250100000		108		WASSON N CLEARFORK UNIT #55
-TED MCCANN & ASSOCIATES INC				RECEIVED:	12/15/82	JA: TX
8315567	F-7C-55360	4243532686		103	107-TF	JOHN D FIELDS #1-59
-TERRA RESOURCES INC				RECEIVED:	12/15/82	JA: TX
8315685	F-7C-60942	4232730390		102-2		MADLYN PFLUGER #2
-TEXACO INC				RECEIVED:	12/15/82	JA: TX
8315727	F-10-61014	4206500000		108		C R GARNER "C" NCT-2 #3
8315722	F-10-61007	4206500000		108		C R GARNER "C" NCT-2 #4
8315704	F-10-60989	4206500000		108		C R GARNER "C" NCT-2 #5
8315703	F-10-60988	4206500000		108		C R GARNER "C" NCT-2 #7
8315705	F-10-60990	4206500000		108		C R GARNER "C" NCT-2 #8
8315708	F-10-60993	4206500000		108		C R GARNER "C" NCT-2#1
8315707	F-10-60992	4206500000		108		C R GARNER "D" NCT-2 #2
8315706	F-10-60991	4206500000		108		C R GARNER "D" NCT-2 #4
8315724	F-10-61011	4206500000		108		C R GARNER "D" NCT-2 #5
8315725	F-10-61012	4206500000		108		C R GARNER "D" NCT-2 #6
8315723	F-10-61008	4206500000		108		C R GARNER "D" NCT-2 #7
8315726	F-10-61013	4206500000		108		E J MOORE NCT-1 #1
8315688	F-10-60959	4206500000		108		E J MOORE NCT-1 #12
8315689	F-10-60960	4206500000		108		E J MOORE NCT-2 #16
8315690	F-10-60961	4206500000		108		E J MOORE NCT-2 #17
8315691	F-10-60962	4206500000		108		E J MOORE NCT-2 #23
8315692	F-10-60963	4206500000		108		E J MOORE NCT-2 #25
8315719	F-10-61004	4206500000		108		E J MOORE NCT-2 #26
8315720	F-10-61005	4206500000		108		E J MOORE NCT-2 #27

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FIELD NAME	PROD	PURCHASER
REB (MARBLE FALLS)	24.0	LONE STAR GAS CO
SPRABERRY (TREND AREA	3.4	PHILLIPS PETROLEU
PURT WEST (RODESSA 10	146.0	ESPERANZA ENERGY
JONES (6000)	21.0	
BEAURLINE (VICKSBURG	20.0	TENNESSEE GAS PIP
LOCKHART	5.0	TENNESSEE GAS PIP
HOWARD GLASSCOCK	0.4	PHILLIPS PETROLEU
HOWARD GLASSCOCK	0.1	PHILLIPS PETROLEU
HOWARD GLASSCOCK	0.4	PHILLIPS PETROLEU
T-C-B (9550 STRAY)	16.0	FLORIDA GAS TRANS
RINCON NORTH (G-84)	15.0	
SUN NORTH (F-2-1)	10.0	
EAST TEXAS	0.9	UNITED GAS PIPELI
EAST TEXAS	1.0	UNITED GAS PIPELI
HOWARD GLASSCOCK	0.6	PHILLIPS PETROLEU
HOWARD GLASSCOCK	0.3	PHILLIPS PETROLEU
MCELROY	0.3	PHILLIPS PETROLEU
MCELROY	0.3	PHILLIPS PETROLEU
MCELROY	0.2	PHILLIPS PETROLEU
MCELROY	0.3	PHILLIPS PETROLEU
COWDEN SOUTH	0.2	EPX CO
SPRABERRY TREND AREA	4.0	PHILLIPS PETROLEU
BRECKENRIDGE E (CONGL	24.0	SUN GAS TRANSMISS
COWDEN SOUTH	0.1	EPX CO
WASSON N E (CLEARFORK	0.4	SHELL OIL CO
WASSON N E (CLEARFORK	0.0	SHELL OIL CO
SAWYER (CANYON)	100.0	EL PASO NATURAL G
CELERY (STRAWN 2975)	9.1	
PANHANDLE CARSON COUN	0.7	GETTY OIL CO
PANHANDLE CARSON COUN	0.7	GETTY OIL CO
PANHANDLE CARSON COUN	0.7	GETTY OIL CO
PANHANDLE CARSON COUN	0.7	GETTY OIL CO
PANHANDLE CARSON COUN	0.7	GETTY OIL CO
PANHANDLE CARSON COUN	0.9	GETTY OIL CO
PANHANDLE CARSON COUN	2.1	GETTY OIL CO
PANHANDLE CARSON COUN	2.1	GETTY OIL CO
PANHANDLE CARSON COUN	2.1	GETTY OIL CO
PANHANDLE CARSON COUN	3.2	GETTY OIL CO
PANHANDLE CARSON COUN	3.2	GETTY OIL CO
PANHANDLE CARSON COUN	4.3	GETTY OIL CO
PANHANDLE CARSON COUN	2.1	GETTY OIL CO
PANHANDLE CARSON COUN	1.0	GETTY OIL CO
PANHANDLE CARSON COUN	0.9	GETTY OIL CO
PANHANDLE CARSON COUN	0.9	GETTY OIL CO
PANHANDLE CARSON COUN	0.9	GETTY OIL CO
PANHANDLE CARSON COUN	0.9	GETTY OIL CO
PANHANDLE CARSON COUN	0.9	GETTY OIL CO

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JD NO	DA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME

FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8315718	F-10-61003	4206500000		108		E J MOORE NCT-2#24	PANHANDLE CARSON COUN	0.9	GETTY OIL CO
8315712	F-10-60997	4206500000		108		E J MOORE NCT-2#8	PANHANDLE CARSON COUN	0.9	GETTY OIL CO
8315714	F-08-60999	4230100000		108		EL MAR (DELAWARE)	EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
8315740	F-08-61035	4230100000		108		EL MAR DELAWARE UNIT # 1924	EL MAR (DELAWARE)	0.4	PHILLIPS PETROLEU
8315739	F-08-61034	4230100000		108		EL MAR DELAWARE UNIT # 2011	EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
8315694	F-08-60965	4230100000		108		EL MAR DELAWARE UNIT #1233	EL MAR (DELAWARE)	0.8	PHILLIPS PETROLEU
8315745	F-08-61040	4230100000		108		EL MAR DELAWARE UNIT #1244	EL MAR (DELAWARE)	0.9	PHILLIPS PETROLEU
8315728	F-08-61023	4230100000		108		EL MAR DELAWARE UNIT #1322	EL MAR (DELAWARE)	0.4	PHILLIPS PETROLEU
8315701	F-08-60976	4230100000		108		EL MAR DELAWARE UNIT #1613	EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
8315700	F-08-60975	4230100000		108		EL MAR DELAWARE UNIT #1624	EL MAR (DELAWARE)	0.4	PHILLIPS PETROLEU
8315699	F-08-60974	4230100000		108		EL MAR DELAWARE UNIT #1644	EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
8315698	F-08-60973	4230100000		108		EL MAR DELAWARE UNIT #1731	EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
8315736	F-08-61031	4230100000		108		EL MAR DELAWARE UNIT #1742	EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
8315709	F-08-60994	4230100000		108		EL MAR DELAWARE UNIT #1813	EL MAR (DELAWARE)	1.0	PHILLIPS PETROLEU
8315737	F-08-61032	4230100000		108		EL MAR DELAWARE UNIT #1833	EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
8315738	F-08-61033	4230100000		108		EL MAR DELAWARE UNIT #1911	EL MAR (DELAWARE)	0.6	PHILLIPS PETROLEU
8315742	F-08-61037	4230100000		108		EL MAR DELAWARE UNIT #1913	EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
8315710	F-08-60995	4230100000		108		EL MAR DELAWARE UNIT #1922	EL MAR (DELAWARE)	0.4	PHILLIPS PETROLEU
8315741	F-08-61036	4230100000		108		EL MAR DELAWARE UNIT #1933	EL MAR (DELAWARE)	2.2	PHILLIPS PETROLEU
8315743	F-08-61038	4230100000		108		EL MAR DELAWARE UNIT #1942	EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
8315744	F-08-61039	4230100000		108		EL MAR DELAWARE UNIT #2031	EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
8315715	F-08-61000	4230100000		108		EL MAR DELAWARE UNIT #2222	EL MAR (DELAWARE)	0.8	PHILLIPS PETROLEU
8315716	F-08-61001	4230100000		108		EL MAR DELAWARE UNIT #2224	EL MAR (DELAWARE)	0.5	PHILLIPS PETROLEU
8315729	F-08-61024	4230100000		108		EL MAR DELAWARE UNIT #2231	EL MAR (DELAWARE)	1.2	PHILLIPS PETROLEU
8315732	F-08-61027	4230100000		108		EL MAR DELAWARE UNIT #2243	EL MAR (DELAWARE)	0.6	PHILLIPS PETROLEU
8315730	F-08-61025	4230100000		108		EL MAR DELAWARE UNIT #2244	EL MAR (DELAWARE)	0.6	PHILLIPS PETROLEU
8315697	F-08-60968	4230100000		108		EL MAR DELAWARE UNIT #2311	EL MAR (DELAWARE)	1.7	PHILLIPS PETROLEU
8315721	F-08-61006	4230100000		108		EL MAR DELAWARE UNIT #2313	EL MAR (DELAWARE)	8.4	PHILLIPS PETROLEU
8315713	F-08-60998	4230100000		108		EL MAR DELAWARE UNIT #2323	EL MAR (DELAWARE)	5.3	PHILLIPS PETROLEU
8315693	F-08-60964	4230100000		108		EL MAR DELAWARE UNIT #2324	EL MAR (DELAWARE)	1.8	PHILLIPS PETROLEU
8315717	F-08-61002	4230100000		108		EL MAR DELAWARE UNIT #2332	EL MAR (DELAWARE)	2.2	PHILLIPS PETROLEU
8315695	F-08-60966	4230100000		108		EL MAR DELAWARE UNIT #2333	EL MAR (DELAWARE)	3.2	PHILLIPS PETROLEU
8315711	F-08-60996	4230100000		108		EL MAR DELAWARE UNIT #2334	EL MAR (DELAWARE)	1.8	PHILLIPS PETROLEU
8315735	F-08-61030	4230100000		108		EL MAR DELAWARE UNIT #2514	EL MAR (DELAWARE)	6.5	PHILLIPS PETROLEU
8315734	F-08-61029	4230100000		108		EL MAR DELAWARE UNIT #2633	EL MAR (DELAWARE)	5.3	PHILLIPS PETROLEU
8315696	F-08-60967	4230100000		108		EL MAR DELAWARE UNIT #2713	EL MAR (DELAWARE)	2.5	PHILLIPS PETROLEU
8315733	F-08-61028	4230100000		108		EL MAR DELAWARE UNIT #2742	EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
8315731	F-08-61026	4230100000		108		EL MAR DELAWARE UNIT 1213	EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
8315702	F-08-60977	4238900000		108		REEVES "AC" FEE #5	EAST FORD (DELAWARE S	1.9	CONOCO INC
8315589	F-8A-58994	4250132073		103		ROBERTS UNIT #2739	WASSON	30.1	SHELL OIL CO
-U S OPERATING INC				RECEIVED:	12/15/82	JA: TX			
8315656	F-03-60890	4228731216		103		LOEWE #2 RRC ID #11870	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-UNITED CO				RECEIVED:	12/15/82	JA: TX			
8315591	F-8A-59035	4207931070		103		WRIGHT ESTATE #8 085854	LEVELLAND (SAN ANDRES	71.9	EL PASO NATURAL G
-VOIGHT OIL CO				RECEIVED:	12/15/82	JA: TX			
8315597	F-03-59340	4248100000		102-4		R S VINEYARD #4	HOLLYWOOD SOUTH (FRIO	22.3	LONE STAR GAS CO
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	12/15/82	JA: TX			
8315662	F-08-60900	4210332980		103		H E ADAMS "A" #10	DUNE	3.1	EL PASO NATURAL G
8315658	F-08-60893	4210332973		103		H E ADAMS "A" #9	DUNE	1.6	EL PASO NATURAL G
8315657	F-08-60892	4210332958		103		P J LEA AL #139	LEA (SAN ANDRES)	3.1	EL PASO NATURAL G
-WAYNE HARPER				RECEIVED:	12/15/82	JA: TX			
8315678	F-09-60922	4209732065		103		J E ROSE #1	SIVELLS BEND FIELD	8.0	SIVELLS GAS LTD
-WES-TEX DRILLING COMPANY				RECEIVED:	12/15/82	JA: TX			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8315651	F-78-60867	4235331318		103		COMPTON "A" #4	JMM (CANYON)	0.0	SUN GAS CO
8315652	F-78-60868	4235331319		103		MCLAUGHLIN #6	ADAIR CREEK (COOK SAN	0.0	SUN GAS CO
-WILLIAM M SIEGEL				RECEIVED:	12/15/82	JA: TX			
8315663	F-09-60902	4207732721		102-4		ARMSTRONG #22544	DEER CREEK "ISRAEL 50	5.0	FAGADAU ENERGY CO
-WILLIAMS OIL CO				RECEIVED:	12/15/82	JA: TX			
8315771	F-08-61094	4249531503		103		COWDEN "A" 2	HENDRICK	18.0	PHILLIPS PETROLEU
-WILMAR OIL INC				RECEIVED:	12/15/82	JA: TX			
8315682	F-78-60931	4236300000		108		ASH #1	GRAFORD	12.9	CITIES SERVICE GA
8315681	F-78-60930	4236300000		108		ASH #2	PALO PINTO COUNTY REG	4.3	CITIES SERVICE GA
8315680	F-78-60929	4236300000		108		BARNETT #1	ORAN N	3.2	CITIES SERVICE GA
8315675	F-78-60928	4236300000		108		HALL-ROGERS #1	PALO PINTO COUNTY REG	2.7	CITIES SERVICE GA

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

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The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 10 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 823 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–CB: Geopressured brine
107–CB: Coal seame
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107:RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2280 Filed 1–26–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL 79–32; Project No. 1490]

Brazos River Authority; Petition for Modification of Order

January 24, 1983.

On Novermber 23, 1982, the Brazos River Authority (BRA) filed a petition for modification of an order issued by the Commission on February 13, 1981, for the Morris Sheppard Project No. 1490 located in Palo Pinto County, Texas. This Order on Recommendation For Minimum Flows required the BRA to conduct a special advance study of the need for downstream minimum flow releases and to include the results of the study as part of BRA's application for a new license for the Morris Sheppard Project. The basis for the petition is the U.S. Fish and Wildlife Service's (FWS) September 21, 1982, letter stating that FWS now feels that its response to the Commission order would be contrary to current state management plans since the Texas Park and Wildlife Department has withdrawn its support and now has stated its opposition to the FWS's proposal for minimum downstream flows. BRA feels that the February 13, 1981, order should be modified since FWS, the original source of the proposal for downstream minimum flows, no longer supports the proposal and has asked to be relieved from participation in the study.

Anyone desiring to be heard or to make any protests about this application should file a motion to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. Comments not in the nature of a protest may also be filed by conforming to the procedures specified in 18 CFR 385.211. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party or to participate in any hearings, a person must file a motion to intervene in accordance with the Commission's Rules. Any comments, protest, or motion to intervene must be received on or before March 7, 1983. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2275 Filed 1–26–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–87–000]

Central Plants Inc., Chula Vista; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 10, 1982, Central Plants, Inc., (Chula Vista) of 6140 Bristol Parkway, Culver City, California 90203, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is located in Chula Vista, California. The generating capacity of the facility will be 1,800 kilowatts. The primary energy source of the facility will be landfill gas recovered and processed from a municipal landfill and burned in turbines or internal combustion engines. Applicants state that no other facilities owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or portests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2169 Filed 1–26–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–86–000]

Central Plants, Inc., San Diego; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 10, 1982, Central Plants, Inc., (San Diego), of 6140 Bristol Parkway, Culver City, California 90203, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is located in San Diego, California. The generating capacity of the facility will be 2,600 kilowatts. The primary energy source is landfill gas generated from the anaerobic digestion by methanogenic bacteria of refuse and other solid wastes deposited in a sanitary municipal landfill. Applicants state that no other facilities owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy

Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2170 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-255-000]

Consumers Power Co.;

January 21, 1983.

Take notice that on January 17, 1983, Consumer Power Company (Consumers) tendered for filing a Notice of Termination of FERC Rate Schedule No. 42, between Hillsdale, Michigan and Consumers.

Consumers states that the termination date of this contract is December 3, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 9, 1983 Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2171 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-22-000]

Gulf States Utilities Co., Application

January 21, 1983.

Take notice that on January 17, 1983, Gulf States Utilities Company (Applicant) filed an application seeking an order under Section 204(a) of the Federal Power Act authorizing the Applicant to issue not more than $100 million of First Mortgage Bonds, via negotiated placement. Such securities are proposed to be issued in one or more series over a two-year period pursuant to Commission policy announced in Release FE-1228 dated November 24, 1982.

Any person desiring to be heard or to make any protest with reference to said application should be on or before February 11, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2172 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-104-000]

Richard Hotaling Jr.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983

On December 20, 1982, Richard Hotaling Jr., of Rt. 66 Box 113-H Cullowhee, North Carolina 28723, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is 10 kilowatts Hydroelectric facility located in Jackson County, North Carolina. Applicant states no other facilities owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination therof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2174 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 6976-000, et al.]

Kansas Electric Power Coop., Inc., et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Preliminary Permit.

b. Project No: 6976-000.

c. Date Filed: January 3, 1983.

d. Applicant: Kansas Electric Power Cooperative, Inc.

e. Name of Project: Tuttle Creek Hydro Project.

f. Location: Manhattan, Riley County, Kansas on the Big Blue River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Charles Ross, Executive Vice President, KEPCO, 5315 S.W. 21st Street, P.O. Box 4877, Gage Center Station, Topeka, Kans. 66604.

i. Comment Date: March 28, 1983.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Tuttle Creek Dam and Reservoir, and would consist of: (1) A new steel penstock 800 feet long and 18 feet in diameter; (2) a new 75 feet long by 60 feet wide powerhouse; (3) a 34.5 kV transmission line approximately 1 mile long; and (4) appurtenant facilities. Applicant estimates the total capacity of the project to be 14,750 kW and the average annual generation is estimated to be 56,690 MWh. All energy produced would be utilized primarily within KEPCO's system to displace power which would otherwise be purchased from other member cooperatives.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

2 a. Type of Application: Preliminary Permit.

b. Project No: P-6807-000.

c. Date Filed: October 29, 1982.

d. Applicant: Metropolitan District Commission.

e. Name of Project: Walter Baker Dam.

f. Location: on the Neponset River in Suffolk County, Massachusetts.

g. Filed Pursuant to: the Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Alfred J. Ferullo, Director of Environmental Quality, 20 Somerset Street, Boston, Massachusetts 02108.

i. Comment Date: March 28, 1983.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) The existing Walter Baker Dam owned by Walter Baker Realty Trust; (2) an existing powerhouse containing one or more proposed generating units having a total rated capacity of 600 kW; (3) 100 feet of new 4.16–kV transmission line; and (4) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,000,000 kWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the Boston Edison Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 18 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost to the work to be performed under the preliminary permit would be $20,000.

3 a. Type of Application: Preliminary Permit.

b. Project No: 6935–000.

c. Date Filed: December 14, 1982.

d. Applicant: Town of Jackson, Wyoming.

e. Name of Project: South Park Ditch.

f. Location: South Park Water Supply Pipeline between Gros Ventre River and Flat Creek, in Teton County, Wyoming.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Melvin Webb, Town Administrator, P.O. Box 1687, Jackson, Wyoming 83001.

i. Comment Date: April 1, 1983.

j. Description of Project: The proposed project would be located entirely within the Nation Elk Refuge which is owned by the United States and is operated by the U.S. Fish and Wildlife Service. Project structures include: (1) An existing diversion structure on the Gros Ventre River which is maintained by the South Park Irrigation District; (2) and existing 2.8-mile long channel; (3) modifications to an existing concrete intake structure; (4) replacement of portions of and existing 4,251-foot long, 36 to 54-inch diameter concrete pipeline; (5) a proposed powerhouse containing one turbine/generator unit with a rated capacity of 1425 kW, operating under a design head of 137 feet; (6) and existing concrete outlet structure; (7) a proposed 30,800-foot long, 15.5–kV underground transmission line; and (8) appurtenant facilities. The estimated average annual generation would be 6,293 MWh.

k. Purpose of Project: Project energy would be used by the Town of Jackson and the U.S. Fish and Wildlife Service.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time Applicant and the U.S. Fish and Wildlife Service would jointly investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $10,000.

4 a. Type of Application: Preliminary Permit.

b. Project No: P–6875–000.

c. Date Filed: November 23, 1982.

d. Applicant: Hydro Power Development, Inc.

e. Name of Project: Eagle Creek Project.

f. Location: on Eagle Creek, near Bissell, in Clackamas County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Bill Sundin, Hydro Power Development, Inc., P.O. Box 511, 16840 Hoffman Lane, Sandy, Oregon 97055.

i. Comment Date: March 28, 1983.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 6-foot-high, 30-foot-long concrete diversion structure; (2) a 23,500-foot-long, 48-inch-diameter steel pipeline; (3) a powerhouse containing a single 8,100-kW generating unit with an estimated annual generation of 46.1 GWh; and (4) appurtenant facilities. The project would affect Mt. Hood National Forest lands. Project power would be sold to Pacific Power & Light Company or the Bonneville Power Administration.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $83,000.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

5a. Type of Application: 5MW Exemption.

b. Project No: 2951–003.

c. Date Filed: December 3, 1982.

d. Applicant: Central Hudson Gas & Electric Corporation.

e. Name of Project: High Falls.

f. Location: On Rondout Creek in the Village of High Falls, Town of Marbletown, Ulster County, New York.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (Act), (16 U.S.C. 2705 and 2708 as amended), and Part I of the Federal Power Act.

h. Contact Person: Mr. Charles A. Bolz, Central Hudson Gas & Electric Corporation, 284 South Avenue, Poughkeepsie, New York 12602.

i. Comment Date: March 7, 1983.

j. Description of Project: The proposed project would consist of: (1) A restored 6-foot high 350-foot long concrete weir having spillway crest elevation 172.7 feet NGVD datum and located at the head of a 20-foot high natural falls; (2) a forebay formed by a rehabilitated 30-foot high 120-foot long masonry dam having spillway crest elevation 173.0 feet NGVD datum and having a gated intake and sluice; (3) a reservoir having a surface area of 34 acres and a storage capacity of 180 acre-feet at surface elevation 175.4 feet NGVD datum; (4) a new 9.5-foot diameter 365-foot long penstock; (5) a new powerhouse containing a generating unit having a rated capacity of 2, 950 kW operated under a 48 foot head and at a flow of 900 cfs; (6) a tailrace; (7) a new 200-foot long 13.8-kV transmission line; and (8) appurtenant facilities. Applicant estimates that average annual generation would be 10,330,000 kWh.

k. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

l. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

6a. Type of Application: Case—specific exemption from licensing for hydroelectric power projects of 5 MW or less capacity.

b. Project No: 6444–000.

c. Date Filed: June 17, 1982.

d. Applicant: Ringo Resources Inc.

e. Name of Project: Cedar Creek Hydroelectric Project.

f. Location: Cedar Creek in Lincoln County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 2705, and 2708 *as amended.*

h. Contact Person: Mr. Bob Dennis, Route 2, Box 717, Libby, Montana 59923.

i. Comment Date: March 7, 1983.

j. Description of Project: The proposed project will be located entirely on Federal land within the Koofenai National Forest and will consist of: (1) A proposed 22-foot-high and 34-foot-long diversion structure, to be built below the existing stream bed and to divert groundwater instead of surface water; (2) a 15,000-foot-long penstock with a 14 inch diameter to be buried along an existing U.S. Forest Service trail adjacent to the stream; (3) a proposed powerhouse structure containing two turbine/generator units with a total installed capacity of 1300 kW; (4) a proposed energy dissipator located between the powerhouse and the stream to prevent stream erosion; (5) a proposed 4160 volt underground power line approximately 2 miles in length and inter-connecting with the Pacific Power and Light Company; and (6) appurtenant facilities. The Applicant estimates the average annual energy production to be 11.4 MWh.

k. This notice also consists of the following standard paragraphs: A3, B, and C.

l. *Agency Comment*—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Montana Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

7a. Type of Application: Preliminary Permit.

b. Project No: 6974–000.

c. Date Filed: January 3, 1983.

d. Applicant: Kansas Electric Power Cooperative, Inc.

e. Name of Project: Perry Hydro Project.

f. Location: Topeka, Jefferson County, Kansas on the Delaware River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Charles Ross, Executive Vice President, KEPCO, 5315 S.W. 21st Street, P.O. Box 4877, Gage Center Station, Topeka, Kansas 66604.

i. Comment Date: March 28, 1983.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Perry Dam and Lake and would consist of: (1) A new steel penstock 325 feet long and 21.5 feet in diameter; (2) a new powerhouse located on the southwest side of an existing stilling basin with an installed capacity of 5,000 kW; (3) a transmission line approximately 4.5 miles long; and (4) appurtenant facilities. Applicant estimates the average annual generation to be approximately 14.5 GWh. All energy produced would be utilized primarily within KEPCO's system to displace power which would otherwise be purchased from other member cooperatives.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

8a. Type of Application: Preliminary Permit.

b. Project No: 6893–000.

c. Date Filed: November 29, 1982.

d. Applicant: Village of Rockdale, Illinois.

e. Name of Project: Mississippi River Lock and Dam No. 20 Hydroelectric Project.

f. Location: Mississippi River in Adams County, Illinois.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Donald Gould, Village President, Village of Rockdale, Otis & Midland Avenue, Rockdale, Illinois 60436.

i. Comment Date: March 28, 1983.

j. Competing Application: Project No. 6610–000. Date Filed: August 18, 1982. Notice Issued: September 21, 1982.

k. Description of Project: The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 6893 would consist of: (1) A proposed powerhouse at the left side of the dam in the non-overflow section of the earth dike; (2) the installation of 18 turbine/generator units, each unit rated at 1.0 MW for a total installed capacity of 18.0 MW; (3) a proposed transmission line less than 1 mile long to be interconnected with Central Illinois Public Service Company; (4) a proposed tailrace; and (5) appurtenant facilities. The Applicant estimates the average annual energy production to be 75.0 GWh.

l. This notice also consists of the following standard paragraphs: A3, B, C, and D2.

9a. Type of Application: Amendment of License—Revised Exhibits G and R.

b. Project No: 1984–009.

c. Dated Filed: December 10, 1982.

d. Applicant: Wisconsin River Power Company.

e. Name of Project: Castle Rock—Petenwell Project.

f. Location: Adams, Juneau, and Wood Counties, Wisconsin on the Wisconsin and Yellow Rivers.

g. Filed Pursuant to: Provisions of Article 24 of the license for Project No. 1984.

h. Contact Person: Mr. Max O. Andrae, President, Wisconsin River Power Company, P.O. Box 50, Wisconsin Rapids, Wisconsin 54494.

i. Comment Date: April 1, 1983.

j. Description of Proposed Action: Wisconsin River Power Company has filed revised Exhibits G and R in compliance with Article 24 of the license. The Licensee has conducted a survey and an analysis of the project lands and, also, adjacent non-project lands to determine their suitability and need for project operations, public recreational uses, and for the protection of environmentally sensitive shoreline, wetland and critical wildlife habitat uses. As a result of the analysis, the Licensee proposes, in the revised Exhibits G and R, to add 377 acres of land to the project and then remove another 2,136 acres, for a net reduction to the project of 1,759 acres.

k. This notice also consists of the following standard paragraphs: B and C.

l. Agency Comments: Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be

obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set, it will be presumed to have no comments.

10a. Type of Application: Preliminary Permit.
b. Project No: 6774–000.
c. Dated Filed: October 18, 1982.
d. Applicant: South Dakota Conservancy District.
e. Name of Project: Gregory County Pumped Storage Hydroelectric Facility.
f. Location: Missouri River in Gregory County, South Dakota.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Warren R. Neufeld, Secretary, South Dakota Department of Water and Natural Resources, Joe Foss Building, Pierre, South Dakota 57501.
i. Comment Date: April 1, 1983.
j. Description of Project: The proposed project will be a pumped storage facility with a proposed reservoir to be located above Lake Francis Case, a reservoir formed by the Fort Randall Dam which is owned and operated by the U.S. Army Corps of Engineers. The proposed project will consist of: (1) A proposed forebay located 700 feet above Lake Francis Case and consisting of an 80-foot-high and 50,000-foot-long embankment impounding a reservoir with a total surface area of 1870 acres and a total storage capacity of 80,000 acre-feet; (2) a proposed powerhouse containing 6 generator/turbine units rated at 393 MW each for a total installed capacity of 2360 MW; (3) two proposed forebay intake structures, each approximately 90 feet in diameter and 123 feet in height; (4) a proposed water conveyance system between the powerhouse and the two forebay intake structures consisting of two proposed 9600-foot-long tunnels, each tunnel connected to an intake structure by a 700-foot-long vertical shaft and each tunnel connected to the powerhouse by trifurcating into three 200-foot-long penstocks; (5) a proposed deflector dike to mitigate environmental disruptions during construction and operation of the facility which will extend from the shoreline to a point 3000 feet into Lake Francis Case and from that point 7000 feet downstream; (6) a proposed 2000-foot-long discharge channel between the proposed powerhouse and the lake which will include a trashrack structure and a fish barrier; (7) proposed transmission lines from the powerhouse to a new Fort Randall West Substation 40 miles from the project where proposed power sales will be made to various utility companies in South Dakota and adjoining states; and (8) appurtenant facilities. The Applicant estimates the average annual energy generation to be 2,460,000 MWh.
k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

11a. Type of Application: Preliminary Permit.
b. Project No: 6975–000.
c. Dated Filed: January 3, 1983.
d. Applicant: Kansas Electric Power Cooperative, Inc.
e. Name of Project: Milford Hydro Project.
f. Location: Junction, City, Geary County, Kansas on the Republican River.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Charles Ross, Executive Vice President, KEPCO, 5315 S.W. 21st Street, P.O. Box 4877, Gage Center Station, Topeka, Kansas 66604.
i. Comment Date: April 4, 1983.
j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Milford Dam and Reservoir, and would consist of: (1) A new steel penstock 320 feet long and 14.5 feet in diameter; (2) a new powerhosue located on the south side of an existing stilling basin with an installed capacity of 10 MW; (3) a transmission line approximately 4 miles long; and (4) appurtenant facilities. Applicant estimates the total capacity of the project to be 14.9 GWh. All energy produced would be utilized primarily within KEPCO's system to displace power which would otherwise be purchased from other member cooperatives.
k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

12a. Type of Application: Minor Water Power Project (5 MW or Less).
b. Project No: P–6632–000.
c. Date Filed: August 23, 1982.
d. Applicant: John N. Webster.
e. Name of Project: Wiswall Dam Project.
f. Location: Town of Durham, Stafford County, New Hampshire, Lamprey River
g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).
h. Contact Person: John N. Webster, P.O. Box 1073, 29 Grove Street, Dover, New Hampshire 03820.
i. Comment Date: March 25, 1983.
j. Description of Project: The proposed project would consist of: (1) An existing concrete gravity dam approximately 200 feet long and 17.8 feet high; (2) a rehabilitated gate structure at the left abutment with three gate openings; (3) an existing mill race canal 10 feet deep, 27 feet wide and 150 feet long; (4) a new powerhouse structure approximately 25 feet square housing two 200-kw Francis turbine/generator units operating at a head of 18 feet; (5) a small reservoir, 7,000 feet long and covering 30 acres at an elevation of 60.5 feet NGVD; (6) a low voltage transmission line 400 feet long; and (7) appurtenant facilities.
k. Purpose of Project: The average annual generation of 2.1 million kWh would be sold to the Public Service Company of New Hamphshire.
l. This notice also consists of the following standard paragraphs: A2, B, C and D1.

13a. Type of Application: Preliminary Permit.
b. Project No: 6867–000.
c. Date Filed: November 22, 1982.
d. Applicant: Mr. Daniel J. Horrall.
e. Name of Project: Williams Dam Water Power Project.
f. Location: East Fork White River in Lawrence County, Indiana.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Daniel J. Horrall, R. R. 2, Washington, Indiana 47501.
i. Comment Date: March 31, 1983.
j. Description of Project: The proposed project would consist of: (1) An existing concrete dam structure 18 feet high and 294 feet long; (2) an insignificant impoundment; (3) the renovation of an existing penstock, tailrace, and powerhouse with the installation of four 750 kW turbine/generator units for a total installed capacity of 3 MW; (4) a proposed 2-mile-long transmission line interconnecting with the Public Service Company of Indiana; and (5) appurtenant facilities. The Applicant estimates the average annual energy production to be 15.3 GWh.
k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

14a. Type of Application: Preliminary Permit.
b. Project No: 6892–000.
c. Date Filed: November 29, 1982.
d. Applicant: Village of Channahon, Illinois.
e. Name of Project: Mississippi River Lock and Dam No. 22.
f. Location: Pike County, Illinois.
g. Filed Pursuant to: Federal Power Act 16 U,S.C. 791(a)–825(r).
h. Contact Person: Mayor Steve Rittof, Village of Channahon, P.O. Box 226, U.S. Route 6, Channahon, Illinois 60410.
i. Comment Date: February 17,1983.
j. Competing Application: Project No. 6513–000. Date Filed: July 12, 1982. Public Notice Issued: October 1, 1982. Due Date: January 10, 1982.

k. Description of Project: The proposed project would utilize the existing Army Corps of Engineers' Mississippi Lock and Dam No. 22 and consist of: (1) A proposed powerhouse which will contain 18 generating units, each rated at 1 MW; for a total installed capacity of 18 MW; (2) a proposed 4-mile-long, 69-kV transmission line; (3) approximately 2,600 feet of new access road; and (4) appurtenant facilities. The Applicant estimates the average annual energy generation to be 96 GWh. The Applicant also estimates that the project would utilize approximately 12 acress of Federal land.

l. Purpose of Project: The Village of Channahon intends to sell the power to the local investor-owned utility company in accordance with F.E.R.C. and Illinois Commerce Commission regulations, and utilize the excess revenues to encourage industrial re-development of the Village, increase and improve public services delivered to the residents and provide new job opportunities. If proven feasible, the Village may, in the alternative, choose to deliver power directly to customers within the corporate limits of the Village and through the resulting lower energy cost, achieve directly the results enumerated above.

m. This notice also consists of the following standard paragraphs: A3, B, C and D2.

15a. Type of Application: Preliminary Permit.

b. Project No: 6763–000.

c. Date Filed: October 12, 1982, and revised December 27, 1982.

d. Applicant: The Phoenix Hydro Corporation.

e. Name of Project: Sullivan Island.

f. Location: The Oswegatchie River in the Towns of Fowler and Edwards, St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary R. Schoonmaker, 2701 Howlett Hill Road, Marcellus, New York 13108.

i. Comment Date: March 25, 1983

j. Description of Project: The proposed project would consist of: (1) A New 12-foot high 200-foot long concerete overflow-type dam across the North (right) channel; (2) a new 15-foot high 100-foot long concrete dam across the South Channel; (3) a reservoir with a surface area of 103 acres and a negligible storage capacity at normal pool elevation 612 feet m.s.l.; (4) a 12-foot diameter and 200-foot long penstock; (5) a powerhouse containing two generating units having a total rated capacity of 2,300 kW operated under a 25-foot head and at a flow of 1,300 cfs; (6) a tailrace; (7) a 700-foot long 23-kV transmission line; and (8) appurtenant facilities.

Applicant estimates that the average annual energy output would be 11,435,000 kWh. Project energy would be sold to Niagara Mohawk Power Corporation.

k. This notice also consists of the following standard pargraraphs: A4b, A4c, A4d, B, C and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would prepare engineering, economic/finacial, and environmental studies, and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit to be $125,000.

16a. Type of Application: Preliminary Permit.

b. Project No: 6741–000.

c. Date Filed: October 4, 1982.

d. Applicant: City of Blackfoot, Idaho.

e. Name of Project: Blackfoot Dam.

f. Location: Blackfoot River in Caribou County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Delwin C. Daniels, Mayor, City of Blackfoot, 157 North Broadway, Blackfoot, Idaho 83221.

i. Comment Date: March 28, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Blackfoot Dam and Reservoir and would consist of: (1) An existing intake structure; (2) a proposed 250-foot long penstock extending from the intake through an existing tunnel to; (3) a proposed powerhouse, located on the northern bank of the Blackfoot River, containing two turbine/generator units with a total capacity of from 1.0 MW to 3.0 MW; a proposed 4-mile long transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual energy output would be from 6,000 to 20,000 MWh.

k. Purpose of Project: Project energy would be sold to Utah Power & Light Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $90,000.

17a. type of Application: Preliminary Permit.

b. Project No: 6894–000.

c. Date Filed: November 29, 1982.

d. Applicant: Village of Rockdale, Illinois.

e. Name of Project: Mississippi River Lock and Dam No. 21.

f. Location: Marion County, Illinois.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Donald Gould, village President, Village of Rockdale, Otis and Midland Avenue, Rockdale, Illinois 60436.

i. Comment Date: February 17, 1983.

j. Competing Application: Project No. 6512–000. Date Filed: July 12, 1982. Public Notice Issued: October 1, 1982. Due Date: January 10, 1982.

k. Description of Project: The proposed project would utilize the existing Army Corps of Engineers' Mississippi Lock and Dam No. 21 and consist of: (1) A proposed powerhouse which will contain 18 generating units, each rated at 1 MW, for a total installed capactiy of 18 MW; (2) a proposed 1.5-mile-long, 69-kV transmission line; (3) approximately 1,000 feet of new access road; and (4) appurtenant facilities. The Applicant estimates the average annual energy generation to be 75.7 GWh. The Applicant also estimates that the project would utilize approximately 14 acres of Federal land.

l. Purpose of Project: The Village of Rockdale intends to sell the power to the local investor-owned utility company in accordance with F.E.R.C. and Illinois Commerce Commission regulations, and utilize the excess revenues to encourage industrial re-development of the Village, increase and improve public services delivered to the residents and provide new job opportunities. If proven feasible, the Village may, in the alternative, choose to deliver power directly to customers within the corporate limits of the Village and through the resulting lower energy cost, achieve directly the results enumerated above.

m. This notice also consists of the following standard paragraphs: A3, B, C and D2.

18a. Type of Application: Application for License (5MW or Less).

b. Project No: 3512–001.

c. Date Filed: November 19, 1982.
d. Applicant: David Goodman and George R. Oliger.
e. Name of Project: Braendly Hydro Project.
f. Location: on Fishkill Creek, Dutchess County, New York.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: David Goodman and George R. Oliger, 80 Eighth Avenue, Suite 711, New York, New York 10011.
i. Comment Date: March 25, 1983.
j. Description of Project: The proposed project would be run-of-the-river and would consist of: (1) An existing dam, approximately 130 feet long and 18 feet high, constructed of cut stone with a concrete cap and having a spillway section and two-foot high flashboards to an elevation of 121.5 feet m.s.l.; (2) a reservoir having minimal pondage; (3) a new intake structure, at the right river bank, with gates and trashracks; (4) a new steel penstock, 7 feet in diameter and approximately 410 feet long, with a trifurcation leading to (5) an existing powerhouse to be renovated and to contain three new turbine-generator units with rated capacities of 140 kW, 265 kW and 535 kW for a total rated capacity of 940 kW; (6) a tailrace, to be reconstructed, returning flow to Fishkill Creek approximately 350 feet downstream of the dam; (7) a new 13.8-kV transmission line, approximately 200 feet long, connecting to existing lines; and (8) appurtenant facilities. The Applicant estimates that the average annual energy output would be 3,365,000 kWh. Project energy would be sold to the Central Hudson Gas and Electric Corporation. This application was filed during the term of the Applicant's preliminary permit for Project No. 3512–000. The project dam is owned by the Braendly Dye Works, Inc.
k. This notice also consists of the following standard paragraphs: A2, B, C and D1.

19a. Type of Application: Preliminary Permit.
b. Project No: 6945–000.
c. Date Filed: December 20, 1982.
d. Applicant: Town of telluride.
e. Name of Project: San Miguel.
f. Location: San Miguel River, town of Telluride, San Miguel County, Colorado, Uncompahgre National Forest.
g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Mark Silversher, 456 West Pacific Street, Box 1027, Telluride, Colorado 81435.
i. Comment Date: February 18, 1983.
j. Competing Application: Project No. 6606–000. Date Filed: August 18, 1982. Due Date: January 12, 1983.
k. Description of Project: The proposed project would consist of 2 new diversion systems and powerhouses described as follows:
(A) Development No.1 would consist of: (1) A diversion dam; (2) a 6,000-foot long canal; (3) a 1.5-foot diameter, 1,500-foot long penstock; (4) a powerhouse located on the north bank of the San Miguel River containing a 1.2 MW turbine-generator; (5) a 50-foot long tailrace channel; and (6) appurtenant facilities;
(B) Development No. 2 would consist of: (1) A diversion dam; (2) a 22,000-foot long canal system; (3) a 0.9-foot diameter, 2,600-foot long penstock; (4) a powerhouse located on the south river bank containing a 1.0 MW turbine-generator; (5) a 50-foot long tailrace channel; and (6) appurtenant facilities. The project would generate up to 11,600,000 kWh annually.
l. Purpose of Project: Energy produced at the project would be sold to the local electric cooperative.
m. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.
n. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The work to be performed under this preliminary permit would consist of gathering necessary data, completing surveys and environmental studies, obtaining necessary Federal, State and local permits in consultation with the U.S. Forest Service and preparing necessary documentation for the Commission's licensing requirements. Applicant estimates that the cost of works to be performed under the permit would not exceed $100,000.

20a. Type of Application: Preliminary Permit.
b. Project No: P–6936–000.
c. Date Filed: December 16, 1982.
d. Applicant: G. Stetson Heiser.
e. Name of Project: Buck Street Project.
f. Location: on the Suncook River, town of Pembroke, Merrimack County, New Hampshire.
g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. G. Stetson Heiser, RR1, Box 59, Academy Road, Suncook, New Hampshire 03275.
i. Comment Date: March 25, 1983.
j. Description of Project: The proposed project would consist of: (1) An existing 11.72-foot-high, 127.4-foot-long concrete and masonry dam in two sections separated by an island; (2) an existing 70 acre reservoir with a maximum storage capacity of 400 acre-feet at elevation 291.0 feet M.S.L.; (3) a new powerhouse located at either dam section containing turbine-generators with a total rated capacity of 80 kW with a tailwater elevation of 279.22 feet M.S.L.; (4) a new 100-foot-long transmission line; and (5) appurtenant facilities. The dam is owned by the New Hampshire Water Resources Board. The project would generate up to 500,000 kWh annually.
k. Purpose of Project: Energy produced at the project would be sold to New Hampshire Public Service Company.
l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.
m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The work proposed under this preliminary permit would include economic evaluation, engineering plans, and an environmental assessment. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the work to be performed under this preliminary permit would cost up to $5,000.

21a. Type of Application: Amendment of License—Revised Exhibit S.
b. Project No: 2628–006 and 2628–008.
c. Date Filed: March 27, 1980 and supplemented April 30, 1982.
d. Applicant: Alabama Power Company.
e. Name of Project: R. L. Harris Dam Project.
f. Location: Randolph County, Alabama on the Tallapoosa River.
g. Filed Pursuant to: Provisions of Article 52 of the license for Project No. 2628 and Section 4.41 of the Commission's Regulation.
h. Contact Person: Mr. F. L. Clayton, Senior Vice President, Alabama Power Company, P. O. Box 2641, Birmingham, Alabama 35291.
i. Comment Date: March 25, 1983.
j. Description of Project: The R. L. Harris Project is located on the Tallapoosa River in Randolph County, Alabama. The revised Exhibit S provides for a program of study of the potential fishery resources of the reservoir and describes measures that will be taken to maintain or enhance water quality of the Tallapoosa River downstream of the project.
k. This notice also consists of the following standard paragraphs: B and C.
l. Agency Comments: Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be

obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set, it will be presumed to have no comments.

22a. Type of Application: Preliminary Permit.
b. Project No: 6972–000.
c. Date Filed: December 29, 1982.
d. Applicant: Power Resources Development Corporation.
e. Name of Project: Hollow Dam Project.
f. Location: West Branch of the Oswegatchie River in St. Lawrence County, New York.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Roger P. Swanson, 49 Onondaga Street, Skaneateles, New York 13152.
i. Comment Date: March 25, 1983.
j. Description of Project: The proposed run-of-the-river project would consist of: (1) The reconstruction of the breached Hollow Dam, 100 feet long and 21 feet high; (2) a restored reservoir having 5.7 acre-feet of storage; (3) an existing powerhouse at the southern embankment of the dam with a new turbine-generator unit having an installed capacity of 1,067 kW; (4) an existing tailrace; and (5) other appurtenances. Existing facilities are owned by Robert and Barb Sullivan and Ezra and Richard Sullivan. Applicant estimates an average annual generation of 5,560,000 kWh.
k. Purpose of Project: Project energy would be sold to Niagara Mohawk Power Corporation.
l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.
m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $27,000.

23a. Type of Application: Conduit Exemption.
b. Project No: 6868–000.
c. Date Filed: November 22, 1982.
d. Applicant: Calleguas Municipal Water District.
e. Name of Project: East Portal of the Santa Susana Tunnel Project.
f. Location: On Santa Susana Tunnel, near Chatsworth, in Los Angeles County, California.
g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).
h. Contact Person: Mrs. Frances B. Kimball, Manager, Calleguas Municipal Water District, 2100 Olsen Road, Thousand Oaks, California 91360.
i. Comment Date: March 7, 1983.
j. Description of Project: The proposed project would consist of: (1) A 50-foot-long, 60-inch-diameter steel pipeline connecting the Water District's West Valley Feeder No. 2 to the East Portal of the Santa Susana Water Supply Tunnel; (2) a powerhouse at the East Portal containing a single 1,000-kW generating unit with an estimated annual generation of 6.0 GWh; (3) an electrical substation; and (4) purtenant facilities. Project power would be sold to Southern California Edison Company. Applicant estimates construction cost at $1,200,000.
k. This notice also consists of the following standard paragraphs: B, C, and D3b.

24a. Type of Application: Exemption from Licensing.
b. Project No: 6477–001.
c. Date Filed: August 2, 1982.
d. Applicant: Western Hydro Electric, Inc.
e. Name of Project: Kilborn Creek Water Power Project.
f. Location: On Kilborn Creek, a tributary of Cowlitz River, within the Gifford National Forest, in Lewis County, Washington.
g. Filed Pursuant to: Section 408 of the Energy Security Act, 16 U.S.C. 2705 and 2708 as amended.
h. Contact Person: Mr. J. Kirk Rector, Corporate Counsel, Western Hydro Electric, Inc., 4832 Colony Circle, Salt Lake City, Utah 84117.
i. Comment Date: March 7, 1983.
j. Competing Application: Project No. 5680–000, Date Filed: November 24, 1981, Notice Issued: December 30, 1981.
k. Description of Project: The proposed project would consist of: (1) A 37-foot-long, 7-foot-high concrete diversion structure; (2) a 5,000-foot-long, 30-inch-diameter pipeline; (3) a 3,800-foot-long, 28-inch-diameter penstock; (4) a powerhouse to contain one generating unit with a rated capacity of 861 kW; and (5) a 0.25-mile-long, 25-kV transmission line from the powerhouse to an existing Lewis County Public Utility District No. 1 (District) transmission line. The estimated average annual energy generation of 5.7 GWh would be sold to the District or to the Bonneville Power Administration.
l. This notice also consists of the following standard paragraphs: A1, B, C and D3a

25a. Type of Application: Preliminary Permit.
b. Project No: 6863–000.
c. Date Filed: November 18, 1982.
d. Applicant: The Grisdale Hill Company.
e. Name of Project: Gibson Dam Hydroelectric Project.
f. Location: Gibson Reservoir on the North Fork Sun River in Teton, Lewis, and Clark Counties, Montana.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) 825(r).
h. Contact Person: The Grisdale Hill Company, c/o Joy Leong Morrison & Foerster, 1920 N Street, N.W., Washington, D.C. 20036.
i. Comment Date: March 28, 1983.
j. Description of Project: The proposed project would utilize an existing Bureau of Reclamation dam and reservoir. Project No. 6863 would consist of: (1) Existing outlet works for the dam consisting of two 72 inch diameter conduits passing through the lower central portion of the dam; (2) the proposed installation of two 50-foot-long and 72-inch-diameter penstocks to run from the two existing outlet conduits to the proposed powerhouse; (3) a proposed powerhouse to be built just below the dam on the north bank of the Sun River; (4) the installation of two turbine/generator units rated at 5.5 MW each for a total installed capacity of 11 MW; (5) a proposed 30-foot-long tailrace; (6) a proposed 20-mile-long transmission line interconnecting with the Sun River Electric Cooperative; and (7) appurtenant facilities. The Applicant estimates the average annual energy production to be 41 GWh.
k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

26a. Type of Application: Exemption for Small Conduit Hydroelectric Facility.
b. Project No: 6639–000.
c. Date Filed: August 26, 1982.
d. Applicant: Edelman Enterprise, Inc.
e. Name of Project: Philipsburg Water Power Project.
f. Location: Granite County, Montana.
g. Filed Pursuant to: Section 30 of the Federal Power Act [16 U.S.C. 823(a)].
h. Contact Person: Mr. W. H. Edelman, President, Edelman Enterprises, Inc., Route 1, Box 169, Ronan, Montana 59864.
i. Comment Date: March 28, 1983.
j. Description of Project: The proposed project would consist of: (1) Utilizing an existing 8 inch diameter and 13, 929 foot-long penstock, which transports water for municipal purposes; (2) proposed and existing transmission lines; (3) two proposed powerhouses containing

generating units rated at 100 kW each; and (4) appurtenant facilities.

k. Purpose of Project: Project power would be sold to any company contracted to purchase power.

l. This notice also consists of the following standard paragraphs: B and C.

m. *Agency Comments*—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Montana Department of Fish and Wildlife Service are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives. A copy of the application may be obtained directly from the Applicant.

n. *Purpose of Exemption*—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

27a. Type of Application: Amendment of License.

b. Project No: 2310–015.

c. Date Filed: July 19, 1982.

d. Applicant: Pacific Gas and Electric Company (PG&E).

e. Name of Project: Drum-Spaulding Project.

f. Location: South Yuba, American, and Bear Rivers, in Placer and Nevada Counties, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r) and Article 57 of the license for Project No. 2310.

h. Contact Person: Mr. W. M. Gallavan, Vice President, Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, Room 1087 A, San Francisco, California 94106, with a copy to: Mr. Louis E. Vincent, Attorney, Pacific Gas and Electric Company, Law Department, P.O. Box 7442, San Francisco, California 94106.

i. Comment Date: February 28, 1983.

j. Description of Project: The proposed addition to the Drum-Spaulding Project would consist of 3 developments.

The Emigrant Gap Development would make use of approximately 590 feet of head between the end of PG&E's Lake Valley Canal and Drum Canal and would comprise: (1) A new intake structure including a slide gate and a trashrack; (2) approximately 4,417 feet of steel penstock with varying diameter from 36 inches to 21 inches; (3) the Emigrant Gap Powerhouse to contain a 1,650-kW impulse-type, turbine-generating unit; (4) a tailrace; (5) a switchyard; and (6) a 300-foot-long, 12-kV tap line to an existing PG&E distribution line. The Emigrant Gap Development will produce an average annual energy output of 9.3 million kWh.

The Christian Valley Development would make use of approximately 26 feet of head where PG&E's existing Bear River Canal drops into Halsey Forebay and would comprise: (1) A new 130-foot-long diversion canal about 6 feet deep and 20 feet wide at the top; (2) a new intake structure including a regulating radial gate and a trashrack; (3) approximately 170 feet of penstock with varying diameter; (4) the Christian Valley Powerhouse to contain a 930-kW tube-type, turbine-generating unit; (5) a tailrace; (6) a switchyard; and (7) a 200-foot-long, 12-kV tap line to and existing PG&E distribution line. The Christian Valley Development will produce an average annual energy output of 6.2 million kWh.

The Fiddler Green Development would make use of approximately 28 feet of head at PG&E's existing Wise Canal drop into Rock Creek Reservoir and would comprise: (1) A new 600-foot-long diversion canal about 6.5 feet deep and 13 feet wide at the bottom; (2) a new intake structure including a regulating radial gate and a trashrack; (3) a 115-foot-long penstock with varying diameter; (4) the Fiddler Green Powerhouse to contain a 1,000-kW tube-type, turbine-generating unit; (5) an 800-foot-long tailrace channel; (6) a switchyard; and (7) a 600-foot-long, 12-kV tap line to an existing PG&E distribution line. The Fiddler Green Development will produce an average annual energy of 5.9 million kWh. No recreational facilities are proposed by the Applicant. Total cost of the developments is estimated by the Applicant to be about $12.7 million.

k. Purpose of Project: PG&E plans to use the entire output of the proposed developments for serving the electric needs of its service area.

l. This notice also consists of the following standard paragraphs: B and C.

m. Agency Comments: Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of an amendment of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

28a. Type of Application: Preliminary Permit.

b. Project No: 6943–000.

c. Date Filed: December 20, 1982.

d. Applicant: Santiam Water Control District.

e. Name of Project: Water Street Hydroelectric Project.

f. Location: On the Stayton Power Canal, a diversion from the North Santiam River in Marion County, Oregon.

g. Filed Pursuant to: Federal Power Act (16 U.S.C. 791(a)–825(r)).

h. Contact Person: Mr. Rex Brenton, P.E., Haner, Ross & Spoorseen, Inc., 15 S.E. 82nd Drive, Gladstone, Oregon 97027.

i. Comment Date: March 21, 1983.

j. Description of Project: The proposed project woud utilize an existing diversion at elevation 440 feet on the Stayton Power Canal and would consist of: (1) A 72-inch-diameter, 50-foot-long corrugated metal intake pipe; (2) a powerhouse containing a turbine-generating unit with a rated capacity of 140 kW and an average annual output of 920,000 kWh; and (3) a 50-foot-long transmission line connecting to an existing Pacific Power and Light Company transmission facility.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month preliminary permit during which engineering, economic and environmental studies

would be conducted to ascertain project feasibility and to support an application for a license to construct and operate the project. The estimated cost of permit activities is $2,500.

k. Purpose of Project: The Applicant proposes to utilize excess canal flows for hydroelectric power generation, and to sell power generated to the Pacific Power and Light Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

29a. Type of Application: Exemption from Licensing.

b. Project No: 6322–002.

c. Date Filed: December 13, 1982.

d. Applicant: Blue Ridge Electric Membership Corporation.

e. Name of Project: Sharp Falls Project.

f. Location: North Fork of New River in Ashe County, North Carolina.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: John W. Dawson, Caller Service 112, Lenoir, North Carolina 28645.

i. Comment Date: March 4, 1983.

j. Description of Project: The project would consist of: (1) The concrete Sharp Falls Dam about 140 feet long and 14 feet high; (2) a reservoir with negligible storage capacity; (3) a powerhouse at the right (southern) abutment of the dam with an installed capacity of 200 kW; (4) a tailrace; and (5) other appurtenances. All facilities are existing but the project has not been operated since 1970. Applicant estimates an average annual generation of 1,000,000 kWh.

k. Purpose of Project: Project energy would be used for distribution to local customers.

l. This notice also consists of the following standard paragraphs: A1, B and C.

m. Agency Comments: D3a.

n. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Competing Applications

A1. Exemptions for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requireemnts of 18 CFR 4.33(b) and (c) (1982). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d).

A2. Applications for License—Anyone desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either the competing application itself (see 18 CFR 4.33(a) and (d), and Part 16, where applicable) or a notice of intent (see 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or §§ 4.101 to 4.104 (1982).

A3. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for license, exemption or preliminary permit, or notices of intent to file competing applications, will be accepted for filing in response to this notice (see 18 CFR 4.30 to 4.33 or §§4.101 to 4.104 (1982), as appropriate). Any application for license or exemption from licensing, or notice of intent to file a license or an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or 4.101 to 4.104 (1982), as appropriate).

Preliminary Permits

A4a. Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30-days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A4b. No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or there are proposed to be major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application (see 18 CFR 4.30 to 4.33 (1982)).

A4c. The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before the specified comment date for the particular application. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or 4.101 to 4.104 (1982), as appropriate).

A4d. Submission of a timely notice of intent to file an application for preliminary permit allows an interested person to file an acceptable competing application for preliminary permit no later than 60 days after the specified comment date for the particular application.

B. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing

application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments

D1. License applications (5 MW or less capacity)—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing coments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. Preliminary permit applications—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Exemption applications (5 MW or less capacity)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resouces are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Exemption applications (Conduit)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: January 24, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2276 Filed 1–26–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket. No. EC83–7–000]

Oklahoma Gas and Electric Co.; Application

January 21, 1983.

Take notice that on January 4, 1983, Oklahoma Gas and Electric Company (Applicant), an Oklahoma Corporation with its principal office at 321 No. Harvey, P.O. Box 321, Oklahoma 73101, filed an application pursuant to Section 203 of the Federal Power Act and Part 33 of the Commission's Regulations thereunder, for authorization to sell a 69/12.5 kV (Tecumseh Town) substation to the City of Tecumseh, Oklahoma.

The Company states it is engaged primary in the generation, transmission, distribution and sale of electric energy in Oklahoma and west Arkansas. The Tecumseh Town substation is devoted to supplying service to the City of Tecumseh only, a wholesale customer served under the Company's FERC Electric Tariff.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2173 Filed 1–26–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ST83–114–000]

Seagull Shoreline System; Application For Approval of Rate

January 21, 1983.

Take notice that on December 2, 1982, Seagull Shoreline System ("Seagull Shoreline" or "Applicant") Interfirst Plaza, 1100 Louisiana, Houston, Texas 77002, filed in Docket No. ST83–114 an Application for Approval of Rate pursuant to Section 284.123(b)(2) of the Commission's Regulations implementing the Natural Gas Policy Act of 1978 (NGPA) for approval of a transportation tariff to be charged to Northern Natural Gas Company (Northern Natural) for services rendered under Section 311(a)(2) of the NGPA, as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it is a General Partnership comprised of three parties: Seagull Transmission Company (Seagull), HNG Offshore Company (HNG); and Northern Intrastate Pipeline Company (Northern Intrastate). Applicant states that it intends to build a 24-inch diameter intrastate pipeline wholly within the three league limit off the shore of Texas approximately 53 miles from its origin in State Tract 624 to

the onshore intrastate facilities of Houston Pipe Line Company near the Oyster Lake facilities of HNG Petrochemical Company. Applicant states that this line was conceived of and planned as an intrastate gas pipeline that will be subject to the jurisdiction of the Railroad Commission of Texas. Applicant states that it intends to transport gas produced within Texas state waters for Valley Pipe Lines Offshore Division, a Division of Valley Pipeline Lines, Inc. (Valley) and intends to transport gas for other natural gas purchasers who are or may be acquiring natural gas reserves within the three league limit offshore Texas if such gas becomes available. Applicant and Valley have entered into a Transportation Agreement with an eight year primary term for this purpose, dated November 15, 1982, whereby Applicant has agreed to transport initially an estimated 5,000 Mcf of natural gas per day for Valley.

Applicant further states that, on November 15, 1983, it entered into a Transportation Agreement with Northern Natural to transport up to 35,000 Mcf of natural gas a day for Northern Natural pursuant to Section 311(a)(2) of the NGPA. This agreement is conditioned upon Applicant's filing an application for approval of the transportation rate in the subject matter. Applicant states that this transportation will not commence until after intrastate transportation services have begun. The proposed transportation rate for the Section 311 service of $.30 per MMBtu will be the same as that for the intrastate transportation service and said rate will apply only when natural gas is actually flowing to Northern Natural. Applicant submits that said rate is fair and equitable as required by the NGPA and the Commission's regulations thereunder.

Any person desiring to be heard or to make any protest with reference to said Application should on or before February 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2175 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-579-000]

Southern Company Services, Inc.; Order Accepting Rates for Filing, Noting and Denying in Part Interventions, Denying Requests for Rejection, Granting Waiver, and Establishing Hearing Procedures

Issued: January 21, 1983.

On June 7, 1982, Southern Company Services, Inc. (SCSI), on behalf of its affiliates Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (MPC) (collectively, the Southern Companies) tendered for filing an Interchange Contract and a Unit Power Sales Agreement between Gulf States Utilities Company (GSU) and the Southern Companies and a Transmission Facilities Use Agreement between MPC and GSU.[1] The Unit Power Sales Agreement provides for sales to GSU of specified capacity and energy from coal-fired generating units owned by the Southern Companies from June, 1984, through May, 1992. That Agreement also provides for sales of supplemental and alternate energy from all of the Southern Companies. Because the facilities of GSU and the Southern Companies are not currently interconnected, the Interchange and Transmission Facilities Use Agreements were executed. The former establishes the rates, terms, and conditions for interchange services between GSU and the Southern Companies over a 40-year term; the latter provides for construction by MPC of 500 kV transmission facilities to effect the interconnection with GSU.

The Southern Company charges under the proposed Agreements are based on formulary rates similar to those on file with the Commission for similar services. GSU's rates for interchange services would consist of specified unit charges identical to rates on file for similar services to other interconnected utilities. SCSI requests waiver of the 120-day advance filing proscription (18 CFR 35.3), and an effective date of June 1, 1984.

Notice of the filing was published in the **Federal Register**, with responses due by June 30, 1982. In response to motions of Middle South Services, Inc. (Middle South), the date for filing comments was subsequently extended through October 5, 1982. A timely notice of intervention was filed by the Louisiana Public Service Commission.

On July 6, 1982, a group of individuals and organizations represented by the Southern Wetlands Project of the National Wildlife Federation (NWF) filed a letter protesting the routing of the 500 kV transmission line on environmental grounds. NWF contends that acceptance of SCSI's submittal would require preparation of an Environmental Impact Statement (EIS).[2]

On July 14, 1982, GSU filed a motion to intervene in support of the submittals. GSU states that it is a party to the Agreements under consideration and that it may be required to respond to any allegations made by Middle South or others.

On September 28, 1982, the City of Lafayette, Louisiana (Lafayette) filed a motion to intervene and request for conditioning. Lafayette requests that approval of the Agreements by the Commission be conditioned upon (1) GSU and MPS providing "reasonable and non-discriminatory" transmission and interchange service to other utilities, and (2) GSU providing Lafayette with transmission service to enable Lafayette to sell excess power to customers in Mississippi. Lafayette's pleading indicates that it wishes to wheel power through GSU's system to Mississippi Power and Light Company (MP&L) and then to the Municipal Energy Agency of Mississippi (MEAM).

On August 2, 1982, GSU filed a motion for expedited granting of party status to enable it to respond to Lafayette's pleading. On October 12 and 13, respectively, GSU and SCSI filed answers in opposition to Lafayette's motion to intervene and request for conditioning. GSU states that no harm will be done to Lafayette by the Agreements, that GSU and Lafayette already have an interconnection agreement which defines their relative rights with respect to wheeling, and that GSU has no statutory or contractual obligation to provide the requested transmission service. SCSI alleges that Lafayette's motion was untimely filed

[1] *See* Attachment A for rate schedule designations.

[2] While NFW requests an opportunity to submit additional materials at a later date, we note that under the Commission's Rules of Practice and Procedure (18 CFR 385.211), and as indicated in our public notice of SCSI's filing, a protest does not serve to make the protestants a party to the proceeding. In order for NFW to further participate in this case, it will be necessary to file a motion to intervene showing adequate grounds for intervention, and a motion for leave to intervene out of time demonstrating good cause for its failure to initially intervene in a timely manner (*see* 18 CFR 385.214).

and fails to state an interest that would be directly affected by the Agreements. It also states that the Commission's authority to compel wheeling is circumscribed by the provisions of sections 211 and 212 of the Federal Power Act and that these sections have not been invoked by Lafayette.

On October 4, 1982, Arkansas Power and Light Company, Louisiana Power and Light Company, and New Orleans Public Service Company (Middle South Companies) filed a protest, motion to intervene, and request for hearing. The Middle South Companies expressed concern that the single 500 kV transmission line proposed is not adequate in that the proposed unit and other sales will result in additional power flowing on a sustained basis over one or more of their facilities. They contended that this would require compensation and may adversely affect their ability to serve their customers.

On October 19, 1982, SCSI and GSU filed answers opposing the Middle South Companies' motion to intervene and request for a hearing asserting that this is not an appropriate forum in which to raise such issues. On December 27, 1982, the Middle South Companies filed a notice of withdrawal of their filing, pursuant to an agreement [3] among themselves, the Southern Companies and GSU, which agreement resolves the signatories' differences in this matter according to Middle South.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely notice and unopposed motion serve to make the Louisiana Commission and GSU parties to this proceeding. In the absence of opposition within 15 days from the filing date, the Middle South Companies' notice of withdrawal is effective, rendering moot answers of GSU and SCSI (18 CFR 385.216).

We shall deny Lafayette's request for intervention and conditional acceptance of the Agreements. However, we need not address all of the arguments raised by GSU and SCSI. In substance, Lafayette's contentions in this proceeding are no different than those asserted in *Middle South Services, Inc.*, Docket No. ER82–483–000, where Lafayette effectively sought to attach a compulsory wheeling condition to certain unrelated proposed revisions to the Middle South pooling agreement.[4] The Commission ultimately permitted Lafayette to intervene in the earlier proceeding only when, on rehearing, Lafayette for the first time alleged that the agreements at issue could potentially have an adverse effect on rates charged to Lafayette if it were to purchase transmission services from the companies involved. Lafayette has raised no such rate issues in its current intervention. As we informed Lafayette in *Middle South Services, Inc., supra*, appropriate procedures and standards exist pursuant to the Federal Power Act, particularly sections 211 and 212, to pursue a compulsory wheeling request if Lafayette finds it appropriate to do so. Because the facts alleged in Lafayette's pleading are not germane to the proposed Agreements, we find that intervention is unnecessary and may unduly delay this proceeding. Accordingly, the motion to intervene will be denied.

We believe it appropriate to briefly address the matters presented by NFW. As noted, NFW suggests that the contemplated transmission line should be considered a major Federal action and that the Commission should withhold acceptance of the filing pending preparation of an EIS. We disagree that SCSI's filing requires the preparation of an EIS by this Commission. While acceptance of the proposed rates for filing permits the parties to charge those rates, such acceptance does not constitute approval of the rate schedules or any part thereof (*see* 18 CFR 35.4). More significantly, however, this Commission's authority with respect to the filed rate schedules does not extend to the transmission facility siting concerns addressed by NFW inasmuch as we have no jurisdiction to certificate or license the construction of these facilities. Absent a Commission order compelling interconnection or wheeling which would effectively require the construction of transmission facilities, we believe that NFW's contentions are misplaced.

Our preliminary review of SCSI's filing indicates that the proposed rates, terms, and conditions have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and initiate an investigation as ordered below. Given the nature of the filing and in order to enable prompt initiation of a hearing, we hall also waive the 120-day advance filing proscription.

As a final matter we note that in its submittal, SCSI acknowledges that the Commission has imposed a filing and review requirement as to similar Interchange Contracts and Unit Power Sales Agreements consistent with the filing and review requirements established in a settlement agreement in Docket No. ER80–58–000.[5] SCSI does not object to a similar review requirement with respect to the proposed Interchange Contract and we believe that such a review mechanism is appropriate. However, SCSI requests that no such review requirement be imposed as to the Unit Power Sales Agreement. In support of its request, SCSI cites Opinion No. 124, *Middle South Utilities Company* (July 30, 1981), where the Commission determined that formulas constituting fuel cost of service tariffs for unit sales should be accepted as the rate, without any attached review conditions.

We agree with SCSI's position with respect to review procedures for the proposed Unit Power Sales Agreement. The formulary rates reflect increases and decreases in all cost of service components, except capital structure and the cost of capital components, which are stated and can be changed only by a rate change filing with the Commission. Furthermore, the formulary methodologies reflect treatment of the cost of service components in a manner substantially consistent with Commission precedent. Accordingly, the formulary rates for determining charges under the Unit Power Sales Agreement will not be subject to periodic review procedures.

The Commission orders

(A) Lafayette's request to make approval of the Agreements conditioned upon GSU making available transmission and interchange service is hereby denied without prejudice to Lafayette's right to seek Commission action in accordance with sections 211 and 212 of the Federal Power Act. Lafayette's motion to intervene is hereby denied for the reasons discussed above.

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[3] We note that, while this agreement itself may not be jurisdictional, it should be filed, under section 205 of the Federal Power Act, to the extent that it affects or relates to jurisdictional rates, charges, classifications and services.

[4] *Middle South Services, Inc.*, Docket No. ER82–483–000, 20 FERC ¶61,119.

[5] By letter order dated September 14, 1981, in Docket No. ER80–58–000, the Commission accepted for filing a formulary costing methodology for emergency and short-term power services and, *inter alia*, required SCSI to (1) file annual cost projections which would be subject to review under section 205 of the Federal Power Act with increases in charges resulting from the updating of costs subject to refund pending the Commission's review, and (2) consent to a section 205 review of SCSI's cost allocation methodology under the formulary rates to be held in 1984.

(B) SCSI's request for waiver of the 120-day advance filing limitation of 18 CFR 35.3 is hereby granted.

(C) The Interchange Agreement, Unit Power Sales Agreement, and Transmission Service Agreement are hereby accepted for filing to become effective on June 1, 1984.

(D) SCSI's proposed Interchange Agreement is hereby made subject to the same filing and review requirements established by the Commission's letter order of September 14, 1981, in Docket No. ER80-58-000.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR Chapter I], a public hearing shall be held concerning the justness and reasonableness of the Interconnection, Unit Power Sales, and Transmission Agreements.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, for the purpose of establishing a procedural schedule, including the submittal of testimony and exhibits by SCSI. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided by the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT A—SOUTHERN COMPANY SERVICES, INC., DOCKET NO. ER82-579-000, RATE SCHEDULE DESIGNATIONS

Designation	Description
SOUTHERN COMPANY SERVICES, INC.	
(1) Rate Schedule FERC No. 59	Interchange Contract.
(2) Supplement No. 1 to Rate Schedule FERC No. 59.	Service Schedule A—Emergency Assistance
(3) Supplement No. 2 to Rate Schedule FERC NO 59	Service Schedule B—Short-Term Power
(4) Supplement No. 3 to Rate Schedule FERC No.59.	Service Schedule C—Economy Energy
(5) Supplement No. 4 to Rate Schedule FERC No. 59.	Manual for Emergency & ST Power.

ATTACHMENT A—SOUTHERN COMPANY SERVICES, INC., DOCKET NO. ER82-579-000, RATE SCHEDULE DESIGNATIONS—Continued

Designation	Description
(6) Rate Schedule FERC No. 60	Unit Power Sales Agreement
(7) Supplement No. 1 to Rate Schedule FERC No. 60.	Amendment No. 1 to Unit Power Sales Agreement
(8) Exhibit A to Rate Schedule FERC No 60	Capacity Entitlements
(9) Supplement No. 2 to Rate Schedule FERC No. 60.	Manual.
MISSISSIPPI POWER COMPANY	
(10) Rate Schedule FERC No. 135	Transmission Facilities Use Agreement.
(11) Exhibit A to Rate Schedule FERC No. 135.	Exhibit—Map
(12) Supplement No. 1 to Rate Schedule FERC No. 135	Amendment No. 1
(13) Supplement No. 2 to Rate Schedule FERC No. 135.	[illegible]
(14) Rate Schedule FERC No. 136 (Concurs in (1)-(5) above)	Certificate of Concurrence
(15) Rate Schedule FERC No. 137 (Concurs in (6)-(9) above).	Do.
GULF STATES UTILITIES COMPANY	
(16) Rate Schedule FERC No 135 (Concurs in (1)-(5) above)	Certificate of Concurrence
(17) Supplement No. 1 to Rate Schedule FERC No. 135.	Service Schedule G—GEN-GSU General Provision.
(18) Supplement No. 2 to Rate Schedule FERC No. 135.	Service Schedule GES—Emergency Service
(19) Supplement No. 3 to Rate Schedule FERC No. 135.	Service Schedule GRE—Replacement Energy
(20) Supplement No. 4 to Rate Schedule FERC No. 135.	Service Schedule G—ECON Economy Energy
(21) Supplement No. 5 to Rate Schedule FERC No. 135.	Service Schedule GITS—Interconnected Transmission Service.
(22) Supplement No. 6 to Rate Schedule FERC No. 135.	Rate Schedule GITS.
GEORGIA POWER COMPANY	
(23) Rate Schedule FERC No. 812 (Concurs in (1)-(5) above).	Certificate of Concurrence
(24) Rate Schedule FERC No. 813 (Concurs in (6)-(9) above).	[illegible]
GULF POWER COMPANY	
(25) Rate Schedule FERC No. 76 (Concurs in (1)-(5) above).	Do.
(26) Rate Schedule FERC No. 77 (Concurs in (6)-(9) above).	Do.
ALABAMA POWER COMPANY	
(27) Rate Schedule FERC No. 158 (Concurs in (1)-(5) above).	Do.
(28) Rate Schedule FERC No. 159 (Concurs in (6)-(9) above).	[illegible]

[FR Doc. 83-2278 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-257-000]

Southern California Edison Co.; Filing

January 21, 1983.

Trade notice that on January 17, 1983, Southern California Edison Company (SCE) tendered for filing an agreement entitled "Edison-Azusa Interruptible Transmission Service Agreement" which has been executed by Edison and the City of Azusa, California (Azusa).

SCE states that under the terms and conditions of the agreement, SCE will make available to Azusa interruptible transmission service from several points of receipt to the point of delivery at Azusa, California.

The agreement is proposed to become effective when executed by the parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Azusa, California.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2176 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-256-000]

Southwestern Electric Power Co.; Filing

January 21, 1983.

Take notice that on January 17, 1983, Southwestern Electric Power Company (SWEPCO), tendered for filing a Letter Agreement between SWEPCO and Gulf States Utilities Company (GSU), dated December 28, 1982, which provides for SWEPCO to furnish transmission service through its system for capacity and associated energy GSU purchases from Oklahoma Gas and Electric Company (OGE) in the amount of 150 MW for the period January 1, 1983 through December 31, 1983.

SWEPCO requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Louisiana Public Service

Commission, the Public Utility Commission of Texas, Oklahoma Gas and Electric Company, and Gulf States Utilities Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2177 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-118 000]

Trans Energy-Oregon, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 27, 1982, Trans Energy-Oregon, Inc. of 14711 N.E. 29th Place, Suite 101, Bellevue, Washington 98007, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in Salem, Oregon. The generating capacity of the facility will be 15 megawatts. The primary energy source will be municipal solid waste. Applicant states that no other facilities owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2178 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3691-001]

Richard V. Williamson; Order Cancelling Preliminary Permit

Issued: January 25, 1983.

On June 19, 1981, a preliminary permit for a period of 24 months was issued to Richard V. Williamson (Williamson), 15 FERC § 62,363. The permit took effect on June 1, 1981, for a period of 24 months. The permit requires Williamson to study the feasibility of the proposed Holton C. Kearny Project, FERC No. 3691, to be located on the Trinity River, Trinity County, California. Williamson has failed to comply with several conditions of the permit. The permit will therefore be cancelled.

Article 8 of the permit required Williamson to file with the Commission, by December 1, 1981, a report on the progress of its investigations over the preceding six months and on the work it contemplated undertaking under the permit for the following six months. Williamson failed to timely file the report. Williamson has therefore failed to comply with Article 8 of his permit.

Because the Commission has received no information from Williamson since grant of the permit, it appears that Williamson has also not complied with four other articles of the permit. They are, Article 1 (which requires commencement of investigations within 60 days of acceptance of the permit); Article 7 (which requires consultation with appropriate Federal, State and local agencies concerning natural resources and environmental values); Article 9 (which requires designation of a liaison officer); and Article 10 (which requires consultation and arrangement for studies with specified fish and wildlife agencies during the initial period of the permit).

The Commission's San Francisco Regional Engineer (the Commission's authorized representative for the purposes of the permit) has unsuccessfully attempted to give Williamson notice of possible cancellation of the permit for violation of those articles.[1]

Because Section 5 of the Federal Power Act requires notice and an opportunity for a hearing before the Commission may cancel a permit, the permit will be cancelled for violation of Articles 1, 7, 8, 9 and 10, but the effective date of the order will be postponed until thirty days after it has been published in the **Federal Register**. If, before the 30-day period has expired, Williamson in writing seeks to demonstrate that he is in compliance with the conditions of the permit, or requests a hearing on why his permit should not be cancelled, this order shall be null and void.[2]

Pursuant to Article 3 of the permit, cancellation of the permit will result in loss of Williamson's priority of application for a license for this project.[3]

It is ordered that:

(A) Pursuant to Section 5 of the Federal Power Act and Article 6 of the permit issued to Richard V. Williamson For Project No. 3691, the permit is cancelled.

(B) This order shall not be effective until thirty days after it has been published in the **Federal Register**. If, within the thirty day period, Williamson in writing seeks to demonstrate that he is in compliance with the conditions of the permit or requests a hearing on why his permit should not be cancelled, this order shall be null and void.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 83-2277 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

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[1] The Regional Engineer wrote to Williamson on July 7, 1982, by certified mail, return receipt requested. The letter was returned on July 28, 1982, marked "Unclaimed-Return to Sender."

[2] Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under § 375.308 of the Commission's regulations, 18 CFR 375.308 (1982), as amended by 47 FR 17810 (1982). This order may be appealed to the Commission by any party within 30 days of its issuance pursuant to Rule 1902, 18 CFR 385.1902, 47 FR 19047 (1982). Filing an appeal and final Commission action on that appeal are prerequisites for filing an application for rehearing as provided in Section 313(a) of the Act. Filing an appeal does not operate as a stay of the effective date of this order or of any other date specified in this order, except as specifically directed by the Commission.

[3] A preliminary permit is not a prerequisite to a license application. Cancellation of the preliminary permit does not, therefore, preclude Williamson from continuing the geological, engineering and environmental studies necessary for a license application for the project at his own pace, and eventually filing an application for license.

[Docket No. EC83-8-000]

Wisconsin Electric Power Co.; Application

January 21, 1983.

Take notice that on January 5, 1983, Wisconsin Electric Power Company (Wisconsin Electric) filed an application for an order of the Federal Energy Regulatory Commission pursuant to Section 203 of the Federal Power Act authorizing Wisconsin Electric to sell and dispose of to the City of Kaukauna, a Wisconsin, municipality, certain electric substation and switching station facilities installed to provide electric service to the City of Kaukauna and also to the lease of space to the City of Kaukauna in stations of Applicant as presently occupied by these facilities. The sale and lease become effective upon approval by the Federal Energy Regulatory Commission.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before February 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2179 Filed 1-26-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of December 27 Through December 31, 1982

During the week of December 27 through December 31, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Request for Modification and/or Rescission

Earl E. Wall, 12/30/82, HRR-0043

In a Decision and Order issued on September 20, 1982, the DOE determined that Earl E. Wall (Wall) had violated the crude oil producer price regulations. *Earl E. Wall,* 10 DOE ¶ 83,010 (1982). On October 21, 1982, the DOE issued a Supplemental Order clarifying certain statements in the September 20 Decision which suggested that 10 CFR 212.75 applied retroactively to unitized properties which had commenced enhanced recovery operations prior to February 1, 1976. *ERA/Earl E. Wall,* 10 DOE ¶ 82,522 (1982). The Supplemental Order modified the language of the September 20 Decision to make it clear that it is only the policy statement in the preamble to Section 212.75 that has retroactive effect. In its Motion for Modification, Wall requested that the Supplemental Order be rescinded and that the September 20 Decision be reinstated, except that the amount of overcharges be reduced to reflect the application of the definition of unit base production control level in Section 212.75 to Wall's unitized properties. In rejecting Wall's request, the DOE noted that the position articulated in the October 21 Decision is consistent not only with DOE precedent, but also with a recent U.S. District Court Decision, *O. B. Mobley v. DOE,* 3 Fed. Energy Guidelines ¶ 26,406 (W.D. La. 1982). Accordingly, Wall's Motion for Modification was denied.

Supplemental Order

Atlantic Richfield Company, HRX-0060; Gulf Oil Corporation, HRX-0061; Marathon Oil Company, HRX-0062; Texaco, Inc., HRX-0063; Louisiana Land & Exploration Co., 12-29-82, HRX-0064

Pursuant to the decision in *Atlantic Richfield Co.,* 10 DOE ¶ 84,017 (1982), the Office of Special Counsel for Compliance submitted two documents to the Office of Hearings and Appeals for *in camera* review. The purpose of that review was to determine whether the OSC's claim of privilege with respect to the two documents should be upheld. After examining the documents, the OHA held that the documents were in fact privileged.

Dismissals

The following submissions were dismissed:

Name and Case

Bassett Oil and Equipment Co., DRA-0277
C. H. Sprague and Son Company, BRA-0455
Hamilton Brothers Petroleum Corp., HRO-0008, HRD-0040, HRH-0008

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: January 20, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-2189 Filed 1-26-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-140030; TSH-FRL 2291-8]

Battelle Columbus Division of Battelle Memorial Institute and Westat, Inc.; Transfer of Data to Contractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has contracted with the Battelle Columbus Division of the Battelle Memorial Institute (Battelle), in Columbus, Ohio, and Washington, D.C., and Westat, Incorporated (Westat), in Rockville, Maryland, to help the Agency develop statistical methodologies and to provide analytic support for certain data gathered or generated under the Toxic Substances Control Act (TSCA) section 8 (a) Asbestos Reporting Requirements rule. Battelle and Westat will require access at EPA, as well as on their own premises, to materials including TSCA confidential business information (CBI).

DATE: Access to confidential business information will occur no sooner than 10 days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Chris Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065), in Washington, D.C.: (554-1404), outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: EPA has contracted with Battelle in Columbus, Ohio, and Washington, D.C., and Westat, in Rockville, Maryland, to help the Agency develop statistical methodologies and provide computer software support for aggregating information located in certain Office of Toxic Substances (OTS) data bases for release to the public (Contract No. 68-01-7621). The first reporting phase of the TSCA section 8 (a) Asbestos Reporting Requirements rule published in the **Federal Register** of July 30, 1982 (47 FR 33198), is complete. OTS is developing a procedure to increase the response rate and to identify biases that may exist in the reported data. OTS is also developing a procedure to select a sample of the submitters for the second

reporting phase. The information obtained from the statistical sample would meet OTS' data requirements at a reduced public burden. In order to design the sample it will be necessary for Battelle and Westat to review data submitted in response to the first reporting phase. These data are considered confidential business information.

Pursuant to 40 CFR 2.306(j), EPA has determined that access to confidential business information by Battelle and Westat is necessary for the statisfactory completion of this contract. EPA is publishing this notice to inform submitters of data under the TSCA section 8(a) Asbestos Reporting Requirements rule that Battelle and Westat will have access to this information.

In accordance with the EPA security manual. "Contractor Requirements for the Control and Security of TSCA Confidential Business Information," Battelle and Westat are legally required to safeguard confidential business information from any unauthorized disclosure. EPA has conducted the required security inspections of the contractors' facilities and has found them to be in compliance with the requirements of the manual. Battelle and Westat employees will sign nondisclosure agreements and will be briefed on appropriate security procedures which must be followed before they will be allowed access to any CBI.

Dated: January 19, 1983.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83-2273 Filed 1-26-83; 8:45 am]

BILLING CODE 6560-50-M

[SWH-FRL 2291-7]

RCRA Permit Advisory Committee; Open Meeting

Notice is hereby given of the first meeting of the RCRA Permit Advisory Committee. The Committee was established in accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. (App. I), *et seq.* Establishment of the Committee was announced in the **Federal Register** on September 23, 1982, [SWH-FRL-2215-2].

The meeting will be held on February 15, 1983, at the Department of Agriculture South Building, Thomas Jefferson Auditorium, Independence Avenue and 14th Streets, SW., Washington, D.C. at 9:30 a.m. Task Forces as organized will meet February 15, 1983, at 2:00 p.m. and on February 16, 1983, at 9:00 a.m. at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. in rooms 3906, 3908, 2126, and S247. Estimated time of adjournment is 4:00 p.m.

The primary function of the Committee is to advise and make recommendations to the Assistant Administrator, Office of Solid Waste and Emergency Response, on policy, technical and procedural matters related to the environmental, economic and social impact of RCRA permits.

Major purposes of this first meeting are to develop an Agenda for the Committee and organize Task Forces as needed to enable the Committee to address specific issues relating to storage and treatment, class permits, incineration, mobile treatment units and land disposal. The Comittee will adopt rules of procedure at this time as well as define the issues to which they will give their attention.

Members who have been apointed to the Comittee are:

Ms. Mary A. Bishop
Ms. Jane L. Bloom
Dr. Joseph P. Chu
Mr. L. Jack Davis
Hon. Frank De Fillipo
Dr. Ralph R. Di Sibio
Mr. Paul Duff
Mr. Michael L. Esarey
Mr. Gregg P. Franklin
Ms. Susan Reid Greene
Ms. Linda E. Greer
Mr. Gerald D. Healy, Jr.
Dr. Charles A. Johnson
Mr. George S. Kush
Mr. Robert E. Liquori
Mr. Albert F. Vickers
Mr. Barney Wander
Hon. H.C. Wessman
Mr. Jerry B. Martin
Ms. Anita Martinez
Mr. Ronald Nelson
Mr. Ralph A. Odom
Mr. Philip A. Palmer
Hon. Linley D. Pearson
Mr. Delbert Rector
Mr. Peter A. Rogers
Mr. J. Eldon Rucker, Jr.
Mr. John T. Schofield
Mr. Burl J. Snow III
Mr. Robert A. Stadelmeier
Dr. Russell H. Susag
Mr. Stephen R. Thompson
Mr. Peter Vardy
Ms. Eleanor W. Winsor
Mr. Thonas J. Wittmann

Mr. Peter N. Bibko will represent the EPA Regional Administrators.

An additional group of persons has been asked to serve as alternates. They are:

Mr. William W. Beck, Jr.
Mr. David Burstein
Mr. H. Hudson Buzbee
Mr. Lecil Colburn
Mr. Charles K. Dayton
Ms. Victoria A. Douglass
Mr. David R. Fetter
Dr. William F. Gilley
Dr. Robert Ginsburg
Mr. R. Kinnan Goleman
Mr. H. Lanier Hickman, Jr.
Mr. John T. Hoeft
Mr. Emory G. Hukill
Mr. Kenneth B. Kazarian
Hon. Roger A. Madigan
Mr. Hugh Mullen
Mr. Louis J. Perona
Mr. John Quarles
Mr. Richard P. Reiter
Ms. Aileen Schumacher
Mr. Martin Seltzer

The meeting is open to the public. Any member of the public wishing to submit a written statement to the Committee should submit copies to the Executive Secretary at the meeting. Time will also be allowed for oral comment. Anyone wishing to make a brief oral statement must indicate this to the Executive Secretary at the opening of the meeting.

FOR FURTHER INFORMATION CONTACT: Jacqueline Harker, Permits Branch, Office of Solid Waste, 202-382-5993.

Dated: January 20, 1983.

Rita M. Lavelle,

Assistant Administrator.

[FR Doc. 83-2274 Filed 1-26-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-53045 TSH-FRL 2269-4]

Premanufacture Notices; Monthly Status Report for December 1982

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expires since publication of the last monthly summary. This is the report for December 1982.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E-106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS-53045]" and the specific

PMN number should be sent to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–208, 401 M Street, SW., Washington, DC 20460, (202–382–3746).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during December; (b) PMNs received previously and still under review at the end of December; (c) PMNs for which the notice review period has ended during December; (d) chemical substances for which EPA has received a notice of commencement to manufacture during December; and (e) PMNs for which the review period has been suspended. Therefore, the December 1982 PMN Status Report is being published.

Dated: January 17, 1983.

Woodson W. Bercaw,

Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report, December 1982

I. 92 Premanufacture Notices Received During the Month

PMN No.	Identity and generic name	FR citation	Expiration date
83–264	Condensation polymer of ethyl acrylate and ethanol amine	47 FR 55423 (12/9/82)	Mar. 1, 1983
83–265	Generic name: Substituted alkyl polyalkylene oxy quarternary ammonium chloride compound	47 FR 55423 (12/9/82)	Do.
83–266	Generic name: Ploy(oxyalkyin disubstituted silane) alkyl, alkoxy-terminated, polymer with titanium alkoxide.	47 FR 57333 (12/23/82)	Mar. 2, 1983
83–267	Generic name: Polyester from carbomonocyclic anhydrides and substituted alkanediols	47 FR 57333 (12/23/82)	Do.
83–268	Generic name: Azobs-(nitrosulfophenly-alky-sulfobenzene) compound with oxyalkylamine	47 FR 57333 (12/23/82)	Do.
83–269	Generic name: Substituted naphthalenylazo naphthalenedisulfonic acid salt	47 FR 57333 (12/23/82)	Do.
83–270	Generic name: Tetra (substituted sulfonic acid) derivative of transition metal—arylcyanine complex.	47 FR 57333 (12/23/82)	Do.
83–271	Generic name: Hydrocarbon complex with platinum halide	47 FR 57333 (12/23/82)	Do.
83–272	Generic name: Substituted pyridine	47 FR 57333 (12/23/82)	Do
83–273	Generic name: Blocked isocyanate	47 FR 57333 (12/23/82)	Mar. 5, 1983.
83–274	Generic name: Polymer of alkane polyols, alkanedioic acids and aromatic polyacid	47 FR 57333 (12/23/82)	[illegible]
83–275	Generic name: Modified polyisocyanate	47 FR 57333 (12/23/82)	Do.
83–276	Generic name: Modified polyisocyanate	47 FR 57333 (12/23/82)	Do.
83–277	2-Oxepanone, polymer with 2,2'-[(oxybismethylene)] bis[2-(hydroxymethyl)-1,3-propanediol	47 FR 57333 (12/23/82)	Do.
83–278	2-Oxepanone, polymer with 2,2-bis[[3-hydroxy-2,2-bis(hydroxymethyl) propoxy] methyl]-1,3-propanediol.	47 FR 57333 (12/23/82)	Do.
83–279	Generic name: Chlorinated, oleated, hydrocarbon polymer	47 FR 57334 (12/23/82)	Do
83–280	Generic name: 2-Anthracenesulfonic acid, 1-amino-9, 10-dihydro-9, 10-dioxo-4-[(substituted phenyl) amino].	47 FR 57334 (12/23/82)	Mar 6, 1983
83–281	Generic name: Benzenesulfonamide salt	47 FR 57334 (12/23/82)	Do.
83–282	Generic name: Polyester based complex alkanediol	47 FR 57334 (12/23/82)	Do.
83–283	Generic name: Substituted cyclosiloxane	47 FR 57334 (12/23/82)	Do.
83–284	Generic name: Polyester polyol	47 FR 57334 (12/23/82)	Do.
83–285	Generic name: Phosphate ester	47 FR 57334 (12/23/82)	Do
83–286	Generic name: 1,1-dimethyl ethyl peroxyester	47 FR 57334 (12/23/82)	Do
83–287	Generic name: 1,1-dimethylpropyl peroxyester	47 FR 57334 (12/23/82)	Do
83–288	Generic name: 1-methyl-1-phenyl ethyl peroxy-ester	47 FR 57334 (12/23/82)	Do.
83–289	Copolymer from acrylonitrile, styrene and psopropenylphenol	47 FR 57334 (12/23/82)	Do
83–290	Generic name: Asphalt styrenated resin	47 FR 57334 (12/23/82)	Do
83–291	Generic name: Vinylic copolymer	47 FR 57334 (12/23/82)	Do
83–292	Generic name: N-substituted-N-mixed alkoxy-propylameamnc acid derivatives	47 FR 57334 (12/23/82)	Do
83–293	Hydrogenated acrylonitrile-butadiene copolymer (H–NBR)	47 FR 57335 (12/23/82)	Mar. 7, 1983
83–294	Generic name: Organophosphorus compound	47 FR 57335 (12/23/82)	-Do
83–295	Generic name: Organosulfur compound	47 FR 57335 (12/23/82)	Do
83–296	Generic name: Rosin metallic salt	47 FR 57335 (12/23/82)	Mar 8, 1983
83–297	Generic name (Substituted) anthracenylmino-(substituted) carbomonocyclic acid alkylamine salt	47 FR 57335 (12/23/82)	Do
83–298	Generic name: Toluene alkylate	47 FR 57336 (12/23/82)	Mar 9, 1983
83–299	Generic name: Toluene alkylate	47 FR 57336 (12/23/82)	Do
83–300	Generic name: Dialkyl benzene	47 FR 57336 (12/23/82)	Do
83–301	Generic name: Dialkyl benzene	47 FR 57336 (12/23/82)	Do
83–302	Generic name: Alkyl benzene	47 FR 57336 (12/23/82)	Do
83–303	Polymer of: Trimethyl pentane diol, adipic acid and phthalic anhydride	47 FR 57336 (12/23/82)	Do.
83–304	Bis (benzyl-thioureidoethyl)-dithio carbamic acid-s-propoylester-w-sulfonic acid sodium	47 FR 57336 (12/23/82)	Do
83–305	Generic name: Urethane polyester prepolymer acrylate capped	47 FR 57337 (12/23/82)	Do
83–306	Generic name: Poly alkyl benzene sulfonate	47 FR 57337 (12/23/82)	Do
83–307	Generic name: Poly alkyl benzene sulfonate	47 FR 57337 (12/23/82)	Do
83–308	Generic name: Poly alkyl benzene sulfonate	47 FR 57337 (12/23/82)	Do
83–309	Generic name: Poly alkyl benzene sulfonate	47 FR 57337 (12/23/82)	Do
83–310	Generic name: Benzene alkyl sulfonate	47 FR 57337 (12/23/82)	Do
83–311	3-dimethylureidyimethyl-3,5,5-trimethylcyclo-hexyl dimethyl urea	47 FR 57337 (12/23/82)	Do.
83–312	Generic name: Aromatic aliphatic branched polyester resin	47 FR 57337 (12/23/82)	Mar. 12, 1983
83–313	Generic name: Polymer of alkane polyols, alkane dioic acid and aromatic acid	47 FR 57337 (12/23/82)	Mar 13 1983
83–314	Generic name: Ester of aromatic acids and aliphatic polyols	47 FR 57337 (12/23/82)	Do
83–315	Generic name: 2-substuted propanoic acid	47 FR 57337 (12/23/82)	Do
83–316	Generic name: Modified ethylene-chlorotrifluoro-ethylene polymer	47 FR 57337 (12/23/82)	Do.
83–317	Generic name: Modified polyester polyurethane from substituted alkanediols, alkandioic acid and a disocyanate	47 FR 57337 (12/23/82)	Do
83–318	Generic name: Acrylic copolymer of styrene and methacrylate monomers	47 FR 57338 (12/23/82)	Mar 14, 1983
83–319	Generic name: Modified alkyd polymer from mixed fatty oils, carbomonocyclic anhydride, carbomonocyclic acid and a substituted alkane diol.	47 FR 57338 (12/23/82)	Mar. 15, 1983.
83–320	Generic name: Polymeric acrylate	47 FR 57338 (12/23/82)	Do
83–321	Generic name: Mixed glycol oligoesters of mixed dicarboxylic acids	47 FR 57338 (12/23/82)	Do.
83–322	Generic name: Polyester of aliphatic polyol, mono basic acids and aromatic diacids	48 FR 72 (1/3/83)	Mar. 16, 1983.
83–323	Generic name: Polyester of aliphatic polyols, vegetable oil, and aromatic dibasic acid	48 FR 72 (1/3/83)	Do.
83–324	Generic name: Modified bisphenol A, epichloro-hydrin polymer	48 FR 72 (1/3/83)	Do.
83–325	Generic name: Polyester polyurethane from carbomonocyclic anhydride, alkanediols and disocyanates.	48 FR 72 (1/3/83)	Do.
83–326	Generic name: Functionalized acrylic polymer	48 FR 72 (1/3/83)	Do.

I. 92 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-327	Generic name: Blocked isocyanate	48 FR 72 (1/3/83)	Do.
83-328	Generic name: Modified copolymer of alkenoic esters and substituted alkenoic esters with styrene	48 FR 72 (1/3/83)	Mar. 18, 1983.
83-329	Generic name: Substituted phenyl, azo substituted naphthalenedisulfonic acid, sodium salt	48 FR 72 (1/3/83)	Do
83-330	Generic name: Substituted phenate	48 FR 73 (1/3/83)	Do.
83-331	Generic name: Bis-alkylated phenol	48 FR 73 (1/3/83)	Do.
83-332	Generic name: Aromatic alkyd—silicone modified	48 FR 73 (1/3/83)	Mar. 19, 1983
83-333	Generic name: Reaction product of polycycle-sulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali	48 FR 73 (1/3/83)	Do
83-334	Generic name: Polymer of alkane polyols, alkanedioic acid, and aromatic diacid	48 FR 73 (1/3/83)	Do.
83-335	Generic name: ((Substituted phenyl)azo)naphtha-lenesulfonic acid, sodium salt	48 FR 73 (1/3/83)	Do.
83-336	Methanesulfonic acid, tin (2+) salt	48 FR 73 (1/3/83)	Do
83-337	Methanesulfonic acid, lead (2+) salt	48 FR 73 (1/3/83)	Do.
83-338	Generic name: Substituted-1,6-triphenodioxazine-disulfonic acid, sodium salt	48 FR 862 (1/7/83)	Mar. 26, 1983
83-339	Generic name: 5-[4-chloro-6-[3-[2-(hydroxy-sulfonyloxy)ethylsulfonyl]anilino]-1,3,5-triazin-2-ylamino]-3-[1,5disulfo-2-naphthylazo)-4-hydroxy-2, 7-naphthalenedisulfonic acid, pentasodium slat.	48 FR 862 (1/7/83)	Do.
83-340	Generic name: 3-[4-[4-[4-chloro-6-[3-[2-(hydroxysulfonyloxy)ethylsulfonyl]anilino-1,3,5-triazin-2-ylamino]-5-sulfonaphthylazo]-6-sulfonaphthylazo]1,5-naphthalenedisulfonic acid pentasodium salt.	48 FR 862 (1/7/83)	Do
83-341	Generic name: 7-[4-[4-chloro-6-[3-[2-[hydroxy-sulfonyloxy)ethylsulfonyl]anilino]/1.3.5-triazin-2-ylamino]-2-ureidophenylazo]-1,3,5-naphthalenetrisulfonic acid, tetrasodium salt.	48 FR 862 (1/7/83)	Do
83-342	Generic name: 3-[5-[4-chloro-6-[3-[2-(hydroxysulfonyloxy)ethylsulfonyl]anilino-1,3,5-triazin-2-ylamino]-2-sulfophenylazo]-4-hydroxy-5-propionylamino-2,7-naphthalenedisulfonic acid, tetrasodium salt.	48 FR 862 (1/7/83)	Do.
83-343	Generic name: 4-amino-6-[5-[4-chloro-[3-[2-(hydroxysulfonyloxy)ethylsulfonyl]anilino]-1,3,5-triazin-2-ylamino]-2-sulfophenylazo]-5-hydroxy-3-(4-sulfophenylazo]-2,7-naphthalenedisulfonic acid, pentasodium salt.	48 FR 862 (1/7/83)	Do
83-344	Generic name: Mercapto-substituted, heterocyclic nitrogen compound	48 FR 862 (1/7/83)	Do.
83-345	Generic name: Alkyl thiocyanate	48 FR 862 (1-7-83)	Do.
83-346	Polymer of 2-propenoic acid, 2-methyl-, methyl ester and 1,3-butyleneglycol diacrylate	48 FR 862 (1/7/83)	Do
83-347	Partially hydrogenated polybenzylated toluene	48 FR 862 (1/7/83)	Mar. 27, 1983.
83-348	Polybenzylated toluene	48 FR 862 (1/7/83)	Do.
83-349	Generic name: Poly polymethacrylate	48 FR 862 (1/7/83)	Do
83-350	2-propoxyethyl acetate	48 FR 862 (1/7/83)	Mar. 26, 1983.
83-351	Polymer of trimethylol propane, ethylene glycol, adipic acid, phthalic anhydride	48 FR 1819 (1/4/83)	Mar. 29, 1983.
83-352	Generic name: Alophatic secondary naphthalene	48 FR 1819 (1/14/82)	Do
83-353	Generic name: Aliphatic secondary naphthalene	48 FR 1819 (1/14/83)	Do.
83-354	Generic name: Aliphatic bis(secondary naphthalene amine)	48 FR 1819 (1/14/83)	Do.
83-355	Generic name: Substituted aromatic secondary naphthalene amine	48 FR 1820 (1/14/83)	Do

II. 175 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.	Identity and generic name	citation	Expiration date
82-88	Generic name: Dimer fatty acids, monocarboxylic acids, and diamines polymer	47 FR 52221 (11/19/82)	Jan. 29, 1983.
82-89	Generic name: Dimer fatty acids, monocarboxylic acid, polycarboxylic acid, diamines polymer, modified with an acrylic acid copolymer.	47 FR 52221 (11/19/82)	Do.
83-90	Generic name: Polymer of polysubstituted alkyl acrylates	47 FR 52221 (11/19/82)	Do.
83-91	Polymer of tall oil rosin, gum rosin, paraformaldehyde, calcium hydroxide, and phenol	47 FR 52222 (11/19/82)	Do.
83-92	Generic name: Reaction product of a polyhalogenated anhydride, maleic anhydride and alkylene glycols.	47 FR 52222 (11/19/82)	Jan. 30, 1983.
83-93	Generic name: Polyester polycarboxylate salt	47 FR [illegible] (11/19/82)	Do.
83-94	Generic name: Alkyl substituted salicylaldehyde	47 FR 52222 (11/19/82)	Do.
83-95	Generic name: Tnsubstituted benzothiazole salt	47 FR 52222 (11/19/82)	Do.
83-96	Generic name: ((Substituted phenyl)azo) benzenesulfonic acid, aminium salt	47 FR 52222 (11/19/82)	Do.
83-97	Generic name: Thermoplastic polyurethane resin	47 FR [illegible] (11/19/82)	Jan. 31, 1983.
83-98	Generic name: N-(trimethylcarbomonocycle) isopentanol	47 FR 52222 (11/19/82)	Do.
83-99	Generic name: Sulfonated phenol formaldehyde condensation polymer	47 FR [illegible] (11/19/82)	Do
83-100	Generic name: Copolymer of styrene with substituted alkanoic derivatives	47 FR 52222 (11/19/82)	Feb. 1, 1983.
83-101	Generic name: Polymer of diphenylmethane diisocyanate, hydroxy alkyl ethers, and substituted alkanediols.	47 FR 52223 (11/19/82)	Feb. 2, 1983.
83-102	Generic name: Polyacrylate	47 FR 52223 (11/19/82)	Feb. 5, 1983.
83-103	Generic name: Polyamine urea formaldehyde condensate.	47 FR 52223 (11/19/82)	Do.
83-104	Generic name: Polyamine urea formaldehyde condensate	47 FR 52223 (11/19/82)	Do.
83-105	1,2-benzenediamine, 4-ethoxy, sulfate (1:1)	47 FR 52223 (11/19/82)	Do
83-106	Generic name: Polymer of aliphatic and aromatic diacids and an aliphatic diol	47 FR 52223 (11/19/82)	Do
83-107	Generic name: Modified polyester from carbomonocyclic anhydndes, an alkanediol and an alkanedioc acid.	47 FR 52223 (11/19/82)	Do
83-108	Generic name: Polymer of fatty acids with a substituted alkanoic acid, carbomonocyclic acids, polyols and a carbomonocyclic anhydnde	47 FR 52223 (11/19/82)	Do
83-109	Generic name: Substituted alkyl methacrylate	47 FR 52223 (11/19/82)	Do.
83-110	Generic name: Saturated acid diester	47 FR 52223 (11/19/82)	Feb. 6, 1983
83-111	Generic name: Aromatic acid diester	47 FR 52223 (11/19/82)	Do.
83-112	Generic name: Hydroxy naphthalenedisulfonic acid, disodium salt, ((2-((sodium sulfooxyethyl)sulfonyl)phenyl)azo, and dichlorotriazinylamino substituted.	47 FR 52223 (11/19/82)	Do.
83-113	Generic name: Benzenesulfonic acid, 4-(4-((4-substituted 2-sulfophenyl)azo) 3-carboxy-5-hydroxy-1H-pyrazol-1-yl)-, x sodium salt	47 FR 52224 (11/19/82)	Do.
83-114	Generic name: Naphthalenedisulfonic acid, disodium salt, ((2-((sodium sulfooxyethyl)sulfonyl)aryl)azo, and monochlorotriazinylamino, substituted, copper complex.	47 FR 52224 (11/19/82)	Do.
83-115	Generic name: Naphthalenedisulfonic acid, disodium salt, ((2-(sodium sulfooxyethyl)sulfonyl)aryl)azo, and monochlorotriazinylamino, substituted, copper complex.	47 FR 52224 (11/19/82)	Do.
83-116	Generic name: Ethanol, 2-arylsulfonyl, hydrogen sulfate ester	47 FR 52224 (11/19/82)	Do.
83-117	Oxo alcohols (high boilers)-neopentyl glycol adipate ester	47 FR 52224 (11/19/82)	Do.
83-118	Generic name: Polymeric polyamidoamine	47 FR 52224 (11/19/82)	Do.
83-119	Generic name: Polyester from a carbomonocyclic anhydride and substituted alkanediols	47 FR [illegible]4 (11/19/82)	Do
83-120	Generic name: Reaction product of isomeric mixture of dioxocarbopolycyclic amine with sulfur	47 FR 52224 (11/19/82)	Feb. 7, 1983.
83-121	Polymer of diethyleneglycol, polyethyleneglycol, dimethylterephthalate, isophthalic acid, 5-sulfo-isophthalic acid, dimethyl ester sodium salt.	47 FR [illegible]4 (11/19/82)	Do.
83-122	Generic name: Organic sulfur compound	47 FR 52224 (11/19/82)	Do.

II. 175 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-123	Poly[oxy(methyl-1,2-ethanediyl)],α,α',α''-1,2,3-propanetriyltris-[ω-hydroxy-, polymer with α-ω hydro-hydroxypoly[oxy-(methyl-1,2-ethanediyl)] and 1,1-methylene bis[4-isocyanato-benzene].	47 FR 52224 (11/19/82)	Do
83-124	3-bromo-4-(4-bis-2-hydroxyethylamino)-2-methylphenylazo)-5-nitrobenzoic acid ethyl ester	47 FR 53782 (11/29/82)	Do
83-125	3-bromo-4-(4-(bis-2-hydroxyethylamino)-phenylazo)-5-nitrobenzoic acid ethyl ester	47 FR 53782 (11/29/82)	Do
83-126	Generic name: Modified fluoroaliphatic adduct	47 FR 53782 (11/29/82)	Do
83-127	Polymer of acrylic acid, butyl acrylate, 2-hydroxy ethyl acrylate, methyl acrylate, and 2-ethylhexyl acrylate.	47 FR 53782 (11/29/82)	Do
83-128	Generic name: Organo zinc salt	47 FR 53782 (11/29/82)	Do
83-129	Syncrude (full range, dewaxed dearsenited shale oil)	47 FR 54357 (12/2/82)	Do
83-130	Light straight run naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-131	Heavy straight run naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-132	Straight run middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-133	Straight run gas oil (shale oil)	47 FR 54357 (12/2/82)	Do
83-134	Atmosphere tower residuum (shale oil)	47 FR 54357 (12/2/82)	Do
83-135	Vacuum tower condensate (shale oil)	47 FR 54357 (12/2/82)	Do
83-136	Light vacuum gas oil (shale oil)	47 FR 54357 (12/2/82)	Do
83-137	Heavy vacuum gas oil (shale oil)	47 FR 54357 (12/2/82)	Do
83-138	Vacuum residium (shale oil)	47 FR 54357 (12/2/82)	Do
83-139	Full range catalytic cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-140	Light catalytic cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-141	Catalytic cracked clarified oil (shale oil)	47 FR 54357 (12/2/82)	Do
83-142	Catalytic cracked light olefins (shale oil)	47 FR 54357 (12/2/82)	Do
83-143	Full range catalytic reformed naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-144	Full range alkylate naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-145	Light hydrocracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-146	Heavy hydrocracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-147	Light hydrocracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-148	Light thermal cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-149	Heavy thermal cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-150	Light thermal cracked distillate (shale oil)	47 FR 54357 (12/2/62)	Do
83-151	Heavy thermal cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-152	Coke (shale oil)	47 FR 54357 (12/2/82)	Do
83-153	Sweetened naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-154	Hydrodesulfurized heavy naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-155	Hydrodesulfurized middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-156	Full range straight run naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-157	Straight run kerosive (shale oil)	47 FR 54357 (12/2/82)	Do
83-158	Light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-159	Heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-160	Light catalytic cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-161	Heavy catalytic cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-162	Intermediate catalytic cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-163	Heavy catalytic cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-164	Invalid	47 FR 54357 (12/2/82)	Do
83-165	Light catalytic reformed naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-166	Heavy catalytic reformed naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-167	Catalytic reformer fractionator residue (shale oil)	47 FR 54357 (12/2/82)	Do
83-168	Light alkylate naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-169	Heavy alkylate naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-170	Alkylate distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-171	Polymerization naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-172	Viscous polymer (shale oil)	47 FR 54357 (12/2/82)	Do
83-173	Isomerization naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-174	Heavy hydrocracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-175	Hydrocracked residuum (shale oil)	47 FR 54357 (12/2/82)	Do
83-176	Sweetened middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-177	Normal paraffins (shale oil)	47 FR 54357 (12/2/82)	Do
83-178	Sorption process raffinate (shale oil)	47 FR 54357 (12/2/82)	Do
83-179	Solvent refined light naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-180	Solvent refined heavy naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-181	Solvent refined middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-182	Solvent refined gas oil (shale oil)	47 FR 54357 (12/2/82)	Do
83-183	Solvent refined light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-184	Solvent refined heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-185	Solvent deasphalted residual oil (shale oil)	47 FR 54357 (12/2/82)	Do
83-186	Solvent decarbonized heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-187	Solvent refined residual oil (shale oil)	47 FR 54357 (12/2/82)	Do
83-188	Solvent refined spent lube oil (shale oil)	47 FR 54357 (12/2/82)	Do
83-189	Light naphtha solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do
83-190	Heavy naphtha solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do
83-191	Middle distillate solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do
83-192	Gas oil solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do
83-193	Light paraffinic distillate solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do
83-194	Heavy paraffinic distillate solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do
83-195	Residual oil solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do
83-196	Heavy paraffinic distillate decarbonization raffinate (shale oil)	47 FR 54357 (12/2/82)	Do
83-197	Clay treated light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-198	Clay treated heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-199	Clay treated paraffin wax (shale oil)	47 FR 54357 (12/2/82)	Do
83-200	Chemically neutralized spent lube oil (shale oil)	47 FR 54357 (12/2/82)	Do
83-201	Hydrotreated light naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-202	Hydrotreated heavy naphtha (shale oil)	47 FR 54357 (12/2/82)	Do
83-203	Hydrotreated light distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-204	Hydrotreated middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-205	Hydrotreated light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-206	Hydrotreated heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do
83-207	Hydrotreated paraffin wax (shale oil)	47 FR 54357 (12/2/82)	Do
83-208	Hydrotreated microcrystalline wax (shale oil)	47 FR 54357 (12/2/82)	Do
83-209	Hydrotreated vacuum gas oil (shale oil)	47 FR 54357 (12/2/82)	Do
83-210	Hydrotreated residual oil (shale oil)	47 FR 54357 (12/2/82)	Do
83-211	Solvent dewaxed light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do

II. 175 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-212	Solvent dewaxed heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	[illegible]
83-213	Solvent dewaxed residual oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-214	Slack wax (shale oil)	47 FR 54357 (12/2/82)	Do
83-215	Petrolatum (shale oil)	47 FR 54357 (12/2/82)	Do
83-216	Foots oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-217	Paraffin wax (shale oil)	47 FR 54357 (12/2/82)	Do.
83-218	Microcrystalline wax (shale oil)	47 FR 54357 (12/2/82)	Do.
83-219	Catalytic dewaxed naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
[illegible]	Catalytic dewaxed middle distillate (shale oil)	47 FR 54358 (12/2/82)	Do
83-221	Catalytic dewaxed light paraffinic oil (shale oil)	47 FR 54358 (12/2/82)	Do
[illegible]	Catalytic dewaxed heavy paraffinic oil (shale oil)	47 FR 54358 (12/2/82)	Do
83-223	Hydrosulfurized light naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-224	Hydrosulfurized kerosine (shale oil)	47 FR 54358 (12/2/82)	Do
[illegible]	Hydrodesulfurized gas oil (shale oil)	47 FR 54358 (12/2/82)	[illegible]
[illegible]	Hydrodesulfurized atmospheric tower residuum (shale oil)	47 FR 54358 (12/2/82)	[illegible]
83-227	Hydrodesulfurized heavy vacuum gas oil (shale oil)	47 FR 54358 (12/2/82)	Do
[illegible]	Hydrodesulfurized heavy vacuum gas oil (shale oil)	47 FR 54358 (12/2/82)	Do.
[illegible]	Steam cracked residuum (shale oil)	47 FR 54358 (12/2/82)	Do.
83-230	Light aliphatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-231	Medium aliphatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-232	Heavy aliphatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-233	Light aromatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-234	Heavy aromatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do
83-235	Calcined coke (shale oil)	47 FR 54358 (12/2/82)	Do
[illegible]	Generic name: Alkyl-substituted imidazole derivative of methyl-pyrimidinone-azomethyl-phenyl benzothiazole	47 FR 53782 (11/29/82)	Do
83-237	Generic name: Substituted pyridine	47 FR 53782 (11/29/82)	Do
83-238	Generic name: Polyamide	47 FR 53782 (11/29/82)	Feb. 15, 1983
83-239	Generic name: Polyester polyurethane from a diisocyanate and an alkanediol with alkanoic acid and anhydride	47 FR 53783 (11/29/82)	[illegible]
83-240	Generic name: Reaction product of inorganic acid with the reaction product of carboxylic acid and alkanolamine	47 FR 53783 (11/29/82)	Do.
83-241	Generic name: Polyester polycarboxylate salt	47 FR 53783 (11/29/82)	Do.
83-242	Generic name: Polymer of aliphatic polyols, aliphatic and aromatic dicarboxylic acids	47 FR 53783 (11/29/82)	Do.
83-243	Generic name: Methyl-oxyethyl-methylene imidaxolium deriv. of copper phthalocyanine methoxyacetate.	47 FR 53783 (11/29/82)	[illegible]
83-244	Polymer of tetrahydronaphthalic anhydride, tall oil fatty acid, bisphenol A-oxirane polymer, phenol-epichlorohydrin-formaldehyde polymer, paraformaldehyde, diethylamine, diethylaminopropylamine, diisopropylamine	47 FR 53783 (11/29/82)	[illegible]
83-245	Polymer of tetrahydronaphthalic anhydride, phthalic anhydride, acrylic acid, 2-ethyhexyl ester, bisphenol A-oxirane polymer, phenolepichlorohydrin-formaldehyde polymer, paraformaldehyde, aminoethylpropanediol, butanol, diethanolamine, diethylamine, diethylaminopropylamine.	47 FR 53783 (11/29/82)	Do
83-246	Polymer of tetrahydronaphthalic anhydride, acrylic acid, 2-hydroxyethyl ester, methacrylic acid, 2-hydroxyl ethyl ester, bisphenol A-oxirane polymer, neodecanoic acid, 2,3-epoxypropyl ester, toluenediisocyanate, N,N-diethanolamine, diethanolamine	47 FR 53783 (11/29/82)	Do.
83-247	Polymer of tetrahydronaphthalic maleic anhydride, phthalic anhydride, tall oil fatty acid, acrylic acid, 2-hydroxyethyl ester, methacrylic acid, 2-hydroxylethyl ester, methacrylic acid, 2,3-epoxy propyl ester, bisphenol A-oxirane polymer, neodecanoic acid, 2,3-epoxy propyl ester, toluenediisocyanate, N,N-diethanolamine, diethanolamine 1,6-hexanediol, butanol.	47 FR 53783 (11/29/82)	Do
83-248	Polymer of bisphenol A-oxirane polymer, diisocyanate, diethanolamine, diethylamine, diethylaminopropylamine	47 FR 53783 (11/29/82)	Do
83-249	Polymer of malonic acid, diethyl ester, diethylolpropane	47 FR 53783 (11/29/82)	Do.
83-250	Polymer of malonic acid, diethyl ester, trimethylolpropane, 1,6-hexanediol	47 FR 53783 (11/29/82)	[illegible]
83-251	Generic name: Phenoxy modified alkyd	47 FR 54537 (12/3/82)	Feb. 16, 1983.
83-252	Generic name: Alkyl amino-amide salt	47 FR 54537 (12/3/82)	Feb. 19, 1983
83-253	Generic name: Maleated rosin monobasic acids glycerol ester	47 FR 54537 (12/3/82)	Feb. 20, 1983
83-254	Generic name: Maleated rosin monobasic acids glycerol ester	47 FR 54537 (12/3/82)	[illegible]
83-255	Generic name: Dicarboxylic acid monoester	47 FR 54537 (12/3/82)	[illegible]
83-256	Generic name: Polymer of acrylic acid and mixed alkyl acrylates	47 FR 55422 (12/9/82)	Feb. 23, 1983.
83-257	Generic name: Generic name: Copolymer of ethenyl heterocycle and substituted, ethenyl benzene	47 FR 55423 (12/9/82)	[illegible]
83-258	Generic name: Polymer of styrene; methacrylate ester, acrylic ester, and acrylic acid	47 FR 55422 (12/9/82)	[illegible]
83-259	Generic name: Polyester resin	47 FR 55422 (12/9/82)	Do
83-260	Generic name: Modified maleated rosin pentaerythritol ester alkylphenol formaldehyde resin	47 FR 55422 (12/9/82)	Feb. 27, 1983
83-261	2,2-bis [4-(4-aminophenoxy)phenyl] hexafluoropropane	47 FR 55422 (12/9/82)	Do
83-262	Generic name: Halogenated dinitro ether compound	47 FR 55423 (12/9/82)	Do
83-263	Generic name: Substituted thiocyclic compound	47 FR 55423 (12/9/82)	Do

III. 69 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)

PMN No	Identity and generic name	FR citation	Expiration date
82-642	Generic name: Organophosphorus compound	47 FR 41165 (9/17/82)	Dec. 1, 1982
82-643	Generic name: Organophosphorus compound	47 FR 41166 (9/17/82)	[illegible]
82-644	Generic name: Alkylene ether diol.	47 FR 41166 (9/17/82)	Do
82-645	Generic name: Condensate of formaldehyde and an organic base	47 FR 41166 (9/17/82)	[illegible]
82-646	Generic name: Cobalt complex-[hydroxynitrophenyl-azo)-(substituted)phenyl pyrazolones], sodium salt.	47 FR 41166 (9/17/82)	Do.
82-647	Generic name: [(Benzoquinolinyl)-(imidazolylmethylene)]-indenedione derivative, mixed salt	47 FR 41166 (9/17/82)	Do.
[illegible]	Generic name: [(Benzoquinolinyl)-(imidazolylmethylene)]-indenedione derivative, mixed salt	47 FR 41166 (9/17/82)	Do
82-649	Generic name: Benzene dicarboxylic acid polyester	47 FR 41166 (9/17/82)	[illegible]
82-650	Generic name: Pentasubstituted pentanamide	47 FR 41166 (9/17/82)	[illegible]
82-651	Generic name: Metal complexed substituted aromatic salt	47 FR 41166 (9/17/82)	[illegible]
82-652	Generic name: Metal complexed substituted aromatic salt	47 FR 41166 (9/17/82)	[illegible]
82-653	Generic name: Metal complexed substituted aromatic salt	47 FR 41166 (9/17/82)	[illegible]
82-654	Generic name: Metal complexed substituted aromatic salt	47 FR 41166 (9/17/82)	[illegible]
82-655	Generic name: Substituted acrylamide copolymer	47 FR 41166 (9/17/82)	Do
[illegible]	Generic name: Polymer of disubstituted benzenes and disubstituted alkane	47 FR 41167 (9/17/82)	Dec. 7, 1982

III. 69 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-657	Generic name: Sulfonated vinylic polymer	47 FR 41167 (9/17/82)	Do.
82-658	Generic name: Substituted pyrazine salt	47 FR 42152 (9/24/82)	Dec. 8, 1982.
82-659	Generic name: Substituted succinic anhydride	47 FR 42152 (9/24/82)	Dec. 11, 1982
82-660	Generic name: Polycarboxylic anhydride polymer	47 FR 42152 (9/24/82)	Do.
82-661	Generic name: Modified polyurethane	47 FR 42152 (9/24/82)	Do.
82-662	Generic name: Modified polyurethane	47 FR 42152 (9/24/82)	Do.
82-663	Generic name: Modified diol	47 FR 42152 (9/24/82)	Do
82-664	Generic name: 4-hydroxy-N-substituted-3-nitrobenzenesulfonamide	47 FR 42152 (9/24/82)	Do.
82-665	Generic name: 3-amino-4-hydroxy-N-substituted benzenesulfonamide	47 FR 42152 (9/24/82)	Do.
82-666	Oleic, linoleic and palmitic acids	47 FR 42152 (9/24/82)	Dec. 12, 1982
82-667	Generic name: Cyclic aldehyde	47 FR 42152 (9/24/82)	Do.
82-668	Poly(oxy-1,2-ethanediyl) alpha-C_{12}-C_{16} alkoxyomega methoxy	47 FR 42152 (9/24/82)	Do
82-669	Generic name: Unsaturated polyester with halogenated glycol	47 FR 42153 (9/24/82)	Dec. 13, 1982
82-670	Generic name: Oxirane polymer of isocyanic acid ester	47 FR 41153 (9/24/82)	Do
82-671	Generic name: Vinyl chloride-ethylene copolymer	47 FR 42153 (9/24/82)	Dec. 14, 1982
82-672	Generic name: Substituted polyethyleneamine polyisobutenylsuccinimide	47 FR 42153 (9/24/82)	Do.
82-673	Generic name: Substituted polyethyleneamine polyisobutenylsuccinimide	47 FR 42153 (9/24/82)	Do.
82-674	Hexa aquomagnesium (II) bis(2-carboxylatomonoperoxy-benzoic acid)	47 FR 42153 (9/24/82)	Do.
82-675	Generic name: Isocyanate terminated polyester-ether polyurethane prepolymer	47 FR 43160 (9/30/82)	Dec. 15, 1982
82-677	Generic name: Chromium complex of a substituted phenolazophenylpyrazolone	47 FR 43161 (9/30/82)	Do.
82-680	2-propenoic acid, 2-hydroxyethyl ester, polymer with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, -hydro-w-hydroxy poly(oxy-1,2-ethanediyl), 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane and 2 oxepanone.	47 FR 43161 (9/30/82)	Dec. 18, 1982
82-681	Generic name: Chromium complex of a sulfonaphthylazophenylpyrazolone	47 FR 43161 (9/30/82)	Dec. 19, 1982
82-682	Generic name: Polyester from an alkanedioic acid, carbomonocyclic anhydride and substituted alkane diols	47 FR 43161 (9/30/82)	Do
82-683	Generic name: Halogenated ketone	47 FR 43161 (9/30/82)	Do.
82-685	Generic name: Diethylene glycol ether	47 FR 43161 (9/30/82)	Do
82-686	Generic name: Disubstituted-1-naphthol	47 FR 43161 (9/30/82)	Do.
82-687	Generic name: Methacrylate copolymer	47 FR 43161 (9/30/82)	Do
82-688	Generic name: Acrylate copolymer solution	47 FR 43162 (9/30/82)	Do
82-689	Generic name: Alkyl amino ethoxy ethanol	47 FR 43162 (9/30/82)	Dec. 20, 1982
82-690	Generic name: [Hydroxy(methylsulfonyl)phenyl] azo substituted heteromonocycle, metal complex (2:1), compd alkanamine (1:1)	47 FR 44608 (10/8/82)	Dec. 21, 1982
82-691	Generic name: Ethylene interpolymer	47 FR 44608 (10/8/82)	Dec. 22, 1982
82-692	Generic name: Substituted glycine complex	47 FR 44608 (10/8/82)	Do
82-693	Generic name: 1,1-dimethylethyl peroxyester	47 FR 44608 (10/8/82)	Do
82-694	Generic name: Trialkyl dioxane	47 FR 44608 (10/8/82)	Dec. 25, 1982
82-695	Generic name: Alkyl bicyclononane	47 FR 44608 (10/8/82)	Do
82-696	Generic name: Alkyl spirononane	47 FR 44608 (10/8/82)	Do
82-697	Generic name: Alkyl spirodecane	47 FR 44609 (10/8/82)	Do.
82-698	Generic name: Aminosulfur compound	47 FR 44609 (10/8/82)	Do
82-699	Generic name: Unsaturated polyester	47 FR 44609 (10/8/82)	Do
82-700	Generic name: Alkyd resin	47 FR 44609 (10/8/82)	Do.
82-702	Generic name: Metal complexed, substituted aromatic azo compound	47 FR 44609 (10/8/82)	Dec. 26, 1982
82-703	Generic name: Reaction product of coco glycerides, sulfur, and polyalkylene-substituted phenol condensation product with aldehyde and mixed amines.	47 FR 44609 (10/8/82)	Do
82-704	Generic name: Reaction product of carboxylic acid, sulfur, and polyalkylene-substituted phenol condensation product with aldehyde and mixed amines	47 FR 44609 (10/8/82)	Do
82-705	Generic name: Epoxy urethane	47 FR 44609 (10/8/82)	Do.
82-706	Generic name: Sulfophenylazonaphthyl dye	47 FR 44609 (10/8/82)	Do.
82-707	Generic name: Neutralized reaction product of an alkanedioic acid and substituted alkanes	47 FR 44609 (10/8/82)	Do
82-708	Generic name: Ester of diazo-naphthoquinone	47 FR 44609 (10/8/82)	Dec. 27, 1982
82-709	Generic name: Dibasic acids esters of monohydric alcohols	47 FR 44609 (10/8/82)	Do
83-2	Generic name: Polymer of styrene, substituted sytrene, and substituted methacrylate salt	47 FR 46371 (10/18/82)	Dec. 29, 1982
83-3	Generic name: Disubstituted propane	47 FR 46371 (10/18/82)	Do.
83-4	Generic name: Substituted propene	47 FR 46371 (10/18/82)	Do.
83-5	Generic name: Substituted alkanoic acids ester	47 FR 46371 (10/18/82)	Do
83-6	Generic name: Substituted lactam	47 FR 46371 (10/18/82)	Do
83-7	Generic name: Substituted lactam	47 FR 46372 (10/18/82)	Do

IV. 25 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Chemical identification	FR citation	Date of commencement
80-177	Oxirane, polymer with methyl oxirane, 1,3-diisocyanatomethylbenzene, and (2-hydroxyethyl)-2-propenoate	45 FR 54422 (8/15/80)	Dec. 23, 1982
82-21	Generic name: Hydroxy naphthoic acid metal complex	47 FR 3594 (1/26/82)	Mid-Dec. 1982
82-176	Generic name: Epoxy functional polysiloxane silica resin	47 FR 11957 (3/19/82)	Nov. 24, 1982
82-206	Reaction product of [9,12octadecadienoic acid, dimer, polymer with 2,5furandione] with tallow diamine	47 FR 13038 (3/26/82)	Dec. 7, 1982
82-231	Generic name: Lauryl sulfate salt of substituted p-diazo-diphenylamine, polymer with formaldehyde	47 FR 14219 (4/2/82)	Nov. 15, 1982
82-283	Generic name: t-butylated triphenyl phosphate	47 FR 17687 (4/23/82)	Dec. 10, 1982
82-314	Generic name: Copolymer of alkyl acrylated and methacrylates	47 FR 19782 (5/7/82)	Dec. 1, 1982
82-318	Generic name: Amorture of naphthalene sulfonic acid, -(substituted amino)-hydroxy-((substituted phenyl)azo) and naphthalene sulfonic acid, (substituted amino) hydroxy-((substituted phenyl)azo), compounded with organic acids	47 FR 19782 (5/7/82)	Nov. 29, 1982
82-372	Generic name: ((Substituted phenyl)azo)-dihydro-hydroxy-alkyl-oxo-pyridinecarbonitrile	47 FR 23554 (5/28/82)	Aug. 25, 1982
82-394	Generic name: Modified polyurethane from a diisocyanate, substituted alkanol and a substituted alkane diol	47 FR 25401 (6/11/82)	Nov. 29, 1982
82-398	Generic name: A mixture of benzamide, N-((substituted naphthyl)azo)phenyl-((substituted amino-hydroxy-sulfonaphthyl)azo) and benzamide N-((Substituted naphthyl)azo)phenyl-((substituted amino-hydroxy-sulfonaphthyl)azo), compounded with organic acids.	47 FR 25402 (6/11/82)	Sept. 24, 1982
82-410	Generic name: Substituted heterocycle, amine salt	47 FR 25403 (6/11/82)	Nov. 15, 1982.
82-446	Generic name: Substituted imidazolodinone	47 FR 28994 (7/2/82)	Dec. 20, 1982
82-448	Generic name: A reaction product of phenylbis ((((butane derivative)-substituted)-phenyl)azo) compounded with organic acids	47 FR 28995 (7/2/82)	Oct. 18, 1982

IV. 25 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
82-529	Generic name: Aliphatic acid ester salt	47 FR [illegible] (8/6/82)	Dec. 1, 1982
82-530	Generic name: Acidic aliphatic ester	47 FR 34188 (8/6/82)	Dec. 1, 1982
82-558	Generic name: Acetamidodimethylsiloxane	47 FR 35334 (8/13/82)	Nov. 12, 1982
82-561	Generic name: Substituted unsaturated polycyclic alcohol	47 FR [illegible] (8/13/82)	Jan. 7, 1983
82-565	Generic name: Alkenyl alkanoate ester	47 FR [illegible] (8/20/82)	Dec. 15, 1982.
82-629	Generic name: Dimethyl hydantoin-formaldehyde-toluene sulfonamide condensation product	47 FR 39885 (9/10/82)	Dec. 3, 1982
82-641	Generic name: Substituted ammonium sulfonate	47 FR [illegible] (9/10/82)	Jan. 4, 1983
82-657	Generic name: Sulfonated vinylic polymer	47 FR 41167 (9/17/82)	Dec. 10, 1982.
82-667	Generic name: Cyclic aldehyde	47 FR 42152 (9/24/82)	Dec. 13, 1982.
82-670	Generic name: Oxirane polymer of isocyanic acid ester	47 FR 42153 (9/24/82)	Dec. 14, 1982.
83-21	Generic name: Trisubstituted azo naphthol disulfonic acid	47 FR 46373 (10/18/82)	Dec. 4, 1982.

V. 24 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No	Identity and generic name	FR citation	Date suspended
80-137	Benzeneamine, 4,4 -methylene bis [*N*-(1-methybutylidene)	45 FR 48243 (7/18/80)	Sept. 22, 1980
80-138	Benzeneamine, 4,4 -methylene bis [*N*-(1-methybutylidene)	45 FR 48243 (7/18/80)	[illegible]
80-146	Phosphorodithioic acid *O,O* -di (isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters zinc salt	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid *O,O* -di (isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	[illegible]
80-264	Generic name: Benzeneamine, [*N*-(1-methylhexylidene)-*N*-(1-methyl butylidene)-4,4 -methylene bis]	45 FR 73127 (11/4/80)	Dec 24, 1980
81/558	4-hydroxy-3-(5-(2-hydroxysulfonyloxy) ethylsulfonyl)-2-methoxyphenylazo)-7-succinylamino-2-naphthalenesulfonic acid disodium salt	46 FR 55146 (11/6/81)	Jan. 27, 1982.
81-561	4-[4-[2-(hydroxysulfonyoxy) ethylsulfonyl]-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt	46 FR 55146 (11/6/81)	Do.
81-660	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy) ethylsulfonyl) phenylazo)-I-naphthalene sulfonic acid disodium salt	47 FR 1021 (1/8/82)	Mar 28, 1982
81 661	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy) ethylsulfonyl) phenylazo)-6-3-sulfophenyl) amino-2-naphthalenesulfonic acid trisodium salt.,	47 FR 1021 (1/8/82)	Do.
82-60	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5932 (2/9/82)	Apr. 15, 1982
82-387	Phosphorodithioic acid, O,O , secondary butyl and isooctyl mixed esters	47 FR 25401 (6/11/82)	July 30, 1982
82-388	Phosphorodithioic acid, O,O , secondary butyl and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Do
82-586	Withdrawn as of December 3, 1982		
82-678	Generic name: Chlonnated aromatic azo anthraquinone pigment	47 FR 43161 (9/30/82)	Nov. 22, 1982
82-679	Generic name: Chlonnated aromatic azo pigment	47 FR 43161 (9/30/82)	[illegible]
82-684	Generic name: Halogenated hydrocarbon	47 FR 43161 (9/30/82)	Dec. 16, 1982.
82-701	Generic name Aromatic disazo dye	47 FR 44609 (10/8/82)	Dec 20, 1982.
83-1	Generic name: Polyhalogenated aromatic alkylated Hydrocarbon	47 FR 46371 (10/18/82)	Oct. 22, 1982
83-11	Oxirane [(phenyl methoxy) methyl-	47 FR 46372 (10/18/82)	Dec. 28, 1982
83-23	Generic name: Substituted phenol	47 FR 46373 (10/18/82)	Dec 21, 1982
83-24	Generic name: Substituted pyridine	47 FR 46373 (10/18/82)	Dec 24, 1982
83-25	Generic name: Substituted pyridine	47 FR 46373 (10/18/82)	[illegible]
83-36	Generic name: Acrylated alkoxylated aliphatic glycol	47 FR 47068 (10/22/82)	Dec 27, 1982
83-37	Generic name: Acrylated alkoxylated aliphatic glycol	47 FR 47068 (10/22/82)	Dec 27, 1982.
83-49	Generic name: Substituted pyridine	47 FR 49073 (10/29/82)	Dec. 21, 1982

[FR Doc. 83-1985 Filed 1-26-83, 8:45 am]

BILLING CODE 6560-50-M

[OLEC-FRL 2294-2]

2,4,5-T, Agent Orange, and TCDD; Release of Information Claimed To Be Trade Secret or Confidential; Judical Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Release Data Concerning the Pesticide 2,4,5-T, Agent Orange, and TCDD.

SUMMARY: In connection with litigation in the United States District Court for the Eastern District of New York, *In re: Agent Orange Product Liability Litigation,* MDL No. 381, certain defendants in that litigation have served the United States with a discovery request for the production of documents in the possession of the Environmental Protection Agency concerning the following chemcials: 2,4,5-trichlorophenoxyacetic acid (2,4,5-T), all isomers of tetrachlorodibenzo-p-dioxin (TCDD), and Agent Orange. Some of the documents which are responsive to the discovery request may contain information which is or is alleged to be trade secret, confidential or otherwise privileged. The government proposed that EPA documents be made available to the parties in the case without prior review, pursuant to a stringent protective order, for the sole purpose of conducting discovery in this litigation. The Protective Order provides that release to the parties on this basis shall not be regarded as a public disclosure. Many of the documents which would be responsive to the discovery request were submitted to the Agency by persons who are not parties to the litigation. The Protective Order provides for a hearing at which data submitters who are not parties to the litigation and who object to the release of their data pursuant to the Protective Order may appear before the Court to comment on the adequacy of the Protective Order. Information submitted to EPA by non-parties who have not requested an opportunity to be heard by February 28, 1983 will be released by EPA pursuant to the terms of the Protective Order after that date. Information submitted by non-party data submitters who have made a timely request to participate in or present evidence at the hearing will not be released until the hearing has been held and the Special Master has so ordered. On January 13, 1983, Judge Pratt issued the Protective Order as Pretrial Order #42. The Protective Order is set forth in full at the end of this notice.

DATES: The hearing at which non-parties may object to the adequacy of this Protective Order will be held before Special Master Sol Schreiber at 10:00 a.m. March 4, 1983. Any non-party data

submitter wishing to participate in or present evidence at the hearing must notify Special Master Sol Schreiber at Suite 4915, 1 Penn Plaza, New York, New York 10119, (212) 594–5300 no later than February 28, 1983.

ADDRESS: The hearing will be held at United States District Court for the Eastern District of New York, Uniondale and Hempstead Turnpikes, Uniondale, New York 11513.

FOR FURTHER INFORMATION CONTACT: Judith Wheeler, Office of General Counsel, Pesticides/Toxic Substances Division (A–132), U.S. Environmental Protection Agency, 401 M Street, S.W.—Room 530WT, Washington, D.C. 20460, (202) 382–7510.

SUPPLEMENTARY INFORMATION: The Agent Orange case was brought by veterans of the Vietnam War who are seeking damages for adverse health effects allegedly caused by exposure to Agent Orange, a defoliant used during that conflict. Agent Orange, a mixture of 2,4,5-T and 2,4-D (2,4-dichlorophenoxyacetic acid), contained TCDD as a contaminant. The Agency is currently subject to a discovery request from the defendants for records in its files relating to 2,4,5-T, TCDD, and Agent Orange.

The defendant parties in the litigation who requested this discovery are Dow Chemical Company, Diamond Shamrock Corporation, Hercules, Incorporated, Monsanto Company, Thompson-Hayward Chemical Company, Hooker Chemical Company, Uniroyal, Incorporated, Thompson Chemical Corporation, and Hoffman-Taff, Incorporated. Although the request came from the defendants, it should be noted that the plaintiffs will also be given access to any information made available by the Agency in response to defendants' discovery request, subject to the same conditions and restrictions as the defendants.

The defendant parties have mutually agreed to permit release of records in Agency files consisting of or relating to the data defendants have submitted on 2,4,5-T, TCDD, and Agent Orange, subject to the provisions of a very stringent Protective Order governing access to and utility of the records. However, also among the documents in the Agency's files which are responsive to the discovery request are records consisting of or relating to data submitted by sources who are not parties to the litigation. This information includes, but is not limited to, information submitted to the Agency by companies in connection with the registration of pesticide products containing 2,4,5-T. In addition, Agency files currently contain information on 2,4,5-T, TCDD, and Agent Orange, which was not submitted in connection with the registration process. The requested information may include trade secrets, product formulae, and manufacturing process data, or other data for which claims of confidentiality have been or might be made. Information responsive to the discovery request may have been submitted to EPA pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Toxic Substances Control Act (TSCA), the Resource Conservation and Recovery Act (RCRA), The Food, Drug and Cosmetic Act (FDCA), the Clean Air Act, the Federal Water Pollution Control Act or other statutes.

The Agency proposed that the provisions of the Protective Order should govern the release of both party and non-party information contained in Agency records. On January 13, 1983, the Court approved the Protective Order, making it applicable to both party and non-party data.

The Protective Order provides, in part, that release by EPA of the information on the subject chemicals pursuant to the Protective Order ". . . shall not be considered public disclosure under the applicable statutes and regulations governing disclosure of the responsive documents." Accordingly, with respect to information on the subject chemicals released pursuant to the Protective Order, EPA's statutory and regulatory obligations regarding the public disclosure of trade secrets and/or confidential information (e.g., FIFRA § 10(d)) are inapplicable. The Protective Order provides restrictions on who may examine documents and on the use of the documents.

The Agency believes that the Protective Order will adequately protect any information which will be released to the parties. However, the Agency has requested that the Court hold a hearing to allow non-parties and opportunity to be heard on the question of whether the Protective Order provides adequate protection. The terms and conditions of the Protective Order are fully set out below.

Any non-party wishing to participate in or present evidence at the hearing must notify special Master Sol Schreiber in writing by February 28, 1983.

Dated: January 25, 1983.

Robert M. Perry,

Associate Adminstrator for Legal and Enforcement Counsel and General Counsel.

U.S. District Court Eastern District of New York

In re "Agent Orange" Product Liability Litigation, MDL #381 (all cases), pretrial Order No. 42.

1On December 21, 1983, special master Sol Schreiber submitted a "Recommended Protective Order Governing documents Obtained From the Environmental Protective Agency." *See* Appendix. No party has objected to the terms of the order, and the court approves and adopts it in full.

So ordered.

Dated: Uniondale, New York, January 13, 1983.

George C. Pratt

*U.S. Circuit Judge**

U.S. District Court Eastern District of New York

In re "Agent Orange" Product Liability Litigation, MDL #381 (all cases), Special Master's Recommended Protective Order Governing Documents Obtained From the Environmental Protection Agency.

This Protective Order is entered pursuant to Rule 26(c) of the Federal Rules of Civil Procedure. Based upon information furnished to the Court by the Environmental Protection Agency ("EPA", "Agency") and after hearing from counsel for all parties, the Court finds that:

1. Pursuant to several of its authorizing statutes and regulations, EPA requires that various kinds of information be submitted to it for various purposes associated with its regulatory responsibilities. In addition, other information is generated or collected by EPA. Some of this information which is currently contained in EPA's files is relevant to this proceeding and is responsive to the defendants' discovery requests for documents served on the United States Government.

2. The information described in Paragraph 1 was submitted to the agency by, or related to, both parties and nonparties in this proceeding.

3. Much of this information, whether it relates to parties ("party information") or non-parties ("non-party information"), is subject to claims of confidentiality under applicable federal statutes and regulations, and may be entitled to confidential treatment, including non-disclosure, limited disclosure or restricted disclosure.

4. The responsive documents which are subject to claims of confidentiality or privilege are intermingled and not easily separable from all other responsive documents not subject to such claims. Moreover, many individual responsive documents contain both confidential/priviledged information and non-confidential/non-privileged information.

5. Due to the large total number of responsive documents in the Agency's files (estimated to be in excess of one million

*Of the United States Court of Appeals, Second Circuit, Sitting by designation.

pages), EPA would need a great deal of time to separate confidential/privileged documents from all other documents, and to separate confidential/privileged information from non-confidential/non-privileged information within the body of certain individual documents.

6. Prior review by EPA of all responsive documents in order to segregate or delete confidential/privileged information would substantially delay the discovery process and make it unlikely that the scheduled June 27, 1983 trial date would be met. In addition, such segregation would be at considerable expense of Agency's resources.

It is therefore ordered, adjudged, and decreed:

7. That EPA release to any party requesting such release, any responsive documents, or information contained therein, to be used exclusively for purposes associated with litigation of this case pursuant to Paragraphs 10 and 15, and for no other purpose.

8. That such release by EPA pursuant to this Protective Order shall not be considered public disclosure under the applicable statutes and regulations governing disclosure of the responsive documents.

9. By agreement among the party-defendants, in order to expedite the discovery process, all responsive documents submitted by or collected from party-defendants, including those subject to claims of confidentiality, shall be released by EPA pursuant to the terms of this Protective Order.

10. Before EPA makes available to the parties for use in this litigation any responsive documents containing non-party information, notice to non-parties will be given as follows: To the extent EPA is able to identify non-party data submitters, personal notice by mail will be provided. In addition EPA will give notice by publication in the **Federal Register**. Within 10 days of entry of this Order, EPA will submit to this Court and serve on all parties a proposed form of notice. Such notice shall state the facts giving rise to this Protective Order in addition to informing such non-parties that release of any responsive documents or information contained therein, which are subject to claims of confidentially by non-parties, will commence 30 days after this notice has been mailed or published unless, within that time, an affected non-party requests an opportunity to be heard before this Court. In the event of such a request, EPA will continue the discovery by producing other non-party data to the extent it can be readily segregated from non-party data subject to the request for hearing. The documents of the requesting non-party will not be released to the parties in this case pending further order of this Court. Any objection from non-parties will be directed to the Special Master for his review and recommendation to this Court.

11. That pursuant to the exemption in section (b)(11) of the Privacy Act, 5 U.S.C. § 552a, providing for disclosure of information subject to that Act pursuant to an order of a court of competent jurisdiction, it is hereby ordered that responsive documents or information contained therein, which are subject to claims of privilege based on privacy considerations, are to be released by EPA in response to appropriate discovery requests in this proceeding and subject to the terms of this Protective Order.

12. That nothing in this Order shall be construed to constitute a waiver of a right to claim confidential treatment for any document entitled to it under all applicable federal statutes and regulations in any circumstances other than those addressed in this Protective Order except as provided by the Protective Order.

13. That the provisions of Section 12(a)(2)(D) of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), and all of the penalties attached thereto, regarding unlawful use of information acquired by authority of FIFRA which is confidential thereunder, apply to information released pursuant to this Order but used in a manner inconsistent with this Order.

14. That federal statutes mentioned in paragraphs 3 and 12 of this Order shall include, but are not limited to, sections 10(b), 10(f) and 10(g) of FIFRA, the Trade Secrets Act, 18 U.S.C. § 1905, (Supp. IV, 1980) and the Privacy Act, 5 U.S.C. § 552(a) (1976).

15. That the term "used exclusively for purposes associated with litigation of this case" as used in Paragraph 7 of this Order is defined as follows:

a. Responsive documents, and information contained therein, will be used exclusively for the purpose of discovery and trial preparation in the subject litigation as contemplated by the Federal Rules of Civil Procedure, and will be kept confidential and will not be exhibited, described to, or discussed with anyone not a Designated Person (as defined in paragraph c, *infra*), or a Qualified Person (as defined in paragraph d, *infra*), or counsel for the United States. No use will be made of these documents or information contained therein, for any purpose other than such discovery and trial preparation in this litigation.

b. Responsive documents may be copied only to the extent necessary to permit their use in accordance with the terms of this Order and no further. Any Designated Person who requests and receives a copy of any responsive document will be held responsible and accountable for that copy of the document and all copies made of that copy for any purpose.

c. A Designated Person is one who, in advance of seeing any of these documents, (i) is designated by counsel of record for any party to this litigation, and (ii) signs a formal consent (Exhibit A) to be bound by all the terms of this Order. Each counsel of record will be responsible for forwarding copies of the designation and signed consent forms to this Court, where they will be filed under seal.

(i) Plaintiffs' Designees may include a reasonable number of: each plaintiff's counsel of record, their paralegals and/or their professional consultants or expert witnesses, and no others.

(ii) Defendants' Designees may include a reasonable number of: each defendant's counsel of record, their paralegals, their professional consultants or expert witnesses, and no others.

(iii) The professional consultants or expert witnesses referred to in sub-paragraphs (i) and (ii) *supra*, may not be employees, corporate representatives or corporate consultants of chemical companies; however, they may include independent consultants or expert witnesses paid by the companies.

d. A Qualified Person is a witness to a deposition noticed by any party to this litigation, provided that:

(i) all persons in attendance at the deposition, except for the Court Reporter, and counsel for the United States, are Designated or Qualified Persons;

(ii) the witness is advised in writing or on the record of the deposition of this Order and the witness agrees in writing or on the record to be bound by all its terms;

(iii) copies of documents covered by this Protective Order, through identified and numbered as exhibits to the deposition, will not be made a physical attachment to the transcript of the deposition to be filed with the Court (unless filed under seal).

(iv) any reference at the deposition to documents of non-parties will cause that portion of the deposition testimony to be sealed.

e. No copy of these documents will be made a part of the Court record of this multi-district litigation for any purpose whatsoever except under seal.

f. Upon the termination (by District Court order or verdict or settlement) of all the actions consolidated in this multi-district litigation, all designees of all parties will provide to the counsel of record for the United States either (i) all copies of these documents retained by them, or (ii) a statement to the effect that all such copies have been destroyed.

g. At any point in time prior to the termination of these actions that any party's counsel no longer needs these documents for the purposes outlined herein, that party's designees will provide the counsel of record for the United States either (i) all copies of these documents retained by them, or (ii) a statement to the effect that all such copies have been destroyed.

h. No modification of this Order will be made, nor any additional use of the documents authorized, except by order of the District Court for the Eastern District of New York upon written application to the Court and after an opportunity for all parties and the United States Government to be heard.

i. This Order shall be binding upon all persons, including parties, Designated Persons and Qualified Persons. It is enforceable by the contempt powers of the United States District Court and any other applicable or appropriate sanction imposed in the discretion of a District Judge of competent jurisdiction.

j. If any Designated or Qualified Person becomes the subject of any court's subpoena for the production of any of these documents, or information contained therein, that person will promptly notify the Government and all parties to this litigation of the pending subpoena, and notify the issuing court of this Protective Order.

k. If at any time any party wishes a waiver relative to a certain document or documents

from the restrictions imposed by the conditions in this Paragraph, the party may request such a waiver from this Court in writing, with notice to all other parties and the Government, specifically identifying the document or documents in question and the purpose for which the waiver is requested.

16. That documents, information or testimony submitted to EPA in connection with the 1974 proceeding involving the Dow Chemical Company ("Dow") and Hercules Incorporated and the 1979 proceeding involving Dow but filed under seal, as well as materials submitted to or developed by EPA in connection with settlement discussions (including documents reflecting the substance of those discussions) arising from the 1979 2,4,5–T/silvex cancellation proceeding shall not be produced in response to discovery requests in this litigation.

17. By agreement of EPA and the Monsanto Company, nothing in this Order shall be construed to supersede or affect in any way the status of the litigation between Monsanto and EPA in *Monsanto Company v. Gorsuch*, No. 79–0366–C, presently pending in the U.S. District Court for the Eastern District of Missouri. In particular, nothing in this Order is in conflict with or is intended to supersede or affect paragraph 8 of the April 7, 1981 order entered by the Court in that case. Monsanto Company is bound by this Protective Order to the same extent as the other party-defendants.

Dated: December 21, 1982.

Sol Schreiber,

Special Master.

Exhibit "A"

Agreement Concerning Environmental Protection Agency Documents Subject to Protective Order Entered in the United States District Court for the Eastern District of New York on , 1982

The undersigned hereby acknowledges that he has read the Protective Order, date , 1982, and entered in the United States District Court for the Eastern District of New York , 1982, in the action entitled *In Re Agent Orange Product Liability Litigation*, MDL No. 381 (All Cases), understands the terms thereof and agrees to be bound by such terms as if he were signatory thereto.

_____

(Date)

_____

Signature

_____

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_____

_____

Business Address.

_____

_____

Designating Counsel.

[FR Doc. 83–2529 Filed 1–26–83; 10:59 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[File No. 26010–CL–P–(13)–82, etc.]

Advanced Mobile Phone Service, Inc., et al., Designating Applications for Consolidated Hearing on Stated Issues

Memorandum Opinion and Order Granting Authorization and Designating Applications for Hearing

Adopted: January 18, 1983.

Released: January 21, 1983.

In re Applications of Advanced Mobile Phone Service, Inc., File No. 26010–CL–P–(13)–82, for a construction permit to establish a new cellular system operating on frequency block B in the Domestic Public Cellular Radio Telecommunications Service to serve the Philadelphia, Pennsylvania, Standard Metropolitan Statistical Area. Unity Telecommunications Systems, Inc., CC Docket No. 83–25, File No. 26124–CL–P–(13)–82; Celcom Communications Corporation of Pennsylvania, File No. 26164–CL–P–(16)–82; Automatic Wide-Area Cellular Systems, Inc., File No. 26084–CL–P–(18)–82; Cellular Mobile Systems of Pennsylvania, Inc., File No. 26188–CL–P–(16)–82; MCI Cellular Telephone Company, File No. 26113–CL–P–(13)–82; For a construction permit to establish a new cellular system operating on frequency block A in the Domestic Public Cellular Radio Telecommunications Service to serve the Philadelphia, Pennsylvania, Standard Metropolitan Statistical Area. Designating applications for consolidated hearing on stated issues.

By the Common Carrier Bureau:

1. Presently before the Chief, Common Carrier Bureau, under delegated authority are (a) the captioned applications of Unity Telecommunications Systems, Inc. (Unity), Celcom Communications Corporation of Pennsylvania (Celcom), Automatic Wide-Area Cellular Systems, Inc. (AWACS), Cellular Mobile Systems of Pennsylvania, Inc. (CMS), MCI Cellular Telephone Company (MCI), and Advanced Mobile Phone Service, Inc. (AMPS) to construct cellular radio systems to serve the Philadelphia, Pennsylvania, Standard Metropolitan Statistical Area (SMSA);[1] and (b) various motions, petitions, and pleadings related to the applications.[2] AMPS proposes use of the wireline allocation (frequency block B) and Unity, Celcom, AWACS, CMS, and MCI propose use of the nonwireline allocation (frequency block A).

2. As discussed below, after carefully reviewing the applications and related pleadings, we find all applicants except Unity to be fully qualified to construct and operate a cellular system in Philadelphia. Because we find that the public interest would be served thereby, we will grant the AMPS application. Since the proposals of Unity, Celcom, AWACS, CMS, and MCI to use the same frequencies in the same geographical area are mutually exclusive, a comparative hearing will be held to determine which of the applicants would best serve the public interest. We are also requiring that AWACS, Unity, and MCI modify their applications as set forth below. Finally, for the reasons discussed below, we are designating qualifying issues concerning the Unity application.

Unity Application

3. *Financial qualifications.* Petitioners AWACS, Celcom, and CMS contend that Unity has failed to demonstrate that it is financially qualified to construct and operate its proposed facilities. The arguments raised relate to the same financial showing which Unity submitted for all five markets in which it applied (Philadelphia, Miami, Tampa, Detroit, and Atlanta). Our discussion of the financial qualifications in this order will take into account the financial showing for each of these markets and will dispose of arguments raised by petitioners in each of the respective applications.

4. Unity submitted a June 3, 1982, letter from Faneuil Hall Associates (Faneuil) stating that it " * * * is prepared to act as lead investor in arranging a financing in the range of $50,000,000 for Unity * * *." The petitioners contend that Faneuil has not sufficiently identified itself; described its prior experience in arranging financing; or stated its required terms of equity ownership. The petitioners conclude that Unity has failed to provide reasonable assurance that $50 million in equity financing is available.

5. The Commission, when it adopted its cellular rules, contemplated applicants might need or want to obtain

[1] In its decision in Cellular Communications Systems, CC Docket No. 79–318, 86 FCC 2d 469 (1981) (hereinafter referred to as Report and Order), *modified in* Memorandum Opinion and Order on Reconsideration, 89 FCC 2d 58 (1982), and *further modified in* Memorandum Opinion and Order on Further Reconsideration, 90 FCC 2d 571 (1982), the Commission adopted rules for the cellular radio service.

[2] Petitions to defer Commission action on the AMPS application pending a grant of a construction permit for the non-wireline block of frequencies have also been filed by Rogers and CMS. See paragraph 38 below.

equity financing. Section 22.917(e) of the Rules requires applicants using such financing to furnish the identity of the investor, letters of commitment, and the terms of the transaction. In its letter, Faneuil identifies itself as "* * * a Massachusetts venture capital limited partnership [which] has participated in a large number of venture financing for start-up companies in several industries." In its reply, Unity further identifies Faneuil by stating that Faneuil is "* * * another financing institution with whom principals in UTS have had a long and successful relationship." While this information, although minimal, may be sufficient to identify Faneuil, the June 3 letter indicates that Faneuil is not the sole investor; rather Faneuil states that it will be the "lead investor" in the equity financing package. We conclude, therefore, that the equity arrangement will involve additional investors who are not identified in the application as required by the rules. Nor are any terms of the $50 million equity participation specified either in the financial section of the application or in the pleadings.

6. The Faneuil Hall equity financing arrangement is distinguishable from that which the Commission accepted in *Advanced Mobile Phone Service, Inc.*, et al. (*Chicago Order*), FCC 82–452, released November 1, 1982, at para. 10–12. In that case, one of first impression, the equity financing agreement involved a publicly offered stock purchase plan. The plan was described in great detail. The applicant submitted letters expressing the expert opinion of a large and experienced banking firm that funds were available to the applicant through a public offering. The letters explained in detail how the firm had reached its decision, stating that it had previously managed three successful financings for the applicant and thus was familiar with the marketplace's reaction to the applicant's offerings. The letters further stated that the equity commitment was made only after the firm had carefully analyzed the applicant's financial position, its current capitalization, and its future business plans, and, moreover, the firm agreed to act as managing underwriter with respect to the issue. The letter from Faneuil, on the other hand, contemplates a privately offered stock purchase plan. When there is a privately offered plan, the Commission has long required the applicant to identify the prospective shareholders and to show that they are able to meet their commitments. *See, e.g., Merrimack Valley Broadcasting, Inc.*, 82 FCC 2d 166, 174–5 (1980), and *Peoples Broadcasting Corporation, et al.*, 68 FCC 2d 1569, 1575 (1978). No subscribers other than Faneuil are identified, and no details of the stock purchase plan are furnished. We are not told whether Faneuil has any experience soliciting investors in the telecommunications industry, whether it has obtained commitments or expressions of interest, or whether it has even identified a potential pool of cellular investors. Accordingly, we are unable to conclude that Unity has provided reasonable assurance that the $50 million equity financing is available.

7. Unity also submitted a $50 million letter of credit from Freedom National Bank of New York. The petitioners argue that the bank has not committed its own funds to Unity but simply agreed to assist Unity in seeking financing. Rules Section 22.917(e) requires applicants relying on credit arrangements to furnish such information as the identity of the creditor (or creditors), letters of commitment, and terms of the transaction. Although exact details such as interest rates need not be specified, the applicant must submit sufficient information as to provide reasonable assurance that the funds are available. *See Multi-State Communications, Inc. v. FCC*, 590 F.2d 1117 (D.C. Cir. 1978), *cert. denied*, 440 U.S. 959 (1979). After reviewing the letter of credit from Freedom National Bank, we conclude that the applicant has failed to demonstrate reasonable assurance that the funds are available. The letter states that the bank's principals "* * * shall be pleased to participate in the total financing opportunity associated with [the 5 Unity applications] * * *." The letter specifies an upper credit limit of $50 million. No mention is made of payment schedules, amount of payments, interest rates, commitment fees, or any other terms of the transaction. The letter goes on to state: "It is our intention to syndicate any application that may be forthcoming in the form of a consortium of [various financial and lending] institutions with whom we have had successful participations in the past." The letter provides no information to identify the other institutions which will comprise the consortium, and no commitment letters are furnished from such institutions. Under the circumstances, we cannot find that the $50 million in credit will be available from the Freedom National Bank.

8. For the reasons discussed above, we conclude that Unity has failed to demonstrate the availability of funds necessary to construct and operate its proposed cellular systems. We will therefore designate an issue as to whether Unity is financially qualified in Philadelphia and in the four other markets where Unity applied. We have chosen to designate in this order a financial issue as to Unity's entire financing arrangement because we believe this approach is the most efficient way to consider the various Unity applications, *i.e.*, it can be determined whether Unity has financing for one market, or all five markets, or some number in between. Unity will at that point have greater discretion for deciding how many (and which) applications to prosecute. The alternative is to examine each Unity application in hearing on a case-by-case basis. This approach duplicates the efforts of all parties and (in the event that Unity can demonstrate the availability of some but not all of its financial arrangement) depends not on which applications Unity prefers to prosecute but on the luck-of-the-draw as to which markets are examined (and in what order) by the Commission. We will therefore examine in hearing the overall financial package of Unity and, depending on how much funding is available, permit Unity to modify or dismiss other applications accordingly.[3]

9. *Technical qualifications.* The petitioners have raised objections to various aspects of the applicant's technical proposal. The staff has, upon review of the application, identified a number of inconsistencies or defects in the technical portions of the application. These defects are briefly described below.

10. *Digital transmission.* CMS contends that the digital transmission rate specified in Unity's technical proposal will render Unity's cellular system incompatible with cellular systems in other markets, in violation of the Commission's cellular rules. In reply, Unity explains that CMS' technical objection was based on a confusion as to the purposes of the digital transmission and that the Unity system in fact complies fully with the Commission's rules and will be compatible with other cellular systems. It appears that the particular equipment proposed by Unity has previously been type-accepted by the Commission. Furthermore, the cellular rules require compatibility with other cellular systems. We find that Unity has adequately responded to the petitioner's

[3] In addition to Philadelphia, Unity has filed cellular applications for Miami, Tampa, Detroit, and Atlanta. In those markets, any applicant whose proposal is electrically mutually exclusive with Unity's application may file a motion for limited intervention on the financial issue in this proceeding.

allegations on this matter. In any event, a system operated by Unity or any other licensee will be subject to the rules' compatibility requirement.

11. *Site availability.* Petitioners CMS, MCI, and AWACS contend that Unity has not demonstrated that its proposed sites are available and that Unity has merely designed a hypothetical system with no specific sites. Unity replies that it has reasonable assurance of site availability and meets the Commission's standards in this regard. The Commission does not require that actual copies of site leases be submitted but does require that an applicant demonstrate reasonable assurance that proposed sites are available. *Sampson Broadcasting Co., Inc.*, 52 FCC 2d 954, 959, (1975). We agree with petitioners based on both internal inconsistencies and the lack of any sort of documentation regarding sites. First, in its engineering data (Section 4, Exhibit E–1), Unity specifies the locations and coordinates of the 13 proposed cell sites. While Exhibit E–1 shows Sites B, D and, apparently, F to be existing structures, Exhibit E–34 (FAA notification Form 7460–1) shows all 13 antennas to be free-standing monopoles. Furthermore, in Section 3, at p. 23, Unity states that "[m]ost of the cell sites are to be installed on existing structures (towers located on antenna farms and/or high rise buildings)," yet at least 10 of the antennas are described as *new* structures in Exhibit E–1, and *all* are listed as new monopoles[4] in Exhibit E–34. It is not possible to cross-check and verify the antenna structure information in the Form 401 submission because Unity included only three representative sketches of types of antenna mountings (Exhibit E–14) rather than a sketch for each site.[5] Second, there is no documentary evidence of any kind to show that any of the sites is on an antenna farm, as represented by Unity. To establish reasonable assurance, an applicant must, at the very least, show that the site has been used as an antenna site in the past and will continue to be used as such. The burden only involves obtaining a brief letter from the owner of the property or his agent attesting to the existence and future availability of the site. Even a copy of a public record showing the use of the land as an antenna farm would suffice. Unity has failed to provide anything other than unsworn statements which, as shown above, are not internally consistent. Based on the foregoing, we shall designate a site availability issue for each of the 13 sites against Unity. The Administrative Law Judge may use our summary procedures to resolve this issue if Unity submits amendments showing reasonable assurance and correcting the inconsistencies mentioned above.

12. *Vertical profile sketches.* In its petition to deny, AWACS points out that the Unity application does not include vertical profile sketches of the various proposed antenna structures. Such profile sketches are a requirement of ¶ 22.15(c). We are unable to find them. We therefore instruct Unity to submit conforming amendments with the Administrative Law Judge (ALJ) providing the required vertical profile antenna sketches and to bring its application in compliance with the rules.

13. *Effective radiated power.* In reviewing the Unity applications, the staff has found that the figures given for effective radiated power (ERP) (Exhibit E–17) are inconsistent with the calculated ERP or transmission line loss figures given in Exhibit E–13. We will therefore require the applicant to submit an amendment with the ALJ which provides the correct figures for losses between the transmitter and the antenna for each location in order to clarify the apparent discrepancies in ERP.

14. *Major environmental action.* AWACS argues that portions of the Unity application constitute a major environmental action and must therefore include an environmental impact statement pursuant to § 1.1305 of the Rules. The Unity application includes three cell sites the construction of which, under § 1.1305, may constitute a major action. (Unity states that construction of the other sites constitutes minor actions. The petitioner does not contest this representation.) Unity has submitted a statement (Section 4, Exhibit E–35) describing the facilities to be constructed at the three sites, including height and special design features, and also describing the site, the surrounding area and its uses. In discussing the considerations which led to selection of the three sites, Unity further states that to its knowledge, there are no zoning prohibitions in effect and no adverse environmental effect would result from the proposed construction. We conclude that Unity has fully complied with the requirements of §§ 1.1305, 1.1311, and 22.913(a), concerning the National Environmental Policy Act and related Commission Rules. Based on the materials submitted by Unity, we have determined, pursuant to § 1.1313(b), that grant of the application will not have a significant environmental effect.

15. *CGSA.* AWACS contends that the Unity application is defective for failing to define its proposed CGSA. In its response (Exhibit 1), Unity states that the CGSA is defined by and is depicted in the application by the 39 dBu contour coverage. Although the CGSA is not drawn on the contour map submitted by the applicant and no explanatory statement appears in the application as to the exact area which the applicant considers as constituting the CGSA, we will nevertheless accept the response submitted by Unity as clarification on this issue. In order to make it easier for the ALJ to compare proposals, we will require Unity to submit an amendment with the ALJ consisting of a new map which includes the following information: a) All cell sites plotted; b) 39 dBu contours for each site; c) CGSA boundary; and d) SMSA boundary. Also, the map must indicate pertinent border information to determine proper station plotting of all cell sites.

16. The defects discussed above, when taken individually, appear for the most part to be minor, and some of them will be resolved by amendments which we have instructed Unity to file. We will designate a site availability issue and permit the other technical matters discussed above to be resolved through the normal comparative process. Under our cellular rules and policies, if the ALJ should determine that technical deficiencies remain, the ALJ will be able to award comparative demerits where appropriate.[6]

CMS Application

17. *Financial qualifications.* Petitioners AWACS and Celcom allege that CMS is not financially qualified. The Commission has already concluded that the Graphic Scanning Corporation, CMS' parent, is financially qualified to construct and operate cellular systems in all thirty markets, including Philadelphia, for which CMS has applied. See *Chicago Order, supra* note 3, at paras. 6–12. Additionally, the Philadelphia application includes a letter dated June 2, 1982 from the parent company to CMS committing $6,000,000 for the CMS Philadelphia Cellular System. The letter specifically states

[4] This terminology indicates that the applicant intends to construct a new monopole structure on the ground rather than attach an antenna to a previously-constructed rooftop antenna site.

[5] In contrast, each of the other applicants has included a sketch of each antenna structure which corresponds to the description of the site in the Form 401. *See, e.g.*, MCI Application, Vol. 1, pp. 1–23a through 1–45, and AWACS Application, Vol. 1, Exhibit E–6 for each site.

[6] *See* para. 41, *infra*. Because we are adding qualifying issues, we will suspend the procedural deadline in Section 22.916(b)(4) and allow the Administrative Law Judge to require such additional evidence as may be necessary. See para. 47.

that none of these funds have been committed to other cellular system applications or to other projects. We find that this satisfies the requirement of § 22.917(b) that resources used to demonstrate financial ability regarding one cellular system may not include funds committed elsewhere, and we find CMS financially qualified to construct and operate the proposed cellular system in the Philadelphia market.

18. *Technical issues.* AWACS raised certain objections as to whether CMS has adequately demonstrated site availability and whether the CMS facilities will be capable of handing off calls from cell to cell as a mobile unit moves across the Philadelphia area. The responses submitted by CMS are sufficient to demonstrate with reasonable assurance that the proposed sites are available and that the proposed facilities are fully capable of providing the requisite automated service. We conclude that the CMS proposal fully complies with the technical standards set forth in the appendix to the *Report and Order, supra.*

19 *Market study.* AWACS questions the validity of CMS' market study, claiming its forecasts of demand to be unrealistically low. AWACS contends that, since the CMS forecasts of demand are erroneous, the applicant cannot possibly design a cellular system which will meet the demand which will in fact materialize. AWACS concludes that the application is therefore defective. In response, CMS submitted a detailed analysis which supports the validity of its market study, points to alleged misstatements in the petitioner's arguments, and finally contends that the issue of the ability to meet anticipated demand is a comparative rather than a qualifying issue. After reviewing the materials submitted by both parties, we conclude that CMS has adequately responded to the questions raised on this issue. The applicant's ability to meet anticipated demand is, as suggested by CMS, acomparative issue which will be examined as such in hearing. We therefore decline to designate a qualifying issue on this basis.

Celcom Application

20. *Financial qualifications.* Petitioners CMS and AWACS argue that Celcom has failed to demonstrate it is financially qualified to construct and operate the proposed cellular system. The petitioners also question the adequacy of the applicant's income and expenses statement and the availablity of the debt financing included in the Celcom financial showing. Celcom has submitted a balance sheet dated June 4, 1982, and a 4-year statement of projected income and operating expenses to cover the three-year construction period and the first year of operation. Projected expenses, which are itemized in detail, total approximately $15.6 million. Celcom has submitted a letter of credit to cover this amount from the Michigan National Bank. The letter specifies interes rates (½ of 1% above the Prime Rate in effect at the time the loan is advanced) and describes the bank's contemplated payment schedule. We conclude that Celcom has provided reasonable assurance of the availability of funds and has fully demonstrated its financial qualifications in terms of the requirements of § 22.917.

21. *Site availability.* Petitioners CMS and AWACS contend that Celcom has not demonstrated the availability of its proposed sites. Celcom has proposed 16 sites in the Philadelphia area and has furnished the coordinates and exact address of each cell site (Table A, Engineering statement). In the application (Exhibit No. 4), Celcom stated that it owns each of the proposed sites or will enter into leases for their use, and offered to furnish documentation as to site availability if necessary. This information provides reasonable assurance that the proposed cell sites are available for the applicant's use. The cellular rules do not require that copies of lease agreements or deeds of ownership be furnished. *See also Sampson Broadcasting, supra,* and *Silver Beehive Telephone Company,* 35 FCC 2d 333, 336 (Rev. Bd. 1972).

22. *Market study.* AWACS questions the validity of the Celcom market study and argues that, since the study itself is defective, the applcation is also defective. This contention is essentially the same objection which AWACS raised against the CMS application. See our discussion of this issue in para. 19 above. For the same reasons stated above, we decline to designate a qualifyng issue on this basis. The market study and its validity can be examined as part of the comparative proceeding.

AWACS Application

23. *Financial.* CMS contends that AWACS has not adequately justified its capital cost projections of $17.5 million. CMS refers to the testimony (Exhibit 8, Attachment B) by one of the applicant's investors, Mr. Stuart Subotnick, principal of Metromedia, which estimates that Metromedia's commitment for the AWACS system may run as high as $20 million. The petitioner argues that the testimony draws into question the validity of the $17.5 million projection. We have examined the statement by the investor and conclude that it does not undermine the validity of the applicant's cost estimates. Many applicants have, out of prudence, arranged financial backing in excess of estimated costs. The fact that an investor contemplated such a financial "cushion" does not, without more, indicate that the applicant's cost estimates are not valid. We therefore reject this contention.

24. CMS further contends that AWACS has failed to establish the availability of funds necessary to construct and operate the system. The AWACS financial plan (Application, Exhibit 8) is based on three separate commitments, one from Metromedia, Inc., one from Radio Broadcasting Company (RBC), and a third from LIN Cellular (a subsidiary of LIN Broadcasting Corporation). The three commitments are discussed individually below.

25. *The Metromedia commitment.* The petitioner alleges that Metromedia has not demonstrated its ability to meet its share of the Philadelphia AWACS proposal. Metromedia has committed itself to furnish $13.75 million of the $17.5 million estimated cost.[7] The arguments made as to Metromedia's financial qualifications are similar to those raised in the Boston cellular market. The Commission has already examined these matters and found Metromedia financially qualified in all markets where it applied. See *Advanced Mobile Phone Service, Inc., et al. (Boston Order),* Mimeo CC 896, released November 19, 1982. Accordingly, we conclude that AWACS has demonstrated that $13.75 million is available from Metromedia for the Philadelphia AWACS proposal.

26. *.RBC.* Of the $17.5 million estimated cost for the Philadelphia AWACS proposal, RBC has committed itself to provide $1.25 million. CMS alleges that AWACS has not demonstrated the availability of these funds. AWACS relies on a $10 million letter of credit to RBC from the Continental Bank, Norristown, Pennsylvania. the letter refers to "* * * a joint venture with Lin Broadcasting to seek authority from the Federal Communciations Commission to serve the Philadelphia Metropolitan Area with a Cellular Mobile Telecommunication System." The petitioner contends that the actual venture contemplates a third party, Metromedia, with RBC's interest consequently diluted to ess than one

[7] Metromedia has committed itself to furnish $12.5 million for capital costs, and $1.25 million for noncapital items and first year operating expenses.

quarter of the venture. This subsequent material change, the petitioner argues, raises a question as to the availability to RBC of the funds from the bank. AWACS responds that the bank is in fact aware of the revised arrangement and has indicated to the applicant that the credit letter remains valid.

27. We conclude that the letter of credit reasonably demonstrates that the funds are available. The letter of credit makes no mention of what the bank contemplated would the RBC's share in the AWACS proposal. Nor does the reference to a joint venture which includes RBC and LIN necessarily preclude additional parties to such an agreement. The petitioner has presented no factual material to support its allegations that, when the letter of credit was written (June 3, 1982, which was less than a week prior to the filing of the application), only two parties (RBC and LIN) participated in the AWACS proposal. This assertion also seems highly unlikely in view of the fact that the third party, Metromedia, is the major investor with $12.5 million of the total $17.5 million proposal. The petitioner has submitted no factual material to support the view that Metromedia arrived late as a part of the AWACS proposal. We therefore find that AWACS has reasonably demonstrated that $10 million is available from RBC and that RBC is thus financially qualified to provide its $1.25 million share of the Philadelphia AWACS proposal.

28. *LIN.* LIN's share as an investor in the AWACS proposal is $2.5 million. LIN has also filed applications under its own name in four other markets (Los Angeles, Houston, Dallas-Forth Worth, and New York). In order to meet its commitment to AWACS, LIN relies on the same financing package which it arranged for its own four applications. LIN contends that the excess of funds available over its estimated costs in these four markets is sufficient to cover the commitment to AWACS in Philadelphia. CMS disputes the availability of the funds, arguing that $44 million of the financial showing consists of projected revenue from first year cellular operation, which LIN has not adequately demonstrated to be available.

29. The arguments raised against the LIN financial showing are similar to those raised against LIN in the four markets where LIN is an applicant. These matters will be examined fully when the Commission reaches the applications in those markets for which LIN is the applicant, rather than a joint venturer. However, it is unnecessary to resolve this question in the context of the Philadelphia AWACS application, because funds to cover the LIN commitment are available from Metromedia. The application shows (Exhibit 8, Attachment C) that Metromedia has demonstrated the availability of $17 million, and its share is only $13.75 million. The applicant states (Exhibit 8, page 3) that Metromedia is prepared to finance the entire AWACS proposal if necessary. Hence, we conclude that the applicant has sufficient surplus to cover the $2.5 million even without the LIN contribution.

30. For the reasons discussed above, we find AWACS is financially qualified to construct and operate the proposed system in Philadelphia.

31. *Cell-splitting plan.* CMS contends that AWACS has failed to comply with Section 22.913(a)(5), which requires applicants to indicate the basis for determining whether sufficient congestion exists to warrant cell-splitting. In its application (Exhibit E–12, § 22.913(a)(5) showing), AWACS states that its computerized system will monitor actual use, compile a data base of such use, and that AWACS will use these compiled statistics to make future decisions regarding cell-splitting. AWACS specifies the quantitative channel loading standards (AWACS proposes a Grade of Service of P.05 as the standard of congestion to warrant cell-splitting; see engineering Exhibit E–12), which will be used to determine when the cell-splitting will take place. We conclude that AWACS has fully complied with the cell-splitting requirements of Rule Section 22.913(a)(5).

32. *CGSA.* Celcom contends that the AWACS application violates § 22.903(a) by proposing to extend its service area beyond the borders of the Philadelphia SMSA and into the adjacent SMSA of Wilmington, Delaware. AWACS replies that the overlap is *de minimis* (approximately 9% of the Wilmington SMSA, by the calculations of AWACS) and is necessary to permit adequate coverage of that portion of the Philadelphia SMSA which lies next to the Wilmington area.

33. This type of extension, if it is *de minimus*, is permitted because Wilmington is a "secondary" SMSA. *See* § 22.903(a) and 89 FCC 2d at 87. However, after reviewing the maps submitted with the application, we have concluded that the overlap proposed by AWACS is more than *de minimis*. Under the AWACS proposal, approximately 24% of the cell site in question (the Oxford site) extends into the adjacent SMSA. Moreover, the service contour covers a populous area within the Wilmington market and extends to the area which includes Interstate Highway 95, a potential source of a substantial number of roamer subscribers. Based on our analysis, it appears that the extension into the Wilmington market was not solely based on the applicant's effort to serve the Philadelphia market. Under these circumstances, we cannot conclude that this is the type of *de minimis* extension contemplated by the Commission. We will therefore require AWACS to submit a conforming amendment to the ALJ within 15 days of the release date of this order, modifying the proposed 39 dBu contour of the Oxford cell site and the CGSA so that they both comply with the cellular rules.[9] The amended cell site application shall not cover any area not previously covered by the 39 dBu contour of this cell. The amendment should consider the effects, if any, that this change may have on other parts of the applications. Due to this circumstance, a brief extension of time may be granted at the discretion of the ALJ if a number of other exhibits must be conformed.

34. *Tariff rates.* CMS contends that, in violation of the Commission's rules, AWACS has included charges for customer equipment (mobile units) as part of its proposed tariffs. In its opposition, however, AWACS responds that the allegations were based on a misunderstanding of certain portions of the AWACS application and that AWACS will in no way "bundle" equipment charges with its tariffed service charges. We find that AWACS has fully responded to all questions raised on this matter. *See Buffalo Order, supra* note 7, at para. 23.

MCI Application

35. *Site availability.* AWACS contends that MCI has not demonstrated the availability of the sites proposed in its application. MCI has submitted (Exhibit 12) copies of leases or letters of intent with respect to each cell site proposed in the application. This showing complies with the cellular rules and demonstrates reasonable assurance that the proposed sites are available.

36. *Financial qualifications.* AWACS and CMS question whether MCI has demonstrated its ability to finance the construction and operation of its proposed system. The objections raised

[9] We note that other applicants which propose to serve the same portion of the Philadelphia SMSA have engineered systems, using directionalized antennas, which do not result in the rules violation discussed above.

by the petitioners are similar to those disposed of in the *Pittsburgh Order*, in which the Bureau found MCI financially qualified to construct and operate in the eleven markets, including Philadelphia, in which MCI filed. *See Advanced Mobile Phone Service, Inc., et al. (Pittsburgh Order)*, Mimeo CC 1169, released December 6, 1982, at paras. 3–5. We therefore find it unnecessary to designate an issue in this regard.

37. *CGSA (de minimis).* The petitioners argue that several of the proposed 39 dBu contours extend beyond the Philadelphia SMSA to a degree which is more than *de minimis*, in violation of the cellular rules. As in the AWACS case, the extensions here are permissible under the cellular rules and policies. We have examined the proposed cell sites which extend beyond the SMSA and have come to the following conclusions. Approximately 22% of the Williamstown site contour extends beyond the SMSA. The overlap area includes a potentially significant level of traffic going between Philadelphia and Atlantic City but located in another SMSA. From our examination, it appears that the contour was designed to cover an adjacent market area rather than engineered to the Philadelphia SMSA. This overlap is thus more than *de minimis*. Approximately 21% of the Cochranville site contour extends beyond the Philadelphia SMSA. The overlap area includes potential traffic going to and from Philadelphia but located in another SMSA. We conclude that this extension is also more than *de minimis*. Approximately 45% of the Welsh Mountain site contour extends beyond the SMSA and includes potentially extensive traffic going between Philadelphia and the Lancaster-Reading area but travelling within the latter. We conclude that this extended portion is also more than *de minimis*. There are other cell contours proposed by the applicant which also extend beyond the SMSA. After examining the amount of overlap and the market area at issue, however, we have concluded that these areas of extension are *de minimis*. Concerning the site contours specifically discussed above, in which more than a *de minimis* extension is proposed, we will require MCI to submit a conforming amendment to the ALJ within 15 days of the release date of this order, bringing these four sites and the CGSA into compliance with the rules. MCI may reduce power, use directionalized antennas, relocate the transmitter, eliminate the cell site, or any combination of these. The amended cell site application shall not cover any area not previously covered by the 39 dBu contours of the respective cells. The amendment should consider the effects, if any, that this change may have on other parts of this application. Due to this circumstance, a brief extension of time may be granted at the discretion of the ALJ.

AMPS Application

38. Petitions to deny were filed by MCI and AWACS.[10] For the most part, the petitions challenge policies adopted and reaffirmed by the Commission in the cellular *Report and Order*. These arguments constitute an untimely petition for reconsideration and are rejected. The remaining objections are likewise unsubstantial. The petitions argue that AMPS (a wholly owned subsidiary of AT&T) is not financially qualified. This allegation is totally unsupported. The petitioners further assert that AMPS has failed to indicate with specificity its plan to insure adequate interconnection of the nonwireline's cellular system with the landline telephone network. To the contrary, AT&T has submitted an interconnection proposal,[11] and both AT&T and AMPS are presently participating with the nonwireline applicants and other parties, in Commission sponsored meetings to establish reasonably interconnection standards.[12] We therefore find that AMPS has satisfied the requirements of the cellular rules.

Conclusions

39. Based on our analysis of the applications and our resolution of the contested issues in this order, we find the applicants to be legally, technically, financially and otherwise qualified [13] to construct and operate their proposed cellular systems except to the extent discussed here. As indicated in our previous discussions, the captioned AWACS, MCI and Unity applications do not comply with one or more of the cellular rules. In the *Chicago Order*, at para. 17, the Commission determined that inflexible application of the rules to applications in the 30 largest markets would not be in the public interest. Accordingly, we are requiring AWACS, MCI and Unity to bring their applications into conformance with the rules as specified in this order. We emphasize that the amendments ordered here may not be used to give AWACS, MCI or Unity a comparative advantage in the hearing proceeding. As the Commission stated in the *Chicago Order* in markets for which applications have not yet been filed, strict conformance with the rules will be required, and absent unusual circumstances, the applicants will not be allowed to amend nonconforming applications. We further find that the grant of the AMPS application as conditioned below, will serve the public interest, convenience and necessity.

40. Accordingly, it is ordered that the application of Advanced Mobile Phone Service, Inc., File No. 26010–CL–P–(13)–82, IS GRANTED, conditioned upon the Commission's action on the AT&T Cellular Capitalization Plan submitted by May 25, 1982, as provided by Section 22.901(d)(3) of the Commission's Rules.[14]

41. It is further ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Unity Telecommunications Systems, Inc., File No. 26124–CL–P–(13)–82, Celcom Communications Corporation of Pennsylvania, File No. 26164–CL–P–(16)–82, Automatic Wide Area Cellular Systems, Inc., File No. 26084–CL–P–(16)–82, Cellular Mobile Systems of Pennsylvania, Inc., File No. 26188–Cl–P–(16)–82, and MCI Cellular Telephone Company, File No. 26113–CL–P–(13)–82, are designated for hearing in a consolidated proceeding upon the following issues:[15]

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[10] CMS filed a Petition to Defer Agency Action on the AMPS application pending grant of a construction permit to a nonwireline applicant for Philadelphia. We find it is premature to rule on this petition at this time for the reasons stated by the Commission in deferring action on such petitions in the Chicago market. See *Chicago Order, supra* note 3, at para. 16.

[11] The interconnection proposal is described in two documents submitted by AT&T: Bell System Technical Reference, PUB 43303, December 1981 and AT&T Technical Advisory No. 76, April 14, 1982.

[12] We decline to assume, as petitioners apparently do, that the local wireline carrier will not provide reasonable interconnection. In any event, if reasonable interconnection arrangements have not been formulated by the time AMPS files an application for license to operate its cellular system, we will condition the license grant on AMPS providing reasonable interconnection. *See* 89 FCC 2d at 81–82.

[13] Although no party has raised the issue here, we recognize that the basic qualifications of Graphic, CMS' parent, may be in issue in CC Docket 82–587, *et al.* See note 15, *infra*, for our disposition of this issue.

[14] The authorization also will be conditioned upon AMPS obtaining the appropriate antenna structure clearances.

[15] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants except Unity. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). Except for Unity Telecommunications Systems, we have found all of the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Pennsylvania, Inc. or its parent Graphic,

(a) To determine whether Unity Telecommunications Systems, Inc., is financially qualified to construct and operate for one year its five proposed cellular systems;

(b) To determine whether each cell site proposed by Unity Telecommunications Systems, Inc., is available as set forth in the application;

(c) To determine on a comparative basis the geographic area and population that each applicant proposes to serve; [16] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service; [17]

(d) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;

(e) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities); [18] and

(f) To determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

42. It is further ordered that the burden of proceeding with the introduction of evidence upon the financial and technical qualification issues, and the burden or proof, shall be upon Unity Telecommunications Systems, Inc.

43. It is further ordered that the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding. [19]

44. It is further ordered that the applicants shall file written notices of appearances under § 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the **Federal Register.**

45. It is further ordered that the hearing shall be held according to the procedures specified in § 22.916 of the Rules, except as otherwise noted here, at a time and place and before an Administrative Law Judge to be specified in a later order.

46. It is further ordered that exceptions to the initial decision of the Administrative Law Judge under § 1.276 of the Commission's rules shall be taken directly to the Commission.

47. It is further ordered that Unity, AWACS and MCI are directed to file the conforming amendments specified in this order within 15 days after publication of this order in the **Federal Register** and that the date for filing rebuttal cases under § 22.916(b)(4) of the Rules is deferred pending establishment of procedural dates by the Administrative Law Judge. Procedures for deciding the issues designated against Unity shall be determined by the Judge in the Judge's discretion.

48. It is further ordered that, except to the extent granted here, the Petitions to Deny filed by the parties against the captioned applications ARE DENIED.

49. It is further ordered that any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82–391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

50. It is further ordered, that any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances.

51. This order is issued under Section 0.291 of the Commission's Rules and *Order Delegating Authority*, FCC 82–435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under § 1.106 or applications for review under § 1.115 of the Rules of this order, insofar as it grants the AMPS application, may be filed within 30 days of the date of public notice of this order (see Rule 1.4(b)(2)).

52. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-2186 Filed 1-26-83; 8:45 am]

BILLING CODE 6712-01-M

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to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing. A.S.D. Answer Service, Inc., *et al. (ASD)*, FCC 82-391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 49, *infra*, the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Pennsylvania to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals. *See Chicago Order*, at n. 19.

[16] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Consideration should be given to the presence of densely populated regions, highways and areas likely to have high mobile usage charateristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[17] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502–03.

[18] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[19] Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision making or agency review on an exparte basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. See Communications Act of 1934 as amended section 409(c) (47 U.S.C. section 409(c)); Administrative Procedure Act section 554(d) (5 U.S.C. 554) (d); § 1.1221 of the Commission's Rules.

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

January 21, 1983

On January 19, 1983 the Federal Communications Commission submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of this submission are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632–7513. Comments should be sent to Edward H. Clarke, Office of Management and Budget, OIRA, Room 3201 NEOB, 726 Jackson Place, NW., Washington, D.C. 20503.

Title: Common Carrier and Satellite Radio Licensee Qualification Report

Form No.: FCC 430

Action: Extension (No Change)

Respondents: Corporations and partnerships providing telecommunications services to the general public.

Estimated Annual Burden: 2,300 Responses; 4,600 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-2188 Filed 1-26-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group; Change in Meeting

The meeting of the Definitions and Rules Subcommittee scheduled for February 4, 1983, has been changed to a two day meeting to be held on February 3, and 4, 1983. The meetings on both days will begin at 9:30 a.m. in the offices of MCI Telecommunications Corporation (1st Floor Meeting Room) at 1133 19th Street, NW., Washington and will be open to the public. The agenda remains the same as previously announced.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-2186 Filed 1-26-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Expense Accounts Subcommittee Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of two meetings of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee scheduled to meet on Wednesday, February 9, 1983, and Thursday through Friday, February 24-25, 1983. Each meeting will begin at 9:00 a.m. and will be open to the public. The meeting locations are as follow:

Wednesday, February 9, 1983

USITA Conference Room, 1801 K Street NW., Suite 1201, Washington, D.C.

Thursday, Friday, February 24-25, 1983

Federal Communications Commission, Room #7317, 2025 M Street NW., Washington, D.C.

The agenda are as follow:

I. General Administrative Matters.
II. Discussion of Assignments.
III. Other Business.
IV. Presentation of Oral Statements.
V. Adjournment.

With prior approval of Subcommittee Chairman John Howes, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Howes (212/393-4029) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-2187 Filed 1-26-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Broadway Financial Corp.; Formation of Bank Holding Company

Broadway Financial Corporation, New York, New York, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent or more of the outstanding shares of Broadway Bank & Trust Company, Paterson, New Jersey. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Broadway Financial Corporation, New York, New York, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Broadway Premium Computer Service Center, New York, New York.

Applicant states that the proposed subsidiary would engage in the activities of extending credit for financing the purchase of casualty insurance. These activities would be performed from offices of Applicant's subsidiary in Paterson, New Jersey and Boca Raton, Florida, and the geographic areas to be served are New York, Connecticut, and Florida. Such activities have been specified by the Baord in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than February 18, 1983.

Board of Governors of the Federal Reserve System, January 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2161 Filed 1-26-83; 8:45 am]

BILLING CODE 6210-01-M

Federal Reserve Bank of Atlanta, et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citizens Holding Company*, Lexington, Georgia; to become a bank holding company by acquiring 80 percent of the voting shares of Citizens Banking Company, Lexington, Georgia. Comments on this application must be received not later than February 18, 1983.

2. *Sunset Financial Corporation*, Miami, Florida; to become a bank holding company by acquiring at least 80 percent of the voting shares of Sunset Commercial Bank, Miami, Florida.

Comments on this application must be received not later than February 18, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Terre Haute First Corporation,* Terre Haute, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Terre Haute First National Bank, Terre Haute, Indiana. Comments on this application must be received not later than February 16, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Fulton Bancshares, Inc.,* Fulton, Kentucky; to become a bank holding company by acquiring 80 percent or more of the voting shares of Fulton Bank, Fulton, Kentucky. Comments on this application must be received not later than February 18, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Custer Bancorp,* Westcliffe, Colorado; to become a bank holding company by acquiring 80 percent or more of the voting shares of Liberty State Bank, Colorado Springs, Colorado and Custer County Bank, Westcliffe, Colorado. Comments on this application must be received not later than February 18, 1983.

2. *Fairview Bancshares, Inc.,* Fairview, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of The Farmers and Merchants National Bank of Fairview, Fairview, Oklahoma. Comments on this application must be received not later than February 18, 1983.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Gaines Bancshares, Inc.,* Seminole, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank, Seminole, Texas. Comments on this application must be received not later than February 18, 1983.

Board of Governors of the Federal Reserve System, January 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2182 Filed 1-26-83; 8:45 am]

BILLING CODE 6210-01-M

Federal Reserve Bank of Minneapolis, et al.; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Guaranty Development Company,* Livingston, Montana; to acquire 99 percent of the voting shares or assets of Western State Bank, Billings, Montana. Comments on this application must be received not later than February 10, 1983.

Board of Governors of the Federal Reserve System, January 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2183 Filed 1-26-83; 8:45 am]

BILLING CODE 6210-01-M

Federal Reserve Bank of New York, et al., Bank Holding Companies; Proposed De Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; New Jersey): To establish a *de novo* office of Citicorp Homeowners, Inc. and a *de novo* office of Citicorp Person-to-Person Financial Center, Inc. at a shared location in Paramus, New Jersey. The activities in which the *de novo* offices of Citicorp Homeowners, Inc. and Citicorp Person-to-Person Financial Center, Inc. each propose to engage at the shared office location are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, or extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office of Citicorp Homeowners, Inc. and the *de novo* office of Citicorp Person-to-Person Financial Center, Inc. shall be comprised of the entire State of New Jersey for all the aforementioned proposed activities. Credit related life, accident, and health insurance may be written by Family

Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. Comments on this application must be received not later than February 18, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Maryland Bancorp,* Baltimore, Maryland (underwriting credit life and disability insurance; Phoenix, Arizona): To expand, through its subsidiary, First Maryland Life Insurance Company, its approved activity of underwriting, as reinsurer, credit life and credit disability insurance which is directly related to extensions of credit in Maryland, to include the underwriting of such credit insurance directly related to credit extensions in Delaware by the credit extending affiliates of First Maryland Bancorp in Delaware. This activity would be conducted at offices in Phoenix, Arizona, serving Maryland and Delaware. Comments on this application must be received not later than February 18, 1983.

Board of Governors of the Federal Reserve System, January 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2184 Filed 1-26-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Consumer Credit; Information Collection Requirements

AGENCY: Federal Trade Commission.

ACTION: Notice of application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) for clearance of an information collection by public use survey report.

SUMMARY: OMB clearance is being sought for the 1983 Survey of Consumer Finances (FR 3025).

The 1983 Survey of Consumer Finances is an interagency effort designed, among other purposes, to assist in the evaluation of proposals in the consumer protection area. The FTC is participating in this national survey with other agencies concerned with the administration and enforcement of federal laws affecting financial institutions.

DATE: Comments on this clearance application must be submitted on or before Februry 28, 1983.

ADDRESS: Send comments to Ms. Nell Minow, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503. Copies of the applications may be obtained from Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Carl D. Hevener, OMB Liaison Officer, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3373.

John H. Carley,

General Counsel.

[FR Doc. 83-2262 Filed 1-26-83; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service; Agreement of Transfer and Land Transfer Order

Tennessee Valley Authority Agreement of Transfer and Land Transfer Order. The Tennessee Valley Authority (TVA) and the Department of the Army, Corps of Engineers (COE), have executed an Agreement of Transfer and an order transferring to TVA, the use, possession, and control of certain lands and interests and rights in land from COE. The text of the Agreement of Transfer and the Order is published below.

Dated: January 18, 1983.

Carroll Jones,

Commissioner, Federal Property Resources Service.

Agreement of Transfer Between Tennessee Valley Authority and Department of the Army, Corps of Engineers

[Contract No. TV-45872A]

This agreement of transfer, made and entered into this 14th day of July, 1982 by and between the Tennessee Valley Authority, a corporation organized and existing under and by virtue of an act of Congress known as the Tennessee Valley Authority Act of 1933, as amended (hereinafter called "TVA"), and the Department of the Army for the use and benefit of the Corps of Engineers of the Department of the Army (hereinafter called "Corps");

Witnesseth

Whereas TVA, as agent of the United States of America, has acquired in the name of the United States, for the purposes of TVA's recreation and evironmental education project, Land Between The Lakes, fee simple title to certain areas in which the Corps had theretofore acquired flowage easements, also in the name of the United States; and

Whereas certain of such lands, subject to a reservation in TVA of rights necessary for the operation of Land Between The Lakes, will be beneficial to the maintenance and operation by the Corps of the Barkley Dam and Lake Barkley Project, particularly for recreational purposes; and

Whereas TVA and the Corps have heretofore entered into a Memorandum of Understanding dated September 24, 1964 (TVA Contract No. TV-25635A), subsequently amended by Modification No. 1 thereof on November 20, 1967, providing for the exchange of certain lands along and within the west shoreline of Lake Barkley, which Memorandum, as amended, is hereinafter referred to as "the Memorandum" and is hereby incorporated herein by reference and made a part hereof; and

Whereas the parties have agreed on the submission of a proposed Transfer Order to the General Services Administration for approval under Section 7(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831f(b) (1976)) and Section 1(17) of Executive Order No. 11609 to carry out the transfer from the Corps to TVA contemplated by the Memorandum;

Now, therefore, pursuant to Section 4(k) of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831c(k) (1976)), and in consideration of the premises and of the mutual covenants herein contained, TVA and the Corps, subject to the approval of the Commissioner, Federal Property Resources Service, General Services Administration, under the authority delegated to him as stated in the approval form at the end of this instrument, covenant and agree as follows:

1. TVA, subject to the conditions, covenants, exceptions, and reservations hereinafter set forth, hereby assigns and transfers to the Department, for the use and benefit of the Corps, and for inclusion in the Barkley Dam and Lake Barkley Project, the right of possession and control of and all other right, title, and interest which TVA may have in and to certain lands in Lyon and Trigg Counties, Kentucky, and Stewart County, Tennessee, more particularly described as follows:

All that land acquired by TVA lying within the watershed of the Cumberland River below elevation 378 m.s.l. and within the boundaries of Land Between The Lakes as described in the Memorandum. Such land includes 5,117 acres, more or less.

Such transfer is subject to existing easements for public roads and highways, for public utilities, and for pipelines and to any other existing and outstanding rights of third parties. The Corps shall be responsible for the protection and preservation of any archaeological resources identified on the above-described land.

2. TVA reserves to itself, as appurtenances to the lands it holds for Land Between The Lakes, the right and privilege to enter upon the land described in Article 1 above, as may be necessary in connection with the development, administration, and operation of Land Between The Lakes for its intended purposes, including, but not limited to, the construction, operation, and maintenance of boat launching ramps, boat moorage facilities, swimming beaches, picnic and camping facilities, shelters, boat harbors, docks and related secondary channels and subimpoundments, the managaement of forest resources in connection with the proposed recreational developments, performing work essential to vector control,

carrying on vector control work and controlling and managing wildlife, all of which shall be subject to the rights of the Corps to operate and maintain the Barkley Dam and Lake Barkley Project for its intended purposes, including, but not limited to, the flooding of the area, making improvement in aid of navigation, performing vector control work, controlling and managing the shorline and water areas of Lake Barkley in accordance with applicable laws and the rules and regulations prescribed by the Secretary of the Army, it being understood that all plans relating to improvements of whatever nature to be placed by TVA below elevation 378 m.s.l. shall be submitted to the District Engineer for review and approval prior to construction, and all operations conducted by TVA within said area shall be in accordance with the operating agreements entered into under Article 5 below.

3. None of the conditions or provisions of this Agreement shall be construed as abrogating the responsibilities of the Secretary of the Army with respect to the enforcement of Section 4 of the Act of Congress approved December 22, 1944, as amended (76 Stat. 1195; 16 U.S.C. 460d (1976)); Section 10 of the River and Harbor Act approved March 3, 1899, as amended (30 Stat. 1151; 33 U.S.C. 403 (1976)); and Section 404 of the Federal Water Pollution Control Act (Pub. L. No. 92–500, 86 Stat. 816 as amended; 33 U.S.C. 1344 (1976; Supp. III, 1979)).

4. If at any time in the future TVA shall determine that commercial boat dock facilities are needed along the Land Between The Lakes portion of the westerly shoreline of Lake Barkley in connection with the development of the full recreational potential of Land Between The Lakes, such facilities shall be established solely by agreement between TVA and the concessionaire, but in full accordance with the procedures, practices, and policies of the Corps in effect at such time with reference to the establishment of commercial boat dock concessions on Lake Barkley land in the custody and control of the Corps. TVA does not presently intend to establish any such concessions.

5. It is the parties' desire and intention to maintain and operate their respective projects, Land Betwen The Lakes and Barkley Dam and Lake Barkley, so as to complement each other in realizing their full recreational potential. Accordingly, the District Engineer, Nashville District, Corps of Engineers, and the Manager of Land Between The Lakes will from time to time discuss the related phases of the operation and maintenance of the two projects and will, when appropriate and insofar as their respective authorities extend, incorporate understandings reached as to their respective responsibilities and obligations in a written operating agreement or agreements.

6. TVA in no way warrants the extent of its interest in the lands described in Article 1 thereof, but any interest which may hereafter be acquired by TVA in and to the lands described in said Article 1 shall automatically pass to the Corps subject to the terms and conditions of this agreement without the necessity of any new and separate transfers thereof.

In witness whereof the parties hereto have caused this instrument to be executed by their respective representatives thereunto duly authorized, as of the day and year first above written.

Dated: November 10, 1981.

Attest:

Helen S. Drummer,

Assistant Secretary.

Tennessee Valley Authority.

W. F. Willis,

General Manager.

Department of the Army, Corps of Engineers.

Dated: July 14, 1982.

J. K. Bratton,

Chief of Engineers.

Approved: By virtue of the authority vested in the President of the United States by Section 4(k) of the Tennessee Valley Authority Act of 1933, as amended by the Act of July 18, 1941, 55 Stat. 599, and delegated to the Administrator of General Services by section 1(16) of Executive Order No. 11609 of July 22, 1971, and further delegated to the Commissioner, Federal Property Resources Service, General Services Administration by Chap. 11 of GSA Handbook ADM P 5450.39B, dated October 20, 1980, the foregoing transfer agreement dated July 14, 1982, is hereby approved.

Carroll Jones,

Commissioner, Federal Property Resources Service, General Services Administration.

Date: December 20, 1982.

Washington, D.C.

Order Transferring to the Tennessee Valley Authority the Use, Possession, and Control of Certain Lands and Interests and Rights in Land From the Department of the Army, Corps of Engineers

By virtue of the authority vested in the President of the United States by Section 7 (b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831f(b) (1976)), and delegated to the Administrator of General Services by section 1(17) of Executive Order No. 11609 of July 22, 1971, and further delegated to the Commissioner, Federal Property Resources Service, by Chap. 11 of GSA Handbook ADM P 5450.39B, dated October 20, 1980, it is hereby ordered that the use, possession, and control of the lands and interests and rights in land hereinafter described be, and they are hereby, transferred from the Department of the Army, Corps of Engineers (hereinafter called "Corps"), to the Tennessee Valley Authority (hereinafter called "TVA"), such transfer being deemed necessary and proper for the purposes of TVA as stated in the Tennessee Valley Authority Act of 1933, as amended:

1. Those certain lands acquired in fee simple by the Corps for the Barkley Dam and Lake Barkley Project lying above elevation 3278 m.s.l. and within the boundaries of TVA's recreation and environmental education project known as Land Between The Lakes, such boundaries being more particularly described in the Memorandum of Understanding between the Corps and TVA, dated September 24, 1964 (TVA Contract No. TV–25635A), as amended by Modification No. 1 to such Memorandum of Understanding, dated November 20, 1967, and outside of the areas heretofore transferred by the Corps to the Bureau of Sport Fisheries and Wildlife in connection with the Kentucky Woodlands National Wildlife Refuge then located within the Land Between The Lakes Project as evidenced by an exchange of property rights reflected in Public Land Order 4560 dated December 27, 1968. The description of the boundaries of Land Between The Lakes in the said Memorandum of Understanding of September 24, 1965, as amended, is incorporated herein by reference and made a part hereof. The lands of which use, possession, and control are hereby transferred contain 2,864 acres, more or less. The Corps in no way warrants the extent of its interest in said lands. Such transfer is subject to existing easements for public roads and highways, for public utilities, and for pipelines and to any other existing and outstanding rights of third parties. TVA shall be responsible for the protection and preservation of any archaeological resources identified on the above-described land.

2. Custody and control, as appurtnances to the lands that TVA holds for Land Between The Lakes, of the right and privilege, in, on, and over lands heretofore acquired in fee simple by the Corps lying riverward below elevation 378 m.s.l. outside of the areas heretofore transferred to the Bureau of Sport Fisheries and Wildlife, to enter upon said land as may be necessary in connection with the development, administration, and operation of Land Between The Lakes for its intended purposes, including, but not limited to, the construction, operation, and maintenance of boat launching ramps, boat moorage facilities, swimming beaches, picnic and camping facilities, shelters, boat harbors, docks and related secondary channels and subimpoundments, the management of forest resources in connection with the proposed recreational developments, performing work essential to vector control, carrying on vector control work and controlling and managing wildlife, all of which shall be subject to the rights of the Corps to operate and maintain the Barkley Dam and Lake Barkley Project for its intended purposes, including, but not limited to, the flooding of the area, making improvements in aid of navigation, performing vector control work, controlling and managing the shoreline and water areas of Lake Barkley in accordance with applicable laws and the rules and regulations prescribed by the Secretary of the Army. All plans relating to improvements of whatever nature to be placed by TVA below elevation 378 m.s.l. shall be submitted to the District Engineer for review and approval prior to construction, and all operations conducted by TVA within said area shall be in accordance with such operating agreements as may be entered into by TVA and the Corps of Engineers under Article 6 of the Memorandum of Understanding of September 24, 1964.

None of the conditions and provisions of this Order shall be construed as abrogating the responsibilities of the Secretary of the Army with respect to the enforcement of

Section 4 of the Act of Congress approved December 22, 1944, as amended (76 Stat. 1195; 16 U.S.C. 460d (1976)); Section 10 of the River and Harbor Act approved March 3, 1899, as amended (30 Stat. 1151; 33 U.S.C. 403 (1976)); and Section 404 of the Federal Water Pollution Control Act (Pub. L. No. 92-500, 86 Stat. 816, as amended; 33 U.S.C. 1344 (1976; Supp. III, 1979)).

Any commercial boat dock facilities hereafter deemed by TVA to be needed along the Land Between The Lakes portion of the westerly shoreline of Lake Barkley shall be established solely by agreement between TVA and the concessionaire, but in full accordance with the procedures, practices, and policies of the Corps then in effect for commercial boat dock concessions on land and water areas of Lake Barkley in the custody and control of the Corps. TVA does not presently intend to establish any such concessions.

Copies of the Memorandum of Understanding of September 24, 1964, between TVA and the Corps and the modification thereof dated November 20, 1967, are available for inspection in the offices of the District Engineer, Corps of Engineers, Department of the Army, Nashville District, Room A645, Estes Kefauver Federal Building, Nashville, Tennessee 37202, and of the Manager, Land Between The Lakes, Golden Pond, Kentucky 42231.

This the 20 day of December 1982.

Carroll Jones,

Commissioner, Federal Property Resources Service, General Services Administration.

John O. Marsh, Jr.,

Secretary of the Army.

[FR Doc. 83-2220 Filed 1-26-83; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was last published on January 21.

Public Health Service

Food and Drug Administration

Subject: Bureau of Medical Devices Standards Survey (0910-0115)—Extension/no Change.

Respondents: Voluntary standards organizations.

OMB Disk Officer: Fay S. Iudicello.

Social Security Administration

Subject: Report by Former Representative Payee (SSA-625)—Revision.

Respondents: State mental institutions.

Subject: Student's Statement Regarding Resumption of School Attendance (SSA-1386)—Revision.

Respondents: Students receiving Social Security benefits.

Subject: Medical Report (Individual with Childhood Impairment (SSA-3827))—Revision.

Respondents: Physicians.

OMB Desk Officer: Milo Sunderhauf.

Health Care Financing Administration

Subject: Paperwork Associated with the Certification of Intermediate Care Facilities (HCFA-3070)—Revision.

Respondents: Intermediate care facilities participating in Medicare and Medicaid.

Subject: Annual Survey of Independent and Prepaid Health Insurance Plans (HCFA-1807)—Extension/no Change.

Respondents: A sample of independent and prepaid health insurers.

Subject: Paperwork Associated with the Certification of End Stage Renal Disease Treatment Facilities (HCFA-3427)—Extension/no Change.

Respondents: End Stage Renal Disease treatment facilities participating in Medicare.

Subject: Paperwork Associated with the Certification of Psychiatric Hospitals (HCFA-1514 and R13)—Extention/no Change.

Respondents: Psychiatric hospitals participating in Medicare and Medicaid.

Subject: Revision to Medicaid State Plan Preprint: Listing of Income and Resource Requirements for Medicaid Eligibility (HCFA-179)—Revision.

Respondents: State Medicaid agencies.

OMB Desk Officer: Fay S. Iudicello.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524-F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. Attn: (name of OMB Desk Officer).

Dated: January 21, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83-2297 Filed 1-26-83; 8:45 am]

BILLING CODE 4150-04-M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22864, May 27, 1975, as amended most recently at 47 FR 23024, May 26, 1982), is amended to reflect the following changes: (1) Abolish the National Medical Audiovisual Center (NMAC), National Library of Medicine and transfer its functions and staff to the Lister Hill National Center for Biomedical Communications (LHNCBC), National Library of Medicine, and (2) revise the functional statement for the Lister Hill National Center for Biomedical Communications (LHNCBC), National Library of Medicine to incorporate the new functions from the National Medical Audiovisual Center.

The merger of the National Medical Audiovisual Center functions and staff into the Lister Hill National Center for Biomedical Communications will result in optimal performance and efficient sharing of administrative and technical resources.

Sec. HN-B Organization and Functions is amended as follows: (1) Under the heading *National Library of Medicine (HNL)*, delete the statement for the *Lister Hill National Center for Biomedical Communications (HNL3)*, in its entirety and substitute the following:

Lister Hill National Center for Biomedical Communications. (1) Performs research and development to create and improve biomedical communication systems, methods, and networks and to enhance information dissemination and utilization among health professionals; (2) collaborates with members of the health professions community, and studies, defines, and develops needed information technology materials and services; (3) develops audiovisual and other information systems to improve health professions education, research, and the delivery of health services; (4) applies technology to the improvement of biomedical

communications; (5) encourages and performs research and development in the production, dissemination, use and evaluation of audiovisual, computer-based, and other educational materials and systems; (6) trains health educators in methods and technologies supporting biomedical communications; (7) plans and administers a rational program to improve the quality and the use of biomedical audiovisual materials in schools of the health professions and throughout the biomedical community; and (8) participates in interdisciplinary, cross-divisional collaborations and projects where appropriate.

(2) Under the heading *National Library of Medicine (HNL)*, delete the statement for the *National Medical Audiovisual Center (HNL4)* in its entirety.

Dated: January 19, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-2296 Filed 1-26-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted for Review

January 6, 1983.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Rick Otis, at (202) 395-7340.

Title: Budget Preparation Forms
Bureau Form Numbers: BIA-4256, BIA-4257, BIA-4259
Frequency: Annually
Description of Respondents: Indian Tribes
Annual Responses: 238
Annual Burden Hours: 1,820
Bureau Clearance Office: Diana Loper (202) 343-3574

John W. Fritz,

Assistant Secretary—Indian Affairs.

[FR Doc. 83-2299 Filed 1-26-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Bureau Forms Submitted to OMB for Review

AGENCY: Bureau of Land Management, Interior.

ACTION: Bureau forms submitted for review to Office of Management and Budget.

SUMMARY:

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Jefferson Hill, at 202-395-7340.

Title: 43 CFR 3000 3100, Minerals Management
Bureau Form Numbers: 3040-1, 3045-2, 3045-3, 3104-1, 3104-2, 3104-8, 3106-4, and 3110-3
Frequency: On occasion
Description of Respondents: General public, small businesses and oil companies
Annual Responses: 33,500
Annual Burden Hours: 14,775
Bureau clearance officer (alternate): Linda Gibbs 202-653-8853

James M. Parker,

Acting Director.

[FR Doc. 83-2240 Filed 1-26-83; 8:45 am]

BILLING CODE4310-84-M

[Group 637]

Arizona; Filing of Plat of Survey

January 18, 1983.

1. Plat of survey of the land described below will be officially filed in the Arizona State Office, Phoenix, Arizona effective at 7:45 a.m. on March 3, 1983.

Gila and Salt River Meridian, Arizona

Uns. T. 2 N., R. 28 E., Tract 37.

The area described contains 100.00 acres of land.

2. The land described above is located about 33 miles SW of Alpine, Arizona. The elevation varies from 5500 to 6200 feet above sea level. The terrain is mountainous and drains southerly into Eagel Creek. Vegetation consists of pinyon pine, juniper, oak and scattered ponderosa pine. The soil varies from sandy loam in the lower elevations, to rocky loam in the higher elevations.

3. Access to Tract 37 is by way of Forest Service Road No. 217, which is improved dirt.

4. All rights of the State of Arizona to section 32 in Unsurveyed T. 2 N., R. 28 E., have been conveyed to the United States.

5. The above described land in Unsurveyed T. 2 N., R. 28 E., was included within the Apache National Forest by Proclamation 19 of August 17, 1898.

6. The land described in paragraph 1 is included in an offer for Forest Exchange pursuant to the Act of March 20, 1922 (16 U.S.C. 485), as amended, and is segregated from appropriation, location or entry under the General Mining Laws.

7. Inquiries concerning the lands should be addressed to the Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Midred C. Kozlow,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-2237 Filed 1-26-83; 8:45 am]

BILLING CODE 4310-84-M

[A-5321; A-7730]

Arizona; Realty Action Competitive Sale of Public Land in Graham County

The following described land has been identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value.

GILA AND SALT RIVER MERIDIAN, ARIZONA

Parcel	Legal description	Acreage	Dollar value
(A-5321)			
T. 8 S., R. 26 E.,			
Section 18	E½NW¼ (parcels within)		
A	NW¼NE¼NW¼	10	12,700
B	SW¼NE¼NW¼	10	12,500
C	NW¼SE¼NW¼	10	12,600
D	SW¼SE¼NW¼	10	12,800
E	NE¼NE¼NW¼	10	12,500
F	SE¼NE¼NW¼	10	12,400
G	NE¼SE¼NW¼	10	12,500
H	SE¼SE¼NW¼	10	13,000
(A-7730)			
Section 22	S½SW¼ (parcels within)		
J	N½SW¼SW¼	20	17,500
K	NW¼SE¼SW¼	10	12,000
L	NE¼SE¼SW¼	10	12,200
M	S½SW¼SW¼	20	17,300
O	SW¼SE¼SW¼	10	12,400
P	SE¼SE¼SW¼	10	12,500

The land will be sold at public auction by competitive bidding. The sale will be held at the Safford District Office, 425 East Fourth Street, Safford, Arizona, on Thursday, March 31, 1983, at 1:00 p.m.

Bidding Information and Instructions: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States, 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state of the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent. Agents will be required to submit proof of power of attorney.

Method of Bidding: Each bid must be for all the land in a specified parcel. Bids may be made either by submitting sealed bids until three days before the sale date or by bidding orally at the sale. Bids sent by mail will only be considered if received by the Bureau of Land Management, Safford District Office, 425 East Fourth Street, Safford, Arizona 85546, prior to 1:00 p.m., Monday, March 28, 1983. Sealed bids, accompained by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid must be in a separate sealed envelope, within the transmittal envelope. The sealed envelopes must be marked in the lower lefthand corner, "Sealed Bid, Parcel——, Public Land Sale A–5321 or A–7730, Sale to be held March 31, 1983." All sealed bids will be opened at 1:00 p.m. on the day of sale.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid will be the base for oral bids. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these.

The successful high bidder whether by sealed or oral bid, will be required to submit the remainder of the land payment by cash, certified check, bank draft, money order, or combination at the time of the sale or within thirty (30) days after receipt of the decision accepting the highest bid. If final payment is not received within the specified 30 days, the high bid is rejected, the deposit is forfeited, and the parcel will be offered to the second highest bidder. All unsuccessful sealed bids will be returned within 30 days of the sale.

A patent for the land, when issued, will contain the following reservations:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All minerals shall be reserved to the United States. Such minerals shall be subject to the right to explore, prospect for, mine, and remove under applicable law and such regulations as prescribed by the Secretary of the Interior.

3. A non-exclusive right-of-way thirty-three (33) feet in width for roadway and public utilities purposes to be located along the parcel boundary lines.

4. A restriction which constitutes a covenant running with the land, that the land in Parcel (J) and (M) located within the base (100-year) floodplain as identified in the Federal Emergency Management Agency (FEMA) flood hazard boundary map for the area (040032 0017 A) may be used only for farming, but not for farm dwellings or buildings, or for nonintensive open space purposes.

This restriction is included pursuant to the authority contained in section 3(d) of Executive Order 11988 of May 24, 1977, and section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713).

and will be subject to:

1. A right-of-way described under Serial No. A–5312 for a flood control channel under the Act of February 15, 1901 (31 Stat. 790; 43 U.S.C 959) on parcels (E), (F), (G), and (H).

Upon the expiration of the right-of-way, the holder of the right-of-way must negotiate new terms with the landowner.

2. Those rights granted by oil and gas lease A–16361, made under Section 29 of the Act of February 25, 1920, (41 Stat. 473; 30 U.S.C. 186). This patent is issued subject to the right of the prior permittee or lessee to use so much of the surface of said land as is required for oil and gas exploration and development operations without compensation resulting from proper oil and gas operations, for the duration of the lease A–16361, and any authorized extension of the lease. Upon termination or relinquishment of said oil and gas lease, this reservation shall terminate.

Publication of this Notice will segregate the subject lands from all appropriations under public land laws, including the mining laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent or two years from the date of this Notice, or upon publication of a notice of termination.

Detailed information concerning the sale can be obtained from the Safford District Office. For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Safford District, Bureau of Land Management, 425 East Fourth Street, Safford, Arizona 85546. Any adverse comments will be evaluated by the district Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: January 22, 1983.

Vernon L. Saline,

Acting District Manager.

[FR Doc. 83–2238 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–84–M

[Group 635]

California; Filing of Plat of Survey

January 21, 1983.

1. These plats of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 17 N., R. 9 E.

2. These plats, representing the dependent resurvey of the east boundary, a portion of the north, south, and west boundaries, a portion of the subdivisional lines, and certain boundaries of mineral surveys and the survey of the subdivision of section 1, 3, 4, 6, 7, 8, 9, 19, 13 through 20, 22, 24, 28, 29, 30, 34, and 36, Township 17 North, Range 9 East, Mount Diablo Meridian, under Group No. 635, California, were accepted December 15, 1982.

3. These plats will immediately become the basic record for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 83–2233 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–84–M

[Group 689]

California; Filing of Plat of Survey

January 21, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, California

T. 5 S., R. 8 E.

2. This plat, representing the dependent resurvey of portions of the south and west boundaries, a portion of the subdivisional lines, and the subdivision of sections 30 and 32, and the survey of the subdivision of section 19 and 32, and certain Indian allotments in section 30, Township 5 South, Range 8 East, San Bernardino Meridian, under Group No. 689, California, was accepted December 20, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau and the Bureau of Indian Affairs.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California, 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 83-2234 Filed 1-26-83; 8:45 am]

BILLING CODE 4310-84-M

[Group 816]

California; Filing of Plat of Survey

January 21, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

T. 32 N., R. 7 E.

2. This plat, representing the dependent resurvey of the south one-half mile betwen section 8 and 9. Township 32 North, Range 7 East, Mount Diablo Meridian, under Group No. 816, California, was accepted December 17, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California, 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 83-2235 Filed 1-26-83; 8:45 am]

BILLING CODE 4310-84-M

[Group 826]

California; Filing of Plat of Survey

January 21, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, California

T. 46 N., R. 15 E.

2. This plat, representing the dependent resurvey of the west boundary of section 1, Township 46 North, Range 15 East, Mount Diablo Meridian, under Group No. 826, California, was accepted December 17, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of Bureau and the Bureau of Indian Affairs.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 83-2236 Filed 1-26-83; 8:45 am]

BILLING CODE 4310-84-M

Lakeview Grazing District Advisory Board; Meeting

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR 4120.6-1(e) that a meeting of the Lakeview District Grazing Advisory Board will be held on February 22, 1983 at 10:00 A.M. in the Lakeview District Office Conference Room at 1000 S. 9th Street, Lakeview, Oregon 97630.

The agenda will include the following topics:

1. Grazing Decisions,
2. Grazing Fee Study,
3. Wild Horses Update,
4. Water Use Inventory.

The meeting will be open to the public parties who desire to attend. Interested persons may make oral statements to the Board of rile a written statement for the Board's consideration.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection during regular business hours within 30 days following the meeting.

Richard A. Gerity,

District Manager.

[FR Doc. 83-2230 Filed 1-26-83; 8:45 am]

BILLING CODE 4310-84-M

Lewistown District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Lewistown District Grazing Advisory Board will meet February 22 and February 23, 1983. The agenda will be:

February 22

1:00 p.m.—Livestock Management in Ervin Ridge Area
5:00 p.m.—Recess

February 23

8:00 a.m.—Range Improvement Funds
10:00 a.m.—Allotment Management Plan Status
12:00 p.m.—Adjournment

Opportunity for public comment will be provided throughout the meeting.

DATES: February 22, 1983, 1:00 p.m. to 5:00 p.m.; February 23, 1983, 8:00 a.m. to 12:00 noon.

ADDRESS: The LeHavre Inn, 629 West 1st, Havre, Montana.

FOR FURTHER INFORMATION CONTACT: Glenn W. Freeman, District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The Lewistown District Grazing Advisory Board is authorized under Section 403 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753). The Board advises the District Manager concerning the District's Rangeland Management Program.

Dated: January 18, 1983.

David E. Little,

Associate District Manager.

[FR Doc. 83-2232 Filed 1-26-83; 8:45 am]

BILLING CODE 4310-84-M

Prineville District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 of a meeting of the Prineville District Grazing Advisory Board to be held February 25, 1983.

The meeting will take place at 10:00 A.M. in the conference room of the Bureau of Land Management office located at 185 East 4th Street, P.O. Box 550, Prineville, OR 97754.

The agenda will center on the following items:

1. Final Brothers EIS.
2. Proposed Rangeland Program Summary decisions including allotment catagorization and ranking.
3. Range Improvement and Maintenance Policy.

The meeting is open to the public. Anyone wishing to make written or oral statements to the board is requested to contact the District Manager at the above address prior to the meeting date.

Summary minutes of the meeting will be available for review and reproduction within 30 days following the meeting.

Gerald E. Magnuson,

District Manager.

January 18, 1983.

[FR Doc. 83–2231 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–84–M

[CA–12534]

Conveyance of Public Land; Kern County, California

January 17, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), the Heirs of Hubert F. Lucas; Ben F. and Ines Short; Edward J. and Deborah A. Grelle; Francis H. and Wilma R. Belt; Lloyd A. and Agnes Williams; Virgil W., Jr. and Gwynn A. Hansen; and Elmer H. and Jeanette Norman, have purchased by noncompetitive sale public land in Kern County, California, described as:

Mount Diablo Meridian, California

T. 26 S., R. 33 E.,
Sec. 18, lots 5 to 11, respectively.
Containing 0.48 acre.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance documents to the above named.

Eleanor K. Wilkinson,

Chief, Lands and Locatable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 83–2287 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–84–M

Surprise Resource Area, Susanville District Office, Calif.; Intent To Amend Land Use Plan

The Department of the Interior, Bureau of Land Management, Susanville District, California is beginning an amendment of the land use plans for 1.5 million acres of public land in the Surprise Resource Area.

The Surprise Resource Area is located in northeastern California in Lassen and Modoc Counties and in northwestern Nevada in Washoe and Humboldt Counties. The majority of the lands are well blocked and occur primarily around the communities of Cedarville, Eagleville, Lake City, and Fort Bidwell.

The anticipated major issues currently identified to be addressed in the amendment process are the impacts of modified livestock grazing decisions on other resources, Area of Critical Environmental Concern, the retention and/or disposal of certain public lands, fire management, and management of fuelwood on public lands within the area.

An environmental analysis will be part of the planning process. Possible alternatives in the EA will be proposed action and no action (i.e., the Management Framework Plans will not be amended).

The interdisciplinary team which will prepare the amendment includes representatives from the following disciplines: range, wildlife, lands, soil, water resources, minerals, recreation, cultural resources, wild horses, threatened and endangered plants, fire, socioeconomics, and forestry.

Public participation activities during the amendment process include consultation with affected users and other agencies. Meetings with interested groups and individuals, mailouts, media notices, public meetings, and distribution of the draft and final amendments and EA for comment will also occur.

One public meeting will be held to identify and clarify significant issues to be addressed in the amendment process. The meeting will be on February 15, 1983 at 7:00 p.m., at the Bureau of Land Management Office, 602 Cressler Street, Cedarville, California.

Further information as well as relevant planning documents will be available from 7:45 a.m. to 4:30 p.m., weekdays, from Lee Delaney, Area Manager, Surprise Resource Area, Bureau of Land Management, P.O. Box 460, Cedarville, California 96104; telephone (916) 279–6101.

Dated: January 20, 1983.

Ben F. Collins,

Acting District Manager.

[FR Doc. 83–2283 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–84–M

[M 56554]

Montana; Realty Action—Exchange; Correction

AGENCY: BLM-Butte District Office, Interior.

ACTION: Notice of Realty Action, Exchange of public lands in Silver Bow and Beaverhead counties, Montana.

Correction

In **Federal Register** Vol. 47, No. 219/ Friday, November 12, 1982, on page 51232, condition number 6 pertaining to public lands, which reserved a right-of-way to the U.S., is to be omitted from the notice. Condition number 2 on pages 51232 and 51233, pertaining to the privately owned lands and reserving a right-of-way to Stauffer Chemical Company, is to be omitted also.

Dated: January 18, 1983.

Jack A. McIntosh,

District Manager.

[FR Doc. 83–2284 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–84–M

Ely District, Nevada; Egan Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Comment Period for the Management Alternatives of the Egan Resource Management Plan.

SUMMARY: The Ely District, Bureau of Land Management, is preparing a Resource Management Plan for the 3.8 million acres of public land in the Egan Resource Area. The Egan Resource Management Plan will be addressing three issues: Range Management, Realty Actions, and Wilderness. A fourth issue, Sensitive Resources was dropped as it was no longer deemed to be a critical issue. The majority of the elements associated with this issue have been included in the Range Management issue.

The pubic is invited to participate in reviewing and commenting on the four management alternatives which have been developed to resolve the three issues. The four management alternatives are: A. No Action, B. Resource Protection, C. Mid-Range, and D. Resource Development. The purpose of these four alternatives is to suggest the range of possible management

options from which the proposed management action will be developed. The draft Egan Resource Management Plan is scheduled for release in September of 1983.

It should be noted that the resource management planning system incorporates the environmental analysis process. As a result, the Egan Resource Management Plan will be combined land use plan and environmental impact statement. The text of the Bureau's Planning Regulations can be found in the Code of Federal Regulations, Title 43, Part 1601. The Egan Resource Management Plan is being written to comply with the Federal Land Policy and Management Act of 1976 and the National Environmental Policy Act of 1969.

DATES AND ADDRESSES: The public comment period for the four management alternatives starts on January 31, 1983, and will end on March 25, 1983. Copies of the Egan Resource Management Plan Alternatives may be obtained by writing to the address listed below. Meetings open to the public will be held in Ely on February 15, 1983, at the Bristlecone Convention Center located at 150 Sixth Avenue, Ely, Nevada, and in Reno on February 16, 1983, at the Eldorado Hotel located at 345 North Virginia Avenue, Reno, Nevada, to review these alternatives. Both meetings will be held from 7:00 p.m. to 9:00 p.m. Notices of this public comment period will also be placed in the local news media and radio station.

FOR FURTHER INFORMATION CONTACT: Howard F. Hedrick, Egan Resource Area Manager, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301, Telephone (702) 289–4865.

Dated: January 18, 1983.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 83–2288 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–84–M

[U–050]

Richfield District, Richfield, Utah; Henry Mountain Final Grazing Environmental Impact Statement (EIS)

Notice is hereby given that the Henry Mountain Final Grazing EIS completion date as published in the **Federal Register** has been extended from March 31, 1983 to June 1, 1983 to allow for the analysis of additional comments received after the comment period was extended 60 days.

Dated: January 21, 1983.

Donald L. Pendleton,

District Manager.

[FR Doc. 83–2286 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–84–M

Utah; Off-Road Vehicle Designations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

DECISION: Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Order 11644 and 11989, and regulations contained in 43 CFR 8340. The following described lands under administration by the Bureau of Land Management are designated as limited to off-road motorized vehicle use.

The 49,300 acres designated are a result of land use decisions made in the Ashley-Duchesne (1982) and Brown's Park (1977) Management Framework Plans. The areas are in Daggett and Uintah Counties, Utah. Comments received from public meetings and contacts with County Commissioners influenced these designation decisions. These designations are published as final today. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

Use Limited to Designated Roads and Trails

1. Pariette Wetlands—9,000 acres. The area is located southwest of Ouray and vehicle use in this area is permitted on designated roads and trails. Snowmobile use is permitted in the area.
2. Green River Scenic Corridor—17,300 acres.
3. Red Creek Watershed—23,000 acres.

The above two areas are located in the northeast corner of Utah. Vehicle use in these areas is permitted on designated roads and trails. Snowmobile use is permitted in the areas.

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer. An environmental assessment describing the impact of these designations is available for inspection at the office listed below:

Area Manager, Diamond Mountain Resource Area, 170 South 500 East, Vernal, Utah 84078

Lloyd N. Ferguson,

District Manager.

[FR Doc. 83–2289 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–84–M

Warm Springs Resource Management Plan (RPM)/Environmental Impact Statement (EIS) Schedule Acceleration, RMP Intent and Scoping Meeting

Notice is hereby given that completion of the Warm Springs RMP/EIS has been accelerated one year from September 30, 1987 to September 30, 1986.

The Warm Springs planning will be completed under the RMP process. The first issue scoping meeting will be held on February 15, 1983 at the Fillmore Elementary School, 555 West 400 South, Fillmore, Utah at 7 p.m.

For further information contact Mark Bailey, Area Manager, Warm Springs Resource Area, Bureau of Land Management, P.O. Box 778, Fillmore, Utah 84631.

Dated: January 21, 1983.

Donald L. Pendleton,

District Manager.

[FR Doc. 83–2285 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–84–M

[I–15375]

Idaho; Rescission of Orders Providing for the Opening of Public Lands

January 20, 1983.

This notice rescinds an order which provided for the opening of public lands in the State of Idaho. The order had no force and effect. It is identified as follows:

Appearing at page 31755 of the **Federal Register** of Thursday, July 22, 1982 (FR Doc. 82–19779).

Clair M. Whitlock,

State Director.

[FR Doc. 83–2239 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–84–M

[NM 55234]

New Mexico; Proposed Withdrawal and Reservation of Lands

Dated: January 21, 1983.

The Department of Energy, on January 17, 1983, filed application NM 55234 for the withdrawal of the following described lands from settlement, sale, location, or entry under all of the general land laws, including but not limited to the general mining and leasing laws and the Geothermal Steam Act of 1970, subject to valid existing rights:

New Mexico Principal Meridian

T. 22 S., R. 31 E.,
Sec. 15;
Sec. 16;
Sec. 17;

Sec. 18, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 27;
Sec. 28;
Sec. 29;
Sec. 30, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, inclusive, E½, and E½W½;
Sec. 32;
Sec. 33;
Sec. 34.

The area described comprises approximately 8,960 acres of public lands and 1,280 acres of State owned land for a total of 10,240 acres, more or less, in Eddy County, New Mexico.

The following two State sections are included in the withdrawal so that if they pass to Federal ownership, they will be subject to the withdrawal:

New Mexico Principal Meridian

T. 22 S., R. 31 E.,
Sec. 16;
Sec. 32.

The applicant agency desires that the land be withdrawn and reserved for use of the Department of Energy for the purpose of constructing a research and development facility (the Waste Isolation Pilot Plant—WIPP) to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States; however, no radioactive waste will be stored or disposed of under the terms of this withdrawal.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management on or before May 2, 1983.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87501, on or before May 2, 1983. Upon determination by the State Director that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary of the application will be published in the **Federal Register.** The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

Effective on the date of publication of this notice, the above-described lands shall be segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of 2 years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Division of Operations, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87501.

Leroy C. Montoya,

Chief, Division of Operations.

[FR Doc. 83-2242 Filed 1-26-83; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Wilderness Study Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Wilderness Consideration of the Bisti Area.

SUMMARY: Federal Register Notice (47 FR 58372) of Thursday, December 30, 1982 announced that seven New Mexico Wilderness Study Area (WSA's) of less than 5,000 acres each were dropped from further wilderness consideration. One of these seven was the Bisti area.

The New Mexico State Director asked, and was granted, special permission to continue to study the Bisti for wilderness. This was done under the authority of Section 202 of the Federal Land Policy and Management Act (FLPMA) and in accordance with guidance contained in Washington Office Instruction Memo No. 83-188. Management of the Bisti will continue to prevent impairment of the area's wilderness values while it is being considered for wilderness.

Consideration of wilderness for the Bisti is included in the Draft Environmental Impact Statement (EIS) for the Bisti, Denazin and Ah-shi-sle-pah WSA's which was released on November 30, 1982. The public comment period for this draft EIS extends to April 8, 1983.

FOR FURTHER INFORMATION CONTACT: Dan Wood, Wilderness Coordinator, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87501, telephone number (505) 988-6227.

Charles W. Luscher,

State Director.

[FR Doc. 83-2244 Filed 1-26-83; 8:45 am]

BILLING CODE 4310-84-M

Ukiah District, Eureka Resource Area; Availability of Red Mountain Management Framework Plan Amendment Preplan Analysis and Planning Criteria

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: Notice in hereby given that the draft preplan analysis, including planning criteria, for the Red Mountain Management Framework Plan Amendment is available for public review and comment.

DATES: Comments will be accepted from the public for 30 days after publication of this notice.

FOR FURTHER INFORMATION CONTACT: Stanley R. Whitmarsh, Wilderness Coordinator, Ukiah District Office, Bureau of Land Management, P. O. Box 940, 555 Leslie Street, Ukiah, California 95482. Telephone (707) 462-3873.

SUPPLEMENTARY INFORMATION: A planning amendment is being prepared to study the 6,173 acre Red Mountain Wilderness Study Area, located northeast of the town of Leggett in northern Mendocino County, California.

The preplan analysis briefly describes issues, types and levels of decisions, inventory needs, planning criteria, state and national guidance, time schedules and public participation. Because this amendment involves only analysis of wilderness suitability, the planning criteria are the criteria and quality standards as described in the *Wilderness Study Policy; Policies, Criteria and Guidelines for Conducting Wilderness Studies on Public Lands* (47 FR 5098–5122).

Dated: January 19, 1983.

Edwin G. Katlas,

Acting District Manager.

[FR Doc. 83–2243 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Tenneco Oil Exploration of Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4321, Block 181, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 19, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–2303 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0310, Block 217, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 19, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–2294 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Pennzoil Exploration and Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2416, Block A–325, High Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3.30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development, and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 19, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region

[FR Doc. 83–2295 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

Grizzly Bear Management Program for Yellowstone National Park

AGENCY: National Park Service, Interior.

ACTION: Availability of final environmental impact statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service, U.S. Department of the Interior, has prepared a final environmental impact statement (EIS) for the proposed grizzly bear management program at Yellowstone National Park in Idaho, Montana and Wyoming.

The proposal involves some positive management actions which emphasize the perpetuation of a wild, free-ranging grizzly bear population. Among these actions are the closing or restricting some 452,995 acres of the park to public use, closer coordination with the U.S. Fish and Wildlife Service in controlling problem bears, and provision for supplemental feeding of carrion as necessary if natural food supplies for the bears fall critically short. These actions are a departure from past practices because research has shown the grizzly bear, a threatened species, to possibly be declining in population in the greater Yellowstone area.

The three alternatives considered in the final EIS are (A) implement a modified management program (the proposed action); (B) status quo, continue the present management program with its past practices (no action); and (C) further restrict visitor use by fending at strategic locations such as Fishing Bridge Campground.

A limited number of copies of the final EIS are available upon request to:

Mr. Bob Kasparek
Environmental Protection Specialist
Rocky Mountain Regional Office
National Park Service
P.O. Box 25287
Denver, Colorado 80225
Telephone: (303) 234–4942, or
Superintendent, Yellowstone National Park
Yellowstone National Park, Wyoming 82190
Telephone: (307) 344–7381

The above offices may be contacted for further information. Public reading copies of the final EIS will also be available at those offices and at: Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, Telephone: (202) 343–6843.

Dated: January 4, 1983.

Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 83–2310 Filed 1–26–83; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278; or Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review board [1]	[redacted]
661	Denver and Rio Grande Western Railroad Co., ICC–DRGW–C–0016–A, 0026–A, 0039–B, 0050–A, 0060–A and 1172–A (Canned goods)	I	1–20–83
663	Seaboard System Railroad ICC–SBD–C–0007 (Methanol)	III	1–20–83
666	Burlington Northern Railroad Co., ICC–BN–C–0153, Supplement 5 (Grain and grain products)	II	1–20–83
669	Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC–MILW–C–0168–J (Bituminous coal)	III	1–20–83
670	Southern Pacific Transportation Co., ICC–SP–C–0131, Supplement 2 (Cement clinker and petroleum coke)	II	1–20–83
673	Southern Pacific Transportation Co., ICC–SP–C–0359 (Sulphur)	III	1–20–83
674	Southern Pacific Transportation Co., ICC–SP–C–0038, Supplement 1 (Cement)	I	1–20–83
676	Chicago and North Western Transportation Co., ICC–CNW–C–0425 (Roofing granules)	II	1–20–83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2083 Filed 1–26–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP3MCFC–28]

Motor Carriers; Finance Applications

Decided: January 21, 1983.

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 2, Members Carleton, Williams, and Ewing. Board Member Ewing not participating.

Agatha L. Mergenovich,

Secretary.

Please Direct status inquiries to Team 3, (202) 275–5223.

MC–FC–81079. By decision of January 20, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number approved the transfer to ASTRO SERVICES, INC., Springfield, MA, of Certificates Nos. MC 149324, (Sub-No. 1), issued August 6, 1981, and MC 149324 (Sub-No. C4) X, issued March 23, 1982, and Permits Nos. MC 149324 (Sub-No. 3), issued March 18,

1982, and MC 149324 (Sub-No. P4) X, issued March 23, 1982, to BLACK ARROW TRANSPORT, INC., Springfield, MA, authorizing the transportation of (1) *machinery,* between points in CT, on the one hand, and, on the other, points in the U.S., (2) *pulp, paper, and related products,* between points in CT, MA, ME, NH, NJ, NY, RI, and VT, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *general commodities* (except classes A and B explosives), (a) between points in IL, MN, ND, and WI; and (b) between points in IL, MN, ND, and WI, on the one hand, and, on the other, points in MA, MT, NY, PA, and WA; (4) *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with General Electric Company, Distribution Equipment Division, of Plainville, CT; and (5) *boats and parts and accessories* for boats and *materials, equipment, and supplies* used in the manufacture of boats, between points in the U.S., under continuing contract(s) with AMF–ALCORT/PACESHIP, Division of Waterbury, CT. Condition: Upon consummation of this transaction, transferor's authority in Certificates Nos. MC 149324 and MC 149324 (Sub-No. 2) X, and Permit No. MC 144022 (Sub-No. 2) are cancelled pursuant to transferor's request. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103.

[FR Doc. 83–2211 Filed 1–26–83; 8:45 am]
BILLING CODE 7035–01–M

[No. MC–F–15047]

Dutra Trucking, Inc.—Purchase Exemption—Shoemaker Trucking Company (Loren Wetzel, Trustee in Bankruptcy)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant of 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261 (September 20, 1982), Dutra Trucking, Inc., seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of portions of the operating rights of Shoemaker Trucking Company (Loren Wetzel, Trustee in Bankruptcy), No. MC–138875 (Sub-No. 312X), both of which are motor carriers.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:
(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and
(2) Petitioner's representative: Eugene Q. Carmody, 15523 Sedgeman Street, San Leandro, CA 94579.

Comments should refer to No. MC–F–15047.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

By the Commission, Hebert P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2215 Filed 1–26–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except here noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications

for motor contract carrier authority are those where service is for a named shipper "under contract." Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–031

Decided: January 17, 1983.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 8842 (Sub-6), filed January 3, 1983. Applicant: DAWSON BUS SERVICE, INC., 405 East Camden-Wyoming Ave., Camden, DE 19934. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, 301–797–6060. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 111662 (Sub-3), filed December 22, 1982. Applicant: LUND COACHES, INC., P.O. Box 158, Wilmington, IL 60481. Representative: Jeffrey Strange, 3330 Dundee Rd., Northbrook, IL 60062, 312–272–9063. Transporting *passengers,* in charter and special operations, beginning and ending at points in IL and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 161422, filed December 28, 1982. Applicant APPALACHIAN TRAVEL SERVICE, INC., 13 Clarkesville St., Cornelia, GA 30531. Representative: Imogene Hamric, Rt. 2, Box 217, Cornelia, GA 30531 (404–778–5600 and 5777). Transporting *passengers,* in charter and special operations, beginning and ending at points in GA and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164882, filed November 29, 1982. Applicant: CHARLES DERRICK, JR. d.b.a. DERRICKS CHARTER SERVICE, 1003 W. Main St., P.O. Box 604, LEXINGTON, SC 29072. Representative: Charles D. Derrick, Jr. (same as applicant) (803) 359–7809. Transporting *passengers,* in charter and special operations, beginning and ending at points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165422, filed December 28, 1982. Applicant: MITCHELL MOTORCOACH LTD., 2143 Fourth St., Bay City, MI 48706. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517–482–2400. Transporting *passengers,* in charter and special operations, between points in MI, IN, OH, KY, TN, GA, FL, and NJ.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP2–034

Decided: January 18, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 152113 (Sub-2), filed January 10, 1983. Applicant: ARROW COURIER, INC., 3142 Fairfield Ave., Bridgeport, CT 06605. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410 (201) 791–2270. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 158433 (Sub-1), filed January 7, 1983. Applicant: BURKE INTERNATIONAL TOURS, INC., P.O. Box 880, Newton, NC 28658. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101 (703) 893–3050. Transporting *passengers,* in charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter operations.

MC 159863 (Sub-2), filed January 6, 1983. Applicant: DAVIDSON TRANSPORTATION AGENCY, INC., P.O. Box 716, Beverly Shores, IN 46301. Representative: Themis N. Anastos, 120 West Madison St., Chicago, IL 60602 (312) 782–8668. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 165483, filed January 4, 1983. Applicant: ODELL APPLE, INC. 5433 Sunshine Drive St. Louis, MO 63109. Representative: Mark Perry, 236 Massachusetts Ave., NE., Suite 409, Washington, DC 20002 (202) 546–2299. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–028

Decided: January 20, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 165347, filed December 23, 1982, previously noticed in the FR issue of January 12, 1983, and republished this issue. Applicant: BOBBIE W. THOMPSON, d.b.a. THOMPSON'S VIP TOURS, I–35 E. Outer Rd., P.O. Box 109, Bethany, MO 64424. Representative: Robert J. Brooks, 1828 L St. NW, Suite 1111, Washington, DC 20036 (202) 466–3892. Transporting *passengers,* in special and charter operations, between points in the U.S. The purpose of this republication is to include Alaska and Hawaii service, which was erroneously excluded in the previous notice.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165646, filed January 11, 1983. Applicant: EXECUTIVE LIMOUSINE SERVICE, LTD., 320 Industrial Ave., Vancouver, BC Canada V6A 2P5. Representative: John G. McLaughlin, 1600 One Maine Pl., 101 SW Main St., Portland, OR 97204 (503) 224–5525. Transporting *passengers,* in charter and special operations, beginning and ending at ports of entry on the International Boundary line between the United States and Canada in WA and ID, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP4–031

Decided: January 17, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 165376, filed December 27, 1982. Applicant: SKYLANE TRANSPORTATION COMPANY, 28477 Bradley Rd., Lake Forest, IL 60045. Representative: Patrick H. Smyth, 105 W Madison St., Suite 1008, Chicago, IL 60602, (312) 263–2397. Transporting (1) *passengers,* in charter and special operations, between points in the U.S. (except HI), (2) *shipments weighing 100 pounds or less,* if transported in a vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (3) as a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Note.—Applicant in (1) seeks to provide privately funded charter and special transportation. This application is directly related to MC–F–15050, published elsewhere in the same Federal Register issue.

Volume No. OP4–033

Decided: January 20, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 78296 (Sub-4), filed January 7, 1983. Applicant: MID-AMERICA CHARTER LINES, INC., 2513 Higgins Rd., Elk Grove Village, IL 60007. Representative: Andrew J. Carraway, 1600 Wilson Blvd., Suite 1301, Arlington, VA 22209, (703) 522–0900. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI). Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) or a petition for exemption under 49 U.S.C. 11343(e) or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite any issuance of authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410.

Note.—Applicant seeks to provide privately funded special and charter transportation.

MC 110616 (Sub-6), filed January 10, 1983. Applicant: CHARTER COACHES, INC., 144 32nd St. Dr., SE, Cedar Rapids, IA 52403. Representative: Steven C. Schoenebaum, 1100 Carriers Bldg., 601 Locust, Des Moines, IA 50309, (515) 283–2076. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165687 filed January 14, 1983. Applicant: RGT, INC., 6726 Tara Blvd., 6C, Jonesboro, GA 30236. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133, (404) 949–7756. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165697 filed January 14, 1983. Applicant: GIANNINI TRUCKING CO., INC., 87 Page Ave., Yonkers, NY 10704. Representative: Leo Giannini (same address as applicant), (914) 965–0147. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165706, filed January 14, 1983. Applicant: UNITED STATES SHIPPERS, INC., 220 W. Mercer St., Suite 202, Seattle, WA 98119. Representative: Russell A. Evans, 410 Maynard Bldg., 119 First Ave. S., Seattle, WA 98104, (206) 622–1417. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 165716, filed January 17, 1983. Applicant: JAMES W. JACKSON, d.b.a. J & J TRUCKING, P.O. Box 28 (County Rd. #17), Oglethorpe, GA 31068. Representative: James W. Jackson (same address as applicant), (912) 472–6716. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditions* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–020

Decided: January 18, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 150309 (Sub-2), filed January 7, 1983. Applicant: MIDWEST TRANSPORTATION, INC., 1501 East Lincoln Way, Ames, IA 50010. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, 515–282–3525. Transporting *passengers*, in charter and special operations, beginning and ending at points in IA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 153249 (Sub-1), filed January 7, 1983. Applicant: TRANS-SERVICE, INC., 1306 East Webbs Avenue, Burlington, NC 27215. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, 703–893–3050. Transporting *passengers*, in charter and special operations, beginning and ending at points in Chatham, Durham, Guilford, Orange and Randolph Counties, NC, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special operations.

MC 163089, filed January 6, 1983. Applicant: EXECUTIVE TRANSPORT, INCORPORATED, d.b.a. THE PARTY LINER, 4512 87th Avenue West, Tacoma, WA 98466. Representative: John J. Nance (same address as applicant), 206–565–2900. Transporting *passengers*, in charter operations, beginning and ending at points in WA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter transportation.

MC 165419, filed December 27, 1982. Applicant: COM-BRO, INC., Box 347, Filer, ID 83328. Representative: Jim Carpenter (same address as applicant), 208–326–3100. To operate as a *broker* of *general commodities*, (except household goods), between points in the U.S. (except AK and HI).

MC 165448, filed December 30, 1982. Applicant: GARY COTHAM TRUCKING, 777 North 70th Street, Thayer, MO 65791. Representative: Gary D. Cotham (same address as applicant), 417–264–7005. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165598, filed January 3, 1983. Applicant: LOUIS A. FUOCO BUS LINE, INC., 645 South Country Road, East Patchogue, NY 11772. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, 212–466–0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 165599, filed January 10, 1983. Applicant: TIM & ROGER SAVAGE, d.b.a. CROSSROADS TRAVEL ENTERPRISES, Rt. 3, Box 884, Joplin, MO 64801. Representative: Tim and Roger Savage (same address as applicant), 417–781–9222. Transporting *passengers*, in charter and special operations, beginning and ending at points in Jasper, Newton, McDonald, Lawrence, Greene, Barry, Stone, Christian, Taney, Barton, Vernon, Bates, Cass, Jackson, Clay, Platte and Buchanan Counties, MO, Ottawa County, OK, Cherokee, Crawford, Johnson, Wyandotte and Leavenworth Counties, KA, and Washington and Benton Counties, AR, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165609, filed January 10, 1983. Applicant: INDEPENDENT TRANSPORT, INC., 4025 Route 8, Allison Park, PA 15101. Representative: Carl Gainor, 620 Frick Building Pittsburgh, PA 15219, 412–391–2101. To operate as a *broker* of *general*

commodities (except household goods), between points in the U.S. (except HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2213 Filed 1-26-83: 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rule under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jursidictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains apporpriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in oppostion.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operator as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted othewise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in instrastate commerce over regular routes as a motor common carrier of passengers are duly. Please direct status inquires to Team One at (202) 275-7992.

Volume No. OPI-30

Decided: January 20, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 82841 (Sub-328) filed January 10, 1983. Applicant: HUNT TRANSPORTATION, INC., d.b.a. HUNT BROKERAGE, 10770 "I" St. Omaha, NE 68127. Representatives: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392-1220. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165571, filed January 7, 1983. Applicant: FIELDS' BUS RENTAL, INC., d.b.a. FIELDS' BUS SERVICE, 6099 Duckett Lane, Elkridge, MD 21227. Representative: William M. Fields (same address as applicant), (301) 796-5264. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special operations.

MC 165600, filed January 10, 1983. Applicant: HOWARD G. BAROUDI, 225 Belaire Terrace, Mt. Laurel, NJ 08054. Representative: Howard G. Baroudi, (same address as applicant), (609) 235-5286. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165611, filed January 10, 1983. Applicant: IRVIN RAPHAEL, INC., 550 Old Stage Rd., Spotswood, NJ 0. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017, (212) 532-5181. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK and HI).

Note.—Applicant intends to provide privately-funded charter and special transportation.

MC 165671, filed January 13, 1983. Applicant: GO TOURS, INC., 481 Eighth Ave., New York, NY 10001. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, (212) 838-0600. Transporting *passengers,* in charter and special operations between points in the U.S. (except AK and HI).

Note.—Applicant intends to provide privately-funded charter and special transportation.

Volume No. OPI-31

Decided: January 20, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing.

MC 30650 (Sub-9), filed January 13, 1983. Applicant: C. HARRELL, INC., Garrison Road, R.D. 3, Elmer, NJ 08381. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *such commodities* as are dealt in or used by a manufacturer of chemicals, between points in the U.S. (except AK and HI), under continuing contract(s) with The PQ Corporation, of Valley Forge, PA.

MC 124711 (Sub-114), filed January 13, 1983. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: T. M. Brown, 2024 Glen Eagle, Edmond, OK 73034, (405) 840–7579. Transporting *chemicals and related products and petroleum products*, between points in the U.S. (except AK and HI).

MC 136391 (Sub-8), filed January 7, 1983. Applicant: BILL'S MOVING, INC., d.b.a. A–1 MOVING & STORAGE, 471 W. 5th S., Salt Lake City, UT 84111. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in UT.

MC 142000 (Sub-5), filed January 10, 1983. Applicant: LOWELL SAMPSON, INC., 400 Lundy Lane, Leland, IL 60531 Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602, (312) 236–8225. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Swift & Company, of Chicago, IL.

MC 145890 (Sub-5), filed January 4, 1983. Applicant: BELL TRUCKING COMPANY, INC., 1047 Shoemaker Ave., Shoemakersville, PA 19555. Representative: Milton W. Flack, 8484 Wilshire Blvd., No. 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI).

MC 151091 (Sub-1), filed January 10, 1983. Applicant: MAKS WOOD PRODUCTS CO., P.O. Box 2940, Eugene, OR 97402. Representative: Thomas R. Maks (same address as applicant), (503) 461–0600. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, CO, ID, MT, NE, NM, NV, OR, TX, SD, UT, WA, and WY.

MC 157140 (Sub-2), filed December 16, 1982, previously published in the Federal Register on January 5, 1983. Applicant: TRICO EQUIPMENT, INC, P.O. Box 669, Ahoski, NC 27910. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richland, VA 23229, (809) 282–3809. Transporting (1) *metal and metal products*, and (2) *lumber and wood products*, between Baltimore, MD, Philadelphia, PA, points in NC, SC and VA, and points in Chester County, PA, on the one hand, and, on the other, those points in and east of MN, IA, MO, AR and LA.

Note.—This republication corrects the territorial description.

MC 159611 (Sub-1), filed January 10, 1983. Applicant: INTERCITY LINES, INC., Petersham Road, Hardwick, MA 01037. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *transportation equipment*, between points in the U.S. (except AK and HI).

MC 165290 (Sub-1), filed January 10, 1983. Applicant: GRIFFIN TRUCKING, INC., R.R. 3, Box 424, Greencastle, IN 46135. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *such commodities* as are dealt in or used by food services distributors, between points in the U.S., under continuing contract(s) with B & B Food Distributors, Inc., of Terre Haute, IN.

MC 165500, filed January 4, 1983. Applicant: LEHIGH TRANSPORT, INC., 3745 Aramingo Ave., Philadelphia, PA 19137. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107, (215) 564–3880. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CT, DE, IL, IN, MI, OH, MD, NJ, NY, PA, VA, WV, WI, and DC.

MC 165511, filed January 3, 1983. Applicant: CAUDLE TRUCKING COMPANY, 4225 Sinton Rd., P.O. Box 7206, Colorado Springs, CO 80933. Representative: Jack M. Caudle, 820 Sirius Dr., Colorado Springs, CO 80906, (303) 633–3107. Transporting (1) *furniture and fixtures*, between Colorado Springs and Denver, CO, on the one hand, and, on the other, points in NM, TX, OK, AR, TN, and VA, and (2) *lumber*, between Denver and Colorado Springs, CO, on the one hand, and, on the other, points in WY, SD, ID, and CA.

MC 165591, filed January 10, 1983. Applicant: G.V.T. TRANSPORTATION, INC., 400 Central Park West, New York, NY 10022. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, (212) 838–0800. Transportating *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant intends to provide privately-funded charter and special transportation.

MC 165621, filed January 10, 1983. Applicant: TRANSPORT NORMAND LAROCQUE, INC., 4200 St. Patrick St., Montreal, Quebec H4E 1A5, Canada. Representative: W. Norman Charles, P.O. Box 724, Glen Falls, NY 12801, (518) 792–0957. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between ports of entry on the international boundary line between the U.S. and Canada in ME, MI, NY, NY, VT and WI, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VT, VA, WI, WV, and DC.

For the following, please direct status calls to Team 2 (202) 275–7030.

Volume No. OP2–030

Decided: January 17, 1983.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 5623 (Sub-61), filed January 7, 1983. Applicant: ARROW TRUCKING CO., P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. 703–893–3050 Transporting *Mercer commodities and chemicals*, between points in the U.S. (including AK, but excluding HI), under continuing contract(s) with IMCO Services, Division of Halliburton Co., of Houston, TX.

MC 45813 (Sub-14), filed December 28, 1982. Applicant: THE DUMFORD TRUCKING CO., 6437 Germantown Rd., Box 506, Middletown, OH 45042. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212, (614) 481–8821. Transporting *pulp, paper and related products, paper mill machinery, and component parts*, between points in KY, IL, IN, MI, OH, PA, TN, WI, and WV.

MC 70832 (Sub-37), filed January 4, 1983. Applicant: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA 17042. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St, N.W., Washington, DC 20005, (202) 783–3525. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 107012 (Sub-782), filed December 30, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David

D. Bishop (same address as applicant), (219) 429–2110. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with The Bendix Corporation, of Southfield, MI.

MC 135003 (Sub-6), filed January 3, 1983. Applicant: C.R.X. CORPORATION, 5016 7th Pl., Winona, MN 55987. Representative: Gary Huntbatch (same address as applicant); (507) 454–6980. Transporting *chemicals and related products*, between points in MN, IA, IL, and WI.

MC 144893 (Sub-8), filed January 3, 1983. Applicant: NORMAN HOWARD, d.b.a. HOWARD TRUCKING OF UTAH, 1755 E. 800 North, St. George, UT 84770. Representative: J. Ralph Atkin, 60 N. 300 East, P.O. Box 339, St. George, UT 84770, (801) 628–2612. Transporting (1) *petroleum and petroleum products*, (2) *vehicle body sealer, sound deadening compounds, and related products*, and (3) *containers*, between points in the U.S. (except AK and HI).

MC 144922 (Sub-9), filed January 4, 1983. Applicant: A.T.F. TRUCKING CO., INC., Route 11, Box 507–B, Birmingham, AL 35210. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209–4786, (205) 942–9116. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146753 (Sub-26), filed December 30, 1982. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 147232 (Sub-7), filed December 30, 1982. Applicant: A. L. SMITH TRUCKING, INC., 8984 Murphy Rd., Versailles, OH 45380. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *meat, meat products and meat byproducts*, between points in Greene County, IN, and Stark County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 14833 (Sub-11), filed January 4, 1983. Applicant: REBEL EXPRESS, INC., Box 98, Dawson IA 50066. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245–4300. Transporting (1) *chemicals*, between points in IA, MI, WI, IL, NM, NE and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *furniture and fixtures*, between points in IA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *automotive products*, between points in IL and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), (4) *glass and ceramics*, between points in IA, IL, MN, and NE, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (5) *lumber, wood and metal products*, between points in the U.S. (except AK and HI).

MC 151193 (Sub-35), filed December 29, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Ave., Avenel, NJ 07001. Representative: Michael A. Beam, (same address as applicant), 201–499–3869. Transporting *such commodities* as are dealt in or used by supermarkets, between points in the U.S. (except AK and HI), under continuing contract(s) with Schorr Pickled Products, of Paterson, NJ.

MC 160562, filed January 6, 1983. Applicant: VENTURE TRUCKING CO., INC., P.O. Box 813, Hwy. 64–70 West, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372–6730. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Bassett Furniture Industries of North Carolina, Inc., of Newton, NC.

MC 165363, filed December 27, 1982. Applicant: MASON COUNTY FRUIT PACKERS COOPERATIVE, INC., 3958 West Chauvez Rd., Ludington, MI 49431. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167, (313) 349–3980. Transporting *general commodities* (except classes A and B explosives, household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Cherry Central Cooperative, Inc., of Traverse City, MI.

MC 165482, filed December 30, 1982. Applicant: JACK'S DELIVERY SERVICE, INC., 117 Van Molan, Houston, TX 77002. Representative: James O. Houchins, P.O. Box 6366, Austin, TX 78762, (512) 479–0777. Transporting *truck parts, diesel engine parts, small machine seals and packing, and valves*, between points in TX and LA, under continuing contract(s) with (1) Texstream-TXT, (2) Stewart and Stevenson Services, Inc., (3) Diesel Engine & Fabricating Company, Inc., and (4) Crane Packing Company, all of Houston, TX.

Volume No. OP2–033

Decided: January 18, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 75593 (Sub-4), filed January 3, 1983. Applicant: A & A TRANSPORT, INC., Rte. 87, Franklin, CT 06254. Representative: Edward M. Taber, 64 Nottingham Terr., Waterbury, CT 06704, 203–753–0939. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT and MA.

MC 107012 (Sub-783), filed January 4, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as applicant), (219) 429–2234. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with W. W. Grainger, Inc., of Chicago, IL.

MC 121372 (Sub-13), filed January 10, 1983. Applicant: EXPRESS TRANSPORT COMPANY, 1217 Dalton St., Cincinnati, OH 45203. Representative: Norbert B. Flick, 2250 Beechmont Ave., Cincinnati, OH 45230, (513) 231–4831. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in GA, IL, IN, KY, MI, NY, OH, PA, TN, and WV.

MC 146853 (Sub-17), filed December 27, 1982. Applicant: HAWKEYE WOODSHAVINGS, Route 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *food and related products*, between points in CA, IA, OR, and WA, on the one hand, and, on the other, points in IL, IA, MN, MO, ND, NE, TN, and WI.

MC 151422 (Sub-11), filed January 7, 1983. Applicant: MINN–DAK TRANSPORT, INC., 40–1st Ave., NW., P.O. Box N, Pelican Rapids, MN 45472. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, fargo, ND 58102, (701) 235–4487. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 162812, filed January 5, 1983. Applicant: EASTERN CARTAGE COMPANY, 275 Fairway Dr., Asheville, NC 28805. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 347–8862. Transporting *general commodities* (except classes A and B

explosives, household goods and commodities in bulk), between those points in NC on and west of Interstate Hwy 77, on the one hand, and, on the other, points in NC, SC and TN.

MC 164372, filed January 3, 1983. Applicant: TAKOMA TRANSFER AND STORAGE COMPANY, INC., 4011 Penn Belt Place, Forestville, MD 20747. Representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902, 301–649–5074. Transporting *household goods,* between those points in the U.S. in and east of MN, IA, NE, CO, OK, and TX.

MC 164713, filed December 28, 1982. Applicant: LEASEWAY DELIVERIES, INC., 85 Stanton St., Rochester, NY 14611. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216–566–5639. Transporting *machinery,* between points in the U.S., under contract(s) with Fretters Appliance Corp., of Indianapolis, IN. Condition: Issuance of this authority is subject to approval of the petition in MC–F–15071.

Note.—A petition for exemption pursuant to U.S.C. 11343(e) has been filed, docketed MC–F–15071.

MC 165492, filed January 4, 1983. Applicant: TRANS AMERICAN EXPRESS, INC., P.O. Box 145, Summit, IL 60501. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Rd., Downers Grove, IL 60515, 312–953–0330. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 3 at (202) 275–5223.

Volume No. OP3–14

Decided: January 19, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 144285 (Sub-1), filed January 4, 1983. Applicant: BAY HAVEN MARINA, INC., 1862 Ottawa Beach Rd., Holland, MI 49423. Representative: Robert R. Linn, Jr., (same address as applicant) (616) 399–9440. Transporting *boats,* between points in MI, IN, IL, TN, GA, and FL.

MC 134064 (Sub-56), filed December 29, 1982. Applicant: INTERSTATE TRANSPORT, INC., 1600 Hwy. 129 So., Gainesville, GA 30505. Representative: Charles M. Williams, 1600 Sherman St., 665, Denver, CO 80203, (303) 839–5856. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 151734 (Sub-2), filed January 3, 1983. Applicant: C & B TRUCKING, INC., 2121 S. Pantano No. 105, Tucson, AZ 85710. Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012, (602) 274–5146. Transporting *malt beverages,* between points in Jefferson County, CO, on the one hand, and, on the other, points in AZ, CA, NV, and UT.

MC 165305, filed January 4, 1983. Applicant: FREEMAN McCLEARY and SHERWELL CHRISTIE, d.b.a. McCLEARY-CHRISTIE TRUCKING, 1099 East Main St., Clarion, PA 16214. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *coal and coal products,* between points in PA, on the one hand, and, on the other, points in NY and OH.

MC 165374, filed December 27, 1982. Applicant: P & F TRANSPORT, INC., 4223 Pines Rd., Paducah, KY 42001. Representative: George M. Catlett, 700–702 McClure Bldg., Frankfort, KY 40601, (502) 227–7384. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), on the one hand, and on the other, points in KY, MO, IL, TN and AR.

MC 165474, filed January 3, 1983. Applicant: J&D TRUCKING, INC., P.O. Box 306, Jamestown, TN 38556. Representative: Steven T. Blomberg, Suit 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *food and related products,* between New York, NY, Cincinnati, OH, Oakland, CA, Dallas, TX, and points in Grayson County, KY, on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 165494, filed January 4, 1983. Applicant: CHEMICAL EXCHANGE INDUSTRIES, INC., 3813 Buffalo Speedway, Houston, TX 77013. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting (1) *chemicals and related products,* between (a) Houston, TX, and points in Galveston and Liberty Counties, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (b) Fort Worth, TX and points in Calcasieu Parish, LA, (2) *food and related products,* between points in Pinal County, AZ, on the one hand and, on the other, Houston TX, and (3) *petroleum, natural gas and their products,* between Houston, TX and points in Galveston County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165534, filed January 3, 1983. Applicant: HILLENBRAND BROS., INC., 204 N. Jefferson St., Burlington, KY 41005. Representative: Michael T. McKinney, 546 Florence Pike, P.O. Box 588 Burlington, KY 41005 (606) 586–9955. Transporting *building materials,* between points in the U.S., under continuing contract(s) with 84 Lumber Co., of 84, PA; (2) *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Bi-County Farm Bureau Co-op, of Florence, KY, and (3) *tractors and trailers,* between points in the U.S., under continuing contract(s) with Urb's complete Repair Service, of Burlington, KY.

MC 165555, filed January 4, 1983. Applicant: GREEN ENTERPRISES, 1059 Clubhouse Dr., Independence, KY 41051. Representative: Mark Perry, 236 Massachusetts Ave., NE Washington, DC 20002, (202) 546–2298. Transporting (1) *iron and steel articles,* between points in the U.S., under continuing contract(s) with Stewart-Decatur Security Systems, Inc., of Houston, TX; and (2) *battery casings and battery covers,* between points in the U.S., under continuing contract(s) with Globe Battery, division of Johnson Controls, Inc., of Milwaukee, WI.

For the following, please direct status calls to Team 4 (202) 275–7669.

Volume No. OP4–032

Decided: January 20, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 2226 (Sub-119), filed January 17, 1983. Applicant: RED ARROW FREIGHT LINES, INC., P.O. Box 1897, San Antonio, TX 78297. Representative: James M. Doherty, 500 W. Sixteenth St., P.O. Box 1945, Austin, TX 78767, (512) 478–9808. Transporting *general commodities* (except household goods and commodities in bulk), between points in AR, LA, NM, OK and TX. Condition: To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 61396 (Sub-411), filed January 11, 1983. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501 (402) 475–6761. Transporting *petroleum products,* between points in MN and WI, on the one hand, and, on the other, points in WI, MN, ND, SD, and IA.

MC 87546 (Sub-5), filed January 14, 1983. Applicant: KRAMER'S MOTOR SERVICE AND STORAGE, INC., 402 N. Queen St., York, PA 17403.

Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburgh, MD 20877 (301) 840–8565. Transporting *furniture, fixtures, appliances* and *equipment*, between points in PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 99117 (Sub-7), filed January 14, 1983. Applicant: T. H. RYAN CARTAGE CO., 111 S. Seventh Ave., Maywood, IL 60153. Representative: Thomas M. O'Brien, 180 N. Michigan Ave., Chicago, IL 60601 (312) 263–1600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 112076 (Sub-11), filed January 10, 1983. Applicant: THOMAS J. PECK & SONS, INC., 415 S. 600 E. RFD 4A, Lehi, UT 84043. Representative: Harry D. Pugsley, 940 Donner Way #370, Salt Lake City, UT 84108 (801) 581–0322. Transporting *fly-ash*, (1) between points in Lincoln County, WY, on the one hand, and, on the other, points in UT, ID and NV, and (2) between points in Emery County, UT, on the one hand, and, on the other, points in NV, under continuing contract(s) with Pozzolan Products Company, of Salt Lake City, UT.

MC 134806 (Sub-85), filed January 10, 1983. Applicant: B–D–R TRANSPORT, INC., P.O. Box 1277, Vernon Dr., Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Hwy., Suite 404, Bethesda, MD 20814 (301) 986–9030. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), under continuing contract(s) with Farley Terminal Co., Inc., of Fullerton, CA; (2) *maple syrup* and *foodstuffs*, under continuing contract(s) with Spring Tree Corporation, of Brattle, VT; (3) *paper products*, under continuing contract(s) with Parsons Paper, Div. of N.V.F. Company, of Holyoke, MA; and (4) *rubber sheeting and elastic webbing*, between points in the U.S. (except AK and HI) under continuing contract(s) with Fulflex, of Vermont, Inc., of Brattleboro, VT.

MC 136816 (Sub-18), filed January 13, 1983. Applicant: THE UNIVERSE COMPANY, INC., 3523 "L" St., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114 (402) 397–7033. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 139006 (Sub-41), filed January 10, 1983. Applicant: RAPIER SMITH, Rural Rt. 5, Loretto Rd., Bardstown, KY 40004. Representative: Robert H. Kinder, 314 W. Main St., P.O. Box 464, Frankfort, KY 40602 (502) 223–8244. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Brown-Forman Distillers Corp., and its subsidiaries, of Louisville, KY.

MC 146336 (Sub-33), filed January 11, 1983. Applicant WESTERN TRANSPORTATION SYSTEMS, INC., 1609 109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245 (214) 358–3341. Transporting *personal computer systems*, between points in the U.S. (except AK and HI), under continuing contract(s) with Apple Computer, Inc., of Cupertino, CA.

MC 150267 (Sub-16), filed January 14, 1983. Applicant: McARDLE TRANSPORTATION, INC., Rt. 1, Hazel Green, WI 53811. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086 (608) 238–3119. Transportating *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Whippet, Inc., of Kieler, WI.

MC 151946 (Sub-5), filed January 11, 1983. Applicant: BIG LAKE TRANSPORT, INC., P.O. Box 98, Charleston, MO 63834. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440 (216) 652–2789. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with AMCA International/ Consumer Products Division of Bowling Green, KY.

MC 157416 (Sub-2), filed January 14, 1983. Applicant: BURGESS TRANSPORTATION COMPANY, INC., Rt. 2, Box 336, Ashford, AL 36312. Representative: Stephen T. Etheredge, P.O. Box 1193, Dathan, AL 36302 (205) 793–3377. Transporting *such commodities* as are dealt in or used by food and grocery houses, between points in KY, IN, WI, MN, and TX, on the one hand, and, on the other, points in AL and GA.

MC 163377, filed January 14, 1983. Applicant: INDEPENDENT DRESSED BEEF COMPANY, INC., Fairmont Pike, Route 19 South, P.O. Box 2276, Morgantown, WV 26505. Representative: Michael Smith, 226 Monongahela Bldg., Morgantown, WV 26505 (304) 296–3644. Transporting *meat, meat products, meat byproducts, dairy products, and articles distributed by meat-packing houses*, between points in Monongalia County, WV, on the one hand, and, on the other, points in WV, under continuing contract(s) with John Morrell & Co., of Chicago, IL.

MC 165597, filed January 10, 1983. Applicant: YORK COUNTY COMMUNITY ACTION CORPORATION, P.O. Box 72, Sanford, ME 04073. Representative: Constance A. Garber (same address as applicant), (207) 324–5762. Transporting *passengers*, in special operations, beginning and ending at points in York County, ME, and extending to points in Strafford and Rockingham Counties, NH.

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 165677, filed January 13, 1983. Applicant: SAM'S GENERAL TRUCKING LTD., P.O. Box 93, Swift Current, Saskatchewan, Canada S9H 3V5. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *machinery and metal products*, in foreign commerce between the ports of entry on the International Boundary line between the U.S. and Canada in MN, MT, and ND, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–019

Decided: December 20, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 79658 (Sub-41), filed December 10, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812–424–2222. Transporting *household goods, computers, displays and exhibits, energy avionic, aeronautical, medical, building control, communication*, and *analog/digital text systems*, between points in the U.S. under continuing contract(s) with Honeywell Inc., of Minneapolis, MN.

Volume No. OP5–021

Decided: January 18, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

FF–649, filed January 10, 1983. Applicant: SAFE–PAK SERVICE, 85–36 Kingston Place, Jamaica, NY 11432. Representative: Mr. Jerry Liu (Same address as applicant), (212) 526–6784. To operate as a *freight forwarder of used*

household goods, unaccompanied baggage, and used automobiles, between points in the U.S.

MC 37049 (Sub-3), filed January 10, 1983. Applicant: ARROW BUS CO., INC., 88 Main St., Garfield, NJ. 07026. Representative: Edward F. Bowes, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Over regular routes, transporting *passengers* between points in Secaucus, NJ, (1) between junction NJ Hwy 3 and NJ Hwy 3 service road and junction NJ Hwy 3 service road and Harmon Meadows Boulevard, at Secaucus, NJ, over NJ Hwy 3 service road, and (2) between junction Paterson Plank Road and Harmon Meadows service road, and junction Plaza Drive and Harmon Meadows Boulevard, at Secaucus, NJ, over Harmon Meadows service road to junction Harmon Meadows Boulevard, then over Harmon Meadows Boulevard to junction Plaza Drive, then over Plaza Drive to junction Harmon Meadows Boulevard, and return over the same routes, serving all intermediate points in routes (1) and (2) above.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce, and applicant intends to tack these routes with it existing authority in MC–37049 Sub 2 between Lyndhurst, NJ, and New York, NY, so as to provide service between Harmon Meadows in Secaucus, NJ, and New York, NY.

MC 59098 (Sub-14), filed January 4, 1983. Applicant: KNAPP'S EXPRESS, INC., 37 Emerson Street, Ridgefield Park, NJ 07660. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (210) 435–7140. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA, RI, CT, NY, NJ, PA, DE and MD.

MC 106798 (Sub-11), filed January 6, 1983. Applicant: GARDEN STATE COACHWAYS, CORPORATION, 690 N. Pearl Street, Bridgeton, NJ 08302. Representative: Leonard D. Dahlberg, Jr. (Same address as applicant), 609–451–2084. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 120999 (Sub-10), filed January 6, 1983. Applicant: CALIFORNIA AND WESTERN STATES AMMONIA TRANSPORT, INC., d.b.a. CALIFORNIA AMMONIA TRANSPORT, INC., 415 Lemon Avenue, Walnut, CA 91789. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, 213–945–2745. Transporting *commodities in bulk,* between points in AZ, CA, CO, ID, NV, NM, MT, OR, TX, UT, WA, and WY.

MC 140268 (Sub-7), filed January 10, 1983. Applicant: J-GEM TRANSPORTATION, INC., 1418 17th St., Long Beach, CA 90813. Representative: Ensley Weimer (same address as applicant), 213–437–5558. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with National Carriers Service, Inc., of Anaheim, CA.

MC 140829 (Sub-374), filed January 4, 1983. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: Charles G. Peterson (same address as applicant), 402–494–5141. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with National Piggyback Services, Inc., of Indianapolis, IN and Intermodal Brokerage Services, Inc., of Norcross, GA.

MC 147189 (Sub-5), filed January 10, 1983. Applicant: J & M CARTAGE, INC., 3300 North Santa Fe, Oklahoma City, OK 73105. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, 405–424–3301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OK.

MC 149059 (Sub-3), filed January 10, 1983. Applicant: E. W. GRENON & SON, INC., 42 Tosca Drive, Stoughton, MA 02072. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* between points in the U.S. (except AK and HI).

MC 149309 (Sub-3), filed January 10, 1983. Applicant: MID-ISLAND DELIVERY SYSTEMS, INC., 1044 Northern Blvd., Roslyn, NY 11576. Representative: Arthur J. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374, 212–275–1000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Publishers Shipping Cooperative Association, Inc., of Westwood, NJ.

MC 154768 (Sub-4), filed January 3, 1983. Applicant: IOWA EXPRESS DISTRIBUTION, INC., 2165 N. W. 108th, Des Moines, IA 50322. Representative: Harold W. Sternberg, (Same address as applicant), (515) 278–5864. Transporting *such commodities* as are dealt in by department and variety stores, (1) between points in IA, (2) between Omaha, NE, on the one hand, and, on the other, points in IA and SD, and (3) between points in Rock Island County, IL, under continuing contract(s) with Western Publishing Company, Inc., of Racine, WI.

MC 155118 (Sub-13), filed January 16, 1983. Applicant: T.D.S. TRANSPORTATION, INC., 1700 S. Wolf Road, Des Plaines, IL 60018. Representative: Julie L. Roper, (same address as applicant), (312) 298–8800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Red Owl Stores, Inc., and Snyders Drug Stores, Inc., both of Hopkins, MN, OTASCO, Inc., of Tulsa, OK, Ralston Purina Company, of St. Louis, MO, Huffy Corporation, of Ponca City, OK, The Danielson Co., of Kent, WA, and Bunte Candies, Inc., of Oklahoma City, OK.

MC 165588, filed January 10, 1983. Applicant: PANDA TRADING INC., 7014 8th Ct., N.E., Salem, OR 97303. Representative: Dale L. Moore, (Same address as applicant), 503–390–6040. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WA, OR, CA, NV, AZ and ID.

MC 165608, filed January 10, 1983. Applicant: GREEN RIVER LUMBER, INC., 80616 Davisson Rd., Creswell, OR 97426. Representative: Jerry Dean Arney, (Same address as applicant), (503) 942–0542. Transporting *such commodities* as are dealt in or distributed by manufacturers of building materials, metal products, chemicals, stone, clay, or glass products, and irrigation supplies, between points in AZ, CA, CO, ID, KS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY, under continuing contract(s) with Willamette Industries, Duraflake Division, of Albany, OR, Pumulite Building Products-West Salem, of Salem, OR, American Steel Industries, of Kent, WA, Collins Wholesale Supply, of Roseburg, OR, and Timber Products Transpsort, Inc., of Creswell, OR.

Volume No. OP5–022

Decided: January 18, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 117878 (Sub-23), filed December 28, 1982. Applicant: DWIGHT CREEK TRUCKING CO., INC., 4831 E. 25th (P.O.

Box 31538), Amarillo, TX 79120. Representative: Steven R. Swicegood, (Same address as applicant), 806–374–5217. Transporting *such merchandise* as are dealt in by grocery and food business houses, between Shreveport, LA, Little Rock, AR, and Points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121608 (Sub-7), filed December 10, 1982. Applicant: ACME DELIVERY SERVICE, INC., 4250 Oneida Street, Denver, CO 80238. Representative: Joseph F. Nigro, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264, (303) 861–4028. Transporting *general commodities* (except household goods), between points in Morgan, Adams, Arapahoe, Jefferson (except Broomfield), Denver and Boulder Counties, CO, on the one hand, and on the other, points in CO.

Note.—The purpose of this application is to convert applicant's Certificate of Registration in MC–121608 (Subs 3 and 4) to a Certificate of Public Convenience and Necessity.

Condition: Issuance of a Certificate of Public Convenience and Necessity is subject to the coincidental cancellation, at applicant's written request, of its Certificates of Registration in MC–121608 (Subs 3 and 4).

MC 161468 (Sub-1), filed December 13, 1983. Applicant: H & W ASSOCIATES, INC., 2307 Bristol Pike, P.O. Box 326, Croydon, PA 19020. Representative: William C. Hewish, Jr., (same address as applicant), (215) 785–5545. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

[FR Doc. 83–2214 Filed 1–26–83; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. OP4–029]

Motor Carriers; Permanent Authority Decisions; Restriction Removals Decision-Notice

Decided: January 21, 1983.

The following restriction removal applications are governed by 49 CFR 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provision applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 4, at (202) 275–7669.

MC 128486 (Sub-7)X, filed January 13, 1983. Applicant: LILY TRANSPORT LINES, INC., 1280 Soldiers Field Rd., Brighton, MA 02135. Representative: Frank J. Weiner 15 Court Square, Boston, MA 02108, (617) 742–3530. Lead and Sub-Nos. 1, 2, 3, and 6 permits: (1) broaden (a) ice cream toppings, preserves, jellies, fruit juices, fruit drinks, flavoring syrups, maple syrup, fruits, juices, apple juice, vinegar, canned and preserved foods, and canned foods, to "food and related products" in the lead and Subs 1, 2, 3, and 6, (b) glass bottles, to "clay concrete, glass or stone products" in the lead and Subs 2, 3, and (6), and (c) tin cans and cans and lids, to "metal products" in the lead and subs 3 and 6; (2) remove the bulk and tank vehicle restrictions in the lead and Subs 1, 3, and 6; (3) expand the territorial description to between points in the U.S. (except AK and HI), under continuing contract(s) with named shippers in the lead and Subs 1, 2, 3, and 6.

MC 148557 (Sub-3)X, filed January 14, 1983. Applicant: GEEM TRANSPORT (CANADA), LTD., 7701 W. Jefferson, Detroit, MI 48209. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167, (313) 349–3980. Lead Permit: (1) broaden territorial description to between points in the U.S. (except AK and HI), under continuing contract(s) with General Motors of Canada Limited, of Oshawa, Ontario, Canada; (2) delete the ports of entry restrictions; and (3) delete the foreign commerce restrictions.

[FR Doc. 83–2212 Filed 1–26–83; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 30093]

Missouri Pacific Railroad Company—Abandonment Exemption—at Tulsa, OK

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 et seq. the abandonment by the Missouri Pacific Railroad Company of (1) 0.7 miles of rail line consisting of Missouri Pacific track between milepost 151.0 and milepost 151.7 at Tulsa, OK, and (2) contiguous trackage rights over The Atchison, Topeka and Santa Fe Railway Company track between milepost 515.7 and milepost 151.9, at Tulsa, OK, subject to the standard labor protective conditions.

DATES: This exemption will be effective on February 28, 1983. Petitions to stay the effectiveness of the decision must be filed by February 7, 1983, and petitions for reconsideration must be filed by February 16, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representative: Michael Thompson, Missouri Pacific Railroad Company, 210 North 13th St., St. Louis, MO 63103

Pleadings should refer to Finance Docket No. 30093.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: January 20, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2210 Filed 1–26–83; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 311 (Sub-4)]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Change in owner-operator fuel reimbursement figure.

SUMMARY: Due to a change in the nationwide average cost of diesel fuel, owner-operator reimbursement has changed from 13 to 12.5 cents per mile.

EFFECTIVE DATE: This decision will be effective on February 10, 1983.

FOR FURTHER INFORMATION CONTACT:
Lee Alexander (202) 275–7723.
Ted Kalick (202) 275–6446.
Alan Rothenberg (202) 275–7597.
Boston, MA (603) 223–2372.
Philadelphia, PA (215) 597–4460.
Atlanta, GA (404) 881–2167.
Chicago, IL (312) 353–6204.
Ft. Worth, TX (817) 334–2794.
San Francisco, CA (415) 974–7125.

SUPPLEMENTARY INFORMATION: In a decision served January 18, 1983 (47 FR 2603, January 21, 1983), the Commission established owner-operator reimbursement at 13 cents per mile for all carrier-related business miles. This change will become effective February 4, 1983. As noted in the October 8, 1981 decision (46 FR 50070, October 9, 1981), the mileage payment will change when the price of fuel in conjunction with the reimbursement formula causes the figure to rise or decline by .5 cents per mile.

As of January 17, 1983, the current price of diesel fuel was 122.1 cents per gallon. The reimbursement figure is 12.4. Ten working days after publication of the notice in the **Federal Register** (effective February 10, 1983), carriers shall reimburse owner-operators at a minimum of 12.5 cents per mile.

During this 10-day period or after, if they choose, carriers may adjust their rates to reflect the change in owner-operator reimbursement by using the 10-day notice provisions of Special Permission No. 81–2500 (see Part 2 of Appendix B and Appendix C to the October 8 decision). All other normal rate-making avenues are also available.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by depositing a copy with the Director, Office of the Federal Register, for publication.

Decided: January 19, 1983.

By the Commission, Chairman Taylor, Vice Chariman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

James H. Bayne,
Acting Secretary.

[FR Doc. 83–2208 Filed 1–26–83; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 388; Ex Parte No. 388 (Sub-No. 7)]

State Intrastate Rail Rate Authority—Pub. L. 96–448; Intrastate Rail Rate Authority—Illinois

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Certification Decision and Filing Schedule For New Plans.

SUMMARY: The Commission has ordered that the Illinois Commerce Commission (Illinois) be certified to assert intrastate rate jurisdiction pursuant to 49 U.S.C. 11501, subject to certain amendments. Certification is effective for the 5-year statutory period beginning on February 25, 1983.

DATES: Other States seeking certification must submit their revised standards and procedures by March 14, 1983. Comments on these standards are due April 12, 1983. States which have already submitted revised standards in response to the Commission's decision of January 25, 1982 may supplement their filings under the time frames noted above.

ADDRESS: Send an original and 15 copies of all documents to: Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Martin Zell (202) 275-7138 or Douglas Galloway (202) 375–7278.

SUPPLEMENTARY INFORMATION: Additional information is contained in the complete decision. Copies may be purchased by writing to: T.S. InfoSystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC Metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: January 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Simmons, joined by Chairman Taylor, dissented in part with a separate expression. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,
Secretary.

Commissioner Simmons, joined by Chairman Taylor, dissenting in part:

I strongly support the decision here to certify the State of Illinois to exercise jurisdiction over intrastate rail transportation. This certification comes after extensive efforts by Illinois to conform its standards and procedures to those established by Congress in the Staggers Act for regulation of interstate transportation. Nonetheless, I dissent from the majority's conclusion that a state cannot be certified unless it adopts all exemptions which have been or will be granted by this Commission. I believe this requirement is inconsistent with the intent of Congress in establishing the certification process.

Section 11501 requires this Commission to certify a state to exercise jurisdiction over intrastate rail transportation if the state's "standards and procedures are in accordance with the standards and procedures applicable" under the Staggers Act to interstate transportation. The majority concludes that exemption of a category of interstate traffic by this Commission becomes a "standard" for intrastate traffic. The appropriate *standard* for an exemption is, however, found in section 10505, the provisions of which Illinois has already adopted for purposes of intrastate regulation. The exemption of any particular category of interstate traffic by this Commission is the *result* of application of that standard to the facts before us in a particular proceeding. Moreover, the exemptions already granted by this Commission, which under the majority's determination must be applied to intrastate movements, were considered and decided only as they applied to interstate movements.

Our exemption authority under section 10505 is limited to rail transportation subject to our jurisdiction. This jurisdiction includes interstate transportation and, under section 11501 (b)(4)(B), intrastate transportation within a state which has been denied certification. Thus, a reading of sections 10505 and 11501 indicates that when a state is granted certification, it obtains primary jurisdiction over intrastate exemptions.

I also see no logical necessity for automatic extension of an exemption found appropriate for interstate movements to the same category of intrastate traffic. The transportation considerations solely within an individual state can be significantly different than those of the nation as a whole with respect to a particular traffic segment.

The majority's conclusion in this matter appears grounded in part on a fear that states presented with exemption petitions may reach the wrong result. By establishing the state certification process, however, Congress

indicated its intention that the states be allowed to apply their own expertise to intrastate rail issues so long as they acted in accordance with federal standards and procedures. If the states fail to apply these criteria properly, carriers may seek relief from this Commission under section 11501(c). The decision here would reverse this procedure by forcing Illinois to seek after-the-fact revocation under section 10505(d) of federally-imposed exemptions, if the individual transportation circumstances of that state made the exemption unwarranted. This result frustrates Illinois' legitimate interest in initially determining the appropriateness of an exemption for a category of rail traffic moving solely within its borders.

The majority relies heavily on the practical problems which could result from a situation where individual states retained jurisdiction over classes of intrastate traffic and similar interstate traffic had been exempted by this Commission. Given the Congressional determination that states could continue to regulate intrastate traffic under appropriate standards, I cannot conclude that the operational problems noted in the decision justify the majority's action. The potential for such problems is inherent in our federal system and already exists in those states which have ceased intrastate rail regulation. In these states, an intrastate shipment is exempt from all regulation while a similar interstate movement only a few miles further is subject to regulation by this Commission. If the potential for such results was a primary concern of Congress in enacting the Staggers Act, it would surely have mandated exclusive federal jurisdiction over intrastate rail movements.

Whether the states should be required to adopt all federal exemptions has been one of many questions faced by this Commission in the area of state certification. It is my hope that the majority's resolution of theis issue does not signal an intention to preclude any meaningful role for the states in regulation of intrastate rail traffic.

[FR Doc. 83-2209 Filed 1-26-83; 8:45 am]
BILLING CODE 7035-01

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82-29]

Judith E. Kline, D.O., St. Petersburg, Florida; Hearing

Notice is hereby given that on October 29, 1982, the Drug Enforcement Administration, Department of Justice, issued to Judith E. Kline, D.O., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke her DEA Certificate of Registration, AKO154396.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, February 15, 1983 in Courtroom No. 2, Hillsborough County Courthouse, 419 Pierce Street, Tampa, Florida.

Dated: January 21, 1983.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-2249 Filed 1-26-83; 8:45 am]
BILLING CODE 4410-09-M

Marshall D. Nickerson, Jr., M.D.; Denial of Application

On November 9, 1982, the Deputy Assistant Administrator, Office of Diversion Control, directed an Order to Show Cause to Marshall D. Nickerson, Jr., M.D., 2001 37th Street, SW., No. 101, Washington, D.C. 20020 (Applicant). The Order sought to deny an application for a DEA Certificate of Registration under 21 U.S.C. 824(f) executed August 10, 1982. The statutory grounds under 21 U.S.C. 823(a)(2) for the Order were the convictions of the Applicant in the United States District Court for the District of Columbia on December 11, 1979 and February 3, 1981, for unlawful distribution of controlled substances in violation of 21 U.S.C. 841(a)(1), felony offenses related to controlled substances. Thirty days having elapsed since the receipt of the Order and no response having been received, the Acting Administrator finds pursuant to 21 CFR 1301.54(f) and 1301.54(e) that the Applicant has waived his opportunity for a hearing. The Acting Administrator hereby enters his final order on the record as it appears.

The Acting Administrator has examined the record, including correspondence sent by the Applicant when he submitted his application for registration. The Acting Administrator finds that on October 31, 1980, the former Administrator entered a final order revoking DEA Certificate of Registration AN6341717 previously issued to Dr. Nickerson. 45 FR 72310 (October 31, 1980). The Acting Administrator hereby adopts the findings of the former Adminstrator as set out in the 1980 final order. Dr. Nickerson sold thousands of prescriptions for Dilaudid (hydromorphone) between June 1976 and December 1979. He sold prescriptions to one individual in 1977 for $300 per prescription of 100 tablets of Dilaudid 4 mg. This individual would either fill the prescriptions himself, or give them to other persons to fill, at pharmacies in the District of Columbia and suburban Maryland and Virginia.

The Acting Adminstrator finds that these facts alone would warrant denial of the application. Additional events that have occurred since October 1980 make it manifestly clear that registration of this applicant is not consistent with the public health and safety. The Acting Adminstrator finds that the applicant's second conviction for a controlled substance related felony involved facts and circumstances as egregious as his first conviction. The Acting Adminstrator finds that in a two-day period in November 1979 Dr. Nickerson sold prescriptions for Dilaudid, Ritalin, Preludin and cocaine to a cooperating individual for a total of $2,200. The prescriptions were in four different names, none of them the name of the cooperating individual. Dr. Nickerson described a prescription for 90 Preludin that he wrote as a "gift." The cooperating individual filled the cocaine prescription at St. Jude Apothecary in Washington, D.C. Martin A. Bramson, the managing pharmacist at St. Jude Apothecary, was convicted January 23, 1981, in the United States District Court for the District of Columbia of four counts of distribution of controlled substances in violation of 21 U.S.C. 841(a)(1) and two counts of conspiracy to distribute controlled substances in violation of 21 U.S.C. 846 stemming from his activities at St. Jude Apothecary. This activity by Dr. Nickerson is simply not consistent with any kind of legitimate medical practice.

In addition to these convictions, the Acting Adminstrator finds that the Applicant was involved in an automobile insurance fraud scheme and, on December 11, 1979, was convicted of mail fraud in violation of 18 U.S.C. 1341 and 1342. The Applicant, in collusion with a Washington, D.C. attorney, would falsely bill insurance carriers for medical services allegedly provided their claimants. The agreement between Dr. Nickerson and the attorney was that each would pocket half the proceeds of the fraudulent billing. While this conviction is not a controlled substance related felony under 21 U.S.C. 824(a)(2) and therefore cannot provide the statutory predicate for the denial of the application, the Acting Adminstrator

finds it relevant in determining whether Dr. Nickerson is able to responsibly handle controlled substances.

The Acting Adminstrator further finds that Dr. Nickerson was working at the Upper Cardozo Clinic in Washington, D.C. during the summer of 1981. Had the hearing in this matter been held, an Assistant United States Attorney who was assigned to Dr. Nickerson's probation review would have testified that Dr. Nickerson told the United States District Court Judge who sentenced him that he was discharged from the Upper Cardozo Clinic due to a severe alcoholism problem. An officer from the Metropolitan Police Department would have testified that he discovered prescriptions written by Applicant for Valium (diazepam), a controlled substance, at the Upper Cardozo Clinic. Neither the Upper Cardozo Clinic nor the Applicant possessed a DEA Certificate of Registration. The Acting Adminstrator finds that the Applicant wrote prescriptions for controlled substances with DEA registration, a felony offense if prosecuted criminally and an extremely serious breach of professional responsibility.

The Acting Adminstrator has considered the correspondence Dr. Nickerson sent with his application in which he stated that several institutions were interested in hiring him if he possessed DEA registration. He also stated that as "it is incumbent that my controlled substance (sic) be returned so that I can remove this stigma . . ." Dr. Nickerson also discussed financial hardships attendant upon loss of DEA registration. In conversations with DEA personnel Dr. Nickerson indicated he was very desirous of a hearing on the issues raised by the Order.

Nothing in the correspondence can explain or mitigate Dr. Nickerson's repeated violations of the law. It is patently clear that Dr. Nickerson is totally unqualified to handle controlled substances. Any personal hardship Dr. Nickerson may suffer without a DEA registration is far, far outweighed by the certain misery he will inflict again if he is permitted DEA registration. His convictions were too recent, and violations too flagrant, to permit the Acting Adminstrator to issue him a registration. The Acting Adminstrator has considered all the facts and circumstances in this case and arrives at the inescapable conclusion that this application should be denied.

It is the decision of the Acting Adminstrator to deny the application executed August 10, 1982, by Marshall D. Nickerson, Jr., M.D. for a DEA Certificate of Registration as a practitioner. Accordingly, pursuant to the authority vested in the Attorney General and redelegated to the Administrator of the Drug Enforcement Administration, the Acting Adminstrator hereby denies the application executed August 10, 1982, effectively immediately.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 83-2250 Filed 1-26-83; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 82-32]

Raymond H. Wood, Jr., D.D.S.; Ocala, Florida; Hearing

Notice is hereby given that on October 14, 1982, the Drug Enforcement Administration, Department of Justice, issued to Raymond H. Wood, Jr., D.D.S., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AW0106535, and deny his pending application for renewal of such registration.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Wednesday, February 16, 1983 in Courtroom No. 2, Hillsborough County Courthouse, 419 Pierce Street, Tampa, Florida.

Dated: January 21, 1983.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-2251 Filed 1-26-83; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 82-39]

Vincent A. Sundry, D.O.; Tarpon Springs, Florida; Hearing

Notice is hereby given that on November 24, 1982, the Drug Enforcement Administration, Department of Justice, issued to Vincent A. Sundry, D.O., an Order To Show Cause as to why the Drug Enforcement Administration should not deny his application, executed August 18, 1982, for registration as a practitioner.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Thursday, February 17, 1983 in Courtroom No. 2, Hillsborough County Courthouse, 419 Pierce Street, Tampa, Florida.

Dated: January 21, 1983.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-2252 Filed 1-26-83; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL SCIENCE FOUNDATION

National Science Board; Nominations for Membership January 24, 1983

The National Science Board (NSB) is the policymaking body of the National Science Foundation (NSF). The Board consists of 24 members appointed by the President, with the advice and consent of the Senate, for six-year terms, in addition to the NSF Director *ex officio*, as follows:

Terms Expire May 10, 1984

Dr. Lewis M. Branscomb (Chairman, National Science Board), Vice President and Chief Scientist, International Business Machines Corp., Armonk, New York

Dr. Eugene H. Cota-Robles, Provost, Crown College, and Professor of Biology, University of California at Santa Cruz

Dr. Ernestine Friedl, Dean of Arts and Sciences and Trinity College, and professor of Anthropology, Duke University

Dr. Michael Kasha, Distinguished Professor of Physical Chemistry, Institute of Molecular Biophysics, Florida State University

Dr. Walter E. Massey, Director, Argonne National Laboratory and Vice President for Research, University of Chicago

Dr. David V. Ragone, President, Case Western Reserve University

Dr. Edwin E. Salpeter, J. G. White, Professor of Physical Sciences, Cornell University

Dr. Charles P. Slichter, Professor of Physics, University of Illinois at Urbana

Terms Expire May 10, 1986

Dr. Jay V. Beck, Professor Emeritus of Microbiology, Brigham Young University

Dr. Peter T. Flawn, President, University of Texas at Austin

Dr. Mary L. Good (Vice Chairman, National Science Board), Vice President and Director of Research, UOP, Inc., Des Plaines, Illinois

Dr. Dr. Peter D. Lax, Professor of Mathematics, Courant Institute of

Mathematical Sciences, New York University
Dr. Homer A. Neal, Provost, State University of New York at Stony Brook
Dr. Mary Jane Osborn, Professor and Head, Department of Microbiology, Univesity of Connecticut School of Medicine
Dr. Donald B. Rice, President, The Rand Corporation, Santa Monica, California
Dr. Stuart A. Rice, Dean of the Division of Physical Sciences, The James Franck Institute, University of Chicago

Terms Expire May 10, 1988

Mr. Robert F. Gilkeson, Chairman of the Executive Committee, Philadelphia Electric Company
Dr. Charles E. Hess, Dean, College of Agricultural and Environmental Sciences, University of California at Davis
Dr. William F. Miller, President and Chief Executive Officer, SRI International, Menlo Park, California
Dr. John H. Moore, Associate Director and Senior Fellow, The Hoover Institution, Stanford University
Professor William A. Nierenberg, Director, Scripps Institution of Oceanography, University of California at San Diego
Dr. Norman C. Rasmussen, Professor of Nuclear Engineering, Massachusetts Institute of Technology
Dr. Roland W. Schmitt, Senior Vice President, Corporate Research and Development, General Electric Company, Schenectady, New York
(One vacancy)

Member Ex Officio

Dr. Edward A. Knapp (Chairman, NSB Executive Committee), Director National Science Foundation

* * * * *

Section 4(c) of the National Science Foundation Act of 1950, as amended, states that: "The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of the basic, medical, or social sciences, engineering, agriculture, education, research management, or public affiars; (2) shall be selected solely on the basis of established records of distinguished service; and (3) shall be so selected as to provide representation of the views of scientific leaders in all areas of the Nation."

The terms of eight members of the National Science Board will expire on May 10, 1984. All members of the 1984 class are eligible for reappointment.

The Board solicits and evaluates nominations for submission to the President. Nominations accompanied by biographical information may be forwarded to the Chairman, National Science Board, Washington, D.C. 20550, no later than April 1, 1983.

Any questions should be directed to Mrs. Joyce Hamaty, Staff Assistant, National Science Board (202/357-9582).

Lewis M. Branscomb,

Chairman, National Science Board.

[FR Doc. 83-2224 Filed 1-26-83, 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Accident Reports, Recommendations, Responses; Availability

Reports, Recommendations, Responses; Availability

Reports Issued:

Railroad/Highway Accident Report: Collision of a Southeastern Pennsylvania Transportation Authority Commuter Train with a Gasoline Truck, Southampton, Pennsylvania, January 2, 1982 (NTSB-TSR-RHR-82-3).

Marine Accident Report: Fire On Board the Training Ship BAY STATE at the Massachusetts Maritime Academy, Buzzards Bay, Bourne, Massachusetts, December 22, 1981 (NTSB-MAR-82-7).

Aircraft Accident Report: Sun West Airlines Flight 104, Piper PA-31-350 (T-1020), N41070, Durango-LaPlata County Airport, Durango, Colorado, December 31, 1981 (NTSB-AAR-82-13).

Aircraft Accident Reports: Brief Format, U.S. Civil Aviation, Issue Number 10 of 1981 Accidents (NTSB-BA-82-12).

Aircraft Accident Reports: Brief Format, U.S. Civil Aviation, Issue Number 8 of 1981 Accidents (NTSB-BA-82-10).

Recommendations to:

Delta Steamship Lines, Inc.: Jan. 5: M-82-57: Issue instructions to masters which encourage the use of VHF radiotelephones by the bridge watch to assist in establishing meeting arrangements on waters not covered by the U.S. Vessel Bridge-to-Bridge Radiotelephone Act. *M-82-58:* Issue instructions to masters which emphasize the necessity of complying with the International Regulations for Preventing Collisions At Sea, 1972, with particular regard to the requirements for effective radar plotting and for proceeding at a safe speed in areas of restricted visibility.

Recommendation Responses From:

Highway—*Federal Highway Administration: Nov. 17: H-81-39:* Views the Pennsylvania Department of Transportation's program for the placement of "Slippery When Wet" signs and the detection and correction of potential wet pavement problem locations as an example of how the FHWA's Technical Advisory 5040.17 can be implemented by the States according to their goals and needs. *Nov. 23: H-82-22:* The Louisiana Department of Transportation and Development has submitted to the FHWA a plan to install a television surveillance system for the section of Interstate 10 which crosses the I-10 Calcasieu River Bridge. *H-82-23:* Will review the Louisiana Department of Transportation and Development capabilities in the area of bridge maintenance. *H-82-24:* Distributed copies of NTSB *Highway Accident Report*—"Truck Engine Fuel Tank Puncture by Bridge Repair Plate, Diesel Spill, and Multiple-Vehicle Skidding Collisions, Interstate Route 10, Lake Charles, Louisiana, August 27, 1981" (NTSB-HAR-82-4) to each FHWA region with instructions that it be made available to all State highway agencies. *H-82-25:* Issuance of an On-Guard Bulletin regarding truckdriver use of citizens band radios would be premature pending results of an FHWA-National Academy of Sciences study of the safety relationship between bus operation and citizen band radio use. *Jan. 12: H-81-15:* The Bureau of Motor Carrier Safety's Management Information System has been expanded to include additional data elements, and is now used to assist in identifying motor carrier candidates for safety management audits.

Urban Mass Transportation Administration: Nov. 22: R-81-1, Regarding legislation to authorize the Secretary of Transportation to regulate the safety of rail rapid transit systems which receive Federal financial assistance: Agrees with NTSB decision that detailed regulations for rapid rail transit safety should not lie with the Federal Government. *R-81-2:* Will continue to assist rapid rail transit systems through the development of voluntary guidelines in areas of rail safety, such as material selection for rail transit cars and emergency preparedness and fire safety.

State of New York Department of Motor Vehicles: Nov. 17: H-82-49: Will include information of driver responsibility at railroad grade crossings in the next edition of the New York State Driver's Manual and will consider the development of a written examination question of this material. *H-82-50:* Information explaining drivers' responsibilities at automatic railroad crossing gates and flashing lights may be included with original license application forms mailed to new licensees.

State of New York Department of Transportation: Dec. 7: H-82-45: Is developing plans for a grade separation structure at the Herricks Road crossing of the Long Island Rail Road mainline and other nearby crossings, and is seeking funds for construction. *H-82-46:* An analysis of the operational aspects of all grade crossings on the Long Island Rail Road system to determine necessary short-term improvements regarding safety is presently beyond the capabilities and jurisdictional responsibilities of the Department. *H-82-47:* The subject of appropriate standards concerning a distance gap between the ends of crossing gates and the middle of the road or median has already been addressed in the new State Manual of Uniform Traffic Control Devices which will be issued shortly. *H-82-48:* New York's Highway Design Manual and the American Association of State Highway and Transportation Official design books both contain guidelines and detailed design

information for traffic islands, although their specific application as a deterrent for motorists circumventing a lowered crossing gate has not generally been considered. Future consideration may be given to the feasibility of using traffic divisional islands to improve crossing safety.

International Bridge, Tunnel & Turnpike Association: Jan. 6: H–82–6: The association's authorized representative on the Manual on Uniform Traffic Control Devices committee will continue to stress full use of MUTCD practices, particularly in construction zone applications.

Association of American Railroads: Dec. 21: H–82–56: Will cooperate with the Federal Highway Administration and the National Committee on Uniform Traffic Control Devices in studying the problem presented by the lack of a standard distance gap between the end of crossing gates and the middle of the road or median.

National Safety Council: Nov. 24: H–82–36: Will cooperate with the International Chiefs of Police in serving as a clearinghouse for information on REDDI-type programs for citizen reporting of drunk drivers, and will provide information and assistance to interested States and local communities.

Replies to H–82–59 and–60, which recommended that 31 States and the District of Columbia consider legislation to require use of child safety seats in motor vehicles, have been received from *Alaska* (Dec. 28), *Arizona* (Dec. 13), *Colorado* (Dec. 15), *District of Columbia* (Dec. 29), *Hawaii* (Jan. 7), *Idaho* (Dec. 21), *Mississippi* (Dec. 30), *Nevada* (Dec. 28), *Louisiana* (Dec. 16 and 20), *Pennsylvania* (Dec. 29), and *Washington* (Jan. 5).

Marine—*U.S. Coast Guard: Dec. 8: M–81–9:* Is preparing a Memorandum of Agreement with the Federal Communications Commission to coordinate the use of available resources in a concerted effort to effectively enforce the vessel bridge-to-bridge radiotelephone regulations in the lower Mississippi River. *M–81–33:* The Memorandum of Agreement with the FCC will clarify enforcement responsibilities between the two agencies and establish a Coast Guard program to reduce the improper use of the bridge-to-bridge radiotelephone frequency on the lower Mississippi River. *Dec. 20: M–81–1:* The Boat Crew Seamanship Manual will emphasize coxswain training in the importance of using towing bridles, the effect on the directional stability on a towing vessel of wind and seas acting on the vessel's hull and superstructure, the need to supervise less experienced seamen assisting in towing operations, and the situations where the towline should be immediately cut. *M–81–2:* The importance of persons aboard towed vessels wearing personal flotation devices is emphasized in the Boat Crew Qualification, Training and Certification program, which includes the Boat Crew Seamanship Manual. The teaching of this doctrine will be reinforced in the basic Boatswain Mate training course at Yorktown, Virginia, and the National Motor Lifeboat School at Ilwaco, Washington. *M–81–3:* Published an article in a recent issue of *On Scene* discussing the merits of controlling motion sickness during search and rescue operations. *M–81–4:* Published Navigation and Vessel Inspection Circular 4–82, "Uninspected Commercial Vessel Safety," on Mar. 9, 1982, which does not specifically address carriage of spare parts on fishing vessels but does emphasize increased training of personnel in subjects such as "use and maintenance of auxiliary equipment." *Jan. 3: M–81–21:* The Notice of Proposed Rulemaking (NPRM) to codify the Berwick Bay (Louisiana) Vessel Traffic Service operating procedures was published on Aug. 16, 1982. *M–82–41:* Has proposed, in the above NPRM, horsepower to overall length ratios for all towing vessels having less than 3,000 horsepower when towing during periods of high water. *M–80–18:* The above NPRM would require the Coast Guard to issue precautionary notices and high water notices when the river stage reaches a certain point. Because the currents in the Berwick Bay area vary in direction and speed from point to point, and because current velocity is closely related to the river stage, the Coast Guard feels it is only necessary to provide the river stage information. *M–80–19:* Has improved navigational aids for vessels transiting the Berwick Bay bridges.

Maritime Administration: Dec. 29: M–82–50 and –51: Is studying the installation of fixed Halon 1301 firefighting systems in the engineroom spaces aboard all MARAD training vessels. *M–82–52:* Is studying the installation of diesel fire pumps in locations outside the engineroom spaces. *M–82–53 through –55:* Is studying improving egress from engineroom spaces. *M–82–56:* Is studying locating fuel oil strainers away from high-temperature piping and installing spray shields and steel petcocks.

National Cargo Bureau, Inc: Dec. 13: M–81–41: Believes that the loss of containers overside in inland and coastal waters is a rare occurrence and that centerline stowage is impractical.

U.S. Army Corps of Engineers: Dec. 15: M–80–22: Upon request, Coast Guard provides mariners with updated information on river stage and current velocity to vessels transiting the Berwick Bay bridges.

Federal Communications Commission: Dec. 22: M–82–10: Section 83.251(c) of FCC Rules limits the power of bridge-to-bridge communications to 1 watt or less. For violation of that Section, FCC imposes monetary forfeitures under Section 503(b) of the Communications Act. *M–82–11:* FCC's Field Operations Bureau is studying the enforcement of bridge-to-bridge radiotelephone regulations in the lower Mississippi River.

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to report call 703–487–4630. Single copies of recommendation letters (identified by recommendation number) and response letters are free on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Dated: January 21, 1983.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 83–2135 Filed 1–26–83; 8:45 am]

BILLING CODE 4910–58–M

SECURITIES AND EXCHANGE COMMISSION

Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 19, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of: Amfesco Industries, Inc., Common Stock, $.10 Par Value (File No. 7–6421).

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 11, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2200 Filed 1–26–83; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 22823; 70–6837, 31–741, 31–742]

Suburban Propane Gas Corp. and Vangas, Inc.; Application

January 19, 1983.

Suburban Propane Gas Corporation ("Suburban") 334 Madison Avenue, CN 1915, Morristown, New Jersey 07960, a New Jersey corporation, and its wholly-owned subsidiary Vangas, Inc. ("Vangas") P.O. Box 12647, Fresno,

California 93778, a California corporation, have filed with this Commission an application and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act") requesting (1) approval under Sections 9(a)(2) and 10 to acquire the common shares of Siskiyou Vangas, Inc. ("Siskiyou"), a California corporation and a gas utility company as defined in Section 2(a)(4), and (2) an order of exemption under Section 3(a)(3) concerning their ownership of the common shares of Siskiyou and Jackson Vangas, Inc. ("Jackson"), a Wyoming corporation and a gas utility company. All interested persons are referred to the amended application, which is summarized below, for a description of the acquisition transaction and a statement of the bases upon which the exemptive order is sought.

Suburban is directly engaged in the marketing of propane in enclosed portable containers. Through subsidiaries it is also engaged in petroleum refining and marketing, oil exploration and development and the manufacture of heating equipment. At September 30, 1982, it had total assets of $424 million and for its fiscal year then ended reported consolidated revenues of $828 million and net income of $24 million. Vangas is principally engaged in the marketing of propane in enclosed portable containers in California and eight other western states. At September 30, 1982, it had total assets of $100 million and for its fiscal year then ended reported consolidated revenues of $161 million and net income of $6 million.

Vangas owns all of outstanding shares of Jackson and Siskiyou. Jackson distributes propane at retail through underground mains in Jackson, Wyoming and environs, and is regulated by the Public Service Commission of Wyoming. The revenues and net loss of Jackson for its fiscal year ended September 30, 1982, were $504,474 and $32,730, respectively. Siskiyou similarly distributes at retail in the towns of Dunsmuir and Yreka, California. As a result of a 1980 change in California law, these propane operations are not subject to regulation by the Public Utilities Commission of the State of California. The revenues and net income of Siskiyou for its fiscal year ended September 30, 1982, were $966,601 and $6,941, respectively. Both Jackson and Siskiyou purchase their entire propane supplies from Vangas.

Siskiyou was incorporated December 7, 1972, for the purpose of acquiring the gas utility assets and operating rights in Dunsmuir and Yreka then owned by California-Pacific Utilities Company ("CPU"), which had agreed to sell the same to Vangas. Vangas assigned its rights under its agreement with CPU to Siskiyou, which joined with CPU in an application to the Public Utilities Commission of the State of California for approval of the sale. In a decision of April 10, 1973 (Decision No. 81272) that commission approved the transaction. Vangas and Suburban, which are affiliates of Jackson, have applied for approval of their acquisition of Siskiyou under Sections 9(a)(2) and 10. In a separate proceeding (File No. 70–6835), notice of which has been duly published (HCAR No. 22817), National Distillers and Chemical Corporation and its wholly-owned subsidiary DR Acquisition Corporation have applied under Sections 9(a)(2) and 10 for approval to acquire the common stock of Suburban.

Vangas and Suburban also request an exemptive order under Section 3(a)(3) on the ground that they are only incidentally holding companies, being primarily engaged in non-utility businesses.

The Public Utilities Commission of the State of California has authorized the acquisition of Siskiyou; no other state commission and no federal commission, other than this Commission, has jurisdiction thereover.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 7, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2208 Filed 1–26–83; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 12977; 812–5187]

The Special Fund for Timers, Inc.; Filing of Application

January 18, 1983.

The Special Fund for Timers, Inc. ("Applicant"), the General Washington Office Bldg., 216 Goddard Boulevard, Suite 213, King of Prussia, Pennsylvania 19406, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application and amendments thereto for an order of the Commission pursuant to Sections 11(a) and 6(c) of the Act, exempting Applicant from the provisions of sections 2(a)(41), and 22(d) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value the assets of its "Money Market Series" according to the amortized cost method of valuation and to effect its proposed offer of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the act and the rules thereunder for further information as to the provisions to which the exemptions apply.

Applicant states that it is a Pennsylvania corporation structured as a series company with two series of shares, an equity series and a money market series. Applicant's Money Market Series is designed as an investment vehicle for investors who seek both to conserve their capital and to earn a high level of current income consistent with liquidity. Applicant has itself been specially designed as an investment vehicle for "Market Timers", individuals or entities that recommend that investments be made in equity securities or in cash-equivalent income-producing securities or alternated between the two depending upon the Market Timer's analysis of market and other financial trends and developments. Applicant states that the Money Market Series will invest in U.S. Government securities, securities issued by agencies and instrumentalities of the U.S. Government, bank certificates of deposit, and repurchase agreements secured by obligations of the U.S. Government.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or

regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant submits that it would be desirable for its shareholders to have the conveniences and advantages of the stable purchase and redemption prices resulting from a steady $1.00 per share net asset value which the amortized cost method of valuing portfolio securities would provide. Applicant's management represents that it has determined in good faith that, absent unusual or extraordinary circumstances, the amortized cost method of valuing Applicant's portfolio securities is appropriate and will reflect the fair value of its securities. Applicant further represents that it believes that the granting of the requested exemption is appropriate in the public interest and consistent with the policy and provisions of the Act.

Applicant expressly agrees to adhere to the following conditions in any order of the Commission granting the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving management of the Money Market Series to Applicant's investment adviser, Applicant's management undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost net asset value per share, and the maintenance of records of such review; [1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the directors will promptly consider what action, if any, should be initiated; and

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will cause its Money Market Series to maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share for the series; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit the portfolio investments of the Money Market Series, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service, or in the case of any instrument that is not rated, of comparable quality as determined by Applicant's directors.

6. Applicant will include in each or its quarterly reports, as an attachment to Form N-1Q, a statement indicating whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quartrer and, if any such action was taken, will describe the nature and circumstances of such action.

Applicant also proposes to offer and sell its shares without a sales charge (at a price other than that stated in the prospectus) to those investors who have redeemed securities or interests in securities issued by other investment companies or unit investment trusts in order to invest in Applicant. To prevent prospective investors from circumventing its sales load by investing, initially, in a no-load unit investment trust or open-end, management investment company and then redeeming and reinvesting their redemption proceeds at no-load in Applicant, Applicant will not accept the proceeds of redemption of investment company or unit investment trust securities for investment in shares of Applicant at no-load unless: (1) A sales charge has been paid upon such prior investment or the value of such prior investment has been at some previous time subject to a sales charge, or (2) in the event the prior investment has not been subject to a sales charge, and the value of such prior investment has not been at some previous time subject to a sales charge, the prior investment has been held for a period of not less than six months prior to the date upon which the proceeds of redemption are tendered for investment in Applicant. Applicant represents that it would continue to levy a sales charge upon "original purchases" of its shares; that is, Applicant would levy a sales charge upon amounts invested by or on behalf of an investor in Applicant in excess of the amount of the gross proceeds the investor realized upon the redemption of the securities or interests in securities of one or more other investment companies.

Applicant asserts that sales efforts associated with the redemption of an investor's funds in one or more other investment companies in order to reinvest those funds in Applicant will be minimal. The investor whose funds are being moved will either be moving them himself in response to a Market Timer's

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, Applicant agrees that if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in the Money Market Series in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less, as soon as reasonably practicable.

recomendation, or the funds will be moved for the investor's account by a Market Timer who has discretionary authority over the investor's account. In the latter instance, the investor will typically be advised of the movement of his investment funds and permission to make such a move will be obtained. Because little or no sales effort will be required in connection with the movement of investors' funds to Applicant from one or more other investment companies, Applicant contends that it would be unfair to levy a sales charge upon the issuance of its shares under those circumstances. Since Applicant will not charge a sales commission on these exchanges, it has no incentive to recommend the switching of investments merely to generate sales commissions.

Notice is hereby given that any interested person wishing to request a hearing on the application may, not later than February 14, 1983, at 5;30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary

[FR Doc. 83-2204 Filed 1-26-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19439; SR-Amex-82-11]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 19, 1983.

The American Stock Exchange, Inc. ("Amex") 86 Trinity Place, New York, NY 10006, submitted on August 3, 1982, copies of a proposed rule change pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to: (1) Rescind Rule 319, which requires specified minimum compensation for ABC seatholders; (2) amend Rule 342(b) to add the requirement of written requests for member organization approval of outside business activities of persons associated with member organizations; (3) rescind Article IV, Section 3(a) of the Amex Constitution which provides for the designation of "salaried market employees"; and (4) amend Article IX, Section 6 of the Amex Constitution, which governs the Exchange Gratuity Fund, to substitute the phrase "surviving spouse" wherever reference is made to the term "widow."

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19317, December 9, 1982) and by publication in the **Federal Register** (47 FR 56590, December 17, 1982).[1] No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2202 Filed 1-26-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19443; File No. SR-MCC-82-21]

Midwest Clearing Corp.; Self-Regulatory Organizations; Proposed Rule Change Relating to MCC's Proposed Price Revision Schedule

Effective January 3, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 29, 1982 the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] Although the filing was submitted on August 3, 1982, the requisite membership vote on the proposed constitutional amendments had not occurred at that time. By Amendment No. 1 to this filing, submitted to the Commission on December 6, 1982, the Amex indicated that the constitutional amendments were approved by the Exchange membership on November 18, 1982.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

The Proposed Price Revision Schedule for the Midwest Clearing Corporation, effective January 3, 1983, was submitted with the filing as Exhibit A.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed price revisions, effective January 3, 1983, reflect increases in monthly fixed service fees and several transaction fees, primarily those related to labor intensive functions. Because of cost savings experienced through automation over the past year, along with a projected growth in activity MCC has been able to retain the majority of existing fees during 1983 despite the impact of inflation on its overall operations and those of participants. In addition, several services will continue to be subject to variable rates or maximum rate fees, to reflect economies of scale and to encourage growth. Any fees for services not reflected in the proposed schedule are not being revised.

The proposed fee schedule is consistent with Section 17A of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among MCC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors of otherwise in furtherance of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested paersons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, ail written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office on the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: January 19, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2189 Filed 1–26–83; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 19440; File No. SR–NYSE–80–16]

New York Stock Exchange, Inc.; Filing of Amendment To Proposed Rule Change

January 19, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 5, 1983, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission an amendment to a proposed rule change as described herein. The NYSE filing in 1980 proposed certain changes to NYSE Rules 109, 110 and 112 as they apply to Competitive Traders.[1] The proposed amendment would modify NYSE Rules 110 and 116. The Commission is publishing this notice to solicit comments on the proposed rule change as it would be amended from interested persons.

The exchange had originally proposed to remove Section (2) of Rule 110 which states that Competitive Traders shall not effect purchases or sales for their own accounts except in a reasonable and orderly manner and shall not be conspicious in the market. According to the exchange, the proposed removal of this proscriptive language was designed to eliminate vague and duplicative language in light of Section (1) of the Rule and .10 of the Supplementary Material which contain specific restrictions against a Competitive Trader dominating the market. The exchange is now proposing to retain this section for the following two reasons: (i) The repeal of Section (2) might have been construed as an easing of a Competitive Traders' obligation to effect transactions in an orderly manner; and (ii) the proscription in Section (2) against being conspicuous in the market is not entirely duplicative of the "dominating" prohibition contained in other parts of Rule 110.

Rule 116.30 prohibits a specialist from stopping stock against the book or for his own account at a price at which he holds an order capable of execution, unless one of four specified exceptions applies. The exchange is now proposing to remove 116.30(3), the exception which permits a specialist to stop stock "when the specialist does not have an executable order at the stop price", since, according to the exchange, this exception is clearly implied within the language in paragraph 116.30. The NYSE also is proposing to amend 116.30(4), the exception which applied in certain situations when a broker makes an unsolicited request for a stop, to update the text of the rule and reflect the removal of Rule 109, by expanding the term "broker" to include a member acting on behalf of a proprietary account as well as a member acting on behalf of a public customer's account.

The exchange has stated in its filing that the proposed amendments would be consistent with Section 6(b)(5) of the Act which requires that exchange rules be designed to remove impediments to a free and open market; Section 6(b)(8) which prohibits exchange rules from imposing any burden on competition not necessary or appropriate under the Act; and Section 11A(a)(1)(C)(ii) which states that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers.

In order to assist the Commission in determining whether to approve the proposed amended rule change or institute proceedings to determine whether the proposed amended rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–NYSE–80–16.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

[1] The proposed rule change was published for notice in Securities Exchange Act Release No. 16800 (May 12, 1980); 45 FR 32463 (May 16, 1980). No public comments were received.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2201 Filed 1-26-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-068]

Omega Radionavigation System Operational Declaration

This notice officially declares the Omega navigation system operational in the North Atlantic and North Pacific Oceans.

The position-fixing coverage provided by the Omega navigation system, which has been operational for several years, is based upon theoretical predictions. The Coast Guard conducted an extensive data collection and validation effort and determined, that the Omega navigation system meets the safety of navigation accuracy requirements of 2–4 nautical miles, with 95% confidence in the oceanic environment. This requirement is stated in the Federal Radio-navigation Plan (March 1982). The two regions are bounded by approximately 0–70 N latitude, 15E–100W longitude, and 10S–70N latitude and 100W–165E longitude.

On this basis the Coast Guard hereby declares the Omega navigation system offically operational in the North Atlantic and North Pacific Oceans. Future validation results will be announced as data collection and analysis is completed during the next five years.

FOR FURTHER INFORMATION CONTACT: LT D.J. HOUGHTON, U.S. Coast Guard Headquarters, RM 1413 (G–NRN–2), 2100 2nd St., SW., Washington, D.C. 20593, Phone: (202) 426–0990.

Dated: January 19, 1983.

R.A. Bauman,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

[FR Doc 83-2254 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1–3 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: review standard instrument departure (SID) procedures/routes of flight and preferential routes to ensure their utility in the current system. The Task Group will also examine the low altitude route system to determine the extent of the need, if any, for structural changes to the system. In addition, the Task Group will continue its development and refinement of an overall model of the future system in both the low and high altitude structures.

DATE: Beginning February 22, 1983, at 1:00 P.M., continuing daily, except Saturdays, Sundays and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, Rooms 8A and 8B, 800 Independence Ave., SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, Room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., AAT–30, Washington, D.C. 20591, (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To ensure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, SW., Washington, D.C. 20591, by February 15, 1983. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on January 19, 1983.

Karl D. Trautmann,

Program Manager, NARAC.

[FR Doc. 83-2035 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Riley County, Kansas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed street project in Manhattan, Riley County, Kansas.

FOR FURTHER INFORMATION CONTACT: Robert Crow, District Engineer, Federal Highway Administration, Federal Building, 444 S. E. Quincy, Room 240, Topeka, Kansas 66683, Telephone: (913) 295–2558. R. E. Olson, Chief of Rural and Urban Development, Kansas Department of Transportation, State Office Building, Topeka, Kansas 66612, Telephone: (913) 296–3861. Bruce McCallum, Director of Public Services, City of Manhattan, City Hall, Manhattan, Kansas, Telephone: (913) 537–0056.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Kansas Department of Transportation (KDOT) and the City of Manhattan, will prepare an environmental impact statement for a proposed project to construct the Southern Arterial from K–18 Highway east of US–177 and US–24 Highways in the City of Manhattan, Riley County, Kansas. These 2.05 miles of street improvements are considered necessary to relieve traffic from the Central Business District, Poyntz Avenue.

Alternates under consideration include (1) no action; and (2) the construction of a four-lane urban street with channelization at the major intersections. This alternate would be constructed on abandoned railroad right of way.

Public Meetings were held by the City of Manhattan on October 23, 1980 and October 30, 1980 to present the alternates and to discuss the concerns of the immediate community and general public. No formal scoping meeting is planned at this time. A public hearing will be held after the Environmental Impact Statement has been made available for public and agency review and comment. Public notice will be given at the time and place of the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA or the KDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: January 17, 1983.

Robert W. Morrissey,

Division Administrator, Kansas Division, Federal Highway Administration, Topeka, Kansas.

[FR Doc. 83-1964 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

Change of Name of Approved Trustee

Notice is hereby given that effective June 30, 1982, First National Bank in Dallas, Dallas, Texas, changed its name to InterFirst Bank Dallas, National Association.

Dated: January 19, 1983.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 83-1995 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-81-M

Approval of Request for Removal From Roster of Approved Trustees

Notice is hereby given that, pursuant to statutory merger under California law, on December 31, 1982, the Vessel or Shipyard Financing Trusts of Title Insurance & Trust Co. were assumed by Trust Services of America, Inc., with offices at 700 Wilshire Boulevard, Los Angeles, California 90017.

Trust Services of America, Inc. is an approved Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

Therefore, pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30, Title Insurance & Trust Co. is removed from the Roster of Approved Trustees.

This notice is effective as of December 31, 1982.

Dated: January 24, 1983.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 83-2246 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-81-M

[Docket No. S-729]

Ocean Carriers, Inc., Application for Section 805(a) Permission Concerning Operations by an Affiliate for up to Five T-5 Tanker

Ocean Carriers presently operates four subsidized vessels under bareboat charter: COURIER, PATRIOT, RANGER, and ROVER. The four vessels are engaged in service in the foreign trades pursuant to ODS Contract No. MA/MSB-167.

The applicant advised that it was recently awarded a contract to construct and charter to MSC two T-5 replacement tankers, with options for the construction and charter of three more tankers. The tankers will be constructed by Ocean Product Tankers, Inc., which is a subsidiary of Ocean Carriers' parent company, Ocean Shipholders, Inc. The tankers will be delivered in 1984 and then will be bareboat chartered to other Ocean Shipholdings, Inc. subsidiaries, which will time charter the vessels to MSC. Thus, the T-5 replacement tankers will be operated by affiliates of Ocean Carriers, Inc. The MSC charter agreement specifies that the tankers are to have "worldwide trading privileges." Consequently it is possible that MSC may utilize the tankers occasionally in the domestic intercoastal and coastwise trade.

Because Ocean Carriers currently operates subsidized vessels, it is necessary to obtain written permission under section 805(a) to enable Ocean Carriers' affiliates to operate up to five T-5 replacement tankers in the domestic intercoastal and coastwise trades, should MSC choose to employ them in these trades.

The written permission is requested only because of the applicant's affiliation with the bareboat charterers, of the tankers. Ocean Carriers, Inc. does not propose to operate its chartered vessels in the domestic trades. The applicant avers that its affiliates will remain separate companies, and there will be no intermingling of the respective companies' subsidized and unsubsidized operations, nor will any subsidy funds be made available directly or indirectly to the affiliates.

Any person, firm, or corporation having any interest in such application (within the meaning of section 805(a) of the Act) and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, by close of business on February 10, 1983, together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistant Program No. 20.804 Operating-Differential Subsidies (ODS))

By Order of the Maritime Administrator

Dated: January 24, 1983.

Georgia P. Stamas

Assistant Secretary.

[FR Doc. 83-2245 Filed 1-26-83; 8:45 am]

BILLING CODE 4910-81-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB, December 23-January 15, 1983

AGENCY: Transportation Department.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between Dec. 23, 1982, and Jan. 15, 1983, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-1887 or

Sandy Fisher, Bob Seigel or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503, (202) 395-7313.

SUPPLEMENTARY INFORMATION: .

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB.

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between Dec. 23, 1982, and Jan. 15, 1983.

DOT No: 2010.
OMB No: None.
By: Urban Mass Transportation Administration.
Title: Transportation Improvement Program and Transportation Plan.
Forms: None.
Frequency: Annually/Biennally/Other.
Respondents: States.
Need/Use: Mandated by 49 U.S.C 1607 and 23 U.S.C. 134; the transportation improvement program is a staged, multi-year program of transportation improvement projects. It includes an annual element consistent with the transportation plan which lists projects proposed for federal funding during the next one or two years.

DOT No: 2109.
OMB No: None.
By: Office of the Secretary.
Title: Motor Carrier Regulatory Reform Upon Shippers and Receivers in Rural and Small Urban Areas: Florida.
Forms: Questionnaire.
Frequency: One time.
Respondents: Retailers, wholesalers and manufacturers.
Need/Use: Information is needed to evaluate current public policy and develop future policies to support motor freight regulatory reforms.

DOT No: 2110.
OMB No.: None.
By: Federal Railroad Administration.
Title: New England Railroad Drug Survey.
Forms: None.
Frequency: One time.
Respondents: Employees of five New England Railroads.
Need/Use: The survey will determine the extent of work-related drug abuse and be used in the development of possible solutions for the problem.

DOT No: 2111.
OMB No: 2133–0005, 2133–0009, 2133–0022.
By: Maritime Administration.
Title: Uniform Financial Reporting Requirements.
Forms: MA–172 (2133–0005).
Frequency: Semiannually.
Respondents: Contractors with MARAD.
Need/Use: MARAD requires uniform financial reporting in order to assure compliance with certain legal and regulatory requirements and to assure uniformity in analyses of the industry, subsegments, and individual company performance.

DOT No: 2112.
OMB No: 2127–0038.
By: National Highway Traffic Safety Administration.
Title: Glazing Manufacturer Identification Standard 205.
Forms: None.
Frequency: On occasion.
Respondents: Businesses, institutions.
Need/Use: The purpose of this requirement is to ensure traceability to the manufacturer of glass in automobiles for enforcement of safety requirements.

DOT No: 2113.
OMB No: 2127–0005.
By: National Highway Traffic Safety Administration.
Title: Motor Vehicle Recall Campaign Audit (Formerly Vehicle Information Request (Audits)).
Forms: HS–161.
Frequency: On occasion.
Respondents: Individuals or households/businesses.
Need/Use: To study and evaluate performance of motor vehicle and equipment manufacturer recall campaigns. To verify corrective engineering action, uncover shortcomings in procedures and related/unrelated vehicle problems leading to additional recalls.

DOT No: 2114.
OMB No: 2132–0031.
By: Urban Mass Transportation Administration.
Title: Unified Planning Working Program (UPWP).
Forms: None.
Frequency: Annually.
Respondents: Metropolitan Planning Organizations and State Transportation Departments.
Need/Use: The UPWP describes all transportation planning activities to be funded during the next two year period using FHWA and UMTA planning funds. This information is used for grant approval purposes.

DOT No: 2115.
OMB No: 2120–0021.
By: Federal Aviation Administration.
Title: Certification: Pilots and Flight Instructors—FAR Part 61.
Forms: FAA Form 8410–2 and FAA Form 8710–1.
Frequency: On occasion.
Respondents: Individuals, pilots and ground and flight instructors.
Need/Use: Necessary to ensure proper qualifications of individuals operating within the National Airspace System.

Issued in Washington, D.C. on January 20, 1983.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

[FR Doc. 83–2153 Filed 1–26–83; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

During the period January 14 through January 20, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for

review and clearance under the Paper work Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: N/A (Reinstatement)
Form Number: 1099–INT
Title: Statement for Recipient of Interest Income
OMB Number: N/A (Reinstatement)
Form Number: 1099–DIV
Title: Statement for Recipient of Dividents and Distributions
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503
OMB Number: 1512–0181
Form Number: ATF F 4643 (5200.121)
Title: Contractor's Accounting of Tax-exempt Cigarettes/Cigars
OMB Number: 1515–0164
Form Number: ATF F 3069 (5200.7)
Title: Schedule of Cigars, Cigarettes, Cigarette Papers or Tubes Withdrawal from the Market
OMB Number: 1512–0154
Form Number: ATF F 2975 (5140.2)
Title: Application by Proprietor of Taxpaid Wine Bottling House
OMB Number: 1512–0200
Form Number: ATF F 5110.31
Title: Application and Permit to Ship Puerto Rican Spirits to U.S. without Payment of Tax
OMB Number: 1512–0214
Form Number: ATF F 5110.74 and 5110.74a
Title: Application and Permit for Alcohol Fuel Producer Permit under 26 USC 5181
OMB Number: 1512–0183
Form Number: ATF F 4707 (5400.13)
Title: Application for Permit under 18 USC Chapter 40
OMB Number: 1512–0182
Form Number: ATF F 4707 (5400.16)
Title: Application for License under 18 USC Chapter 40
OMB Number: 1512–0089
Form Number: ATF F 1637
Title: Application for Basic Permit under Federal Alcohol Administrative Act
OMB Number: 1512–0090
Form Number: ATF F 1643 (5100.18)
Title: Application for Amended Basic Permit Under the Federal Alcohol Administrative Act
OMB Number: 1512–0044
Form Number: ATF F 26 (5110.19)
Title: Registration of Still
OMB Number: 1512–0187
Form Number: ATF F 5030.5
Title: Report of Violations
OMB Number: 1512–0084
Form Number: ATF F 1609 (5110.24)
Title: Application and Permit to Set up Distilling Apparatus
OMB *Reviewer:* Arnold Strasser (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joy Tucker,
Department Reports Mancgement Office.

January 21, 1983.

[FR Doc. 83–2221 Filed 1–26–83; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 19
Thursday, January 27, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S–104.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, January 25, 1983.

CHANGE IN THE MEETING: The following item was added to the closed agenda:

Briefing on a Litigation Matter to which EEOC is Party.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

The vote was as follows: In favor of change:

Clarence Thomas, Chairman
Cathie A. shattuck, Vice Chairman
Armando M. Rodriguez, Commissioner
Tony E. Gallegos, Commissioner
William A. Webb, Commissioner

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Officer, Executive Secretariat, at (202) 634–6748.

Issued: January 21, 1983.

[S–119–83– Filed 1–25–83: 11:16 am]

BILLING CODE 6570–06–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:50 p.m. on Friday, January 21, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Madison County Bank, Fredericktown, Missouri, which was closed by the Commissioner of Finance of the State of Missouri on January 21, 1983; (2) accept the bid for the transaction submitted by Madison Exchange Bank, Fredericktown, Missouri, a newly-chartered State nonmember bank subsidiary of First Exchange Corporation, Jackson, Missouri; (3) approve the applications of Madison Exchange Bank, Fredericktown, Missouri, for Federal deposit insurance, for consent to purchase the assets of an assume the liability to pay deposits made in The Madison County Bank, Fredericktown, Missouri, and for consent to establish the sole branch of The Madison County Bank as a branch of the resultant bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

At that same meeting, the Board of Directors considered certain personnel matters.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 24, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–120–83 Filed 1–25–83; 11:46 am]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held by telephone conference call at 11:00 a.m. on Monday, January 24, 1983, the Corporation's Board of Directors determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: January 24, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–121–83 Filed 1–25–83; 11:46 am]

BILLING CODE 6714–01–M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 1, 1983 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Personnel. Litigation. Audits.

* * * * *

DATE AND TIME: Thursday, February 3, 1983 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C., (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Guidelines for presentation in good order for matching funds
Certification
Advisory opinions:
Draft AO 1982–62—Thomas S. Johnson, on behalf of John B. Anderson
Draft AO 1982–63—Terry D. Garcia, on behalf of Manatt, Phelps, Rothenberg & Tunney Political Action Committee
Draft AO 1982–65—Paul H. Suhr, on behalf of Union Carbide Corporation and Union Carbide Corporation Political Action Committee
Draft AO 1982–66—Stephen G. Silverman, President, Response Marketing, Inc.
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Information Officer; telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-127-83 Filed 1-25-83; 3:56 pm]

BILLING CODE 6715-01-M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m., February 2, 1983.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be given to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public.

1. Agreement No. 10438: The Florida/Venezuela Rate Agreement between Nopal Lines and Pan Atlantic Lines.

2. The Movers' & Warehousemen's Association of America Rate Agreements and the Household Goods Forwarders Association of America Rate Agreement: Petition for exemption from the independent policing authority requirement of General Order 7.

3. Docket No. 82–42: Green Hide Weighing Practices; and Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States—Consideration of comments and proposed final rule.

Portion closed to the public:

1. Docket No. 82–43: In the Matter of Board of Commissioners of the Port of New Orleans Docket Department Tariff FMC T–No. 1, Item 145–0—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-126-83 Filed 1-25-83; 3:44 pm]

BILLING CODE 6730-01-M

6

FEDERAL RESERVE SYSTEM

Board of Governors.

TIME AND DATE: 3:00 p.m., Tuesday, February 1, 1983.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTER TO BE CONSIDERED:

Proposed changes to the employee benefits program to implement the Omnibus Reconciliation Act of 1982.

Note.—Vice Chairman Martin and Governor Teeters, a subquorum of the Board with delegated authority to act on matters relating to this subject.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 25, 1983.

James McAfee,

Associate Secretary of the Board.

[S-122-83 Filed 1-25-83; 12:13 pm]

BILLING CODE 6210-01-M

7

FEDERAL RESERVE SYSTEM

Board of Governors

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR, 2494, Wednesday, January 19, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Monday, January 24, 1983.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Proposed changes to the employee benefits program to implement the Omnibus Reconciliation Act of 1982. (This item was originally announced for a meeting on January 12, 1983.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 24, 1983.

James McAfee,

Associate Secretary of the Board.

[S-123-83 Filed 1-25-83; 12:19 pm]

BILLING CODE 6210-01-M

8

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, February 2, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnal actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 25, 1983.

James McAfee,

Associate Secretary of the Board.

[S-125-83 Filed 1-25-83; 3:43 pm]

BILLING CODE 6210-01-M

9

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-03A]

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 1858, January 14, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Tuesday, January 25, 1983.

CHANGES IN THE MEETING: Emergency notice of change in location of the meeting.

By action jacket SE–83–02, approved January 25, 1983, the United States International Trade Commission voted to change the location of the meeting for Tuesday, January 25, 1983, from room 117 to the Hearing Room due to public interest in Item No. 5 (Investigation TA–201–47 (Motorcycles and Motorcycle Power Train Subassemblies)—briefing and vote on remedy). There are no other changes to the agenda.

Commissioners Eckes, Stern, and Haggart determined by recorded vote that Commission business requires the change in location, affirmed that no earlier announcement of this change was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S-118-83 Filed 1-25-83; 10:41 am]

BILLING CODE 7020-02-M

10

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 11 a.m., Thursday, January 27, 1983.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue, NW., Washington, D.C.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570; telephone (202) 254–9430.

Dated: Washington, D.C., January 25, 1983.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[S–124–83 Filed 1–25–83; 12:45 pm]

BILLING CODE 7545–01–M

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Thursday
January 27, 1983

Part II

Department of Transportation

Coast Guard

Licensing of Pilots; Manning of Vessels—Pilots; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 157

[CGD 77-084]

Licensing of Pilots; Manning of Vessels—Pilots

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard is changing its original proposal (45 FR 79258) to amend the regulations concerning the licensing of federal pilots. This proposal would (1) set the minimum age requirement at 21 years, (2) require pilots to have an annual physical examination, (3) change the experience requirement for a tonnage endorsement of "any gross tons", (4) require pilots to maintain knowledge of the routes on their license, and (5) maintain the authority of the Coast Guard to establish limitations on licenses. This action is to implement the Port and Tanker Safety Act's amendment to the statute authorizing the Coast Guard to license pilots. This proposal would conform the pilot licensing regulations with the statute. This Supplemental Proposal has also been expanded by the addition of amendments to the regulations pertaining to pilots on those non-self-propelled vessels of not more than 20,000 gross tons carrying cargoes subject to the provisions of 46 U.S.C. 391a (tank barges).

DATES: Comments must be received on or before April 27, 1983.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/44) (CGD 77-084) U.S. Coast Guard, Washington, D.C. 20593. Between 7:30 a.m. and 3:30 p.m., Monday through Friday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke, Office of Merchant Marine Safety (G-MVP-4/14), Room 1400, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C 20593 (202) 426-2985.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. The Coast Guard is particularly interested in receiving comments regarding any increase in costs that would result from the proposals contained in this supplemental notice. Written comments should include the docket number (CGD 77-084), the name and address of the person submitting the comments, and the specific section of the proposal to which each comment is addressed. Persons desiring acknowledgement that their comment has been received should enclose a stamped, self-addressed postcard or envelope. All comments received will be considered before final action is taken on this proposal. No public hearings are planned, but they may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

On November 28, 1980, the Coast Guard published a Notice of Proposed Rulemaking (45 FR 79258). The comment period ended February 26, 1981. Two hundred and eleven written comments were received and public hearings were held at the following locations: Cleveland, Ohio on 1-14-81; Washington, D.C. on 1-27-81; New Orleans, Louisiana on 2-3-81; and in San Francisco, California on 2-10-81. Based on the written and oral comments received, the proposal regarding the licensing of pilots has been modified and is republished as a supplemental notice of proposed rulemaking.

Drafting Information

The principal persons involved in drafting this proposal are: Mr. John J. Hartke, Project Manager, Office of Merchant Marine Safety, and Lieutenant George J. Jordan and Lieutenant Commander William B. Short, Project Attorneys, Office of the Chief Counsel.

Discussion of the Proposed Regulations

1. Licensing of Pilots

As a result of the Port and Tanker Safety Act of 1978 (Pub. L. 95-474), the Coast Guard published a Notice of Proposed Rulemaking on November 28, 1980 (45 FR 79258) containing changes to the pilot licensing regulations. The Act amended 46 U.S.C. 214 (R.S. 4442) which is the authority for the issuance of federal pilots' licenses.

As a result of written comments and comments received at public hearings on the proposal, the Coast Guard has reviewed the proposed rule and is now proposing significant changes to that Notice of Proposed Rulemaking. Most comments received were directed to the following issues: (1) The number of round trips required, (2) the tonnage limitations proposed, (3) the requirements for recent service over the routes, (4) the desirability of simulator training, and (5) how the requirements for the annual physical would be administered.

In this action, the following changes to the original notice are proposed: (1) The number of round trips required will be determined at the local level within an established range set by regulation, (2) the tonnage categories concept is being dropped and the Coast Guard will rely on its authority to establish limitations on the licenses of pilots who do not have sufficient experience on larger vessels that may transit a route, (3) the recency of service requirements are being altered to require only a re-familiarization round trip, (4) the provision concerning simulator training is being incorporated in a broader and more realistic manner, that is, as a part of an approved school training course, (5) the physical examination reporting requirements are being changed, (6) the OCMI may require chart sketches of only portions of an applicant's route, and (7) to increase the concept of ships' officers serving as pilots on those non-self-propelled vessels carrying cargoes subject to the provisions of 46 U.S.C. 391a, from 1,000 to 20,000 gross tons.

The Port and Tanker Safety Act raised the minimum age for a pilot's license from 19 to 21 years of age. This proposal is unchanged from the prior notice. The only difference between a first and second class pilot was the age at which the license could be obtained. Now there is no reason to continue this distinction and therefore, the terms first class and second class are being eliminated.

It is a statutory requirement that a pilot must agree to have an annual physical examination. In the original proposal the pilot would have been required to have his license endorsed to indicate the successful completion of the physical exam. This proposal requires only that the document indicating successful completion of the physical be filed with the Officer in Charge, Marine Inspection who issued the license. This proposal also requires that the physical meet the requirements of the standard Coast Guard physical exam and that form CG-954 or any equivalent form containing the required information may be used. However, the requirement to file the document indicating successful completion of the physical with the OCMI is waived for those pilots who are required by their pilot association or employer to take an annual physical exam and are required to report the results of that annual physical to their pilot association or employer.

In the original proposal the Coast Guard would have required 25 round trips over the route before a license could be issued. Many commentors addressed this issue. Their comments were basically that this requirement, while it may not have been too unreasonable for harbor pilots, was an impossible requirement for pilots with extended routes such as the Great Lakes, many of the rivers, and some large bays and sounds. The Coast Guard basically agrees with those comments and also partially agrees with the solution suggested by many of the commentors, that the cognizant Officer in Charge, Marine Inspection (OCMI), because of his local knowledge, should continue to determine the number of round trips required for routes, based on the geographic configuration of the route in question. However, this proposal establishes a range of a minimum of 12 round trips to a maximum of 20 round trips for an original license, and, a range of a minimum of 8 round trips to a maximum of 15 round trips for an endorsement. These ranges of minimum and maximum round trips are established in order to permit an OCMI some latitude in the required number of trips based on his assessment of the degree of hazard involved regarding the particular route in question.

The original proposal would have set tonnage limitations on individual pilots based on their experience with vessels of commensurate size. The reason for the proposed tonnage limitations was the concern of Congress that pilots have sufficient experience to handle the larger vessels calling at U.S. ports.

Under present practice the OCMI sets tonnage limitations only on licenses under 1,000 gross tons. Persons with sufficient experience with vessels over 1,000 gross tons are issued licenses for "any gross tons". Under the previous proposal, to obtain a license of "any gross tons", experience on vessels of 120,000 gross tons would have been required. Since vessels of that size are effectively precluded by water depth limitations from the Great Lakes, rivers, and most harbors, the proposal would have effectively ended the "any gross tons" license.

In both the written comments and at the hearings, many persons commented that the gross tonnage of a vessel is not necessarily the controlling factor in determining the difficulty of handling a vessel; that length, draft, vessel loading, powerplant, rudder size and response speed, hull form, windage area, presence or absence of bow and/or stern thrusters, and other characteristics of a vessel have as much or more to do with the handling of the vessel than does tonnage alone. The Coast Guard agrees that tonnage is not the only factor that contributes to the handling characteristics of a particular vessel. Upon reexamination, the Coast Guard believes that the gradations proposed in the original proposal do not have sufficient validity to be retained. However, tonnage is a general indicator of vessel size, is quantifiable where other characteristics are not, and is therefore useful in the general sense of establishing limits.

The Coast Guard proposes to establish the experience requirement for an "any gross tons" endorsement at 4,000 gross tons. The 4,000 gross ton figure has been used on the Great Lakes for many years and has apparently proven to be a valid cut-off figure for an "any gross tons" endorsement. The Coast Guard believes that increasing this requirement from 1,000 gross tons to 4,000 gross tons represents a more realistic approach to insuring experience on vessels of a relatively substantial size. The Coast Guard further believes that the concern of Congress, as to the type and size of vessels, can be met by the authority of the Coast Guard to place limitations on the licenses it issues. Under current regulations (46 CFR 10.05–39(c)) the Officer in Charge, Marine Inspection, may place limitations on a license based on the experience of an applicant. The procedures for having limitations changed are located at 46 CFR 10.02–15. The Coast Guard is proposing to leave this authority essentially unchanged. It will now be located at 46 CFR 10.07–11. The Coast Guard is now proposing that in order to obtain a tonnage endorsement of "any gross tons" on an original license or endorsement as pilot, the applicant must have experience on vessels of 4,000 gross tons or over for the route authorized. An applicant is considered to have sufficient experience if the applicant has 18 months experience as master, mate, quarter master, wheelsman, able seaman, apprentice pilot, or equivalent on vessels of 4,000 gross tons or over. In addition, two thirds of the minimum number of round trips required for a particular route must be on vessels of 4,000 gross tons or over. If an applicant for an original license or endorsement as pilot does not meet those requirements he must complete a number of additional round trips, as determined by the OCMI, on vessels of 4,000 gross tons or over. Likewise, unless an applicant for additional routes has sufficient documented service on vessels of over 4,000 gross tons the OCMI establishes a tonnage limitation on the license or endorsement commensurate with the applicant's experience until the applicant has sufficient round trips to indicate his ability to pilot deeper draft vessels for the added route(s). Also included within the limitations to be imposed will be restrictions to "tug and barge combinations", with a tonnage limitation, if appropriate, where an applicant does not have sufficient experience on larger self-propelled vessels.

Because many applicants for pilot licenses have gained their experience on relatively small vessels such as tugs, the Coast Guard believes that an applicant should have some experience on larger vessels before they receive an "any gross tons" endorsement. This experience would be gained by additional round trips on larger vessels and the number of round trips would depend on the experience of the applicant. Such an applicant would keep a restriction on his license until he gains sufficient experience on large vessels.

For example, if an applicant has less than 18 months experience as master, mate, quartermaster, wheelsman, able seaman, or apprentice pilot, or equivalent, and/or less than two thirds of his round trips on vessels of 4,000 gross tons or over, but does have some experience on vessels up to 20,000 gross tons, the OCMI may issue a limitation of up to 20,000 gross tons on the license. As the applicant gains more experience in handling larger vessels, the OCMI may raise the tonnage endorsement commensurate with the applicant's experience. When the applicant has acquired sufficient experience, as determined by the OCMI, the "any gross tons", endorsement will be issued.

Since current familiarity with a route is a key factor in pilotage, the Coast Guard believes that there should be a requirement to maintain experience. The statute also mandates the Coast Guard to require maintenance of knowledge. In the original proposal, if a pilot had not used his license on a specified route within 36 months, his license would not have been renewed for that route unless he passed an examination. This requirement was considered by many commentors to be too stringent. It could deny an individual renewal of the license which he had obtained in full compliance with the rules that were then in effect. That requirement would create particularly severe problems for pilots who have long routes such as on the Great Lakes and many river systems.

Many pilot associations require their members to take re-familiarization trips

if they have been away from a particular route for a period of time. The Coast Guard believes that such a re-familiarization scheme would be a more appropriate and cost effective means of maintaining local knowledge. The Coast Guard is therefore proposing that if a pilot has not served within 36 months over a particular route, that persons license becomes invalid for that route and the pilot may not operate on that route under the authority of that license until the pilot has made a re-familiarization round trip over that route. This requirement would be self enforcing due to the consequences of acting as a pilot on an invalid license.

In the original proposal, simulator training would have been accepted as a partial substitute for practical experience. The Coast Guard will accept the use of simulators used in conjunction with a training course given at a school approved pursuant to the provisions of section 10.30 of this part. Even though a research project dealing with simulator training is not complete at this time and the few simulators that are available are costly to use, the Coast Guard urges pilots to give consideration to the use of simulators in the pilot training process. The Coast Guard is convinced that simulators are effective as a means of training pilots, and such training can be accepted as part of an approved training program.

This proposal contains a change in the examination requirements from the existing regulations by reducing the requirement for an entire route chart sketch of the pilots' operating area. The Coast Guard has reexamined the need for complete route chart sketches and now considers them to be an unreasonable burden on the applicant. The Coast Guard feels that requiring only sketches of a portion or portions of the route desired will provide an adequate indication of the applicants knowledge of the area.

2. Manning of Vessels—Pilots

The Coast Guard is also proposing to amend its regulations pertaining to pilots on towed non-self-propelled vessels of not more than 20,000 gross tons carrying cargoes subject to the provisions of 46 U.S.C. 391a (tank barges). It is important to understand, that in order for an individual to serve as a pilot under this proposal, the individual must be the regularly employed officer or operator of that vessel while holding the appropriate license for that service. The intent of the proposal is to provide an avenue through which masters, mates, and operators of uninspected towing vessels may comply with the pilotage requirements of 46 U.S.C. 364 when towing tank barges of not more than an aggregate of 20,000 gross tons. These proposals maintain a reasonable degree of safety and minimize financial impact upon individuals, their employers, and government.

Formerly, 46 USC 404 imposed a general requirement that vessels operating on the navigable waters of the U.S. be under the control of a pilot. In October 1980, Pub. L. 96–378 amended this statute by replacing the word "pilot" with deck "officer." However, 46 U.S.C. 364 still requires all coastwise seagoing steam vessels, not sailing under Register, to be operated under the direction of pilots licensed by the Coast Guard when under way on waters other than the high seas. Recognizing that specially licensed Pilots were not necessary for safety on smaller vessels, the Coast Guard has, under 46 CFR 157.30–40, allowed regularly employed licensed officers to serve as pilots on self-propelled vessel not over 1,000 gross tons.

Although not self-propelled, tank barges are made "steam" vessels by 46 U.S.C. 391a, which states that a "steam" vessel, regardless of propulsion mode, is "any vessel which is constructed or adapted to carry, or carries oil or any hazardous material in bulk as cargo or residue." A combined reading of the two statutes requires a coastwise seagoing tank barge, operating upon the navigable waters of the United States, to be under the direction and control of a federally licensed pilot under certain circumstances.

Inherent in any discussion of pilotage is a supposition that the pilot is highly familiar with certain waters. In historic times this familiarity took the form of word of mouth information passed from the pilot to the apprentice pilot. Later, as cartography was developed, much of the word of mouth information became recorded data. Similarly, knowledge of tidal phenomenon, effects of weather systems, port regulations, etc., were ultimately collected and published in the various Coast Pilots. The charts and Coast Pilot information is readily available to mariners, and enable them to obtain much general information on a particular port without actually having been there. This is considered to provide only part of the requisite knowledge of a pilot. Recognizing that important factor in translating "book knowledge" into practice, the Coast Guard is proposing that each individual discharging the statutory requirement for pilotage, under the provisions of this regulation, must obtain twelve round trips on a particular route prior to exercising pilot authority. It is believed that this number of transits will adequately familiarize already licensed personnel with a particular route to the degree necessary for the safe transit of certain towing vessels/barges.

Recognizing that Congress has enacted specific legislation dealing with the licensing of pilots (46 U.S.C. 214), the Coast Guard believes that those individuals who will become authorized to act a pilots by virtue of this proposal must comply with this section of the law as must the traditional First Class Pilot. These provisions are contained in proposed § 157.20–40(b), and deal with minimum age, physical qualifications, and currency of knowledge. To avoid unnecessary duplications, reference is made to 46 CFR 10.07–9, and 10.07–13 which apply to the formally licensed Pilots in the areas of physical examinations and currency of knowledge.

An additional service requirement of six month experience in towing service is also being proposed for personnel of towing vessels exercising pilot authority under this proposal. By virture of long-standing Coast Guard policy, certain licensed persons without actual towing experience may serve as an officer or operator of a towing vessel. Because towing operations present unique ship handling and seamanship considerations, it is considered that this minimum experience period (six months) is necessary to become reasonably acquainted with such operations. This additional experience factor will not greatly affect the coastal towing industry because most licensed deck personnel hold either an Operator of Uninspected Towing Vessels (OUTV) or Master/Mate of Freight and Towing Vessels. The holders of these licenses would have acquired much more than six months towing vessel experience prior to the issuance of the basic license.

Increasing the tonnage limit of those non-self-propelled vessels subject to 46 U.S.C. 391a (permitting regularly employed masters, mates, and operators to fulfill the pilotage requirements of 46 U.S.C. 364) from 1,000 to 20,000 gross tons is proposed in order to relieve the heavy financial and paperwork burden on both the industry and the Coast Guard. In the absence of this proposal, towing industry personnel would have to obtain, and the Coast Guard would have to examine and issue anywhere from 7,000 to 15,000 pilot endorsements, depending on the number of route endorsements desired. Most of the vessels involved here operate over dedicated routes and are relatively small in size. They do not present the

degree of safety hazard that the larger vessels do with respect to draft, channel width, and maneuverability. In computing the tonnage of tug/barge combinations for purposes of this regulation, the tonnage includes only the tonnage of the barge(s).

This proposal is based on a recommendation submitted by the Towing Safety Advisory Committee (TSAC) to the Coast Guard on 25 August 1981. TSCA contended that the masters, mates, and operators of coastwise tows have an excellent safety record and are adequately qualified to act as a pilot when so required by law. To determine the validity of this claim, the Coast Guard has reviewed its casualty records. The salient points of this review are given in the following paragraphs.

(a) There are approximately 460 inspected tank barges that are capable of being subject to the 46 U.S.C. 364 pilotage requirement.

(b) A review of casualty records of the Coast Guard's Merchant Marine Investigation Division for the four year period FY–75 through FY–78 yields a total of 775 casualties involving seagoing tank barges that resulted in collisions, rammings, groundings or capsizings. Of these, 59 involved instances where the presence of a 46 U.S.C. 364 Federal Pilot was mandated.

(c) The damage cause by these 59 casualties is approximately $2,800,000 over the four year period, or $700,000 per year.

(d) No pollution incidents resulted from any of the foregoing casualties.

(e) The following is a breakdown by number of casualties and personnel license type of the individual in operational control of the towing vessel, (and by extension, the tank barges) at the time of casualty occurrence:

(i) Licensed Operator of Uninspected Towing Vessels (OUTV)—32

(ii) Licensed First Class Pilot (FCP)—10

(iii) Licensed Master or Mate serving as pilot—16

(iv) No licensed personnel on board—1

(f)(1) The primary cause of the 59 casualties can be broken into three general categories. The table below lists the number of casualty occurrences associated with each cause:

Cause and *Number of casualties*

(i) Machinery or equipment failure—7.

(ii) Rules of the Road violation, fault of other vessel, etc.—20.

(iii) Cause associated with pilotage knowledge—32.

(2) In those cases in which the cause was associated with pilotage knowledge the breakdown by licensed individual in control of the vessel was:

(i) Operator of Uninspected Towing Vessels—15.

(ii) First Class Pilot—8.

(iii) Master or Mate serving as Pilot—8.

(iv) No licensed personnel on board—1.

(g) Of the 59 casualties, the presence of a licensed pilot could possibly have prevented the casualties in 21 instances, would probably have not prevented the casualty in 28 instances, and a First Class Pilot was in actual operational control of the tow in ten cases.

(h) Two of the casualties involved tows of more than one barge. In each of these incidents two barge tows were involved.

(i) Average number of casualties per year—14.75 (59÷4).

(j) Largest barge in any casualty—20,982 gross tons.

(k) Average sze of barge involved—5,508 gross tons.

(l) Largest tug in any casualty—1,360 gross tons.

(m) Average size of tug involved—233 gross tons.

To develop an exposure rate of casualties to barge movements, the American Waterways Operators, Inc. (AWO) was asked to poll their member companies as to the number of barge movements (subject to pilotage) made during the course of a year. The responses indicated a figure of 51, 687 such movements which yields an estimate of 103,374 (51,687×2) movements nationwide assuming AWO members constitute approximately 50% of the operators engaged in such activity. The annual exposure rate is therefore one casualty per 7,008 movements (103,374÷14.75).

Pilotage cost data was also obtained from the same source (AWO). The response indicated the average pilotage fee per barge movement is $741. Accordingly, without the provisions of this proposal, a projected nationwide pilotage fee for tank barges could reach $76,600,000 (103,374×$741) annually.

A conscious effort to minimize governmental activity in this area has been made. It should be noted that a formal endorsement (as pilot) to an existing license is not called for. Compliance with the provisions of proposed 157.20–40 (b) and (c) is incumbent on the individual mariner (and employer). In case of an accident or other question as to the qualifications to discharge pilotage authority, proof of compliance must be presented to the Cost Guard within 24 hours of a request.

When considering this proposal, the contents of 46 CFR Part 157 were reviewed with an eye to centralizing the regulations pertaining to pilots, and deleting portions no longer applicable. To this end, the following action is indicated:

Section	Action	Reason
157.20–40(b)	Revise	Covered by this proposal
157.20–40(c)	Remove	Pub. L. 96–378 removed the requirement for a "licensed pilot" per se. Presently "licensed deck officer"
157.20–40(d)	Remove	Same as above.
157.20–40(e)(1)–(3).	Remove	No longer reflects current practice
157.20–40(f)	Redesignate as 157.20–40(e).	Editorial.
157.30–40	Remove	Covered by this proposal

Evaluation

The Coast Guard has reviewed this revised proposal under Executive Order 12291 and has determined that it is not a major regulation.

The original proposal was considered a significant regulation under the then existing Departmental of Transportation guidelines because it was likely to be controversial. The comments received have supported that conclusion. Although the proposal has been substantially modified in response to the comments received, some controversy may remain. Accordingly, the proposal remains classified as a significant regulation. As modified, it is not expected to have a significant economic impact. Therefore, a regulatory analysis is not required, however, a supplemental draft evaluation has been prepared and has been included in the public docket. A copy of the supplemental draft evaluation may be obtained from: Commandant (G–CMC/44), (CGD 77–084), U.S. Coast Guard, Washington, D.C. 20593.

This proposed regulation will not require any major expenditures by the maritime industry, consumers, Federal, state, or local governments. The statutory requirement for an annual physical examination will necessitate an increase in expenditures by the pilots in order to pay for their physical exams. These costs could total as much as $2,354,000 annually, depending upon the number of individuals who choose to be pilots under 46 CFR 157.20–40. However,

actual costs are likely to be less because many pilots already take annual physical examinations and it is not likely that all of the individuals that could qualify under 46 CFR 157.20–40 will do so. In addition, there will be a relatively small increase in costs to the Coast Guard because of the additional paperwork associated with the pilots' annual physical exams.

The requirement that a pilot make a re-familiarization round trip if the pilot has not had recent service over a route could cause the pilot to incur the expenses of making such a trip. However, this re-familiarization round trip is required only if the pilot has not served within 36 months and the pilot desires to retain or reinstate qualifications for that route. Because of these factors it is impractical to estimate the possible costs.

Additionally, the Coast Guard has reviewed this proposal under the Regulatory Flexibility Act (Pub. L. 96–354) and certifies that this proposal will not have a significant economic impact on a substantial number of small entities. The proposal does not place any additional burdens or requirements on the effected industries, such as, pilot associations, shipping companies, or towboat companies, some of which may qualify as small entities and in fact will relieve some of the present burdens.

Many pilots are employees of shipping or towing companies. Other pilots are generally members of pilot associations and have been considered independent contractors in most circumstances. Usually, membership in a pilot association is similar to a form of partnership in which the pilot fees are collected by the association and, after the expenses of the association have been paid, the balance remaining is distributed among the member pilots. Therefore the Coast Guard is not considering the individual pilot as a small entity. Even if the pilot was considered a small entity, there is no significant impact on the pilot for the reasons given above.

The Coast Guard has reexamined the need for entire route chart sketches as an examination requirement for a pilot's license. The Coast Guard believes that the entire route chart sketch requirement places an unreasonable paperwork burden on the applicant as well as the Coast Guard. When an applicant is examined it takes anywhere from half a day to a full day to sketch an entire route. For more complicated areas it could take more than one day. It takes the Coast Guard anywhere from one to three hours to correct an entire route exam sketch depending on the area involved. It seems reasonable to assume that if an applicant can sketch a portion or portions of a route correctly, then the applicant possesses adequate knowledge of the entire route.

List of Subjects

46 CFR Part 10

Seamen.

46 CFR Part 157

Seamen, Vessels.

In consideration of the foregoing it is proposed that Part 10 and Part 157 of Title 46 of the Code of Federal Regulations be amended as follows:

PART 10—[AMENDED]

1. By revising § 10.02–5(b) to read as follows:

§ 10.02–5 Requirements for original licenses.

* * * * *

(b) *Minimum age.* Any person who has attained the age of 21 years and is qualified in all other respects, is eligible for a license, except that a license as third mate or third assistant engineer may be granted an applicant who has reached the age of 19 years and who is qualified in all other respects, but no such license may be raised in grade before the holder reaches the age of 21 years.

* * * * *

§ 10.05–39, 10.05–41, 10–05–42, and 10.05–43 [Removed]

2. By removing §§ 10.05–39, 10.05–41, 10.05–42, 10.05–43.

3. By adding a new Subpart 10.07 to read as follows:

Subpart 10.07 Professional Requirements for Pilots Licenses

Sec.

10.07–1 Application for original license.
10.07–3 Service Requirements.
10.07–5 Endorsement to master's or mate's license as pilot or the addition of Route(s) to a pilot's license.
10.07–7 Required examinations for pilots.
10.07–9 Physical examination requirements for a license or endorsement as pilot.
10.07–11 Limitations.
10.07–13 Requirements for maintaining current knowledge of waters to be navigated.
10.07–15 Evaluation of experience not listed.

Authority: 46 U.S.C. 214, 224, 230, 233; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).

Subpart 10.07 Professional Requirements for Pilots Licenses

§ 10.07–1 Application for original license.

(a) An applicant for an original pilot's license must furnish discharges, letters, or other documentary evidence certifying:

(1) The name and gross tonnage of the vessels the applicant has served aboard;

(2) The period of service;

(3) The dates, number, and route description of round trips made; and

(4) The capacity in which the applicant served.

(b) Photostatic copies of the documents listed in paragraph (a) of this section may be accepted for filing with the application.

§ 10.07–3 Service requirements.

(a) The minimum service required to qualify an applicant for an original license as pilot is predicated upon the nature of the waters for which pilotage is desired as follows:

(1) *General Routes (routes not restricted to rivers, canals and small lakes.)* Thirty-six months' service in the deck department of steam or motor vessels navigating on oceans, coastwise, Great Lakes, or bays, sounds, and lakes other than the Great Lakes, as follows:

(i) Eighteen months of the 36 months' service must be as quartermaster, wheelsman, able seaman, apprentice pilot, or in an equivalent capacity, standing regular watches at the wheel or in the pilothouse as part of routine duties.

(ii) At least 12 months of the 18 month's service required in paragraph (a)(l)(i) of this section must be on vessels operating on the class of waters for which pilotage is desired.

(iii) At least three months of the required 36 months' service must be obtained within the 36 months immediately preceding the date of application.

(2) *River Routes.* At least 36 months' service in the deck department of any vessel including at least 12 months' service on vessels operating on the waters of rivers while the applicant is serving in the capacity of quartermaster, wheelsman, apprentice pilot or deckhand who stands watches at the wheel as part of routine duties. At least three months of the required 36 months' service must be obtained within the 36 months immediately preceding the date of application.

(3) *Canal and Small Lake Routes.* At least 24 months' service in the deck department of any vessel including at least 8 months service on vessels operating on canals or waters of small lakes. At least three months of the required service must be within the 24 months immediately preceding the date of application.

(b) The required service must include a minimum number of round trips while serving as quartermaster, wheelsman, able seaman, apprentice pilot, or in an

equivalent capacity, over the route for which the applicant seeks the license as pilot. The Officer in Charge, Marine Inspection having jurisdiction, determines, within the set range, the number of round trips required considering the geographic configuration of the waterway, the type and size of vessels using the waterway, the known hazards involved, including waterway obstructions or constructions such as bridges, narrow channels or sharp turns, background lighting effects, abundance or absence of aids to navigation, and other similar factors. The range of round trips for an original license is a mimimum of 12 round trips and a maximum of 20 round trips.

(c) One of the round trips required in paragraph (b) of this section must be made over the route within six months immediately proceeding the date of application.

(d) A graduate of the Great Lakes Maritime Academy in the deck class meets the service requirements for a license as pilot on the Great Lakes.

(e) The period of time spent by an applicant successfully completing a course of pilot's training approved by the Commandant may be accepted as the equivalent of a portion of the service required in paragraphs (a) and (b) of this section, but in no case will an applicant for a pilot license be considered qualified with respect to service without a minimum of nine months of shipboard service. The portion of the service to be accepted as the equivalent of the service required in paragraphs (a) and (b) of this section will be identified at the time the Commandant approves the particular course.

§ 10.07-5 Endorsement to master's or mate's license as pilot or the addition of route(s) to a pilot's license

(a) A master or mate (other than an inland or river mate), or a pilot must furnish evidence of the following service to qualify for examination as a pilot or for the addition of route(s) to an existing pilot's license:

(1) Three months service under authority of the existing license within the past 36 months; and

(2) Complete the number of round trips specified by the Officer in Charge, Marine Inspection, with the set range, over the route, for the particular grade of existing license held. The range of round trips for an endorsement is a minimum of 8 round trips and a maximum of 15 round trips.

(3) One of the round trips required in paragraph (a)(2) of this section must be made over the route within six months immediately proceeding the date of application.

§ 10.07-7 Required examinations for pilots.

(a) An applicant for an original license as pilot is required to pass an examination that includes:

(1) Evidencing knowledge of the following subjects:

(i) COLREGE and Inland Navigational Rules applicable to the route, including regulations issued thereto.

(ii) Pilot rules.

(iii) Use of tide and current charts and tables, weather, and winds.

(iv) Chart navigation use of Coast Pilot and light lists.

(v) Aids to navigation, including local Notice of Mariners systems.

(vi) Ship handling.

(vii) Pollution prevention and abatement.

(viii) The Captain of the Port regulations and the Vessel Traffic Service procedures, if applicable, for the route desired.

(ix) Any other subject the Officer in Charge, Marine Inspection considers necessary to establish the applicant's proficiency; and

(2) Sketching a chart of a portion or portions of the route and waters applied for, evidencing knowledge of:

(i) Recommended courses;

(ii) Distances;

(iii) Prominent aids to navigation;

(iv) Depths of water in channels and over hazardous shoals; and

(v) Other important features of the route, such as the character of the bottom.

(b) An applicant for extension of a pilot's route or endorsement of a master's or mate's license as pilot is required to pass an examination as prescribed in paragraphs (a)(1) (i), (ii), (viii), (ix), and (2) of this section.

§ 10.07-9 Physical examination requirements for a license or endorsement as pilot.

(a) An applicant for an original license as pilot must meet the physical examination requirements specified in §§ 10.02-5(e)(1)-(3), and (7) of this part.

(b) No person will be issued a license or endorsement as pilot unless that person agrees in writing to have a thorough physical examination each year while holding the license or endorsement.

(c) Holders of a valid license or endorsement as pilot must undergo an annual physical examination.

(1) The examination must meet the requirements specified in paragraph (a) of this section, except that §§ 10.02-9f (3) and (5) shall apply and the pilot must have correctable vision to at least 20/40 in each eye. Anyone whose uncorrected vision exceeds 20/40 in each eye must wear corrective lenses and carry spare lenses on board a vessel while serving under the authority of the license.

(2) This examination may be completed at any time within 90 days prior to the anniversary date of the issuance of the license.

(3) The examination must be conducted by a licensed physician.

(4) The results of this examination must be recorded on Coast Guard form CG-924 or equivalent. The original or a signed copy shall be sent to the Officer in Charge, Marine Inspection who issued the license, except when the provisions of the waiver procedures in paragraph (e) of this section are exercised.

(d) If the form indicating satisfactory completion of the annual physical examination is not filed with the Officer in Charge, Marine Inspection, pilot association, or employer, within 12 months of the previous physical examination, the pilot license or pilot endorsement held is invalid and the pilot may not operate under the authority of that license or endorsement until a current physical examination has been completed and accepted by the Officer in Charge, Marine Inspection.

(e) The requirement to file the document indicating successful completion of the physical examination with the OCMI is waived for those pilots who are required by their pilot association or employer to take an annual physical exam and are required to report the results of that annual physical exam to their pilot association or employer.

(f) Upon request, a pilot must provide a copy of his most recent physical examination.

(g) An applicant for renewal of a license or endorsement as pilot must satisfactorily complete and file with the OCMI a physical examination meeting the requirements specified in paragraph (c) of this section within 90 days prior to renewal.

§ 10.07-11 Limitations.

(a) The Officer in Charge, Marine Inspection, issuing a license or endorsement as pilot, imposes appropriate limitations commensurate with the experience of the applicant, with respect to class or type of vessels, tonnage, route, and waters.

(b) Applicants involved in towing operations may be given credit for the tonnage of barge(s) experience but any license or endorsement issued will be limited to "tug and barge combinations." To be eligible for a license or endorsement not restricted to "tug and barge combinations," two thirds of the required minimum number of round trips

must have been on vessels other than "tug and barge combinations."

(c) In order to obtain an endorsement of "any gross tons" on a license or endorsement as pilot, the applicant must have sufficient experience on vessels of 4,000 gross tons or over.

(1) An applicant is considered to have sufficient experience if the applicant has 18 months experience as master, mate, quartermaster, wheelsman, able seaman, apprentice pilot, or equivalent capacity, on vessels of 4,000 gross tons or over, and two thirds of the minimum number of round trips required for the route have been on vessels of 4,000 gross tons or over.

(2) If an applicant does not meet the requirements of paragraph (c)(1) of this section the applicant must complete a number of additional round trips, within the set range, as determined by the OCMI, on vessels of 4,000 gross tons or over.

§ 10.07-13 Requirements for Maintaining Current Knowledge of Waters to be Navigated.

(a) If a pilot has not served within 36 months over a particular route, that person's license or endorsement is invalid for that route. The pilot may not operate on that route under the authority of that license or endorsement until the pilot has made one re-familiarization round trip over that route.

(b) Officers in Charge, Marine Inspection, may modify this requirement for river routes and open water routes.

§ 10.07-15 Evaluation of experience not listed.

When an applicant presents evidence of service or experience which does not meet the specific requirements of the regulations in this part, but which in the opinion of the Officer in Charge, Marine Inspection, is a reasonable equivalent thereto, the application for license with supporting data is submitted to the Commandant for evaluation, together with the recommendation of the Officer in Charge, Marine Inspection.

2. By revising 46 CFR 157.20–40 to read as follows:

§ 157.20–40 Pilots.

(a) Every coastwise seagoing steam vessel subject to the navigation laws of the United States, sailing under enrollment, or license and enrollment, must, when underway, except on the high seas; be under the direction and control of pilots licensed by the Coast Guard. (46 U.S.C. 364).

(b) Any individual holding a valid license as master, mate, or operator, employed aboard a vessel, is a pilot, without specific endorsement, within the restrictions of his or her license and the limitations of paragraph (c) of this section, provided, he or she:

(1) Has reached the age of 21 years;

(2) Complies with the physical examination requirements of 46 CFR 10.07–9; and,

(3) Complies with the currency of knowledge provisions of 46 CFR 10.07–13.

(c) The licensed individuals addressed by paragraph (b) of this section must have obtained twelve round trips over the route to be traversed and are limited to service, as pilot, upon:

(1) Self-propelled vessels of not more than 1,000 gross tons: or

(2) Tank barges totaling not more than 20,000 gross tons carrying cargoes subject to the provisions of 46 U.S.C. 391a, provided the individual has six months experience in a licensed capacity on towing vessels engaged in towing operations.

(d) In any instance when the qualifications of a person discharging the statutory requirement for pilotage through the provisions of this subpart are questioned by the Coast Guard, the individual or employer shall provide to the Coast Guard, documentation proving compliance with paragraph (b) and the applicable portion of paragraph (c) within 24 hours.

§ 157.30–40 [Amended]

3. By removing 46 CFR 157.30–40.

(46 U.S.C. 214, 224, 230, 233; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b); R.S. 4405, as amended, 4462 as amended sec. 6(b)(1) 80 stat. 938; 46 U.S.C 375, 416, 49 U.S.C. 1655(b); 49 CFR 1.4(a)(2))

Dated: January 19, 1983.

J. S. Gracey,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 83-1878 Filed 1-26-83; 8:45 am]

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Federal Register

Thursday
January 27, 1983

Part III

Department of Education

Student Assistance General Provisions

DEPARTMENT OF EDUCATION

34 CFR Part 668

Student Assistance General Provisions

AGENCY: Education Department.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes to amend Subpart B of the Student Assistance General Provisions. A recent amendment to the Military Selective Service Act provides that any student who must register with Selective Service and fails to do so is ineligible for student financial assistance provided under title IV of the Higher Education Act. These regulations are being amended to implement this new eligibility criterion for title IV aid.

DATES: Comments must be received on or before February 28, 1983.

ADDRESS: Comments should be addressed to Ms. Andrea Foley, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, S.W., (Room 4318 Regional Office Building 3) Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Ms. Andrea Foley, (202) 472–4300.

SUPPLEMENTARY INFORMATION: On September 8, 1982, President Reagan signed the Fiscal Year 1983 Defense Department Authorization Act (Pub. L. 97–252) into law. Included in this legislation is an amendment to the Military Selective Service Act. The amendment mandates that, beginning with the 1983–84 award year, any student who is required to be registered with Selective Service and fails to register is ineligible for student financial assistance provided through programs established under title IV of the Higher Education Act. These programs include the Pell Grant, Supplemental Educational Opportunity Grant (SEOG), College Work-Study (CW–S), National Direct Student Loan (NDSL), Guaranteed Student Loan (GSL), PLUS Loan, and State Student Incentive Grant Programs.

During the discussion prior to enactment of this legislation, Congress addressed the subject of individual rights and their relationship with citizen responsibilities. The Congress decided that Federal student aid funds should not be expended on any student if he had not fulfilled his Federal responsiblity of registering with Selective Service. Currently, all men who are at least 18 years old and born after December 31, 1959, and who are not in the armed services on active duty must be registered. This group includes male citizens and noncitizens eligible for title IV aid except permanent residents of the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

The Department has worked closely with representatives of the Selective Service in developing these proposed regulations in order to implement this new title IV eligibility criterion in the most efficient and least burdensome manner consistent with the intent of the law.

Statement of Registration Compliance

The law specifically requires that, in order to receive title IV aid, a student who is required to register with Selective Service must file a statement with the institution he attends certifying that he is in compliance with registration requirements. Therefore, it is being proposed that in addition to the Statement of Educational Purpose, which is already required of all title IV aid recipients by section 484 of the Higher Education Act, the student must file a Statement of Registration Compliance. A new § 668.23 sets out the requirement of a Statement of Educational Purpose now found in individual program regulations. That requirement will be deleted from the program regulations when they are republished. New § 668.24 proposes the requirement that in order to receive title IV aid, a student must file a Statement of Registration Compliance.

New § 668.25 proposes language for both required statements. Essentially, the current Statement of Educational Purpose is simply expanded to include the new Statement of Registration Compliance. For the convenience of the institution and the student, it is anticipated that a combined statement will appear on the 1983–84 Student Aid Report and the 1983–84 Pell Grant Alternate Disbursement System (ADS) Request for Payment (ED Form 304).

Identification of Students Required to Register

A practical problem in implementing the Statement of Registration Compliance requirement is the difficulty in identifying which students are required to be registered, especially since some institutions may not have a record of the student's gender or date of birth. Therefore, to minimize the burden on institutional staff of determining whether a student is exempt for any of a number of reasons from registration, the Secretary proposes to require *all* title IV aid recipients to complete and submit to the institution the Statement of Registration Compliance in which the student certifies either the reason why he or she is not required to be registered or that he is registered. By reading on the statement the five reasons why a student need not be registered, the student would know immediately if he is required to be registered. If a student certifies that he is not required to register, the insitution would be able to rely on that statement unless it has other information inconsistent with the statement.

The Secretary recognizes that there may be some institutions with no students required to be registered with Selective Service, such as institutions with no male students. Therefore, the Secretary is soliciting comment regarding the application of the certification requirement to those institutions.

All students enrolled in an officer procurement program, the curriculum of which has been approved by the Secretary of Defense, at the Citadel, Charleston, South Carolina; North Georgia College, Dahlonega, Georgia; Norwich University, Northfield, Vermont; or Virginia Military Institute, Lexington, Virginia, are not required to be registered under the Military Selective Service Act. Therefore, it is proposed that title IV aid recipients enrolled in an officer procurement program at those institutions be exempt from filing a Statement of Registration Compliance.

Verification of Statements of Registration Compliance

The statue also requires the Secretary, in agreement with the Director of Selective Service, to prescribe procedures for verifying students' Statements of Registration Compliance. In developing these proposed regulations, the Selective Service recommended, and the Department agreed that in order to fully implement the intent of this legislation the verification of *all* student Statements of Registration Compliance must be conducted before the institution disburses any title IV aid.

Verification of registration compliance on either a post-award basis or on a pre-award sample basis would not comply with the intent of the legislation since those students who fail to register as required may either not be required to provide proof of compliance (in the case of a sample verification) or may be identified as nonregistrants after having received assistance. Therefore, these regulations propose that the registration compliance of all students who certify on the Statement of Registration Compliance that they are registered be verified prior to the institutional

disbursement of title IV funds, the institutional certification of the GSL and PLUS application and the institutional certification of the Pell Grant ADS Request for Payment.

A number of pre-award verification methods were explored during the development of these proposed regulations. Logistical and budgetary constraints make a comparison of the Department's title IV applicant records and Selective Service registrant records infeasible, especially in light of the requirement of implementation for the 1983–84 award year. The Department of Education maintains no central record system of all title IV applicants. Only Pell Grant applications are processed centrally by the Department. GSL and PLUS applicant data are maintained by at least 58 separate guarantee agencies and the applicant data are completely decentralized. The Department does not collect information on individual students applying for aid under the Campus-Based (SEOG, CW–S, and NDSL) and State Student Incentive Grant Programs. The very development of a method for matching such data would be extremely costly and time-consuming and could not be accomplished before the 1985–86 award year at the earliest.

A comparison by Selective Service of its registrant data with all title IV applicant data provided by the institutions was also considered. Under this method, the institution would be required to extract and forward to the Selective Service the necessary applicant data to verify the registration status of its students.

This method would not only be extraordinarily burdensome and costly to institutions but would cause extensive delays in the processing of awards until registration compliance could be verified and confirmed to institutions by the Selective Service.

Student Responsibility for Verifying Compliance

Therefore, in order to avoid excessive delays and implement this new criterion in the most effective and expedient manner, the Director of the Selective Service System and the Secretary of Education are proposing that the primary responsibility for verifying registration compliance rest with the student himself. A new proposed § 668.26, "Verification of registration compliance," would require any student who has certified that he is registered on his Statement of Registration Compliance to submit proof of his registration to the institution. The student would have to submit proof that he meets this eligibility criterion to the institution before it could disburse aid or certify the GSL and PLUS loan applications and the Pell Grant ADS Request for Payment. Because the verification of registration compliance presents special problems at institutions outside the United States who are participating in the GSL and PLUS Programs, separate procedures will be established for students attending those institutions.

Acceptable Proof of Registration

In most cases proof of registration is readily available to a student. All registrants receive from Selective Service a copy of the information they filled out on their registration card (Registration Acknowledgement Letter, SSS Form 3A or 3A–S). Registrants are advised by Selective Service in the Acknowledgement Letter to keep it as proof of registration. The Selective Service plans to add a statement to the Acknowledgement Letter informing registrants that, in order to receive Federal student aid, the letter must be presented as proof of registration.

These regulations also propose that, in lieu of submitting the Acknowledgement Letter, a student may verify his registration compliance by submitting: (1) The financial aid transcript bearing his Selective Service number, or (2) other documentation from Selective Service if approved by the Director of Selective Service and the Secretary of Education. To minimize any delay in the award process, the Selective Service states that it will provide a copy of his Registration Acknowledgement Letter within two weeks of request to any registrant who does not have his original Acknowledgement Letter. Both the Department and the Selective Service will publicize the requirement of proof of registration to both secondary and postsecondary institutions well in advance of any permissible disbursement of 1983–84 student aid. A sample request form will be provided to institutions which will assist students who do not have their original Acknowledgement Letters to secure a copy from Selective Service in ample time before the 1983–84 award year. Like any other eligibility documentation, the institution must make proof of the student's registration compliance a part of the student's record.

Temporary Verification by Affidavit

The Secretary recognizes that in limited circumstances some students may not receive their acknowledgement of registration from Selective Service quickly enough to verify their registration compliances before their first scheduled aid payment. As a limited exception to the general verification rule, these regulations (new § 668.26(e)) propose a temporary verification alternative for students who submit a notarized affidavit to the institution in which they affirm that they have registered but do not have the appropriate documentation from Selective Service. The Secretary intends this method of temporary verification to be used only in exceptional circumstances. First, the affidavit alternative is proposed for acceptance by institutions for all students who turned 18 within 90 days of the beginning of the award year and have not received their original Acknowledgement Letter from Selective Service.

Second, the Secretary is proposing that, *at the option of the institution,* any student who has registered and who can demonstrate to the institution that he has requested appropriate documentation from Selective Service to confirm his registration but has not yet received it, may file a notarized affidavit with the institution certifying that he is registered and has requested documentation. The Secretary proposes that the student may credibly demonstrate that request *only* by providing the institution with a copy of his written request for a copy of his Acknowledgement Letter. As noted earlier, institutions will be able to provide the student with a form on which to request a copy of his Acknowledgement Letter.

If the institution accepts an affidavit, it is proposed that it may disburse title IV funds (except under the GSL and PLUS Programs) for one payment period and may certify the institutional portion of the Pell Grant ADS Request for Payment (ED Form 304). However, the institution which accepts the affidavit may only certify the institutional portion of a loan application under the GSL and PLUS Programs for those students who have recently turned 18 and have registered.

The student who files an affidavit must submit approved documentation to the institution within 120 days of the date of the affidavit. As proposed, all title IV funds received for that award period by a student who files an affidavit but does not submit the required documentation within 120 days to verify eligibility would be considered an overpayment which the student must repay. The institution would be required to make a reasonable attempt to recover the Federal portion of those funds in the same manner as other overpayments. The Secretary is soliciting public comment particularly on the proposal

that the liability for such an overpayment remain solely on the student rather than on the institution which accepted the affidavit.

The Secretary recognizes that this affidavit alternative may increase administrative burden on institutions. That burden appears unavoidable with respect to those students who recently turned 18 since some alternative to immediate and complete verification seems necessary to fulfill the Congressional intent that delays in the award process be minimized. However, the Secretary wishes to solicit comment on the necessity of the proposed affidavit alternative, the degree of burden imposed on institutions, and its usefulness in alleviating delays in the award process. The Secretary also solicits comments on the proposal that all registrants who recently turned 18 and do not yet have proof of registration be allowed to file an affidavit while other registrants who lack proof may use the affidavit alternative only at the option of the institution.

Special Procedures for 1983–84

Because these regulations are being published as proposed rules, with the requisite period for public comment, it is unlikely that the Department will be able to publish final regulations until late in the spring of this year. The Secretary recognizes that institutions will by that time have completed the institutional portion of loan applications for many students seeking GSLP or PLUS program loans for the 1983–84 academic year. The statute makes any student ineligible for title IV assistance if he was required to register with Selective Service but failed to do so. 50 U.S.C. app. 462(f)(1).

Those applicants who have not demonstrated their compliance with registration requirements at the time their loan applications are processed by the institution in the spring of 1983 are nonetheless required by the statute to file a Statement of Registration Compliance in order to qualify for any title IV assistance. 50 U.S.C. app. 462(f)(2). To facilitate compliance with these statutory provisions, the Secretary is encouraging institutions to use the procedures proposed here before processing the institutional portion of applicants' loan requests, but recognizes that such procedures are not required at this time.

However, to monitor compliance with the statute by those students who have not filed such statements with the institution during the loan application process this spring, the Secretary proposes special requirements for use during the 1983–84 academic year. This problem should not arise in later years because, pursuant to these regulations, institutions will secure the required statements during the loan application process.

The special procedures proposed for 1983–84 deal particularly with loans under the GSLP and PLUS programs, but apply equally to any assistance disbursed by an institution before July 1, 1983 and intended for periods of instruction beginning on or after that date. Under these procedures, an institution which receives either a loan check or notice from a lender that a loan has been made, or if, before July 1, 1983, it completed a Pell grant ADS Request for Payment, or disbursed any Federal student assistance for the 1983–84 academic year, it must notify students of their duty to file and verify Statements of Registration Compliance. If the institution is notified that the student has received a loan, it must notify the lender and the Secretary if the student does not, after being notified of the duty to submit the statement, comply with the requirement. The student would then have failed to qualify for that Federal assistance, and would lose the right to interest benefits on that loan.

Future Administrative Burden

Although only a limited number of title IV applicants are required to be registered, the Secretary recognized that additional administrative burden would be involved in implementing these proposed methods of verifying their compliance. However, after the initial phase-in award year (1983–84), the burden associated with the submission of registration documentation, at least for four-year institutions, according to these proposed regulations would be sustantially reduced. Only in the upcoming initial award year would documentation have to be submitted by all students who certify that they are registered. Once that documentation was part of those students' records, the number of students certifying that they were registered for whom documentation would have to be received in subsequent award years would be drastically reduced, according to proposed § 668.26(b). It would only consist of those students certifying that they were registered who were previously enrolled at the institution but were not title IV aid recipients or were not then required to register, such as those who were not yet 18 years old or were on active duty and some students enrolling at the institution for the first time.

To further decrease any administrative burden associated with the submission of registration documentation, the Secretary is proposing two additional provisions. First, he proposes an amendment to the financial aid transcript provision (§ 668.14) that the Selective Service number from the documentation submitted to verify the student's registration compliance be made a part of the required information on the financial aid transcript. The Selective Service number on that transcript would suffice to document registration compliance for that institution in further years and for any institution to which the student transfers.

The rule permitting an institution to disburse title IV funds for one payment period if the transcript, or the notice required under 34 CFR 668.14(d) that the financial aid transcript will not be forthcoming is here modified to conform to these new requirements.

Second, to further minimize administrative burden, these regulations propose that the institution may rely on the Statement of Registration Compliance filed before the first disbursement of aid, certification of the GSL and PLUS loan application or Request for Payment for the award year even if the student's status under registration law changes during that award year. Therefore, a student who turns 18 or ceases active duty during the award year *after* he has certified that he is not required to register would not have to file a new statement or submit documentation of compliance until the subsequent award year's eligibility is determined. This relieves institutions from the burden of having to monitor students who may become subject to registration during an award year and to require their completion of new statement and verification of compliance prior to any additional disbursements. It also makes adjustments to award year aid packages unnecessary in mid-year or mid-payment period.

Notification of Denial of Assistance

The amendment also directs the Secretary of education, in consultation with the Director of the Selective Service, to establish procedures to notify students of the proposed denial of assistance to those who do not prove registration compliance and to permit them a grace period within which to prove that they are registered. Section 668.27 of these regulations proposes that the institution provide a notification, which for ease may be included on the Statement of Registration Compliance as proposed in new § 668.25, warning the student aid applicant that he will not receive title IV aid if he fails to complete

the Statement of Registration Compliance and to prove registration compliance.

Proof of Registration After Notification of Denial of Assistance

Although the statute requires the Secretary to provide the applicant denied aid at least a 30-day period within which to prove that he is in compliance, routine use of a grace period measured by a specific number of days may impose an unnecessary burden on the institution to monitor that deadline. Therefore, rather than providing for a grace period of a set number of days in all cases, the proposed regulations permit the student to establish his compliance at any time before the end of the payment period for which he seeks aid, or the 30-day period after notice of denial, whichever is later. Because the end of the payment period will usually be the later of these two dates, a student who states and verifies his compliance at any time during the payment period, would be eligible for aid for that period. However, if he does not prove compliance until a subsequent payment period, he may not receive aid for the previous payment period(s). This will, in most instances, result in a grace period significantly greater than the 30-day minimum set in the statute.

Moreover, consistent with the statutory intent to encourage registration, under these regulations any nonregistrant who was required to register but did not may still qualify for aid if he registers with Selective Service and complies with the statement and verification requirements during the payment period for which he seeks aid. As noted previously, this provision applies only to a nonregistrant who was required to register but who failed to do so before the award year in question, not to one whose status changed during the award year. As noted in §668.24(b), a student whose status changed with regard to registration requirements during the award year after he has certified that he is not required to be registered on the Statement of Registration Compliance need not submit a new statement during the year.

Administrative Review of Denials of Assistance

The proposed regulations, as required by statute, provide under certain circumstances for a hearing for those applicants denied title IV aid because they have failed to prove that they have registered (new § 668.27). The opportunity for a hearing is strictly limited to those who assert that they have in fact registered but have not been able to prove that registration. The Secretary will provide more detailed instructions at a later date on the procedure for requesting a hearing. This limitation on the right to a hearing and the scope of that hearing, is determined by the statutory limits on the Secretary's authority. In such administrative reviews the Secretary has no power to rule on any other basis than whether the applicant has demonstrated compliance. Because he has no authority to act on the basis of challenges to the propriety of the statutory ban on eligibility for nonregistrants, no presentation of such arguments will be received during these reviews. This limitation on the issue to be considered on review is entirely consistent with the legislative history of the statute, and the proposed regulatory language mirrors language used by Conference Committee of the Congress:

> The Senate recedes with an amendment to ensure due process to an individual *who has complied* but whose compliance may not be immediately verifiable (emphasis added).
>
> H. Rept. No. 97–749, quoted in Cong. Rec. H 6001, August 16, 1982.

Because the Secretary's statutory authority is limited, and because resolution of the issue of registration will almost invariably depend on documentary proof provided by Selective Service, the Secretary anticipates that there will be few cases in which a hearing will be necessary to resolve the question of compliance. Furthermore, because applicants receive written confirmation of registration in the Registration Acknowledgement Letter and, as noted previously, will be able to promptly secure another copy from Selective Service, these proposed regulations, like the statute itself, place the burden of proof on the applicant to "provide the Secretary with information and materials *establishing* that he has complied with the registration requirement," 50 U.S.C. app. 462(f)(4), a burden of proof clearly recognized during the Congressional debate over passage of this statute. Cong. Rec. 4945, May 12, 1982.

Lastly, the Secretary stresses that any determination of registration compliance made under these proposed regulations and procedures is made for title IV student assistance eligibility purposes only. Any determination of compliance made here, unless reopened and revised in light of additional evidence, resolves only the issue of the applicant's eligibility for title IV aid and does not determine the applicant's status with the Selective Service, which has its own independent administrative jurisdiction and procedures.

Executive Order 12291: These proposed regulations have been reviewed in accordance with Executive Order 12291. They are classified as nonmajor because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification: The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. These regulations implement a new statutory eligibility criterion—registration with Selective Service—for title IV student financial assistance. The small entities affected will be small institutions of postsecondary education. Verification of registration compliance will be based on documentation furnished by students and will therefore not have a significant economic impact on these institutions.

Invitation To Comment: Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the February 28, 1983 will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Regional Office Building 3, Room 4318, 400 Maryland Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is especially invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Education Impact: The Secretary also particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedures, Colleges and universities, Consumer protection, Education, Loan programs-education, Grant programs-education, Student Aid.

Citation of Legal Authority: A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

Dated: January 21, 1983.

T. H. Bell,

Secretary of Education.

(Catalogue of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant Program, 84.007; Guaranteed Student Loan Program, 84.032; PLUS Program, 84.032; College Work-Study Program, 84.033; National Direct Student Loan Program, 84.038; Pell Grant Program, 84.063; State Student Incentive Grant Program, 84.069)

PART 668—[AMENDED]

The Secretary proposes to amend Part 668 of Title 34 of the Code of Federal Regulations as follows:

1. The table of contents for Subpart B is amended, by adding five new sections, to read as follows:

Subpart B—[Amended]

* * * * *

668.23 Statement of educational purpose.
668.24 Statement of registration compliance.
668.25 Model statement of educational purpose and registration compliance.
668.26 Verification of registration compliance.
668.27 Notification and administrative review.

2. A new § 668.23 is added to read as follows:

§ 668.23 Statement of educational purpose.

An institution may not disburse any funds under any of the title IV student financial assistance programs to a student unless the student files with it a Statement of Educational Purpose. In this statement, the student certifies that he or she will use any funds received under these programs solely for educational expenses connected with attendance at the institution at which the student is enrolled or accepted for enrollment. (20 U.S.C. 1091)

3. A new § 668.24 is added to read as follows:

§ 668.24 Statement of registration compliance.

(a)(1) Except as provided in paragraph (d) of this section, unless the student who is applying for title IV aid or, under the PLUS Program, who will benefit from the loan, files a Statement of Registration Compliance with the institution, an institution may not—

(i) Disburse funds under any title IV student financial aid program,

(ii) Certify the institutional portion of the application under the Guaranteed Student Loan or PLUS Program, or

(iii) Certify the institutional portion of the Pell Grant Request for Payment (ED Form 304), if the institution is participating in the Pell Grant Program under the Alternate Disbursement System.

(2) In the Statement of Registration Compliance, the student certifies either that he is registered with Selective Service or that, for a specific reason, he or she is not required to be registered.

(b) For academic year 1983–84 only, the following rules apply with regard to those students who before July 1, 1983 either have applied for a loan under the Guaranteed Student Loan or PLUS Program, or received a disbursement of any title IV student assistance funds, for periods of instruction beginning on or after that date.

(1) An institution must notify a student of the duty to file and verify a Statement of Registration Compliance if the institution—

(i) Receives a loan check, or a notice from a lender that the student has received a loan, under the Guaranteed Student Loan or PLUS Program;

(ii) Receives notice that a loan has been made under the PLUS Program for the benefit of the student,

(iii) Released or endorsed such a loan check, or disbursed other title IV student assistance, before July 1, 1983, for a period of instruction beginning on or after that date for that student, or

(iv) Certified the institutional portion of the Pell Grant Request for Payment (ED Form 304) before July 1, 1983 for a period of instruction beginning on or after that date.

(2) An institution which receives a loan check under the Guaranteed Student Loan or PLUS Program may neither endorse that check nor release it to or for the benefit of a student who fails to file and verify a Statement of Registration Compliance in accordance with this section and §§ 668.26 and 668.27.

(3)(i) An institution shall notify the lender and the Secretary if it determines that a student who has already received or benefited from a loan intended for a period of instruction beginning on or after July 1, 1983 fails to file and verify a Statement of Registration Compliance in accordance with this section and §§ 668.26 and 668.27.

(ii) A student who fails to file and verify the required statement forfeits the right to receive or retain the loan check or its benefits, as well as the right to the payment of interest benefits on that loan. The borrower shall, if demanded by the lender, immediately repay that disbursement.

(4) An institution must attempt to recover the amount of any title IV student assistance it disbursed before July 1, 1983 for periods of instruction beginning on or after that date to a student who fails to file and verify a Statement of Registration Compliance.

(5) An institution which participates in the Pell Grant Program under the Alternate Disbursement System must notify the Secretary if a student notified of the duty to file and verify a Statement of Registration Compliance pursuant to paragraph (b)(1)(iv) of this section fails to do so.

(c) A student shall file a Statement of Registration Compliance once for each award year. If the student's status under registration law changes during the award year after he or she has certified on the Statement of Registration Compliance that he or she is not required to be registered, the student is not required to file a new statement for that award year.

(d) The requirement under paragraph (a) of this section of filing a Statement of Registration Compliance does not apply to students enrolled in an officer procurement program, the curriculum of which has been approved by the Secretary of Defense, at the Citadel, Charleston, South Carolina; North Georgia College, Dahlonega, Georgia; Norwich University, Northfield, Vermont; or Virginia Military Institute, Lexington, Virginia.

(50 U.S.C. App. 462)

4. A new § 668.25 is added to read as follows:

§ 668.25 Model statement of educational purpose and registration compliance.

The Secretary considers the following statement as satisfying the requirements of §§ 668.23 and 668.24(a) and the notification requirement of § 668.27(a):

Statement of Educational Purpose/ Registration Compliance

I certify that I will use any money I receive under the title IV student financial aid programs only for expenses related to attendance at (name of school)_____; and (check one)

- ☐ I certify that I am not required to be registered with Selective Service, because—(check one reason)
- ☐ I am a female.
- ☐ I am in the armed services on active duty (Note: Members of the Reserves and National Guard are not considered on active duty).
- ☐ I have not reached my 18th birthday.
- ☐ I was born before 1960.
- ☐ I am a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.
- ☐ I certify that I am registered with Selective Service.

Signature: _____

Date: _____

Notice.—You will not receive title IV financial aid unless you complete this statement and, if required, give proof to your school that you are registered.

(20 U.S.C. 1091 and 50 U.S.C. App. 462)

5. A new § 668.26 is added to read as follows:

§ 668.26 Verification of registration compliance.

(a) A student who has certified that he is registered with Selective Service on the Statement of Registration Compliance shall verify that he is registered by submitting appropriate documentation to the institution.

(b) If the institution determines that the student verified his registration compliance in a previous award year, the student is not required to resubmit documentation to the institution verifying that he is registered.

(c) The documentation that may be used to verify registration compliance is—

(1) A copy of the student's Registration Acknowledgement Letter (SSS Form 3A or 3A–S), or

(2) The financial aid transcript prepared pursuant to §668.14 bearing the student's Selective Service number, or

(3) Other documentation from the Selective Service, if approved by the Secretary and the Director of the Selective Service.

(d) Except as provided in paragraph (e) of this section, until documentation of the student's registration compliance is received, the institution may not—

(1) Disburse funds under any title IV student financial aid program, or

(2) Certify the institutional portion of the application under the Guaranteed Student Loan or PLUS Programs, or

(3) Certify the institutional portion of the Pell Grant Request for Payment (ED Form 304), if the institution is participating in the Pell Grant Program under the Alternate Disbursement System.

(e)(1) A student who become 18 years of age after the March 31st immediately preceding the award year for which he seeks aid and who has registered with Selective Service but has not yet received his original Registration Acknowledgement Letter may temporarily verify his registration by submitting to the institution a notarized affidavit to that effect.

(2) *At the option of the institution,* a student who has registered with Selective Service and requested but not yet received a copy of his Registration Acknowledgement Letter may temporarily verify his registration by submitting to the institution—

(i) A notarized affidavit in which he affirms that he has registered and has requested but not yet received a duplicate copy of his Registration Acknowledgement Letter, and

(ii) A copy of his request to Selective Service for the acknowledgement of his registration.

(3)(i) An institution which accepts an affidavit under paragraphs (e)(1) or (2) of this section, shall—

(A) Disburse title IV funds (except under the Guaranteed Student Loan or PLUS Programs) for not more than one payment period; and

(B) Certify the institutional portion of the Pell Grant Request for Payment (ED Form 304), if the institution is participating in the Pell Grant Program under the Alternate Disbursement System.

(ii) An institution which accepts an affidavit under paragraph (e) (1) shall, in addition, certify the institutional portion of the application under the Guaranteed Student Loan or PLUS program.

(4) A student may file an affidavit under paragraphs (e) (1) or (2) of this section only once and shall submit documentation to verify his registration to the institution within one hundred twenty (120) days of the date of the affidavit.

(5 (i) If the student does not submit the documentation within one hundred twenty (120) days, the institution shall consider all title IV funds received by the student for the payment period in question to be an overpayment which the student must repay. The institution shall—

(A) Make a reasonable effort to contact the student and recover the overpayment, and, if unsuccessful,

(B) Provide the Secrtary with the student's name, amount of overpayment, Social Security number, and other relevant information.

(ii) (A) If the institution certifies the institutional portion of an application under the Guaranteed Student Loan of PLUS program for a student who fails to submit the required documentation within one hundred twenty (120) days, the institution shall notify the lender and the Secretary.

(B) A student who fails to submit the required documentation within one hundred twenty (120) days forfeits the right to receive the benefits of a loan under the Guaranteed Student Loan or PLUS program, as well as the right to payment of interest benefits on the loan. The borrower shall, if demanded by the lender, immediately repay that disbursement.

(6) The Secretary considers the following affidavit as satisfying the requirement of paragraph (e) (1):

Affidavit of registration compliance

I affirm under penalty of perjury that I am registered with Selective Service, that I have not received my Registration Acknowledgement Letter from Selective Service, and that I reached my 18th birthday after March 31 of this year. I understand that if this information is false, I could receive either a $10,000 fine, a prison sentence, or both. I also understand that if I do not provide proof from Selective Service of my registration to my school within 120 days of the date of this affidavit, I must repay any title IV student financial aid I have received from this school period.

Signature: _____

Date: _____

(7) The Secretary considers the following affidavit as satisfying the requirement of paragraph (e) (2) of this section:

Affidavit of Registration Compliance

I affirm under penalty of perjury that I am registered with Selective Service and that I have requested proof of my registration from Selective Service. I understand that if this information is false, I could receive either a $10,000 fine, a prison sentence, or both. I also understand that if I do not provide this proof from Selective Service to my school within 120 days of the date of this affidavit, I must repay any title IV student financial aid I have received for this school period.

Signature: _____

Sate: _____

(f) The institution shall make the documentation verifying the student's registration compliance a part of the student's record in accordance with the record retention provisions in each of the title IV program regulations.

(20 U.S.C. 1097 and 50 U.S.C. App. 462)

6. A new § 668.27 is added to read as follows:

§ 668.27 Notification and administrative review.

(a) The institution shall provide written notice to any student who has not filed the Statement of Registration Compliance in accordance with § 668.24 and verified that compliance in accordance with §668.26 that the student is not eligible for assistance under any title IV student assistance program. The institution may provide this notice with the Statement of Registration Compliance in accordance with § 668.25.

(b) (1) A student who is required to register but has not done so may establish his eligibility for title IV aid for the payment period in which he was notified under paragraph (a) of this section by registering, filing a Statement of Registration Compliance, and verifying that he is registered in accordance with §§ 668.24 and 668.26 within thirty days or before the end of

the same payment period whichever is later.

(2) A registered student who fails to state and verify that he is registered with Selective Service in accordance with §§ 668.24 and 26 may establish his eligibility for title IV aid for the payment period in which he was notified under paragraph (a) of this section by filing a Statement of Registration Compliance and verifying that he is registered in accordance with §§ 668.24 and 668.26.

(3) If a student does not file a Statement of Registration Compliance and verify that compliance within thirty days or before the end of that payment period whichever is later, he may not receive aid for that payment period.

(c)(1) A student denied title IV assistance because he has not stated and verified his registration compliance may seek a hearing from the Secretary by filing a request in writing with the Secretary. The student must submit with that request—

(i) A statement that he is in compliance with registration requirements, and

(ii) A concise statement of the reasons why he has not been able to verify that he is in compliance with those requirements, and

(iii) Copies of all material that he has already supplied to the institution to verify his compliance.

(2) The Secretary shall provide an opportunity for a hearing to a student who—

(i) asserts that he is compliance with registration requirements, and

(ii) files a written request in accordance with paragraph (c)(1) of this section within the award year for which he was denied title IV assistance.

(3) An official designated by the Secretary shall conduct any hearing held under paragraph (c)(2) of this section. The sole purpose of this hearing is the determination of compliance with registration requirements. At this hearing, the student retains the burden of proving compliance, by credible evidence, with the requirements of the Military Selective Service Act. The designated official shall receive only such evidence as he or she considers relevant to establishing whether the student is in compliance with Selective Service registration requirements. The designated official shall not consider challenges based on constitutional or other grounds to the requirements that a student state and verify compliance with registration requirements, or to those registration requirements themselves.

(d) Any determination of compliance made under this section shall be final unless reopened and revised on the basis of additional evidence.

(e) Any determination of compliance made under this section shall be binding only for purposes of determining eligibility for title IV student assistance.

(50 U.S.C. App. 462)

7. Section 668.14 is amended by revising paragraphs (a)(2), (e)(5) and (e)(6), and by adding a new paragraph (e)(7) to read as follows:

§ 668.14 Financial Aid Transcript.

(a) * * *

(2) *Limited exception to the general rule.* If the institution does not receive the student's transcript or a written notice pursuant to paragraph (d) of this section that the transcript will not be forthcoming, in a timely manner, it may disburse title IV funds for one payment period *provided* the student has submitted other documentation verifying his Selective Service registration compliance in accordance with § 668.26(c)(1) or (3).

* * * * *

(e) * * *

(5) Whether the student is in default on—

(i) A National Direct Student Loan made by the institution, or

(ii) A Guaranteed Student Loan or a PLUS Loan that the student received for attendance at the institution if the institution is aware of the default status,

(6) Whether the student owes a refund on—

(i) A Pell or Supplemental Grant for attendance at the institution, or

(ii) A State Student Incentive Grant received for attendance at the institution, if the institution is aware that the student owes the refund, and

(7) The student's Selective Service number from the documentation used to verify the student's registration compliance in accordance with § 668.26(c).

(20 U.S.C. 1091, 1094; 50 U.S.C. App. 462)

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Thursday
January 27, 1983

Part IV

Office of Management and Budget

Implementation of Executive Order 12372; "Intergovernmental Review of Federal Programs"

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OFFICE OF MANAGEMENT AND BUDGET

Implementation of Executive Order 12372, "Intergovernmental Review of Federal Programs"

AGENCY: Intergovernmental Affairs Division and Associate Director for Management and Budget.

ACTION: Notice of Letter to the Governors.

SUMMARY: Executive Order 12372,"Intergovernmental Review of Federal Programs," was signed by President Reagan on July 14, 1982. Each agency's proposed implementing rule or notice was published in the January 24, 1983 **Federal Register** for public comment. These documents referenced an OMB letter of guidance to the Governors advising them of information states need to submit to the Federal Government in order to participate in the implementation of Executive Order 12372. A sample letter is reproduced below:

Executive Office of the President,
Office of Management and Budget,
Washington, D.C. 20503

Hon. Scott M. Matheson,
Governor of Utah,
Salt Lake City, Utah

Dear Governor Matheson: The purpose of this letter is to advise you of the information the states need to submit to the Federal Government in order to participate in the implementation of Executive Order 12372, "Intergovernmental Review of Federal Programs,"about which I wrote the governors previouisly. Proposed implementing rules, which are simple and regulate only Federal actions, will be published in the January 24th **Federal Register**, with an invitation for comment by March 10, 1983. The information listed in this letter should be considered in the context of the proposed rules.

There are three types of information a state needs to provide OMB in order to initiate the new simplified intergovernmental reivew procedures:

1. Identify or develop a process for reivewing and commenting on Federal financial assistance and direct development activities; designate it as such by any appropriate official action or constitutionally recognized means (e.g., legislation, executive order); and provide the Office of Management and Budget with an assurance:

- that elected officials have been involved in the designation of the process, and that the process is in full compliance with all the requirements of the Order.
- that the state's process has been developed in consultation with local general purpose governments, and local special purpose governments the state considers appropriate; and
- that local elected officials have been consulted on the selection of Federal programs and activities to be covered by the state process.

If the assurance submitted on behalf of the state is signed by the governor, the Federal government will make no further verification.

2. Send a list of the Federal programs and activities the state wants covered by its process to OMB.

The Federal programs and activities eligible for coverage by your process can be determined from two sources. First, the Federal agencies have published lists of the programs and activities they propose to *exclude* from coverage as attachments to the proposed rules. Agencies are seeking public comment on these. Second, Federal agencies will provide information on programs and activities *currently eligible* for coverage under the Order. Pending receipt of this information, you may assume, for planning purposes, that all Federal financial assistance and direct development activities not proposed for exclusion are eligible for coverage. From the programs eligible for coverage, a state can specify as many or as few as it wishes to review.

3. Provide OMB with the name and address of the single office or official in the state who is empowered to transmit the comments generated by the designated state process.

Submission of the "state's official views" by a single point of contact will inform the Federal agencies that the Executive Order and its implementing provisions apply to that submission. The existence of the single point of contact does not, of course, preclude the normal day-to-day communication that has always existed among Federal, State, and local officials.

A state is free to designate a process for consultation in accordance with the Executive Order at any time. However, Federal agencies will rescind all regulations implementing OMB Circular A–95 on or about April 30, 1983. Therefore, to avoid a gap in the consultation process with the Federal agencies, states should provide the information specified in this letter to OMB *on or before April 30, 1983.*

There are no limits on the number of changes a state can make to its process, nor in the time periods in which those changes must occur. Once the initial assurance is provided as outlined above, a state can change its process simply by notifying OMB of changes in the single point of contact and/or informing the affected Federal agencies of changes (additions, deletions, etc.) in the list of programs it wants covered.

Two additional features of the Order should be noted. First, under the Order, the state can delegate its review and comment responsibility "to local elected officials," without any limitation on the kinds of programs or activities to be reviewed (e.g., specific cases, whole programs, etc.). The state does not need to inform the Federal Government if or when such a delegation occurs. As long as the comments are transmitted to the agencies via the single point of contact, the agencies will respond to those comments in the manner called for by the Order and its implementing provisions.

Second, it is not necessary that each official comment or recommendation produced by the state's process have a certification of the involvement of elected officials.

Please send the requested assurance and information to: Mr. Harold I. Steinberg, Associate Director for Management, Office of Management and Budget, Room 238, Old Executive Office Building, Washington, D.C. 20503. Mr. James F. Kelly, Deputy Associate Director for Intergovernmental Affairs, will answer any questions you or your staff may have on the Executive Order or its implementation (202/395–3774).

In closing, let me reiterate the President's strong commitment to strengthening our federal system. With Executive Order 12372, Federal agencies have been directed to utilize *your* processes to solicit your views on their proposed actions and to increase their responsiveness to those views. We look forward to hearing from you as we work together to establish this improved system of intergovernmental cooperation.

Sincerely,

David A. Stockman,
Director.

Dated: January 21, 1983.

Harold I. Steinberg,
Associate Director of Management.

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Food and Drug Administration

Food Grades and Standards
Food and Drug Administration

Food Ingredients
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 550 and 610

Pay Administration (General) and Hours of Duty

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is revising the regulations pertaining to an agency's responsibility to establish regularly scheduled workweeks for its employees and the regulations pertaining to an employee's entitlement to premium pay for regularly scheduled work at night, on Sunday, or on a holiday, or for overtime work outside his or her regularly scheduled basic workweek. Over the years, the Comptroller General and the courts have greatly expanded the original meaning of the term "regularly scheduled" as it is used in the regulations. This revision will clarify the definition of the term "regularly scheduled" and will clarify the relationship originally intended between an agency's requirement to establish workweeks for its employees and an employee's entitlement to premium pay for that work.

EFFECTIVE DATE: February 28, 1983.

FOR FURTHER INFORMATION CONTACT: Dwight W. Brown, (202)–632–4634.

SUPPLEMENTARY INFORMATION: Proposed regulations were published in the **Federal Register** on January 8, 1982 (47 FR 958), for a public comment period of 60 days. The Office of Personnel Management (OPM) received written comments from 12 Federal agencies, three labor organizations, and five individuals. No substantive changes are required in the proposed regulations. However, OPM has modified the proposed regulations slightly to incorporate comments as explained below.

Employees Excluded From Coverage

The listing of employees to whom subpart A of Title 5, Code of Federal Regulations does not apply (5 CFR 550.101(b)) has been revised to reflect recent amendments to section 5541(2) of title 5, United States Code. This technical amendment was not in the proposed rule; however, it is necessary to bring this subsection in line with current law. The applicability of Subpart A of Part 550 and Subpart A of Part 610 is based on § 550.101 of Title 5, Code of Federal Regulations.

Authority to Regulate

One labor organization questioned OPM's authority to issue regulations conflicting with statutory construction and one individual questioned whether OPM can legitimately limit the interpretations of the Comptroller General.

The Comptroller General, when faced with the term "regularly scheduled," has defined it in the absence of any rule by OPM, which is the administrator. In turn, the courts have given different and conflicting interpretations to the use of the term "regularly scheduled." However, in *Anderson, et al.* v. *United States,* 201 Ct. Cl. 660 (1973), the Court of Claims has supported the proposition that regularly scheduled work is work that has been scheduled as part of the employee's regularly scheduled administrative workweek. This is OPM's definition of this term.

The authorities for OPM to regulate concerning premium pay and hours of duty are contained at 5 U.S.C. 5548 and 6101(c). OPM, as the administrator, is clarifying the definition of the term "regularly scheduled" based on its use within the statute—the Federal Employees Pay Act of 1945, as amended (and codified in subchapter V of chapter 55 and chapter 61 of title 5, United States Code). The General Accounting Office (GAO) in its comments on the proposed rule has acknowledged OPM's authority to issue regulations under these authorities. Further, in the same comments GAO concluded "that it is within OPM's authority to so define an employee's [regularly scheduled] administrative workweek and thus limit an employee's entitlement to overtime and night differential."

Definition of the Term "Regularly Scheduled"

GAO commented that OPM's definition of the term "regularly scheduled" would impact on prior decisions of that office in two major areas: (1) Those decisions holding that a General Schedule employee who works occasional overtime at night during a regularly scheduled tour of duty, but not his tour of duty, is entitled to night differential (see 59 Comp. Gen. 101 (1979)); and (2) those decisions defining "regularly scheduled work" to mean work that is scheduled at least 1 day in advance and scheduled to recur on successive days or after specified intervals so as to fall within a predictable and discernible pattern (see 59 Comp. Gen. 101, supra).

OPM agrees. Under OPM's definition of the term "regularly scheduled," it is the employee who must be scheduled to perform the work, including nightwork, and the work must be scheduled in advance of the administrative workweek as part of the employee's regularly scheduled administrative workweek to be considered "regularly scheduled." Accordingly, these prior decisions would no longer be controlling.

Premium Pay

(1) Definitions

The definitions of Sunday and holiday work in § 550.103 and the authorization for night pay differential in § 550.121 have been modified to clarify that the work must be performed by the employee to be payable at premium rates (except for absences on a holiday or periods of leave of less than 8 hours for entitlement to night pay differential under 5 U.S.C. 5545 (a)).

The definitions of Sunday and holiday work have been modified to include the term "nonovertime work." By definition, Sunday work and holiday work are mutually exclusive of overtime work. If a full-time employee performs work on Sunday, he or she is entitled to Sunday pay if the Sunday work was scheduled as a part of his or her basic 40-hour workweek; otherwise, he or she is entitled to overtime pay for such work. The same is true for holiday work. If a full-time employee performs work during

the regularly scheduled hours of his or her daily tour of duty on a holiday, he or she is entitled to premium pay for holiday work; otherwise work on a holiday outside the hours of the employee's daily tour of duty is overtime work and entitles the employee to overtime pay.

On the other hand, nightwork is not mutually exclusive of overtime work. While nightwork must be scheduled as part of the employee's regularly scheduled administrative workweek to be compensable at night premium rates, an employee may be entitled to overtime pay and night pay differential for the same hour—a period of regular overtime work during night hours. For example, a General Schedule employee with a regularly scheduled administrative workweek of 48 hours; Monday through Saturday, 6 p.m. to 2 a.m., is entitled to 8 hours overtime pay and 48 hours night pay differential. If the employee performs additional irregular or occasional overtime work at night during the administrative workweek, he or she is entitled to overtime pay for such work, but he or she is not entitled to night pay differential for the additional period of overtime work.

(2) Temporary Duty at Night

There were numerous comments concerning the language and the intent of § 550.122(d). These comments indicated confusion concerning what is meant by a "temporary assignment" and what is the time frame in which a temporary assignment must be made to qualify an employee for night pay.

This section has been rewritten to clarify its intended purpose. It authorizes the payment of night pay when an employee is temporarily assigned during the administrative workweek to a daily tour of duty that includes nightwork. This temporary change in the daily tour of duty within the employee's regularly scheduled administrative workweek is distinguished from a period of irregular or occasional overtime work in addition to the employee's regularly scheduled administrative workweek. In the first case, the employee is entitled to night pay differential for work performed as part of his or her regularly scheduled tour of duty, and in the latter case the employee is not entitled to night pay differential for the additional period of irregular or occasional overtime work.

(3) First 40-Hour Tours of Duty Under Special Situations

Two agencies recommended that the final regulations address the concept of "regularly scheduled" work in relation to first 40-hour tours of duty.

This recommendation has been incorporated. Section 610.111(b) has been modified to clarify (1) That a first 40-hour tour of duty is a basic workweek without the requirement for specific days and hours, and (2) that all work performed by an employee within the first 40 hours is considered regularly scheduled work for premium pay and hours of duty purposes.

Hours of Duty

(1) Failure to Schedule Work

GAO stated the view that unless agencies strictly comply with the scheduling requirements in § 610.121 (b), there will be claims for overtime pay and night pay for "regularly scheduled" work. They recommended that the following guidance which appeared in the "Supplementary Information" of the proposed regulations be contained in the final regulations:

> If an agency fails to schedule its employees in a manner that realistically reflects the agency's actual work requirements, the failure to schedule will constitute a violation of regulations warranting payment of premium pay for "regularly scheduled" work.

GAO further noted that the proposed regulations would not change the holding in their decision in 59 Comp. Gen. 101, supra, with respect to employees who habitually and recurrently perform overtime work at night due to the inherent nature of their duties. It follows that if an agency failed to properly schedule overtime or nightwork, employees in this situation would be entitled to overtime or night differential for "regularly scheduled" work.

This recommendation has been incorporated. A modified version of the above statement has been added in § 610.121(b). We note that in addition to Anderson, wherein the Court of Claims supported the principle that "regularly scheduled" work means work that has been scheduled as part of the employee's regularly scheduled administrative workweek, the Court of Clams in *Aviles, et al.* v. *United States*, 151 Ct. Cl. 1 (1960), had previously expressed another principle that:

> [T]he mere fact of omitting regular overtime from the scheduled tours of duty does not make such overtime occasional or irregular.

Under the Aviles principle, this overtime work could have been scheduled under the regulations; therefore, it should have been scheduled. This principle is the basis for GAO's position in 59 Comp. Gen. 101, supra, with respect to employees who habitually and recurrently perform overtime work at night. OPM concurs and we have included this requirement in § 610.121 (b) to fill a gap in the proposed regulations. Thus, "regularly scheduled" work will include: (1) Any work that is scheduled as part of an employee's regularly scheduled administrative workweek (Anderson), and (2) any work that should have been scheduled as part of an employee's regularly scheduled administrative workweek (Aviles).

(2) Change in Tour of Duty

One agency recommended that the language in § 610.121(b) that refers to a change in an "employee's work requirements" be modified to refer to a change in the "specific days and hours of work" of an employee's tour of duty for the administrative workweek. This recommendation has been incorporated. This section requires the head of an agency to reschedule an employee's tour of duty when the specific days and hours required of the employee in the ensuing workweek are known in advance and can be scheduled. The key to this requirement is that the official who is responsible for scheduling the work of employees: (1) Has knowledge of the different work requirement before the administrative workweek begins, and (2) has the capability of determining which employee should have the specific days and hours of his or her tour of duty rescheduled to meet this swork requirement. Having this knowledge, the official is responsible for scheduling the work as part of the employee's regularly scheduled tour of duty and such work is "regularly scheduled" work. However, if the official does not know of the requirement for additional work until after commencement of the administrative workweek, he or she has no recourse but to order an employee to perform such work in addition to his or her regularly scheduled tour of duty. This additional work would be irregular or occasional overtime work. The same would apply if the need for the additional overtime work is known in advance of the administrative workweek but the official does not know which days or hours the work will be required or does not know which employee will be required to perform the work. In this case, when the official orders the additional overtime work during the administrative workweek, such work is irregular or occasional overtime work.

Numerous comments indicated concern that the paperwork for changing tours of duty of employees may be burdensome unless temporary changes may be made by agency supervisors on time cards or other documents. Section 610.121(b) has been modified to include

the requirement that the head of the agency notify the employee of the change in tour of duty and annotate the employee's time card or document the change on other internal agency forms for recording work. The change of an employee's regularly scheduled administrative workweek to meet a different work requirement in an ensuing workweek need not be documented on an SF–50 (unless, of course, the employee's work schedule is changed from part-time to full-time, or vice versa, or the total number of hours that a part-time employee will work is changing).

One agency recommended that OPM prescribe the test or the circumstances when worktime that is not properly scheduled by the head of an agency shall become "regularly scheduled" work. One labor organization recommended a review mechanism be established to hold managers accountable to prevent manipulating schedules to purposely avoid premium pay. One individual stated that the proposed rules provide no remedy for employees if they believe they have been aggrieved by the agency's failure to schedule them properly. Section 610.121(b) requires the head of an agency (or an official who has been delegated the authority to schedule work of employees) to reschedule an employee's tour of duty when it is known in advance of an administrative workweek that there will be a different work requirement in that workweek. The head of the agency has the responsibility to establish an employee's tour of duty (the specific calendar days and hours of the days) to meet agency work requirements. If he or she fails to schedule the employee in a manner that realistically reflects the employee's actual work requirement for that administrative workweek, this is a violation of OPM regulations. In this event, the employee has various avenues in which to seek corrective action and payment for "regularly scheduled" work. For example, the employee may seek administrative relief by filing a grievance under the appropriate agency or negotiated grievance procedures or submitting a claim to GAO. After the employee has exhausted administrative remedies, he or she may seek judicial relief.

(3) Voluntary Work During Night Hours

GAO recommended that the scheduling requirements in § 610.121(b) be expanded to include situations where employees perform overtime work during night hours on a voluntary basis.

Employees who perform voluntary overtime work are paid overtime pay for such work regardless of whether it is regular overtime work or irregular or occasional overtime work. In this situation, regularly scheduled work is a determinant only for the employee's entitlement to night pay differential. It is OPM's position that such voluntary overtime work is not regularly scheduled work, provided no specific employee is scheduled to perform the voluntary overtime work and there is no penalty for "no shows."

Effective Date

GAO recommended that the final regulations expressly state that they are prospective only. They stated a long held principle that regulations may be amended prospectively to increase or decrease rights under them, but, in the absence of obvious error, they may not be amended retroactively.

The purpose of these regulations is to clarify the definition of the term "regularly scheduled" and to clarify the relationship originally intended between an agency's requirement to establish workweeks for its employees and an employee's entitlement to premium pay for that work. The current work scheduling provisions and premium pay provisions were enacted by Congress in the Federal Employees Pay Act of 1945. The term "regularly scheduled," and related terms, were contained in the original Act of 1945 (and subsequent amendments in 1946 and 1954) and were used in OPM (then Civil Service Commission) regulations as early as 1954.

It is OPM's position that these regulations are a clarification of the originally intended meaning of this term. The Court of Claims in its latest ruling on this issue adopted OPM's interpretation. See *Bennett et al.* v. *United States,* No. 565–78 (Ct. Cl. Sept. 30, 1982). Accordingly, all claims for the payment of premium pay for "regularly scheduled" work (including work performed during prior periods) should be settled based on the definition of this term as clarified in these regulations.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because these regulations concern administrative practices and will affect only employees of the Federal Government.

List of Subjects in 5 CFR Parts 550 and 610

Government employees, Holidays, Wages, Civil defense, Administrative practice and procedure.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, Parts 550 and 610 of Title 5 of the Code of Federal Regulations are amended as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

1. Section 550.101 is amended by removing and reserving paragraph (b)(3), revising paragraphs (4), (9), (15), and (16), and adding paragraphs (b)(17) and (18).

§ 550.101 Coverage and exemptions.

* * * * *

(b) * * *

(3) Reserved;

(4) An employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under subchapter IV of chapter 53 of title 5, United States Code, or by a wage board or similar administrative authority serving the same purpose, except that § 550.113(d) is applicable to such an employee whose rate of basic pay is fixed on an annual or monthly basis;

* * * * *

(9) A member of the United States Park Police or the United States Secret Service Uniformed Division;

* * * * *

(15) An employee of a Federal land bank, a Federal intermediate credit bank, or a bank for cooperatives;

(16) A "teacher" or an individual holding a "teaching position" as defined by section 901 of title 20, United States Code;

(17) A Foreign Service officer or a member of the Senior Foreign Service; or

(18) A member of the Senior Executive Service.

* * * * *

2. Section 550.103 is amended by revising paragraphs (e), (f), (g), (i), (k), (n), and (o), and adding paragraphs (p) and (q) to read as follows:

§ 550.103 Definitions.

* * * * *

(e) "Nightwork" has the meaning given that term in § 550.121, and includes any nightwork preformed by an employee as part of his or her regularly scheduled administrative workweek.

(f) "Irregular or occasional overtime work" means overtime work that is not

part of an employee's regularly scheduled administrative workweek.

(g) "Regular overtime work" means overtime work that is part of an employee's regularly scheduled administrative workweek.

* * * * *

(i) "Premium pay" means additional pay authorized by subchapter V of chapter 55 of title 5, United States Code, and this subpart for overtime, night, holiday, or Sunday work, and for standby duty or administratively uncontrollable work.

* * * * *

(k) "Tour of duty" means the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek.

* * * * *

(n) "Regularly scheduled administrative workweek," for a full-time employee, means the period within an administrative workweek, established in accordance with § 610.111 of this chapter, within which the employee is regularly scheduled to work. For a part-time employee, it means the officially prescribed days and hours within an administrative workweek during which the employee is regularly scheduled to work.

(o) "Sunday work" means nonovertime work performed by an employee during a regularly scheduled daily tour of duty when any part of that daily tour of duty is on a Sunday.

(p) "Regularly scheduled" work means work that is scheduled in advance of an administrative workweek under an agency's procedures for establishing workweeks in accordance with § 610.111 of this chapter.

(q) "Holiday work" means nonovertime work performed by an employee during a regularly scheduled daily tour of duty on a holiday designated in accordance with § 610.202 of this chapter.

3. In § 550.112, paragraph (d) is revised to read as follows:

§ 550.112 Computation of overtime work.

* * * * *

(d) *Night, Sunday, or holiday work.* Hours of night, Sunday, or holiday work are included in determining for overtime pay purposes the total number of hours of work in an administrative workweek.

* * * * *

4. In § 550.121, paragraph (a) is revised to read as follows:

§ 550.121 Authorization of night pay differential.

(a) Except as provided by paragraph (b) of this section, nightwork is regularly scheduled work performed by an employee between the hours of 6 p.m. and 6 a.m. Subject to § 550.122, and except as otherwise provided in this subpart, an employee who performs nightwork is entitled to pay for that work at his or her rate of basic pay plus a night pay differential amounting to 10 percent of his or her rate of basic pay.

* * * * *

5. In § 550.122, paragraphs (c) and (d) are revised to read as follows:

§ 550.122 Computation of night pay differential.

* * * * *

(c) *Relation to overtime, Sunday, and holiday pay.* Night pay differential is in addition to overtime, Sunday, or holiday pay payable under this subpart and it is not included in the rate of basic pay used to compute the overtime, Sunday, or holiday pay.

(d) *Temporary assignment to a different daily tour of duty.* An employee is entitled to a night pay differential when he or she is temporarily assigned during the administrative workweek to a daily tour of duty that includes nightwork. This temporary change in a daily tour of duty within the employee's regularly scheduled administrative workweek is distinguished from a period of irregular or occasional overtime work in addition to the employee's regularly scheduled administrative workweek.

6. In § 550.131, paragraph (a) is revised to read as follows:

§ 550.131 Authorization of pay for holiday work.

(a) Except as otherwise provided in this subpart, an employee who performs holiday work is entitled to pay at his or her rate of basic pay plus premium pay at a rate equal to his or her rate of basic pay for that holiday work that is not in excess of 8 hours.

* * * * *

PART 610—HOURS OF DUTY

1. Section 610.102 is amended by revising paragraph (b) and adding paragraphs (g) and (h) to read as follows:

§ 610.102 Definitions.

* * * * *

(b) "Regularly scheduled administrative workweek," for a full-time employee, means the period within an administrative workweek, established in accordance with § 610.111, within which the employee is regularly scheduled to work. For a part-time employee, it means the officially prescribed days an hours within and administrative workweek during which the employee is regularly scheduled to work.

* * * * *

(g) "Regularly scheduled" work means work that is scheduled in advance of an administrative workweek under an agency's procedures for establishing workweeks in accordance with § 610.111.

(h) "Tour of duty" means the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek.

2. Section 610.111 is amended by revising paragraphs (a) and (b) to read as follows:

§ 610.111 Establishment of workweeks.

(a) The head of each agency, with respect to each full-time employee to whom this subpart applies, shall establish by regulation:

(1) A basic workweek of 40 hours which does not extend over more than 6 of any 7 consecutive days. Except as provided in paragraphs (b) and (c) of this section, the regulation shall specify the days and hours within the administrative workweek that constitute the basic workweek.

(2) A regularly scheduled administrative workweek that consists of the 40-hour basic workweek established in accordance with paragraph (a)(1) of this section, plus the period of regular overtime work, if any, required of each employee. Except as provided in paragraphs (b) and (c) of this section, the regulation, for purposes of leave and overtime pay administration, shall specify by days and hours of each day the periods included in the regularly scheduled administrative workweek that do not constitute a part of the basic workweek.

(b) When it is impracticable to prescribe a regular schedule of definite hours of duty for each workday of a regularly scheduled administrative workweek, the head of an agency may establish the first 40 hours of duty performed within a period of not more than 6 days of the administrative workweek as the basic workweek. A first 40-hour tour of duty is the basic workweek without the requirement for specific days and hours within the administrative workweek. All work performed by an employee within the first 40 hours is considered regularly scheduled work for premium pay and hours of duty purposes. Any additional

hours of officially ordered or approved work within the administrative workweek are overtime work.

* * * * *

3. Section 610.121 is revised to read as follows:

§ 610.121 Establishment of work schedules.

(a) Except when the head of an agency determines that the agency would be seriously handicapped in carrying out its functions or that costs would be substantially increased, he or she shall provide that—

(1) Assignments to tours of duty are scheduled in advance of the administrative workweek over periods of not less than 1 week;

(2) The basic 40-hour workweek is scheduled on 5 days, Monday through Friday when possible, and the 2 days outside the basic workweek are consecutive;

(3) The working hours in each day in the basic workweek are the same;

(4) The basic nonovertime workday may not exceed 8 hours;

(5) The occurrence of holidays may not affect the designation of the basic workweek; and

(6) Breaks in working hours of more than 1 hour may not be scheduled in a basic workday.

(b)(1) The head of an agency shall schedule the work of his or her employees to accomplish the mission of the agency. The head of an agency shall schedule an employee's regularly scheduled administrative workweek so that it corresponds with the employee's actual work requirements.

(2) When the head of an agency knows in advance of an administrative workweek that the specific days and/or hours of a day actually required of an employee in that administrative workweek will differ from those required in the current administrative workweek, he or she shall reschedule the employee's regularly scheduled administrative workweek to correspond with those specific days and hours. The head of the agency shall inform the employee of the change, and he or she shall record the change on the employee's time card or other agency document for recording work.

(3) If it is determined that the head of an agency should have scheduled a period of work as part of the employee's regularly scheduled administrative workweek and failed to do so in accordance with paragraphs (b) (1) and (2) of this section, the employee shall be entitled to the payment of premium pay for that period of work as regularly scheduled work under Subpart A of Part 550 of this chapter. In this regard, it must be determined that the head of the agency: (i) Had knowledge of the specific days and hours of the work requirement in advance of the administrative workweek, and (ii) had the opportunity to determine which employee had to be scheduled, or rescheduled, to meet the specific days and hours of that work requirement.

(5 U.S.C. 5548 and 6101(c))

[FR Doc. 83-2490 Filed 1-27-83; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 396]

Lemons Grown in California and Arizona Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 30–February 5, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 30, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantial affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on January 25, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.696 is added as follows:

§ 910.696 Lemon Regulation 396.

The quantity of lemons grown in California and Arizona which may be handled during the period January 30, 1983, through February 5, 1983, is established at 190,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 27, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-2666 Filed 1-27-83; 12:12 pm]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 7

[Docket No. 83-4]

Bank Service Corporations, Transactions With Affiliates, Borrowing Limits, Visitation

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: This final rule removes three interpretive rulings pertaining to bank service corporations, transactions with affiliates concerning standby letters of credit and national bank indebtedness. It also amends an interpretive ruling concerning the review of a national bank's records by state officials. This action is necessary in light of the Garn-St Germain Depository Institutions Act of 1982, which was enacted on October 15, 1982, and will harmonize the various rulings with the new act.

EFFECTIVE DATE: January 15, 1983.

FOR FURTHER INFORMATION CONTACT: Moira Donohue, Attorney, Legislative Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1632.

SUPPLEMENTARY INFORMATION

Background

The Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469 (October 15, 1982), significantly amended provisions of law affecting banks, including, among other things, the Bank Service Corporation Act, 12 U.S.C. 1861 *et seq.*; Section 23A of the Federal Reserve Act, 12 U.S.C. 371c, relating to member bank transactions with affiliates; provisions of the National Bank Act regarding borrowings by national banks, 12 U.S.C. 82; and visitation and inspection of national banks by state officials, 12 U.S.C. 484. As a result of these amendments, the following interpretive rulings were superseded: Interpretive Rulings 7.7390, 7.7361, and 7.7518 (12 CFR 7.7390, 7.7361, and 7.7518). In addition, Interpretive Ruling 7.6025(b), (12 CFR 7.6025(b)), relating to visitation, is amended to reflect the new law. Accordingly, the Office of the Comptroller of the Currency ("Office") is removing 12 CFR 7.7390, 7.7361, and 7.7518, and is amending 12 CFR 7.6025(b) as follows:

In the third sentence after the word "except", strike the remainder of the sentence and insert in lieu thereof "for the limited purpose of ensuring compliance with applicable State unclaimed property and escheat laws. State authority to review the books and records of a national bank is limited to those circumstances in which there is reasonable cause to believe that the bank has failed to comply with such laws.".

Special Studies

The Office has determined that these actions do not constitute "major rules" under Executive Order 12291. Removal of the interpretive rulings will merely eliminate confusion resulting from rulings which are inconsistent with the amended law. Amendment of 12 CFR 7.6025(b) will conform that ruling to the new law. These actions will neither increase national bank costs or prices nor have any adverse competitive effect. Therefore, a Regulatory Impact Analysis is not necessary and will not be prepared. The Regulatory Flexibility Act does not apply to this action since the Office is dispensing with notice and comment procedures. Notice and comment are impracticable and contrary to the public interest.

List of Subjects in 12 CFR Part 7

National banks, Bank service corporations, Affiliates, Borrowing limits, Visitation.

Authority and Issuance

PART 7—[AMENDED]

For the reasons set out in the preamble, 12 CFR Part 7 is amended as follows:

1. The authority citation for Part 7—Interpretive Rulings—reads as follows:

Authority: R.S. 324 et seq., as amended; 12 U.S.C. 1 et seq., unless otherwise noted.

§§ 7.7391, 7.7361, 7.7518 [Removed]

2. Sections 7.7391, 7.7361 and 7.7518 are removed.

3. Section 7.6025(b) is revised to read as follows:

§ 7.6025 Books and records of national banks.

* * * * *

(b) *Visitorial powers.* The exercise of visitorial powers over national banks is vested in the Comptroller of the Currency. See 12 U.S.C. 484. Other officials, including state banking officials, have no authority to conduct examinations or to inspect or require the production of books or records of national banks, except for the limited purpose of ensuring compliance with applicable State unclaimed property and escheat laws. State authority to review the books and records of a national bank is limited to those circumstances in which there is reasonable cause to believe that the bank has failed to comply with such laws. Federal law provides special procedures for verifying payroll records for unemployment compensation purposes (26 U.S.C. 3305(c)), for enforcing the Fair Labor Standards Act (29 U.S.C. 211), and for ascertaining the correctness of Federal tax returns (26 U.S.C. 7602).

* * * * *

Dated: January 14, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83-2482 Filed 1-27-83; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 546, 552, 561, 563, 583, and 584

[No. 83-51]

Eligibility for Insurance of Accounts; Holding Company Activities

January 24, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; request for comments.

SUMMARY: The Board is amending its regulations to allow associations with insurance of accounts from the Federal Savings and Loan Insurance Corporation ("FSLIC") that convert to state savings banks to retain their FSLIC insurance, provided they do not receive significantly greater empowerments as a result of obtaining the new charter or designation. These amendments were inadvertently omitted from the changes in the Board's regulations approved by Board Resolution 82-791, effective December 15, 1982. In addition, the Board by this action is incorporating into its regulations a restriction on savings and loan holding company activities required by the Garn-St Germain Depository Institutions Act of 1982 ("Act"), Public Law 97-320, which also was inadvertently omitted from the prior action of the Board. Finally, the Board is deleting certain merger authority that was inadvertently provided by such action that is in excess of express statutory authority.

DATES: Effective December 16, 1982.

Comments must be received by February 22, 1983.

ADDRESS: Send comments to Director, Information Services Section, Office of Communications, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will

be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Randall H. McFarlane, Legislative Counsel, Office of the General Counsel (202–377–6449), at the above address.

SUPPLEMENTARY INFORMATION: In Board Resolution No. 82–791, effective December 15, 1982, the Board amended its regulations concerning the chartering options available to federal and state associations as a result of the enactment of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97–320. That action inadvertently failed, however, to include several conforming changes needed to ensure the ability of FSLIC-insured associations to become state savings banks while maintaining FSLIC insurance of accounts, and otherwise be treated as insured institutions under sections 403(b)(2) and 408(a)(1)(A) of the National Housing Act ("NHA").

It would be unjustifiably burdensome to force institutions that seek to operate as state savings banks to give up their FSLIC insurance where they receive no greater empowerments than those that are available to other state institutions that the FSLIC insures. This is especially so because, given current economic conditions, many of the institutions that could profitably take advantage of the competitive benefits that flow from the term "savings bank" might not qualify for deposit insurance from the Federal Deposit Insurance Corporation, the only available alternative source of federal deposit insurance. The Board does not believe it would be inconsistent with Congressional intent to allow retention of FSLIC insurance as long as the authority available to an institution as a state savings bank is not significantly different than would be available as a state savings and loan, building and loan, homestead association or cooperative bank, and has adopted new 12 CFR 563.29–1 accordingly. Conforming definitional changes are made to 12 CFR 561.1 and 583.6.

The Board, in addition, is implementing a statutory mandate under the Act that requires a unitary savings and loan holding company with an insured institution subsidiary that does not qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code to adhere to the activities restrictions applicable to multiple savings and loan holding companies. New 12 CFR 584.2–2 sets forth the applicable criteria, essentially tracking the statutory language of section 7701(a)(19). There is no indication of any intent in the legislative history of the Act to distinguish between the various types of "insured institutions" that are covered by the Savings and Loan Holding Company Act ("SLHCA"), and § 584.2–2 thus applies evenly to all institutions that are covered by the SLHCA. To do otherwise would go against a general theme in the legislative history of the Act of providing a greater parity of empowerments and treatment between federal associations, and would disrupt, without any clear evidence of Congressional intent, the pattern of uniform applicability of the SLHCA to all insured institutions that has long characterized the regulatory framework based on that legislation.

. In the absence of any indication of legislative intent to incorporate all of the regulations of the Secretary of the Treasury ("Treasury") interpreting section 7701(a)(19) into the Board's regulations, the Board is utilizing only the statutory language of section 7701(a)(19) at this time, although it should be noted that this language does explicitly cross-reference certain Treasury regulations. Apart from these cross-references, however, the Board will regard the regulations of the Treasury as informative, but in no sense controlling, in developing an interpretive gloss for its own regulations, or in promulgating further regulations.

Finally, the Board is deleting certain authority approved by Board Resolution 82–791 to allow federal associations to merge with non-FSLIC insured institutions, other than FDIC-insured federal associations, thus corecting an inadvertent extension of federal association authority beyond the express language of section 5(d)(11) of the Home Owners' Loan Act, dealing with merger authority.

List of Subjects in 12 CFR Parts 546, 552, 561, 563, 583, and 584

Savings and loan associations, Insurance, Holding companies.

The Board finds that the public notice and comment procedures of 5 U.S.C. 553(b) and 12 CFR 508.13 are unnecessary for the following reasons: (1) Immediate regulatory action is in the public interest in that the Congress expressly intended, in passing the Garn-St Germain Depository Institutions Act of 1982, that federal associations and other thrift institutions exercise increased organizational flexibility to meet current, extremely stressful economic conditions, and it will increase the availability of this new power to those entities; (2) Most federal associations have annual meetings in the first month of the calendar year, notice of which must go out to shareholders 15 to 45 days in advance, and any change in charter would of necessity need to be considered at such a meeting; (3) It will relieve certain restrictions; and (4) It will articulate the perimeters of other statutory restrictions already in place and thus facilitate the efficient and effective association operations that are necessary to deal with current, stressful economic conditions, but that cannot be undertaken easily in the absence of regulatory clarification.

Since there are a number of important changes in these regulations, however, the Board is soliciting comments from the public as to the effect of these regulations.

Accordingly, the Board hereby amends Parts 546 and 552 of Subchapter C, Parts 561 and 563 of Subchapter D, and Parts 583 and 584 of Subchapter F, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

§ 546.1 [Amended]

1. Amend § 546.1(a) by removing the phrase "a national bank" and substituting therefor the phrase "a savings bank", removing the phrase "or commercial or industrial bank", and removing the phrase " or other applicable law,".

§ 546.2 [Amended]

2. Amend § 546.2(a)(2) by removing the word "institutions" and substituting therefor the phrase "Federal associations" and inserting a period immediately after the word "Part" and removing everything thereafter.

PART 552—STOCK ASSOCIATIONS

§ 552.13 [Amended]

3. Amend § 552.13 by removing the phrase "commercial, industrial," in paragraph (b)(1); removing the phrase "that in combinations involving a Federal association insured by the Federal Deposit Insurance Corporation, all constituent associations have accounts insured either by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation," in paragraph (c)(1) and substituting therefor the phrase "for Federal associations the deposits of which are insured by the Federal Deposit Insurance Corporation,"; removing the phrase ", or other applicable law," in paragraph (e); and removing the phrase ", or other

applicable law" in paragraph (l). (Note: this is "one", but paragraph "small case of the letter 'L' ")

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

§ 561.1 [Amended]

4. Amend § 561.1 to insert immediately before the period at the end of the first sentence, the phrase ", and shall include an institution that retains insurance of accounts by the Corporation pursuant to § 563.29–1 of this subchapter".

PART 563—OPERATIONS

5. Add new § 563.29–1, as follows:

§ 563.29–1 Continuation of insurance.

An institution the accounts of which are insured by the Corporation may change its name or charter, pursuant to state law or regulation, to become a state savings bank-type institution and may retain insurance of accounts by the Corporation thereafter, provided its authority under state law as a savings bank is not significantly different than its authority would be under state law as a savings and loan, building and loan, homestead association, or cooperative bank.

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

PART 583—DEFINITIONS

§ 583.6 [Amended]

6. Amend § 583.6 to insert immediately before the period at the end of the first sentence, the phrase ", and shall include an institution that retains insurance of accounts by the Corporation pursuant to § 563.29–1 of this Chapter".

PART 584—REGULATED ACTIVITIES

7. Add a new § 584.2–2, as follows:

§ 584.2–2 Activities of unitary savings and loan holding companies.

(a) *General.* A savings and loan holding company, or any subsidiary thereof which is not an insured institution, whose subsidiary insured institution fails to qualify as a qualified institution, as defined in paragraph (b) of this section, may not commence, or continue for more than three years after such failure, any service or activity other than those permitted under §§ 584.2 and 584.2–1 of this part for multiple savings and loan holding companies and their subsidiaries.

(b) *Definitions.* A qualified institution is an insured institution, the business of which consists principally of acquiring the savings of the public and investing in loans, and at least 60 percent of the total assets of which (at the close of its taxable year) consists of:

(1) Cash,

(2) Obligations of the United States or of a State or political subdivision thereof, and stock or obligations of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof, but not including obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code,

(3) Certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations,

(4) Loans secured by a deposit or share of a member of the institution,

(5) Loans (including redeemable ground rents, as defined in section 1055 of the Internal Revenue Code) secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property or real property used primarily for church purposes, and loans made for the improvement of residential real property or real property used primarily for church purposes: Provided, that for purposes of this clause, residential real property shall include single or multifamily dwellings, facilities in residential developments dedicated to public use or property used on a nonprofit basis for residents, and mobile homes not used on a transient basis,

(6) Loans secured by an interest in real property located within an urban renewal area to be developed for predominantly residential use under an urban renewal plan approved by the Secretary of Housing and Urban Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, and loans made for the improvement of any such real property,

(7) Loans secured by an interest in educational, health, or welfare institutions or facilities, including structures designed or used primarily for residential purposes for students, residents, and persons under care, employees, or members of the staff of such institutions or facilities,

(8) Property acquired through the liquidation of defaulted loans described in paragraphs (b) (5), (6), or (7) of this section,

(9) Loans made for the payment of expenses of college or university education or vocational training, in accordance with such regulations as may be prescribed by the Secretary of the Treasury, and

(10) Property used by the association in the conduct of the business of acquiring the savings of the public and investing in loans.

At the election of the insured institution, the percentage specified in this paragraph (b) shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary of the Treasury. For purposes of paragraph (b)(5) of this section, if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan is deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). In addition, for purposes of paragraph (b)(5) of this section, loans made to finance the acquisition or development of land shall be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary of the Treasury, there is reasonable assurance that the property will become residential real property within a period of three years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such three-year period, such land becomes residential real property.

(c) *Notice.* A unitary savings and loan holding company shall promptly notify the Corporation of the failure of any insured institution subsidiary to qualify as a qualified institution under this section, and of what steps will be taken to comply with paragraph (a) of this section.

(Secs. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464); Secs. 401, 403, 48 Stat. 1255, 1257, as amended (12 U.S.C. 1724, 1726); Sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947; 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83–2491 Filed 1–27–83; 8:45 am]

BILLING CODE 6720–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 217

[Economic Reg. Reissuance of Part 217; Docket 40551; ER-1320]

Reporting Data Pertaining to Civil Aircraft Charters Performed by Foreign Air Carriers; Reporting of Charter Air Transportation and Reissuance of Part 217

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB eliminates the reporting of domestic charter flights, reduces air carriers' reporting burden by requiring the filing of less detailed international charter market data and consolidates the filing requirements so U.S. and foreign carriers use the same form. These actions eliminate unnecessary data as the Board moves toward sunset.

DATES: Adopted: January 12, 1983. Effective: April 1, 1983; however, in accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule have been or will be submitted for approval to the Office of Management and Budget (OMB). Part 217 is not effective until OMB approval has been obtained.

FOR FURTHER INFORMATION CONTACT: Jack M. Calloway or Thad Machcinski, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–6042.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking approved March 19, 1982, the Board proposed to reduce the reporting of charter data by foreign and U.S. air carriers (EDR–441, 47 FR 15350, April 9, 1982). These reductions were to be accomplished by:

1. Eliminating the reporting of domestic charter operations by U.S. certificated carriers;
2. Reducing the amount of charter market data filed by foreign air carriers and U.S. certificated air carriers for international operations; and
3. Changing the reporting of charter data to eliminate data items no longer needed for regulatory purposes.

Four comments, including one reply comment, were received in response to the rulemaking notice. The respondents were United Air Lines, Inc. (UAL), a certificated air carrier; TAP Air Portugal (TAP), a foreign air carrier: and the U.S. Department of State (DOS). The reply comment was filed by Transamerica Airlines, Inc. (Transamerica), a certificated air carrier. The comments generally supported the reporting relief proposed in EDR-441 with respect to the domestic charter operations of U.S. certificated carriers. The comments were divided, however, on certain areas of EDR-441, relative to international charters and charters performed by foreign air carriers. The areas of controversy are discussed below under separate captions.

Reporting of Charter Revenue Information

The Board proposed to eliminate the filing of revenue data on proposed CAB Form 217 if the costs outweighed the benefits of that reporting. While no respondent quantified the cost of providing charter revenue data, all submitted opinions as to their perceived value of the data.

TAP and UAL support eliminating the reporting of charter revenue data. TAP states that the burden of this requirement is substantial, that charter revenues are of insignificant relevance in inter-governmental negotiations and that to the extent charter revenues are useful they can be obtained on an *ad hoc* basis. UAL's support for elimination is based on its contention that charter revenue data is proprietary and highly confidential.

DOS objects to any changes in charter market data reporting by foreign air carriers. We have interpreted this statement to mean that DOS would oppose the elimination of charter revenue information. DOS states that full information from foreign air carriers is needed for civil aviation negotiations.

Transamerica filed a reply comment opposing UAL's and TAP's support for eliminating the reporting of charter revenue data. In rebutting UAL's and TAP'S position, Transamerica states that since there are no tariffs for charter services, the proposed CAB Form 217 would be the only source of pricing data needed to assure nondiscriminatory treatment of U.S. flag carriers.

We have decided to eliminate the reporting of charter revenue data. The Board no longer has a regulatory need for charter revenues on a regular basis. Nevertheless, if the need arises, the Board can request revenue data from specific carriers on an *ad hoc* basis prior to entering bilateral negotiations.

Reduction in Level of Charter Market Data

EDR–441 proposed to eliminate the reporting of five data elements that were previously included on CAB Form 41 Schedule T–6 and CAB Form 217. The five data elements were day of departure, type of aircraft, flight number, seats contracted for and tons available for revenue property. As stated earlier, DOS filed a comment which opposed reducing the level of data filed by foreign air carriers. DOS believes that U.S. negotiators must know exactly what charters are being flown by a foreign country's carrier(s) in order to assure that U.S. negotiators obtain the maximum benefits for U.S. carriers.

Transamerica, in their reply comment, supports DOS's recommendation that charter flight reports should be retained in their present form. Transamerica states that the day of departure, aircraft type, flight number, seats contracted for and tons available are needed to adequately monitor foreign carrier charter activity. The monitoring of such activity, Transamerica believes, is often necessary to determine positions on bilateral negotiations and to determine whether U.S. flag carriers are being discriminated against.

We agree with the comments of DOS and Transamerica that charter activity, especially by foreign carriers, must be monitored to develop and assess positions in bilateral negotiations and evaluate foreign reciprocity. Accordingly, we have decided in the final rule only to eliminate the day of departure, seats contracted for, and tons available for revenue property. These items are not critical to negotiations and thus are no longer needed to serve the Board's regulatory purposes.

On the other hand, we have decided to retain the reporting of aircraft type information and to modify the reporting of flight number data. Instead of reporting the flight number of a charter, carriers would report the total number of charters flown between the same points in the final rule. These data, after reevaluation, have been determined to be essential to the Board's process of analyzing the effectiveness of U.S. bilateral and multilateral agreements.

Reporting of Part Charter Data

UAL opposes the reporting of part charter data on proposed CAB Form 217. UAL points out that, historically, there has been a separation of scheduled service data on the one hand, and charter service data on the other. UAL also states that its statistical gathering system cannot distinguish charter passengers traveling on scheduled service airplanes from scheduled service passengers. Instead, UAL suggests that part charter passengers be included in scheduled service statistics.

Transamerica's reply comment on the other hand favors the reporting of part charter data. Transamerica states that

the compiling of data on the part charter activity of foreign air carriers can be of critical importance in developing a negotiating strategy and determining foreign government attitudes toward this newly authorized charter form.

We have decided to retain the reporting of part charter data on CAB Form 217. While UAL's argument that there has been a historical separation of scheduled service data and charter data is true, EDR-441 in no way proposed to co-mingle scheduled service data with charter data. CAB Form 217 in fact keeps this separation intact by only requiring carriers to file information related to the charter passengers transported on a scheduled flight.

In addition, part charter travel is a new form of authority and we wish to monitor the extent of its use in the international marketplace. It is important that the Board know the magnitude of these operations for both regulatory and negotiating purposes.

Editorial Amendments

The language in § 217.6(a) of EDR-441 was somewhat different from the applicability section in EDR-441, as it pertained to charter operations conducted by U.S. certificated carriers. To clarify any ambiguity that may exist, the reporting instructions in § 217.6(a) have been changed in the final rule to conform to that in the applicability section, *i.e.*, to require U.S. carriers to report all "international charters," as defined in § 217.1.

The reporting instructions in § 217.6 also explained how to complete each column of CAB Form 217, except for column 11 "Number of Passengers in Each Group Enplaned." Since this lack of instructions for column 11 may confuse carriers filing CAB Form 217, we have added instructions for column 11 in the final rule.

Furthermore, EDR-441 did not contain a provision which would allow carriers to submit computer prepared formats in lieu of the standard hardcopy CAB reporting form. To correct this oversight, a provision for submitting computerized formats is included in the final rule.

In EDR-441, the Board certified that none of the proposed changes would, if adopted, have a significant economic impact on a substantial number of small entities in accordance with 5 U.S.C. 605(b). The reason for the negative certification was that few, if any, small businesses conduct operations with large aircraft, which are the only operations that would be covered under any of the proposed changes. No comments are filed in response to the Board's regulatory flexibility analysis, and the Board finds no reason to change its negative certification for this rule.

The requirements contained in this regulation are subject to clearance by the Office of Management and Budget. We will publish a notice of the outcome of the OMB review as soon as it is completed.

List of Subjects in 14 CFR Part 217

Air transportation—Foreign, Charter flights, Reporting requirements.

Final Rule

Accordingly, the Civil Aeronautics Board revises 14 CFR Part 217, *Reporting Data Pertaining to Civil Aircraft Charters Performed by Foreign Air Carriers* as follows:

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY U.S. CERTIFICATED AND FOREIGN AIR CARRIERS

Sec.
- 217.1 Definitions.
- 217.2 Applicability.
- 217.3 Report of civil aircraft charters performed by U.S. certificated and foreign air carriers.
- 217.4 Extension of filing time.
- 217.5 Certification.
- 217.6 Reporting instructions.
- 217.7 Waivers from reporting requirements.
- 217.8 Computer prepared submissions.

Authority: Sections 101(3), 204, 401, 403, 404, 407, 411, 416, 1002, 72 Stat. 737, 743, 754, 758, 760, 766, 769, 771, 788; 49 U.S.C. 1301, 1324, 1371, 1373, 1374, 1377, 1381, 1386, 1482.

§ 217.1 Definitions.

As used in this part:

"International charter" means a charter flight in air transportation that has flight stages with one or more terminals outside of territory under U.S. jurisdiction.

"Part charter" means the charter portion of a flight that includes both charter and scheduled service passengers.

"Small aircraft" means an aircraft designed to have a maximum passenger capacity of 60 or fewer seats, and a maximum payload capacity not more than 24,000 pounds.

§ 217.2. Applicability.

This part applies to foreign air carriers that are authorized by permit under Section 402 of the Act to perform civil aircraft charters to or from the United States, to U.S. certificated air carriers performing international charters, and upon Board order, to foreign and other air carriers whose charter authority is conferred by exemption under Section 416. Operations conducted with small aircraft are exempt.

§ 217.3 Report of civil aircraft charters performed by U.S. certificated and foreign air carriers.

(a) Each U.S. certificated and foreign air carrier shall file CAB Form 217, entitled "Report of Civil Aircraft Charters Performed by U.S. Certificated and Foreign Air Carriers." CAB Form 217, as shown in Appendix A, may be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

(b) One copy of CAB Form 217 shall be filed for the quarters ending March 31, June 30, September 30, and December 31 of each calendar year. This report shall be submitted to the Reports Control Section, B-46a, Information Management Division, Office of Comptroller, Civil Aeronautics Board, Washington, D.C. 20428, so as to be received on or before the due dates indicated below. Due dates falling on a Saturday, Sunday or U.S. national holiday become effective the first following working day.

SCHEDULE OF DUE DATES

Filing for quarter ended	Due date
March 31	April 30.
June 30	July 30.
September 30	October 30.
December 31	January 30.

(c) If no charter flights were operated for the quarter to be reported, one copy of CAB Form 217 endorsed "no flights operated" shall nevertheless be filed. If charter flight operations have been discontinued indefinitely, one copy of CAB Form 217 endorsed "charter flight activity discontinued indefinitely" shall be filed and no further quarterly reports are required until such time as any charter flight is flown.

§ 217.4. Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, a written request for an extension shall be filed with the Office of Comptroller at least 3 days in advance of the due date, except in an emergency, setting forth good reason to justify the granting of the extension and the date when the report can be filed. If a request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

§ 217.5 Certification.

The certificate in CAB Form 217 shall be signed by the person in charge of preparing the form, and shall apply to all accompanying reports and documents.

§ 217.6 Reporting instructions.

(a) A complete report shall be made on CAB Form 217 for all charter operations conducted by foreign air carriers to or from the United States and for all international charter operations conducted by U.S. certificated air carriers. Charter flights performed with small aircraft are exempt.

(b) Reporting of charter flights shall be on a charter type basis, by flight leg; that is, there will be a separate line of data for each flight leg of each charter type that is flown between a different set of points. If the charter type, flight leg, point of enplanement, point of deplanement and aircraft type utilized are identical, the reported data then shall be reported in the aggregate for the entire month, regardless of the number of flights flown between those points.

(c) Each CAB Form 217 submitted shall consist of three separate monthly reports within each of the respective calendar quarters. Data for each flight leg shall be reported for that month in which the flight leg began. The reported month, year, and name of carrier shall be inserted in the areas provided in the upper left hand corner of the report. The date code shall show the year first and then the month (*e.g.*, 8301 for January 1983). The carrier area shall show the carrier's standard 2-position alpha code as shown in the Official Airline Guide (OAG). If the carrier has no such code, it should leave those two positions blank until assigned a code by the Information Management Division, Office of Comptroller.

(d) Column (1) is reserved.

(e) Column (2) shall reflect the code number for the type of aircraft operated as provided in the Official Airline Guide (OAG). If no aircraft code exists in the OAG, the manufacturers type and model shall be provided so that the Information Management Division, Office of Comptroller can assign a code to be used in subsequent filings.

(f) Column (3) shall reflect the number of charter flights performed.

(g) Column (4) shall reflect each type of charter by the following codes:
EC—Entity-Cargo (Own Use)
EF—Cargo (Forwarder/Consolidator)
EP—Part Charter (Passenger)
PZ—Other Passenger Charters

Charters flown for the transportation of charter traffic of another air carrier or foreign air carrier shall be reported solely by the carrier in operational control of the aircraft, naming the type of charter, *e.g.*, EP, and traffic carried. Charters flown to accomodate the scheduled traffic of another direct air carrier shall be reported as entity charters.

(h) Column (5) shall identify each leg by the following numbers:
1—One-way flight.
2—Originating leg of round trip.
4—Return leg of round trip.

The outbound and return legs of any round trip group movement shall not be reported as one-way flight legs.

(i) Column (6) shall reflect any point at which a charter group, cargo load, or part of a group or load was enplaned. Departure points for ferry legs shall not be reported. Technical stops, *e.g.*, for departure formalities or refueling, shall not be reported. Where a diversion occurs for weather or other reasons, the planned rather than the actual point of enplanement shall be reported. The point of enplanement shall be identified by the three-letter airport code used in the OAG. If no OAG code exists, the point of enplanement shall be written out, in a footnote if necessary.

(j) Column (7) shall reflect any point at which a charter group, cargo load, or part of a group or load was deplaned. Arrival points for ferry legs shall not be reported. Technical stops, *e.g.*, for entry formalities or refueling, shall not be reported. Where a diversion occurs for weather or other reasons, the planned rather than the actual point of deplanement shall be reported. The point of deplanement shall be identified by the three-letter airport code used in the OAG. If no OAG code exists, the destination name shall be written out, in a footnote if necessary.

(k) Column (8) is reserved.

(l) Column (9) is reserved.

(m) Column (10) is reserved.

(n) Column (11) shall reflect the number of charter passengers transported. Part charter entries shall exclude scheduled passengers.

(o) Column (12) shall reflect the number of tons (to the nearest tenth of a short ton) of property enplaned in Entity-Cargo (Own Use) and Cargo (Forwarder/Consolidator) charters only.

§ 217.7 Waivers from reporting requirements.

A waiver from any reporting requirement contained in CAB Form 217 may be granted by the Civil Aeronautics Board upon its own initiative, or upon the submission of a written request to the Board's Office of Comptroller from any air carrier, when such a waiver is in the public interest. Each request for waiver must expressly demonstrate that: Existing peculiarities warrant a departure from the prescribed reporting; a specifically defined alternative procedure or technique will result in a substantially equivalent or more accurate portrayal of the prescribed reporting; and the application of such alternative procedure will maintain or improve uniformity in reporting as between air carriers.

§ 217.8 Computer prepared submissions.

Carriers may submit the data required by CAB Form 217 on a comparable form prepared on automatic data processing equipment. Such substitute form shall be subject to prior approval by the Chief, Information Management Division, Office of Comptroller and shall contain the same column headings arranged in the same sequence as CAB Form 217.

By the Civil Aeronautics Board.

Note.—CAB Form 217 is filed as part of the original document.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2412 Filed 1-27-83; 8:45 am]
BILLING CODE 6320-01-M

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14 CFR Part 241

[Economic Regs. Amdt. No. 48; Reg. ER-1319]

Uniform System of Accounts and Reports for Certificated Air Carriers; Amendment of Fuel Cost and Consumption Reporting

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB reduces the amount of fuel cost and consumption data reported monthly by certificated air carriers. This action also establishes a new procedure for withholding monthly fuel cost and consumption data of individual carriers from public disclosure for a limited period of time. This action will more closely align the data collected with the CAB's data needs.

DATES: Adopted: January 12, 1983. Effective: April 1, 1983; however, in accordance with the Paperwork Reduction Act (44 U.S.C. 3507), these reporting provisions have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until a control number is issued by OMB.

FOR FURTHER INFORMATION CONTACT: Jack M. Calloway or M. Clay Moritz, Jr., Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking dated April 3, 1981, the Board proposed to reduce the level of detailed fuel data reported on CAB Form 41 Schedule P-

12(a) "Fuel Consumption by Type of Service and Specific Operational Markets" (EDR–422, 46 FR 21185, April 9, 1981). This reporting reduction was to be accomplished by:

1. Eliminating the requirement that fuel cost and consumption data be reported separately for bonded, nonbonded and foreign fuel;
2. Consolidating from seven into two the number of operational markets in domestic scheduled service for which fuel consumption would be reported;
3. Consolidating from seven into three the number of operational markets in international scheduled service for which fuel consumption would be reported; and
4. Consolidating the reporting of nonscheduled services in the same way as scheduled services.

EDR–422 also proposed to amend Part 241 so as to withhold the individual carrier fuel data reported on Schedule P–12(a) from public disclosure until thirty days after the end of the calendar quarter to which the monthly schedules relate. This limited confidential treatment was proposed in response to a Delta Air Lines, Inc. February 13, 1981, motion for confidential treatment of CAB Form 41 Schedules P–12 and P–12(a). [1] Pan American World Airways, Inc., Trans World Airlines, Inc. and United Air Lines, Inc. filed subsequent motions for confidential treatment of Schedules P–12 and P–12(a) on February 27, 1981, March 20, 1981, and March 23, 1981, respectively. The limited confidential treatment proposed in EDR–422 was intended as the Board's response to these subsequent motions as well.

Thirteen comments were received in response to the rulemaking notice. Of the thirteen, ten were from certificated air carriers [2], two from other Federal agencies [3], and one from the Boeing Commercial Airplane Company (Boeing). American's Continental's and TWA's comments support the rule as proposed, while the remaining comments suggest certain modifications to the rulemaking proposal. The modifications are discussed below under separate captions.

Schedule P–12(a) Data Format

Piedmont, United, Boeing, Bureau of Economic Analysis, and Defense Fuel Supply Center each submitted comments concerning the proposed reporting of fuel data on the revised Schedule P–12(a) "Fuel Consumption by Type of Service and Entity." In its comments, Piedmont suggests that the final rule include a sunset provision to coincide with the Board's loss of its ratemaking authority on December 31, 1982.

Attaching a sunset date to the Board's collection of fuel data is unwarranted at this time for two reasons. First, the Board's authority over international fares and rates transfers, under the provisions of the Airline Deregulation Act of 1978, to the Department of Transportation on January 1, 1985. Thus, the need for international fuel data will continue beyond sunset. Second, both domestic and international fuel data are still needed to determine the Standard Industry Fare Level (SIFL) and the Standard Foreign Fare Level (SFFL). While the SFFL calculations will continue beyond sunset, SIFL will be retained at least until the Board's January 1, 1984, Report to Congress on the impact of deregulation is due. Both SIFL and SFFL are used to provide benchmarks in evaluating the effects of deregulation. Furthermore, eliminating the domestic fuel data used in the SIFL calculations would also eliminate certain transborder operations that are reported in the domestic entity but are still needed in monitoring international fares.

Piedmont's comments also question the need for the Board to continue collecting fuel data since EDR–422 points out that average fuel prices are available in quarterly reports submitted to the Securities and Exchange Commission (SEC). The availability of fuel data from the SEC was mentioned in EDR–422 merely to point out that the Board's proposed public release of fuel data on a quarterly basis coincides with the availability of fuel data from other sources. The data available from the SEC, however, is not of sufficient detail to satisfy the Board's regulatory need for fuel data. Typically, publicly held air carriers have been reporting, as part of their SEC Form 10–Q, "Quarterly Report under Section 13 or 15(d) of the Securities Exchange Act of 1934," average fuel prices and the number of gallons consumed on a system basis; however, the Board requires fuel consumption and price data broken down by entity and reported on a monthly basis. Therefore, the data that are available fall short of the level of detail and the filing frequency needed by the Board. It should also be noted that the submission of carrier fuel data to SEC is voluntary under a Form 10–Q general "management discussion of significant items" reporting requirement. As a result, carrier fuel data reporting is not uniform. Accordingly, we must continue to collect fuel data in order to meet our regulatory needs.

The comments of Bureau of Economic Analysis (BEA), Boeing and Defense Fuel Supply Center (DFSC) all suggest retaining some or all of the data that would be eliminated on the revised Schedule P–12(a). Both BEA and Boeing recommend continuing the separate reporting of domestic and foreign fuel data. BEA uses foreign fuel data in preparing estimates of trade in petroleum products between the United States and other countries. Moreover, BEA identifies the Board as the sole source of data on the volume of foreign fuel utilized by U.S. air carriers. Boeing, on the other hand, cites dissimilar price characteristics between the domestic and foreign fuel markets in recommending that the reporting of domestic and foreign fuel not be combined in the revised P–12(a).

DFSC recommends continuing the current Schedule P–12(a) reporting requirement. In its comments, DFSC states that, along with other relevant market research data, the Schedule P–12(a) data are used to evaluate offers it receives under its fuel procurement solicitations. In support of its position, DFSC states that every cent per gallon negotiated off the average jet fuel price procured from domestic sources represents a savings to the U.S. taxpayer of nearly $46 million per year. The DFSC goes on further to state that it believes that the loss of the P–12(a) data would adversely affect its ability to negotiate favorable price terms on its jet fuel procurements. Adoption of DFSC's recommendation would result in retaining schedule P–12(a) in its present form and enable us to meet Boeing's and BEA's expressed data needs as well.

While we believe the above comments do have merit, the Paperwork Reduction Act of 1980 (Pub. L. 96–511) precludes the Board from collecting data that are not needed for its own regulatory programs. However, this Act does provide that the Director, Office of Management and Budget (OMB) has the authority to designate the Board as a central agency for collecting data needed by one or more agencies.

With this in mind, we sent a letter to OMB asking for their views as to

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[1] Delta's motion for confidential treatment for Schedule P–12 was rendered moot by the Board's July 8, 1982, adoption of ER–1297 (47 FR 32915, July 28, 1982), which eliminated Schedule P–12, "Fuel Inventories and Consumption" as a reporting requirement.

[2] Air Florida, Inc. (Air Florida), American Airlines, Inc. (American), Continental Air Lines (Continental), Delta Air Lines, Inc. (Delta), Northwest Airlines (Northwest), Pan American World Airways, Inc. (Pan American), Piedmont Aviation, Inc. (Piedmont), United Air Lines, Inc. (United) Trans World Airlines, Inc. (TWA) and U.S. Air, Inc. (USAir).

[3] United States Department of Commerce (Bureau of Economic Analysis) and Department of Defense—Defense Logistics Agency (Defense Fuel Supply Center).

whether the Board should be designated to collect the data needed by DFSC and BEA even though the Board no longer requires such detailed fuel data. After its review, OMB informed us that they decided not to designate the Board as a central collection agency for carrier fuel data. We have contacted both BEA and DFSC, informing them of OMB's decision and soliciting any additional comments they may have. Neither BEA nor DFSC have commented further. Accordingly, we have decided to finalize the Schedule P–12(a) data format as it was proposed in EDR–422.

In its comment, United has asked that Mexican transborder operations be reported in the domestic entity instead of the Latin American entity, as proposed. The carrier contends that most Mexican cities are relatively close to domestic points and their fares are monitored through the domestic Standard Industry Fare Level (SIFL). Furthermore, United claims these flights more closely parallel fifty-state enterprises than Atlantic, Pacific or Latin American flights.

We have included Mexican operations in the Latin American entity in the final rule. Only a limited number of carriers currently have their Mexican operations monitored through SFFL. The remaining majority of carriers conducting Mexican operations are monitored through the Standard Industry Fare Level (SIFL). With the termination of the Board's domestic ratemaking authority on December 31, 1982, the monitoring of Mexican operations will start to shift toward the SFFL.

Public Disclosure

The remainder of the comments submitted pertain to the Board's proposed limited confidential treatment period for Schedule P–12(a) whereby individual carrier fuel data would be withheld from public disclosure until thirty days after the end of the calendar quarter to which the monthly schedules relate. As mentioned previously, American, Continental and TWA support the proposed confidential treatment contained in EDR–422. The DFSC commented that Schedule P–12(a) data should be withheld from public release until such time that concern for commercial sensitivity does not exist.

Against this backdrop of support for limited confidential treatment, Air Florida, Delta, Northwest, Pan American, Piedmont, United and USAir all support the concept of confidential treatment but suggest certain modifications to the proposed rule.

Early Release of Fuel Data

Air Florida, Delta, Northwest and Pan American have suggested certain modifications to the proposed criteria for the early release of fuel data. The proposed rule provides that aggregate data may be released before the expiration of the confidential treatment period without identifying individual carriers; however, individual carrier fuel data withheld from public disclosure may be disclosed by the Board to (1) parties to any proceeding before the Board to the extent such material is relevant and material to the issues in the proceeding upon a determination to this effect by the administrative law judge assigned to the case or by the Board; (2) agencies and other components of the Federal Government for their internal use only; and (3) such persons and in such circumstances as the Board determines to be in the public interest or consistent with its regulatory functions and responsibilities.

Air Florida wants to expand the above criteria to permit the early release of individual carrier fuel data to those carriers participating in the submission of fuel cost and consumption data. Pan American also wants to expand the above list so as to include access by persons designated by each reporting carrier to verify the reported fuel data compiled by and used by the Board in the Standard Industry Fare Level calculations, the Standard Foreign Fare calculations and mail rate determinations.

Air Florida contends that principles of fairness dictate that carriers obligated to supply fuel data should be able to access such data. Air Florida compares the release of fuel data with the Board's policy of releasing restricted international Origin and Destination Survey (O & D) statistics to participating U.S. carriers. The carrier further comments that carriers should have access to other carriers' cost data to insure that fuel suppliers do not try to take advantage of a carrier in the pricing of their product. This, Air Florida feels, would help negate or minimize the tendency of fuel prices to move toward an average market price.

The analogy that Air Florida draws between the release of international O & D data and fuel data is tenuous at best. Historically, international O & D data have not been released to the public whereas fuel data have. While international O & D data are accorded permanent confidential treatment and made available to participating carriers under a reciprocal exchange agreement, the proposed rule grants only limited confidential treatment to Schedule P–12(a); therefore, Air Florida will have prospective access to the fuel data it seeks for any purpose it wishes, including dealings with suppliers. We do not feel that the length of the confidential treatment period poses an undue burden on the carrier.

We are also not persuaded by Pan American's argument that early access is needed to verify the Board's fare and rate calculations. Since early 1981, when we started granting confidential treatment to individual carrier P–12(a) filings, we have received no requests for individual carrier fuel data and no comments that question the Board's compilation of fuel data in setting fares and rates.[4] Should a situation arise where Pan American feels it has a legitimate need for individual carrier fuel data, we believe the carrier's concern can be properly addressed under the third exception to confidential treatment listed in EDR–422. This exception covers "such other persons and in such circumstances as the Board determines to be in the public interest or consistent with its regulatory functions and responsibilities.

In more general comments, Delta has asked that the provisions allowing early access provide more specific guidance as to under what exact circumstances fuel data would be released. For example, Delta feels that "relevant and material" do not adequately indicate when and under what circumstances data would be considered for release to parties to a Board proceeding. Northwest, on the other hand, has asked that Federal agencies be required to obtain prior Board approval before they can publicly release restricted fuel data that was obtained under the confidential treatment exception provisions of the proposed rule.

We have considered Delta's comments and feel that further specification of the exact circumstances surrounding the public release of fuel data is not feasible. Not every circumstance can be anticipated and reduced to regulation. Flexibility is needed so that each situation that arises can be judged on its own merits.

As to Northwest's concern that other Federal agencies obtain and release restricted fuel data, it should be noted that the guidelines proposed for early release are similar to the current guidelines in the Board's regulations that

[4] The Schedule P–12(a) filings of the following carriers are currently being withheld from public disclosure: Air Florida, American Airlines, Delta Air Lines, Northwest Airlines, Pacific Southwest Airlines, Pan American World Airways, Transamerica Airlines, Trans World Airlines, United Air Lines, USAir, and Western Air Lines."

govern the release of international passenger origin and destination (O & D) statistics. To date, we have experienced no problems in releasing international O & D statistics and expect no difficulty in administering the proposed public release provisions for fuel data. Based on the above discussion, we have included in the final rule the criteria for the early release of fuel data as they were proposed in EDR–422.

Length of Confidential Treatment Period

United, USAir and Piedmont have commented on the proposed length of the period of confidentiality. United and USAir have asked for permanent confidential treatment of schedule P–12(a). As an alternative, United suggests the Board consider a one-year confidential treatment period. In a similar vein, Piedmont asks for either the elimination of Schedule P–12(a) or a six-month period of confidentiality.

We are not inclined to extend confidential treatment to Schedule P–12(a) on a permanent basis. Over time, fuel data loses its sensitivity; moreover, as we have previously indicated, system average fuel prices can be computed using quarterly reports to the SEC and other Form 41 schedules. With the availability of pricing data from these other sources, we see no reason to significantly extend the proposed confidential treatment period.

On our own initiative, however, we have decided to delay the release of restricted fuel data to coincide with the filing date for the quarterly CAB Farm 41 P schedules. This delay will effectively withhold carrier fuel data from public disclosure until the time when average entity fuel prices can be computed from other Form 41 schedules. Under this plan, fuel data would not be released until forty days after the end of the calendar quarter and, in the case of fourth quarter fuel data when certain preliminary financial schedules are filed under the provisions of paragraph (b) of Section 22 of this Part, fuel data would be withheld for ninety days or until March 30. This delay in releasing Schedule P–12(a) should eliminate some of the concerns of those carriers that argue for a release date later than the one proposed.

Requests for Individual Carrier Fuel Data

For administrative convenience, we are delegating to the Chief, Information Management Division, Office of Comptroller, the authority to grant or deny requests for the early release of the individual carrier fuel data reported on Schedule P–12(a). This action consolidates the responsibility for collecting, maintaining the confidential treatment of, and authorizing the early release of individual carrier fuel data. The release of fuel data will be governed by the provisions of paragraph (k) of the reporting instructions for Schedule P–12(a), which are contained in Section 24 of this Part. An amendment to the Board's Organization Regulations, reflecting this change, is being issued simultaneously with this rule.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act (Pub. L. 96–354), the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. Although some of the carriers that are subject to Schedule P–12(a) are small businesses, they are not the ones that will be most significantly affected by this rule.

List of Subjects in 14 CFR Part 241

Air carriers, Uniform system of accounts, Reports.

Final Rule

PART 241—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 241, Uniform System of Accounts and Reports for Certificated Air Carriers as follows:

1. The authority for Part 241 is:

Authority: Sections 204, 401, 407, 416, 417, 901, 902, 1002, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 766, 771, 783, 784, 788, 76 Stat. 145; 49 U.S.C. 1324, 1371, 1377, 1386, 1387, 1471, 1472, and 1482.

2. Section 22, is amended by revising the title of Schedule P–12(a) in the List of Schedules in CAB Form 41 Report in paragraph (a) to read:

LIST OF SCHEDULES IN CAB FORM 41 REPORT

Schedule No.	Title	Filing frequency	Applicability by carrier group		
			I	II	III
P–12(a)	Fuel Consumption by Type of Service and Entity	M	(1)	X	X

3. Section 24 is amended by revising the title and reporting instructions for Schedule P–12(a) to read:

Section 24—Profit and Loss Elements

* * * * *

Schedule P–12(a)—Fuel Consumption by Type of Service and Entity

(a) This schedule shall be filed by all Group II and Group III air carriers and Group I air carriers that receive section 406 subsidy or have annual operating revenues of $10 million or more.

(b) A single copy (original only) of this schedule shall be filed to report monthly fuel consumption data by type of service and entity.

(c) For the purposes of this schedule, type of service shall be either scheduled service or nonscheduled service as those terms are defined in Section 03 of Part 241.

(d) For the purpose of this schedule, scheduled service shall be reported separately for: (1) Intra-Alaskan operations; (2) domestic operations, which shall include all operations within and between the 50 States of the United States (except Intra-Alaska), the District of Columbia, the Commonwealth of Puerto Rico and the United States Virgin Islands and Canadian transborder operations; (3) Atlantic operations (excluding Bermuda); (4) Pacific operations which shall include the North/Central Pacific, South Pacific (including Australia) and the Trust Territories; and (5) Latin American operations which shall include the Caribbean (including Bermuda and the Guianas), Mexico and South/Central America.

(e) For the purpose of this schedule, nonscheduled service shall be reported separately for domestic operations and international operations as defined in paragraph (d) above, except that domestic and international MAC operations shall be reported on separate lines.

(f) The cost data reported on each line shall represent the average cost of fuel, as determined at the station level, consumed in that entity.

(g) The cost of fuel shall include shrinkage but exclude (1) "through-put" and "in to plane" fees, *i.e.*, service charges or gallonage levies assessed by or against the fuel vendor or concessionaire and passed on to the carrier in a separately identifiable form and (2) nonrefundable Federal and State excise taxes. However, "through-put" and "in to plane" charges that cannot be identified or segregated from the cost of fuel shall remain a part of the cost of fuel as reported on this schedule.

(h) Each air carrier shall maintain records for each station showing the computation of fuel inventories and consumption for each fuel type. The periodic average cost method shall be used in computing fuel inventories and consumption. Under this method, an average unit cost for each fuel type shall be computed by dividing the total cost of fuel available (Beginning Inventory plus Purchases) by the total gallons available. The resulting unit cost shall then be used to determine the ending inventory and the total consumption costs to be reported on this schedule.

(i) Where amounts reported for a specific entity include other than Jet A fuel, a footnote shall be added indicating the number of gallons and applicable costs of such other fuel included in amounts reported for that entity.

(j) Where any adjustment(s) recorded on the books of the carrier results in a material distortion of the current month's schedule, carriers shall file a revised schedule P-12(a) for the month(s) affected.

(k) Data reported on this schedule shall be withheld from public release until the quarterly Form 41 P schedules for the calendar quarter to which the monthly schedules relate are due at the Board. However, aggregate data may be released before that time without identifying individual carriers. Provisions governing the due dates for submitting the quarterly P schedules are contained in paragraphs (a) and (b) of Section 22 of this Part. Individual carrier fuel data withheld from public disclosure may be disclosed by the Board to (1) parties to any proceeding before the Board to the extent such material is relevant and material to the issues in the proceeding upon a determination to this effect by the administrative law judge assigned to the case or by the Board; (2) agencies and other components of the Federal Government for their internal use only; and (3) such persons and in such circumstances as the Board determines to be in the public interest or consistent with its regulatory functions and responsibilities.

2. CAB Form 41 Schedule P-12(a) is amended as shown in the attached exhibit. The exhibit is filed as part of the original document.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2413 Filed 1-27-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 241

[ER-1321; Amdt. No. 49; Docket 40551]

Reporting of Charter Air Transportation and Elimination of Schedule T-6

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB eliminates the reporting of domestic charter flights, reduces air carriers' reporting burden by filing less detailed international charter market data and consolidates the filing requirements so U.S. and foreign carriers use the same form (CAB Form 217). These actions eliminate unnecessary data as the Board moves toward sunset. Supplementary information about this rule appears in ER-1320, also adopted today.

DATES: Adopted: January 12, 1983. Effective: April 1, 1983; however, in accordance with the paperwork Reduction Act of 1980, (44 U.S.C. 3507), these reporting or recordkeeping provisions have been or will be submitted for apporval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

FOR FURTHER INFORMATION CONTACT: Jack M. Calloway or Thad Machcinski, Data Requirements Section. Information Management Division. Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 241

Air carriers, Uniform system of accounts and reports.

Final Rule

PART 241—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 241 *Uniform System of Accounts and Reports for Certificated Air Carriers,* as follows:

1. The authority for Part 241 is amended to read:

Authority: Sections 101, 204, 401, 402, 403, 404, 407, 411, 416, 417, 901, 902, 1002, 1601, Pub. L. 85-726, as amended, 72 Stat. 737, 743, 754, 758, 766, 769, 774, 783, 788; 76 Stat. 145; 92 Stat. 1744; 49 U.S.C. 1301, 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1472, 1482, 1551; sec. 43, Pub. L. 95-504, 92 Stat. 1750, 49 U.S.C. 1552.

Section 22 [Amended]

2. Section 22(a), General reporting instructions, is amended by removing all references to Schedule T-6, and by revising the following entries to read:

LIST OF SCHEDULES IN CAB FORM 41 REPORT

Schedule No	Title	Filing frequency	Applicability by carrier group		
			I	II	III
•	•	•	•	•	•
T-3(c)	Airport Activity Statistics—Nonscheduled Revenue Service	Quarterly	X	X	X.
T-8	Report of All-Cargo Operations	Semiannually	(5)	(5)	(5).
•	•	•	•	•	•

DUE DATES OF SCHEDULES IN CAB FORM 41 REPORT

Due date	Schedule No
•	•
January 30	P-1(a), T-1, T-2 T-3, T-9
•	•
April 30	P-1(a), T-1 T-2, T-3, T-9
•	•
July 30	P-1(a), T-1, T-2, T-3, T-9
•	•
October 30	P-1(a), T-1, T-2, T-3, T-9
•	•

Section 25 [Amended]

3. Section 25, *Traffic and Capacity Elements,* is amended by removing the "Schedule T-6 *Report of Civil Aircraft Charters"* subheading and reporting instructions for Schedule T-6.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2411 Filed 1-27-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 82N-0378]

D&C Red No. 6 and D&C Red No. 7

Correction

In FR Doc. 82-35102 beginning on page 57681, in the issue of Tuesday, December 28, 1982, make the following corrections.

1. On page 57688, third column, first line of the first paragraph below the **Note**, "8 NHC1" should read "8 NHCl".

2. On page 57688, third column, second line of the fifth paragraph below the **Note**, "H2o" should read "H_2O".

3. On page 57688, third column, eighth line from the bottom of the page, "NaHO" should read "NaOH".

4. On page 57689, first column, last line of the second paragraph, "12 mL" should read "15 mL"; in the following two lines, "**Spectrophotometer Analysis**" should read "**Spectrophotometric Analysis**"; and "Spectrophotometric Parameters:" should read "Spectrophotometer Analysis".

BILLING CODE 1505-01-M

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21 CFR Parts 155 and 156

[Docket No. 77P-0090]

Tomato Concentrates, Catsup, and Tomato Juice; Amendments to Standards of Identity and Establishment of Standards of Quality and Fill of Container

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending and establishing certain definitions and standards for canned vegetables and vegetable juices. This action will promote honesty and fair dealing in the consumers' interest and will facilitate international trade.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance: March 29, 1983. Objections by February 28, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 155.3 and 156.3 effective as of March 29, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: FDA is amending the definition section for canned vegetables and establishing a separate definition section for vegetable juices. It also is amending the standards of identity and establishing standards of quality and fill of container for tomato concentrates, catsup, and tomato juice by, among other things: (1) Establishing separate standards for tomato concentrates to include tomato puree, tomato paste, and concentrated tomato juice, (2) providing for the use of tomato concentrates and safe and suitable nutritive carbohydrate sweetening ingredients in catsup, (3) providing for the use of concentrated tomato juice to prepare "tomato juice from concentrate" and establishing a minimum tomato soluble solids requirement of 5.0 percent, by weight, for "tomato juice from concentrate", and (4) providing for safe and suitable organic acids in tomato juice and tomato juice from concentrate. This document also revokes the standard of identity for yellow tomato juice (21 CFR 156.147).

A proposal to adopt, insofar as practicable, the Recommended International Standard for Processed Tomato Concentrates (CAC/RS 57-1972) (Codex concentrate standard), the Recommended International Standard for Tomato Juice Preserved Exclusively By Physical Means (CAC/RS 49-1971) (Codex juice standard), and a petition by the Campbell Soup Co., Camden, NJ, was published in the **Federal Register** of May 9, 1978 (43 FR 19864). ABCO Laboratories, Concord, CA, has also petitioned for honey as a sweetening ingredient of catsup.

Fourteen letters, each containing one or more comments, were received in response to the proposal from food processors, industry associations, a food-processing equipment specialist, and a Federal agency.

One of the comments was from a grape processor association in anticipation that some action would issue with regard to grape juice standards developed by the Codex Alimentarius Commission.

FDA has published advanced notices of proposed rulemaking in the **Federal Register** of February 23, 1979 (44 FR 10729, 10730, and 10732). The notices offered interested persons an opportunity to review the Codex Recommended International Standard for Grape Juice Preserved Exclusively By Physical Means, the Recommended International Standard for Concentrated Grape Juice Preserved Exclusively by Physical Means, and the Recommended International Standard for Sweetened Concentrated Labrusca Type Grape Juice Preserved Exclusively by Physical Means, and to comment on the desirability and need for U.S. standards for these foods. FDA concluded in the **Federal Register** of October 26, 1979 (44 FR 61605 and 61606) that, based on the comments received, there was insufficent support to warrant proposing U.S. standards at that time for these foods. These actions were without prejudice to further consideration of the development of U.S. standards for these foods, upon appropriate justification, at a later date.

The comments received in response to the May 9, 1978 proposal and FDA's responses are discussed below.

Definitions

1. Two comments pointed out that the proposed § 155.3 (21 CFR 155.3), "Definitions and procedures," does not correspond to the § 155.3, "Definitions," proposed in the **Federal Register** of June 7, 1977 (42 FR 29014), in conjunction with the proposed amendment of the U.S. standards for canned peas.

Section 155.3, "Definitions," was proposed initially, in conjunction with the proposed amendment of the standards for canned peas and canned dry peas, to provide for all canned vegetables a single location for the procedures for determining drained weight (§ 155.3(a)), for compliance (§ 155.3(b)), and for sampling and acceptance (§ 155.3(c)). A final regulation ruling on that proposal and establishing a definition section in § 155.3 was published in the **Federal Register** of June 27, 1980 (45 FR 43394). FDA recognizes that the definition section designations proposed in conjunction with the tomato products document do not correspond to those proposed in conjunction with the June 27, 1980 canned pea document and concludes that the proposed definition redesignations are unnecessary. Accordingly, the final rule set forth below only amends § 155.3 by defining in new paragraphs (d), (e), and (f) "strength and redness of color," "tomato soluble solids," and "salt," respectively, as applicable to the standards for tomato concentrates and catsup.

Strength and Redness of Color

2. Four comments recommended the alternate use of electronic color meters for the determination of color of tomato products (tomato concentrates and tomato juice) because it is quicker, widely accepted, and not as susceptible to variation as the subjective comparison system.

FDA agrees and, therefore, is providing for the alternate use of electronic color meters to determine the color of tomato concentrates in § 155.3(d) and tomato juice in § 156.3(a) as set forth below.

Footcandle Intensity

3. One comment stated that use of the term "footcandle intensity" is technically incorrect. Footcandle, the comment noted, is a measure of the illumination or light being received by an area or object. Intensity relates to the level of light emanating from the source or, more precisely, "candela." The use of these terms which, by definition, measure light in different ways, is inconsistent, and clarification is requested. A second comment suggested that the use of the word "candela" be added parenthetically following the word "footcandle."

FDA agrees with the first comment, but not the second. A footcandle is defined as the illumination on a surface 1 foot distance from a source of 1 candela equal to 1 lumen per square foot. By definition, therefore, at a distance of 1 foot, the numerical value of the "footcandle" is equal to the value of the "candela." Therefore, FDA is replacing in § 155.3(d) the phrase "250 footcandle intensity" with "approximately 2691 lux (250 footcandles)" and is also inserting this phrase in § 156.3(a) as set forth below.

Previously FDA has noted certain differences in the composition and format of the Codex standard and the U.S. standards. (See 39 FR 14971; 39 FR 18660.) The agency recognizes that the International (Metric) System is commonly used throughout most of the world, and in the United States for technical purposes, and that it may eventually be adopted by the United States for common usage. Therefore, the agency is listing the International (Metric) System with the equivalent units of the customary U.S. system shown parenthetically, in all food standards of identity.

Sampling and Acceptance Procedure

4. One comment asked whether a "quality defective," a "fill of container defective," and a "solids defective" will be regarded as a cumulative defective (a total of three) or under separate sampling plans.

Each category in question is separate and the "defectives" are not cumulative. Each category is subject to the sampling plans set forth in §§ 155.3(c)(2) and 156.3(e)(2) (21 CFR 155.3(c)(2) and 156.3(e)(2)).

Tomato Concentrates

Scope of Standard

5. One comment addressing proposed § 155.191 suggested clarifying the scope of the standard by adding the following sentence before paragraph (a), "Identity"—"This standard for Tomato Concentrates does not include the products commonly known as tomato sauce, chili sauce, and ketchup, or similar products which are highly seasoned products of varying concentrations containing characterizing ingredients, such as pepper, onions, vinegar, sugar, etc., in quantities that materially alter the flavor, aroma, and taste of the tomato component."

The suggested statement is unnecessary. The cited ingredients, e.g., pepper, onions, etc., are not provided for in paragraph (a)(2), and therefore cannot be used. Likewise, the product names referred to are not provided for in paragraph (a)(3) and therefore cannot be used. Therefore, no change is made in the final regulation as set forth below.

Tomato Residue

6. Three comments requested that references to the use of the liquid from tomato residue as an optional tomato ingredient be deleted from the proposed standards for tomato concentrates and catsup. One comment stated that under current industry practices, most comminuted tomatoes in the United States are produced from coreless tomatoes, and peeling procedures and techniques have practically eliminated the type of food historically designated as "residual material from canning."

Commensurate with modern-day production techniques, economics, and consumer acceptance, provision for the use of such "residual" materials simply prolongs the use of a concept which has long since served its intended purpose.

FDA agrees that technological advances in the growing of tomatoes and the production of tomato products largely have eliminated the use of residual liquids in the tomato industry. However, FDA has no basis to conclude that there are not any packers that still use either one or the other residual optional tomato liquids. In view of this, and the fact that the ingredients in question are not mandatory, the provisions for the use and label declaration of the two optional residual liquids are retained in the final regulations for tomato concentrates and catsup as set forth below.

Acid-Break

7. Two comments recommended that the words "prior to straining" under §§ 155.191(a)(1) and 155.194(a)(1) (21 CFR 155.191(a)(1) and 155.194(a)(1)) be deleted so that the sentences read, "Such acid is then neutralized with food-grade sodium hydroxide so that the treated tomato material is restored to a pH of 4.2±0.2." The comments indicated that the change in wording is needed to reflect the fact that the restoration of the pH to 4.2±0.2 may occur either before or after straining.

FDA agrees, and §§ 155.191(a)(1) and 155.194(a)(1) are changed as set forth below.

Crushed Tomato Concentrate

8. Four comments recommended permitting a concentrate obtained by crushing whole or pieces of tomatoes. One comment suggested that this would greatly increase the efficiencies to tomato product processing by permitting the manufacture of tomato products when fresh tomatoes for processing are not available. One comment proposed a standard for crushed tomato concentrates that included crushed tomato puree and crushed tomato paste. The comments indicated that such concentrates are now being sold in the marketplace for direct consumption by consumers and by industry for remanufacturing purposes. Three comments recommended that crushed tomato concentrate be provided for as an optional tomato ingredient in § 155.191(a)(1).

Historically, the tomato concentrates to which the standard applies are screened to remove peel and seeds. This final rule established a standard of quality for these tomato products and requires that substandard quality be declared on the label when the foods contain excessive pieces of peel and seeds. Consequently, in the interest of honesty and fair dealing § 155.191(a) has not been changed to provide for the crushed tomato products. The comments go beyond the scope of this standard and this proceeding and, in effect, seek to establish a new standard. Any interested person who believes that it will promote honesty and fair dealing in the interest of consumers to establish a standard for tomato products from which peel and seeds have not been removed is invited to submit a petition, as prescribed in 21 CFR 10.30, supported

by adequate data that demonstrates such a need.

Preservation Method

9. Three comments favored expanding the method of preservation for tomato concentrates, catsup, and tomato juice to include procedures other than heat sterilization. One comment indicated that, in some instances, it may be advantageous to freeze tomato concentrates for remanufacturing purposes. Several comments recommended that the provision in the Codex standards for preservation of the foods by physical means be adopted in the proposed standards.

FDA agrees and the appropriate changes are made in paragraph (a)(1) of §§ 155.191, 155.194, and 156.145, as set forth below, to provide for refrigeration and freezing as additional methods of preservation.

Lemon Juice

10. Two comments opposed the use of lemon juice and concentrated lemon juice as optional ingredients in tomato concentrates. One comment said the basic identity of tomato puree and tomato paste could be materially changed by the flavor impact of lemon juice. Another objected because the acidulants (lemon juice, concentrated lemon juice, and organic acids) used in concentrates may have an effect on the quality of catsup.

The proposed use of lemon juice, concentrated lemon juice, and organic acids was as pH regulators and not as flavoring ingredients. If, however, acidulants are used in such quantity that the identity of the concentrate is changed to the extent of adding a new flavor to the tomato concentrate, the acidulants must be declared on the principal display panel in the manner prescribed by § 101.22 (21 CFR 101.22). The standard of identity for catsup, as set forth below, does not provide for the use of lemon juice, concentrated lemon juice, or organic acids, and manufacturers who use concentrates should specify that these ingredients may not be used in the concentrate to be used in the manufacture of catsup. Therefore, the proposed provision for the optional use of lemon juice, concentrated lemon juice, and organic acids is retained in the final regulation as set forth below.

Sodium Hydrogen Carbonate

11. Three comments recommended that the provision for the optional ingredient "sodium hydrogen carbonate" be changed to "sodium bicarbonate" because consumers unfamiliar with the term may become confused even though it is more scientifically correct.

FDA agrees, and the requested change is made in § 155.191(a)(2)(i)(*c*) below.

Puree From Paste and Water

12. One comment requested clarification whether tomato paste may be diluted with water to the tomato puree solids range and whether the resultant product may be marketed as puree.

The purpose of the proposed provision in § 155.191(a)(1) for the addition of water to adjust composition was to allow both tomato puree and concentrated tomato juice to be prepared from tomato paste and water. However, for clarification, FDA is listing water as an optional ingredient in § 155.191(a)(2)(i)(*d*) below.

Flavorings and Vegetable Ingredients in Tomato Puree

13. Two comments recommended that optional ingredients, such as flavorings and vegetable ingredients, be provided for in the tomato puree standard. One of the comments asserted that the consumer would be adequately informed because the use of optional ingredients which characterize the product must be declared as specified in § 101.22.

FDA is not providing for the requested optional ingredients in tomato puree. To do so would change the basic identity of the food. Tomato puree has historically been marketed and recognized by consumers as a food which does not contain such characterizing ingredients. The comments disregard the fact that tomato concentrates in which such characterizing ingredients are used have separate identities and have long been known under names like tomato sauce, chili sauce, etc., and are outside the scope of this standard. Therefore, FDA concludes that the use of flavorings and vegetable ingredients in tomato puree is inappropriate and the requested change is not made in the final regulation as set forth below.

Vegetable Ingredients in Tomato Paste

14. Two comments opposing the addition of vegetable ingredients to tomato paste suggested that use of such ingredients would radically change the basic identity of tomato paste. One comment stated that, with few exceptions, the myriad nonstandardized tomato condiments, barbeque sauces, taco sauces, etc., can be created, in concentrated form, through the addition of the proposed optional ingredients in tomato concentrates.

FDA agrees that the addition of vegetable ingredients may affect the basic identity of tomato paste. The Codex concentrate standard, 3.1, provides for vegetable ingredients, such as basil leaves and onions, as seasonings and flavorings. However, the standard further states, in 1. "Scope," that the standard does not include "* * * the products commonly known as tomato sauce, chili sauce, and ketchup, or similar products which are highly seasoned products of varying concentrations containing characterizing ingredients, such as pepper, onions, vinegar, sugar, etc., in quantities that materially alter the flavour, aroma, and taste of the tomato component." FDA concludes that the Codex concentrate standard should not be interpreted as permitting the uses of fresh or processed vegetable ingredients as was provided for in § 155.191(a)(2)(ii)(*c*) of the proposed regulation. Accordingly, FDA is not providing for such use in the final regulation as set forth elbow. FDA advises, however, that § 155.191(a)(2)(ii), as set forth below, does provide for the use of spices and flavorings and that these terms are defined in § 101.22(a) (2) and (3).

Labeling

15. Two comments opposed requiring the statement "for remanufacturing purposes only" on the container whenever processors use the name "tomato concentrate" in lieu of the names tomato puree, tomato pulp, or tomato paste. They stated that as long as the phrase "for remanufacturing purposes only" is declared, either on the purchase order, bill of lading, invoice, etc., or on the container, there is no reason to require and restrict such declaration to "on the container."

FDA has reconsidered the conditions under which the phrase "for remanufacturing purposes only" should appear on containers labeled "tomato concentrate" and agrees that, in the case of large containers not normally offered for sale to consumers, such a label declaration is unnecessary since the product is clearly intended for remanufacturing purposes. FDA recognizes that "tomato concentrate" is not a name familiar to consumers and concludes that such a statement is necessary on the labels of smaller containers to preclude the possible diversion of products labeled "tomato concentrate" into retail sales. Therefore, FDA is revising § 155.191(a)(3)(i)(*c*) to require such a statement only on the lables of No. 10 or smaller containers.

Natural Tomato Soluble Solids

16. One comment suggested that the term "natural tomato soluble solids"

(N.T.S.S.) be used in place of the proposed term "tomato soluble solids."

FDA concludes that the addition of the word "natural" serves no useful purpose because there are no tomato soluble solids in tomatoes other than those which occur naturally. Therefore, no changes are made in the final regulation set forth below.

Concentrated Tomato Juice—Label Declaration for Dilution of Concentrate

17. One comment opposed the requirement that concentrated tomato juice be of such concentration that when diluted according to label directions the diluted product will contain not less than 5.5 percent tomato soluble solids. The consumer, it stated, is familiar with label directions for diluting concentrated foods of a similar nature which utilize uncomplicated volume measures (e.g., three cans of water). Simplified measurements provide for consistency in the diluted or finished food, unlike label directions which require odd volume measurements (e.g., "add 27.5 ounces of water").

FDA believes that the commentor has read too much into the proposed requirement. The proposed requirement would permit manufacturers to produce concentrated tomato juice of such concentration that dilution with multiple volumes of water would produce a diluted product containing not less than 5.5 percent tomato soluble solids. Therefore, it is unnecessary for dilution directions to be expressed in terms of odd volume measures. For purposes of clarity and to be consistent with the definition of concentrated tomato juice in § 155.191(a)(3)(i)(*d*), FDA is requiring, in § 155.191(a)(3)(iii) of the final regulation as set forth below, a label statement of directions for dilution.

Labeling Declaration of Tomato Residue

18. Two comments opposed the requirement in the standards for tomato concentrates and catsup that the statement "made from" or "made in part from" "residual tomato material from canning" or "residual tomato material from partial extraction of juice," shall be included as part of the name or in close proximity to the name of the food, if liquid from tomato residue is the optional tomato ingredient.

The residual liquid is derived from peelings and cores with or without mature tomatoes or pieces thereof. FDA concludes, that in the interest of honesty and fair dealing, consumers should be advised of this. Accordingly the requirement is retained in the standards. FDA inadvertently omitted the requirement that catsup shall also bear this statement when prepared from tomato concentrate which in turn was prepared from the residual tomato liquid. This requirement is consistent with the foregoing and its inclusion at this point in this proceeding is logical and nonprejudicial. Accordingly, the labeling provisions in proposed § 155.194(a)(3) (ii) and (iii) have been revised.

Clarification of Requirements

19. Two comments requested clarification of the applicability of § 101.22 to tomato paste. Another comment argued that those who use full ingredient labeling would not need to label separately spice as part of the name of the product.

If flavorings or spices are added to tomato paste in amounts that do not change the basic flavor of the food, FDA interprets section 403(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(g)) as requiring only that they be declared as such in the ingredient statement. See 21 CFR 101.22(a) (2) and (3). However, if any flavoring, including spice oils, oleoresins, or other natural extractives, is added in amounts that characterize the product, that flavoring should be declared, as provided in § 101.22, as part of, or in close proximity to, the name of the food. As stated in the preamble to the proposal, FDA believes that consumers should be alerted to the addition of seasonings or flavorings in quantities which significantly affect the taste of the food. No commentor submitted information on this issue. Therefore, no change is made in the final regulation as set forth below.

Dilution of Sample for Determining Color

20. One comment suggested that for the determination of the strength and redness of color of the concentrate, the sample should be diluted with water to 8.5 percent (±0.1 percent) tomato soluble solids rather than the proposed 8 to 9 percent tomato soluble solids. It indicated that this more precise figure would reduce the possibility of variability in the results.

The intent behind the proposed requirement was to provide a range for the dilution beginning above the 8.0 percent minimum. FDA agrees that a dilution to ±0.1 percent is more accurate than a dilution that may vary within 1 percent. Therefore, for the determination of strength and redness of color, the sample should be diluted to 8.1±0.1 percent tomato soluble solids. FDA is revising the provision for dilution of the concentrate in § 155.191(b)(1) (i), (ii), and (2) to 8.1±0.1 percent tomato soluble solids.

Increase in Allowance for Seeds and Peel

21. Two comments recommended that defect allowances for whole seeds be increased from one to eight and that the allowance for peel be increased from 5 millimeters (0.20 inch) to 6.4 millimeters (0.25 inch). These recommendations were made simply because the proposed allowances would not permit the production and marketing of certain crushed tomato concentrates, unless labeled substandard in quality.

Crushed tomato concentrates are not in this final regulation. Therefore, there is no need to increase the tolerances for seeds and peel in the final regulation as set forth below.

Fill of Container

22. The standards of identity for tomato concentrates, catsup, and tomato juice contain provisions for preservation by refrigeration, freezing, and heat sterilization. (See paragraph 9.) FDA has no data, however, which demonstrate that the general method for fill of container, as set out in § 130.12, is applicable to frozen products, nor does it have data with which to establish what minimum fill of container requirement, if any, is needed for frozen tomato products. Therefore, exemptions for frozen tomato products have been established in §§ 155.191(c), 155.194(c), and 156.145(c) as set forth below.

Catsup

Tomato Concentrate as Ingredient

23. One processor, addressing proposed § 155.194, questioned whether tomato concentrate, as an optional tomato ingredient in the catsup standard, must meet all the requirements of both the standards of identity and quality for tomato concentrate, § 155.191 (a) and (b).

FDA advises that the tomato concentrate ingredient provided for in § 155.194(a)(1)(i) also must comply with the standard of quality for tomato concentrate. Therefore, § 155.194(a)(1)(i), as set forth below, requires that the tomato concentrate ingredient shall be as defined in § 155.191(a)(1) and shall comply with § 155.191(b).

Other Tomato Ingredients

24. One processor suggested that the list of optional tomato ingredients be expanded to provide that any form of fresh or physically preserved tomatoes can be used in catsup. The commentor reasoned that there is no basis to exclude from the list foods like canned or frozen tomatoes (not concentrated), drum "pizza pulp", bulk storage

concentrated chopped tomatoes, or other wholesome forms of tomatoes which can be preserved for use in off-season production. The processor also requested that the standard provide for mature tomatoes of red or reddish varieties (with or without skins and/or seeds) which have been preserved by physical means in accordance with good manufacturing practice and which may have been concentrated (with or without subsequent dilution). The comment proposed that the standard of identify for tomato concentrates provide for the use of any optional ingredients permitted in catsup.

The tomato concentrates standard permits food to be preserved by freezing and refrigeration as well as heat sterilization. Section 155.194(a)(1)(i) provides for the use of tomato concentrates in catsup. Therefore, the use of frozen or refrigerated tomato concentrate as well as the heat-sterilized tomato concentrate is permitted in catsup. FDA does not object to the suggested provision for other wholesome forms of tomatoes, but believes that such ingredients need to be defined more clearly so that all interested persons will know what is meant by, for example, drum "pizza pulp". Consequently, no additional optional tomato ingredients are included in § 155.194(a)(1). Interested persons may submit a petition proposing the use of additional forms of tomato ingredient in catsup. However, the petition should clearly identify the forms to be used and demonstrate how the proposed use will promote honesty and fair dealing in the interest of consumers. With regard to the comment that the standard for tomato concentrates should allow any optional ingredient permitted in catsup, FDA points out that tomato concentrate may be used in foods in which the ingredients used in catsup would be inappropriate. Therefore, FDA is not providing, in the standard of identity for tomato concentrates, for all optional ingredients that are provided for in the standard of identity for catsup.

Water

25. One comment suggested that the sentence "Water may be added to adjust the final composition" be added to § 155.194(a) to be consistent with § 155.191(a)(1) of the tomato concentrate standard. Another comment recommended that the sentence "The liquid is then concentrated" be deleted from the paragraph.

FDA agrees with both comments. Section § 155.194(a)(1), as set forth below, provides for the use of water to adjust the final composition. The proposed sentence "The liquid is then concentrated" is deleted.

Minimum Soluble Solids Requirement

26. Five comments concerned the 25-percent minimum soluble solids requirement proposed for catsup. Three comments did not object to a minimum requirement, but suggested that the figure be decreased to 24 percent soluble solids to be equivalent to the USDA requirement of 25 percent total solids. Two comments opposed the proposed requirement and asserted that adoption of the 25-percent minimum requirement for soluble solids would eliminate the marketing of USDA "substandard" grade products that are made for special purposes, such as emergency uses and special orders.

FDA has reconsidered the proposed requirement. In proposing it the agency did not focus on the fact that the term soluble solids for catsup includes soluble tomato solids and added sweetener. FDA believes that a soluble solids requirement would therefore be of little benefit in promoting honesty and fair dealing in the interest of consumers. Furthermore FDA has no basis for concluding that catsup presently manufactured at less than 25 percent total soluble solids and sold as a USDA substandard grade product is not, in fact, catsup. Therefore, FDA is not providing for a minimum soluble solids requirement in the standard of identity for catsup.

Vinegar

27. Two comments favored retention of the provision for the use of vinegar in catsup, but opposed permitting the use of lemon juice, concentrated lemon juice, and organic acids. One comment favored expanding the use of acidulants. One comment stated that the use of vinegar as the sole acidulant in catsup has been effective in providing two important contributions to the food, namely flavor and safety. As a preservative, vinegar's presence, in concert with the normal acidity of tomatoes, salt, and added sweeteners, has provided microbiological stability for the product in the container both before and after opening. The comment argued that the stability and preserving qualities of other acidulants used in concert with ingredients in catsup formulations is not known, and, if spoilage were to occur through use of alternatives, the image of all catsup products would be adversely affected. Both comments asserted that the use of acidulants other than vinegar would change the basic characteristics of catsup because the fermentation of vinegar produces certain natural flavors which appear to enhance the flavor of catsup. One of the comments believed that to effect a change employing the "safe and suitable" concept, at the same time the concept is being questioned by the agency which employs it, would seem precipitous at the very least.

Although FDA is not convinced that acidulants other than vinegar could not be used in catsup, it agrees that their stability and preserving qualities, when used in concert with ingredients in catsup formulations, have not been established. Therefore, lemon juice, concentrated lemon juice, and organic acids are not provided for in the standard of identity for catsup as set forth below. FDA's policy regarding the use of "safe and suitable" ingredients is discussed below.

Sweeteners

28. Two processors favored "broadening" the use of sweeteners in catsup, and one suggested that the reference to the sweetener in § 155.194(a)(2)(ii) be made plural. Another processor favored the proposed provision because it would allow for the manufacture of "honey catsup." One processor opposed the expansion of sweetener usage beyond the options available in the current standard. The company expressed the concern that, in the absence of a definition for nutritive carbohydrate sweeteners, the provision could open the door for the use of pseudo-sweetener ingredients that could affect the quality of catsup products. It requested clarification whether ingredients such as honey, low dextrose equivalent corn syrup, maltodextrins, or even extracts of vegetables or fruits with a sugar fraction, can be classified as nutritive carbohydrate sweeteners. It was asserted that the present list of permitted sweeteners should not be broadened without a complete evaluation of the quality impact of the use of additional sweeteners. ABCO Laboratories, Concord, CA, had also petitioned for honey as a sweetening ingredient of catsup, stating that honey as a sweetener has history in antiquity and is generally recognized as safe for its intended use.

The May 9, 1978, proposal provided for the use of safe and suitable nutritive carbohydrate sweeteners. Subsequent to the proposal, FDA, the United States Department of Agriculture (USDA), and the staff of the Federal Trade Commission's Bureau of Consumer Protection (FTC) announced their tentative positions on a variety of food related issues in the **Federal Register** of December 21, 1979 (44 FR 75990). A tentative revision in FDA's current

policy with regard to safe and suitable ingredients in standardized foods was considered.

Upon review and evaluation of the comments received in response to the December 21, 1979, tentative position, however, FDA has determined that, at this time, it would be in the best interest of consumers and the regulated industry to retain its established policy for use of safe and suitable optional ingredients in standardized foods. In the **Federal Register** of January 21, 1983 (48 FR 2836), FDA announced this decision.

FDA does not agree with the comment that the proposed class of safe and suitable nutritive carbohydrate sweeteners, which includes honey, should be broadened. It is not aware of any sweetener, presently regarded as suitable for use in catsup, which would be excluded from such use by restricting the class of sweeteners to safe and suitable nutritive carbohydrate sweeteners. Furthermore, it was not FDA's intention, as one commentor inferred, to limit the sweetener to any one nutritive carbohydrate sweetener. Accordingly, § 155.194(a)(2) has been revised to identify that any one or combination of two or more of the safe and suitable ingredients, which includes nutritive carbohydrate sweeteners, may be used.

A nutritive carbohydrate sweetener that affects the basic characteristic of the food, whether by degrading its taste, smell, appearance, or nutritional characteristic, would not be an appropriate ingredient. Maltodextrins and low dextrose equivalent corn syrup are not generally considered sufficiently sweet to be considered suitable as nutritive carbohydrate sweeteners and therefore are not permitted in catsup. Extracts of vegetables or fruits with an enriched sugar fraction have not been demonstrated to be suitable for use in catsup.

Filtrate vs. Serum

29. One comment recommended that the words "of the filtrate" used in the definition of "Soluble solids" in the proposed § 155.194(a)(3) be replaced by the words "of the clear serum" to clarify that the portion of the product to be examined by refractometers may be obtained by methods other than filtering (e.g., centrifugation).

The proposed minimum total soluble solids requirement is not provided for in the final regulation as set forth below. Therefore, there is no need for the proposed definition.

Labeling—Honey

30. One comment wanted affirmation that catsup made with honey as the only sweetening ingredient could be labeled "honey catsup" or "catsup."

No data were submitted to demonstrate that honey, when used as a sweetener in catsup, imparts a taste, flavor, or other characteristic to the finished food in addition to sweetness. Therefore, the name of the food which contains honey as a sweetener and complies with the requirements of § 155.194 is "catsup." In any event, "honey catsup" is not an appropriate name for a product in which the principal characterizing ingredient is tomatoes.

Optional Ingredients

31. One processor recommended that a phrase such as "sugar and/or high quality corn derived syrups" be used on the label in lieu of declaring sugars by their common or usual names in order of predominance. It stated that requiring the declaration of the name of each sugar creates problems in regard to label costs and inventory control of labels, without providing any benefit to consumers. Another processor indicated that the requirement that each optional ingredient used be declared on the label by its common or usual name should not apply to catsup. The company stated that two sets of labels will have to be maintained: one set that declares "tomatoes" for catsup produced during the season and another set that declares "tomato concentrate" for catsup produced during the off-season from tomato concentrate. It asserted that a label declaration of "red ripe tomatoes" should more than suffice in both cases.

FDA recognizes that the requirement to declare ingredients on the label of foods by their common or usual name sometimes creates problems for processors. Testimony from consumers on the labeling of ingredients used in foods was presented at the public hearings referred to in the discussion of sweeteners which appears earlier in this preamble. The desire most frequently expressed by consumers was for complete ingredient declaration on the labels of all foods. FDA's policy, as set forth in § 101.6 (21 CFR 101.6), is to amend the definitions and standards of identity for foods, in accordance with section 401 of the act (21 U.S.C. 341), to require label declaration of all optional ingredients (with the exception, in the case of catsup, of optional spices and flavorings which may continue to be designated as such without specific ingredient declaration). Therefore, no change is made in the final regulation as set forth below.

Determination of Consistency

32. One comment recommended that the sentence in proposed § 155.194(b)(1), "Always remix sample before transferring to instrument" be deleted from the proposed procedure for determining consistency. It stated that, unlike tomato concentrate, catsup is not diluted prior to testing and that it is imperative that the sample be transferred to the instrument with a minimum of agitation, because remixing disrupts the pectin gel and gives a false reading.

FDA agrees with the recommended change. Further, FDA concludes that, for the reason given above, the instructions to mix without incorporating air bubbles, which appear earlier in § 155.194(b)(1), also should be deleted from the proposed procedures for determining consistency. Therefore, the proposed mixing instructions do not appear in the procedure for determining consistency in § 155.194(b)(1) of the final regulation set forth below.

Ninety Percent Fill of Container Exemption

33. A trade association requested that single-service containers of catsup with a declared net weight or net volume of 2 ounces or less be exempted from the proposed 90-percent fill of container requirement. It stated that single-service portions of catsup are generally packaged in sealed pouches made of flexible films or laminates. The physical nature of these containers makes a determination of their volume or capacity difficult, if not impossible. The association also stated that, while standards of fill are generally thought to be for the protection of consumers, a 90-percent fill of container requirement for single-service portions of catsup would be a real disadvantage to consumers. A single-service container of catsup filled to 90 percent capacity (even in a rigid cup) would likely spill or squirt as the consumer attempted to open the container. To open a flexible film container without spilling or squirting its contents, the container must be filled in such a way that, when held upright, there is air in the space where the consumer will tear open the container. The association stated that the basis for the 2 ounces or less exemption to the 90-percent fill of container requirement is that catsup is currently packaged in single-service containers with a declared net volume of ½ ounce, ¾ ounce, and 1 ounce, and that a 2-ounce container is under consideration.

The agency agrees, and § 155.194(c)(1) below exempts from the 90-percent fill

of container declaration, catsup packaged in individual serving size packages containing 56.7 grams (2 ounces) or less.

Tomato Juice

Blending of Tomato Juice and Tomato Juice From Concentrate

34. Two comments, addressing proposed § 156.145, requested that FDA provide for the blending of tomato juice with tomato juice from concentrate so that a more uniform and better quality product can be produced. One of the comments said FDA should establish by regulation a realistic proportion of tomato juice from concentrate that may be blended with tomato juice (directly expressed tomato juice). The comments maintained that the name of the blend should be "tomato juice."

FDA agrees that blending of tomato juice and tomato juice from concentrate should be provided for, and § 156.145(a)(1) below so provides. FDA does not agree that the name "tomato juice" is appropriate for mixtures of tomato juice and tomato juice from concentrate because the unqualified name "tomato juice" does not adequately inform consumers that the food is, in fact, concentrated tomato juice that has been reconstituted with water. Consequently, FDA concludes that there is no need to establish proportions for the blending of tomato juice and tomato juice from concentrate. Therefore, § 156.145(a)(2)(i)(*b*) requires the name "tomato juice from concentrate" for those finished juices prepared from tomato juice and tomato juice from concentrate.

Minimum Soluble Solids for Tomato Juice From Concentrate

35. Two comments recommended retaining the proposed 5.5 percent soluble solids requirement. Three comments recommended that the minimum soluble solids be established at 4.5 percent. One comment suggested a minimum soluble solids of 4.7 percent. One comment representing 30 fruit and vegetable canning companies in California stated that the State of California produces 68 percent of all the tomato juice canned in the United States. The comment submitted data for the soluble tomato solids for tomato juice produced in California for the years 1971 through 1977. The yearly average varied between 5.5 percent and 6.0 percent; however, in 1975, 57 percent of the tomates had a soluble tomato solids below 5.5 percent. Another comment from a producer of tomato juice stated that "Our considerable experience in the tomato juice business confirms the Commissioner's opinion that very few domestically grown tomatoes would yield a juice with less than 5.5 percent soluble solids." The comment enclosed results of recent testing that they had done on the soluble solids of 12 samples representing 9 brands of tomato juice that they understood to be processed from locally grown tomatoes. The percent soluble solids of the samples purchased in New York State (5) ranged from 4.80 to 7.52 with an average of 6.00. The percent soluble solids of the samples picked up in California (7) ranged from 5.85 to 7.52 with an average of 6.49. Another comment pointed out that tomato juice produced in the Midwest has had a lower soluble solids, slightly higher acidity, and somewhat different flavor than tomato juice produced in California. This comment stated that 3,400 analyses of tomato juice produced over the last 3 years have shown that the larger portion of their product was below 5.5 percent soluble solids. It was their opinion that a 5.5 percent soluble solids requirement would cause severe cost penalties to producers of tomato juice from concentrate in the Midwest. In addition, the comment stated that there could also be serious quality problems because of the unacceptably high acidity. Another comment stated that since 1970 the average soluble solids of tomatoes processed in the Northeast has been 4.7 percent. This comment asserted that a requirement of a 5.5 percent soluble solids minimum would severely limit their ability to compete in the marketplace and this, in turn, would have an adverse effect on the consumer. One comment stated that a 1979 revision in the State of California grade standard that penalizes growers for soft fruit has accelerated the development of a firm-fruited varieties that have a lower soluble solids content. The comment stated that during 1982, analyses by the California Department of Food and Agriculture, which grades all California tomatoes for canning use, show a weighted average tomato soluble solids of 5.0 percent. The comment suggested that the minimum soluble solids for tomato juice from concentrate should be between 4.5 and 5.0 percent.

FDA recognizes that there is a variation in percentage tomato soluble solids in tomatoes from year to year and in different areas of the country. However, regardless of where FDA sets the minimum tomato soluble solids for tomato juice from concentrate, a given quantity of juice from tomatoes having high soluble solids will result in more units of "juice from concentrate" than an equal quantity of juice from tomatoes having lower soluble solids. FDA, recognizes that setting a minimum tomato soluble solids requirement at 5.0 percent will place some packers at an economic advantage. But, this advantage will exist regardless of where the figure is set. Obviously, producers of tomatoes with higher soluble solids will meet any soluble solids requirement by using fewer tomatoes than producers of tomatoes with lower soluble solids. FDA has issued numerous temporary permits to market test tomato juice from concentrate at 5.5 percent soluble solids. However, based on available information, FDA is persuaded that 5.0 percent is a reasonable minimum requirement for tomato juice from concentrate. Consequently, FDA is establishing 5.0 percent as the minimum soluble solids requirement for tomato juice from concentrate in the final regulation set forth below.

Minimum Soluble Solids for Concentrated Tomato Juice

36. Two comments focused on the proposed 20 percent minimum soluble solids requirement for concentrated tomato juice. One suggested that the requirement be lowered to 18 percent to allow processors flexibility. The other comment suggested that the proposed requirement be deleted entirely because it is not easily translated into uncomplicated label directions for dilution to the Codex 4.5 percent soluble solids for reconstituted tomato juice or to the proposed minimum 5.5 percent.

The 20-percent figure for minimum soluble solids was not proposed as a new requirement to coincide exactly with either the 4.5 or 5.5 percent figures, but rather as a helpful indicator that would reflect industry practice. To avoid confusion and misunderstanding, the agency has revised § 155.191(a)(3)(i)(*d*) to provide that "concentrated tomato juice" should be of such concentration that upon diluting the food according to label directions it will not contain less than 5.0 percent by weight tomato soluble solids. No minimum percent soluble solids for concentrated tomato juice is now specified.

Addition of Concentrate To Adjust Minimum Soluble Solids

37. One comment favored a minimum soluble solids level for "fruit juices" at the same level as that for "juice from concentrate". It suggested that, in view of today's high technology, there can be no justification for establishing different °Brix (soluble solids) levels for the two products or for establishing a minimum level for one product and not for the other. It recognized that when a

minimum °Brix level was established there would be some single strength juice which would fall below that minimum. It suggested that, in order not to discriminate against a processor who cannot divert low °Brix juice to some other use, FDA should permit adjustment of °Brix by the addition of a limited amount of concentrate, without requiring a change in the product name to "juice from concentrate" or some other label declaration. In the minds of many consumers, the comment continued, the name "from concentrate" connotes an inferior product. The comment noted, however, the addition of minimal amounts of concentrate simply insures that the consumer receives a high quality, uniform product. The comment also stated there is no reason to discriminate against a product that has been adjusted with minimal amounts of concentrate because the addition of concentrate will in no way adversely affect the flavor or quality of the juice.

As stated in the responses to the previous comments, FDA did not propose and is not establishing a minimum soluble solids requirement for tomato juice. FDA agrees that it may be in the interest of consumers to permit the addition of some quantity of concentrated juice in an amount reasonably necessary to adjust the soluble solids content of "tomato juice." However, since public comment has not been received on this issue, it is inappropriate at this stage of the rulemaking proceeding to provide for the addition of tomato concentrate to adjust the soluble solids of tomato juice without labeling the food "tomato juice from concentrate." Interested persons are invited to submit a petition, including support by adequate data, which demonstrates the need for such a provision in the standards. The petition should also demonstrate what limitation should be placed on the quantity of concentrated tomato juice which may be added to adjust the soluble solids of tomato juice and what type of labeling would be appropriate to inform the consumer of such addition.

Declaration of Water

38. Two comments requested that the declaration of water not be required when it is used to reconstitute concentrated tomato juice to single-strength juice. One comment maintained that the declaration of water and concentrated tomato juice is superfluous because it is of the opinion that consumers recognize that "juice from concentrate" is made by the addition of water and/or concentrated juice. The comment also stated that water and concentrated tomato juice should not be required in the ingredient listing because they are mandatory ingredients. The second comment stated that the separate listing of "water" should be reserved for diluted juice beverages.

Juice from concentrate is prepared from water and concentrated juice. Concentrated tomato juice can be diluted either by the addition of water or tomato juice. As discussed previously in regard to the use of sweeteners and optional ingredients in catsup, many consumers want full ingredient labeling. Therefore, FDA is providing, in § 156.145(a)(1) below, for water and tomato juice as optional ingredients and requiring in § 156.145(a)(2)(ii) that each of the optional ingredients used shall be declared in the ingredient statement according to Part 101.

Quality Defects

39. Two comments stated that the language proposed in § 156.145(b)(1)(ii) does not reflect current industry practice. One of the comments suggested that the paragraph be replaced by the following: "There are not more than two of the following defects present for peel and blemishes, either singly or in combination, and no more than 3 defects for seeds or pieces of seeds 3.2 millimeters (0.125 inch) or more in length per 500 milliliters (16.9 fluid ounces) of juice."

FDA has reevaluated the quality requirements for tomato juice and agrees with this comment. FDA concludes that it is reasonable to require that there be not more than two defects for peel and blemishes, either singly or in combination, in addition to three defects for seeds or pieces of seeds 3.2 millimeters (0.125 inch) or more in length per 500 milliliters (16.9 fluid ounces) and has amended § 156.145(b)(1)(ii) accordingly.

Sample Size

40. One comment suggested that the 500-milliliter sample proposed for use in determining the number and size of defects in tomato juice be divided into two 250-milliliter aliquots. The suggestion was made in the interest of accuracy.

FDA agrees. An aliquot of 250 milliliters in each of two grading trays would provide for greater accuracy in the examination for quality defects rather than having all of the sample in a single grading tray. The proposed procedure is also being revised to delete the statement that the trays should be slightly inclined. The method in § 156.145(b)(2)(ii) below reflects these changes.

Defect Levels

41. One processor recommended that more allowance be made for mold in the defect action levels for homogenized tomato juice. The comment indicated that in the process of reducing the particulate matter to a uniform size in tomato juice the mold filaments are also pulverized, thereby seemingly increasing their number. In light of this occurrence, it recommended a 21 percent mold count before homogenization and 42 percent after homogenization.

Defect action levels (DAL's) are not a part of food standards, but are provided for in § 110.99 (21 CFR 110.99). DAL's for mold or other natural or unavoidable defects in food for human use which present no health hazard are listed in an FDA publication entitled "The Food Defect Action Levels", which is available from FDA, Industry Programs Branch, Bureau of Foods (HFF–326), 200 C St. SW., Washington, DC 20204. FDA has established a microscopic mold count average of 21 percent as the defect action level for tomato juice. It recognizes that tomato juice passed through particle size reducing equipment, including homogenizers, has a higher microscopic mold count. Although FDA is not listing homogenized tomato juice separately from other types of tomato juice, in deciding whether a product meets an applicable DAL, FDA makes allowances, based upon a particular plant's processes, for tomato products that are homogenized.

Tomato Juice as an Ingredient of Tomato Juice From Concentrate

42. FDA believes that it is in the public interest to provide for the optional use of water and/or tomato juice in the preparation of tomato juice from concentrate. A provision for the use of tomato juice, in addition to water, for reconstituting concentrated tomato juice was inadvertently omitted from the proposal. The agency believes that to invite comment on this revision is impractical and contrary to the public interest and sees no prejudice resulting to interested persons. Therefore, § 156.145(a)(1)(i) is amended accordingly.

Definitions

43. Definitions applicable to tomato juice were inadvertently cross-referenced to § 155.3, the definitions for the canned vegetable standards. This has been corrected in the final regulation below by establishing, and appropriately referencing in § 156.145, a new § 156.3 in Part 156—Vegetable Juices, containing the procedures for

determining strength and redness of color, tomato soluble solids, salt, compliance of a lot, and sampling and acceptance that were proposed for canned vegetables (43 FR 19864; May 9, 1978).

Effective Date

44. Two comments requested that the proposed effective date be July 1, 1981, to provide processors with adequate time for any changes which may be required by a final regulation.

FDA is changing the effective date of the final regulation to the new uniform effective date of July 1, 1985.

Certain editorial changes, including insertion of a provision that the name "tomato concentrate" may be used in lieu of the name "tomato puree", "tomato pulp", or "tomato paste" in the ingredient statement for catsup, are made in the final regulation set forth below for the purpose of clarification. The proposed standard of quality for tomato concentrate incorrectly considered "pieces of seed" (seed particles) a defect when 3.2 millimeters (0.125 inch) or greater in length and provided that not more than four blemishes in the combined total of 36 defects allowed for pieces of peel, pieces of seeds (seed particles), and blemishes may exceed 1.6 millimeters (0.063 inch) in length. Based on USDA administrative guidelines for grading canned tomato paste and tomato puree, § 155.191(b)(1)(iii) (*b*) and (*c*) as set forth below considers "pieces of seed (seed particles)" a defect when 1 millimeter (0.039 inch) or greater in length, and considers blemishes, dark brown or black particles (specks), a defect when not more than four exceed 1.6 millimeters (0.0625 inch) in length of which not more than one exceeds 3.2 millimeters (0.125 inch) and none exceed 6.4 millimeters (0.25 inch).

In consideration of the comments received and other relevant information, FDA concludes that it will promote honesty and fair dealing in the interest of consumers and that it will facilitate international trade to amend the definition section for canned vegetables, to establish a definition section for vegetable juices and to amend the standards of identity, and to establish standards of quality and fill of container for tomato concentrates, catsup, and tomato juice as set forth below.

List of Subjects

21 CFR Part 155

Canned vegetables; Food standards; Incorporation by reference; Vegetables.

21 CFR Part 156

Food standards; Incorporation by reference; Vegetable juices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 155 and 156 are amended as follows:

PART 155—CANNED VEGETABLES

1. In Part 155:

a. By adding new paragraphs (d), (e), and (f) to § 155.3 to read as follows:

§ 155.3 Definitions.

* * * * *

(d) "Strength and redness of color" means at least as much red as is obtained by comparison of the prepared product, with the blended color produced by spinning a combination of the following concentric Munsell color discs of equal diameter, or the color equivalent of such discs:

Disc 1—Red (5R 2.6/13) (glossy finish)
Disc 2—Yellow (2.5 YR 5/12) (glossy finish)
Disc 3—Black (N1) (glossy finish)
Disc 4—Grey (N4) (mat finish)

Such comparison is to be made in full diffused daylight or under a diffused light source of approximately 2691 lux (250 footcandles) and having a spectral quality approximating that of daylight under a moderately overcast sky, with a correlated color temperature of 7,500 degrees Kelvin ± 200 degrees. With the light source directly over the disc and product, observation is made at an angle of 45 degrees from a distance of about 24 inches from the product. Electronic color meters may be used as an alternate means of determining the color of tomato concentrates. Such meters shall be calibrated to indicate that the color of the product is as red or more red than that produced by spinning the Munsell color discs in the combination as set out above.

(e) "Tomato soluble solids" means the sucrose value as determined by the method prescribed in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed., 1980, sections 32.014 to 32.016 and 52.012, under the headings "Soluble Solids in Tomato Products Official Final Action" and "Refractive Indices (n) of Sucrose Solutions at 20°," which is incorporated by reference. Copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or are available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. If no salt has been added, the sucrose value obtained from the referenced tables shall be considered the percent of tomato soluble solids. If salt has been added either intentionally or through the application of the acidified break, determine the percent of such added sodium chloride as specified in paragraph (f) of this section. Subtract the percentage so found from the percentage of total soluble solids found (sucrose value from the refractive index tables) and multiply the difference by 1.016. The resultant value is considered the percent of "tomato soluble solids."

(f) "Salt" means sodium chloride, determined as chloride and calculated as percent sodium chloride, by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed., 1980, sections 32.025 to 32.030, under the heading "Method III (Potentiometric Method)," which is incorporated by reference.

b. By revising § 155.191 to read as follows:

§ 155.191 Tomato concentrates.

(a) *Identity*—(1) *Definition.* Tomato concentrates are the class of foods each of which is prepared by concentrating one or any combination of two or more of the following optional tomato ingredients:

(i) The liquid obtained from mature tomatoes of the red or reddish varieties (*Lycopersicum esculentum* P. Mill).

(ii) The liquid obtained from the residue from preparing such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.

(iii) The liquid obtained from the residue from partial extraction of juice from such tomatoes.

Such liquid is obtained by so straining the tomatoes, with or without heating, as to exclude skins (peel), seeds, and other coarse or hard substances in accordance with good manufacturing practice. Prior to straining, food-grade hydrochloric acid may be added to the tomato material in an amount to obtain a pH no lower than 2.0. Such acid is then neutralized with food-grade sodium hydroxide so that the treated tomato material is restored to a pH of 4.2 ± 0.2. Water may be added to adjust the final composition. The food contains not less than 8.0 percent tomato soluble solids as defined in § 155.3(e). The food is preserved by heat sterilization (canning), refrigeration, or freezing. When sealed in a container to be held at

ambient temperatures, it is so processed by heat, before or after sealing, as to prevent spoilage.

(2) *Optional ingredients.* One or any combination of two or more of the following safe and suitable ingredients may be used in the foods:

(i) In all tomato concentrates:

(*a*) Salt (sodium chloride formed during acid neutralization shall be considered added salt).

(*b*) Lemon juice, concentrated lemon juice, or organic acids.

(*c*) Sodium bicarbonate.

(*d*) Water, as provided for in paragraph (a)(1) of this section.

(ii) In tomato paste:

(*a*) Spices.

(*b*) Flavoring.

(3) *Labeling.* (i) The name of the food is:

(*a*) "Tomato puree" or "tomato pulp" if the food contains not less than 8.0 percent but less than 24.0 percent tomato soluble solids.

(*b*) "Tomato paste" if the food contains not less than 24.0 percent tomato soluble solids.

(*c*) The name "tomato concentrate" may be used in lieu of the names "tomato puree," "tomato pulp," or "tomato paste" whenever the concentrate complies with the requirements of such foods and the statement "for remanufacturing purposes only" is declared on No. 10 containers (3.1 kilograms or 109 avoirdupois ounces total water capacity) or containers that are smaller in size.

(*d*) "Concentrated tomato juice" if the food is prepared from the optional tomato ingredient described in paragraph (a)(1)(i) of this section and is of such concentration that upon diluting the food according to label directions as set forth in paragraph (a)(3)(iii) of this section, the diluted article will contain not less than 5.0 percent by weight tomato soluble solids.

(ii) The following shall be included as part of the name or in close proximity to the name of the food:

(*a*) The statement "Made from" or "Made in part from," as the case may be, "residual tomato material from canning" if the optional tomato ingredient specified in paragraph (a)(1)(ii) of this section is present.

(*b*) The statement "Made from" or "Made in part from," as the case may be, "residual tomato material from partial extraction of juice" if the optional tomato ingredient specified in paragraph (a)(1)(iii) of this section is present.

(*c*) A declaration of any flavoring, as provided in paragraph (a)(2)(ii) of this section that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice that characterizes the product, e.g., "Seasoned with ————," the blank to be filled in with the words "added spice" or, in lieu of the word "spice," the common name of the spice.

(iii) The label of concentrated tomato juice shall bear adequate directions for dilution to result in a diluted article containing not less than 5.0 percent by weight tomato soluble solids.

(iv) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(v) Determine percent tomato soluble solids as specified in § 155.3(e). Determine compliance as specified in § 155.3(b). A lot shall be deemed to be in compliance for tomato soluble solids as follows:

(*a*) The sample average meets or exceeds the required minimum.

(*b*) The number of sample units that are more than 1 percent tomato soluble solids below the minimum required does not exceed the acceptance number in the sampling plans set forth in § 155.3(c)(2).

(b) *Quality.* (1) The standard of quality for tomato concentrate (except for concentrated tomato juice, which when diluted to 5.0 percent tomato soluble solids shall conform to the standard of quality for tomato juice set forth in § 156.145 of this chapter) is as follows:

(i) The strength and redness of color of the food, when diluted with water (if necessary) to 8.1±0.1 percent tomato soluble solids is not less than the composite color produced by spinning the Munsell color discs in the following combination:

53 percent of the area of Disc 1;
28 percent of the area of Disc 2; and
19 percent of the area of either Disc 3 or Disc 4; or
9½ percent of the area of Disc 3 and 9½ percent of the area of Disc 4,
whichever most nearly matches the appearance of the sample.

(ii) Not more than one whole seed per 600 grams (21 ounces).

(iii) Not more than 36 of the following defects, either singly or in combination, per 100 grams (3.5 ounces) of the product when diluted with water to 8.1±0.1 percent tomato soluble solids:

(*a*) Pieces of peel 5 millimeters (0.20 inch) or greater in length (without unrolling).

(*b*) Pieces of seed (seed particles) 1 millimeter (0.039 inch) or greater in length.

(*c*) Blemishes, such as dark brown or black particles (specks)—not more than four exceed 1.6 millimeters (0.0625 inch) in length of which not more than one exceeds 3.2 millimeters (0.125 inch) and none exceed 6.4 millimeters (0.25 inch).

(2) *Methodology.* Dilute with water, if necessary, to 8.1±0.1 percent tomato soluble solids.

(i) Determine strength and redness of color as prescribed in § 155.3(d).

(ii) Whole seeds—Weigh out 600 grams (21 ounces) of the well-mixed, diluted concentrate; place a U.S. No. 12 screen (1.68 millimeters (0.066 inch) openings) over the sink drain; transfer the product sample onto the screen; rinse container thoroughly with water and pour through screen; flush sample through screen by using an adequate spray of water; check screen for whole seeds; apply the appropriate allowance.

(iii) Peel, pieces of seed, and blemishes—Spread the prepared concentrate evenly on a large white tray and remove the individual defects, identify, classify, and measure.

(3) *Sampling and acceptance.* Determine compliance as specified in § 155.3(b).

(4) If the quality of the tomato concentrate falls below the standard prescribed in paragraph (b) (1) and (3) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified, but in lieu of such general statement of substandard quality when the quality of the tomato concentrate falls below the standard in one or more respects, the label may bear the alternative statement, "Below Standard in Quality ————," the blank to be filled in with the words specified after the corresponding paragraph(s) under paragraph (b)(1) of this section which such tomato concentrate fails to meet, as follows:

(i) "Poor color."

(ii) "Excessive seeds."

(iii)(*a*) "Excessive pieces of peel."

(*b*) "Excessive pieces of seed."

(*c*) "Excessive blemishes."

(c) *Fill of container.* (1) The standard of fill of container for tomato concentrate, as determined by the general method for fill of container prescribed in § 130.12(b) of this chapter, is not less than 90 percent of the total capacity, except when the food is frozen.

(2) Determine compliance as specified in § 155.3(b).

(3) If the tomato concentrate falls below the standard of fill prescribed in paragraph (c) (1) and (2) of this section, the label shall bear the general statement of substandard fill specified

in § 130.14(b) of this chapter, in the manner and form therein prescribed.

§ 155.192 [Removed]

c. By removing § 155.192 *Tomato puree.*

d. By revising § 155.194 to read as follows:

§ 155.194 Catsup.

(a) *Identity*—(1) *Definition.* Catsup, ketchup, or catchup is the food prepared from one or any combination of two or more of the following optional tomato ingredients:

(i) Tomato concentrate as defined in § 155.191(a)(1) and in compliance with § 155.191(b).

(ii) The liquid derived from mature tomatoes of the red or reddish varieties *Lycopersicum esculentum* P. Mill.

(iii) The liquid obtained from the residue from preparing such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.

(iv) The liquid obtained from the residue from partial extraction of juice from such tomatoes.

Such liquid is strained so as to exclude skins, seeds, and other coarse or hard substances in accordance with good manufacturing practice. Prior to straining, food-grade hydrochloric acid may be added to the tomato material in an amount to obtain a pH no lower than 2.0. Such acid is then neutralized with food-grade sodium hydroxide so that the treated tomato material is restored to a pH of 4.2 ± 0.2. The final composition of the food may be adjusted by concentration and/or by the addition of water. The food ingredients may contain salt (sodium chloride formed during acid neutralization shall be considered added salt) and is seasoned with ingredients as specified in paragraph (a)(2) of this section. The food is preserved by heat sterilization (canning), refrigeration, or freezing. When sealed in a container to be held at ambient temperatures, it is so processed by heat, before or after sealing, as to prevent spoilage.

(2) *Ingredients.* One or any combination of two or more of the following safe and suitable ingredients in each of the following categories is added to the tomato ingredients specified in paragraph (a)(1) of this section:

(i) Vinegars.

(ii) Nutritive carbohydrate sweeteners. Such sweeteners if defined in Part 168 of this chapter shall be as defined therein.

(iii) Spices, flavoring, onions, or garlic.

(3) *Labeling.* (i) The name of the food is "Catsup," "Ketchup," or "Catchup."

(ii) The following shall be included as part of the name or in close proximity to the name of the food:

(*a*) The statement "Made from" or "Made in part from," as the case may be, "residual tomato material from canning" if the optional tomato ingredient specified in paragraph (a)(1)(iii) of this section or tomato concentrate containing the ingredient specified in § 155.191(a)(1)(ii) is present.

(*b*) The statement "Made from" or "Made in part from," as the case may be, "residual tomato material from partial extraction of juice" if the optional tomato ingredient specified in paragraph (a)(1)(iv) of this section or tomato concentrate containing the ingredient specified in § 155.191(a)(1)(iii) is present.

(iii) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter except that the name "tomato concentrate" may be used in lieu of the names "tomato puree," "tomato pulp," or "tomato paste" and when tomato concentrates are used, the labeling requirements of § 155.191(a)(3)(ii) (*a*) and (*b*) do not apply.

(b) *Quality.* (1) The standard of quality for catsup is as follows: The consistency of the finished food is such that its flow is not more than 14 centimeters in 30 seconds at 20° C when tested in a Bostwick Consistometer in the following manner: Check temperature of mixture and adjust to 20 ±1° C. The trough must also be at a temperature close to 20° C. Adjust end-to-end level of Bostwick Consistometer by means of the spirit level placed in trough of instrument. Side-to-side level may be adjusted by means of the built-in spirit level. Transfer sample to the dry sample chamber of the Bostwick Consistometer. Fill the chamber slightly more than level full, avoiding air bubbles as far as possible. Pass a straight edge across top of chamber starting from the gate end to remove excess product. Release gate of instrument by gradual pressure on lever, holding the instrument down at the same time to prevent its movement as the gate is released. Immediately start the stop watch or interval timer, and after 30 seconds read the maximum distance of flow to the nearest 0.1 centimeter. Clean and dry the instrument and repeat the reading on another portion of sample. Do not wash instrument with hot water if it is to be used immediately for the next determination, as this may result in an increase in temperature of the sample. For highest accuracy, the instrument should be maintained at a temperature of 20 ± 1° C. If readings vary more than 0.2 centimeter, repeat a third time or until satisfactory agreement is obtained. Report the average of two or more readings, excluding any that appear to be abnormal.

(2) Determine compliance as specified in § 155.3(b).

(3) If the quality of catsup falls below the standard prescribed in (b) (1) and (2) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified, but in lieu of such general statement of substandard quality when the quality of the catsup falls below the standard, the label may bear the alternative statement, "Below Standard in Quality—Low Consistency."

(c) *Fill of container.* (1) The standard of fill of container for catsup, as determined by the general method for fill of container prescribed in § 130.12(b) of this chapter, is not less than 90 percent of the total capacity except:

(i) When the food is frozen, or

(ii) When the food is packaged in individual serving-size packages containing 56.7 grams (2 ounces) or less.

(2) Determine compliance as specified in § 155.3(b).

(3) If the catsup falls below the standard of fill prescribed in paragraph (c) (1) and (2) of this section, the label shall bear the general statement of substandard fill as specified in § 130.14(b) of this chapter, in the manner and form therein specified.

PART 156—VEGETABLE JUICES

2. In Part 156:

a. By adding Subpart A, consisting of new § 156.3, to read as follows:

Subpart A—General Provisions

§ 156.3 Definitions.

For the purpose of this part:

(a) "Strength and redness of color" means at least as much red as obtained by comparison of the prepared product, with the blended color produced by spinning a combination of the following concentric Munsell color discs of equal diameter, or the color equivalent of such discs:

Disc 1—Red (5R 2.6/13) (glossy finish)
Disc 2—Yellow (2.5 YR 5/12) (glossy finish)
Disc 3—Black (N1) (glossy finish)
Disc 4—Grey (N4) (mat finish)

Such comparison is to be made in full diffused daylight or under a diffused light source of approximately 2691 lux (250 footcandles) and having a spectral quality approximating that of daylight

under a moderately overcast sky, with a correlated color temperature of 7,500 degrees Kelvin ±200 degrees. With the light source directly over the disc and product, observation is made at an angle of 45 degrees from a distance of about 24 inches from the product. Electronic color meters may be used as an alternate means of determining the color of tomato juice. Such meters shall be calibrated to indicate that the color of the product is as red or more red than that produced by spinning the Munsell color discs in the combination as set out above.

(b) "Tomato soluble solids" means the sucrose value as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed., 1980, sections 32.014 to 32.016 and 52.012, under the headings "Soluble Solids in Tomato Products Official Final Action" and "Refractive Indices (n) of Sucrose Solutions at 20°," which is incorporated by reference. Copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. If no salt has been added, the sucrose value obtained from the referenced tables shall be considered the percent of tomato soluble solids. If salt has been added, either intentionally or through the application of the acidified break, determine the percent of such added sodium chloride as specified in paragraph (c) of this section. Subtract the percentage so found from the percentage of tomato soluble solids found (sucrose value from the refractive index tables) and multiply the difference by 1.016. The resultant value is considered the percent of "tomato soluble solids."

(c) "Salt" means sodium chloride, determined as chloride and calculated as percent sodium chloride, by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed., 1980, sections 32.025 to 32.030, under the heading "Method III (Potentiometric Method)," which is incorporated by reference.

(d) "Compliance" means the following: Unless otherwise provided in a standard, a lot of canned vegetable juice shall be deemed in compliance for the following factors, to be determined by the sampling and acceptance procedure as provided in paragraph (e) of this section, namely:

(1) *Quality.* The quality of a lot shall be considered acceptable when the number of defectives does not exceed the acceptance number (*c*) in the sampling plans.

(2) *Fill of container.* A lot shall be deemed to be in compliance for fill of container when the number of defectives does not exceed the acceptance number (*c*) in the sampling plans.

(e) "Sampling and acceptance procedure" means the following:

(1) *Definitions*—(i) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(ii) *Lot size.* The number of primary containers or units in the lot.

(iii) *Sample size (n).* The total number of sample units drawn for examination from a lot.

(iv) *Sample unit.* A container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit. For fill of container, the sample unit shall be the entire contents of the container.

(v) *Defective.* Any sample unit shall be regarded as defective when the sample unit does not meet the criteria set forth in the standards.

(vi) *Acceptance number (c).* The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(vii) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

(2) *Sampling plans:*

ACCEPTABLE QUALITY LEVEL (AQL) 6.5

Lot size (primary containers)	Size of container	
	Net weight equal to or less than 1 kg (2.2 lb)	
	n	*c*
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	[illegible]
48,001 to 84,000	48	6
84,001 to 144,000	[illegible]	[illegible]
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kg (10 lb)	
	n	*c*
2,400 or less	13	[illegible]
2,401 to 15,000	21	3
15,001 to 24,000	29	[illegible]
24,001 to 42,000	48	6
42,001 to 72,000	[illegible]	[illegible]
72,001 to 120,000	126	13
Over 120,000	200	19

ACCEPTABLE QUALITY LEVEL (AQL) 6.5—Continued

Lot size (primary containers)	Size of container	
	Net weight greater than 4.5 kg (10 lb)	
	n	*c*
600 or less	13	2
601 to 2,000	21	3
2,001 to 7,200	29	[illegible]
7,201 to 15,000	48	6
15,001 to 24,000	[illegible]	[illegible]
24,001 to 42,000	126	13
Over 42,000	[illegible]	19

n=number of primary containers in sample
c=acceptance number

b. By revising § 156.145 to read as follows:

§ 156.145 Tomato juice.

(a) *Identity*—(1) *Definition.* Tomato juice is the food intended for direct consumption, obtained from the unfermented liquid extracted from mature tomatoes of the red or reddish varieties of *Lycopersicum esculentum* P. Mill, with or without scalding followed by draining. In the extraction of such liquid, heat may be applied by any method which does not add water thereto. Such juice is strained free from peel, seeds, and other coarse or hard substances, but contains finely divided insoluble solids from the flesh of the tomato in accordance with current good manufacturing practice. Such juice may be homogenized, may be seasoned with salt, and may be acidified with any safe and suitable organic acid. The juice may have been concentrated and later reconstituted with water and/or tomato juice to a tomato soluble solids content of not less than 5.0 percent by weight as determined by the method prescribe in § 156.3(b). The food is preserved by heat sterilization (canning), refrigeration, or freezing. When sealed in a container to be held at ambient temperatures, it is so processed by heat, before or after sealing, as to prevent spoilage.

(2) *Labeling.* (i) The name of the food is:

(*a*) "Tomato juice" if it is prepared from unconcentrate undiluted liquid extracted from mature tomatoes of reddish varieties.

(*b*) "Tomato juice from concentrate" if the finished juice has been prepared from concentrated tomato juice as specified in paragraph (a)(1) of this section or if the finished juice is a mixture of tomato juice and tomato juice from concentrate.

(ii) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality.* (1) The standard of quality for tomato juice is as follows:

(i) The strength and redness of color is not less than the composite color produced by spinning the Munsell color discs in the following combination:

53 percent of the area of Disc 1;

28 percent of the area of Disc 2; and

19 percent of the area of either Disc 3 or Disc 4; or 9½ percent of the area of Disc 3 and 9½ percent of the area of Disc 4, whichever most nearly matches the appearance of the tomato juice.

(ii) Not more than two defects for peel and blemishes, either singly or in combination, in addition to three defects for seeds or pieces of seeds, defined as follows, per 500 milliliters (16.9 fluid ounces):

(*a*) Pieces of peel 3.2 millimeters (0.125 inch) or greater in length.

(*b*) Blemishes such as dark brown or black particles (specks) greater than 1.6 millimeters (0.0625 inch) in length.

(*c*) Seeds or pieces of seeds 3.2 millimeters (0.125 inch) or greater in length.

(2) *Methodology.* (i) Determine strength and redness of color as specified in § 156.3(a).

(ii) Examine a total of 500 milliliters for peel, blemishes, and seeds. Divide the 500-milliliter sample into two 250-milliliter aliquots and pour each aliquot onto separate 30.5 x 45.7 centimeters (12 x 18 inches) white grading trays. Remove defects and evaluate for color and size as defined in paragraph (b)(1)(ii) of this section.

(3) Determine compliance as specified in §156.3(d).

(4) If the quality of the tomato juice falls below the standard prescribed in paragraph (b)(1) and (3) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified, but in lieu of such general statement of substandard quality when the quality of the tomato juice falls below the standard in one or more respects, the label may bear the alternative statement, "Below Standard in Quality ————", the blank to be filled in with the words specified after the corresponding paragraph (s) under paragraph (b)(1) of this section which such tomato juice fails to meet, as follows:

(i) "Poor color".

(ii)(*a*) "Excessive pieces of peel".

(*b*) "Excessive blemishes".

(*c*) "Excessive seeds" or "excessive pieces of seed".

(c) *Fill of container.* (1) The standard of fill of container for tomato juice, as determined by the general method for fill of container prescribed in § 130.12(b) of this chapter, is not less than 90 percent of the total capacity, except when the food is frozen.

(2) Determine compliance as specified in § 156.3(d).

(3) If the tomato juice falls below the standard of fill prescribed in paragraph (c)(1) and (2) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein prescribed.

§ 156.147 [Removed]

c. By removing § 156.147 *Yellow tomato juice.*

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 28, 1983, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin March 29, 1983, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)).)

Dated: January 17, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-2099 Filed 1-27-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 176

[Docket No. 82F-0300]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of dialkyl(C_{16}-C_{18})carbamoyl chloride as a sizing agent in the manufacture of paper and paperboard. This action is in response to a petition filed by AB Casco.

DATES: Effective January 28, 1983; objections by February 28, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 15, 1982 (47 FR 46139), FDA announced that a petition (FAP 0B3490) was filed by AB Casco, Box 11010, 100 61, Stockholm, Sweden, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) of the food additive regulations be amended to provide for the safe use of dialkyl(C_{16}-C_{18})carbamoyl chloride as a sizing agent in the manufacture of paper and paperboard.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are

not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register.** No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 176.170 is amended in paragraph (a)(5) by alphabetically inserting a new item in the list of substances to read as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * *	
Dialkyl (C_{16}–C_{18}) = carbamoyl chloride (CAS Reg. No. 41319-54-4) manufactured by the reaction of secondary amines derived from fatty acids of animal or vegetable sources with phosgene	For use as a sizing agent at a level not to exceed 0.2 percent by weight of the dry fiber.
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 28, 1983, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objections shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall consititute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 28, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: January 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-2225 Filed 1-27-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 436, 452, 455, and 555

[Docket No. 81N-0245]

Microbiological Turbidimetric Assay for Chloramphenicol and Troleandomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations by revising the microbiological turbidimetric assay for chloramphenicol and troleandomycin for both human and veterinary use. The agency is taking this action to reduce assay costs for these antibiotic drugs.

DATES: Effective February 28, 1983; comments, notice of participation, and request for hearing by February 28, 1983; data, information, and analyses to justify a hearing by March 29, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 2, 1981 (46 FR 48714), corrected December 22, 1981 (46 FR 62087), FDA proposed to amend the antibiotic drug regulations by revising the microbiological turbidimetric assay for chloramphenicol and troleandomycin for both human and veterinary use by replacing the buffer solutions as diluents for the standard and sample preparation of these antibiotic drugs with distilled water.

In addition, FDA also proposed that the sample preparation for the microbiological turbidimetric potency assay of fibrinolysin and desoxyribonuclease, combined (bovine) with chloramphenicol ointment be changed from a blending to an extraction method.

Interested persons were given until December 1, 1981, to submit written comments to this proposal and to November 2, 1981 to submit requests for an informal conference. No comments or requests for an informal conference were received.

The agency has considered the economic impact of this final rule and has determined that it does not require a regulatory flexibility analysis, as defined with the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, the final rule would provide for the use of a less costly testing reagent, thus reducing the overall cost of the test method for the manufacturers of these antibiotic drugs, and would refine an existing technical provision without imposing a more stringent requirement. Accordingly, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

21 CFR Part 436

Antibiotics.

21 CFR Part 452

Antibiotics, Macrolide.

21 CFR Part 455

Antibiotics.

21 CFR Part 555

Animal drugs, Antibiotics, Chloramphenicol.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 701(f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 375, 360b(n), 371(f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 436, 452, 455, and 555 are amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

§ 436.106 [Amended]

1. Part 436 is amended in § 436.106 *Microbiological turbidimetric assay,* in

the table of paragraph (a), for the item "Chloramphenicol" by inserting "Distilled water" in the first diluent column and for the items "Chloramphenicol" and "Troleandomycin" by changing in the second diluent column the figure "1" to read "Distilled water".

PART 452—MACROLIDE ANTIBIOTIC DRUGS

2. Part 452 is amended:

a. In § 452.75, paragraph (b)(1)(ii) is revised to read as follows:

§ 452.75 Troleandomycin.

* * * * *

(b) * * *

(1) * * *

(ii) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 80 percent isopropyl alcohol solution (solution 15) to obtain a stock solution containing 1,000 micrograms per milliliter. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 25 micrograms of troleandomycin per milliliter (estimated).

* * * * *

b. In § 452.175a, paragraph (b)(1) is revised to read as follows:

§ 452.175a Troleandomycin capsules.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar containing sufficient 80 percent isopropyl alcohol solution (solution 15) to obtain a stock solution containing 1,000 micrograms of troleandomycin per milliliter (estimated). Blend for 3 to 5 minutes. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 25 micrograms of troleandomycin per milliliter (estimated).

* * * * *

c. In § 452.175b, paragraph (b)(1) is revised to read as follows:

§ 452.175b Troleandomycin oral suspension.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with 80 percent isopropyl alcohol solution (solution 15) to obtain a stock solution of 1,000 micrograms of troleandomycin per milliliter (estimated). Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 25 micrograms of troleandomycin per milliliter (estimated).

* * * * *

d. In § 452.175c, paragraph (b)(1) is revised to read as follows:

§ 452.175c Troleandomycin for oral suspension.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute the drug as directed in the labeling. Dilute an accurately measured representative portion of the sample with sufficient 80 percent isopropyl alcohol solution (solution 15) to obtain a stock solution containing 1,000 micrograms of troleandomycin per milliliter (estimated). Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 25 micrograms of troleandomycin per milliliter (estimated).

* * * * *

e. In § 452.175d, paragraph (b)(1) is revised to read as follows:

§ 452.175d Troleandomycin chewable tablets.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed In § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar with sufficient 80 percent isopropyl alcohol solution to obtain a stock solution of 1,000 micrograms of troleandomycin per milliliter (estimated). Blend 3 to 5 minutes. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 25 micrograms of troleandomycin per milliliter (estimated).

* * * * *

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

3. Part 455 is amended:

a. In § 455.10, paragraph (b)(1)(i) is revised to read as follows:

§ 455.10 Chloramphenicol.

* * * * *

(b) * * *

(1) * * *

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient 95 percent ethyl alcohol to obtain a solution containing 10,000 micrograms of chloramphenicol per milliliter (estimated). Add sufficient distilled water to obtain a concentration of 1,000 micrograms of chloramphenicol per milliliter (estimated). Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

* * * * *

b. In § 455.10a, paragraph (b)(1)(i) is revised to read as follows:

§ 455.10a Sterile chloramphenicol.

* * * * *

(b) * * *

(1) * * *

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient 95 percent ethyl alcohol to obtain a solution containing 10,000 micrograms of chloramphenicol per milliliter (estimated). Add sufficient distilled water to obtain a concentration of 1,000 micrograms of chloramphenicol per milliliter (estimated). Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

* * * * *

c. In § 455.110, paragraph (b)(1) is revised to read as follows:

§ 455.110 Chloramphenicol capsules.

* * * * *

(b) * * *

(1) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar containing 100 milliliters of 95 percent ethyl alcohol. Blend for 2 minutes. Then add 400 milliliters of distilled water and blend again for 2 minutes. Remove an aliquot and further dilute with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

* * * * *

d. In § 455.210, paragraph (b)(1) is revised to read as follows:

§ 455.210 Chloramphenicol injection.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample in sufficient distilled water to obtain a stock of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

* * * * *

e. In § 455.310a, paragraph (b)(1) is revised to read as follows:

§ 455.310a Chloramphenicol ophthalmic solution.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with sufficient distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with ditilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

* * * * *

f. In § 455.310b, paragraph (b)(1)(i) is revised to read as follows:

§ 455.310b Chloramphenicol ophthalmic.

* * * * *

(b) * * *

(1) * * *

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Dilute an accurately measured representative portion of the sample with sufficient distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

* * * * *

g. In § 455.310c, paragraphs (b)(1)(i) and (ii) are revised to read as follows:

§ 455.310c Chloramphenicol ointment (chloramphenicol cream).

* * * * *

(b) * * *

(1) * * *

(i) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient distilled water to obtain a stock solution of convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(ii) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of petroleum ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of distilled water and shake well. Allow the layers to separate. Remove the aqueous layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of distilled water. Combine the aqueous extractives in a suitable volumetric flask and dilute to volume with distilled water. Remove an aliquot and further dilute with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated). The potency of chloramphenicol ointment is satisfactory if it contains not less than 90 percent and not more than 130 percent of the number of milligrams of chloramphenicol that it is represented to contain.

* * * * *

h. In § 455.410, paragraph (b)(1) is revised to read as follows:

§ 455.410 Chloramphenicol otic.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

* * * * *

i. In § 455.510d, paragraph (b) is revised to read as follows:

§ 455.510d Fibrinolysin and desoxyribonuclease, combined (bovine) with chloramphenicol ointment.

* * * * *

(b) *Tests and methods of assay; potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of petroleum ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of distilled water and shake well. Allow the layers to separate. Remove the aqueous layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of distilled water. Combine the aqueous extractives in a suitable volumetric flask and dilute to volume with distilled water. Remove an aliquot and further dilute with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE

4. Part 555 is amended:

a. In § 555.110a, paragraph (b)(1)(i) is revised to read as follows:

§ 555.110a Chloramphenicol tablets.

* * * * *

(b) * * *

(1) * * *

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar containing 100 milliliters of 95 percent ethyl alcohol. Blend for 2 minutes. Add 400 milliliters of distilled water and blend again for 2 minutes. Remove an aliquot and further dilute with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

* * * * *

b. In § 555.110c, paragraph (b)(1) is revised to read as follows:

§ 555.110c Chloramphenicol oral solution.

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with distilled water to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

* * * * *

c. In § 555.210, paragraph (b)(1) is revised to read as follows:

§ 555.210 Chloramphenicol injection.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with distilled water to obtain a stock solution of

convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

* * * * *

d. In § 555.310d, paragraph (b)(1)(i) is revised to read as follows:

§ 555.310d Chloramphenicol ophthalmic solution.

* * * * *

(b) * * *

(1) * * *

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample in distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

* * * * *

e. In § 555.310e, paragraph (b)(1) is revised to read as follows:

§ 555.310e Chloramphenicol-prednisolone-tetracaine-squalane topical suspension.

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Transfer an accurately measured portion of the sample into a separatory funnel containing 500 milliliters of petroleum ether. Shake the separatory funnel vigorously to bring about complete mixing of the sample and the petroleum ether. Add 20 milliliters of distilled water and shake well. Remove the aqueous layer and repeat the extraction with three additional 20-milliliter portions of distilled water. Combine the extractives and dilute to an appropriate volume with distilled water. Further dilute an aliquot with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

* * * * *

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before February 28, 1983, a written notice of participation and request for hearing, and (2) on or before March 29, 1983, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch (address above).

The procedures and requirements governing this order, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. to 4 p.m., Monday through Friday.

Effective date. This amendment shall become effective February 28, 1983.

(Secs. 507, 512(n), 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 357, 360b(n), 371 (f) and (g)))

Dated: January 5, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-2228 Filed 1-27-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510, 520, and 558

Oral Dosage Form New Animal Drugs Not Subject to Certification; New Animal Drugs for Use in Animal Feeds; Sulfaquinoxaline

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulations to reflect approval of supplemental new animal drug applications (NADA's) filed by Merck Sharp & Dohme Research Laboratories for the use of sulfaquinoxaline to treat certain conditions in chickens, turkeys, cattle, calves, and rabbits. The supplemental applications provided revised labeling to conform with the National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group's review of the product.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–138), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065, filed three supplemental new animal drug applications for sulfaquinoxaline. The applications are for a medicated premix containing 40 percent sulfaquinoxaline (NADA 6–391), a 20-percent solution (NADA 6–667), and a 25-percent soluble powder (NADA 7–087). The supplements contain revised labeling to conform with the recommendations of the NAS/NRC review of sulfaquinoxaline.

NAS/NRC evaluated sulfaquinoxaline as effective for control of acute fowl cholera in chickens, turkeys, pheasants, and other game birds and as effective for control of fowl typhoid in chickens and turkeys. These claims were inadvertently not included in the NAS/NRC review of sulfaquinoxaline which was published in the **Federal Register** of July 9, 1970 (35 FR 11069). This document covered the NAS/NRC evaluation of products covered by the three NADA's which are the subject of this final rule as well as other products containing sulfaquinoxaline.

The July 9, 1970 **Federal Register** document stated that NAS/NRC evaluated the drugs as: (1) Probably effective as an aid in prevention and control of outbreaks of coccidiosis in chickens, turkeys, pheasants (and other game birds), cattle, and sheep (provided the species of coccidia for the respective hosts are shown); (2) effective as an aid in prevention and control of coccidiosis (*Eimeria stiedae*) in rabbits; and (3) probably effective as as aid in the control, and treatment of bacterial infections in cattle, lambs, and swine when such infections are caused by pathogens sensitive to sulfaquinoxaline. NAS/NRC stated: (1) For systemic use the recommended dosage levels should be documented with regard to whether such dosage levels produce effective blood levels and tissue concentrations; (2) each disease claim should be properly qualified as to name of the disease caused by pathogens sensitive to sulfaquinoxaline; (3) the labels should warn that treated animals must actually

consume enough medicated water or medicated feed to provide a therapeutic dose under the conditions that prevail, and as a precaution the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of such preparations in drinking water or feed; (4) antibacterial claims "for prevention of" or "to prevent" to be replaced with "as an aid in the control of" or "to aid in the control of," and (5) caution statements need to be revised to incorporate current toxicology information. FDA concurred with the NAS/NRC findings and stated that to be marketed the drug must be the subject of an approved NADA and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act (the act).

Merck complied with the NAS/NRC review of the drug in the following manner: (1) The claims for coccidiosis in cattle, calves, chickens, turkeys, and rabbits were incorporated in the labeling with the species of coccidia named for each respective host; (2) each disease claim was properly qualified as to the name of the disease caused by pathogens sensitive to sulfaquinoxaline; (3) the firm demonstrated that the recommended dosage level produced effective blood levels, where the use is systemic; coccidiosis is a condition of the digestive system so blood level data are not necessary regarding this use; (4) Merck incorporated the statement that treated animals must actually consume enough water or feed to provide an adequate therapeutic dosage under the conditions that prevail; (5) labeling was revised to reflect current policy with regard to antibacterial claims and toxicology to the target species.

Based on data submitted, the supplemental new animal drug applications are approved.

The DESI evaluation was concerned only with the drug's effectiveness and safety to the animal being treated and did not take into account the safety of food derived from treated animals. However, the agency's practice has been to approve the NAS/NRC/DESI supplemental applications for sulfonamides covered by § 510.450 (21 CFR 510.450) only after sponsors have established tolerances in accordance with the requirements of the regulation, and only after sponsors have established adequate regulatory assay methods as well as practical withdrawal periods. The foregoing requirements have not yet been met for sulfaquinoxaline. However, the agency has determined that it should make an exception so that it can complete the action begun by the NAS/NRC review of sulfaquinoxaline. Although FDA has notified the sponsors of approved sulfaquinoxaline NADA's that the agency requires additional human safety data, the agency anticipates that the required studies will not be completed for a substantial period of time. Sulfaquinoxaline is the only sulfonamide for which the NAS/NRC/DESI supplements have not been approved. Approving the supplemental applications filed by Merck will reduce the number of claims for the drug and update the remaining claims. This change will benefit both producers and consumers.

The agency is evaluating the use of sulfonamide-containing drugs in food-producing animals as presently covered under § 510.450 and expects to publish a separate document covering the use of all such products. Withdrawal periods will be further considered upon completion and evaluation of safety studies on sulfonamide residues in food resulting from use of sulfonamide products subject to § 510.450.

The amendment to § 510.450 in this document provides for a 10-day withdrawal period for use of sulfaquinoxaline in poultry. Section 510.450(a)(4) previously specified a 5-day withdrawal time for continuously used sulfonamides in poultry, while the withdrawal period has remained at 10 days when the drug is not used continuously. The Director of the Bureau of Veterinary Medicine has concluded that the reference in § 510.450 to a 5-day withdrawal period for continuous uses of sulfonamides in poultry should be removed. The Director has also determined that good cause exists for removing the 5-day withdrawal period without first publishing a proposal for public comment. Extending the interim withdrawal time to 10 days will enhance the public health. In addition, Merck has agreed to the change. The Director also notes that the agency originally adopted the 5-day withdrawal provision of § 510.450 without utilizing notice and comment procedures. Therefore, the agency has determined that good cause exists to find that notice, public procedures, and delayed effective date are impracticable, unnecessary, and contrary to the public interest.

The DESI evaluation was published to inform NADA holders of the findings of the NAS/NRC and FDA and to inform all interested persons that such articles may be marketed, provided they are the subject of approved NADA's and otherwise comply with the requirements of the act. NADA's that pertain to identical products and reflect those conditions of use as set forth in this regulation do not require efficacy data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(ii)(*a*)(*4*) (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(ii)(*a*)(*4*)) of the animal drug regulations. In lieu of such data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. The guideline is available from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. In addition, applications must be accompanied by a written commitment to undertake the human safety studies required by FDA.

FDA is also removing the interim marketing provisions of § 558.15(g)(1) (21 CFR 558.15(g)(1)) for Merck's sulfaquinoxaline. The firm submitted data required by § 558.15. The data satisfactorily resolved questions raised in that section regarding subtherapeutic use of sulfaquinoxaline. The data reviewed by the National Advisory Food and Drug Committee (NAFDC) and their recommendations regarding sulfaquinoxaline were accepted by the agency April 15, 1977. A copy of the NAFDC reports is on file in the Dockets Management Branch under Docket No. 77N–0230.

New § 558.586 (21 CFR 558.586) established by publication does not require the submission of medicated feed applications. Such applications have not been required in the past because the premix was originally approved prior to the adoption of section 512(m) of the act. However, use of the premix may become subject to applicable requirements imposed upon completion of the restructuring of the agency's medicated feed program (46 FR 2456; January 9, 1981).

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above), from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

21 CFR Part 520

Animal drugs, oral use.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510, 520, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. Part 510 is amended in § 510.450 by revising paragraph (a) (3)(i) and (ii), (4), and (5), and by removing paragraph (a)(6) to read as follows:

§ 510.450 Sulfonamide-containing drugs for oral, injectable, intramammary, or intrauterine use in food-producing animals.

(a) * * *

(3) * * *

(i) A statement that the use of the drug must be discontinued 10 days before treated animals are slaughtered for food; or

(ii) A statement of withdrawal period which has been established based upon data submitted to the Commissioner and found satisfactory for the elimination of drug residues from edible products.

(4) Labeling revisions required for compliance with this paragraph were made at the earliest possible time and, in any case by January 21, 1971. Any such products now on the market and not in compliance with this paragraph are subject to regulatory action.

(5) The labeling requirements of paragraph (a)(3)(i) of this section were adopted as an interim measure. Sponsors of sulfonamide-containing drugs subject to the provisions of this section were required to submit by October 22, 1971, adequate data to permit the establishment of appropriate withdrawal periods as required by paragraph (a)(3)(ii) of this section.

* * * * *

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. Part 520 is amended by adding new §§ 520.2325, 520.2325a, and 520.2325b to read as follows:

§ 520.2325 Sulfaquinoxaline oral dosage forms.

§ 520.2325a Sulfaquinoxaline drinking water.

(a) [Reserved]

(b) [Reserved]

(c) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(d) *NAS/NRC status.* The conditions of use specified in this section have been reviewed by NAS/NRC and are found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency information. Applications must be accompanied by a written commitment to undertake the human safety studies required by FDA.

(e) *Conditions of use.* It is used in drinking water medicated with a 25-percent soluble powder or a 20-percent solution as follows:

(1) *Chickens.* (i) As an aid in the control of outbreaks of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima,* and *E. brunetti.*

(ii) Administer at the 0.04 percent level for 2 or 3 days, skip 3 days then administer at the 0.025 percent level for 2 more days. If bloody droppings appear, repeat treatment at the 0.025 percent level for 2 more days. Do not change litter unless absolutely necessary. Do not give flushing mashes.

(2) *Turkeys.* (i) As an aid in the control of outbreaks of coccidiosis caused by *Eimeria meleagrimitis* and *E. adenoeides.*

(ii) Administer at the 0.025 percent level for 2 days, skip 3 days, give for 2 days, skip 3 days and give for 2 more days. Repeat if necessary. Do not change litter unless absolutely necessary. Do not give flushing mashes.

(3) *Chickens and turkeys.* (i) As an aid in the control of acute fowl cholera caused by *Pasteurella multocida* susceptible to sulfaquinoxaline and fowl typhoid caused by *Salmonella gallinarum* susceptible to sulfaquinoxaline.

(ii) Administer at the 0.04 percent level for 2 or 3 days. Move birds to clean ground. If disease recurs, repeat treatment. If cholera has become established as the respiratory or chronic form, use feed medicated with sulfaquinoxaline. Poultry which have survived typhoid outbreaks should not be kept for laying house replacements or breeders unless tests show they are not carriers.

(4) *Cattle and calves.* (i) For the control and treatment of outbreaks of coccidiosis caused by *Eimeria bovis* or *E. zurnii.*

(ii) Administer at the 0.015 percent level for 3 to 5 days in drinking water medicated with the 20 percent sulfaquinoxaline solution or give one teaspoon of 25 percent sulfaquinoxaline soluble powder per day for each 125 pounds of body weight for 3 to 5 days in drinking water.

(f) *Limitations.* Consult a veterinarian or poultry pathologist for diagnosis. May cause toxic reactions unless the drug is evenly mixed in water at dosages indicated and used according to directions. For control of outbreaks of disease, medication should be initiated as soon as the diagnosis is determined. Medicated chickens, turkeys, cattle, and calves must actually consume enough medicated water which provides a recommended dosage of approximately 10 to 45 milligrams per pound per day in chickens, 3.5 to 55 milligrams per pound per day in turkeys, and approximately 6 milligrams per pound per day in cattle and calves depending on the age, class of animal, ambient temperature, and other factors. Not for use in lactating dairy cattle. Do not give to chickens, turkeys or cattle within 10 days of slaughter for food. Do not medicate chickens or turkeys producing eggs for human consumption. Make fresh drinking water daily.

§ 520.2325b Sulfaquinoxaline drench.

(a) [Reserved]

(b) [Reserved]

(c) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(d) *NAS/NRC status.* The conditions of use specified in this section have been reviewed by NAS/NRC and are found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency information. Applications must be accompanied by a written commitment to undertake the human safety studies required by FDA.

(e) *Conditions of uses.* As a 25-percent sulfaquinoxaline soluble powder.

(1) For the control and treatment of outbreaks of coccidiosis in cattle and calves caused by *Eimeria bovis* or *E. zurnii.*

(2) Give one teaspoon of 25 percent sulfaquinoxaline soluble powder for each 125 pounds of body weight for 3 to 5 days as a drench.

(f) *Limitations.* For control of outbreaks of disease, medication should be initiated as soon as the diagnosis is determined. Consult a veterinarian for diagnosis. Do not give to cattle within 10 days of slaughter for food. Not for use in lactating dairy cattle.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. Part 558 is amended:

§ 558.15 [Amended]

a. In § 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* by removing from the table in paragraph (g) (1) the three drug premix entries for sulfaquinoxaline, sponsored by Merck Sharp & Dohme Research Laboratories.

1b. By adding new § 558.586 to read as follows:

§ 558.586 Sulfaquinoxline.

(a) [Reserved]

(b) *Approvals.* In dry premix, level of 40 percent; for sponsor see No. 000006 in § 510.600(c) of this chapter.

(c) *Assay limits.* Complete feed 85 to 115 percent of labeled amount.

(d) *NAS/NRC status.* The conditions of use specified in this section have been reviewed by NAS/NRC and are found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency information. Applications must be accompanied by a written commitment to undertake the human safety studies required by FDA..

(e) *Special considerations.* (1) For control of outbreaks of disease, medication should be initiated as soon as the diagnosis is determined. Medicated chickens, turkeys, and rabbits must actually consume enough medicated feed which provides a recommended dose of approximately 3.5 to 60 milligrams per pound per day in chickens, 2.5 to 100 milligrams per pound per day in turkeys, and 2.8 to 68 milligrams per pound per day in rabbits depending upon age and class of animal, ambient temperature, and other factors. Consult a veterinarian or poultry pathologist for diagnosis.

(2) Complete feed containing sulfaquinoxaline and conforming to the requirements of paragraph (f) (1), (2), and (3) of this section is not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(f) *Conditions of use.* It is used as follows:

(1) *Chickens* (i) *Amount.* 0.015 percent in complete feed.

(*a*) *Indications for use.* As an aid in preventing outbreaks of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima,* and *E. brunetti* under average conditions of exposure.

(*b*) *Limitations.* Feed continuously from the time birds are placed on litter and continue past the age when coccidiosis is ordinarily a hazard. If death losses exceed 0.5 percent in a 2-day period, obtain a laboratory diagnosis. If coccidiosis is the cause, use the sulfaquinoxaline levels recommended for control of outbreaks, returning to the original dosage schedule after the outbreak has subsided. Losses may result from intercurrent disease, other conditions affecting drug intake, or variant strains of coccidia species which can contribute to the virulence of coccidiosis under field conditions. Do not treat chickens within 10 days of slaughter. Do not medicate chickens producing eggs for human consumption.

(ii) *Amount.* 0.0175 percent in complete feed.

(*a*) *Indications for use.* As an aid in preventing outbreaks of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima,* and *E. brunetti* where excessive exposure to coccidia is increased due to overcrowding or other management factors.

(*b*) *Limitations.* Feed continuously from the time birds are placed on litter and continue past the age when coccidiosis is ordinarily a hazard. If death losses exceed 0.5 percent in a 2-day period, obtain a laboratory diagnosis. If coccidiosis is the cause, use the sulfaquinoxaline levels recommended for control of outbreaks, returning to the original dosage schedule after the outbreak has subsided. Losses may result from intercurrent disease, other conditions affecting drug intake, or variant strains of coccidia species which can contribute to the virulence of coccidiosis under field conditions. Do not treat chickens within 10 days of slaughter. Do not medicate chickens producing eggs for human consumption.

(iii) *Amount.* 0.1 to 0.05 percent in complete feed.

(*a*) *Indications for use.* As an aid in controlling outbreaks of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima,* and *E. brunetti.*

(*b*) *Limitations.* Feed in complete feed at 0.1 percent level for first 48 to 72 hours. Skip 3 days; 0.05 percent for 2 days, skip 3 days; 0.05 percent for 2 days. If bloody droppings recur, give 0.05 percent for another 2 days. Do not treat chickens within 10 days of slaughter. Do not medicate chickens producing eggs for human consumption.

(2) *Turkeys* (i) *amount.* 0.0175 percent in complete feed.

(*a*) *Indications for use.* As an aid in preventing outbreaks of coccidiosis caused by *Eimeria meleagrimitis* and *E. adenoeides.*

(*b*) *Limitations.* Feed 0.0175 percent continuously during time birds are closely confined. May be continued for week to 10 days after flock is transferred to range to reduce danger of an outbreak following moving of the flock. Do not treat turkeys within 10 days of slaughter. Do not medicate turkeys producing eggs for human consumption.

(ii) *Amount.* 0.05 percent in complete feed.

(a) Indications for use. As an aid in controlling outbreaks of coccidiosis caused by *Eimeria meleagrimitis,* and *E. adenoeides.*

(b) Limitations. Feed 0.05 percent for 2 days. Follow with 3 days on regular feed and 2 more days on 0.05 percent sulfaquinoxaline feed. Again follow with 3 days on regular feed and 2 more days on 0.05 percent sulfaquinoxaline feed. Continue this schedule if necessary till all signs of the outbreaks have subsided. Do not treat turkeys within 10 days of slaughter. Do not medicate turkeys producing eggs for human consumption.

(3) *Chickens and turkeys* (i) *Amount.* 0.05 or 0.1 percent in complete feed.

(a) Indications for use. As an aid in the control of acute fowl cholera caused by *Pasteurella multocida* susceptible to sulfaquinoxaline and fowl typhoid caused by *Salmonella gallinarum* susceptible to sulfaquinoxaline.

(b) Limitations. Feed 0.1 percent for 48 to 72 hours. Mortality should be brought under control. After medication, move birds to clean ground or to a clean house. If disease recurs, use 0.05 percent in feed again for 2 days. Do not treat chickens or turkeys within 10 days of slaughter for food. Do not medicate chickens or turkeys producing eggs for human consumption.

(ii) [Reserved]

(4) *Rabbits* (i) *Amount.* 0.025 percent in complete feed.

(a) Indications for use. As an aid in preventing coccidiosis caused by *Eimeria stiedae.*

(b) Limitations. Treatment to be started after weaning. Feed continuously for 30 days or feed medicated feed for 2 days out of every week until marketing. Do not treat within 10 days of slaughter.

(ii) *Amount.* 0.1 percent in complete feed.

(a) Indications for use. As an aid in controlling outbreaks of coccidiosis caused by *Eimeria stiedae.*

(b) Limitations. Feed for 2 weeks. Do not treat within 10 days of slaughter.

Effective date. January 28, 1983.

(Section. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 21, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-2332 Filed 1-27-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Lincomycin Hydrochloride Soluble Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by the Upjohn Co. providing for safe and effective oral use of lincomycin soluble powder in swine drinking water for treating swine dysentery. This NADA provides an additional means of administering a currently approved animal drug in the same species for the same indication.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed NADA 111-636 which provides for oral use of Lincomix Soluble Powder (lincomycin hydrochloride) in swine drinking water at 250 milligrams per gallon for the treatment of swine dysentery (bloody scours). The firm submitted data and information to support the safe and effective use of the product. This NADA provides an additional means of administering a currently approved animal drug in the same species for the same indication. Under the Bureau of Veterinary Medicine's proposed supplemental approval policy (42 FR 64367; December 23, 1977), it was not necessary to review the underlying human safety data. The sponsor submitted residue data to show that the residue would not exceed the tolerance established in 21 CFR 556.360. The NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 520

Animal drugs, oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.1263c, to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1263c Lincomycin hydrochloride soluble powder.

(a) *Specifications.* Each 1.41 ounce packet (40 grams) contains 16 grams of lincomycin hydrochloride.

(b) *Sponsor.* See No. 000009 in § 510.600(c) of this chapter.

(c) *Tolerances.* See § 556.360 of this chapter.

(d) *Conditions of use.* (1) *Amount.* 250 milligrams per gallon of drinking water.

(2) *Dosage.* 3.8 milligrams per pound of body weight per day.

(3) *Indications for use.* Treatment of swine dysentery (bloody scours).

(4) *Limitations.* Discard medicated drinking water if not used within 2 days. Prepare fresh stock solution daily. Do not use for more than 10 days. If clinical signs of disease have not improved within 6 days, discontinue treatment and reevaluate diagnosis. Not for use in swine weighing more than 250 pounds. Do not slaughter swine for 6 days following last treatment.

Effective date: January 28, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 21, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-2227 Filed 1-27-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 89

Attorney Contracts With Indian Tribes; Payment of Tribal Attorney Fees With Appropriated Funds

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This final rule clarifies the circumstances under which the Bureau of Indian Affairs (BIA), in the performance of the Federal Government's trust responsibility to Indian tribes may provide Federally appropriated funds to an Indian tribe or other organization for the payment of a private attorney's legal services.

EFFECTIVE DATE: February 28, 1983.

FOR FURTHER INFORMATION CONTACT: Ulyses S. St. Arnold, Rights Protection Officer, Office of Trust Responsibilities, Bureau of Indian Affairs, 1951 Constitution Ave., NW., Washington, D.C. 20245, telephone number (202) 343-8216.

SUPPLEMENTARY INFORMATION: The authority to issue rules an regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9). This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.

The Bureau of Indian Affairs published a proposed rule on December 16, 1980 (45 FR 82667), that offered the public an opportunity to comment on regulations pertaining to attorney fees. Comments were received from five sources including Indian tribes, public interest organizations and tribal attorneys. The following paragraphs summarize the comments and suggestions received and actions taken.

This rule is being promulgated to eliminate uncertainty about the Bureau of Indian Affairs' current policy toward the payment or funding of private attorney fees for Indian tribes. The rule describes the circumstances under which the BIA will exercise its discretion to provide funds to a tribe to

pay private attorneys or other organizations to provide legal services to tribes, the factors to be considered in determining whether to provide such funds, and the procedures to be followed when requesting such funds.

Comments were received from five sources including Indian tribes, public interest organizations, and tribal attorneys. The following paragraphs summarize the comments and suggestions received and actions taken.

Comments Adopted

Section 89.41(d).—Two suggested that § 89.41(d) was too narrow and should be expanded to permit funding of private counsel for actual litigation purposes as well as for oversight activities even though the Department of Justice is representing the United States as trustee for the tribe. 25 U.S.C. 175, which provides for the representation of Indians by the United States attorney "in all suits at law and in equity" has been interpreted to prohibit the Department of the Interior from funding private tribal counsel in litigation unless the Attorney General refuses assistance or his/her assistance is otherwise unavailable. (See Comptroller General's Opinion, B–114868 of December 6, 1976). However, in *New Mexico* v. *Aamodt* the 10th Circuit has held that funds could be used for actual litigation. (*New Mexico* v. *Aamodt*, 537 F 2d 1102). For this reason, § 89.41(d) has been revised to provide that when the Department of Justice is representing the United States as trustee for a tribe, funds may be paid for intervention activities on the condition that all other requirements in paragraph (d) are met. These comments were, therefore, accepted.

Section 89.42.—One commentor suggested that "the importance of the litigation" for which funds are sought should be considered in determining whether to approve a request for funds. Paragraph (a) of § 89.42 states that the merits of the tribe's legal position will be a factor in determining whether to provide attorney fees. The significance of the legal question will be evaluated as part of determining the merit of a tribe's legal position. This comment has therefore been accepted.

Comments Rejected

Section 89.41(a).—Several comments suggested circumstances expanding the scope of § 89.41(a) to include those cases where a tribe seeks money to defend a suit involving its trust resources, rights claimed under a treaty, executive order, statutes, or its governmental powers, and the Department of Justice is unwilling or unable to represent the United States as trustee for the tribe. These comments revealed an important oversight in the proposed regulations as drafted. § 89.41(a) has been revised to include funds requested to enable a tribe to defend a lawsuit as follows: § 89.41(a) where a tribe determines it necessary to bring a court action or to defend itself to protect its trust resources, rights claimed under a treaty, agreement, executive order, or statute, or its governmental powers; and the Attorney General refuses assistance or his assistance is unavailable. (Comptroller General's Opinion B–114868, December 6, 1976).

Another comment suggested expanding those provisions now contained in §89.41(b) to permit the Bureau of Indian Affairs to fund private attorneys in situations other than those involving conflicts within the Department and those in which the Department declines to submit a request to the Department of Justice to initiate litigation.

The only foreseeable circumstances preventing the Department from submitting a meritorious request to the Department of Justice are: (1) A conflict of interest between different agencies of the Department, or (2) the Department officials' belief that a negotiated solution to the controversy is attainable and preferable to the initiation of litigation. The conflict of interest situation is presently addressed in § 89.41(b). In the second circumstance, although funds would not be available for litigation purposes, the tribe could apply for funds under § 89.41(e), which permits the funding of private counsel in situations where there exists a substantial possibility of a negotiated settlement or agreement. The Department is not aware of any circumstances, other than those addressed in the regulations as presently written, that would prevent the Solicitor from submitting a request to the Department of Justice to initiate litigation. Therefore, this comment was not accepted. One comment suggested that the exceptions to the policy listed in § 89.41(a) are too narrow. The comment suggested that § 89.41(a) be expanded to provide for the funding of private counsel when the Attorney General refuses or is unable to honor a Department request that he initiate litigation on behalf of a tribe because of conflicts between agencies of the government. Paragraphs (a) and (b) § 89.41, as presently written, clearly encompass such conflict of interest situations.

As was explained in the Supplementary Information section of the proposed rulemaking, § 89.41(a) permits the Bureau of Indian Affairs to fund private counsel whenever the Attorney General advises the Solicitor, for reasons other than the lack of merit in the tribe's legal position, that the Department of Justice cannot or will not represent the United States as trustee for the tribes. Funding under this section is also available if the Attorney General advises the Solicitor that because of shortages of staff or particular time constraints, the Department of Justice cannot honor the Department of the Interior's request to initiate litigation. For this reason the above comment was not accepted.

Section 89.41.(b).—Another comment suggested that the meaning of "conflict of interest" in § 89.41(b) should be defined. This term is not used in the regulations as a term of art. Rather, it generally refers to those circumstances where the programs, policies, actions or goals of one agency within the Department are in some measure inconsistent with and adverse to those of any other governmental agency. Because of the vast array of situations in which the programs, policies, actions or goals of one agency may affect and possibly interfere with those of another, an attempt to define the circumstances in which a legitimate conflict of interest arises would tend to restrict the freedom of the Committee and the Assistant Secretary to consider each request for funds in light of the particular factual context presented to make their discretionary determinations on a case-by-case basis. For this reason, the term is not specifically defined in the regulations.

Section 89.41(c).—Several commentors inquired whether funds for legal services rendered in connection with the negotiation or performance of contracts under Pub. L. 93–638 must be requested under the procedure of § 89.43. Although the proposed rule was ambiguous, incidental legal services performed in connection with Pub. L. 93–638 contracts are not subject to the procedural requirements of this rule unless such legal services are requested for litigation purposes. If a tribe requests funds for litigation purposes, the fact that the litigation arises out of or is connected with a Pub. L. 93–638 contract is irrelevant. The circumstances described in § 89.41 (a) or (b) must be present and the provisions of § 89.42 and § 89.43 must be followed in order for the tribe to obtain funds for attorneys' fees for litigation purposes. For instance, if the tribe requests attorneys' fees to enable the tribe to initiate or defend a law suit arising out of a Pub. L. 93–638 contract or legal services are the subject of a Pub. L. 93–

638 contract which itself authorizes payment for private legal representation to enable a tribe to initiate or defend a law suit, the restrictions contained in § 89.41 (a) and (b) would apply and the procedures of § 89–43 would have to be followed.

Two comments questioned the exclusion of funding for litigation purposes from those provisions now contained in § 89.41(c). This exclusion is mandated by the December 6, 1976, opinion of the Comptroller General (B–114868) that 25 U.S.C. 175 precludes the Department of the Interior from releasing funds for attorneys' fees for litigation purposes unless the Attorney General advises the Solicitor that the Department of Justice cannot or will not represent the United States as trustee for the tribe. This restriction is very broad and applies to all types of litigation including suits arising out of or connected with Pub. L. 93–638 contracts. Therefore, no additions or changes to these regulations are deemed necessary.

Section 89.41(e)(2).—One comment suggested that paragraph (2) of § 89.41(e) be revised to allow the Committee to consider the amount of legal fees and expenses a tribe has paid in the past in determining whether to grant the tribe's request. This comment was rejected as it applies to § 89.41(e)(2). However, the extent to which a tribe's past expenditures for legal representation affects its present ability to contribute funds on a matching basis for oversight and review activities will be considered under § 89.42(b). Section 89.42(b) establishes the ability of the tribe to pay for all or part of its legal expenses with its own money as a factor in deciding whether government funds should be made available.

Section 89.41(e).—One commentor suggested that the provisions now contained in § 89.41(e) should be expanded to allow the Assistant Secretary, upon approval of a request for funds, to authorize the payment of fees incurred while the request was pending. This comment was rejected because it creates the potential for payment of unapproved requests.

Section 89.43 (b) and (c).—Several comments requested inclusion of a formal procedure by which a tribe whose request for funds is not recommended by the Committee, established by paragraph (b), for the approval of the Assistant Secretary may appeal that decision. These comments reflect legitimate concerns raised by the fact that the instant rule provides no mechanism for review of the Committee's initial decision not to forward the tribe's request to the Assistant Secretary. Several suggestions of alternative appeals procedures were made.

One comment suggested allowing review of the Committee's adverse determination by the Board of Indian Appeals under 25 CFR Part 2. Under the provisions contained in that Part, an appeal to the Board of Indian Appeals is permitted where a decision by officials of the Bureau of Indian Affairs is protested as a violation of a right or privilege of the appellant, (25 CFR 2.2). The instant regulations do not create or confirm any right, privilege or entitlement in an Indian tribe. Rather, they describe the circumstances under which the Assistant Secretary, with the concurrence of the Solicitor, has discretionary administrative authority to fund private tribal counsel. As such, the regulations are an inappropriate subject for review by the Board whose jurisdiction does not extend to administrative actions on Indian matters which are based solely on the discretionary authority of the Assistant Secretary as delegated under 209 DM 8.1 by the Secretary. [211 DM 13.11(B)].

Revised paragraph (b) provides that the Committee shall review a tribe's request for funds and recommend approval or disapproval of the tribe's request. The Committee will then submit its recommendations, along with the tribe's request, to the Assistant Secretary for a final determination on whether to seek the concurrence of the Solicitor. Under this procedure, the Assistant Secretary will review each request for funds, as well as the Committee's accompanying recommendation, and will exercise, along with the Solicitor, final discretionary authority to approve or disapprove each request.

The formulation of an appeals procedure is not consistent with the discretionary nature of the Bureau of Indian Affairs' funding authority nor is such a procedure possible within the organizational framework of the Department. The appropriate avenue of appeal of the Assistant Secretary's adverse determination under § 89.43(b) is a judicial review of the decision under 5 U.S.C. 701–701e as an abuse of agency discretion. For these reasons, the above comment was rejected.

Several comments also requested that the regulations be revised to include a provision requiring the Assistant Secretary to provide the requesting tribe with a written statement of the reasons for denying the tribe's application for funds. These comments also suggested a time limit for acting on request for funds to be incorporated into the regulations. A tribe's decision to initiate litigation may ofter depend on the availability of BIA funds to meet a portion of the legal expenses involved. Therefore, the tribe should expect the Assistant Secretary to consider their request within a reasonable time and, if the request is rejected, to state the reasons for the decision. However, to put a time restriction on the Assistant Secretary's decision making process would be inconsistent with Assistant Secretarial discretionary powers. Therefore, these comments, while not without merit, have also been rejected.

The primary author of this document is George Crossland, Special Assistant to the Assistant Secretary—Indian Affairs, Department of the Interior, 18th & C Sts., NW., Washington, D.C. 20240, telephone number (202) 343–6031.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The total amount disbursed will not exceed $750,000. It is unlikely that any single outlay will exceed $80,000, except for two which are mandated by law for up to $160,000 each, and for which the Secretary has the option of expending additional funds. The Department has also determined that the National Environmental Policy Act is inapplicable to this proposed rule. The information collection requirements contained in § 89.43 do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, because it is anticipated there will be fewer than 10 respondents annually.

List of Subjects in 25 CFR Part 89

Indians-Law and Lawyers.

Part 89 of Title 25 of the Code of Federal Regulations is amended as follows:

PART 89—ATTORNEY CONTRACTS WITH INDIAN TRIBES

* * * * *

1. The Table of Contents is amended by adding four new sections and a center heading to read as follows:

Payment of Tribal Attorney Fees With Appropriated Funds

Sec.

89.40 General policy.
89.41 Exceptions to policy.
89.42 Factors to be considered
89.43 Procedures.

2. The authority citation for Part 89 is revised to read as follows:

Authority: 5 U.S.C. 301; Secs. 89.1 to 89.6 also issued under 25 U.S.C. 476; Secs. 89.7 to 89.29 also issued under 25 U.S.C. 81; Secs. 89.30 to 89.35 also issued under 25 U.S.C. 2, 9 and 82(a); Secs. 89.40 to 89.43 also issued under 25 U.S.C. 13,450 et. seq.

3. New §§ 89.40, 89.41, 89.42, and 89.43 and a new center heading are added to read as follows:

Payment of Tribal Attorney Fees With Appropriated Funds

§ 89.40 General policy.

In ordinary circumstances, legal services with respect to trust resources are provided for Indian tribe(s): (a) By private counsel employed by tribes when such tribe is financially able and elects to do so, or (b) by the United States as trustee through the Office of the Solicitor and/or the Department of Justice. It is the policy of the Department of the Interior not to use federally appropriated funds to pay for private counsel to represent Indian tribes. Exceptions to that policy are listed in § 89.41 of this part.

§ 89.41 Exceptions to policy.

The Assistant Secretary—Indian Affairs upon concurrence of the Solicitor and receipt of a recommendation as provided by § 89.43 may, in his/her discretion, authorize the direct or indirect expenditure of appropriated funds to pay reasonable attorney's fees in order to permit an Indian tribe to secure private legal representation in the following circumstances:

(a) When a tribe determines it necessary to bring a court action or to defend itself to protect its trust resources, rights claimed under a treaty, agreement, executive order, or statute, or its governmental powers and the Attorney General refuses assistance or advises that assistance is not otherwise available (Comptroller General's Opinion B–114868, December 6, 1976).

(b) When a tribe determines it necessary to institute or to defend itself in an administrative proceeding to protect its trust resources, rights claimed under a treaty, agreement, executive order, or statute, or to protect its governmental powers and the Solicitor is unable to provide representation due to a conflict of interest or other reasons.

(c) When a tribe determines legal assistance necessary, other than for litigation, pursuant to a contract executed under Pub. L. 93–638 and the Solicitor has determined that the services of his office are not available.

(d) When a tribe determines it critical, and the Assistant Secretary—Indian Affairs finds the concerns of the tribe to have merit after consultation with and the advice of the Solicitor, to intervene, in a lawsuit being handled by the Justice Department or in an administrative proceeding being handled by the Solicitor because the responsible Government Attorney refuses either to exclude or to include some facet of the suit or proceedings which the tribe claims renders such legal representation completely inadequate to protect or in contravention of the rights and interests of the tribe. Prior to consulting with and advising the Assistant Secretary—Indian Affairs, in a lawsuit being handled by the Justice Department, the Solicitor shall seek the comments and advice of the Attorney General.

(e) When a tribe determines, and the Assistant Secretary—Indian Affairs, after consultation with the Solicitor concurs, that a substantial possibility of a negotiated settlement or agreement exists.

(f) Payment of fees will not be allowed if such payment was not authorized before services were performed.

(g) This rule applies to expenditure of appropriated Federal funds and not a tribe's own funds on deposit in the U.S. Treasury.

§ 89.42 Factors to be considered.

The following factors are to be considered in determining whether funds should be paid to provide private legal representation for a tribe.

(a) The merits of the legal position which the tribe asserts. Greater weight will be given to those cases where the tribe's legal argument is deemed particularly meritorious than to those cases where the tribe's position, although not entirely without merit, may be relatively weak;

(b) The ability of the tribe to pay all or a part of its legal expenses out of its own funds. A review of the tribe's financial resources under this subsection will include an examination of the tribe's total expenditures to determine whether its expenditures for other purposes comport with the asserted importance of the case for which it seeks funds;

(c) Whether the question the tribe seeks to litigate is being litigated in another case by another tribe;

(d) Whether, as a matter of strategy, the issues the tribe seeks to litigate could be more satisfactorily resolved in another forum, in a different factual context, or a different time; and

(e) Whether the issue should be litigated at all in preference to a legislative or other solution.

§ 89.43 Procedures.

The information collection requirements contained in this section do not require approval by the Office of Management and Budget under 44 U.S.C. 3051 *et seq.*, because it is anticipated there will be fewer than 10 respondents annually.

(a) A tribe or other organization seeking funds under § 89.41 shall submit a written request through the Agency Superintendent and the Area Director, including

(1) A detailed statement describing the nature and scope of the problems for which legal services are sought;

(2) A statement of the terms, including total anticipated costs, of the requested legal services contract;

(3) A current financial statement and a statement that the tribe does not possess sufficient tribal funds or assets to pay for all or a part of the legal services sought; and

(4) A statement of why the matter must be handled by a private attorney as opposed to Department of Justice or Department of Interior attorneys.

All requests shall be considered by a committee consisting of the Deputy Assistant Secretary—Indian Affairs (Policy), or his delegate, the Director of the Office of Trust Responsibilities in BIA or his delegate, and the Associate Solicitor—Indian Affairs or his delegate.

(b) If two of the three committee members recommend approval of a tribe's request, the request, along with the committee's recommendation, shall be submitted to the Assistant Secretary for final determination after consultation with and the advice of the Solicitor. The committee's recommendation shall indicate the amount of funds recommended to assist the tribe, the hourly rate allowed, the maximum amount permitted to be expended in the recommended action and the tribal contributions, if any. The Assistant Secretary shall approve the request only with the concurrence of the Solicitor.

(c) The requirements imposed by this policy are supplementary to those contained in all existing regulations dealing with attorney contracts with Indian tribes and, in particular, those contained in Parts 88 and 89 of this Title.

Dated: August 6, 1982.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 83–2333 Filed 1–27–83; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[T.D. 7871]

Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980; Exempt Royalty Oil; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the Federal Register publication beginning at 48 FR 1711, January 14, 1983, of the full text of the regulations which were the subject of Treasury Decision 7871 relating to the windfall profit tax on domestic oil.

EFFECTIVE DATE: The regulations apply to oil removed after December 31, 1981. This correction is to be effective the same date.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459).

SUPPLEMENTARY INFORMATION:

Background

On January 14, 1983, the Federal Register published final regulations (48 FR 1711) relating to exempt royalty oil and the procedure for executing an exempt royalty owner's certificate.

Need for Correction

As published, the amendments to the regulations which were the subject of Treasury Decision 7871 inaccurately identified the area to be amended in instructional paragraph 1 as "paragraphs (b)(2) and (d)" rather than "paragraph (b)(2)". This error appeared on page 1712, in the left hand column.

Drafting Information

The principal author of this correction is David R. Haglund of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service.

Correction of Publication

Accordingly, the publication of the regulations which were the subject of FR Doc. 83-1127 is corrected by revising instructional paragraph 1 to read as follows:

Paragraph 1. Section 51.4995-2 is amended by revising the ninth sentence in paragraph (a) and by revising paragraph (b) (2) to read as follows:

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-2500 filed 1-27-83; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 369

[DOD Directive 5105.2]

Delegation of Authority to Deputy Secretary of Defense

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule delegates authority to the Deputy Secretary of Defense granting him full power and authority to act for the Secretary of Defense. It is being incorporated into this title in compliance with 5 U.S.C. (a)(1) and 1 CFR 305.76-2.

EFFECTIVE DATE: The Secretary of Defense signed this rule to be effective January 12, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Becker, Office of the Deputy Assistant Secretary of Defense (Administration), Organizational and Management Planning, Washington, D.C. 20301, Telephone: 202-697-1143.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-15869 appearing in the Federal Register on May 23, 1980 (45 FR 34880) the Office of the Secretary of Defense published Part 369, and in FR Doc. 81-5847, appearing in the Federal Register on February 24, 1981, the first revision was published. This revision of Part 369 delegates authority to the present Deputy Secretary of Defense.

List of Subjects in 32 CFR Part 369

Authority delegations (Government agencies).

Accordingly, 32 CFR, Chapter I, is amended by revising Part 369 to read as follows:

PART 369—DELEGATION OF AUTHORITY TO DEPUTY SECRETARY OF DEFENSE

Sec.
369.1 Reissuance.
369.2 Purpose.

Authority: 10 U.S.C. 133.

§ 369.1 Reissuance.

This Rule is reissued and updated.

§ 369.2 Purpose.

(a) In accordance with Title 10, U.S.C. 133(d), I hereby delegate to Deputy Secretary of Defense Paul Thayer full power and authority to act for the Secretary of Defense and to exercise the powers of the Secretary of Defense upon any and all matters concerning which the Secretary of Defense is authorized to act pursuant to law.

(b) The authority delegated herein may not be redelegated.

M. S. Healy,

Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

January 25, 1983.

[FR Doc. 83-2496 Filed 1-27-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

32 CFR Part 832

Employment of Civil Air Patrol

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its public relations regulations by removing Part 832, Employment of Civil Air Patrol of Chapter VII, Title 32. The source documents, Air Force Regulations (AFRs) 46-3, 46-4, 46-5 and 46-6 are intended for internal guidance and have limited applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Maj. David G. Roeber, HQ USAF Office of Air Force Reserve, AF/REV, Pentagon, Washington, D.C. 20330, (202) 697-7036.

SUPPLEMENTARY INFORMATION:

PART 832—[REMOVED]

Accordingly, 32 CFR is amended by removing Part 832.

List of Subjects in 32 CFR Part 832

Airmen, Disaster assistance, Volunteers, Organizations and functions (Government agencies).

(10 U.S.C. 8012)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-2470 Filed 1-27-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 72

Urban Park and Recreation Recovery Program

AGENCY: National Park Service, Interior.

ACTION: Amendment to Final Rule.

SUMMARY: Current regulations for the Urban Park and Recreation Recovery (UPARR) Program limit construction components of projects to three years or three construction seasons, whichever is greater. This document amends the rules of the UPARR Program to permit extensions of time for construction components, if, in the opinion of the Director, the extension will assure that completion of the grant objectives will be cost-effective, in accord with established goals of the UPARR Program, and of benefit to the federal government.

EFFECTIVE DATE: January 28, 1983.

ADDRESS: Comments should be directed to the Division of State, Local and Urban Programs, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel Hall, Division of State, Local and Urban Programs, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343-3700.

SUPPLEMENTARY INFORMATION: Since the establishment of the UPARR Program in 1979, there have been delays in the implementation of construction components of some UPARR grants. These delays were beyond control of and not anticipated by the program administrators nor the grantees at the time of grant approval. Now, in the fourth year of program operations, time extensions beyond the three year or three construction season limit may be necessary for the cost-effective completion of grant construction components.

Therefore, because the final UPARR regulations (**Federal Register**, October 29, 1980, (45 FR 71714)) did not anticipate these delays, it may become necessary to allow extensions in construction time, if, in the opinion of the Director, such extensions will facilitate cost-effective project completion and assure the advancement of the grant purposes. In such cases, time extension approvals will be made only after careful consideration of the circumstances involved in each request. The decision in all requests for time extensions will be based on the existence of extenuating circumstances which must be clearly outlined in writing by the grantee, and should include at a minimum:

1. A detailed explanation of the reasons for the delay in completion and closeout of the grant.
2. Steps that have been taken to correct delay-causing factors.
3. A detailed schedule of events that will carry the grant through to closeout.
4. A statement addressing the issue of whether or not remaining funds obligated to the approved project are sufficient to complete all work outlined in the grant agreement.

Recognizing that the effect of this amendment is to reflect delays which were beyond the control of program and grant administrators, that it may take as long as another construction season to publish and receive comments on this amendment as a proposed rule, and that a few jurisdictions may soon need a time extension to complete their projects in a cost-effective manner, it is expedient to publish this amendment as a final rule.

For these reasons, It has been determined that the responsibility to protect the advancement of grant purposes and facilitate cost-effective benefits makes it impracticable and contrary to the public interest to publish this amendment as a proposed rule, or to delay the effective date for this publication. Therefore, in accordance with the exceptions provided for in the Administrative Procedure Act in 5 U.S.C. 553(b)(B) and and d(3), this amendment to the UPARR Grant Procedure regulations is published as a final rule effective immediately.

E.O. 12291 and the Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*). This amendment will only affect the time extension of 10 to 15 construction projects out of a total 670 UPARR projects. This will not have an annual gross effect on the economy of $100 million or more because this grant program has not exceeded $100 million in annual appropriations. By allowing projects to be completed within a reasonable time extension, this amendment will not result in significant adverse effects on competition, investment or innovation, and does not pertain to U.S. or foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 36 CFR Part 72

Grant programs, Recreation, Urban parks.

(Catalog of Federal Domestic Assistance 15.919)

(Title X, National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 2501-2514)

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

PART 72—URBAN PARK AND RECREATION RECOVERY ACT OF 1978

Effective January 28, 1983, § 72.33 is amended by revising paragraph (a) as follows:

§ 72.33 Timing and duration of projects.

(a) Construction components of projects must be initiated during the first full construction season following grant approval. The time for completing construction components of either Rehabilitation or Innovation proposals will be limited to three years or three construction seasons, whichever is greater, unless in the opinion of the Director an extension of time not to exceed a designated period will assure that completion of the grant objectives will be cost-effective within funding currently available, in accord with established goals of the UPARR Program, and of benefit to the federal government. Any component of an Innovation proposal which is to provide services or programs, must be started within one year from grant approval. The grant project term and expiration date for Rehabilitation and Innovation proposals will be established by NPS at the time of grant approval.

* * * * *

[FR Doc. 83-2375 Filed 1-27-83; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 2

[Docket No. 30120-11]

Trademark Oppositions; Petitions To Cancel and Affidavits or Declarations Under Section 8 of the Trademark Act

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending the rules of practice in trademark cases to eliminate the requirement for verification of oppositions and petitions to cancel; to require that additional requests for extension of time to oppose be filed prior to the expiration of an extension; to require that affidavits or declarations filed under Section 8 of the Trademark Act show use of the mark in commerce; and to clarify and revise certain other procedures for oppositions and petitions to cancel. The amendments are necessary to implement certain trademark provisions of Pub. L. 97-247, enacted August 27, 1982, which provisions are effective six months after the date of enactment, and to revise and codify existing practices so as to assist the orderly and prompt resolution of the issues.

EFFECTIVE DATE: February 27, 1983.

FOR FURTHER INFORMATION CONTACT: As to the rules relating to oppositions and petitions to cancel, Ms. Janet Rice by telephone at (703) 557-3551 or by mail addressed to the Commissioner of Patents and Trademarks, Attention: Ms. Janet Rice, Crystal Square 5, Suite 1008, Washington, D.C. 20231. As to the rules relating to affidavits or declarations under Section 8, contact Ms. Paula Hairston by telephone at (703) 557-3882 or by mail addressed to the Commissioner of Patents and Trademarks, Attention: Ms. Paula Hairston, Room CP2-3C-06, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: Amendments to rules 2.101, 2.102, 1.103, 2.111, and 2.112, among others, were proposed in a rulemaking notice published in the **Federal Register** on June 29, 1982, at 47 FR 28324, the Patent and Trademark Office Official Gazette of July 27, 1982, at 1020 O.G. 25, and Vol. 24 of BNA's Patent, Trademark & Copyright Journal (July 1, 1982) at p. 236. The purpose of these proposed amendments was to revise and codify existing practices. One of the proposed amendments (not adopted herein) was to interchange rules 2.101 and 2.102. Interested parties were requested to submit written comments on or before October 4, 1982. An oral hearing was held on the same date. Written comments relating to proposed rules 2.101, 2.102, 2.103, 2.111, and 2.112 were submitted by four organizations and one individual. Three persons testified at the oral hearing.

Two of the individuals testified in behalf of organizations which also submitted written comments. Each of the two testified that the organization which he represented approved of the proposed amendments except as indicated in the organization's written comments. The third individual testified concerning the history and purpose of the proposed amendments and expressed his approval of them.

However, further changes to several of these proposed rules, as well as amendments to other trademark rules, were required in order to implement certain trademark provisions of intervening Pub. L. 97-247 enacted August 27, 1982. The text of the law is published in the Patent and Trademark Office Official Gazette of October 26, 1982, at 1023 O.G. 31.

Provisions of Pub. L. 97-247 relating to trademark fees were implemented by trademark fee rule changes which were published in the **Federal Register** on July 30, 1982 at 47 FR 33086 and which took effect on October 1, 1982. That final rule document was based on the public law in effect at that time, Pub. L. 96-517, and on H.R. 6260, which was then pending but is now Pub. L. 97-247. As a result of the fee rule changes, which were subsequently confirmed in a document published in the **Federal Register** on September 17, 1982 at 47 FR 41272, further changes to rule 2.101 (identified in the June 29, 1982 notice as 2.102) were required.

Additional changes to rules 2.101 (identified in the June 29, 1982 notice as 2.102), 2.103 and 2.111, as well as changes to rules 2.161 and 2.162, were required in order to implement the provisions of Sections 8 and 9 of Public Law 97-247. Section 8 of the new law amends Section 8 of the Trademark Act of 1946 (15 U.S.C. 1058) to require that an affidavit or declaration filed under Section 8 show use of the mark in commerce. Section 9(a) amends Section 13 of the Trademark Act (15 U.S.C. 1063) to eliminate the requirement for verification of oppositions (thus permitting a party's attorney to sign an opposition before the Trademark Trial and Appeal Board), and to require that additional requests for extension of time to oppose be filed prior to the expiration of the extension. Section 9(b) amends Section 14 of the Trademark Act (15 U.S.C. 1064) to eliminate the requirement for verification of petitions to cancel (thus permitting a party's attorney to sign petitions to cancel before the Trademark Trial and Appeal Board). The provisions of Sections 8 and 9 of the new law which are implemented by the rules amended in the present notice are effective February 27, 1983.

The proposed changes to rules 2.101 (identified in the June 29, 1982 notice as 2.102), 2.103, 2.111, 2.161, and 2.162 required as a result of the enactment of Pub. L. 97-247 were published in the **Federal Register** on November 24, 1982 at 47 FR 53054. In that notice, as in the June 29, 1982, notice, rules 2.101 and 2.102 were interchanged, and it was indicated in the notice that although rules 2.102 (identified in the notice as 2.101) and 2.112, as proposed in the June 29, 1982, notice, already included the necessary changes called for by Pub. L. 97-247 and thus were not being republished, further comments on the two proposed rules would be entertained. Interested parties were requested to submit written comments on or before January 7, 1983. Comments were received from one organization.

Other provisions of Pub. L. 97-247 relevant to trademark cases either require no changes in Part 2 of Title 37 CFR or require changes in Part 1 which were proposed in a separate notice.

Sections 10, 11, and 14(c) of the new law amend the Trademark Act but require no changes in the trademark rules of practice. Section 10 amends Section 15 of the Trademark Act (15 U.S.C. 1065) relating to incontestability of registered marks. Under the amended section, a registered mark does not acquire incontestability if its use infringes a valid right acquired under the law of any state or territory by use of a mark or trade name continuing from a date prior to the date of registration. Before the section was amended, the date was the date of publication. Section 11 amends Section 16 of the Act (15 U.S.C. 1066) to correspond to the current practice relating to interferences. The amended section states that an interference will be declared only upon petition to the Commissioner showing extraordinary circumstances. Section 14(c) amends Section 11 of the Act (15 U.S.C. 1061) relating to acknowledgements and verifications. An official authorized to administer oaths in a foreign country may prove such authority by apostille if the foreign country accords like effect to apostilles of designated officials in the United States.

Section 12 of the new law affects practice in both patent and trademark cases. Amendments to the rules in Part 1 which apply to both patent and trademark cases were proposed in a separate notice published in the **Federal Register** on October 27, 1982 at 47 FR 47744.

In summary, this notice of final rulemaking is based upon the notices of proposed rulemaking published in the **Federal Register** on June 29, 1982, at 47 FR 28324 and on November 24, 1982 at 47 FR 53054.

Discussion of Specific Sections Changed

The rules which are being amended are discussed below. (The designation § is used in The Code of Federal Regulations to denominate a rule; lettered subdivisions ("(a)", "(b)", etc.) are subsections of rules; numbered subdivisions ("(1)", "(2)", etc.) are paragraphs within sections or subsections.)

It was proposed in the notice of June 29, 1982, that former §§ 2.101 and 2.102 be interchanged. That proposal has not been adopted in the amended rules. Further, § 2.101, as amended, eliminates the requirement for verification of oppositions.

Section 2.101(a), as amended, states when an opposition proceeding is commenced, which is important for the application of § 2.135.

Section 2.101(b), as amended, indicates that an opposition should be addressed to the Trademark Trial and Appeal Board, which helps to route mail within the PTO.

Section 2.101(c), as amended, requires that an opposition be filed within thirty days after publication of the application or prior to the expiration of a granted extension of time for filing an opposition.

Section 2.101(d)(1) requires the payment of the statutory fee for an opposition, and provides for the late payment of opposition fee or fees, when a notice of opposition is not accompanied by at least one full fee to oppose one class by one person, if the required fee(s) is submitted to the Patent and Trademark Office within the time limit set in the notification of the defect by the Office. This section incorporates the substance of, and replaces, § 2.101(c) which was adopted effective October 1, 1982, 47 FR 33086 at 33111.

Section 2.101(d) (2) and (3) provide, where the fees that are submitted are insufficient for the number of classes being opposed and/or for the number of persons joined as party opposer, an opportunity for submission of the required fees or specification of the class or classes opposed and/or of the party opposers, and provides for the allocation of the insufficient fees if no such specification is made.

Sections 2.102 (a) and (b), as amended, repeat, with revisions to clarify the provisions, former § 2.102(a).

Section 2.102(c) requires that a notice of opposition be filed within thirty days after publication of the application or prior to expiration of a granted extension of time for filing a notice opposition, and provides that extensions of time to file an opposition aggregating more than 120 days will not be granted except upon (1) the written consent of applicant, or (2) a written request by the potential opposer which states that applicant has consented to the request and which includes proof of service upon applicant, or (3) a showing of extraordinary circumstances.

Section 2.102(d) provides that a request to extend the time for filing a notice of opposition should be submitted in triplicate. This section codifies an existing practice which expedites notification of the Board's action on a request for an extension of time.

Section 2.103 is removed. Since § 2.101, as amended, eliminates the requirement for verification of an opposition and allows the attorney to sign an opposition without need for subsequent confirmation, § 2.103 is unnecessary.

Sections 2.111 and 2.112, as amended, eliminate the requirement for verification of petitions for cancellation. It was proposed in the notice of June 29, 1982 that the requirement for verification of a petition for cancellation be deleted from § 2.112 and be placed in § 2.111. The requirement is not included in either section, as amended.

Section 2.111(a) states when a cancellation proceeding is commenced, which is important for the application of § 2.134.

Section 2.111(b) incorporates most of the provisions of former § 2.111 and also indicates that a petition for cancellation should be addressed to the TTAB, which helps to route mail within the PTO.

Section 2.111(c) states the requirement for the payment of the fee(s) due upon filing a petition for cancellation; provides, where the fees that are submitted are insufficient for the number of classes sought to be cancelled and/or for the number of persons joined as party petitioners, an opportunity for submission of the required fees (provided that the five-year period, if applicable, has not expired) or specification of the class or classes sought to be cancelled and/or of the party petitioners; provides for the allocation of the insufficient fees if no such specification is made; and states that the filing date of a petition for cancellation is the date of receipt in the Patent and Trademark Office of the petition with the required fee, and that if the amount of the fee filed with the petition is sufficient for at least one named party petitioner and one class of goods or services but is less than the required amount because multiple party petitioners and/or multiple classes in the registration for which cancellation is sought are involved, and the required additional amount of the fee is filed within the time limit set in the notification of the defect by the Office, the filing date of the petition with respect to the additional party petitioners and/or classes is the date of receipt in the Patent and Trademark Office of the additional fees.

Section 2.112(a) incorporates that part of former § 2.112 which described the contents of a petition for cancellation, except that the requirement for verification has been removed.

Section 2.112(b) states the conditions for filing a consolidated petition for cancellation of different registrations owned by the same party.

Section 2.161, as amended, requires that an affidavit or declaration filed under Section 8 of the Trademark Act of 1946 show that the mark is in use in commerce.

Sections 2.162(e), (f) and (g), as amended, require that the affidavit or declaration filed under Section 8 of the Trademark Act of 1946 state that the mark is in use in commerce, and specify the nature of such commerce. The latter requirement is consistent with § 2.33(viii) of the trademark rule which requires that the application for trademark registration specify the nature of the commerce in which the mark is used.

Response to Comments on the Rules

All of the comments received in response to the notices of proposed rulemaking published in the **Federal Register** on June 29, 1982, and November 24, 1982, have been given careful consideration, and a number of the suggested modifications have been adopted. The comments and responses appear below.

Comment: One organization opposed the proposal to reverse the order of §§ 2.101 and 2.102, asserting that a change in the location of § 2.101 would be likely to cause confusion, and that the more logical order is to first explain the substance of filing an opposition and then explain how to obtain an extension of time in which to act.

Response: To minimize confusion in view of the numerous recent rule

changes and proposed rule changes, the proposal to reverse the order of §§ 2.101 and 2.102 has been withdrawn.

Comment: One organization noted that in §§ 2.101 and 2.102, as proposed, the term "opposition", when used to refer to the complaint in an opposition proceeding, has been changed to "notice of opposition". The organization expressed its belief that there is no reason for reverting to the phrase "notice of opposition" except tradition, and that that phrase is confusingly similar to the phrase "notification of opposition".

Response: The proposal to change "opposition" to "notice of opposition" in certain instances has not been adopted.

Comment: Two organizations suggested that § 2.101(d) (identified as § 2.102(e) and as 2.102(d) in the notices of proposed rulemaking of June 29, 1982, and November 24, 1982, respectively), which deals with insufficient opposition fees and provides for the allocation of the fees submitted, be revised to give opposer(s) an opportunity to select the opposer(s) and/or classes to which the submitted fees apply. One of these organizations suggested that the opposer also be given an opportunity to submit the proper fee(s). Similar comments were made with respect to § 2.111(c) (identified in the June 29, 1982 notice as § 2.111(d)), which deals with insufficient cancellation fees.

Response: Where the fees submitted are insufficient for each named party opposer or petitioner for each class sought to be opposed or cancelled, it is in fact the practice of the Board to give the opposer(s) or petitioner(s) an opportunity to either submit the proper fees or to select the opposer(s) or petitioner(s) and/or classes to which the submitted fees apply. Accordingly, the sections have been changed to reflect this practice. See also, with respect to insufficient cancellation fees, § 2.85(e).

Comment: One member of one of the organizations suggested that the subsections identified as § 2.102 (e) and (f) in the notice of proposed rulemaking of June 29, 1982, and as § 2.102 (d) and (e) in the notice of proposed rulemaking of November 24, 1982, be consolidated into a single subsection so that all of the provisions concerning insufficient opposition fees will appear in the same subsection. Another organization suggested that these and certain other portions of the rules dealing with fees be moved to § 2.6 or a new § 2.7.

Response: The suggestion concerning consolidation has been adopted, and the two subsections in question have been consolidated into the single subsection now identified as § 2.101(d). Inasmuch as it is believed that the most logical and effective location for these provisions is § 2.101, the suggestion that they be moved to § 2.6 or a new § 2.7 has not been adopted.

Comment: One individual suggested that § 2.101(a) (identified as § 2.102(a) in the notices of proposed rulemaking) and §2.111(a) be modified by inserting the word "properly" before the work "executed" in order to make it clear that an opposition or cancellation proceeding is not commenced until a properly verified complaint has been filed.

Response: In view of the elimination of the requirement for verification of oppositions and petitions for cancellation, this suggestion is moot.

Comment: One organization suggested, with respect to the phrase "or other person authorized to represent the potential opposer" which appears in § 2.102(a) (identified as § 2.101(a) in the June 29, 1982 notice of proposed rulemaking), that the type of authorization intended here be explained by inserting a cross reference to § 2.12 (b) and (c) and § 2.17(b), the sections entitled "Persons who may practice before the Patent and Trademark Office in trademark cases" and "Recognition for representation", respectively.

Response: The subsection has been modified as suggested.

Comment: One organization stated, with respect to § 2.102(b) (identified in the June 29, 1982 notice of proposed rulemaking as § 2.101(b)), that it agreed with "the PTO's proposed amendment in paragraph (b) regarding 'privity'," but believed that "the intent should be mentioned in the legislative history of the rules."

Response: The substance of § 2.102(b), as amended, is identical to the latter portion of former § 2.102(a). That is, the amendment is not substantive in nature but rather involves a slight improvement in the wording of the subsection. The provision concerning privity was added by an earlier amendment effective February 1, 1976. The legislative history of that rule change may be found in the notice of proposed rulemaking published in the **Federal Register** on February 11, 1975 at 40 FR 6363 and in the notice of final rulemaking published in the **Federal Register** at 41 FR 756.

Comment: One organization suggested that the phrase "under this section" be deleted from the subsection identified as § 2.101(c) in the June 29, 1982 notice of proposed rulemaking (§ 2.102(c), as amended) so that extensions can be granted without requiring a showing of good cause following an extension which is not made under this section, as, for example, after a blanket extension published in the Official Gazette.

Response: The suggestion has been adopted.

Comment: Two organizations and some of the members of the "cognizant committee" of a third organization commented, with respect to the subsection identified in the June 29, 1982 notice as § 2.101(c) (§ 2.102(c), as amended), that the requirement that a potential opposer seeking an extension of time beyond 120 days based upon the consent of applicant must furnish applicant's consent in writing is unduly harsh and that the potential opposer should be permitted to rely upon applicant's oral consent.

Response: Rule 2.102(c), as amended, permits the potential opposer to rely upon applicant's oral consent provided that the request to extend is accompanied by proof of service upon applicant or its authorized representative. Although proof of service of papers filed in connection with an inter partes proceeding before the Board upon the other parties to the proceeding is required after the proceeding commences, it is not normally required prior to that time. However, where a request for extension of time to oppose beyond 120 days is based upon potential opposer's assertion that applicant has given its oral consent thereto, the requirement for proof of service is necessary in order to provide applicant written confirmation of its oral consent

Comment: Another portion of the "cognizant committee" of the organization referred to in the comment above suggested, with respect to the same subsection, that either the language regarding written stipulation be deleted or that the word "or" before the phrase "upon a showing of extraordinary circumstances" be change to "and", thereby making a showing of extraordinary circumstances an essential requirement for any extension of time to oppose beyond 120 days.

Response: It is advantageous both to the Office and to the parties to a potential opposition if the conflict between the parties can be settled without resort to an opposition proceeding. It is believed that the changes suggested by this portion of the committee are unduly restrictive and would cause oppositions to be filed in cases where they might otherwise be avoided. Accordingly, the proposed changes have not been made. It should be noted in this regard that even when a request for extension of time beyond 120 days is based upon the written or oral consent of the applicant, good cause must still be shown for the requested extension. Thus the potential for abuse

of the extension of time process which would exist if there were no requirement for a showing of good cause is avoided in § 2.102(c) as amended.

Comment: One organization questioned the provisions in § 2.111 for the payment of late fees in connection with a petition for cancellation as being possibly inconsistent with § 14 of the Trademark Act of 1946, which states that the "petition * * * may, upon payment of the prescribed fee, be filed * * *"; noted that there is the possiblity that the five-year period of § 14 would pass between the filing of the petition and the payment of the fee as to one or more classes; and suggested that a petition to cancel should not be effective as to any class or person until the fee for that class is paid and the filing is complete.

Response: While it has been held, because of the power granted to the Commissioner by § 13 of the Trademark Act of 1946 to extend the time for filing a notice of opposition and to fix a time within which an unverified opposition may be verified, that the payment of the required fee is not jurisdictional in the case of an opposition (See: Marzall v. Libby, McNeill & Libby, 89 USPQ 10 (D.C. Cir. 1951), and Colgate-Palmolive Company v. Brenner, 148 USPQ 535 (S.D.N.Y. 1965)), the Court of Customs and Patent Appeals has held, in The Williamson-Dickie Manufacturing Company v. Mann Overall Company, Inc., 149 USPQ 518 (CCPA 1966), that the payment of the required fee for a petition for cancellation is a jurisdictional requirement without which a petition has not been filed in compliance with § 14 of the statute. Cf. § 9 of the Trademark Act of 1946 (which, like § 14, contains no provision granting the Commissioner the power to extend the time for filing), § 2.183(b) of the Trademark Rules of Practice, and In re Michaels Stern & Company, Incorporated, 199 USPQ 382 (Comr. 1978). Further, when multiple classes are combined in a single application or registration, the combined application or registration is regarded as though it were a group of individual applications which have been physically assembled within a single file wrapper bearing a single serial or registration number, and each of these individual applications or registrations must stand or fall on its own merits in pre-registration and post-registration ex parte and inter partes proceedings, so that if an opposition or petition for cancellation is filed with respect to more than one of the classes in the combined application or registration, there are effectively multiple separate proceedings, each of which must be determined on its own facts and merits. See, for example: Federated Foods, Inc. v. Fort Howard Paper Company, 192 USPQ 24 (CCPA 1974), and In re Bombardier Limited, 204 USPQ 943 (Comr. 1979). Similarly, when multiple persons are named in a complaint as party opposers or petitioners, each must show that it would be damaged by the issuance or continued existence of the registration in question, so that if two different persons, for example, are joined as party petitioners, there are effectively two different cancellation proceedings, each of which must be determined on its own merits. It follows from the foregoing that when a petition for cancellation involves multiple classes and/or party petitioners, the required fee is jurisdictional with respect to each class and/or party petitioner, that is, that the petition for cancellation is not effective as to any class or person until the fee for that class or person has been received by the Office; and that if the five-year period of § 14 of the Trademark Act of 1946 expires between the filing of the petition and the payment of the fee as to one or more classes or party petitioners, the petition as to those classes or party petitioners can be entertained by the Trademark Trial and Appeal Board only to the extent that the petition is based upon the provisions of § 14 (c), (d) or (e) or § 24 of the statute or seeks cancellation of a registration issued under the Act of 1920. Accordingly, § 2.111(a) has been revised to state that a cancellation proceeding is commenced by the timely filing of a petition for cancellation, together with the required fee, in the Patent and Trademark Office; the last sentence of subsection (b) has been revised to indicate that in those cases where the five-year limitation is applicable, both the petition and the required fee must be filed within the five-year period; in subdivisions (1) and (2) of subsection (c) (identified in the notice of proposed rulemaking of June 29, 1982, as subsection (d)), the provision of an opportunity to submit additional fees is limited, if the five-year period is applicable, to those cases in which the period has not expired; and a new subdivision (3) has been added to subsection (c) stating that the filing date of a petition for cancellation is the date of receipt in the Patent and Trademark Office of the petition together with the required fee, and that if the amount of the fee filed with the petition is sufficient for at least one named party petitioner and one class of goods or services but is less than the required amount because multiple party petitioners and/or multiple classes in the registration for which cancellation is sought are involved, and the required additional amount of the fee is filed within the time limit set in the notification of the defect by the Office, the filing date of the petition with respect to the additional party petitioners and/or classes is the date of receipt in the Patent and Trademark Office of the additional fees.

Comment: One organization suggested that a cross reference to § 2.6 be added to § 2.111(c)(1) (identified in the June 29, 1982, notice of proposed rulemaking as § 2.111(d)(1)) along with the reference to § 2.85(e).

Response: A cross reference to § 2.6 has been added to § 2.111(c)(1), along with the reference to § 2.85(e).

Comment: One organization objected to § 2.162(e) to the extent that it requires that a statement of use in commerce "must be supported by evidence which shows that the mark is in use in commerce * * *," and recommended that the words "in commerce" be deleted from the quoted phrase. The organization indicated that while it did not object to the requirement of use in commerce, nor to the requirement of a showing that the mark is in use, it did object to a requirement of a showing that the mark is in use in commerce since such a showing could not be accomplished by a mere specimen but would also require invoices or the like.

Response: The subsection has been modified as suggested.

Environmental, Energy, and Other Considerations

The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354). The rule change includes no additional or increased fees. Substantive rights to use valuable trademarks are not adversely affected. The rule change serves to implement the required trademark provisions of Pub. L. 97–247.

The rule change does not impose a record keeping or reporting burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. No additional information is required from the public. No additional records are required to be maintained by the Patent and Trademark Office because there are no additional fees or proceedings to monitor.

The Patent and Trademark Office has determined that this rule change is not a

major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no significant, adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

List of Subjects in 37 CFR Part 2

Administrative practice and procedure, Courts, Lawyers, Trademarks.

Amendment of Regulations

After consideration of the comments received and pursuant to the authority contained in 15 U.S.C. 1123, Part 2 of Title 37 of the Code of Federal Regulations is amended as set forth below.

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. Section 2.101 is revised to read as follows:

§ 2.101 Filing an opposition.

(a) An opposition proceeding is commenced by the filing of an opposition in the Patent and Trademark Office.

(b) Any person who believes that he would be damaged by the registration of a mark on the Principle Register may oppose the same by filing an opposition, which should be addressed to the Trademark Trial and Appeal Board.

(c) The opposition must be filed within thirty days after publication (§ 2.80) of the application being opposed or within an extension of time (§ 2.102) for filing an opposition.

(d)(1) The opposition must be accompanied by the required fee for each party joined as opposer for each class in the application for which registration is opposed (see § 2.6(1)). If no fee, or a fee insufficient to pay for one person to oppose the registration of a mark in at least one class, is submitted within thirty days after publication of the mark to be opposed or within an extension of time for filing an opposition, the opposition will not be refused if the required fee(s) is submitted to the Patent and Trademark Office within the time limit set in the notification of this defect by the Office.

(2) If the fees submitted are sufficient to pay for one person to oppose registration in at least one class but are insufficient for an opposition against all of the classes in the application, and the particular class or classes against which the opposition is filed are not specified, the Office will issue a written notice allowing opposer until a set time in which to submit the required fee(s) or to specify the class or classes opposed. If the required fee(s) is not submitted, or the specification made, within the time set in the notice, the opposition will be presumed to be against the class or classes in ascending order, beginning with the lowest numbered class and including the number of classes in the application for which the fees submitted are sufficient to pay the fee due for each class.

(3) If persons are joined as party opposers, and the fees submitted are sufficient to pay for one person to oppose registration in at least one class but are insufficient for each named party opposer, the Office will issue a written notice allowing the named party opposers until a set time in which to submit the required fee(s) or to specify the opposer(s) to which the submitted fees apply. If the required fee(s) is not submitted, or the specification made, within the time set in the notice, the first named party will be presumed to be the party opposer and additional parties will be deemed to be party opposers to the extent that the fees submitted are sufficient to pay the fee due for each party opposer. If persons are joined as party opposers against the registration of a mark in more than one class, the fees submitted are insufficient, and no specification of opposers and classes is made within the time set in the written notice issued by the Office, the fees submitted will be applied first on behalf of the first-named opposer against as many of the classes in the application as the submitted fees are sufficient to pay, and any excess will be applied on behalf of the second-named party to the opposition against the classes in the application in ascending order.

2. Section 2.102 is revised to read as follows:

§ 2.102 Extension of time for filing an opposition.

(a) Any person who believes that he would be damaged by the registration of a mark on the Principal Register may file a written request to extend the time for filing an opposition. The written request may be signed by the potential opposer or by an attorney at law or other person authorized, in accordance with § 2.12 (b) and (c) and § 2.17(b), to represent the potential opposer.

(b) The written request to extend the time for filing an opposition must identify the potential opposer with reasonable certainty. Any opposition filed during an extension of time should be in the name of the person to whom the extension was granted, but an opposition may be accepted if the person in whose name the extension was requested was misidentified through mistake or if the opposition is filed in the name of a person in privity with the person who requested and was granted the extension of time.

(c) The written request to extend the time for filing an opposition must be filed in the Patent and Trademark Office before the expiration of thirty days from the date of publication or within any extension of time previously granted, should specify the period of extension desired, and should be addressed to the Trademark Trial and Appeal Board. A first extension of time for not more than thirty days will be granted upon request. Further extensions of time may be granted by the Board for good cause. In addition, extensions of time to file an opposition aggregating more than 120 days from the date of publication of the application will not be granted except upon (1) a written consent or stipulation signed by the applicant or its authorized representative, or (2) a written request by the potential opposer or its authorized representative stating that the applicant or its authorized representative has consented to the request, and including proof of service on the applicant or its authorized representative, or (3) a showing of extraordinary circumstances, it being considered that a potential opposer has an adequate alternative remedy by a petition for cancellation.

(d) Every request to extend the time for filing a notice of opposition should be submitted in triplicate (original plus two copies).

§ 2.103 [Removed]

3. Section 2.103 is removed.

4. Section 2.111 is revised to read as follows:

§ 2.111 Filing petition for cancellation.

(a) A cancellation proceeding is commenced by the timely filing of a petition for cancellation, together with the required fee, in the Patent and Trademark Office.

(b) Any person who believes that he is or will be damaged by a registration may file a petition, which should be addressed to the Trademark Trial and Appeal Board, to cancel the registration in its entirety or for each class in the registration specified in the petition. The petition may be filed at any time in the case of registrations on the Supplemental Register or under the Act of 1920, or registrations under the Act of

1881 or the Act of 1905 which have not been published under § 12(c) of the Act of 1946, or on any ground specified in § 14 (c) or (e) of the Act of 1946. In all other cases the petition and the required fee must be filed within five years from the date of registration of the mark under the Act of 1946 or from the date of publication under § 12(c) of the Act of 1946.

(c)(1) The petition must be accompanied by the required fee for each class in the registration for which cancellation is sought (see §§ 2.6(1) and 2.85(e)). If the fees submitted are insufficient for a cancellation against all of the classes in the registration, and the particular class or classes against which the cancellation is filed are not specified, the Office will issue a written notice allowing petitioner until a set time in which to submit the required fee(s) (provided that the five-year period, if applicable, has not expired) or to specify the class or classes sought to be cancelled. If the required fee(s) is not submitted, or the specification made, within the time set in the notice, the cancellation will be presumed to be against the class or classes in ascending order, beginning with the lowest numbered class, and including the number of classes in the registration for which the fees submitted are sufficient to pay the fee due for each class.

(2) If persons are joined as party petitioners, each must submit a fee for each class for which cancellation is sought. If the fees submitted are insufficient for each named party petitioner, the Office will issue a written notice allowing the named party petitioners until a set time in which to submit the required fee(s) (provided that the five-year period, if applicable, has not expired) or to specify the petitioner(s) to which the submitted fees apply. If the required fee(s) is not submitted, or the specification made, within the time set in the notice, the first named party will be presumed to be the party petitioner and additional parties will be deemed to be party petitioners to the extent that the fees submitted are sufficient to pay the fee due for each party petitioner. If persons are joined as party petitioners against a registration sought to be cancelled in more than one class, the fees submitted are insufficient, and no specification of parties and classes is made within the time set in the written notice issued by the Office, the fees submitted will be applied first on behalf of the first-named petitioner against as many of the classes in the registration as the submitted fees are sufficient to pay, and any excess will be applied on behalf of the second-named party to the petition against the classes in the registration in ascending order.

(3) The filing date of the petition is the date of receipt in the Patent and Trademark Office of the petition together with the required fee. If the amount of the fee filed with the petition is sufficient to pay for at least one person to petition to cancel one class of goods or services but is less than the required amount because multiple party petitioners and/or multiple classes in the registration for which cancellation is sought are involved, and the required additional amount of the fee is filed within the time limit set in the notification of the defect by the Office, the filing date of the petition with respect to the additional party petitioners and/or classes is the date of receipt in the Patent and Trademark Office of the additional fees.

5. Section 2.112 is revised to read as follows:

§ 2.112 Contents of petition for cancellation.

(a) The petition to cancel must set forth a short and plain statement showing how the petitioner is or will be damaged by the registration, state the grounds for cancellation, and indicate the respondent party to whom notification shall be sent. A duplicate copy of the petition, including exhibits, shall be filed with the petition.

(b) Petitions to cancel different registrations owned by the same party may be joined in a consolidated petition when appropriate, but the required fee must be included for each party joined as petitioner for each class sought to be cancelled in each registration against which the petition to cancel is filed.

6. Section 2.161 is revised to read as follows:

§ 2.161 Cancellation for failure to file affidavit or declaration during sixth year.

Any registration under the provisions of the Act of 1946 and any registration published under the provisions of section 12(c) of the Act (§ 2.153) shall be cancelled as to any class in the registration at the end of six years following the date of registration or the date of such publication, unless within one year next preceding the expiration of such six years the registrant shall file in the Patent and Trademark Office an affidavit or declaration in accordance with § 2.20 showing that said mark is in use in commerce as to such class or showing that its nonuse as to such class is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

7. Section 2.162 is amended by revising paragraphs (e), (f) and (g) to read:

§ 2.162 Requirements for affidavit or declaration during sixth year.

* * * * *

(e) State that the registered mark is in use in commerce and specify the nature of such commerce (except under paragraph (f) of this section). The statement must be supported by evidence which shows that the mark is in use, and normally such evidence consists of a specimen or a facsimile specimen which is currently in use, or a statement of facts concerning use. The supporting evidence should be submitted with the affidavit or declaration, but if it is not or if the evidence submitted is found to-be deficient, the evidence, or further evidence, may be submitted and considered even though filed after the sixth year has expired;

(f) If the registered mark is not in use in commerce, recite facts to show that nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. If the facts recited are found not to be sufficient, further evidence or explanation may be submitted and considered even though filed after the sixth year has expired; and

(g) Contain the statement of use in commerce or statement as to nonuse and appropriate evidence, as required in paragraphs (e) and (f) of this section, for each class to which the affidavit or declaration pertains in this registration.

(Secs. 8 and 9, Pub. L. 97-247 (96 Stat. 320))

Dated: January 19, 1983.

Donald J. Quigg,

Deputy Commissioner of Patents and Trademarks.

[FR Doc. 83-2550 Filed 1-27-83; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 262, 264, and 265

[SW-FRL-2283-7]

Hazardous Waste Management System; Standards Applicable to Generators of Hazardous Waste and Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is today issuing final amendments to its hazardous waste regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) which change the reporting requirements for hazardous waste generators and owners or operators of hazardous waste treatment, storage, and disposal (TSD) facilities. These amendments will reduce the paperwork burdens on the regulated community and will allow EPA to obtain needed data on hazardous waste management. The amendments increase the interval between required reports from annual to biennial and require the biennial report to be submitted by March 1 of even numbered years describing hazardous waste activities during the previous calendar year. Under today's amendments, hazardous waste generators and TSD facilities are not required to submit an annual report for 1982.

EFFECTIVE DATE: February 28, 1983.

ADDRESSES: The public docket for this rulemaking is available at Room S-269, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA/Superfund Hotline at (800) 424–9346 (Toll-free) or in Washington, D.C. (202) 382–3000.

For technical information, contact Robert B. Axelrad, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460, (202) 382–5218.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. General Authority
II. Background of Annual Report Requirement
III. Summary of Survey Proposal
IV. Discussion of Comments
  A. Burden Reduction Potential of the Proposed Rule
  B. Elimination of Reporting by all Generators and TSD Facilities
V. Revised Approach
VI. Status of 1982 Annual Reports
VII. Specific Amendments
VIII. Executive Order 12291
IX. Paperwork Reduction Act
X. Regulatory Flexibility Act

I. General Authority

Today's amendments are issued primarily under the authority of Sections 3002 and 3004 of the Solid Waste Disposal Act, as amended by Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6901 *et seq.*

Section 3002(6) requires generators of hazardous waste to submit reports at such times as the Administrator deems necessary, setting out the quantities of hazardous waste generated and their disposition. Section 3004(2) of RCRA requires EPA to establish reporting requirements respecting satisfactory reporting from hazardous waste TSD facilities.

II. Background of the Annual Report Requirement

In February and May of 1980, EPA promulgated regulations establishing the reporting requirements authorized by Sections 3002(6) and 3004(2) of RCRA. Under 40 CFR 262.41, generators who ship hazardous wastes off-site are required to submit reports annually by March 1 for the reporting year ending the previous December 31. The reports are to specify, among other things, the amount of each type of hazardous waste shipped to each TSD facility during the reporting year, as well as the names, addresses, and EPA identification numbers of all transporters utilized in such shipments. Under 40 CFR 264.75 and 265.75, the owners or operators of hazardous waste TSD facilities must submit annual reports specifying, among other things, the amount of each type of hazardous waste received from each generator from which the facility received hazardous waste during the reporting year.

In 1981, EPA began to reevaluate this reporting requirement in light of EPA's current and future information needs. This review led EPA to tentatively conclude that conducting periodic surveys of a representative sample of all generators and TSD facilities might be preferable to requiring annual reports only from handlers in unauthorized States.[1]

On October 12, 1982, EPA published a notice of proposed rulemaking (47 FR 44932) requesting comment on the Agency's intention to replace the annual report requirement with a requirement that hazardous waste handlers respond to a biennial sample survey. As a result of comments received on that proposal, EPA has reconsidered the biennial survey approach and is today issuing amendments that will require reporting by all generators and TSD facilities in unauthorized States on a biennial basis.

III. Summary of the Survey Proposal

The biennial survey proposal was intended to permit EPA to obtain better and more reliable national data on hazardous waste management than is currently available through the existing annual reporting system. EPA proposed to survey approximately 10% of the regulated community in all fifty States once every two years, using a statistical, stratified sampling technique. EPA explained in the October 12, 1982 notice that the survey would: (1) Provide more detailed information, (2) provide better national data, and (3) reduce paperwork burdens.

The biennial survey proposal sought public comment on a variety of issues including: (1) Whether a 10% survey of hazardous waste handlers in all fifty States was preferable to the existing annual report required of generators and TSD facilities in unauthorized States; (2) whether surveys should be conducted biennially or at some other frequency; (3) the size and scope of the surveys; (4) mechanisms for cooperation with States to minimize the reporting burden and maximize sharing of information obtained; and (5) the Agency's intention to make the amendments effective immediately to relieve hazardous waste handlers in the unauthorized States from having to submit 1982 annual reports to EPA.[2]

IV. Discussion of Comments

EPA received 44 comments on the biennial survey proposal from a cross section of the regulated community, State and Federal government agencies and environmental organizations. The comments covered a wide range of issues. The major issues raised by commenters were: (A) The degree of burden reduction that would be achieved through the proposed amendments; and (B) whether it is appropriate to rescind the requirement that all generators and TSD facilities report to EPA on their hazardous waste activities.

A. Burden Reduction Potential of the Proposed Rule

In the October 12, 1982 **Federal Register** notice, EPA explained that the biennial survey proposal would substantially reduce the paperwork burden on the regulated community by requiring only 10% of hazardous waste handlers to respond to a survey to be conducted every two years. However, while some commenters agreed that the biennial survey would result in a significant decrease in reporting burden, the majority of commenters disagreed. These commenters believed that the proposed biennial survey would result in a substantial increase in reporting

[1] EPA's annual report requirement applies only to generators and TSD facilities located in States that have not received Phase I Interim Authorization or Final Authorization to operate their own hazardous waste programs

[2] 1982 Annual Reports would be due on March 1, 1983

burden for most hazardous waste handlers since it would add an additional information requirement in many States rather than eliminating a reporting burden. In particular, commenters expressed concern that States which have independent reporting requirements would probably retain those requirements even if EPA rescinds its annual report. Firms would therefore be required to comply with State annual (or more frequent) reporting requirements as well as respond to EPA surveys. Many commenters argued that EPA's inability to preempt State requirements[3] would result in a multi-layered set of reporting requirements under which: (1) Many States would continue to require their own version of reports, (2) other States which are prevented by State legislation from establishing more stringent requirements than EPA's would develop their own survey programs to remain consistent with EPA requirements, and (3) handlers in all States would be subject to EPA surveys. These commenters felt that such a system of duplicative and overlapping requirements would substantially increase the recordkeeping and reporting burdens, particularly for firms that operate interstate or have a large number of installations and must comply with multiple State as well as EPA reporting requirements.

Virtually all of the commenters strongly recommended that EPA obtain whatever information it needed from the authorized State agencies themselves rather than impose a new requirement or duplicate reporting requirements in the authorized States. Comments from State hazardous waste management agencies also supported this approach.

In proposing the biennial survey, EPA believed that the variations among State reporting requirements would prohibit EPA from obtaining usable nationwide information. EPA was also concerned that the limited nature of the annual report data would not be sufficient to meet the Agency's information needs. However, EPA finds the arguments presented by commenters to be persuasive. EPA agrees that the use of existing data wherever possible to minimize reporting burden is a desirable approach and that further efforts to utilize existing State data should be made prior to imposing a new or potentially duplicative reporting requirement on installations that must submit annual or more frequent reports to State agencies.

[3] RCRA does not prohibit States from promulgating more stringent requirements than the Federal regulations.

The Agency now believes that much of the information needed for general management purposes (e.g. determining who is generating, treating, storing or disposing of hazardous waste as well as where and how such wastes are being handled) can be gleaned from existing State reporting systems. In order to obtain the necessary management information directly from State agencies, EPA intends to modify the State/EPA Memoranda of Agreement as necessary to provide for the transfer of such information.

EPA is still convinced, however, that it will periodically require more detailed information for specific rulemaking purposes than is available from the existing report forms, regardless of frequency of reporting or whether the reports are submitted to EPA or to State agencies. A number of commenters argued that Section 3007 of RCRA could not be construed to authorize a national survey in authorized States since Section 3007 focuses on site-by-site inspections and should not be used to circumvent restrictions on reporting embodied in Section 3006 (which states that once a State receives program approval, "such State is authorized to carry out such program in lieu of the Federal program * * *") and Section 3002(6), which commenters argue limits submission of reports to "* * * State Agency in any case in which such State carries out an authorized permit program * * *".

EPA does not agree that Sections 3002 and 3006 restrict the Agency's authority under Section 3007 to obtain information it deems necessary for rulemaking or enforcement purposes. In addition, many commenters agreed that EPA would occasionally need additional data and that such data could properly be collected through the use of small statistically valid samples. The Agency will, therefore, periodically conduct special surveys of small samples of the regulated community on an as needed basis for specific rulemaking activities.

However, in light of the large number of comments indicating that the biennial survey would increase rather than decrease reporting burden if conducted in authorized States, and because the Agency now believes it can obtain the necessary information directly from the States, EPA has decided not to impose any additional routine reporting requirements on handlers in States with interim or final authorization.

B. Elimination of Reporting by All Generators and TSD Facilities

A high percentage of commenters strongly objected to EPA's proposal to eliminate the requirement that all generators and TSD facilities report on their hazardous waste activities on a regular basis. Many commenters felt that: (1) Reporting at regular intervals was essential to the development of a strong national data base on hazardous waste activities; (2) across-the-board reporting was important as a compliance incentive and enforcement mechanism as well as to improve public confidence in the hazardous waste regulatory program; and (3) the current reporting requirement was the least burdensome reporting mechanism since the annual report forms request easily accessible information in a format compatible with existing recordkeeping systems.

The Agency is not convinced that a carefully designed 10 percent survey conducted every two years would provide EPA with insufficient data to characterize hazardous waste activity and trends. However, EPA does recognize that the implementation of the program would benefit from a sound data base on all facilities.

Also, EPA does find some merit to the arguments presented by commenters that requiring reports from all generators and TSD facilities provides stronger incentives for firms to maintain proper and complete records than would a random and occasional sampling system. The Agency also agrees that the development and maintenance of public confidence in the hazardous waste management program is an important goal and that the elimination of publicly accessible information on all hazardous waste handlers might reduce confidence in EPA's ability to protect the public from future hazardous waste incidents.

EPA found the comments of several major associations representing a large portion of the hazardous waste management industry to be of particular interest. These commenters, although generally supportive of EPA efforts to reduce regulatory burden, nevertheless felt that EPA should have information on the activities of all hazardous waste generators and TSD facilities and that the current annual report was the least burdensome reporting system for two reasons: (1) The required report is of minimal length and requests information that is easily accessible using current recordkeeping procedures; and (2) the least burdensome requirements are those that are known and consistent, characteristics that these commenters felt were not embodied in the biennial survey proposal.

V. Revised Approach

As a result of the comments received on its October 12, 1982 proposal, EPA

has reconsidered the biennial survey approach and instead is implementing minor modifications to its existing reporting requirements to increase the interval between reports from one year to two years and to bring all of EPA's existing regulations into conformance with this amendment. EPA believes that these modifications address the comments received and will achieve real and substantial reductions in burden while permitting EPA to obtain the information it needs to update and refine the regulatory program.

This approach incorporates the following features:

(1) Retention of the requirement that all generators and TSD facilities in the unauthorized States submit reports to EPA on their hazardous waste activities.

The majority of commenters indicated that EPA should not collect information directly from handlers located in authorized States since a majority of States intend to retain requirements that all handlers submit annual or more frequent reports on their activities. As stated previously, EPA may not prevent States from adopting more stringent requirements than the Federal regulations. In addition, many States currently require reports to be submitted in a format similar or identical to EPA's existing annual report. Retaining across-the-board reporting by all generators and TSD facilities in States where EPA operates the hazardous waste program will therefore serve to maintain a maximum degree of consistency between State and Federal requirements and maximize the potential for EPA to obtain uniform information from both authorized and unauthorized States. This approach also responds to comments indicating that the existing reporting requirement is the least burdensome reporting system and necessary to establish a sound data base, promote confidence in the hazardous waste management system, and support enforcement of the regulatory program.

(2) Amending §§ 262.41, 264.75, and 265.75 to require such reports to be submitted biennially instead of annually. The reports will cover only hazardous waste generated and/or treated, stored or disposed of in *odd* numbered years and will be required to be submitted by March 1 of each *even* numbered year.

As stated in the biennial survey proposal, EPA believes that requiring reporting every year is unnecessarily burdensome and that biennial reporting is adequate to characterize hazardous waste activity, update the data base, and ensure compliance with recordkeeping requirements and other provisions of RCRA. A large majority of commenters support reducing the frequency of required reports.

(3) Modification of existing State authorization requirements to require States to require, at a minimum, biennial reports, and to submit certain data to EPA by the authorized States on a biennial basis.

As discussed above, EPA needs certain information on hazardous waste activity in order to refine and update its hazardous waste regulations. In response to comments on the biennial survey proposal, EPA intends to obtain as much of the data the Agency requires as possible from the State agencies in the authorized States. Summary information on the quantities and types of hazardous waste generated, transported, stored, treated, or disposed of is currently required to be submitted to EPA by the States on an annual basis (40 CFR § 122.18). Under today's amendments, these summaries will be required biennially to conform to the biennial report schedule. EPA is now in the process of exploring whether modifications to the Memoranda of Agreement should be made to more precisely specify the form and content of these summaries.

VI. Status of 1982 Annual Reports

Under the existing regulations, generators of hazardous waste and owners or operators of treatment, storage and disposal facilities are required to submit reports on their 1982 activities by March 1, 1983.

Since the Summer of 1982, EPA has collected substantial quantities of data through the RIA survey process and submission of 1981 annual reports and the Agency is now in the process of collating and evaluating this information. This should provide EPA sufficient data to characterize current hazardous waste management activities. For this reason, the Agency does not intend to collect a 1982 annual report. EPA will eliminate the requirement to submit a 1982 annual report by making today's amendments effective before March 1, 1983, the date the 1982 report is currently due. Thus, the next generator and TSD facility report will be due on March 1, 1984, covering the 1983 calendar year.

Section 3010(b) of RCRA requires that revisions to RCRA Subtitle C regulations take effect six months after date of publication. The purpose of this provision is to allow the regulated community adequate lead time to prepare to comply with major new regulatory requirements. Because the amendments promulgated today reduce reporting requirements for hazardous waste handlers, EPA does not believe that making them effective less than six months after date of publication would be contrary to the purposes of Section 3010(b).

EPA also believes that relieving hazardous waste handlers of the obligation to file 1982 annual reports is consistent with both the comments received on the proposed rule and the shift from annual to biennial reports.

VII. Specific Amendments

EPA is today finalizing the following amendments to bring all of EPA's existing RCRA regulations into conformance with the shift to a biennial report requirement.

1. 40 CFR 262.40 and 262.41 have been revised to reflect the shift to biennial reports and to bring the regulatory language of Part 262 into conformance with that in 40 CFR Parts 264 and 265. In addition, the annual report forms (EPA Forms 8700–13 and 8700–13A) and their associated instructions are being deleted from the Appendix to Part 262. EPA is now making clarifying modifications to the generator report instructions and will publish revised forms and instructions in the **Federal Register** as soon as possible, subject to OMB approval. These revisions will not substantively alter the information required to be submitted. For recordkeeping purposes, it should be noted that the DOT Hazard Class code numbers which appeared in the 1981 Generator Annual Report instructions will not be further revised.

2. 40 CFR Parts 264 and 265 are being revised to reflect the shift to a biennial reporting period.

The annual report forms contained in Appendix II to the TSD facility regulations at 40 CFR Parts 264 and 265 (EPA Forms 8700–13 and 8700–13B) will also be deleted. EPA is now in the process of making clarifying modifications to the facility report forms and instructions and will publish revised forms in the **Federal Register** as soon as possible, subject to OMB clearance. These modifications will correct inconsistencies in the handling codes between the biennial report and Part A permit applications and will permit the revised form 8700–13B to also serve as the Unmanifested Waste Report forms, required for use by facility owners and operators under 40 CFR 264.76 and 265.76. Firms may continue to use the Unmanifested Waste report forms and instructions which appeared in the May 19, 1980 **Federal Register** (45 FR 33239) until EPA publishes the revised forms and instructions. The revisions to the facility report form and instructions will

not alter the information required to be submitted.

3. 40 CFR 265.94 (Ground-water Monitoring Reporting).

Section 265.94 currently requires owners and operators of surface impoundments, landfills, and land treatment facilities to submit annual ground-water monitoring data and analyses as part of, or attached to, their annual reports to EPA's Regional Administrators. Because today's amendments require owners and operators to report on their hazardous waste activities on a biennial basis, and because the Agency is still requiring ground-water information on an annual basis, EPA is amending § 265.94 to require this annual ground-water monitoring data to be submitted independently to Regional Administrators by March 1 of each year. This amendment does not affect the nature or frequency of the data required to be submitted.

4. 40 CFR 122.18 is being revised to require States to provide certain summary information to EPA biennially instead of annually.

5. 40 CFR 122.26 and 122.28 are being revised slightly to bring them into conformance with the shift to biennial reports.

Today's amendments apply only to generators and TSD facilities in States that do not have interim or final authorization to operate their own hazardous waste program. However, authorized States must comply with the provisions for interim or final authorization specified in 40 CFR Part 123, including requirements that States have reporting requirements substantially equivalent, or equivalent, to those specified in Parts 262, 264, and 265. States with interim or final authorization must therefore require, at a minimum, reporting by all generators and TSD facilities on a biennial basis.

VIII. Executive Order 12291

In accordance with Executive Order 12291, EPA has determined that today's revisions of the RCRA regulations will not result in: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, today's amendments are not subject to the major rule provisions of the Executive Order and no regulatory impact analysis is required.

These amendments have been submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. OMB's comments, and EPA's responses will be made available for public inspection at the Office of Solid Waste Public Docket (see addresses, above, for location and public hours).

IX. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., authorizes the Office of Management and Budget (OMB) to review information collection requirements in Federal regulations. EPA will shortly submit to OMB information necessary for approval of the amended reporting requirements promulgated today.

X. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., Federal Agencies must prepare regulatory flexibility analyses for all rules to assess their impact on small entities. No regulatory analysis is required, however, where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The economic impact of this regulation will be to reduce the costs of complying with EPA's hazardous waste management regulations for generators of hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities, including small entities. Accordingly, I hereby certify, pursuant to 5 U.S.C. 601(b), that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

40 CFR Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting requirements, Waste treatment and disposal, Water pollution control, Confidential business information.

40 CFR Part 262

Hazardous materials, Labeling, Packaging and containers, Reporting requirements, Waste treatment and disposal.

40 CFR Part 264

Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal.

40 CFR Part 265

Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal, Water supply.

Dated: January 21, 1983.

Anne M. Gorsuch,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 262—STANDARDS FOR GENERATORS OF HAZARDOUS WASTE

1. The authority citation for Part 262 reads as follows:

Authority: Secs. 1006, 2002, 3002, 3003, 3004, and 3005, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), (42 U.S.C. 6905, 6912, 6922, 6923, 6924, 6925).

2. 40 CFR 262.40(b) is revised to read as follows:

§ 262.40 Recordkeeping.

* * * * *

(b) A generator must keep a copy of each Biennial Report and Exception Report for a period of at least three years from the due date of the report.

* * * * * *

3. 40 CFR 262.41 is revised to read as follows:

§ 262.41 Biennial report.

(a) A generator who ships his hazardous waste off-site must prepare and submit a single copy of a biennial report to the Regional Administrator by March 1 of each even numbered year. The biennial report must be submitted on EPA Form 8700–13 A and must cover generator activities during the previous calendar year, and must include the following information:

(1) The EPA identification number, name, and address of the generator;

(2) The calendar year covered by the report;

(3) The EPA identification number, name, and address for each off-site treatment, storage, or disposal facility to which waste was shipped during the year; for exported shipments, the report must give the name and address of the foreign facility.

(4) The name and EPA identification number of each transporter used during the reporting year.

(5) A description, EPA hazardous waste number (from 40 CFR Part 261, Subpart C or D), DOT hazard class, and quantity of each hazardous waste shipped off-site. This information must be listed by EPA identification number

of each off-site facility to which waste was shipped.

(6) The certification signed by the generator or his authorized representative.

(b) Any generator who treats, stores, or disposes of hazardous waste on-site must submit a biennial report covering those wastes in accordance with the provisions of 40 CFR Parts 122, 264, 265, and 266.

Appendix [Removed]

4. The Appendix to 40 CFR Part 262, entitled Appendix—Form—Annual Report (EPA Form 8700–13), and the associated section entitled General Instructions, Hazardous Waste Report (EPA Form 8700–13), are removed from the Code of Federal Regulations.

PART 264—STANDARDS APPLICABLE FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

5. The authority citation for Part 264 reads as follows:

Authority: Secs. 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a) and 6924).

6. The introductory text of 40 CFR 264.75 is revised to read as follows:

§ 264.75 Biennial report.

The owner or operator must prepare and submit a single copy of a biennial report to the Regional Administrator by March 1 of each even numbered year. The biennial report must be submitted on EPA form 8700–13B. The report must cover facility activities during the previous calendar year and must include:

* * * * *

7. Section 264.76 is amended by revising the first paragraph to read as follows:

§ 264.76 Unmanifested waste report.

If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in § 263.20(e)(2) of this Chapter, and if the waste is not excluded from the manifest requirement by § 261.5 of this Chapter, then the owner or operator must prepare and submit a single copy of a report to the Regional Administrator within fifteen days after receiving the waste. The unmanifested waste report must be submitted on EPA form 8700–13B. Such report must be designated 'Unmanifested Waste Report' and include the following information:

* * * * *

8. The introductory text of 40 CFR 264.77 is revised to read as follows:

§ 264.77 Additional reports.

In addition to submitting the biennial reports and unmanifested waste reports described in §§ 264.75 and 264.76, the owner or operator must also report to the Regional Administrator:

* * * * *

Appendix II [Removed]

9. Appendix II to 40 CFR Part 264 entitled Appendix II—EPA Report Form and Instructions is removed from the Code of Federal Regulations.

PART 265—INTERIM STATUS STANDARDS APPLICABLE FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

10. The authority citation for Part 265 reads as follows:

Authority: Secs. 1006, 2002(a), and 3004, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6924).

11. The introductory text of 40 CFR 265.75 is revised to read as follows:

§ 265.75 Biennial report.

The owner or operator must prepare and submit a single copy of a biennial report to the Regional Administrator by March 1 of each even numbered year. The biennial report must be submitted on EPA Form 8700–13B. The report must cover facility activities during the previous calendar year and must include the following information:

* * * * *

12. 40 CFR 265.76 is amended by revising the introductory paragraph to read as follows:

§ 265.76 Unmanifested waste report.

If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in § 263.20(e)(2) of this Chapter, and if the waste is not excluded from the manifest requirement by § 261.5 of this Chapter, then the owner or operator must prepare and submit a single copy of a report to the Regional Administrator within fifteen days after receiving the waste. The unmanifested waste report must be submitted on EPA form 8700–13B. Such report must be designated 'Unmanifested Waste Report' and include the following information:

* * * * *

13. 40 CFR 265.77 is amended by revising the introductory paragraph to read as follows:

§ 265.77 Additional reports.

In addition to submitting the biennial report and unmanifested waste reports described in §§ 265.75 and 265.76, the owner or operator must also report to the Regional Administrator:

* * * * *

Appendix II [Removed]

14. Appendix II to 40 CFR Part 265, entitled Appendix II—EPA Report Form and Instructions is removed from the Code of Federal Regulations.

15. 40 CFR 265.94 is amended by revising paragraphs (a)(2) (ii) and (iii) and (b)(2) to read as follows:

§ 265.94 Recordkeeping and reporting.

(a) * * *

(2) * * *

(ii) Annually: Concentrations or values of the parameters listed in § 265.92(b)(3) for each ground-water monitoring well, along with the required evaluations for these parameters under § 265.93(b). The owner or operator must separately identify any significant differences from initial background found in the upgradient wells, in accordance with § 265.93(c)(1). During the active life of the facility, this information must be submitted no later than March 1 following each calendar year.

(iii) No later than March 1 following each calendar year: Results of the evaluations of ground-water surface elevations under § 265.93(f), and a description of the response to that evaluation, where applicable.

(b) * * *

(2) Annually, until final closure of the facility, submit to the Regional Administrator a report containing the results of his or her ground-water quality assessment program which includes, but is not limited to, the calculated (or measured) rate of migration of hazardous waste or hazardous waste constituents in the ground water during the reporting period. This information must be submitted no later than March 1 following each calendar year.

* * * * *

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND INJECTION CONTROL PROGRAM

16. The authority citation for Part 122 reads as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.; Safe Drinking Water Act, 42 U.S.C. 3007 et seq.; and Clean Water Act, 33 U.S.C. 1251 et seq.

16. 40 CFR 122.18(c)(3) is revised to read as follows:

§ 122.18 Non-compliance and program reporting by the Director.

* * * * *

(c) * * *

(3) For RCRA only, in addition to the annual non-compliance report, the Director shall prepare a "program report" which contains information (in a manner and form prescribed by the Administrator) on generators and transporters and the permit status of regulated facilities. The Director shall also include, on a biennial basis, summary information on the quantities and types of hazardous wastes generated, transported, treated, stored, and disposed during the preceding odd numbered year. This summary information shall be reported in a manner and form prescribed by the Administrator and shall be reported according to EPA characteristics and lists of hazardous wastes at 40 CFR Part 261.

* * * * *

17. 40 CFR 122.26(a)(3) (v) and (c)(3)(v) and (vi) are revised to read as follows:

§ 122.26 Permits by rule.

* * * * *

(a) * * *
(3) * * *
(v) 40 CFR 264.75, Biennial report; and
(vi) * * *
(b) * * *
(c) * * *
(3) * * *
(v) 40 CFR 264.75, Biennial report;
(vi) 40 CFR 264.76, Unmanifested waste report; and

* * * * *

18. 40 CFR 122.28 is amended by revising paragraph (e)(3) to read as follows:

§ 122.28 Additional conditions applicable to all RCRA permits.

* * * * *

(e) * * *

(3) Biennial report: A biennial report must be submitted covering facility activities during odd numbered calendar years. (See 40 CFR 264.75.)

* * * * *

[FR Doc. 83-2334 Filed 1-27-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 123

[HW-4-FRL 2294-3]

Hazardous Waste Management Programs; Kentucky; Authorization for Interim Authorization Phase II, Components A and B

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Hazardous Waste Management Program.

SUMMARY: The Commonwealth of Kentucky has applied for Interim Authorization, Phase II, Components A and B, which would allow the State, rather than EPA, to issue or deny permits regulating the operation of facilities that treat and story hazardous waste. EPA has reviewed Kentucky's application and has determined that Kentucky's hazardous waste program is substantially equivalent to the Federal program. Therefore, EPA is granting the Commonwealth of Kentucky Interim Authorization for Phase II, Components A and B.

EFFECTIVE DATE: Interim Authorization Phase II, Components A and B, for Kentucky is effective on January 28, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone (404) 881-3016.

SUPPLEMENTARY INFORMATION:

Background

In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), to protect human health and the environment from the improper management of hazardous waste. The Act (RCRA) includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive final authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State agency Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. The Phase I regulations include the identification and listing of hazardous wastes, standards for generators and transporters of hazardous waste, standards for owners and operators of treatment, storage and disposal facilities, and requirements for State Programs. The Phase II regulations cover the procedures for issuing permits under RCRA and the standards that will be applied to treatment, storage, and disposal facilities in preparing permits. In the January 26, 1981, **Federal Register** (46 FR 7965), the Environmental Protection Agency announced that States could apply for Components A and B of Phase II of Interim Authorization. Component A, analogous to Federal regulations published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments, and waste piles. Component B, analogous to Federal regulations published in the **Federal Register** January 23, 1982 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123, Subpart F, as amended at 47 FR 32373 (July 26, 1982).

The Commonwealth of Kentucky received Interim Authorization for Phase I on April 1, 1981.

Draft Application

The Commonwealth of Kentucky submitted its draft application for Phase II Interim Authorization, Components A and B, on December 21, 1981. After detailed review, EPA identified several areas of major concern and transmitted comments to the State for its consideration.

Major issues raised during EPA's review of the draft application were:

(1) Kentucky adopted many of EPA's regulations by reference, but it was not clear if the State had adopted the amended version of these Federal regulations. EPA asked the State to clarify which amendments were included in that adoption by reference.

(2) The State's adoption of financial responsibility regulations appeared to conflict with Kentucky's Statute (KRS 224.866).

State officials resolved these issues through revisions in the Program Description, Memorandum of Agreement, Attorney General's Statement, and the Authorization Plan.

Final Application

On September 30, 1982, Kentucky submitted to EPA a final application for Interim Authorization, Phase II, Components A and B, under RCRA. An EPA review team consisting of both Headquarters and Regional personnel made a detailed analysis of Kentucky's hazardous waste management program.

EPA comments were forwarded to the State on November 24, 1982. The comments requested clarification on a number of issues: whether the permitting procedures in the Program Description corresponded to the State's regulations; the effect of the State's permits; the State's authority to hold informal public hearings; the State's ability to apply interim status standards to existing facilities; the possible divergence between the financial assurance mechanism authorized by State statute and those authorized by the regulations.

By letter dated November 29, 1982, the State responded satisfactorily to the issues raised by EPA by clarifying the above issues. One further clarification to the General Counsel's Statement was made on January 6, 1983.

Public Hearing and Comment Period

As noticed in the **Federal Register** on October 28, 1982 (47 FR 47871), EPA gave the public until November 29, 1982, to comment on the State's application. EPA also issued a public notice that a hearing would be held in Kentucky on December 14, 1982, if significant public interest was expressed.

EPA received written comments supporting the hazardous waste program in Kentucky, two of which requested a public hearing to provide public understanding of the State's program. A public hearing was held in Frankfort, Kentucky on December 14, 1982. No oral comments were received at the public hearing; one written comment submitted directly to EPA was in support of the proposed authorization of the State program. The public comment period was extended to December 20, 1982, so that comments on any issues raised by the presentation at the hearing could be received.

Decision

EPA has reviewed the Commonwealth of Kentucky's complete application for Interim Authorization Phase II, Components A and B, and has determined that the State program is substantially equivalent to Phase II, Components A and B of the Federal program as defined in 40 CFR Part 123, Subpart F. In accordance with Section 3006(c) of RCRA and implementing regulations, the Commonwealth of Kentucky is hereby granted Interim Authorization for Phase II, Components A and B, to operate the State's hazardous waste program for permitting the construction and operation of facilities that treat and store hazardous waste in lieu of the Federal program.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 123

Hazardous materials, Reporting requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: January 5, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-2429 Filed 1-27-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 256

[SW-10-FRL 2286-1]

Partial Approval of Washington Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Final rule; partial approval.

SUMMARY: As provided by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA) the State of Washington has received Federal financial assistance for development of a State solid waste management plan. The State of Washington has submitted to the U.S. Environmental Protection Agency (EPA or the Agency) its adopted State solid waste management plan. Today, EPA is announcing its partial approval of the Washington solid waste management plan. Partial approval of the Washington plan means that the EPA is approving the portion of the plan that provides for issuance of compliance schedules with regard to the open dumping prohibition. In obtaining partial approval of its plan, the State has committed to completing the plan in a timely and orderly manner.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Betty Wiese, Waste Management Branch, U.S. EPA, Region 10, 1200 6th Avenue, Seattle, Washington 98101, (206) 442-2857.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, (44 FR 45066) EPA published Guidelines for the Development and Implementation of State Solid Waste Management Plans. These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

On September 23, 1981, (46 FR 47048) EPA published amendments to the Guidelines for Development and Implementation of State Solid Waste Management Plans and Criteria for the Classification of Solid Waste Disposal Facilities and Practices (40 CFR Parts 256 and 257). In part, these amendments allow EPA to give partial approval for that part of the adopted State plan that covers State issuance of compliance timetables while the State is developing the other parts of the plan. The completion of the remaining parts of the

plan will be conducted in a timely and orderly manner as set forth in a schedule mutually agreed upon by the State and EPA.

Response to Comments

On November 4, 1981 at (46 FR 54772) the Washington solid waste management plan was noticed for public review and comment. Comments on the Washington plan were received for 30 days. During that period comments from two parties were received as follows:

One comment recommended Washington's plan not be approved because it does not satisfy statutory requirements of RCRA Section 4003 for upgrading/closure of existing open dumps. The comment further asserted requirements of 40 CFR 256.23 have not been met because the plan does not contain provisions for orderly time-phasing of disposal facilities classified as open dumps.

Response: The Washington plan provides for an orderly, time-phased classification of existing facilities according to the Federal disposal criteria and is based on established priority considerations. The EPA regulations do not require plans to provide site-specific phasing of remedial actions, but rather to provide for orderly time-phasing of the classifications. Plans provide the process through which the State will work toward closing or upgrading of non-complying facilities. For each facility classified as an open dump, States are to take steps to close or upgrade; the Washington plan provides for such steps to be taken, leading to closure/upgrading of all facilities classified as open dumps.

The second comment noted that restrictions on use of single service products for food as a means to waste reduction would be regressive and opposed to proven health practices.

Response: While Washington's plan does include a component for waste reduction it does not present any posture specific to single service food products. There are no mandatory provisions contemplated since Washington indicated it would follow an approach of encouraging voluntary means to reduce volumes of waste.

Finding

I have found the Washington plan does not meet all the requirements of Section 4007(a) of RCRA for approval. The plan and supporting materials do not demonstrate that the requirements for legal and regulatory authorities to prohibit establishment of new open dumps have been met.

While the State has several authorities or mechanisms to rely on, there are Federal criteria that cannot be enforced. In addition, the State's legal authority to fully regulate liquid waste disposal is unclear since the State's Solid Waste Management Act does not include liquids as defined solid waste.

Through the Solid Waste Management Act (RCW 70.95) and implementing regulations of Washington Administrative Code 173–301, local health departments can issue compliance schedules to disposal facilities which fail to comply with State Minimum Functional Standards. The State's regulations do not adequately address two of the Federal disposal criteria—protection of endangered species and application of waste to land used for food chain crops. Since the Minimum Functional Standards do address the remaining Federal criteria, compliance schedules can be issued to enforce the Federal criteria for floodplains, surface water, groundwater, disease, air and safety. In an informal opinion, the Attorney General's Office concluded the State has the authority to enforce these Minimum Functional Standards if local agencies fail to do so. The State's Solid Waste Management Act (RCW 70.95) does not include liquids as defined solid waste and therefore does not clearly extend enforcement of the minimum Functional Standards to liquid waste disposal facilities (i.e., pits, ponds, and lagoons). However, in many instances the State relies on water discharge permit. authorities of Washington Water Pollution Control Act (RCW 90.48) to regulate not only liquid waste disposal facilities, but any disposal practice which threatens surface water or groundwater. In addition, according to the Attorney General's Office informal opinion, once the water discharge authorities are invoked, all the Federal criteria can be enforced because of broad discretionary authority. Permits or other enforceable actions taken pursuant to the authority of RCW 90.48 (Water Pollution Control) which requires compliance with any or all of the Federal disposal criteria also constitute compliance schedules issued pursuant to the State's plan.

Section 4005 of RCRA prohibits the open dumping of solid waste. However, the prohibition does not extend to any practice or disposal of solid waste under a compliance schedule which:

(1) Includes an enforceable sequence of action leading to compliance with the prohibition on open dumping;

(2) Does not extend beyond September 13, 1984;

(3) Is preceded by a determination that the entity was unable to utilize other public or private alternatives for solid waste management to comply with the prohibition on open dumping; and

(4) Is issued by a State having an approved solid waste management plan.

I am today approving that part of the plan that provides for the issuance of compliance schedules for the wastes and criteria described above. As of this date, those engaged in open dumping in Washington may receive compliance schedules from the local health department of jurisdiction or the State that will, to the extent of the State's legal authority described above, protect them from open dumping suits as long as they remain in compliance with such schedules. As stipulated by Section 4005 of RCRA, these protections cease after September 13, 1984.

In accordance with 40 CFR 256.04(f) Washington has submitted a schedule outlining the steps that will be taken in completing the plan to meet the remaining requirements of Section 4007(a) of RCRA for approval of the complete plan. Necessary legislative changes will be sought during the next legislative session in 1983. Rulemaking will follow thereafter to update rules by mid-1983.

Compliance with Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore subject to the requirement for a Regulatory Impact Analysis. Partial approval of the Washington solid waste management plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from EPA's partial approval but because the plan complies with earlier requirements issued by EPA (Guidelines, 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices", 40 CFR Part 257, as amended). Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget ("OMB") for review under Executive Order 12291.

Authority

Section 4007(a), Pub. L. 94–580, 90 Stat. 2817 (42 U.S.C. 6947).

Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the partial plan approval of the Washington solid waste management plan will not have a significant economic impact on a substantial number of small entities. This approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 256

Grant programs—Environmental protection, Waste treatment and disposal.

Dated: January 5, 1983.

John R. Spencer,

Regional Administrator.

[FR Doc. 83-2336 Filed 1-27-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 256

[HW-6-FRL 2294-4]

Approval of Texas Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region 6.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), two agencies (Texas Department of Health and Texas Department of Water Resources) of the State of Texas have received Federal financial assistance for development of a State Solid Waste Management Plan. These agencies have submitted to the U.S. Environmental Protection Agency (EPA or the Agency) an adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the Texas Solid Waste Management Plan. Approval of the Texas Plan indicates that the Plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for solid waste management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

EPA has determined that a small portion of the universe of solid waste in Texas is not regulated by the Texas Department of Health nor by the Texas Department of Water Resources. These wastes regulated by the Texas Railroad Commission are excluded from the approved portion of the Plan. This means that facilities disposing of wastes which are regulated by the Railroad Commission cannot be protected from Citizen Suits under Section 7003 or RCRA by operating under compliance schedules issued by the Railroad Commission.

The purpose of this notice is to inform the public that the Agency is approving the Texas Solid Waste Management Plan.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas D. Clark, U.S. Environmental Protection Agency, Hazardous Materials Branch, 1201 Elm Street, Dallas, Texas 75270, telephone number 214–767–2645.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979 (44 FR 45066) EPA published *Guidelines for the Development and Implementation of State Solid Waste Management Plans* (40 CFR Part 256). These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet those requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 of RCRA and which contain provisions for revisions.

The guidelines also addressed Section 4005 of RCRA which requires a mechanism in the State plan for establishment of compliance schedules for entities engaged in the prohibited act of open dumping. These compliance schedules may not extend beyond September 13, 1984. The plan must provide that, in attempting to obtain such compliance schedules, entities must demonstrate their inability to utilize other public or private alternatives to comply with the prohibition.

Response to Public Comments

On November 4, 1981, (46 FR 54772) the Texas Solid Waste Management Plan was noticed for review and comment. Comments on the Texas plan were received for 30 days. By the end of the comment period on December 4, 1981, no substantive comments were received by Region 6 regarding the plan.

Finding

Section 4007 of RCRA contains the statutory policy for approval of State solid waste management plans. The authority to approve State plans has been delegated to the Regional Administrator. I have reviewed the Solid Waste Management Plan submitted by the State of Texas. I find that the Texas Plan meets the requirements of 40 CFR Part 256 developed pursuant to RCRA. Under authority of Section 4007 of RCRA, I approve the Texas Solid Waste Management Plan.

The Plan prohibits the establishment of open dumps, and that State prohibition became effective on November 19, 1980, for municipal sites and June 12, 1981, for industrial sites.

Also, the Plan provides for compliance schedules for entities engaged in open dumping where those entities can demonstrate that they are unable to utilize other public or private alternatives for solid waste management to comply with the RCRA prohibition of open dumping. As of this date, entities engaged in open dumping may, pursuant to the Plan, approach the State for further information on compliance schedules and necessary demonstration. The RCRA prohibition of open dumping does not extend to open dumping under such compliance schedules.

The Governor of Texas designated the Texas Department of Health (TDH) and the Texas Department of Water Resources (TDWR) as the agencies responsible for the development of a State Solid Waste Management Plan. TDH has jurisdiction over municipal solid waste and TDWR has jurisdiction over industrial solid wastes. EPA has determined that a small portion of the universe of solid waste (i.e. wastes associated with the exploration, development, or production of oil, gas or geothermal energy and some surface mining wastes) is not regulated by TDH or TDWR. These wastes are regulated by the Texas Railroad Commission (TRC) under the authorities of the Texas Natural Resources Code and the Texas Water Code. Coal mining wastes are controlled by TRC regulations that ensure that these wastes are disposed of in a manner that is consistent with EPA's criteria. TRC is currently developing amendments to the oil, gas and geothermal energy regulations that should further ensure that these wastes are disposed of in an environmentally sound manner.

An amendment to the Texas Solid Waste Disposal Act, which became effective on September 1, 1981, required the TDH, TDWR, and TRC to develop a

Memorandum of Understanding (MOU) that specified each agency's jurisdiction over waste materials that result from or are related to activities associated with the exploration for and the development and production of oil or gas. While there were no gaps in coverage of solid waste, the MOU ensures that the appropriate agency regulates specific wastes with no overlapping of responsibilities. This MOU was developed and became effective on January 1, 1982.

Based on these facts and correspondence with these State agencies, EPA has determined that all solid waste regulated by TDH and TDWR in the State of Texas will be regulated in a manner consistent with RCRA.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 256

Grant programs—Environmental protection, waste treatment and disposal.

Authority

Section 4007(a) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6947(a).

Dated: January 20, 1983.

Dick Whittington,

Regional Administrator.

[FR Doc. 83-2428 Filed 1-27-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

41 CFR Part 10-12

Contract Compliance Program

AGENCY: Treasury Department.

ACTION: Final rule. (Notice of transfer of functions).

SUMMARY: The Treasury's Contract Compliance Program was transferred to the Department of Labor on October 8, 1978, by E.O. 12086. The Contract Compliance Program is presently administered under 41 CFR Chapter 60 in lieu of 41 CFR Part 10-12.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas P. O'Malley, Director Office of Procurement, Office of the Secretary, Department of the Treasury, Washington, D.C. 20220, (202-566-2586).

List of Subjects in 41 CFR Part 10-12

Equal employment opportunity, Government procurement, Labor.

Therefore, 41 CFR 10-12.801 through 10-12.815 are hereby removed.

Thomas P. O'Malley,

Director, Office of Procurement.

[FR Doc. 83-2458 Filed 1-27-83; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3410 and 3420

[Circular No. 2518]

Interim Final Rulemaking Amending the Coal Management Regulations

Correction

In FR Doc. 83-385 beginning on page 1303 in the issue of Wednesday, January 12, 1983, make the following corrections:

1. On page 1305, first column, the caption for § 3410.3-4 now reading "Surface protection and reclamation" should have read:

§ 3410.3-4 Bonds

2. On the same page, middle column, the caption for § 3420.4-3 now reading "Preliminary tract delineation" should have read:

§ 3420.4-3 Consultation with Governors.

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6484]

Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in third column of list of Communities with Minimal Flood Hazards Areas.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Acting Chief, Engineering Branch, Natural Hazards Divisions, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazards areas of the specified community and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State and county	Community	Date of conversion to regular program
New Jersey		
Sussex	Township of Andover...	Feb. 4, 1983

State and county	Community	Date of conversion to regular program
Warren	Township of Frelinghuysen	Do
Ohio		
Cuyahoga	City of Fairview Park	Do
Do	Village of Orange	Do
Pennsylvania		
Wayne	Township of Clinton	Do
Mercer	Township of Findley	Do
Susquehanna	Borough of Uniondale	Do
Mercer	Township of Wilmington	Do
Do	Township of Worth	Do
Michigan		
Charlevoix	City of Charlevoix	Feb 11 1983
Calhoun	Township of Convis	Do
Do	Township of Marshall	Do
New York	Town of Thurston	Do
Stueben		
Pennsylvania		
Northampton	Township of East Allen	Do
Chester	Township of London Grove	Do
Berks	Borough of Strausstown	Do
Virginia, Grayson	Town of Fries	Do
Illinois Cook & Will	Village of Steger	Feb 18, 1983
Michigan Calhoun	Township of Clarence	Do
New York Chemug	Town of Veteran	Do
Pennsylvania Lawrence	Township of Mahoning	Do
Virginia Uninc. Area	Carroll County	Do
Illinois St Clair	Village of St. Libory	Feb 25 1983
New Jersey		
Sussex	Township of Hardyston	Do
Do	Township of Stillwaterer	Do
Pennsylvania		
Chester	Borough of Elverson	Do
Mercer	Township of Pine	Do
Washington	Township of Robinson	Do
Fulton	Township of Union	Do
Northampton	Township of Upper Nazareth	Do
Chester	Township of Upper Oxford.	Do
Virginia: Uninc. Area	Lunenberg County	Do
Charlotte	Town of Phenix	Do

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 17, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-2406 Filed 1-27-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Mesa, Arizona; Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Mesa, Arizona. It has been determined by the Acting Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Mesa, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. 040048 Panel 0020B, published on May 15, 1980, in 45 FR 66116, indicates that the existing structure located on Lots 67, 68, 93 through 99, 106, and 107 of Hohokam Trails, Unit Two, being a 24.431-acre tract of land located in the Southwest Quarter of Section 11, Township 1 North, Range 5 East, Gila and Salt River Base and Meridian, Mesa, Arizona, and being a portion of the Deed Recorded as Instrument No. 417006 in Docket 15721, pages 1155 and 1156, in the Office of the Recorder, Maricopa County, Arizona, is located within the Special Flood Hazard Area.

Map No. 040048 Panel 0020B is hereby corrected to reflect that the existing structures located on the above-mentioned lot are not within the Special Flood Hazard Area identified on May 15, 1980. These structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Acting Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 5, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-2355 Filed 1-27-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Mesa, Arizona; Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a lost of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Mesa, Arizona. It has been determined by the Acting Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Mesa, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within

the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. 040048, Panel 0020B, published on May 15, 1980, in 45 FR 66116, indicates that the existing structure located on Lots 69, 70, and 86 of Hohokam Trails, Unit Two, being a 24.431-acre tract of land located in the Southwest Quarter of Section 11, Township 1 North, range 5 East, Gila and Salt River Base and Meridian, Mesa, Arizona, and being a portion of the Deed recorded as Instrument No. 417006 in Docket 15721, pages 1155 and 1156, in the Office of the Recorder, Maricopa County, Arizona, is located within the Special Flood Hazard Area.

Map No. 040048, Panel 0020B is hereby corrected to reflect that the existing structures located on the above-mentioned lot are not within the Special Flood Hazard Area identified on May 15, 1980. These structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Acting Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 5, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83–2356 Filed 1–27–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6018]

Letter of Map Amendment for Village of Oak Brook, Illinois; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map amendment.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Oak Brook, Illinois. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Oak Brook, Illinois, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Anderson, Regional Director, Federal Emergency Management Agency, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606, (312) 353–1500.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP)), P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b): Map Number 170214, Panel 0002B published on March 26, 1981, in 46 FR 18712 indicates that Lot Number 30, Merry Lane Subdivision, according to the plat thereof, recorded December 15, 1964, in Book York-1, Page 80, in the Office of the Recorder of DuPage County, Illinois, is located within the Special Flood Hazard Area.

Map Number 170214, Panel 0002B is hereby corrected to reflect that the residential structure located on the above-mentioned property is not located within the Special Flood Hazard Area identified on February 18, 1981. The structure is located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routing legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Floodplains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 13, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83–2354 Filed 1–27–83; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Coon Rapids, Minnesota; Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Coon Rapids, Minnesota. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Coon Rapids, Minnesota, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), P.O. Box 34294, Bethesda, Maryland 20034, Phone (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number 270011A, Panel H&I–01 published on October 6, 1980 in 45 FR 660082 indicates that Lot 19 in Block 2 of the property known as The Timbers 2nd Addition, City of Coon Rapids, Minnesota, as recorded in Deed Book 32, Page 43 of the Office of County Recorder for Anoka County, Minnesota, is located within the Special Flood Hazard Area.

Map Number 270011A, Panel H&I–01 is hereby corrected to reflect that Lot 19 in Block 2 is not within the Special Flood Hazard Area identified on March 15, 1977. Lot 19 in Block 2 is located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 14, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-2353 Filed 1-27-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-6349]

Letter of Map Amendment for the City of Junction City, Oregon; Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Junction City, Oregon. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Junction City, Oregon, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472. (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 410124 Panel 0001B, published on July 13, 1982, in 47 FR 30251, indicates that Lot 15, Block 1, Third Addition to Brentwood Homes, Junction City, Oregon, recorded as Instrument Number 7930998, in the Office of the Recorder, Lane County, Oregon, is located within the Special Flood Hazard Area.

Map No. H & I 410124 Panel 0001B is hereby corrected to reflect that the existing structure located on the above-mentioned lot is not within the Special Flood Hazard Area identified on June 15, 1982. This structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas

on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 3, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83–2357 Filed 1–27–83; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 30121–14]

Atlantic Bluefin Tuna

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical change and notice of regulatory area extension.

SUMMARY: NOAA issues notice to the public that the Federal regulatory area for Atlantic bluefin tuna has been extended to include waters within the boundaries of the State of Rhode Island, and within the adjacent territorial sea of the United States. This extension is necessary to make measures carrying out U.S. international obligations under the International Convention for the Conservation of Atlantic Tunas applicable within waters where Atlantic bluefin tuna may be found. The effect of the technical amendment published today is to make Federal regulations governing Atlantic tuna apply within the waters of Rhode Island, in addition to those of other States already covered by previous extensions of the Federal regulatory area.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: David Allan Fitch, 202–634–4224; or William C. Jerome, Jr., 617–281–3600, ext. 325.

SUPPLEMENTARY INFORMATION: To carry out recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), NOAA publishes regulations governing fishing for Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction.

Section 9(d) of the Atlantic Tunas Convention Act (the Act) provides that the Secretary of Commerce (Secretary) may apply these Federal regulations to waters within the boundaries of a State if, within a reasonable period after their adoption, a State has not adopted equally restrictive regulations to implement the ICCAT recommendation. In 1977 the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), to whom the Secretary's authority has been delegated, determined that such application was appropriate for several States, and published notice that the Federal regulatory area was extended to include waters within the boundaries of Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, New Hampshire, Puerto Rico, and the Virgin Islands. These extensions of the regulatory area were recorded in the regulations at 50 CFR 285.1(d). Similar determinations were made for the States of Texas, Louisiana, and Alabama and published in the **Federal Register** on November 10, 1982 (47 FR 50886).

After consultation, the State of Rhode Island has indicated that it has no fishery regulations for bluefin tuna, and that Rhode Island has no objection to extension of the Federal regulatory area for Atlantic bluefin tuna to include waters within its boundaries and the adjacent territorial sea of the United States. Therefore, the Federal regulations contained at 50 CFR Part 285 governing fishing for Atlantic bluefin tuna are amended to apply within the boundaries of Rhode Island and within the adjacent territorial sea of the United States.

This action is taken under authority of 16 U.S.C. 971g and 50 CFR 285.7 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International organizations, Penalties, Reporting requirements.

Dated: January 24, 1983.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

50 CFR Part 285 is amended as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for Part 285 reads as follows:

Authority: 16 U.S.C. 971–971h.

2. Section 285.1(d) is revised by adding "Rhode Island" to the text to read as follows:

§ 285.1 Purpose and scope.

* * * * *

(d) Under Section 9(d) of the Act and § 285.7, determinations made by the Assistant Administrator that the provisions of this part apply within the territorial sea of the United States adjacent to, and within the boundaries of the States of Texas, Louisiana, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Rhode Island, Massachusetts, New Hampshire, and the Commonwealths of Puerto Rico and the Virgin Islands, and, with the exceptions of §§ 285.30(a), 285.30(d) (2) and (3), 285.31(a) and 285.32(c), within the territorial sea of the United States adjacent to, and within the boundaries of the State of Maine, continue in effect.

[FR Doc. 83–2497 Filed 1–27–83; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 48, No. 20
Friday, January 28, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1046

[Docket No. AO-123-A50]

Milk in the Louisville-Lexington-Evansville Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held at the request of Dairymen, Inc. (DI), a cooperative that represents a large portion of the dairy farmers that supply milk for the market. DI proposes replacing the order's seasonal production incentive program known as the "Louisville plan" with a seasonal base-excess plan. Under the Louisville plan, money is withheld from payments to producers in the spring when supplies are heavy and is distributed to producers through their pay prices in the fall when supplies are short. The purpose of the plan is to encourage a more level production pattern throughout the year to match the relatively level demand.

Under the proposal, each producer would establish a production "base" during the fall months. The following spring, producers would be paid a relatively low price for any milk marketed in excess of that base. DI claims that a base-exess plan would achieve a better leveling of seasonal production than can be obtained under the current program.

DATE: The hearing will convene February 15, 1983.

ADDRESS: The hearing will be held at the Executive West Motor Hotel, Freedom Way at the Fairgrounds, Louisville, Kentucky 40209, 502/367-2251, beginning at 9:30 a.m., local time.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Executive West Motor Hotel, Freedom Way at the Fairgrounds, Louisville, Kentuckey, beginning at 9:30 a.m., local time, on February 15, 1983, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Louisville-Lexington-Evansville marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that within the sstatutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of the proposals for the purpose of tailoring their applicability to small businesses.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

PART 1046—MILK IN THE LOUISVILLE—LEXINGTON—EVANSVILLE MARKETING AREA

Proposed by Dairymen, Inc.

Proposal No. 1

1. Add a heading and four new sections to read as follows:

Base-Excess Plan

§ 1046.90 Base Milk.

"Base milk" means the producer milk of a producer in each month of March through June that is not in excess of the producer's base multiplied by the number of days in the month.

§ 1046.91 Excess milk.

"Excess milk" means the producer milk of a producer in each month of March through June in excess of the producer's base milk for the month, and shall include all the producer milk in such months of a producer who has no base.

§ 1046.92 Computation of base for each producer.

(a) Subject to § 1046.93, the base for each producer shall be an amount obtained by dividing the total pounds of his producer milk during the immediately preceding months of September through December by the number of days' production represented by such producer milk or by 100, whichever is more.

(b) The base for a producer whose milk was delivered to a nonpool plant that became a pool plant after the beginning of the base-forming period (September-December) shall be calculated as if the plant were a pool plant for the entire base-forming period. A base thus assigned shall not be transferable

§ 1046.93 Base rules.

(a) Except as provided in § 1046.92(b) and in paragraph (b) of this section, a base may be transferred in its entirety or in amounts of not less than 300 pounds effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Such application shall be on a form approved by the market administrator and signed

by the baseholder or his heirs and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or their heirs.

(b) A producer who transferred base on or after February 1 may not receive by transfer additional base that would be applicable during March through June of the same year. A producer who received base by transfer on or after February 1 may not transfer a portion of his base to be applicable during March through June of the same year, but may transfer his entire base.

(c) The base established by a partnership may be divided between the partners on any basis agreed to in writing by them if written notification of the agreed-upon division of base signed by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective.

(d) The base assigned a person who was a producer during any of the immediately preceding months of September through December may be increased to 90 percent of his average daily producer milk deliveries in the month immediately preceding the month during which a condition described in paragraph (d)(1), (2), or (3) of this section occurred, providing such producer submitted to the market administrator in writing on or before March 1 a statement that established to the satisfaction of the market administrator that in the immediately preceding September through December base-forming period the amount of milk produced on his farm was substantially reduced because of conditions beyond his control, which resulted from:

(1) The loss by fire or windstorm of a farm building used in the production of milk on his farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in his milking herd as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents him from supplying milk from his farm to a plant.

§ 1046.94 Announcement of established bases.

On or before February 1 of each year, the market administrator shall calculate a base for each person who was a producer during any of the immediately preceding months of September through December and shall notify each producer and the handler receiving milk from him, of the base established by the producer. If requested by a cooperative association, the market administrator shall notify the cooperative association of each producer-member's base.

2. Add a new paragraph (d) to § 1046.32 to read as follows:

§ 1046.32 Other reports.

* * * * *

(d) Each handler shall report to the market administrator on or before the 8th day after the end of each month of March through June the aggregate quantity of base milk received from producers during the month, and on or before the 20th day after the end of each month of March through June the pounds of base milk received from each producer during the month.

3. Revise § 1046.61 to read as follows:

§ 1046.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each month of July through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1046.60 for all handlers who filed the reports prescribed in § 1046.30 for the month and who made the payments pursuant to § 1046.71 for the preceding month;

(2) Add one-half the unobligated balance in the producer-settlement fund;

(3) Add an amount equal to the total value of the minus location adjustments and subtract an amount equal to the total value of the plus location adjustments computed pursuant to § 1046.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(i) The total hundredweight of poducer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1046.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent, shall be the weighted average price for each month and the uniform price for the months of July through February.

(b) For each month of March through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class III milk by the Class III price;

(ii) Miltiply the remaining hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class II milk by the Class II price;

(iii) Multiply the remaining hundredweight quantity of excess milk by the Class I price, and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(3) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure, rounded to the nearest cent, shall be the uniform price base milk.

§ 1046.62 [Amended]

4. In § 1046.62, paragraph (b) is amended by replacing the words "uniform price" with the words "uniform price(s)."

§ 1046.71 [Amended]

5. In § 1046.71, paragraph (a)(2)(i) is amended by replacing the words "uniform price" with the words "uniform price(s)."

§ 1046.73 [Amended]

6. Amend § 1046.73 by replacing the words "uniform price" each time they appear with the words "uniform price(s)."

7. Add two new paragraphs (d)(7) and (e)(3) to § 1046.73 to read as follows:

§ 1046.73 Payment to producers and to cooperative associations.

* * * * *

(d)* * *

(7) For the months of March through June the total pounds of base milk received from each producer.

* * * * *

(e) * * *

(3) On or before the 7th day of the month following each of the months of March through June the total pounds of base milk received from each producer.

* * * * *

§ 1046.75 [Amended]

8. In § 1046.75, paragraph (a) is amended by replacing the words "uniform price for producer milk" with the words "uniform price and the uniform price for base milk."

* * * * *

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 2

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 18030, Louisville, Kentucky 40218, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Louisville-Lexington-Evansville Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

List of Subjects in 7 CFR Part 1046

Milk marketing orders Milk, Dairy products.

Signed at Washington, D.C. on January 25, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-2496 Filed 1-27-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1098

Milk in the Nashville, Tennessee, Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions affecting the regulatory status of milk plants under the Nashville, Tennessee, Federal milk order. The action, which would apply during February through August 1983, was requested by the operator of a distributing plant that is regulated under the order. The proposal would suspend the requirement that a distributing plant must have Class I disposition of at least 50 percent of its total receipts to qualify as a pool plant.

DATE: Comments are due by February 4, 1983.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-5443.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" acton.

It also has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register** However, this would not permit the completion of the required suspension procedures and the inclusion of February 1983 in the suspension period if this is found necessary. The initial request for the action was received on January 10, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service , has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Nashville, Tennessee, marketing area is being considered for February through August 1983.

In § 1098.7(a) the words "not less than 50 percent of the" and the words "that are physically received at such plant or diverted as producer milk to a pool or nonpool plant pursuant to § 1098.13."

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include February 1983 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would make inoperative for February through August 1983 the provision that a distributing plant must dispose of at least 50 percent of its milk receipts in Class I to qualify as a pool plant. The suspension action was requested by Kraft, Inc., which operates a pool distributing plant regulated under the order. Kraft stated that its milk production has increased steadily during the past few years, while its Class I use has remained about the same. Because of this, the handler indicated that during 1982 it was frequently necessary not to pool all of the milk of individual producers or to shift some producers to another market in order to maintain pool plant status for its Nashville distributing plant. In addition to the continuing imbalance between supply and demand, Kraft expects that beginning in February 1983

about one-half to one million pounds of Class I sales per month that the handler bottles for a distributing plant in Memphis will be lost.

Kraft contended that unless the suspension is granted it is likely that its Nashville plant will not be able to qualify as a pool plant during the months of February through August 1983. The handler stated that pool status for the plant could be maintained only at great expense to the handler by shifting some producers to another market or by withholding from the pool substantial quantities of milk produced by individual dairy farmers. Kraft indicated that either of these methods would be disruptive to producers who have been regularly associated with the Nashville fluid market. According to Kraft, the requested suspension would avoid development of such uneconomic and disorderly marketing conditions.

List of Subjects in 7 CFR Part 1098

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: January 24, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-2493 Filed 1-27-83, 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1124

[Docket No. AO-368-A12]

Milk in the Oregon-Washington Marketing Area; Notice of Hearing on Proposed Amendments To Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider industry proposals to amend the Oregon-Washington milk order. One proposal would increase the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. Another proposal would change the method used to calculate the daily base of a producer under the base-excess plan of the order.

DATE: The hearing will convene February 15, 1983.

ADDRESS: The hearing will be held at the Nendels Motor Inn, 9900 Southwest Canyon Road, Portland, Oregon 97225.

FOR FURTHER INFORMATION CONTACT: Martin Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 202-447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 566 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Nendels Motor Inn, 9900 Southwest Canyon Road, Portland, Oregon 97225, beginning at 9:30 a.m. local time, on February 15, 1983, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Oregon-Washington marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of the proposals for the purpose of tailoring their applicability to small businesses.

PART 1124—[AMENDED]

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Northwest Dairymen's Association

Proposal No. 1

Revise § 1124.11 (a) and (b) to read as follows:

§ 1124.11 Producer.

* * * * *

(a) A cooperative association may divert for its account to a nonpool plant the milk of any producer whose milk has been received previously at a pool plant and from whom at least one delivery per month during each of the months of September October and November is received at a pool plant, except that in the case of any producer whose milk has not been received at a pool plant for at least one day during each of the preceding months of September-November such producer shall be required to have at least one delivery of his milk received at a pool plant in any month to qualify his milk for diversion during such month. This delivery requirement for diversion purposes shall continue until such producer's milk has been received at a pool plant for three consecutive months beginning during or after the September-November period. The aggregate quantity diverted may not exceed 60 percent of the producer milk which the association or its agent causes to be delivered to pool plants, or diverted therefrom. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month such agreement is effective. This request shall specify the basis for assigning any over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator.

(b) A handler in his capacity as the operator of a pool plant may divert for his account to a nonpool plant the milk of any producer whose milk has been received previously at a pool plant and from whom at least one delivery per month during each of the months of September, October and November is received at his pool plant(s) and who is not a member of a cooperative association which is diverting milk pursuant to paragraph (a) of this section during the month, except that in the case of any producer whose milk has not been received at a pool plant for at least one day during each of the preceding months of September-November such producer shall be required to have at least one delivery of his milk received at a pool plant in any month to qualify his milk for diversion during such month. This delivery requirement for diversion purposes shall continue until such producer's milk has been received at a pool plant for three consecutive months beginning during or after the September-

November period. The aggregate quantity diverted may not exceed 60 percent of the producer milk received at or diverted from such handler's pool plant(s) and for which the operator of such plant(s) is the handler during the month;

* * * * *

Proposal No. 2

Revise § 1124.19(b) to read as follows:

§ 1124.19 Base, base milk, and excess milk.

* * * * *

(b) "Base milk" means milk delivered by a producer during the month which is not in excess of:

(1) His daily base computed pursuant to § 1124.65(a) multiplied by the number of days in the month except that if milk is received from a producer for only part of a month, base milk shall be milk received from such producer which is not in excess of the amount computed by multiplying his daily base times the number of days in the month less the number of days for which no producer milk is delivered; or

(2) His monthly base computed pursuant to § 1124.65(b).

* * * * *

Proposal No. 3

§ 1124.65 [Amended]

Revise § 1124.65(a) to read as follows:

* * * * *

(a) The daily base of each producer whose milk was received at a pool plant(s) or diverted as producer milk from a pool plant during the four months in each January-December period in which the average daily receipts of total producer milk are lowest shall be an amount computed by dividing such producer's total pounds of milk delivered in such base-earing period by the number of days in such period: *Provided,* that a producer who delivers producer milk for only part of such period, but not less than 90 days, shall have a daily base computed by dividing such producer's total deliveries of producer milk by the number of days in the four-month period less the number of days for which no producer milk is delivered. The base so computed shall be recomputed each year, shall become effective on the first day of February next following, and shall remain in effect through January of the next succeeding year:

(1) Any dairy farmer for whom information concerning deliveries during the base-earning period is available to the market administrator and who becomes a producer as a result of the plant to which his milk was delivered during the base-earning period subsequently being qualified as a pool plant, a daily base shall be computed pursuant to this paragraph; and

(2) A dairy farmer who qualified as a producer-handler pursuant to § 1124.12 for not less than 90 days during the period specified in paragraph (a) of this section shall upon becoming a producer have a base computed as if he had been a producer during such period.

* * * * *

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 4

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the market administrator, James A. Burger, P.O. Box 23606, Portland, Oregon 97223, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Oregon-Washington Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on January 25, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 2494 Filed 1-27-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 5

[Docket No. 83-5]

Rules, Policies and Procedures for Corporate Activities

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: As a part of the ongoing Corporate Activities Review and Evaluation (CARE) Program, the Office of the Comptroller of the Currency (Office) is proposing to amend its policy statements and procedures concerning publication requirements for Notice of filing of an application (12 CFR 5.8) and to make technical changes concerning the written comment period (12 CFR 5.10), customer-bank communication terminal (CBCT) branches (12 CFR 5.31), Change in location of head office, domestic branch or CBCT branch (12 CFR 5.40), and Relocation of a Federal branch or Federal agency of a foreign bank (12 CFR 5.41). The Office proposes to reduce the publication requirement from two notices to one and to eliminate the requirement that an applicant furnish an affidavit evidencing publication. These proposals will shorten the time required for a bank to receive a decision on an application, facilitate more efficient corporate activities planning by national banks and enable them to compete more effectively.

DATE: Written comments must be submitted on or before February 28 1983.

ADDRESS: Comments should be sent to: [Docket No. 83-5], Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219. Attention: C. Christine Jones. Comments will be available for inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Manager, Policy and Procedures, or Joseph W. Malott, Policy Analyst, Bank Organization and Structure, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219. Telephone: (202) 447-1184. Information also may be obtained from the Regional Director or Corporate Activities in any OCC regional office.

SUPPLEMENTARY INFORMATION: The primary drafter of this document is Joseph W. Malott, Policy Analyst, Bank Organization and Structure.

Background

The Office's CARE Program, described in 45 FR 68586, dated October 15, 1980, involves a comprehensive review of the Office's rules, policies, procedures and forms governing filings for corporate expansion and structural changes for national banks. The goals of the CARE Program are to minimize costs and burdens on applicants, the agency and the public, to provide a better understanding of policies; to modify or eliminate rules, policies, procedures and forms which are unnecessary or lead to inefficiencies; and to remove barriers to competition.

Proposal

Publication requirements of 12 CFR 5.8 currently require applicants to publish a notice of filing of an application on the same day for two consecutive weeks with the first publication to occur 15 days after an application has been accepted for filing. The regulation also requires applicants to furnish the Regional Administrator with an affidavit evidencing publication(s). The Office views multiple publication as time-consuming, expensive, and unnecessary but considers some publication necessary to inform interested parties and to allow an opportunity to comment. Therefore, it is proposed that applicants be required to publish a notice of filing of an application once rather than twice, except when more extensive notice is required by statute.

In order to eliminate delays in application processing time, the Office also proposes to require that the application be mailed or hand-delivered to the appropriate Regional Administrator on the date notice is published. Once a notice is published, the application is considered accepted by the Office and the 21-day written comment period begins simultaneously. Consequently, this proposed change will require applicants to complete an application before notice is published.

The Office believes that only under rare circumstances would an application not be submitted on the date notice is published. Further, the Office realizes that transmittal delays may occur, therefore a commenter might request to review an application before it is received by the Office. The Office believes that the 21-day comment period allows for ample time to review an application even if delays occur. However, if situations arise where the Office believes that a commenter was not allowed sufficient time for review, *i.e.*, the application was not received by the appropriate regional or Washington office within five days of publication, the Office may extend the comment period. The Office requests that respondents specifically comment whether this proposed procedural change allows sufficient time for comment.

In order to further simplify the procedure, the Office proposes to delete the requirement that the contents of the notice contain "the date upon which the application was accepted for filing", since that date will be the same as the date on which the notice is published. The Office also proposes to eliminate the requirement that an applicant provide an affidavit evidencing publication to the Regional Administrator. The affidavit will be replaced by a requirement that a statement, containing the date published and the name and address of the newspaper in which the notice was published, be furnished on the last page of the application.

Technical amendments are proposed for § 5.10 to accommodate changes made in publication requirements, and in order to consolidate the comment period with the statutory publication period for mergers into one 30-day period.

The Office is also revising § 5.40, Change in location to head office, domestic branch or CBCT branch, to accommodate the recent changes in 12 U.S.C. 30, enacted under section 405 of Pub. L. 97–320, and to eliminate the additional publication requirements associated with relocating an office. Paragraph 5.40(a), Authority, is modified to exempt from Office approval, the relocation of a bank's main office to any authorized branch location within the limits of the same city, town or village. The bank is only required to submit a notice to this Office identifying the relocation and therefore is not subject to any publication requirements. No application or filing fee is required to relocate a main office under such circumstances as long as the vacated premises are not retained as a branch. Section 5.40(e), Rules of General Applicability, is eliminated. That paragraph requires a relocating office to publish twice in a newspaper of general circulation in the community in which the office is currently located and to place a notice in the lobby of the relocating office for 28 days. This publication requirement is in addition to the publication required for the proposed location. The Office finds that this additional requirement is unnecessary since the publication for the proposed site generally covers the area of the relocating office.

Section 5.41(d), Rules of General Applicability, contains the same additional publication requirement for the relocation of a Federal branch or Federal agency of a foreign bank as currently required to relocate a head office or domestic branch. Since a Federal branch or agency is legally subject to the same restrictions as a domestic branch of a national bank, the paragraph is unnecessary. However, a Federal branch or agency is still required to publish at the proposed location.

The Office is also revising the CBCT publication requirements in § 5.31(g)(2), Application filing requirements. The phrase, "once, in a newspaper of general circulation in the community in which the applicant's head office is located, and" is eliminated. The requirement to furnish the Regional Administrator with a copy of the newspaper notice is replaced by a requirement that the Regional Administrator be furnished a statement containing the date of publication and the name and address of each newspaper in which the notice was published. Publication in more than one newspaper is required for an application to establish CBCT branches in more than one community. Consequently, publication requirements for the establishment of CBCT branches will be similar to the publication requirements now applicable for the establishment of domestic branches and seasonal agencies.

Regulatory Flexibility Act Analysis

Pursuant to Section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 5 U.S.C. 601 *et seq.*), the Secretary of the Treasury has certified that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendments would ease the application of the existing regulations. The effect of the amendments is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the amendments equally with larger institutions.

Regulatory Impact Analysis

The Office has determined that the proposed amendments do not constitute a major rule within the meaning of Executive Order 12291. The amendments would ease burdens imposed by regulations and would have no adverse effect on the operations of the depository institutions subject to them. As such, the amendments would not have an annual effect on the economy of $100 million or more, would not affect

costs or prices for consumers, individual industries, government agencies or geographic regions, and would not have an adverse effect on competition, employment investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 12 CFR Part 5

National banks, Administrative procedure and practice.

Authority and Issuance

PART 5—[AMENDED]

Accordingly, the Comptroller of the Currency proposes to amend 12 CFR Part 5 as follows:

1. The authority citation for PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES—reads as follows:

Authority: 12 U.S.C. 1 *et seq.*

2. In § 5.8, paragraph (a) is revised to read as follows:

§ 5.8 Notice of filing of an application.

(a) *By the applicants.* Except in the case of proposed transactions where more extensive notice is required by statute, the applicant shall publish a notice in a newspaper of general circulation in the community in which the applicant proposes to engage in business. The notice shall state that an application is being filed as of the date of notice, and the notice shall contain the name of the applicant(s) and the subject matter of the application. The application shall be mailed or delivered to the Regional Administrator on the same day the notice is published. A statement containing the date of publication and the name and address of the newspaper in which the notice was published, shall be furnished with the application.

* * * * *

3. In § 5.10, paragraphs (a) and (b) are revised to read as follows:

§ 5.10 Written comments and requests for a hearing.

(a) *Written comments.* within 21 days after notice by publication required by 5.8(a), or within 30 days after the first notice by publication required by 12 U.S.C. 1828(c), any person may submit to the Regional Administratror written comments and data on an appplication. The Regional Administrator may extend the 21 or 30-day comment period if, in the Regional Administrator's judgment, the applicant has failed to file all required supporting data in time to permit review by interested persons or if other extenuating circumstances exist.

(b) *Requests for a hearing.* (1) Within 21 days after notice by publication required by 5.8(a), or within 30 days after the first notice by publication required by 12 U.S.C. 1828(c), or within the extended comment period described in paragraph (a), any person may submit to the Regional Administrator a written request for a hearing on an application.

. . . . .

4. In § 5.31, paragraph (g)(2) is revised to read as follows:

§ 5.31 Establishment of CBCT branches.

. . . . .

(g) * * *

(2) Within 5 days after filing an application, the applicant shall publish once in a newspaper of general circulation in each community in which the applicant proposes to establish a CBCT branch, a notice containing the name of applicant, the subject matter of the application, the date on which the application was filed, and a statement that written comments on the application must be submitted by interested persons within 10 days after the newspaper publicaion date to the appropriate Regional Administrator. Immediately thereafter, the applicant shall furnish the Regional Administrator with a statement containing the date of publication and the name and address of each newspaper in which the notice was published.

* * * * *

5. Section 5.40 is amended by removing paragraph (e); and redesignating paragraphs (f) through (j) as paragraphs (e) through (i); and revising paragraph (a) to read as follows:

§ 5.40 Change in location of head office, domestic branch or CBCT branch.

(a) *Authority.* A national bank may change the location of its head office in accordance with 12 U.S.C. 30 or change the location of a branch office in accordance with 12 U.S.C. 36(e), and 12 U.S.C. 2901 *et seq.*, subject to the additional requirements below. All changes in location are subject to approval by this Office except where specifically exempted by statute.

. . . . .

§ 5.41 [Amended]

6. Section 5.41 is amended by removing paragraph (d) and redesignating paragraphs (e) through (h) as paragraphs (d) through (g).

Dated: January 10, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83-2414 Filed 1-27-83, 8:45 am]

BILLING CODE 4810-33-M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[EDR-454; Docket: 41219]

Carrier Credit Terms and Related Practices for the Sale of Passenger and Cargo Air Transportation; Proposed Removal of Tariff Filing Requirements

Dated: January 12, 1983

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to remove tariff filing requirements for carrier credit terms and related practices for the sale of passenger and cargo air transportation. These provisions now appear to be unnecessary, because the Board does not prescribe the terms of credit plans or review them for sufficiency.

DATES: Comments by: February 28, 1983. Reply comments by: March 15, 1983.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: February 7, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41219, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in, Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Myers or Joanne Yancey Hitchcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5205 and 202-673-5442, respectively.

SUPPLEMENTARY INFORMATION: 14 CFR 221.38(i) currently requires foreign and domestic air carriers to set forth in their tariffs their principal charges, rules, regulations and practices relating to the extention of credit for the purchase of passenger air transportation, as well as

their principal billing rules and practices, including late payment charges, for the purchase of cargo air transportation. These express requirements were imposed in the 1960's as a reflection of the Board's growing concern that all factors potentially affecting the economics of airline pricing and the treatment of different classes of customers be subject to direct regulatory scrutiny through the tariff mechanism.

The Board imposed the requirement with regard to cargo transportation in ER–353 (27 FR 4509, June 11, 1962) and with regard to passenger credit plans in ER–451 (31 FR 2424, February 2, 1966). Relying in each case upon an earlier ruling in *Universal Air Travel Plan,* 12 CAB 601 (1951), that the extension of credit by carriers for the sale of air transportation is a practice "in connection with" air transportation under section 403(a) of the Act, and hence subject to filing in tariffs at the Board's discretion, the Board assumed that an explicit filing requirement would enhance both the public notice and the substantive regulatory functions of tariffs. In the case of passengers, various credit plans had been filed for years, both voluntarily and in response to the Board's ruling in *Universal Air Travel Plan, supra,* but the filings were clearly not comprehensive. The tariffs presumed that full payment would be made in advance of travel unless credit arrangements, typically in the form of an installment payment plan, an on-line (carrier) credit card, or a general purpose (third-party) credit card, were made. In the case of cargo, the Board found that the billing and payment practices of carriers, particularly the conditions for imposing "late payment" charges, determined the extent to which they grant (or deny) credit to shippers, and it therefore required a full disclosure of the principal practices in tarriffs. Substantively, the Board wanted to insure that the extension of credit not be used to drive up carrier costs or to discriminate unreasonably among customers.

Aside from certain ancillary provisions of the Universal Air Travel Plan (UATP), however, the Board has not revised any filed credit terms, and, despite two early attempts, has not been able to develop standards for the assessment of the reasonableness of either consumer credit (interest) levels or remittance terms to the carriers. Nor has it been successsful in developing a full evidentiary record on such issues. The extension of credit is fundamentally a separate business, one to a great extent involving the costs of independent credit companies. Similary, the Board has twice found no grounds for believing that the carriers' credit terms unreasonably discriminate against cash-paying customers. Of equal or even greater importance, moreover, is the fact that the original reasons for the imposition of a filing requirement for credit plans and practices have diminished greatly in importance as the carriers have acquired pricing flexibility under the Airline Deregulation Act and the International Air Transportation Competition Act. The Board therefore does not review credit tariffs for economic sufficiency.

Only two investigations have examined the lawfulness of credit plans filed in tariffs: *Passenger Credit Plans Investigations,* Order E–14548, October 14, 1959, and *Time Payment Plan Tariff Revisions,* Docket 21169, Order 69–7–36, July 7, 1969, and Order 74–8–7, August 2, 1974. In the absence of an adequate record on the costs of credit, the Board did not find the plans unlawful. In addition, the Board dismissed a petition for rulemaking by Consumers Union to require carriers to "unbundle" the costs of credit from regular fares, finding that the probable difference in cost to the carriers between credit and cash was so slight on a per passenger basis that no unreasonable discrimination or other basis for imposing a fare differential could be found. Order 76–11–43, November 9, 1976.

The Board has also considered carrier agreements on the extension of credit under section 412 of the Federal Aviation Act. See *Universal Air Travel Plan,* 12 C.A.B. 601 (1951); *Universal Air Travel Plan, Silver Card,* Order 75–8–35, August 8, 1975; and *UATP 1976 Agreements,* Order 80–6–66, June 12, 1980. Neither the investigations noted above nor the examination of carrier agreements under section 412 of the Act included specific findings on the cost of credit underlying the finance charges contained in carriers' credit plans.

Under section 1601(a)(2) of the Act, section 403 as it applies to domestic passenger transportation ceased to be in effect on January 1, 1983. The Board retains the authority to regulate foreign air transportation, and carriers engaged in foreign air transportation are still required to fulfill the requirements of 14 CFR 221.38(i) and file credit plans. To eliminate any confusion that could result from a system that might subject domestic transportation and foreign transportation to differing terms of credit, the Board proposes to eliminate the requirement that credit plans be filed in tariffs for foreign as well as domestic transportation. The Board exercises no economic oversight over credit plans or practices now, and it is unlikely that the Board's role in this area will expand in the future.

The proposed rule would prohibit carriers from filing such tariffs for "information" or other purposes. In addition to the paperwork burden on the Board's staff, it is unlikely that informational tariffs would be maintained in a current and orderly manner, or would be readily accessible for use by the public. Furthermore, such filings, unsupervised by the Board, might mislead the public if carriers attempted to incorporate them into their contracts of carriage.

The Board remains empowered to require the production of information on credit plans, if necessary, as part of its oversight and enforcement authority under section 407 of the Act. For example, the Board retains the responsibility for implementing Title I (the Truth in Lending Act as supplemented by the Fair Credit Billing Act), Title V (General Provisions), Title VI (Fair Credit Reporting Act), and Title VII (Equal Credit Opportunity Act) of the Consumer Credit Protection Act, 15 U.S.C. 1601–1667, 1681–1681t, 1691–1691f and Regulations B and Z of the Board of Governors of the Federal Reserve System, 12 CFR Parts 202 and 226, and insuring the compliance of all air carriers with these provisions. 14 CFR Part 374. Air carriers that violate these provisions are subject to enforcement proceedings under Part 302 of the Board's Rules of Practice, 14 CFR Part 302, and may be assessed civil penalties.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that this rule will not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. This rule will eliminate a filing requirement.

List of Subjects in 14 CFR Part 221

Air rates and fares, Credit, Explosives, Freight, Handicapped.

PART 221—[AMENDED]

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 221, Tariffs, as follows:

1. In § 221.38, *Rules and regulations,* paragraph (i) would be revised to read:

§ 221.38 Rules and regulations.

* * * * *

(i) *Carriers' extension of credit—passenger tariffs, property tariffs.*

Air carriers and foreign air carriers should not file tariffs that set forth

charges, rules, regulations, or practices relating to the extension of credit for payment of charges applicable to the air transportation of persons or property.

§ 221.107a [Removed]

2. Section 221.107a would be removed.

(Secs. 102, 204, 401, 402, 404, 411, 416, 1001, 1002, Pub. L. 85-726, as amended; 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1374, 1381, 1386, 1481, 1482)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2511 Filed 1-27-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-160 (Texas—30)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commisssion issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Vicksburg Formation in southwestern Hidalgo County, Texas, be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 10, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 10, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

I. Background

On November 17, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Vicksburg Formation located in southwestern Hidalgo County, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Vicksburg Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Vicksburg Formation located in southwestern Hidalgo County, Terxas, Railroad Commission District 4, be designated as a tight formation. The recommended area is approximately 15 miles west of McAllen, Texas, and consists of the westerly portion of the Los Ejidos de Reynosa Vieja Survey, A-70. The area is bounded to the west and north by the boundary lines of the aforementioned survey. The eastern boundary is a line beginning at a point on the north line of the survey 1,200 feet east of the southwestern corner of the Yedifonso Ramirez Survey, A-584, and extending south for a distance equal and parallel to the length of the western survey boundary line. The southern boundary in a line extending from the south end of the eastern boundary westward to the Rio Grande River which forms the remainder of the southern boundary of the area. The recommended area which lies in the Rio Grande embayment includes portions of two established fields, the Penitas and the Tobasco Fields.

The Vicksburg Formation consists of a series of fine grain sands and shales that appear to have been deposited in a low energy deltaic flank or a deep water environment during early Oligocene time. The gas productive sand units have been designated as Vicksburg A, B, and C for purposes of this recommendation and the A sand is the equivalent of the sand in the Tobasco Field previously designated as the X sand.

In a typical well log for the area, the ABCO Energy Corporation No. 3 H. I. Martin well, the top of the Vicksburg Formation is encountered at 8,585 feet. Although the base of the C sand has not been penetrated, the sand is estimated to be between 600 feet and 700 feet thick. The estimated thickness of the entire Vicksburg Formation is approximately 2,600 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing on June 4, 1982, convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of the formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Vicksburg Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 10, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-160 (Texas—30) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to

whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than February 10, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d) (157) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated Tight formations.* * * *

(157) *Vicksburg Formation in Texas.* RM79–76–160 (Texas—30).

(i) *Delineation of formation.* The Vicksburg Formation is located in southwestern Hidalgo County, Texas, Railroad Commission District 4, approximately 15 miles west of the city of McAllen. The area comprises the westerly portion of the Los Ejidos de Renosa Viejo Survey A–70 and is bounded on the north and west by the boundary lines of that survey. The eastern boundary is a line equal in length and parallel to the western boundary line of the survey and extending south from a point on the north survey line which is 1,200 feet east of the southwestern corner of the Yldifonso Ramirez Survey A-584. The southern boundary is a line parallel to the northern boundary line of the survey and extending from the most southerly point of the eastern boundary westward to the Rio Grande River which forms the remainder of the southern boundary.

(i) *Depth.* The top of the Vicksburg Formation is found at 8,585 feet on the log of the ABCO Energy Corporation No. 3 H. I. Martin well, which is the type log for the designated area. The estimated thickness of the Vicksburg Formation is approximately 2,600 feet.

[FR Doc. 83–2343 Filed 1–27–83; 8:45 am]
BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–162 (Texas—31)]

High-Cost Gas Produced From Tight Formations: Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas production from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Upper Wilcox (Mackhank) (First Tom Lyne) Formation in Live Oak County, Texas, be designated as a tight formation under § 217.703(d).

DATE: Comments on the proposed rule are due on March 10, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 10, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

Issued January 24, 1983.

I. Background

On November 26, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 5603, August 22, 1980), that the Upper Wilcox (Mackhank) (First Tom Lyne) Formation in Live Oak County, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Upper Wilcox (Mackhank) (First Tom Lyne) Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Upper Wilcox (Mackhank) (First Tom Lyne) Formation in the southwest portion of Live Oak County, Texas, Railroad Commission District 2, be designated as a tight formation. The recommended area is located approximately five miles east of the townsite of Clegg, Texas, and consists of the following surveys: A.B. & M. 167 A–47, and 173 A–50, B.S. & F. 301 A–741, 29 A–132, 251 A–113, 253 A–114, 255 A–115, 257 A–116, 259 A–117, 177 A–92, 261 A–118, 181 A–94, 263 A–19, 265 A–120, 175 A–81, and 179 A–93, F.L. Beall 178 A–823, R.H. Brown 526 A–34, and 525, A–732, R. F. Byler 530 A–999, T.J. Davis 32 A–567, A.A. Dinn 182 A–941, 82 A–940, and 90 A–939, James Dinn 296 A–942, J.A. Dowdy 298 A–944, and 266 A–919, C.R. Evans 36 A–969, and 176 A–945, G.H. & RR. 1 A–198, G.M. & D. 4 A–214, F.E. Goodwin 2 A–640, H. & G.N. RR. 45 A–249, and 47 A–248, D. Harris 7 A–235, J.A. Harrymans 174 A–922, Hooper & Wade 303 A–251, James Latham 3 A–275, R. McCampbell 262 A–929, 96 A–928, 94 A–927, and 50 A–926, Jno. McClane 48 A–765, L.A. McIntosh 31 A–542, J. Poitevent 95 A–378, 93 A–377, 49 A–350, 35 A–347, 31 A–363, 29 A–359, 95 A–1084, 91 A–376, and 89 A–375, Joe Russell 36 A–932, S.K. & K. 297 A–515, Pat Sheean 254 A–783, O.B. &. E.E. Shipp 92 A–811, J.M. Torres 62 A–884, O Torres 60 A–882, Pedro Torres 61 A–883, 264 A–1023 and A–1083, and 50 A–1036 and A–926, W. Tullos 3 A–1037, G.I. Varmeter 168 A–848, and 46 A–847, Geo. W. West 408 A–794, and 260 A–818, Ike West 3 A–822, Issac West 258 A–819, and 186 A–820, Jacob White 174 A–955, O.P. Williams 6 A–487, W. Williams 67 A–908, and Jessie Wilson 2 A–995.

The average depth to the top of the Upper Wilcox (Mackhank)(First Tom Lyne) Formation is approximately 14,000 feet and the thickness is between 300 feet and 400 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average in situ gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stablized production rate, against atmosphereic pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of the formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Upper Wilcox (Mackhank) (First Tom Lyne) Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 10, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–162 (Texas—31) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than February 10, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(158) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(158) *Upper Wilcox (Mackhank) (First Tom Lyne) Formation in Texas.* RM79–76–162 (Texas—31)

(i) *Delineation of formation.* The Upper Wilcox (Mackhank) (First Tom Lyne) Formation is located in the southwestern portion of Live Oak County, Texas, Railroad Commission District 2, approximately five miles east of the townsite of Clegg, Texas, and consists of the following surveys: A. B. & M. 167 A–47, and 173 A–50, B. S. & F. 301 A–741, 29 A–132, 251 A–113, 253 A–114, 255 A–115, 257 A–116, 259 A–117, 177 A–92, 261 A–118, 181 A–94, 263 A–19, 265 A–120, 175 A–81, and 179 A–93, F. L. Beall 178 A–823, R. H. Brown 526 A–734, and 525 A–732, R. F. Byler 530 A–999, T. J. Davis 32 A–567, A. A. Dinn 182 A–941, 82 A–940, and 90 A–939, James Dinn 296 A–942, J. A. Dowdy 298 A–944, and 266 A–919, C. R. Evans 36 A–969, and 176 A–945, G. H. & RR. 1 A–198, G. M. & D. 4 A–214, F. E. Goodwin 2 A–640, H. & G. N. RR. 45 A–249, and 47 A–248, D. Harris 7 A–235, J. A. Harrymans 174 A–922, Hooper & Wade 303 A–251, James Latham 3 A–275, R. McCampbell 262 A–929, 96 A–928, 94 A–927, and 50 A–926, Jno. McClane 48 A–765, L. A. McIntosh 31 A–542, J. Poitevent 95 A–378, 93 A–377, 49 A–350, 35 A–347, 31 A–363, 29 A–359, 95 A–1084, 91 A–376, and 89 A–375, Joe Russell 36 A–932, S. K. & K. 297 A–515, Pat Sheeran 254 A–783, O. B. & E. E. Shipp 92 A–811, J. M. Torres 62 A–884, O. Torres 60 A–882, Pedro Torres 61 A–883, 264 A–1023 and A–1083, and 50 A–1036 and A–926, W. Tullos 3 A–1037, G. I. Vanmeter 168 A–848, and 46 A–847, Geo. W. West 408 A–794, and 260 A–818, Ike West 3 A–922, Isaac West 258 A–819, and 186 A–820, Jacob White 174 A–955, O. P. Williams 6 A–487, W. Williams 67 A–908, and Jessie Wilson 2 A–995.

(ii) *Depth.* The average depth to the top of the Upper Wilcox (Mackhank) (First Tom Lyne) Formation is approximately 14,000 feet and the thickness is between 300 feet and 400 feet.

[FR Doc. 83–2344 Filed 1–27–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 77N–0039]

Sodium Alginate; Proposed Amendment of Affirmed GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the generally recognized as safe (GRAS) affirmation regulation for sodium alginate to include an additional use of this ingredient. The agency has concluded on the basis of available data that no harm will result from the increase in human exposure to alginate salts that will result from this use. The agency inadvertently omitted this use from the July 9, 1982 (47 FR 29946) final rule.

DATE: Comments by March 29, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 27, 1978 (43 FR 3725), FDA published a proposal to affirm that several salts of alginic acid, including sodium alginate, are GRAS for use as direct human food ingredients.

Subsequently, in response to comments submitted by alginate

producers, food processors, trade associations, and one physician, FDA modified the proposal to reflect more accurately current safe conditions of use of these ingredients in food. The agency published a final rule incorporating these changes in the **Federal Register** of July 9, 1982 (47 FR 29946). However, after publication of the final rule, a food manufacturer informed FDA that the use of sodium alginate at a level of 4.0 percent in processed fruits, which had been reported in the comments, had not been addressed in the final rule. The food manufacturer also informed the agency that the use level of sodium alginate in these products is currently 2.0 percent rather than 4.0 percent, as reported in the original comment.

FDA has determined that this use of sodium alginate was reported in comments on the proposal, and that the agency did inadvertently omit this use from its discussion in the preamble to the final rule and from the regulation. The agency has concluded on the basis of the available data that no harm will result from the increase in human exposure to alginate salts-that will result from this use, and that, therefore, this use is GRAS. Thus, FDA is proposing to amend 21 CFR 184.1724 to include the use of sodium alginate in processed fruits and fruit juices at a level of 2.0 percent.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substance covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects in 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 184 be amended in the table in § 184.1724(c) by adding the item "Processed fruits and fruit juices" after the item "Condiments and relishes," to read as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

§ 184.1724 **Sodium alginate.**

* * * * *

(c) * * *

Category of food	Maximum level of use in food (as [illegible]) (percent)	Functional use
* * * * *		
Processed fruits and fruit juices, § 170.3(n)(35) of this chapter	2.0	Formulation aid, § 170.3(o)(14) of this chapter; texturizer, § 170.3(o)(32) of this chapter
* * * * *		

* * * * *

Interested persons may, on or before March 29, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-2226 Filed 1-27-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 357

Anthelmintic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: The Food and Drug Administration is correcting a document on anthelmintic drug products (products that destroy pinworms) for over-the-counter (OTC) use.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4950.

SUPPLEMENTARY INFORMATION: In FR Doc. 82-23024 at page 37062 in the issue for Tuesday, August 24, 1982, the following changes are made:

1. On page 37064:

a. In the first column, under *"Reference"* change "OTC Volume 16BTFM" to "OTC Volume 17FTFM."

b. In the third column in the paragraph designated "7.", in the 7th line change "equivalend" to "equivalent."

2. On page 37065 in the first column, under *"Reference"* change "OTC Volume 16BTFM" to "OTC Volume 17FTFM."

Dated: January 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-2331 Filed 1-27-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD Directive 1340.xx]

32 CFR Part 63

Former Spouse Payments From Retired Pay

AGENCY: Office of the Secretary, DOD.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements section 1002 of the Uniformed Services Former Spouses' Protection Act, (Pub. L. 97-252). It authorizes direct payments to former spouses from the retired pay of members in response to court-ordered alimony, child support, or division of property. The rule establishes policy, defines terms, sets eligibility, prescribes application procedures, lists the Uniformed Service officials who will process applications, establishes court order and garnishment action review procedures, describes the limitations placed on payments to former spouses, provides instructions for the notification of members, and gives payment procedures.

DATE: Written comments must be received by March 15, 1983.

ADDRESS: Office of the Deputy Assistant Secretary of Defense (Management Systems), Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. James T. Jasinski, (202) 697–0536.

SUPPLEMENTRY INFORMATION: Comments will be available for public inspection by request. See § 63.6(b)(5). Because of the large number of comments anticipated, we do not plan to acknowledge or respond to individual comments, but we will respond to the comments in the preamble of the final rule. Inquiries concerning a specific case of eligibility and questions concerning satisfaction of the application requirements should be addressed directly to the designated agent of the Uniformed Service concerned who is identified in this proposed rule.

To effect implementation beginning February 1, 1983, the Uniformed Services shall follow the proposed rule until a final rule is issued. Applications from former spouses will be accepted beginning February 1, 1983.

Executive Order 12291

The Department of Defense has determined that this rule is not a major rule for the purposes of E.O. 12291, because it is not likely to result in an annual effect on the economy of $100 million or more, and therefore does not require a regulatory impact analysis.

Paperwork Reduction Act

This rule imposes information requirements that have been submitted to OMB for review and approval.

Regulatory Flexibility act of 1980

The Assistant Secretary of Defense (Comptroller) certifies that this rule, if promulgated, shall be exempt from the requirements under 5 U.S.C. 601–612. In addition, the rule does not have a significant economic effect on small entities as defined in the Regulatory Flexibility Act.

List of Subjects in 32 CFR Part 63

Uniformed Services, Payments to former spouses, Military retired pay.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 24, 1983.

Accordingly, it is proposed to amend Chapter I, 32 CFR, by adding a new Part 63, reading as follows:

PART 63—FORMER SPOUSE PAYMENTS FROM RETIRED PAY

Sec.
63.1 Purpose.
63.2 Applicability and scope.
63.3 Definitions.
63.4 Policy.
63.5 Responsibilities.
63.6 Procedures.

Authority: 10 U.S.C. 1408.

§ 63.1 Purpose.

Under the authority of 10 U.S.C. 1408, this part establishes policy and authorizes direct payments to a former spouse of a member from retired pay in response to court ordered division of property, alimony, or child support.

§ 63.2 Applicability and scope.

(a) This guidance applies to the Office of the Secretary of Defense, the Military Departments, the Coast Guard under agreement with the Department of Transportation, the Public Health Service under agreement with the Department of Health and Human Services; and the National Oceanic and Atmospheric Administration under agreement with the Department of Commerce.

(b) The provisions of this part relate to members retired from the active and reserve components of the Uniformed Services who are subject to court orders awarding a division of retired pay as property, alimony, or child support.

§ 63.3 Definitions.

(a) *Alimony.* Periodic payments for the support and maintenance of a spouse or former spouse in accordance with state and local law. It includes, but is not limited to, separate maintenance, alimony pendente lite, and maintenance. Alimony does not include any payment for the division of property.

(b) *Annuitant.* A person receiving a monthly payment under a survivor benefit plan related to retired pay.

(c) *Child Support.* Periodic payments for the support and maintenance of a child or children, subject to and in accordance with state or local law. It includes, but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children.

(d) *Court.* Any court of competent jurisdiction of any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and any court of the United States (as defined in 28 U.S.C. 451) having competent jurisdiction; or any court of competent jurisdiction of a foreign country with which the United States has an agreement requiring the United States to honor any court order of such country.

(e) *Court Order.* A final decree of divorce, dissolution, annulment, or legal separation issued by a court, or a court-ordered, ratified, or approved property settlement incident to such a decree. It includes a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or a court-ordered, ratified, or approved property settlement incident to such previously issued decree. The court order must provide for the payment of retired pay to a member's former spouse for payment of child support, alimony, or a division of property.

(f) *Creditable Service.* Service counted towards the establishment of any entitlement for retired pay. See paragraphs 10102 through 10108 of DoD 1340.12–M.

(g) *Designated Agent.* The representative of the Uniformed Service who will receive and process court orders under this Directive.

(h) *Division of Property.* Any transfer of property or its value by an individual to his or her former spouse in compliance with any community property settlement, equitable distribution of property, or other distribution of property between spouses or former spouses.

(i) *Entitlement.* The legal right of the member to receive retired pay.

(j) *Final Decree.* A decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals. Or, a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

(k) *Former Spouse.* The former husband or former wife, or the husband or wife, of a member.

(l) *Garnishment.* The legal procedure through which payment is made from an individual's pay, that is due or payable, to another party in order to satisfy a legal obligation to provide child support, to make alimony payments, or both under 42 U.S.C. 659 and 5 CFR Part 581 or to enforce a division of property under 10 U.S.C. 1408.

(m) *Member.* A person orginally appointed or enlisted in, or conscripted into, a Uniformed Service who has retired and is now carried on one of the lists of retired personnel from the regular or reserve components of the Uniformed Services.

(n) *Renounced Pay.* Retired pay to which the member has an entitlement, but for which receipt of payment has been waived by the member.

(o) *Retired pay.* The gross entitlement due a member based on conditions of the retirement law, pay grade, years of service for basic pay, years of service for percentage multiplier, if applicable, and date of retirement (transfer to the Fleet Reserve or Fleet Marine Corps Reserve); also known as retainer pay. It does not include benefits paid to a member for disability under 10 U.S.C. Chapter 61.

(p) *Uniformed Services.* The Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

§ 63.4 Policy.

It is the policy of the Department of Defense to honor a former spouse's request for direct payment from a given member's retired pay in enforcement of a court order that provides for the division of retired pay as property, alimony, or child support, when the terms, conditions and requirements in this Part are satisfied.

§ 63.5 Responsibilities.

(a) The Assistant Secretary of Defense (Comptroller), shall establish policies and procedures, provide guidance, and supervise the implementation of this part.

(b) The Secretaries of the Military Departments and Heads of the Other Uniformed Services shall implement the provisions of this part for their members.

§ 63.6 Procedures.

(a) *Eligibility of Former Spouse.*—(1) A former spouse of a member is eligible to receive direct payment from the retired pay of that member only if such payment is expressly provided in a court order that satisfies the requirements and conditions specified in this Directive.

(2) For establishing eligibility for direct payment under a court order that provides for a division of retired pay as property, the former spouse must have been married to the member for ten years or more, during which the member performed ten years creditable service. If a court order specifies payment to the former spouse for only child support, alimony, there is no 10 year marriage requirement.

(b) *Application By Former Spouse.*—(1) The former spouse must serve on the appropriate designated agent of the member's Uniformed Service a signed statement that includes:

(i) Notice to initiate direct payment to the former spouse from a member's retired pay.

(ii) A certified copy of the court order and other certified accompanying documents, if applicable, that provide for payment of child support, payment of alimony, or division of retired pay as property.

(iii) A statement that the court order has not been amended, superseded, or set aside.

(iv) Sufficient identifying information about the member to enable processing of the application. The identification should give the full name, social security number, and appropriate Uniformed Service.

(v) The full name, address, and social security number of the former spouse.

(2) If the court is for a division of the retired pay as property and it does not state that the former spouse satisfied the eligibility criteria found in paragraph (a)(2), of this section, then the former spouse must furnish sufficient evidence for the designated agent to verify that the requirement was met.

(3) The notification of the designated agent shall be accomplished by certified or registered mail, return receipt requested, or by personal service. Effective service is not accomplished until received in the office of the appropriate designated agent, who shall note the date and time of receipt on the notification document.

(4) The designated agent will respond to the applicant former spouse not later than 90 days after effective service. In the response, the designated agent shall inform the former spouse that: (i) The court order will or will not be honored; (ii) the date that payments will tentatively commence; (iii) the amount of payment and how the amount was computed; and (iv) other relevant information, if applicable.

(5) The designated agents for each of the Uniformed Services who are authorized to receive and to process court orders under this Part are:

(i) Army: Commander, Army Finance and Accounting Center, ATTN: FINCL–G, Indianapolis, IN 46249, (317) 542–2155.

(ii) Navy: Director, Navy Family Allowance Activity, Anthony J. Celebrezze Federal Building, Cleveland, OH 44199. (216) 522–5301.

(iii) Air Force: Commander, Air Force Accounting and Finance Center, ATTN: JA,.Denver, CO 80279, (303) 370–7524.

(iv) Marine Corps: Commanding Officer, Marine Corps Finance Center (Code AA), Kansas City, MO 64197, (816) 926–7103.

(v) Coast Guard: Commandant (G–LGL), General Law Division, United States Coast Guard, 2100 2nd Street, SW., Washington, D.C. 20593, (202) 426–1553.

(vi) Public Health Service: Office of General Counsel, Public Health Service, Room 5362, North Building, 330 Independence Avenue SW., Washington, D.C. 20201, (202) 472–3109.

(vii) National Oceanic and Atmospheric Administration: Director, Navy Family Allowance Activity, Anthony J. Celebrezze Federal Building, Cleveland, OH 44199, (216) 522–5301.

(c) *Review of Court Orders.*—(1) The court order must be regular on its face, meaning that it is issued by a court of competent jurisdiction, in accordance with the laws of the jurisdiction.

(2) The court order shall be legal in form and include nothing on its face that provides reasonable notice that it is issued without authority of law. It is required that the court order be authenticated or certified within 90 days immediately preceding its service on the designated agent.

(3) The court order must be a final decree. Evidence of finality will be required.

(4) When the court order was issued while the member was on active duty and the member was not represented in court, the court order or other court documents shall certify that the rights of the member under the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. Appendix 501–591) were complied with.

(5) Sufficient information must be contained in the court order to identify the member.

(6) For court orders that provide for the division of retired pay as property, the following conditions apply:

(i) The court must have jurisdiction over the member by reason of: (A) the member's residence, other than because of military assignment in the territorial jurisdiction of the court; (B) the member's domicile in the territorial jurisdiction of the court; or (C) the member's consent to the jurisdiction of the court.

(ii) The treatment of retired pay as property solely of the member or as property of the member and the former spouse of that member shall be in accordance with the law of the jurisdiction of such court.

(iii) The court order or other accompanying documents served with the court order must show the former spouse was married to the member ten years or more, during which the member performed at least ten years of creditable service.

(7) Court orders awarding a division of retired pay as property that were issued prior to June 26, 1981, will be honored, if they otherwise satisfy the requirements and conditions specified in this part. A modification on or after June 26, 1981, of a court order that originally awarded a division of retired pay as

property prior to June 26, 1981, may be enforce for subsequent court ordered changes made for clarification purposes, such as the interpretation of a computation formula in the original court order. For court orders issued prior to June 26, 1981, subsequent amendments after that date to provide for a division of retired pay as property are unenforceable under this Directive. All court orders awarding a division of retired pay as property issued on or after June 26, 1981, will be enforced, if they otherwise satisfy the requirements and condtions specified in this part.

(8) The court order shall provide specifically for payment of a fixed amount expressed in United States dollars or payment as a fixed percentage of retired pay. Court orders specifying a percentage of retired pay will be construed as a percentage of disposable retired pay.

(d) *Garnishment Orders.*—(1) If a court order provides for the division of property in addition to specifying an amount of disposable retired pay to be paid to the member's former spouse, the former spouse may garnish the member's retired pay in order to enforce the division of property. The limitations of the Consumer Credit Protection Act, as amended (15 U.S.C. 1673) and the limitations of paragraph (e) of this section apply in determining the amount payable to a former spouse.

(2) Service of process of garnishment orders shall be accomplished as provided in paragraph (b) of this section.

(3) Garnishment orders for division of property, child support and/or alimony shall be processed in the manner prescribed in 5 CFR Part 581, to the extent that the procedures are consistent with the provisions of this part.

(e) *Limitations.*—(1) Upon proper service, the member's retired pay may be paid directly to a former spouse in the amount necessary to comply with the court order, providing the maximum amount of the payment to the former spouse does not exceed:

(i) 50 percent of the disposable retired pay for court orders and garnishment actions paid pursuant to this part.

(ii) 65 percent of the disposable retired pay when the member's pay is also subject to garnishment and other legal process under 42 U.S.C. 659.

(2) Disposable retired pay is the gross pay entitlement less authorized deductions. The pay entitlement is limited to that computed under 10 U.S.C. Chapter 71 and 42 U.S.C. 212 for the Public Health Service, including renounced pay. Disposable retired pay does not include the retired pay of a member retired for disability under 10 U.S.C. Chapter 61 or annuitant payments under 10 U.S.C. Chapter 73. The authorized deductions are:

(i) Amounts owed to the United States.

(ii) Fines and forfeitures ordered by a court-martial.

(iii) Amounts waived in order to receive compensation under 5 or 38 U.S.C.

(iv) Federal employment taxes and income taxes withheld to the extent that the amount deducted is consistent with the member's tax liability.

(v) Premiums paid as a result of an election under 10 U.S.C. Chapter 73 to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired pay is being made pursuant to a court order under this part.

(vi) Premiums deducted for National Service Life Insurance.

(vii) Other amounts required by law to be deducted.

(f) *Notification of Member.*—(1) As soon as possible, but not later than 30 calendar days after effective service of a court order or garnishment action under this part the designated agent shall send written notice to the affected member at his or her last known address.

(2) This notice must include:

(i) A copy of the court order and accompanying documentation.

(ii) An explanation of the limitations placed on the direct payment to a former spouse from a member's retired pay.

(iii) A request that the member submit notification to the designated agent, if the court order had been amended, superseded, or set aside. The member is obligated to provide an authenticated or certified copy of the operative court documents, when there are conflicting court orders.

(iv) The amount or percentage that will be deducted, if the member fails to submit the documentation necessary to enable the designated agent to respond to the court order within the time limits set forth.

(v) The effective date that direct payments to the former spouse will tentatively begin.

(vi) Notification that the member has 30 days to contest the court order. Failure to respond within the 30 days notice period may result in the payment of retired pay as provided in the notification.

(3) If the member responds to the notification, the designated agent will consider the response and deny the order whenever it is shown that:

(i) The court order is defective.

(ii) The court order is inconsistent with a contemporaneous or subsequent court order.

(iii) The member objects to the validity of the court order and submits evidence that legal action has commenced to contest that court order. In such cases, the order will be treated as a conflicting order and the amount involved will be retained pending resolution by the court that has jurisdiction.

(g) *Designated Agent Liability.*—(1) The United States and any officer or employee of the United States shall not be liable with respect to any payment made from retired pay to any member or former spouse pursuant to a court order, that is regular on its face if such payment is made in accordance with this part.

(2) An officer or employee of the United States, who under this part has the duty to respond to interrogatories, shall not be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or because of, any disclosure of information made by him in carrying out any of the duties which directly or indirectly pertain to answering such interrogatories.

(h) *Payments.*—(1) Subject to the member's eligibility for retired pay and effective service of a court order, the Uniformed Service shall begin payments to the former spouse not later than 90 days after the date of effective service. The date of effective service is the date that the designated agent receives a complete application under paragraph (b) of this section.

(2) Payments shall conform with the normal pay and disbursement cycle for retired pay. Payments may be expressed as fixed in amount or as a percentage of disposable retired pay. With regard to payments based on a percentage of disposable retired pay, the amount will change in direct proportion and at the effective date of future cost-of-living adjustments that are authorized, unless the court order directs otherwise.

(3) Payments terminate on the date of the death of the member, death of the former spouse, or as stated in the applicable court order, whichever occurs first. Payments shall be terminated or be reduced upon the occurrence of a condition which under applicable state of local law relieves the member from payment of child support or alimony.

(4) When several court orders are served with regard to a member's retired pay, payment shall be satisfied on a first-come, first-served basis within the amount limitations placed on disposable retired pay in paragraph (e) of this section.

(5) If conflicting court orders are served on the designated agent which

direct that different amounts be paid during a month to the same former spouse from a given member's retired pay, the designated agent shall authorize payment on the court order directing payment of the least amount. The difference in amounts on conflicting court orders shall be retained by the designated agent pending resolution by the court which has jurisdiction or by agreement of the parties. The amount retained will be paid as provided in a subsequent court order or agreement. The total of all payments plus all moneys retained under this paragraph shall be within the limitation of paragraph (e) of this section.

(6) When service is made and the identified member is found not to be entitled to moneys, the designated agent shall advise the former spouse that no moneys are due from or payable by the Uniformed Service to the named individual.

(7) If moneys are only temporarily exhausted or otherwise unavailable, the former spouse shall be fully advised or why and for how long, the moneys will be unavailable.

(8) The order or precedence for disbursement of retired pay when the gross amount is not sufficient to permit all authorized deductions and collections shall follow Volume I, Part 3, Section 7040, "Order of Payment," in the Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies. Court ordered payments to a former spouse from retired pay shall be enforced over other voluntary deducations and allotments.

(9) Payments made shall be prospective in terms of the amount stated inthe court order. Arrearages will not be considered in determining the amount payable from retired pay. The former spouse shall not sell, assign, transfer, or otherwise dispose of any payments under this part.

(10) Prior to payment, the former spouse must agree that any future overpayments are recoverable and subject to involuntary collection from the former spouse or his or her estate.

(11) As a condition precedent to payment, the former spouse shall agree to notify the designated agent promptly, if the operative court order, upon which payment is based, is vacated, modified, or set aside. This will include notice of the former spouse's remarriage, if all or a part of the payment is for alimony, or notice of a change in elgibility for child support payments under circumstances of the death, emancipation, adoption, or attainment of majority of a child whose support is provided through direct payment to a former spouse from retired pay.

(12) At the request of the designated agent, the former spouse may be required to provide a certification of eligibility that attests in writing to the former spouse's continued eligibility and includes a notice of change in status or circumstances that affect eligibility. After notice to the former spouse, payments may be suspended when the former spouse fails, or refuses, to comply with the certification requirements.

[FR Doc. 83-2352 Filed 1-27-83; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 366

Centers for Independent Living

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education proposes to amend regulations implementing the Centers for Independent Living Program under Section 711 of the Rehabilitation Act of 1973, as amended, to reduce regulatory burdens in accordance with Executive Order 12291.

DATE: All comments, suggestions, or recommendations must be received on or before March 14, 1983.

ADDRESS: Comments should be addressed to Mr. Charles Smolkin, Rehabilitation Services Administration, Department of Education, 400 Maryland Avenue, SW., Room 3618, Switzer Office Building, Washington, D.C. 20202. Telephone: (202) 472-3796.

FOR FURTHER INFORMATION CONTACT: Commissioner of Rehabilitation Services, 330 C Street, SW., Switzer Office Building, Room 3086, Washington, D.C. 20202. Telephone: (202) 245-2201.

SUPPLEMENTARY INFORMATION: On January 19, 1981 the Secretary published final regulations with an invitation to comment in the **Federal Register** (46 FR 5410) covering the Centers for Independent Living Program of the Rehabilitation Services Administration. These regulations became effective on March 30, 1981. The Secretary provided notice of his intent to review the Centers for Independent Living Program regulations in the March 27, 1981 **Federal Register** (46 FR 19000) to identify opportunities for deregulation and burden reduction in accordance with Executive Order 12291.

The proposed amendments include: Removal of the words "planning" and "continuing" in § 366.1; removal of specific mention of services for the deaf, blind, or deaf-blind in § 366.4(b)(13); substitution of the word "designed" for the word "necessary" in § 366.4(b)(14); removal of the word "planning" in the first sentence and the entire second sentence in § 366.10(a); and removal of the prohibition on supplanting of funds in § 366.10(b). All of these changes will conform the regulations to statute. In addition, a cross reference to 34 CFR 75.590 is being added to § 366.31(g)(2) relative to under-represented groups, and § 366.42 is revised to remove Federal standards governing the means by which grantees safeguard confidential information.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. These proposed amendments to the Centers for Independent Living program regulations conform the regulations to statute and clarify certain provisions in the selection criteria. The changes will not have an economic impact on small entities participating in the program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 45th day after publication of this document will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3618 Switzer Building, 330 C Street, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday though Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List Subjects in 34 CFR Part 366

Education, Grant programs—Social programs, Vocational rehabilitation.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

Dated: January 25, 1983.

T. H. Bell

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.132, Centers for Independent Living)

The Secretary proposes to amend Part 366 of Title 34 of the Code of Federal Regulations as follows:

PART 366—CENTERS FOR INDEPENDENT LIVING

§ 366.1 [Amended]

1. in § 366.1, the words "planinng" and "continuing" are removed.

§ 366.4 [Amended]

2. In § 366.4, paragraph (b)(13) is removed, and paragraph (b)(14) is redesignated as paragraph (b)(13). Redesignated paragraph (b)(13) is amended by removing the word "necessary" and inserting instead the word "designed".

3. Section 366.10 is revised to read as follows:

§ 366.10 What specific activities may be supported under this program.

The Centers for Independent Living Program provides financial assistance for establishing and operating centers for independent living.

(Sec. 12(c) and 711 of the Act: 29 U.S.C. 711(c) and 796(e))

4. Section 366.31, paragraph (g)(2) is revised to read as follows:

§ 366.31 What selecton criteria does the Secretary use in this program?

* * * * *

(g) * * *

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable. (See § 75.590 of this title.)

* * * * *

5. Section 366.42 is revised to read as follows:

§ 366.42 What are the standards for the protection, use, and release of personal information?

(a) All personal information about individuals served by any project under this part, including lists of names, addresses, photographs, and records of evaluation, must be held confidential.

(b) In complying with paragraph (a) of this section, grantees are encouraged to obtain the prior written consent of the agency providing the information and the individual or his or her represenative, if:

(1) Information is to be used or disclosed for any purpose not connected with the project or its administration or evaluation; or

(2) The final product of the project reveals any personal identifying information.

(c) The Secretary or other Federal or State officials responsible for enforcing legal requirements applicable to the program under this part must be provided access to this information, on request, without prior written consent being obtained.

(Sec. 12(c) of the Act; 29 U.S.C. 711(c))

[FR Doc. 83-2512 Filed 1-27-83; 8:45 am]

BILLING CODE 4000-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6243]

National Flood Insurance Program; Proposed Flood Elevation Determination for Keene, N.H.; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 3381 on January 25, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the City of Keene, Cheshire County, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Keene, Cheshire County, New Hampshire previously published at 47 FR 3381 on January 25, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Under the Source of Flooding of Ash Swamp Brook, the base flood elevation for the location "At Arch Street" has been amended to read 500 feet in elevation.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 14, 1983

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-2358 Filed 1-27-83; 8:45 am]

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44 CFR Part 67

[Docket No. FEMA-6470]

National Flood Insurance Program; Proposed Flood Elevation Determination for Point Pleasant Beach, N.J.; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of

base (100-year) flood elevations previously published at 47 FR 57068 on December 22, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Borough of Point Pleasant Beach, Monmouth County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Borough of Point Pleasant Beach, Monmouth County, New Jersey, previously published at 47FR 57068 on December 22, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribed how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirements; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The following location descriptions have been amended to read as follows. The remainder of the Notice of Proposed Based Flood Elevations is unchanged.

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Entire shoreline within community	*13
Manasquan River	From approximately 850 feet east of Ocean Avenue, extended, to Conrail Bridge.	*10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 13, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–2408 Filed 1–27–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–6254]

National Flood Insurance Program; Proposed Flood Elevation Determination for Woodbridge, N.J.; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 10251 on March 10, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Township of Woodbridge, Middlesex County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Woodbridge, Middlesex County, New Jersey, previously published at 47 FR 10251 on March 10, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rahway River	Entire length of river within community.	*10
South Branch Rahway River	Approximately 2,790' downstream of corporate limits	*13
Woodbridge River	At confluence with Arthur Kill	*10
	At Homestead Avenue	*10
	Upstream of Omar Avenue	*11
	Downstream of Randolph Avenue	*11
Raritan River	Shoreline within community west of Edison Bridge	*10
	Shoreline within community east of Edison Bridge	*13
Spa Spring	At confluence with Woodbridge River	*10
Heards Brook	At confluence with Woodbridge River	*10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Exective Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 14, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc 83-2409 Filed 1-27-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Ocean Salmon Fisheries off the Coast of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Pacific Fishery Management Council and the National Marine Fisheries Service will hold joint public hearings to receive public comments on the 1983 Amendment and Draft Supplemental Environmental Impact Statement of the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California Commencing in 1978.

DATES: Written comments are invited until March 12, 1983. Individuals or organizations wishing to comment in person may do so at the following public hearings:

February 15, 1983—Seattle, Washington
February 15, 1983—Astoria, Oregon
February 15, 1983—Eureka, California
February 16, 1983—San Francisco, California
February 16, 1983—North Bend, Oregon
February 17, 1983—Boise, Idaho

All public hearings will start at 7:00 p.m. and adjourn at or about 11 p.m. or when all public testimony has been received.

The hearings will be tape recorded and the tapes will be filed as an official transcript of the proceedings.

A written summary will be prepared on each hearing.

ADDRESSES:

Hearings and Locations:

February 15, 1983—Federal Building, South Auditorium, 915 Second Avenue, Seattle, Washington 98104
February 15, 1983—Astoria Middle School, 1100 Klaskannie, Astoria, Oregon 97103
February 15, 1983—Eureka Inn, 7th and J Street, Eureka, California 95501
February 16, 1983—Airport Hilton, Terrace Ball Room, U.S. 101 and Airport Entrance, San Francisco, California 94128
February 16, 1983—Pony Village Lodge, Virginia Avenue, North Bend, Oregon 97459
February 17, 1983—Idaho Department of Fish and Game, Auditorium, 600 South Walnut, Boise, Idaho 83707

FOR FURTHER INFORMATION CONTACT:

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, Phone (503) 221-6352, or
H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115, Phone (206) 527-6150, or
Alan Ford, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, Phone (213) 548-2575

SUPPLEMENTARY INFORMATION: The hearings will deal with the proposed 1983 amendment of the plan for managing the commercial and recreational salmon fisheries off the Coasts of Washington, Oregon, and California and its supplemental environmental impact statement.

The amendment consists of a discussion of 1983 salmon fishery management consideration, a review of the 1982 commercial and recreational salmon fisheries, an evaluation of 1982 ocean salmon management, a discussion of the socio-economic trends in the ocean salmon fisheries, a preliminary report on the resource status in 1983, and a presentation of management alternatives and strategies for the 1983 fisheries.

The most recent information on the status of the Pacific salmon stocks and fisheries indicates that adjustment of the 1982 management measures is necessary to meet the plan goals and objectives for 1983.

The Council has proposed management options for the 1983 coastwide ocean commercial troll fishery and for the coastwide ocean recreational fishery. The options range from regulations that are less restrictive to those that are more restrictive than the 1982 regulations.

Management measures for the 1983 ocean salmon seasons will be determined by the Pacific Fishery Management Council at its March 17-18 meeting in Portland, Oregon, after the close of the public comment period on March 12.

The draft 1983 salmon plan amendment, including the draft supplemental environmental impact statement will be mailed to all individuals and organizations who are currently on the Council's mailing list. A limited number of copies also will be available at the public hearings.

Dated: January 25, 1983.

Joseph P. Clem,

Acting Chief, Operation Coordination Group, National Marine Fisheries.

[FR Doc. 83-2498 Filed 1-27-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 20
Friday, January 28, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Information Collection Requests

AGENCY: ACTION.

ACTION: Information Collection Request Under Review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

BACKGROUND: Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

INFORMATION ABOUT THIS PROPOSED COLLECTION:

Agency Clearance Officer—Richard D. English—202–254–8501.

Agency Address: ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525.

Title of Forms: Locally-recruited Volunteer Application: LRV Sponsor Applicant Evaluation; LRV Volunteer Reference form.

Office of ACTION Issuing Proposal: Domestic Operations/VISTA Agency Official to Contact for Further Information: Diana London, Chief of VISTA Branch 254–5195.

Type of Request: New.

Frequency of Collection: Once per applicant.

General Description of Respondents: Applicants for VISTA Volunteer Service + 3 references identified by applicant (including one from sponsoring organization).

Estimated Number of Responses: 16,000.

Estimated Hours for All Respondents to Complete Form: 7,000 hours.

Respondent's Obligation to Reply: Required for obtaining benefit.

This *is not* a collection proposal under Sec. 3504(h) of the Paperwork Reduction Act.

Person responsible for OMB Review: James L. Thomas, 202–395–6880.

Richard D. English,

Deputy Assistant Director, ACTION.

[FR Doc. 83–2320 Filed 1–27–83, 8:45 am]

BILLING CODE 6050–01–M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Durham Roadside Erosion Control Critical Area Treatment RC&D Measure, Oklahoma

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Durham Roadside Erosion Control Critical Area Treatment RC&D Measure, Roger Mills County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone 405–624–4360.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for treating critically eroding areas. The planned works of improvement include construction of two pipe drips, a diversion terrace, and vegetation of all disturbed areas to protect the roadway and borrow ditches from erosion.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roland R. Willis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 17, 1983.

Billy R. Littlefield,

Assistant State Conservationist.

[FR Doc. 83–2219 Filed 1–27–83; 8:45 am]

BILLING CODE 3410–16–M

Grandview Ditch Farm Irrigation RC&D Measure, Colorado

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Grandview Ditch Farm Irrigation RC&D Measure, Fremont County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, P.O. 17107, Denver, Colorado 80217, telephone (303) 837–4275.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the measure will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this measure.

This farm irrigation measure concerns a plan to replace an existing siphon structure. Works of improvement include constructing 2,220 feet of plastic pipe siphon. The method of construction for part of the siphon will include placing the new pipe inside the old pipe where it passes beneath the federal highway to prevent traffic interruption.

The Notice of Finding of No Significant Impact (FONSI) has been fowarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The basic data developed during the environmental evaluation are on file and may be reviewd by contacting Mr. Sheldon G. Boone.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 Regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 19, 1983.

Sheldon G. Boone,

State Conservationist.

[FR Doc. 83–2291 Filed 1–27–83: 8:45 am]

BILLING CODE 3410–16–M

Haystack Creek Critical Area Treatment RC&D Measure, Oklahoma

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Haystack Creek Critical Area Treatment RC&D Measure, Greer County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone 405–624–4360.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for treating critically eroding areas. The planned works of improvement include gully shaping, grade stabilization structure, diversions, grassed waterways, vegetative protection, tree planting, and fencing.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roland Willis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 17, 1983.

Billy R. Littlefield,

Assistant State Conservationist.

[FR Doc. 83–2218 Filed 1–27–83; 8:45 am]

BILLING CODE 3410–16–M

Perquimans County Union School, RC&D Measure; North Carolina

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impacts statement is not being prepared for the Perquimans County Union School, RC&D Measure, Perquimans County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919)–755–4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing flooding and for improving drainage on the school grounds. The planned works of improvement include installing catch basins, pipes and sub-surface drainage tubing. Grading and shaping will be done to improve surface drainage and to eliminate ponding. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basis data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and Local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: January 6, 1983.

Coy A. Garrett,

State Conservationist.

[FR Doc. 83–2066 Filed 1–27–83; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Bicycles From Taiwan; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of Preliminary Antidumping Determination.

SUMMARY: The preliminary antidumping determination involving bicycles from Taiwan is being postponed until not later than April 22, 1983

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Richard Rimlinger, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230, telephone: (202) 377–1766.

SUPPLEMENTARY INFORMATION: On October 21, 1983, we announced our initiation of an antidumping investigation to determine whether bicycles from Taiwan are being, or are likely to be, sold in the United States at less than fair value (47 FR 46873). The notice stated that we would issue a preliminary determination by March 3, 1983.

Section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act), provides that the Department of Commerce may postpone its preliminary determination if it concludes that the parties involved are cooperating in the investigation, if it determines that the case is extraordinarily complicated, and if additional time is needed to make the preliminary determination. We find these factors to exist in the present case. Specifically, we determine that the case is extraordinarily complicated by reason of the number and complexity of the transactions to be investigated and the large number of firms (eighteen) whose activities must be investigated. We intend to issue a preliminary determination not later than April 22, 1983

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: January 21, 1983.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc 83–2341 Filed 1–27–83 8:45 am]

BILLING CODE 3510–25–M

Sodium Nitrate From Chile; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: We have determined that sodium nitrate from Chile is being sold in the United States at less than fair value. The U.S. International Trade Commission (ITC) will determine within 45 days of publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, D.C. 20230 (202–377–3965).

SUPPLEMENTARY INFORMATION:

Case History

On April 12, 1982, we received a petition from Olin Corporation of Stamford, Connecticut, the domestic producer of sodium nitrate. The petition alleged that sodium nitrate from Chile is being, or is likely to be, sold in the United States at less than fair value, and that such sales are materially injuring, or are threatening to materially injure, a United States industry. The petitioner also alleged sales in the home market at prices below the cost of production, and that "critical circumstances," as defined in section 733(e) of the Tariff Act of 1930, as amended (the Act), exist in this case.

After reviewing the petition, we determined it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on May 6, 1982 (47 FR 19569). On June 3, 1982, the ITC subsequently found that there was a reasonable indication that imports of sodium nitrate from Chile were materially injuring or were threatening to materially injure a United Stated industry (47 FR 24234). Although the ITC treated sodium nitrate as a single product in its preliminary determination, it recognized in the opinion that the respondent made sodium nitrate in two different grades: "In the event that this case returns to the Commission for a final investigation, we will want to explore futher the substitutability among grades of sodium nitrate," (47 FR 24234). On August 10, 1982, we published a notice determining that this case was "extraordinarily complicated," as defined in section 733(c) of the Act (47 FR 34612). Therefore, we extended the period for making the preliminary determination by 50 days until November 8, 1982.

Questions were presented to Sociedad Quimica y Minera de Chile, S.A. (SQM), the respondent in this case, and to its attorney, on May 7, 1982. A response was received on July 2, 1982. SQM and its wholly owned U.S. subsidiary, CNSC, answered supplemental questions on August 18 and September 9, 1982, respectively. Verifications were conducted at the accounting offices of SQM in Antofagasta, Chile from August 30, 1982 through September 3, 1982 and at the headquarters of CNSC in Norfolk, Virginia on September 22, 1982, and September 23, 1982.

On November 8, 1982, we preliminarily determined that sodium nitrate from Chile is being, or is likely to be, sold in the United States at less than fair value (47 FR 51460). In the same publication we also made a negative determination of critical circumstances. Under § 353.40 of the Department's regulations one prerequistite to a finding of critical circumstances is that there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period. We checked recent importations of sodium nitrate from Chile through the date of publication of our preliminary determination and they are substantially level to that date. Because there have not been massive imports of the kind of merchandise which is subject to this investigation, we adhere to our negative determination.

In making the preliminary determination we used best evidence available where information in the response pertaining to adjustments was believed by the Department of Commerce to be incomplete, inaccurate or unverified. On November 10, 1982, we asked SQM and CNSC for additional information which would allow us to rely on verified business records. We used as much of their response as we could verify in the remaining time available prior to this final determination. See 19 CFR 353.51(b).

Our notice of preliminary determination provided interested parties with an opportunity to submit views orally and in writing. On December 2, 1982, we held a public hearing.

Scope of the Investigation

The following product, manufactured in two grades, is covered by this investigation:

Agricultural grade sodium nitrate (less than 98 percent pure) and industrial grade sodium nitrate (98 percent or more pure).

Sodium nitrate is classified under item 480.25 of the TSUS and is duty-free from all sources. SQM manufactures and exports all the sodium exported from Chile to the United States.

Sodium nitrate ($NaNO_3$) is a white solid which is moderately hygroscopic, i.e., capable of absorbing and retaining moisture, and is very soluble in an aqueous solution. Commercial sodium nitrate is manufactured from natural sources or synthetically. Although natural and synthetic sodium nitrates are produced by completely different processes, their chemical composition is almost identical and, for most users, the two are fungible. There are many applications for sodium nitrate. The chief use of the agricultural grade natural sodium nitrate is as a speciality fertilizer; the chief use of industrial grade is as an oxidizer and densifier in the manufacture of explosives.

Natural sodium nitrate, also known as Chile saltpeter or Chilean nitrate, occurs in nature, usually in deposits associated with sodium chloride, sodium sulfate, and other salts. Although many parts of the world may contain small deposits of natural sodium nitrate, the largest known deposit is located in northern Chile.

The period of investigation for Chilean sodium nitrate sold in the United States is from November 1, 1981 to April 30 1982.

Methodology of Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the Exporter's Sales Price (ESP) because SQM sold all of its merhandise to unrelated parties in the U.S. after the date of importation.

We calculated ESP on the basis of f.o.b. U.S. warehouse packed or unpacked prices, as appropriate, to unrelated purchasers. Where appropriate, we made deductions for insurance, ocean freight, inland freight, brokerage charges and discounts. We made additional deductions, where appropriate, for credit costs, warehousing costs, advertising, and general, selling and administrative expenses (such as salesmen's salaries, depreciation of office equipment, telephone, and postage, etc.) incurred by the related subsidiary on U.S. sales, but apportioned them only over reported sales of sodium and potassium nitrate in the United states.

Ocean freight and stevedoring and handling-in charges to the U.S. were aggregated by CNSC for all East and Gulf Coast ports and averaged over all East and Gulf Coast tonnage imported by CNSC. We requested and received actual ocean freight and stevedoring costs for each port and for each shipment. We deducted these actual costs rather than the average costs in our calculation of the U.S. price for each sale. Similarly, we requested and received handling-in charges by port of entry and deducted these rather than an overall average.

In Chile, where nitrate was shipped to coastal ports by vessel, SQM claimed indirect selling expenses for the department which procured ocean transportation and for inventory losses. These department expenses were also applicable to the expense of transporting nitrates to be sold in the United States. We deducted the expenses in the marked in proportion to the ratio of Chilean sales to worldwide sales of the product during the investigative period. We multiplied the same freight department expenses by the ratio of total U.S. sales for the agricultural grade and for the industrial grade in proportion to total world sales in the same period as in the home market.

Inventory losses (Castigo Existencias), which occur when bulk nitrates are dispersed by wind during loading and unloading or are left in the holds of ships or in railcars, were experienced in chile on the transfer of merchandise from the factory via rail and ocean freight. Inventory losses also occur in bringing the nitrates from the factory to the U.S. market using the same means of transport. In Chile, this loss was applicable only to agricultural grade since industrial grade is sold ex-factory or shipped via truck. In the United States it was applicable to both grades. The United States price includes adjustments for a pro-rata share of the ocean freight department and the inventory losses discussed above as expenses incident to bringing the merchandise from the place of shipment in the country of exportation of the place of delivery in the United States.

CNSC submitted supplementary documentation which revealed it paid for inventory loss expense in addition to the allocated amount. These were deducted pro-rata from the U.S. price for both grades. This will be discussed further in the "Respondents' Comments" section of this notice.

Foreign Market Value

The same grades of sodium nitrate were sold in the Chilean and U.S. markets in approximately the same quantities. We used home market prices to determine foreign market value. The petitioner alleged that sales in the home market were at prices below the cost of producing the two grades of sodium nitrate. We examined production costs for industrial and agricultural grade sodium nitrate which included all appropriate costs for materials, fabrication and general expenses. We included the costs for agricultural grade sodium nitrate produced at the Maria Elena plant, medical and voluntary severance expenses incurred at the Maria Elena and Pedro de Valdivia plants, and the Santiago office which were applicable to sodium nitrate. Financing costs were amended to include a pro rata part of interest expense which accrued from debt and which could not positively be identified with sales. We found there were sufficient sales of agricultural and industrial grade sodium nitrate made at or above cost to use them for price-to-price comparisons with sales in the U.S. market.

For agricultural grade sodium nitrate, home market prices were based on the delivered prices to unrelated purchasers except for one sugar growing cooperative. This firm was owned by the same holding company that owned SQM. However, we included its purchases because it purchased sodium nitrate at then current home market prices for unrelated purchasers. We made deductions where appropriate, for ocean and inland freight, advertising expenses, credit costs, commissions, discounts and rebates, except for warranty rebates. In addition, indirect selling expenses, which were less than the United States indirect selling expenses, were deducted.

For industrial grade sodium nitrate, home market prices were based on delivered or f.o.b. factory prices to unrelated purchasers, as appropriate. We made no deductions from home market prices for advertising, insurance, certain freight costs, credit costs, commissions, and certain indirect expenses. SQM had none of these expenses for this product in the home market. Where appropriate, an adjustment was made for differences in U.S. and home market packaging costs for agricultural and industrial grade sodium nitrate.

SQM identified nine discrete expenses which they requested that we treat as indirect selling expenses in the home market. The expense for data collection and processing (Secretaria, Estadistica y Sup.) was not deducted from foreign market value because we did not have

evidence that it was for an expense related to sodium nitrate sales rather than simply a general expense. Seven expenses relating to selling, shipping and technical advice on nitrate applications were included as part of the home market indirect selling expense. The expense for billing and collecting (Gastos Administracion Santiago) was also included as part of the market indirect selling expense.

We did not include home market warranty sales in calculating weighted-average home market prices. We were told that these were sales where the sodium nitrate became unfit for use after it was stored too long and for which rebates in varying amounts were given. These sales did not represent transactions at customary prices in the ordinary course of trade during the investigative period.

The original SQM response said that when industrial grade was sold bagged, it was packaged in 50 kilogram bags. During verification, while checking home market invoices, we found some instances of packaged industrial grade nitrate being sold in 80 kilogram bags. Fifty kilogram bag packaging costs more than 80 kilogram bag packaging. Although we know that some sales are packaged in 50 kilogram bags, we cannot make this distinction with the information available. Therefore, where there are packaging costs (sales other than bulk rates) for the industrial grade in home market, the packaging expenses associated with the 80 kilogram bags have been used in lieu of the greater expenses associated with the 50 kilogram bags.

We did not average the commissions paid by SQM over the volume sold as suggested by SQM in their response. We computed commissions based on verified commission rates paid on agricultural grade sodium nitrate sales for March through October, 1981, for November, 1981 through January, 1982, and for February, 1982 to the end of the home market period.

Bad debts were allowed as an indirect selling expense and not as a circumstance of sale, as claimed by the respondent. Bad debt expenses after February 1, 1982, were disallowed in the preliminary determination because we believed that the risk of debt loss after February 1 was borne exclusively by independent dealers. SQM has subsequently submitted documentation to show that the risk was SQM's both before and after February 1. Accordingly, we allowed for these costs as indirect selling expenses.

After the publication of the preliminary determination, we rechecked our computer print-out and observed that an allowable credit expense for the agricultural grade sodium nitrate sold in the home market was not accounted for. We notified the parties of the omission and have included this expense in the calculation of the final determination for the agricultural grade.

Verification

In accordance with section 776(a) of the Act, we verified the information from SQM and CNSC which was used in this determination. We verified the information received on cost of production, sales, and adjustments claimed. We were granted access to the books and records of both SQM and CNSC. We used standard verification procedures, including examination of accounting records, financial statements and selected documents containing relevant information.

Results of Investigation

We made fair value comparisons on all U.S. sales reported by CNSC. For agricultural grade (less than 98 percent pure) sodium nitrate, we have found that the foreign market value exceeded the United States price on 15.6 percent of the tons sold. These margins ranged from 0.96 to 13.4 percent. The overall weighted-average margin on all agricultural grade sales is $0.45 per short ton.

For industrial grade (98 percent or more pure) sodium nitrate, we have found that the foreign market value exceed the United States price on 100 percent of the tons sold. These margins ranged from 16.1 to 101.7 percent. The overall weighted-average margin on all industrial grade sales is $39.08 per short ton.

Petitioner's Comments

Comment 1

The Department of Commerce (DOC) should not have allowed the total amount claimed by SQM as indirect expenses applicable to agronomists in the home market and deducted in calculating the foreign market value. These expenses should be apportioned to sodium nitrate sales throughout the world because the agronomists' information benefits all users of sodium nitrate.

DOC Position

We do not have any evidence that application information developed by SQM agronomists in Chile is used outside the home market. Sodium nitrate has been used for agricultural purposes for over a century. Beyond information on application to specific crops in specific soils, we are not aware of the activities that these agronomists could provide to users of sodium nitrate that have not been developed already.

Comment 2

The DOC overstated the U.S. price because it apparently apportioned total general, selling and administrative costs according to a formula proffered by CNSC. This procedure excessively shifted these costs to iodine and away from nitrates.

DOC Position

We have not used the proffered formula. We allocated general, selling and administrative expenses to iodine in proportion to total iodine sales by CNSC divided by total sales by CNSC. These sales figures were taken from CNSC's most recent audited financial statement and appear to be most reasonable way of making this allocation from verifiable data.

Comment 3

CNSC printout of sales in the United States is unreliable because: (a) reports of a shipment of agricultural grade sodium nitrate from Chile on February 10, 1981 to the United States and sold in the investigative period were omitted from the original submission, (b) a substantial number of sales in the U.S. to unrelated parties preceded the stated date of export from the home market, (c) a significant number of sales in the U.S. were made less than two weeks after the date of export, and (d) there was a resubmission of data which revised, but did not eliminate, the errors alleged above. CNSC's only explanation was that the new submission was basd on "lifo layering." This explanation did not satisfactorally explain away the original errors.

DOC Position

We agree with the petitioner's observations. The non-confidential version of the most recently submitted printout had export date inconsistencies which were explained in a second resubmission on January 10, 1983, as being derived from the data originally submitted.

On December 10, 1982, respondents' counsel wrote DOC and said in part:

Some of the dates of exportation corresponding to sales of sodium nitrate in the United States were incorrect. Upon review, it was discovered that some sales in the United States correspond to a shipment of agricultural sodium nitrate which was exported from Tocopilla, Chile, on board the M/S Unity, on February 10, 1981, approximately one month prior to the period

of investigation of home market sales of agricultural grade.

We will provide a corrected computer printout for the above sales in the United States. The only changes from the original printout will be in the columns for the dates for exportation and importation, the customs entry numbers, and the ocean freight charges. There are no changes to the handling-in charges. Each changed transaction will be identified on the new printout.

Although the changes in the transactions do not appear to have been identified in the new submission, a brief cross check with the initial CNSC submission of July 2, 1982, confirmed that columns of data, other than those mentioned above, were unchanged. However, ocean freight in the new submission was substantially less than the amounts we previously had verified. Furthermore, the data submitted did not have any export dates which preceeded the dates originally submitted. In particular, there were no exports listed which were traceable to the M/S Unity of February 10, 1981.

We do not believe that the newly revised U.S. sales submission is more reliable than the original data submission under these circumstances. We are using the originally submitted data of July 2, 1982, for our final computation. The initial submission does represent the best information we have available. Nevertheless, we will need to reexamine the appropriateness of respondent's export date methodology and ocean freight computation if we have to conduct an administrative review in this case under section 751 of the Act.

Respondents' Comments

Comment 1

DOC incorrectly calculated the packaging costs for industrial grade sodium nitrate sold in the home market.

DOC Position

We observed during verification that for the industrial grade sodium nitrate which was packaged and sold in the home market, both higher cost 50 kg packaging and lower cost 80 kg packaging were used. The original response claimed that industrial grade packaging was only done in 50 kg. bags. We requested additional invoice documentation to determine which packaged industrial grade sales were in each size bags; SQM did not provide this information. In the absence of documentation on the size of bags used for each packaged industrial grade sodium nitrate sale in the home market, we cannot allow an adjustment for more than the lower cost package.

Comment 2

DOC stated in the preliminary determination that CNSC's general selling, administrative and advertising expenses were apportioned over agricultural and industrial grades of sodium nitrate sold in the United States and not over all nitrates sold in the U.S. and Canada (CNSC's territory). This should be corrected to reflect a proper allocation of these expenses over all the merchandise for which they were incurred.

DOC Position

During verification, CNSC represented that its shipments records corresponded with sales data for the ESP period. We cross-checked this representation and found it to be incorrect. CNSC recently compiled its overall sales data for the ESP period pursuant to our request. We sampled fifteen invoices of sales of industrial grade sodium nitrate, allegedly to destinations in Canada. Five of the fifteen were to U.S. destinations. Four of the five had not been reported as U.S. sales of sodium nitrate and one of the five was twice counted, once as a U.S. sale and also as a Canadian sale. We have sampled invoices from the more than 3000 sales that were reported as sodium nitrate sales in the United States during the investigative period and found no inconsistencies for the sale date, quantity, and price. Based on this we believe that those U.S. sodium nitrate sales which were reported are, for the most part, complete.

Similarly, we have sampled invoices of potassium nitrate and found them to compare with CNSC reports of its sales of this product substantially accurately. We have included U.S. sales of potassium nitrate in determining the basis over which general, selling and administrative expenses are allocated and for determining the basis over which advertising expense for agricultural grade sodium nitrate is allocated. However, we cannot allow the above-stated expenses to be allocated over a broader base of alleged sales in view of the Canadian sales anomalies found. A more extensive sampling of invoices will be required if we have to conduct an administrative review in this case under section 751 of the Act.

Comment 3

DOC should allow an adjustment in the home market for higher commissions attributable to credit sales after February 1, 1982.

DOC Position

The information which the respondent requests us to incorporate into our calculations was recently received by DOC. We have verified that these commissions were paid at the stated rate by sampling dealer invoices. We made the adjustment requested.

Comment 4

DOC should disregard sales of agricultural grade sodium nitrate sold in the home market between February 10 and March 15, 1981. This group of sales was added to the home market period when CNSC revised the dates of export corresponding to U.S. sales. The time period involved is late summer in Chile when sales of agricultural grade sodium nitrate are slack. The change in weighted-average home market sales is *de minimus*.

DOC Position

We have disregarded these sales for reasons stated in our response to Petitioner's Comment 3, not because the hundreds of sales reported for this time period were *de minimus*. Both the originally submitted data and the revised data recently submitted disclose no exports of nitrates to the United States in this interval.

Comment 5

DOC incorrectly disallowed adjustments to home market prices for billing and collecting and data collection and processing. These two expenses were as much indirect selling expenses as the seven indirect expenses allowed by DOC. They are a necessary part of the sales activity since they are intimately a part of the marketing activity.

DOC Position

DOC regulation 19 CFR 353.15(c) allows "all actual selling expenses incurred in the home market." This does not include general expenses such as data processing. We do not have evidence that data processing was a selling and not a general expense. However, we have allowed for the billing and collecting expenses because of the correspondence between billing and collecting and specific sales in the period.

Comment 6

DOC should allow certain bad debt expenses in the home market that were disallowed in the preliminary determination computations. The premise that DOC started from, that the independent dealers of agricultural grade sodium nitrate were getting a

higher commission exclusively for carrying the risk of credit sales after February 1, 1982, was incorrect. SQM carried the same bad debt risk both before and after February 1, 1982. The independent dealers were liable as guarantors to SQM for the bad debt of farmers both before and after February 1, 1982. Official court forms, "protestos", were submitted to show this liability for the 1981 bad debts. SQM has had and still has a bad debt expense for agricultural grade sales on credit even though the debts are guaranteed by the dealers.

DOC Position

In discussing the sales commission, SQM wrote in its narrative response of July 2, 1982, that the two-tier commission was established after February 1, 1982. "A larger commission is given to the sales agents for sales on credit because the sales agent acts as a guarantor for the payment." We understood this to insulate SQM from bad debt risk after February 1, but in view of the earlier protestos showing that the sales agent acted as a guarantor for payments prior to February 1 as well, we now understand that this risk did not change with the initiation of the two-tier commission system. The bad debt expense incurred after February 1, 1982, has therefore been allowed for the final determination calculation.

Comment 7

DOC attributed to CNSC a pro-rata share of the expenses of the SQM department which procures ocean transportation for sodium nitrate and this was allocated and deducted from CNSC's selling prices in the United States by DOC. Because they were incurred by SQM and not billed to or paid for by CNSC, these are not expenses which should be deducted from the ESP price under section 772(d)(2)(A) as incidental to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States. The purpose of this section is to require downward adjustment to the U.S. price for variable charges incurred after the merchandise has left the factory, such as loading charges and ocean freight.

DOC Position

To the extent that the Servicios Maritimos is acting as the agent of CNSC in arranging for merchandise to be shipped by chartered vessels to the United States, it is absorbing a general expense on CNSC's behalf. In order for CNSC to obtain sodium nitrate, this expense must be incurred somewhere in the related corporate structure. The fact that SQM elected to consolidate this activity in Chile does not shift the proportional allocation of this expense for shipments to the United States of sodium nitrate. This is a general expense of selling in the United States which is not reported on the books of CNSC. However, it has been deducted as another U.S. selling expense in the valuation of ESP because it a necessary expense of such U.S. sales.

Comment 8

DOC should not allocate SQM's inventory loss on a pro-rata basis distribution to the U.S. sales of CNSC. This is a fixed, indirect selling expense which must not be deducted as an ESP circumstance of sale adjustment. The expenses of the exporter and importer are separate and distinct. No pro-rata share of these expenses may be imputed to either exporter or importer. CNSC and its Chilean parent have a contract which limits CNSC's liability to a certain fixed maximum per year for inventory loss. SQM absorbs the excess. By a letter dated December 10, 1982 (at page 6), counsel for SQM informed DOC that there were no inventory losses for the agricultural grade and there were losses in excess of the contract amount for the industrial grade.

DOC Position

There exists an SQM expense category which we verified for world-wide inventory loss in shipping sodium nitrate from Tocopilla, Chile. Some of this loss occurs for shipping merchandise to other ports in Chile and has been allocated to these shipments. The balance of the fund is attributed to worldwide sales and has been allocated pro-rata to U.S. sales. Expenses for bringing the merchandise to the place of delivery are an adjustment to the U.S. price. Contractual payment arrangements between related companies do not preclude DOC from making an adjustment for these expenses. The expenses which CNSC incurred and paid under the contract are in addition to the inventory loss paid by SQM. The contract expresses this as an annual amount.

We divided this in half because the ESP period was for only six months. We allocated it over both agricultural and industrial grade sodium nitrate because we did not receive enough business records to verify how this contractual expense was incurred.

Comments by Both Parties on Cost of Production Methodology

Respondents'.Comment

DOC overstated the cost of production because it included certain costs that should have been excluded as extraordinary for medical expenses, short-term production at a high cost mine and voluntary severance pay.

Petitioner's Comment

DOC understated the cost of production because it failed to account for the unreimbursed housing expenses of workers' families at the mines which is a direct labor cost.

DOC Position

In viewing the general environment (geographic location, extent of government involvement, labor and corporate practices and conditions) in which SQM operates, the DOC concluded that the production of sodium nitrate from the Maria Elena plant, medical expenses, voluntary severance pay, and workers' housing expenses were ordinary, typical and in some instances ongoing activities of SQM business operations. Additionally, events which were not an ongoing activity had been experienced by the company at least on a number of occasions and, because of the general business environment, might be anticipated by management, to recur in the future. Therefore, since such costs were usual in nature and could be expected to recur in the ordinary course of business, the Department included such expenses in the "cost-of-production."

The petitioner alleges that the cost-of-production had been understated because DOC failed to include unreimbursed housing expenses of workers' families at the mines as a direct labor cost. All costs of housing had been included in the initial calculation of cost-of-production. The costs of housing was not cited in the preliminary determination because the respondent had not specifically requested that such costs be excluded from the calculation of production costs.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that sodium nitrate from Chile is being sold in the United States at less than fair value within the meaning of section 731 of the Act.

Continuation of Suspension of Liquidation

Liquidation will continue to be suspended on all entries of sodium nitrate that are entered into the United States, or withdrawn from warehouse, for consumption. The U.S. Customs Service will continue to require the posting of a cash deposit, bond, or other security in the amount of $0.45 for agricultural grade sodium nitrate and $39.08 for industrial grade sodium nitrate. The security amounts established in our preliminary determination of November 8, 1982, are no longer in effect.

ITC Notification

We are notifying the ITC and making available to it all non-privileged and non-confidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping order directing Customs officers to assess an antidumping duty on sodium nitrate from Chile entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Dated: January 21, 1983.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 83-2340 Filed 1-27-83; 8:45 am]

BILLING CODE 3510-25-M

Connecticut-Health Laboratory et al.; Applications for Duty-Free Entry of Scientific Instruments

The following are notices on the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with Subsections 301.5(a)(3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 2097, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83-89. Applicant: State of Connecticut-Health Laboratory, 10 Clinton Street, P.O. Box 1689, Hartford, Conn. 06101. Instrument: Electron Microscope, JEM-100CX SEG and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of Instrument: The instrument is intended to be used for analysis of water and environmental samples for asbestos content. Application received by Commissioner of Customs: January 18, 1983.

Docket No. 83-93. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Instrument: Heating Stage for Electron Microscope, Model #200CX-SHTH. Manufacturer: JEOL Limited, Japan. Intended use of Instrument: The instrument is an accessory to an electron microscope which will be used for graduate student thesis research in Materials Science and Engineering. The objective of the graduate thesis requirement is to provide students with an in-depth research experience that allows them to develop into independent researchers who are capable of contributing positively to a research problem of consequence to the scientific/engineering community. Application received by Commissioner of Customs: January 13, 1983.

Docket No. 83-104. Applicant: North Carolina State University, P.O. Box 5935, Raleigh, NC 27650. Instrument: Seven Day Recording Volumetric Spore Traps, Battery Pump and Additional Drum and Tape. Manufacturer: Burkard Manufacturing Company, United Kingdom. Intended use of Instrument: The instrument is intended to be used in a long-range study to determine the effects of Cercospora leafspot on yield losses and longevity of plantations, especially as it relates to planting sites and occurrence of Fusarium wilt and root rots. Basic information from these studies would have application for controlling leafspot diseases of cucumber, carrot and other crops. Application received by Commissioner of Customs: January 17, 1983.

Docket No. 83-107. Applicant: Georgia State University, Department of Biology, University Plaza, Atlanta, GA 30303. Instrument: Electron Microscope, Model JEM-100CXII/SEG with Accessories. Manufacturer: JEOL Limited, Japan. Intended use of Instrument: The instrument is intended to be used in the investigation of the ultrastructure and function of various biological materials, including plant, animal, and microbial cells, subcellular organelles, viruses and biolgical macromolecules. The article will also be used in various Biology courses to provide the students with sufficient expertise in transmission electron microscopy and the ancillary preparative techniques to enable them to conduct ultrastructural investigations in their specific research area. Application received by Commissioner of Customs: January 14, 1983.

Docket No. 83-113. Applicant: Lovelace Biomedical and Environmental Research Institute, Building 9200, Area Y, Kirtland Air Force Base, East, Albuquerque, NM 87115. Instrument: Electron Microscope, Model EM 109 with 60-Degree Goniometer and Accessories. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of Instrument: The instrument is intended to be used in on-going research on the toxicity of inhaled materials. The materials to be studied include aerosols from nuclear fuel cycles (e.g. cesium, uranium, plutonium americium, curium) and other energy related activities such as coal combustion or operation of diesel engines. The studies will be conducted to improve human health risk estimates for the various energy related activities. Application received by Commissioner of Customs: January 13, 1983.

Docket No. 83-114. Applicant: Indiana University, 1101 E. 17th Street, Bloomington, IN 47405. Instrument: Electron Microscope, Model JEM-100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of Instrument: The instrument is intended to be used for research designed to result in new basic information concerning the structure and function of cells. In addition, the instrument will be used for educational purposes in courses designed to acquaint students with both

the theoretical and practical aspects of electron microscopy for their future use in careers in branches of experimental or clinical science. Application received by Commissioner of Customs: January 13, 1983.

DOCKET No. 83–118. Applicant: Hendrick Medical Center, Department of Pathology, 19th and Hickory Streets, Abilene, TX 79601. Instrument: Electron Microscope, EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of Instrument: The instrument is intended to be used to examine biological material including human tissue, body fluids, cyotology specimens and microbiological materials, i.e. bacteria, viruses, fungi and chlamydiae during various research studies. Application received by Commissioner of Customs: January 18, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

[FR Doc 83–2342 Filed 1–27–83; 8:45 am]

BILLING CODE 3510–25–M

Dairy Products From the European Communities; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Revocation of Countervailing Duty Order.

SUMMARY: As a result of a request by the Delegation of the Commission of the European Communities, the International Trade Commission conducted an investigation and determined that revocation of the countervailing duty order on dairy products from the European Communities would not cause injury to an industry in the United States. The Department of Commerce consequently is revoking the countervailing duty order.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth K. Haldenstein or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; (202) 377–2786.

SUPPLEMENTARY INFORMATION: On May 19, 1975, the Department of the Treasury published in the **Federal Register** (T.D. 75–113, 40 FR 21719) a final countervailing duty determination on dairy products from the European Communities. Treasury issued a waiver of collection of countervailing duties, under the authority of section 303(d) of the Tariff Act of 1930, at the same time (T.D. 75–114, 40 FR 21720).

Since the member states of the European Communities were "countr[ies] under the agreement" as of January 1, 1980, the Department referred the case to the International Trade Commission ("the ITC") for an injury investigation pursuant to section 104(a)(1) of the Trade Agreements Act of 1979 ("the TAA"). The ITC published a notice in the **Federal Register** of July 2, 1980 (45 FR 45034) announcing a negative injury decision for one of the covered categories of dairy products, non-quota cheese.

On December 22, 1982, the ITC published a notice in the **Federal Register** (47 FR 57134) announcing a negative injury decision for the remaining products in the case. As a result, the Department is revoking the countervailing duty order concerning dairy products from the European Communities.

The Department will instruct the Customs Service to continue liquidation of all such entries without regard to countervailing duties.

This revocation and notice are in accordance with section 104(a)(3)(B) of the TAA (19 U.S.C. 1671 note).

Dated: January 23, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83–2466 Filed 1–27–83; 8:45 am]

BILLING CODE 3510–25–M

Ferroalloys from Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on ferroalloys from Spain. The review covers the period January 1, 1980 through December 31, 1981. As a result of this review, the Department has preliminarily determined the amount of the net subsidy for 1980 to be 3.09 percent of the f.o.b. invoice price of ferromanganese with a carbon content of 2 percent or less and 2.14 percent of the f.o.b. invoice price of all other ferroalloys subject to the order, and for 1981, 2.61 percent of the f.o.b. invoice price of all ferroalloys subject to the order. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Charles Anderson or Laura Kneale, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 2, 1980 the Department of the Treasury ("Treasury") published in the **Federal Register** (T.D. 80–11, 45 FR 25) an affirmative final countervailing duty determination on ferroalloys from Spain. The notice stated that the Government of Spain has provided bounties or grants on the manufacture, production or exportation of such merchandise within the meaning of section 303 of the Tariff Act of 1930 ("the Tariff Act"). Because the notice was signed on December 28, 1979, the Department of Commerce ("the Department") considers this an order instituted under the Tariff Act prior to its amendment by the Trade Agreements Act of 1979 ("the TAA").

On January 1, 1980, the provisions of title I of the TAA became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from Treasury to the Department. The Department published in the **Federal Register** of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has now conducted an administrative review of the order on ferroalloys from Spain.

Scope of the Review

Imports covered by the review are ferroalloys, imported directly or indirectly, from Spain. Such imports are currently classifiable under the following items of the Tariff Schedules of the United States Annotated: ferrochrome (over 3% carbon), 606.2400; ferromanganese (over 4% carbon), 606.2800; ferromanganese (over 4% carbon), 606.3000; ferrosilicon manganese, 606.4400; and ferrosilicon (60–80% silicon), 606.3600 and 606.3700.

The review covers the period January 1, 1980 through December 31, 1981, and the following programs: (1) a rebate upon exportation of indirect taxes, under the Desgravacion Fiscal a la Exportation ("DFE"); and (2) an operating capital loans program. The only two known exporters of this merchandise to the United States are Hidro Nitro Espanola, S.A., and S.E. Carburos Metalicos, S.A.

Analysis of Programs

1. Desgravacion Fiscal a la Exportacion ("DFE")

Spain employs a cascading tax system. Under this system, the government levies a turnover tax ("IGTE") on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation of the product, the Government, under the DFE, rebates both these accumulated IGTE indirect taxes and final stage taxes.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act allows the rebate of only the following: (1) Taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of the Commerce Regulations). If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation is a question of fact to be determined for each product in each case. In this case, the physically incorporated inputs are the raw materials previously allowed by Treasury plus the portion of carbon which was physically incorporated. We have decided that carbon should be treated as an allowable input because the respondents have been able to show that the element is present in the final product. Thus, it meets the criteria of physical incorporation as established by the Tariff Act (see notice of "Final Results of Administative Review of Countervailing Duty Order" on oleoresins from Spain, 47 FR 11916). However, since carbon also functions as a reducing agent, we will not allow as necessary waste that part which is utilized in production but not present in the final product.

The rebate of three final stage taxes, the parafiscal tax on export licenses, the tax on export freight and insurance, and the tax surcharge on metal products ("the Juan de la Cierva"), is also allowable when calculating whether or not there is an overrebate of indirect taxes under the DFE.

Based upon our analysis of the DFE and the allowable indirect taxes, we preliminarily determine that an overrebate upon export existed in 1980 in an amount equal to 2.59 percent of the f.o.b. invoice price of ferromanganese with carbon content of 2 percent or less, and 1.64 percent of the f.o.b. invoice price of all other ferroalloys subject to the order.

As of January 1, 1981, the Spanish government increased the IGTE rate from 2.4 percent to 3.8 percent while maintaining the previous rate for the export rebate. Based upon our analysis of the indirect taxes on physically incorporated inputs and the three indirect taxes on the final product, we determine that the change in aggregate indirect tax incidence has eliminated the overrebate previously found countervailable; therefore, we preliminarily determine the net subsidy attributable to this program during 1981 to be zero percent.

2. Operating Capital Loans

The Spanish government requires banks to set aside funds to provide short-term operating capital loans. These loans are granted for a period of less than one year. In 1980, the Spanish government fixed the interest rate for such loans at 8 percent, which was 1.5 percent below the legally established commercial interest rate of 9.5 percent. Effective March 1, 1981, the Spanish government increased the interest rate on operating capital loans from 8 to 10 percent while eliminating the interest rate ceiling on comparable short-term commercial loans. To determine the interest rate on comparable commercial loans for the remaining 10 months in 1981, we took the average national prime interest rate for loans of comparable length, added the prevailing interest charge over prime facing borrowers of average creditworthiness and added the legally established fees and commissions. Comparing this benchmark with the 10- percent interest rate established for the operating capital loans program, we found a differential of 9.45 percent after March 1.

The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports. This amount may be increased by 10 percent if the firm has a government-issued Exporter's Card. Both ferroalloys firms have such a card, and thus maximum eligibility until November 1981 was 30 percent. Effective November 21, 1981, the Spanish government decreased the maximum eligibility (including Exporter's Card eligibility) to 24 percent. Because we have no information on actual utilization of this program by the two firms, we assumed that the maximum allowable amount was borrowed. After prorating for the interest rate differentials and eligibility levels prevailing in 1981, we preliminarily determine the net subsidy conferred under this program to be 0.50 percent of the f.o.b. invoice price of the merchandise for 1980, and 2.61 percent for 1981.

Effective April 20, 1982, the Spanish government reduced the maximum percentage of eligibility for operating capital loans to 22.8 percent. As a result, using the same methodology and calculating the interest rate differential for the first five months of 1982, we preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that the net subsidy attributable to this program is 2.31 percent *ad valorem*.

Verification

We verified the submissions of the Spanish government through access to company books and records. Documents examined included production and export records, company financial statements and cost structure records.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the aggregate net subsidy conferred during 1980 by the two programs is 3.09 percent *ad valorem* for ferromanganese of not more than 2 percent carbon and 2.14 percent *ad valorem* for all other ferroalloys subject to the order. For 1981, we preliminarily determine that the aggregate net subsidy conferred is 2.61 percent *ad valorem* for all ferroalloys subject to the order. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 3.09 percent of the f.o.b. invoice price on all shipments of Spanish ferromanganese consisting of 2 percent or less carbon, and 2.14 percent of the f.o.b. invoice price on all shipments of all other ferroalloys subject to the order, entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980. The Department also intends to instruct the Customs Service to assess countervailing duties of 2.61 percent of the f.o.b. invoice price on all shipments of Spanish ferroalloys subject to the order exported on or after January 1, 1981 and on or before December 31, 1981.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 2.31 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This

deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: January 23, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-2467 Filed 1-27-83; 8:45 am]

BILLING CODE 3510-25-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance; Decitek Corp. et al.

Petitions have been accepted for filing from the following firms: (1) Decitek Corporation, 129 Flanders Road, Westborough, Massachusetts 01581, producer of perforated tape readers (accepted January 3, 1983); (2) Georgian Lighting Studios, Inc., 100 8th Street, Passaic, New Jersey 07055, producer of lamps, chandeliers, furniture and decorative accessories (accepted January 4, 1983); (3) McGrath Sales, Inc., 1517 Washington Avenue, St. Louis, Missouri 63103, producer of sewing machines (accepted January 4, 1983); (4) N. H. Wright, Inc., P.O. Box 328, Cranbury, New Jersey 08512, producer of cut flowers (accepted January 4, 1983); (5) William Kay Manufacturing Company, 1401 Armour Road, North Kansas City, Missouri 64116, producer of men's and boys' coats, jackets, slacks, and shorts (accepted January 4, 1983); (6) Minotola Industries, Inc., 410 South 4th Street, Vineland, New Jersey 08360, producer of women's jackets, blouses, shirts and pants; and men's jackets (accepted January 5, 1983); (7) Zenith Handbag Corporation, 6 West 32nd Street, New York, New York 10001, producer of handbags (accepted January 5, 1983); (8) Harvey Industries, P.O. Box 168, Clarksburg, West Virginia 26302, producer of illuminating glassware (accepted January 5, 1983); (9) McFarland Cascade, P.O. Box 670, Sandpoint, Idaho 83864, producer of lumber and other wood products (accepted January 6, 1983); (10) J.B. Dask Corporation, Route 35, Townshend, Vermont 05353, producer of vests and jackets for men, women, and children (accepted January 6, 1983); (11) L. B. Industries, Inc., 4545 Brazil Street, Los Angeles, California 90039, producer of ceramic tile (accepted January 6, 1983); (12) International Leatherwares Corporation 1 East 33rd Street, New York, New York 10016, producer of leather handbags, belts and accessories (accepted January 10, 1983); (13) Eastern Reproduction Corporation, 1250 Main Street, Waltham, Massachusetts 02154, producer of printed circuit boards and jewelry etchings (accepted January 10, 1983); (14) L. & Z. Kamman Company, Inc., 90 Mechanic Street, Gardner, Massachusetts 01440, producer of wood chairs (accepted January 10, 1983); (15) Moore Brothers, Inc., 48 Park Street, Beverly, Massachusetts 01915, producer of women's pants, skirts, tops and blazers (accepted January 10, 1983); (16) Fischer Chair Company, Inc., 208 Main Street, Tell City, Indiana 47586, producer of wood chairs and stools (accepted January 10, 1983); (17) U.S. Pottery Manufacturing, Inc., P.O. Box 167, Paramount, California 90723, producer of ceramic gardenware (accepted January 10, 1983); (18) Guterl Special Steel Corporation, P.O. Box 509, Lockport, New York 14094, producer of specialty steel (accepted January 10, 1983); (19) Truluck Vineyards Winery, Drawer 1265, Lake City, South Carolina 29560, producer of wine (accepted January 19, 1983); (20) Life Manufacturing Corporation, P.O. Box 1178, Caguas, Puerto Rico 00625, producer of men's shirts and pants (accepted January 11, 1983); (21) J. G. Tilp, Inc. 80 Milltown Road, Union, New Jersey 07087, producer of injection molds (accepted January 12, 1983); (22) Clover Knitting Mills, Inc., M Street and Erie Avenue, Philadelphia, Pennsylvania 19124, producer of men's, women and boys' sweaters (accepted January 12, 1983); (23) June Sportswear Company, Inc., Ten West Street, Boston, Massachusetts 02111, producer of women's slacks and shirts (accepted January 13, 1983); (240) Bettencourt Tanning Company, Inc., 340 Merrimack Street, Lawrence, Massachusetts 01843, producer of leather (accepted January 17, 1983); (25) Owens Handle Company, Inc., 4200 North Frazier Street, Conroe, Texas 77301, producer of wood handles (accepted January 17, 1983); (26) Plimoth Coal Stove Works, Inc., 37 Country Road, Plympton, Massachusetts 02367, producer of coal-burning stoves (accepted Janaury 17, 1983); (27) Hamilton Allied Corporation, 1551 Lincoln Avenue, Hamilton, Ohio 45011, producer of iron castings (accepted January 17, 1983); (28) Valley Knitting Mills, P.O. Box 158, Haskell, New Jersey 07420, producer of men's and women's sweaters (accepted january 18, 1983); (29) Whiteman Enterprise, 13020 Pierce Street, Pacoima, California 91331, producer of concrete pumps (accepted January 18, 1983); (30) American Manufacturing Company, Inc., 206 Willow Avenue, Honesdale, Pennsylvania 18431, producer of rope, twine and stripping (accepting January 19, 1983); (31) Armour Porter Corporation, Creeper Hill Road, North Grafton, Massachusetts 01536, producer of machinery parts and pressure vessels (accepted January 20, 1983); and (32) Cuba Specialty Manufacturing Company, Inc., Box 195, Fillmore, New York 14735, producer of crab and minnow traps, and eel pots (accepted January 21, 1983).

the petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalogue of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment assistance. In as far as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget

Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR doc 83–2465 filed 1–27–83; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Statement of Organization, Practices and Procedures (SOPP's); Revision

Pursuant to section 302(f)(6) of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), each Regional Fishery Management Council is responsible for determining its organization and prescribing its practices and procedures for carrying out its functions under the Act, in accordance with such uniform standards as are prescribed by the Secretary of Commerce. This document represents a revised portion to Section V, "Officers and Terms of Office," of the Mid-Atlantic Fishery Management Council's SOPP's, originally published in 46 FR 62674–62679, December 28, 1981. The revised portion of the document is published below. All other portions of the text as originally published remain unchanged.

(Dated: January 25, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

V. Officers and Terms of Office

A. General. A Chair and a Vice Chair shall be elected annually in September by the voting members of the Council; each such officer shall serve for a period of one year and until a successor is elected and qualified. Officers may succeed themselves. A recording secretary may be appointed by the Chair for a term of one year. The Council may elect other officers as it deems necessary.

1. Nominations. The Chair shall appoint a Nominating Committee, who shall make its nominations at the beginning of the election process. Following the Committee's nomination, any voting member may nominate additional candidates from the floor. When nominations are closed the election shall be held.

2. Elections. The election of Chair will be held first, followed by the election for Vice-Chair. If only one candidate is nominated for an office, the Chairman of the Nominating Committee shall cast all votes for that candidate. If there are two or more candidates, the election shall be by secret ballot with the votes tabulated by 2 or more Tellers appointed by the Council Chair. The Tellers shall use the following rules to determine the winning candidate:

a. To win, a candidate must receive a majority of the votes cast.

b. If no candidate receives a majority of the votes, the Tellers shall declare no election. If there are more than two candidates, the candidate receiving the lowest number of votes shall be dropped from consideration and a vote will be taken for the remaining candidates. This process will continue until a candidate receives a majority of the votes cast.

c. Those preferring not to vote for any candidate shall check "ABSTAIN" on the ballot.

d. The number of ballots cast for an individual shall not be announced. Any Council member who questions the result may review the ballots. The vote of any Council member shall not be identified nor made public in any respect.

[FR Doc 83–2485 Filed 1–27–83; 8:45 am]

BILLING CODE 3510–22–M

Receipt of Application for Permit; Knowsley Safari Park

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Knowsley Safari Park (P314).

b. Address: Prescot, Nr. Liverpool, Merseyside L34 4AN, United Kingdom.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphin (Tursiops truncatus), 3.

4. Type of Take: Capture for permanent maintenance.

5. Location of Activity: West Coast of Flordia.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A. certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Department of the Environment, United Kingdom have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702

Dated: January 25, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc 83–2486 Filed 1–27–83; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant Revlon, Incorporated, having a place of business at New York City, New York 10153 an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Hepatitis B Immune Globulin Used to Inactivate Hepatitis B Virus in Injectable Biological Products," U.S. Patent No. 4,346,073 (dated August 24, 1982). The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, P.O. Box 1423, Springfield, Virginia 22151. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: January 19, 1983.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 83–2293 Filed 1–27–83; 8:45 am]

BILLING CODE 3510–04–M

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Revlon, Incorporated, having a place of business at New York City, New York 10153 an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Inactivation of a Lipid Virus," Patent Application No. 6–386,991 (dated June 10, 1982). The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1 The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interst.

Inquires, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, P.O. Box 1423, Springfield, Virginia 22151. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: January 19, 1983.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 83–2293 Filed 1–27–83; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondents; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Air Force Academy Candidate Personal Data Record (USAFA Form 146)

This information is needed by Academy admission officials to evaluate the personal background of each applicant for admission to the Academy. The information collection applies to approximately 10,000 youths, age sixteen to twenty-one, who have applied for admission to the Academy: 10,00 responses; 5,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD, DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

(A copy of the information collection proposal may be obtained from Maj. Daniel J. Flaherty, Jr., United States Air Force Academy, Colorado Springs, CO 80840, telephone (303) 472–3071)

Dated: January 25, 1983.

M. S. Healy,

ODS Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–2460 Filed 1–27–83; 8:45 am]

BILLING CODE 3910–01–M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondents; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Air Force Academy Candidate Activities Record (USAFA Form 147)

This information is needed by Air Force Academy Admission officials to evaluate each candidate's participation in high school extracurricular activities. Participation and leadership in high school activities are good predictors of success as a cadet. It applies to approximately 10,000 youths, age sixteen to twenty-one, who have applied for admission to the Academy: 10,000 responses; 5,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD, DIRMS, IRAD, Room

1A658, Pentagon, Washington, D.C. 20301, Telephone (202) 697–1195.

(A copy of the information collection proposal may be obtained from Maj Daniel J Flaherty, Jr., United States Air Force Academy, Colorado Springs, CO 80840. Telephone (303) 472–3071)

Dated: January 25, 1983.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc 83–2459 Filed 1–27–83; 8:45 am]

BILLING CODE 3910–01–M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to made of the information collected; (4) Type of respondents; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Air Force Academy Request for Secondary School Transcript (USAFA Form 148)

This information collection is necessary to evaluate each candidate's academic qualifications for admission to the Academy. Data is collected from candidates for admission and high school officials: 10,000 responses; 3,333 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD, DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

(A copy of the information collection proposal may be obtained from Maj. Daniel J. Flaherty, Jr., United States Air Force Academy, Colorado Springs, CO 80840, telephone (303) 472–3071.)

Dated: January 25, 1983.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc 83–2462 Filed 1–27–83; 8:45 am]

BILLING CODE 3910–01–M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondents; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Air Force Academy Precandidate Questionnaire (USAFA Form 149)

This information is needed to allow Academy admission officials to make a preliminary assessment of a precandidate's prospects for admission to the Academy. It applies to approximately 17,000 youths making an initial application for admission to the Academy: 17,000 responses; 8,500 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD, DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

(A copy of the information collection proposal may be obtained from Maj. Daniel J. Flaherty, Jr., United States Air Force Academy, Colorado Springs, CO 80840, telephone (303) 472–3071)

Dated: January 25, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc 83–2461 Filed 1–27–83; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Army Science Board, Functional Subgroup on Planning, Concepts, and Management Support; Notice of Meeting Changes

The following changes have occurred to the meeting of the Army Science Board Functional Subgroup on Planning, Concepts, and Management Support which was announced in the **Federal Register** issue of 28 December 1982 (47 FR 57749):

Dates of meeting: Thursday and Friday, 10 and 11 February 1983 (instead of Tuesday and Wednesday, 1 and 2 February 1983).

Maria P. Galván,

Acting Administrative Officer.

[FR Doc 83–2424 Filed 1–27–83; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Functional Subgroup on Weapons Systems; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the Following Committee Meeting:

Name of the Committtee: Army Science Board (ASB).

Dates of Meeting: Thursday and Friday, 24 and 25 February 1983.

Times: 0830–1700 hours, 24 February 1983 (Closed), 0830–1700 hours, 25 February 1983 (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Functional Subgroup on Weapons Systems will meet for classified briefings and discussions on the Threat and of specific weapons systems for countermeasures. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, Subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M Bowen, may be contracted for further information at (202) 697–9703 or 685–3039.

Maria P. Galván,

Acting Administrative Officer.

[FR Doc 83–2425 Filed 1–27–83; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board, Functional Subgroup on Logistics and Support Systems; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: 24 February 1983.

Time: 0830–1700 hours (Closed).

Place: U.S. Army Logistics Center, Fort Lee, Virginia.

Agenda: The Army Science Board Functional Subgroup on Logistics and Support Systems will meet for classified briefings and discussions relative to U.S. defense issues. Specific briefings will be on foreign military approaches to logistics, the impact of reliability on manning and logistics requirements (including follow-up on the ASB Manning Army Systems report), and planning for future actions of the subgroup. There will also be a facility visit for subgroup members and an opportunity to ask questions of the staff. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagrah (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697–9703 or 695–3039.

Maria P. Galván,

Acting Administrative Officer.

[FR Doc. 83–2426 Filed 1–27–83; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Public Information Collection Requirement Submitted to OMB for Review

The Department of the Navy has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

General Document Summary Sheet

The Government-Industry Data Exchange Program is chartered by Joint Logistics Commanders of the Armed Services and the Administrator, NASA, and managed by the Navy as a cooperative effort between the government and industry to enhance the quality and reliability, and reduce the cost of government procured hardware systems through the exchange of technical information. This exchange obviates the necessity for duplication of expensive testing of parts, components and materials; eliminates redundant development of calibration procedures and precludes catastrophic failures from the use of the same faulty parts and components in different systems. The General Document Summary Sheet, form DD 2000, has been made mandatory by the Logistics Commanders of the Armed Services in a cooperative effort to effect common utilization of engineering data and newly developed engineering processes. This data includes report originator, test sample or equipment nomenclature, application, manufacturers, part numbers, environmental tests, test levels, quantity tested/failed, and test methods. DD 2000 is also used as a vehicle to summarize test reports prepared in compliance with MIL–STD–831, Preparation of Test Reports.

DOD and NASA Test/Evaluation Activities: 4,000 responses, 4,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), IRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from HQ Naval Material Command, Code MAT 06B, room 348, Crystal Plaza Building 5, Washington, D.C. 20360, telephone (202) 692–1106.

Dated: January 25, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–2463 Filed 1–27–83; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Joint Strategic Target Planning Staff Scientific Advisory Group Subcommittee; Closed Meeting

Subcommittees of the Joint Strategic Target Planning Staff (JSTPS) Scientific Advisory Group will meet in closed session 7 February and 9 February 1983, at Offutt Air Force Base, Nebraska.

The mission of the JSTPS Scientific Advisory Group is to provide timely technical and scientific advice to the Director of Strategic Target Planning during the development of the Single Integrated Operational Plan.

A meeting of the JSTPS Scientific Advisory Group Subcommittee investigating the relationship between strategic and theater nuclear forces has been scheduled for 7 February 1983. A meeting of the JSTPS Scientific Advisory Subcommittee investigating the net effect on the US of a Soviet ABM breakout has been scheduled for 9 February 1983. The purpose of these meetings is to discuss issues for presentation at a plenary meeting of the SAG later this year.

In accordance with 5 U.S.C. App. I subsection 10(d) (1976), it has been determined that these JSTPS Scientific Advisory Group Subcommittee Meetings concern matters listed in 5 U.S.C. subsection 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: January 25, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–2464 Filed 1–27–83; 8:45 am]

BILLING CODE 3810–01–M

President's Commission on Strategic Forces; Advisory Committee Meeting

The President's Commission on Strategic Forces will meet in closed session on January 31 and February 1, 1983 at the Pentagon, Washington, D.C.

The mission of the Commission is to review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

Because of the significance of the project to national security and the urgent need for the Commission's recommendation, the President has directed that the Commission submit its report to him by February 18, 1983. Because of the stringent deadline imposed by the President, timely notice of the meeting cannot be provided.

Discussions during the meeting will involve classified matters of national security concern throughout. Such discussion cannot reasonably be segregated into separate classified and unclassified categories without defeating the effectiveness and purpose of the overall meetings.

Accordingly, consistent with Section 10(d) of Pub. L. 92–463, the "Federal Advisory Committee Act," and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

Dated: January 24, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-2403 Filed 1-27-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Bilingual Education; Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Bilingual Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: February 15, 1983—Business Meeting 9:00 a.m.–5:00 p.m.

February 16, 1983—Business Meeting 9:00 a.m.–5:00 p.m.

ADDRESS: The Business Meeting on February 15 & 16, 1983 will be held in the Wisconsin Room of the Sheraton-Washington Hotel, 2600 Connecticut Avenue, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ramon Ruiz, Designated Federal Official, Room 421, Reporter's Building, 400 Maryland Avenue, SW, Washington, DC 20202 (202) 245–2600.

SUPPLEMENTARY INFORMATION: The National Advisory Council on bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Eduation Act and other laws affecting the education of limited English proficient populations

The meeting of the Council is open to the public. The proposed agenda includes the following:

February 15, 1983

I. Presentations on Reauthorization
II. Presentation on Instructional Technology
III. Budget, Legislative and Part C Update

February 16, 1983

I. Presentations on Reauthorization
II. Presentation on Significant Bilingual Instructional Features Study
III. Projected Directions of Council
IV. Committee Reports

Dated: January 24, 1983

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 83-2509 Filed 1-27-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF OF EDUCATION

Vocational Education National Advisory Council; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of public meeting of the council.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: February 17 and 18, 1983: 2/17, TSTI, Harlingen, Texas; 2/18 McAllen, Texas, Holiday Inn Civic Center.

ADDRESS: TSTI, Rio Grande Campus, Industrial Air Park, Harlingen, Texas Holiday Inn Civic Center, 2nd Street and Expressway 83, McAllen, Texas.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90–576 The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meeting of the National Council is open to the public. The proposed Agenda will include

February 17

Vocational Education site visits in Edinburgh and Harlingen: 8:00 A.M. - 2:00 P.M.

Business meeting and local presentors: 2:00-4:45 P.M. TSTI, Building A, Harlingen, Texas

Committee Reports; Awards Program

February 18

Holiday Inn Civic Center, Mesquite Room, Legislative Committee Report Approval of Draft of Testimony Adjournment 12:30 P.M.

Records are kept of the Council's proceedings and are available for public inspection at the office of the National Advisory Council on Vocational Education from 9:00 A.M. to 5:00 P.M., 425—13th Street NW, Suite 412, Washington, DC 20004.

For further information contact: Virginia Solt, NACVE Staff, at above address. Telephone: (202) 376–8873.

Signed at Washington, DC on January 25, 1983.

James W. Griffith,

Executive Director, National Advisory Council on Vocational Education.

[FR Doc. 83-2405 Filed 1-27-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves the transfer to the United States of 200 irradiated fuel pins from the BR-3 reactor, located in Mol, Belgium, for reactor safety experiments to be performed for the U.S. Nuclear Regulatory Commission. Upon conclusion of the experiments, the fuel pins will be disposed of. The fuel pins contain approximately 98 kilograms of uranium, enriched to an average of 6.63% in U-235.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 25, 1983

George Bradley,

Principal Deputy Assistance Secretary for International Affairs.

[FR Doc 83-2417 Filed 1-27-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-EU-761, to the Compagnie Generale des Matieres Nucleaires (COGEMA), France, 375 grams of normal uranium, for use as standard reference.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 25, 1983

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc 83-2418 Filed 1-27-83; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Intent to Revise Transmission Rates to Become Effective November 1, 1983, Request for Recommendaton and Suggestions

AGENCY: Bonneville Power Administration, DOE.

ACTION: Notice of intent.

SUMMARY: Bonneville Power Administration (BPA) is in the initial stages of developing adjusted rates for the transmission of electric power of other entities over Federal facilities. It is presently anticipated that the adjusted rates will become effective November 1, 1983. At this time BPA announces its intent to revise transmission rates and is seeking comments and recommendations from the public which can be used to assist in the development of the transmission rate adjustment proposal.

BPA expects to have its initial proposed rate adjustments formulated in February 1983 and will publish a notice announcing their availability. The notice will also announce a schedule for formal hearings as specified in Section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). These hearings will give interested persons an opportunity to present both oral and written comments on the proposal.

Written recommendations concerning the development of BPA's initial proposal for adjusted transmission rates will be accepted through February 14, 1983, by the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT:

Ms. Kathleen S. Johnson, Public Involvement, P.O. Box 12999, Portland, Oregon 97212; 503-230-3478. Oregon callers may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washinton, and Wyoming may use 800-547-6048.

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-345-0311

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION: BPA, as an agency of the U.S. Department of Energy, owns and operates the Federal Columbia River Transmission System (FCRTS), which includes approximately 80 percent of the capacity of the high-voltage electric transmission system within the Pacific Northwest. The FCRTS integrates and transmits electric power from Federal or non-Federal generating units. BPA also provides interregional transmission services to its customers outside the Pacific Northwest. BPA is now undertaking studies to support changes to the current transmission rates and rate designs.

The current rates apply to four types of transmission service which generally involve: (1) Moving firm electric demand from points of generation to load or between other points of supply and delivery (current contracts provide this service for periods of up to 50 years); (2) moving firm electric power (energy and demand) on a postage-stamp rage basis; (3) moving non-firm energy when there is excess capacity (current contracts for this service provide for short-term energy transfers and usually provide for termination by the customer on 1 year's notice and by BPA on 3 year's notice); and (4) moving firm electric demand over specified transmission facilities. BPA also will examine the adequacy of current charges for other transmission related services.

The anticipated transmission rate adjustments are needed to cover increasing FCRTS costs. Normally, transmission costs are small compared to a utility's total costs, and BPA expects that the increase in FCRTS revenues will have minimal impact on ultimate power costs to the consumer.

The anticipated transmission rate adjustments are being developed concurrently with a proposed transmission policy which is expected to be completed in early 1983. These rate adjustments will reflect that policy.

The present transmission rates have been approved by the Federal Energy Regulatory Commission (FERC) on an interim or final basis through February 28, 1983. BPA is currently seeking an extension of such interim and final approval until January 1, 1984, or until new rates are filed. The revenues now being collected under these rates are subject to refund, pending a final ruling by FERC.

BPA is seeking public involvement in developing its transmission rate

BPA FILE NO.: TR-83.

BPA requests that all comments and documents which become part of the Official Record compiled in the process of adjusting transmission rates contain the file number designation TR-83.

proposal. Interested persons are invited to submit suggestions, advice, and recommendations regarding BPA's intent to revise transmission rates through February 14, 1983. Following publication of the initial proposal in the **Federal Register**, both general public and formal hearings will be conducted by BPA. The Honorable Seymour Wenner, retired Administrative Law Judge, is designated the hearing officer for the transmission rate adjustment proceedings. Written comments will also be accepted. Following the hearings BPA will announce its final proposed transmission rate schedules. The Administrator will submit the final rate proposal to the FERC for approval on an interim basis and ultimately for final confirmation and approval.

Issued in Portland, Oregon, January 21, 1983.

Edward W Sienkiewicz

Acting Administrator.

[FR Doc. 83-2422 Filed 1-27-83; 8:45 am]

BILLING CODE 6450-01-M

Intent to Revise Wholesale Power Rates To Become Effective November 1, 1983, Request for Recommendations and Suggestions

AGENCY: Bonneville Power Administration, DOE.

ACTION: Notice of intent.

BPA FILE NO: WP-83.

BPA requests that all comments and documents which become part of the Official Record compiled in the process of adjusting wholesale power rates contain the file number designation WP-83.

SUMMARY: Bonneville Power Administration (BPA) is in the initial stages of developing its wholesale power rate scheules which will become effective November 1, 1983. At this time, BPA announces its intent to revise wholesale power rates and is seeking suggestions, advice, and recommendations from interested persons which can be used to assist in the development of the wholesale power rate proposal.

BPA expects to have its initial proposed rates formulated in February 1983. BPA will then publish a notice announcing their availability. That notice will also include a schedule for formal hearings as specified in Section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). These hearings will give interested persons an opportunity to present both oral and written comments on the proposal.

Suggestions and recommendations concerning the development of proposed wholesale power rates will be accepted through February 14, 1983, by the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT:

Ms. Kathleen S. Johnson, Public Involvement, P.O. Box 12999, Portland, Oregon 97212; 503-230-3478. Oregon callers may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048.

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon, 97401, 503-345-0311.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION: BPA, an agency of the U.S. Department of Energy, is the Federal electric power marketing agency in the Pacific Northwest. BPA markets hydroelectric power from 30 U.S. Army Corps of Engineers and U.S. Bureau of Reclamation projects on the Columbia River and its tributaries, as well as thermal power it acquires from non-Federal interests in the region. In addition, BPA owns, operates, and maintains the nation's largest high-voltage transmission system grid.

BPA supplies about 50 percent of the electric energy consumed in the Pacific Northwest and accounts for about 80 percent of the region's high-voltage transmission capacity. It sells power to 161 customers, including publicly, cooperatively, and privately owned utilities, Federal and State (California) agencies, and electroprocess and other Northwest industries. The power is sold at wholesale to BPA utility customers for resale to ultimate consumers, and directly to BPA's industrial and Federal agency customers. In addition, BPA sells power which is surplus to the needs of the Pacific Northwest to customers outside the region.

The rates that BPA charges its customers must produce revenues that are sufficient to repay, with interest, the Federal investment in generation and transmission facilities, as well as conservation, and to pay BPA's operation and maintenance expenses, its purchased power costs, and certain other miscellaneous expenses. Inflation, high interest rates, and contract obligations have created substantial increases in BPA's costs.

BPA's last wholesale power rate increase became effective on an interim basis on October 1, 1982. The developmental process for the 1983 wholesale power rate proposal will be similar to that used to develop the 1982 wholesale power rates. BPA is preparing a current repayment study to determine the extent to which anticipated repayment requirements for FY 1984 would exceed expected revenues collected under the current rates. Following a determination of the increase in revenues that will be necessary to meet repayment requirements, BPA will develop various studies to be used in designing rates. BPA also will evaluate the environmental effects of the proposed rates.

In developing the rate proposal, BPA will consider the six ratemaking standards of Section 111 of the Public Utility Regulatory Policies Act (PURPA, Pub. L. 95-617). This Act requires each utility whose total retail sales exceed 500 million kilowatthours in a calendar year to consider ratemaking standards with respect to conservation of power, optimal and efficient use of facilities and resources, and equity in establishing rates for all electric consumers. Section 111 is applicable to BPA because of BPA's direct sales to Federal agencies and industrial customers. The six ratemaking standards of Section 111 were adopted by BPA on November 19, 1979 (44 FR 68949). The standards regard: (1) Cost of service; (2) declining block rates; (3) time-of-day rates; (4) seasonal rates; (5) interruptible rates; and (6) load management techniques. Other factors BPA will consider in designing the 1983 wholesale power rates include conservtion, renewable resource aquisitions, consumer understanding,

ease of administration, fiscal responsibility, environmental protection, and continuity of rates.

BPA is also considering the need for a two-staged wholesale power rate increase for BPA customers, as appropriate, to take effect November 1, 1983, and July 1, 1984.

BPA is seeking public involvement in developing its wholesale rate proposal. Interested persons are invited to submit suggestions, advice, and recommendations regrading BPA's intent to revise wholesale rates through February 14, 1983. Following publication of the initial rate proposal in the **Federal Register**, both public and formal hearings will be conducted by BPA on the proposal. The Honorable Seymour Wenner, retired Administrative Law Judge, is designated the hearing officer for the wholesale power rate adjustment proceedings. Written comments also will be accepted. Following the hearings BPA will announce its final proposed wholesale power rates. The Administrator will submit the final rate proposal to the Federal Energy Regulatory Commission for approval on an interim basis and ultimately for final confirmation and approval.

Issued in Portland, Oregon, January 21, 1983.

Edward W. Scenkiewixz,

Acting Administrator.

[FR Doc. 83-2423 Filed 1-27-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Highway Oil, Inc; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration hereby gives notice of a Proposed Remedial Order which was issued to Highway Oil, Inc. of Topeka, Kansas.

This Proposed Remedial Order charged Highway Oil, Inc. with pricing violations in the amount of $1,335,810.66, plus accrued interest in sales of motor gasoline during the time period of November 1, 1973 through April 30, 1974.

A copy of the Propose Remedial Order, with confidential information deleted, may be obtained from David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106-2466. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objections with the Office of Hearings and Appeals, 12th and Pennsylvania Avenue, NW., Washington, D.C 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri on the 3rd day of January, 1983.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 83-2420 Filed 1-27-83; 8:45 am]

BILLING CODE 6450-01-M

Imperial Refineries Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Imperial Refineries Corporation (Imperial) as a final order of the Department.

EFFECTIVE DATE: December 29, 1982.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106-2466, (816) 374-2092.

SUPPLEMENTARY INFORMATION: On November 24, 1982, 47 FR 53094, the ERA published a notice in the **Federal Register** that it executed a proposed Consent Order with Imperial Refineries Corporation of St. Louis, Missouri on November 19, 1982 which would not become effective sooner than 30 days after publication of that notice. The Consent Order settles alleged regulatory violations brought by the Department of Energy (DOE) against Imperial, involving the pricing of motor gasoline and other refined products by Imperial during the the period October 1, 1973 through March 31, 1980. Under the terms of the Consent Order, Imperial agrees to pay $600,000, which includes interest to seventeen named states in which Imperial marketed product.

Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order. Four comments were received, two from states and two from transportation associations. DOE has considered these comments and determined that the Consent Order should be made final without modification. The significant points raised by the comments are discussed below.

The two commenting states, while expressing support for the payment of monies to states, suggested that the states should be required to expend the amounts received for energy related uses. DOE encourages the states to make use of the funds for energy related projects and to provide restitution for their aggrieved citizens. All such efforts are endorsed by the DOE. The designation of state Treasurers in the Consent Order was not intended to preclude such uses for the funds, rather it is intended to provide the states with maximum flexibility in determining the appropriate use of the monies.

The comments submitted by the transportation associations expressed objection to the remedial provisions of the Consent Order saying that since overcharged customers are not receiving refunds the Consent Order does not provide for restitution as required by *Citronelle-Mobile Gathering, Inc.* v. *Edwards*, 669 F.2d 717 (TECA 1982).

In *Citronelle*, TECA affirmed a district court determination in a judicial enforcement action that the seller's prices resulted in overcharges to twelve specifically identifiable customers. TECA declined to permit payment of adjudicated overcharges into the U.S. Treasury without first attempting to refund monies to the identified injured parties. Unlike *Citronelle*, this case has not been adjudicated in district court. In the Consent Order Imperial does not admit to any violations of DOE regulations. Further, DOE has not been able to identify specific purchasers who may have been injured or to determine the amount by which such purchasers were injured. There are several reasons for this: purchasers from resellers may themselves not be injured parties since they may have passed over the overcharges to others; and, the audit did not focus on specific purchasers, therefore to trace cost violations to specific product sales to determine the impact on specific overcharges would be a difficult if not impossible task. Because the refunded monies cannot be attributed to specifically identifiable injured parties, payments to Treasurers of those states in which Imperial marketed petroleum products is an appropriate remedy in this case.

These comments also suggested that the implementation of Subpart V proceedings was mandatory. The use of Subpart V proceedings is not mandated by the regulations. Rather, the choice of appropriate remedies in a particular Consent Order is made on a case-by-case basis within the framework of an overall negotiated agreement between the ERA and the consenting firm. Here, the parties agreed—and ERA affirms—that in light of the violations alleged, payment to the states is an appropriate remedy.

Having considered all comments received, DOE has determined that the

proposed Consent Order with Imperial should be made final without modification. The Consent Order was made final and effective by telephonic notice to Imperial on December 29, 1982.

Issued in Kansas City on the 3rd day of January, 1983.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc 83-2419 Filed 1-27-83; 8:45 am]

BILLING CODE 6450-01-M

Revere Petroleum Corp. and Gordon K. Walz; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Revere Petroleum Corporation and Gordon K. Walz at 13101 N. W. Freeway, Suite 200, Houston, Texas. This Proposed Remedial Order alleges pricing violations in the amount of $50,874,781.07 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Parts 205, 210 and 121, Subpart L during the time period April 1979 through February 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., NW., Washington, D.C. 20461, in accordance with 10 CFR § 206.193.

Issued in Dallas, Texas, on the 13th day of January 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc 83-2416 Filed 1-27-83; 8:45 am]

BILLING CODE 6450-01-M

Tommy Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration hereby gives notice of a Proposed Remedial Order which was issued to Tommy Oil Company of Topeka, Kansas.

This Proposed Remedial Order charged Tommy Oil, Inc., with pricing violations in the amount of $146,527.52, plus accrued interest in sales of motor gasoline during the time period, of November 1, 1973 through April 30, 1974.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106-2466. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objections with the Office of Hearings and Appeals, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri on the 3rd day of January 1983.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc 83-2421 Filed 1-27-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83-251-000]

Alabama Power Co.; Termination

January 24, 1983.

Take notice that on January 14, 1983, Alabama Power Company (Alabama) tendered for filing a Notice of Cancellation of the service to Craig Field Airport and Industrial Authority Delivery Point. The load served from this substation will be served by Alabama in the future.

Alabama proposes an effective date of January 15, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 83-2381 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-261-000]

Central Louisiana Electric Company, Inc.; Filing

January 24, 1983.

Take notice that on January 17, 1983, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing a copy of an executed letter agreement that would extend the existing interconnection agreement between CLECO and the City of Morgan City, Louisiana until June 30, 1983. CLECO states that the filing will permit the parties to negotiate a new interconnection agreement.

CLECO requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 10, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 83-2382 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP76-500-001]

Cities Service Gas Co., Petition To Amend

January 24, 1983.

Take notice that on January 4, 1983, Cities Service Gas Company (Petitioner), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP76-500-001 a petition to amend the order issued September 1, 1978, in Docket No. CP76-500 pursuant to Section 7(c) of the Natural Gas Act so as to delete the condition regarding the annual volume component to be used in computing cost of service for the authorized facilities and to delete the authorization to construct two compressor stations, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that unforeseen and unforeseeable circumstances primarily affecting the market for gas in Petitioner's service area have made the condition unduly onerous, inequitable, and contrary to the public interest and make the two compressor stations unnecessary. Thus, the condition and the authorization for the two compressor stations should be deleted.

Petitioner asserts that meeting the aforementioned condition would cause an unnecessary increase in the cost of gas used by consumers in Petitioner's service area in excess of $578,000,000 over the next five years. Petitioner states that complying the condition would force Petitioner to purchase increased new higher cost gas supplies in Wyoming and Colorado and reduce purchases of lower cost gas supplies in Texas, Oklahoma, and Kansas, to incur increased take-or-pay obligations, and to construct the final two compressor stations authorized in this docket and additional gathering lines.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commision's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2383 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-187-001]

Consolidated Gas Supply Corp.; Petition To Amend

January 24, 1983.

Take notice that on December 30, 1982, Consolidated Gas Supply Corporation (Petitioner), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP82-187-001, a petition to amend the order issued May 10, 1982, in Docket No. CP82-187-000, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the continuation of a sale of natural gas to New Jersey Natural Gas Company (NJN), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The May 10, 1982, order authorized a limited-term sale of up to 80,000 dt equivalent of natural gas per day to NJN for a period ending October 31, 1982. The sale was made at the rate specified in Petitioner's Rate Schedule E, it is asserted.

Petitioner states that due to a number of circumstances NJN was unable to take the minimum average daily purchase obligation of 40,000 dt equivalent specified in the January 11, 1982, limited-term surplus gas sales agreement. Petitioner proposes herein to continue the previously authorized sale of natural gas to NJN for a 45-day period commencing promptly after issuance of the authorization requested but not to continue beyond March 31, 1983. A maximum daily quantity of 40,000 dt equivalent of gas is proposed with a total quantity of 1,020,000 dt equivalent which represents the amounts of gas which NJN was obligated, but unable, to take under the previously authorized sale.

Petitioner proposes to charge NJN the rate set forth in its Rate Schedule E which Petitioner states is currently $4.3367 per dt equivalent. Petitioner submits that the point of delivery for NJN's gas would continue to be the existing point of interconnection between the facilities of Petitioner and Texas Eastern Transmission Corporation in Westmoreland County, Pennsylvania. The source of the gas proposed to be sold to NJN is Petitioner's surplus system supply, it is explained.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2384 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-253-000]

Consumers Power Co.; Filing

January 24, 1983.

Take notice that on January 17, 1983, Consumers Power Company (Consumers) tendered for filing a Notice of Cancellation of Contract for Wholesale Electric Service with the City of Marshall, Michigan, dated December 16, 1982.

Consumers requests an effective date of December 3, 1982.

Copies of the filing have been served upon the City of Marshall and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to interevene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2385 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-254-000]

Consumers Power Co.; Filing

January 24, 1983.

Take notice that on January 17, 1983,

Consumers Power Company (Consumers) tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 38, between Consumers and Union City, Michigan (Union).

Consumers states that the termination date of the contract is December 3, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2386 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-14878-000, et al.]

Diamond Shamrock Corporation (Successor to the Shamrock Oil and Gas Corporation), et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

January 24, 1983

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 10, 1983, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-14878-000, D, Jan 10, 1983	Diamond Shamrock Corp., (Successor to The Shamrock Oil and Gas Corporation), P. O. Box 631, Amarillo, Tex 79173	Northern Natural Gas Co., McKee Plants, Moore County, Tex.	(1)	..
CI63-234-001, D, Jan. 10, 1983	Mobil Oil Corp., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Oak Field, Latimer, et al., Counties, Okla	(2)	
CI74-370-000, Jan. 7, 1983	Columbia Gas Development, Corp., 1700 W. Loop South, P. O. Box 1350, Houston, Tex. 77001.	Columbia Gas Transmission Corp., St Paul Bayou Field, Terrebonne Parish, La.	(3)	15 025
CI63-116-000 (CI61-801), B Jan. 10 1983	Mobil Producting Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046	Warren Petroleum Co., Panhandle Field, Wheeler County, Tex	(4)	
CI63-117-000 (CI80-116), B, Jan. 10, 1983	do	West Lake Natural Gasoline Co., Nena Lucia Field, Nolan County, Tex	(4)	
CI63-118-000 (G-14916), B, Jan. 10, 1983	do	Warren Petroleum Co., Panhandle Field, Wheeler County, Tex	(4)	
CI63-119-000 (G-17022), B, Jan 10 1983	do	West Lake Natural Gasoline Co., Nena Lucia Field, Nolan County, Tex	(4)	
CI63-120-000 (G-15433), B, Jan. 11, 1983	Union Oil Co., of California, Union Oil Center, P.O. Box 7600, Los Angeles, Calif 90051	West Lake Natural Gasoline Company and Arco Oil and Gas Company, Nena Lucia Field, Nolan County, Texas.	(4)	
CI63-121-000, F, Jan 11, 1983	Transco Exploration Company (Partial Successor In Interest to Conoco Inc.), P.O. Box 1396, Houston, Tex. 77251	Transcontinental Gas Pipe Line Corp., Mustang Island Area Block A-85, Offshore Texas	(5)	14 73
CI63-122-000, B, Jan 10, 1983	Horizon Oil & Gas Co of Texas, P.O Box 1020, Dallas, Texas 75221	Panhandle Eastern Pipeline Co., Griffin 1-15, Sec. 15-33S-43W, Baca County Colo	(6)	
CI63-123-000, B, Jan 10, 1983	do	Panhandle Eastern Pipeline Company, Bauman #1-11; Sec. 11-33S-42W, Baca County, Colo	(6)	
CI63-124-000, B, Jan. 10, 1963	do	Panhandle Eastern Pipeline Co., Holmes "A" 1-26 Sec 26-33S-42W, Baca County, Colo	(6)	
CI63-125-000, B, Jan 10, 1983	do	Panhandle Eastern Pipeline Co., Moore "A" 1-24, Sec 24-34S-42W, Baca County, Colo	(6)	
CI63-126-000, B, Jan 10, 1983	do	Panhandle Eastern Pipeline Company, Cook "A" 1-9, Sec 9-33S-43W, Baca County, Col	(6)	
CI63-127-000, B, Jan. 10, 1983	do	Panhandle Eastern Pipeline Co., Lepel 1-10, Sec. 10-32S-44, Baca County, Colo	(6)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI83-128-000 (G-15488), B, Jan. 10, 1983	Union Oil company of California (Operator), et al., Union Oil Center, P.O. Box 7600, Los Angeles, Calif. 90051.	West Lake Natural Gasoline Co., and Arco Oil & Gas Co., Nena Lucia and Lake Trammel Fields, Nolan County, Tex.	(1)	
CI83-129-000 (G-20129), B, Jan. 10, 1983	...do..	West Lake Natural Gasoline Co., and Arco Oil & Gas Co., South Lake Trammel, Nolan County, Tex.	(1)	
CI83-130-000 (G-10668), B, Jan. 10, 1983	...do .	West Lake Natural Gasoline Company and Arco Oil and Gas Company, Vena Madre Field, Nolan County, Texas.	(1)	
CI83-131-000, A, Jan. 10, 1983	Amoco Production Company P.O. Box 50879 New Orleans, Louisiana 70150.	Tennessee Gas Pipeline Co., Eugene Island Block 300, Offshore La..	(8)	15.025

[1] The subject leases have expired or terminated by their own terms and were not included in the rollover contract dated January 1, 1983.
[2] By partial assignment of oil and gas leases (S-6206-EU) effective May 26, 1982, Mobil assigned to Arkoma Production Company all of its operating rights in and to that certain acreage
[3] Applicant is filing under Gas Purchase and Sales Agreement dated September 24, 1964, amended by amendment dated June 24, 1982.
[4] Applicant is filing to cancel rate scheule and to terminate certificate because sale is now being made on a percentage-type contract pursuant to Section 154.91(e)
[5] By instrument of assignment effective January 1, 1983, TXC acquired forty percent of Conoco's one-third interest in the recoverable gas reserves produced from the subject block.
[6] Applicant is filing under Gas Purchase Contract dated September 1, 1981.
[7] Production ceased to be commercial.
[8] Applicant is filing under Gas Purchase Contract dated November 19, 1982.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 83-2387 Filed 1-27-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP82-356-001 and ST82-322-001]

Dow Intrastate Gas Co., Petition To Amend

January 25, 1983.

Take notice that on December 30, 1982, Dow Intrastate Gas Company (Petitioner), Route 1, Box 35, Plaquemine, Louisiana 70764, filed in Docket Nos. CP82-356-001 and ST82-322-001 a petition to amend the order issued July 30, 1982, in Docket Nos. CP82-356-000 and ST82-322-000 pursuant to Sections 284.127 and 284.123(b)(2) of the Commission's Regulations for authorization to render transportation service on behalf of Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it is an intrastate pipeline company operating within the State of Louisiana.

It is submitted that by order issued August 12, 1981, in Docket No. CP81-302-000, Natural was authorized to make an off-system sale of up to 15,000,000 Mcf of natural gas to Dow Chemical Company (Dow) for a term ending July 31, 1982, which gas was to be delivered by Natural to Dow's chemical manufacturing plant in Plaquemine, Louisiana, utilizing the transportation services of Texas Gas Transmission Corporation and Petitioner. Petitioner states that by a companion order issued August 12, 1981, in Docket No. ST81-268-000, it was authorized to perform its leg of the overall transportation service pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

It is submitted that on March 12, 1982, Natural and Dow amended their gas sales agreement of March 30, 1981, and that by order issued July 30, 1982, Natural was authorized to deliver an additional 30,000,000 Mcf of natural gas to Dow for a term expiring February 1, 1983. It is submitted that Petitioner and Natural amended their gas transportation agreement of April 23, 1981, and that by companion order issued July 30, 1982, in the cited dockets, Petitioner was authorized to transport the 30,000,000 Mcf of natural gas and to construct, own and operate an alternative delivery point in or near sec. 45, T. 13 S., R. 4 E., Vermilion Parish, Louisiana.

It is submitted that on November 1, 1982, Natural and Dow again amended their gas sales agreement of March 30, 1981, so as to provide for the sale of an additional 15,000,000 Mcf of natural gas over a 363-day period commencing upon the later of February 1, 1983, or the receipt of appropriate approvals authorizing such additional term. It is submitted that in order to track these changes, on December 22, 1982, Petitioner and Natural amended their gas transportation agreement to provide for transportation of the additional volumes of gas to Dow which Petitioner proposes herein to provide.

For such transportation service, Petitioner proposes to charge Natural a rate of 15.0 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-2388 Filed 1-27-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TC83-3-000]

Eastern Shore Natural Gas Co.; Tariff Filing

January 24, 1983.

Take notice that on January 14, 1983, Eastern Shore Natural Gas Company (Eastern Shore), P.O. Box 615, Dover, Delaware 19901, filed in Docket No. TC83-3-000, Fourth Revised Sheet No. 424 to its FERC Gas Tariff, Original Volume No. 1, to become effective February 14, 1983. Eastern Shore states that this revised tariff sheet reflects a mathematical computation of revised Priority 1 entitlements for five of its sales-for-resale customers, whose requirements have changed due to the reapportionment of firm contract volumes authorized in Docket No. CP82-96-000 on April 23, 1982. Eastern Shore explains that this order authorized the transfer of firm gas service (with no increase in total firm service) from certain customers with reduced contract demand requirements to other jurisdictional customers with increased high priority requirements. Eastern Shore maintains that in the event of curtailment, the revised index of entitlements would be utilized to allocate gas supplies among its customers, and that Priority 1 requirements must be reflected as accurately as possible in the index for

its curtailment plan to properly protect these requirements.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before February 7, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2389 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-302-004]

Natural Gas Pipeline Co. of America; Petition To Amend

January 24, 1983.

Take notice that on December 30, 1982, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP81-302-004 a petition to amend further the order issued August 12, 1981, in the Docket No. CP81-302-000, as amended pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas to Dow Chemical Company (Dow) for an additional 363 days and the delivery of up to an additional 15,000,000 Mcf of natural gas to Dow for the term of the extension, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is submitted that by order issued August 12, 1981, Petitioner was authorized to deliver on a best-efforts basis up to 15,000,000 Mcf of natural gas to Dow for a term expiring July 31, 1982. It is submitted that on March 12, 1982, Petitioner and Dow amended their gas sales agreement of March 30, 1981, and that by order issued July 30, 1982, Petitioner was authorized to deliver an additional 30,000,000 Mcf of natural gas to Dow for a term expiring February 1, 1983. It is further submitted that on November 1, 1982, Petitioner and Dow executed amendment No. 2 to their gas sales agreement of March 30, 1981, extending the term of delivery for an additional period of 363 days commencing upon the later of February 1, 1983, or the receipt of appropriate approvals authorizing such additional term. Petitioner also proposes to deliver a total of 15,000,000 Mcf of gas during the additional term.

Petitioner states that for the period of the extension, it would continue to deliver gas to Dow at the interconnection of the facilities of Dow and Dow Intrastate Gas Company (DIG) at Dow's Plaquemine Plant near Plaquemine, Iberville Parish, Louisiana, as previously authorized. It is explained that as of December 1, 1982, the rate to Dow would be approximately $3.42 per million Btu.

Petitioner asserts that in order to deliver the gas to such authorized delivery point during the term of extension, it would utilize the same transportation arrangements to effect the delivery as previously authorized. Petitioner further asserts that it would continue to deliver gas to Texas Gas Transmission Corporation (TGT) at the outlet of the Texaco Henry Plant, Vermilion Parish, Louisiana, for transportation by TGT and redelivery by DIG at a proposed mutually agreeable point of interconnection between the pipeline facilities of Petitioner and DIG in or near Section 45, T13S, R4E, Vermilion Parish, Louisiana, for redelivery to DOW at the aforementioned authorized delivery point.

Petitioner states that its gas supply is more than sufficient to extend the term of the sale to DOW without impairing or reducing service to its present customers and that, among other steps Petitioner is taking, the subject offsystem sale of gas provides one effective method to reduce the current excess deliverability and take-or-pay obligations on Petitioner's system.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2390 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-303-007]

Natural Gas Pipeline Co. of America; Petition To Amend

January 24, 1983.

Take notice that on December 27, 1982, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP81-303-007 a petition to amend further the order issued August 12, 1981, in Docket No. CP81-303-000, as amended, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the extension of the term of sale of natural gas to Faustina Pipe Line Company (Faustina) for an additional 363 days and the sale of up to an additional 20,000,000 Mcf of natural gas during the extended term, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued August 12, 1981, Petitioner was authorized to sell up to 37,000,000 Mcf of natural gas to Faustina for a term expiring on July 31, 1982. It is stated that on February 19, 1982, Petitioner and Faustina amended their gas sales agreement of March 30, 1981, and that by order issued July 30, 1982, Petitioner was authorized to sell up to 25,000,000 Mcf of natural gas to Faustina for an additional term expiring on February 1, 1983. It is stated that on November 8, 1982, Petitioner and Faustina executed amendment No. 2 to their sales agreement of March 30, 1981, extending the term of the sale for an additional period of 363 days commencing upon the later of February 1, 1983, or the receipt of appropriate regulatory approvals authorizing such additional term. Petitioner also proposes to sell a total of 20,000,000 Mcf of gas during the additional term.

Petitioner submits that its gas supply is sufficient to extend the term of the sale to Faustina without imparing or reducing service to its present customers. Furthermore, it is averred that Faustina would use the gas sold by Petitioner exclusively to supplement its system supply and that the end use of the gas would be for feedstock and process fuel.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before

February 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 29426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2391 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA81-50-000]

Navajo Refining Co.; File Reply Comments

Issued: January 24, 1983.

On January 17, 1983, the Secretary of Energy (DOE) filed comments on the proposed order of the presiding officer previously issued in this proceeding. In DOE's comments it is asserted that, upon further study by the DOE Office of Hearings and Appeals (OHA) of the administrative record of proceedings before OHA in this case, significant inconsistencies in Navajo's filings have been discovered which cast doubt on the validity of the dollar figures upon which the order issued in this case are based. DOE's comments describe these alleged inconsistencies and state that clarification is necessary. To this end DOE urges that the case be either remanded to OHA or reopened before the presiding officer to consider these matters.

To assist the Commission, notice is hereby given that on or before February 7, 1983, Navajo shall file a reply to DOE's comments directed to the matters described above.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2392 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-71-000]

Northern Natural Gas Co.; Informal Settlement Conference

January 25, 1983.

An informal settlement conference will be convened in the above-captioned docket at 1:00 p.m. on February 7, 1983, in a room to be designated at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2393 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-119-000]

Oakdale and South San Joaquin Irrigation District; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 24, 1983.

On December 27, 1982, Oakdale and South San Joaquin Irrigation District of Star Route Box 1303, Sonora, California 95370, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 18 megawatt, hydroelectric facility located at the Tulloch Powerhouse 6 miles East of Knights Ferry, California. Applicants state that on other facilities owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2394 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-250-000]

Pacific Gas and Electric Co., Filing

January 24, 1983.

Take notice that Pacific Gas and Electric Company (PGandE) on January 14, 1983, tendered for filing as an initial rate schedule December 29, 1982 Letter Agreement for interruptible transmission service by PGandE for the Western Area Power Administration (Western).

PGandE states that the agreement provides that PGandE will transmit non-firm energy obtained by Western, from entities in the Pacific Southwest, from Midway Substation to Tracy, subject to the availability of transmission capacity in the PGandE system. The transmission rate of 1.34 mills/kWh is a system average rate, which will be adjusted for transmission losses.

Western will pay a daily spinning reserve charge associated with such non-firm energy at a rate of 2.74 mills/kWh.

PGandE requests an effective date of January 14, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Western and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2395 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-260-000]

Pacific Power & Light Co.; Filing

January 25, 1983.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on January 17, 1983, tendered for filing, Pacific's Revised

Appendix 1 for the state of Montana. The Revised Appendix 1 calculates an average system cost for the state of Montana applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific requests an effective date of September 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Bonneville, the Public Service Commission of the State of Montana and Bonneville's Direct Service Industrial Customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 10, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2396 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-246-000]

Public Service Co. of Colorado; Filing

January 24, 1983.

The filing Company submits the following:

Take notice that on January 12, 1983, the Public Service Company of Colorado (PSC) tendered for filing a notice of Cancellation of its FERC Rate Schedule No. 6 relative to electric power and energy purchases between PSC and the Town of Lyons, Colorado.

PSC requests an effective date of May 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2397 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-252-000]

Southern California Edison Co.; Filing

January 24, 1983.

The filing Company submits the following:

Take notice that on January 14, 1983, Southern California Edison Company (Edison) tendered for filing an agreement entitled "Edison-Banning Interruptible Transmission Agreement", which has been executed by Edison and the City of Banning, California (Banning).

Under the terms and conditions of the Agreement, Edison will make available to Banning interruptible transmission service from several points of receipt to the Point of Delivery at Banning, California.

Edison states that the Agreement is proposed to become effective when executed by the Parties and when accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the city of Banning, California.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2398 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-258-000]

Southern California Edison Co.; Filing

January 24, 1983.

The filing Company submits the following:

Take notice that on January 17, 1983, Southern California Edison Company (SCE) tendered for filing an agreement entitled "Edison-AEPCO Interruptible Transmission Agreement (MATRIX)", which has been executed by SCE and Arizona Electric Power Cooperative, Inc. (AEPCO).

Under the terms and conditions of the Agreement, SCE will make available to AEPCO interruptible transmission service between several Points of Receipt and Points of Delivery as specified in the Agreement.

The Agreement is proposed to become effective when executed by the Parties and when accepted for filing by the Commission without changes unacceptable to the Parties.

Copies of the filing were served upon the Public Utilities Commission of the State of California and Arizona Electric Power Cooperative, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2399 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-259-000]

Southern California Edison Co.; Filing

January 24, 1983.

The filing Company submits the following:

Take notice that on January 17, 1983, Southern California Edison Company (Edison) tendered for filing an agreement entitled "Edison-Colton Interruptible Transmission Agreement", which has been executed by Edison and The City of Colton, California (Colton).

Under the terms and conditions of the Agreement, Edison will make available to Colton interruptible transmission service between several points of receipt to the Points of Delivery at Colton, California.

The Agreement is proposed to become effective when executed by the Parties and when accepted for filing by the Commission.

Copies of the filing were served upon the Public Utilities Commission of the State of California and the City of Colton, California.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 9, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2400 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-143-007, et al.]

Tennessee Natural Gas Lines Inc., et al.; Filing of Pipeline Refund Reports and Refund Plans

January 25, 1983.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 on or before February 8, 1983. Copies of the respective filings are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No	Type filing
Nov 8, 1982	Tennessee Natural Gas Lines, Inc	RP81-143-007	LFUT Report.
Dec. 27, 1982	Alabama-Tennessee Natural Gas Company	RP73-77-020	Report.
Jan 7, 1983	East Tennessee Natural Gas Company	RP78-65-014	Report
Do	Midwestern Gas Transmission Company	RP80-23-013	Report
Do	National Fuel Gas Supply Corporation	RP80-135-025	Report
Jan 10, 1983	Consolidated Gas Supply Corporation	CP72-157-061	Report
Jan 14, 1983	Northwest Central Pipeline Corporation	RP72-142-026	Plan

[FR Doc. 83-2401 Filed 1-27-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of December 10 Through December 17, 1982

During the Week of December 10 through December 17, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: January 20, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS-AND APPEALS

[Week of Dec. 10 through Dec. 17, 1982]

Date	Name and location of applicant	Case No	Type of submission
Dec. 10, 1982	Texaco, Inc., Washington, D.C	HRZ-0113	Interlocutory Order. If granted: The Office of Special Counsel would be compelled to release to Texaco, Inc., documents identified in the November 12, 1982, discovery response submitted by the Office of Special Counsel.
Dec. 13, 1982	Lyon County Co-operative Oil Company/Johnson Leasing Corporation/Mr. Arnold Johnson, Marshall, Minnesota.	HEX-0066	Supplemental Order. If granted: One of two competing parties, Johnson Leasing Corporation or Mr. Arnold Johnson, would receive a portion of the Lyon County Co-operative Oil Company Consent Order fund
Do	Office of Enforcement/Lyon County Co-operative Oil Co., Marshall, Minnesota.	HEX-0065	Supplemental Order. If granted: Refund checks would be issued to thirteen overcharged customers pursuant to the September 16, 1982, Decision and Order (Case No. HEF-0002) issued to Lyon County Co-operative Oil Company
Dec. 14, 1982	Sierra Oil and Gas Company, Denver, Colorado	HEE-0056	Price Exception. If granted: Sierra Oil and Gas Company would be permitted to sell the crude oil produced from the Fndkin-Kaufman #1 lease located in Harris County, Texas, at stripper well prices.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS-AND APPEALS—Continued

[Week of Dec. 10 through Dec. 17, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 15, 1982	Economic Regulatory Administration, Crown Central Petroleum Corporation, the State of Maryland and Romaco, Inc., Baltimore, Maryland.	HRJ-0028	Protective Order. If granted: The Economic Regulatory Administration, Crown Central Petroleum Corporation, the State of Maryland, and Romaco, Inc., would enter into a Protective Order regarding the release of unexpurgated copies of all filings to each party in connection with Crown Central Petroleum Corporation's Proposed Remedial Order (Case No. HR-0072)
Do	Office of Enforcement/PVM Oil Associates, Inc., New York, New York.	HFX-0067	Supplemental Order. If granted: The Office of Hearings and Appeals would implement second stage refund proceedings concerning the Consent Order entered into by PVM Oil Associates, Inc., and the DOE (Case No. BEF-0042).
Do	Office of Special Counsel (Texaco, Inc.), Washington, D.C.	HRZ-0114	Interlocutory Order. If granted: Texaco, Inc., would be compelled to furnish additional responses to the Office of Special Counsel's corporate state of mind discovery motion. The Office of Special Counsel would be permitted to depose Stephen H. Bard.
Do	Office of Special Counsel (Texaco, Inc.), Washington, D.C.	HRZ-0115	Interlocutory Order. If granted: Texaco, Inc., would be required to furnish additional responses to the Office of Special Counsel's audit related discovery motions.
Dec. 16, 1982	Office of Special Counsel/Apco Oil Corporation, Oklahoma City, Oklahoma.	HEF-0008	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR, Part 205, Subpart V, in connection with the August 12, 1982, Consent Order entered into by Apco Oil Corporation and the DOE.

REFUND APPLICATIONS RECEIVED

[Week of Dec. 10 to 17, 1982]

Date	Name of refund proceeding/name of refund applicant	Case No
Dec 16, 1982	Arcone Oil Company/Pacific Molasses Co.	RF20-2

[FR Doc. 83-2318 Filed 1-27-83; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of December 17 Through December 24, 1982

During the Week of December 17 through December 24, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington D.C. 20461.

Dated: January 20, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 17 through Dec. 24, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 20, 1982	National Helium Corporation, Washington, D.C.	HFA-0104	Appeal of an Information Request Denial. If granted: The November 16, 1982, Information Request Denial issued by the Office of Oil and Gas would be rescinded, and National Helium Corporation would receive access to Form FEA-P302-M-1, "Petroleum Industry Monthly Report for Product Prices"
Do	C. K. Smith & Company, Inc., Washington, D.C.	HFX-0068	Supplemental Order. If granted: Pursuant to the July 16, 1982, Decision and Order, remaining funds in the C. K. Smith & Company, Inc. escrow account would be deposited to the U.S. Treasury
Dec. 21, 1982	Laketon Asphalt Refining, Inc., Washington, D.C.	HED-0096	Motion for Discovery. If granted: Discovery would be granted to Laketon Asphalt Refining, Inc., in connection with the firm's comments regarding the application for exception filed by the Department of the Interior (Case No. HEE-0051)
Dec. 23, 1982	OGC/Kimco Petroleum, Inc., Washington, D.C.	HRW-0019	Proposed Remedial Order Finalization. If granted: The Office of General Counsel has requeted that a Proposed Remedial Order issued to Kimco Petroleum, Inc., on September 3, 1982, be issued as a final Remedial Order.
Do	Office of Enforcement/Armstrong & Associates	HFX-0069	Supplemental Order. If granted: The second stage of the Armstrong Refund Proceeding would be implemented and all remaining funds in the Armstrong Consent Order Fund would be distributed to the State of Texas, the City of San Antonio and the Defense Fuel Supply Center
Do	OSC/Conoco, Inc., Washington, D.C.	HEF-0010	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the November 2, 1982, Consent Order issued to Conoco, Inc.
Dec. 21, 1982	Koch Industries, Inc.	RR1-1	Request for Modification/Rescission in the Vickers Refund Proceeding. If granted: The November 26, 1982, Decision and Order (Case No. RF1-132) issued to Koch Industries, Inc., would be modified regarding the firm's application for refund submitted in the Vickers Petroleum Company's refund proceeding
Dec. 22, 1982	OSC/Union Texas Petroleum Corporation, Washington, D.C.	HEF-0009	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the June 29, 1982, Consent Order issued to Union Texas Petroleum Corporation.

[FR Doc. 83-2317 Filed 1-27-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Week of January 3 through January 7, 1983

During the week of January 3 through January 7, 1983, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated January 20, 1983.

George B. Breznay,

Director, Office of Hearings an Appeals.

Duke Heating Oil, Inc., Shamokin, Pa; HEE-0041

Duke Heating Oil, Inc., filed an Application for Exception from the provisions of the EIA filing requirements. The exception request, if granted, would permit Duke to be relieved of its obligation to file Form EIA-9A, "No. 2 Distillate Price Monitoring Report." On January 7, 1983, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 83-2319 Filed 1-27-83; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures to be followed in refunding to members of the public $6,291,000 in consent order funds. The finds are maintained in escrow accounts that were established in settlement of enforcement proceedings brought by the Office of Enforcement [now the Office of Special Counsel] in the Matters of Sid Richardson Carbon and Gasoline Company and Richardson Products Company ($1,000,000); Texas Oil and Gas Corporation ([$4,200,000); Ozona Gas Processing Plant Ozona I) ($814,000); and Ozona Gas Processing Corporation (Ozona II) ($177,000).

DATES AND ADDRESS: Applications for Refund must be postmarked within 90 days of publication of this notice in the **Federal Register** and should be addressed to Richardson Consent Order Refund Proceedings, 12th Street and Pennsylvania Avenue, NW., Washington. D.C. 20461. All applications and comments should display conspicuously a reference to the appropriate case name and number.

FOR FURTHER INFORMATION CONTACT: Thoma O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-8377.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the final decision and order set out below. The final decision and order relates to consent orders entered into by the Office of Enforcement of the DOE's Economic Regulatory Administration and Sid Richardson Carbon and Gasoline Company and Richardson Products Company (the Richardson companies), *see 44* 44 FR 66656 (1979), Texas Oil and Gas Corporation (TOGCO), *see* FR 23720 (1979), and Ozona Gas Processing Plant, *see* 44 FR 75450. (1979) and 44 Fed. Reg. 70538 (1979). All of these firms are gas plant operators that produced natural gas liquids (NGLs). Pursuant to the consent orders, these firms have agreed to make refunds totaling $6,291,00 to settle alleged violations of the DOE price regulations which occurred for periods between 1973 and 1979.

The Office of Hearings and Appeals has previoulsy issued proposed decisions and orders which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order funds. The proposed decision and order discussing the distribution of funds obtained through the consent order with the Richardson companies was issued on June 29, 1982, 47 FR 29702 (1982). The proposed decision and order discussing the distribution of funds obtained through the consent order with TOGCO was issued on May 22, 1981, 46 FR 28929 (1981). Proposed decisions that included our tentative determinations concerning the distribution of the funds obtained through the two Ozona consent orders were issued on May 1, 1981, 46 FR 25535 (1981), and on August 18, 1981, 46 FR 42743 (1981).

The final decision and order reflects our analysis of comments received from interested parties. As we indicate in the final decision, applications for refund from the consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than ninety days from the day of publication of this notice. *See* 10 CFR 205.283. We will approve applications from all claimants who can affirmatively demonstrate that they have been directly injured by the violations alleged in the consent orders. A detailed discussion of what information a party must provide in order to assert a successful claim is set forth in the final decision and order appended to this notice.

The final decision reaches no determination with regard to the disposition of any funds in the second stage of the proceeding, however, because the most appropriate disposition of the remaining funds may be determined, to a great extent, by the amount of money that remains after the first stage of the proceeding. Instead, the final decision solicits further comments on the appropriate distribution of these funds. Commenting parties are requested to submit two copies of their comments. Comments should be filed within 30 days of publication of this notice, and should be addressed to the address set forth at the beginning of that notice.

All comments received in this proceeding will be available for public inspection in the Public Docket Room of the Office of Hearing and Appeals, between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on January 24, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Department of Energy

January 24, 1983.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matters of Sid Richardson Carbon and Gasoline Company, and Richardson Products Company; Texas Oil and Gas Corporation; Ozona Gas Processing Plant (Ozona I); and Ozona Gas Processing Plant (Ozona II).

Dates of filing: December 15, 1980; January 7, 1981; April 27, 1981; June 1, 1981.

Case No. BEF-0022, BEF-0027, BEF-0046, BEF-0056

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration's Office of Enforcement (OE) (now the Office of Special Counsel) may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds to injured persons in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 C.F.R. Part 205, Subpart V. In accordance with these regulatory provisions, the OE filed Petitions for the Implementation of Special Refund Procedures in connection with a consent order entered into with Sid Richardson Carbon and Gasoline Company and Richardson Products Company (Richardson). The OE also filed similar petitions in connection with a consent order entered into with Texas Oil and Gas Corporation (TOGCO) and two consent orders entered into with Ozona Gas Processing Plant (Ozona). Under the terms of these consent orders, the four firms agreed to make refunds for their alleged violations of the DOE price regulations in sales of natural gas liquids and products (NGLs) in the following amounts: $1,100,000 (Richardson) (*1*) $4,200,000 (TOGCO) (*2*); $814,000 (Ozona I) (*3*); and $177,000 (Ozona II) (*4*). The funds have been paid to the DOE and are now being held in an escrow account under the jurisdiction of the agency pending receipt of instructions from the Office of Hearings and Appeals regarding their distribution.

I. Background

Proposed decisions and orders which tentatively established special refund procedures to be used in adjudicating claims to the settlement funds involved in this proceeding have been previously issued, and comments have been received from interested parties concerning the proper disposition of the consent order funds.(*5*). In each of the proposed decisions we tentatively established a two-stage special refund procedure for the consent order funds. During the first stage, those persons who purchased NGLs from the firms involved during the relevent period and who believe they are eligible for a portion of the consent order funds could file Applications for Refund pursuant to 10 CFR § 205.283. Downstream purchasers would also be permitted to file Applications for Refund during the first stage of the refund process. Each application would be analyzed, and determinations on the merits of each would be rendered. All meritorious claims would be paid. Finally, we suggested as the second stage of the refund process that first purchasers submit proposals which set forth appropriate mechanisms for returning moneys to downstream purchasers who likely paid increased prices as a result of the alleged overcharges. We alternatively proposed that if such plans proved infeasible, any portion of the settlement fund which might otherwise go undistributed because of prohibitive administrative costs be deposited in the Treasury of the United States. See 10 CFR § 205.287(c).

The proposed decisions and orders were published in the **Federal Register**, (*6*) and copies were sent to all interested parties. The comment periods specified in the **Federal Register** have passed. Since these four cases have in common many legal and factual issues, (*7*) we have consolidated them for a final determination concerning the first stage of the refund procedures.

The purpose of this decision is to establish the mechanism by which firms that purchased NGLs in sales covered by the four consent orders may apply for refunds. We shall first discuss the comments that we received concerning the first-stage refund procedures which we tentatively adopted in the proposed decisions and orders in these cases. Then we shall discuss in detail the refund procedures that we have decided to adopt. We shall not, however, discuss the second-stage refund process in this decision. As discussed later, the consent order funds may be thoroughly depleted by the first-stage refunds. In that event no second stage would be necessary. Further, our determination concerning the disposition of any residual funds will depend on the amount of money available after the first-stage claims procedure is completed. *Office of Enforcement*, 8 DOE ¶ 82,597 at 85,397 (1981) (hereinafter cited as *Vickers*). It is therefore unnecessary for us to address the issues raised by the commenters concerning the proposed disposition of any residual funds at this time. (*8*)

II. Jurisdiction and Authority to Fashion Refund Procedures

We tentatively determined that the jurisdictional requirements of Subpart V had been satisfied with regard to the Ozona I case in the proposed decision and order issued on May 1, 1981. *See* 46 Fed. Reg. 25535 (1981). We likewise tentatively concluded that we should assume jurisdiction over the distribution of the funds involved in the TOGCO, Ozona II, and Richardson cases in proposed decisions issued on May 22, 1981, August 18, 1981, and June 29, 1982, respectively. *See* 46 Fed. Reg. 28929 (1981); 46 Fed. Reg. 42743 (1981); 47 Fed. Reg. 29704 (1982). These conclusions were based upon findings that the DOE is unable to readily identify persons entitled to refunds or to readily ascertain the amounts that such persons are entitled to receive. *See* 10 C.F.R. § 205.280.

Some of the parties who submitted comments following the issuance of the proposed decisions and orders for the TOGCO and Ozona cases contend that the OHA should not assume jurisdiction over these matters. In particular, Gulf Oil Corporation (Gulf) and the Transportation Group contend that the OHA does not have the authority to provide refunds to downstream purchasers of the products involved. (*9*) Other commenters assert that the distribution of these funds should be made by state governments, rather than OHA, because the states have the inherent power to take possession of unclaimed property belonging to their citizens. (*10*)

Both of these positions have been fully addressed and ultimately rejected in previous Subpart V decisions involving similar circumstances. Following a careful analysis of the case law and statutory provisions, in *Office of Enforcement*, 9 DOE ¶ 82,508 at 85,047–49 (1981) (hereinafter cited as *Coline*), we concluded that "nothing in the governing statutes nor in judicial interpretation of those statutes prohibits the DOE from ordering restitution to indirect purchasers." *Id.* at 85,049. In *Coline* we also found that, as a result of the decontrol of selling prices for refined petroleum products, the parties to whom refunds should be made are not readily identifiable and the amounts of the refunds are not readily identifiable and the amounts of the refunds are not readily ascertainable. *Id.* at 85,047. Neither Gulf nor the Transportation Group has submitted any new arguments in support of their position. We therefore adhere to our previous conclusion for the reasons stated in *Coline*.

Similarly, we have fully considered and rejected the argument that the funds must as a matter of law be remitted to state governments on behalf of the purchasers who resided in their respective States. *See Vickers Energy Corp./State of Kansas* 9 DOE ¶ 82,558 (1982) (hereinafter cited as Kansas). The Kansas case involved claims filed by the States of Kansas and Wisconsin in their capacities as "the unclaimed property administrator" under their respective state laws. In denying their claims, we found that no property in the refund case had gone unclaimed. We also held that no property right was possessed by persons who had not filed refund applications to which unclaimed property laws could apply. Finally, we held that distribution of funds to the States for disposition pursuant to their respective unclaimed property statutes would be contrary to the federal policy expressed in the statutes which authorized the price and allocation regulations. *Id.* at 85,304. The rationale underlying the denial of the claims filed by Kansas and Wisconsin is applicable here, and we reject the similar positions advanced by the state commenters in the present proceedings.

Accordingly, we affirm our tentative conclusions that the persons entitled to refunds are not readily identifiable in these cases, and the amount of appropriate refunds is not readily ascertainable. The Office of Hearings and Appeals will therefore exercise jurisdiction over the funds received by the DOE as a result of the consent orders

underlying the Petitions for Implementation of Special Refund Procedures in all four cases.

III. Comments on the Proposed First Stage

In the proposed decisions issued in these cases, we tentatively concluded that as the first stage of the refund procedures we would accept Applications for Refunds from parties who purchased NGLs produced by the four natural gas processors involved. In addition to satisfying the filing requirements of 10 CFR § 205.283, the applicant would be required to demonstrate that during the relevant time period it purchased a specific quantity of product that was produced with or from the NGLs sold by the four firms. Further, unless the applicant was an ultimate consumer, a party claiming that it was injured would also have to demonstrate that it absorbed any cost increase resulting from the alleged overcharges. We also stated that we would accept and evaluate on a case-by-case basis applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers. Finally, we solicited comments from all interested parties concerning our proposals.

In response to our request, we received comments from numerous parties including first purchasers of NGLs from Ozona and TOGCO, their downstream customers, other firms, state governments, an office within the DOE, and public interest groups. Commenting parties suggested various modifications of the proposed procedures and expressed several concerns which we shall discuss below. They commented that: (1) the Application for Refund proceedings must be held publicly so that no potential claimants are excluded from contesting conclusions regarding their eligibility for a portion of the funds; (2) as a matter of law the OHA cannot require a claimant to prove that it did not pass on the overcharges to its customers; (3) the proposed decisions did not establish appropriate levels of proof of injury for different types of claimants; and (4) claimants who have themselves entered into DOE consent orders or who are the subject of DOE enforcement proceedings for the relevant time periods should not be eligible to claim any of the consent order funds. Additionally, Suburban Propane Gas Corporation (suburban Propane), the firm that purchased virtually all of the Ozona NGLs, submitted a detailed proposal for the distribution of the Ozona consent order funds, and one of its purchasers commented on that proposal. We will discuss each of these points in turn.

With regard to the conduct of the first-stage proceedings, the Controller of the State of California commented that the Application for Refund proceedings should be open to the public. He suggested that copies of all Applications for Refund should be made available at no cost to all potential claimants and that all claimants should be permitted to participate in the initial proceedings.

We believe that the Controller's concerns are adequately met by the existing procedural regulations. The Subpart V regulations require that any application for a refund in excess of $100 be filed in duplicate and a copy of the Application, with confidential information deleted, be made available in the OHA Public Docket Room. 10 CFR § 205.283(a). It is the policy of the OHA to have the Public Docket Room make available to any requester a copy of any document filed with it. Copies are provided at no cost, if the requested document consists of 30 pages or less, or at a cost of 10 cents per page for each page in excess of 30 pages. In addition, the applicable regulations specify that in evaluating an Application the OHA may conduct an investigation of any statement made in an Application and may solicit and consider information from any source. 10 CFR § 205.284(b). Therefore it is clear that an interested party may submit information and comments to aid us in our adjudication of specific claims.

Two commenters claim that the OHA cannot as a matter of law require a claimant to prove that it did not pass on the alleged overcharges to its customers. In support of that position, the commenters cite the antitrust case of *Illinois Brick Co.* v. *Illinois*, 431 U.S. 720 (1977). In *Illinois Brick*, the Supreme Court held that the "Pass-on" theory could not be used offensively by a plaintiff who was not a direct purchaser from the defendant but claimed that the effects of an antitrust violation had been passed on to it by an intermediate party. (*11*)

We have discussed at great length the factors distinguishing private antitrust actions brought under section 4 of the Sherman Act from government enforcement actions brought under Section 209 of the Economic Stabilization Act and the EPAA, such as the instant cases. For example, in *Coline* we held that the considerations underlying the exclusion of pass-on evidence in private antitrust actions were inapplicable to section 209 actions. *See* 9 DOE at 85,051–52. Consequently, we affirmed our authority to require proof by a claimant that it absorbed the alleged overharges in order to establish entitlement to a portion of the settlement fund that is to be distributed in a Subpart V special refund proceeding. *Id.* at 85,052. No new arguments have been presented in this proceeding that persuade us to alter our position on this matter.

We also received comments regarding the proposed standard of proof. These comments ranged from assertions that the standard proposed was too lenient to assertions that the standard would be too difficult to meet. For instance, the Controller of the State of California urges the OHA to adopt a strong presumption against resellers (*12*) having sustained any overcharge injury. He suggests that resellers should be required to prove "that they did not raise prices with each rise in costs, and that their profit margins were reduced by the particular overcharges" in order to overcome the presumption. Comments of Kenneth Cory, Controller, State of California at 2. The Controller also objects to the OHA requiring ultimate consumers to provide "detailed records" or other "specific documentation" in order to qualify for a refund. *Id.* at 3. Other commenters expressed a similar concern that the refund procedures adopted by this Office not be too burdensome or too complicated or claimants.

It appears that the concerns set forth in these comments are based upon misconceptions as to how exacting and conclusive a showing is envisioned by the proposed decisions and the Subpart V regulations. As we have stated in prior decisions, we believe that the "inquiry into whether a claimant was injured . . . is most appropriate in a proceeding of this type where refunding moneys obtained through DOE enforcement proceedings is the primary focus." *See, e.g., Coline*, 9 DOE at 85,051. In establishing the standard of proof that a claimant must meet, we recognize that we must strike a balance between a level so low that it would grant windfall benefits to firms who had suffered no injury and a level so high that only a few large firms would have the resources necessary to prepare an application. With that balance in mind, we shall discuss the particular proof of injury that will be required of various types of claimants in Section IV, *infra*.

Some of the commenters, including enforcement officials of the DOE, contend that claimants who have themselves entered into consent orders or who are currently the subject of enforcement proceedings should be precluded from filing Applications for Refunds. Those commenters assert that since such claimants have also violated the DOE regulations they should be excluded from these equitable proceedings because they have "unclean hands."(*13*) In addition, the Office of Special Counsel (OSC) observes that since it has closed its investigation of firms with which it has entered into consent orders, there is no mechanism for ascertaining the truth of a firm's allegations concerning its banks of unrecovered product costs increases. Moreover, the OSC contends that its agreement to a consent order does not indicate that it has retreated from its position that a firm violated the DOE regulations. Finally, several parties noted that there are still numerous unresolved enforcement cases involving purchasers who have filed notices of claims. Consequently, the OSC urges the OHA to delay or deny disposition of any consent order funds to any claimant who has been or is currently the target of enforcement proceedings.

We decline to adopt this position. In previous special refund proceedings, we have generally been reluctant to bar any class of potential claimants from submitting refund applications. While we agree that consent order funds should not be distributed to parties who, for example, have profited from a criminal scheme to circumvent the DOE regulations, we certainly are in no position to rule on any class of claimants' eligibility in advance of the filing of Applications for Refund. Moreover, we think it would be undesirable to delay distribution of these funds for the period of years that may elapse before pending enforcement actions have been completed. Consequently, instead of adopting a blanket prohibition against certain types of claimants, we shall require that each person filing an Application for Refund state whether there is or has been an enforcement proceeding covering its compliance with the DOE regulations. If so, the applicant should also indicate whether the matter has been concluded and provide a copy of any adjudicated order issued in the case or of any consent order or other settlement entered into

by the applicant. Where appropriate, the relevant enforcement office may be informed of the application by the OHA. We shall then decide on a case-by-case basis whether the applicant was injured by the alleged overcharges in light of all the available information.

It is thus possible that a firm which is the subject of an ongoing enforcement proceeding might still be eligible to receive a refund from the consent order funds. However, if a final remedial order is ultimately issued against such a firm, some adjustment might be appropriate at the conclusion of the enforcement proceeding to ensure that it does not retain any unwarranted benefits. If it ever becomes necessary, this type of determination will be made on a case-by-case basis. Where a claimant has already negotiated a consent order, we believe that it will generally be contrary to the policy encouraging settlements to exclude a claimant solely on that basis. Finally, we wish to emphasize that these refund proceedings may not be used as a substitute for private actions that might be brought under section 210 of the ESA. The purpose of these proceedings is to provide an equitable mechanism for refunding monies to persons who were injured by alleged overcharges, not to provide an alternative legal forum to adjudicate the regulatory compliance of claimants.

IV. Application for Refund Procedures

After having considered all the comments received concerning the first-stage procedures tentatively adopted in our proposed decisions, we have concluded that: (i) the OHA has properly asserted jurisdiction over the four cases pursuant to 10 CFR Part 205, Subpart V; (ii) the OHA has authority to implement all of the procedures which were tentatively adopted in the proposed decisions for these cases; and (iii) Applications for Refund should now be accepted from parties who purchased NGLs that originated from the four firms or who purchased other products made from those NGLs. We shall now discuss the specific requirements for Applications for Refund that we have decided to adopt for the four cases involved in this proceeding.

In the proposed decisions concerning the consent order funds involved in this proceeding, we tentatively concluded that claimants who are resellers or who are involved in the production or distribution of goods or services should be required to show that, during the period covered by the consent order, market forces had a restrictive effect on their prices. Consequently we stated that a reseller should demonstrate that at the time it purchased covered products from its supplier(s), market conditions would not permit it to pass through the additional costs associated with the alleged overcharges. This proposed requirement that resellers provide evidence that they did not pass on the alleged overcharges will be adopted. However, regulated utilities and agricultural cooperatives which are required to pass on to their customers the benefit of any refund received will be exempted from this requirement. Applications submitted by regulated utilities and cooperatives will be analyzed under the standards used in *Tenneco Oil Co./Farmland Industries, Inc.*, 9 DOE ¶ 82,597 (1982).

In the proposed decisions we additionally suggested that we would consider establishing a threshold level of purchases under which applicants—primarily smaller firms and individuals—would be excused from having to document more than the fact that they purchased NGLs that came from the NGL processor firms during the relevant period of time. In its proposal, Suburban Propane suggests that claimants requesting refunds of $7,500 or less be excused from having to demonstrate that they were unable to pass through the alleged overcharges. Suburban Propane also asserts that we should not require resellers to demonstrate that they were forced to absorb price increases. According to the firm, "[t]he existence of banks during the affected period should be accepted as evidence that the marketplace prohibited the passing on of increased costs." On the other hand, the Controller of the State of California urges us to not establish any threshold purchase level. The Controller believes that we should instead adopt a strong presumption that any reseller who was overcharged would have passed through the violation amount to its customers. He contends that establishing a relaxed claims procedure for small resellers might exhaust the available settlement funds, preventing any recovery by ultimate consumers.

After careful consideration we have concluded that it is in the best interests of efficient resolution of these four refund proceedings to establish a threshold level of purchaser below which a claimant need not demonstrate injury. We do not agree with the Controller that most small resellers can be presumed to have passed on all of the alleged overcharges to their customers. If, for example, alleged overcharges resulted in a wholesale product price that was at the high end of the range of prices in its market area, a reseller may very well have been unable to charge its maximum lawful selling price because of market constraints. *See, e.g., U.S. Oil Co.*, 7 DOE ¶ 81,048 (1980). If we were to adopt a requirement that every applicant supply full documentation of its injuries it would discourage smaller applicants since the expense of preparing such an application could well exceed the refund to be gained. Furthermore, the Controller has offered no support for creating a presumption that all alleged overcharges were ultimately passed through to consumers. We have therefore concluded that a threshold figure should be established for the four cases involved in this refund proceeding.

In our view, however, the $7,500 refund amount recommended by Suburban Propane is inappropriate. In previous Subpart V cases we have set the threshold level on the basis of an applicant's level of purchases, rather than on a claimant's eligibility to receive a certain sum of money. *See, e.g., Office of Special Counsel (Tenneco)*, 9 DOE ¶ 82,538 at 85,203–05; *Vickers*, 8 DOE at 85,396. We have established a purchase level of 50,000 gallons per month of covered product as a threshold level in a number of prior special refund proceedings. *Id.* Our decision to adopt a threshold level below which applicants do not have to submit any further evidence of injury is based upon several factors. First, as we noted earlier, establishing a threshold permits the OHA to conduct special refund proceedings with much greater efficiency and reduced administrative costs. It is also authorized by the Subpart V regulations. *See* 10 CFR 205.282(e). We also recognize that requiring small firms to produce records of transactions that occurred as much as eight years ago could prove to be an onerous, if not impossible, task. Over the years, it has been our experience that businesses with relatively low volumes of sales will not have maintained as extensive and accessible records as larger firms, which have more sophisticated accounting capabilities and which use computers for inventory and recordkeeping purposes. *See, e.g., Vickers* at 85,396; *National LP-Gas Assn.*, 1 DOE ¶ 80,131 (1977). Large firms are also more likely to have readily available records of long-past transactions because of preexisting provisions requiring larger firms to maintain such information. *Vickers* at 85,396. For these reasons, even if the records still exist, the cost of compiling information that is sufficient to show injury would, in many cases, exceed the refund to be gained by a small firm.

The threshold figure selected for a refund case should strike an appropriate balance between two competing considerations. *Office of Special Council, Economic Regulatory Administration: In the Matter of The Charter Company*, 10 DOE ¶ 85,039 (1982). While we are concerned that the expense of preparing an application not be grossly disproportionate to the potential refund to be gained, at the same time we believe that it would be irresponsible to pay out large sums of money without requiring any further showing of injury. In order to establish a threshold which best achieves the desired balance, a number of factors should be taken into consideration.

As an initial matter, the number of firms that we anticipate will submit Applications for Refund in a particular Subpart V proceeding is a factor of major concern in our selection of the threshold level. This is so largely because it has been our experience that the more purchasers that the consent order firm had during the consent order order period, the smaller the claimants and their relevant purchase volumes are likely to be. Further, the greater the number of applications filed by smaller firms, the greater the utility of establishing a threshold that will provide a method for fair yet efficient processing of these smaller claims. As we stated in *Charter*, it is also important to consider the amount of the per-gallon refund in relation to the costs associated with preparing a claim, *Charter*, 10 DOE at 88,167. In some cases the per-gallon refund amount available for distribution is relatively high, making the cost of preparing a more detailed application not disproportionately large, even for a smaller firm. *Id.* The period covered by the consent order involved is another element that affects a small firm's cost of preparing a detailed Application for Refund. Obviously, the more time that has elapsed between the

consent order period and the special refund proceeding, the more burdensome it is to retrieve information from non-computerized files. Small firms pressed for space are also more likely to have discarded old records that no longer needed to be retained. Another relevant factor is the length of the period covered by the consent order, since the longer the period covered, the greater the cost of compiling a detailed application will be. Finally, the type of product involved in the transactions covered by the consent order and the type of business operated by the consent order firm should be considered in selecting the threshold for a particular case because different products are marketed in different ways. Both the type of product involved and the consent order firm's level in the chain of distribution therefore contribute significantly to the determination of the appropriate threshold. We will now use the equitable considerations discussed above to determine the proper small claim threshold levels for each of the four cases.

The Richardson consent order spans a period of 69 months, beginning with September 1973. During this period, the firms made domestic NGL sales of 174,850,308 gallons to an estimated 50 first purchasers. Since the Richardson Companies consent order provided $1,100,000 for distribution through this proceeding, the per-gallon refund amount is $0.006291, plus a proportionate share of the interest accrued on the fund. Weighing and balancing this data in accordance with the above discussion of relevant equitable factors, we have determined that the small claim threshold level for the Richardson Companies' special refund proceeding will be 60,000 gallons per month of covered product, or 720,000 gallons annually.

With regard to the TOGCO matter, we note that while the consent order period also began in September 1976, it covers a comparatively short period of 31 months. According to the information that we have been able to obtain the firm sold a total of 281,417,839 gallons of NGLs to seven large purchasers during the period for which it provided $4,200,000 for refunds. The per-gallon refund from the TOGCO fund will therefore be $0.014924, plus appropriate interest. Based on our application of the relevant equitable considerations to the circumstances of this case, we have selected a threshold for small claims of 50,000 gallons per month, or 600,000 gallons annually, for the TOGCO special refund proceeding.

As noted elsewhere in this Decision, Ozona sold virtually all of the NGLs processed at its plant during both consent order periods to Suburban Propane Gas Corporation. As we further discuss, Suburban Propane has waived any claim it might have had to the Ozone funds and is providing the OHA with information about its domestic sales during the relevant periods. For determining the proper threshold in the Ozona cases, it is important to consider the number and size of Suburban Propane's first purchasers to estimate the number of applications that the special refund proceedings will generate. During both the Ozona I and II consent order periods, Suburban Propane indicates that it sold Ozona-derived NGLs to nine firms of varying size. However, based on our application of the equitable factors we previously identified as relevant, we have decided that different threshold levels should be established for the Ozona I and Ozona II proceedings.

Pursuant to the Ozona I consent order, the firm provided $814,000 for the DOE to distribute through Subpart V proceedings. Like the Richardson Companies and TOGCO consent orders, the Ozona II settlement period begins in September 1973. However, it spans a period of only 16 months, during which the firm sold 9,725,826 gallons of NGLs. Because of the relatively few gallons of covered product that Ozona sold during this period, the Ozona I consent order provides an unusually high per-gallon refund of $0.083695. Taking all these factors into account, as well as those discussed in the previous paragraph, we have determined that the threshold amount below which applicants for a portion of the Ozona I fund will not be required to provide further proof of injury is 16,000 gallons per month, or 192,000 gallons per year.

By contrast, the Ozona II consent order covers a more recent period of 38 months, during which the firm sold 55,147,434 gallons of NGLs. The Ozona II settlement provided $177,000 for refunds for their alleged violations of the DOE price regulations in sales of NGLs during the latter audit period. Calculated according to the volumetric formula, the Ozona II consent order yields a comparatively small per-gallon refund amount of $0.003210. Taking into consideration the circumstances of this case, we have decided to establish a threshold of 175,000 gallons per month, or 2,100,000 gallons annually, for the Ozona II special refund proceeding.

In view of the foregoing considerations, we have determined to accept Applications for Refund of a portion of the four firms' consent order funds filed within 90 days after the publication of this Decision and Order in the Federal Register. *See* 10 CFR § 205.283. We will consider all applications, although we may later impose a lower dollar limit on claims. *See* 10 CFR § 205.286(b).(*16*) Applications made on behalf of a class of claimants will be considered on a case-by-case basis. An application must be in writing, signed by the applicant, and specify which of the four cases involved in this Decision the application pertains to, by firm name and case number.(*17*) If the applicant is not a direct purchaser from one of the four firms, it should submit evidence indicating from whom the NGLs were purchased and what basis the applicant has for its belief that the NGLs that it purchased originated from a natural gas processing plant named in the consent orders.

As we noted earlier in this decision, Suburban Propane submitted a proposal for assisting the DOE in distributing the $991,000 (plus interest) involved in the two Ozona cases. Suburban Propane states that it had no banks during the periods covered by the Ozona consent orders and is therefore willing to waive any claim it might have for a portion of the funds. The firm further states that it wants to be involved in the refund process in order to protect its customers' interests and to protect itself from related lawsuits. Suburban Propane first proposed a distribution plan in which it and downstream purchasers of the Ozona NGLs would participate in the disbursement process. While we found considerable merit in Suburban Propane's proposal, we determined that it would have to be modified in order for it to be acceptable to the DOE. Through brief negotiations the firm and the DOE have agreed upon a plan in which Suburban Propane will assist the DOE in identifying potential claimants and verifying purchase volumes. Briefly stated, the firm provided the OHA with a list of the firms which purchased NGLs that originated from the Ozona plant during the relevant periods, and monthly purchase volume data for those customers.(*18*) We will notify each identified eligible customer about the special refund proceeding and its purchase volume for the relevant period according to Suburban Propane.(*19*) In order to receive a portion of the escrow fund, a Suburban Propane customer must file an Application for Refund. However, unless the firm disputes the purchase volumes of NGLs reported by Suburban Propane, it need not provide additional proof of purchase with its application. Applications for Refund filed by the eligible identified customers will then be reviewed and processed in the same manner as other claims filed pursuant to this Decision.

Applications for a refund from any of the four consent order funds must be filed on 8½ x 11 inch paper. All applications must be filed in duplicate, except that in the case of a party who claims to have purchased Ozona-produced NGLs from Suburban Propane, the portion of the application indicating the volumes purchased during the consent order period should be filed in triplicate. Copies of all applications will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. Any applicant who believes that his application contains confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. All applications should be sent to: [name of consent order firm] Consent Order Refund Proceeding, Case No. [BEF–0022, –0027, –0046 or –0056]; Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461. All Applications for Refund received within the time limit specified will be processed pursuant to 10 CFR § 205.284.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following section discusses the showing that should be made by refiners, resellers, retailers and end-users of the NGLs covered by the four consent orders included in this special refund proceeding.

A. Each applicant should furnish its name, street or post office address, and its telephone number. If the applicant is a

business firm, the applicant should furnish any and all other names under which it operated during the period for which the claim is being filed.

B. The applicant for refund should contain the name and telephone number of the person who prepared the application. If the preparer was someone other than the applicant, the claimant may wish to furnish the name and telephone number of a "contact person" who is familiar with the facts set forth in the application. Unless otherwise specified, the refund check will be issued to the preparer.

C. Each application should set forth the name, address and telephone number of the supplier who sold the applicant the volumes of product for which a claim is being filed. If the supplier was a reseller, the applicant should state whether the reseller was supplied directly by the relevant consent order firm. If the item was purchased directly from a consent order firm, the applicant's customer identification number and its sales representative's name and telephone number should be included in the application. If the product was not branded, the applicant should explain the reasons why it believes that the purchased product came from NGLs that originated from the plant involved during the relevant period.

D. Each applicant should report its volume of purchases of NGLs by calendar quarter for the period of time for which it is claiming it was injured by the alleged overcharges. No invoices need be submitted with the application; however, the applicant should keep its supporting material in a convenient place at least until it has received a refund. We may request copies of invoices or other more detailed supporting material in certain cases.

E. Each applicant should specify how it used the NGLs—as a petrochemical producer, refiner, reseller, retailer or ultimate consumer.

F. An applicant who is a refiner or a reseller must state whether any of the NGLs for which it is claiming a refund were exported from the United States.

G. If the applicant is a refiner or reseller (other than a regulated utility or agricultural cooperative), it should state whether it maintained banks of unrecouped product cost increases from the date of its purchases *through January 27, 1981*. It should also furnish cumulative quarterly bank calculations for the entire period.

H. If the applicant is a refiner, reseller (other than a regulated utility or an agricultural cooperative), or retailer, it must submit evidence to establish that it did not pass on the alleged overcharges to its customers if its application requests a refund based on purchases averaging over the threshold established for the relevant proceeding.(*20*)

I. Each application shall indicate whether the applicant or any person acting on his instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding.

J. The applicant should report whether it is or has been involved as a party in other DOE enforcement proceedings or private section 210 actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR § 205.9(d).

K. The application *must* contain a signed statement that the applicant swears (or affirms) that all of the information furnished in the application is true and accurate to the applicant's best knowledge, and that the signer understands that anyone who is convicted or providing false information to the federal government may be subject to a jail sentence, a fine, or both. *See* 18 U.S.C. § 1001.

Additionally, Suburban Propane has also proposed that the participation of any purchaser in the refund proceeding automatically release its supplier from any claims by that purchaser with regard to the sales involved.(*21*) As we have stated in prior decisions, we will generally decline to adopt an election of remedies provision that would limit a firm's rights under section 210 of the ESA unless the consent order contains a promise by the Office of Enforcement to recommend to the OHA that claimants be required to execute a waiver. *See generally, Coline*, 9 DOE at 85,053–54. None of the consent orders involved in this proceeding contains such a provision, and we perceive no reason to adopt the even broader waiver proposed by Suburban Propane. Therefore we shall not adopt any waiver requirement as part of the special refund procedures to be implemented in these cases.

V. Distribution of the Remainder of the Consent Order Funds

Several comments addressed our proposed distribution of the remainder, if any, of the consent order funds after all meritorious claims have been paid. Those comments can be divided into three groups. First, some commenters contend that the Office of Hearings and Appeals lacks the statutory or regulatory authority to implement the proposed distribution. Second, some commenters acknowledge that this Office possesses the authority to fashion such a restitutionary mechanism, but suggest alternatives to or modifications of our original proposal. A third group of comments were received from state government entities that support our alternative proposal to distribute funds through states, according to their pro rata purchases of the consent order firms' sales. Many of these commenters provided specific proposals for the use of their states' moneys.

In this Decision, we are not implementing second-stage refund procedures. Such a step would be difficult to take before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the consent order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme. Moreover, in the present cases claimants could assert claims which, if meritorious, would completely exhaust the consent order funds. In order for members of the public to be made aware of outstanding issues and be able to comment on them, we note that we summarized and briefly addressed the comments received concerning the proposed second-stage refund procedures in *Vickers*. 8 DOE at 85,398–99. Many of the same parties who commented on the second-stage procedures proposed for the *Vickers* case submitted virtually identical comments in the present cases. Therefore we will not reiterate our discussion of these issues here. We continue to seek additional comments on these issues. Comments regarding second-stage procedures in the present case should be submitted to the OHA Consent Order Refund Proceeding at the address listed above within 30 days of publication of this Decision and Order in the **Federal Register.**

It Is Therefore Ordered That:

The Petitions for Implementation of Special Refund Procedures filed by the Economic Regulatory Administration in Case Numbers BEF–0022, BEF–0027, BEF–0046 and BEF–0056 are hereby granted. The refund amounts provided by Sid Richardson Carbon and Gasoline Company and Richardson Products Company, Texas Oil and Gas Corporation, and Ozona Gas Processing Plant will be distributed in the manner set forth in the foregoing decision.

Notes

(*1*) In an audit of the Richardson companies' Keystone and Halley Gas Processing Plants, the OE found possible overcharges with respect to first sales of NGLs during the period from September 1973 through June 1979. The OE further found possible violations involving the firms' purchases and resales of NGLs during the same period. In order to settle all claims and disputes between the parties, the Richardson companies agreed to pay $1,100,000 to the DOE. The parties further agreed that this amount would be distributed by the agency pursuant to 10 C.F.R. Part 205, Subpart V. On October 4, 1979, notice of the proposed consent order was published in the **Federal Register** *See* 44 Fed. Reg. 57148 (1979). Interested persons were provided an opportunity to comment on the terms of the proposed consent order and to submit written notice to the OE of potential claims against the settlement funds. In response, Diamond Shamrock Corporation and McCulloch Gas Processing Corporation submitted comments identifying themselves as potential claimants for a portion of the refund account. (MGPC, McCulloch's successor company, has since notified the OHA that it no longer intends to assert a claim against the Richardson funds.) No other comments were received. The proposed consent order was finalized without modification. *See* 44 Fed. Reg. 66656 (1979).

(*2*) As a part of its enforcement activities, the OE conducted an audit of TOGCO in order to determine whether the firm had complied with the DOE pricing regulations applicable to NGLs. *See* 6 C.F.R. Part 150, Subpart L and 10 C.F.R. Part 212, Subparts E and K. The audit of TOGCO's natural gas processing plants revealed possible pricing violations with respect to the firm's first sales of NGLs during the period September 1973 to March 1976. TOGCO's first purchasers during

this period included Conoco, Inc., Mobil Oil Corporation, The Coastal Corporation, Koch Oil Company, Warren Petroleum Corporation, Wanda Petroleum Company, and UPG, Inc. On March 12, 1980, TOGCO and the DOE entered into a consent order in order to settle all claims and disputes between the parties arising from TOGCO's first sales of NGLs during the audit period. Under the terms of the consent order, TOGCO agreed to remit $4,200,000 to the DOE. The parties stipulated that these funds would be distributed by the DOE in accordance with 10 C.F.R., Part 205, Subpart V. The TOGCO consent order was published in the **Federal Register** on April 8, 1980, *see* 45 Fed. Reg. 23720 (1980). Interested parties were invited to comment on the terms of the consent order and to submit written notice of claims against the settlement fund. Mobil, Koch, Coastal, and Conoco responded and identified themselves as potential claimants.

(*3*) An OE audit of Ozona's gas plant in Crockett County, Texas revealed possible pricing violations with respect to Ozona's first sales of covered NGL products during the period September 1, 1973 through December 31, 1974. In order to settle all claims and disputes between the OE and Ozona regarding the first sales of NGLs during this period, the parties entered into a consent order in which Ozona agreed to pay $814,000 to the DOE. The parties further agreed that this amount would be distributed by the DOE pursuant to Subpart V. The terms of the final consent order were published in the **Federal Register** on December 20, 1979. *See* 44 Fed. Reg. 75450 (1979). Interested persons were provided an opportunity to comment on the terms of the proposed consent order and to submit written notice of potential claims against the settlement funds. In response, Suburban Propane Gas Corporation identified itself as a first purchaser of products from Ozona and submitted a claim against the refund account. Additionally, Growth Energy, Inc. identified itself as a downstream purchaser of NGLs from the Ozona plant through Suburban Propane.

(*4*) The OE's audit of Ozona's Crockett County plant additionally revealed possible pricing violations with respect to Ozona's first sales of covered NGL products during the period January 1, 1975 through February 28, 1978. In settlement of these matters, Ozona agreed to pay $177,000 to the DOE. The parties agreed that this amount would also be distributed by the DOE pursuant to Subpart V. The terms of the final consent order were published in the **Federal Register** on December 7, 1979. *See* 44 Fed. Reg. 70538 (1979). Again interested persons were told to submit written notice of potential claims against the settlement funds. Suburban Propane and Growth responded to this notice in the same manner as before. *See* n.3 *supra*.

(*5*) We issued a proposed decision and order discussing the distribution of the funds obtained through the Ozona I consent order on May 1, 1981. *See* 46 Fed. Reg. 25535 (1981). The proposed decision that included our tentative determinations concerning the TOGCO consent order funds was issued on May 22, 1981. *See* 46 Fed. Reg. 28929 (1981). The Ozona II consent order funds were included in an August 18, 1981 proposed decision and order *See* 46 Fed. Reg. 42743 (1981). Lastly, we issued a propsed decision concerning the Richardson funds on June 29, 1982. *See* 47 Fed. Reg. 29702 (1982).

(*6*) *See* n.5 *supra*.

(*7*) All four firms are "gas plant operators" as that term is defined in 10 C.F.R. § 212.62. Each of the proposed decisions and orders issued for these cases contained identical first-stage refund procedures. Additionally, many of the commenters who responded to our request for comments filed virtually the same comments in each case.

(*8*) In any event, many of the parties who commented on the second-stage procedures proposed for the distribution of the Richardson, Ozona, and TOGCO consent order funds have submitted virtually identical comments in prior Subpart V cases. We discussed these comments in the Vickers decision, *see* 8 DOE at 85,393–99, and will not reiterate that discussion here.

(*9*) Warrent Petroleum Company, one of TOGCO's first purchasers, is a wholly-owned subsidiary of Gulf. The Transportation Group is an *ad hoc* organization of four trade associations whose members are regulated (or formerly regulated) transportation companies.

(*10*) Some of the state commenters also contend that state governments are better suited to adjudicate the disposition of the settlement funds than is this Office. They therefore suggest that it would be more efficient for the OHA to turn over each Sate's share of the settlement funds to each State for redistribution, rather than to utilize Subpart V in these cases. We discussed this same proposal in *Coline*, which also involved Subpart V proceedings to distribute funds paid by gas plant operators in connection with first sales of NGLs. *See Coline*, 9 DOE at 85,047–48. While the settlement funds from TOGCO, Ozona and the Richardson Companies amount to considerably more than the funds involved in the Fagadau case, it is possible that meritorious claims might exhaust the available moneys. Therefore, for the same reasons as set forth in *Coline*, we disagree with the states' position. We accordingly conclude that it would be inappropriate for us to relinquish responsibility over these funds to the States at this time.

(*11*) The Court had previously held in Hanover Shoe v. United Shoe Machine Corp., 392 U.S. 481 (1968), that "passing on" could not be used as a defense in a private antitrust action by a defendant alleging that the plaintiff had passed on the resulting overcharges to its customers and therefore suffered no injury.

(*12*) The Controller uses the term "reseller" to refer to any purchaser that is not an ultimate consumer of the product purchased.

(*13*) We have previoulsy held that the equitable doctrine of clean hands will be applied by the OHA in exception cases that involve requests for equitable relief. *See* Acomi Corp., 4 DOE ¶82,542 (1979) and cases cited therein. Special refund proceedings are likewise equitable in nature. Office of Special Counsel (Pennzoil), 9 DOE ¶85,525 (1982). The Temporary Emergency Court of Appeal has recently applied the "clean hands" doctrine in determining whether a purchaser may receive refunds for violations of the DOE regulations. In Citronelle-Mobile Gathering, Inc. v. Edwrds, 669 F.2d 717, 722–23 (Temp. Emer. Ct. App. 1982), the court held that because the purchasers of the crude oil involved "aided and abetted" the producer in its violation of the price regulations for their material benefit, "they are barred by 'unclean hands' from seeking or recovering any of the illegal profits."

(*14*) We note that volumes of NGLs purchased in export sales will not be counted towards the applicable threshold. Nor will applicants be eligible to receive a portion of the escrow funds based on any purchases of NGLs that were destinedfor foreign countries. As we stated in the proposed decision issued in connection with the Richardson funds, export sales (including sales to domestic firms that certified that the product was to be exported) were exempt from price controls throughout the consent order periods. Office of Enforcement, 47 Fed. Reg. at 29705 (1982). *See also* 10 C.F.R. 212.53(a); 6 C.F.R. 150.54(d)(1). Since export sales were not subject to DOE regulations governing maximum selling prices, they could not be a basis for any alleged overcharges and would not have been covered by the consent order. This issue was discussed in the Richardson proposed decision because the DOE Regional Office that conducted the audit of the Richardson companies informed the OHA that many of the NGLs that originated from the firms' Halley and Keystone processing plants during the consent order period were exported. While we have not been informed that NGLs from Ozona or TOGCO were exported, any export sales involving those firms' NGLs similarily would not be a proper basis for an Application for Refund.

(*15*) In prior special refund proceedings we have declined to set forth a precise methodology that claimants must use to show that they were injured as a result of allegedly unlawful pricing practices. Instead, we have provided potential applicants with an understanding of the showing of injury that we look for, stating that each firm can best decide how to substantiate its claim of injury based on its factual circumstances and its recordkeeping systems. While we still believe that a flexible approach is best, we have considered showings made by various types of claimants in a number of recent decisions and would suggest that potential claimants review these decisions for guidance in preparing their applications. *See, e.g.*, Tenneco Oil Co./Enterprise Products Co., 10 DOE ¶85,017 (1982); Tenneco Oil Co/Chevron U.S.A. Inc., 10 DOE ¶85,014 (1982); National Helium Corp./Farmland Industries, Inc., No. RF3–1 (August 19, 1982) (proposed decision); Palo Pinto Oil & Gas/Gulf Oil Corp., No. RF5–1 (July 6, 1982) (proposed decision).

(*16*) In a number of prior Subpart V refund cases we have established a $15 minimum due to the administrative cost involved in analyzing applications and issuing refund checks.

(*17*) It is especially important that applicants for a portion of the Ozona funds pay particular attention to specifying which Ozona case its application pertains to. The

consent order involved in Ozona I. Case No. BEF-0048, covers NGLs sold by Ozona during the period September 1, 1973 through December 31, 1974. The second Ozona consent order, which is involved in Case No. BEF-0056, applies to NGLs that Ozona sold between January 1, 1975 and February 28, 1978.

(18) The list will not include customers that purchased NGLs in or for export sales. This customer information provided to the OHA by Suburban Propane will be treated in accordance with federal provisions prohibiting the release of confidential proprietary information.

(19) The list of Suburban Propane's first purchasers included Delta Drilling Company and the Ozona Gas Processing Plant itself. Delta Drilling Company, as a joint venture owner of Ozona, signed the consent orders on behalf of Ozona. While the prices paid by that Delta Drilling and Ozona may reflect increased costs associated with the alleged overcharges, it is clear that neither of these frims is an intended beneficiary of the Ozona consent orders. Neither firm will therefore be eligible to receive any portion of the funds available in the first stage of the Ozona special refund proceeding. *See* Section III, *supra*.

(20) We note that a reseller who recouped increased product costs banked during the consent order period only after the consent order period nonetheless recovered the increased costs and thus suffered no injury as a result of the alleged overcharges. Consequently, claimants that are required to demonstrate that they did not pass through increased costs must show that they had banks until January 28, 1981, the date on which the President decontrolled all remaining covered products. It is also worth noting, however, that in recent decisions issued in refund application cases, the OHA has granted claims from applicants who have chosen to limit their claim to the threshold amount. *See, e.g.*, Tenneco Oil Co./Sav-a-Ton, 9 DOE ¶82,600 (1982); Tenneco Oil Co./Thomas Fastiggi, 9 DOE ¶82,582 (1982).

(21) One of Suburban's Propane's first purchasers, Growth Energy, Inc. (now doing business as International Drilling & Energy Corporation), filed comments opposing the proposed waiver provision. Growth asserts that the OHA should not permit this special refund proceeding to affect any claims for regulatory violations that a firm might have against its supplier.

[FR Doc. 83-2415 Filed 1-27-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2293-7]

Availability of Environmental Impact Statements Filed January 17 Through January 21, 1983, Pursuant to 40 CFR 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382-5075 or 382-5076.

Corps of Engineers:

EIS No. 830032, Draft, COE, SEV, AL, TN, French Broad/Tennessee/Cumberland Rivers, Dredging Permit, Due: March 14, 1983

Department of the Interior:

EIS No. 830028 Draft, IBR, CA, Tahoe City Land Transfer/Newlands Project, Placer County, Due: March 14, 1983

EIS No. 830033 Final, NPS, UT, Capitol Reef National Park General Management Plan Due: February 28, 1983

EIS No. 830030 FSuppl, OSM, REG, Surface Mining Control & Reclamation Act Section 501(b), Regulations, County, Due: February 28, 1983

Department of Transportation:

EIS No. 830027 Draft, FHW, OH, OH-241, Relocation, US 30 Interchange to Oberlin Rd. Viaduct, Stark County, Due: March 14, 1983

EIS No. 830026 DSuppl, FHW, VT, VT-127, Construction, Burlington/Colchester Town Line to Winooski R., Due: March 14, 1983

EIS No. 830031 Draft, FAA WI, Kenosha Municipal Airport Improvements, Kenosha County, Due: March 21, 1983

Environmental Protection Agency:

EIS No. 830029 Final, EPA, PRO, MI, WI, LI, IN, OH, NM, Rural Lake Areas Wastewater Management, Due: February 28, 1983

EIS No. 830034, Draft, EPA, AZ, Arizona Hazardous Waste FAcility, Land Transfer, Maricopa County, Due: March 14, 1983

Amended Notices:

EIS No. 820767 Draft, BLM, NM, Bisti, De-na-zin and Ah-shi-sle-pah WSAs Designation, San Juan County, Published FR December 8, 1982—Review extended, Due: March 8, 1983

EIS No. 820768 Draft, BLM, NM, San Juan River Regional Coal Leasing and Development, Published FR December 8, 1982—Review extended, Due: March 8, 1983

EIS No. 820769 Draft, BLM, NM, New Mexico Coal-Fired Steam Electric Generating Station, Right-of-Way, Published FR December 8, 1982—Review extended, Due: March 8, 1983

Dated: January 25, 1983.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 83-2376 Filed 1-27-83; 8:45 am]

BILLING CODE 6560-50-M

[CR-FRL-2293-7]

Intent To Prepare an Environmental Impact Statement for the Red Dog Mine Project, Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent.

PURPOSE: In accordance with Section 102(2) (C) of the National Environmental Policy Act (NEPA), EPA has identified a need to prepare an Environmental Impact Statement (EIS) and publish this Notice of Intent in accordance with 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: William M. Riley, EIS Project Officer, Environmental Evaluation Branch (M/S 443), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1775.

SUMMARY: The Environmental Impact Statement (EIS) will evaluate the impacts associated with the development of an open pit lead, zinc and silver mine in northwestern Alaska. The mine site is approximately 90 miles north of Kotzebue in the Wulik River watershed. The proposed project includes a seventy mile access road, part of which could pass through Cape Krusenstern National Monument, and development of a port facility on the Chukchi Sea. The administrative actions which the EIS must address include issuing an EPA National Pollution Discharge Elimination System (NPDES) permit. The alternatives to be evaluated include the "no action" alternative, various waste discharge control strategies, alternative access routes and alternative port sites and port designs. The proposed project is a venture between Cominco Alaska and the NANA Regional Corporation.

Scoping: Scoping meetings for the purposes of identifying issues to be evaluated in the EIS will be held in Fairbanks and Kotzebue. Dates, locations and times of the meetings will be announced in local newspapers.

EPA anticipates that the Draft EIS will be available for public review in approximately seven months. Interested persons are encouraged to submit their name and address to the Project Officer for inclusion on the distribution list for the Draft EIS and related public notices.

Paul C. Cahill,

Director, Office of Federal Activities.

January 25, 1983.

[FR Doc. 83-2377 Filed 1-28-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2293-7]

Intent To Prepare an Environmental Impact Statement for the Wilton Generating Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent.

PURPOSE: In accordance with Section 102(2)(C) of the National Environmental Policy Act, EPA has identified a need to prepare an Environmental Impact Statement (EIS) and publish this Notice

of Intent in accordance with 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: Mr. Clinton Spotts, Regional EIS Coordinator, U.S. Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2716 or (FTS) 729–2716.

SUMMARY: The Region 6 EPA has issued a detailed Notice for the preparation of an EIS on the proposed issuance of a new source National Pollutant Discharge Elimination System permit to the Louisiana Power and Light Company for discharge of wastewater from the proposed Wilton Generating Plant located in St. James Parish, Louisiana. The proposed generating plant would consist of two 800 megawatt units, two auxiliary boilers, and ancillary facilities to be located on a 3000 acre site on the left descending bank of the Mississippi River at Mile 163.

Scoping: A meeting will be held for the purpose of identifying issues to be evaluated in the EIS on Wednesday, February 23, 1983 at 7:00 p.m. at the Parish Council Room on the second floor of St. James Parish Courthouse, Convent, Louisiana.

Interested persons are encouraged to submit their name and address to the Project Officer for inclusion on the distribution list for the Draft EIS and related public notices.

Dated: January 25, 1983.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 83–2378 Filed 1–27–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Forms Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New.

Title: Emergency Management Preparedness Level Survey.

Abstract: Information obtained will be about types, numbers, age of civil defense equipment, frequency of use, current maintenance practices. Information used to determine state of readiness of emergency management equipment and can be used in developing guidance and manuals.

Types of respondents: State and local governments.

Number of respondents: 144.

Burden hours: 48.

OMB Desk Officer: Ken Allen (202) 395–3786.

Copies of the above information collection clearance package can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley (202) 287–9906, 500 C Street SW., Washington, DC 20472.

Written comments and recommendations for the proposed information collection packages should be sent to Linda Shiley, FEMA Reports Clearance Officer, 500 C Street, SW., Washington, DC 20472 and to Ken Allen, Desk Officer, OMB Reports Management Branch, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: January 20, 1983.

Charles M. Girard,

Associate Director.

[FR Doc. 83–2379 Filed 1–27–83; 8:45 am]

BILLING CODE 6718–01–M

[FEMA–673–DR]

Arkansas; Amendment to Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas (FEMA–673–DR) dated December 13, 1982, and related determinations.

DATED: January 19, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

NOTICE: The notice of a major disaster for the State of Arkansas dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982: Pike County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83–2380 Filed 1–27–83; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–215]

Lawrence Federal Savings; Lawrence, Kansas; Final Action Approval of Conversion Applications

Notice is hereby given that on January 18, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Larwence Federal Savings, Lawrence, Kansas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66603.

Dated: January 24, 1983.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83–2488 Filed 1–27–83; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–216]

Phoenix Federal Savings & Loan Association; Muskogee, Oklahoma; Final Action Approval of Post-Approval Amendment to Mutual-to-Stock Conversion Application

Notice is hereby given that on January 18, 1983, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Phoenix Federal Savings and Loan Association, Muskogee, Oklahoma ("Association"). The application had been approved by the Board by Resolution No. 82–354, dated May 14, 1982. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C., 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Topeka, P.O. Box 176, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas, 66601.

Dated: January 24, 1983.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83–2489 Filed 1–27–83; 8:45 am]

BILLING CODE 6720–01–M

[No. AC-214]

Texas Federal Savings & Loan Association, Dallas, Tex.; Final Action Approval of Post-Approval Amendment to Mutual-to-Stock Conversion Application

Notice is hereby given that on January 18, 1983, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved post-approval amendments to Section 14 of the Plan of Conversion of Texas Federal Savings and Loan Association, Dallas, Texas. The Application for Conversion had been approved by the Board by Resolution No. 81-176, dated March 31, 1981. Copies of the Application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

Dated: January 24, 1983.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-2487 Filed 1-27-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-7]

Atlantic and Gulf/West Coast of South America Conference, et al. v. Empresa Maritima Del Estado; Filing of Complaint and Assignment

Notice is given that a complaint filed by Atlantic and Gulf/West Coast of South America Conference, et al. against Empresa Maritima Del Estado was served January 20, 1983. Complainants allege that respondent has undertaken activities and entered into arrangements with other carriers regarding transportation of cargo from the United States to Chile in violation of sections 15 and 18(b)(1) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matter in issue in such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-2427 Filed 1-27-83; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Security Program Data (Standard Form 311)

AGENCY: General Services Administration.

ACTION: Notice of Information Collection; Revision.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget to review and approve the revision of an information collection request for the continued collection of data.

DATE: Comments on the information collection request must be submitted on or before February 18, 1983.

ADDRESS: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Laura Kimberly on (202) 535-7259.

SUPPLEMENTARY INFORMATION: Federal organizations complete and use the Standard Form 311 to determine the status of Federal information security programs and for the preparation of the Federal Annual Progress Report to the President. A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone (202) 566-1164.

Dated: January 20, 1983.

Clarence A. Lee, Jr.,

Director of Administrative Services

[FR Doc. 83-2479 Filed 1-27-83; 8:45 am]

BILLING CODE 6820-34-M

Statement of Contingent or Other Fees (Standard Form 119)

AGENCY: General Services Administration.

ACTION: Notice of Information Collection; Revision.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget to review and approve the revision of an information collection request for the continued collection of data.

DATE: Comments on this information collection request must be submitted on or before February 18, 1983.

ADDRESS: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, GSA (703-696-5180).

SUPPLEMENTARY INFORMATION: Standard Form 119 is used to collect information required to determine the legality of the employment of a firm or person to obtain a contract with the Federal Government. The estimated annual number of respondents is 1,000, and the estimated average time per response is 1 hour. A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone 566-1164.

Dated: January 21, 1983.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 83-2480 Filed 1-27-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Council on Social Security; Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Council on Social Security, as established by the Secretary of Health and Human Services in accordance with Section 706 of the Social Security Act, 42 U.S.C. Sec. 907.

DATE AND ADDRESS: The meeting will be held on February 13 from 2:00 p.m. to 8:00 p.m. and on February 14 from 9:00 a.m. to 4:00 p.m. at the Capitol Holiday Inn, 550 C Street, SW., Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burke, Executive Director, 200 Independence Avenue, SW., Washington, D.C. 20201; telephone (202) 755-8670/71.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Attendance will be limited to the space available. Interested parties may submit written presentations for consideration by Council until March 15, 1983. Correspondence can be addressed to Advisory Council on Social Security, 200 Independence Avenue, SW., Washington, D.C. 20201.

Sign language interpreting services will be provided if requested in advance.

The proposed meeting agenda includes further briefings and discussion on the Medicare program; and such other business as the Chairperson, the Executive Director, or the membership may put before the Council.

A previous meeting of the Advisory Council on Social Security was announced in 47 FR 58369, December 20, 1982.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Administrative Officer, Advisory Council on Social Security, Room 371–H, HHH Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Thomas R. Burke,

Executive Director.

[FR Doc. 83–2374 Filed 1–27–83; 8:45 am]

BILLING CODE 4120–03–M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: Detroit District Office, chaired by Alan E. Hoeting, District Director.

DATE: Wednesday, February 23, 1983, 1 p.m. to 3 p.m.

ADDRESS: Justice Building, Wabash, IN 46992.

FOR FURTHER INFORMATION CONTACT: Lilyan M. Goossens, Consumer Affairs Officer, Food and Drug Administration, 575 N. Pennsylvania St., Rm. 693, Indianapolis, IN 46204, 317–269–6500.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–2337 Filed 1–27–83; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings to be chaired by Loren Y. Johnson, District Director, Philadelphia District Office.

DATES AND ADDRESSES: (1) Wednesday, February 23, 1983, 1 p.m. to 3 p.m., William H. Green Federal Bldg., Rm. 6310, 6th and Arch Sts., Philadelphia, PA 19106; (2) Wednesday, March 9, 1983, 1 p.m. to 3 p.m., Federal Bldg., 1000 Liberty Ave., Rm. 2214, Pittsburgh, PA 15220.

FOR FURTHER INFORMATION CONTACT: Theresa A. Young, Consumer Affairs Officer, Food and Drug Administration, 2nd and Chestnut Sts., Philadelphia, PA 19106, 215–597–0837.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory affairs.

[FR Doc. 83–2339 Filed 1–27–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82D–0336]

Drug Experience Report Forms; Availability of Draft Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guideline that sets forth information for completing Form FDA 1639, "Drug Experience Report." The draft guideline is intended to inform manufacturers and other health care professionals on how to complete Form FDA 1639 so that the information submitted will be complete and optimally useful to FDA.

DATE: Comments by May 31, 1983.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857; requests for single copies of the guideline to Judith K. Jones, National Center for Drugs and Biologics (HFN–730), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Judith K. Jones, National Center for Drugs and Biologics (HFN–730), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4580.

SUPPLEMENTARY INFORMATION: Form FDA 1639 "Drug Experience Report," is used to report adverse drug reactions to FDA. It is required to be submitted by manufacturers on any drug or antibiotic for human use for which an approval is in effect under §§ 310.300, 310.301, and 431.60 (21 CFR 310.300, 310.301, and 431.60). It is also used by health care professionals to voluntarily report drug reactions to FDA.

FDA is making available for comment a draft guideline that provides information to firms and individuals for completing Form FDA 1639. The information in the guideline is intended primarily to supplement and expand the instructions which are on the back of the form itself.

The guideline includes background information an adverse drug experience reporting, a review process of information requested on Form FDA 1639, and a discussion of the FDA review process for drug experience reports. The guideline also includes definitions of terms used in Form FDA 1639, supplemental instructions for completing the form, and discussions of incomplete reports and special situations. Three appendices provide further detailed information on the form and on drug experience reporting.

The use of the guideline should assure that proper information is supplied upon the initial submission of the adverse drug report. This will increase the usefulness of the report to FDA and obviate the need for FDA to contact the submitter to request additional information or clarification of certain entries on the form.

The guideline is being made available as a draft so that all interested parties will have an opportunity to comment on the type of information FDA expects to be submitted on Form FDA 1639. However, interested persons completing Form FDA 1639 are encouraged to follow the draft guideline immediately to

assure the submission of more complete reports at the earliest possible time.

The agency recently published a proposal in the **Federal Register** of October 19, 1982 (47 FR 46622) that would substantially revise the regulations governing the new drug approval process. When FDA publishes a final rule based on the proposal, the agency may need to make changes in the draft guideline for filing Form FDA 1639, "Drug Experience Report," and in the form itself. Because Form FDA 1639 is now in use, and to avoid undue delay in making available a draft guideline that will be helpful to those who use the form, the agency believes it should make the draft guideline available at this time.

Interested persons may on or before May 31, 1983, submit written comments on this draft guideline to the Dockets Management Branch (address above), where a copy of the draft guideline has been placed on file for public display. Such comments will be considered in the preparation of a final guideline. Two copies of all comments shall be submitted, except that individuals may submit single copies of comments. Comments should be identified by the docket number found in brackets at the heading of this document. Comments received by the agency may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Requests for single copies of the draft guideline should be addressed to Judith K. Jones (address above)

Dated: January 21, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-2338 Filed 1-27-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0261]

Food Labeling Formats; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period on its request for receipt of information on alternative food label formats for presenting nutrient information. The agency announced this request in a notice announcing a public meeting on the subject that was held December 2, 1982. The Society for Nutrition Education, the American Public Health Association, and the Vermont Department of Health requested an extenstion of the comment period.

DATE: Written comments by April 1, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond C. Stokes, Bureau of Foods (HFF-240), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1457.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 29, 1982 (47 FR 49092), FDA issued a notice announcing the second in a series of puplic meetings in collaboration with the U.S. Department of Agriculture (USDA) to discuss FDA's research project on communicating food label information. Alternative nutrition labeling formats and tentative plans for consumer research to evaluate the formats were presented and discussed at the meeting held on December 2, 1982. The notice asked for written comments by Janauary 31, 1983.

The agencies have solicited design suggestions from the food industry, food and nutrition professionals, consumers, and other interested members of the public regarding the organization and display of label information, including consideration of such elements as the use of graphic and pictorial formats, layout, type size, and the use of colors and symbols. At the December 2, 1982 public meeting, the future research plan and the results of the work performed by Robert P. Gersin Associates, Inc., 11 E. 22nd St., New York, NY 10010, to create a number of alternative food label formats for presenting nutrient information was presented. The agencies encouraged comments on this information presented to the public.

Under 21 CFR 10.40(b)(3), the Society for Nutrition Education, the American Public Health Association, and the Vermont Department of Health requested an extension of the comment period. Reasons given were because the minerals were unavailable to the public until the December 2, 1982 meeting and because of the time constraints resulting from the holiday season during this comment period. In addition, the time allowed did not permit interested parties an adequate period to prepare responses to an issue of such complexity. The agencies also note that there was a delay in distribution of the transcript of the December 2, 1982 public meeting.

Therefore, because of the reasons discussed above, the agencies conclude that it is appropriate to extend the comment period until April 1, 1983. Therefore, under 21 CFR 10.35(e), FDA is granting the requests for the extension.

Interested persons may, on or before April 1, 1983, submit to the Dockets Management Branch (address above) written comments regarding the subject notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-2330 Filed 1-26-83; 3:19 pm]

BILLING CODE 4160-01-M

[Docket No. 82F-0384]

Gulf Oil Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Gulf Oil Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1 alkenyl olefins as components of paper and paperboard.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-473-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3A3679) has been filed by Gulf Oil Corp., Pittsburgh, PA 15219, proposing that the food additive regulations be amended to provide for the safe use of 1 alkenyl olefins as components of paper and paperboard.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: January 14, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-2160 Filed 1-27-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82C-0399]

Polymer Technology Corp.; Filing of Color Additive Petitions

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Polymer Technology Corp. has filed three color additive petitions proposing that the color additive regulations be amended to provide for the safe use of D&C Green No. 6, D&C Yellow No. 11 and D&C Red No. 17 for coloring contact lenses.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b)(1), 74 Stat. 399-402 as amended (21 U.S.C. 376(b)(1))), notice is given that three color additive petitions (CAP's 3CO163, 3CO164, and 3C0165) have been filed by Polymer Technology Corp., 33 Industrial Way, Wilmington, MA 01887, proposing that the color additive regulations be amended to provide for the safe use of D&C Green No. 6, D&C Yellow No. 11, and D&C Red No. 17 in coloring contact lenses.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: January 14, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-2069 Filed 1-27-83; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of Wisconsin State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on March 15, 1983 in Chicago, Illinois to reconsider two issues in our decision to partially disapprove Wisconsin State Plan Amendment 82-0096.

DATE: Request to participate in the hearing as a party must be received by 15 days after publication.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Bureau of Program Policy, G-20 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider two issues in our decision to partially disapprove a Wisconsin State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a denial of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15 (c) (1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issues in this matter relate to Wisconsin's proposals which provide inpatient psychiatric hospital services to categorically needy individuals age 22 to 64 and offer additional optional ambulatory services only to those medically needy individuals who are institutionalized. The Health Care Financing Administration disapproved these provisions on the basis that they violate existing statutory or regulatory requirements under the Medicaid program related to the unavailability of Federal Financial Participation (FFP) for expenditures for services provided to individuals age 22 to 64 in an institution for mental diseases (IMD) and to comparability of services for all recipients within a covered medically needy group.

The notice to Wisconsin announcing an administrative hearing to reconsider our denial of portions of its state plan amendment reads as follows:

Mr. Kenneth Rentmeester,
Administrator, Division of Health, Department of Health and Social Services, P.O. Box 309, 1 West Wilson Street, Madison, Wisconsin 53702.

Dear Mr. Rentmeester: This is to advise you that your request for reconsideration of the decision to disapprove portions of Wisconsin State Plan Amendment 82-0096 was received on December 28, 1982. You have requested a reconsideration whether the proposals to provide inpatient psychiatric hospital services to categorically needy individuals age 22 to 64 and to offer additional optional ambulatory services only to those medically needy individuals who are institutionalized conform to the requirements for approval under the Social Security Act and pertinent Federal requirements.

I am scheduling a hearing on your request to be held on March 15, 1983 at 10 a.m. in the 8th Floor Conference Room, 175 West Jackson Boulevard, Chicago, Illinois. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I have designated Mr. Albert Miller as the presiding official. Although Mr. Miller will conduct the hearing and make a recommendation of his findings and proposed decision, I shall carefully review his findings and issue the final decision on the matter. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached on (301) 594-8261.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: January 24, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 83-2373 Filed 1-27-83; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Pub. L 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on March 25-26, 1983, in Building 31, Conference Room 7, 9000

Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public on March 25, 1983 from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 25, from approximately 9:30 AM until adjournment on March 26, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Peter M. Spooner, Executive Secretary, Heart, Lung, and Blood Research Review Committee A, Westwood Building, Room 648, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health.)

Dated: January 17, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–2348 Filed 1–27–83; 8:45 am]

BILLING CODE 4140–01–M

Heart, Lung, and Blood Research Review Committee B; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on March 25–26, 1983, in Building 31, Conference Room 9.

This meeting will be open to the public on March 25, 1983, from 8:30 AM to approximately 10:00 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 25, 1983, from approximately 10:00 AM to adjournment on March 26, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meetings and rosters of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: January 17, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–2349 Filed 1–27–83; 8:45 am]

BILLING CODE 4140–01–M

Microbiology and Infectious Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases, February 24–25, 1983, at the Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20016.

The meeting will be open to the public from 8:30 a.m. to approximately 9:15 a.m. on February 24 for review of policies and procedures and routine business of the Committee. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to the public for the review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:15 a.m. until adjournment on February 24 and again from 8:30 a.m. until adjournment on February 25.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Committee members as required.

Dr. Susan B. Spring, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496–7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: January 17, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83–2347 Filed 1–27–83; 8:45 am]

BILLING CODE 4140–01–M

National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council and its subcommittees on February 9, 10, and 11, 1983 in Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on February 9, from 8:30 a.m. to adjournment to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

Meeting of the full Council and its subcommittees will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable materials, and

personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The following subcommittees will be closed to the public on February 10, from 8:30 a.m. to approximately 12:00 noon: Arthritis, Musculoskeletal and Skin Diseases; Diabetes, Endocrine, and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urology and Hematology. The full Council meeting will be closed to the public on February 10 from 1:00 p.m. to adjournment on February 11.

Further information concerning the Council meeting may be obtained from Dr. George T. Brooks, Executive Secretary, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205, (301) 496–7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIADDK, Building 31, Room 9A46, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5765.

(Catalog of Federal Domestic Assistance Program No. 13.846–849, Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolis Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular)

Dated: January 17, 1983.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 83–2351 Filed 1–27–83; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Advisory Board Ad Hoc Subcommittee on Program Project Review; Amended Notice of Meeting

Notice is hereby given for an amendment to the Notice of the National Cancer Advisory Board, National Cancer Institute, National Institutes of Health, January 29–February 2, 1983; which was published in the **Federal Register** on January 13, (48 FR 1547). Notification has just been received that the ad hoc Subcommittee on Program Project Review will meet on February 2–3 at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814. The entire meeting will be open to the public from 8:00 p.m. to recess on February 2, and from 8:30 a.m. to adjournment on February 3; to discuss the peer review system of program project grant applications. Attendance by the public will be limited to space available.

For further information, please contact Dr. William Walter, Executive Secretary, ad hoc Subcommittee on Program Project Grants, National Cancer Institute, Building 31, Room 10A03, National Institutes of Health, Bethesda, Maryland 20205 (301/496–4218).

Dated: January 21, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83–2350 Filed 1–27–83; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–38–1203]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budged (OMB for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Contract and Subcontract Activity Reporting
Office: Community Planning and Development
Form Number: HUD–2516
Frequency of Submission: Quarterly
Affected Public: Local Governments
Estimated Burden Hours: 5,612
Status: New
Contact: Regina Hairston, HUD, (202) 755–6092 Robert Neal, OMB, (202) 395–[illegible]

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3525(d).

Dated: November 9, 1982.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 83–2492 Filed 1–27–83; 8:45 am]

BILLING CODE 4201–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Fort Hall Irrigation Project, Idaho

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with Section 191.1(e) of Part 191, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations, which

provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Fort Hall Irrigation Project for Calendar Year 1983 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of March 1, 1907 (34 Stat. 1024), and August 31, 1954 (68 Stat. 1026).

The purpose of this notice is to announce an increase in the Fort Hall Project assessment rates proportionate with actual operation and maintenance costs. The proposed assessment rates for 1983 will amount to an increase ranging from 0.7 percent to 5 percent.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views and arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, no later than 30 days after publication of this notice in the Federal Register.

Fort Hall Irrigation Project

Regulations and Charges

Administration

The Fort Hall Irrigation Project, which consists of the Fort Hall Unit including ceded area south of the Fort Hall Indian Reservation, the Michaud Unit and the Minor Units on the Fort Hall Indian Reservation, Idaho, is administered by the Bureau of Indian Affairs. The Superintendent of the Fort Hall Agency is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations.

Irrigation Season

Water will be available for irrigation purposes from April 15 to September 30 of each year. These dates may be varied by 15 days depending on weather conditions and the necessity for doing maintenance work.

Methods of Irrigation

Where soil, topography, and other physical conditions are unfavorable for surface irrigation, and the project facilities are designed to deliver water to farm units for sprinkler irrigation, the Officer-in-Charge may limit deliveries to this type of irrigation.

Distribution and Apportionment of Water

(a) *Delivery:* Water for irrigation purposes will be delivered throughout the irrigation season by either the continuous flow or rotation method at the discretion of the Officer-in-Charge. If during a time when delivery is by the rotation method, a water user desires to loan his turn to another eligible water user, he shall notify either the watermaster or the ditch rider who may permit such exchange, if feasible.

(b) *Preparation and Submission of a Water Schedule:* If the decision of the Officer-in-Charge is to deliver water by the rotation method, the watermaster will assist the water users on each lateral in preparing a rotation schedule should they choose to get together and prepare the schedule. In cases where the water users fail to exercise this right before March 1, the watermaster will prepare the schedule which shall be final for the season. Owners of 120 acres or more in one farm unit may elect between the continuous flow and rotation method of delivery, provided such choice does not interfere with delivery to other lands served by the lateral.

(c) *Application for Deliveries of Irrigation Water:* Requests for water changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditch rider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Duty of Water

Dependent upon avialable supplies of water for each unit of the Project, the duty of water is based on the delivery to the farm unit of 3.5 acre-feet of water per acre per irrigation season. This duty of water may be varied at the discretion of the Officer-in-Charge depending on supplies available, but each irrigable acre shall be entitled to its pro-rata share of the total water supply.

Charges

Bill covering irrigation charges will be issued to the owner of record taken from the Bannock, Bingham or Power County records as of December 31, preceding the due date. In the case of Indian-owned land leased to a non-Indian, when an approved lease contract is on file with the Superintendent of the Fort Hall Agency, operation and maintenance charges will be billed to the lessee of record.

Basic and Other Water Charges

(a) The annual basic water charges for the operation and maintenance of the Fort Hall Irrigation Project lands in non-Indian ownership, and assessable Indian-owned lands leased to a non-Indian or a non-member of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho, are fixed for the Calendar Year 1983 and subsequent years until further notice as follows:

(1) Fort Hall Unit basic rate—$17.00 per acre.

(2) Michaud Unit basic rate—$21.00 per acre.

Additional rate for sprinkler when pressure is supplied by project—$8.50 per acre.

(3) Minor Units basic rate—$14.00 per acre.

(b) In addition to the foregoing charges there shall be collected a minimum charge of $5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus $5.

Payments

The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership which do not qualify for free water, remaining unpaid on or after July 1 following the due date, there shall be added a penalty of one and one-half percent per month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all irrigation charges have been paid.

Assessments on Indian Owned Land

When land owned by members of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation is first leased to non-Indians or non-members of the tribe, and an approved lease is on file at the Fort Hall Agency, the leased land is not subject to operation and maintenance assessments for three years. The three years the land is not subject to assessment need not run consecutively. When land has been leased for a total of three years, the land, when under lease to non-Indians or non-members of the tribe, is subject to operation and maintenance

assessments the same as lands on non-Indian ownership and lands owned by non-members of the tribe within the project. (See Solicitor's Opinion M 28701, approved September 24, 1936, and the instructions of September 19, 1938, approved September 24, 1938, and instructions of December 1, 1938, approved December 17, 1938.)

Stanley Speaks,

Area Director.

[FR Doc. 83-2217 Filed 1-27-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Call for Coal Resource Information

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is soliciting indications of interest and information on the coal resources of the following counties in North Dakota: Golden Valley, Stark, Dunn, Oliver, Mercer, and McLean. Industry, state and local governments, and the general public are invited to submit information on lands that should be considered for coal leasing. The data received, along with information already available to the BLM, will be used to delineate coal areas for possible study in future amendments to the West-Central North Dakota and Golden Valley County management framework plans (MFPs). Information supplied in response to this call would not be an application for coal leasing, but it is important for the BLM to know where industry may have an interest in future federal coal leasing, so that necessary land use planning steps can be completed.

Any submission made should include at least numbers one, two, and five of the following elements.

1. Location: Locate the area or areas of interest on a coal area map or supply legal descriptions.

2. Geology:

A. Adequate drill hole data for the area of interest. This would include electric, gamma ray, and lithologic logs.

B. A narrative description of the coal geology of the area of interest supported by maps, charts, and other appropriate documentation.

3. Data on lease holdings in the area of interest.

4. A proposed end use for the coal in the area of interest.

5. Contacts: List the name, address, and phone number of the person who may be contacted for clarification or additional information.

Submissions in response to this call should be sent to the following offices by March 30, 1983.

Address: Mr. Kenneth Burke, Acting District Manager, Bureau of Land Management, P.O. Box 1229, Dickinson, ND 58601

Mr. George Mowat, Supervisor for Resource Evaluation, Bureau of Land Management, P.O. Box 2550, Billings, MT 59103.

Proprietary data marked as confidential should be submitted to Mr. Mowat only. Data marked as confidential shall be treated in accordance with the laws and regulations governing the confidentiality of such information.

FOR FURTHER INFORMATION CONTACT: John Bown, Geologist, Bureau of Land Management, Dickinson District, P.O. Box 1229, Dickinson, ND 58601; telephone 701-225-9148.

Chuck Pettee,

Acting District Manager.

[FR Doc. 83-2229 Filed 1-27-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-43766]

Alaska Native Claims Selection

Correction

In FR Doc. 83-84, appearing on page 346, in the issue of Tuesday, January 4, 1983, in the second column, under "T. 26N., R. 4W.", the fourth line should read "NE¼NE¼SW¼."

BILLING CODE 1505-01-M

Office of the Secretary

Proposed Guidelines for Transactions Between Nonprofit Conservation Organizations and Federal Agencies

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Proposed Guidelines and Request for Comment.

SUMMARY: The Assistant Secretary for Fish and Wildlife and Parks is proposing guidelines for transactions between nonprofit conservation organizations and Federal agencies which utilize the Land and Water Conservation Fund (LWCF). These guidelines will provide broad instructions to the four Federal agencies in their use of nonprofit conservation organizations to assist in securing the natural, cultural, wildlife, and recreation values in greatest need of protection.

The proposed guidelines will apply to the National Park Service, Fish and Wildlife Service, and the Bureau of Land Management in the Department of the Interior and the Forest Service in the Department of Agriculture.

Notice of Intent to propose a rule and opportunity for comment was published in the **Federal Register** (page 38431) on Tuesday, August 31, 1982.

DATE: The Department will consider all comments received by February 28, 1983.

ADDRESS: Comments and data should be sent to Ric Davidge, Chairman, LWCF Policy Group, Room 3148, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: William Harwig, Special Assistant, (202-343-4945).

SUPPLEMENTARY INFORMATION: The Office of Management and Budget and the General Accounting Office have urged that guidelines be developed. The General Accounting Office's concerns have been expressed in recent reports including *Overview of Federal Land Acquisition and Management Practices* (CED 81-135), which noted that 4.5 percent of the land acquired by the National Park Service, the Fish and Wildlife Service, and the Forest Service during the period 1965-1979 was acquired through the use of nonprofit conservation organizations, and recommended that the Department develop a written policy for dealing with these groups. Such a policy, the report stated, should provide guidance on "when to use nonprofits, what the working relationship should be, and what unique land acquisition procedures might be appropriate."

Congress, as recently as the Explanatory Statement of the Recommendations of the Senate Committee on Appropriations on the Department of the Interior and Related Agencies Appropriation Bill, 1983 (H.R 7356), indicated their support and interest in improving the ". . . cooperation between the land acquiring agencies and the nonprofit organizations that are capable of performing a valuable service in helping acquire properties . . .". It is the intent of the proposed guidelines to create an understanding of the benefits and operating procedures of the nonprofit organizations and the Federal agencies in order to establish a uniform set of guidelines that will foster greater cooperation.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This rule does not contain information collection requirements which require

approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

These guidelines do not in themselves constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (NEPA). NEPA concerns will be addressed at the individual unit level on a case-by-case basis.

Nonprofit conservation organizations like other private landowners make their own decisions regarding the purchase and sale of real property. However, when dealing with resources to be purchased by the Federal agencies using the Land and Water Conservation Fund, some basic principles should be followed.

The Assistant Secretary for Fish and Wildlife and Parks seeks public comment on the following proposed guidelines.

Proposed Guidelines for Transactions Between Nonprofit Conservation Organizations and Federal Agencies

Introduction

Because of lengthy time requirements in the budgeting and appropriation process, Federal agencies are frequently unable to acquire land in response to imminent threats to critical resources or to buy needed resources under favorable terms. With the ability to act quickly in the private market and maintain flexible working relationships with landowners, nonprofit conservation organizations can assist and support the Federal land acquisition program. However, the role of nonprofit organizations in acquiring land or interests in land should be clearly and carefully defined in each transaction considering the basic principles listed below.

Basic Principles

Nonprofit conservation organizations are not in any manner agents of the Federal Government. They are private independent groups who freely negotiate real estate actions anywhere and anytime they desire and at their own risk. However, in dealing with the Government agencies, because of statutory, budgetary and policy consideration; the agenda of the agencies must be paramount to those of the nonprofit conservation organizations.

Lands or interests in lands proposed for acquisition through a nonprofit organization should be in accord with priorities outlined by the agency.

Lands or interests in land acquired from nonprofit organizations must be within the boundaries of authorized areas, and such acquisition should be limited to tracts which the agency has determined need to be acquired.

In each case the proposal of the agency should be outlined in a letter of intent to the nonprofit organization. The letter should provide the non-profit organization with a minimum of: (1) Land or interest in land needed; (2) the estimated value; (3) the projected time frame as to when the agency intends to acquire the property from the nonprofit organization; and (4) a statement indicating that should the agency be unable or decline for policy reasons to purchase the land within the projected time frame, disposition of the land or interests in land by the nonprofit organization is without liability to the Government.

Dated: January 24, 1983.

Ric Davidge,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-2477 Filed 1-27-83; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs; Missouri-Kansas-Texas Railroad Co., et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278, or Tom Smerdon (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
665	Missouri-Kansas-Texas Railroad Co., ICC-MKT-C-0228, (Corn, grain sorghums, soybeans and wheat)	2	1-20-83
672	Southern Pacific Transportation Co., ICC-SP-C-0360, (Barite)	2	1-20-83

[1] Review Board No 3, Members Carleton, Williams, and Ewing

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2207 Filed 1-27-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice; Finance Applications

[OP4F-030]

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to

conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: January 17, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquires to Team Four at (202) 275–7669.

MC–F–15050, filed December 27, 1982. Lawrence R. Temple (P.O. Box 977, Northbrook, IL 60062)—CONTINUANCE IN CONTROL—SKYLANE TRANSPORTATION COMPANY (SKYLANE) (28477 Bradley Rd., Lake Forest, IL 60045). Representative: Patrick H. Smyth, 105 W Madison St., Suite 1008, Chicago, IL 60602, (312) 263–2397.

Mr. Temple seeks to continue in control of Skylane upon the institution of operations by Skylane in interstate or foreign commerce, as a motor common carrier.

Skylane has filed an application in MC–165376 to transport passengers, in charter and special operations, between points in the U.S. (except HI), and shipments weighing 100 pounds or less, between points in the U.S. (except AK and HI), as well as to operate as a broker of general commodities (except Household goods), between points in the U.S. (except AK and HI).

Mr. Temple controls through stock ownership and management position Scholastic Transit Co., which is a motor common carrier pursuant to certificates issued in MC–43263 and subs thereunder.

Note.—The directly-related application of Skyline in MC–165376 is published elsewhere in this same **Federal Register** issue.

[FR Doc. 83–2361 Filed 1–27–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Volume No. OP1–FC–32

For status call Team 1 at 202–275–7992.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC FC–81073. By decision of January 20, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to D & S TRUCK LINES, INC., of Thayer, KS, of Permit No. MC 148230 (Sub-No. 2), issued June 2, 1982, to J & H GRAIN, INC., Thayer, KS, authorizing the transportation of chemicals and related products, between points in the U.S., under continuing contract(s) with W–G Fertilizer, Inc., of Thayer, KS. Applicant's representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612 (913) 233–9629.

Volume No. OP2–FC–032

For status call Team 2 at 202–275–7030.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC FC–81007. By decision of January 19, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to Tennant Truck Lines, Inc., of Orion, IL, of a portion of Certificate No. MC–13123 (Sub-No. 28), issued June 22, 1962, and all of Certificate MC–13123 (Sub-No. 72), issued April 30, 1974, to Wilson Freight Company (Debtor in Possession) of Cincinnati, OH, authorizing the transportation of general commodities, with named exceptions (a) serving Fox Point, Greendale, West Milwaukee, Shorewood, Wauwatosa, West Allis, and Whitefish Bay, WI, as off-route points in connection with carrier's otherwise authorized regular-route operations to and from Milwaukee; (b) serving points in the Davenport, IA-Rock Island and Moline, IL, commercial zone, as intermediate and off-route points in connection with carrier's authorized regular-route operations to and from any point in such zone; (c) between Chicago, IL and Davenport, IA, over specified regular routes, serving all intermediate points; (d) between Milwaukee, WI, and Chicago, IL, over specified regular routes, serving the intermediate points of Cudahy, South Milwaukee, Racine, and Kenosha, WI, Winthrop Harbor, Zion, Waukegan, North Chicago, Lake Bluff, Lake Forest, Highwood, Glencoe,

Winnetka, Kennilworth, Wilmettee, and Evanston, IL; (e) between Madison, WI, and Rockford, IL, over specified regular routes, serving the intermediate points of Oregon, Union, Evansville, Leyden, Janesville, and Beloit, WI, and Roscoe, IL, and the off-route point of Brooklyn, WI; (f) between Beloit, WI, and Rockford, IL, over specified regular routes, serving the intermediate point of Rockton, IL; (g) between Madison, WI, and Janesville, WI, over specified regular routes, serving the intermediate points of Stoughton, Albion, Edgerton, and Indian Ford, WI, and the off-route point of McFarland, WI; and (h) between Madison, WI, and Stoughton, WI, over specified regular routes, serving the intermediate points of Nora, Cambridge, Rockdale, and Utica, WI, and the off-route points of Deerfield and Fort Atkinson, WI. Transferee holds certificates under MC 146754. An application for temporary authority has been filed. REPRESENTATIVE: Mark J. Andrews, 1600 L St., NW., Washington, D.C. 20036, for transferor and Joseph Winter, 29 South LaSalle St., Chicago, IL, 60603, for transferee.

Note.—Transferee intends to effect joinder of the regular-route authority being transferred with its existing irregular route authorities.

MC–FC–81065. By Decision of January 19, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to E & H TRUCKING, INC., d.b.a. TEXAS EASTERN TRANSPORT, of Lufkin, TX, of Certificates No. MC–153442 and Sub Nos. 1, 2, and 3, issued November 4, December 17, November 4, and December 29, 1982, respectively, and Permits No. MC–153442 Sub Nos. 4 and 5, both issued December 29, 1982, to TEXAS EASTERN TRANSPORT CO., INC., of Lufkin, TX, authorizing over irregular routes, (1) the common carrier transportation of (a) general commodities (with exceptions), for or on behalf of the United States Government, between points in the U.S.; (b) Mercer commodities, machinery, and earth drilling commodities, and, iron and steel articles, between named points in the U.S.; (c) meats, meat products, meat byproducts, and articles distributed by meat-packing houses, and bananas, between named points in the U.S.; and (d) food and related products, bananas, and exempt agricultural commodities, in mixed loads with bananas, radially, between named points in TX, AL, and MS, and points in the U.S.; and (2) contract carrier transportation of (a) frozen potato products, from points in WA, ID, and OR, to points in TX, under continuing contract(s) with Mims Meat Company, Inc., of Houston, TX; and (b) general commodities (with exceptions), between points in the U.S., under continuing contract(s) with Mims Meat Company, Inc., of Houston, TX. An application for temporary authority has been filed. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768–2207, (512) 476–6391.

Volume No. OP3–MC–FC–30

For status call Team 3 at 202–275–5223.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81100. By decision of January 20, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to BROKEN CIRCLE TRANSPORTATION, INC., Evanston, WY, of Certificate No. MC–159775, issued July 15, 1982, to DODSON TRUCKING, INC., Evanston, WY, authorizing the transportation of *oilfield equipment and supplies*, between Evanston, WY, on the one hand, and, on the other, points in CO, UT, NV, MT, and ID. Representative: James E. Phillips, 822 Main St., P.O. Box 123, Evanston, WY 82930.

MC–FC–81126. By decision of January 20, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3, approved the transfer to ELM AVENUE TRUCKING SERVICE, INC., Larchmont, NY, of Certificate No. MC–107665, issued April 29, 1969 and No. MC–107665 (Sub-No. 1) issued August 11, 1982, to CRIST TRUCKING, INC., Larchmont, NY, authorizing the transportation of *paper, paper products, and papermill supplies and materials* used in the manufacture of paper and paper products, over irregular routes, between New York, NY, on the one hand, and, on the other, points in Albany, Saratoga, Clinton, Rensselaer, Washington, Warren, and Essex Counties, NY and Schenectady, in Schenectady County, NY; and (1) *paper, paper products, printed matter, plastic articles and papermill supplies* (except commodities in bulk) and (2) *materials* used in the manufacture of paper, paper products and plastic articles (except commodities in bulk), over irregular routes, between the facilities of the International Paper Company located in CT, DE, MA, MD, ME, RI, VA, VT and DC, on the one hand, and, on the other, points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT and DC. A temporary authority application has been filed. Representative: William Crist, Jr., 44 Elm Avenue, Larchmont, NY 10538, (914) 834–8027.

Volume No. OP4–FC–034

For status call Team 4 at 202–2765–7669.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81137. By decision of January 18, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to NASHVILLE & ASHLAND CITY TRUCK LINE, INC., Nashville, TN, of certificate No. MC–152427, issued October 9, 1981, to GREAT TRACK MOTOR LINES, INC., Memphis, TN, authorizing the transportation of *general commodities* (except classes A and B explosives), between Memphis, TN, on the one hand, and, on the other, those points in MS on the north of U.S. Hwy 80; those in MO on, south and east of a line beginning at the IL–MO State line and extending along MO Hwy 72 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the MO–AR State line, and points in AR, KY, TN, AL and GA. An application for temporary authority has been filed. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, for both transferee and transferor.

Note.—This application is filed to replace a petition for exemption under 49 U.S.C. 11343 (e), filed in No. MC–F–15037.

Volume No. OP4–FC–37

For status call Team 4 at 202–275–7669.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81080, filed December 7, 1982, by decision of January 19, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer C.F.X. TRANSPORTATION SYSTEMS, INC., of Columbus, IN, of Certificate No. MC–146677 (Sub-No. 7), issued April 28, 1982, to GRANNY'S EXPRESS, INC., of Cincinnati, OH, authorizing the transportation general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the US in and east of MN, IA, MO, AR, and LA. Representative: E. H. van Deusen, 2455 North Star Rd., Columbus, OH 43221 for transferee and transferor. Condition: The grant is conditioned upon consumation and pursuant to request to transferor the authority in MC–146677 Sub Nos. 2, 3, 5X, and 6 will be cancelled upon issuance of the certificate in this proceeding.

[FR Doc. 83–2362 Filed 1–27–83; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. OP1-33]

Motor Carriers; Permanent Authority Decisions; Restriction Removals Decision-Notice

Decided: January 20, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the Federal Register of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1, at (202) 275-7992.

MC 68100 (Sub-51X), filed January 10, 1983. Applicant: D. P. BONHAM TRANSFER, INC., P.O. Drawer G, Bartlesville, OK 74003. Representative: Larry E. Gregg, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601. Lead and Subs 9, 15, 16, 22, and 49: broaden (1)(a) lead Subs 22 and 49: machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by products; and machinery, materials, equipment, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking-up thereof, (with exceptions), to "Mercer commodities", and (b) remove various restrictions which prohibit the stringing and picking-up of main pipelines or shipments moving to or from pipeline rights of way; (2) lead and Sub 9, 15, and 16: pumps, oil well pumping units, machinery, materials and equipment used in the distribution, installation, or manufacture of well pumping units to "machinery", (3) lead (a) refined oil and (b) empty containers for refined oil to "petroleum, natural gas and their products", (4) Sub 49, boats to "transportation equipment", (5) lead and Sub 16 broaden one way to radials; (6) expand to county, lead, (a) Coffeyville, KS (Montgomery County), lead, Subs 9, 15, and 16 (b) Bartlesville, OK (Washington County), (7) Sub 16, remove plantsite restriction, (8) Sub 49, remove restriction against service to Wichita, KS and change Tulsa, OK and points within five miles of Tulsa to Tulsa, OK.

[FR Doc. 83-2363 Filed 1-27-83; 8:45 am]

BILLING CODE 7035-01-M

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.. 10524(b).,

1. Parent corporation and principal address: Cadbury Schweppes Overseas, Ltd., Leconfield House, Curzon St., London, England W1Y 7FB.

2. Wholly owned subsidiaries which will participate in the subject transportation:

Cadbury Schweppes USA, Inc., Highridge Road, Stamford, CT 06905
Cadbury Schweppes Powell, Inc., 170 Atwell Drive, Rexdale, Ontario, Canada
Peter Paul Cadbury, Inc., New Haven Road, Naugatuck, CT 06770
Holland House Brands, Inc., 1125 Pleasant View Terrace, Ridgefield, NJ 06757
Schweppes U.S.A., Ltd., Highridge Road, Stamford, CT 06905
Duffy-Mott Co., Inc., 307 Lexington Avenue, New York, NY 10017
Schweppes Division, 170 Atwell Drive, Rexdale, Ontario Canada
Powell Division, 1610 Champlain Street, St. Catherine, Ontario Canada
Cadbury Division, Yale Crescent, Whitby, Ontario Canada
Jefferson Bottling Co., Inc., 11 Jefferson Boulevard, Warwick, RI 02888
Rondo Beverage Corp., Highridge Road., Stamford, CT 06905

1. Parent corporation and address of principal office: Lukens, Inc., 50 South First Avenue, Coatesville, PA 19320.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

(i) Lukens Steel Company—Pennsylvania.

(ii) Canadian Lukens Limited—Ontario, Canada.

(iii) Lukens General Industries, Inc.—Delaware.

1. Parent Corporation: Northeast Petroleum Industries, Inc., 295 Eastern Ave., Chelsea, MA 02150.

2. Wholly-owned subsidiaries:

(a) Pickering—Old Colony, Inc. (incorporated in Massachusetts), 295 Eastern Ave., Chelsea, MA 02150

(b) Northeast Petroleum Distributors, Inc. (incorporated in Massachusetts), 295 Eastern Ave., Chelsea, MA 02150

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2364 Filed 1-27-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15064]

Great Western Transportation, Inc.—Purchase Exemption—Shoemaker Trucking Company (Loren Wetzel, Trustee in Bankruptcy)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 47 FR 53303 (November 24, 1982), Great Western Transportation, Inc. (MC-146360) and Shoemaker Trucking Company (MC-138875) seek an exemption from the requirement of prior regulatory approval for the purchase of a portion of Shoemaker's operating rights, namely, under paragraph (28) of Sub-No. 312X, *chemicals and related products*, between points in the United States in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, points in the United States in and west of MT, WY, CO, and NM (except AK and HI). In addition, temporary authority is sought for Great Western to lease these operating rights pending disposition of the petition for exemption.

DATES: Comments must be received within 30 days after the date of publication in the Federal Register.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative: David E. Wishney, P.O. Box 837, Boise, ID 83701

Comments should refer to No. MC-F-15064.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 21, 1983.

By the Commission, Herber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2366 Filed 1-27-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. MC-F-15071]

Leaseway Transportation Corp.—Continuance in Control Exemption—Leaseway Deliveries, Inc., et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), Procedures For Handling Exemptions filed by Motor Carriers of Property under 49 U.S.C. 11343, 47 FR 53303 (November 24, 1982), Leaseway Transportation Corp., seeks an exemption from the requirement under section 11343 of prior regulatory approval for its continuance in control of Leaseway Deliveries, Inc. (MCV-164713). Leaseway Transportation Corp. has been authorized to control some 24 motor carriers.

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:
(1) Motor Section, Team 2, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative, J. Andrew Kundtz, 1100 National City Bank Building, Cleveland, OH 44114

Comments should refer to No. MC-F-15071.

FOR FURTHER INFORMATION CONTACT: C. Landis Plummer, (202) 275-7030.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition of exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2365 Filed 1-27-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree in an Action Under the Clean Water Act; Bethlehem Mines Corp.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 27, 1982, a consent decree in *United States* v. *Bethehem Mines Corporation,* Civil Action No. 82-5724 was lodged in the United States District Court for the Eastern District of Pennsylvania.

The consent decree concerns the discharge of pollutants, primary total suspended solids, in violation of the Clean Water Act at four outfalls or streams of water in the vicinity of the Panther Valley Division strip mines of Bethlehem Mines Corporation (a division of Bethlehem Steel Corporation) located in Carbon and Schuylkill Counties in Eastern Pennsylvania. The consent decree requires that Bethlehem commence and complete construction of a water treatment facility to treat discharges from Outfall 003, the Lausanne Tunnell.

The decree may be examined at the Office of the United States Attorney, 3310 United States Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106, at the Region III office of the Environmental Protection Agency, 6th and Walnut Streets, Philadelphia, Pennsylvania, 19106, and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, 10th & Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.70 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

The Department of Justice will receive written comments relating to the consent decree for a period of thirty (30) days from the date of this notice. Comments should be directed to the Assistant Attorney General of the Land and Natural Resources Division of the Department of Justice, 9th and Pennsylvania Avenue NW., Washington, D.C. 20530, and should refer to *United States* v. *Bethlehem Mines Corporation,* DOJ Reference #90-5-1-1-1653.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-2478 Filed 1-27-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Affirmative Determination Regarding Application for Reconsideration

Pursuant to 29 CFR 90.18 applications for administrative reconsideration were filed with the Director, of the Office of Trade Adjustment Assistance in each case listed below. In each case, the review indicated that there were issues raised which were of sufficient weight as to bear importantly on the Department's original negative determination. Consequently, applications for administrative reconsideration were affirmed. Final determinations on reconsideration will be made soon.

TA-W-13,084 Union Carbide Corporation, Metals Division, Alamo, NV

Dated: January 20, 1983, Robert A. Schaerfl, Director, Office of Program, Management Unemployment, Insurance Service.

TA-W-13,392 Union Carbide Corproation, Metals Division, Bishop, CA

Dated: January 20, 1983, Robert A. Schaerfl, Director, Office of Program, Management Unemployment, Insurance Service.

Signed at Washington, D.C. this 24th day of January 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-2472 Filed 1-27-83; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents

summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period January 17, 1983–January 21, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–13,340; Weston Instruments, Div., of Sangamo-Weston Corp., Newark, NJ

TA–W–13,117; LaSalle Machine Tool, Inc., Warren, MI

TA–W–13,388; Knitone Mills, Inc., West New York, NJ

TA–W–13,579; Clark Equipment Co., Jackson, MI

TA–W–13,491; Mel Coat Fashions, Inc., Weehawken, NJ

TA–W–13,451; Michigan Screw Products, Inc., Centerline, MI

TA–W–13,525; Clark Equipment Co., Georgetown, KY

TA–W–13,454; Wickes Machine Tool Group, Wickes Co., Inc., Saginaw, MI

TA–W–13,172; Holden Manufacturing Co., Holden MO

TA–W–13,686; Inspiration Consolidated Copper Co., Claypool, AZ

TA–W–13,368 TA–W–13,369; Inspiration Consolidated Copper Co., Christmas Div., Inspiration, AZ

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–13,549; United Technologies Corp., Automotive Group, Berrien Springs, MI

TA–W–13,396; Curwood, Inc., New London, WI

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–13,370; Ford Motor Co., Norfolk Assembly Plant, Norfolk, VA

Aggregate U.S. imports of pick-up trucks did not increase as required for certification.

TA–W–13,536; Hilo Iron Works, Inc., Hilo, HI

Aggregate U.S. imports of fabricated platework did not increase as required for certification.

Affirmative Determinations

TA–W–13,537; Inductive Components, Inc., Hauppauge, NY

A certification was issued in response to a petition received on June 1, 1982 covering all workers separated on or after January 1, 1982 and before June 30, 1982.

TA–W–13,492; Mona Lisa Coat Co., Inc., Hoboken, NJ

A certification was issued in response to a petition received on April 18, 1982 covering all workers separated on or after November 1, 1981 and before July 1, 1982.

TA–W–13.456; Amperex Electronic Corp., Microwave Oven Magnetron Tube Product Line, Smithfield, RI

A certification was issued in response to a petition received on May 10, 1982 covering all workers separated on or after December 1, 1981 and before July 15, 1982.

TA–W–13,480; Florence Coat Co., Inc., Hoboken, NJ

A certification was issued in response to a petition received on May 18, 1982 covering all workers separated on or after May 13, 1981.

TA–W–13,517; Saxon Business Products Div., Saxon Industries, Inc., Miami Lakes, FL

A certification was issued in response to a petition received on May 21, 1982 covering all workers of Saxon Business Products Div., Saxon Industries, Inc., Miami Lakes, FL, engaged in employment related to the production of photocopying machines and drums or parts for photocopying machines who became totally or partially separated from employment on or after May 17, 1981 and before October 25, 1982.

TA–W–13,094; Bethlehem Steel Corp., Sparrows Point Steel Plant, Sparrows Point, MD

A certification was issued in response to a petition received on November 5, 1981 covering all workers of the Sparrows Point Steel Plant of Bethlehem Steel Corp., Sparrows Point, MD, engaged in employment related to the production of carbon steel plate, nails and staples and basic and semi-finished steel who became totally or partially separated from employment on or after January 1, 1981, and all workers of the Sparrows Point Plant of the Bethlehem Steel Corp., Sparrows Point, MD, engaged in employment related to the production of cold rolled sheet, hot rolled sheet, galvanized sheet, wire, and rod who became totally or partially separated from employment on or after August 31, 1981.

TA–W–13,367; TRW-Fujitsu Co., Financial Systems Div., Orlando, FL

A certification was issued in response to a petition received on April 23, 1982 covering all workers of the Orlando, FL plant of TRW-Fujitsu Co. engaged in employment related to the production of electronic teller terminals (manual) who became totally or partially separated from employment on or after October 1, 1981 and before January 1, 1983.

I hereby certify that the aforementioned determinations were issued during the period January 17, 1983—January 21, 1983. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 25, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83–2474 Filed 1–27–83; 8:45 am]

BILLING CODE 4510–30–M

Meeting of State Liaison Representatives

Notice is hereby given that a meeting of State Liaison representatives will be held on February 9 and 10, 1983, at the Quality Inn, 415 New Jersey Avenue, NW., Washington, D.C. The major item to be discussed will be the status of implementation of the Job Training Partnership Act.

The public is invited to attend.

For additional information contact: Patrick J. O'Keefe, Director, Transition Task Force, Office of the Assistant Secretary, Employment and Training Administration, Room 8400, Patrick Henry Building, Washington, D.C. 20213, Telephone: (202) 376–8444.

Official records of the meeting will be available for public inspection at Room 8400, Patrick Henry Building.

Signed at Washington, D.C., this 24th day of January 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-2471 Filed 1-27-83; 8:45 am]

BILLING CODE 4510-30-M

Negative Determination Regarding Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance in the case listed below. In this case, the review indicated that there were no new facts not previously considered; that the determination was based on a mistake; and that there was no misinterpretation of facts or of the law which would justify reconsideration. Therefore, a denial of the application was issued.

TA-W-12,988 Uniroyal Tire Company, Eau Claire, WI

Harold A. Bratt, Deputy Director, Office of Program Management, Unemployment Insurance Service.

Dated: January 17, 1983

Signed at Washington, D.C., this 24th day of January 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-2473 Filed 1-27-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,839]

E. I. duPont de Nemours & Co., Inc., Louisville, Ky.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 12, 1982 in response to a worker petition received on September 30, 1982 which was filed by the Neoprene Clercial Workers Union on behalf of workers at E. I. duPont de Nemours & Company, Incorporated, Louisville, Kentucky.

The workers produce neoprene rubber.

The petitioner requested in a letter that the petition be withdrawn. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this January 20, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-2475 Filed 1-27-83; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

[V-82-1]

Occupational Exposure to Lead; Current Trigger Levels for Medical Removal Protection; Grant of Temporary Variances

AGENCY: Occupational Safety and Health Administration, Labor

ACTION: Grant of temporary variances.

SUMMARY: This notice announces the grant of temporary variances to 45 companies from the standards prescribed in 29 CFR 1910.1025(k)(1)(i)(C) and 29 CFR 1910.1025(k)(1)(iii)(A)(3), Medical Removal Protection, of the Occupational Standard for Exposure to Lead. The variance temporarily relieves the affected employers of the requirement to comply with the 60/40 removal and return triggers for medical removal protection. However, as conditions of the granted relief, the companies must comply with the 70/50 removal and return triggers and all other provisions of the lead standard and must satisfy the conditions and requirements of the variance order. The 70/50 removal and return triggers authorized by this relief apply only to the affected supervisory, maintenance, and skilled production employees referenced in the 45 applications for temporary variances.

DATES: The effective date of the grant of temporary variances is January 25, 1983 The expiration date of the temporary variances is February 28, 1983.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third and Constitution Avenue, N.W., Rm. N-3662, Washington, D.C. 20210, Telephone: (202) 523-7183

or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 16-18 North Street, 1 Dock Square Building, 4th Floor, Boston, Massachusetts 02109

U.S. Department of Labor—OSHA, 169 Weybosset Street, 5th Floor, Providence, Rhode Island 02903

U.S. Department of Labor—OSHA, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036

U.S. Department of Labor—OSHA, 2101 Ferry Avenue, Room 403, Camden, New Jersey 08104

U.S. Department of Labor—OSHA, Gateway Building—Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104

U.S. Department of Labor—OSHA, Room 242, U.S. Customs House, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106

U.S. Department of Labor—OSHA, Progress Plaza, 49 North Progress Avenue, Harrisburg, Pennsylvania 17109

U.S. Department of Labor—OSHA, Penn Place, Room 2005, 20 North Pennsylvania Avenue, Wilkes-Barre, Pennsylvania 18701

U.S. Department of Labor—OSHA, 1375 Peachtree Street, N.E.—Suite 587, Atlanta, Georgia 30367

U.S. Department of Labor—OSHA, Building 10—Suite 33, LaVista Perimeter Office Park, Tucker, Georgia 30084

U.S. Department of Labor—OSHA, Todd Mall, 2047 Canyon Road, Birmingham, Alabama 35216

U.S. Department of Labor—OSHA, Federal Building, Room 302, 299 East Broward Boulevard, Fort Lauderdale, Florida 33301

U.S. Department of Labor—OSHA, Federal Building—Suite 1445, 100 West Capitol Street, Jackson, Mississippi 39201

U.S. Department of Labor—OSHA, Art Museum Plaza—Suite 4, 2809 Art Museum Drive, Jacksonville, Florida 32207

U.S. Department of Labor—OSHA, 951 Government Street—Suite 511, Mobile, Alabama 36604

U.S. Department of Labor—OSHA, West End Avenue—Suite 302, Nashville, Tennessee 37203

U.S. Department of Labor—OSHA, 700 Twiggs Street, Room 624, Tampa, Florida 33602

U.S. Department of Labor—OSHA, 32nd Floor, Room 3244, 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Department of Labor—OSHA, 1400 Torrence Avenue, 2nd Floor, Calumet City, Illinois 60409

U.S. Department of Labor—OSHA, 344 Smoke Tree Business Part, North Aurora, Illinois 60542

U.S. Department of Labor—OSHA, Federal Office Building, Room 899, 1240 East 9th Street, Cleveland, Ohio 44199

U.S. Department of Labor—OSHA, USPO & Courthouse, Room 422, 46 East Ohio Street, Indianapolis, Indiana 46204

U.S. Department of Labor—OSHA, 3024 West Lake Street, Peoria, Illinois 61615

U.S. Department of Labor—OSHA, Federal Office Building, Room 734, 234

North Summit Street, Toledo, Ohio 43604
U.S. Department of Labor—OSHA, 555 Griffin Square Building, Room 602, Dallas, Texas 75202
U.S. Department of Labor—OSHA, 1425 West Pioneer Drive, Irving, Texas 75061
U.S. Department of Labor—OSHA, 303 Grant Building, 611 East 6th Street, Austin, Texas 78701
U.S. Department of Labor—OSHA, Federal Building, Room 421, 1205 Texas Avenue, Lubbock, Texas 79401
U.S. Department of Labor—OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri 64106
U.S. Department of Labor—OSHA, 1150 Avenue, 6th Floor, Room 606, Kansas City, Missouri 64106
U.S. Department of Labor—OSHA, Overland-Wolf Building, Room 100, 6910 Pacific Street, Omaha, Nebraska 68106
U.S. Department of Labor—OSHA, 4300 Goodfellow Building, Building 105E, St. Louis, Missouri 63120
U.S. Department of Labor—OSHA, Federal Building, Room 1554, 1961 Stout Street, Denver, Colorado 80294
U.S. Department of Labor—OSHA, Petroleum Building —Suite 210, 2812 1st Avenue North, Billings, Montana 59101

I. Background

On July 20, 1981, the Occupational Safety and Health Administration (OSHA) denied petitions from primary and secondary lead smelters for industry-wide stays of the current trigger levels for medical removal protection (MRP) under the lead standard (46 FR 37891; July 23, 1981). The Agency previously had denied a similar petition from lead battery manufacturers (46 FR 24558; May 15, 1981), and in the July 23, 1981 **Federal Register** notice also denied the battery industry's petition for reconsideration. The petitions had been based upon an assertion that the companies would be unable to comply with the MRP provision because of the anticipated removal and resulting unavailability of certain employees under the 60 micrograms of lead per 100 grams of whole blood (60 μg/100g) removal and 40 micrograms of lead per 100 grams of whole blood (40 μg/100g) return triggers for MRP. The petitions were denied because data submitted by the industries involved did not support a conclusion that there was a general industry-wide inability to comply with the MRP provisions of the lead standard. Thus, the available evidence did not demonstrate a need for an industry-wide stay of the MRP triggers. However, OSHA did find that on a plant-by-plant basis, there were some feasibility problems. OSHA therefore, announced that the temporary variance and interim order mechanism, set forth in Section 6(b)(6)(A) of the OSH Act and covered by regulations in 29 CFR Part 1905, would be used to afford relief to lead smelting and battery companies on a plant-by-plant basis, if warranted. As a result of this notice, 70 applications for a temporary variance and an interim order were received.

OSHA granted 29 conditional interim orders in the July 23, 1981 notice to certain primary and secondary lead smelting and battery manufacturing companies who previously had submitted sufficient data to establish that 10 percent or more of their total lead exposed supervisory, skilled and maintenance employees would be subject to temporary medical removal because of blood-lead levels between 60–70 μg/100g. A list of these companies was included in that notice. One company, inadvertently excluded from the list, was later granted the conditional interim order by letter, giving a total of 30 companies that were granted the interim orders originally.

The interim order was conditional, for each plant listed in the notice, upon OSHA's receipt of the following: (1) An application for a temporary variance and an interim order; (2) written acceptance of the conditions and requirements of the interim order; and, (3) certification that affected employes had been notified of the variance application and of their right to petition the Assistant Secretary for a hearing. In addition to the above, certain data was requested by September 1, 1981, to support each application for a temporary variance.

The July 23, 1981 **Federal Register** notice gave the affected companies until August 3, 1981 to comply with the three enumerated conditions in order to continue to receive interim relief from the MRP provisions of the lead standard. As of August 3, 1981, OSHA had received the required information from all but three of the total of 30 companies granted the conditional relief. Two of the three remaining companies were no longer in need of this relief, and one company preferred to comply with the lead standard. Since eight of the remaining 27 companies are located in States with approved occupational safety and health plans, and are not multi-State employers, they were referred to the appropriate State for this relief. The notice granting the interim orders to the 19 remaining companies was published in the **Federal register** on October 2, 1981 at 46 FR 48654. Two of the nineteen remaining companies are no longer in need of a temporary variance.

Forty other primary and secondary lead smelting and battery manufacturing companies responded to OSHA's invitation in the **Federal Register** notice of July 23, 1981, inviting companies to apply for a temporary variance and an interim order. Companies were invited to apply if they had plants where 10 percent or more of the total lead exposed supervisory, maintenance, and skilled production employees would have to be removed from lead exposure because of blood-lead levels between 60–70 μg/100g, or plants below the 10 percent figure which could show by compelling evidence that this relief is needed.

Eligible companies were invited to submit to OSHA by September 1, 1981, an application for temporary variance and an interim order, written acceptance of the terms of the interim order, certification of notice to the affected employees, and certain data to support their application. These were the same conditions OSHA required to be met by the companies granted conditional interim orders in the July 23, 1981 **Federal Register** notice.

Of the 40 additional applications received, 28 companies were granted interim orders (47 FR 8431; Feberary 26, 1982 and 47 FR 16434; April 16, 1982), 2 companies were referred to the States, and the remaining 10 companies either did not meet the requirements for this relief or no longer needed the relief.

The interim order temporarily relieves the affected employers of the requirement to comply with the 60 μg/100g removal and 40 μg/100g return trigger levels. However, as conditions of the interim relief, the companies must continue to comply with the 70/50 μg/100g triggers and all other provisions of the lead standard, and must satisfy the conditions and requirements of the order.

The name and address of each plant affected by the granted interim orders are as follows:

Primary Smelters

Amax Lead Company of Missouri, Boss, Missouri 65440
ASARCO Incorporated, P.O. Box 7, Glover, Missouri 63646
ASARCO Incorporated, P.O. Box G, East Helena, Montana 59635
ASARCO Incorporated, Fifth and Doyle Streets, Omaha, Nebraska 68102
ASARCO Incorporated, P.O. Box 1111, El Paso, Texas 79999

St. Joe Minerals Corporation, 7733 Foysyth Boulevard, Clayton, Missouri 63105

Secondary Smelters

Chloride Metals, 3507 50th Street South, Tampa, Florida 33601
Chloride Metals, P.O. Box 2165, Joy Road, Columbus, Georgia 31902
Chloride Metals, Briar Hill Road, Florence, Mississippi 39073
East Penn Manufacturing Company, Incorporated, Deka Road, Lyon Station, Pennsylvania 19604
Franklin Smelting and Refining Company, Caster Avenue East of Richmond Street, Philadelphia, Pennsylvania 19134
General Battery Corporation, Spring Valley Road, Reading, Pennsylvania 19604
Gould Incorporated, Metals Division, P.O. Box 268, Kempter Road, Route 84 South, Savanna, Illinois 61074
Gould Incorporated, Metals Division, 555 Farnan Street, Omaha, Nebraska 68101
Gould Incorporated, Metals Division, P.O. Box 250, South 5th Street, Frisco, Texas 75034
Gulf Coast Lead Company, 1901 North 66th Street, Tampa, Florida 33619
ILCO, Incorporated, P.O. Box 276, Leeds, Alabama 35094
Inland Metals Refining Company, 651 East 119th Street, Chicago, Illinois 60628
Master Metals, Incorporated, 2850 West Third Street, Cleveland, Ohio 44113
Murphy Metals, Incorporated 2820 North Westmoreland, Dallas, Texas 75212
National smelting and Refining Company, Incorporated, 451 Bishop Street, N.W., Atlanta, Georgia 30381
N.L. Industries, Penns Grove—Pedricktown Road, P.O. Drawer E, Pedricktown, New Jersey 08067
Non Ferrous Processing Corporation, 551 Stewart Avenue, Brooklyn, New York 11222
Refined Metals Corporation, 2640 Capitola Street, Jacksonville, Florida 32202
Refined Metals Corporation, 3700 South Arlington Road, Beech Grove, Indiana 46107
Refined Metal Corporation, 257 West Mallory Avenue, Memphis, Tennessee 38109
Revere Smelting and Refining, Incorporated, R.D. #2 Ballard Road, Middletown, New York 10940
RSR Quemetco, Incorporated, 7870 West Morris Street, Indianapolis, Indiana 46241
Sanders Lead Company, P.O. Box 707, Troy, Alabama 36081
Seitzinger Lead Smelters and Refiners, Incorporated, 1401 West Paces Ferry Road—Suite D–211, Atlanta, Georgia 30327
Taracorp Industries, 16th and Cleveland, Granite City, Illinois 62040
Taracorp Industries, 7753 West 47th Street, McCook, Illinois 60525
Tonolli Corporation, RD #1—Route 54, Nesquehoning, Pennsylvania 18240

Battery Manufacturers

Chloride Batteries, 200 South Faulkinburg Road, Tampa, Florida 33619
Chloride Batteries (Main Plant), Joy Road, Columbus, Georgia 31902
Chloride Batteries (Satellite Plant), Joy Road, Columbus, Georgia 31902
Chloride Batteries, 250 Ellis Avenue, Florence, Mississippi 39073
Crown Battery Manufacturing Company, 1445 Majestic Drive, Fremont, Ohio 43420
East Penn Manufacturing Company, Incorporated, Deka Road, Lyon Station, Pennsylvania 19604
Miami Battery and Electric Company Corporation, 1110 N.W. South River Drive, Miami, Florida 33178
Mule Emergency Lighting, Incorporated, 600 Park Avenue, Cranston, Rhode Island 02910
Standard Industries, P.O. Box 27500, Nelson Road at Reliable Drive, San Antonio, Texas 78227

Other Industries

Associated Lead, Incorporated, 2545 Aramingo Avenue, Philadelphia, Pennsylvania 19125
Associated Lead, Incorporated, 85 Jay Street, Brooklyn, New York 11201
Eagle-Picher Industries, Incorporated, Chemicals and Fibers Division, P.O. Box 550, Joplin, Missouri 64801

The **Federal Register** notices of July 23, 1981, and February 26 and April 16, 1982, invited interested persons, including affected employers and employees, to submit written comments, data, views, and arguments regarding the grant or denial of the variances requested. In addition, affected employees were notified by employers of their right to request a hearing on the applications for temporary variance. Written comments were received from an international union (the United Steelworkers of America), four local unions, the Amax Lead Company of Missouri, and Dr. Grace Ziem, a physician at The Johns Hopkins University School of Public Health. The views and arguments raised by the commenters are addressed in the Comment section below. The four Chloride Batteries Plants, three Chloride Metals Plants, the Amax Lead Company of Missouri, and Sanders Lead Company requested hearings in the event their applications for temporary variances were denied. The United Steelworkers of America (USWA) requested hearings on the applications for temporary variance submitted by eight companies where USWA is the collective bargaining agent—ASARCO's East Helena, Glover, and Omaha Plants; Master Metals; Murph Metals; RSR Quemetco; Schuylkill Metals; and Taracorp's McCook Plant. However, the hearing requests were withdrawn by USWA after OSHA and the union agreed to certain conditions discussed below.

In addition to the data generated during the variance review process, OSHA also generated additional data from the applicants during discussions with USWA and the applicants and during variance investigations conducted at the following companies: ASARCO (East Helena Plant); Associated Lead (Brooklyn Plant); Chloride Metals (Columbus Main Plant); Crown Battery; East Penn; Mule Emergency Lighting; St. Joe; Standard Industries; and Taracorp Industries (McCook Plant). The data enabled OSHA to fashion the variance order issued today, which adequately protects employees while granting needed relief to employers.

II. Applications for Temporary Variance

The primary and secondary lead smelting and battery manufacturing companies listed in the background section above requested a temporary variance from: 29 CFR 1910.1025(k)(1)(i)(C), which requires the removal of an employee from work having an exposure to lead at or above the 30 $\mu g/m^3$ action level on each occasion that a periodic and a follow-up blood sample test indicate that the employee's blood-lead is at or above 60 $\mu g/100g$ of whole blood; and 29 CFR 1910.1025(k)(1)(iii)(A)(*3*), which prohibits the employee from being returned to his or her former job unless two consecutive blood sampling tests indicate that the employee's blood-lead is at or below 40 $\mu g/100g$ of whole blood.

The requests for temporary variance are based upon the applicants' alleged inability to comply with the standard because of the anticipated removal and consequent unavailability of certain employees if the 60/40 removal and return triggers for MRP are put into effect. Essentially, the applicants make the following three-pronged feasibility argument:

(1) The 60/40 removal and return triggers will require for the first time, the removal of many supervisory, maintenance and highly skilled

employees whose blood-lead levels tend to fall in the 60-70 μg/100g range. For example, blood-level data submitted by the 45 affected plants for the period July 1980 through July 1981 show that the number of anticipated removals at the 60 μg/100g trigger range from a high of approximately 66 percent to a low of approximately 10 percent of the total skilled workforce. Non Ferrous Processing Corporation with the highest blood-lead levels during this period had approximately 66 percent of its total skilled workforce above 60 μg/100g. Other high plants were Miami Battery (63 percent), Master Metals (52 percent), Taracorp's McCook Plant (51 percent), Mule Emergency Lighting (45 percent), Gulf Coast (43 percent), and ILCO (42 percent). Amax, ASARCO's four plants, Associated Lead's two plants, East Penn, and St. Joe are among the companies having the lowest percentages of skilled employees with blood-lead levels in excess of 60 μg/100g during this period, approximately 10 percent.

The blood-lead data also show that six plants have approximately half of their experienced supervisory employees with blood leads over 60 μg/100g (1 of 1 at Mule, 9 of 9 at ILCO, 3 of 4 at Inland Metals and Gould's Frisco's plant, 4 of 6 at Taracorp's McCook Plant, and 8 of 15 at Seitzinger). Over half of the highly skilled maintenance employees at four plants have blood-leads over 60 μg/100g (4 of 4 at Taracorp's McCook Plant, 7 of 11 at Master Metals, 11 of 18 at Amax, and 1 of 2 at Chloride Metals' Tampa Plant). More than half of the skilled production employees at three plants also have blood-leads over 60 μg/100g (4 of 6 at Non Ferrous, 7 of 11 at Miami Battery, and 12 of 24 at Master Metals).

(2) Thirty-four employers claim that the removal of the supervisory, maintenance and highly skilled employees would be prolonged beyond OSHA's original expectation in order for their blood-lead levels to drop to the 40 μg/100g return level. They estimate that it will take about 18 to 36 months for the employee's blood-lead level to drop from between 60–70 μg/100g to 40 μg/100g, but provided no data to support their estimate. St. Joe, in its updated application for temporary variance dated February 26, 1982, was the only company to predict the length of medical removal time under the 60/40 triggers. St. Joe estimates that a minimum of 50 percent of those removed will remain on removal at the end of 4 months, 25 percent will remain on removal at the end of 9 months, and 10 percent will remain on removal at the end of 14 months. St. Joe provided no supporting data, but stated that its estimate is based upon its employee population's average blood-lead levels, and extrapolation of data from its 80/60 μg/100g and 70/50 μg/100g medical removal and return programs, retired employees, and its study of a population of 50 employees removed at 70 μg/100g and returned at 40 μg/100g. St. Joe's estimate is considerably shorter than other employers', but is in line with OSHA's prediction when it promulgated the lead standard.

(3) Since these employees are highly paid, crucially-positioned, and extremely difficult to replace, putting them on MRP not only will be costly, but also can result in reduced production and a less safe and healthful workplace. For example, the applicants contend that experienced employees necessary to replace the substantial number of supervisors, maintenance and highly skilled production employees who would be removed by application of the 60/40 triggers are not available in the labor market or at the plants. Mule Emergency Lighting, for instance, contends that since it is the only battery manufacturing plant in the State of Rhode Island, the removed employees would have to be replaced with totally inexperienced employees. Amax contends that, because of the highly skilled nature of the work, temporary replacement is virtually impossible. For instance, key supervisory employees require extensive on-the-job training. A period of four years as a front-line foreman, for example, is a minimum prerequisite for the position of shift assistant general foreman. The general foreman, who is the senior production person in each department, must have six years production experience with two years as a shift assistant general foreman. The training period for a front-line foreman is approximately one year.

ASARCO contends that there is no employment outside the industry which can provide relevant experience for skilled production workers. Similarly, competent maintenance employees are so difficult to hire and retain, ASARCO states, that it had to institute an apprenticeship program for the various crafts. Because the apprenticeship requires four years, it does not provide a ready source of workers to replace removed craft employees. ASARCO explains that since the chief source of supervisory workers is the current hourly workforce, the staffing of vacancies would require the removal of even more skilled production and maintenance workers from their current positions, and this would only compound the problem in staffing those positions. Moreover, since the supervisory slots available would be temporary positions for the duration of the incumbent's medical removal, the recruitment of substitutes from the hourly workers would be extremely difficult. ASARCO states that such workers, for a temporary supervisory position of indefinite duration, would have to: resign their union membership; lose union, health, and welfare benefits; and jeopardize their seniority and pension rights indefinitely.

Thirty-two of the forty-five employers claim that it is not possible to estimate quantitatively the costs that will be incurred for training, pay, and benefits to the removed and transferred employees if more than 10 percent of their workers are place on MRP. But they suggest that the cost undoubtedly will be significant. Predictions of the remaining 13 employers of the long-term cost impact of compliance with the 60/40 MRP triggers vary.

Standard Industries, for instance, based its cost estimate on production output, sales losses, and wage retention costs incurred over the 14 months to 3 year period necessary to train employees to replace the removed employees. The company estimates that it will take approximately 18 months to train transferred or new employees to replace the 3 supervisors who would be removed at 60 μg/100g. Over the 18 month training period, the company estimates production output will be reduced by an average of 10 percent, and loss to sales will be approximately $1,950,000. At least three years is required to train maintenance mechanics to replace the two mechanics who would be removed under the standard. Loss of these employees will significantly increase downtime for machinery, repairs, number of equipment breakdowns, and reduce the quality of repairs, resulting in a cost of about $150,000 over the 3 year training period. A training period of approximately 14 to 16 months is required to replace 9 skilled production employees, which will cause an estimated loss of 10 percent of total production output for the 14 month training period, and a revenue loss of $1,519,000. Standard Industries further estimates and added cost of wage retention for removed employees at approximately $163,000.

Mule Battery's cost estimate is based on the prediction of an immediate plant shut down or bankruptcy caused by the temporary removal of nearly half of the skilled workforce. Mule employs only 12 skilled employees at the facility. Five of

the twelve employees, including the only supervisor, would have to be removed if the 60 μg/100g trigger were applied. The financial loss will consist of the idling of approximately $200,000 in capital equipment; the probable calling of bank loans in excess of $155,000, which are primarily collateralized by the same capital equipment; and the pay and benefits to the affected employees, which if extended for the maximum period of 18 months would exceed $202,000.

East Penn's cost estimate is based on production schedules and wages. The company estimates a total cost of $5,463,600 for medically removing 31 employees. This includes a production loss of $4,980,000 because of a 75 percent loss in productivity, and $483,600 for the cost of removing 31 employees at $10 an hour, 40 hours per week, for one year.

St. Joe predicts that it will cost about 4 million dollars per year to replace the 200 to 240 employees predicted to be on medical removal with new employees hired to replace them, at an average wage of $20,000 per year.

In addition to the financial losses, the adverse safety and health consequences of implementing the 60/40 μg/100g triggers are, according to the employers, also serious. The removal of experienced and highly skilled employees will require hiring or transferring inexperienced personnel to work at complex jobs, which would promote the spread of lead contamination to other employees. Many examples are cited. For instance, at the General Battery plant approximately 32 percent of the total skilled workforce would be on continuous removal (5 of 13 supervisors, 11 of 26 maintenance men, including 2 pollution control engineers, and 8 of 25 furnace men). All of these employees have 5 or more years of experience. The supervisors are responsible for the enforcement of all safety and health regulations and controls, as well as training in the operation of equipment, the individual job functions, and in safe work practices required to reduce the hazards of injury or excessive exposure to airborne lead. If experienced supervisors are replaced with inexperienced employees, the quality of respirator training and surveillance, work and hygiene practices (such as the cleaning of work areas and of equipment) and the proper use and maintenance of local exhaust ventilation to keep airborne dust and fumes away from the employee's breathing zone, will be impaired.

Maintenance personnel are required to repair and perform preventive maintenance on all equipment located in the smelter. If pollution control equipment is not properly maintained, it becomes inoperable and thus affords no protection to employees at the plant, or to the general environment, against excessive exposure to airborne lead dust and fumes. For example, should a dust collector need repair, and such repair not be forthcoming because of the unavailability of adequately trained maintenance personnel, excessive lead dust and fume could permeate the work area, thus, adversely affecting the safety and health of employees. Likewise, if an inexperienced maintenance man fails to repair a water jacket rupture around a blast furnace immediately, water could leak into the lead pot and cause a violent explosion with a high probability of employee injury or death.

III. Comments

As stated above, in addition to the information submitted by the applicants, comments were received from four local unions, an international union (United Steelworkers of America), Amax Lead Company of Missouri, and Dr. Grace Ziem, a physician at the Johns Hopkins School of Public Health.

The comments received from four local unions on behalf of the employees at Amax, Associated Lead (Philadelphia Plant), Chloride Batteries (Tampa Plant), and NL Industries, supported their employers' applications for temporary variance.

The United Steelworkers of America (USWA) comments concern 13 applications for temporary variance submitted by companies where USWA is the collective bargaining agent. USWA expressed objection to granting the temporary variance to eight companies and requested hearings on these applications. USWA supported the granting of a temporary variance to five companies and recommended five conditions for the variance order. As a result of further discussion with USWA concerning the conditions included in the final variance order, USWA has withdrawn its hearing requests.

USWA initially opposed the grant of a temporary variance to Master Metals and Taracorp's McCook Plant, claiming that exposure conditions reflected in their variance application were so serious that a variance should not be granted without further evaluation of the health status of the employees and the company's commitment to reduce exposure. In the alternative, USWA argued that if a variance were granted, very stringent additional requirements for monitoring and evaluation would be necessary. OSHA agreed that further evaluation was necessary before a decision could be rendered on these applications. Therefore, OSHA requested additional information from these companies, conducted a variance investigation at Taracorp's McCook Plant, examined Master Metals' lead-related citations, and reviewed a NIOSH study concerning the health status of certain affected employees at Master Metals. After thorough examination of the additional information, OSHA and USWA agreed that with this relief the affected employees at these plants will be provided with the needed additional medical surveillance.

USWA also opposed the granting of a variance to: ASARCO's East Helena, Glover, and Omaha Plants; Murph Metals; RSR Quemetco; and Schuylkill Metals. USWA stated that these plants show few or no workers with blood levels between 60–70 μg/100g. The union commends these employers' success in reducing employee blood-leads, and suggests that these plants therefore do not need variances. OSHA's evaluation of the data revealed that Schuylkill Metals is not eligible for this relief because the plant has no employees above 60 μg/100g and did not present compelling evidence showing that this relief is needed. On the other hand, ASARCO's three plants had approximately 10 percent of its total skilled workforce with blood-lead levels continuously above 60 μg/100g from July 1980 to July 1981. Murph Metals and RSR Quemetco, which had not submitted applications on a plant-by-plant basis, later met with OSHA and presented individual plant data that qualified them for this relief. These plants, therefore, are being granted variances.

USWA supported the granting of a temporary variance to Amax, ASARCO's El Paso Plant, Bunker Hill, General Battery, and Taracorp's Granite City Plant and proposed five recommended conditions for the variance order. Bunker Hill was granted relief by OSHA from the 60/40 μg/100g MRP triggers in its settlement agreement; therefore, a temporary variance is no longer necessary.

OSHA's valuation of USWA's five recommended conditions for the variance order is discussed below.

Recommended condition number (1) would require continued compliance with the terms of the interim order, which include consent for OSHA to make plant visits to check compliance. OSHA has received written acceptance of the requirements of the order from all of the applicants; therefore, each company is required to comply with all of the terms of the order, including their consent to allow OSHA to inspect their

plants. Since the order was granted, OSHA has conducted variance investigations at 11 plants and reviewed all lead-related citations issued to the remaining plants. OSHA will continue to conduct these investigations, when necessary, to monitor the compliance efforts of the applicants. Moreover, 19 of the applicants are currently bound by other settlement agreements with the Agency under which monitoring is performed continuously by OSHA. OSHA has included this requirement in the final order.

Recommended condition number (2) would require submission to OSHA and USWA of a medical determination for employees with blood-leads between 60–70 μg/100g. USWA and OSHA agreed that, instead of submitting a medical determination, each employer would submit a certification by an examining physician for each such employee, stating whether it is medically appropriate for the employee to continue to work at his or her present job. This requirement is included in the order.

Recommended condition number (3) would require strict monitoring of continued compliance with any abatement dates or settlement agreement or additional agreed upon controls, including at least one inspection during the terms of the variance. Based on a thorough review of the applicants' abatement dates and requirements in the settlement agreements, OSHA concludes that all the applicants are adhering to the schedules in these agreements. Moreover, plants covered by agreements are closely scrutinized by OSHA's Regional and Area Offices, which includes periodic monitoring, follow-up inspections, and review of reports to determine if the preventive safeguards stipulated in these agreements have been implemented. This recommendation, therefore, is not included in the order.

Recommended condition number (4) would require removal of a certain percentage of the employees with blood-lead levels between 60–70 μg/100g where it could be accomplished in a manner that is feasible for the plant. The removed employees would be in addition to those removed on the basis of a medical determination. Alternatively, USWA proposed requiring removal of all employees with two consecutive blood-lead test results between 65–70 μg/100g. Although OSHA believes that no particular percentages can be proven to demarcate the line between feasibility and infeasibility in removing employees under MRP, record data and discussion with both industry and labor support the conclusion that the limits of feasibility are in the vicinity of 10 percent. For purposes of administrative simplicity, therefore, OSHA decided generally to grant variances to plants where 10 percent or more of the total lead exposed supervisory, maintenance and skilled production employees would have to be removed because of blood-leads between 60–70 μg/100g, and to plants below the 10 percent figure that show by compelling evidence that this relief is needed. USWA itself earlier suggested generally that "* * * plants where the proportion of skilled/supervisory workers with blood-leads between 60–70 μg/100g is 10 percent or more merit relief * * *." On the basis of the record, OSHA has used the above criteria to grant relief. This recommendation is, therefore, not included in the order.

Recommended condition number (5) would require submission of a report to OSHA and to USWA at least 60 days before the variance expires so that interested parties are aware of the progress made and any problems that may warrant immediate attention. OSHA believes that requiring each applicant to provide blood lead, zinc protoporphyrin (ZPP), air lead, and MRP data during the duration of the variance will allow OSHA to accurately evaluate the applicant's progress and to determine whether any problems exist that warrant immediate attention. This condition, therefore, is not included in the order.

The Amax Lead Company of Missouri in its comments objected to the conditions USWA proposed for its variance. Amax believes that the USWA proposed conditions are unnecessarily burdensome, unsupportable by accepted medical and legal principles, and based on information concerning Amax that, in part, is either incorrect or unclear. OSHA believes that its response to USWA's recommended conditions adequately addresses Amax's objections.

In comments received from Dr. Grace Ziem of The Johns Hopkins University, several arguments concerning the variance requests were raised. First, Dr Ziem contends that, based on her experience as the medical consultant to the Maryland Occupational Safety and Health program (MOSH), maintaining the 70 μg/100g trigger level would be incompatible with OSHA's mandate to provide a safe and healthful workplace. For example, Dr. Ziem states that her evaluations have revealed that many of the lead exposed employees with blood-lead levels above 60 μg/100g suffer clinical symptoms, that blood-lead levels (particularly with chronic exposure) underestimate body lead burden, that blood and body lead levels increase between monitorings, and that, frequently, there is a 10 to 12 percent or more laboratory variability in employees blood-lead results in the 70 μg/100g range as compared to the 60 μg/100g range or lower.

Assuming the validity of Dr. Ziem's assertions, they are nonetheless irrelevant to this proceeding. Temporary variances are being granted to 45 employers who have demonstrated that the 60/40 μg/100g MRP triggers are not feasible at the present time. OSHA feels that, given feasibility constraints, the medical requirements of the variance order which are far more stringent than those of the lead standard, and all other provisions of the standard with which employers granted variances must comply during the duration of the temporary variance, do fulfill its mandate to assure, to the extent possible, that no worker suffers diminished health as a result of occupational exposure.

Dr. Ziem further argues against OSHA requiring a medical statement instead of a medical determination from the examining physician of each employee with blood-lead levels at 60 μg/100g and above. She states that, based on her experience, a medical statement provides far less assurance than a medical determination. Dr. Ziem claims it is vital that OSHA require a thorough medical review by competent medical personnel as an integral part of the variance. OSHA believes the additional medical surveillance required in the variance order does provide this protection.

IV. Conclusions

OSHA's analysis of the evidence resulted in the following conclusions:

1. Approximately 10 percent or more of the total lead-exposed skilled workforce at each of the plants to which variances are granted would be on continuous temporary medical removal at the 60 μg/100g removal trigger.

2. The removal of 10 percent or more of the lead-exposed skilled workforce of each plant would affect the ability of each plant to continue to operate.

3. A firm conclusion cannot be drawn from the estimates in the variance records concerning the length of time necessary for the blood-lead of a removed employee to drop to the 40 μg/100g level of the return trigger, because the evidence to substantiate the applicants' estimates is inadequate.

However, based on the MRP data submitted to OSHA by the primary smelters in response to the March 3, 1981 **Federal Register** notice (46 FR 14897) delaying the effective date of the 60/40 triggers, OSHA estimated the length of time for employees blood-leads to drop from a mean blood-lead level of 65 μg/100g to 40 μg/100g as follows: 50 percent of removed workers would be able to return in 1.8 to 3.5 months; 80 percent would be able to return in 3.1 to 7.3 months. These estimates, representing OSHA's best scientific judgment, admittedly are based upon extrapolations from data reflecting industry's experience with 80/60 and 70/50 triggers, rather than upon data drawn from direct experience with blood-lead dynamics below 50 μg/100g. The applicants dispute these estimates, claiming without adequate substantiation that, for long-term workers with body burdens built up over many years, the rate at which blood-leads drop slows markedly below 50 μg/100g.

4. The time needed to train fully competent employees to replace the experienced supervisory, maintenance, and skilled employees who would be subject to removal under the 60/40 removal and return triggers varies from periods of 6 to 18 months or more for supervisory employees, 1 to 3 years for maintenance employees, and 3 to 16 months for skilled production employees. The number of experienced replacements both inside and outside of the plants is extremely limited.

5. Adverse safety and health consequences would result from removing experienced and highly skilled employees and replacing them with inexperienced personnel. These consequences might include subjecting inexperienced employees, as well as other employees, to: (a) Excessive lead exposure from process and ventilation equipment breakdown caused by inadequate preventive maintenance, improper work and hygiene practices and improper use of protective devices such as respirators; (b) possible injury or death from explosions caused by failure to repair water jackets around blast furnaces or by improper handling of the explosives used to blast aerations from the furnace shaft; (c) possible burns from materials that splash or drop during transfer of molten lead; and (d) other injuries and illnesses resulting from the employees' inability to protect their own safety and health due to reduced or ineffective safety and health training applicable to their job functions.

6. OSHA cannot draw firm conclusions of the dollar losses that would be incurred if 10 percent or more of the employees in each plant are placed on MRP, since cost data were incomplete and were submitted by only 13 applicants.

7. Based on the air-lead data, the number of available positions located in areas below the 30 μg/m³ action level are grossly inadequate to accommodate the numbers of employees placed on MRP because of elevated blood-leads. Such positions are almost nonexistent in primary smelters, and vary from 1 to 5 positions in most of the secondary smelters and battery manufacturing plants.

V. Decision

The variance record demonstrates that immediate compliance with the 60/40 μg/100g MRP removal and return trigger levels presents severe feasibility problems for the 45 applicants in four major areas: (1) The applicants would have to remove between 10 percent to 66 percent of their total skilled workforce from lead exposure; (2) experienced employees who would be removed cannot easily be replaced because the employers are unable to recruit other employees with the levels of skills necessary to perform these highly skilled positions or to quickly train replacements; (3) removal of highly skilled and experienced employees would diminish the health and safety of the remaining employees at the affected plants, with a resulting high probability of increases in work-related injuries, illnesses, and deaths; and (4) sufficient transfer opportunities do not exist and extensive lay-offs would result in greatly increased MRP costs. Based on the above, OSHA concludes that the 45 applicants have demonstrated that immediate compliance with 60/40 μg/100g MRP removal and return trigger levels are infeasible and each, thus, merits a temporary variance, effective until February 28, 1983.

VI. Terms of the Final Variance Order

The primary purpose of the requirements contained in the order is to provide significantly increased protection to supervisory, maintenance and skilled employees with elevated blood-lead levels between 60–70 μg/100g who, because of this variance, need not be removed from their jobs. In the absence of this relief the employer would have to remove such employees in compliance with the 60 μg/100g removal trigger. Because the order temporarily denies the affected employees that particular form of protection, OSHA, in fulfillment of its statutory obligations under Section 6(b)(6)(A) of the Act, has provided further safeguards to protect the affected employees from the hazards of lead exposure.

The following is a discussion of the individual requirements of the variance order, including OSHA's rationale for each specific provision.

Paragraph 1 requires that the employers perform blood-lead and ZPP testing bi-monthly on all employees with blood-leads over 40 μg/100g who are exposed to lead above the 30 μg/m³ action level. This requirement imposes no additional burden upon employers. Section 1910.1025(j)(2) of the lead standard presently requires such monitoring.

Paragraph 2 requires that the employer provide for a consultation with a physician every 2 months and a comprehensive medical examination every 6 months (or sooner at the discretion of the consulting or examining physician) for employees with blood-leads between 60–70 μg/100g who are not removed because of this order. By contrast the lead standard requires medical examinations and consultations annually for any employee whose blood-lead level during the preceding 2 months is at or above 40 μg/100g (§ 1910.25(j)(3)).

Paragraph 3 requires a written medical opinion by the physician as to whether the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead. Section 1910.1025(k)(1)(ii) of the lead standard already requires removal of an employee from lead exposure at or above 30 μg/m³ on each occasion when a final medical determination indicates that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead. To maximize the preventive aspects of the medical consultations and examinations required by this order, OSHA is requiring the physician's written medical opinion after each visit. This paragraph also requires the employer to submit to OSHA (after each consultation and medical examination) a written statement from the physican, concerning each affected employee, stating that it is medically appropriate for the employee to continue to work at his or her present job. This requirement affords increased medical surveillance and enables OSHA to monitor compliance with this provision.

Paragraph 4 requires the employer to remove an employee with blood-leads over 70 μg/100g to areas where lead exposure is below 30 μg/m³, and return the employee when his/her blood-lead

is at or below 50 μg/100g. Removal and return at 70/50 μg/100g simply extends the second year triggers during the duration at this relief. Requiring removal to places where exposures are below 30 μg/m³ affords some of the protection to the removed employees that would be provided by the 60/40 triggers.

Paragraph 5 requires that the employer provide OSHA (upon the issuance of the variance and at each time thereafter) with the name, job classification, and position of each employee who is subject to MRP as a result of either a blood-lead at or above 70 μg/100g or the recommendation of the examining physician. Requiring this data will enable OSHA to confirm employer compliance with the 70/50 μg/100g removal and return triggers, which are extended for the duration of the employer's temporary variance.

Paragraph 6 requires full-shift respirator usage for employees with blood-lead levels at or above 60 μg/100g who are working in areas with air-lead levels at or above 30 μg/m³, and who because of this order are not removed. OSHA has concluded that requiring full-shift respirator usage at the 30 μg/m³ action level in lieu of the more limited respirator usage at or above the 50 μg/m³ permissible exposure limit required by § 1910.1025(e)(2) of the lead standard will provide the increased protection these employees need.

Paragraph 7 requires that the employer make periodic inspections and evaluations of the work conditions of employees with blood-lead levels at or above 60 μg/100g who need not be removed under this order, and take all reasonable or appropriate corrective steps necessary to reduce employee lead absorption.

Paragraph 8 requires that the employer provide OSHA with blood-lead, ZPP, and air lead data as accumulated bi-monthly for all affected employees. OSHA has concluded that the data will assist in determining the applicant's compliance with the lead standard and the terms of the variance order.

Paragraph 9 requires that the employer agree to OSHA inspections related to its temporary variance. OSHA, in granting this relief, must be assured that it can readily monitor compliance with the requirements of the order.

VII. Order

It appears from the applications for temporary variance, the supporting data, and the variance investigations that, as required by Section 6(b)(6)(A) of the Act, the applicants listed below were unable to comply with the requirements of 29 CFR 1910.1025(k)(1)(i)(C) and 29 CFR 1910.1025(k)(1)(iii)(A)(*3*) by the date required by the standard. It further appears that the variance is necessary to prevent undue hardship to the applicants and their employees. Therefore, pursuant to the authority in Section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970, in the Secretary of Labor's Order No. 8–76 (41 FR 25059), and in 29 CFR Part 1905, it is ordered that the 45 plants listed below are authorized to comply with the requirements of the order set forth below, with respect to their supervisory, maintenance and skilled production employees, in lieu of complying with the requirements of 29 CFR 1910.1025(k)(1)(i)(C) and 29 CFR 1910.1025(k)(1)(iii)(*3*). All other provisions of the lead standard are unaffected by this order and, therefore, must be complied with in conjunction with the terms of this order.

Temporary variance are being issued to the following 45 plants:

Primary Smelters

Amax Lead Company of Missouri
ASARCO (Glover Plant)
ASARCO (East Helena Plant)
ASARCO (Omaha Plant)
ASARCO (El Paso Plant)
St. Joe Minerals Corporation

Secondary Smelters

Chloride Metals (Tampa Plant)
Chloride Metals (Columbus Plant)
Chloride Metals (Florence Plant)
East Penn Manufacturing Company, Incorporated
Franklin Smelting and Refining Company
General Battery Corporation
Gould Incorporated (Savanna Plant)
Gould Incorporated (Omaha Plant)
Gould Incorporated (Frisco Plant)
Gulf Coast Lead Company
ILCO Incorporated
Inland Metal, Incorporated
Master Metals, Incorporated
Murph Metals, Incorporated
National Smelting and Refining Company, Incorporated
NL Industries
Non Ferrous Processing Corporation
Refined Metals Corporation (Jacksonville Plant)
Refined Metals Corporation (Beech Grove Plant)
Refined Metals Corporation (Memphis Plant)
Revere Smelting and Refining, Incorporated
RSR Quemetco, Incorporated
Sanders Lead Company
Seitzinger Lead Smelters and Refiners, Incorporated
Taracorp Industries (Granite City Plant)
Taracorp Industries (McCook Plant)
Tonolli Corporation

Battery Manufacturers

Chloride Batteries (Tampa Plant)
Chloride Batteries (Columbus Main Plant)
Chloride Batteries (Columbus Satellite Plant)
Chloride Batteries (Florence Plant)
Crown Battery Manufacturing Company
East Penn Manufacturing Company, Incorporated
Miami Battery and Electric Company Corporation
Mule Emergency Lighting, Incorporated
Standard Industries

Other Industries

Associated Lead, Incorporated (Philadelphia Plant)
Associated Lead, Incorporated (Brooklyn Plant)
Eagle-Picher Industries, Incorporated

The terms of the order are as follows:

(1) As presently required by 29 CFR 1910.1025(j)(2) of the lead standard, employers shall perform blood-lead and zinc protoporphyrin (ZPP) tests every two months on each employee whose last blood test indicated a blood-lead level at or above 40 μg/100g and who is exposed to lead above the 30 μg/m³ action level.

(2) For employees with blood-lead levels between 60–70 μg/100g who work in jobs having airborne lead exposure at or above 30 μg/m³, the employer shall provide:

(a) Personal consultation with a licensed physician every two months; and

(b) A comprehensive medical examination by a licensed physician every six months, or sooner, as determined by a physician.

(3) After each personal consultation and the comprehensive medical examination, the physician shall make a written medical opinion as to whether the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(a) If the employee is determined to have such a condition, he or she shall be removed from work having an exposure to lead at or above 30 μg/m³; or

(b) If the employee is determined not to have such a condition, the employer shall submit to the Officer of Variance Determination a written statement from the physician concerning each affected employee, stating that it is medically appropriate for the employee to continue to work at his or her present job.

(4) Employers shall remove each employee with blood lead levels at or

above 70 μg/100g and return the employee when his/her blood-lead level is at or below 50 μg/100g, in accordance with Sections 1910.1025(k)(1)(i)(B) and 1910.1025(k)(1)(iii)(A)*(2)*, except that removal shall be to areas where lead exposure is below 30 μg/m³.

(5) The name and job classification of each employee on MRP and the area where the employee is assigned, shall be submitted to the Office of Variance Determination upon the issuance of the variance and at each time thereafter that an affected employee is placed on medical removal protection as a result of either a blood-lead level at or above 70 μg/100g or the recommendation of a physician.

(6) For employees with blood-lead levels at or above 60 μg/100g who are working in areas with air-lead levels at or above 30 μg/m³, respirator usage shall be mandatory during the entire workshift.

(7) For all employees with blood-lead levels at or above 60 μg/100g who need not be removed under the terms of the order, the employer shall make periodic inspections and evaluations of:

(a) The lead-related work practices and administrative controls affecting the employee;

(b) The employee's respirator usage; and

(c) The use and availability of protective clothing and other personal equipment, and hygiene facilities, and the employee's relevant personal hygiene habits.

Based on that inspection and evaluation, the employer shall take all reasonable and appropriate corrective steps in these regards to reduce the employee's absorption of lead.

(8) For the duration of the variance, the employer shall submit to the Office of Variance Determination blood-lead, ZPP and air-lead data as accumulated every two months for all affected employees.

(9) The employer shall agree to allow OSHA to inspect its premises in connection with the temporary variance.

As soon as possible after the effective date of this order, the companies listed above shall give notice to their affected employees of the conditions and requirements of this order by the same means required to inform them of the application for a variance.

Effective date: This order shall become effective January 25, 1983.

Expiration Date: This order shall remain in effect until February 28, 1983

Signed at Washington, D.C., this 24th day of January 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

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BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

Proposed Exemptions From Certain Prohibited Transaction Restrictions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Morgan & Associates, M.D.'s P.C., Employees Pension Plan and Trust (the Plan) Located in Bismarck, North Dakota

[Application No. D-3570]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed sale of a parcel of real property (the Property) by the Plan to Dr. Riffat Morgan and his wife, Margaret Morgan (the Morgans), parties in interest with respect to the Plan, provided the sales price is at least the fair market value of the Property at the time of the sale.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan with twenty participants and assets, as of August 31, 1980, of $1,266,654. There are seven trustees (the Trustees) of the Plan who are responsible for investment decisions for the Plan. Dr. Riffat Morgan is a Trustee and an officer and shareholder of Morgan & Associates, Inc. (the Employer), the sponsor of the Plan. The Employer operates a medical clinic located in Bismarck, North Dakota.

2. The Property is a single family dwelling located on Sanibel Island, Florida utilized primarily as rental property for vacationers. The property was purchased by the Plan on March 20, 1979 for $180,000 from an unrelated third party and was intended by the Trustees to provide rental income to the Plan and the potential for future appreciation. The Priscilla Murphy Island Accommodations, Inc., a real estate agent, has been arranging the lease of the Property on the Plan's behalf to unrelated third parties. However, at various intervals of time since the purchase of the Property by the Plan, the Property had been leased to Dr. Morgan and the Employer for vacation trips for Dr. Morgan and medical meetings for the Employer. Dr. Morgan also made a number of inspection trips to the Property from 1978 to 1981 to supervise the purchase, painting, furnishing, and renovation of the Property for rental purposes and the installation of a swimming pool.

3. The applicant now proposes that the Property be sold to the Morgans for the sum of $285,000. This price was the fair market value of the Property, as of May 29, 1981, as determined by Richard P. Webster, S.R.A., an independent appraiser of Fort Meyers, Florida. The sale will be for cash with no expenses of any kind relating to the sale to be paid the Plan. The Trustees of the Plan represent that the sale is in the best interests of the Plan. The Trustees represent that the operating income of the Property does not and is not likely to exceed the expenses associated with the Property and that the appreciation of the Property has peaked. Mr. Thomas Mark (Mark), vice president and trust officer of the 1st National Bank of Grand Forks, North Dakota has examined the proposed transaction and represents that it is in the best interests of the Plan. Mark also represents that the Property currently provides the Plan with a negative cash flow and that any future appreciation of the Property is only speculative. Mark is independent of the parties to the transaction and has ten years of experience in the portfolio management of employee benefit plans.

4. The applicant concedes that the lease of the Property by the Plan to Dr. Morgan and the Employer and some of the use of the Property by the Employer or Dr. Morgan may have constituted prohibited transactions under section 406 of the Act and 4975 of the Code. In February of 1982, Dr. Morgan and the Employer voluntarily paid to the Internal Revenue Service certain excise taxes under section 4975 of the Code relating to the lease and use of the Property by Dr. Morgan and the Employer which Dr. Morgan and the Employer believed were applicable.

5. Dr. Morgan and the Employer represent that they will pay any additional excise taxes which are applicable as determined by the Internal Revenue Service under section 4975(a) of the Code by reason of the past lease and use of the Property by Dr. Morgan and the Employer within 90 days of the publication in the **Federal Register** of the grant of the exemption proposed herein. In addition, Dr. Morgan has agreed to reimburse the Plan for the expenses it had been charged plus interest from 1978 through 1981 related to the trips by Dr. Morgan to supervise the renovation and maintenance of the Property. Also, Dr. Morgan has agreed to pay the Plan additional rentals plus interest for the period in 1978 through 1980 during which Dr. Morgan resided at the Property to supervise the renovation and maintenance of the Property.

6. The applicant represents that the sale of the Property satisfies the statutory criteria of section 408(a) of the Act because: (1) The Trustees and Mark represent it is in the best interests of the Plan; (2) the Property is operating at a loss and has peaked in appreciation; (3) it is a one-time sale for cash; (4) the price was determined by an indpendent appraiser; (5) no expenses of any kind will be charged the Plan with respect to the sale; and (6) all applicable excise taxes with respect to the lease of the Property by the Plan to Dr. Morgan and the Employer and the use of the Property by Dr. Morgan and the Employer will be paid.

For Further Information Contact: Louis Campagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

The Chas. H. Johnston's Sons Co., Inc. Pension Plan for Employees Represented by Local 135, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (the Bargaining Unit Plan) and the Chas. H. Johnston's Sons Co., Inc. Non-Bargaining Unit Employees' Pension Plan (the Non-Bargaining Unit Plan; Collectively, the Plans) Located in Greensburg, Indiana

[Exemption Application Nos. D–3634 and D–3635]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to a proposed loan of $5,000 by the Bargaining Unit Plan and to a proposed loan of $22,500 (collectively, the Loans) by the Non-Bargaining Unit Plan to Chas. H. Johnston's Sons Co., Inc. (the Employer), the sponsor of the Plans.

1. The Employer, a wholesale grocer in Greensburg, Indiana, established the Bargaining Unit Plan as a defined benefit plan on December 1, 1969 and the Non-Bargaining Unit Plan as a defined benefit plan on January 1, 1976. As of October 26, 1981, the Bargaining Unit Plan had total assets of $75,074 and approximately 28 participants and the Non-Bargaining Unit Plan had total assets of $112,387 and approximately 31 participants. The assets of the Plans are held by the Indiana National Bank of Indianapolis (the Trustee), which in the past has acted as a directed trustee with respect to the assets of the Plans. With respect to the transactions involved in this exemption request, the Trustee will be acting as an independent fiduciary of the Plans. The applicant represents that there is no existing commercial relationship between the Employer and the Trustee.

2. The applicant is requesting an exemption which will permit the Plans to make the Loans the proceeds of which will be used by the Employer to purchase inventory. The applicant represents that it will be in the best interests of the participants and beneficiaries of the Plans for the Employer to pay the Plans the high rate of interest on the Loans rather than have the Employer pay such high rate of interest to an unrelated party. The Loans will have a term of eight years with repayment to be made in quarterly installments of principal and interest. The Loans will have a floating rate of interest with the initial interest rate being equal to 2 percent over the prime interest rate of the Union Bank and Trust Company (the Bank) which is located in Greensburg, Indiana. Such interest rate will be adjusted quarterly to an interest rate equal to 1 percent greater than the prime rate being charged by the Bank at such time. However, a quarterly change in the interest rate would only be effected when the new rate would differ from the previous rate by at least one full percentage point. The terms of the Loan will also provide for an interest rate floor of 12 percent. The Employer will be entitled to prepay all or a portion of the

principal of the Loans on any installment payment date. The Loans will be secured by a first mortgage (the Mortgage) on certain unencumbered improved real property (the Property) which is owned by the Employer. The Property was appraised on December 18, 1981 by Barnes Appraisal Services, Inc. (Barnes), an independent real estate appraising firm whose office is located in Greensburg, Indiana. Barnes represents that as of December 18, 1981 the Property had a fair market value of $44,500. The terms of the Loans provide that if the value of the Property should fall below 150 percent of the outstanding balances of the Loans additional collateral will be added such that the Loans will always be secured by collateral in an amount at least equal in value to 150 percent of the outstanding balances of the Loans. The applicant represents that the Employer will maintain fire and extended coverage insurance on the Property during the term of the Loans in an amount not less than the principal balance of the Loans with the Plans being the loss payee of such insurance. The Property is currently being leased by the Employer to parties who are unrelated to the Employer. The applicant represents that the Mortgage will mortgage not only the Property, but also all the rents, issues, income and profits therefrom.

3. The Trustee has reviewed the terms and conditions of the Loans and represents that: (1) The Loans will be prudent investments for the participants and beneficiaries of the Plans; and (2) the terms and conditions of the Loans are designed to protect the participants and beneficiaries of the Plans. In addition, the Trustee will monitor and enforce the terms and conditions of the Loans on behalf of the Plans including the valuation of the collateral securing the Loans. If the Trustee determines that the collateral on the Loans is endangered or that the cash flow needs of the Plans necessitates greater liquidity, it may demand that the Employer provide additional collateral such that the Loans are secured by collateral in an amount at least equal to 150 percent of the amount of the outstanding balances of the Loans or the Trustee many demand that the Employer accelerate its repayment of the Loans.

4. In summary, the applicant represents that the Loans will satisfy the statutory criteria of section 408(a) of the Act because: (1) The Trustee represents that the Loans will be prudent investments for the participants and beneficiaries of the Plans; (2) the Loans will be approved and monitored by an independent fiduciary; (3) the Plans will receive a high rate of interest on the Loans; and (4) the Loans will be secured by collateral with a value in an amount equal to at least 150 percent of the outstanding balances of the Loans.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

Engelman-General Profit Sharing Plan (the Plan) Located in Wichita Falls, Texas

[Application No. D–3899]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale of certain unimproved real property by the Plan to Engelman-General, Inc. (the Employer) for $54,000, provided that this amount is at least the fair market value of the property at the time of sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 141 participants and net assets of $616,855 as of April 30, 1982. The Plan's trustees are Charles E. Engleman, George W. Naron and David R. Anderson, all of whom are officers of the Employer.

2. On February 4, 1972, the Plan purchased an undivided interest in a parcel of unimproved property for $8,407 from unrelated parties. The property is located at 8501 Jacksboro Highway in Wichita Falls, Texas. The property was partitioned on February 25, 1975 and the Plan received 12.07 acres of land. On September 15, 1975, the Plan sold 1.138 acres of the property to an unrelated third party.

3. The Plan's trustees propose to sell the remaining 10.94 acres of the property to the Employer for its appraised value of $54,000. The purchase price will be paid in cash and the Plan will not have to pay any commissions with respect to the sale.

4. The property was appraised on December 1, 1982 by Tony Saulsbury (Mr. Saulsbury), an MAI certified appraiser of Saulsbury Appraisal Co., Wichita Falls, Texas, as having a current fair market value of $54,000. Mr. Saulsbury represents that in determining the $54,000 fair market value of the property, the primary factor used in arriving at such value was the location of the property, which is uniquely suitable for use by the Employer and that such property would be worth significantly less to any other potential buyer.

5. The Plan trustees represent that the proposed sale of the property is both prudent and timely. The property is vacant, raw land with gravel covering part of it and would not be readily marketable at the appraised price to anyone other than the Employer. Also, since the property is currently vacant, it is not generating any income to the Plan.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because

(a) It will be a one time transaction for cash;

(b) The sales price was determined by an independent appraiser;

(c) The Plan will not pay any commissions;

(d) The Plan will be able to dispose of a non-income producing asset; and

(e) The Plan's trustees have determined that the proposed transaction is in the best interests and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Rodey, Dickason, Sloan, Akin & Robb, P.A. Profit Sharing Plan and Trust (the Plan) Located in Albuquerque, New Mexico

[Application No. D–3951]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the refinancing of a loan made by the Plan to Rodey, Dickason, Sloan, Akin & Robb, P.A. (the Employer), the sponsor of the Plan, provided that the terms and conditions of the refinancing are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated third party.

Summary of Facts and Representations

Introduction. On July 25, 1980, the Department granted an exemption allowing a loan of $650,000 by the Plan to the Employer (Prohibited Transaction Exemption 80–50, 45 FR 49718), subject to specific terms and conditions. All payments of principal and interest pursuant to the loan have been made and there has been no other violation of the loan's terms to date. As of December, 1982, the unpaid principal balance of the loan was $457,991. The applicant requests an exemption to allow the Plan to increase the loan to its original principal amount of $650,000 with such amount repayable over the remaining term of the original loan. Such refinancing (the Loan) will be subject to terms and conditions which are substantially identical to those in the prior exemption. Differences and other additional supporting representations on behalf of the request are described below.

1. As of December 31, 1981, the Plan had 136 participants. As stated in the prior application, the First National Bank in Albuquerque (the Bank) serves as the trustee of the Plan. As of October 31, 1982, the Plan's assets had a market value of $3,394,816. As of October 31, 1982, the Employer had 150 employees including 54 attorneys, of which 34 are principals of the Employer. Not including the Employer's contribution to the Plan for calendar year 1982, the Loan will constitute approximately 19% of the Plan's assets. The Employer is the largest law firm in New Mexico and is organized as a professional association.

2. The interest rate and other terms of the Loan will be identical to that of the prior loan. Such rate will be the greater of 1.5% above the prime rate of the First National City Bank of New York, or 12.5%, adjusted monthly. Principal and interest will be paid in equal monthly installments over the remaining term of the Loan which expires July 1, 1987.

3. The security for the Loan will be the furniture, fixtures, equipment and leasehold improvements which serve as collateral for the original loan, plus additional collateral purchased with the proceeds from the Loan. Appraisals of the existing collateral performed by independent appraisers, Mr. Peter Starr of Ferguson Library Services, the Joe E. Fritz Management Inc., Mr. Ralph Trigg, Jr. of Automated Office Systems, Inc., Mr. I. B. Hoover, Jr. of New Mexico Office Furniture, and Mr. Steven B. Rael of International Business Machine Corporation, all located in Albuquerque, New Mexico, have determined that the collateral has a fair market value, as of November, 1982, of $1,456,179. The additional property which will serve as collateral for the Loan will have an estimated fair market value of $153,500.

4. The total collateral in which the Plan will have a perfected first security interest will have a value approximately 250% of the amount of the Loan. In no event will the value of the collateral be less than 150% of the outstanding balance of the Loan. The Employer will insure the collateral against loss or damage in an amount not less than the outstanding principal balance of the Loan throughout the term of the Loan, and the Plan will be the named insured.

5. As provided in the prior exemption, the principals of the Employer, now totalling 34, will execute pro rata personal guarantees of the Loan. Such guarantees will ensure the repayment of principal, plus interest on the Loan.

6. As provided in the prior exemption, the Bank will serve as the independent fiduciary of the Plan with respect to the Loan. The Employer and the Bank have certain existing relationships. Such relationships include (a) the Employer serves as the principal outside counsel for the Bank; (b) the Employer leases office space in a building from the Bank which comprises 13.6% of the leaseable space in the building; (c) .45% of the Bank's outstanding shares are held by or for the benefit of persons who are employees of the Employer; (d) there are no loans outstanding between the Employer and the Bank although loans extended to attorneys of the Employer constitute approximately .19% of the Bank's outstanding Loans; and (e) employees of the Employer, including principals, maintain checking accounts and demand, savings, and time deposits with the Bank which are estimated to constitute a very small percentage of the Bank's total deposits.

7. The Bank has thoroughly reviewed the terms of the Loan and has determined that the Loan will be appropriate for the Plan and in the best interest of the Plan and its participants and beneficiaries. The Bank will have final administrative authority and control over the Loan, and will monitor and enforce the performance of the Employer's obligations under the Loan. Among the Bank's duties with regard to the monitoring of the Loan will be to (a) determine the interest rate to which the Loan will be adjusted on a monthly basis; (b) seek immediate payment from the Employer if a payment under the Loan is not made, and if such payment is not made, seek immediate payment from the guarantors of the Loan; (c) accelerate the due date for the Loan if the payments described above are not timely made; (d) have powers to foreclose under the security agreement; and (e) determine, at least quarterly, whether additional collateral is required to adequately secure the Loan.

8. As provided in the prior exemption, the applicant has provided further representations in support of the exemption request. The Albuquerque National Bank (ANB), which is completely unrelated to the Employer states, by letter dated November 23, 1982, that the terms and security of the Loan are at least as, if not more, favorable to the Plan than those of a similar loan which would be made by a bank or other lending institution to the Employer. ANB further represents that the Loan will be in the interests and protective of the participants and beneficiaries of the Plan. The Bank represents that given the financial strength of the Employer as a going concern it is highly unlikely that it will be necessary to collect the Loan through the personal guarantees of the guarantors.

9. In summary, the applicant represents that the proposed Loan will satisfy the criteria of section 408(a) of the Act because (a) the Loan will be secured by a perfected first security interest in insured collateral having an appraised value approximately 250% of the Loan; (b) the Bank, a qualified, independent party, has reviewed the proposed transaction and has determined that the Loan is appropriate and in the best interest of the Plan and its participants and beneficiaries; and (c) the Bank will monitor the Loan and enforce the performance of the Employer's obligations under the Loan.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does

it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 20th day of January, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-2483 Filed 1-27-83; 8:45 am]

BILLING CODE 4510-25-M

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee; Open Meeting

A meeting of the National Security Telecommunications Advisory Committee (NSTAC) Emergency Response Procedures Working Group will be held beginning at 2:00 p.m. on Thursday, February 10, 1983. The meeting will continue through Friday, February 11, 1983. The meeting will be held in the Westgate Building of the MITRE Corporation, 1820 Dolley Madison Boulevard, McLean, Virginia. The agenda is as follows:

A. Opening Remarks.
B. Chairman Remarks.
C. National Coordinating Mechanism.
1. Review of proposed functions and information requirements.
2. Development of implementation alternatives.
D. Adjournment.

Any person desiring information about the meeting may telephone (Area Code 202-692-9274) or write the Manager of the National Communications System, 8th Street and South Courthouse Road, Arlington, Virginia 22204.

Joseph C. Wheeler,

Colonel, USAF, NCS Joint Secretariat.

[FR Doc. 83-2484 Filed 1-27-83; 8:45 am]

BILLING CODE 3610-05-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, D.C. on February 16-18, 1983.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to the policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Shoreham Building, 806 15th Street, N.W., Washington, D.C. The session of the proposed meeting on February 16th, a portion of the morning and afternoon sessions on February 17th and the afernoon session on February 18, 1983 will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the session on February 16, 1983 will be as follows:

9:00 a.m.-5:00 p.m.—Challenge Grants Committee Meeting Discussion of specific applications (Closed to the public for the reasons stated above)

The agenda for the sessions on February 17, 1983 follows:

(Open to the public)

8:30-9:30—Coffee for Council Members in Chairman's Office
9:30-10:30—Committee Meetings—Policy Discussion
Education and State Programs—1st Floor
Fellowship Programs—Room 314
General Programs—Room 807
Research and Office of Planning—Room 1134
10:30 to adjourn (Closed to the Public for the reasons stated above)
Consideration of specific applications;
Following the adjournment of Committee meetings Council members will convene in the first floor theater for a screening of a film.

The morning session on February 18, 1983 will convene at 8:30 a.m. in the 1st Floor Conference Room and will be open to the public. The agenda for the morning session will be as follows: (Coffee for Staff and Council Attending Meeting will be served from 8:30 a.m.-9:00 a.m.).

Minutes of the Previous Meeting

Reports

A. Introductory Remarks
B. Introduction of New Staff
C. Contracts Awarded in the Previous Quarter
D. Application Report
E. Gifts and Matching Report
F. FY 1983 Appropriations
G. FY 1984 Appropriations Request
H. Study of Treasury Funds
I. Humanities and Social Science
J. Dates of Future Council Meetings
K. NEH Plan in Response to the President's Initiative on Historically Black Colleges and Universities
L. Committee Reports on Policy and General Matters
a. State Programs
b. General Programs
c. Research Programs
d. Planning and Assessment Studies
e. Fellowship Programs
f. Education Programs
g. Challenge Grants
M. Jefferson Lecture Discussion.

The remainder of the proposed meeting will be given to the consideration of specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer

Washington, D.C. 20506, or call area code 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83–2481 Filed 1–27–83; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–368, License No. NPF–6, EA 82–98]

Arkansas Power & Light Co.; Arkansas Nuclear One, Unit 2; Confirmatory Order Modifying License Effective Immediately

I

Arkansas Power and Light Company ("AP&L" or the "licensee"), is holder of Facility Operating License No. NPF–6 (the "license") which authorizes the operation of Arkansas Nuclear One, Unit 2 (the "facility"). The facility consists of a pressurized water reactor (PWR), located at the licensee's site in Russellville, Arkansas.

II

On March 13, 1980, the Nuclear Regulatory Commission (the "Commission" or "NRC") issued IE Bulletin No. 80–06, Engineered Safety Feature (ESF) Reset Controls ("IEB 80–06" or "Bulletin"). IEB 80–06 requested all licensees to review all Engineered Safety Feature control schematics to determine whether unacceptable flyback from emergency to normal mode of emergency core cooling system components would occur upon reset of the ESF signal. The Bulletin further requested that the licensee conduct tests to verify that the actual installed instrumentation and controls were consistent with the schematics. If any safety-related equipment did not remain in its emergency mode upon reset of an ESF signal, the licensee was requested to describe a proposed system modification, design change, or other corrective action to resolve the problem. Finally, the bulletin required the licensee to report in writing to the Commission within 90 days the results of its reviews. The results were to be submitted in writing and to be signed under oath or affirmation pursuant to 10 CFR 50.54(f) which provides that the Commission may, at any time, request that the licensee submit written statements, signed under oath or affirmation, to enable the Commission to determine whether or not the license should be modified, suspended, or revoked.

By letter of June 18, 1980, AP&L responded to IEB 80–06 stating that the testing required by the Bulletin had been completed on Arkansas Nuclear One, Unit 2. Based upon this response and supplemental information submitted by the licensee, the NRC Staff prepared an internal Safety Evaluation Report concluding that Arkansas Nuclear One, Unit 2 did not need further modifications of its ESF system. On December 29, 1981, the NRC resident inspector at the licensee's facility discovered that the licensee's response to IEB 80–06 was false, in that the testing called for by the Bulletin had not been completed by June 18, 1980, as stated in the response. This statement by the licensee constitutes a material false statement within the meaning of section 186 of the Atomic Energy Act of 1954, as amended, as is more fully set out in a Notice of Violation and Proposed Imposition of Civil Penalty issued contemporaneously with this Order.

The cause of this inaccurate communication with the Commission appears to be inadequate corporate management attention to and involvement in the preparation of responses to the NRC. More specifically, this event evidences a breakdown in communication between personnel at the facility where work related to the Bulletin response was performed, and the AP&L Little Rock General Office staff which is responsible for preparing communications to the NRC. Furthermore, this incident demonstrates a failure of the licensee's commitment tracking system and also a failure of the licensee's on-site Safety Review Committee to adequately review its response to the Commission of June 18, 1980. Specifically, the NRC investigation of this matter revealed that, on May 5, 1980, an internal memorandum prepared by the licensee's staff clearly stated that the required testing on Arkansas Nuclear One, Unit 2 was partially complete and would be completed during the next shutdown. A copy of this communication was sent to the licensee's Little Rock General Office staff. In spite of this information, the erroneous June 18, 1980 letter was prepared and sent to the NRC indicating that all testing had been completed. The NRC investigation further established that a copy of the June 18, 1980 letter was sent to the Arkansas Nuclear One site and reviewed at a meeting of the onsite Safety Review Committee on July 7, 1980. Two of the attendees at this meeting were the author and addressee of the May 5, 1980 internal memorandum, which indicated the incomplete status of the required work. Nonetheless, the review failed to identify the inaccuracy. These matters were discussed in an enforcement conference with the AP&L Senior Vice-President, Energy Supply, and the Regional Administrator on April 8, 1982. These matters were further discussed at a meeting held on September 10, 1982 with the AP&L President, the Director of the Office of Inspection and Enforcement, and the Regional Administrator.

The licensee's response to this situation has been a number of commitments to make major changes in the conduct of its licensed activities to provide substantially increased assurance that all communications with the NRC are complete and accurate. The substance of these commitments is set forth in a letter of September 29, 1982 from the licensee to the Regional Administrator of Region IV. The commitments consist of both short term and long term actions.

Short term commitments by the licensee include:

1. Full and rapid implementation of a Regulatory Response Program.
2. Daily monitoring of the centralized commitment tracking system to ensure proper updating.
3. A program for verification of commitments before such commitments are considered to be met and before letters are sent to the NRC.
4. An identification system for design change packages that pertain to NRC commitments.
5. A feasibility study for prioritizing responses to NRC actions according to nuclear safety significance.

In addition, AP&L is proceeding with the development of a long range Regulatory Response and Commitment Control Program to improve its control of letters and commitments to the NRC. This program would encompass and supersede the Regulatory Response Program which the licensee now has in effect. In the letter of September 29, 1982, the five phases which represent the licensee's approach to the timely development of the program are summarized. The licensee anticipates that all five phases of the program will be complete within six months. Outside consultants will be hired to ensure the timely development of this program. The licensee has committed to provide a status report to the Regional Administrator by January 15, 1983, identifying any noteworthy program changes.

The licensee further states that it has contracted with the Institute of Nuclear Power Operations (INPO) for an independent assessment of the results of Phase 1 of the Regulatory Response and

Commitment Control Program. In addition, INPO will assess the procedures and practices of the licensee's Plant Safety Committee and Safety Review Committee to determine the adequacy of such procedures and practices when applied to material such as the response to IEB 80-06.

III

The events described in Section II reveal substantial breakdowns in Arkansas Power and Light's management controls related to the Arkansas Nuclear One facility. The changes proposed in the licensee's letter of September 29, 1982, if effectively implemented, will provide substantially increased assurance that licensed activities at the Arkansas Nuclear One facility are properly controlled. Accordingly, I have determined that the commitments contained in the September 29, 1982 letter are required in the interest of public health and safety and, therefore, should be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to sections 103, 161(i), and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Part 2 and 10 CFR Part 50, it is hereby ordered effective immediately that:

The licensee shall complete in a timely manner the comprehensive plan of action set forth in its letter to the Regional Administrator of Region IV dated September 29, 1982. To ensure rapid completion of the measures set forth by AP&L in its letter of September 29, 1982, AP&L shall provide to the Administrator of Region IV a monthly status report providing detailed information as to implementation of the various activities under way. Further, the independent assessments to be performed by INPO, both of the Regulatory Response and Commitment Control Program and the activities of the plant Safety Committee and Safety Review Committee are to be provided directly to the Regional Administrator of Region IV upon their completion. These reports should contain INPO recommendations for improvements in the areas examined as appropriate.

The Administrator of Region IV may relax or terminate in writing any of the preceding conditions for good cause.

V

Any person who has an interest affected by this Order may request a hearing on this Order within 30 days of this issuance. A request for a hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address. Any request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such a hearing shall be:

(1) Whether the matters set forth in Section II of this Order are true; and

(2) Whether this Order should be sustained.

It is so ordered.

Dated at Bethesda, Maryland, this 18th day of January 1983.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-2502 Filed 1-27-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-454 OL and STN 50-455 OL]

Commonwealth Edison Co. (Byron Nuclear Power Station, Units 1 and 2); Evidentiary Hearing

On December 15, 1978, the Nuclear Regulatory Commission published in the **Federal Register** (43 FR 58659) a Notice that the Commission had received an application from the Commonwealth Edison Company (Applicant) for an operating license which would authorize the Applicant to possess, use and operate two pressurized water nuclear reactors, each 1,120 megawatts of electric capacity, at the Applicant's Byron Station located in Rockvale Township, Ogle County, Illinois. The Notice stated that any person whose interest may be affected by the proceeding may request a hearing and may file a petition for leave to intervene. An Atomic Safety and Licensing Board was established to rule on hearing requests and intervention petitions and to conduct any hearing. Subsequently the Rockford League of Women Voters, the DeKalb Area Alliance for Responsible Energy, and the Sinnissippi Alliance for the Environment requested a hearing and an opportunity to intervene in any such hearing. The Board granted the requests and determined that a hearing would be held on the application for the Byron operating licenses. Subsequently, the intervening parties submitted issues to be considered in the proceeding, many of which were accepted for adjudication by the Board.

Therefore please take notice that the evidentiary hearing on the issues relative to the application for operating licenses for the Byron Units 1 and 2 will commence at 9:30 a.m. CST on March 1, 1983 at the Main Courtroom, Room 260, Federal Building, 211 South Court Street, Rockford, Illinois 61101. The hearing will continue for several weeks thereafter. Parties to this proceeding will be the intervenors named above, the Applicant, Commonwealth Edison Company, and the Staff of the Nuclear Regulatory Commission. The issues to be heard and decided by the Board will be only those issues raised by the intervenor parties unless the Commission authorized additional issues.

The public is invited to attend. Persons who are not parties to the proceeding will be given an opportunity to make statements about the application for the Byron operating licenses either orally or in writing. Oral statements will be accepted at the hearing as the first order of business on March 1. An evening session for oral statements will be held beginning at 7:30 p.m. on March 1 at Rockford College, Scarborough Hall, Severson Auditorium, 5050 East State Street, Rockford, Illinois 61101. Depending upon the number of requests a time limit may be imposed on oral statements. However, oral statements may be supplemented by writen statements. Written statements may be submitted to the Board at the hearing or mailed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

For the Atomic Safety and Licensing Board.

Bethesda, Maryland, January 24, 1983.

Ivan W. Smith,

Administrative Law Judge.

[FR Doc. 83-2503 Filed 1-27-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. DPR-39, and Amendment No. 70 to Facility Operating License No. DPR-48 issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of the Zion Station, Units 1 and 2 (the facilities) located in Zion, Illinois. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications on auxiliary feedwater and related systems. This action also completes the licensee's commitment in item F.5 of the February 29, 1980 Confirmatory Order to be in compliance with NRC letters concerning auxiliary feedwater systems reliability improvements. This action further completes the reviews of NUREG 0737 "Clarification of TMI Action Plan Requirements" items II.E.1.1 and II.E.1.2.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated December 31, 1979, as supplemented by letters dated March 12, 1980 and December 15, 1982, (2) Amendment Nos. 80 and 70 to License Nos. DPR–39 and DPR–48, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of January, 1983.

For the Nuclear Regulatory Commission.

Steven A Varga,

Chief, Operating Reactors Branch No. 1. Division of Licensing.

[FR Doc. 83-2504 Filed 1-27-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-254]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 85 Facility Operating License No. DPR–29, issued to Commonwealth Edison Company, and Iowa Illinois Gas and Electric Company which revised the Technical Specifications for operation of the Quad Cities Nuclear Power Station, Unit 1 located in Rock Island County, Illinois. The amendment became effective December 20, 1982.

The Amendment revises the Technical Specifications to allow operation with one main steam drain isolation valve inoperable, until the first cold shutdown after the 30-day period following December 21, 1982. Operation has been conditioned by new requirements in the Technical Specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a signficant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated December 20, 1982 (2) the Commissions letter to the licensee dated December 20, 1982 (3) Amendment No. 85 to License No. DPR–29 and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Moline Public Library 504–17th Street, Moline, Illinois. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of January 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operting Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-2505 Filed 1-27-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–255]

Consumers Power Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 74 to Provisional Operating License No. DPR–20, issued to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Palisades Plant (the facility) located in Van Buren County, Michigan. This amendment is effective as of its date of issuance.

The amendment approves changes to the Appendix A Technical Specifications for required boron concentration and sampling frequency of one of the four safety injection tanks for the remainder of Cycle 5.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 15, 1982, (2) Amendment No. 74 to License No. DPR–20, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington,

D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of January, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-2506 Filed 1-27-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-482]

Kansas Gas & Electric Co., et al. (Wolf Creek Generating Station, (Unit No. 1)); Order Rescheduling Prehearing Conference

Please take notice that the Prehearing Conference in this proceeding now scheduled for March 8, 1983 will take place on March 10, 1983, commencing at 10:00 a.m. in Coffey County Courthouse Basement Room, Sixth and Neosho Street, Burlington, Kansas 66839. In all other respects, the Order Scheduling Prehearing Conference dated January 10, 1983 is unchanged.

Dated at Bethesda, Maryland, this 21st day of January, 1983.

It is so ordered.

Atomic Safety and Licensing Board.

James A. Laurenson,

Administrative Law Judge.

[FR Doc. 83-2507 Filed 1-27-83; 8:45 am]

BILLING CODE 7590-01-M

Abnormal Occurrence; Loss of Auxiliary Electrical Power

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). One of the general criteria notes that major degradation of essential safety-related equipment can be considered an abnormal occurrence. The following description of the incident also contains the remedial actions taken to date.

Date and Place—On June 22, 1982, the NRC was notified by Commonwealth Edison Company (the licensee) of a sequence of events at Quad Cities Nuclear Power Station which resulted in a total unavailability of emergency diesel generator power for Unit 1 and the loss of offsite power and one emergency diesel generator for Unit 2. Quad Cities Nuclear Power Station utilizes two General Electric Company designed boiling water reactors and is located in Rock Island County, Illinois.

Nature and Probable Consequences—Diesel generators (DGs) at nuclear power plants provide emergency, onsite backup AC power in the event that normal offsite sources of AC power are unavailable. Quad Cities Units 1 and 2 have combined total of three DGs. DG–1 is dedicated to Unit 1, DG–2 is dedicated to Unit 2, and DG–½ is a swing diesel that can be aligned to either unit. As a result of the sequence of events described below, normal offsite sources of AC power were available for Unit 1, but neither DG–1 nor DG–½ were available; simultaneously, all normal offsite sources of AC power were lost for approximately 40 minutes to Unit 2 and only DG–2 was available. For both Units, such loss of power sources can be considered a major degradation of essential safety-related equipment. The safety significance was increased by several other failures which occurred during the event, including loss of several instrumentation indications in the control room. Nevertheless, the actions taken by the plant staff were timely and attentive and Unit 2 was safety shut down. Unit 1 operation was not affected.

At the time of the event, Unit 2 was operating at approximately 95% and Unit 1 at 60% power. DG–1 was out of service for maintenance; however, DG–2 and DG–½ were operable. While preparing to remove the Unit 2 reserve auxiliary transformer from service for elective repairs, an equipment operator at 5:25 a.m. mistakenly pulled out the fuses for a 4-kilovolt bus instead of pulling the transformer fuses. (When the plant is producing electricity, the plant loads and instrumentation are powered by the plant's main generator via an auxiliary transformer. The reserve auxiliary transformer is available to provide offsite power when the plant is not operating.)

The operator error disconnected power to certain plant systems, including the 2B Reactor Feedwater Pump. The reduced feedwater flow caused a low water level, which automatically initiated a reactor trip. The Unit 2 main generator subsequently tripped, resulting in the loss of all normal AC power to Unit 2, as the reserve auxiliary transformer was already out of service. Both DG–2 and DG½ started automatically and began to supply power to essential plant systems.

Pressure in the reactor was reduced by the automatic operation of the safety relief value and subsequent manual actuation of power operated relief valves. In the process, one relief valve failed to open, and reactor operators actuated a second relief valve.

At 5:47 a.m., 22 minutes after the event began, the reactor operators started the 2A Residual Heat Removal (RHR) pump to begin cooling the water in the pressure suppression pool. (The pressure suppression pool is a doughnut-shaped tank surrounding the reactor containment. Water in the pool condenses the steam released by the relief and safety valves; condensing the steam transfers the heat to the water in the suppression pool.)

DG–½ tripped when the RHR service water pump was being started, cutting off power being supplied to various instrumentation and safety systems. The cause of the DG–½ trip was the actuation of underexcitation relays which protect the DG. Power continued to be supplied from DG–2.

Loss of DG–½ resulted in numerous alarms and loss of several control room instrument indications. In addition, the loss of DG–½ left Unit 1, which was still operating, without any backup source of power (since DG–1 was already out of service for maintenance) should it experience a loss of offsite power. With the loss of instrumentation, a senior operator went to the local instrument panel in the reactor building. He then established communications with the control room, and relayed information on reactor pressure, water level, and containment pressure to the reactor operators.

At 5:50 a.m., an unusual event was declared under the licensee's emergency plan, and appropriate notifications were made.

Pressure in the Unit 2 containment increased from the normal pressure of about 1.3 psig to about 4.3 psig. The principal causes of the pressure increase were due to leaking gaskets on the discharge lines of the main steam relief valves, multiple relief valve actuations to control reactor pressure, and shutdown of the drywell coolers. The latter occured, as designed, as a result of an emergency core cooling system (ECCS) initiation signal which actuates at a drywell pressure of about 2 psig. Also as a result of this ECCS initiation signal, the high pressure coolant injection (HPCI) system started automatically and began to pump water into the reactor vessel. A core spray pump also automatically actuated but reactor pressure remained above its permissive pressure setpoint. The ECCS signal also tripped the running residual heat removal service water pump and the reactor building closed cooling water (RBCCW) pumps. A normal Group II

isolation of containment occurred and functioned properly.

Licensee personnel in the meantime were restoring the reserve auxiliary transformer to service. By 6:04 a.m., 39 minutes after the event began, the transformer was operable and offsite power was restored for all affected plant systems

Reactor pressure continued to be controlled by manual operation of the relief valves, and at 6:15 a.m. suppression pool cooling was established using the RHR system. Cold shutdown was achieved at about 5 p.m.

The plant returned to service on June 24, 1982, after appropriate maintenance and testing activities were completed.

Cause or Causes—The cause of the event can be attributed to nonconservative planning of maintenance activities, personnel error, and design error.

As stated previously, the station's auxiliary electrical power system utilizes three onsite power sources (DGs). Unit 1 and Unit 2 each has one dedicated DG and the third DG is a swing diesel that will automatically align itself to the Unit that requires it. With this arrangement, the removal of a dedicated DG from service would mean the potential unavailability of all automatic onsite emergency power sources of one Unit. The removal of the swing diesel generator causes unavailability of onsite power to one division of emergency electric power system of both Units. Because of this interdependence of onsite power sources between both Units at the station, any scheduled maintenance of the offsite power system of either Unit would affect the overall electric power system availabilities of both Units. The reserve auxiliary transformer is the primary source of offsite power for the plant. Therefore, the licensee's decision to remove the transformer from service for elective maintenance while the plant was in operation, and particularly with DG–1 already out of service for maintenance, was nonconservative (even though it was not prohibitied by the plant's technical specifications).

The event was initiated by an operator error in pulling the incorrect fuse. The operator pulled the fuse for the bus rather than the transformer. This eventually led to a Unit 2 reactor scram and Unit 2 generator trip, resulting in the loss of all normal AC power to Unit 2.

Following loss of offsite power to Unit 2, DG–2 and DG–1/2 started as designed. However, later when the operator attempted to start a RHR service water pump for suppression pool cooling, DG–1/2 tripped. Succeeding attempts by the control room operator to start DG–1/2 failed. The cause of the trip was due to a design error in the DG control logic system. An underexcitation relay had been installed in 1981 in all three DGs as a modification recommended by the licensee; the relay is designed to protect the DG during testing when the DG is loaded to an energized bus and the relay protection should be automatically blocked when an auto-start signal actuates the DG. Due to a design error, this trip was unblocked when the operator initiated drywell and suppression pool cooling. The characteristic of the relay is such that it can actuate when a large motor (such as the RHR service water pump) is started. Actuation of the underexcitation relay also tripped the DG lock-out relay. With the latter relay tripped, the DG would not restart until this relay was manually reset. Resetting of the relay was delayed since the equipment operator had been sent to the switchyard to expedite restoration of offsite power to Unit 2.

Actions Taken To Prevent Recurrence

Licensee—The licensee has taken appropriate measures to minimize the possibility for similar operator errors, including a review of procedures and additional training for operating personnel. The DG trip mechanism, the underexcitation relay, has been removed, and the licensee is planning modifications to all diesel generators to prevent protective trips in an emergency situation. The power operated relief valve which failed to open was replaced, and the operability of all relief valves was verified prior to the unit's returning to service. The licensee also replaced the leaking gaskets on the relief valve discharge lines which had contributed to the rise in containment pressure.

During the next refueling, the licensee plans to modify the core spray logic so that the drywell coolers and RBCCW pumps do not trip on a core spray initiation (e.g., 2 psig drywell pressure) if offsite power is available to the emergency buses. The licensee is also considering other measures which would only allow the reserve auxiliary transformer to be removed from service for elective maintenance while the reactor is shut down with power being supplied from offsite sources through the main transformer. The licensee submitted a special report of the event to the NRC on July 8, 1982.

NRC—The licensee had informed the NRC of the scheduled maintenance prior to June 22, 1982. NRC Region III and the NRC Senior Resident Inspector decided it was essential to have an inspector onsite throughout the scheduled maintenance due to possible consequences associated with the removal of the reserve auxiliary transformer during unit operation. The NRC resident inspectors throughly reviewed the event and the followup actions taken by the licensee.

The results of the NRC inspection were forwarded to the licensee by NRC Region III on October 22, 1982. The forwarding letter expressed the NRC's concern regarding the nonconservative management decisions. Region III has recommended to the NRC Office of Nuclear Reactor Regulation (NRR) that the plant's technical specifications be modified to prohibit such nonconservative decisions. NRR is reviewing the Region's recommendation.

In addition, the NRC Office for Analysis and Evaluation of Operational Data performed an engineering evaluation of the event.

Dated in Washington, D.C. this 24th day of January 1983.

Samuel J. Chilk,

Secretary of the Commission

[FR Doc. 83–2508 Filed 1–27–83; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE FEDERAL REGISTER

Agreements Between the American Institute in Taiwan and the Coordination Council for North American Affairs

AGENCY: Office of the Federal Register (NARS).

ACTION: Notice of availability of agreements.

SUMMARY: The American Institute in Taiwan has concluded a number of agreements with the Coordination Council for North American Affairs in order to maintain cultural, commercial and other unofficial relations between the American people and the people on Taiwan. The Director of the **Federal Register** is publishing the list of these agreements on behalf of the American Institute in Taiwan in the public interest.

SUPPLEMENTARY INFORMATION: Cultural, commercial and other unofficial relations between the American people and people on Taiwan are maintained on a nongovernmental basis through the American Institute in Taiwan (AIT), a private nonprofit corporation created under the Taiwan Relations Act (Pub. L. 96–8; 93 Stat. 14). The Coordination Council for North American Affairs (CCNAA) is its nongovernmental Taiwan counterpart.

Under section 12(a) of the Act, agreements concluded between the AIT

and the CCNAA are transmitted to the Congress, and according to sections 6 and 10(a) of the Act, such agreements have full force and effect under the law of the United States.

The texts of the agreements are available from the American Institute in Taiwan, 1700 North Moore Street, 17th Floor, Arlington, Virginia 22209. For further information contact Joseph Kyle at this address, telephone (703) 525-8474.

Following is a list of agreements between AIT and CCNAA which were in force as of December 31, 1982.

Aviation

Air transport agreement, with exchange of letters. Signed at Washington March 5, 1980; entered into force March 5, 1980.

Memorandum of agreement relating to aeronautical equipment and services, with annexes. Signed at Arlington and Washington September 24 and October 23, 1981; entered into force October 23, 1981.

Educational and Cultural

Implementing agreement financing certain educational and cultural exchange programs. Exchange of letters at Taipei April 14 and June 4, 1979; entered into force June 4, 1979.

Fisheries

Agreement concerning fisheries off the coasts of the United States, with annex and agreed minutes. Signed at Washington June 7, 1982; entered into force July 1, 1982.

Privileges and Immunities

Agreement relating to privileges and immunities of courier system. Signed at Washington and Arlington December 31, 1979 and January 7, 1980; entered into force January 7, 1980.

Agreement on privileges, exemptions and immunities. Signed at Washington October 2, 1980; entered into force October 2, 1980.

Safety at Sea

Agreement relating to safety of life at sea. Exchange of letters at Arlington and Washington August 17 and September 7, 1982; entered into force September 7, 1982.

Scientific Cooperation

Agreement relating to cooperation in science and technology. Exchange of letters at Arlington and Washington September 4, 1980; entered into force September 4, 1980.

Security of Information

Protection of information agreement. Signed at Arlington and Washington September 15, 1981; entered into force September 15, 1981.

Trade and Commerce

Agreement on trade matters, with annexes. Exchange of letters at Arlington and Washington October 14, 1979; entered into force October 24, 1979.

Agreement implementing tariff reductions on a Most Favored Nation basis, with annexes. Exchange of letters at Arlington and Washington December 31, 1981; entered into force December 31, 1981; effective September 30, 1982.

Agreement relating to trade in cotton, wool and man-made fiber textiles and textile products, with annexes. Signed at Washington November 18, 1982; entered into force November 18, 1982; effective January 1, 1982.

Weather Observations

Agreement relating to provision to AIT of ionospheric weather observations by CCNAA. Signed at Taipei November 26, 1980; entered into force November 26, 1980.

Agreement modifying the agreement of November 26, 1980 relating to provision to AIT of ionospheric weather observation by CCNAA. Singed at Taipei February 2, 1981.

Dated: January 13, 1983.

Joseph B. Kyle,

Corporate Secretary, American Institute in Taiwan.

Dated: January 24, 1983.

John C. Byrne,

Director, Office of the Federal Register.

[FR Doc. 83-2126 Filed 1-27-83; 8:45 am]

BILLING CODE 1505-02-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of Forms for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed extension of forms submitted to OMB for clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed extension of forms which collect information from the public. OPM Forms 1056A and B, Mid-Level Data Sheets, are key entry and optical scan documents respectively and are used by OPM's automated processing center to create basic applicant records for an automated examining system. OPM is responsible for open competitive examining for admission to the competitive service in accordance with section 3302, 5 U.S.C. For copies of this proposal, call John P. Weld, Agency Clearance Officer, on (202) 632-7720.

DATE: Comments on this proposal should be received within 10 working days from date of this publication.

ADDRESSES: Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, N.W., Room 6669, Washington, D.C. 20415

and

Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: John P. Weld, (202) 632-7720.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-2367 Filed 1-27-83; 8:45 am]

BILLING CODE 6325-01-M

Proposed Extension of Form for OMB Review

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice of proposed extension of form submitted to OMB for clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed extension of OPM Form which collects or solicits information from the public (i.e., an applicant's previous employers, associates and friends). The method is known variously as reference rating, reference vouchering or qualification inquiry. OPM uses the information to determine the suitability of an applicant for an Administrative Law Judge position.

DATE: Comments on this proposal should be received within 10 working days from date of this publication.

ADDRESSES: Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Persqnnel Management, 1900 E Street, N.W., Room 6669, Washington, D.C. 20415

and

Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: John P. Weld, (202) 632-7720.

Office of Personnel Management.
Donald J. Devine,
Director.
[FR Doc. 83-2368 Filed 1-27-83; 8:45 am]
BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12987; (812-5308)]

American Express Co.; Filing of an Application for an Order

January 21, 1983.

Notice is hereby given that American Express Company ("Applicant"), American Express Plaza, New York, New York 10004, filed an application on September 7, 1982 and an amendment thereto on December 28, 1982 for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the purchase of securities issued by the Applicant from the provisions of Section 12(d)(3) of the Act and Rule 12d-1 thereunder to the extent therein requested. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

Applicant, a New York corporation, and its subsidiaries are primarily engaged in providing a variety of travel-related, insurance, international banking, and investment services. Travel-related services consist primarily of transactions involving American Express Travelers Cheques, the American Express Card, and retail and wholesale travel services. Other travel-related services and products include the issuance of American Express Money Orders, the publication of Travel & Leisure and Food & Wine magazines, the publication of family reference books through Mitchell Beazley Ltd., and debit and credit card processing for third parties through First Data Resources Inc. Insurance services are offered through Fireman's Fund Insurance Company and its subsidiaries and include both commercial and personal property-liability insurance primarily in the United States and Canada and individual and group life insurance in the United States.

Applicant's international banking services are offered through American Express International Banking Corporation and its subsidiaries ("AEIBC") and include commercial, investment and wholesale banking, equipment finance, and financial advisory services. These activities are conducted outside of the United States, except for the operations of AEIBC's New York Agency, which are conducted as an incident to its foreign activities.

Investment and asset management services are offered principally through Shearson/American Express Inc. and its subsidiaries ("Shearson"). Services provided by Shearson include domestic and foreign retail securities, options and commodities brokerage; customer financing activities; the underwriting and distribution of securities; trading, institutional sales, arbitrage; equipment lease and real estate financing; mortgage banking; investment management; and the sale of insurance as agent. Another subsidiary, American Express Credit Corporation ("Credco"), primarily engages in the business of purchasing receivables arising from the use of the American Express Card. As of June 30, 1982, Credco has outstanding approximately $545 million of long-term debt that is publicly held. Applicant also owns a 50 percent interest in Warner Amex Cable Communications Inc., which, with its affiliates, engages in the cable television business.

Applicant seeks an order pursuant to Section 6(c) of the Act exempting from the provisions of Section 12(d)(3) of the Act the purchase or other acquisition solely for investment purposes by a registered investment company, or any company or companies controlled by such registered investment company, of any security issued by Applicant, provided that all of the conditions of Rule 12d-1 (or any successor rule) are satisfied but for the requirement that not in excess of 15% of the total gross revenues of the Applicant be derived from "Securities-Related Businesses" (any entity which directly or indirectly is engaged in the business of a broker, a dealer, an underwriter, an investment adviser of an investment company, or an investment adviser registered under the Investment Advisers Act of 1940), and that in lieu thereof a condition be established that not in excess of 25% of the total gross revenues of Applicant be derived from Securities-Related Businesses. Applicant has further agreed to the conditions that no registered investment company may avail itself of the exemptive order when purchasing securities issued by Applicant if, immediately after such purchase: (1) That investment company and all other registered investment companies having the same (or an affiliated) investment adviser own in the aggregate more than 5% of the securities of that class outstanding (in determining the amount of outstanding securities of a class, the registered investment company may rely upon information set forth in Applicant's most recent quarterly or annual report, and any current report subsequent thereto, filed with the Commission pursuant to the Securities Exchange Act of 1934, unless such investment company knows or has reason to believe that the information contained therein is inaccurate); or (2) the registered investment company has invested more than 10% of the value of its total assets or, if lower, the maximum percentage permitted by its investment policies and restrictions, in any class of securities of Applicant; or (3) where the registered investment company is an open-end company, 10% or more of the gross dollar amount of shares issued by it or by any other open-end registered investment company having the same (or an affiliated) investment adviser within the preceding 24-month period (excluding shares issued upon the reinvestment of dividends) were sold in transactions in which Shearson, Foster & Marshall/American Express Inc., Robinson-Humphrey/American Express Inc., or any other registered broker-dealer subsidiary of Applicant acted as a broker-dealer. The foregoing 24-month period is a rolling period, *i.e.*, the most recent month is substituted for the earliest month as time passes. A change in circumstances subsequent to a purchase which at that time was in accordance with the foregoing condition (such as a decrease in the number of Applicant's shares outstanding, an increase in the value of the investment company's position in Applicant relative to its total assets, or sales by Applicant's broker-dealer subsidiaries in excess of the 10% threshold) shall not require any disposition of Applicant's securities, but no further purchases may be made until such time as such condition is again satisfied.

Absent the requested relief, Applicant submits that registered investment companies may be precluded from purchasing, or may be compelled to sell, Applicant's securities notwithstanding the fact that the acquisition of such securities does not present the dangers which Section 12(d)(3) purports to address. For the year ended December 3, 1981, in excess of 9% of Applicant's gross revenues (as restated to reflect the June 1981 acquisition of Shearson, which was accounted for as a pooling of interests) was derived from Securities-Related Businesses. On March 23, 1982, Shearson acquired Foster & Marshall Inc., a prominent broker-dealer in the Pacific Northwest region of the Unites States, and on June 4, 1982, Shearson completed the acquisition of The

Robinson-Humphrey Company, Inc., a leading investment banking firm in the Southeast. For the six months ended June 30, 1982, the percentage of Applicant's revenues derived from Securities-Related Businesses (as restated to reflect the Robinson-Humphrey acquisition, which was also treated as a pooling for accounting purposes) exceeded 9.5%. (The Foster & Marshall acquisition was treated as a "purchase" for accounting purposes, and thus its revenues have been included only since the date of acquisition.) Applicant states that this percentage is expected to increase in light of the recent surge in commission revenues experienced by major retail securities firms. Applicant further asserts that it has a large institutional following (as of March 31, 1982, approximately 3% of Applicant's outstanding common shares were held by registered investment companies) and it believes that many investment companies may begin to dispose of its securities if reported results show Shearson accounting for even 13–14% of Applicant's consolidated revenues.

Applicant acknowledges three principal risks which have been cited to justify Section 12(d)(3): (1) The entrepreneurial risks of the investment banking business; (2) the risk that a mutual fund might invest in a broker-dealer in reciprocity for the broker-dealer's sales of the fund's shares; and (3) the risk that an investment company might direct brokerage to a broker-dealer issuer in which it had invested to enhance the broker-dealer's profitability or to rescue it from financial difficulty. Applicant submits that the foregoing risks, in the context of an investment in Applicant, do not warrant the application of Section 12(d)(3) to an extent greater than the contemplated by the requested order.

Since the requested relief relates only to investments in securities issued by Applicant, Applicant asserts that the question whether such an investment might expose an investment company to the "entrepreneurial risks" of the investment banking business must be viewed in the context of the financial position of Applicant and all of its subsidiaries on a consolidated basis. The most recent audited, consolidated financial statements of Applicant reflect that, as of December 31, 1981, Applicant's common shareholders' equity exceeded $2.6 billion billion, up 9% from the corresponding amount of approximately $2.4 as of December 31, 1980. For the year ended December 31, 1981, total consolidated revenues and net income of Applicant were approximately $7.2 billion and $518 million, respectively, while the corresponding amounts for the year ended December 31, 1980, were approximately $6.4 billion and $462 million. (All amounts have been restated to reflect the acquisition of Shearson in June 1981.) As the application requests relief from Section 12(d)(3) only to the extent that the total gross revenues derived from Securities-Related Businesses do not exceed 25% of the total gross revenues of Applicant, Applicant asserts that there is and will remain a considerable asset base and revenue stream that is not exposed to the "entrepreneurial risks" of the investment banking business.

The risk that a mutual fund might invest in the securities of Applicant in reciprocity for the sale of the fund's shares by Shearson is, in Applicant's opinion, remote in light of various legal and practical considerations. Applicant states that as a legal matter, such an investment may be precluded as a joint enterprise or joint arrangement under Section 17(d) of the Act. Moreover, as a result of the third condition imposed as a prerequisite to the contemplated order, no more than a *de minimis* relationship could exist between an investment company investing in Applicant whose securities were sold by Shearson, Foster & Marshall/American Express Inc., Robinson-Humphrey/American Express Inc., or any other registered broker-dealer subsidiary of Applicant.

Finally, Applicant contends that the risk that an investment company might direct brokerage to Shearson in order to enhance the profitability of Applicant or to rescue it from financial difficulty is virtually nonexistent. Given the megnitude of Applicant's business on a consolidated basis, and its enormous capitalization (on June 30, 1982, the number of Applicant's common shares issued and outstanding was 95,758,136 and, based upon the closing sales price on August 30, 1982, of $46.00 per share, such shares had an aggregate fair market value in excess of $4.4 billion; the active market for its common shares, the average weekly trading volume during the four weeks ended August 13, 1982, was 1,153,125 common shares), Applicant argues that it is inconceivable that any investment company could hope to have any discernible impact upon its profitability or financial stability simply through directed brokerage commissions.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant concludes that the risks which Section 12(d)(3) addresses are either not present in the context of Applicant or are adequately addressed by the restrictions of Rule 12d–1 as sought to be modified by the application and the other conditions to which Applicant has agreed, as described above. Applicant submits that the granting of the exemptive order is necessary or appropriate in the public interest and consistent with the protection of investors, and accordingly requests that the relief sought in its application be granted.

Notice is hereby given that any interested person wishing to request a hearing on the application may, not later than February 15, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2369 Filed 1–27–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12986; (812-5350)]

California Municipal Fund for Temporary Investment, Inc., Suite 204, Webster Building, Concord Plaza, 3411 Silverside Road, Wilmington, Delaware 19810, Filing of Application for an Order

January 21, 1983.

Notice is hereby given that California Municipal Fund for Temporary Investment, Inc. ("Applicant"), Suite 204, Webster Building, Concord Plaza, 3411 Silverside Road, Wilmington, Delaware 19810, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application and an amendment thereto for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant to the extent necessary: (1) From the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to permit Applicant to calculate its net asset value per share based on the amortized cost method of valuation and to value in the manner described in the application certain rights to sell its portfolio securities to brokers, dealers, and banks; and (2) from the provisions of Section 12(d)(3) of the Act to permit Applicant to acquire from brokers and dealers the aforesaid rights to sell portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemptions apply.

A Maryland corporation whose objective is to provide investors with as high a level of current interest income exempt from federal and California state personal income taxes as is consistent with the preservation of capital and relative stability of principal, Applicant is designed primarily for California institutional investors as a convenient means of investing cash reserves in a professionally-managed portfolio of short-term, tax-exempt, municipal securities. Institutional investors whom Applicant seeks to attract include—banks acting in a fiduciary, advisory, agency, or similar capacity; corporations; insurance companies; investment counselors; and brokers. Shares may not be purchased by individuals directly, although institutional investors may purchase shares for accounts maintained by individuals.

Applicant states, that, except during defensive periods, it will maintain at least 80% of its assets in municipal securities and will not knowingly purchase securities the income from which is subject to federal income tax. Moreover, according to Applicant, at least 50% of its assets will be invested in California governmental debt obligations at the close of each quarter of Applicant's fiscal year. Applicant states that it may hold uninvested cash reserves pending investment, during defensive periods or if, in the opinion of Applicant's investment adviser, suitable tax-exempt obligations are unavailable. Applicant states further that it will not seek profits through short-term trading, but intends to hold its portfolio securities to maturity.

Applicant seeks to achieve its investment objective by investing in municipal securities which present minimal credit risks. In addition to "general obligation" and "revenue" issues, Applicant's portfolio may include "moral obligation" issues. Applicant states that if an issuer of moral obligation securities is unable to meet its obligations, the repayment of such securities becomes a moral commitment but not a legal obligation of the state, municipality, or other entity in question. Applicant may also invest in variable rate demand notes.

In support of the relief requested, Applicant submits that the amortized cost method of valuation will enable it to maintain the stable net asset value and steady income which vitally concern investors. By valuing its securities at amortized cost and declaring dividends daily, Applicant asserts that it can expect its net asset value to remain constant in the absence of unusual market conditions. Applicant contends that potential shareholders are not concerned with the theoretical differences which might occur between the yield achieved through market pricing and the yield computed on the basis of amortized cost for instruments which Applicant expects to hold until maturity. Prior to adopting the amortized cost method of valuation, Applicant's board of directors will determine in good faith that, absent unusual or extraordinary circumstances, the amortized cost method of valuing securities will reflect the fair value of such securities. Applicant believes that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant expressly agrees that the following conditions may be imposed in any order of the Commission granting the exemption requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included among the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event of such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes that the extent of any deviation from Applicant's amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the greatest extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share; provided, however, that it will not (a) purchase any instrument with a

[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of instruments published by reputable sources.

remaining maturity greater than one year (although an instrument that was originally issued as one year instrument but had up to 375 days to maturity shall be deemed to have a maturity of one year),[2] nor (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[3]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments to those U.S. dollar-denominated instruments, which, as determined by its board of directors, present minimal credit risks, and which are of "high quality" as determined by any major rating service, or, in the case of any instruments that are not rated, of comparable quality, as determined by the board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement indicating whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Applicant also requests exemptive relief to the extent necessary to permit it to adopt policies permitting the acquisition of Stand-by Commitments. Through the acquisition of Stand-by Commitments, also known as "puts", Applicant proposes to improve portfolio liquidity by issuing same-day settlements on portfolio sales (and thus facilitate same-day payment of redemption proceeds). Applicant describes a Stand-by Commitment as a right of an investment company, when it purchases municipal securities for its portfolio from a broker, dealer, or other financial institution, to sell the same principal amount of such securities back to the seller, at the investment company's option, at a specified price. Applicant's investment policies permit the acquisition of Stand-by Commitments solely to facilitate portfolio liquidity and Applicant declares that the acquisition or exercisability of a Stand-by Commitment will not affect the valuation or maturity of its underlying municipal securities, which will be valued on the amortized cost basis in accordance with the conditions set forth in the Commission's exemptive order permitting Applicant to use such valuation.

Applicant states that Stand-by Commitments acquired by it will have the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) they will be exercisable by Applicant at any time prior to the maturity of the underlying securities; (3) they will be entered into only with brokers, dealers, and banks which, in the opinion of Applicant's investment adviser, present minimal risks of default; (4) Applicant's right to exercise them will be unconditional and unqualified; (5) although they will not be transferable, municipal securities purchased subject to a Commitment could be sold to a third party at any time, even though the Commitment is outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal securities which are subject to a Commitment (excluding any accrued interest which Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant. According to the application, a Stand-by Commitment will not obligate Applicant to sell the underlying securities back to the seller, nor entitle the seller to demand the return of the securities at its option, although a sale of the underlying securities by Applicant to a third party will terminate Applicant's rights under the related Stand-by Commitment to sell the securities back to the seller. Applicant further states since it intends to value its portfolio securities on an amortized cost basis pursuant to an exemptive order from the Commission, the amount payable under a Stand-by Commitment will be substantially the same as the portfolio value of the underlying securities. Applicant submits that there is little risk of an event occurring that would make the amortized cost valuation of its portfolio securities inappropriate. However, Applicant states that in the unlikely event that the market or fair value of securities in its portfolio were not substantially equivalent to their amortized cost value, its board of directors could determine that the securities should be valued on the basis of available market information. Applicant states that it expects to refrain from exercising Stand-by Commitments to avoid imposing a loss on a seller of securities and jeopardizing Applicant's business relationship with that seller.

According to the application, Applicant expects that Stand-by Commitments generally will be available without payment of any direct or indirect consideration. However, if necessary and advisable, Applicant

[2] Applicant states that it may purchase variable rate demand notes which have maturities of more than one year, provided Applicant is entitled to the payment of principal and accured interest upon not more than seven day's notice. The rate of interest on such notes is to be adjusted automatically at intervals which normally do not exceed thirty-one days but may extend up to one year. Each variable rate demand note purchased by Applicant would be determined under procedures prescribed by Applicant's board of trustees to present minimal credit risks and will be rated "high quality" at the time of purchase (i.e., within the two highest ratings assigned by any major rating service) or, if unrated will be determined by Applicant's investment adviser to be of comparable quality, and thereafter the quality of such notes will be monitored by Applicant. In computing its dollar-weighted average portfolio maturity, Applicant states that it will consider the maturity of such notes as the longer of the notice period required before Applicant is entititled to prepayment under the note, or the period remaining until the note's next interest rate adjustment. In connection with such variable rate demand notes purchased by the Applicant, Applicant's board of directors (or Applicant's investment adviser to the extent permitted by Rule 2a–7 under the Act as proposed or as ultimately adopted) will: (i) Determine that whenever a new interest rate on a variable rate demand note is established it will then cause the note to have a current market value which approximates its par value; (ii) determine no less frequently than quarterly that variable rate demand notes held by Applicant are of "high quality;" and (iii) cause Applicant, absent extenuating circumstances, to dispose of any variable rate note as soon as practicable should the quality of the note fall below "high quality." In addition, the issuer's obligation to pay the principal of a variable rate demand note purchased by the Applicant will be supported by an irrevocable, unconditional bank letter of credit where necessary to ensure that the note is of "high quality" (*i.e.*, in all cases where the Applicant's board of directors and investment adviser cannot determine that a note is of "high quality" without a letter of credit).

[3] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce such dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable. In addition, in fulfilling this condition, the maturity of a portfolio security shall not be considered shortened or otherwise affected by any Stand-by Commitment of the type described below to which such security is subject, and all such Commitments held by Applicant shall be valued at zero.

states that it will pay for Stand-by Commitments, either separately in cash or by paying a higher price for portfolio securities which are acquired subject to a Commitment (thus reducing the yield to maturity otherwise available for the same securities). As stated by Applicant, as a matter of policy, the total amount "paid" in either manner for outstanding Stand-by Commitments held in its portfolio will not exceed ½ of 1% of the value of its total assets calculated immediately after any Stand-by Commitment is acquired.

As stated in the application, it will be difficult to evaluate the likelihood of exercise or the potential benefit of a Stand-by Commitment. Therefore, Applicant states that its board of directors believes that the value of any such Stand-by Commitment is zero, regardless of whether any direct or indirect consideration is paid. Where Applicant has paid for a Stand-by Commitment, its cost will be reflected as unrealized depreciation for the period during which the Commitment is held. In addition, Applicant states that for purposes of complying with the condition to Applicant's proposed amortized cost order from the Commission that the dollar-weighted average maturity of its portfolio shall not exceed 120 days, Stand-by Commitments will be valued at zero and that, as a result, the dollar-weighted average maturity will not be affected by the acquisition of a Stand-by Commitment.

Applicant states that it has not sought a favorable ruling from the Internal Revenue Service ("Service") with respect to Stand-by Commitments, but that the Service has issued a favorable private ruling to the effect that a registered investment company will be the owner of municipal securities acquired subject to a Commitment and that interest on the securities will be tax-exempt to the investment company (LTR 8034122, May 30, 1980). In addition, Applicant states that the Service has issued a favorable published ruling on a similar situation to the one described in this Application (Rev. Rule 82–144), but that the Service could reach a different result as to the Applicant's proposed transactions. The continued availability of Stand-by Commitments under all market conditions has not been assumed by Applicant.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transctions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that the requested relief is appropriate, in the public interest, and consistent with the protection of investors. Applicant submits that the proposed acquisition of Stand-by Commitments will not affect its net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve its liquidity and ability to pay redemption proceeds that same day in federal funds. Other investment techniques used by taxable money market funds to obtain liquidity are not as freely available to Applicant because they are prohibitively expensive or would produce taxable income in contradiction of Applicant's investment objective. Applicant further states that it will enter into Stand-by Commitments only with banks, brokers, and dealers which, in its investment adviser's opinion, are of satisfactory credit standing. Applicant asserts that in addition to the credit of these institutions, its rights under the Commitments will be secured to the extent of the value of the underlying securities that are subject to the Commitments. In this respect, the relationship betwen Applicant and the seller of securities subject to a Stand-by Commitment will be comparable to the relationship arising from a broker-dealer repurchase agreement or security loan that is fully collateralized on the date of purchase and thereafter collateralized to the extent of the value of the purchased or loaned securities. Therefore, states Applicant, the risk of loss is not qualitatively different from the risk of loss faced by any investment company holding securities pending settlement after having agreed to sell the securities in the ordinary course of business. Applicant states that its investment adviser intends to periodically evaluate the credit of institutions issuing Stand-by Commitments to Applicant in accordance with current procedures used to evaluate the quality of the institution's short-term debt securities, including periodic review of the institution's assets, liabilities, contingent claims, and other relevant financial information. Applicant states that it will not acquire Stand-by Commitments to promote reciprocal practices, to encourage the sale of its shares, or to obtain research services. Accordingly, Applicant believes that the acquisition of such Commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business, nor require Applicant to evaluate the credit of dealers in determining its net asset value.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 15, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2372 Filed 1–27–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19444; File No. SR–SCCP–83–2]

Filing and Immediate Effectiveness of Proposed Rule Change by Stock Clearing Corporation of Philadelphia ("SCCP")

January 20, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 18, 1983, the Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change authorizes SCCP (1) to accept from other self-regulatory organizations, including registered clearing agencies, as input into SCCP's comparison operation, initial or supplemental trade data on behalf of SCCP participants, and (2) to transmit to those organizations reports of clearing trade data on behalf of those

participants. Similar trade input and reporting services are to be provided to service bureaus acting on behalf of SCCP participants. The proposed rule change, among other things, allows SCCP to receive trade data from, and transmit reports regarding that data to, the National Association of Securities Dealers, Inc. in connection with its Trade Acceptance and Reconciliation Service, when that service is implemented. In addition, the proposed rule change would allow SCCP to provide comparison services, in SCCP's discretion, for participants of other self-regulatory organizations who are not SCCP participants, when deemed by SCCP to be appropriate. SCCP stated in its filing that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act in that it will promote the prompt and accurate clearance and settlement of securities transactions.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–SCCP–83–02.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than these which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitsimmons,

Secretary.

[FR Doc. 83–2370 Filed 1–27–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12984 9812–53900)]

Southern Farm Bureau Cash Fund, Inc., Filing of Application for an Order

January 20, 1983.

Notice is hereby given that Southern Farm Bureau Cash Fund, Inc. ("Applicant"), Suite 300, 1401 Livingstone Lane, Jackson, MS 39213, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on December 8, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its assets at amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund designed to provide investors with current income, preservation of principal, and liquidity. Applicant states that its portfilio will consist of United States and United States Government agency and instrumentality obligations, bank obligations, commercial paper, corporate debt securities, repurchase agreements, and reverse repurchase agreements. Applicant states that Southern Farm Bureau Adviser, Inc., currently a wholly-owned subsidiary of Southern Farm Bureau Casualty Insurance Company, acts as Applicant's investment adviser.

Applicant asserts that its board of directors believes that stability of principal and a steady flow of predictable income at a currently competitive rate are essential to attract investors to "money market" funds. According to Applicant, its board has determined in good faith that, in light of Applicant's characteristics, the amortized cost method of valuation of portfolio securities is appropriate and preferable. Applicant represents that its board has further determined that it will continously monitor valuations indicated by other methods and has directed management to make reports to the board so that the board may make any changes in the pricing method which may be necessary to assure that the method of valuation being used is a fair approximation of fair value in view of all pertinent factors.

Applicant requests an order of exemption pursuant to Section 6(c) of the Act, from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portofolio using the amortized cost method of valuation. Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant consents to the issuance of an order of exemption subject to the following conditions:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board undertakes—as a particular responsibility within the overall duty of care owed to its stockholders—to establish procedures reasonably designed taking into account current market conditions and Applicant's objectives, to stabilize Applicant's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's board of directors shall be the following:

(a) Review by the board, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the board will promptly consider what action, if any, should be initiated by by the board.

(c) Where the board believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing stockholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results which may include (1) selling portfolio instruments prior to maturity to realize gains or losses or to shorten Applicant's average portfolio maturity, (2) redeeming shares in kind, (3) withholding dividends, or (4) utilizing available market quotations to determine net asset value per share.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year of (b) maintain a dollar weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a protfolio instrument results in a dollar weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above; and, Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board's meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to Rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which the board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board.

6. Applicant will include in each Quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, applicant will describe the nature and circumstances of such action.

Applicant submits that granting its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 14, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2371 Filed 1-27-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/10-0015]

First Business Investment Corp.; Surrender of License

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1983)), First Business Investment Corporation, One West Loop South, Suite 807, Houston, Texas 77027, incorporated under the laws of the State of Texas, has surrendered its License No. 06/10-0015, issued by the SBA on February 25, 1980.

First Business Investment Corporation has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of First Business Investment Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59-011, Small Business Investment Companies)

Dated: January 24, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-2515 Filed 1-27-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-5197]

Pan American Capital Corp.; Surrender of License

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1983)), Pan American Capital Corporation, P.O. Box 668, Opelousas, Louisiana 70570, incorporated under the laws of the State of Louisiana has surrendered its License No. 06/06-5197, issued by the SBA on January 17, 1978.

Pan American Capital Corporation, has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of Pan American Capital Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59-011, Small Business Investment Companies)

Dated: January 24, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-2516 Filed 1-27-83; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Companies; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulations governing the maximum annual cost of money to small business

concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96–221, March 31, 1980 (94 stat. 161), to that law's Federal override of State Usury ceilings, and to its forfeiture and penalty provisions.

Effective February 1, 1983, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 10.405% per annum.

Dated: January 25, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83–2513 Filed 1–27–83; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan #2076]

Texas; Declaration of Disaster Loan Area

Newton County in the State of Texas constitutes a disaster area as a result of damage caused by heavy rain, rising water and flooding which occurred on December 25, 1982 through January 3, 1983. Eligible persons, firms and organizations may file applications for physical damage until the close of business on March 21, 1983, and for economic injury until the close of business on October 20, 1983, at the address listed below:

U.S. Small Business Administration, 2525 Murworth, Suite 112, Houston, Texas 77054

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere, 13⅜%

Homeowners without credit available elsewhere, 6⅞%

Businesses with credit available elsewhere, 11½%

Businesses without credit available elsewhere, 8%

Businesses (EIDL) without credit available elsewhere, 8%

Other (non-profit organizations including charitable and religious organizations), 11⅜%.

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 20, 1983.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83–2514 Filed 1–27–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice CM–8/597]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Transborder Data Flows of the Advisory Committee on International Investment, Technology, and Development on Thursday, February 17, 1983, from 10:00 a.m. to 12:00 noon in the Loy Henderson Conference Room of the Department of State, 2201 C Street, NW., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to report on the results of the OECD ICCP Special Session of December 1982 and to discuss preparation for the March ICCP meetings.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: January 17, 1983.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 83–2402 Filed 1–27–83; 8:45 am]

BILLING CODE 4710–07–M

SYNTHETIC FUELS CORPORATION

Competitive Solicitation for Oil Shale Projects

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Issuance of competitive solicitation for oil shale projects.

SUMMARY: Notice is hereby given that on January 20, 1983, the United States Synthetic Fuels Corporation issued a Competitive Solicitation for Oil Shale Projects soliciting proposals for synthetic fuel projects to be assisted under Title I, Part B, of the Energy Security Act of 1980 (Pub. L. 96–294).

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: Ralph L. Bayrer, Vice President for Projects, United States Synthetic Fuels Corporation, 2121 K Street NW., Washington, D.C. 20586, (202) 822–6436.

FOR COPIES OF THE SOLICITATION, CONTACT: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2121 K Street NW., Washington, D.C. 20586, (202) 822–6460.

Dated: January 24, 1983.

United States Synthetic Fuels Corporation.

Jimmie R. Bowden,

Executive Vice President.

[FR Doc. 83–2346 Filed 1–27–83; 8:45 am]

BILLING CODE 0000–00–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Print Panel of the Commissioner of Internal Revenue Availability of Report on Closed Meetings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of availability of report on closed meetings of the art print panel.

SUMMARY: The report is now available.

Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976); section 8d(3) of the Office of Management and Budget (OMB) Circular No. A-63 (3–27–74), as supplemented; and section 12b of Treasury Directive 10-06.E (9–2–77): A report summarizing the closed meeting activities of the Art Print Panel during 1982 has been prepared. A copy of this report has been filed with the Assistant Secretary of the Treasury for Administration and is now available for public inspection at: Internal Revenue Service, Freedom of Information Reading Room, Room 1565, 1111

Constitution Avenue, NW., Washington, D.C. 20224

Requests for copies, at $1.20 each, should be addressed to: Director, Disclosure Operations Division, Attn: FOI Reading Room, Box 388, Benjamin Franklin Station, Washington, D.C. 20044.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:C:E:V, 1111 Constitution, Avenue, NW., Room 5431, Washington, D.C., 20224, Telephone (202) 566–4196 - (Not a toll free telephone number).

James I. Owens,

Acting Commissioner.

[FR Doc. 83–2501 Filed 1–27–83; 8:45 am]

BILLING CODE 4830–01–M

Proposed Revised Schedule F (Form 1040), Farm Income and Expenses

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed revised Schedule F (Form 1040), Farm Income and Expenses, and request for comment.

SUMMARY: The Internal Revenue Service is proposing for public comment the revision of the schedule used by taxpayers to figure the net profit or loss from farming income. Three different versions of Schedule F are being considered. The Service tentatively plans to adopt one of the versions for 1983, modified as necessary based on the nature of comments received. In addition, the Service is proposing for public comment revision of Form 4835, Farm Rental Income and Expenses and Summary of Gross Income from Farming or Fishing, which is used by landowners and sub-lessors to figure farm rental income and expenses.

DATE: Written comments and suggestions should be mailed or delivered by March 31, 1983.

ADDRESS: Written comments and suggestions should be mailed or delivered to the Chairman, Tax Forms Coordinating Committee, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Ms. Carolyn Tavenner, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone (202) 566–4075 (not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: Schedule F is used by taxpayers to figure farm income and expenses. Each of the three proposed versions of the schedule represents an attempt by the Internal Revenue Service to reduce the reporting burden associated with filing Schedule F.

The Service is interested in receiving comments regarding the feasibility of each of the three versions of the form. The listing of expenses in each version is basically the same as that used on the present Schedule F. The major provisions of each version are as follows:

1. Version A combines into one line sales of livestock and other items bought for resale and eliminates the description of the livestock and other items. Sales of livestock and produce raised and other income are combined into four main categories—livestock, livestock by-products, crop sales, and other farm income. Under this version, both cash and accrual method taxpayers complete Part I. Accrual method taxpayers also complete Part II to figure the cost of livestock, crops, and products sold, which is then subtracted from gross farm income in Part I to arrive at gross profits.

2. Version B uses separate Parts I and II according to the method of accounting used. Part I, for cash basis taxpayers, combines into one line sales of livestock and other items bought for resale and eliminates the description of these items. Detailed listings for other income items reported under the cash method are replaced with two categories of income—sales of livestock and produce raised, and other farm income. Part II is for use by accrual method taxpayers. The detailed listings of sales, inventory at the beginning and end of the year, and purchases are eliminated.

3. Version C format is substantially the same as the present Schedule F. However, under this proposal, taxpayers can choose to list certain items of income separately or enter only the total of these income items on the form.

Because some taxpayers may prefer the current Schedule F, the Service is also interested in receiving comments about whether the current Schedule F should be retained without change. Comments are also welcome concerning any suggestions to combine features of any of the versions.

In addition, the Service is interested in receiving comments regarding three separate proposals involving the reporting of farm rental income and expenses on Form 4835. The three proposals are as follows:

1. To revise Form 4835 to mirror changes made to Schedule F.

2. To eliminate Form 4835 and require farm rental income and expenses to be reported on Schedule F and provide an entry on Schedule F to identify the income as farm rental income.

3. To eliminate Form 4835 and require farm rental income and expenses to be reported directly on Schedule E.

Nelson A. Brooke,

Chairman, Tax Forms Coordinating Committee.

BILLING CODE 4830–01–M

VERSION A

SCHEDULE F (Form 1040)

Department of the Treasury Internal Revenue Service

Farm Income and Expenses

▶ Attach to Form 1040, Form 1041, or Form 1065.
▶ See Instructions for Schedule F (Form 1040).

OMB No. 1545-0074

1983

16

Name of proprietor(s) | Social security number

Farm name and address ▶ | Employer identification number

Part I Farm Income—Cash and Accrual Method—Do not include sales of livestock held for draft, breeding, sport, or dairy purposes; report these sales on Form 4797. Complete Part I if you are on the cash or accrual method.

1	Sales of livestock and other items you bought for resale	1	
2	Livestock (cattle, calves, sheep, swine, poultry, goats, etc.)	2	
3	Livestock by-products (dairy, eggs, wool, etc.)	3	
4	Crop sales (vegetables, grains, tobacco, cotton, hay, straw, fruits, nuts, etc.)	4	
5	Other farm income (machine work, net patronage dividends, per-unit retains, agricultural program payments, crop insurance proceeds, etc.)	5	
6	Add amounts on lines 1 through 5	6	
7	If you are on the cash method, enter the cost or other basis of livestock and other items you bought for resale. If you are on the accrual method, complete Part II and enter the amount from Part II, line 13	7	
8	Gross Profits.* Subtract line 7 from line 6	8	

Part II Farm Income—Accrual Method—Complete Part II only if you are on the accrual method

9	Inventory of livestock, crops, and products at beginning of year	9	
10	Livestock, crops, and products purchased during year	10	
11	Add lines 9 and 10	11	
12	Inventory of livestock, crops, and products at end of year	12	
13	Cost of livestock, crops, and products sold. Subtract line 12 from line 11, and enter the result here. Also enter this amount in Part I, line 7	13	

Part III Farm Deductions—Cash and Accrual Method—Do not include personal or living expenses (such as taxes, insurance, repairs, etc., on your home), which do not produce farm income. Reduce the amount of your farm deductions by any reimbursement before entering the deduction below.

14	a Labor hired		28	Depreciation, including Section 179 expense deduction (from Form 4562)	
	b Jobs credit		29	Insurance	
	c Balance (subtract line 14b from line 14a)		30	Utilities	
15	Repairs, maintenance		31	Freight, trucking	
16	Interest		32	Conservation expenses	
17	Rent of farm, pasture		33	Land clearing expenses	
18	Feed purchased		34	Pension and profit-sharing plans	
19	Seeds, plants purchased		35	Employee benefit programs other than line 34	
20	Fertilizers, lime, chemicals		36	Other (specify)	
21	Machine hire				
22	Supplies purchased				
23	Breeding fees				
24	Veterinary fees, medicine				
25	Gasoline, fuel, oil				
26	Storage, warehousing				
27	Taxes		37	Total (add lines 14c through 36)	

38	Net farm profit or (loss). Subtract line 37 from line 8. If a profit, enter on Form 1040, line 19, and on Schedule SE, Part I, line 1. If a loss, go on to line 39. (Fiduciaries and partnerships, see the instructions.)	38	

39 If you have a loss, do you have amounts for which you are not "at risk" in this farm (see instructions)? . . . ☐ Yes ☐ No

If you checked "No," enter the loss on Form 1040, line 19, and on Schedule SE, Part I, line 1. If you checked "Yes," get Form 6198.

*Use amount on line 8 for optional method of computing net earnings from self-employment. (See Schedule SE, Part II, line 4.)

For Paperwork Reduction Act Notice, see Form 1040 instructions.

390-501-1

VERSION B

SCHEDULE F (Form 1040)

Department of the Treasury
Internal Revenue Service

Farm Income and Expenses

▶ Attach to Form 1040, Form 1041, or Form 1065.
▶ See Instructions for Schedule F (Form 1040).

OMB No. 1545-0074

1983
16

Name of proprietor(s) | Social security number

Farm name and address ▶ | Employer identification number

Part I Farm Income—Cash Method

Do not include sales of livestock held for draft, breeding, sport, or dairy purposes; report these sales on Form 4797.

1	Sales of livestock and other items you bought for resale	1	
2	Cost or other basis of livestock and other items you bought for resale	2	
3	Subtract line 2 from line 1	3	
4	Sales of livestock and produce you raised	4	
5	Other farm income	5	
6	Gross Profits.* Add amounts on lines 3 through 5	6	

Part II Farm Income—Accrual Method (Do not include sales of livestock held for draft, breeding, sport, or dairy purposes; report these sales on Form 4797 and omit them from "Inventory at beginning of year" column.)

7	Sales of livestock, crops, and products during year and other farm income			7	
8	Inventory of livestock, crops, and products at beginning of year	8			
9	Cost of livestock and products purchased during year	9			
10	Add lines 8 and 9	10			
11	Inventory of livestock, crops, and products at end of year	11			
12	Cost of livestock, crops, and products. Subtract line 11 from line 10			12	
13	Gross Profits.* Subtract line 12 from line 7			13	

Part III Farm Deductions—Cash and Accrual Method

Do not include personal or living expenses (such as taxes, insurance, repairs, etc., on your home), which do not produce farm income. Reduce the amount of your farm deductions by any reimbursement before entering the deduction below.

14	a Labor hired		29	Utilities	
	b Jobs credit		30	Freight, trucking	
	c Balance (subtract line 14b from line 14a)		31	Conservation expenses	
15	Repairs, maintenance		32	Land clearing expenses	
16	Interest		33	Pension and profit-sharing plans	
17	Rent of farm, pasture		34	Employee benefit programs other than line 33	
18	Feed purchased		35	Depreciation, including Section 179 expense deduction (from Form 4562)	
19	Seeds, plants purchased		36	Other (specify) ▶	
20	Fertilizers, lime, chemicals				
21	Machine hire				
22	Supplies purchased				
23	Breeding fees				
24	Veterinary fees, medicine				
25	Gasoline, fuel, oil				
26	Storage, warehousing				
27	Taxes				
28	Insurance				

37	Total deductions from Part III. Add amounts in columns for lines 14c through 36	37	
38	Net farm profit or (loss). Cash method—Subtract line 37 from line 6. Accrual method—Subtract line 37 from line 13. If a profit, individuals enter on Form 1040, line 19, and on Schedule SE, Part I, line 1. If a loss, go on to line 39. (Fiduciaries and partnerships, see the instructions.)	38	

39 If you have a loss, do you have amounts for which you are not "at risk" in this farm (see instructions)? ☐ Yes ☐ No
If you checked "No," enter the loss on Form 1040, line 19, and on Schedule SE, Part I, line 1. If you checked "Yes," get Form 6198.

*Use amount on line 6 or 13 for optional method of computing net earnings from self-employment. (See Schedule SE, Part II, line 4.)

For Paperwork Reduction Act Notice, see Form 1040 instructions.

350-801-1

VERSION C

SCHEDULE F (Form 1040)

Department of the Treasury
Internal Revenue Service

Farm Income and Expenses

▶ Attach to Form 1040, Form 1041, or Form 1065.
▶ See Instructions for Schedule F (Form 1040).

OMB No. 1545-0074

1983

16

Name of proprietor(s) | Social security number

Farm name and address ▶ | Employer identification number

Part I Farm Income—Cash Method

Do not include sales of livestock held for draft, breeding, sport, or dairy purposes; report these sales on Form 4797.

Sales of Livestock and Other Items You Bought for Resale

a. Description	b. Amount
1 a Livestock ▶	
b Other items ▶	
2 Totals. Add lines 1a and 1b	
3 Cost or other basis	
4 Subtract line 3 from line 2 ▶	

Sales of Livestock and Produce You Raised and Other Farm Income

Note: If you prefer not to list the items of income separately on lines 5 through 26, you may enter only the total on line 27.

Kind	Amount
5 Cattle and calves	
6 Sheep and wool	
7 Swine	
8 Poultry and eggs	
9 Dairy products	
10 Cotton	
11 Tobacco	
12 Vegetables	
13 Soybeans	
14 Corn and other grains	
15 Hay and straw	
16 Fruits and nuts	
17 Machine work	
18 a Patronage dividends	
b Less: Nonincome items	
c Net patronage dividends	
19 Per-unit retains	
20 Nonpatronage distributions from exempt cooperatives	
21 Agricultural program payments: a Cash	
b Materials and services	
22 Commodity credit loans under election (or forfeited)	
23 Federal gasoline tax credit	
24 State gasoline tax refund	
25 Crop insurance proceeds	
26 Other (specify) ▶	
27 Add amounts in column for lines 5 through 26	
28 Gross profits* (add lines 4 and 27) ▶	

Part II Farm Deductions—Cash and Accrual Method

F

Do not include personal or living expenses (such as taxes, insurance, repairs, etc., on your home), which do not produce farm income. Reduce the amount of your farm deductions by any reimbursement before entering the deduction below.

Items	Amount
29 a Labor hired	
b Jobs credit	
c Balance (subtract line 29b from line 29a)	
30 Repairs, maintenance	
31 Interest	
32 Rent of farm, pasture	
33 Feed purchased	
34 Seeds, plants purchased	
35 Fertilizers, lime, chemicals	
36 Machine hire	
37 Supplies purchased	
38 Breeding fees	
39 Veterinary fees, medicine	
40 Gasoline, fuel, oil	
41 Storage, warehousing	
42 Taxes	
43 Insurance	
44 Utilities	
45 Freight, trucking	
46 Conservation expenses	
47 Land clearing expenses	
48 Pension and profit-sharing plans	
49 Employee benefit programs other than line 48	
50 Depreciation, including Section 179 expense deduction (from Form 4562)	
51 Other (specify) ▶	
52 Total (add lines 29c through 51)	

53 Net farm profit or (loss) (subtract line 52 from line 28). If a profit, enter on Form 1040, line 19, and on Schedule SE, Part I, line 1. If a loss, go on to line 54. (Fiduciaries and partnerships, see the Instructions.) 53

54 If you have a loss, do you have amounts for which you are not "at risk" in this farm (see Instructions)? . . . ☐ Yes ☐ No
If you checked "No," enter the loss on Form 1040, line 19, and on Schedule SE, Part I, line 1. If you checked "Yes," get Form 6198.

*Use amount on line 28 for optional method of computing net earnings from self-employment (See Schedule SE, Part II, line 4.)

For Paperwork Reduction Act Notice, see Form 1040 Instructions. 390-801-1

Schedule F (Form 1040) 1982 17 Page 2

Part III **Farm Income—Accrual Method (Do not include sales of livestock held for draft, breeding, sport, or dairy purposes; report these sales on Form 4797 and omit them from "Inventory at beginning of year" column.)**

Note: *If you prefer not to list the items of income on lines 55 through 68, you may enter only the totals on line 69.*

a. Kind	b. Inventory at beginning of year	c. Cost of items purchased during year	d. Sales during year	e. Inventory at end of year
55 Cattle and calves				
56 Sheep and wool				
57 Swine				
58 Poultry and eggs				
59 Dairy products				
60 Cotton				
61 Tobacco				
62 Vegetables				
63 Soybeans				
64 Corn and other grains				
65 Hay and straw				
66 Fruits and nuts				
67 Machine hire				
68 Other (specify) ▶				
69 Totals (enter here and in Part IV below)	(Enter on line 78)	(Enter on line 79)	(Enter on line 71)	(Enter on line 70)

Part IV **Summary of Income and Deductions—Accrual Method**

Note: *If you prefer not to list the items of income on lines 71 through 76, you may enter only the total on line 77.*

70 Inventory of livestock, crops, and products at end of year (line 69, column e)		
71 Sales of livestock, crops, and products at end of year (line 69, column d)		
72 Agricultural program payments: a Cash		
b Materials and services		
73 Commodity credit loans under election (or forfeited)		
74 Federal gasoline tax credit		
75 State gasoline tax refund		
76 Other farm income (specify) ▶		
77 Add lines 70 through 76		
78 Inventory of livestock, crops, and products at beginning of year (line 69, column b)		
79 Cost of livestock and products purchased during year (line 69, column c)		
80 Total (add lines 78 and 79)		
81 Gross profits* (subtract line 80 from line 77)		
82 Total deductions from Part II, line 52		
83 Net farm profit or (loss) (subtract line 82 from line 81. If a profit, individuals enter on Form 1040, line 19, and on Schedule SE, Part I, line 1. If a loss, go on to line 84. (Fiduciaries and partnerships, see the instructions.) 83		

84 If you have a loss, do you have amounts for which you are not "at risk" in this farm (see instructions)? ☐ Yes ☐ No
If you checked "No," enter the loss on Form 1040, line 19, and on Schedule SE, Part I, line 1. If you checked "Yes," get Form 6198.

*Use amount on line 81 for optional method of computing net earnings from self-employment. (See Schedule SE, Part II, line 4.)

★ U.S. GOVERNMENT PRINTING OFFICE : 1982—O-380-801

390-501-1

[FR Doc. 83-2499 Filed 1-27-83; 8:45 am]

BILLING CODE 4830-01-C

Sunshine Act Meetings

Federal Register
Vol. 48, No. 20
Friday, January 28, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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	Item
Commodity Futures Trading Commission	1
Equal Employment Opportunity Commission	2
International Trade Commission	3, 4
Securities and Exchange Commission	5
Tennessee Valley Authority	6

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, February 4, 1983.

PLACE: 2033 K Street, N.W., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTER TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–131–83 Filed 1–28–83; 12:35 pm]

BILLING CODE 6351–01–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, February 1, 1983.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street N.W., Washington D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 82–11–FOIA–234, concerning EEO–1 forms, all documents in any Title VII, EPA or ADEA proceeding instituted against a certain hospital.
4. Freedom of Information Act Appeal No. 82–9–FOIA–142–NY, concerning a request for access to records in a charge file.
5. Freedom of Information Act Appeal No. 82–09–FOIA–101–PA, concerning a request for access to a closed Title VII charge file.

Closed:

1. Litigation Authorization; General Counsel Recommendations.

(In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on Future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

Issued: January 25, 1983.

[S–130–83 Filed 1–26–83; 9:45 am]

BILLING CODE 6570–06–M

3

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–05A]

TIME AND DATE: 2:30 p.m., Tuesday, February 8, 1983.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 731–TA–87 (Final) (Certain Seamless Steel Pipes and Tubes from Japan)—briefing and vote.
6. Investigations 731–TA–118/119 (Preliminary) (Certain Polyester Fabric from Japan and the Republic of Korea)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–128–83 Filed 1–25–83; 4:32 pm]

BILLING CODE 7020–02–M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–05A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 3072, January 24, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Wednesday, February 2, 1983.

CHANGES IN THE MEETING: Emergency addition to the agenda. In deliberations held Tuesday, January 25, 1983, the United States International Trade Commission, in conformity with 19 CFR 201.37(b), voted to add the following item to its agenda for the meeting:

4a. Certain staple guns (Docket No. 903).

Commissioners Eckes, Stern, and Haggard determined by unanimous consent that Commission business requires the change in subject matter by addition of the agenda item, affirmed that no earlier announcement of this addition to the agenda was possible, and directed the issuance of the notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–129–83 Filed 1–25–83; 4:32 pm]

BILLING CODE 7020–02–M

5

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of January 31, 1983, at 450 5th Street, N.W. Washington, D.C.

A closed meeting will be held on Tuesday, February 1, 1983, at 10:00 a.m. An open meeting will be held on Tuesday, February 1, 1983, at 2:30 p.m. in Room 1C30.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February, 1, 1983, at 10:00 a.m., will be :

Formal orders of investigation.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Administrative proceeding of an enforcement nature.
Access requests to investigative files by Federal, State, or Self-Regulatory authorities.

The subject matter of the open meeting scheduled for Tuesday, February 1, 1983, at 2:30 p.m., will be:

1. Meeting with the American Society of Corporate Secretaries.

2. Consideration of whether to issue an interpretive release unde the Investment Company Act of 1940 announcing a revision of the position of the Division of Investment Management ("Division") taken in Investment Company Act Release No. 10666 (April 18, 1979) regarding registered investment companies entering into fully collateralized repurchase agreements with a broker or dealer, and announcing the view of the Division that the directors of money market funds using the amortized cost or penny rounding methods of portfolio valuation and share pricing pursuant to a Commission exemptive order or proposed Rule 2a–7 (if adopted) are required to evaluate the creditworthiness of all entities with which they propose to enter into repurchase agreements. For further information, please contact Brion R. Thompson at (202) 272–3026.

3. Consideration of whether to issue a release which would announce proposed amendments to Securities Exchange Act Rule 15b9–1 clarifying the requirement that a broker-dealer must either register as a SECO broker-dealer by filing Form SECO–5 and paying the applicable fee or become a member of the National Association of Securities Dealers, Inc., before conducting an over-the-counter securities business. For further information, please contact Howard L. Kramer at (202) 272–2411.

4. Consideration of whether to issue a release stating that a letter requesting confidential treatment for other materials submitted to the Commission will not be kept confidential unless the letter contains information which is protected under the Freedom of Information Act. For further information, please contact Richard Moore at (202) 272–2332.

4. At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Steve Boehm at (202) 272–2467.

January 25, 1983.

[S–132–83 Filed 1–26–83; 12:54 pm]

BILLING CODE 8010–01–M

6

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 10:15 a.m. (e.s.t.), Wednesday, February 2, 1983 (Meeting No. 1305).

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA ITEM: .

A—Project Authorizations
- A1. Project Authorization No. 3643—Fire protection improvements for the Power Service Center in Muscle Shoals, Alabama.
- *A2. Project Authorization No. 3644—Interim offices and shop buildings at Browns Ferry Nuclear Plant.

C—Power Items
- *C1. TVA's guaranty of Federal-American Partners' performance under mining equipment subleases and assignments in connection with the Gas Hills, Wyoming, uranium project.
- C2. lease and amendatory agreement with Monroe County Electric Power Association, covering arrangements for distributor's lease of TVA's Caledonia Substation, located in Lowndes County, Mississippi.

D—Personnel Items
- D1. renewal of personal services contract with Consultants & Designers Inc., New York, New York, for engineering support services, requested by the Office of Engineering Design and Construction.
- D2. Personal services contract with Applied Technology of Barnwell, Inc., Barnwell, South Carolina, for services of health physics technicians, requested by the Office of Power.

E—Real Property Transactions
- E1. Grant of permanent easement to the State of Alabama for the construction, operation, and maintenance of a highway affecting approximately 18.5 acres of Guntersville Reservoir land in Marshall County, Alabama—Tract No. XTGR–142H.
- E2. Grant of permanent easement to Decatur-Morgan County Port Authority for industrial site development affecting approximately 450 acres of Wheeler Reservoir land in Morgan County, Alabama—Tract No. XTGR–92E.
- E3. Grant of permanent easement to Eastern Band of Cherokee Indians, affecting approximately 47 acres of Tellico Reservoir land in Monroe County, Tennessee—Tract No. XTTELR–27RE.
- E4. Grant of 30-year industrial easement to Feed Terminal Company, Inc., for the construction, maintenance, and operation of a rail-to-barge coal terminal affecting 100.1 acres of Kentucky Reservoir land in Livingston County, Kentucky—Tract no XGIR—904IE.

F—Unclassified
- F1. Revised organizational bulletin—Tennessee Valley Authority.
- F2. Budget plan for fiscal year 1983.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: January 26, 1983.

[S–133–83 Filed 1–26–83; 2:57 pm]

BILLING CODE 8120–01–M

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* Items approved by individual Board members. This would give formal ratification to the Board's action.

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federal register

Friday
January 28, 1983

Part II

Department of Defense

Department of the Air Force

Privacy Act of 1974; Systems of Records; Deletions, Amendments, and Republication

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; Systems of Records; Deletions, Amendments, Republication

AGENCY: Department of the Air Force (AF), DoD.

ACTION: Deletion, Amendments, Republication of Air Force Systems of Records Notices.

SUMMARY: The Air Force is systematically republishing all of its systems of records notices. Each notice is being rejustified, rewritten and renumbered in the interest of accuracy, simplicity and clarity. Changes are summarized below and the rewritten notices follow in their entirety. The first publication in the **Federal Register** for November 4, 1982 deleted 32 notices and amended 84 others. This second publication deletes 11 more notices and amends 147.

EFFECTIVE DATE: The amendments will be effective on February 28, 1983 unless public comments are received which result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Updike, HQ USAF/DAD(S), The Pentagon, Washington, D.C. 20330, telephone: 202/694–3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records inventory subject to the Privacy Act of 1974, Title 5, United States Code, Section 552a (Pub. L. 93–579; 44 Stat. 1896 *et seq.)* has been published in the **Federal Register** as follows:

FR Doc. 81–897 (46 FR 6443) January 21, 1981

FR Doc. 82–674 (47 FR 2544) January 18, 1982

FR Doc. 82–2886 (47 FR 5295) February 4, 1982

FR Doc. 82–4481 (47 FR 7478) February 19, 1982

FR Doc. 82–9886 (47 FR 14936) April 7, 1982

FR Doc. 82–10539 (47 FR 16827) April 20, 1982

FR Doc. 83–3029 (47 FR 50004) November 4, 1982

None of these changes required an altered system report as required by 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 19, 1983.

Deletions

FO3001 SPI A

System Name:

Duty and Travel Restriction Notification Letters (44 FR 74173).

Reason:

This system has been discontinued.

FO3003 XOXXX

System Name:

Next of Kin Inquiries Civilian MIA/PWs (44 FR 74178).

Reason:

This system has been discontinued.

FO300410HAJXFA

System Name:

Air Force Systems Command (AFSC) Personnel Resource Management System (44 FR 74190).

Reason:

This system has been discontinued.

FO3504 OTMUHJD

System Name:

PCS Funds Control Log (44 FR 74242).

Reason:

These records are not retrieved by any personal identifier.

F03507 OJ DP A

System Name:

Flying Evaluation Board (FEB) File (44 FR 74248).

Reason:

This system has been discontinued.

F16802 ORKNMDA

System Name:

Civilian Health/Medical Program of Uniformed Services (CHAMPUS) Case Claim Files (46 FR 6577).

Reason:

This system has been discontinued.

F17101 OHZHTVD

System Name:

Management Oriented Personnel System (MOP) (44 FR 74348).

Reason:

This system has been discontinued.

F17720 OCGBUZA

System Name:

Control Log for Civilian Medical Care (44 FR 74361).

Reason:

This system has been discontinued.

F21301 OJ DP A

System Name:

Completion of Courses/Degrees Under Operation Bootstrap (44 FR 74386).

Reason:

These records are properly part of system F05002 DPPE A, Education Services Program Records (Individual) (44 FR 74275).

F90001 XRDE A

System Name:

USAF Harold Brown Award (44 FR 74394).

Reason:

This is not a system of records under the Privacy Act.

F90001XRDE B

System Name:

USAF Research and Development Award (44 FR 74394).

Reason:

This is not a system of records under the Privacy Act.

Amendments

The following major changes have been made to the systems notices published as amended below. These notices have also been substantially rewritten in the interest of clarity and accuracy.

F00401 05HCHLA

System Name:

For Cause Separation of Personnel with Duty and Travel Restriction (FCS/DTR) (44 FR 74146).

Change:

System Identification:

Change to, "F030 AFIS A."

System Name:

Change to, "For Cause Discharge Program."

F01001 OCGBUZA

System Name:

Individual Weight Control File (44 FR 74150).

Changes:

System Identification:

Change to, "F035 AF MP N."

System Name:

Change to, "Individual Weight Management File."

F01001 OJDJDBB

System Name:

Administrative Discharge Information Summary (44 FR 74150).

Changes:

System Identification:

Change to, "F035 ATC J."

Authority for Maintenance of the System:

Change to, "10 USC 8012, Secretary of the Air Force: powers and duties; delegation by."

F01001 DAYYT A

System Name:

Unusual and Incogerent Translation Material (44 FR 74148).

Change:

System Identification:

Change to, "F010 DAS A."

F01001 OKPNQSA

System Name:

Potential Faculty Rating System (44 FR 74151).

Changes:

System Identification:

Change to, "F010 ATC A."

Authority for Maintenance of the System:

Change to, "10 USC 8012, Secretary of the Air Force: powers and duties; delegation by."

F01101 DAYYT A

System Name:

Operational Reference File (44 FR 74154).

Changes:

System Identification:

Change to, "F011 DAS A."

Authority for Maintenance of the System:

Change to, "10 USC 8032, The Air Staff, General duties."

F01001 05HCHLC

System Name:

Air Force Attache System (44 FR 74153).

Change:

System Identification:

Change to, "F030 AFIS B."

System Name:

Change to, "Air Force Attache Personnel and Area Specialist System."

F01001 05HCHLD

System Name:

Prisoner of War (PW) Debriefing Files (44 FR 74153).

Change:

System Identification:

Change to, "F010 AFIS B."

F01101 DPXJ B

System Name:

Record of Air Force Personnel Assigned Outside the Department of Defense (44 FR 74155).

Changes:

System Identification:

Change to, "F011 MP A."

Authority for Maintenance of the System:

Change to, "10 USC 8012, Secretary of the Air Force: powers and duties; delegation by."

F01101 OJ TTSB

System Name:

Graduate Evaluation Master File (44 FR 74156).

Changes:

System Identification:

Change to, "F011 ATC A."

Authority of Maintenance of the System:

Change to, "10 USC 8012, Secretary of the Air Force: powers and duties; delegation by."

F01101 OKPNQSA

System Name:

Air Force Reserve Officer Training Corps (AFROTC) Membership System (44 FR 74156).

Changes:

System Identification:

Change to, "F045 ATC B."

F01101 OKPNQSB

System Name:

Four-Year Reserve Officer Training Corps (AFROTC Scholarships Program Files (44 FR 74157).

Changes:

System Identification:

Change to, "F011 ATC E."

Authority for Maintenance for the System:

Change to, "10 USC 2107, Financial assistance program for selected members."

F01102 AF A

System Name:

Congressional and Other High Level Inquiries (46 FR 6535).

Changes:

System Identification:

Change to, "F011 AF MP A."

F01102 DAYX A

System Name:

Base, Unit, and Organizational Military and Civilian Personnel Locator File (44 FR 74160).

Changes:

System Identification:

Change to, "F011 AF A."

System Name:

Military and Civilian Personnel Locator and Registration Files.

Authority for Maintenance for the System:

Change to, "10 USC 8012, Secretary of the Air Force: powers and duties; delegation by."

F01102 ORKNMPA

System Name:

General and Colonel Personnel Data Action Records (44 FR 74166).

Change:

System Identification:

Change to, "F011 PACAF A."

F01201 DAD A

System Name:

Privacy Act Request File (44 FR 74168).

Change:

System Identification:

Change to, "F012 AF B."

F01201 OQPTFLA

System Name:

Information Requests-Freedom of Information Act (46 FR 6537).

Change:

System Identification:

Change to, "F012 AF A."

F03001 OCGBUZA

System Name:

Drug/Alcohol Abuse Control Case Files (44 FR 74173).

Changes:

System Identification:

Change to, "F030 AF MP B."

System Name:

Change to, "Drug/Alcohol Abuse Evaluation and Rehabilitation Case Files."

F03001 OJMPLSC

System Name:

Drug Abuse Control Case Files (44 FR 74174).

Changes:

System Identification:

Change to, "F030 ATC A."

System Location:

Change to, "Special Counseling Section, 3507 Airman Classification Squadron, Lackland Air Force Base, TX 782360."

F03002 SPO A

System Name:

Documentation for Identification and Entry Authority (44 FR 74175).

Change:

System Identification:

Change to, "F030 AF SP A."

F03003 DPMSACB

System Name:

Deceased Service Member's Dependent File (44 FR 74176).

Change:

System Identification:

Change to, "F030 MPC A."

F03003 DPMSACC

System Name:

Indebtedness, Nonsupport, Paternity (44 FR 74177).

Change:

System Identification:

Change to, "F030 MPC B."

F03003 DPMSC A

System Name:

Casualty Files (44 FR 74177).

Change:

System Identification:

Change to, "F030 AF MP C."

F03004 AFDPMDA

System Name:

Contingency Planning Support Capability (CPSC) (44 FR 74178).

Change:

System Identification:

Change to, "F030 AF MP D."

F03004 AFDPMDB

System Name:

Advanced Personnel Data System (APDS) (46 FR 6541).

Changes:

System Identification:

Change to, "F030 AF MP A."

System Name:

Change to, "Personnel Data System (PDS)."

F03004 OJ RSSA

System Name:

Processing and Classification of Enlistees (PACE) (44 FR 74187).

Changes:

System Identification:

Change to, "F030 ATC C."

Authority for Maintenance for the System:

Change to, "10 USC 9302, Enlisted member of the Air Force: schools."

F03004 OJ RSSB

System Name:

Enlistee Quality Control Monitoring system (44 FR 74188).

Changes:

System Identification:

Change to, "F030 ATC B."

Authority for Maintenance for the System:

Change to, "10 USC 503, Enlistments: recruiting campaigns; 505 Regular components: qualification, term, grade; and 8012, Secretary of the Air Force: powers and duties; delegation by."

F03004 OTMUHJK

System Name:

Base Automated Mobility System (BAMS) Personnel Extract Tape (44 FR 74189).

Change:

System Identification:

Change to, "F030 TAC A."

F03403 DPMSP A

System Name:

Nonappropriated Fund (AF NAF) Employee Insurance and Benefits System File (44 FR 74194).

Changes:

System Identification:

Change to, "F176 AF MP B."

F03501 AFDPO U

System Name:

Office File (44 FR 74196).

Change:

System Identification:

Change to, "F035 MPC I."

F03501 ASGPS R

System Name:

Medical Opinions and Board for Correction of Air Force Military Records Cases (BCMR) (44 FR 74198).

Change:

System Identification:

Change to, "F035 MPCH."

F03501 DP3

System Name:

Unit Assigned Personnel Information (46 FR 6553).

Changes:

System Identification:

Change to, "F035 AF MP 0."

Categories of Individuals Covered by the System:

Add, "Air Force civilian employees may be included when records are created which are identical to those on military members.

F03501 DPMAKEI

System Name:

Absentee and Deserter Information Files (44 FR 74200).

Change:

System Identification:

Change to, "F035 AF MP J."

F03501 DPMAO K

System Name:

Officer Effectiveness Report (OER)/ Airman Performance Report (APR) Appeal Case Files (44 FR 74200).

Change:

System Identification:

Change to, "F035 AF MP D."

F03501 DPMAR

System Name:

Disability/Non-Disability Retirements Records (44 FR 74201).

Change:

System Identification:

Change to, "F035 MPC E."

F03501 DPMDQIA

System name:

Military Personnel Records System (46 FR 6554).

Change:

System Identification:

Change to, "F035 AF MP C."

F03501 DPMDRAB

System name:

Correction of Military Record Card (44 FR 74203).

Change:

System Identification:

Change to, "F035 MPC D."

F03501 DPMHC L

System Name:

Chaplain Applicant Processing Folder (44 FR 74203).

Change:

System Identification:

Change to, "F035 MPC M."

F03501 DPMSG M

System Name:

Health Education Records (44 FR 74203).

Change:

System Identification:

Change to, "F035 MPC F."

F03501 DPMSG N

System Name:

Application for Appointment and Extended Active Duty (44 FR 74204).

Change:

System Identification:

Change to, "F035 MPC A."

F03501 DPMSG O

System Name:

Medical Officer Personnel Utilization Records (44 FR 74205).

Change:

System Identification:

Change to, "F035 MPC G."

F03501 DPPP S

System Name:

United States Air Force (USAF) Airman Retraining (USAF) Airman Retraining Program (44 FR 74207).

Change:

System Identification:

Change to, "F035 AF MP E."

System Name:

Change to, "USAF Airman Retraining Program."

F03501 DPMYR R

System Name:

Statutory Tour Program (44 FR 74207).

Change:

System Identification:

Change to, "F035 MP B."

F03501 MPC A

System Name:

Civilian/Military Service Review Board Card (44 FR 74208).

Change:

System Identification:

Change to, "F035 MPC B."

F03501 MPC B

System Name:

Effectiveness/Performance Reporting System (46 FR 6555).

Change:

System Identification:

Change to, "F035 AF MP A."

F03501 OJ DP B

System Name:

Status of Ineffective Recruiter (44 FR 74212).

Changes:

System Identification:

Change to, "F035 ATC L."

Authority for Maintenance of the System:

Change to, "10 USC 503, Enlistments: Recruiting campaigns."

F03501 OKPNQSC

System Name:

AFJROTC Instructor Records System (44 FR 74213).

Change:

System Identification:

Change to, "F035 ATC B."

F03501 OKPNQSD

System Name:

Air Force Junior ROTC (AFJROTC) Instructor/Applicant System (46 FR 6557).

Changes:

System Identification:

Change to, "F045 ATC A."

Authority for Maintenance of the System:

Change to, "10 USC Chapter 102-Junior Reserve Officers Training Corps."

F03501 OTMUHJA

System Name:

Informational Personnel Records (OI Personnel Background) (44 FR 74215).

System Identification:

Change to, "F035 TAC A."

F03501 OUMCBVA

System Name:

Geographically Separated Unit Copy Officer Effectiveness & Airmen Performance Report (44 FR 74216).

Change:

System Identification:

Change to, "F035 AF MP B."

F03501 05HCHLH

System Name:

Reserve Management and Mobilization System (RMAMS) (44 FR 74216).

Changes:

System Identification:

Change to, "F035 AFIS A."

System Name:

Change to, "Intelligence Reserve Information System (IRIS)."

F03501 XOOTAYZA

System Name:

Management Control System (44 FR 74225).

Change:

System Identification:

Change to, "F035 AFDSC A."

F03502 DPMMB A

System Name:

Selective Reenlistment Consideration (44 FR 74228).

Change:

System Identification:

Change to "F035 AF MP G."

F03502 DPMMB B

System Name:

Request for Variable Reenlistment Bonus (VRB) and/or Advance Payment of VRB (44 FR 74228).

Changes:

System Identification:

Change to, "F0355 AF MP F."

System Name:

Change "Variable "to" Selective," and "VRB "to" SRB."

F03502 07YLNGA

System Name:

Career Development Folder.

Change:

System Identification:

Change to, "F035 AFOSI B."

F03503 ATC A

System Name:

Recruiting Research and Analysis System (44 FR 74231).

Change:

System Identification:

Change to, "F035 ATC H."

F03503 ATC RSL

System Name:

Basic Trainee Interview Record (44 FR 74231).

Change:

System Identification:

Change to, "F035 ATC D."

F03503 ATC RSM

System Name:

Recruiting Activities Management Support System (44 FR 74232).

Change:

System Identification:

Change to, "F035 ATC G."

F03503 DPMMP A

System Name:

Air Force Enlistment/Commissioning Records System (46 FR 6559).

Change:

System Identification:

Change to, "F035 AF MP H."

F03503 07YLNGB

System Name:

Internal Personnel Data System (44 FR 74221).

Change:

System Identification:

Change to, "F035 AFOSI A."

F03504 DPM A

System Name:

Relocation Preparation Project Folders (44 FR 74234)

Change:

System Identification:

Change to, "F035 AF MP K."

F03504 DPMHC A

System Name:

Chaplain Personnel Action Folder (46 FR 6560).

Changes:

System Identification:

Change to, "F035 HC A."

Categories of Records in the System:

Change to, "A grouping of information for each United States Air Force (USAF) chaplain. Items of information in these folders include: Correspondence between the chaplain and Headquarters USAF/Chief of Chaplains; copy of ecclesiastical endorsement; correspondence between the chaplain and the chaplain's office at the Air Force Manpower and Personnel Center; summary of education; application for appointment as Reserve of the Air Force; application for extended active duty with the United States Air Force; copy of extended active duty orders; copy of appointment orders; student information sheets prepared while attending USAF Chaplain School courses; current Career Brief; Officer Career Objective Statement; chaplain services personnel evaluation; copies of letters to and from ecclesiastical endorsing agencies concerning their chaplain representative; copies of assignment actions documents: permanent change of station orders, temporary duty orders, request for extension/curtailment of tour, release from active duty orders, request for humanitarian reassignment; retirement orders; informal letters/memoranda or commendation/recommendation; letter of complaint against a chaplain from individuals; reports of investigation; letter/memoranda of favorable/unfavorable information; letters/memoranda concerning nonprofessionalism of the chaplain; current photograph; computer printout of military history; copy of withdrawal of ecclesiastical endorsement."

Authority for Maintenance of the System:

Change to, "10 USC 8012; Secretary of the Air Force powers and duties, delegation by; 8067 (h), Designation: officers to perform certain professional functions; Defense Officer Personnel Management Act of 1980."

F03504 DPMHC B

System Name:

Assignment Action File (44 FR 74235).

Change:

System Identification:

Change to, "F035 MPC N."

F03504 DPMRA C

System Name:

Airmen Utilization Records System (44 FR 74235).

Change:

System Identification:

Change to, "F035 MPC J."

F03504 DPMRO D

System Name:

Officer Utilization Records System (44 FR 74236).

Change:

System Identification:

Change to, "F035 MPC Q."

F03504 DPMYCOF

System Name:

Incoming Clearance Record (44 FR 74237).

Change:

System Identification:

Change to, "F035 AF MP I."

F03504 OYUEBLB

System Name:

Commander Identification (46 FR 6561).

Change:

System Identification:

Change to, "F035 AFCC A."

System Name:

Change to, "Scope Leader Program".

F03505 DPMAO A

System Name:

Unfavorable Information Files (UIFs) (44 FR 74244).

Change:

System Identification:

Change to, "F035 AF MP L."

F03505 DPMAO B

System Name:

Personnel Action File (Digest File) (46 FR 6562).

Change:

System Identification:

Change to, "F035 MP C."

F03506 DPMAW A

System Name:

Air Force Personnel Test 851, Test Answer Cards (44 FR 74245).

Change:

System Identification:

Change to, "F035 MPC R."

F03506 OKPNQSA

System Name:

Air Force Reserve Officer Training Corps Qualifying Test Scoring System (46 FR 6563).

Change:

System Identification:

Change to, "F035 ATC C."

F03507 DPMAJDA

System Name:

Flying Status Branch File (44 FR 74247).

Change:

System Identification:

Change to, "F035 MPC S."

System Name:

Change to, "Aviation Service Branch File."

F03508 DPMAJAA

System Name:

Officer Promotion and Appointment (44 FR 74248).

Change:

System Identification:

Change to, "F035 AF MP M."

F03508 DPMAJBA

System Name:

Recorder's Roster (46 FR 6563).

Change:

System Identification:

Change to, "F035 MPC P."

F03508 DPMAW M

System Name:

Historical Airman Promotion Master Test File (MTF) (44 FR 74250).

Change:

System Identification:

Change to, "F035 MPC L."

F03508 DPMAW

System Name:

Airman Promotion Historical Records (44 FR 74251).

Change:

System Identification:

Change to, "F035 MPC K."

F04501 DPMMP A

System Name:

Educational Delay Board Findings (44 FR 74262).

Change:

System Identification:

Change to, "F045 MPC A."

F04501 OKPNQSA

System Name:

Cadet Records (45 FR 74283)

Change:

System Identification:

Change to, "F045 ATC C."

F04501 OKPNQSC

System Name:

AFROTC Field Training Assignment System

Change:

System Identification:

Change to, "F045 ATC D."

F05001 OJ DP A

System Name:

Faculty Board Ledger (44 FR 74270).

Change:

System Identification:

Change to, "F050 ATC C."

F05002 ATC A

System Name:

Maintenance Management Automated Training system (MMATS) (44 FR 74274).

Change:

System Identification:

Change to, "F050 ATC E."

F05002 ATC TTS

System Name:

Student Record of Training (46 FR 6569).

Change:

System Identification:

Change to, "F050 ATC H."

F05002 DPPE A

System Name:

Education Services Program Record (Individual) (44 FR 74275).

Change:

System Identification:

Change to, "F050 AF MP A."

F05002 OJ DOZB

System Name:

Individual Academic Records—Survival Training Students (44 FR 74279).

Change:

System Identification:

Change to, "F050 ATC D."

F05002 OJ TTPA

System Name:

Technical Training Course Management Information System (44 FR 74279).

Change:

System Identification:

Change to, "F050 ATC I."

F05002XOJ ED A

System Name:

Community College of the Air Force Student Record System (46 FR 6572).

Change:

System Identification:

Change to, "F050 ATC B."

F05002 OKPNQSA

System Name:

Air University Academic Records (44 FR 74280).

Change:

System Identification:

Change to, "F050 ATC F."

F05002 OKPNQSB

System Name:

Student Record Folder (44 FR 74280).

Change:

System Identification:

Change to, "F050 ATC G."

F05002 OQVDYDA

System Name:

Unit Training Program (44 FR 74281).

Change:

System Identification:

Change to, "F050 AF SP A."

F05002 OYUEBLA

System Name:

Air Traffic Control (ATC) Certification Documentation (46 FR 6569).

Change:

System Identification:

Change to, "F050 AFCC A."

System Name:

Change to, "USAF Air Traffic Control (ATC) Certification and Rating Documentation."

F05002 OYUEBLC

System Name:

Air Traffic Control Rating and Training Program Documentation (46 FR 6570).

Changes:

System Identification:

Change to, "F050 AFCC B."

System Name:

Change to, "Air Traffic Control (ATC) Training Program."

F05002 OYUEBLD

System Name:

Student Record (46 FR 6570).

Change:

System Identification:

Change to, "F050 AFCC D."

F05002 OYUEBLE

System Name:

Individual Academic Training Record (46 FR 6571).

Change:

System Identification:

Change to, "F050 AFCC C."

F05002 07YLNGA

System Name:

United States Air Force Special Investigations School Individual Academic Records (44 FR 74283).

Change:

System Identification:

Change to, "F050 AFOSI A."

System Name:

Change to, "USAF Special Investigations Academy Individual Academic Records."

F05101 OJ DOTA

System Name:

Flying Training Records-Nonstudent (44 FR 74286).

Change:

System Identification:

Change to, "F051 ATC B."

F05101 OJ DOTB

System Name:

Flying Training Records-Student (46 FR 6573).

Change:

System Identification:

Change to, "F051 ATC C."

F05101 OJMPLSA

System Name:

Flying Training Records (44 FR 74287).

Change:

System Identification:

Change to, "F051 ATC A."

F05101 OTMUHJA

System Name:

Tactical Air Command Automated Flying Training Management System (44 FR 74288).

Change:

System Identification:

Change to, "F051 TAC A."

F06005 XOOFFA

System Name:

Air Force Operations Resource Management System (AFORMS) (44 FR 74291).

Change:

System Identification:

Change to, "F060 AF A."

F06608 OOJUBJB

System Name:

Maintenance Management Information and Control System MMICS (44 FR 74294).

Change:

System Identification:

Change to, "F066 AF A."

F06711 AFSCA

System Name:

Equipment Maintenance Management Program (EMMP) (44 FR 74295).

Change:

System Identification:

Change to, "F067 AFSC A."

F08003 OHCNBCA

System Name:

Aeromedical Research Data (44 FR 74300).

Change:

System Identification:

Change to, "F080 AFSC A."

F10010 AFCS A

System Name:

Military Affiliate Radio System (MARS) Member Records (44 FR 74302).

Change:

System Identification:

Change to, "F100 AFCC A."

F12001 DPX B

System Name:

Investigations/Complaints Files (44 FR 74312).

Change:

System Identification:

Change to, "F120 AF MP A."

F12401 07YLNGA

System Name:

Badge and Credentials (44 FR 74313).

Changes:

System Identification:

Change to, "F124 AFOSI A."

Authority for Maintenance of the System:

Change to, "18 USC 499, Military, naval or official passes; 506, Seals of department or agencies and 701, Official badges, identification cards, other insignia."

F12404 07YLNGA

System Name:

Investigative Support Records (44 FR 74314).

Change:

System Identification:

Change to, "F124 AF D."

F12406 07YLNGA

System Name:

Security and Related Investigative Records (44 FR 74315).

Change:

System Identification:

Change to, "F124 AF B."

F12410 07YLNGA

System Name:

Criminal Records (44 FR 74317).

Change:

System Identification:

Change to, "F124 AF C."

F12401 07YLNGB

System Name:

Investigative Applicant Processing Records (44 FR 74314).

Change:

System Identification:

Change to, "F124 AFOSI B."

F12408 07YLNGA

System Name:

Counterintelligence Operations and Collection Records (44 FR 74316).

Change:

System Identification:

Change to, "F124 AF A."

F12501 ASPP

System Name:

Firearms Authorization and Safety Records (44 FR 74318).

Changes:

System Identification:

Change to, "F125 AF SP A."

System Name:

Change to "Air Force Policy Statement—Firearms Safety and Use of Force."

F12501 SPO D

System Name:

Provisional Pass (44 FR 74318).

Change:

System Identification:

Change to, "F125 AF SP H."

F12501 SPO E

System Name:

Registration Records (Excluding Private Vehicle Records) (44 FR 74318).

Change:

System Identification:

Change to, "F125 AF SP I."

F12501 SPO F

System Name:

Notification Letters to Persons Barred From Entry to Air Force Installations (44 FR 74319).

Change:

System Identification:

Change to, "F125 AF SP F."

F12501 SPO G

System Name:

Complaint/Incident Reports (44 FR 74320).

Change:

System Identification:

Change to, "F125 AF SP B."

F12501 SPO H

System Name:

Serious Incident Reports (44 FR 74320).

Changes:

System Identification:

Change to, "F125 AF SP J."

Authority for Maintenance of the System:

Add, "and Chapter 47–Uniform Code of Military Justice."

F12501 SPO I

System Name:

Incident Investigation File (44 FR 74321)

Change:

System Identification:

Change to, "F125 AF SP E."

F12501 SPO J

System Name:

Traffic Accident and Violation Reports (44 FR 74321).

Change:

System Identification:

Change to, "F125 AF SP L."

F12501XSPP B

System Name:

Pickup or Restriction Order (44 FR 74323).

Change:

System Identification:

Change to, "F125 AF SP G."

F12501 OQVDYDC

System Name:

Field Interview Card (44 FR 74322).

Change:

System Identification:

Change to, "F125 AF SP D."

F12502 SPP A

System Name:

Correction Records (46 FR 6575).

Change:

System Identification:

Change to, "F125 AF SP C."

F12503 SPO A

System Name:

Vehicle Administrative Records (44 FR 74324).

Change:

System Identification:

Change to, "F125 AF SP K."

F12701 OJ IGYA

System Name:

Air Training Command Aircraft Mishap Board Resource List (44 FR 74325).

Change:

System Identification:

Change to, "F127 ATC A."

F160 AF SG B

System Name:

Medical Professional Staffing Records (47 FR 50051)

Change:

Categories of Records in the System:

Add after "information, "in line 7, "including malpractice claims reports, "and after "individuals, "in line 9, "and the records of any actions taken on the individual's credentials."

F16002 SGPS B

System Name:

Retirements/Separations Records System (44 FR 74330).

Change:

System Identification:

Change to, "F160 MPC A."

System Name:

Change to, "Medical Assignment Limitation Record System."

F17101 OHZHTVA

System Name:

Manhour Accounting System (MAS) (44 FR 74348).

Change:

System Identification:

Change to, "F178 AFSC B."

F17101 OJNTMUA

System Name:

Behavioral Automated Research System (BARS) (44 FR 74348).

Change:

System Identification:

Change to, "F125 ATC A."

F17603 OYUEBLA

System Name:

Individual Earning Data (44 FR 74352).

Change:

System Identification:

Change to, "F178 AFCC A."

F17607 DPMS

System Name:

Nonappropriated Fund Instrumentalities (NAFIs) Financial System (44 FR 74353).

Change:

System Identification:

Change to, "F176 AF MP A."

F17724 OKPNQSA

System Name:

Air Force ROTC Cadet Pay System (44 FR 74367).

Change:

System Identification:

Change to, "F177 ATC A."

F17801 OJ RS A

System Name:

Lead Management System (LMS) (46 FR 6585).

Change:

System Identification:

Change to, "F035 ATC F."

F17801 OKPNQSA

System Name:

Student Questionnaire (44 FR 74372).

Change:

System Identification:

Change to, "F050 ATC J."

F17802XOOAYZM

System Name:

Personnel Cost Accounting System (PCAS)

Changes:

System Identification:

Change to, "F178 AFCC A."

System Name:

Change to, "Center Automated Manhour and Update System (CAMPUS)."

System Location:

Change to, "Air Force Systems Design Center (AFDSDC), Gunter Air Force Station, AL 36114."

System Manager(s) and Address:

Change to, "Commander, Air Force Data Systems Design Center, Gunter Air Force Station, AL 36114."

F18201 DAC A

System Name:

Air Force Postal Directory File (44 FR 74373).

Change:

System Identification:

Change to, "F182 AF A."

F20002 05HCHLA

System Name:

Operations Security File for Foreign Intelligence Collection Activities (44 FR 74377).

Changes:

System Identification:

Change to, "F200 AFIS A."

System Name:

Delete, "Operations" and, "Activities."

F20002 05HCHLD

System Name:

DIA Source Administration Program for Foreign Intelligence Collection Activities (44 FR 74377).

Changes:

System Identification:

Change to, "F200 AFIS B."

System Name:

Change to, "DIA Program for Foreign Intelligence Collection."

F20505 AFIS A

System Name:

Sensitive Compartment Information Personnel Security Records (44 FR 74382).

Changes:

System Identification:

Change to, "F205 AFIS A."

F21301 DPMSS A

System Name:

Air Force Educational Assistance Loans (44 FR 74385).

Change:

System Identification:

Change to, "F213 AFWB A."

F21306 OSPCZPA

System Name:

Individual Class Record Form (44 FR 74387).

Change:

System Identification:

Change to, "F123 AF MP A."

F21401 OJ SSFK

System Name:

Kindergarten Student File (44 FR 74387).

Change:

System Identification:

Change to, "F034 ATC A."

F40–1–7 FZHTVA

System Name:

Air Force Logistics Command (AFLC) Supergrade Information File (44 FR 74392).

Changes:

System Identification:

Change to, "F040 AFLC A."

Systems Name:

Change "Supergrade" to "Senior Civilian."

F90001 DAY A

System Name:

Annual Outstanding Air Force Administration And Executive Support Award (44 FR 74391).

Changes:

System Identification:

Change to, "F900 DAY A."

F90001 DPMSAAB

System Name:

Military Decorations (44 FR 74392).

Change:

System Identification:

Change to, "F900 AFMP A."

F90001 OTMUHJA

System Name:

Special Awards File (44 FR 74393).

Change:

System Identification:

Change to, "F900 TAC A."

F90002 MPC A

System Name:

Suggestions, Inventions, Scientific Achievements (44 FR 74395).

Changes:

System Identification:

Change to, "F900 AF MP B."

F010 AFIS B

SYSTEM NAME:

Prisoner of War (PW) Debriefing Files

SYSTEM LOCATION:

Headquarters Air Force Intelligence Service (HQ AFIS/INRA), Ft Belvoir, VA 22060

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force returned PW.

CATEGORIES OF RECORDS IN THE SYSTEM:

Debriefing transcripts; messages concerning PWS; topical data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; implemented by HQ USAF PD 400.2, 500.2; JCSM SM 676–71.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Intelligence file; research source documents used by Air Force Intelligence Analysts, Physicians, Casualty Resolution Personnel.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, computer paper printouts and on microfiche.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) reponsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes.

RETENTION AND DISPOSAL:

During CY83, transfer to Albert F. Simpson Historical Research Center, Maxwell Air Force Base, AL 36112, to be retired as permanent 20 years after cessation of hostilities

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters Air Force Intelligence Service (HQ AFIS/INRA), Ft Belvoir, VA 22060.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

The individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Returned USAF prisoners of war.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F010 ATC A

SYSTEM NAME:

Potential Faculty Rating System.

SYSTEM LOCATION:

Squadron Officer School, Maxwell Air Force Base, AL 36112.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former Squadron Officer School students being considered for faculty duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual rating of students.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Training Command Regulation 53–1, Faculty Boards and Administrative Withdrawals and Losses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Evaluate individuals for potential asssignments as faculty members.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Student Operations, Squadron Office School, Maxwell Air Force Base, AL 36112.

NOTIFICATION PROCEDURE:

Requests should include the individual's name and Social Security Number. Individuals may visit Office of the System Manager and present Military ID Card.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. The mailing address is in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtain from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F010 DAS

SYSTEM NAME:

Unusual and Incoherent Translation Material.

SYSTEM LOCATION:

Translation and Abbreviations Section, 1947th Administrative Support Group, Washington, DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who hae addressed correspondence to the Department of Defense, or to specific persons such as

Secretary of the Air Force, or Secretary of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complete or Summary translations of letters, articles, and documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8032, The Air Staff, General duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Translations or previous correspondence aid translating or summarizing similar correspondence.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties. Records are controlled by personnel screening. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, on longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Translation and Abbreviations Section, HQ 1947th ASG/DASJT, The Pentagon, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. The individual must furnish full name and address. The individual may visit the Translation and Abbreviations Section, the Pentagon, Washington DC 20330. No identification is required to determine if the system contains records pertaining to a specific individual.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing address is Translation and Abbreviations Section, HQ 1947th ASG/DASJT, The Pentagon, Washington DC 20330.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information is in the form of translated correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F011 AFA

SYSTEM NAME:

Military and Civilian Personnel Locator and Registration Files.

SYSTEM LOCATION:

At Headquarters, United States Air Force, and at Air Force Installations, to include bases, units, offices, and functions. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel; Air Force Reserve and National Guard Personnel; Air Force civilian employees; dependents may be included at the option of the installation, unit, or organization.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cards or listings may contain the individuals name, grade, military service identification number, Social Security Number, duty location, office telephone number, residence address and residence telephone number, and similiar type personnel data determined to be necessary by the local authority.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PRUPOSE OF SUCH USES:

Used to locate or identify personnel assigned to, attached to, tenanted on, or on temporary duty at the specific installation, office, base, unit, function, and/or organization in response to specific inquiries from authorized users for the conduct of business. Files may be used locally to support official and unofficial programs which require minimal locator information or membership or user listings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper records in card or form media in visible file binders/ cabinets card files or on computer and computer products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, or when superseded or no longer needed for reference, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration, Headquarters, U.S. Air Force, Washington, DC. Local System

MANAGERS:

Privacy officer of the installation, base, unit, organization, office or function to which the individual is assigned, attached, tenanted on or on temporary duty. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

NOTIFICATION PROCEDURE:

Requests from individuals shoud be addressed to the local System Manager or custodian of the records. Individual must furnish full name and the names of Air Force installation, unit and organization, office, or function to which assigned, attached, tenanted on or on temporary duty at, including the calendar years of such service. The individual may visit the Locator Office or Privacy Officer at the place of assignment. No identification is required to determine if the system contains records pertaining to a specific individual.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the local System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces or from individuals or personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F011 AF MP A

SYSTEM NAME:

Congressional and Other High Level Inquiries.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Major Commands, Separate Operating Agencies and Consolidated Base Personnel Offices (CBPOs) at Air Force installations. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force military personnel serving on active duty, in the Air Force Reserve, or retired or discharged from the Air Force. Civilian personnel currently or formerly employed by the Air Force. Personnel attending Air Force training institutions or undergoing training under Air Force sponsorship.

CATEGORIES OF RECORDS IN THE SYSTEM:

Background information and information reflecting Air Force personnel policies and procedures; copies of inquiries received from the Office of the President, Members of Congress and other high level sources requesting information by or on behalf of a constituent; copies of replies to such inquiries including transmittal media used en route from and to the Air Force Office of Legislative Liaison (SAF/LL).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and 10 U.S.C. 8032, The Air Staff, general duties; implemented by Air Force Regulation 11–7, Air Force Relations with Congress.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information pertinent to an inquiry forwarded to SAF/LL for preparation of the reply to the high level requester. In some instances, response may be direct to the requester without referral through SAF/LL; however, when required by directive, copies of such responses are furnished SAF/LL. The records may be used in responding to subsequent inquiries concerning the same individual. The record system is audited periodically to determine trends on the nature of complaints and questions and for statistical purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by the custodian of the record system and by persons responsible for servicing the records in performance of their official duties who are properly cleared for need-to-know. Records are stored in security file containers/cabinets, locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained for up to 18 months depending on category, then destroyed by tearing into pieces, shredding, macerating, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force; commanders of major air commands, numbered air forces or comparable level activities.

NOTIFICATION PROCEDURES:

Requests from individuals must contain reasonable particulars about the subject in question and should be addressed to the respective System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the respective System Manager. Individual's request must contain reasonable identifying particulars about the subject in question.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information provided by major command or consolidated base personnel office personnel, manual or automated personnel records, Air Force policies and procedures, copies of inquiries, congressional/high level officials'/constituents' comments or requests and Air Force replies thereto.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F011 ATC A

SYSTEM NAME:

Graduate Evaluation Master File.

SYSTEM LOCATION:

Air Training Command Technical Training Center. Official mailing addresses are in the Department of Defense directory.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel and civilian employees. Air Force Reserve and Air National Guard personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Procedures for operating the data automation of graduate evaluation questionnaire system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Training Command Manual 52–234, Graduate Evaluation Questionnaire—ATC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Field evaluation of formal school graduates.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer magnetic tape.

RETRIEVABILITY:

SSN computerized.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know and those servicing the record system in performance of their official duties. Records are protected by computer software.

RETENTION AND DISPOSAL:

Destroy when purpose has been served by tearing into pieces, shredding, pulping, macerating, burning or degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Contact Headquarters ATC Standards and Evaluation Directorate Evaluation Division, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Headquarters Technical Training Centers, Standards and Evaluation Directorate, Evaluation Division (TTSE), Randolph Air Force Base, TX 78150.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Centers TTSE Organizational Directory.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F011 ATC E

SYSTEM NAME:

Four-Year Reserve Officer Training Corps (AFROTC) Scholarship Program Files.

SYSTEM LOCATION:

Central records maintained at Four-Year AFROTC Scholarship Branch (RRUF), Maxwell Air Force Base, AL 36112; computer printout summary data sent to AFROTC and Air Force Junior Reserve Officer Training Corps (AFJROTC) detachments; AFROTC area admission counselors located at selected AFROTC detachment, and congressmen at their request. Addresses are maintained by the AFROTC Commandant, Maxwell Air Force Base, AL 36112.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

High school students or graduates who apply for the four-year scholarship.

CATEGORIES OF RECORDS IN THE SYSTEM:

AFROTC administrative unit; applicant's address; Air Force officer qualifying test scores; AFROTC detachment located at the educational institution to be attended by the applicant; AFROTC detachment which the applicant desires to attend; AFJROTC unit attended by applicant; college entrance examination board scores; applicant's class standing and size of class; applicant disqualification causes; personal interview actions and associated waivers as required; applicant medical status; applicant's full name; AFROTC program qualification; applicant medical remedial requirements; applicant scholarship status; applicant Social Security Number (SSN); applicant test qualification; civil air patrol wing attended; applicant's high school and address; applicant high school decile placement; applicant grade point average; applicant telephone number; applicant date of birth; applicant statement of understanding and intent; medical testing facility; AFROTC area admission counselor's areas of responsibilities; applicant scholarship choices; AFROTC four-year central scholarship selection board results; applicant's designated scholarship; civil involvement information and associated waivers as required; name of educational institution to be attended by applicant; applicant's high school principal evaluation; AFJROTC instructor evaluation of a cadet; high school transcripts; application forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2107, Financial assistance program for specially selected members; and Air Force Regulation 45–3, Air Force ROTC Field Training Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by AFROTC scholarship program office, AFROTC detachments, and AFROTC area admission counselors for processing and awarding of AFROTC 4-year scholarships; counseling applicants concerning application difficulties and problems; and the recruiting of applicants into the AFROTC program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, visible file binders/cabinets, and on computer and computer output products.

RETRIEVABILITY:

Filed by name and SSN.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleard for need-to-know. Records are stored in locked cabinets or rooms and controlled by computer system software.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Four-Year Scholarship Branch, Maxwell Air Force Base, AL 36112.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Chief, Four-Year Scholarship Branch, Maxwell Air Force Base, AL. Requests should include the full name, military-applicant status, and SSN or military service number. Individuals may visit the AFROTC scholarship Programs Office, Maxwell Air Force Base, AL 36112. Individuals must provide their full name, military applicant status, and SSN or service number.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, automated system interfaces, police and investigating officers and from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F011 DAS A

SYSTEM NAME:

Operational Reference File

SYSTEM LOCATION:

Translation and Abbreviations Section, HQ USAF/DASJT, The Pentagon, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Language translators and interpreters, State Department personnel, Army and Navy translation activity personnel, commercial translation services personnel, Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual personnel data cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8032, The Air Staff, General duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to check names and titles of foreign military and civilian government personnel which appear in correspondence received for translation. This system also serves as a listing of translators/interpreters available to provide translation and interpreting services in support of Headquarters United States Air Force requirements for such services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Information retrieved by name or title.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Translation and Abbreviations Section, HQ USAF/DASJT, The Pentagon, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. The individual must furnish full name and indicate whether military/civilian status and whether a resident or nonresident of the United States. The individual may visit the Translation and Abbreviations Section at Headquarters United States Air Force, Washington DC 20330. No identification is required to determine if the system contains records pertaining to a specific individual.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing address is Translation and Abbreviations Section, HQ USAF/DASJT, The Pentagon, Washington DC 20330.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, from international organizations, from source documents (such as reports) prepared on behalf of the Air Force, from commercial translation service firms, from the Department of Defense or other United States Government translation activities, and from translated correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F011 MP A

SYSTEM NAME:

Record of Air Force Personnel Assigned Outside the Department of Defense.

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force military and civilian personnel assigned to full time duty outside the Department of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include correspondence between the Air Force and nonmilitary government agencies. Additionally, a by-name listing of personnel is forwarded on a quarterly basis to the Department of Defense.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; implemented by Air Force Regulation 30–19, Air Force Personnel Assigned to Duty Outside the Department of Defense and Supporting Non-DOD Activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to maintain an accurate accounting of personnel detailed outside the Department of Defense. Principal users are Air Force personnel managers and the Deputy Assistant Secretary (Administration), Office of the Secretary of Defense.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained until an individual is returned to Air Force duties and then destroyed by tearing to pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Correspondence between the Air Force and non-military government agencies and information extracted from military personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F011 PACAF A

SYSTEM NAME:

General and Colonel Personnel Data Action Records

SYSTEM LOCATION:

Headquarters Pacific Air Forces.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty officer personnel. Applies to active duty

generals, colonels, colonel selectees and officers filling colonel authorized positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Provides officer assignment data such as date arrived current duty station, projected date of retirement, data extracted from Air Force Standard Personnel Data System Record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8074, Commands: Territorial organization; as implemented by Air Force Regulation 36–10, Officer Evaluations, and Air Force Regulation 36–20, Officer Assignments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by major air command to confirm designation of authority or assignment of duty as well as in identification of manning requirements due to medical evacuations or projected retirement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

PACAF Assistant for Senior Officer Management mailing address is HQ PACAF/DPO Hickam Air Force Base, HI 96853.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F012 AF A

SYSTEM NAME:

Information Requests—Freedom of Information Act

SYSTEM LOCATION:

Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have requested documents under the provisions of the Freedom of Information Act (FOIA).

CATEGORIES OF RECORDS IN THE SYSTEM:

Administration of release of information to the public.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552, The Freedom of Information Act as implemented by Air Force Regulation 12–30, Disclosure of Air Force Records to the Public.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To control administrative processing of requests for information used by freedom of information manager.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for two years after annual cut-off then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Contact the local FOIA manager at each Air Force installation.

RECORD ACCESS PROCEDURES:

Contact the local FOIA manager at each Air Force installation.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Freedon of information manager as result of requests for information from members of public.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F012 AF B

SYSTEM NAME:

Privacy Act Request File

SYTEM LOCATION:

At all levels of the Air Force having responsibility for systems of records under the Privacy Act. Includes Headquarters United States Air Force staff agencies, major commands, separate operating agencies, installations, and activities. Official mailing addresses are in the Department of Defense directory in the appendix to the Department of the Air Force system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who request access to, information from, or amendment of records about themselves from the Department of the Air Force under the provisions of the Privacy Act of 1974 (5 U.S.C. 552a).

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, memoranda, legal opinions, messages, and miscellanous documents relating to an individual's request for access to or amendment of records concerning that person, including letters of denial, appeals, statements of disagreements, and related documents accumulated in processing requests received under the Privacy Act of 1974.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a, Thr Privacy Act of 1974 as implemented by Air Force Regulation 12–35, Air Force Privacy Act Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To record, process and coordinate individual requests for access to or amendment of personal records, and

appeals on denials of requests for access or amendments to personal records; to prepare legal opinions and interpretations for System Managers and the Secretary of the Air Force. Used by the Air Force Audit Agency, the Air Force Inspector General, the Office of Management and Budget, the General Services Administration, the Office of Personnel Management, the Justice Department or other Government agencies having a direct interest in monitoring or evaluating compliance with the provisions of the Privacy Act by the Department of the Air Force, including the preparation of special studies or reports on the status of actions taken to comply with the Act, the results of those efforts, any problems encountered and recommendations for any changes in legislation, policies, or procedures. Also used by members of Congress or their staffs for resolution of constituent inquires.

POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and/or mocrofilm.

RETRIEVABILITY:

Filed by name of requester.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Requests for information are destroyed when no longer needed; requests from access or amendment and appeals of denial are destroyed four years after final action or three years after adjudication by the courts, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Administration, Headquarters United States Air Force, Washington DC 20330; or the Director of Administration of the major command or separate operating agency, or Chief Central Base Administration at the Air Force installation where the requested or disputed records are located.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Written requests should include the person's full name, grade (if applicable), and some other personal information which could be verified from the person's file. For personal visits, the individual should present a valid identification card or driver's license and some verbal information which could be verified from the person's case file.

RECORD ACCESS PROCEDURES:

Written requests should be addressed to the office that processed the initial inquiry, access request, amendment request, or appeal; or individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Records are obtained from the individual requester, Department of the Air Force organizations, other Department of Defense organizations, and agencies of Federal, state, and local governments, as applicable or appropriate for processing the case.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 AFIS A

SYSTEM NAME:

For Cause Discharge Program

SYSTEM LOCATION:

Directorate of Security and Communications Management, Air Force Intelligence Service (AFIS), Pentagon, Washington, DC 20330; HQ Electronic Systems Command, San Antonio, TX 78423; Office of Administrative Assistant to the Secretary of the Air Force, Pentagon, Washington, DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel who are briefed into sensitive compartmented information (SCI) who are being considered for separation from service or employment for either punitive or administrative (nonvoluntary) reasons.

CATEGORIES OF RECORDS IN THE SYSTEM:

Initial submission and recommendations of the Air Force Major Command (MAJCOM) or Separate Operating Agency (SOA) concerned and all supporting documents for the proposed action; AFIS Directorate of Security and Communication Management recommendations for disposition to the Assistant Chief of Staff for Intelligence Hq, US Air Force; if applicable, decisions and correspondence from Administrative Assistant to the Secretary of the Air Force.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Regulation 205–32, USFA Personnel Security Program, USAFINTEL 201–1 (Chapter 13), Air Force Regulation 39–12, Separation for Unsuitability, Misconduct, Resignation or Request for Discharge for the Good of the Service, Air Force Regulation 39–10, Separation Upon Expiration of Term of Service for Convenience of the Government, Minority, Dependent and Hardship, Air Force Regulation 36–12, Administrative Separation of Commissioned Officers and Warrent Officers of the Air Force.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by designated Air Force intelligence officials to recommend/determine propriety of proposed action in light of individual's SCI access. Substantive information is provided to responsible individual in the Secretary of the Air Force to evaluate the effectiveness of the program, to determine consistency of decisions and decision trends, and to provide program guidance to the System Manager.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name and year of the For Cause Action.

SAFEGUARDS:

Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers within a vault.

RETENTION AND DISPOSAL:

Records maintained in active status until final disposition of each separate file. After final disposition of the case the record is placed in inactive status and maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Security and Communications Management, Air Force Intelligence Service (AFIS/INS), Pentagon, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Unclassified portions of the file are available upon request. Request must include full name, grade (where applicable), Social Security Number, date and place of birth, organization/activity to which assigned/employed at time of proposed For Cause Separation. Visits may be made to office of System Manager. Individuals not authorized access to Pentagon working areas should contact System Manager by mail beforehand. Include all of the above information in letter.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual's Personnel records and MAJCOM/SOA Commander's proposal and recommendations with all supporting documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 AFIS B

SYSTEM NAME:

Air Force Attache Personnel and Area Specialist System.

SYSTEM LOCATION:

Air Force Intelligence Service, Ft Belvoir, VA 22060.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Files are maintained on Air Force Attache personnel applicants, current and former Air Force Attache personnel, Area Specialist applicants, and current and former Area Specialists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Career Briefs, Officer Effectiveness Reports, Airman Performance Reports, Statements of Personal History, autobiographies, family photos, Defense Language Aptitude and Proficiency Test scores, finger print card, Medical Fitness Statements, Statements of Interview by Commanders, Requests for National Agency Checks, College transcripts, and Graduate Record Examination scores.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Regulation 36–16, USAF Area Specialist Program, and Air Force Regulation 36–20, Officer Assignments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by the Active Duty Military Staff Directorate involved with the selection and service of Air Force Attache personnel and applicants for the Area Specialist Program (ASP). The purpose of collecting the information is to evaluate the suitability of an individual for duty in the Attache system or as an Area Specialist. The purpose of maintaining records on current Attaches and Area Specialists is to provide service to them in their assignments. The purpose of maintaining material on prior Attache personnel and Area Specialists is to assist them in their applications for subsequent Attache or Area Specialist duty and for analysis and historical purposes. The records are retained within the Air Force Attache and Area Specialist System and are not disclosed to personnel outside the system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes, or locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until no longer needed for reference, then offered to National Archives and Records Center for permanent retention, inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director Air Force Attache Affairs, Air Force Intelligence Service, Ft Belvoir, VA 22060.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individuals, Air Force Manpower and Personnel Center, Randolph Air Force Base, TX.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 AF MP A

SYSTEM NAME:

Personnel Data System (PDS).

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. Air Reserve Personnel Center, Denver, Co 80280. Headquarters of major commands and separate operating agencies and consolidated base personnel offices, central civilian personnel offices (CCPOs) and consolidated reserve personnel offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel. Air Force Reserve and Air National Guard personnel. Air Force Academy cadets. Air Force Civilian employees. Certain surviving dependents of deceased members of the US Air Force and predecessor organizations; potential Air Force enlistees; candidates for commission enrolled in college level Air Force Reserve Officer Training Corps Programs; Deceased members of the Air Force and predecessor organizations; Separated members of the US Air Force, the Air National Guard (ANG) and Air Force Reserve (USAFR); ANG and USAFR Technicians; Prospective,

pending, current, and former Air Force civilian employees, except Air National Guard Technicians and nonappropriated fund employees-current and former civilian employees from other Government agencies that are serviced at CCPOs may be included at the option of servicing CCPO-.

CATEGORIES OF RECORDS IN THE SYSTEM:

The principal digital record maintained at each PDS operating level is the master personnel record, which contains the following categories of information: 1. Accession data pertaining to an individual's entry into the Air Force (place of enlistment source of commission, home of record, date of enlistment, place from which ordered to EAD). 2. Education and training data, describing the level and type of education and training, civilian or military (academic education level, major academic specialty, professional specialty courses completed, professional military education received). 3. Utilization data used in assigning and reassigning the individual, determining skill qualifications, awarding Air Force Specialty Codes, determining duty location and job assignment, screening/selecting individual for overseas assignment, performing strength accounting processes, etc. (Primary Air Force Specialty Code, Duty and Control Air Force Specialty Code, personnel accounting symbol, duty location, up to 24 previous duty assignments, aeronautical rating, date departed last duty assignments, aeronautical rating, date departed last duty station, short tour return date, reserve section, current/last oversea tour). 4. Evaluation Data on members of the Air Force during their career (Officer Effectiveness Report dates and ratings, Airman Performance Report dates and ratings, results of various qualification tests, an "Unfavorable Information" indicator, and Drug and Alcohol Abuse data). 5. Promotion Data including promotion history, current grade and/or selection for promotion (current grade, date of rank and effective date; up to 10 previous grades, dates of rank and effective dates; projected temporary grade, key "service dates"). 6. Compensation data although PDS does not deal directly with paying Air Force members military pay is largely predicated on personnel data maintained in PDS and provided to the Air Force Accounting and Finance Center (AFAFC) as described in ROUTINE USES below (pay date, Aviation Service Code, sex, grade, proficiency pay status. 7. Sustentation data—information dealing with programs provided or action taken to improve the life, personal growth and morale of Air Force members (awards and decorations, marital status, number of dependents, religious denomination of member and spouse, race relations education). 8. Separation and retirements data, which identifies an individual's eligibility for and reason for separation (date of separation, mandatory retirement date, projected or actual separation program designator and character of discharge). At the central processing site (AFMPC), other subsidiary files or processes are operated which are integral parts of PDS: 1. Procuremnt Management Information System (PROMIS) is an automated system designed to enable the USAF to exercise effective management and control of the personnel procurement personnel required to meet the total scheduled manpower requirements necessary to accomplish the Air Force mission. The system provides the recruiter with job requirement data such as necessary test scores, Air force Specialty Code, sex, date of enlistment; and the recruiter enters personal data on the applicant—SSN, name, date of birth, etc.—to reserve the job for him or her. 2. Career Airman Reenlistment Reservation System (CAREERS) is a selective reenlistment process that manages and controls the numbers by skill of first-term airmen that can enter the career force to meet established objectives for accomplishing the Air Force mission. A Centralized data bank contains the actual number, by quarter, for each Air Force Specialty Code (AFSC) that can be allowed to reenlist during that period. The individual requests reenlistment by stating his eligibility (AFSC, grade, active military service time, etc). If a vacancy exists, a reservation—by name, SSN, etc.—will be made and issued to the CBPO processing the reenlistment. 3. Airman Accessions provides the process to capture a new enlistee's initial personal data (entire personnel record) to establish a personnel data record and gain it to the Master Personnel File of the Air Force. The initial record data is captured through the established interface with the Processing and Classification of Enlistees System (PACE) at Basic Military Training, Lackland Air Force Base, for non-prior service; for prior service enlistees the basic data (name, SSN, DOE, grade, etc.) is input directly by USAF Recruiting Service and updated and completed by the initial gaining CBPO. 4. Officer Accessions is the process whereby each of the various Air Force sources of commissioning (AF Academy, AFROTC, Officer Training School, etc.) project their graduates in advance allowing management to select by skill, academic specialty, etc. which and how many will be called to active duty when, by entering into the record an initial assignment and projected entry onto Active Duty date. On that date the individual's record is accessed to the active Master Personnel File of the Air Force.

5. Technical Training Management Information System (TRAMIS) is a system dealing with the Technical Training activities controlled by Air Training Command. The purpose of the system is to integrate the training program, quota control and student accounting into the personnel data system. TRAMIS consists of numerous files which constitute "quota banks" of available training spaces, in specific courses, projected for future use based on estimated training requirements. Files include such data as: Course Identification Numbers, Class Start and Graduation Dates, Length of Training, Weapon System Identification, Training Priority Designators, Responsible Training Centers, Trainee Names, SSN (and other pertinent personnel data) on individuals scheduled to attend classes. 6. Training Pipeline Management Information System (TRAPMIS) is an automated quota allocating system which deals with specialized combat aircrew training and aircrew survival training. Its files constitute a "quota bank" against which training requirements are matched and satisfied and through which trainees are scheduled in "pipeline" fashion to accommodate the individual's schedule geographical movement from school to school to end assignment. Files contain data concerning the courses monitored as well as names, SSNs and other pertinent personnel data on members being trained. 7. Air Force Institute of Technology (AFIT) Quota Bank File reflects program quotas by academic specialty for each fiscal year (current plus two future fiscal years, plus the past fiscal year programs for historical purposes). Also, this file reflects the total number of quotas for each academic specialty. Officer assignment transactions process against the AFIT Quota Bank file to reflect the fill of AFIT Quota. Examples of data maintained are: Academic Specialty, Program Level, Fiscal Year, Name of Incumbent selected, projected, filing AFIT Quota. 8. Job File is derived from the Authorization Record and is accessible by Position number. Resource managers can use the Job File to validate authorizations by Position Number for

assignment actions and also to make job offers to individual officers. Internal suspensing within the Job File occurs based upon Resource Managers update transactions. Data in the file includes: Position Number, Duty AFSC, Functional Account Code, Program Element, Location, and name of incumbent. 9. Casualty subsystem is composed of transactions which may be input at Headquarters Air Force and/or CBPOs to report death or serious illness of members from all components. A special file is maintained in the system to record information on individuals who have died. Basic identification data and unique data such as country of occurrence, date of incident, casualty group, aircraft involved in the incident and military status are recorded and maintained in this file. 10. Awards/Decorations are recorded and maintained on all component personnel in the headquarters Air Force master files. All approved decorations are input at CBPOs whereas disapproved decorations are input at MAJCOM/HAF. A decorations statistical file is built at AFMPC which reflects an aggregation of approvals/disapprovals by category of decoration. This file does not contain any individually identifiable data. All individually identifiable data on decorations is maintained in the Master Personnel File. Such information as the type of decoration, awarding authority, special order number and date of award are identified in an individual's record. Seven occurrences for all decorations are stored; however only specific data on the last decoration of a particular type is maintained. 11. Point Credit Accounting and Reporting System (PCARS). This system is an Air National Guard/Air Force Reserve Unique supported by PDS. Its basic purpose is to maintain and account for retirement/retention points accrued as a result of participating in Drills/Training. The system stores basic personal identification data which is associated with a calendar of points, earned by participation in the Reserve program. Each year an individuals record is closed and point totals are accumulated in history, and a point earning statement is provided the individual and various records custodians. 12. Human Reliability/Personnel Reliability File: This file is maintained at Headquarters Air Force in support of Air Force Regulation 35–99. It is not part of the Master Personnel Files but a free standing file which is updated by transactions from CBPOs. The file was established to specifically identify individuals who have become permanently disqualified under the provisions of the above regulations. A record is maintained on each disqualified individual which includes basic identification data, service component, Personnel/Human reliability status and date, and reason for disqualifications. 13. Variable Incentive Pay (VIP) File for medical officers: Contains about 125 character record of all Air Force physicians and is specificaly used to identify whether the individual is participating in the Continuation Pay or Variable Incentive Pay programs. Update to this file is provided by the Surgeon (AFMPC), the Air Force Accounting and Finance Center and directly from changes to the Master Personnel File. Besides basic identification data an individual's record includes source of appointment, graduate medical location status, amount of VIP or Continuation Pay and the dates of authorization and the dates and reason for separation.

15. Weighted Airman Promotion System: (a) The Test Scoring and Reporting Subsystem (TSRS) provides for: identifying at the CBPO individuals eligible for testing; providing output to the Base Test Control Officer and the CBPO to control, monitor, and operate WAPS testing functions; editing and scoring WAPS test answer cards at AFMPC; providing output for maintaining historical and analytical files at AFMPC and the Human Resources Laboratory (HRL) and includes the central identification at AFMPC of individuals eligible for testing. (b) The Personnel Data Reporting Subsystem (PDRS) provides for: identifying promotion eligibles at AFMPC; verifying these eligibles and selection promotion data; merging test and weighted promotion data at AFMPC to effect promotion scoring, assigning the promotion objective and aligning selectees in promotion priority sequence; maintaining projections on promotion selectees at AFMPC, MAJCOM, and the CBPO; updating these projections monthly; creating output products to monitor the flow of data in the system; maintaining promotion historical and analytical files and reports at AFMPC. (c) Basically, identification data along with time in grade, test scores, decoration information, time in service, and airman performance report history is used to support this program. 16. Retired Personnel Data System (RPDS) is made up of four files—Retired Officer Management File and Retired Airman Management File containing records on members in retired status and the Retired Officer and Airman Loss Files containing records on former retirees who have been lost from rolls, usually through death. The RPDS is used to produce address listings for the Retired Newsletter and Policy letter, statistical reports for budgeting, to manage the Advancement Program, the Temporary Disability Retired List, Age 59 roster for ARPC, General Officer roster, and statistical digest data for management analysis functions. Data is extracted from the master files upon retirement from Active Duty or Reserves. Data includes: name, SSN, grade, data, service data, education data, retirement data and address. 17. Separated Officer File contains historical information on officers who leave the Air Force via separation, retirement, or death. Copies are sent to Human Resources Lab and Washington offices for research purposes. The data comprises the Master Personnel Record in its entirety and is captured 30 to 60 days after separation from the Air Force. 18. Airman Gain/loss File includes data extracted from the Airman Master file when accession and separation (gains and losses) occur. This file, like the Separated Officer File, is used for historical reports regarding strength changes. Data includes name, SSN, and other data that reflects strength, i.e., promotions, reassignment data, specialty codes, etc. 19. Officer and Airman Separation Subsystem is used to process, track, approve, disapprove and project separations from the Air Force and transfers between components of the Air Force. This subsystem uses the Active, Guard, and Reserve MPFs. Data includes that specifically related to separations, e.g., Date of Separation, Separation Program Designator, waivers, etc. 20. The Retirements Subsystem is used to process and track applications for and approval/disapproval and projections of retirements. This subsystem uses the Master Files for Active Duty and Reserve officers and airmen. Data specifically related to retirements includes application data, date of separation, waiver codes, disapproval reason codes, Separation Program Designator, Title 10 USC section, etc. 21. Retired Orders Log is a computer produced retirement orders routine. Orders are automatically produced when approval, verification of service dates, and physical clearance have been entered in system. The orders log contains data found in administrative orders for retirement, including name, SSN, grade, order number, effective dates, etc. The log is used to control assignment of order number, and as a cross-reference between orders, revocations, and amendments. 22.

General Officer Subsystem of PDS contains data extracted from the Master Personnel File and language qualification data and assignment history data maintained by the Assistant for General Officer matters. A record is maintained on each general officer and general officer selectee. The general officer files are updated monthly and is used to produce products used in the selection/identification of general officers for applicable assignments. 23. Officer Structure Simulation Model (OSSM) provides officer force descriptions in various formats for existing, predictive or manipulated structures. It functions as a planning tool against which policy options can be applied so as to determine the impact of such policy decisions. The OSSM input records contain individual identifiable data from the Master Personnel Record, but all output is statistical. 24. Widow's File is maintained on magnetic tape and updated by the office of primary Responsibility. When required, address labels and listings are produced by employing selected PDS utility programs. The address labels are used to forward the Retired Newsletter to widows of active duty and retired personnel. The listings are used for management control of the program. Contained in the file are the name, address, and SSN of the widow. Additionally, the deceased sponsor's name, SSN, date of death, and status at time of death are maintained. 25 Historical Files are files with a retention period of 365 days or more. They consist of copies of active master files, and are used primarily for aggregation and analysis of statistical data, although individual records may be accessed to meet ad hoc requirements. 26. Miscellaneous files, records, and processes are a number of work files, inactive files with a less-then-365 day retention period, intermediate records, and processes relating to statistical compilations, computer operation, quality control and problem diagnosis. Although they may contain individual-identifying data, they do so only as a function of system operation, and are not used in making decisions about people. 27. Civilian employment information including authorization for position, personnel data, suspense information; position control information; projected information and historical information; civilian education and training data; performance appraisal, ratings, evaluations of potential; civilian historical files covering job experience, training and transactions; civilian awards information; merit promotion plan work files; career programs files for such functional areas as procurement, logistics, civilian personnel, etc., civilian separation and retirement data for reports and to determine eligibility; adverse and disciplinary data for statistical analysis and employee assistance; stand alone files, as for complaints, enrollee programs; extract files from which to produce statistical reports in hard copy, or for immediate access display on remote computer terminals; miscellaneous files, as described in item 26, above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 265, policies and regulations: participation of reserve officers in preparation and administration; 269, Ready reserve: placement in; transfer from; 275, Personnel records; 278, Dissemination of information; 279, Training Reports; Chapter 31, Enlistments; 564, Warrant officers: effect of second failure of promotion; 593, Commissioned officers: appointment, how made; term; 651, Members required service; 671, Members not to be assigned outside US before completing training; 673, Ready reserve; Chapter 47, Uniform Code of Military Justice, Section 835, Art. 35. Service of Charges; 837, Art. 37. Unlawfuly influencing action of court; 885, Art. 85. Desertion 886, Art. 86. Absence without leave; 887, Art. 87. Missing movement; 972, Enlisted members: required to make up time lost; 1005, Commissioned officers: retention until completion of required service; 1163, Reserve components: members; limitations on separation; 1164, Warrant officers; separation for age; 1166, Regular warrant officers: elimination for unfitness or unsatisfactory performance; Chapter 61, Retirement--Physical disability; Chapter 63, Retirement for Age, Section 1263—Age 62: Warrant officers; Chapter 65, Retirement for Length of Service; 1293, Twenty years or more: warrant officers; 1305 thirty years or more: regular wattant officers; Chapter 67, Retired pay; 1331, Computation of years of service in determining entitlement to retired pay; 1332, Age and service requirements; 1333, Computation of years of service in computing retired pay; Chapter 79, Correction of Military Records; Chapter 165, Acountability and responsibility, Section 2771, Final settlement of accounts: deceased members; 8012, Secretary of the Air Force: powers and duties; delegation by; Chapter 805, The Air Staff, Section 8032, General duties; and Section 8033, Reserve components of Air Force; policies and regulations for government for government of: functions of National Guard Bureau with respect to Air National Guard; Chapter 831, Strength, Section 8224, Air National Guard of the United States; Chapter 833, Enlistments; 835; Appointments in the Regular Air Force, 8284, Commissioned officers: appointment, how made; 8285, Commissioned officers: original appointment; qualifications; 8396, Promotion lists: promotion-list officer defined; determination of place upon transfer or promotion; 8297, Selection boards; 8303, commissioned officers: effect of failure of promotion to captain, major, or lieutenant colonel; Chapter 837, Appointments as Reserve Officers; 8360, Commissioned officers: promotion service; 8362, Commissioned officers: selection boards; 8363, Commissioned officers: selection boards; general procedures; 8366, Commissioned officers: promotion to captain, major or lieutenant colonel; 8376, Commissioned officers: promotion when serving in temporary grade higher than reserve grade; Chapter 839, Temporary Appointments, 8442, Commissioned officers; regular and reserve components: appointment in higher grade 8447, Appointments in commissioned grade: how made; how terminated; Chapter 841, Active Duty, 8496, Air National Guard of United States: commissioned officers; duty in National Guard Bureau; Chapter 853, Rights and benefits, Section 8691, Flying officer rating: qualifications; Chapter 857, Decorations and Awards; Chapter 859, Separation, 8786, Officer considered for removal: voluntary retirement or honorable discharge; severance benefits; 8796, Officers considered for removal: retirement or discharge; Separation or Transfer to Retired Reserve 8846, Deferred Officers; 8848, 28 years: reserve first lieutenants, captains, majors, and lieutenant colonels; 8851, Thirty years or five years in grade: reserve colonels and brigadier generals; 8852, Thirty-five years or five years in grade: reserve major generals; 8853, Computation of years of service; Chapter 865, Retirement for Age, 8883, Age 60; regular commissioned officers below major general, 8884, Age 60: regular major generals whose retirement has been deferred; 8885, Age 62: regular major generals; 8886, regular major generals whose retirement has been deferred; Chapter 867, Retirement for Length of Service, 8911, Twenty years or more: regular or reserve commissioned officers; 8913, Twenty years or more deferred officers not recommended for promotion; 8914, twenty to thirty years: regular enlisted members; 8915, Twenty-five years: female major except those designated under section 8067(a)–(d) or (g)–(i) of this title; 8916, twenty-eight

years: promotion-list lieutenant colonels; 8917, Thirty years or more: regular enlisted members; 8918, Thirty years or more: regular commissioned officers; 8921, Thirty years or five years in grade: promotion-list colonels; 8922, Thirty years or five years in grade: regular brigadier generals; 8923, Thirty-five years or five years in grade: regular major generals; 8924, Forty years or more: Air Force officers; Chapter 901, Training generally, 9301, Members of Air Force: detail as students, observers and investigators at educational institutions, industrial plants, and hospitals; and 9302, Enlisted members of Air Force: schools; Chapter 903, United States Air Force Academy, 9342, Cadet: appointment; numbers, territorial distribution; 9344, Selection of persons from Canada and American Republics; 9345, Selection of Filipinos; Chapter 1, Organization, 102. General policy; and 104, units: location; organization; command; Chapter 3, Personnel, 307, Federal recognition of officers: examination, certification of eligibility; Chapter 7, Services, supplies, etc., 709, Caretakers and clerks; Chapter 3 Basic Pay, 308, Special pay: reenlistment bonus; 313, Special pay: medical officers who execute active duty agreements; Chapter 7, Allowances, 407 Travel and transportation allowances: dislocation allowance; Chapter 10; Air Force Manual 30–3, Vol. I–V, Mechanized Personnel Procedures. Air Force Manual 30–130, Base Level Military Personnel System, and Air Force Manual 300–4, Standard Data Elements and Codes.

ROUTING USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Air Force operates a centralized personnel management system in an environment that is widely dispersed geographicaly and encompasses a population that is diverse in terms of qualifications, experience, military status and needs. There are three major centers of Air Force personnel management: Washington, DC, where most major policy and long-range planning/programming decisions are made; the Air Force Manpower and Personnel Center at Randolph Air Force Base, TX, which performs most personnel operations-type functions for the active duty components of the force; and the Air Reserve Personnel Center at Denver, CO, which performs certain operational functions for the Reserve components of the force. Offices at Major Command Headquarters, State Adjutant General, and Air Force Bases perform operational tasks pertaining to the population for which they are responsible. The structure of the Air Force and its personnel management system, the composition of the force, and the Air Force's stated objective of treating its people as individuals, i.e., giving due consideration to their desires, needs and goals, demand a dynamic data system that is capable of supporting the varying needs of the personnel managers at each echelon and operating locations. It is to this purpose that the data in the Personnel Data System is collected, maintained, and used. A. ROUTINE USES WITHIN THE AIR FORCE—INTERNAL TO THE PERSONNEL COMMUNITY: HQ USAF, WASHINGTON, DC: Deputy Chief of Staff, Personnel and his immediate staff; Director of Personnel Plans; Director of Personnel Programs; Assistant for General Officer Matters; Assistant for Colonel Assignments; Reserve Personnel Division; Air National Guard Personnel Division; and The Surgeon General, the Chief of AF Chaplains and the Staff Judge Advocate, each of which perform certain Personnel functions within their area of responsibility. Data from the central data base at the AFMPC is furnished Washington area agencies by retrieval from the computer at Randolph via remote access devices and by provision of recurring products containing required management information, including computer tape files which are used as input to unique systems with which PDS interfaces. Although most of the data is used by policy makers to develop long-term plans and programs and track progress toward established goals, some individual data is provided/retrieved to support actions taken on certain categories of persons managed by offices in the headquarters e.g., General Officers, Colonels, Air National Guard personnel, etc. AIR FORCE MANPOWER AND PERSONNEL CENTER (AFMPC), RANDOLPH AIR FORCE BASE, TX. Personnel managers at AFMPC use the data in PDS to make decisions on invididual actions to be taken in areas such as personnel procurement, education and training, classification, assignment, career development, evaluation, promotion, compensation, casualty and personal affairs, separation and retirement. AIR RESERVE PERSONNEL CENTER (ARPC), DENVER, COLORADO. Personnel managers at ARPC perform many of the same functions for the Reserve components of the Air Force as the managers at AFMPC perform for the active duty force. As with the Washington area, ARPC obtains data from the central data base at AFMPC by retrieval through remote terminals and recurring output products containing information necessary to their management processes. MAJOR COMMAND HEADQUARTERS. Major command headquarters personnel operations are supported by the standard content of PDS records provided them by AFMPC. In addition, there is provided in the PDS record an "add-on area" which the commands are authorized to use for the storage of data which will assist them in fulfilling unique personnel management requirements generated by their mission, structure, goegraphical location, etc. The standard functions performed fall generally under the same classifications as those in AFMPC, e.g., assignment, classification, separation, etc. Non-standard usages include provisions of unique aircrew data, production of specially-tailored name listing, control of theatre oriented training, etc. Some commands use PDS data—both standard and add-on as input to unique command systems, which are separately described in the **Federal Register**.. CONSOLIDATED BASE PERSONNEL OFFICES (CBPO). CBPOs, which represent the base-level aspect of PDS, are the prime point of system-to-people interface. Supplied with a standard data base and system, CBPOs provide personnel management support to commanders and supervisors on a daily basis. Acting on receipt of data from higher headquarters, primarily by means of transactions processed through PDS, they notify people of selection for reassignment, promotion, approval/disapproval of requests for separation and retirement, and similar personnel actions. When certain events occur on an individual at the local level, e.g., volunteer for overseas duty, reduction in grade, change in marital status, application for retirement, etc., the CBPO enters transactions into the vertical system to transmit the requisite information to other management levels and update the automated records resident at those levels. CBPOs too are allotted an add-on" area in the computer record which they use to support local management unique requirements such as local training scheduling, unique locator listing, urinalysis testing scheduling, etc. B. ROUTINE USES WITHIN THE AIR FORCE—EXTERNAL TO THE PERSONNEL COMMUNITY 1. HEADQUARTERS ASAF/AFMPC INTERFACES: Automated interfaces exist between the PDS central site files and the following systems of other functions: a. The Flight Records Data System (FRDS) maintained by the Air Force Inspection and Safety Center (AFISC) at Norton Air Force Base, CA. (1) Certain personnel identification data

on rated officers is transferred monthly to the FRDS. This data flow creates the basic identifying data in the FRDS, insures compatibility with the PDS, and precludes duplicative data collection and input generation by the AFISC. (2) Update of the personnel data to the FRDS generates return flow of flying hour data which is used at AFMPC for rated resource distribution management. b. The Master Military Pay Account (MMPA), is the Joint Uniform Military Pay System (JUMPS) centralized pay file maintained by the Air Force Accounting and Finance Center (AFAFC) at Denver, CO. The PDS transfers certain pay related data as changes occur to update the MMPA, e.g., promotions, accessions, separations/retirements, name, SSN, grade. These data provide criteria for the AFAFC to determine specific pay entitlements. c. The AFAFC maintains a separate pay system for Air National Guard and Air Force Reserve personnel called the Air Reserve Pay and Allowances System (ARPAS). (1) PDS outputs certain pay related data to ARPAS as changes occur, e.g., retirements/separations, promotions, name, SSN, grade. These data form the criteria for the AFAFC to determine specific Reserve pay entitlements. (2) ARPAS outputs data which affect accumulated point credits for Air National Guard/Reserve participation to AFMPC for update of the Point Credit Accounting and Reporting System (PCARS), a component of PDS. PCARS also receives monthly input from Hq Air University which updates point credits as a result of completing an Extension Courses Institute correspondence program. d. AFAFC provides data on Variable Incentive Pay (VIP) for Medical Officers which is used to update a special control file within PDS and produce necessary reports for management of the VIP program. e. Air Training Command operates a system called PACE (Processing and Classification of Enlistees) at Lackland Air Force Base, TX. From that system data is fed to AFMPC to initially establish the PDS record on an Air Force enlistee. f. On a monthly basis, copies of the PDS master Personnel File are provided to the Human Resources Laboratory at Brooks Air Force Base, TX, where they are used as a statistical data base for research purposes. g. On a quarterly basis, AFMPC provides the USAF School of Aerospace Medicine with data concerning name, SSN and changes in base and command of assignment of flying personnel. The data reflects significant medical problems in the flying population. h. A complete printout of PDS data pertaining to an individual is included in his Master Personnel Record when its is forwarded to National Personnel Records Center. i. PDS data is provided to the Contingency Planning Support Capability (CPSC) at six major command headquarters: Tactical Air Comamnd, strategic Air Command, Military Airlift Command, Air Force Communications Command, United States Air Forces, Europe, and Pacific Air Forces. A record identifiable by individual's name and SSN provides contingency and/or manning assistance temporary duty (TDY) being performed by the individual. Record is destroyed upon completion of the TDY. Statistical records (gross statistics by skill and unit) are also generated for CPSC from PDS providing force availability estimates. CPSC is described separately in the **Federal Register**. 2. BASE LEVEL (CBPO) INTERFACES: Certain interfaces have been established at base level to pass data from one functional system to another. The particular mode of interface depends on the needs of the receiving function and the capabilities of the system to produce the necessary data:

a. The Flight Management Data System (FMDS) receives an automated flow of selected personnel data on flying personnel as changes occur. This data consists primarily of assignment data and service dates which the base flight manager uses to determine appropriate category of aviation duty which is reflected by designation of an Aviation Service Code. The FMDS outputs aviation service data as changes occur to the BLMPS. These data subsequently flow to the PDS central site files at AFMPC so it is available for resource management decisions. b. The Medical Administration Management System (MAMS), currently being developed and tested, will receive flow of selected assignment data as changes occur for personnel assigned to medical activities. MAMS will use these data to align assigned personnel with various cost accounting work centers within the medical activity and thus be able to track manpower expenditure by sub-activities. c. The Automated Vehicle Operator Record (AVOR) is being developed to support motor vehicle operator management. Approximately 115 characters of vehicle operator data will be incorporated into the BLMPS data base during FY76 for both military and civilian personnel authorized to operate government motor vehicles and selected personnel data items (basic identification data) will be authorized for access by the vehicle operator managers. d. Monthly, a magnetic tape is extracted from BLMPS containing selected assignment data on all assigned personnel. This tape is transfered to the base Accounting and Finance Office for input into the Accounting Operations System. This system uses these data to derive aggregate base manpower cost data. e. A procedure is designed into BLMPS to output selected background data in a pre-defined printed format for personnel being administered military justice. This output is initiated upon notification by the base legal office. The data is forwarded to the major command where it is input into the Automated Military Justice Analysis and Management System (AMJAMS). f. The BLIMPS output (on an event-oriented basis) pay-affecting transactions such as certain promotions, accessions, and assignments/reassignments, to AFAFC, where the data is entered into the JUMPS. C. ROUTINE USES EXTERNAL TO THE AIR FORCE, TO THE OFFICE OF THE SECRETARY OF DEFENSE (OSD). 1. Individual information is provided to offices in OSD on a recurring basis to support top-level management requirements within the Department of Defense. Examples are the DOD Recruiter File to the Assistant Secretary for Manpower and Reserve Affairs (M&RA), a magnetic tape extract of military personnel records (RCS: DDM(SA)1221) to M&RA, input to the Reserve Component Common Personnel Data System to M&RA, and the Post Career Data File to M&RA. 2. TO OTHER DEFENSE AGENCIES. PDS supports other components of DOD by provision of individual data in support of programs operated by those agencies. Examples are the Selected Officer List to the Defense Intelligence Agency for use in monitoring a classified training program and the Defense System Management School (DSMS) Track Record System to DSMS for use in evaluating the performance of graduates of that institution. An extract file on Air National Guard Technicians is provided the National Guard Computer Center. 3. OTHER GOVERNMENT/QUASI-GOVERNMENT AGENCIES. Information used in analyzing officer/airman retention is provided RAND Corporation. Data on prior service personnel with military service obligations is forwarded to the National Security Agency. Lists of officers selected for promotion and/or appointment in the Regular Air Force are sent to the Office of the President and/or the Congress of the United States for review and confirmation. Certain other personnel information is provided these and other government agencies upon request when such data is

required in the performance of official duties. Selected personnel data is provided foreign governments, U.S. governmental agencies, and other Uniformed Services on USAF personnel assigned or attached to them for duty. Examples: the government of Canada, Federal Aviation Administration, U.S. Army, Navy, etc.) 4. LITIGATION. 5. MISCELLANEOUS. Lists of individuals selected for promotion or appointment, who are being reassigned, who die, or who are retiring are provided to unofficial publications such as the Air Force Times, along with other information of interest to the general Air Force public. Information from PDS support a world-wide locator system which responds to queries as to the location of individuals in the Air Force. Locator information pertinent to personnel on active duty may be furnished to a recognized welfare agency such as the American Red Cross or the Air Force Aid Society. For civilian personnel—to provide automated system support to Air Force officials at all levels from that part of the Office of Personnel Management required personnel management and records keeping system that pertains to evaluation, authorization and position control, position management, staffing skills inventory, career management, training, retirement, employee services, rights and benefits, merit promotion, demotions, reductions in force, complaints resolution, labor management relations, and the suspensions and processing of personnel actions; to provide for transmission of such records between employing activities within the Department of Defense—to provide individual records and reports to OPM; to provide information required by OPM for the transfer between federal activities; to provide reports of military reserve status to other armed services for contingency planning—to obtain statistical data on the work force to fulfill internal and external report requirements and to provide Air Force offices with information needed to plan for and evaluate manpower, budget and civilian personnel programs—to provide minority group designator codes to the Office of Personnel Management's automated data file—to provide the Office of the Assistant Secretary of Defense Manpower and Reserve Affairs with data to access the effectiveness of the program for employment of women in executive level positions—to obtain listings of employees by function or area for locator and inventory purposes by Air Force offices—to assess the effect or probable impact of personnel program changes by simulation and modeling exercises—to obtain employee duty locations and other employee data for personnel program management purposes—to obtain employee duty locations and other information releasable under OPM rules and the Freedom of Information Act to respond to request from Air Force offices, other Federal agencies and the public—to provide individual records to other components of the Department of Defense in the conduct of their official personnel management program responsibilities—to provide records to OPM for file reconciliation and maintenance purposes—and to provide information to employee unions as required by negotiated contracts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets, card files, on computer magnetic tapes, disks or computer paper printouts or microfiche.

RETRIEVABILITY:

Filed by name, or Social Security Number (SSN) The primary individual record identifier in PDS is SSN. Some files are sequenced and retrieved from by other identifiers; for instance, the assignment action record is identified by an assignment action number. Additionally, at each echelon there exists computer programs to permit extraction of data from the system by constructing an inquiry containing parameters against which to match and select records. As an example, an inquiry can be written to select all Captains who are F–15 pilots, married, stationed at Randolph AFB, who possess a master's degree in Business Administration; then display name, SSN, number of dependents and duty location. There is the added capability of selecting an individual's record or certain pre-formatted information by SSN on an immediate basis using a teletype or cathode ray tube display device. High-sped line printers located in the Washington DC area, at Major Command Headquarters, and at ARPC permit the tr volume products to and for the use of Personnel managers at those locations.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in the performance of their official duties where authorized, and properly screened and cleared for need-to-know, and by commanders of medical centers and hospitals. Records are stored in security file containers/cabinets, safes, vaults and locked cabinets or rooms. Records are protected by guards. Records are controlled by personnel screening visitor registers and computer system software.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Preceding retention statement applies to Analog output products of the Personnel Data System. Data stored digitally within system is retained only for the period required to satisfy recurring processing requirements and/or historical requirements. Files with a retention period of 364 days or less are automatically released at the end of their specified retention period. "Permanent history" files are retained for 10 years. Files 365 or more days old are defined as "historical files" and are not automatically released. Retention periods for categories of PDS files are as follows: If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next daily, then the retention will be not greater than 10 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next daily, which is also used for processing of weekly runs, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next weekly, then the retention will not be greater than 20 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next weekly, which is also used for processing of monthly runs, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is weekly, and the created magnetic tape file will be used for processing of next weekly, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is weekly, and the created magnetic tape file will be used for processing of next weekly, which is also used for processing of monthly runs, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is monthly, and the created

magnetic tape file will be used for processing of next monthly, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of quarterly runs, then the retention will be not greater than 90 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of Semi-Annual run, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is monthly, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, then the retention will be not greater than 90 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of semi-annual run, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is semi-annual, and the created magnetic tape file will be used for processing of next semi-annual, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is semi-annual, and the created magnetic tape file will be used for processing of next semi-annual, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If created magnetic.tape file will be used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is annual, and the created magnetic tape file will be used for processing of next annual, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is annual, and the created magnetic tape file will be used for processing of next annual, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If the program or series of programs creating output is a one time run, and the file will be used for processing as required, then the retention will be lowest possible retention commensurate to job completion. If the program or series of programs creating output is compile card image or SOLT tapes, and the created magnetic tape file will be used for processing as required run, then the retention will be not greater than 90 days maximum. If cycle in which a program or series of programs creating output is as required runs, and the created magnetic tape file will be used for processing as required, the retention will be lowest possible retention commensurate to job completion. If the program or series of programs creating output is test files, and the created magnetic tape file will be used for processing as required, then the retention will be not greater than 30 days. If the program or series of programs creating output is print/punch backup and the created magnetic tape file will be used for processing as required, then the retention will be not greater than 10 days. In addition, for civilian personnel at base level (CCPO), master personnel files for prospective employees are transferred to the active file upon appointment of the employee or in the event the employee is not appointed and will no longer be considered a candidate for appointment, are destroyed by degaussing-master personnel files for active employees are transferred to the separated employee history file where they are retained for three years subsequent to separation and then destroyed by degaussing. The notification of personnel action—Standard Form 50—is disposed of as directed by OPM—work files and records such as the employee career brief, position survey work sheet, retention register work sheet, alphabetic and Social Security Number locator files, and personnel and position control register are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning-work sheets pertaining to qualification and retention registers are disposed of as directed by OPM—transitory files such as pending files, and recovery files are destroyed after use by degaussing-files and records retrieved through general retrieval systems are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning. Those records at AF Manpower and Personnel Center for the end of each fiscal year quarter are retained for five years before destroying by deletion—the separated employee file retains employee information at time of separation for five years after which the employee's record is destroyed by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air force. Subordinate System Managers are: A. Director of Personnel Data Systems, Assistant Deputy Chief of Staff for Personnel for Military Personnel, Air Force Manpower and Personnel Center (AFMPC), Randolph Air Force Base, TX, 78150. He is responsiblie for overall PDS design, maintenance and operation, and is designated the Automated Data Processing System Manager for All Air Force personnel data system. B. The Director of Personnel Data Systems at each Major Command headquarters for systems operated at that level C. The Chief, CBPO, at Air Force installations for systems operated at that level. D. The Civilian Personnel officer at Air Force installations for civilian systems operated at that level.

NOTIFICATION PROCEDURE:

Requests from individuals for notification as to whether the system contains a record on them should be addressed to the System Manager of the operating level with which they are concerned. Persons submitting such a request, either personally or in writing, must provide SSN, name, and military status (active, ANG/USAFR, retired, etc. ANG members not on extended active duty may submit such requests to the appropriate State Adjutant General or the Chief of the servicing ANG CBPO. USAFR personnel not on extended active duty may submit such requests to ARPC, Denver, CO, 80280 or, if unit assigned, to the Chief of the servicing CBPO or Consolidated Reserve Personnel Office. Personal visits to obtain notification may be made to the Military Records Review Room Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150, the

Military Records Review Room, Air Reserve Personnel Center, Denver CO 80280; The Office of the Director, National Personnel Records Center (NPRC), 111 Winnebago St., St. Louis, MO, 63118; the office of the Director of Personnel Data Systems at the appropriate major command headquarters; or the office of the Chief of his servicing CBPO. Identification will be based on presentation of DD Form 2AF, Military Identification Card. Air Force civilian employees must provide SSN, full name, previous names if any, last date and location of Air force civilian employment if not currently employed by the Air Force—current employees should submit such requests to their CCPO—former employees of the Air Force should submit such requests to the CCPO for the last Air Force installation at which they were employed. Authorizations for a person other than the data subject to have access to an individual's records must be based on a notarized statement signed by the data subject.

RECORD ACCESS PROCEDURES:

Assistance in gaining access to his records will be provided the individual by the appropriate subordinate System Manager at AFMPC, ARPC, NPRC, major command or CBPO/CRPO/CCPO.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, medical institutions, automated system interfaces, police and investigating officers, the bureau of motor vehicles, a state or local government and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 AF MP B

SYSTEM NAME:

Drug/Alcohol Abuse Evaluation and Rehabilitation Case Files

SYSTEM LOCATION:

At servicing Air Force (AF) installation social actions office. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air force active duty military personnel and dependents, Air Force civilian employees, and Air Force Reserve personnel, who are enrolled in a drug/alcohol evaluation or rehabilitation program.

CATEGORIES OF RECORDS IN THE SYSTEM:

As a minimum, the file contains forms and commander's letters documenting entry into evaluation program, date and means of identification, categorizing type of chemical abuse and indicating whether a determination has been made as to entry into rehabilitiation and, if entered, progress of individuals toward rehabilitation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

21 U.S.C. Chapter 16-Drug Abuse Prevention and Treatment, Section 1175, confidentiality of Patient Records; 42 U.S.C. Chapter 60, Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Program, Section 4582, Confidentiality of Patient Records; Air Force Regulation 30–2, Social Actions Program, June 21, 1981.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To determine whether an individual is to be entered in a rehabilitation program, and to document progress of individuals in a program. Those authorized to review, handle, or have access to the file are social actions and medical personnel directly engaged in rehabilitation of a person, Veterans Administration (VA) treatment personnel in cases of members transferred directly to VA in active duty status, official members of Rehabilitation Committee (RC) Commanders in member's chain of command, and persons authorized by Public Law 92–255, section 408(b) 21 U.S.C. 1175(b). The file is used to process members in the evaluation program, develop a treatment regimen, and to assist the RC in makings decisions for rehabilitation program dispositions, and to prepare recurring reports. Records in this system which reveal the identity, diagnosis, prognosis or treatment of any individual for drug or alcohol abuse may only be disclosed in accordance with 21 U.S.C. 1175 for those records relating to drug abuse and 42 U.S.C. 4582 for those relating to alcohol abuse. The blanket routine uses published by the Department of the Air Force for its systems of records do not apply in these cases. Disclosure within the Air Force is limited to those individuals who need the records in connection with programs relating to abuse treatment, rehabilitation, research, health, or assignment to duty. Disclosure is also authorized to other components of the Armed Forces and to the Veterans Administration when these provide health care to identified individuals whether present or former members.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name by other identification number or system identifier.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets safes and controlled by personnel screening.

RETENTION AND DISPOSAL:

Destroy one year after completion of follow on phase or other termination and after rehabilitation, or three months after determination is made not to enter the individual in rehabilitation by tearing into pieces, shredding, pulping, macerating, or burning, unless needed as background for case files supporting a separation action or other actions under directives, in which case, disposition will be the same as the file which they support.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Drug/Alcohol Abuse Control Branch, Human Resources Development Division, Directorate of Personnel Plans, HQ USAF; and Directors or Assistants for Social Actions at Major Command Headquarters; and Chiefs, Social Actions Office at Air Force installations.

NOTIFICATION PROCEDURE:

Chief, Social Actions servicing AF installation. Requests to determine existence of a file should include full name, grade, and unit of assignment. Personal visit proof of identity requires full name and possession of Department of Defense (DD) Form, 2 AF, Armed Forces Identification Card; DD Form 1173, Uniformed Services Identification and Privilege Card; or driver's license and personal recognition of drug/alcohol specialist.

RECORD ACCESS PROCEDURE:

Chief Social Actions servicing AF installation. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the system Manager.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, personnel records, individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 AF MP C

SYSTEM NAME:

Casualty Files.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center (AFMPC), Randolph Air Force Base, TX 78150. Bases of assignment of casualty or which provide casualty assistance to next of kin. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. At headquarters of major commands and at bases of assignment of casualty or which provide casualty assistance to next of kin.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any United States Air Force (USAF) member who is or might become a casualty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of Casualty. This pertains to all personnel on active duty, to Air Force Academy cadets, Air Force Reserve and Air National Guard personnel performing authorized inactive duty for training or traveling directly to or from such place of duty, and Air Force Reserve Officers Training Corps (AFROTC) applicants or members on annual training duty for 14 days or more or who are traveling to or from the designated place of such duty who become very seriously ill or injured (VSI), seriously ill or injured (SI), or suffer from an incapacitating illness or injury (III), or who become missing, missing in action, interned, captured or detained by a foreign power. These records pertain to certain civilian employees of the Air Force paid from appropriated funds who become missing, missing in action, interned, captured or detained by a foreign power while assigned overseas or who are on temporary duty from the Continental United States (CONUS) to overseas or who are traveling to or from the designated place of such duty under competent authority, certain unique situations on civilian employees and dependents of military personnel who become missing, missing in action, interned, captured or detained by a foreign power in mishaps while traveling aboard Military Airlift Command (MAC) or MAC-chartered flights or by other means of MAC oversea travel, and certain civilian employees in the CONUS when their missing status was the proximate result of their employment. Casualty Case File. These files pertain to all officers and airmen on active duty or extended active duty (including personnel in absent without leave, desertion, or dropped from the rolls status). The files also pertain to Air Force Academy cadets, all Air Force Reserve and Air National Guard officers and airmen performing authorized inactive duty for training or traveling directly to or from such place of duty, all AFROTC applicants or members on annual training duty for 14 days or more or traveling to or from the designated place of such duty, and certain civilian employees of the Air Force paid from appropriated funds who become missing, missing in action, interned, captured or detained by a foreign power while assigned overseas or who are on temporary duty (TDY) from CONUS to overseas or who are traveling to or from the designated place of such duty under competent authority. They pertain to certain civilian employees and dependents of military personnel who become missing, missing in action, interned, captured or detained by a foreign power in mishaps while traveling aboard MAC or MAC-chartered flights or by other means of MAC overseas travel and certain foreign nationals and certain employees in the CONUS when their missing status was the proximate result of their employment. A casualty is defined as any member of the armed forces or certain civilians who are lost to their organization by reason of having been declared missing, missing in action, wounded, injured, or deceased. The casualty case file is comprised of messages pertaining to the member; a copy of the Record of Emergency Data, Department of Defense Form 93 or Air Force Form 246; Air Force Manpower and Personnel Center Form 238, CONUS Death/Missing, Report of Casualty, Department of Defense Form 1300; copy of assignment of assistance responsibility letter; Servicemen's Group Life Insurance Election, Veterans Administration (VA) Form 29–8286; correspondence from the base/AFMPC to/from the next of kin (NOK); Acknowledgment and/or Transfer of Casualty Assistance Case. Air Force Form 92; Statement of Service, Department of Defense Form 13; copy of notification message; Western Union messages; AF Form 25, Facts and Circumstances Report; and other related correspondence and forms which pertain to the file. Record of Emergency Data being maintained on all Air Force personnel on extended active duty (EAD) and Air Force Academy cadets. Missing Persons Case Files. Reports submitted on United States Air Force (USAF) personnel who become missing as defined in 37 USC 551. Convenience rosters of those persons, copies of communications from and to next of kin, items received through news media, and some films.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2771, Armed Forces—Accountability and Responsibility; 37 U.S.C. 555 and 556, Pay and Allowances of the Uniformed Services, Payments to Missing Persons; implemented by Air Force Regulation 30–25, Casualty Services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Support of the Casualty Services Program. The information is used to assist the Air Force in effecting expeditious reporting, dignified and humane notifications, and efficient and thorough assistance to the next of kin of all casualties as previously defined. Primary user is the Office of the Assistant for Casualty Matters, bases of assignment and/or reporting installation and bases providing casualty assistance. Records created in the mortuary process, including the shipment of remains, details associated with the appointment of a summary court officer (SCO), and cases involving positive identification procedures. Records contain histories of all known data surrounding the missing statuses recording dealings with next of kin, and reflecting efforts to obtain all possible information through normal and intelligence channels as well as the results of those efforts. Contain record of personnel actions taken which involve the missing persons as well as actions taken in accordance with public law. Rosters are maintained for convenience of completing many actions. Primary users are personnel in

the Office of the Assistant for Casualty Matters At the Air Force Military Personnel Center. Decentralized segment is maintained for rapid response to queries by high-level personnel in the Washington, DC (DC) area. The Record of Emergency Data is used to show the names and addresses of service member's spouse, children, parents and other persons the member wants notified should he/she become a casualty. Serves as an official document required by law (10 U.S.C. 2771) for designating beneficiaries for death gratuity and unpaid pay and allowances. Also used to designate a persón to receive an allotment of pay if the member becomes missing, captured or interned. Primary user is the Office of the Assistant for Casualty Matters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders, cabinets, film canisters, and microfilm.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Casualty records at AFMPC are accessible only to authorized personnel assigned to the Office of the Assistant for Casualty Matters. Personnel are on duty 7 days per week, 24 hours a day. Access to the building after duty hours is controlled by Security Police personnel.

RETENTION AND DISPOSAL:

Records may be temporary or permanent or supplemental in nature. They are retained in active file until the member's status is changed to decreased or returned to military control or no longer considered VSI, SI or III. One year after that time, selected temporary records are destroyed and all permanent records ar retired to the National Personnel Records Center. Remaining temporary records are destroyed ten years after date of death or return to military control. Records of Casualty and casualty case files are permanent records. They are retained in active file until application or receipt of all allowable benefits, then forwarded to the National Personnel Records Center, 9700 Page Boulevard, St. Louis, MO 63132. Case files pertaining to civilians; foreign nationals; very seriously ill or seriously ill persons; and dependents of military personnel are destroyed 90 days after administrative closing of the case. Records of Emergency Data are retained until the member is relieved from active duty, then retired to a history file. Destroyed by shredding, burning, or by tearing into pieces. Mortuary records are retired to the Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel, Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Air Force Manpower and Personnel Center/Office of the Assistant for Casualty Matters (AFMPC/MPCC), Randolph Air Force Base, TX 78150, or if records have been retired, the request will be forwarded to National Personnel Records Center (NPRC). Written requests should contain the full name and Social Security Account Number of the member as well as an identification as complete as possible of the desired material including, if known, its title, description, number, date and issuing authority. For personal visits, the individual must provide some acceptable identification; that is, drivers license, identification card, or give some verbal information that can be verified in the case folder.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information provided by next of kin, organization of assignment, information extracted from Master Personnel Records, documents generated within the Casualty Division, Air Force Manpower and Personnel Center, correspondence produced in providing casualty notification/assistance/ processing.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 AF MP D

SYSTEM NAME:

Contingency Planning Support Capability (CPSC)

SYSTEM LOCATION:

Headquarters Strategic Air Command, Offutt Air Force Base, NE 68113, Headquarters Tactical Air Command, Langley Air Force Base, VA 23365, Headquarters Military Airlift Command, Scott Air Force Base, IL 62225, Headquarters Aerospace Defense Command, Ent Air Force Base, CO 80912, Headquarters Air Force Communications Command, Scott Air Force Base, IL 62225, Headquarters United States Air Forces Europe, Ramstein Air Base (AB), APO NY 09012, and Headquarters Pacific Air Forces, Hickam Air Force Base, HI 96853.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on officer and enlisted personnel that are projected or departed on Temporary Duty (TDY) in support of contingency deployment or manning assistance projects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data maintained on individuals consists of 200 characters of data that fall into the following categories: Individual identification, skills, assigned organization, attached (TDY) organization and location, period and type of TDY, and projected completion date. Information is related only to the current performance of TDY of the individual on a specific project.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8032, General duties; implemented by Air Force Manual 30–130, Base Level Military Personnel System, and Air Force Manual 30–3, Mechanized Personnel Procedures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Data described in that portion of CPSC that contains individually identifiable data records. Other records in CPSC provide manpower authorizations to deploy personnel resources. The individual data provides the necessary information to insure that right numbers of personnel with the appropriate skills are projected/ deployed in support of a contingency plan. Standard output programs summarize the individual data records and perform comparative routines to monitor the deploying force in relationship to the CPSC deployment manning document. Individual data records are provided to the CPSC via a magnetic tape file interface with the Personnel Data System (PDS). This file is provided on an as required frequency basis with production permissible as often as the PDS files are updated at the Major Air Command.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products. Maintained on disks or drums.

RETRIEVABILITY:

Individual data records are not accessed nor displayed reflecting name or SSN by standard CPSC programs. Retrieval programs available to Major Air Command personnel managers may be used to access individual data.

SAFEGUARDS:

By persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are controlled by computer system software.

RETENTION AND DISPOSAL:

Records are maintained only for the duration of the TDY period then are programmatically deleted by computer.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force. Director of Personnel Data Systems, Assistant Deputy Chief of staff for Personnel, Military Personnel, Randolph Air Force Base, TX, and Director of Personnel Data Systems at each Major Air Command Headquarters provided in the system location identification.

NOTIFICATION PROCEDURE:

Contact Director of Personnel Data Systems at each Major Air Command Headquarters provided in the system location identification.

RECORD ACCESS PROCEDURE:

Contact Director of Personnel Data Systems at each Major Air Command Headquarters provided in the system location identification.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 AF SP A

SYSTEM NAME:

Documentation for Identification and Entry Authority.

SYSTEM LOCATION:

Chief of Security Police at the installation where an individual is issued identification or entry authority credentials. Information copies of certain application forms for entry into certain restricted areas are also kept at an individual's duty assignment. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are issued identification credential for normal identity purposes or for entry into controlled or restricted areas.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation used to request identification or entry credential, information reports on the loss, theft, or destruction of these credentials, certain types of entry authority lists, and various accountability records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by the security police for issuing ID cards and these restricted or controlled area badges which authorize entry into certain areas. Some organizations may routinely keep copies of the above documentation in order to maintain control over persons authorized entry into certain areas. Accountability documents are used to insure proper control over the various forms utilized in these functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, card files and on computer and computer output products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and in locked cabinets or rooms. Records are controlled by computer system software.

RETENTION AND DISPOSAL:

Accountability records are destroyed two years after issue of the last card or the last entry on a log, etc. Statements, certificates, and related correspondence reporting the loss, theft, or destruction of identification or entry credentials are destroyed one year after reported loss. Destruction of these items is by tearing into pieces.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Security Police, Kirtland Air Force Base, NM 87117. Installation Chief of Security Police.

NOTIFICATION PROCEDURE:

The appropriate installation Chief of Security Police should be contacted for information. When requesting information in writing, individual should include full name, Social Security Number, military status, home address, and the letter must be notarized. During a personal visit, individual will be required to produce military ID, if applicable, a valid drivers license, or other appropriate proof of identity.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. Contact the Chief of Security Police at the appropriate installation.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 ATC A

SYSTEM NAME:

Drug Abuse Control Case Files.

SYSTEM LOCATION:

Special Counseling Section, 3507 Airman Classification Squadron, Lackland Air Force Base, TX 78236.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty enlisted personnel and reserve personnel referred to drug abuse office.

CATEGORIES OF RECORDS IN THE SYSTEM:

Various letters describing drug abuse information such as notification of disposition, recommendation for disposition, drug abuse determination of urinalysis cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; Air Force Regulation 39–12, Separation for Unsuitability, Misconduct, Resignation or Request for Discharge for the Good of the Service; and Procedures for Rehabilitation Program; and Air Force Regulations 30–2, Social Actions Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INLCUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Discharge authority, Special Counseling Section, and squadron commanders determine extent of prior service drug abuse and make determinations of discharge or retention in the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, 3507 Airman Classification Squadron, Lackland Air Force Base, TX 78236.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from squadron commanders, base surgeons, classification interviewers, medical institutions and from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 ATC B

SYSTEM NAME:

Enlistee Quality Control Monitoring System.

SYSTEM LOCATION:

USAF Recruiting Service (ATC) RSS, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty enlisted personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Airmen trainee history records containing name, SSN, and other personnel data for assignment from basic military training, job preferences, security investigation, dependent data, education, test scores, grade and promotions, biographical history, physical information, drug abuse history, enlistment personal and guaranteed training enlistee program data, separation data, classification data, service dates, technical school eliminations, separations, honor graduates and article 15 and courts-martial actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: recruiting campaigns; 505, Regular components: qualifications, term, grade; 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Training Command Regulation 33–2, Recruiting Procedures for the United States Air Force (Recruiting Service).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To evaluate the quality of airmen being enlisted in the USAF. Statistics are developed to evaluate the impact of drug abuse, judicial punishment, technical school elimination and their interreaction on procurement policies. Feedback data is furnished to field operating personnel to assist them in evaluating their effectiveness as recruiters and managers and allow them to make necessary changes in their recruiting methods. Used by staff agencies at HQ USAF and Air Training Command to evaluate the effects of changes in procurement and classification changes. Used by recruiting agencies to evaluate recruiting methods based on review of basic military training discharges, technical school discharges, eliminations, and honor graduates, and judicial punishment actions. Statistical analysis by all levels of agencies to indicate recruiting and seasonal procurement trends, classification and assignment policy changes, and discharge and eliminee rates. Used to furnish statistics on females with minor dependents, on fast-pace students, and directed duty assignments.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer magnetic tapes.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained indefinitely by fiscal year of enlistment.

SYSTEM MANAGER(S) AND ADDRESS:

Director of student resources, USAF Recruiting Service, Air Training Command, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and

appealing intial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces. Information obtained from financial institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 ATC C

SYSTEM NAME:

Processing and Classification of Enlistees (PACE)

SYSTEM LOCATION:

At Air Training Command, Randolph Air Force Base, TX 78150 and input/output remotes at 3507 Airman Classification Squadron (ATC) Lackland Air Force Base, TX 78236 and USAF Recruiting Service (ATC) Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty enlisted personnel. Attached records for Air National Guard and Air Force reserve personnel attending basic military training and Officer training school. Active duty enlisted personnel attending Officer training school in TDY status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Airmen trainee records containing name, Social Security Number (SSN), and other personnel data for assignment from basic military training, security investigation, job preferences, dependent data, education, test scores, grade and promotions, biographical history, physical data, drug abuse history, enlistment personal and guaranteed training enlistee program data, separation information, classification data, service dates, and basic training flight, squadron, entry and graduation dates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Force Regulation 30–1, Airman Classification Regulation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To create an initial record for the base level personnel data system (BLMPS); to provide AFMPC with initial accession information on non-prior service enlistees provide for improved classification and assignment procedures using computer processes; provide necessary information to joint military pay system (JUMPS) and Lackland Entering Pay System (LEAPS) for establishment of military pay records; interface the data ring process to the maximum extent with other functional areas; and to standardize and simplify personnel processing for the 3700 personnel processing group (ATC), Lackland Air Force Base, TX 78236, so that they may more effectively control record preparation, processing, and classification actions necessary to transition civilian enlistees to military status. Aptitude tests are administered; biographical history and job and assignment preferences are collected; and personal data is collected from enlistment records to establish a mechanized record necessary to support classification and assignment of trainees. Accession and update data is furnished through automatic interface to the advanced personnel data system (PDS) at AFMPC and Air Training Command, Randolph Air Force Base, TX; to JUMPS at AFAFC, Denver, CO. and to LEAPS at accounting and finance, Lackland Air Force Base, TX. History records are furnished monthly to the human resources laboratory (HRLPRD), personnel research division, Brooks Air Force Base, TX, for statistical analysis and to USAF Recruiting Service/RSS, Randolph Air Force Base, TX, for use in the enlistee quality control monitoring system. Data is used to prepare forms, processing schedules, reassignment and promotion orders, classification actions, transaction and error rosters, autodin lists, and management products necessary to administer trainees while at Lackland Air Force Base, TX. Standard BLMPS products such as JUMPS transaction registers, strength balance reports, and suspense lists are prepared. Changes in basic data, promotions, reassignments, separations, and duty status changes are reported to PDS, JUMPS, and LEAPS as the action occurs. History records used at HRLPRD and the enlistee quality control monitoring system are augmented by additional data from PDS and technical training centers and are used to evaluate the quality of Airmen enlisted in the USAF and the effects of changes in procurement and classification policies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files and on computer magnetic media.

RETRIEVABILITY:

Filed by name. Filed by SSN. Filed by other identification number or system identifier.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system software.

RETENTION AND DISPOSAL:

Records for basic trainees are retained in active file until departure from basic military training is confirmed then transferred to history file on magnetic tape for one year. Records for Officer trainees are maintained in the active file until end of fiscal year in which they enter training and then transferred to history file on magnetic tape for one year.

SYSTEM MANAGER(S) AND ADDRESS:

USAF Recruiting Service (ATC), Randolph Air Force Base, TX 78150 and 3507 Airman Classification Squadron (ATC), Lackland Air Force Base, TX 78236.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces. Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth. Prepared from forms prepared during enlistment processing and completed during interviews and testing at 3507 Airman Classification Squadron, Lackland Air Force Base, TX 78236.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 MPC A

SYSTEM NAME:

Deceased Service Member's Dependent File.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Widow/Widowers or other next of kin.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Address, Social Security Number (SSN) of Widow/Widower: Name, Grade, SSN, Date of Death/Date of Retirement of Sponsor

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8032, General duties; and Air Force Regulation 30–25

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used only to identify Air Force Widow/Widowers for purpose of mailing copies of the bimonthly United States Air Force News for Retired Personnel, The Afterburner. Verification for issuance of ID cards or obtaining benefits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Tape and card.

RETRIEVABILITY:

Filed by name

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel, Randolph Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Widow/Widower request, ID card application, casualty notices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 MPC B

SYSTEM NAME:

Indebtedness, Nonsupport, Paternity.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired personnel who are the subject of complaints of indebtedness, nonsupport or paternity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondance files containing name, grade, Social Security Number (SSN), duty station, address, and financial status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; Air Force Regulation 35–18, Financial Responsibility.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Wives, former wives, commercial institutions, welfare agencies, and members of Congress based on allegations of indebtedness or nonsupport.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Fild by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained for two years after end of year in which the case was closed, then destroyed by tearing in to pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individuals, private concerns, and government agencies with interests pursuant to subject records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 TAC A

SYSTEM NAME:

Base Automated Mobility System (BAMS) Personnel Extract Tape.

SYSTEM LOCATION:

Headquarters, Tactical Air Command, Langley Air Force Base, VA 23665.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty enlisted personnel assigned to Tactical Air Command.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel data extracted on officers and airmen.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8074, Commands: territorial organization, TACRs 400–581 and 171–581.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The personnel extract tape is used as an input to produce BAMS output products to manage available personnel resources for mobility and deployment purposes at the CBPO.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer magnetic tapes.

RETRIEVABILITY:

Filed by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, not longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Tactical Air Command, Langley Air Force Base, VA.

NOTIFICATION PROCEDURE:

Individuals can obtain assistance from the wing/base mobility office where organized.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FO34 ATC A

SYSTEM NAME:

Kindergarten Student File.

SYSTEM LOCATION:

3380th Air Base Group/SSFK, Keesler Air Force Base, MS 39534.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Children enrolled in kindergarten and their parents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Registration forms, enrollment contract, parent authorizations for testing/filed trips/forwarding of school records, child/family background questionnaire, test results, and student progress reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by kindergarten personnel to understand and determine special needs of children, to locate parents in case of emergency, to make progress reports to parents, to establish contractural obligations between kindergarten and parents and to set up car pool listings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed by student name.

SAFEGUARDS:

Records are accessed by the kindergarten principal and kindergarten counselor; maintained in locked desks or rooms.

RETENTION AND DISPOSAL:

Retained in office files for one year after child leaves program or until parent requests transfer of records to another school, whichever comes first. In the event the records are not transferred to another school, they are destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Kindergarten Principal, 3380 ABGp/SSFK, Keesler Air Force Base, MS 39534.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. The full name of the student will be required to determine if the system contains a record about him or her. The requester may visit the kindergarten to obtain information on whether the system contains records pertaining to an individual. As proof of identity the requester must present either a current military identification card or driver's license.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from parents; test results; student evaluations by kindergarten personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FO35 AFCC A

SYSTEM NAME:

Scope Leader Program.

SYSTEM LOCATION:

At Headquarters Air Force Communications Command (ACC/MP), Scott Air Force Base, IL 62225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel, officer grade, assigned to Air Force Communications Command (AFCC).

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals currently serving as commanders in positions designated as "tough jobs," and personnel selected as potential candidates for "tough job" commander positions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Force Communications Command Regulation 500–16.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to monitor the assignment and replacement of unit Commanders in Air Force Communications Command (AFCC).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Retrievability based on presence of commander identification code. Computerized.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official

duties. Records are stored in locked cabinets or rooms and computer system requiring user codes and passwords for access.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, burning or degaussing. Also destroyed by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Assignments, Deputy Chief of Staff, Manpower and Personnel, Headquarters, AFCC, Scott Air Force Base, IL 62225.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager and include full name, rank and Social Security Number.

RECORD ACCESS PROCEDURES:

Record access can be obtained only through the System Manger.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for contesting contents and appealing initial determinations by the individual concerned are in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AFDSC A

SYSTEM NAME:

Management Control System (MCS).

SYSTEM LOCATION:

Administrative/Personnel Support Office, Room 1D158, Air Force Data Services Center, AFDSC, Pentagon, Washington, DC 20330. Training Team, Office of Plans and Management, Room 1C1041, Air Force Data Services Center, AFDSC/XMT, Washington, DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel and civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Types of records are those associated with a locator file, i.e., the individual's name, home address, home phone, etc. Also contained are records relating to the office the individual is assigned to; their authorized and assigned grade; date they were assigned to this organization; for military personnel only, the date they will depart; who their supervisor is; and the individual's duty phone and his immediate supervisor's duty phone. This also contains training information for military and civilian personnel assigned to AFDSC. This information consists of course completions by date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The MCS system was established as a management tool to provide office managers with information concerning their overall manpower picture to aid them in scheduling workload requirements in support of this organization's assigned mission. This system also acts as a Central Locator File and also allows a variety of manpower reports to be produced. b. Anticipated users of the MCS system: (1) Commander, Air Force Data Services Center. (2) Directors and Divisions Chiefs, Air Force Data Services Center. (3) Administrative personnel assigned to the Office of Administrative/Personnel Support function, Air Force Data Services Center, and training personnel assigned to Training Team, Office of Plans and Management. (4) Civilian agencies and other government agencies. (Specific names and government branches cannot be identified since the system acts as a locator file for individuals assigned to AFDSC. Any civilian agency or government branch could request information concerning an individual in order to locate that individual at their place of duty or at home.) (5) Military and Civilian Personnel Offices assigned to the 1143rd Air Base Squadron, Pentagon, Washington, DC. c. Specific use of information by each of the users mentioned in paragraph 8b. (1) The Commander, AFDSC uses the information from the MCS system to keep informed of the current manpower authorizations within AFDSC and where individuals are assigned. This is also true for Directors and Division Chiefs in AFDSC. From this information the AFDSC workload is closely managed to meet requirements by customers that this organization supports. In addition, the Commander, Directors and Division Chiefs can request a variety of manpower information from this system when certain data fields are aligned. (2) The administrative personnel assigned to the Administrative personnel support function mainly use the information supplied from MCS as a Central Locator file in order to assist outside callers in locating offices and individuals of this orginization. Training Personnel use this file to provide cost estimates for input to the annual budget preparations for this organization. (3) The information provided to civilian and government agencies would be upon request to locate an individual assigned to AFDSC. (4) Civilian and Military personnel offices are provided information in report form. In most cases this information concerns number of personnel assigned against number authorized, or the number of personnel assigned in a particular grade. Each of these offices can request other inquiries concerning personnel for which the MCS can, in most cases, provide the answers to their questions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Filed by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system software.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative/Personnel Support Office, Air Force Data Services Center, Pentagon, Washington, DC 20030.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the

individual concerned may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AFIS A

SYSTEM NAME:

Intelligence Reserve Information System (IRIS).

SYSTEM LOCATION:

Directorate, Intelligence Reserve Forces, Air Force Intelligence Service (HQ AFIS/RE), Ft Belvoir, VA 22060.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel assigned or attached to the Directorate, Intelligence Reserve Forces (AFIS/RE); transferred or retired reservists from AFIS/RE; or reservists who have applied for assignment to AFIS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic information (personal and military), language information, education information, reserve tour duty information, home information, employment information, security information, personnel security access records, experience information (intelligence and civilian foreign area knowledge), scientific and technical information, specialty information, weight control information, Air Force attache information, locator information, Officer Effectiveness Report (OER), and Reserve Noncommissioned Officer Performance Report (APR(R)) information, training information, professional military education information, specialty course information, military decorations, unit awards, special trophies and awards, outstanding mobilization augmentee of the year information, special trophies and awards information, deserving airman commissioning program information, quality force retention board information, officer and enlisted promotion information, statutory tour information, mobilization info.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 275, Personnel Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To manage the career (training, promotions, command assignments, and mobilization) of reservists assigned to AFIS/RE during peacetime. The users of this system include most USAF MAJCOMs/SOAs and various intelligence agencies. The IRIS enables this directorate to efficiently manage the reserve resources for the MAJCOMs/SOAs to insure the individual reservist is fully qualified for both his peacetime and wartime duties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders. Maintained on computer paper printouts.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director Intelligence Reserve Forces (HQ AFIS/RE), Air Force Intelligence Service (AFIS), Ft. Belvoir, VA 22060.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual, Air Reserve Personnel Center.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP A

SYSTEM NAME:

Effectiveness/Performance Reporting Systems.

SYSTEM LOCATION:

Headquarters, United States Air Force, Washington DC 20330; Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150; headquarters of the major commands and separate operating agencies; consolidated base personnel offices; each State adjutant General Office; Reserve and Air National Guard units, and the Human Rsources Laboratory, Brooks Air Force Base, TX. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military Personnel Only. Officer: applies to active duty/Air National Guard/Air Force Reserve Personnel serving in grades Warrant Officer (W–1) through Colonel (0–6). Airmen: applies to active duty personnel in grades Airman Basic (E–1) through Chief Master Sergeant (E–9), and to Air Force Reserve personnel in grades Staff Sergeant (E–5) through Chief Master Sergeant (E–9).

CATEGORIES OF RECORDS IN THE SYSTEM:

Officer Effectiveness Report; Education/Training Report; Lieutenant Colonel Promotion Recommendation Report; Colonel Promotion Recommendation Report; Airman Performance Report; Technical Sergeant (TSGT), Staff Sergeant (SSGT), and Sergeant (SGT) Performance Report; Chief Master Sergeant (CMSGHT), Senior Master Sergeant (SMSGT), and Master Sergeant (MSGT) Performance Report; Description of Data Contained Therein: Name; Social Security Number (SSN); Active and Permanent Grades; Specialty Data; Organization location and Personnel Accounting Symbol (PAS); Period of Report; Number of days of supervision; Performance Evaluation Scales; Assessment of Potential; Comments Regarding Ratings;

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; Air Force Regulation 36–10, Officer Evaluations, and Air Force Regulations 39–62, Volume I, Performance Reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Uses Include: Documentation of effectiveness/duty performance history; Promotion selection; school selection; assignment selection; reduction-in-force; control roster; reenlistment; separation; research and statistical analyses; other

appropriate personnel actions. Users Include: supervisor; commander; major command; Air Force Manpower and Personnel Center; Headquarters USAF; other Military Services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name or SSN.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Copies of performance reports are retained until separation or retirement. At separation or retirement, data subject is presented with field and command record copies of his or her reports. The Headquarters Air Force (HAF) copy is a permanent record that is forwarded to the National Personnel Records Center, Saint Louis, MO. In the event the member has a Reserve commitment, the HAF copy is sent to the Air Reserve Personnel Center (ARPC), York Street, Denver, CO. However, the following exceptions apply: Officers Field Record: Remove and give to individual when promoted to Colonel, when separated or retired. Destroy when voided by action of the Officer Personnel Records Review Board. When voided by action of the Air Force (AF) Board for Correction of Military Records, forward all copies of report to Headquarters United States Air Force (HQ USAF) when directed. Command Record: The command custodian will destroy the reports when voided by action of Officer Personnel Records Review Board. When voided by action of the AF Board for Correction of Military Records, forward all copies of report to HQ USAF when directed. HAF Record: Remove reports voided by action of the Officer Personnel Records Review Board from the selection folder and file in the board recorder's office until destroyed by tearing into pieces, shredding, pulping, macerating or burning. Remove reports voided by action of the AF Board for Correction of Military Records from selection folder and submit to Board's Secretariat with duplicate and triplicate copies, for custody and disposition. Lt Colonel and Colonel Promotion Recommendation Reports are temporary documents maintained only at HQ Air Force level and are destroyed after their purpose has been served. Active duty airmen: Grades E–3 through E–6: On separation or retirement, Airman Performance Reports (APRs) are forwarded to the National Personnel Records center, Saint Louis, MO unless data subject holds a reserve obligation, in which case they are forwarded to ARPC. Grades E–7 through E–9: On separation or retirement, original copies, those retained in Senior NCO selection folders and those in field record closing before 1 January 1967, are forwarded to the National Personnel Records Center or to ARPC if data subject holds a reserve obligation. Duplicate copies closing 1 January 1967 or later (field record) are returned to the member at separation or retirement. NOn-EAD USAFR airmen: Air Force Reserve Forces Non-commissioned Officers Performance Report; upon separation, retirement or assignment to a non-participating reserve status, they are forwarded to ARPC for file in the master personnel record and disposed of as a part of that record.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force, Washington DC 20330, and Chief of Air Force Reserve, Headquarters United State Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The basis of the ratings is observed on-the-job or education/training performance progression of the individual. Further, evaluation reports may have as an additional source of information: Letters of Evaluation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 UCS 552(k)(7), as applicable. For additional information, contact the System Manager.

F035 AF MP B

SYSTEM NAME:

Geographically Separated Unit Copy Officer Effectiveness & Airman Performance Report.

SYSTEM LOCATION:

Headquarters of major subordinate commands and numbered Air Forces.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers (Lt Colonel and below) and Airmen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Officer Effectiveness Report; Education/Training Report; Airman Performance Report; Technical Sergeant (TSgt), Staff Sergeant (SSgt), and Sergeant (Sgt) Performance Report; and Chief Master Sergent (CMSgt), Senior Master Sergeant (SMSgt), and Master Sergeant (MSgt) Performance Report.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; implemented by AFr 36–10, Officer Evaluations, and Air Force Regulation 39–62, Volume I, Active Duty Noncommissioned Officer and Airman Performance Reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used as a record of individual's past job performance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

At Headquarters of Major Subordinate Commands and numbered Air Force official mailing addresses are in the Department of Defense Directory

in the appendix to the Air Force systems notices.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Officer and airman evaluation report data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP C

SYSTEM NAME:

Military Personnel Records System.

SYSTEM LOCATION:

Headquarters United States Air Force, Washington, DC 20330. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. Air Reserve Personnel Center, Denver, CO 80280. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Headquarters of the major commands and separate operating agencies. At consolidated base personnel offices and other installation units. At State Adjutant General Office of each respective State, District of Columbia or Commonwealth of Puerto Rico. At Air Force Reserve and Air National Guard units. Official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's Systems Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel

CATEGORIES OF RECORDS IN THE SYSTEM:

Officer Correspondence and Miscellaneous Document Group (C&M) at Air Force Military Personnel Center (AFMPC); Headquarters United States Air Force (HQ USAF) Selection Record Group (SR) at HQ USAF Assistant for general Officer Matters; Retired Air Force general officers. Master Personnel Record Group (MPeRGp) at AFMPC; active duty colonels at HQ USAF, Assistant for senior Officer Management, C&M at AFMPC Air Force active duty officer personnel. MPeRGp at AFMPC Officer Command Selection Record Group (OCSR) at the respective major command or separate operating agency, Field Record Group (FRGp) at the respective Air Force base of assignment/servicing Consolidated Base Personnel Office (CBP); Air Force active duty enlisted personnel MPeRGp at AFMPC, FRGp at respective servicing CBPO, Senor Noncommissioned Officer (NCO) Selection Folder at the respective servicing CBPO; personnel in Temporary Disability Retired List (TDRL) status, Missing in Action (MIA), Prisoner of War (POW), Dropped From Rolls (DFR), MPeRGp at AFMPC; Reserve officers MPeRGp at Air Reserve Personnel Center (ARPC), OCSR at the respective Air Force (AF) major command (MAJCOM) when applicable, FRGp at the respective unit of assignment or servicing CBPO or Consolidated Reserve Personnel Office (CRFPO): Reserve airmen MPeRGp at ARPC, FRGp at the respective unit of assignment or servicing CBPO/CRPO; Air National Guard (ANGUS) officers MPeRGp at ARPC, OCSR at the respective State Adjutant General Office, FRGp at the respective unit of assignment, ANGUS airmen MPeRGp at the respective State Adjutant General Office FRGp at the respective unit of assignment; Retired Air Force military personnel; discharged personnel MPeRGp at National Personnel Records Center NPRC); Air Force Academy cadess MPeRGp at unit of assignment CBPO. System contains substantiating documentation such as forms, certificates, administrative orders and correspondence pertaining to appointment as a commissioned officer, warrant officer, Regular AF, AF Reserve or ANGUS: enlistment/reenlistment/ extension of enlistment; assignment Permanent Change of Station (PCS)/ Temporary Duty (TDY); promotion/ demotion; identification card requests; casualty; duty status changes—Absent Without Leave (AWOL)/MIA/POW/ Missing/Deserter; military test administration/ results/service dates; separation; discharge; retirement; security; training, Precision Measurement Equipment (PME), On-The-Job Training (OJT), Technical, General Military Training (GMT), commissioning, driver; academic education; performance/effectiveness reports; records corrections—formal/ informal; medical or dental treatment/ examination; flying/rated status administration; extended active duty; emergency data; line of duty determinations; human/personnel reliability; career counseling; records transmittal; AF reserve administration; Air National Guard administration; board proceedings; personnel history statements; Veterans Administration compensations; disciplinary actions; record extracts; locator information; personal clothing/equipment items; passport; classification; grade data; Carrrer Reserve applications/ cancellations; traffic safety; Unit Military Training; travel voucher for TDY to Republic of Vietnam; dependent data; professional achievements; Geneva Convention cards; drug abuse; Federal Insurance; travel and duty restrictions; Conscientious Objector status; decorations and awards; badges; Favorable Communications (colonels only); Inter-Service transfers; pay and allowances; combat duty; leave; photographs; Personnel Data System products.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duites; delegation by; implemented by Air Force Regulation 35–55, Military Personnel Records System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Military Personnel Records are used at all levels of Air Force personnel management within the agency for actions/processes related to procurement, education and training, classification, assignment, career development, evaluation, promotion, compensation, sustentation, separation and retirement. Military Personnel Records are routinely used outside the Air Force for actions/processes related to assignment or transfer to other services or joint service organizations; compensation claims submitted to veterans Administration Regional Offices; dependents and survivors requesting issuance or determination of eligibility for identification card privileges; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) eligibility and benefits request—copies are provided to CHAMPUS, Denver, CO; Immigration and Naturalization—copies are provided to respective local Immigration Office; Unemployment Compensation Requests—verification of service related information provided to State Unemployment compensation (UCX) Office; Vietnam State Bonus—information provided to respective local State offices; Civil Service requests for verification of military service for benefits; leave or Reduction in Force (RIF) purposes—copies provided to local

Civilian Personnel Office; National Cemetery Burial/Headstone cases—copies provided to Superintendent National cemetery, Army Quartermaster Corps, Virginia; Worldwide locator inquiries—response provided to legitimate requests in accordance with the Freedom of Information Act; Dual compensation cases involving former officers—provided to establish Civil Service employee tenure and leave accrual rate; Social Security Retirement Credit Verification—verification of service data provided to substantiate applicant's credit for Social Security compensation; Soldiers and Sailors Civil Relief Act requests—verification of service—related information provided to State courts in civil actions; Litigation—in event the United States, its officers or employees are involved. Changes in member's official records reggarding name, Social Security Number, date or place of birth or home of record—required information provided to Director of Selective Service, Federal Bureau of Investigation, and Personnel Research Division of the Air Force Human Resources Laboratory at Lackland Air Force Base, TX. Secretary of the Air Force Legislative Liaison releases when authorized by individual concerned. U. Department of Agriculture for investigative and audit procedures; U.S. Department of the Treasury for Secret Service investigations, Coast Guard Activities Bureaus of Customs, Narcotics, Engraving and Printing and Internal Revenue Service for official activities; US State Department, Federal Aviation Agency for background investigations of employment applicants; Central Intelligence Agency for Investigations, US Postal Service for Official Postal Inspector Duties, General Services Administration for Investigation of Incumbent Employees; Department of Justice for Investigations conducted by the Federal Bureau of Investigation and Immigration and Naturalization; Small Business Administration for Investigations concerning loans, National Security Agency Review of Records for security Investigations, United States Information Agency for Review of Records for Background Investigations. United States Office of Personnel Management to conduct investigations either by personal investigations or written inquriy to determine suiitability, eligibility, or qualifications of individuals for Federal employment, Federal contracts, or access to classified information or restricted areas. Separation information provided to the Veterans' Administration and Selective Service Agencies. American National Red Cross—information to local Red Cross offices for emergency assistance to military members, dependents, relatives or other persons if conditions are compelling. Drug Enforcement Administration. Department of Labor: Bureau of Employees' compensation—medical information for claims of civilian employees formerly in military services; Employment and Training Administration—verification of service-related information for unemployment compensation claims; Labor Management Services Administration for investigations of possible violations of labor laws and pre-employment investigations; National Research Council—for medical research purposes; U.S. Soldiers' and Airman's Home—service information to determine eligibility.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, placed in metal file containers or on open shelves. Microfiche placed in rotary power files; computer disk resident data file consists of Social Security Number (SSN) and disk location of the associated image record which includes document data describing document type, date, location, and number of pages in each document.

RETRIEVABILITY:

Information in the system is retrieved by last name, first name, middle initial and Social Security Number (SSN). Records stored at National Personnel Records Center are retrieved by registry number, last name, first name, middle initial and SSN.

SAFEGUARDS:

The prescribing directive for the Military Personnel Records System requires those records to be stored (after duty hours) in a locked building, room or filing cabinets. Access is specifically limited to those personnel designated by the Consolidated Base Personnel Office (CBPO) Chief and those provisions for access and release of information contained in Air Force Regulation 12–35 and 31–4.

RETENTION AND DISPOSAL:

Users who are granted access to the microfiche files are screened by computer software. Those documents designated as Temporary in the prescribing directive remain in the records until their obsolescence (superceded, member terminates status, or retires) when they are removed and provided to the individual data subject. Those documents designated as Permanent remain in the military personnel records system permanently and are retired with the master personnel record group.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

The individual data subject may be notified that a record exists on him by submitting a request to or appearing in person at the responsible official's office or the respective repository for records for personnel in particular category during normal duty hours any day except Saturday, Sunday or national and local holidays. The Saturday and Sunday exception does not apply to Reserve and National Guard units during periods of training. Response to written requests will be provided not later than ten days following receipt of request. The System Manager has the right to waive these requirements for personnel located in areas designated as Hostile Fire Pay areas.

RECORD ACCESS PROCEDURES:

The same written notification or personal visit procedures which apply to notification also apply to access.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Sources of information contained in the system include data subject's applications, requests, personal history statements, supervisorys' evaluations, correspondence generated within the agency in the conduct of offical business, medical treatment records, educational institutions, civil authorities, other service departments, and interface with the Personnel Data System.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP D

SYSTEM NAME:

Officer Effectiveness Report (OER)/ Airman Performance Report (APR) Appeal Case Files.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX

78150. At consolidated base, reserve personnel offices (CBPOs/CRPOs). Headquarters of the major commands and separate operating agencies. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former officers and airmen of the regular Air Force, the Air Force Reserve and the Air National Guard who appeal for correction of records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copy of individual application, supporting documents, indorsements by the consolidated base, reserve personnel offices and the major command or separate operating agency when applicable, and correspondence reflecting the board's decision on the case, and other official records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; implemented by Air Force Regulation 31–11, Correction of Officer and Airmen Evaluation Reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To answer individual inquiries concerning a particular appeal and, at the Air Force Military Personnel Center (AFMPC) level, as a basis for consideration in preparation of Air Staff advisory opinions on OER/APR appeals.

POLICIES AND PRACTICES FOR SORTING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

File by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

At Air Force Manpower and Personnel Center (AFMPC) case files are maintained for three calendar years from date of last action as indicated in the file, then destroyed. At consolidated base, reserve personnel offices (CBPOs/ CRPOs) and major commands and separate operating agencies, files are maintained for two calendar years from date of last action as indicated in the file, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager or to the consolidated base personnel office (CBPO), consolidated reserve personnel office (CRPO) and, when applicable, to the major command or separate operating agency which processed the appeal.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining acces from the System Manager or any holder of a copy of the individual appeal.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager or the consolidated base personnel office (CBPO), consolidated reserve personnel office (CRPO), as appropriate.

RECORD SOURCE CATEGORIES:

Member's application, indorsements by CBPO/CRPO, official records and documents from other sources, indorsements, when applicable, from the major command or separate operating agency, and correspondence reflecting the appeal board's decision. Also, when applicable, Air Staff advisory opinions furnished the Board for Correction of Military Records (BCMR) under the provisions of Air Force Regulation 31–3."

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP E

SYSTEM NAME:

United States Air Force (USAF) Airman Retraining Program.

SYSTEM LOCATION:

Headquarters United States Air Force, Air Force Manpower and Personnel Center (AFMPC), major command headquarters, and consolidated base personnel offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES IN INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty enlisted personnel who apply for or are in retraining programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Request for Retraining/Lateral Training 7301: This mechanized report contains a broad spectrum of retraining data to track retraining movement between specialties; it also identifies individuals and Major Commands (MAJCOMs) involved; this data can provide detailed identification of retrainees, type of training, type of specialties and other desired data on retraining movement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 901, Training Generally; implemented by Air Force Regulation 39–4, Airman Retraining Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by military personnel officials at base, major command, and Headquarters AFMPC to evaluate decisions on retraining applications.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are accessed by commanders of medical centers and hospitals.

RETENTION AND DISPOSAL:

Rention until training programs are completed or individual leave the Air Force.

SYSTEM MANAGERS(S) AND ADDRESS:

Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Individuals may contact agency officials at the applicable records location in order to exercise their rights under the Act.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Individuals may contact agency officials at the applicable rcords location in order to exercise their rights under the Act.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained fromt the System Manager.

RECORD SOURCE CATEGORIES:

Individual's application and official personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP F

SYSTEM NAME:

Request for Selective Reenlistment Bonus (SRB) and/or Advance Payment of SRB.

SYSTEM LOCATION:

Consolidated base personnel offices at Air Force Installations. Official mailing addresses are in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Enlisted members who are receiving Selective Reenlistment Bonus payments in equal annual installments and request advance payment of one or more such remaining installments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Request for Selective Reenlistment Bonus (SRB) and/or Advance Payment of SRB.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 U.S.C. 308, Special pay: reenlistment bonus; implemented by Air Force Regulation 35–16, Volume I, USAF Reenlisted and Retention Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by immediate commander, major commander headquarters carrer motiviation office, United States Air Force Deputy Chief of Staff/Personnel, Reenlistments Branch, Randolph Air Force Base, TX 78150 to manage advance payment of Selective Reenlistment Bonus monies due in subsequent fiscal years.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained for two years after end of year in which the case was closed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Individual may contact agency officials at the respective servicing Consolidated Base Personnel Office to exercise his rights under the Act.

RECORD ACCESS PROCEDURES:

Individual may contact agency officials at the respective servicing Consolidated Base Personnel Office to exercise his rights under the Act.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Member's application.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP G

SYSTEM NAME:

Selective Reenlistment Consideration.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150 and consolidated base personnel offices at Air Force installations. Offical mailing addresses are in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Initial enlistee within 15 months of original expiration term of service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation of selective reenlistment consideration process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 833, Enlistments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by member's immediate supervisor, member's immediate commander, unit carrer advisor, base career advisor to determine member's reenlistment eligibility.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Filed temporarily in member's Unit Personnel Records prior to reenlistment; permanently filed in Master Personnel Records at time of reenlistment, separation, discharge or retirement.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel, Randolph Air Force Base, Texas 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager or agency officials at the servicing Consolidated Base Personnel Office (CBPO).

RECORD ACCESS PROCEDURE:

Individual can obtain asistance in gaining access from the System Manager or at the servicing CBPO.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Entries are made by the supervisor and commander, and acknowledged by the member.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None

F035 AF MP H

SYSTEM NAME

Air Force Enlistment/Commissioning Records System.

SYSTEM LOCATION

At recruiting offices and Military Entrance Processing Stations (MEPS), Armed Forces Examining and Entrance Stations (AFEES), Liaison Noncommissioned Officer (NCO) offices in all states.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

Applicants for enlistment or commissioning programs.

CATEGORIES OF RECORDS IN THE SYSTEM

Individual's application, personal interview record (PIR) and supporting documents containing name, Social Security Number, finger prints, historical background, education, medical history, physical status, employment, religious preferences (optional), marital and dependency status, linguistic abilities, aptitude and mental test results, parental consent for minors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

10 U.S.C. Chapter 31, Enlistments; implemented by Air Force Regulation 33–3, Enlistment in the United States Air Force.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

Information is collected by recruiters to determine enlistment/commissioning eligibility, and process qualified applicants. Personnel managers use as hard copy documentation of data entered in Personnel Data Systems (PDS). Personnel managers also use certain documents to determine classification and assignment actions after enlistment. All documents are source documents in determining benefits/entitlements.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE

Maintained in visible file binders/cabinets.

RETRIEVABILITY

Filed by name.

SAFEGUARDS

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL

Files of applicants not enlisted are retained in the local recruiting office and destroyed after two years. Records of enlistees that are not forwarded to Master and Unit Personnel Records files are destroyed after two years, by tearing into pieces, burning, shreding, macerating or pulping.

SYSTEM MANAGER(S) AND ADDRESS

Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE

Individuals may contact agency officials at respective recruiting office locations.

RECORD ACCESS PROCEDURE

Same procedure as notification above.

CONTESTING RECORD PROCEDURES

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES

Individual provides through written application or personal interview.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT

None

F035 AF MP I

SYSTEM NAME:

Incoming Clearance Record.

SYSTEM LOCATION

Consolidated base personnel offices at Air Force installations. Official mailing addresses are in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

Record is established for each active duty Air Force member projected for arrival at a new duty location.

CATEGORIES OF RECORDS IN THE SYSTEM

Record contains computer print-out, orders, documents received by the processing unit prior to members arrival.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; implemented by Air Force Regulation 35–17, Preparation of Personnel Selected for Relocation—Base level Procedures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

To provide a central location for retaining documents received prior to a members physical arrival at joining installation of assignment.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE

Maintained in visible file binders/cabinets.

RETRIEVABILITY

Filed by name.

SAFEGUARDS

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Record system is retained until arrival of the member, in-processing has been completed, all documents/components are accounted for. The record is then destroyed by tearing into small bits, pulping, shredding, burning, or macerating.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager or directly to agency official at each duty location.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager

from agency official at each respective location.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Special Orders and information extracted from Personnel Data System (automated record system).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP J

SYSTEM NAME:

Absentee and Deserter Information Files.

SYSTEM LOCATION:

Absentee and deserter documents are maintained in the Unit Personnel Record Group at consolidated base personnel offices. Deserter information files are maintained at major commands of the parent unit of assignment. Official mailing addresses for consolidated base personnel offices and major commands are in the Department of Defense directory in the appendix to the Air Force's systems notices. Case files are maintained at the Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. Permanently retained documents are located at the National Personnel Records Center, Military Personnel Branch, 9700 Page Boulevard, St. Louis, MO 63132 and the Air Reserve Personnel Center, Denver, CO 80280.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty and inactive duty Air Force personnel who are or have been reported absent without leave or who have been administratively classified as a deserter.

CATEGORIES OF RECORDS IN THE SYSTEM:

Duty status change forms; Absentee Wanted by the Armed Forces forms; copy of unit commander's initial and follow-on Report of Inquiry. Includes information concerning circumstances surrounding the unauthorized absence and attempts to locate the individual; copy of notification letter to next of kin stating that member is considered in an administrative status of an unauthorized absentee or deserter; Federal Bureau of Investigation (FBI) and Office of Special Investigations (OSI) reports or extracts therefrom are included in some case files; correspondence administratively classifying the individual as a deserter, if appropriate; Report of Return of Absentee Wanted by the Armed Forces forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 47, Uniform Code of Military Justice, Sections 885, Desertion, 886, Absence without leave and 887, Missing movement; implemented by Air Force Regulation 35–73, Desertion and Unauthorized Absence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Provides documentation and reference source for the administration of individuals administratively classified as deserters. Used as basis for preparing statistical reports required by DOD, managers of unauthorized absentee programs, e.g., Major Commanders, and for promptly reporting changes in individual's status to military federal and civil law enforcement agencies to facilitate apprehension.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed alphabetically by last name.

SAFEGUARDS:

Records are accessed by the custodian of the record system, and by persons responsible for servicing the records system in the performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in file cabinets in buildings that are either locked or have controlled access entry requirements.

RETENTION AND DISPOSAL:

Documents originated at base level are maintained in the Military Personnel Records System. Major command files are maintained as temporary general correspondence files and destroyed by shredding one year after the calender year in which the member returned to military control. Case files maintained at the Air Force Manpower and Personnel Center (AFMPC/DPMAKE) are destroyed six months after the member is returned to military control; however, if additional accountable disclosures are made during that six month period the files are transferred to the Military Personnel Records System and retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff Manpower and Personnel for Military Personnel, Randolph Air Base, TX 78150.

NOTIFICATION PROCEDURE:

During the period of unauthorized absence, no procedures exist for notifying individuals that a Deserter file is maintained on them unless address provided by requester. Subsequent to the member's return to military control individuals can contact the System Manager or visit the locations identified above. Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Contact the System Manager or visit the locations identified above.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Unit Commanders, Consolidated Base Personnel Office representatives, military and civilian law enforcement officials, and anyone who may report information concerning an absentee wanted by the Armed Forces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP K

SYSTEM NAME:

Relocation Preparation Project Folders.

SYSTEM LOCATION:

At Consolidated Base Personnel Offices (CBPOs) only. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Maintained on all active duty Air Force personnel selected for relocation as the result of retirement, separation, release from extended active duty, Permanent Change of Station (PCS), or Temporary Duty (TDY).

CATEGORIES OF RECORDS IN THE SYSTEM:

Relocation records may consist of checklist, orders and amendments, letters from agencies outside the CBPO regarding the member's relocation, record of emergency data, Records Transmittal/Request, servicemen's request for compensation from the

Veterans Administration, PCS or TDY Levy Notification Letter/Brief, duplicates of correspondence directing/authorizing the relocation, Assignment Instruction Worksheet, Basic Assignment Eligibility Checklist, Assignment Preference Statement, Medical/Dental Clearance for Dependent Oversea Travel, Oversea Tour Election Statement, Cancellation/Diversion of Assignment or change of reporting month and components of the Field Records Group for consolidation and forwarding to new location.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by and 8032, General duties; implemented by Air Force Regulation 35–17, Preparation of Personnel Selected for Relocation—Base Level Procedures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Each type of relocation of Air Force personnel requires that specific actions. These actions are described either on a checklist or by sending a form letter to the applicable base activity having a responsibility for insuring accomplishment of the action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binder/cabinets.

RETRIEVABILITY:

Filed by name within departure month.

SAFEGUARDS:

Records are accessed by authorized personnel in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets/or rooms.

RETENTION AND DISPOSAL:

Records are maintained for a period of six months after departure of the member, then removed and destroyed by tearing into small bits, macerating, burning, shredding, or pulping.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager or directly to agency officials at each respective location.

RECORD ACCESS PROCEDURE:

Individual can obtain asssistance in gaining access from the System Manager. And individuals may deal directly with agency officials at each respective location.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Computer print-outs, information obtained from the unit personnel records, from the unit commander, the supervisor and from the member.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP L

SYSTEM NAME:

Unfavorable Information Files (UIFs)

SYSTEM LOCATION:

Complete UIF files are maintained at Consolidated Base Personnel Offices (CBPOs) only. However, UIF summary sheets, a part of the UIF, are also maintained at: individual's unit of assignment (commander's copy), geographically separated units not colocated with a servicing CBPO, and for officers only at the major command of assignment; and for colonels or colonel selectees only an additional copy is maintained at Headquarters, United States Air Force Manpower and Personnel Center (HQ AFMPC/MPCOC), Randolph Air Force Base, TX 78150. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel who are the subject of UIFs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Derogatory correspondence determined as mandatory for file or as appropriate for file by an individual's commander. Examples include: Written admonitions or reprimands, drug abuse correspondence, court-martial orders, letters of indebtedness, control roster correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Regulation 35–32, Unfavorable Information Files, Control Rosters, Administrative Reprimands and Admonitions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Reviewed by commanders and personnel officials to assure appropriate assignment, promotion and reenlistment considerations are made prior to effecting such actions. UIFs also provide information necessary to support administrative separation when further rehabilitation efforts would not be considered effective.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

UIFs are maintained for one year from the date of the most recent correspondence except when the file contains Article 15, Court-Martial or certain civil court conviction, correspondence in which case the retention period is for two years from the date of that correspondence, unless a year retention period for non-related Article 15/court-martial correspondence would post-date the two year retention period for the Article 15/court-martial correspondence, in which case all correspondence would be maintained a year from the most recent non-related Article 15/court-martial correspondence. Files are automatically destroyed upon separation, or retirement and on an individual basis when the individual's commander so determines. Destroy by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Manpower and Personnel for Military

Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Personnel for whom optional UIFs exist are routinely notified of the existence of a file. In all cases personnel have had opportunity or are authorized to rebut the correspondence in the file.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Managaer or agency officials at the servicing Consolidated Base Personnel Office.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Supervisory reports or censures and documented records of poor performance or conduct.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP M

SYSTEM NAME:

Officer Promotion and Appointment.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78159 and headquarters of the major commands and separate operating agencies. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Officers selected/nonselected for active duty promotion or appointment; officers projected as eligible for promotion or appointment consideration.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records is comprised of the following categories of information or subsystems: (1) Officer Selection Brief File. This file contains information extracted from the mechanized USAF Master Personnel File to include basic personnel, flying, and education data for each officer to be considered by a selection board for promotion or Regular Air Force appointment. The preselection brief is provided to each eligible officer in advance of presentation to the selection board. An updated selection brief is produced about 30 days prior to board convening for actual board use. Copies of selection briefs are retained on microfilm. Additionally, a record copy of documentation accepted for manual posting of updates/corrections to the officer selection brief processed for board consideration is retained. (2) Officer Promotions and Appointments Administrative Files. At the Air Force Manpower and Personnel Center (AFMPC), this file includes copies of staff advisories provided to Secretary of the Air Force Board for Correction of Military Records containing promotion and appointment related information in response to specific points in an application. At AFMPC, this file includes background information and proposed responses to Congressional and high-level inquiries in the officer promotions and appointments area. This file further includes, at all levels, information and background relative to any propriety of promotion or appointment action (not qualified recommendation, removal action, delaying action, etc.) processed. This file further includes listings of officers eligible for promotion or appointment consideration. (3) Regular Officer History Card File. This file contains a history card on each active duty Regular Air Force Officer and contains Name, Social Security Number (SSN) Promotion List Service Date (10 U.S.C. 8287), Adjusted Promotion List Service Date (PLSD) (10 U.S.C. 8303 or any other provision of applicable), Date of Birth, Promotion Category (Line, Medical Corps, etc.) (10 U.S.C. 8296), Base Retirement Date (10 U.S.C. 8927), permanent grade history, temporary grade history to include dates of rank, effective dates and special orders announcing the promotion, Total Active Federal Commissioned Service, Date, date officer was placed on or recalled from the Temporary Disability Retired List (if applicable), Regular Air Force Lineal Position Number, Presidential Nomination Date, Total Active Federal Service as of date of Presidential nomination, any commissioned service held prior to Regular Air Force appointment (if applicable), former service numbers if member of other than the Air Force, Public Law under which officer was appointed in the Air Force, Remarks (Secretary of the Air Force Board for the Correction of Military Records correction to records, any adjustments to officer's record and reasons therefor). (4) Air Force Confirmed Nomination Lists. This file includes all Senate confirmed nomination lists for officer appointments and promotions through the grade of colonel. This file contains the only existing official signed document reflecting Senate confirmation. (5) Regular Air Force Officer Promotion List. The Regular Officer Promotion List (Lineal List) is a historical computer-generated product maintained at AFMPC displaying the names of all Regular Air Force officers in lineal order (descending) by promotion category by permanent grade. (6) Active Duty Promotion Sequence File. This file includes a listing and work cards for any officer selected for active duty promotion, sequenced by seniority in grade (rank). (7) Reserve Promotion Administrative File. This file contains historical machine listings and names of officers meeting eligibility criteria for Reserve (permanent) promotion by promotion category, listings of names indicating overdue directed Officer Effectiveness Reports (OERs) and first-time deferred officers and digest files as applicable, board recorders roster, board proceedings listed by name and SSN, selected/not selected and published list of those selected/not selected for permanent (Reserve) promotion. (8) Regular Air Force Appointment Management File. This file includes individual locator cards reflecting a Regular officer selectee's progress from selection by a board of officers to either acceptance or declination; Regular Air Force declination statements; Regular Appointment Board work rosters.

Authority for maintenance of the system: 10 U.S.C. Chapters 35 and 837, Appointments as Reserve Officers. Chapter 835, Appointments in the Regular Air Force, Chapter 839, Temporary Appointments, 37 U.S.C. Chapter 3, Basic Pay and Allowances of the Uniformed Services. 10 U.S.C. Chapter 79, Correction of Military Records, Section 628, Public Law 96–513, the Defense Officer Personnel Management Act, 12 December 1980; as implemented by Air Force Regulation 36–89, Promotion of Active Duty List Officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Air Force operates basically a central selection process for an active duty promotion, of officers to grades 03–06 and all Regular Air Force appointments. As part of the active duty promotion program, major commanders are tasked to conduct below-the-promotion zone screening boards to nominate a given number of officers from their command for central consideration. Selection briefs are retained as a historical record of data presented to an officer selection board

and, as such, are used to validate completeness, accuracy, or omission of data reviewed by boards. Administrative files are used for research, precedence, and reference purposes. Promotion/appointment propriety files are used to monitor completeness, legality, and processing timeliness of the actions. Generally, this records system contains information necessary to manage a diverse promotion and appointment program in a centralized environment. Board results to include names of selectees and statistical analysis of those results are made a matter of public record after appropriate approval of board proceedings. Results of the board are updated to the individual subject in the Personnel Data System. (PDS) after public release of the board proceedings. a computer tape used to produce the officer selection briefs is provided to a commercial contract source (ZYTRON) for production of duplicate copies of these selection briefs on microfiche by the computer-on-to-microfiche (COM) process. The names and Social Security Numbers (SSN) of officers selected by central selection board for an active duty promotion, to grades above captain, and Regular Air Force appointment as well as officers to receive appointments in the Air Force requiring confirmation of such appointments by the Senate of the United States, as provided to the Office of the President of the United States for nomination and to the United States Senate for confirmation. This information will be published in the Congressional Record. Benchmark records are five records of officers from the lowest score category selected by each board and five records of officers from the highest score category not selected by each board captured on microfilm. For boards held prior to 20 October 1975, the benchmark records will consist of only the record of five officers from the lowest score category selected by the board. Benchmark records are used as directed by the Assistant Secretary to the DCS/ Personnel for Special Review Board considerations and for Special Selection Boards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets, card files on computer paper printouts and microfiche.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/ cabinets and in locked cabinets or rooms. Records are protected by guards and records are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

All data contained on the Officer Selection and Preselection Briefs and various selection board computer products is directly extracted from the Headquarters Air Force Master Personnel File. Selection brief documentation backup files in the form of official correspondence, letters, or messages, properly authenticated by an appropriate personnel official, is generated, normally at the officer's request from the servicing Consolidated Base Personnel Office (CBPO). Information is obtained from HQ USAF and major command officer selection folders from Special Orders, oath of office signed by data subject, memorandums from the Secretary of the Air Force Board for Correction of Military Records, selection board reports. Data is obtained from appointment applications from data subject and from the Master Record Group of the applicable Service Department as concerns data subject.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP N

SYSTEM NAME:

Individual Weight Management File.

SYSTEM LOCATION:

At Air Force (AF) unit of assignment of attchment; servicing medical facility. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel and Air Force Reserve Personnel who are enrolled in the Weight Management Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains: individual weight management record; letters informing individual of overweight status, scheduling medical evaluation, and documenting medical progress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force; powers and duties; delegation by; as implemented by Air Force Regulation 35–11, Air Force Physical Fitness and Weight Control Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

File purpose is to document a person's progress in Weight Management program. Those authorized access to the file are the individual, Unit Commander, Unit Monitor, medical personnel, MWR Fitness Instructor, Major Command (MAJCOM) Monitor, CBPO and legal personnel on a need to know basis in performing official duties. The file keeps individuals informed of weight loss in attaining maximum allowable weight, provides history of weight loss and counseling, provides an input for medical determinations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name by Social Security Number (SSN) and grade.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s)

responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are controlled by personnel screening.

RETENTION AND DISPOSAL:

When a person achieves the prescribed weight standard, file is retained for one year and destroyed by unit; or destroyed upon retirement or separation by unit, whichever comes earlier.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Commander, Unit of Assignment of attachment. Inquiries on existence of a file should include full name, grade, SSN, and should go to Unit of Assignment or attachment. Personal visit proof of identity requires possession of Armed Forces Identification Card.

RECORD ACCESS PROCEDURE:

Commander Unit of Assignment or attachment. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP O

SYSTEM NAME:

Unit Assigned Personnel Information.

SYSTEM LOCATION:

Headquarters United States Air Force and major command headquarters. Headquarters of major commands and at all levels down to and including Air Force installations and Air Force units.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel, and Air Force Reserve and Air National Guard personnel. Air Force civilian employees may be included when records are created which are identical to those on military members.

CATEGORIES OF RECORDS IN THE SYSTEM:

File copies of separation actions, newcomers briefing letters, line of duty determinations, assignment actions, retirement actions, in and out processing checklists, promotion orders, credit union authorization, disciplinary actions, favorable/unfavorable communications, record of counselings, appointment notification letters, duty status changes, applications for off duty employment, applications and allocations for school training, professional military and civilian education data, private weapons storage records, locator information including names of dependents, home adddress, phone number, training and experience data, special recognition nominations, other personnel documents, and records of training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Manual 30–3, Mechanized Personnel Procedures, and Air Force Manual 30–130, Base Level Military Personnel System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provides information to unit commanders/supervisors for required actions related to personnel administration and counseling, promotion, training, separation, retirement, reenlistment, medical examination, testing, assignment, sponsor program, duty rosters, and off duty activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, and card files.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation; most records are transient in nature and are maintained only as long as required to fulfill their management purpose or until superseded, then given to the individual or destroyed by shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Inquiries from individuals should be addressed to the respective unit commander or supervisor who maintains the records in order to exercise their rights under the Act.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the respective unit commander of supervisor who maintains the records in order to exercise their rights under the Act. Mailing addresses are contained in the Department of Defense Director in the appendix to the Air Force's Systems Notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by individual concerned may be obtained from the System Managers.

RECORD SOURCE CATEGORIES:

Information obtained from the individual concerned, financial institutions, educational institution employees, medical institutions, police and investigating officers, bureau of motor vehicles, witnesses, reports prepared on behalf of the agency, standard Air Force forms, personnel management actions, extracts from the Personnel Data System (PDS) and records of personal actions submitted to or originated within the organization.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AFOSI A

SYSTEM NAME:

Internal Personnel Data System.

SYSTEM LOCATION:

HQ Air Force Office of Special Investigations (AFOSI), Bolling Air Force Base, DC 20332.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel assigned to the Air Force Office of Special Investigations (AFOSI) and all Air Force military personnel assigned to the Defense Investigative Service (DIS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records reflecting unit authorized positions and unit assigned personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by, and Air Force Regulation 23–18, Air Force Office of Special Investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To manage AFOSI and DIS personnel resources. Used by personnel specialists in all assignment and manning actions. Used to monitor special agent experience level at each operating installation. Used to publish strength accounting reports. Used by the Director of Fraud Investigations to manage fraud coded positions and personnel assigned to fraud operations. Also used to program personnel for advanced fraud training. Used by the Director of Criminal Investigations to manage criminal coded positions and to identify personnel for assignment as criminal specialists. Also used to program personnel for advanced criminal training. Used by the Director of Special Operations to manage counterintelligence and counterespionage positions and to identify personnel for assignment as specialists in these areas. Also used to program personnel for advanced training in these areas. Used by Budget and Accounting Specialists for tracking anticipated personnel travel funds associated with permanent change of station moves. Used by the Commander for locator purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and on computer paper printouts.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

Retained in offices files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Plans, Programs and Resources (XP), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

NOTIFICATION PROCEDURE:

Request from individuals should be addressed to Chief, Information Release Division (XPU), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Chief, Freedom of Information/Privacy Acts Release Branch (DADF), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Data is extracted from individual military/civilian personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FO35 AFOSI B

SYSTEM NAME:

Career Development Folder.

SYSTEM LOCATION:

Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All officers on active duty and all reservists assigned to the Air Force Office of Special Investigations (AFOSI). Also includes those AFOSI officer special agents assigned to any Department of Defense (DOD) activity or DOD sponsored program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning officers on active duty include records of counseling, Office Career Objective Statements, career development patterns, military special orders, pertinent certificates of courses attended. Records concerning reservists include biographical information (personal and military), employment information, unique or special skills, and applicable career correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 275, Personnel Records, and Air Force Regulation 23–18, Air Force Office of Special Investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To monitor and develop career progression. Used by career monitors to ascertain individual career objectives, to recommend job and school assignments, and to counsel personnel. Used by the Commander, supervisors, and personnel specialists in the assignment selection process based on individual eligibility, desires, and special qualifications. User determines if reservist is qualified to perform special reserve tour.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer output products.

RETRIEVABILITY:

Filed ny name. Filed by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security filed containers/cabinets and in locked rooms. Records are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files until reassignment outside of AFOSI or separation/retirement; records are destroyed within 90 days after such actions by tearing into pieces, shredding, pulping, macerating, burning or erasing magnetic disk.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Plans, Programs and Resources (XP), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to Chief, Information Release Division (XPU), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to Chief, Freedom of Information/Privacy Acts Release Branch (DADF), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Data is extracted from individual training and military/civilian personnel records and voluntary data submissions by individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FO35 ATC B

SYSTEM NAME:

Air Force Junior ROTC (AFJROTC) Applicant/Instructor System

SYSTEM LOCATION:

AFROTC/OTU, Maxwell Air Force Base, AL 36112.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AFJROTC instructor applicants and instructors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for AFJROTC instructor duty, processing checklist, applicant evaluation forms, interview record, last 10 Airman Performance Reports or Officer Effectiveness Reports or summary of last 10 reports which includes period of supervision and overall evaluation, letter requesting Defense Central Index of Investigation (DCII) name check, photograph, Report of Separation from Active Duty, Retirement Order (if applicable), Commander's recommendation (for noncommissioned officers on active duty only), miscellaneous correspondence such as resumé and letter of recommendation, copy of AF retirement physical and Physical Evaluation Board Findings if applicant is retired with 30 percent or more disability awarded by VA, letter requesting medical evaluation of AFJROTC instructor applicants for personnel retired with 30 percent or more disability, letter verifying dependents, instructor preference card, instructor intent letter, contract data cards, termination letters, certification certificates, AFROTC Form 0–217, Change in AFJROTC Instructor Status, AFROTC Form 0–214, AFJROTC Instructor Contract Card, AFROTC Form 98 or 0–218, Air Force Junior ROTC Instructor Evaluation Report, letters pertaining to appeals of ratings and/or comments on AFROTC Form 98 or 0.218 and instructor termination questionnaire.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 102, Junior Reserve Officers' Training Corps; and Air Force Regulation 45–39, Air Force Junior Reserve Officers' Training Corps.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to evaluate applicant qualifications for employment as AFJROTC instructors. Also used to determine if instructor is meeting Air Force standards. Routine use includes the referral of any individual's records, if requested, to the Department of Defense, Department of Justice, law enforcement or investigatory authority for investigation of possible criminal prosecution, civil court action, or regulatory order.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, and on computer magnetic tape and computer printouts

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

AFROTC/OTU, Maxwell Air Force Base, AL 36112.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Individuals who write must furnish name, grade, SSN, unit of assignment and address. Visitors must show armed forces identification card and some additional source of positive identification.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, educational institutions, police and investigating officers, the bureau of motor vehicles, a state or local government, witnesses and from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 ATC C

SYSTEM NAME:

Air Force Reserve Officer Training Corps Qualifying Test Scoring System.

SYSTEM LOCATION:

AFROTC/RRUR, Maxwell Air Force Base, AL 36112, and portion pertaining to each AFROTC detachment located at the respective detachment. Official mailing addresses of the detachments are in the Department of Defense Directory in the appendix to the Air Force's system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force applicants testing at Air Force Detachments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, detachment, date of test, test scores, Social Security number, air science year, number of test administrations, institution category, race, sex, marital status, education level, and program applying for.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 103, Senior Reserve Officers' Training Corps; Military Selective Service Act of 1967, Section 6, (50 USC 456); 10 USC 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Force Regulation 45–48, Air Force Reserve Officers' Training Corps (AFROTC).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Scores are used against criteria for entrance into AFROTC, and as a measure of quality. Scores are entered in cadet records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, visible file binders/cabinets, and computer magnetic tapes and computer paper printouts.

RETRIEVABILITY:

Filed by name. Social Security Number (SSN), location of test administration and date of testing.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system software. Buildings are secured after duty hours.

RETENTION AND DISPOSAL:

AFROTC/RRUR will maintain records of scores attained on tests administered at AFROTC detachments for a period of six years. Records are destroyed by tearing into pieces, maceration, burning or degaussing. Air Force Human Resources Laboratory, Brooks Air Force Base, TX 78235 is official repository for permanent record of all AFOQT scores.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Resource Systems and AFOQT Branch, AFROTC/RRUR, Maxwell Air Force Base, AL 36112.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Requests should include full name, SSN, location of test administration, and date of testing.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual's knowledge of subject being tested.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 ATC D

SYSTEM NAME:

Basic Trainee Interview Record.

SYSTEM LOCATION:

United States Air Force Recruiting Service Liaison Office (RSL), Lackland Air Force Base, TX 78236.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Air Force Basic Trainees who register complaints concerning their enlistment in the United States Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records resulting from personal interviews with basic trainees who file complaints about their enlistment, including, but not limited to, investigations on each complaint, conclusions and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: recruiting campaigns; and Air Training Command Regulation 33.2, Recruiting Procedures for the United States Air Force (Recruiting Service).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Provides a written record of interviews with basic trainees who register complaints about the enlistment procedure. The data is used by the Recruiting Service Liaison Office to investigate the complaints and keep the Commander, United States Air Force Recruiting Service advised of the nature of complaints being received. It is also used as the basis for making procedural changes in the United States Air Force Recruiting Service when a trend develops in a specific area.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in the performance of their official duties and by those who are properly screened and cleared for need-to-know. As a physical safeguard these records are stored in a secured building and locked office.

RETENTION AND DISPOSAL:

Records are cut off at the end of each calendar year, held for one additional year, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, United States Air Force Recruiting Service Liaison Office, Lackland Air Force Base, TX 78236.

NOTIFICATION PROCEDURE:

Individuals may contact the Superintendent, United States Air Force Recruiting Service Liaison Office, Lackland Air Force Base, TX 78236. Requests must contain full name, and current mailing address.

RECORD ACCESS PROCEDURES:

Same as procedures for notification.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Records contain specific complaints/allegations made by the individual and responses to the complaints/allegations by appropriate Air Force Recruiting Service personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 ATC F

SYSTEM NAME:

Lead Management System (LMS).

SYSTEM LOCATION:

Air force Opportunity Center (AFOC) (Duties of this Center are performed by a civilian contractor who is engaged by the Air Force to provide lead fulfillment services to Headquarters, United States Air Force Recruiting Service, Randolph Air Force Base, TX 78150. Location depends on the contractor.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Respondents to United States Air Force Recruiting Service advertisements and referrals made by active duty military personnel, retired military personnel and Air force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Respondent's inquiry record containing name, SSN, address, date of birth, sex, telephone number, advertising medium, recruiting program

in which interested, and source of referral, including name and Air Force base assigned. Recruiter contact records containing success of contract efforts, reason for not contacting, how contact was made, confirmation of education level, qualification of individual and status of individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: recruiting campaigns; and Air Training Command Regulation 33–2, Recruiting Procedures for the United States Air Force (Recruiting Service).

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The contractor fullfills requests from respondents for information about the Air Force and notifies appropriate recruiting activities of respondent's interest. Contractor develops statistical summaries which are used by USAF Recruiting Service to evaluate the effectiveness of the advertising and referral programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian and by persons responsible for servicing the system

RETENTION AND DISPOSAL:

Retained by contractor at the AFOC for two years, then destroyed. HQ USAF Recruiting Service computer paper printouts retained for 60 days, then destroyed. Subordinate recruiting activities files retained for one year after final follow up action is complete, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Advertising, USAF Recruiting Service, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual respondent and automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 ATC G

SYSTEM NAME:

Recruiting Activities Management Support System (RAMSS).

SYSTEM LOCATION:

HQ United States Air Force Recruiting Service, Operations Directorate (RSO), Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force enlisted personnel entering active duty. Individuals tested and processed for Air Force enlistment. Potential Air Force enlistees qualified through the Armed Services Vocational Aptitude Battery (ASVAB) high school testing program. Other military services Delayed Enlistment Program (DEP) and active duty enlistees. Applicants for the Officer Training School (in-service commissioning program). Air Force enlisted personnel on recruiting duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Air Force enlistment processing records showing name, SSN, scores on all qualification tests, physical job qualifications, job preferences, jobs offered, jobs accepted, other personal data relevant to jobs offered, recruiting and processing locations, education data, and dates of processing. Airman trainee history records containing name, SSN, and other personnel data for assignment from basic military training, revised job preferences, security clearance investigations, dependent data, education, test scores, grade and promotions, biographical history, physical information, drug abuse history, enlistment personal-and and guaranteed training enlistee program data, separation data, classification data, service dates, technical school eliminations, separations, honor graduates, and Article 15/ courts-martial actions. Records for high school seniors who are ASVAB tested and meet the basic Air Force enlistment criteria showing name, mailing address, test scores, and high school where tested. Enlistment processing records for other military services showing SSN, name, state and county of residence, test scores, educational level, physical profile, processing date and location, prior service, and other personal data such as age, sex, race, marital status, and number of dependents. Officer Training School (OTS) applicant records showing SSN, name, and other educational and personal data necessary for the determination and selection of attendees at OTS and subsequent commissioning as an Air Force officer. Air Force enlisted recruiter individual records showing such items as SSN, name, recruiting office assigned, and data assigned to Recruiting Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: recruiting campaigns: and Air Training Command Regulation 33–2, Recruiting Procedures for the United States Air Force (Recruiting Service).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To furnish leads to the field recruiters derived from the high school ASVAB testing program, evaluate Air Force recruiters on effectiveness of screening out potential under/overweight applicants, evaluate recruiter's and job counselor's activity and efficiency levels, analyze preenlistment job cancellations for common reasons, analyze post-enlistment training pipeline attritions for common reasons, evaluate Air Force job reservation pool and past enlistments for effect of potential changes in enlistment policies in areas such as mental qualifications and physical qualifications, evaluate interservice recruiting performance, screen other service enlistees from Air Force advertising lead files, determine pass/fail rates for mental and physical testing, track training performance of Air Force enlistees, study the correlation of job held with performance on the job, study correlation of quality indicators with post-enlistment performance, feedback to field recruiters of individual records on all training attritions, and analyze advertising responses. Used by the personnel record maintenance activity to cross-check file completeness and accuracy. Individual records are aggregated into various statistical analyses for all levels to ascertain recruiting and seasonal procurement trends, to predict future potential developments, and to assist in the development of procurement,

classification, and assignment policies for Air Force military personnel.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer magnetic tapes, computer magnetic disks and computer paper printouts.

RETRIEVABILITY:

Filed by name, SSN, or non-personal identifier.

SAFEGUARDS:

Records are accessed through computer run scheduling arrangements by persons responsible for servicing the system in performance of their official duties. Computer paper printouts are distributed only to authorized users. Records are physically safeguarded by controlled access to the computer facility, secured buildings and locked rooms.

RETENTION AND DISPOSAL:

Enlistment processing records and recruiter records are retained until no longer needed for recruiting purposes; potential enlistee records and high school test records are retained for two years; advertising lead records are retained for one year; interservice recruiting records are retained for six months. These retentions are built into the computer system program with automatic software controlled deletions from the machine-readable record.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Management and Analysis Division, Directorate of Recruiting Operations, HQ United States Air Force Recruiting Service, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from indivdiuals should be addressed to the System Manager. Request must contain full name, and current mailing address.

RECORD ACCESS PROCEDURES:

Same as procedures for notification.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The source of all records in the system are from automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 ATC H

SYSTEM NAME:

Recruiting Research and Analysis System.

SYSTEM LOCATION:

HQ United States Air Force Recruiting Service, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force enlisted personnel entering active duty. Individuals tested and processed for Air Force enlistment. Potential Air Force enlistees qualified through the Armed Services Vocational Aptitude Battery (ASVAB) high school testing program. Applicants for the Officer Training School. Air Force active duty officer and enlisted personnel. Air Force civilian personnel assigned to Recruiting Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Survey analysis records containing such items as SSN, biographical and opinion survey data, supervisor's ratings, achievement, aptitude, reading, vocational interest and adjustment and temperament inventory scores, Air Force tech training class score, statistics and trend analysis.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: recruiting campaigns, and Air Training Command Regulation 33–2, Recruiting Procedures for the United States Air Force (Recruiting Service).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Research statistical reference file used by HQ United States Air Force Recruiting Service. Specific uses are to: (1) evaluate the quality of Air Force military personnel procured by Air Force Recruiting Service, (2) develop a more objective screening process for entry into recruiting duty, and (3) develop opinion-based recommendations for recruiting effort improvements.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, computer products, and written reports.

RETRIEVABILITY:

Information is retrieved by Social Security Number (SSN), study control number or name to build statistical files.

SAFEGUARDS:

File folders stored in file with lock. Computer records are physically safeguarded by controlled access to the computer facility, and/or stored in file with lock. Records are accessed through computer run scheduling arrangements by persons responsible for servicing the record system in performance of their official duties. Computer paper printouts and reports are distributed only to authorized users.

RETENTION AND DISPOSAL:

Records are retained until superseded, obsolete, no longer needed for reference, or on inactivation. They will then be destroyed by tearing into pieces, shredding, pulping, macerating, or degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Marketing and Analysis, HQ United States Air Force Recruiting Service, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Request from individuals should be addressed to the System Manager. Social Security Number and full name are required to determine if the system contains a record relative to any specific individual. Valid proof of identity is required.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from individuals, supervisors, from Air Force Technical Training Centers and from the Recruiting Activities Management Support System (RAMSS).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 ATC I

SYSTEM NAME:

Status of Ineffective Recruiter.

SYSTEM LOCATION:

Headquarters Air Training Command (ATC) Deputy Chief of Staff for Personnel (DCS/P), Randolph Air Force Base, TX 78150. Official mailing addresses are in the Department of

Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty ATC enlisted recruiter personnel relieved from duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual military record containing active case data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: recruiting campaigns, and Air Training Command Regulation 33–2, Recruiting Procedures for the United States Air Force (Recruiting Service).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

DCS/P uses data to monitor relief actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Stored in locked building.

RETENTION AND DISPOSAL:

Retained in office files until discharge, separation, or reassignment of the individual, then returned to servicing consolidated base personnel office for disposition.

SYSTEM MANAGER(S) AND ADDRESS:

DCS/P, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 ATC J

SYSTEM NAME:

Administrative Discharge Information Summary.

SYSTEM LOCATION:

Quality Control Section, Consolidated Base Personnel Office, 3345th Air Base Group Chanute Air Force Base, IL.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force active duty military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel administratively discharged for cause at Chanute Air Force Base, IL.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by, and Air Force Manual 39–12, Separation for Unsuitability, Misconduct, Resignation or Request for Discharge for the Service; and Procedure for Rehabilitation Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To monitor and provide trend analysis on discharge actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are stored in locked cabinets or rooms and are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

One year from date of discharge. Destroy by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Consolidated Base Personnel Office, 3345th Air Base Group, Chanute Air Force Base, IL.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual military personnel records and completed discharge case.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 HC A

SYSTEM NAME:

Chaplain Personnel Action Folder.

SYSTEM LOCATION:

Headquarters United States Air Force, Washington, DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Duty Chaplains.

CATEGORIES OF RECORDS IN THE SYSTEM:

A grouping of information for each United States Air Force (USAF) chaplain. Items of information in these folders included: correspondence between the chaplain and Headquarters USAF/Chief of Chaplains; copy of ecclesiastical endorsement; correspondence between the chaplain and the chaplain's office at the Air Force Military Personnel Center; summary of education; application for appointment as Reserve of the Air Force; application for extended active duty with the United States Air Force; copy of extended active duty orders; copy of appointment orders; student information sheets prepared while attending USAF Chaplain School courses; current Career Brief; Officer Career Objective Statement, chaplain services personnel evaluation; copies of letters to and from ecclesiastical endorsing agencies concerning their chaplain representative; copies of assignment actions documents; permanent change of station orders, temporary duty orders, request for extension/curtailment of tour, release from active duty orders, request for humanitarian reassignment; retirement orders; informal letters/memoranda of commendation/recommendation; letter of complaint against a chaplain from individuals; reports of investigation; letter/memoranda of favorable/unfavorable information; letters/memoranda

concerning non-professionalism of the chaplain; current photograph; computer printout of military history; copy of withdrawal of ecclesiastical endorsement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and 8067(h), Designation: officers to perform certain professional functions; Defense Officer Personnel Act of 1980.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The documents maintained in these folders are utilized by the Resource Manager in Headquarters United States Air Force/Chief of Chaplains, Personnel Division for assignment selection of chaplains. Because of the necessity to insure an equitable denomination spread of chaplains on an installation and to insure the proper placement of specially qualified chaplains, it is necessary to maintain current information on each chaplain. Records may be disclosed to endorsing agents concerning the qualifications of their chaplains for continued duty as representatives of their denominations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visbile file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system, and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained for 2 years after separation then destroyed by macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Member's personnel action requests/preferences and information retrieved from the Advanced Personnel Data System (ADPS).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MP B

SYSTEM NAME:

Statutory Tour Program

SYSTEM LOCATION:

Headquarters United States Air Force, Washington, DC 20330. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Reserve Component Officers (United States Air Force Reserve/Air National Guard United States) on Extended Active Duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Approval/Disapproval on original correspondence relating to the application (Air Force Form 125), Department of the Air Force Orders, Comments Chief of Air Force Reserve (AF/RE) and Assistant Secretary of the Air Force for Manpower and Reserve Affairs, Deputy for Reserve Affairs SAF/MRR.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 11, Reserve Components; Chapter 805, The Air Staff; Chapter 841, Active Duty; 32 USC Chapter 7, Service, Supply and Procurement, Section 708-Regulatory Authority; implemented by Air Force Regulation 45–22, Reserve Component Representation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Documentary support of tour applications; approval/disapproval; initiation, termination and extension of statutory tours; used as historical reference not to exceed 2 years after tour termination; used by Air Force Manpower and Personnel Center/Assistant for Personnel Plans, Programs and Organizational Requirements, Reserve Advisors Division (AFMPC/DPMYR); used AFMPC/DPMYR as record of approval/disapproval, authority to issue Department of the Air Force Special Orders (DAFSOs); by AF/RE, Director Air National Guard, National Guard Bureau NGB/CF and SAF/MRR as record of approval/disapproval.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. Controlled entry building.

RETENTION AND DISPOSAL:

Retained two years after completion of tour. Retained for two years after end of year in which the case was closed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Air Force Reserve, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Member's application and correspondence generated in transmission and consideration of the application.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MP C

SYSTEM NAME:

Personnel Action File (Digest File).

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150 for active and Air Reserve Personnel Center, Denver CO 80280 for nonactive duty USAFR officers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty officer personnel and nonactive duty USAFR officers who are the subject of a Digest File.

CATEGORIES OF RECORDS IN THE SYSTEM:

Composed largely of summaries/extracts or notices of the Air Force Office of Special Investigations (AFOSI) Reports of Investigation (ROIs). The system may also contain other official records or documents which reflect relevant derogatory information about officers, e.g., notice of involuntary separation proceedings, notice of Special Security File, reports of AWOL/Desertion status, administrative inquiries and investigations, Inspector General (IG) reports, and reports of violations of public trust in contract, procurement, and other matters. Additionally, a file will contain a statement regarding the subject matter from the officer if one is made, plus any comments and recommendations by the member's commander. Finally, a Digest File will contain copies of documentation used to notify the individual and a Decision Authority's decision to retain the file. The system of records also includes letters of notification when digest files are destroyed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by, and Air Force Regulation 36–25, Officer Digest Files.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Digest Files are reviewed by career management officials and Central Selection Boards at HQ USAF, AFMPC, HQ AFRES or ARPC, as appropriate, to insure the propriety of personnel decisions finalized at those levels regarding promotion, assignment, mobilization, recall to extended active duty, selection, utilization and separation. The purpose of such review is to insure that individual career management decisions enhance the quality of professionalism in the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed alphabetically by name or numberically by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by persons responsible for servicing the record system and by other personnel whose names appear on an authorized access list indicating they have a need to know in the performance of their official duties. Records are stored in locked cabinets.

RETENTION AND DISPOSAL:

Files are destroyed 2 years from date established, or 2 years from date new derogatory information is added. Decision authority, in certain justified instances, may destroy active digest files sooner than the specified retention. Active files are destroyed when member separates, retires, or dies, except files on officers who separate and are transferred to AFRES are forwarded to ARPC/DPAAS. Active files are normally destroyed after consideration by a promotion Selection Board and other related boards, except when the Selection Board recommends an officer for show cause action. If selected for show cause the Digest File will be maintained until this action is finalized. Active digest files may be destroyed following receipt of nonjudicial punishment under Article 15, UCMJ or conviction by court-martial, if either action is based upon facts and allegations contained in any investigation which caused creation of the file. Also, active digest files may be destroyed following acquittal by court-martial of the charged misconduct on which the file is based, provided a written determination is issued by the Staff Judge Advocate, AFMPC, that officer did not commit the alleged misconduct. Records are destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Special Control and Records Review Division (AFMPC/MPCAO), Randolph Air Force Base, TX 78150 for active duty officers and Commander, Air Reserve Personnel Center (ARPC), Denver CO 80280 for nonactive duty USAFR officers.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Written requests should contain the member's full name, rank, and SSN. Information may also be obtained by personal visit with the appropriate System Manager. Requests from individuals should be addressed to the Chief, Special Control and Records Review Division (AFMPC/DPMAO), Randolph Air Force Base, TX 78150 for active duty officers or the Documentation Management Officer (ARPC/DAD), Denver, CO 80280 for nonactive duty USAFR officers. Nonactive duty USAFR officers should also include current address and the case (control) number shown on any correspondence received from the Center. Information may be obtained by active duty officers by personal visit with the System Manager upon verification of the identification data required for written requests. Nonactive duty USAFR officers may review records in Record Receptionist's Review Room (2–C20–1) ARPC, Denver, CO 80280, between 8:00 a.m. and 3:00 p.m. on normal workdays. For personal visits, the individual should provide current Reserve ID cards and/or drivers license and present some verbal information that could verify their identity from their record.

RECORD ACCESS PROCEDURES:

Individuals can obtain access to their own Digest Files by following the procedures described above.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Digest File information is obtained from AFOSI, Commanders, Consolidated Base Personnel Offices, FBI, MAJCOMs, HQ USAF/IG and from official records, reports or documents prepared on behalf of the Air Force by boards, committees, panels, and investigating officers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC A

SYSTEM NAME:

Application for Appointment and Extended Active Duty Files

SYSTEM LOCATION:

Air Force Manpower & Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian and United States (US) Armed Forces military members who are applying for appointment/reappointment to United States Air Force Reserve (USAFR) affiliation or Application for Extended Active Duty (AD) with the USAF; extended duty with the United States Air Force (USAF) Medical Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for Appointment and Extended Active Duty Files Report of Medical Examination; Statement of Personal History; Fingerprint Card; National Agency Check Request; State License/Registration (Current State License or State Registration is normally required on Medical Corps (MC), Nurse Corps (NC), and some Bio Medical Sciences Corps (BSC); Letters of Recommendation, Letters of Reference as directed or as required; Application for Appointment as Reserves of the AF or USAF without component; Conditional Release (Conditional release must be obtained for applicants from United States Army Reserve (USAR) or United States Naval Reserve (USNR)); Report of Separation from Active Duty; Transcripts/Dipolma (All transcripts and diploma required to establish eligibility); Record of Personnel Security Investigation and Clearance; Reccord of Disenrollment from Officer Candidate Type Training; USAF Drug Abuse Certificate; Air Force Officer Qualifying Test (AFOQT), Required for Medical Service Corps (MSC) applicants only; Certificate of Citizenship (furnished by those persons not born in US); Statement of Degree Confirm (For those applicants who have not yet completed degree requirements, a letter/statement from the Dean of the college they are attending is required to confirm the fact that they are enrolled, type of degree they will attain, day, month and year of graduation followed up by submitting a final transcript and diploma); Education Council for Foreign Medical Graduates (ECFMG), (Required on those MC where applicable).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

AFR 36–5, Appointment of Officers in the Regular Air Force; as implemented by Air Force Regulation 36–15, Appointment in Commissioned Grades and Designation and Assignment in Professional Categories—Reserve of the Air Force and United States Air Force (Temporary) (PA); and Air Force Regulation 45–26, Voluntary Entry on Extended Active Duty (EAD) of Commissioned Officers of the Air Reserve Forces (PA).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Medical Personnel Programs Branch for the following officer procurement purposes: To select and appoint or reappoint applicants to all corps (MC, DC, NC, BSC and MSC) of the USAF Medical Service; and to select and process officers of the USAF Medical Service of the Air National Guard of the United States (ANGUS) and United States Air Force Reserve (USAFR) for extended active duty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

If selected for appointment or reappointment and Extended Active Duty (EAD), records become the Master Personnel Record and are forwarded to the applicable Utilization and Assignment Branch to send to Air Reserve Personnel Center (ARPC), Denver, CO for further dissemination as required. An abbreviated reference file of selected documents is maintained by the applicable utilization and assignments branch. If not selected, records are then destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Member's application, letters of recommendation, results of National Agency Check and Military Personnel Records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FO35 MPC B

SYSTEM NAME:

Civilian/Military Service Review Board Card

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Women's Air Force Service Pilots (a group of Federal Civilian employees attached to the United States Army Air Force during World War II), or any person in any other similarly situated group the members of which rendered service to the Armed Forces of the United States in a capacity considered civilian employment or contractual service (or their survivors).

CATEGORIES OF RECORDS IN THE SYSTEM:

Cards containing individual's name and Social Security Number, date of application and summary of the case through final decision by the Service Review Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 95–202, Women's Air Forces Service Pilots; as implemented by Air Force Regulation 31–3, Air Force Board for the Correction of Military Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Cards are used by Service Review Board personnel to manage the collection of information requested by the applicant, to monitor the processing

of each case through completion, and to respond to inquires concerning the case.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Stored in secure building.

RETENTION AND DISPOSAL:

Retained indefinitely

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Members' applications, supporting documents and certificates.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC C

SYSTEM NAME:

Chaplain Applicant Processing Folder.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Chaplaincy applicants and Reserve Chaplains applying for active duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Forms used by the Air Force Manpower and Personnel Center (AFMPC) Command Chaplains Office in processing chaplains to active duty including: Application for Appointment as Reserve of the Air Force; Application for Extended Active Duty with the United States Air Force; United States Air Force (USAF) Drug Abuse Certificate; Statement of Personal History; National Agency Check Request; Report of Medical Examination; Report of Medical History; Fingerprint Card; Checklist for Chaplain Appointment; Ecclesiastical Endorsement; Certificate of Continuance of Ecclesiastical Endorsement; Certificate of Seminary Graduation and Ordination; Official Transcripts of College Education; Personal correspondence between resource manager and applicant regarding status of his application.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8067, Designation: officers to perform certain professional functions, and 8293, Commissioned officers; chaplains: original appointment; examination; as implemented by Air Force Regulation 36–15, Appointment in Commissioned Grades and Designation and Assignment in Professional categories—Reserve of the Air Force and United States Air Force (Temporary).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The documents maintained in these transitory folders are used by the resource manager in processing chaplain applicants to active duty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Once applicant is accessed, forms are entered into the Master Personnel Records Group. If applicant does not qualify for appointment, file is destroyed after one year.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual's application.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC D

SYSTEM NAME:

Correction of Military Record Card.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active and retired or discharged officers and airmen. Next of kin of deceased officers and airmen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Summary of correction of records request followed through to its final decision by the appropriate correction board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 79—Correction of Military Records; as implemented by Air Force Regulation 31–3, Air Force Board for the Correction of Military Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To manage collection of all information requested by member and completion of the case by the appropriate correction board.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets, card files, on computer magnetic tapes, disks, or computer paper printouts, or microfiche.

RETRIEVABILITY:

Filed by name, or Social Security Number (SSN)/Air Force Service Number (AFSN). The primary individual record identifier is SSN.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms and computer system software.

RETENTION AND DISPOSAL:

Maintained in computer system for two years after case completion then transferred to microfiche and maintained until no longer needed. The microfiche are then destroyed by pulping, macerating, burning, or tearing into pieces.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Member's application, Master Personnel Records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC E

SYSTEM NAME:

Disability/Non-disability Retirements Records.

SYSTEM LOCATION:

At Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and airmen processed through the disability system and on the Temporary Disability Retired List (TDRL); airmen and officers, active and retired, who inquire or who are the subject of an inquiry concerning disability/non-disability retirement status; and officers and airmen who have requested voluntary retirement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Duplicate copies of medical histories, Secretarial determinations, retirement forms, routine correspondence files, case files, disability retain folders, TDRL punch card data files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 59, Separation; Chapter 61, Retirement or Separation for Physical Disability; Chapter 865, Retirement for Age; Chapter 867, Retirement for Length of Service; as implemented by Air Force Regulation 35–4, Physical Evaluation for Retention, Retirement and Separation, and 35–7, Service Retirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide information on retirement cases and to allow appropriate case processing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Stored in secure building.

RETENTION AND DISPOSAL:

Correspondence files are retained for two years after end of year was closed or inquiry responded to; disability retain files are retained for 90 days after case is finalized; case files are retired to Master Personnel Records Group when service retirement action has been completed; TDRL punch cards destroyed when member is removed from TDRL. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Correspondence and forms generated in Retirements Division (HQ AFMPC/MPCAR), military hospitals, HQ USAF Surgeon General (HQ USAF/SG), HQ AFMPC Surgeon (SG), Consolidated Base Personnel Offices and Major Air Commands, by the members themselves, and by the general public on retirement-related matters.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC F

SYSTEM NAME:

Health Education Records.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All airmen and officers of the United States Air Force (USAF) Medical Service who have applied for training and are in training and applied for training to Air Force Manpower and Personnel Center/Medical Education Division (AFMPC/SGE).

CATEGORIES OF RECORDS IN THE SYSTEM:

Allied Health Selection Board Folders—Application for Officer School Training; Educational Transcripts; Chronological listings of work experience; Letters of recommendation; Specific test results: Scholastic Aptitude Test (SAT); Physician Extender Profile

Exam (PEPE); Manual dexterity test; Grade point averages; Microfische: Officer Effectiveness Reports (OERs); Photo; Air Force Military Personnel Center (AFMPC) Rating Assessment Sheet for Physician Assistant Applicant; Consolidated Base Personnel Office (CBPO) letters: Prerequisite verifications; Counselings on Reenlistment limitations; Reenlistment/extension eligibility; Status of Unfavorable Information File (UIF) folder; Records Review Listing; Verification of Airman Qualifying Examination (AQE), Total Active Federal Military Service Data (TAFMSD), Date Eligible for Return from Overseas (DEROS), Projected assignment; Airman Performance Reports; Applicant Statements: Why training desired; Intent to extend/reenlist; Flying Class III Physical; General Information including Extended Active Duty Date; Date of Rank; Passovers; Command; Base of assignment; Arrived on station; Marital status; Undergraduate Education Selection Folders—Application; Medical College Admission Test (MCAT) scores; Letter of acceptance from an approved school; Dean's letter of recommendation; Transcript; Physical Examination reports; Air Force Institute of Technology (AFIT) Selection Folders—Officer career brief; Letter of recommendation; Transcripts; Graduate Records Examination (GRE) and Admission Test for Graduate Study in Business (ATGSB) scores; Application for AFIT training; Physician Deferment Folder DPM Form 116 (Medical Corps (MC) Appointment Checklist); Field Personnel Record (Duplicate Copy); Application for Appointment in Reserves; Personnel Security Clearance; (Armed Forces Security Questionnaire); DD Form 398 Personnel History Statement; Statement of Understanding for Appointment; Photograph; Request for delay for residency training; Record of computer input; General correspondence with physician/student; hospital agreement form; Transcripts (Pre-med and med school); Air Force Health Performance Scholarship Program (AFHPSP) Service Obligation Agreement; Notification of selection for AFHPSP; Air Reserve Personnel Center (ARPC) orders (45-day active duty tour); Air Force Manpower and Personnel Center (AFMPC) Form 155 (Application for deferment for graduate medical education); Selection/Non-selection for deferment letter; Certificate of medical school completion; Physical examination; Tendering of resignation; Medical disqualification correspondence; Graduate Medical Education Records—Application for sponsored training; AFMPC Form 131; Photograph; Transcripts; Letter of recommendation/evaluation; Career motivation essay; Select/Non-select letters (acceptance/declination); Assignment letter to Major Command (MAJCOM); Training reports; Memos for record; General correspondence with applicant/trainee; Faculty board proceedings; Residency completion letter; Letters of resignation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 105—Armed Forces Health Professions Scholarship and 9301, Members of Air Force: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Medical Education Division, and Medical Education Selection Boards in selecting individuals of the medical service to attend undergraduate and graduate educational programs and technical training. Such programs include undergraduate and graduate nurse education, medical school, residencies and fellowships for physicians, and graduate education for Medical Service Corps (MSCs), BioMedical Service Corps (BSCs), residencies for dental officers, and Physician Assistant program for airmen. Another use of the system is to monitor the individuals progress in an educational program after selection until completion of their program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Allied Health Selection Board Folders and Undergraduate Education Selection Folders: Retained until selection board process in completed; Air Force Institute of Technology (AFIT) Selection Folders: Information in folders is maintained for one year. Exception: Transcripts are used for period of two weeks then returned to AFIT. Physician Deferment Folders: Retained until the individual is called to active duty or separated from the Air Force (AF) Reserve. Graduate Medical Education Records: Retained until individual separates or retires from the Air Force.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, TX.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Member's application, Supervisor's evaluation, master personnel records (board use only), Career Brief (board use only), transcripts, test scores, Deans' letters of recommendation, Standard Form (SF) 88 and SF 93.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC G

SYSTEM NAME:

Medical Officer Personnel Utilization Records.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force active duty medical service officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Utilization records containing: Career briefs; Print-outs; Letters from individuals; Letters from Utilization Branch to individuals; Special Orders; Letters concerning medical service education and training; Copy of application for Indefinite Reserve Status; Copy of request to join spouse; Copy of Specified Period of Time Contract (SPTC) requests; Copy

Air Force Manpower and Personnel Center (AFMPC) Form 8, Assignment/Actions Worksheet; Air Force Manpower and Personnel Center (AFMPC) Form 138, Officer Reassignment; Memorandum of Official Contact, Officer Career Objective Statement; Personnel Action Request; Application for Appointment in the AF Reserve; Recall to Active Duty; Supplement to Application for Commission in the United States Air Force (US) Medical Services; Assignment Notification of Medical Service Officer; Constructive Credit Computation; Personal Interview—USAF Nurse Application; Air Force Institute of Technology (AFIT) Education Plan; Messages; Department of Defense Notificaiton of change in service members official records; Master Personnel Record Fiche; Training/Specialty Board Certification Records; Continuation Pay Contracts; Specialty Badge Award; Personnel Data Systems (PDS) transactions; Record of Office of Special Investigations (OSI) background checks; Resumes/special applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Regulation 36–1, Officer Classification; Air Force Regulation 36–4, Special Pay for Medical Corps Officers; Air Force Regulation 36–5, Appointment of Officers in the Regular Air Force; Air Force Regulation 36–8, Continuation Pay for Dental Corps Officers; Air Force Regulation 36–20, Officer Assignments; Air Force Regulation 36–21, Selective Continuation Program; Air Force Regulation 36–51, Active Duty Service Commitments (PA); and Air Force Regulation 36–94, Specified Period of Time Contracts (SPTC) (PA).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Verify current assignment; verify history of application for: tour extension, tour curtailment, Specified Period of Time Contract, Indefinite Reserve Status, duty Air Force specialty code change, special duty application, formal school application, change of assignment reporting dates, join spouse application; Use AF Form 24 for obtaining date of birth and place of birth when processing assignment to academy or other highly sensitive area of assignment; to hold messages pertaining to assignment; to hold action notices and career briefs as a result of input from original office and any other office pertaining to an individual. This also includes career briefs and action notices from automatic actions (i.e., available assignment); pay computation; grade computation; to provide background information to answer correspondence.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for six months after the individual terminates military service, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Applications for appointment, letters written by individual or on individuals by others. Computer print-outs, forms completed by individuals, Personnel Data Systems (PDS) transactions, other information pertinent to assignments or career development of the officer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC H

SYSTEM NAME:

Medical Opinions on Board for Correction of Air Force Military Records Cases (BCMR).

SYSTEM LOCATION:

AFMPC/SG, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Files are maintained on individuals making application to the Air Force Board for Correction of Military Records on which a medical opinion has been rendered.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains a copy of the medical advisory opinion rendered on Air Force Board for Correction of Military Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by and Chapter 79—Correction of Military Records; as implemented by Air Force Regulation 31–3, Air Force Board for Correction of Military Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

A historical reference, by name, to previous action taken regarding a specific BCMR application.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders in unlocked filing cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files for one year or until no longer needed for reference, tivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

AFMPC Surgeon, Randolph Air Force Base, TX 70148.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC I

SYSTEM NAME:

Office File.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty colonels (grade 0–6) and former active duty colonels (grade 0–6), who have retired, and who have been retired for 12 months or less.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official photograph; Air Force (AF) Form 620, Colonel Resume; Copies of correspondence generated by Assistant for Colonels' Assignments, Air Force Man-power and Personnel Center, Randolph Air Force Base, TX (HQ AFMPC/MPCO) pertaining to the subject of the file, Memoranda of conversations with the subject of the file, Correspondence received by HQ AFMPC/MPCO pertaining to the subject of the file, Memoranda of assignment-related personnel actions contemplated/completed on the subject of the file

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by AFr 36–10 Officer Evaluations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Assignment considerations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets and rotary file bins (Lectriever).

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained until first anniversary of effective date of retirement/separation from USAF of the subject of the file, at which point the office file is destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, AFMPC/MPCO, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Subject of the file, AFMPC/MPCO personnel, other Air Force and outside agency originators of correspondence relating to subject of the file, any additional information which has/could have bearing on assignability of the subject.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC J

SYSTEM NAME:

Airmen Utilization Records System.

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Enlisted personnel on active duty who request reassignment or deferment from assignment under the Children Have A Potential (CHAP) humanitarian programs; or are nominated or volunteer for special assignment; or request information or action through high level channels; or are restricted, along with their dependents, from assignment to certain oversea areas; or are subject to special assignment procedures, such as: reassignment of airmen with known deficiencies; reassignment of threatened airmen; disposition of airmen involved in disciplinary/legal problems en route to permanent change of station (PCS) assignment; or reassignment for trial; Curtailment of Oversea Tour for Cause or are permanently decertified from the Personnel Reliability Program and Master, Senior Master and Chief Master Sergeants on active duty in the Air Force who are considered/selected for an assignment. Enlisted club stewards on active duty in the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation of oral and written dialogue with airmen regarding assignment actions; notification to airman of assignment; oral and written dialogue with commanders regarding assignment actions; projected assignment actions; oral and written dialogue with Air Force multi-level functional managers regarding assignment actions; medical, legal and financial factors related to humanitarian assignment actions; personal assignment preferences, assignment limitations; final and executed assignment actions; high level interest and official Air Force responses; legal and investigative information regarding assignment restrictions; reassignment of airmen with known deficiencies, or involved in disiplinary or legal problems, or for cause, or for personal safety, or for convenience of litigation actions; permanent decertification from the Personnel Reliability Program and extracts from the Personnel Data System (PDS); Airman Career Briefs; Airman Performance Reports and Education Data; senior NCO Academy selection files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10. U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; Air Force Regulation 35–99, Personnel Reliability Program, and Air Force Regulation 39–11, Airman Assignments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to provide senior noncommissioned officers (NCOs) with personalized assignment service and to provide tracking and background data with which to reply to queries from the NCOs. Information is used by the PALACE Nonappropriated Fund resource manager to develop the career and broaden the experience of club stewards and to staff club steward assignment actions. Also used to staff assignments on those airman who have applied for humanitarian—Children Have A Potential (CHAP) assignments; Used to track-select airmen for special assignments, to document responses to high-level inquiries and to provide the rationale for approving or disapproving a request for assignment. UN, PALACE DRAGON. Used to document special assignment actions to certain oversea areas and in those actions involving disciplinary or legal problems, threatened airmen, airmen with known deficiencies, curtailment for cause and when reassignment is required for trial purposes. To monitor assignment restrictions on airmen decertified from Personnel Reliability Program duties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-konw. Records are stored in locked cabinets or rooms, protected by guards and controlled by personnel screening and by visitor registers.

RETENTION AND DISPOSAL:

Destroyed at the end of the calendar year or 18 months after final action on requests for humanitarian assignment, by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Access Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information generated by the Air Force office of primary responsibility; from PDS by inquiry or action notice; law enforcement agencies; investigative agencies; or Air Staff inputs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC K

SYSTEM NAME:

Airman Promotion Historical Records.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty airmen in grades E–4 through E–6 at time of promotion consideration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Microfiche files reflecting individual historical promotion data (up to 1,200 characters) for a specific cycle which is no longer maintained within the automated personnel data system. Contains member identification, promotion eligibility status, select/nonselect status, and critical personnel data. Microfiche files for members in grades E–4 through E–6 contain relative standing and weighted factor scores. Contains worksheets used to manually compute individual promotion status (select/nonselect) for the Weighted Airman Promotion System for those members not considered during the computerized selection process; master listings for each specified promotion cycle reflecting all members in the applicable grade and their specific status: select, nonselect, nonweighable, or ineligible; and listing of promotion sequence numbers assigned to all selections for a specific cycle.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Manual 30–130, Base-Level Military Personnel System, and Air Force Manual 39–29, Promotion of Airmen.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Air Force Manpower Personnel Center/Airman Promotion Division (AFMPC/MPCAW) as the master record of promotion status for a specified cycle. Used to respond to inquiries (including congressional inquiries), for Air Staff advisories to the Air Force Board for Correction of Military Records, to manage the Airman Promotion Program, to recreate promotion status, and to provide statistical data for official use. Used to provide supplemental promotion consideration and to research and/or correct promotion status for a previous cycle. Data may be provided to Department of Defense components and are routinely provided to Air Staff agencies, Major Air Commands and consolidated base personnel offices (CBPO) for official use.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets, on computer paper printouts and on microfiche.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN). Accessed manually by cycle.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or secured building.

RETENTION AND DISPOSAL:

Maintained for 10 years, computed from the date of the original selection process. Manual computation worksheets are maintained for one year and then select/nonselect data are listed on a roster which is maintained for an additional nine years. After the specified retention period, the records

are destroyed by tearing into pieces, shredding, pulping macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78148.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. The request should specify the applicable promotion cycle(s).

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Data purged from the active interim eligible file (promotion file) which is a subsystem of the Personnel Data System.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC L

SYSTEM NAME:

Historical Airman Promotion Master Test File (MTF).

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty airmen in grades E–4 through E–8. Air Force Reserve and Air National Guard airmen in grade E–7.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains historical Specialty Knowledge Test (SKT), Promotion Fitness Examination (PFE) and United States Air Force Supervisory Examination (USAFSE) data which is no longer maintained within the personnel data systems. Includes member identification, test identification, date tested, score and item responses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Regulation 35–8, Air Force Military Personnel Testing System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by Air Force Manpower and Personnel Center/Airman Promotion Division (AFMPC/MPCAW) to research and/or correct promotion status for previous cycles. Data used to resolve inquiries, provide supplemental consideration, prepare Air Staff advisories to the Air Force Board for Correction of Military Records, and manage the Airman Promotion Program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets and on microfiche.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are stored in vaults.

RETENTION AND DISPOSAL:

Maintained for 10 years computed from the date of the original selection process, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

See Exemption.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a (k) (6). For additional information, contact the System Manager.

F035 MPC N

SYSTEM NAME:

Assignment Action File.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Duty Chaplains.

CATEGORIES OF RECORDS IN THE SYSTEM:

Forms used by the Air Force Manpower and Personnel Center (AFMPC) Chaplain's Office for accession and assignments of chaplains on active duty and other chaplain personnel actions. They also contain information and actions pertaining to individuals in the areas of duty Air Force Specialty Code (AFSC) change requests, tour length change requests, humanitarian reassignments and copies of messages directing such actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by and 8067, Designation: officers to perform certain professional functions. Section 8012 and Chapter 805, The Air Staff, Section 8032: as implemented by Air Force Regulation 36–20, Officer Assignments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records are used to answer requests for assignment changes, tour length changes, duty AFSC requests, special assignment consideration.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then

destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Member's application and information retrieved from the Personnel Data System (PDS).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC P

SYSTEM NAME:

Recorder's Roster.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. Washington National Records Center, Washington DC, 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on all Air Force officers who are eligible for promotion consideration and officers considered for Regular Air Force appointment and Reserve Officers considered for involuntary separation, E–9s considered for HYT and any other special board directed by the Secretary of the Air Force or the Chief of Staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing containing record number, name, Social Security Number, date of roster, program control number, component, promotion category, select/ non-select status, FOR OFFICIAL USE ONLY statement and name and year of board. A numerical/chronological listing of all changes to promotion file data base after initial build. Listing of special follow items/OPR letters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 531, Original appointment, and 611, Convening of selection boards; as implemented by Air Force Regulation 36–89, Promotion of Active Duty List Officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records are used to determine whether individuals were considered by the convening board.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Records are accessed by identification of board of consideration and then by inverted Social Security Number of subject by promotion category.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

The records are retained in the Selection Board Secretariat for five calendar years and then retired to the National Archives, Washington, DC.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff, Personnel for Military Personnel, Randolph Air Force Base, TX 78148.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Request must include name, grade, Social Security Number, board identification, promotion category, and zone of consideration as applicable.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The information in these records is extracted from the Selection Board Support File, and from data compiled from individual board member inputs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC Q

SYSTEM NAME:

Officer Utilization Records System.

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150: National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officer personnel on active duty who: are eliminated from flying or technical training; or apply for separation or retirement prior to completion of their active duty service commitment (ADSC); or apply for accelerated entry on extended active duty (EAD); or are available for active duty; or are identified for special career monitoring; or are selected or volunteer for Air Staff training (ASTRA); or are selected for below the zone promotion to major and lieutenant colonel; or are former ASTRA officers below the grade of major and selectees, designees and attendees of Intermediate Service Schools (ISS) and Senior Service Schools (SSS); or are volunteers or are selected for the Air Force Institute of Technology (AFIT); or are nominees, designees, attendees and graduates of Squadron Officers School (SOS), Academic Instructor Courses (AIC), ISS and SSS; or request reassignment or deferment from assignment under the Children Have A Potential (CHAP) Humanitarian Programs; or request information or action through Congressional sources; or apply or are being considered for Air Staff extensions; or possess or are candidates for PHD degrees; or are the subject of a request to change their Duty Air Force Specialty Code (DAFSC); or apply for early release; or have attended AFIT education programs; or are AFIT graduates and request or are identified for a directed duty assignment; or are attending or are recent graduates of Professional Military Education (PME) institutions; or apply for special duty per Chapter 8, Air Force Regulation 36–20; or apply for undergraduate pilot (UPT) or navigator training (UNT); or apply for or are attending test pilot school; or apply for Officer School Training; or are former prisoners of war (POW) as a result of the Southeast Asia (SEA) conflict; or file reclamas regarding flying time computations in support of the

aviation Career Incentive Act; or visit or write the Air Force Manpower and Personnel Center (AFMPC)/ Directorate of Personnel Resources and Distribution, Officer Career Management Division for career counselling; or are selected for assignment or reassignment; or are nominated for assignment or are currently assigned to agencies outside the Air Force; or are permanently disqualified from the Human/Personnel Reliability Programs (HRP/PRP); or are identified for special monitoring due to unique or special qualifications; or apply or are identified for levy exempt status; or Reserve officer personnel not on EAD who: apply for accelerated entry on active duty; or Reserve Officers and Air Force Reserve Officers Training Corps who apply for reserve duty in lieu of extended active duty (EAD); on assignment who received late assignment notification.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation of: Actions related to entry, including accelerated; on active duty, special career monitoring; actions related Air Staff Training (ASTRA) selectees or volunteers; special assignments for individuals who demonstrate well above average performances; actions of the AFIT Selection Board and disposition of AFIT applications: Elimination actions accomplished by training activities; Reclassification actions following elinination from training; disposition of applications with justification for levy exempt status; Command comments regarding specific assignment actions; Recommendations regarding retirement or separation prior to ADSC; Disposition of applications for reserve duty in lieu and EAD; Individual career objectives, assignment preferences, limitations; Promotion board reports for major, lieutenant colonels and colonels; Medical, legal and financial factors related to humanitarian assignment actions; Oral and written dialogue with officers regarding assignment actions; High level interest and official Air Force responses; Disposition of applications for Air Staff tour extensions with summary of findings; Award of PHD or pursuit of PHD degree; Request for, staffing of, and disposition of DAFSC changes, Staffing, Early Release Board action summaries and disposition of early release requests; Assignments of personnel who have attained advanced AFIT degrees; Directed duty assignments (DDA) considered because of AFIT education; Assignment considerations of PME students and graduates; Staffing and other action related to consideration of requests for special duty or UPT or UNT or Test Pilot School or Officer School Training; Assignment actions pertinent for former POW of the SEA conflict; Response to reclamas regarding flying time computations; Assignment and career development counselling actions; Assignment to Department of Defense and Joint Chiefs to Staff activities; Disqualification from HRP or PRP; Special monitoring actions of individuals with unique or special qualifications; and the following forms and documents: Air Force (AF) Form 112, Officer Counselling Data Card; AF Form 11, Officers Military Record; AF Form 11, Officers Military Record; AF Form 215, Application for Officer Training; AF Form 2095, Assignment—Personnel Action: AFMPC Form 93, Assignment for AFIT Graduate; PDS Extract related to flying or technical training, education, experience and other assignment factors; Assignment action cards; Assignment work sheets; Career Briefs; Officer Career Objective Statements; Tracking Log; Record of Assignment Action Number (AAN); Assignment Orders; Precision Measurement Equipment (PME) and special category summary forms; Background checks; Officer Palace Manning Report; Short Tour Return Date Roster; Eligible for Overseas Roster; Officer Effectiveness Report; PDS Action Notices Regarding Assignment Factors/Considerations on assignment who received late assignment notification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by AFr 36–20, Officer Assignments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To make a determination regarding the retention and/or reclassification of those officers eliminated from flying or technical training. To make a determination on requests for levy exempt status for officers who have been selected to perform duty on special projects and the individual or major commend (MAJCOM) request that the individual be deferred from assignment selection. To make a determination regarding applications for accelerated active duty and on applications for duty with the Air Force Reserves in lieu of extended active duty (EAD). The basis on which to make a recommendation to the Air Force Military Personnel Center (AFMPC), Directorate of Personnel Program Actions (DPMA) regarding waiver of Active Duty Service Commitment (ADSC) for those officers who have applied for separation or retirement. To monitor and staff the initial assignment for officer accessions. To track those officers identified for special career monitoring. To confirm that Air Staff Training (ASTRA) volunteer status has been updated in the Personnel Data System (PDS), also used by Resource Managers to staff extensions of tour, curtailment of tour, Duty Air Force Specialty Code (DAFSC) changes and follow-on assignments. Used by career and Resource Managers to insure that officers who have demonstrated above average performance are considered for challenging and responsible positions. Used by AFIT Selection Board to answer inquiries concerning the status of an application; to monitor officers currently in AFIT; and to work extensions or program changes. Used to nominate and monitor officers for attendance at Intermediate and or Senior Service Schools. Data is also used to track graduates of the Squadron Officer School (SOS) and Academic Instructor Courses (AIC). To staff assignments on those individuals who have applied for humanitarian—CHAP assignments. To fully document the response to an inquiry and to provide the rationale for approval or disapproval of a requested assignment. To staff and make a determination regarding tour extensions. To monitor holders of doctorate degrees and candidates thereof to insure proper utilization of those officers holding doctorate degrees. To staff DAFSC change requests and to make a determination regarding retraining. To make a determination by the Early Release Board regarding an officer's request for early release. To monitor and or assign those officers possessing advanced AFIT degrees; action is essential for proper utilization of advanced degree holders. To make a determination regarding a Directed Duty Assignment (DDA) change on those officers who incurred the DDA as a result of AFIT education. To monitor and staff assignments for Professional Military Education (PME) attendees and or graduates. To monitor and select officers for special duties. To monitor officers who have applied for undergraduate pilot and-or navigator training; used along with the master military personnel record in the selection process. To monitor officers who have applied for and-or are currently attending Test Pilot School. To monitor officers who have applied for Officers School Training. To monitor the utilization of former prisoners of war of the Southeast Asia conflict. Used as

backup reference for Aviation Career Incentive Act reclamas. To staff assignments and related actions. Used in the counselling of officers and as background reference documentation for visists of officers to the Air Force Manpower and Personnel Center (AFMPC) and for the response to correspondence between the officer and the AFMPC Resource Manager. Data are used in the assignment selection process to insure fair and equitable assignment selection. Additionally, the information and-or computer products are used to determine unique or specific qualifications for particular assignment. Used by resource temas to nominate officers for assignment to Department of Defense and Joint Chiefs of Staff activities outside the Air Force including release of military personnel records and data to those agencies. To monitor those offficers disqualified from Human and-or Personnel Reliability Programs (HRP-PRP) duties. It is also used to insure these individuals are not placed in HRP-PRP positions. Officer assignment block records are used by the interested office to tract individual assignment actions. The blocks are also used in identifying individuals with unique or special qualifications. Used to determine if officers are receiving minimum assignment notification in accordance with established policy.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Documentation records are destroyed after 12 months; or retained until officer leaves ASTRA program; or destroyed when superseded; or destroyed upon indiviual's completion of AFIT program or upon nonselection to AFIT whichever occurs first; or destroyed when officer is separated or retires; or destroyed 18 months after approval CHAP request or 12 months after disapproval; or destroyed when officer completes Air Staff tour extension or after 12 months whichever is longer; or destroyed after completion of DDA; or destroyed 12 months after graduation from PME or Officer School Training; or destroyed when application for special duty is withdrawn; or destroyed after completion of UPT/UNT or when eligibility for training expires; or destroyed 3 months after graduation from Test Pilot School; or POW records will be retired to a permanent storage facility on 1 January 1977; or destroyed when Departmental or Joint activity tour is completed; or retained permanently if related to HRP/PRP disqualification but not after separation. Methods of destruction are burning, pulping, shredding, macerating, or tearing into small bits.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

PDS inquiries or action notices; Information generated by the Air Force multi-level offices of primary responsibility; Extracts or copies of military personnel records; Air Staff inputs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MPC R

SYSTEM NAME:

Air Force Personnel Test 851, Test Answer Cards.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty airmen in grades E–4 through E–8. Air Force Reserve and Air National Guard airmen in grade E–7.

CATEGORIES OF RECORDS IN THE SYSTEM:

Item responses (answers) for Specialty Knowledge Tests (SKT), Promotion Fitness Examination (PFE) and United States Air Force Supervisory Examinations (USAFSE).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Regulation 35–8, Air Force Military Personnel Testing System, Chapters 14, 15, and 16.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Air Force Manpower and Personnel Center/Airman Promotion Division (AFMPC/DPMAW) to score tests. The percent correct score on the SKT, PFE, and USAFSE, are weighted factors in the Weighted Airman Promotion System (WAPS) to advance airmen (E–4 to E–8) to the next higher enlisted grade. The percentile score on the 9-level upgrade exam is used as an eligibility criterion for promotion to grade E–8 and award of the superintendent (9) Air Force Specialty Code (AFSC) skill level, for ANG and AFRES.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in vaults.

RETENTION AND DISPOSAL:

Maintained for 12 months following completion of promotion cycle for which member was tested, then destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX.

NOTIFICATION PROCEDURE:

See Exemption.

RECORD ACCESS PROCEDURE:

See Exemption.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

See Exemption.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a (k)(6). For additional information, contact the System Manager.

F035 MPC S

SYSTEM NAME:

Aviation Service Branch File

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active and Inactive Officers and Airmen concerning any qualification/disqualification for aviation service action and determination of eligibility for aero badges.

CATEGORIES OF RECORDS IN THE SYSTEM:

Air Force members: Rated officers removed from or returned to flying status, Officers granted United States Air Force (USAF) aeronautical rating as a result of aeronautical rating boards; Nonrated members, officer and enlisted, who request action or consideration for flying status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8691; as implemented by Air Force Regulation 35–5, Parachutists, Air Force Regulation 35–13, Aviation Service, Aeronautical Ratings, and Badges, and 35–42, Missile Badge.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Response to inquiry by an individual or an intermediary; such AS legal counsel through judicial action or the Secretary of the Air Force Board for Correction of Military Records (SAF/BCMR), Member of Congress, a high ranking official such as the Secretary of the Air Force, Chief of Staff, United States Air Force, Air Force Deputy Chief of Staff/Manpower and Personnel, Air Force Assistant Deputy Chief of Staff/Manpower and Personnel for Military Personnel; wherein a rated officer is returned to or removed from flying status, the record is reviewed within Officer Career Management Division, Air Force Manpower and Personnel Center for assignment determination action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name. Each card lists the nature of the action and includes a cross reference showing the subject file containing the record of correspondence. The card file is a "finder" index used to facilitate/expedite location of records pertaining to an individual and as source of statistical data.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in cabinets.

RETENTION AND DISPOSAL:

Retained in office files until no longer needed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Correspondence generated at base level, Major Air Command or Air Staff Level.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 TAC A

SYSTEM NAME:

Informational Personnel Records (PA Personnel Background)

SYSTEM LOCATION:

Office of Public Affairs, HQ Tactical Air Command (PA) Langley Air Force Base, VA 23665.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel, Military and Civilian, assigned to the Public Affairs function within Tactical Air Command (TAC).

CATEGORIES OF RECORDS IN THE SYSTEM:

Background record name, date of rank, date assigned, date of separation, Air Force specialty codes, photo, education, training, home address, telephone No., and assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of Air Force: powers and duties, delegation by, and Air Force Regulation 190–1, Public Affairs Policies and Procedures, TAC Sup 1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Office of Public Affairs, Headquarters, Tactical Air Command to identify personnel for deployment in exercises, contingencies, and for intra-command reassignment.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files, on computer paper printouts and on aperture cards.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Public Affairs, HQ TAC/PA, Langley Air Force Base, VA 23665.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Request must contain name and organization of assignment. ID card or drivers license required for identification.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

From gaining/losing Major Command, Personnel Files, AFMPC Office of Public Affairs personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F040 AFLC A

SYSTEM NAME:

Air Force Logistics Command (AFLC) Senior Civilian Information File.

SYSTEM LOCATION:

Directorate of Civilian Personnel, Headquarters AFLC, Wright-Patterson Air Force Base, OH.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AFLC personnel grade GS–16 and Senior Executive Service members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Picture, biography, grade, series, organization, location, primary specification number (PSN), approval date, SCD, date of birth, date assigned, veterans status, education level, name, title.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties, delegation by, and AFLC Supplement 1 to Air Force Regulation 40–300, Filling Positions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Preclude gathering each time needed, justify retention of PSN, provide biographical information as needed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File binder.

RETRIEVABILITY:

Name, grade, organization.

SAFEGUARDS:

File cabinet.

RETENTION AND DISPOSAL:

One year after incumbent leaves position. Records are then destroyed by tearing into pieces, shredding, macerating, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Civilian Personnel, Headquarters, AFLC Wright-Patterson Air Force Base, OH.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

HQ AFLC Office of Information, Civillian Personnel Statiscal Accounting System.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F045 ATC A

SYSTEM NAME:

Air Force Junior ROTC (AFJROTC) Instructor/Applicant System.

SYSTEM LOCATION:

AFROTC/OTU Headquarters Air University, Maxwell Air Force Base, AL 36112.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AFJROTC instructor/applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

AFJROTC Address Form; (two pages), Application for AFJROTC Instructor Duty; AFROTC Application Form, Processing Checklist; Applicant Evaluation Forms; Applicant Interview Record; last 10 Airmen Performance Reports or Officer Effectiveness Reports or summary of last 10 reports which includes periods of supervision and overall evaluation; letter requesting Defense Central Index of Investigation (DCII) name check; photograph; Report of Separation from Active Duty; Retirement Order; Commander's Recommendation (for noncommissioned officers on active duty only); miscellaneous correspondence such as resume and letter of recommendation, copy of Air Force retirement physical and Physical Evaluation Board Findings if applicant is retired with 30% or more disability; copy of Veterans Administration (VA) Form Letter, Medical Forms from VA, if applicant is retired with 30% or more disability awarded by Veterans Administration; letter requesting medical evaluation of AFJROTC instructor applicants for personnel retired with 30% or more disability; Letter Verifying Dependents; Instructor Preference Card; Instructor Intent Letter; Contract Data Cards; Termination Letters; Outstanding Instructor Certificate; Certification Certificates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2031, Chapter 102—Junior Reserve Officers' Training Corps.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to evaluate applicant qualifications for employment as AFJROTC instructors. Name, rank and address of applicant furnished to school when nominated for employment. Information is furnished the authority performing the DCII name check.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, and on computers and computer products.

RETRIEVABILITY:

Filed by name. Social Security Number (SSN), and grade.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system software. Building locked after duty hours.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolute, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Instructor Management Division, AFROTC/OTU, Maxwell Air Force Base, AL 36112.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Individuals who write for information must furnish name, grade, Social Security Number and address. Visitors must show armed forces identification card and an additional source of positive identification.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, educational institutions, police and investigating officers, the bureau of motor vehicles, a state or local government, witnesses, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F045 ATC B

SYSTEM NAME:

Air Force Reserve Officer Training Corps (AFROTC) Membership System.

SYSTEM LOCATION:

AFROTC/XRSZ, Maxwell Air Force Base, AL 36112. Copies pertaining to each AFROTC detachment are located at the respective detachment. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AFROTC cadets (all contract and noncontract students).

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number (SSN), AFROTC Detachment number, AFROTC Detachment assignment, Area crosstown/consortium student identification, Reason for AFRTOC member given, type AFROTC program, AFROTC Aerospace studies course, AFROTC membership, status, initial AFROTC category when first enrolled, current AFROTC category, reason for change, Air Force officer qualifying test scores, established graduation date, current established commissioning date, field training status, AFROTC member field training rating academic specialty, date entered professional officer course training, prior service, date of enlistment in the Air Force Reserve, sex, race, date of birth, AFROTC college scholarship status, AFROTC Aerospace studies course when scholarship was activated, length of AFROTC scholarship entitlement, date of scholarship activation, estimated date of scholarship completion, Junior Reserve Officer Training Corps/Civil Air Patrol progression level, Air Force Junior ROTC Corps identifier, year completed Air Force Junior ROTC, cumulative grade point average, type academic credit, Flight Instruction Program Status, category eligibility, service component, personnel accounting symbol, first assignment, additional scholarship information is proposed for future use.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 103—Senior Reserve Officers' Training Corps; and Air Force Regulation 45–48, Air Force Reserve Officers' Training Corps (AFROTC).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Cadet personnel data used by detachments, staff, and AFROTC Commandant to manage the program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer magnetic tapes and computer paper printouts.

RETRIEVABILITY:

Filed by name or SSN.

SAFEGUARDS:

Records are accessed by custodian of the record system and stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Computer history tapes are retained indefinitely.

SYSTEM MANGER(S) AND ADDRESS:

Chief, Systems Design and Operations Branch, AFROTC/XRSZ, Maxwell Air Force Base, AL 36112.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Requests should include name, SSN, detachment, and date enrolled.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports and from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F045 ATC C

SYSTEM NAME:

Cadet Records.

SYSTEM LOCATION:

AFROTC/SDA, Maxwell Air Force Base, AL 36112 and AFROTC detachments. Official mailing addresses of the detachments are in the Department of Defense directory in the appendix to the Air Force's system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AFROTC cadets applying for, or enrolled or previously enrolled within the past three years in the professional officers course or the general military course, if the latter participation was in a scholarship status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for enrollment in the Air Force Reserve Officers' Training Corps (AFROTC) courses, applications for the AFROTC scholarship program, substantiation documents of qualification for the courses or programs, acceptances of applications, awards of scholarships, documents attesting to medical, academic, moral and civic qualifications, documents recording progress in flying instruction, academic curriculum and leadership training, counseling summaries, records of disenrollment from other officer

candidate training; records of separation or discharge from officer candidate training; records of separation or discharge of prior servicemen; financial record data, certification of degree requirements; documents tendering and accepting Commissions, documents verifying national agency checks or background investigations, documents required or proffered during investigations for disenrollment, legal opinions, letters of recommendations, corroboration by civil authorities, awards, citations; and allied papers. Field training administration records consist of student assignment/orders, in-processing checklist, counseling records, drill evaluation, weekly quarters inspection, discrepancy reports, student performance reports. Flight instruction program records consist of student eligibility, grade sheets and performance records, training certificates, waiver and elimination actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C. Chapter 103—Senior Reserve Officers' Training Corps; and Air Force Regulation 45–48, Air Force Reserve Officers' Training Corps (AFROTC).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used for recruiting and qualifying a candidate for acceptance as an AFROTC cadet, continuing the cadet in the program and awarding an Air Force commission. Each detachment, located at its host institution, is the routine user for the members in its particular program. AFROTC, Maxwell Air Force Base, AL, is a user by exception, that is, data is requested from the routine user if there is an aberration in the qualification of an individual for acceptance, continuation or graduation from the ROTC program. AFROTC exercises waiver authority that enables deserving individuals to remain in the program on a conditional basis if they perform below standards. AFROTC also requests data for disenrollments, changes in categories and graduation dates. Additionally, AFROTC requests data from the routine user for congressional inquiries, special projects, awards, honors and inter-service ROTC transfers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The life cycle of the records begins with the application and testing of the candidate. Documents establishing qualification and satisfaction of criteria along with contracts and allied documents establish the cadet record. Progress documents, counseling sheets and performance records are maintained until graduation and commissioning. Finally, the records are destroyed one year after commissioning. An exception to the one year retention is the record of a disenrollee, one who does not complete the program nor receive a commission. Under these circumstances, the cadet record is maintained for three years. Further disposal of records is by burning, pulping or tearing into pieces.

RETRIEVABILITY:

Records are retrieved by name, Social Security Number and detachment number as paper records in file folders.

SAFEGUARDS:

Storage in file cabinets that are accessible to the detachment staff and the individual concerned. AFROTC employs a locked rotary diebold power file and file cabinets accessible to the staff.

RETENTION AND DISPOSAL:

Records are destroyed by standard means one year after a cadet is commissioned. Disenrolled cadets: records are retained for three years and then destroyed by tearing into pieces, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of senior program, Air Force Reserve Officer Training Corps Maxwell Air Force Base, AL 36112; and detachment Commander of the appropriate AFROTC detachment.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the detachment Commanders of their particular AFROTC detachment indicating their name and Social Security Number. However, if their request for information involves an investigation for disenrollment, the addressee is AFROTC/SDA, Maxwell Air Force Base, AL 36112, both addresses may be visited by the requester.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the detachment Commanders of their particular AFROTC detachment, indicating their name and Social Security Number. However, if their request for information involves an investigation for disenrollment, the addressee is AFROTC/SDA, Maxwell Air Force Base, AL 36112, both addresses may be visited by the requester.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Sources of records in the system are educational institutions, secondary and higher learning; government agencies; civilian authorities; financial institutions; previous employers; individual recommendations, interviewing officers; and civilian medical authorities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a(k). For additional information, contact the System Manager.

FO45 ATC D

SYSTEM NAME:

AFROTC Field Training Assignment System.

SYSTEM LOCATION:

AFROTC/OTDF Headquarters Air University, Maxwell Air Force Base, AL 36112.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AFROTC cadet and active duty military personnel assigned to AFROTC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel assignment request, availability, and actual assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 103, Senior Reserve Officers' Training Corps, and Air Force Regulation 45–3, Air Force ROTC Field Training Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to assign staff and students to field training locations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders and on computer and computer output products.

RETRIEVABILITY:

Filed by name of Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms and controlled by computer system software.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Field Training, AFROTC/OTDF, Maxwell Air Force Base, AL 36112.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Individuals must provide name, SSN and unit of assignment.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

AFROTC detachment personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F045 MPC A

SYSTEM NAME:

Educational Delay Board Findings.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve Officers' Training Corps (AFROTC) Cadets and/or AFROTC graduates (officers)

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for delay in entering extended active duty status to pursue advanced degrees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 31, Enlistments; as implemented by Air Force Regulation 33–3, Enlistment in the United States Air Force.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to inform aplicants of results of Board action on their request for delay.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Disapproved applications are destroyed after 6 months; approved applications are destroyed on completion of delay.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Member's application.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 AFCC A

SYSTEM NAME:

USAF Air Traffic Control (ATC) Certification and Rating Documentation.

SYSTEM LOCATION:

Headquarters of major commands and at all levels down to and including Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel, and Air Force Reserve and Air National Guard personnel assigned ATC duties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records on individuals by name and Social Security Number (SSN), certificate number, military status (active duty, reserve, or air guard), requested action (issue, reissue, or cancellation of certificate), and justification. Contains documentation compiled by requesting unit to justify withdrawal of certification. May include evaluation by medical authorities, legal, Office of Special Investigation results, and statements by supervisory personnel and co-workers. Contains copies of performance reports and unfavorable information files. Includes headquarters staff evaluation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by, as implemented by Air Force Communications Command Regulation (AFCCR), 50–20, USAF Air Traffic Control Certification and Rating.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Documentation used to evaluate request for withdrawal of ATC certification. Permits immediate access to name, SSN, certificate number, date of issuance, and category of service. A master roster is maintained at Headquarters AFCC and the units maintain individual certificate information in the individual's training record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders note books/ binders and on computer paper printouts.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. Records are controlled by computer system software.

RETENTION AND DISPOSAL:

Retained for one year after end of year in which the case was closed, transferred to a staging area for one additional year, then destroyed by tearing into pieces, shredding, pulping macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Air Traffic Services, HQ AFCC, Scott Air Force Base, IL 62225 and Air Traffic Operations at unit level.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports, and from medical institutions, trade associations, police and investigating officers, state and local governments, and witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 AFCC B

SYSTEM NAME:

USAF Air Traffic Control (ATC) Training Program.

SYSTEM LOCATION:

Air Force installations, Air National Guard activities, and Air Force Reserve units. Addresses are in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel and Air Force Reserve and Air National Guard personnel assigned ATC duties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Air Traffic Controller evaluation record; Air Traffic Control (ATC)/ weather certification and rating record; special task certification and recurring training record; on-the-job training record-continuation sheet.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by, as implemented by Air Force Comunications Command Regulation (AFCCR) 50–23, USAF Air Traffic Control and Training Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to document progression of individuals in the upgrade training program, provide data base for determining program revisions, identify fast/slow progressors, and identify deficient areas in previous technical training which impacted on individual's performance during upgrade training. Record of position certifications and facility ratings and weather certifications, documenting special ATC training, and training problems.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in AF Form 623.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Maintained in work area under surveillance of personnel on duty.

RETENTION AND DISPOSAL:

Given to the individual concerned when no longer valid or the individual is no longer performing ATC duties, or torn into pieces, pulped, burned, shredded or macerated.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Air Traffic Services, Scott Air Force Base, IL 62225; Air Traffic operations Officers at all other levels.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can request access to records through the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from witnesses and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 AFCC C

SYSTEM NAME:

Individual Academic Training Record.

SYSTEM LOCATION:

AFCC System Evaluation school, 1815 Test and Evaluation Squadron (AFCC), Wright-Patterson Air Force Base, OH 45433; AFCC Radar Evaluation School, Hill Air Force Base, UT 84056.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military, Air Force Reserve, Air National Guard, Army National Guard, and Department of Defense civilian personnel who are electronics engineers, Communications engineers, radio relay equipment manintenance specialists, technical control specialists, foreign Air Force students, and others who apply for this training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel index; absentee report; class pre-graduation/graduation roster; attendance record; record of individual training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To record emergency data and course completion information and report student absences to the school commandant.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and card files.

RETRIEVABILITY:

Filed by student name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Stored in file cabinet.

RETENTION AND DISPOSAL:

Retained for ten years after individual completes or discontinues training course, then destroyed by tearing into

pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant, AFCC Systems Evaluation school, 1815 Test and Evaluation Squadron, Wright Patterson Air Force Base, OH 45433; Commandant AFCC Radar Evaluation School, Hill Air Force Base, UT 84056.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information from instructor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 AFCC D

SYSTEM NAME:

Student Record.

SYSTEM LOCATION:

AFCC NCO Professional Military Education Center, Air Force Communications Command (AFCC), Keesler Air Force Base, MS 39534.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Duty Air Force enlisted personnel and Air National Guard personnel assigned to AFCC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student record including individual's academic standing; student evaluation; reading laboratory progress record; record of individual counseling; student roster.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Force Regulation 50–39/AFCC Supplement 1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

This form is the record of student's attendance at AFCC Academy or NCO Leadership School. Used to record vital information on each student including examination grades, class standing, and completion of or elimination from course. Serves as locator card. Used to provide data for statistical reports submitted to higher headquarters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in files folders.

RETRIEVABILITY:

Filed by student name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

After the end of the year in which the individual completes or discontinues a training course, the record is transferred to a staging area for nine additional years, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, Academic Services, AFCC NCO Professional Military Education Center, Keesler Air Force Base, MS 39534.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions and Chief Training and Education Division Directorate of Personnel Programs, Deputy Chief of Staff for Personnel, Headquarters AFCC.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None

F050 AF MP A

SYSTEM NAME:

Education Services Program Records (Individual).

SYSTEM LOCATION:

Base Level Education Services Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All officers and airmen who participate in the Education Services Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pertinent education data maintained in an educational file folder may be Air Force (AF) form 118, Notice of Student Withdrawal/Noncompletion (copy) (cy); AF Form 186, Individual Record-Education Services Program (cy); AF Form 204, Permissive Temporary Duty (TDY) Request—Operation Bootstrap (cy); AF Form 1033, Academic Education Data (cy); AF Form 1227, Authority for Tuition Assistance—Education Services Program (cy); DD Form 114, Military Pay Order (cy) or Department of Defense (DD) Form 1131, Cash Collection for Voucher (cy); DD Form 295, Application for the Evaluation of Educational Experiences During Military Service (cy); Veterans Administration (VA) Form 22–8821, Application for Educational Assistance (cy); VA Form 22–1990p, Service person's Application for Educational Benefits (cy); Academic evaluations and/or transcripts from schools; and Educational test results from testing agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Regulation 213–1, Operation and Administration of the Air Force Education Services Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Counseling/Advisement Guide and Educational Registration Record used by Education Services Center staff personnel, Promotion and/or classification boards, and other authorized personnel such as military service schools, civilian schools, and supervisors of military personnel. The principle purpose is to provide a record of educational endeavors and progress of Air Force personnel participating in Education Services programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file folders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Given to individual when released from EAD, discharged, or retired. servicing CBPO will destroy in case of death by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, headquarters United States Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Individuals may contact agency officials at the respective installation education center in order to exercise their rights under the Act.

RECORD ACCESS PROCEDURES:

Individuals may contact agency officials at the respective installation education center in order to exercise their rights under the Act.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Data gathered from the individual, data gathered from other personnel records, transcripts and/or evaluations from schools and test results from testing agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 AFOSI A

SYSTEM NAME:

United States Air Force Special Investigations Academy Individual Academic Records.

SYSTEM LOCATION:

HQ Air Force Office of Special Investigations (AFOSI), Bolling Air Force Base, DC 20332.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USAF, US Coast Guard enlisted. Defense Investigative Service and foreign national students.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of individual training and education of each student indicating final grade or rating of proficiency obtained in each subject and/or the reason for noncompletion of the course of study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by, and Air Force Regulation 23–18, Air Force Office of Special Investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Verification of attendance and completion or noncompletion of training.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/ cabinets and in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Records are held for 25 years after course is completed and are then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Plans, Programs and Resources (XP), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to Chief, Information Release Division (XPU), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Chief, Freedom of Information/Privacy Acts Release Branch (DADF), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Data is obtained from student testing and performance.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 AF SP A

SYSTEM NAME:

Unit Training Program.

SYSTEM LOCATION:

Air Force Security Police units at all Air Force installations and Air National Guard activities. Air Force Reserve units. Official mailing addresses are in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military and civilian Security Police personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, grade, and dates of training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To document required training.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. open storage

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117.

NOTIFICATION PROCEDURE:

Contact Base System Manager.

RECORD ACCESS PROCEDURES:

Contact Base System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Completion of training subjects.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 ATC B

SYSTEM NAME:

Community College of the Air Force Student Record System.

SYSTEM LOCATION:

The system is centrally administered by the Community College of the Air Force (ATC/ED), Maxwell Air Force Base, L 36112. Computer processing for the system is furnished by the Air University Director of Data Automation (AU/ACD), Maxwell Air Force Base, AL using the computer system at Gunter Air Force Base, AL.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system may have a record for any person who since 1 January 1968 has completed a formal course of instruction conducted by one of the Air Force schools identified in the current Community College of the Air Force General Catalog. Such courses do not include precommissioning courses and courses conducted exclusively for officers or their civilian counterparts. The system includes records reflecting Air Force courses completed before 1968 and other educational accomplishments for persons who as enlisted members of the Air Force registered in programs of study leading to credentials awarded by the college. Both here and where appropriate below, the general term Air Force includes the regular Air Force, the Air Force Reserve, and the National Guard.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual academic records and, where necessary to serve airmen registered in study programs leading to credentials awarded by the college, a variety of source or substantiating records such as copies of registration applications and document control records derived from such applications, civilian college transcripts, college level examination program score reports; copies of educational records originated by other Air Force and non-Air Force agencies external to the college (such as the Federal Aviation Agency, the United States Armed Forces Institute, and the Defense Activity for Non-traditional Education Support), copies of a variety of Air Force personnel records (such as documents derived from master records maintained by the Air Force Manpower and Personnel Center and microfiche records of locator data); and records of credentials awarded to graduates. The college also maintains copies and related records of communications from, to, or regarding persons interested in the college, its educational programs, its student record system, and related matters. Copies of and statistical records derived from individual responses to surveys, questionnaires, and similar instruments authorized by HQ USAF may also be maintained as needed for managerial evaluation and planning by officers of the college.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 9315, Community College of the Air Force: associate degree; and Air Force Regulation 53–29, Community College of the Air Force Mission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records originated in the system document, in terms of credit awarded or accepted in transfer by the college, individual educational accomplishments which satisfy curricular requirements of study programs leading to credentials offered by the college. Transcripts of records originated in the college are at the written request of persons concerned furnished to any recipient(s) designated in such requests. Such recipients typically include Air Force Education Services Centers, other offices where Air Force personnel are stationed, educational institutions, and potential or current employers. CCAF transcripts and copies of other records originated in the college are also used to support educational and occupational counselling, planning, and development; admission to other colleges; and related individual affairs. Disclosures of information recorded in the system may be made to employees of civilian contractors engaged by the Air Force to provide services which directly or indirectly support the record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Permanent student computer records are maintained on and as necessary reproduced from magnetic media. Paper records are maintained in file folders, card files, and special binders/cabinets designed for computer listings.

RETRIEVABILITY:

Computer records are retrievable by a combination of Social Security Number (SSN) and certain letters of last name. Paper records are retrievable by either SSN or name.

SAFEGUARDS:

Records maintained in the college are normally disclosed only upon written request from the subject of the records or upon written request from an Air Force officer or employee responsible to provide educational or related services to Air Force personnel. Disclosures to non-Air Force agencies not requested by the subject of the records require approval of an officer of the college. Except for disclosures within the college as may be necessary to its operations, requests by telephone and other unwritten means will not be honored unless in the judgment of a responsible member of the college staff the requester is a member or employee of the Air Force acting on behalf of, or is, the person whose record is requested. Special care is exercised to ensure complete identification of the requester, the person whose record is to be disclosed, and intended use. Other systematic safeguards to ensure integrity of records include secure storage of successive generations of computer master files, existence and long-term retention in other Air Force facilities of records needed to rebuild the entire system in the event of catastrophe, and traditional measures to ensure the security of Air Force facilities. All records in the system are attended by responsible Air Force personnel during duty hours and stored in locked facilities under constant or periodic surveillance by Air Force security policy during non-duty hours.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Specific rules for retention of permanent microfiche and corresponding magnetic tape records have not yet been determined. It is

anticipated that such records may need to be retained for not less than 30 and not more than 50 years beyond the latest entries on each such record. Active master file records on the computer are by their nature evolutionary and will be maintained permanently. Paper records maintained to serve students registered in study programs are retained so long as a registrant remains active in his or her program. Such records are destroyed 1 year after a registrant completes his or her study program or 5 years after the most recent communication from an airman whose program has not been completed. Other records are typically retained only so long as they may serve a useful purpose, which is typically between 30 and 90 days. No rule has yet been defined for retaining records which verify awards of credentials by the college, but it is expected that such records will need to be archival.

SYSTEM MANAGER(S) AND ADDRESS:

Senior official responsible for policies and procedures which govern the system: Deputy Chief of Staff/ Manpower and Personnel, Headquarters United States Air Force. System Manager: President, Community College of the Air Force (CCAF/CC) Maxwell Air Force Base, AL 36112.

NOTIFICATION PROCEDURE:

Persons who have not registered in the college should address inquiries regarding records maintained by the college to Chief, Student Records Branch (CCAF/RRR), Maxwell Air Force Base, AL 36112. Persons who have registered in the college may address inquiries as above or to Chief, Academic Programs Division (CCAF/AY), also at Maxwell Air Force Base. Such inquiries will need to include the full name (and former names if appropriate), SSN, and birthdate of the inquirer, and should include a full return address (including ZIP Code). Visits to the college are welcomed, and visitors seeking information about personal records should first visit the Office of the Registrar.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager and from addresses listed above.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, automated system interfaces and from source documents submitted to the college by or at the request of individuals concerned, or by other Air Force agencies acting on behalf of individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 ATC C

SYSTEM NAME:

Faculty Board Ledger.

SYSTEM LOCATION:

Headquarters Air Training Command (ATC) Deputy Chief of Staff for Personnel (DCSP), Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Officers who meet a faculty board for elimination from undergraduate navigator or pilot training programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Composite listing containing board documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Training Command Regulation 53–1, Faculty Boards and Administrative Withdrawals and Losses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

DCS/P uses ledger to monitor case timeliness.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Stored in locked building.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters Air Training Command, Deputy Chief of Staff/Manpower and Personnel Randolph Air Force Base, TX, 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 ATC D

SYSTEM NAME:

Individual Academic Records—Survival Training Students.

SYSTEM LOCATION:

Fairchild Air Force Base, WA 99011.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officer and enlisted aircrew members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Survival training students performance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Force Regulation 50–3, Survival Training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Document and evaluate students performance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for two years after annual cut-off then forwarded to the Washington National Records

Center, where records will be held an additional 28 years, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff Operations, Headquarters Air Training Command, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the 3636 CCTW/DOOS, Fairchild Air Force Base, WA 99011. Requests should include name, rank, Social Security Number, course(s) attended and graduation date, if known.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access by contacting 3636 CCTW/DAD, Fairchild Air Force Base, WA 99011 or by contacting the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Survival training supervisors and staff officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 ATC E

SYSTEM NAME:

Maintenance Management Automated Training System (MMATS).

SYSTEM LOCATION:

At all Air Training Command bases that utilize MMATS. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assigned to organizations involved in the maintenance of aircraft, trainers, and associated equipment

CATEGORIES OF RECORDS IN THE SYSTEM:

Maintenance training records

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Training Command Manual 66–420, Maintenance Management Automated Training System (MMATS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to establish and maintain data pertaining to a specific individual assigned to a maintenance organization; used by work center supervisors, maintenance training and administrative personnel, and other members of the Deputy Commander for Maintenance or Chief of Maintenance staff to maintain basic data relating to an individual; and to monitor the overall training status of an organization.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer magnetic tapes.

RETRIEVABILITY:

Filed by name and by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and controlled by computer system software.

RETENTION AND DISPOSAL:

Maintained until purpose has been served or for 1 month whichever is sooner. It is then destroyed by tearing into pieces, pulping, burning, shredding, or macerating.

SYSTEM MANAGER(S) AND ADDRESS:

Noncommissioned officer or civilian in charge of the training management section at each unit utilizing MMATS.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from individual training source documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 ATCF

SYSTEM NAME:

Air University Academic Records.

SYSTEM LOCATION:

Air University, Maxwell Air Force Base, AL 36112. Subsystems are located and maintained at the Air Force Institute of Technology/RR, Wright-Patterson Air Force Base, OH 45433; 3825 Academic Services Group/RR, Maxwell Air Force Base, AL 36112; Extension Course Institute/EDOR, Gunter Air Force Station, AL 36118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Graduates, students currently or previoulsy enrolled in AFIT, AU PME schools or ECI.

CATEGORIES OF RECORDS IN THE SYSTEM:

Education records which includes transcripts; test scores; completion/noncompletion status; training reports; rating of distinguished, outstanding or excellent graduate as appropriate and other documents associated with academic records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by: Air Foce Regulation 50–12, Extension Course Program; and Air Force Regulation 53–8, USAF Officer Professional Military Education System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Individuals seeking academic or certification credit for courses completed may request applicable Registrar to send a record of courses completed to school or activity desired.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders at Air Institute of Technology. Maintained in visible file binders/cabinets and on roll microfilm at 3825 Academic Services Group. Maintained on roll microfilm and on microfiche at Extension Course Institute.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official

duties who are properly screened and cleared for need-to-know. Records are stored in vaults and locked cabinets or rooms and are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained for 30 years except masters transcripts of resident schools which are kept 50 years (at AFIT permanent) at 3825 Academic Services Group retained in office files for two years after the individual completes or discontinues a training course, then retired to Washington National Records Center, Washington DC 20409, and, after 28 additional years, they are then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Plus copy retained for 30 years then destroyed (at Extension Course Institute).

SYSTEM MANAGER(S) AND ADDRESS:

Registrar, Air Force Institute of Technology, Wright-Patterson Air Force Base, OH 45433; Registrar, 3825 Academic Services Group, Maxwell Air Force Base, AL 36112; Registrar, Extension Course Institute, Gunter Air Force Station, AL 36118.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Include full name, SSN and class designation. Individuals may visit Office of the Registrar. Identification is required.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, source documents such as reports, testing agencies, student, and on-the-job training officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 ATC G

SYSTEM NAME:

Student Record Folder.

SYSTEM LOCATION:

Air University, Maxwell Air Force Base, AL 36112 and at each Air University Professional Military School/ Course at Maxwell Air Force Base, and Gunter Air Force Base, AL 36118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian students.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual student folder containing test results, speech and writing critiques, interview/counseling record, faculty rating, and other documents pertaining to student administration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Force Regulation 53–8, USAF Officer Professional Military Education System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by faculty and staff of applicable school/course to evaluate and record performance/progress of student, and to determine suitability for future faculty position.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Curriculums. Submanagers: Director of Administration (DA) at each school/ course.

NOTIFICATION PROCEDURE:

Requests should be addressed to the Director of Administration at the applicable school. Provide name, SSN. May visit the office of the Director of Administration and present acceptable identification.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from appropriate Director of Administration. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual student, instructor and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 ATC H

SYSTEM NAME:

Student Record of Training.

SYSTEM LOCATION:

All Technical Training Centers of Air Training Command (ATC); Field Training Detachments of ATC and the 3750 Technical Training Group/TTS, Sheppard Air Force Base, TX 76311; Basic Military Training School, Lackland Air Force Base, TX 78236; Officer Training School, Lackland Air Force Base, TX 78236; Community College of the Air Force, Maxwell Air Force Base, AL 36112; United States Air Force Technical Training School, Goodfellow Air Force Base, TX 76908; and the Washington National Records Center, Washington, DC 20409. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel and civilian employees, Air Force Reserve and Air National Guard personnel, foreign nationals, and retired Air Force military personnel who have attended a training course conducted by an ATC activity. Employees of Air Force contractors receiving training at USAF schools.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of individual training and education, subjects studied, reading proficiency training, hours, final grades, and graduation data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Training Command Regulation 52–11, Student Training Records and Recognition Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Record individual attendance, achievement and special training progress, and evaluate student's potential for commissioning and need for remedial teaching. Used by FTDs to determine student eligibility to receive certificate of training, and by the Community College of the Air Force to grant college credits for successful completion of the course.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name, SSN, course number, and graduation month and year.

SAFEGUARDS:

Records are accessed by the custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets and rooms.

RETENTION AND DISPOSAL:

Record of individual hours and final grades—retained one year, then destroyed; source, support, and control data basic trainee records and special training records—retained for six months after monthly cutoff, then destroyed; Nelson Denny Reading Test Answer Sheets—retained for the class duration, then destroyed; Officer Training School Student Training Summaries maintained for two years after cutoff, then destroyed: Field Training Student Attendance and Rating Records—retained at Sheppard Air Force Base, TX 76311 for two years then retired to the Washington National Records Center for an additional 28 years, then destroyed; Student Record of Training—retained at the local ATC Center or 3480 Technical Training Wing for two years then retired to the Washington National Records Center for an additional 28 years, then destroyed; Training Progress Reading Proficiency Case Files—destroyed three months after class/course completion. All of the above records are destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Technical Training, Standards and Evaluation Directorate, Randolph Air Force Base, TX 78150 (for other than classes/courses completed at ATC Field Training Detachments & Officer Training School). The 3750 Technical Training Group/TTS for classes/courses conducted by ATC Field Training Detachments and the Commander, Officer Training School for OTS student records; and the 3480 Technical Training Group/TTR for classes/courses conducted at Goodfellow Air Force Base, TX 76908. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices.

NOTIFICATION PROCEDURE:

Contact Training Department at the Air Force base where the training was conducted for ATC technical training center courses; 3750 Technical Training Group/TTS, Sheppard Air Force Base, TX 76311, for classes/courses completed at an ATC Field Training Detachment; Basic Military Training School/CC, Lackland Air Force Base, TX 78236; and Officer Training School/CC, Lackland Air Force Base, TX 78236, for OTS student records and 3480 Technical Training Group/TTR, Goodfellow Air Force Base, TX 76908 for courses taught at that base. Full Name, Social Security Number, Course Number or Title and Dates of Attendance is required. For personal visits, identification card or driver's license is acceptable proof of identity.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager for OTS student records and classes/courses completed at an ATC Field Training Detachment or from the System Manaer in the training department at the Air Force base in ATC where training was conducted.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Training Center Organizational Directory; Enlistment Records; Basic Military Training Records; Score from Nelson Denny Reading Test; Internal Testing and Instructor/Peer Observation; and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 ATC I

SYSTEM NAME:

Technical Training Course Management Information System

SYSTEM LOCATION:

Headquarter Air Training Command, Randolph Air Force Base, TX 78150 and Technical Training Centers of Air Training Command. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. Washington National Records Center, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army, Navy and Marine Corps active duty personnel and retired Air Force personnel. Air Force civilian employees and former employees. Air Force Reserve and Air National Guard Personnel. Foreign Nationals residing in the United States. Exchange Officers. Personnel entered into or attending technical courses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual training status records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Training Command Regulation 52–3, Student Measurement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Maintain status of students and prepare training statistics.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer paper printouts.

RETRIEVABILITY:

Filed by Social Security Number (SSN) and course identification.

SAFEGUARDS:

Records are stored in locked cabinets or rooms and controlled by computer system software.

RETENTION AND DISPOSAL:

Deleted from files within two years after termination of study, destroyed by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Training Management Information Branch at each Center.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systerm Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FO5O ATC J

SYSTEM NAME:

Student Questionnaire.

SYSTEM LOCATION:

Air University, Maxwell Air Force Base, AL 36112. Subsystems are located at the Air War College (AWC), Air Command and Staff College (ACSC), Squadron Officers School (SOS), Maxwell Air Force Base, AL 36112.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All students attending AWC, ACSC, and SOS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Questionnaire including military data such as name, SSN, grade, age, flying data, education data, personal data and locator data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Force Regulation 53–8, USAF Officer Professional Military Education System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Primary use is to gather statistical data for analysis by management analysis personnel, subsequent publication of data in AU quarterly program summary. Used by applicable PME school for locator and other administrative purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Class designator and filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Management Analysis at HQ USAF Submanager at each applicable school, AWC, ACSC, and SOS.

NOTIFICATION PROCEDURE:

Requests should be addressed to the Director of Administration at the applicable school. Provide name, SSN and class. Individuals may visit the office of the Director of Administration at the applicable school.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual student.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FO51 ATC A

SYSTEM NAME:

Flying Training Records.

SYSTEM LOCATION:

Deputy For Flight Operations, Officer Training School USAF Lackland Air Force Base TX 78236.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All students entered in T41 training at Lackland Air Force Base, TX 78236.

CATEGORIES OF RECORDS IN THE SYSTEM:

Flying training grades continuity summary analysis.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Training Command Regulation 52–3, Administration of the Officer Training School. (OTS) Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Determine flying training potential.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and wall charts.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/ cabinets.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy for Flight Operations Officer Training School.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determination by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Internally generated.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F051 ATC B

SYSTEM NAME:

Flying Training Records-Nonstudent.

SYSTEM LOCATION:

Columbus Air Force Base, MS, 39701; Lackland Air Force Base, TX 78236; Laughlin Air Force Base, TX 78840; Mather Air Force Base CA 95655; Randolph Air Force Base, TX 78150; Reese Air Force Base TX 79489; Sheppard Air Force Base, TX 79720; and Williams Air Force Base, AZ 85244.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Aircrew personnel of Air Training Command, academic instructors in flying training courses and Trainer Instructors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record and document aircrew training, evaluations, performance, accomplishments and taped radio transmissions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Training Command Regulation 51–27, Instructor Qualification and Training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Document the training, performance, and qualifications of aircrew and synthetic trainer personnel. Taped radio communications are used to investigate aircraft accidents.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, computer printouts, and on magnetic tape.

RETRIEVABILITY:

Filed by name or Social Security Number.

SAFEGUARDS:

Access by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened.

RETENTION AND DISPOSAL:

Aircrew evaluation documents, training and qualification records on synthetic training instructors and academic instructors are maintained for the duration of an individual's assignment in Air Training Command. Out-of-date material is returned to the individual. Radio tapes are retained of file for one week unless circumstances dictate otherwise; initial training records are maintained for one year following completion of the training and then destroyed by tearing into peices, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff Operations, Air Training Command, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information from source documents prepared by personnel administering training or evaluation performance; voice radio communications.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F051 ATC C

SYSTEM NAME:

Flying Training Records—Student.

SYSTEM LOCATION:

Headquarters Air Training Command, Randolph Air Force Base, TX; Wahington National Records Center, Washington DC 20409; ATC Pilot and Navigator Training Wings; Official mailing addresses are in Department of Defense directory in the appendix to the USAF systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students entered into Undergraduate Pilot and Navigator training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complete record of training including class number, flying and academic course completed, flying hours, whether graduated or eliminated and date, reasons for elimination, Faculty Board Proceedings, student's performance in each category of training, including grades, evaluations and performance documentation; background information including name, grade, Social Security Number (SSN), source of commission, college, subject matter, etc; past training unit of assignment; class standing prior to 31 Dec 74; progress records on minority students.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; Air Training Command Manual 51–4, Primary Flying, Jet; and Air Training Command Regulation 51–8, Flying Training Student Accounting.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Document and record student performance; provide background information; report to Air National Guard/Air Force Reserve and other Air Force training units on qualifications of graduates; analyze student performance in following training for the purpose of evaluating training and revising course content; also used to monitor student performance by source of entry, education level, and minority status; record and document Faculty Board proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, card files and on computer and computer products.

RETRIEVABILITY:

Filed by name or SSN.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Student grade books are destroyed three months after completion of training; Summary Training Records are retained in office files for two years, then retired to Washington National Records Center, Washington, DC, for eight years; other records are retained in office files until superseded, obsolete, no

inactivation. Faculty Board Records are retained for one year. Destruction is by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff Operations, Air Training Command, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information comes from source documents such as grade sheets, written examinations, and flight examinations; from reports by instructors and students, and from the individual, automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F051 TAC A

SYSTEM NAME:

Tactical Air Command Automated Flying Training Management System.

SYSTEM LOCATION:

All Tactical Air Command Wings, Squadrons, Numbered Air Forces, and Headquarters, Tactical Air Command/DOTP. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Aircrew members in Tactical Air Command maintaining qualification in command assigned aircraft.

CATEGORIES OF RECORDS IN THE SYSTEM:

Continuation training items directed by Air Force and Tactical Air Command directives. Includes flying times for current month, training cycle, and cumulative career totals, currencies as required by weapons system, flying and simulator sorties and events, and various ground training items, and other information such as social security account number, ratings, Air Force Specialty Codes, date of birth, unit assigned, availability data, assignment dates, training phase and qualifications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by and 8074, Command: Territorial organization and TACM 51-365.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to monitor the status of continuation training by individuals and unit. Data is available at the unit, wing, numbered Air Force, Headquarters of Tactical Air Command.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer and computer output products.

RETRIEVABILITY:

Filed by crew member's first letter of last name and last four digits of the Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system software and stored in secure areas with controlled access.

RETENTION AND DISPOSAL:

Retained in units for six months after training cycle. History files are retained at Headquarters Tactical Air Command for analysis purposes. Information is destroyed by tearing into pieces, pulping, burning, shredding, or macerating; or in the case of computer tape, degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Operations, Headquarters, Tactical Air Command, Langley Air Force Base, VA 23665.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistnace in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from the individual concerned and other source documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F060 AF A

SYSTEM NAME:

Air Force Operations Resource Management Systems (AFORMS).

SYSTEM LOCATION:

Headquarters United States Air Force and major command headquarters. Air Force Inspection and Safety Center, Norton Air Force Base, CA 92409. Host, tenant and squadron Operations System Management offices at Air Force installations. Official mailing address are contained in the Air Force Address Directory.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel, Air Force civilian employees, Air Force Reserve and Air National Guard personnel, Army, Navy and Marine Corps active duty military personnel and those foreign military personnel who are assigned to aviation duties by competent authority and attached to the USAF for flying support or who have been suspended from flying duties for a period of not more than 5 years.

CATEGORIES OF RECORDS IN THE SYSTEM:

The base-level AFORMS data base contains a master file of flying records for each individual in categories listed above, a month-to-date transaction file and a twelve month history file. A centralized file of selected information from each individual's master record is also maintained at HQ USAF, and flying history information is maintained at Norton Air Force Base, CA. In addition to automated data files, this system uses manual files for maintaining historical data files, this system uses manual files for maintaing historical data and important source documents. An Individual Flight Record Folder (FFR) is established for each category of fliers listed above and is the prime repository for a computer listing which itemizes each individual's flight accomplishments as well as various source documents which serve to validate information entered into the computer data base for the system. Each Host Operations System Management office maintains a file of Aeronautical Orders and Military Pay Orders to provide source

documentation of flying pay actions inititated by the flight manager. Information which is maintained in the automated files is derived directly from the AFORMS master file of from subsequent processing of information entered into the master file. Categories of information maintained in the master file are: IDENTIFICATION DATA—provides individual identifiers and other information directly related to each individual in the file. DUTY ASSIGNMENT DATA—Includes information such as the major command of assignment for the individual, the Air Force Specialty Code indicating professional, duties, the unit, tbe responsible Operations System Manager, base of assignment, etc. AIRCREW TRAINING AND QUALIFICATION DATA—includes information such as flight and ground professional flying training accomplishments, aircrew qualification status, physical status for flight duties, types of aircraft assigned, etc. UTILIZATION MANAGEMENT DATA—Includes flying experience information, professional qualifications, aviation duties assigned, etc. FLYING PAY ENTITLEMENT DATA—Includes information needed to administer the payment of flying incentive pay for each individual. LOCAL USE DATA—contains information used by major or local command to supplement general system information as needed to meet unique unit requirements within the categories of information listed herein. SYSTEM CONTROL DATA—Contains computer data used to automatically control internal system functions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 U.S.C. 301a, Incentive pay: Public Law 92–204 (Appropriations Act For 1973), Section 715; Public Law 93–570 (Appropriations Act For 1974); Public Law 93–294 (Aviation Career Incentive Act of 1974; DOD Directive 7730.57 (Aviation Career Incentive Act and Required Annual Report); Air Force Regulation 60–1, Flight Management; and Air Force Regulation 60–190, Air Force Operations Resource Management System (AFORMS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The AFORMS provides information and automated data processing capabilities used to manage and administer Air Force operations such as aircrew training and evaluation, flight scheduling functions, flying safety and related functions needed to attain and maintain combat or mission readiness. All information is entered into the system at the airbase level. This information is then processed for use by flying resource managers at all levels through periodic computer product reports or automated systems interfaces. The specific uses of information and user categories for this system are: BASE LEVEL ACTIVITES—(1) to establish each member's flying pay entitlement status and to monitor continuing entitlement in accordance with existing directions; (2) to record each individual's flying activities, both hours and specific events, and provide indications of successful attainment of standards or deficiencies; (3) to establish each individual's Aviation Service code for use in indicating type of flying activity or reason for inactive status if applicable; (4) to determine each rated member's eligibility to perform operational flying in accordance with existing USAF directives; (5) to provide an indication of each rated member's total operational flying time in terms of total aviation career duties as required by the Aviation Career Incentive Act of 1974; (6) to establish "suspense lists" for use in scheduling flying personnel for flights, schools, tests and similar events directly related to their duties as professional airmen; (7) to provide each applicable individual and manager with all aviation career profile information needed to monitor flying career development, professional qualifications and training deficiencies; (8) to provide information requested by Operations, or other base functions, which relates to the flying duties and accomplishments of all personnel in the file; (9) to provide statistical data for management analysis and review of all aspects of each base's flying programs, including flying safety data involving AFORMS flying hour/individual information stored in the Norton Air Force Base, flying safety data bank maintained by the USAF Inspection and Safety Center. OTHER BASE USERS: CONSOLIDATED BASE PERSONNEL OFFICE—uses information provided by this system, through an automated data interface, to report the flying status of all individuals in the files; provides flying career background information used for assignment actions. ACCOUNTING AND FINANCE OFFICE— uses Military Pay Orders, prepared by flight management offices, to start and stop flying incentive pay in accordance with each individual's flying status and eligibility as reflected by the information in the system; uses the files to perform payment audits to identify individuals being paid improperly. BASE SUPPLY—uses flying status information to determine which individuals are qualified to draw all authorized flying equipment. BASE MEDICAL FACILITY—uses system data to determine projected workloads associated with scheduled flight physical examinations. MAJOR COMMANDS—use all system data to measure the effectiveness of subordinate unit training programs and to check command-wide flying effectiveness. AIR FORCE MANPOWER AND PERSONNEL CENTER—uses AFORMS information to establish assignment objectives and career development programs for USAF military personnel in the system. USAF INSPECTION AND SAFETY CENTER—uses flyng hour data for each individual to establish historical files for reconstruction of lost or damaged records and to augment the Flying Safety statistical data bank. HQ USAF—uses various identification and flying data to establish statistical data needed to verify the effectiveness of standard procedures, determine the need for policy modification, provide a timely and accurate census of various types of flyers and provide a centralized point for collection and collation of data used by all levels of management. Air Force Accounting Finance Center—uses AFORMS information to validate all flying payments in the JUMPS system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, on computer magnetic tapes and on magnetic disks.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties and individuals in files. Access is specifically controlled by Host Operations System Management office. Records are stored in locked cabinets or rooms. Computer terminals are locked when not in use or kept under surveillance.

RETENTION AND DISPOSAL:

Magnetic tape and hardcopy records are maintained in files for five years following removal of an individual from flying status. The magnetic tape records are then destroyed by degaussing or overwriting and the hardcopy files turned over to the individual. Personnel

leaving military service are provided their hardcopy files and all disk and tape records are routinely erased except for historical records files maintained by AFISC. For deceased personnel, disk and tape records are routinely erased and hardcopy folders are provided to the survivors as part of the individual's personal effects.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Plans and Operations, Headquarters United States Air Force, Washington, DC.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Operations System Manager. Include name and SSN. Make base level inquiries to base flight manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the Operations System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from individuals, aircrew managers, automated system interfaces and from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F066 AF A

SYSTEM NAME:

Maintenance Management Information and Control System MMICS.

SYSTEM LOCATION:

At all Air Force bases that utilize MMICS. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assigned to organizations involved in the maintenance of aircraft missiles, communications electronics and associated equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Maintenance personnel records and on-the-job training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by and Air Force Regulation 66–1, Maintenance Management Policy and 66–5, Production Oriented Maintenance Organization.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to establish and maintain data and on-the-job training records pertaining to a specific individual assigned to a maintenance organization. Used by work center supervisors maintenance training and administrative personnel and other members of the chief of maintenance staff to maintain basic data relating to an individual and to monitor the overall manning status of an organization.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on disks or tapes.

RETRIEVABILITY:

Filed by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system software.

RETENTION AND DISPOSAL:

Maintained until purpose has been served or for 1 month whichever is sooner. Then destroyed by tearing into pieces, pulping, burning, shredding, or macerating.

SYSTEM MANAGER(S) AND ADDRESS:

Non-commissioned officer in charge of the maintenance documentation or files maintenance section at each unit utilizing MMCIS.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F067 AFSC A

SYSTEM NAME:

Equipment Maintenance Management Program (EMMP).

SYSTEM LOCATION:

Aeronautical Systems Division, Computer Center, Wright-Patterson Air Force Base, OH.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel in Aeronautical Systems Division, Air Force Avionics Laboratory, Air Force Flight Dynamics Laboratory, Air Force Aero Propulsion Laboratory, Air Force Material Laboratory, Air Force Human Resources Laboratory and Aerospace Medical Research Laboratory at Wright-Patterson Air Force Base, having custody of high value precision measurement equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Equipment maintenance management data on equipment signed out to individuals by equipment item number, model number, date checked out, office symbol, calibration due date, user Social Security Number and name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Maintain maintenance and management control of high value equipment including issuance, security and storage, and recalibration.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Records may be retrieved by custodian name and Social Security Number or by equipment ID number and manufacturer.

SAFEGUARDS:

Computer records are maintained under systems software with password control. Printouts are kept in locked cabinets and desks. Offices and buildings are locked after duty hours.

RETENTION AND DISPOSAL:

Printouts are kept up to a two weeks maximum and then destroyed by tearing into pieces.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Wright Aeronautical Laboratory, Logistics Office, Assistant for Operations, Wright-Patterson Air Force Base, OH 45433.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the system manager. Requesting individuals will be required to supply full name and office symbol or name of immediate supervisor for telephone requests; full name, driver's license or base ID card for personal visits.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager, telephone area code (513) 255-4522.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individuals and automated systems interface.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F080 AFSC A

SYSTEM NAME:

Aeromedical Research Data.

SYSTEM LOCATION:

Aerospace Medical Division (AMD,) Brooks Air Force Base, TX 78235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel receiving medical evaluation from Department of Defense medical facilities. Participants in epidemiologic studies sponsored by agencies of the Department of Defense, Federal Aviation Administration, Veterans Administration, The National Institutes of Health, National Research Council, and Occupational Safety and Health Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical evaluations, demographic and mortality data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 55, Medical and Dental Care.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Individually identifiable records are used by medical authorities and consultants of the Department of Defense and Federal Aviation Administration to determine that individual's fitness for duty. Data on foreign personnel are used by the corresponding authority in that individual's country to determine their fitness for duty. An individual's record is used by medical personnel to deliver medical care to that patient. Aeromedical research data are used by scientists working with agencies of the Department of Defense, Federal Aviation Administration, Veterans Administration, The National Institutes of Health, National Research Council, and Occupational Safety and Health Administration to determine medical criteria for duty and to develop methods to prevent disease and disability.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in microfilm jackets and microfilm rolls, in paper files, and on computer.

RETRIEVABILITY:

Filed by name, or Social Security Number (SSN).

SAFEGUARDS:

Computerized patient records retrievable from remote terminals are protected from unauthorized access or alteration by a data management system which requires a password for access to an authorized subset of data. When appropriate for research purposes, the data base management system permits scientists to examine patient records without revealing the unique patient identifiers. All of the data is accessed only by the custodian of the record system, and releasd only to medical personnel and scientists who are properly screened for need to know.

RETENTION AND DISPOSAL:

Destroy paper and microfilm files when no longer needed or after 25 years by tearing, shredding, pulping, mascerating or magnetically stored data is destroyed by erasure.

SYSTEM MANAGER(S) AND ADDRESS:

Commander Aerospace Medical Division, Brooks Air Force Base, TX 78235.

NOTIFICATION PROCEDURE:

Request from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information from military personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F100 AFCC A

SYSTEM NAME:

Military Affiliate Radio System (MARS) Member Records.

SYSTEM LOCATION:

At Headquarters Air Force Communications Command (AFCC). Subordinate headquarters, and Air Force installations. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Force systems notice. At MARS member stations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Amateur Radio Operators licensed by United States Air Force (USAF) MARS.

CATEGORIES OF RECORDS IN THE SYSTEM:

MARS Personnel Action Notification and Registration; MARS Station Questionnaire; Application for Membership in Military Affiliate Radio System. Information includes individuals name, MARS call sign, amateur call sign, mailing address, Federal Communications Commission (FCC) license class, MARS assignment, communications capability, MARS position, military status, and telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of Air Force, powers and duties; delegation by; as implemented by Air Force Regulation

(AFR) 100–15, Military Affiliate Radio System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To identify MARS members, to describe and update information concerning members, station capbility, MARS assignment and position status, to assign call signs and designators, to specify operational parameters and constraints, mailing address, amateur license, telephone number, and responsibilities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and/or apperture cards.

RETRIEVABILITY:

Filed by name, by call sign or designator and geographic location.

SAFEGUARDS:

By authorized personnel in the course of their duties who are properly screened and cleared for need-to-know. Stored in file cabinets.

RETENTION AND DISPOSAL:

At HQ AFCC, retained until termination of membership or alteration of information and then destroyed by tearing to pieces, shredding, pulping, macerating or burning. At MARS stations, retained in office files until reassignment or termination of membership and then destroyed by tearing to pieces, shredding, pulping, macerating, or burning.

SYSTEM MANGER(S) AND ADDRESS:

Deputy Chief of Staff for Operations, Plans and Readiness, HQ AFCC, Scott Air Force Base, IL 62225 and Director of Operations at all other levels.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual members and MARS officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F120 AF MP A

SYSTEM NAME:

Investigation/Complaint Files.

SYSTEM LOCATION:

At Headquarters United States Air Force and at headquarters of major commands and all levels down to and including Air Force Installations. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual specified in a formal complaint action.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records maintained provide circumstances of a Service member's allegation of discriminatory treatment and the results of any inquiry/investigation related to the allegation. Such compliants may originate as Congressional/White House inquiries, Inspector General complaints, letters to the Air Force or Office of the Secretary of Defense (OSD) authorities, or complaints presented through equal opportunity channels. Records are manual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Regulation 30–2, Social Actions Program, 22 June 1981.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To provide information to commanders on complaints in the resolution of complainant's grievances. Principal purpose of the information is to document the circumstances and resolution of a particular allegation handled by Equal Opportunity personnel. Portions of the information in the files, which pertain to specific individuals, may be disclosed to them upon request.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by code designator.

SAFEGUARDS:

Records are accessed by custodian of the record system and person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes, locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained for two years after end of year in which the case was closed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Equal Opportunity and Treatment/Human Relations Education Branch, Human Resources Development Division, Directorate of Personnel Plans, HQ USAF; and Director of Social Actions at major command headquarters down to and including Chiefs of Social Actions on Air Force installations.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to Systems Manager at the appropriate level. Individuals should identify full name, military status, dates of service, unit of last or present assignment, Social Security Number (SSN), and type of record involved. For personel visits, the requester may present proof of identity to include full name from driver's license or military identification card.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager. Requests for information regarding individual persons should identify full name, military status, dates of service, unit of last or present assignment, Social Security Number (SSN), and type of record involved. For personal visits, the requester may present proof of identity to include full name from driver's license or military identification card.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Records are manually compiled from complaints filed, Congressional correspondence, OSD correspondence and chief of Staff, United States Air Force correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F124 AF A

SYSTEM NAME:

Counterintelligence Operations and Collection Records.

SYSTEM LOCATION:

HQ Air Force Office of Special Investigations (AFOSI), Bolling Air Force Base, DC 20332. Heaquarters of major commands and at all levels down to and including Air Force installations. Air Force Office of Special Investigations (AFOSI) field units. Washington National Records Center, Washington, DC 20409. Mailing addresses are in the Department of Defense directory which follows the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, retired or former military personnel. Current, retired and former Air Force civilian employees. Applicants for enlistment or appointment. Air Force Academy Cadets, applicants and nominees. Dependents of military personnel. Current and former Armed Forces Exchange employees, union or association personnel, civilian contracting officers and their representatives, employees of the Peace Corp, State Department and the American Red Cross and other Department of Defense employees and contractors. Foreign Nationals residing in the US and abroad.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of investigation, collection reports, statements of individuals, affidavits, correspondence, and other documentation pertaining to investigative effort spent in identifying and countering foreign intelligence and terrorist threat to the United States and the US military. This includes activities and suspected activities intended to convince US military and others to illegally engage in such activities. Also includes indicators of foreign military and political actions directed against the United States, its installations, personnel, and allies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by, and Air Force Regulation 23–18, Air Force of Special Investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Compiled for use in determining the hostile threat against the United States, its allies, their military and government. Used by USAF, other military commanders, representatives of the US Department of State, the Central Intelligence Agency (CIA), the staff of the National Security Council, and the Executive Branch. Used by civilian authorities in assessing the threat against the US, its installations, and personnel as well as its allies. Used by USAF, other military commanders, and other responsible authorities in taking actions to counter these threats. Used by USAF Commanders to initiate other investigative, judicial, or administrative actions when appropriate. Furnished to the CIA, FBI, and other intelligence/counterintelligence agencies for use in matters pertaining to hostile intelligence and terrorist activities directed against the US or its allies, their installations, or personnel. Furnished to the Department of Justice for use in litigation and in the initiation of action against individuals in Federal courts. Used in conjunction with other law enforcement investigations conducted by AFOSI, the FBI, and other Federal, state, and local law enforcement agencies. Used in immigration and naturalization inquiries conducted by the US Immigration and Naturalization Service. Used by appropriate Medical and Forensic Laboratory personnel to assist in making laboratory tests and medical examinations in support of the investigative, judicial, and administrative process. Furnished to Defense and Trial Counsels for use in judicial and administrative actions. Used by HQ USAF activities in promotion, reassignment, and similar personnel actions. Provided to the US Secret Service for use in conjunction with protecting the President, Vice President, and other high ranking officials. Used in conjunction with Joint Counterintelligence Operations conducted by AFOSI and other intelligence/counterintelligence services. Provided to the USAF Board for the Correction of Military Records for use in correcting individual military records. Furnished for use by the Defense Investigative Service, FBI, CIA, Office of Personnel Management, and other Federal investigative agencies for use in investigations conducted relative to granting individuals access to classified material or to US military installations. Information concerning hijacking or suspected hijacking or aircraft is furnished to the Federal Aviation Agency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and card files, and on microfilm aperture cards.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes, vaults and in locked cabinets or rooms. Records are protected by security alarm systems.

RETENTION AND DISPOSAL:

At AFOSI field units, counterintelligence (CI) and counterespionage operations reports are retained for one year after AFOSI is notified of command actions; collection reports are destroyed after one year. At HQ AFOSI, files pertaining to CI or counterespionage investigations are retained permanently. Files pertaining to defectors or refugees are retained for 25 years. Files pertaining to CI briefings are retained for 15 years. Record paper copies of CI collection reports are placed on microfilm aperature cards and the paper copy destroyed when aperature cards are determined adequate substitute. Microfilm aperature cards are destroyed after six years, or 25 years if they pertain to counterintelligence activities. CI investigations conducted for other agencies are retained for one year. Destruction is by pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Plans, Programs and Resources (XP), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to Chief, Information Release Division (XPU), HQ Air Force Office of Special Investigation, Bolling Air Force Base, DC 20332.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Chief, Freedom of Information/Privacy Acts Release Branch (DADF), HQ Air Force Office of

Special Investigations, Bolling Air Force Base, DC 20332.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

See Exemption.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a (j)(2). For additional information, contact the System Manager.

F124 AF B

SYSTEM NAME:

Security and Related Investigative Records.

SYSTEM LOCATION:

HQ Air Force Office of Special Investigations (AFOSI), Bolling Air Force Base, DC 20332; Headquarters of major commands and at all levels down to and including Air Force installations; and at Air Force Office of Special Investigations (AFOSI) field units. Washington National Records Center, Washington, DC 20409. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, retired or former military personnel. Current, retired and former Air Force civilian employees. Applicants for enlistment or appointment. Air Force Academy Cadets, applicants and nominees. Dependents of military personnel. Current and former Armed Forces Exchange employees, union or association personnel, civilian contracting officers and their representatives, employees of the Peace Corps, State Department and the American Red Cross and other Department of Defense employees and contractors. Foreign Nationals residing the US and abroad.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of investigation, statements of individuals affidavits, correspondence, and other documentation pertaining to granting, continuing, or denying individual access to classified information or to US military installations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, security requirements for government employment, and 10 USC 8012, Secretary of the Air Force: powers and duties; delegation by, and Air Force Regulation 23–18, Air Force Office of Special Investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Compiled for the use of military security access granting authorities to grant, deny, or continue individual access to classified material. Also compiled for military commanders to use in granting access to military installations and to use in granting or denying enlistment, appointment, or employment. Since October 1972 and the establishment of the Defense Investigative Service (DIS), AFOSI has not conducted routine background investigations except in certain overseas areas in support of DIS. AFOSI conducts special security investigations on personnel requiring regular access to US military installations, on the prospective alien spouses of military personnel overseas and on USAF military and civilian employees as a result of complaints or referrals from other agencies. While these complaints may be short of actual criminality, they are of security interest to the USAF and they raise questions as to the suitability and risks of permitting continued access to classified material. Furnished to DIS, Office of Personnel Management, Federal Bureau of Investigation (FBI), Central Intelligence Agency (CIA), and other federal agencies for inclusion in background investigations for use in granting access to classified material and determining suitability for employment. Used in immigration and naturalization inquiries conducted by the US Immigration and Naturalization Service. Furnished to the US Secret Service in conjunction with the protection of the President and Vice President, and other high ranking officials. Furnished to USAF and aother military commanders for use in granting, denying, or continuing access to classified material. Also used by commanders in related administrative and judicial actions. Provided to the Veterans Administration for verification and settlement of individual claims. Furnished to the CIA, FBI, and other US intelligence/counterintelligence agencies in matters pertaining to hostile intelligence and terrorist activities directed against the US, its installations, or personnel. Used in conjunction with joint law enforcement investigations conducted by AFOSI and foreign law enforcement agencies. Investigations regarding aliens overseas are furnished to the US Department of State and US embassies and consulates for use in immigration and employment actions. Furnished to defense and trial counsels for use in judicial and administrative actions. Provided to the USAF Board for the Correction of Military Records for use in correcting military records. Furnished to the US Department of Justice for use in litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and card files.

RETRIEVABILITY:

Filled by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes and vaults. Records are controlled by personnel screening and protected by Security Alarms Systems.

RETENTION AND DISPOSAL:

At AFOSI field units, all files are retained for 90 days. At HQ AFOSI files pertaining to Security Violations are retained permanently. Files containing Personnel Security Investigations conducted for DIS and other Federal agencies are retained for 90 days. Protective Service (PS) investigations including PS data provided to other agencies are retained for five years or when no longer needed, whichever occurs first. Files pertaining to terrorist activities are retained for 15 years. Premartial investigations which are unfavorable and the marriage takes place are retained for five years; premarital investigations which are unfavorable and the marriage does not take place are retained one year. All other premarital investigations are retained for one year. Destruction is by pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Plans, Programs and Resources (XP), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to Chief, Information Release Division (XPU), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Chief, Freedom of Information/Privacy Acts Release Branch (DADF), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

See Exemption.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(5). For additional information, contact the System Manager.

F124 AF C

SYSTEM NAME:

Criminal Records.

SYSTEM LOCATION:

HQ Air Force Office of Special Investigations (AFOSI), Bolling Air Force Base, DC 20332. Headquarters of major commands and at all levels down to and including Air Force installations. Air Force Office of Special Investigations (AFOSI) districts. AFOSI detachments. Washington National Records Center, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, retired or former military personnel. Current, retired and former Air Force civilian employees. Applicants for enlistment or appointment. Air Force Academy Cadets, applicants and nominees. Dependents of military personnel. Current and former Armed Forces Exchange employees, union or association personnel, civilian contracting officers and their representatives, employees of the Peace Corp, State Department and the American Red Cross. Foreign Nationals residing in the US and abroad. Other Department of Defense employees and contractors, both current and former.

CATEGORIES OF RECORDS IN THE SYSTEM:

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 47, Uniform Code of Military Justice and 8012, Secretary of the Air Force: powers and duties; delegation by, and Air Force Regulation 23–18, Air Force Office of Special Investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Complied for use by USAF and other military commanders and the US Department of Justice in taking judicial and administrative actions involving suspected criminal activity concerning DOD personnel, property, and procurement/disposal activities. Used by USAF and other military commanders to determine if legal or administrative action is warranted. Used by the Department of Justice to initiate judicial action in Federal courts and for litigation. Used in conjunction with joint law enforcement investigations conducted by AFOSI and foreign law enforcement agencies. Provided to the Central Intelligence Agency (CIA), the Federal Bureau of Investigation (FBI), and other counterintelligence/intelligence agencies in matters pertaining to hostile intelligence and terrorist activities directed against the US, its installations, or personnel. Used in immigration and naturalization inquiries conducted by the US Immigration and Naturalization Service. Furnished to appropriate medical and forensic laboratory personnel to assist in making laboratory tests and medical examinations conducted in support of the investigative judicial, and administrative process. Furnished to defense and trial counsels for use in judicial and administrative actions. Used by HQ USAF activities in promotion, reassignment, and similar personnel actions for Air Force personnel only. Provided to the US Secret Service in conjunction with the protection of the President, Vice President, and other designated high ranking officials. Provided to the Veterans Administration for verification and settlement of individual claims. Provided to the USAF Board for the Correction of Military Records for use in correcting individual military records. Furnished for use in investigations conducted by the Defense Investigative Service, Office of Personnel Management and other federal investigative agencies for use in granting access to classified information. Criminal information affecting US diplomatic relations with foreign nations is provided to the Department of State and US embassies overseas.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained if file folders.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record systen and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes, vaults and locked cabinets or rooms. Records are controlled by personnel screening and protected by security alarm system.

RETENTION AND DISPOSAL:

Record copy at HQ AFOSI is retained for 15 years and for 90 days at AFOSI field units. Destruction is by pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Plans, Programs and Resources (XP), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

NOTIFICATION PROCEDURE:

See Exemption.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Chief, Freedom of Information/Privacy Acts Release Branch (DADF), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

See Exemption.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a (j)(2). For additional information, contact the System Manger.

F124 AF D

SYSTEM NAME:

Investigative Support Records.

SYSTEM LOCATION:

Air Force Office of Special Investigations (AFOSI), Bolling Air Force Base, DC 20332. Headquarters of major commands and at all levels down to and including Air Force installations. Air Force Office of Special Investigations (AFOSI) Field Units. Washington National Records Center, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, retired or former military personnel. Current, retired and former Air Force civilian employees. Applicants for enlistment or appointment. Air Force Academy Cadets, applicants and nominees. Dependents of military personnel. Current and former Armed Forces Exchange employees, union or association personnel, civilian contracting officers and their representatives, employees of the Peace Corps, State Department and the American Red Cross and other Department of Defense employees and contractors. Foreign Nationals residing in the US and abroad.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of investigation, collection reports, statements of individuals, affidavits, correspondence, and other documentation pertaining to criminal collection activities investigative surveys, technical, forensic, and other investigative support to criminal and counterintelligence investigations to include source control documentation and district indices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 47, Uniform Code of Military Justice and 8012, Secretary of the Air Force: powers and duties; delegation by, and Air Force Regulation 23–18, Air Force Office of Special Investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Compiled for use by AFOSI and other military commanders in directing and supporting their criminal investigative, law enforcement, counterintelligence, and distinguished visitor protection programs. Used to assist in managing the AFOSI criminal and counterintelligence investigative program at the various USAF and US military installations worldwide. Furnished to USAF and other military commanders to assist in identifying areas of possible criminality and to assist in developing and managing the installation law enforcement program. Used to assist in managing the AFOSI source program. Used by USAF and other military commanders in managing installation crime prevention programs. Used by AFOSI to determine if, in fact, possible criminal activity requiring further specialized investigation is occurring in a specific area. Used as a basis for USAF and other authorized individuals to request AFOSI investigations. Used by USAF and other military commanders as well as Department of Justice officials to determine if judicial or administrative action is warranted. Used in joint investigations by AFOSI and foreign law enforcement agencies. Used by the Department of Justice in litigation and to initiate action in federal courts. Furnished to the US Secret Service in conjunction with protection of the President, Vice President, and other high ranking officials. Used to develop and manage the AFOSI Distinguished Visitor Protection Program. Used to develop and manage the AFOSI Investigative Survey Program for both appropriated and non-appropriated fund activities. Used to record technical investigative support provided to other investigative activities. Used to report forensic and polygraph support to other investigative activities. Used by HQ USAF activities in promotion, reassignment, and similar personnel actions for Air Force personnel only. Used in immigration and naturalization investigations conducted by the US Immigration and Naturalization Service. Furnished to medical and forensic laboratory personnel to assist in making laboratory tests and medical examinations in support of the investigative, judicial, and administrative process. Provided to the Central Intelligence Agency (CIA), FBI, and other counterintelligence/intelligence agencies in matters pertaining to hostile intelligence activities and terrorism directed against the US, its installations, personnel, and allies. Provided to the Veterans Administration for verification and settlement of individual claims. Provided to the USAF Board for the Correction of Military Records for use in correcting individual military records. Furnished for inclusion in investigations conducted by the Defense Investigative Service, Office of Personnel Management and other federal investigative agencies. Criminal information affecting US diplomatic relations with foreign nations is provided to the Department of State and US embassies overseas.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, video and audio tape.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN), or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes and vaults. Records are protected by security alarm system and controlled by personnel screening.

RETENTION AND DISPOSAL:

Record paper copies at HQ AFOSI are retained under the same criteria assigned to the substantive case supported (criminal—15 years; counterintelligence—permanent). At AFOSI field units, documentation is destroyed after 90 days for criminal or one year for counterintelligence cases, after command action is reported to HQ AFOSI or when no longer needed, whichever is sooner. Source control documentation at HQ AFOSI is destroyed after 15 years. At AFOSI field units, source documentation is destoryed one year after termination of source use. Copies furnished USAF Commanders are destroyed when all actions are completed and reported to AFOSI or when no longer needed. At HQ AFOSI, copies of reciprocal investigations conducted on request of a local, state or federal investigative agency in the US, or host country investigative agencies overseas, are destroyed after one year. Copies retained by AFOSI field units are destroyed after 90 days.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Plans, Programs and Resources (XP). HQ Air Force of Special Investigations, Washington, DC 20332.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to Chief, Information Release Division (XPU), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Chief, Freedom of Information/Privacy Acts Release

Branch (DADF), HQ Air Force Office of Special Investigations, Bolling Air Force Base DC 20332.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

See Exemption.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 551a(j)(2). For additional information, contact the System Manager.

F124 AFOSI A

SYSTEM NAME:

Badge and Credentials.

SYSTEM LOCATION:

HQ Air Force Office of Special Investigations (AFOSI), Bolling Air Force Base, DC 20332 and at Air Force Office of Special Investigations (AFOSI) District Offices. Mailing addresses are in the Department of Defense director in the appendix to the Air Forec's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All accredited AFOSI special agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters of authorization to issue badge and credentials, badge and credential receipts, badge listings, badge and credential inspection reports, punch card used to prepare badge listings and badge and credential unmber assigned to each AFOSI Special Agent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C 499, Military naval or official passes; 506, Seals of departments or agencies; 701, Official badges, identification cards, other insigna, and Air Force Regulation 23–18, Air Force Office of Special Investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To issue and control the badge and credential assigned each AFOSI special agent. Used only by AFOSI to identify specifically to which special agent each badge and credentials is assigned, to provide for orderly five year update of credentials and to insure turn in of badge and credentials whenever accrediation is terminated.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in filed folders and card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Receipts are maintained at district level only during assignment of accredited special agent. When badge and credentials are turned in, records are then destroyed. At HQ AFOSI the receipts are retained for the entire period badge and credentials are issued to a specific special agent and destroyed when badge and credentials are returned to that unit. Badge listings and punch cards are destroyed when superseded.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Plans, Programs and Resources (XP), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to Chief, Information Release Division (XPU), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Chief, Freedom of Information/Privacy Acts Release Branch (DADF), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information is obtained from personnel records and issued badge.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F124 AFOSI B

SYSTEM NAME:

Investigative Applicant Processing Records.

SYSTEM LOCATION:

HQ Air Force Office of Special Investigations (AFOSI), Bolling Air Force Base, DC 20332 and Air Force Office of Special Investigations (AFOSI) District Offices, Detachment Offices, and Resident Agencies. Mailing addresses are in the Department of Defense directory in the appendix to the Air Forces systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All AFOSI personnel, allocations and applicants for AFOSI duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application documentation, School and College Ability Test results, results of the AFOSI applicant inquiry, and the personnel. security investigation concerning the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force; powers and duties; delegation by, and Air Force Regulation 23–18, Air Force Office of Special Investigations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Compiled to assist in the selection and retention of AFOSI personnel. Used by the AFOSI Applicant Review Board and the Director of Personnel Management to select AFOSI investigative trainees and support personnel. Used by the Commander, AFOSI to reassign or retain AFOSI personnel.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN), or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms and are protected by security alarm systems.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Files on nonselected personnel and destroyed six months after selection process is terminated. Destruction is by pulping, macerating, or burning. Files at AFOSI field units are destroyed 90 days after completed action is forwarded to HQ AFOSI. Destruction is by pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Plans, Programs and Resources (XP), HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to Chief Information Release Division (XPU), HQ Air Force Office of Special Investigation, Bolling Air Force Base, DC 20332.

RECORD ACCESS PROCEDURES:

REQUESTS FROM INDIVIDUALS SHOULD BE ADDRESSED TO CHIEF, FREEDOM OF INFORMATION/PRIVACY ACTS RELEASE BRANCH (DADF), HQ AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS, BOLLING AIR FORCE BASE, DC 20332. MAILING ADDRESSES ARE IN THE DEPARTMENT OF DEFENSE DIRECTORY IN THE APPENDIX TO THE AIR FORCE'S SYSTEMS NOTICES.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, educational institutions, medical institutions, police and investigating officers, the bureau of motor vehicles, a state or local governmnent, an international organization, a corporation, witnesses, or source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth. Data is extracted from individual military or civilian personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(5). For additional information, contact the System Manager.

F125 AF SP A

SYSTEM NAME:

Air Force Policy Statement—Firearms Safety and Use of Force.

SYSTEM LOCATION:

Kept by Commanders at each Air Force or military installation where Air Force personnel (including civilians) are or may be armed in performance of their duties. Some portions of this system may be kept in individual training records, employment records, firearm issue points, or by the individuals authorized to bear arms. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Forces' system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force active duty military personnel. Air Force civilian employees. Air Force Reserve personnel. Air National Guard personnel. Who are authorized to bear firearms in performance of duties and personnel who store firearms in Air Force armories.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation of authority for Air Force military personnel, civilian employees, contract security police and foreign nationals to bear firearms on an Air Force installation and contains personal identification data and documentation of authorization to bear firearms. Also includes a record of understanding and certification of same by individual regarding the constraints on the application of deadly force and the weapons safety requirements that must be adhered to by all personnel who bear firearms in the performance of duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose is to provide certification of an individual's understanding of the constraints regarding the application of deadly force and the weapons safety requriements that must be adhered to by anyone who bears firearms in the performance of duties. Used by commanders as evidence that the individual has certified his knowledge of constraint on the application of deadly force and necessary firearms safety requirements. Copies could be given to other law enforcement agencies. Purpose of the system is to identify civilian employees who can legally bear firearms on Air Force installations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders. Posted on bulletin boards to be seen by personnel issuing firearms.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

May be retained in office files for two years after annual cutoff, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police. At decentralized locations, commanders of the appropriate installation.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Civilian Personnel Manager at any Air Force installation. When requesting information, the requester should include full name, and some proof of identity such as date of birth. During a visit, identity must be proven by means of a valid drivers license or identification card.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports or from military and civilian Personnel Records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F125 AF SP B

SYSTEM NAME:

Complaint/Incident Reports.

SYSTEM LOCATION:

Kept by the Chief of Security Police at the installation where an individual becomes involved in an incident or complaint, and by the Chief of Security Police at the installation where an individual is assigned if the incident occurs at a different location. Information copies of a report are kept at the individual's organization and other organizations which have an interest in a particular incident. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Forces' systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who become involved in complaints or incidents on Air Force installations or Air Force active duty personnel who become involved in incidents regardless of the location.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes the incident or complaint report, statements by the subject or witness, information on seized or acquired property, if applicale, copies of forms referring cases to other agencies for final disposition, and other forms or reports required to complete basic report. Also includes an individual incident reference record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to record information on individual involvement in incidents or criminal activity. Reports are used to provide information to the appropriate individual within an organization who insures corrective action is taken.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Individual incident records are retained in the office of the Chief of Security Police and destroyed three years after close of year in which last entry was made. Destroyed by tearing into pieces. Incident and complaint reports and parts thereto are retained in office files for one year after annual cutoff, transferred to a staging area for two years, and then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Information copies at interested agencies are destroyed one year after annual cutoff by tearing into pieces.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117. Installation Chief of Security Police.

NOTIFICATION PROCEDURE:

The appropriate installation Chief of Security Police should be contacted for information. When requesting information in writing, individual should include full name, Social Security Number, military status, home address, and the letter must be notarized. For a personal visit, individual must have a military ID, if applicable, a valid drivers license, or other appropriate proof of identity.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. Contact the Chief of Security Police at the appropriate installation.

CONTESTING RECORD PROCEDURES:

The Air Forces rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from police and investigating officers, withnesses and from persons registering complaints or who become victims of a crime.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F125 AF SP C

SYSTEM NAME:

Correction Records.

SYSTEM LOCATION:

Headquarters Air Force Office of Security Police, Kirtland Air Force Base, NM 87117. Air Force Accounting and Finance Center, Denver, CO 80279. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. National Personnel Records Center, Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Washington National Records Center, Washington D.C. 20409. Maintained by the Chief of Security Police and Staff Judge Advocate at the installation where the individual was last assigned, Commander 3320th Retraining Group, Lowry Air Force Base, CO, Commandant United States Disciplinary Barracks (USDB), Leavenworth, KS and the Office of the Secretary of the Air Force Personnel Council, Pentagon, Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on any individual who was placed in confinement at an installation, assigned to the 3320th Retraining Group or the USDB for purposes of retraining or confinement, placed in a federal prison system as the result of criminal conviction, or spent time in the correctional custody program at any Air Force installation.

CATEGORIES OF RECORDS IN THE SYSTEM:

System includes prisoner personnel records consisting of confinement order, release orders, personal history records, medical examiners report, request and receipts for health and comfort supplies, recommendations for disciplinary action, inspection records, requests for interview and evaluation reports; corrections officers records including personal deposit fund records and related documents, disciplinary books, correction facility blotters and visitor registers; prisoner records consisting of daily strength records, and reports of escaped and returned from escaped prisoners; prisoner classification summaries; retrainee test records and correctional custody case files consisting of disciplinary punishment letters, evaluation of individual and personal history, and records pertaining to any clemency/parole actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose of these records is to maintain a life file on the individual as a prisoner or correctional custodee on an installation, or as a retrainee at the 3320th Retraining Group or when an Air Force prisoner serving a sentence in a federal prison. Routine uses of the records are to establish background for either disciplinary or good conduct action as well as general administration uses of the records concerning health and welfare of the individual, as well as clemency and parole actions. Any individual record or part thereof can be transferred to any component of the Department of Defense or the Department of Justice, as well as civilian agencies such as law enforcement agencies, or law firms as a basis for consideration of civil action either against or on behalf of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in note books/binders, in card files, on computer paper printouts, on roll microfilm and on microfiche and as photographs.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) and fingerprint classification.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms and controlled by visitor registers.

RETENTION AND DISPOSAL:

Depending on the type of record within the system, it is either destroyed after release of the prisoner/custodee/retrainee, maintained for one year after the release of the individual, or retained in the files at the facility in which the individual was confined for two years, after which time the record is either destroyed or transferred to a staging area for two additional years, then either retired to the Washington National Records Center, Washington D.C. 20409, for permanent retention or destroyed by tearing into pieces, shredding pulping, macerating, or burning. Records pertaining to clemency/parole actions are retained for 5 years after final action, then destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117. The Judge Advocate General, Headquarters United States Air Force. Unit commander at the individual's last assignment; the commander of the 3320th Retraining Group, Lowry Air Force Base, CO; Installation Chief of Security Policy, Commandant USDB, Chairman Air Force Clemency and Parole Board.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Installation Chief of Security Police, Installation Staff Judge Advocate Commander of unit to which individual was last assigned, or the Commander, 3320th Retraining Group. Records of clemency and parole actions are maintained by the Office of the Secretary of the Air Force Personnel Council and the Commandant USDB. Requesters should provide full name and proof of identity. When visiting, requester will be required to provide proof of identity.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from financial institutions, medical institutions, police and investigating officers, state or local governments, witnesses or source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F125 AF SP D

SYSTEM NAME:

Field Interview Card.

SYSTEM LOCATION:

Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel and civilian employees, Air Force Reserve personnel, dependents of military personnel, and civilians not affiliated with DOD.

CATEGORIES OF RECORDS IN THE SYSTEM:

Field interview card which contains name, address, telephone number, physical description, age, date of birth, description of clothing worn, if an automobile is involved, the make, year, decal number license and style and color.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Purpose of system is to obtain and record information on the presence of individuals in a given location at specific time and date. Information is used by the Chief of Security Police and Security Police investigators at base level as an investigative tool in the identification of crime suspects and witnesses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, and locked cabinets or rooms and are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files for three months after monthly cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117 and Chief of Security Police at base concerned.

NOTIFICATION PROCEDURE:

Requests should be addressed to Chief of Security Police at base concerned required information from individual will be name and address. Requester may visit the office of the Chief of Security Police at base concerned and most provide a current

military identification card, or civilian identification card or driver's license.

RECORD ACCESS PROCEDURES:

Individuals can be notified by contacting the Chief of Security Police at the base concerned.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Source of information is individual interviewed, witnesses and interviewing security policemen.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F125 AF SP E

SYSTEM NAME:

Incident Investigation Files.

SYSTEM LOCATION:

Chief of Security Police at an installation where a criminal act or incident occurs which requires investigation by the Security Police. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Forces' systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who become involved in criminal acts or incidents on an Air Force installation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes a chronology of the investigation being conducted, data on sources of information, information on investigation techniques, and records concerning seized property.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by a Security Police investigator to assist in the investigation of a criminal act or incident.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and locked cabinets or rooms.

RETENTION AND DISPOSAL:

Incident and complaint investigation reports are retained in office files for one year after annual cutoff, transferred to a staging area for two years, and then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117. Installation Chief of Security Police.

NOTIFICATION PROCEDURE:

See Exemption.

RECORD ACCESS PROCEDURES:

See Exemption.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

See Exemption.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a (j)(2). For additional information, contact the System Manager.

F125 AF SP F

SYSTEM NAME:

Notification Letters to Persons Barred From Entry to Air Force Installations.

SYSTEM LOCATION:

Chief of Security Police at the installation where an individual is barred entry. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Forces' systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons prohibited from entering U.S. military installations for cause.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of the letters the individuals barring them from entry to a particular installation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Record provides a list of personnel who have been barred from entry to the installation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders and in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms and protected by guards.

RETENTION AND DISPOSAL:

Retained for three years after removal from barred list; then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117. Installation Chief of Security Police.

NOTIFICATION PROCEDURE:

Contact the installation Chief of Security Police for information. Individual should include full name, Social Security Number, and home address. During a personal visit individual must provide a valid driver's license or other appropriate proof of identity.

RECORD ACCESS PROCEDURES:

Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. Contact the Chief of Security Police at the appropriate installation.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from police and investigating officers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F125 AF SP G

SYSTEM NAME:

Pickup or Restriction Order.

SYSTEM LOCATION:

Chief of Security Police at those installations where the order was issued. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any Air Force member whose actions result in the unit commander issuing a pickup or restriction order. Some examples of actions that warrant an order being issued include AWOL, suspicion of an offense, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

The record provides a complete physical description of the individual as well as his name, rank, Social Security Number, organization and date of birth. It also includes the reason for the order being issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The purpose of the record is to document the identity of a member of the Armed Forces whose actions justify the picking up or restriction of the member by his unit commander. The record is used as a notification bulletin for the pickup or restriction by Security Police until disposition is made by the member's unit commander. Copies of this order may be given to other law enforcement agencies or other installations if warranted, in attempt to pickup the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/ binders, visible file binders/cabinets and card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms and protected by guards.

RETENTION AND DISPOSAL:

Record is retained until member is picked up or until the order is cancelled by the issuing authority, at which time all copies are destroyed by tearing into pieces, shredding, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117. The Installation Chief of Security Police.

NOTIFICATION PROCEDURE:

Requests should be addressed to the Chief of Security Police at the installation where the order was issued or to the member's unit commander at that installation. Visitors requesting information must provide proof of identity (e.g., identification card, or drivers license).

RECORD ACCESS PROCEDURES:

Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from police and investigating officers, from witnesses and from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F125 AF SP H

SYSTEM NAME:

Provisional Pass.

SYSTEM LOCATION:

Chief of Security Police at those installations where the pass was issued to the individual, as well as the unit commander at the members final destination. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This form is issued to any enlisted member of the Armed Forces when delays might result in failure to report to proper station within the time limit specified in orders or pass; or when a pass has expired or the individual does not have a pass or leave orders.

CATEGORIES OF RECORDS IN THE SYSTEM:

A written pass provided to the member to enable him or her to travel legally without any restriction; contains name, rank, SSN of member and unit.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose of the record is to document the travel of a member who is without a regular pass or orders are not available. Use of the record by Security Police to notify the member's commander that he or she is travelling to a specific destination; may be used for followup on individuals travelling without regular passes or leave orders if the member does not arrive at the final destination within specified time limit. The original copy is given to the individual, the second copy is forwarded to the individual's unit commander, and the third copy is maintained at the issuing Chief of Security Police's office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/ binders, visible file binders/cabinets and in card files.

RETRIEVABILITY:

Filed by name and SSN.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

The original and duplicate copies are retained for 90 days after date of issue and then destroyed by tearing into pieces, shredding, macerating, pulping, or burning. The member's copy is destroyed when the member reports to final destination.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117. The Chief of Security at the issuing installation or the unit commander at the member's final destination.

NOTIFICATION PROCEDURE:

Individual requests should be addressed to the Chief of Security Police at the issuing installation or the unit commander at the member's final destination. Visitors making requests must provide proof of identity (e.g., identification card, or drivers license).

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from police and investigating officers, witnesses and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F125 AF SP I

SYSTEM NAME:

Registration Records (Excluding Private Vehicle Records).

SYSTEM LOCATION:

Chief of Security Police at the installation where an individual registers personal property. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Forces' system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who register firearms, pets, certain types of personal property, bicycles, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Registration forms for each particular item registered with the Security Police activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to record information on make, model, type, kind, etc., of property. Information is used to identify lost or stolen property and to insure proper control of privately owned firearms maintained on an Air Force installation. The firearm registration form is also used to maintain accountability (logging weapons in/out) of privately owned firearms stored in government firearm storage facilities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/ cabinets and locked cabinets or rooms.

RETENTION AND DISPOSAL:

Records are kept in the Office of the Chief of Security Police for one year after departure of owner and then destroyed by tearing into pieces.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117. Installation Chief of Security Police.

NOTIFICATION PROCEDURE:

Contact the installation Chief of Security Police for information. When requesting information in writing, individual should include full name, Social Security Number, military status, and home address. During a personal visit, individuals will be required to produce military ID, if applicable, a valid drivers license, or other appropriate proof of identity.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice. Contact the Chief of Security Police at the appropriate installation.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F125 AF SP J

SYSTEM NAME:

Serious Incident Reports.

SYSTEM LOCATION:

Chief of Security Police at an installation where a crime or serious incident occurred or where an Air Force member, employee or dependents became involved in a crime or serious incident regardless of location. Reports are forwarded through the different levels of command to the appropriate Major Command Headquarters. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Forces' system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Pesons who become involved in crimes or serious incidents on Air Force installations or Air Force personnel and dependents who become involved in these incidents regardless of the location.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information on the particular incident, and identification of persons involved to include information on final disposition of the crime or incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by and Chapter 47—Uniform Code of Military Justice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to report crimes or incidents which may evoke command or congressional interest or may result in unfavorable publicity to the Air Force. Also used to develop statistics, rates, and trends of certain crimes which occur on Air Force installations. May be used to evaluate command discipline rates, personnel quality control, and to monitor various drug and alcohol abuse programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official

duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/ cabinets and in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, transferred to staging area for two additional years, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117. Major Command Chief of Security Police and Installation Chief of Security Police.

NOTIFICATION PROCEDURE:

Contact the appropriate installation or Major Command Chief of Security Police. When requesting information in writing, individual should include full name, Social Security Number, military status, and home address. During a personal visit, individual will be required to produce military ID, if applicable, a valid driver's license or other appropriate proof of identity.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. Contact the Chief of Security Police at the appropriate installation or Major Command Headquarters.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions. Information obtained from police and investigating officers. Information obtained from the public media. Information obtained from a state or local government. Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F125 AF SP K

SYSTEM NAME:

Vehicle Administration Records.

SYSTEM LOCATION:

Chief of Security Police at the installation where an individual registers or frequently operates a vehicle. Information copies of some portions of this system may be kept at an individual's assigned unit. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Forces' system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who frequently drive or register vehicles on an Air Force installation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Vehicle registration records, driver records, letters of suspension or revocation as applicable, and forms or letters which are necessary in the vehicle administration program for driver improvement actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to record and individual's statement of understanding on financial responsibilities with regard to operation of a vehicle on an Air Force installation. Driver records are maintained to record information about motor vehicle accidents and moving traffic violations that are used to provide for traffic point assessment, suspension, or revocation, or other driver improvement actions affecting driving privileges on Air Force installations. Records may be disclosed to law enforcement or investigatory authorities, such as the Division of Motor Vehicles, for possible reciprocal action on driver license suspension or revocation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files and on computer and computer output products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/ cabinets and maintained on computer and computer output products. Manual records are stored in locked cabinets or rooms. Automated records are controlled by computer system software.

RETENTION AND DISPOSAL:

Private vehicle registration documentation is destroyed after departure of the registrant to a new duty station, upon termination of an individual vehicle registration, or at the end of the particular registration period. Driver records on employees are transferred to gaining installations when an individual is reassigned or transferred. These are destroyed on permanent separation from active service, termination of employment, or upon deletion of all entries. Destruction of these forms is done by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117.

NOTIFICATION PROCEDURE:

Contact the installation Chief of Security Police for information. When requesting information in writing, individual should include full name, Social Security Number, military status, home address, and the letter must be notarized. During a personal visit, individual will be required to produce military ID, if applicable, a valid drivers license, or other appropriate proof of identity.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Contact the Chief of Security Police at the appropriate installation. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from police and investigating officers and from the bureau of motor vehicles.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F125 AF SP L

SYSTEM NAME:

Traffic Accident and Violation Reports.

SYSTEM LOCATION:

Chief of Security Police at the installation where an individual becomes involved in a traffic violation or accident. Information copies of traffic accident reports are kept at the Ground Safety, Staff Judge Advocate, and Transportation offices (when a government vehicle is involved). Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Force's system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who become involved in traffic violations or accidents on an Air Force installation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Traffic accident investigation report, statement of witnesses, alcohol influence reports, and reports of traffic violations to include notices or summons.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by and DODI 1000.19, Mishap Investigation, Reporting and Recordkeeping; DODI 6055.4, Department of Defense Traffic Safety Program and AFRs 125–3, Security Police Handbook and 125–14, Motor Vehicle Traffic Supervision.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to record information on traffic accidents and violations. Reports are forwarded to the appropriate individual within an organization who insures corrective action is taken, or to US Magistrate as applicable. Routine use could include disclosure to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or statistical use. Any individual record or part thereof can be transferred to any component of the Department of Defense or to The Staff Judge Advocate. Additionally, accident reports may be provided to private attorneys, representatives of insurance companies and private citizens.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files and on computers and computer output products, magnetic media and printouts.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and maintained on computer and computer output products. Manual records are stored in locked cabinets or rooms. Automated records are controlled by computer system software.

RETENTION AND DISPOSAL:

Retain in the office of record. Destroy after two years by tearing into pieces, shredding, pulping, macerating, or burning. DD Form 1805, Violation Notice, will be destroyed according to instructions of the US District Court.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117. Installation Chief of Security Police.

NOTIFICATION PROCEDURE:

Contact the installation Chief of Security Police for information. When requesting information in writing, individual should include full name, Social Security Number, military status, home address, and the letter will be notarized. During a personal visit, individual will be required to produce military ID, if applicable, a valid drivers license, or other appropriate proof of identity.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager. Contact the Chief of Security Police at the appropriate installation. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from police and investigating officers and from witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F125 ATC A

SYSTEM NAME:

Behavioral Automated Research System (BARS).

SYSTEM LOCATION:

3320 Retraining Group/RGP, Lowry Air Force Base, CO 80230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force prisoners who serve sentences to confinement at 3320 Retraining Group and 3415 special training squadron students.

CATEGORIES OF RECORDS IN THE SYSTEM:

Intelligence quotient achievement scores, significant dates, psychological tests, military history, discipline involvement, military justice data, performance rating, type of discharge.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Force Regulation 125–18, Operation of Air Force Correction and Detention Facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Retraining Group staff and approved researchers for statistical analysis, improve program, screen potential offenders.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer magnetic tapes.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained for 20 years and destroyed by tearing, macerating, pulping, shredding, burning or degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, 3320 Retraining Group/RGP, Lowry Air Force Base, CO 80230.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Name and SSN required for visits to the 3320th Retraining Group (RGP).

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

FBI and military records, supervisors, commanders, lawyers, doctors, chaplains, other USAF officials, American Red Cross.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:

Air Training Command Aircraft Mishap Board Resources List.

SYSTEM LOCATION:

Headquarters Air Training Command, Randolph Air Force Base, Tx 78150

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Assigned rated pilots in the grade of colonel or general officer with an aviation service code of 1–7, excluding wing and center commanders. and assigned rated pilots on unconditional flying status with at least four years rated service who have attended the aircraft mishap investigation course, Flight safety Officers course or advanced safety program management course.

CATEGORIES OF RECORDS IN THE SYSTEM:

Position, aircraft flown, previous air training cammand assignments, previous board experience, and safety schools attended.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; and Air Force Regulation 127–2, The USAF Mishap Prevention Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Air Training Command Commander appoints board presidents and investigators.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Safety, Headquarters Air Training Command, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Request from individuals should be addressed to the System Manager. Individuals may visit the safety directorate, Headquarters Air Training Command; military identification card or other equivalent identification is required.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F160 AF SG B

SYSTEM NAME:

Medical Professional Staffing Records.

SYSTEM LOCATION:

At Air Force medical centers, hospitals, and clinics; all health facilities where graduate health education programs are conducted.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Practitioners, who are, or have been, members of the USAF Medical Service or Civil Service Employees (including civilian consultants who engage in direct patient care) and who are assigned to, employed by, or practice in the Air Force medical facility for the purpose of providing health services for eligible beneficiaries; United States Air force Medical Service personnel pursuing graduate health education programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Credential review files: Contains curriculum vitae, list of approved privileges, copies of diplomas and certificates, records of continuing health education training, letters of evaluation, summaries of special activities or other information, including malpractice claims reports, furnished or solicited in order to fully evaluate the professional qualifications of individuals, and the records of any actions taken on the individual's credentials.(2) Health education records: applications for training, training reports, Faculty Board reports, photograph or negative, and personnel documents related to training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 55, Medical and Dental Care; 8067 (f) Designation: officers to perform certain professional functions; 8207, Regular Air Force: Commissioned officers on active duty; medical specialists. as implemented by Air force Regulation (AFR) 160–41, Credentials Review of Health Care Providers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in credential review files is used to award inpatient and ambulatory clinical privileges to all categories of health practitioners. The information may also be released to a governmental board or agency or health care professional society or organization if such record of document is needed to perform licensing or professional standards monitoring related to health care practitioners who are or were formerly members or employees of the Armed Forces, and to medical institutions or organizations wherein such member or employee has applied for or been granted authority or employment to provide health care services if such record or document is needed to assess the professional qualifications of such member or employee. Health education records are used to permit evaluations of individuals in training, by program directors, in managing the individual in training; by the record maintenance personnel to document changes to the

individual's pesonnel record maintained by the servicing Consolidated Based Personnel Office (CBPO).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties; by commanders of USAF medical centers hospitals and clinics (credential review files); by program directors, trainees and personnel managers with the need to know (health education records).

RETENTION AND DISPOSAL:

(1) credential review files are retained in the office files of the medical facility the practitioner is assigned or employed. Following separation, resignation, or retirement, the files are retained at the location of the last duty assignment for a period of 3 years and then are destroyed. (2) Health education files are retained by the director of health education until training is completed, files are then kept by the health facility for 30 years and then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; if facility is deactivated, the records are retired to the Washington National Records Center, Washington, DC 20409 to be retained until the 30-year period has expired at which time they will be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters, United States Air Force; Commanders of medical centers, hospitals, clinics. For health education records, individuals should give full name, military status, Social Security Number, when they entered training and completed training, and what corps within the medical service they are a member. Individuals may visit either the health facility maintaining the records or the Office of the Surgeon, Air Force Manpower and Personnel Center, Randolph Air Force Base, TX to learn if the record system contains their records. When visiting either of these locations, the individual must provide a valid drivers license or equivalent identification containing a photograph to establish identity.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

For credential review files, individual may obtain assistance in gaining access from the System Manager. For health education records, individual may obtain assistance by writing or presenting themselves in person to the health facility where the records are maintained. Official mailing addresses are in the Department of the Air Force Directory in the appendix to the Department of the Air Force system notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Credential review files: Basic information submitted by the practitioner. Additional information may be solicited from other sources in order to permit the credentials committee to best judge the capabilities of the practitioner. Health education records: Previous employer, educational institutions, master personnel record, information provided by the individual concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F160 MPC A

SYSTEM NAME:

Medical Assignment Limitation Record System.

SYSTEM LOCATION:

HQ, AFMPC/SG, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force members whose cases have been presented to a Medical Evaluation Board and were returned to duty by Medical Evaluation Board or Physical Evaluation Board action and have been assigned an Assignment limitation Code "C."

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical Evaluation Board, Report of Medical Examination, Report of Medical History, Narrative Summary, Clinical Record Consultation Sheet, Electrocardiographic Record, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by and implemented by Air Force Regulation 35–4, Physical Evaluation for Retention, Retirement and Separation; 36–20, Officer Assignments, and 39–11, Airmen Assignments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine if previous action has been taken by the System Manager, and what the previous disposition was.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files for two years or no longer needed for refernce, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

AFMPC Surgeon, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F176 AFCC A

SYSTEM NAME:

Individual Earning Data.

SYSTEM LOCATION:

Headquarters Air Force Communications Command, DCS/ Manpower and Personnel, Directorate of Personnel Services, Scott Air Force Base, IL 62225; 18 Isolated Site Lounge Sundry Funds (ISLSFs); Internal Revenue Service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Off-duty active duty military personnel employed by ISLSF.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual pay records and identifies individual by name and SSN.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To report to the IRS individual earnings on all payments made to individuals employed in the operations of an ISLSF.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name. Filed by SSN.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets.

RETENTION AND DISPOSAL:

Retained in HQ AFCC/MPS files for 4 years after wages are paid. Destroyed by tearing into pieces. Retained by individual for reporting income to IRS.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel Services, Deputy Chief of Staff/Manpower and Personnel. HQ AFCC, Scott Air Force Base, IL 62225. Comptroller of the Air Force, HQ USAF.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F176 AF MP A

SYSTEM NAME:

Nonappropriated Fund Instrumentalities (NAFIs) Financial System.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150, MAJCOM headquarters and SOAs, and Air Force NAFIs when deemed appropriate and necessary and approved by the appropriate commander. System exists within approximately 1,100 NAFIs which include resale and revenue-sharing NAFIs, general welfare and recreational NAFIs, membership association NAFIs, common support services, and supplemental mission services NAFIs. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel, who are members of membership associations or authorized patrons of any of the above NAFIs, and with whom financial transactions are conducted including the extension of credit in accordance with Air Force regulations or those whose personal checks are returned to the NAFI by the banking system and are dishonored for such reasons as insufficient funds, closed accounts, invalid signatures, bank errors, etc. In accordance with appropriate Air Force regulations concerning NAFI participation, the above personnel may include, but are not limited to, active duty and retired military members and their dependents, members of US reserve components and Federally recognized National Guard units, Air Force, Army, or Naval Academy cadets; military members of foreign governments on duty with the DOD; DOD civilians and their dependents, other Federal Government employees working on the military installations and their dependents, employees of Federal government agencies working at the installation, contractor employees, technical representatives, and others who are authorized logistic support and work at the installation and where membership or usage would be in the best interest of the installation, retired Federal Government service civilian personnel (civil, foreign service, etc.) who were members/participants of a NAFI at time of retirement, commissioned members of the American Red Cross, US Public Health Service, and the US Environmental Sciences Administration, unremarried spouses and children of deceased active duty or retired members of the US Armed Forces, and certain other categories of individuals identified by authorized personnel who directly support Air Force mission requirements. Also, all personnel employed by or assigned to the NAFI in any manner who are involved in any financial transaction involving the NAFI whether internal or external, including but not limited to, the receipt or control of cash or other property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records resulting from financial transactions with authorized members, patrons, vendors, or those otherwise entitled to utilize or deal with a NAFI service. Such records include, but are not limited to, subsidiary account ledgers maintained on individual members/authorized patrons who are charged dues and/or extended credit including the use of billeting type facilities prior to payment, form(s) on which a record of delinquent accounts or dishonored checks and their disposition are maintained; and records of package liquor or other sales or services. Records necessitated for or by internal/external financial record keeping or asset control, including but not limited to the receipt and control of cash, custody for tangible property, and any actions taken as a result of any irregularity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Regulation 176–10, Financial Operations and Accounting Procedures, and Air Force Regulation 176–378, Standard Accounting Procedures for Nonappropriated Funds.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To record charges and credits of members and others authorized credit. To prepare billing statements or furnish data to an outside party to prepare billing statements. To maintain a record of dishonored checks. To assist in

collecting all amounts due in accordance with established Air Force procedures. To compile a statistical quarterly report on dishonored checks and statistical data on delinquent accounts receivable for use with the financial reports. To verify eligibility to engage in financial transactions with NAFIs, including package liquor and other sales and extension of credit. To form a data base within the financial system of the NAFIs. Used by personnel responsible for conducting Air Force morale, welfare, and recreation (MWR) financial transactions. May be provided to commercial or nonprofit concerns conducting activities in support of, similar to, or in furtherance of, the Air Force programs involved. May be provided to any DOD component or any part thereof and, upon request, to any other federal, state, and local governmental agencies in the pursuit of their official duties. May also be used for other lawful purposes including law enforcement and/or litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visable file binders/ cabinets, and on computer and computer output products.

RETRIEVABILITY:

Filed by name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in secured buildings or locked cabinets or rooms.

RETENTION AND DISPOSAL:

Subsidiary accounts receivable are retained throughout the life cycle of credit sales and for as long as an individual remains in an active member/ authorized patron status. Those forms used in connection with delinquent accounts or dishonored checks are retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Individuals may contact the appropriate nonappropriated fund financial management branch (NAFFMB) or the appropriate operating manager in order to exercise their rights under the Act. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Forces systems notices.

RECORD ACCESS PROCEDURES:

Same as procedures for notification.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual members/patrons/users of a service themselves, charge slips, payment receipts, checks, and other authorized financial forms and records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F176 AF MP B

SYSTEM NAME:

Nonappropriated Fund (AF NAF) Employee Insurance and Benefits System File.

SYSTEM LOCATION:

Air Force installation nonappropriated fund instrumentalities (NAFIs) and central civilian personnel offices and the Air Force Welfare Board, Randolph Air Force Base, TX 78150. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Regular full-time and part-time AF NAFI employees compose AF NAF Group Life and Health Insurance Program; regular full-time AF NAFI employees compose AF NAFI Retirement Program; information on AF NAFI civilian employees who sustain job related illnesses or injuries is in Worker's Compensation Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Group Life and Health Insurance Program File, Retirement Program File, and Worker's Compensation Claim File, all of which consist of, but are not limited to the following: applications and/or waivers of participation; notices of change of beneficiary; notices of termination of eligibility, disability and death; evidence of age and qualification for benefits; applications for retirement; elections to reinstate prior participation and suvivor annuities; Social Security earnings data; employer certification of coverage; hospitalization and claims forms; reports of accident or occupational illness; medical reports; payment forms; personal historical information as well as any pertinent correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012; 5 U.S.C. 8171–8173 for Worker's Compensation Claim File; DOD Manual 1401.1–M; Air Force Regulation 40–7, Nonappropriated Funds Personnel Management and Administration, and Air Force Regulation 34–3, Vol VIII, NAF Insurance Programs (to be published as Air Force Regulation 176–4).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Provides information for the administration of the programs, to determine eligibility and pay benefits due. It is used in statistical and actuarial evaluations of the programs. The information in the system is used by commercial concerns in actuarial evaluations, determination of eligibility, determination and payment of amount of benefit payments due; and policy administration. It may be used by any Department of Defense component or any part thereof, and, upon request, by other Federal, state, and local governmental agencies in the pursuit of their official duties. It may also be used for other lawful purposes including law enforcement and/or litigation. The Worker's Compensation Claim File provides information as required by law to the Department of Labor for use to assure compliance with statutory requirements. The information is used to insure compliance with applicable laws and adjudicate and pay claims.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, on computer tapes, disks or drums, computer output products, and in microform.

RETRIEVABILITY:

Filed by name, or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by personnel screening.

RETENTION AND DISPOSAL:

USAF NAF Life and Health Insurance Program and USAF NAR Retirement

Program: At installation level; retired to National Personnel Records Center, St. Louis, MO., upon employees separation, death, or retirement. NAF Retirement Program: At Headquarters Air Force level; retained for a minimum of 20 years upon an employee's withdrawal from the program. USAF NAF Worker's Compensation Program: At Headquarters Air Force level; retained for 3 years after file is closed, then retired to National Personnel Records Center for 15 additional years, and then destroyed. For all systems, eventual disposal occurs by shredding, pulping, and macerating.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Insurance and Debt Management, Air Force Welfare Board, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests should be addressed initially to central civilian personnel office at installation of employment of individual making request. If requested information is not available, contact System Manager. Give name and Social Security Number (and date of accident or injury if related to Worker's Compensation claim). For inquiries in person, contact central civilian personnel office at installation of employment and/or Air Force Welfare Board, Randolph Air Force Base, TX, 78150. Means of verification: name, Social Security Number, governmental identification card, vehicle driver's license or other acceptable identifying document.

RECORD ACCESS PROCEDURE:

Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individuals and their survivors and beneficiaries; Department of Labor, Social Security Administration and any individual in a position to verify relevant information. Information obtained from previous employers. Information obtained from medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F177 ATC A

SYSTEM NAME:

Air Force ROTC Cadet Pay System.

SYSTEM LOCATION:

HQ AU/ACFR, Maxwell Air Force Base, AL 36112 and AFROTC/ACB, Maxwell Air Force Base, AL 36112 and AFROTC detachments. Official mailing addressed of the detachments are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Senior AFROTC contract cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Monthly pay disbursement and documents for senior AFROTC contract cadets.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 U.S.C. 209, Members of Senior Reserve Officers' Training Corps; and Air Force Regulation 45–25, Air Force ROTC Subsistence Allowances and Rates of Commutation in Lieu of Uniforms.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by detachments to verify entitlements, and by AFROTC to summarize costs of the program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer magnetic tapes and on computer paper printouts.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system software. Building secured after duty hours.

RETENTION AND DISPOSAL:

Retained in office file for three years after completion of training, then destroyed by tearing, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force, and Chief, Financial Management Division, AFROTC/ACB, Maxwell Air Force Base, AL 36112.

NOTIFICATION PROCEDURE:

Contact Reserve Pay Section, HQ AU/ACFR, Maxwell Air Force Base, AL 36112. Provide name, date attended the institution, detachment number, reason for request. Requester may visit the Reserve Pay Section and must present driver's license or Social Security card.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Enrollment and attendance records as translated to pay days.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F178 AFCC A

SYSTEM NAME:

Center Automated Manpower and Update System (CAMPUS).

SYSTEM LOCATION:

Air Force Data Systems Design Center (AFDSDC), Gunter Air Force Station, AL 36114.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel and civilian employees assigned to the AFDSDC.

CATEGORIES OF RECORDS IN THE SYSTEM:

CAMPUS records contain data on AFDSDC personnel nonavailable time (time in man-hours chargeable as AFDSDC orverhead for purposes of total man-hour accounting), personnel available time (time chargeable against a specific human resource package) and workload tracking data (data on project or task). Included in nonavailable time are leave, training, and all activities not related to the AFDSDC's primary mission. Available time includes administrative duties, management/supervision functions, time spent in general support areas, and time devoted to developing new and/or maintaining existing computer software. Workload tracking includes data on pending, active, and completed activities as to estimated/actual resources required, estimated/actual dates, and identification data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

CAMPUS provides information to AFDSDC management personnel about manpower utilization within the organization. Specific uses of the system by all management levels include monitoring of manpower resources expended on ADP projects, validating and defending the AFDSDC manpower posture with workload and man-hour expenditure data, and distributing workloads between and within the AFDSDC directorates.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Records can be retrieved by any element contained in the CAMPUS data base.

SAFEGUARDS:

The personnel data maintained in CAMPUS is subject to protection and restrictions in accordance with Air Force Regulation 300–13 and the Privacy Act of 1974.

RETENTION AND DISPOSAL:

Hard-copy listings are retained in office files until superseded, obsolete, or no longer needed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Air Force Data Systems Design Center, Gunter Air Force Station, AL 36114.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for contesting contents and for appealing initial determinations are contained in Air Force Regulation 12–35. Specific procedures may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information for PCAS is obtained from the individuals assigned to the AFDSDC.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F178 AFSC B

SYSTEM NAME:

Manhour Accounting System (MAS).

SYSTEM LOCATION:

Aeronautical Systems Division (ASD), Wright-Patterson Air Force Base, OH. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel assigned to ASD and LABS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manpower information-hourly expenditure, grade/rank, office symbol.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used to provide manhour expenditure/resources for management.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Filed by Social Security Number (SSN).

SAFEGUARDS:

Records are controlled by computer system software.

RETENTION AND DISPOSAL:

Destroy after 2 years or when purpose has been served by means of tearing, shredding, pulping, maceration or burning.

SYSTEM MANAGER(S) AND ADDRESS:

MAS monitor, support division, Director of Program and Budget, ASD, Wright-Patterson Air Force Base, OH.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F182 AF A

SYSTEM NAME:

Air Force Postal Directory File.

SYSTEM LOCATION:

Air Force postal activities. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel and civilian employees. Retired Air Force military personnel. Contracting officers and representatives, American Red Cross and State Department Personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Directory cards for permanently assigned personnel, transient personnel, such as students at schools, temporary duty personnel who have departed for their place of duty, and individuals awaiting an assignment to another Air Force duty location.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used for forwarding and directorizing individual personal mail received by Air Force postal activities, and for assignment of individual mail boxes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for six months after reassignment, separation, or departure from the servicing postal activity, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration, Headquarters United States Air Force. Submanagers include the Chief, Central Base Administration at each Air Force installation. Official mailing addresses are in the Department of Defense directory in the Apendix to the Air Force's systems notices.

NOTIFICATION PROCEDURE:

Individuals may be notified of whether the system contains a record pertaining to them by writing to the Chief, Central Base Administration at the location(s) where postal directory services were provided.

RECORD ACCESS PROCEDURES:

Individuals may obtain assistance in gaining access as indicated in the notification procedures above.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerened may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F200 AFFIS A

SYSTEM NAME:

Security File for Foreign Intelligence Collection.

SYSTEM LOCATION:

AFSAC/INOB, Ft Belvoir, VA 22060.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty officers, enlisted personnel, civilian employees and former employees, retired Air Force military personnel, and foreign nationals.

CATEGORIES OF RECORDS IN THE SYSTEM:

AFOSI Records of investigation and AFIS correspondence incidental to AFOSI investigations. Correspondence reporting incidents having security ramifications bearing on U.S. collection activities abroad. Studies of compromised U.S. intelligence collection projects abroad and correspondence thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as amended and Air Force Regulation 205–3, Security Classification of Infrared, Visible and Ultraviolet Equipment, Components and Information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Routine internal AFSAC/AFIS reference materials used for internal orientation and study for object lesson guides for routine instruction to support operational security in U.S. foreign intelligence collection operations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation. Destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

AFSAC/DA, Ft Belvoir VA 22060.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from AFOSI reports, studies and source documents pertaining to foreign intelligence collection operations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F200 AFIS B

SYSTEM NAME:

DIA Program for Foreign Intelligence Collection.

SYSTEM LOCATION:

Air Force Special Activities Center (AFSAC/INOB), Ft Belvoir, VA 22060 and subordinate units: Det 31, PSAA, APO San Francisco 96328, Det 32, PSAA, APO San Francisco 96301; Det 12, ESAA, APO NY 09008; Det 21, AFSAC, Ft Belvoir, VA 22060; Det 22, AFSAC, Wright-Patterson Air Force Base, OH 45433; Det 3/FTD, APO NY 09633; Det 4/FTD, APO San Francisco 96328.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel, retired Air Force military personnel, foreign Nationals residing in the United States, US Citizens, and foreign nationals overseas who are sources or support assets for foreign intelligence collection operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic data and records incidental to foreign intelligence collection operations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, Public Law 257, July 26, 1947 (61 Stat 495); as implemented by Air Force Regulation 200–3, The Medical Intelligence Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Routine internal reference relative to use or possible use in foreign intelligence collection operations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and note books/binders, and on computer paper printouts and roll microfilm.

RETRIEVABILITY:

Filed by name and National File Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and safes.

RETENTION AND DISPOSAL:

Prior to destruction, files are screened, purged of extraneous material, and microfilmed. Microfilm retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

AFSAC/DA, Ft Belvoir, VA 22060. Submanager: Det 22, AFSAC/CC, Wright-Patterson Air Force Base, OH 45433.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager of Submanager, as appropriate.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager or Submanager, as appropriate.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from biographical data and records incident to foreign intelligence collection operations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F205 AFIS A

SYSTEM NAME:

Sensitive Compartmented Information Personnel Records.

SYSTEM LOCATION:

Personnel Security Division, Directorate of Security and Communications Management, Air Force Intelligence Command, Pentagon, Washington, DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force personnel, civil service employees, and contractor personnel with current access to SCI or who have had such access within past five years except Air Force personnel assigned to Central Intelligence Agency, Office of the Secretary of Defense/Defense Agencies, Office of the Joint Chiefs of Staff, and the National Security Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements of Personnel History and allied papers prepared or submitted by individuals; Statements by Commanders, Supervisors, Medical, Legal, and Security Officials, and related correspondence; Access Adjudication Records; Indoctrination Oaths; Termination Oaths; routine records/correspondence pertaining to access status or changes in status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450; as implemented by Air Force Regulation 205–32, USAF Personnel Security Program, and USAFINTEL 201–1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used by designated Air Force officials to recommend/determine eligibility for access to SCI. Used to verify an individual's status with respect to SCI access or eligibility for such access, only the 'fact of' an individual's eligibility/noneligibility for SCI access is furnished to other authorized government agencies/activities and only upon request. To answer official inquiries involving an individual's eligibility/noneligibility for access to SCI, substantive information is released to officials in the Air Force Inspector General Organizations, or higher Air Force authority, and to members of Congress. Used internally to determine personnel security trends and to attempt to determine causes for security deviations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on microfiche.

RETRIEVABILITY:

Filed by name, by Social Security Number (SSN), and grade or rank.

SAFEGUARDS:

Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets and vaults.

RETENTION AND DISPOSAL:

Active records maintained as long as an individual is authorized access to SCI. Upon termination of access record is placed in inactive status where it is retained for five years and then destroyed unless sooner returned to active status. Destruction is by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Security and Communications Management, Air Force Intelligence Service (AFIS/INS), The Pentagon, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Personnel Background Investigations conducted by Defense Investigative Service and/or Air Force Office of Special Investigations; Statement of Commanders, Supervisors and medical, legal and security officials; records of adjudication processes.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a (k)(2) and (k)(5), as applicable. For additional information, contact the System Manager.

F213 AF MP A

SYSTEM NAME:

Individual Class Record Form.

SYSTEM LOCATION:

At Air Force Installations. Official mailing addresses are in the Department of Defense directory in the appendix of the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel who are enrolled in educational programs conducted on base.

CATEGORIES OF RECORDS IN THE SYSTEM:

Indentifies courses, sources of funding, tuition payments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by; as implemented by Air Force Regulations 213–1, Operation and Administration of the Air Force Education Services Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by educational services personnel to compile reports, to expedite return of borrowed books or equipment, and to control tuition payments.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files until classes are completed or until borrowed materials are returned and all monies are paid. Then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Education Branch.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F213 AFWB A

SYSTEM NAME:

Air Force Educational Assistance Loans.

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1961, 1962 and 1963 dependents of active duty Air Force military members who received educational assistance loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain loan agreement documents made with loan recipients, related documentation between Executive Secretariat/Air Force Welfare Board (AFWB) and college/university registrars, retained copies of documents and correspondence received from or sent to loan recipients; and individual ledger cards reflecting accounting data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: power and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for loan follow-up.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Files are retained until paid in full at which time the original loan agreement is returned to the loan recipient.

SYSTEM MANAGER(S) AND ADDRESS:

Chairman, Air Force Welfare Board, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Original loan agreements generated by the loan recipient; correspondence received from or sent to loan recipients; certifications from college/university registrars as to receipt of payment for tuition, school supplies and other educational expenses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F900 AF MP A

SYSTEM NAME:

Military Decorations.

SYSTEM LOCATION:

Directorate of Personnel Program Actions, Headquarters Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. Headquarters of major commands and at all levels down to and including Air Force Installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel. Air Force Reserve personnel. Air National Guard personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Supervisory evaluation of duty performance with comments by commanders at intermediate levels.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 857, Decorations and Awards; as implemented by Air Force Regulation 900–48, Decorations, Service and Achievement Awards, Unit Awards, Special Badges, and Devices.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Award of military decorations—used by award approval authorities to determine qualification for recognition through award of a decoration.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Destroyed 1 year after completion by tearing into pieces shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager, or individuals may contact agency officials at respective locations in order to exercise their rights under the act.

RECORD ACCESS PROCEDURES:

Same procedures as for notification.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Supervisors' evaluations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F900 AF MP B

SYSTEM NAME:

Suggestions, Inventions, Scientific Achievements.

SYSTEM LOCATION:

Directorate of Personnel Program Actions, Headquarters Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. Headquarters of major commands and separate operating agencies and base personnel offices. Official mailing addresses are in the Department of Defense Directory in the appendix to the component's system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force military members and civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include suggestion forms, evaluations and substantiating documentation consisting of forms, certificates, administrative correspondence; records of committee actions; award actions; reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1124, Cash awards for suggestions, inventions or scientific achievements; as implemented by Air Force Regulation 900–4, The Air Force Suggestion Program, and Air Force Manual 900–132, Suggestion Program Data System: P073/UG Users Manual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Files are originated when personnel initiate a suggestion, invention, or scientific achievement. Case files are reviewed by the Suggestion Office personnel, and are referred to the Suggestion Awards Committee for review when required by governing directives. Individual name files are retained not more than one full year after close of year in which the final action was taken. Records of committee actions are retained for two years. Copy of approved award is filed in civilian employee's official personnel file. Copy of approved award is not retained elsewhere for military member.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on cards.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the records in performance of their official duties who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retained for one year after end of year in which the case was closed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source document (Suggestion Form) include name, Social Security Number, job title, home or mailing address, grade and organizational address.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F900 DAY A

SYSTEM NAME:

Annual Outstanding Air Force Administration and Executive Support Awards.

SYSTEM LOCATION:

Primary system at the Administrative Systems Management Division, Directorate of Administration, Headquarters United States Air Force, Washington DC 20330. Decentralized segments may be found within Administration offices and at nominating units. Headquarters of major commands and at all levels down to and including Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include unit or command nomination letters; letters of commendation citing nominees for their achievements and selection as outstanding administrators; "Hometown News Release Data," for military personnel; "Civilian News Data," for civilian personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for review and selection of award recipients by committee. Further use is for preparation of certificates of recognition; letters of commendation, and preparation of news articles recognizing individual award recipients.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name within major command or separate operating agency sequence.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Individual must give name and organization of assignment. The individual may visit the Director or Chief of Administration, or the Privacy Officer, of any installation.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from the individual's supervisor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F900 TAC A

SYSTEM NAME:

Special Awards File.

SYSTEM LOCATION:

Headquarters Tactical Air Command, Langley Air Force Base, VA 23665.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel, civilian employees and retired Air Force officers who are or were formerly assigned to Tactical Air Command.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetical file containing limited award and biographical data on TAC personnel where awards have been approved and may be used for reference in future. File is informational in nature and action does not result therefrom.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by and 8074, Commands: Territorial organization, and Air Force Regulation 900–48, Decorations, Service and Achievement Awards, Unit Awards, Special Badges, and Devices, TAC Sup 1, and Air Force Regulation 900–29, Special Trophies and Awards, TAC Sup 1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Command Awards Branch for reference.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Tactical Air Command, Langley Air Force Base, VA.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

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Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Illinois, Indiana, Kentucky, Ohio and West Virginia: IL81–2004	Mar. 13, 1981
Indiana: IN80–2015	Apr. 11, 1980
Iowa:	
IA82–4048	Oct. 1, 1982
IA82–4030	June 18, 1982
Nevada: NV82–5116	Aug. 6, 1982.
Massachusetts: MA82–3005	Apr. 30, 1982
New Mexico: NM82–4043	Aug. 27, 1982
New York: NY81–3022	Apr. 3, 1981
Maryland: MD81–3074	Oct. 9, 1981
Arkansas: AR83–4008	Jan. 7, 1982
Ohio: OH82–2037	May 21, 1982
Pennsylvania: PA82–3007	Feb. 26, 1982
Oklahoma: OK83–4011	Jan. 14, 1983
Pennsylvania:	
PA79–3020	July 20, 1979
PA82–3011	Mar. 12, 1982
PA82–3017	Mar. 26, 1982
PA81–3072	Oct. 2, 1981
PA81–3077	Oct. 9, 1981
Delaware: DE82–3015	June 4, 1982
Texas	
TX82–4046	Oct. 1, 1982
TX82–4065	Dec. 17, 1982
TX83–4002	Jan. 7, 1983
TX83–4003	Jan. 7, 1983
TX83–4004	Jan. 7, 1983
TX83–4006	Jan. 7, 1983

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

New Mexico: NM82–403, (NM83–4016)	June 18, 1982
Oklahoma: OK79–4029 (OK83–4017)	Feb. 23, 1979

Signed at Washington, D.C. this 21st Day of January 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

	Basic Hourly Rates	Fringe Benefits
DECISION NO. IL81-2004 - MOD. #2 (46 FR 16818 - March 13, 1981 Illinois, Indiana, Kentucky, Ohio and West Virginia		
Change:		
AREA I		
Within the geographical jurisdiction of the St. Louis District, Corps of Engineers		
Levermen, Engineer, Mechanic and Boatman	$15.44	2.92
Oiler	10.77	2.92
AREA II		
Within the geographical jurisdiction of the Louisville District, Corps of Engineers		
Levermen, Engineer, Mechanic, and Boatman	15.09	2.92
Oiler	11.41	2.92
AREA III		
Within the geographical jurisdiction of the Huntington District, Corps of Engineers		
Levermen, Engineer, Mechanic, and Boatman	15.09	2.92
Oiler	11.41	2.92
DECISION NO. IN80-2015 - MOD. #3 (45 FR 24985 - April 11, 1980 Statewide, Except Lake, LaPorte, Porter, and St. Joseph Counties, Indiana		
Change: Modification #3 published in Federal Register On January 3, 1983 to read Modification #4		

	Basic Hourly Rates	Fringe Benefits
DECISION NO. IA82-4048 - MOD. #4 (47 FR 43517 - 10/1/82) Woodbury Co., Iowa		
CHANGE:		
Ironworkers	$14.64	1.795
Power equipment ops.:		
Group 1	14.295	2.20
Group 2	14.05	2.20
Group 3	12.78	2.20
Group 4	12.00	2.20
DECISION NO. IA82-4030 - MOD. #11 (47 FR 26537 - 6/18/82) Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa		
CHANGE:		
Bricklayer & stonemason:		
Zone 2	13.99	1.07
Carpenters:		
Zones 6 & 7-Millwright	15.89	2.40
Electricians:		
Zone 3-Electricians	16.64	1.36+8%
Cable splicers	17.64	1.36+8%
Ironworkers:		
Zone 3 & SE part of Dubuque Co.	16.45	2.785
Laborers:		
Zone 8 - Group 1	11.875	1.64
Group 2	12.975	1.64
Group 3	12.00	1.64
Group 4	12.025	1.64
Group 5	12.075	1.64
Group 6	12.175	1.64
ADD:		
Truck drivers:		
Zone 8:		
Pickups, dumpsters	9.83	96.50 per week+d
Winch trucks, dumpcrete & scoopmobiles	9.88	"
Semis	9.98	"
Tandem trucks	10.08	"

FOOTNOTE - d - all employees accumulating 1 yr. service shall receive & take 1 week vacation with pay. All employees accumulating 3 yrs. or more of service shall receive & take 2 weeks vacation with pay. All employees accumulating 10 yrs. or more of service shall receive & take 3 weeks vacation with pay.

	Basic Hourly Rates	Fringe Benefits
DECISION NO. NV82-5116 - Mod. #5 (47 FR 34303 - August 6 1982) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway Construction in Douglas County), Nevada		
Change:		
Asbestos Workers	$17.76	$2.39
Boilermakers	21.39	3.86
Carpenters:		
Area 2:		
Carpenters	15.80	5.27
Drywall Installer	16.05	5.27
Floor Layers; Patent Scaffold Erectors; Power Saw Operators; Shinglers	15.95	5.27
Millwrights	15.40	5.27
Piledrivermen	16.05	5.27
Cement Masons:		
Area 1:		
Cement Masons	16.08	3.70
Cement Floor Finishing Machine and Color Work	16.43	3.70
Glaziers:		
Area 1	20.42	2.35
Painters:		
Area 2:		
Brush and Roller Spray; Taper; Paperhangers; Sandblaster	17.79	1.95
Spray, Swing Stage up to 40 ft.; Spray, steel	18.29	1.95
Brush, Swing Stage up to 40 ft.; Brush, steel	18.54	1.95
Plaster Hod Carriers:	18.04	1.95
Area 1:		
Plaster Hod Carrier serving Plasterers	15.20	2.50
Plaster Hod Carrier working on any type of gun except TM-30	15.80	2.50
Plaster Hod Carrier mixing on TM-30 machine	16.05	2.50
Plasterers:		
Area 1	16.95	3.70

Power Equipment Operators (Except Piledriving and Steel Erection):	Basic Hourly Rates	Fringe Benefits
Area 1:		
Group 1-A	$13.64	$9.14
Group 2	14.17	9.14
Group 3	14.44	9.14
Group 4	15.18	9.14
Group 5	15.48	9.14
Group 6	15.65	9.14
Group 7	15.90	9.14
Group 8	16.49	9.14
Group 9	16.81	9.14
Group 10	17.16	9.14
Group 10-A	17.35	9.14
Group 11	17.59	9.14
Group 11-A	19.23	9.14
Area 2:		
Group 1-A	15.14	9.14
Group 2	15.67	9.14
Group 3	15.94	9.14
Group 4	16.68	9.14
Group 5	16.98	9.14
Group 6	17.15	9.14
Group 7	17.40	9.14
Group 8	17.99	9.14
Group 9	18.31	9.14
Group 10	18.66	9.14
Group 10-A	18.85	9.14
Group 11	19.09	9.14
Group 11-A	20.73	9.14
Area 3:		
Group 1-A	15.64	9.14
Group 2	16.17	9.14
Group 3	16.44	9.14
Group 4	17.18	9.14
Group 5	17.48	9.14
Group 6	17.65	9.14
Group 7	17.90	9.14
Group 8	18.49	9.14
Group 9	18.81	9.14
Group 10	19.16	9.14
Group 10-A	19.35	9.14
Group 11	19.59	9.14
Group 11-A	21.23	9.14
Area 4:		
Group 1-A	16.64	9.14
Group 2	17.17	9.14
Group 3	17.44	9.14
Group 4	18.18	9.14
Group 5	18.48	9.14
Group 6	18.65	9.14
Group 7	18.90	9.14
Group 8	19.49	9.14

MODIFICATION PAGE 3

DECISION NO. NV82-5116 - (Cont'd)	Basic Hourly Rates	Fringe Benefits
Group 9	$19.81	$9.14
Group 10	20.16	9.14
Group 10-A	20.35	9.14
Group 11	20.59	9.14
Group 11-A	22.23	9.14
Piledriving:		
Remaining Counties:		
Group 1	13.62	9.14
Group 1-A	14.11	9.14
Group 1-B	14.41	9.14
Group 2-A	14.41	9.14
Group 2-B	15.24	9.14
Group 2-C	15.49	9.14
Group 2-D	15.70	9.14
Group 3	15.92	9.14
Group 3-A	16.54	9.14
Group 4	17.34	9.14
Group 5	17.58	9.14
Group 6	19.23	9.14
Steel Erection:		
Remaining Counties:		
Group 1	14.31	9.14
Group 2	14.84	9.14
Group 3	15.31	9.14
Group 4	16.52	9.14
Group 4-A	16.96	9.14
Group 5	17.68	9.14
Group 6	18.30	9.14
Group 7	18.73	9.14
Group 8	19.15	9.14
Group 9	20.65	9.14

Truck Drivers:	Basic Hourly Rates	Fringe Benefits
Remaining Counties; and Nye County (north of and including Highway #6):		
Group 1	$12.97	$5.28
Group 2	13.02	5.28
Group 3	13.13	5.28
Group 4	13.19	5.28
Group 5	13.24	5.28
Group 6	13.29	5.28
Group 7	13.40	5.28
Group 8	13.46	5.28
Group 9	13.51	5.28
Group 10	13.54	5.28
Group 11	13.57	5.28
Group 12	13.68	5.28
Group 13	13.73	5.28
Group 14	13.99	5.28
Group 15	14.01	5.28
Group 16	14.17	5.28
Group 17	14.34	5.28
Clark, Esmeralda, and Lincoln Counties; and Nye County (south of and inlcuding Highway #6):		
Group 1	14.18	2.54
Group 2	14.29	2.54
Group 3	14.34	2.54
Group 4	14.50	2.54
Group 5	14.68	2.54
Group 6	15.18	2.54

MODIFICATION PAGE 4

DECISION NO. MA82-3005 - MOD. #5 (47 FR 18737 - April 30, 1982 BERKSHIRE, FRANKLIN, HAMDEN, HAMPSHIRE, MASSACHUSETTS	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PAINTERS:		
Brush and Taper	13.56	2.34
Spray and Sandblasting	17.34	2.34
Swing Stage and Steel Riding over 40'	13.75	2.34
Swing Stage and Steel Riding over 40'	14.06	2.34

DECISION #NM82-4043-Mod.#1 47FR38032 - August 27, 1982 Statewide, New Mexico	Basic Hourly Rates	Fringe Benefits
CHANGE:		
COMMERCIAL LINE WORK-AREA A:		
LINEMEN-TECHNICIANS		
Zone I	$15.90	P
Zone II	17.33	P
Zone III	18.29	P
Zone IV	20.03	P
CABLE SPLICERS:		
Zone I	17.49	P
Zone II	18.92	P
Zone III	19.88	P
Zone IV	21.62	P
EQUIPMENT OPR. (includes helicopter op.)		
Zone I	15.10	P
Zone II	16.73	P
Zone III	17.49	P
Zone IV	19.23	P
EQUIPMENT MECHANIC (includes helicopter mech.		
Zone I	13.83	P
Zone II	15.26	P
Zone III	16.22	P
Zone IV	17.96	P
POWDERMAN		
Zone I	13.83	P
Zone II	15.26	P
Zone III	16.22	P
Zone IV	17.96	P
GROUNDMAN-JACKHAMMER OPERS.		
Zone I	11.29	P
Zone II	12.72	P
Zone III	13.68	P
Zone IV	15.12	P

P - 3-1/2% + 2.00

Basic Hourly Rates	Fringe Benefits

MODIFICATI

DECISION NO. WY81-3022 - Mod. #[illegible]

Basic Hourly	Fringe Benefits

DECISION NO. [illegible]

Basic Hourly	Fringe Benefits

MODIFICATION PAGE [illegible]

DECISION NO. MY81-1022 - MOD. #1 (46 FR 30437 - April 3, 1981) ONONDAGA, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
IRONWORKERS:		
Structural, ornamental, machinery mover, reinforcing, riggers and fence erectors	14.85	4.10
Sheeter	15.10	4.10
Sheeter bucker-up	14.97	4.10

DECISION NO. MD81-[illegible]-Mod. #1) (46 FR 50238-October 9,1981) Anne Arundel (Excluding the D.. Training School),Baltimore and Baltimore City,Maryland, and Heavy Construction Projects in Harford & Howard Counties, Md.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
SHEET METAL WORKERS	$15.09	2.73

DECISION #AR83-4008-Mod.#1 48FR927-January 7, 1983 STATEWIDE, ARKANSAS	Basic Hourly Rates	Fringe Benefits
ADD:		
POWER EQUIPMENT OPERATOR		
Pile driver operator	$5.60	
CHANGE:		
POWER EQUIPMENT OPERATOR		
Oiler and greaser	4.80	

DECISION NO. OH82-2037 - MOD. #2 (47 FR 22307 - May 21, 1982) Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
Plumbers:		
Ashtabula, Cuyahoga, Lake, Portage (N. of #303), & Summit (N. of #303) Cos.	$17.43	$3.22

DECISION NO. [illegible] (47 FR 8529 - February 26, 1982 Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$17.88	2.415
Drywall Finishers		
All Other Work	13.03	4.19
Electricians		
Zone 5		
Commercial	15.59	1.91+3%
Zone 9		
Commercial	14.15	.64+3%
Ironworkers		
Zone 5		
All Other Work		
Structural & Ornamental	16.25	1.70
Line Construction		
Zone 1		
Linemen	17.84	.60+ 3-3/4%
Groundman	10.70	.60+ 3-3/4%
Winch truck operator	12.49	.60+ 3-3/4%
Painter, Caulkers, Cleaners	14.63	2.86
Roofers.		
Residential structure of not more than 4 stories		
re-roofing		
Zone 1	12.80	1.98
Stonemasons		
Zone 2	13.41	3.12
Soft Floor Layers		
All Other Work	12.93	4.71

DECISION #OK83-4011-Mod.#1 48FR1913-January 14, 1983 Adair, Atoka, Bryan, Coal, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Leflore, Latimar, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Tulsa, Sequoyah, Wagoner and Washington Counties, Oklahoma	Basic Hourly Rates	Fringe Benefits
CHANGE SUPERSEDEAS DECISION No. OK81-4011 dated September 4, 1982 to read "No. OK83-4061 dated November 26, 1982."		

ADD CLASSIFICATION AREA AND GROUP DEFINITIONS

TRUCK DRIVERS

AREA II

GROUP I - Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses.

GROUP II - 3 tons or 4 yards and up to but not including 4 tons or 6 yards

GROUP III - 5 tons or 6 yards and over including heavy equipment such as pole truck, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers

GROUP IV - Ready-mix concrete trucks up to but not including 3 yards

GROUP V - Ready-mix concrete trucks 3 yards and over

MODIFICATION PAGE 7

DECISION NO. PA79-3020 - MOD. #10 (44 FR 42888 - July 20, 1979) CARBON, MONROE COUNTY, INCLUDING TOBYHANNA ARMY DEPOT, AND PIKE COUNTY, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	17.88	2.415
CARPENTERS		
Zone 1	14.00	1.95

DECISION NO. PA82-3011 - MOD. #3 (47 FR 10863 - March 12, 1982) BRADFORD, TIOGA & UNION COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	17.88	2.415
CARPENTERS	12.72	1.95
ELEVATOR CONSTRUCTORS	14.43	2.69+ a+b
ELEVATOR CONSTRUCTORS HELPERS	10.10	2.69+ a+b
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	7.215	2.69+ a+b

DECISION NO. PA82-3017 - MOD. #3 (47 FR 13108 - March 26, 1982) LACKAWANNA, SUSQUEHANNA, WAYNE & WYOMING COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	17.88	2.415
ELEVATOR CONSTRUCTORS	14.42	2.69+ a+b
ELEVATOR CONSTRUCTORS HELPERS	10.10	2.69+ a+b
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	7.21	— —
PAINTERS:		
Brush & Roller	12.65	1.20
Spray	14.15	1.20
Steel	13.65	1.20

DECISION NO. PA81-3072 - MOD. #6 (46 FR 48851 - October 2, 1981) ADAMS & YORK COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	17.88	2.415
BRICKLAYERS & STONEMASONS	13.00	1.20
CARPENTERS:		
Adams County	14.00	1.95
York County	13.39	1.88
CEMENT MASONS:		
York County	13.54	.93
ELECTRICIANS:		
Remainder of York Co., and Adams County in its entirety	11.70	.61+3%

MODIFICATION PAGE 8

DECISION NO. PA81-3072 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
General Laborers	9.80	1.47
Operator of jackhammer (etc.)	10.00	1.47
Wagon drill operator	10.10	1.47
Handling of all material (etc.)	10.05	1.47
Laborers assisting tile (etc.)	9.85	1.47
Handling & using dynamite	10.13	1.47
Caisson work (top men)	10.05	1.47
Caisson work (bottom men)	10.25	1.47
Mixer man	10.20	1.47
MARBLE, TILE & TERRAZZO WORKERS	11.61	1.20
PLASTERERS		
Adams County	11.40	2.01
York County	13.03	.93
SOFT FLOOR LAYERS:		
York County	13.39	1.88
ROOFERS, COMPOSITION	13.25	1.61

DECISION NO. PA81-3077 - MOD #7 (46 FR 50265 - October 9, 1981) LANCASTER COUNTY, PENN.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	17.88	2.415
CEMENT MASONS	13.54	.93
ELECTRICIANS:		
Remainder of County	14.15	.64+3%
West Calico, E. Calico, E. Carl & Carnarvon Twps.	15.59	1.81+3%
LABORERS:		
General Laborers	9.80	1.47
Operators of Jackhammers	10.00	1.47
Wagon Drill	10.10	1.47
Handling of all materials	10.05	1.47
Laborers assisting tile	9.85	1.47
Handling & using dynamite	10.13	1.47
Caisson Work (Top Men)	10.05	1.47
Caisson Work (Bottom Men)	10.25	1.47
Mixer Men	10.20	1.47
MARBLE, TILE & TERRAZZO WORKERS	11.61	1.20
PLASTERERS	13.01	.93
ROOFERS, COMPOSITION	13.25	1.61

DECISION NO. DE82-3015 - MOD. #2 (47 FR 24526 - June 4, 1982) STATE OF DELAWARE	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	17.99	3.69
ELECTRICIANS	17.07	2.36+ 3%
MILLWRIGHTS		
Kent & New Castle Cos.	17.03	3.91
TRUCK DRIVERS:		
Building		
Group 1	11.535	2.545
Group 2	11.435	2.545
Group 3	11.285	2.545
Heavy Construction		
Group 1	10.685	2.545
Group 2	10.585	2.545
Group 3	10.435	2.545
LINE CONSTRUCTION:		
Linemen & Cable Splicers	17.23	.60+ 3/4%
Winch truck operator	12.06	.60+ 3/4%
Truck Driver	11.20	.60+ 3/4%
Groundman	10.34	.60+ 3/4%

MODIFICATION PAGE 9

DECISION NO. TX82-4046 - MOD. #7	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS	12.00	1.00+3%
LABORERS:		
Common	8.00	.50+3%
Mason Tenders	8.00	.50+3%
POWER EQUIPMENT OPERATORS:		
Backhoe	10.00	.50+3%
Bulldozer	10.00	.50+3%
Crane	10.00	.50+3%
Forklift	10.00	.50+3%
Loader	10.00	.50+3%
Mechanic	10.00	.50+3%
Oiler	10.00	.50+3%
TRUCK DRIVERS:		
Dump Truck	8.00	.50+3%
Flatbed Truck	8.00	.50+3%
Pickup Truck	8.00	.50+3%
Transit Mix Truck	8.00	.50+3%

DECISION NO. TX83-4003 - MOD. #1	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS	12.00	1.00+3%
LABORERS:		
Common	8.00	.50+3%
Mason Tenders	8.00	.50+3%
POWER EQUIPMENT OPERATORS:		
Backhoe	10.00	.50+3%
Bulldozer	10.00	.50+3%
Crane	10.00	.50+3%
Forklift	10.00	.50+3%
Loader	10.00	.50+3%
Mechanic	10.00	.50+3%
Oiler	10.00	.50+3%
TRUCK DRIVERS:		
Dump Truck	8.00	.50+3%
Flatbed Truck	8.00	.50+3%
Pickup Truck	8.00	.50+3%
Transit Mix Truck	8.00	.50+3%

SUPERSEDEAS DECISION

STATE: NEW MEXICO
DECISION NO. NM83-4016
SUPERSEDES DECISION NO. NM82-4031

COUNTY: STATEWIDE
DATE: Date of Publication

MODIFICATION TABLE

	Basic Hourly Rates	Fringe Benefits
DECISION NO. TX82-4046 - MOD. #5 (47 FR 43525 - 10/1/82) Jefferson & Orange Cos., Texas		
CHANGE: Carpenters: Carpenters-residential const. of not more than 2 units & condominium townhouses of not more than 10 units excluding all apt. const. & multiple bldgs. for rental purposes	$14.89	2.065
DECISION NO. TX82-4065 - MOD. #2 (47 FR 56604 - 12/17/82) Bell,Bosque,Coryell,Falls, Hill & McLennan Cos., Texas		
CHANGE: Building Construction: Asbestos workers: Zone 1	15.60	3.23
DECISION NO. TX83-4002 - MOD. #1 (48 FR 931 - 1/7/83) Armstrong,Carson,Castro, Childress,Collingsworth, Dallam,Deaf Smith,Donley,Gray,Hansford,Hartley,Hemphill,Hutchinson, Lipscomb,Moore,Ochiltree,Oldham,Potter,Randall,Roberts,Sherman, Swisher & Wheeler Cos., Texas		
CHANGE: Line construction: Zone 2:		
Linemen	14.48	1.90+3%
Cable splicers	15.93	1.90+3%
Groundmen	9.57	1.70+3%
Operator-hole digger, line truck	11.15	1.76+3%
Flat bed truck driver	8.40	1.65+3%
DECISION NO. TX83-4003 - MOD. #1 (48 FR 935 - 1/7/83) Bexar County, Texas		
CHANGE: Asbestos workers	$15.60	3.23
Laborers - Group 3	8.74	1.50
DECISION NO. TX83-4004 - MOD. #1 (48 FR 936 - 1/7/83) Galveston & Harris Cos., Texas		
CHANGE: Laborers - Group 1	11.91	1.81
Group 2	12.095	1.81
Group 3	12.205	1.81
Group 4	12.50	1.81
Group 5	12.045	1.81
Group 6	12.365	1.81
DECISION NO. TX83-4006 - MOD. #1 (48 FR 933 - 1/7/83) Travis County, Texas		
CHANGE: Asbestos workers	15.60	3.23

SUPERSEDEAS DECISION

STATE: NEW MEXICO COUNTY: STATEWIDE
DECISION NO. NM83-4016 DATE: Date of Publication
SUPERSEDES DECISION NO. NM82-4031 dated June 18, 1982 in 47FR26530
DESCRIPTION OF WORK: General Building and Heavy Engineering construction shall include the construction, alteration, repair and demolition of buildings, including residential buildings, office buildings, warehouses, industrial and commercial buildings, institutional and public buildings, and all air conditioning, conduit, heating and other mechanical and electrical works and site preparation for building or heavy engineering projects under this classification, stadia; and shall include electrical, gas, water, sewer lines, and other such utility construction which are part of projects under this classification and included within the property line or less than five (5) feet from the building or heavy engineering structure, whichever is closer, provided, however, regard to electrical utilities such construction shall include construction from the first attachment of incoming power source without regard to the property line or proximity to the building or the heavy engineering structure; and include construction, alteration, repair and demolition of heavy engineering work such as power generating plants, pump stations, natural gas compressing stations; covered reservoirs and covered sewage and water treatment facilities; concrete linings for canals, ditches and channels; concrete dams; earth dams of one million (1,000,000) cubic yards or over; radio towers, ovens, furnaces, kilns, silos, shafts and tunnels (other than highway shafts and tunnels), hydroelectric porjects; and well drilling, telephone and electrical transmission lines which are part of general building and heavy engineering projects; mining appurtenances such as tipples, washeries and loading and discharfing chutes, and specialized structures for testing, launching and recovering space and other rocket-type missiles, (ALSO INCLUDING RESIDENTIAL PROJECTS IN SANTA FE, BERNALILLO, RIO ARRIBA, TAOS, SANDOVAL AND VALENCIA COUNTIES).

DECISION NO. NM83-4016 Page 3

	Basic Hourly Rates	Fringe Benefits
LABORERS (BUILDING):		
Group I	$ 9.25	1.71
Group II	9.55	1.71
Group III	9.85	1.71
Group IV	10.00	1.71
LABORERS (BUILDING) FARMINGTON AREA ONLY:		
ZONE I		
Group 1	9.25	1.71
Group 2	9.55	1.71
Group 3	9.85	1.71
Group 4	10.00	1.71
ZONE II		
Group 1	10.75	1.71
Group 2	11.05	1.71
Group 3	11.35	1.71
Group 4	11.50	1.71
ZONE III		
Group 1	11.00	1.71
Group 2	11.30	1.71
Group 3	11.60	1.71
Group 4	11.75	1.71
LABORERS (HEAVY CONSTRUCTION):		
ZONE I		
Group 1	9.25	1.71
Group 2	9.55	1.71
Group 3	9.65	1.71
Group 4	9.85	1.71
Group 5	10.00	1.71
ZONE II		
Group 1	10.75	1.71
Group 2	11.05	1.71
Group 3	11.15	1.71
Group 4	11.35	1.71
Group 5	11.50	1.71
ZONE III		
Group 1	11.00	1.71
Group 2	11.30	1.71
Group 3	11.40	1.71
Group 4	11.60	1.71
Group 5	11.75	1.71
LABORERS (RESIDENTIAL):		
Group I	5.02	1.71
Group II	5.32	1.71
Group III	5.62	1.71
LATHERS - Zone I	13.40	2.80
LATHERS - Zone II	14.90	2.80
LATHERS - Zone III	15.65	2.80
LEADBURNERS - Zone I	16.24	3.24
LEADBURNERS - Zone II	16.99	3.24
LEADBURNERS - Zone III	18.49	3.24
LEADBURNERS - Zone IV Specific Area)	17.04	3.24
COMMERCIAL LINE WORK-AREA A:		
LINEMEN-TECHNICIANS		
Zone I	$15.90	P
Zone II	17.33	P
Zone III	18.29	P
Zone IV	20.03	P
CABLE SPLICERS		
Zone I	17.49	P
Zone II	18.92	P
Zone III	19.88	P
Zone IV	21.62	P
EQUIPMENT OPR. (includes helicopter op.)		
Zone I	15.10	P
Zone II	16.73	P
Zone III	17.49	P
Zone IV	19.23	P
EQUIPMENT MECHANIC (Include helicopter mech.)		
Zone I	13.33	P
Zone II	15.26	P
Zone III	16.22	P
Zone IV	17.96	P
POWDERMAN		
Zone I	13.83	P
Zone II	15.26	P
Zone III	16.22	P
Zone IV	17.96	P
GROUNDMAN & JACKHAMMER OPRS:		
Zone I	11.29	P
Zone II	12.72	P
Zone III	13.68	P
Zone IV	15.42	P
P - 3-1/2% + 2.00		
COMMERCIAL LINE WORK-AREA B:		
LINEMEN-TECHNICIANS		
Zone I	10.15	3%+.60
Zone II	11.60	3%+.60
CABLE SPLICERS		
Zone I	10.40	3%+.60
Zone II	11.85	3%+.60
EQUIPMENT OPR. (includes helicopter ops.)		
Zone I	9.64	3%+.60
Zone II	11.02	3%+.60
EQUIPMENT MECHANIC (includes helicopter mechanic and powderman		
Zone I	8.93	3%+.60
Zone II	10.21	3%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	7.21	3%+.60
Zone II	8.24	3%+.60

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	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS - Zone I	$16.55	2.26
ASBESTOS WORKERS - Zone II	13.60	2.37
BOILERMAKERS	13.75	3.44
BRICKLAYERS-STONEMASONS:		
Zone I-A	13.06	1.72
Zone I-B	14.56	1.72
Zone I-C	15.31	1.72
Zone II	13.16	1.62
Zone III	14.66	1.62
Zone IV	13.36	1.42
Zone V	14.86	1.42
Zone VIA	12.86	1.52
Zone VIB	14.36	1.52
Zone VII	14.59	1.32
Zone VIII	14.59	1.32
Zone IX	12.84	1.32
CARPENTERS (Dwelling houses & apartments not to exceed two stories in height:		
Zone I-A	8.15	2.80
Zone I-B	9.65	2.80
Zone I-C	10.40	2.80
CARPENTERS (Building, Heavy & Residential Construction; Dwelling houses and apartments over two stories in height):		
Zone 2-A	13.40	2.80
Zone 2-B	14.90	2.80
Zone 3-C	15.65	2.80
CARPENTERS (San Juan County Only)		
Zone I	13.40	2.80
Zone II	15.65	2.80
Zone III	15.65	2.80
CEMENT MASONS:		
Area I	11.53	2.05
Area II:		
Zone 1	11.53	2.05
Zone 2	13.03	2.05
Zone 3	13.28	2.05
CEMENT MASONS (RESIDENTIAL): Sandoval, Bernalillo and Valencia Counties	8.67	2.80
Rio Arriba, Santa Fe and Taos Counties	11.33	2.80
CEMENT MASONS (HEAVY)	11.53	2.80
CEMENT MASONS (COMMERCIAL CONSTRUCTION AND MACHINE OPERATORS):		
Area I	11.78	2.80
Area II - Zone I	11.78	2.80
Area II - Zone II	13.28	2.80
Area II - Zone III	13.53	2.80
ELECTRICIANS:		
ZONE I		
Area 1-A	$15.90	Y
Area 1-B	17.33	Y
Area 1-C	18.29	Y
Area 1-D	20.03	Y
ZONE II	18.29	Y
Y - 3-1/2% + 2.00		
ZONE III		
3-A	13.00	Z
3-B	14.45	Z
Z - 3-1/2% + .80		
ZONE IV	15.20	3%+.82
4-A	15.65	3%+.82
4-B	15.80	3%+.82
4-C	16.05	3%+.82
4-D		
CABLE SPLICERS:		
ZONE I		
Area 1-A	17.49	K
Area 1-B	18.92	K
Area 1-C	19.88	K
Area 1-D	21.25	K
ZONE II	19.88	K
K - 3-1/2% + 2.00		
ZONE III		
3-A	13.25	M
3-B	14.70	M
M - 3-1/2% + .80		
ZONE IV	15.55	3%+.82
4-A	16.00	3%+.82
4-B	16.15	3%+.82
4-C	16.40	3%+.82
4-D		
ELEVATOR CONSTRUCTORS:		
AREA I	14.91	JJ
AREA II	11.69	JJ
Elevator constr. helpers	70%JR	JJ
Elevator prob. helpers	50%JR	
JJ - $2.465 + seven paid Holidays and Employees with 6 to 5 years of service 6% of basic hourly rate		
GLAZIERS	11.39	1.04
IRONWORKERS - Zone I	13.80	2.83
IRONWORKERS - Zone II:		
Area 1	13.80	2.83
Area 2	15.05	2.83
Area 3	16.05	2.83
Area 4	16.30	2.83
IRONWORKERS - ZONE III	12.85	2.95
IRONWORKERS - ZONE IV	13.85	2.95

	Basic Hourly Rates	Fringe Benefits
SOUND INSTALLERS:		
SOUNDMAN		
Zone I	$12.85	M
Zone II	14.46	M
Zone III	17.67	M
Zone IV	13.45	3%+.61
TECHNICIANS		
Zone I	10.28	M
Zone II	11.89	M
Zone III	15.10	M
Zone IV	10.76	3%+.61
SOUND INSTALLERS		
Zone I	8.35	M
Zone II	9.96	M
Zone III	13.17	M
Zone IV	8.74	3%+.61
M - 3-1/2% + 1.55		
TRUCK DRIVERS (BLDG. CONST.)		
ZONE I		
Group I	9.48	1.72
Group II	9.60	1.72
Group III	9.68	1.72
Group IV	9.80	1.72
Group V	9.85	1.72
Group VI	9.95	1.72
Group VII	10.05	1.72
Group VIII	10.19	1.72
Group IX	10 19	1.72
ZONE II		
Group I	11.23	1.72
Group II	11.35	1.72
Group III	11.43	1.72
Group IV	11.55	1.72
Group V	11.60	1.72
Group VI	11.70	1.72
Group VII	11.80	1.72
Group VIII	11.94	1.72
Group IX	12.09	1.72
ZONE III		
Group I	11.73	1.72
Group II	11.85	1.72
Group III	11.93	1.72
Group IV	12.05	1.72
Group V	12.10	1.72
Group VI	12.20	1.72
Group VII	12.30	1.72
Group VIII	12.44	1.72
Group IX	12.59	1.72

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (cont'd)		
RESIDENTIAL CONSTRUCTION		
Group I	$ 9.18	1.72
Group II	9.30	1.72
Group III	9.38	1.72
Group IV	9.50	1.72
Group V	9.55	1.72
Group VI	9.65	1.72
Group VII	9.75	1.72
Group VIII	9.89	1.72
Group IX	10.04	1.72
TRUCK DRIVERS (HEAVY CONSTRUCTION)		
ZONE I		
Group I	9.63	1.72
Group II	9.75	1.72
Group III	9.83	1.72
Group IV	9.95	1.72
Group V	10.00	1.72
Group VI	10.10	1.72
Group VII	10.20	1.72
Group VIII	10.34	1.72
Group IX	10.49	1.72
ZONE II		
Group I	11.13	1.72
Group II	11.25	1.72
Group III	11.33	1.72
Group IV	11.45	1.72
Group V	11.50	1.72
Group VI	11.60	1.72
Group VII	11.70	1.72
Group VIII	11.84	1.72
Group IX	11.99	1.72
ZONE III		
Group I	11.38	1.72
Group II	11.50	1.72
Group III	11.58	1.72
Group IV	11.70	1.72
Group V	11.75	1.72
Group VI	11.85	1.72
Group VII	11.95	1.72
Group VIII	12.09	1.72
Group IX	12.24	1.72

	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK-AREA C		
LINEMEN-TECHNICIANS		
Zone I	$14.70	3½%+.60
Zone II	15.15	3½%+.60
Zone III	15.30	3½%+.60
Zone IV	15.55	3½%+.60
CABLE SPLICERS		
Zone I	15.05	3½%+.60
Zone II	15.50	3½%+.60
Zone III	15.65	3½%+.60
Zone IV	15.90	3½%+.60
EQUIPMENT OPERATORS (includes helicopter opr.)		
Zone I	13.28	3½%+.60
Zone II	13.68	3½%+.60
Zone III	13.83	3½%+.60
Zone IV	14.08	3½%+.60
EQUIPMENT MECHANIC (including helicopter mechanic)		
Zone I	13.68	3½%+.60
Zone II	13.23	3½%+.60
Zone III	13.38	3½%+.60
Zone IV	14.08	3½%+.60
POWDERMAN		
Zone I	13.23	3½%+.60
Zone II	13.23	3½%+.60
Zone III	13.38	3½%+.60
Zone IV	13.62	3½%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	10.44	3½%+.60
Zone II	10.89	3½%+.60
Zone III	11.04	3½%+.60
Zone IV	11.29	3½%+.60
MARBLE, TILE AND TERRAZZO WORKERS	12.90	.82
MARBLE, TILE AND TERRAZZO FINISHERS	10.89	.82
MILLWRIGHTS-PILEDRIVERMEN:		
Zone 1	14.65	2.80
Zone 2	15.65	2.80
Zone 3	16.40	2.80
PAINTERS (ZONE I)		
Class-A	10.90	1.25
Class-B	11.40	1.25
Class-C	11.15	1.25
Class-D	11.48	1.25
Class-E	11.23	1.25
PAINTERS (ZONE II)		
Class-A	9.90	1.25
Class-B	10.90	1.25
Class-C	10.55	1.25
Class-D	10.75	1.25
Class-E	11.48	1.25
Class-F	11.23	1.25

	Basic Hourly Rates	Fringe Benefits
PAINTERS (cont'd)		
PAINTERS (ZONE III)		
Class-A	$ 9.13	.85
Class-B	9.55	.85
Class-C	9.275	.85
Class-D	9.98	.85
PAINTERS (RESIDENTIAL CONSTRUCTION in Santa Fe, Taos & Rio Arriba Cos.)		
Brush and roller	8.60	1.25
Spray and sandblast	9.25	1.25
Paperhangers	8.82	1.25
Drywall finisher	10.63	1.25
Drywall finisher toll	10.88	1.25
PLASTERERS	12.81	1.95
PLUMBERS-PIPEFITTERS:		
Area I	15.74	3.24
Area II	16.49	3.24
Area III	17.99	3.24
Specific Area	16.54	3.24
Residential	9.95	1.42
POWER EQUIPMENT OPERATORS		
RESIDENTIAL AND GENERAL BUILDING CONSTRUCTION		
Group I	10.68	1.70
Group II	11.77	1.70
Group III	11.85	1.70
Group IV	11.96	1.70
Group V	12.02	1.70
Group VII	12.22	1.70
Group VIII	13.35	1.70
POWER EQUIPMENT OPERATORS		
HEAVY CONSTRUCTION		
Group I	10.63	1.75
Group II	11.72	1.75
Group III	11.80	1.75
Group IV	11.91	1.75
Group V	11.97	1.75
Group VI	12.07	1.75
Group VII	12.17	1.75
Group VIII	13.30	1.75
ROOFERS (Building Const.)	10.62	.50
ROOFERS (Residential Const.)	7.96	.50
SHEET METAL WORKERS:		
Zone IA	16.27	2.67
Zone IB	18.27	2.67
Zone IC	19.52	2.67
Zone ID	19.52	2.67
SHEET METAL WORKERS:		
Zone IIA	12.75	1.45
Zone IIB	14.00	1.45
Zone IIC	15.00	1.45
SPRINKLER FITTERS	16.17	2.83
SOFT FLOOR LAYERS	10.64	1.24

CLASSIFICATIONS AREA AND ZONE DEFINITIONS

ASBESTOS WORKERS:
ZONE I - Statewide, except Union, Lea, Harding, Curry, Roosevelt and Quay Counties.
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

BRICKLAYERS-STONEMASONS:
ZONE I A, I B and I C - Union, Harding, Santa Fe, Valencia, Torrence, Taos, Socorro, Mora, McKinley, Coltax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo, Cobila and Los Alamos Counties
FROM BASIC P.O. OF ALBUQUERQUE MAY COST OF LIV
Zone 1 A - 0 to 25 road miles
Zone 1-B - 25 to 50 road miles
Zone 1-C - Over 50 road miles
ZONE II - Curry and Roosevelt Counties
ZONE III - DeBaca, Guadalupe and Quay Counties
ZONE IV - Chaves County
ZONE V - Lincoln County
ZONE VI A - Lee and Eddy Counties (except at Mine and Refinery Sites outside Municipal Limits
ZONE VI B - Lee and Eddy Counties Employees at Mine and refinery sites outside Municipal Limits
ZONE VII - Otero County
ZONE VIII - Luna and Grant Counties, communities of Silver City, Bayard, Central, Harley and New town Site of Tyrone Hildago and Sierra Counties.
ZONE IX - Dona Ana County

CARPENTERS:
STATEWIDE - From nearest basing point of the following cities or towns: Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Fruitle, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos and Tucumcari:
ZONES I AND II
Zone 1-A and 2-A - 0 to 15 road miles from nearest basing point
Zone 1-B and 2-B - 15 to 35 road mi. from nearest basing point
Zone 1-C and 2-C - Over 35 road mi. from nearest basing point
SAN JUAN COUNTY ONLY
Zone I - Within 15 r[illegible] of the City of Farmington
Zone II - Over 15 mi. but less than 35 mi. from Farmington
Zone III - 35 miles or more from the City of Farmington

CEMENT MASONS
AREA I - Statewide except Farmington, San Juan County
AREA II - Farmington, San Juan County
Zone I - 0-15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35 miles and over from Farmington City Hall

ELECTRICIANS-CABLE SPLICERS
ZONE I
AREA 1 - Bernalillo, Santa Fe, Torrance, DeBaca, Guadalupe, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra, San Juan, Chaves, Curry, Lincoln, Cibola and Roosevelt Counties

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

ELECTRICIANS-CABLE SPLICERS (Cont'd):
Area 1-A - From nearest basing point cities, towns and mileage from main post office in the following towns:
Albuquerque - 15 miles from main post office
Santa Fe - 10 miles from main post office
Las Vegas - 8 miles from main post office
Farmington - 6 miles from main post office
Raton - 6 miles from main post office
Tucumari - 6 miles from main post office
Aztec - 6 miles from main post office
Roswell - 12 miles from main post office
Ruidoso - 12 miles from main post office
Portales - 12 miles from main post office
Carrizozo - 12 miles from main post office
Clovis - 12 miles from main post office
Gallup - 10 miles from main post office
*Pojoaque - 2 miles from main post office
*All areas adjacent to Pojoaque that are over 2 mi. distant from the main post office in that town will be zoned out of Santa Fe.
Area 1-B - extending up to 20 miles beyond Area 1-A
Area 1-C - Extending up to 30 miles from Area 1-A
Area 1-D - anything beyond 30 miles from Area 1-A
ZONE II - Los Alamos County
ZONE III - Dona Ana, Otero, Luna, Hidalgo Counties
Zone 3-A - Within 10 miles radius from the p.o. in Las Cruces & within a 5 mi. radius from the p.o. in Alamogordo
Zone 3-B - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in zone 3-A0
ZONE IV - Eddy and Lea Counties - the following zones shall be designated from the main p.o. in Artesia, Carlsbad, Hobbs and Lovington
Zone 4-A - 0 to 12 miles from main post office
zone 4-B - 12 - 22 miles from main post office
Zone 4-C - 22 - 40 miles beyond main post office
Zone 4-D - 40 miles and beyond main post office

ELEVATOR CONSTRUCTORS:
AREA I - Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union, Cibola and Valencia Counties
AREA II - Chaves, Hidalgo, Dona, Ana, Eddy, Grant, Lea, Luna, Otero and Sierra Counties

IRONWORKERS:
ZONE I - Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval, Santa Fe, Socorro, Taos, Torrance, Cibola and Valencia Counties.
ZONE II - Farmington, San Juan County
Area 1 - Shall extend a distance of 6 road miles inclusive beyond City Hall
Area 2 - Shall extend a distance of 8 road miles inclusive beyond the outer perimeter of area 1

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

LABORERS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

LATHERS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

PAINTERS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

PILEDRIVERMEN:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

PLASTERERS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

PLUMBERS-PIPEFITTERS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

POWER EQUIPMENT OPERATORS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

ROOFERS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

SHEETMETAL WORKERS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

SOFT FLOOR LAYERS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

TERRAZZO WORKERS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

TILE SETTERS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

TRUCK DRIVERS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

WELDERS:
ZONE I - Statewide except Union, Lea, Harding, Curry, Roosevelt and Quay Counties
ZONE II - Union, Lea, Harding, Curry, Roosevelt and Quay Counties

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CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

IRONWORKERS (Cont'd):
ZONE II - Farmington, San Juan County (cont'd)
Area 3 - Shall extend a distance of 10 road miles inclusive beyond the outer limits of area 2
Area 4 - Shall extend a distance of 27 road miles inclusive beyond the outer limits of area 3
Other areas not within area 1, 2, 3, and 4 shall revert to the $15.00 per day subsistence.
ZONE III - Dona Ana county with the exception of that portion of the county that lies within the White Sands Missile Range; Chaves County, Eddy County except that Potash Basin and defined as the area 10 road miles on Highway 62 and Highway 180, east of Carlsbad.
ZONE IV - Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero, and Sierra Counties; also Potash Basin, White Sands and McGregor Missile Ranges.

LABORERS BUILDING & HEAVY CONSTRUCTION ZONE DEFINITION (FARMINGTON AREA ONLY)
ZONE I - 0-15 miles from the City Hall in Farmington
ZONE II - 15-35 miles from the City Hall in Farmington
ZONE III - 35 miles and over from the City Hall in Farmington

BUILDING LABORERS CLASSIFICATION DEFINITION
GROUP I - Unskilled; building and common laborers, carpenter tenders, concrete workers, concrete buggy operators
GROUP II - Semi-skilled; air and power tool operator, asphalt rakers, demolition, gunite, rebound men, fog machine operator, power buggy operators, sandblasters (potmen), window washers, wagon core diamond drillers, tender; outside scaler, grade setter
GROUP III - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzlemen
GROUP IV - Powdermen and blasteres

HEAVY CONSTRUCTION LABORERS' CLASSIFICATION DEFINITIONS
GROUP I - Unskilled - Construction and general laborers, carpenter tenders, concrete workers, concrete buggy operators
GROUP II - Semi-skilled - Air and power tool operators, asphalt rakers, cutting torch operators demolition, gunite rebound men, grade setters, power buggy operators, sand blasters (pot men), nozzlemen, wagon core and diamond drillers' tenders, outside scalers, fog machine operators
GROUP III - Wagon core, diamond drillers
GROUP IV - Miscellaneous - concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzleman
GROUP V - Powdermen and blasters

RESIDENTIAL LABORERS' CLASSIFICATION DEFINITIONS
GROUP I - Unskilled - Building and common laborers, carpenter tenders, concrete workers, concrete buggy operators, hand
GROUP II - Semi-skilled - air and power tool operator, asphalt rakers, demolition, gunnite rebound men, fog machine operator, power buggy

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

RESIDENTIAL LABORERS' CLASSIFICATION DEFINITIONS (Cont'd):
GROUP II (Cont'd)
operator, sand blasterers (pot men), window washers, wagon core and diamond drillers, tender outside
GROUP III - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunnite nozzleman, pipelayer, pumperete nozzleman

LATHERS BASING POINTS & ZONE DEFINITIONS:
Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordobango, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Socorro, Taos, Tucumcari.
ZONE I - Jobs within 15 miles of Base points
ZONE II - Jobs 15 to 35 miles
ZONE III - Jobs 35 miles and more

LEADS BURNERS BASING POINT & AREA DEFINITIONS
BASING POINT CITIES (Same)
Albuquerque, Alamorgordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lovington, Portales, Raton, Socorro, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari and Truth of Consequence
ZONE I - Shall include a distance of seven road miles inclusive beyond the city or town limits
ZONE II - Shall extended a distance of 4 road miles inclusive beyond the outer perimeter of area I.
ZONE III - Shall apply to all areas not within 1 or 2, or not within the specific areas
ZONE IV (SPECIFIC AREA) - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range, and/or Proving Grounds

COMMERCIAL LINE WORK
AREA A - Bernalillo, Colfax, Catron, Chaves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandova, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia and White Sands Missile Range and that portion of Fort Bliss in New Mexico
ZONE I

Cities and Towns Basing Points - Miles from Main Post Offices	
Albuquerque - 15 miles	Ruidoso - 12 miles
Santa Fe - 10 miles	Portales - 12 miles
Las Vegas - 8 miles	Clovis - 12 miles
Farmington - 6 miles	Gallup - 12 miles
Raton - 6 miles	
Tucumcari - 6 miles	
Aztec - 6 miles	
Roswell - 12 miles	

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe.
ZONE II - Extending up to 20 miles beyond zone 1
ZONE III - Extending up to 30 miles beyond zone 1

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

COMMERCIAL LINE WORK (Cont'd)
ZONE IV - Anything beyond 30 miles from zone 1
Las Alamos County - Use ZONE III rates
AREA B - Applies to switching stations and su-stations adjacent to power plants in Zone 1 and Zone 2 in Luna, Dona Ana, Otero, and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico
ZONE I - That area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer established or maintains his place of business; the area within ten mile radius form the post office in Las Cruces, New Mexico, and within a five mile radius from the post office in Alamogordo, New Mexico.
ZONE II - All other areas of the jurisdiction except those specified in zone 1
AREA C - Applies to switching stations adjacent to power plants in Eddy and Lea Counties, the following zones hereof shall be designated from main Post Office of Artesia, Carlsbad, Hobbs & Lovington.
ZONE I - 0 - 12 miles
ZONE II - 12 - 22 miles
ZONE III - 22 to 40 miles
ZONE IV - 40 miles and beyond

MILLWRIGHTS & PILEDRIVERMEN ZONE DEFINITIONS
BASING POINT - FROM LOCAL UNION HALL:
ZONE 1 - 0 to 15 road miles from basing point
ZONE 2 - 15 to 35 road miles from basing point
ZONE 3 - Over 35 road miles from basing point

PAINTERS' ZONE AND CLASSIFICATION DEFINITION
ZONE I - San Juan, McKinley, Bernalillo, Torrance, Guadalupe, Quay, Catron, Socorro, Lincoln, DeBaca, Roosevelt, Chaves, Valencia, Sierrra, Grant, Hidalgo, Curry, Lea, Eddy and Sandoval, Counties, New Mexico.
CLASS A - Painters, roller and hand textures
CLASS B - Painters, spray, sandblasting, painter on steel bridges, tanks towers, pipe and structural
Class C - Paperhanger
CLASS D - Drywall finisher, ames tool operator
CLASS E - Hand finisher machine texture
ZONE II - Colfax, Harding, Los Alamos, Mora, San Miguel, Rio Arriba, Taos, Union and Santa Fe Counties
Class A - Painters and roller
Class B - Paperhangers
Class C - Spray, Sandblast, steel, special coating applicator
Class D - Sing Painters
Class E - Drywall finisher tool and machine texture
Class F - Hand finisher
ZONE III - Luna, Otero, and Dona Ana Counties
Class A - Brush, paperhangers
Class B - Spray, sandblasting, swing stage, striping machine
Class C - Ames tool and steel brush after erection
Class D - Radio towers, water tanks smoke stake 70 - 100 ft.

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

PLUMBERS - PIPEFITTERS' ZONES DEFINITIONS
BASING POINT CITIES OR TOWNS.
Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcary, Truth or Consequence and Socorro, New Mexico.
Area I - Shall include a distance of seven road miles inclusive beyond the city or town limits.
Area II - Shall extend a distance of four road miles inclusive beyond the outer perimeter of area I.
Area III - Shall apply to all areas not within areas 1 or 2 or not within the specific area.
Specific Area - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex Sites in Chaves and Lincoln Counties, and the Oro Grande Range Camp and Dona Ana and Otero Co.

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
BUILDING, RESIDENTIAL & HEAVY CONSTRUCTION
GROUP I - Fireman, oiler, screedman, single operator such as bin-a batch, rubber tired farm type tractor, tractors under 50 HP with attachments, breakman, concrete paving curing machine (bridgetype), helper; (mechanic, welder, grease truck)
GROUP II - Rollers, sheepsfoot or pneumatic self propelled w/o dozer, concrete conveyor, service truck operator (head oiler), air compressor (300 CFM & over), pumps (6" and over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor farm type (under 50 HP with attachments) motorman and industrial locomotive operator, winch truck, front end loaders (under 2 CY), power plants which generate over 15 KW, welding machines
GROUP III - Bituminous distributors, boilers, retort and hot oil heaters, concrete mixers (1 CY and over), concrete paver-single drum, drilling equipment; (refrigeration, slusher, jumbo forms), trenching machines (all types), pump crete and gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, concrete slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants
GROUP IV - Front end loaders (2 thru 10 CY), rollers steel wheeled-all types, bulldozers, scrapers (motor or towed), elevating graders, concrete batching plants, self-propelled rollers -- equipped with dozer, twin-bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate, three bowl scraper (60¢ over basic rate)
GROUP V - Hydraulic cranes-with less than 50 feet of boom (20 tons and under), concrete paver-double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoist, auto fine grader
GROUP VI - Mucking machines - all types, motor grader (finish) mechanic - welder
GROUP VII - Steam engineers, loader (front end over 10 CY), concrete pump (snorkel type)

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

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CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
BUILDING, RESIDENTIAL & HEAVY CONSTRUCTION (CONT'D)
GROUP VIII - All shovel type equipment; cranes, draglines, backhoes, derricks, guy & stiff leg, pipemobile (No. 2 operator), piledriver, hydraulic cranes (70 tons & over), mine hoist, belt loader ("C.M.I." Type), boom & jibs 150 ft. through 199 ft. - 25¢ per hour above base pay 200 ft. and over - 50¢ per hour above base pay. Shove (wheel type), boring machine (tunnel or shaft mole), pipe mobile

SHEET METAL WORKERS ZONE & CLASSIFICATION DEFINITIONS
ZONE I - Bernalillo, Catron, Chaves, Colfax, Curry, De Baca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union, Cibola and Valencia Counties.
ZONE IA - Any area within a five (5) mile radus of the city limits of Albuquerque, Santa Fe, Farmington, Roswell and Kirtland AFB, East and West; Rio Rancho; Paradise Hills; An area including ten (10) miles each direction east and west of Interstate Highway 25 and extending north and south, terminating with but including, Santa Fe and Belen, an area identified by corner reference points beginning at and including Pojoaque, to Chimayo, to Velarde, to Abiquiu and back to Pojaque; An area identified by corner reference points beginning at the including Farmington to Aztec, to Bloomfield and back Farmington.
ZONE IB - Los Alamos County
ZONE IC - San Juan (except that area in Zone 1A)
ZONE ID - All area not in Zone 1A, IB, or IC.
ZONE II - Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties.
ZONE IIA - Any area within a five (5) mile radus of the city limits of Carlsbad, Las Cruces, Artesia, Alamogordo, Hobbs and Sunland Park.
ZONE IIB - White Sands, Including Holloman, McGregor and Lyndon B. Johnson.
ZONE IIC - All area not in Zone IIA or IIB.

SOUND INSTALLERS ZONE DEFINITIONS
ZONE I - Thirty mile radius of main post office in Albuquerque
ZONE II - Remainder of Valencia, Sandoval, Santa Fe, Torrance, and Socorro Counties, the hourly rates of pay shall be increased for twelve and one-half (12½) percent of journeymen rate of pay for Zone I.
ZONE III - Chavez, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arribo, Catron, Sierra, Grant, Los Alamos, San Juan, McKinley Counties the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeyman rate of pay for Zone I
ZONE IV - Eddy and Lea Counties

CLASSIFICATION AREA AND ZONE DEFINITIONS (CONT'D)

TRUCK DRIVERS ZONE PAY BASING POINTS AND DEFINITIONS LISTED BELOW FOR BUILDING AND HEAVY CONSTRUCTION
BASING POINTS ARE AS FOLLOWS:
Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, Tucumcari
ZONE I - Shall be jobs or projects within 15 road miles from the starting points listed above
ZONE II - Shall be jobs or projects which are more than fifteen road miles, but less than thirty-five road miles from base points, also, includes all of Los Alamos Co.
ZONE III - Shall be those jobs or projects which are thirty-five road miles or more from the base points.

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, HEAVY AND RESIDENTIAL CONSTRUCTION)
GROUP I - Pickup 3/4 ton and under, lubrication, light tire repair and washer, swamper, 2 or 4 and up.
GROUP II - Dump or batch truck under 8 C.Y.W.L.C.; flat bed (bobtail) 2 ton and under; warehouseman including material checker, fork lift under 5 tons MRC.
GROUP III - Dump trucks (including all highway and off highway) 8 up to 16 C.Y.W.L.C.; water, fuel or oil trucks less than 3,000 gal., flat bed (bobtail) over 2 tons
GROUP IV - Distributor driver, heavy tire repair, lumber carrier driver, young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment, scissor truck, bulk cement bobtail 2 or 3 axles, semi-trailer flatbed or van single axle, forklift 5 ton and over M.R.C.
GROUP V - Dumpsters and dumpcrete driver; water, fuel or oil truck 3,000 to 6,000 gal; lowboys and light equipment driver; euclid type tank wagon under 6,000 gal.
GROUP VI - Vacuum truck; dump trucks (including all highway and off-highway 16 up to 22 C.Y.W.L.C.
GROUP VII - Transit mix or agitator semi or 4 axle equipment driver; flaherty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump truck (including all highway and off-highway) 22 CY up to 35 C.Y.W.L.C.
GROUP VIII - Euclid diesel power turnarocker; terra coba-DW20-Le-Tourneau Pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster-lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gal. and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandems); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all
GROUP IX - Lowboy (heavy equipment double gooseneck); heavy equipment mechanic; welder (body and fender man)

DECISION NO. NM83-4016 PAGE 14

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: OKLAHOMA

COUNTY: Adair, Craig, Cherokee, Delaware, Mayes, Nowata, Ottawa, Rogers, Sequoyah, Wagoner & Washington Cos.

DECISION NO. OK83-4017 DATE: Date of Publication

SUPERSEDES DECISION NO. OK79-4029 dated February 23, 1979 in 44FR10933

DESCRIPTION OF WORK: Residential construction consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits	Basic Hourly Rates	Fringe Benefits
Air condidtioning mechanic	$5.63			
Bricklayers	5.00			
Carpenters	5.46			
Drywall installers and sheetrockers	5.78			
Cement masons	6.40			
Electricians	5.79			
Ironworkers	5.50			
Insulation installers	4.70			
LABORERS:				
Laborers -	3.58			
PAINTERS:				
Brush	5.56			
Tapers and finishers	5.59			
Plumbers & Pipefitters	6.94			
Roofers	6.00			
Sheet metal workers	5.63			
Soft floor layers	6.22			
Tile setters	6.88			
Truck drivers	4.00			
POWER EQUIPMENT OPERATORS:				
Backhoes	6.50			
Bulldozers	6.00			
Trenching machines op.	5.50			
Tractors (small)	4.06			
Graders	6.00			

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted calssifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii).

[FR Doc. 83-2156 Filed 1-27-83, 8:45 am]

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federal register

Friday
January 28, 1983

Part IV

Environmental Protection Agency

Cement and Concrete Containing Fly Ash; Guideline for Federal Procurement

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 249

[SWH-FRL 2176-8]

Guideline for Federal Procurement of Cement and Concrete Containing Fly Ash

AGENCY: Environmental Protection Agency.

ACTION: Final guideline.

SUMMARY: The Environmental Protection Agency (EPA) is today issuing final guidelines for the Federal procurement of cement and concret containing fly ash, implementing Section 6002(e) of the Resource Conservation and Recovery Act of 1976, as amended (RCRA). Section 6002 of RCRA requires procuring agencies using appropriated Federal funds to purchase items composed of the highest percentage of recovered materials practicable. Section 6002(e) instructs EPA to prepare guidelines to assist procuring agencies in complying with the requirements of Section 6002.

This guideline designates cement and concrete containing fly ash as a product area for which affirmative procurement actions are required, in accordance with Section 6002. Fly ash is a component of coal resulting from its combustion, and is the finely divided mineral residue which is typically collected from boiler stack gases. The guideline provides recommendations to procuring agencies which are expected to stimulate greater recovery and reuse of fly ash.

The preamble to the guideline explains EPA's regulatory strategy for fulfilling its responsibilities under Section 6002 of RCRA.

DATE: Effective February 28, 1983.

ADDRESS: Single copies of the final guideline, and RCRA, are available from:

RCRA Hotline (800) 424–9346 (In the Washington, D.C. area call 382–3000)

Public Docket: The public docket for this guideline is located in: Room S269C, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing 9:00 a.m. to 4:00 p.m. Monday–Friday excluding holidays.

FOR FURTHER INFORMATION CONTACT: John Heffelfinger, Hazardous and Industrial Waste Division, Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; (202) 382–4761.

SUPPLEMENTARY INFORMATION: Proposal and Comments: The proposed guideline was published on pages 76906–76921 of the **Federal Register** of November 20, 1980, and invited comments from the public on its contents until January 15, 1981. At the request of some commenters the comment period was reopened until January 30, 1981. Notice of reopening of the comment period was published on pages 9132–9133 of the **Federal Register** of January 28, 1981. A total of 161 written comments were received on the proposed guideline, including 12 late comments. This is in addition to oral comments received at the public hearing held on January 8, 1981 at EPA Waterside Mall, where approximately 75 persons attended and 21 presented formal testimony. The public docket for this guideline is available for viewing as mentioned above.

Introduction

Purpose and Scope

The Environmental Protection Agency is today promulgating the first of a series of guidelines designed to encourage the use of products containing recovered materials. Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended ("RCRA" or "Act"), 42 U.S.C. 6962, requires Federal, State, and local procuring agencies using appropriated Federal funds to purchase items composed of the highest percentage of recovered materials practicable. EPA is required to prepare guidelines to assist procuring agencies in complying with the requirements of Section 6002.

This preamble also explains EPA's regulatory strategy for fulfilling its responsibilities under Section 6002 of RCRA.

RCRA

The objectives of the Resource Conservation and Recovery Act are the protection of human health and the environment and conservation of valuable material and energy resources. The Act sets forth a national program to achieve these objectives by improving solid waste management practices. The provisions of the Act include: (1) Requirements for control of the generation, transportation, treatment, storage, and disposal of hazardous wastes, (2) establishment of environmentally sound disposal practices for all wastes, and (3) investigation and creation of incentives for resource recovery and conservation activities. These activities are to be carried out through a cooperative effort among Federal, State, and local governments, as well as private industry.

Requirements of Section 6002

Section 6002 of the Act, titled Federal Procurement, directs all procuring agencies which use appropriated Federal funds to procure items containing the highest percentage of recovered materials practicable, given that reasonable levels of competition, cost, availability, and technical performance are maintained. This requirement applies only to those products which are designated by guidelines issued by EPA under Section 6002(e). Further, only items where the purchase price of the item exceeds $10,000, or where the quantity of such items purchased during the preceding year exceeded $10,000, are subject to these purchasing requirements.

Federal procuring agencies responsible for drafting or reviewing specifications are required to review and revise specifications for products in order to eliminate any discrimination against the use of recovered materials. They are to remove specifications requiring that items be manufactured from virgin materials, and remove prohibitions against the use of recovered materials.

Vendors are required to estimate the percentage of recovered materials utilized for the performance of the contract and to certify that it is at least the amount called for by the specifications or other contractual requirements.

Section 6002 gives the Environmental Protection Agency responsibility for promulgating guidelines to assist procuring agencies in carrying out these requirements. The EPA guidelines are to designate those products which can be produced with recovered materials and whose procurement by procuring agencies will fulfill RCRA objectives. EPA guidelines are to provide specific recommendations with respect to the procurement of products containing recovered materials. In conjunction with the Office of Federal Procurement Policy in the Executive Office of the President, EPA has responsibility for implementing the policy and program at all levels of government.

Section 6002 is aimed at achieving the materials conservation goal. Its clear objective is to use the economic incentive of Federal procurement to increase the recovery of solid waste materials. Federal procurement of products made from recycled materials can demonstrate their technical and economic viability as they are used by Federal, State and local agencies.

Guideline for Federal Procurement of Cement and Concrete Containing Fly Ash

Purpose

The purpose of this guideline is to increase the use of cement and concrete containing fly ash which is purchased with Federal funds. Fly ash is a by-product of coal combustion. Its increased use in cement and concrete will help reduce this source of solid waste. At the same time this will conserve both significant amounts of energy and natural resources used in making cement. Cost savings can be achieved while providing a product that can be equivalent or even superior to cement and concrete made using only virgin materials.

This guideline will increase the demand for recovered fly ash in federally-funded construction. This increased demand should improve the marketability of fly ash and promote wider acceptance of it as a cement substitute and concrete additive. This together with the cost savings of fly ash in local markets may result in its more widespread use in non-federally funded construction as well.

Contents of the Guideline

This guideline designates cement and concrete, including concrete products such as pipe and block, containing fly ash as a product area for which procuring agencies must exercise affirmative procurement under Section 6002 of RCRA and presents recommendations for carrying out the requirements of Section 6002 with respect to fly ash used in cement and concrete. RCRA defines procuring agencies to include not only Federal agencies, but also State and local agencies, grantees, and contractors which are using Federal funds to purchase cement and concrete.

Section 6002 of the Act sets forth certain requirements for procuring agencies. These requirements include: (1) Eliminating from specifications any discrimination against the use of recovered materials; (2) purchasing products which contain recovered material if reasonable levels of technical performance, cost, availability, and competition can be achieved; and (3) obtaining certification from suppliers that they have met any minimum contractual requirements for including recovered materials.

To assist procuring agencies in achieving compliance with these requirements, this guideline recommends that procuring agencies which purchase cement or concrete adopt a procurement approach which specifically allows that fly ash can be used as an optional or alternate material in the performance of the contract, either in a blended cement or as an admixture in concrete. This recommendation applies except in those cases where the use of fly ash would be technically inappropriate.

Flexibility is allowed procuring agencies in meeting this recomendation. For example, some agenices may prefer to allow for fly ash use through changes in contract specifications, with the option to use fly ash left to the discretion of the successful offeror. In other cases, agencies may prefer an alternate bid approach, and solicit bids for portland cement or concrete alone, and for portland cement or concrete containing fly ash.

In addition, this guideline recommends that procuring agencies revise their guide specifications and design guidelines to ensure that fly ash use is allowed, except where technically inappropriate. It suggests certification procedures which utilize the existing review and approval mechanisms already imposed by procuring agencies.

Phased-in implementation, with specification changes to be made in the first year after publication of this guideline and purchases to begin in the second year, is recommended.

Explanation of Current Regulatory Approach

General vs. Specific Guidelines

Soon after EPA undertook the effort to prepare procurement guidelines, it became clear that guidelines could not be developed for all 50,000 Federal product specifications and standards. EPA did not have the resources to review all 50,000 Federal product specifications and make decisions on what percentage of recoverable materials is technically and economically feasible, available in a reasonable amount of time, and produced by enough companies to guarantee that competition is maintained.

The Solid Waste Disposal Act Amendments of 1980 (Pub. L. 96–482) require a product-specific approach in issuing guidelines. These amendments key all of the purchasing requirements of Section 6002(c) to the preparation by EPA of guidelines for particular products and direct EPA to "designate those items which are or can be produced with recovered materials and whose procurement by procuring agencies will carry out the objectives of (Section 6002)."

Statute Requirements vs. Guidelines

A few commenters on the proposed guideline expressed confusion over the relationship between the requirements of Section 6002 and the recommendations of the guidelines. They asked for clarification of whether the recommendations contained in the guidelines must be adhered to.

EPA is of the opinion that the guidelines are, in general, voluntary. They contain recommendations for achieving compliance with the mandatory provisions of the statute, i.e., Section 6002. The mandatory provisions of the statute for a particular product area are triggered, for the most part, by EPA's designation of that product under Section 6002(e).

Although the guidelines contain recommendations rather than requirements, EPA is of the opinion that compliance with the guidelines constitutes compliance with the statute. However, there may be alternative methods of complying with the statute, not specifically addressed by the guidelines. As long as compliance with the intent of Section 6002 can be established, these alternative methods should be considered acceptable.

Criteria for Selection of Product Areas

In the proposed guideline, EPA proposed criteria to aid in the selection of product areas for which guidelines will be prepared. These criteria were:

(1) The waste material must constitute a significant solid waste management problem due either to volume, degree of hazard or difficulties in disposal;

(2) Economic methods of separation and recovery must exist;

(3) The material must have technically proven uses; and

(4) Federal purchasing power for the final product must be substantial.

In the main, these criteria incorporate all of the factors which the Solid Waste Disposal Act Amendments require EPA to consider in selecting products for the issuance of guidelines.

Some commenters suggested adding to or revising these criteria. One commenter suggested a criterion that the recycled product must not displace a currently recycled product, for example, home scrap as reused within a steel mill. EPA agrees in principle that by designating a product for affirmative procurement actions, a currently recycled product should not be precluded from use. By taking the product-specific approach which is required by Section 6002, sufficient investigations would be performed to assure that this does not occur. We

should add, however, that the definition of "recovered material" contained in RCRA "* * * does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process." Thus, home scrap would not qualify as a recovered material for purposes of Section 6002.

Other commenters suggested that energy conservation be included as a criterion for product selection. EPA believes that while use of waste materials may indeed conserve energy, the overriding thrust of Section 6002 must be the impact on solid waste. Thus, it would be inappropriate to reject products from consideration which could result in a significant impact on the solid waste stream, but for which a slight increase in energy consumption would result. Likewise, if significant energy reductions could be achieved while having little or no impact on the solid waste stream, it would be inappropriate for EPA to issue procurement guidelines under Section 6002.

One commenter suggested revising the criterion of Federal purchasing power from being "substantial," to "a great deal." In considering this comment as well as suggestions for additional product areas for the issuance of guidelines, it became apparent that the criterion should focus on the extent to which the Federal government can affect use of waste materials through the procurement guideline mechanism. In some cases, changes resulting from direct purchasing with Federal funding may not be as significant as changes which may take place at State and local levels, and in the private sector, due to the "ripple effect" which changes in Federal procurement practices may have. Therefore, the fourth criterion has been revised to read as follows:

(4) The Federal government's ability to affect purchasing or use of the final product or recovered material must be substantial.

One commenter suggested inclusion of a criterion for uses which may be expected to develop in the future. EPA rejected this suggestion because it is in opposition to the fundamental concept that the guidelines can only designate products which are technically and economically proven, and available in a reasonable period of time from enough persons to assure that competition is maintained. Other governmental programs may be aimed at demonstrating, for example, the technical feasibility of using a waste material in lieu of a virgin material in a pilot-scale project. Such use may be further developed in the future. However, the mechanism of Federal procurement guidelines is inappropriate for such product development efforts. For the guidelines to be effective, products must have been fully developed and somewhat available, but suffering from resistance to their use. Experimental or developmental products do not fall into this category.

Product Areas Currently Under Study

With these criteria in mind, EPA has chosen four major product categories for the issuance of guidelines under Section 6002. These categories are cement and concrete containing fly ash, recycled paper products, spent pickle liquor from steel finishing processes as used in wastewater treatment operations, and highway construction products containing recovered materials, particularly lime-fly ash-aggregate road base and subbase mixtures. The issuance of a guideline for composted sewage sludge, as mentioned in the proposed guideline, has been deferred, due to higher priority commitments within EPA at the present time. EPA expects additional candidate products to surface through its industry solid waste studies program. As guidelines are completed in these areas, additional product areas may be selected for issuance of guidelines.

Some commenters suggested additional product areas which EPA should include in this and/or future guidelines. These products include petroleum products, petrochemicals, waste oil, metals, glass, tires, polyester bottles, salvaged materials, wood ash or coal/wood ash, and lead blast furnace slag.

These comments were not accompanied by any documentation as to how they meet the criteria for selection of product areas, as EPA specifically requested in the preamble to the proposed guideline. No information was presented as to why these products are good candidates for the procurement guidelines program. However, EPA has studied or considered some of these product areas for the issuance of guidelines. The only currently viable candidate on the list appears to be waste oil, i.e., Federal purchasing of rerefined oil. A guideline may be issued for this product area after completion of the already planned guidelines mentioned above.

Two major categories of metals, aluminum and ferrous scrap, have been considered for procurement guidelines and rejected. Aluminum does not constitute a significant solid waste management problem. Recycling programs implemented by the major aluminum producers during the past decade have had a significant impact on the major source of aluminum scrap—the aluminum can. So valuable has this material become that its price has risen well over 100% during the past five years. Federal involvement would do little to promote further aluminum recycling, where the marketplace has already responded based on economics.

With regard to recycling ferrous scrap, although it is certainly technically and economically feasible, EPA has determined that the Federal government possesses very little ability to influence the amount of scrap which is currently recycled, through the procurement guidelines program. One reason for this is the technical capability of steel furnaces to use scrap. Basic oxygen and electric-arc furnaces currently are operated very close to their maximum technically feasible scrap utilization levels. The open hearth furnaces, on the other hand, have the capability to use additional amounts of scrap. This has been demonstrated in the past, where scrap has served essentially as the surge material when demand for steel increases. However, open hearth furnaces are slowly being phased out and replaced by basic oxygen and electric-arc furnaces. Open hearth furnaces account for less than 15 percent of domestic steel production today, compared to over 40 percent in 1969. Any expansion of production in the steel industry will take place by way of electric-arc and basic oxygen furnaces, which technically must use certain levels of scrap. Thus, Federal involvement would do little to promote further recycling of this material.

A second major reason for not issuing a guideline for ferrous metals is the number of distribution levels through which steel products must pass before receipt by the government. The criterion that the Federal government be in a position to affect purchasing of a recovered material product depends very much upon how directly the government can deal with the manufacturer of the product. For most of the products EPA has considered for the issuance of guidelines, the government purchases directly from the manufacturer or at most, from one intervening level. Although the government purchases such steel-containing products as automobiles, desks, and file cabinets, these are obtained from the final product manufacturers or distributors, very far removed from the steel production process. It is unlikely that the Federal government could influence raw materials utilization practices of steel manufacturers, with such reduced

leverage, or obtain meaningful certification of recovered material content.

With regard to government purchases of products containing recovered glass, the above discussion regarding levels of distributors applies here. The government purchases fabricated products which contain glass as one component or are packaged in glass. However, the government possesses very little leverage over the raw materials utilization decisions of glass manufacturers in such situations. There are some potential uses of recovered glass in construction products, such as in brick manufacture or as an aggregate in concrete block or in asphalt concrete. However, these applications have not yet proven themselves to be technically or economically viable enough to be commercially available for the purpose of Federal procurement.

Another waste material, tires, has potential for utilization. One promising application is the use of crumb rubber from waste tires in an asphalt-rubber mixture in highway construction. Such uses are referred to as stress absorbing membranes, involving a thin layer of asphalt-rubber used as surface material with chip seals or as an interlayer with a surface overlay. Asphalt-rubber has been demonstrated to be effective in preventing certain types of pavement cracking by improving the elasticity of the pavement and reducing the susceptibility of the pavement to temperature changes. However, technical feasibility and availability have not yet been demonstrated in wide areas of the country. Further, on an initial cost basis, asphalt-rubber systems appear to be more expensive than conventional pavements, although on a life-cycle cost basis asphalt-rubber may be less expensive. Insufficient data at the present precludes accurate cost comparisions.

This product area is one for which EPA may issue a procurement guideline in the future, as technical, economic, and availability factors are resolved. In the meantime, agencies responsible for highway construction programs at the Federal, State, and local level are urged to investigate the potential for use of asphalt-rubber through further demonstrations and evaluations in their particular regions.

With regard to using salvaged materials, i.e., used brick, old concrete crushed for aggregate, etc., no procurement guidelines are currently envisioned. Construction debris such as this has not been demonstrated to be a significant solid waste problem. This generally inert material is usually disposed of on contractor-owned land and not in municipal landfills where it would consume sorely needed landfill space. Further, reuse of such materials, while potentially very desirable, is likely confined to project specific situations which lend themselves to this practice.

The suggestion for using wood ash or combinations of coal ash and wood ash for concrete, in similar fashion to fly ash from coal combustion, is not considered legitimate. It fails to recognize that fly ash must possess certain chemical and physical properties in order to react successfully in a concrete mix. While no documentation was provided, it is highly unlikely that wood ash or coal/wood ash possess these same properties.

Rationale for Choosing To Issue Guideline Pertaining To Fly Ash

Fly ash used in cement and concrete was chosen as a product area where Federal purchasing power could significantly increase the use of a recovered material. The following discussion demonstrates that fly ash meets the product selection criteria.

(1) Significant Solid Waste Problem

Fly ash is the term used to describe an ash component of coal which results from the combustion of coal. The vast majority of fly ash is produced in electric power generating plants, where powdered coal is burned to produce steam to drive the turbines. Fly ash, which is a finely divided mineral residue, is conveyed out of the boiler along with the stack gases. It is then collected from the gases by various means, including electrostatic precipitators, mechanical precipitators, cyclone separators, bag houses and scrubbers. It is stored in silos, awaiting reuse or disposal, or it may be conveyed directly to a disposal area. Fly ash typically represents about 70 percent of the ash generated by coal combustion, with coarser and heavier bottom ash accounting for the remaining 30 percent.

During 1979, 57.5 million tons of fly ash were generated, with over 82 percent disposed of as waste. The quantities of fly ash requiring disposal will increase dramatically during the 1980's with the construction of additional coal burning power plants. Estimates are for fly ash generation to be 70–80 million tons annually by 1985.

Current disposal practices for fly ash can have a negative effect on water quality (surface and groundwater contamination), air quality (increased dust), land use, noise, and aesthetic value.

(2) Feasible Methods of Recovery

Economically feasible methods exist for recovery of the fly ash waste stream. Electrostatic precipitators or mechanical collection devices separate fly ash from boiler stack gases. More than two-thirds of the coal-fired generating stations have collection and loading facilities for fly ash. However, the majority of fly ash currently is combined with bottom ash, boiler slag, and/or scrubber sludge for disposal, making future recovery for cement and concrete use difficult and more expensive.

(3) Technically Proven Uses

Cement is a powder-like manufactured mineral product, usually gray in color. Cement is mixed with water and sand, gravel, crushed stone, or other aggregates to form the hard substance known as concrete. Cement is not used by itself for construction but is a component of concrete.

Cement is produced by first grinding a carefully proportioned mixture of raw materials such as limestone, silica, sand, clays, and iron ore. The mixture is heated in huge rotary kilns at temperatures approximating 1500°C (2700°F), where chemical reactions take place. The resulting marble-size pellets, or clinker, are ground with a small amount of gypsum (to control setting and hardening) to produce an extremely fine powder, known as "portland" cement. Portland cement is a generic term used to describe a particular type of inorganic hydraulic cement. A hydraulic cement is a cement which will combine with water and harden.

a. *Raw Material.* Several commenters pointed out that fly ash can be used as a raw material in the initial production stages of cement. Fly ash can be a source, for example, of iron and silica needed for cement manufacture. As such, fly ash can be used as a supplementary raw material feedstock which is proportioned with other raw materials and burned in the kiln to form clinker, which is then ground to produce cement.

Fly ash used in this manner loses its identity and becomes an integral part of the cement. Portland cement from such production is tested and certfied according to ASTM standard C150 prescribed by the American Society for Testing and Materials. It is stored, transported, marketed, and used in the same manner as cement produced without using fly ash as a raw material. Such cement is generally not identified as being produced from fly ash.

Fly ash used as a raw material completely loses its identity by undergoing chemical reactions with other cement constituents, allowing further amounts of fly ash to be

incorporated into the cement, either to produce a blended cement containing fly ash, or as an admixture in concrete, as discussed below.

Although EPA strongly encourages the use of fly ash as a raw material in the production of cement, we feel it is unnecessary to recommend any changes in specifications, purchasing practices, or certification procedures for this application. The standard specification for portland cement, ASTM C150, currently allows for fly ash use in this manner. Solicitations typically request ASTM C150 as the controlling specification. Standard certification practices exist in the industry. Further, the extent to which fly ash can be used as a raw material is highly plant-specific, depending upon the mineral resource needs of any particular manufacturing plant. Thus, no Federal intervention is deemed appropriate for this application.

b. *Blends and Admixtures.* Although not cement itself, fly ash has the property of cementation when combined with lime and water, and this can complement the cementing action of portland cement. Fly ash combines with the water-soluble lime generated during the reaction of portland cement with water, and forms insoluble cementitious compounds. This cementitious property gives fly ash two primary uses: as an ingredient in blended cements, and as a component of portland cement concrete. When used to produce blended cement fly ash is either interground with the portland cement clinker, or blended with the finely ground portland cement powder (or both). When used directly in concrete, fly ash is added to the standard concrete ingredients at the concrete mixing site. Fly ash can be used either as a partial cement replacement in concrete, or as an added ingredient to obtain certain desired concrete characteristics. Almost 3 million tons of fly ash were used in the production of cement or concrete during 1979.

1. *Blended Cement.* Several U.S. cement manufacturers produce a blended cement meeting the standards prescribed by the American Society for Testing and Materials (ASTM) for the use of fly ash in cement. Blended cement containing fly ash is included in ASTM specification C595 and is designated as "Type IP" or "Type I(PM)." Table 1 indicates the extent to which Type IP or Type I(PM) cement can be used as a substitute for ASTM cement Types I through V in general concrete construction.

TABLE 1

ASTM Cement type	Purpose	Substitute fly ash
I	General purpose	Yes
II	Moderate sulfate resistance and heat of hydration	Yes.
III	High early strength	No
IV	Low heat of hydration	Yes.
V	High sulfate resistance	Yes.

2. *Concrete Admixture.* Fly ash can also be used directly as an admixture in concrete, as a partial replacement for portland cement. ASTM specification C311 contains requirements for the sampling and testing of fly ash when in this manner. ASTM C618 is the standard specification for the use of fly ash as an admixture in concrete. In addition, the General Services Administration maintains Federal Specification SS–C–1960, which references ASTM C618, with minor differences for sulfur trioxide content, loss on ignition, and the pozzolanic activity index.

c. *Bottom Ash.* Bottom ash is the term used to describe an ash component of coal which results from the combustion of coal. The ash that is not fine enough to go up the stack with boiler gases in the form of fly ash instead solidifies and agglomerates into coarser heavier particles. These coarse particles fall into the ash hopper at the bottom of the furnace. The ash may be generated in a dry state or in molten form, where it is more accurately referred to as boiler slag.

Commenters stated that bottom ash and boiler slag can be used in the production of Type IP, portland-pozzolan cement. The cement is apparently marketed as Type IP and certified in accordance with ASTM C595. In this application, the ash is generally interground with cement clinker to produce blended cement. This application is possible because bottom ash is very similar to fly ash in chemical composition.

EPA feels it is inappropriate to include, at the present time, bottom ash or boiler slag as used in the production of Type IP cement, as a recovered material which is "designated" under this guideline. Although bottom ash and boiler slag generally meet the criteria discussed here as those criteria relate to fly ash, the recommendations which EPA makes in this guideline regarding specification and purchasing of Type IP cement are based solely on investigation related to fly ash. Because this is a relatively minor application at the present time, and in order to minimize confusion, the Agency has not included bottom ash and boiler slag as "designated" materials in § 249.02 of the guideline. However, although the guideline language will continue to reflect emphasis on the use of fly ash, procuring agencies should be receptive to consideration of such bottom ash use, when it arises.

d. *Practical Applications.* Many ready mixed concrete producers and concrete product manufacturers have used fly ash for years, particularly in non-specification jobs where they are responsible for the performance of the product, but are able to choose the material content which will best suit their needs both technically and economically.

Several commenters provided EPA with names of specific projects or types of applications where fly ash has been used successfully in concrete. EPA feels that mention of these applications will be particularly useful to potential users of fly ash, particularly those who may possess doubts as to the legitimacy of using fly ash in concrete. The following list is by no means exhaustive, but indicates general areas where fly ash has been used on a commercial scale.

1. *Structural Building.* Structural concrete containing fly ash has been used extensively in certain regions of the country. Buildings in the Chicago area which contain fly ash include the Sears Tower, John Hancock Center, McCormick Place, Standard Oil Building, Prudential Building, Inland Steel Building, and First Wisconsin National Bank of Milwaukee. Other buildings include the Detroit General Hospital, the Atlanta Hilton Hotel, and the Davis-Bessie nuclear power plant near Toledo, Ohio.

2. *Wastewater Treatment Plants.* Locations of more than a dozen wastewater treatment plants, where concrete containing fly ash was utilized, were provided by commenters. These plants included both municipal and industrial treatment plants. Fly ash is sometimes specified or allowed for use as an alternate to ASTM Cement Types II or V, due to the often improved sulfate resistance which concrete containing fly ash can afford.

3. *Dams.* On a national level, the U.S. Army Corps of Engineers and U.S. Bureau of Reclamation have used fly ash in concrete in various projects, most notably dam construction, for many years. Some of these projects include:

Hungry Horse Dam—1953
Dworshak Dam—1973 (700' high)
Libby Dam—1975 (400' high)
Richard B. Russell Dam—under construction
Tombigbee Riverway—under construction (series of locks and dams)

A new project on which fly ash is permitted in concrete is the Central Arizona Project, designed to convey water from the Colorado River to the cities of Phoenix and Tucson. The $2 billion project involves construction of over 300 miles of concrete aqueduct and four large pumping stations.

4. *Pavement.* Some State Departments of Transportation have approved fly ash use. For example, the Georgia Department of Transportation (DOT) revised its specifications in 1975 to allow fly ash to be used as a partial cement replacement. Since then, Georgia's DOT has placed over three million cubic yards of fly ash concrete pavement and road shoulders, and is now considering review of the specification to allow for a greater fly ash replacement rate.

5. *Concrete Block.* Many manufacturers of concrete block use fly ash at rates of 20–35% of total cementitious material. Some manufacturers use as much as 50% fly ash when employing high-pressure-steam cured processes.

6. *Concrete Pipe.* Some concrete pipe manufacturers use fly ash to obtain a better material flow in production, and to increase the density and decrease the permeability of their product.

e. *Performance of Fly Ash.* Some commenters pointed out that a distinction should be made between ASTM Class F ashes, obtained from the combustion of bituminous coal, and the ASTM Class C ashes, which are obtained from subbituminous and lignite coals. While both types of fly ash are composed of the same chemical components, the quantity of these chemical components as constituent elements of these two types of fly ash vary. The proposed preamble was primarily limited to a discussion of Class F ash, although some of the statements may be true for Class C. The following discussion has been revised to reflect the differences in performance of the two types of ash where information was available from commenters.

1. *Enhanced Performance.* As discussed in the proposal, the use of fly ash in cement and concrete may enhance the performance characteristics of the final products.[1] These advantages can be summarized as follows:

i. *Greater Ultimate Strength.* Proper mix design will achieve 28-day strength equal to or better than a typical Type I cement. Fifty-six day strength will be superior in almost all cases. In the examples of structural applications listed above, use of fly ash was found to be the most practical and economical method of obtaining high strength mixes.

Class C ash concrete may attain early strengths equal to or greater than concrete utilizing portland cement only. This is likely due to the higher calcium oxide content of Class C ash, leading to more rapid development of cementitious compounds.

ii. *Improved Workability.* Specification fly ash used in properly proportioned concrete mixes improves the pumpability, handling, placing, and finishing of fresh concrete, in part due to the glassy, spherical shape of fly ash particles, which add to the "plasticity" of the mix.

iii. *Reduced Water Requirement.* Due to improved workability, usually less water needs to be added to the mix, resulting in less drying shrinkage and less cracking.

iv. *Lower Heat of Hydration.* Generally, less heat is generated during the chemical reactions between the cement and water, resulting in less thermal cracking—especially important in mass concrete applications such as dams, large beams, retaining walls, and foundations.

When using Class C ash, however, the prolific cementitious reactions which take place due to higher calcium oxide contents may not allow for achievement of lower heat of hydration. This characteristic of Class C vs. Class F should be noted where heat liberation is critical.

v. *Increased Sulfate Resistance.* A proper concrete mix with Class F fly ash will reduce the chemical attacks in concrete from sulfates contained in adjacent soil and groundwater. These reactions cause cracking and eventual disintegration of the concrete. Fly ash forms stable cementitious compounds with certain cement constituents, thus reducing the ability of sulfates to combine with these same cement constituents.

With Class C ash, there apparently is no improvement in sulfate resistance. One commenter claimed that subbituminous and lignite fly ashes generally lead to reduced resistance to sulfate attack in concrete.

vi. *Reduced Alkali-Aggregate Reactions.* Certain aggregates react with the alkalis generated during cement hydration, resulting in disruptive expansion and cracking of concrete. Class F fly ash reacts with these alkalis to form stable compounds, thus preventing or severely reducing the reaction with aggregates and the accompanying detrimental effects.

Commenters on Class C fly ash state it has negligible effect with regard to alkali-aggregate reactions. In any event, standard tests are available to determine if a reaction is likely to occur. This likelihood can be predicted as accurately with fly ash as with portland cement.

2. *Disadvantages.* Several disadvantages which are associated with the use of fly ash can be overcome through proper use.

i. *Variable Physical and Chemical Composition.* Fly ash from different sources can be highly variable in its physical and chemical composition. This variability can be due to several factors, such as coal source, combustion process, and collection method. This problem can be overcome through adequate testing and quality control of the ash. ASTM specifications C595, C311, and C618 should be used as minimum standards for acceptance of fly ash. However, these material standards by themselves will not guarantee satisfactory performance of a concrete mix, just as use of portland cement conforming to ASTM C150 will not assure production of a satisfactory concrete. Proper mix design, selection and quality control of all materials, and expertise in mixing, placing, and finishing of concrete all play a role in achieving satisfactory performance.

The issue of ash variability and quality control was by far the technical issue of most concern to commenters. Many commenters who stated that use of fly ash results in deleterious performance of concrete based their concerns on situations where low quality, non-specification ash might be used in concrete. EPA agrees in principle with these commenters concerns. Therefore, EPA substantially revised the sections of this preamble and guideline entitled "Quality Control," which emphasize the need for quality control and quality assurance procedures on the part of all involved parties, particularly fly ash suppliers and material vendors.

ii. *Unfamiliar Users.* Due to lack of widely publicized and sometimes inadequate data on mix designs (as compared to general purpose concrete), fly ash concrete may be improperly prepared by an unfamiliar user. Mix designs do exist to produce fly ash concrete, and in most cases fly ash brokers/companies will provide manufacturing assistance and engineering design aid. The "References" section of this guideline refers to information on fly ash and its use in cement and concrete. Potential users should familiarize themselves with

[1] (The properties of cement and concrete which contain fly ash have been examined and documented. A report by the National Bureau of Standards entitled "Fly Ashes in Cements and Concretes: Technical Needs and Opportunities," NBSIR 81–2239, summarizes these properties.)

the information in those publications, and seek assistance from suppliers of fly ash.

iii. *Special Storage and Transportation Equipment.* Due to its extreme fineness, fly ash requires the use of storage and conveying equipment with tight fittings. Equipment meeting these requirements is readily available.

iv. *Extended Curing Time.* Mix proportions have been developed which will achieve equal or superior strength to general purpose concrete at all ages, particularly if 10%–30% fly ash is added (not substituted) to a concrete mix, or if a blended cement with up to 10% fly ash content is used. However, when used as a cement replacement, superior strength is often not achieved until the age of 28 days.

As discussed earlier, commenters using Class C ash state that equal or superior strength gains can be achieved at all stages of development.

v. *Increased Demand for Air Entraining Agent.* Inadequate air content in concrete will significantly affect its durability and most likely result in premature deterioration. Fly ash used in blended cements and concrete will often cause an increased demand for air entraining agent. With proper testing and quality control, the need for entrained air can be satisfied. The cost of the additional air entraining agent and quality control is often balanced by the cost savings associated with fly ash use.

Commenters on Class C fly ash indicate that air entrainment is not a problem, due to the lower loss on ignition (LOI) of Class C ashes compared to Class F. The reason for a low LOI is likely not due to any inherent property of lignite or subbituminous coal. Rather, these coals are often burned in newer, more efficient, power plants, resulting in more complete combustion with less residual carbon. One the other hand, many of the power plants in the East burn bituminous coal. These plants are generally older and may combust less efficiently than the generally more modern plants found where the lignite and subbituminous coals reserves are located.

EPA cautions against making air content determinations based on the class of ash. Rather, marketers and users should be concerned with the properties of the particular ash at hand. Both types of ash, regardless of carbon level, can affect air entrainment levels and should be evaluated vis-a-vis compensating air entraining admixture levels. This is because any alteration in the mix properties affecting the fine aggregate particle distribution and heat evolution has an effect on air entrainment.

(3) Federal Purchasing Power

Almost one-half of total U.S. cement consumption is in public construction projects (public buildings, public works, transportation). Since Federal funds account for nearly two-thirds of the funding for public construction nationally, approximately 23 million tons of cement is purchased annually either directly or indirectly with Federal funds. These 23 million tons mark the theoretical universe to which this guideline applies.

The actual figure may be lower, however, as some of these cement applications may not be technically appropriate for the use of fly ash. In addition, some of these Federally funded projects already incorporate fly ash. On the other hand, with the anticipated "ripple effect" of private purchases being influenced by these public purchases, the impact could be substantially increased. For example, commenters indicate in those areas where fly ash is accepted, contractors who use fly ash will tend to use it for all of their projects, public and private, where technically acceptable.

Discussion of Guideline

This section of the preamble summarizes and explains the guideline and its integration with the requirements of Section 6002 of the Act. The guideline recommends practices with regard to specifications, purchasing, and certifications which procuring agencies may employ in complying with the mandatory provisions of Section 6002. Adherence to the procedures suggested in the guideline will be deemed to constitute compliance with Section 6002.

Scope

The scope of this guideline is limited to the use fly ash in cement and concrete, including concrete products such as pipe and block. Several commenters agreed with this limitation. However, as discussed in this Preamble under the section entitled "Technically Proven Uses," commenters indicated that bottom ash and boiler slag are being used in production of Type IP, portland-pozzolan cement. Therefore, when reference is made in this guideline to Type IP or blended cements, bottom ash and boiler slag should be considered by procuring agencies as qualifying for those applications, if manufacturers/suppliers can provide satisfactory technical support.

Many commenters pointed out that fly ash and bottom ash can also be used in many other construction applications, such as road base and subbase material, structural fill and embankment, soil stabilization, grouting, masonry cement, and as lighweight aggregate. However, the technical and economic issues related to these uses of coal ash are sufficiently different to warrant separate consideration by procuring agencies. The Agency intends to prepare guidelines on a product-by-product basis.

Guidelines on the use of fly ash in road bases and subbases are currently being drafted by EPA. The Agency believes such use can result in significant economic and energy savings nationwide. Interested persons should become aware of the recently enacted Federal Highway Administration demonstration program (Project 59) for fly ash in highway construction.

The fact that EPA has not issued guidelines for certain applications of fly ash should not be construed as preventing agencies from investigation and use of such materials. For example, one commenter indicated a history of successful use of fly ash in producing a masonry cement meeting the requirements of ASTM, C91, Standard Specification for Masonry Cement. Such uses are encouraged. Agencies should apply the general provisions of this guideline to such applications, in keeping with the intent of RCRA.

The Agency received comments on and considered expanding this guideline to include the use of granulated iron blast furnace slag in cement and concrete. Although major actions have recently been taken to increase the quality and quantity of granulated slag, EPA does not believe granulated slag is sufficiently available yet to warrant guidelines on a national scale. In addition, iron blast furnace slag is already reused at a very high rate, as aggregate and as fill material. Procuring agencies are strongly urged to apply the general provisions of this guideline in those cases where granulated slag suitable for use in cement becomes available.

Similarly, silica fume, the by-product dust resulting from the manufacture of silicon metal and collected in air pollution control devices, has been studied for its use in cement and concrete. The U.S. Army Corps of Engineers has developed results which indicate that silica fume can be extremely beneficial in increasing the resistance of concrete to sulfate attack, while generally maintaining early strength similar to that of portland cement concrete that does not contain the dust. However, additional technical information and standards need to be

developed before this material is used on a national scale. Thus, a specific procurement guideline is not currently envisioned for silica fume.

In the meantime, agencies should apply the general provisions of this guideline in those cases where silica fume or other recovered materials become available. This guideline should not be construed as preventing the procurement of other recovered materials suitable for use in cement and concrete.

Some commenters questioned why the use of shales and other naturally occurring pozzolans is not addressed by this guideline. Because the philosophy of the procurement guidelines program is to encourage recovery and reuse of solid waste materials, consideration of guidelines for natural materials which are not solid wastes is inappropriate.

One commenter suggested that EPA disallow the use of concrete containing fly ash in load bearing structures. In view of the successful structural applications mentioned elsewhere in this guideline, and with no documentation provided by the commenter to support the suggestion, EPA must reject it.

Several commenters requested that EPA exempt precast and prestressed concrete products from the guideline. The main concerns expressed by these commenters were that use of fly ash would cause delays in production of these products resulting in increased costs and loss of competitive edge vis-a-vis substitute products. Commenters stated that energy consumption would increase as a result of raising curing temperatures to achieve needed early strength gains. These commenters also expressed concern over the quality and variability of fly ash, which can affect performance and color of precast and prestressed concrete products.

The basis of these commenters' concerns stems from resistance to "mandatory" use of fly ash, i.e., a recommendation contained in the proposed guideline that procuring agencies solicit bids solely for cement or concrete containing fly ash when, in their judgement, those products were available, cost competitive, and technically acceptable. The commenters claimed this recommendation caused confusion and would lead to blanket requirements that fly ash be used in all precast and prestressed products.

EPA has deleted this recommendation in the final guideline, in favor of an approach which recommends that fly ash use be included in all solicitations, unless technically inappropriate. EPA believes that there are no good grounds for exempting precast and prestressed concrete products from such solicitations. Several commenters stated that fly ash is currently being used by some manufacturers of precast and prestressed concrete, apparently with technical and economic success. EPA believes that persons who are willing and able to use fly ash, while guaranteeing performance of their product, should have the opportunity to do so. Thus, an exemption for this product area is not considered appropriate.

Applicability

The requirements of Section 6002 apply, for the most part, to "procuring agencies." The term "procuring agency" is defined by the Act as "any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract." The affirmative purchasing requirements of Section 6002 apply to procuring agencies' purchases exceeding $10,000, or where that quantity of functionally equivalent purchases in the preceding fiscal year exceeded $10,000.

This guideline recommends that any solicitations for purchases of cement or concrete made with Federal funds, either directly or indirectly, specifically allow for fly ash to be used as an optional or alternate material, unless it can be shown that the use of fly ash is technically inappropriate for a particular construction application.

(1) Procuring Agency

(a) *Direct purchases.* With regard to direct purchases, there are several situations to which the Agency believes this guideline should apply. Although the language on applicability in Section 6002 leaves room for interpretation, the Agency believes the recommendations here best describe the intent and practical application of Section 6002.

The first is where a Federal agency or other authority using Federal funds purchases cement, either in bag or bulk form. The agency may use this cement or it may supply the cement to other persons or the cement may be used by persons performing construction services for the agency. An example of this occurs where the Department of Defense, Army, purchases cement for use on a construction job, or its general contractor or subcontractor purchases cement for use on that job.

A second case occurs where ready mixed concrete is purchased directly by a Federal agency. The same scenarios applied to direct purchases of cement apply here. If a Federal agency purchases ready-mixed concrete for its own use or, more likely, if a person under contract to or in support of a Federal agency purchases concrete, then the provisions of this guideline apply.

(b) *Indirect purchases.* Indirect purchases of cement and concrete by Federal or other procuring agencies are subject to this guideline. This is where the coverage of the term "procuring agency" becomes critical. Foremost among indirect consumers of cement and concrete are the Department of Transportation (including the Federal Highway Administration, Federal Aviation Administration, Urban Mass Transit Administration); the Department of Health and Human Services; the Department of Housing and Urban Development; and the EPA itself (wastewater treatment works construction grants program). All these agencies are involved in the Federal funding of construction programs for or through state and local governmental authorities. EPA believes that any purchase of at least $10,000 worth of cement or concrete by States and localities or their contractors, subcontractors, grantees or other persons which is funded by grants, loans, funds or similar forms of disbursements of monies from Federal agencies is subject to the provisions of this guideline.

EPA recognizes that these cases of indirect Federal funding may present the most difficulty for implementation. For instance, while the Federal Procurement Regulations and the Defense Acquisition Regulations control all Federal agencies in the case of direct procurement, each Federal agency establishes its own grant regulations. In addition, agency reviews appear to exert little influence over the composition of materials used in construction activities funded by that agency. An agency's primary interest is that the project performs as intended.

While some commenters expressed support for the above interpretation, other commenters had very differing viewpoints. One commenter, the Federal Highway Administration (FHWA) agreed that its direct procurement program for Federal roads and highways is subject to RCRA Section 6002 requirements. The direct-Federal program includes highway projects on Federally owned lands, such as national parks.

However, the FHWA has taken exception to the inclusion of the multi-billion dollar Federal-aid (Federal Highway Trust Fund) program under Section 6002. FHWA contends that State highway departments operating under

the Federal-aid program are not procuring agencies under RCRA because they use State funds rather than appropriated Federal funds for any necessary procurement. A percentage of their expenses is later reimbursed by FHWA if the States have satisfactorily complied with applicable Federal laws, regulations, and FHWA/DOT policies. Thus, FHWA states that guidelines promulgated by EPA are not applicable to the Federal-aid program.

EPA does not agree with the above FHWA interpretation. Although the Trust Fund monies result from the Federal excise tax on gasoline, the monies are appropriated to projects before they are redistributed to the States. Further, these Federal funds are substantially being used for procurement of the highway projects in question. Long-established relationships indicate that States are virtually guaranteed of receiving the Trust Fund monies as long as their projects are approved by FHWA and they comply with the requirements specified by FHWA.

EPA does not believe that the legislative history of RCRA supports such a narrow interpretation of the term "procuring agency." Rather, the intent of RCRA Section 6002 is to use the influence which the Federal government can exert through its purchasing power to stimulate demand for and use of recovered materials. Therefore, EPA is of the opinion that the Federal-aid program for highway construction projects is subject to RCRA requirements. Those persons who believe they will suffer damage as a result of failure by a procuring agency to comply with Section 6002, are urged to review the section of this preamble entitled "Compliance and Monitoring."

(c) *Unrelated purchases.* One commenter suggested a very strict interpretation of the term "procuring agency." This commenter claimed that once an agency uses any Federal funds for any procurement (over $10.000 total), *all* purchases (including non-designated items and those made with non-Federal funds) by it and any entities contracting with it become procuring agencies within the meaning of RCRA.

EPA disagrees with this interpretation. In the statute, Congress defined procuring agency to mean an Agency which "* * * is using appropriated Federal funds for such procurement," thereby signalling an intention to exclude purchases made with non-Federal funds from the explicit reach of Section 6002.

Further, the RCRA amendments, discussed elsewhere in this preamble, key the purchasing requirements of Section 6002 to the "designation" by EPA of certain candidate products by way of procurement guidelines. These amendments were passed, in part, because procuring agencies were pursuing inconsistent policies in attempting to implement RCRA purchasing policies throughout their procurement systems for all of their products. EPA is now given the responsibility for designating those items whose procurement will best carry out RCRA objectives.

Thus, this guideline should not apply to construction activities being performed which are unrelated to or incidental to Federal funding, or which include purchases on non-designated products. An example of an activity unrelated or incidental to Federal funding would be where a contractor performed laboratory experiments and bench-scale tests for the Government under a contract. In order to carry out his responsibilities he may need to expand his existing physical facility or construct a new one. The cement and concrete used in that structure would not be subject to the requirements of Section 6002 or this guideline, even though some of the funds received from Federal contract payments might be used to finance the construction.

Another commenter suggested regional instead of nationwide guidelines. The reason cited was that fly ash of the quality and quantity required for a construction project may not always be immediately available in certain parts of the country. Another commenter requested an exemption for city and county construction projects, citing a lack of expertise on their part.

These two comments serve to emphasize the "chicken and egg" dilemma for many recycled materials. Is fly ash not available because there is no demand or expertise to use it in a particular area, or is there no demand or expertise in those areas because fly ash is unavailable? The purpose of this guideline is to alter the status quo by stimulating demand for fly ash, thereby encouraging its availability and the development of the necessary expertise. EPA feels that by including fly ash in bid solicitations as an alternate or optional material, availability will be determined by whether any bids are received for it. Further, allowing for fly ash use will serve as an incentive to potential users in these areas. Contractors will not make the commitment necessary to use fly ash unless it is more readily accepted. Specifically allowing it to be used provides this incentive.

(2) $10,000 Rule

An important issue is the applicability of the $10,000 rule. Clearly, the guideline applies where a procuring agency directly purchases more than $10,000 worth of cement or concrete during the course of any fiscal year. The rule is complicated, however, if a procuring agency purchases concrete "services," which would not only involve the supply of the product but also placement, finishing, etc. Even more complex is the common case where a contractor is assigned all construction activities for a particular agency project, including subcontracting authority for concrete work. In such cases the actual cost of the cement or concrete may not be readily determinable.

In the proposed guidelines, EPA recommended that the $10,000 limitation include the cost of services related to the purchase of the product as well as to the cost of the product itself, at least in those cases where the separate cost of the materials cannot be practically determined.

EPA received several divergent comments on the issue of including concrete "services" in determining applicability of the $10,000 rule. An equal number of commenters agreed and disagreed with this approach. EPA's purpose in including services in the $10,000 limitation as stated in the proposal, was to allow flexibility to procuring agencies and reduce paperwork which might otherwise occur. The final guideline now leaves it at the discretion of an agency as to whether that agency chooses to separately cost-out all the elements of concrete work for purposes of determining RCRA applicability. In some cases, this calculation may be a simple task, particularly for direct purchases of concrete. On the other hand, it may be virtually impossible to obtain such detailed cost information where a general contractor has responsibility for all work on a project. Agencies may desire to establish procedures for estimating the proportion of a project which is represented by the material costs of cement and concrete.

In any event, EPA urges that agencies keep in mind the intent of RCRA, i.e., increased use of recovered materials, in developing their approach to determining RCRA applicability. Imposition of new paperwork or estimation procedures for this purpose should be avoided. Rather, EPA recommends that fly ash use be specifically allowed in *all* cases, except where technically inappropriate. EPA recommends that agencies develop and

issue policies to their construction directorates, field offices, grantees, etc. on this issue so that consistency will be maintained in applying this provision.

On a related topic, several commenters stated that the $10,000 limitation was to low, because, it would subject too many small jobs to Section 6002 requirements. EPA cannot accept the commenter's rationale. Congress established the $10,000 purchasing rule in Section 6002(a) of RCRA. The reason for setting a minimum was most likely so that incidental purchases would not be subject to specification changes purchasing requirements, and monitoring efforts. Furthermore, the $10,000 limitation is not to be considered on a contract-by-contract basis, but rather is an aggregate total for the cost of cement and concrete materials during a fiscal year. In order for cement and concrete containing fly ash to be assimilated into the construction materials procurement system, it needs to be considered as an acceptable material on a regular, day-to-day basis. Fly ash should not merely be reserved for larger dollar value projects, as one commenter suggested.

Definitions

Of the definitions which were contained in the proposed guideline, most were self-explanatory and non-controversial and therefore need not be addressed in this preamble. In addition to the definition of "procuring agency" discussed above, the terms "recovered material" and "solid waste" deserve discussion, as EPA received comments on these particular definitions.

The requirements of Section 6002 apply to products containing recovered materials. The definition of "recovered material" contained in the proposed guideline was the same as that in RCRA. However, the definition of recovered material was revised by Congress in the Solid Waste Disposal Act Amendments of 1980. The current definition includes waste material and by-products which have been recovered or *diverted from* solid waste. It excludes materials and by-products—such as home scrap—generated from and commonly used within an original manufacturing process.

Some commenters argued that materials which were being recycled were not solid wastes, because they were not being discarded. The Agency has already dealt with this argument on numerous occasions (see, e.g. 45 FR at 33091 (May 19, 1980)). We think it clear from the language of the statute, the legislative history, judicial interpretation, and subsequent expressions of Congressional intent that Congress intended that materials being used, reused, recycled, or reclaimed be solid wastes. These activities are types of waste management which, if properly conducted, can avoid environmental hazards, protect scarce land supply, and reduce the nation's reliance on foreign energy and materials.

Some commenters on this guideline specifically took exception to the definition of "solid waste" and EPA's authority to regulate reuse and recycling. Rather, they argued that EPA's authority to designate products for procurement guidelines should be based on whether those products are, or contain, recovered materials, i.e., according to the revised definition of "recovered material."

EPA disagrees, in general, with these commenters' opinions. Based on the reasons presented above, EPA maintains its authority to regulate solid wastes which are used, reused, recycled, or reclaimed. In fact, the revised statutory definition of "recovered material" makes clear materials can be recovered from "solid waste," so that the material need not be thrown away to be a solid waste. However, in order to reduce the unnecessary confusion which has arisen in this guideline due to the definition of solid waste, and any revisions to this definition which may occur in the future, EPA has eliminated the definition of "solid waste" from this final guideline.

Specifications

Section 6002(d) of the Act requires revision of all specifications for cement and concrete for which Federal agencies have drafting and review responsibility so that they no longer exclude the use of fly ash—and so that they incorporate the use of fly ash to the maximum extent.

While this requirement applies nominally only to Federal agencies, EPA believes that the elimination of specifications which unreasonably discriminate against the use of fly ash is implicitly required by the affirmative procurement provisions of Section 6002(c) as well. A procuring agency could not realistically fulfill its Section 6002(c) obligation to procure items composed of the highest percentage of recovered materials practicable if, in procuring cement or concrete, it relied upon specifications which unreasonably discriminated against fly ash use. Accordingly, EPA construes the specifications requirement to apply to all procuring agencies.

To assist procuring agencies in achieving compliance with this requirement, the guideline makes several recommendations on specifications. There are three major categories of specifications for which recommendations are made:

- Guide specifications—typically, model standards or specification issued by a procuring agency, which are suggested or required for use in the design of all of the construction projects of an agency (these are often referred to as design standards or design guidelines).
- Contract specifications—a precise set of specifications prepared for a particular construction project, which contains such items as design, performance, and material requirements for that project.
- Material specification—a specification that stipulates the use of certain materials to meet the necessary performance requirements.

Guide Specifications

Procuring agencies will need to review and revise guide specifications in order to reflect the recommendations of this guideline. In doing this, the agencies will need to eliminate any discrimination, either direct or indirect, against the use of fly ash in cement and concrete. In addition they must ensure that guide specifications require that the use of fly ash be considered and incorporated, where appropriate, into contract specifications for individual construction projects. EPA recommends a period of six months after the effective date of this guideline to complete review and revision of guide specifications.

One commenter requested that EPA publish a sample guide specification for use by Federal agencies. EPA has chosen not to follow this suggestion. As mentioned above, guide specifications are usually maintained by individual agencies and can take various forms, such as specifications, standards, or narrative guidelines. It seems undesirable for EPA to develop one guide specification which would be recommended to all agencies. Rather, EPA prefers to allow procuring agencies the flexibility to develop their own specific policies in this area, taking into account types of construction projects, degree of control exercised over specifying architects and engineers, and other such factors. Procuring agencies are expected to reflect the intent of RCRA and policies of this guideline in making whatever changes are necessary in guide specifications.

Several commenters stated that standards of the American Concrete Institute (ACI) currently allow for fly ash use. These commenters specifically mentioned ACI Standard 301, "Specifications for Structural Concrete

for Buildings," and ACI Standard 318, "Building Code Requirements for Reinforced Concrete." Such standards apparently do allow for fly ash use, at the descretion of the specifying engineer. However, agencies should still be prepared to make modifications to these and other standards, when and if necessary, particularly if the standards are shown to contain provisions which in some way indirectly discriminate against fly ash use. Specification of minimum cement contents may be one example of such indirect discrimination.

Contract Specifications

This guideline will have its greatest effect on contract specifications which are prepared for each individual construction project. The guideline recommends that agencies make sure that specifications for individual construction contracts specifically include provisions for the use of fly ash as an optional or alternate material, unless it can be shown that this would be technically inappropriate.

Many commenters stated that the most frequent obstacle to fly ash use on an individual project is the specifying architect or engineer. If this person does not specifically allow for fly ash to be used, it is invariably precluded from use. The guideline addresses this problem by apprising procuring agencies that they are responsible for assuring that these individuals are aware of the statutory requirements of Section 6002 and the policies of this guideline with regard to fly ash. Thus, it is critical that the technical officer or engineer on a contract work closely with the contracting or grant officer to assure that fly ash is appropriately considered. The guideline also recommends that procuring agencies document decisions to exclude fly ash from contract specifications, in order to build a base of technical information on this subject, as well as to respond to possible protests or inquiries. Placing the burden upon the procuring agency to assure that fly ash is allowed in contract specifications is particularly important where the design function is outside the agency or where construction projects are being performed as a result of grants, loans, funds, etc.

Several commenters objected to EPA's recommendation that procuring agencies justify exclusion of fly ash from contract specifications, asserting instead that justification to use fly ash should be the subject of documentation. The Agency disagrees with these commenters. Since the technical feasibility of using fly ash in cement and concrete has been adequately demonstrated, agencies should not require a supplier to "reinvent the wheel" for each project. The recommended approach permits fly ash to be evaluated on a job-by-job basis. It doesn't preclude restriction of fly ash as long as it is justifiable and documented. EPA urges procuring agencies to require that individual suppliers of cement or concrete containing fly ash demonstrate a history of satisfactory technical performance with this material and their ability to meet performance requirements for the particular application at hand, just as they would for portland cement or concrete.

Typically, if use of fly ash is not initially allowed, the time period during which bids are officially open is insufficient to allow for consideration of fly ash use and amendment of solicitations. Consideration of changes can often not be accomplished until after the fact, which can lead to contracting problems and invite protests from losing bidders if change orders are issued at a later time without formal resolicitation. Thus, EPA maintains that consideration should be given to using fly ash during development of the contract specifications, and that cement or concrete containing fly ash should be considered acceptable unless the agency demonstrates otherwise.

EPA agrees with a commenter on a related issue, which is that legitimate documentation of infeasibility for fly ash can be for certain types of applications rather than on a job-by-job basis. By referencing this documentation in individual contract specifications, an agency can avoid extensive repetition of previously documented points. An agency should be prepared to submit such documentation to outside review and scrutiny.

EPA recommends that procuring agencies take no more than 12 months from the effective date of this guideline to assure that contract specifications reflect the requirements of Section 6002.

Material Specifications

Both Federal specifications and national voluntary consensus standards exist for the use of fly ash in blended cement and in concrete. Rather than actually revise existing material specifications for portland cement, procuring agencies are expected to make maximum use of these existing material specifications.

In the proposal, EPA recommended that procuring agencies use only fly ash which, as a minimum, meets ASTM standards. Some commenters agreed that use of ASTM specifications as a minimal standard is appropriate, in that they are national voluntary consensus standards which have been developed over a period of time. A few commenters, however, suggested that EPA reference the ASTM standards, but with recommendations for tighter parameters. While EPA discusses such tighter parameters for information purposes in this preamble, the Agency feels it is inappropriate to make recommendations which override national consensus standards.

One commenter requested that compliance with ASTM standards not be made mandatory, because the commenter has been able to use fly ash, which does not conform to the standards in one aspect, very successfully in concrete. EPA agrees with this approach. While the guideline recommends adherence to ASTM and/or Federal specifications, the ultimate determinant of acceptability should be concrete performance. Accordingly, the guideline permits use of non-specification fly ash where the procuring agency has developed sufficient expertise to use it in particular applications.

Mix Design Standards

This guideline suggests no minimum, maximum, or absolute level of fly ash content in blended cement or concrete which is subject to this guideline. Flexibility is necessary because of variation in fly ashes and cements, strength requirements, relative costs, and even local and regional construction practices and climatic conditions.

The provisions of ASTM specification C595 for blended hydraulic cement require that Type IP cement contain 15%–40% fly ash and that Type I (PM) cement contain 0–15% fly ash by weight, thus allowing fly ash content to be specified in a range from 0 to 40%. A typical blending rate in the industry appears to be around 20%. However, the actual proportion to use needs to be determined on a job-by-job basis in accordance with established mix design procedures and performance needs.

When used directly in the manufacture of concrete, industry practice indicates that more fly ash should be use than the amount of cement replaced, at least when using Class F ash. This ratio should be at least 1.25–1.50 fly ash to 1.00 unit of cement. Commenters on Class C ash provided data to indicate that pound-for-pound replacement of cement with fly ash can be used to achieve early strengths equivalent to that of portland cement alone. Typical replacement rates in concrete are around the 15% level, but the actual percentage needs to be determined on a job-by-job basis.

Allowing the use of low levels of fly ash in cement and concrete may encourage additional companies to experiment with the product and gain expertise. This could ultimately increase the number of companies using fly ash, and the amount of fly ash they use.

Information contained in the "References" can be used as guidance in determining proper fly ash content.

While some commenters agreed with this flexible approach to fly ash content and mix design, a few disagreed with it. The dissenters argued that RCRA requires procurement of products containing the *highest* percentage of recovered materials practicable. Thus, if fly ash can be used at a blending rate of 20%, these commenters suggest EPA specify 20% as the minimum level of fly ash content which must be supplied in order to qualify for award.

EPA prefers to interpret RCRA with emphasis on the word *practicable*. EPA feels that the highest percentage of fly ash practicable is determined by such factors as price, availability, competition, and technical performance. For instance, if a higher level of fly ash content is only available at a much higher price, EPA considers it impractical to purchase the higher priced material, although it is technically available. With the open bidding approach recommended in this final guideline, EPA believes that persons willing and able to supply cement or concrete containing fly ash will do so. Normal bid evaluation procedures will then determine practicality based on price, availability, etc. and not on an arbitrarily established limit on fly ash content which considers only technical potential.

Concrete specifications which specify minimum cement contents could potentially discriminate against the use of fly ash. Such provisions may deter substitution of fly ash for cement. To address this problem the proposal recommended changing such specifications to permit the substitution of fly ash for cement.

An equal number of commenters agreed and disagreed on this issue. The opposing commenters stated that minimum cement factors are often based on the need not only for strength but for durability and that an agency should be permitted to specify some level of minimum cement content (which may reflect the substitution of fly ash for a portion of the cement). The commenters were willing to agree with EPA's recommendation on this issue, provided that adequate testing or local experience showed that concrete durability is not affected. EPA feels this is a reasonable approach, and that minimum cement contents may be retained, provided they reflect a substitution of fly ash for a portion of the cement.

Of the commenters supporting EPA's recommendation on minimum cement contents, most stated that minimum cement contents and maximum water:cement ratios discriminate against use of fly ash, and suggested a shift from prescription specifications to those based on performance. A wholesale revision in concrete specifications to those based totally on performance is beyond the scope of this guideline and the jurisdiction of EPA. However, such a shift may be appropriate in particular instances. Thus, this final guideline recommends that procuring agencies change mix design standards which unfairly discriminate against the use of fly ash, such as those which unnecessarily specify minimum cement content or maximum water:cement ratios.

Performance Standards

It is often claimed that designs of construction projects are conservative and, as a safeguard, intentionally increase the strength requirements beyond what the design criteria actually require. Setting concrete strengths which are higher than actually needed during the several days following concrete placement (i.e., "high early strength") can deter the use of fly ash. Although fly ash will generally enable a concrete to achieve a higher ultimate strength (e.g., at 28, 56, and 90 days), very high early strength can be achieved, with Class F ash, only by adding fly ash to the mixture without reducing the cement content. In this situation, the economic and energy conservation advantages of using fly ash are sharply diminished.

In the proposed guideline EPA recommended revising certain performance standards, where appropriate, primarily to extend the period for strength evaluation. Numerous comments were received on this issue, primarily opposing EPA's recommendation. A variety of reasons were given for not extending strength evaluation periods. Foremost among these was a claim that increased costs and delays in schedules would occur as a result of delays in stripping forms or awaiting approval before proceeding with further construction. Some commenters pointed out that strength development is a key factor, in determining durability of concrete. The commenters urged EPA to maintain the current, standard strength evaluation periods, citing their existence as providing a good balance between costs, performance, and timeliness.

Some commenters agreed with EPA's recommendation to extend strength evaluation periods, while others commented this practice should only be allowed for certain applications, such as non-flexural members.

In this final guideline, EPA has retained the general concept that performance requirements which arbitrarily restrict the use of fly ash, either intentionally or inadvertently, should be revised. However, the Agency has removed the specific recommendations for extension of strength evaluation periods. We feel the performance requirements for a project should be assessed based on the specific technical design needs of that project.

The Agency still maintains that a need exists for recognizing that concrete containing fly ash can perform successfully, although it may not always achieve the early strength gains of portland cement concrete. Methods of predicting strength, such as past experience, laboratory design results and accelerated test procedures can be used to estimate the strengths which concrete containing fly ash will attain at specified intervals.

Thus, although concrete containing fly ash may exhibit lower strengths than portland cement concrete, at 3-day and 7-day test periods for example, an agency may consider accepting the product provided the supplier has satisfactorily demonstrated the later day strengths which are expected to be achieved, and the strengths at all ages are satisfactory from a safety standpoint. Of course, in allowing slower early strength development, the contractor is still responsible for performing under the contract in a cost effective, safe, and timely manner. EPA feels this can and is being done.

Purchasing

EPA is designating cement and concrete containing fly ash as a product area for which procuring agencies must exercise affirmative procurement actions under Section 6002 of RCRA. As discussed in this Preamble under the section entitled "Statute Requirements vs. Guidelines," when EPA "designates" a product area through the issuance of guidelines, RCRA requires that procuring agencies take positive step to purchase that product. This section of the guideline contains recommendations for satisfying the affirmative procurement requirement.

Bidding Approach

In the proposed guideline, EPA recommended that procuring agencies

utilize a dual bid approach for cement and concrete purchases. The Agency recommended that all bid solicitations for cement and concrete should solicit bids for both portland cement or concrete and cement or concrete containing fly ash, where technically appropriate. Award would be made to the lowest priced responsible offeror.

In the proposal, EPA further recommended that where the application was technically appropriate and where a procuring agency was satisfied that cement or concrete containing fly ash was reasonably available and its bid price would be competitive with that of portland cement or concrete, only bids for cement of concrete containing fly ash should be solicited. Award would still be made to the lowest priced responsible offeror.

The issue of affirmative purchasing and what most negative commenters characterized as the "mandatory use" provision of the proposed guideline, § 249.20(b), was by far the issue of most concern to commenters. At the public hearing, the Agency pointed out that § 249.20(b) is a "mandatory use" provision only if the individual procuring agency chooses to solicit bids only for cement or concrete containing fly ash, while excluding portland cement. This is not the same as the stricter approach which the Agency had considered taking in the proposal, which was to recommend that all agencies always require the use of cement or concrete containing fly ash, except where technically inappropriate.

Nevertheless, over half of the commenters considered the proposed § 249.20(b) as undesirable, arguing that cement and concrete containing fly ash should never be the only material specified, except in those very rare instances where it provides a property which portland cement alone cannot, such as low internal heat generation during construction of dams. Although EPA would have left this decision at the discretion of the procuring agencies, EPA now believes it is inappropriate to recommend it at all.

Despite the negative criticism of the "mandatory use" provision in the proposed guideline, a majority of commenters on this issue indicated support for an optional or alternate bid approach which allows for fly ash use.

EPA's recommendation in this final guideline is that procuring agencies specifically include provisions in individual contracts to allow for fly ash use as an optional or alternate material, unless the application is shown to be technically inappropriate. Award can then be made in accordance with normal and customary bid evaluation procedures, since these procedures (which generally require award to the lowest priced responsible offeror) tend to insure the purchase of cement or concrete containing fly ash only when it is reasonably priced (i.e., priced at or below the price of portland cement or concrete), reasonably available (i.e., offered by a responsible offeror) and technically appropriate. By notifying potential bidders that fly ash use is acceptable, the procuring agency thus essentially complies with its affirmative procurement obligation to purchase cement or concrete containing fly ash, except where not reasonably available, reasonably priced, or technically appropriate, since the natural operation of the bidding system tends to make this determination for the agency.

After reflection, EPA is convinced that the marketplace provides the best gauge of reasonable price, availability, and competition. It is inappropriate to artifically restrict the marketplace through limitation of bids, even where the procuring agency has independent knowledge that the cement or concrete containing fly ash is reasonably priced, available, etc. The reasons for this are discussed below.

Lack of Availability

Commenters claimed that the "mandatory use" proposal was inappropriate because quality controlled fly ash is not always available in every part of the country. As discussed previously, this is the "chicken and egg" dilemma for many recycled materials, i.e., is fly ash not available because there is no demand in those areas, or is there no demand in those areas because fly ash is unavailable? Supporters of fly ash use argue that if fly ash is more universally accepted, it will easily be more available.

Under the proposal, procuring agencies were required to restrict the bidding to fly ash where they knew it to be available. Nevertheless, the local unavailability situation does exist and procuring agencies can be mistaken in their assessment of reasonable availability. Agencies feel it is a waste of time and money to prepare and solicit bids solely for fly ash, only to find out there are no offerors. However, if fly ash is not the only product included in bid solicitations, availability will be determined by whether any bids are received for it, without the need for resolicitation. Allowing fly ash will also serve as an incentive to potential users in that area. Contractors will not make the commitment necessary to use fly ash unless it is more readily accepted. Including it in bid solicitations and allowing it to be used provides this incentive.

Cost Issues

The negative commenters almost always cited the potential for cost increases as a reason for never mandating sole use of fly ash. While the Agency did not propose to mandate sole use of fly ash, regardless of cost, it is true that use of certain classes of fly ash can cause a delay in early strength gains in concrete. This can lead to longer production times and *may* lead to cost increases. In addition, as noted in the proposed preamble, some equipment and technical expertise may have to be purchased in order to use fly ash successfully. Further, because of local unavailability, quality fly ash may only be available at a premium in certain areas.

If fly ash were required to be used, regardless of cost, some contractors would undoubtedly be left with no alternative but to raise their bid prices, without making the prices extraordinarily high or infeasible. However, if fly ash is merely allowed to be used but not required, portland cement concrete contractors will still be able to bid and award can be made to the lowest priced responsible bidder. Many fly ash concrete suppliers can economically compete, if given the chance to do so. If a builder can use fly ash in a cost effective manner, and guarantee performance and timeliness of the work, this is what the Government should be concerned with. An open bidding process successsfully addresses the negative commenters' contentions that cost increases are the inevitable result of fly ash use.

Technical Considerations

Many commenters voiced concern over technical problems which can arise when fly ash is used and which might be exacerbated under the "mandatory use" provision. These problems can often be attributed to use by inexperienced persons or use of low quality ash. However, there are legitimate technical concerns which do exist even when using high quality ash, for which mandatory use causes a dilemma—largely because the mandatory use provision requires the issue of technical appropriateness to be resolved at the outset, thus reducing flexibility.

One technical concern is the effect which climate can have. Use of fly ash can delay the curing time of concrete. Cold temperatures can compound this effect even further. Some manufacturers of blended cement containing fly ash recommend that their product should

not be used at less than 50°F, except under close supervision. Flexibility to revert to portland cement concrete would be needed in such instances. On a long-term contract which spans the winter months, it is possible that fly ash concrete should most likely not be used. Serious contractual problems could arise if fly ash were specified as the mandatory material for that contract, and award made on that basis, while precluding portland cement suppliers. Procuring agencies would likely exclude fly ash altogether as an alternative, since it could not be used as the sole material for the entire contract.

One solution, however, is to allow that fly ash be used, at the option of the contractor, subject to approval of mix designs by the engineer. As materials change on a project, due to availablity, cost, etc., new designs are often approved. In the case of fly ash, this flexibility should be permitted to the contractor.

Another technical problem is that fly ash may not be suitable for all uses within a project. A contractor bids on the entire project. Therefore, requiring a bid for either fly ash or not raises serious technical questions. Again, as an alternative, a procuring agency would likely exclude the use of fly ash altogether, since it could not be used for the entire project. However, with the more flexible approach EPA suggests in this guideline, the contractor and/or engineer can decide on which uses may not lend themselves to fly ash, on an item-by-item basis, *after* award of the contract.

Inexperienced Users and Ash Variability

Many commenters expressed concern that the so-called "mandatory use" provision might encourage use by inexperienced persons. As noted in the preamble to the proposed guideline, many contractors still lack knowledge of the proper use of fly ash in concrete and of the means of ensuring quality control. Commenters claim that if businesses are faced with the choice of either using fly ash or not bidding on a job, they will tend to use fly ash. EPA agrees that this could definitely lead to the use of low quality ash by unsophisticated users, or the failure to otherwise provide a satisfactory product. While ash from a single source may be of consistently high quality, a great deal of the fly ash generated is not suitable for use in concrete.

Although contractors are responsible for obtaining suitable materials and applying them properly, EPA believes that the problem of inexperienced users can best be avoided by employing an open bidding process in which bids for cement or concrete contining fly ash and portland cement or concrete are accepted. Furthermore, since fly ash does not currently enjoy widespread use, this solution will, in the long run, create greater acceptance by procuring agencies, engineers and contractors.

Restricts Use of Other Materials

Several commenters stated that the "mandatory use" provision, by restricting bids to the use of fly ash as a partial cement replacement in cement and concrete, would effectively preclude use of other recovered materials in cement and concrete. There are other waste materials, particularly blast furnace slag from iron production, which can be used successfully in cement production. Any suggestion on EPA's part that fly ash should always or even sometimes be the only material specified could be a major setback to development of other materials suitable for use in cement. It would be improper for EPA to create such barriers.

This problem can be overcome through allowing, not requiring, fly ash to be used. Contract specifications should be written incorporating references to both portland cement specifications and those for fly ash. As iron blast furnace slag is developed and becomes more readily available for this use, it should be included as a third optional material, at the discretion of procuring agencies. The American Society for Testing and Materials is actively working on development of such a standard for slag.

Competition Would Be Restricted

While adequate competition may exist (i.e., two or more bidders with reasonable prices) when soliciting bids only for fly ash, producers of portland cement concrete would be precluded from bidding. The primary purpose of the guideline is to work fly ash into the bidding system, because it is typically the excluded product at the current time. EPA would be reversing this situation with a mandatory fly ash use provision. We feel such an approach is unnecessary in the case of fly ash. With the approach that fly ash be included in the bidding system as an optional or alternate material, competition and business opportunities will increase, by allowing persons who are willing and able to use fly ash to bid on contracts on which they are now often precluded.

Bid Alternatives

Commenters have made EPA somewhat aware of the various methods which can be used to achieve the objectives expressed above. EPA discusses these methods in the guideline, and has left flexibility to procuring agencies in deciding which mechanism can best be implemented in their existing procurement system.

One approach is to allow for the use of fly ash through changes to contract or guide specifications, as discussed in this preamble in the section entitled "Specifications." Under this approach, the contractor would secure award of a contract based on normal bid evaluation procedures. At a later time, the contractor can exercise his option to use or not to use fly ash. Regardless of the choice made, normal quality assurance procedures apply, and review and approval of mix designs, materials, etc., must be performed by the project engineer. Some commenters characterized this method of solicitation as the "optional" approach.

A second purchasing method which some commenters suggested can be characterized as an "alternate bid" approach. Under this approach, a procuring agency would solicit bids requesting separate price quotations for either portland cement concrete or concrete containing fly ash. As in the case of the "optional" approach, award would be made in accordance with normal and customary evaluation procedures—typically to the lowest priced responsible bidder—regardless of whether fly ash is used.

The difference between this approach and the optional approach is that the contractor typically would be obligated to supply the material for which award is made for the duration of the contract, whether it be portland cement or fly ash. However, in order to accommodate situations in which fly ash may not be technically suitable for use in all phases of a project, or it becomes unavailable, EPA recommends that the winning contractor be allowed flexibility in amending his selection of materials planned for use, subject to approval of the procuring agency/project engineer, as long as he supplies at the agreed to bid price (or less).

EPA believes that the "alternate" approach holds most promise where the procuring agency is directly purchasing cement or concrete for a particular project, as where the U.S. Army Corps of Engineers purchases cement or concrete for a dam. In such a face-to-face bidding situation, where the procurement is strictly for cement or concrete, the procuring agency is in a position to directly evaluate the bids, make award, and evaluate requested material changes based upon the relevant factors.

The "optional" approach, on the other hand, holds most promise where the procuring agency is not directly purchasing cement or concrete, as in the situation where the procuring agency solicits bids for a construction project, such as a building, only one component of which is cement or concrete. In this situation, the price for cement or concrete is generally imbedded in the total bid price and the ultimate procurement of cement or concrete is by the contractor or the subcontractor, making evaluation of fly ash use in awarding the bid difficult or impossible. Indeed, commenters asserted that if the contractor bidding on the project had to commit to using fly ash or portland cement at the outset, the contractor would tend to specify portland cement, because fly ash may not be suitable for all construction applications on a given project. This, of course, would tend to retard fly ash use. Allowing the contractor to decide whether to use fly ash corrects this problem.

The "optional" approach should not be construed as a repudiation of the affirmative procurement requirements of Section 6002(c). Where cement or concrete is purchased ultimately by a contractor or subcontractor rather than by the Federal or state procuring agency, the contractor or subcontractor becomes a "procuring agency" for purposes of Section 6002 and the obligation to purchase fly ash is imposed on them as well. To insure that the contractor or subcontractor complies with this obligation, the guideline recommends that procuring agencies using the optional bid approach add a statement to their bid solicitations urging contractors and subcontractors to actively seek out suppliers of cement and concrete containing fly ash, and to solicit bids for these materials.

Regardless of the method of solicitation used, situations may occur where two or more low bids are received which offer different levels of fly ash content. While it generally would be desirable to make award to the bidder offering the highest fly ash content (assuming technical performance is maintained), there is a problem if that bid price is higher than that of other technically qualified suppliers.

The Agency considered establishing some type of "sliding scale" which would allow credits, and in effect additional payment for the supply of various ranges of fly ash in cement and concrete. This alternative was rejected because use of fly ash is cost competitive with portland cement use, rendering a price preference scheme unnecessary as a means of stimulating fly ash use.

The only so-called "preference" for fly ash which EPA has retained in this final guideline is in the case of identical low bids. In such instances award should be made to a contractor who plans to utilize the highest percentage of fly ash, all other factors being equal.

Recommendations as to Price, Competition, Availability, and Performance

Prices

Section 6002 raises the issue of "reasonable" price. Congress did not say that a recovered material product need cost less than or the same as the virgin material product it replaces, but merely that its cost be reasonable. Although a few commenters recommended that bonuses or premiums be paid to those persons using fly ash, the Agency rejected this idea for this guideline. Payment of premiums is generally unnecessary since the use of fly ash in cement and concrete is itself cost competitive. No price premium should be necessary to obtain cement or concrete containing fly ash. Indeed, to allow a premium on a regular basis may be unnecessarily inflationary.

This guideline leaves the determination of reasonable price to the discretion of the procuring agency, although the guideline does suggest general procedures for determining reasonable prices and price competition, based on procedures contained in the Federal Procurement Regulations applicable to certain types of procurements. The Agency cautions against determining reasonableness of price by comparing spot prices for relatively small quantities of cement or concrete containing fly ash with competitive bids for volume purchases of portland cement or concrete.

Competition

The primary purpose of competition is to secure the lowest price for a given product. Federal procurement procedures state that adequate competition is usually presumed to exist if: (i) At least two responsible offerors (ii) who can satisfy the Government's requirements (iii) independently compete for a contract to be awarded (iv) by submitting priced offers responsive to the expressed requirements of a solicitation. In addition, the prices should be examined for reasonableness.

Using the alternative bid approaches recommended by EPA, there should be no problem in achieving reasonable competition. Solicitation of bids for both portland cement or concrete and cement or concrete containing fly ash is recommended in all cases, thus enabling the procuring agency to better guarantee overall competition.

The existing Federal procurement procedures do not suggest comparing contracts with respect to numbers of bidders. They merely require that there be a sufficient number of bidders for adequate price competition for the particular contract at hand. EPA feels that as long as prices can be determined to be reasonable for cement and concrete which contain fly ash, then competition should be presumed to exist, no matter what the number of prospective offerors.

Availability and Delays

The Agency does not feel that procuring agencies should have to tolerate any unusual or unreasonable delays in obtaining cement or concrete which contain fly ash, other than delays which may be typically associated with portland cement and concrete. As specifications and purchasing practices are revised to allow for the use of fly ash, this material should become more widely available both geographically and in terms of the number of businesses willing and able to supply it.

Performance

The issue of reasonable performance is addressed in this preamble under the subsections on "Technically Proven Uses," "Specifications," and "Quality Control." Additional technical performance information is contained in the "References" section of this guideline.

In general, fly ash blended cement can be considered substitutable for all ASTM cement types except Type III, High Early Strength (and even these requirements can be met by adding, but not substituting, fly ash to a portland cement mixture). However, from a practical standpoint, the use of fly ash should be determined on a job-by-job basis, as there may be specific technical applications which would preclude the use of fly ash. As discussed in this preamble under "Contract Specifications," a procuring agency may document technical infeasibility for certain types of applications, rather than on a job-by-job basis. This practice should be considered acceptable as long as the purpose is not to circumvent the intent of RCRA.

The purpose of comparison to "reasonable" performance standards as required in Section 6002(c) of RCRA is to eliminate those standards, specifications, procedures, and practices

which are overly restrictive and which unfairly discriminate, either directly or indirectly, against the use of fly ash. The use of reaonable performance standards is also intended to assure that the necessary technical performance requirements are still maintained, and that product quality is not reduced below acceptable limits.

Time-Phasing

Although the requirements of Section 6002 and the recommendations of this guideline should be implemented as quickly as possible, the Agency recognizes that problems could occur—in both the marketplace and governmental procurement systems—if implementation is pushed too rapidly. For example, the cost of fly ash suitable for use in cement and concrete could rise dramatically until the supply of suitable ash and storage capacity has a chance to increase. Construction contracts might include allowance for fly ash where it is technically inappropriate. Thus, this guideline recommends a phased-in approach to implementation.

The first year after the effective date of final publication of this guideline is reserved for specification review and revision. Beginning in the second year, procuring agencies should take affirmative action in their purchases of cement or concrete, using the recommendations of this guideline, in the manner discussed above.

A few commenters specifically supported EPA's recommended phasing-in approach. However, two commenters requested that delays be granted in implementing the guideline so that use of fly ash could be evaluated. In light of the discussions throughout this preamble regarding the technical and economic feasibility of using cement and concrete containing fly ash, EPA feels such delays would be unnecessary and counterproductive.

The Agency realizes that testing programs and the need for quality assurance are always necessary to assure the acquisition of acceptable materials. Such programs have been developed for fly ash.

Local and regional variations in the components of concrete always need to be taken into account when designing and approving concrete mixes, regardless of whether fly ash is used. EPA feels the one year implementation period is adequate for agencies to begin providing for fly ash use.

Another commenter suggested a two year implementation period, instead of one year, to allow voluntary consensus standards organizations an opportunity to react to guideline recommendations. EPA does not agree. Based on comments received from some of the major consensus standards organizations (ASTM, ACI), their standards often allow for fly ash to be used, subject to specfic approval by the design engineer. However, if procuring agencies find revisions to consensus standards necessary, the guideline recommends that agencies reflect those revisions in their guide or material specifications, or on a contract-by-contract basis.

Certification

Section 6002 of RCRA requires vendors to certify that the percentage of fly ash to be included in the cement or concrete supplied under the contract is at least the amount required by applicable specifications or other contractual requirements. Further, vendors must estimate what this percentage is. This certification requirement is to take effect after a date to be specified in the guideline.

Some commenters objected to certification of fly ash content, stating it is a meaningless paperwork burden. Other commenters suggested use of simple certification clauses or procedures normally used by industry. EPA is leaving the exact certification language and format to the discretion of procuring agencies, but has provided suggestions here.

A simple certification clause is contained in the Code of Federal Regulations, 41 CFR Part 1–1, Subpart 1–1.2504, which states:

> The offeror/contractor certifies that recovered materials will be used as required by specifications referenced in the solicitation/contract.

The opinion of the Agency is that by signing the bid document/solicitation, the fly ash cement or concrete supplier is in effect agreeing to meet the fly ash content requirements. Thus, no separate form, signature, etc. is needed.

In addition to the inclusion of such a certification clause in solicitations, the supplier should certify the percentage of fly ash used. This should normally be done on a per project or per shipment basis, as opposed to certification of the average amount to be used over the course of a year, for instance. Except for technical performance purposes in concrete mix design, a procuring agency may allow the percentage to be certified within a small range, rather than requiring an exact percentage. The purpose of this flexibility is to not discourage potential suppliers who may be fearful that if an exact percentage is certified for a government contract, *only* that exact percentage may be supplied. Weather conditions or material variations, for example, may require modification of the concrete mix design and therefore the fly ash content.

This certification information is likely a necessity in evaluating concrete mix designs. However, procuring agencies can also use it in evaluating future contract requirements and in maintaining a record of fly ash use. Such information should be useful to procuring agencies in fulfilling their obligations under Section 6002(g) of RCRA, which requires agencies to submit annually a report to the Office of Federal Procurement Policy on actions taken by the agency to implement Section 6002.

Quality Control

The subject of quality control was of great concern to commenters. Some commenters misconstrued EPA's recommendations and thought that EPA was proposing to relieve suppliers of cement and concrete containing fly ash from many of the standard industry quality control and quality assurance procedures. These commenters apparently thought that EPA was replacing these standard procedures by the certification requirements discussed above. This is not the case. The certification procedures for fly ash content are entirely separate in purpose and format from quality control and quality assurance procedures.

EPA emphasizes that nothing in this certification section should be construed to relieve the contractor of responsibility for providing a satisfactory product. Cement and concrete suppliers are already responsible both for the quality of the ingredients of their product and for meeting appropriate performance requirements and will continue to be under this guideline.

Some commenters on the proposed guideline stated that EPA was incorrectly attempting to shift responsibilities and liabilities from fly ash suppliers to concrete producers and builders. EPA intends that no such shift take place. Responsibilities and liabilities are assumed to be in accordance with normal industry procedures.

Some commenters felt that fly ash should be subject to the same quality control/quality assurance provisions as for cement and other materials of construction. Many commenters felt that fly ash suppliers should be required to certify the physical and chemical characteristics of their material to users. EPA generally agrees with these commenters. Because the characteristics of fly ash can vary considerably

between sources, knowledge of those characteristics is essential to assuring appropriate use of fly ash in cement and concrete. The Agency is recommending that fly ash suppliers be asked by users to provide a statement of the important characteristics of their fly ash. These characteristics are the chemistry of the material, loss on ignition (LOI), and fineness. Other characteristics should be requested as needed by the procuring agency. Further, EPA agrees with commenters who suggested that fly ash suppliers should be prepared to demonstrate the adequacy of their quality control programs, at least for new suppliers or those unfamiliar to the procuring agency.

The responsibility for insuring the quality of blended cement lies with the supplier. ASTM specification C595 specifies adequate requirements for quality control of fly ash used in blended hydraulic cements. Most blended cement manufacturers maintain quality control programs. No additional testing above that which would be required of any cement should be necessary on the part of the user/builder to insure compliance with this specification. However, the user must be conscious of any differences which may exist in the field application of blended cement containing fly ash vs. portland cement.

The responsibility for insuring the quality of fly ash to be used as an admixture in concrete is that of the fly ash supplier. Although many suppliers of fly ash have their own quality control program, commenters pointed out that ASTM specification C618 may not be sufficiently stringent to ensure all ashes which comply are really suitable for general use as mineral admixtures in concrete, particularly when chemical admixtures such as air-entraining agents are to be used. Further, there is no assurance that all ashes which comply with specifications will be suitable for all uses. Thus, unfamiliar users must acquire the necessary technical expertise if they are to use fly ash successfully.

Some commenters suggested that States approve sources of fly ash. While EPA is not specifically recommending an "approved source" approach, the Agency does believe that fly ash and concrete suppliers should be expected to demonstrate (through reasonable testing programs or previous experience) the performance and reliability of their product. The judgement of the contractor/builder must be used in evaluating:

(1) Whether additional testing is necessary to insure the performance of the concrete, and

(2) Whether such testing is cost effective when compared with the cost of using other materials.

Fly ash which does not satisfy at least ASTM specifications should not be used in cement or concrete on Federal construction projects.

For those agencies desiring a testing or quality assurance program for cements, blended cements, or pozzolans, the U.S. Army Engineer Waterways Experiment Station (WES), P.O. Box 631, Vicksburg, Mississippi 39180, may be contacted. WES is the agency responsible for testing such materials for Federal agencies.

Date

EPA is charged with designating a time after publication of this guideline at which certification requirements will take effect. Certification of fly ash content should be a part of any solicitation which allows or requires the use of fly ash in cement or concrete. This guideline recommends a 12-month period after the effective date for review and revision of all guide and continuing contract specifications. After this 12-month period any solicitations/contracts issued should include provisions which allow that fly ash be supplied, and thus should incorporate certification requirements.

Compliance and Monitoring

EPA expects full cooperation from all Federal agencies in implementation of this guideline. The Office of Federal Procurement Policy (OFPP) has the major responsibility for overseeing implementation of Section 6002 of RCRA. The OFPP has indicated it will direct the Defense Acquisition Regulations and Federal Procurement Regulations overseeing bodies to immediately implement the final guideline.

The OFPP is responsible for monitoring and reporting annually to Congress on the actions taken by procuring agencies in implementing Section 6002 of RCRA. Under its Policy Letter 77–1, OFPP has imposed a reporting requirement upon the procuring agencies to gather this information. EPA, in conjunction with the OFPP, will monitor the impact of this particular guideline on the procurement practices of Federal agencies and on fly ash use. Thus, agencies are encouraged to develop procedures for gathering and maintaining such information.

A few commenters urged strict and active enforcement of the guideline by EPA. Among the specific suggestions were debarment of contractors for major certification violations, provision by EPA of technical assistance to States and other agencies in the revision of specifications and the use of fly ash, and monitoring by EPA of its own contractors and grantees.

EPA expects a high level of compliance with the guideline. If necessary, the Agency is prepared to take appropriate measures to ensure that the objectives of the guideline are met. In addition, there are other methods available to interested parties to encourage compliance with Section 6002. One of these methods is the citizen suit provision of Section 7002 of RCRA, which states:

(a) * * * any person may commence a civil action on his own behalf—(1) against any person (including (a) the United States, and (b) any other governmental instrumentality or agency * * *) who is alleged to be in violation of any permit, standard, regulation, condition, requirement, or order which has become effective pursuant to this Act.

A second method which may be useful in encouraging compliance with Section 6002 is the filing of formal protests by aggrieved bidders. A bidder who is willing and able to supply a "designated" recovered material product to procuring agencies and who is precluded from bidding by failure of a procuring agency to comply with Section 6002, may be able to obtain satisfaction through this process.

Regulatory Analysis

In this and other sections, the preamble contains discussions of the elements required in a Regulatory Analysis: (1) The program objectives, (2) our consideration of regulatory alternatives, (3) a general assessment of our choices, (4) a description of potential benefits and costs and (5) the rationale for our decisions. EPA believes it is complying with the intent of Executive Order 12291 because of this and other efforts, including the preparation of a more detailed background document to support the analyses below. This document may be examined at the RCRA Public Docket Office, at the place and times listed previously in this preamble.

Effects

(1) *Economic savings.* This guideline should help the cement industry by reducing both energy costs and capital investment requirements for capacity expansions. Adding effective capacity by using fly ash to produce blended cement is a viable alternative to new kiln construction. Adding capacity with fly ash involves about ten percent of the

capital cost of a new plant ($5–$15 per ton added capacity using fly ash vs. $125–$185 per ton for a new cement plant).

The purchased energy cost associated with cement production represents one-third of the finished value of the cement—very high in relation to other building materials. At a typical blending rate of 20 percent, fly ash in cement can reduce total energy use about 15 percent. The portion of total cost represented by this energy savings—currently five percent—will grow as the cost of purchased energy increases.

For cement consumers, i.e. ready mixed concrete producers, concrete product manufacturers, and highway contractors, fly ash can reduce raw material costs. Cement prices range from $40–$90 per ton, while the price of fly ash suitable for use in concrete may range from about $15–$50 per ton. Depending on the replacement rate and relative price of the two materials, substituting fly ash can save 5 to 15 percent of the cost.

Procuring agencies may not be in a position to realize the savings described here with respect to their purchases of blended cements. Because of the pricing structure and concentrated nature of the cement industry—and the fact that a properly blended cement containing fly ash may perform as well or better than portland cement—blended cements containing fly ash (ASTM Types IP and I(PM)) are likely to be priced at the same level as ASTM Type I portland cement. However, concrete producers are able to take direct advantage of decreased raw materials cost by purchasing fly ash as a partial cement replacement. Given the greater competition among the large number of firms in these industries, bid quotations for concrete may reflect part of these savings.

(2) *Energy Conservation.* In 1976, the portland cement industry accounted for two percent of total energy used by U.S. industry. Although the cement industry has steadily reduced its energy consumption per unit of product over the past several years, the use of fly ash in producing blended cements can still save a significant amount of energy.

Seventy to eighty percent of the energy used in cement production is consumed during the pyroprocessing stage, where raw materials are subjected to intense heat and chemically react to form cementitious compounds, or clinker. The clinker is ground into the fine powder known as cement. Replacing the cement clinker with fly ash (on a one-to-one ratio by weight) reduces the amount of clinker production required per ton of finished cement. Energy savings are proportioned to the percentage of fly ash used in the blend. Assuming a 20-percent replacement rate, the savings may range from about 13 to 19 percent of total energy used in production.

Concrete producers can save energy indirectly, on a nationalized basis, if fly ash is used as an admixture at their plant. Replacing a portion of cement with fly ash in the final product would reduce the production needed from the cement industry, and thus would reduce energy consumption. Each ton of cement replaced would save approximately 5,750,000 BTU's of energy.

One commenter pointed out that the energy savings presented here are not totally achievable for new cement plants which have been designed to take advantage of energy conserving technologies. While this statement is true when considering BTU's, the percentage energy savings are nevertheless achievable by bypassing the pyroprocessing stage, regardless of the efficiency of the plant involved.

Another commenter claimed that increased energy consumption would take place in the precast and prestressed concrete industry, due to the higher temperatures needed to achieve equivalent early strengths when using fly ash. Since the use of fly ash is considered to be at the manufacturer's option under this guideline, EPA feels that if increased energy consumption is prohibitive for precast and prestressed manufacturers, concrete containing fly ash will not be utilized.

(3) *Environmental Issues.* (a) *Benefits.* The use of fly ash in cement and concrete will have a positive effect on the environment, reducing pollution of the land, air, and water. It will do this by reducing: (1) The quantities of fly ash requiring disposal, (2) the mining and processing of raw materials used in cement production, and (3) the cement plant emissions per ton of blended cement produced or per ton of cement replaced with fly ash.

If current usage rates continue, by 1985 60–65 million tons of fly ash annually will require disposal. Approximately 10–20 million tons of this fly ash are estimated to be suitable for use in concrete. This guideline can affect the practices of collecting fly ash, especially from new sources, and can reduce the quantities which require ultimate disposal. Thus, the use of fly ash in cement and concrete will provide a more environmentally acceptable way to manage these substances than would otherwise be available.

Current practices for cement manufacturing, and current disposal practices for fly ash, can have a negative effect on air quality (increased dust), water quality (surface and groundwater contamination), land use, noise, and aesthetic value. The use of fly ash in cement and concrete can reduce these effects in several ways. For example, it would reduce the need for such raw materials as limestone and clay, whose mining and processing can harm the environment through the creation of increased dust, erosion, runoff, and noise, disturbance of natural habitats, and degradation of potential land use. Use of fly ash reduces the potential for leaching of trace heavy metals, which could occur as a result of indiscriminate fly ash disposal.

Requiring less cement for the same quantity of "cementitious" end product may reduce the amount of cement kiln dust which requires disposal (currently 6–8 million tons per year). The disposal of cement kiln dust can have the same harmful effects (i.e., air quality, water quality, land use, aesthetic value, etc.) as the disposal practices of fly ash. In addition, using fly ash to increase the capacity of a cement plant would most likely reduce the need for air pollution control since it would not require the air pollution control associated with new kiln construction. This approach to expanding capacity may be especially attractive in "nonattainment" areas, where new kiln construction is effectively precluded.

(b) *Impact of RCRA, Subtitle C.* In May 1980, EPA promulgated regulations for the control of hazardous waste pursuant to Subtitle C of RCRA. In the Solid Waste Disposal Act Amendments of 1980, Congress directed EPA not to regulate fly ash as a hazardous waste until such time as EPA investigates the environmental hazards, if any, posed by fly ash disposal. Findings to date indicate that little, if any, fly ash exhibits characteristics defined as hazardous in the Federal regulations. Therefore, Subtitle C regulations will have no significant impact on the use of fly ash in cement and concrete.

A few commenters suggested that EPA limit the use of fly ash in concrete, restricting its use in potable water sources or in storage areas for food. The rationale given for these suggestions was the potential for leaching of trace metal elements out of the fly ash. The commenters provided no documentation as to the likelihood or extent of leaching when fly ash is used in concrete.

While it is true that fly ash contains trace amounts of certain elements, which can be toxic in larger concentrations, it is unlikely that fly ash as used in concrete would exhibit leaching characteristics. First, the premeability of concrete containing fly

ash is negligible compared to the permeability of fly ash as typically disposed. This reduced permeability prevents water or other liquids from penetrating concrete and providing a leaching medium through which contaminants could travel.

Second, when used in concrete, fly ash becomes an integral part of the final product. The surface area of individual fly ash particles, from which leaching of trace constituents takes place, is so greatly reduced in this application as to be almost nonexistent. It is not possible through conducting leaching tests of raw fly ash to estimate the leaching, if any, which would take place in a concrete containing fly ash. Thus, the commenter's suggestion that dams and pipes not be constructed using fly ash appears to have no technical basis.

(c) *Radioactivity Issues.* At the same time as original proposal of the hazardous waste regulations (December 18, 1978), EPA issued an advance notice of proposed rulemaking that it was considering establishing 5 picocuries per gram (pCi/g) of radium-226 as a criterion for listing wastes as hazardous. The notice also requested comment on other criteria which might tend to affect the radiation hazard. Among these is the emanation rate of radon from the waste. The Agency has, at this date, taken no further action on this proposed rulemaking to establish general criteria for hazardous radioactivity levels in wastes.

Where resource recovery is practiced, an important consideration in assessing the hazard is the proposed use of the waste material. While some proportion of fly ash generated in the U.S. has more than 5 pCi/g of radium-226, the physical structure of fly ash is such that its contribution to radiation exposure is probably less than that of most normal constituents of concrete which generally fall below this level. This is explained below.

A few commenters expressed concern to EPA that fly ash used in the construction of habitable structures could pose a threat to public health due to radioactivity. The source of the radiation threat is due to radium-226, a radioactive isotope which occurs naturally in soil, sand, and mineral deposits as well as in fly ash. The radium-226 content of soil generally ranges from .2 to 3 pCi/g. Limited measurements of radioactivity in cement show that the radium-226 content of cement can be as high as 5 pCi/g, but typically averages close to 1 pCi/g. Limited measurements of fly ash presently generated in the U.S. show a radium-226 content ranging from 1 to 8 pCi/g with an average of roughly 4 pCi/g.

There are two pathways of radiation exposure from radium-226 in building materials. The pathway of primary concern is from inhalation of radon-222 and its short-lived decay products. Radon-222, an inert gas with a radioactive half-life of 3.8 days, is the first generation decay product of radium-226. Because it is an inert gas, it can readily migrate from the building material into the indoor air of a home. Although the rate at which radon is created within a building material is proportional to its radium content, the intrinsic structure of the material may, in some cases, prevent most of the radon from escaping. When air containing radon and its radioactive decay products is breathed for long periods of time, a person's risk of lung cancer is increased.

Gamma radiation from radium-226 and its decay products is the other exposure pathway. The amount of gamma radiation emission from a building material is proportional to its radium content, but the total exposure a person receives will also depend on other factors such as shielding, distance from the material, and exposure time. Exposure to gamma radiation results in an increased risk of many types of cancer.

When fly ash is used as a partial cement replacement in concrete, the fly ash content of the final concrete product is between 2 and 3 percent (assuming a 15 to 25 percent cement replacement rate and an 8 to 1 ratio of aggregate and water to cementitious material). Since the average radium-226 content of fly ash exceeds that of cement by a few pCi/g, the use of fly ash as a cement replacement in habitable structures will, on the average, result in a slight increase in the gamma radiation exposure to people (less than a milliroentgen per year). However, in some instances, where fly ash with a lower than average radium content replaces a cement with a higher than average radium content, the result would be less gamma radiation exposure.

The use of fly ash as a cement replacement will also affect the quantity of radon emitted by the building material. Although the rate at which radon is created is directly proportional to the radium content, other factors may inhibit radon emanation from a material. Because fly ash is produced at high temperatures, it has a glassy structure which keeps most of the radon from escaping. The fraction of radon which escapes from fly ash (emanation fraction) has been measured at no more than a few percent. In contrast, typical soil and soil like materials tend to have an emanation fraction in the neighborhood of 20 percent. Thus, although fly ash, on the average, has a greater radium content than the cement it replaces, the use of fly ash as a partial cement replacement is likely to reduce the radon gas contribution of the final concrete product.

During the proposal period for this guideline, EPA has been investigating this issue more thoroughly. Tests recently conducted for EPA substantiate the conclusions above, i.e., that the radon emanation rate of fly ash in its raw state and as used in concrete is only a few percent compared to the absolute radium concentration. Thus, while fly ash use in cement would, on the average, result in a small increase in gamma radiation exposure, this small increase in gamma exposure is likely to be offset by a decreased radon exposure. In light of this, EPA believes that the use of typically-occurring fly ash in concrete does not constitute a significantly different radiation risk than the risk from the cement it replaces, and neither of these is significantly different from the radiation risk posed by common soil.

Institutional Issues

In spite of proven technical performance and favorable economics, the use of fly ash in cement and concrete has had only limited acceptance. This can be attributed in part to potential consumers' unfamiliarity with fly ash, and their reluctance to aggressively investigate or readily accept new materials where an existing product—in this case portland cement—has traditionally been accepted. In some cases there may be outright discrimination against this use of fly ash, because of attitudes, personalities of individuals involved, and political and economic pressures. Several commenters stated that this Federal procurement guideline is necessary to overcome the lethargy of specifying engineers, inertia of the construction industry, unfair competition from vested interests, and resistance to use by some factions of State highway departments and the Federal Highway Administration.

It is difficult to obtain quick approval for a new product or material specification in the construction field, given the requirements for experimentation, demonstration, field evaluation and finally specifications changes. However, it should be recognized that fly ash has already gone

through these steps. There are established specifications and standards for the testing and use of this material. Sources of ash must be acceptable and EPA emphasizes that only ash which meets established specifications should be used. However, a procuring agency need not "reinvent the wheel" by requiring extensive and expensive reevaluation of the basic feasibility which has already been proven. This applies to all government agencies, but especially to state and local entities, which use such instruments as building codes to regulate construction activities.

Design engineers generally have the final say on the materials to be specified for a particular construction job. Typically, until a majority of peer engineers accept a "new" material there is reluctance to use it. However, an engineer can meet his or her responsibility for the performance of a structure by conducting a thorough review of the concrete mix design before placing the concrete, and assure that the materials and mix design meet, as a minimum, ASTM, Federal, and/or American Concrete Institute specifications. The intent of this guideline is to help overcome certain of these "institutional" barriers which may have no adequate foundation, while maintaining satisfactory product quality.

Resource Requirements

The cost to procuring agencies of compliance with this guideline will be minimal. The price of cement and concrete containing fly ash should be less than or equal to the price of portland cement and concrete. The start-up costs of revising specifications and assimilating fly ash into the procurement system should be relatively minor but are not readily measurable.

The Office of Federal Procurement Policy (OFPP) is responsible for submitting an annual report to Congress on actions taken by Federal agencies and the progress made in implementation of the resource recovery policy of Section 6002. As a result, OFPP already requires an annual report from each Federal agency on actions taken in the implementation of Section 6002. By working closely with OFPP, information relevant to the implementation of this guideline can be obtained. The costs to OFPP and EPA of implementing this guideline are expected to be relatively minor.

EPA's efforts during the first year following promulgation of the final guideline will focus on explaining the guideline provisions to interested persons and responding to inquiries regarding implementation of the guideline. The Agency urges individuals with an interest in seeing the guideline implemented to deal directly with those persons responsible for compliance with Section 6002, i.e., procuring agencies, and ultimately with architects, engineers, etc.

Public Participation

Prior to proposal, an interagency work group, including representatives from most of the Federal agencies which will be directly affected by this guideline, assisted in development of the proposed guideline. In addition, a draft of the proposed guideline package, including a summary development plan, preamble, rule, and background documents was circulated to well over 200 interested persons for comment. Public participation regarding formal proposal and comments on the proposed guideline was presented at the beginning of the section of this preamble entitled "**SUPPLEMENTARY INFORMATION.**"

Compliance With Executive Order

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This guideline is not major because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This guideline recommends that procuring agencies include provisions in construction contracts which specifically allow for fly ash to be used, with the contractor retaining the option to use fly ash. Typically, fly ash is currently precluded from use on construction projects unless it is specifically called for in the contract specifications. As discussed in other sections of the preamble, particularly "Regulatory Analysis," this guideline should not adversely affect competition. With the approach that fly ash be allowed into the bidding system as an alternate material, competition and business opportunities are increased by allowing persons who are willing and able to use fly ash to bid on contracts, while still allowing suppliers of conventional portland cement and concrete to compete.

With regard to costs, this guideline should help the cement industry by reducing both energy costs and capital investment requirements for capacity expansions, through the blending of fly ash with cement. For cement consumers, i.e., ready-mixed concrete producers, concrete product manufacturers, and highway contractors, use of fly ash can reduce raw material costs, as fly ash is generally priced less than the cement it replaces, although savings will vary. On a micro-scale, however, individual companies may be placed in the position of losing bids to competitors who choose to use fly ash, and who bid lower.

EPA has prepared a detailed background document supporting the above analysis. This document may be examined at the RCRA Public Docket Office, at the place and times listed above.

This guideline was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Dated: January 21, 1983.

Anne M. Gorsuch,

Administrator.

List of Subjects in 40 CFR Part 249

Resource recovery, Recycling, Fly ash, Procurement.

Title 40 CFR is amended by adding a new Part 249 reading as follows:

PART 249—GUIDELINE FOR FEDERAL PROCUREMENT OF CEMENT AND CONCRETE CONTAINING FLY ASH

Subpart A—Purpose, Applicability, and Definitions

Sec.

249.01 Purpose.
249.02 Designation.
249.03 Applicability.
249.04 Definitions.

Subpart B—Specifications

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249.11 Recommendations for contract specifications.
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249.13 Recommendations for fly ash content and mix design.
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Subpart C—Purchasing

249.20 Recommendations for bidding approach.
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249.24 Recommendations for time-phasing.

Subpart D—Certification

Sec.
249.30 Recommendations for measurement.
249.31 Recommendations for documentation.
249.32 Quality control.
249.33 Date recommendations.

Authority: 42 U.S.C. 6962.

Subpart A—Purpose, Applicability and Definitions

§ 249.01 Purpose.

(a) The purpose of the guideline is to assist procuring agencies in the procurement of cement and concrete which contain fly ash, in accordance with Section 6002(e) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended ("RCRA" or "Act") (42 U.S.C. 6962).

(b) This guideline contains recommendations for implementing Section 6002 requirements, including revision of specifications, purchasing, phasing-in of requirements, and certification procedures. The Agency believes its recommendations provide a flexible approach to meeting the statutory requirements, while still maintaining the intent of RCRA. The Agency is of the opinion that adherence to the guideline constitutes compliance with the statute.

§ 249.02 Designation.

Cement and concrete, including concrete products such as pipe and block, containing fly ash is hereby designated by EPA as a product area for which affirmative procurement actions are required on the part of procuring agencies, under the requirements of Section 6002 of RCRA.

§ 249.03 Applicability.

(a) This guideline applies to all procuring agencies and to all procurement actions involving cement or concrete where the procuring agency purchases, in total, $10,000 or more worth of cement or concrete during the course of a fiscal year, or where the quantity of such items purchased during the preceding fiscal year was $10,000 or more. EPA leaves the precise method of calculating or estimating the applicability of this provision to specific construction activities of a procuring agency at the discretion of that agency.

(b) Procurement actions covered by this guideline include all purchases for cement or concrete made directly by a procuring agency or by any person directly in support of work being performed for a procuring agency, as in the case of general construction contractors and/or subcontractors.

(c) Such procurement actions also include any purchases of cement or concrete made "indirectly" by a procuring agency, as in the case of purchases resulting from grants, loans, funds, and similar forms of disbursements of monies which the procuring agency intended to be used for construction.

(d) The guideline does not apply to purchases of cement and concrete which are unrelated to or incidental to Federal funding, i.e., not the direct result of a contract, grant, loan, funds disbursement, or agreement with a procuring agency.

§ 249.04 Definitions.

As used in this guideline:

(a) "Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.

(b) "Construction" means the erection or building of new structures, or the replacement, expansion, remodeling, alteration, modernization, or extension of existing structures. It includes the engineering and architectural surveys, designs, plans, working drawings, specifications, and other actions necessary to complete the project.

(c) "Contract specifications" means the set of specifications prepared for an individual construction project, which contains design, performance, and material requirements for that project.

(d) "Federal agency" means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office (Pub. L. 94–580, 90 Stat. 2799, 42 U.S.C. 6903).

(e) "Fly ash" means the component of coal which results from the combustion of coal, and is the finely divided mineral residue which is typically collected from boiler stack gases by electrostatic precipitator or mechanical collection devices.

(f) "Guide specification" means a general specification—often referred to as a design standard or design guideline—which is a model standard and is suggested or required for use in the design of all of the construction projects of an agency.

(g) "Implementation" means putting a plan into practice by carrying out planned activities, or ensuring that these activities are carried out.

(h) "Material specification" means a specification that stipulates the use of certain materials to meet the necessary performance requirements.

(i) "Person" means an individual, trust, firm, joint stock company, Federal agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

(j) "Procurement item" means any device, goods, substance, material, product, or other item whether real or personal property which is the subject of any purchase, barter, or other exchange made to procure such item (Pub. L. 94–580, 90 Stat. 2800, 42 U.S.C. 6903).

(k) "Procuring agency" means any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract (Pub. L. 94–580, 90 Stat. 2800, 42 U.S.C. 6903).

(l) "Recovered material" means waste material and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process (Pub. L. 94–580, 90 Stat. 2800, 42 U.S.C. 6903, as amended by Pub. L. 96–482).

(m) "Specification" means a clear and accurate description of the technical requirement for materials, products, or services, which specifies the minimum requirement for quality and construction of materials and equipment necessary for an acceptable product. In general, specifications are in the form of written descriptions, drawings, prints, commercial designations, industry standards, and other descriptive references.

Subpart B—Specifications

§ 249.10 Recommendations for guide specifications.

(a) Each procuring agency should assure that its guide specifications do not unfairly discriminate against the use of fly ash in cement and concrete. Each procuring agency should:

(1) Revise specifications, standards, or procedures which currently require that cement and concrete contain virgin materials to eliminate this restriction.

(2) Revise specifications, standards, or procedures which prohibit using recovered materials (particularly fly ash) in cement and concrete to eliminate this restriction.

(b) Guide specifications should require that contract specifications for individual construction projects or products allow for the use of fly ash, unless fly ash use is technically

inappropriate for a particular construction application.

(c) Referenced specifications which are maintained by national organizations, such as the American Association of State Highway and Transportation Officials (AASHTO), the American Concrete Institute (ACI), and the American Society for Testing and Materials (ASTM) should be reviewed and modified, if necessary, to remove any discrimination against the use of fly ash in cement and concrete.

(d) Guide specifications should be revised, if necessary, within six months after the effective date of this guideline, to incorporate the recommendations of paragraphs (a) through (c) of this section.

§ 249.11 Recommendations for contract specifications.

(a) Each procuring agency which prepares or reviews "contract" specifications for individual construction projects should revise those specifications to allow the use of cement and concrete which contain fly ash as an optional or alternate material for the project in accordance with § 249.20, except as noted in paragraph (b) of this section.

(b)(1) Notwithstanding the above, procuring agencies should not revise contract specifications to allow the use of fly ash if it can be determined that, for a particular project or application, reasonable performance requirements for the cement or concrete will not be met, or that the use of fly ash would be inappropriate for technical reasons.

(2) The determination under this paragraph should be documented by the procuring agency, design engineer/architect, or other responsible person, based on specific technical performance information. Legitimate documentation of technical infeasibility for fly ash can be for certain classes of applications, rather than on a job-by-job basis. Agencies should reference such documentation in individual contract specifications, to avoid extensive repetition of previously documented points. However, procuring agencies should be prepared to submit such documentation to scrutiny by interested persons, and should have a review process available in the event of disagreements.

(c) Each procuring agency should assure that contract specifications reflect the provisions of paragraphs (a) and (b) of this section by reviewing the contract specifications for any individual construction project before awarding the contract. Procuring agencies are reminded that the statutory requirements apply to projects which are contracted for directly, as well as those projects directly performed under the provisions of grants, loans, funds or similar forms of disbursement.

(d) All contract specifications issued after one year from the effective date of this guideline should meet the provisions of this section.

§ 249.12 Recommendations for material specifications.

(a) Each procuring agency should make maximum use of existing voluntary consensus standards and Federal material specifications for cement and concrete which contain fly ash. These are:

(1) Cement.

(i) ANSI/ASTM C595—"Standard Specification for Blended Hydraulic Cements."

(ii) Fed. Spec. SS–C–1960/4B—"Cement, Hydraulic, Blended."

(iii) ANSI/ASTM C150—"Standard Specification for Portland Cement" and Fed. Spec. SS–C–1960/Gen. are appropriate specifications when fly ash is used as a raw material in the production of cement.

(2) Concrete.

(i) ANSI/ASTM C618—"Standard Specification for Fly Ash and Raw or Calcined Natural Pozzolan for Use as a Mineral Admixture in Portland Cement Concrete."

(ii) Fed. Spec. SS–C–1960/5A—"Pozzolan, For Use in Portland Cement Concrete."

(iii) ANSI/ASTM C311—"Standard Methods of Sampling and Testing Fly Ash and Natural Pozzolans for use as a Mineral Admixture in Portland Cement Concrete."

(b) Only fly ash which, as a minimum, meets ASTM standards should be used, unless a procuring agency has developed sufficient expertise to use non-specification fly ash for particular applications.

§ 249.13 Recommendations for fly ash content and mix design.

(a) This guideline does not specify a minimum or maximum level of fly ash content for any uses, due to variations in fly ash, cement, strength requirements, costs, construction practices, etc. However, replacement rates of fly ash for cement in the production of blended cement generally do not exceed 20% to 30%, although fly ash blended cements may range from 0%–40% fly ash by weight, according to ASTM C595, for cement Types IP and I(PM). Fifteen percent is a more accepted rate when fly ash is used as a partial cement replacement as an admixture in concrete.

(b) Information on fly ash and concrete mix design is contained in the "References" section of this guideline. These sources should be consulted in the design and evaluation of the proper mix ratio for a specific project. In general, the concrete mix is adjusted by adding fly ash, while decreasing cement, water, and fine aggregate. The fly ash should be checked for compliance with applicable ASTM standards/Federal specifications, and trial mixes should be made to verify compliance of such mixes with specified quality parameters as is typically done for portland cement concrete.

(c) Concrete mix design specifications which specify minimum cement content or maximum water:cement ratios could potentially unfairly discriminate against the use of fly ash. Such specifications should be changed in order to allow the partial substitution of fly ash for cement in the concrete mixture, unless technically inappropriate. Minumum cement contents and maximum water:cement ratios may be retained, as long as they reflect the cementitious characteristics which fly ash can impart to a concrete mixture, e.g., by considering portland cement *plus* fly ash as the total cementitious component.

§ 249.14 Recommendations for performance standards.

(a) Each procuring agency should review and, if necessary, revise performance standards relating to cement or concrete construction projects to insure that they do not arbitrarily restrict the use of fly ash, either intentionally or inadvertently, unless this restriction is justified on a case-by-case basis, as allowed for in § 249.11(b).

Subpart C—Purchasing

§ 249.20 Recommendations for bidding approach.

(a) EPA recommends that a procuring agency specifically include provisions in all construction contracts to allow for the use, as an optional or alternate material, of cement or concrete which contains fly ash, except as provided for in § 249.11(b).

(b) Agencies should adopt appropriate bidding approaches to comply with paragraph (a) of this section. While EPA allows flexibility to procuring agencies in this regard, alternatives which should be considered in adhering to paragraph (a) include:

(1)(i) Revision of contract or guide specifications, as discussed in §§ 249.10 and 249.11, such that portland cement or concrete and cement or concrete containing fly ash are both considered acceptable materials for the particular

construction job. Such an approach allows a contractor to secure award of a contract based on normal bid evaluation procedures. At a later time, the contractor can exercise the option to use or not to use fly ash, subject to normal quality assurance procedures and review and approval of mix designs, materials, etc. by the procuring agency/project engineer.

(ii) This bidding approach may be most useful in procurements where cement or concrete is not the sole material purchased, e.g., as in the case of a solicitation covering all phases of construction of an office building. Under this approach, procuring agencies should put offerors on notice that a specification change has taken place and that they should actively seek out suppliers of cement or concrete containing fly ash.

(2)(i) Solicitation of alternate bids, allowing separate price quotations for either portland cement concrete or concrete containing fly ash. Under this approach, award is made to the successful bidder (typically lowest priced responsible offeror) for either one or the other of the materials. However, the successful bidder can later revise the selection of materials planned for use, for example, due to technical reasons or material availability, subject to approval of the procuring agency/project engineer.

(ii) This bidding approach may be most useful in procurements where the procuring agency is purchasing cement or concrete separately from other phases of a construction project, thus enabling the agency to evaluate bids for cement or concrete individually and to deal directly with potential suppliers.

(c) Regardless of the method of solicitation used, award should be made in accordance with an agency's customary award procedures, typically to the lowest priced responsible bidder, regardless of whether fly ash is used. In the event that two or more low bids are received which offer different levels of fly ash content, award should be made in accordance with an agency's customary award procedures, typically to the lowest priced responsible offeror. In the case of identical low bids, award should be made to the offeror with the higher level of fly ash content, all other factors being equal.

§ 249.21 Recommendations for reasonable price.

(a) Procuring agencies should use general procedures, such as those contained in the Federal Procurement Regulations, in determining whether the prices offered are reasonable. This determination should consider the objectives of Section 6002 of RCRA.

(b) Techniques of price analysis (not cost analysis) should be used, as appropriate. (Price analysis is the process of examining and evaluating a prospective price without evaluating the separate cost elements and proposed profit of the individual prospective supplier.) Price analysis may be done in various ways, including:

(1) Comparison of the price quotations submitted.

(2) Comparison of prior quotations and contract prices with current quotations for the same or similar end items, making appropriate allowances for any differences in quantities, delivery time, inflation, etc.

(3) Comparison of prices set forth in published price lists or catalogs.

Cost analysis may be necessary where there is no history or published information upon which to base price analysis.

§ 249.22 Recommendations for reasonable competition.

(a) Procuring agencies can assume that there is reasonable competition if there is adequate price competition.

(b) Adequate price competition is usually presumed to exist if:

(1) At least two responsible offerors,

(2) who can satisfy the purchaser's (e.g., the Government's) requirements,

(3) independently compete for a contract to be awarded,

(4) by submitting priced offers responsive to the expressed requirements of a solicitation.

In addition, the reasonableness of prices is a factor which should be evaluated in accordance with § 249.21.

§ 249.23 Reasonable availability.

Procuring agencies should consider cement or concrete which contains fly ash to be reasonably available if it can be delivered in time to successfully perform the job, or if there are no unusual or unnecessary delays expected in its delivery compared to those for portland cement or concrete.

§ 249.24 Recommendations for time-phasing.

In order to minimize any adverse effects on the marketplace or on the procuring agency in implementing this guideline, the Agency recommends that not later than the beginning of the second year after the effective date of the guideline, all contracts should solicit bids which specifically allow for the use of fly ash, in accordance with the provisions of § 249.11 and §§ 249.20–249.23.

Subpart D—Certification

§ 249.30 Recommendations for measurement.

(a) The procuring agency should require the supplier to:

(1) Certify that the percentage of fly ash to be included in the cement or concrete supplied under the contract is in accordance with the amount required by specifications referenced in the solicitation or contract.

(2) Estimate the percentage of fly ash which will be used in a particular mix design, as well as the quantity of fly ash to be supplied under the contract.

(b) Measurement of fly ash content should be made in accordance with standard industry practice, normally on a weight basis, and stated as a percentage of the weight of total cementitious material: (fly ash weight/(fly ash weight + cement weight)) = %. This will often be a reflection of either a typical cubic yard of concrete or ton of cement.

§ 249.31 Recommendations for documentation.

(a) The supplier's certification of fly ash content should not require separate reporting forms, but should make use of existing mechanisms, such as a statement contained in a signed bid document or a mix design proposal.

(b) In cases where the purchase of cement or concrete is not under the direct control of the procuring agency, as in the case of certain indirect purchases, the fly ash content of the cement or concrete purchased and quantity of fly ash used should be made available to the procuring agency.

§ 249.32 Quality control.

(a) Nothing in this guideline should be construed to relieve the contractor of responsibility for providing a satisfactory product. The certification procedures discussed in §§ 249.30 and 249.31 are intended to satisfy the certification requirements of Section 6002, and are entirely separate in purpose and format from standard industry quality control and quality assurance procedures. Cement and concrete suppliers are already responsible both for the quality of the ingredients of their product and for meeting appropriate performance requirements, and will continue to be under this guideline. This guideline does not attempt to shift normal industry procedures for assigning responsibility and liability.

(b)(1) Procuring agencies should expect suppliers of blended cement, fly ash, and concrete to demonstrate

(through reasonable testing programs or previous experience) the performance and reliability of their product and the adequacy of their quality control programs. However, procuring agencies should not subject cement and concrete containing fly ash to any unreasonable testing requirements.

(2) In accordance with standard industry practice, fly ash suppliers should be required to provide to users a statement of the key characteristics of fly ash supplied. These characteristics include its chemical constituents, loss on ignition (LOI), and fineness of the matter. These characteristics may be stated in appropriate ranges. Other characteristics should be requested as needed by the procuring agency.

(c) Agencies desiring a testing or quality assurance program for cements, blended cements, or fly ash should contact the U.S. Army Engineer Waterways Experiment Station, P.O. Box 631, Vicksburg, Mississippi 39180.

§ 249.33 Date recommendations.

Certification of fly ash content should occur at the time of purchase of cement and concrete in accordance with the phasing-in recommendations in § 249.24 and §§ 249.30–249.32.

References

EPA recommends that these documents be used by procuring agencies and those persons wishing to familiarize themselves with issues related to fly ash use.

1. ASTM. Standard specification for fly ash and raw or calcined natural pozzolan for use as a mineral admixture in portland cement concrete. ASTM C618, latest edition. Annual book of ASTM standards, part 14. Philadelphia, PA.
2. ASTM. Standard methods of sampling and testing fly ash or natural pozzolans for use as a mineral admixture in portland cement concrete. ASTM C311, latest edition. Annual book of ASTM standards, part 14. Philadelphia, PA.
3. ASTM. Standard specification for blended hydraulic cements. ASTM C595, latest edition. Annual book of ASTM Standards, part 14. Philadelphia, PA.
4. Department of the Army, Corps of Engineers, Office of the Chief of Engineers, Washington, D.C. Standard practice for concrete. EM–1110–2–2000, with latest changes.
5. Department of the Army, Corps of Engineers, Office of the Chief of Engineers. Washington, D.C. Guide Specification for concrete. CW–03305, with latest changes.
6. Department of the Army, Corps of Engineers, Office of the Chief of Engineers, Washington, D.C. Guide Specification for cast-in-place structural concrete. CW–03301, with latest changes.
7. Frohnsdorff, G., and J. R. Clifton. National Bureau of Standards. 1981. Fly ashes in cements and concretes: technical needs and opportunities NBSIR 81–2239.
8. General Services Administration. Specification for pozzolan for use in portland cement concrete. Federal Specification SS–C–1960/5A.
9. General Services Administration. Specification for blended hydraulic cement. Federal specification SS–C–1960/4B.
10. Gordian Associates, Inc. 1978. Potential for energy conservation through the use of slag and fly ash in concrete. DOE report SAN–1699–T1.
11. Lovewell, C. E., and E. J. Hyland. 1974. A method of proportioning structural concrete mixtures with fly ash and other pozzolans. ACI Committee 211, "Proportioning Concrete Mixes," SP–46–8: pp. 109–140 (with 9 references).
12. Tennessee Valley Authority; Singleton Materials Engineering Laboratory. 1979. Properties and use of fly ash in portland cement concrete. Technical report CR–78–2 (with 11 references).

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Part V

Commodity Futures Trading Commission

Contract Market Rule Review Procedures; Interim Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Emergency Interim Rules; Contract Market Rule Review Procedures

AGENCY: Commodity Futures Trading Commission.

ACTION: Interim rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is adopting emergency interim regulations to govern the submission of contract market rules pursuant to section 5a(12) of the Commodity Exchange Act ("Act"). These amendments are intended to implement the new rule review procedures mandated by the Futures Trading Act of 1982. Specifically, the Commission is revising its regulations to define "terms and conditions in contracts of sale" which must be submitted to the Commission for approval, to define "terms and conditions in contracts of sale" which must be submitted to the Commission for approval, to define those types of rules which are exempt from submission pursuant to section 5a(12) of the Act, to delegate to the Division of Trading and Markets ("Division") the authority to determine when submissions which do not relate to "terms and conditions" do not require Commission review, and to delegate to the Division the authority to remit submissions which do not meet the form and content requirements set forth in Commission regulations. The Commission is also adopting certain conforming amendments so that its regulations will better correspond to the language of section 5a(12) as amended.

DATES: Interim rules are effective January 28, 1983 comments must be received on or before March 29, 1983.

ADDRESS: Interested persons should submit comments to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 Attention: Secretariat. Refer to: Emergency Interim Rules; Contract Market Rule Review Procedures.

FOR FURTHER INFORMATION CONTACT: Karen Matteson or Robert Rosenfeld, Attorney Advisors, Division of Trading and Markets, at the above address. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

On January 11, 1983, President Reagan signed Pub. L. No. 97–444, the Futures Trading Act of 1982 ("1982 Act"), which reauthorizes the Commodity Futures Trading Commission ("Commission") and amends certain sections of the Commodity Exchange Act ("Act"). Section 5a(12) of the Act is one of the sections which has been amended. As amended, section 5a(12)[1] requires that a contract market submit to the Commission for its prior approval:

> * * * all bylaws, rules, regulations, and resolutions ("rules") made or issued by such contract market * * * that relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market, *as such terms and conditions are defined by the Commission by rule or regulation.* (Emphasis supplied) [2]

Under the amendments, all other contract market rules (except those rules relating to the setting of levels of futures margin and those rules specifically exempted by the Commission by regulation) must be submitted to the Commission. Such rules, however, may be made effective by the contract market ten days after Commission receipt of the rules unless, within the ten day period, the contract market requests Commission review or the Commission notifies the contract market in writing of its determination to review such rules for approval. The Commission's determination to review any such rule for approval cannot be delegated.

The Commission has not previously defined the words "terms and conditions" as used in section 5a(12) by rule or regulation, although the Commission previously has interpreted these same words in connection with contract market designations and in its administration of the prior version of section 5a(12). Absent a definition, the Commission could use a definition of "terms and conditions" which reflected the plain meaning of those words and resulted in an expansive view of their prior meaning. Under this alternative, the Commission could read the requirement to define "terms and conditions" as a mandate to mirror such expansive view. In addition, the Commission is concerned that without a definition of these words, the amendments to section 5a(12) might be misread to permit contract markets to make all proposed rules submitted to the Commission effective ten days after Commission receipt unless the Commission determines that it will review such rules for approval and so notifies the contract market in writing. To assure that Commission procedures are consistent with the public interest and with the intent of the revisions to section 5a(12); and to assure that there is no confusion prior to the adoption of new, fully refined section 5a(12) procedures which could unduly delay or complicate the processing of contract market rule changes or new rules; the Commission is promulgating, on an emergency basis, an interim regulation which sets forth what the Commission historically has viewed as "terms and conditions" and believes would be commonly understood to be "terms and conditions." The Commission also is requesting public comment on whether a broader or more narrow definition may be appropriate and on how best to articulate the scope of such definition.

In addition, the Commission is delegating to the Director of the Division of Trading and Markets the authority to determine those instances in which rules not relating to terms and conditions do *not* require Commission review and may become effective upon receipt by the exchange of notice of the Division's determination. The purpose of the delegation is to further facilitate the implementation of certain rules which are determined not to raise significant issues under the Act or the Commission's regulations. The Division is authorized under the delegation to make such determinations of non-review prior to expiration of the ten-day period after Commission receipt of the subject submission and thereby permit such rules to become effective more expeditiously than by the passive operation of section 5a(12). The Commission does not believe that this procedure is inconsistent with the limitation on the ability of the Commission to delegate authority for determinations to require affirmative approval of rules before they may be made effective.[3]

The Commission is also setting forth in an interim amendment to § 1.41(d) those types of rules which are exempt from submission pursuant to section 5a(12). These rules may be placed into effect immediately by the exchanges, without submission to the Commission under section 5a(12). Nevertheless, such rules must be submitted to the Commission pursuant to section 5a(1) of the Act, in order that the Commission

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[1] Futures Trading Act of 1982, Pub. L. No. 97–444, section 216(2) (amending 7 U.S.C. 7a(12) (Supp. V 1981)).

[2] The term "rules" is defined in Commission regulation 1.41(a)(1), 17 CFR 1.41(a)(1) (1982). The Commission also has pending a proposed amendment to regulation 1.41(a)(1) which would clarify its understanding of the scope of that term as applied by the Commission. *See* 45 FR 84082 (December 22, 1980).

[3] Specifically, section 5a(12), while prohibiting the Commission from delegating its authority to determine *to* review exchange rules for approval, does not prohibit the Commission from delegating the determination *not* to review such rules. Furthermore, delegation of such authority is consistent with the overall purpose of the revisions of section 5a(12), which is to streamline the rule review process. S. Rep. No. 97–384, 97th Cong. 2d Sess. 29 (1982).

will be made aware of their existence and content.[4] In this connection, the Commission is requesting comments as to the appropriate scope of the amendments to § 1.41(d) which would establish the exempt category.

To assist in the routine administration of the new requirements under section 5a(12) of the Act, the Commission also is adopting amendments to 17 CFR 1.41a by which the Commission delegates to the Director of the Division of Trading and Markets the authority to remit to the exchanges those rule submissions which relate to contract "terms and conditions," as defined by the Commission in § 1.41(a)(2), but which are improperly submitted by the Exchange as rules not relating to contract terms and conditions.

Finally, the Commission is adopting conforming amendments to its regulations 1.41 and 1.41a in order that the sections will better correspond to the language of section 5a(12), as amended.

II. Amendments to Current Regulations

The Futures Trading Act of 1982 has substantially modified the contract market rule review procedures under section 5a(12) of the Act. The Commission notes that the intent of such modifications is to reduce the types of contract market rules that require prior approval of the Commission,[5] thereby permitting earlier implementation of such rules and providing some savings of Commission resources.[6] As as result of the amendments, only rules that relate to terms and conditions in contracts of sale to be executed on or subject to the rules of a contract market are required to be submitted to the Commission for its prior approval. As noted above, the Commission is now adopting a definition of "terms and conditions" in § 1.4(a)(2). The Commission believes that this definition reflects criteria reasonably descriptive of such phrase, implements the legislative intent of the 1982 Act and ensures that the Commission will be able to carry out its mandate and its oversight role in the area of contract market rule review.

The definition of "reviewable rule," has been deleted from current § 1.41(a)(2), since that definition is inconsistent with the new rule review procedures, which essentially characterize contract market rules as (1) those that have been approved by the Commission under section 5a(12) and (2) those that have otherwise become effective (*e.g.*, rules that do not relate to terms and conditions in contracts of sale and that have gone into effect ten days after receipt of such rules by the Commission). Conforming amendments which delete references to "reviewable rule" and reflect the new procedures are also being made to §§ 1.41(a)(4)(i) and (a)(4)(ii)(H) ("emergency"), 1.41(a)(5) ("governing board"), 1.41(a)(7) ("temporary emergency rule") and 1.41(g) ("physical emergencies").

The Commission is amending § 1.41(b) to implement the new rule approval process for contract market rules (i) that relate to terms and conditions in contracts of sale, (ii) any other rules that the Commission has determined (within the ten day period following receipt by the Commission of such rules) as requiring prior approval, and (iii) any other rule submitted for approval by a contract market on a voluntary basis. Minor revisions have also been made to subparagraphs (1)–(4) of paragraph (b) of § 1.41 in order to clarify the scope of information required to be submitted in a rule approval submission under § 1.41(b).

The Commission also is amending § 1.41(c) and (d) to delete the current operational and administrative exemption, which is no longer contained in the Act. The Commission is further amending § 1.41(c) to provide procedures for the required submission to the Commission of rules that do not relate to terms and conditions in contracts of sale, except those relating to the setting of levels of margin. Rules submitted pursuant to § 1.41(c) will become effective ten (10) days after receipt (or within such earlier time as determined by the Commission or by the staff pursuant to delegated authority)[7] unless the Commission notifies the contract market in writing of its determination to require prior Commission approval under section 5a(12) of the Act and § 1.41(b) of these regulations. The amendments to § 1.41(c) also provides form and content requirements for all rule submissions under § 1.41(c). Those requirements are less comprehensive than the form and content requirements of current § 1.41(b).

The 1982 Act authorizes the Commission to exempt certain rules that do not relate to terms and conditions in contracts of sale from the required ten day review procedure of section 5a(12). The Commission is exercising such authority by amending § 1.41(d) to set forth the types of rules that initially will be subject to such an exemption. (Such rules, may, nonetheless, be submitted to the Commission for its prior approval should an exchange so desire.) The rules which would be so exempted are purely of a housekeeping nature, have no economic or market significance and do not affect the public.[8] The Commission recognizes that other rules may warrant such exemption and invites interested person to suggest possible additions to § 1.41(d). Finally, the Commission wishes to note that, notwithstanding the provisions of § 1.41(d), all contract market rules remain subject to the filing requirement of section 5a(1) of the Act. The requirement permits the Commission and its staff to remain aware of all rule changes adopted by contract markets and facilitates the exercise of the Commission's regulatory oversight functions.

In order to facilitate the expeditious handling of rule review procedures, the Commission is amending § 1.41a to provide for the delegation of certain functions to the Director of the Division of Trading and Markets and other authorized employees. The amendment reflects current practice under § 1.41a and permits the Director of Trading and Markets to remit a rule submission to a contract market for failure to comply with the form and content requirements of §§ 1.41(b) or (c).

The Director also would be authorized to remit a rule submitted under § 1.41(c) if such Director determines that such rule in fact relates to terms and conditions in contracts of sale as defined by § 1.41(a)(2). The Commission believes that such a delegation is consistent with the purposes of the 1982 Act as it relates to rule review, since it addresses solely the proper characterization of a rule under Commission regulations, and would not constitute a determination to review a rule.

The amendments to § 141a also permit the Director of the division of Trading and Markets to determine that rules submitted under § 1.41(c) do not require prior Commission approval under section 5a(12) and regulation 1.41(b) and that such rules may become effective prior to the expiration of the ten day period following the receipt of such rules

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[4] The Commission may disapprove or alter such rules pursuant to applicable provisions of Sections 5a(12) and 8a(7) notwithstanding the Commission's determination to categorize such rules as exempt from review upon adoption or amendment by the exchange.

[5] H. Rep. No 97–565, Pt. 1, 97th Cong., 2d Sess. 91 (1982).

[6] S. Rep. No. 97–384, 97th Cong., 2d Sess. 31 (1982)

[7] The Commission believes that such authority to permit contract market rules to become effective prior to the expiration of the ten day period is inherent in the 1982 Act and consistent with the purposes of such legislation.

[8] *See generally* H. Rep. No. 97–565, Pt. 1 at 91–92.

by the Commission. This delegation of authority will permit the Commission to respond in an expeditious manner to exchange requests for immediate implementation of submitted rules and, as such, carry our the purposes of the 1982 Act.[9]

III. Basis for Emergency Adoption of Interim Regulations

Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b) normally requires that a notice of proposed rulemaking be published in the **Federal Register** and that opportunity for comment be provided when an agency promulgates new regulations. Section 553(b) sets forth two exceptions to this requirement, however. First, section 553(b) does not apply to interpretive rules, general statements of policy, or rules of agency organization, procedure and practice. In defining the words "terms and conditions," these rules are interpretive in nature and relate solely to agency procedures for review of contract market rules. Second, section 553(b) does not apply when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest. As stated earlier, in the absence of a definition of terms and conditions and a delegation to its staff to determine that certain rules do not require Commission reviews, a misreading of the amendments to section 5a(12) could present the Commission with contents that it must evaluate whether to review every proposed rule change submitted by the exchanges. Moreover, absent a definition of "terms and conditions," section 5a(12) of the Act could be construed to require the Commission to affirmatively approve all rules which, under the broadest possible reading of those words could be viewed as "terms and conditions."[10] Such result would be contrary to the spirit and intent of the legislation. Therefore, the Commission has determined to promulgate the emergency interim regulations and conforming amendments set forth in this release, to be effective on their date of publication in the **Federal Register**.

IV. Request for Public Comment

These regulations shall be effective until the Commission adopts permanent regulations, which will reflect consideration of the comments received and such experience as the Commission gains in administering section 5a(12) of the Act with these interim regulations.[11] Because the Commission views these regulations as temporary, it is soliciting public comment on these regulations prior to its promulgation of permanent regulations, and specifically request public comments on the following issues:

1. Whether the definition of terms and conditions should be expanded or contracted, and an elaboration by specific examples of precisely what that definition should include or exclude; and

2. Whether § 1.41(d) can be expanded to include other types of rules which could be made effective immediately, rather than ten days after Commission receipt.

Public comment on the above issues and any other aspects of these regulations must be submitted to the Office of the Secretariat by the date set forth at the beginning of this notice.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA")[12] requires that agencies, in proposing rules, consider their impact on small businesses. Section 3(a) of the RFA defines the term "rule" to mean "any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title * * * for which the agency provides an opportunity for notice and public comment." [13] As the revisions to §§ 1.41 and 1.41a announced in this Release have not been effected pursuant to 5 U.S.C. 553(b), then §§ 1.41 and 1.41a are not "rules" as defined in the RFA and the analysis or certification specified in that Act would not apply.

Notwithstanding the above, an analysis of the impact of §§ 1.41 and 1.41a on small businesses would not be required for another reasons. In a policy statement published last April, the Commission established definitions of small entities to be used by the Commission in connection with the RFA.[14] The Commission concluded that contract markets were not small entities based in part on factors such as the high volume of transactions conducted on designated contract markets, the self-regulatory responsibilities of such organizations under the Act and the Commission's regulations, and their significant financial resources. Moreover, far from imposing new obligations on contract markets, these amendments would relieve them of an existing recordkeeping burden. Accordingly, pursuant to section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1168, 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, certifies that §§ 1.41 and 1.41a, as amended, will not have a significant economic impact on a substantial number of small entities. However, the Commission particularly invites comment from any firm which believes that these rules, as amended, would have a significant economic impact on its.

VI. Paperwork Reduction Act

Commission regulations 1.41 and 1.41a have previously been issued control numbers, pursuant to the Paperwork Reduction Act of 1980, Pub. L. No. 96–511, 94 Stat. 2812 (44 U.S.C. 3501 et seq.). As noted above, rather than increasing the paperwork burden, these amendments would reduce an existing recordkeeping obligation and, as such, they effect no substantive or material modification in the existing paperwork requirement of §§ 1.41 and 1.41a. In addition, the amendments to §§ 1.41 and 1.41a adopted in this Release reflect statutorily imposed changes, as discussed above. The Office of Management and Budget has been notified of these facts, and a copy of this **Federal Register** notice has been provided to that agency.

List of Subjects in 17 CFR Part 1

Commodity exchanges, Contract market rules.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 5a(12) and 8a(5) thereof, 7 U.S.C. 7a(12) and 12a(5), as amended by Pub. L. No. 97–444 the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations by amending §§ 1.41 and 1.41a as follows:

PART 1—[AMENDED]

1. Section 1.41 is amended by revising paragraphs (a)(2), (a)(4)(i), (a)(4)(ii)(H), (a)(5), (a)(7), (b), (c), (d), (f) and (g) to read as follows:

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[9] As noted by Senator Lugar and Representative De La Garza, the 1982 Act was intended to streamline the rule review process and require the Commission to act expeditiously. *See* 128 Cong. Rec. S1485 (daily ed. December 15, 1982), 128 Cong. Rec H9962 (daily ed. December 16, 1982). *See also* S. Rep. No. 384, 97th Cong. 2d Sess. 91 (1982).

[10] The Commission also notes that, absent a Commission definition of "terms and conditions," section 5a(12) of the Act as amended would provide no guidance to exchanges which are subject to that section in identifying the category of "all other rules" which are not terms and conditions

[11] The Commission also has advised each exchange by letter of its determination that all rule proposals submitted pursuant to Commission regulation 1.41(b) before the enactment of the amendments to section 5a(12) must be reviewed for approval before they may be made effective.

[12] Pub. L. No. 96–354, 94 Stat. 1164 (1980), 5 U.S.C. *et seq.*

[13] 5 U.S.C. 601(2).

[14] 47 FR 18618–21 (April 30, 1982).

§ 1.41 Contract market rules, submission of rules to the Commission, exemption of temporary emergency rules, emergencies.

(a) * * *

(2) The words "terms and conditions in contracts of sale" mean any definition of the trading unit or specific commodity underlying a contract for the future delivery of a commodity or any commodity option contract, or the terms of trade relating to such trading unit or commodity, specification of settlement or delivery standards and procedures, and establishment of buyers' and sellers' rights and obligations under the contract. Terms and conditions shall be deemed to include provisions relating to the following:

(i) Quality or quantity standards for a commodity and any applicable exemptions or discounts;

(ii) Trading months and other requirements relating to the listing of contracts;

(iii) Minimum and maximum price limits and the establishment of settlement prices;

(iv) Position limits and position reporting requirements;

(v) Delivery points and locational price differentials;

(vi) Delivery standards and procedures, including alternatives to delivery and applicable penalties or sanctions for failure to perform;

(vii) Settlement of the contract; and

(viii) Payment or collection of commodity option premiums or margins.

* * * * *

(4) The term "emergency" means:

(i) Any occurrence or circumstance specifically defined as an "emergency" by the rules of a contract market which have been submitted to the Commission pursuant to section 5a(12) of the Act; and

(ii) * * *

(H) Any other unusual, unforeseeable and adverse circumstance with respect to which it is impracticable for the contract market to submit, in a timely fashion, a rule to the Commission for prior review under section 5a(12) of the Act.

(5) The term "governing board" of a contract market means the board of directors, the board of governors, the board of managers or any other similar body of the contract market or any committee duly authorized, pursuant to a rule of the contract market that has been approved by the Commission or has become effective pursuant to Section 5a(12) of the Act to take action for and on behalf of the contract market with respect to an emergency.

* * * * *

(7) The term "temporary emergency rule" means a rule adopted by a "two-thirds vote" of the governing board of a contract market to meet an emergency.

(b) *Submission of rules for prior Commission approval.* Except as provided in paragraph (f) of this section, all proposed contract market rules that relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or any other rules that the Commission has determined, pursuant to paragraph (c) of the section as requiring prior approval, must, and any other rule may, be submitted to the Commission for approval pursuant to section 5a(12) of the Act prior to their proposed effective dates. Three copies of each such rule shall be furnished to the Commission at its Washington, D.C., headquarters, and two copies shall be furnished to the regional office of the Commission having local jurisdiction over the contract market. Each such submission shall, in the following order:

(1) Set forth the text of the proposed rule (in the case of any change in, addition to, or deletion from any current rule of the contract market, the current rule shall be fully set forth, with brackets used to indicate words to be deleted and underscoring used to indicate words to be added);

(2) Describe the action taken or anticipated to be taken to adopt the proposed rule by the contract market, or by the governing board thereof or any committee thereof and cite the rules of the contract market which authorize the adoption of the proposed rule;

(3) Explain the proposed rule, including its anticipated effective date and purpose, a description of any action taken or anticipated to be taken as a result of or pursuant to the proposed rule, how the rule fits into the contract market's scheme of self-regulation, how the rule furthers the purposes of the Act, and any other information which may be beneficial to the Commission in analyzing the proposed rule. If a proposed rule affects, directly or indirectly, the application of any other rule of the contract market, set forth the pertinent text of any such rule and describe the anticipated effect; and

(4) Note and briefly describe any substantive opposing views expressed by the members of the contract market or others with respect to the proposed rule which were not incorporated into the proposed rule prior to its submission to the Commission.

The Commission may remit to the contract market, with an appropriate explanation where practicable, and not accept for review any rule submission that does not comply with the form and content requirements of subsections (1)–(4) of this paragraph.

(c) *Rules that do not relate to terms and conditions in contracts of sale.* Except as provided in paragraphs (d) and (f) of this section (exempt or temporary emergency rules), three copies of any rule which does not relate to terms and conditions in contracts of sale or which a contract market proposes to place into effect without submission to the Commission for approval under section 5a(12) of the Act and paragraph (b) of this section shall be furnished to the Commission at its Washington, D.C., headquarters at least ten (10) days prior to its proposed effective date. Two copies shall also be transmitted by the contract market to the regional office of the Commission having local jurisdiction over the contract market. Each such submission shall, in the following order:

(1) Label the submission as submitted pursuant to Commission regulation 1.41(c);

(2) Set forth the text of the proposed rule (in the case of any change in, addition to, or deletion from any current rule of the contract market, the existing rule shall be fully set forth, with brackets used to indicate words to be deleted and underscoring used to indicate words to be added);

(3) State the purpose of the proposed rule; and

(4) Describe any action taken or anticipated to be taken as a result of or pursuant to the proposed rule.

The Commission may remit to the contract market, with an appropriate explanation where practicable, and not accept pursuant to this paragraph any submission that does not comply with the form and content requirements of paragraphs (c)(1)–(4) of this section. The Commission may also remit to the contract market and require resubmission pursuant to paragraph (b) of this section any rule which the Commission determines to be a rule that relates to terms and conditions in contracts of sale.

Rules submitted pursuant to this paragraph (c) otherwise may become effective ten (10) days after receipt (or at such earlier time as determined by the Commission) unless the Commission notifies the contract market in writing of its determination to review such rules for prior approval under section 5a(12) of the Act and paragraph (b) of this section. Any such rules determined to require prior Commission approval shall be submitted in accordance with the form and content requirements of paragraph (b) of this section.

(d) *Rules that are exempt from ten day review period.* Contract market rules that do not relate to terms and

conditions in contracts of sale are deemed to be exempt from the requirements of section 5a(12) of the Act and paragraph (c) of this section where such rules address:

(1) Standards of decorum or attire or provisions relating to admission to the floor, badges, visitors, and all similar matters but not the establishment of penalties for violations of such rules;

(2) Requirements relating to gratuity and similar funds; but not guaranty, reserve, or similar funds;

(3) Correction of typographical errors in rules.

Such rules may, however, be submitted to the Commission for its prior approval pursuant to section 5a(12) of the Act and paragraph (b) of this section.

* * * * *

(f) *Temporary emergency rules.* In the event of an emergency, a contract market, by a two-thirds vote of its governing board, may place into immediate effect a temporary emergency rule to deal with the emergency without prior Commission approval, and without compliance with the ten-day notice requirement pursuant to section 5a(12) of the Act and paragraphs (b) and (c) of this section, respectively, subject to the following provisions:

* * * * *

(g) *Physical emergencies.* In the event the physical functions of a contract market are, or are threatened to be, severely and adversely affected by a "physical emergency," such as fire or other casualty, bomb threats, substantial inclement weather, power failures, communications breakdowns, or transportation breakdowns, a contract market official, duly authorized to take such action for and on behalf of the contract market with respect to such a "physical emergency" pursuant to a rule of the contract market that has been approved by the Commission or has become effective pursuant to section 5a(12) of the Act and these regulations, may take any action authorized by such rule necessary or appropriate to deal with the emergency, including, but not limited to, suspending trading on the contract market. In no event, however, shall suspension of trading on the contract market by such a designated official continue in effect for more than five (5) days. If so authorized by such a rule of the contract market, the designated official may also order restoration of trading on the contract market, or removal of other restrictions imposed by the official as permitted by this paragraph (g), in the absence of action by the governing board of the contract market, upon a determination by such official that the "physical emergency" has sufficiently abated to permit the physical functions of the contract market to continue in an orderly manner.

2. Section 1.41a is revised to read as follows:

§ 1.41a Delegation of authority to the Director of the Division of Trading and Markets.

The Commission hereby delegates, until the Commission orders otherwise, the following authority to the Director of the Division of Trading and Markets, to be exercised by such Director or by such other employee or employees of the Commission under the supervision of such Director as may be designated from time to time by the Director:

(a) Pursuant to § 1.41(b), to determine whether to remit to a contract market and not accept for review any rule submitted pursuant to section 5a(12) of the Act and § 1.41(b) thereunder, where the Director determines that such rule submission does not comply with the form and content requirements of § 1.41(b);

(b) Pursuant to § 1.41(c), to determine whether to remit to a contract market and not accept for review any rule submitted pursuant to section 5a(12) of the Act and § 1.41(c) thereunder, where the Director determines that such rule submission does not comply with the form and content requirements of § 1.41(c);

(c) Pursuant to § 1.41(c), to determine whether to remit to a contract market and require resubmission pursuant to § 1.41(b) any rule submitted pursuant to section 5a(12) of the Act and § 1.41(c) thereunder, where the Director determines that such rule relates to terms and conditions in contracts of sale as defined by § 1.41(a)(2) of these regulations; and

(d) Pursuant to § 1.41(c), to determine that rules submitted under § 1.41(c) do not require prior Commission approval under section 5a(12) of the Act and § 1.41(b) and that such rules may become effective prior to the expiration of the ten day period following the receipt of such rules by the Commission.

Issued in Washington, D.C. on January 24, 1983 by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday)

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)
Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
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DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
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List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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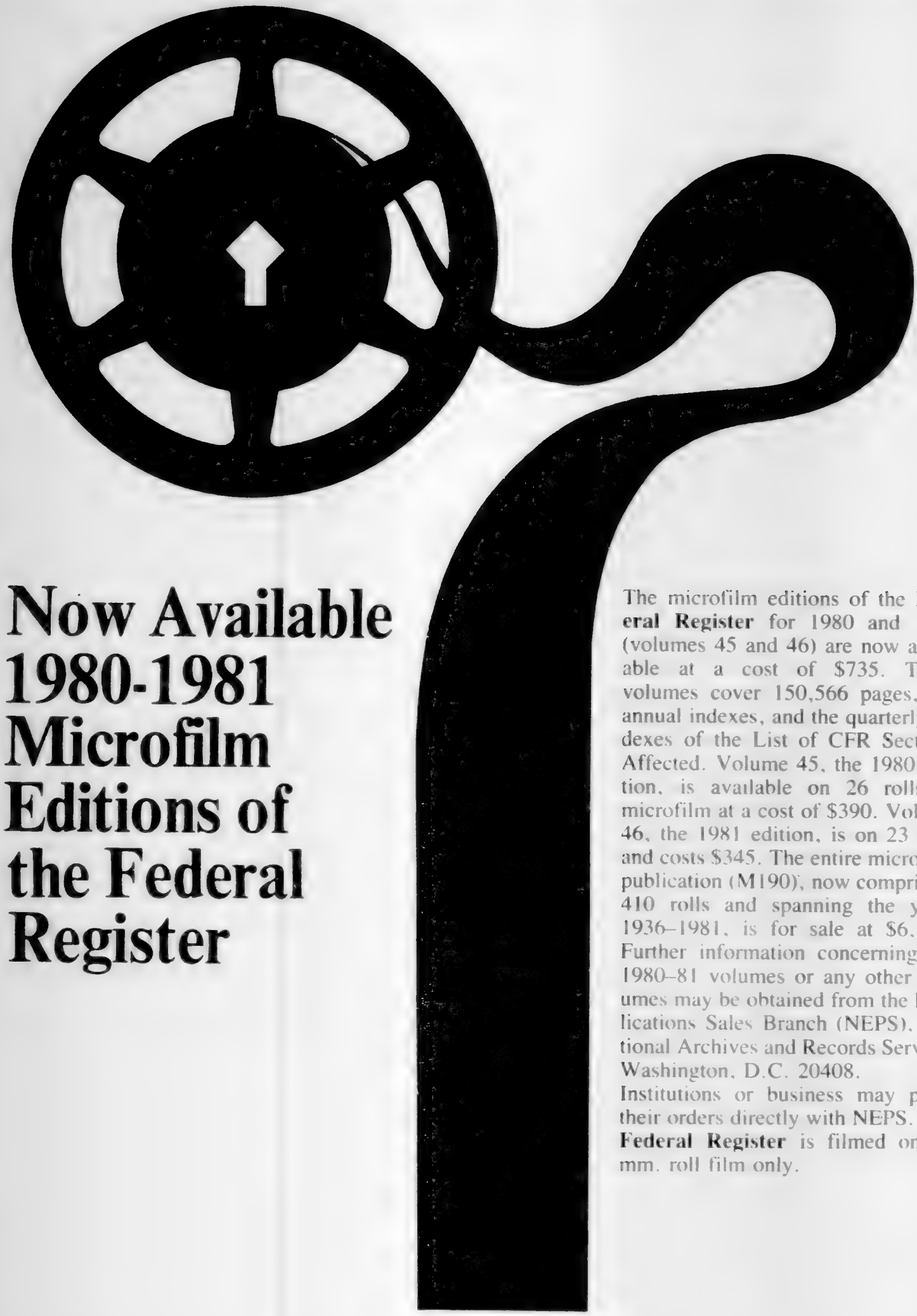

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Environmental Protection Agency

Grant Programs—Transportation
Transportation Department

Navigation (Water)
Navy Department

Old-Age, Survivors and Disability Insurance
Social Security Administration

Wages
Coast Guard

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Federal Register
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Monday, January 31, 1983

Presidential Documents

Title 3—

The President

Proclamation 5017 of January 27, 1983

National Day of Prayer, 1983

By the President of the United States of America

A Proclamation

Prayer is the mainspring of the American spirit, a fundamental tenet of our people since before the Republic was founded. A year before the Declaration of Independence, in 1775, the Continental Congress proclaimed the first National Day of Prayer as the initial positive action they asked of every colonist.

Two hundred years ago in 1783, the Treaty of Paris officially ended the long, weary Revolutionary War during which a National Day of Prayer had been proclaimed every spring for eight years. When peace came the National Day of Prayer was forgotten. For almost half a century, as the Nation grew in power and wealth, we put aside this deepest expression of American belief—our national dependence on the Providence of God.

It took the tragedy of the Civil War to restore a National Day of Prayer. As Abraham Lincoln said, "Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us."

Revived as an annual observance by Congress in 1952, the National Day of Prayer has become a great unifying force for our citizens who come from all the great religions of the world. Prayer unites people. This common expression of reverence heals and brings us together as a Nation and we pray it may one day bring renewed respect for God to all the peoples of the world.

From General Washington's struggle at Valley Forge to the present, this Nation has fervently sought and received divine guidance as it pursued the course of history. This occasion provides our Nation with an opportunity to further recognize the source of our blessings, and to seek His help for the challenges we face today and in the future.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Thursday, May 5, 1983, National Day of Prayer. I call upon every citizen of this great Nation to gather together on that day in homes and places of worship to pray, each after his or her own manner, for unity of the hearts of all mankind.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of Jan., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-2753
Filed 1-28-83; 11:22 am]
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Rules and Regulations

Federal Register
Vol. 48, No. 21
Monday, January 31, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

GENERAL ACCOUNTING OFFICE

4 CFR Part 21

Bid Protest Procedures

Correction

In FR Doc. 83–1116 appearing on page 1931 in the issue of Monday, January 17, 1983, make the following correction:

On page 1931, third column, the authority citation shown for 4 CFR Part 21 should have read:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3526 and 3529.

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81–NM–85–AD; Amdt. 39–4554]

Airworthiness Directives; Avions Marcel Dassault-Breguet Aviation Model Falcon 20 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to the Avions Marcel Dassault-Breguet Aviation (AMD–BA) Model Falcon 20 series airplanes which requires a one-time inspection of the freon fire extinguisher bottles to determine that the cartridge is properly fitted in the percussion head. There have been reports of cracks in the glass of the pyrotechnic cartridges because the cartridge nuts were excessively tightened. Similar incidents occurred when wrong spacer washers were installed. Such extinguishers are incapable of performing their intended function and require an inspection to ensure properly matched system components.

DATE: Effective February 9, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to AMD–BA Representative, c/o F. J. C., Teterboro Airport, New Jersey 97608 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The French Director General of Civil Aviation (DGAC) has classified Avions Marcel Dassault-Breguet Service Bulletin No. 657 as mandatory. This service bulletin requires an inspection of the freon fire extinguisher bottles installed in all AMD–BA Model Falcon 20 series airplanes. Extinguishers have been found with the glass of the pyrotechnic cartridges cracked or broken due to excessive tightening of the cartridge nuts. The same condition can occur when the wrong spacer washer is installed. Cracked or broken pyrotechnic cartridges would prevent the extinguishers from operating properly. The DGAC, which is the civil aviation authority for France, is requiring airplanes to be inspected in accordance with AMD–BA Service Bulletin No. 657.

These airplane models are manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires the inspection, repair, or replacement as specified by AMD–BA Service Bulletin No. 657.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Avions Marcel Dassault-Breguet Aviation: Applies to all models of the AMD–BA Falcon 20 series airplanes certificated in all categories. The affected freon fire extinguishers were manufactured by Martin or ABG–SEMCA and are identified as follows: two extinguishers type 111–1555–324–12 for the aft compartment and nacelles and type 111–011–324–12 for the MICROTURBO APU if the airplane incorporates AMD–BA Service Bulletin 80, Revision 3, dated May 9, 1968; AMD–BA Service Bulletin 350, Revision 2, dated October 4, 1971; or AMD–BA Service Bulletin 556 dated September 15, 1977.

Compliance is required within the next 100 hours time in service after the effective date of this AD, unless already accomplished. To prevent the potential failure of the fire extinguisher to operate, accomplish the following:

1. Perform a one-time inspection and repair or replace, as necessary, the pyrotechnic cartridge of the fire extinguisher in accordance with paragraph 2, Accomplishment Instructions, of Avions Marcel Dassault-Breguet Aviation Service Bulletin No. 657 dated November 8, 1979.

2. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective February 9, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is

not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Wash., on January 20, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region

[FR Doc. 83-2323 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-109-AD; Amdt. 39-4558]

Airworthiness Directives; British Aerospace Aircraft Group Model HS 125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to British Aerospace Aircraft Group Model H.S. 125 series airplanes which requires installation of static electricity suppression filters on the fuselage. Several incidents of loss of heating of both windshields due to static electricity interference have been reported. Also, two incidents were reported where both main generator systems were inadvertently disconnected due to static electricity. Either of these failures could lead to loss of the airplane.

DATE: Effective February 10, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority of the United Kingdom has classified British Aerospace Aircraft Group, Hatfield-Chester Division, 125 Series Aircraft Service Bulletin 24-230-(2790), Revision 3, as mandatory. Several incidents of loss of heating capability on both windshields were reported due to static electrical conditions encountered. Subsequent examination of the system showed fuses had been ruptured and supply change-over contactors damaged. Also, at least two incidents have occurred where both main generator systems inadvertently disconnected due to static electrical conditions. The generators could be restored when the aircraft passed beyond the region of charged air. Investigations showed the built-in generator control unit fault sensing circuit to be sensitive to static electricity.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulati s and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplances of this model registered in the United States, the FAA has determined that an AD is necessary which requires the installation of electrical filters to fuselage skin and modification of the generator control unit fault sensing.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

British Aerospace Aircraft Group: Applies to Model HS 125 series airplanes, serial numbers NA0201 to NA0299 and serial numbers 257001 to 257139, plus all airplanes retrofitted with Garrett TFE 731 engines, certificated in all categories.

Compliance required as indicated, unless already accomplished. To prevent possible failure of windshield heat from external high voltage static charge conditions and to prevent potential generator tripping from electrical interference effects, accomplish the following:

1. Within the next 200 hours time in service or two months, whichever occurs first, after the effective date of this AD, perform the modifications specified in Part 2, Accomplishment Instructions, of British Aerospace Aircraft Group, Hatfield-Chester Division, 125 Service Bulletin 24-230-(2790), Revision 3, dated June 11, 1982.

2. For aircraft equipped with auxiliary power units other than the Garrett TFE 731, modify in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

4. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective February 10, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on January 21, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region

[FR Doc. 83-2520 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-CE-2-AD; Amendment 39-4553]

Airworthiness Directives; DeHavilland DHC-6 Models 1, 100, 200, and 300 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to DeHavilland DHC-6 Models 1, 100, 200, and 300 airplanes which requires retirement of certain life limited structural components. The manufacturer has identified certain structural components in the wing, wing carry through and attaching structure which are subject to fatigue failure. The retirement times established by this AD will prevent catastrophic failure.

DATES: Effective Date: February 4, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: DeHavilland Structural Components Service Life Limits Manual PSM 1-6-11, approved by Department of Transport (DOT) Canada, August 29, 1978, applicable to this AD may be obtained from DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario, Canada MY31YK. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Barsamian, FAA, New York, Aircraft Certification Office, ANE-172, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: The manufacturer has conducted a fatigue evaluation of the DeHavilland DHC-6 Series wing and associated structure and has identified certain structural components which must be service life limited to prevent catastrophic failures of these components. The affected components and their life limits are identified in DeHavilland Manual PSM 1-6-11, Revision 2, approved by DOT Canada August 29, 1978. This manual specifically addresses life limits for DHC-6 Series airplanes certificated under SFAR 23. The Canadian DOT issued Airworthiness Directive CF-82-24 on August 24, 1982, which makes the life limits of Manual PSM 1-6-11 applicable to all DeHavilland DHC-6 Series airplanes.

The FAA has determined that the affected components are identical on all DHC-6 Series airplanes regardless of certification basis and that the load spectrum for operation of SFAR 23 certificated DHC-6 Series airplanes is not significantly different from that of other DHC-6 Series airplanes certificated under CAR 3.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring retirement of the affected components in accordance with DeHavilland Manual PSM 1-6-11, Revision 2, on all DeHavilland DHC-6 Series airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

DeHavilland: Applies to DHC-6 Models 1, 100, 200 and 300 (all serial numbers) airplanes certificated in any category.

Compliance: Required on or before May 1, 1983, unless already accomplished. To prevent catastrophic failure of the wing, wing carry through and attaching structure, accomplish the following:

(a) Modify and replace the structural components listed in DeHavilland Structural Components Service Life Limits Manual PSM 1-6-11, Revision 2, approved by DOT Canada, August 29, 1978, in accordance with the respective schedules listed therein.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent method of compliance with this AD may be used when approved by the Manager, New York Aircraft Certification Office, Federal Aviation Administration, ANE-170, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

This amendment becomes effective on February 4, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on January 19, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-2521 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-SO-12-AD; Amdt. 39-4557]

Airworthiness Directives; EMBRAER Models EMB-110P1 and EMB-110P2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, revision of existing airworthiness directive (AD).

SUMMARY: This amendment revises Airworthiness Directive (AD) 79-04-03, applicable to EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. The FAA has determined various inspections required by AD 79-04-03 may be eliminated, other inspection frequencies altered, allowable landings increased prior to requiring certain inspections, and that life limits should be imposed on certain shock struts. The revised AD will make these updated requirements applicable to the affected airplanes.

DATE: Effective dates: February 7, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: EMBRAER Service Bulletin No. 110-32-018, dated June 8, 1978, applicable to this AD may be obtained from Empresa Brasileira de Aeronautica S/A (EMBRAER), P.O. Box 343-CEP, 12.200, Sao Jose Dos Campos, Sao Paulo, Brazil. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles L. Perry, ACE-120A, Aerospace Engineer, Airframe Branch, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320, Telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: The FAA issued AD 79-04-03, Amendment 39-3411 as amended by 39-3623 (44 FR 9740), which requires inspection and replacement of landing gear components on EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. After issuing Amendment 39-3623, the FAA has determined, based on fatigue testing, that various inspections may be eliminated, other inspection frequencies altered, minimum landings increased prior to requiring certain inspections, and life limits should be imposed. Therefore, the FAA is further revising Amendment 39-3623 by altering the inspection and replacement intervals applicable to Models EMB-110P1 and EMB-110P2 airplanes. For purposes of clarification, AD 79-04-03, as now revised, is being reissued in its entirety. Since this amendment is both clarifying and relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), AD 79-04-03, Amendment 39-3411, as amended by 39-3623 (44 FR 9740), is hereby revised and reissued in its entirety to read as follows:

Empresa Brasileira de Aeronautica, S.A. (EMBRAER): Applies to Models EMB-110P1 and EMB-110P2 (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished. To preclude failure of the oleo strut assemblies, accomplish the following as indicated below.

1. Inspect and replace oleo strut assemblies (P/N 15164 A, B, or C, and 15165 A, B, or C), on shock struts (P/N 14570 and 14575) which have 2,000 landings or more in accordance with the following:

a. Prior to the first flight of each day, using a 10-power magnifying glass, conduct a visual inspection of the shock struts of the main landing gear at the weld that joins the torque link-to-shock strut attachment. If cracks are found, prior to rurther flight, replace the component with a serviceable part.

b. Within the next 200 landings and each 200 landings thereafter, using a dye-penetrant method, per the Accomplishment Instructions in Embraer Service Bulletin 110-32-018 dated June 8, 1978, inspect the area outlined in 1.a above. If cracks are found, prior to further flight, replace the component with a seviceable part.

c. Retire from service shock struts (P/N 14570 and 14575) which have 3,000 landings or more.

2. Inspect and replace upper half-drag struts (P/N 14284 and 14334) without shot-peening treatment in accordance with the following:

a. Prior to the first flight of each day, using a 10-power magnifying glass, conduct a visual inspection of the external side of the upper region of the half-drag strut, near the hydraulic actuator joint. If cracks are found prior to further flight, replace the component.

b. Prior to further flight, unless already accomplished within the previous 200 landings, and each 200 landings thereafter, using a dye-penetrant method, per the Accomplishment Instructions in Embraer Service Bulletin 110-32-018 dated June 8, 1978, inspect the external and internal side of the half-drag strut (P/N 14284 and 14334). If cracks are found, prior to further flight, replace the failed component.

c. Within the next 100 landings after the effective date of this revision, replace any half-drag struts that have logged 18,750 landings or more.

3. Unless accomplished within the last 400 landings, inspect and replace upper half-drag strut (P/N 14284A and 14334A) which have shot-peening treatment in accordance with the following:

a. For components with 9,700 landings or more on the effective date of the AD, prior to further flight, and at each 400 landings thereafter, comply with paragraph 3.c. of this AD.

b. For components with less than 9,700 landings on the effective date of this AD, comply with paragraph 3.c. of this AD before the accumulation of 9,700 landings and at each 400 landings thereafter.

c. Inspect the external and internal side of the half-drag strut using a dye-penetrant method, per the Accomplishment Instructions in Embraer Service Bulletin 110-32-018 dated June 8, 1978. If cracks are found, prior to further flight, replace the failed component.

d. Within the next 100 landings after the effective date of this revision, replace any half-drag struts that have logged 18,750 landings or more.

4. On components on which landings are not recorded, one landing per flying hour may be used to determine the number of landings.

5. Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Manager, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337, may adjust the inspection compliance times specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

6. Airplanes on which cracks are found may be flown to a base for replacement of the failed components in accordance with FAR 21.197.

7. Compliance with the provisions of this AD may be accomplished in an equivalent manner, when approved by the Manager, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337.

EMBRAER Service Bulletin No. 110-32-018 pertains to the subject matter of this AD

This amendment revises AD 79-04-03 (Amendment 39-3623).

This amendment becomes effective February 7, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(a)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)

Note.—The FAA has determined that this amendment involves revision of a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), because its annual effect on the economy is approximately $5,000, and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves maintenance on only a few aircraft owned by small entities.

Issued in Kansas City, Missouri, on January 20, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-2522 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-105-AD; Amdt. 39-4555]

Airworthiness Directives: Lockheed-California Co. Model L-1011-385 Series Airplane, Serial Numbers 1052 and Subsequent

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive (AD) 81-26-51 applicable to Lockheed-California Co. Model L-1011-385 Series Airplanes, Serial Numbers 1052 and subsequent, requiring inspections for cracks in the fuselage station (FS) 1363 bulkhead, and repair and/or replacement of defective parts as necessary. This amendment establishes terminating action upon incorporation of a permanent modification to this structure.

DATE: Effective February 9, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESS: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support

Contracts, Dept. 63–11, U–33, B–1. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT:

Augusto Coo, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2825.

SUPPLEMENTARY INFORMATION: On December 11, 1981, Telegraphic AD T81–26–51 was issued to all known operators of Lockheed-California Co. Model L–1011–385 airplanes, serial numbers 1052 and subsequent, effective upon receipt, requiring inspection for cracks in FS 1363 bulkhead and repair and/or replacement as necessary to prevent sudden decompression of the airplane. Subsequently, on February 16, 1982, AD 81–26–51 was amended (Amendment 39–4328, 47 FR 8557) to include an alternative inspection and a repetitive inspection requirement, but inadvertently omitted the initial inspection threshold. After issuing Amendment 39–4328, the FAA evaluated substantiating data for a permanent modification to the structure at FS 1363 bulkhead and determined that incorporation of this modification eliminates the need for the periodic inspections required by the amendment. Therefore, AD 81–26–51 is further amended to include the omitted initial inspection threshold and to include a terminating modification, which is described in the Accomplishment Instructions of Lockheed-California L–1011 Service Bulletin 093–53–207, dated January 26, 1982.

Since this amendment relieves a restriction, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising AD 81–26–51, amendment 39–4328 (47 FR 8557, March 1, 1982), to read as follows:

Lockheed-California Company: Applies to Lockheed Model L–1011–385 series airplanes, serial numbers 1052 and subsequent, certificated in all categories.

Compliance is required as indicated, unless previously accomplished.

To detect cracks in the Fuselage Station (FS) 1363 bulkhead lower caps, fuselage skin, adjacent web, and web horizontal stiffeners; and to prevent failure and possible sudden decompression of the airplane, accomplish the following:

A. *Compliance Schedule:*

1. Compliance is required within 300 landings after the effective date of this AD amendment for the inspection specified in paragraph C. below on all aircraft having accumulated 10,000 or more landings as of the effective date of this AD amendment. Previously accomplished inspections per paragraph B. below, or per Accomplishment Instructions, Section 2, of Lockheed L–1011 Service Bulletin 093–53–208, Revision 1, dated December 23, 1981, satisfy this initial inspection requirement.

2. Aircraft having accumulated less than 10,000 landings as of the effective date of this AD amendment must have an initial inspection as specified in paragraph C. below prior to accumulating 10,300 landings.

3. Repetitive inspections in accordance with paragraph C. below are required on all affected aircraft until the permanent modification specified in Section 2, Accomplishment Instructions, of Lockheed L–1011 Service Bulletin 093–53–207, Rev. 1, dated October 12, 1982 is accomplished, which terminates the repetitive inspections required by this AD.

(a) If the initial inspection was accomplished in accordance with paragraph B. below, within an additional 300 landings after the initial inspection, or within 100 landings after the effective date of this amendment, whichever is later, inspect internally at intervals not to exceed 2000 landings and externally at intervals not to exceed 1000 landings thereafter in accordance with paragraph C. below.

(b) If the initial inspection was accomplished in accordance with the Accomplishment Instructions, Section 2, of Lockheed L–1011 Service Bulletin 093–53–208, Revision 1, dated December 23, 1981, within an additional 1000 landings after the initial inspection, or within 300 landings after the effective date of the amendment, whichever is later, inspect internally at intervals not to exceed 2000 landings and externally at intervals not to exceed 1000 landings thereafter in accordance with paragraph C. below.

(c) The 2000 landings internal inspection intervals may be increased to 4000 landings if the external support angle (P/N 1561639) is also inspected in accordance with Section 2, Accomplishment Instructions, of Lockheed L–1011 Service Bulletin 093–53–209, dated October 27, 1981, and no damage is found.

B. *Accomplishment Instructions—Option 1:*

1. Remove both main landing gear fairing panels 195B, left hand side and 196B right hand side, or remove splash panels, Lockheed L–1011 P/N 1541920–101 and –102, and

2. Perform a close visual inspection for cracks in Fuselage Station 1363 bulkhead, left hand side. Inspect from the main landing gear wheel well, paying particular attention to web and horizontal stiffeners at bulkhead cap, above and below water line 140.

3. Perform a close visual inspection for cracks in fuselage skin between Fuselage Stations 1363 and 1403, left hand side, paying particular attention to the area between Stringers 44 and 46.

4. Perform a close visual inspection for cracks in Fuselage Station 1363 bulkhead, right hand side. Inspect from the main landing gear wheel well, paying particular attention to the web and horizontal stiffeners at the bulkhead cap, above and below water line 140.

5. Perform a close visual inspection for cracks in the fuselage skin between Fuselage Stations 1363 and 1403, right hand side, paying particular attention to the area between Stringers 20 and 22.

Or, in lieu of B.1./thru B.5.

6. Inspect for cracks in FS 1363 bulkhead cap and surrounding areas in accordance with the inspection procedure called out in Section 2, Accomplishment Instructions, of Lockheed Service Bulletin 093–53–208, Revision 1, dated October 19, 1981, or Accomplishment Instructions, Section 4 or 5 of Lockheed L–1011 Service Bulletin 093–53–A212, dated December 7, 1981.

C. *Accomplishment Instructions—Option 2:*

Inspect for cracks in FS 1363 bulkhead cap and surrounding areas in accordance with the inspection procedures specified in section 2, Accomplishment Instructions, of Lockheed L–1011 Service Bulletin 093–53–208, Revision 2, dated August 17, 1982.

D. If cracks are found in the lower cap, adjacent web, fuselage skin, or web stiffeners, they must be repaired before further flight in a manner approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

E. If cracks are found only in the Lockheed P/N 1518531–121 reinforcing strap and not repaired, reinspect externally in accordance with Paragraph C. above at intervals not to exceed 500 landings until a repair or permanent modification is incorporated in a manner approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the inspection requirements of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Los

Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective February 9, 1983.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. Therefore: (1) it is not major under Executive Order 12291 (46 FR 13193; February 19, 1981); and (2) it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it is relieving in nature, and because it involves few, if any, small entities.

Issued in Seattle, Wash., on January 20, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-2322 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-29]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The nature of this Federal action is to correct the currently published Duluth, Minnesota, transition area by deleting all reference to designated airspace 1200' above the surface. The intended effect of this action is to ensure accuracy of the charted transition area and of the published definition.

DATES: Effective date—February 28, 1983. Comments must be received on or before March 2, 1983.

ADDRESSES: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 82-AGL-29, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The currently defined and published transition area for Duluth, Minnesota, incorrectly references designated airspace 1200' above the surface. Since all airspace for the state of Minnesota is currently designated at 1200' above the surface, the additional reference to 1200' airspace is redundant. This action deletes the unnecessary defined airspace.

Aeronautical maps and charts will continue to reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Request for Comments on the Rule

Although this action is in the form of a final rule, which deletes a portion of the currently defined Duluth, Minnesota, transition area to correctly describe the area, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to correct the currently defined and published Duluth, Minnesota, transition area.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3 dated January 29, 1982.

Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., February 28, 1983, as follows:

Duluth, Minnesota

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Duluth International Airport (latitude 46°50'30" N., longitude 92°11'25" W.); within a 17.5-mile radius of the Duluth International Airport, extending from the Duluth VOR 262° radial clockwise to the Duluth VOR 058° radial; within 4½ miles north and 9½ miles south of Duluth localizer west course, extending from 4 miles east to 18½ miles west of the OM; and within 4½ miles east and 9½ miles west of the Duluth VORTAC 023° radial, extending from the 17.5-mile radius area to 28 miles northeast of the VORTAC.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois on January 13, 1983.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 83-2325 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AAL-9]

Proposed Alteration of Control Zone and Transition Area, Point Barrow, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the Point Barrow, AK, Control Zone and Transition Area. The northeast extention of the control zone is deleted and the dimensions of the 700-foot transition area are changed. This action is necessary due to the decommissioning of the Point Barrow, AK, Nondirectional Beacon (NDB) and the need to provide adequate controlled airspace to contain IFR departures.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Bill Hill, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On December 2, 1982 (47 FR 54308), the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Point Barrow, AK, Control Zone and Transition Area. The Point Barrow NDB was removed from service which eliminated the need for the northeast control zone extension. The 700-foot transition area was redefined in the proposal to correct a deficiency in the existing configuration. The transition area will now properly contain IFR departures. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

These amendments to Part 71 of the Federal Aviation Regulations alter the configuration of the Point Barrow, AK, Control Zone and Transition Area.

List of Subjects in 14 CFR Part 71

Control Zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended effective 0901 G.m.t., April 14, 1983, as follows:

§ 71.171 Point Barrow, AK [Amended]

By deleting the words "within 3 miles each side of the Point Barrow RBN (PTR) 051° bearing extending from the 5-mile radius zone to 10 miles northeast of the RBN (PTR);"

§ 71.181 Point Barrow, AK [Amended]

By deleting the words "3 miles each side of the Browerville RBN (NMT) 155° bearing, extending from the control zone to 10 miles south of the RBN;" and substituting for them the words "an 8.5-mile radius of the Barrow VORTAC, extending clockwise from the 101° radial to the 215° radial;"

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 25, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-2524 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 82-AAL-11]

Proposed Alteration of Alaskan High Altitude Route and Establishment of Alaskan High Altitude Reporting Point

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action realigns Alaskan High Altitude Route (Jet Route No. 511) west of the Dillingham, AK, VORTAC and establishes an Alaskan High Altitude Reporting Point. This action is taken to provide a more orderly transition from ICAO North Pacific Composite Route R91 to the Anchorage, AK, area.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Bill Hill, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On December 2, 1982 (47 FR 54309), the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to realign Alaskan High Altitude Route (J-511) and establish a high altitude reporting point in conjunction with the realignment. Since the establishment of the Composite Route System in the North Pacific on March 18, 1982, the air traffic control system has encountered some difficulties with aircraft exiting R91 and G44 converging over King Salmon, AK, in a nonradar environment. This restructuring will provide for a more orderly transition, better utilization of airspace, reduction of ATC restrictions on users, and reduction of total mileage for aircraft transitioning from R91 to Anchorage, AK. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.213 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations realign Alaskan High Altitude Jet Route No. 511 west of the Dillingham, AK, VORTAC and establish an Alaskan High Altitude Reporting Point on the new segment of the realigned jet route.

List of Subjects in 14 CFR Parts 71 and 75

Alaskan high altitude reporting points, Jet routes.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, § 71.213 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75), are amended, effective 0901 G.m.t., April 14, 1983, as follows:

§ 71.213

By adding a new reporting point as follows:
ENCOR: lat. 57°28' N., long. 162°30' W. (Dillingham, AK 235° radial 155 DME)

§ 75.100 Jet Route No. 511 [Amended]

By deleting the words "From Cape Newenham, AK, NDB via Dillingham, AK;" and substituting the words "From the boundary of the Anchorage Oceanic CTA/FIR (lat. 57°28' N., long. 162°30' W.) via Dillingham, AK;"

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 25 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-2523 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[Reg. ER-1322, Amdt. No. 64; Docket 37444]

Tariffs; International Cargo Rate Flexibility Policy

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons explained in PS-109 (International Cargo Rate Flexibility Policy), issued simultaneously, the Civil Aeronautics Board is eliminating the requirement of economic justifications for tariff filings stating international cargo rates within the zones of flexibility established in 14 CFR 399.41. Rates within the zones are also made eligible for Special Tariff Permission, subject to notice requirements. The action is taken on the Board's own initiative in response to an opinion of some members of Congress to allow air carriers to respond more quickly to changing costs and competitive opportunities.

DATES:

Adopted: January 12, 1983.

Effective: February 27, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Myers or Joanne Yancey Hitchcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5205 or 673-5442, respectively.

List of Subjects in 14 CFR Part 221

Air rates and fares, Credit, Explosives, Freight, Handicapped.

The Civil Aeronautics Board amends 14 CFR Part 221, *Tariffs,* as follows:

1. The authority for Part 221 is:

Authority: Secs. 102, 204, 401, 402, 403, 404, 411, 416, 1001, 1002, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1374, 1381, 1386, 1481, 1482.

2. Section 221.165(d)(4) is revised to read:

§ 221.165 Explanation and data supporting tariff changes and new matter in tariff publications.

* * * * *

(d) Exceptions:

* * * * *

(4) The requirement for data and/or information in paragraph (b) of this section shall not apply to—

(i) Fares for scheduled passenger service that are within a statutory or Board-established zone of fare flexibility; and

(ii) Rates for cargo service in foreign air transportation that are within the rate flexibility zones set forth in § 399.41 of this chapter, except as specifically required by the Board.

3. Section 221.190(b)(5) is revised to apply to cargo rates as well as passenger fares, so that it reads:

§ 221.190 Grounds for approving or denying special tariff permission applications.

* * * * *

(b) * * *

(5) The fact that a passenger fare or cargo rate is within a statutory or Board-established zone of fare or rate flexibility constitutes grounds for approving an application for Special Tariff Permission to file a tariff stating that fare or rate, and any rules affecting it only, on less than statutory notice. The Board's policy on approving such applications is set forth in § 399.35 of this chapter.

* * * * *

4. Section 221.191(f) is revised to apply to cargo rate matters, as follows:

§ 221.191 How to prepare and file applications for special tariff permission.

* * * * *

(f) *Form of notice.* When notice of filing of a Special Tariff Permission application affecting passenger fares is required by paragraph (e) of this section, the carrier shall, when it files the application, give immediate telegraphic notice or other notice approved by the Chief of the Tariffs Division, Bureau of International Aviation, to all certificated and foreign route carriers authorized to provide nonstop or one-stop service in the markets involved, and to civic parties that would be substantially affected. When notice of an application affecting cargo rates is required by paragraph (e) of this section, the carrier shall give the notice as described in the previous sentence to readily identifiable representatives of affected shippers. The application shall include a list of the parties notified.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2684 Filed 1-28-83; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 326

[Reg. PR-256; Amdt. No. 1]

Procedures for Bumping Subsidized Air Carriers From Eligible Points; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved the reporting requirements contained in new Part 326 of the Board's Procedural Regulations, "Procedures for Bumping Subsidized Air Carriers from Eligible Points." This approval has been granted through March 31, 1985. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: January 26, 1983.

Effective January 18, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

PART 326—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 326 of its procedural Regulations (14 CFR 326) by adding a note at the end of the table of contents to Part 326 to read:

Note.—The reporting requirements contained in §§ 326.3 and 326.4 have been approved by the Office of Management and Budget under number 3024–0063.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2616 Filed 1-28-83; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 399

[Reg. PS-109; Policy Statements Amdt. No. 85; Docket 37444]

Statements of General Policy; International Cargo Rate Flexibility Policy

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB adopts a policy of not suspending international cargo rate changes within a specified zone, except in extraordinary circumstances. The zone will be adjusted periodically to take account of actual operating cost changes. The action is taken on the Board's own initiative to allow carriers to respond more quickly to changing costs and competitive opportunities.

DATES: Adopted: January 12, 1983. Effective: February 27, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Myers or Joanne Yancey Hitchcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5205 or 673–5442, respectively.

SUPPLEMENTARY INFORMATION: The Board proposed in PSDR–65 (45 FR 3595, January 18, 1980), to adopt a policy permitting U.S. and foreign air carriers greater flexibility in changing cargo rates in international air transportation. This proceeding was initiated in response to the opinion of some members of Congress that carriers should have a measure of price flexibility for cargo transportation as well as for passenger service. In November 1979, the Aviation Subcommittee of the House of Representatives held hearings on H.R. 5882, a bill that would have declared reasonable any rate within 5 percent above or 50 percent below those in effect on October 1, 1979. This "zone of reasonableness" was to be periodically adjusted for operating cost increases. The plan envisioned in H.R. 5882 was modeled on similar "zone of reasonableness" and "cost pass-through" provisions that Congress adopted for domestic passenger fares in Pub. L. 95–504 (The Airline Deregulation Act of 1978) and for international passenger fares in Pub. L. 96–192 (The International Air Transportaion Competition Act of 1979). The Board testified in support of cargo rate flexibility in principle, but noted that the cargo rate structure was considerably more complex than the passenger rate structure. The Board therefore suggested that before Congress enacted permanent legislation that would be difficult to change with experience,the Board should be allowed to adopt by rulemaking an interim cargo rate flexibility policy, allowing more time to evaluate ideas (including legislation proposals) for a permanent international cargo rate policy. This suggestion led to PSDR–65.

PSDR–65 proposed to establish a standard cargo rate level in each international market at the general commidity rate (GCR) level in effect on October 1, 1979. Rate reductions below this level, or increases up to 5 percent above it, would not ordinarily be reviewed by the Board for economic reasonableness. The standard level would be adjusted periodically for cost changes. Under this scheme, the range of upward flexibility for specific commodity rates (SCR's) would be greater than for GCR's since most SCR's are substantially below the GCR level. A separate standard rate level with similar flexibility features was proposed for container shipment rates, with comments requested on whether a separate ceiling was needed. The air cargo rate structure and the characteristics of GCR's, SCR's, container rates, and other classifications were described in more detail in PSDR–65.

PSDR–65 provided for "extraordinary circumstances" in which the flexibility policy would not apply. A tariff within the flexibility zone could be suspended in response to unreasonable regulatory action against U.S. air carriers by a foreign government, or upon a showing of immediate and irreparable harm to the public supported by a strong showing of probable unreasonableness. On the latter grounds, the opponent of a new rate within the zone would bear the burden of convincingly showing the requisite circumstances.

Comments

The Board received written comments from several parties and held oral argument on the proposal. Comments were filed by Air Transport Association (ATA), Congressman Norman Y. Mineta, DHL Corp., Flying Tiger Line, Fourteen Electronic Shippers (jointly), International Airforwarder and Agents Association (IAAA), International Air Transport Association (IATA), ICI Americas, Pan American World Airways, Puget Sound Traffic Association, Seaboard World Airlines, State of Hawaii, Transamerica Airlines, and Trans World Airlines.

PSDR–65 was supported by four individual carriers and two carrier trade associations, ATA and IATA. They felt that the proposal did not go far enough in providing rate flexibility, and argued for total deregulation. If total deregulation were rejected, most of them asked for 15 percent upward price flexibility. They recommended that the flexibility ceiling be based on the highest-rated (smallest size) GCR weightbreak in each market, instead of being staggered along with each weightbreak as proposed in PSDR–65. This approach, which would result in more than 15 percent upward flexibility for higher weightbreaks, was urged on the basis of its administrative simplicity and an expectation that competitive forces would prevent the higher weightbreak rates from climbing to the ceiling. The carriers also asked that the standard foreign rate level be based on rates in effect on April 1, 1980, including those filed before that date and subsequently approved. The carriers felt that April 1 rates were more reasonable with respect to contemporaneous costs than were October 1, 1979, rates. Transamerica diverged somewhat from the other carriers in advocating upward flexibility of 10 or 20 percent. Seaboard suggested a downward limit of 10 percent on rate decreases. Transamerica argued that container rates should not be subject to a separate ceiling.

IATA, joined by Flying Tiger, urged that the policy also apply to IATA rate agreements establishing rates within the flexibility zone. IATA asserted that there would be no need to review rates within a range that the Board had already found presumptively reasonable simply because those rates had been agreed upon by the carriers.

Several users of air cargo services opposed the zone of flexibility proposed in PSDR–65. They did not oppose downward rate flexibility and most agreed that carriers are entitled to reasonable cost-related increases, but they felt that increases should come only through across-the-board surcharges for demonstrated cost changes.

Most of the opponents attacked the Board's central assumption that there is

strong enough competition in international cargo markets to assure that rates will be set at reasonable levels within the flexibility zone without Board review. The attack focused primarily on competition in the Pacific. The Electronic Shippers argued that Flying Tiger's and Japan Air Lines' combined market share of over 60 percent gave them an entrenched position that other carriers could not effectively challenge. They contended that foreign government restrictions on entry, large start-up costs, high cost or unavailability of suitable aircraft and ground facilities, and fuel supply problems would prevent other carriers from providing strong competition to Tiger and JAL.

The State of Hawaii argued that adequate competition was lacking between Hawaii and Japan, because cargo traffic was not heavy enough to justify freighter or charter flights and the Japanese government restricted the passenger flights on which belly traffic was carried. Hawaii expressed concern that SCR's for papaya shipments, which depended on air transportation, would rise and be used to cross-subsidize GCR's.

IAAA and the Electronic Shippers argued that alternatives to direct freighter service, such as passenger flight belly space, connecting flights, charters, and surface transportation, were not suitable for their needs and could not be viewed as competitive factors. They cited space limitations, restrictions on carriage of hazardous materials on passenger flights, and inconvenient scheduling as undesirable aspects of combination belly service. Connecting flights were said to carry the risk of misrouted shipments, and cargo charters were reportedly rare and involved difficulties obtaining foreign landing rights.

Several comments challenged the Board's legal authority to declare all rates within a specific zone reasonable without investigating (in evidentiary hearings) whether such rates were justified by costs. Primarily, they viewed the large range of upward rate flexibility that PSDR–65 proposed for SCR's as unreasonable. The Electronic Shippers noted that, under the Board proposal, electronics SCR's could be increased as much as 49 percent without Board review. The shippers argued that their goods were entitled to lower rates than general commodities because greater density, easier handling and other favorable characteristics produced lower transportation costs. They contended that the Board has a statutory duty to insure that cargo rates are cost-related, which it would be abdicating by its flexibility policy. DHL noted that the average cargo rate was far below the GCR level, since the bulk of the traffic travels under SCR's. Thus, they also maintained that allowing SCR's to rise to the GCR level without findings based on evidentiary hearings would be unreasonable.

Puget Sound Traffic Association argued that the practice of "common rating"—by which transpacific carriers charge identical rates for the same shipment from all West Coast gateways—resulted in plainly unreasonable rates, since mileage differences necessarily produce different costs. Puget Sound suggested that the Board investigate the reasonableness of all common rates before using them as the basis for a zone of flexibility.

IAAA argued that a separate ceiling for container rates was necessary to protect air freight forwarders from being forced out of business by air carriers. They claimed that forwarders must, as a practical matter, use containers to keep shipments from getting lost or split. Since they solicit traffic from shippers and consolidate it into large shipments, they compete with air carriers for cargo traffic. The IAAA expressed concern that, without a separate ceiling, carriers would raise container rates to drive forwarders out of business.

Further Comments

After holding oral argument on the proposed rule, the Board instructed the staff at a public meeting to draft a final rule including the following features: (1) For GCR's, rate flexibility up to 15, 10, and 5 percent above the standard foreign rate level in the Atlantic, Pacific, and Latin America regions, respectively; (2) for SCR's in the Atlantic, flexibility up to the GCR limit; and (3) for existing SCR's in the Pacific and Latin America, separate, lower ceilings that would be raised annually by 10 percentage points until the GCR ceilings were reached. An April 22, 1981, memorandum from agency staff recommended that the Board instead set 20 and 15 percent as the upper limits for GCR's in the Atlantic and Pacific, respectively. The memorandum also recommended that the Board not establish any separate ceilings for SCR's in the Pacific and Latin America, so that in all markets SCR's could be set at any level up the GCR limit, as originally proposed in PSDR–65.

In response to a petition from the Electronics Shippers, the Board released the staff memorandum and reopened the comment period by PSDR–65C (46 FR 34347, July 1, 1981). Comments were filed by the ATA, the Electronic Shippers, Flying Tiger, and Pan American. The comments essentially restated arguments for and against cargo rate flexibility that had been made in the earlier comments. ATA and the carriers supported the staff recommendation and urged even greater rate flexibility. The Electronics Shippers opposed it, arguing that the memorandum and, for that matter, the original proposal, had little or no factual basis.

After considering all the comments, the Board has decided to adopt a final rule establishing international cargo rate flexibility zones as set forth below.

Scope of the Policy

Under the traditional rate approval mechanism, as prescribed by section 221.160 of the Board's regulations, a carrier must file a proposed change in a foreign cargo rate with the Board at least 60 days before the planned effective date of the change, unless otherwise provided in a bilateral agreement. Within that time, the Board decides what adverse action to take (if any), consistent with its statutory authority and the provisions of the governing bilateral agreement. Generally, the Board must decide whether there are grounds for instituting an investigation of the lawfulness, including the economic reasonableness, of the proposed rate. If it does so, the Board may in its discretion suspend the proposed rate pursuant to statutory and bilateral procedures, preventing it from going into effect pending the investigation, or it may allow the tariff to become effective subject to prospective corrective action at the completion of the investigation.

If a new rate is within the flexibility zone, it would not be suspended (except in extraordinary circumstances) but it may be investigated for economic reasonableness in a hearing. Thus, this policy will not finally determine whether any rate within the zone is reasonable, as some of the commenters were concerned that it might. But it will allow carriers to introduce new rates within the zone quickly and with virtual certainty that they will remain in effect pending possible review for economic reasonableness.

Under the traditional approval procedures, carriers must submit an "economic justification" along with every rate change, to help the Board determine whether the new rate ought to be suspended and/or investigated. We are discontinuing that requirement for rates within the flexibility zone. We have decided that opponents of rate

changes should have the burden of showing reasonable grounds for investigating, or extraordinary circumstances for suspending, a new rate within the zone. However, we retain power to require carriers to submit economic justifications on an *ad hoc* basis where opponents show substantial likelihood of harm to their interests or other evidence that a new rate may be unreasonable. Such *ad hoc* justifications may be required where crucial information can only be provided by the carrier. We believe it will be more efficient to require justifications on a case-by-case basis than to require them for all proposals, including the many that will be noncontroversial.

New rates that are above the flexibility ceiling will require justification and will not be assured the same expeditious treatment or assurance against suspension as those below it. But the fact that they are above the suspend-free ceiling does not mean that we will be predisposed to suspend them. They will receive prompt attention, and we intend to continue our generally flexible approach to cargo pricing even outside the suspend-free zone, if adequate justification is presented.

Need for Flexibility

A policy of rate flexibility is needed because the harm caused by maintaining the *status quo* pending possible investigation often outweighs the benefits under current competitive and inflationary conditions. Rate proposals must generally be filed 2 months before their effective date, and the Board may suspend them for up to 1 additional year. Thus, a carrier may have to wait as long as 14 months from the time it files a proposed rate change until it can be made effective. While such delays are bearable as long as prices and market conditions are relatively stable, they act as a drain on revenues during periods of persistent inflation and economic uncertainty. If carriers cannot increase rates quickly enough to keep pace with costs, their only alternative to losing money is to cut service. By the same token, today's fluctuating economic conditions put a premium on the ability to decrease rates quickly to take into account changing supply and demand conditions.

Uncertainty about whether new rates will be suspended is likely to discourage experimentation with innovative pricing and service offerings. For instance, a carrier may be reluctant to establish a new low SCR if it is uncertain whether it could raise or discontinue the rate in the future. Inhibitions on carriers' abilities to adjust their rate structure as traffic flows and other business conditions change may induce carriers to leave existing markets or hesitate to enter new ones. By making our suspension policy explicit and allowing implementation of rate changes in less than 60 days, we expect to encourage greater innovation and better service for international cargo transportation.

In general, we believe more flexibility is warranted under current conditions. As international conditions become more dynamic and fast-paced, carriers need more freedom to restructure their rates quickly to maintain efficiency and initiative. We view reductions in scheduled cargo service, the withdrawal of transpacific freighter service by Pan American and Continental, and the suspension of combination service by Braniff prior to its shutdown, as a sign of inadequate rate levels encouraging competitors to withdraw from markets rather than adapting to changing economic circumstances. Shippers and air freight forwarders, on the other hand, have become increasingly sophisticated in using high volume discounts and opportunities for consolidation. Their combination of business expertise and control of substantial quantities of traffic reduces their need for government protection. Thus, it seems that the danger in stifling competitive development in the industry by continuing regulatory delays and uncertainties is greater than the risk of harm to shippers from greater price flexibility.

Competition

The fundamental underpinning of a suspend-free zone is that sufficient competition exists to discipline market behavior. Our basic approach is to set the boundaries of a zone depending on the degree of competition, actual and potential, that we see in geographic areas. The more competition, the wider the zone.

The degree of competition between carriers has been discussed in this proceeding in terms of three geographical regions: the Atlantic (operations via the Atlantic Ocean), the Pacific (operations via the Pacific), and the Western Hemisphere (operations within the Western Hemisphere). These are the regions established for reporting purposes in 14 CFR Part 241, Section 21(g). The State of Hawaii commented on the special competitive conditions in the Hawaii-Japan market, which we treat separately.

Competition is substantial across the Atlantic. At least thirty-eight carriers now provide scheduled service between the United States and Europe, where most of the major cargo markets are found. Twelve operate freighter service, and seven provide main deck combination capacity. Substantial belly capacity is available on passenger flights, most of which are with wide-body aircraft. Trucking connects many points on each continent that might not receive direct air service. The United States has negotiated bilateral agreements permitting greater entry and pricing opportunities with Belgium, Finland, Germany, Israel, Jordan, the Netherlands, Rumania, and Syria, and in general foreign government policies in Europe allow a growing amount of cargo competition.

We find competition across the Pacific to be significant, even though not as intense as over the Atlantic. For one thing, there are fewer national flag carriers in the North/Central Pacific area than in Europe. As explained below, however, we reject the Electronic Shippers' argument that Flying Tiger and Japan Air Lines operate a rigid "duopoly" in transpacific cargo service which prohibits effective cargo price competition throughout the Pacific. There are at least three other carriers that offer all-cargo services across the North/Central Pacific. Direct or connecting freighter service is provided by at least two carriers, and usually more, between the major Asian points (including Tokyo, Seoul, Taipei, Hong Kong, and Singapore) and the U.S. (both West Coast and New York). Passenger flights provide additional capacity in these as in all other markets. Although cargo charter flights are currently rare, this is likely due to the level of scheduled rates used by major shippers. If those rates were raised substantially above the costs of chartering, we see no reason why charters could not be a feasible competitive option. The United States has concluded bilateral agreements providing greater entry and pricing flexibility with Australia, Korea, New Zealand, the Philippines, Singapore, Taiwan, and Thailand, and even more recently, a charter agreement with Japan and an agreement with China that allows all-cargo service.

We reject arguments by the Electronic Shippers and IAAA that alternatives to direct freighter service, such as partial, joint and whole charters, combination belly service, multistop and connecting flights, and even joint surface/air transportation, are inadequate for shippers' needs and should not be considered competitive factors. We recognize that freighter service is preferred by many shippers, but we are not persuaded that the differences are so great that the alternatives are unworkable or uncompetitive. Different

services need not be perfect substitutes to exercise price constraints. It does not appear that belly capacity is unusable for most cargo shipments. The Electronic Shippers indicated that some their shipments are too large to fit in the belly, but Flying Tiger noted that the average electronics shipment tendered is 1171 pounds, easily accommodated in current combination aircraft and, indeed, in one rather small belly container. The Electronic Shippers also claimed that certain hazardous chemicals cannot be carried on passenger aircraft in sizable quantities, but it appears that such chemicals do not comprise a substantial portion of their shipments. Passenger baggage imposes no serious constraints on combination belly capacity, since wide-body aircraft bellies are much larger than is needed for normal baggage. And, it would seem that alleged scheduling inconveniences of passenger flights are insignificant in most major international markets, in light of current frequencies and the fact that the peak hours for passenger flights over such long distances are not much different than for cargo flights, in contrast to the situation in domesitc markets. In short, the Electronic Shippers and IAAA have not shown that belly service is inconvenient for any more than a small proportion of their traffic. Similarly, we do not see why multistop flights, connecting flights, charter services, or surface transportation (in some regions), while less preferred, are not viable alternatives for shippers.

The Electronic Shippers alleged that the scarcity and expense of suitable aircraft and ground facilities posed substantial barriers to entry for new carriers. We find these arguments unconvincing. As of the end of 1981, there were 123 Boeing 747's and DC–10's capable of carrying main-deck freight in operation world-wide. Many smaller aircraft are also suitable for cargo operations. Many of these aircraft belong to transpacific carriers. Moreover, even though the price tag of new wide-body cargo aircraft is high, used freighters and wide-body passenger aircraft that can be modified are available at more reasonable prices, and we do not believe that all-cargo equipment is beyond the means of most airlines. Where purchase is infeasible, aircraft can be leased.

Ground-facilities restrictions such as fuel shortages, cargo handling restrictions and limitations on cargo landing slots may hamper cargo operations in some markets and can seriously affect the competitive posture of a particular carrier. Some such restrictions may require governmental consultations to ameliorate. However, similar restrictions also affect passenger operations, and there is no evidence that they have impeded competition in passenger markets so seriously as to make the discretionary passenger fare flexibility extended by the Board under IATCA infeasible or unworkable. Indeed, as we have reviewed the state of competition in passenger markets since the establishment of the initial SFFL's, we have expanded the upward degree of flexibility available in several world areas. Our experience indicates that carrriers can and do enter new markets as well as compete vigorously on an area basis, providing the public with feasible service options where significant passenger or shipper needs are being unmet. We have no basis to conclude that the restrictions cited by the shippers are so pervasive as to prevent meaningful price competition in Pacific markets or to make an international cargo rate flexibility policy unworkable.

As mentioned before, the Electronic Shippers argued that Flying Tiger and Japan Air Lines were an entrenched duopoly whose large market shares (and in the case of Flying Tiger, feed-in traffic from domestic operations) created an effective barrier to entry by other carriers. We recognize their large market shares, but disagree that other carriers would thereby be prevented from engaging in rate competition and reducing those market shares if Flying Tiger and JAL increased their rates. A large market share alone does not prevent new carriers from entering a market and offering better prices or service. We doubt that carrier loyalty will significantly inhibit sophisticated business shippers from using a new, lower-priced service in a market, especially if the new service is by an experienced and well-known carrier such as one of those currently holding Pacific authority.

We recognize at the same time that regulatory barriers to entry exist in some international markets and that certain governments may pursue strategies to protect the position of established carriers. But the existence of a perfectly competitive market is not a prerequisite to adoption of our suspension policy. We are satisfied on the basis of our experience that restrictive policies have not succeeded in insulating carriers such as Japan Air Lines and Flying Tiger from the competitive pressures of non-IATA carriers and potential new entry.

Indeed, there is every reason to conclude that active price competition exists in the Pacific market. When the comment period was reopened, Flying Tiger pointed out that significant reductions had occurred in westbound high-weightbreak GCR rates to Korea and Southeast Asia, and that it had also introduced an incentive commission program for agents. The Electronics Shippers responded that these rate reductions, which had expiry dates, were for a short period only, and that rates would inevitably rise once Flying Tiger and JAL had "taught a lesson" not to engage in price competition to carriers like Korean Air Lines and Singapore Airlines. The facts do not support this thesis. A recent review of rates in these markets shows that the expiry dates of some of those reductions were extended, that generally GCR's and SCR's have not borne sharp increases since their lapse, and that there is no evidence that the move inhibited the pricing and marketing strategie of Flying Tiger's and JAL's competitiors. Tiger recently raised its commission level on shipments from Korea to the United States to remain competitive and maintain its market share. There is no doubt that the smaller Asian carriers are aggressive competitors.

The Electronic Shippers argued in their initial comments that start-up costs for transpacific operations were so huge that no carrier would be able to mount a challenge to Tiger and JAL. They cited "start-up losses" as the reason for cutbacks in transpacific cargo service by Braniff and Continental in recent years. We view start-up costs as the initial investment and operating expenses of beginning service until potential customers have become aware of the new service and have had an opportunity to use it. We doubt that carriers such as Braniff and Continental lacked the means to acquire necessary equipment and operate for a reasonable period of time when they instituted Pacific operations. When Pan American, formerly the longest-operating cargo carrier in the Pacific, discontinued its freighter service, it could hardly have been due to start-up costs. We believe the withdrawals were due to the inability of those carriers to earn adequate profits under existing rates, inducing them to employ their equipment in more promising markets. Thus, we disagree that start-up costs are a significant barrier to market entry in the Pacific or that they were the cause of service reductions.

The Hawaii-Japan market presents a situation in which there are enough carriers to provide competition (at least five as of December 1982), but demand

is not sufficient to support freighter or charter service. Available capacity is limited to passenger belly space, and passenger flights are subject to Japanese government restrictions. The problem that arises in such a situation is deciding which shippers have access to the available capacity and at what price. We think the open market is the best way of making these choices.

It appears that low papaya SCR's are offered because those goods would not move at general commodity rates and carriers have available cargo space that would otherwise fly empty. It is therefore possible that papaya SCR's would be increased if GCR traffic increased and excess belly space diminished. However, there is no evidence at this time that current belly capacity is insufficient to accommodate existing demand, and we do not believe that papaya shippers (who already enjoy among the lowest rates in the market) need special protection from normal market fluctuations. Carriers have no economic incentive to cross-subsidize GCR's with SCR's, as Hawaii apparently expects. The presence of five carriers in the market provides competition adequate to prevent any of them from manipulating capacity or prices to defeat normal market forces. And we see no reason why papaya shippers are necessarily entitled to lower rates than other shippers. We therefore find that conditions in Hawaii require no special treatment.

Competition among carriers is relatively weak in Latin America, where there are fewer major airlines in each market. Most countries have restrictive price and capacity policies. On the other hand, none of the commenters seemed especially concerned about poor competition in this area, which accounts for much less cargo traffic than either the Atlantic or Pacific.

Bargaining Strength of Shippers

The number of carriers and availability of substitute transportation are not the only forces that hold prices in check. The bargaining strength of the carriers' customers is perhaps as important. Unlike airline passengers, air cargo shippers are almost all sophisticated businesses that keep close watch on the various price and service options offered by competing carriers. Many shippers, individually or together, control large volumes of traffic. For instance, in 1975 we estimated that electronics traffic accounted for about 30 percent of transpacific cargo shipments. Air freight forwarders likewise control large blocks of traffic. Shippers such as these need little or no Board supervision to protect their interests where, as we have found here, some competition exists and substitutes are available. Their abilities to unilaterally affect a carrier's business by using other carriers, chartering their own flights, or using other modes of transportation, sharply reduce their need for government protection.

The largest and strongest shippers typically use SCR's, container rates, or high-weightbreak GCR (above 500 kg.) discounts. Low-weightbreak bulk GCR's are mainly used by small or irregular shippers. We conclude that the SCR, container, and high-weightbreak GCR shippers are generally in a much better position to protect their own interests than small and medium-weight GCR shippers.

GCR's

Since GCR shippers appear to have the greatest need for regulatory protection, we are limiting upward flexibility for those rates. The amount of flexibility varies depending on the relative degree of competition in the region. We consider 5 percent to be the minimal amount of flexibility needed to raise any depressed rates to compensatory levels and deal with rate variations both over the short term (between periodic cost adjustments to the standard foreign rate level) and between individual markets. At the same time, a 5 percent price increase pending Board investigation does not appear to pose a serious threat to shippers. Therefore, we are limiting GCR flexibility (up to and including the 500 kg. weightbreak) to 5 percent in the Western Hemisphere (except Mexico and Canada), where competition is weakest. For the Canada/Mexico transborder markets, where competitive conditions for cargo are somewhat stronger than in Latin America but still relatively restrictive, we will establish the GCR flexibility zone at 10 percent. A recent check indicates that transborder cargo rates generally fall within this zone. Larger zones of 15 percent in the Pacific and 20 percent in the Atlantic are justified by the greater protection provided by competition in those areas. The broader zones in the Atlantic, Pacific, and transborder markets will give carriers greater scope for developing new price and service initiatives. The standard rate level from which these percentages are measured will be based on recent GCR's, as explained in more detail below, and the standard level will be adjusted periodically for cost inflation (or deflation).

GCR's above the 500 kg. level appear to be used by large shippers with strong bargaining leverage, and indeed those low rates have been voluntarily offered by the carriers to attract the business of those shippers. There appears to be less need for close regulation of those rates than of the lower weightbreaks. Therefore, GCR's above the 500 kg. level will be subject to the same dollar-per-kg. ceiling as the GCR's for 500 kg. shipments. We are not adopting the carriers' suggestion that GCR's be limited only by the highest rated weightbreak in each market, as we are not sure that competition for medium and small GCR shipments is strong enough to protect the shippers who use them.

SCR's

Low SCR's like high-weightbreak GCR's, have never been mandated by the Board, but have been offered voluntarily by carriers. Those specific commodities would otherwise be treated as general commodities under bulk GCR or container rates. There may be many reasons why carriers offer low SCR's. Some goods may have lower transportation cost characteristics. In other cases, carriers may use them as traffic-generating discounts to fill capacity that would otherwise fly empty, thus supplementing their revenues. Or carriers may offer SCR's to establish steady customers. Whatever economic motivations the carriers may have, market forces have up to now been sufficient to establish and maintain SCR's for major commodity categories in many markets. The fact that shippers who enjoy low SCR's are among the carriers' largest and most regular customers undoubtedly has had much to do with carriers' willingness to offer such rates.

Because of the strength of SCR shippers and the economic incentives for carriers to offer low SCR's, we conclude that carriers can safely be permitted upward flexibility on those rates to the GCR level in all markets. We do not expect that limit to be approached in the vast majority of cases.

The Electronic Shippers argued that electronics goods cost less to carry than general commodities, so that allowing SCR's to rise to the GCR level without cost justification would be an abdication of the Board's ratemaking responsibilities. But this assumes that SCR's must be strictly cost-leased. SCR's are essentially discount rates, and like discount fares, our policy has been to permit substantial carrier discretion in this area, consistent with the Act's competitive mandate. Such discretion should at least govern the Board's decision whether to suspend a proposed

SCR. While appearances of economic reasonableness are relevant to the suspension decision, the precision with which they can be known is subject to practical limits. We see no need for a detailed investigation into the cost characteristics of each commodity for which there is an SCR as a prerequisite to this suspension policy. We find, on the basis of market forces already noted, that any SCR that carriers set below the GCR level is likely to be reasonable. We also find the SCR shippers are capable of bearing the risk that such a rate structure may later be found unreasonable. Therefore, the potential risk to SCR shippers is outweighed by the benefits of allowing carriers wide flexibility to adjust SCR's.

Premium rates, established above the GCR levels for specific commodities that require special handling, will be treated like GCR's for purposes of this suspension policy. Adequate justification will be required for new premium rates or increases in existing premium rates which exceed the increases in GCR's permitted by the appropriate flexibility ceiling. Since premium rates are generally defined as a percentage of GCR's, they would normally change in tandem with GCR's.

Container Rates

We find that competitive conditions are strong enough to support unlimited upward flexibility for containers. Low container rates, like SCR's, are the result of market forces rather than Board mandate. Since virtually all containers carry upwards of 500 kgs., they are used mainly by large shippers. Several carriers, including Northwest and Transamerica, have aggressively promoted low-rate container service, which appears to be on the ascendancy as a marketing tool. Containers benefit carriers by reducing their loading and handling costs and by enabling them to charge on the basis of density as well as weight without regard to specific commodity type. Containers also benefit shippers by reducing split shipments and pilferage.

Container rates will be limited in practice by the GCR level, since shippers are free to tender their shipments in bulk instead of containers. We see no need for a lower, independent ceiling to protect container shippers. In addition, a separate ceiling would severely restrict the flexibility of container rates, which are far more complex to regulate than bulk rates. Thus, the detriments of a separate ceiling would outweigh the likely benefits.

We reject the IAAA's argument that forwarders require a separate container rate ceiling to protect them from being driven out of business by air carriers. Competition between carriers is too strong, and forwarders control too much traffic, for any carriers to acquire the market power to squeeze forwarders out of business. The position of freight forwarders is not, as IAAA believes, analogous to the MCI situation, since they are not limited to one monopolistic seller like AT&T. If one carrier attempted to stifle forwarders' business by eliminating container discounts, forwarders could begin arranging charters or taking their business to other carriers. It also seems unlikely that carriers would want to raise container rates (or lower small-volume GCR's) for all their customers simply to compete with forwarders. Such tactics would disrupt their price structure, which is geared at least in part to non-forwarder traffic. In any case, we are maintaining a ceiling on GCR weightbreaks, which were the original basis for forwarders' consolidation business before containers became commonly used. Although container shipments may enhance the quality of service that forwarders can provide, they are not necessary for the survival of the business. We therefore see no reason to believe that forwarders require the protection of a separate rate ceiling.

Standard Foreign Rate Level

The zone of suspension-free flexibility will be measured from rates in effect on April 1, 1982. PSDR–65 proposed to base the standard level on October 1, 1979, rates, adopting the same date used in H.R. 5882. The carriers suggested that a later date, April 1, 1980, be used, mainly because those rates were said to be more compensatory with respect to costs at that time.

We do not decide whether the rates on any date are more compensatory than on any other date. We select April 1, 1982, primarily because relatively competitive conditions prevailed in most major cargo markets during the preceding year. Where IATA rate agreements were in effect, they generally included special escape clauses permitting member carriers to match non-IATA rates, and those clauses were frequently invoked. On the North Atlantic, for example, special contract rates proliferated in response to market pressures, despite the existence of an IATA area agreement. On Pacific routes, non-IATA competition had been strong enough to prevent substantial implementation of area-wide rate agreements for several years; as a result, rates during the twelve months prior to April 1, 1982, were largely a product of individual carrier pricing decisions, in one of the most competitive periods the Pacific region has experienced. Conditions in the Caribbean and Central America were also generally quite competitive, although limited agreements were in effect for South American routes. Our selection of April 1, 1982, rather than an earlier date is also administratively sound, since it will reduce the time between the base date and our first adjustment of the standard rate level for operating cost changes. The more distant the base date, the greater will be subsequent cost increases that have occurred since then and that will not be taken into account until the Board makes its first pass-through adjustment. Until the Board makes that adjustment, carriers may be inhibited by their zone of flexibility in bringing rates up to date. An April 1, 1982, base date will tend to avoid overtaxing the flexibility zones during the first months of the policy.

In demonstrating that a rate proposal falls within the flexibility ceiling, carriers will use the lowest appropriate rates that were in effect for any carrier in the market on April 1, 1982. Thus, to the extent that there were discrepancies between weightbreaks or rates in the same market, carriers should demonstrate that they are within the ceiling by citing the applicable base rate in their proposed tariff and noting the percentage by which this policy permits them to exceed that rate.

DHL and Puget Sound Traffic Association opposed any specific date without an investigation of whether rates in effect on that date were economically reasonable. In particular, they are concerned about perpetuating market cost deviations allegedly caused by common rating. We find that investigating the reasonableness of individual market rates in effect on the base date would be a fruitless and unnecessary exercise in connection with a suspension-free zone, which is not intended to define conclusively whether any rate is reasonable. Moreover, our experience in the recently decided *Standard Foreign Fare Level* and *Pacific Common Fares* investigations, Orders 80–8–66 and 82–7–20, indicates that there is no *a priori* basis to presume that common rating is uneconomic or otherwise unlawful, much less that any deviations from theoretical costs in a particular market at a particular point in time would necessarily be perpetuated by, or would distort the utility of, the flexibility zones adopted here.

Cost Pass-Through Adjustments

Cost pass-through adjustments will be made as suggested in PSDR–65, except

that they will be averaged for each of three geographical areas—the Atlantic, the Pacific, and the Western Hemisphere—instead of for the six originally proposed. Adjustment for three regions instead of six is simpler and almost as accurate. The standard foreign rate level will be adjusted at least every 6 months, and more frequently as needed. For the immediate future, we plan to adjust the standard level bimonthly, at least for fuel costs, as we now do for the standard foreign fare level for passengers.

We have decided not to impose any additional reporting requirements on the carriers at this time. Upon review of the comments on cost allocation and examination of data currently reported to the Board on a regular basis, we believe that the necessary allocations can be made using data already available. If we find existing data resources to be inadequate in practice, we will impose whatever additional reporting requirements are necessary.

PSDR-65 invited comments on how best to allocate certain costs in making the periodic cost adjustments to the standard rate level. ATA made several specific suggestions on allocating aircraft servicing, traffic servicing, reservations and sales, advertising and publicity, and general and administrative expenses between freighter and other operations. In general, opponents of the policy did not comment substantively on how costs should be allocated and computed, preferring to wait until the Board publishes a more specific description of its methodology. We have studied the comments and will describe our methodology when we order the first periodic cost adjustment. A show cause proceeding, as suggested by some of the opponents, or other detailed treatment of the methodology is not necessary or practical at this point, as "fine-tuning" of accounting methods is best accomplished in working with concrete data. As in the international passenger area, we expect the cost pass-through methodology to evolve with experience and we will use appropriate procedural vehicles to provide accurate analysis and participation by the public.

PSDR-65 stated that "the Board will make no adjustments * * * to costs actually incurred," paralleling a statutory provision governing cost adjustments to passenger fare levels. The Electronic Shippers argued that the Board could not automatically discount any factors that might involve questions of "honest, economical, and efficient management" without Congressional action. We find that, for the purposes of our suspension policy, it is consistent with our procompetitive mandate and the legislative history not to make adjustments for load factors, aircraft utilization, and other operational decisions made solely by management. However, as the rule now makes clear, we retain the discretion to normalize costs for strikes, mandatory aircraft groundings, and other occurrences not solely due to management decisions.

We will base cost adjustments on actual operating costs for scheduled freighter and combination operations by U.S. carriers. ATA and IATA urged that capital costs (such as new equipment investment costs) be factored into the periodic cost adjustments along with operating costs. We believe that the zone of flexibility allows enough room to accommodate veriations in those non-operating costs, and we therefore exclude them at this time from the cost pass-through formula. These problems affect passenger fares as well as cargo rates, and we have already issued an advance notice of proposed rulemaking in Docket 39635 (PSDR-72; 46 FR 29285; June 1, 1981) to address these matters comprehensively.

IATA argued that foreign carrier costs, as well as U.S. carrier costs, should be used in computing the adjustments. Recognizing that foreign carriers would be reluctant to supply cost information specifically identifiable to their operations, IATA suggested that it be permitted to compile and submit composite information for foreign carriers. The Electronic Shippers had no objection in principle to using foreign carrier data in computing cost adjustments, provided the data were verifiable and in accordance with accepted U.S. accounting standards. They were not, however, satisfied that IATA's offer to submit merged data would meet their concerns. We share the same concerns that the IATA data will not be adequately verifiable and consistent with U.S. standards. Therefore, we will base the cost adjustment solely on U.S. carriers' costs.

We have decided to use the existing Standard Foreign Fare Level (SFFL) data base, plus costs for all-cargo carriers, as a basis for our cost adjustments for international freight rates. We believe this utilization of existing information will avoid duplication of effort and make the administration of the Standard Foreign Rate Level (SFRL) much more efficient. As indicated above, modifications suggested for freight and passenger cost adjustments can be reflected in both calculations should it be necessary due to the similarity of methodology. In this connection, it should be noted that the International Air Transportation Competition Act, P.L. 96-192, which mandates that the Board establish the SFFL for passenger fares, requires that the Board adjust the fare level periodically by the percentage change from the last previous period in actual operating costs per available seat-mile and that the Board shall make no adjustment to costs actually incurred. The SFRL as well as the SFFL reflects changes in cost levels over time rather than the development of unit costs at a given point in time.

Basically, our SFRL methodology, like the SIFL/SFFL methodology, projects the most recent trends to the midpoint of the period in which the index will be in effect. Due to the significant differences in the rates of escalation of fuel cost versus other costs, these have been broken out separately. Changes in fuel costs are based on the average cost change for the most recent period and projected forward, using the latest actual data as a base. Nonfuel cost changes are based on the unit costs of the most recent 12 month period. This result is projected forward to the midpoint of the rate period. While projecting costs for a prospective ratemaking period to determine the SFFL and SFRL levels may result in some overstatement or understatement of the actual level incurred, the use of a 12-month moving average to establish the cost levels is self-correcting over time and has the adventage of minimizing regulatory lag.

Special Tariff Permission and Extraordinary Circumstances

Under the basic scheme of the Federal Aviation Act, carrier cargo rate proposals are to be filed at least 60 days before they become effective, unless otherwise specified in bilateral aviation agreements. But clearly, if a rate proposal is within the flexibility zone and there are no apparent foreign policy reasons to suspend it, there is no point in delaying effectiveness 60 days except to the extent necessary for an opposing party to show the sort of extraordinary circumstances that might justify a suspension. Carriers can apply for a shortening of the statutory filing period by requesting "Special Tariff Permission" (STP). We have already adopted a policy of granting STP for passenger fares within a flexibility zone similar to the one being adopted here, and we find it in the public interest to apply the same policy to cargo rates within the zone of flexibility in this rule.

The Electronic Shippers expressed concern that they would not have adequate notice of STP applications,

which would impair their ability to object in a timely manner. They suggested that carriers be required to serve their STP applications on interested parties. We have decided that it would be more efficient to maintain a public file of STP applications in our offices, which interested parties can monitor. This will not create an undue burden on those parties, since professional "tariff-watchers" already make a business of monitoring newly-filed tariff applications daily, and can easily monitor STP applications, if there is demand for that service. In cases of obviously controversial filings, carriers should notify readily identifiable representatives of affected shippers, as provided in 14 CFR 221.91 (e) and (f), where STP approval is being sought.

The conditions under which we will consider suspending a rate within the flexibility zone are the same as those described in PSDR–65. Such conditions include unreasonable actions by foreign governments with respect to U.S. air carrier rate proposals, or rate changes that clearly threaten serious and irreparable damage to the public. Parties alleging such conditions have the burden of presenting convincing evidence that such conditions exist.

IATA Agreements

IATA and Flying Tiger suggested that IATA agreements setting rates within the flexibility zones proposed in PSDR–65 should also be approved without a showing of economic justification. Their suggestion was apparently based on the expectation that no rate within the zones would be suspended or disapproved, as PSDR–65 proposed, in which case it would seem pointless to require justification for rates that would clearly be found reasonable. However, the final rule states only a suspension policy, and we express no absolute judgment on the reasonableness of those rates. The zones we adopt here, like the zones of international passenger fare flexibility established as as matter of regulatory discretion following passage of the International Air Transportation Competition Act, are clearly not advance determinations of the economic reasonableness of all possible prices within the zones. Rather, they are periodically reviewed and adjusted determinations of limits within which we will automatically permit price changes to be implemented pending any further investigation of lawfulness, based on the probability that actual price levels will reasonably reflect costs and on the attainment of other policy goals set by our statute. See Orders 80–2–69, 80–5–139 and 81–1–119. Because the zones assume effective competitive market forces as an overall constraint on pricing decisions, the rationale for automatic nonsuspension may be invalid or seriously undercut when the carriers are able to set prices in concert. IATA or other multicarrier pricing agreements are in this sense quite different from individual carrier tariff filings. Moreover, all agreements are evaluated under the public interest standard, and there might be other problems, not directly related to the rate levels, with such agreements.

Therefore, the fact that the resultant price levels of a multicarrier agreement are within an applicable discretionary zone of flexibility, while often of relevance to the degree of justification and review necessary under section 412 of the Act, cannot provide assurance that the agreement will be approved on substantive grounds. We continue to expect all multicarrier agreements to be economically justified, although the precise nature and scope of information beyond the minimum noted below will be the responsibility of the participating carriers in the first instance. This approach is applicable to both rate and fare agreements within their respective discretionary zones. The request of IATA and Flying Tiger for automatic approval of agreements within the zones must be rejected.

To facilitate future evaluation of IATA rate and fare agreements we take this opportunity to clarify that we will require IATA to supply the following minimum explanatory documentation in conjunction with any major IATA agreement submitted for Board action: (1) Detailed and comprehensive minutes of all IATA meetings at which the agreement was developed, including working-group discussions and plenary sessions; (2) a full summary and explanation of the principal changes embodied in the agreement (which may be incorporated in the minutes or presented separately); and (3) a detailed table comparing the present and proposed fares, rates, and/or charges in the major markets covered by the agreement, showing price levels in U.S. dollars and percentage change. These administrative requirements apply to major multicarrier agreements governing passenger matters, cargo matters, or both. The requisite documentation must be submitted at the time the agreement is filed, and is considered part of the public record. We emphasize our discretion to require additional documentation, information, and economic justification, as necessary.

The Staff Memorandum

This rule adopts the recommendations of the April 22, 1981, staff memorandum that the Board depart from instructions it had previously given the staff. After the memorandum was released and the public comment period was reopened by PSDR–65C, the Electronic Shippers submitted a critical comment, arguing that the recommendations in the memorandum lacked factual support, and that any Board action based on it "does not meet the statutory or judicial standards for rulemaking." For example, they questioned its statement that there had been an upsurge in the popularity of forwarder chartering. (We note, however, that Flying Tiger's comment presented information in support of that statement.)

As to the argument that this action lacks necessary factual support, we note that the setting of zones of presumed lawfulness for cargo rates is a legislative type of action, governed by the informal rulemaking provisions of 5 U.S.C. 553, rather than an adjudication to resolve a narrow issue between two parties. Therefore, a case such as *San Antonio, Texas v. U.S.*, 631 F.2d 831 (D.C. Cir. 1980), cited by the Electronics Shippers, is inapposite here. That case involved an Interstate Commerce Commission determination, after an oral evidentiary hearing, of the reasonableness of a particular rate for the carriage of coal on a particular route. In this legislative-type rulemaking, the decision is not based solely on the truth or validity of a specific allegation. Among the facts that the Board relies on here are its knowlege and experience (including that of its staff) concerning the entire structure of the air cargo industry, as amplified and illuminated by the public comments in this docket and reflected in the thorough discussion above of the Board's reasons for adopting this final rule, and the Congressionally established policy in favor of deregulation and reliance on competitive market forces.

Arguments that a final rule such as this one is not justified in light of the "decision" that the Board made when it originally instructed the staff reflect a misunderstanding of both the role of Board staff and the meaning of instructions to staff. As we noted in PSDR–65C,

> [w]hen the Board instructs its staff to prepare a final rule in an informal rulemaking proceeding such as this, the Board is not making a final decision. It is not even making a "tentative decision" as that term is commonly used in orders to show cause or, occasionally, notices of proposed rulemaking. Legally, instructions to staff are not a decision at all. The Board merely directs its employees to prepare a document whose approval, if and when that approval is voted, will ultimately amount to a decision.

Thus, although the Board's instructions to staff were given at a public meeting, they were, like the staff memorandum recommending a departure from those instructions, a part of the agency's internal deliberative process. The Board has not now changed its mind by adoption of this rule, but rather completed the process of making up its mind on the subject of cargo rate flexibility rules.

Related Documents

ER–1322, issued along with this rule, makes conforming amendments to 14 CFR Part 221, *Tariffs*. As discussed above, the requirement of economic justification is eliminated for tariff filings that state international cargo rates within the flexibility zone, and those rates that are made eligible for Special Tariff Permission. Also, the permission to omit economic justification when filing passenger fares that are within the fare flexibility zone for the 48 contiguous States and the District of Columbia is extended to cover all domestic and international fare flexibility zones. Because this change merely corrects oversights in ER–1171 (45 FR 20059; March 27, 1980) and PS–96 (45 FR 48600; July 21, 1980), the Board finds that notice and public procedure on it are unnecessary and contrary to the public interest.

We are denying as moot an October 27, 1980, motion of the Electronics Shippers for consolidation of this rulemaking with the maximum tariffs rulemaking in Docket 38746. With respect to foreign air transportation, the proceeding in Docket 38746 was terminated, on December 18, 1981, without adoption of a final rule, by ED–408E (47 FR 15144, April 8, 1982).

List of Subjects in 14 CFR Part 399

Administrative practice and procedure, Advertising, Air carriers, Antitrust, Archives and records, Consumer protection, Freight forwarders, Grant programs-Transportation, Hawaii, Motor carriers, Puerto Rico, Railroads, Reporting requirements, Travel agents, Virgin Islands.

Amendments

In light of the foregoing, the Civil Aeronautics Board amends 14 CFR Part 399, *Statements of General Policy*, as follows:

PART 399—[AMENDED]

1. The authority for 14 CFR Part 399 is:

Authority: Secs. 101, 102, 105, 204, 401, 402, 403, 404, 405, 407, 408, 409, 411, 412, 416, 801, 1001, 1002, 1102, 1104, Pub. L. 85–726, as amended, 72 Stat. 737, 740, 743, 754, 757, 758, 760, 766, 767, 768, 769, 770, 771, 782, 788, 797, 92 Stat. 1708; 49 U.S.C. 1301, 1302, 1305, 1324, 1371, 1372, 1373, 1374, 1375, 1377, 1378, 1379, 1381, 1382, 1386, 1461, 1481, 1482, 1502, 1504.

2. A new § 399.41 is added to the table of contents, to read:

Sec.

* * * * *

399.41 Zones of limited suspension for international cargo rates.

* * * * *

3. Section 399.35(c) is revised to apply to higher rates as well as fares, so that it reads:

§ 399.35 Special tariff permission.

* * * * *

(c) *Higher fares or rates.* For tariffs that state higher fares or rates, and any rules affecting only those fares or rates, the Board's policy on STP is, except in unusual or emergency circumstances:

(1) To grant STP if the resulting fares or rates are within a statutory or Board-established zone of fare or rate flexibility; and

(2) Otherwise, to deny STP.

4. A new § 399.41 is added, to read:

§ 399.41 Zones of limited suspension for international cargo rates.

(a) *Applicability.* This section states the Board's policy for suspending rate changes for the transportation of property in foreign air transportation. It does not affect the Board's authority to suspend any rate as unjustly discriminatory, unduly preferential, or unduly prejudicial. This section applies to rate changes by all direct air carriers and direct foreign air carriers.

(b) *Standard foreign rate levels.* For each market in foreign air transportation, the standard foreign rate level for the carriage of property shall be the bulk general commodity rates in effect in that market on April 1, 1982, as adjusted in accordance with paragraph (f) of this section. However, the general commodity rate for shipments larger than 500 kg. shall be deemed to be the same as the 500 kg. rate for the purposes of this paragraph, regardless of any different rate in effect in the market.

(c) *Ceilings of limited rate suspension.* Except as provided in paragraph (d) of this section, the Board will not suspend as unreasonable any proposed rate for foreign air transportation of property equal to or less than the following levels:

(1) For all bulk rates (GCR's and SCR's) in the Atlantic region, 20 percent above the standard foreign rate level.

(2) For all bulk rates (GCR's and SCR's) in the Pacific region, 15 percent above the standard foreign rate level.

(3) For all bulk rates (GCR's and SCR's) in the Western Hemisphere region (except Mexico and Canada), 5 percent above the standard foreign rate level.

(4) For all bulk rates (GCR's and SCR's) in Canada/Mexico transborder markets, 10 percent above the standard foreign rate level for the Western Hemisphere.

(5) For all container rates, no maximum level.

(d) *Extraordinary circumstances.* The Board may suspend any tariff if it finds that—

(1) The suspension is in the public interest because of unreasonable regulatory action by a foreign government with respect to rate proposals of an air carrier, or

(2) All of the following extraordinary circumstances are present:

(i) It is highly probable that the fare would be found unreasonable after investigation;

(ii) There is a substantial likelihood of immediate and irreparable harm to the public if the rate is allowed to go into effect; and

(iii) The suspension is required by the public interest.

(e) *Burden of proof.* Persons requesting tariff suspension under paragraph (d) of this section shall have the burden of producing convincing evidence that the conditions of that paragraph are present.

(f) *Standard foreign rate level adjustments.*

(1) The Board will periodically adjust the standard foreign rate levels to reflect the percentage change in average operating costs per available ton-mile since the previous adjustment.

(2) Costs will be averaged for three regions—the Atlantic, the Pacific, and Western Hemisphere—and applied equally among all markets in each region.

(3) Cost computations will be based on scheduled freighter and combination service by U.S. air carriers.

(4) Adjustments will be made on April 1 and October 1 of each year, or more frequently as the Board finds appropriate.

(5) In computing costs under this section, the Board will make no adjustments for load factors, aircraft utilization, or other matters due to operational decisions made solely by carrier management. However, the Board retains the discretion to normalize costs for strikes, mandatory aircraft groundings, and other occurrences not solely due to management decisions.

(g) *Definitions.* For the purpose of this section:

(1) "GCR" means general commodity rate.

(2) "SCR" means specific commodity rate.

(3) "Container rate" means any rate specifically applicable to property tendered to the carrier in a unit load devise.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2563 Filed 1-28-83; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Parts 0 and 4

Organization; Miscellaneous Rules

AGENCY: Federal Trade Commission.

ACTION: Change in delegation of authority.

SUMMARY: The Commission has reorganized the Office of the Secretary and the Office of the Executive Director. A Deputy Executive Director for Planning and Information will maintain the Commission's public records and, among other things, assumes the delegated authority formerly granted by the Commission to the Secretary to respond to initial requests for records under the Freedom of Information and Privacy Acts. These rules implement the new organization.

DATE: Effective on January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Barry R. Rubin, Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202 523-3520.

SUPPLEMENTARY INFORMATION: The Commission's Office of the Executive Director has been reorganized to create a new Deputy Executive Director for Planning and Information. That person will assume responsibility for the Commission's data processing and information systems, library, and information analysis functions. The legal information and services divisions of the Office of the Secretary have been transferred to the Office of the Executive Director.

List of Subjects

16 CFR Part 0

Organization and functions (Government Agencies).

16 CFR Part 4

Administrative practice and procedure, Freedom of Information, Privacy.

Accordingly, the Commission amends 16 CFR Parts 0 and 4 as follows:

1. Paragraphs (a) and (b) are revised and paragraph (c) is added to § 0.10 to read as follows:

§ 0.10 Office of the Executive Director.

(a) The Executive Director, under the direction of the Chairman, is the chief operating official. He exercises executive and administrative supervision over all the offices, bureaus, and staff of the Commission and resolves problems concerning priorities in case handling. Immediately under his direction are the Deputy Executive Directors for Management and Planning and Information.

(b) The Deputy Executive Director for Management functions as staff advisor to the Executive Director in all aspects of administrative management; provides administrative policy guidance to agency management and provides general supervision to the programs of procurement and contracts, personnel, budget and finance, and administrative service activities; initiates and develops long-range plans to assure that the Commission acquires and effectively utilizes the manpower, financial resources, physical facilities and management tools necessary to accomplish its mission; and is responsible for publication of all Commission actions which must appear in the **Federal Register** and publication of the *Federal Trade Commission Decisions* and the *Court Decisions—Federal Trade Commission.*

(c) The Deputy Executive Director for Planning and Information provides general supervision to the programs of data processing and information systems, information analysis, and the library; responds to initial requests for Commission records under the Freedom of Information and Privacy Acts; maintains a current index of opinions, orders, statements of policy and interpretations, staff manuals and instructions that affect any member of the public, and other public records of the Commission; makes available for inspection and copying all public records of the Commission; and coordinates the Commission's information processing systems.

2. 16 CFR 0.12 is revised to read as follows:

§ 0.12 Office of the Secretary.

The Secretary is responsible for the minutes of Commission meetings and is the legal custodian of the Commission's seal, property, papers, and records, including legal and public records. The Secretary, or in his absence an Acting Secretary designated by the Commission, signs Commission orders and official correspondence.

3. Paragraphs (a)(1)(iv)(C) and (a)(2)(i)(A) of 16 CFR 4.11 are revised to read as follows:

§ 4.11 Requests for disclosure of records.

(a) *Freedom of Information Act requests*—(1) *Initial Requests.*—* * *

(iv) *Initial determination.*—* * *

(C) Records to which access has been granted will be made available to the requester and will remain available for inspection and copying for a period not to exceed thirty days from date of notification to the requester unless the requester asks for and receives the consent of the Deputy Executive Director for Planning and Information to a longer period. Records assembled pursuant to a request will remain available only during this time period and thereafter will be refiled. Appropriate fees may again be imposed for any new or renewed request for the same records.

* * * * *

(2) *Appeals to the General Counsel from initial denials.*—(i) *Form and contents; time of receipt.*—(A) If the Deputy Executive Director for Planning and Information denies an initial request for records in its entirety, the requester may, within 30 days of the date of the determination of the Deputy Executive Director for Planning and Information, Appeal such denial to the General Counsel. If the Deputy Executive Director for Planning and Information denies an initial request in part, the time for appeal shall not expire until 30 days after the date of the letter notifying the requester that all records to which access has been granted have been made available. The appeal shall be in writing and should include a copy of the initial request and a copy of the response of the Deputy Executive Director for Planning and Information, if any.

The appeal shall be addressed as follows:

Freedom of Information Act Appeal
Office of the General Counsel
Federal Trade Commission
6th Street and Pennsylvania Avenue, NW.
Washington, D.C. 20580

* * * * *

§§ 4.8, 4.11, 4.13 [Amended]

4. In addition to the amendments set forth above, 16 CFR Part 4 is amended by removing the words "the Secretary" or "the Secretary of the Commission" and inserting, in their place, the words "the Deputy Executive Director for

Planning and Information" in the following places:

A. 16 CFR 4.8(b)
B. 16 CFR 4.8(c)(1)
C. 16 CFR 4.11(a)(1)(i)(A)
D. 16 CFR 4.11(a)(1)(i)(B)
E. 16 CFR 4.11(a)(1)(i)(D)
F. 16 CFR 4.11(a)(1)(i)(E)
G. 16 CFR 4.11(a)(1)(iii)(A)
H. 16 CFR 4.11(a)(1)(iii)(B)
I. 16 CFR 4.11(a)(1)(iii)(C)
J. 16 CFR 4.11(a)(1)(iv)(A)
K. 16 CFR 4.11(a)(1)(iv)(B)
L. 16 CFR 4.11(a)(2)(ii)(B)
M. 16 CFR 4.13(c)
N. 16 CFR 4.13(d)
O. 16 CFR 4.13(e)
P. 16 CFR 4.13(f)
Q. 16 CFR 4.13(h)
R. 16 CFR 4.13(i)(1)
S. 16 CFR 4.13(i)(2)(i)
T. 16 CFR 4.13(j)
U. 16 CFR 4.13(k)

(Sec. 6(g), 38 Stat. 721 (15 U.S.C. § 46(g)); 80 Stat. 383, as amended, 81 Stat. 54 (5 U.S.C. § 552).

By direction of the Commission dated September 16, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 83-2525 Filed 1-28-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Reg. No. 4]

Federal Old-Age, Survivors, and Disability Insurance Benefits Annual Earnings Test

AGENCY: Social Security Administration, HHS.

ACTION: Final regulations.

SUMMARY: These regulations reflect recent statutory amendments which delay for one year (from January 1982 until January 1983), for all except a very small number of individuals who file their tax returns on a fiscal year basis, full implementation of section 302, Pub. L. 95-216, the Social Security Amendments of 1977. Section 302 reduced from 72 to 70 the age at which Social Security beneficiaries are no longer subject to an earnings test.

EFFECTIVE DATE: These final regulations are effective January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Marval Cazer, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone (301) 594-7463.

SUPPLEMENTARY INFORMATION: These rules were published as a Notice of Proposed Rulemaking on May 26, 1982 (47 FR 22965). During the 60-day comment period, we received only two comments. A direct response was made to one commenter, who had misinterpreted the effective date of the age 70 provision. The second comment related to potential abuse of the earnings test by self-employed individuals. Although this comment is not directly related to these regulations, we would point out that at the the time a self-employed individual files an application for benefits a careful evaluation is made as to whether substantial services continue to be performed.

These final regulations conform existing regulations to section 2204 of Pub. L. 97-35, enacted August 13, 1981. This legislation exempts recipients of retirement and survivors benefits from an earnings test (including the 7-day foreign work test) for the months after December 1982 in which a beneficiary is age 70 or over. The January 1983 effective date is not tied to the beginning or ending date of any taxable year.

The Social Security Amendments of 1977 had made full benefits payable, with no deduction for earnings, for months in which a beneficiary was age 70 or over in a taxable year ending after December 31, 1981. This provision became effective in calendar year 1981 for a few beneficiaries (prior to the enactment of the 1981 Amendments) whose taxable year is not on a calendar year basis. In order to avoid adversely affecting those few beneficiaries, the delay under the 1981 Amendments in implementing the age 70 provision does not apply to them nor to those beneficiaries who attain age 70 after enactment in the taxable year beginning in 1981 and ending in 1982 if the fiscal taxable year was approved by the Internal Revenue Service prior to the 1981 legislation. For example, a beneficiary with a taxable year of November 1, 1981, through October 31, 1982, who attains age 70 on July 3, 1982, would not be subject to the earnings test for months after June 1982. However, if a beneficiary had an approved taxable year June 1, 1981 through May 31, 1982, but attained age 70 after May 31, 1982, he or she would be subject to the earnings test for all months prior to January 1983 because the beneficiary is not age 70 in the taxable year that begins in 1981 and ends in 1982.

Regulatory Procedures

Executive Order 12291—These regulations merely conform the existing rules to the changes legislated by Pub. L. 97-35. The law delayed for one year putting into effect the age 70 provision after which a beneficiary is no longer subject to the earnings test. The resulting impact is solely the result of legislation and is in place and effective regardless of regulatory action on our part. Therefore, these regulations do not "result in" a cost impact of $100 million or more or otherwise trigger the criteria for a major rule established in Executive Order 12291.

Regulatory Flexibility Act—We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these rules only affect individual beneficiaries. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act—These regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance.

(Secs. 203 and 1102 of the Social Security Act, as amended, 49 Stat. 623 and 647 as amended, 42 U.S.C. 403 and 1302; and sec. 2204 of Pub. L. 97-35, 95 Stat. 357.)

(Catalog of Federal Domestic Assistance Program Nos. 13.803—Social Security Retirement Insurance; 13.805—Social Security Survivors Insurance.)

Dated: November 24, 1983

John A. Svahn,

Commissioner of Social Security.

Approved: January 7, 1983.

Richard S. Schweiker,

Secretary of Health and Human Services

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

Part 404, Subpart E, of Title 20, Code of Federal Regulations is amended as set forth below:

1. Section 404.415 is amended by revising paragraph (a) to read as follows:

§ 404.415 Deductions because of excess earnings; annual earnings test.

(a) *Deductions because of beneficiary's earnings.* Under the annual earnings test, deductions are made from monthly benefits (except disability insurance benefits, child's

insurance benefits based on the child's disability, or widow's or widower's insurance benefits based on the widow's or widower's disability) payable to a beneficiary for each month in a taxable year (whether a calendar year or a fiscal year) beginning after December 1954 in which the beneficiary is under age 72 (age 70 after December 1982) and to which excess earnings are charged under the provisions described in § 404.434.

* * * * *

2. Section 404.417 is amended by revising paragraph (a) except the last sentence to read as follows:

§ 404.417 Deductions because of noncovered remunerative activity outside the United States; 7-day work test.

(a) *Deductions because of individual's activity.* Under the 7-day work test, a deduction is made from any monthly benefit (except disability insurance benefits, child's insurance benefits based on the child's disability, or widow's or widower's insurance benefits based on the widow's or widower's disability) payable to an individual for each month on a taxable year beginning after December 1954 in which the beneficiary, while under age 72 (age 70 after December 1982), engages in noncovered remunerative activity (see § 404.418) outside the United States on seven or more different calendar days. * * *

* * * * *

3. Section 404.428 is amended by revising the parenthetical sentence at the end of paragraph (a)(1) to read as follows:

§ 404.428 Earnings in a taxable year.

(a) *General.* (1) * * * (See, however, § 404.430 for the rule which applies to earnings of a beneficiary who attains age 72 during the taxable year (age 70 for months after December 1982))

* * * * *

4. Section 404.430 is amended by revising the parenthetical sentence at the end of paragraph (a)(3) to read as follows:

§ 404.430 Excess earnings defined for taxable years ending after December 1972; monthly exempt amount defined.

(a) *Method of determining excess earnings for years ending after December 1982.* * * * (All references to age 72 will be age 70 for months after December 1982.)

* * * * *

5. Section 404.435 is amended by revising in paragraph (a)(3) the parenthetical phrase to read as follows:

§ 404.435 Excess earnings; months to which excess earnings cannot be charged.

(a) *Monthly benefits payable for months after 1977.* * * *

(3) * * * (age 70 for months after December 1982); * * *

* * * * *

[FR Doc. 83-2608 Filed 1-28-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Approval and Disapproval of Amendments to the Ohio Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final Rule; approval and disapproval of amendments to the Ohio State regulatory program.

SUMMARY: The Secretary of the Department of the Interior is approving four amendments and disapproving one amendment to the Ohio State regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Ohio received conditional approval of its permanent program effective August 16, 1982, as announced in the **Federal Register** of August 10, 1982 (47 FR 34688–34718), subject to the correction of eleven minor deficiencies. On October 13, 1982, Ohio submitted to the Department of the Interior five revisions to regulations contained in its regulatory program to be considered under 30 CFR 732.17 procedures for amendments to State regulatory programs. Four of the program amendments are being approved and one program amendment is being disapproved. Approval of the four program amendments will be reflected in 30 CFR Part 935.

EFFECTIVE DATE: Approval of four amendments and disapproval of one amendment is effective January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur Abbs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5361.

SUPPLEMENTARY INFORMATION: On January 22, 1982, the State of Ohio resubmitted to the Department of the Interior its permanent regulatory program under SMCRA. The resubmission followed an initial disapproval, notice of which was published in the **Federal Register** October 1, 1980 (45 FR 64962–64971). After opportunity for public comment and thorough review of the program resubmission, the Secretary of the Interior determined that the Ohio program meets the requirements of SMCRA and the Federal permanent program regulations, except for minor deficiencies. Accordingly the Secretary of the Interior conditionally approved the Ohio program subject to the correction of eleven minor deficiencies. Information pertinent to the general background, revisions, and modifications to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982, **Federal Register** (47 FR 34688–34718). The approval was effective on August 16, 1982.

In accepting the Secretary's conditional approval, Ohio agreed to correct deficiency "e" by submitting to the Secretary by September 16, 1982, copies of promulgated regulations deleting the provision in OAC 1501:13–1–01(A) exempting persons holding permits issued after September 1, 1981, from the requirement to apply for a new permit after approval of the program. Ohio also agreed to correct all other deficiencies by August 8, 1983.

On September 16, 1982, Ohio submitted materials modifying the approved State program so as to satisfy condition of approval "e". Approval of the modification satisfying condition "e" can be found in the January 17, 1983, **Federal Register**.

On October 13, 1982, Ohio submitted to OSM additional materials to amend its conditionally approved State regulatory program. The materials consisted of the following five amendments to rules contained in the State program.

1. Amendment to OAC 1501:13–1–02 Definitions, revising the definition of "affected area."

2. Amendment to OAC 1501:13–1–07 Applicability, clarifying the requirements for operations continuing to operate under interim program permits.

3. Amendment to OAC 1501:13–4–03 Permit Application Requirements for Legal, Financial, Compliance and Related Information, making it the obligation of the applicant to include information on notices of violation in the permit application.

4. Amendment to OAC 1501:13–4–04 Permit Application Requirements for Information on Environmental Resources, requiring slope measurements included in the application for a permit to be in "degrees".

5. Amendment to OAC 1501:13–4–05 Permit Application Requirements for Reclamation and Operations Plans, deleting the provision exempting operators with planned long term existence from the requirement to submit a description of the postmining land use with the application.

None of the amendments was intended to satisfy conditions of program approval. On November 3, 1982, OSM published a notice in the **Federal Register** (47 FR 49869) announcing receipt of the materials and inviting public comment on whether the materials submitted should be approved and incorporated into the Ohio regulatory program. The public comment period ended on December 10, 1982. No one appeared to present testimony at a public hearing that was scheduled for December 8, 1982.

Secretary's Findings

1. *Proposed Change to OAC 1501: 13–1–02 Definitions.* The State's definition for "affected area" as provided in OAC 1501:13–1–02(E) of the State program conditionally approved by the Secretary was found consistent with the definition for "affected area" of 30 CFR 701.5. In the materials submitted by Ohio to OSM on October 13, 1982, the State proposed to amend the definition of "affected area" by deleting the portion pertaining to underground mining activities.

In 30 CFR 701.5, "affected area" is defined to include with respect to underground mining activities, any water or surface land upon or in which those activities are conducted or located; and land or water which is located above underground mine workings. Deletion of this provision from the Ohio definition of "affected area" is not consistent with 30 CFR 701.5 and the Secretary therefore disapproves the change.

2. *Proposed Change to 1501:13–1–07 Applicability.* OAC 1501:13–1–07 in the State program conditionally approved established the applicable requirements for coal mining operations, strip mining operations and underground mining operations. Some of the applicable requirements for operations continuing to operate under interim program permits have since been amended by the permanent State program rules. The proposed materials substitute the newly enacted rules in place of the rules no longer in effect thereby clarifying the requirements for those operations continuing to operate under interim program permits. The Secretary approves the modification to OAC 1501:13–1–07.

3. *Proposed Change to 1501:13–4–03, Permit Application Requirements for Legal, Financial, Compliance and Related Information.* OAC 1501:13–4–03 as contained in the conditionally approved program provides that the schedule listing notices of violation of any law, rules or regulations of the United States pertaining to operations conducted in Ohio need not be provided by the applicant, but that the Chief shall insure such information is made available to the public in the appropriate manner. In the materials submitted by the State to OSM on October 13, 1982, Ohio proposed to amend 1501:13–4–03 to make it the obligation of the applicant to include the information on all notices of violation in the permit application. The amendment also provides that on written request by the applicant, the Chief shall supply to the applicant the information pertaining to Ohio. The Secretary finds the modification consistent with 30 CFR 778.14(c) and thereby approves it.

4. *Proposed Change to OAC 1501:13–4–03, Permit Application Requirements for Information on Environmental Resources.* In the materials submitted to OSM on October 13, 1982, Ohio proposed amending 1501:13–4–04 to require that slope measurements included in the application for a permit be made in "degrees." This change is consistent with 30 CFR 779.25(k) and is therefore approved.

5. *Proposed Change to OAC 1501:13–4–05, Permit Application Requirements for Reclamation and Operations Plans.* In the materials submitted to OSM on October 13, 1982, Ohio proposed deleting OAC 1501:13–4–05(F)(4) which exempted operators with planned long term existence from submitting a description of the postmining land use with the initial application. The deletion of the exemption is consistent with 30 CFR 80.23 and is therefore approved.

Public Comment

No comments were received in response to November 3, 1982, **Federal Register** notice announcing the hearing and comment period on the amendments submitted by Ohio.

Approval of Amendment

Accordingly, 30 CFR Part 935 is amended to indicate approval of four Ohio program amendments submitted to OSM on October 13, 1982.

Additional Findings

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs or amendments. Therefore, this program amendment is exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

On December 22, 1982, the Environmental Protection Agency transmitted its written concurrence on the Ohio program amendments being approved.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

PART 935—OHIO

30 CFR 935.10 is revised to read as follows:

§ 935.10 State regulatory program approval.

The Ohio State regulatory program as submitted on February 29, 1980, and resubmitted on January 22, 1982, is conditionally approved, effective August 16, 1982. Beginning on that date, the Department of Natural Resources shall be deemed the regulatory authority in Ohio for all surface coal mining and reclamation operations and for all exploration operations on non-Federal and non-Indian lands. Only surface coal mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the Ohio permanent regulatory program. The amendment to OAC 1501:13–1–01(A) submitted on September 16, 1982, is approved effective January 17, 1983. The amendments to OAC 1501:13–1–07, 13–4–03, 13–4–04 and 13–4–05 submitted on October 13, 1982, are approved effective January 31, 1983. Copies of the approved program, as amended, are available at:

(a) Division of Reclamation, Ohio Department of Natural Resources, Fountain Square, Bldg. B, Columbus, Ohio 43224, Telephone: (614) 265–6633.
(b) Office of Surface Mining, Room 5315, 1100 L St., NW., Washington, D.C. 20240, Telephone: (202) 343–4728.

Dated: January 25, 1983.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83–2606 Filed 1–28–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 707

Special Rules With Respect to Additional Station and Signal Lights

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its Special Rules with Respect to Additional Station and Signal Lights under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that the present additional submarine identification signal light is not in full compliance with the provisions of the 72 COLREGS in that the location and characteristics of that light are similar to the location and characteristics of the light required by Rule 23(b) of the 72 COLREGS for an air-cushion vessel when operating in the non-displacement mode. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1606 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 707. This amendment provides notice that the Secretary of the Navy has determined that the present additional submarine identification signal light is not in full compliance with the applicable Rules of the 72 COLREGS. This determination was based upon the requirement of Rule 1(c) of the 72 COLREGS, which permits the use of special rules to be issued by any government with respect to additional station or signal lights for ships of war provided that such additional station or signal lights shall be such that they cannont be mistaken for any light or signal authorized elsewhere under any rule of the 72 COLREGS. The location and characteristics of the present additional submarine identification signal light are such that it might be mistaken for the light required by Rule 23(b) of the 72 COLREGS for air-cushion vessels, when operating in the non-displacement mode, and, therefore, this amendment to Part 707 of 32 CFR Chapter VI, Department of the Navy, promulgates the location and characteristics of the new additional submarine identification signal light. The intended effect of this amendment is to ensure that United States Navy submarines do not use an identification light which might be confused with another light authorized by the 72 COLREGS.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of the additional submarine identification signal light is in full compliance with all applicable rules of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS).

List of Subjects in 32 CFR Part 707

Marine safety, Navigation (water), and Vessels.

PART 707—[AMENDED]

Accordingly, 32 CFR Part 707 is amended by revising § 707.7 to read as follows:

§ 707.7 Submarine identification light.

Submarines may display, as a distinctive means of identification, an intermittent flashing amber beacon with a sequence of operation of one flash per second for three (3) seconds followed by a three (3) second off-period. The light will be located where it can best be seen, as near as practicable, all around the horizon. It shall not be located less than two (2) feet above or below the masthead lights.

(Executive Order 11964; 33 U.S.C. 1606)

Dated: January 12, 1983.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 83–2584 Filed 1–28–83; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 54

[CGD 82–109]

Allotments From Military Pay for Certain Support Obligations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule contains procedures for the notification to institute allotments from the active duty pay of Coast Guard members who are delinquent in meeting their family support obligations. This action implements Section 172, the Tax Equity and Fiscal Responsibility Act of 1982.

EFFECTIVE DATE: This rule is effective January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Coleman R. Sachs, Office of Chief Counsel (G–LGL), U.S. Coast Guard Headquarters, Washington, D.C. 20593. (202–426–1553).

SUPPLEMENTARY INFORMATION: Section 172(a) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), enacted on September 3, 1982, requires allotments to be taken from the pay and allowances of any member of the uniformed services on active duty who owes the equivalent of two months or more in court ordered child support or child and spousal support payments. The service member's failure to make these payments is established by notice from a court authorized to order support or the agency or attorney of a State with a Federally approved plan for spousal or child support, who is responsible for recovering amounts owed for this purpose. This notice is to be directed to a designated official within the uniformed service involved.

Upon receipt of the notice, the service must provide a copy to the member whose pay it would affect, and arrange a consultation for that member with a representative of its legal staff to discuss the legal and other factors involved in the member's support obligations and the consequences of failing to make any necessary payments. The allotment may not be instituted until this consultation has been provided, or thirty days after the member had been given notice of the delinquency in all instances where it has not been possible to arrange for the consultation. The uniformed services are directed to issue "regulations" designating the official to whom notice of the delinquency in support obligations or notice to discontinue or

adjust an allotment is to be given, prescribing the form and content of this notice, and specifying any other necessary rules. The procedure is promulgated as a final rule because 5 U.S.C. 553(b)(3)(A) excepts rules of agency procedure from notice requirements.

It is being made effective upon publication because it implements benefits that became effective on 1 October 1982.

Regulatory Evaluation

The Coast Guard has evaluated the procedure and determined that it is not a major rule under Executive Order 12291. Furthermore, it is nonsignificant under Policies and Procedures for Simplification, Analysis and Review of Regulations (44 FR 11034, February 28, 1979, as amended by 44 FR 28126, May 14, 1979).

In addition to furnishing the designated official a copy of the order for the support payments, which is required by the Act, these rules require only the submission of information which will be readily available to the applicant. Accordingly, it is also certified under the Regulatory Flexibility Act (5 U.S.C. 605) that the procedure will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 54

Administrative practice and procedure, Wages.

In consideration of the foregoing, the Coast Guard is amending Title 33, Code of Federal Regulations, by adding a new Part 54, to read as follows:

PART 54—ALLOTMENTS FROM ACTIVE DUTY PAY FOR CERTAIN SUPPORT OBLIGATIONS

Sec.

54.01 Purpose.
54.03 Persons authorized to give notice.
54.05 Form and contents of notice.
54.07 Service of notice upon designated Coast Guard official.

Authority: 42 U.S.C. 665(c).

§ 54.01 Purpose.

This part prescribes procedures for State officials to notify the Coast Guard that a member on active duty is delinquent in meeting an obligation for child support alone, or both child and spousal support, in an amount equal to the support payable for two months or longer. Under 42 U.S.C. 665, an allotment may be taken from the pay and allowances of the member in this situation.

§ 54.03 Persons authorized to give notices.

For the purpose of instituting an allotment under this Part, notice that a Coast Guard member is delinquent in meeting support obligations may be given by:

(a) Any agent or attorney of any State having in effect a plan approved under Part D of Title IV of the Social Security Act (42 U.S.C. 651–664), who has the duty or authority to seek recovery of any amounts owed as child or child and spousal support, including any official of a political subdivision when authorized under a State plan.

(b) The court that has authority to issue an order against the member for the support and maintenance of a child, or any agent of that court.

§ 54.05 Form and contents of notice.

(a) The notice required to institute an allotment under this Part must be given in the form of a court order, letters, or other document issued by a person specified in § 54.03.

(b) The notice must:

(1) Provide the full name, social security number, and duty station of the member who owes the support obligation;

(2) Specify the amount of support due, and the period in which it has remained owing;

(3) Be accompanied by a certified copy of an order directing the payment of this support issued—

(i) By a court of competent jurisdiction, or;

(ii) In accordance with an administrative procedure which is established by State law, affords substantial due process, and is subject to judicial review;

(4) Provide the full name, social security number, and mailing address of the person to whom the allotment is to be paid;

(5) Identify the period in which the allotment is to remain in effect; and

(6) Identify the name and birth date of all children for whom support is to be provided under the allotment.

(c) Each notice must be accompanied by the following information:

(1) For each administrative order, a copy of all provisions of state law governing its issuance.

(2) For each court order and for each administrative order, if not stated in the support order—

(i) An explanation as to how personal jurisdiction was obtained over the member; and

(ii) A statement on the age of majority in the state law, with appropriate legal citations.

§ 54.07 Service of notice upon designated Coast Guard official.

The notice and all accompanying documentation must be sent to Commandant (G–LGL), General Law Division, U.S. Coast Guard Headquarters, Washington, D.C. 20593.

Dated: January 12, 1983.

W. P. Kozlovsky,

Rear Admiral, U.S. Coast Guard, Comptroller.

[FR Doc. 83–2874 Filed 1–28–83; 8:45 am]
BILLING CODE 4910–14–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 5

[Docket No. 21223–259]

Revision of Patent Procedure

Correction

In FR Doc. 83–1507 beginning on page 2696 in the issue of Thursday, January 20, 1983, make the following corrections:

(1) On page 2696, first column, in the "**SUMMARY**", second line from the bottom, remove the second "of".

(2) On page 2697, first column, second full paragraph, fifth line from the bottom, "of" should read "or".

(3) On page 2701, first column, under *"Section 1.137"*, fifth line from the bottom, "§ 1.37" should read "§ 1.137".

(4) On page 2704, first column, fourteenth line from the bottom, "application" should read "applications"; second column, eighth line from the top, "commissioner" should read "Commissioner".

(5) On page 2705, third column, twenty-ninth line from the bottom, "§ 1.37" should read "§ 1.137".

(6) On page 2706, first column, seventeenth line from the bottom, "guidelines" should read "Guidelines"; second column, third line from the bottom reading "paper of fee)" should read "paper or fee)".

(7) On page 2708, first column, § 1.6(d), last line, "trademark" should read "Trademark"; in § 1.7, third line from the bottom, "of" should read "or"; second column, § 1.10(b), second line from the bottom, there should be double quotation marks after "Mail"; third column, § 1.41, in the heading, "**Appllicant**" should read "**Applicant**".

(8) On page 2711, second column, § 1.63(a)(3), "Indentify" should read "Identify".

BILLING CODE 1505–01–M

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS-FRL 2183-4]

Fuels and Fuel Additives: Measure of Octane of Unleaded Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends the unleaded gasoline regulations (40 CFR 80), substituting (R+M)/2 for Research Octane Number as a measure of unleaded gasoline octane. Research Octane Number (RON) and Motor Octane Number (MON) are the two standard laboratory methods of measuring gasoline octane. (R+M)/2, which is also referred to as AKI, or antiknock index, is equal to half the sum of the research and motor octane numbers. Stations which have been required to offer for sale at least one grade of unleaded gasoline of at least 91 RON are now required to offer for sale at least one grade of unleaded gasoline of at least 87 AKI. This change is being made to bring EPA's rule into conformity with current practice, and should not appreciably alter the effect of the existing requirement.

In addition, the allowable altitude adjustment in the measure of unleaded gasoline octane is amended to be in conformity with current industry practice.

Insofar as the regulations refer to American Society for Testing and Materials (ASTM) specifications, EPA will review changes to those specifications to determine if their continued use is appropriate, and will amend the regulations if necessary.

DATES: This rule is effective as of January 31, 1983.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 19, 1983.

ADDRESS: *Public Docket:* Copies of the rule and comments by interested parties are available for inspection in Public Docket EN-81-11 at the Central Docket Section (A-130), West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460. This docket may be inspected between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Robert Gelman, Fuels Section, Field Operations and Support Division (EN-397), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 at (202) 382-2635.

SUPPLEMENTARY INFORMATION: On September 4, 1981, EPA published a notice of proposed rulemaking in the **Federal Register**, proposing to change the designation of gasoline octane in the unleaded gasoline regulations (40 CFR 80) from RON to (R+M)/2, for reasons described in the announcement (46 FR 44477). Time was allowed for comments and requests for a formal hearing. No hearing was requested. Comments were received from 13 organizations; two opposed the proposed rule. Volkswagen of America, Inc., said that (R+M)/2 may be misleading for fuels which are high in olefins or oxygenated hydrocarbons, and Wesreco, Inc., of Woods Cross, Utah, objected to the change because of the additional expense of running the motor octane portion of the test. A separate point was raised by the National Petroleum Refiners Association (NPRA), Chevron, and Getty, who all recommended that the octane requirement be dropped completely. Renault USA, Inc., while approving the adoption of (R+M)/2 as a measure of octane, recommended keeping the RON requirement as well. Finally, in its comments approving the proposed change, Texaco suggested that the formula for modifying minimum octane with altitude be changed to the method used in ASTM D439.

After consideration of all comments, it has been decided to incorporate Texaco's suggestion, but otherwise to promulgate the rule change substantially as proposed in the September 4, 1981, **Federal Register**, notice (46 FR 44477). Texaco's suggestion has been adopted because there does not appear to be any substantial reason for EPA to require a separate formula for calculating allowable octane decrease at higher altitudes.

With respect to Volkswagen's statement, EPA feels that any measurement of octane will not fully reflect a gasoline's antiknock performance under all conditions. Although in some cases either RON or MON may best measure antiknock performance, ASTM has concluded on the basis of extensive correlation studies that, on balance, gasoline antiknock performance is best related to (R+M)/2. Thus, the designation of 87 (R+M)/2 is at least as effective as 91 RON in meeting the regulations' objective, which is to provide assurance that an acceptable grade of unleaded gasoline will be readily available to motorists.

Wesreco's objection was not considered to be a major obstacle to the rule change, because section 202(a) of the Petroleum Marketing Practices Act (15 U.S.C. 2801 *et seq.*) requires each refiner who distributes automobile gasoline in commerce to determine the (R+M)/2 octane rating of any such gasoline, thus already imposing the burden of measuring (R+M)/2.

The question of the appropriateness of any octane requirement for unleaded gasoline at this time, raised by NPRA, Chevron, and Getty, has not been addressed, because EPA feels that this is a much larger issue, which would require much more expensive analysis and review than is presently warranted. EPA's current action is not intended as a substantive change; it is merely an attempt to make it easier to comply with an existing regulation.

EPA will fully review the continued necessity for an octane requirement as part of the unleaded gasoline regulations, outside the context of this particular rule.

Renault's suggestion, to use both (R+M)/2 and RON as octane requirements, would add to the regulatory burden, rather than easing it, which is the prime purpose of this regulatory change. EPA feels that the extensive correlation studies referred to in the discussion of Volkswagen's statement have established the adequacy of (R + M)/2 as an indicator of antiknock performance, thus allowing it to be used as a replacement for, rather than a supplement to, RON in the context of this regulation.

Under Executive Order 12291, EPA must judge whether an action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The only effect of this action is to make it easier for gasoline retail outlets and wholesale purchaser-consumers to comply with EPA's unleaded gasoline regulations.

The action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Finally, under the regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant

economic impact on a substantial number of small entities so as to require a regulatory analysis. This modification should not have a significant adverse impact on any of the affected entities, which are primarily retail gasoline outlets and wholesale puchaser-consumers. Therefore, pursuant to 5 U.S.C. 605 (b), I hereby certify that this rule will not have significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 80

Incorporation by reference, Fuel additives, Gasoline, Motor vehicle pollution, Penalties.

Therefore, the rule is hereby promulgated as described below.

Dated: December 17, 1982.

Anne M. Gorsuch,

Administrator

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

Accordingly, notice is hereby given that 40 CFR Part 80 is amended as follows:

1. In § 80.2 by revising paragraph (d) to read as follows:

§ 80.2 Definitions.

* * * * *

(d) "Octane number, (R + M) /2 method"means measurement of a gasoline's antiknock characteristics which is obtained by dividing the sum of the Research Octane Number and the Motor Octane Number by two, as explained by the American Society for Testing and Materials (ASTM) in ASTM D 439–81, entitled "Standard Specifications for Automotive Gasoline." The Research Octane Number is determined by ASTM standard test method D 2699–80 and the Motor Octane Number is determined by ASTM standard test method D 2700–81. ASTM standards D 439–81, D 2699–80 and D 2700–81 are incorporated by reference. They are available from ASTM, 1916 Race Street, Philadelphia, PA, 19103, and are also available for inspection as part of Docket EN–81–11, located at the Central Docket Section, EPA, Gallery I, West Tower, 401 M Street, SW., Washington, DC, 20460. Standard D 439–81 is contained in the Annual Book of ASTM Standards, Part 23; standards D 2699–80 and D 2700–81 are contained in Part 47. This incorporation by reference was approved by the Director of the Federal Register on January 19, 1983. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.**

§ 80.22 [Amended]

2. In § 80.22 by amending the introductory text of paragraph (b) so that the portion reading "* * * not less than 91 Research Octane Number: *Provided, however,* That the octane number of unleaded gasoline offered for sale in areas where altitude is greater than 2,000 feet may be reduced one (1) octane number for each succeeding 1,000 feet, but not more than three (3) octane numbers in total" is changed to read, "* * * not less than 87 Octane, (R + M)/2 method: *Provided, however,* That the octane number of unleaded gasoline may be reduced for altitude as specified in American Society for Testing and Materials Standard D 439–81, which is incorporated by reference (see 40 CFR 80.2 (d)), except that references in that Standard to EPA regulations affecting Research Octane Number (RON) shall not apply."

[FR Doc. 83–2526 Filed 1–28–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Associate Director, State and Local Programs and Support, after consultation with the Chief Executive Officer of each community listed, finds that modification of the proposed Special Flood Hazard Areas (SFHAs) for those communities is appropriate as a result of requests for changes in the interim and/or Proposed Rule.

DATES: These modified SFHAs are in effect as of the dates listed in the sixth column of the attached list and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified SFHA determinations for each community are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support has published a notification of the SFHAs in prominent local newspapers for the communities listed below. Ninety (90) days have elapsed since that publication, and the Associate Director has received appeals from the communities requesting changes in the proposed SFHA determinations.

The numerous changes made in the SFHAs on the Flood Insurance Rate Map for each community make it administratively infeasible to publish in this notice all of the SFHA changes contained on the maps. However, this notice includes the address of the Chief Executive Officer where the modified SFHA determinations are available for inspection.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These SFHAs are basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These SFHAs together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified SFHAs shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The changes in the SFHAs listed below are in accordance with 44 CFR 65.4.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	Community No
Indiana Clark	City of Jeffersonville (FEMA Docket No 6343)	*The Evening News* July 2, 1982, July 9, 1982	Honorable Richard Vissing, Mayor, City of Jeffersonville, City-County Building, Suite 404, 500 East Court Avenue, Jeffersonville, IN 47130	Feb 18, 1982	180027C
Kansas Sedgwick and Sumner	City of Mulvane (FEMA Docket No 6344)	*The Mulvane News* June 17, 1982 June 24, 1982	Honorable Vivian L. Thompson, Mayor, City of Mulvane, 211 North Second, Mulvane, KS 67110	Feb 8, 1983	200326C
Michigan Macomb	Township of Clinton (FEMA Docket No 6345)	*The Macomb Daily* July 2, 1982, July 9, 1982	Kenneth H. Bobcean, Supervisor, 40700 Romeo Plank Road, Mount Clemens, MI 48044	Feb 18, 1983	260121C
Ohio Clermont	Village of Batavia (FEMA Docket No 6346	*The Clermont Sun* July 7, 1982, July 14, 1982	Honorable Edmond Parrott, Mayor, Village of Batavia, 389 East Main Street, Batavia, Ohio 45103	Feb 25, 1983	390066E
Texas Harris, Waller and Fort Bend	City of Katy (FEMA Docket No 6347)	*Katy Times* June 23, 1982, June 30 1982	Honorable John G. Morrison, Mayor, City of Katy, P.O Box 617, Katy, TX 77449	Feb 8, 1983	480301D
West Virginia Logan	Town of Man (FEMA Docket No 6348)	*Logan Banner* July 2, 1982 July 9, 1982	Honorable Mervil Perry, Mayor, Town of Man, P.O Box 70, Man, West Virginia 25635	Feb 18, 1983	545537B
Arizona Yavapai	City of Prescott (FEMA Docket No 6364)	*Prescott Courier* July 19, 1982, July 26, 1982	Honorable Lawrence A. Caldwell, Mayor, City of Prescott, 201 South Cortez, P.O Box 2059, Prescott, AZ 86301	Mar 29, 1983	040098B
Maricopa	Town of Wickenburg (FEMA Docket No 6365)	*The Wickenburg Sun* July 22, 1982, July 29, 1982	Honorable Bruce Woodruff Mayor, Town of Wickenburg, P.O Box 1269, Wickenburg, AZ 85358	Mar 29, 1983	040056C
California Riverside	(Unincorporated Area) (FEMA Docket No 6363)	*The Evening Press-Enterprise*, July 21, 1982, July 28,1982	Ms Kay Ceniceros, Chairman, Board of Supervisors, Riverside County, 4080 Lemon Street, 14th Floor, Riverside, CA 92501	Mar 22, 1983	060245B
Indiana Hamilton	Town of Westfield (FEMA Docket No 6331)	*Westfield Enterprise* June 23, 1982, June 30, 1982	Mr Joseph Edwards, President of Town Board, 130 Penn Street, Westfield, Indiana 46074	Mar 11, 1983	180083C
Missouri St Charles	City of St Charles (FEMA Docket No 6370)	*St Louis Post-Dispatch* July 29, 1982, August 5, 1982	Honorable Douglas Boschert, Mayor, City of St Charles, 200 North Second Street, St Charles, MO 63301	Mar 22, 1983	290318C
North Dakota Stark	City of Dickinson (FEMA Docket No 6361)	*The Dickinson Press* July 27, 1982 August 3, 1982	Mr A. E. Baumgartner, President, Board of Commissioners, Dickinson City Hall, P.O Box 1037, Dickinson, ND 58601	....do	380117C
Stark	City of Belfield (FEMA Docket No 6372)	*Dickinson Press*, July 27, 1982 August 3, 1982	Honorable Philip Dolyniuk, Mayor, City of Belfield, P.O Box 5, Belfield, ND 58622	Mar 15, 1983	380116C
Oklahoma Oklahoma	City of Midwest City (FEMA Docket No 6355)	*Midwest City Sun* July 15, 1982 July 22, 1982	Honorable Dave Herbert, Mayor, City of Midwest City, P.O Box 10570, Midwest City, OK 73140	Mar 8, 1983	400405D
Utah Utah	City of Lehi (FEMA Docket No 6295)	*Lehi Free Press* July 15, 1982, July 22, 1982	Honorable A. E Allison, Mayor, City of Lehi, 51 North Center Street, Lehi, UT 84043	Mar 1, 1983	490209B
Wyoming Converse	Town of Douglas (FEMA Docket No 6375).	*The Douglas Budget* July 22, 1982, July 29, 1982	Honorable Dick George, Mayor, Town of Douglas, 130 South Third Street, Douglas, WY 82633	Mar 15, 1983	560013C
Sweetwater	City of Rock Springs (FEMA Docket No 6304)	*Daily Rocket Miner* May 4, 1982, May 11, 1982	Honorable C. Keith West, Mayor, City of Rock Springs, P.O Box 698, Rock Springs, WY 28901	Mar 1, 1983	560051C
Arizona Pinal	City of Casa Grande (FEMA Docket No 6391).	*Casa Grande Dispatch* August 26 1982, September 2, 1982	Honorable Hugh N. Guinn, Mayor, City of Casa Grande, 300 East Fourth Street, Casa Grande, AZ 85222	Apr 19, 1983	040080B
California Riverside	City of Coachella (FEMA Docket No 6392)	*Coachella Valley Sun* September 2, 1982, September 9, 1982	Honorable Manuel Rios, Mayor, City of Coachella, 1515 Sixth Street, Coachella, CA 92236	Apr 26, 1983	060249B
Ventura	City of Ojai (FEMA Docket No 6410)	*The Ojai Valley News* September 15, 1982 September 22, 1982	Honorable Frank McDevitt, Mayor, City of Ojai, P.O Box 1570, Ojai, CA 93023	Apr 19, 1983	060416C
Colorado Summitt	Town of Frisco (FEMA Docket No 6394)	*Summit County Sentinel* August 27, 1982, September 3, 1982	Honorable Douglas P. Jones, Mayor, Town of Frisco, P.O Box 370, Frisco, CO 80443	Apr 26, 1983	080245B
Routt	Town of Steamboat Springs (FEMA Docket No 6382)	*The Steamboat Pilot* August 26, 1982 September 2, 1982.	Mr. Phil Struble, President of City Council, Town of Steamboat Springs, P.O Box 9017, Steamboat Springs, CO 80477	Apr 19, 1983	080159C
Iowa Clay	City of Spencer (FEMA Docket No 6411)	*The Daily Reporter* September 17 1982, September 24, 1982	Honorable Edward Keith Johnson, Mayor, City of Spencer, 405 First Avenue West, Spencer, IA 51301	do	190071B
Louisiana Ouachita	City of West Monroe (FEMA Docket No 6412)	*News Star* September 17, 1982 September 24, 1982	Honorable Dave N Norris, Mayor, City of West Monroe, 2305 North Seventh Street, West Monroe, LA 71291	do	220138C
Oklahoma Ottawa	City of Miami (FEMA Docket No 6414)	*The Miami News-Record* September 15, 1982, September 22, 1982	Honorable William J Hirsch, Mayor, City of Miami P.O Box 309, Miami, OK 74354	do	400157C
Creek	City of Sapulpa (FEMA Docket No 6395)	*Sapulpa Herald* September 7, 1982, September 14, 1982	Honorable Bobby Lee, Mayor, City of Sapulpa, P.O Box 1139, Sapulpa, OK 74066	Apr 26 1983	400053B
Oklahoma	Town of Harrah (FEMA Docket No 6413)	*Harrah News* September 16, 1982 September 23, 1982	Honorable Robert Maxey, Mayor, Town of Harrah, P.O Box 636, Harrah, OK 73045	do	400140C
South Dakota Union	City of North Sioux City (FEMA Docket No 6236)	*The Sioux City Journal* December 29, 1981, December 30, 1981	Honorable Richard White, Mayor, City of North Sioux City P.O Box 339, North Sioux City, SD 57049	Apr 5, 1983	460087C
Texas Grayson	City of Sherman (FEMA Docket No 6406)	*Sherman Democrat* September 17, 1982 September 24, 1982	Honorable Jack G. Kennedy, Mayor, City of Sherman P.O Box 1106, Sherman, TX 75090	Apr 19, 1983	485509C
Washington Pierce	City of Sumner (FEMA Docket No 6416)	*News-Review* September 15, 1982 September 22, 1982	Honorable Lewis R. Noel, Mayor, City of Sumner 1104 Maple Street, Sumner, WA 98390	Apr 19, 1983	530147C

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas

on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 6, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-2407 Filed 1-28-83; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 48, No. 21
Monday, January 31, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

14 CFR Part 23

[Docket No. 23494; Notice No. CE-83-1]

Small Airplane Airworthiness Review Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Announcement of small airplane airworthiness review program.

SUMMARY: This document announces the small airplane airworthiness review program and invites interested persons to submit proposals for consideration concerning it. The Review Progrma's objective is to provide public participation in improving, updating and developing the airworthiness standards applicable to small airplanes as set forth in Part 23 of the Federal Aviation Regulations (FAR).

DATE: Proposals must be received on or before June 2, 1983.

ADDRESS: Proposals prepared in response to this notice should be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 23494, Room 1558, Federal Building, 601 East 12th Street, Kansas City, Missouri 64106. All proposals must be marked: Docket No. 23494. Proposals may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: David Warner, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106; Telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Proposals Invited

Interested persons are invited to participate in the Small Airplane Airworthiness Review Program by submitting any proposal deemed appropriate as an amendment to Part 23 of the FAR. All proposals submitted should be in the format, including all of the information requested, in the required format and information paragraph of this notice. All proposals received on or before the closing date will be considered before taking further action on the Small Airplane Airworthiness Review Program. All proposals submitted will be available, both before and after the closing date in the Rules Docket for examination by interested persons. Persons wishing the FAA to acknowledge receipt of their proposals submitted in response to this notice must submit with those proposals a self-addressed, stamped postcard on which the following statement is made: "Proposal to Docket No. 23494." The postcard will be date/time stamped and returned to the person submitting the proposal.

Availability of Notice

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Requests must identify the notice number. Persons interested in being placed on a mailing list for future notices and Notices or Proposed Rulemaking (NPRM) related to this Review Program should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Background

Airworthiness standards are amended periodically in order to remain current with the state-of-the-art for small airplanes certified under Part 23. During a recent review of Part 23 of the FAR, the need for new and updated airworthiness standards for small airplanes was identified and analyzed by the FAA. This review revealed a number of areas in which the present standards may not adequately reflect technical advancements. Aircraft type certification problems have been encountered where equivalent level of safety findings were necessary because the regulations were not sufficiently broad in scope to consider the new design feature. In some cases, special regulations have been required.

Improving Federal Regulations

To implement the President's policy on reducing the burdens of existing and future regulations, the general requirements of Executive Order 12291 of February 17, 1981, should be considered when preparing proposals. These requirements apply when promulgating new regulations and reviewing existing regulations and provide, in pertinent part, that:

1. Administrative decisions shall be based on adequate information concerning the need for and consequences of the proposed government action;
2. Regulatory action shall not be undertaken unless the potential benefits to society for the regulation outweigh the potential costs to society;
3. Regulatory objectives shall be chosen to maximize the net benefits to society;
4. Among alternative approaches to any given regulatory objective, the alternative involving the least cost to society shall be chosen; and
5. Agencies shall set regulatory priorities with the aim of maximizing the aggregate net benefits to society, taking into account the condition of the particular industries affected by regulations, the condition of the national economy, and other regulatory actions contemplated for the future.

Scope of the Airworthiness Review

To enable timely FAA action, the scope of this airworthiness review is intentionally limited to those proposals which are considered appropriate for the inprovement, updating and development of airworthiness standards for Part 23 airplanes.

Required Format and Information

The FAA has found during past airworthiness review programs that the processing of numerous regulatory proposals is greatly facilitated when they are submitted in a standard format and contain certain basic information. Set forth below is the format that should be used. An illustrative example is shown in the Appendix to this notice. Each proposal should include as a minimum that following information:

1. The full name of title of the proponent or a generally accepted acronym.
2. The FAR section affected.

3. A short title identifying the subject of the proposal in 10 words or less.

4. The specific regulatory language proposed to attain the objective(s) sought.

5. The language of the current rule that the proposal would change or supplement, as applicable.

6. An explanation and justification of the proposal, including answers to the following questions:

a. What is the background?

b. Why is the proposed change necessary?

c. What data, reports, records, etc., support the proposal?

d. What is the probable impact (if any) on the environment, energy consumption, and the public?

e. What is the cost to the public of this proposal and how will it benefit the public?

When more than one proposal is submitted to attain the objective sought, the information in paragraph 6 above may be stated in one of the proposals and cross-referenced in the others.

Consideration of a Conference

Dependent upon the response and extent of proposals received as a result of this notice, the FAA will consider the need for a public conference to further clarify proposals that are submitted. If a conference is considered necessary, the FAA will prepare a conference agenda containing a compilation of the proposals submitted, including the FAA proposals. The conference agenda will be distributed to each person who has submitted a proposal or who has expressed an interest in this small airplane airworthiness review. At that time, a Notice of Availability of the Small Airplane Airworthiness Review Agenda will be issued and published in the **Federal Register**. The conference agenda, if issued, will provide general information on the conference, including conference dates and location. The agenda will also contain detailed information on the scheduling of the proposals for discussion.

All proposals received in response to this notice will not necessarily appear in the conference agenda. To avoid overloading the conference, the FAA may elect to exclude certain proposals. Proposals that are received after the closing date for proposals, go beyond the scope of this review, do not follow the prescribed format, or lack the essential information previously outlined may also be excluded. Further, the FAA will exclude proposals that are not adequately justified, would require further research, or are not likely to generate fruitful discussion at the conference.

Anticipated Conference Procedures

If the decision is made to hold a conference, the following procedures will apply. Persons who plan to attend the conference, if convened, should be advised that the following procedures will be established to faciliate the workings of the conference:

1. There will be no admission fee or other charge to attend and participate. Hower, all persons attending the conference must register, either in advance or at the conference. All conference sessions will be open on a space available basis to all persons who register. If necessary to complete the conference agenda, sessions may be extended to evenings and/or additional days. If practicable, the conference could be accelerated to enable adjournment in less than the scheduled time.

2. One or more committees, each chaired by a representative of the FAA, will be established to discuss the proposals in the conference agenda.

3. All conference sessions will be recorded by a court reporter. Anyone interested in purchasing a transcript should then contact the court reporter. A copy of the court reporter's transcript will be placed in the public docket. In addition, the sessions may be tape recorded.

4. The FAA will not consider material presented at the conference by participants on any issue that is not contained in the conference agenda. Position papers or handout material may be accepted at the discretion of the committee chairperson. However, enough copies must be provided for distribution to all conference participants.

5. Proposals appearing in the conference agenda will not necessarily be included in any subsequent notice of proposed rulemaking. The FAA will decide after post-conference analysis which proposals should be revised, expanded or accepted without change, and which should be deferred or rejected. In addition, statements made by FAA participants at the conference should not be taken as expressing the final FAA position on any proposal.

Proposed and Final Rulemaking

Needed changes identified by the FAA and the proposals received in response to this notice plus the related discussions at the conference, if such a conference is held, will be considered by the FAA in developing one or more appropriate NPRMs which would be published in the **Federal Register**. This notice would provide interested persons an opportunity to comment on specific proposed amendments to Part 23 of the Federal Aviation Regulations. Final rules adopted pursuant to the notice would be issued after consideration of all relevant comments received.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Safety, Air transportation, Tires.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Kansas City, Mo., on January 14, 1983.

Murray E. Smith,

Director, Central Region.

Appendix.—Example Format for Proposals

The format which follows is an example for developing proposals for consideration during the Small Airplane Airworthiness Review Program. In addition, each proposal should be submitted on a separate page. The text should be within margins no more than 6½ inches wide nor more than 9 inches long, so that the proposal can be printed on 8½ x 11-inch paper.

Sample Format

Proposal No.: (Leave blank) _____
From: Mr. John Smith _____
Index: (Leave blank) _____
FAR: 23.65
Subject: Climb: All engines operating

Proposal	Current rules
Revise Section 23.65(c) to read as follows	
Section 23.65 Climb: All engines operating.	Section 23.65 Climb: All engines operating.
. .	. . .
(c) (Insert proposed language here)	(c) Each turbine engine-powered airplane must be able to maintain a steady gradient of climb of at least 4 percent at a pressure altitude of 5,000 feet and a temperature of 81 degrees F (standard temperature plus 40 degrees F) with the airplane in the configuration prescribed in paragraph (a) of this section.

Explanation and Justification

(Outline the background, explain why the proposed change is necessary and set forth the rationale supporting the proposed change. Express costs and benefits in quantifiable and qualitative terms. Include an estimate of the probable impact (if any) on the environment, inflation, energy consumption and the public)

[FR Doc. 83-2324 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AGL-11]

Proposed Designation of Control Zone

AGENCY: Federal Aviation Adminstration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this Federal action is to designate an airport control zone to serve Grand Rapids/Itasca County Airport, Grand Rapids, Minnesota. This results from a request by the Grand Rapids/Itasca County Airport Commission. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before March 5, 1983.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 82-AGL-11, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360

SUPPLEMENTARY INFORMATION: The airspace required would lower the floor of controlled airspace from 700 feet above the surface down to the surface within a five statute mile radius of the geographic center of Grand Rapids/Itasca County Airport. The control zone would be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time would thereafter be continuously published in the Airport/Facility Directory. In addition, aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AGL-11." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administraion, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a control zone near Grand Rapids, Minnesota.

Section 71.171 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Grand Rapids, MN

Within a 5-mile radius of the Grand Rapids-Itasca County Airport (latitude 47°12'45" N., longitude 93°31'00" W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on January 18, 1983.

James M. Dermody,

Acting Director, Great Lakes Region.

[FR Doc. 83-2326 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ANM-17]

Proposed Alteration of Transition Area and Control Zone; Astoria, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the 700 foot transition area and control zone to provide controlled airspace for aircraft executing a new ILS instrument approach procedure to Astoria Airport, Astoria, Oregon. The intended effect of this action is to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

DATE: Comments must be received before March 4, 1983.

ADDRESSES: Send comments to: Manager, Airspace and Procedures Branch, ANM-530, Federal Aviation Administration, Northwest Mountain

Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket will be available for examination by interested persons in the office of the Regional Counsel, and the informal docket will be available for examination in the Airspace and Procedures Office, during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace and Procedures Specialist, ANM-534. The telephone number is (206) 433-1640.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they desire. Comments that provided the factual basis supporting the view and suggestions presented are particularly helpful in developing reasoned regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made; "Comments to Airspace Docket No. 82-ANM-17". The postcard will be date/time stamped and returned to the commenter. All communications received before March 4, 1983, will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination by interested persons.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Airspace and Procedures Office at the address previously listed. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) because development of the ILS approach procedure requires the transition and control zone airspace be expanded to contain the new procedure within controlled airspace.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety, Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the following transition area and control zone:

Astoria, Oregon [Amended]

1. By amending the control zone description by adding the words, "and within 2 miles each side of the Astoria ILS localizer east course, extending from the 5 mile radius zone to the PEN NDB (latitude 46°08'23" W., longitude 123°35'10" W.)."

2. By amending the transition area description by deleting all lthe words after, "24.5 miles northwest of the VOR;" and adding, "within an 18.5 mile radius arc of the Astoria VOR/DME extending clockwise from the 326° radial to the 347° radial; within a 26.5 mile radius arc of the Astoria VOR/DME extending clockwise from the 347° radial to the 039° radial; within an arc bordered by and between the 17.5 and 26.5 radius of the Astoria VOR/DME extending clockwise from the 039° radial to the 185° radial; within 9.5 miles north and 4.5 miles south of the Astoria ILS localizer east course extending from the PEN NDB (latitude 46°08'23" N., longitude 123°35'10" W.) to 18.5 miles east; and within 2 miles north and 2 miles south of the Astoria ILS localizer east course extending from the 5 mile radius area east to the PEN NDB."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); (Sec 6(c). Department of Transportation Act (49 U.S.C. 1655(c); (Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as th anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, on January 14, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

BILLING CODE 4910-13-M

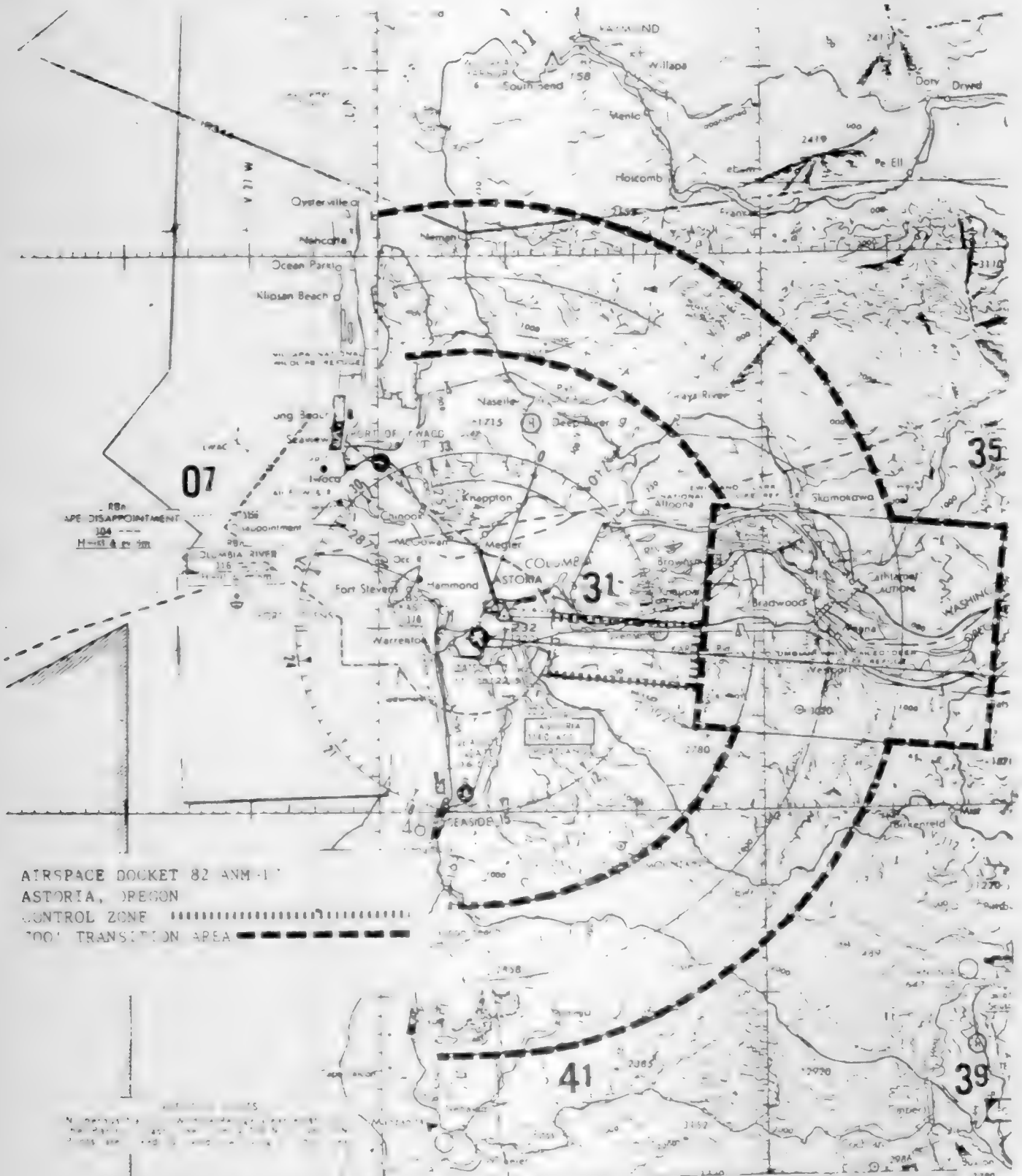

[FR Doc. 83-2033 Filed 1-28-83; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 414, 416, 439 and 455

[WH-FRL 2294-5]

Organic Chemicals Manufacturing, Plastics and Synthetic Fibers, Pesticide Chemicals Manufacturing, and Pharmaceuticals Manufacturing; Intent To Transfer Confidential Information to Contractor

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule related notice.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer or to grant access to confidential information collected under Section 308 of the Clean Water Act to selected EPA contractors. This information will assist the contractors in analyzing, revising, and reviewing the technical data base which supports effluent limitations and standards and National Pollution Discharge Elimination System (NPDES) permits required by the Clean Water Act.

DATE: Comments on the notice of transfer are due February 10, 1983.

ADDRESS: Send comments to: Joseph S. Vitalis, Organic Chemicals Branch, Effluent Guidelines Division (WH-552), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Joseph S. Vitalis, (202) 382-7172 or the individuals specified below.

SUPPLEMENTARY INFORMATION: The Clean Water Act of 1977 requires the Environmental Protection Agency to develop, revise, and review effluent limitations and standards for industrial point sources. The Office of Water Regulations and Standards is responsible for the industrial point source categories. EPA has awarded prime contracts to Environmental Science and Engineering, Incorporated (ESE) of Gainesville, Florida including JRB Associates, McLean, VA, and Environ, Washington, DC as subcontractors (Contract No. 68-01-6701), to the E. C. Jordan Company of Portland, Maine including ESE, Gainesville, FL as a subcontractor (Contract No. 68-01-6675) and other contractors as specified below to provide technical and economic analyses and other contract support to the Office of Water Regulations and Standards.

The Clean Water Act also requires EPA and authorized States to issue NPDES permits. EPA awarded a contract to JRB Associates of McLean, VA (Contract No. 68-01-6514) to provide technical assistance and other contract support to the Office of Water Enforcement and Permits Division. The data collected from questionnaires and from field sampling and analysis surveys will be used as a source of technical information to assure that technically appropriate permit conditions are established for each plant.

One of the sources of information which EPA will use to assess effluent limitations and standards is the data collected from questionnaires sent to various industries under authority of Section 308 of the Clean Water Act. Many of the responses to these questionnaires contain fundamental information about plant size and location, wastewater composition, wastewater treatment systems, wastewater volume, production processes, and solid waste disposal practices. The survey responses which EPA will use in the course of its assessment relate to industry survey questionnaires mailed since 1975 as well as follow-up communications and submissions for selected Standard Industrial Classifications (SIC). Many of these responses contain information which has been claimed as confidential by the responding company.

The Agency has also used the authority of Section 308 to conduct numerous conventional, nonconventional and toxic pollutant parameter field sampling and analysis surveys of in-plant and end-of-pipe wastewater sources within these industries. Portions of this data also have been claimed as confidential by the sampled facilities. The data collected by EPA from questionnaires and from field sampling and analysis surveys, including portions that have been claimed as confidential, will be transferred to EPA contractors.

The industrial point source categories, designated EPA contact person, selected contractors and EPA contract numbers receiving the data, SIC codes and descriptions of industries whose data is being transferred, and remarks are listed below:

1. Plastics and Synthetic Fibers and Organic Chemicals Manufacturing Point Source Categories.

a. For further information contact: Joseph S. Vitalis, EPA (WH-552), Washington, DC 20460, FTS: 8-382-7172, COMM: 202-382-7172.

b. Contractors: ESE, Gainesville, Florida, JRB Associates, McLean, VA, and Environ, Washington, D.C., (Contract No. 68-01-6701); JRB Associates, McLean, VA (Contract No. 68-01-6514, Work Assignment No. 6); Meta Systems, Inc. Cambridge, MA and Burke-Hennesey Associates, Fairfax, VA (Contract No. 68-01-6426).

c. SIC Codes and descriptions:

SIC 2821 Plastic materials, synthetic resins and nonvulcanizable elastomers
SIC 2823 Cellulosic man-made fibers
SIC 2824 Synthetic organic fibers, except cellulosic
SIC 2865 Cyclic (coal tar) crudes and cyclic intermediates, dyes, and organic pigments (lakes and tones)
SIC 2869 Industrial organic chemicals, NEC

d. Remarks: The confidential files are currently located at JRB Associates, McLean, VA under Contract Nos. 68-01-6347 and 68-01-6348 and shall remain at JRB Associates under Contract No. 68-01-6701. Access to the confidential files under JRB Associates Contract No. 68-01-6514 shall be limited to Work Assignment No. 6 "Technical Assistance for Issuance of Permits for Industrial Dischargers."

2. Pharmaceuticals Manufacturing Point Source Category.

a. For further information contact: Frank H. Hund, EPA (WH-552), Washington, DC 20460, FTS: 8-382-7182, COMM: 202-382-7182.

b. Contractor: E.C. Jordan Company, Portland, ME and ESE, Gainesville, FL (Contract No. 68-01-6675)

c. SIC Codes and descriptions:

SIC 2831 Biological products
SIC 2833 Medicinal chemicals and botanical products
SIC 2834 Pharmaceutical products
SIC 2844 Cosmetic preparations which function as a skin treatment

d. Remarks: The confidential files will be transferred to ESE, Inc., Gainesville, FL.

3. Pesticide Chemicals Manufacturing Point Source Category.

a. For further information contact Joseph S. Vitalis, EPA (WH-552), Washington, DC 20460, FTS: 8-382-7172, COMM: 202-382-7172.

b. Contractor: ESE, Gainesville, FL (Contract No. 68-01-6701)

c. SIC Code and description: SIC 2879 Pesticides and Agricultural Chemicals, NEC.

d. Remarks: The confidential files are currently located at ESE's Miami, FL office under Contract No. 68-01-6024 and shall remain there under Contract No. 68-01-6701.

EPA has determined that it is necessary to transfer this information to

the designated contractors in order that they may carry out the work required by their contracts. The contracts and subcontracts contain all confidentiality provisions required by EPA's confidentiality regulations (40 CFR 2.302(h)(2–3)). In accordance with those regulations, sampled facilities and questionnaire respondents who have submitted confidential information have ten days from the date of this notice to comment on EPA's proposed transfer of this information to this contractor for the purposes outlined above (40 CFR 2.302(h)(2–3)).

Dated: January 13, 1983.

Rebecca W. Hammer,

Acting Assistant Administrator for Water.

[FR Doc. 83–2430 Filed 1–28–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3710, 3720, 3730, 3740, 3800, 3810, 3820, 3830, 3840, 3850, 3860 and 3870

Intent To Propose Rulemaking; Extension of Comment Period; Acquisition of Rights and Development of Mineral Resources

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Extension of Comment Period on Intent to Propose Rulemaking.

SUMMARY: A notice of intent to propose rulemaking requesting the public to comment on regulations dealing with acquistions of rights and development of mineral resources under the mining laws (30 U.S.C. 22 et seq.) and other Special Acts of Congress was published in the **Federal Register** on December 27, 1982 (47 FR 57521). That notice requested that comments be submitted by February 1, 1983. This notice of extension extends the comment period from February 1, 1983, to March 1, 1983.

DATE: Comments should be submitted by March 1, 1983. Comments received or postmarked after that date may not be considered in the decisionmaking process on the proposed rulemaking.

ADDRESS: Comments should be addressed to: Director (140), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

Dated: January 21, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83–2583 Filed 1–28–83; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 64, 65, and 70

[Docket No. FEMA 6486]

National Flood Insurance Program; Elimination of Documents

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) proposes changes to 44 CFR Parts 64, 65 & 70 which will allow for the elimination of certain documents published in the **Federal Register** for the National Flood Insurance Program (NFIP). These documents contain listings of communities with regard to their flood hazard identification, eligibility for regular program insurance and descriptions of properties inadvertently included within FEMA delineations of Special Flood Hazard Areas. FEMA proposes this action as a means of decreasing the costs of implementing the NFIP while maintaining the effectiveness of its administrative actions.

DATE: Comments are due by April 1, 1983.

ADDRESS: Please send comments to: Rules Docket Clerk, Room 835, Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0270.

SUPPLEMENTARY INFORMATION: Due to budgetary restraints, FEMA has been examining its administrative procedures to determine means of decreasing the cost of implementing the National Flood Insurance Program (NFIP) while maintaining the effectiveness of its administrative actions. During this examination, the extent, costs and effectiveness of **Federal Register** publications were reviewed. This review covered all phases of public notification of FEMA's actions under the NFIP. FEMA determined that many of its **Federal Register** publications could be eliminated since other, more direct means of notification assure knowledge of these actions by the concerned public. Elimination of these publications requires the amendment, revision or removal of some of the sections in Chapter 1 of Title 44 of the Code of Federal Regulations.

In the course of its administrative procedures which affect the actions listed in the publications being eliminated, FEMA directly notifies the affected community or individual and provides copies of notifications to States, lenders, insurance agents, and affected Federal and private agencies. In addition, FEMA publishes bi-monthly its National Flood Insurance Program—Community Status Book which contains updated hazard identification and eligibility information. These notifications and publications, along with FEMA's response capabilities to direct inquiry, obviate the need for nationwide information dissemination, through **Federal Register** publication, of listings and property descriptions.

On August 4, 1982, at 47 FR 33721–33722 FEMA published in the **Federal Register** a Notice of Intent regarding the above actions and requested comments. Five letters of comment were received. Comments are listed below with FEMA's response to them:

A. Some comments questioned both the timeliness of issuance and the accuracy of data in the Community Status Book.

From the cut-off date for updated information to the mailing of the Community Status Book, six to eight weeks will elapse. Of the **Federal Register** publications suggested for elimination in the Notice of Intent, only the publication of communities entering the NFIP, and becoming eligible for flood insurance coverage, would have an impact on the timely implementation of program activities. Therefore, listing of newly eligible communities will continue to be published under § 64.6. Our research shows that other cumulative listings currently being published in the **Federal Register** do not occur appreciably prior to Community Status Book publication and, in some cases, actually occur after it. In addition, recent computer input capabilities will allow the Community Status Book to be even more up-to-date. Errors and new information can be promptly entered by FEMA into the computer data bank which generates the book. FEMA will also be examining other means to improve both the book's accuracy and rapid dissemination.

Any individual or entity which has questions regarding a community's NFIP status or wishes to be placed on the book's mailing list may call the NFIP toll free at (800) 638–6620. Errors in the book should be brought to the attention of FEMA by writing or contacting Mr. Richard E. Sanderson at the address or phone number noted in the address section of this notice.

B. One comment noted that the U.S. Postal Service should not be relied upon to disseminate information.

FEMA, as a Federal Agency, must use the U.S. Postal Service for its mailing operations. Indeed, this Agency has found the U.S. Postal Service very reliable. All letter notifications to individual appellants, communities and States are sent by "Certified Mail—Return Receipt Requested" so that when mail is not received, we are aware of it. Mailing of letter copies, maps and studies to other individuals or organizations is accomplished through first-class or bulk distribution. Much of this mailing (in particular, the Community Status Book) depends upon mailing lists. It is, therefore, important that recipients inform us of any changes in these addresses. Requests for specific community maps can be telephoned to the toll-free number noted above or can be sent in writing to: NFIP, P.O. Box 34604, Bethesda, Maryland 20817. Once the request for a map has been made, the requestor will automatically receive revisions of that map. Requests for copies of letter notifications should be made to Mr. Sanderson's address noted above.

C. A comment was received that monies saved from FEMA's economy efforts with regard to **Federal Register** NFIP publications should remain in the NFIP.

This is the case. The Notice of Intent states that the saved funds can be reassigned to other emergency management areas of FEMA. Since funds for the publications are from the annual appropriations for the NFIP, saved funds would be utilized for other NFIP purposes.

D. A private organization felt that the only way for it to acquire information about Letters of Map Amendment is by reference to the **Federal Register**.

FEMA issues Letters of Map Amendment under Part 70 to owners of real property who submit data which show that their real property is not within the Special Flood Hazard Area (SFHA) delineated on their community's flood map. Owing to the limitations of map scale, redelineation of the SFHA to show the exclusion of the property in question is not a practical solution. A Letter of Map Amendment is issued to clearly define the property's boundaries and to describe the implications of the determination with regard to NFIP for the property owner.

In issuing Part 70 Letters of Map Amendment, FEMA's primary concern is with the individual, community, State, lender and/or insurance broker involved. Results of the review and evaluation of requests for the Letters of Map Amendment are sent directly to these entities. Since the action is of direct concern to these entities, and since finalized base flood elevations are not affected, there is no need for general public dissemination of this information.

Of the comments received, the majority of responses were concerned with the adequacy of the Community Status Book as a substitute for **Federal Register** publication. There are several points to reiterate in this regard: (1) FEMA will continue **Federal Register** publication of suspension of, withdrawal from and initial eligibility for communities in the NFIP; (2) The publications being eliminated, with the exception of Part 70 Letters of Map Amendment, are all generated by mapping activities. These maps—have, in nearly all cases, been distributed prior to **Federal Register** publication; (3) FEMA has telecommunication abilities to respond to requests for map copies and information on communities; and (4) FEMA also employs letter notification of its actions to the communities or individuals, States, and the related organizations involved.

Each of the changes to 44 CFR are at the end of this proposed rule and are numbered. As a guide to the effect of each of the changes is the following:

Change 1 (paragraph a) will eliminate publication in the **Federal Register** of lists of communities eligible for increased insurance coverages under the Regular Program.

Change 2 is necessitated for conformance of § 64.3(c) with the changes to Part 65.

Change 3 is necessitated for conformance of § 65.1 with the changes to the remainder of Part 65.

Change 4 will eliminate publication in the **Federal Register** of lists of FHBMs.

Change 5 will eliminate publication in the **Federal Register** of lists of effective FIRMs.

Change 7 will eliminate publication in the **Federal Register** of lists of withdrawn FHBMs.

Change 8 will eliminate publication in the **Federal Register** of lists of minimally flood prone communities.

Change 9 will eliminate publication in the **Federal Register** of lists of non-flood prone communities.

Change 10 will eliminate a duplication.

Change 11 will eliminate publication in the **Federal Register** of descriptions of properties inadvertently shown within Special Flood Hazard Areas on FIRMs.

The August 4 Notice of Intent also contained information on FEMA's desire to change the format of Part 67 newspaper notices and final base flood elevation determination rules. Since the changes in format are not rulemaking, they are being published in the **Federal Register** as a separate notice. No comments were received on those format changes during the comment period.

An environmental assessment is not necessary because this rule change is procedural and has no effect on the quality of the human environment. This rule change is not a "major rule" within the context of Executive Order 12291. This rule does not have a significant economic impact on a substantial number of small entities because it does not affect actual notifications received by communities regarding the actions discussed in this rule. The proposed rule changes do not involve the collection of information under 44 U.S.C. 3504(h).

List of Subjects in 44 CFR Parts 64, 65, and 70

Flood insurance, Flood plains.

For the reasons set out in the Notice of Intent and the preamble above, Parts 64, 65 and 70 of Chapter I, of Title 44, Code of Federal Regulations are proposed to be amended, revised or removed as follows:

PART 64—COMMUNITIES ELIGIBLE FOR SALE OF INSURANCE

(1) Section 64.1 is revised to read as follows:

§ 64.1 Purpose of part.

(a) 42 U.S.C. 4012(c), 4022 and 4102 require that flood insurance in the maximum limits of coverage under the regular program shall be offered in communities only after the Associate Director, State and Local Programs and Support (herein the Associate Director) has: (1) Identified the areas of special flood, mudslide (i.e. and flood) or flood-related erosion hazards within the community; and/or (2) completed a risk study for the applicant community. The priorities for conducting such risk studies are set forth in 59.23 and 60.25 of this subchapter. A purpose of this part is to define the types of zones which the Agency will use for identifying the hazard areas on maps.

(b) 42 U.S.C. 4056 authorizes an emergency implementation of the National Flood Insurance Program whereby the Associate Director may make subsidized coverage available to eligible communities prior to the completion of detailed risk studies for such areas. This part also describes procedures under the emergency program and lists communities which become eligible under the NFIP.

(2) Section 64.3(c) (1) and (2) are proposed to be revised as follows:

§ 64.3 Flood Insurance maps.

* * * * *

(c) * * *

(1) The information office of the state agency or agencies designated by statute or the respective Governors to cooperate with the Associate Director in implementing the Program whenever a community becomes eligible for Program participation and the sale of insurance pursuant to this section or is identified as flood prone.

(2) One or more official locations within the community in which flood insurance is offered.

* * * * *

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

(3) Section 65.1 is revised to read as follows:

§ 65.1 Purpose of part.

42 U.S.C. 4101 authorizes the Director to identify and publish information with respect to all areas within the United States having special flood, mudslide (i.e. mudflow) and flood-related erosion hazards. The purpose of this part is to outline the steps a community needs to take in order to assist the Agency's effort in providing up-to-date identification and publication, in the form of the maps described in Part 64, on special flood, mudslide (i.e. mudflow) and flood-related erosion hazards.

§ 65.3 [Removed]

(4) Section 65.3 is removed.

§ 65.4 [Removed]

(5) Section 65.4 is removed.

§ 65.5 [Redesignated as § 65.3]

(6) Section 65.5 is redesignated as § 65.3.

§ 65.6 [Removed]

(7) Section 65.6 is removed.

§ 65.7 [Removed]

(8) Section 65.7 is removed.

§ 65.8 [Removed]

(9) Section 65.8 is removed.

§ 65.9 [Removed]

(10) Section 65.9 is removed.

PART 70—PROCEDURE FOR MAP CORRECTION

(11) Section 70.7(a) is revised to read as follows:

§ 70.7 Notice of letter of map amendment.

(a) The Associate Director, State and Local Programs and Support shall not publish a notice in the **Federal Register** that the FIRM for a particular community has been amended by letter determination pursuant to this part unless such amendment includes alteration or change of base flood elevations established pursuant to Part 67. Where no change of base flood elevations has occurred, the Letter of Map Amendment provided under §§ 70.5 and 70.6 serves to inform the parties affected.

(b) In addition, FEMA will eliminate publication in the **Federal Register** of cumulative listings of suspended or sanctioned communities under the National Flood Insurance Program (NFIP). No change to 44 CFR is required for this action. Suspension, new eligibility and NFIP withdrawal actions will continue to be published under § 64.6.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 20, 1983.

Lee Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-2358 Filed 1-28-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 5, 15, 21, 73, 74, 78, and 94

[Gen. Docket No. 83-10; FCC 83-4]

Expansion of Notification and Verification Equipment Authorization Procedures

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to simplify the required equipment authorization for a number of categories of radio frequency equipment. This action is necessary to reduce the time spent by applicants in obtaining approval for this equipment.

DATES: Comments must be filed on or before April 21, 1983, and reply comments must be filed on or before May 23, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Science and Technology, (202) 653-6288.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Communications equipment, Imports, Radio.

47 CFR Part 5

Research.

47 CFR Part 15

Communications equipment, Labeling, Radio, Reporting and Recordkeeping requirements.

47 CFR Part 21

Communications common carriers, Point-to-point microwave, Transmissions.

47 CFR Part 73

Communications equipment, Radio broadcast.

47 CFR Part 74

Communications equipment, Television.

47 CFR Part 78

Cable television, Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 94

Communications equipment, Radio.

Adopted: January 13, 1983.

Released: January 21, 1983.

By the Commission: Commissioner Quello concurring and issuing a statement.

1. On (fill in agenda date), 1982, this Commission adopted a Report and Order in Gen. Docket No. 82-242 instituting a new form of equipment authorization known as notification. This authorization procedure will be used, along with the other existing authorization procedures, to determine if equipment is capable of complying with the appropriate regulations. Such a determination must be made before the equipment can be marketed to the public, in accordance with § 2.803 of the regulations (47 CFR 2.803). Notification differs from the other forms of equipment authorizations in that the detailed measurement data and other information normally supplied with the application will not be required unless otherwise requested. The question of which types of equipment should be placed under notification was not addressed in Gen. Docket 82-242. It was stated that the inclusion of equipment under notification, along with an expansion of the application of existing verification procedure, would be considered in separate rule making proceedings. That is the intent of this proceeding.

General Considerations

2. A number of comments filed in Docket No. 82–242 expressed concern that under notification (and certainly under verification) some manufacturers would begin to produce equipment that was not in compliance with our regulations. This possibility could result from simple error, such as a misinterpretation of the regulations, or through an intentional manipulation of the equipment design in an attempt to reduce the price of the equipment, the cost of its production or the cost of testing the equipment. The probability of detecting problems of this sort before equipment was released to the marketplace would be lower under a relaxed equipment authorization program due to a lack of technical review. Thus, it is argued that there would be an increased probability for interference-causing equipment being released for public use.

3. In addition to being cautious with the selection of equipment to be placed under notification and verification, an efficient sampling program could deter the entry of noncomplying equipment into the market place. Such a program has always been desirable but has been used only sporadically because of other staffing demands. We intend to increase our degree of sampling with the institution of notification.

4. The sampling of equipment, both post-grant and pre-grant, has an advantage over the testing of prototype equipment normally submitted for type approval or, when requested, with certification or type acceptance. It has been alleged that some prototypes may not represent the quality of the equipment actually marketed to the public. As resources permit, our sampling program will test market equipment and will, therefore, be able to obtain a more accurate assessment of the equipment actually used by the public. Thus, the sampling program could provide us with a greater ability for determining equipment compliance than previously provided under the other authorization procedures without post-grant sampling. The sampling program would also include equipment approved under type acceptance, type approval and certification in addition to verification and notification.

5. In the process of changing the type of equipment authorization procedure employed, we must pay particular attention to equipment acceptable for use in more than one radio service. For example, many transmitters approved for operation under Parts 21, 22, 74, 87, 94 or 95 or a combination of these rule parts.[1] Requiring different forms of equipment authorizations for different radio services even though the same equipment is employed, would pose an unacceptable economic and recordkeeping burden on the manufacturers. While it would be possible to be consistent in selecting the form of equipment authorization such that the same authorization procedure is applied to similar equipment categories even though they may be used in different radio services, it is felt that this solution would be difficult to achieve and would still cause some confusion. Therefore, we are proposing an amendment to the regulations that would state that for equipment which requires a grant of notification, approval of the equipment under type acceptance, certification or type approval shall be deemed to constitute approval of the equipment under notification. Comments are requested concerning the feasibility of this approach.

6. The specific proposal for equipment categories to be placed under notification and verification are contained below. This discussion has been separated into three parts for clarification: The first two parts concern the categories of equipment which are proposed for placement under verification and notification while the third part discusses those equipment categories for which no changes are proposed in the type of authorization required. Comments are requested concerning the suitability of the specific authorization types for the equipment discussed. These comments should be concerned not only with the interference potential of the equipment to other radio services but also the interference impact to the radio service in which the equipment is operated. We are particularly interested in any probabilities of interference which could result in a safety problem, e.g., interference to air navigation operations.

7. Since the proposed procedures are intended to accelerate the issuance of an authorization to the manufacturer, reduce the amount of paperwork submitted to the Commission, and reduce the Commission's processing workload, we propose to make the new procedures effective at the earliest possible dated, i.e., on the effective date of the order issued in this proceeding. Attention is called to the fact that the proposed changes will not afect the marketing status of equipment approved under any earlier, more stringent equipment authorization. We propose further that all applicants for equipment authorizations received after the final rules in this proceeding will be examined under the new procedures adopted herein.

Verification

8. The expansion of the verification procedure should proceed with even more caution than applied to notification. Under verification, no information is submitted to this Commission. We may not even be aware of the equipment models being manufactured or marketed. Therefore, only that equipment which possesses a low potential for causing interference problems should be considered for inclusion. At the present time, the only equipment included under verification is Class A (and some Class B) computing equipment with a waiver action allowing certain cattle identification systems. The cattle identification system would normally be used in rural areas. The computing equipment is marketed primarily for use in a commercial, industrial or business environment and would not normally be used near residential operations. Thus, the equipment that would receive the interference should be in the vicinity of the computing device and is equipment that is likely to be under the same ownership as the computing device. Further, the manufacturer of the computing device has an incentive to shield these devices from sources of outside interference. This shielding should help to reduce the level of radio frequency energy emitted by the device, reducing the interference-causing potential of the radio equipment should not be adversely affected from interference from these computing devices making verification an appropriate form of equipment authorization.

9. Because verification is least burdensome to the applicant and would permit the most flexibility in using Commission resources, it would be preferable to use verification to the greatest extent possible. In exercising caution at this early state, we propose to expand the use verification only for those equipment categories which seldom undergo complete or major design change, which have already demonstrated an ability not to cause harmful interference problems, and for which no major changes are expected in

[1] Part 21—Domestic Public Fixed Radio Services (Other Than Maritime Mobile); Part 22—Domestic Public Mobile Radio Services; Part 74—Experimental, Auxiliary, and Special Broadcast and other Program Distributional Services; Part 87—Aviation Services; Part 90—Private Land Mobile Radio Services; Part 94—Private Operational-Fixed Microwave Service; Part 95—Personal Radio Services.

the type of service offered. Only two categories of equipment appear to comply with all of these requirements: television broadcast receivers and FM broadcast receivers, both subject to certification under Part 15 (Radio Frequency Devices) of the regulations. These devices account for more than 40 percent of the equipment applications received by the FCC Laboratory.

10. Compliance with the emission standards has not presented a difficulty for television receivers. However, these receivers are also required to meet a number of performance standards such as UHF detent tuning and tuner noise figure standards. While such performance standards affect the received picture quality and ease of operation, these parameters have no bearing on the ability of the receiver to cause harmful interference to other users. Our experience suggests that manufacturer compliance with these performance standards has been excellent. We do not believe that certification process is necessary to maintain this compliance. These devices can, therefore, be included under verification. We have proposed deleting all of the present reporting requirements for the performance standards, unless such information is specifically requested, with the exception of the annual UHF noise figure performance report. However, we do not want this action to be viewed either by industry or the public as a sign that we are foregoing our responsibility and commitment to ensure continued compliance with these performance standards. We will continue to enforce the all-channel regulations, the peak picture sensitivity standards and the UHF tuner noise figure requirement and will aid this enforcement with our expanded sampling program. We intended, initially, to examine closely production units of television receivers for compliance with these performance standards. Should certain television models be found to no longer be in compliance with these standards, sufficient safeguards exist both in our regulations and in the Communications Act of 1934, as amended (47 U.S.C. 501, 502, 503) to either prosecute violations of our regulations or to revoke an equipment authorization, as necessary. Comments are requested as to what other actions, if any would be needed to ensure the continued compliance with these performance standards.

10a. It should be noted that Pub. L. 97-259, effective September 13, 1982, allows this Commission to control the susceptibility of television receivers to interference from other sources. In fact, were we to impose such standards, initial design problems could result. We are presently studying what steps should be taken in this area and will coordinate our efforts with the final results of this proceeding to alleviate any problems which may occur. For further information, reference is made to General Docket No. 78-369, Further Notice of Inquiry, released July 16, 1981, FCC 81-267.

11. Because our records indicate that FM broadcast receivers have caused no interference problems, we are proposing to include these devices under verification. While it is possible that any rule making actions on the susceptibility of receivers to outside interference sources could also affect FM receivers, causing design problems similar to that discussed for television receivers, there are two pending Commission actions which may affect the design of FM broadcast receivers. These involve the proposals in docket 21310 (Memorandum Opinion and Order and Notice of Proposed Rule Making, FCC 80-434, 45 FR 55491) and in docket 82-536 (Notice of Proposed Rule Making, released August 19, 1982, 47 FR 36235) that would allow the transmission of quadraphonic FM broadcast signals. At this time, we do not anticipate that the introduction of quadraphonic broadcasting would cause any substantial changes in the receiver design. The potential for harmful interference from these receivers is not expected to increase.

Notification

12. At the start of the notification program, we intend to be highly selective in our choice of equipment until enough experience has been gained in the administration of this procedure. In general, because of the higher output power and the accompanying higher levels of unwanted emissions with their greater potential for causing interference, any relaxation in the equipment authorization for licensed transmitters will be to notification and not verification.

13. Part 5 (Experimental Radio Service (Other Than Broadcast)) of the regulations contains two categories of equipment subject to the type acceptance requirements: Wildlife tracking transmitters and ocean buoy tracking and telemetering transmitters. Both of these Part 5 transmitters are manufactured in small quantities and are low powered devices, less than 100 milliwatts for ocean buoy tracking and telemetering transmitters and less than 10 milliwatts for wildlife tracking transmitters. The usual operating locations are in remote areas where the potential for interference is minimal. Moreover, no interference problems have been reported from the use of this equipment. We therefore propose to require a grant of notification in lieu of type acceptance.

14. Because receivers (Part 15—Radio Frequency Devices) generate radio frequency energy capable of causing harmful interference, those receivers in the frequency range of 30 to 890 MHZ and CB receivers are required to be certificated. However, with the exception of certain types of receivers, very few interference problems have actually been generated by these devices. Notable exceptions to this statement are CB receivers and the superregenerative receivers used primarily with garage door openers and security alarm systems. We therefore propose to include all receivers in the frequency range of 30 to 890 NHz under the notification procedure excepting those receivers subject § 15.63(d) which are associated with transmitters operating under §§ 15.122, 15.184 or 15.201-15.215 of our regulations. CB receivers are outside of this frequency range and are covered under a separate rule section (§ 15.59). Because of the interference problems from CB receivers and superregenerative receivers, we intend to retain certification for this equipment. Should a superregenerative receiver used with equipment other than a garage door opener or a security alarm system be submitted for approval under notification, it is likely that measurement data or a sample would be requested prior to issuing a grant of equipment authorization. Similarly, we would prefer to retain those receivers known as "scanners" under certification due to their ability to cause interference problems but are unsure as to how these receivers should be designated without including a number of other receiver types. For example, receivers with conventional tuning that may also scan a priority channel or a FM broadcast receiver with a built-in "seek and scan" capability should not be required to be retained under certification. Comments are requested as to how this action could be achieved. We also are not proposing changing the requirement to obtain type approval of certain receivers used under Parts 81 (Stations on Land in the Maritime Services and Alaska-Public Fixed Stations) and 83 (Stations on Shipboard in the Maritime Services). This equipment is designed to protect safety of life. The requirements placed on its testing should not be relaxed.

15. It is realized that only a minimum benefit to the public would be incurred from placing the receiver portion of a

transceiver under notification while requiring a different type of approval for the transmitter portion. The paperwork required for the submission for an equipment authorization would be only partially reduced while the time required for the Commission to process the application would remain unchanged. However, not all receivers would be part of a transceiver. In addition, any reduction in the paperwork is considered to be beneficial. In time, othe categories of transmitters would likely be placed under notification. At that point, the full benefits from this action could be realized.

16. Much of the Part 73 (Radio Broadcast Services) equipment appears to be suitable for inclusion under notification. Modulation monitors are currently being considered for deletion from our standards under Docket 81–698 (Notice of Proposed Rule Making, released October 15, 1981, FCC 81–448) and will not be discussed further in this proceeding. AM antenna phase monitors are produced in limited quantities and are not considered to be interference-causing devices. Admittedly, a poorly designed monitor might not reveal a station's improper antenna pattern which could result in harmful interference, but this is not felt to be a likely occurrence. Broadcast transmitters (AM, FM and television) are fixed operations so that any source of interference should be readily detectable. We also believe that broadcast station licensees would readily cooperate to solve any interference problems. Thus, AM broadcast antenna phase monitors and AM, FM, and TV broadcast transmitters are proposed for inclusion under notification.

17. A further category of equipment which could be included under notification is transmitters used in the fixed point-to-point microwave services. These operations are primarily conducted under rule Parts 21, 74, 78 (Cable Television Relay Service) and 94. All of these radio services currently require the type acceptance of transmitters [2], require extensive coordination for licensing, and are further constrained by a number of operational requirements. Because these transmitters are operated as fixed point-to-point (Part 74 television pickup stations and other mobile microwave operations are not considered in this proposal) transmissions, interference would be confined to a relatively small area. Additionally, it would be a relatively simple matter to detect any source of interference, should it occur, as these are fixed stations. Since no major interference problems have been evident from these systems, we feel that notification is an appropriate class of equipment authorization. We are also proposing an amendment to § 2.975(a)(2) of the regulations to require that the modulated emission utilized for the microwave transmissions be described whenever application is made for notification. This information is currently requested under the type acceptance procedure and will be similarly requested during notification. Placing this requirement in the regulations will avoid the time delay which would be imposed from having the applicant submit additional information after the original filing of an application for notification.

[2] Some equipment operated under Part 74 does not require any type of equipment authorization. We are not proposing to change this.

Unchanged Equipment Authorizations

18. As can be seen from the earlier discussions, we have not proposed changing the type of authorization associated with equipment used under rule Parts 18 (Industrial, Scientific and Medical (ISM) Equipment), 22, 81, 83, 87, 90, 95 or 97 (Amateur Radio Service). Changes have been proposed for some, but not all, of the equipment associated with rule Parts 15, 21, 73 and 74. Our reservations are based on four concerns: (1) Interference problems associated with the equipment; (2) a high level of congestion in the service; (3) the safety aspects of the affected radio service; and (4) the sharing of frequencies with government users. In some cases, the mobility of the equipment associated with the radio service contributed to our reluctance to change the equipment authorization.[3]

19. In some of these radio services, it may be important to strengthen rather than relax our review of the equipment. This can be accomplished by retaining the existing equipment authorization program while instituting a strong sampling schedule. Once both notification and the sampling program have become firmly established, it is possible that we would reconsider changing the required level of authorization for additional categories of equipment.

[3] Equipment operated under Part 18 is the only exception to these reservations. That equipment is being considered under an outstanding rule making item in Docket No. 20718 (Notice of Proposed Rule Making, released September 29, 1978, 43 FR 46328). Any action changing the type of equipment authorization will be made in that separate item.

Enforcement

20. By expanding the use of verification and notification, we are making the equipment authorization program less burdensome for certain equipment. Our marketing regulations require, with a few exceptions, that radio frequency devices subject to technical standards in our rules shall comply with these standards when the devices are marketed. In addition, if the rules require that the device be subject to a specific type of equipment authorization, our marketing rules require the manufacturer/vendor to acquire the appropriate equipment authorization as a prerequisite for legal marketing. Thus, those devices for which we are proposing notification will be expected not only to hold a grant of notification, but to actually comply with our technical standards before the device is marketed. Similarly, for devices subject to verification, the device will be expected to be verified as well as to actually comply with our technical standards before the device is marketed even though no information is filed with the Commission and no document is issued.

21. The sampling program which was extensively discussed in the Report and Order to General Docket No. 82–242 will be used to determine that compliance with the appropriate regulations continues. The Communications Act (47 U.S.C. 501, 502, 503) allows us some flexibility prosecuting violations of these regulations. We intend to use this authority, especially the direct forfeiture authority contained in Section 503, to the greatest extent possible when noncompliance is found by our sampling program. In this manner, we hope to deter the entry into the marketplace of noncomplying equipment. It is felt that, in most cases, these methods as such will not be necessary. Indeed, we are confident that the majority of equipment suppliers attempt to follow our regulations.

Administrative Provisions

22. *Regulatory Flexibility Act Initial Analysis:* I. Reason for actions: The proposed changes will place equipment under the recently instituted notification equipment authorization procedure and under the existing verification procedure.

II. The objective: The objective is to reduce the amount of time needed for an applicant to obtain an equipment authorization while, at the same time, allowing the Commission some flexibility with its staff resources. A sampling program will also be instituted

to strengthen the equipment authorization program.

III. Legal basis: Action is proposed in accordance with Sections 4(i), 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended.

IV. Description, potential impact and number of small entities affected: The proposed changes in the regulations would affect a number of entities both large and small. An estimate of the number of such entities affected is not obtainable. Radio frequency equipment suppliers, importers and manufacturers will not have to file the large volumes of paperwork formerly required and could begin marketing equipment at an earlier date. Equipment testing laboratories should experience no effect as we will still require the radio frequency equipment to be tested to show compliance with the regulations prior to marketing of the equipment. It is therefore felt that any impact from this proceeding would be beneficial to those affected.

V. Recording, record keeping and other compliance requirements: None beyond that required under the existing regulations.

VI. Federal rules which overlap, duplicate or conflict with this rule: None.

VII. Any significant alternative minimizing impact on small entities and consistent with stated objectives: None.

23. For the purpose of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts the Notice of Proposed Rule Making until the time that a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is issued by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation, addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR § 1.1231. A summary of these Commission procedures governing *ex parte* presentations in informal rule making is available from the Commission's Consumer Assistance Office, Washington, D.C. 20554.

24. The proposed amendments to the regulations as set forth in Appendix A are issued pursuant to the authority contained in Sections 4(i), 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended. In accordance with the applicable procedures set forth in § 1.415 of the regulations, interested persons may file Comments on or before April 21, 1983, and Reply Comments on or before May 23, 1983.

All relevant and timely comments will be considered. In reaching its decision, the commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

25. In accordance with the provisions of § 1.419 of the regulations, an original and five copies of all comments, reply comments, briefs and other documents shall be furnished the Commission. To obtain the widest possible response in this proceeding, informal comments (without extra copies) will be accepted, but these comments should make specific reference to this proceeding. Responses will be available for public inspection during regular working hours in the Commission's Public Reference Room located at its headquarters at 1919 M Street, NW., Washington, D.C. 20554. For further information, contact John A. Reed at (202) 653-6288.

(Secs. 4, 303, 48 stat., as amended. 1066, 1082; 47 U.S.C. 154, 303).

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 2—[AMENDED]

A. Title 47 of the Code of Federal Regulations, Part 2, is amended as follows:

1. A new paragraph (d) is added to § 2.904 to read as follows:

§ 2.904 Notification.

* * * * *

(d) For equipment which requires a grant of notification, approval under type acceptance, type approval or certification shall be deemed to constitute approval of the equipment under notification.

2. A new paragraph (a)(2)(v) is added to § 2.975 and paragraphs (a)(2)(iii) and (a)(2)(iv) are revised to read as follows:

§ 2.975 Application for notification.

(a) * * *

(2) * * *

(iii) Rated frequency tolerance (if applicable);

(iv) Rated radio frequency power output, if applicable (if variable, give the range); and

(v) If the equipment is a microwave transmitter, an explanation of the type of emission employed.

* * * * *

PART 5—[AMENDED]

B. Title 47 of the Code of Federal Regulations, Part 5, is amended as follows:

Section 5.109 is revised to read as follows:

§ 5.109 Acceptability of transmitters for licensing.

All transmitters used at stations licensed for wildlife and ocean buoy tracking and telemetering operations pursuant to § 5.108 shall be type accepted or notified pursuant to Subpart J of Part 2 of this chapter. After (effective date), only grants of notification will be issued for this equipment.

PART 15—[AMENDED]

C. Title 47 of the Code of Federal Regulations, Part 15 is amended as follows:

1. A new § 15.36 is added to read as follows:

§ 15.36 Notification.

When the rules in this part require a device to be notified, application therefor shall be filed on FCC Form 731 pursuant to the procedures set out in Subpart J of Part 2 of this chapter.

2. Paragraph (a) of § 15.41 is revised to read as follows:

§ 15.41 Identification of an authorized device.

(a) Each device authorized under a grant of equipment authorization issued under this part shall be labeled pursuant to subpart J of Part 2 of this chapter.

* * * * *

3. A new paragraph (d) is added to § 15.46 to read as follows:

§ 15.46 Photographs required.

* * * * *

(d) Unless otherwise requested, photographs are not required for equipment subject to notification.

4. In § 15.48, remove the words "certification or type approval" and insert in lieu thereof the words "a grant of equipment authorization" in paragraph (a) and add a new paragraph (e), to read as follows:

§ 15.48 Private label device—Multiple listing of a device.

(a) When the same or essentially the same device will be marketed under more than one trade name or model number (as in the case of private label equipment), a grant of equipment authorization must be requested separately for each additional trade name or model number.

* * * * *

(e) For notified equipment, notification for additional model numbers must be included in the original application. If notification is requested after the basic device has been notified, a complete application pursuant to § 2.975 shall be filed. The statement attesting compliance shall be modified to explain that the device covered by the application is identical to the device originally measured for compliance and which has been notified, specifying the identification of the notified device and the date notification was granted.

5. A new paragraph (c) is added to § 15.49 to read as follows:

§ 15.49 Changes in an authorized device.

* * * * *

(c) Changes in a notified device may be made under § 2.977 of Part 2 of this chapter.

6. A new paragraph (b)(3) is added and paragraph (c) is revised for § 15.66 to read as follows:

§ 15.66 All-channel television broadcast reception: Noise figure.

* * * * *

(b) * * *

(3) Unless otherwise requested, the information requested in paragraphs (b)(1) and (b)(2) of this section is not required to be submitted for those receivers subject to verification.

(c) Followup proof of performance required for a TV receiver certificated or verified on or after October 1, 1979. Each year after certification has been granted or verification has been performed for a specific model, the grantee shall file a report giving the actual UHF noise figure performance of the units of that model as actually measured during that year.

* * * * *

7. Section 15.69 is revised to read as follows:

§ 15.69 Equipment authorization for a receiver.

(a) Every receiver encompassed by §§ 15.59 and 15.63 requires an equipment authorization to show compliance with the technical specifications set out in these rules.

(b) The particular equipment authorization required is listed below:

Type of receiver	Equipment authorization required
1. TV broadcast receiver	Verification.
2. FM broadcast receiver	Verification.
3. CB receiver	Certification
4. Receiver using super regenerative circuitry	Certification
5. Receiver, regardless of type of circuitry, associated with a garage door opener	Certification
6. Receiver, regardless of type of circuitry, associated with a security alarm system.	Certification.
7. All other receivers subject to Part 15, Subpart C	Notification.

(c) For details concerning the several types of equipment authorizations see Part 2, Subpart J of this chapter.

8. A new paragraph (e) is added to § 15.70 to read as follows:

§ 15.70 Comparability of tuning information to be submitted pursuant to § 15.45(b).

* * * * *

(e) Unless otherwise requested, the information requested in this section is not required for receivers subject to verification.

9. New paragraphs (a)(4) and (b)(3) are added to § 15.72 to read as follows:

§ 15.72 Date when certification is required.

(a) * * *

(4) All television receivers manufactured after (effective date of final rule) shall continue to comply with the requirements of this section except these receivers shall be subject to verification instead of certification.

(b) * * *

(3) All receivers manufactured after (effective date of final rule) shall be subject to the form of equipment authorization specified in § 15.69.

10. The introductory sentence in paragraph (b) of § 15.75 is revised to read as follows:

§ 15.75 Measurement procedure.

* * * * *

(b) The following methods of measurement are considered acceptable procedures for testing receivers pursuant to § 15.69:

* * * * *

11. A new paragraph (e) is added to § 15.76 after the Note, to read as follows:

§ 15.76 Report of measurements: FM broadcast receiver.

* * * * *

(e) Unless otherwise requested, the information required by this section need not be reported to the Commission.

12. A new paragraph (f) is added to § 15.77 to read as follows:

§ 15.77 Report of measurements: TV receiver.

* * * * *

(f) Unless otherwise requested, the information required by this section need not be reported to the Commission.

13. A new paragraph (h) is added to § 15.79 to read as follows:

§ 15.79 Report of measurements: Receivers other than FM or TV.

* * * * *

(h) Unless otherwise requested, the information required in this section need not be reported to the Commission if the receiver is subject to verification or notification, as shown in § 15.69.

14. Section 15.82 is revised to read as follows:

§ 15.82 Interference from a radio receiver.

The operator of a radio receiver, regardless of tuning range, date of manufacture, or any form of equipment authorization, which causes harmful interference shall promptly take steps to eliminate the harmful interference.

PART 21—[AMENDED]

D. Title 47 of the Code of Federal Regulations, Part 21, is amended as follows:

Paragraphs (a), (b) and (c) and the heading of § 21.120 are revised to read as follows:

§ 21.120 Authorization of transmitters.

(a) Except for transmitters used at developmental stations or for fixed point-to-point operation pursuant to Subpart I, each transmitter shall be a type which has been type accepted by the Commission for use under the applicable rules of this part. Transmitters used in the point-to-point microwave service under Subpart I for fixed operation shall be of a type which has been either notified or type accepted by the Commission. As of (effective date), fixed point-to-point microwave transmitters will only be approved under notification.

(b) Any manufacturer of a transmitter to be produced for use under the rules of this part may request type acceptance or notification by following the applicable procedures set forth in Part 2 of this chapter. Type accepted and notified transmitters are included in the Commission's Radio Equipment List.

Copies of this list are available for inspection at the Commission's office in Washington, D.C. and at each of its field offices.

(c) Type acceptance or notification for an individual transmitter may also be requested by an applicant for a station authorization, pursuant to the procedure set forth in Part 2 of this chapter. An individual transmitter will not normally be included in the Radio Equipment List, but will be enumerated on the station authorization.

* * * * *

PART 73—[AMENDED]

E. Title 47 of the Code of Federal Regulations, Part 73, is amended as follows:

1. Paragraph (a) the introductory sentence in paragraph (c), and paragraphs (c)(9) and (c)(11) of § 73.53 are revised, the text of paragraph (b) is removed and designated as [Reserved], and the heading of the section is revised to read as follows:

§ 73.53 Requirements for approval of antenna monitors.

(a) *General requirements:* (1) Antenna monitors shall be type approved or notified by the Commission. Effective (effective date), only grants or notification will be issued for antenna monitors.

(2) Type approval or notification can be obtained by following the procedures specified in Subpart J of Part 2 of this chapter.

(b) [Reserved]

(c) An antenna monitor eligible for authorization by the Commission shall meet the following specifications:

* * * * *

(9) The monitor, if intended for use by stations operating directional antenna systems by remote control or using extension meters to observe the monitor indications shall be designed so that the switching functions required by paragraph (c)(7) of this section may be performed from a point external to the monitor and phase and amplitude indications be provided by external meters. The indications of external meters furnished by the manufacturer shall meet the specifications for accuracy and repeatability of the monitor itself, and the connection of these meters to the monitor, or of other indicating instruments with electrical characteristics meeting the specifications of the monitor manufacturer shall not affect adversely the performance of the monitor in any respect. The type approval or notification designations and the instruction manuals for monitors not designated for external switching of the indications as specified in this subparagraph shall clearly show that the monitors are not acceptable for use at stations using remote control for the operation of directional antennas or extension meters to read and log the monitor indications.

* * * * *

(11) the monitor shall be accompanied by complete and correct schematic diagrams and operating instructions when submitted for type approval. When approved under notification, these materials shall be retained by the applicant and not admitted unless otherwise requested by the Commission. For the purpose of the equipment authorization, these diagrams and instructions shall be considered as part of the monitor.

* * * * *

2. Paragraph (a) of § 73.69 is revised to read as follows:

§ 73.69 Antenna monitors.

(a) Each station utilizing a directional antenna shall have in operation at the transmitter an antenna monitor which is approved by the Commission; provided that if the instrument of authorization of the station sets specific tolerances within which phase and amplitude relationships must be maintained, or requires the use of a monitor of specified repeatability or accuracy, the antenna monitor employed under such circumstances shall be authorized on an individual basis. The antenna monitor installed at a station operating a directional antenna by remote control or using extension meters to read and log the monitor indications shall be designed and approved for such use in accordance with the provisions of § 73.53(c)(9). After (effective date of Final rule), approval shall be through notification. Monitors approved under either notification or type approval are acceptable for use by stations.

* * * * *

3. Paragraphs (a), (b) and (d) and the heading of § 73.1660 are revised to read as follows:

§ 73.1660 Acceptability of broadcast transmitters.

(a) A transmitter may be type accepted or notified upon the request of any manufacturer of transmitters following the procedures described in Part 2 of this chapter. If acceptable, the transmitter will be included in the FCC's "Radio Equipment List, Equipment Acceptable for Licensing". After (effective date), these transmitters shall be approved under notification. Transmitters approved under type acceptance or under notification are acceptable for use in this service.

(b) A permittee or licensee planning to install and use as a main transmitter one not included on the FCC's "Radio Equipment List" must obtain authority to use such a transmitter by filing an application for a construction permit on FCC Form 301 (FCC Form 340 for noncommercial educational stations). The application must include a complete description and circuit diagram of the transmitter, description of the carrier frequency determining circuits, complete operating parameters, and measurement data as would be required for a grant of type acceptance.

* * * * *

(d) Additional rules concerning type acceptance and notification including modification of transmitters and withdrawal of a grant are contained in Part 2 of this chapter.

4. Paragraph (b) and the Note of § 73.1665 are revised to read as follows:

§ 73.1665 Main transmitters.

* * * * *

(b) A licensee may, without further authority or notification to the FCC, replace an existing main transmitter or install addition main transmitters for use with the authorized antenna if the replacement or additional transmitter(s) is type accepted or notified as shown in the FCC "Radio Equipment List." Within 10 days after commencement of regular use of the replacement or additional transmitter(s), equipment performance measurements, as prescribed for the type of station are to be completed and a certification must be entered in the station maintenance log by the station's consulting engineer, technical director, or chief operator that the station with the new transmitter(s), as installed, complies with the technical provisions of this part.

Note.—After January 1, 1979, no new licenses will be issued nor will existing licenses be renewed for alternate main transmitters operating into a single main antenna system. Further, licenses issued after that date will no longer identify the specific transmitters which are shown in the FCC's "Radio Equipment List" as type accepted or notified for broadcast use. Composite or other transmitting equipment which has been licensed for use based on data filed by the licensee will continue to be specified on station authorizations.

PART 74—[AMENDED]

F. Title 47 of the Code of Federal Regulations, Part 74, is amended as follows:

1. A new paragraph (h) is added to § 74.655 and the heading of the section is revised to read as follows:

§ 74.655 Approval of equipment.

* * * * *

(h) As of (effective date of Final Rule), transmitters used for a television STL station, a television intercity relay station or a television translator relay station shall be approved under the notification procedures set forth in Subpart J of Part 2 of this chapter. Transmitters approved under type acceptance or under notification are acceptable for use or for marketing for use under this subpart.

PART 78—[AMENDED]

G. Title 47 of the Code of Federal Regulations, Part 78, is amended as follows:

1. Paragraphs (a) the introductory text, (b) and text of (b)(2) of § 78.107 are revised to read as follows:

§ 78.107 Equipment and installation.

(a) From time to time the Commission publishes a revised list of type approved, type accepted and certain notified equipment entitled "Radio Equipment List". Copies of this list are available for inspection at the Commission's office in Washington, D.C. and at each of its field offices.

(b) Applications for new cable television relay stations, other than fixed stations, will not be accepted unless the equipment specified therein has been type accepted. In the case of fixed stations, the equipment must be type accepted or notified for use pursuant to the provisions of this subpart. As of (effective date of Final Rule), equipment used at fixed stations shall be approved under notification.

* * * * *

(2) Neither type acceptance nor notification is required for the following transmitters:

(i) Those which have an output power not greater than 250 mW and which are used in a CARS pickup station operating in the 12.7–13.2 GHz band; and

(ii) Those used under a developmental authorization.

* * * * *

PART 94—[AMENDED]

H. Title 47 of the Code of Federal Regulations, Part 94, is amended as follows:

1. Section 94.81 is revised to read as follows:

§ 94.81 Approval of microwave equipment.

Except for equipment used under a developmental authorization, all transmitters employed in this service must be either type accepted or notified pursuant to the requirements contained in Subpart J of Part 2 of this chapter. As of (effective date of the Final Rule), all equipment submitted to the Commission for approval will be approved under the notification procedure.

Appendix B

Note.—Appendix B will not appear in the Code of Federal Regulations.

The following is a summary of the proposed changes in the category of equipment authorization:

Rule part	Category of equipment	Present authorization	Proposed authorization
5	Wildlife tracking transmitters	Type acceptance	Notification.
	Ocean buoy tracking and telemetry transmitters.	Type acceptance	Notification.
15	Receivers from 30 to 890 MHz excluding superregenerative receivers, TV and FM broadcast receivers and scanners.	Certification	Notification
	TV and FM broadcast receivers	Certification	Verification.
21	Fixed point-to-point microwave transmitters.	Type acceptance	Notification.
73	AM anatenna phase monitors	Type approval	Notification.
	Broadcast transmitters	Type acceptance	Notification
74	Fixed point-to-point microwave transmitters	Type acceptance	Notification.
78	Fixed point-to-point microwave transmitters	Type acceptance	Notification.
94	All microwave transmitters	Type acceptance	Notification

Concurring Statement of FCC Commissioner James H. Quello

In re: Amendment of Part 2 of the rules to simplify the equipment authorization procedures; Amendment of the regulations to expand the notification and verification equipment authorization procedures.

I am concurring in the result of this action because of my concern with the proposals to de-emphasize the Commission's traditional oversight over two pieces of equipment which are integral parts of our broadcasting system; i.e., television receivers and antenna phase monitors.

Antenna phase monitors are devices which provide information on the relative phase of current directed to each tower in an AM radio directional antenna array. The relative phase and current ratios determine the shape and direction of the signal pattern which emanates from such an array. While I realize that the monitor is only one part of a system that produces the phase information to the licensee, it is the only part which this Commission can easily control.

Television receivers manufactured under current practices are not likely to cause significant interference problems and, therefore, it might be appropriate to place more reliance upon the manufacturers than we have in the past. However, I want to make it very clear that my concern regarding television receivers—and particularly UHF television receivers—is not limited to their interference potential. Recognizing that they are a vital part of our television broadcasting system, I remain concerned with their performance. As is noted in the Notice of Proposed Rulemaking adopted today, manufacturers must still submit annual reports on UHF noise figure performance for Commission review. They also will continue to be subject to both the All Channel Receiver Act [1] and our rules relating to receiver performance. My concerns are further assuaged by the Commission pledge to sample receivers after they have reached the marketplace to determine whether, in fact, they meet those requirements.

While I have these concerns, I am concurring because this Notice will provide the opportunity to gather and thoroughly evaluate all comments in response to these proposals.

[FR Doc. 83–2255 Filed 1–28–83; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82–19, Notice 2]

Evaluation Report on Federal Motor Vehicle Safety Standard No. 214—Side Door Strength—Passenger Cars

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Extension of comment period.

SUMMARY: On November 23, 1982 (47 FR 54839, December 6, 1982), the Agency announced the publication of an Evaluation Report on Federal Motor Vehicle Safety Standard No. 214, Side Door Strength (49 CFR 571.214). The report evaluates the effectiveness and costs of the Federal standard that established strength requirements for the side doors of passenger cars. The

[1] Pub. L. 87–529, July 10, 1962; 76 Stat 150; 47 U.S.C. 303(s)

report is published in response to Executive Order 12291 and is a component of the Departmental Priority Review process for existing regulations. The Agency set January 28, 1983, as the closing date for submitting comments on the evaluation report.

On January 19, 1983, Renault USA requested the Agency to extend by at least 1 month the period for submitting comments on the evaluation report and on the same day the Motor Vehicle Manufacturers Association (MVMA) asked for a 3-month extension. Renault said that it did not receive a copy of the report until December 17, 1982, and noted that the report is a 409-page document which must be reviewed by at least two of Renault's departments. They felt that the existing deadline did not provide them with enough time to prepare their position. MVMA did not specify why 3 months were needed.

In order to give Renault and MVMA additional time to thoroughly analyze the evaluation report, the Agency has decided to extend the comment closing date to March 3, 1983. A further extension would be unacceptable because the comments on the report form an integral part of the Priority Review of Standard 214, which needs to be completed expeditiously.

DATE: Deadline for submission of comments is extended to March 3, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, (202) 426–1574.

(Secs. 103, 112, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50 and 501.8)

Barry Felrice,

Associate Administrator for Plans and Programs.

[FR Doc. 83–2345 Filed 1–28–83; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 48, No. 21
Monday, January 31, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

Announcement of Proposed Collection of Information Under Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency Clearance Officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell, (202) 673–5922.

Revision

Title of the Collection of Information: Part 217, "Reporting Data Pertaining to Civil Aircraft Charters Performed by U.S. Certificated and Foreign Air Carrier".

Agency Form Number: 217.

How often the Collection of Information must be filed: Quarterly.

Who is asked or required to report: U.S. Certificated and Foreign Air Carriers.

Estimate of number of annual responses: 720.

Estimate of number of annual hours needed to complete the collection of information: 4,320.

Revision

Title of the Collection of Information: "Fuel Consumption by Type of Service and Entity" (formerly "Fuel Consumption by Type of Service and Specific Operational Markets").

Agency Form Number: Form 41, Schedule P–12(a).

How often the Collection of Information must be filed: Monthly.

Who is asked or required to report: Certificated Air Carriers.

Estimate of number of annual responses: 480.

Estimate of number of annual hours needed to complete the collection of information: 1,853.

Dated: January 25, 1983.

Robin A. Caldwell,
Chief, Information Management Division, Office of Comptroller.

[FR Doc. 83–2585 Filed 1–28–83; 8:45 am]
BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (see, 14 CFR 302.1701 et. seq.) Week Ended January 21, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Jan 19, 1983	41229	Pegasus Airlines, Inc., c/o Stephen L. Gelband, Hewes, Morella, Gelband & Lamberton, 1010 Wisconsin Avenue, N.W., Suite 640, Washington, D.C. 20007. Application of Pegasus Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity to provide scheduled interstate and overseas air transportation, and for a fitness determination. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 16, 1983
Jan 19, 1983	41230	Pegasus Airlines, Inc., c/o Stephen L. Gelband, Hewes, Morella, Gelband & Lamberton, 1010 Wisconsin Avenue, N.W., Suite 640, Washington, D.C. 20007. Application of Pegasus Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity authorizing it to provide foreign charter air transportation of persons, property, and mail, as follows: (a) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and Canada, on the other. (b) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and Mexico, on the other. (c) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea, on the other hand; (d) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in British Honduras, the Canal Zone, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and in the countries on the continent of South America, on the other hand. (e) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and American Samoa, Guam, Johnston Island, the Marshall Islands, Okinawa, Wake Island, and points in Australia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing on the other hand; (f) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand; and (g) In foreign air transportation, pursuant to contracts with the Department of Defense. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 16, 1983
Jan 20, 1983	41231	Northeastern International Airways, Inc., c/o James Lawrence Smith, 1600 S.E. 10th Terrace, P.O. Box 21747, Ft. Lauderdale, Florida 33335. Application of Northeastern International Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests that it be issued a certificate of public convenience and necessity to engage in air transportation of persons, property and mail between points in the United States, on the one hand, and a point in a foreign country as follows: "Between Islip, New York and Miami/Ft. Lauderdale, Florida, on the one hand and Bermuda, on the other." Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 17, 1983
Jan 20, 1983	41232	Trans World Airlines, Inc., 605 Third Avenue, New York, New York 10158. Application of Trans World Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for renewal of its experimental certificate of public convenience and necessity for Route 219 authorizing backup service between Miami and London. Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 17, 1983
Jan 21, 1983	41233	Simmons Airlines, Inc., c/o Michael R. Fournier, 11 East Goethe Street, Chicago, Illinois 60610

Date filed	Docket No.	Description
		Application of Simmons Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests the Board to grant its application for certificate authority to engage in interstate and oversees air transportation of persons and interstate and oversees air transportation of property and mail between all points in the United States, its territories and possessions, and to grant any further and other relief which the Board may deem appropriate.
		Conforming Applications, Motions to Modify Scope and Answers may be filed by February 18, 1983.
Jan. 21, 1983.....	41235	Pan American World Airways, Inc., c/o Richard D. Mathias, 1660 L Street, NW., Suite 901, Washington, D.C. 20036.
		Application of Pan American World Airways, Inc. pursuant to Section 401 and Subpart Q of the Board's Procedural Regulations applies for an amendment to its certificate of public convenience and necessity for Route 130 which will authorize Pan Am to engage in foreign air transportation of persons, property and mail between the United States and Korea and the United States and Taiwan via points in Japan.
		Conforming Applications, Motions to Modify Scope and Answers may be filed by February 18, 1983
Jan. 21, 1983.....	40857	Air Specialties Corp., c/o Roland E. Ginsburg, 9454 Wilshire Boulevard, Beverly Hills, California 90212.
		Supplement to Application of Air Specialties Corp. for amendment of certificate of public convenience and necessity to engage in international charter air transportation of passengers and cargo to provide for world-wide authority. Supplement to application includes a forecast of passenger revenues during the first year of proposed operations.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-2586 Filed 1-28-83; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Iowa Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the Commission will convene at 7:00 p.m. on February 28, 1983, and will adjourn at 12:00 noon on March 1, 1983, at the Des Moines Hilton Inn, 6111 Fleur Drive, Des Moines, Iowa 50321. The purpose of this meeting will be to conduct orientation for the new Committee members, and discuss program planning of activities for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committeee, should contact the Chairperson, Lee B. Furgerson, 1225 Stephenson Way, Des Moines, Iowa 50307, (515) 245-5077 or the Central States Regional Office, Old Federal Office Building, 911 Walnut Street, Room 3103, Kansas City, Missouri 64106, (816) 347-5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. January 24, 1983.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 83-2544 Filed 1-28-83; 8:45 am]
BILLING CODE 6335-01-M

Michigan Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 5:30p and will end at 9:00p, on February 24, 1983, in the Michelangelo Room, at the Westin Hotel, 400 East Jefferson, Detroit, Michigan, 48243. The purpose of this meeting will be to discuss the status of civil rights in the state of Michigan, plans for the Tuition Tax Credits and Lending Equality studies.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, M. H. Rienstra, 1225 Thomas, South East, Grand Rapids, Michigan, 49506, (616) 949-4000 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 25, 1983.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 83-2543 Filed 1-28-83; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 207]

Resolution and Order Approving Application of New Hampshire State Port Authority for a Foreign-Trade Zone in Portsmouth, New Hampshire, and Special-Purpose Subzone for Nashua Corporation in Nashua and Merrimack, New Hampshire

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the New Hampshire State Port Authority, filed with the Foreign-Trade Zones Board (the Board) on January 22, 1982, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Portsmouth, New Hampshire, within the Portsmouth Customs port of entry, and for a special-purpose subzone at the Nashua and Merrimack, New Hampshire plants of Nashua Corporation, adjacent to the Lawrence Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

To Establish, Operate, and Maintain a Foreign-Trade Zone in Portsmouth, New Hampshire, and a Subzone in Nashua and Merrimack, New Hampshire

Whereas, by an Act of Congress approved June 18, 1934, an Act, "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as

amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 C.F.R. 400.304) provide for the establishment of a special-purpose subzone when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the New Hampshire State Port Authority (the Grantee) has made application (filed January 22, 1982) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a general-purpose foreign-trade zone in Portsmouth, New Hampshire, within the Portsmouth Customs port of entry, and a special-purpose subzone at the Nashua and Merrimack plants of Nashua Corporation, adjacent to the Lawrence Customs port entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satified;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone and a special-purpose subzone, designated on the records of the Board as Zone No. 81 and Subzone No. 81A at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone and subzone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone and subzone sites in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufactuing operations within the zone or subzone not described in the application.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 20th day of January 1983, pursuant to Order of the Board.

Foreign-Trade Zone Board.

Malcom Baldridge,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR. Doc. 83–2578 Filed 1–28–83; 8:45 am]

BILLING CODE 3510–25–M

[Order No. 205]

Resolution and Order Approving the Application of the Tri-City Regional Port District for a Special-Purpose Subzone in Fenton, Missouri, Within the St. Louis Customs Port of Entry; Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Tri-City Regional Port District, grantee of Foreign-Trade Zone 31, Granite City, Illinois, filed with the Foreign-Trade Zones Board (the Board) on July 30, 1982, requesting authority for a special-purpose subzone at the automobile assembly plant of Chrysler Corporation in Fenton, Missouri, within the St. Louis Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Fenton, Missouri, Within the St. Louis Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Tri-City Regional Port District, Grantee of Foreign-Trade Zone No. 31, Granite City, Illinois, has made application (filed July 30, 1982) in due and proper form to the Board requesting a special-purpose subzone at Chrysler Corporation's auto assembly plant in Fenton, Missouri, within the St. Louis Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, Therefore, in accordance with the application filed July 30, 1982, the Board hereby authorizes the establishment of a subzone at the Fenton, Missouri, auto assembly plant of Chrysler Corporation, designated on the records of the Board as Foreign-Trade Subzone No. 31A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant,

and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 24th day of January 1983 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 83-2589 Filed 1-28-83; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 206]

Resolution and Order Approving the Application of the Greater Detroit Foreign-Trade Zone, Inc. for a Special-Purpose Subzone in Wayne, Michigan, Within the Detroit Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

After consideration of the application of the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 70, Detroit, filed with the Foreign-Trade Zones Board (the Board) on August 20, 1982, requesting authority for a special-purpose subzone at the automobile assembly plant of Ford Motor Corporation in Wayne, Michigan, within the Detroit Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Wayne, Michigan, Within the Detroit Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone No. 70 in Detroit, has made application (filed August 20, 1982) in due and proper form to the Board requesting a special-purpose subzone at Ford Motor Corporation's auto assembly plant in Wayne, Michigan, within the Detroit Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, Therefore, in accordance with the application filed August 20, 1982, the Board hereby authorizes the establishment of a subzone at the Wayne, Michigan, auto assembly plant of Ford Motor Corporation, designated on the records of the Board as Foreign-Trade Subzone No. 70C at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued threunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 24th day of January 1983 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-2588 Filed 1-28-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

[A-588-053]

Birch 3-Ply Doorskins From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on birch 3-ply doorskins from Japan. The review covers 23 of the 25 known exporters of this merchandise to the United States and the period February 1, 1981 through January 31, 1982. The review indicates

the existence of dumping margins for certain firms.

As a result of the review, the Department has preliminarily determined to assess dumping duties for individual firms equal to the calculated differences between United States price and foreign market value on each of their shipments during the period of review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On November 8, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 50537–9) the final results of its last administrative review of the antidumping finding on birch 3-ply doorskins from Japan (41 FR 7389, February 18, 1976) and announced its intent to conduct the next administrative review by the end of February 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of birch 3-ply doorskins, manufactured in a variety of glue types, sizes, and colors. Birch 3-ply doorskins are currently classifiable under items 240.1420, 240.1440, and 240.1460 of the Tariff Schedules of the United States Annotated.

The Department knows of 25 manufacturers and/or exporters of Japanese birch 3-ply doorskins to the United States. The review covers 23 of them and the period February 1, 1981 through January 31, 1982. We are deferring the consideration of all shipments of doorskins produced by Marutama Industries Co., Ltd., in order to cover the entire period from January 1, 1981 through May 25, 1982, the date we published a tentative determination to revoke with regard to Marutama. We are deferring the review with regard to shipments by Mitsui of Sanmoku produced doorskins to ensure that Mitsui has adequate time to respond to our questionnaire.

Sixteen firms (including combinations of particular manufacturers and exporters) did not export birch 3-ply doorskins to the United States during the period. The rate for cash deposit of estimated antidumping duties for those firms shall be the most recent information for each firm.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the f.o.b. price to unrelated Japanese firms for export to the United States. Where applicable, deductions were made for Japanese inland freight and loading charges. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used the price to purchasers in a third country (Canada) of such or similar merchandise or the constructed value, as defined in sections 773(a) and 773(e) of the Tariff Act, since insufficient sales of such or similar merchandise were made in the home market to be used as a basis for comparison. Third-country price was based on the f.o.b. Japan price to the first unrelated Canadian purchaser. Deductions were made, where applicable, for Japanese inland freight and loading charges. No other adjustments were claimed or allowed.

Constructed values were calculated as the sum of materials, fabrication costs, general expenses, profit, and the cost of packing. The amount added for general expenses was ten percent of the sum of materials and fabrication costs or actual general expenses, whichever was higher. The amount added for profit was eight percent of the sum of materials, fabrication costs, and general expenses or actual profit, whichever was higher.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for the period February 1, 1981 through January 31, 1982:

Manufacturer (exporter)	Margin (percent)
Matsumoku Industries, Ltd.	
(C. Itoh & Co., Ltd.)	0
(Mitsubishi Corp.)	0
Nitta Veneer (C. Itoh & Co., Ltd.)	
Sanmoku Lumber Co., Ltd.:	
(C. Itoh & Co., Ltd.)	6.53
(Associated Lumber Co., Ltd.)	0
(Toyo Menka Kaisha, Ltd.)	[illegible]
Sattsuru Veneer Co., Ltd.	
(C. Itoh & Co., Ltd.)	[illegible]
(Mitsubishi Corp.)	1.09
(Mitsui & Co., Ltd.)	[illegible]
(Toyo Menka Kaisha, Ltd.)	[illegible]
(Yuasa Trading Co., Ltd.)	
Teshiogawa Lumber Co., Ltd. (Ikeuchi Industry Co., Ltd.)	0
Manufacturer (exporter)	Margin (percent)
Ataka & Co	[1]5.0
Fujikawa Veneer Co., Ltd.	[1]0
Hokusei Plywood	5.0
Iwakura Gumi	
(Mitsubishi Corp.)	[1]0
(Toyo Menka Kaisha Ltd.)	[1]0
(All other exporters)	[1]7.2
Keisei Lumber Co., Ltd.	[1]0
Kiyosato Rinsan:	
(Nissho-Iwai)	[1]1.6
(All other exporters)	[1]0.7
Okura & Co	[1]1.8
Shingu Shoko	[1]0
Showa Lumber	[1]0
Toknwa Plywood	[1]1.6

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the time period. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins shall be required on all shipments of Japanese birch 3-ply doorskins from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 23, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83–2576 Filed 1–28–83; 8:45 am]

BILLING CODE 3510-DS-M

[A-461-008]

Titanium Sponge From the U.S.S.R.; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On November 12, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on titanium sponge from the U.S.S.R. The review covered the only known exporter of this merchandise to the United States and the period August 1, 1980 through July 31, 1981.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 1968, the Treasury Department published in the **Federal Register** (33 FR 12138) a dumping finding with respect to titanium sponge from the U.S.S.R. On November 12, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 51176-77) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of titanium sponge, which is used in the manufacture of aerospace vehicles and is currently classifiable under item number 629.1420 of the Tariff Schedules of the United States Annotated.

The review covers the only known exporter of titanium sponge from the U.S.S.R. to the United States, Techsnabexport, and the period August 1, 1980 through July 31, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review, and we determine that no dumping margin exists for the period.

The Department shall instruct the Customs Service not to assess dumping duties on entries made with purchase dates during the period of review. The Department will issue appraisement instructions directly to the Customs Service.

Further, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, on any shipments of titanium sponge from the U.S.S.R. entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of August 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 24, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-2575 Filed 1-28-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

President's Commission on Strategic Forces; Advisory Committee Meeting

The President's Commission on Strategic Forces will meet in closed session on February 7, 8, 9, and 10, 1983 at the Pentagon, Washington, D.C.

The mission of the Commission is to review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

Because of the significance of the project to national security and the urgent need for the Commission's recommendation, the President has directed that the Commission submit its report to him by February 18, 1983. Because of the stringent deadline imposed by the President, timely notice of the meeting cannot be provided.

Discussions during the meeting will involve classified matters of national security concern throughout. Such discussion cannot reasonably be segregated into separateclassified and unclassified categories without defeating the effectiveness and purpose of the overall meetings.

Accordingly, consistent with Section 10(d) of Pub. L. 92-463, the "Federal Advisory Committee Act," and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

Dated: January 26, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-2573 Filed 1-28-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP82-319-001]

Cities Service Gas Co.; Amendment

January 27, 1983.

Take notice that on January 6, 1983, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP82-319-001 an amendment to its application filed in Docket No. CP82-319-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect the sale of natural gas to Kansas Power and Light Company (KP&L) in Reno county, Kansas, under an amended sales contract dated December 13, 1982, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that because of interventions filed by the Kansas State Corporation Commission and Greeley Gas Company, both of which opposed the take-or-pay provision in Applicant's contract with KP&L, Applicant has renegotiated this contract to eliminate that provision. In all other respects, it is stated, the application in this proceeding remains unchanged.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to

intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2590 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL80-25-003]

Commonwealth Edison Co.; Compliance Filing

January 26, 1983.

Take notice that on January 20, 1983, Commonwealth Edison Company submitted for filing revised tariff sheets pursuant to the Commission's order on remand issued November 22, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 15, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2545 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-83-001]

The Dayton Power & Light Co.; Application for Exemption

January 27, 1983.

Take notice that The Dayton Power and Light Company (Dayton) on December 29, 1982, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in § 290.403(a) (1) through (4) for certain small rate classes, as defined in §§ 290.404(b) and 290.404(g)(2).

In its application for exemption Dayton states, in part, that it should not be required to file the specified data for the following reasons:

> The seven small rate classes contributed a total of 2.5% of the total retail sales in the twelve-month period ending August 1982. Filing of the data is not cost effective and will not further the purposes of PURPA.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on: Allen M. Hill, Vice President—Planning, The Dayton Power and Light Company, P.O. Box 1247, Courthouse Plaza Southwest, Dayton, Ohio 45401.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2591 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER78-383-000]

Indiana & Michigan Electric Co.; Refund Report

January 26, 1983.

Take notice that on January 21, 1983, Indiana & Michigan Electric Company filed a refund report pursuant to the Commission's order issued on December 22, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 14, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2546 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-139-000]

The Inland Gas Company, Inc.; Application

January 27, 1983.

Take notice that on December 23, 1982, The Inland Gas Company, Inc. (Inland), 340 Seventeenth Street, Ashland, Kentucky 41101, filed in Docket No. CP83-139-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation of natural gas and for permission and approval to abandon certain facilities and services, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are

required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Inland to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2592 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-60-001]

Long Island Lighting Co.; Application for Exemption

January 27, 1983.

Take notice that Long Island Lighting Company (LILCO) filed an application on January 4, 1983 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in § 290.304(a)(1) of Subpart C.

In its application for exemption LILCO states, in part, that it should not be required to file the specified data since transmission line data is not collected by specific voltage level; allowance for funds used during construction and replacement expenditure data are not segregated in company records.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D. C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on: Mr. Richard A. Visconti, Long Island Lighting Company, 250 Old Country Road, Mineola, New York 11501.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2593 Filed 1-28-83; 8:45 am]

BILLING CODE 7617-01-M

[Docket No. RE81-14-001]

Mississippi Power & Light Co.; Application for Exemption

January 27, 1983.

Take notice that Mississippi Power & Light Company (MP&L) on December 29, 1982, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, and biennially thereafter, information on the costs of providing electric service as specified in §§ 290.404(b), 290.404(g)(2), 290.305(a)(3), 290.403(a), and 290.406(a) as they apply to Rate Class SWH-9 (Small Rate Class).

In its application for exemption MP&L states, in part, that it should not be required to file the specified data since subject rate class accounted for .01% of the total retail energy sales in 1981. The time and expense required to provide cost and load data for this small rate class would be prohibitive compared to the benefits gained.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on:

Mr. William Hammett, Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205

and

Mr. J. W. Schimpf, Director of Rates, Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2594 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-5-003]

Montana-Dakota Utilities Co.; Application for Exemption

January 27, 1983.

Take notice that Montana-Dakota Utilities Company (MDU) filed an application on December 27, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Section 290.404(b) as it applies to MDU's service area in Montana, North Dakota, and South Dakota. In addition, exemption is sought from the requirement to file on or before June 30, 1984 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E as it applies to the Wyoming segment of MDU's service area.

In its application for exemption MDU states, in part, that it should not be required to file the specified data for the following reasons:

With respect to the § 290.404(b):

Customer groups qualifying as small rate classes are so small that the collection of meaningful sample load data for each customer group would entail installing load meters for all the customers of each group. The attendant costs involved could not justify the limited benefits associated with the collected load data.

With respect to the Wyoming service area:

A previous order, granting MDU an exemption applicable to its Sheridan, Wyoming System (Docket No. RE80-5-000 issued April 22, 1980) for the filings that would otherwise be required on or before November 1, 1980 and on or before June 30, 1982, stipulated that for filings due beyond June 30, 1982, MDU may apply for exemption, and include a statement to the effect, if

applicable, that the nature and size of MDU's Sheridan, Wyoming system is substantially the same as described in its previous application (RE80–5–000). In its current application, MDU states (RE80–5–003) that its Sheridan Wyoming system remains substantially the same as previously described (RE80–5–000).

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D. C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on: Mr. Steven G. Gerhart, General Counsel & Secretary, Montana-Dakota Utilities Company, 400 North Fourth Street, Bismarck, North Dakota 58501.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2595 Filed 1–28–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP78–104–003]

Natural Gas Pipeline Co. of America; Notice of Petition To Amend

January 27, 1983.

Take notice that on December 30, 1982, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP78–104–003 a petition to amend the order issued May 9, 1978, in Docket No CP78–104–000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the continued operation of existing facilities and the continued sale and delivery of natural gas under a service agreement dated October 5, 1977, between Petitioner and Entex Inc. (Entex), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner contends that said existing facilities consist of taps and appurtenant facilities on Petitioner's pipeline at the Klein delivery point, located in the Klein Independence School District Area, Harris County, Texas, which was established pursuant to the terms of a gas sales agreement dated February 8, 1963, which amended an October 18, 1961, agreement between Petitioner and Houston Natural Gas Corporation, predecessor of Entex. However, Petitioner states reference to the Klein delivery point was inadvertently omitted from its 1977 application in the subject proceeding seeking certificate authorization to continue the operation of existing facilities and the continued sale and delivery of natural gas under its October 5, 1977, service agreement with Entex. Petitioner further states that it does not propose to install any new facilities for the sales for which authorization is sought.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2596 Filed 1–28–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–262–000]

Pacific Gas and Electric Co.; Filing

January 26, 1983.

Take notice that Pacific Gas and Electric Company (PGandE), on January 18, 1983, tendered for filing the proposed changes in its FPC original Tariff Volume No. 2 the Second Amending Agreement to the Agreement for Sale of Electric Power and Energy to the City of Santa Clara, dated December 21, 1982.

PGandE states that the proposed amendment will allow Santa Clara to receive surplus energy from the Turlock Irrigation District (TID Energy) to be delivered by PGandE to the City under the provisions of the PGandE-NCPA Interruptible Transmission Contract-TID Energy, dated June 24, 1982; effective from March 30, 1982 to June 30, 1982.

PGandE requests an effective date of March 30, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2547 Filed 1–28–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–263–000]

Public Service Co. of Indiana, Inc.; Filing

January 26, 1983.

Take notice that Public Service Company of Indiana, Inc. (PSI), on January 18, 1983, tendered for filing proposed changes in its FERC Electric Tariff, Tariff, Original Volume No. 1 (6th Revision); FERC Electric, Original Volume No. 2 (4th Revision) and Rate Schedules FERC No. 233, 234 and 235. Such changes in rates are the result of negotiations between PSI and the following parties:

1. Indiana Municipal Electric Utilities,
2. City of Logansport, Indiana,
3. Clark, Henry and Jackson County Rural Electric Membership Corporations,
4. Wabash Valley Power Association, Inc.,
5. Indiana Municipal Power Agency.

PSI states that the uncontested rate increase and the proposed revisions in the filed rates are based on the cost of service for Period II (Calendar Year 1982), filed August 28, 1981, and the Settlement Agreement, dated November 17, 1981, in Docket No. ER81–708–000 as primarily modified to include the annualized costs of Gibson Unit No. 5. The proposed changes would increase revenues from jurisdictional sales and service by $15.4 million.

PSI requests an effective date of February 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Public Service Commission of Indiana and the attorneys on behalf of their respective clients (i) Indiana Municipal Electric Utilities, (ii) City of Logansport, Indiana, (iii) Clark, Henry and Jackson County Rural Electric Membership Corporations, (iv) Wabash Valley Power Association, Inc. and (v) Indiana Municipal Power Agency.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2548 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-74-002]

Sierra Pacific Power Co.; Application for Exemption

January 27, 1983.

Take notice that Sierra Pacific Power Company (Sierra) filed an application on December 27, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in all Sections of Part 290 requiring the reporting of historic information that has been provided in Sierra's previous filings.

In its application for exemption Sierra states, in part, that it should not be required to file the specified data for the following reason:

> The information has been provided in the 1980 and 1982 PURPA filings and is readily accessible to all interested parties.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the Federal Register. Within that 45 day period such person must also serve a copy of such comments on:

Mr. Jack C. McElwee, Assistant Controller, Sierra Pacific Power Company, P.O. Box 10100, Reno, Nevada 89520

and

Mr. James D. Salo, Senior Attorney, Sierra Pacific Power Company, P.O. Box 10100, Reno, Nevada 89520.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2597 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-143-000]

Southern Natural Gas Co.; Request Under Blanket Authorization

January 26, 1983.

Take notice that on December 30, 1982, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP83-143-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to abandon natural gas service to W.R. Grace & Co., Davison Chemical Division (Grace), at its kaolin plant located in Aiken, South Carolina, and to abandon the facilities necessary to render such service under the authorization issued in Docket No. CP82-406-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant asserts that the sales tap and meter station to be abandoned were installed at an original cost of $7,976.37 and are located at milepost 6.150 on Applicant's 4-inch Southeastern Clay Pipeline in Aiken County, South Carolina. Applicant asserts that Grace has requested that Applicant's service be terminated effective January 1, 1983.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2549 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-142-000]

Southern Natural Gas Co.; Request Under Blanket Authorization

January 26, 1983.

Take notice that on December 29, 1982, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP83-142-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to abandon certain facilities and to construct and operate certain facilities in connection with a change in delivery point, under authorization issued in Docket No. CP82-406-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant intends to abandon certain metering and regulating facilities and to construct and operate replacement facilities all at its Augusta area delivery point near Augusta, Georgia, where Applicant delivers a contract demand quantity of 66,700 Mcf of gas per day for Atlanta Gas Light Company (Atlanta).

Applicant asserts that it provides natural gas service for Atlanta at three measuring stations which together constitute the Augusta area delivery point in the currently effective service agreement between Applicant and Atlanta dated September 23, 1969. Applicant states that it has been

advised by Atlanta that it has experienced a shift in gas requirement in the Augusta area from Measuring Stations Nos. 1 and 2 to the areas served through Measuring Station No. 3. Applicant proposes to abandon certain meter runs and associated orifice meters at Measuring Station No. 3 and to construct and operate replacement facilities increasing the capacity of Station No. 3 from a daily rate of 6,000 Mcf of natural gas to 18,333 Mcf.

Applicant estimates that the total cost of the abandonment and subsequent construction is $165,877 all of which would be reimbursed to Applicant by Atlanta. Applicant further states that there would be no increase in the contract demand quantity for the Augusta area and that all of the customers served by the subject facilities to be abandoned have consented to the abandonment.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2598 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-322-003]

Texas Gas Transmission Corp.; Petition To Amend

January 27, 1983.

Take notice that on January 7, 1983, Texas Gas Transmission Corporation (Petitioner), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP81-322-003 a petition to amend the Order issued August 12, 1981, in Docket No. CP81-322-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the continued transportation of natural gas for Natural Gas Pipeline Company of America (Natural) for an additional term, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued August 12, 1981, Petitioner was authorized to transport up to 50,000 Mcf of natural gas per day for Natural to Dow Intrastate and Gas Company for ultimate delivery to Dow Chemical Company (Dow) for a term of 363 days. It is asserted that Natural agreed to sell on a best-efforts basis up to a total of 15,000,000 Mcf of gas to Dow over the period.

It is submitted that on March 12, 1982, Natural and Dow amended their gas sales agreement of March 30, 1981, and that by order issued July 30, 1982, Natural was authorized to deliver an additional 30,000,000 Mcf of natural gas to Dow for a term expiring February 1, 1983. It is submitted that on April 7, 1982, Petitioner and Natural amended their gas transportation agreement of April 24, 1981, and that by companion order issued July 30, 1982, in Docket No. CP81-322-002 Petitioner was authorized to transport the 30,000,000 Mcf of natural gas on an interruptible basis for a 6-month term commencing upon the earlier of August 1, 1982, or the date upon which the previously authorized transportation terminated. Accordingly, Petitioner now seeks authority to transport up to 15,000,000 Mcf of gas to Dow for the remainder of the 363-day period agreed to in the April 7, 1982, amendment.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2599 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE83-5-000]

Texas-New Mexico Power Co.; Application for Exemption

January 27, 1983.

Take notice that Texas-New Mexico Power Company (TNMP) filed an application on December 29, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Subpart A, B, C, and E, of Part 290. alternate compliance is proposed for Subpart B and § 290-501 of Subpart E.

TNMP states that it should be allowed to use an expanded alternate reporting period, to substitute certain other data for that specified in Part 290, and to omit certain marginal cost data, all such that its filing will correspond to requirements of the Public Utilities Commission of Texas and the New Mexico Public Service Commission.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the applicatyion in newspapers of general circulation in the affected jurisdiction. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on:

James M. Tarpley, Vice President, Contracts and Regulations, Texas-New Mexico Power Company, 501 West Sixth Street, Fort Worth, Texas 76102 and

Arnold Fieldman, Channing D. Strother, Jr., Goldberg, Fieldman & Letham,

P.C., 1100 Fifteenth Street NW., Washington, D. C. 20005.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2800 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-37-001]

The Toledo Edison Co.; Application for Exemption

January 27, 1983.

Take notice that The Toledo Edison Company (Toledo) filed an application on December 20, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in §§ 290.305(a)(3), 290.306(b), 290.403(a)(1)–(4) inclusive, 290.406(a)(1)–(3) inclusive, and Subpart E as they apply to certain small rate classes defined in §§ 290.404(b) and 290.404(g)(2).

In the application for exemption Toledo states, in part, that it should not be required to file the specified data for the following reasons:

> The total retail sales (kwh) of the subject small rate classes amounted to less than two percent (2%) of the total retail sales of Toledo in 1981. The cost of gathering and submitting these data would increase the cost of the filing by fifty percent (50%), a prohibitive amount considering the minimal contribution the subject small rate clases make to Toledo's total annual retail sales.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period such person must also serve a copy of such comments on: F. Mitchell Dutton, Attorney, The Toledo Edison Company, 300 Madison Avenue, Toledo, Ohio 43652.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2801 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-31-002]

Western Area Power Administration; Application for Exemption

January 27, 1983

Take notice that the Western Area Power Administration (WAPA) filed an application on November 29, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Subparts B, C, D, and E. In addition, exemption is sought from the requirement specified in § 290.601(d)(iii) of Subpart E as it applies to the filings due on June 30, 1986 and biennially thereafter.

In its application for exemption WAPA states, in part, that it should not be required to file the data specified in Subparts B, C, D, and E since the nature of its present service is substantially the same as it was December 18, 1980, the date of WAPA's previous application for exemption which was granted in its entirety. Specifically, WAPA's sales are still characterized as those of hydroelectric energy wholesale transactions to Federal, state, and public agencies. The gathering of the required data will not carry out the purposes of Section 133 of PURPA.

WAPA also states that compliance with § 290.601(d)(iii) entails placement of public notice of application in newspapers with circulation in 15 states, an expensive, time consuming practice. WAPA requests that this requirement be waived for future applications for exemption. No public comment followed WAPA's publication of notices of application made in conjunction with two previous applications for exemption.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period such person must also serve a copy of such comments on: Mr. Robert L. McPhail, Western Area Power Administration, P.O. Box 3402, Golden, Colorado 80401.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2802 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket NO. RE80-10-002]

Wisconsin Power & Light Co.; Application for Exemption

January 27, 1983.

Take notice that Wisconsin Power & Light Company (Wisconsin) filed an application on December 27, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service infomation under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290.

In its application for exemption Wisconsin states, in part, that it should not be required to file the specified data for the following reasons:

> The applicant was previously granted an exemption from the reporting requirements of Subparts B, C, D, and E for the two previous filings.
>
> The Public Service Commission of Wisconsin (PSCW) has adopted the ratemaking standards specified in PURPA excluding the automatic adjustment clause, which is presently being considered for adoption.
>
> The applicant has been ordered by the PSCW to implement time-of-day rates for all classes of customer served except municipal. Under § 290.404(h), an exemption from the gathering and reporting of load data for any customer group served under time-of-day rates is granted but information is required to

be reported in §§ 290.305(a)(3), 290.306(b), 290.406, 290.501 and 290.502 for each customer group specified in Sections 290.404(a), 290.404(b), and 290.404(d). The data requirements of these sections are satisfied, for the largest part, by the filing of comparable data in the form of annual reports to the Federal Energy Regulatory Commission and the PSCW, in addition to cost of service studies filed with the PSCW in support of pending rate proceedings. The remaining, limited non-exempt data will be provided to interested parties upon request.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application; in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on: Mr. John L. Walker, Rates Manager, Wisconsin Power & Light Company, P.O. Box 192, Madison, Wisconsin 53701.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2603 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2293-6]

Agency Forms Under CMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Solid Waste Programs

• Title: General Facility Operating Requirements (EPA ID 0805).

Abstract: Hazardous waste facilities must record, and in some cases report to EPA, data for a variety of waste analysis, ownership transfer and other reports plus personnel training records. EPA uses the information to assure the safe and efficient management of hazardous waste.

Respondents: Generators, owners and operators of hazardous waste facilities.

• Title: Contingency Plan for Hazardous Waste Management Facilities (EPA ID 0808).

Abstract: To minimize hazards to human health and the environment, RCRA requires all hazardous waste facilities to design a contingency plan to be implemented whenever a fire, explosion or release of hazardous waste occurs. The facility keeps a copy of the plan and sends one to all pertinent emergency response teams. The facilities submit the plan to EPA with RCRA Part B permit applications.

Respondents: Generators, owners and operators of hazardous waste facilities.

• Title: Operating Record for Hazardous Waste Management Facilities (EPA ID 0809).

Abstract: Hazardous waste management facilities must keep on file written operating records that describe their waste management, type of waste, emergencies, inspections and closure/post-closure estimates. EPA and the facility use the information to assure safe operation of the facility.

Respondents: Owners and operators of hazardous waste management facilities.

• Title: Unsaturated Zone Monitoring at Hazardous Waste and Treatment Units (EPA ID 0811).

Abstract: Owners/operators of hazardous waste facilities must formulate and implement an unsaturated zone monitoring plan and keep it available for inspection. EPA uses the information to (1) indicate success/failure of processes, (2) allow early detection of threats to groundwater quality, and (3) evaluate the potential for plant uptake of hazardous waste constituents.

Respondents: Owners and operators of hazardous waste treatment, storage and disposal facilities.

• Title: Generator Requirements (EPA ID 0820).

Abstract: Shippers of hazardous wastes must (1) send a *notice of international shipment* of hazardous wastes to the receiving country; (2) keep *documentation of wastes* on file for three years from time of shipment; and (3) submit *exception reports* to EPA when the facility does not receive confirmation of shipment.

Respondents: Generators of hazardous wastes shipping them abroad.

Toxic Programs

• Title: Applications for PCB Disposal Permits (EPA ID 1012).

Abstract: Applicants for PCB disposal permits must provide a sampling and quality assurance plan as well as an environmental impact assessment to EPA with their applications. EPA uses the information to evaluate the ability of the facility to dispose of the PCBs safely.

Respondents: Owners or operators of PCB disposal facilities or those researching new disposal methods.

• Title: Records of PCB Storage and Disposal (EPA ID 0583).

Abstract: Storage and/or disposal facilities must maintain records on the PCBs they handle and submit an annual report to EPA. The Agency uses the data to monitor the movement and ultimate disposal of the PCBs.

Respondents: Owners or operators of PCB storage and disposal facilities.

Grants Programs

• Title: Application for Federal Assistance (Construction) (EPA ID 0874).

Abstract: Municipalities and states apply for financial support under the EPA Construction Grants for Wastewater Treatment Works program. The Agency uses the information on the application in making the award decision and to assure grantees' compliance with Federal requirements once they receive the assistance.

Respondents: Municipalities and states applying for construction grants.

Water Programs

• Title: Construction Grants Program Information (EPA ID 08270).

Abstract: EPA is consolidating various information collection requests pertaining to construction grants for wastewater treatment projects. New requests include local government certification of financial and management capability, field testing for innovative/alternative technology grants and notices covering funding, allocation and contract administration.

Respondents: State water pollution control agencies and local governments.

* * * * *

Agency forms cleared by OMB between December 21 and January 20, 1983: None.

* * * * *

Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), 401 M Street, SW., Washington, D.C. 20460
and
Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503

Dated: January 24, 1983.

C. Ronald Smith,

Director, Office of Standards and Regulations.

[FR Doc. 83–2321 Filed 1–28–83; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL 2295–3]

Science Advisory Board, High-Level Radioactive Waste Disposal Subcommittee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the High-Level Radioactive Waste Disposal Subcommittee of the Science Advisory Board will be held in The Regency Ballroom E and F, Hyatt Regency Crystal City Hotel, 2799 Jefferson Davis Highway, Arlington, Virginia, on February 16–17, 1983. The meeting will begin at 9:00 a.m. and last until 5:00 p.m. each day.

The purpose of the meeting will be to commence review of the scientific and technical basis of the Agency's proposed rules for the management and disposal of high-level radioactive wastes. The members of the Subcommittee, and the principal issues for the Subcommittee's consideration, were announced in the **Federal Register**, Wednesday, January 5, 1983, page 509.

The agenda for the meeting, which is the second in a series of meetings on the proposed rules, will include finalizing of the issues before the Committee, a review of the environmental pathways analyses supporting the proposed rules, and discussions on the agenda for future meetings.

The meeting is open to the public. Any member of the public wishing to attend or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382–2552, or Terry F. Yosie, Acting Staff Director, Science Advisory Board, at (202) 382–4126. Public comment will be accepted at the meeting. Written comment will be accepted in any form, and there will be opportunity for brief oral statements. Anyone wishing to make such comment must contact Mr. Torno prior to February 11, 1983, in order to be placed on the agenda.

Dated: January 25, 1983.

Terry F. Yosie,

Acting Director, Science Advisory Board.

[FR Doc. 83–2871 Filed 1–28–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL ELECTION COMMISSION

[Notice 1983–4]

Filing Dates for New York Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of Filing Dates for New York Special Election.

SUMMARY: Committees required to file reports in connection with the special election to be held in the 7th Congressional District of New York on March 1, 1983, must file a 12-day pre-election report due on February 17, 1983, and a 30-day post-election report due on March 31, 1983.

After filing these reports, committees should resume filing reports on a semi-annual basis for 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office 1325 K Street, NW., Washington, D.C. 20463, Tel: (202) 523–4068; Toll-free: (800) 424–9530.

Notice of Filing Dates for Special Election, 7th Congressional District, New York

The State of New York has scheduled a special election in the 7th Congressional District for March 1, 1983.

All principal campaign committees of candidates involved in the special election, and all other political committees not filing monthly that support candidates in this special election, shall file a 12-day pre-election report due on February 17, 1983, with coverage dates from January 1, 1983, or the date of registration, whichever is later, through February 9, 1983, and a 30-day post election report due on March 31, 1983, with coverage dates from February 10, 1983, through March 21, 1983.

After filing these reports, committees should resume filing reports on a semi-annual basis for 1983.

Dated: January 26, 1983.

Lee Ann Elliott,

Vice Chairman, Federal Election Commission.

[FR Doc. 83–2574 Filed 1–28–83; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *America Corporation,* Morgan City, Louisiana, to acquire 100 percent of the voting shares or assets of America Bank in Louisiana, Morgan City, Louisiana. Comments on this application must be received not later than February 23, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Freeport Corporation,* Freeport, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of Lincolnway State Bank, Sterling, Illinois. Comments on this application must be received not later than February 23, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Orange Bancorp,* Fountain Valley, California; to acquire 51 percent of the voting shares or assets of The Bank of Northern California (In Organization),

San Jose, California. Comments on this application must be received not later than February 23, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *InterFirst Corporation,* Dallas, Texas; to acquire 100 percent of the voting shares or assets of First International Bank-North West, National Association, San Antonio, Texas, This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 23, 1983.

Board of Governors of the Federal Reserve System, January 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2538 Filed 1-28-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Merchants of Shenandoah Ban-Corp,* Shenandoah, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by consolidation to The Merchants National Bank of Shenandoah, Shenandoah, Pennsylvania. Comments on this application must be received not later than February 23, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *LSB Bancshares, Inc.,* Lexington, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Lexington State Bank, Lexington, North Carolina. Comments on this application must be received not later than February 23, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *SSB Bancshares, Inc.,* Marshalltown, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Security Savings Bank, Marshalltown, Iowa. Comments on this application must be received not later than February 23, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Canadian Bancshares, Inc.,* Yukon, Oklahoma; to become a bank holding company by acquiring 80 percent or more of the voting shares of Canadian State Bank, Yukon, Oklahoma. Comments on this application must be received not later than February 23, 1983.

Board of Governors of the Federal Reserve System, January 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2539 Filed 1-30-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Norstar Bancorp, Inc.,* Albany, New York; to acquire 67.6 percent or more of the voting shares or assets of Bank of Commerce, New York City, New York. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Comments on this application must be received not later than February 24, 1983.

Board of Governors of the Federal Reserve System, January 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2541 Filed 1-28-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Jefferson Bankshares Corp.,* Chicago Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Jefferson State Bank, Chicago, Illinois. Comments on this application must be received not later than February 24, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Woodburn Bancorp,* Woodburn, Oregon; to become a bank holding company by acquiring 100 percent of the voting shares of Woodburn State Bank, Woodburn, Oregon. Comments on this

application must be received not later than February 24, 1983.

Board of Governors of the Federal Reserve System, January 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2540 Filed 1-28-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (finance company and insurance activities; Missouri): To expand the service area of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., located in Overland Park, Kansas. The previously approved service area of the office encompasses the States of Kansas, Iowa, Nebraska, South Dakota, Minnesota, and the western half of Missouri. The proposed expanded service area shall be the entire State of Missouri for the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the making of loans to individuals and businesses secured by a lien on mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans; and the servicing, for any person, of loans and other extensions of credit. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Acceptance Company, Inc. Comments on this application must be received not later than February 23, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Northwest Bancorporation,* Minneapolis, Minnesota (financing and insurance activities; Texas): To engage through its subsidiary, Dial Finance Company of Texas, in the activities of consumer and commercial finance, and the sale of credit-related insurance including credit-accident and health, credit-life, and property and credit related casualty insurance related to extensions of credit by Dial Finance Company of California. These activities would be conducted from two relocated offices in Dallas, Texas, serving Dallas, Texas. Comments on this application must be received not later than February 22, 1983.

2. *Northwest Bancorporation,* Minneapolis, Minnesota (financing and insurance activities; California): To enage through its subsidiary, Dial Finance Company of California, in the activities of consumer and commercial finance, and the sale of credit-related insurance including credit-accident and health, credit-life, and property and credit related casualty insurance related to extensions of credit by Dial Finance Company of California. These activities would be conducted from a relocated office in Culver City, California, serving Culver City, California, other nearby suburbs of Los Angeles, California, and Los Angeles, California. Comments on this application must be received not later than February 22, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Colorado National Bankshares, Inc.,* Denver, Colorado; (credit related insurance activities; Colorado): To engage through its subsidiary, Colorado National Insurance Agency, in life, disability, and hazard insurance coverages directly related to extensions of credit by six of its recently acquired subsidiary banks: Colorado National Bank-Arvada, Arvada, Colorado; Colorado National Bank-Aurora, Aurora Colorado; Colorado National Bank-Boulder, Boulder, Colorado; Colorado National Bank-Exchange, Colorado Springs, Colorado; Colorado National Bank-Belmont, Pueblo, Colorado; and Colorado National Bank-Pueblo, Pueblo, Colorado. The respective geographic scopes for the above locations will be the city of Arvada, Colorado and the eastern portion of Golden, Colorado; the city of Aurora, Colorado; the city of Boulder, Colorado; El Paso County plus the town of Woodland Park, Colorado and Pueblo County, Colorado. Colorado National Bankshares earlier secured approval to engage in insurance activities by Board Order of July 1, 1974. Comments on this application must be received not later than February 23, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *U.S. Bancorp,* Portland, Oregon (industrial loan activities; California): To engage through its existing indirect subsidiary, U.S. Thrift & Loan, in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or the account of others, including, but not limited to commercial, rediscount and installment sales contracts; to issue thrift certificates and passbooks and to act as insurance agent with regard to credit life and disability insurance solely in connection with extensions of credit by U.S. Thrift & Loan in conformance with the provisions of §§ 225.4(a)(1), 225.4(a)(2), 225.4(a)(3), and 225.4(a)(9)(i) of Regulation Y. These activities will be conducted from offices in Citrus Heights, Concord, and Stockton, California, serving the above cities respectively. Comments on this application must be

received not later than February 23, 1983.

Board of Governors of the Federal Reserve System, January 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2542 Filed 1-28-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-79469]

Alaska; Airport Lease Application

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214) the State of Alaska, Department of Transportation and Public Facilities, has applied for an airport lease for the following land.

Umiat Meridian, Alaska

T. 16 S., R. 11 E., within protracted Secs. 3, 9, 10 and 16

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of land Management, P.O. Box 1150, Fairbanks, Alaska 99707.

Dated: January 21, 1983.

Lennie Eubanks,

Chief, Branch of Land Office.

[FR Doc. 83-2577 Filed 1-28-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Fourth Regular Meeting.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service announces a public meeting in order to receive information and comments on the proposed negotiating positions for the regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species (Cites) of Wild Fauna and Flora to be held in Gaborone, Botswana, April 19-30, 1983. The Service will also receive at the public meeting information and comments with regard to proposals to amend the lists of species in Appendices I and II of the Convention. The instant notice of meeting will be repeated as part of a soon to be published notice setting forth the Service's proposed negotiating positions.

ADDRESSES: The public meeting will be held on February 15, 1983, from 9:30 a.m. to 12:30 p.m. in room 7000 A of the Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2418).

SUPPLEMENTARY INFORMATION:

Announcement of Public Meeting

The Service announces that it will hold a public meeting on Tuesday, February 15, 1983, from 9:30 a.m. to 12:30 p.m. in Room 7000 A of the Main Interior Building of the Department of the Interior, 18th and C Streets, NW., Washington, D.C., for purposes of receiving information and comments with regard to the proposed negotiating positions for the regular meeting of the Conference of the Parties to CITES which will soon be published in the **Federal Register**, and with regard to proposals to ammend the lists of species in Appendices I and II of the Convention. Appointments to speak at the public meeting may be made with the Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240 (703/235-2418). Participants without prior appointments will be given an opportunity to speak to the extent time allows following speakers with appointments.

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: January 25, 1983.

Robert A. Juntzen,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 83-2517 Filed 1-28-83; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, March 5, 1983, at 1:00 p.m. at the Brunswick Town Hall in Brunswick, Maryland.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Carrie Johnson, Chairman, Arlington, Virginia
Mr. Carl L. Shipley, Washington, D.C.
Ms. Polly Bloedorn, Bethesda, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mr. William H. Ansel, Jr., Romney, West Virginia
Mr. Silas Starry, Shepherdstown, West Virginia
Mrs. Bonnie Troxell, Cumberland, Maryland
Mr. John D. Millar, Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Barry Passett, Washington, D.C.
Ms. Barbara Yeaman, Brookmont, Maryland
Ms. Joan LaRock, Lovettsville, Virginia
Ms. Elise Heinz, Arlington, Virginia
Ms. Marjorie Stanley, Silver Spring, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. R. Lee Downey, Williamsport, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland

Matters to be discussed at this meeting include:

1. Current Issues
2. Superintendent's Report
3. Committee Reports
   Plans and Projects Committee
   Recreation Policies and Issues
   Resource Protection
4. Public Comments
5. New Business

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of meeting will be available for public inspection four (4) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: January 20, 1983.

Robert Stanton,

Acting Regional Director, National Capital Region.

[FR Doc. 83-2582 Filed 1-28-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the fifty-fourth meeting of the Board for International Food and Agricultural Development (BIFAD) on February 18, 1983.

The purpose of the meeting is to explore ways for working with the private sector on Title XII programs. Specifically, the Board will hear a presentation by Hon. Orville L. Freeman (Business International Corporation), on involvement of the private sector, along with universities in AID agricultural programs; consider a status report on a study by Dr. Ralph Smuckler (Michigan State University) on universities, the private sector, and Title XII; discuss collaboration between universities and private voluntary organizations; receive report on activities of the Joint Committee on Agricultural Research and Development (JCARD); and meet with BIFAD Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:15 p.m., and will be held in Room 1107, New State Department Building, 22nd and C Streets, NW., Washington, D.C. The meeting with the BIFAD Support Staff will begin at 8:00 a.m. and adjourn at 8:45 a.m. This meeting will be held in Room 1406, New State Department Building, 22nd and C Streets, NW., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting.

Dr. Erven J. Long, Coordinator, Title XII Strengthening Grants and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: January 28, 1983.

C. H. Barker,

Deputy Coordinator for University Relations, Bureau for Science and Technology.

[FR Doc. 83-2607 Filed 1-28-83; 8:45 am]

BILLING CODE 8016-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-234

The following applications were filed in Region I: send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 162875 (Sub-1-1TA), filed January 17, 1983. Applicant: AARTIC PARCEL SERVICE, INC., 27 Canal Street, Millbury, MA 01527. Representative: J. Todd Miles (same as applicant). *General commodities, no single piece to weigh more than 100 pounds,* between points in CT, MA, RI, NH. Supporting shipper: Amtrak, National Railroad Passenger Corp., 400 North Capitol St., N.W., Washington, DC 20001.

MC 165688 (Sub-1-1TA), filed January 14, 1983. Applicant: GENERAL AMBASSADOR LIMOUSINE, INC., t.a. AMBASSADOR LIMOUSINE, 820 N. New York Avenue, Atlantic City, NJ 08401. Representative: Victor L. Schwartz, Esq., 1601 Architects Building, 117 S. 17th Street, Philadelphia, PA 19103. *Passengers and baggage* from Atlantic City, NJ to all points in CT, MD, NY, PA and NJ. Supporting shipper: Playboy Elsinore Associates, d.b.a. Playboy Hotel and Casino, 2500 Boardwalk, Atlantic City, NJ 08404.

MC 165566 (Sub-1-TA), filed January 12, 1983. Applicant: B.G.S. TRANSPORTING AND TOWING CORP., 158 Medford Ave., Patchogue, NY 11772. Representative: Jeremy Kahn, Esq., Suite 733, Investment Bldg., 1511 K Street, N.W., Washington, DC 20005. *Used automobiles and parts and accessories* betweem Patchogue, Medford, and Greenport, NY, on the one hand, and, on the other, Manheim, PA, Acton, MA, Bordentown and Teterboro, NJ, Fredericksburg, VA, and High Point, NC. Supporting Shipper(s): Tag Motors, 1601 Route 112, Medford, NY 11763; Patchogue Ford, 501 Route 112, Patchogue, NY 11772; Jay-Cee Motors, 2021 Route 112, Medford, NY 11763; Schroeder's Used Cars, 112 at Medford Ave., Patchogue, NY 11772

MC 165720 (Sub-1-TA), filed January 17, 1983. Applicant: NORMAND CLOUTIER TRANSPORT, INC., 180 R.R. 224, St. Simon of St. Hyacinthe, Quebec, CD JOH 1YO. Representative: Paquette, Perreault, Rivet & Assoc., 200 St. James Street, Room 900, Montreal, Quebec, CD H2Y 1M1. *Lumber* from the ports of entry on the U.S/CD Boundary Line at Jackson Line and Highgate, VT, Champlain, Rooseveltown and Ogdensburg, NY to points in ME, VT, NH, MA, CT, NY, PA, NJ, DE, WA, MD, WV, VA, NC, SC, GA, FL, AL, MS, LA, TN, KY, OH, IN, MI, IL, WI, MO. Supporting shipper(s): Hervay McLean Inc., 1554 Viel Street, St. Laurent, Quebec, CD; McNutt Lumber Co. Ltd., 1564 Herron Blvd., Dorval, Quebec, CD H9R 4S8; D. McLean International Inc.,

1554 Viel Street, St. Laurent, Quebec, CD.

MC 99443 (Sub-1–2TA), filed January 13, 1983. Applicant: CURRIER'S EXPRESS, INC., 30 Lowell Jct. Road, Andover, MA 01801. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* irregular routes: *General commodities, except classes A & B explosives, and hazardous materials,* between points in MA, CT, ME, NH, RI, VT, NY, NJ, PA, DE, DC, MD, OH, VA, WV, KY, and TN, under continuing contract(s) with Mystic Warehouse, Inc., of Andover, MA. Supporting shipper: Mystic Warehouse, Inc., Lowell Jct. Road, Andover, MA 01801.

Mc 165665 (Sub-1–1TA), filed January 13, 1983. Applicant: G & C INTERMODAL EXPRESS, INC., 134 Landing Road, Landing, NJ 07850. Representative: Harold L. Reckson, 33–28 Halsey Road, Fair Lawn, NJ 07410. *General commodities (except Classes A and B explosives, household goods and commodities in bulk)* between Philadelphia, PA, and points in its commercial zone, on the one hand, and, on the other, points in Atlantic, Burlington, Camden, Cumberland, Middlesex, Mercer, Ocean, Salem, Hunterdon and Somerset Counties, NJ, Berks, Bucks, Chester, Delaware and Montgomery Counties, PA, New Castle and Kent Counties, DE, and Cecil and Queen Anne Counties, MD, having a prior or subsequent movement by rail. Supporting shipper: National Piggyback Services, Inc., P.O. Box 27176, Indianapolis, IN 46227.

MC 165673 (Sub-1–1TA), filed January 13, 1983. Applicant: GOODALL TRANSPORTATION COMPANY, 572 Whitehead Road, P.O. Box 8237, Trenton, NJ 08650. Representative: Harold L. Reckson, 33–28 Halsey Road, Fair Lawn, NJ 07410. *Food and related products* from points in Alameda County, CA, to Chicago, IL, Detroit, MI, Albany and New York, NY, and points in their commercial zones, Kent County, RI, Windham County, VT, Prince Georges County, MD, Culpeper County, VA, and points in MA, NJ and PA. Supporting shipper: Westbrae Natural Foods, 4240 Hollis Street, Emeryville, CA 94608.

MC 154993 (Sub-1–11TA), filed January 13, 1983. Applicant: H & W ENTERPRISES, INC., S. Witham Road, P.O. Box 325, Auburn, ME 04210. Representative: Ignatius B. Trombetta, 1001 One Public Square Bldg., Cleveland, OH 44113. *Contract Carrier:* irregular routes: *General commodities, (except Classes A and B explosives)* from points in TX, KY, CA, NJ, OH, IL, and PA to facilites located in Androscoggin County, ME, under continuing contract(s) with L & A Tire Co., of Lewiston, ME. Supporting shipper: L & A Tire Co., 485 Sabattus Street, Lewiston, ME.

MC 154993 (Sub-1–12TA), filed January 13, 1983. Applicant: H & W ENTERPRISES, INC., S. Witham Road, P.O. Box 325, Auburn, ME 04210. Representative: Ignatius B. Trombetta, 1001 One Public Square Bldg., Cleveland, OH 44113. *Contract carrier:* irregular routes: *Metal, Plastic, Rubber and related products* (1)between facilities located in Cuyahoga County (Solon), OH, and Union County (Elizabeth), NJ, and (2) from said facilities to points in VT, Erie and Monroe Counties, NY, Chicago Commercial area and Williamson County, (Marion), IL, Fulton County, GA, Dallas County, TX, Hillsborough County, FL, and Wilson County, TN, under continuing contract(s) with Van Dorn Company of Cleveland, OH. Supporting shipper: Van Dorn Company, Davies Can Division, 30301 Carter Street, Solon, OH 44139.

MC 165664 (Sub-1–1TA), filed January 13, 1983. Applicant: A. C. PATEL, d.b.a. J. & S. DELIVERY, 406 Franklin Road, Denville, NJ 07834. Representative: A. C. Patel (same as applicant). *Photo-copy and word processing machines; materials, supplies, equipment and accessories related thereto* between points in CT, and NY. Supporting shipper: Columbia Business System, Inc., 2 Westchester Plaza, Elms for, NY 10523.

MC 114757 (Sub-1–1TA), filed January 13, 1983. Applicant: EMPIRE BUS LINES, d.b.a. LEPRECHAUN LINES, Windsor Highway, Route 32 South, P.O. Box 2628, Newburgh, NY 12550. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Common carrier:* regular routes: *Passengers and their baggage,* between Fishkill, NY, and Arlington, NY from Fishkill over U.S. Hwy. 9 to Poughkeepsie, NY, then over U.S. Hwy 44 to Arlington, and return over the same route, serving all intermediate points and the off route points of Downstate Correctional Facility and Beacon Correctional facility near Beacon, NY. Applicant intends to tack to existing authority and interline at Poughkeepsie and Ney York, NY. Supporting shipper(s): Helen E. Diesing, 36 Crestwood Blvd., Poughkeepsie, NY 12603; David D. Bruen, County, Executive, Putnam County Executive, Two County Center, Carmel, NY 10512; Lucille P. Pattison, County Executive, The Dutchess County Executive, County Office Bldg., Poughkeepsie, NY 12601.

MC 142114 (Sub-1–15TA), filed January 14, 1983. Applicant: RETAIL EXPRESS, INC., 36 South Main Street, Sharon, MA 02067. Representative: Frank M. Cushman, 5 Carbrey Avenue, Sharon, MA 02067. *Contract carrier:* irregular routes: *such commodities as are dealt in by retail department stores (except commodities in bulk and frozen foodstuffs)* between points in all of the 48 contiguous U.S. (AK and HI excluded) under continuing contract(s) with Ames Department Stores, Inc., Rocky Hill, CT. Supporting shipper(s): Ames Department Stores, Inc., 2418 Main Street, Rocky Hill, CT 06067.

MC 162247 (Sub-2TA), filed January 14, 1983. Applicant: SABER TRANSPORT, INC., Travellers Plaza, Borelli Blvd., P.O. Box 18, Paulsboro, NJ 08066. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier:* irregular routes; *Machinery, including materials equipment and supplies used in the manufacture, sale and distribution thereof,* between points in the U.S. (Except AK and HI) under continuing contract(s) with Soklove Machinery Company, Inc., Huntington, PA; and (2) *Air conditioning and home heating products, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between Trenton, NJ, including its commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Trace CAC, Inc., Trenton, NJ. Supporting shipper(s): Soklove Machinery Company, Inc., 3816 Loop Road, Huntington, PA 19006; Trane CAC, Inc., 2231 E. State St., Trenton, NJ 08619.

MC 165663 (Sub-1TA), filed January 13, 1983. Applicant: STANCH FREIGHT SERVICE, INC., 774 Bedford Avenue, Brooklyn, NJ 11205. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *General commodities (except Classes A and B explosives, household goods and commodities in bulk).* between points in the U.S. in and east of MI, IN, KY, TN and MS. Supporting shipper(s): There are eight statements of support with this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 165686 (Sub-1–1TA), filed January 14, 1983. Applicant: LYLE STENERSEN, d.b.a. L. M. STENERSEN TRANSPORT, School Street, Route 1, Rindge, NH 03461. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* irregular

routes: *Building materials and supplies* between points in the U.S. (except AK and HI), under continuing contract(s) with Lyn'Lad Group Ltd., West Lynn, MA; Barretto Granite Corp., Milford, NH, and Seppala & Aho, Inc., New Ipswich, NH. Supporting shipper(s): Lyn'Lad Group Ltd., 220 South Common Street, West Lynn, MA 01905; Barretto Granite Corporation, Armory Road, Milford, NH 03055; Seppala & Aho, Inc., Route 124, New Ipswich, NH 03070.

MC 158722 (Sub-1–1TA), filed January 12, 1983. Applicant: T. M. DELIVERY SYSTEMS, INC., Forty Carver Avenue, Westwood, NJ 07675. Represenative: Rick A. Rude, Esq., Suite 611, 1730 Rhode Island Avenue, N.W., Washington DC 20036. *Paper, paper products, and printed matter,* between points in MA, NJ, NY, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Transportation Management Consultants, Inc., 20 Theodore Conrad Drive, Liberty Industrial Park, Jersey City, NJ 07305.

MC 165689 (Sub-1–1TA), filed January 14, 1983. Applicant: TRANSPORT I. BIJEAU, LTD., 237 7th Avenue, Deux Montagnes, Quebec, CD. Representative: Issac Bijeau, C. P. 531, St. Eustache, Quebec, CD J7R 3H7. *Building material, lumber, fencing and plate glass* between points of entry on the U.S./CD International Boundary at Champlain, NY, and Highgate Springs, VT, and points in CT, DC, MA, MD, NH, NJ, NY, PA, RI, TN, VA, WV and VT. Supporting shipper(s): There are six statements of support with this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 165526 (Sub-II–1TA), filed January 10, 1983. Applicant: BAMBRICK ENTERPRISES, INC., P.O. Box 216, Douglassville, PA 19518. Representative: Joseph T. Bambrick, Jr. (same address as applicant). Contract, irregular: *General commodities (except Classes A & B explosives and household goods as defined by the Commission)* between points in the U.S. (except AK and HI), under continuing contract(s) with Aladdin Industries; Assembly & Distribution Terminals of MA, Inc.; Assembly & Distribution Terminals of CA, Inc.; Assembly & Distribution Terminals of WA, Inc.; Assembly & Distribution Terminals of OR, Inc.; General Nutrition Corp.; Sherwood Medical. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are seven supporting shippers statements attached to this application that may be examined at the Philadelphia Regional Office.

MC 109448 (Sub-II–25TA), filed January 18, 1983. Applicant: PARKER TRANSFER CO., P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Chemicals and related products* (except commodities in bulk) between points in Henderson, McCracken, Warren and Fayette Counties, KY; Bartholomew County, IN; Wetzel and Kanawha Counties, WV; Allegheny County, PA; Hillsborough and Orange Counties, FL; Hamilton, Davidson, Knox and Washington Counties, TN; and Madison County, AL, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, KY, TN and MS, for 270 days. Supporting shipper: PB&S Chemical Company, 1100 North Adams Street, Henderson, KY 42420.

MC 110683 (Sub-II–17TA), filed January 10, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Robert L. Stover (same address as applicant). Contract, irregular: *General commodities (except household goods as defined by the Commission, commodities in bulk and Classes A and B explosives);* between points in the U.S. (except AK and HI), under continuing contract(s) with Sears, Roebuck and Co. Supporting shipper(s): Sears, Roebuck and Co., Sears Tower, Chicago, IL 60684.

MC 123675 (Sub-II–2TA), filed January 18, 1983. Applicant: SOLDIER BROS, A B T LINE, INC., 614 Paine Avenue, Toledo, OH 43605. Representative: Keith D. Warner, 5732 W. Rowland Rd., Toledo, OH 43613. *Processed polyvinylbutryal and materials and supplies used in the processing thereof,* between Toledo, OH and points in the lower peninsula of MI for 270 days. An underlying e.t.a. seeks 120 days authority. Supporting shipper(s): B O'B, Inc., 352 Morris Street, Toledo, OH 43602.

MC 165749 (Sub-II–1TA), filed January 18, 1983. Applicant: RON TOOLEY TRUCKING, INC., 345 Columbus Rd., Wooster, OH 44691. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or distributed by meat packinghouses.* (except commodities in bulk) between points in Stark County, OH and Greene County, IN, on the one hand, and, on the other, points in OH, IN, PA, and NY, for 270 days. Supporting shipper: Superior Brand Meats, Inc., Sugardale Foods, Inc., Worthington Packing Co., G.B.D., Inc., 1888 Southway, S.W., Massillon, OH 44646.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 142368 (Sub-3–3TA), filed January 19, 1983. Applicant: DANNY HERMAN TRUCKING, INC., P.O. Box 55, Mountain City, TN 37683. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *General Comodities (except Classes A and B explosives, household goods, and commodities in bulk),* Between Atlanta, GA; Birmingham, AL; Boston, MA; Charlotte, NC; Chicago, IL; Dallas, Fort Worth, and Waco, TX; Greenville, SC; Jersey City, NJ; Los Angeles, CA; Miami, FL; Nashville, TN; Philadelphia, PA; and Richmond, VA and points in their commercial zones; and points in Johnson County, TN, on the one hand, and, on the other, points in AL, FL, GA, LA, and MS. Supporting shippers: Charlotte Freight Association, Inc., P.O. Box 26007, Charlotte, NC 28213; Film Salvage Co., Route 1, Coal Springs Rd., Mountain City, TN 37683; and Greever & Walsh Wholesale Textiles, Inc., Church St., Mountain City, TN 37683.

MC 165250 (Sub-3–2TA), filed January 19, 1983. Applicant: B A R TRANSPORTATION, INC., P.O. Box 863, Calhoun, GA 30701. Representative: Mark S. Gray, Suite 1006, 225 Peachtree St., N.E. Atlanta, GA 30303. *Steel wire and fence wire, including materials and supplies used in the manufacture, distribution and sale therof; and empty spools on return (except Class A and B explosives, household goods and commodities in bulk);* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Bekaret Steel Wire Corp. Supporting shipper: Bekaret Steel Wire Corp., Drawer G, Rome, GA 30161.

MC 165762 (Sub-3–1TA), filed January 19, 1983. Applicant: FREIGHT MOVERS TRUCK BROKER, INC., P.O. Box 6501, Dothan, AL 36302. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Contract: Irregular: (1) *Lumber, including materials, equipment and supplies* used in the manufacture, sale and distribution therof, (a) between Eufaula, AL including its commercial zone, on the one hand, and, on the other, points in TX, LA, MS, GA, FL, SC, NC, VA, KY, TN and AR, under a continuing contract(s) with Lakeside Lumber Company, (b) between Abbeville, AL, including its commercial zone, on the one hand, and, on the other, points in

GA, FL, TN, NC, and SC, under a continuing contract(s) with St. Regis Paper Compay and (2) *plastic resins and plastic pipe and plumbing accessories, including materials, equipment and supplies* used in the manufacture, sale and distribution thereof, between Samson and Hartford, AL, including their respective commercial zones, on the one hand, and, on the other, points in and east of ND, SD, NE, CO, OK and TX, under a continuing contract(s) with Samson Plastic Conduit and Pipe Corporation. Supporting shippers: Lakeside Lumber Co., P.O. Box 154 Eufaula, AL 36027; St. Regis Paper Company, P.O. Box 249, Abbeville, AL 36210; and Samson Plastic Conduit and Pipe Corporation, P.O. Box 325, Samson, AL 36477.

MC 145637 (Sub-3–8TA), filed January 18, 1983. Applicant: B&B EXPRESS, INC., P.O. Box 5552, Station B, Greenville, SC 29606. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *General commodities (except classes A&B explosives and commodities in bulk),* between NC and SC, on the one hand, and, on the other, points in CA and AZ. Supporting shipper(s): E. I. Du Pont de Nemours & Co., Inc., 10th and Market St., Wilmington, DE 19898.

MC 165735 (Sub-3–1TA), filed January 18, 1983. Applicant: R & J FREIGHT, INC., Rt. 3, Box 75, Conover, NC 28613. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Furniture and fixtures* from Catawba County, NC to points on and east of a line bound by the western boundaries of ND, SD, NE, KS, OK, and TX. Supporting shipper: Hickory Ridge Furniture Co., Inc., P.O. Box 726, Conover, NC 28613.

MC 123712 (Sub-3–1TA), filed January 18, 1983. Applicant: STANLEY'S TRANSFER COMPANY, INC., 950–1000 North Marine Blvd., Jacksonville, NC 28540–0316. Representative: Thomas R. Kingsley, 10614 Amherst Avenue, Silver Spring, MD 20902. *Household goods, as defined,* between points in the United States (except AK, HI, MT, ND, and SD). Applicant intends to interline with other carriers at Stoughton, MA, Brooklyn, NY, Philadelphia, PA, Kansas City, MO, Lawton, OK, San Antonio, TX, and San Diego, CA. Supporting shipper: The Department of Defense as represented by the U.S. Army Legal Services Agency, 5611 Columbia Pike, Falls Church, VA 22041.

MC 165399 (Sub-3–1TA), filed January 18, 1983. Applicant: L. S. TRUCKING, INC., 9003 Tara Boulevard, Jonesboro, GA 30236. Representative: Philip L. Martin, 2220 Parklake Dr., N.E., Suite 115, Atlanta, GA 30345. *Contract:* Irregular: *Pulp, paper and related products* between points in the United States, under continuing contract with Wilcox Walter Furlong Paper Co. Supporting shipper: Wilcox Walter Furlong Paper Co., 5255 Fulton Industrial Blvd., S.W., Atlanta, GA 30336.

MC 165256 (Sub-3–1TA), filed January 18, 1983. Applicant: ELROD ENTERPRISES, INC., 4801 Port Drive, Douglasville, GA 30135. Representative: Rodney W. Elrod (same address as applicant). *Contract,* Irregular, *Metal Products, and materials, and equipment, and supplies (except commodities in bulk) used in the manufacturing, production, processing, installation, sale, and distribution,* between points in GA, AL, FL, NC, SC, TN. Supporting shipper: Crown Cork & Seal Inc., 9300 Ashton Rd., Philadelphia, PA 19136.

MC 2934 (Sub-3–53 TA), filed January 18, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W.G. Lowry, (same as above). *Contract:* Irregular; *General Commodities (except commodities in bulk and Class A and B explosives);* between points in the U.S. (including AK and HI), under continuing contracts with Motorola, Inc. and its subsidiaries, 1303 East Algonguin Road, Schaumburg, IL 60196. Supporting shipper: Motorola, Inc., 1303 East Algonguin Road, Schaumburg, IL 60196.

MC 143271, (Sub-3–2 TA), filed January 18, 1983. Applicant: CAPITAL CITY TRUCK GARAGE & TRUCKING COMPANY, INC., 3017 Trawick Road, Raleigh, NC 27604. Representative: Nicholas J. Dombalis II, 3700 Computer Drive, Post Office Box 18237, Raleigh, NC 29619. *General commodities,* between points in NC, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the MS River, and extending along with the MS River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties of MN, to the International boundary line between the U.S. and Canada. Supporting shipper(s): Litho Industries Company, P.O. Box 30069, Raleigh, NC 27622.

MC 165405 (Sub-3–1 TA), filed January 18, 1983. Applicant: CONTINENTAL MBS COACHES, 22 Public Square, P.O. Box 973, Columbia, TN 38401. Representative: Continental MBS Coaches. *Passengers and their baggage in charter operations* between TN, KY, AL, on the one hand, and, all points in the U.S. excluding AK and HI on the other. Supporting shipper: Continental Tours, Inc., 300 Experiment Lane, Columbia, TN 38401.

MC 165232 (Sub-3–1 TA), filed January 18, 1983. Applicant: AIRLINE MOVING & STORAGE, INC., 142 Stockton Street, Jacksonville, FL 32204. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Household goods, bags and used automobiles,* between points in AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NM, NY, NC, OH, OR, OK, PA, RI, SC, TN, TX, UT, VA, VA, WV and WI. Supporting shippers: There are five supporting shippers. Their statements may be examined by the ICC Regional Office, Atlanta, GA.

MC 140902 (Sub-3–19 TA), filed January 18, 1983. Applicant: DPD, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets, (same address as applicant). *Contract;* irregular; *Foam and rubber products* between Morristown, TN on the one hand and on the other points in the states of AL, GA, TX, FL, IL, IN, KY, MS, NC, OH, SC, VA, WV, MO, AR, and LA under continuing Contract(s) with Recticel Foam Corporation. Supporting shipper: Recticel Foam Corporation, P.O. Box 655, Buffalo, NY 14240.

MC 148130 (Sub-3–3TA), filed January 18, 1983. Applicant: SHARP TRANSPORT, INC., Rte. 1, Box 20, Ethridge, TN 38456. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Preserves and toppings* from points in CA to Nashville, TN. Supporting shipper(s): Shoney's Inc., 1727 Elm Hill Pike, Nashville, TN 37210.

MC 165730 (Sub-3–1TA), filed January 18, 1983. Applicant: E. H. SISTRUNK TRUCKING, INC., Route Two, Box 244, Auburn, AL 36830. Representative: V. Lee Pelfrey, Attorney at Law, 104 Court Square, Clayton, AL 36016. 1. *Lumber and wood products* between points in AL, AR, FL, GA, IN, KY, LA, MS, NC, TN, TX and SC. 2. *Fertilizer, cotton seed and cotton bales* between points in Lee County, AL, on the one hand, and, on the other, points in MS. 3. *Bark and ornamental garden chips* between points, in Lee County, AL, on the one hand, and, on the other, points in GA. 4. *Pre-fabricated wooden fences* between points in Russell County, AL, on the one hand, and, on the other, points in GA, FL, MS, NC, SC, TN, TX, KY, AR, LA and IN. Supporting shippers: There are seven statements in support of this application which may be examined at the ICC Regional Office, Atlanta, GA.

The following applications were filed in Region 4. Send protests to: ICC,

Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–51TA), filed January 17, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (including AK but excluding HI) under a continuing contract with Monsanto Company of St. Louis, Missouri.

MC 15735 (Sub-4–52TA), filed January 14, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Martin T. Boratyn, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Articles, including objects of Art, Displays and Exhibits, which because of their unusual nature require specialized handling* between points in the U.S. except (AK and HI) under a continuing contract with Design and Production, Inc. Supporting shipper: Design and Production, Inc., of Alexandria, Virginia.

MC 133314 (Sub-4–6 TA), filed December 13, 1982. Applicant: SILVAN TRUCKING COMPANY, INC., R.R. No. 2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones., 1111 East 54th Street, Suite 155, Indianapolis, IN 46220. *Machine, hand and automotive tools, tool chests, battery chargers and testing equipment* from Tallmadge, OH, to points in, IN, MI, and IL. Supporting shipper: Matco Tools Corp., 124 W. Ave., Tallmadge, OH 44278.

MC 145629 (Sub-4–3 TA), filed January 17, 1983. Applicant: FUCHS, INC., R.R. 1, Box 576, Sauk City, WI 53583. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 258–7444. *Contract—irregular:* (1) *Glass and glass products and materials, equipment, and supplies used in the erection and installation of glass and glass products* from Spring Green, WI to points in FL, GA, IL, IN, IA, KY, MD, MN, NJ, OH, OK, TN and the District of Columbia under continuing contract(s) with Cardinal IG Company; (2) *Materials, equipment and supplies used in the manufacture and distribution of glass and glass products* from Mount Zion, IL; Carleton, MI; Laurinburg, NC; Tulsa, OK; Carlisle, PA; Nashville, TN; and Corsicana, TX to Spring Green, WI under continuing contract(s) with Cardinal IG Company; and (3) *Salt* from Lyons and Hutchinson, KS to points in WI on and south of W. S. Hwy 29 under continuing contract(s) with Mounds Agricultural Co., Inc. Underlying ETA seeks 120 day authority. Supporting shippers: Cardinal IG Company, 1011 East Madison St., Spring Green, WI 53588; Mounds Agricultural Co., Inc., 8309 University Ave., Middleton, WI 53562.

MC 145246 (Sub-4–10 TA), filed January 11, 1983. Applicant: A. E. SCHULTZ CORPORATION, 901 Lyndale Avenue, Neenah, WI 54956. Representative: Frank M. Coyne, 25 West Main Street, Madison, WI 53703. *Extended Rosin Size*, from Neenah, WI to points in WI, MN and Upper Peninsula of MI. Supporting shipper: The Plasmine Corporation, 61 Bishop Street, Portland, ME 14100, Mr. Ralph Emerson (representative).

MC 148308 (Sub-4–3 TA), filed January 17, 1983. Applicant: ROTRANSCO, INC., 6516 West 74th Street, Bedford Park, IL 60638. Representative: Edward G. Bazelon, 135 South La Salle Street, Chicago, IL 60603. Contract: Irregular: (a) *Corrugated containers and packaging supplies*, from Bedford Park, IL, to Massilon, OH, and points in its commercial zone, under continuing contract(s) with Jet Age Containers, Inc., of Bedford Park, IL, and (b) *packaging, shipping and maintenance supplies*, from Bedford Park, IL, to Cincinnati, OH, and points in its commercial zone, under continuing contract(s) with Rose Packaging Corp., of Bedford Park, IL, restricted against the transportation of commodities in bulk, for 270 days. Supporting shippers: Jet Age Containers, Inc., and Rose Packaging Corp., both at 6516 West 74th Street, Bedford Park, IL 60638.

MC 164888 (Sub-4–2 TA), filed January 17, 1983. Applicant: TAX AIRFREIGHT, INC., 4430 S. Kansas Ave., Milwaukee, WI 53207. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *General commodities (except Classes A and B explosives, household goods as defined by the Commission and commodities in bulk* between Chicago, IL on the one hand and on the other hand points within Milwaukee, Ozaukee, Sheboygan and Calumet Counties, WI. Supporting shippers: Arthur J. Fritz & Co., 4824 South Tenth Street, Milwaukee, WI 53221; Erie Manufacturing Company, 4000 South 13th Street, Milwaukee, WI 53221; Fritz Air Freight, Inc., 4824 South Tenth Street, Milwaukee, WI 53221; Tecumseh Products Company, 1604 Michigan Avenue, New Holstein, WI 53061; and Transportation Systems International, Inc., 2500 Kennedy Street, N.E., Minneapolis, MN 55413.

MC 165738 (Sub-4–1 TA) filed January 17, 1983. Applicant: NEENAH APIARIES, INC., 3307 West Fairview Road, Neenah, WI 54956. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, Il 60603. *Contract,* Irregular: *Food or Kindered Products* between points in IL, IN, IA, LA, MD, MM, & WI, under continuing contracts with Henkel Corporation, Delicious Food Products Co., Inc. and W. F. Straub & Company. Supporting shippers: Henkel Corporation, 4620 West 77th Street, Minneapolis, MN 55435; Delicious Food Products Co., Inc., 5520 Northwest Highway, Chicago, IL 60630; and W. F. Straub & Company, 5520 Northwest Highway, Chicago, IL 60630.

MC 165739 (Sub-4–1 TA) filed January 17, 1983. Applicant: CROW RIVER TRANSPORT, INC., 236 Erie Street South, Hutchinson, MN 55350. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424. (1) *Machinery,* between hutchinson, MN, on the one hand, and, on the other, points in MN, ND, SD, IA, NE, WI, IL and IN, under continuing contract(s) with AG-Systems, Inc. of Hutchinson, MN, and (2) *Lumber and Wood products,* between Hutchinson, MN, on the one hand, and, on the other, points in WA, OR, ID, MT, WY and SD, under continuing contract(s) with Stearnswood, Inc. of Hutchinson, MN. Supporting shippers: Ag-Systems, Inc., Box 698, Hutchinson, MN 55350; Stearnswood, Inc., 320 3rd Avenue N.E., P.O. Box 50, Hutchinson, MN 55350.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 165620 (Sub-6–1 TA) filed January 11, 1983. Applicant: JERRY HARDING, d.b.a. A.& J. TRUCKING, 7110 Zenobia, Westminster, CO 80030. Representative: Richard P. Kissinger, 50 S. Steele St., Suite 330, Denver, CO 80209. *Contract Carrier:* irregular routes: *General Commodities* (except Classes A & B explosives, commodities in bulk and hazardous materials) between points in CO and AZ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Samsonite Corporation, a Division of Beatrice Foods, 11200 E. 45th Ave., Denver, CO 80239.

MC 133589 (Sub-6–3 TA) filed January 17, 1983. Applicant: BCT, INC., P.O. Box 7219 Boise, ID 83707. Representative: James R. Daly (same as applicant). *Contract carrier,* irregular routes, *General commodities* (except used household goods and class A and B explosives) between points in the U.S. (except AK and HI) under continuing contract with Superior Transportation

Systems, Inc. of Wilsonville, OR, for 270 days. Supporting shipper: Superior Transportation Systems, Inc., 9450 S.W. Commerce Ct., Suite 400, Wilsonville, OR 97070.

MC 165696 (Sub-6–1TA), filed January 14, 1983. Applicant: BALISON TRUCKING, INC., 815 Church St., Sandpoint, ID. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract Carrier:* irregular routes, *Building materials and Utility poles,* between points in the U.S. (except AK and HI), under continuing contract(s) with B. J. Carney Industries, Inc. of Spokane, WA, for 270 days. *Supporting shipper:* B. J. Carney Industries, Inc., Washington Mutual Building, Sopkane, WA 99210.

MC 165444 (Sub-6–1TA), filed January 12, 1983. Applicant: CAL-SIERRA EXPRESS, INC., 940 South Arthur Ave., Fresno, CA 93706. Representative: Fred R. Covington, 2150 Franklin Street 554, Oakland, CA 94612. *Tractor parts, farm implement parts* and *related equipment and supplies,* from, to and between points in CA, for 270 days. Supporting shippers: Sierra Valley International Trucks, Inc., P.O. Box 188, Fresno, CA 93707; Lawrence Tractor Co., 9213 E. Third St., Hanford CA 93230.

MC 140889 (Sub-6–33TA), filed January 17, 1983. Applicant: FIVE STAR TRUCKING, 1638 Pioneer Way, El Cajon, CA 92020. Representative: John Gramc, 4720 Beidler Rd., Willoughby, OH 44094. *Contract Carrier,* Irregular routes: *General commodities* (except Classes A and B explosives, household goods, commodities in bulk and hazardous materials) between points in the U.S. (except AK and HI) under continuing contract with ITOFCA, Inc., of Downers Grove, IL, for 270 days. Supporting shippers; ITOFCA, Inc., P.O. Box 1518, Downers Grove, IL 60515.

MC 144660 (Sub-6–1TA), filed January 19, 1983. Applicant: MEL FLINDERS TRUCKING, 160 Old Ranch Rd., Park City, UT 84060. Representative: Mel Flinders (same address as applicant). (1) *Paper goods, paper packaging, domestic paper,* and *canned* and *packaged food stuffs* between points in CA, NV, WA, ID, OR, and UT. (2) Transporting *Roofing, insulation, clay products, brick, tools, equipment* and *building materials* between points in CA, NV, ID, WA, OR, WY, CO, AZ, and UT; for 270 days. An underlying ETA seeks 120 days, authority. Supporting shippers: Gladding McBean & Company, a Division of Pacific Coast Building Products Inc. 2114 So. 400 W., Salt Lake City, UT 84115; Marriott-Ray, Inc., 366 So. 5th E., Salt lake City, UT 84012.

MC 153314 (Sub-6–1TA), filed January 19, 1983. Applicant: M & D TRANSPORTATION INC., P.O. Box 775, Glendale, AZ 85311. Representative: Michael S. Varda, 121 South Pinckney St., Madison, WI 53703. (1) *Food and related products* from points in CA, and the commercial zones of Chicago, IL, and New York NY, to Phoenix, AZ, and (2) *alcoholic beverages* from Phoenix, AZ, Olympia, WA, and Monroe, WI, and points in CA and KY, to Albuquerque, NM, for 270 days. Supporting shippers: Food for Health, Inc., 3839 West Indian School Road, Phoenix, AZ 85013, and United Wholesale Liquor, Inc., 901 2nd Street, SW, Albuquerque, NM 87102.

MC 165721 (Sub-6–1 TA), filed January 17, 1983. Applicant: MPT CORPORATION, West 9220 Futurity Dr., Missoula, MT 59801. Representative: David L. Jackson, 203 North Ewing St., Helena, MT 59601 *Cedar shakes, split rail fences, hardware, apple products, meat products, cheese and milk products, paper and plastic containers, malt beverages and wine, canned goods, juices, frozen vegetables, flour, and frozen foods* between points MT, ID, WA, OR, CA, NV, UT, CO, WY, SD, and ND for 270 days. Supporting shippers: There are 10 shippers. Their statements may be examined in the office listed.

MC 153897 (Sub-6–3 TA), filed January 13, 1983. Applicant: MONTEZUMA WEST, INC., 11884 Ehlen Rd. NE., Aurora, CO 97002. Representative: Donna Purdum (same address as applicant). *Contract Carrier,* irregular routes; *Chemicals and all products in bulk* necessary for the business of Crown Zellerbach Corporation, under continuing contracts, between points in the U.S. for 270 days. Supporting shipper: Crown Zellerbach Corporation, 1500 S.W. First Ave., Portland, OR 97201.

MC 152393 (Sub-6–8 TA), filed January 19, 1983. Applicant: SCOTT B. WARN, d.b.a. OVERNITE EXPRESS, 555 143rd Ave., San Leandro, CA 94577. Representative: Armand Karp, 743 San Simeon Dr., Concord, CA 94518. *Contract Carrier,* Irregular Routes: (1) *Brake Shoes and Brake Linings,* from Ridgeway, PA to points in CA, for the account of Motion Control Ind., a Division of Carlisle Corp., and (2) *furniture, fixtures, and textile mill products,* from Santa Clara, CA to points in CO, GA, IL, KS, MN, PA, TX, UT, and WA, for the account of Liberty Vinyl Corporation, for 270 days. Supporting shippers: Motion Control Ind., a Division of Carlisle Corp., Gillis Ave., Ridgeway, PA 15853, and (2) Liberty Vinyl Corporation, 3380 Edward Ave., Santa Clara, CA 95050.

MC 165037 (Sub-6–1 TA), filed January 11, 1983. Applicant: GAIL CISSELL & RICHARD TOWNSEND, d.b.a. PALACE TRANSFER & STORAGE CO., 119 S. Main St., Clovis, NM 88101. Representative: Richard Townsend (same as applicant). *Used household goods* for the account of the U.S. government, incidental to the performance of pack & crate service on behalf of the DOD, for 270 days. Suporting shipper: U.S. Air Force, Base Contracting Division, Arrow AFB, NM 88103.

MC 112078 (Sub-6–1 TA), filed January 3, 1983. Applicant: THOMAS J. PECK & SONS, INC., 415 S. 600 E., R.F.D. 4A, Lehi, UT 84043. Representative: Harry D. Pugsley, 940 Donner Way, No. 370, Salt Lake City, UT 84108. *Contract carrier,* irregular routes; *Fly-ash* from Lincoln County, WY, to points in UT, ID and NV: and from Emery County, UT to NV, for 270 days. Supporting shipper: Pozzolan Products Company, 41 W. Central Ave., Salt Lake City, UT 84107.

MC 165776 (Sub-G–1TA); Filed January 17, 1983. Applicant: JOSEPH ARNOLD TAYLOR; d.b.a. TAYLOR TRANSPORT, 1912 E. Mettler Rd., Lodi, CA 95240. Representative: Same as applicant. *Passengers and their baggage* in special and charter operations between points in NV, CA, AZ and UT for 270 days. Supporting shipper: Century Assembly, 550 W. Century Blvd., Lodi, CA 95240.

MC 151225 (Sub-G–12TA), filed January 17, 1983. Applicant: DON WARD, INC., 241 West 56th Ave., Denver, CO 80216. Representative: Don L. Ward (same as applicant). *Lime, Soda Ash, Poptassium Chloride, Ammonium Sulfate, Sodium Silicate, Salt, Kolite, Bentonite,* Between points in CA, CO, MT, KS, NM, ND, SD, TX, UT, and WY for 270 days. Supporting shippers: Van Waters & Rogers, 4300 Holly St., Denver, CO; Dowell Division-Dow Chemical, P.O. Box 5818, Denver, CO 80217.

MC 165722 (Sub-G–1TA); filed January 14, 1983. Applicant: WESTON TRUCKING, INC., 267 West Main, Tremonton, UT 84337. Representative: David C. Weston (same as applicant). *Fertilizer* between points in ID, UT, NV, AZ, CA, WA, OR, WY, CO and NE for 270 days. Supporting Shipper: H. J. Baker & Bro., Inc., 4969 E. Clinton Ave, Ste. 119, Fresno, CA; Western Ag. Supply, Inc., 2002, Gateway Blvd., Ste. 112, Fresno, CA; and Jim Hicks & Company.

561 Mercury Lane, Ste. A, Brea, CA 92621.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2553 Filed 1-28-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 5, (202) 275-7289.

Volume No. OP5-FC-25

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81070. By decision of January 19, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to WAYNE E. MORRIS, INC., Palestine, TX of Permit No. MC-149408 (Sub No. 1)X issued September 22, 1981, and the underlying authorities set forth in Permit No.'s MC-129328 issued March 13, 1970, MC-129328 Sub 1 issued August 3, 1970, MC-129328 Sub 2 issued December 5, 1972, MC-129328 Sub 4 issued June 5, 1974, MC-129328 Sub 5 issued November 19, 1973, MC-Sub 6 issued April 4, 1978, MC-129328 Sub 7 issued April 4, 1978, MC-129328 Sub 8 issued February 23, 1978, MC-129328 Sub 10F issued December 14, 1978, MC-129328 Sub 11F issued May 29, 1979, MC-129328 Sub 12F issued April 4, 1980, MC-129328 Sub 14F issued August 1, 1980, MC-129328 Sub 16F issued June 24, 1980, and MC-129328 Sub 17F issued January 23, 1981; and Permit No. MC-129328 Sub 15F issued October 20, 1981, to PALTEX TRANSPORT CO., (Billy Lee Thompson, trustee in bankruptcy) Palestine, TX, generally authorizing irregular route transportation of specified commodities, between points in the U.S., under continuing contract (s) with eight named shippers. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767.

MC-FC-81109. By decision of January 19, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to ED CHADDERTON TRUCKING, INC., Sharon, PA, of Certificates Nos. MC-105008 Sub 25 and MC 105008 Sub 26F, issued February 7, 1979, and December 8, 1980, respectively, to EDWARD W. CHADDERTON, d.b.a. ED CHADDERTON TRUCKING, Sharon, PA, authorizing the transportation of (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (a) between the Borough of Mercer, PA, and those points in Mercer County, PA, on the west of U.S. Hwy 19, on the one hand, and, on the other, points in PA, and (b) between New Castle, PA, on the one hand, and, on the other, points within 5 miles of New Castle; (2) *scrap metals, building materials, contractors' equipment, and commodities* the transportation of which, because of their size or weight, requires the use of special equipment or special handling, between those points in PA on the west of U.S. Hwy 219, on the one hand, and, on the other, those points in OH and WV on and east of U.S. Hwy 23 and on the north of U.S Hwy 50; (3) *iron and steel articles and equipment and supplies* used in connection with steel mills, (a) between Sharon, New Castle, Brackenridge, West Leechburg, Apollo, and Carnegie, PA, on the one hand, and, on the other, points in the OH and WV territory specified above, and (b) between Follansbee, WV, and Youngstown, OH; (4) *pig lead, rags, and burlap*, between New Castle, PA, on the one hand, and, on the other, those points in OH on and east of U.S. Hwy 21; the authority in (1), (2), (3), and (4) are restricted against the transportation of commodities in bulk in dump vehicles and transit mix equipment, between points in Lawrence, Mercer, Beaver, and Butler Counties, PA, on the one hand, and, on the other, points in Mahoning, Trumbull, and Columbiana, OH; (5) *household goods* (as defined by the Commission), between New Castle, PA, on the one hand, and, on the other, points in OH; the authority in (1)(a) may not be joined or tacked with the carrier's other irregular-route authority; and (6) *iron and steel articles, and materials, supplies and equipment* used in the manufacture, sale, and distribution of iron and steel articles, between Sharon, PA, and points in Mercer County, PA, on the one hand, and, on the other, points in MD, NJ, OH, and WV. Represesntative for transferee: William A. Gray, 2310 Grant Building, Pittsburg, PA 15219.

MC-FC-81131. By decision of January 18, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to BORLEY MOVING AND STORAGE, INC., Hastings, NE, of Certificates Nos. MC-65058 and MC-65058 Sub 1, issued February 28, 1942, and June 2, 1942, respectively, to BORLEY STORAGE & TRANSFER CO., INC., Hastings, NE, authorizing the transportation of *general commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and comodities requiring special equipment, over regular routes, between Grand Island, NE, and Hastings, NE: over U.S. Hwy 281; the authority described above permits service to be performed only when motor carrier service is substituted for rail service and does not permit service entirely by motor vehicle where no line haul rail service is performed, nor does it authorize service at points intermediate to those named above which are not located on the line of the rail carrier for whose account the substitute service is performed; and *household goods*, over irregular routes, between those points in NE on and east

of U.S. Hwy 83, on the one hand, and, on the other, points in CO, KS, MO, IA, IL, WI, MN, SD, OK, and WY. An application for temporary authority has been filed. Representative for transferee: Warren R. Whitted, Jr., P.O. Box 93, Hastings, NE 68901.

MC–FC–81134. By decision of January 21, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to GORDON FREIGHTLINES, INC., of Dillion, MT of Certificate No. MC 121108 Sub 2 issued July 22, 1976 and MC 121108 Sub 3F issued November 10, 1980 to MICHAEL L. GORDON, d/b/a M. L GORDON FREIGHTLINES, of Dillon, MT, authorizing the transportation of *general commodities* with exceptions, (1) between Butte, MT and Monida, MT, serving the intermediate points of Divide, Maiden Rock, Melrose, Glen, Dilion, Barrett's Station, Armstead, Dell, Lima, and Clark Canyon Dam, MT over U.S. Hwy 91 (also over Interstate Hwy 15); (2) between the junction of U.S. Hwy 10 and MT Hwy 41 and Twin Bridges, MT over MT Hwy 41, serving the off-route points of Waterloo and Cliff Lake, MT; (3) between the junction of U.S. Hwy 10 and MT Hwy 55 and the junction of MT Hwy 55 and MT Hwy 41, over MT Hwy 55, serving the off-route points of Waterloo and Cliff Lake; (4) between Twin Bridges and Dillon, MT, over MT Hwy 41, serving the off-route points of Waterloo and Cliff Lake; (5) between Twin Bridges and the junction of U.S. Hwy 10 and U.S. Hwy 287, serving the off-route points of Waterloo and Cliff Lake, from Twin Bridges over MT Hwy 287 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction U.S. Hwy 10, and return over the same route; (6) between Harrison and Pony, MT over unnumbered hwys, serving the off-route points of Waterloo and Cliff Lake; (7) between Harrison and Cardwell, MT, serving the off-route points of Waterloo and Cliff Lake, from Harrison over U.S. Hwy 287 to junction MT Hwy 359, then over MT Hwy 359 to Cardwell, and return over the same route; (8) between the junction of U.S. Hwy 287 and MT Hwy 287 and Raynolds Pass, serving the off-route points of Waterloo and Cliff Lake, from junction U.S. Hwy 287 and MT Hwy 287 over U.S. Hwy 287 to junction MT Hwy 87, then over MT Hwy 87 to Raynolds Pass, and return over the same route; and (9) between the junction of U.S. Hwy 10 and U.S. Hwy 287 and Butte, as an alternative route for operating convenience only, serving no intermediate points, from junction U.S. Hwy 10 and U.S. Hwy 287 over U.S. Hwy 10 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Butte, and return over the same route. Service is authorized to all intermediate points in (2) through (8) above. Transferee is not a carrier. Representative: Frank Burgess, 2801 South Montana St., Butte, MT 59701.

MC–FC–81147. By decision of January 18, 1983 issued under 49 U.S.C. 19026 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to C.N.W. TRANSPORTATION CO., Ft. Collins, CO, of Certificate No.'s MC–113398 Sub 16F issued August 6, 1981 and MC–113398 Sub 18 issued May 10, 1982 to RUSSELL TRANSPORT, INC., Ft. Collins, CO, authorizing irregular route transportation of (1) *machinery and transportation equipment,* between Denver, CO, on the one hand, and, on the other, points in NE, SD and 10 named counties, in WY and (2) *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S., and No. MC–113398 (Sub-No. 17)X issued March 23, 1982, and its underlying authorities set forth in the Certificates MC–113398 issued November 21, 1963, MC–113398 Sub 11 issued June 6, 1966 and MC–113398 Sub 14 issued October 7, 1977 generally authorizing regular-route transportation of *motion picture film and newspapers* between named points in NE, CO and WY, serving specific intermediate and off-route points, and the irregular-route transportation of the same commodities between points in named counties in NE, SD, and WY. An application for temporary authority has been filed. Representative: Charles M. Williams, 665 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203.

Volume No. OP5–FC–26

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC–FC–81112. By decision of January 19, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to BATT TRUCKING, INC., of Caldwell, ID of Certificates No. MC 148018 (Subs 4, 7, 9, and 10) issued May 29, 1981, December 10, 1981, February 18, 1982, and November 30, 1982, respectively, and Permit No. MC 148018 (Subs 2F, 3F, 5, 6, and 8) issued July 11, 1980, March 11, 1981, September 3, 1981, July 12, 1982, and February 8, 1982, respectively, to JAMES S. BATT, d.b.a. BATT TRUCKING, of Caldwell, ID, authorizing: In Sub 4 the transportation for or on behalf of the United States Government, of *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.; In Sub 7, the transportation of *lumber and wood products,* between points in OR and ID, on the one hand, and, on the other, points in the U.S.; In Sub 9, the transportation of *food and related products,* between points in St. Louis County, MN, Jackson County, OH, and DeKalb County, GA, on the one hand, and, on the other, points in the U.S.; In Sub 10, the transportation of *such commodities* as are dealt in by grocery and food business houses, between points in the U.S. (except AK and HI); In Sub 2F, the transportation of *dry fertilizer,* in bulk, from Moab, Garfield and Wendover, UT, to points in ID, OR, and WA, under continuing contract(s) with North Pacific Trading Co., of Portland, OR; In Sub 3F, the transportation of *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., (except AK and HI), under continuing contract(s) with J. R. Simplot Company, and Ore-Ida Foods, Inc., both of Boise, ID; In Sub 5, the transportation of *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contracts with (a) American Wood Products, Inc., of Caldwell, ID, (b) McCluskey Commissary, Inc., of Caldwell, ID, (c) Hehr International, Inc., of Nampa, ID, and (d) Union Seed Company, of Nampa, ID; In Sub 6, the transportation of *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with D & B Supply, Inc., of Caldwell, ID, and Wilbur Ellis Company, Inc., of Portland, OR; and In Sub 8, the transportation of *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Ralston Purina Company, of St. Louis, MO. Transferee is not a carrier. Representative: Kevin M. Clark, 2417 Bank Dr., Suite 8, Boise, ID 83705.

Note.—Transferee seeks in this proceeding to acquire No. MC 148018 Sub 11 which is still pending at the Commission and cannot be subject to transfer. Transferee is advised to request substitution of applicant in that proceeding.

[FR Doc. 83–2557 Filed 1–28–83; 8:45 am]

BILLING CODE 7035–01–M

[Vol. No. OP5-27]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: January 21, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed. Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 5, at (202) 275-7289.

MC 147309 (Sub-3X), filed January 13, 1983. Applicant: UNITED SALES & LEASING COMPANY, INC., d.b.a. PATH TRUCK LINES, 3649 E. Lake Rd. P.O. Box 210, Dunkirk, NY 14048. Representative: Ronald W. Malin, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701, (716) 664-5210. MC-147309 lead permit: (1) broaden steel bars, steel billets, and steel coils to "metal products," and (2) expand the territorial description to "between points in the U.S.," under continuing contract(s) with a named shipper.

[FR Doc. 83-2558 Filed 1-28-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision—Notice

In the matter Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compiance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275-7992.

Volume No. OP1-34

Decided: January 23, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 142710 (Sub-4), filed January 10, 1983. Applicant: SELBY INVESTMENTS, INC., CONTIKI AMERICA, 1432 East Katella Ave., Anaheim, CA 92805. Representative: David M. Marshall, Sixth Floor, 95 State St., Springfield, MA 01103, (413) 732-1136. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 159071, filed January 7, 1983. Applicant: LAKELAND TRANSPORTATION, INC., 845 Nepperhan Ave., Yonkers, NY 10703. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759-

3700. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 159290 (Sub-1), filed January 11, 1983. Applicant: S & P BUS RENTAL, INC., 3911 Dorchester Rd., Baltimore, MD 21207. Representative: Williard E. Saunders (same address as applicant), (301) 466–1320. Transporting *passengers*, in charter and special operations between points in the U.S. (except AK and HI).

Note.—Applicant intends to provide privately funded charter and special transportation.

MC 165590, filed January 11, 1983. Applicant: PAULSSEN & GUICE, LTD., 15 Park Row, New York, NY 10038. Representative: Eduardo Gonzalez (same address as applicant), (212) 349–6910. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165610, filed January 10, 1983. Applicant: HALSTEAD AGENCY, INC., 73 Freemont St., Harrison, NY 10528. Representative: Barry D. Kleban, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165641, filed January 11, 1983. Applicant: DELMAR R. AYLOR, d.b.a. D & V PRODUCE, Route 2, Box 120AB, The Plaines, VA 22171. Representative: Delmar R. Aylor (same address as applicant), (703) 364–1293. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165670, filed January 13, 1983. Applicant: DEBBIE LINDSEY, d.b.a. B & L NORTHWEST TRUCK DIVISION, 6708 Dorian St., Boise, ID 83709. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–038

Decided: January 24, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 5723 (Sub-10), filed December 27, 1982. Applicant: VANGUARD INTERSTATE TOURS, INC., 1 Westerly Rd., Ossining NY 10510. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., N.W., Washington, DC 20005, 202–783–3525. Transporting *passengers*, between Poughkeepsie and Tarrytown, NY: from Poughkeepsie over U.S. Hwy 9 to junction Interstate Hwy 84, then over Interstate Hwy 84 to junction Interstate Hwy 684, then over Interstate Hwy 684 to White Plains, then over city streets to Harrison, then over city streets to Tarrytown, and return over the same route, serving all intermediate points, under continuing contract(s) with Hudson Valley Commuters Association, Ltd., of Hopewell Junction, NY.

MC 5723 (Sub-11), filed January 5, 1983. Applicant: VANGUARD INTERSTATE TOURS, INC., 1 Westerly Road, Ossining, NY 10562. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., NW., Washington, DC 20005 (202) 783–3525. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 125973 (Sub-12), filed January 17, 1983. Applicant: CROWN WAREHOUSE & TRANSPORTATION COMPANY, INC., 710 East 9th Avenue, P.O. Box M799, Gary, IN 46401. Representative: Leonard R. Kofkin, Suite 1515, 140 South Dearborn St., Chicago, IL 60603; (312) 580–2210. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 157763 (Sub-2), filed December 14, 1982. Applicant: PRESTO TRANSPORTATION, INC., P.O. Box 469, Peru, IL 61354. Representative: David Zimmerman, P.O. Box 1564, York, PA 17405, 717–854–3138. Transporting *general commodities* (except classes A and B explosives and household goods), between Dillsburg, Penfield, Gifford, Armstrong, Potomac, Baker, Hallville, Jenkins, New Holland, Burton View, Beason, Janesville, Bradbury, Hildalgo, Rose Hill, Falmouth, Liverpool, Bryant, Maple Mills, and Richmond, IL, Linwood and Northfield, NJ, Camp Dodge, Johnston, Kent, Bedford, Merle Jct., Lenox, Conway, and Clearfield, IA, Wampsville, NY, Lone Pine, Bartlette, Cartago, Olancha, Brown, and Detour, CA, Arnaudville, Cecilia, Loreauville, and Jefferson Island, LA, Prine, Interlachen, Mannville, Hollister, and Largo, FL, Aullville, Cocordia, Emma, Holcomb, Frisbee, Whiteoak, Hopkins, and Pickering, MO, Mahtomedi and Stillwater, MN, Birnamwood, Aniwa, Antigo, Kempster, Elcho, Deerbrook, Summit Lake, Pelican Lake, Monico, Malvern, Nine Springs, McFarland, Stoughton, Edgerton, Lyons, Springfield, Elkhorn, Darien, Delavan, Porters, Clintonville, Bear Creek, and Sugar Bush, WI, Milledgeville, Octa, Edgefield, New Jasper, Mount Blanchard, Janera, Padora, Vaughnsville, Rimer, and Rushmore, OH, Robert Lee, TX, Lewiston, NC, Sodus, Eau Claire, Berrien Center, North Niles, Dollar Bay, Houghton, Chassell, Keweenaw Bay, Baraga, L'Anse, Herman, and Summit, MI, Cheraw and McClave, CO, Delight, AR, Mackay, Moore, Leslie, and Darlington, ID, Coalmont, TN, Prague, Malmo, and Ithaca, NE, Mays, Sexton, New Lisbon, Milton, Wadesville, Oliver, Springfield, and Solitude, IN, Agar, Gorman, and Gettysburg, SD, and Parkdale, OR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–21

Decided: January 20, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 103734 (Sub-5), filed January 7, 1983. Applicant: NOONEY BUS LINES, INC., 1017 Jefferson St., Ronaoke Rapids, NC 27870. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers*, in charter and special operations, points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded special and charter transportation.

MC 150405 (Sub-2), filed January 6, 1983. Applicant: HOMER JONES SCENIC TOURS, INC., Route 4, Box 1065, Minden, LA 71055. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *passengers*, in charter and special operations, beginning and ending at points in LA, TX, AR, and MS, and extending to points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 162465 (Sub-1), filed January 10, 1983. Applicant: MIKE KAZEMI, d.b.a. TBT BUS LINES, P.O. Box 7474, Oakland, CA 94601. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036, (202) 466–3892. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.— Applicant seeks to provide privately-funded special and charter transportation.

MC 165194, filed January 10, 1983. Applicant: A. WEST, d.b.a. KREMLIN BUS SERVICE, Box 27, 203 N. 7th St., Kremlin, OK 73753. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 N. Classen Bldg., Oklahoma City, OK 73118, (405) 848–7946. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded special and charter transportation.

MC 165545, filed January 6, 1983. Applicant: SHAR-LEE TRANSPORTATION, INC., 65 Rosewood Lane, Chicago Heights, IL 60411. Representative: Stephen C. Herman, 20 North Wacker Drive, Chicago, IL 60606, (312) 236–0204. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 165564, filed January 5, 1983. Applicant: STRASSER BUS SERVICE, Rte. 2, Box 6015, CTH "B", La Crosse, WI 54601. Representative: Joseph E. Ludden, 2707 South Ave., P.O. Box 1567, La Crosse, WI 54601, (608) 788–2000. Transporting *passengers*, in charter and special operations, between points in La Crosse, Vernon, Juneau and Richland Counties, WI, on the one hand, and, on the other, points in MN, IA, IL, IN, KY, TN, GA, FL, LA, AL, NC, SC, MO, KS, OK, TN, and AR.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165574, filed January 10, 1983. Applicant: SFO AIRPORTER, INC., 923 Folsom St., San Francisco, CA 94107. Representative: Daniel W. Baker, 100 Pine St., No. 2550, San Francisco, CA 94111, (415) 986–1414. Transporting *passengers*, in charter and special operations, between points in CA, OR, WA, ID, UT, NV, and AZ.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165594, filed January 10, 1983. Applicant: ELLWOOD CITY TRANSIT, INC., 2 Portersville Rd., Ellwood City, PA 16117. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *passengers*, in charter and special operations, between points in the U.S..

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165634, filed January 10, 1983. Applicant: MT. VIEW TOURS, INC., 57 Newark Ave., Wayne, NJ 07470. Representative: Eugene Zak (same address as applicant), (201) 696–9766. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–036

Decided: January 21, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 165637, filed January 10, 1983. Applicant: AMERICAN TRUCK DISPATCH, INC., 2055 E. North Ave., Fresno, CA 93771. Representative: Tom Kourafas, 1336 W. San Bruno, Fresno, CA 93711, (209) 486–7920. As a *broker of general commodities* (except household goods), between point in the U.S. (except AK and HI).

MC 165656, filed January 11, 1983. Applicant: RAINBOW COACH AND TOUR, INC., Phelps Collins Airport, P.O. Box 278, Alpena, MI 49707. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *passengers*, in charter and special operations, beginning and ending at points in MI, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165666, filed January 13, 1983. Applicant: HARRIS BUS LINES, 1154 E 222nd St., Bronx, NY 10469. Representative: Gregory Harris (same address as applicant), (212) 277–2242. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165667, filed January 13, 1983. Applicant: 7–K TRANSIT, INC., 1801 Leeland, Houston, TX 77003. Representative: Paul S. Broussard, 501 Crawford, Suite 401, Houston, TX 77002, (713) 227–9735. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165676, filed January 13, 1983. Applicant: FOX AIR EXPRESS, 815 Arbor Vitae St., Inglewood, CA 90301. Representative: Ralph D. Fox (same address as applicant), (213) 649–3678. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 165707, filed January 4, 1983. Applicant: WPX FREIGHT SERVICE, INC., 526 Mission St., San Francisco, CA 94105. Representative: Eugene J. Toler (same address as applicant), (415) 982–2100. As a broker of *general commodities* (except household goods), between points in the U.S.

Volume No. OP4–039

Decided: January 24, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 143837 (Sub-1), filed January 7, 1983. Applicant: GOOD WILL TOURS, INC., P.O. Box 236, Erie, KS 66733. Representative: Clyde N. Christey, 1010 Tyler, Suite 110–L, Topeka, KS 66612, (913) 233–9629. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165657, filed January 10, 1983. Applicant: MARTIN BUS LINES, INC., 3540 Wilshire Blvd., Suite 709, Los Angeles, CA 90010. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165767, filed January 18, 1983. Applicant: PINE TREE BROKERS, INC., R.F.D. No. 2, Box 1878 Hampden, ME 04444. Representative: James L. Rivers (same address as applicant), (207) 862–4693. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 165787, filed January 17, 1983. Applicant: ALFRED C. HANSEN, Rt. 5, Box 2635, Ellensburg, WA 98926. Representative: Janice K. Hansen (same address as applicant), (509) 925–1591. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor

vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202–7275–7289.

Volume No. OP5–024

Decided: January 21, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2698, (Sub-6), filed January 14, 1983. Applicant: VANDALIA BUS LINES, INC., 312 West Morris St., Caseyville, IL 62232. Representative: B.W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI) .

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 12739, (Sub-5), filed January 11, 1983. Applicant: PEAK TOURS, INC., 134 North Franklin Street, Hempstead, NY 11550. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048 (212) 466–0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 36788 (Sub-4), filed January 14, 1983. Applicant: DILLON'S BUS SERVICE, INC., 8383 Elvaton Rd., Millersville, MD 21108. Representative: Steven L. Weiman, 444 N. Frederick Ave., Suite 200, Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 116068 (Sub-8), filed January 13, 1983. Applicant: D & F TRANSIT, INC., 4747 Genesee St., Buffalo, NY 14225. Representative: Daniel B. Johnson, 4304 East-West Highway, Bethesda, MD 20814, (301) 654–2240. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 147208 (Sub-3(A)), filed January 10, 1983. Applicant: BLUE RIDGE LINES, LTD., One Stoner Road, P.O. Box 5692, Asheville, NC 28813–5692. Representative: Kingsland Hobein, Jr. (same address as applicant), (704) 274–1190. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—(1) Applicant seeks to provide privately-funded charter and special transportation. (2) Applicant also seeks authority to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route, in MC–147208 (Sub-3(B) published in this same issue.

MC 164078 (Sub-1), filed January 12, 1983. Applicant: EXECUTIVE COACH, INC., P.O. Box 88, Belford, NJ 07718. Representative: Owen B. Katzman, 1828 L St., NW., Suite 1111, Washington, DC 20036, (202) 822–8200. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165458, filed December 30, 1982. Applicant: MCE, INC., 9318 South Hamlin, Evergreen Park, IL 60642. Representative: Anthony E. Young, 29 So. LaSalle St., Suite 350, Chicago IL 60603, (312) 782–8880. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165679, filed January 14, 1983. Applicant: JAMES R. CARR, Route 2, Cross Plains, IN 37049. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, 303–424–1761. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165708, filed January 11, 1983. Applicant: FOUR STAR TOURS WORLDWIDE, LTD., 6958 Patterson Ave., Burnaby, B.C., Canada V5J 3N6. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 228–3807. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2359 Filed 1–28–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carrier of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property,

freight forwarder, and household goods broker—that the transportation will be consisted with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Engery Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.–All applications are for authority as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly.

Please direct status inquiries to Team One at (202) 275–7992.

Volume No. OP1–35

Decided: January 23, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–650, filed January 12, 1983. Applicant: ABBOTT TRANSPORTATION, INC., 1068 Pine Bluff Ct., Port Charlotte, FL 33950. Representative: Alan F. Wohlstetter, 1700 K St ., N.W., Washington, DC 20006, (202) 833–8884. Transporting *used household goods, unaccompanied baggage,* and *used automobiles,* between points in the U.S.

W–381 (Sub-21), filed January 5, 1983. Applicant: FEDERAL BARGE LINES, INC., 7501 South Broadway, St. Louis, MO 63111. Representative: Howard E. Mueller (same address as applicant), (314) 638–9500. To operate as a *common carrier,* by water, by non-self-propelled vessels with the use of separate towing vessels in the transportation of general commodities and by towing vessels in the performance of general towage, (1) between points and ports along the Cumberland, Green, Kanawha, Licking and Tennessee rivers and their tributaries (including the Barkley Canal), and (2) between points and ports along the Cumberland, Green, Kanawha, Licking and Tennessee rivers, on the one hand, and, on the other, the Allegheny, Arkansas-Verdigris, Mississippi, Missouri, Monongahela, Ohio, Alabama, Black Warrior, Mobile, and Tombigbee rivers, the Illinois Waterway, the Gulf Intracoastal Waterway-East (between New Orleans, LA and Mobile, AL), Lake Michigan and their tributaries.

Note.—This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

MC 22611 (Sub-4), filed January 6, 1983. Applicant: SUE ROBERTS and ROBERT K. DIEHL, d.b.a. GEORGE F. ROBERTS TRUCKING, 119 Railroad St., P.O. Box 51, Walnutport, PA 18088. Representative: Robert K. Diehl (same address as applicant), (215) 767–2201. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Northhampton County, PA, on the one hand, and, on the other, points in NJ.

MC 87451 (Sub-20), filed January 13, 1983. Applicant: CARGO TRANSPORT, INC., P.O. Box 31, Sterling Road, N. Billerica, MA 01862–0031. Representative: Samuel A. Bithoney, Jr. (same address as applicant), (617) 663–4300. Transporting *metal products and machinery,* between points in CT, DE, IN, MA, MD, ME, NC, NH, NJ, NY, OH, PA, RI, TX, VT, and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 105501 (Sub-57), filed January 10, 1983. Applicant: TERMINAL TRANSPORT, INC., 1851 Raddison Rd. N.E., Blaine, MN 55434. Representative: Joseph J. Dudley, W–1260 First National Bank Bldg., St. Paul, MN 55101, (612) 291–1717. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with the Pillsbury Company and its subsidiaries, of Minneapolis, MN.

MC 111540 (Sub-10), filed January 4, 1983. Applicant: LOYD TRUCK LINE, INC., P.O. Box N, Wellington, MO 64097. Representative: Charles J. Fain, 333 Madison St., Jefferson City, MO 65101, (314) 635–4115. Transporting *metal products,* between points in the U.S., under continuing contract(s) with Wheeling Corrugating Company, of Lenexa, KS.

MC120910 (Sub-58), filed January 13, 1983. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, (205) 254–3880. Transporting (1) *forest products,* (2) *lumber and wood products,* (3) *pulp, paper and related products, (4) printed matters,* (5) *clay, concrete, glass or stone products,* and (6) *chemicals and related products,* between points in the U. S. (except AK and HI).

MC141951 (Sub-7), filed January 6, 1983. Applicant: MARY DICK and HOLLIS DICK, d.b.a. H.O. DICK TRANSFER CO., P.O. Box 307, Bethany, IL 61914. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with U.S. Industrial Chemicals Company, a division of National Distillers & Chemical Corp., of Tuscola, IL.

MC145271 (Sub-4), filed January 5, 1983. Applicant: SCHULTZ CARRIERS, INC., 6038 Linden Lane, Dallas, TX 75230. Representative; Richard R. Shultz (same address as applicant). Transporting *food and related products, rubber and plastic products, transportation equipment, and pulp, paper and related products,* between points in TX, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, MS, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC.

MC147000 (Sub-4), filed January 11, 1983. Applicant: BOB LOPAZ, d.b.a. EL BANDIDO TRUCKING, 6622 Manchester, Buena Park, CA 90620. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *general commodities* (except classes A and B

explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with The Pillsbury Company, and its subsidiaries; Burger King Corporation, Green Giant Company, Poppin Fresh Pies, Inc., and Steak & Ale Restaurants of America, Inc., all of Minneapolis, MN.

MC148791 (Sub-37), filed January 10, 1983. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake, City, UT 84110, (801) 531–1777. Transporting *such commodities* as are dealt in or used by department, discount or variety stores, between points in the U.S. (except AK and HI), under continuing contract(s) with Target Stores, of Minneapolis, MN.

MC 150221, (Sub-15), filed January 12, 1983. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687, (803) 244–9314. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 151401 (Sub-6), filed January 13, 1983. Applicant: TRI–SERVICE, INC., P.O. Box 1419, West Chester, PA 19380. Representative: Daniel B. Johnson, 4304 East-West Hwy., Bethesda, MD 20814, (301) 654–2240. Transporting *such commodities* as are dealt in by retail, department, mail order and discount stores, between points in the U.S. (except AK and HI).

MC 153550 (Sub-7), filed January 5, 1983. Applicant: MEXICAN ORIGINAL TRANSPORTATION, INC., P.O. Box 1368, Fayetteville, AR 72701. Representative: Paul M. Daniell, 235 Peachtree St., N.E., Suite 1200, Atlenta, GA 30303, (404) 522–2322. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 158960 (Sub-2), filed January 11, 1983. Applicant: MILLER TRUCKING, INC., South Star Route, Chambers, NE 68725. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501 (402) 475–6761. Transporting *fertilizer,* between points in Eddy, Lea and Chaves Counties, NM, on the one hand, and, on the other, points in CO, KS, IA, MO, and NE.

MC 165430, filed January 3, 1983. Applicant: SAN SIMEON STAGES, INC., 639 Market Street, Suite 900, San Francisco, CA 94105. Representative: Henry J. Luna (same address as applicant), (415) 777–5795. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165480, filed January 3, 1983. Applicant: GERALD LAMBIRTH, d.b.a. GERALD LAMBIRTH TRUCKING, P.O. Box 3516, Bakersfield, CA 93385. Representative: Earl N. Miles, 3704 Candlewood Drive, Bakersfield, CA 93306, (805) 872–1106. Transporting (1) *Mercer commodities,* between points in CA, on the one hand, and, on the other, points in NV, ND, WA and WY, and (2) *food and related products,* between points in CA, on the one hand, and, on the other, points in SD and WY.

MC 165650, filed January 11, 1983. Applicant: DELTA SOUTHERN TRANSPORTATION CO., INC., P.O. BOX 78215, Shreveport, LA 71137–8215. Representative: Gerald W. Beene, (same address as applicant), (318) 687–4891. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AR, LA, MS, OK and TX.

MC 165661, filed January 13, 1983. Applicant: BOBBIE J. STUART, d.b.a. GENERAL EXPRESSWAYS, INC., 23 Richmond Industrial Village, Harbor Way and Wright Ave., Richmond, CA 94804. Representative: Chas. G. Weiss, 24035 Edloe Drive, Hayward, Ca 94541, (415) 785–1797. Transporting *gereral commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 at (202) 275–7030.

Volume No. OP2–037

Decided: January 24, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 114492 (Sub-17), filed December 21, 1982. Applicant: TRANSPORT TRUCKING CO. OF TEXAS, P.O. Box 327, Texico, NM 88135. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., NW., Washington, DC 20005, (202) 296–5188. Transporting *motor vehicles,* between points in the U.S. (except AK and HI), under continuing contract(s) with persons who are engaged in business as manufacturers, distributors, dealers or forwarders of motor vehicles.

MC 147553 (Sub-19(a)) (correction), filed November 24, 1982, published in the **Federal Register**, issue of December 20, 1982, and republished, as corrected, this issue. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a. MOTOR WEST, P.O. Box 1405, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting (1)(a) *general commodities* (except classes A and B explosives and household goods), between points in the U. S. (except AK and HI), under continuing contract(s) with Fleming Companies, Inc., (Salt Lake City Division), of Salt Lake City, UT; (2)(b) shipments weighing 100 pounds *or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U. S., (including AK and HI), and (3)(b) as a *broker or general commodities* (except household goods), between points in the U.S. (including AK and HI).

Note.—The purpose of this republication of part (1)(a) is to reflect the change of name of the contracting shipper.

MC 152392 (Sub-4), filed December 22, 1982. Applicant: TDS TRUCKING, INC., P.O. Box 1612, Grand Forks, ND 58201. Representative: Todd W. Foss, 15 Broadway, Suite 502, Fargo, ND 58102, 701–235–4487. Transporting (1) *petroleum products,* between points in Cass and Grand Forks Counties, ND, on the one hand, and, on the other, points in Polk, Norman, Pennington, Red Lake, and Mahonmen Counties, MN, and (2) *building materials,* between points in CA, WA, OR, ID, and MT, on the one hand, and, on the other, points in MN and ND.

MC 153113 (Sub-2), filed January 10, 1983. Applicant: MENASHA TRANSPORT, INC., P.O. Box 367, Neenah, WI 54956. Representative: Joseph F. Kellett, (same as applicant), (414) 729–0380 Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 160862 filed December 22, 1982. Applicant: CORSAIR FREIGHTWAYS CORP., 8415 Envoy Ave., Philadelphia, PA 19153. Representative: Richard Rueda, 135 N. 4th St., Philadelphia, PA 19106, 215–627–1923. Transporting *such commodities* as are dealt in or used by retail department stores, between points in OH, on the one hand, and, on the other, points in OH, PA, NY, GA, KY, NC, TN, VA, CT, NJ, MA, DE, MD, WV, SC, AL, MS, IN, IL, and WI, under continuing contract(s) with Gold Circle Stores, of Worthington, OH.

For the following, please direct status calls to team 3 (202) 275–5223.

Volume No. OP3–33

Decided: January 19, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

FF–434 (Sub-9), filed January 5, 1983. Applicant: TRANSCONEX, INC., 3000 N.W. 74th Ave., Miami, FL 33152.

Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833–8884. As a *freight forwarder,* in connection with the transportation of *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), (1) between points in TX, LA, GA, and FL; and (2) between points in TX, LA, GA, and FL, on the one hand, and, on the other, points in CA.

MC 56244 (Sub-113), filed January 10, 1983. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. 2, Gardners, PA 17324. Representative: J. Bruce Walter, 410 N. Third St., P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 59124 (Sub-25), filed January 5, 1983. Applicant: MAIERS MOTOR FREIGHT COMPANY, 875 East Huron Ave., Vassar, MI 48768. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226, (313) 963–3750. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 67234 (Sub-76), filed January 6, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO. 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with International Business Machines Corporation, of Armonk, NY.

MC 67234 (Sub-77), filed January 7, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Holiday Inns, Inc., of Memphis, TN.

MC 115855 (Sub-5), filed January 5, 1983. Applicant: KHS AIR FREIGHT, INC., 255 N. 28th St., Battle Creek, MI 49015. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MI, IL, IN, and OH.

MC 146215 (Sub-4), filed January 7, 1983. Applicant: WOLF, TRUCKING, INC., 1333 E. 7th St., Los Angeles, CA 90021. Representative: Milton W. Flack, 8484 Wilshire Blvd., No. 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *general commodities* (except classes A & B explosives, household goods, and commodities in bulk), (a) between points in CT, IL, ME, MA, NH, NJ, NY, and VT, on the one hand, and, on the other, Portland, OR, and points in CA, and (b) between Los Angeles, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI.)

MC 146765 (Sub-9), filed January 6, 1983. Applicant: DAYTON ENTERPRISES, INC., 110 First Ave., Clarence, IA 52216. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting *metal products,* between points in Dallas County, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI.)

MC 147494 (Sub-14), filed January 10, 1983. Applicant: BOBBY KITCHENS, INC., P.O. Drawer 5690, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *chemicals and related products,* between points in AL, AR, CO, FL, GA, LA, MS, MO, NC, NM, OK, SC, TN, and TX.

MC 150275 (Sub-6), filed January 7, 1983. Applicant: UPPER CUMBERLAND FREIGHT, INC., Route 5, Box 122, Cookeville, TN 39501. Representative: Wayne E. Klinckhardt, 378 Scenic Drive, St. Louis, MO 63137, (314) 868–7027. Transporting *general commodities* (except classes A & B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Colonial Corp. of America, of Woodbury, TN, Gold Medal, Inc., of Baxter, TN, and Burks Distributing Co., and Upper Cumberland Oil, Inc., both of Cookeville, TN.

MC 154674 (Sub-2), filed January 7, 1983. Applicant: ELMER BUTCHTA TRUCKING, INC., 414 Washington St., Otwell, IN 47564. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting (1) *coal* (a) between points in IN, IL, and KY, and (b) between points in IN, IL, and KY, on the one hand, and, on the other, points in IA, MO, WI, and MI, and (2) *fertilizer,* between points in IN, on the one hand, and, on the other, points in IN, IL, KY, and MO.

MC 161924, filed January 6, 1983. Applicant: PENN MOUNTAIN TRUCKING CO., P.O. Box 258, R.D. 1, Hunlock Creek, PA 18621. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505, (717) 342–7595. Transporting (1) *lumber and wood products,* between points in CT, DE, IN, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, VT, WV, and DC, and (2) *ores and minerals, clay, concrete, glass or stone products,* between points in Elbert, De Kalb, Fulton, and Pickens Counties, GA, Monroe County, IN, Berkshire, Hampden and Middlesex Counties, MA, Hillsborough and Merrimack Counties, NH, Niagara County, NY, Rowan and Surry County, NC, Holmes County, OH, and Knox County, TN, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, and DC.

MC 164465, filed January 10, 1983. Applicant: JOSEPH J. ZAPUTIL, JR., d.b.a. JOE ZAPUTIL TRUCKING, Route 1, Box 1A, Mystic, IA 52574. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting (1) *lumber and wood products,* (a) between points in Mahaska County, IA, on the one hand, and, on the other, points in IL, MN, NE, SD, and WI, and (b) between points in Chilton, Marion, Winston, and Clarke Counties, AL, Grenada, Hinds, Radkin, Perry, Calhoun, and Lauderdale Counties, MS, Texas and Howell Counties, MO, and AR, on the one hand, and, on the other, points in IA, and (2) *metal products and machinery,* between points in Appanoose County, IA, on the one hand, and, on the other, points in IL, MO, NE, and WI.

MC 165565, filed January 5, 1983. Applicant: DAVES CATTLE COMPANY, INC., Route 3, Box 83–B, York, SC 29745. Representative: Bruce M. Poore, P.O. Box 919, York, SC 29745, (803) 684–3131. Transporting (1) *pulp, paper and related products,* between points in VA, NC, SC, GA, FL, TX, LA, MS, and AL, on the one hand, and, on the other, points in the U.S. (except AK and HI); (2) *printed matter,* between Baltimore, MD, and Atlanta, GA, and points in Mecklenburg County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (3) *metal products,* between points in Mecklenburg County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165575, filed January 6, 1983. Applicant: ADIOS MOTOR FREIGHT, INC., 4th and Bakewell, Covington, KY 41011. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B

explosives and household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at (202) 275–7669.

Volume No. OP4–035

Decided: January 24, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 2796 (Sub-12), filed January 5, 1983. Applicant: FULLINGTON AUTO BUS COMPANY, 316 Cherry St., Clearfield, PA 16830. Representative: Christian V. Graf, 407 N Front St., Harrisburg, PA 17101, (717) 236–9318. Over regular routes, transporting *passengers*, between Williamsport and State College, PA: (1) from Williamsport over U.S. Hwy. 220 to junction PA Hwy. 120, then over PA Hwy. 120 to junction PA Hwy. 150, then over PA Hwy. 150 to junction PA Hwy. 144/150, then over PA Hwy. 144/150 to Bellefonte, PA, then over PA Hwy. 550 to junction PA Hwy. 150, then over PA Hwy. 150 to junction PA Hwy. 26, then over PA Hwy. 26 to State College, and return over the same route, serving all intermediate points, and (2) from Williamsport over U.S. Hwy. 220 to junction PA Hwy. 120, then over PA Hwy. 120, to junction PA Hwy. 150 then over Hwy. 150 to junction PA Hwy. 64, then over PA Hwy. 64 to junction PA Hwy. 26, then over PA Hwy. 26 to State College, and return over the same route, serving all intermediate points.

Note.—Applicant intends to tack, and seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same routes.

MC 153897 (Sub-3), filed January 14, 1983. Applicant: MONTEZUMA WEST, INC., 11884 Ehlen Rd. NE., Aurora, OR 97002. Representative: Donna Purdum (same address as applicant), (503) 678–2509. Transporting *chemicals*, between points in the U.S., under continuing contract(s) with Crown Zellerbach Corporation, of Portland, OR.

Volume OP4–038

Decided: January 24, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 119226 (Sub-129), filed January 17, 1983. Applicant: LIQUID TRANSPORT CORP., R.R. No. 10, Box 100B, Greenfield, IN 46104. Representative: Edward G. Bazelon, 135 S. LaSalle St., Chicago, IL 60604, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 121496 (Sub-82), filed January 17, 1983. Applicant: ENTERPRISE TRANSPORTATION COMPANY, P.O. Box 4324, Houston, TX 77210. Representative: John E. Smith II (same address as applicant), (713) 880–6562. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Texaco Chemical Company of Bellaire, TX.

MC 144776 (Sub-19), filed January 17, 1983. Applicant: APACHE TRANSPORT, INC., 833 Warner St., Atlanta, GA 30310. Representative: Virgil H. Smith, 74 Highway N, Box 245, Tyrone, GA 30290, (404) 969–1980. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146596 (Sub-4), filed January 13, 1983. Applicant: FRED McCALL TRUCKING, INC., 2079 Railroad St., Ontario, NY 14519. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043, (716) 681–7190. Transporting *building materials*, between points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV and WI.

MC 147066 (Sub-6), filed January 17, 1983. Applicant: LUCKY THIRTEEN, TRANSPORTATION CO., INC., P.O. Box 3547, Hayward, CA 94540–3547. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111, (415) 986–1414. Transporting *such commodities as are dealt in or used by manufacturers of polyester base, chemicals, electrical equipment and electrical cable*, between points in AL, AZ, CA, CT, IL, ME, MA, MI, MN, NE, NH, NJ, NY, NC, OH, PA, SC, TN, TX, WA and WI, under continuing contract(s) with Memorex Corp. of Santa Clara, CA.

MC 151136 (Sub-3), filed January 17, 1983. Applicant: CYCLE TRANSPORT, INC., 1418 E. Lake St., Minneapolis, MN 55407. Representative: William J. Gambucci, 525 Lumber Exchange Blvd., Minneapolis, MN 55402, (612) 340–0808. Transporting *motorcycles*, between (1) Chicago, IL, on the one hand, and, on the other, points in ND, NE and WI, and (2) Lansing and Douglas Counties, NE, on the one hand, and, on the other, points in ND, WI, SD, and MN.

MC 156236 (Sub-1), filed January 17, 1983. Applicant: G & L TRUCKING, INC., 165 Locke Rd., Locke, NY 13092. Representative: Murray J.S. Kirshtein, 118 Bleeker St., Utica, NY 13501, (315) 797–1970. Transporting *salt and salt products*, between ponts in Tompkins County, NY, and points in PA, NJ and MA, under continuing contract(s) with Cargill, Inc., of Lansing, NY.

MC 153416 (Sub-3), filed January 14, 1983. Applicant: ACCORD SERVICES, INC., 301 S. 5th ST., Kansas City, KS 66110. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105, (816) 221–1464. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Alpha Marketing Co., Inc., of Kansas City, KS.

MC 160987 (Sub-1), filed January 13, 1983. Applicant: PIEDMONT MAINTENANCE COMPANY, d.b.a. THE PIEDMONT COMPANY, 1822 Wendell, Dalton, GA 30720. Representative: C. Jack Pearce, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0048. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Dalton Carpet Consolidators, Inc., of Dalton, GA. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 USC 11343(A), or a petition for exemption under 49 USC 11343(e), or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite any issuance of authority please submit a copy of the affidavit or proof of the filing the application(s) for common control to Team 4, Room 2410.

MC 165726, filed January 17, 1983. Applicant: FLEETWAY TRANSPORTATION, INC., 3949 Lyman Dr., Hilliard, OH 43026. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 876–8016. Transporting *general commodities* (except classes A and B explosives and household goods), between Lancaster, PA; Indianapolis, IN; Kansas City, KS; St. Louis, MO; Sacramento, CA; Memphis and points in Rone County, TN; and Macomb County, MI, and points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 (202) 275–7289.

Volume No. OP–023

Decided: January 21, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 41098 (Sub-91), filed January 11, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006 (202) 833–8884. Transporting *household goods and machinery*, between points in the U.S. under continuing contract(s) with Compugraphic Corporation of Wilmington, MA, and its subsidiaries, One Systems, Inc., of Oceanside, CA, and Quadex, Inc., of Cambridge, MA.

MC 79658 (Sub-48), filed January 13, 1983. Applicant: ATLAS VAN LINES, INC,; 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills, (same address as applicant), (812) 424–2222. Transporting *household goods*, between points in the U.S. under continuing contract(s) with A.C. Nielsen Co., of Northbrook, IL.

MC 99808 (Sub-9), filed January 12, 1983. Applicant: C-LINE EXPRESS, INC., P.O. Box 540, 525 Silverado Trail, Napa, CA 94559. Representative: George James (same address as applicant), (707) 255–7644. Transporting *newsprint paper*, between San Francisco and Oakland, CA, and points in Yuba, Sacramento, San Joaquin, Butte, Solano, Contra Costa, Alameda, Sutter and Yolo Counties, CA.

MC 123169 (Sub-14), filed January 13, 1983. Applicant: McKEVITT TRUCKING, LTD., P.O. box 2567, Thunder Bay, Ontario, Canada P7B 5G1. Representative: Val M. Higgins, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *general commodities* (except classes A and B explosives household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Abitibi-Price of Toronto, Ontario, Canada.

MC 123579 (Sub-6), filed January 11, 1983. Applicant: HARBOURT AIR FREIGHT SERVICE, INC., 3570 Quakerbridge Road, P.O. Box 3215, Trenton, NJ 08619. Representative: James F. Bromley, 1625 K Street, N.W., Washington, DC 20006, (202) 393–3390. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA, RI, CT, VT, NY, NJ, PA, DE, MD, VA and DC.

MC 141758 (Sub-20), filed January 14, 1983. Applicant: LYDALL EXPRESS, INC., 615 Parker St., Manchester, CT 06040. Representative: Robert J. Dunbar (same address as applicant), (203) 646–1233. Transporting *pulp, paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Virginia Fibre Corporation of New Canaan, CT.

MC 146438 (Sub-19), filed January 13, 1983. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801; (616) 941–5313. Transporting (1) *rubber and plastic products*, between points in Charlevoix County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *furniture and fixtures, and metal products*, between points in Allegan and Ottawa Counties, MI, DeKalb County, GA, and Collin County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147208 (Sub-3(B)), filed January 10, 1983. Applicant: BLUE RIDGE LINES, LTD., One Stoner Road, P.O. Box 5692, Asheville, NC 28813–5692. Representative: Kingsland Hobein, Jr. (same address as applicant), 704–274–1190. Over *regular routes*, in intrastate, interstate or foreign commerce, transporting *passengers*, (1) between junction U.S. Hwy 25 and SC Hwy 290 and Jacksonville Beach, FL, from juction U.S. Hwy 25 and SC Hwy. 290 over U.S. Hwy 25 to Greenville, SC, then over Interstate Hwy 85 to junction Interstate Hwy 85 and SC Hwy 81, then over SC Hwy 81 to junction SC Hwy 81 and SC Hwy 28, then over SC Hwy 28 to SC/GA State line, then over GA Hwy 28 to Augusta, GA, then over U.S. Hwy 25 to Brunswick, GA then over U.S. Hwy 17 to junction U.S. Hwy 17 and Interstate Hwy 95, then over Interstate Hwy 95 to Jacksonville, FL, then over U.S. Hwy 90 to Jacksonville Beach, FL and return over-the same routes, also (a) between junction U.S. Hwy 25 and GA Hwy 67 and Ludowici, GA from junction U.S. Hwy 25 and GA Hwy 67 over GA Hwy 67 to Pembroke, GA, then over GA Hwy 119 to Hinesville, GA, Then over U.S. Hwy 82 to Ludowici, GA, and return over the same routes, (b) between junction GA Hwy 67 and Interstate Hwy 16, and Savannah, GA, over Interstate Hwy 16, (c) between junction Interstate Hwy 16 and Interstate Hwy 95 and Junction Interstate Hwy 95 and U.S. Hwy 17 (south of Brunswick), over Interstate Hwy 95 and (d) between junction Interstate Hwy 95 and GA Hwy 25Sp, and Brunswick, GA, from junction Interstate Hwy 95 and GA Hwy 25Sp over GA Hwy 25Sp to junction GA Hwy 25 Sp and U.S. Hwy 17, then over U.S. Hwy 17 to Brunswick, and return over the same routes, serving the off-route points of Abbeville, SC, Woodbine, Kingsland and Kingsbay Trident Base, GA, Yulee and Jacksonville International Airport, FL, (2) between Asheville, NC, and Newport, TN, from Asheville over Interstate Hwy 40 to junction Interstate Hwy 40 and Tennessee Hwy 32, then over Tennessee Hwy 32 to Newport, serving the off-route points of West Asheville, Canton and Clyde, NC, (3) between Anderson, SC, and Augusta, GA, from Anderson over U.S. Hwy 29 to junction U.S. Hwy 29 and Georgia Hwy 316, then over Georgia Hwy 316 to junction Georgia Hwy 316 and Interstate Hwy 85, then over Interstate Hwy 85 to Atlanta, then over Interstate Hwy 20 to Augusta, serving the off-route points of Decatur, Fort Gordon and Lawrenceville, GA (4) between Greenville, SC, and Sandy Springs, GA, from Greenville over Interstate Hwy 85 to junction Interstate Hwy 85 and Interstate Hwy 285, then over Interstate Hwy 285 to junction Interstate Hwy 285 and Georgia Hwy 400, then over Georgia Hwy 400 to Sandy Springs, serving the off-route point of Anderson, SC, (5) between Toccoa, Ga, and Myrtle Beach, SC, from Toccoa over U.S. Hwy 123 tp Greenville, SC, then over U.S. Hwy 276 to junction U.S. Hwy 276 and Interstate Hwy 26, then over Interstate Hwy 26 to Columbia, SC, then over U.S. Hwy 76 to Sumter, SC, then over U.S. Hwy 378 to Conway, SC, then over U.S. Hwy 501 to Myrtle Beach, serving the off-route points of Seneca, Clemson, Pendleton, Laurens, Clinton and Newberry, SC, (6) between Charlotte, NC, and Augusta, GA, from Charlotte, over Interstate Hwy 85 to Gastonia, NC, then over U.S. Hwy 321 to york, SC, then over South Carolina Hwy 49 to Union, SC, then over U.S. Hwy 176 to Whitmire, SC, then over South Carolina Hwy 121 to junction South Carolina Hwy 121 and U.S. Hwy 25, then over U.S. Hwy 25 to Augusta, serving the off-route point of Charlotte Douglas Airport, NC, (7) between Kingsport, TN, and Bristol, VA from Kingsport over U.S. Hwy 23 to Norton, VA, then over U.S. Hwy 58A to Abingdon, VA, then over Interstate Hwy 81 to Bristol, serving the off-route points of Lebanon, VA, and (8) between Erwin, TN, and Newport, TN, from Erwin over Tennessee Hwy 81 to junction Tennessee Hwy 81 and Tennessee hwy 107, then over Tennessee Hwy 107 to Tusculum, then over U.S. Hwy 11E To Greeneville, then over Hwy 411 to Newport, serving all intermediate points in (1) through (8) above.

Notes.—(1) Applicant intends to tack to existing authority and to interline at Grenville, Anderson, Abbeville, Columbia, Sumter, Conway, Myrtle Beach, Laurens, Newberry and Union, SC, Augusta,

Statesboro, Millen, Claxton, Jesup, Savannah, Brunswick, Athens, Atlanta and Toccoa, GA, Newport and Greeneville, TN, Asheville, Charlotte and Gastonia, NC and Jacksonville, FL.

(2) Applicant seeks to provide regular-route service in interstate or foreign commerce and intrastate commerce under 49 U.S.C. 10922 (c)(2)(B) over the same route.

(3) Applicant also seeks authority to provide privately-funded charter and special transportation, in MC-147208 Sub 3 (A) published in this same issue.

MC 148899 (Sub-5), filed January 13, 1983. Applicant: BARLOW TRUCK LINES, INC., Box 224, Faucett, MO 64448. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068, (816) 781–6000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, IA, IL, KS, MN, MO, NE, OK, SD, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165639, filed January 11, 1983. Applicant: T & B TRUCKING CO., INC., 5812 Webster Ave., Downers Grove, IL 60516. Representative: Anthony T. Thomas, 2619–B Ridgeland Ave., Berwyn, IL 60402, (312) 242–2676. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IA, IL, IN, MI, OH, and WI.

MC 165698, filed January 14, 1983. Applicant: ALASKA MOTOR FREIGHT, INC., 3285 Cushman, Fairbanks, AK 99701. Representative: James T. Johnson, 1610 IBM Building, Seattle, WA 98101, (206) 624–2832. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AK, on the one hand, and, on the other, Seattle and Tacoma, WA, and Portland, OR.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3560 Filed 1–28–83; 8:45 am]

BILLING CODE 7035–01–M

[39035 [1]]

Allied Van Lines, Inc.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Allied Van Lines, Inc., has requested exemption from the requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted.

DATES: Comments are due on February 15, 1983. The sought relief will become effective on March 2, 1983, unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing the relief.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Eric S. Davis, (202) 275–7941
or
Howell I. Sporn, (202) 275–7691

SUPPLEMENTARY INFORMATION: Section 10702(b) of the Interstate Commerce Act requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff on file with the Commission, and section 10762 sets forth general tariff requirements including contract carrier authority to file only minimum rates. Each of these sections authorizes the Commission to grant exemptions to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101. 49 U.S.C. 10702(b), 10761(b), and 10762(f).

Allied Van Lines, Inc., has filed these petitions requesting exemptions under the three exemption provisions mentioned above. Inasmuch as the issues presented and the relief sought by these petitions are substantially similar, we are consolidating them for notice purposes.

Petitioner currently holds contract carrier authority and has been granted an exemption from the tariff filing requirements for that authority. See No. 38998, *Allied Van Lines, Inc.—Petition for Exemption from Tariff Filing Requirements* (not printed), decided December 10, 1982.

Allied now seeks exemption from the statutory requirements noted above for recently granted temporary authorities which authorize the transportation of household goods. [No. MC–15735 (Sub-Nos. 39TA, 40TA, 4–41TA, 4–42TA, 43TA, 4–44TA, 4–45TA, 46TA, and 47TA]. Allied argues that the volume of household goods traffic has declined due to the recession and this necessitates a reduction in expenses wherever possible. Therefore, it desires to eliminate the costs and time delays inherent in fullfilling the tariff filing requirements which further drain its resources. It maintains that a grant of the requested relief would better allow it to perform its function of serving its contract shippers.

Petitioner's requests are well grounded. We see no reason to deny Allied the savings to be realized from a tariff filing exemption. It appears that the requirement that petitioner file schedules is not in the public interest and that relief will promote the transportation policies of 49 U.S.C. 10101.

We, therefore, provisionally grant the sought exemptions. If we receive timely filed adverse comments, we will issue a further decision addressing them and deciding whether this tentative approval ought to be made final.

This decision does not appear to have a significant effect on either the quality of the human environment or conservation of energy resources. However, comments may be submitted on these issues.

(49 U.S.C. 10702(b), 10761(b), and 10762(f))

Decided: January 25, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Sterrett concurred with a separate expression. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

Commissioner Sterrett, Concurring

Allied's petition illustrates both the legitimacy of, and the need for, relief for future contracts. I see no reason why contract carriers should be required to return to the Commission for relief each time a new contract is entered into.

[FR Doc. 83–2554 Filed 1–28–83; 8:45 am]

BILLING CODE 7035–01–M

[MC–F–15038]

Kreider Truck Service, Inc.—Control Exemption—Cryogenic Transportation, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1) *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343*, 47 *Fed. Reg.* 53303 (November 23, 1982), Kreider Truck Service, Inc.,

[1] This proceeding embraces four petitions for exemption filed by Allied Van Lines, Inc.: No. 39035, No. 39036, No. 39047, and No. 39052.

(Kreider) (MC–114194) Cryogenic Transportation, Inc., (Cryogenic) (MC–160798) and, in turn, Behnken Truck Service, Inc., (Behnken MC–19945) which controls Kreider, and, in turn, Equity Capital Corporation, John A. Behnken and Ora Mae Behnken, who control Behnken, seeks an exemption from the requirement under section 11343 of prior regulatory approval for Kreider's proposed acquisition of control of Cryogenic through the purchase by Kreider of 50 percent of the latter's stock.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESS: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423
and

(2) Petitioner's representative: Marshall Kragen, 1919 Pennsylvania Avenue, NW., Suite 300, Washington, D.C. 20006

Comments should refer to No. MC–F–15038.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 24, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary

[FR Doc. 83–2582 Filed 1–28–83; 8:45 am]

BILLING CODE 7035–01–M

[MC–F–15077]

Gene F. Lacaeyse—Purchase Exemption—Wenger Truck Line, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343,* 363 I.C.C. 113 (1982), Gene F. Lacaeyse, doing business as G. F. Lacaeyse Transport (Lacaeyse), seeks an exemption from the requirement under section 11343 of prior regulatory approval of the purchase of authorities issued to Wenger Truck Line, Inc., in No. MC–109818 [Sub-Nos. 25, 34, 44, 55, 56, and paragraphs (1) an (3) of Sub-No. 95X]. Lacaeyse also seeks to tack the authority to be acquired with portions of his existing authority but has not filed a directly related application seeking such authority, as required.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and

(2) Petitioner's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309

Comments should refer to No. MC–15077.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 24, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2561 Filed 1–28–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket AB–35 (Sub–6)]

Los Angeles & Salt Lake Railroad Company—Abandonment—and Discontinuance by Union Pacific Railroad Company in Lincoln County, NV; Findings

The Commission has found that the public convenience and necessity permit Los Angeles & Salt Lake Railroad Company to abandon, and Union Pacific Railroad Company to discontinue service over, a rail line between milepost 0.10 near Prince Junction, NV, and milepost 8.81 near Prince, NV; and between milepost 0.288 near Caliente, NV, and milepost 32.94 near Pioche, NV, a distance of about 41.38 miles in Lincoln County, NV, subject to conditions. A certificate will be issued authorizing abandonment unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are set forth at 49 U.S.C. 10905 and 49 CFR 1152.27 (formerly 49 CFR 1121.38).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2555 Filed 1–28–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket AB–3 (Sub–32)]

Missouri Pacific Railroad Company—Abandonment Between Collinston and Clayton Junction, LA; Findings

The Commission has found that the public convenience and necessity permit Missouri Pacific Railroad Company to abandon its 76.9-mile rail line between milepost 560.4 near Collinston, LA and milepost 637.3 at Clayton Junction, LA, in Morehouse, Richland, Franklin, Catahoula and Concordia Parishes, LA. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2556 Filed 1–28–83; 8:46 am]

BILLING CODE 7035–01–M

[Ex Parte 387]

Exemptions for Contract Tariffs; Grand Trunk Western Railroad Co. et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Douglas Galloway, (202) 275-7278
or
Tom Smerdon, (202) 275-7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505 (a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract number, and specifics	Review board[1]	Decided date
664	Grand Trunk Western Railroad Co., ICC-GTW C-0084 (liquified petroleum gas)	1	Jan. 21, 1983.
667	Ashley, Drew & Northern Railway Co., ICC-AND-C-0001-B (paper and paper products)	1	Do.
677	Southern Railway Co., ICC-SOU-C-0123 (woodpulp)	1	Do.
678	Pittsburgh and Lake Erie Railroad Co., ICC-PLE-C-06, Supplement 1 (scrap iron or steel)	2	Jan. 24, 1983.
679	Grand Trunk Western Railroad Co., ICC-GTW-C-0092 (iron or steel, sheet or strip)	3	Jan. 21, 1983.
680	Missouri Pacific Railroad Co., ICC-MP-C-0213 (chemicals)	2	Jan. 24, 1983.
681	Missouri Pacific Railroad Co., ICC-MP-C-0229 (sodium silicate)	1	Do.
682	Seaboard System Railroad, Inc., ICC-SBD-C-0009, (woodpulp)	2	Jan. 24, 1983.
[illegible]	The Atchison, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0171 (potash)	3	Jan. 21, 1983.
684	Consolidated Rail Corp., ICC-CR-C-0196 (scrap iron and steel)	1	Do.
[illegible]	Consolidated Rail Corp., ICC-CR-C-0258 (grain and grain products)	2	Jan. 24, 1983.
686	Consolidated Rail Corp., ICC-CR-C-0290 (alcoholic liquors)	3	Jan. 21, 1983.
687	Union Pacific Railroad Co., ICC-UP-C-0248 (sodium bicarbonate compounds)	1	Do.
688	Burlington Northern Railroad Co., ICC-BN-C-0157-A, Supplement 2 (chlorine)	2	Jan. 24, 1983.
694	Consolidated Rail Corp., ICC-CR-C-0178 (caustic soda, chlorine)	1	Do.
695	St. Louis Southwestern Railway Co., Supplements 1, ICC-SSW-C-0022, 0037, 0038, 0051, and 0190 (various commodities).	2	Do.
696	St. Louis Southwestern Railway Co., Supplements 1, ICC-SSW-C0024, 0032, 0033, 0043, 0050, 0057, 0065, 0066, 0067, 0068, 0069, 0071, 0072, 0073, 0077, 0078, 0095, 0102, 0129, 0170, and 0175 (various commodities).	3	Do.
697	Missouri Pacific Railroad Co., ICC-MP-C-0226, 0227, and 0228 (lumber, plywood and particleboard).	1	Do.
[illegible]	Soo Line Railroad Co., ICC-SOO-C-0156 (cranes or derricks and/or parts thereof) via all ports in the Canadian Provinces of New Brunswick, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Quebec and the States of DE, FL, GA, Baton Rouge and New Orleans, LA, ME, MD, MA, MS, NH, NY, NJ, NC, RI, PA, SC, and VA.	2	Do.
[illegible]	The Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0073 (bituminous coal) via the Ports of Long Beach, Los Angeles Harbor or San Pedro, CA.	3	Do.
700	Missouri Pacific Railroad Co., ICC-MP-C-0201 (lumber, plywood and particleboard)	1	Do.
701	Seaboard System Railroad, Inc., ICC-SBD-C-0060, Supplement 1 (phosphate rock)	1	Do.

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.
(49 U.S.C. 10505)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-2360 Filed 1-28-83; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30097]

Rail Carriers; The Baltimore and Ohio Railroad Co.—Trackage Rights Exemption—Over Norfolk and Western Railway Co.; Notice of Exemption

January 25, 1983.

The Baltimore and Ohio Railroad Company (B&O) filed a notice of exemption for its acquisition of only overhead trackage rights over a 38.10-mile segment of track of the Norfolk and Western Railway Company (N&W) between Decatur and Springfield, IL. Presently, B&O operates a 43.4-mile route between Decatur and Springfield which is composed of existing trackage rights over N&W between Decatur and Boody, IL, B&O's own line between Boody and Springfield, and trackage rights over other carriers' lines in the Springfield area. B&O's line between Boody and Springfield is not suitable for efficient overhead operations between Decatur and Springfield, because the Boody-Springfield segment requires considerable rehabilitation. There is only one patron on this line, and it allegedly makes only minor use of B&O's service. B&O has placed its existing Decatur to Springfield route in Category 1 of its System Diagram Map for abandonment purposes.

Because of the conditions of its present route, B&O has had to detour its overhead operations from its present route to the N&W's parallel route between Decatur and Springfield. This N&W line and B&O's present route between Decatur and Springfield are approximately 8 miles apart at their farthest point of separation. B&O's operations over the N&W line are very limited; they average one round trip every 2.8 days, and the volume of traffic averages 5 loaded cars per westbound train and 9 loaded cars per eastbound train.

This transaction is a joint project of the two rail carriers involving a relocation of an operation which does not disrupt service to shippers. Thus, it is an exempt transaction pursuant to 49 CFR 1180.2(d)(5). *Railroad Consolidation Procedures*, 366 I.C.C. 74, 94 (1982). It results in the continuation of virtually the same service as before. Indeed, overhead and bridge service may be improved, since B&O uses N&W's parallel but shorter and superior route which allows faster service. While B&O does have one patron on its own line between Boody and Springfield and has placed its route in Category 1 on its System Diagram Map, this action will not actually result in an abandonment of, or discontinuance of service over, its own Boody-Springfield line. B&O will continue local service to its one patron on that line—at least for the near future. CF. *D. T. & I. R.—Trackage Rights*, 363 I.C.C. 878 (1981); and *Southern Pac. Transp. Co. & SSW Ry. Co.—Exemption*, 363 I.C.C. 848 (1981). Since B&O will continue service to the patron, this transaction itself should have no appreciably adverse impact on shippers or communities. Instead, it will allow

B&O to continue service between Decatur and Springfield.

As a condition to use of the exemption, any B&O or N&W employees affected by the transaction will be protected by the conditions set forth in *Norfolk and Western Ry. Co.-Trackage Rights-BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate*, 360 I.C.C. 653 (1980), *aff'd sub nom. Railway Labor Executives' Ass'n* v. *United States*, 675 F. 2d 1248 (D.C. Cir. 1982). This satisfies the statutory requirements for protection of employees under 49 U.S.C. 10505(g)(2), which may not be avoided through the exemption process.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2551 Filed 1-28-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree In Action To Enforce the Clean Water Act

In accordance with Departmental policy 28 CFR 50.7, 38 FR 19029, notice is hereby given that on January 11, 1983, a proposed consent decree in *United States* v. *Diamond Shamrock Corporation*, No. CA3-830046R was lodged with the United States District Court for the Northern District of Texas, Dallas Division.

The proposed consent decree provides for compliance with both an NPDES permit and the Clean Water Act Section 311 prohibition against discharges in "harmful quantities." The proposed consent decree requires that the company pay a penalty of $10,000.00 for prior discharges.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Diamond Shamrock*, D.J. Ref. No. 90-5-1-1-1602.

A proposed consent decree may be examined at the Office of the United States Attorney, Northern District of Texas, U.S. Federal Building and Courthouse, Room 16G28, 1100 Commerce Street, Dallas, Texas 75242; and the Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas 75270; and the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-2564 Filed 1-28-83; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Physiology, Cellular and Molecular Biology Advisory Panel; Subpanel on Genetic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Genetic Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and time: February 17—19, 1983 and 9:00 a.m.—5:30 p.m.

Place: Room *643*, National Science Foundation, 1800 G Street, NW. Washington, D.C. 20550

Type of meeting: Closed

Contact person: Dr. Philip D. Harriman, Program Director, Genetic Biology Program, Room 329. National Science Foundation, Washington, D.C. 20550, telephone (202) 357-9687.

Purpose of subpanel: To provide advice and recommendations concerning support for research in genetic biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: January 26, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-2604 Filed 1-28-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Physiology, Cellular, and Molecular Biology; Subpanel on Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Cell Biology, of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and time: February 16, 17, and 18, 1983; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. John S. Cook, Program Director, Cell Biology Program, Room 332, National Science Foundation, Washington, DC 20550. Telephone: 202/357-747.

Purpose of subpanel: To provide advice and recommendations concerning support for research in Cell Biology.

Agenda: To review and evaluate research proposals as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c) Government in the Sunshine Act.

Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 26, 1983.

M. R. Winkler,

Committee Management Coordinator.

[FR Doc. 83-2605 Filed 1-28-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Class-9 Accidents and Reactor Radiological Effects; Meeting

The Combined ACRS Subcommittees on Class-9 Accidents and Reactor Radiological Effects will hold a meeting on February 22, 1983, Room 1046 at 1717 H Street, NW, Washington, DC. Notice of this meeting was published January 18, 1983.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will

be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, February 22, 1983—8:30 a.m. Until the Conclusion of Business

The Subcommittees will review the Source Term Program with various members of the NRC/RES Staff.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber or Mr. Don Bucci (Telephone 202/634–3267) or Ms. R. C. Tang (202/634–1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 25, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–2580 Filed 1–28–83; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 82b. of the Atomic Energy Act (42 U.S.C 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on February 10–12, 1983, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on January 18, 1983.

The agenda for the subject meeting will be as follows:

Thursday, February 10, 1983

8:30 A.M.–8:45 A.M.: Opening Remarks (Open)—The ACRS Chairman will report briefly on matters of current interest regarding ACRS activities.

8:45 A.M.–11:30 A.M.: Skagit/Hanford Nuclear Projects Units 1 and 2 (Open)—The members will hear and discuss the report of the ACRS project subcommittee and consultants who may be present regarding the request for a Construction Permit for this facility.

Members of the NRC Staff and representatives of the Applicant will make presentations and respond to questions regarding this matter.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this project.

11:30 A.M.–12:30 P.M.: NRC Safety Research Program (Open)—The ACRS members will discuss the proposed ACRS annual report to the U.S. Congress regarding the proposed NRC safety research program and budget for FY 1984–85.

1:30 P.M.–2:30 P.M.: ACRS Activities (Open/Closed)—The members will discuss the basis for reappointment of ACRS members to the Committee.

The members will also discuss proposed and anticipated subcommittee and full Committee assignments as well as the scope and nature of ACRS activities.

The members will also discuss their report of January 10, 1983 on SECY–82–1B: Proposed Commission Policy Statement on Severe Accidents and Related Views on Nuclear Reactor Regulation.

A portion of this session will be closed as necessary to discuss matters that relate solely to the internal personnel rules and practices of the agency.

2:30 P.M.–4:00 P.M.: Meeting with NRC Commissioners (Open)—The members will meet with the NRC Commissioners to discuss the recommendations of the Committee in its report of January 10, 1983 on SECY–82–1B: Proposed Commission Policy Statement on Severe Accidents and Related Views on Nuclear Reactor Regulation.

4:00 P.M.–6:00 P.M.: NRC Safety Research (Open)—The Committee members will discuss the proposed ACRS annual report to the U.S. Congress regarding the proposed NRC safety research program and budget for FY 1984–85.

Friday, February 11, 1983

8:30 A.M.–12:30 P.M. and 1:30 P.M.–8:00 P.M.: Clinch River Breeder Reactor (Open) —The members will hear and discuss the report of the CRBR Subcommittee and designated working groups, and ACRS consultants who may be present regarding the request for a Construction Permit for the CRBR. Representatives of the NRC Staff and the Applicant will report to the Committee regarding the proposed facility design and respond to related questions.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

Saturday, February 12, 1983

8:30 A.M.–10:30 A.M.–ACRS Reports to NRC and the U.S. Congress (Open/Closed)—The Committee will complete its reports to the NRC and the U.S. Congress regarding matters discussed during this meeting.

Portions of this meeting will be closed as necessary to discuss information which will be involved in an adjudicatory proceeding.

10:30 A.M.–12:00 Noon and 1:00 P.M.–3:00 PM.—Reports of ACRS Subcommittees (Open/Closed)—The Committee will hear and discuss reports of designated subcommittees regarding ongoing safety related activities including proposed reform of the regulatory process, repair of the Three Mile Island Nuclear Station Unit 1 steam generators, proposed NRC action plan regarding steam generator tube integrity, consideration of Class 9 accidents in the regulatory process, and decay heat removal provisions in nuclear power plants.

3:00 P.M.–3:30 P.M.: Miscellaneous (Open)—The members will complete action regarding items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1982 (47 FR 43474). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropirate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose

may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)), and information which will be involved in an adjudicatory proceeding (5 U.S.C. 552b(c)(10)) and information that relates solely to the internal personnel rules and practices of the agency (5 U.S.C. 552b(c)(2)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EST.

Dated: January 25, 1983.

John C. Hoyle,

Advisory Committee Management, Officer.

[FR Doc. 83–2579 Filed 1–28–83; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Docket No. A83–13; Order No. 480]

Mrs. Lola Allen, Petitioner; Notice and Order of Filing of Appeal

January 24, 1983.

On January 18, 1983, the Commission received an appeal letter from Mrs. Lola Allen (hereinafter "Petitioner"), Reed, Oklahoma 73563 concerning the United States Postal Service's decision to consolidate the Reed, Oklahoma, post office. The appeal letter appears to request the review provided for by section 404(b) of the Postal Reorganization Act [39 U.S.C. 404(b)].[1]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views."[2]

The petition requests that the decision to consolidate the Reed post office be reconsidered.

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal service be insured to residents of both urban and rural communities.[3]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to consolidate post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the consolidation of post offices.[4]

Upon preliminary inspection, this case appears to involve the following issues of law:

1. Did the Postal Service properly consider the effect on the community under 39 U.S.C. 404(b)(2)(A)?

2. Did the Postal Service adequately consider the effect on employees under 39 U.S.C. 404(b)(2)(B)?

Other issues of law may become apparent when the Commission has had the opportunity to examine further the determination made by the Postal Service. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on the issues described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be filed within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioner by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases,[5] and none is being appointed. The Commission orders:

(A) The appeal letter from Mrs. Lola Allen of the Reed post office be accepted as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register**.

By the Commission.

David F. Harris,

Secretary.

APPENDIX

Docket No. A83–13	
Jan. 18, 1983	Filing of Petition.
Jan. 24, 1983	Notice and Order of Filing of Appeal.
Feb. 2, 1983	Filing of Record by Postal Service (*see* 39 CFR 3001.113(a)).
Feb. 7, 1983	Last day for filing of petitions to intervene (*see* 39 CFR 3001.111(b)).
Feb. 17, 1983	Petitioner's Initial Brief (*see* 39 CFR 3001.115(a)).
Mar. 4, 1983	Postal Service Answering Brief (*see* 39 CFR 3001.115(b)).
Mar. 21, 1983	(1) Petitioner's Reply Brief should petitioner choose to file one (*see* 39 CFR 3001.115(c)). (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.
May 18, 1983	Expiration of 120 day decisional schedule (*see* 39 U.S.C. 404(b)(5).

[FR Doc. 83–2565 Filed 1–28–83; 8:45 am]

BILLING CODE 7715–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12985 (812–5380)]

Alliance Tax-Exempt Reserves, Inc.; Filing of an Application

January 21, 1983.

Notice is hereby given that Alliance Tax-Exempt Reserves, Inc., ("Applicant"), 140 Broadway, New York, NY 10005, a diversified, open-end, management investment company, registered under the Investment Company Act of 1940 (the "Act"), filed an application on November 19, 1982, for an order of the Commission, pursuant to

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[1] 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94–421 (September 24, 1976), 90 Stat. 1310–11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 U.S.C. 404(b)(1).

[3] 39 U.S.C. 101(b).

[4] 42 FR 59079–85 (November 17, 1977). The Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[5] In the Matter of Gresham, S.C., Route #1, Docket No. A78–1 (May 11, 1978).

Section 6(c) of the Act, exempting Applicant (1) from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant (a) to compute its net asset value per share using the amortized cost method of valuation, and (b) to value in the manner described below standby commitments acquired from broker-dealers or banks; and (2) from the provisions of Section 12(d)(3) of the Act to permit the Applicant to acquire standby commitments from broker-dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it propose to operate as a "money market fund" designed for use by individual investors or by organizations such as corporations, partnerships, trusts, and others. Applicant's investment objectives are safety of principal, liquidity, and, to the extent consistent with the first two objectives, maximum current income that is exempt from Federal income taxes. Applicant represents that its shares are sold without a sales charge. Applicant states that Alliance Capital Management Corporation will act as its investment adviser. The application further states that although Applicant initially will have only one investment portfolio, Applicant's board of directors may in the future establish additional portfolios. Applicant states that it will pursue its investment objectives principally by investing in a diversified portfolio of high-grade, short-term municipal securities (obligations issued by or on behalf of states, territories, and possessions of the United States and its political subdivisions, agencies and instrumentalities, the interest from which is exempt from Federal income tax).

Applicant states that it may at times invest up to 20 percent of its total assets in a variety of high quality taxable money market securities. Applicant states that it may also enter into repurchase agreements pertaining to the types of securities in which it may invest. Also, while it has no plans to do so, Applicant states that it may enter into reverse repurchase agreements. Applicant may also invest in commitments to purchase municipal securities on a "when-issued" basis. Applicant represents that it may not purchase any security which has a maturity date more than one year from the date of purchase.

Within the categories of municipal and taxable securities in which Applicant may invest are variable rate demand instruments. The variable rate demand instruments in which Applicant may invest will be payable on not more than seven days notice. The interest rates of the instruments will be adjustable at invervals of up to one year. Applicant states that its board of directors will reevaluate, at least quarterly, any variable rate instruments Applicant holds to determine that such instruments are of high quality. In the event that proposed Rule 2a–7 under the Act, as adopted, requires a different reevaluation period, Applicant states that it will conform to such period. The maturity of a variable rate demand instrument will be calulated as provided in proposed Rule 2a–7.

Applicant states that it intends to improve its portfolio liquity through the acquisition of "standby commitments". A standby commitment is a right acquired by Applicant, when it purchases a municipal security for its portfolio from a broker-dealer or a bank, to sell the same principal amount of the securities purchased back to the seller, at Applicant's option, at a specified price. Applicant asserts that its investment policies permit the acquisition of standby commitments solely to facilitate portfolio liquidity. It is further asserted that the acquisition or exercisability of a standby commitment will not affect the valuation or maturity of the underlying portfolio security which will be valued in accordance with the amortized cost exemptive order requested.

Applicant states that the standby commitments it acquires will have the following features:

1. Standby commitments will be in writing and will be physically held by Applicant's custodian;

2. Standby commitments may be exercisable by Applicant at any time prior to the maturity of the underlying security;

3. Applicant's right to exercise standby commitments will be unconditional and unqualified;

4. Applicant will enter into standby commitments only with broker-dealers or banks which, in the investment adviser's opinion, present a minimal risk of default;

5. Although standby commitments will not be transferable, municipal securities purchased subject to standby commitments could be sold to a third party at any time, even though the standby commitments remain outstanding; and

6. The exercise price of each standby commitment will be (i) the cost of the municipal securities which are subject to the standby commitment (excluding any accrued interest which Applicant paid on their purchase), less any amortized market premium or plus any amortized market or original issue discount during the period the Fund owned the securities, plus (ii) all interest accrued on the underlying municipal securities since the most recent interest payment date during the period the securities were held by Applicant.

Applicant states that because it will value its municipal securities on an amortized cost basis, the amount payable under a standby commitment will be substantially the same as the value assigned by Applicant to the underlying municipal securities. Morever, Applicant asserts that there is little risk of an event occurring which would make the amortized cost valuation of its portfolio securities inappropriate. In the unlikely event that the market or fair value of municipal securities in its portfolio were not substantially equivalent to their amortized cost value, however, Applicant represents that it would value the municipal securities on the basis of available market information and would hold them to maturity. Applicant expects tht it would refrain from exercising the standby commitments in such a situation to avoid imposing a loss on a broker-dealer or bank, which could jeopardize Applicant's business relationship with that entity.

The application states that standby commitments may be available without the payment of any direct or indirect consideration. If deemed necessary or advisable, however, Applicant states that it will pay for standby commitments, either separately in cash or by paying a higher price for the municipal securities that are acquired subject to the standby commitment.

Applicant states that it is difficult to evaluate the likelihood of the use or the potential benefit of a standby commitment. Accordingly, Applicant's board of directors intends to determine that standby commitments have a "fair value" of zero, regardless of whether any direct or indirect consideration was paid. Where Applicant has paid for a standby commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, for purposes of computing the dollar weighted average maturity of Applicant's portfolio, Applicant represents that the maturity of a portfolio security shall not be considered shortened or otherwise

affected by any standby commitment to which such security is subject.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost valuation method and to value in the manner described above the standby commitments acquired from banks or broker-dealers. Applicant further requests an order pursuant to Section 6(c) of the Act, exempting it from the provisions of Section 12(d)(3) of the Act to the extend necessary to permit it to acquire standby commitments from broker-dealers.

Applicant argues that the requested relief is appropriate in the public interest and consistent with the protection of investors. Applicant asserts that its acquisition of standby commitments will not affect the calculation of its net asset value per share and will merely improve its liquidity. Applicant asserts that use of the amortized cost valuation method will benefit its shareholders by enabling Applicant to maintain a constant net asset value of $1.00 per share while providing shareholders with the opportunity to receive a relatively steady flow of investment income. Moreover, because Applicant will invest only in high-grade securities with a remaining maturity of one year or less, Applicant believes there will normally be a negligible discrepancy between the market value and the amortized cost value of Applicant's portfolio securities. Accordingly, Applicant has determined that the amortized cost method of valuing its portfolio securities will reflect the fair value of such securities, absent unusual or extraordinary circumstances, and is appropriate and in the best interests of its shareholders.

Applicant states that it will adhere to the following conditions to any order granting its application, so long as it utilizes the valuation method permitted by the requested order:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stablilize Applicants net asset value per share, as computed for the purposes of distribution and redemption, at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share of Applicant, as determined by using available market quotations, from the $1.00 amortized cost price per share of Applicant, and the maintenance of records of such review.[1]

(b) In the event that such deviation from Applicant's $1.00 amortized cost price per share should exceed ½ of 1 percent, a requirement that the board of directors promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce, to the extent reasonably practicable, such dilution or unfair results which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant states that it will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

4. Applicant asserts that it will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in Paragraph 1 above. Applicant will also record, maintain, and preserve for a period of not less than six years (the first two in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities as set forth above, to be included in the minutes of the board of directors meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of directors determines present minimal credit risks and which are of "high quality" as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by the board.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, will describe the nature and circumstances of such action.

Section (6) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 15, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the

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[1] To fullfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value which may include, among other things: (1) Quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] Should the disposition of a portfolio instrument result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant, in fulfilling this condition, will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2572 Filed 1-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22827 (70-6698)]

American Electric Power Co., Inc., et al.; Proposal To Amend Revolving Credit Agreement and Capital Funds Agreement

January 21, 1983.

In the matter of American Electric Power Company, Inc., AEP Generating Company, 180 East Broad Street, Columbus, Ohio 43215; Indiana & Michigan Electric Company; One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801.

American Electric Power Company, Inc. ("AEP"), a registered holding company, Indiana & Michigan Electric Company ("I&MECo"), an electric utility subsidiary of AEP, and AEP Generating Company ("AEGCo"), a wholly owned generating subsidiary of AEP, have filed post-effective amendments to their application-declaration in this proceeding pursuant to Sections 6(a), 7, 9, 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

By order dated March 24, 1982 (HCAR No. 22429), AEGCo was authorized to issue, and AEP was authorized to acquire, 100 shares to AEGCo's common stock, par value $1000 per share, for $1 million. AEGCo and I&MECo were also authorized to enter into an owners agreement ("Owners' Agreement") pursuant to which AEGCo will acquire a 35% undivided ownership interest as tenant in common in the Rockport Generating Plant ("Rockport Plant"), a coal-fired steam electric generating station currently being built by I&MECo. By order dated February 18, 1982 (HCAR No. 22392), Kentucky Power Company ("KPCo"), an electric utility subsidiary of AEP, was authorized to purchase a 15% undivided interest in the Rockport Plant. Upon completion of the Rockport Plant, I&M, AEGCo and KPCo would own, respectively, as tenants in common, 50%, 35% and 15% undivided interests. The March 24, 1982 order also authorized AEP and AEGCo to enter into a capital funds agreement ("Capital Funds Agreement") pursuant to which AEP agreed to supply, or cause to be supplied, such amounts of capital as may be required to maintain stockholder's equity at not less than 35% of the capitalization of AEGCo and such amounts of capital as shall be required in order for AEGCo to continue to own and to increase to 35% its undivided ownership in the Rockport Plant. By that order, AEGCo also was authorized to enter into a revolving credit agreement ("Agreement") with a group of banks ("Banks") pursuant to which notes in an aggregate principal amount outstanding at any time up to, but not to exceed, $300 million could be issued and delivered by AEGCo; the proceeds to be used by AEGCo for the construction of its interest in and the acquisition of, equipment, materials and supplies for the Rockport Plant and other corporate purposes. Each borrowing under the Agreement shall be made ratably from the Banks in proportion to their respective commitments and for the same period of time, and shall be evidenced by a note of AEGCo dated the date of such borrowings and bearing interest on the unpaid principal amount thereof from the date of each such note to the date of payment in full, payable quarterly on the last day of each March, June, September and December, at the maturity thereof (whether by acceleration or otherwise) and after such maturity on demand. Interest on the principal amount of a note shall be: (a) Prior to maturity, and at AEGCo's option, equal to either (i) a fluctuating rate per annum equal at all times to the prime rate, as defined in the Agreement, or (ii) the appropriate London Interbank Offered ("LIBO") Rate in accordance with the tenor of the advance, and (b) from maturity (whether by acceleration or otherwise), at a fluctuating rate per annum equal at all times to the sum of (i) 1% plus (ii) the prime rate until payment in full.

The Agreement further provides that AEGCo will be obligated to pay to each bank for its commitment a fee computed at the annual rate of ⅜ of 1% per annum on the average daily unused amount of the commitment for such bank from the effective date of the Agreement to the date of expiration or termination of such commitment. AEGCo may prepay notes bearing interest at the prime rate in whole at any time, or in part from time to time, without premium or penalty, and may terminate in whole or reduce in part the unused commitments of the Bank. LIBO Rate notes are not prepayable.

Under the Agreement, AEGCo may not incur indebtedness (other than short-term indebtedness) in an aggregate principal amount not exceeding 10% of AEGCO's capitalization, exclusive of short-term debt, if, immediately after incurring such indebtedness, the total principal amount of all indebtedness (other than short-term debt to the extent specified) shall exceed 65% of AEGCo's capitalization. The Agreement further provides that AEGCo shall take all necessary steps to maintain its equity capital at not less than 35% of AEGCo's capitalization (exclusive of short-term debt).

AEGCo now proposes to enter into an amendment ("Amendment No. 1") to its Agreement with the Banks that will have the effect of permitting AEGCo to incur indebtedness under the Agreement during each period indicated below in an amount that is not greater than the percentage of AEGCo's capitalization ("Applicable Debt Percentage") indicated opposite each such period:

Period	Applicable debt percentage
Jan. 1 to Dec. 31, 1983	85
Jan. 1 to Dec. 31, 1984	[illegible]
Jan. 1 to Dec. 31, 1985	[illegible]
Jan. 1 to June 30, 1986	75
July 1 to Dec. 31, 1986	[illegible]
Jan. 1 to Dec. 31, 1987	65

Amendment No. 1 to the Agreement, as well as a proposed amendment to the Capital Funds Agreement between AEGCo and AEP, would permit a corresponding reduction in the equity component of AEGCo's capitalization (exclusive of short-term debt) during each period indicated below that is not less than the percentage ("Applicable Equity Percentage") indicated opposite each such period:

Period	Applicable equity percentage
Jan. 1 to Dec. 31, 1983	15
Jan. 1 to Dec. 31, 1984	15
Jan. 1 to Dec. 31, 1985	20
Jan. 1 to June 30, 1986	25
July 1 to Dec. 31, 1986	35
Jan. 1 to Dec. 31, 1987	35

AEP's projected equity requirements during the period 1983 through 1986 are largely influenced by the level of construction costs associated with the two units of the Rockport Plant. The level of construction costs associated with the Rockport Plant is expected to peak during 1983 and 1984. Thereafter, in 1985 and 1986, construction related

expenditures are expected to drop substantially. The proposed amendments to the two basic agreements under which AEGCo is funding its obligations under the Rockport Plant Owners' Agreement will enable AEP to defer, from 1983 and 1984 to 1985 and 1986, a substantial part of its projected equity investment in AEGCo and thereby spread total AEP System capital requirements over this four-year period of construction on the Rockport Plant. In this manner, AEP projects that, during the four-year period, it will be able to satisfy the AEP System's capital requirements from the proceeds of Common Stock sales through AEP's Dividend Reinvestment and Employee Savings Plan, without the need for additional public offerings of Common Stock which would otherwise be necessary in 1983 and possibly 1984.

At September 30, 1982, AEP's consolidated common equity, including the effect of the public offering of 3,500,000 shares of Common Stock issued on October 6, 1982, represented 34.5% of total capitalization. AEP projects that deferral of equity investment in AEGCo, and the increased borrowings by AEGCo under the Agreement during 1983 and 1984, would not result in a material decrease in AEP's consolidated equity capitalization for the period through 1986.

At December 31, 1982, AEGCo's construction related expenditures associated with the two units of the Rockport Plant totaled approximately $145,000,000 which includes AEGCo's proportionate share of equalization payments made to its associate company, I&MECo, in 1982 with respect to previous construction costs incurred by I&MECo. To finance its proportionate share of construction expenditures, AEGCo has issued and reissued notes under the Agreement from time to time, of which $105,000,000 principal amount remained outstanding at December 31, 1982. On September 6, 1982, AEGCo's associate company, Kentucky Power Company ("KPCo"), suspended further performance of its obligation to make construction related expenditures under the Owners' Agreement pending the resolution of legal challenges to its authorization by the Kentucky Public Service Commission to acquire and own an undivided interest in the two units of the Rockport Plant. Since then, and until such time as KPCo shall resume the performance of its obligations under the Owners' Agreement, AEGCo has and shall continue to pay all construction related expenses associated with the Rockport Plant.

In 1983, it is estimated that construction related expenditures for the Rockport Plant will total $275 million, as follows:

[illegible]	Dollars in millions
First quarter	$47
Second quarter	[illegible]
Third quarter	59
Fourth quarter	119
Total	275

On the assumption that AEGCo shall continue to pay all construction costs associated with the Rockport Plant during 1983, and that AEGCo shall finance such construction with the proceeds of borrowed funds to the extent permitted under the Agreement, AEGCo projects that it will have utilized the full amount of the Banks' commitments at some point during the fourth quarter of 1983. Accordingly, AEGCo proposes herein to enter into a further amendment to the Agreement ("Amendment No. 2") pursuant to which the Banks would agree to make additional loan commitments ("Second Commitments") to AEGCo totaling $150 million.

Under Amendment No. 2 to the Agreement, each of the Banks would agree to make loans to AEGCo pursuant to each Bank's Second Commitment in the amounts set forth opposite each Bank's signature thereto. The terms and conditions of loans made pursuant to the Second Commitments of the Banks with respect to interest rate, maturity and repayment and prepayment will be in all respects identical to the terms and conditions of loans made pursuant to the original commitment of the Banks. Under Amendment No. 2, however, ADGC would be obligated to pay to the Banks a combination of availability fees ("Availability Fees") and commitment fees ("Commitment Fees") with respect to the Second Commitments, as follows: (i) An Availability Fee equal to ⅛ of 1% per annum on the entire amount of the Second Commitments of each Bank from the date of the Order of the Commission granting and permitting this Post-Effective Amendment to become effective through September 30, 1983, if such Second Commitments are not utilized prior to that date, and a Commitment Fee equal to ⅜ of 1% per annum of the average unused daily balance of such Second Commitments thereafter; and (ii) in the event that AEGCo should utilize, in whole or in part, the Second Commitments of the Banks, prior to September 30, 1983, then a combination of a Commitment Fee equal to ⅜ of 1% per annum of the average unused daily balance of the Second Commitments from the date of such initial utilization, plus a Commitment Fee of ⅜ of 1% per annum applied to the full amount of the Second Commitments retroactively for a period of six months (180 days) preceding the date of such first utilization of the Second Commitments, or for the period from such date to the date of this Commission Order, if less than six months, such Commitment Fee to be offset by the amount of any Availability Fee paid in accordance with (i) above.

The amended application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 14, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall indentify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the amended application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2566 Filed 1-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22828; (70-6198)]

Kentucky Power Co. and Indiana and Michigan Electric Co; Proposed Amendment of Revolving Credit Agreement

January 21, 1983.

In the matter of Kentucky Power Company, 1701 Central avenue, P.O. Box 1428, Ashland, Kentucky 41101; Indiana and Michigan Electric Company, One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801.

Kentucky Power Company ("KPCo") and Indiana & Michigan Electric Company ("I&M"), electric utility subsidiaries of American Electric Power Company ("AEP"), a registered holding company, have filed a post-effective

amendment to the application-declaration filed with this Commission pursuant to Sections 6(a), 7, 9(a)(1), 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45, and 50(a)(2) thereunder.

By order dated February 18, 1982 (HCAR No. 22392), KPCo was authorized among other things, to enter into a revolving credit agreement ("Agreement") with a group of banks ("Banks"). Under that Agreement KPCo may issue its promissory notes in the aggregate principal amount of up to $150,000,000 at any one time outstanding through December 31, 1987, such notes to bear interest prior to maturity at a rate equal at all times to the prime rate, as defined in the Agreement ("Prime Rate"). As of December 13, 1982, KPCo has issued notes in the aggregate principal amount of $15,000,000 under the Agreement.

KPCo and the Banks now propose to enter into an amended and restated revolving credit agreement, to be dated as of January --, 1983 ("Restated Agreement"). Under the Restated Agreement, KPCo would have the option to issue and reissue notes bearing interest at the Prime Rate or at a fixed rate determined with reference to the applicable London Interbank Offering ("LIBO") Rate. A fixed rate note would bear interest at ½ of 1 percent above the LIBO Rate if issued prior to January 1, 1986, and ⅝ of 1 percent if issued between January 1, 1986 and December 31, 1987. KPCo may exchange LIBO Rate notes for notes evidencing borrowings previously made and bearing interest at the Prime Rate, and, upon maturity of any LIBO Rate note, to resubstitute a Prime Rate Note or issue a new LIBO Rate note.

All borrowings evidenced by a promissory note or notes of KPCo bearing interest at a fixed rate above the applicable LIBO Rate shall mature 30, 60, 90, or 180 days after the date thereof. The Restated Agreement provides that the exchange of LIBO Rate notes for Prime Rate notes, or resubstitution of Prime Rate notes for LIBO Rate notes, shall not constitute prepayment of any outstanding note or notice to the Banks of a termination or partial reduction of the Banks' commitments under the Restated Agreement. KPCo shall pay no fee, premium or penalty in the event of any exchange or resubstitution of notes.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 14, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2570 Filed 1-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22829; (70-6834)]

Louisiana Power & Light Co. and Middle South Utilities, Inc.; Proposal

January 21, 1983.

In the matter of Louisiana Power & Light Company, 142 Delaranda Street, New Orleans, Louisiana 70174; Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112.

Middle South Utilities ("Middle South"), a registered holding company, and its public utility subsidiary, Louisiana Power & Light Company ("Company"), have filed an application-declaration with this Commission pursuant to Sections 6, 7, 9, 10, and 12 of the Public Utility Holding Company Act of 1935 and Rules 43 and 50 thereunder.

The Company proposes to establish one or more new series of its class of Preferred Stock, $25 par value, which shall consist in the aggregate of not more than 3,000,000 shares ("New Preferred Stock"), and to issue and sell, in one or more sales from time to time not later than December 31, 1983, the New Preferred Stock, subject to competitive bidding. If market conditions change so that, in the opinion of the Company, the market for $100 par value preferred stock is more favorable than that for $25 par value preferred stock, the Company may amend this application-declaration to propose the issuance and sale, in one or more series, of an aggregate of not more than 750,000 shares of its Preferred Stock, $100 par value, in lieu of the New Preferred Stock.

The dividend rate of each series of the New Preferred Stock (other than series with provisions for an adjustable dividend rate, as described below) will be a multiple of ¼ of 1% and the price to be paid to the Company for each series of the New Preferred Stock will not be less than $25 nor more than $25.70 per share, plus accumulated dividends, if any.

The terms of each series of the New Preferred Stock (other than series with provisions for an adjustable dividend rate, as described below) will include a prohibition for five years after the first day of the month of issuance of the respective series against redeeming such series, directly or indirectly, with funds derived from the issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with such series as to dividends or assets, at a lower effective dividend cost.

The Company may include provisions for an adjustable dividend rate for one or more series of the New Preferred Stock. The dividend rate for the initial dividend payment period will be a fixed percentage (which will be a multiple of ¼ of 1%), to be determined by competitive bidding. Thereafter, the adjustable dividend rate will be determined quarterly on the basis of a certain percentage (to be determined by competitive bidding) above or below, generally, the highest of (1) the average of the two most recent weekly per annum market discount rates for three-month U.S. Treasury bills, as published by the Federal Reserve Board during a specified period prior to each dividend payment period, (2) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of ten years) during a specified period prior to each dividend payment period, or (3) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of twenty years) during a specified period prior to each dividend payment period; provided, however, that in no event will the effective annual dividend rate, as adjusted in any quarter, be less than 6% per annum or greater than 15% per annum. The maximum and minimum dividend rate for a series of New Preferred Stock will either be set by the Company prior to a bidding on the basis of then market conditions or will be established by competitive bidding. In the event that provisions for an adjustable dividend rate are included for any series, of the New Preferred Stock the terms of such series will include a prohibition for five years after the first day of the month of issuance of such series against

redeeming such series, directly or indirectly, with funds derived from the issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with such series as to dividends or assets, at a lower effective dividend cost, than the effective annual dividend cost to the Company based upon the initial dividend rate for the New Preferred Stock of such series.

The Company may include provisions for a sinking fund for any series of the New Preferred Stock designed to redeem annually, commencing five years or later after the date of issuance, at $25 per share, plus accumulated dividends, a number of shares equal to 5% of the total number of shares issued and sold in each respective transaction, with the Company having a non-cumulative option to redeem annually an additional number of shares up to 5% of the total number of shares issued and sold in the transaction.

The Company also proposes to issue and sell, subject to competitive bidding, not more than $200,000,000 in principal amount of its first mortgage bonds ("Bonds") to be issued in one or more series from time to time not later than December 31, 1983. The interest rate of each series of the Bonds will be a multiple of ¼ of 1% and the price, exclusive of accrued interest, to be paid to the Company for each series of the Bonds will be not less than 98% nor more than 101¾% of the principal amount thereof.

The Bonds are to be issued under the Company's Mortgage and Deed of Trust, dated as of April 1, 1944, to the Chase Manhattan Bank (National Association), as Trustee, as supplemented and to be further supplemented by supplemental indentures each to be dated as of the first day of the month in which a particular series of Bonds is issued. Each series of Bonds will mature not earlier than five years from the first day of the month in which the series is issued and not later than 30 years from the issuance date.

Each supplemental indenture will provide that none of the Bonds of that respective series will be redeemed for a period of four or five years depending upon the term of that series, commencing with the first day of the month of issuance, at a regular redemption price if such redemption is for the purpose or in anticipation of refunding such bond through the use, directly or indirectly, of funds borrowed by the Company, at an effective interest cost to the Company of less than the effective interest cost to the Company of the respective series of Bonds.

The Company believes that the sale(s) of the new Preferred Stock and/or the Bonds may require the assistance of underwriters, dealers or agents if market conditions at the time of the offering of the securities are unfavorable. Accordingly, the Company may amend this application-declaration to seek an exemption from Rule 50 so that it may offer the New Preferred Stock and/or the Bonds through either a negotiated or a private sale(s).

The Company proposes to use the alternative competitive bidding procedures in accordance with the Commission's delayed or continuous offering and sale procedures contained in Rule 415, 17 C.F.R. 230.45, for the sale(s) of the New Preferred Stock and the Bonds. Pursuant to Rule 50(a)(5) of the Act, the Commission has issued a statement of policy (HCAR No. 22623, September 2, 1982), authorizing until definitive Commission action on Rule 415, the use of alternative competitive bidding procedures in lieu of the procedures prescribed by Rule 50(b).

The Company presently has outstanding 89,383,100 shares of its common stock, without par value, having an aggregate stated value on its books, as of September 30, 1982, of $588,900,000, all of which shares are owned by Middle South. The Company proposes to issue and sell to Middle South, and Middle South proposes to acquire from the Company, from time to time through December 31, 1983 up to 15,152,000 additional shares of the Company's common stock ("Additional Common Stock") for an aggregate cash consideration of up to $100,000,000. Upon the issuance and sale by the Company and the acquisition by Middle South of the Additional Common Stock, the Company proposes to credit its Common Stock Capital Account with the amount (in the aggregate up to $100,000,000) received by it for the Additional Common Stock, and Middle Stock proposes to debit its Investment Account with the amount (in the aggregate up to $100,000,000) of its cash investment in the Additional Common Stock.

To the extent funds are required by Middle South from external sources to acquire the Additional Common Stock, Middle South expects to obtain such funds through the issuance and sale of its unsecured promissory notes pursuant to its revolving credit agreement with a group of banks, as authorized by order dated June 17, 1980 (HCAR. No. 21623), or through such other forms of financing as may be approved by the Commission.

The Company proposes to use the net proceeds derived from the issuance and sale of the New Preferred Stock, the Bonds and the Additional Common Stock for the financing in part of the Company's construction program, for the payment in part of short-term borrowings and for other corporate purposes, including the use of a portion thereon in connection with the possible refunding to customers of the proceeds of a recent settlement entered into between the Company and a gas supplier.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by February 14, 1983, to the Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2571 Filed 1-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12976 (812-5295)]

Southeastern Capital Corp.; Filing of an Application

January 20, 1983.

Notice is hereby given that Southeastern Capital Corporation ("Applicant"), 100 Northcreek, Suite 600, 3715 Northside Parkway, NW, Atlanta, GA 30327, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified, management investment company, filed an application on August 30, 1982, and amendments thereto on November 9, and 24, and December 16, 1982, for an order pursuant to Sections 17(b) and 17(d) of the Act and Rule 17d-1 thereunder, exempting Applicant from the provisions of Section 17(a)(3) of the Act and permitting under Section 17(d) of the Act, consummation of a proposed loan transaction between the Applicant

and The Considine Company, Inc. ("Company"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, beginning in 1978, Applicant has entered into six secured loan transactions totaling $1,115,000 with the Company. Applicant represents that when these loan transactions were entered into, it was not affiliated with the Company. Of these loans, only two remain outstanding. The remaining obligations of the Company to Applicant presently outstanding relate to the Note Purchase Agreement dated August 29, 1980 (the "Note Agreement"), which agreement is the subject matter of this application. Applicant states that, pursuant to the Note Agreement three separate notes were given by the Company to Applicant in 1980 and 1981 totaling $220,000. Of this amount, $45,000 was prepaid in early 1982 and the remaining $175,000 was due and payable on August 1, 1982. The interest rate on this obligation is fifteen percent (15%) per annum, payable quarterly.

Applicant represents that under the Note agreement proceeds from the notes sold pursuant thereto may be used by the Company only for the purposes of: (i) Making payments under the lease ("Lease") which was entered into contemporaneously with the Note Agreement by the Company, as lessee, and Great Southern Enterprises, Inc., a Georgia corporation, as lessor (the "Lessor"), for real estate in Atlanta, Georgia, consisting of a 35 unit apartment building on approximately three acres of land ("Atlanta Property"), and (ii) making improvements to the Atlanta Property. The Lease is a net lease with a term of five years commencing on September 1, 1980. Applicant states that the Lease grants to the Company an option to purchase the Atlanta Property (the "Option"), exercisable at any time during the term of the Lease. The Lease may not be assigned or hypothecated without the prior written consent of the Lessor.

Applicant further represents that, pursuant to the Note Agreement, the Company has agreed to pay to Applicant as additional interest, a sum equal to 10 percent of the net profits realized by the Company in connection with the Lease and the Atlanta Property. The term "net profits" is defined to mean the gross revenues derived in any matter whatsoever, including but not limited to, by way of management, rental development, conversion or sale, less direct expenses. Applicant further states that the additional interest shall continue to be due and payable until the Company shall no longer retain any interest in the Atlanta Property, or until the Company's option under the Lease to acquire the Atlanta Property shall lapse, whichever shall last occur irrespective of the prior payment of the obligations of the Company under the Note Agreement.

As collateral security for the remaining obligations of the Company to Applicant pursuant to the Note Agreement, the Company has assigned to Applicant the Company's rights to purchase the Atlanta Property pursuant to the Option. Applicant represents that the Lessor has agreed with Applicant to allow it to exercise the Option provided the Company is then in default under the Lease and Applicant first cures the outstanding default of the Company under the Lease.

Applicant further represents that the obligations of the Company to Applicant under the Note Agreement are also secured by security interests granted to the Applicant by the Considine Company of Georgia, Inc., a subsidiary of the Company, in certain real estate management contracts pertaining to two apartment complexes located in Athens, Georgia. Applicant states that the notes issued pursuant to the Note agreement are further secured by the unconditional guaranty of Terence M. Considine ("Mr. Considine"), the sole shareholder of the Company, and The Considine Company of Georgia, Inc. and certain other corporate subsidiaries of the Company.

Applicant now proposes to extend the maturity, and modify the terms, of the remaining loan outstanding between Applicant and the Company ("Proposed Loan"). Applicant represents that the basic terms of the proposed loan transaction are that Applicant will extend for one year the maturity of the existing $175,000 loan to the Company, originally due August 1, 1982, and lend an additional $90,000 to the Company which will mature on the same date. Applicant states that the total indebtedness of $265,000 will be callable by Applicant on February 1, 1983. Applicant states that it was not an affiliate of the Company when the original loan was entered into. Applicant further represents that additional security for the proposed loan is being given in the form of a subordinate lien on real estate in Escondido, California owned by the Company (the "California Property"). Applicant represents the primary security for the proposed loan will continue to be the Company's collateral assignment of its option on the Atlanta Property. Applicant further states that a guaranty of payment by Mr. Considine and certain subsidiaries of the Company will continue to secure the proposed loan as extended and modified. Applicant states that additional consideration is also being given by the Company to Applicant in the form of a modification of the terms of the existing loan by which the Company will receive 15 percent, as opposed to 10 percent as set forth in the existing loan agreement, of the net profits realized on the development and/or sale of the Atlanta Property.

Applicant states that subsequent to the filing of this application, the $90,000 rental payment, for which the proceeds of the proposed loan transaction were intended, became due under the Lease. Applicants further represent that, in order to insure that its security interest in the Option with respect to the Atlanta Property be maintained pending Commission approval of the loan, Applicant has provided the funds necessary to make the $90,000 rental payment due under the Lease. At that time, the Applicant and the Company executed all documentation necessary to close the proposed loan transaction, which documents are being held in escrow by Applicant's counsel. Applicant asserts that should the Commission grant the exemptive order requested by this application, those papers will be delivered, the loan modification and extension which constitutes the proposed loan transaction will close, and the various security documents in connection therewith shall be recorded. Should the Commission not grant the exemption order requested hereby, Applicant states that the outstanding loan pursuant to the Note Agreement, which is in default, will be called and Applicant will seek to realize on its collateral. Applicant represents that in such event, the funding of the Lease payment by Applicant will inure to its benefit since it could not exercise the Option before curing any default under the Lease. If, on the other hand, the Commission permits the loan, the Lease payment will be deemed by the Applicant and the Company to constitute the funding of the $90,000 loan.

Applicant states that the proposed loan transaction is necessary to terminate its relationship with the Company in a manner consistent with the best economic interests of Applicant. Applicant believes that to require the Company to pay all amounts due on the remaining loan outstanding and to deny the Company additional funds to make the next annual rental

payment would precipitate a premature disposition of the Atlanta Property by the Company. According to the application, the Company would be compelled to sell the Atlanta Property immediately upon its exercise of the option to raise capital to exercise the option and pay off the loan. Alternatively, Applicant asserts the Company would be forced to go into default with respect to the Lease. Applicant further states that such action would be counterproductive to its business goals in that it would end a stream of income the loan has been producing for the Applicant in the form of interest payments and would deny Applicant an opportunity to realize fully the potential profit on the appreciation of the Atlanta Property.

Applicant represents that a disinterested majority of the executive committee of its board of directors has approved the proposed loan transaction with the Company, which action has been ratified by a disinterested majority of the board. Applicant further believes that it should enter into the proposed loan transaction because its terms are in its best economic interests, Applicant, the continuation of the outstanding loan was within the contemplation of the parties at the time of the initial lending, and the proposed modification of the loan is consistent with the Applicant's business practice prior to its affiliation with the Company. Applicant further represents that the Company has represented to Applicant that the Company will not seek any further extentions or modifications of any loans outstanding to Applicant; that the Company will not seek any additional credit from Applicant; and that the Company will pay all sums due Applicant as they mature in a timely manner.

According to the application, Considine Securities Corporation ("Considine") owns 141,000 shares, or 20.67 percent of Applicant's outstanding common stock. Applicant represents that both the Company and Considine are under the common control of Mr. Considine as the sole shareholder of Considine Investment Co., which owns all the outstanding capital stock of the Company and Considine. Applicant further represents that Mr. Considine serves as chairman of the executive committee of Applicant's board of directors. In addition, pursuant to a shareholders' agreement with Mr. C. Edward Hansell, chairman of Applicant's board, and certain relatives of Mr. Hansell, who together own 110,000 shares of Applicant's common stock ("Hansell Block"), Mr. Considine, along with the Hansell Block, indirectly controls 251,000 shares, or 36.8 percent of Applicant's stock. Applicant and the Company are under the common control of Mr. Considine and, thus, are affiliated persons of each other within the meaning of Section 2(a)(3) of the Act.

Section 17(b) of the Act provides, that the Commission, upon application, may exempt a transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investement company concerned and with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide in pertinent part, that it shall be unlawful for an affiliated person of a registered investment company, acting as principal, to participate in, or effect any transaction in connection with any joint enterprise or arrangement in which any such registered investment company is a joint participant, unless an application regarding the transaction is filed and an order is granted by the Commission approving the joint enterprise or arrangement. In passing upon such an application, the Commission will consider whether the participation of the registered company in such an arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which its participation is on a basis different from or less advantageous than that of other participants.

Applicant asserts that the proposed loan transaction is reasonable and fair and involves no overreaching on the part of any party, and is consistent with Applicant's policies and the provisions, policies and purposes of the Act. In support of these assertions, Applicant represents that its directors made an evaluation of Applicant's present position with respect to the remaining indebtedness owed to it by the Company and found that Applicant's original goals in entering into the Note Agreement would be best served by extending the maturity of the existing indebtedness and lending the additional $90,000 to enable the Company to make the next rental payment, which is an annual installment on the Lease.

In connection with the payment to Applicant of a percentage of the net profits generated by the Atlanta Property as additional interest, Applicant argues that its participation with the Company is not, except with respect to the percentage due, on a basis different from or less advantageous than that of the Company. According to the application, the net profits of the Atlanta Property are computed in the same manner for Applicant as it is for the Company. Applicant further asserts the allocation of net profits (85% to the Company and 15% to Applicant) is based upon services performed and degree of risks taken by the participants.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 14, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2567 Filed 1–28–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22833 (70–6830)]

The Southern Co., Southern Company Services, Inc.; Proposed Issuance of Unsecured Notes; Request for Exception From Competitive Bidding

January 24, 1983.

The Southern Company ("Southern"), a registered holding company, and Southern Company Services, Inc. ("Services"), a service company subsidiary of Southern, 64 Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, have filed an application-declaration pursuant to Sections 6(a), 7 and 12 of the Public Utility Holding Company Act of 1935 and Rules 45 and 50(a)(5) promulgated thereunder.

By prior orders, Services has been authorized to have outstanding at any one time $50 million in maximum aggregate principal amount of unsecured notes (HCAR No. 21063, May 25, 1979).

Such notes consist of up to $22 million of notes to Aetna Life Insurance Company ("Aetna Notes") (HCAR No. 20157, August 31, 1977), up to $20 million of notes to Credit Lyonnais ("Credit Lyonnais Notes") (HCAR No. 21063, May 25, 1979) and the balance in notes to Southern.

Services seeks authorization to issue and sell up to an aggregate principal amount of $150 million of unsecured notes outstanding at any one time through June 30, 1984. The notes would consist of the Aetna Notes, Credit Lyonnais Notes, up to $100 million of new notes to lenders other than Southern ("Proposed Notes") and the unborrowed balance of the $150 million proposed maximum in notes to Southern.

The Proposed Notes may have terms of up to twenty years, contain sinking funds and bear interest rates not to exceed 3½ percentage points per annum over the rate for 20-year maturity United States Government Bonds at the time lenders commit to purchase the issue. Services may employ an agent to place the Proposed Notes for a commission not in excess of ½ of 1% of the principal amount borrowed, payable upon the closing. Assuming the maximum rate of interest were applicable and a rate of 10¾% per annum for 20-year maturity United States Government Bonds at the time of borrowing, the maximum rate of interest on the Proposed Notes would be 14¼% per annum. The notes to Southern will be upon terms heretofore authorized.

Services' capital additions for 1983 and for the first half of 1984 are projected to be approximately $47 million and $49 million, respectively. Such additions for the 18 month period include approximately $46 million for office and miscellaneous equipment, computer equipment for engineering design, system load dispatching and a centralized information services data center. Services will spend approximately an additional $50 million for the initial design, engineering and construction costs of a proposed office building in Birmingham, Alabama, which will enable Services to consolidate its five Birmingham locations into one central location. Until construction financing is obtained, Services will utilize some of the proposed additional unsecured note proceeds for construction. Upon completion of construction, Services may seek long-term financing for the building. In addition, the proceeds will be applied to repay maturing Aetna Notes and Credit Lyonnais Notes, to increase Services' working capital and to reduce Services' outstanding borrowings from Southern and for other corporate purposes.

Services seeks an exemption for the issuance and sale of the Proposed Notes from the competitive bidding standards of Rule 50 pursuant to paragraph (a)(5) in connection with the proposed issuance and sale of the Proposed Notes. Services proposes and is hereby authorized, forthwith, to select one or more agents, and to negotiate the terms in which the Proposed Notes will be issued and sold. Services states that the exception is justified because competitive bidding is impracticable for such unsecured notes.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 16, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2569 Filed 1-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12988 (812-5394)]

USAA Mutual Fund, Inc.; Filing of Application

January 24, 1983.

Notice is hereby given that USAA Mutual Fund, Inc., ("Applicant"), 9800 Fredericksburg Rd., San Antonio, TX 78288, a registered, open-end, diversified, management investment company, filed an application on December 13, 1982, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"): (1) Granting exemptions from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to value the portfolio securities of USAA Federal Securities Money Market Fund ("Federal") using the amortized cost method of valuation, and (2) amending an order ("Prior Order") issued by the Commission on January 30, 1981 (Investment Company Act Release No. 11595), to permit Applicant to purchase variable rate or floating rate obligations for the portfolio fo USAA Money Market Fund ("Money"), consistent with the terms of the Prior Order. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which ar summarized below.

According to the application, Applicant, a Maryland corporation, has authority to issue shares in separate classes or "Funds." Applicant states that five such Funds have been established. Money was established in the fall of 1980 and Applicant commenced a public offering of its shares on February 2, 1981. Federal was established by the board of directors on July 28, 1982 and Applicant anticipates commencing the public offering of Federal's shares on January 31, 1983.

Applicant states that Federal is a "Money market" fund that will seek high current income while maintaining liquidity and the highest degree of safety by investing in securities issued or guaranteed by the United States Government and repurchase agreements secured by such obligations. Applicant states that all securities purchased by Federal will have less than one year remaining until maturity. Applicant represents that the repurchase agreements in which Federal will invest will normally mature in seven or fewer days. Applicant further represents that Federal may not invest more than 5% of its assets in securities that are not readily marketable, including repurchase agreements maturing in more than seven days. Federal may also invest in variable rate or floating rate obligations.

Applicant states that at the time it filed the previous application (File No. 812-4772) on behalf of Money, it did not intend to purchase variable rate or floating rate obligations for Money's portfolio. Applicant's board of directors has now determined, however, to add variable rate and floating rate obligations to the list of permissible investments for Money's portfolio.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or

any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that for Federal to be in a position to meet the needs and expectations of potential investors and to offer its shareholders relative stability of principal and a relatively smooth stream of investment income at currently competitive rates, it must be able to price Federal's portfolio at amortized cost. Further, with respect to its request for an amendment to the Prior Order, Applicant states that its board of directors has determined that variable rate and floating rate obligations are appropriate investments for Money in that, like the other obligations it may now purchase for Money, such obligations that are able to satisfy the board of directors' criteria of presenting minimal credit risks and being of high quality. Applicant states tha variable rate and floating rate obligations purchased for the portfolios of Federal and Money will satisfy the requirements of, and that it will determine the maturity of such instruments in accordance with the procedures set forth in, proposed Rule 2a-7 (Investment Company Act Release No. 12,206, February 1, 1982) or, if the rule should ultimately be adopted, in accordance with the procedures set forth in the rule as adopted. Applicant further represents that it will comply with Investment company Act Release No. 10666 (April 18, 1979) when entering into repurchase agreements on behalf of Federal and Money with banks as well as brokers or dealers.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising Federal's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors undertakes—as a particular responsibility within the overall duty of care owed to Federal's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Federal's investment objectives, to stabilize Federal's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share, as determined by using available market quotations, from Federal's $1.00 amortized cost price per share, and the maintenance of records of such review; [1]

(b) In the event such deviation from Federal's $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the board of directors will promptly consider what action, if any, should be initiated; and

(c) Where the board of directors believes the extent of any deviation from Federal's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten Federal's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will cause Federal to maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not on Federal's behalf (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modification thereto) described in condition 1 above. Applicant will also record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of its meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit the portfolio investments of Federal, including repurchase agreements, to those United States dollar-denominated instruments that the board of directors determines present minimal credit risks, and that are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

6. Applicant will include in each quarterly report for Federal, as an attachment to Form N–1Q, a statement indicating whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 18, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2588 Filed 1–28–83; 8:45 am]

BILLING CODE 8010–01–M

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[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, among other things, (1) Quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] Should the disposition of a portfolio instrument result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant, in fulfilling this condition, will invest Federal's available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Airworthiness Certification Procedures for Imported Civil Aeronautical Products and Components

AGENCY: Federal Administration (FAA), DOT.

ACTION: Proposed Advisory Circular (AC) 21– ; comments invited.

SUMMARY: Proposed AC 21– is intended to provide information on the Federal Aviation Administration's (FAA) objectives and guidance on FAA regulations and general procedures for U.S. airworthiness certification or acceptance of civil aeronautical products imported to the U.S. This AC cancels AC 21–7A, "Certification and Approval of Import Products," dated November 24, 1969.

Availability of Proposed AC: Copies of the proposed AC 21– are available at the address listed below.

DATES: Comments invited: Comments are invited on all aspects of the proposed AC. Commenters must identify file number AC 21– , and comments must be received on or before June 2, 1983.

ADDRESS: Send all comments and requests for copies of the proposed AC to: Federal Aviation Administration; Office of Airworthiness; Aircraft Enginering Division (Attention: AWS–102), 800 Independence Avenue; SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Robert Allen, Aircraft Engineering Division, (Attention: AWS–101); Office of Airworthiness; Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: (202) 426–8161.

SUPPLEMENTARY INFORMATION: The guidance material contained in this AC reflects import practices and procedures updated as necessary to reflect current international procedures.

Issued in Washington, D.C., on January 11, 1983.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 83–2327 Filed 1–28–83; 8:45 am]

BILLING CODE 4910–13–M

Office of the Secretary

[Notice 82–3]

Agreement Between the United States and Venezuela on Ocean Shipping

AGENCY: Department of Transportation; Office of the Secretary.

ACTION: Notice.

SUMMARY: On January 14, 1983, the United States and Venezuela entered into a Memorandum of Understanding pursuant to which their respective national flag lines are ensured access to reserve cargoes moving in trade between the two countries. The Memorandum of Understanding, in paragraph 5, requires the two government to give notice of its provisions to the shipping community, including importers and exporters which participate in the trade between the United States and Venezuela. This notice is published in keeping with that requirement.

FOR FURTHER INFORMATION CONTACT: Franklin K. Willis, Deputy Assistant Secretary for Policy and International Affairs, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426–4540; or Reginald A. Bourdon, Director, Office of International Activities, Maritime Administration, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426–5772.

SUPPLEMENTARY INFORMATION: The United States and Venezuela, on January 14, 1983, entered into a Memorandum of Understanding relating to the carriage by their respective national flag lines of reserve cargoes moving in trade between the two countries. The Memorandum of Understanding is reproduced herewith in its entirety:

"Memorandum of Understanding

"During the course of the consultations held in Washington on January 13 and 14, 1983, delegations representing the Government of Venezuela and the Government of the United States of America agreed that before May 1, 1983, negotiations between the two governments will start with the purpose of reaching an agreement on maritime transport relations between both countries. The parties also agreed to the following, while these conversations are held:

"(1) Within a period of thirty days, starting from the date of this Memorandum of Understanding, discussions between CAVN and the shipping companies CCT and Delta will take place with the purpose of ensuring CCT and Delta status for access to the reserve cargo moving in trade between Venezuela and the United States, based on Article 14 of the Venezuela Law of Development and Protection of the Merchant Marine.

"(2) The Government of Venezuela will ensure that, not later than thirty days from the date of this Memorandum of Understanding, CCT and Delta are permitted to compete for reserve cargoes moving in trade between Venezuela and the United States on the same basis as Venezuelan-flag carriers and will take all implementing measures that are necessary, including giving official notice of United States carriers' eligibility to Venezuelan exporters, importers, and related credit facilities.

"In reciprocity, subject to the provisions of Public Resolution 17, the United States Maritime Administration will ensure that Venezuelan-flag carriers are permitted to carry Export-Import Bank cargoes destined for Venezuela.

"The cargoes generated by the U.S. Department of Defense and the Ministry of Defense of Venezuela will be excluded from the above mentioned understanding.

"(3) All concerned Executive Branch agencies of the Government of the United States will immediately urge the Federal Maritime Commission to suspend all action in tis rulemaking proceeding relating to conditions in the United States-Venezuelan trade (Docket No. 82–58), pending the actions referred to in paragraphs 1 and 2 above.

"(4) In the course of the consultations held on January 13 and 14, 1983, both delegations acknowledged as desirable the continued active presence of third-flag carriers in the United States/Venezuelan trades.

"(5) Both Governments will notify the shipping community, including importers and exporters which participate in the trade between both countries, of the contents of this Memorandum of Understanding, on the date of signature of this document.

"For the Government of Venezuela
[Signature]
"Rear Admiral Jose Jesus Villafana,
General Director of Maritime Transportation

"For the Government of the United States of America
[Signature]
"Matthew V. Scocozza, Deputy Assistant Secretary for Transportation and Telecommunications, Department of State

[Signature]
"Franklin K. Willis, Deputy Assistant Secretary for Policy and International Affairs, Department of Transportation

"January 14, 1983"

Issued in Washington, D.C., on January 26, 1983.

Jeffrey N. Shane,

Assistant General Counsel for International Law.

[FR Doc. 83-2809 Filed 1-28-83; 8:45 am]

BILLING CODE 4810-62-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 447, Reference: ATF 0 1100.95A]

Authority To Settle Alcohol, Tobacco and Firearms Tax Claims; Correction

In FR Doc. 83-921 appearing on page 1587, in the issue of Thursday, January 13, 1983, make the following corrections:

1. On page 1587, third column, the line which reads "refund of taxes or penalties, of for" should read "refund of taxes or penalties, or for".

2. On page 1588, first column, the line which reads "authorities in paragraph 3a may be" should read: "authorities in paragraph a. may be".

Signed: January 24, 1983.

Stephen E. Higgins,

Acting Director.

[FR Doc. 83-2537 Filed 1-28-83; 8:45 am]

BILLING CODE 4810-31-M

Sunshine Act Meetings

Federal Register

Vol. 48, No. 21

Monday, January 31, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M–372, Amdt 1; January 25, 1983]

Addition To the January 27, 1983 Meeting

TIME AND DATE: 10:00 a.m., January 27, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

23a. Docket 37531, Insurance requirements for U.S. on-demand and Canadian Charter air taxi operators. (Memo 803–B, OGC, BDA, BIA, OEA, OCCCA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–134–83 Filed 1–26–83; 4:07 pm]

BILLING CODE 6320–01–M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 26, 1983.

TIME AND DATE: 10:00 a.m., Wednesday, February 2, 1983.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor, *ex rel.* Stephen Smith, *et al.* v. Stafford Construction Company, Docket Nos. WEST 80–155–DM, WEST 80–156–DM, WEST 80–165–DM. (Issues include whether three employees were discharged in violation of Section 105(c) of the Mine Act.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–135–83 Filed 1–27–83; 3:44 pm]

BILLING CODE 6735–01–M

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federal register

Monday
January 31, 1983

Part II

Department of Transportation

Federal Aviation Administration

Rotorcraft Regulatory Review Program; Amendment No. 1

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 27, and 29

[Docket No. 21180; Amdts. 1-31, 27-19, and 29-21]

Rotorcraft Regulatory Review Program; Amendment No. 1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule adopts airworthiness standards for type certification of normal and transport category rotorcraft. It revises the applicability of Part 29 and incorporates standards for instrument flight rule (IFR) and icing certification in both Parts 27 and 29. This revision establishes a clear relationship between the number of passenger seats and the required performance level for transport category rotorcraft. For cargo configurations and configurations of less than 10 passengers, the rule relaxes requirements in the areas of height-velocity and maximum weight and will result in increased productivity for roles which are special and unique to rotorcraft. This change also adopts IFR standards for rotorcraft handling qualities and systems design with minor revisions from the current requirements which have been successfully administered for a number of years through IFR interim standards. The icing standards which are adopted by this change incorporate the same natural environment recognized in Part 25 transport airplane rules for many years, and provide considerable flexibility for demonstrating safe flight capability. This amendment affects only new civil rotorcraft models for which an application for a new type certificate is received after the adoption of the rule. The existing rotorcraft certification rules have not undergone a comprehensive reassessment in over 25 years. In the intervening period, significant improvements in rotorcraft capabilities have been made and rotorcraft usage has evolved somewhat differently than that originally envisioned. The Rotorcraft Regulatory Review Program was initiated at the request of industry. This amendment, which is the result of an extensive review of rotorcraft certification requirements by industry and Government, updates the existing rules to recognize these improvements, current uses, current technology, and future projections. The rule provides increased safety benefits to passengers traveling in rotorcraft. A thorough assessment of potential benefits and burdens has been made in accordance with Executive Order 12291. It has been judged that the benefits of this amendment, in providing an increased level of safety to passengers traveling in rotorcraft while at the same time recognizing and providing for the unique qualities and capabilities of rotorcraft, far outweigh the burdens.

EFFECTIVE DATE: March 2, 1983.

FOR FURTHER INFORMATION CONTACT: Tommie S. Plummer, Regulations Program Management (ASW-111), Aircraft Certification Division, Mailing address: P.O. Box 1689, Fort Worth, Texas 76101 and offic e location at 4400 Blue Mound Road, Fort Worth, Texas 76106, telephone (817) 624-4911, ext. 504.

SUPPLEMENTARY INFORMATION:

Discussion of Comments

Section 29.1 Applicability

All changes in applicability of the rule are contained in revised § 29.1. However, this change influences other portions of the current rule which may be summarized in the following three areas:

(1) Transport category rotorcraft certificated with 10 or more passenger seats must comply with the category A design requirements of Subparts C, D, E, and F of Part 29 and the category A final segment climb requirement of § 29.67(a)(2). (2) In Part 29, height-velocity (HV) is removed as an operating limitation for category B rotorcraft with nine or less passenger seats. HV information for these models must be placed in the performance section of the Rotorcraft Flight Manual. (3) In Part 29, the 20,000-pound weight limit for category B is removed for rotorcraft with less than 10 passenger seats.

This adopted applicability rule is the same as that in Notice 80-25 with the exception of relaxed requirements for 10 or more passenger rotorcraft having a maximum certificated weight of 20,000 pounds or less. The proposal in Notice 80-25 would have required rotorcraft with 10 or more passengers to be fully certificated to category A standards of design and performance. To attain full category A performance capability, future rotorcraft would have been required to incorporate additional power with resultant higher cost. The FAA, in Notice 80-25, estimates this cost at $12.5 million over the first three years of production for each new model in this range of weight and passenger seating. One commenter estimates a $1.35 billion impact on the total world economy over a 5-year production period for all affected models. Another commenter estimates a $1 billion impact for the world market in a similar 5-year period. While these economic analyses should have included only the impact on the U.S. economy, and the impacts were not calculated in a manner similar to that in which a new model would enter the market, the impact is nevertheless significant. Additional clarifying data were obtained from these commenters and were docketed to allow the FAA to more accurately assess the economic impact of this proposal. This additional information was of great benefit to the FAA. Discounting the previously mentioned features of the commenters' analyses and eliminating certain double counting of purchase price increases, the FAA estimates that the economic impact on the U.S. economy of providing full category A capability for 10 or more passenger configurations would be $1.18 billion over the first 10 years of production. This 10-year production period would begin approximately 5 years after adoption of the proposed rule.

While the concept of full category A protection for 10 or more passengers is a worthwhile goal which FAA hopes will be ultimately achieved, the safety benefits are difficult to quantify through existing accident statistics and, therefore, do not appear to clearly outweigh the cost as required by Executive Order 12291.

The significant cost impact in this portion of the proposed rule was alleviated by requiring only a portion of the category A performance requirements. The existing requirement in §29.67(a)(2) for category A final segment climb has been adopted instead of the full category A performance package. This change alleviates the large one-engine-inoperative (OEI) power requirements needed when an engine fails at low speed, yet the change retains category A performance capabilities throughout a large portion (climb, cruise, and descent) of the flight regime. It is realized that in many cases the traveling public associates twin-engine helicopters with the capability to continue flight when an engine fails. The performance requirement adopted in this rule will assure that capability for 10 or more passenger configurations in only a portion of the flight envelope; nevertheless, it is considered a significant increase in the minimum performance level for certification of civil rotorcraft. At the same time, it must be recognized that engine-out performance capability will not be assured during takeoff or landing at low-speed conditions from hover to near-best rate-of-climb speed. FAA is

encouraged by the increases in power-to-weight which have resulted from technological changes over the last 15 years in transport category rotorcraft, and it is hoped that increased technology will ultimately lead to full category A performance capability for these transport category designs.

Six commenters made docket submittals on applicability. One commenter fully supports the proposed applicability change. This commenter states that a review of safety records found the fatal accident rate of transport helicopters to be significantly higher than that of comparable fixed-wing transport aircraft. The commenter states that "the attainment of a high level of airworthiness in fixed-wing transports has been, in part, achieved by means of high standards of reliability and the provision of redundancy in aeroplane design, and there is no reason why similar approaches to the design of helicopters should not be adopted * * *." FAA agrees with these comments and this "fail safe" concept for transport rotorcraft is partially addressed through the category A provisions of this rule. Other design aspects of this comment were outside the scope of Notice 80–25. These additional aspects will be considered in aircraft systems, powerplants, and structures areas for incorporation in future notices under this Rotorcraft Review Program.

A second commenter recommends a separate FAR part for utility helicopter certification rules and recommends incorporating standards similar to those proposed in Notice 80–25 for transport category B. This comment is considered outside of the scope of Notice 80–25. The second commenter also recommends retaining height-velocity as a limitation for category B, but having it mandatory only when carrying passengers. This comment is more properly an operating consideration and will be addressed in a later notice as part of this review.

A third commenter recommends that the category A design standards currently in Subparts D, E, and F of Part 29 be required for 10 or more passengers. This commenter argues that many multiengine helicopters recover "category A performance" in cruise conditions, and that certification to the "category A, technology" of Subparts D, E, and F offers a sufficient level of safety for transport category rotorcraft carrying more than nine passengers. The recommendations of this commenter regarding category A design standards have been considered and are adopted as a portion of the applicability rule.

The remaining three commenters oppose the category A requirement for 10 or more passengers on the basis that added safety benefits do not offset the large costs of full category A performance. One of these commenters strongly supports removing the category B, 20,000-pound weight limit, but feels that this group of rotorcraft should be allowed to carry large numbers of passengers. Another commenter proposes retaining the present 20,000-pound category B weight limit and requiring all multiengine rotorcraft to incorporate full category A design features. This commenter's proposal could have significant adverse impacts on future large helicopter designs similar to a recently certified configuration in the 50,000-pound weight class, which can show an increase in payload of approximately 12,000 pounds under category B performance standards for missions such as transporting oil drilling or exploratory equipment into inaccessible, confined areas. It would also unnecessarily restrict those small-scale applicants engaging in aircraft alteration who may wish to replace a large engine with two smaller engines and continue to certify a helicopter to category B performance standards. The commenter's proposal could be reasonably met by an original manufacturer, but does not treat the small-scale applicant equally because that applicant would not typically have the capability to fully redesign rotorcraft systems to category A standards. Single-engine category B rotorcraft are designed with suitable flight characteristics and sufficient rotor inertia to safely tolerate total power failure. For single-engine rotorcraft which are modified to incorporate a twin-pack or an additional engine, the remaining category A isolation features are not needed to assure freedom from total power failure because that condition has already been safely substantiated for the design. For FAA to require full category A design for this condition as its minimum safety standard would impose a crippling economic burden which is not warranted.

At the same time, however, these category B designs are not considered appropriate for transporting large numbers of passengers. In Notice 80–25, the manufacturers' and operators' responsibilities to protect large numbers of people were explained in some detail. Current certification rules differentiate between levels of design by rotorcraft weight only. It is necessary and appropriate for minimum safety standards to be clearly related to the number of persons affected. The philosophy behind this rule is that the higher the potential level of danger and the more people who fall within the endangered class, the higher the level of safety should be. The greater the number of passengers, the greater the potential loss of life in an accident; the greater the size and inertia of an aircraft, the greater the potential hazard to persons on the ground in the event of an accident. These two features, size and number of passengers, combine to determine the level of safety required by this rule.

Three commenters question the need for category A performance due to the lack of engine failure accident statistics in multiengine category B rotorcraft. One commenter states that the FAA does not recognize the safety record of large multiengine category B helicopters. FAA accident statistics show an impressively low number of accidents due to engine-related failures in multiengine category B rotorcraft. Approximately 30 percent of all rotorcraft accidents over the past several years have been related to engine failure. In multiengine rotorcraft, only about 10 percent of the accidents have been related to engine failure. This is due, in part, to the fact that at moderate weights and low-density altitudes, many current category B twin-engine rotorcraft have performance capabilities equivalent to category A standards throughout a significant portion of their operating envelope. Many engine failures have not become accident statistics due to this one-engine-inoperative performance capability. These FAA accident statistics serve even more clearly to highlight the need to prohibit future single-engine rotorcraft designs from carrying 10 or more passengers. During the period from 1966 to 1979, there were 44 accidents in twin-engine helicopters carrying 10 or more passengers. Of those accidents, 9 percent were related to engine failure. During that same period there were 81 accidents in single-engine rotorcraft carrying 10 or more passengers. Of those accidents, 33 percent were related to engine failure. The FAA determined that up to eight of these accidents may have been prevented through the multiengine, category A requirements of this rule. Upgrading the requirement for rotorcraft with 10 or more passenger seats to the multiengine category A configuration establishes an appropriate level of safety for civil certification.

There were no adverse comments submitted to the docket regarding category A design standards for 10 or more passenger rotorcraft. To the contrary, one commenter who opposes the economic aspects of the full category

A performance requirement states, "Without exception, new helicopters capable of carrying 10 or more passengers have gone to twin engines for both safety and reliability reasons." It is also true that all new twin-engine designs in that seating range have met category A standards of design. At the NASA-FAA Advanced Rotorcraft Technology Workshop in December 1980, the helicopter users expressed a strong desire to have full category A performance capability in future designs. These desires are summarized in SAE Technical Paper 810589, which states, in part:

> Concerns relating to powerplants appeared to top the lists of all the users. A true one-engine-inoperative capability was referred to repeatedly and in a variety of ways. The operators were unanimous in their endorsement of twin engine helicopters, but less happy with available single engine performance. Ideally, an out-of-ground-effect hover capability with one-engine-inoperative was desired. In general, operators would like to see a non-emergency outcome for any single failure of any helicopter component.

This rule satisfies a portion of those industry needs and desires. Let us now consider the cost factors involved in adopting the category A climb requirement.

Figure A represents the approximate climb performance capabilities of existing twin-engine models capable of carrying 10 or more passengers. The ordinate, or vertical axis, is the change in power that would be required to comply with the added performance requirement of this rule at the weights originally certificated on existing twin-engine category B models. The abscissa, or horizontal axis, represents the year each model was initially certified for civil use. Where final flight test data were not available for one projected model, manufacturers' estimates were utilized. The necessary power increase is based on an average of two hot day ambient takeoff conditions: (1) Sea level 40°C (ISA + 25°C) and (2) 5,000 feet 30°C (ISA + 25°C). The data were generated through computations shown in Table I. Necessary horsepower increases were referenced to sea level standard conditions by averaging factors of .8 and .73, respectively. Data for these factors are shown in Table II. These cases include a major portion of the typical helicopter operating envelope but are in no way limiting. A similar trend results when other ambient conditions are used. A curve through the data in Figure A reflects a trend toward lighter components and more powerful engines in transport category rotorcraft. Assuming this trend continues, the added costs of complying with this minimum performance standard will cross the zero cost line in the mid-1980's. This corresponds to the time period during which the first new model could conceivably be impacted by this rule. It may, therefore, logically be concluded that the economic impact of the 10 or more passenger requirement incorporated for new models under this rule is approximately zero. The remaining aspects of the applicability rule change are relieving. FAA received no adverse comments on the removal of height-velocity as a limitation for under 10-passenger seat applications. This will provide additional flexibility to operators, with an unquantifiable potential revenue benefit. FAA, likewise, received no adverse comments on the removal of the 20,000-pound weight limit for category B. This provision could result in increased revenues for operators of new or requalified rotorcraft at the higher weights allowable for category B operations. It is estimated that industry revenue increases of from $5 million to $13 million per year could be achieved in the 1982 through 1989 time frame. Such revenue increases have a net present value of $43 million in 1982 dollars, using a discount rate of 10 percent. Therefore, the overall economic impact upon the helicopter industry of this rulemaking action is to provide moderate to major economic benefit.

BILLING CODE 4910-13-M

Figure A

POWER TREND, MULTI-ENGINE ROTORCRAFT

60

Figure A

POWER TREND, MULTI-ENGINE ROTOCRAFT

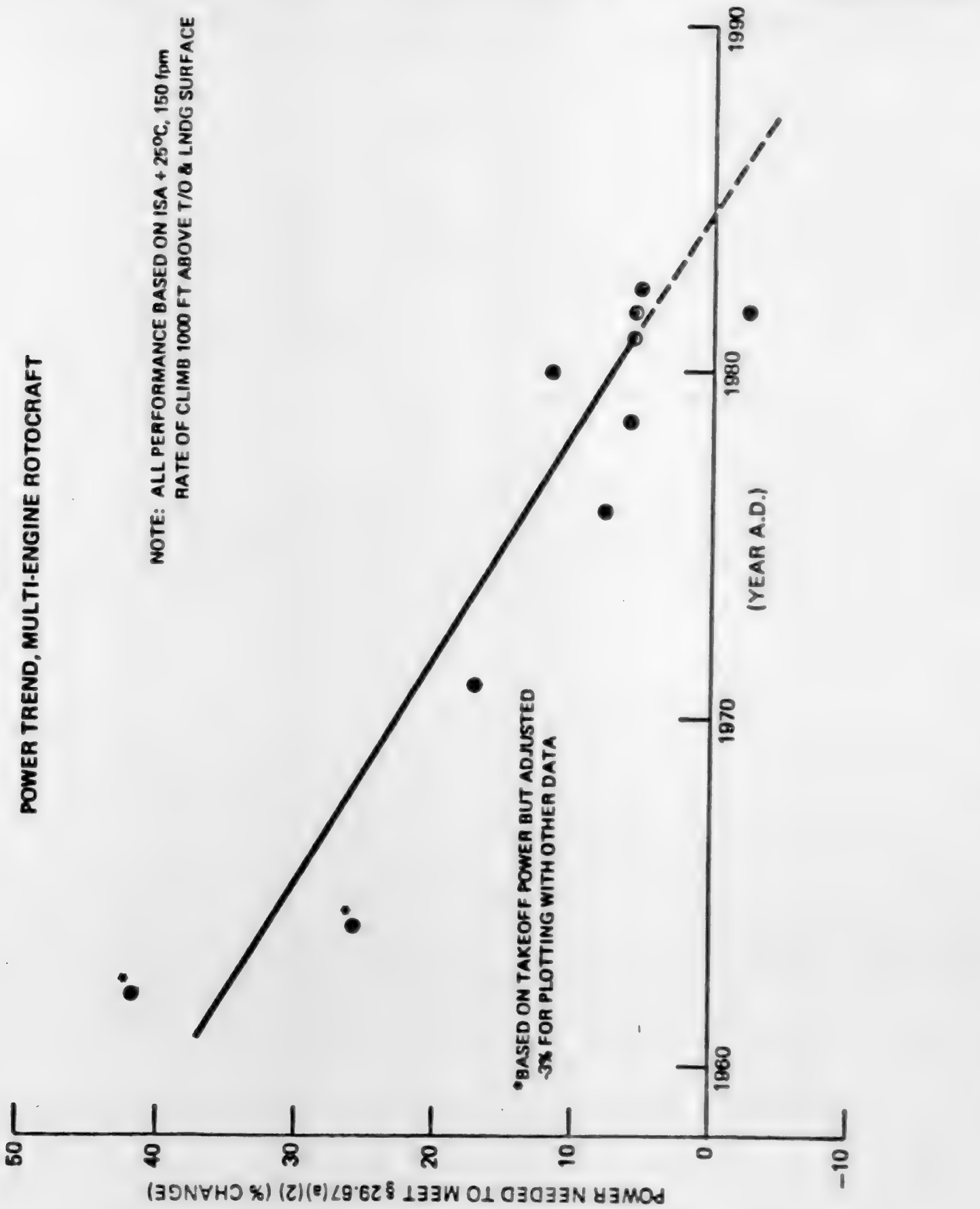

Table I

Analysis of Change in Power Required to Meet Category A Enroute Requirement of § 29.67(a)(2)

Two Ambient Conditions Analyzed (and averaged):
Takeoff and Landing WAT [Weight, Altitude, Temperature] Limit at:
(1) Sea Level: ISA + 25°C (40°C/104°F)
(2) 5,000 Feet Pressure Altitude: ISA + 25°C (30°C/86°F)

Helicopter Model	T/O & Landing Weight Limit (lbs) (1)	(2)	OEI Climb Rate 1,000' Above Surface (fpm) (1)	(2)	*Additional Horsepower (hp) Required to Meet § 29.67(a)(2) (1)	(2)	30 Minute Rating (horsepower)	**Percentage Increase in Horsepower Required (1)	(2)	Average Percentage Increase Required
A	19,000	17,750	-460	-620	390	460	1,250	39	50.4	44.7
B	18,330	16,810	-286	-306	269	250	1,250	28	29.5	28.75
C	11,200	10,450	-105	-219	96.2	129.8	900	13.9	20.6	17.25
D	16,300	16,180	150	-200	0	191	1,742	0	15.4	7.7
E	9,800	8,800	25	100	41	14.8	627	8.5	3.4	5.95
F	7,650	6,980	-80	-95	59	57.6	650	11.3	12.1	11.7
G	11,600	10,600	80	5	27.3	51.75	925	3.7	7.66	5.7
H	8,487	7,400	25	50	35.7	24.9	700	6.4	4.9	5.6
I	17,190	17,190	420	40	-156	63.7	2,078	-9.4	4.2	-2.6
J	17,500	16,550	90	-30	35.4	100	1,625	2.7	8.4	5.5 (estimated)

(*) Δ hp required = $\frac{\Delta R/C \times \text{Weight}}{29{,}700}$

(**) percentage increase = $\frac{\Delta \text{ hp}}{\text{SL Rated hp} \times \% \text{ Available}}$

Table II

Percentage Rated Power Available at Climb Conditions of § 29.67(a)(2)

Engine Model	SL-STD 30 Min Rating	30 Min Rating (1,000'/38°C)	Percentage of S.L. Rating	30 Min Rating (6,000'/28°C)	Percentage of S.L. Rating
1	1,250	950	76	890	71
2	1,380	1,099	80	988	72
3	1,625	1,365	84	1,230	76
4	600	475	79	426	71
5	660	535	81	480	73
Average Percentage of Rated Power Available			**80%**		**73%**

BILLING CODE 4910-13-C

Two of the three commenters who oppose the 10 or more passenger rule argue that this rule discriminates against U.S. helicopters and gives foreign manufacturers a distinct advantage. This is not true for helicopters to be certificated and registered in the United States. To obtain an FAA type certificate, foreign designed and manufactured helicopters must meet the same or equivalent standards that must be met by helicopters designed and manufactured in the United States. Section 21.29 makes this point clear. Foreign airworthiness regulating agencies currently recognize Parts 27 and 29 of the Federal Aviation Regulations as the world's leading civil airworthiness standard. Moreover, these standards and their predecessor parts have been used for certification of all civil models which have major impact on the marketplace worldwide. These standards will continue to be recognized and used throughout the free world as long as they reflect appropriate, up-to-date safety standards that clearly prescribe an appropriate safety standard for current technology. If the remaining portion of these certification standards can be updated to reflect an appropriate minimum level of design, they will endure as a world standard, and there will be no gross benefit or competitive advantage to manufacturers, foreign or domestic.

Two commenters state that the proposed applicability revision to Part 27 is not needed because rotorcraft of 6,000 pounds or less are not projected to have more than nine passenger seats. The FAA agrees, and this portion of the proposal has been removed.

One commenter recommends incorporating the category A and category B definitions into the rules for standardization and clarity. The FAA agrees and the definitions are incorporated into Part 1 of the FAR as presented in the explanatory portion of Notice 80–25 without substantive change.

Two commenters contend that the 10 passenger safety comparison between rotorcraft and fixed-wing aircraft in Notice 80–25 is not valid because of the slower landing speeds and the lower rate of fatalities in engine-failure-related accidents for helicopters. This capability is recognized. The FAA, however, cannot condone low-speed crashes simply because they kill fewer people. The FAA is hopeful that increased technology and upgraded performance standards can jointly lead to elimination of engine-failure-caused accidents. Future rulemaking actions in the ongoing rotorcraft review will seek to improve safety in structural, systems, and pilot-related areas through similar upgrading and modernization of the standards with the intent that major accidents, both fatal and non-fatal, can be minimized. The period when helicopters will be routinely flying in IFR conditions with large numbers of passengers is at hand. Uncontrolled descent to the surface is not a viable alternative for these operations. A moderate performance capability for future designs which is consistent with these evolving operations is envisioned in this rule. Nevertheless, this rule recognizes significant differences between fixed-wing aircraft and rotorcraft performance levels, and adopts performance standards for engine failure in rotorcraft which are much lower than those for their fixed-wing counterparts.

A general concern over retroactive application of the proposed applicability rule was noted throughout the comments. The full category A requirement in Notice 80–25 for 10 or more passenger configurations is inappropriate for current multiengine designs under 20,000 pounds because those rotorcraft have been designed to achieve reasonable payload capabilities under category B operating conditions. As seen in Figure A, the implications of adopting only the "en route climb" requirements have steadily diminished in recent years. The FAA has determined that retroactive application would not provide a safety benefit commensurate with the cost. In regard to the specified docket comments, even though an applicant is free to seek and obtain certification to full category A performance capability for competitive advantage with existing models, full category A performance will not be required retroactively for existing models of 20,000 pounds or less.

Section 29.79 Limiting Height-Speed Envelope.

No comments were received on proposed § 29.79. The FAA noted, however, that the words, "covered by paragraph (a)(2)(i) of this section," in the proposed § 29.79(a)(2)(ii) are redundant and, therefore, are deleted. Accordingly, § 29.79 is adopted essentially as proposed.

Sections 27.141 and 29.141 General.

No comments were received concerning reference to control system failures proposed in §§ 27.141 and 29.141 and those sections are adopted as proposed.

Section 29.877 Ice Protection.

Notice 80–25 proposed deleting § 29.877 and establishing updated icing requirements in a new § 29.1419. One commenter suggests retaining § 29.877 along with additional certification guidance material. Section 29.877 inadvertently implies the possibility of limited icing certification. The FAA cannot endorse limited certification because of the inability of the crew to control the limiting conditions, the difficulty in forecasting the severity of icing, and the inability to relate the effects of reported icing among different types of aircraft. This would create the potential for unsafe conditions beyond the capability of the rotorcraft without viable escape alternatives. Although the commenter would like to retain § 29.877 and allow limited icing approvals, the limited icing concerns and objections raised in Notice 80–25 have not been satisfied. Accordingly, § 29.877 is removed and marked "reserved," and § 29.1419 is adopted. Specific comments pertaining to the content of § 29.1419 are addressed elsewhere in this document.

Section 29.1309 Equipment, Systems, and Installations.

One commenter recommends that § 29.1309 be revised to specify requirements relating to probability of failure in a manner similar to that required by § 25.1309 for transport category airplanes. This recommendation is beyond the scope of this rulemaking action, but will be addressed in a subsequent rotorcraft regulatory review notice.

Section 29.1321 Instrument Arrangement and Visibility.

Notice 80–25 proposed grouping and centering specific instruments and, for IFR-certified transport rotorcraft, arrangement and visibility requirements (basic "T" concept) comparable to those for transport category airplanes. One commenter recommends that the grouping and centering requirement be "consistent with the VFR and IFR approach and touchdown visibility needs of the particular helicopter." The commenter contends that exterior visibility requirements are different for rotorcraft than for airplanes, and implies that good exterior visibility and good instrument arrangement may be mutually exclusive. The requirement for grouping and centering of flight instruments has been in this section of the rules for many years and Notice 80–25 did nothing to change this aspect of the requirement. Successful certification of existing rotorcraft which have satisfactorily demonstrated compliance with instrument and visibility requirements has proven that flight instruments may be centered on

the panel without compromising VFR capabilities. Instrument arrangement and visibility requirements for IFR flight are the same and are equally necessary for airplanes and rotorcraft. Existing rules require satisfactory exterior visibility for rotorcraft and airplanes. The FAA cannot accept the commenter's rationale and recommendation.

The commenter also recommends a change which would provide an exception to the instrument grouping, arrangement, and visibility requirements for centralized displays such as cathode-ray tubes. Specific equipment of this type is more properly addressed on an equivalent safety basis, rather than by attempting in the rule to identify this and other possible variations in equipment that may qualify as exceptions. Approvals by equivalent safety have proven satisfactory in past certifications and the FAA sees no reason why this cannot continue in the future.

Another commenter recommends a change which would have specified an exact size for the movable horizon display in the attitude indicator noted in § 29.1321(b)(1). The readability of a particular instrument depends on many factors in addition to physical size. Specifying a particular size would not, in itself, assure that the intent of the rule is met. It could, in some cases, be overly burdening. Other factors such as sensitivity, clarity of display, and physical distance from the crew may also be relevant. It would be preferable to allow applicants maximum flexibility in meeting the requirement without specifying size parameters which may not contribute significantly to the overall safety objective.

In view of this and the foregoing discussions, § 29.1321 is adopted as proposed.

Section 29.1517 Limiting Height-Speed Envelope; and Section 29.1587 Performance Information.

Under the proposed applicability requirement (§ 29.1) of Notice 80–25, category B rotorcraft could not be certificated with more than nine passenger seats, and height-velocity would be removed as a category B operating limitation, but retained in the flight manual as performance information. No comments were received objecting to the proposed deletion of height-velocity as an operating limitation for the less-than-10-passenger category B rotorcraft. However, because of economic reasons discussed in the applicability portion of this preamble, this rule permits the certification of a "category B rotorcraft" as defined in Part 1, with 10 or more passenger seats. Because of this difference and in keeping with the concept of protection for the maximum number of passengers, it is necessary to retain height-velocity as an operating limitation for category B rotorcraft with 10 or more passenger seats. This is accomplished in § 29.1(a)(2), which requires compliance with § 29.1517 for category B rotorcraft having 10 or more passenger seats. Section 29.1517 is therefore adopted as proposed. Height-velocity would still be removed as an operating limitation and retained as performance information for category B rotorcraft with less than 10 passenger seats.

The proposed wording for § 29.1587 would have required height-velocity data in the performance information section of category B rotorcraft flight manuals. In view of the revised applicability requirements, this is now pertinent only for category B rotorcraft with less than 10 passenger seats. Slightly different wording than that proposed for § 29.1587(b)(6) is therefore needed. Accordingly, the proposed § 29.1587(b)(6) is adopted with the addition of the words "except for rotorcraft incorporating this as an operating limitation."

Appendix B—Parts 27 and 29, Instrument Flight Rules Certification.

The adoption in Parts 27 and 29 of certification standards and operational limitations related to Instrument Flight Rule (IFR) approval of rotorcraft has no economic impact since there will be little change in current operating practices or procedures. Currently, an IFR interim standard, similar to that adopted in this rule, is applied for applicants seeking instrument flight approval. Adopting this rule, therefore, imposes no significant change from current requirements under which 25 instrument approvals and approximately 200 operating helicopters have shown a perfect safety record. IFR certification is not mandatory, so the applicant has the opportunity to evaluate whether the provisions of IFR capability in a given rotorcraft model will be sufficiently attractive in the market to improve revenues, profits, and market-share objectives. Moreover, many rotorcraft have been approved for IFR under earlier interim standards that are so similar to the proposed standards that this proposal does not materially alter any economic considerations. The formal adoption of the interim standards is considered to benefit manufacturers by providing a more stable design standard.

Eleven comments on the proposed IFR appendices were received. The majority of the comments propose editorial changes or word clarifications from that proposed in Notice 80–25. Commenters favor proceeding with adoption of helicopter IFR standards in a final rule, and there are no objections to incorporating certification standards in IFR appendices as proposed in the notice. The disposition of docketed comments is discussed in sequential order as they affect Appendix A (changed to Appendix B in the adopted rule) to Part 27. Changes may apply to both Parts 27 and 29 appendices although this may not be specifically noted in the discussion. Where only one part is affected, it is so noted. Numbering of the major paragraphs (I through IX) in this discussion refers to that in the final rule and as presented in the IFR appendix of Notice 80–25 for Part 27 rotorcraft. The numbering in the Part 29 IFR appendix of the notice is incorrect due to the inadvertent omission of the heading "II. Definitions."

During the formulation period of Notice 80–25, appendices entitled "Appendix A, Instructions for Continued Airworthiness," were adopted in Parts 27 and 29. It is therefore appropriate to retitle the IFR appendix "Appendix B, Airworthiness Criteria for Helicopter Instrument Flight" and to alter the corresponding reference in §§ 27.141(c) and 29.141(c).

Four commenters express concern regarding the disposition of Special Federal Aviation Regulations (SFAR) 29, and approval of rotorcraft currently operating under the SFAR "limited IFR" concept. One commenter expresses concern with the apparent lack of substantive distinction between the level of safety implied for IFR in Part 27 "Normal Category Rotorcraft" and Part 29 "Transport Category Rotorcraft" proposals. Further, this commenter feels that the equipment, systems, and installation requirements of the proposed notice drew excessively upon transport airplane criteria. This commenter proposes additional consideration of proven SFAR 29 standards into the Part 27 IFR criteria.

At the conference in New Orleans, industry representatives expressed a uniform desire to have identical standards for IFR in both normal and transport category rotorcraft. A desire for relaxed standards in Part 27 normal catgegory rotorcraft was not enumerated at the conference, nor at the August 1980 meeting in Washington, D.C. This commenter raises a valid question for consideration. "Should the IFR standards incorporate differences in level of safety between normal and transport category rotorcraft in a similar

manner to other portions of these rules, and can the SFAR experience be utilized to help in formulating requirements for the Part 27 rule?"

The FAA initiated SFAR 29 as a study to gather data and operating experience necessary to assess various issues affecting helicopter operations in the IFR environment. A limited number of approvals were granted on the basis of individual aircraft modifications, certain specified crewmembers, crew currency restriction, loading and flight envelope restrictions, and geographic limitations which were later removed. These approvals were not generally applicable to the civil helicopter pilot population or to the VFR helicopter fleet as a whole. Although the program began slowly, a moderate amount of IFR flight experience has been gained, particularly during the last two years of his study. During the intervening time period, the interim standard for IFR certification has undergone the final adjustment necessary to incorporate these standards into the rotorcraft certification rules. The explanatory information announcing the renewal of the SFAR on October 30, 1980, stated "it is the intent of the FAA to rescind this SFAR upon adoption of the new rotorcraft IFR certification standards in Parts 27 and 29 * * *." SFAR 29 has served its purpose, and FAA has no need to continue the study.

SFAR 29 has served well as an interim measure to permit joint airworthiness and operational certification of rotorcraft not originally type certificated for IFR operations to engage in IFR operations and, as originally intended, has lead to the adoption of permanent airworthiness certification standards incorporating the airworthiness features developed and the operational lessons learned under the SFAR. Nonetheless, although the SFAR's limited goal of permitting study of rotorcraft IFR operations has reached fruition in the shape of these amendments, a need remains to permit continued operations under SFAR 29 by operators who obtained approvals to operate thereunder prior to the effectiveness of these amendments. Significant amounts of money have already been expended to obtain SFAR 29 approvals, and while eligibility for new applications under the SFAR will expire, FAA considers that blanket termination of these operations would represent a significant economic burden to a number of small entities. For this reason, while future applicants for rotorcraft IFR certification must meet the airworthiness standards contained in these amendments, SFAR 29, as amended, will remain effective for operators holding approvals obtained prior to effectiveness of this amendment. SFAR 29, as amended, will be rescinded when the outstanding approvals granted thereunder have been surrendered, revoked, or otherwise terminated.

IFR flight hours for SFAR 29 operators have been gained since initial drafting of the Part 27 IFR appendix in March 1980, and the FAA has viewed these operations with continuing interest. Certain relaxatory changes in the IFR appendix for Part 27 rotorcraft are adopted in this amendment, partly as a result of the SFAR 29 experience. These changes are primarily in the area of required instruments and equipment. They are discussed below, along with other changes in response to industry comments.

I. *General.* No unfavorable comments were received on this paragraph.

II. *Definitions.* The term V_{MINI} is defined in both appendices as "instrument flight minimum speed. * * *" Some commenters feel this definition applies only to level flight, and further that an IFR approach could be legally flown at a speed below V_{MINI}. These commenters feel an additional term is needed to define minimum authorized approach speed.

The term V_{MINI} constitutes the minimum speed authorized for all instrument flight conditions and is not limited to the level flight condition. The level flight condition is not referred to anywhere in the definition of V_{MINI}. V_{MINI} is the lowest authorized airspeed for IFR climb, cruise, descent, and approach conditions, and it represents the minimum speed at which the helicopter complies with all IFR handling quality requirements, including those during approach. V_{MINI} is by definition "* * * instrument flight minimum speed * * *." It is, therefore, unnecessary to define an additional mimimum speed which is applicable only to approach conditions.

III. *Trim.* Commenters are highly supportive of the IFR trim requirement as worded in the notice. One commenter, however, feels that the wording requires a pilot adjustable control for directional trim. The wording of this requirement does not speak to a pilot adjustable trim control and such a requirement was not envisioned. Several configurations have been approved with no directional trim system as such, but through the use of balance weights and control system friction. Wording of this requirement would permit continued approval of those systems. Additional clarifying information will be provided through FAA handbook guidance.

IV. *Static Longitudinal Stability.* This section of the proposed Part 27 IFR standard contains differing requirements for single-and dual-pilot approvals. One commenter objects to varying standards by the number of crewmembers, primarily because pilot incapacitation in a two-pilot aircraft could result in an unacceptable workload for the remaining pilot. Two commenters object to varying standards by the number of crewmembers only in Appendix B to Part 27. They feel that two-pilot alleviation should be extended to Part 29. SFAR 29 experience has shown that safe operation can result from relaxed levels of stability and design for certain two-crewmember operations. Nevertheless, as stated in Notice 80–25, "It is inappropriate to permit less stringent handling qualities for transport category than for normal category, regardless of crew requirements." In answering these commenters' objections, it is necessary to point out that crew incapacitation is not a consideration in developing IFR flight criteria, and that it is important to retain the highest level of safety through the highest minimum standard for design in transport rules, regardless of the minimum number of crewmembers necessary to operate the aircraft. Therefore, the proposal which relaxes two-pilot requirements only in Part 27 is retained.

One commenter indicates a desire to use control position stability as a basis for static stability instead of control force stability for the two-pilot case. Another commenter proposes use of position stability unilaterally. Numerous studies have been conducted on the subject of static longitudinal control force stability. In addition to NASA and military studies on the subject, the FAA, in recent research and development programs with both the NASA Ames Simulator Facility and the Canadian National Research Council variable stability research helicopter, has conclusively substantiated the need for static longitudinal control force stability in helicopter instrument flight. These most recent results are documented in NASA/FAA Report FAA–RD–80–64 and in "An Evaluation of IFR Handling Qualities of Helicopters Using the NAE Airborne Simulator," April 1, 1981, presented at CASI Flight Test Symposium, Cold Lake, Alberta, Canada. It is, therefore, appropriate to retain this minimum level of safety for single-pilot operation throughout the IFR flight envelope. For a crew of two pilots, the positive static longitudinal control force stability requirement is retained only for conditions of cruise and approach. This will assure a minimum level of stability during a majority of a

typical IFR mission and during the critical approach phase.

Another commenter points out that the 10 percent return-to-trim requirement could apply to two-pilot approvals as well as single-pilot approvals. It was not FAA's intent to require a 10 percent return-to-trim condition for a crew of two pilots in Part 27 helicopters and a satisfactory level of safety can be shown, based partly on the SFAR 29 experience. This feature is being clarified by incorporating the words "For single-pilot approvals," as a lead-in to the last sentence of paragraph IV(a) of Appendix B for Part 27 helicopters.

One commenter points out that if V_H were lower than V_{NEI}, demonstrations of static longitudinal stability in cruise would not include the speed range from 1.1 V_H to 1.1 V_{NEI}. FAA is aware of that fact. FAA and industry representatives, in drafting these requirements, continued a long-standing concept presently in VFR certification rules which removes from consideration speeds substantially exceeding V_H. For helicopters with V_H below V_{NE}, this concept assures stability in a reasonable range either side of the maximum attainable level flight speed. This level of stability has proven to be suitable as a minimum airworthiness standard for helicopter IFR flight in more than 20 engineering approvals for IFR flight over the past 8 years. The FAA can see no need to increase the severity of this requirement and it is adopted as proposed.

Three commenters note that lower helicopter IFR approach speeds are forthcoming, particularly for approaches to heliports or offshore facilities. Under guidelines of previous interim standards, an approach speed of 40 knots would require demonstration of stability down to 20 knots or to ½ of the approved airspeed value. A 20-knot approach speed presumably would require stability to a hover. The requirement, as currently worded, would be inappropriate for very low speed approaches and would be difficult to interpret for recommended speeds below 20 knots. Commenters suggest a factored or ratioed method to accommodate the anticipated lower approach speeds. Two commenters suggest 0.9 V_{APP} as a minimum demonstration speed, where V_{APP} is defined as the instrument flight minimum speed utilized in instrument flight approaches. The third commenter proposes 0.8 V_{APP}. A minimum recommended IFR approach speed for helicopters is typically 60 knots. FAA is not aware of any designs certified with minimum speeds greater than 70 knots. To retain approximately the same stability level as that provided in past versions of the IFR standard, a factor of 0.7 times the minimum recommended approach speed is appropriate. For a 60-knot minimum approach speed, this factored method will require static stability throughout a speed range 18 knots below the minimum approach speed compared to the current requirement of 20 knots. At the same time, this method will decrease the required stability range for lower approach speed conditions. For example, a 30-knot minimum approach speed would result in a positive stability demonstration down to 9 knots below that value. Since this rule contains essentially the same requirements as for current designs and provides significant and appropriate relaxation for low-speed approach conditions anticipated in the near future, it is being adopted without a further comment period.

V. *Static Lateral-Directional Stability.* One commenter objects to deleting the term "substantially proportional" from previous interim standards and substituting "proportional" in the directional stability requirement of Notice 80–25. This change was proposed for the purpose of removing subjective wording from the requirement when drafting the notice. This commenter interpreted the word "proportional" to mean in constant proportion. This was not intended by the FAA in its drafting of the notice. To prevent future difficulties in interpretation, the word "proportional" is being replaced by the phrase "in approximately constant proportion" to allow some curvature in the sideslip response to pedal position while retaining the "approximately constant proportion" necessary for good directional response.

Three commenters suggest that the wording "that at which full directional control is employed" is redundant because this condition also represented a "maximum sideslip angle appropriate to the type." Even though this wording has been carried forward in several versions of the IFR interim standard, FAA agrees that these words are redundant, adding nothing to the content of the rule. Accordingly, these words are deleted from the text as adopted.

One commenter states that the wording of the lateral-directional paragraphs is too subjective because the lack of quantitative parameters frequently causes large economic impact in the design of aircraft systems. The lateral-directional requirements of the IFR interim standards have changed little over the past 10 years. These requirements have been utilized successfully on approximately 25 IFR certification programs. Various research and development efforts, both inside and outside of FAA, have been conducted during this period, but none have successfully tied quantitative values for control force and deflection versus sideslip angle to specific levels which will assure a minimum safety standard for a wide range of helicopter models. It is conceivable that minimum safe values for control motion and force versus sideslip angle vary from model to model because of the wide variations in lateral-directional characteristics among rotorcraft. Therefore, the widest possible latitude has been allowed in establishing the minimum acceptable dihedral (roll due to sideslip) characteristic. To specify purely quantitative standards in this area would exclude a certain number of otherwise acceptable designs from IFR approval. For these reasons, quantitative force and deflection criteria for lateral-directional stability are not adopted in this rule.

Another commenter proposes adding dihedral requirements for sideslip angles which exceed 10°, but this is rejected for the same reasons. This same commenter points out an inconsistency in the use of the word "must" in Part 27 versus "shall" in Part 29 in the last line of paragraph V(b). No difference was intended and "must" is adopted for both.

VI. *Dynamic Stability.* One commenter feels that all dynamic stability criteria for Part 27 helicopters should be stated in qualitative terms because many existing helicopters cannot meet the proposed requirement and operator experience under SFAR 29 does not corroborate the need for a quantitative standard. Another commenter charges that the FAA had "* * * deviated from the objective-type rule concept in one very important area—the periodic response characteristics." The FAA assumes that this comment is meant to apply to the "aperiodic" requirement in proposed IV(a)(4) and (b)(3), because the requirements for damping of "periodic" motion in paragraph VI do not deviate from previous versions of the IFR interim standard. This assumption is supported by a commenter statement in another area of the submittal: "* * * the FAA did not establish a basis in its 'explanation' for the value selected for the quantitative aperiodic response nor was the value selected shown to be compatible with the comparable characteristics of helicopters now approved * * *."

Dynamic response characteristics represent an avenue of vehicle description which by their very nature are specific, quantifiable, and understandable in universal terms. Regardless of the type of vehicle, dynamic response must be controlled to assure satisfactory operation. It has long been recognized that quantitative standards for helicopter instrument flight are needed to assure fair and consistent administration of the requirement. The fact that some current designs approved for flight under visual flight rules (VFR) do not meet a proposed standard for instrument flight rules (IFR) is not justification for concluding that the standard is inadequate. Rotorcraft must be designed to minimum safety standards and those standards should reflect only those requirements necessary for safe flight. The standard, however, must not be formulated simply to comply with characteristics of current rotorcraft.

A large majority of SFAR 29 operators are approved for a minimum crew of two pilots and a majority of those helicopters are capable of meeting the periodic (oscillatory) damping requirements in paragraph VI(b). The few others were approved largely on the basis of pilot capability and these configurations should not be considered suitable for a national airworthiness standard appropriate for the civil pilot population as a whole. The periodic standards proposed in Notice 80–25 have been applied in over 20 civil certification programs and have been well established as a true "minimum" rather than a "highly desirable" design standard. It is interesting to note that some of these models have met the dynamic stability standards without stability augmentation. Because of this considerable experience and high level of confidence, the periodic portion of this requirement is adopted as proposed.

In helicopters, aperiodic modes are frequently manifest and are of equal importance in defining safe vehicle response. The FAA stated in its explanation to Notice 80–25 that, "pilot perception of aperiodic responses is similar to that for oscillatory responses which exceed a 20-second period and typically result in gradual rates of divergence over the first few seconds of aircraft motion. Although lower in attitude rate and acceleration level than the oscillatory modes, aperiodic requirements have been held to the same level of divergence as oscillations with a 20-second period due to their more insidious nature." This discussion applies well for axes in which both oscillatory and pure divergent modes exist. In pure roll dynamics, however, no oscillatory dynamic mode exists. Instead, an aperiodic spiral mode with low roll damping is typical and must be considered because it falls within the definition of an aperiodic response. As was recommended by the second commenter, FAA researched previously approved IFR models and determined that the most unstable aperiodic spiral divergence currently approved in a normal category rotorcraft had a time to double amplitude of 6 seconds. This level of instability was described as marginal in the FAA flight test report and appears appropriate for consideration as a minimum standard. No transport category helicopters have been certified without stability augmentation. The worst condition shown during testing with single stability augmentation system (SAS) failure, however, has shown an approximate 9-second time to double amplitude. These results indicate a need to limit the larger transport rotorcraft to a level of aperiodic response which is proportionally lower in divergence than is permitted for the lighter, more maneuverable normal category case. For this reason, the 9-second standard is adopted for transport category. For small rotorcraft with a minimum crew of two pilots, no minimum aperiodic criterion is adopted because it is assumed that one pilot will be at the controls and actively flying at all times. The military specification for flying qualities of piloted V/STOL aircraft, Mil–F–83300, defines a level 2 handling quality as one which is "* * * adequate to accomplish the mission Flight Phase, but some increase in pilot workload or degradation in mission effectiveness, or both, exists." For this condition, an allowable time to double amplitude for aperiodic response is 12 seconds. The adopted FAA standard is less stringent than the level 2 requirement. Mil–F–83300 defines a level 3 handling quality, in part, as one "* * * such that the aircraft can be controlled safely, but pilot workload is excessive or mission effectiveness is inadequate, or both." Allowable times to double amplitude for pitch and roll in level 3 are 5 and 4 seconds, respectively. The military standard tends to endorse the 6- and 9-second times to double amplitude previously approved by FAA for civil application. A current FAA research and development program is addressing aperiodic divergence. Initial results support the fixed levels of aperiodic divergence adopted here. This rule, therefore, is relaxed from that proposed in Notice 80–25 to a level of aperiodic instability which allows doubling in amplitude every 6 seconds for single-pilot, normal category rotorcraft and every 9 seconds for transport category rotorcraft. The adopted stability levels are based on existing models which have established an acceptable operating experience in service, previous handling qualities standards for fixed- and rotary-winged aircraft, docketed comments on this rulemaking action, and current FAA research efforts. Suitable methods for testing aperiodic levels of divergence will be included in a forthcoming procedures manual.

VII. *Stability Augmentation System (SAS).* Several commenters recommend that the pilot delay times for SAS failure should be provided. One recommends that maximum allowable helicopter attitudes and rates following SAS failure should also be specified. Stability systems are rapidly becoming more sophisticated and complex. The ability to specify a single minimum standard for attitudes, rates, and pilot time delays which would be suitable for all stability systems in all IFR rotorcraft models is doubtful. Disposition of this information as policy material has worked well in previous fixed-wing experience. In its explanation to Notice 80–25, FAA stated that "Pilot delay times for stability system malfunction testing are excluded from this amendment, as these criteria are more appropriately addressed in flight test guidance material." Guidance on these specific areas has been drafted for a transport helicopter certification guide which will be issued shortly. Draft copies are available from the FAA Helicopter Directorate, ASW–110, Box 1689, Ft. Worth, Texas 76101. No negative comments were received on incorporating this information as guidance material and this feature will remain unchanged in the adopted rule.

One commenter states that a SAS approval based primarily on statistical analysis would not be acceptable to FAA and VII(a) should reflect that philosophy. The basic premise behind the comment is invalid. Paragraph VII states, in part that, "the occurrence of any failure condition which would prevent continued safe flight and landing must be extremely improbable." While compliance with a portion of this requirement may be satisfied by conducting SAS hardover tests, many other failure conditions are not flight tested because they are shown to be extremely improbable through a combination of failure analyses, environmental tests, mock-up tests, or component service experience. In this regard, the appropriate hardover conditions are addressed in paragraph

VII(b), which specifically includes the eligibility of statistical methods.

Two commenters point out that a wording change from the interim standard had occurred in paragraph VII(a)(1) regarding the appropriate failure conditions to be considered. The IFR interim standard limited this requirement to failures "of the primary control system." The intent of this requirement is to assure that probable SAS failures in combination with probable conditions elsewhere in the control system do not combine to prohibit safe flight. This lack of specific reference to the control system in Notice 80–25 is noted and an appropriate revision is made. The requirement is further simplified and clarified by eliminating a redundant reference to "Combinations of Failures" which can be considered within the existing terminology of "Probable Failures."

One commenter states that the flight criteria following SAS failure in paragraph VII(a)(2) should not require continued compliance with all of the flight characteristics requirements of Parts 27 and 29 because, for like conditions in § 25.672(c), fixed-wing transport aircraft are required to comply only with controllability and maneuverability requirements of Part 25. This commenter states that, "Unless the FAA identifies inherent differences between helicopters and transport category airplanes relevant to continued flight following SAS failure and defines how those differences warrant the more stringent flight characteristics being proposed in the NPRM, the same criteria should apply."

Several SFAR 29 IFR interim standards, including the most recent dated December 15, 1978, required continued compliance with not only the flight characteristics portion but the entire Subpart B of Parts 27 and 29. This Subpart B requirement was relaxed to specify only the "Flight Characteristics" portion of Subpart B in Notice 80–25. There are significant differences in handling qualities requirements between helicopters and transport category airplanes and those differences are apparent in the basic rules for these two aircraft types. The differences, however, are more basic than the differences between helicopters and airplanes. The basic Part 25 transport airplane requirements for controllability and maneuverability are IFR requirements which provide suitable characteristics for IFR flight following a SAS failure. The flight characteristics requirements of Part 29 for rotorcraft are VFR requirements intended to provide suitable characteristics for VFR flight. For this reason, sections of Part 29 are not necessarily comparable to sections of Part 25 on a one-to-one basis as urged by the commenter and the requirements referenced in Part 29 are certainly not more stringent than those of Part 25. The less-stringent VFR handling qualities are permitted on the basis of a lower level of stability inherent to helicopters under SAS failure conditions. To further lower the standard would compromise a SAS failure criterion which has been used successfully in approximately 25 IFR approvals.

The commenter states that the full flight characteristics standard had not been met on one particular FAA approval and that the requirement should therefore be further relaxed. This FAA standard should not be structured based on exceptions. Rather, it should provide an appropriate minimum. To lower this standard because of a single case for which the standard did not apply is unwarranted and the wording of this section is adopted as proposed in the notice.

One organization recommends that credit toward meeting the single-pilot IFR stability requirements be given for installing an autopilot. The term "autopilot" has been subject to many definitions and interpretations in the helicopter community. It has been defined as anything from a SAS which would be eligible under paragraph VII, to a conventional autopilot which manipulates the primary flight controls and has no pilot "fly through" capability. The definitions also vary in reliability and complexity from a single-axis, wind-driven, wings-leveler device to a highly reliable, multipath, integrated system which would perform virtually all normal instrument flight maneuvers under probable failure conditions. To allow blanket credit for such a variation in capabilities cannot be permitted. If the system stabilizes the rotorcraft by allowing the pilot to "fly through" and perceive a stable, well-behaved vehicle, it qualifies as a SAS, clearly receives credit under paragraphs III through VII, and may be utilized for compliance with all handling qualities requirements. If a conventional autopilot does not provide "fly through" capability or allow the pilot to perceive a stable, well-behaved vehicle through his manipulation of the flight controls and the related feedback from those controls, then it tends to remove him from active involvement in flying and is eligible primarily as a workload reliever. Credit has been granted on that basis during previous certification programs. Since the commenter does not incude any justification to show why these provisions for "autopilot credit" should be changed, they will continue to be applied as before, and this portion of the rule is being adopted as proposed.

VIII. Equipment, Systems, and Installation. One commenter states that small helicopters should not have to comply with the Category A power supply requirement of § 29.1309(d) as indicated in the lead sentence of paragraph VIII. A category A electrical system requirement was never intended for small helicopters. Upon closer inspection of this paragraph, it is determined that the reference to § 29.1309 was not needed to define basic equipment and installation requirements and is removed. In its place a reference to § 29.1433 is added to the requirement for small helicopters to provide criteria for vacuum systems equivalent to that for electrical systems in § 29.1431. This change also helps clarify a later reference to "power supply" in paragraph VIII(b)(3) which was unclear to two commenters. The addition of a reference to § 29.1433 clearly indicates the eligibility of power sources other than electric for those flight instruments requiring a power supply. The addition of examples of sources used to power required flight instruments in paragraph VIII(b)(3) further aids in clarifying that requirement.

Two commenters feel that the required flight instruments should be clearly defined and listed as is done in § 25.1303. Upon review, it was found that § 25.1303 lists the same flight instruments as § 29.1303 plus a mach meter and speed warning which are currently only in Part 25. A further listing of the required flight instruments in the IFR appendix would be redundant with § 29.1303 and is, therefore, not incorporated.

One commenter feels that a vertical speed indicator should be required for IFR flight and four commenters want to delete the requirement for an instantaneous vertical speed indicator (IVSI), particularly for small rotorcraft. A fifth commenter recommends developing a performance standard for IVSI's.

A vertical speed indicator is specifically required in § 29.1303. As to the remaining comments concerning a vertical speed indicator, it is apparent that considerable confusion exists in the term "IVSI," and that neither industry nor government has defined the term sufficiently to clearly determine its meaning or its appropriate level of performance. Even though the IVSI requirement has been carried forward in renewed versions of the helicopter interim IFR standard, it is inappropriate

for a final rule, lacking a defined standard of performance. For this reason, the proposed requirement for an IVSI in place of the standard vertical speed indicator is not adopted.

Two commenters suggest that the statement in VIII(a)(2) which prohibits the use of standby batteries for engine starting should be removed from the Part 27 requirement. These comments are based primarily on the high cost of existing self-contained standby attitude indicators and on satisfactory operating experience in some SFAR 29 configurations which use standby batteries to assist in engine starting. One of these commenters argues that this is a particular burden for small helicopters because of the high initial capital expenditure and the high percentage loss of payload. FAA has considered these comments in light of the SFAR 29 experience and the difference in intended level of safety for normal and transport categories. FAA agrees with the less stringent requirement suggested by these commenters for normal category. The requirement to exclude the standby batteries from engine starting is therefore removed from the normal category requirement.

One commenter indicates that the requirement for a magnetic gyro-stabilized direction indicator is excessively stringent for normal category rotorcraft. The commenter's opinion is based on SFAR 29 experience with a gyro-stabilized direction indicator set by reference to a magnetic direction indicator (often referred to as a whisky compass). FAA's experience in certifying direction indicators for IFR flight in helicopters reveals that a magnetic direction indicator, used in conjunction with a non-magnetic gyroscopic indicator, is suitable for flight in smooth air. For operation in moderate turbulence, however, the magnetic indicator is unsuitable. The effect is more degrading and much more severe in helicopters than for their fixed-wing counterparts. In Notice 80–25, FAA stated that "* * * the nonstabilized magnetic indicator, which is subject to many errors, is inadequate as the primary source of directional information, but it must remain as an emergency source. The standard directional gyro is also inadequate as the primary source of directional information because of drift and the requirement to set it by reference to some other precise reference. Therefore, a gyro-stabilized magnetic direction indicator would be required." Comments submitted have not addressed the degraded level of navigation performance associated with helicopters operated in turbulence without a magnetic gyro-stabilized indicator. Therefore, the requirement for a magnetic gyro-stabilized direction indicator proposed in Notice 80–25 is considered necessary to assure safe navigation capability and is adopted in the final rule.

One commenter states that the isolation features contained in paragraph VIII(b)(5) (that is, paragraph VIII(b)(6) of Notice 80–25) should not be required for normal category rotorcraft because these were basically transport airplane standards. The commenter feels essentially that independent sources are not necessary. These requirements are intended to assure that, for dual-pilot configurations, the first pilot station has a dedicated source for required flight instruments and that the required flightcrew operations are not compromised by the installation of additional equipment. Handling qualities criteria for normal category two-pilot operation are significantly relaxed from those required for single-pilot approval. Part of this relaxation includes a very limited longitudinal stability requirement and the lack of a return to trim requirement. This low initial level of stability makes it mandatory that accurate airspeed, altitude, and attitude information remain available to the required crew complement during both normal and reasonably anticipated failure conditions. This requirement is much more vital to a helicopter, which barely meets two-pilot helicopter instrument flight criteria, than it would be for small or transport airplane applications or for single-pilot IFR helicopters because all of those configurations have both a static longitudinal stability requirement throughout the flight envelope and a 10 percent return-to-trim requirement. These two requirements greatly aid aircraft control when airspeed indications are lost. Also, power changes in helicopters typically result in significantly greater longitudinal control changes than in fixed-wing airplanes. In the absence of at least one reliable airspeed and altitude indication, airspeed control in IFR helicopters can be quickly lost when performing even moderate power changes. For these reasons, it is necessary to adopt the proposed level of design for configurations requiring two pilots.

For configurations meeting the normal category single-pilot requirement, instruments for a second crew station (for training or at customer request) would not be "required instruments" and could be powered from existing sources which are used for other equipment.

One organization commments that by requiring calibration of the alternate static source in paragraph VIII(b)(5)(iv) (that is, paragraph VIII(b)(5)(ii) of Notice 80–25), this requirement would result in alternate source calibration cards in the cockpit. A calibration card, however, would only be required if the alternative source could not meet the 50-foot accuracy requirement of §§ 27.1325 and 29.1325.

One commenter states that §§ 27.1365 and 29.1365 allow circuit breakers or fuses to be used as protective devices, but in practice FAA has not permitted fuses on flight-critical items due to IFR pilot workload constraints. This commenter recommends a regulation to require circuit breaker protection for all required IFR systems. FAA has found both circuit breakers and fuses acceptable as protective devices for essential systems provided they can be located and identified to allow ready reset or replacement in flight. This requirement is found in §§ 27.1357 and 29.1357. FAA does not prohibit the use of fuses provided they are accessible and replaceable in flight and that sufficient spare fuses are available to the crew. We can find no justification for changing the requirements at this time.

One commenter suggests that autopilots and flight directors be included under the requirements of paragraph VIII(b)(5)(i) and that specific cockpit lighting requirements, switch positions, and annunciation be required for helicopter IFR. Neither flight directors nor autopilots are required for IFR certification in helicopters. They, therefore, do not come under the definition of "required flight instruments" (those listed in §29.1303) and are inappropriate for inclusion in this requirement. Cockpit lighting, switch position, and annunciator requirements are contained in general regulatory requirements and in more specific handbook criteria and policy guidance. Requirements in these areas are generally worded to allow innovation and variation in design. For a design requirement which has as its primary purpose establishing a minimum level of safety, incorporating specific requirements for these areas would not enhance safety or otherwise serve the needs of industry. The freedom to allow innovation in design should be retained and for this reason more specific requirements are not imposed.

Several commenters suggest clarifying the wording of paragraph VIII. Most of the wording was initially derived from

similar requirements for other types of aircraft in other Federal Aviation Regulation parts. These comments have been reviewed and several changes are made to simplify and clarify wording, with no change in intent from Notice 80–25: (1) Examples of typical power supplies are included in paragraph VIII(b)(3) to indicate that the power supply indicator is not intended solely for electrical instruments; (2) Words are added in paragraph VIII(b)(4) to indicate that this requirement is only for multiple systems which perform like functions; (3) The words "the pilots" in paragraph VIII(b)(6)(ii) (of Notice 80–25) were changed to "a pilot" (in paragraph VIII(b)(5)(ii) of the rule) to more clearly indicate that information essential to safety of flight must remain available to at least one pilot following single or probable failures; (4) Wording is added to paragraph VIII(a)(2) in the rule (proposed paragraph VIII(a)(3)) to indicate one pilot's primary attitude indicator could satisfy the standby attitude indicator requirement for two-pilot configurations; (5) Paragraphs VIII(b) (5) and (6) of Notice 80–25 are reorganized, reworded, and simplified. The paragraph designator (6) is eliminated in the final rule. Concepts have been clarified, consolidated, and described by simpler wording throughout these paragraphs, and no change in meaning from Notice 80–25 is intended.

IX. Rotorcraft Flight Manual. One commenter proposes a requirement that new performance data must be presented either in the manufacturer's format or in a format created by the "STC facilities." It is unclear how such a requirement would improve safety. Any flight manual performance presentation which is clear and functional is acceptable to FAA regardless of format. The proposed change offered no rationale to show why other methods of presentation should not be allowed. Therefore, the proposal is not incorporated in this flight manual requirement.

Sections 27.1419 and 29.1419 Ice Protection.

The rule adopted in §§ 27.1419, 29.1419, and Appendix C to Part 29 establishes minimum safety standards for certification of rotorcraft for flight in icing conditions. Compliance with this rule is not required of all rotorcraft; it would be required only for those rotorcraft for which icing certification is requested. This rule simply requires that rotorcraft be capable of operating safely in icing conditions and defines the natural icing environment for certification. The defined icing environment is the same as that utilized and accepted for many years in icing certification of fixed-wing aircraft, except that inherent altitude limitations of helicopters are recognized.

Even though no U.S.-manufactured helicopters have been certified for flight in icing conditions, the need for icing certification criteria for helicopters has been recognized by industry and FAA. The helicopters industry, some time ago, requested that criteria be developed, and the FAA embarked on a program to accomplish this goal. FAA has developed icing special conditions for current rotorcraft programs and these requirements are substantively identical to those incorporated by this rule. Even if formal icing rules were not adopted, icing requirements similar to these would be applied as special conditions in those cases where icing certification is requested. There is, therefore, no economic impact in adopting this icing rule. Certification of rotorcraft in icing is a logical next step to the rapidly increasing usage and projections for increased future operation of rotorcraft in IFR conditions. A foreign-manufactured helicopter was recently approved by that foreign country for flight in icing conditions and developmental flight tests by several U.S. helicopter manufacturers have begun with the intent to obtain icing certification on new and existing models.

This icing rule is in accordance with the economic and regulatory guidelines of Executive Order 12291. As noted in Notice 80–25, the adoption of icing certification standards has no economic impact. Since certification for icing is not required of any rotorcraft, this rule merely offers an additional option for expanding rotorcraft utilization. The manufacturer and operator are not obligated to comply with these icing requirements and they have the option of deciding whether or not adoption of the capability to operate in icing offers an overall economic benefit for their particular application.

If flight in icing conditions is to be attempted, certified ice protection provisions offer positive safety benefits to people traveling in rotorcraft. Flight in icing conditions in any aircraft can entail risk due to increased structural loads and drag, and loss of lift, engine power, aircraft performance, stability, controllability, and forward visibility. Operating rotorcraft in icing can introduce additional risks due to the potential loss of autorotational capability with an iced main rotor and high vibrational stresses with an unbalanced rotor when asymmetrical ice shedding occurs. Certification with adequate ice protection provisions can eliminate these risks and, thereby, enhance safety for people traveling in rotorcraft in icing conditions.

In view of the need, economic viability, and positive safety benefits of rotorcraft icing certification, the FAA participated jointly with the U.S. Army in icing research flight tests involving various helicopters. In consideration of this experience and other pertinent icing data, a rotorcraft icing certification standard was proposed in Notice 80–25. Comments have been received, carefully considered, and are discussed as follows.

Most of the comments submitted on the proposed icing rules, along with the FAA reponses, apply to both the proposed §§ 27.1419 and 29.1419, although this may not be specifically noted in the comments. Where a comment applies to only one specific section, it is so noted.

It was correctly noted by one commenter that an Appendix A had been added to Parts 27 and 29 in the last year. Appendix A, Airworthiness Criteria for Helicopter Instrument Flight, and Appendix B, Icing Certification, as proposed in Notice 80–25, therefore become Appendix B and Appendix C, respectively, in the final rule.

Several commenters suggest changes that would allow limited or partial icing certification, that is, approval of an icing flight envelope which limits the range of natural icing parameters (liquid water content, droplet size, and outside air temperature) in which the rotorcraft can operate, or approvals with an ice protection system which provide only partial capability to operate in natural icing conditions. It is recognized that a specific rotorcraft may not have the capability to operate at the higher altitudes specified in Appendix C. Altitude, unlike other icing parameters (liquid water content, droplet size, and temperature), can be controlled by the flightcrew and therefore may be considered as a limiting condition in icing certification provided an operationally practical altitude envelope is available. It is not the intent of the FAA to require certification to icing parameters which cannot be encountered within the altitude capability of the rotorcraft. However, the concerns and objections to limited icing certification were stated in Notice 80–25. These are based on minimum safety considerations. Although several commenters recommend permitting limited certification, neither the FAA nor the commenters could provide a means of satisfying these concerns and

objections. Therefore, the commenters' suggestion to permit limited or partial icing conditions per se is not adopted at this time. However, limiting a helicopter's altitude will result in changes to associated parameters such as liquid water content and temperature. A pilot would not directly control liquid water content or temperature, but at lower altitudes, the most severe combinations would not be encountered. A suitable icing envelope relating the changes in these parameters will be included in a forthcoming procedures manual.

One commenter recommends that Appendix C, which defines the icing environment for certification, be adopted as an "interim rule" for a fixed period of time, pending verification of the raw data and statistical procedures used to construct the curves. The criteria of Appendix C were developed by NACA (now NASA) and have been used successfully by FAA for over 25 years for certification of fixed-wing aircraft in icing conditions. Special consideration for the limited altitude capability of most rotorcraft is incorporated in the rotorcraft icing rule. However, in response to requests from industry, the FAA is sponsoring a reassessment of the criteria in Appendix C. Initial results of that review do not substantiate a change. In view of this and the long history of successful application, it is inappropriate to apply Appendix C on an interim basis at this time. Should the final results of the reassessment indicate a change is appropriate, such a change would be considered at that time. This effectively accomplishes the intent of the commenter's recommendation without being committed to the effort and expense of further rulemaking at a specified future point when final results may not be available and a change may or may not be warranted. Accordingly, Appendix C is being incorporated in the rule as proposed.

Two commenters recommend that the proposed rule be revised to permit extrapolation, due to the great expense and low probability of encountering extreme conditions during natural icing tests. Considerable analysis to show compliance with extreme conditions has been successfully used in icing certification of fixed-wing aircraft. It may be considered by the certification authority for rotorcraft icing approvals, depending on the similarity of results obtained by flight tests in natural ice with results obtained by analysis. In general, the rules contain minimum safety criteria. Specific means of compliance are not usually specified, in order to allow applicants maximum flexibility in methods of showing compliance. The subject of extrapolation is more appropriately addressed in policy and guidance material and is, therefore, not addressed in these rules.

One commenter recommends a series of changes to Parts 91 and 135 dealing with operation of rotorcraft in icing. It is acknowledged that the operational rules should allow for operation of icing-certified rotorcraft in icing conditions. Notice 80–25 and this amendment deal primarily with certification criteria, and it is planned to address operational proposals in a subsequent notice as described in the background information to Notice 80–25. The commenter's recommendations relative to operation of rotorcraft in icing, therefore, are deferred until issuance of the operations notice.

One commenter states that the wording, "the rotorcraft must demonstrate", in §§ 27.1419(b) and 29.1419(b) gives the impression that the rotorcraft is capable of conducting a demonstration all by itself. The wording is clarified to eliminate this interpretation. This paragraph will begin with the words, "It must be demonstrated that * * *." Although this wording does not appear in comparable sections of Parts 23 and 25, this requirement for demonstration is included in the rotorcraft rules to make it clear that the applicable requirements must be shown by actual demonstration. The commenter also points out that the term "flight envelope" in airplane certification rules refers to the maneuvering and gust envelope. Accordingly, the first sentence of §§ 27.1419(b) and 29.1419(b) is clarified to specify that the icing capability of the rotorcraft must be demonstrated and that this applies within the altitude envelope of the rotorcraft. As noted previously, this altitude envelope must be operationally practical.

Two commenters recommend changes to §§ 27.773, 29.773, 27.1093, 29.1093, 27.1323, 29.1323, 27.1325 and 29.1325 of the certification rules dealing with ice protection. The recommended changes would make these sections compatible with the icing certification requirements of §§ 27.1419 and 29.1419. The icing criteria referenced in §§ 27.1419 and 29.1419 are appropriate for IFR pitot-static-system protection, but would be an excessively stringent design criterion for VFR approval under §§ 27.1323, 29.1323, 27.1325, and 29.1325. The compatibility of §§ 27.773, 29.773, 27.1093, and 29.1093 will be addressed in subsequent notices.

One commenter expresses the opinion that the wording of proposed §§ 27.1419(a) and 29.1419(a) could restrict a manufacturer from installing any anti-icing equipment on a helicopter unless complete ice protection certification is obtained for the helicopter. Identical wording as contained in the present fixed wing rules does not restrict manufacturers from installing such equipment. Installing equipment on a "no-hazard" basis has been allowed, even if the installation did not result in an operational approval. Also, the wording proposed by the commenter impinges on operational considerations, while this rule deals with certification requirements. This comment, however, raises a valid issue and wording in §§ 27.1419(a) and 29.1419(a) is changed to more accurately reflect that these requirements apply to rotorcraft for which full certification in icing conditions is desired.

One commenter states that §§ 27.1419(c) and 29.1419(c) imply that "complete" flight testing is required in measured natural atmospheric icing conditions in addition to testing by one or more other methods. The commenter expresses the opinion that this requirement is unreasonable. The rules clearly allow compliance by a variety of methods, provided they include flight tests in measured natural conditions to validate results obtained elsewhere. There is no inference of "complete" flight testing in measured natural conditions in this rule. If complete flight testing were prescribed, there would be no benefit or need to include other methods. The amount of flight testing required in measured natural conditions versus other methods will depend to a large extent on the substantiating data provided by the applicant in each particular certification program. The icing certification rules prescribe minimum safety criteria and permit reasonable flexibility in meeting these requirements. The FAA is aware of the time and expense involved in attaining icing certification. Substantial research and developmental effort and funding have been invested by the FAA over the past several years to reduce the time and cost associated with icing certification, and considerable progress has been made toward this goal. This commenter also proposes revising §§ 27.1419(c) and 29.1419(c) to permit certification by one or more methods, including flight tests in natural conditions. This proposal is unacceptable as it would permit icing certification without flight testing in natural conditions. At our current level of technology, some flight tests in natural conditions are an essential, minimum safety requirement and are

necessary to validate results from other methods. In view of the foregoing considerations, the FAA disagrees that this requirement is unreasonable and this proposal is adopted without substantive change.

It is noted by one commenter that the proposed wording of §§ 27.1419(d) and 29.1419(d) is redundant in that rotors are included in the definition of airframe in Part 1. The FAA concurs and the words "and rotor systems" are deleted in the final rule.

Another commenter indicates that Subpart E presently contains all the icing requirements for the engine installation, and that the wording of the proposed §§ 27.1419(d) and 29.1419(d), which state "certain additional provisions of Subpart E of this part may be applicable", is subject to misinterpretation. The FAA concurs, and the revised wording suggested by the commenter is adopted. It is noted for clarification, however, that the revised wording does not preclude testing the engine installation for actual flight icing conditions that may present a hazard to engine operation, such as ingestion of ice shed from the rotorcraft.

One commenter recommends that the proposed § 27.1419 be written so that, if a small helicopter were to be approved in IFR or icing conditions, the total rotorcraft would be certificated under Part 29 as a transport category rotorcraft. Small helicopters have been successfully certified and operated in IFR conditions. Updated IFR certification rules for Part 27 rotorcraft are adopted as Appendix B of that part. The icing certification rules for Parts 27 and 29 rotorcraft are identical. However, to require small helicopters to comply with Part 29 transport category rules could impose rules which may be inappropriate and unnecessarily burdensome for small rotorcraft. Compliance with the IFR and icing rules of Part 27 would provide an adequate level of safety for small rotorcraft. Accordingly, proposed § 27.1419 is adopted without substantive change.

Economic Summary

The FAA conducted an evaluation of the economic impact of these regulatory changes. A copy of the evaluation has been placed in the docket. The findings of this evaluation are summarized below.

Applicability—Category A Performance Requirements

This change would require new design rotorcraft with 10 or more passenger seats to be multiengine and have category A performance in parts of the flight regime.

The FAA concludes that this change will impose no additional costs on the private sector for the following reasons:

1. Industry sources state there has not been a demand for new design single-engine rotorcraft configured to carry 10 or more passengers and none is expected in the future. Therefore, manufacturers have elected to develop only twin-engine designs for helicopters configured for 10 or more passengers. This rule formalizes current industry practice without restricting either operators or manufacturers since single-engine helicopters are being and will continue to be produced under current type certificates and modifications. Therefore, there will be no economic burden on either manufacturers or operators and passengers will realize additional safety benefits.

2. This change will require an increase in installed power from what is generally available in current models, but any helicopter type certificated under this change would be likely to have the necessary installed power whether or not the change is enacted. No helicopter could be type certificated under this changed rule before 1985, and Figure A shows that, because of the general industry trend toward increased installed power, new model helicopters will meet the requirement before a new helicopter could be type certificated under the change.

The FAA concludes that this rule change will have safety benefits which are difficult to quantify. A review of the available rotorcraft accident data shows that if category A performance had been available, it may have prevented nine past accidents. However, since the change applies only to new model rotorcraft, it would not prevent similar accidents of present model rotorcraft in the future.

Applicability—Other Changes

The removal of height-velocity as a limitation for under-10-passenger-seat applications will provide additional flexibility to helicopter operators at no cost. This change will increase the productivity of rotorcraft in such applications, but the value of that productivity increase is unquantifiable. In some cases, to comply with the current rule, operators have to reduce productivity of a flight by reducing payload or decreasing fuel. This change eliminates the need for such adjustment.

Removal of the 20,000-pound weight limit for category B could result in increased revenues for operators if current rotorcraft models are requalified at higher weights. FAA estimates the value of the revenue increases at $5 million to $13 million per year from 1982 through 1989 for a total of $62.7 million with a net present value of $43.0 million. New large helicopters will also have the benefit of this increased weight capability.

IFR Certification Standards (Parts 27 and 29)

The instrument flight rules (IFR) certification standards will impose no new costs on helicopter operators and manufacturers. IFR certification is currently administered through "Interim Standards" which contain similar requirements to those in this amendment. Moreover, the rule change permits helicopter modifiers and operators to obtain approvals for IFR operation, and approvals under the rule change will reduce the regulatory burden because they will be broader in scope than current SFAR 29 approvals, will be sought less frequently, and will include no recurrent requalification features. This rule change will also permit manufacturers of small helicopters to obtain IFR certification at a slightly lower cost than under the current "Interim Standard" due to relaxation of requirements in some areas. There is, therefore, only a small, unquantified economic benefit in adopting this rule.

Since this rule change essentially formalizes the regulatory mechanism for obtaining IFR certification, it is not expected to result in any quantifiable safety benefits.

Icing Certification Standards (Parts 27 and 29)

The icing certification standards in this amendment provide regulatory guidance on how to obtain an additional level of operational capability. A helicopter operator, therefore, will weigh this increased operations capability against increased production costs that will be factored into the purchase price of the aircraft. In the past, the FAA has developed special conditions to certify rotorcraft for icing conditions. Issuing special conditions is a time-consuming process. Proposed special conditions are published in the **Federal Register**, comments are analyzed, and then a final document is issued and published.

These amendments incorporate standards currently contained in special conditions into the FAR icing certification rules. If this icing rule were not adopted, those special conditions would continue to be administered for icing approval. Therefore, this rule will have only a positive economic impact for manufacturers, operators, and the FAA. A manufacturer will incur the

costs of obtaining icing approval only if it has determined that marketing benefits outweigh production costs and it wishes to have its helicopters certificated for operation in icing conditions. Both manufacturers and operators are likely to find icing certification advantageous from both a marketing and utilization standpoint because it would allow full use of the IFR capabilities of the rotorcraft.

Icing certification will allow increased utilization and will have an unquantifiable safety benefit. It will reduce the risk of accidents during flight in icing conditions. Because of increasing rotorcraft operations, exposure to these conditions may increase greatly in the future.

SUMMARY OF BENEFITS AND COSTS

[Millions of 1983 dollars]

	Benefits	Costs	Benefits/cost ratio
10 or more passengers, category A	Improved Safety	Negligible	Not applicable
Remove height-velocity limitations	Increased productivity; Unquantifiable Revenue Benefit	Negligible	Not applicable
Remove 20,000 lb. limitation	$62.7 (7 years) (or $43.0 present value)	Negligible	Not applicable
IFR certification	Reduced regulatory burden; Small, unquantifiable economic benefit	Negligible	Not applicable
Icing certification	Increased utilization resulting in increased operator revenues	Negligible [1]	Not applicable

[1] Cost negligible since icing certification is not mandatory. However, manufacturers' costs of icing certification will be offset by increased sales to operators wishing to utilize rotorcraft in icing conditions.

Regulatory Flexibility Determination

A final regulatory flexibility analysis of this amendment is not necessary since Notice 80–25 was issued before January 1, 1981. However, the overall impact of the amendments should not be adverse for small entities.

List of Subjects

14 CFR Part 1

Airmen, Flights, Balloons, Parachutes, Aircraft pilots, Pilots, Transportation, Agreements, Kites, Air safety, Safety, Aviation safety, Air transportation, Air carriers, Aircraft, Airports, Airplanes, Helicopters, Rotorcraft, Heliports.

14 CFR Parts 27 and 29

Air transportation; Aircraft, Aviation safety, Safety, Tires.

Adoption of the Amendment

Accordingly, Parts 1, 27, and 29 of the Federal Aviation Regulations (14 CFR Parts 1, 27, and 29) are amended as follows, effective March 2, 1983.

PART 1—DEFINITIONS AND ABBREVIATIONS

1. By amending § 1.1 by adding the following definitions after the definitions of "Category:"

§ 1.1 General definitions.

* * * * *

"Category A," with respect to transport category rotorcraft, means multiengine rotorcraft designed with engine and system isolation features specified in Part 29 and utilizing scheduled takeoff and landing operations under a critical engine failure concept which assures adequate designated surface area and adequate performance capability for continued safe flight in the event of engine failure.

"Category B," with respect to transport category rotorcraft, means single-engine or multiengine rotorcraft which do not fully meet all Category A standards. Category B rotorcraft have no guaranteed stay-up ability in the event of engine failure and unscheduled landing is assumed.

* * * * *

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

2. By removing the word "and" at the end of § 27.141(b)(1); by adding a new § 27.141(b)(3); and by adding a sentence to the end of § 27.141(c) to read as follows:

§ 27.141 General.

* * * * *

(b) * * *

(3) Sudden, complete control system failures specified in § 27.695 of this part; and

* * * * *

(c) * * * Requirements for helicopter instrument flight are contained in Appendix B of this part.

3. By adding a new § 27.1419 to read as follows:

§ 27.1419 Ice protection.

(a) To obtain certification for flight into icing conditions, compliance with this section must be shown.

(b) It must be demonstrated that the rotorcraft can be safely operated in the continuous maximun and intermittent. maximum icing conditions determined under Appendix C of Part 29 of this chapter within the rotorcraft altitude envelope. An analysis must be performed to establish, on the basis of the rotorcraft's operational needs, the adequacy of the ice protection system for the various components of the rotorcraft.

(c) In addition to the analysis and physical evaluation prescribed in paragraph (b) of this section, the effectiveness of the ice protection system and its components must be shown by flight tests of the rotorcraft or its components in measured natural atmospheric icing conditions and by one or more of the following tests as found necessary to determine the adequacy of the ice protection system:

(1) Laboratory dry air or simulated icing tests, or a combination of both, of the components or models of the components.

(2) Flight dry air tests of the ice protection system as a whole, or its individual components.

(3) Flight tests of the rotorcraft or its components in measured simulated icing conditions.

(d) The ice protection provisions of this section are considered to be applicable primarily to the airframe. Powerplant installation requirements are contained in Subpart E of this part.

(e) A means must be indentified or provided for determining the formation of ice on critical parts of the rotorcraft. Unless otherwise restricted, the means must be available for nighttime as well as daytime operation. The rotorcraft flight manual must describe the means of determining ice formation and must contain information necessary for safe operation of the rotorcraft in icing conditions.

4. By adding an Appendix B to Part 27 to read as follows:

Appendix B.—Airworthiness Criteria for Helicopter Instrument Flight

I. *General.* A normal category helicopter may not be type certificated for operation under the instrument flight rules (IFR) of this chapter unless it meets the design and installation requirements contained in this appendix.

II. *Definitions.* (a) V_{YI} means instrument climb speed, utilized instead of V_Y for compliance with the climb requirements for instrument flight.

(b) V_{NEI} means instrument flight never exceed speed, utilized instead of V_{NE} for compliance with maximum limit speed requirements for instrument flight.

(c) V_{MINI} means instrument flight minimum speed, utilized in complying with minimum limit speed requirements for instrument flight.

III. *Trim.* It must be possible to trim the cyclic, collective, and directional control forces to zero at all approved IFR airspeeds, power settings, and configurations appropriate to the type.

IV. *Static longitudinal stability.* (a) *General.* The helicopter must possess positive static longitudinal control force stability at critical combinations of weight and center of gravity at the conditions specified in paragraph IV (b) or (c) of this appendix, as appropriate. The stick force must vary with speed so that any substantial speed change results in a stick force clearly perceptible to the pilot. For single-pilot approval, the airspeed must return to within 10 percent of the trim speed when the control force is slowly released for each trim condition specified in paragraph IV(b) of the this appendix.

(b) *For single-pilot approval:*

(1) *Climb.* Stability must be shown in climb throughout the speed range 20 knots either side of trim with—

(i) The helicopter trimmed at V_{YI};

(ii) Landing gear retracted (if retractable); and

(iii) Power required for limit climb rate (at least 1,000 fpm) at V_{YI} or maximum continuous power, whichever is less.

(2) *Cruise.* Stability must be shown throughout the speed range from 0.7 to 1.1 V_H or V_{NEI}, whichever is lower, not to exceed ±20 knots from trim with—

(i) The helicopter trimmed and power adjusted for level flight at 0.9 V_H or 0.9 V_{NEI}, whichever is lower; and

(ii) Landing gear retracted (if retractable).

(3) *Slow cruise.* Stability must be shown throughout the speed range from 0.9 V_{MINI} to 1.3 V_{MINI} or 20 knots above trim speed, whichever is greater, with—

(i) the helicopter trimmed and power adjusted for level flight at 1.1 V_{MINI}; and

(ii) Landing gear retracted (if retractable).

(4) *Descent.* Stability must be shown throughout the speed range 20 knots either side of trim with—

(i) The helicopter trimmed at 0.8 V_H or 0.8 V_{NEI} (or 0.8 V_{LE} for the landing gear extended case), whichever is lower;

(ii) Power required for 1,000 fpm descent at trim speed; and

(iii) Landing gear extended and retracted, if applicable.

(5) *Approach.* Stability must be shown throughout the speed range from 0.7 times the minimum recommended approach speed to 20 knots above the maximum recommended approach speed with—

(i) The helicopter trimmed at the recommended approach speed or speeds;

(ii) Landing gear extended and retracted, if applicable; and

(iii) Power required to maintain a 3° glide path and power required to maintain the steepest approach gradient for which approval is requested.

(c) Helicopters approved for a minimum crew of two pilots must comply with the provisions of paragraphs IV(b)(2) and IV(b)(5) of this appendix.

V. *Static lateral-directional stability.* (a) Static directional stability must be positive throughout the approved ranges of airspeed, power, and vertical speed. In straight, steady sideslips up to ±10° from trim, directional control position must increase in approximately constant proportion to angle of sideslip. At greater angles up to the maximum sideslip angle appropriate to the type, increased directional control position must produce increased angle of sideslip.

(b) During sideslips up to ±10° from trim throughout the approved ranges of airspeed, power, and vertical speed, there must be no negative dihedral stability perceptible to the pilot through lateral control motion or force. Longitudinal cyclic movement with sideslip must not be excessive.

VI. *Dynamic stability.* (a) For single-pilot approval—

(1) Any oscillation having a period of less than 5 seconds must damp to ½ amplitude in not more than one cycle.

(2) Any oscillation having a period of 5 seconds or more but less than 10 seconds must damp to ¼ amplitude in not more than two cycles.

(3) Any oscillation having a period of 10 seconds or more but less than 20 seconds must be damped.

(4) Any oscillation having a period of 20 seconds or more may not achieve double amplitude in less than 20 seconds.

(5) Any aperiodic response may not achieve double amplitude in less than 6 seconds.

(b) For helicopters approved with a minimum crew of two pilots—

(1) Any oscillation having a period of less than 5 seconds must damp to ¼ amplitude in not more than two cycles.

(2) Any oscillation having a period of 5 seconds or more but less than 10 seconds must be damped.

(3) Any oscillation having a period of 10 seconds or more may not achieve double amplitude in less than 10 seconds.

VII. *Stability augmentation system (SAS).* (a) If a SAS is used, the reliability of the SAS must be related to the effects of its failure. The occurrence of any failure condition which would prevent continued safe flight and landing must be extremely improbable. For any failure condition of the SAS which is not shown to be extremely improbable—

(1) The helicopter must be safely controllable and capable of prolonged instrument flight without undue pilot effort. Additional unrelated probable failures affecting the control system must be considered; and

(2) The flight characteristics requirements in Subpart B of Part 27 must be met throughout a practical flight envelope.

(b) The SAS must be designed so that it cannot create a hazardous deviation in flight path or produce hazardous loads on the helicopter during normal operation or in the event of malfunction or failure, assuming corrective action begins within an appropriate period of time. Where multiple systems are installed, subsequent malfunction conditions must be considered in sequence unless their occurrence is shown to be improbable.

VIII. *Equipment, systems, and installation.* The basic equipment and installation must comply with §§ 29.1303, 29.1431, and 29.1433 through Amendment 29–14, with the following exceptions and additions:

(a) *Flight and Navigation Instruments.* (1) A magnetic gyro-stablized direction indicator instead of a gyroscopic direction indicator required by § 29.1303(h); and

(2) A standby attitude indicator which meets the requirements of §§ 29.1303(g) (1) through (7) instead of a rate-of-turn indicator required by § 29.1303(g). For two-pilot configurations, one pilot's primary indicator may be designated for this purpose. If standby batteries are provided, they may be charged from the aircraft electrical system if adequate isolation is incorporated.

(b) *Miscellaneous requirements.* (1) Instrument systems and other systems essential for IFR flight that could be adversely affected by icing must be adequately protected when exposed to the continuous and intermittent maximum icing conditions defined in Appendix C of Part 29 of this chapter, whether or not the rotorcraft is certificated for operation in icing conditions.

(2) There must be means in the generating system to automatically de-energize and disconnect from the main bus any power source developing hazardous overvoltage.

(3) Each required flight instrument using a power supply (electric, vacuum, etc.) must have a visual means integral with the instrument to indicate the adequacy of the power being supplied.

(4) When multiple systems performing like functions are required, each system must be grouped, routed, and spaced so that physical separation between systems is provided to ensure that a single malfunction will not adversely affect more than one system.

(5) For systems that operate the required flight instruments at each pilot's station—

(i) Only the required flight instruments for the first pilot may be connected to that operating system;

(ii) Additional instruments, systems, or equipment may not be connected to an operating system for a second pilot unless provisions are made to ensure the continued normal functioning of the required instruments in the event of any malfunction of the additional instruments, systems, or equipment which is not shown to be extremely improbable;

(iii) The equipment, systems, and installations must be designed so that one display of the information essential to the safety of flight which is provided by the instruments will remain available to a pilot, without additional crewmember action, after any single failure or combination of failures that is not shown to be extremely improbable; and

(iv) For single-pilot configurations, instruments which require a static source must be provided with a means of selecting an alternate source and that source must be calibrated.

IX. *Rotorcraft Flight Manual.* A Rotorcraft Flight Manual or Rotorcraft Flight Manual IFR Supplement must be provided and must contain—

(a) *Limitations.* The approved IFR flight envelope, the IFR flightcrew composition, the revised kinds of operation, and the steepest

IFR precision approach gradient for which the helicopter is approved;

(b) *Procedures.* Required information for proper operation of IFR systems and the recommended procedures in the event of stability augmentation or electrical system failures; and

(c) *Performance.* If V_{Y1} differs from V_Y, climb performance at V_{Y1} and with maximum continuous power throughout the ranges of weight, altitude, and temperature for which approval is requested.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

5. By revising § 29.1 to read as follows:

§ 29.1 Applicability.

(a) This Part prescribes airworthiness standards for the issue of type certificates, and changes to those certificates, for transport category rotorcraft.

(b) Transport category rotorcraft must be certificated in accordance with either the Category A or Category B requirements of this Part. A multiengine rotorcraft may be type certificated as both Category A and Category B with appropriate and different operating limitations for each category.

(c) Rotorcraft with a maximum weight greater than 20,000 pounds and 10 or more passenger seats must be type certificated as Category A rotorcraft.

(d) Rotorcraft with a maximum weight greater than 20,000 pounds and nine or less passenger seats may be type certificated as Category B rotorcraft provided the Category A requirements of Subparts C, D, E, and F of this Part are met.

(e) Rotorcraft with a maximum weight of 20,000 pounds or less but with 10 or more passenger seats may be type certificated as Category B rotorcraft provided the Category A requirements of §§ 29.67(a)(2), 29.79, 29.1517, and of Subparts C, D, E, and F of this Part are met.

(f) Rotorcraft with a maximum weight of 20,000 pounds or less and nine or less passenger seats may be type certificated as Category B rotorcraft.

(g) Each person who applies under Part 21 for a certificate or change described in paragraphs (a) through (f) of this section must show compliance with the applicable requirements of this Part.

6. By revising § 29.79(a) to read as follows:

§ 29.79 Limiting height-speed envelope.

(a) If there is any combination of height and forward speed (including hover) under which a safe landing cannot be made under the applicable power failure condition in paragraph (b) of this section, a limiting height-speed envelope must be established for—

(1) *Category A.* Combinations of weight, pressure altitude, and ambient temperature for which takeoff and landing are approved; and

(2) *Category B.*

(i) Altitude, from standard sea level conditions to the maximum altitude for which takeoff and landing are approved; and

(ii) Weight, from the maximum weight (at sea level) to the highest weight approved for takeoff and landing at each altitude. For helicopters, this weight need not exceed the highest weight allowing hovering out-of-ground-effect at each altitude.

* * * * *

7. By amending § 29.141 by removing the word "and" at the end of § 29.141(b)(1), adding a new § 29.141(b)(3), and adding a sentence to the end of § 29.141(c) to read as follows:

§ 29.141 General.

* * * * *

(b) * * *

(3) Sudden, complete control system failures specified in § 29.695 of this part; and

(c) * * * Requirements for helicopter instrument flight are contained in Appendix B of this Part.

§ 29.877 [Reserved]

8. By removing § 29.877 and marking it "Reserved."

9. By revising § 29.1321(b) to read as follows:

§ 29.1321 Arrangement and visibility.

* * * * *

(b) Each instrument necessary for safe operation, including the airspeed indicator, gyroscopic direction indicator, gyroscopic bank-and-pitch indicator, slip-skid indicator, altimeter, rate-of-climb indicator, rotor tachometers, and the indicator most representative of engine power, must be grouped and centered as nearly as practicable about the vertical plane of the pilot's forward vision. In addition, for rotorcraft approved for IFR flight—

(1) The instrument that most effectively indicates attitude must be on the panel in the top center position;

(2) The instrument that most effectively indicates direction of flight must be adjacent to and directly below the attitude instrument;

(3) The instrument that most effectively indicates airspeed must be adjacent to and to the left of the attitude instrument; and

(4) The instrument that most effectively indicates altitude or is most frequently utilized in control of altitude must be adjacent to and to the right of the attitude instrument.

* * * * *

10. By adding a new § 29.1419 to read as follows:

§ 29.1419 Ice protection.

(a) To obtain certification for flight into icing conditions, compliance with this section must be shown.

(b) It must be demonstrated that the rotorcraft can be safely operated in the continuous maximum and intermittent maximum icing conditions determined under Appendix C of this part within the rotorcraft altitude envelope. An analysis must be performed to establish, on the basis of the rotorcraft's operational needs, the adequacy of the ice protection system for the various components of the rotorcraft.

(c) In addition to the analysis and physical evaluation prescribed in paragraph (b) of this section, the effectiveness of the ice protection system and its components must be shown by flight tests of the rotorcraft or its components in measured natural atmospheric icing conditions and by one or more of the following tests as found necessary to determine the adequacy of the ice protection system:

(1) Laboratory dry air or simulated icing tests, or a combination of both, of the components or models of the components.

(2) Flight dry air tests of the ice protection system as a whole, or its individual components.

(3) Flight tests of the rotorcraft or its components in measured simulated icing conditions.

(d) The ice protection provisions of this section are considered to be applicable primarily to the airframe. Powerplant installation requirements are contained in Subpart E of this part.

(e) A means must be identified or provided for determining the formation of ice on critical parts of the rotorcraft. Unless otherwise restricted, the means must be available for nighttime as well as daytime operation. The rotorcraft flight manual must describe the means of determining ice formation and must contain information necessary for safe operation of the rotorcraft in icing conditions.

11. By revising § 29.1517 to read as follows:

§ 29.1517 Limiting height-speed envelope.

For Category A rotorcraft, if a range of heights exists at any speed, including zero, within which it is not possible to

make a safe landing following power failure, the range of heights and its variation with forward speed must be established, together with any other pertinent information, such as the kind of landing surface.

12. By amending § 29.1587 by removing the word "and" at the end of paragraph (b)(5); by redesignating (b)(6) as (b)(7), and by adding a new (b)(6) to read as follows:

§ 29.1587 Performance information.

* * * * *

(b) * * *

(6) The height-speed envelope except for rotorcraft incorporating this as an operating limitation; and

* * * * *

13. By adding an Appendix B to Part 29 to read as follows:

Appendix B.—Airworthiness Criteria for Helicopter Instrument Flight

I. *General.* A transport category helicopter may not be type certificated for operation under the instrument flight rules (IFR) of this chapter unless it meets the design and installation requirements contained in this appendix.

II. *Definitions.* (a) V_{YI} means instrument climb speed, utilized instead of V_Y for compliance with the climb requirements for instrument flight.

(b) V_{NEI} means instrument flight never exceed speed, utilized instead of V_{NE} for compliance with maximum limit speed requirements for instrument flight.

(c) V_{MINI} means instrument flight minimum speed, utilized in complying with minimum limit speed requirements for instrument flight.

III. *Trim.* It must be possible to trim the cyclic, collective, and directional control forces to zero at all approved IFR airspeeds, power settings, and configurations appropriate to the type.

IV. *Static longitudinal stability.* (a) *General.* The helicopter must possess positive static longitudinal control force stability at critical combinations of weight and center of gravity at the conditions specified in paragraphs IV (b) through (f) of this appendix. The stick force must vary with speed so that any substantial speed change results in a stick force clearly perceptible to the pilot. The airspeed must return to within 10 percent of the trim speed when the control force is slowly released for each trim condition specified in paragraphs IV (b) through (f) of this appendix.

(b) *Climb.* Stability must be shown in climb thoughout the speed range 20 knots either side of trim with—

(1) The helicopter trimmed at V_{YI};

(2) Landing gear retracted (if retractable); and

(3) Power required for limit climb rate (at least 1,000 fpm) at V_{YI} or maximum continuous power, whichever is less.

(c) *Cruise.* Stability must be shown throughout the speed range from 0.7 to 1.1 V_H or V_{NEI}, whichever is lower, not to exceed ±20 knots from trim with—

(1) The helicopter trimmed and power adjusted for level flight at 0.9 V_H or 0.9 V_{NEI}, whichever is lower; and

(2) Landing gear retracted (if retractable).

(d) *Slow cruise.* Stability must be shown throughout the speed range from 0.9 V_{MINI} to 1.3 V_{MINI} or 20 knots above trim speed, whichever is greater, with—

(1) The helicopter trimmed and power adjusted for level flight at 1.1 V_{MINI}; and

(2) Landing gear retracted (if retractable).

(e) *Descent.* Stability must be shown throughout the speed range 20 knots either side of trim with—

(1) The helicopter trimmed at 0.8 V_H or 0.8 V_{NEI} (or 0.8 V_{LE} for the landing gear extended case), whichever is lower;

(2) Power required for 1,000 fpm descent at trim speed; and

(3) Landing gear extended and retracted, if applicable.

(f) *Approach.* Stability must be shown throughout the speed range from 0.7 times the minimum recommended approach speed to 20 knots above the maximum recommended approach speed with—

(1) The helicopter trimmed at the recommended approach speed or speeds;

(2) Landing gear extended and retracted, if applicable; and

(3) Power required to maintain a 3° glide path and power required to maintain the steepest approach gradient for which approval is requested.

V. *Static lateral-directional stability.* (a) Static directional stability must be positive throughout the approved ranges of airspeed, power, and vertical speed. In straight, steady sideslips up to ±10° from trim, directional control position must increase in approximately constant proportion to angle of sideslip. At greater angles up to the maximum sideslip angle appropriate to the type, increased directional control position must produce increased angle of sideslip.

(b) During sideslips up to ±10° from trim throughout the approved ranges of airspeed, power, and vertical speed there must be no negative dihedral stability perceptible to the pilot through lateral control motion or force. Longitudinal cycle movement with sideslip must not be excessive.

VI. *Dynamic stability.* (a) Any oscillation having a period of less than 5 seconds must damp to 1/2 amplitude in not more than one cycle.

(b) Any oscillation having a period of 5 seconds or more but less than 10 seconds must damp to 1/2 amplitude in not more than two cycles.

(c) Any oscillation having a period of 10 seconds or more but less than 20 seconds must be damped.

(d) Any oscillation having a period of 20 seconds or more may not achieve double amplitude in less than 20 seconds.

(e) Any aperiodic response may not achieve double amplitude in less than 9 seconds.

VII. *Stability augmentation system (SAS).* (a) If a SAS is used, the reliability of the SAS must be related to the effects of its failure. The occurrence of any failure condition which would prevent continued safe flight and landing must be extremely improbable. For any failure condition of the SAS which is not shown to be extremely improbable—

(1) The helicopter must be safely controllable and capable of prolonged instrument flight without undue pilot effort. Additional unrelated probable failures affecting the control system must be considered; and

(2) The flight characteristics requirements in Subpart B of Part 29 must be met throughout a practical flight envelope.

(b) The SAS must be designed so that it cannot create a hazardous deviation in flight path or produce hazardous loads on the helicopter during normal operation or in the event of malfunction or failure, assuming corrective action begins within an appropriate period of time. Where multiple systems are installed, subsequent malfunction conditions must be considered in sequence unless their occurrence is shown to be improbable.

VIII. *Equipment, systems, and installation.* The basic equipment and installation must comply with Subpart F of Part 29 through Amendment 29-14, with the following exceptions and additions:

(a) *Flight and navigation instruments.* (1) A magnetic gyro-stabilized direction indicator instead of the gyroscopic direction indicator required by § 29.1303(h); and

(2) A standby attitude indicator which meets the requirements of §§ 29.1303(g) (1) through (7), instead of a rate-of-turn indicator required by § 29.1303(g). If standby batteries are provided, they may be charged from the aircraft electrical system if adequate isolation is incorporated. The system must be designed so that the standby batteries may not be used for engine starting.

(b) *Miscellaneous requirements.* (1) Instrument systems and other systems essential for IFR flight that could be adversely affected by icing must be provided with adequate ice protection whether or not the rotorcraft is certificated for operation in icing conditions.

(2) There must be means in the generating system to automatically de-energize and disconnect from the main bus any power source developing hazardous overvoltage.

(3) Each required flight instrument using a power supply (electric, vacuum, etc.) must have a visual means integral with the instrument to indicate the adequacy of the power being supplied.

(4) When multiple systems performing like functions are required, each system must be grouped, routed, and spaced so that physical separation between systems is provided to ensure that a single malfunction will not adversely affect more than one system.

(5) For systems that operate the required flight instruments at each pilot's station—

(i) Only the required flight instruments for the first pilot may be connected to that operating system;

(ii) Additional instruments, systems, or equipment may not be connected to an operating system for a second pilot unless provisions are made to ensure the continued normal functioning of the required instruments in the event of any malfunction of the additional instruments, systems, or equipment which is not shown to be extremely improbable;

(iii) The equipment, systems, and installations must be designed so that one display of the information essential to the safety of flight which is provided by the instruments will remain available to a pilot, without additional crew-member action, after any single failure or combination of failures that is not shown to be extremely improbable; and

(iv) For single-pilot configurations, instruments which require a static source must be provided with a means of selecting an alternate source and that source must be calibrated.

IX. *Rotorcraft Flight Manual.* A Rotorcraft Flight Manual or Rotorcraft Flight Manual IFR Supplement must be provided and must contain—

(a) *Limitations.* The approved IFR flight envelope, the IFR flightcrew composition, the revised kinds of operation, and the steepest IFR precision approach gradient for which the helicopter is approved;

(b) *Procedures.* Required information for proper operation of IFR systems and the recommended procedures in the event of stability augmentation or electrical system failures; and

(c) *Performance.* If V_{YI} differs from V_Y, climb performance at V_{YI} and with maximum continuous power throughout the ranges of weight, altitude, and temperature for which approval is requested.

14. By adding an Appendix C to Part 29 to read as follows:

Appendix C

(a) *Continuous maximum icing.* The maximum continuous intensity of atmospheric icing conditions (continuous maximum icing) is defined by the variables of the cloud liquid water content, the mean effective diameter of the cloud droplets, the ambient air temperature, and the interrelationship of these three variables as shown in Figure 1 of this appendix. The limiting icing envelope in terms of altitude and temperature is given in Figure 2 of this appendix. The interrelationship of cloud liquid water content with drop diameter and altitude is determined from Figures 1 and 2. The cloud liquid water content for continuous maximum icing conditions of a horizontal extent, other than 17.4 nautical miles, is determined by the value of liquid water content of Figure 1, multiplied by the appropriate factor from Figure 3 of this appendix.

(b) *Intermittent maximum icing.* The intermittent maximum intensity of atmospheric icing conditions (intermittent maximum icing) is defined by the variables of the cloud liquid water content, the mean effective diameter of the cloud droplets, the ambient air temperature, and the interrelationship of these three variables as shown in Figure 4 of this appendix. The limiting icing envelope in terms of altitude and temperature is given in Figure 5 of this appendix. The interrelationship of cloud liquid water content with drop diameter and altitude is determined from Figures 4 and 5. The cloud liquid water content for intermittent maximum icing conditions of a horizontal extent, other than 2.6 nautical miles, is determined by the value of cloud liquid water content of Figure 4 multiplied by the appropriate factor in Figure 6 of this appendix.

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APPENDIX C

FIGURE 1

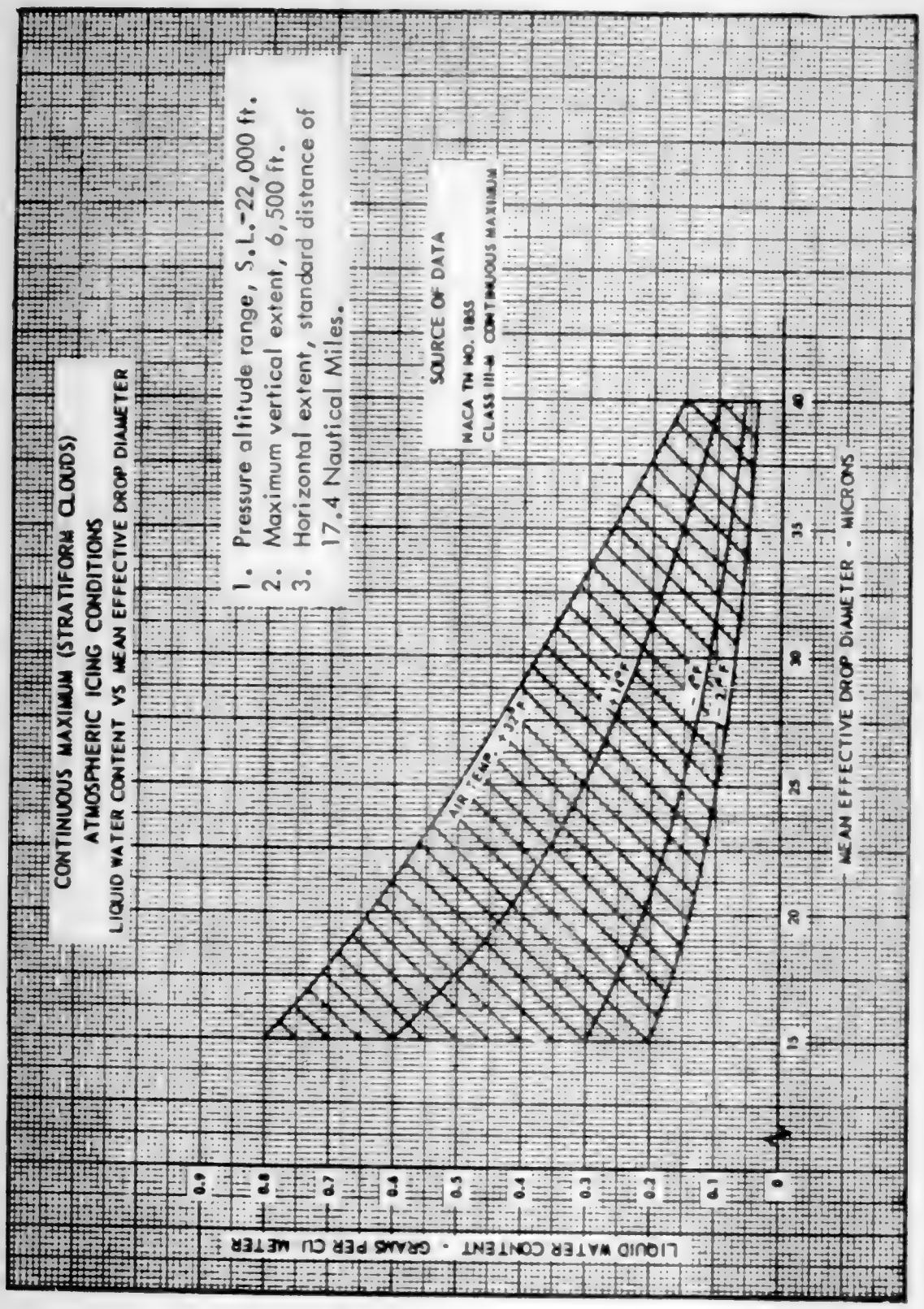

APPENDIX C
FIGURE 2

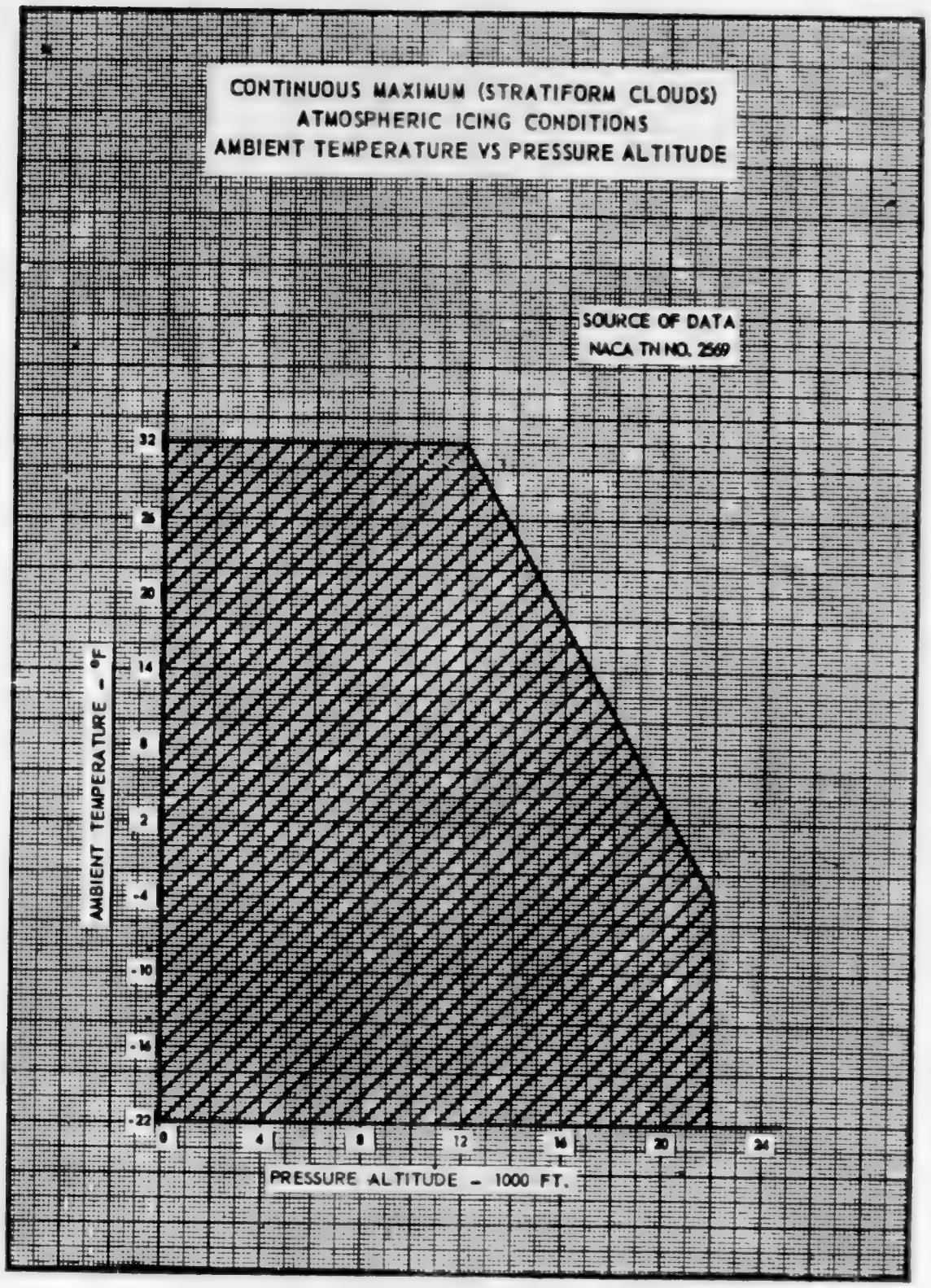

APPENDIX C

FIGURE 3

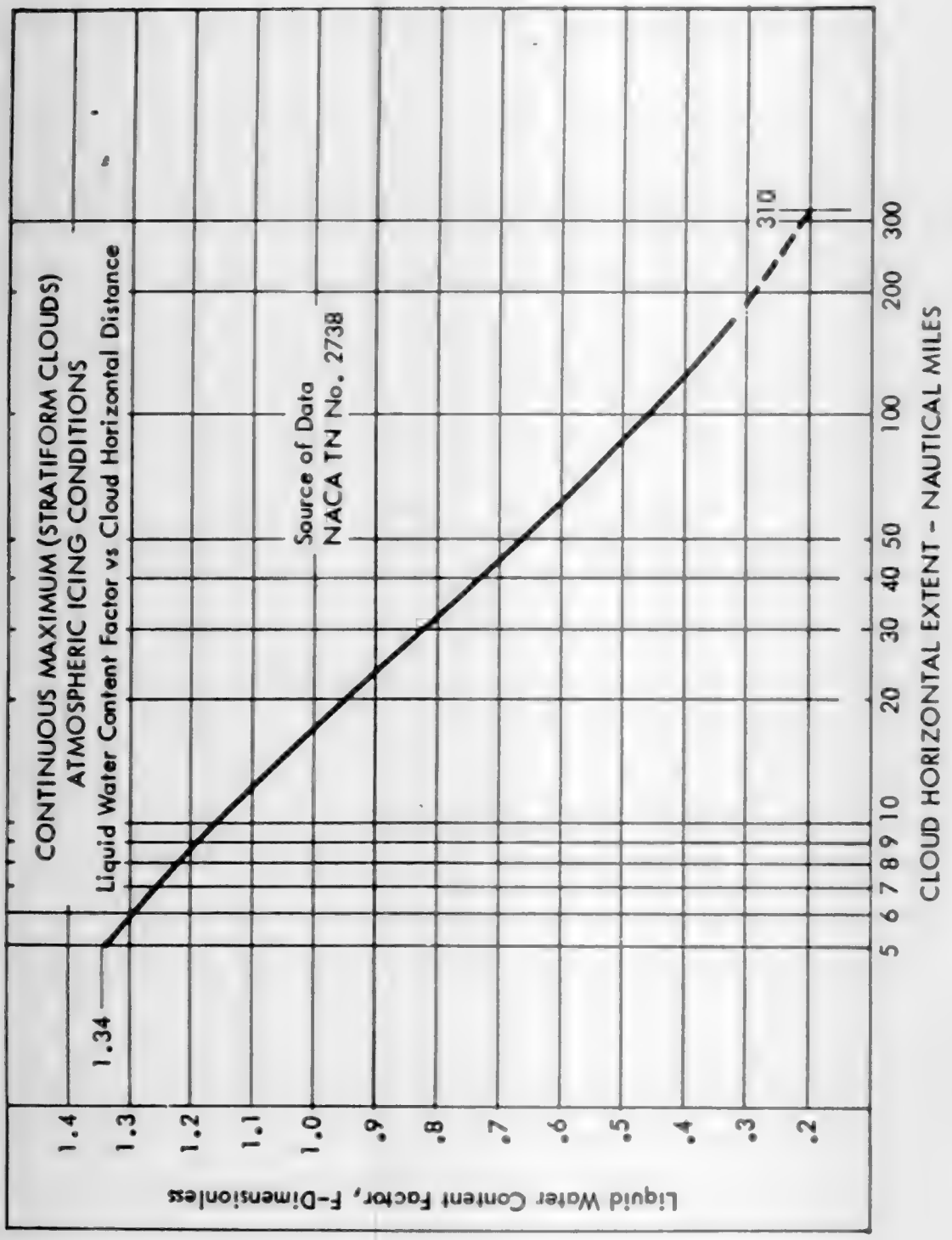

APPENDIX C

FIGURE 4

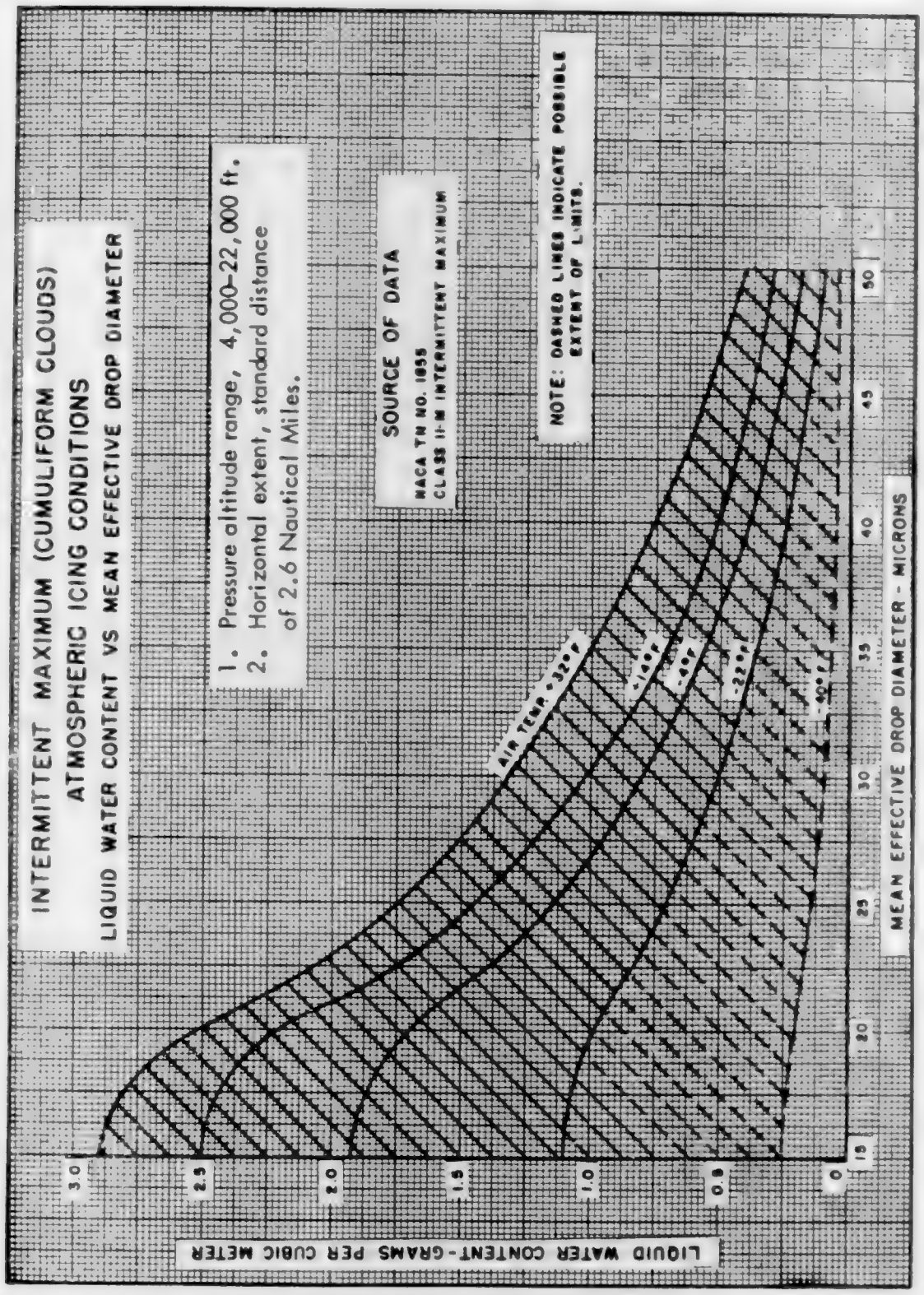

APPENDIX C
FIGURE 5

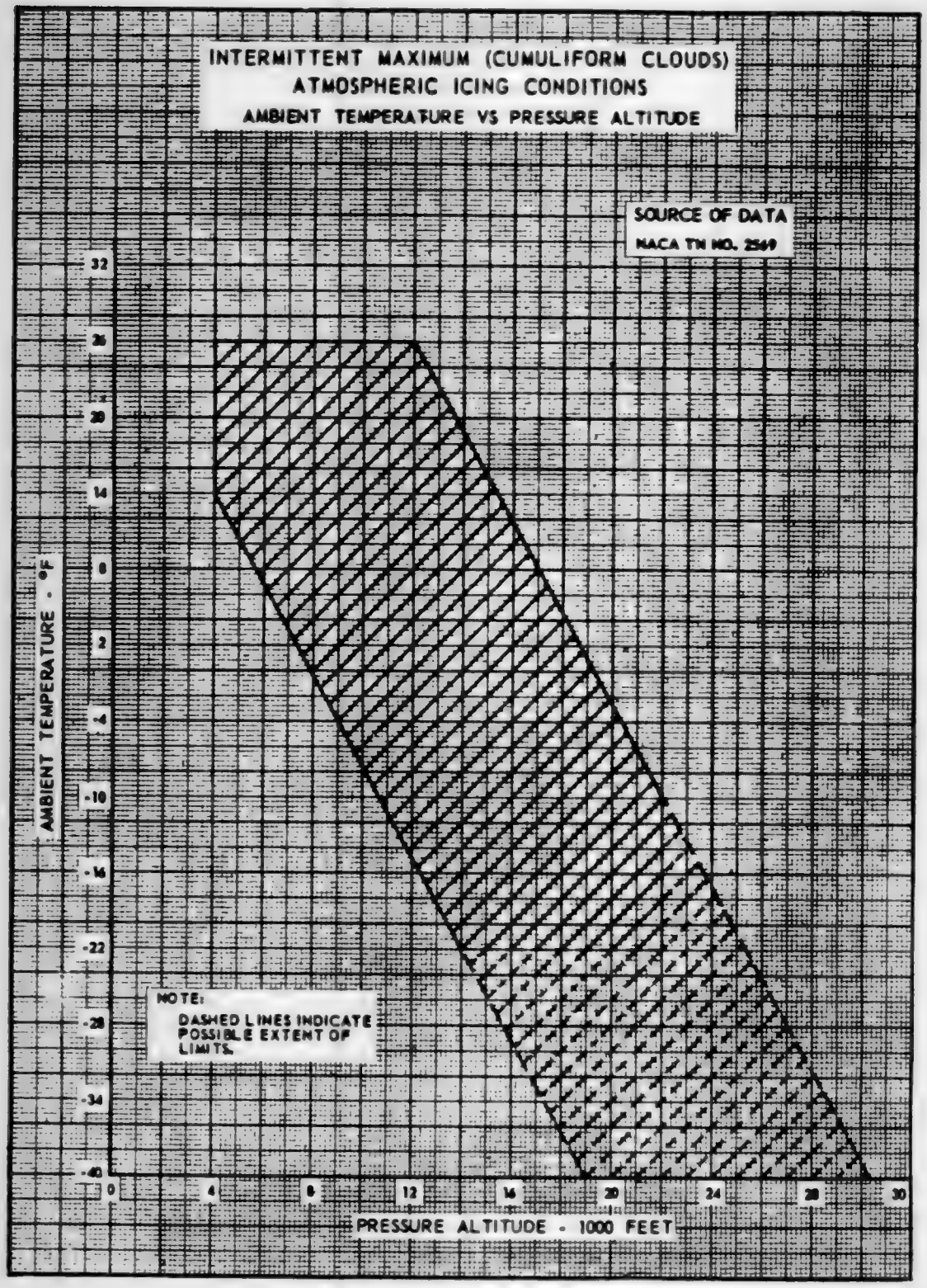

APPENDIX C

FIGURE 6

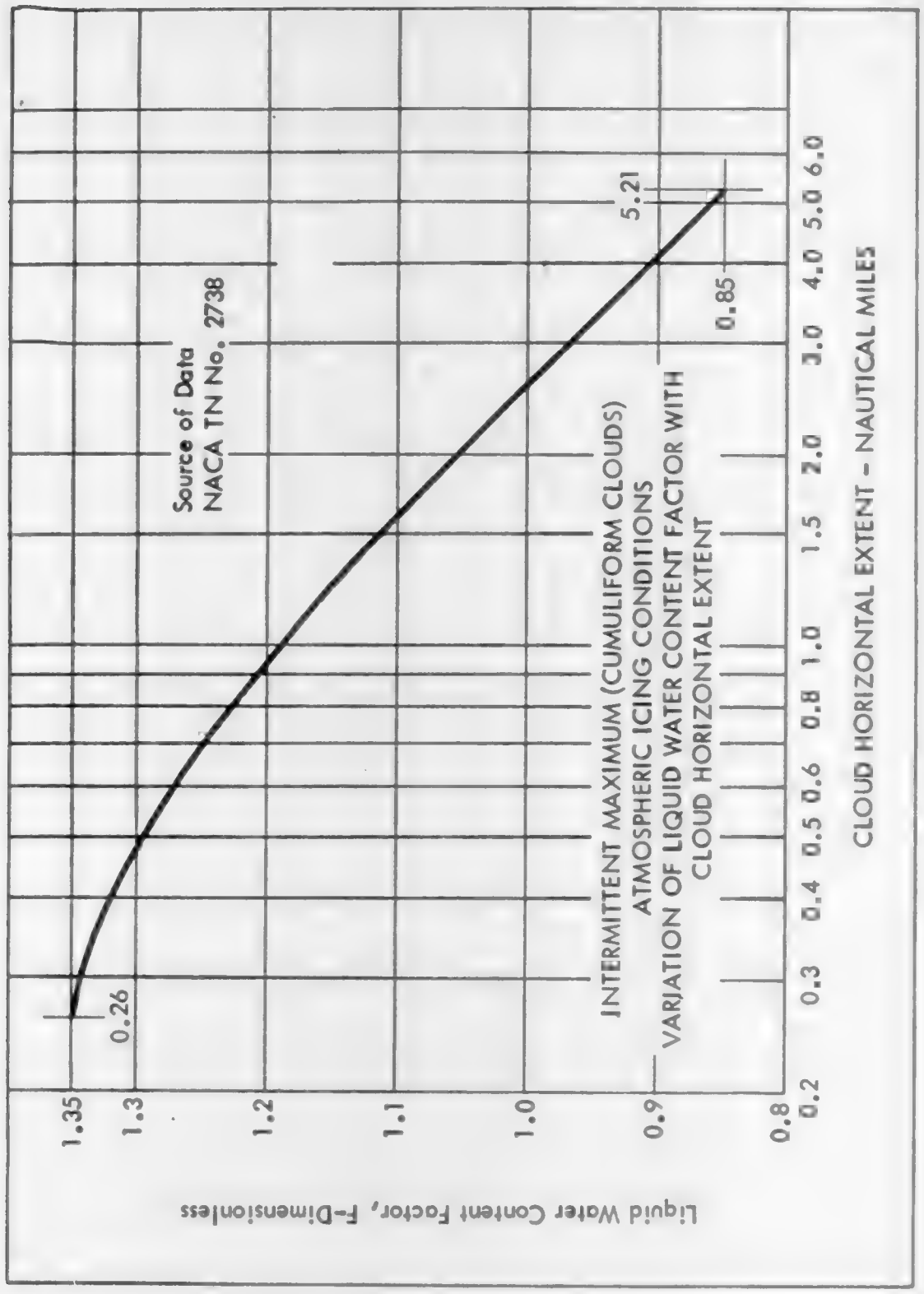

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(Sec. 313(a), 601, 603, and 604 Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1424); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c))

Note.—The FAA has determined that the benefits of this amendment, in providing an increased level of safety to passengers traveling in rotorcraft while at the same time recognizing and providing for the unique qualities and capabilities of rotorcraft, far outweigh the burdens and that this amendment: (1) Involves a regulation which is not a major rule under Executive Order 12291; and (2) is not a significant rule under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, D.C., on January 6, 1983.

J. Lynn Helms,

Administrator.

[FR Doc 83-2510 Filed 1-30-83; 8:45 am]

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federal register

Monday
January 31, 1983

Part III

Information Security Oversight Office

National Security Information; General Guidelines for Systematic Declassification Review of Foreign Government Information; Final Rule

INFORMATION SECURITY OVERSIGHT OFFICE

32 CFR Part 2002

National Security Information; General Guidelines for Systematic Declassification Review of Foreign Government Information

AGENCY: Information Security Oversight Office (ISOO).

ACTION: Final rule.

SUMMARY: The Information Security Oversight Office is revising its guideline which relate to the systematic declassification review of foreign government information. These guidelines are issued pursuant to the provisions of Section 3.3 of Executive Order 12356, which superseded Executive Order 12065. The Executive Order prescribes a uniform information security system; it also requires the establishment of guidelines for the systematic declassification review of certain information. The purpose of these guidelines is to assist in implementing Executive Order 12356.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Director, ISOO. Telephone: 202–535–7251.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 2002

Archives and records, classified information, Executive orders, Information, Intelligence, National defense, National security information, Presidential documents, Security information.

Title 32 of the Code of Federal Regulations, Part 2002, is revised as follows:

PART 2002—GENERAL GUIDELINES FOR SYSTEMATIC DECLASSIFICATION REVIEW OF FOREIGN GOVERNMENT INFORMATION

Sec.

2002.1 Purpose.
2002.2 Definition.
2002.3 Scope.
2002.4 Responsibilities.
2002.5 Effect of publication.
2002.6 Categories requiring item-by-item review.
2002.7 Referral and decision.
2002.8 Downgrading.

Authority: Sec. 3.3, E.O. 12356, 47 FR 14874, April 6, 1982.

§ 2002.1 Purpose.

These general guidelines for the systematic declassification review of foreign government information have been developed in accordance with the provisions of Section 3.3 of Executive Order 12356, "National Security Information," and Section 2001.31 of Information Security Oversight Office Directive No. 1. All foreign government information that has been incorporated into the permanently valuable records of the United States Government and that has been accessioned into the National Archives of the United States shall be systematically reviewed for declassification by the Archivist of the United States. Declassification reviews shall be conducted in accordance with the provisions of these general guidelines or, if available, in accordance with specific systematic review guidelines for foreign government information provided by the agency heads who have declassification authority over that information. All foreign government information (a) not identified in § 2002.6 of these general guidelines or in specific agency guidelines as requiring item-by-item declassification review and final determination by an agency declassification authority, and (b) for which a prior declassification date has not been established, shall be declassified as that information becomes thirty years old.

§ 2002.2 Definition.

"Foreign government information" as used in these guidelines means:

(a) Information provided by a foreign government or governments, an international organization of governments, or any element thereof with the expectation, expressed or implied, that the information, the source of the information, or both, are to be held in confidence; or

(b) Information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

§ 2002.3 Scope.

(a) These guidelines apply to foreign government information that has been received or classified by the United States Government or its agents, and has been incorporated into records determined by the Archivist of the United States to have permanent value.

(b) Atomic energy information (including information originated prior to 1947 and not marked as such; information received from the United Kingdom or Canada marked "Atomic," or information received from NATO marked "Atomal") that is defined and identified as "Restricted Data" or "Formerly Restricted Data" in Sections 11y and 142d of the Atomic Energy Act of 1954, as amended, is outside the scope of these guidelines. Such information is not subject to systematic review and may not be automatically downgraded or declassified. Any document containing information within the definition of "Restricted Data" or "Formerly Restricted Data" that is not so marked shall be referred to the Department of Energy Office of Classification for review and appropriate marking, except for licensing and related regulatory matters which shall be referred to the Division of Security, U.S. Nuclear Regulatory Commission.

§ 2002.4 Responsibilities.

(a) Foreign government information transferred to the General Services Administration for accession into the National Archives of the United States shall be reviewed by the Archivist of the United States for declassification in accordance with Executive Order 12356, the directives of the Information Security Oversight Office, these general guidelines, and any specific systematic declassification guidelines provided by the agency with declassification authority over the information.

(b) Accessioned foreign government information in file series concerning intelligence activities (including special activities), or intelligence sources or methods created after 1945, and cryptology records created after 1945, shall be subject to review by the Archivist for declassification as it becomes 50 years old. All other accessioned foreign government information shall be subject to review by the Archivist for declassification as it becomes 30 years old.

(c) Agency heads who have declassification jurisidiction over permanently valuable foreign government information in agency records not yet accessioned into the National Archives of the United States are encouraged to conduct systematic declassification reviews of it in accordance with the time limits specified in paragraph (b) of this section. These reviews shall comply with the provisions of Executive Order 12356, the directives of the Information Security Oversight Office, these general guidelines, and specific agency systematic review guidelines that have been issued in consultation with the Archivist of the United States and the ISOO Director.

(d) Foreign government information falling within any of the categories listed in § 2002.6 of these guidelines shall be declassified or downgraded only upon specific authorization of the agency that has declassification authority over it. Such information shall be referred to the responsible agency(ies) for review. Information so referred shall remain classified until the responsible agency(ies) has declassified it. If the responsible agency cannot be readily identified from the document or material, referral shall be made in accordance with § 2002.7 of these guidelines.

(e) When required, the agency having declassification authority over the information shall consult with foreign governments concerning its proposed declassification.

§ 2002.5 Effect of publication.

(a) Foreign government information shall be considered declassified when published in an unclassified United States Government executive branch publication (e.g., the *Foreign Relations of the United States* series) or when cleared for publication by United States Government executive branch officials authorized to declassify the information; or if officially published as unclassified by the foreign government(s) or international organization(s) of governments that furnished the information unless the fact of the U.S. Government's possession of the information requires continued protection.

(b) The unofficial publication, in the United States or abroad, of foreign government information contained in classified United States or foreign documents does not in or of itself constitute or permit the declassification of such information. Although prior unofficial publication is a factor to be considered in the systematic review process, there may be valid reasons for continued protection of the information which could preclude its declassification. In particular, the classification status of foreign government information which concerns or derives from intelligence activities (including special activities), intelligence sources or methods shall not be affected by any unofficial publication of identical or related information. The final declassification determination shall be made by the agency or agencies having declassification authority over it.

§ 2002.6 Categories requiring item-by-item review.

Foreign government information falling into the following categories require item-by-item review for declassification by agencies having declassification authority over it.

(a) Information exempted from declassification under any joint arrangement evidenced by an exchange of letters, memorandum of understanding, or other written record, with the foreign government or international organization of governments, or element(s) thereof, that furnished the information. Questions concerning the existence or applicability of such arrangements shall be referred to the agency or agencies having declassification authority over the records under review.

(b) Information related to the safeguarding of nuclear materials or facilities, foreign and domestic, including but not necessarily limited to vulnerabilities and vulnerability assessments of nuclear facilities and Special Nuclear Material.

(c) Nuclear arms control information (see also paragraph (k) of this section).

(d) Information regarding foreign nuclear programs (other than "Restricted Data" and "Formerly Restricted Data"), such as:

(1) Nuclear weapons testing.

(2) Nuclear weapons storage and stockpile.

(3) Nuclear weapons effects, hardness, and vulnerability.

(4) Nuclear weapons safety.

(5) Cooperation in nuclear programs including, but not limited to, peaceful and military applications of nuclear energy.

(6) Exploration, production and import of uranium and thorium from foreign countries.

(e) Information concerning intelligence activities (including special activities) or intelligence or counterintelligence sources or methods including but not limited to intelligence, counterintelligence and covert action programs, plans, policies, operations, or assessments; or which would reveal or identify:

(1) Any present, past or prospective undercover personnel, installation, unit, or clandestine human agent, of the United States or a foreign government;

(2) Any present, past or prospective method, procedure, mode, technique or requirement used or being developed by the United States or by foreign governments, individually or in combination to produce, acquire, transmit, analyze, correlate, assess, evaluate or process intelligence or counterintelligence, or to support an intelligence or counterintelligence source, operation, or activity;

(3) The present, past or proposed existence of any joint United States and foreign government intelligence, counterintelligence, or covert action activity or facility, or the nature thereof. (For guidance on protecting United States foreign intelligence liaison relationships, see Director of Central Intelligence Directive "Security Classification Guidance and Foreign Security Services," effective January 18, 1982.)

(f) Information that could result in or lead to actions which would place an individual in jeopardy attributable to disclosure of the information, including but not limited to:

(1) Information identifying any individual or organization as a confidential source of intelligence or counterintelligence.

(2) Information revealing the identity of an intelligence or covert action agent or agents.

(3) Information identifying any individual or organization used to develop or support intelligence, counterintelligence, or covert action agents, sources or activities.

(g) Information about foreign individuals, organizations or events which if disclosed, could be expected to:

(1) Adversely affect a foreign country's or international organization's present or future relations with the United States.

(2) Adversely affect present or future confidential exchanges beween the United States and any foreign government or international organization of governments.

(h) Information related to plans (whether executed or not, whether presented in whole or in part), programs, operations, negotiations, and assessments shared by one or several foreign governments with the United States, including but not limited to those involving the territory, political regime or government of another country, and which if disclosed could be expected to adversely affect the conduct of U.S. foreign policy or the conduct of another country's foreign policy with respect to a third country or countries. This item would include contigency plans, plans for covert political, military or paramilitary activities or operations by a foreign government acting alone or jointly with the United States Government, and positions or actions taken by a foreign government alone or jointly with the United States concerning border disputes or other territorial issues.

(i) Information concerning arrangements with respect to foreign basing of cryptologic operations and/or foreign policy considerations relating thereto.

(j) Scientific information such as that concerning space, energy, climatology, communications, maritime, undersea, and polar projects, the disclosure of which could be expected to adversely affect current and/or future exchanges of such information between the United States and any foreign governments or international organizations of governments.

(k) Information on foreign policy aspects of nuclear matters, the disclosure of which could be expected to adversely affect cooperation between one or more foreign governments and the United States Government.

(l) Information concerning physical security arrangements, plans or equipment for safeguarding United States Government embassies, missions or facilities abroad, the disclosure of which could reasonably be expected to increase the vulnerability of such facilities to penetration, attack, take-over, and the like.

(m) Nuclear propulsion information.

(n) Information concerning the establishment, operation, and support of nuclear detection systems.

(o) Information concerning or revealing military or paramilitary escape, evasion, cover or deception plans, procedures, and techniques, whether executed or not.

(p) Information which could adversely affect the current or future usefullness of military defense policies, programs, weapons systems, operations, or plans.

(q) Information concerning research, development, testing and evaluation of chemical and biological weapons and defense systems; specific identification of chemical and biological agents and munitions; and chemical and biological warfare plans.

(r) Technical information concerning weapons systems and military equipment that reveals the capabilities, limitations, or vulnerabilities of such systems, or equipment that could be exploited to destroy, counter, render ineffective or neutralize such weapons or equipment.

(s) Cryptologic information, including cryptologic sources and methods, currently in use. This includes information concerning or revealing the processes, techniques, operations, and scope of signals intelligence comprising communications intelligence, electronics intelligence, and telemetry intelligence, the crytosecurity and emission security components of communications security, and the communications portion of cover and deception plans.

(t) Information concerning electronic warfare (electronic warfare support measures, electronic counter-countermeasures) or related activities, including but not necessarily limited to:

(1) Nomenclature, functions, technical characteristics or descriptions of communications and electronic equipment, its employment/development, and its association with weapoins systems or military operations.

(2) The processes, techniques, operations or scope of activities involved in the acquisition, analysis and evaluation of such information, and the degree of success achieved by the above processes, techniques, operations or activities.

(u) Present, past or proposed protective intelligence information relating to the sources, plans, techniques, equipment and methods used in carrying out assigned duties of protecting United States Government officials or other protectees abroad and foreign officials while in the United States or United States possessions. This includes information concerning the identification of witnesses, informants and persons suspected of being dangerous to persons under protection.

(v) Information on deposits of foreign official institutions in United States banks and on foreign official institutions' holdings, purchases and sales of long-term marketable securities in the United States.

(w) Information concerning economic and policy studies and sensitive assessments or analyses of economic conditions, policies or activities of foreign countries or international organizations of governments received through the Multilateral Development Banks and Funds or through the International Monetary Fund (IMF) and the Organization for Economic Cooperation and Development (OECD).

(x) Information described in § 2002.6 (a) through (w) contained in correspondence, transcripts, memoranda of conversation, or minutes of meetings between the President of the United States or the Vice President of the United States and foreign government officials.

(y) Information described in § 2002.6 (a) through (w) contained in documents originated by or sent to the Assistant to the President for National Security Affairs, his Deputy, members of the National Security Council staff, or any other person on the White House or the Executive Office of the President staffs performing national security functions.

(z) Federal agency originated documents bearing Presidential, National Security Council, or White House or Executive Office of the President staffs' comments relating to categories of information described in § 2002.6 (a) through (w).

(aa) Information as described in § 2002.6 (a) through (w) contained in correspondence to or from the President or the Vice President, including background briefing memoranda and talking points for meetings between the President or the Vice President and foreign government officials, and discussions of the timing and purposes of such meetings.

(bb) Information as described in § 2002.6 (a) through (w) contained in agency message traffic originated by White House or Executive Office of the President staff members but sent through agency communication networks.

§ 2002.7 Referral and decision.

(a) When the identity of the agencies having declassification authority over foreign government information is not apparent to the agency holding the information, or when reviewing officials do not possess the requisite expertise, the information shall be referred for review and a declassification determination as follows:

(1) Categories 2002.6 (b) through (d), Department of Energy or Nuclear Regulatory Commission (as appropriate).

(2) Categories 2002.6 (e) and (f), Central Intelligence Agency.

(3) Categories 2002.6 (g) through (l), Department of State.

(4) Categories 2002.6 (m) through (t), Department of Defense.

(5) Categories 2002.6 (u) and (w), Department of the Treasury.

(6) Categories 2002.6 (x) through (bb), National Security Council.

(b) Referrals to agencies shall include copies of the documents containing the foreign government information. Agencies shall review the referred documents and promptly notify the Archivist of the United States of the declassification determination. Forwarded copies of the documents shall be marked to reflect any downgrading or declassification action and shall be returned to the National Archives.

§ 2002.8 Downgrading.

Foreign government information classified "Top Secret" may be downgraded to "Secret" after 30 years unless the agency with declassification authority over it determines on its own, or after consultation, as appropriate, with the foreign government or international organization of governments which furnished the information, that it requires continued protection at the "Top Secret" level.

Dated: January 27, 1983.

Steven Garfinkel,

Director, Information Security Oversight Office.

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Part IV

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Office of the Secretary

Construction-Differential Subsidy Repayment; Total Repayment Policy; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

46 CFR Part 276

[Docket No. 78; Notice No. 4]

Construction-Differential Subsidy Repayment; Total Repayment Policy

AGENCY: Department of Transportation (DOT), Office of the Secretary (OST).

ACTION: Notice of proposed rulemaking

SUMMARY: This notice proposes to amend 46 CFR Part 276 which sets forth the Department's policy in considering requests for repayment of construction-differential subsidy (CDS), as authorized under the provisions of the Merchant Marine Act of 1936, as amended. The proposed amendments are necessary to facilitate CDS payback approvals and, thereby, encourage the development of an efficient and competitive U.S. flag merchant marine by minimizing government obstacles to the marketplace decisions of vessel operators. The rule, as proposed herein, would apply to all tanker vessels. However, comment is also invited on limiting the rule to tankers of at least 100,000 deadweight tons (DWT) or some lower weight.

DATES: Comments are invited on this notice until April 1, 1983.

ADDRESS: Comments should be submitted to the Docket Clerk, Room 10421, Office of the Secretary, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Warren Dean, Deputy Assistant General Counsel for International Law, (202) 426–2972, or W. Danforth Walker, Office of the Assistant Secretary for Policy and International Affairs, (202) 426–4382, Department of Transportation, 400 Seventh Street, S.W. Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

Background

Section 27 of the Merchant Marine Act of 1920 (the Jones Act) (46 U.S.C. 883) provides that all cargo transported in the domestic trade, defined as trade between points in the United States, must be carried on vessels built in the United States, documented under United States law and owned by U.S. citizens.

U.S. vessels operating in the foreign commerce of the United States do not operate under protective legislation such as the Jones Act. Since the construction and operating costs are lower for foreign flag vessels than for comparable U.S. flag vessels, foreign ships are able to compete more successfully in foreign commerce than their U.S. counterparts. Recognizing the economic dilemma of U.S.-built ships operating in foreign commerce, Congress authorized the payment of a construction differential subsidy (CDS) under Title V of the Merchant Marine Act (the Act) (46 U.S.C. 1151 *et seq.*) exclusively for ships to be built in U.S. ship yards and operated in foreign commerce, and an operating differential subsidy (ODS) under Title VI of the Act (46 U.S.C. 1171) for U.S flag vessels manned by U.S citizens and operated in accordance with U.S. safety standards. Under the CDS program, the Secretary of Transportation, through the Maritime Administration (MARAD), may pay as much as half of the construction costs of vessels used in the U.S. foreign trade. There is no correspondent subsidy program for vessels constructed by U.S. owners exclusively for use in the domestic trade. Vessels constructed with CDS are legally prevented by section 506 of the Act (46 U.S.C. 1156) from operating in the domestic trade with certain exceptions. Those exceptions are: (1) CDS vessels may sail in the domestic trade on the first or last leg of an overseas voyage; and (2) MARAD may consent to the operation of a CDS vessel in the domestic trade for up to six months in any twelve month period whenever MARAD determines "that such transfer is necessary or appropriate to carry out the purposes of the chapter." To take advantage of the second exception, the vessel owner must pay an amount which bears the same proportion to the CDS as the six month period bears to the entire economic life of the vessel. With respect to a tanker or other liquid bulk carrier, an economic life of 20 years is applicable pursuant to Section 9 of Pub. L. 86–318 (74 Stat. 216). Domestic trading restrictions lapse at the end of the vessel's statutory life.

Despite the governmental programs offering CDS and ODS to U.S. vessel owners, U.S. flag tankers operating in the foreign trade have not been financially successful, on the whole. The decline in Middle East oil production, in addition to an oversupply of tankers built during the same period, has been financially devastating for the world tanker market. The domestic market, however, has not fared as poorly. Indeed, with the opening in 1977 of the Trans-Alaska Pipeline System, the demand for U.S. flag tanker tonnage has increased and that demand has not been completely met by the existing Jones Act fleet.

To alleviate the shortage of suitable Jones Act tanker vessels, CDS-built vessels have been allowed, under section 506 of the Act, to enter the trade on a six month basis after repaying the subsidy on a *pro rata* basis. Since 1978, MARAD has approved over 30 such applications for tanker service in the Alaska oil trade. However, because of the limited duration and availability of the temporary waivers and the depressed market conditions confronting tankers in the foreign trade, several CDS owners (predominantly those owning very large crude carriers (VLCC's)) have applied for permission to enter the domestic market on a permanent basis in exchange for the total repayment of any unamortized CDS received plus interest.

History of CDS Litigation

Prior to 1978, requests for repayment were handled on an *ad hoc* basis. No hearings were held on these requests and notice of the final determinations was not given to the public. However, after MARAD admitted the VLCC "stuyvesant" to the domestic trade, competitors in that trade brought suit challenging MARAD's action. In *Shell Oil* v *Kreps*, 445 F. Supp. 1128 (D.D.C. 1977), MARAD's authority to grant permanent release from the Jones Act domestic trading restrictions in exchange for full CDS repayment was upheld. The District Court, however, further held the MARAD action in admitting the "Stuyvesant," without an accompanying economic analysis, to be an abuse of discretion. The court also urged MARAD to establish guidelines and procedures that would be applicable to CDS repayment and permanent waiver of domestic trading restrictions in order to ensure a fair opportunity for public and industry comment to be heard and to ensure equal treatment for applicants.

On appeal, the U.S. Court of Appeals for the District of Columbia reversed the District Court on the issue of MARAD's authority to accept CDS repayment, but did not reach the second issue. *Alaska Bulk Carriers, Inc.* v. *Kreps*, 595 F. 2d 814 (D.C. Cir. 1979). In *Seatrain Shipbuilding Corp.* v. *Shell Oil Co.*, 444 U.S. 572 (1980), the Supreme Court reversed and remanded the decision of the Court of Appeals in *Alaska Bulk Carriers, supra.* on the ground that the Secretary's broad contracting powers and discretion to administer the Act encompass the authority to grant permanent release from the restriction associated with the domestic trade in exchange for the repayment of CDS plus interest.

In 1978, MARAD had issued a notice of proposed rulemaking (43 FR 51045; November 2, 1978) that would have added a new provision to its regulations (46 CFR 276.3) describing its policy for considering all applications for the total repayment of CDS in exchange for the removal of domestic trading restrictions. At the time the proposal was published, the "Stuyvesant" litigation still had not been resolved. However, once the Secretary's discretion to allow permanent release was affirmed by the Supreme Court, the proposal was republished for comment in May 1980 (45 FR 29610; May 5, 1980). The only provision new to the republished version was that total CDS repayment would be "plus interest." A sixty day comment period was set and comments were submitted by the public on the notice.

At the time of the republication of the proposed rule, charterers and owners of six ships built with construction subsidies made application for CDS repayment. One of those was for the "Bay Ridge," another Seatrain vessel. On October 15, 1980, MARAD adopted and made immediately effective an interim rule to govern applications for CDS repayment (45 FR 68393). The interim rule differed from the proposed rule in that it was narrower in scope, but it retained greater discretion on the part of MARAD to determine whether to grant or deny applications for CDS repayment. Approvals would be granted only for vessels of at least 100,000 DWT and only in exceptional circumstances after a determination that no favorable opportunities existed for viable employment of the vessel in foreign trade during a protracted period. MARAD was to consider a number of factors, among others, in determining whether exceptional circumstances existed; those factors included (1) the purposes and policy of the Act; (2) the economic impact on the U.S. flag foreign and domestic tanker fleets: (3) the economic impact on shipbuilding in the U.S.; (4) the financial situation of the applicant and its related companies; and (5) the financial interest of the government including Title XI obligations.

By letter dated November 13, 1980, MARAD acted upon and approved the application for CDS repayment on the "Bay Ridge" and deferred other pending CDS repayment applications. On November 25, 1980, the Independent U.S. Tanker Owners Committee (ITOC) filed a complaint in the U.S. District Court for review of the interim rule and the "Bay Ridge" decision, alleging substantive and procedural defects in connection with both actions. The District Court granted summary judgment for defendants on all counts and an appeal was taken to the United States Court of Appeals for the District of Columbia Circuit.

In *Independent U.S. Tankers Owners Committtee* v. *Drew Lewis*, No. 81–2121 (D.C. Cir., September 7, 1982), the Court of Appeals considered the alleged substantive and procedural defects of the interim rule. The Court concluded, on the substantive issue of MARAD's discretion in approving CDS payback applications, that MARAD was not legally obliged to issue regulations limiting its discretion and that the interim rule itself did not constitute an abuse of MARAD's statutory discretion. Nevertheless, the Court vacated the interim rule on procedural grounds. It concluded that the rule lacked a general statement of basis and purpose, as required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), to explain MARAD's position on the various issues raised during the rulemaking proceeding. Moreover, the Court criticized MARAD for not discussing or responding to filed comments and for not explaining why it retained so much discretion in deciding on applications as opposed to promulgating more outcome-oriented and specific rules. The Court also set aside MARAD's decision of November 13, 1980, approving the application for CDS repayment on the "Bay Ridge." The Court cited both procedural and substantive failings in that November 13 decision.

The Court of Appeals remanded the case to the District Court with instructions to vacate the interim rule and the approval of the "Bay Ridge" application, but to allow the "Bay Ridge" to continue in domestic operation pending the reconsideration. It also instructed the District Court to order MARAD to conduct new rulemaking proceedings. The Court left it to MARAD's discretion whether to adopt a permanent rule similar to the interim rule so long as the justification for the rule adopted was "clearly and thoughtfully presented in a statement published comtemporaneously with the rule."

Rationale for this Proposal

The Department believes, for a number of reasons, it is now necessary to promulgate a permanent rule. Basically, the Department's proposal would allow tankers of any size presently operating in the foreign trade and constructed with CDS funds to enter and operate in the Jones Act trade upon total repayment of the unamortized CDS amount owing. For reasons discussed later, the Department is specifically requesting comments on whether the rule should be limited to larger tankers.

Adoption of this proposal would be consistent with the policies of the Act. It is the policy of the United States to foster the development and encourage the maintenance of the U.S. merchant marine. To effecutate this policy, it is most important that an efficient and competitive domestic merchant marine be encouraged, primarily by allowing it to compete freely in the commercial marketplace. Only in that way can a merchant marine sufficient to meet the objectives of the Act be guaranteed. Accordingly, if they are to succeed, the promotional and regulatory policies of the Federal government should minimize government interference in the marketplace decisions of vessel operators.

Adoption of this proposed rule would also be consistent with the Supreme Court's holding in *Seatrain Shipbuilding Corp.* v. *Shell Oil Co., supra.* In reaching its decision, the Supreme Court carefully examined the Act and its legislative history. It concluded that a permanent release from domestic trading restrictions granted to CDS vessels is consistent with the purpose of the Act. It also specifically recognized the inherent benefits of a vessel's permanent release over temporary releases authorized by section 506 of the Act. The court stated

> Section 506 * * * permit[s] a vessel that enjoys the benefits of a CDS to operate outside the foreign market only in narrow circumstances, generally upon a highly discretionary administrative decision, and for no more than six months a year. And we have no doubt that it would be flatly inconsistent with the congressional intent were the Secretary or this court to conclude that a temporary release not meeting these conditions was proper. But a permanent release upon full repayment is quite different. It irrevocably locates the vessel in the unsubsidized fleed and, thus, poses no danger of a supercompetitor skimming the cream from each market. It creates no long-term instability. And it confers no windfall. On the contrary, at least where repayment of the CDS includes some amount reflecting capital costs which would have been incurred had no subsidy been available, such a transaction merely permits a once subsidized vessel to enter the domestic trade on a footing equal to that of vessels already in that trade. It was not the purpose of the Act to prohibit such entry * * *. Id. at 589–90.

The Supreme Court's analysis confirms that allowing a permanent release of domestic trading restrictions in exchange for full repayment of CDS over the long term is preferable to *de facto* government regulation of capacity in the domestic trade by reason of the

issuance of temporary and highly discretionary waivers under section 506 of the Act. The permanent entry of a vessel into these trades allows existing operators to adjust their operations to meet new market conditions. On the other hand, the temporary entry of vessels into the trade under section 506 of the Act subjects the relevant market to the exercise of the Maritime Administration's discretion, thus increasing instability and the inefficient allocation of capacity in the trade.

Further, the denial of an application for permanent release of domestic trading restrictions in exchange for full repayment of CDS may keep a vessel from being employed in a market where it is most efficient. This hardly can be considered to be consistent with the policies of the Act. Nowhere in the Act does it provide that less efficient operators are entitled to protection in the markets in which they operate.

Economically, promulgation of the proposed rule is fully justified. Its benefits outweigh its costs. There are fifteen CDS-built tanders that could be expected to repay their CDE with interest and enter the Alaska North Slope (ANS) trade full-time under the proposal. (ANS oil production was initiated by opening of the Trans-Alaska Pipeline System and has created an increased demand for U.S. flag tankers.) The section 506 waiver process is inadequate to meet the demand.

Included in the fifteen are seven very large crude carriers (VLCC's) of over 1.8 million DWT and eight tankers of approximately 90,000 DWT each. These tankers are among the most efficient U.S. flag tankers. If allowed into the domestic market on a permanent basis, they would add 1.6 million DWT of additional ANS tanker capacity (taking into consideration existing waivers). Removal of regulatory restrictions, in addition to providing for full-time and permanent use of our efficient tankers, would increase ANS oil trade competition and reduce the costs of oil transportation. Additional benefits of the rule could be up to an estimated $200 million in cash, in CDS plus interest, repaid to the U.S. Treasury, and the increased probability of Title XI government loan guarantee repayment for the CDS-built tankers entering the ANS trade.

CDS repayment would not adversely affect the employment opportunities of unsubsidized VLCC's or unsubsidized tankers weighing 90,000 DWT. Unsubsidized tankers in the 100,000 to 130,000 DWT category could be affected, but they are, generally, relatively new tankers with reasonable prospects for ANS employment even with the added competition of CDS-built tankers.

If this proposal is adopted, the major impact of CDS repayment would fall on those tankers weighing 80,000 DWT and under. There are approximately 20 such tankers, all owned or chartered to oil companies in the ANS trade. These oil companies will be faced with the choice of chartering the CDS built tankers at lower rates and redeploying their less efficient tankers to other trades or simply retaining their tankers in the ANS trade and using CDS-built tankers for the additional demand.

The rate structure of the ANS trade would also be benefitted by adoption of this proposal. Presently, the tanker rates range from $7.25—$16.50/DWT/month for tankers ranging in size from 80,000–170⅛,000 DWT. This rate structure has been significantly affected by *de facto* capacity "regulation" of the ANS trade. Since domestic market entry is restricted, rates are maintained at an artifically higher level than otherwise would be true if the market entry restrictions were removed.

The proposal would also assist in reducing the Title XI exposure. This reduction would occur when a Title XI vessel that is unable to secure full-time employment is put into a market where full-time employment is attainable.

By 1988, there will be 138 unsubsidized tankers, 20 years or older in age, with over 4.7 million DWT of capacity and no Title XI debt. If CDS repayment is permitted, up to 15 large, efficient tankers could be added to the unsubsidized tanker fleet, representing 2.5 million DWT of capacity (0.9 million DWT of the present temporary waiver capacity and 1.6 million DWT of additional capacity) in the ANS trade. These tankers would have much improved ANS full time trading prospects, and the overall Title XI exposure on these vessels would be significantly reduced.

The benefits of this proposal lie, in part, in securing employment for CDS tankers that have been unable to maintain employment in the foreign trade. CDS built VLCC's have garnered the most six month waivers, with 90,000 DWT tankers also obtaining a few waivers. With the additional spectre of significantly fewer opportunities to operate in the Strategic Petroleum Reserve (SPR) fill program, both types of tankers will have even greater difficulty securing employment in the future unless CDS repayment is allowed. CDS repayment would allow these vessels to seek full-time employment in the ANS trade and in that way maximize the usefulness of the most efficient tankers in the U.S. fleet.

Regulatory Evaluation and Regulatory Flexibility Act Determination

This proposal was evaluated under Executive Order 12291, "Federal Regulation," dated February 17, 1981 and the Department of Transportation's Regulatory Policies and Procedures dated February 26, 1979. The proposal is not considered to be "major" as defined by E.O. 12291 because it would not have an annual effect on the economy of $100 million or more; it would not cause a major increase in costs or prices for consumers, individual industries, government agencies or regions, and it would not have a significant adverse effect on competition, or any other aspect of the economy. The proposal is considered to be "significant" under DOT's Regulatory Policies and Procedures because it concerns a matter on which there is substantial public interest, and if adopted it would initiate a substantial change in a policy considered important by the Department.

It is certified that this proposal will not have a significant economic impact on a substantial number of small entities. In that connection, it should be noted that the companies owning and chartering tankers in both the foreign and domestic trades are either large oil companies or large independent shipping companies generating substantial revenues and are not small businesses. Moreover, no small governmental or other small entity would be affected.

A draft Regulatory Evaluation (Attachment 2) analyzing the impact of this proposal and incorporating the Departmental determination that there is no adverse impact on small entities has been prepared for this proposal and will be available for public review in the docket established for this rulemaking.

Public Comments

This proposal is based on the related NPRM and interim rule discussed above and on the analysis of the comments received on those rulemaking documents; all relevant material submitted has been given due consideration.

A large number of comments were received in response to the notice of proposed rulemaking and the invitation for comments that was published with the iterim rule. The majority expressed concern with the adoption of a CDS payback policy or recommended substantive and procedural conditions whose effect would be to restrict CDS

payback approval. These comments were generally from those who has a financial interest in limiting entry into the domestic trade. A smaller number of comments favored CDS payback and asked for less restrictive conditions and MARAD procedures that would facilitate CDS payback approvals. A summary of the comments which were solicited in this rulemaking has been prepared and is included as Attachment 1 to this document. Elsewhere in the preamble to this rule, the issues raised in the earlier comments that remain especially relevant are addressed.

In view of the new proposal contained in this notice, interested persons are again invited to participate in the making of this proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from the adoption of the proposal in this notice are invited. All comments reveived on or before the closing date for these comments will be considered by the Secretary before taking action on the proposed rule. The proposal contained in this notice may be changed or withdrawn in the light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive contact with DOT personnel concerned with this rulemaking will be filed in the docket. Commenters wishing the Department to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No.78." The postcard will be date/time stamped and returned to the commenter.

Request for Comments on Whether the Final Rule Should Be Limited to Tankers of Certain Sizes

Comments are specifically requested on whether the scope of this proposed rule should be limited by excluding tankers under 100,000 DWT or some lower weight. MARAD's interim rule applied only to vessels of at least 100,000 DWT. Since there are a finite number of CDS-built tankers, the 100,000 DWT cutoff serves merely to distinguish the seven CDS-built VLCCs (the smallest of which is 225,000 DWT) and two CDS-built ULCCs from the other CDS-built tankers, a large number of which are in the 90,000 DWT class. These vessels are more specifically identified in the Department's Draft Regulatory Evaluation.

There may be a number of reasons for limiting the scope of a CDS payback rule to the seven VLCCs and two ULCCs. (Whether the two ULCCs would ever seek employment in the domestic trade is apparently uncertain, since they cannot now serve the port of Valdez.) Some of these vessels tend to be economically viable only in the Alaskan oil trade, and their impact on the domestic trades might therefore be more limited. These vessels have not received operating-differential subsidy assistance for operation in foreign commence. Some of them have however, operated intermittently in the Alaskan oil trades pursuant to temporary waivers under section 506 of the Act. In fact, since 1978 these vessels have obtained over 25 section 506 waivers, the majority of which were for six month periods.

On the other hand, several factors suggest including in a CDS payback rule, tankers of less than 100,000 DWT. Many of these vessels are among the most efficient for the trade, and are capable of transiting the Panama Canal. The termination of operating-differential subsidy contracts with respect to these vessels would preserve scarce Government resources.

The Department solicits comments on these and other issues relevant to the question of whether a final CDS payback rule should be limited to vessels exceeding a certain DWT limit and, if so, what that limit should be, as opposed to applying the proposed rule to all CDS tankers.

Discussion of Comments on Processing of Payback Applications

A number of comments were received recommending procedures to be followed in processing payback applications. These included (1) publishing notice of each application in the **Federal Register**, (2) providing extended comment periods on each application and (3) holding hearings with administrative law judges to rule on each application. Because of the nature of the rule being proposed herein and for reasons of administrative efficiency, the Department has rejected those recommendations in preparing this proposal.

Initially, the rule being proposed would require only several factual determinations before an application for CDS payback is approved and those determinations are straightforward in nature. The conditions and subjective criteria specified in the interim rule have been eliminated. Thus, there exists nothing to be gained by extensive public comment or formal hearings.

Secondly, even if, with respect to a particular application, a difficult factual question were to exist, the Department does not believe the extensive procedures suggested by commenters are necessary or would be in the public interest. Those procedures involve extensive delays and would impose significant costs on participants. Moreover, nothing in the Act or any other law requires the agency to apply such burdensome procedures. In this connection, no court decisions on CDS payback has even intimeted that such cumbersome approval procedures must be applied

The Department firmly believes that the procedures being proposed will be fully adequate to assist it in its decisionmaking and to protect the rights of interested parties. Under those procedures, each application will be filed in a public docket and those parties who are interested may, if they desire, file comments on the application which will be considered by the agency before it acts on that application.

Discussion of Comments on the Policy of the Act

Several commenters expressed the view that any rule governing CDS payback and release transactions should be consistent with the purpose and policies of the Merchant Marine Act of 1936. Some commenters argued that the Act's primary goal of promoting the U.S. flag fleet must be considered separately between the domestic and foreign trade fleets. Others argued that the policy of promoting U.S. ship construction would be impaired by approval of CDS payback and release applications. Still others argued that opportunites for profitable employment should be provided for CDS-built tankers, whether in the foreign or domestic trades. Another commenter suggested that operations by CDS-built vessels in the domestic trade be regulated to prevent economic dislocation to other operators in the trades.

The Secretary of Transportation is bound by the broad policy mandates of the Act in administering his responsibilities towards U.S. shipping industries, and this proposal is no exception. Many of the comments, however, suggest a misunderstanding of the Secretary's responsibilities under the Act. It is not appropriate to let the various program objectives reflected in the Act stand in the way of achieving the Act's broader policy mandates, including that of encouraging the development of an efficient and competitive U.S. flag merchant marine capable of meeting defense needs while serving both the domestic and foreign

water-borne commerce of the United States. If this policy is to succeed, it is also apparent that the Federal Government should minimize government obstacles to the marketplace decisions of vessel operators, so that U.S. flag shipping can seek its rewards in the commercial marketplace.

This proposal reflects such an approach. It attempts to balance the many interests reflected in the Act. It would further the responsibility of fostering an efficient U.S. flag fleet by allowing vessels which have competed on a temporary basis in the Jones Act trades to seek their most efficient employment on a full-time basis. It would continue Federal protection of the Jones Act fleet by only permitting payback on terms which would put CDS-built vessels on a truly equal footing with vessels operating in the Jones Act trades. The need for temporary waivers of domestic trading restrictions under section 506 of the Act would decrease. As the Supreme Court recognized in *Seatrain, supra* at 589, these temporary waivers tend to create greater instability in the domestic trades thatn the permanent payback of CDS. The proposal would also result in less discretionary Government regulation for CDS-built and unsubsidized tanker operators. While several commenters argued that the domestic industry has relied on the historical distinction between the U.S. flag foreign and domestic fleets, there is nothing in the Act that supports such reliance. MARAD has granted over thirty temporary waivers under section 506 of the Act to CDS-built tankers since 1978, and has approved two applications for permanent payback for CDS-built VLCCs during the same period.

Further, this proposal would return much needed funds to the Treasury to help pay for other programs, such as the Title XI loan guarantee program, that are necessary for the promotion of the U.S. shipping and ship construction industries. It would also improve competitive conditions in the transportation of Alaska North Slope oil to the benefit of shippers and consumers.

Comments on Factors To Be Considered in Approving CDS Payback and Release Transactions

The interim rule published in the **Federal Register** on October 15, 1980 (45 FR 68393), provided that MARAD would allow, in its sole discretion, CDS repayment and release only where exceptional circumstances exist. After determining that no favorable opportunities for viable employment in the foreign trade exist during a protracted period, the interim rule provided that MARAD would consider the following factors in determining whether exceptional circumstances existed:

(1) The purpose and policy of the Act.

(2) The economic impact on the U.S.-flag foreign and domestic tanker fleets.

(3) The economic impact on shipbuilding in the U.S.

(4) The financial situation of the applicant and its related companies.

(5) The financial interest of the Government including Title XI obligations.

These factors elicited a number of comments. Several commenters complained that MARAD retained too much discretion in determining whether exceptional circumstances existed by merely having to consider these factors. Some commenters proposed additional factors to be considered, including case-by-case economic and competition analyses. Other commenters asserted that requiring exceptional circumstances of this nature artificially limited competition and entry into the domestic trades. Several commenters expressed concern over the consideration of the Government's financial interest, arguing that it involved an obvious conflict of interest. Another commenter argued that the consideration of the Government's exposure as the guarantor of Title XI obligations would tend to reward companies in financial jeopardy.

These comments reflect the difficulty inherent in the case-by-case exercise of administrative discretion on applications for CDS repayment and release. It leaves prospective applicants, as well as operators in the domestic trade, uncertain over the prospects for approval of CDS repayment applications. The Department believes that broad policy factors such as these (with the exception of factor No. 4, above) should form the basis of a rule establishing a policy for obtaining approval of CDS repayment and release transactions. It is not necessary, however, to revisit these "legislative" findings with each new application.

This proposal is premised on a consideration of factors such as those in the interim rule. The purpose and polices of the Act have been considered, together with the economic impact on the U.S. flag foreign and domestic tanker fleets. With regard to the possible impact of the proposal on shipbuilding, the entry of CDS-built tankers into the domestic trades might, in fact, reduce the demand for new tankers in the Jones Act fleet. Nevertheless, this same industry is the primary beneficiary of the CDS program which contributed to the construction of these tankers, and the economic benefits to be derived from the use of these tankers exceeds any temporary dislocation to the industry which might result from their employment.

Several commenters argued that any factor that would limit CDS payback to companies in financial jeopardy is not consistent with the policies of the Act. This argument has merit. While the Supreme Court has recognized that a permanent release may further the general goals of the Act by protecting the Government's position as guarantor, *Seatrain, supra* at 588, the Department does not believe it is in the long run consistent with the policies of the Act to prohibit a vessel from seeking its most efficient employment merely because the government has guaranteed the debt of other competitors in trade. Nor does the Department believe it is necessary to follow guidelines that would provide permanent release upon full repayment only to those companies in financial jeopardy. First, repayment in such circumstances necessarily contemplates a government guarantee of obligations issued to repay the CDS because the applicant may not be able to obtain commercial financing to repay the CDS. This raises serious questions regarding the Title XI requirements of economic soundness. Second, a policy that favors companies in financial jeopardy by granting the privilege of repayment only to applicants with unsound management would do little to advance the Act's policy of creating a strong U.S. flag merchant marine. The consideration of the financial condition of the applicant would be relevant only with respect to its eligibility for obtaining assistance under Title XI of the Act in financing CDS payback. That Title contains a requirement for a finding of economic soundness to obtain a Government guarantee of an obligation. This proposal would not in any way affect that requirement. Accordingly, under the proposal, it would not be necessary, for the purposes of granting approval of CDS payback and release applications, to consider the financial situation of individual applicants.

Finally, the Government has considered its own proprietary financial interest and concluded that this proposal would be consistent with that interest. The repayment of CDS would return monies to the Treasury necessary for the continued administration of other programs essential to the U.S.flag merchant marine and shipbuilding industries, including Title XI of the Act.

Discussion of Comments on the Adequacy of Section 506 Six-Month Waiver Provisions

Some commenters supported use of existing six-month waiver provisions authorized by section 506 of the Merchant Marine Act of 1936, rather than allowing total CDS repayment and permanent removal of domestic trading restrictions. Commenters argued that six-month waivers gave MARAD the necessary flexibility to fulfill its broad policy obligation while allowing underused CDS-built tankers to be profitably employed in the domestic trade. It was also suggested that legislative efforts might be made to allow consecutive six-month waivers in lieu of permanent CDS payback if additional capacity was needed in the Jones Act trade.

As stressed in the draft Regulatory Evaluation for this rule, MARAD's use of six-month waivers imposes unnecessary economic regulation on entry into the domestic trade. The Supreme Court in *Seatrain Shipbuilding Corp.* v. *Shell Oil Company, supra,* pointed out that full repayment and permanent release, unlike a temporary waiver, locates the vessel in the domestic fleet and prevents vessels from operating between the two trades and "skimming the cream" from each market. The Court also averred that permanent entry created no long term instability or windfall for those permitted to enter as long as repayment of the CDS includes some amount reflecting capital costs that would have been incurred had no subsidy been available; full CDS payback is legitimate as it merely allows the once subsidized vessel to enter on an equal footing with other vessels in the Jones Act trade. In essence, the Supreme Court pointed out that CDS repayment is economically superior to the present system of temporary waivers. We fully agree with their assessment, and the regulation establishes a mechanism to require such an equitable capital cost recovery payment.

Discussion of Comments on the Assessment of Competitive Impact on Jones Act Tankers

Many comments were received on the adequacy of the economic impact assessments of CDS repayment on the Jones Act tankers presently in the trade and those under construction. The majority of comments stressed the point that allowing additional tonnage into the trade would adversely affect the Jones Act tanker fleet. They argued that the new capacity would displace existing capacity, increase competition, lower tanker rates, and could force tankers out of the trade for lack of employment opportunities or because rates were reduced to a level where existing Jones Act tanker owners could not employ their tankers at rates sufficient to cover operating and capital costs. On the other hand, some commenters argued that the Merchant Marine Act of 1936 does not require that Jones Act tankers be protected from the competition of other U.S. flag tankers.

The draft Regulatory Evaluation analyzes the economic impact on the Jones Act tankers of CDS repayments. Its conclusion is that, by allowing CDS repayment, some tankers could be bumped from existing trades, tanker rates in the Jones Act trade could be reduced as competition increases, and some tankers might be unable to survive in this environment. However, the CDS-built tankers that would be expected to enter the Jones Act trade would be among the most efficient in the U.S. tanker fleet. In the Jones Act trade, particularly the ANS trade, the CDS-built tankers might displace less efficient tankers and the tankers displaced, particularly those displaced from the present ANS trade, might displace less efficient tankers in other non-ANS trades. The end result of this bumping process would be that the least efficient Jones Act tankers, particularly the smaller tankers aged 20 to 41 years, would be the tankers most vulnerable to scrappage. Many of these tankers may be scrapped anyway; the new Panama pipeline and the high costs of complying with the Port and Tanker Safety Act could adversely affect many of these smaller and older tankers. As more efficient tankers replace less efficient tankers, the competitive impact could result in lower tanker rates and, thus, lower transportation costs.

The end result of the introduction into the Jones Act trade of CDS-built tankers could be an increase in the efficiency of the U.S. tanker fleet and more competitive tanker rates. The economic benefits that would result from removal of entry barriers that now prevent CDS-built U.S. flag tankers from entry into the Jones Act tanker trade far outweigh, in the Department's judgment, the adverse economic impact to existing Jones Act tanker owners.

Discussion of Comments on CDS Repayment Amortization and Interest

Several comments addressed the issue of the amount of CDS to be repaid and how interest should be charged on the CDS repaid. The spectrum of comments was quite broad. Some commenters suggested that (1) interest should be charged from the day the CDS was disbursed for tanker construction purposes to the day CDS was repaid; (2) the interest rate should be the higher of the commercial bank rate for unsecured loans at the time the CDS payments were disbursed or the current unsecured commercial bank rate; and (3) the resultant repayment should be indexed to inflation. Others suggested that only unamortized CDS should be repaid; interest should be charged only during the construction period; and the interest rate should be the rate in effect for Title XI bonds at the time the original CDS disbursements were made by MARAD.

The Department believes that the amount of CDS that is repaid and the amount of interest charged should reflect the capital costs that equate a CDS-built tanker with the capital cost of an unsubsidized tanker as nearly as possible. Since a tanker will be spending only a portion of its statutory life in the domestic trade if CDS repayment is allowed, equity dictates that repayment should be confined to only the unamortized CDS.

Owners of CDS-built tankers will receive economic benefit from their unamortized CDS from the day they were paid by MARAD to finance construction of the tanker until the day it is repaid. This period—from the date of payment to the date of repayment—is considered to be the appropriate time period over which interest should be charged. The Department believes that the long term interest rate of the Title XI bonds used to finance a CDS-built tanker is the most appropriate interest rate to equate a CDS-built tanker's capital cost with an unsubsidized tanker's capital cost. Since unamortized CDS will be outstanding during the whole period from the CDS disbursements for construction until the CDS is repaid, continuous compounding of interest is appropriate and is included in the proposal. The formula for computing the amount of CDS repayment in this proposal strikes a balance of the factors from both ends of the spectrum of comments. The Department believes the factors selected represent an equitable formula for CDS repayment.

Nothing in the proposal, however, affects the availability of Title XI guarantees to finance the CDS amount to be repaid. Applicants seeking such financing must comply with the requirements of Title XI.

List of Subjects in 46 CFR Part 276

Grant programs—Transportation, Maritime carriers, Reporting and recordkeeping requirements.

PART 276—[AMENDED]

Accordingly, it is proposed to revise 46 § 276.3 to read as follows:

§ 276.3 Total repayment

(a) In accordance with the terms and conditions of this section and upon receipt of an appropriate application, the Maritime Administration will allow the total repayment of unamortized construction differential subsidy (CDS), with interest, and rescind permanently the domestic trading restrictions related to the grant of CDS for tankers of any deadweight tonnage. Approval of total repayment shall be irreversible.

(b) *Repayment Terms.* The interest rate will be the same as the long-term interest rate the owner obtained, or would have obtained if long-term debt financing had been used, in financing his/her portion of the tanker. Unless the Maritime Administrator determines that using interest rates other than long-term bond rates is justified, such rates will be used. If more than one long term bond was issued to finance the owner's portion of a specific tanker, or if one or more of such bonds has more than one rate (such as a serial bond) an average interest rate will be computed weighted by the proportion of each bond par value to the total par value of all long term bonds issued to finance the owner's tanker. The interest payable on the unamortized CDS shall be computed by continuous compounding of the interest until the day of repayment. For purposes of this paragraph, "long term bond rates" are either actual Title XI bond rates on a specific owner's tanker or the Title XI long-term bond rate at the time the tanker's statutory life began.

(Sections 204(6), 207, 506, and 714, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b) 1117, 1156, and 1204 Pub. L. 86–518 (74 Stat. 216)

Issued in Washington, D.C. on January 27, 1983.

Andrew L. Lewis Jr.,

Secretary of Transportation.

Attachment 1—Comments on Rulemaking

The following is a summary of the relevant comments received in response to the MARAD notice of proposed rulemaking and interim rule concerning CDS payback.

Interim Rule Comments

Failure to Fully Consider Economic Factors

Several commenters expressed the view that the agency had not considered or analyzed the economic consequences of its proposed action. Some commenters complained that, under the interim rule, the agency should consider the purpose and policy of the Act, the economic impact on the U.S. flagships in foreign and domestic commerce, the financial situation of the applicant, and the financial interest of the government, but there is no indication in the rule what weight will be assigned each of these factors. In their view, the agency should consider—in determining its own financial exposure—the Title XI commitment on the particular vessel and other Title XI funds as well; i.e., what would be the government's loss if entry of the applicant's vessel drives others to bankruptcy by creating a surplus of domestic tankers. There needs to be a thorough analysis of competitive impact according to one of the commenters. It was argued that benefits accruing to the agency under any insurance policy where it is a beneficiary also should not be overlooked by MARAD. Other commenters argued that to give favorable consideration to an economically unsound carrier because of Title XI involvement is beyond the agency's authority.

Several commenters expressed the view that the interim rule highlights the low reliability of MARAD's economic forecasting. MARAD cannot and has not done a thorough economic policy analysis in their view. Those commenters claimed that, in order for MARAD to approve a CDS application, the law requires a positive finding that the vessel can be profitably employed in the foreign trade for its entire economic life. Under the interim rule, MARAD must make a contrary finding that the same vessel cannot be profitably employed in the foreign trade for "protracted period of time," before approving a CDS payback. These commenters see this as a contradiction. In this connection, they pointed out that during the *Seatrain* litigation, MARAD stated it could not forecast tonnage needs more than three years in the future and, hence, could not evaluate the long-term impact of permitting CDS payback.

According to several commenters, MARAD must assess a large number of competitive effects of CDS vessels entering the Alaska trade. One commenter urged MARAD to evaluate factors such as 1) the current tonnage in the Alaska market; 2) the size, type, and amount of tonnage; 3) the general supply of and demand for Alaska oil; 4) the effects of the proposed Northern Tier pipeline; 5) the existence or construction of deep draft ports; 6) the discovery of new oil fields; 7) the status of the Panama Canal (e.g., construction of a pipeline, costs of transiting canal, etc.); 8) the absorption of Alaska crude oil on the West Coast; 9) the possibility of oil shipment to Japan; and 10) the development of Mexico's oil production industry.

Nonetheless, after offering a plethora of factors for MARAD to consider before granting CDS payback approvals, commenters expressed the view that the scope and difficulty of assessing and evaluating these factors argue against granting any permanent CDS waiver. These commenters contended that MARAD should, if there is a temporary shortfall in excess of what can be met through the grant of Sec. 506 temporary waivers, seek legislation to liberalize Sec. 506. This legislation could allow for extended use over consecutive periods for more than six months, but subject to determinations that unsubsidized Jones Act tonnage was not available during this extended period of waiver.

Others supported repayment of CDS and entry into domestic trade, but opposed some areas of the interim rule. They argued that the interim rule is impractical in trying to assess economic impact on a trade for the full span of statutory life since MARAD has admitted its predictions more than three years in advance are unreliable. They suggested that the criterion of the rule be designed to protect domestic fleet operators from competition of other U.S. vessels.

One comment was received that argued that the interim rule contravenes the directions in the *Seatrain* case, since it makes temporary transfer easier to obtain than permanent.

Unacceptable Board Discretion

Several commenters believed that the interim rule provides too much discretion to MARAD and urged that the "exceptional circumstances" restriction in the interim rule be deleted as exceeding MARAD's authority, as an unwarranted imposition on CDS contracts, and as impractical. In addition, they argued that the refusal to modify CDS contracts except under the exceptional circumstances set out in the interim rule will reduce the economic viability of the CDS contracts.

Those who supported a payback policy argued that the special circumstances restrictions in the rule merely shelter domestic markets and protect profits. This, they argued, is illegal because it restricts competition and the Jones Act does not protect operators from this kind of competition

Some urged that the discretion given to the agency to require the interest period to extend up to the date of repayment after the completion of the vessel should be deleted because it

creates a penalty for compliance with the terms of a CDS contract. Instead, those commenters argued that interest should be payable up to the date of vessel completion or the date of repayment, whichever is earlier.

Administrative and Procedural Comments

Some commenters believed that making the interim rule effective immediately was inconsistent with the concurrent solicitation of public comment on the rule. In addition, they objected to a perceived lack of explanation for the need for the interim rule. These comments viewed the rule merely as notice of MARAD's intent to apply the payback policy to a single ship, Richmond's Bay Ridge.

Some commenters complained that the interim rule did not have a regulatory analysis. Without a regulatory analysis, it was argued, MARAD lacked the principal tool available to develop an adequate rule and affected parties were deprived of the most meaningful basis for comment. One commenter noted that MARAD's notice of October 15, 1980, indicated that a regulatory analysis was being prepared and this shows that MARAD recognized the need for additional information. Thus, in the commenter's view, the promulgation of an interim rule and subsequent grant of application to Richmond, without a regulatory analyses, appear to be in willfull disregard of E. O. 12044, Commerce Department administrative order 218–7, and MARAD's own rulemaking procedures.

Several commenters suggested procedures to insure all interested parties have an opportunity to present their views on payback applications. The procedures included:

(a) Allowing 30 or 60 days after public notice of application to submit written comments.

(b) If the vessel is intended to be used in the domestic, dry cargo trade, requiring the applicant to serve a copy of its application on each operator having a tariff on file at the Federal Maritime Commission or the ICC covering *any* domestic trade route.

(c) After receipt of any written comments in opposition to the application, the scheduling of the matter for a hearing.

Clear Guidelines, Rules, Legislation

Several comments were received concerning the clarity of the guidelines. Some commenters believed that clear guidelines and rules are needed. They said that the interim rule regresses from standards proposed in the original notice and rulemaking. They also argued that the "power to consider" and "certain factors" language in the interim rule is vague and amorphous as is the power reserved to MARAD to waive requirements. The commenters objected to MARAD's not saying how it will weigh "these vague factors," or how it will consider the economic impact on the foreign and domestic fleets. Because of this, they argued, one cannot tell how factors concerning the financial condition of the applicant will be balanced when transfer into the domestic trade is considered.

One commenter said that the words "applicant and its related companies" in the interim rule will allow charterers to apply instead of the owners as intended by Section 504. "Dilution" of domestic trade, in this commenter's view, can only be prevented by a clear legislative rule.

One commenter said that the six-month trading restriction in any 12-month consecutive period should be lifted legislatively.

Some commenters raised questions about what type of economic impact is required to be shown on foreign and domestic fleets before repayment is allowed. Among these were the following: Must the applicant show his entry into the market will have no effect or his entrance will not cause immediate bankruptcy of any substantial sector of the tanker fleet or shipbuilders? Will he have to show what financial situation will justify the approval of applications? Must the applicant be threatened with bankruptcy or must he just show his financial prospects will be improved? Must government be threatened by the applicant's default of Title XI obligations or must the applicant show prospects for repayment are enhanced? What are the other factors MARAD may consider? After raising these questions, the agency was urged to set specific standards.

Adverse Economic Impact on the Jones Act and CDS Trade

Some commenters said that operators of CDS vessels are at an overwhelming advantage in the Jones Act trade, even if additional tonnage were needed, because their ships are ready. It was contended that subsidy repayment represents a fractional added cost compared with the price of new building. They saw future building being affected, too, and predicted that whenever the foreign market faltered, the CDS operator would turn to domestic trade. Finally, they argued that domestic trade is successful and self-regulating and should be let alone. These commenters concluded that failure of the maritime policy in foreign trade cannot be solved by funneling CDS vessels into the domestic trade.

Other commenters said that a potential U.S. shipbuilder under the CDS program is more likely to commit to the foreign trade if there is a realistic opportunity to employ the vessel in the domestic trades if the foreign market collapses.

It was also argued that restriction on domestic competition serves no practical purpose because of the growth in domestic trade, the burgeoning market for Alaskan oil and the shortage of suitable vessels to carry it for the next 6 years.

Some commenters wanted to see the "exceptional circumstances" restriction on approval of repayment applications deleted. They believed it exceeds Marad's authority, imposes an unwarranted imposition on CDS contracts, and is impractical. Refusal to modify CDS contracts except under exceptional circumstances will reduce economic viability of CDS vessels in their view. They also contended that proponents of the restrictions contained in the interim rule are really supporting a sheltered domestic market and protection of profits; such a rule curtails competition and is illegal. They cited Judge Bazelon's opinion in the *Alaska Bulk Carriers case* that it is not the purpose of the Merchant Marine Act to protect Jones Act operators from this type of competition.

Others suggested that if the Secretary should elect to require payment of interest only to the date of delivery, the owner will have the benefits of "free money" for every day he has operated the vehicle. Domestic owners, they said, do not have access to such financing.

One commenter suggested that the power of Marad to waive the requirements of sec. 276.3—the exceptional circumstances factors and the 100,000 DWT restriction—would permit any CDS vessels of any size to enter the Jones Act trade upon repayment, regardless of economic impact on the U.S. flag foreign and Jones Act fleets.

Another commenter contended that any further action—beyond the approval and entry of Richmond's Bay Ridge, and Stuyvesant—may have a long-term impact on the Jones Act fleet and would seriously jeopardize the financial viability of those presently operating in the Jones Act trade. Presently, it was argued, the Jones Act trade can anticipate those U.S. flag Jones Act vessels that can enter and be in competition. Jones Act owners can, therefore, plan vessel construction.

Under the rule, however, this will not be so, they contended. Moreover, a commenter emphasized that Jones Act vessels were built without the benefit of a government subsidy resulting in substantial investments by domestic owners. These vessels were constructed by owners who believed they were dealing in a protected trade. The commenter asked MARAD not to ignore this when determining its policy on the repayment issue and not to subject these individual companies to unnecessary economic hardship by the permanent intrusion of CDS vessels into domestic trade. In this connection, for years, section 506 of the Merchant Marine Act and 46 CFR 250 were interpreted as protective assurances for domestic trade, the commenter alleged.

In another area, several commenters argued that the accuracy of supply/demand projections for domestic tonnage becomes increasingly less accurate as projection periods are extended and a Title XI default by an owner of a Jones Act vessel could occur as result of excess tonnage in Jones Act trade (entry of former CDS vessels) and should be considered.

Some commenters said that the interim rule is unacceptable because Jones Act vessels may be deprived of employment. Also, under the rule, incompetency on the part of the CDS owners is rewarded since a poor financial record is an advantage when considering an application for CDS payback. A commenter saw a conflict of interest for the government created by trying to protect its Title XI interests when considering CDS applicability.

One commenter predicted an adverse impact on the foreign trade fleet under the interim rule. In its view, when a CDS is vessel is removed from foreign commerce, less U.S. flag tonnage remains available. The commenter argued that the adverse economic situation in U.S. foreign trade is caused by an insufficient grant of CDS to compensate for higher American shipbuilding costs, rather than an oversupply of U.S. tankers operating in foreign commerce.

One commenter objected to the conditions in the interim rule which imply that the Board will not accept repayment from vessels underused in foreign commerce. If this is true, it argued, Jones Act vessels would be protected from competition with other U.S. built ships to the detriment of CDS carriers, and consumers will be forced to pay higher prices.

General Comments

Commenters opposing the permanent entry of CDS vessels into the domestic trade made several additional arguments for their position. One commenter argued that operators of CDS vesels have an overwhelming advantage over their competitiors, in that their ships are ready for use whereever additional tonnage may be needed. Another commenter argued that allowing the permanent entry of CDS vessels into the domestic trade inevitably creates a serious disadvantage for the owners and operators of Jones Act vessels and the U.S. shipbuilding industry. This adverse impact affects not only existing vessels but also investors in vessels planned or under construction. In this commenter's view, investors planned or began to construct new vessels because there was a tonnage shortfall in the domestic trade and permanent entry of the CDS vessels would reduce or eliminate this shortfall, leading to distortion of the market need that stimulated the decision to invest in new vessels.

Opponents also suggested that to permit the permanent entry of CDS vessels would upset the expectations of economic risk previously held by owners and operators in the domestic trade. As CDS vessels enter the domestic trade, increased competition, lower charter rates, and reduced market demand for vessels already in the domestic trade are likely to follow. This has the effect, a commenter stated, of forcing owners and operators in the domestic trade to assume economic risks previously shared by MARAD and owners and operators of CDS vessels, such as the risk of having to use ships unprofitably in the foreign trade.

One commenter also argued that permiting CDS vessels to be used permanently in the domestic trade would have an adverse impact on the U.S. flag fleet used in foreign trade. There would be a reduction in the number of U.S. flag ships used in the foreign trade which, unless CDS subsidies where raised, U.S. owners and operators could not compensate for.

One commenter argued strongly against the "exceptional circumstances" restriction on approval of repayment applications. Requiring a showing of exceptional circumstances, this commenter stated, would reduce the economic viability of CDS vessels in order to shelter the domestic market from competition. Artificial limitations on competition of this sort, in this commenter's view, are illegal. Moreover, such a restriction would serve no practical purpose; since domestic trade is growing, there is an increasing market for Alaskan oil, and there is a shortage of suitable vessels for the next 6 years to handle the domestic market.

One commenter suggested that permitting the transfer of CDS vessels to domestic trade would reduce the incentive for the construction of new ships for the domestic trade, resulting in a loss to the U.S. economy. This commenter also suggested that the reduction of one ship in the subsidized foreign commerce fleet would be undesirable.

One commenter suggested that the permanent release of domestic trading restrictions shifts Title XI risks to the domestic fleet since it will face more competition. On the other hand, MARAD's risk of financial loss—which it has been paid to assume—will decline.

Another commenter argued that the interim rule creates uncertainty since it could open the floodgates to the Jones Act trade or could be strictly applied with waivers not granted. The commenter asked that MARAD set out mandatory criteria for Jones Act entry that each applicant for CDS payback must meet.

One commenter argued that the factors in the interim rule for MARAD to consider in reviewing requests for total repayment of CDS and entry into domestic trade are artificial, economically undesirable, and contrary to the public policy in favor of competition and could misallocate shipping resources. The commenter suggested that MARAD revise the rule to provide for acceptance of total CDS repayment in all cases in which the owner of a CDS vessel is willing and able to make repayment.

Recommendations for Rule Changes

Another commenter suggested a number of other factors to consider. This commenter asked the agency to consider all trade for which CDS vessels were eligible, foreign as well as domestic, before granting payback approval. In addition, the commenter suggested that the agency evaluate whether a short term waiver in lieu of payback might be adequate to bridge slack periods. The agency was also urged to consider (1) whether the applicant could guarantee the vessel's employment in the foreign trade distinguishing between proprietary and non-proprietary tonnage, (2) the impact not only on ships and shipyards controlled by the applicant, but also the effect on unsubsidized construction, (3) all aspects of the applicant's financial situation, (4) the Title XI obligations that are involved considering insurance arrangements to which the agency is a party, and (5) the overall competitive impact of a payback approval. Finally,

this commenter requested a hearing on each CDS repayment application.

A third commenter argued that the test for payback approval should be simple. The agency should consider the best use for the vessel; if there is no use for the vessel in the foreign trade, the owner should be allowed to repay the CDS and enter the domestic trade on an equal footing with the domestic fleet. Such a flexible CDS payback policy was felt by the commenter to serve the policies of the Merchant Marine Act. This commenter was opposed to considering the financial situation of the applicant and related companies in approving CDS payback unless some foreign trade opportunities were to exist but not to the same degree as domestic opportunities or if the available domestic opportunities were insufficient to fully satisfy all the applicants for CDS payback. The commenter did recommend that the agency consider governmental financial interests and the purposes of the Act before granting approval; however, the commenter urged that the most important test should remain the availability of vessel employment opportunities. Another commenter felt that only governmental financial obligations should be considered in approving CDS paybacks; it felt the other interim rule criteria to be too restrictive.

Another commenter specifically objected to two criteria that might be considered for payback approvals. First, it objected to consideration of the financial situation of the applicant since this could result in the reward of business incompetency. Second, the commenter objected to consideration of Title XI obligations since the agency would have a conflict of interests. This commenter did suggest, however, that the possibility of Title XI default by the owner of a Jones Act vessel could occur as a result of excess tonnage in Jones Act trade and should be considered before granting any CDS payback approval.

Several commenters touched on the question of the interest to be charged with CDS repayments. One felt that the interim rule was unclear on when and how interest must be paid. The commenter urged that interest be charged on repaid CDS for the entire period from payment to repayment. Another commenter agreed with the interim rule's provisions that (1) require interest repayment only on unamortized CDS principal balances, and (2) compute interest from the day of disbursement of each CDS payment through day of completion of the vessel. This commenter argued that the agency discretion in the interim rule to require interest until the date of repayment if after the completion of the vessel should be deleted because it could create a penalty for compliance with the terms of the CDS contract. The commenter argued that interest should be payable up to the date of vessel completion or the date of repayment, whichever is earlier.

Two raised the issue of the method of CDS repayment. One commenter asked that repayments be required to be in cash. The second commenter agreed and argued that to do otherwise would result in certain vessels being permitted into the domestic trade without first having their CDS fully repaid thereby placing them in a better footing than the rest of the domestic fleet. In effect, it was argued, such vessels would remain subsidized and because of the irreversibility provision in the interim rule, the risk of default to the government's detriment would be great. In this connection, the second commenter also asked that the initial approval of CDS payback not be permanent but that repayment and entry into the domestic trade should be irrevocable.

One important operator, who favored the waiver process, indicated that it could support a rule that applied to all ships regardless of size, age, or type. Other commenters urged that the rule should apply only to VLCC's and ULCC's. This commenter also urged that 46 CFR Part 250 be revised to cover vessels of less than 100,000 DWT. In addition, the commenter argued that (1) the CDS payback rule should include a provision withdrawing Jones Act status if obtaining the status results in a surplus of tonnage in the Jones Act fleet, and (2) former CDS vessels must relinquish Jones Act status on a last-in, first-out basis to eliminate surplus tonnage.

Finally, one commenter argued that sec. 276.3(d) of the interim rule, which permits the waiving of other requirements of the rule, should be deleted; another asked that a provision be added to sec. 276.3(b) precluding CDS payback unless an emergency in the domestic trade were proven.

Waivers

Several commenters expressed support for the existing system of six month trading waivers either in addition to or as a substitute for the interim rule's provisions. They argued that the Section 506 temporary waiver provision has given MARAD the necessary flexibility to fulfill its broad policy obligations while allowing underused U.S. foreign commerce tonnage to be profitably employed in the domestic trade. Such waivers, commenters contended, will assist in alleviating the temporary nature of the Jones Act tonnage shortfall. One commenter did suggest that waiver requests be published in the **Federal Register** for comment.

One commenter argued that MARAD should, if there is temporary shortfall in excess of what can be met through the grant of Section 506 temporary waivers, seek legislation to liberalize Section 506. This legislation, it was suggested, should allow for extended use over consecutive periods of up to six months, but would be subject to determinations that unsubsidized Jones Act tonnage was not available during the extended period of the waiver.

NPRM Comments

Exceptional Circumstances

Several commenters supported the "exceptional circumstance" provision (a set of criteria proposed by MARAD in the notice, to be considered in connection with applications for total repayment) provision set forth in proposed section 276.3(b)(1), concerning a lack of opportunities in the foreign trade, but urged that MARAD or the Secretary should consider the nature and origin of the lack of opportunity for foreign trade or other trade participation before admitting a CDS applicant to the domestic trade as proposed. The first exceptional circumstance should be included in the final rule, one commenter indicated, but it noted that almost every CDS-built ship lacks the opportunity for foreign trade. Some commenters asked that the showing required in section 276.3(b)(1) of a lack of opportunities in the foreign trade be expanded. Three commenters thought possible opportunities to operate in the Strategic Petroleum Reserve trade should be considered before a finding is made that there is a lack of foreign trade opportunities. Specific language was suggested for inclusion in the rule, such as "or in such other trade for which vessels constructed with CDS may be eligible." Taking an opportunity to participate in the domestic trade in the existing six-month waiver program should also be considered as a condition precedent to the above finding according to two commenters.

One commenter suggested including as one of the four exceptional circumstances or criteria, a finding that the vessel must be on the verge of a "lay-up" due to a near-permanent lack of foreign trade opportunities.

One commenter stated a belief the CDS repayment should be treated as

extraordinary relief and not routine relief. The commenter also recommended the following specific language on the subject of lack of opportunities for inclusion in proposed section 276.3(b)(1) "provided that such absence of favorable opportunities is not the result of actions by the applicant or by any of its affiliates." Another commenter similarly commented that section 276.3(b)(1) should exclude cases where the operator has contributed to the loss of favorable opportunities. One commenter recommended an additional criterion be added relating to consideration of opportunities in the foreign trade—the lack of long-term favorable opportunities for foreign trade operations.

One commenter was concerned about paragraph (b)(4) of proposed section 276.3, which would require a finding that operation of the vessel in the domestic trade is not likely to have any significant adverse competitive effect on other vessels operating in the trade. The commenter found the meaning of this provision to be unclear since any charter of a released vessel which could be accepted by a Jones Act vessel will have a significant competitive effect on that Jones Act vessel and all others similarly situated. It suggested that the required finding at the time of the application should be that there is a present long-term need for the CDS vessel in the domestic trade which cannot be filled by a Jones Act vessel in existence, under construction, or soon available for charter. Temporary demand/supply imbalances should not be sufficient since the temporary transfer provisions of Section 506 of the Act are available for emergency needs.

Another commenter suggested an additional number of factors it believed should be considered by the Secretary or MARAD when applying proposed section 276.3(b)(4). They were that in making the determination under (b)(4), the Secretary should consider the competitive effect on the existing carriers in the trade, the adequacy of the existing service, the needs of the shippers and consignees, and whether service and price competition would be salutary not only for the shippers and consignees but for the long range health of the U.S. Merchant Marine.

Another commenter believed that the proposed criterion that domestic trading restrictions not be lifted if the introduction of that tonnage will have a significant adverse competitive impact on the existing domestic fleet should be retained. However, still another commenter believed only certain vessels should be affected, and that the Secretary or MARAD should not consider, in making this determination, any vessel beyond its statutory life (20 years for tankers and 25 years for dry bulk ships) in assessing the existing domestic fleet. Such consideration would artificially extend the vessels' lives beyond that which is reasonable and thereby, inhibit the modernization of the U.S.-flag fleet, it was argued. The changes required by the Port and Tanker Safety Act of 1978 should result in the phasing out of all over-aged vessels by 1986. If rates are high enough to justify retrofitting the overaged ships in 1986, it can only be for lack of sufficient modern tonnage to serve the trade, the commenter asserted.

On the other hand, one commenter suggested that the fourth circumstance set out in the proposed rule ("that operation of the vessel will not likely have any significant adverse competitive effect on other vessels operating in the domestic trade") should be the only criterion for accepting total repayment of CDS and permanently rescinding trading restrictions. It should be the cornerstone of the statement of policy in section 276.3 rather than the last of the four exceptional circumstances listed in the proposed section.

Two commenters expressed support only for paragraph (b)(4) among the four criteria and they felt the other three proposed prerequisites should be considered only upon a finding that entry of a CDS vessel will have a significant adverse effect on the other vessels in the domestic trade. The absence of favorable employment opportunities for a vessel in the foreign trade and the imminent bankruptcy of the vessel's owner are significant factors which in certain circumstances may justify the lifting of domestic trade restrictions, even if an adverse competitive impact was to result. However, all relevant factors should be considered in offsetting the existence of an adverse competitive effect. One comment described the fourth exceptional circumstances to be the "most significant consideration." However, it indicated the provision did not specify any time period during which the competitive effect of the payback vessel is to be measured. The commenter argued that the regulation should require that determinations of competitive effect should be made using domestic market supply and demand projections for a period at least equivalent to the remaining useful life of the CDS vessel under consideration.

One commenter stated that if MARAD determines some type of competitive impact injury is required and there are more applicants than room in the trade, MARAD must undertake a comparative evaluation of the concurrent proposals as in the *Ashbacker* decision (326 U.S. 327(1945)).

There was clear opposition on the part of some commenters to proposed section 276.3(b)(4). A commenter questioned the legality of the paragraph since the Secretary has authority under the Merchant Marine Act to accept total CDS repayment without a competitive impact inquiry. Another stated that a criterion conditioning acceptance of CDS repayment on the fact that the operation in the Jones Act trade is not likely to have a significant adverse competitive effect is not in that statute.

Proposed section 276.3(b)(2) states that the exceptional circumstances will be met if, because of the absence of adequate employment opportunities for the vessel in the foreign trade, the vessel owner or other party responsible for payment of the debt guaranteed or insured by the Secretary under Title XI of the Act will be unable to make the required periodic principal and interest payments on that debt and faces imminent bankruptcy. There were varying comments on the provision. Most commenters focused on the "imminent bankruptcy" requirement. Several commenters expressed concern that the proposed rule will favor those who are financially unstable. For instance, one stated that the proposed requirement that financial disaster be imminent for both the operator and the Government in a situation where no one stands to be injured by the transfer of the vessel has no basis in the Merchant Marine Act. This encourages financially unstable applicants to expose the Government to loss by having CDS repayment notes guaranteed under Title XI while disfavoring payment by financially viable applicants.

Others warned that the "bankruptcy standard" is subject to easy evasion and they urged that the agency, in making the determination, should take note of corporate relationships and structure. One commenter in fact, recommended the following specific language be added to proposed section 276.3(b)(2) on this point.

> provided, however, that this criterion shall not be deemed satisfied in any case where the beneficial or equity owner of the vessel is a member of a group of companies that files consolidated tax returns, unless its parents also face imminent bankruptcy.

A number of commenters suggested additional requirements that would assist in ensuring that only those operators whose entire organization or

corporation were facing imminent bankruptcy or severe financial instability would be allowed into the domestic trade. For instance, one suggested that the second "exceptional circumstance" should be amended to require consideration of all assets potentially available to the owner/debtor in satisfaction of its vessel construction obligations. Otherwise, it was argued, an operator could demonstrate an inability to satisfy its obligations by placing its vessels in separate, single-ship companies so that each company would have one vessel as its only revenue generating asset, despite the fact that the parent and related companies may be sound and able to absorb the loss. Another suggested that the circumstances of imminent bankruptcy should be so described in the provision that it is clear that the beneficial owner's entire organization, and not simply an isolated one-ship owning company, is to be considered by the agency.

One commenter strongly opposed the inclusion of proposed paragraph (b)(2) on the grounds that it would limit applications for repayment and permanent entry to those CDS owners whose vessels carry debt guaranteed or insured by the Secretary under Title XI of the Act and who are facing imminent bankruptcy. Each of those restrictions, it argued, is arbitrary and discriminatory. One commenter recommended simply that all "failing company" criteria be eliminated.

One commenter stated basic opposition to the entire proposed rule. However, it clearly stated its opposition to the first and second criteria of proposed section 276.3(b) on the grounds that the proposals misallocated resources and that vessels that could be more fully used in the U.S. costal trade should be permitted to do so even if not on the verge of bankruptcy. Its opposition was also rooted in its belief that the provisions protect existing Jones Act vessels from competition from other American ships to the detriment of the affected CDS carriers and consumers who pay higher prices for restricted entry.

Proposed section 276.3(b)(3) provided as one of the "exceptional circumstances" to be met before entry that the government will sustain substantial financial loss in the event of the bankruptcy of the debtor because of its responsibility to pay under Title XI guarantees or insurance. One commenter indicated some additional factors to be considered by the Secretary with regard to possible financial losses or exposure that would be suffered in the event of the debtor's bankruptcy such as value of the foreclosed vessel as well as the consequences to the government's other Title XI collateral in the domestic trade. Further, the commenter advised consideration of the consequences on the domestic shipbuilding industry as a whole.

Another commenter indicated three factors it thought should be considered by the government in assessing its exposure. They were:

(a) the risk of loss as guarantor;

(b) the value of the vessel itself; and

(c) the value of any insurance policy with the government as beneficiary.

The commenter proposed that the following specific language be added to paragraph (b)(3):

> giving weight, among other factors, to any insurance policies of which the Secretary may be beneficiary, the value of the vessel, and the potential exposure of the Secretary as guarantor of other vessels in the domestic trade.

One commenter requested that proposed section 276.3(b)(3) be redrafted to state how financial exposure of the government is to be assessed. Another commenter voiced a clear objection to the provision on the gounds that the government's position in the event of such a bankruptcy should have no bearing on the MARAD's decision whether to permit repayment and permanent entry for a CDS vessel. Such a consideration, it believed, would be "self-serving."

Another commenter stated that both the second and third exceptional circumstances confuse the government's sovereign role in promoting the U.S.-flag merchant marine with its pecuniary interest as an insurer of Title XI debt. The commenter urged that the government not consider its own interest as an insurer in Title XI debt. Still another commenter voiced objection to this third criterion because it misallocates resources.

Proposed section 276.3(c) would require that the total repayment of CDS plus interest be made in any manner acceptable to the Secretary, consistent with the purposes of the Act, after consideration of all pertinent factors, including but not limited to the financial condition of the owner, security for the Government and effect on competition. Several commenters stated generally that the provision should require that repayment be made in full before the application is granted, and that interest be included. Another commenter had specific recommendations as to how the total repayment process should be structured. It suggested that:

(a) Repayment and release should not be permitted while any unsubsidized Jones Act vessel in existence, or under contract for construction, is or would be available for charter within the period ending not more than six months after the proposed release date; and

(b) Repayment and release should only be permitted if the CDS vessel to be released obtains a charter for not less than eight years duration, and there is no unsubsidized Jones Act vessel in existence, under contract for construction, or which will otherwise become available within the period ending six months after the proposed release date, which will accept the proposed charter.

A number of commenters stated that the proposal was unlawful or did not reflect the Supreme Court rationale, in *Seatrain*, on CDS payments. One of the commenters suggested that any new proposal should emphasize the nature and terms of any repayment plans and that when evaluating an application in order to determine whether to allow repayment, the Secretary or MARAD should consider the terms and nature of any proposed repayment plan.

This commenter also suggested that an equitable rate of interest for repayment would be the rate in effect for Title XI bonds at the time the original CDS payment was made and that it should be applicable only to unamortized CDS. Such interest should be calculated based on the period of construction.

Opposition was expressed by a few commenters to all the "exceptional circumstances" set forth in proposed section 276.3(b) on the grounds that the regulation is restrictive and contravenes the specific directive expressed by the Supreme Court and it illegally prohibits entry into the domestic trade.

One commenter simply stated that the proposed rules state four prerequisites to acceptance of repayment of CDS and rescission of the domestic trading restriction on a vessel but that under certain circumstances, as noted in *Seatrain*, these criteria become immaterial.

There were also miscellaneous comments concerning the "exceptional circumstances" proposed provisions such as the suggestion that one additional circumstance be added to the list of exceptional circumstances, namely: an emergency need for the vessel in the domestic trades must be proven. Another suggested that a finding be made that repayment of CDS and lifting of domestic restrictions is necessary to provide common carrier service in the specific offshore trade

where the vesel is to be operated. This commenter believed this "exceptional circumstance" should be added to the list because the proposed rule does not take into account the special character and vulnerability of the domestic turn-around services.

Recommendations

Manner of Payment: One of the topics most frequently commented upon was the requirements the Department should impose with respect to the manner, method and terms of repayment, if repayment and permanent entry into the domestic trade are permitted. Several commenters, particularly those opposing the permanent entry of CDS vessels into the domestic trade, proposed very specific terms for repayment. One such proposal would provide for full cast repayment with interest equal to the economic benefit derived from the construction period to the date of repayment. This repayment should be a cash payment in full made simultaneously with release of operational restrictions, including interest calculated from the date CDS was granted to the date of repayment, figured at either the current long-term financing rate or the long-term financing rate in effect when the CDS was granted, whichever is higher. The commenter making this suggestion argued that payment by note would be inappropriate, since it would not place CDS and non-CDS vessels on the same footing. The commenter added that, if a note or other deferred payment arrangement were permitted, the principal amount of the note should be calculated in the same way as this commenter believes a cash payment should be calculated. Interest would than be charged on this principal from the date of issue at either the prime rate or the rate the borrower would pay a commercial bank for an unsecured loan of the same amount, whichever is higher.

A number of other commenters, while not providing so detailed a proposal, essentially agreed with this comment. They said that a cash repayment is desirable, there being no statutory or equitable justification for giving CDS vessel owners special payback financing privileges. They also agreed that the interest expense of the CDS should be included in any repayment terms, dating back to the outlay of CDS subsidies by the government. One commenter suggested that, in addition to charging interest, the government should index the repayment to inflation.

On the other hand, another commenter argued that the Department should accept repayment and rescind the domestic trading restriction once the operator agrees to payment of the unamortized amount of the CDS by method agreed to by the Department together with an amount reflecting the capital costs which would have been incurred had no subsidy been available. No further inquiry of finding need be made. At this point, the commenter asserted, the operator is on an equal footing with the domestic operator.

Procedural Suggestions: Many commenters suggested procedural steps which the Department should take in advance of making determinations concerning the permanent entry of CDS vessels into the domestic trade. These proposals differed concerning the organization, timing, and the degree of formality in the procedures.

One commenter suggested that a notice of application be published in the **Federal Register**, with interested parties having at least 20 days to file comments and request a hearing. Upon request, an oral hearing would be held to resolve factual disputes. The proceeding would specifically address the trade and scope of service involved in the application.

Another commenter, while asking only for a 10 day period to prepare and file its comments on or objection to an application, asked that the proceeding explicitly permit a domestic operator to assert the lack of need for the permanent entry of a CDS vessel into domestic commerce. Moreover, the commenter said, if the CDS vessel involved in the application is owned by an operator also holding an ODS contract, then a commenter's rights to comment on ODS matters under 46 U.S.C. 805(a) should not be construed as prejudging or having any other impact on its rights. A domestic operator should have the right to comment on one matter but not the other, it was argued.

One commenter simply asked for specific procedural regulations, while another added that all applications for repayment and permanent entry into the domestic trade for CDS vessels should be uniform. Another commenter said that applications should require the submission of financial statements, projections and other economic information concerning the future operation of the vessel. This information would be releasable to the public. This commenter and one other also agreed that a public hearing before an Administrative Law Judge was desirable, so that all interested parties could present relevant information. Another commenter recommended that the Department should delay action on applications for permanent entry of a subsidized vessel into a domestic trade for 12 months following original filing. If during this period one or more domestic operators chose to place orders for the construction of unsubsidized U.S. flag vessels to meet projected tonnage requirements, the application would be denied.

Effect of Repayment: A few commenters suggested that the regulations should explicitly set forth the specific effects of repayment. Two commenters said that, if total repayment is made, all restrictions, in addition to the domestic trade restriction, imposed as a condition of CDS should be lifted, placing the transferred vessels on an equal footing with Jones Act vessels in all respects. One of these commenters added that the repayment policy should not be limited to any particular class or size of vessel or only to vessels financed under Title XI. Nor should the policy prohibit a vessel's conversion after repayment to a use different from its prior employment. On the other hand, another commenter suggested that, when full payment of the CDS and release from restriction are permitted, existing Title XI financing guarantees on the vessel should not be permitted to be increased.

Criteria for Grant of Repayment and Removal of Restrictions: One subject on which commenters had much to say was the criteria which the Department should use in deciding whether to permit repayment and permanent entry of a CDS vessel into the domestic trade. One commenter argued that repayment and removal of restrictions should occur only if there were no "significant adverse competitive effect on the domestic carriers", meaning any significant diversion of cargo which a domestic operator is willing and able to carry. Along similar lines, another commenter said that, in granting repayment rights, the Secretary should ensure that no unsubsidized operator is put at a competitive disadvantage. A third commenter said that release and repayment should be permitted only if, at the time of application, the present market conditions permit profitable operation of the released CDS vessels. Other commenters made statements along similar lines. For example, one said that competition should be a primary consideration in the Department's decision. Another commenter suggested that former CDS vessels must lose Jones Act eligibility if, in the future, it is demonstrated that CDS repayments have a substantial adverse impact on the Jones Act fleet.

Some commenters suggested different ways of handling different kinds of vessels. One commenter believed the

Department should establish one criteria for liner vessels and another for non-FMC/ICC regulated tankers and/or dry bulk vessels. Another commenter thought that repayment should not be permitted at all for dry cargo vessels intended to be operated in the domestic trade. For tankers, another commenter suggested, CDS repayment should be permitted only for vessels of 100,000 DWT or greater.

One commenter suggested detailed and restrictive criteria for repayment and release. One set of these criteria would require "new" findings overturning the findings necessary to have authorized CDS payment in the first place. These new findings would be to the effect that operation of the vessel is no longer essential, there are no longer inadequacies on the essential trade route where it was operated, there were no opportunities for the operation of the vessel with subsidy in other foreign trade routes, and that there is no need for the vessel by other U.S. flag operators in foreign commerce. Since, this commenter argues, it appears that U.S. flag operators are not carrying the highest percentage of cargo practicably attainable under present conditions, operators wishing to withdraw vessels from CDS should be required to present evidence to support a finding that the foreign commerce services provided by the vessels are no longer essential, and that U.S. flag service will be adequate without those vessels on the route.

The commenter adds that a CDS operator, in establishing that no opportunity exists for the operation of the vessels in an unsubsidized mode in other trade routes, should have to show that it tried unsuccessfully to sell the vessels to other U.S. foreign commerce operators at fair market value. Another commenter added that, before granting repayment and release, the Department should take into account the possibility of using the vessels in foreign commerce under the various cargo or flag preference statutes.

A number of comments pertained to the competitive status of any CDS vessels that would be permitted to repay and enter the domestic trade. One commenter suggested that the Department should not approve applications unless it determines that former CDS vessels will be able to repay their CDS-related debts at charter rates competitive with those charged by nonsubsidized vessels. Along the same lines, another commenter suggested that an applicant for CDS repayment should be required to show that it has secured a substantial commitment for the vessel's long-term domestic employment. A third commenter added that repayment and release should only be permitted if present market rates are sufficient to permit profitable operation of the released vessel. Other commenters again emphasized that the effect of competition from the CDS vessel on the Jone Act fleet should be paramount in the Department's decision.

Other comments had miscellaneous suggestions. One commenter said that repayment of CDS should only be allowed from an operator who agrees to replace his vessel with a new U.S.-built diesel driven vessel in the foreign trade, so that the U.S. flag bulk foreign trade fleet will not grow smaller and new ship building will be stimulated. Another commenter suggested that, as a prerequisite for granting an application, the Department grant a fuel subsidy for the vessels involved. Finally, as noted in the discussion of procedural recommendations, one commenter would have the Department deny an application if, within 12 months of its filing, a domestic operator chose to place an order for the construction of an unsubsidized U.S. flag vessel to meet projected tonnage requirements. The commenter said that this approach would encourage construction of U.S. flag vessels while, by using the existing 6-month waiver, the Department could mitigate domestic tonnage deficits during the construction period.

Regulation of Service: One question on which some commenters touched was whether service by former CDS vessels should be regulated differently from other vessels in the domestic trade. Several comments asserted that former CDS vessels should be treated the same as any other Jones Act vessels, with no particular restrictions or regulations on their operation. However, one commenter suggested rate surcharges as a possibility for former CDS vessels. In addition, this commenter suggested government regulation as to the number and types of vessels to be used and the schedules they follow. The purpose of this regulation would be to protect operators of existing vessels built with government subsidy from unfair competition, especially in the foreign trade. Another commenter suggested that the maximum sailings authority under any ODS contract held by the former CDS operator be limited.

Exceptional Circumstances: Two commenters suggested that full repayment should be restricted to operators who can satisfy all of the "exceptional circumstances" requirements. Another commenter, however, contended that the list of exceptional circumstances in the NPRM were insufficient and should not be the sole criteria for full repayment of subsidy.

Adverse Competitive Impact

One commenter suggested that the concepts of "unfair or destructive" competition should play a decisive role in MARAD's decision on CDS payback. In its view, Congress did not intend vessels built without CDS to be forced to compete with vessels receiving such subsidies. The commenter argued that the proposed changes would harm the existing construction industry, in which the supply of vessels is already being set by market conditions, without improving the efficiency, viability, or size of the U.S. foreign commerce fleet. Its effect would be to add additional vessels to the domestic fleet, not because they are needed, but because they have failed to be viable in foreign commerce.

Another commenter vigorously opposed provisions that would permit permanent repayment of CDS and the removal of the domestic trading restriction. The commenter argued that payback and entry would disrupt existing supply and demand, and investment decisions would be impaired. It was also argued that any release from domestic trading restrictions would have an adverse competitive impact on operators in the domestic trade. It was further argued that MARAD should consider on a case-by-case basis whether the proposed operation of the CDS vessel in the domestic trade is likely to have an adverse competitive effect on other vessels, and vessels which have not been subsidized will be at a competitive disadvantage were their subsidized counterparts allowed to enter the domestic trade in direct competition. Therefore, the commenter asked that MARAD rigidly attempt to protect vessels which have been trading without subsidy under domestic trading privileges.

Another commenter strenuously opposed the principle of CDS payback. In the *Stuyvesant* case, it argued, the Supreme Court held that the Secretary of Commerce had the discretionary authority to accept CDS payback and to remove domestic trading restrictions on CDS vessels, but this discretion should be exercised only in the most compelling circumstances, *e.g.*, whenever the national defense or public health, welfare and safety would be seriously imperiled absent the unrestricted entry of CDS vessels into the domestic trades. It contended that permitting this in other circumstances would work a gross inequity on existing operators in the

domestic trade because, in constructing vessels, operators in the domestic trade have relied on the Congressional promise, in the form of statutory limitations on the participation of CDS vessels in the domestic trade, that competition would be limited to operators similarly situated.

Another comment noted that the domestic tanker fleet is composed primarily of relatively small vessels and is currently in an approximate balance with the demand for such vessels. Permitting entry of smaller CDS vessels into the domestic trade would unquestionably upset this balance forcing older, less-efficient non-subsidized vessels into a premature retirement. For the foreseeable future, CDS vessels of less than 10,000 D.W.T. could not be introduced into the domestic trade without having a significant adverse competitive effect on other vessels operating in that trade. The commenter concluded that the Alaska-Panama Canal trade is the only domestic trade in which there may be a requirement for entry of CDS vessels and in which there will not currently be a severe detrimental effect on the existing domestic operators.

A commenter argued that the failure to appreciate the competitive impact of permitting unrestricted entry of CDS tankers into the domestic trade could lead to removal of existing unsubsidized vessels from the market and creation of an unbalanced and inflexible fleet of survivors vulnerable to downturns in the domestic market. In the event of a downturn, it argued that former CDS vessels might be forced to seek alternate employment in the foreign trades with higher capital costs by reason of the CDS repayment.

A commenter asserted that, by permitting permanent entry of former CDS vessels into the domestic trade, MARAD would reduce competitive opportunities available to operators in the domestic trade and discourage construction of new unsubsidized U.S. flag tonnage for use in that trade in derogation of legislative efforts to expand the fleet. It was further asserted that the cornerstone of any policy on CDS repayment must be to maintain the historical "protected" position of the Jones Act Fleet.

One commenter stated that the adoption of a discretionary policy and equivocal rules would create an incentive for abuse and remove incentives to build new Jones Act vessels. As an example, the commenter indicated that owners could obtain CDS and during construction evaluate the unsubsidized vessel market. Then, if the domestic trades seemed more attractive, they could, as demonstrated by the *Stuyvesant* case, apply to repay the subsidy with a note, and obtain additional Title XI financing in an amount equal to or greater than their original actual construction cost. The commenter recommended that if a CDS vessel is permitted to enter the protected trades, it should do so on a truly equal and not on a preferential basis with the benefit of hindsight and after hedging the market.

Another commenter noted that the proposed rules reflect MARAD's concern over the possibility of sustaining a loss in the event of a debtor's bankruptcy because of MARAD's obligation to pay under Title XI guarantees. It was argued that MARAD would be in greater jeopardy in this regard if it adopted a policy or regulations permitting "easy sanitization" (release) of over 2½ million D.W.T. This would create a substantial imbalance in the tanker demand/supply curve and depress market rates. The commenter argued that MARAD should adopt a policy which restrains the subsidized vessels from entering the domestic trade except in emergencies and under exceptional circumstances (as was the original Congressional intent).

One comment concluded that, in promulgating the final rules, the agency must give due recognition to their impact on the Jones Act fleet, present and future, consider the effect of each release from domestic trade restrictions on the owners of Jones Act vessels, and adopt rules more stringent than the proposed ones in order to prevent discrimination and unfair competitive advantage. Final rules that do not give due recognition to the interests of Jones Act ships, particularly those which are a part of a new building program, will severly affect the viability of the current fleet and stifle merchant fleet growth and modernization, it was argued.

Another commenter made the following observation: "Any coherent policy with respect to total repayment of CDS and the lifting of domestic trading restrictions should attempt to treat the illness, not merely the symptom." The "symptom" was portrayed as the inability of these vessels to compete in the foreign trade for which they were built and CDS was granted. It was asserted that the CDS-built bulk fleet is at a severe competitive disadvantage because: The world market for VLCC's has been heavily overtonnaged for a number of years; consequently, charter rates are, and will remain, disastrously low. According to this commenter, fuel costs are the primary reason that the CDS-built vessels of less than 125,000 D.W.T. are unable to compete in the world market. Also, it asserted almost all CDS-built vessels are powered by steam turbine because, at the time they were built, (1) the escalation in fuel prices and the consequent fuel cost advantage enjoyed by foreign diesel-driven ships was unforeseen and (2) there were virtually no suitable American-built marine diesel engines. Because of this competitive disadvantage, it argued, owners of CDS-built VLCC's seek to transfer their vessels to domestic trade where they face no foreign competition.

Another commenter argued that under current procedures it is unlikely that all CDS-repayment applications would be accepted. Standards for accepting and denying these applications would be needed. If the underlying reason for the applications is the inability of the vessels to compete in foreign trade it would be "manifestly unfair and perhaps illegal" to grant some while denying other applications, according to the comment.

Another commenter concluded that of the four "exceptional circumstances" in the proposed regulations, only sec. 276.3(b)(4) (the condition that the repayment not be likely to result in any adverse competitive effect on domestic operations) is reasonable in light of the purposes and policy of the Merchant Marine Act. Further, it was noted that the proposed regulations permit the Board to determine the conditions of repayment (sec. 276.3(c)). The Board's approval of CDS repayment in respect to the American Heritage and Golden Monarch was conditional upon the CDS being repaid with interest. In contrast, CDS was repaid on the Stuyvesant (or, more properly, a promissory note in lieu of repayment was accepted in the amount of the CDS) without interest. It was argued that the Board may not require interest from one operator and not require the same from others. It concluded that the regulations should address the issue of interest on CDS repayment and promulgate a uniform rule for all applications.

A commenter asserted that, along with the review of foreign trade opportunities the Board should also take into consideration the possibilities for employment of a vessel domestically on a temporary basis under a section 506 waiver, as well as the possibilities for employment of the vessel under cargo and/or flag preference statutes of the U.S.

A strong preference for *regulation* versus an *ad hoc* approach in determining CDS repayment applications was expressed by some

commenters since, in their view, the concept of permanent, irrevocable entry into the domestic trade raised serious questions of adverse competitive impact in the Jones Act trade.

It was commented that CDS is intended to foster the development of a Merchant Marine capable of carrying a substantial part of our foreign commerce under the Merchant Marine Act and it would violate this principal of the Act to permit abandonment of the contractual commitment to engage in foreign commerce merely because superior profits might be thought obtainable in the domestic trade. Further, it was argued, the duty to foster and maintain service in the domestic trade is no less under the Merchant Marine Act and coastwise shipping hitherto has been entirely self-sustaining and paid for by the commercial market. Introducing subsidized tonnage, whether in a torrent or trickle, could have serious adverse effects on this market, it was asserted. It was claimed that over one million D.W.T. of large nonproprietary ships came off charter between mid-1980 and mid-1982 and the applications already filed to repay subsidy approach 1.25 million D.W.T. with another 1 million D.T.W. possible. The commenter concluded that a doubling or tripling in the supply of tonnage seeking employment in the Alaska trades could destroy the market for existing operators, and a failure to weigh these consequences would constitute an abuse of discretion.

Another commenter argued that existing Jones Act vessels should not be protected from newly created vessels as they are not entitled to be free of competition. Since the five outstanding applications are for VLCC's, the admission of these vessels would substantially increase the efficiency of the domestic fleet. The savings realized by operation of VLCC's will result in lower fuel costs for the consumer, it was agreed.

Another commenter suggested that it is economically discriminatory and unfair to penalize vessels which were financed without Title XI assistance merely because the operator did not take advantage of the government's support, by denying them the opportunity to repay their CDS.

Procedures for Approving Payback

Most commenters opposed the taking of an *ad hoc* or case-by-case approach to evaluating applications for repayment and entry. Several commenters said that specific regulations should be adopted instead of using an *ad hoc* approach because such an approach would not give interested parties adequate notice as to either procedural or substantive issues, thus, increasing the likelihood of litigation. Further, the commenters believed an *ad hoc* approach would lead to an unfair and inconsistent application of a payback policy. Affected parties would not be able to ascertain in advance the likelihood of approval for their own or their competitors' applications for repayment of construction differential subsidies. In the event that the proposed regulations were adopted, the commenters asked that interested parties be able, in advance, to analyze and critique the proposed applications.

One commenter supported specific regulations rather than *ad hoc* determinations because it would be the only way the agency could provide potential owners of coastwise vessels the certainty necessary to evaluate their economic positions.

There were, however, several commenters who did favor an *ad hoc*, case-by-case approach. One stated that the agency should consider, on a case-by-case basis, whether or not the entry of a CDS vessel is likely to have an adverse competitive effect on other vessels. Vessels which have not been subsidized will be at a competitive disadvantage with their subsidized counterparts this commenter argued.

Most of the commenters suggested administrative procedures they believed would ensure uniform, fair and reasonable treatment of applicants, and provide adequate compliance with the Administrative Procedure Act (APA) (5 U.S.C. 553). Several commenters advised that any regulations adopted should be guided by the Supreme Court's holding in *Seatrain Shipbuilding Corp.* v. *Shell Oil Co.*, 1002 S.Ct. 800, 809 (1980). They argued that any regulations promulgated in this proceeding should be guided by the Supreme Court's holding that the Secretary's broad contracting powers and discretion to administer the Merchant Marine Act includes the authority to allow the total repayment of CDS and to rescind permanently domestic trading restrictions. Moreover, they indicated that the regulations must be consistent with the Court's finding that a permanent release from the foreign trade requirement may directly further the general goals of the Merchant Marine Act.

The proposal provided for publication in the **Federal Register** of a notice of any application received for total repayment of CDS and allowance of comment by all interested parties not later than ten (10) days after the publication date. As indicated above, several commenters pointed out that any procedures adopted should conform to the requirements of the APA although one of those commenters believed the proposal to be adequate in that respect.

Several commenters were dissatisfied with the time proposed for comment. One commenter stated that the proposed 10 day period for submission of comments on applications should be extended to at least 30 days so that interested parties will have sufficient time to prepare substantive comments. One comment received urged that applicants for CDS repayment who believe that the disposition of their application will be affected by the agency's decision on other pending applications should be free to comment on this aspect during the public comment period.

Another commenter believed the regulations should provide for the publication of all applications for repayment in the **Federal Register** and give interested parties a 30 day period within which to submit comments. This commenter asked that, if, at the expiration of this period, MARAD has received comments opposing the release, MARAD should set a hearing date, with 30 days notice, at which time all interested parties may appear, give oral argument, and file written briefs.

A third commenter noted the Application of Richmond Tankers, Inc., for the repayment of CDS for the Bay Ridge as an example of the necessity for an adequate period for interested parties to examine and respond to submitted applications. The commenter also stated the belief that any regulations that would permit rapid processing of such an application would adversely affect existing contractual rights of the Maritime Subsidy Board.

In addition to supporting an extended comment period after publication of a notice of application, a number of commenters suggested provisions for hearings on the applications. One stated that total repayment of CDS subsidies is of such immense concern to the future of the U.S. Merchant Marine that a hearing is essential. Another listed the following procedures it believed would ensure that all interested parties would have the opportunity to present their views.

(a) An allowance of 30 days after publication in the **Federal Register** to submit written comments;

(b) A requirement, if the vessel is intended to be used in a domestic dry cargo trade, that the applicant serve a copy of the application upon every carrier having a tariff covering any domestic trade route on file at the Federal Maritime Commission or the Interstate Commerce Commission; and

(c) A requirement that receipt of written comments in response to the application should require the agency to schedule the matter for hearing.

One commenter agreed that the applicant should be required to make its data public in copies of the application to be published in a **Federal Register** notice with an opportunity for public hearing. Under this commenter's suggestion, written comment would be optional, however.

Another commenter stated that, instead of providing for the initiation of a hearing after the thirty day comment period had ended, a hearing should be held on all proprosals for CDS repayment within 30 days of application for repayment of CDS.

Two commenters urged that an administrative law judge be assigned to hold hearings on CDS applications. Another commenter stated that provision should be made for discretionary hearings upon a finding that disputed issues of material fact exists.

There was also a suggestion concerning consolidation of hearings where more than one application has been received. It was suggested that the hearing procedures provide for much documentation to support the application including economic data and the testimony of experts. The commenter cited 46 CFR 201.71 in support of the suggestion.

Several commenters raised what they believed to be procedural defects contained in the proposal. One indicated that the proposed regulation should provide a procedure which allows parties to respond to the applicant's domestic market assessment and projections and vice versa.

The proposal also posed several administrative problem to one commenter. The problems included the proposal's lack of specificity in its request for comments on six general issues "as well as any other related issues not listed," and the finding in the proposal, with which the commenter appeared to disagree, that "a determination had been made that no regulatory analysis is required under provisions of E.O. 12044 and implementing procedures of the Department of Commerce and the Maritime Administration.

The failure to provide a Regulatory Analysis with the proposal drew several other comments. A number of commenters argued that any discussion of a CDS repayment requires a regulatory analysis prepared in accordance with Executive Order 12044 in addition to a written solicitation of written comments from interested persons, to be followed by republication of the revised proposed rule for further comment and discussion. One noted that MARAD's own procedures appear to require a Regulatory Analysis in this instance.

The commenters also argued that without an investigation and assessment of the facts and issues that would be raised by a Regulatory Analysis, MARAD lacks the principal tool available to it to develop its proposed regulations in a reasoned fashion.

General Comments on NPRM

Several comments were received concerning the scope of any CDS repayment policy that might be adopted. A number urged that if a policy is adopted, it should be a single consistent one that is applicable to all CDS vessels irrespective of type or size. Other commenters, however, disagreed and argued that certain vessels should be treated differently. Specifically, one commenter argued that a separate policy should be adopted for domestic offshore common carrier vessels because of the different circumstances surrounding their operation. Another commenter expressed the belief that the policy's applicability should be limited to VLCC's while still another suggested that separate policies should be applied to smaller and larger vessels (VLCC's and ULCC's).

A number of commenters urged the agency to fully consider all relevant factors before adopting any CDS payback policy. One commenter, who supported the concept of the proposed rule, objected to the rule, as written, as being inadequate and unduly restrictive. Several commenters specifically argued that the effects on competition of any payback policy must be fully considered before being adopted. Other asked that the agency retain the historical distinctions between the subsidized and unsubsidized fleets and between the fleets involved in the Jones Act and foreign commerce trades.

One commenter argued that the current problems of the CDS fleet are temporary in nature and are due to a world-wide depression of tanker shipping rates. This commenter contended that allowing CDS payback would disregard the temporary nature of the problem and would hinder the overall U.S. maritime policy by removing irrevocably vessels needed for the foreign trade fleet.

One commenter suggested that permitting the transfer of CDS vessels to domestic trade would reduce the incentive for the construction of new ships for the domestic trade, resulting in a loss to the U.S. economy. This commenter also suggested that the reduction of one ship in the subsidized foreign commerce fleet would be undersirable.

Proposed Rule Clarifications

A number of commenters pointed out areas of the proposed rule they believed were subject to varying interpretations or were unclear. One commenter requested that the list of exceptional circumstances warranting CDS payback in the proposal should be expanded and be made more specific. More specifically, another commenter requested that the term "total repayment" in the proposed rule be defined to apply to the unamortized portion of the CDS amount to avoid a possible interpretation that could require repayment of the entire CDS amount for older vessels, a result both unfair and contrary to a Comptroller General Opinion (44 Comp. Gen. 180, 181 September 20, 1964).

Two commenters argued that the required finding of "significant adverse competitive effect" in the proposed rule was vague and ambiguous and needed clarification. One of those commenters suggested that the required finding should be of an unfair, undue or unjust competitive effect. A third commenter argued that any significant diversion of cargo which a domestic operator is willing and able to carry should be considered to be a "significant adverse competitive effect."

Another commenter indicated that the proposal should be revised to make it clear that once CDS is repaid, a vessel becomes located in the domestic trade and is deemed to have the same status as a nonsubsidized vessel.

Economic Analysis Required

Several commenters emphasized the need for an economic analysis of the consequences of permitting full CDS payback before any reasonable rule could be adopted. One commenter asked that the analysis cover alternatives to full payback. Another argued that the analysis should cover the adverse impacts on owners and operators of Jones Act vessels as well as U.S. shipyards and supporting industries. This same commenter pointed out problems in forecasting the availability of foreign trade opportunities for protracted periods. Also on the issue of forecasting; another commenter referenced MARAD's stated inability to predict the competitive effects of operations in the domestic trade more than three years in the future.

Waivers

Some commenters touched on the existing 6-month waiver period authorized by sec. 506 of the Merchant Marine Act of 1936. Two commenters thought that this waiver provision was sufficient to achieve the goal of allowing underutilized ships from the foreign commerce tonnage of the United States to be properly employed in the domestic trade. A third commenter suggested that the Department could use the sec. 506 waiver provision to absorb excess foreign commerce tonnage in the short term. The Department could do this by giving 6-month waivers to tank vessels carrying oil from Alaska around Cape Horn to the east coast. By establishing a comprehensive vessel scheduling structure for this purpose, the Department could mitigate the excess tonnage problem through the waiver provision, the commenters contended.

Another commenter suggested that if the Department could not meet the current shortfall of Jones Act tonnage in the domestic trade through the sec. 506 provision, the Department should seek legislation to create greater flexibility to deal with changing problems and unreliable market or tonnage forecasts.

In discussing the procedural aspects of waiver requests or requests for repayment and release, one commenter said a procedure similar to that employed for sec. 506 waivers would be appropriate for applications for total CDS repayment. Another commenter emphasized that all applications for repayment rights should be handled uniformly. A third commenter requested a procedure involving notice in the **Federal Register** and the opportunity for interested persons to comment. This commenter did not believe that hearing procedures were needed.

Discretion

Two commenters discussed the degree of discretion permitted the Department in considering requests for payback and release from the restriction on operation in the domestic trade. One commenter discussed the history of CDS restrictions on entry of vessels into the domestic trade and the court cases construing them. The commenter contended that the Secretary has discretionary authority to grant a permanent release from trade restrictions when the subsidy is repaid. Such a payment would permit a formerly subsidized vessel to enter the domestic trade on an equal footing with unsubsidized vessels already in that trade, according to this commenter. The commenter noted, however, that, in its view, there is no authority granting the Department the power to accept a note in repayment of CDS.

Another commenter disagreed with the proposed regulation because, in its view, it gives the Secretary insufficient discretion. It argued that relevant case law gives the Secretary broad authority to allow a vessel built with CDS to enter the domestic trade permanently following repayment of the subsidy. In exercising this discretion, the commenter said, the Secretary need only consider the competitive effects of the action to the extent that the terms of the repayment arrangement would result in a significant, adverse, unfair competitive effect on other unsubsidized vessels in the domestic trade. The commenter added that applicants for CDS repayment who believe that the disposition of their application will be affected by the Secretary's decision on other pending applications could comment on this effect during a public comment period.

Attachment 2—Regulatory Evaluation and Regulatory Flexibility Determination Construction Differential Subsidy Repayment

[Office of Industry Policy, Economics and Finance Division, P–14, January 25, 1983]

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I. Executive Summary

The unsubsidized U.S. tanker fleet (Jones Act tankers) consists of 210 tankers of 10.4 million dead weight tons (DWT). Up to 5.2 million DWT of this capacity is used in the Alaskan North Slope (ANS) oil trade (Valdez to the U.S. West Coast or Panama) either for part of a year or for the entire year. The Jones Act tankers presently in the trade include most of the efficient U.S. tankers with the exception of the CDS-built tankers that enter the trade under six-month waivers. MARAD estimates the ANS tanker demand to be 5.4 million DWT in 1983 and projects an increase to 6.4 million DWT by 1985. After 1985, projections are less certain; a MARAD projection puts 1990 to 1995 demand at 6.6 million DWT. By the year 2000, significant new production from the Beaufort Sea is possible and if achieved is expected to push tanker demand well above previous levels.

A shortfall in the supply of tankers in the ANS oil trade has been met since 1978 by allowing CDS-built (non-Jones Act) tankers into the ANS trade under temporary six-month waivers issued by MARAD. These six-month waivers have come under criticism as unnecessary economic regulation. Full CDS repayment would open the Jones Act tanker trade more fully to market forces by eliminating entry restrictions on the U.S.-flag fleet into this trade.

There are 15 CDS-built tankers that would be expected to repay their CDS with interest and enter the ANS trade full-time, if permitted to do so, seven VLCCs and eight 90,000-DWT Panamax tankers. These tankers are among the most efficient U.S.-flag tankers. If allowed into the trade full-time, they would add 1.6 million DWT of incremental ANS tanker capacity and make permanent the 900,000 DWT of capacity they presently add to the ANS trade through six-month waivers. Near-term market disruptions would result from the new incremental capacity and result in some redeployment of existing ANS tankers to other domestic trades. The oil companies would be able to manage and mitigate the market disruptions from this redeployment; they control 19 of 20 small tankers presently in the ANS trade. Also, oil companies charter the independent-owned CDS-built tankers which would be expected

to enter the trade (13 of the 15 are independent-owned).

MARAD's market entry restrictions in the high-volume ANS trade results in reduced competition and higher tanker rates; the higher rates would attract efficient CDS-built tankers if they were premitted to enter the trade. If smaller, unsubsidized tankers (the least efficient tankers presently in the ANS trade) were displaced from the Valdez to West Coast or Panama trades by efficient CDS-built tankers that repay their CDS, the displaced tankers would be expected to find employment in other domestic trades. This redeployment process will not always be easy since many alternative U.S. trades require tankers with specific physical characteristics. Even so, the tankers expected to be displaced from the ANS trade are generally judged to be efficient enough to find alternative profitable employment, possibly at rates less than the past rates in the ANS trade. In turn, they would displace other, less efficient tankers in other domestic trades. The end result of this redeployment and bumping process would be that the least efficient unsubsidized tankers in the U.S. fleet would ultimately be the tankers scrapped or put out of business. In other words, market forces will equate tanker supply and demand and efficient tankers would replace inefficient tankers.

This economic process will not only be affected by CDS repayment, but also by the opening of the Panama Pipeline and the retrofitting costs for old tankers of the Port and Tanker Safety Act of 1978. There are 126 old tankers with 4.2 million DWT of capacity that could be impacted by these events. These tankers range in age from 20 to 41 years and all except one are small—80,000-DWT or under. There is no Title XI outstanding on these tankers; they are the most likely to be scrapped because of the new pipeline, the Port and Harbor Safety Act and CDS repayment.

Allowing CDS repayment would eliminate MARAD's economic regulation of CDS-built tanker entry into the ANS trade. The removal of MarAd-imposed market entry restrictions plus the full-time use of all our efficient tankers should increase ANS oil trade competition and reduce the real economic costs of oil transportation. Side benefits of CDS repayment would be up to $200 million in cash from the repaid CDS, plus interest, the termination of eight CDS agreements, and increased likelihood of Title IX repayment of the CDS-built tankers entering the ANS trade. These benefits clearly outweigh the costs.

II. Introduction and Background

A. Background

Section 27 of the Merchant Marine Act, 1920 (the Jones Act) requires that all cargo transported in the domestic trade be carried on vessels built in the United States, documented under United States law, and owned by U.S. citizens. These Jones Act tankers, unlike those constructed with the assistance of Construction Differential Subsidy (CDS), are built without Federal financial subsidy.

In 1977, the opening of the Trans-Alaska Pipeline System (TAPS) created a demand for U.S.-flag tanker tonnage that has not been fully met by the nonsubsidized Jones Act fleet.

In order to alleviate the shortage of Jones Act tanker tonnage, tankers built with CDS have been given permission to enter the Alaska North Slope trade (ANS trade Valdez to the U.S. West Coast and Panama) on a temporary basis. Section 506 of the Merchant Marine Act, 1936, grants MARAD the authority to permit the temporary transfer of CDS-built tonnage into the domestic trade, provided the transfer does not exceed six months in any year and provided CDS is repaid on a *pro rata* basis. MARAD (through the Secretary of Transportation) also has the authority to permanently remove all domestic trading restrictions on a vessel constructed with CDS in exchange for full repayment of subsidy. The Supreme Court [1] decision on full repayment of CDS and release of Jones Act trading restrictions specifically addressed the differences between *pro rata* repayment under six-month waivers and full repayment:

> . . . But a permanent release upon full repayment is quite different. It irrevocably locates the vessel in the unsubsidized fleet, and thus poses no danger of a supercompetitor skimming the cream from each market. It creates no long-term instability. And it confers no windfall. On the contrary, at least where repayment of the CDS includes some amount reflecting capital costs which would have been incurred had no subsidy been available, such a transaction merely permits a once subsidized vessel to enter the domestic trade on a footing equal to that of vessels already in that trade. It was not the purpose of the Act to prohibit such entry. . . .

To date, two CDS-built VLCCs have been granted full repayment: the Stuyvesant (225,000 DWT) in August 1977, and the Bay Ridge (225,000 DWT) in November 1980. Applications have also been received for the removal of domestic trading restrictions on three CDS-built VLCCs and on one CDS-built 90,000-DWT Panamax tanker. These applications were made because foreign trading prospects for U.S.-flag tankers are low with the world glut of oil tankers, and are likely to remain so for the foreseeable future. The CDS-built 90,000-DWT Panamax tankers have been securing some foreign trade employment opportunities, but even so, such employment is likely not to be as attractive as full-time Jones Act trade employment. The foreign trade voyages result in Operating Differential Subsidy (ODS) payments from the U.S. Treasury to cover the difference in labor costs (and a few other minor cost items) between high-priced U.S. crews and low-cost foreign crews. Also, the foreign trade voyages often involve U.S. perference cargo, cargo that is required by various laws to be partially or totally carried in U.S.-flag vessels. The applicants seek to repay their CDS, plus interest, and terminate any existing ODS agreements. If the repayments are allowed, these CDS-built tankers would be allowed to compete for domestic oil trading opportunities and their prospects for remaining financially healthy would improve. Jones Act tanker owners (referred to as unsubsidized tankers) would not want this added competition, particularly since the tankers that would enter are more efficient than many of the tankers already in the trade.

In 1980, when MARAD was examining the advisability of allowing the Seatrain-owned VLCC Bay Ridge to repay its CDS, MARAD developed economic projections [2] of the Alaskan oil trade. The United States Court of Appeals, in a decision dated September 7, 1982 *(Independent U.S. Tanker Owners Committee v. Drew Lewis,* No. 81-2121, D.C. Circuit), found that the different economic analyses MARAD used to help make its decision on the Bay Ridge were contradictory and failed to make a sound economic case to support the Bay Ridge decision. After reviewing the 1980 studies, it was found that the projections were outdated, irrespective of other flaws discussed by

[1] Seatrain Shipbuilding Corp. v. Shell Oil Co. 444 U.S. 572 (1980).

[2] A Comparison of MARAD and Temple, Barker and Sloane Analyses of the Supply and Demand for Non-Subsidized Tankers in the Domestic Trades, 1980–1990," by MARAD, August 26, 1980: "Supply and Demand for Non-Subsidized Tankers in the Domestic Petroleum Trades, 1980–1990," by MARAD, September 24, 1980; memorandum "Richmond Tankers, Inc. (Richmond)—Application to amend CDS contract so as to remove all trading restrictions limiting the use of the TT Bay Ridge in domestic trade," MARAD, October 21, 1980; memorandum "Richmond Tankers, Inc. (Richmond)—Repayment of Construction Differential Subsidy (CDS), payment of CDS construction period interest and removal of domestic trading restrictions on the T.T. Bay Ridge." MARAD, October 22, 1980.

the Court of Appeals, and thus these analyses are of limited use today. For instance, in the October 22, 1980, analysis, page 13, MARAD assumed stagnant Alaskan North Slope (ANS) production at 1.5 million barrels per day (B/D) through 1990 and a declining demand for tankers to carry this oil. A major reason for projecting a declining demand for tankers was the expectation that West Coast use of ANS oil would increase (short ocean voyage) at the expense of ANS oil being shipped to Panama (long ocean voyage).

Based on current expectations of oil companies involved in ANS exploration, development and production, MARAD now projects that ANS oil production will continue to increase from the present level of 1.6 million B/D to 2.0 million B/D by 1990 and stabilize at this level through 1995. Based on this projection, MARAD indicates the demand for ANS tanker capacity will increase from 5.4 million DWT in 1983 to 6.6 million DWT in 1990 and 1995. Also, the proportion of ANS oil moving to the West Coast has actually declined since 1980. MARAD expects shipments to Panama will continue to take an increasing proportion of ANS oil, at least through 1984.

This analysis, prepared to accompany this latest notice of proposed rulemaking, differs significantly from previous economic analyses prepared by MarAd concerned with CDS repayment. Instead of assessing the prospects for a mathematical balance of demand and supply of ANS tanker capacity, this analysis focuses on the economic impact of tankers likely to be scrapped if CDS repayment is allowed. The analysis focuses on the less efficient tankers (tankers that require the highest rates to remain in business) in the U.S. fleet. These tankers would be most vulnerable to scrappage. Also, the economic consequences of these inefficient tankers exiting the marketplace versus the economic consequences of the CDS-built tankers entering the domestic trade full-time are examined. Projections of future ANS oil production and the subsequent supply and demand for tankers continues to be important, but it is not the overriding issue as in the past. Instead, the impact of competitive market forces is examined that would result from eliminating economic regulation of CDS-built tanker entry into the ANS trade.

B. U.S. Oil Production

Today, carrying U.S. oil production is practically the only employment opportunity for U.S.-flag tankers; they have great difficulty competing in today's world oil trade even with subsidy. U.S.-flag tankers were built in U.S. shipyards and are crewed by U.S. citizens resulting in capital and operating costs that make U.S.-flag vessels uncompetitive in the free market world tanker trade. CDS-built VLCCs have survived generally by receiving six-month waivers in the ANS trade and sitting idle for the next six months. CDS-built 90,000-DWT Panamax tankers, which normally carry loads of 90,000 DWT (these tankers can transit the Panama Canal with a reduced load of about 60,000 DWT) have survived by securing preference foreign trade voyages and subsidized trade under ODS agreements. Both types of CDS tankers have also participated historically in the Strategic Petroleum Reserve (SPR) fill program. The SPR program seeks to build up strategic reserves of crude oil in case of another cut-off of foreign oil or for other emergency purposes. Oil is purchased in the international oil market and transported to the U.S. Gulf Coast where it is stored in old, underground oil fields. The fill program reserves 50 percent of oil transport for U.S.-flag tankers. The SPR trade for U.S.-flag tankers will offer significantly fewer trading opportunities in the future; the fill program is well ahead of schedule, appropriations are expected to be cut, and mainly small tankers will be needed to carry SPR oil in the future. In the past, large tankers carried SPR oil from the Persian Gulf and North Sea, but in the future Mexican oil will mainly be used for the SPR fill program.

In essence, the most efficient U.S.-flag tankers will be underused by the present system of six-month waivers and declining SPR trading opportunities. Market entry restrictions for both types of CDS-built tankers are taking place at a time when ANS oil production is causing a shortage of these efficient tankers. Although ANS oil production is not the only U.S. production that needs tanker transportation, it generates by far the greatest tanker demand and is expected to be the significant factor that influences tanker demand in the forseeable future.

C. Domestic Unsubsidized Fleet

The domestic unsubsidized tanker fleet consists of 210 tankers of 10.4 million DWT. About 39 percent of this fleet consists of small tankers (80,000–DWT or less), 20 years or older. These tankers are listed in Attachment 1 and generally consist of the least efficient tankers in the unsubsidized U.S. fleet. Only three of the 126 tankers listed in Attachment 1 are regularly in the ANS trade; as a highly lucrative the ANS trade attracts efficient, large tankers because of the volume of ANS production. The tankers listed in Attachment 1 generally seek employment in such trades as Panama Canal Transit, Panama east coast to the U.S. Gulf Coast, the U.S. Gulf Coast to the U.S. East Coast, Puerto rico, Hawaii and intra-coastal domestic trades on the East, Gulf and West Coasts and intra-coastal Alaska. Even so, these tankers are the most vulnerable to scrappage if CDS repayment is allowed.

If CDS-built tankers are allowed into the ANS trade, they would tend to push out the less efficient tankers in this trade. The ANS tankers displaced from the ANS trade would tend to push out less efficient tankers in other domestic trades. The end result is that the least efficient tankers in the U.S. fleet are the most vulnerable to scrappage (i.e., because of their high repair and operating costs they would be the least likely to get profitable employment opportunities).

This bumping and redeployment process is not a simple or moot process because of market complexities. For instance, an uncoated tanker (an uncoated tanker does not have its oil holding tanks lined; this lining is required before refined petroleum products can be carried by the tanker) in the ANS trade cannot redeploy to an East Coast trade that carries mainly oil products. (Most tankers of more than 100,000 DWT are uncoated, while most tankers under 100,000 DWT are coated.) Similarly, draft and size limitations in many port areas and in the Panama Canal limit the redeployment of a large tanker from the ANS trade to an alternative U.S. trade. Nonetheless, most of the redeployment expected will be the smaller ANS tankers, those generally capable of carrying oil products. Also, oil companies can retain some of their small ANS trade tankers simply because they control the oil carried in such tankers, but even the oil company tankers will be affected by competitive market forces and their need to efficiently transport their oil.

There are other factors influencing scrapping some of the tankers listed in Attachment 1. The opening of the Panama Pipeline in late 1982 has started a process that will reduce the need for tankers that were previously used to carry oil through the Panama Canal. Also the Port and Tanker Safety Act will require relatively expensive retrofitting of these small and old tankers by January 1986. MarAd estimates $3.0 million or more in retrofitting costs per tanker. It is likely that many of the owners of the tankers listed in Attachment 1 will find such

expenditures non-cost effective and will have their tankers scrapped.

D. ANS Unsubsidized Tankers

Because many tankers move from one domestic trade to another during a year, particularly tankers less than 100,000 DWT that can transit the Panama Canal, no precise list of the ANS tanker fleet is possible. Most compilations of the unsubsidized ANS fleet have this fleet at a little more than 50 percent of the total domestic unsubsidized fleet. Table 1 below summarizes vessels that have called at Valdez, Alaska. In this table, the tankers are summarized in four categories, based on size and average age. These four categories also allow a useful assessment of efficiency and are listed below in order of efficiency from most efficient to least efficient.

TABLE 1.—UNSUBSIDIZED TANKER CAPACITY ALASKA NORTH SLOPE TRADE

Type of vessel	Number	Average age (years)	Title XI (MM of dollars)	Capacity (1,000 DWT)
170,000 to 225,000 DWT (VLCC)	13	4.8	283.0	2,231.9
90,000 DWT (Panamax)	5	6.6	65.1	452.1
100,000 to 130,000 DWT	10	9.6	183.5	1,217.8
80,000 and less DWT	20	13.2	20.0	1,287.1
Total	45		551.6	5,188.9

Source: "Status & Employment Report," MarAd's Office of Trade Studies and Statistics, November 1, 1982.

Attachments 2, 3, 4 and 5 present specific details on the tankers listed in Table 1. If CDS repayment is allowed and all or most of those eligible repaid their CDS, the tankers most vulnerable to displacement would be those listed in Attachment 5 and the 21-year-old Manhattan listed in Attachment 4. It is unlikely that all these tankers would be displaced since demand already exceeds the unsubsidized ANS fleet capacity (therefore the six-month waviers), demand is growing, two of the three independently owned tankers in Attachment 5 (the Sohio tankers) have long:-term charters, and oil companies may choose to retain some of their small tankers in the ANS trade rather than charter independently owned tankers that repay their CDS. Since only three of the 45 tankers in the ANS fleet are over 20 years old, most tankers that would be displaced from the ANS trade, those 80,000-DWT and under, would find employment at lower, but profitable rates in other trades. The lower rates result from the removal of barriers to market entry, and the entry of tankers that are more efficient than the tankers bumped out of the trade. Because of the new competition and improved efficiency of the tankers, lower rates would be possible.

E. Construction Differential Subsidy Fleet

The CDS-built fleet consists of 29 tankers totaling 3.8 million DWT. MarAd has analyzed these 29 CDS-built tankers and concluded that 15 are likely to repay their CDS. Table 2 below summarizes the data on the two classes of CDS-built tankers that are likely candidates for CDS repayment. For the 14 tankers that are not expected to repay CDS, 10 are in the 35,000 to 40,000-DWT class and are considerd too small for efficient ANS employment, two combination vessels (vessels that can carry both oil and non-oil cargoes) are considered physically and economically unsuited for efficient ANS trade purposes, and two 390,000-DWT ULCCs are considered too large for berths at Valdez and the shallow berths in destination areas. The two ULCCs were built in 1979 and have seen little if any employment since completion. Shell Oil Co. has control of both under 25-year "hell-or-high-water" charters, (even if layed up, Shell is required to pay the charter hire) and thus Shell is suffering the economic losses from their lay-ups. It is possible that Valdez and Panama port restrictions could be overcome by an unknown amount of capital expenditure and an unknown amount of time needed to complete these port changes. It is likely that Shell would have to pay for the port changes as well as the CDS repayment, about $92 million plus interest (there is no Title XI on these tankers). Whether such expenditures are made would be heavily dependent upon future long-term expectations of oil movements from Valdez to Panama, the likely trade for these tankers. If such expenditures were made, it would most likely force additional scrappage of the less efficient tankers.

TABLE 2.— CDS- BUILT TANKERS CANDIDATES FOR THE ALASKA NORTH SLOPE TRADE

Type of vessel	Number	Average age	Title XI (MM of dollars)	DWT (1,000)	CDS (MM of dollars)
225,000 to 265,000 DWT (VLCC)	7	7.6	141.1	1,778.9	141.8
90,000 DWT (Panamax)	8	7.3	135.9	717.6	59.8
Total	15		277.0	2,496.5	201.6

Source: "Oil Tankers Built With CDS," MarAd's Office of Associate Administrator for Maritime Aids, July 28, 1982.

Attachments 6 and 7 provide specific details on these tankers, including the unamortized CDS on each tanker, while Attachment 8 provides details on the remaining 14 CDS-built tankers. Three of the VLCCs and one Panamax tanker listed in Attachments 6 and 7 have applied for CDS repayment. It is likely the remaining 11 would apply for CDS repayment; it would be in the best financial interest of the tanker operators to repay their CDS unless foreign trading opportunities are attractive or the tanker owners felt the ANS trade was too competitive. All of the eight Panamax tankers listed in Attachment 7, besides being CDS-built, have ODA agreements. These ODS agreements would have to be terminated prior to the tankers' entry into the ANS trade full time.

III. Benefit/Cost Analysis

A. Economic Regulation of Alaska Tanker Trade

CDS repayment should not affect the employment opportunities of unsubsidized VLCCs (Attachment 2) of Panamax (Attachment 3) tankers. Unsubsidized tankers in the 100,000 to 130,000–DWT (Attachment 4) category could be affected, but they are generally relatively new tankers with reasonable prospects for ANS employment even with the added competition of CDS-built tankers. The one possible exception would be the Manhattan; it is 21 years old (high maintenance and repair costs) and its unique construction (it was built to be almost indestructible) results in very high operating costs. This vesel has prospered under the six-month waiver program, due to the requirement that all 100,000–DWT and over tankers in the ANS trade have to be fully employed before six-month waivers are granted to CDS-built tankers. The major impact of CDS repayment will fall on the 80,000–DWT and under (Attachment 5) tankers. Of the 20 such tankers, all except one are either owned by or under long-term charter to the oil companies. Since

independents own all except two of the 15 CDS-built tankers that could come into the ANS trade with CDS repayment, the oil companies will be faced with choice of chartering the CDS-built tankers at lower rates and redeploying their less efficient tankers to other trades or simply retaining their tankers in the ANS trade and using CDS-built tankers for incremental demand.

As shown in Attachment 9, the CDS-built VLCCs have garnered most six-month waivers. The 90,000–DWT Panamax tankers have only secured a few waivers for short duration voyages. Both categories of CDS-built tankers have had difficulty securing employment in the past (VLCCs are priced out of the foreign trade and the 90,000–DWT Panamax seek subsidized cargo reserved for U.S.-flag transportation). With the prospects of less SPR trade in the future, both type tankers will have even greater difficulty securing employment in the future. CDS repayment would allow these vessels to seek full-time employment in the ANS trade and in that way maximize the usefulness of tankers that are among the most efficient in the U.S. fleet.

B. Transportation Cost of Alaskan Oil

Table 3 gives a comparison of the rate structure in the ANS trade (Valdez to the U.S. West Coast and Panama) during the summer of 1982.

TABLE 3.—ANS TANKER RATE STRUCTURE, SUMMER 1982

[Dollars per DWT per Month]

Type tanker	ANS tanker rates
170,000–DWT and above (VLCC)	$7.25
90,000–DWT (Panamax)	9.25
100,000 to 130,000–DWT	14.00
80,000–DWT and below	16.50

Source: "Impact of CDS Repayment on the domestic (Alaskan) Tanker Trades," MarAd's Office of Trade Studies and Statistics, July 16, 1982.

This rate structure is heavily affected by economic regulation of the ANS trade. Since MarAd limits market entry CDS-built tankers, rates are higher than would be true if market entry restrictions were removed. The six-month waiver requirement that all 100,000–130,000–DWT tankers and above be fully employed ($14.00/DWT/month) before any VLCCs ($7.25-DWT/month) are allowed into the trade results in a higher transportation cost of ANS oil than would exist without this requirement. An indication of the added costs resulting from market entry restrictions can be surmised by a review of Attachment 9. Tankers such as the Brooklyn and Maryland appear to have relied heavily on six-month waivers to earn their fixed costs. The remainder of the time they have either been idle or sought SPR employment. The appearance is that rates in the ANS trade are high enough to allow VLCCs to remain financially viable even though only having part-time employment.

The rate structure presented in Table 3 provides a useful, market determined, assessment of efficiency for U.S.-flag tankers. This table is far from perfect, however. For instance, on a cost allocation comparison, the Panamax rates should be about the level, or slightly above the level, of 100,000 to 130,000–DWT tankers. On the other hand, a market rate efficiency assessment is considered superior to a cost allocation assessment of efficiency which relies heavily on arbitrary assumptions concerning overhead allocation, frequency and cost of repairs and retrofitting, depreciation rates, cost of equity and other forms of capital, discount rates, etc. Since VLCCs (Attachment 6) and 90,000–DWT Panamax (Attachment 7) tankers are expected to repay their CDS, such repayment would add a significant amount of efficient competition into the ANS trade.

C. Title XI Exposure

Increased Title XI exposure results when a vessel with Title XI debt outstanding finds itself in a market position where securing full-time employment is difficult. On the other hand, Title XI exposure is reduced when a Title XI vessel that is unable to secure full-time employment is put into a market position where full-time employment is attainable.

Attachment 1 lists unsubsidized tankers that today are 20 years of age or older. There are 126 such tankers representing 4.2 million DWT. These vessels face the greatest risk of reduced employment opportunities if CDS repayment is allowed because they are the oldest, smallest and least efficient. As Attachment 1 shows, there is no Title XI debt on any of these vessels. Many were built without Title XI financing (most tankers built before 1970 did not use Title XI financing and most oil company-built tankers do not use Title XI), and those built with Title XI financing have repaid their debt over their 20-year statutory life.

Attachment 10 lists those tankers that will attain the age of 20 years or older during the next five years. This group of tankers faces the second greatest threat of Title XI exposure. There are 12 tankers in this group representing 0.5 million DWT. Three of these tankers have Title XI debt outstanding today equal to $10.4 million.

Attachment 5 lists ANS-trade unsubsidized tankers of 80,000-DWT or less. There are 20 tankers in this group representing 1.3 million DWT. If CDS repayment is allowed, it is expected that the oil company owners of these tankers would redeploy these tankers in other U.S. trades if ANS trading opportunities were reduced (i.e., in the event the oil companies decided to charter the more efficient VLCCs and 90,000-DWT Panamax tankers that repaid their CDS). This redeployment process could be disruptive to the oil companies; some tankers may sit idle for varying periods of time waiting for alternative trading opportunities that match the characteristics of the tanker demanded with the tanker seeking redeployment. Even so, disruptions are nothing new to Jones Act tankers; from the day most tankers enter service, they are scrambling to maintain high levels of employment and the realities of the market sometimes prevent this. Nonetheless, it is likely that few, or more likely none, of these tankers will be scrapped. There are two tankers in this group with Title XI debt totaling $20.0 million; both are chartered to Sohio until 1988 when most of their Title XI debt will be retired.

Attachment 4 lists ANS trade tankers in the 130,000 to 100,000-DWT class. The 21-year-old Manhattan may face lay-up if CDS repayment is allowed, but the other tankers in this class are likely to be needed in the dosmetic trade. Excluding the Manhattan, the average age of the 10 remaining tankers in this group is only 7.5 years. Since these tankers are relatively modern and more efficient than the smaller tankers, their employment opportunities should be secure if CDS repayment is allowed.

By 1987 there will be 138 unsubsidized tankers, 20 years old or older, with over 4.7 million DWT of capacity and no Title XI debt. If CDS repayment is allowed, 15 large, efficient tankers would be added to the unsubsidized tanker fleet, representing 2.5 million DWT of capacity (an incremental 1.6 million of capacity into the ANS trade since six-month waivers already supply 0.9 million DWT) and with over $250 million of Title XI exposure today. Because these tankers would have much improved ANS full-time trading prospects, Title XI exposure would be significantly reduced. Also, the U. S would receive over $200 million in CDS repayment plus interest if all 15 CDS-

built tankers repay their CDS, which is likely.

D. Overcapacity

Long-term overcapacity in the domestic tanker trades is not expected to result from CDS repayment. CDS repayment would add 2.5 million DWT of unsubsidized capacity to the domestic fleet (actually an incremental 1.6 million DWT of capacity since CDS-built tankers have been receiving six-month waivers). Some tankers are expected to be be scrapped because of the opening of the Panama Pipeline. More importantly, the impact of the January 1986 requirements of the Port and Tanker Safety Act is likely to result in significant scrappage of aged tankers. CDS repayment would probably accelerate the scrappage likely from these known situations and together with market forces would likely prevent a long-term overcapacity situation.

E. Employment

The opening of the Panama Pipeline has already reduced the employment opportunities for U.S. seamen in the U.S. tanker trades. As capacity utilization of this pipeline increases, more tankers are likely to be displaced and scrapped, resulting in reduced job opportunities. The same holds true for the Port and Tanker Safety Act; it will likely force the scrapping of the old, inefficient tankers and employment will be reduced. CDS repayment would accelerate this process. A ballpark average for billets (crew size) on a U.S. tanker is 23 to 26, with each billet providing 2.3 to 2.6 job opportunities (chances for different seafarers to get jobs on a tanker during a given year), no matter what the size of the tanker. Since CDS repayment would increase the economic pressure to scrap small (aged and least efficient) U.S. tankers, replacing the scrapped tankers with large (modern and most efficient) ones, the CDS repayment process would also result in lost job opportunities. The number of jobs lost by scrapping the small tankers would exceed job opportunities created by the greater employment opportunities given the big tankers repaying their CDS. The net impact on jobs resulting from CDS repayments, as distinct from the impact of the Panama Pipeline and the Port and Tanker Safety Act, cannot be realistically estimated, but it is expected to be relatively small.

IV. Other Alternatives

Other alternatives to CDS repayment were considered. After carefully evaluating these alternatives, it was determined that CDS repayment represented the best option; CDS repayment eliminates economic regulation of the U.S. tanker trade. Three specific options and the reasons for rejecting these options are discussed below.

A. Eliminate Waivers

Eliminate all waivers for CDS-built vessels to enter the ANS trade; only unsubsidized tankers would be allowed in this trade. This option would most likely result in an immediate and significant shortage of tanker capacity in the ANS trade and could result in a cutback of ANS production. Many aged and inefficient 80,000-DWT and under tankers would be kept in service well beyond their true economic life, while many efficient CDS-built tankers would face the prospect of sitting idle or entering a declining SPR trade. Outstanding Title XI debt of over $250 million on 15 CDS-built tankers could be in danger of default. Severe market entry restrictions would be forced on the U.S. tanker trade, most likely resulting in a great deal of economic harm to many diverse interests and little, if any, public benefit.

B. Status Quo

Retain present system of granting six-month waivers to CDS built vessels if all unsubsidized tankers over 100,000-DWT in the ANS trade are fully employed. This option would retain the existing system of economic regulation of CDS-built tankers entering the ANS trade. Jones Act tanker rates would be maintained at higher levels than would be the case if CDS-built tankers entered this trade. These high rates would most likely make it attractive to some tanker owners to pay the retrofitting costs of the Port and Tanker Safety Act and thus retain in use these older and less efficient tankers well beyond their true economic life. Efficient CDS-built VLCCs could be forced into lay-ups for six months of the year and the 90,000-DWT Panamax tankers, with over $120 million of Title XI debt, could encounter difficulty in securing employment in the SPR trade and ANS trade as CDS-built VLCCs were given six-month waiver preference as in the past.

C. Full-Time Waivers

Full-time waivers (i.e., 12 months of a year) would be granted to CDS-buit tankers if all 100,000-DWT and above unsubsidized tankers were fully employed. As a practical matter (see Attachment 9 for history of waivers granted), the seven CDS-built VLCCs would be the most likely CDS tankers to enter the ANS trade. The eight CDS-built Panamax tanker would have to seek employment in the declining SPR trade and the subsidized foreign preference trade. This option would significantly expand economic regulation of the CDS-built tankers entering the ANS trade. Because of DOT-imposed decisions on ANS market entry, the ANS tanker trade rate structure would likely be maintained at unnecessarily high levels. The Department could be subject to significant criticism for favoring one tanker operator, Seatrain. Seatrain would be virtually guaranteed full employment for its aged Manhattan (113.9 million DWT) tanker because of the 100,000-DWT full employment rule. Seatrain has two VLCCs already in the ANS trade (they are the only tankers that have been allowed to repay CDS) and they would also have to be fully employed before waivers were issued. Seatrain's remaining three CDS-built VLCCs could gain full-time trading privileges in the ANS trade by full-time waivers.

V. Conclusion

Full repayment of CDS would result in a number of favorable public benefits. Repayment would eliminate economic regulation of the ANS tanker trade. The most efficient U.S. tankers would be free to seek full-time ANS employment and would likely result in the efficient use of these tankers. The real cost of transporting Alaskan oil should decline as efficient tankers replace inefficient tankers. The combined impacts of the opening of the Panama Pipeline, the January 1986 requirements of the Port and Tanker Safety Act, and the CDS repayment would likely result in less efficient tankers being scrapped as competitive market forces equate demand and supply of U.S.-flag tankers.

VI. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress in order to ensure, among other things, that small entities are not disproportionately affected by government regulations. The RFA requires agencies specially to review rules which may have a "significant economic impact on a substantial number of small entities." The substantial revenues generated by these tankers, the sizable fleets of tankers owned by independents and oil companies as discussed above and in the attachments, indicates that any negative economic impact of this regulation will affect few small entities, if any.

VII. Environmental Impact

The Department does not believe that this rulemaking will have a significant

environmental impact. Any environmental impact that might result should be positive in nature. As indicated previously, allowing CDS payback would result in the greater utilization of larger, newer and more modern tankers in the ANS oil trade. Older and smaller tankers will be removed from the trade with an overall reduction in the number of tanker voyages. Many of these older and smaller tankers are likely to exist the marketplace by January 1986, even without this regulation. The cost of adding environmental protection equipment to meet the Port and Tanker Safety Act was expected to have this result and this regulation could accelerate this exiting process. The amount of oil transported should not be affected, however. Many of the newer tankers are already operating in the ANS trade under temporary waivers that have been reissued on a repetitive basis. Also, the CDS tankers expected to enter the ANS trade full-time call on U.S. ports during their SPR voyages and their foreign voyages under subsidized preference programs. It is the Department's view that, in general, the newer, more modern tankers are environmentally preferable to the older tankers and that a reduction in the number of U.S. tanker operations would tend to reduce environmental risks. In the case of this rulemaking, however, the Department believes those positive environmental effects will be small.

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Attachment 1

Tankers 20 Years and Older

All Domestic Trades

Vessel Name	Age (years)	DWT (000)	Title XI (Millions of $)
40 years and older			
David D. Irwin c	41/22*	24.3	-
Houston c	41/21*	27.0	-
Monmouth c	41/13*	29.8	-
American Trader c	40/16*	27.6	-
Capricorn c	40/22*	24.4	-
Chancelloesville c	40/22*	25.2	-
Meadow Brook c	40/21*	27.2	-
Point Milton c	40/20*	20.1	-
Texaco Kansas	40/23*	24.7	-
Texaco Minnesota c	40/19*	25.2	-
Cumulative Total 40 years and over		255.5	$0.0
30 years and over			
Amaco Delaware c	39/12*	27.8	-
American Hawk c	39/31*	26.9	-
Mona c	39/25*	19.9	-
Point Julie	39	24.6	-
Scorpio	39/22*	24.5	-
Texas Trader c	39/14*	27.5	-
Trinity c	39/16*	24.2	-
Wilmington Getty c	39/15*	25.2	-
Louisiana Getty c	39/15*	25.1	-
Colorado c	39/11*	30.4	-
Llano c	39/22*	25.1	-
San Jacinto c	39/21*	26.9	-
Texaco Mississippi c	39/19*	26.6	-
Texaco New Jersey c	39/24*	19.9	-
Bordeaux c	38/18*	27.2	-
Brazos c	38/25*	24.0	-
Concho c	38/12*	32.7	-
Cove Tide c	38/22*	25.2	-
David E. Day	38/25*	20.0	-
Lompoc c	38	16.7	-
Pisces	38/21*	24.4	-
Point Margo	38/15*	33.8	-
Point Revere c	38/25*	19.8	-
Red River c	38/22*	25.6	-
Cove Explorer c	38/22*	23.4	-
Frio c	38/21*	25.5	-
Guadalupe c	38/20*	30.4	-
Suzanne c	38/25*	19.9	-
Pasadena c	38/18*	27.0	-

Attachment 1 (cont.)

30 years and over, cont.	Age (years)	DWT (000)	Title XI (Millions of $)
Coastal California c	34	28.4	-
Sabine c	34	28.7	-
San Marcos c	34	29.4	-
Pecos c	33	28.7	-
Cove Engineer	32	32.0	-
Cove Navigator c	32	30.2	-
Exxon Newark c	31	28.7	-
Blanco c	30	19.2	-
Cove Ranger	30/12*	29.3	-
Hillyer Brown c	30	17.1	-
Delaware Sun	30	30.2	-
Exxon Bangor c	30	28.7	-
Exxon Huntington c	30	28.7	-
Keystones c	30	18.4	-
Texas Connecticut c	30/12*	42.0	-
Texaco New York c	30/12*	42.0	-
New Jersey Sun	30	30.2	-
Overseas Aleatian c	30/12*	39.8	-
Cumulative Total 30 Years and Over		1,517.4	$0.0
25 Years and Over			
Cove Spirit	29	25.2	-
Cove Liberty c	29	70.4	-
Cove Communication	29	31.9	-
Delaware Getty	29	28.8	-
New York Getty	29	28.8	-
Socony Vacuum c	29	28.6	-
Washington c	29	16.2	-
Texaco California c	29/10*	42.0	-
Lion of California c	29	16.2	-
Western Sun	29	30.3	-
Baltimore Trades c	28/12*	57.9	-
Eastern Sun	28	30.2	-
Mobilgas c	27	26.9	-
Texaco Florida c	27/12*	42.0	-
Allegiance c	27	34.8	-
Bannet c	27	32.8	-
Gulf King	26	34.7	-
Gulf Queen c	26	34.7	-
Exxon Gettysburg c	26	38.0	-
Exxon Jamestown c	26	37.7	-
Exxon Washington c	26	40.9	-
Mobil Fuel c	26	31.2	-
Mission Santa Clara c	26	34.9	-
Naeco c	26	31.0	-
Coastal Kansas c	25	26.5	-
Saroula c	25	31.8	-
Texaco Wisconsin	25	33.2	-

Attachment 1 (cont.)

25 years and over, cont.	Age (years)	DWT (000)	Title XI (Millions of $)
American Osprey c	25	33.1	-
Arco Endeavor c	25	30.3	-
Gulf Knight c	25	34.7	-
Neches c	25	34.9	-
Connecticut c	25	37.6	-
Exxon Lexington c	25	39.0	-
Mobil Lube c	25	29.2	-
Dina c	25	30.3	-
Cumulative Total 25 Years and Over		2,704.1	$0.0
20 Years and Over			
Montrachet c	24	30.8	-
American Eagle c	24	33.1	-
Washington Trades c	24	41.6	-
Gulf Pride c	24	29.2	-
Gulf Solar c	24	29.2	-
Cove Sailor c	24	33.2	-
Cove Trader	24	46.4	-
Cove Leader c	24	67.4	-
Meton c	24	33.7	-
Mobil Aero c	24	30.1	-
Mobil Oil	24	30.1	-
Pennsylvania Sun	24	50.9	-
Archilles c	23	41.2	-
Overseas Anchorage c	23	47.4	-
Overseas Ulla c	23	35.7	-
Gulf Oil c	23	29.2	-
Exxon Baltimore c	23	48.8	-
Exxon Boston c	23	48.9	-
Gulf Spray c	23	29.2	-
Ogden Challenger c	23	33.3	-
Texas Sun	23	50.9	-
Monticello Victory	22	4913	-
Overseas Joyce c	22	46.9	-
Gulf Supreme c	22	30.8	-
Mobil Meridian c	22	49.2	-
Mt. Vernon Victory	22	49.2	-
Overseas Natali c	22	67.2	-
Manhattan	21/14*	113.9	-
Montpelier Victory	21	49.5	-
Arco Heritage c	20	50.8	-
Texaco Maryland c	20	25.4	-
Texaco Massachusetts c	20	25.7	-
Petersburg	20	50.1	-
Mt. Washington	20	49.5	-
Cumulative Total 20 years and older		4,181.9	$0.0

Notes:

c = coated, tanker is capable of carrying oil products as well as crude oil.

* = The second number is the tanker's age since it was either rebuilt, converted, or jumboized.

Source:

"Status & Employment Report", MarAd's Office of Trade Studies and Statistics, November 1, 1982.

Attachment 2

Unsubsidized Very Large Crude Carriers
Alaska North Slope Trade

Vessel Name	DWT (000)	Age (years)	Title XI (Millions of $)	Owner/Charterer
Arco California	188.5	3	-	Oil Co.
Arco Alaska	190.0	4	-	Oil Co.
Exxon Benicia	172.8	4	-	Oil Co.
Exxon North Slope	172.5	4	-	Oil Co.
Bay Ridge	225.0	5	$66.9	Seatrain
B.T. San Diego	182.2	5	-	Marine Trans. Lines
B.T. Alaska	182.2	5	-	Marine Trans. Lines
Brooks Range	173.6	5	56.1	Keystone
Thompson Pass	173.6	5	58.0	Keystone
Keystone Canyon	173.4	5	54.9	Keystone
Stuyvesant	224.7	6	52.2	Seatrain
Atigun Pass	173.4	6	52.9	Keystone
	2,231.9	4.8[1]	$341.0	

Average Age.

Source: "Status & Employment Report", MarAd's Office of Trade Studies and Statistics, November 1, 1982.

Attachment 3

Unsubsidized 90,000 DWT Panamax Tankers
Alaska North Slope Trade

Vessel Name	DWT (000)	Age (years)	Title XI (Millions of $)	Owner/Charterer
Overseas Washington	90.5	5	$21.1	OSG 1/
Overseas Chicago	90.6	6	21.6	OSG 1/
Overseas Ohio	90.6	6	21.2	OSG 1/
Overseas New York	90.4	6	21.1	OSG 1/
Arco Texas	90.0	10	-	Oil Company
	452.1	6.6 2/	$85.0	

1/ Overseas Shipholding Group

2/ Average Age.

Source: "Status & Employment Report", MarAd's Office of Trade Studies and Statistics, November 1, 1982.

Attachment 4

Unsubsidized 130,000 to 100,000 DWT Tankers
Alaska North Slope Trade

Vessel Name	DWT (000)	Age (years)	Title XI (Millions of $)	Owner/Charterer
Kenai	123.1	4	43.0	Oil Company
Tonsina	122.9	5	45.6	Oil Company
Prince Wm. Sound	123.4	8	42.9	Trinidad Corp. 3/
Arco Fairbanks	120.6	9	-	Oil Company
Arco Juneau	120.6	9	-	Oil Company
Overseas Boston	123.7	9	32.6	OSG 1/
Arco Anchorage	120.6	10	-	Oil Company
Overseas Juneau	120.0	10	20.6	OSG 1/
Mobil Artic	129.0	11	-	Oil Company
Manhattan	113.9	21	-	Seatrain
	1,217.8	9.6 2/	$184.4	

1/ Overseas Shipholding Group

2/ Average Age

3/ Under charter to SOHIO

Source: "Status & Employment Report", MarAd's Office of Trade Studies and Statistics, November 1, 1982.

Attachment 5

Unsubsidized 80,000 DWT and Under Tankers
Alaska North Slope Trade

Vessel Name	DWT (000)	Age (years)	Title XI (Millions of $)	Owner/Charterer
Chevron Arizona	34.5	6	-	Oil Company
Chevron Colorado	34.5	7	-	Oil Company
Chevron Washington	39.6	7	-	Oil Company
Chevron California	70.2	11	-	Oil Company
Chevron Mississippi	70.2	11	-	Oil Company
Arco Prudhoe Bay	70.4	12	-	Oil Company
Sabsinena II	70.5	12	-	Oil Company
Sohio Intrepid	80.6	12	$10.0	Trinidad Corporation
Sohio Resolute	80.6	12	10.0	Trinidad Corporation
Exxon Baton Range	75.6	13	-	Oil Company
Exxon Philadelphia	75.6	13	-	Oil Company
Glacier Bay	81.0	13	-	Oil Company
Arco Sag River	70.4	13	-	Oil Company
Golden Gate	62.1	13	-	Keystone Corporation
American Sun	80.7	14	-	Oil Company
Exxon San Francisco	75.6	14	-	Oil Company
Exxon New Orleans	67.8	18	-	Oil Company
Exxon Houston	67.9	19	-	Oil Company
Mobil Meridian	49.2	21	-	Oil Company
Mobil Oil	30.1	23	-	Oil Company
	1,287.1	13.2[1]	$20.0	

1/ Average Age.

Source: "Status & Employment Report", MarAd's Office of Trade Studies and Statistics, November, 1982.

Attachment 6

CDS - Built Very Large Crude Carriers
Suitable for Alaska North Slope Trade

Vessel Name	DWT (000)	Age (years)	Title XI (Millions of $)	CDS Remaining (Millions of $)	Owner/Charterer
Arco Independence*	265.0	6	-	$25.1	Oil Co.
Arco Spirit*	265.0	6	-	25.1	Oil Co.
Maryland	265.0	7	$30.7	22.0	Seatrain
New York	265.0	7	30.6	22.0	Seatrain
Massachusetts	265.0	8	30.1	20.4	Seatrain
Williamsburgh	225.0	9	27.1	16.3	Petrofina
Brooklyn*	228.0	10	12.6	10.9	Petrofina
	1,778.0	7.6[1]	$131.1	$141.8	

[1] Average Age.

* CDS repayment applications have been filed with MarAd.

Source: "Oil Tankers Built with CDS", MarAd's Office of Associate Administrator for Maritime Aids, July 28, 1982.

Attachment 7

CDS - Built 90,000 Panamax Tankers
Suitable for Alaska North Slope Trade

Vessel Name	DWT (000)	Age (years)	Title XI (Millions of $)	CDS Remaining (Millions of $)	Owner/Charterer
Kettaning	89.7	6	$16.5	$8.3	Keystone
Chestnut Hill	89.7	7	16.5	7.7	Keystone
American Heritage	89.7	7	15.7	7.2	Berger
Beaver State	89.7	7	15.7	7.2	Berger
Rose City	89.7	7	15.9	7.2	Berger
Worth*	89.7	7	15.7	7.2	Berger
Golden Monarch	89.7	8	13.5	7.8	Berger
Golden Endeavor	89.7	9	13.1	7.2	Berger
	717.6	7.3 [1]	$122.6	$59.8	

[1] Average Age.

* CDS repayment application has been filed with MarAd.

Source: "Oil Tankers Built with CDS", MarAd's Office of Associate Administrator for Maritime Aids, July 28, 1982.

Attachment 8

CDS-Built Tankers Not Expected To Repay Their CDS

Vessel Name ODS Contracts	DWT (000)	Age (Years)	Title XI (Millions of $)	CDS Remaining (Millions of $)
Mormac Sky	39.7	5	$10.1	$5.8
Courier	35.0	6	9.2	6.4
Rover	35.0	6	9.1	6.4
Mormac Sun	39.7	7	9.7	5.4
Patriot	35.0	7	8.8	6.0
Ranger	35.0	7	8.9	6.0
Chelsea	38.3	8	5.9	5.1
Mormac Star	39.7	8	10.5	5.0
Cherry Valley	38.3	9	5.2	4.7
Coronado	38.3	10	4.9	4.4
Total	374.0	7.4 1/	$82.3	$55.2
ULCC's				
UST Atlantic	390.0	4	-	$46.1
UST Pacific	390.0	4	-	45.6
	780.0	4 1/	-	$91.7
Combination				
Ultramar	81.9	10	$12.7	$7.4
Ultrasea	81.9	9	12.9	8.1
	163.8	9.5 1/	$25.6	$15.5

1/ Average age

Source: "Oil Tanker Built with CDS," MarAd's Office of Associate Administrator for Maritinme Aids, July 28,1982

Attachment 9

Past Section 506 Waivers in Alaska Oil Trade

Vessel	DWT (000)	Type	Dates of Operation From	To	
AMERICAN INDEPENDENCE (now Arco Independence)	265.0	VLCC	3/17/78	9/18/78	
" " " " "			3/02/80	9/05/80	
" " " " "			9/23/81	3/18/82	
ARCO INDEPENDENCE (ex American Independence)			10/01/82		
AMERICAN SPIRIT (now Arco Spirit)	265.0	VLCC	1/02/78	3/01/78	
" " " " "			2/18/79	3/09/79	
" " " " "			3/23/79	4/13/79	
" " " " "			12/19/79	6/13/80	
" " " " "			1/24/81	7/22/81	
ARCO SPIRIT (ex American Spirit)			3/21/82	9/19/82	
BROOKLYN	228.0	VLCC	12/25/79	6/12/80	
"			2/14/81	9/06/81	1/
"			5/24/82	11/28/82	
MARYLAND	265.0	VLCC	4/03/78	10/09/78	
"			8/25/79	3/31/80	
"			11/04/80	5/10/81	
"			11/19/81	4/24/82	
			10/28/82		
MASSACHUSETTS	265.0	VLCC	6/27/78	1/10/79	
"			12/19/78	5/21/80	
"			1/01/81	3/07/81	
NEW YORK	265.0	VLCC	8/19/77	11/12/77	
"			7/16/80	2/15/81	2/
"			5/22/82	11/09/82	
WILLIAMSBURG	225.0	VLCC	5/29/80	12/01/80	1/
"			1/15/82	5/08/82	
			11/23/82		
BEAVER STATE	89.7	Panamax	1/25/79	2/18/79	
" "			2/19/79	3/04/79	
" "			2/25/82	4/27/82	
CHESTNUT HILL	89.7	Panamax	2/18/78	3/05/78	
KITTANNING	89.7	Panamax	3/30/82	4/18/82	

1/ Includes one intermediate foreign trade voyage

2/ Includes oil storage in Delaware Bay

Source: "Oil Tankers Built with CDS", MarAd's Office of Associate Administrator for Maritime Aids, July 28, 1982 and updated version.

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Appendix Attachment 10

Attachment 10

Unsubsidized Tankers That Will Be 20 Years Old in Next Five Years

All Domestic Trades

Vessel Name	Age (years)	DWT (000)	Title XI (Millions of $)
Chesapeake	19	50.0	-
Exxon Houston	19	67.9	-
Texaco Georgia	19	25.2	-
Texaco Rhode Island	19	25.4	-
Exxon New Orleans	18	67.8	-
Texaco Montana	18	26.6	-
Valley Forge	17	36.0	-
Overseas Alaska	16	62.0	$5.0
Pennsylvania Trader	16	34.1	-
Overseas Alice	15	37.3	2.6
Overseas Valdez	15	37.8	2.8
Spirit of Liberty	15	38.2	-
Total		508.3	$10.4

Source: "Status & Employment Report", MarAd's Office of Trade Studies and Statistics, November, 1982.

Appendix

U.S.-Flag Tankers 19 Years Old and Younger 1/
(As of November 1, 1982)

Vessel Name	DWT	Delivery Date/ Year Built	Title XI Balance As of June 30, 1982 (Thousands of Dollars)
A. New Construction			
EXXON - TBN	43,000	1983	No Title XI
EXXON - TBN	43,000	1984	No Title XI
EXXON - TBN	43,000	1984	No Title XI
NEW YORK (ITB)	47,000	1982	$ 62,500.0
BALTIMORE (ITB)	47,000	1983	57,284.0
PHILADELPHIA (ITB)	47,000	1983	53,781.0
MOBILE (ITB)	47,000	1983	53,781.0
HUNTER ARMISTEAD	37,500	1983	55,066.0
DELAWARE TRADER	44,000	1983	57,460.0
POTOMAC TRADER	44,000	1983	57,460.0
	442,500		$ 397,332.0
B. Tankers 5 Years of Age or Less			
*ARCO ALASKA	188,400	1979	No Title XI
*ARCO CALIFORNIA	188,400	1980	No Title XI
BLUE RIDGE	42,300	1981	No Title XI
CHESAPEAKE TRADER	44,100	1982	$ 57,460.0
COAST RANGE	40,000	1981	No Title XI
EILEEN INGRAM	42,300	1982	39,978.0
*EXXON BENICIA	172,800	1979	No Title XI
*EXXON NORTH SLOPE	173,400	1979	No Title XI
GROTON (ITB)	48,000	1982	50,000.0
JACKSONVILLE (ITB)	48,000	1982	65,161.0
*KENAI	123,100	1979	43,014.0
NEW YORK SUN	30,900	1980	No Title XI
OGDEN DYNACHEM	49,500	1981	56,175.0
OGDEN HUDSON	42,000	1981	58,800.0
PHILADELPHIA SUN	37,500	1981	No Title XI
SIERRE MADRE	42,300	1981	No Title XI
	1,313,000		$ 370,588.0
C. Tankers 6-10 Years of Age			
*ARCO FAIRBANKS	120,600	1974	No Title XI
*ARCO JUNEAU	120,600	1974	No Title XI
*ATIGUN PASS	173,400	1977	$ 52,936.0
*B.T. ALASKA	188,100	1978	No Title XI
*B.T. SAN DIEGO	188,100	1978	No Title XI
*BROOKS RANGE	173,400	1978	56,097.0
*CHEVRON ARIZONA	34,500	1977	No Title XI

Vessel Name	DWT	Delivery Date/ Year Built	Title XI Balance As of June 30, 1982 (Thousands of Dollars)
*CHEVRON COLORADO	34,500	1976	No Title XI
CHEVRON LOUISIANA	39,500	1977	No Title XI
CHEVRON OREGON	40,100	1975	No Title XI
*CHEVRON WASHINGTON	39,600	1976	No Title XI
ESTHER MORAN (ITB)	18,000	1976	No Title XI
*KEYSTONE CANYON	173,400	1978	$ 54,855.0
MARJORIE B. MCALLISTER (ITB)	11,900	1975	No Title XI
*OVERSEAS BOSTON (recon.)	123,700	1974	32,563.0
*OVERSEAS CHICAGO	90,600	1977	21,603.8
*OVERSEAS NEW YORK	90,400	1977	21,094.0
*OVERSEAS OHIO	90,600	1977	21,221.9
*OVERSEAS WASHINGTON	90,500	1978	21,083.1
*PRINCE WILLIAM SOUND	123,400	1975	42,850.0
SEABULK MAGNACHEM (ITB)	41,800	1975	18,071.8
SEABULK CHALLENGER (ITB)	42,000	1977	11,327.2
*THOMPSON PASS	173,400	1978	57,951.0
*TONSINA	122,900	1978	45,585.0
	2,345,000		$ 457,238.8

D. Tankers 11-20 Years of Age

*AMERICA SUN	80,700	1969	No Title XI
*ARCO ANCHORAGE	120,600	1973	No Title XI
*ARCO PRUDHOE BAY	70,400	1971	No Title XI
*ARCO SAG RIVER	70,400	1972	No Title XI
*ARCO TEXAS	90,000	1973	No Title XI
CAROLE G. INGRAM (ITB)	36,600	1972	No Title XI
*CHESAPEAKE	50,000	1964	No Title XI
*CHEVRON CALIFORNIA	70,200	1972	No Title XI
*CHEVRON MISSISSIPPI	70,200	1972	No Title XI
COLUMBIA	37,300	1971	$ 3,803.0
*EXXON BATON ROUGE	75,600	1970	No Title XI
EXXON GALVESTON	27,300	1970	No Title XI
*EXXON HOUSTON	67,900	1964	No Title XI
*EXXON NEW ORLEANS	67,800	1965	No Title XI
*EXXON PHILADELPHIA	75,600	1970	No Title XI
*EXXON SAN FRANCISCO	75,600	1969	No Title XI
*GLACIER BAY	81,000	1970	No Title XI
*GOLDEN GATE	62,100	1970	No Title XI
HUDSON	37,300	1972	5,078.0
MARTHA R. INGRAM (ITB)	36,600	1971	No Title XI
*MOBIL ARCTIC	129,000	1972	No Title XI
NECHES	37,300	1971	3,882.0
OGDEN CHAMPION	37,900	1969	2,669.0
OGDEN CHARGER	37,800	1969	2,865.0
OGDEN LEADER	37,800	1969	2,908.0
OGDEN WABASH	37,900	1969	3,226.0
OGDEN WILLAMETTE	37,900	1969	3,116.0
OGDEN YUKON	81,100	1973	$ 14,603.0
*OVERSEAS ALASKA	62,000	1970	4,981.0
*OVERSEAS ALICE	37,300	1968	2,639.0
OVERSEAS ARCTIC	62,000	1971	4,832.0
*OVERSEAS JUNEAU	120,000	1973	20,226.2
*OVERSEAS VALDEZ	37,800	1968	2,772.0
OVERSEAS VIVIAN	37,800	1969	No Title XI
POINT VAIL	85,000	1964	No Title XI
*SANSINENA II	70,500	1971	No Title XI
*SOHIO INTREPID	80,600	1971	10,166.0
*SOHIO RESOLUTE	80,600	1971	10,425.0
*SPIRIT OF LIBERTY	38,200	1968	No Title XI
SUSQUEHANNA	37,300	1972	4,600.0
*TEXACO GEORGIA	25,200	1964	No Title XI
*TEXACO MONTANA	26,600	1965	No Title XI
*TEXACO RHODE ISLAND	25,400	1964	No Title XI
*VALLEY FORGE	36,000	1966	No Title XI
	2,606,200		$ 102,791.2

1/ Excludes nine tankers (245,200 DWT) under bareboat charter to MSC.

* Denotes vessel included in Attachments.

[FR Doc. 83-2615 Filed 1-27-83; 10:19 am]
BILLING CODE 4910-62-C

federal register

Monday
January 31, 1983

Part V

Department of Energy

Office of the Secretary

Notice of Public Hearings on National Energy Policy Plan; Correction

DEPARTMENT OF ENERGY

Office of the Secretary

Public Hearings on National Energy Policy Plan; Correction

AGENCY: Department of Energy.

ACTION: Notice of public hearings on national energy policy plan; correction.

SUMMARY: In the **Federal Register** notice of January 26, 1983, appearing at 48 FR 3706, Tables 1 and 2 were inadvertently omitted. The tables follow the Appendix to the notice.

Dated: January 27, 1983.

J. Hunter Chiles III,

Director, Policy, Planning, and Analysis.

BILLING CODE 6450-01-M

TABLE 1: U.S. ENERGY CONSUMPTION
COMPARISON OF PROJECTIONS
(Quadrillion Btu's per Year)

	1980	PROJECTED					
		1985		1990		2000	
		NEPP 1981[1]	JULY 1982[2]	NEPP 1981[1]	JULY 1982[2]	NEPP 1981[1]	JULY 1982[2]
WORLD OIL PRICE (1981 $/barrel)	$37	$44	$32.50	$52	$42.50	$70	$62
U.S. GNP GROWTH (%/year from 1980)	—	3.1%	2.5%	2.8%	2.8%	2.5%	2.5%
RESIDENTIAL/COMMERCIAL	16.5	18.0	16.8	18.4	17.4	18.9	19.2
Liquids	4.2	5.0	4.0	4.5	3.8	3.3	3.3
Gases	7.6	7.6	7.3	7.7	7.4	7.8	7.6
Coal Solids	0.2	0.2	0.2	0.3	0.2	0.3	0.2
Renewables	0.2	0.4	0.5	0.7	0.6	1.2	0.9
Electricity	4.4	4.8	4.8	5.2	5.5	6.3	7.2
INDUSTRIAL	24.3	25.4	25.6	27.1	28.2	30.4	31.4
Liquids	8.3	6.6	7.6	5.8	8.4	3.7	7.9
Gases	8.4	9.2	9.1	9.9	9.5	10.9	10.0
Coal Solids	3.2	4.5	3.8	5.2	4.3	7.2	5.9
Renewables	1.6	1.6	1.6	1.8	1.9	2.6	2.6
Electricity	2.8	3.5	3.4	4.4	4.2	6.0	5.0
TRANSPORTATION	19.6	18.2	18.2	17.6	17.4	18.4	16.8
Liquids	19.0	17.5	17.5	16.7	16.6	17.2	15.8
Gases	0.6	0.6	0.6	0.7	0.7	0.8	0.8
Renewables (Alcohol)	—	0.1	0.1	0.2	0.1	0.4	0.2
FUEL SUBTOTALS							
Liquids	31.5	29.1	29.1	27.0	28.8	24.2	27.0
Gases	16.5	17.4	17.1	18.3	17.5	19.5	18.3
Coal Solids	3.4	4.7	4.0	5.5	4.5	7.5	6.1
Renewables	1.8	2.1	2.2	2.7	2.6	4.2	3.7
Electricity	7.1	8.3	8.3	9.6	9.8	12.3	12.3
TOTAL END-USE CONSUMPTION	60.4	61.6	60.7	63.0	63.2	67.7	67.4
CONVERSION LOSSES	17.3	20.2	20.1	24.0	23.8	32.0	29.7
TOTAL PRIMARY CONSUMPTION	77.7	82.0	80.6	87.0	87.0	100.0	97.0

1/ Energy projections from the third National Energy Policy Plan (NEPP-III) submitted in 1981.
2/ Energy projections developed in preparation of the fourth National Energy Policy Plan (NEPP-IV).

TABLE 2: U.S. ENERGY CONVERSION AND PRODUCTION
COMPARISON OF PROJECTIONS
(Quadrillion Btu's per Year)

	1980	PROJECTED 1985		1990		2000	
		NEPP 1981 1/	JULY 1982 2/	NEPP 1981 1/	JULY 1982 2	NEPP 1981 1/	JULY 1982 2/
ENERGY CONVERSION							
ELECTRICITY INPUTS							
Oil	2.6	2.4	2.3	1.8	1.8	1.1	1.0
Gas	3.8	2.8	2.9	2.9	2.9	2.2	2.0
Coal	12.1	14.3	14.6	16.7	17.6	22.0	23.5
Nuclear	2.7	5.5	4.9	7.6	7.3	10.6	9.2
Other	3.0	3.3	3.2	3.6	3.5	5.3	5.4
Subtotal	24.1	28.3	28.0	32.5	33.1	41.2	41.1
COAL FOR SYNTHETICS	--	0.15	--	1.3	0.5	6.4	2.3
DOMESTIC PRODUCTION							
Oil and NGL	20.5	18.2	19.3	17.9	17.8	17.7	16.0
Shale Oil	—	0.1	—	0.5	0.2	2.3	1.1
Natural Gas	20.1	18.0	18.7	18.5	18.4	18.0	17.5
Coal	19.2	22.0	21.7	27.0	25.8	42.0	37.0
Nuclear	2.7	5.5	4.9	7.6	7.3	10.6	9.2
Hydro/Geothermal 3/	3.0	3.2	3.2	3.4	3.4	4.1	4.1
Renewables	1.8	2.2	2.2	2.8	2.7	5.4	5.0
Subtotal	67.3	69.0	70.0	78.0	75.6	100.0	90.0
NET IMPORTS							
Oil 4/	13.4	13.0	12.3	10.0	12.7	3.0	9.8
Gas	1.0	2.0	1.2	2.0	1.8	2.0	2.2
Electricity	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Coal (Exports)	(2.4)	(2.7)	(3.0)	(3.5)	(3.2)	(5.9)	(5.1)
Subtotal	12.2	12.5	10.6	8.5	11.5	0.0	7.0
TOTAL CONSUMPTION 5/	77.7	82.0	80.6	87.0	87.0	100.0	97.0
Net Oil Imports (MMBD) 4/	(6.3)	(6.3)	(5.8)	(4.8)	(6.0)	(1.2)	(4.6)

1/ Energy projections from the third National Energy Policy Plan (NEPP-III) submitted in 1981.
2/ Energy projections developed in preparation of the fourth National Energy Policy Plan (NEPP-IV).
3/ Hydro/geothermal as reported in NEPP-III included 0.2 quads of electricity imports shown separately in the net electricity imports category here.
4/ Excludes Strategic Petroleum Reserve and U.S. territories net imports.
5/ Totals may not add due to rounding. Excludes 1.8 quads stock increase in 1980.

[FR Doc. 83-2881 Filed 1-28-83; 8:45 am]
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Reader Aids

Federal Register

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Monday, January 31, 1983

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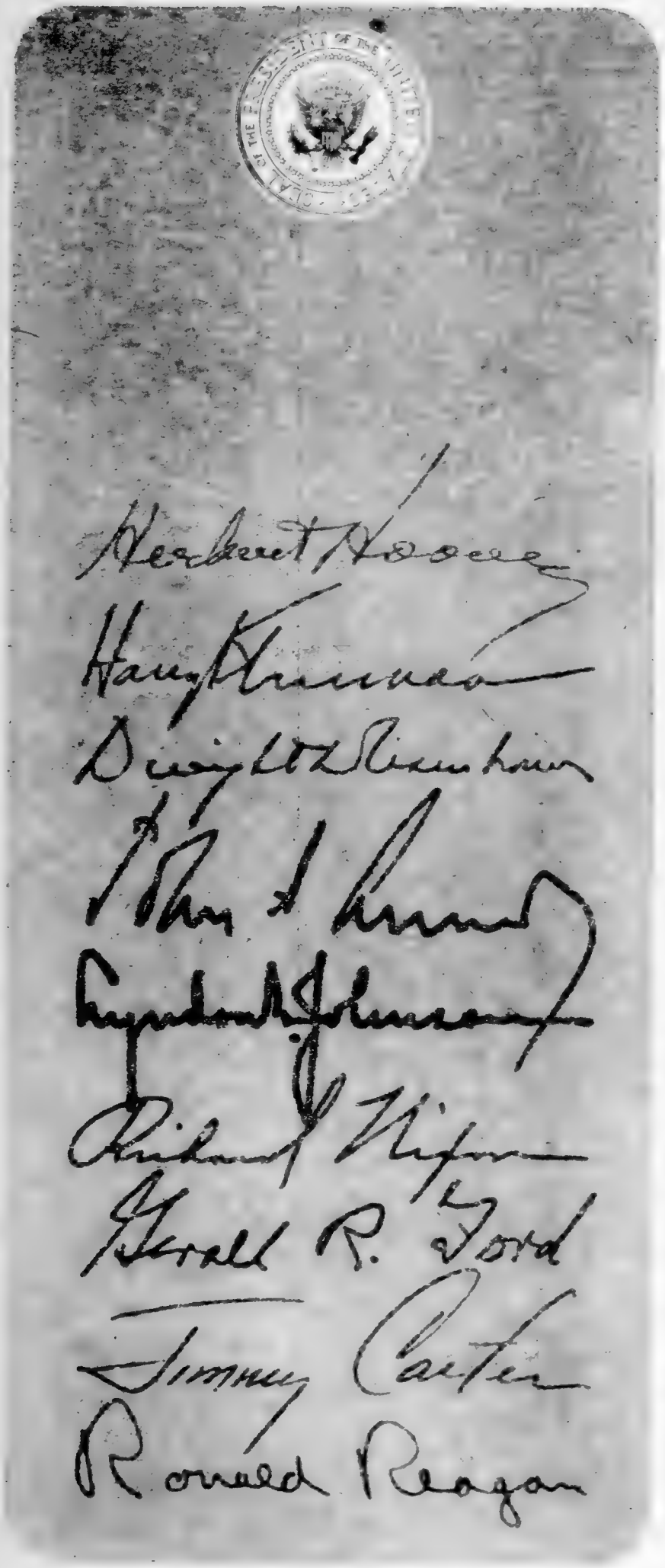

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Rules and Regulations

Federal Register
Vol. 48, No. 22
Tuesday, February 1, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-354]

Witchweed Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the list of suppressive areas under the witchweed quarantine and regulations by adding areas in 5 counties in North Carolina and 1 county in South Carolina to the list of suppressive areas; by deleting areas in 18 counties in North Carolina and South Carolina from the list of suppressive areas; and by deleting 1 entire county in South Carolina from the list of suppressive areas. This action is necessary to prevent the artificial spread of witchweed and to delete unnecessary restrictions on the interstate movement of regulated articles.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Executive Order 122291

The amendment has been issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that the amendment will have an annual effect on the economy of approximately $500; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small businesses and should not have a significant economic impact on any small organizations or small governmental jurisdictions. This action affects the interstate movement of regulated articles from specified areas in North Carolina and South Carolina. Based on information compiled by the Department, it has been determined that there are approximately 290,000 small entities that move regulated articles interstate from such States and many hundreds of thousands of small entities that move regulated articles interstate from other States. However, based on such information, it has been determined that only approximately 20 entities move regulated articles interstate from the specified areas affected by this action. Further, the overall economic impact from this action is estimated to be only about $500.

Background

A document published in the Federal Register on November 1, 1982, (47 FR 49335–49344), set forth an interim rule amending § 301.80–2a of the witchweed quarantine and regulations (7 CFR 301.80–2a). The document amended the quarantine and regulations by adding areas in 5 counties in North Carolina and 1 county in South Carolina to the list of suppressive areas; by deleting areas in 18 counties in North Carolina and South Carolina from the list of suppressive areas; and by deleting 1 entire county in South Carolina from the list of suppressive areas.

The amendment became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure in order to prevent the artificial spread of the witchweed and to delete unnecessary restrictions on the interstate movement of regulated articles.

Comments were solicited for 60 days after publication of the amendment. No comments were received in response to the amendment. The factual situations which were set forth in the document of November 1, 1982, still provide a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the Federal Register on November 1, 1982.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (Agriculture), Quarantines, Transportation, Witchweed.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477; 38 FR 19141; 7 CFR 301.80)

Done at Washington, D.C., this 27th day of January 1983.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83–2733 Filed 1–31–83; 8:45 am]

BILLING CODE 3410–34–M

Soil Conservation Service

7 CFR Part 624

Emergency Watershed Protection

AGENCY: Soil Conservation Service (SCS), USDA.

ACTION: Final rule; amendment to the rule.

SUMMARY: Minor editorial changes are being made in the Soil Conservation Service's (SCS) Rule for emergency watershed protection. This action clarifies several points in the rule for this program published November 17, 1981.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Peterson, Director, Project Development and Maintenance, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013 (202) 447-3527.

SUPPLEMENTARY INFORMATION: Since this rule became effective, several inconsistencies have been brought to light requiring the need to update it with several minor editorial changes. These changes do not significantly affect the rule.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective on publication in the FR. Since this rule relates to internal agency management, it is exempt from the provisions of E.O. 12291. Finally, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 624

Emergency watershed protection, Disaster assistance, Watersheds, Flood prevention, Grant programs—natural resources, Soil conservation, Technical assistance, Flood assistance.

PART 624—[AMENDED]

Part 624—Emergency Watershed Protection is amended as follows:

1. Section 624.5 is amended by revising (b)(2), (c)(3), and by removing (c)(1)(i) and renumbering (c)(1)(ii) through (iv) as (c)(1)(i)–(iii).

§ 624.5 Eligible emergencies, recipients, and assistance.

(b) *Eligible recipients.* * * *

(2) Have exhausted or have insufficient funds or other resources available to provide adequate relief from the applicable hazards. Interested persons other than Federal agencies must be represented by a project sponsor. Project sponsors must:

(i) Be a State or political subdivision of a State or a qualified Indian tribe or tribal organization;

(ii) Have legal authority and agree to use such authority to obtain needed landrights, water rights, and permits; and

(iii) Agree to provide for the operation and maintenance of completed emergency measures.

* * * * *

(c) *Eligible assistance.* * * *

(3) Sponsors may provide their share of construction costs in the form of cash; inkind services such as labor, equipment, etc.; or a combination of cash and inkind services. Cost sharing is waived for measures to be installed on Federal lands such as national forests or national grasslands.

2. Section 624.6 is amended by revising paragraphs (a)(1), (a)(5), and (c)(1) by redesignating paragraphs (c) (2) and (3) as (c) (3) and (4) and by adding a new paragraph (c)(2) as follows:

§ 624.6 Eligible measures.

(a) *Eligibility.* * * *

(1) Retard runoff, prevent flooding, or prevent soil erosion;

* * * * *

(5) Yield beneficial effects to more than one individual except in an exigency; and

* * * * *

(c) *Implementation.* (1) When planning emergency measures, emphasis should be placed on measures that are the least expensive and most environmentally sound. The measures are to be accomplished by using the least damaging construction techniques and equipment that will retain as much of the existing characteristics of the channel and riparian habitat as possible. Emergency measure construction practices may include but are not limited to such things as seasonal construction, minimum clearing, reshaping soil, limiting excavation to one bank (on alternating sides where appropriate), and prompt revegetation of disturbed areas.

(2) Measures needed to offset adverse impacts should be planned for installation concurrent with installation of the emergency measures. If they cannot be installed then, plans should be included to ensure their installation within 30 days. Cost sharing for these measures is at the same rate as for the original emergency construction.

* * * * *

3. Section 624.7 is amended by revising paragraph (d), removing (e) and redesignate (f), (g), and (h) as (e), (f), and (g).

§ 624.7 Limitations on use of emergency funds.

* * * * *

(d) Perform work on features of projects installed under the authority of Pub. L. 83-566, Pub. L. 78-534, Resource Conservation and Development, or measures installed by other Federal agencies. Exceptions may be made at the discretion of the Chief of SCS.

4. Section 624.8 is revised as follows:

§ 624.8 Environment.

Environmental aspects of emergency work are to be given careful consideration. A program environmental impact statement (EIS) for EWP work has been developed in compliance with Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190, 83 Stat. 852 (42 U.S.C. 4321 et seq.)). An environmental evaluation is to be prepared for all nonexigency situations. State conservationists shall notify concerned area and field offices of the Fish and Wildlife Service, the Environmental Protection Agency, and, through existing coordination mechanisms of State clearinghouses, the State fish and game and other appropriate agencies of anticipated EWP work. They shall invite the assistance of these agencies in preparing the environmental evaluation and in planning and implementing the emergency work. Archeological, historical, or other special expertise needed is to be solicited from appropriate agencies and groups. Environmental and other considerations are to be integrated into emergency work by using an interagency and interdisciplinary planning approach.

Dated: January 27, 1983.

Peter C. Myers,

Chief, Soil Conservation Service.

[FR Doc. 83-2731 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-16-M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 6, Amdt. 20]

Oranges, Grapefruit, Tangerines and Tangelos Grown In Florida; Amendment of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum grade requirement applicable to fresh domestic and export shipments of Honey tangerines from Florida No. 1 to Florida No. 1 Golden. This action also lowers the minimum diameter requirement for domestic shipments of Florida pink seedless grapefruit and imports of pink seedless grapefruit from 3$\frac{8}{16}$ inches to 3$\frac{7}{16}$ inches. The amendment is effective for the period January 31, 1983 through August 21, 1983. This action allows an increase in the supply of Honey tangerines and pink seedless grapefruit in recognition of demand conditions and the grade and size composition of the available supply

in the interest of growers and consumers.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Florida Honey tangerine and pink seedless grapefruit crops for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

The amendment with respect to Florida Honey tangerines and grapefruit is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon recommendations and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Honey tangerines and pink seedless grapefruit as hereinafter provided, will tend to effectuate the declared policy of the Act.

The minimum grade and size requirements, specified herein, reflect the Committee's and Department's appraisal of the need to revise the size requirements applicable to Florida pink seedless grapefruit and the grade requirements applicable to Florida Honey tangerines. Such revision will augment the total available supply of Honey tangerines and pink seedless grapefruit available for shipment to market by handlers.

Under section 8e of the Act (U.S.C. 608e–1) whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in effect for the domestically produced commodity. Thus, size requirements for imported pink seedless grapefruit will also change to conform to the size requirements for domestic shipments of Florida pink seedless grapefruit.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. This amendment relieves restrictions on the handling of Florida Honey tangerines, Florida pink seedless grapefruit, and imports of pink seedless grapefruit. Handlers have been apprised of such provisions and the effective date.

List of Subjects in 7 CFR Part 905

Marketing Agreements and Orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

Accordingly, the provisions of § 905.306 are amended by revising the following entries in Table I, paragraph (a) applicable to domestic shipments, and Table II, paragraph (b), applicable to export shipments, to read as follows.

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

(a) * * *

(b) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inch)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	*
Grapefruit:			
Seedless pink	Jan. 31, 1983 to Aug. 21, 1983	Improved No. 2 (External) U.S. No 1 (Internal)	3⅜
	On and after Aug. 22, 1983	Improved No. 2 (External) U.S. No 1 (Internal)	3⅜
Tangerines:			
Honey	Jan. 31, 1983 to Aug. 21, 1983	Florida No. 1 Golden	2⅝
	On and after Aug. 22, 1983	Florida No. 1	2⅝
* * *	* * *	* * *	*

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inch)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	*
Tangerines:			
Honey	Jan. 31, 1983 to Aug. 21, 1983	Florida No. 1 Golden	2⅝
	On and after Aug. 22, 1983	Florida No. 1	2⅝
* * *	* * *	* * *	*

(Secs. 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674)

Dated: January 28, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-2667 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins; REA Specification for Aerial and Underground Telephone Cable, PE-22

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins by issuing a revised REA Bulletin 345–13, REA Specification for Aerial and Underground Telephone Cable, PE–22. This revision incorporates the following changes: (1) Allows the use of an optional, lower cost shield design, (2) the preconnectorization of cables 100 pair and larger, and (3) tightening, in two steps, the capacitance unbalance to ground requirement. These options along with their respective requirements reflect aerial and underground cable products that are being manufactured and used currently in rural telephone systems.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8663. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). This final action has been reviewed in accordance with Executive Order 12991, Federal Regulation. This action will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A–95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

Background

A review of the current specification revealed that by not allowing these options and their associated requirements, the specification would not reflect today's aerial and underground cables being produced by manufacturers. These options which are improvements in the production of aerial and underground cables have been achieved through advancements in technologies.

This action brings REA's specification into conformance with present-day aerial and underground cables without affecting the current designs or manufacturing techniques of wire and cable manufacturers. This action affects REA borrowers in that they will receive and install improved quality aerial and underground telephone cables without increased cable cost. Also, these cables will provide better service performance which will result in reduced maintenance costs for our borrowers.

A Notice of Proposed Rulemaking was published in the **Federal Register** on August 24, 1982, Volume 47, Number 164, page 36851. However, no public comments were received in response to the notice.

7 CFR Part 1701, Appendix A—REA Bulletins, is hereby amended by the issuance of a revised REA Bulletin 345–13, REA Specification for Aerial and Underground Telephone Cable, PE–22.

List of Subjects in 7 CFR Part 1701

Loan programs—communications, Telecommunications, Telephone.

Dated: January 25, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83–2818 Filed 1–31–83; 8:45 am]

BILLING CODE 3410–15–M

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins, REA Specification for Parallel Conductor Drop Wire, PE–7

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins by issuing a revised Bulletin 345–36, REA Specification for Parallel Conductor Drop Wire, PE–7. Improved materials and manufacturing techniques have resulted in the development of a smaller, more physically rugged drop wire which is less costly than designs reflected in the existing PE–7. The revision permits REA borrowers to take advantage of this improved technology in the provision of rural telephone service.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8663. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). This final action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A–95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

Background

This document was last revised in 1966, and there have been significant advances in technology since that time. The document was not applicable to much of the new technology, so that its continuation would have forced REA borrowers to use outmoded less cost-effective technology. If the existing specification was withdrawn rather than revised there would be no minimum acceptable performance criteria for the product. Unacceptable material could be sold to REA borrowers which would result in the loss of telephone system effectiveness and a threat to REA loan security. As a result, revision of the document along these lines was considered to be in the best interest of the program.

A Notice of Proposed Rulemaking was published in the **Federal Register** on August 24, 1982, Volume 47, Number 164, pages 36851 and 36852. However, no public comments were received in response to the notice.

7 CFR Part 1701, Appendix A—REA Bulletins, is hereby amended by the issuance of a revised REA Bulletin 345–36, REA Specification for Parallel Conductor Drop Wire, PE–7.

Indexing Terms

As required by 1 CFR 18.20, the following are the indexed terms and list of subjects for this regulation.

List of Subjects in 7 CFR Part 1701

Loan programs—communications, Telecommunications, Telephone.

Dated: January 25, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83–2619 Filed 1–31–83; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 204

Powers and Duties of Service Officers; Availability of Service Records and Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Revised Procedures for Advance Processing of Orphan Visa Petitions

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule streamlines the procedure for advance processing of orphan petitions. This action is necesssary to improve service to the public and eliminate delays in processing of orphan petitions filed by individuals traveling abroad to locate or adopt orphans. Previously, an unmarried petitioner or a petitioner and spouse who traveled abroad to locate or adopt a child in a country with no Immigration and Naturalization Service office had to file the orphan petition at a Service office located in a country other than where the child was residing. Under this rule, an American consular officer assigned to a country where there is no Service office is permitted to approve a clearly approvable orphan petition where the petitioner and spouse have traveled abroad. All advance processing of the petition, however, must be completed by the Service.

DATE: Effective February 28, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone (202) 633–3048.

For Specific Information: Alice Strickler, Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington D.C. 20536, Telephone: (202) 633–5014.

SUPPLEMENTARY INFORMATION: A procedure for advance processing of orphan petitions filed pursuant to section 101(b)(1)(F) of the Act, 8 U.S.C. 1101(b)(1)(F), was published in the **Federal Register** (44 FR 49430) on August 23, 1979. Advance processing is a procedure for completing that part of an orphan petition relating to the prospective adoptive parent or parents before an orphan is located so that there will be no unnecessary delays in processing the petition after an orphan is located. This procedure was developed in order to process orphan cases expeditiously in accordance with the humanitarian intent of the orphan legislation while complying with its complex statutory requirements. Existing regulations permit advance processing or an orphan petition in any case where a child has not been located and identified or where the unmarried prospective petitioner or the married prospective petitioner or spouse or both are going abroad to adopt or locate a child. The new procedure is a further step towards processing orphan cases expeditiously.

Under the former procedure, petitioners who traveled abroad to adopt or locate children and who desired to file their orphan petitions overseas were required to submit their petitions to Service offices. One of the major changes is that the new procedure permits American consular officers to approve clearly approvable orphan petitions in cases where all advance processing has been completed by this Service and the petitioners have traveled abroad to locate or adopt children and desire to file their petitions overseas in countries with no Service offices. For example, a petitioner who has traveled to India may file his or her orphan petition at the closest American consulate or embassy instead of at our Hong Kong office. This simplified procedure eliminates a very cumbersome step. A precedent for the procedure exists in that consular officers assigned to countries where there are no Service offices, are authorized to approve clearly approvable relative petitions when the petitioners and beneficiaries are physically present in the area over which the consular officer has jurisdiction.

Under the new procedure, an Application for Advance Processing of Orphan Petition, Form I–600A, is being instituted. Under the former procedure, the part of the Petition to Classify Orphan as an Immediate Relative, Form I–600, relating to the petitioner and spouse, if married, was used for a request for advance processing. Use of the new Form I–600A will make it easier to understand the advance processing procedure. The filing fee will be the same as for the Form I–600. The use of the Form I–600 for advance processing is somewhat confusing to the public because it was not initially developed for that purpose.

Under this rule a formal determination is made upon completion of all advance processing. This is necessasry because in some advance processing cases, all action by this Service is completed at that point. Furthermore, in all advance processing cases, prospective petitioners should be given determinations on which they can reasonably rely concerning their ability to care for beneficiary orphans. A prospective petitioner needs to know about any adverse factors which may result in denial of an orphan petition, especially if he or she plans an expensive trip abroad to locate a child.

In a case where an unfavorable determination is made, the prospective petitioner has the right of appeal. It is only fair to permit a prospective petitioner in an advance processing procedure the same right as a petitioner in an orphan case when there has been an adverse determination concerning his or her ability to provide proper care to a beneficiary orphan.

The amendment to § 103.1(m)(5) adds determinations in advance processing cases to the types of decisions which may be appealed to the regional commissioners. The amendment to §103.7(b)(1) adds the Application for Advance Processing of Orphan Petition to the listing of petitions and applications requiring fees. Section 204.1(b)(1) is revised to permit American consular officers to approve orphan petitions in the circumstances described above. The revised § 204.1(b)(3) outlines the requirements for filing the newly devised Application for Advance Processing of Orphan Petition, Form I–600A, and for filing an orphan petition, Form I–600, in cases where an advance processing application has been submitted. It also provides that a formal determination will be rendered in each case, with the right of appeal where there is an adverse determination. The revised § 204.2(f) eliminates the requirement for submission of certain

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information which was required by the Application for Advance Processing of Orphan Petition.

Compliance with 5 U.S.C. 553 as to notice of proposed rule making is unnecessary because the rule is beneficial to the public and relates to Service procedures.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegation, Fees, Forms, Organization and functions.

8 CFR Part 204

Administrative practice and procedure, Adoption, Orphans.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. In § 103.1, paragraph (m)(5) is revised to read as follows:

§ 103.1 Delegations of Authority.

* * * * *

(m) * * *

(5) Determinations concerning the ability of prospective adoptive parents to furnish proper care to beneficiary orphans made as a result of applications for advance processing of orphan petitions filed pursuant to § 204.1(b)(3) of this chapter.

* * * * *

2. In § 103.7(b)(1), a new fee description is added between existing fee descriptions 15 and 16. The amendment to § 103.7(b)(1) reads as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

* * * * *

For filing application for advance processing of orphan petition, $35.00.

* * * * *

(Sec. 103 of the INA, as amended; 8 U.S.C. 1103, 31 U.S.C. 483a, and OMB Circular No. A–25)

PART 204–PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

3. In § 204.1 paragraphs (b)(1) and (3) are revised to read as follows:

§ 204.1 Petition.

* * * * *

(b) *Orphan*—(1) *Jurisdiction*—(i) *Petitioner residing in the United States.* A petitioner residing in the United States shall file a petition in behalf of a child defined in section 101(b)(1)(F) of the Act or an application for advance processing the petition with the Service office having jurisdiction over the place where the petitioner resides.

(ii) *Petitioner residing abroad*—(A) *General.* A petitioner residing outside of the United States shall file an orphan petition or advance processing application with the overseas or stateside office of the Service designated to act on the petition or application. This can be ascertained by consulting an American consul.

(B) *Petitioner residing in Canada.* Since no Service office in Canada is designated to process orphan cases, a petitioner residing in that country shall file an orphan petition or advance processing application with the office of the Service having jurisdiction over the place of the child's intended residence in the United States.

(iii) *Petitioner proceeding abroad when a district director at a stateside office has made a favorable determination concerning an advance processing application*—(A) *Jurisdiction retained by stateside office.* When a district director at a stateside office has made a favorable determination concerning an advance processing application and an unmarried petitioner or either a married petitioner or spouse or both are traveling abroad to locate a child, or are traveling abroad to adopt a child, the petition in behalf of the child may be filed at the stateside office if it will facilitate processing the petition.

(B) *Jurisdiction assumed by American consulate or embassy.* In an advance processing case where the petitioner does not wish to have the jurisdiction retained by the stateside Service office as provided in paragraph 204.1(b)(1)(iii)(A) of this section, the orphan petition may be filed at the Amercian consulate or embassy having jurisdiction over the place where the child is residing unless the child is residing in Austria, Germany, Greece, Italy, Korea, the Philippines, Hong Kong, Mexico, Singapore, or Thailand.

(C) *Authority of consular officers.* American consular officers are authorized to approve orphan petitions when the district director at a stateside Service office has made a favorable determination concerning an advance processing application and the unmarried petitioner or either the married petitioner or spouse or both have traveled abroad to locate or adopt a child. Counsular officers, however, shall refer any petition which is not clearly approvable for a decision by the Service office having jurisdiction over the place where the child is residing. The consular officer's adjudication includes all aspects of eligibility for classification as an orphan under section 101(b)(1)(F) of the Act other than the ability of the prospective adoptive parent or parents to furnish proper care to the beneficiary orphan.

(D) *Jurisdiction assumed by overseas Service office.* If the child is residing in Austria, Germany, Greece, Italy, Korea, the Philippines, Hong Kong, Mexico, Singapore, or Thailand, the orphan petition may be filed at the overseas Service office having jurisdiction over the child's place of residence.

* * * * *

(3) *Advance processing application*—(i) *Circumstances when advance processing application may be filed.* A prospective petitioner may file an application for Advance Processing of Orphan Petition, Form I–600A, when—

(A) The petitioner is unmarried and is traveling abroad to locate a child for adoption in the United States;

(B) The petitioner is unmarried and is traveling to a foreign country to locate and adopt a child while abroad;

(C) The petitioner and spouse are traveling abroad to locate a child for adoption in the United States;

(D) The petitioner and spouse are traveling to a foreign country to locate and adopt a child while abroad; or

(E) The married petitioner or the married petitioner's spouse is traveling abroad to locate a child for adoption in the United States.

(ii) *Filing the application.* A United States citizen may file Form I–600A. The certification of prospective petitioner must be completed. The form must be accompanied by the fee specified in § 103.7(b)(1) of this chapter. If the petitioner is married, the petitioner's spouse shall also sign the Form I–600A. If unmarried, the petitioner must be at least twenty-four years of age at the time of filing Form I–600A and at least twenty-five years of age at the time of the child's adoption and the filing of a petition, Form I–600, in behalf of the child

(iii) *Disposition of advance processing application*—(A) *Favorable*

determination. If the district director or officer in charge makes a favorable determination concerning the ability of the prospective adoptive parent or parents to furnish proper care to a beneficiary orphan if admitted to the United States, the district director or officer in charge shall advise the petitioner of the action taken. The district director or officer in charge shall also advise the petitioner that the advance processing application will be retained for one year from the date of completion of all advance processing, that if a child is not identified to this Service within that year, the application will be considered abandoned, and that any further proceedings will require the filing of a new advance processing application or an orphan petition.

(B) *Unfavorable determination.* When adverse information about the prospective adoptive parent or parents is developed which indicates that an orphan petition should not be approved because the prospective adoptive parent or parents are unable to furnish proper care to a beneficiary orphan, the district director or officer in charge shall render an unfavorable determination concerning the advance processing application. The district director or officer in charge shall advise the petitioner of the reasons for the unfavorable determination and of the right of appeal in accordance with the provisions of Part 103 of this chapter. When an unfavorable determination is made concerning an advance processing application, the fee will not be refunded.

(iv) *When a child is identified—(A) Pending advance processing application.* When a child is identified while an advance processing application is pending, the petitioner shall submit a completed Form I–600 with all documentary evidence relating to the child. A new fee is not required.

(B) *Completed advance processing application—favorable determination.* When a child is identified after there has been a favorable determination concerning an advance processing application, the petitioner shall submit a completed Form I–600 with all documentary evidence relating to the child. A new fee is not required if the petitioner submits the Form I–600 within one year from the date of completion of all advance processing.

(C) *Completed advance processing application—unfavorable determination.* If the petitioner submits a petition, Form I–600, in behalf of a child when there has been an unfavorable determination concerning an advance processing application, the fee specified in § 103.7(b)(1) of this chapter must be submitted. If the grounds for the unfavorable determination have not been overcome, the district director or officer in charge shall deny the petition.

* * * * *

4. In § 204.2, paragraph (f) is revised to read as follows:

§ 204.2 Documents.

* * * * *

(f) *Evidence to be furnished with application for advance processing of orphan petition.* An Application for Advance Processing of Orphan Petition, Form I–600A, must be accompanied by—

(1) Fingerprints on Form FD–258 of the United States citizen petitioner and spouse, if married;

(2) Documentary evidence relating to the petitioner and spouse, if married, as provided in paragraph (d)(1) of this section: and

(3) A valid home study as described in paragraph (d)(2) of this section, if available. If not available, the home study must be submitted within one year from the date of submission of the advance processing application or the application will be considered abandoned.

* * * * *

(Secs. 101(b)(1) (E) and (F), 103, 204 Immigration and Nationality Act, as amended (8 U.S.C. 1101(b)(1) (E) and (F), 1103,1154))

Dated: January 14, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83–2675 Filed 1–31–83; 8:45 am]

BILLING CODE 4410–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R–0447]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Amendment of Board Order temporarily suspending the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in the Louisiana parishes of Allen, Beauregard, Calcasieu, Catahoula, Grant, LaSalle, Natchitoches, Quachita, Rapides, and Winn on January 13, 1983. This action exands that Order to include additional parishes in Louisiana.

EFFECTIVE DATE: January 17, 1983, for the Louisiana parishes of Avoyelles, Caldwell, Evangeline, Franklin, Lincoln, Morehouse, Richland, Union, and Vernon.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452–3711).

SUPPLEMENTARY INFORMATION: On January 11, 1983, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. § 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Louisiana parishes of Allen, Beauregard, Calcasieu, Catahoula, Grant, LaSalle, Natchitoches, Quachita, Rapides, and Winn, major disaster areas. The Board regarded the President's actions as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board of Governors, acting through its Secretary, pursuant to delegated authority, suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors suffering property or other financial loss in the disaster areas as a result of severe storms and flooding beginning on our about December 19, 1982. (48 FR 2315). Subsequent to this action, the Presidential declaration of a major disaster was amended to include additional parishes. The Board therefore believes it appropriate to amend its Order to include the additional parishes. The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster areas as a result of severe storms and flooding beginning on or about December 19, 1982. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This amendment will be retroactive to January 17, 1983, for the Louisiana parishes of Avoyelles, Caldwell, Evangeline, Franklin, Lincoln, Morehouse, Richland, Union, and Vernon and will remain in effect until 12 midnight, July 11, 1983.

List of Subjects in 12 CFR Part 217

Advertising, Banks, Banking, Federal Reserve System, Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated parishes of Louisiana directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, January 28, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-2858 Filed 1-31-83; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 226

[Reg. Z; Doc. No. R-0395]

Truth in Lending; Determinations of Effect on State Laws (Arizona, Florida, Missouri, and South Carolina)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Preemption determinations.

SUMMARY: In accordance with Appendix A to 12 CFR Part 226 and in response to four requests, the Federal Reserve Board is publishing in final form determinations as to whether certain state laws are inconsistent with the Truth in Lending Act or Regulation Z and therefore preempted. The laws of three states, Arizona, Florida (two requests), and Missouri, are the subject of the requests. A request for a preemption determination with regard to South Carolina law has been withdrawn. Effective October 1, 1983, creditors in Arizona, Florida, and Missouri are prohibited from using the preempted disclosures, but creditors may omit those disclosures immediately.

EFFECTIVE DATE: October 1, 1983, with compliance optional before that date.

FOR FURTHER INFORMATION CONTACT: Lynn Goldfaden or Rugenia Silver, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-3667 or (202) 452-3667.

SUPPLEMENTARY INFORMATION:

(1) *General.* Section 111(a)(1) of the Truth in Lending Act authorizes the Board to determine whether any inconsistency exists between chapters 1, 2, and 3 of the federal act or regulation and any state law relating to the disclosure of information in connection with consumer credit transactions. If the Board determines that a state-required disclosure is inconsistent with the federal law, the state law is preempted to the extent of the inconsistency, and creditors in that state may not make disclosures using the inconsistent term or form.

Section 226.28(a)(1) of Regulation Z, which implements § 111 of the act, provides that state requirements are inconsistent with the federal provisions if the state law requires a creditor to make disclosures or take actions that contradict the federal law. A state law is contradictory, and therefore preempted, if it significantly impedes the operation of the federal law or interferes with the purposes of the federal statute. Section 226.28(a)(1) provides two examples of contradictory state laws: a law that requires the use of the same term for a different amount or a different meaning than the federal law, or one that requires the use of a term different from the federal term to describe the same item.

If the Board determines that a state law is inconsistent with, and therefore preempted by, the federal law, creditors in that state may not make disclosures using the inconsistent term or form. The Board interprets the provision set forth in section 111(a)(1) of the act, regarding use of the preempted law, as an absolute prohibition against giving preempted disclosures at all. Making those disclosures, even on a separate document from the federal disclosures, would not be permissible.

Under section 111(d) of the Truth in Lending Act, a state law is not preempted if preemption would adversely affect the validity or enforceability of any contract or obligation under state or federal law. Based on its own research and discussions with state officials, the Board understands that none of the preempted terms in the current requests are necessary for a valid or enforceable contract under state law.

When the Board makes a determination of preemption, it will provide a transition period for creditors to make the necessary forms changes. Pursuant to the timing provisions in section 105(d) of the act, determinations will have an effective date of the October 1 that follows the determination by at least 6 months. As permitted by the statute, the Board may lengthen the time if necessary for creditors to accommodate new requirements, or it may shorten the time if necessary to comply with court findings or to prevent unfair or deceptive disclosure practices. The current determinations will become effective on October 1, 1983. At their option, however, creditors may begin complying with the determinations prior to the effective date.

Pursuant to 12 CFR 265.2(h)(2), the Board has delegated authority to the Director of the Division of Consumer and Community Affairs to make preemption determinations. Therefore, all future determinations will be made by the Director, subject to Board review in accordance with § 265.3 of the Board's Rules Regarding Delegation of Authority. The determinations will be published in the Official Staff Commentary on Regulation Z (TIL-1).

In response to five requests, the Board reviewed state law provisions in Arizona, Florida (two requests), Missouri, and South Carolina. Proposed determinations on these four states were published for comment on April 15, 1982 (47 FR 16201). The Board received approximately 60 comments on the proposal.

As stated previously, a state law is inconsistent with the federal law if it significantly impedes the operation of the federal law or interferes with the purposes of the federal statute. Several commenters questioned this interpretation of inconsistency either on the ground that it exceeded the Board's authority or was too imprecise. However, the Board continues to believe that the "interference" principle is synonomous with the standard of "inconsistency" and is necessary to the application of that standard. There may be instances in which the state law under examination cannot be reviewed in the context of the examples of "contradictory" that are given in § 226.28(a)(1) of Regulation Z; that is, the state law might not deal with disclosures of terms and amounts. In such a case, state law must be measured against the general definition of inconsistency: whether the state law significantly impedes the operation of the federal law or interferes with the intent of the federal scheme.

In April, the Board determined that certain disclosures were preempted on the basis of this general definition of inconsistency. The Board has evaluated the proposal in light of the comments received and has found that use of the general definition is unnecessary for the current determinations, since the same disclosures are preempted based on the specific examples of contradictory laws set forth in the regulation. However, the Board continues to believe that the

definition is necessary and proper, and the definition will be applied, without reference to the examples, where appropriate.

(2) *Principles followed in the preemption analysis.* After review of the comments received and further analysis of the proposal, the Board has developed a more detailed set of principles that were followed in making the current determinations and will be applied by the staff in making future determinations. These principles are discussed below.

1. *For purposes of making preemption determinations, state law is deemed to require the use of specific terminology in the state disclosures if the state statute uses certain terminology in the disclosure provision.* Under § 226.28(a)(1), a state law is preempted if it requires the use of the same term to represent a different amount or meaning than the federal law, or requires the use of a term different from that required by the federal law to describe the same item. Therefore, in deciding whether a state law contradicts the federal law, the Board must determine whether state law requires the use of specific terminology in the state disclosures.

Based on the comments, information received from the relevant state agencies, and a review of the state statutes themselves, the Board believes that terms used in the statute should be considered required for purposes of making preemption determinations. Even if the state imposes no penalty for failure to use the specified term, creditors are likely to use that term.

2. *A state disclosure does not "describe the same item," under § 226.28(a)(1), if it is not the functional equivalent of a federal disclosure.* For example, a state statute might require a disclosure, such as the unpaid balance of cash price under Florida law, which is used in deriving the amount financed. Such a disclosure is not the functional equivalent of the federal amount financed, even though in some transactions the two may be the same amount. The federal amount financed is designed to reflect the net amount of credit available to the consumer, while the Florida disclosure is a subtotal in the mathematical progression leading to that amount.

As another example, Arizona requires a disclosure of the rate at which the finance charge is computed. This is a disclosure of the contract interest rate, while the federal annual percentage rate expresses in percentage terms the total credit cost; that is, the federal disclosure may include other components in addition to the contract rate. Therefore, the state disclosure is not the functional equivalent of the federal annual percentage rate, even though the two may be the same amount in some cases. These types of state disclosures do not "describe the same item" as the federal disclosures and are not preempted.

3. *Preemption occurs only in those transactions in which an actual inconsistency exists between the state law and the federal law.* In the proposed determinations, any state law that might in certain instances be inconsistent was preempted, even if in many instances the state and federal laws would produce the same disclosures (either the same dollar amount, percentage, or terminology). For example, Arizona's final cash price balance disclosure was proposed to be preempted since the law required the use of a different term than the federal law for what in some cases *might* be the same amount as the federal amount financed.

After consideration of the comments received and a review of the issue, the Board believes that a state law should be preempted only in cases of actual contradiction. Using the above example, Arizona's final cash price balance disclosure is preempted only if that amount is the same as the federal amount financed. The Board believes that this position best fulfills the congressional purpose underlying the preemption provision, and will ease the burden on creditors and others in dealing with preemption determinations.

The Board believes that these principles provide a flexible approach to preemption. With respect to Arizona, Florida, and Missouri, this approach avoids preemption in those situations in which state law allows creditors to use any descriptive terminology in giving the required disclosures. The approach also provides a means for limiting preemption to actual as opposed to potential conflicts, an approach that commenters indicated would substantially ease the compliance burden and avoid unnecessary disruption of state laws. Furthermore, a state considering revisions to its consumer credit laws may find the principles useful in reconciling any differences between those laws and the federal law.

(3) *Effect on other laws.* When the Board published the proposed determinations for public comment, it also addressed the issue of the impact of those determinations on similar laws in other states. Although the preemption requests arise from specific laws in four states, similar provisions exist in other states' laws. The Board solicited comment on what impact, if any, a determination as to a particular state's law should have on similar provisions in other states that are not the subject of the specific request. A majority of the commenters favored the approach whereby a determination on one state's law will have no effect on the validity of similar provisions in other states. The Board believes that this approach is the most practical one and will best allow the thorough analysis necessary for each state law question that arises.

(4) *Discussion of specific requests and final determinations.* The final determinations regarding the state laws at issue, together with the reasons for the Board's action, are set forth below.

Arizona. Section 44–287 of the Arizona Motor Vehicle Time Sales Disclosure Act, Chapter 2.1, sets forth the items that must be included in a contract for the sale of a motor vehicle, such as the cash price, the amount and type of downpayment, and the amount of the finance charge and the rate at which it is computed. The Board was asked to determine whether this section is inconsistent with the closed-end credit provisions in § 128 of the federal act and § 226.18 of Regulation Z.

• Section 44–287 B.5. requires that the contract disclose the final cash price balance. This amount, which represents the net amount of credit available to the consumer, describes the same item as the amount financed disclosure in § 226.18(b) of Regulation Z. Since the Arizona law uses the term "final cash price balance" for what may be the same as the federal amount financed, the state provision is contradictory and preempted in those transactions in which the final cash price balance is the same as the federal amount financed. In such transactions, creditors are prohibited from using the term "final cash price balance" in their disclosures, but are free to substitute the term "amount financed" for the contradictory term in the state disclosures instead of omitting the disclosure completely.

In those cases in which the amount of the final cash price balance is different from the federal amount financed, no preemption occurs. In such cases, the state and federal laws require the use of different terms to describe different amounts, so that no contradiction results.

• Section 44–287 B.6. requires a disclosure of the finance charge. The law uses the term "finance charge," but it is not defined in the same manner as the federal finance charge in § 226.4 of Regulation Z. Therefore, in those transactions in which the amount is different from the amount of the federal finance charge, the disclosure is preempted, since the state law requires the use of the same term as the federal

law to represent a different amount than the federal law. In such cases, creditors are prohibited from using the term "finance charge" in the state disclosures to represent a different amount than is given in the federal disclosures, but they are free to substitute the federal finance charge amount in the state disclosures. In those transactions in which the state amount is the same as the federal amount, the state finance charge disclosure is not preempted.

• Section 44–287 B.6. also requires a disclosure of the rate at which the finance charge is computed. The Board finds that this disclosure is not preempted by the federal law, since the two disclosures do not represent the same "item." The state disclosure is for the contract rate only, and does not describe the same item as the federal "annual percentage rate," which expresses the total credit cost.

• Section 44–287 B.7. requires a disclosure of the time balance. That term, which is specified by state law, describes the same item as the total of payments in § 226.18(h) of Regulation Z. Therefore, the time balance disclosure is preempted in those transactions in which the amount is the same as the federal total of payments amount, since in those cases the state law requires the use of a term different from the federal term to represent the same amount. In such transactions, creditors are prohibited from disclosing in accordance with the state law, but are free to replace the contradictory state term with the federal term. If the time balance is a different amount from the total of payments amount, then there is no contradiction and therefore no preemption.

• Section 44–287 B.7. also requires a disclosure of the payment schedule. This disclosure is not preempted because it does not contradict any required federal term.

Florida. The Board was asked to determine whether the disclosure requirements of Florida Statute 520, Retail Installment Sales, Parts I and II, contradict the requirements of Regulation Z. Part I covers motor vehicle sales financing, and Part II contains analogous disclosures for other retail installment sales.

• Sections 520.07(2)(c) and 520.34(2)(c) require that the contract show the "unpaid balance of cash price." In the April proposal, this disclosure would have been preempted on the basis that it requires the use of a different term than the federal law to describe what may be the same item as the federal amount financed. After review, however, the Board believes that the state disclosure is not the functional equivalent of the amount financed, but is instead a subtotal figure showing the difference between the cash price of the goods and the downpayment. It is not designed, like the amount financed, to reflect the net amount of credit available to the consumer after taking into account other charges that may be imposed and other amounts that may be financed. Therefore, the provision is not preempted.

• Sections 520.07(2)(g), 520.34(2)(g), and 520.35(2)(d) require that the contract include the amount of the finance charge. The finance charge definitions under the state law differ from the federal finance charge definition in the treatment of certain fees, taxes, and other items. Because of these variations, the state finance charge may include certain amounts that would be excluded from the federal finance charge while excluding other amounts that the federal finance charge would reflect.

Because the state law uses the same term as the federal law to represent a different amount than the federal law, the state finance charge disclosures are preempted in those transactions in which the amount is different from the amount of the federal finance charge. In such cases, creditors are prohibited from disclosing the state finance charge but are free to substitute the amount of the federal finance charge in the state disclosure.

• Sections 520.07(2)(g) and 520.35(2)(d) also require creditors to disclose an itemization of the finance charge. The federal law allows creditors to itemize the finance charge so long as that itemization is not disclosed with the segregated federal disclosures. Therefore, a state law requirement to itemize the finance charge is not preempted, assuming that itemization is not given with the segregated federal disclosures.

• Sections 520.07(2)(f) and 520.34(2)(f) require a disclosure of the amount financed. The state law uses the same term as that required by § 226.18(b) of Regulation Z for what may be a different amount. In those transactions in which the amount differs from the federal amount, the provision is preempted because the state law requires the use of the same term as the federal law to represent a different amount. In such transactions, creditors are prohibited from giving the preempted state disclosure but are free to substitute the federal amount in the state disclosures, instead of omitting the state disclosure completely. In any case in which the state amount matches the federal amount, the state provision is not preempted because the same term is used under both laws to describe the same amount.

• Sections 520.07(2)(h) and 520.34(2)(h) require a disclosure of the total of payments. The state law uses the same term as that required by § 226.18(h) of the federal regulation for what may be a different amount. In those transactions in which the amount differs from the federal amount, the provision is preempted because the state law requires the use of the same term as the federal law to represent a different amount. In such transactions, creditors are prohibited from giving the preempted state disclosure but are free to substitute the federal amount in the state disclosures, instead of omitting the state disclosure completely. In any case in which the state amount matches the federal amount, the state provision is not preempted because the same term is used under both laws to describe the same amount.

• Sections 520.07(2)(h) and 520.34(2)(h) require a disclosure of the payment schedule. This disclosure is not preempted because it does not contradict any required federal term.

• Sections 520.07(2)(i) and 520.34(2)(i) require that the contract show the deferred payment price, which corresponds to the federal disclosure of the total sale price in § 226.18(j) of Regulation Z. In those transactions in which the amount of the deferred payment price is the same as the amount of the federal total sale price, the state provision is preempted because it uses a different term than that required by the federal law to represent the same amount. In such cases, creditors are prohibited from disclosing in accordance with the state provision, but are free to replace the term "deferred payment price" with the term "total sale price" in the state disclosures. If the state and federal amounts are different, the provision is not preempted in those transactions, since different terms would be used to describe different amounts.

Missouri. The Board was asked to determine whether or not certain provisions of Missouri law are inconsistent with the federal law. The subjects of the request were § 365.070 on motor vehicle time sales and § 408.260 on retail credit sales of all other goods. The two sections contain almost identical disclosure requirements.

• Sections 365.070–6(9) and 408.260–5(6) require that the contract show the amount of the principal balance. That term, which is used in the state law, describes the net amount of credit and is thus the functional equivalent of the federal amount financed. Therefore, the

provision is preempted in those cases in which the amount of the principal balance is the same as the federal amount financed, since state law uses a different term than the federal law to represent the same amount. In such cases, creditors are prohibited from disclosing the principal balance, but are free to replace the term "principal balance" with the term "amount financed" in the state disclosures. If the amount of the principal balance is different from the federal amount financed, the provision is not preempted because state and federal law would require different terms to describe different amounts.

• Section 365.070–6(10) requires that the contract show the time price differential, and 408.260–5(7) requires that the contract disclose the time charge. Both of these disclosures, which express the dollar cost of credit, correspond to the federal finance charge disclosure found in § 106 of the federal act and in § 226.4 of Regulation Z, but do not use the federal definition. Therefore, the amounts computed and disclosed under state law may contradict the amount computed and disclosed under the federal law. In those cases in which the amount of the time price differential or the time charge is the same as the federal finance charge, the state provision is preempted because it uses a different term than the federal law to represent the same item. In such cases, creditors are prohibited from disclosing the time price differential or time charge, and would simply disclose the cost of credit in accordance with the rules specified in the federal law. In those transactions in which the amount of the time price differential or time charge is different from the federal finance charge amount, no preemption occurs because different terms are required by state and federal law to describe different amounts.

• Sections 365.070–2 and 408.260–2 require that the contract contain certain notices to the buyer, using the language set forth in the statute. The notices use the terms "time price differential" and "time charge." In those transactions in which the state disclosure of the time price differential or time charge is preempted, the use of the term in the notice is also preempted. In such cases, the creditor is free to include the notice in the state disclosures but substitute "finance charge" for the preempted term.

• Sections 365.070–6(11) and 408.260–5(8) require that the contract show the time balance. These disclosures correspond to the federal total of payments disclosure in § 226.18(h). If the time balance is the same amount as the federal total of payments, the state provision is preempted in those transactions, since the state law uses a different term than the federal law to represent the same item. In such cases, creditors are prohibited from using the state disclosure but may replace that disclosure with the federal term or amount instead of omitting it completely. If the time balance is a different amount than the federal total of payments, no preemption occurs in those transactions because there is no contradiction.

• Sections 365.070–6(11) and 408.260–5(8) also require a disclosure of the payment schedule. This disclosure is not preempted because it does not contradict any required federal term.

• Sections 365.070–6(12) and 408.260–5(9) require that the contract show the time sale price, which corresponds to the total sale price disclosure in § 226.18(j) of Regulation Z. In those transactions in which the amount of the time sale price is the same as the amount of the total sale price, the provision is preempted because it uses a different term than the federal law to represent the same amount. In such cases, creditors are prohibited from disclosing the time sale price, but may replace the term with "total sale price" in the state disclosures. If the time sale price is not the same amount as the federal total sale price, no preemption occurs because state and federal law would require different terms to describe different amounts.

South Carolina. The final request involved S.C. Code Ann. §§ 37–5–203 and 37–5–204. However, recent legislation in South Carolina amended § 37–5–203(2) to make it identical to § 130(b) of the federal act, and § 37–5–204 was repealed. Therefore, the South Carolina request has been withdrawn.

(5) *Preemption determinations.* The following order sets forth the preemption determinations. Notice of the determinations will be included in the Official Staff Commentary of Regulation Z (Supplement I to Part 226).

Order

Pursuant to section 111 of the federal Truth in Lending Act as revised on March 31, 1980 (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96–221), the Board has determined that certain laws in the states of Arizona, Florida, and Missouri are inconsistent with and preempted by the federal law. These determinations are as follows:

Preemption determination—Arizona. Effective October 1, 1983, the Board has determined that the following provisions in the state law of Arizona are preempted by the federal law:

• Section 44–287 B.5.—Disclosure of final cash price balance. This provision is preempted in those transactions in which the amount of the final cash price balance is the same as the federal amount financed, since in such transactions, the state law requires the use of a term different from the federal term to represent the same amount.

• Section 44–287 B.6.—Disclosure of finance charge. This provision is preempted in those transactions in which the amount of the finance charge is different from the amount of the federal finance charge, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount.

• Section 44–287 B.7.—Disclosure of the time balance. The time balance disclosure provision is preempted in those transactions in which the amount is the same as the amount of the federal total of payments, since in such transactions, the state law requires the use of a term different from the federal term to represent the same amount.

Preemption determination—Florida. Effective October 1, 1983, the Board has determined that the following provisions in the state law of Florida are preempted by the federal law:

• Sections 520.07(2)(f) and 520.34 (2)(f).—Disclosure of amount financed. This disclosure is preempted in those transactions in which the amount is different from the federal amount financed, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount.

• Sections 520.07(2)(g), 520.34(2)(g), and 520.35 (2)(d)—Disclosure of finance charge and a description of its components. The finance charge disclosure is preempted in those transactions in which the amount of the finance charge is different from the federal amount, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount. The requirement to describe or itemize the components of the finance charge, which is also included in §§ 520.07(2)(g) and 520.35(2)(d), is not preempted.

• Sections 520.07(2)(h) and 520.34(2)(h)—Disclosure of total of payments. The total of payments disclosure is preempted in those transactions in which the amount differs from the amount of the federal total of payments, since in such transactions, the state law requires the use of the same term as the federal law to

represent a different amount than the federal law.

• Sections 520.07(2)(i) and 520.34(2)(i)—Disclosure of deferred payment price. This disclosure is preempted in those transactions in which the amount is the same as the federal total sale price, since in such transactions, the state law requires the use of a different term than the federal law to represent the same amount as the federal law.

Preemption determination—Missouri. Effective October 1, 1983, the Board has determined that the following provisions in the state law of Missouri are preempted by the federal law:

• Sections 365.070–6(9) and 408.260–5(6)—Disclosure of principal balance. This disclosure is preempted in those transactions in which the amount of the principal balance is the same as the federal amount financed, since in such transactions, the state law requires the use of a term different from the federal term to represent the same amount.

• Sections 365.070–6(10) and 408.260–5(7)—Disclosure of time price differential and time charge, respectively. These disclosures are preempted in those transactions in which the amount is the same as the federal finance charge, since in such transactions, the state law requires the use of a term different from the federal law to represent the same amount.

• Sections 365.070–2 and 408.260–2—Use of the terms "time price differential" and "time charge" in certain notices to the buyer. In those transactions in which the state disclosure of the time price differential or time charge is preempted, the use of the terms in this notice also is preempted. The notice itself is not preempted.

• Sections 365.070–6(11) and 408.260–5(8)—Disclosure of time balance. The time balance disclosure is preempted in those transactions in which the amount is the same as the amount of the federal total of payments, since in such transactions, the state law requires the use of a different term than the federal law to represent the same amount.

• Sections 365.070–6(12) and 408.260–5(9)—Disclosure of time sale price. This disclosure is preempted in those transactions in which the amount is the same as the federal total sale price, since in such transactions, the state law requires the use of a different term from the federal law to represent the same amount.

By order of the Board of Governors of the Federal Reserve System, January 26, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–2861 Filed 1–31–83; 8:45 am]

BILLING CODE 6210–01–M

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12 CFR Part 265

[Docket No. R–0448]

Rules Regarding Delegation of Authority; Preemption Determinations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its Rules Regarding Delegation of Authority to delegate to the Director of the Division of Consumer and Community Affairs the authority to make determinations under § 226.28 of Regulation Z and § 213.7 of Regulation M regarding the effects of the Truth in Lending Act on analogous state laws.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Lynn Goldfaden or Rugenia Silver, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452–3867.

SUPPLEMENTARY INFORMATION: (1) The Board is amending its Rules Regarding Delegation of Authority to delegate to the Director of the Division of Consumer and Community Affairs the authority to make determinations under § 226.28 of Regulation Z and § 213.7 of Regulation M regarding the effect of the Truth in Lending Act, as amended by the Truth in Lending Simplification and Reform Act of 1980 (Pub. L. 96–221), on analogous state laws. The Director has authority to make decisions, under Sections 111, 171(a) and 186(a) of the act and the Board's Regulation Z (12 CFR 226.28) and Regulation M (12 CFR 213.7) regarding the relationship of state laws to the federal act. The Board finds that delegation of its authority to make such determinations is necessary and appropriate because of the highly technical nature of these decisions, and because they will be made within standards adopted by the Board.

(2) The Board finds that the notice, opportunity for comment, and deferral of effective date procedures of 5 U.S.C. 553(b) are unnecessary in connection with this proceeding because it relates to agency procedures. For the same reasons, the expanded rulemaking procedures set forth in the Board's policy statement of January 15, 1979 (44 FR 3957), will not be followed in connection with this proceeding.

PART 265—[AMENDED]

(3) Pursuant to the provisions of Section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board hereby amends 12 CFR 265.2 by revising paragraph (h)(2) to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(h) * * *

(2) Pursuant to Section 111, 171(a) and 186(a) of the Truth in Lending Act (15 U.S.C. 1610(a), 1666j(a) and 1667e(a)) and the Board's Regulation Z (12 CFR 226.28) and Regulation M (12 CFR 213.7), to make determinations regarding the effect of the Truth in Lending Act on state laws.

* * * * *

By order of the Board of Governors of the Federal Reserve System, January 26, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–2860 Filed 1–31–83; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM80–39–000]

Regulations Governing Application for License for Major Unconstructed Projects and Major Modified Projects; Application for License for Transmission Lines Only; and Application for Amendment To License; Correction

Issued: January 17, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: On November 6, 1981, the Federal Energy Regulatory Commission issued a Final Rule in Docket No. RM80–39–000 implementing "Regulations Governing Application for License for Major Unconstructed Projects and Major Modified Projects; Application for License for Transmission Lines Only; and Application for Amendment to License" (46 FR 55,926, November 13, 1981).

This document corrects typographical errors.

FOR FURTHER INFORMATION CONTACT:
Fredric D. Chanania, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357–8033.

PART 4—[AMENDED]

Accordingly, the Commission corrects 18 CFR Part 4 as follows:

§ 4.41 [Corrected]

1. In § 4.41(g)(3)(v), shown at 46 FR 55,941, the reference to "in detail sufficient detail to independent staff evaluation." is corrected to read "in sufficient detail to permit independent staff evaluation."

§ 4.201 [Corrected]

2. In § 4.201(b)(5), shown at 46 FR 55,944, the reference to "§ 4.61 of this chapter" is corrected to read "§ 4.51 of this chapter."

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2639 Filed 1–31–83; 8:45 am]
BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM79–76–138 (New Mexico—17; Order No. 275]

High-Cost Gas Produced From Tight Formations, New Mexico; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Regulatory Energy Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of New Mexico Oil Conservation Division that portions of the Dakota Formation underlying certain lands in San Juan County, New Mexico be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 21, 983.

FOR FURTHER INFORMATION CONTACT:
Jane Oliver, (202) 357–8571 or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: January 21, 1983.

The Commission hereby amends § 271.703(d) of its regulations to include a portion of the Dakota Formation underlying lands in San Juan County, New Mexico, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued September 10, 1982 (47 FR 40814, September 16, 1982,[1] based on a recommendation by the State of New Mexico Oil Conservation Division (New Mexico) in accordance with § 271.703, that certain areas of the Dakota Formation be designated as a tight formation.

Evidence submitted by New Mexico supports the assertion that portions of the Dakota Formation meet the guidelines contained in § 271.703(c)(2). The Commission adopts the New Mexico recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 et seq.; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below, effective January 21, 1983.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(115) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(115) *Dakota Formation in New Mexico.* RM79–76–138 (New Mexico-17).

(i) *Delineation of formation.* The Dakota Formation is located in the northwestern portion of the San Juan Basin in San Juan County, New Mexico. The Dakota Formation underlies all of Township 26 North, Ranges 12 and 13 West; Township 27 North, Range 12 West, Section 8–S/2, 9–S/2, and 16 through 36; Township 27 North, Range 13 West, Sections 3–W/2, 4 through 9, 10–W/2, and 14 through 36; Township 28 North, Range 13 West, Sections 7 through 9, 16 through 21, 28 through 33, and 34–W/2; Township 29 North, Range 13 West, Sections 4 through 9, 16 through 19, 20–W/2, 29–W/2, 30, 31, and 32–W/2; Township 29 North, Range 14 West, Sections 1, 2–W/2 and SE/4, 3 through 18, 19–NE/4, 20 through 27, 28–N/2 and SE/4, 34–N/2, 35 and 36; Township 29 North, Range 15 West, Sections 1 through 6, 7–N/2, 8–N/2, 9–N/2, 10–N/2 and SE/4, 11, 12, 13–N/2 and 14–N/2; Township 30 North, Range 14 West, Sections 1 through 12, 15 through 23, and 26 through 34; and all of Township 30 North, Range 15 West, NMPM.

(ii) *Depth.* The Dakota Formation ranges in thickness from 250 to 300 feet. The average depth to the top of the Dakota Formation is 5,952 feet.

[FR Doc. 83–2634 Filed 1–31–83; 8:45 am]
BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM79–076–089 (Louisiana—3 Addition); (Order No. 276)]

High-Cost Gas Produced From Tight Formations, Louisiana; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Regulatory Energy Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation

[1] The notice established a 45-day period for submission of written comments. No comments or requests for hearing were received.

of the State of Louisiana Office of Conservation (Louisiana) that additional areas of the Cotton Valley Group be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357–8571 or Walter Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: January 21, 1983.

The Commission hereby amends § 271.703(d) of its regulations to include additional areas of the Cotton Valley Sandstone Formation, located in the northern part of the State of Louisiana, as a designated tight formation eligible for incentive pricing under § 271.703. On October 29, 1981, the State of Louisiana Office of Conservation (Louisiana) submitted to the Commission a recommendation that additional areas of the Cotton Valley Group, consisting of the Cotton Valley Sandstone and the Bossier Shale Formation, be designated as a tight formation. The recommendation appeared in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (Director), issued December 28, 1981 (47 FR 39, January 4, 1982). An Amended Notice of Proposed Rulemaking was issued by the Director on August 6, 1982 (47 FR 35232, August 13, 1982). This amendment was based on an alternative recommendation submitted by Louisiana, in accordance with § 271.703, that only specified additional areas of the Cotton Valley Sandstone Formation be designated as a tight formation.

In its original recommendation, Louisiana recommended that the Cotton Valley Sandstone and Bossier Shale Formations be designated as tight formations. Upon review of this recommendation, Staff questioned Louisiana on several aspects of the recommendation. One question involved the appearance of certain oil productive areas in the Cotton Valley Sandstone. Section 271.703(c)(2)(i)(C) provides that "no well drilled into the recommended tight formation is expected to produce, without stimulation, more than five barrels of crude oil per day." Further, Staff noted that the recommendation was insufficient as to the Bossier Shale Formation, as it lacked data from any of that formation's producing intervals. Section 271.703(c)(3) stipulates that a jurisdictional agency's recommendation must be accompanied by engineering, geological, geographic, and other information identifying the characteristics of the formation. These criteria were not met. Finally, Staff questioned Louisiana's manner of calculating the permeability and flow rate for the recommended area.

Responding to the Staff inquiry, Louisiana filed its alternative recommendation which excluded the Bossier Shale entirely, excluded oil productive areas in the Cotton Valley Sandstone, and further revised the recommended area of the Cotton Valley Sandstone by excluding certain areas found in twenty-two fields, in order to meet the Commission's guidelines.

On November 12, 1982, the Commission held a hearing [1] in this docket [2] on the issue of the proper methodology of calculating permeability and flow rate values under the Commission's regulations in § 271.703. However, the issue of the appropriate methodology need not be addressed by the Commission in deciding whether to designate Louisiana's alternative recommendation, since this recommendation satisfies the guidelines in § 271.703 under any of the methodologies proposed.

Therefore, so as not to delay the designation of an area which meets the guidelines under any of the various methodologies under consideration, the Commission hereby finds that the evidence submitted in this docket supports the assertion that the additional areas of the Cotton Valley Sandstone Formation be designated as a tight formation, pursuant to the guidelines contained in § 271.703(c)(2), and the Commission adopts Louisiana's alternative recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

[1] On September 17, 1982, the Commission issued a Notice of Hearing on Proposed Rules (47 FR 41987, September 23, 1982). The hearing was scheduled for October 14, 1982. On September 24, 1982, Southern California Gas Company and Pacific Lighting Gas Supply Company filed a motion for a rescheduling of the public hearing. In response to this motion, the Commission issued a Notice Rescheduling Public Hearing on October 6, 1982 (47 FR 44748, October 12, 1982).

[2] For purposes of the hearing, the following tight formation cases, in which a similar issue concerning the proper methodology of calculating permeability values and flow rates was raised, were consolidated:

Docket No. RM79–76–136 (Utah–5); Docket No. RM79–76–090 (Texas–9 Addition II); Docket No. RM79–76–091 (Texas–10 Addition); Docket No. RM79–76–093 (Texas–18); Docket No. RM79–76–094 (Texas–19); Docket No. RM79–76–101 (Colorado–23); Docket No. RM79–76–130 (Colorado–28); and Docket No. RM79–76–098 (Montana–1).

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3422; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I *Code of Federal Regulations*, is amended as set forth below, effective January 21, 1983.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(37) to read as follows:

§ 271.703 Tight Formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(37) Cotton Valley Sandstone Formation in Louisiana. RM79–76–089 (Louisiana—3).

(i) *Delineation of formation.* The Cotton Valley Sandstone Formation is located in northern Louisiana. It is situated in all of Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Franklin, Jackson, Lincoln, Natchitoches, Quachita, Red River, Sabine, Tensas, Union, Vernon, Webster and Winn Parishes and parts of Allen, Beauregard, Catahoula, Concordia, Grant, La Salle, Madison, Morehouse, Rapides and Richland Parishes. Certain portions of the Cotton Valley Sandstone Formation in the following fields are excluded from the designated area: Arkana, Athens, Beekman, Benton, Blackburn, Caddo-Pine Island, Cadeville, Calhoun, Cartwright, Cheniere, Cotton Valley, East Dykesville, East Haynesville, Greenwood-Waskom, Haynesville, Hico-Knowles, Lisbon, Longwood, Middlefork, Millhaven, Minden, North Carlton, Northeast Lisbon, North Missionary Lake, Plain Dealing, Ruston, Sentell, Shongaloo, Sligo, South Drew, South Downsville, Sugar Creek, Terryville, Tremont, Unionville and West Lisbon. Additional excluded areas that are not included in the fields are: Section 12, Township 19 North, Range 16 West; Sections 5 and 20, Township 21 North, Range 4 West; Sections 5 and 6, Township 21 North, Range 6 West; Section 30, Township 21 North, Range 7 West; Sections 28 and 32, Township 21 North, Range 11 West; Sections 30 and 32, Township 22 North, Range 4 West;

Section 1, Township 22 North, Range 6 West; Section 34, Township 23 North, Range 2 East; Section 36, Township 23 North, Range 4 West; Sections 26, 34 through 36, Township 23 North, Range 6 West; Section 24, Township 23 North, Range 7 West; Section 9 and 29, Township 23 North, Range 9 West; and Section 28, Township 23 North, Range 15 West.

(ii) *Depth.* The Cotton Valley Sandstone Formation is defined as that interval encountered between the measured depths of 9,740 feet and 11,421 feet on the induction electrical log of the Phillips Petroleum Company—Martin B No. 1 Well located in Section 32, Township 11 North, Range 10 West, Natchitoches Parish, Louisiana.

[FR Doc. 83-2635 Filed 1-31-83; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-120 (Oklahoma—2); Order No. 278]

High-Cost Gas Produced From Tight Formations, Oklahoma; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Regulatory Energy Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Oklahoma Corporation Commission that the "Cleveland Sand" of the "Kansas City Group" be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Jane Oliver, (202) 357-8316 or Webster Gray, (202) 357-8693.

SUPPLEMENTARY INFORMATION:

Issued January 21, 1983.

The Commission hereby amends § 271.703(d) of its regulations to include the "Cleveland Sand" of the "Kansas City Group" located in Ellis County, Oklahoma, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (Director), issued June 30, 1982 (47 FR 29265, July 6, 1982), based on a recommendation by the Oklahoma Corporation Commission (Oklahoma), in accordance with § 271.703, that the "Cleveland Sand" of the "Kansas City Group" be designated as a tight formation.

The Commission received two comments in response to the Notice of Proposed Rulemaking.[1] Champlin Petroleum Company supported the recommendation. Southern California Gas Company and Pacific Lighting Gas Supply Company (hereinafter SoCal) jointly filed comments in opposition to Oklahoma's recommendation. Jordan Oil and Gas Company (Jordan) and Oklahoma [2] submitted responses to the comments filed by SoCal. Oklahoma and Jordan, in their responses, further explained the analysis of the data previously submitted to the Commission by Oklahoma, and also presented additional data to corroborate the previously submitted permeability data.

Under § 271.703(c)(2)(i)(A) of the Commission's regulations, for an area to be designated as a tight formation, the estimated average *in situ* permeability throughout the pay section must be expected to be 0.1 millidarcy (md) or less. Additionally, §§ 271.703(c)(2)(i) (B) and (C) require that the stabilized production rate of wells completed in the formation, without stimulation, is not expected to exceed the production rates established therein, and no well drilled into the recommended interval is expected to produce, without stimulation, more than five barrels of crude oil per day.

SoCal asserts that no core data from the Cleveland Sand was submitted to support the claim that the *in situ* permeability of the recommended formation meets the guidelines. Therefore, SoCal concludes that Oklahoma had no basis upon which it could support its recommendation that the Cleveland Sand be designated as a tight formation. Specifically, SoCal noted that a discrepancy exists between what Oklahoma states to be the top of the Cleveland Sand for the Stuart No. 1-4 Well, which is at a drilled depth of 8048 feet, and the Core Laboratories, Inc. report, which Oklahoma submitted to the Commission, which lists the drilled depth of the core sample used to support the application as ranging from 8030 feet to 8047 feet. Thus, SoCal contends that the core samples may not have come from the recommended formation, and that no justification was given for using this possibly erroneous data. To further buttress its argument that the core samples in question did not come from the recommended formation, SoCal claims that the response of the gamma ray and neutron curves shown for the Stuart No. 1-4 Well in the drilled depth interval of 8020 to 8046 feet, (which is above the recommended formation), shows that the interval can be interpreted as a sandy silty section, and that this matches the "gross" description of the cored interval.

Both Oklahoma and Jordan agree with SoCal that the depths reported for the core samples do not correspond with the depth to the top of the Cleveland Sand as determined from the cement bond log in the Stuart No. 1-4 Well. Jordan explained in its reply that the discrepancy was a result of uncorrected measurements, for both coring depth and cased hole "top of the Cleveland Sand" depth. Jordan further stated that severe hole sloughing made it impossible to obtain open hole logs on the Stuart Well, although casing was run to the total depth, and that Jordan did not adjust the drilling and cased hole measurements to open hole depths, as is the normal industry practice. Additionally, Jordan asserts that a geologist at the wellsite inspected both the drill time curve and the drilling samples to verify that they were in the Cleveland Sand. Oklahoma also indicated that it believes that the cores came from the Cleveland Sand in spite of the discrepancy in measurements.

In response to SoCal's argument regarding the interpretation of the gamma ray and neutron curves, Jordan states that the Cleveland Sand is easily discernible from both drill times and sample descriptions as evidenced by the open hole logs and mud logs on the nearby Mason No. 2, Harrell No. 1, and Ehrlich No. 1-11 Wells. In each case, Jordan asserts the top of the Cleveland Sand can be easily seen on the drill time curve. The sample descriptions of the sands are clearly different from those of shale, and a clear demarcation between the shale zone and the top of the Cleveland Sand has always been found.

Next, SoCal argues that even if the problem of drill depths and core samples are resolved, and the cores do represent the recommended formation, it appears, based on the transcript of the

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[1] No one requested a public hearing and no hearing was held.

[2] Oklahoma submitted its own response and appended Jordan's response thereto.

hearing convened by Oklahoma, that only two feet of the core sample was usable for permeability measurements. SoCal asserts that no explanation was provided as to how the permeability for four additional one foot intervals of the core sample was derived or why such questionable data was used. Jordan responded that permeability tests were run on ten feet of the core sample, but that eight feet of the sample had defects (i.e., cracks, fractures or failure to recover a full core) caused in preparation of the core or in the actual coring operation. Jordan contends, and the Commission agrees, that the defects result in permeability measurements which are higher than those actually encountered in the formation. Jordan additionally submitted 28 core samples, takn by a previous operator from the Cleveland Sand Formation; only two of these samples yielded permeability values in excess of .1 md, and one of these samples was found to have horizontal cracks. If all samples are averaged, the permeability is .119 md. If the sample with the cracks is excluded, the average permeability is .078 md.[3]

SoCal next alleges that there is a lack of record evidence to justify the slope of the line adopted by Oklahoma, in its use of the Horner Plot method, to determine *in situ* permeability of the recommended formation. Specifically, SoCal points out that initial data readings from wells reflect the results of well bore storage, rather than the actual conditions of the formation. Therefore, SoCal contends that failure to use special Log-Log plots to determine if the length of the test was long enough to conclude that the well bore storage period was completed was improper, and thus the tests do not accurately demonstrate *in situ* permeability for the Cleveland Sand. SoCal contends that for low permeability gas reservoirs, the time required to evaluate the reservoir is much longer than the shut-in test time actually used, which was at the maximum eight days. Thus, SoCal concludes reservoir permeability so calculated should be disregarded by the Commission, absent additional data which shows that such permeability calculation is in fact representative of the formation.

Jordan responded to SoCal's argument by asserting that rather than determining true or actual permeability for the Cleveland Sand, the tests used attempted to show that the permeability is less than 0.1 md. Jordan states that it agrees with SoCal that the slope of the line drawn on the Horner Graph should be drawn through the final several points on the plot. Jordan asserts that this slope would yield permeability values of 0.0275 md for a pay section which is 20 feet thick, and 0.0117 md for a 47 foot thick pay section. Furthermore, Jordan maintains that these permeability calculations agree with the values calculated for three other wells in the Cleveland Sand: the Erhlich No. 1–3 Well, the Berry No. 1–3 Well, and the Hough No. 1–35 Well. Oklahoma in its reply stated that the permeability has been demonstrated to be less than 0.1 md, because what was calculated was the upper limit of the permeability, not the actual permeability, and the result was less than 0.1 md.

Jordan claims that it followed the procedure recommended in the technical sources relied on by SoCal to determine permeability in a well which has been hydraulically fractured in order to determine the upper limit of permeability for the three test wells. Jordan claims that further procedures are unnecessary since they will only serve to reduce the calculated permeability, which already satisfies the guidelines.

Finally, SoCal finds fault with the pressure buildup study which was used to determine reservoir permeability. SoCal indicates that the test well did not flow for 45.5 hours, as was reported, but rather flowed for only 2.5 hours. SoCal's concern is that use of the wrong flow-rate, which is a key factor in determining reservoir permeability, results in an inaccurate analysis of the pressure buildup data. Jordan's response indicates, and the Commission agrees, that if the longer flow times as asserted by SoCal were used in the calculations of permeability, the result would be a lower calculated permeability. The lower calculated permeability can be expected because the flow rate had already decreased to a negligible rate within 2.5 hours, thus, the calculated results were an upper limit and still within the limits of the Commission's regulations.

The Commission has reviewed the comments and issues raised by SoCal and the responses thereto submitted by Jordan and Oklahoma. The Commission finds that the evidence submitted supports the assertion that the "Cleveland Sand" of the "Kansas City Group" meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Oklahoma recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subject in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 et seq.; Natural Gas Policy Act of 1978, 15 U.S.C. 3301—3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below, effective January 21, 1983.

By the Commission

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding new paragraph (d) (123) to read as follows:

§271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(123) *"Cleveland Sand" of the "Kansas City Group" in Oklahoma.* RM79–76–120 (Oklahoma–2).

(i) *Delineation of formation.* The designated interval of the Cleveland Sand is found in Sections 6 through 8 and 16 through 18, Township 20 North, Range 24 West; Sections 1 through 6, 11 through 13, Township 20 North, Range 25 West; and Sections 35 and 36, Township 21 North, Range 25 West, in the Gage Southwest Field, northwestern Oklahoma, in Ellis County .

(ii) *Depth.* The depth to the top of the designated interval ranges from 7,850 to 8,300 feet. The top of the designated interval ranges from 71 to 114 feet below the base of the "Checkerboard limestone" (a drillers' term), and the base of the inteval is marked by the top of the Marmaton Group of Des Moinesian age. The gross thickness of the "Cleveland Sand" ranges from 40 to 60 feet and averages 54 feet; the net sandstone thickness ranges from 5 to 32 feet and averages 19 feet.

[FR Doc. 83–2838 Filed 1–31–83; 8:45 am]

BILLING CODE 6717–01–M

[3] There is some indication that the second sample above .1 md may have contained fractures induced by drilling or coring operations. If this sample is also excluded, the average permeability for the remaining 26 core samples is .038 md.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 82N-0341]

D&C Red No. 21 and D&C Red No. 22; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of January 3, 1983, for regulations that permanently list D&C Red No. 21 and D&C Red No. 22 as color additives for general use in drugs and cosmetics excluding use in the area of the eye.

DATE: Effective date confirmed: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 30, 1982 (47 FR 53843), FDA published a final rule that amended the color additive regulations by "permanently" listing D&C Red No. 21 under §§ 74.1321 and 74.2321 (21 CFR 74.1321 and 74.2321) and D&C Red No. 22 under §§ 74.1322 and 74.2322 (21 CFR 74.1322 and 74.2322). The final rule also amended § 81.1(b) (21 CFR 81.1(b)) by removing D&C Red No. 21 and D&C Red No. 22 from the provisional lists of color additives and § 81.27(d) (21 CFR 81.27(d)) by removing D&C Red No. 21 and D&C Red No. 22 from the conditions of provisional listing. Additionally, the final rule amended § 82.1321 (21 CFR 82.1321) for D&C Red No. 21 to conform the identity and specifications to the requirements of § 74.1321(a)(1) and (b) and amended § 82.1322 (21 CFR 82.1322) for D&C Red No. 22 to conform the identity and specifications to the requirements of § 74.1322(a)(1) and (b).

FDA gave interested persons until December 30, 1982, to file objections. The agency did not receive any objections or requests for a hearing on any aspect of the final rule. Therefore, FDA concludes that the final rule published on November 30, 1982, for D&C Red No. 21 and D&C Red No. 22 should be confirmed.

List of Subjects

21 CFR Part 74

Color additives, Color additives subject to certification, Cosmetics, Drugs.

21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Color additives lakes, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055-1056 as amended, 74 stat. 399-403 (21 U.S.C. 371, 376 (b) (c), and (d))) and the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for hearing were filed in response to the November 30, 1982 final rule. Accordingly, the amendments promulgated thereby became effective on January 3, 1983.

Dated: January 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-2518 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 510

New Animal Drugs; Change of Sponsor Name

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name for several new animal drug applications (NADA's) from Bayvet Division of Cutter Laboratories, Inc., to Bayvet Division of Miles Laboratories, Inc.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Bureau of Veterinary Medicine (HFV-145), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: Bayvet informed the agency that Cutter Laboratories, Inc., has been merged into Miles Laboratories, Inc., with the latter being the surviving corporation. The change of sponsor name for these NADA's is the result of a corporate merger which does not involve changes in manufacturing facilities, equipment, procedures, or personnel. The animal drug regulations are amended in 21 CFR 510.600(c) to reflect this change of sponsor name.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

PART 510—NEW ANIMAL DRUGS

§ 510.600 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 510 is amended in § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* in paragraph (c)(1) for the entry "Bayvet Division of Cutter Laboratories, Inc." and (c)(2) for "000859" under the "Firm name and address" headings by revising the firm name to read "Bayvet Division of Miles Laboratories, Inc."

EFFECTIVE DATE: February 1, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 26, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-2642 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 520

New Animal Drugs; Change of Sponsor and Sponsor Address

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor address in several new animal drug applications (NADA's) held by Franklin Laboratories, and for a change of sponsor for an NADA transferred from Franklin Laboratories to Fort Dodge Laboratories.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Bureau of Veterinary Medicine (HFV-145), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: Franklin Laboratories, P.O. Box 669, Amarillo, TX 79105, has revised several NADA's to reflect a change of sponsor address from 2620 S. Parker Rd., Suite 240, P.O. Box 441470, Aurora, CO 80044. In addition, the firm provided for a change of sponsor for NADA 101–715 (dichlorophenetoluene capsules) to Fort Dodge Laboratories.

These actions concern a change of sponsor address and a change of sponsor, and do not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. The regulations are amended to reflect the changes.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Reporting requirements.

21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

§ 510.600 [Amended]

1. In Part 510, § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) for the entry "Franklin Laboratories" and (c)(2) for No. "010290" under "Firm name and address" by revising the address to read "P.O. Box 669, Amarillo, TX 79105."

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.580 [Amended]

2. In Part 520, § 520.580 *Dichlorophene and toluene capsules* is amended in paragraph (b)(1) by removing No. "010290."

Effective date: February 1, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 26, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83–2841 Filed 1–31–83; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 558

New Animal Drugs for use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Carl S. Akey, Inc., providing for use of certain lincomycin premixes for the manufacture of a complete swine feed. The feed in used for control and treatment of swine dysentery.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV–128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: Carl S. Akey, Inc., P.O. Box 128, Lewisburg, OH 45338, is sponsor of NADA 132–657 filed in its behalf by the Upjohn Co. The NADA provides for use of 8- and 20-gram-per-pound lincomycin premixes for making 40- and 100-gram-per-ton lincomycin complete swine feeds used for the control and treatment of swine dysentery as provided in 21 CFR 558.325(f)(2). Based on the data and information submitted, the NADA is approved and the regulations are amended to reflect the approval.

Approval of this application is based on safety and effectiveness data contained in Upjohn's approved NADA 97–505. Upjohn has authorized use of the data in NADA 97–505 to support approval of this application. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as a Category II supplement which does not require reevaluation of the safety and effectiveness data in the original approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11 (e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.325 is amended by adding new paragraph (b)(5) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.325 Lincomycin.

* * * * *

(b) * * *

(5) Premix levels of 8 and 20 grams per pound have been granted to No. 017790 in § 510.600(c) of this chapter for use as provided in paragraph (f)(2)(i), (ii), and (iii) of this section.

* * * * *

Effective date. February 1, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated January 24, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83–2519 Filed 1–31–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 720

Delivery of Personnel—Service of Process and Subpoenas—Production of Official Records

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its regulations concerning delivery of personnel, service of process, and production of official records to

reflect changes to Chapter XIII of the Manual of the Judge Advocate General.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Commander Patricia M. Gormley, JAGC, U.S. Navy, Assistant Division Director, Litigation Division, Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, Virginia 22332. Telephone number: (202) 325–9870.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Department of the Navy amends 32 CFR Part 720, which is derived from Chapter XIII of the Manual of the Judge Advocate General, to reflect changes in that regulation. The amendment relates to internal naval management and personnel practices, and is being published by the Department of the Navy solely for the guidance and interest of the public in accordance with 5 U.S.C 552(a)(1). It has been determined that invitation of public comment on this amendment prior to adoption would be impracticable and is not required under the public rulemaking provisions of 32 CFR Parts 296 and 701. It has also been determined that this final rule is not a "major rule" within the criteria specified in section 1(b) of Executive Order 12291, and does not have substantial impact on the public.

List of Subjects in 32 CFR Part 720

Courts, Military law.

PART 720—[AMENDED]

Accordingly, 32 CFR Part 720 is amended as follows:

1. The authority citation for Part 720 reads as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 5031 and 5148; 32 CFR 700.206 and 700.1202.

§ 720.1 [Amended]

2. Section 720.1 is amended by adding, to the end of the paragraph the following sentence which reads: "A judge advocate of the Navy or Marine Corps should be consulted before delivery is effected if reasonably practicable."

§ 720.4 [Amended]

3. Section 720.4 is amended by removing "720.8," from line 7.

§ 720.5 [Amended]

4. Section 720.5 is amended by inserting a heading which reads "(a) *Delivery under 10 U.S.C. 814.*" Additionally, this paragraph (a) is amended by removing the language "A–13–b of the Manual of the Judge Advocate General" wherever it appears and inserting in their place the words "A to this section".

5. Section 720.5 is amended by adding a new paragraph (b) which reads as follows:

* * * * *

(b) *Delivery under Interstate Agreement on Detainers Act.* Special forms, not contained in the Manual of the Judge Advocate General, are used when delivering prisoners under the Interstate Agreement on Detainers Act. The Act is infrequently used and most requests are pursuant to 10 U.S.C. 814. *See* § 720.15 for a detailed discussion of the Act.

6. Section 720.5 is amended by adding a new Appendix A which reads as follows:

Appendix A to § 720.5—Delivery Agreement

In consideration of the delivery of (name of person delivered) ———— ,United States Navy (United States Marine Corps), to ————, at ————, for trial upon the charge of ————, I hereby agree pursuant to the authority vested in me as ———— that (name of person delivered) ————, United States Navy (United States Marine Corps) will be transported to the State of ———— without expense to him or the United States and that the Commanding Officer of the ———— will be notified immediately of the outcome of the trial and that the said (name of person delivered) ————, will be returned to the ————, or to such place as the Secretary of the Navy shall designate, or transportation issued thereto, without expense to the United States or to the person delivered immediately upon dismissal of the charges or completion of the trial in the event he is acquitted, or immediately upon satisfying the sentence of the court in the event he is convicted and a sentence imposed, or upon other disposition of the case, provided that the Department of the Navy shall then desire his return.

§ 720.8 [Amended]

7. Section 720.8(a) is amended by removing the words "must obtain specific authority from the Secretary of the Navy (Judge Advocate General) to deliver personnel to Federal, State, Territory, Commonwealth, or local authorities" and by inserting in their place the words "should obtain legal guidance from a judge advocate of the Navy or Marine Corps prior to delivery of personnel to Federal, State, Territory, Commonwealth, or local authorities if reasonably practicable."

8. Section 720.8(b) is amended by inserting the word "only" between the words "refused" and "in", and inserting the word "limited" between the words "following" and "circumstances".

9. Section 720.8(d) is amended by removing the words "delivery is refused" and inserting in their place the words "refusal of delivery is intended".

10. Section 720.15 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 720.15 Request for delivery of personnel serving sentence of court-martial.

(a) *General.* Authority to honor requests for delivery of military personnel serving a sentence of court-martial is provided by 10 U.S.C. 814. Although seldom utilized, additional authority and mandatory obligation to deliver such personnel is provided by the Interstate Agreement on Detainers Act (18 U.S.C. Appendix, hereinafter "the Act") which applies to the Federal agency that is holding the prisoner and has been adopted by approximately four-fifths of the state jurisdictions. The Department of the Navy as an agency of the Federal Government shall comply with the Act. The Act is designed to avoid speedy-trial issues and to aid in rehabilitation efforts by securing a greater degree of certainty about a prisoner's future. The Act provides a way for the prisoner to be tried on charges pending before state courts, either at the prisoner's request, or at the request of the state where the charges are pending.

(b) *Interstate Agreement on Detainers Act.* Upon request under the Act by either the prisoner himself or state authorities, the cognizant Navy or Marine Corps staff judge advocate, as appropriate, shall effect liaison with the appropriate state officials and shall monitor and ensure that action is taken by the cognizant commander on all such requests. While requests between Federal authorities do not appear to be specifically covered by the Act, prisoner requests for disposition of Federal charges shall generally be handled in accordance with the procedures outlined herein except that no delivery agreement is required by Federal authorities. In the case of requests by state authorities under the Act, liaison shall be established with the Director, Bureau of Prisons, Washington, D.C. 20537, who has sole authority to deny the request. The Act provides that the court-martial sentence shall continue to run during temporary custody.

(1) *State Request.* State officals may demand delivery of prisoners in military custody under section 2, Article IV, of the Act if (i) a detainer has been lodged against the prisoner; and (ii) the prisoner is serving a sentence (regardless of whether an appeal is in process). Delivery of such prisoner upon state request is mandatory as to Navy/Marine Corps authorities and may be refused only if the request is disapproved by the Director of the Bureau of Prisons.

Washington, D.C., as the designee of the Attorney General for this purpose. 28 CFR 0.96(a). There has been no further delegation to military authority. The consent of the prisoner is not required and the Director of the Bureau of Prisons is the only authority who can provide relief to the prisoner.

(2) *Prisoner Request.* The obligation to grant temporary custody under the Act applies with equal force to requests to be delivered to state authority made by the prisoner. Section 2, Article III(c), of the Act requires the prisoner's custodial official to inform him of the existence of any detainer and of his right to request disposition. The prisoner's request is directed to the custodial official who is required to forward it to the appropriate prosecuting official and court together with a certificate of prisoner status, all as provided by Artricle III of the Act.

(3) *Delivery.*— (i) *Requests under Detainers Act.* When a request for delivery is received from civil authorities pursuant to section 2, Article IV of the Act, the prisoner should be informed that he may request the Director of the Bureau of Prisons, Washington, D.C. 20537, to deny the request, within 30 days after such request is received. Upon the expiration of such 30-day period or upon denial of the prisoner's request by the Director of the Bureau of Prisons, whichever occurs first, the prisoner shall be delivered to the requesting authority as soon as practicable.

(c) *10 U.S.C. 814.* When a request for custody does not invoke the Interstate Agreement on Detainers Act, delivery of custody shall be governed by 10 U.S.C. 814 and 32 CFR Part 720. The request shall be honored unless, in the exercise of discretion, there is an overriding reason for retaining the accused in military custody, e.g., situations were additional courts-martial are to be convened or the delivery would severely prejudice the prisoner's appellate rights. The agreement discussed in § 720.5 will be required as a condition precedent to delivery. Unlike delivery under the Act, delivery of custody pursuant to 10 U.S.C. 814 operates to interrupt the execution of the court-martial sentence.

* * * * *

11. Section 720.20(c)(2) is revised to read as follows:

§ 720.20 Service of process upon personnel.

(c)* * *

(2) Any military member or civilian employee who is served with Federal or State court civil or criminal process or pleadings (including traffic tickets) arising from actions performed in the course of official duties shall immediately deliver all such process and pleadings to the commanding officer. The commanding officer shall ascertain the pertinent facts, notify the Judge Advocate General (Code 14), preferably by telephone, of the service, and immediately forward to that Office the pleadings and process in the case. The military member or civilian employee will be advised concerning his/her right to remove civil or criminal proceedings from State to Federal court under 28 U.S.C. 1442 and 1442a, his/her rights under the Federal Driver's Act (28 U.S.C. 2679B), (if applicable), and the right of a Federal employee to be represented by Department of Justice attorneys in State criminal proceedings and in civil and Congressional proceedings in which that employee is sued or subpoenaed in an individual capacity, as delineated in 28 CFR 50.15. Any letter requesting representation shall be addressed to the Secretary of the Navy (Judge Advocate General), and shall be endorsed by the commanding officer, who shall provide all necessary data bearing upon the question as to whether the employee was acting within the scope of employment at the time of the incident out of which the suit arose.

* * * * *

12. Section 720.20(e) is amended by inserting the symbol and word "/her" after the word "him", and by adding at the end of the paragraph the following sentences:

* * * * *

In cases where a member is being called as a witness for a nongovernmental party only because of performance of official duties, the commanding officer is authorized to issue the member permissive orders authorizing attendance at the trial at no expense to the Government. Members are permitted to accept fees and mileage tendered.

§ 720.30 [Amended]

13. Section 720.30(a) is amended as follows:

A. By inserting after the second sentence the following new sentence:

* * * See the provisions in the Secretary of the Navy Instruction 5211.5 series which set forth the additional requirement that reasonable efforts be made to notify all individuals to whom the record pertains of (1) the disclosure, and (2) the nature of the information provided, when the court order has become a matter of public record and the record is contained in a system of records as defined in the Secretary of the Navy Instruction 5211.5 series.

* * * * *

B. By removing the word "all" in line 20, and insert in its place the words "one or more"; insert after the word "order" in line 24 the words "when such records are not in a 'system of records' as defined by the Privacy Act (5 U.S.C. 552a)"; and add in line 26 after "section." the sentences:

* * * In determining whether or not a record contained in a "system of records" will be furnished in response to a written request for that record, consideration shall be given to the provisions of the Secretary of the Navy Instruction 5720.42 series. If the record is in a "system of records," it may be produced upon written request of one or more parties in interest or their respective attorneys in the absence of a court order only if the individuals to whom the record pertains give written consent to the production or if the production is otherwise authorized under the Privacy Act and the Secretary of the Navy Instruction 5211.5 series.

* * * * *

C. By adding in line 35 after "notified." the sentence "Any release of classified information for civil court proceedings (whether civil or criminal in nature) must also be coordinated within the office of the Chief of Naval Operations (OP–009D) in accordance with the Chief of Naval Operations Instruction 5510.1 series."

* * * * *

14. Section 720.30(b)(2) is amended by inserting after the word "officers" the words "or officials".

15. Section 720.30(c) is amended by removing in line 3 the words "confidential matters" and by inserting in their place the words "personal information, the release of which would result in a clearly unwarranted invasion of personal privacy," and by inserting in line 14 after "Navy." the following sentence: "When the request for production involves material related to claims in favor of the Government, notification should be made to the affirmative claims office at the naval legal service office having territorial responsibility in the area."

16. Section 720.30(d) is amended by removing in line 15 the words "otherwise confidential material" and by inserting in their place the words and symbol "For-Official-Use-Only information,".

§ 720.31 [Amended]

17. Section 720.31(b) is amended by removing the word "Advocate" and inserting in its place the word "Advocates", inserting after the words "(Civil Law)" the words "and (Military Law)", inserting after the word "herein"

the language "if less than a release of the complete requested record will result. In all other instances the Deputy Assistant Judge Advocates General, who have cognizance of the record(s) in issue, may release such records.", and by inserting before the word "include" the word "necessarily".

18. Paragraph (b)(1) of § 720.31 is amended by removing the remainder of the paragraph beginning with "*Exception.*" and ending with "releaser."

19. Paragraph (c) of § 720.31 is redesignated as paragraph (d); and a new paragraph (c) is added to read as follows:

* * * * *

(c) *Affirmative Claims Files.* Affirmative claims files (including Medical Care Recovery Act files), except to the extent that such files contain copies of reports of investigations prepared under the Manual of the Judge Advocate General, or classified or privileged information, may be released by local holders to insurance companies to support claims; to civilian attorneys representing the injured party's and the Government's interests; and to other components of the Department of Defense, without the prior approval of the Judge Advocate General, provided that the amount of the claim is within the monetary settlement authority of the releaser. When the request for production involves material related to claims in favor of the Government, notification should be made to the affirmative claims office at the naval legal service office having territorial responsibility for the area.

* * * * *

Dated: January 26, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register, Liaison Officer.

[FR Doc. 83-2749 Filed 1-31-83; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS-62017D, TSH-FRL 2295-2]

Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Use in Closed and Controlled Waste Manufacturing Processes; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule; correction.

SUMMARY: This Notice corrects and inadvertent error in 40 CFR 761.3(nn) of the final rule on the manufacture, processing, distribution in commerce, and use of polychlorinated biphenyls (PCBs) in closed and controlled waste manufacturing processes, which was published in the **Federal Register** of October 21, 1982 (47 FR 46980). Section 761.3(nn) of the Final Rule incorrectly implies that controlled wastes containing any concentration of PCBs can be destroyed in any incinerator listed under the definition of "qualified incinerator." However, the preamble to the Final Rule states that incineration in high efficiency boilers is limited to PCBs in concentrations below 500 ppm, and incineration in RCRA-approved incinerators is limited to PCBs in concentrations below 50 ppm. This Notice adds these restrictions on PCB concentrations to § 761.3(nn) of the Final Rule.

DATE: Effective February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Chris Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-511, 401 M St., SW., Washington, D.C. 20460, Toll fre: (800-424-9065), in Washington, DC.: (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 21, 1982 (47 FR 46980), EPA issued final amendments to the rule governing the manufacture, processing, distribution in commerce, and use of PCBs. These amendments exclude PCBs that are produced in closed and controlled waste manufacturing processes from the Toxic Substances Control Act (TSCA) ban on the manufacture, processing, distribution in commerce, and use of PCBs. Section 761 3(kk) of the rule contains the following definition of a "controlled waste manufacturing process":

(kk) "Controlled waste manufacturing process" means a manufacturing process in which PCBs are generated but from which less than 10 micrograms per cubic meter from any resolvable gas chromatographic peak are contained in any release to air; less than 100 micrograms per liter from any resolvable gas chromatographic peak are contained in any release to water; less than 2 micrograms per gram from any resolvable gas chromatographic peak are contained in any product, and the remainder of PCBs are incinerated in a qualified incinerator, landfilled in a landfill approved under the provisions of § 761.75, or stored for such incineration or landfilling in accordance with the requirements of § 761.65(b)(1).

Section 761.3(nn) of the rule contains the following definition of a "qualified incinerator":

(nn) "Qualified incinerator" means one of the following:

(1) An incinerator approved under the provisions of § 761.70.

(2) A high efficiency boiler approved under the provisions of § 761.60(a)(3).

(3) An incinerator approved under section 3005(c) of the Resource Conservation and Recovery Act (42 U.S.C. 6925(c)) (RCRA). The manufacturer seeking to qualify a process as a controlled waste process by disposing of waste in a RCRA-approved incinerator must make a determination that the incinerator is capable of destroying less readily burned compounds than the PCB homologs to be destroyed. The manufacturer may use the same guidance used by EPA in making such a determination when issuing an approval under section 3005(c) of RCRA. The manufacturer is also responsible for obtaining a reasonable assurance that the incinerator, when burning PCB wastes, will be operated under conditions which have been shown to enable the incinerator to destroy the less readily burned compounds.

The preamble to the Final Rule explained that incineration of PCBs in high efficiency boilers is limited to PCBs in concentrations below 500 ppm, and that incineration of PCBs in RCRA-approved incinerators is limited to PCBs in concentrations below 50 ppm (see 47 FR 46987 and 46988). However, these limitations on the concentration of PCBs that can be destroyed in these two types of incinerators were inadvertently excluded from § 761.3(nn) of the Final Rule. This Notice corrects this inadvertent error by adding these restrictions to § 761.3(nn).

List of Subjects in 40 CFR Part 761

Hazardous materials, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements, Environmental protection.

Dated: January 24, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

PART 761—[AMENDED]

Therefore, in § 761.3, paragraph (nn) is revised to read as follows:

§ 761.3 **Definitions.**

* * * * *

(nn) "Qualified incinerator" means one of the following:

(1) An incinerator approved under the provisions of § 761.70. Any concentration of PCBs can be destroyed in an incinerator approved under § 761.70.

(2) A high efficiency boiler approved under the provisions of § 761.60(a)(3).

Only PCBs in concentrations below 500 ppm can be destroyed in a high-efficiency boiler approved under § 761.60(a)(3).

(3) An incinerator approved under section 3005(c) of the Resource Conservation and Recovery Act (42 U.S.C. 6925(c)) (RCRA). Only PCBs in concentrations below 50 ppm can be destroyed in a RCRA-approved incinerator. The manufacturer seeking to qualify a process as a controlled waste process by disposing of wastes in a RCRA-approved incinerator must make a determination that the incinerator is capable of destroying less readily burned compounds than the PCB homologs to be destroyed. The manufacturer may use the same guidance used by EPA in making such a determination when issuing an approval under section 3005(c) of RCRA. The manufacturer is also responsible for obtaining a reasonable assurance that the incinerator, when burning PCB wastes, will be operated under conditions which have been shown to enable the incinerator to destroy the less readily burned compounds.

[FR Doc. 83-2700 Filed 1-31-83, 8:45 am]
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GENERAL SERVICES ADMINISTRATION

41 CFR Part 5-3

[APD 2800.2 CHGE 29]

Procurement by Negotiation; Structured Approach Profit/Fee Objective

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations GSPR, Chapter 5, are amended to prescribe uniform policies for establishing profit or fee prenegotiation objectives in acquisitions requiring cost analysis. The basis for the regulation is Office of Federal Procurement Policy (OFPP) Policy Letter 80-7, dated December 9, 1980, (45 FR Part 82593, December 15, 1980), and the implementation of the Policy Letter in the Federal Procurement Regulations on October 14, 1982, (47 FR 50251, November 5, 1982). The GSPR satisfies the OFPP policy letter requirement that each agency meeting threshold requirements develop an individual structured approach for determining profit or fee objectives. The intended effect is to provide a structured approach for determining profit or fee objectives.

EFFECTIVE DATE: February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Office of Federal Procurement Regulations, Office of Acquisition Policy, (202-523-4755).

List of Subjects in 41 CFR Part 5-3

Accounting, Cost accounting standards, Government procurement, and Procurement by negotiation.

PART 5-3—PROCUREMENT BY NEGOTIATION

1. The table of contents for Subpart 5-3.8, is revised by adding the following:

Sec.

* * * * *

5-3.808-3 Structured approach for determining profit/fee objectives.

Authority: (Sec. 205(c), 63 Stat. 390; (40 U.S.C 486(c)).

2. Section 5-3.808-3, Structured approach for determining profit/fee objectives, is added to read as follows:

§ 5-3.808-3 Structured approach for determining profit fee objectives.

(a) General

(1) The structured approach provides contracting officers with a technique that will ensure consideration of the relative value of prescribed profit factors for the conduct of negotiations. The contracting officer's analysis of these profit factors is based on information available to the Government before negotiations. Such information is furnished in proposals, audit data, performance reports, preaward surveys and the like. The structured approach also provides a basis for documentation of a profit objective, including an explanation of any significant departure from this objective in reaching a final agreement. The extent of documentation should be directly related to the dollar value and complexity of the proposed procurement.

(2) The negotiation process does not require agreement on estimated cost elements or profit elements. The profit objective is a part of an overall negotiation objective. Specific agreement on the exact weights or values of the individual factors is not required and should not be attempted.

(3) When cost analysis is performed pursuant to § 1-3.807-2(c) of this title, profit consideration shall be in accordance with the structured approach set forth in paragraph (c) of this section. The structured approach shall be used in all contracts, including lease alterations, where cost analysis is performed except as set forth in paragraph (b) of this section.

(b) Exemptions from requirement to use the structured approach.

(1) Under exempted procurements, other methods for establishing profit objectives may be used. Generally, such methods will be supported in a manner similar to that used in the structured approach (profit factor breakdown and documentation of profit objective). However, factors within the structured approach considered inapplicable to the procurement shall be excluded from the profit objectives. The following type of procurements are exempt from the structured approach:

(i) Management contracts for operation and/or maintenance of Government facilities;

(ii) Contracts primarily requiring delivery of material supplied by subcontractors;

(iii) Termination settlements;

(iv) Cost-plus-award-fee contracts;

(v) Contracts where only price analysis is required (FPR 1-3.807-2(a));

(vi) Contracts and contract modifications of $100,000 or less in value; and

(vii) Architect-engineer and construction contracts.

(2) Other exemptions may be made in the negotiation of contracts having unusual pricing situations where the structured approach is determined to be unsuitable. Such exemptions shall be justified in writing and approved by the head of the procuring activity.

(c) Profit factors and weight ranges for use in the structured approach.

(1) The following factors shall be considered in all situations in which profit is to be specifically negotiated. The weight ranges listed after each factor shall be used when the structured approach is used.

Profit factors	Weight ranges (percent)
Contractor effort	
Material acquisition	1 to 4
Direct labor	4 to 12
Overhead	3 to 8
Other costs	1 to 3
General management	4 to 8
Other factors:	
Cost risk	0 to 7
Investment	-2 to +2
Performance	-2 to +2
Socio-economic programs	-.5 to +.5
Special situations	-2 to +2

(2) GSA Form 1766, Structured Approach Profit/Fee Objective, shall be used to facilitate the profit objective computation. The contracting officer shall measure the "Contractor Effort" by the assignment of a profit percentage

within the designated weight ranges to each element of cost recognized. The amount calculated for facilities capital cost of money shall not be included in the cost base for the computation of the profit objective (see §§ 1–15.205–51(a) and 1–3.1301).

(3) The categories listed under "Contractor Effort" are for reference purposes only. Often individual proposals will be in a different format; but since these categories are broad and basic they provide sufficient guidance to evaluate all items of cost.

(4) After computing a total dollar profit for "Contractor Effort", the contracting officer shall calculate the specific profit dollars for cost risk, investment, performance, socio-economic programs, and special situations. This is accomplished by multplying the total Government cost objective, exclusive of any cost of money for facilities capital, by the specific weights assigned to the elements within the "Other Factors" category.

(5) In determining the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors together with considerations for evaluating them as set forth in paragraphs (d) and (e) of this section.

(d) Considerations for assigning weights to the "Contractor Effort" category.

The "Contractor Effort" category measures how much the contractor is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor must do to accomplish conversion of ideas and materials into the final product called for in the contract. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the contractor's contribution to total performance. A major consideration is the difficulty or complexity of the work to be performed, and the unusual demands of the contract, such as whether the project involves a new approach unrelated to past experience or only refinements on existing technology. The evaluation of this factor requires an anlysis of the cost content of the proposed contract as follows:

(1) *Material acquisition (subcontracted items, purchased parts, special tooling, and other material).*

(i) Analysis of these cost items for the purpose of assigning profit weights shall include an evaluation of the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items, and other materials, including special tooling. This evaluation shall include consideration of the number of orders and suppliers, and whether established sources are available or new sources must be developed. The contracting officer shall also determine whether the contractor will, for example, obtain the material and tooling by routine orders from readily available supplies (particularly those of substantial value in relation to the total contract cost), or by detailed subcontracts for which the prime contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements. Consideration should be given to the managerial and technical efforts necessary for the prime contractor to administer subcontracts, and select subcontractors, including efforts to break out subcontracts from sole sources, through the introduction of competition. These determinations should also be made for purchases of raw materials or basic commodities.

(ii) Recognized costs proposed as direct material costs, such as scrap charges, shall be treated as material for profit evaluation. If intracompany transfers are accepted at price in accordance with § 1–15.205–22(e), they shall be evaluated by individual components of cost, i.e., material, labor, and overhead.

(2) *Direct labor (engineering, professional services, manufacturing, and other labor).* Analysis of the various labor items of the cost content of the contract for the purpose of assigning profit weights should include evaluation of the comparative quality and level of the engineering or professional talents, service contract labor, manufacturing, skills, and experience to be employed. In evaluating professional or engineering labor, consideration should be given to the amount of notable, unusual, or scarce talent needed in contrast to journeyman effort or supporting personnel. The diversity, or lack thereof, of professional or engineering specialities required for contract performance and the corresponding need for supervision and coordination should be evaluated. Such circumstances as whether the caliber or class of an engineer involved is that of an "idea-man," or whether the contractor is required by the nature of the contract to assign unusually skilled talent to the work, should be considered as part of the evaluation. Service contract labor should be evaluated in a like manner by assigning higher weights to engineering or professional type skills and lower weights to semi-professional or other type skills required for contract performance. Similarly, the variety of manufacturing and other categories of labor skills required and the contractor's manpower resources for meeting these requirements should be considered. For purposes of evaluation, categories of labor (i.e., construction, quality control, receiving, inspection etc.) which do not fall within professional, engineering, service or manufacturing labor may be categorized as appropriate. However, the same evaluation considerations as outlined above shall be applied.

(3) *Overhead and general management.*

(i) Analysis of conversion related indirect costs (overhead) and general management costs (general and administrative expense (G&A)) includes an evaluation of the make-up of these expenses and how much they contribute to contract performance. To the extent practicable, analysis for the purpose of assigning profit weights should include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements should be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools should be evaluated to determine whether they are routine expenses such as utilities and maintenance, and hence given lesser profit consideration, or whether they are significant contribution elements. The composite of the individual determinations in relation to the elements of the overhead pools will be the profit consideration given the pools as a whole.

(ii) It is not necessary that the contractor's accounting system break down overhead expenses within the classification of engineering overhead, manufacturing overhead, other overhead pools, and general and administrative expenses, unless dictated otherwise by applicable Cost Accounting Standards (CAS). The contractor whose accounting system only reflects one overhead rate on all direct labor need not change its system (if CAS exempt) to correspond with the above classifications. The contracting officer, in an evaluation of such a contractor's overhead rate, could break out the applicable sections of the

composite rate which would be classified as engineering overhead, manufacturing overhead, other overhead pools and general and administrative expenses, and follow the appropriate evaluation technique.

(iii) Management problems surface in various degrees and the management expertise exercised to solve them should be considered as an element of profit. For example, a new program for an item which involves advanced state of the art techniques will cause more problems and require more managerial time and abilities of a higher order, than one which is a follow-on contract. If new contracts create more problems and require a higher profit weight, follow-ons should be adjusted downward as many of the problems should have been solved. In any event, an evaluation should be made of the underlying managerial effort involved on a case-by-case basis.

(iv) It may not be necessary for the contracting officer to make a separate profit evaluation of overhead expenses in connection with each procurement action for substantially the same product with the same contractor. Where an analysis of the profit weight to be assigned to the overhead pool has been made, that weight assigned may be used for future procurements with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances, or the factors discussed in paragraph (d)(3)(iii) of this section are involved.

(4) *Other costs.* Include all other direct costs associated with contractor performance under this item (e.g., travel and relocation, direct support, and consultants). Analysis of these items of costs for the purpose of assigning profit weights shall include: (i) The significance of the costs, (ii) the nature of the costs, and (iii) how much they contribute to contract performance.

(e) Considerations for assigning weights to the "Other Factors" category.

(1) *Contract cost risk.* The degree of risk assumed by the contractor should influence the amount of profit or fee a contractor is entitled to anticipate. For example, where a portion of the contract cost risk has been shifted to the Government throught cost-reimbursement or price-redetermination provisions, unusual contingency provisions, or other risk-reducing measures, the amount of profit or fee should be less than where the contractor assumes all the risk. The contracting officer will need to consider the type of contract anticipated and the contractor risk associated therewith when selecting the position in the weight range for profit that is appropriate for the risk to be borne by the contractor. This factor is one of the most important in arriving at prenegotiation profit objectives.

(i) Evaluation of contract cost risk requires a determination of (A) The degree of cost responsibility the contractor assumes, (B) the reliability of the cost estimates in relation to the task assumed, and (C) the complexity of the task assumed by the contractor. This factor is specifically limited to the risk of contract cost. Thus, such risks on the part of the contractor as reputation, losing a commercial market, or risk of losing potential profits in other fields are not within the scope of this factor.

(ii) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of the total risk of contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-a-fixed-fee contract requiring the contractor to use his best efforts to perform a task, and a firm fixed-price contract for a complex item. A cost-plus-a-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas a firm fixed-price contract would reflect a complete assumption of cost responsibility. Where proper contract type selection has been made, the reward for risk by contract type would usually fall into the following percentage ranges:

	Percent
Cost reimbursement type contracts	0 to 3
Fixed-price type contracts	3 to7

(A) Within the above ranges, a cost-plus-a-fixed-fee contract normally would not justify a reward for risk in excess of 0%, unless the contract contains cost risk features such as ceilings on overheads. In such cases, up to 1% may be justified. Cost-plus-incentive-fee contracts fill the remaining portion of the 0 to 3 percent range with weightings directly related to such factors as confidence in target cost, share ratio of fee(s), etc. The weight range for fixed-price contracts is wide enough to accommodate the many types of fixed-price arrangements. These include fixed-price incentive, firm fixed-price with economic price adjustment, fixed-price with prospective or retroactive price determination, and firm fixed-price contracts. Weighting should be indicative of the cost risk assumed, with only firm fixed-price contracts reaching the top end of the range.

(B) The contractor's subcontracting program may have significant impact on the contractor's acceptance of risk under a contract form. It could cause risk to increase or decrease in terms of both cost and performance. This consideration should be a part of the contracting officer's overall evaluation in selecting a factor to apply for cost risk. It may be determined, for instance that the prime contractor has effectively transferred real cost risk to a subcontractor and the contract cost risk evaluation may, as a result, be below the range which would otherwise apply for the contract type being proposed. The contract cost risk evaluation should not be lowered, however, merely on the basis that a substantial portion of the contract cost represents subcontracts without any substantial transfer of contractor's risk.

(C) In making a contract cost risk evaluation in procurement actions that involve definitization of letter contracts, unpriced change orders, and unpriced orders under basic ordering agreements; consideration should be given to the effect on total contract cost risk as a result of having partial performance before definitization. Under some circumstances it may be reasoned that the total amount of cost risk has been effectively reduced. Under other circumstances, it may be apparent that the contractor's cost risk remained substantially unchanged. To be equitable, the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances; not just to the portion of costs incurred or percentage of work completed prior to definitization.

(D) Time and materials contracts, labor-hour contracts, and overhaul contracts priced on a time and material basis shall be considered to be cost-plus-a-fixed-fee contracts for the purpose of establishing profit weights.

(E) Service contracts, such as janitorial, guard service, etc., shall have a weight range for cost risk of 0 to 4%. There may be instances where a firm fixed-price contract, which is not priced on a labor-hour method, warrants additional consideration for contractor cost risk. In those circumstances, a weight of up to 4% is authorized. Conversely, a cost-plus-a-fixed-fee service contract normally should be priced using a zero cost risk factor.

(iii) The second determination of the degree of cost responsibility assumed relates to the reliability of the cost estimate. Sound price negotiation requires well defined contract objectives and reliable cost estimates. Prior experience assists the contractor in preparing reliable cost estimates on new procurements for similar items or services. An exesssive cost estimate reduces the possibility that the cost of performance will exceed the contract

price, thereby dictating a reduction in the profit weight assigned for contract cost risk.

(iv) The third determination of the degree of cost responsibility assumed relates to the difficulty of the contractor's task. The contractor's task can be difficult or simple, regardless of the type of contract. Profit weights for contract cost risk should be adjusted accordingly.

(2) *Investment.* GSA contractors are normally encouraged to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. It is the purpose of this factor to encourage the contractor to acquire and use its own resources to the maximum extent possible. The evaluation of this factor for profit weights should include an analysis of the following:

(i) *Facilities.* To evaluate how this factor contributes to the profit objective requires knowledge of the level of facilities utilization needed for contract performance, the source of financing of the required facilities, and the overall cost effectiveness of the facilities offered. Contractors who furnish their own facilities which significantly contribute to lower total contract costs should be provided with additional profit. Contractors who rely on the Government to provide or finance needed facilities should receive a corresponding reduction in profit. Situations between the above examples should be evaluated on their merits with either a positive or negative profit weight adjustment, as appropriate, being made. However, when a highly facilitized contractor is to perform a contract which does not benefit from this facilitization, or where a contractor's use of its facilities has a minimum cost impact on the contract, profit need not be adjusted.

(ii) *Payments.* In analyzing this factor, consideration should be given to the frequency of payments by the Government to the contractor. The key to this weighting is to give proper consideration to the impact the contract will have on the contractor's cash flow. Generally, negative consideration should be given for payments more frequent than monthly, with maximum reduction being given as the contractor's working capital approaches zero. Positive consideration should be given for payments less frequent than monthly with additional consideration given for payments less frequent than the contractor's or the industry's normal practice.

(3) *Performance.* A contractor's past and present performance should be evaluated in such areas as quality of product or service, meeting performance schedules, efficiency in cost control (including need for and reasonableness of cost incurred), accuracy and reliability of previous cost estimates, degree of cooperation by the contractor (both business and technical), timely processing of changes and compliance with other contractual provisions, and management of subcontract programs. Where a contractor has consistently achieved excellent results in the foregoing areas as compared with other contractors in similar circumstances, such performance merits a proportionately higher profit weight is appropriate. A poor record in this regard should be reflected by a reduced or negative weight.

(4) *Federal socio-economic programs.* This factor relates to the extent of successful participation in Government sponsored programs such as small business, small disadvantaged business, labor surplus area programs, energy conservation efforts, etc. The contractor's policies and procedures which energetically support such Government programs and achieve successful results should be given positive consideration. Failure or unwillingness on the part of the contractor to support these programs should be assigned negative profit weight consideration.

(5) *Special situations.*

(i) *Independent development:* The contractor may be provided additional profit consideration in recognition of independent development efforts relevant to the contract end item, including manufacturing or engineering processes, specialized or unique services, or other technologies. In assigning an appropriate profit weight of this factor, the contracting officer should consider the extent of the Government's contribution to the contractor's independent research and development program during the time in which the applicable development was taking place.

(ii) *Unusual pricing agreements.* Occasionally, unusual contract pricing arrangements are made with the contractor wherein it agrees to participate in the sharing of contract costs. In such circumstances, a positive profit weight may be assigned for this factor commensurate with cost savings.

(iii) *Spin-off benefits.* A negative weight may be appropriate when the contractor is expected to obtain spin-off benefits as a direct result of the contract (e.g., products with commercial application).

(f) Facilities capital cost of money.

When facilities capital cost of money (cost of capital committed to facilities) is included as an item of cost in the contractor's proposal, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital cost of money allowed in accordance with §1–15.205–51(a).

(g) Nonprofit organizations.

(1) The structured approach was designed for arriving at profit or fee objectives for other than nonprofit organizations. However, if appropriate adjustments are made to reflect differences between profit and nonprofit organizations, the structured approach can be used as a basis for arriving at fee objectives for nonprofit organizations. Therefore, the structured approach, as modified in paragraph (g)(2) of this section, shall be used to establish fee objectives for nonprofit organizations. The modifications should not be applied as deductions against historical fee levels, but rather, to the fee objectives for such a contract as calculated under the structured approach.

(2) For purposes of this subparagraph, nonprofit organizations are defined as those business entities organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual and which are exempt from Federal income taxation under Section 501 of the Internal Revenue Code.

(3) For contracts with nonprofit organizations where fees are involved, an adjustment of up to 3% will be subtracted from the total profit-fee objective. In developing this adjustment, it will be necessary to consider the following factors:

(i) Tax position benefits;

(ii) Granting of financing through letters of credit;

(iii) Facility requirements of the nonprofit organization; and

(iv) Other factors which may work to the advantage or disadvantage of the contractor in its position as a nonprofit organization.

PART 5–16 [AMENDED]

3. The table of contents for Part 5–16 is amended by adding the following:

Sec.

* * * * *

5–16.950–1766 GSA Form 1766, Structured Approach Profit/Fee Objective.

* * * * *

Authority: Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

* * * * *

Note.—The form illustrated in this § 5–16.950–1766 is filed with the original document and does not appear in this issue.

Dated: January 13, 1983.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 83-2021 Filed 1-31-83; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

42 CFR Part 51b

Project Grants for Preventive Health Services

AGENCY: Centers for Disease Control, Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations in 42 CFR Part 51b which apply to grants awarded to State and local government agencies, and, in certain cases, to nonprofit entities, to assist them in implementing preventive health service programs authorized by Section 317(a) of the Public Health Service Act, and venereal disease control programs authorized by Section 318(c). This final rule adds an additional subpart to Part 51b. Subpart F is added to govern project grants for venereal disease research, demonstrations, and special public information and education under Section 318(b).

EFFECTIVE DATE: March 3, 1983.

FOR FURTHER INFORMATION CONTACT: Anthony M. Scardaci, Center for Prevention Services, Centers for Disease Control, 1600 Clifton Road NE., Atlanta, Georgia 30333, telephone (404) 329-3773 or FTS: 236-3773.

SUPPLEMENTARY INFORMATION: This final rule implements revisions proposed in a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** July 17, 1980 (45 FR 47878).

The rule implements changes made in Section 318 of the Public Health Service Act by the Health Services and Centers Amendments of 1978 (Pub. L. 95-626), approved November 10, 1978. Section 318 governs Federal assistance related to the prevention and control of venereal disease. The most significant statutory amendment requires that not less than 5 percent of funds appropriated under Section 318 be obligated to support programs authorized by Section 318(b). These programs include research, demonstrations, and public information and education activities for the prevention and control of venereal disease. Grants for support of basic venereal disease control program activities at the State and local level, except public information and education, are authorized under Section 318(c).

Since public information and education regarding venereal disease is an essential component of any federally assisted control program, these regulations permit State and local health agencies to request funds for this purpose as part of the application under Subpart D for support of other venereal disease control activities such as surveillance, contact, identification, and screening. Separate justification of an accounting for funds for public information and education activities is required, since support of the activities is authorized separately from other control program activities. The Department must be able to ensure that at least 5 percent of the funds appropriated under Section 318 generally are obligated for venereal disease research, demonstrations, or public information and education.

A new Subpart F governs grants under Section 318(b) for support of research, demonstrations, and special public information and education activities not provided through a grant made under Subpart D. Also, Subpart D is revised to reflect another amendment to Section 318 by Pub. L. 95-626 which provides for expanded professional venereal disease education, training, and clinical skills improvement activities.

The NPRM proposed a new Subpart H—Grants for Lead-Based Paint Poisoning Prevention Programs. This grant program was previously authorized under the Lead-Based Paint Poisoning Prevention Act (Pub. L. 91-695, as amended). Public Law 95-626 transferred this authority to a new Section 316 of the Public Health Service Act. Subpart H was intended to replace regulations codified at 42 CFR Part 91 and to reflect the transfer of authority, including two statutory changes. However, Subpart H is omitted from this final rule because this grant program was transferred to the Maternal and Child Health Services Block Grant by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), and the regulations at 42 CFR Part 91 were repealed effective October 1, 1982 (46 FR 48592-48593, October 1, 1981).

This final rule includes a revision of § 51b.204, Subpart B, Grants for Childhood Immunization Programs, which was not proposed in the NPRM. Section 51b.204 has been revised for clarity and to state the program elements more specifically. This revision is not a change in current requirements. In addition, the revision distinguishes between the information required in the initial application covering the project period and information required in the application required annually for the budget period. The purpose is to reduce the burden imposed on applicants in completing grant applications by specifying the minimum information necessary to enable CDC to administer the program and meet the statutory requirements of the Act. Similar clarification has been added under the application requirements for § 51b.405, Subpart D, and § 51b.604, Subpart F.

Attention is called to two other changes made in the final rule. The first is the transfer to § 51b.103(c), Subpart A, General Provisions, of the provision currently contained in § 51b.204(d)(3) of Subpart B and § 51b.405(a)(9) of Subpart D. The provision requires grantee assurances that no one will be denied services because of inability to pay, and that services will be provided in a manner which preserves human dignity and maximizes acceptance of the program. The provision is applicable to all programs under Part 51b and, therefore, should be in the General Provisions in Subpart A. The second change is the omission in the final rule of the provision in § 51b.405(b), Subpart D, of the NPRM which required that a rate schedule for any third party reimbursements be submitted with the application for approval, and that confidentiality of patient records be protected in any billing arrangements. These requirements were omitted in the final rule because they are unnecessarily burdensome, and confidentiality requirements related to venereal disease control are currently contained in § 51b.404, Subpart D.

Comments

Comments were received from only one source in response to the NPRM. One comment suggested adding language under § 51b.106(e) indicating that if additional conditions are imposed by the Secretary, additional funding would be provided. In response, additional conditions included in an award notice as used in this context normally means limitations or requirements of an administrative nature. They do not generally establish requirements of a program operation nature that would require additional resources. If there are required activities which the applicant has not included in the project plan and for which grant funds are available, the applicant would be required to amend the grant application before an award notice would be issued.

Another comment related to venereal disease grants stated that the provision

in § 51b.405(a)(7)(i), "to be served with special reference to those federally assisted programs (for example, community health centers, family planning clinics, and migrant health programs)," be deleted until the Secretary can provide a detailed up-to-date list of federally assisted programs related to venereal disease control in given geographic areas. All of the provisions enumerated as § 51b.405(a)(7) in the NPRM have been deleted.

Another comment, in regard to venereal disease grants, suggested deletion of the requirement for a separate itemization and justification of funds for public information and education activities under § 51b.405(a)(8). The commenter believes this provision represents a duplicative and undue paperwork burden on the applicant since a separate budget and justification are required for programs regulated by Subpart F. In response, the requirement under Subpart D, § 51b.405(8), that "public information and education activities * * * must be itemized and justified separately" is for the purpose of relieving applicants for funds under Subpart D (States and large cities) of the need to submit a separate project application for venereal disease public information and education activities, while at the same time permitting the Secretary to ensure that at least 5 percent of funds appropriated under Section 318 are used to support research, demonstrations, and public information and education as required by law.

Another comment, applicable to Subpart D, § 51b.407, recommended deletion of the restrictions on use of funds for diagnosis, treatment, and data processing equipment. The commenter believes that the provision is too cumbersome and restrictive, and that applicants should have flexibility to deal with the situations which they have had to justify already in the application. In response, the provision is not intended to forbid use of grant funds for these situations, but only to require advance approval. It is intended that the grant program supplement the efforts of State and local health agencies rather than supplanting activities which they would normally provide.

The requirements of the Regulatory Flexibility Act do not apply to these regulations since the Notice of Proposed Rulemaking was issued prior to January 1, 1981, the effective date of the Act. Nevertheless, the Secretary believes this rule will not have a significant economic impact on a substantial number of small entities. Further, the Secretary has determined that the costs associated with this regulation are negligible, and therefore a regulatory impact analysis is not required under Executive Order 12291.

The Department was required to submit to the Office of Management and Budget (OMB) for review and approval §§ 51b.103, .105, .204, .405, and .604 of the regulations which deal with reporting and/or recordkeeping requirements. The reporting requirements in all of these sections have now been approved by OMB (OMB approval Numbers 0937–0011, 0920–0110, and 0920–0112).

List of Subjects in 42 CFR 51b

Communicable diseases, Grant programs—health immunization, Maternal and child health, Venereal diseases.

Accordingly, Part 51b of Title 42 is amended as set forth below.

(Catalog of Federal Domestic Assistance (CFDA) numbers which have been assigned to programs governed by Part 51b are as follows:

Subpart B—Grants for Childhood Immunization Programs, CFDA—13.268.
Subpart D—Grants for Venereal Disease Control Programs, CFDA—13.977.
Subpart F—Grants for Research, Demonstrations, and Public Information and Education for the Prevention and Control of Venereal Disease, CFDA—13.978.)

Dated: September 2, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: December 16, 1982.

Richard S. Schweiker,

Secretary.

PART 51b—[AMENDED]

42 CFR Part 51b is amended as follows:

1. The table of sections for Subpart A and Subpart D are revised, a table of sections is added for the new Subpart F, and the authority citation is revised as follows:

Subpart A—General Provisions

Sec.
51b.101 To which programs do these regulations apply?
51b.102 Definitions.
51b.103 What are the general application requirements?
51b.104 Can personnel, supplies, and related items be provided in lieu of cash?
51b.105 Which other HHS regulations apply to these grants?
51b.106 What other conditions apply to these grants?
51b.107 Is participation in preventive health service programs required by these regulations?
* * * * *

Subpart D—Grants for Venereal Disease Control Progams

Sec.
51b.401 To which programs does this subpart apply?
51b.402 Definitions.
51b.403 Who is eligible for a grant under this subpart?
51b.404 What are the confidentiality requirements?
51b.405 What information is required in the application?
51b.406 How will grant applications be evaluated and the grants awarded?
51b.407 How can grant funds be used?
* * * * *

Subpart F—Grants for Research, Demonstrations, and Public Information and Education for the Prevention and Control of Venereal Disease

51b.601 To which programs does this subpart apply?
51b.602 Who is eligible for a grant under this subpart?
51b.603 What are the confidentiality requirements?
51b.604 What information is required in the application?
51b.605 How will grant applications be evaluated and the grants awarded?
51b.606 How can grant funds be used?
* * * * *

Authority: Secs. 317 and 318 of the Public Health Service Act, 92 Stat. 3574 and 3582 (42 U.S.C. 247b, 247c); Sec. 1743 of Pub. L. 97–35, 95 Stat. 763 (31 U.S.C. 1243 note).

2. Subpart A is revised to read as follows:

Subpart A—General Provisions

§ 51b.101 To which programs do these regulations apply?

The regulations in this Part apply to grants for preventive health service programs authorized under Section 317 (42 U.S.C. 247b) and for venereal disease prevention and control programs authorized under Section 318 (42 U.S.C. 247c) of the Act.

§ 51b.102 Definitions.

As used in these regulations:

"Act" means the Public Health Service Act, as amended.

"Secretary" means the Secretary of Health and Human Services (HHS) or any other officer or employee of that Department to whom the authority involved has been delegated.

"State" means one of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

§ 51b.103 What are the general application requirements?

(a) The project application shall contain a full description of the program

objectives, plans, and activities. With respect to programs authorized by Section 317 of the Act only, the application shall also provide, as the Secretary may require:

(1) The amount of Federal, State, and other funds obligated by the applicant in its latest annual accounting period for the provision of such program.

(2) A description of the services provided by the applicant for this accounting period covered under subparagraph (1) above

(3) The amount of Federal funds needed by the applicant to continue providing these services.

(4) A description of any proposed changes in the provision of the services, reasons and priorities, and the amount of Federal funds needed by the applicant to make the changes.

(b) The application shall contain evidence satisfactory to the Secretary that it has been submitted, as appropriate, for action to the planning agency designated by the Secretary under Title XV of the Act (42 CFR Parts 122 and 123). These grants are subject to the intergovernmental review of Federal programs of Executive Order 12372.

(c) The application shall contain assurances that no one will be denied services because of inability to pay, and that the services are provided in a manner which preserves human dignity and maximizes acceptance.

§ 51b.104 Can personnel, supplies, and related items be provided in lieu of cash?

The Secretary may reduce a grant by the amount of the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished a grant recipient when furnished at the request of the recipient. The Secretary also may reduce a grant by the amount of the pay, allowances, travel expenses, and any other costs in connection with the detail of any officer or employee of the Government to the recipient when the detail is at the request of the recipient. The amount the grant is reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing personnel and shall be deemed to have been paid to the recipient.

§ 51b.105 Which other HHS regulations apply to these grants?

Several other HHS regulations apply to grants under this part. These include, but are not limited to:

42 CFR Part 50—PHS grant appeals procedure
45 CFR Part 16—Department grant appeals process
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures (indirect cost rates and other cost allocations)
45 CFR Part 76—Debarment and suspension from eligibility for financial assistance
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—Effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80
45 CFR Part 83—Regulation for the administration and enforcement of Sections 704 and 855 of the PHS Act
45 CFR Part 84—Nondiscrimination on the basis of handicap in federally assisted programs
45 CFR Part 86 and Appendix A—Nondiscrimination on the basis of sex in federally supported education programs
45 CFR Part 90—Nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance.

§ 51b.106 What other conditions apply to these grants?

(a) The notice of grant award specifies how long HHS intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for 2 to 5 years.

(b) For budgetary and funding purposes, the project period is generally divided into 12-month intervals called budget periods. A grantee must submit a separate application to have the support continued for each subsequent budget period after the initial award. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices and the availability of funds. In all cases, continuation awards require a determination by HHS that continued funding is in the best interest of the government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

(d) Any funds granted pursuant to this subpart shall be expended solely for the purposes for which the funds were granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, and the applicable cost principles prescribed in Subpart Q of 45 CFR Part 74.

(e) The Secretary may, at the time of award, impose additional conditions, including conditions governing the use of information or consent forms, when, in the Secretary's judgment, they are necessary to advance the approved program, the interest of the public health, or the conservation of grant funds.

§ 51b.107 Is participation in preventive health service programs required by these regulations?

Nothing in these regulations shall be construed to require any State or political subdivision to have a preventive health service program which would require any person who objects to treatment to be treated under the program.

3. Subpart B, § 51b.204 is revised to read as follows:

§ 51b.204 What information is required in the application?

(a) The initial application must cover the project period, and must include a description of the following:

(1) The need for grant support.

(2) The immediate (1 year budget period) and long-range (2–5 year project period) objectives of the project in specific and measurable terms.

(3) Current immunization programs and the additional or intensified activities to be carried out to meet the objectives and priorities.

(4) The following program elements should be included and described:

(i) A plan to assure that children begin and complete their immunizations on schedule, including the use of a standard immunization record card, a provider-based tickler system (public and private) for the recall of children, and a hospital-based immunization education program for new mothers.

(ii) Assessment of immunization status of school enterers, children attending licensed day-care centers, and children under 2 years of age and new enrollees under age 5 served in public clinics.

(iii) A plan for surveillance of vaccine-preventable diseases that includes morbidity and mortality reporting as well as field and laboratory investigations.

(iv) Procedures for prompt review of the data collected from the morbidity surveillance system to allow for immediate response to all occurrence of

suspected diphtheria and polio cases upon notification and response to suspected measles cases within 48 hours.

(v) A system for monitoring vaccine-associated reactions including a mechanism for responding to persons with vaccine-related complaints.

(vi) A plan to systematically immunize susceptible children at school entry through vigorous enforcement of school immunization laws.

(5) The manner in which the applicant intends to evaluate the project.

(b) An application for a continuation grant must be submitted for each funding period. This continuation application must include the following:

(1) A budget and justification for the grant funds requested.

(2) A summary of the progress achieved during the previous budget period.

(3) A description of any changes in the information shown in the project application.

§ 51b.205 [Amended]

4. Subpart B, § 51b.205 is amended by removing paragraph (c).

5. Subpart D is revised to read as follows:

Subpart D—Grants for Venereal Disease Control Programs

§ 51b.401 To which programs does this subpart apply?

The regulations in this subpart apply to the award of project grants under Section 318(c) of the Act for venereal disease prevention and control programs, and under Section 318(b) of the Act with respect to public information and education activities which are integral to a balanced, comprehensive venereal disease control program.

§ 51b.402 Definitions.

As used in this subpart:

"Venereal disease" means gonorrhea, syphilis, or any other disease which can be sexually transmitted and which the Secretary determines is or may be amenable to control with assistance provided under this authority and which is of national significance.

"Venereal disease control program" means a program designed to carry out activities or to provide services to systematically detect and prevent venereal disease as distinguished from those activities or services which are designed to diagnose or treat venereal disease patients or suspects.

§ 51b.403 Who is eligible for a grant under this subpart?

An applicant must be a State agency or a political subdivision of a State which has legal responsibility for disease control under the laws of the State.

§ 51b.404 What are the confidentiality requirements?

All information obtained by program personnel in connection with the examination, care, and treatment of an individual in this program shall be held confidential. It shall not be disclosed without the individual's consent except as may be required by the law of a State or political subdivision of a State or as may be necessary to provide services to the individual. Information may be disclosed in summary, statistical, or other form, or for clinical or research purposes, but only if the disclosure does not identify particular individuals.

§ 51b.405 What information is required in the application?

(a) The initial application must include a description of the following:

(1) The nature and extent of the venereal disease problem in the area.

(2) The need for project grant support.

(3) The immediate (1-year budget period) and long-range (2–5 year project period) objectives of the project in specific and measurable terms.

(4) The activities to be carried out to meet the objectives. The following program elements must be included and described:

(i) Venereal disease surveillance.

(ii) Casefinding and case followup.

(iii) Interstate epidemiologic referral and followup.

(iv) Public venereal disease information and education.

(v) Professional (including appropriate allied health personnel) venereal disease education, training, and clinical skills improvement activities, including efforts to assure high quality clinical services in public venereal disease clinics.

(5) At the option of the applicant, special studies or demonstrations to evaluate or test venereal disease prevention and control strategies and activities.

(6) The manner in which the applicant intends to conduct and evaluate the project, including a system for analysis of morbidity data so that control activities can be efficiently evaluated and targeted.

(7) The diagnostic and treatment services that will be provided.

(8) A budget and justification for the grant funds requested. Since public information and education activities are authorized separately from other control program activities, funds requested for this purpose must be itemized and justified separately in the narrative part of the application.

(b) An application for a continuation grant must be submitted for each funding period. This continuation application must include the following:

(1) A budget and justification for the grant funds requested.

(2) A summary of the progress achieved during the previous budget period.

(3) A description of any changes in the information shown in the project application.

§ 51b.406 How will grant applications be evaluated and the grants awarded?

(a) Within the limits of funds available, the Secretary may award a grant to assist in meeting the cost of a venereal disease control program. Before awarding a grant to a political subdivision of a State, the Secretary will consult with the State health authority.

(b) Priorities for funding will be based on the following factors:

(1) The relative extent of the venereal disease problem in the area served by the applicant.

(2) The design of the venereal disease prevention and control program.

(3) The general quality of the applicant's plan of operation and objectives in accordance with the requirements in these regulations. Emphasis will be placed on determining the extent to which services are coordinated among health care providers in the area served and integrated into a cohesive plan for delivery of service to groups having the highest incidence of venereal disease.

(4) The capacity of the applicant to make effective use of Federal funds.

(5) The commitment of the applicant to the control of venereal disease as reflected in the commitment of applicant resources to the program.

§ 51b.407 How can grant funds be used?

Grant funds awarded under this subpart may be used only for programs approved under Section 318(c), and with respect to public information and education, those programs approved under Section 318(b) of the Act. Unless specifically approved, grant funds shall not be used for performing diagnostic tests (other than gonorrhea screening tests), maintaining central registries, purchasing data processing equipment, or providing diagnostic and treatment facilities and services. The applicant must provide assurances, however, that these services will be available as

needed as an adjunct to control program activities supported with grant funds. To obtain special approval for grant support of such activities, the grantee shall justify the exception to the satisfaction of the Secretary that funds for this purpose are necessary for the proper conduct of the program and are otherwise unavailable. Support of these services will generally be approved only in the following situations: (a) Special studies or demonstrations, (b) the support of developmental or start-up activity, or (c) the support of an essential service which will result in a savings to a detection or prevention activity supported by the grant. Unless otherwise approved, exceptions based on paragraphs (b) and (c) of this section are only allowed during one funding period. The grantee is expected to support these activities in subsequent funding periods.

6. Subpart F is added to Part 51b as follows:

Subpart F—Grants for Research, Demonstrations, and Public Information and Education for the Prevention and Control of Venereal Disease

§ 51b.601 To which programs does this subpart apply?

The regulations in this subpart apply to the award of venereal disease control project grants for research, demonstrations, public information, and education activities which can be applied to achieve improvements in venereal disease prevention and control under Section 318(b) of the Act.

§ 51b.602 Who is eligible for a grant under this subpart?

An applicant must be a State, political subdivision of any State, or any other public or nonprofit private entity.

§ 51b.603 What are the confidentiality requirements?

All information obtained by program personnel in connection with the examination, care, and treatment of an individual in this program shall be held confidential. It shall not be disclosed without the individual's consent except as may be required by the law of a State, or political subdivision of a State, or as may be necessary to provide services to the individual. Information may be disclosed in summary, statistical, or other form, or for clinical or research purposes, but only if the disclosure does not identify particular individuals.

§ 51b.604 What information is required in the application?

(a) The initial application must include a description of the following:

(1) The setting and circumstances for which project grant support is being requested, including:

(i) The immediate and long-range objectives of the project in specific and measurable terms.

(ii) The activities which will be undertaken to accomplish the objectives, including the timing of these activities.

(iii) The anticipated application of findings to the national venereal disease control effort.

(iv) Any other information which will support the request for grant assistance.

(2) The relationship between the planned activities and the project objectives. The application must describe in detail how the applicant intends to proceed, particularly if the project is unusually complex and several activities are interdependent or unprecedented.

(3) A comprehensive and realistic plan which the applicant will use to evaluate the project. The plan must include periodic assessment of any possible impact, both positive and negative, that the proposed project might have upon the established venereal disease control program in the locality or localities in which the project will be undertaken.

(b) An application for a continuation grant must be submitted for each funding period. This continuation application must include the following:

(1) A budget and justification for the grant funds requested.

(2) A summary of the progress achieved during the previous budget period.

(3) A description of any changes in the information shown in the project application.

§ 51b.605 How will grant applications be evaluated and the grants awarded?

(a) Within the limits of funds available, the Secretary may award a grant to assist in meeting the costs of special activities authorized under Section 318(b) of the Act.

(b) Grant applications will be reviewed and evaluated according to the following criteria:

(1) Is there adequate evidence that the proposed project is needed and that the outcome has potential to directly benefit the national venereal disease control effort?

(2) Are the project objectives specific, measurable, realistic, time phased, and related to promoting the purposes of Section 318?

(3) Is the method of operation logical and clearly related to project objectives, and does it describe how the applicant intends to proceed particularly with activities which are complex, interrelated, or unprecedented?

(4) Does the method of operation include an assessment of any possible impact, both positive and negative, that the conduct of the proposed initiative might have upon the established venereal disease control program in the locality or localities in which the project will be undertaken?

(5) Does the proposal include a comprehensive and realistic plan for the evaluation of the project, and specify the measures and instruments of measurement to be used?

(6) Is the budget request reasonable and consistent with the intended use of grant funds?

(7) If the applicant intends only to evaluate an existing disease prevention and control approach, are the objectives substantially different from those which could be met by routine program evaluation?

§ 51b.606 How can grant funds be used?

(a) Grant funds may be used for the costs associated with planning, organizing, and conducting applied research, demonstrations, and public information and education programs.

(b) Grant funds may also be used to reimburse individuals who agree to be participants in the applied research projects. This reimbursement, however, must be justified as necessary and reasonable. A schedule of reimbursements must be submitted with the application and approved as part of the program plan.

(c) Grant funds may not be used to supplant funds supporting existing venereal disease control services provided by a State or locality.

[FR Doc. 83-2748 Filed 1-31-83; 8:45 am]
BILLING CODE 4160-18-M

Proposed Rules

Federal Register
Vol. 48, No. 22
Tuesday, February 1, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Deletion of Geographical Limitations on Standards Storage; Regulatory Review of Subpart C

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Agricultural Marketing Service has reviewed and is proposing changes to 7 CFR Part 28, Subpart C—Standards, along with the changes thus necessitated in Subpart A, 28.107 (a) to (c). It is proposed that 7 CFR Part 28—Cotton Classing, Testing, and Standards be revised by removing the requirement that sets of cotton standards be stored "in the District of Columbia." This action would permit the Department to realize a cost savings through relocation of the storage space to Memphis, Tennessee.

DATE: Comments must be received on or before April 4, 1983.

ADDRESS: Written comments may be sent to Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250 (202/447–2167). The options considered in developing this proposed rule and regulatory review are published in Supplementary Information.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as a nonmajor because it does not meet the criteria for a major regulation as established by the Order.

William T. Manley, Deputy Administrator, Marketing Program Operations, has determined that this action would not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601) because this proposal primarily changes the storage location of the standards only for cost savings purposes and will not affect the performance of inspection service.

The original physical standards representing the various grades of American Upland cotton and Pima cotton are presently kept in a vault at the Department of Agriculture, Washington, D.C. The regulations (7 CFR Part 28) specify that these physical forms will be kept in "the District of Columbia."

It has been determined that a savings could be realized by storing the original physical standards in either an enclosure built in the present warehouse space of the Cotton Division, in Memphis, Tennessee or in a federally licensed and properly bonded warehouse in that city. The primary considerations for selecting a storage facility would be the maintenance of proper control and security over the standards, and maintenance of a properly controlled atmospheric environment to minimize the changes in color which occur in all cottons over time.

The potential savings in storage and shipping costs from relocating the standards to Memphis could be as much as $10,000.00 per year. In order to provide the Department the flexibility to take advantage of this potential savings, the geographical limitations presently in the regulations need to be deleted. The proposed changes are in conformance with the provisions and objectives of the U.S. Cotton Standards Act.

The review of the Regulations included (1) a determination of continued need for the standards, (2) a review of changes in marketing and other factors affecting the standards, and (3) a review of changes in technological and economic conditions in the area affected by the standards. The objective of the review was to assure that the standards continue to serve the needs of the markets to the greatest possible extent. Also considered was that: (1) The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) specifies that the "Secretary shall take such action as may be necessary to insure that the universal cotton standards system * * * [be] preserved * * *", (2) the standards are essential to the process of classing cotton, and (3) the standards are recognized and used worldwide.

The physical standards are regularly reviewed by the Cotton Division for (1) relevance to the needs of the cotton industry and (2) representativeness of the U.S. cotton crop. Modifications are proposed, as considered appropriate, both by the Cotton Division and representatives of the U.S. cotton industry. Representatives from the signatory associations to the Universal Cotton Standards Agreement meet every three years to review the physical standards, to approve the "key" sets, and to discuss any suggested modifications to the standards.

Options Analysis. The only option would be to keep the geographical limitations, thus foregoing the possibility of realizing a savings. This option has been rejected in favor of deleting the provision that the original physical standards must be stored in the District of Columbia. Other options considered would not maintain required security and control.

It is also proposed that § 28.107 be amended to delete the reference to wax seals. While the cotton standards are to be sealed, methods other than wax seals can be used. Therefore, to provide flexibility, it is proposed that the change be made.

List of Subjects in 7 CFR Part 28

Cotton, grades, samples, standards.

Accordingly, 7 CFR Part 28 is proposed to be amended as follows:

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

1. The authority citation for Part 28, Subparts A and C reads as follows:

Subpart A

Authority: Sec. 10, 42 Stat. 1519; 7 U.S.C. 61, unless otherwise noted.

Subpart C

Official Cotton Linters Standards of the United States for Grade

Authority: Sections 28.201 to 28.208 issued under sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U.S.C. 56.

Official Cotton Standards of the United States for the Grade of American Upland Cotton

Authority: Sections 28.402 to 28.481 issued under sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U.S.C. 56.

Official Cotton Standards of the United States for the Grade of American Pima Cotton

Authority: Sections 28.501 to 28.510 issued under sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U.S.C. 56.

2. It is proposed to revise paragraph (a) of § 28.107.

§ 28.107 Original cotton standards and reserve sets.

(a) The containers of the original Universal Standards and other official cotton standards of the United States currently adopted, whenever such official standards are represented by practical forms, shall be marked as prescribed in the order or orders of their establishments, and shall be wrapped and sealed. After being so marked, wrapped and sealed, they shall be held in secure storage in the custody of the U.S. Department of Agriculture.The Director may authorize the temporary removal of such containers from storage and the transporting of the containers to other locations for purposes of Universal Cotton Standards Conferences and other cotton standards meetings conducted by the Division. Such containers shall remain in the control and custody of the Director until the original standards contained therein are superseded by new or revised standards.

* * * * *

3. It is proposed to amend §28.107(b) by removing the sentence "The Division shall store the set designated as the Second Reserve Set in the vault of the Division in Washington, D.C., in the control and custody of the Director," and replacing it with "The Division shall keep the set designated as the Second Reserve Set in secure storage."

4. It is proposed to amend § 28.107(c) by removing the sentence "The Director shall arrange for removal of the Second Reserve Set from its storage place in Washington, D.C., and the transport of such set to the site of the conference," and replacing it with "The Director shall arrange for removal of the Second Reserve set from its storage place and for the transport of such set to the site of the conference."

§§ 28.402, 28.403, 28.405, 28.407, 28.409, 28.411, 28.413, 28.431, 28.432, 28.433, 28.434, 28.442, 28.443, 28.444, 28.501, 28.502, 28.503, 28.504, 28.505, 28.506, 28.507, 28.508, 28.509 [Amended]

5. In all of the sections above it is proposed to remove the words "* * * in the District of Columbia * * *" with no other changes.

Dated: January 27, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR. Doc 83-2868 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins; REA Specification for Filled Buried Wire, PE-54

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A—REA Bulletins by withdrawing Bulletin 345-70, REA Specification for Filled Buried Wire, PE-54. This action will eliminate problems associated with the frequent misapplication of the product and result in cost savings for both producers and users of wire and cable.

DATE: Public comments must be received by REA no later than April 4, 1983.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-8667. The Draft Impact Analysis describing the options considered in developing this proposed rule and impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A—REA Bulletins by withdrawing REA Bulletin 345-70, REA Specification for Filled Buried Wire, PE-54. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A-95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.851, Rural Telephone Loans and Loan Guarantees.

A copy of the specification to be discontinued is available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Background

Currently this product is used in REA systems both as a distribution wire and service drop. Because of attenuation problems with this wire in distribution systems using station carrier, we propose the elimination of this product which should resolve these problems. The withdrawal of this specification will affect manufacturers in a positive way by reducing their inventory costs associated with stocking of this wire. It will affect REA borrowers in a way that our borrowers will be able to take full advantage of cost savings when using station carrier that otherwise would be negated by keeping of this product.

Lastly, it would affect the Federal government by eliminating the administrative costs associated with a document that has no utility in today's telecommunication system.

In view of the above, the Administrator is proposing to withdraw REA Bulletin 345-70, REA Specification for Filled Buried Wire, PE-54

List of Subjects in 7 CFR Part 1701

Loan programs—communications, Telecommunications, Telephone.

Dated: January 25, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-2617 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Parts 3, 6, 7, and 32

[Docket No. 83-6]

National Bank Lending Limits

AGENCY: Comptroller of the Currency, Department of the Treasury.

ACTION: Extension of comment period.

SUMMARY: The Comptroller of the Currency is extending the comment period for the proposed rulemaking on national bank lending limits by 14 days to encourage maximum public participation in this matter.

DATE: Comments must be received on or before February 18, 1983.

ADDRESS: Please send comments to Docket No. 82-25, Communications Division, Third Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219. Attn.: C. Christine Jones ((202) 447-1768).

FOR FURTHER INFORMATION CONTACT: Carol M. Beaumier, Manager, International Examinations ((202) 447-1747); Howard J. Finkelstein, Attorney, Legal Advisory Services Division ((202) 447-1880); Claire Owen, National Bank Examiner, Commercial Examinations ((202) 447-1164).

SUPPLEMENTARY INFORMATION: On December 21, 1982, the Office of the Comptroller of the Currency published proposed regulations implementing section 401(a) of Pub. L. 97-320, relating to national bank lending limits. The agency has received a written request for an extension of the comment period in view of the importance and complexity of the issues involved. The agency has considered the request and concluded that an additional 14 days would allow for greater public participation in the rulemaking while at the same time allowing a final regulation to be published prior to the new law's effective date, April 14, 1983. Accordingly, the comment period is being extended to February 18, 1983.

Dated: January 26, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83-2878 Filed 1-31-83; 8:45 am]

BILLING CODE 4810-33-M

CIVIL AERONAUTICS BOARD

14 CFR Part 250

[Economic Reg. Docket 41220, EDR-453]

Oversales; Tariff Filing Requirements

Dated: January 12, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to revise its oversales rule to reflect the end of the Board's domestic tariff authority at the end of 1982, and to simplify the rule's tariff filing requirements for foreign air transportation. The changes, which do not affect the substantive requirements of the rule, are proposed at the Board's initiative.

DATES: Comments by: March 2, 1983.

Comments and relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by: February 10, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41220, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Part 250 establishes minimum standards for the treatment of airline passengers holding confirmed reservations who are not accommodated because their flight has been oversold. The rule sets up a two-part system. The first requires carries to solicit volunteers who will give up their confirmed reservation in exchange for some agreed-upon compensation. The second requires carriers to pay denied boarding compensation to most passengers who are involuntarily bumped. In addition, the rule requires carriers to state their practices in their tariffs, give passengers noticed of those practices through signs and ticket inserts, and report to the Board on a regular basis the number of passengers denied boarding.

Section 1601 of the Federal Aviation Act, as amended, ended the Board's authority over domestic tariffs on January 1, 1983. Since that time, U.S. carriers have not been permitted to file any tariffs for their domestic operations, although they must still file tariffs for their operations in foreign air transportation.

Part 250 requires carriers to file tariffs providing for the Board-mandated compensation, copies of their boarding priority rules and a copy of the explanatory handout given to bumped passengers. In addition, the rule contains a number of references to tariffs. These tariff provisions do not affect the substantive requirements of Part 250 and carriers must still offer the protections offered by the rule when domestic tariffs sunset. This notice proposes to update the rule by removing most of the references to tariffs. Carriers in foreign air transportation would still be required to file tariffs in an abbreviated form comporting with Part 250 for transportation departing the United States. They could file tariffs concerning oversales practices for inbound foreign flights only if they provided the protections of Part 250 for such flights.

The central change would be in § 250.4. The title would be changed to, *Denied boarding compensation tariffs for foreign air transportation,* to reflect the new limitations on tariff filing. Only outbound foreign flights would be covered by required tariffs under this part. No change would be made in paragraph (c) of the section that permits carriers that comply with the rule on their inbound foreign flights to file tariffs.

Sections 250.3(b) and 250.9(b) require carriers to file their boarding priority rules and a copy of the handout given to bumped passengers. These tariff filing requirements were used primarily as a tool to ensure that carriers were complying with the substantive requirements of the rule. In addition, carriers were able to protect themselves from legal attack on the grounds that filed tariffs met some minimum Board standard. We are proposing to eliminate these filings requirements. The filing of the documents involves significant paperwork for both the industry and the Board. We can ensure compliance through normal enforcement methods with the requirements of § 250.3(b) to establish boarding priority rules and of § 250.9(b) to use the written notice prescribed in that section.

In addition, the Board is proposing to codify an exemption granted in Order 80-5-200 (May 29, 1980) that permits

airlines to substitute free transportation for their Board-mandated denied boarding compensation if three conditions are met. First, the involuntarily bumped passengers must agree to this substitution and can insist on receiving the monetary compensation. Second, the transportation vouchers must be equal to or greater in value than the monetary compensation that would otherwise be due. Finally, the carriers must file tariffs stating that it offers such a substitution.

This notice would codify the first two elements of the exemption and eliminate the tariff filing requirement for domestic air transportation. A new paragraph (b) would be added in § 250.5, *Amount of denied boarding compensation for passengers denied boarding and boarding priorities*, as follows:

(b) Carriers may offer free or reduced rate air transportation in lieu of the cash due under paragraph (a) of this section, if the passenger agrees and the value of the transportation is equal to or greater than the cash payment otherwise required.

This new paragraph would be consistent with the notice provided in the written handout given to passengers pursuant to § 250.9.

Paragraph (a) of § 250.6 would be rewritten for clarity and a reference to tariffs would be deleted.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that none of these proposed changes will, if adopted as proposed, have a significant economic impact on a substantial number of small entities. Board rules governing oversales and denied boarding compensation apply only to operations with large aircraft, and such operators are not considered small entities for the purposes of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 250

Air carriers, Consumer protection, Denied boarding compensation, Reporting and Recordkeeping Requirements.

Accordingly, the Civil Aeronautics Board proposed to amend 14 CFR Part 250, *Oversales*, as follows:

1. The Table of Contents would be amended by revising the heading of § 250.4 to read:

PART 250—OVERSALES

* * * * *

250.4 Denied boarding compensation tariffs for foreign air transportation.

* * * * *

2. The definition of "confirmed reserved space" in § 250.1, *Definitions*, would be revised to read:

§ 250.1 Definitions.

* * * * *

"Confirmed reserved space", means space on a specific date and on a specific flight and class of service of a carrier which has been requested by a passenger and which the carrier or its agent has verified, by appropriate notation onthe ticket or in any other manner provided therefor by the carrier, as being reserved for the accommodation of the passenger.

* * * * *

§ 250.3 [Amended]

3. Paragraph (b) of § 250.3, *Boarding priority rules*, would be removed and reserved.

4. Section 250.4 would be retitled and revised to read:

§ 250.4 Denied boarding compensation tariffs for foreign air transportation.

(a) Every carrier operating flights in foreign air transportation departing from the United States shall file tariffs for those flights providing compensation for passengers holding confirmed reserved space who are denied boarding involuntarily from an oversold flight that departs without those passengers. The tariffs shall incorporate the amount of compensation described in § 250.5 and the exceptions to eligibility for compensation described in § 250.6.

(b) The tariffs shall specify that the carrier will tender the appropriate compensation on the day and the place the involuntary denied boarding occurs.

(c) A carrier that does not provide the protections of this part on its inbound foreign flights may not file tariffs concerning its oversales practices for those flights.

5. Section 250.5 would be revised to read as follows:

§ 250.5 Amount of denied boarding compensation for passengers denied boarding involuntarily.

(a) Subject to the exceptions provided in § 250.6, a carrier shall pay compensation to passengers denied boarding involuntarily from an oversold flight at the rate of 200 percent of the sum of the values of the passenger's remaining flight coupons up to the passenger's next stopover, or if none, to the passenger's final destination, with a maximum of $400. However, the compensation shall be one-half the amount decribed above, with a $200 maximum, if the carrier arranges for comparable air transportation, or other transportation used by the passenger that, at the time either such arrangement is made, is planned to arrive at the airport of the passenger's next stopover or if none, at the airport of the passenger's destination, not later than 2 hours after the time the direct or connecting flight on which confirmed space is held is planned to arrive in the case of interstate and overseas air transportation, or 4 hours after such time in the case of foreign air transportation.

(b) Carriers may offer free or reduced rate air transportation in lieu of the cash due under paragraph (a) of this section, if the passenger agrees and the value of the transportation is equal to or greater than the cash payment otherwise required.

6. The introductory text of § 250.6 and paragraph (a) would be revised as follows:

§ 250.6 Exceptions to eligibility for denied boarding compensation.

A passenger denied boarding involuntarily from an oversold flight shall not be eligible for denied boarding compensation if:

(a) The passenger does not comply fully with the carrier's contract of carriage provisions regarding ticketing, reconfirmation, check-in, and acceptability for transportation.

* * * * *

7. The introductory text of paragraph (b) of § 250.9 would be revised to read:

§ 250.9 Written explanation of denied boarding compensation and boarding priorities.

* * * * *

(b) The statement shall read as follows:

* * * * *

(Secs. 204, 401, 402, 403, 404, 407, 411, 1002 of Pub. L. 85–726, as amended, 72 Stat. 743, 754, 757, 758, 760, 766, 769, 771, 788; 49 U.S.C. 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1386, 1482)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–2820 Filed 1–31–83, 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–168; Colorado–32]

High-Cost Gas Produced From Tight Formations; Colorado

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Upper Mesaverde Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 14, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 11, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued January 27, 1983.

I. Background

On December 30, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Upper Mesaverde Formation located in Mesa County, Colorado, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Upper Mesaverde Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service concurs with Colorado's recommendation. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Upper Mesaverde Formation is located 20 miles northeast of the city of Grand Junction, Colorado, and underlies portions of Township 8 South, Range 98 West, Sections 25 through 36, and Township 9 South, Range 98 West, Sections 1 through 12, 6th P.M. The recommended area contains approximately 15,261 acres, of which 100% is federal land.

The Upper Mesaverde Formation is defined as the formation that occurs between the top of the Cozzette-Corcoran members and the base of the Wasatch Formation, including the Rollins member. The top of the Upper Mesaverde Formation is found at a depth of zero to 1,000 feet in the recommended area and the average depth to the top of the formation is 500 feet. The average thickness of the Upper Mesaverde Formation is 2,200 feet and the formation is of Cretaceous age.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–38 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Upper Mesaverde Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 14, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–168 (Colorado–32), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than February 11, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.403 is amended by adding paragraph (d)(159) to read as follows:

§ 271.703 Tight formations.

* * * * * *

(d) *Designated tight formations.*

* * * * * *

(159) *Upper Mesaverde Formation in Colorado.* RM79–76–168 (Colorado–32).

(i) *Delineation of formation.* The Upper Mesaverde Formation is located in Mesa County, Colorado, in Township 8 South, Range 98 West, Section 25, N½, SE¼, N½ SW¼, SE¼ SW¼; Section 26, N½, SW¼, NW¼ SE¼; Sections 27 through 34; Section 35, W½, SE¼, W½

NE¼ SE¼ NE¼; Section 36; Township 9 South, Range 98 West, Sections 1 through 12, 6th P.M.

(ii) *Depth.* The average depth to the top of the Upper Mesaverde Formation is 500 feet. The Upper Mesaverde Formation is defined as that formation which occurs between the top of the Cozzette-Corcoran members and the base of the Wasatch Formation, including the Rollins member. The Upper Mesaverde Formation averages 2,200 feet in thickness.

[FR Doc. 83-2713 Filed 1-31-83; 8:45 am]
BILLING CODE 6710-01-M

18 CFR Part 271

[Docket No. RM79-76-167; Colorado-5 Addition]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that an additional area of the Lower Mesaverde Formation consisting of the Rollins, Cozzette, and Corcoran Sandstone members, be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 14, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 11, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued January 27, 1983.

I. Background

On December 21, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Lower Mesaverde Formation, consisting of the Rollins, Cozzette and Corcoran Sandstone members located in Plateau Creek Field area of Mesa County, Colorado, be designated as a tight formation. The Commission previously adopted a recommendation that portions of the Lower Mesaverde Formation in the Plateau Creek Field area in Mesa County, Colorado, be designated as a tight formation (Order No. 148, issued May 28, 1981, in Docket No. RM79-76 (Colorado-5)). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that an additional area of the Lower Mesaverde Formation consisting of the Rollins, Cozzette and Corcoran Sandstone members be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended acreage is located in Mesa County, Colorado, in Township 10 South, Range 95 West, NW¼, and SE¼ of Section 17 and Township 10 South, Range 96, West, NE¼, and S½ of Section 33. This acreage is part of two sections excluded from tight formation designation in Order No. 148, under § 271.703(c)(2)(i)(D), based on the Commission's finding that these sections had been substantially developed by infill drilling prior to the date on which Colorado made its tight formation recommendation to the Commission. The Commission stated in Order No. 148 that future consideration of the excluded areas was not precluded by its action in that order if sufficient information and economic data became available which indicated the areas would not be further developed without the tight formation incentive price. The recommended area contains 800 acres of which about 50 percent is Federal or Indian acreage. The average depth to the top of the Lower Mesaverde Formation is 3,850 feet.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG-7 convened by Colorado on this matter demonstrates that:

(1) The average *is situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B);

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day; and

(4) Economic data indicates that the recommended area cannot be further developed without the incentive price provided for in § 271.703(a).

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Piepeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 53436, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that an additional area of the Lower Mesaverde Formation, consisting of the Rollins, Cozzette and Corcoran Sandstone members, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 14, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM70-76-167 (Colorado-5 Addition), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 15 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE.,

Washington, D.C., during business hours.

Any person wishing testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the secretary of the Commission no later than February 11, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formation.

(Natural gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d) (25) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(25) *Lower Mesaverde Formation in Colorado.* RM790–76 (Colorado–5).

(i) *Delineation of formation.* The Lower Mesaverde Formation, consisting of the Rollins, Cozzette and Corcoran Sandstone members, is located in the Plateau Creek Field area 30 miles east-northeast of Grand Junction, Colorado, in Mesa County, Colorado. The designated area includes Township 9 South, Range 95 West, Sections 19 through 23, 26 through 36; Township 9 South, Range 96 West, Sections 25 through 36; Township 9 South, Range 97 West, Sections 25 and 36; Township 10 South, Range 94 West, Sections 6, 7, 18, 19, 30 and 31; Township 10 South, Range 95 West, Sections 1 through 16, NW¼ and SE¼ of Sections 17, 20 through 29, 31 through 36; Township 10 South, Range 96 West, Sections 1 through 11, 14 through 22, 29 through 32, S½ and NE¼ of Section 33, Sections 34 through 36; Township 10 South, Range 97 West, Sections 1, 12, 13, 24, 25 and 36; All from the 6th P.M.

(ii) *Depth.* the average depth to the top of the Lower Mesaverde Formation is 3,850 feet.

[FR Doc. 82–2712 Filed 1–31–83; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Parts 271 and 274

[Docket No. RM82–34–000]

High-Cost Gas Produced From Tight Formations; Recompletion Tight Formation Gas

January 24, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to modify the definition of "recompletion tight formation gas" in § 271.703 of the Commission's regulations. Specifically, § 271.703(b)(3) and § 274.205(e)(2) would be amended to provide that natural gas produced from recompletions in wells which were completed for production in the designated tight formation before July 16, 1979, would qualify as "recompletion tight formation gas" if the recompletion is completed after the effective date of this rule and produces natural gas which could not have been produced through any completion location in existence before the date this proposed rule becomes effective.

DATES: Comments must be submitted on or before March 10, 1983. Requests for a public hearing must be made on or before February 14, 1983.

ADDRESSES: All filings should refer to Docket No. RM82–34–000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Fred A. Wolgel, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to modify the definition of "recompletion tight formation gas" in § 271.703 of the Commission's regulations. Specifically, § 271.703(b)(3) and § 274.205(e)(2) would be amended to provide that natural gas produced from recompletions in wells which were completed for production in the designated tight formation before July 16, 1979, would qualify as "recompletion tight formation gas" if the recompletion produces natural gas which could not have been produced through any completion location in existence before the date this proposed rule becomes effective.

II. Background

In Order No. 99, the Commission promulgated final regulations implementing the tight formation incentive program under the authority granted the Commission in sections 107(b) and 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432 (Suppl. IV 1980).[1] Section 107(b) authorizes the Commission, by rule or order, to "prescribe a maximum lawful price, applicable to any first sale of any high-cost natural gas, which exceeds the otherwise applicable maximum lawful price to the extent that such special price is necessary to provide reasonable incentives for the production of such high-cost gas." Section 107(c)(5) defines high-cost natural gas as gas which is determined in accordance with NGPA section 503 (concerning jurisdictional agency determinations) "to be produced under such conditions as the Commission determines to present extraordinary risks or costs."

In Order No. 99, the Commission determined that natural gas produced from tight formations is produced under conditions which present extraordinary risks and costs and that an incentive price of up to 200 percent of the section 103 maximum lawful price is necessary to provide reasonable incentives to produce such gas. Order No. 99 established the procedures whereby tight formations would be designated and the types of natural gas produced from tight formations which would be eligible for the special incentive price.

The tight formation regulations fall into two parts. The first part, found in § 271.703, contains relevant definitions and establishes the procedures whereby jurisdictional agencies recommend to the Commission areas for tight formation designation. The second part, found in Parts 274 and 275 of the Commission's regulations, sets forth the information which must be submitted in an application to the jurisdictional agency for a determination that natural gas produced from a specified well qualifies as tight formation gas, and the procedures for reviewing those determinations.

Order No. 99 established two types of natural gas produced from tight formations as eligible to receive the special incentive price. The two types of gas are "new tight formation gas," defined in § 271.703(b)(2) of the Commission's regulations, and

[1] 45 FR 56034 (August 23, 1980) (Docket No. RM79–76) FERC Stat. and Regs. Regulations Preambles ¶ 30,183.

"recompletion tight formation gas," defined in § 271.703(b)(3).

The geological characteristics which a formation are found have in order to be designated as a tight formation are found in § 271.703(c)(2). Of particular relevance to the amendment proposed herein is the definition of "formation" for the purposes of the tight formation program. Section 271.703(b)(4) defines "formation" as "any geological formation, *or portion thereof*, described by geological as well as geographical parameters." (Emphasis added.) Thus, when a jurisdictional agency currently recommends an area for tight formation designation, it need not be an entire geological formation. The agency can limit the formation either vertically or horizontally. Accordingly, if a geological formation is 100 feet thick and covers 10 square miles, the jurisdictional agency can recommend the entire formation, or just a portion of it. For example, the jurisdictional agency can recommend a zone which is only 50 feet thick and 5 square miles in areal extent. The only requirement is that the portion of the formation being recommended be described by geological and geographical parameters. In contrast to this approach, but not inconsistently with the regulations, some jurisdictional agencies have grouped two or more contiguous geological formations in one recommendation for designation as a single tight formation.[2]

Once a formation has been designated by the Commission as a tight formation, an application for a determination that gas produced from a particular well qualifies as tight formation gas may be filed with the jurisdictional agency. The provisions governing the application process are found in § 274.205(e), and two types of applications are authorized. To qualify as "new tight formation gas" under § 274.205(e)(1), the gas must qualify as gas produced from a new, onshore production well under NGPA section 103, or as new natural gas under section 102. Additionally, the surface drilling of the well must have commenced on or after July 16, 1979.[3]

If the surface drilling of a well commenced prior to July 16, 1979, gas produced from such well may still qualify for the special tight formation incentive price as "recompletion tight formation gas." In order to qualify as such, the applicant must establish that the gas is being produced from a designated tight formation and that the well was not "completed for production *in the designated tight formation* prior to July 16, 1979." *See* § 274.205(e)(2)(v)(B) (Emphasis added).[4]

On June 4, 1982, Anderson Petroleum, Inc. (Anderson) filed a petition for clarification of § 271.703 as it relates to the definition of recompletion tight formation gas.[5] On June 22, 1982, the Commission issued a Notice of Petition and invited comments on Anderson's petition (47 FR 29852, July 9, 1982). Several comments were received in response to the Notice.[6]

III. Discussion

A. *Recompletions in Zones Other than the Original Zone.* As currently written, § 271.703(b)(3) of the Commission's regulations provides that if a well was completed for production in a designated tight formation prior to July 16, 1979, then any gas produced through any recompletion in the well into that same designated tight formation would be ineligible to receive the tight formation incentive price.

The Commission agrees with the point made in the Anderson petition and supported in the comments filed by Amoco, Sun and El Paso, that the rule as presently written may lead to inequities since some jurisdictional agencies recommend for designation several producing zones as a single tight formation. Other jurisdictional agencies recommend that several producing zones in a geological interval each be designated as a separate tight formation. In the first case, gas produced from a recompletion in a well which was completed for production in that formation prior to July 16, 1979 can never qualify for the tight formation incentive price. In the second case, recompletion gas may qualify for the tight formation incentive price, where produced from a well which was completed for production prior to July 16, 1979, as long as the recompletion is located in a producing zone that was designated as a separate tight formation from the location in which the well was completed prior to July 16, 1979. The only distinction between the two cases is the manner in which the jurisdictional agency chose to make its recommendations to the Commission.[7]

The Commission believes that if a well which was completed for production in a designated tight formation, prior to July 16, 1979 is recompleted in a new location, production from the new completion location should qualify for the tight formation incentive price, as long as that gas *could not have been produced* through the original completion location. Allowing such production to qualify for the incentive price would rectify an unintended inequity, where eligibility for the tight formation price may turn not on the drilling history and characteristics of the well, but simply on the manner in which the jurisdictional agency chose to make its recommendation to the Commission. Without such incentives, producers might be induced to drill unnecessary new wells to produce this gas as new tight formation gas, defined in § 271.703(b)(2).

The Commission, therefore, proposes that natural gas produced through recompletion locations in wells which were completed for production in a designated tight formation before July 16, 1979 can qualify for the tight formation incentive price, provided that the gas produced therefrom could not have been produced from the original completion location. Specifically, the Commission proposes to amend the definition of recompletion tight formation gas, found in § 271.703(b)(3),

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[2] *See, e.g.*, Order No. 226, Docket No. RM79-76 (Ohio-2), issued May 7, 1982; Order No. 117, Docket No. RM79-76 (Texas-2), issued December 17, 1980; Order No. 148, Docket No. RM79-76 (Colorado-5), issued May 28, 1981.

[3] The July 16, 1979 date was selected in recognition of the President's policy initiative on tight formation. *See* Interim Rule in Docket No. RM79-76, issued February 20, 1980, *mimeo.* at 30, 45 FR 13414 (February 28, 1980), FERC Stat. and Regs. Regulations Preambles ¶ 30,130 at page 30,902

[4] The term "completed for pruduction," while not defined in the regulations, has been interpreted by the Commission in orders issued on review of jurisdictional agency determinations made under section 107(c)(5). In the "Final Order Reversing Well Category Determinations," issued December 31, 1981 in Docket No. GP81-42-000, 17 FERC ¶ 61,303, the Commission found that a well is "completed for production" is all downhole work on the well has been done (*e.g.* perforation and fracturing) and all downhold facilities are in place. Thus, if a well, the surface drilling of which began before July 16, 1979, did not have all downhole work completed and downhole facilities in place on that date, gas produced from the tight formation may qualify as recompletion tight formation gas.

[5] Anderson's petition consists of two requests. The first request is to clarify § 271.703(b)(2) to allow production from recompletions in zones other than the original zone in which the well was completed for production before July 16, 1979 to qualify for the tight formation incentive price.

The other request is to interpret the definition of "recompletion tight formation gas" in § 271.703(b)(3) to include additional volumes of gas produced from recompletion or workovers, including gas produced as a result of enhanced production work, involving perforation, fracturing, and other necessary downhole recompletion work, undertaken after the filing of Anderson's petition, from wells completed for production in a designated tight formation prior to July 16, 1979.

[6] Comments were filed by Amoco Production Company (Amoco), Sun Exploration and Production Company (Sun), El Paso Natural Gas Company (El Paso), Columbia Gas Transmission Company (Columbia) and Southern California Gas Company and its affiliate Pacific Lighting Gas Supply Company (SoCal). Anderson also filed reply comments to the comments filed in response to the Notice of Petition

[7] The Commission generally has adopted the recommendations in the form in which the jurisdictional agencies have submitted them.

to provide that gas produced in a designated tight formation from a completion location completed on or after the effective date of this rule would qualify for the incentive price if such gas could not have been produced through any completion location in existence in the wellbore prior to the effective date.

Additionally, the Commission proposes to amend § 274.205(e)(2). That section sets forth the filing requirements for well category determinations under section 107(c)(5), including recompletion tight formation gas determinations. Specifically, § 274.205(e)(2)(v)(B) would be amended so that the oath statement required by that subsection would be consistent with the proposed change in the defintion of recompletion tight formation gas.

A new § 274.205(e)(2)(vi) would be added to require the submission of a bottom-hole pressure survey for the subject completion and for all prior completions in the wellbore in the designated tight formation. These bottom-hole pressure surveys will corroborate whether the zone in which the well has been recompleted is indeed separate, *i.e.* the gas could not have been produced through any completion location in existence in the wellbore prior to the date the rule becomes effective.

If this proposed change is adopted, the Commission proposes to make this amendment effective for recompletions made after the date the final rule becomes effective, typically thirty days after publication in the **Federal Register**. A presumption can be made that recompletion activity not eligible for the incentive price prior to this date was not made in reliance on the tight formation incentive price. Nor does the Commission believe that it is necessary in this instance to provide an incentive to increase such production prior to the effective date of a final rule. However, the Commission invites comment on whether the rule should extend to recompletions which were made at an earlier date, and if so, what cut-off date would be appropriate.

Additionally, operators of wells seeking to qualify gas as recompletion tight formation gas under the proposed rule would have to file a separate application for a well category determination under section 107(c)(5) for each completion location in the designated tight formation in the wellbore. This will enable a determination to be made that each completion location is in a zone which is not in communication with the zone or zones which were completed prior to the effective date of the rule.

B. *Volume of Gas Produced as a Result of Enhanced Production Work.* Anderson also urges that the Commission extend the recompletion tight formation qualification to natural gas produced from a well completed for production in a designated tight formation prior to July 16, 1979, where additional volumes of gas are produced from that formation as a result of recompletion or workovers, including the application of enhanced recovery techniques. Anderson suggests that the Commission could limit the availability of the tight formation incentive price under this proposal to gas produced from a well which produced an average of 60 Mcf per production day or less prior to the enhanced recovery work, for a period of 120 days which falls entirely within 150 days prior to the date on which the application for qualification as recompletion tight formation gas is filed.[8] To support this proposal, Anderson cites the Commission's policy as expressed in Order No. 99, to encourage producers to bring tight formation gas into production as soon as possible.[9]

The Commission at this time has tentatively determined not to issue a proposed rule regarding Anderson's proposal to qualify additional volumes of gas as tight formation gas that are produced as a result of recompletions or workovers, including the application of enhanced recovery operations. First, to the extent that Anderson's proposal involves a recompletion into a new producing zone, it would be covered by the rule proposed above. Second, with respect to a recompletion or workover in the same producing zone, the effect of Anderson's proposal would be to grant the tight formation incentive price to gas produced from wells which qualify as stripper wells under section 108 of the NGPA, and thus are eligible for the incentive price set under that section. Moreover, under section 108, if a recognized enhanced recovery technique is applied to a stripper well, production can exceed the 60 Mcf per day limit without the gas' being disqualified from the section 108 price. No reason is proferred by Anderson as to why the section 108 incentive price is inadequate to permit the production of this gas. The Commission, therefore, has no basis at this time upon which to propose a higher incentive price for such gas. Third, if a well does not qualify for a stripper well designation, to the extent the work involves the application of a recognized enhanced recovery technique, it may qualify for a special incentive price under the Commission's enhanced production rule.[10]

[8] This tracks the Resolution adopted by the Interstate Oil Compact Commission (IOCC) on Incentives for Tight Sands Gas, dated December 8, 1981, and submitted by Anderson with its petition.

[9] Anderson's petition at 7, citing Order No. 99, mimeo. at 12.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) [11] requires certain statements, descriptions, and analyses of proposed rules that will have "a significant economic impact on a substantial number of small entities." [12] The Commission is not required to make an initial regulatory flexibility analysis if it certifies that a proposed rule will not, if promulgated, have a "significant economic impact on a substantial number of small entities." [13]

There are approximately 10,000 natural gas producers in the United States, many of which would be classified as small entities under the appropriate RFA definition.[14] This proposed rule might affect some of these entities by permitting them to receive a higher price for certain volumes of production. However, the total volumes of natural gas production that would be affected by this proposed rule constitute a statistically insignificant percentage of the nation's total natural gas production and supplies. Thus, while this proposed rule may have beneficial impact on some small entities, the Commission believes that the impact will not be "significant." Accordingly, the Commission certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

V. Comment Procedures

The Commission invites interested persons to submit written comments, data, views and other information concerning the matters set out in this Notice. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. e.s.t. March 10, 1983, will be considered by the Commission. Comments should reference Docket No.

[10] Order No.. 107, 45 FR 77421 (November 24, 1980), FERC Stat. and Regs. Regulation Preambles ¶ 30,210 (Docket No. RM80–50).

[11] 5 U.S.C. 601 through 612 (Supp. IV 1980)

[12] *Id.* at section 603(a).

[13] *Id.* at section 605(b).

[14] *Id.* at section 601(3) *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. IV 1980) Section 3 of the Small Business Act defines "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

RM82-34-000 on the outside of the envelope and on all documents submitted to the Commission.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours.

In addition, an opportunity for a public hearing to receive oral comments will be afforded in accordance with section 502(b) of the NGPA. Any person seeking to appear to give oral comments must file a request to do so with the Secretary by February 14, 1983. If a public hearing is held, the time and place will be published in the **Federal Register**.

(Department of Energy Organization Act, 42 U.S.C. 7101-7352; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

List of Subjects in 18 CFR Parts 271 and 274

Natural gas, Incentive price, Tight formations, High-cost gas.

In consideration of the foregoing, the Commission proposes to amend Part 271 and Part 274, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary

PART 271—CEILING PRICES

Section 271.703(b)(3) is revised to read as follows:

§ 271.703 Tight formations.

* * * * *

(b) *Definitions.*

* * * * *

(3) "Recompletion tight formation gas" is natural gas which is produced from a designated tight formation through a well, the surface drilling of which was begun before July 16, 1979.

(i) if such well was not completed for production from such designated formation prior to July 16, 1979, or

(ii) if such well was completed for production from such designated formation prior to July 16, 1979, such gas is produced from a completion location completed after [the effective date of the final rule], and such gas could not have been produced from any completion location which was in existence in the wellbore on or before (the effective date of the final rule].

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

Section 274.205(e)(2)(v) is revised and a new paragraph (e)(2)(vi) is added to read as follows:

§ 274.205 High-cost natural gas.

* * * * *

(e) *Natural gas produced from designated tight formations.*

* * * * *

(2) *Recompletion tight formation gas.*

* * * * *

(v) A statement by the applicant, under oath, that:

(A) The gas is being produced from a designated tight formation; and

(B) The well was not completed for production in the designated tight formation prior to July 16, 1979; or, if the well was completed for production in the designated tight formation prior to July 16, 1979, then the gas subject to the application is being produced from a completion location which was completed on or after [the effective date of the final rule], and such gas could not have been produced from any completion location which was in existence in the wellbore prior to [the effective date of the final rule]; and

(C) The applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusions.

(vi) If the well was completed for production in the designated tight formation prior to July 16, 1979, bottom hole pressure surveys for the completion locations which are the subject of the application and for all completion locations in the wellbore which were completed for production in the designated tight formation.

[FR Doc. 83-2832 Filed 1-31-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 78N-0372]

Stearic Acid and Calcium Stearate; Proposed Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that stearic acid and calcium stearate are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Comments by April 4, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John H. Dawson, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of stearic acid and calcium stearate has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of these ingredients.

Stearic and acid ($C_{17}H_{35}COOH$) is the highest molecular weight fatty acid that occurs abundantly in animal fats and oils. It occurs naturally as a glyceride in tallow and is the principal fatty acid residue in most commercially hydrogenated fats. Commercial stearic acid is a mixture of palmitic acid and stearic acid from hydrolyzed tallow or is a more homogeneous mixture either from fractional distillation of hydrolyzed tallow or from hydrolyzed, completely hydrogenated vegetable oil.

Calcium stearate ($Ca(C_{17}H_{35}COO)_2$) is the calcium salt of stearic acid. It is prepared by mixing an aqueous solution of calcium chloride with an aqueous solution of sodium stearate and collecting the precipitated calcium stearate.

Stearic acid was listed as GRAS as a substance migrating to food from cotton and cotton fabrics used for dry food packaging in a regulation published in the **Federal Register** of June 10, 1961 (26 FR 5224), and is currently listed as GRAS for this use in § 182.70 (21 CFR 182.70). It is considered GRAS by the Flavor and Extract Manufacturers Association (FEMA) for use in food as a flavoring agent or adjuvant. Stearic acid is listed in 21 CFR 172.615 as a component of chewing gum base, in 21 CFR 172.860 as a lubricant, binder, and defoaming agent in food and as a component of other food-grade additives, in 21 CFR 175.105 for use in adhesives, and in 21 CFR 175.300 as a surface lubricant in resinous and polymeric coatings.

In opinion letters, FDA has stated that calcium stearate made from edible-grade stearic aid that is free from chick edema factor is GRAS for use as a component of special dietary foods and of paper and paperboard food-packaging materials and as a stabilizer that is used with polyvinyl chloride in food-packaging materials. Calcium stearate is prior-sanctioned under 21 CFR 181.29 as a stabilizer in food-packaging materials and also permitted by FDA as a tablet lubricant. Calcium stearate is listed in Federal standards of identity as an optional anticaking agent in vanilla powder (see 21 CFR 169.179). It is regulated as a food additive in 21 CFR 172.863 as a binder, emulsifier, and anticaking agent in food and is listed in 21 CFR 173.340 as a defoaming agent used in processing beet sugar and yeast, in 21 CFR 175.300 as both a miscellaneous compound and a drier in the manufacture of resinous and polymeric coatings, in 21 CFR 177.2410 as a lubricant used in phenolic resins in molded articles, in 21 CFR 177.2600 as a plasticizer in rubber products intended for repeated use, in 21 CFR 178.2010 as an antioxidant and stabilizer for polymers, and in 21 CFR 179.45 as an adjuvant in polyethylene films used during the irradiation of prepackaged food.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which stearic acid and calcium stearate were used and the level of usage. The 1971 survey and a later 1977 NAS/NRC survey of food manufacturers on the use of food additives reported that stearic acid is used in food primarily as a lubricant or release agent but is also used as a formulation aid and as a flavoring ingredient or adjunct. The surveys also found that calcium stearate is used in food primarily as an anticaking agent, secondarily as a lubricant or release agent, and also as a formulation aid, emulsifier, and stabilizer and thickener. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these substances. FDA estimates from the 1971 NAS/NRC survey that the total amount of stearic acid used in food by the U.S. food industry in 1970 was 58,000 pounds, and that the amount of calcium stearate used in food was 620,000 pounds.

Calcium stearate and stearic acid have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered: (1) Chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. Particularly pertinent reports from the scientific literature have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available safety information on stearic acid and calcium stearate.[1] In the Select Committee's opinion:

> Tallow and stearic acid, one of its chemical components, are consumed as part of normal human diets primarily in meats and in smaller quantities as ingredients of shortening and oleomargarine. Calcium stearate appears to be a normal product of digestion of diets containing calcium and steric acid.* * *
>
> Feeding tests with animals show * * * a relatively low digestibility of * * *, stearic acid, and calcium stearate. None of the feeding tests involving amounts of these substances comparable to those estimated to be consumed as food additives showed any toxic effects. Furthermore, the toxicity of stearic acid at very high concentrations is markedly reduced by the presence in the diet of glycerides of substantially lower melting point, such as those containing unsaturated fatty acids. Carcinogenicity tests of stearic acid have shown negative results.
>
> This report is directed toward the GRAS status of * * * stearic acid as given in the Code of Federal Regulations § 121.101(i) as substances migrating to food from cotton and cotton fabrics used in dry food packaging and calcium stearate as a GRAS substance (unpublished). Even at the levels estimated as being consumed by man from all added sources of these substances there is no evidence to demonstrate a hazard to the public.[2]

The Select Committee concludes that, as a substance that may migrate to foods from cotton or cotton fabrics, no evidence in the available information on stearic acid demonstrates, or presents reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future. Further, the Select Committee states that no evidence in the available information on calcium stearate demonstrates, or presents reasonable grounds to suspect, a hazard to the public when it is used as a direct food additive at levels that are now current or that might reasonably be expected in the future.[3]

FDA has undertaken its own evaluation of all available information on these ingredients (including a mutagenic evaluation of calcium stearate that was not available when the Select Committee formed its conclusion) and concurs with the conclusions of the Select Committee. The agency concludes that no change in the current GRAS status of these ingredients is justified. Therefore, the agency proposes that stearic acid and calcium stearate be affirmed as GRAS for use in food.

FDA did not ask the Select Committee to evaluate direct food uses of stearic acid and, consequently, the Select Committee's safety review of stearic acid addressed only certain indirect food uses of this substance. Direct food uses of stearic acid as a lubricant, binder, and defoaming agent are covered by a food additive regulation (21 CFR 172.860). However, the NAS/NRC survey of food manufacturers establishes that this ingredient is currently being used as a flavoring agent in a variety of foods. The use of stearic acid as a flavoring agent is considered GRAS by FEMA but is not covered by the food additive regulation that governs the direct food uses of stearic acid (21 CFR 172.860). In its report, the Select Committee noted that stearic acid is regularly consumed as a glyceride component in meats, table spreads, and other foods. Furthermore, the Select Committee stated that none of the feeding studies that involved amounts of stearic acid comparable to those estimated to be consumed as food ingredients showed any toxic effects, and that the toxicity of stearic acid at very high concentrations is markedly reduced by the presence in the diet of

[1] "Evaluation of the Health Aspects of Tallow, Hydrogenated Tallow, Stearic Acid, and Calcium Stearate as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, pp. 6–10, 1975. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Servive, and because it represents a significant savings to the agency in publication costs, FDA had decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with good manufacturing practice.

[2] *Ibid.*, p. 10.

[3] *Ibid.*, p. 11.

glycerides of substantially lower melting point, such as those containing unsaturated fatty acids. From data collected on the flavor use of stearic acid during the 1971 NAS/NCR survey, and data collected on the food additive use of stearic acid during the 1977 NAS/NCR survey, the agency estimates that the flavor use of stearic acid represents less than 4 percent of the total amount of stearic acid added to food. Based upon its evaluation of the available data, the agency concludes that an adequate scientific basis exists for affirming as GRAS the use of stearic acid as a flavoring ingredient in food under conditions of current good manufacturing practice.

The major direct food uses of calcium stearate as a binder, emulsifier, and anticaking agent are covered by a food additive regulation (21 CFR 172.863). However, there are several additional direct food uses of this ingredient (as a flavor adjuvant in hard candy; as a lubricant in baked goods, chewing gum, and soft candy; and as a stabilizer and thickner in baked goods) that were reported during the NAS/NRC survey and that were reviewed by the Select Committee but that are not covered by the food additive regulations. The Select Committee, in its report, evaluated the use of calcium stearate as a general purpose food additive and concluded that use of calcium stearate in food at current or reasonably expected future levels is safe. Based upon its own evaluation of the available data, the agency concurs with the Select Committee's conclusion. Therefore, the agency concludes that the Select Committee's evaluation forms a sound scientific basis to affirm as GRAS the additional uses of calcium stearate that were reported during the NAS/NRC survey but that are not authorized under § 172.863.

However, the agency believes that stearic acid and calcium stearate should be of the same purity as required for these ingredients under §§172.860 and 172.863, respectively. Therefore, the agency is proposing under §§ 184.1090(b) and 184.1229(b) that stearic acid and calcium stearate meet the specifications for the ingredients in the Food Chemicals Codex, 3d Ed., as well as the specifications for fatty acids under § 172.860(b)(2).

In the past, when a substance has been listed in Part 182 (21 CFR Part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of stearic acid. The indirect uses of stearic acid are authorized under §§ 184.1(a) and 184.1090.

In the case of stearic acid, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of this ingredient. Therefore, the agency has not proposed any specific purity specifications for its indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA published a proposal in the **Federal Register** of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

Additionally, FDA is not proposing to include in the GRAS affirmation regulations for stearic acid and calcium stearate the levels of use and the food categories reported in the NAS/NRC 1971 food survey for these ingredients. The agency has concluded that a large margin of safety exists for the uses of these substances and that a reasonably foreseeable increase in the level of consumption of these substances will not adversely affect human health. This conclusion is based on the fact that the Select Committee found that calcium stearate is a normal product of digestion of diets containing calcium and stearic acid; that stearic acid has a low order of toxicity in experimental animals; that the amount of stearic acid and calcium stearate consumed as a result of their direct addition to food is small compared to the consumption of stearic acid that is a natural constituent of meat, shortening, and oleomargarine; and that stearic acid and calcium stearate are added for only a limited number of technical effects to food products. Therefore, the agency is proposing to affirm the GRAS status of stearic acid and calcium stearate when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the GRAS status of these substances is based on the evaluation of currently known uses, the proposed regulations set forth the technical effects that FDA evaluated.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopted a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Some GRAS ingredients related to those that are the subject of this proposal will be addressed elsewhere. For example, the GRAS status of specific glycerides will be addressed in the proposal on glycerides. The GRAS status of other fatty acid salts will be addressed in proposals on certain cations such as aluminum, magnesium, and zinc and in a proposal on indirect food use of certain fatty acids and salts of fatty acids. The GRAS status of tallow and hydrogenated tallow, substances reviewed by the Select Committee in its report on stearic acid and calcium stearate, will be addressed in a proposal concerning certain edible fats and oils.

Copies of the scientific literature review on tallow and stearic acid, the mutagenic report for calcium stearate, and the report of the Select Committee on tallow, hydrogenated tallow, stearic acid, and calcium stearate are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Tallow and stearic acid (scientific literature review)	PB-223-859/AS	A05	$10 50
Calcium stearate (mutagenic evaluation)	PB-279-260/AS	A03	7 50

Title	Order No.	Price code	Price [1]
Tallow, hydrogenated tallow, stearic acid, and calcium stearate (Select Committee report).	PB-262-661/AS	A02	6.00

[1] Price subject to change.

This proposed action does not affect the current use of stearic acid or calcium stearate in pet food or animal feed.

The format of the proposed regulations is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1090 and 184.1229 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effects listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.70 [Amended]

1. Part 182 is amended in § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry for "Stearic acid."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1090, to read as follows:

§ 184.1090 Stearic acid.

(a) Stearic Acid ($C_{18}H_{36}O_2$, CAS Reg. No. 5–11–4) is a white to yellowish-white solid. It occurs naturally as a glyceride in tallow and other animal or vegetable fats and oils and is a principal constituent of most commercially hydrogenated fats. It is produced commercially from hydrolyzed tallow or from hydrolyzed, completely hydrogenated vegetable oil which are derived from edible sources.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 313, which is incorporated by reference, and the requirements of § 172.860(b)(2) of this chapter. Copies of the Food Chemicals Codex are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice.

b. By adding new § 184.1229, to read as follows:

§ 184.1229 Calcium stearate.

(a) Calcium stearate ($Ca(C_{17}H_{35}COO)_2$, CAS Reg. No. 1529–23–0) is the calcium salt of stearic acid derived from edible sources. It is prepared as a white precipitate by mixing calcium chloride and sodium stearate in aqueous solution.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 64, which is incorporated by reference, and the requirements of § 172.860(b)(2) of this chapter. Copies of the Food Chemicals Codex are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; lubricant and release agent as defined in § 170.3(o)(18) of this chapter; and stabilizer and thickener as defined in § 170.3(o)(28) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice.

The agency is unaware of any prior sanction for use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to asset or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before April 4, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received

comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-2484 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

[Docket Nos. 77N-0230 and 77N-0316]

New Animal Drugs for Use in Animal Feeds; Penicillin- and Tetracycline (Chlortetracycline and Oxytetracycline)-Containing Premixes

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulation governing subtherapeutic use of antibiotic, nitrofuran, and sulfonamide drugs in animal feeds to permit approval of new animal drug applications (NADA's) for subtherapeutic use of penicillin- and tetracycline (chlortetracycline and oxytetracycline)-containing premixes. This action is consistent with Congressional committee report language stating that FDA should hold in abeyance any implementation of its proposals to restrict the subtherapeutic use of penicillin, chlortetracycline, and oxytetracycline for animal production purposes pending the final results from studies designed to collect new epidemiological information. The studies will not be completed before 1984.

DATE: Comments by April 4, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Bureau of Veterinary Medicine (HFV-232), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4940.

SUPPLEMENTARY INFORMATION: In 1973, FDA adopted § 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* (21 CFR 558.15), which was originally published as 21 CFR 135.109 (38 FR 9811; April 20, 1973). The regulation was adopted as a result of scientific evidence indicating that long-term, low-level use of antibiotic, nitrofuran, and sulfonamide drugs in animal feed results in an increased occurrence of multiple drugs-resistant bacteria associated with these animals. The evidence indicated that the drug resistance capability can be transferred to organisms that infect humans and could compromise human therapy with antibiotics and other antimicrobials.

The regulation required sponsors of new animal drug applications (NADA's) to submit, among other things, data on development of transferrable resistance from use of such drugs. After evaluating the data, the Director of the Bureau of Veterinary Medicine (the Director) issued notices of opportunity for hearing proposing to withdraw approval of NADA's for all penicillin-containing premixes intended for use in animal feeds (42 FR 43772; August 30, 1977) and for certain subtherapeutic uses of tetracycline (chlortetracycline and oxytetracycline) in animal feeds (42 FR 56264; October 21, 1970). The Commissioner of Food and Drugs (the Commissioner) subsequently published a statement that hearings would be held (43 FR 53827; November 17, 1978). However, the Commissioner has not issued a formal notice of hearing under 21 CFR Part 12.

Because there was disagreement among knowledgeable scientists as to whether the continued subtherapeutic use of these antibiotics would result in any significant human health risk, Congress (House of Representatives—Subcommittee on Agriculture and Related Agencies—Appropriation Bill, 1979, Report No. 95-1290) directed FDA to contract with the National Academy of Sciences (NAS) to study issues related to the use of antibiotics in animal feeds. Congress also stated that FDA should hold in abeyance any implementation of its proposed withdrawal actions pending final results of this study.

In March 1980, NAS completed its study and submitted its report entitled "The Effects on Human Health and Subtherapeutic Use of Antimicrobials in Animal Feeds." The report stated that "the postulations concerning the hazards to human health that might result from the addition of subtherapeutic antimicrobials to feeds have been neither proven nor disproven. The lack of data linking human illness with subtherapeutic levels of antimicrobials must not be equated with proof that the proposed hazards do not exist. The research necessary to establish and measure a definite risk has not been conducted and, indeed, may not be possible." Although a single comprehensive study which would settle the issue was considered technically impractical, the NAS committee suggested several studies which would provide useful information.

In view of the NAS report, Congress (House of Representatives—Subcommittee on Agriculture and Related Agencies—Appropriation Bill, 1981, Report No. 96-1095) instructed FDA to conduct additional research to collect new epidemiological information as suggested in the NAS report. These studies will not be completed before 1984. Congress has continued to state that FDA should hold in abeyance any implementation of its proposal to restrict subtherapeutic uses of penicillin, chlortetracycline, and oxytetracycline in animal feeds (see Agriculture, Rural Development and Related Agencies—Appropriation Bill, 1982, Senate Committee on Appropriations, Sen. Report 97-248, 97th Cong., 1st Sess., p. 79 (October 23, 1981)).

The regulation in § 558.15(a) provides that NADA's for subtherapeutic use of antimicrobials in animal feed would not be approved after specified dates in 1973 unless specific data were submitted to resolve questions concerning safety and effectiveness. A number of drug entities have met the scientific requirements of § 558.15 based on data submitted by their sponsors. Accordingly, the Bureau of Veterinary Medicine (BVM) has resumed approving new applications for those drugs. However, since 1973 potential marketers of penicillin, chlortetracycline, and oxytetracycline for subtherapeutic use in animal feed have not received approval for use of products containing such drugs or combinations containing those drugs because they have not met the requirements of § 558.15. Sponsors who submitted applications before the 1973 deadline, including some whose NADA's were approved only on an interim basis, have been able to market their products. Supplemental applications that would provide for new subtherapeutic feed uses of penicillin, chlortetracycline, and oxytetracylcine have not been approved since 1973.

In July 1981, sponsors of NADA's that are subject of the notices of opportunity for hearing petitioned FDA to withdraw the notices and several related notices, and to permit approval of new uses, including combinations of the drugs. In a notice appearing elsewhere in this issue of the **Federal Register**, FDA is announcing that it is denying those parts of the petitions that seek withdrawal of the notices.

However, in view the amount of time that has elapsed since adoption of § 558.15 in 1973 and issuance of the notices of opportunity for hearing in 1977, and the time needed to complete the new studies directed by Congress, the Commissioner has concluded that new approvals for penicillin, chlortetracycline, and oxytetracycline

should be permitted under specified conditions. The Commissioner finds that it is inequitable to continue to refuse to approve new applications and supplements. Furthermore, the Commissioner concludes that it is unlikely that such additional approvals will significantly increase the risk of human exposure to bacterial organisms resistant to penicillin and the tetracyclines.

Therefore, the Commissioner proposes to add new paragraph (h) to § 558.15. The paragraph would authorize the Director to resume the approval of new applications and supplements for single and combination drug ingredient products containing penicillin, chlortetracycline, and oxytetracycline until such time as the Commissioner issues a formal notice of hearing on the proposals to withdraw approval.

The Commissioner notes that, although he proposes to permit new approvals, the proposed changes in § 558.15 would place certain limits on those approvals. Applications would be required to contain all of the safety and effectiveness data ordinarily required for approval under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) except the human and animal safety data required by § 558.15(b). The Commissioner has concluded that repetition of § 558.15 safety studies would result in a needless waste of scarce resources. However, such applications will be subject to any future notice of hearing that might be issued concerning issues addressed in § 558.15 with respect to approvals of penicillin, chlortetracycline, and oxytetracycline.

In addition, labeling submitted with original and supplemental applications must conform, where applicable, with the agency's conclusions in the National Academy of Sciences/National Research Council Drug Efficacy Study Implementation review (NAS/NRC–DESI). New applications for such products are not required to contain effectiveness data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(ii)(*a*)(*4*) (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(ii)(*a*)(*4*)) of the animal drug regulations but may require bioequivalency or similar data as suggested in the BVM guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. Such sponsors will be required to submit tissue-residue data, when appropriate. Pioneer drug sponsors (those drugs were the subject of the DESI review) who have not submitted supplements containing revised labeling which conforms to the NAS/NRC–DESI and agency conclusions must do so before BVM will approve any supplements to such applications. The same requirement will apply, where applicable, to new applications for combination use of these drugs.

The proposed amendment to § 555.15 applies only to products containing penicillin, chlortetracycline, and oxytetracycline and combinations with other drugs. NADA's for other drug entities that have not met the human and animal safety requirements of § 558.15 will not be approved until the requirements are met.

The Commissioner believes that, if notices of hearing are issued with respect to penicillin, chlortetracycline, and oxytetracycline, the approvals of new applications and supplements (except those supplements that restrict use of the drugs) should cease. Therefore, the proposed regulation contains a provision that, at the discretion of the Commissioner, the Bureau of Veterinary Medicine will, upon the issuance of formal notices of hearing based on requirements established by §558.15, be permitted to discontinue filing and approval of such applications without opportunity for comment beyond that provided in this notice of proposed rulemaking.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(b)(12) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the subject drugs, premixes, and feeds by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal and determined that it will not result in a major rule as defined by the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that § 558.15 be amended by adding new paragraph (h) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.15 Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals.

* * * * *

(h) Notwithstanding the foregoing provisions of this section, and pending resolution of the ongoing epidemiological study, persons interested in obtaining approval for the marketing of drugs containing penicillin, chlortetracycline, and oxytetracycline, labeled for subtherapeutic use in animal feeds, may submit applications for single ingredient or combination drug ingredient products. Applications must contain all the safety and effectiveness data required by section 512 of the act expect the human and animal safety data required by paragraph (b) of this section. Where applicable, labeling must conform to the FDA conclusions with respect to the recommendations of the NAS/NRC-DESI review. Such applications are not required to contain effectiveness data as specified in § 514.111 of this chapter, but may require bioequivalency or similar data as well as tissue residue data as suggested in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. Sponsors of approved drugs containing penicillin, chlortetracycline, and oxytetracycline, labeled for subtherapeutic use in animal feeds, may submit supplemental applications. If such drugs were NAS/NRC-DESI reviewed, the suppplemental application must contain labeling conforming to FDA conclusions before it will be approved. Where applicable, labeling conforming to the agency conclusions as in the NAS/NRC-DESI review must be submitted with applications for combinations of drugs containing penicillin, chlortetracycline, and oxytetracycline for subtherapeutic use in animal feed. If a notice of hearing is issued concerning withdrawal of approval of penicillin, chlortetracycline, and oxytetracycline drugs based on requirements established by § 558.15, the agency will, at its discretion, not accept applications for filing or process pending applications that were filed.

Interested persons may on or before April 4, 1983 submit to the Docket Management Branch (address above)

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written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 11, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 2840 Filed 1-31-83, 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

42 CFR Part 57

Grants for Advanced Nurse Training Programs

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the regulations implementing the Advanced Nurse Training Grants Programs by deleting the designation of six nursing specialties as the only specialty areas requiring advanced training and by removing funding preferences for certain specialties. When the regulations for the Advanced Nurse Training Programs were published in 1978, categories identified as eligible for support reflected the interests of the Department and were broad enough to allow many important advanced nurse training programs to apply for funds to develop needed programs. Since that time it has become evident that there are other areas of high priority to the Department that are not eligible for support, e.g., family oriented nursing programs and programs directed to the provision of care to individuals with chronic disease. As societal needs and Departmental interests have changed and broadened it appears appropriate to eliminate the current restriction on eligibility so as to permit support of a wider range of advanced nursing programs.

DATE: Comments must be received on or before March 3, 1983.

ADDRESS: Written comments may be addressed to the Director, Bureau of Health professions, Health Resources and Services Administration, 3700 East-West Highway, Center Building, Fourth Floor, Hyattsville, Maryland 20782. All comments received will be available or public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Miss Jo Eleanor Elliott, R.N., M.A., Director, Division of Nursing, Bureau of Health Professions, Room 3–50, Health Resources and Services Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, (301)–436–6623.

SUPPLEMENTARY INFORMATION: Section 821 of the PHS Act authorizes the award of grants to public and nonprofit private collegiate schools of nursing to meet the cost of projects to: (1) Plan, develop and operate, (2) significantly expand, or (3) maintain existing programs for the advanced training of professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialties (including service as nurse clinicians) determined by the Secretary to require advanced training. Regulations implementing Section 821 set forth in 42 CFR Part 57 Subpart Z provide that the following six professional nursing specialties require advanced nurse training: (1) Geriatric nursing, (2) community health nursing (3) maternal-child nursing, (4) acute care nursing, (5) medical-surgical nursing, (6) adult nursing.

When the regulations for the Advanced Nurse Training Program were published in 1978, categories identified as eligible for support reflected the interests of the Department and were broad enough to allow many important advanced nurse training programs to apply for funds to develop needed programs. Since that time it has become evident that there are other areas of high priority to the Department that are not eligible for support, e.g., family oriented nursing programs and programs directed to the provision of care to individuals with chronic disease. As societal needs and Departmental interests have changed and broadened it appears appropriate to eliminate the current restriction on eligibility so as to permit support of a wider range of advanced nursing programs. Consequently, this proposed amendment deletes the designation of six nursing specialties from the definition of "advanced nurse training program" and removes the funding preferences for certain specialties. However, the Secretary would be authorized to announce special funding preferences should specific needs warrant such action. Preferences would be announced by publishing a notice in the **Federal Register.**

Executive Order 12291, Federal Regulation and Regulatory Flexibility Act

The Department has determined that this is not a major rule for the purpose of Executive Order 12291, Federal Regulation because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The amount of Federal grant funds allocated under Section 821 of the Public Health Service Act will not be changed as a result of this proposed amendment to the final regulation. Since this proposed amendment merely removes eligibility restrictions from the existing rules, and will not adverely affect projects currently receiving support, the Secretary has determined that these regulations do not meet any criteria for a major rule under Executive Order 12291, and a regulatory impact analysis is not required. Further, the regulations will not have a significant economic impact on a substantial number of small entities and a Regulatory Flexibility Act of 1980 (Pub. L. 96–354) is not required.

Paperwork Reduction Act: The recordkeeping and reporting requirements in §§ 57.2504 and 57.2513 and the application forms and instructions for this grant program were submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980. OMB approval numbers are 0935–0066 for the continuation application form and 0935–0065 for the competing application form.

List of Subjects in 42 CFR Part 57

Dental health, Education of disadvantaged, Educational facilities, Educational study programs, Emergency medical services, Grant programs—education, Grant programs—health, Grant programs—nursing, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Nursing advanced training, Scholarships and fellowships, Student aid.

Accordingly, 42 CFR Part 57 Subpart Z is proposed to be amended as set forth below.

Dated: December 30, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: January 19, 1983.

Richard S. Schweiker,

Secretary.

PART 57 [AMENDED]

42 CFR Part 57 Subpart Z is proposed to be amended as follows:

Subpart Z—Grants for Advanced Nurse Training Programs

1.The authority citation for Subpart Z is revised to read as follows: Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 821 of the Public Health Service Act, 89 Stat. 361; as amended by Pub. L. 97–35, 95 Stat. 930 (42 U.S.C. 296*l*).

2. Section 57. 2502 is amended by revising the definition for "Advanced nurse training program" to read as follows:

§ 57.2502 Definitions.

* * * * *

"Advanced nurse training program" means a program of study in a collegiate school of nursing leading to a graduate degree in nursing which trains professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialties (including service as nurse clinicians) determined by the Secretary to require advanced training.

* * * * *

§ 57.2503 [Amended]

3. In § 57.2503 paragraph (b), footnote 1 is removed.

§ 57.2504 [Amended]

4. In § 57.2504 paragraph (a), footnote 2 is redesignated as footnote 1 and is revised to read as follows:

* * * * *

[1]Applications and instructions may be obtained from the Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Department of Health and Human Services, Center Building, Room 3–50, 3700 East-West Highway, Hyattsville, Maryland 20782.

* * * * *

5.In § 57.2506, paragraph (b) is revised to read as follows:

§ 57.2506 Evaluation and grant awards.

* * * * *

(b) *Funding preference.* The Secretary will announce special funding preferences should specific needs warrant such action. Preferences will be announced by publishing a notice in the **Federal Register**.

* * * * *

[FR. DOC 83–2690 Filed 1–31–83: 8:45 am]

BILLING CODE 4160–16–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Ex Parte 241 (Sub-1)]

Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution Rules and Practices

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments to proposed removal of rule.

SUMMARY: In the **Federal Register** notice of December 30, 1982, (47 FR 48325), the Commission reopened this railroad freight car proceeding to assess the need to retain 49 CFR 1033.15, a car service rule. The date comments were due in this proceeding was set 30 days after **Federal Register** publication or January 31, 1983. At the request of the Association of American Railroads, the due date has been postponed 30 days to March 2, 1983.

DATES: Comments are due March 2, 1983.

ADDRESSES: An original and 15 copies of all comments should be sent to: Room 5344, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: January 25, 1983.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2647 Filed 1–31–83, 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 48, No. 22
Tuesday, February 1, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

National Voluntary Service Advisory Council; Meeting

AGENCY: ACTION.

ACTION: National Voluntary Service Advisory Council; Meeting.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463) notice is hereby given that a meeting of the National Voluntary Service Advisory Council (Council) will be held on February 17, 1983 from 8:30 A.M.–5:30 P.M. at ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525. For further details concerning the room location, contact Catherine Barr, Special Assistant to the Assistant Director of ACTION for Policy and Planning, at (202) 254–8523.

The purpose of this meeting is to enable the Council members to review the nominees submitted for a Volunteer Action Award and to compile a final list of recommended individuals for such an award for the Director of ACTION to submit to the President. In accordance with the determination of the Director of ACTION, the meeting will be closed to the public pursuant to subsection (c)(9)(B) of Section 552b of Title 5, United States Code. The determination of the Director of ACTION is available to the public at 806 Connecticut Avenue, NW., Washington, D.C. 20525 during the regular working hours of 8:30 A.M. to 5:15 P.M.

Signed this 26th day of January 1983 in Washington, D.C.

Thomas W. Pauken,
Director, ACTION.

[FR Doc. 83–2885 Filed 1–31–83; 8:45 am]
BILLING CODE 6050–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Agricultural Marketing Service

Wool and Mohair Advertising and Promotion

AGENCY: Agricultural Stabilization and Conservation Service (ASCS) and Agricultural Marketing Service (AMS), USDA.

ACTION: Notice of results of referendum.

SUMMARY: The purpose of this notice is to announce that the requisite number of sheep and wool producers voting in a referendum have approved a new agreement between the U.S. Department of Agriculture (USDA) and the American Sheep Producers Council, Inc. (ASPC). The referendum was conducted by the Secretary of Agriculture in accordance with provisions of Section 708 of the National Wool Act of 1954, as amended (7 U.S.C. 1787) the "Wood Act." The agreement authorizes USDA to make deductions for the incentive payments made to producers under the Act on shorn wool and unshorn lambs marketed during the years 1982 through 1985. Amounts so deducted are to be used by ASPC for advertising and sales promotion programs and programs for the dissemination of information on product quality, production management, and marketing improvement for wool, sheep, or the products thereof.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Liverstock, Meat, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, (202) 447–2650.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "nonmajor." It has been determined that this notice will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since ASCS and AMS are not required by 5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This title and number of the Federal assistance program to which this notice applies are Title—National Wool Act Payments and Number—10.059 as found in the Catalog of Federal Domestic Assistance.

Section 708 of the Wool Act authorizes the Secretary of Agriculture to enter into agreements with or to approve marketing agreements entered into between marketing cooperatives, trade associations, or other organizations for the purpose of developing advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement for wool, mohair, sheep, or goats or their products.

In accordance with Section 708, the Secretary has entered into such an agreement with the ASPC for the 1982 through 1985 marketing years. The agreement becomes effective following approval by the sheep and wool producers in a referendum and upon signing by the appropriate officials of ASPC and USDA. A referendum was held during the period of August 16 through August 27, 1982. Section 708 provides that approval of the Agreement by a minimum of two-thirds of the voting producers or by producers who have produced two-thirds of the volume of wool represented in the referendum is required for approval. In the referendum 23,800 producers, constituting 72.6 percent of the voting producers, voted in favor of the agreement and 9,987 producers or 27.4 percent voted against it. The producers voting in favor owned 4,972,087 sheep or 76.0 percent of the sheep or lambs owned by all the voting producers. Producers owning 1,570,195 sheep or 24.0 percent opposed the agreement. Anyone who owned sheep or lambs 6 months of age or older in the United States, continuously, for a period of at least 30 days during the calendar year 1981 was eligible to vote.

The new agreement provides that funds would be made available to the ASPC through pro rata deductions from any price-support payments made to producers for the 1982 through the 1985 marketing years. The agreement authorizes the use of funds to pay expenses for the conduct of advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement for wool, sheep, or the products thereof.

Under the new agreement, deductions will be made from price support payments on 1982 through 1985 marketings at a rate not to exceed 4 cents per pound of shorn wool marketed and at a comparable rate as determined by the Administrator, AMS, on unshorn lambs and yearlings (pulled wool) marketed. Deductions of 4 cents per pound will be made from payments on 1982 marketings of shorn wool.

Notice

In accordance with delegations of authority by the Secretary of Agriculture (38 FR 22955, August 28, 1973, 39 FR 23076, June 26, 1974), it has been determined that the agreement providing for pro rata deductions to be made from price-support payments which are made to producers of shorn wool, unshorn lambs, and pulled wool for the 1982 through 1985 marketing years has the approval of the number of producers required by Section 708 of the National Wool Act of 1954, as amended. More than two-thirds of the total number of producers voting and producers of more than two-thirds of the total volume of production represented in the referendum indicated their approval of such agreement.

The agreement was signed and became effective on January 26, 1983.

Done at Washington, D.C. January 26, 1983.

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

William T. Manley,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 83-2689 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-02-M

Federal Grain Inspection Service

Official Weighing Designation of Jinks Grain Weighing Service (IL) and Assignment of Geographic Area

AGENCY: Federal Grain Inspection Service USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation of the Jinks Grain Weighing Service as an official agency responsible for providing weighing services, under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act)

EFFECTIVE DATE: March 1, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The September 1, 1982, issue of the **Federal Register** (47 FR 38562) contained a notice from the Federal Grain Inspection Service (FGIS) requesting applications for designation as the agency to provide official weighing services within a specified assigned area. Applications were to be postmarked by October 1, 1982.

FGIS announced the names of three applicants, who proposed to establish new agencies, for designation for this agency and requested comments on same in the Novemeber 1, 1982, issue of the **Federal Register** (47 FR 49433). Comments were to be postmarked by December 16, 1982. One favorable comment was received regarding the designation of an applicant for this area. The commentor recommended Mr. Robert H. Jinks; no comments were received concerning the other two applicants, Mr. Al Johnson and Mr. Larry King. During the time comments were being received, Mr. King withdrew his applicaton from consideration.

After considering all available information in relation to the criteria for designation in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), it has been determined that Jinks Grain Weighing Service is better able to provide official weighing services and has been selected for this geographic area. The assigned area is the entire geographic area, as described in the September 1 issue of the **Federal Register**.

Effective March 1, 1983, and terminating February 28, 1986, the responsibility for providing official weighing services in the geographic area, as specified above, will be assigned to the Jinks Grain Weighing Service. Official inspection services have been and will continue to be provided in the above-described area by the Champaign-Danville Grain Inspection Departments, Inc., Danville, Illinois.

Interested persons may contact the agency at the following address to obtain information about receiving weighing service: Jinks Grain Weighing Service, R.R. 1, Box 81, Homer, IL 61849, (217) 733-2744

(Sec. 8, Sec. 9, Pub. L. 94-582, 90 Stat. 2873, 2875 (7 U.S.C. 79, 79a))

Dated: January 14, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83-2197 Filed 1-31-83; 8:45 am]

BILLING CODE 3410-02-M

Renewals of Designation of Frankfort Grain Inspection, Inc. (IN), and Paris Illinois Grain Inspection (IL)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the renewals of designation of the Frankfort Grain Inspection, Inc. (Frankfort), and Paris Illinois Grain Inspection (Paris), as official agencies responsible for providing inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: March 1, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The September 1, 1982, issue of the **Federal Register** (47 FR 38564) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Frankfort's and Paris' designations would terminate on February 28, 1983, and requesting applications for designation as the agency to provide official services within each specified

assigned area. Applications were to be postmarked by October 1, 1982.

FGIS announced the names of the applicants for designation for each agency and requested comments on same in the November 1, 1982, issue of the **Federal Register** (47 FR 49431). Comments were to be postmarked by December 16, 1982. No comments were received regarding the renewals of designation of Frankfort and Paris (the only applicants for each respective designation) as official agencies.

After considering all available information in relation to the criteria for designation in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), it has been determined that Frankfort and Paris are able to provide official services in the geographic area for which their designations are being renewed. Each assigned area is the entire geographic area, as described in the September 1 issue of the **Federal Register**.

Effective March 1, 1983, and terminating February 28, 1986, the responsibility for providing official inspection services in each geographic area, as specified above, will be asisgned to Frankfort and Paris, respectively.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency and one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide official services not requiring a licensed inspection to all locations within their geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons may also obtain a list of the specified service points by contacting the agencies at the following addresses:

Frankfort Grain Inspection, Inc., R.R. #2, Frankfort, IN 46041

Paris Illinois Grain Inspection, 1020 North Central Avenue, Paris, IL 61944

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: January 14, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83–2194 Filed 1–31–83; 8:45 am]

BILLING CODE 3410–02–M

Request for Comments on Applicants for Designation in the Areas Currently Assigned to Cedar Rapids Grain Service, Inc. (IA), Champaign-Danville Grain Inspection Departments, Inc. (IL), and Springfield Grain Inspection Department (IL)

AGENCY: Federal Grain Inspection Service USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties the applicants for designation as the official agency in the areas currently assigned to Cedar Rapids Grain Service, Inc., Campaign-Danville Grain Inspection Departments, Inc., and Springfield Grain Inspection Department. The designations terminate May 31, 1983.

DATE: Comments to be postmarked on or before March 18, 1983.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The December 1, 1982, issue of the **Federal Register** (47 FR 54128) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to the official agencies. Applications were to be postmarked by January 3, 1983.

Cedar Rapids Grain Service, Inc., the only applicant, requested designation for all of the geographic area currently assigned to that agency. Champaign-Danville Grain Inspection Departments, Inc., the only applicant, requested designation for all of the geographic area currently assigned to that agency, Springfield Grain Inspection Department, the only applicant, requested designation of all of the geographic area currently assigned to that agency. Cedar Rapids, Champaign-Danville, and Springfield each applied for a renewal of designation for a 3-year period.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants for designation. All comments must be submitted to the Regulations and Directives Management Staff, specified in the address section of this notice, and postmarked not later than March 18, 1983.

Consideration will be given to comments filed and to other information available before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

(Sec. 8, Pub.L. 94–584, 90 Stat. 2873 (7 U.S.C. 79))

Dated: January 14, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83–2195 Filed 1–31–83; 8:45 am]

BILLING CODE 3410–02–M

Request for Applicants for Designation To Perform Official Services in the Geographic Areas Currently Assigned to Eastern Iowa Grain Inspection and Weighing Service, Inc. (IA), and Keokuk Grain Inspection Service, Inc. (IA)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), designations of official agencies shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures provided in the Act. This notice announces that the designations of two agencies will terminate, in accordance with the Act, and requests applications from parties, including the agency currently designated, who are interested in being designated as official agencies to conduct official services in the geographic area currently assigned to each of the specified agencies. The official agencies are Eastern Iowa Grain Inspection and Weighing Service, Inc., and Keokuk Grain Inspection Service, Inc.

DATE: Applications to be postmarked on or before Mark 3, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection

Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250. All applications submitted pursuant to this notice will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the Act (7 U.S.C. 71 *et seq.*, at 79(f)(1)), specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official inspection services after a determination is made that the applicant is better able than any other applicant to provide official inspection services in an assigned geographic area.

Eastern Iowa Grain Inspection and Weighing Service, Inc. (Eastern Iowa), R.R. #1, Box 588, Blue Grass, Iowa 52726, was designated as an official agency under the Act for the performance of official inspection functions on September 30, 1978. Keokuk Grain Inspection Service, Inc. (Keokuk), RR 2, Prices Creek, Keokuk, Iowa 52632, was designated as an official agency under the Act for the performance of official inspection functions on September 25, 1978.

The agencies' designations will terminate on July 31, 1983. This date reflects administrative extensions of official agency designations as discussed in the July 16, 1979, issue of the **Federal Register** (44 FR 41275). Section 7(g)(1) of the Act states generally that designations of official agencies shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Eastern Iowa in Iowa and Illinois, pursuant to Section 7(f)(2) of the Act, and which is the geographic area that may be assigned to the applicant selected for designation is the following:

Bounded: on the North by Interstate 80 from the western Iowa County line east to State Route 38; State Route 38 north to State Route 130; State Route 130 east to Scott County; the western and northern Scott County lines east to the Mississippi River (all in Iowa);

Bounded: on the East from the Mississippi River, the eastern Rock Island County line; the northern Henry and Bureau County lines east to State Route 88; State Route 88 south; the southern Bureau County line; the eastern and southern Henry County lines; the eastern Knox County line (all in Illinois);

Bounded: on the South by the southern Knox County line; the eastern and southern Warren County lines, the southern Henderson County line west to the Mississippi River (all in Illinois); the southern Des Moines, Henry, Jefferson, and Wapello County lines (all in Iowa); and

Bounded: on the West by the western and northern Wapello County lines; the western and northern Keokuk County lines; the western Iowa County line north to Interstate 80 (all in Iowa).

The area also includes the following Counties: Delaware and Dubuque Counties, Iowa; and JoDaviess County, Illinois.

Exceptions to the described geographic area are the following locations situated inside Eastern Iowa's area which have been and will continue to be serviced by the following official agencies:

1. McGregor Grain Inspection and Weighing Corporation, Inc., will service Paris and Sons Grain Elevator, Masonville, Delaware County, Iowa; and

2. Keokuk Grain Inspection Service, Inc., will service Central Soya, Inc., Dallas City, and Lomax Grain Elevator, Lomax, Henderson County, Illinois.

In addition, Eastern Iowa has provided service on an interim basis in a specified geographic area in Illinois. This geographic area, which is also available for assignment to the applicant selected for designation, is as follows:

Bounded: on the North by the northern Stephenson, Winnebago, Boone, McHenry, and Lake County lines east to Interstate 94;

Bounded: on the East by Interstate 94 south to Interstate 294; Interstate 294 south to Interstate 55; Interstate 55 southwest to the southern Dupage County line;

Bounded: on the South by the southern Dupage, Kendall, Dekalb, and Lee County lines; and

Bounded: on the west by the western Lee, Ogle, and Stephenson County lines.

The following location, in Illinois, outside of the foregoing contiguous geographic area, also has been provided interim service by Eastern Iowa and is part of the geographic area that may be assigned to the applicant selected for designation: Leland Farmers Company, Leland, LaSalle County.

The geographic area presently assigned to Keokuk in Iowa and Illinois, pursuant to Section 7(f)(2) of the Act, and which is the geographic area that may be assigned to the applicant selected for designation includes the following Counties: Davis, Lee, and Van Buren Counties, Iowa; and Hancock and McDonough Counties, Illinois.

The following locations, in Illinois, outside of the foregoing contiguous geographic area, are presently assigned to Keokuk and are part of the geographic area, that may be assigned to the applicant selected for designation:

1. Central Soya, Inc., Dallas City, and Lomax Grain Elevator, Lomax, Henderson County; and

2. Ursa Farmers Co-op, Meyer, and Ursa Farmers Co-op, Ursa, Adams County.

Interested parties, including Eastern Iowa and Keokuk, are hereby given opportunity to apply for designation as the official agency to perform the official services in each geographic areas, as specified above, under the provisions of Section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. Designations in each specified geographic area are for the period beginning August 1, 1983, and terminating July 31, 1986. Parties wishing to apply for this designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than March 3, 1983, to be eligible for consideration.

In making a determination as to which applicant will be designated to provide official services in the geographic area, consideration will be given to applications submitted and other available information.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: January 14 1983.

J. T. Abshier,

Director, compliance Division.

[FR Doc. 83–2196 Filed 1–31–83; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

Mount St. Helens National Volcanic Monument, Gifford Pinchot National Forest, Cowlitz, Lewis, and Skamania Counties, Washington; Intent To Prepare an Environmental Impact Statement

The U.S. Department of Agriculture, Forest Service, will prepare an

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environmental impact statement which will present a detailed and comprehensive management plan for lands within and immediately adjacent to the Mount St. Helens National Volcanic Monument.

In October 1981, the Mount St. Helens Land Management Plan was approved which allocated 174,100 acres of land surrounding Mount St. Helens to protect the significant geologic, ecologic, and cultural features in the impact area for public education, interpretation, recreation, and research as well as the coordinated multiple use management of adjacent lands. Subsequent to this plan, the President signed an Act in August 1982, establishing an area of approximately one hundred and ten thousand acres designated as the Mount St. Helens National Volcanic Monument. This Act required the development of a "detailed and comprehensive management plan for the Monument," including, but not limited to:

(1) Measures for the preservation of the natural geologic and ecologic processes and integrity of the resources;

(2) Indications of types, locations, and general intensities of development and access routes associated with the public understanding, use, and enjoyment of the area, including anticipated timetables and costs;

(3) Identifiction of, and implementation plans for, visitor carrying capacities of the area; and

(4) Indications of any potential modifications of the external boundaries of the area, and the reasons therefore.

This Comprehensive Management Plan will present a range of alternative development options pursuant to these legislative guidelines as well as those established in the Land Management Plan.

Several scoping sessions will be held in February 1983 to gain information on the issues to be analyzed. Federal, State, and local agencies, individuals, and organizations who may be interested in or affected by the decision will be invited to participate in the scoping process.

Jeff Sirmon, Regional Forester of the Pacific Northwest Region in Portland, Oregon, is the responsible official. Questions about the proposed action and environmental impact statement should be directed to Ed Osmond, Recreation Staff, Gifford Pinchot National Forest (telephone 206–696–7524).

The analysis is expected to take about 12 months. The draft environmental impact statement should be available for public review by November 1983.

Written comments and suggestions regarding this analysis should be sent to Robert Tokarczyk, Forest Supervisor, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Washington 98660.

Dated: January 24, 1983.

James F. Torrence,

Deputy Regional Forester for Resources.

[FR Doc. 83–2889 Filed 1–31–83; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Mars Hill-Grove Street Critical Area Treatment RC&D Measure, Maine; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mars Hill—Grove Street Critical Area Treatment RC&D Measure, Aroostook County, Maine.

FOR FURTHER INFORMATION CONTACT: Mr. Billy R. Abercrombie, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine. 04473, telephone 207–866–2132.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Billy R. Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for control of critically eroding cropland. The planned works of improvement include a graded diversion, storage diversion, rock-lined waterway, water control structure and seeding the area disturbed by construction.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Billy R. Abercrombie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 19, 1983.

Billy R. Abercrombie,

State Conservationist.

[FR Doc. 83–2883 Filed 1–31–83; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Preliminary Determination of Sales at Less Than Fair Value; High-Capacity Pagers From Japan

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value; high-capacity pagers from Japan.

SUMMARY: We have preliminarily determined that high-capacity pagers from Japan are being, or are likely to be, sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liqudation" section of this notice.

We also have preliminarily determined that imports of high-capacity pagers featuring a display from Nippon Electric Company, Ltd. should be subject to a zero deposit rate because we found a 0.47 percent weighted-average margin. This margin is *de minimis*.

If this investigation proceeds normally, we will make a final determination by April 11, 1982.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Office of Investigations, Import Administration, International Trade Administration, U.S. Department

of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–3464.

SUPPLEMENTARY INFORMATION: .

Preliminary Determination

We have preliminarily determined that there is a reasonable basis to believe or suspect that high-capacity pagers from Japan are being, or are likely to be, sold in the United States at less than "fair value," as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

We also have preliminarily determined that imports of high-capacity pagers featuring a display from Nippon Electric Company, Ltd. should be subject to a zero deposit rate because we found a 0.47 percent weighted-average margin. This is *de minimis*.

We have found that the foreign market value of tone-only pagers exceeded the United States price on 99 percent of sales. These margins ranged for 0.2 percent to 99.8 percent. The overall weighted-average margin on all sales compared is 46.31 percent. We also have found that the foreign market value of display pagers from NEC exceeded the United States price. The overall weighted-average margin, however, on all sales compared was 0.47 percent. This margin is *de minimis*. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by April 11, 1983.

Case History

On August 19, 1982, we received a petition form Motorola, Inc., filed on behalf of the U.S. industry producing high-capactiy pagers. In accordance with the filing requirements of section 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petition alleged that high-capacity pagers from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on September 8, 1982 (47 FR 40679). The ITC subsequently found, on October 4, 1982, that there is a reasonable indication that imports of high-capacity pagers are materially injuring, or are threatening to materially injure, a United States industry.

The petition alleged that Nippon Electric Co., Ltd. (NEC) and Matsushita Communication Industrial Co., Ltd. (MCI) produce high-capactiy pagers for export to the United States. Questionnaires were presented to the respondents on September 23, 1982. Responses were received on November 17, and December 22, 1982.

Scope of Investigation

For purposes of this investigation, the term "high-capacity pagers" covers paging signal receivers 3,000 or more of which can be operated in a paging system on a single radio frequency channel. This investigation is intended to cover all high-capacity pagers regardless of tariff classifications. The merchandise is currently classified under item numbers 685.24 (solid-state (tubeless) radio receivers), 685.2475 (radio receivers above 30 MHz, but not over 400 MHz), 685.2480 (receivers above 400 MHz, but not over 1,000 MHz), and 685.7035 (other sound signalling apparatus) of the *Tariff Schedules of the United States. (TSUS)*.

Since NEC and MCI manufacture virtually all of the high-capacity pagers exported from Japan to the United States, we limited our investigation to them.

This investigation covers the period from March 1, 1982 to August 31, 1982 for purchase price sales and for exporter's sales price transactions. However, since MCI did not have any sales to the U.S. during the above period, we used August 1, 1981 through January 31, 1982 for that company only.

Fair Value Comparison

To determine whether sales of the subject merchandise by MCI in the United States were made at less than fair value, we compared the purchase price with the foreign market value. For NEC, however, we compared exporter's sales price with the foreign market value. Where adjusted foreign market prices exceeded adjusted United States prices, we have preliminarily determined that there are sales at less than fair value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by MCI because the merchandise was sold to unrelated purchasers prior to its importation into the United States. For NEC the United States price was represented by the exporter's sales price.

We calculated purchase price for MCI based on a CIF, packed price to unrelated purchasers in the U.S. with deductions from that price for the following items: inland and ocean freight costs, shipping charges and insurance costs.

We calculated exporter's sales price for U.S. sales by NEC by deducting from the gross price to unrelated purchasers amounts for the following items, where appropriate: Foreign brokerage, U.S. brokerage, ocean freight, marine insurance, U.S. duty, foreign inland freight, U.S. inland freight, U.S. insurance, foreign insurance, commissions to unrelated sellers, other indirect selling expenses, warranty expenses, credit expenses, technical services, assumed advertising expenses and discounts. We did not use NEC's figure for credit expense because we deemed the interest rate used to be too low. Instead, we calculated the credit expense predicated on the U.S. prime rate in effect during the period of investigation.

Foreign Market Value

We have preliminarily determined that the tone-only pagers sold by MCI and NEC in Japan are such or similar to the tone-only pagers sold in the United States. Therefore, we have chosen sales of tone-only pagers by MCI and NEC to unrelated purchasers in Japan as our basis for foreign market value for purposes of making comparison with tone-only pagers sold in the U.S. In addition, we have preliminarily determined that the tone-only pagers sold by NEC in Japan are not such or similar to the display pagers sold in the United States. Therefore, we have chosen sales of display pagers by NEC to unrelated third-country purchasers in Hong Kong as our basis for foreign market value for purposes of making comparisons with display pagers sold in the United States.

We calculated the foreign market value for MCI and NEC by deducting from the gross, packed CIF or C&F prices the following items, where appropriate: freight and insurance. For MCI, we made adjustments, where appropriate for differences in the merchandise, packing costs, warranty expenses, credit expense and technical services expenses. We made additional deductions to NEC's foreign market value for credit expense, technical services and warranty expense. We made adjustments to NEC's foreign market value for differences in the merchandise and packing.

In addition, indirect selling expenses of NEC were deducted to offset U.S.

indirect selling expenses. In instances where NEC's U.S. sales involved commissions to unrelated sellers, deductions were made for indirect selling expenses in the home market to offset U.S. commissions. Adjustments for differences in merchandise for both companies were based on differences in cost of material, direct labor and directly related factory overhead.

In making adjustments to the foreign market value, we made several changes to the figures offered by the respondents. For NEC, we preliminarily determined that we could not use the figures offered by it concerning warranty charges in the home market and technical services in Hong Kong. The reason for this decision was that NEC pays a wholly-owned subsidiary, Nippon Electric Mobile Radio Service Company, for these services. NEC pays this subsidiary approximately four percent of the value of each pager for warranty services. NEC's response stated that the failure rate for domestic pagers is 0.2 percent. Consequently, the deduction for four percent does not appear to be reasonable. Therefore, we calculated an amount for the warranty expense predicated on 0.2 of the value of the pager and used it as best evidence. We did not allow any adjustment for technical services provided by NEC's subsidiary, since we did not have enough information to construct an appropriate value. We will investigate this item during verification and make an adjustment for the final determination if appropriate. Since the Act requires the addition of U.S. packing costs to unpacked home market prices, we have done this for our preliminary determination. We used this same methodology for MCI's packing charge. Some of the pagers sold by NEC in the U.S. included a battery charger. As this feature is not included with pagers sold in the home market, we added the cost of this feature to certain home market sales for purposes of comparison.

MCI requested that we lower the home market price by the value of certain other selling and servicing expenses. We do not consider these items to be a circumstance of sale bearing a direct relationship to the sales of pagers in the home market. Therefore, we disallowed these claims for deductions. MCI also requested an adjustment for advertising. Since MCI did not state that its advertising is attributable to a later sale of the merchandise, we did not make an adjustment. We will investigate this item during verification and make an adjustment, if appropriate, for the final determination. In addition, MCI requested that we include other factory overhead expenses in the adjustument for differences in the merchandise. We have not included them as they are not directly related to the manufacture of the merchandise.

We calculated third-country prices for NEC's display pager by using the export price of this model to Hong Kong. We calculated the foreign market value by deducting from the gross, packed CIF price amounts for the following items, where appropriate: Inland and air freight expense, insurance expense, commission, indirect selling expense, credit expense, assumed advertising expense and warranty expense. We made adjustments to NEC's foreign market value, where appropriate, for differences in the merchandise and packing costs.

Thus far, one of the major issues in this investigation has been whether the pagers sold in Japan are such or similar to those sold in the United States. Counsel for MCI argues that the pagers sold in Japan are not such or similar to those sold in the United States because the quality and cost of the tone-only pagers sold in Japan are much higher than that of the U.S. tone-only pagers. Counsel for MCI also argues that if we did find the merchandise in Japan to be such or similar that we should make allowances for the differences in profit in the two markets. In order to resolve this issue, we must look to section 771(16) (A), (B), and (C) of the Act (19 U.S.C. 1677 (A), (B), (C)) to see if the merchandise in question falls into any of these three categories. We have preliminarily determined that, at a minimum, the tone-only pagers sold in Japan fall wihtin the scope of 1677(16)(C). The tone-only pagers sold in Japan are produced in the same country and by the same company and are of the same general class or kind of merchandise as the tone-only pagers sold in the United States. The tone-only pagers sold in both markets are used for the same purpose; i.e., both alert the user to the existence of a message. Finally, tone-only pagers sold in both markets may reasonably be compared because each contains either identical or nearly identical types of components which function in the same manner. The Act and the Department of Commerce Regulations provide, under certain circumstances, for adjustments to sales of similar merchandise to compensate for such things as differences in the merchandise. Where appropriate, we have made such adjustments. The regulations state that we will be guided primarily by the differences in the cost of production when making adjustments for differences in the physical characteristics of the merchandise. It is the policy of the Department to consider only these differences. Thus, we have not considered differences in profit in our adjustments.

The other category of high-capacity pagers sold in the U.S. is display pagers which produce an actual message on an alpha-numeric display. We have preliminarily determined that tone-only pagers sold in Japan are not such or similar to display pagers sold in the United States. The function of the display pagers is different from the tone-only pager in that it not only alerts the user to the existence of a message, but actually delivers the message on a display screen. With a tone-only pager, the user must make one or more telephone calls to determine the exact nature of the message. This increase in capability consequently increases the value of a display pager. In addition, the technology needed to produce the display pager is more complex than that needed to produce the tone-only model. While both use similar receivers to respond to a transmitted code, the display pagers employ random-access memory to retain the received information, a message processor to convert a coded signal to alpha-numeric characters, and a display system. The additional circuitry needed in the display pagers tends to be more of the type used in computers rather than that used in radio receivers.

Thus, the tone-only pagers sold in Japan do not meet the criteria of the Act for such or similar merchandise with respect to comparisons involving display pagers. Therefore, we used sales of display pagers in a third country, Hong Kong, as our basis for foreign market value.

Verification

We will verify all data used in reaching the final determination in this investigation, as provided in section 776(a) of the Act.

Suspension of Liquidation

In accordance with section 773(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of high capacity pagers from Japan, with the exception of imports of display pagers produced by NEC, subject to this investigation which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated average amount by which the

foreign market value of the merchandise subject to this investigation, with the exception of display pagers produced by NEC which will have a zero deposit rate, exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturers/sellers/exporters	Weighted-average margin (percent)
MCI	88.07
NEC—tone-only pagers	11.72
—dispaly pagers [1]	0.47
Other manufacturers/sellers/exporters	88.07

[1]The margin for NEC's display pagers is de minimis

Where a company specifically listed above has not exported one of the products under investigation during the period for which we are measuring sales at less than fair value, the cash deposit or bond amount for that product shall be based on the highest rate for the investigated products that were exported by that company.

ITC Notification

In accordance with Section 733(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the latter of 120 days after the Department makes its preliminary affirmative determination or 45 days after the Department makes its final affirmative determination.

Public Comment

In accordance with section 353.47 of the Commerce Department Regulations, if requested, we will hold public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on March 4, 1983, at the U.S. Department of Commerce, Room 6802, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by March 1, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CRF 353.46, within thirty days of publication of this notice, at the above address in at least 10 copies.

Dated: January 26, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-2728 Filed 1-31-83; 8:45 am]

BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Cotton Sheeting and Sateen From Peru

AGENCY: International Trade Administration, Commerce.

ACTION: Final affirmative countervailing duty determination and countervailing duty order; cotton sheeting and sateen from Peru.

SUMMARY: We have determined that certain benefits which constitute bounties and grants within the meaning of the countervailing duty laws are being provided to manufacturers, producers, or exporters in Peru of cotton sheeting and sateen, as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is indicated under the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane or Melissa G. Skinner, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, Telephone: (202) 377-5414 or 3530.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that the government of Peru provides certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), to manufacturers, producers, or exporters in Peru of cotton sheeting and sateen, as described in the "Scope of Investigation" section of this notice. The following programs are found to confer bounties or grants:

- Certificate of Tax Rebate (CERTEX)
- Nontraditional Export Fund (FENT)
- Articles 8, 9, 12, 14 and 16 of the Law for the Promotion of Exports of Nontraditionl Goods (the Export Law)

The estimated net bounty or grant is 29.973 percent of the f.o.b. value of the export of cotton sheeting and/or sateen.

Case History

On June 15, 1982, we received a petition from the American Textile Manufacturing Institute on behalf of the cotton sheeting and sateen industry in the United States. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters of cotton sheeting and sateen in Peru.

Since Peru is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the products under investigation are dutiable, section 303 of the Act applies to this investigation. Therefore the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten to cause material injury to a U.S. industry. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on July 6, 1982, we initiated a countervailing duty investigation (47 FR 30274).

On July 14, 1982, we presented a questionnaire concerning the allegations to the government of Peru at its embassy in Washington, D.C. Subsequently, on July 18, 1982, we determined that the investigation was "extraordinarily complicated" within the meaning of section 703(c)(1)(B) of the Act, and we published a notice of the postponement of the preliminary countervailing duty determination (47 FR 37267). On September 17, 1982, we received the responses to the questionnaire. A supplemental questionnaire was presented to the government of Peru in Washington, D.C. on October 12, 1982. On October 26, 1982, we received the responses to the supplemental questionnaire.

On November 12, 1982, we issued our preliminary determination in this investigation (47 FR 52211). This stated that the government of Peru was

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providing its manufacturers, producers, or exporters of cotton sheeting and sateen with certain benefits which constitute bounties or grants. The programs preliminarily determined to bestow countervailable benefits were:

- The Certificate of Tax Rebate (CERTEX)
- Nontraditional Export Fund (FENT)
- Articles 8, 9, 13, 14, 15, 16 and 32 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law)

Scope of Investigation

The products covered by this investigation are: (1) Plain-woven cotton fabric sheeting, not fancy or figured and not napped, made of singles yarn, with an average yarn number between 3 and 26, imported in Textile and Apparel Category 313, currently classified under *Tariff Schedules of the United States* (TSUS) numbers 320.—36, 320.—38, 320.—40, and 320.—44; and (2) 100% carded cotton sateen fabrics woven with a sateen weave and not napped, imported in Textile and Apparel Category 317, and currently classified in TSUS under numbers 320.—54 and 321.—54.

There are twenty-seven producers and/or exporters in Peru of cotton sheeting and/or sateen. Of these twenty-seven, twenty-five manufacture sheeting and five of those also manufacture sateen. Two of the twenty-seven are exporters only. Eleven of these exporters account for 85 percent of total exports. We conducted verification on 13 companies.

The period for which we are measuring subsidization is calendar year 1981.

Analysis of Programs

In our final determination, the estimated net bounties or grants are based exclusively on information which was verified.

We determined that the benefits provided under the programs concerned were bestowed upon Peruvian companies' total exports to all foreign markets. Therefore, any benefits that were found were allocated over recipient companies' total exports of all products to all markets, not just over their exports of products under investigation to the United States.

Under the various articles of the Export Law determined to provide bounties or grants, a variety of benefits were determined to exist, including tax credits, tax deductions and tax deferrals or exemptions. In each case we allocated the articles' combined tax savings over total exports.

In determining benefits applicable to income tax under the Export Law, we applied 1980 tax savings over 1981 exports, since 1981 was the year in which any benefits claimed on the 1980 tax return were realized.

Based on our analysis of the petition, responses to our questionnaires, our verification and oral and written comments by interested parties, we determine the following:

I. Programs Determined To Confer a Bounty or Grant

We have determined that bounties or grants are being provided under the programs listed below to manufacturers, producers, or exporters in Peru of cotton sheeting and sateen.

A. *The Certificate of Tax Rebate (CERTEX).* The CERTEX is a tax certificate issued to exporters by the government of Peru in an amount equal to a percentage of the f.o.b. value of export shipments. The CERTEX can be used for paying taxes collected by the Central Government. Applications for CERTEX are made to the Division of Foreign Trade or to Regional Councils and must be submitted within four months from the date of export. To be eligible for CERTEX, and exporter must be registered in the Special Chapter of Exporting Enterprises and must submit certain required documentation.

The face value of the CERTEX is equal to a percentage of the f.o.b. value of the export shipment after deductions for consular expenses and commissions paid abroad. There are no consular expenses and commissions paid abroad. There are no consular expenses applicable to exports of cotton sheeting and/or sateen to the United States. For our preliminary determination we used an average rate of commission of 4.5 percent of the f.o.b. value of the export, for exporters of both sheeting and/or sateen. Based on information obtained during the verification, we found that the weighted-average commission paid by on exports of cotton sheeting and sateen was 1.97 percent.

The percentage of rebate is set according to whether the produce is classified as being a high, medium, or low value added and whether the producer is located inside or outside the areas of the Department of Lima or the Province of Callao. Products of low value added manufactured inside the Department of Lima or the Province of Callao receive 15 percent of the f.o.b. value after deductions of the export expenses. The percentages for medium and high value added products are 20 percent and 22 percent, respectively. Products manufactured outside the areas of the Department of Lima and the Province of Callao qualify for an additional 10 percent. We have found that cotton sheeting and sateen are medium value added products and qualify for a 20 percent rate if manufactured in the Department of Lima and the Province of Callao, and qualify for a 30 percent rate if manufactured outside of Lima/Callao.

Once the gross amount of the rebate certificate is determined, 2 percent of this amount is issued to the Fund for the Promotion of Nontraditional Exports (FOPEX), and 10 percent is issued to the Provincial Municipal Towncouncil from which the product originated. The exporter then receives the balance, 88 percent of the gross amount.

We found that the deductions for FOPEX and the Provincial Towncouncils do decrease the amount of gross subsidy, and that neither FOPEX nor Towncouncils provide any benefit to exporters which are not generally available.

Although the respondent claims the CERTEX certificates are further reduced in value due to delay in receipt, commissions charged on subsequent transfer of a certificate, and taxability of certificates, these are not offsets permitted under the countervailing duty law (19 U.S.C. 1677(6)(a)).

Respondent states that the rebate of indirect taxes on production is one of CERTEX's principal purposes and that there is a relationship between the present level of CERTEX payments and the incidence of indirect taxation on the producers of the products under investigation.

In determining whether the CERTEX program is a bona fide rebate of indirect taxes, the primary considerations are:

(1) Whether the CERTEX program operates for the purpose of rebating indirect taxes, (2) whether there is a clear link between eligibility for CERTEX payments and payment of indirect taxes, and (3) whether the government has reasonably calculated and documented the actual indirect tax incidence borne by exported cotton sheeting and sateen and has demonstrated a clear link between such tax incidence and the amount of CERTEX payments.

Taxes rebated by CERTEX certificates include those on salaries and wages of workers, the enterprise patrimony, reevaluation of fixed assets, customs duties on fixed assets, goods and services tax collected over insurances and capital goods, interest tax on local and foreign currency, the fund for research and development, the consumption of electricity and fuel, customs duties on supplies, and the

municipal sales tax. Some of these taxes are direct taxes, while others are indirect taxes on goods which are not physically incorporated in the final product.

The government of Peru has not satisfactorily demonstrated the requisite linkage between the indirect tax incidence and the level of CERTEX payments, nor has it shown that the actual indirect tax incidence has been reasonably calculated and documented.

Since the above-described linkage has not been demonstrated, we have determined that the CERTEX payments must be considered as conferring bounties or grants in the amount of 17.253 percent of the f.o.b. value of the export for all exporters of cotton sheeting and/or sateen, regardless of area of production.

We have determined a weighted-average benefit rate based on total sales of export to the United States of producers located in the Department of Lima or Province of Callao and usage of the CERTEX rate applicable to that area, and total sales for export to the United States of producers located outside of Lima/Callao and the usage of the CERTEX rate applicable to that area. We note that in determining a weighted-average CERTEX rate, we used only verified sales data.

B. *Nontraditional Export Fund (FENT).* The Nontraditional Export Fund (FENT) was established by the government of Peru to grant financial support to nontraditional export activities. Changes were made to the FENT system in June 1982. The new FENT system was established to assure the exporter a line of credit with which it could finance its exports, and assist Peru in meeting the terms of its contract with the IMF.

The fund is administered by the Banco Industrial del Peru through credits to financial institutions for short-term financing of exports. The financing may be in the form of either preshipment credit or post-shipment credit. Preshipment credit is credit given to Peruvian exporters prior to shipment of the goods. Post-shipment credit is credit to the Peruvian exporter for which the bank collects foreign receivables and remits to the exporter the difference between the collection and the loan amount plus expenses. The FENT loans are for 90 days, but may be renewed once in order to cover both pre- and post-shipments, thus having an actual life of 180 days.

The exporter requesting FENT financing may apply directly to the Banco Industrial del Peru or to a financial intermediary for an amount of credit up to 90 percent of the f.o.b. value of the export. The credits are denominated in foreign currency but the exporter actually receives the loan in sales converted at the exchange rate in effect on the date of receipt of the loan. The exporter must repay the loan with the foreign currency received in payment for the export shipment. The interest rate charged on the FENT loan is one percent.

In order to obtain a FENT credit, the exporter must make a deposit of an amount equivalent to 72 percent of the f.o.b. value of the export, or to 80 percent of the amount of the loan he is requesting. The deposit must be made in the Banco Central (Central Bank of Peru) and must be in a foreign currency. The exporter must obtain the resources for this deposit through borrowing from a commercial bank. The Banco Central pays the exporter interest on the deposit at a LIBOR 90-day rate plus five percent.

Since the current FENT loan program came into effect in June of 1982, we examined FENT loans received during the period July through September 1982 by exporters whose responses we had verified.

Most of the exporters had not repaid FENT loans received during this period. We found only a small number of the new FENT loans has been repaid. Most of the loans were still outstanding at verification and we were unable to determine interest rates and charges applicable to these loans, since the actual costs of the loans will not be known until the loans are completely repaid.

Exporters generally do not know interest and charges on the overseas loans needed to make the deposit required under FENT until the banks close out the loans and debit exporters' accounts in the amounts of applicable interest, taxes and charges. From bank statements on FENT loans we found that in most cases only incidental charges on the loans were debited to the exporters' accounts prior to settlement of the loan. Consequently, we based our determination of the actual cost of FENT loans on FENT loans that had been completely repaid.

The benefit derived from all of the FENT loans reported in verified responses and received during the period July through September of 1982 was determined by comparing the weighted-average rate of interest on repaid FENT loans from this period with a respresentative rate on local U.S. dollar loans (loans from U.S. dollar deposits in Peruvian banks), the most probable source of export financing had FENT loans not been available. We then applied the difference in the rates to the total of FENT loans received during the period July through September of 1982, and divided the result by four. We divided by four to adjust from an annual to a quarterly basis. In this way we estimated the total interest savings resulting from FENT loans for the third quarter of 1982.

In calculating a weighted-average rate of interest on repaid FENT loans we weighted the effective rate of interest on each loan first by the principal amount of the loan and second by the number of days the loan was outstanding.

We then divided the total interest savings from verified FENT loans by estimated third quarter 1982 exports of cotton sheeting and sateen producers whose responses we had verified to express the total FENT benefit as a percent of total f.o.b. value.

On this basis we calculated a bounty or grant in the amount of 3.2 percent of the f.o.b. value of the export.

Since our information on actual third quarter exports in 1982 was incomplete, we estimated exports for that period by taking one fourth of total 1981 exports.

We selected local U.S. dollar loans as a basis of comparison since the FENT loan is denominated in dollars and is repaid by exporters from the dollar proceeds received from export sales. Although the loan amount paid out to the exporter in soles is less than the sole equivalent of the dollars which the exporter must repay when the loan comes due, the exporter does not incur a currency exchange loss since he receives a hard foreign currency, usually dollars, to repay the loan. We did not select sole loans as a basis of comparison for FENT loans, since sole loans were not generally available to finance export sales of cotton sheeting and sateen.

C. *Articles 8, 9, 12, 14 and 16 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law).* Petitioners alleged that a number of benefits are provided to producers, manufacturers, or exporters of cotton sheeting and sateen in Peru under various articles of the Export Law.

It is the aim of the Export Law to improve the foreign trade structure of Peru. The Export Law is a system aimed at the promotion of nontraditional exports.

We have determined that benefits are provided under articles 8, 9, 12, 14 and 16 in the following manners:

1. Decree Law 18350, the General Law of Industries, established four priorities for the various industrial groups, with each priority having a different percentage and selectivity index which determined the amount of net income that could be invested or reinvested free

of income tax. Decree Law 22401 of December 1978, changed the reinvestment benefit from a tax deduction to a tax credit.

The Export Law, Articles 8 and 9, permits exporters to upgrade their priority one level. Therefore, we have determined that the benefit provided by these articles is the additional amount of tax credit which cotton sheeting and sateen exporters may use by upgrading from priority two, the priority into which they would normally fall, to priority one. Since this upgrading is contingent on export performance, we regard the benefit of upgrading from priority two to priority one as an export subsidy.

Further, upon examining the industries comprising each of the priorities established by the General Law of Industries, we determined that although priority two included the majority of industries, priority three included a significant number of industries. We therefore concluded that the priority two reinvestment incentive is not generally available on equal terms to all producers and confers an additional subsidy to the extent that this investment allowance exceeded that available to priority three industries. Since category four includes a small number of non-essential industries, we concluded that category four would not serve as an appropriate basis for determining the benefit generally available.

On verification we found that an additional subsidy also exists in the fact that companies located outside of Lima/Callao (decentralized), regardless of priority, are allowed a higher percentage and selectivity index than companies located inside Lima/Callao (nondecentralized).

We therefore determined these additional benefits by applying the additional tax credits taken to total sales.

The net benefit provided by these articles of upgrading from priority two to priority one was determined by totaling the additional tax credit taken on the basis of the upgrading and allocating this value over total exports.

On this basis we calculated a bounty or grant in the amount of 2.60 percent of the f.o.b. value of the export.

2. We have determined that Article 12 bestows a bounty or grant to exporters in that it allows them to take an additional amount of depreciation. Exporters are allowed to take an additional 50 percent, above normal depreciation under this article. The benefit was determined by figuring the amount of tax benefit to each company, totaling that amount, and allocating this value over total exports.

On this basis we calculated a bounty or grant in the amount of 0.95 percent of the f.o.b. value of the export.

Although the benefit provided by this article is available to other manufacturers under Article 28 of Supreme Decree No. 015–69–HC, we determined that Article 12 provides exporters with the automatic right of additional depreciation, whereas the benefit generally available to others under Article 28 must be applied for, and presumably could be denied.

3. According to Article 14 of the Export Law, enterprises that increase the number of permanent jobs in relation to those existing in the previous year may deduct as an expense of the fiscal year the amount of remuneration paid out as a result of the new jobs created, receiving income tax credits ranging from 30 to 60 percent.

Since this income tax deduction in the amount of the remuneration paid out on new jobs is available only to exporters, we regard the resulting income tax savings as a bounty or grant.

We found that some companies did use this Article. We determined the benefit provided by multiplying the deduction amount by the company's tax rate to find the actual tax savings, and allocating the net tax savings over total exports.

On this basis we calculated a bounty or grant in the amount of 0.01 percent of the f.o.b. value of the export.

Although Article 63 of Law No. 23407 allegedly makes this deduction generally available, this deduction was not generally available during the period of investigation, because Law No. 23407 was not in effect at that time.

4. Article 16 states that industrial companies exporting nontraditional goods that export 40 percent of their annual production shall enjoy suspension of payment of tariff duties levied on imported capital goods for a maximum period of five years.

If they have generated a net inflow of foreign exchange equal to 100 percent of the value of the imported goods before or by the end of the five years, they then enjoy total exemption. The company must obtain 40 percent exportation within a maximum period of two years from the date of commencement of the production generated by the imported capital goods.

In order to be eligible for this benefit the companies must sign a contract with the state. If the conditions are not met, the import duties which had previously been suspended must be repaid. A surcharge and an interest charge amounting to 9.6 percent on the duties deferred must also be paid.

Article 16 of the Export Law has been determined to provide a benefit, in that an enterprise which imports machinery is relieved of liability for the payment of import duties on machinery if certain export targets are subsequently met. Pending the meeting of those targets, the payment of duties is deferred.

We determined the amount of benefit resulting from deferral, by treating the duty amount as an interest-free loan (or a series of one-year loans if the period of deferral is longer than one year).

We found that none of the companies has received government certification of duty exemption. Therefore, the amount of the benefit was determined by applying the amount of duties deferred to the effective annual interest rate on sole short-term loans for the length of time during the year that duties were deferred. We then totaled the amount of interest payable and allocated it over total exports.

On this basis we calculated a bounty or grant in the amount of 5.96 percent of the f.o.b. value of the export.

II. Programs Determined Not To Confer Bounties or Grants

We have determined that bounties or grants are not being provided to manufacturers, producers, or exporters in Peru of cotton sheeting and sateen under the following programs:

A. *The Fund for the Provision of Nontraditional Exports (FOPEX).* The petition alleged that the Fund for the Promotion of Nontraditional Exports (FOPEX) is a subsidy whose functions include, among others, furnishing technical services contributing to the adaptation, increase, and diversification of nontraditional exports. FOPEX provides no credits, guarantees, grants, or other forms of economic assistance. We have ascertained that FOPEX provides only general information services on international trade, import/export development, export promotion programs, and international shipments and transportation. Based upon our analysis we have determined that FOPEX does not confer bounties or grants.

Export Law

B. 1. We determined that Decree Law 22392, dated November 19, 1978, abolished the taxes referred to in Article 15 of the Export Law. This varies from our preliminary determination where we stated that the law "... abolished the provision of Article 15 allowing an exemption from taxes. . . ."

As we have found that the taxes referred to in Article 15—the registration tax and the real estate transfer tax (the

"Alcabala")—have been abolished, and the additional real estate transfer tax ("Adicional de Alcabala") applies only to the seller of property, Article 15 has been determined not to provide a bounty or grant.

Although on verification one company reported that they had been exempted from paying the Alcabala tax, we determined that this company was not subject to the tax because it had previously been eliminated.

2. Article 32 of the Export Law has been determined to allow exporters to hire personnel for a contracted period of time under the same requirements as under Law Decree 18138. Law Decree 18138 provides rules to regulate fixed term individual work contracts for any industry. According to Article 32, companies must pay contract employees at the same wage levels as permanent employees performing the same tasks. From an examination of payroll records, we found that benefits such as social security, accident insurance and pension benefits were the same for both contract and permanent employees.

The hiring of contract personnel does not affect company contributions to labor shares or distribution of net income to workers, as these amounts are determined as a fixed percentage of net income rather than by the number of employees.

Since we found that the benefit provided under Article 32 incorporates the provisions of Law Decree 18138, which is generally available, we determined that no countervailable benefit is being provided under Article 32 of the Export Law.

III. Programs Determined Not To Be Used

We determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation, Cotton Sheeting and Sateen from Peru" are not used by the manufacturers, producers, or exporters in Peru of cotton sheeting and sateen.

A. *Articles 23, 24, 31, and 13 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law).*

1. Article 23 of the Export Law permits consortia formed for the exportation of nontraditional goods exemption from various taxes. We determined that no consortia exporting the products under the investigation exist in Peru, therefore Article 23 was not used.

2. Article 24 allows an exemption from duties on raw materials and/or unfinished goods to be used exclusively in the manufacture of finished goods for export and in the manufacturer of unfinished goods which, once processed, are included among such goods. Cotton, which is the principal raw material used in the production of the products under investigation, must, by law, be purchased in Peru. We determined that this article has not been used by the manufacturers, producers or exporters of the merchandise under investigation.

3. We determined that no producers of cotton sheeting and sateen have obtained any preferential shipping rates under Article 31 of the Export Law. Therefore, the article has been determined not to have been used.

4. Article 13 of the Export Law states that enterprises may capitalize the earnings invested or reinvested with exemption from the income tax, provided that they do so within six years, inclusive of the fiscal year in which the tax exemption is obtained.

Under Decree Law No. 19262 of January, 1972, any company may capitalize earnings which are invested or reinvested within three years, with exclusion from the five percent income tax on capitalization. Law Decree 22037 of December 1977, extended the allowable (re)investment period to five years.

We found that the benefit provided by this Article is the additional year it allows exporters in which to capitalize. We have found, however, that firms which capitalized earnings did so within a maximum of five years and did not take advantage of this additional provision for exporters.

IV. Petitioners' Comments

Comment 1: Petitioners argue that the presence or absence of U.S. production of a particular sheeting or sateen (osanburg) is not a relevant factor in the Department's inquiry. However osanburg fabric is produced in the U.S.

DOC Position: We agree, and have found no basis for the exclusion of osanburg from the findings of this investigation.

Comment 2: Petitioners argue that there is no evidence to support the contention that CERTEX is a bona fide indirect tax rebate, and that Article 77 of Law Number 23407, adopted May 1982, was not a factor in either the original design of, or calculation of the prevailing rates under, the CERTEX program.

DOC Position: We agree. As stated in the section on the Certificate of Tax Rebate, the government of Peru has not satisfactorily demonstrated the requisite linkage between the indirect tax incidence and the level of CERTEX payments, nor has it shown that the actual tax incidence has been reasonably calculated and documented.

Comment 3: Petitioners argue that no adjustment should be made to the CERTEX because of delay in receipt or because CERTEX payments are taxable. To do so would be contrary to Department policy and the countervailing duty law.

DOC Position: We agree. As stated in the section on the "Certificate of Tax Rebate," these are not offsets permitted under the countervailing duty law (19 U.S.C. 1677(6)(a)).

Comment 4: Petitioners argue that preliminary calculations of CERTEX should be revised according to findings made on verification, and that few, if any, deductions of commissions actually occurred.

DOC Position: We agree. As stated in the section on the "Certificate of Tax Rebate," the final determination has been based on the weighted-average commission paid on exports to the United States, as found on verification.

Comment 5: Petitioners argue that a loan which is denominated in dollars, which bears a dollar-denominated interest rate, and which is repaid in dollars, is clearly a dollar loan. Because the underlying export transaction calls for payment in dollars, there is no exchange rate risk to the exporter in a dollar-denominated loan.

DOC Position We agree. We determined, as noted under the section entitled "FENT", that the exporter does not incur a currency exchange loss, as he is receiving dollars with which to repay his dollar loan.

Comment 6: Petitioners argue that since dollar loans are commercially available to exporters and sole financing is evidently unavailable to them, any comparison to the decision in *Leather Wearing Apparel from Argentina* is incorrect.

DOC Position: We agree. We found that sole loans were not generally available in sufficient amounts, and thus would not be the appropriate benchmark. If there were no FENT loans and an insufficient amount of sole loans available, local dollar loans which were available would be used and therefore are used as the appropriate benchmark.

Comment 7: Petitioners argue that because the subsidies involved under the Export Law are clearly export subsidies, they should be allocated over exports, not sales or production.

DOC Position: We agree. As noted in the "Analysis of Programs" section, we have allocated any such benefits found over total exports.

Comment 8: Petitioners argue that Articles 8 and 9 of the Export Law appear to provide exporters with a benefit over and above those "generally available."

DOC Position: We agree. As stated in the "Law for the Promotion of Exports of Nontraditional Goods" section, Articles 8 and 9, we have found that the difference between the reinvestment rate allowed to priority three industries under Decree Law 18350 and the reinvestment rate allowed to exporters under the Export Law constitutes a bounty or grant.

Comment 9: Petitioners argue that the accelerated depreciation rates that may be available to nonexporting firms appear to be available on a discretionary basis rather than being automatic under Article 12 of the Export Law.

DOC Position: We agree. As stated in the "Export Law" section, we consider the additional amount of depreciation which exporters are allowed under Article 12 to be a bounty or grant.

Comment 10: Petitioners argue that Article 13 exporting firms benefit from an additional three years during which they may capitalize invested earnings exempt from tax.

DOC Position: We disagree. As stated in the "Export Law" section, all firms which capitalized earnings did so within a maximum of five years, as is generally available under Law Decree 22037 of December 1977.

Comment 11: Petitioners argue that since import duties on imported capital equipment are expenses which except for Article 16 would be payable in full at the time of importation, the exemption from payment is a benefit experienced in the current year.

DOC Position: We disagree. As stated in the "Export Law" section, Article 16 has been determined to provide a benefit, in that the payment of duties is deferred. This deferral of duties amounts to an interest-free loan until such time as the duties are paid or forgiven.

Comment 12: Petitioners argue that the exemption of duties under Article 16 is linked to exports, and therefore the benefit should be allocated over total exports.

DOC Position: We agree. As stated in the "Export Law" section, any benefit from Article 16 has been allocated over total exports.

V. Respondents' Comments

Comment 1: Respondents argue that the legislative history of the Act makes clear that the net subsidies definition does not apply to a country, such as Peru, that is not a "country under the Agreement."

DOC Position: We disagree. Section 771(5) of the Act explicitly states that the term "subsidy" has the same meaning as the term "bounty or grant." References in the legislative history to a broad definition of the term subsidy apply equally to the term "bounty or grant" and to the term "subsidy." Defining the term "bounty or grant" in a more restrictive sense than the term "subsidy" would be *ultro vires* and would in effect penalize countries that had signed the Subsidies Code.

Comment 2: Respondents argue that under the Act, the DOC has the discretion not to apply the offset provisions of section 771(6) to Peru. Therefore respondents believe that the DOC should make adjustments for indirect taxes related to the exported products and for the additional costs incurred in locating in decentralized areas.

DOC Position: We disagree. The DOC has consistently limited offsets in the calculation of a net subsidy to those offsets provided for under section 771(6) regardless of whether the DOC was conducting its investigation under section 303 or under Title VII of the Act. In fact, the limitation of offsets was intended to apply particularly to export rebate payments, and to preclude, *inter alia*, the allowance of regional dislocation costs as an offset.

Comment 3: Respondents argue that Peru's CERTEX does meet the DOC's purpose test as described in the discussion of this program above.

DOC Position: While we agree that the government of Peru intended as one of its objectives in establishing the CERTEX the rebate of indirect taxes, we have found that the government of Peru rebates a broad spectrum of taxes and costs which fail to meet the DOC's physical incorporation test as described in Annex I of the Department's countervailing duty regulations. Nor have we been provided adequate evidence that the indirect taxes borne by the products under investigation have been reasonably documented and calculated.

Comment 4: Respondents claim that loss of value due to delay affects the amount of gross subsidy received and is thus not subject to offset restrictions. Even if offset restrictions were applicable, any amounts lost because of a delay are the result of a government order mandating a delay of at least 15 days.

DOC Position: We disagree. Section 771(6)(B) of the Act allows an adjustment for the reduction in value of a subsidy because of a delay in its receipt only if the delay is mandated by law. In the case of CERTEX, we found the delay to be an administrative delay in the application for, processing and issuance of the CERTEX certificate. Peruvian Supreme Decree No. 021–82–EF makes reference to a 15-day period, but does not mandate a delay of 15 days before the CERTEX certificate may be issued. The wording of the Supreme Decree states that the CERTEX certificate shall be issued within 15 days of the date of application. Although in practice certificates are not issued within 15 days, the Supreme Decree does not appear to prohibit issuance of a certificate prior to the fifteenth day after the date of application.

Comment 5: Respondents claim that verification has shown that income taxes and Industrial Community contributions reduce the amount of CERTEX actually received and capable of being used. In this regard, it would be arbitrary and not in accordance with law for DOC to ignore the effects of income tax on CERTEX and yet ascribe income tax benefits to provisions of the Export Law.

DOC Postion: We disagree. Although verification revealed that exporters were required to report CERTEX receipts along with sales receipts on their income tax returns, longstanding DOC practice has been to make no adjustment for potential reduction in the value of rebate payments due to income tax liability. This would require assumptions on the part of the Department as to the overall profitability of the firm in subsequent years. Such assumptions would be speculative at best.

Comment 6: Respondents claim that the proper benchmark for a FENT loan is a domestic loan in soles, not an external dollar loan. FENT's principal purpose is to enable Peru to meet certain international reserve targets imposed by its IMF loan agreement. The real cost of FENT must be calculated in soles, and that cost is in excess of the cost of commercial credit in soles. Verification has established that commercial loans in soles are available and that such loans constitute the most appropriate benchmark for a FENT credit.

DOC Position: We disagree. Although FENT loans are in fact received in soles, the loans are denominated in dollars and must be repaid in dollars. Since repayments are made from dollars generated by export sales, exporters do not incur an exchange loss on FENT loans. We selected local dollar loans rather than sole loans as a basis of comparison with FENT loans, since local dollar loans were freely available whereas sole loans did not appear to be generally available, particularly for export financing purposes. That sole loans were not freely available was attested to by the fact that exporters were usually forced to use FENT loans

to finance exports, despite a strong perference for sole loans.

The fact that a purpose of the FENT is to enable Peru to meet certain international reserve targets imposed by the IMF does not alter the fact that the FENT gives to exporters a readily available line of credit at preferential interest rates.

Comment 7: Respondents claim that Articles 8 and 9 of the Export Law provide reinvestment tax incentives generally available under the General Law of Industries.

DOC Position: Respondent has submitted various laws to show that certain industrial sectors are allowed to invest or reinvest free of income tax certain prcentages of net income equal to or greater than the percentages of net income that may be invested tax free by cotton sheeting and sateen exporters. The laws submitted, however, do not establish that these investment incentives are generally available on equal terms to all industries. General Law of Industries 18350 which was in effect during our period of investigation for the export articles clearly assigns significant groups of industries investment tax incentives less than those available to cotton sheeting and sateen producers and exporters.

Comment 8: Article 12 allows for accelerated depreciation to exporters. According to Supreme Decree No. 015–69–HC, Article 28, any firm or industry in Peru can request and obtain an increase in its depreciation rates.

DOC Position: We disagree. Although Supreme Decree No. 015–69–HC, Article 28, allows firms to request an increase in depreciation rates, DOC is not persuaded that the requested increase would be granted in all cases. Under Article 12 of the Export Law, however, exporters receive the right to depreciate at an increased depreciation rate if they elect to do so. Article 28 of the Supreme Decree appears to allow the government discretion to grant or deny requests for accelerated depreciation. We cannot conclude that the Supreme Decree makes generally available on equal terms the accelerated depreciation available to exporters under Article 12 of the Export Law. Therefore, we view the provisions of Article 12 as conferring a bounty or grant on exports.

Comment 9: Article 13 allows exporters to capitalize profits free of income tax. Capitalization of reinveted profits is available to all industrial companies under Article 9 of Decree Law No. 18350, modified by Degree Law No. 19262.

DOC Position: We agree. Article 9 of Decree Law No. 18350, modified by Decree Law No. 19262, makes generally available the provisions of Article 13 of the Export Law regarding the capitalization of reinvested profits with exemption from a five percent income tax. We found only one difference between Article 13 of the Export Law and Decree Law No. 18350. The former allows six years for capitalization, whereas the latter allows five years. To the best of our knowledge, capitalization done by firms under investigation was completed within five years. Therefore, Article 13 of the Export Law did not result in the payment of a bounty or grant.

Comment 10: Article 14 allows exporters certain labor tax credits. Article 63 of the New General Industry Law, Law No. 23407, makes certain labor tax credits available to all industries.

DOC Position: We disagree. Although Article 63 of the New General Industry Law, Law No. 23407, makes labor tax credits for new jobs created available to all industries, this law went into effect in June 1982. In our investigation of income tax benefits from the Export Law, we examined the latest period for which all information necessary to evaluate the income tax benefits was available. This period was calendar year 1981. For this period we had information on income tax savings realized in 1981 on the basis of the exporters 1980 income tax returns and complete export statistics for exporters we had verified. The General Industry Law in effect during 1981 did not have a provision for labor tax credits for non-exporting firms. Consequently, we find that during our period of investigation, the provisions of Article 14 of the Export Law resulted in the bestowal of a bounty or grant. We will reexamine this situation at the time of the annual review under section 751.

Comment 11: Article 32 allows exporters of non-traditional goods to hire contract personnel under the system generally established by Decree Law 18138.

DOC Position: We agree. The hiring of contract personnel is provided for under both Article 32 of the Export Law and Decree Law 18138, which is generally available to all producers. Therefore, Article 32 read in the light of Decree Law 18138, does not confer a bounty or grant.

Comment 12: Respondents claim DOC must make a number of significant adjustments in its calculations of possible benefits under Articles 8, 9, 12, 13, 14, 15 and 32 of the Export Law.

Firms that did not pay taxes in 1981 did not derive any benefits from Articles 8, 9, 12, 13, 14 or 15 of the Export Law. A tax benefit can only be found if the DOC can show that but for that particular tax benefit, taxes would have been paid.

DOC Position: We agree. When exporters had no income or sustained a net loss even before the tax deductions permitted under the Export Law, we did not find a countervailable benefit from articles of the Export Law which the exporters might have used.

Comment 13: The government of Peru can see no rationale for using 1980 instead of 1981 tax results.

DOC Position: We disagree. We used 1980 income tax returns since the income tax savings realized on 1980 income tax returns were realized in 1981 when exporters actually filed their 1980 tax returns. We received 1981 income tax returns from most of the Peruvian exporters. We did not use the 1981 tax returns, however, since we viewed the savings on these returns as realized upon the filing of these returns in 1982, a year for which we had only incomplete f.o.b. export values for purposes of allocating the savings associated with the 1981 returns. This information would be used in a section 751 review.

Comment 14: Respondents claim the use of Article 12 providing for accelerated depreciation can result in the loss of other tax benefits, and these lost tax benefits must be offset against the benefits provided by Article 12.

DOC Position: The loss in tax benefits referred to by the respondent is the investment tax credit and the worker shares tax credit.

First, the investment tax credit which may increase with an increase in net income could have been larger had accelerated depreciation not been used. We have no evidence, however, that additonal investment was in fact made. Therefore, we cannot make an adjustment for the potentially larger investment tax credit that would have been allowed had net income been larger due to a normal depreciation rate.

Second, the value of worker shares issued would have increased had net income been increased. In addition, the tax credit for worker shares would also have increased. However, since the increased value in worker shares was, in fact, not paid, we are precluded from making an adjustment for a tax credit based on a hypothetical increase in the value of worker shares issued.

Comment 15: The amount included under Article 13 of the Export Law regarding capitalization of profits in the countervailing duty response for La Bellota was in error.

DOC Position: We agree. On verification we established that La Bellota received no benefit under Article 13. La Bellota reported savings under

Article 13 as a result of a misinterpretation of DOC's questionnaire on this point.

Comment 16: Article 15 of the Export Law on tax exemptions for increases in capital does not currently exempt exports from tax payments.

DOC Position: We agree, since the registation tax and the real estate transfer tax ("Alcabala") have been abolished by Decree Law 22392, and the additional real estate transfer tax referred to in Article 15 applies only to the seller, we conclude that Article 15 no longer confers tax benefits.

Comment 17: The respondent believes that total sales or production should be used as the denominator for calculations. Since the benefits are on direct income taxes, the benefits can be used for all production, not just exports.

DOC Position: We disagree. Since benefits under the Export Law are contingent on export performance, the DOC regards these benefits as export rather than domestic subsidies and allocates the benefits solely to export sales.

Comment 18: Despite arguments by counsel or reporesentatives for ATMI or AYSA, it is clear under the law that until its export contract with the govenment has been met and an exemption finally granted, a firm exporting non-traditional goods has not received any countervailable benefits under Article 16 of the Export Law.

DOC Position: We disagree. The suspension of import duties on imports of capital equipment result in an immediate benefit in that a cash expenditure is deferred for a period of years. Because of uncertainty as to whether or not exporters will meet export requirements and get complete exemption from duties or whether they will fall short of export requirements and be required to pay duty plus interest, the DOC must regard the suspension of duties as conferring a bounty or grant in the form of an interest-free loan with principal equal to the amount of duties deferred.

Comment 19: Respondent claims tht firms which in 1981 did not export the product under investigation to the United States should be excluded from the DOC's calculation of import duties suspended under Article 16 of the Export Law.

DOC Position: We desagree. DOC cannot foresee whether exporters will or will not in a given year export a product under investigation to the United States. By allocating the benefit to total exports of all products, the DOC has estimated fairly the bounty or grant on products under investigation.

Comment 20: Respondent claims that the DOC should exclude duties on machinery and equipment that do not produce products under investigation.

DOC Position: Given the time constraints of the investigative period and the highly technical aspects of textile production machinery, the DOC has not been able to establish that certain machinery not only was not but, in fact, could not, be used in the production of the product under investigation. Under these circumstances, the DOC included the suspended duties on all machinery imported under Article 16 and allocated the benefits from Article 16 to total exports of all products produced by the respondents.

Comment 21: Respondent claims that import duties which are finally exempted should be allocated over the useful life of the equipment.

DOC Position: We disagree. Since the import duty suspension conveys an immediate benefit to the firm, the DOC rejects respondent's claim that countervailing duties should be imposed only when and if duties are finally exempted, an approach which could allow as much as a five-year time lapse before the DOC could make its determination on whether or not to impose a countervailing duty. Instead, as described earlier in this determination, DOC has determined to treat the import duty suspension as an interest-free loan rather than a grant, since the conditions of the suspension more closely resemble a loan than a grant, considering the fact that the import duties may eventually have to be repaid with interest in the event exporters do not meet the required export level.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During this verification, we followed normal procedures, including inspection of documents, discussions with government officials and on-site inspection of manufacturers' operations and records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). A public hearing was held on December 17, 1982. In accordance with the Department's regulations (19 CFR 355.4 (a)), written views have been received and considered.

The suspension of liquidation ordered in our preliminary affirmative countervailing duty determination shall remain in effect until further notice. The net bounty or grant is 29.973 percent of the f.o.b. value of the export of cotton sheeting and/or sateen. We are directing the United States Customs Service to require a cash deposit in the amount indicated above for each entry of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

The Department intends to conduct an administrative review within 12 months of the publication of this determination as provided in section 751 of the Act.

(Secs. 303 and 706 of the Act (19 U.S.C. 1303, 1671e).)

Lawrence J. Brady,

Assistant Secretary for Import Administration.

[FR Doc 83-2730 Filed 1-31-83; 8:45 am]

BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Cotton Yarn From Peru

AGENCY: International Trade Administration, Commerce.

ACTION: Final affirmative countervailing duty determination and countervailing duty order; cotton yarn from Peru.

SUMMARY: We have determined that certain benefits which constitute bounties and grants within the meaning of the countervailing duty laws are being provided to manufacturers, producers or exporters in Peru of cotton yarn, as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is indicated under the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane or Melissa G. Skinner, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, Telephone: (202) 377-5414 or 3530.

SUPPLEMENTAL INFORMATION:

Final Determination

Based upon our investigation, we have determined that the government of Peru provides certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), to manufacturers, producers, or exporters in Peru of cotton yarn, as described in the "Scope of Investigation" section of

this notice. The following programs are found to confer bounties or grants:

- Certificate of Tax Rebate (CERTEX)
- Nontraditional export Fund (FENT)
- Articles 8, 9, 12, 14 and 16 of the Law for the Promotion of Exports of Nontraditional Goods (The Export Law).

The estimated net bounty or grant is 36.288 percent of the f.o.b. value of the export of cotton yarn.

Case History

On June 15, 1982, we received a petition from the American Yarn Spinners Association on behalf of the cotton yarn industry in the United States. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters of cotton yarn in Peru.

Since Peru is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the products under investigation are dutiable, section 303 of the Act applies to this investigation. Therefore the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten to cause material injury to a U.S. industry. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on July 6, 1982, we initiated a countervailing duty investigation (47 FR 30274).

On July 14, 1982, we presented a questionnaire concerning the allegations to the government of Peru at its embassy in Washington, D.C. Subsequently, on July 18, 1982, we determined that the case was "extraordinarily complicated" within the meaning of section 703(c)(1)(B) of the Act, and we published a notice of the postponement of the preliminary countervailing duty determination (47 FR 37263). On September 17, 1982, we received the responses to the questionnaire. A supplemental questionnaire was presented to the government of Peru in Washington, D.C. on October 12, 1982. On October 26, 1982 we received the responses to the supplemental questionnaire.

On November 12, 1982, we issued our preliminary determination in this investigation (47 FR 52215). This stated that the government of Peru was providing its manufacturers, producers, or exporters of cotton yarn with certain benefits which constitute bounties or grants. The programs preliminarily determined to bestow countervailable benefits were:

- The Certificate of Tax Rebate (CERTEX)
- Nontraditional Export Fund (FENT)
- Articles 8, 9, 12, 13, 14, 15, 16 and 32 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law).

Scope of Investigation

The products covered by this investigation, as described in the notice of amendment to the initiation notice (47 FR 33730) (August 14, 1982) consists of various cotton yarns currently classifiable under the following *Tariff Schedules of the United States Annotated* numbers:

300.60	302.01 through 302.60
301.01 through 301.60	302.70
301.70	302.80
301.80	302.82
301.82	302.84
301.84	[illegible]
301.86	302.88
301.88	302.92
301.92	302.94
301.94	302.96
301.96	302.98
301.98	

There are fourteen producers, all of which export cotton yarn from Peru, four of which account for 85 percent of exports. We conducted verification on six companies.

The period for which we are measuring subsidization is calendar year 1981.

Analysis of Programs

In our final determination, the estimated net bounties or grants are based on information which was verified.

We determined that the benefits provided under the programs concerned were bestowed upon Peruvian companies total exports to foreign markets. Therefore, any benefits that were found were allocated over recipient companies' total exports of all products to all markets, not just over their exports of products under investigation to the United States.

Under the various articles of the Export Law determined to provide bounties or grants, a variety of benefits were determined to exist, including tax credits, tax deductions and tax deferrals or exemptions. In each case we have allocated the articles' combined tax savings over total exports.

In determing benefits applicable to income tax under the Export Law, we applied 1980 tax savings over 1981 exports, since 1981 was the year in which any benefits claimed on the 1980 tax return were realized.

Based on our analysis of the petition, responses to our questionnaires, our verification and oral and written comments by interested parties, we determine the following:

I. Programs Determined To Be a Bounty or Grant

We have determined that bounties or grants are being provided under the programs listed below to manufactuers, producers, or exporters in Peru of cotton yarn.

A. *The Certificate of Tax Rebate (CERTEX).* The CERTEX is a tax certificate issued to exporters by the government of Peru in an amount equal to a percentage of the f.o.b. value of export shipments. The CERTEX can be used for paying taxes collected by the Central Government. Applications for CERTEX are made to the Division of Foreign Trade or to Regional Councils and must be submitted within four months from the date of export. To be eligible for CERTEX, an exporter must be registered in the Special Chapter of Exporting Enterprises and must submit certain required documentation.

The face value of the CERTEX is equal to a percentage of the f.o.b. value of the export shipment after deductions for consular expenses and commissions paid abroad. There are no consular expenses applicable to exports of cotton yarn to the United States. For our preliminary determination we used an average rate of commission of 4.5 percent of the f.o.b. value of the export, for exporters of yarn. Based on information obtained during the verification, we found that the weighted-average commission paid on exports of cotton yarn was 0.19 percent.

The percentage of rebate is set according to whether the product is classified as being a high, medium, or low value added and whether the producer is located inside or outside the areas of the Department of Lima or the Province of Callao. Products of low value added manufactured inside the Department of Lima or the Province of Callao receive 15 percent of the f.o.b. value after deductions of the export expenses. The percentages for medium and high value added products are 20 percent and 22 percent, respectively Products manufactured outside the areas of the Department of Lima and the Province of Callao qualify for an additional 10 percent. We have found that cotton yarn is a meduim value added product and qualifies for a 20 percent rate if manufactured in the Department of Lima and the Province of Callao, and qualifies for a 30 percent

rate if manufactured outside of Lima/Callao.

Once the gross amount of the rebate certificate is determined, 2 percent of this amount is issued to the Fund for the Promotion of Nontraditional Exports (FOPEX), and 10 percent is issued to the Provincial Municipal Towncouncil from which the product originated. The exporter then receives the balance, 88 percent of the gross amount.

We found that the deductions for FOPEX and the Provincial Municipal Towncouncils do decrease the amount of gross subsidy, and that neither FOPEX nor Towncouncils provide any benefit to exporters which are not generally available.

Although the respondent claims the CERTEX certificates are further reduced in value due to delay in receipt, commissions charged on subsequent transfer of a certificate, and taxability of certificates, these are not offsets permitted under the countervailing duty law (19 U.S.C. 1677(6)(a)).

Respondent states that the rebate of indirect taxes on production is one of CERTEX's principal purposes and that there is a relationship between the present level of CERTEX payments and the incidence of indirect taxation on the producers of the product under investigation.

In determining whether the CERTEX program is a bona fide rebate of indirect taxes, the primary considerations are: (1) Whether the CERTEX program operates for the purpose of rebating indirect taxes, (2) whether there is a clear link between eligibility for CERTEX payments and payment of indirect taxes, and (3) whether the government has reasonably calculated and documented the actual indirect tax incidence borne by exported cotton yarn and has demonstrated a clear link between such tax incidence and the amount of CERTEX payments.

Taxes rebated by CERTEX certificates include those on salaries and wages of workers, the enterprise patrimony, revaluation of fixed assets, customs duties on fixed assets, goods and services tax collected over insurances and capital goods, interest tax on local and foreign currency, the fund for research and development, the consumption of electricity and fuel, customs duties on supplies, and the municipal sales tax. Some of these taxes are direct taxes, while others are indirect taxes on goods which are not physically incorporated in the final product.

The government of Peru has not satisfactorily demonstrated the requisite linkage between the indirect tax incidence and the level of CERTEX payments, nor has it shown that the actual indirect tax incidence has been reasonably calculated and documented.

Since the above-described linkage has not been demonstrated, we have determined that the CERTEX payments must be considered as conferring bounties or grants in the amount of 26.298 percent of the f.o.b. value of the export for all exporters of cotton yarn, regardless of area of production.

We have determined a weighted-average benefit rate based on total sales for export to the United States of producers located in the Department of Lima or Province of Callao and usage of the CERTEX rate applicable to that area, and total sales for export to the United States of producers located outside of Lima/Callao and the usage of the CERTEX rate applicable to that area. We note that in determining a weighted-average CERTEX rate, we used only verified sales data.

B. *Nontraditional Export Fund (FENT).* The Nontraditional Export Fund (FENT) was established by the government of Peru to grant financial support to nontraditional export activities. Changes were made to the FENT system in June, 1982. The new FENT system was established to assure the exporter a line of credit with which it could finance its exports, and assist Peru in meeting the terms of its contract with the IMF.

The fund is administered by Banco Industrial del Peru through credits to financial institutions for short-term financing of exports. The financing may be in the form of either preshipment credit or post-shipment credit. Preshipment credit is credit given to Peruvian exporters prior to shipment of the goods. Post-shipment credit is credit to the Peruvian exporter for which the bank collects foreign receivables and remits to the exporter the difference between the collection and the loan amount plus expenses. The FENT loans are for 90 days, but may be renewed once in order to cover both pre/and post-shipments, thus having an actual life of 180 days.

The exporter requesting FENT financing may apply directly to the Banco Industrial del Peru or to a financial intermediary for an amount of credit up to 90 percent of the f.o.b. value of the export. The credits are denominated in foreign currency but the exporter actually receives the loan in soles converted at the exchange rate in effect on the date of receipt of the loan. The exporter must repay the loan with the foreign currency received in payment for the export shipment. The interest rate charged on the FENT loan is one percent.

In order to obtain a FENT credit, the exporter must make a deposit of an amount equivalent to 72 percent of the f.o.b. value of the export, or to 80 percent of the amount of the loan he is requesting. The deposit must be made in the Banco Central (Central Bank of Peru) and must be in a foreign currency. The exporter must obtain the resources for this deposit through borrowing from a commercial bank. The Banco Central pays the exporter interest on the déposit at a LIBOR 90-day rate plus five percent.

Since the current FENT loan program came into effect in June of 1982, we examined FENT loans received during the period July through September 1982 by exporters whose responses we had verified.

Most of the exporters had not repaid FENT loans received during this period. We found only a small number of the new FENT loans had been repaid. Most of the loans were still outstanding at verification and we were unable to determine interest rates and charges applicable to these loans, since the actual costs of the loans will not be known until the loans are completely repaid.

Exporters generally do not know interest and charges on the overseas loans needed to make the deposit required under FENT until the banks close out the loans and debit exporters' accounts in the amounts of applicable interest, taxes and charges. From bank statements on FENT loans we found that in most cases only incidental charges on the loans were debited to the exporters' accounts prior to settlement of the loan. Consequently, we based our determination of the actual cost of FENT loans on FENT loans that had been completely repaid.

The benefit derived from all of the FENT loans reported in verified responses and received during the period July through September of 1982 was determined by comparing the weighted-average rate of interest on repaid FENT loans from this period with a representative rate on local U.S. dollar loans (loans from U.S. dollar deposits in Peruvian banks), the most probable source of export financing had FENT loans not been available. We then applied the difference in the rates to the total of FENT loans received during the period July through September of 1982, and divided the result by four. We divided by four to adjust from an annual to a quarterly basis. In this way we estimated the total interest savings resulting from FENT loans for the third quarter of 1982.

In calculating a weighted-average rate of interest on repaid FENT loans we

weighted the effective rate of interest on each loan first by the principal amount of the loan and second by the number of days the loan was outstanding.

We then divided the total interest savings from verified FENT loans by estimated third quarter 1982 exports of cotton yarn producers whose responses we had verified to express the total FENT benefit as a percent of total f.o.b. value.

On this basis we calculated a bounty or grant in the amount of 5.1 percent of the f.o.b. value of the export.

Since our information on actual third quarter exports in 1982 was incomplete, we estimated exports for that period by taking one fourth of total 1981 exports.

We selected local U.S. dollar loans as a basis of comparison since the FENT loan is denominated in dollars and is repaid by exporters from the dollar proceeds received from export sales. Although the loan amount paid out to the exporter in soles is less than the sole equivalent of the dollars which the exporter must repay when the loan comes due, the exporter does not incur a currency exchange loss since he receives a hard foreign currency, usually dollars, to repay the loan. We did not select sole loans as a basis of comparison for FENT loans, since sole loans were not generally available to finance export sales of cotton yarn.

C. *Articles 8, 9, 12, 14 and 16 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law).* Petitioners allegend that a number of benefits are provided to producers, manufacturers, or exporters of cotton yarn in Peru under various articles of the Export Law.

It is the aim of the Export Law to improve the foreign trade structure of Peru. The Export Law is a system aimed at the promotion of nontraditional exports.

We have determined that benefits are provided under articles 8, 9, 12, 14 and 16 in the the following manners:

1. Decree Law 18350, the General Law of Industries, established four priorities for the various industrial groups, with each priority having a different percentage and selectivity index which determined the amount of net income that could be invested or reinvested free of income tax. Decree Law 22401 of December 1978, changed the reinvestment benefit from a tax deduction to a tax credit.

The Export Law, Articles 8 and 9, permits exporters to upgrade their priority one level. Therefore, we have determined that the benefit provided by these articles is the additional amount of tax credit which cotton yarn exporters may use by upgrading from priority two, the priority into which they would normally fall, to priority one. Since this upgrading was contingent on export performance, we regarded the benefit of upgrading from priority two to priority one as an export subsidy.

Further, upon examining the industries comprising each of the priorities established by the General Law of Industries, we determined that although priority two included the majority of industries, priority three included a significant number of industries. We therefore concluded that the priority two reinvestment incentive was not generally available on equal terms to all producers and conferred an additional subsidy to the extent that its investment allowance exceeded that available to priority three industries. Since category four included a small number of non-essential industries, we decided that category four would not serve as an appropriate basis for determining the benefit generally available.

On verification we found that an additional subsidy also exists in the fact that companies located outside of Lima/Callao (decentralized), regardless of priority, are allowed a higher percentage and selectivity index than companies located inside Lima/Callao (nondecentralized).

We determined these additional benefits by applying the additional tax credits taken to total sales.

The net benefit provided by these articles of upgrading from priority two to priority one was determined by tetaling the additional tax credit taken on the basis of the upgrading and allocating this value over total exports.

On this basis we calculated a bounty or grant in the amount of 0.61 percent of the f.o.b. value of the export.

2. We have determined that Article 12 bestows a bounty or grant to exporters in that it allows them to take an additional amount of depreciation. Exporters are allowed to take an additional 50 percent, above normal depreciation under this article. The benefit was determined by figuring the amount of tax benefit to each company, totaling that amount, and allocating this value, over total exports.

On this basis we calculated a bounty or grant in the amount of 0.75 percent of the f.o.b. value of the export.

Although the benefit provided by this Article is available to other manufacturers under Article 28 of Supreme Decree No. 015–69–HC, we determined that it provides exporters with the automatic right to additional depreciation, whereas the benefit generally available to others must be applied for, and presumably, could be denied.

3. According to Article 14 of the Export Law, enterprises that increase the number of permanent jobs in relation to those existing in the previous year may deduct as an expense of the fiscal year the amount of remuneration paid out as a result of the new jobs created, receiving income tax credits ranging from 30 to 60 percent.

Since this income tax deduction in the amount of the remuneration paid out on new jobs is available only to exporters, we regared the resulting income tax savings as a bounty or grant.

We found that some companies did use this Article. We determined the benefit provided by taking the deduction amount times the company's tax rate to find the actual tax savings, and allocating the net tax savings over total exports.

On this basis we calcualted a bounty or grant in the amount of 0.07 percent of the f.o.b. value of the export.

Although Article 63 of Law No. 23407 allegedly makes this deduction generally available, this deduction was not generally available during the period of investigation, because Law No. 23407 was not in effect at that time.

4. Article 16 states that industrial companies exporting nontraditional goods that export 40 percent of their annual production shall enjoy suspension of payment of tariff duties levied on imported capital goods for a maximum period of five years.

If they have generated a net inflow of foreign exchange equal to 100 percent of the value of the imported goods before or by the end of the five years, they enjoy total exemption. The company must obtain 40 percent exportation within a maximum period of two years from the date of commencement of the production generated by the imported capital goods.

In order to be eligible for this benefit the companies must sign a contract with the state. If the conditions are not met, the import duties whose payment had previously been suspended must be paid. A surcharge and an interest charge amounting to 9.6 percent on the duties deferred must also be paid.

Article 16 of the Export Law has been determined to provide a benefit, in that an enterprise which imports machinery is relieved of liability for the payment of import duties on machinery if certain export targets are subsequently met. Pending the meeting of those targets, the payment of duties is deferred.

We determined the amount of benefit resulting from deferral, by treating the duty amount as an interest-free loan (or

a series of one-year loans if the period of deferral is longer than one year).

We found that none of the companies had received government certification of duty exemption. Therefore, the amount of the benefit was determined by applying the amount of duties deferred to the effective annual interest rate on sole short-term loans for the length of time during the year that duties were deferred. We then totaled the amount of interest payable and allocated it over total exports.

We found that one company which had duties deferred in 1981 had no production in 1981. To balance the effect of the inclusion of this company's deferred duties into total benefits received, we have allocated total benefits received by all firms over all exports during the period of investigation plus the estimated amount of annual production of this company. As this company is strictly an exporter and has no home market sales, the estimate of total production was derived by taking an average of sales for the latest two months in 1982 for which information was available, and annualizing that value.

On this basis we calculated a bounty or grant in the amount of 5.46 percent of the f.o.b. value of the export.

During reviews under section 751 of the Act the amount of production attributed to this company will be dealt with in greater detail as it is expected that more information will be available as to the company's actual production capacity.

II. Programs Determined Not To Confer Bounties or Grants

We have determined that bounties or grants are not being provided to manufacturers, producers, or exporters in Peru of cotton yarn under the following programs:

A. *The Fund for the Provision of Nontraditional Exports (FOPEX).* The petition alleged that the Fund for the Promotion of Nontraditional Exports (FOPEX) is a subsidy whose functions include, among others, furnishing technical services contributing to the adaptation, increase, and diversification of nontraditional exports.

FOPEX provides no credits, guarantees, grants, or other forms of economic assistance. We have ascertained that FOPEX provides only general information services on international trade, import/export development, export promotion programs, and international shipments and transportation. Based upon our analysis we have determined that FOPEX does not confer bounties or grants.

Export Law

B.1. We determined that Decree Law 22392, dated November 19, 1978, abolished the taxes referred to in Article 15 of the Export Law. This varies from our preliminary determination where we stated that the law ". . . abolished the provision of Article 15 allowing an exemption from taxes. . . ."

As we have found that the taxes referred to in Article 15—the registration tax and the real estate transfer tax (the "Alcabala")—have been abolished, and the additional real estate transfer tax ("Adicional de Alcabala") applies only to the seller of property, Article 15 has been determined not to provide a bounty or grant.

Although on verification we found one company that stated they had been exempted from paying the Alcabala tax, we determined that this company was not subject to the tax because it had previously been eliminated.

2. Article 32 of the Export Law has been determined to allow exporters to hire personnel for a contracted period of time under the same requirements as under Law Decree 18138. Law Decree 18138 provides rules to regulate fixed term individual work contracts for any industry. According to Article 32, companies must pay contract employees at the same wage levels as permanent employees performing the same tasks. From an examination of payroll records, we found that benefits such as social security, accident insurance and pension benefits were the same for both contract and permanent employees.

The hiring of contract personnel does not affect company contributions to labor shares or distribution of net income to workers, as these amounts are determined as a fixed percentage of net income rather than by the number of employees.

Since we found that the benefit provided under Article 32 incorporates the provisions of Law Decree 18138, which is generally available, we determined that no countervailable benefit is being provided under Article 32 of the Export Law.

III. Programs Determined Not To Be Used

We have determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation, Cotton Yarn from Peru" are not used by the manufacturers, producers, or exporters in Peru of cotton yarn.

A. *Articles 23, 24, 31 and 13 of the Law for the Promotion of Exports of Nontraditional Goods (the Export Law).*

1. Article 23 of the Export Law permits consortia formed for the exportation of nontraditional goods exemption from various taxes. We determined that no consortia exporting the products under investigation exist in Peru, therefore Article 23 was not used.

2. Article 24 allows an exemption from duties on raw materials and/or unfinished goods to be used exclusively in the manufacture of finished goods for export and in the manufacturer of unfinished goods which, once processed, are included among such goods. Cotton, which is the principal raw material used in the production of the products under investigation, must, by law, be purchased in Peru. We determined that this article has not been used by the manufacturers, producers or exporters of the merchandise under investigation.

3. We determined that no producers of cotton yarn have obtained any preferential shipping rates under Article 31 of the Export Law. Therefore, the article has been determined not to have been used.

4. Article 13 of the Export Law states that enterprises may capitalize the earnings invested or reinvested with exemption from income tax, provided that they do so within six years, inclusive of the fiscal year in which the tax exemption is obtained.

Under Decree Law No. 19262 of January 1972, any company may capitalize earnings which are invested or reinvested within three years, with exclusion from the five percent income tax on capitalization. Law Decree 22037 of December 1977, extended the allowable (re)investment period to five years.

We found that the benefit provided by this Article is the additional year it allows exporters in which to capitalize. We have found, however, that firms which capitalized earnings did so within a maximum of five years and did not take advantage of this additional provision for exporters.

V. Petitioners' Comments

Comment 1: Petitioners argue that no evidence exists to show: (1) that CERTEX has the purpose of rebating indirect taxes, (2) linkage between indirect tax payments and the eligibility for CERTEX payments, and (3) reasonable calculation and documentation of actual tax incidence borne and linkage between tax incidence and amount of CERTEX payments.

DOC Position: We agree, as stated in the section on the "Certificate of Tax Rebate," the government of Peru has not satisfactorily demonstrated the requisite

linkage between indirect tax incidence and the level of CERTEX payments, nor has it shown that the actual tax incidence has been reasonably calculated and documented.

Comment 2: Petitioners argue that CERTEX should not be adjusted for time delay in receipt of certificates or the effect of income taxes upon CERTEX.

DOC Position: We agree. As stated in the section "Certificate of Tax Rebate", these are not offsets permitted under the countervailing duty law (19 U.S.C. 1677(6)(a)).

Comment 3: Petitioners argue that FENT export credits are dollar loans, and as the Peruvian exporter receives dollars for exports with which to pay off the loan, he bears no exchange rate risk.

DOC Position: We agree, and as stated in the section entitled "FENT", we found that the exporter does not incur any currency exchange loss

Comment 4: Petitioners argue that Article 16 of the Export Law is an exemption, not a suspension, of duties on imported capital equipment and machinery, and as such is a forgiveness of a cost that would normally be expensed in the year incurred.

DOC Position: We disagree that Article 16 forgives costs, but have found that it suspends them. As stated in the section "Export Law", Article 16 has been determined to provide a benefit in that the payment of duties is deferred.

Comment 5: Petitioners argue that the issue of "like" product is relevant only within the context of a determination of material injury by the U.S. International Trade Commission. (*See* comments 1, 2 and 3, Comments from Other Parties to the Proceedings)

DOC Position: In accordance with the definition of "like" product (19 U.S.C. 1677(10)), we believe that a "like" product is being produced by petitioners. Even if it were not, we believe petitioners do have the capability to produce a "like" product (19 U.S.C. 1677(4)(D)).

As representatives of an industry which either producers or has the capability to produce a "like" product, petitioners do qualify as "interested parties", and, as such, have standing to petition for the initiation of this investigation under 19 U.S.C. 1677(9).

This has previously been established in the case *Cotton Yarn from Brazil* (47 22114), in which the petitioners were found to have standing on the same products as covered in this investigation.

Comment 6: Petitioners argue that the currently outstanding countervailing duty order on cotton yarn from Brazil, which covers the same products of the instant investigation and was filed by the American Yarn Spinners Association, is clearly established precedent with respect to the like product issue and the proper standing of the AYSA.

DOC Position: See DOC Position in response to Petitioner Comment 5.

V. Respondents' Comments

Comment 1: Respondents argue that the legislative history of the Act makes clear that the net subsidies definition does not apply to a country, such as Peru, that is not a "country under the Agreement."

DOC Position: We disagree. Section 771(5) of the Act explicitly states that the term "subsidy" has the same meaning as the term "bounty or grant." References in the legislative history to a broad definition of the term subsidy apply equally to the term "bounty or grant" and to the term "subsidy." Defining the term "bounty or grant" in a more restrictive sense than the term "subsidy" would be *ultra vires* and would in effect penalize countries that had signed the Subsidies Code.

Comment 2: Respondents argue that under the Act, the DOC has the discretion not to apply the offset provisions of section 771(6) to Peru. Therefore respondents believe that the DOC should make adjustments for indirect taxes related to the exported products and for the additional costs incurred in locating in decentralized areas.

DOC Position: We disagree. The DOC has consistently limited offsets in the calculation of a net subsidy to those offsets provided for under section 771(6) regardless of whether the DOC was conducting its investigation under section 303 or under Title VII of the Act. In fact, the limitation of offsets was intended to apply particularly to export rebate payments, and to preclude, *inter alia*, the allowance of regional dislocation costs as an offset.

Comment 3: Respondents argue that Peru's CERTEX does meet the DOC's purpose test as described in the discussion of this program above.

DOC Position: While we agree that the government of Peru intended as one of its objectives in establishing the CERTEX the rebate of indirect taxes, we have found that the government of Peru rebates a broad spectrum of taxes and costs which fail to meet the DOC's physical incorporation test as described in Annex I of the Department's countervailing duty regulations. Nor have we been provided adequate evidence that the indirect taxes borne by the products under investigation have been reasonably documented and calculated.

Comment 4: Respondents claim that loss of value due to delay affects the amount of gross subsidy received and is thus not subject to offset restrictions. Even if offset restrictions were applicable, any amounts lost because of a delay are the result of a government order mandating a delay of at least 15 days.

DOC Position: We disagree. Section 771(6)(B) of the Act allows an adjustment for the reduction in value of a subsidy because of a delay in its receipt only if the delay is mandated by law. In the case of CERTEX, we found the delay to be an administrative delay in the application for, processing and issuance of the CERTEX certificate. Peruvian Supreme Decree No. 021–82–EF makes reference to a 15-day period, but does not mandate a delay of 15 days before the CERTEX certificate may be issued. The wording of the Supreme Decree states that the CERTEX certificate shall be issued within 15 days of the date of application. Although in practice certificates are not issued within 15 days, the Supreme Decree does not appear to prohibit issuance of a certificate prior to the fifteenth day after the date of application.

Comment 5: Respondents claim that verification has shown that income taxes and Industrial Community contributions reduce the amount of CERTEX actually received and capable of being used. In this regard, it would be arbitrary and not in accordance with law for DOC to ignore the effects of income tax on CERTEX and yet ascribe income tax benefits to provisions of the Export Law.

DOC Position: We disagree. Although verification revealed that exporters were required to report CERTEX receipts along with sales receipts on their income tax returns, longstanding DOC practice has been to make no adjustment for potential reduction in the value of rebate payments due to income tax liability. This would require assumptions on the part of the Department as to the overall profitability of the firm in subsequent years. Such assumptions would be speculative at best.

Comment 6: Respondents claim that the proper benchmark for a FENT loan is a domestic loan in soles, not an external dollar loan. FENT's principal purpose is to enable Peru to meet certain international reserve targets imposed by its IMF loan agreement. The real cost of FENT must be calculated in soles, and that cost is in excess of the cost of commercial credit in soles. Verification has established that commercial loans in soles are available and that such loans

constitute the most appropriate benchmark for a FENT credit.

DOC Position: We disagree. Although FENT loans are in fact received in soles, the loans are denominated in dollars and must be repaid in dollars. Since repayments are made from dollars generated by export sales, exporters do not incur an exchange loss on FENT loans. We selected local dollar loans rather than sole loans as a basis of comparison with FENT loans, since local dollar loans were freely available whereas sole loans did not appear to be generally available, particularly for export financing purposes. That sole loans were not freely available was attested to by the fact that exporters were usually forced to use FENT loans to finance exports, despite a strong preference for sole loans.

The fact that a purpose of the FENT is to enable Peru to meet certain international reserve targets imposed by the IMF does not alter the fact that the FENT gives to exporters a readily available line of credit at preferential interest rates.

Comment 7: Respondents claim that Articles 8 and 9 of the Export Law provide reinvestment tax incentives generally available under the General Law of Industries.

DOC Position: Respondent has submitted various laws to show that certian industrial sectors are allowed to invest or reinvest free of income tax certain percentages of net income equal to or greater than the percentages of net income that may be invested tax free by cotton sheeting and sateen exporters. The laws submitted, however, do not establish that these investment incentives are generally available on equal terms to all industries. General Law of Industries 18350 which was in effect during our period of investigation for the export articles clearly assigns significant groups of industries investment tax incentives less than those available to cotton sheeting and sateen producers and exporters.

Comment 8: Article 12 allows for accelerated depreciation to exporters. According to Supreme Decree No. 015–69–HC, Article 28, any firm or industry in Peru can request and obtain an increase in its depreciation rates.

DOC Position: We disagree. Although Supreme Decree No. 015–69–HC, Article 28, allows firms to request an increase in depreciation rates, DOC is not persuaded that the requested increase would be granted in all cases. Under Article 12 of the Export Law, however, exporters receive the right to depreciate at an increased depreciation rate if they elect to do so. Article 28 of the Supreme Decree appears to allow the government discretion to grant or deny requests for accelerated depreciation. We cannot conclude that the Supreme Decree makes generally available on equal terms the accelerated depreciation rates available to exporters under Article 12 of the Export Law. Therefore, we view the provisons of Article 12 as conferring a bounty or grant on exports.

Comment 9: Article 13 allows exporters to capitalize profits free of income tax. Capitalization of reinvested profits is available to all industrial companies under Article 9 of Decree Law No. 18350, modified by Decree Law No. 19262.

DOC Position: We agree. Article 9 of Decree Law No. 18350, modified by Decree Law No. 19262, makes generally available the provisions of Article 13 of the Export Law regarding the capitalization of reinvested profits with exemption from a five percent income tax. We found only one difference between Article 13 of the Export Law and Decree Law No. 18350. The former allows six years for capitalization, whereas the latter allows five years. To the best of our knowledge, capitalization done by firms under investigation was completed within five years . Therefore, Article 13 of the Export Law did not result in the payment of a bounty or grant.

Comment 10: Article 14 allows exporters certain labor tax credits. Article 63 of the New General Industry Law, Law No. 23407, makes certain labor tax credits available to all industries.

DOC Position: We disagree. Although Article 63 of the New General Industry Law, Law No. 23407, makes labor tax credits for new jobs created available to all industries, this law went into effect in June 1982. In our investigation of income tax benefits from the Export Law, we examined the latest period for which all information necessary to evaluate the income tax benefits was available. This period was calendar year 1981. For this period we had information on income tax savings realized in 1981 on the basis of the exporters 1980 income tax returns and complete export statistics for exporters we had verified. The General Industry Law in effect during 1981 did not have a provision for labor tax credits for non-exporting firms. Consequently, we find that during our period of investigation, the provisions of Article 14 of the Export Law resulted in the bestowal of a bounty or grant. We will reexamine this situation at the time of the annual review under section 751.

Comment 11: Article 32 allows exporters of non-traditional goods to hire contract personnel under the system generally established by Decree Law 18138.

DOC Position: We agree. The hiring of contract personnel is provided for under both Article 32 of the Export Law and Decree Law 18138, which is generally available to all producers. Therefore, Article 32 read in the light of Decree Law 18138, does not confer a bounty or grant.

Comment 12: Respondents claim DOC must make a number of significant adjustments in its calculations of possible benefits under Articles 8, 9, 12, 13, 14, 15 and 32 of the Export Law.

Firms that did not pay taxes in 1981 did not derive any benefits from Articles 8, 9, 12, 13, 14 or 15 of the Export Law. A tax benefit can only be found if the DOC can show that but for that particular tax benefit, taxes would have been paid.

DOC Position: We agree. When exporters had no income or sustained a net loss even before the tax deductions permitted under the Export Law, we did not find a countervailable benefit from articles of the Export Law which the exporters might have used.

Comment 13: The government of Peru can see no rationale for using 1980 instead of 1981 tax results.

DOC Position: We disagree. We used 1980 income tax returns since the income tax savings realized on 1980 income tax returns were realized in 1981 when exporters actually filed their 1980 tax returns. We received 1981 income tax returns from most of the Peruvian exporters. We did not use the 1981 tax returns, however, since we viewed the savings on these returns as realized upon the filing of these returns in 1982, a year for which we had only incomplete f.o.b. export values for purposes of allocating the savings associated with the 1981 returns. This information would be used in a section 751 review.

Comment 14: Respondents claim the use of Article 12 providing for accelerated depreciation can result in the loss of other tax benefits, and these lost tax benefits must be offset against the benefits provided by Article 12.

DOC Position: The loss in tax benefits referred to by the respondent is the investment tax credit and the worker shares tax credit.

First, the investment tax credit which may increase with an increase in net income could have been larger had accelerated depreciation not been used. We have no evidence however, that additional investment was in fact made. Therefore, we cannot make an adjustment for the potentially larger investment tax credit that would have been allowed had net income been larger due to a normal depreciation rate.

Second, the value of worker shares issued would have increased had net income been increased. In addition, the tax credit for worker shares would also have increased. However, since the increased value in worker shares was, in fact, not paid, we are precluded from making an adjustment for a tax credit based on a hypothetical increase in the value of worker shares issued.

Comment 15: The amount included under Article 13 of the Export Law regarding capitalization of profits in the countervailing duty response for La Bellota was in error.

DOC Position: We agree. On verification we established that La Bellota received no benefit under Article 13. La Bellota reported savings under Article 13 as a result of a misinterpretation of DOC's questionnaire on this point.

Comment 16: Article 15 of the Export Law on tax exemptions for increases in capital does not currently exempt exports from tax payments.

DOC Position: We agree, since the registration tax and the real estate transfer tax ("Alcabala") have been abolished by Decree Law 22392, and the additional real estate transfer tax referred to in Article 15 applies only to the seller, we conclude that Article 15 no longer confers tax benefits.

Comment 17: The respondent believes that total sales or production should be used as the denominator for calculations. Since the benefits are on direct income taxes, the benefits can be used for all production, not just exports.

DOC Position: We disagree. Since benefits under the Export Law are contingent on export performance, the DOC regards these benefits as export rather than domestic subsidies and allocates the benefits solely to export sales.

Comment 18: Despite arguments by counsel or representatives for ATMI or AYSA, it is clear under the law that until its export contract with the government has been met and an exemption finally granted, a firm exporting non-traditional goods has not received any countervailable benefits under Article 16 of the Export Law.

DOC Position: We disagree. The suspension of import duties on imports of capital equipment result in an immediate benefit in that a cash expenditure is deferred for a period of years. Because of uncertainty as to whether or not exporters will meet export requirements and get complete exemption from duties or whether they will fall short of export requirements and be required to pay duty plus interest, the DOC must regard the suspension of duties as conferring a bounty or grant in the form of an interest-free loan with principal equal to the amount of duties deferred.

Comment 19: Respondent claims that firms which in 1981 did not export the product under investigation to the United States should be excluded from the DOC's calculation of import duties suspended under Article 16 of the Export Law.

DOC Position: We disagree. DOC cannot foresee whether exporters will or will not in a given year export a product under investigation to the United States. By allocating the benefit to total exports of all products, the DOC has estimated fairly the bounty or grant on products under investigation.

Comment 20: Respondent claims that the DOC should exclude duties on machinery and equipment that do not produce products under investigation.

DOC Position: Given the time constraints of the investigative period and the highly technical aspects of textile production machinery, the DOC has not been able to establish that certain machinery not only was not but, in fact, could not, be used in the production of the product under investigation. Under these circumstances, the DOC included the suspended duties on all machinery imported under Article 16 and allocated the benefits from Article 16 to total exports of all products produced by the respondents.

Comment 21: Respondent claims that import duties which are finally exempted should be allocated over the useful life of the equipment.

DOC Position: We disagree. Since the import duty suspension conveys an immediate benefit to the firm, the DOC rejects respondent's claim that countervailing duties should be imposed only when and if duties are finally exempted, an approach which could allow as much as a five-year lapse before the DOC could make its determination on whether or not to impose a countervailing duty. Instead, as described earlier in this determination, DOC has determined to treat the import duty suspension as an interest-free loan rather than a grant, since the conditions of the suspension more closely resemble a loan than a grant, considering the fact that the import duties may eventually have to be repaid with interest in the event exporters do not meet the required export level.

Comment 22: Respondent claims that Textil Trujillo which produced no cotton yarn in 1981 should be excluded from our calculation of benefits due to suspensions under Article 17 of import duties on machinery.

DOC Position: Although Textil Trujillo did not export during our period of investigation, they have exported subsequent to this period with benefit of import duty suspensions under Article 16. For this reason DOC cannot exclude this company from its calculations. To compensate for the fact that Textil Trujillo did not export during our period of investigation, we have imputed exports to this company based on its exports in 1982.

Comments From the Other Parties to the Proceedings

Comment 1: Counsel for FISCO argue that Pima cotton yarn imports from Peru falling in TSUS item numbers 301.30 are high count yarns should be excluded from this proceeding on the basis that they are not a "like" product (19 U.S.C. 1677(10)) and therefore, petitioners are not an "interested party" (19 U.S.C. 1677(9)).

DOC Position: We disagree. We have determined that petitioners are an "interested party" within the meaning of 19 U.S.C. 1677(9)(D), and that they do produce, or have the capability to produce, a "like" product within the meaning of 19 U.S.C. 1677(10).

Comment 2: Counsel for Industria Textil Piura, S.A. and J.J. Ryan and Sons, Inc. argue that yarns classifible under certain TSUS items should be excluded from our final determination because they are high count cotton yarns which are unlike, in character and use, cotton yarns produced and sold in the United States, and therefore are not "like" products.

DOC Position: We disagree. Although there may be differences on the basis of quality, we determined that cotton yarns produced and sold in the United States are "like" those imported from Peru on the basis of 19 U.S.C. 1677(10).

Comment 3: Counsel for Industria Textil Puira, S.A. and J. J. Ryan and Sons, Inc. argue that the American Yarn Spinners Association lacks standing to seek the imposition of countervailing duties on high count cotton yarns. Lack of standing is due to the fact that: (1) None of its members produce yarns over 80 count; (2) a majority of its members do not produce other high count yarns of the same quality; (3) and the data provided as evidence of standing relates to a period which is not contemporaneous with the subject proceeding.

DOC Position: We disagree. We have determined that the American Yarn Spinners Association is an "interested party" in accordance with 19 U.S.C. 1677(9)(D) and therefore does have standing with which to seek the

imposition of countervailable duties on high count cotton yarns, in accordance with 19 U.S.C. 1671a (b).

Comment 4: Counsel for Danco, Division of General Mills, argue that the Department should calculate the net amount of such bounty or grant as may be found on a company-by-company basis to the extent feasible.

DOC Position: We disagree. We have determined that there are differences if calculated on a company-by-company basis, however, we have determined they are not significant.

Comment 5: Counsel for Danco, Division of General Mills, argue that CERTEX benefits should be calculated considering the effect of delay in receipt and on an after tax basis.

DOC Position: We disagree. As stated in the "CERTEX" section of this notice, not mandated by government time delays and the effect of income tax are not considered permissible offsets under 19 U.S.C. 1677(6)(a).

Comment 6: Counsel for Danco, Division of General Mills, argue that Article 16 of the Export Law provides for a conditional suspension of import duties on capital equipment, and as such is not countervailable.

DOC Position: We disagree. We have determined that Article 16 of the Export Law does represent a conditional deferral of import duties. However, this deferral does represent a countervailable benefit to exporters.

Comment 7: Counsel for Danco, Division of General Mills, argue that the use of 1980 tax figures would be unequivocally wrong both as a matter of law and as a matter of good sense.

DOC Position: We disagree. As stated in the "Analysis of Programs" section of this notice, tax deductions and credits taken in 1980 represent a benefit to 1981, the year in which such benefits are recognized, and therefore are appropriate to use in analysis of 1981.

Comment 8: Counsel for Danco, Division of General Mills, disagrees with the departments interpretation of FENT and argues that the FENT program does not constitute a bounty or grant as preliminarily determined due to shortcomings in analysis: (1) Misunderstanding of purpose; (2) significant additional costs; and (3) effect of currency devaluation.

DOC Position: We disagree. For reasons described in the section entitled "FENT", we have determined that FENT does constitute a bounty or grant.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During this verification, we followed normal procedures, including inspection of documents, discussions with government officials and on-site inspection of manufacturers' operations and records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). A public hearing was held on December 17, 1982. In accordance with the Department's regulations (19 CFR 355.34 (a)), written views have been received and considered.

The suspension of liquidation ordered in our preliminary affirmative countervailing duty determination shall remain in effect until further notice. The net bounty or grant is 38.288 percent of the f.o.b. value of the export of cotton yarn. We are directing the United States Customs Service to require a cash deposit in the amount indicated above for each entry of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register.**

The Department intends to conduct an administrative review within 12 months of the publication of this determination as provided in section 751 of the Act.

(Secs. 303 and 706 of the Act) (19 U.S.C. 1303, 167le).)

Lawrence J. Brady,

Assistant Secretary for Import Administration.

[FR Doc. 83-2729 Filed 1-31-83; 8:45 am]

BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determination; Prestressed Concrete Steel Wire Strand From Brazil

AGENCY: International Trade Administration; Commerce.

ACTION: Final Affirmative Countervailing Duty Determination.

SUMMARY: We have determined that certain benefits that constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of prestressed concrete steel wire strand (PC strand). The estimated net subsidy is 13.90 percent *ad valorem.* The U.S. International Trade Commission (ITC) will determine within 45 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a U.S industry.

The Department of Commerce (the Department) and the government of Brazil have entered into a suspension agreement. We continued the investigation at the request of the petitioners. If the final determination by the ITC is negative, the suspension agreement shall have no force or effect. If the final determination by the ITC is affirmative, the suspension agreement shall remain in force.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that certain benefits that constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of PC strand. The following programs are found to confer subsidies:

- Industrialized Products Tax (IPI) export credit premium
- IPI rebates for capital investment
- Preferential working capital financing for exports: Resolution 674
- Income tax exemption for export earnings
- Accelerated depreciation for capital goods manufactured in Brazil

We determine the estimated net subsidy on PC strand from Brazil to be 13.90 percent *ad valorem.*

The Department and the government of Brazil have entered into a suspension agreement. If the ITC makes a final affirmative determination, the agreement will remain in force, and we will not issue a countervailing duty order as long as the requirements of section 704(f)(3)(B) of the Act are met.

Case History

On March 4, 1982, the Department received a petition from counsel for American Spring Wire Corporation, Florida Wire & Cable Company, Pan American Ropes, Inc. and Shinko Wire America, Inc., filed on behalf of the U.S. industry producing PC strand. The petition alleged that certain benefits that constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to manufacturers, producers, or exporters in Brazil of PC strand.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and on March 30, 1982, we initiated a

countervailing duty investigation (47 FR 13396).

We stated that we expected to issue a preliminary determination by May 28, 1982. We subsequently determined that the investigation was "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until August 2, 1982 (47 FR 20652).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On April 19, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 18200).

On March 25, 1982, we presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. On May 26, 1982, we received the response to the questionnaire.

On August 2, 1982, we issued our preliminary determination in this investigation (47 FR 34609). We stated in our preliminary determination that the government of Brazil was providing its manufacturers, producers, or exporters of PC strand with benefits that constitute subsidies. The programs preliminarily determined to bestow subsidies were:

- IPI export credit premium
- IPI rebates for capital investment
- Preferential working capital financing for exports:
- Resolution 674
- Income tax exemption for export earnings
- Accelerated depreciation for capital goods manufactured in Brazil

On October 15, 1982, the Department and the government of Brazil signed a suspension agreement, as provided for under section 704 of the Act. The agreement became effective with its publication in the **Federal Register** on October 22, 1982, (47 FR 47048). Under the agreement, the government of Brazil is required to offset completely by an export tax the amount of the net subsidy determined by the Department to exist on Brazilian exports of PC strand to the United States. The petitioners are challenging this agreement in the Court of International Trade in the case of *American Spring Wire Corp.* v. *United States*, Court No. 82–11–01579.

By letter of November 12, 1982, counsel for the petitioners requested that the investigation be continued under section 704(g) of the Act. Therefore, we are required to complete the investigation and issue a final determination.

Scope of Investigation

The product covered by this investigation is prestressed concrete steel wire strand manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States. The term "prestressed concrete steel wire strand" covers wire strand of steel other than stainless steel for prestressed concrete, as currently provided for in item 642.1120 of the *Tariff Schedules of the United States Annotated*.

Companhia Siderurgica Belog-mineira (Belgo-Mineira) is the only known producer and exporter in Brazil of PC strand to the United States. The period for which we are measuring subsidization is calendar year 1981, which coincides with Belgo-Mineira's fiscal year.

Analysis of Programs

In its response, the government of Brazil provided date for the applicable periods. Throughout this notice, general principles and conclusions of law applied by the Department of Commerce to the facts of this investigation are described in detail in Appendices 2 and 4, which appeared with the notice of "Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Belgium" (47 FR 39304).

I. Programs Determined To Confer Subsidies

We have determined that subsidies are being provided under the programs described below to manufacturers, producers, or exporters in Brazil of PC strand.

A. *Industrialized Products Tax (IPI) Export Credit Premium.* The IPI export credit premium has been found to be a subsidy in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981.

Exporters of PC strand are eligible for the maximum IPI export credit premium. During the applicable period, 15 percent of the "adjusted" f.o.b. invoice price of the exported merchandise was reimbursed in cash to the exporter through the bank involved in the export transaction. Subsequently, the government of Brazil reduced the benefit to 14 percent on March 31, 1982, 12.5 percent on June 30, 1982, and 11 percent on September 30, 1982.

In calculating the amount the exporter is to receive, several deductions may be made to the invoice price to obtain the "adjusted" f.o.b. value. These adjustments include: any agent commissions, rebates, or refunds resulting from quality deficiencies or damage during transit, contractual penalties, and the value of imported inputs. In order to receive the maximum export credit premium, the exported product must consist of a minimum of 75 percent value added in Brazil. If this minimum limit is not met, there is a specific calculation to reduce the f.o.b. invoice price when calculating the base upon which the IPI export credit premium is paid.

Our preliminary determination on this program was made using the best information available to us. We preliminarily determined that a subsidy in the amount of 12.5 percent *ad valorem* existed, which was the maximum amount available to Belgo-Mineria at that time.

At verification, we sampled many of Belgo-Mineira's receipts of the IPI credits and traced each to the appropriate shipment, as a basis for calculating the value of the IPI credits. We established that the only deduction made from the value of the shipment before the IPI credits were calculated was an agent fee-and that shipments frequently did not have this deduction. For each shipment, we calculated the value of the IPI credits as a percentage of the gross value of the shipment. We made this calculation as of the date of shipment rather than the date of receipt of the IPI credits and did not take into account the devaluation of the cruzeiro between the date of shipment and the date of receipt in accordance with section 771(6)(B) of the Act.

Although deductions for an agent commission occurred for some shipments during 1981, we could not establish an average rate for such deductions; when examining *all* shipments in a particular period, we found none with deductions for an agent fee. Therefore, we calculated a subsidy value during 1981 of 15 percent. This rate is premised on an IPI export credit premium of 15 percent.

The government of Brazil has made three reductions in the level of the IPI credit during 1982, the most recent to 11 percent on September 30, 1982. accordingly, we have proportionally reduced our calculation above. On this basis, we calculated a current *ad valorem* export subsidy of 11 percent.

B. *IPI Rebates for Capital Investment.* Decree Law 1547 (April 1977) provides funding for the expansion of the Brazilian steel industry through a rebate of the IPI, the Brazilian federal excise tax. Under this tax system, a company determines its liability for the tax at the

end of each month. The net tax owed is calculated as the difference between the total IPI the company paid on purchases and the total IPI it collected on domestic sales. Normally, within five months after the end of each month, a company must pay the amount of the net tax owed directly to the Brazilian government. This net IPI tax is the basis for calculating the rebate for investment. A Brazilian steel company may deposit 95 percent of the net IPI tax due in a special account with the Banco do Brasil. The amounts deposited are to be applied to steel expansion projects, and when rebated to the firms constitute tax-free capital reserves which must eventually be converted into subscribed capital.

We consider the amount rebated each year as an untied capital grant received in that year. As such, we have allocated the grants over 15 years, the estimated average life of capital assets in integrated steel mills (based on Internal Revenue Service studies of actual experience in integrated mills in the U.S.).

In making the calculation for our preliminary determination, we took the amount of the rebate received in each year, converted the cruzeiro value to dollars by using the average exchange rate for the year, and used as the discount rate for each year the average LIBOR (London Interbank Offered Rate) plus the prevailing spread over LIBOR in Brazil in that year. The grants were amortized over 15 years and the total benefit for 1981 was divided by the total value of sales, converted into dollars using the average exchange rate for 1981.

We chose the above method for our preliminary determination because at that time we did not have sufficient information to employ the indexing procedure that establishes the rate of return on long-term cruzeiro debt instruments in Brazil. At verification we learned that government bonds and long-term cruzeiro loans are fully indexed to the inflation rate in Brazil and have fixed real interest rates. The index used is the ratio established for the Readjustable Bonds of the National Treasury (ORTN). In the case of a loan, the cruzeiro value is converted to an ORTN value by using the ORTN index rate in the month of receipt. The stream of principal and interest payments over the life of the loan is then calculated in ORTN and when a payment is made, the ORTN value due is coverted into cruzeiros at the ORTN index rate in the month of payment.

Based on this information, we have recalculated the benefit from these grants in accordance with Appendix 2. We have taken the amount of the rebate received in each month, converted the cruzeiro value to an ORTN value by using the ORTN index rate in the month of receipt, added the monthly ORTN amounts to determine the amount of the grant in each year, and used as the discount rate for each year the interest rate of 4 percent on ORTN-indexed government debt. The total benefit in ORTN for 1981 was converted into cruzeiros using the average ORTN index rate for the year and then divided by the total value of sales for 1981. The *ad valorem* benefit of this subsidy is 0.91 percent.

C. *Preferential Working Capital Financing for Exports: Resolution 674.* Under this program, companies are declared eligible to receive working capital loans by the Department of Foreign Commerce of the Banco Central do Brasil (CACEX). These loans may have a duration of up to one year. Firms in the steel industry can obtain this financing at preferential rates for up to 20 percent of the net f.o.b. value of the previous year's exports. The maximum dollar eligibility under this program is established by CACEX and is stated on the "Certificado de Habilitacao" issued to recipients. We have determined that such financing is an export subsidy.

The net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, exports denominated in cruzeiros, imported inputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports.

To determine the value of loans in existence under this program during the 1981 fiscal year, we prorated any loans that straddled other fiscal years. For loans taken out in fiscal year 1980, only that portion extending into fiscal year 1981 was included in our calculation. Any fiscal year 1981 loans extending into fiscal year 1982 were similarly adjusted. We then divided the total value of these loans by the total value of Belgo-Mineira's exports in 1981 to calculate the amount of preferential financing received.

As in previous Brazilian countervailing duty cases, we are using the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. We have used this comparison because information provided by the government of Brazil indicates that, within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable. Currently, the annual rate for discounting sales of accounts receivable is 59.6 percent plus a 6.9 percent tax on financial transactions (IOF). The subsidy is the difference between the interest rate available under Resolution 674 and the commercial rate.

The interest rate on loans under Resolution 674 is 40 percent, with interest payable semiannually and the principal fully payable on the due date of the loan. The effective rate of interest for these loans is 44 percent. These loans ar also exempt from the IOF. Therefore, the differential between these two types of financing is 22.5 percent. When multiplying this differential by the amount of preferential financing received as a percent of exports, we calculated an *ad valorem* export subsidy of 1.13 percent.

D. *Income Tax Exemption for Export Earnings.* Exporters of PC strand are eligible to participate in this program, under which the percentage of their profit attributable to export revenue is exempt from income tax. To arrive at this percentage, export revenue is divided by total revenue. The amount of profit exempt from the income tax is then multiplied by the 35 percent corporate income tax rate to determine the amount of the benefit.

In a program of this kind, benefits cannot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 income tax statements to determine if any benefit was received in fiscal year 1981. Belgo-Mineira had a taxable profit in fiscal year 1980, and received a benefit under this program in 1981. By dividing the benefit received by the value of exports, we calculated an *ad valorem* export subsidy of 0.55 percent.

E. *Accelerated Depreciation for Capital Goods Manufactured in Brazil.* This program allows companies that purchase Brazilian-made capital equipment as part of an expansion project approved by the Industrial Development Council (CDI) to depreciate eligible equipment at twice the rate normally permitted under tax laws. As with the income tax exemption for export earnings, the tax benefit received under thjis program in a particular fiscal year equals the amount by which total depreciation (including accelerated depreciation) exceeds normally-permitted depreciation in the prior fiscal year. Belgo-Mineira used the accelerated depreciation provisions to reduce its tax liabilities in its fiscal year 1980 income tax statement and received a benefit in 1981. By dividing the benefit received by the total value of sales, we

calculated an *ad valorem* benefit of 0.31 percent.

II. Programs Determined Not To Confer Subsidies

We have determined that subsidies are not being provided under the following programs described below to manufacturers, producers, or exporters in Brazil of PC strand.

A. *Regional Development Investment Subsidy From Credit to the Corporate Income tax.* Brazilian Tax law allows any corporation that owes corporate income taxes to elect to apply up to 51 percent of its corporate income taxes owed to the government to specified investment funds. The investment funds generally are for the economic development of certain regions, industries or national interests (e.g., the Amazon, the Northeast, fisheries, tourism and reforestation). The steel industry is not among the targeted sectors. If a corporation elects to direct the taxes it owes to the government into one or more of the specified investment funds, it receives stock for its investment in those funds. Upon receipt of the stock, which must be held at least five years, the investment is included in the equity holdings of the corporation.

Belgo-Mineira has taken part in this program, but not during 1981. We have determined that election to participate in this program does not constitute a subsidy to PC strand, however, since all corporations which pay corporate income taxes are eligible to participate in the program on equal terms.

B. *Long-Term Loans.* Belgo-Mineira has long-term loans from various sources in both domestic and foreign currencies. The loans in foreign currencies have interest rates ranging between 0.5 percent and 2.25 percent above LIBOR (depending on the date the loan was granted), which are typical rates for such loans in Brazil.

Long-term financing in cruzeiros is normally available in Brazil only through government-controlled financial institutions. Belgo-Mineira has received loans from FINAME, a program of the government-controlled National Bank for Economic Development (BNDE), for the purchase of capital equipment manufactured in Brazil. These loans are fully-indexed by ORTN and were made at fixed real interest rates ranging from 8 to 11 percent.

FINAME loans are available to a wide variety of sectors in Brazil. The steel industry has received such loans in proportions similar to other large capital-intensive industries in Brazil. This appears to be warranted by the capital requirements of such industries. In addition, numerous other sectors also received loans from FINAME during this period. Based on the general availability of these fully-indexed loans, we have determined that they do not confer a subsidy.

C. *Transportation Subsidies.* The Brazilian government stated that Belgo-Mineira received no preferential rates when using railroads and ports. At verification, we found no evidence that any programs exist which give preferential freight rates to steel exporters.

D. *Income Tax Deductions for Employee Training and Meals.* Belgo-Mineira has a tax deductible training program for which it has taken special deductions for training costs, but it has never had a tax-deductible program for which it may take special deductions for employee meals. The maximum deduction for training costs is 10 percent of taxes owed, and for meals 5 percent of taxes owed, although the combined deduction may not exceed 10 percent of taxes owed.

The government of Brazil stated that under applicable tax law any manufacturer, without sectoral or regional preference, may take the above deductions for training and meal expenditures for employees. Consequently, we have determined that the benefits conferred under this program are not countervailable because they are generally available on equal terms.

III. Programs Determined Not To Be Used

We have determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation" were not used by manufacturers, producers, or exporters in Brazil of PC strand.

A. *The Commission for the Granting of Fiscal Benefits for Special Export Programs (BEFIEX).* BEFIEX grants several types of benefits to companies that are part of certain targeted industries and that sign contracts that include specific export commitments. These benefits include the following: a reduction of between 70 percent and 90 percent of the import duties and the IPI tax on the import of machinery, equipment, apparatus, instruments, accessories and tools necessary to meet the approved export commitment; and extension of the period for carrying tax losses forward from four to six years, provided no dividends are paid during that time; and amortization of pre-operational expenses of BEFIEX projects at the discretion of the company rather than the normal straight-line amortization over ten years. As a general rule, companies that sign BEFIEX contracts guaranteeing these and any other benefits must make an export commitment that over the life of the project it will generate export earnings of at least three times the value of imports for the project. The government of Brazil has stated that the steel industry in Brazil has been developed primarily to supply the domestic market. Since Belgo-Mineira exports only a small portion of its production, it is not in a position to make the required export commitment. Belgo-Mineira did not receive any benefits from this program in 1981.

B. *Industrial Development Council (CDI) Program.* This program allowed an exemption of 80 percent of the customs duties and 80 percent of the IPI tax on certain imported machinery for projects approved by the CDI. Decree Law 1726 repealed this program in 1979 and no new projects are eligible for these benefits. However, companies with projects approved prior to repeal may still receive these benefits pending the completion of the project. Belgo-Mineira did not receive such benefits during 1981.

C. *Deductions From Income Tax for Foreign Market Expenditures.* The government of Brazil stated that expenses incurred abroad in connection with export sales are deductible for income tax purposes in the same way that similar expenses incurred on domestic sales are deductible. Belgo-Mineira did not deduct any such expenses incurred on export sales in 1981.

Petitioner's Comments

Comment 1: The petitioners assert that in calculating the net subsidy under Resolution 674 financing, the Department used an incorrect benchmark. They state that the Banco do Brasil rate for discounting accounts receivable is not a proper benchmark; that the Department must factor in compensating balances (although illegal in Brazil) to determine an effective interest rate; and that in determining the appropriate benchmark, the Department should use as one basis of comparison the commercial rate for short-term borrowing in Brazilian financial markets.

DOC Position: The Department believes from evidence available to it that there is no meaningful commercial market for short-term working capital loans in Brazil. Instead, most firms meet their needs for working capital through the sale of accounts receivable. Therefore, the Department has determined that the discounting of

accounts receivable provides the most appropriate basis for comparison.

In determining a national benchmark, the Department chose the Banco do Brasil rate because prior case precedent and statements of the government of Brazil suggested that this was the appropriate standard. As the largest single banking entity in Brazil (representing 35–40 percent of all banking assets), the Banco do Brasil acts as a price leader from which the rates of other banks vary. Documents received at verification support our preliminary determination in several respects. First, the annual Banco do Brasil discount rate is 59.6 percent, as claimed; numerous banks, both state-owned and private, discount receivables at rates near (both above and below) the rate set by the Banco do Brasil. Second, as it applies to Belgo-Mineira, the market for discounting accounts receivable is still quite active. During the period for which we are measuring subsidization, Belgo-Mineira discounted a significant percentage of its domestic accounts receivable with a wide variety of banks, and used this facility as the chief method of raising working capital. During verification, we found no evidence of compensating balances in company records; the amount received by the company after discounting a receivable was the value of the receivable minus the discount rate, the tax on financial transactions (IOF) and a small commission

Comment 2: The petitioners disagree with the Department's determination that certain programs did not constitute subsidies because they were generally available. They claim that the Department's position on generally available programs, set forth in Appendix 4, is in error and based upon an incorrect interpretation of the legislative history and section 771(5) of the Act

DOC Position: The Department's position remains unchanged from that elaborated in Appendix 4.

Respondent's Comments

Comment 1: The respondent claims that IPI rebates for capital investment under Decree Law 1547 are not countervailable for the following three reasons. First, as a result of a revamping of legislation concerning the IPI tax that began in 1979, the IPI tax is currently applicable to only 14 product sectors, and exemption from the tax is the rule while the obligation to pay is the exception. Thus, the elimination of the tax is the generally available situation and the reduction of the tax on any the remaining sectors subject to it does not constitute a subsidy. Second, since the IPI tax is paid by the Brazilian steel producers, the funds for the rebates do not originate from the government of Brazil. Thus, the rebates do not constitute subsidies. Third, the rebates are generated solely by domestic, not export, sales and it is not within the purview of the U.S. countervailing duty law to countervail benefits received on production not destined for the United States.

DOC Position: The IPI tax is an indirect tax and as such is passed forward to the consumer. A steel company collects this tax on sales as the agent for the government; the company does not, itself, pay the tax.

Decree Law 1547 is a mechanism by which a steel company is permitted to collect funds due the government and then receive a 95 percent rebate of the taxes due. The program does not involve the rebate of payments made from the company's own funds.

Not all steel companies receive this rebate. Although the same level of IPI tax is applicable to all steel products, only companies producing certain priority products, with approved expansion projects, can receive the rebate. Fabricators of steel products, such as pipe and tube manufacturers who purchase coil, are not eligible for the rebate. Members of the SIDERBRAS group have not been eligible for the rebates since December 1980, when Decree Law 1843 directed rebates of the IPI tax collected on sales by state-owned steel companies go to SIDERBRAS. Thus, the rebates are not generally available within the steel sector and represent a selective benefit to priority producers.

These rebates, when received, are applied to capital investment projects. The IPI tax is collected on domestic sales and to rebate is simply a mechanism to raise capital for the companies that receive them. That the rebates are generated only by domestic sales does not alter the fact that they benefit all production, including exports.

Comment 2: The respondent claims that, absent a showing of immediate competitive advantage by the Department, we must allocate in equal installments the *face* value of the grants received from the IPI rebates for capital investment over the full useful life of the assets purchased, as required by the legislative history and the Court of International Trade in *Michelin Tire Corporation v. United States,* 2 C.I.T. 143 (1981). Respondent further alleges that the use of the present value methodology for the calculation of grant benefits violates Article 4(2) of the Subsidies Code in that the U.S. government will collect countervailing duties in excess of the face value of a grant.

DOC Position: We have allocated these grants over the full useful life of the assets purchased in accordance with *Michelin Tire Corporation v. United States,* Slip Op. 82–115 (December 15, 1982). In this case, the Court did not rule how the Department should allocate the benefit from a grant over the useful life of the asset. However, the Court did suggest that a method which recognizes the time value of money may be "an acceptable and recognizable means of analyzing financial benefit" from a grant. The present value concept is such a recognized principal of financial analysis and its use is fully consistent with the Subsidies Code and U.S. countervailing duty law. So long as the present value (in the year of grant receipt) of the amounts allocated over time does not exceed the face value of the grant, the amount countervailed will not exceed the total net subsidy.

Comment 3: The respondent claims that the government of Brazil has the right to exempt loans received, under Resolution 674 from the IOF tax because it is the exemption of an indirect tax on the financing of products for export. Therefore, for the Department to determine the interest-rate subsidy by considering the IOF tax an integral part of the commercially-available rate (considering exemption of the IOF tax a subsidy) is contrary to the GATT and U.S. law.

DOC Position: We have addressed this issue in preliminary and final determinations in other Brazilian countervailing duty investigations. In those determinations, we stated that although the IOF tax was an indirect tax and was paid on domestic financial transactions, we did not consider that fact relevant. Since we consider the discounting of a cruzeiro-denominated account receivable, a transaction upon which the IOF is paid, as the commercial alternative to Resolution 674 loans, it is entirely appropriate that we include the exemption of Resolution 674 loans from the IOF as part of the subsidy, in order to measure the full benefit provided under this program. Our analysis of this issue has not changed.

Comment 4: The respondent claims that benefits derived from the income tax exemption for export earnings should be allocated over total revenues rather than export revenues. Under this program, a Brazilian exporter receives an exemption from income tax liabilities at the end of the fiscal year based upon the ratio of export to total revenues, provided that the firm has made an

overall profit on total production. The respondent argues that, because the determining factor in a firm's eligibility for this benefit is its overall profitability for a given year, the benefit accrues to the operations of the whole firm and not just to exports. Further, an exemption of a direct tax calculated on this basis cannot directly affect the price of the exported product; it can only have a general effect on all prices, both domestic and export. Thus, by allocating the benefits only to export revenues, the Department overstates the value of the subsidy, and allocating the tax savings over total revenues would more accurately reflect the true value of the benefit conferred.

DOC Position: The government of Brazil has made this argument before in several section 751 administrative reviews of countervailing duty orders on Brazilian products. In those reviews, we responded that when a firm must export to be eligible for benefits under a subsidy program and when the amount of the benefit received is tied directly or indirectly to the firm's level of exports, that program is an export subsidy. The fact that the firm as a whole must be profitable in order to benefit from this program does not detract from the program's basic function as an export subsidy. The possibility that a firm may not be profitable in a particular year and, due to this uncertainty, could not specifically apply benefits from this program to its export prices is not relevant to our determination. Therefore, the Department will continue to allocate the benefits under this program over the firm's export revenues instead of total revenues.

Comment 5: The respondent argues that the Department, based upon information for 1982 it has verified, must make adjustments in the amount of net subsidy determined to exist under the income tax exemption for export earnings, accelerated depreciation for capital goods manufactured in Brazil and the IPI export credit premium. Otherwise, the Department overstates the amount of subsidy conferred on 1982 exports.

DOC Position: When conducting an investigation to determine the existence and extent of subsidization, we choose an appropriate period of investigation. In this case, the period for which we are measuring subsidization is calendar year 1981. Normally, the period of investigation provides the most current information available.

We recognize that for any one company the level of benefit from a particular subsidy program (such as the income tax exemption for export earnings) may change after the period of investigation and that in some cases this may be known prior to the final determination. However, we cannot make adjustments for that program when complete information is unavailable for determining the amount of subsidization in its entirety from any of the several programs that a company may be eligible for and use. For this reason, we determine the estimated net subsidy based on the period of investigation. Changes in the amount of benefit a company receives from a program subsequent to the period of investigation, whether that increases or decreases the level of subsidization, can be taken into account during a section 751 administrative review.

However, when there is a fundamental change in a program after the period of investigation (or after the review period in a section 751 administrative review), which affects the benefits to all recipients, we take cognizance of that change if we have been able to confirm that the change has occurred and if there is no reason to believe that there has been a shift of these benefits to other programs. We then announce the adjustment in the rate for the deposit of estimated countervailing duties in the next notice published in the normal course of the proceeding. In the case of the IPI export credit premium, there have been three verified reductions in the maximum available benefit during 1982. Currently, the rate is 11 percent as opposed to the 15 percent rate that prevailed during most of 1981. Using 1981 information on the amount of benefit received, we have made a proportional reduction in the amount of estimated net subsidy from this program.

Comment 6: The respondent argues that the Department's calculation of the benefit from the IPI export credit premium on the basis of the IPI credits earned on the date of export of each shipment rather than on the actual date of receipt by the company of the IPI credits for each shipment reflects an improper interpretation of section 771(6)(B) of the Act. Further, respondent claims that this procedure will result in the collection of countervailing duties in excess of the benefit actually received, which is contrary to the Subsidies Code and U.S. countervailing duty law.

Respondent states that because of the ongoing devaluation of the cruzeiro, the dollar value of the benefit to the company on each export shipment should be calculated by converting the cruzeiro amount of the IPI credits into dollars at the exchange rate on the date of their receipt rather than at the exchange rate on the date of shipment. This procedure allegedly would not involve use of an impermissible offset and would allow a precise measure of the effects of devaluation on the real value of the IPI credits received, since it would compare dollar value received to dollar-denominated exports and take into account economic realities in Brazil.

DOC Position: The language in the Act concerning permissible offsets is unambigous. Under section 771(6)(B), an offset is allowed for "any loss in the value of the subsidy resulting from its deferred receipt, if the deferral is mandated by Government order." In the case of the IPI export credit premium, no such government mandate exists. Delays in a company's receipt of the IPI credits are purely administrative, frequently the result of a company's delayed application for it. When a company applies for the IPI credits it must determine the amount for which it is eligible by using the exchange rate in effect on the date of shipment, even if application is made months later and the exchange rate has changed substantially.

Further, a company quotes its export prices in dollars but receives cruzeiros. The amount of cruzerios received is determined at the exchange rate in effect when the exchange contract for the shipment is negotiated. This occurs on or before the date of shipment. Any change in the exchange rate after the date of shipment has no effect on the cruzeiro amount to be received by the company for either the IPI credits or the gross value of the shipment, their exchange value in terms of dollars having already been predetermined.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During this verification, we followed normal procedures, including inspection of documents, discussions with company and government officials and inspection of manufacturer's records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). A public hearing was held on September 15, 1982. In accordance with the Department's regulations (19 CFR 355.34(a)), written views have been received and considered.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-

privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine within 45 days of the publication of this notice whether imports of PC strand from Brazil are materially injuring, or threatening to materially injure, a U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the suspension agreement will be voided and this proceeding will be terminated. If, however, the ITC determines that such injury does exist, the suspension agreement shall remain in effect in accordance with its terms.

In the event the suspension agreement is violated, the Department in accordance with section 703(i) of the Act, will direct the U.S. Customs Service to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise and will issue a final countervailing duty order as required by section 704(i)(1)(C) of the Act.

This determination is published in accordance with section 705(d) of the Act.

Dated: January 26, 1983.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 83-2727 Filed 1-31-83, 8:45 am]

BILLING CODE 3512-25-M

DEPARTMENT OF DEFENSE

DOD Advisory Group on Electron Devices; Advisory Commitee Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 1 march 1983, at the Palisades Institute for Research Services, Inc., 1925 North Lynn Street, Arlington, Virginia 22209. The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and developmental programs in the area of Electron Devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments proposes to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. 92-463, as amended, (5 U.S.C. App. 1 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: January 21, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-2625 Filed 1-31-83, 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Long-Term Management of Existing Radioactive Wastes and Residues at the Niagara Falls Storage Site; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Public Scoping Meeting

AGENCY: Department of Energy.

ACTION: Notice is hereby given that the Department of Energy (DOE) intends to prepare an Environmental Impact Statement (EIS) to assess the environmental impacts of several alternatives for the long-term management of existing radioactive wastes and residues stored at the DOE's Niagara Falls Storage Site (NFSS).

SUMMARY: There are radioactive wastes and residues stored at the DOE's Niagara Falls Storage Site near Buffalo, New York. These wastes are primarily residues resulting from the processing of uranium ores during World War II and slightly contaminated soils that have been cleaned up from parts of the site and nearby areas. A decision must be made relative to the long-term management of these wastes and residues. In addition to engineering and cost considerations, DOE will factor consideration of potential environmental impacts into this decision by preparing an EIS on several alternatives for long-term management.

The DOE invites interested agencies, organizations, and members of the general public to submit comments or suggestions for condsideration in connection with the preparation of the draft EIS. Comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the draft EIS are requested. Comments may be submitted by mail or presented at two scoping meetings to be held at the Central Lewiston-Porter Senior High School auditorium on Creek Road (Highway 18), Lewiston, New York. The first meeting will start at 7:30 p.m., February 17, 1983, and the second meeting will start at 10:00 a.m., February 19, 1983. On completion of the draft EIS, its availability will be announced in the **Federal Register** and local news media, and comments will be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

ADDRESS: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meetintgs may be submitted to: Mr. L. F. Campbell, Deputy Director, Technical Services Division, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box E, Oak Ridge, TN 37830 (615) 576-1052.

Envelopes should be marked "DEIS for Niagara Falls Storage Site".

General information on the process followed by the DOE in preparing environmental impact statements may be obtained from: Office of Environmental Compliance, EP-362, Office of Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, U.S. Department of Energy, ATTN: Mr. Steven R. Wodbury, Washington, D.C. 20585 (202) 252-4610.

DATES: Written comments postmarked by February 25, 1983, will be considered in the preparation of the DEIS. Comments postmarked after that date will be considered to the maximum extent practicable. Scoping meetings will be held at the Central Lewiston-Porter Senior High School, Lewiston, New York on February 17, 1983, starting at 7:30 p.m. and on February 19, 1983, starting at 10:00 a.m. Requests to speak at these meetings should be received by L. F. Campbell at the above address by February 14, 1983. Requests to speak may also be made during registration for the meetings.

Background

The Niagara Falls Storage Site is located in the Town (township) of Lewiston, Niagara County, New York, about 30 km (19 mi) north of Buffalo, New York. The current 77-ha (190-acre) site is part of a former 610-ha (1500-acre) Manhattan Engineering District (MED) site, which in turn was part of the former Lake Ontario Ordnance Works (LOOW). Beginning in 1944, the MED used the site for storage of radioactive residues that resulted from the processing of uranium ores (pitchblende) during development of the atomic bomb.

Additional residues were brought to the site for several years after World War II.

Subsequent to MED, responsibility for the site was transferred to the Atomic Energy Commission, the Energy Research and Development Administration, and the DOE. The site is currently administered by the Oak Ridge Operations Office of DOE. It is fenced and access is limited.

About 11,000 cubic meters (14,000 cubic yards) of the residues stored at NFSS currently belong to Afrimet-Indussa, an American company controlled by a Belgian firm. The Afrimet residues are stored in buildings and their uranium concentrations range from 550 ppm (parts per million) to 30,000 ppm and radium concentrations range from 0.002 to 0.365 ppm. Afrimet supplied the Federal govenment with uranium ore (pitchblende) from the Belgian Congo but retained ownership of the residues because of the potentially recoverable, valuable elements that remain in the residues. Afrimet currently holds a license from the New York State Department of Labor for storage of these residues at NFSS. The present storage lease agreement between Afrimet and DOE expires June 30, 1983. Negotiations relative to the future ownership and disposition of these residues are currently underway between Afrimet, DOE, and their respective governments.

The Federal government owns the remaining wastes and residues at NFSS. Most of these are stored in a large pile (R–10 pile) which contains about 7,300 cubic meters (10,000 cubic yards) of residues and will contain an additional 69,000 cubic meters (90,000 cubic yards) of slightly contaminated soils as of the end of interim remedial actions in 1983. The R–10 residues are less radioactive than the Afrimet residues; uranium concentrations range from 100 to 2,300 ppm and radium concentrations range from 0.00001 to 0.01 ppm. Most of the large volume of contaminated soils has concentrations only slightly above natural background concentrations.

The DOE has been carrying out a series of interim remedial actions as part of its ongoing maintenance and caretaker responsibilities at NFSS. These activities include improving the storage of residues and cleaning up contaminated areas so as to bring the site into compliance with DOE regulations. It is anticipated that these interim actions will be completed in 1984.

Although the interim remedial actions will bring the site under much greater control and will result in markedly reduced emissions of radioactive substances from the site, the DOE must decide how to manage the radioactive wastes and residues for the long-term. In addition to engineering, costs, and other considerations, environmental impacts must be factored into this decision. The DOE will prepare an EIS to assess and compare the potential environmental impacts of various alternatives for the long-term management of these radioactive wastes and residues.

Preliminary Definition of Alternatives To Be Considered in the EIS

DOE is presently considering several alternatives for analysis in the EIS, including:

Alternative 1: No Action—Continued interim storage of all existing wastes and residues (including Afrimet residues) at NFSS in the facilities provided as of the completion of interim remedial actions in 1984 with continued surveillance monitoring and periodic maintenance.

Alternative 2: Long-Term Management at NFSS—A decision to manage the existing wastes and residues at NFSS for the long-term, including actions to reduce the need for long-term surveillance, monitoring and maintenance.

Alternative 2a: Long-Term Management at NFSS: Modify Form—Modify the form of the more radioactive residues.

Alternative 2b: Long-Term Management at NFSS: Modify Containment—Modify the containment of the wastes and residues.

Combinations of these sub-alternatives are also possible.

Alternative 3: Long-Term Management at Other Sites—Remove all radioactive wastes and residues from NFSS and transport them to other sites.

Alternative 3a: Long-Term Management at an Arid Site—Remove all materials from NFSS and transport to an existing DOE-owned low-level waste burial site located in an arid environment. The Hanford site in the State of Washington is being considered for this alternative using long-term management by near-surface burial.

Alternative 3b: Long-Term Management at Another Humid Site—Remove all materials from NFSS and transport to an existing DOE-owned low-level waste burial site located in a humid environment. The Oak Ridge site in the State of Tennessee is being considered for this alternative using long-term management by near-surface burial.

Alternative 3c: Ocean Disposal—Remove all material from NFSS and transport to a port for transport offshore and disposal in the ocean. Although Congress established a 2-year moratorium period on ocean disposal in December 1982, ocean disposal could be permitted by the Environmental Protection Agency after the 2-year period. Other nations are using ocean disposal for some low-level radioactive wastes.

DOE does not plan to identify a preferred alternative in the draft EIS.

DOE believes that these alternatives encompass the range of reasonable alternatives to be considered by the DOE decision maker. Comments on the scope and definition of these alternatives, as well as suggestions on other reasonable alternatives which the DOE decision maker should consider, are invited via the scoping process described below.

Preliminary List of Potential Issues

There are a number of potential issues associated with the above mentioned alternatives. Some of these issues deal with potential environmental impacts, whereas others are factors that may influence or be influenced by implementation of one or more of the alternatives. Following is a list of major issues that may require analysis in the EIS:

1. *Potential radiologicial impacts:*
   - On people, including workers and the public, individuals and the total population, children and adults, present and future generations;
   - In terms of both radiation doses and resulting health risks;
   - Near NFSS, along transportation routes, and near other sites included in the alternatives;
   - Associated with both routine operations and accidents;
   - Associated with various pathways to man, including surface waters and groundwaters, gases, dust, and perticulates;
   - Due to natural forces such as erosion and flooding;
   - Associated with human intrusion into the contaminated materials.
2. *Potential socioeconomic impacts:*
   - Due to perceptions and distributions of risks;
   - Associated with land uses, values, and marketability;
   - On local transportation system.
3. Potential engineering and technical issues
   - Which engineering options are most reasonable for each type of waste/residue;
   - Probable duration of isolation; rates and magnitude of loss of containment;
   - Site-specific geohydrological data;
   - Site-specific wind dispersion

patterns:
- Site characterization and R&D work necessay before the decision or before actual implementation of an alternative.

4. *Potential chemical impacts:*
- Contamination of surface waters and groundwaters by heavy metals and other elements contained in the residues.

5. *Potential institutional issues:*
- Project-specific criteria for decontamination, effluents, environmental concentrations, and release of a site for unrestricted or restricted uses;
- Ownership and responsibility for residues and wastes;
- Future institutional controls (monitoring and maintenance);
- Institutional issues which need to be resolved before an alternative could be implemented.

6. *Potential issues relative to mitigative measures and monitoring:*
- Worker health-physics safety procedures;
- Erosion-and dust-control measures.

This list is based on DOE experience with major issues that have been raised relative to other DOE proposals of this nature. Interested parties are invited to participate in the scoping process discussed below and to help refine this list to arrive at the significant issues to be analyzed in depth in the EIS and to eliminate from detailed study the issues that are not significant.

SCOPING: The scoping process will involve all interested agencies (Federal, state, and local), groups, and members of the public. Comments are invited on both the alternatives and the issues to be considered in the EIS. Two public scoping meetings are scheduled: the first meeting for Thursday, February 17, 1983, starting at 7:30 p.m. and the second meeting for Saturday, February 19, 1983, starting at 10:00 a.m. Both meetings will be held in the Central Lewiston-Porter Senior High School auditorium on Creek Road (Highway 18, Lewiston, New York.

These will be informal meetings with a presiding officer. The DOE will establish procedures governing the conduct of the meetings. The meetings will not be conducted as evidentiary hearings, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be heard, the DOE may allow longer times for representatives of organizations; persons wishing to speak on behalf of an organization should identify the organization in their request. Persons who have not submitted a request to speak in advance may register to speak at the scoping meetings; they will be called on to present their comments if time permits. Both oral and written comments will be considered and will be given equal weight. A transcript of the scoping meeting will be retained by DOE and made available for inspection at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Ave., SW, Wahington, DC 20585, during business hours, Monday through Friday. In addition, anyone may make arrangements with the reporter to purchase a copy of the transcript.

Copies of the public meeting transcript and other NEPA documents and major references used in the preparation of the EIS will be made available during normal business hours at the Office of the Town Clerk, 1375 Ridge Road, Lewiston, New York, and at other locations as appropriate. A notice of locations of availability will be published in the **Federal Register** at the time of announcement of availability of the Draft EIS.

Those interested parties who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the Draft EIS for review and comment should notify Mr. L. F. Campbell at the address given above in the Summary section.

Dated at Washington, D.C., this 26 day of January 1983, for the United States Department of Energy.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83-2695 Filed 1-31-83: 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Amerada Hess Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Amerada Hess Corporation (Hess) as a final order of the Department.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: James O. Neet, Jr., Chief Counsel, Dallas Office, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird, Room 200E, Dallas, Texas 75247, 214/767-7404.

SUPPLEMENTARY INFORMATION: On December 8, 1982, 47 FR 55265, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with Hess on November 5, 1982 which would become effective no sooner than 30 days after publication of that notice. The Consent Order with Hess, with its home office located in Tulsa, Oklahoma, is a firm engaged in the production of crude oil, and was subject to the Mandatory Petroleum Price Regulations at 10 CFR Parts 210, 211, 212, resolves potential and civil liability of Hess arising out of these regulations during the period August 1, 1980 through January 27, 1981 ("the period covered by this Consent Order"). Notwithstanding the fact that both Hess and DOE disagree concerning the proper application of such regulations and that neither disavows any position it has taken with regard to such issues, Hess has agreed to this Consent Order to avoid protracted, expensive litigation. By the terms of this Consent Order, Hess will remit $510,000 to the DOE within thirty (30) days after the effective date for deposit in the U.S. Treasury as miscellaneous receipts. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Seven comments were received. All seven comments objected to what they perceived to be payment of the funds from Hess into the U.S. Treasury. One comment suggested that payments by Hess should be distributed to what were described as individual direct purchasers injured by the alleged overcharges. The other comments suggested that the proceeds, after payment to identifiable injured customers, should be distributed to the various states which would distribute them to or use them for the benefit of parties they considered to be injured by the alleged overcharges. The problems posed by the refining of the crude oil into various products before it reached ultimate consumers were given little consideration. Apparently some of the comments fail to realize that although Hess is a fully integrated oil company with production, refining and marketing activities, only crude production issues are involved in the case resolved by this consent order.

The primary goal of DOE enforcement activities in this sphere is to refund overcharges resulting from first sales of crude oil to those parties who actually suffered harm from them. Because of the ability of refiners which purchased

crude oil from Hess at allegedly improper prices to bank, allocate and pass through those costs to ultimate consumers under the refiner price regulations, it is virtually impossible to identify in what time period, to what product and to which purchasers the effects of crude oil violations were channelled. This impossibility of locating injured parties and ascertaining the extent of their injuries, led DOE to the conclusion that depositing the sum paid by Hess in the U.S. Treasury is an appropriate remedy. None of the comments received by DOE has offered a more promising solution to the problems arising from this situation.

Having considered all the comments submitted, DOE has determined that the proposed Consent Order with Hess should be made final in its present form. The proposed Consent Order, therefore, was made final and effective the date of publication of this notice.

Issued in Dallas, Tex., on the 24th day of January 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-2892 Filed 1-31-83; 8:45 am]

BILLING CODE 6450-01-M

Petrolane-Lomita Gasoline Co./ Petrolane Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Petrolane-Lomita Gasoline Company/Petrolane Incorporated and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by March 3, 1983.

ADDRESS: Send comments to: Sandra K Webb, Director, Houston Office, Economic Regulatory Administration, United States Department of Energy, 500 Dallas Street, Suite 610, Houston, Texas 77002.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On January 19, 1983, the ERA executed a proposed Consent Order with Petrolane-Lomita Gasoline Company and its parent, Petrolane Incorporated ("the Consenting Firm") of Long Beach, California. For purposes of the Consent Order, "the Consenting Firm" includes Petrolane-Lomita Gasoline Company and its parent, Petrolane Incorporated, and all of their other subsidiaries and affiliates.

Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Petrolane-Lomita Gasoline Company, with its home office located in Long Beach, California, is engaged in the sale of natural gas liquids and natural gas liquid products. Petrolane Incorporated, with its home office located in Long Beach, California, and its other subsidiaries are engaged in the sale of various products, primarily propane, butane, and natural gasoline, at the wholesale and retail level. The Consenting Firm was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period covered by the Consent Order, August 19, 1973 through January 27, 1981 ("settlement period"). To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212 (and predecessor regulations) in connection with the Consenting Firm's compliance with those regulations during the settlement period, the ERA and the Consenting Firm entered into a Consent Order, the significant terms of which are as follows:

A. The ERA has conducted an audit of the Consent Firm's books and records relating to its compliance with the federal petroleum price and allocation regulations beginning August 19, 1973. As a result of that audit, the DOE believes that certain sales of covered products were made by the Consenting Firm at prices in excess of the maximum allowable prices in violation of 10 CFR Part 210 and 10 CFR Part 212, Subparts E, F and K of the federal petroleum price and allocation regulations.

B. The Consent Order settles all matters arising from the Consenting Firm's sales of covered products during the settlement period.

C. Neither ERA nor the Consenting Firm has retreated from the positions that it has taken previously on the issues addressed by this Consent Order, and each believes that its positions on these issues are meritorious. The parties desire, however, to resolve the civil dispute without resort to complex, lengthy and expensive compliance actions. ERA believes that the terms and conditions of this Consent Order provide a satisfactory resolution and an appropriate conclusion of its audit of the Consenting Firm and that the Consent Order is in the public interest.

D. The provisions of 10 CFR 205.199J, including those regarding the publication of this Notice, are applicable to the Consent Order.

II. Refunds and Civil Penalty

The Consent Order requires a refund payment of $3 million, which includes interest which has accrued through the effective date of the Consent Order, to be paid in eight quarterly installment payments commencing sixty days after the effective date of the Consent Order. The Consenting Firm agrees to pay the sum of $60 thousand in compromise of civil penalties relating to the matters covered by the Consent Order.

The Consent Order also provides details concerning the conclusion of the audit, confidentiality of audit data, recordkeeping and procedures concerning enforcement of the provisions of the Consent Order. Upon becoming final after consideration of public comments, the Consent Order will be a final order of DOE to which the Consenting Firm has waived its right to an administrative or judicial appeal. The Consent Order does not constitute an admission by the Consenting Firm nor a finding by ERA of a violation of any federal petroleum price and allocation statutes or regulations.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. Comments received by 4:30 p.m., local time, on March 3, 1983 will be considered by ERA before determining whether to adopt the Consent Order as a final order. Comments should be identified on the outside of the envelope and on the documents submitted with the designation "Comments on Petrolane Consent Order." Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Houston, Texas on the 19th day of January, 1983.

Sandra K. Webb,

Director, Houston Economic Regulatory Administration.

[FR Doc 83-2894 Filed 1-31-83; 8:45 am]

BILLING CODE 6450-01-M

Resources Extraction and Processing Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration hereby gives notice of a Proposed Remedial Order which was issued to Resources Extraction and Processing Company of Houston, Texas.

The Proposed Remedial Order charged this company with pricing violations in the amount of $1,180,330.56, plus accrued interest, in sales of natural gas liquids and natural gas liquid products during the period of October 1978 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objections with the Office of Hearings and Appeals, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri on the 21st day of January, 1983.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 83-2891 Filed 1-31-83; 8:45 am]

BILLING CODE 6450-01-M

Tauber Oil Co.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Tauber Oil Company and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by: March 3, 1983.

ADDRESS: Send comments to: Sandra K. Webb, Director, Houston Office, Economic Regulatory Administration, One Allen Center, 500 Dallas Street, Suite 610, Houston, Texas 77002.

FOR FURTHER INFORMATION CONTACT: Sandra K. Webb, Director, Houston Office, Economic Regulatory Administration, One Allen Center, 500 Dallas Street, Suite 610, Houston, Texas 77002, [phone] (713) 229–3715.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On January 19, 1983, the ERA executed a proposed Consent Order with Tauber Oil Company of Houston, Texas. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication in the Federal Register requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Tauber Oil Company, with its home office located in Houston, Texas, was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Part 205, 210, 211, and 212, in connection with Tauber's transactions involving resales of crude oil during the period August 19, 1973 through January 27, 1981 ("the period covered by this Consent Order"), the ERA and Tauber entered into a Consent Order, the significant terms of which are as follows:

A. During the period covered by the Consent Order, Tauber purchased and sold crude oil without substantially changing its form. Accordingly, Tauber was to "reseller" of crude oil and subject to the provisions of Subparts F and L of 10 CFR Part 212.

B. DOE alleges that during that period Tauber sold crude oil in a manner contrary to and at prices in excess of those authorized by the applicable regulations.

C. Execution of the Consent Order, however, constitutes neither an admission by the company nor a finding by DOE of any violation of any statute or regulation.

II. Remedy

Under this Consent Order, Tauber will pay the sum of $575,000 within 15 days of the effective date of the Consent Order to DOE for deposit in a suitable account for appropriate disposition. Upon full satisfaction of the terms and conditions of this Consent Order by Tauber, the DOE releases Tauber from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

III. Submission of Written Comments

Interested parties are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Tauber Oil Company Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on March 3, 1983. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedure of 10 CFR 205.9(f).

Issued in Houston, Texas on the 19th day of January 1983.

Sandra K. Webb,

Director, Houston Economic Regulatory Administration Office.

[FR Doc. 83-2893 filed 1-31-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Light Water Reactor Safety R&D Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Light Water Reactor Safety R&D Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770).

Date and time: February 22–23, 1983; 9 a.m. to 5 p.m.

Place: Department of Energy, Room 4A–110, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585

Contact: Charles E. Cathey, Energy Research Advisory Board, Department of energy, Forrestal Building, ER–6, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/252–8833.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda

- Administrative items

- Reviews of LWR Safety R&D work in progress, both Federal and non-Federal
- Discussion of the program implications of the reviews
- Discussion of future Panel work plan and assignments

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles E. Cathey at the addres or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC. on January 26, 1983.

J. R. Young,

Director for Management, Office of Energy Research.

[FR Doc. 83–2631 Filed 1–31–83; 8:45 am]

BILLING CODE 6450–01–M

University Research Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: University Research Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770).

Date and time: February 14, 1983, from 9 a.m. to 5 p.m.

Place: Department of Energy, Room 8E–089, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585

Contact: Mary Gant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER–6, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 200/252–8933

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda

- Briefing on manpower issues in mathematics, engineering, and sciences
- Briefings on federally sponsored research and development programs in the universities
- Discussion of draft outline of report

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Mary Gant at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on January 26, 1983.

J. R. Young,

Director for Management, Office of Energy Research.

[FR Doc. 83–2630 Filed 1–31–83; 8:45 am]

BILLING CODE 6450–01–M

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Federal Energy Regulatory Commission
[Volume 819]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 26 1983

JD #	DA FT	API N	SECTN	SECTN	WELL NAME	FIELD NAME	PROD	PURCHASER
					TEXAS RAILROAD COMMISSION			
-AARDOLIE OIL CO					RECEIVED: 12/29/82 JA: TX			
8315898	F-09-055419	4223700000	103		W O LONG #1	DEWEBER (CONGLOMERATE	25.0	TEXAS UTILITIES F
-ABCO ENERGY CORP					RECEIVED: 12/29/82 JA: TX			
8315885	F-04-055124	4221531212	103		H L MARTIN #3	PENITAS 9500	15.1	VALERO TRANSMISSI
-ADOBE OIL & GAS CORPORATION					RECEIVED: 12/29/82 JA: TX			
8315941	F-03-05[illegible]	42051321e8	102-2		LAUDERDALE #8	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-ALTA ENERGY CORP					RECEIVED: 12/29/82 JA: TX			
8315971	F-7C-055277	4241300000	103	107-TF	CODY BELL #1	CANYON SAND	109.5	PRODUCER'S GAS CO
-AMOCO PRODUCTION CO					RECEIVED: 12/29/82 JA: TX			
8315977	F-04-058584	4204730660	103		MESTENA OIL & GAS #8	ELTA MESA N (1100)	57.0	VALERO INTERSTATE
-ANDERSON PETROLEUM INC					RECEIVED: 12/29/82 JA: TX			
8315836	F-7C-053293	4210533224	103	107-TF	AUSTIN C MILLSPAUGH "B" 2-3	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
8315903	F-7C-055572	4210533820	103	107-TF	AUSTIN C MILLSPAUGH "B" 3-2	OZONA (CANYON SAND)	100.0	ANDERSON PETROLEU
8315791	F-7C-044462	4210533653	103	107-TF	AUSTIN C MILLSPAUGH "B" 3-3	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
8315827	F-7C-052521	4210533783	103	107-TF	JOE FRIEND EST 2028	BLDWELL RANCH (CANYON	200.0	OZONA PIPELINE CO
8315966	F-7C-058122	4210533041	103	107-TF	TOM MITCHELL-STATE 1-20	OZONA (CANYON SAND)	150.0	ANDERSON PIPELINE
-APEX PETROLEUM INC					RECEIVED: 12/29/82 JA: TX			
8315932	F-7B-056925	4208333044	102-4		JOHN E WOLF #1 (1[illegible]2153)	WOLF (SEGRATT)	45.0	ODESSA NATURAL CO
8315931	F-7B-056924	4208333046	102-4		JOHN E WOLF #2 (1[illegible]2152)	WOLF (SEGRATT)	56.0	ODESSA NATURAL CO
-ARKLA EXPLORATION COMPANY					RECEIVED: 12/29/82 JA: TX			
8315987	F-06-058930	4206330418	102-4		SIMMONS #1	RUSK SE (PETTIT)	0.0	
-BANAM CORP					RECEIVED: 12/29/82 JA: TX			
8315907	F-73-055617	4215131523	102-4		BRIDGES #1-6	SATURDAY EAST (CANYON	3.6	CONOCO INC
-BLANKS ENERGY CORP					RECEIVED: 12/29/82 JA: TX			
8315866	F-08-054611	4243131136	103	107-TF	MCENTIRE 35-1	CREDO E (CISCO UP)	146.0	INTRATEX GAS CO
-BOB WALLACE OIL INC					RECEIVED: 12/29/82 JA: TX			
8316098	F-10-60485	4235730974	102-4		HARBAUGH (04496) #1	LONE BUTTE (CLEVELAND	24.0	PHILLIPS PETROLEU
8316099	F-10-60486	4235730965	102-4		HARBAUGH (04496) #2142	LONE BUTTE (CLEVELAND	24.0	PHILLIPS PETROLEU
-BRAZOS RESOURCES INC					RECEIVED: 12/29/82 JA: TX			
8316034	F-7E-60017	4205933836	102-4		JOHN D ISENHOWER "A" #3 (ID # N/A)	ISENHOWER (DUFFER)	91.0	LONE STAR GAS CO
-BRUNER OIL & GAS INC					RECEIVED: 12/29/82 JA: TX			
8315775	F-7E-036466	4236720032	103		R D MESSER #1	BRAZOS EAST (BIG SALI	0.0	SOUTHWESTERN GAS
-BRYANT & WHITE OIL CO					RECEIVED: 12/[illegible]/82 JA: TX			
8316089	F-8A-60416	4207900000	103		LANEY #10	LEVELLAND	1.0	CITIES SERVICE CO
8316091	F-8A-60419	4207962773	103		LANEY #13	LEVELLAND	1.0	CITIES SERVICE CO
8316088	F-8A060415	4207900[illegible]0	103		LANEY #4A	LEVELLAND	1.0	CITIES SERVICE CO
8316090	F-8A-60417	4207900000	103		LANEY #9	LEVELLAND	1.0	CITIES SERVICE CO
-BTA OIL PRODUCERS					RECEIVED: 12/[illegible]/82 JA: TX			
8316046	F-08-60106	4249531471	107-PF		7457 JV-S HUTCHING-SEALY #4	WINK S (MONTOYA-ELLEN	547.0	LONE STAR GAS CO
-BURNT ROCK RESOURCES					RECEIVED: 12/2[illegible]/82 JA: TX			
8315834	F-06-053054	4236531391	103	107-TF	WEST CLAYTON GAS UNIT #1	CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI

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CO NO OP ST	API NO	SEC(1) SEC(2) WELL NAME	FIELD NAME	PROD	PURCHASER
-C & K PETROLEUM INC		RECEIVED: 12/29/82 JA: TX			
8315945 F-04-057271	422M731476	102-3 MESTENA M-4	MESTENA GRANDE (QUEEN	0.0	AMERICAN PIPELINE
-CMG PETROLEUM CORP		RECEIVED: 12/29/82 JA: TX			
8315873 F-03-05M748	4205132282	102-2 ANT #1	GIDDINGS AUSTIN CHALK	365.0	PHILLIPS GAS CO
-CAMBRIDGE E NAIL		RECEIVED: 12/29/82 JA: TX			
8315999 F-1[illegible]-05[illegible]07	422110[illegible]	103 FLOWERS #1-39	CANADIAN SE (DOUGLAS)	0.0	DIAMOND SHAMROCK
-CASHCO OIL CO		RECEIVED: 12/29/82 JA: TX			
8315778 F-03-03M148	421850[illegible]	102-[illegible] THANT #33	KEITH (WOODBINE)	0.0	LONE STAR GAS CO
-CHAMPLIN PETROLEUM COMPANY		RECEIVED: 12/29/82 JA: TX			
8315820 F-04-[illegible]510M2	4227300000	102-4 103 M L RIVERS "A" #17	STRATTON EN-52-3)	1595.6	TENNESSEE GAS PIP
8315806 F-04-053957	4235M32016	102-4 103 O A GREENE #5-L	STRATTON EF-15-41	0.0	TENNESSEE GAS PIP
-CHARLES A BIRD		RECEIVED: 12/29/82 JA: TX			
8315997 F-7C-[illegible]59173	M238332[illegible]7	103 F A BIRD ESTATE "F" #2	SPRAGBERRY (TREND AREA	18.M	
-CHESTER M UPHAM JR		RECEIVED: 12/[illegible]/82 JA: TX			
8315[illegible] F-7B-055657	M23670[illegible]	102-[illegible] MEPCO-ELECTRA #1-C	TOMBELIN (CONGL)	0.0	SOUTHWESTERN GAS
8315783 F-7B-041754	M236300000	103 PARKS-GILBERT #1	PALO PINTO REG FIELD	0.0	
-CLAYTON W WILLIAMS JR		RECEIVED: 12/29/82 JA: TX			
8315819 F-08-05066[illegible]	42475[illegible]0	103 SCOTT STATE #1-[illegible]	SCOTT & SCOTT (DELAWA	0.0	TRANSWESTERN PIPE
-CLEMCO INC		RECEIVED: 12/29/82 JA: TX			
8316087 F-06-[illegible]412	421M330499	103 107-TF VARGA GAS UNIT #1	WILLOW SPRINGS (COTTO	220.0	TEXAS EASTERN TRA
-CMC ENERGY INC		RECEIVED: 12/29/82 JA: TX			
8316107 F-04-6[illegible]567	42131[illegible]	102-4 103 GEORGE BLEVINS #10 (101086")	MENAVIDES (WALSTEAD 3	25.0	ENERGY BUYERS COR
-COMINCO AMERICAN INC		RECEIVED: 12/29/82 JA: TX			
8315777 F-10-039M65	4235700[illegible]	10N-FR HARBAUGH #1	LIPS (MORROW)	0.0	DIAMOND SHAMROCK
-CONOCO INC		RECEIVED: 12/29/82 JA: TX			
8315958 F-08-057916	4223[illegible]3117	103 107-TF CONOCO AVNO UNIT #1 ID #100327	MENTONE (FUSSELMAN)	156.6	LONE STAR GAS CO
8315803 F-08-048253	42107[illegible]	10R J C RUSSELL-B- #7 ID #23725	GERALDINE FORD	1.7	EL PASO NATURAL G
8316[illegible]2 F-08-60[illegible]2	4210931645	103 RAMSEY "44" #2	GERALDINE (DELAWARE 3	29.7	EL PASO NATURAL G
8315935 F-04-057[illegible]6	4247933367	102-2 107-TF ROSA V BENAVIDES "B" #13	CAPRICE (LOBO)	146.0	E I DUPONT DENEMO
8315[illegible]M F-04-056[illegible]87	4247933[illegible]	102-2 107-TF ROSA V BENAVIDES "E" #14	CAPRICE (LOBO)	511.0	E I DUPONT DE NEM
8315855 F-04-053[illegible]7	4247933256	102-2 107-TF VAQUILLAS RANCH "E" #20	VAQUILLAS RANCH (GATO	0.0	E I DUPONT DE NEM
8315[illegible]04 F-04-055573	4247933303	102-2 107-TF VAQUILLAS RANCH "G" #22	VAQUILLAS RANCH (WILC	500.0	E I DUPONT DENEMO
-COSTA RESOURCES INC		RECEIVED: 12/29/82 JA: TX			
8315[illegible]10 F-08-055694	M210332893	102-4 ROGERS #4	COSTA (CLEARFORK, UPP	25.5	PERRY GAS PROCESS
-CREDO OIL & GAS INC		RECEIVED: 12/29/82 JA: TX			
8316[illegible]3[illegible] F-7E-60[illegible]E	4213333[illegible]75	102-[illegible] 103 L B JONES #1 (19779)	ADAMS (LOWER DUFFER)	22.0	LONE STAR GAS CO
-CROUCH PETROLEUM COMPANY		RECEIVED: 12/29/82 JA: TX			
8316[illegible]M F-09-60[illegible]E	4223734330	103 M F WOTTLES #4	OAKLAND MARBLE FALLS	150.0	LONE STAR GAS CO
-CROWN PRODUCTION CO		RECEIVED: 12/29/82 JA: TX			
8315917 F-01-056[illegible]06	M216331889	103 J M KING "E" 11	PEARSALL (AUSTIN CHAL	12.M	TGP INC
-CRYSTAL OIL AND LAND COMPANY		RECEIVED: 12/29/82 JA: TX			
8315871 F-06-055[illegible]50	4249930[illegible]1	103 BOWNBUCKLE "A" #2	WINNSPORO (TRAVIS PEA	237.5	DELHI GAS PIPELIN
8315782 F-0[illegible]-04[illegible]78	M236530791	10R MYERS #1	PANOLA	11.3	UNITED GAS PIPELI
8315892 F-06-055251	4249730[illegible]4	103 VAUGHN #1-L	WINNSBORO (TRAVIS PEA	182.5	DELHI GAS PIPELIN
-D L BISHOP		RECEIVED: 12/29/82 JA: TX			
8316021 F-7C-59938	4210583238	103 UNIVERSITY "25-A" #1 (REC #08023)	FARMER (SAN ANDRES)	1.8	J L DAVIS
8316[illegible]22 F-7C-59[illegible]3[illegible]	4[illegible]0532515	103 UNIVERSITY "25-A" #2 (REC #08023)	FARMER (SAN ANDRES)	1.8	J L DAVIS
8316023 F-7C-5[illegible]940	4210532513	103 UNIVERSITY "25-A" #3 (REC #08023)	FARMER (SAN ANDRES)	1.8	J L DAVIS
8316[illegible]24 F-7C-5[illegible]41	4210532798	103 UNIVERSITY "25-A" #4 (REC #08023)	FARMER (SAN ANDRES)	1.6	J L DAVIS
8316026 F-7C-59955	4230331[illegible]7	103 UNIVERSITY "25-A" #5 (REC #08023)	FARMER (SAN ANDRES)	1.8	J L DAVIS
-DALECO RESOURCES		RECEIVED: 12/29/82 JA: TX			
8315817 F-03-049954	42[illegible]5131993	102-2 103 RUBENSTEIN #1	WILDCAT	0.0	
-DALLAS SUNBELT OIL & GAS INC		RECEIVED: 12/29/82 JA: TX			

JD NO	DA RCT	API NO	SEC(1)	SEC(2)	WELL NAME	VOLUME MI	PAGE 003	
						FIELD NAME	PROD	PURCHASER
8315915	F-7B-055885	4213333579	102-4		KING #2	RANGER NW (MARBLE FAL	46.0	LONE STAR GAS CO
-DAMSON OIL CORPORATION			RECEIVED: 12/29/82 JA: TX					
8315893	F-02-055253	4217531561	102-4		JOE KEENE GAS UNIT #1	MILBY CREEK (FRIO 260	200.0	
8315979	F-06-058586	4240130605	103		LINVILLE BENNETT NGAS UT #1 WELL #1	OAK HILL	170.0	DELHI GAS PIPELIN
-DIAMOND SHAMROCK CORPORATION			RECEIVED: 12/29/82 JA: TX					
8316029	F-10-59993	4235731234	103		DAVID A KELLN #5	PARSELL	175.0	
8315822	F-10-051709	4221131466	103		FRANK SHALLER "F" #4	CANADIAN SE	0.0	INTER NORTH INC
8315837	F-10-053484	4221100000	103		J B LINDLEY #4	CANADIAN SE	0.0	INTER NORTH INC
8316030	F-10-59994	4235731268	103		SAM K HILL #2	ELLIS RANCH	120.0	
8316031	F-10-59996	4229531184	103		TOM ABRAHAM #2-507	LIPSCOMB SW	290.0	
-DISCOVERY OPERATING INC			RECEIVED: 12/29/82 JA: TX					
8316019	F-8A-59932	4231732544	103		MIDDLETON #1	ACKERLY (DEAN SAND)	18.0	TEXACO INC
8316015	F-08-59700	4231700000	103		PAINTER #1	SPRABERRY (TREND AREA	21.6	PHILLIPS PETROLEU
8316020	F-08-59933	4231731527	103		PETERS #1	SPRABERRY (TREND AREA	18.0	PHILLIPS PETROLEU
-DOWCO PETROLEUM INC			RECEIVED: 12/29/82 JA: TX					
8315901	F-06-055444	4240131432	102-4		SMITH R T #1 RRC ID N/A	WINDEN EAST (TRAVIS P	0.0	TEXAS UTILITIES F
-DYNEX ENERGY INC			RECEIVED: 12/29/82 JA: TX					
8315831	F-06-052748	4240130969	103	107-TF	DIRLAM #1 PERMIT #080246	OAK HILL	100.0	UNITED GAS PIPELI
-EATON OPERATING CO			RECEIVED: 12/29/82 JA: TX					
8316010	F-03-059553	4232100000	102-4		PIERCE-HEFFELFINGER #1	BLESSING	55.0	CHANNEL INDUSTRIE
-EDWIN L COX			RECEIVED: 12/29/82 JA: TX					
8316038	F-04-60061	4247933403	103	107-TF	OLMITOS RANCH #5	MUJERES CREEK (LOBO 6	360.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY			RECEIVED: 12/29/82 JA: TX					
8315811	F-7C-049576	4243500000	108		SIMMONS #1	SONORA (CANYON UPPER)	18.0	EL PASO NATURAL G
-ENERGETICS INC			RECEIVED: 12/29/82 JA: TX					
8316008	F-01-059470	4217731161	102-2		H E CHRISTIAN #8	CHRISTIAN (6800)	50.0	VALERO TRANSMISSI
-ENERGY RESERVES GROUP INC			RECEIVED: 12/29/82 JA: TX					
8315773	F-7C-031656	4238331682	108-ER		RUPERT P RICKER #2	CALVIN (DEAN)	21.2	UNION TEXAS PETRO
-ENSERCH EXPLORATION INC			RECEIVED: 12/29/82 JA: TX					
8315855	F-01-053932	4201300000	103		H A SCHUMANN "A" UNIT 1 #3-L	FASHING	712.0	NATURAL GAS PIPEL
8315840	F-09-053565	4249732404	103		JOHN N VALCIK #2	BOONSVILLE (BCG)	100.0	LONE STAR GAS CO
8315835	F-7C-053192	4213700000	103	107-TF	MIERS "B" #32	SAWYER	120.0	LONE STAR GAS CO
8315946	F-7C-057335	4213700000	103	107-TF	MIERS "B" #35	SAWYER (CANYON)	120.0	LONE STAR GAS CO
8315780	F-01-040286	4201300000	103		OTTO LIEKE #2-LT	FASHING	0.0	NATURAL GAS PIPEL
8315779	F-01-040285	4201300000	103		OTTO LIEKE #2-UT	FASHING	0.0	NATURAL GAS PIPEL
8315828	F-02-052581	4228500000	103	107-TF	SMOLIK UNIT #4	WORD NORTH (EDWARDS)	0.0	VALERO TRANSMISSI
8315938	F-09-057050	4249732383	103		T C W B UNIT 5 #2	BOONSVILLE (BCG)	156.0	LONE STAR GAS CO
8315922	F-7C-056305	4213730826	103	107-TF	W L MIERS "B" #33	SAWYER (CANYON)	0.0	LONE STAR GAS CO
8315939	F-7C-057049	4213730829	103	107-TF	W L MIERS "B" #34	SAWYER (CANYON)	0.0	LONE STAR GAS CO
8315959	F-7C-057937	4213730827	103	107-TF	W L MIERS "B" #37	SAWYER	120.0	LONE STAR GAS CO
-EXXON CORPORATION			RECEIVED: 12/29/82 JA: TX					
8316056	F-08-60262	4210332915	103		J B TUBB #27U			
8315851	F-08-053856	4210332841	103		J B TUBB A/C 2 #265L	SAND HILLS (MCKNIGHT)	15.0	EL PASO NATURAL G
8316027	F-08-59977	4210332900	103		J B TUBB B #26U	SAND HILLS (TUBB)	14.0	ODESSA NATURAL GA
8315991	F-08-059070	4210332848	103		J B TUBB C #31L	SAND HILLS (MCKNIGHT)	15.0	EL PASO NATURAL G
8316057	F-08-60263	4210332915	103		J C TUBBB #27L	SAND HILLS (TUBB)	15.0	ODESSA NATURAL GA
8315964	F-08-058091	4200333260	103		MEANS-QUEEN #1 OIL UNIT #1351	SAND HILLS (TUBB)	15.0	EL PASO NATURAL G
-F WILLIAM CARR			RECEIVED: 12/29/82 JA: TX			MEANS (QUEEN SAND)	15.0	PHILLIPS PETROLEU
8316102	F-02-60492	4229700000	102-4		GEORGE WEST ESTATE #5-L			
8316101	F-02-60491	4229700000	102-4		GEORGE WEST ESTATE #5-U	GEORGE WEST WEST	1800.0	TEXAS EASTERN TRA
-FAMCO OIL INC			RECEIVED: 12/29/82 JA: TX			GEORGE WEST WEST	1900.0	TEXAS EASTERN TRA
8316051	F-10-60178	4223300000	108		JOHNSON G #1 RRC 25253			
8316052	F-10-60179	4223300000	108		PHILLIPS SANFORD #23	WEST PANHANDLE	6.6	PHILLIPS PETROLEU
						WEST PANHANDLE	6.7	PHILLIPS PETROLEU

JD NO	DA RCT	API NO	SEC(1)	SEC(2)	WELL NAME	VOLUME MI	PAGE 004	
						FIELD NAME	PROD	PURCHASER
-FIREBROCK CO			RECEIVED: 12/29/82 JA: TX					

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OG NO	JA KT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-FIREROCK CO			RECEIVED:	12/29/82	JA: TX			
8315957	F-7P-057881	4213333553	102-4		I N HICKMAN #1 (102156)	AUDREY (MARBLE FALLS)	211.0	EL PASO HYDROCARB
-FIRST TRIAD CORP			RECEIVED:	12/29/82	JA: TX			
8315912	F-7B-055786	4236732269	102-2		PICKERING #1 (ID # APPLIED FOR)	DENNIS WEST (STRAWN)	504.0	PARKER GAS INC
8315913	F-7B-055787	4236732258	102-2		WOODRUFF/BLAIR #1 ID # APPLIED FOR	DENNIS WEST (STRAWN)	205.0	PARKER GAS INC
-GEOSOUTHERN ENERGY CORP			RECEIVED:	12/29/82	JA: TX			
8315818	F-03-050211	4231300000	102-2	103	JUDI UNIT #1	KURTEN (AUSTIN CHALK)	0.0	FERGUSON CROSSING
-GETTY OIL COMPANY			RECEIVED:	12/29/82	JA: TX			
8316059	F-03-60213	4205100000	10R		C LEDNICKY #1 REC LEASE NO 14377	GIDDINGS (AUSTIN CHAL	4.0	FERGUSON CROSSING
8316071	F-7B-60355	4243300000	10R		FLOWERS CANYON SAND UNIT #102	FLOWERS (CANYON SAND	0.3	CITIES SERVICE CO
8316078	F-7B-60356	4243300000	10R		FLOWERS CANYON SAND UNIT #104	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316069	F-7B-60353	4243300000	10R		FLOWERS CANYON SAND UNIT #116	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316068	F-7B-60352	4243300000	10R		FLOWERS CANYON SAND UNIT #120	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316067	F-7B-60351	4243300000	10R		FLOWERS CANYON SAND UNIT #122	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316066	F-7B-60350	4243300000	10R		FLOWERS CANYON SAND UNIT #126	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316083	F-7B-60371	4243300000	10R		FLOWERS CANYON SAND UNIT #13	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316065	F-7B-60348	4243300000	10R		FLOWERS CANYON SAND UNIT #130	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316064	F-7B-60347	4243300000	10R		FLOWERS CANYON SAND UNIT #142	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316082	F-7B-60370	4243300000	10R		FLOWERS CANYON SAND UNIT #15	FLOWERS (CANYON SAND)	0.0	CITIES SERVICE CO
8316063	F-7B-60346	4243331232	10R		FLOWERS CANYON SAND UNIT #188	FLOWERS (CANYON SAND)	1.0	CITIES SERVICE CO
8316062	F-7B-60345	4243331253	10R		FLOWERS CANYON SAND UNIT #192	FLOWERS (CANYON SAND)	0.7	CITIES SERVICE CO
8316081	F-7B-60368	4243300000	10R		FLOWERS CANYON SAND UNIT #24	FLOWERS (CANYON SAND)	0.0	CITIES SERVICE CO
8316080	F-7B-60367	4243300000	10R		FLOWERS CANYON SAND UNIT #26	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316079	F-7B-60366	4243300000	10R		FLOWERS CANYON SAND UNIT #30	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316078	F-7B-60365	4243300000	10R		FLOWERS CANYON SAND UNIT #34	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316077	F-7B-60364	4243300000	10R		FLOWERS CANYON SAND UNIT #44	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316076	F-7B-60363	4243300000	10R		FLOWERS CANYON SAND UNIT #46	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316075	F-7B-60362	4243300000	10R		FLOWERS CANYON SAND UNIT #48	FLOWERS (CANYON SAND)	0.7	CITIES SERVICE CO
8316074	F-7B-60361	4243300000	10R		FLOWERS CANYON SAND UNIT #58	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316073	F-7B-60359	4243300000	10R		FLOWERS CANYON SAND UNIT #66	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316072	F-7B-60358	4243300000	10R		FLOWERS CANYON SAND UNIT #78	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316084	F-7B-60375	4243300000	10R		FLOWERS CANYON SAND UNIT #90	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8315998	F-08-05917	4217331037	102-4		L S MCDOWELL "32" #1	DEADWOOD WEST (STRAWN	19.0	EL PASO NATURAL G
-GHK ENERGY CORP			RECEIVED:	12/29/82	JA: TX			
8316043	F-04-60092	4250531539	102-4		A CARZA #3	CHARCO (9200)	750.0	VALERO TRANSMISSI
8316044	F-04-60093	4250531087	102-4		ALFONSO #1	CHARCO (9200)	750.0	VALERO TRANSMISSI
8316007	F-04-05938	4247932667	102-4	107-TF	CARR #4	CARR (6080 N700) PROP	250.0	VALERO TRANSMISSI
-GRAHAM ENERGY LTD			RECEIVED:	12/29/82	JA: TX			
8316057	F-7B-60119	4235331320	102-4		JAMESON "B" 2	SILVER (CANYON) JAMES	1800.0	SUN OIL CO
-GRAHAM PRODUCTION CO			RECEIVED:	12/29/82	JA: TX			
8315986	F-03-050918	4230132389	102-4		MAWES #1	WHARTON EAST (FRIO 5Z	180.0	HOUSTON PIPE LINE
-GULF OIL CORPORATION			RECEIVED:	12/29/82	JA: TX			
8316009	F-06-059522	4247532645	103		HUTCHINGS STOCK ASSN #1195	WARD-ESTES NORTH	2.0	EXXON CORP
8315823	F-06-051773	4235531999	103	107-TF	P J BLEAKLEY UNIT #3	CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPE L
-H L HUFFMAN LTD			RECEIVED:	12/29/82	JA: TX			
8315982	F-7C-058718	4241330736	107-TF		H L HENDERSON 2-X	WELMEX (CANYON SAND)	182.5	CRA INC
-H-M OIL CO			RECEIVED:	12/29/82	JA: TX			
8315967	F-04-058174	4213136047	102-4	103	ALMA G VALDEZ #1-DT	ASOG (FRIO 4300)	0.0	GHK ENERGY CORP
8315955	F-04-057850	4213136053	102-4	103	CONSUELO MINOJOSA GAS UNIT #1	ASOG (FRIO 4950)	0.0	GHK ENERGY CORP
-HAILEY ENERGY			RECEIVED:	12/29/82	JA: TX			
8315985	F-7B-055605	4207330686	103		EDNA VAUGHN #1 (116291)	COMANCHE COUNTY REGUL	20.0	ENERGY PIPELINE C
-HENDERSON CLAY PRODUCTS INC			RECEIVED:	12/29/82	JA: TX			
8315927	F-06-056083	4240131474	102-3	107-TF	LEATH ESTATE #2	HENDERSON N (COTTON V	600.0	UNITED GAS PIPELI

			0.0	CITIES SERVICE CO
	HEARD RANCH (SP75*)	1500.0		
	HEARD RANCH (ARCO* SAN		60.0	TRUNKLINE GAS CO
			0.0	UNITED GAS PIPE L
	CALDWELL (AUSTIN CHAL		73.0	FERGUSON CROSSING
	ARNOLD-DAVID (*****)		80.0	HOUSTON PIPE LINE
	GIDDINGS (AUSTIN CHAL		0.0	CLAJON GAS CO
	NORTH MORCHENS (17000)		90.3	TEXAS EASTERN TRA
	BRENT (PANHANDLE POOR		0.0	PANHANDLE EASTERN
	BRENT (PANHANDLE POOR		0.0	PANHANDLE EASTERN
	GIDDINGS (AUSTIN CHAL		0.0	PHILLIPS PETROLEU
	GIDDINGS (FUDA)		126.0	PHILLIPS PETROLEU
	PEACH CREEK (AUSTIN C		334.3	VALERO TRANSMISSI
	PROHANET		0.0	INTER NORTH INC
	J H (5505)		100.0	VALERO TRANSMISSI
	J H (5505)		100.0	VALERO TRANSMISSI
	FOLLETT (MCKNOW)		182.0	TRANSWESTERN PIPE
	INGHAM (QUEEN)		11.0	EL PASO NATURAL G
	WEATHERFORD S F (2150		253.0	SOUTHWESTERN GAS
	SEMPEL (CADDO 4600*)		73.0	MID-STATE GAS COR
	EL TORO SOUTH (6900)		274.0	LONE STAR GAS CO
	GIDDINGS (AUSTIN CHAL		0.0	FERGUSON CROSSING
	YOUNG COUNTY REGULAR		29.0	GAS ASSOCIATES SY
	HANNA LANE (MIDDLE MC		75.0	PHILLIPS PETROLEU
	GIDDINGS (AUSTIN CHAL		0.0	
	SPEARS (7000)		219.0	UNITED TEXAS TRAN
	PANHANDLE GRAY COUNTY		72.0	CABOT PIPELINE CO
	MCNEILL (HOCKLEY UPPE		50.0	VALLEY GAS TRANSM
	OZONA (CANYON SAND)		203.4	VALERO TRANSMISSI
	OZONA (CANYON SAND)		175.7	VALERO TRANSMISSI

-LYN-SAN CO			RECEIVED: 12/29/82 JA: TX				
8315993	F-0R-059111	4210332981	103	WEIDLAND #2			
-M BRAD BENNETT INC & RKH LTD			RECEIVED: 12/29/82 JA: TX				
8315987	F-0R-057469	4235932851	102-4 103	BLACKWELL #1			
8315992	F-7C-059098	4241331241	102-4	PRUTON "27" #1			
8315974	F-0R-054740	4235932271	102-4 103	COLLIE "B" #3			
-MARAN OIL CO			RECEIVED: 12/29/82 JA: TX				
8316012	F-02-59990	4239100000	107-PF	MARY ALICE ANDERSON "A"6	FAGAN FIELD	0.0	LONE STAR GAS CO
8316036	F-02-60026	4239100001	107-PF	MARY ALICE ANDERSON A-1	FAGAN FIELD	146.0	LONE STAR GAS CO
8316028	F-02-59951	4239100000	107-PF	MARY ALICE ANDERSON A-10	FAGAN	650.0	LONE STAR GAS CO
8316037	F-02-60027	4239100000	107-PF	MARY ALICE ANDERSON A-11	FAGAN FIELD	146.0	LONE STAR GAS CO
8316016	F-02-59972	4239100000	107-PF	MARY ALICE ANDERSON A-4	FAGAN	146.0	LONE STAR GAS CO
8316045	F-02-60058	4239100001	107-PF	MARY ALICE ANDERSON A-5	FAGAN FIELD	146.0	LONE STAR GAS CO
-MARLEX OIL & MINERALS INC			RECEIVED: 12/29/82 JA: TX				
8316094	F-07-60472	4241300	10 -2	ANDERSON #1	KURTEN (GEORGETOWN)	547.5	CLAJON GAS CO
8316095	F-07-60477	4241300	10 -2	STEPHEN #1	GIDDINGS (AUSTIN CHAL	365.0	CLAJON GAS CO
-MARSHALL EXPLORATION INC			RECEIVED: 12/29/82 JA: TX				
8315960	F-04-057952	4241910527	103	LOCKE #1-T	CARLILE & HOWELL (TP	285.0	UNITED GAS PIPELI
8315797	F-06-060384	4218330528	103	T A HALE #2	WILLOW SPRINGS (PETTI	0.0	DELHI GAS PIPELIN
-MAYFAIR MINERALS INC			RECEIVED: 12/29/82 JA: TX				
8316001	F-04-059220	4242700000	102-4	LA PRISA L R C CO - STATE OF TEXAS	RINCON (4-8)	73.0	TENNESSEE GAS PIP
-MCKISSACK OIL FIELD EQUIPMENT INC			RECEIVED: 12/29/82 JA: TX				
8315942	F-7C-057112	4281300000	103 107-TF	BLAIR #1	JKT (CANYON)	0.0	PRODUCERS GAS CO
-MEACO PROPERTIES			RECEIVED: 12/29/82 JA: TX				
8315919	F-7C-055855	4223530071	102-4	E SHOGG 15 #1 RRC # - NOT ASSIGNED	TAOS (CANYON)	0.0	INTER NORTH INC
-MEYER & ASSOCIATES INC			RECEIVED: 12/29/82 JA: TX				
8315930	F-RA-052741	4211500000	103	COLEMAN "D" #2	ACKERLY (DEAN SAND)	0.0	TEXACO INC
-MGF OIL CORP			RECEIVED: 12/29/82 JA: TX				
8315784	F-7C-041825	4238300000	103	UNIVERSITY "16-D" #1	SPRABERRY (TREND AREA	0.0	J L DAVIS
-MIN-TEX EXPLORATION CORP			RECEIVED: 12/29/82 JA: TX				
8316035	F-7E-060025	4242933261	102-4	COPELAND RANCH #4 (19021)	MICAR (PENN CONGL 372	119.0	WARREN PETROLEUM
-MITCHELL ENERGY CORPORATION			RECEIVED: 12/29/82 JA: TX				
8315936	F-09-057018	4249732226	10?	R B POORE #2	GENTRY-PERKINS (STRAW	104.0	NATURAL GAS PIPEL
8315925	F-7C-056861	4241700000	10?	BESSIE BOYD #1 #07524	RENO (CONGL)	13.6	NATURAL GAS PIPEL
8316013	F-09-59642	4249700001	10?	M G LEONARD #1 #10155	BRIDGEPORT (CADDO CON	10.2	NATURAL GAS PIPEL
8315867	F-43-058622	4233330336	10?	HERMAN FANNIN #1	MADISONVILLE (SUB-CLA	274.0	LONE STAR GAS CO
8316014	F-09-59643	4249700000	10?	J M ROBINSON #1 #17374	BOONSVILLE (CONSOLIDA	7.5	NATURAL GAS PIPEL
8315826	F-42-057507	4228531531	102-4	L ALLEN JR #1	VIENNA (MIDDLE WILCOX	750.0	UNITED TEXAS TRAN
8315976	F-7E-058552	4236700000	10?	M L EARP B #1 072773	MINE (CONGL)	0.0	NATURAL GAS PIPEL
8315951	F-05-057529	4229330666	103 107-TF	M W EVERETT #1	OAKS (COTTON VALLEY S	275.8	TEXAS UTILITIES F
8315668	F-7C-054262	4241500501	102-4 10?	MCWHORTER 21R #2-U	K & B (CANYON)	274.0	ESPERANZA PIPELIN
8315869	F-09-049187	4249700001	10?	NASH-BILLINGSLEY #1 #28750	BOONSVILLE (BEND CONG	12.3	NATURAL GAS PIPEL
8315843	F-09-057388	4249700000	10?	NELL HUDDLESTON A #2 #01001	RHOME (CADDO)	11.8	NATURAL GAS PIPEL
8315923	F-7E-058747	4236300000	10?	R H GAULDIN #P #01433	RIFE (CONGL 3RD)	0.0	SOUTHWESTERN GAS
-MOBIL PROD TEXAS & NEW MEXICO INC			RECEIVED: 12/29/82 JA: TX				
8315948	F-7E-057474	4215131513	102-4	M L SMITH #1	COTTONWOOD CREEK (CAN	28.4	
8315974	F-04-058422	4235531270	102-4	CHARLES O NEIL GAS UNIT #1	CORPUS CHRISTI (61ST G	1189.5	UNITED GAS PIPELI
8316053	F-05-60185	4223300000	107-PF	RAPPIE FORD GAS UNIT #1	COMO (SMACKOVER)	1.5	TEXAS UTILITIES F
8315983	F-RA-057184	4250132237	102-4	SHOOK ESTATE #1	BURKBURNETT NORTHWEST (C	4.7	
-MONTERREY PETROLEUM CORP			RECEIVED: 12/29/82 JA: TX				
8315788	F-04-043135	4247912595	107-TF	BLOCKER RANCH (SEC 1853) 3 (93201)	GOLD RIVER (BLOCK 1 (OLM	0.0	DELHI GAS PIPELIN
8315789	F-04-043136	4247932771	107-TF	BLOCKER RANCH "B" #P (93604)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8315787	F-04-042901	4247932770	107-TF	BLOCKER RANCH "C" #P (93605)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN

JD NO	DA PT	RRC #	SEC(1)	SEC( )	FILE NAME
-MOORE MCCORMACK OIL & GAS CORP			RECEIVED:	12/29/82	JA: TX
8315985	F-04-058910	4240931609	102-4		MCDANIEL #1
8315869	F-06-054685	4200131331	102-4		SKIPPER #1
-MORAN EXPLORATION INC			RECEIVED:	12/29/82	JA: TX
8315772	F-7C-016985	4238300000	10A-ER		MINNIE TRAMMELL #1
-CANNAN MORRIS			RECEIVED:	12/29/82	JA: TX
8315988	F-01-058934	4231131754	103		HAGIST #1S
8315795	F-03-046017	4232100000	102-4	103	HERNDEN-CANNAN PIERCE #1U
-MORROW RESOURCES INC			RECEIVED:	12/29/82	JA: TX
8315954	F-7C-057637	4245130997	102-2	103	BROWN "C" #5
-NEWTON OIL & GAS CORP			RECEIVED:	12/29/82	JA: TX
8315850	F-04-053842	4247900000	103	107-TF	BARREDA #2
8315846	F-04-053838	4247900000	103	107-TF	BARREDA A #1
8315845	F-04-053836	4247900000	103	107-TF	PALAFOX EXPLORATION CO B #1
8316055	F-04-60235	4247900000	103	107-TF	PALAFOX EXPLORATION CO B#2
8315847	F-04-053839	4247900000	103	107-TF	W V BOOTH JR #1
8315849	F-04-053841	4247900000	103	107-TF	W V BOOTH JR #2
8315848	F-04-053840	4247900000	103	107-TF	W V BOOTH JR #3
-NORTH TEXAS PETROLEUM INC			RECEIVED:	12/29/82	JA: TX
8315871	F-01-054742	4216332173	103		J B BROOKS
8315872	F-01-054744	4216332119	103		M L KING 147206
8315870	F-01-054741	4228330816	103		NELSON "C" 07410
-PANHANDLE PRODUCING COMPANY			RECEIVED:	12/29/82	JA: TX
8316107	F-10-60556	4206500000	103		CRUMPACKER #1-70
-PATRICK PETROLEUM CORP (MI)			RECEIVED:	12/29/82	JA: TX
8315894	F-02-055096	4229732716	102-4		HENRY E HOUDMANN #1
-PELTO OIL COMPANY			RECEIVED:	12/29/82	JA: TX
8315980	F-03-058641	4235130330	102-4		B E QUINN SR #1
-PENNZOIL PRODUCING COMPANY			RECEIVED:	12/29/82	JA: TX
8315821	F-06-051360	4236531400	103	107-TF	CHADWICK UNIT #4
8316060	F-04-60315	4235500000	10R		CLARA DRISCOLL #A-9
8315923	F-06-056354	4236531406	103	107-TF	HUDSON-JOHNSON UNIT #3
8315928	F-06-056823	4236531462	103	107-TF	SMITH-BIRD UNIT #3
8315875	F-06-054791	4236531399	103	107-TF	TILLER-CRENSHAW #2
8315919	F-06-056141	4236531404	103	107-TF	YOUNGBLOOD-FOE UNIT #3
-PERRYMAN OPERATING CO INC			RECEIVED:	12/29/82	JA: TX
8315790	F-05-043257	4221300000	102-4	107-TF	VALLEY VIEW UNIT #1
-PETRO-LEWIS CORPORATION			RECEIVED:	12/29/82	JA: TX
8315816	F-01-049809	4212732245	103	107-TF	GATES RANCH "A" #2-224
8315842	F-01-053642	4247933265	103	107-TF	O S PETTY #1-26
8315815	F-04-049808	4247900000	103	107-TF	O S PETTY #5-17
8315794	F-04-045997	4247933034	103	107-TF	O S PETTY "B" LEASE #3-20
8315793	F-04-045996	4247933043	103	107-TF	O S PETTY LEASE #3-16
8315800	F-04-046985	4247932708	103	107-TF	O S PETTY LEASE #3-18
8315801	F-04-046986	4247933037	103	107-TF	O S PETTY LEASE #4-16
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	12/29/82	JA: TX
8315832	F-7C-053012	4246131878	103		BENEDUM #5
8315778	F-10-040100	4221131336	107-TF		BOWERS D #2
8315899	F-01-055434	4246530400	103		CAUTHORN C #3
8316106	F-10-60530	4223300000	108		ERSON #2
8315911	F-10-055759	4235700000	10R		FLOWERS D #1
8315965	F-10-058114	4217931069	103		HOPKINS C #1
8315981	F-10-058642	4217931222	103		STAMATE A #1

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FIELD NAME	RRC	PURCHASER
MCDANIEL (9770)	263.0	CHAPARRAL GAS PIP
TENNESSEE COLONY S W	180.0	MOORE MCCORMACK G
SPRABERRY (TREND AREA	7.0	EL PASO NATURAL G
LOMA ALTA (3500)	0.0	TEXAS EASTERN TRA
DUNCAN SLOUGH SOUTH (	1825.0	DELHI GAS PIPELIN
K W B (STRAWN)	0.0	LONE STAR GAS CO
LAS TIENDAS (OLMOS)	180.0	TEJAS GAS CORP
LAS TIENDAS (OLMOS)	0.0	TEJAS GAS CORP
LAS TIENDAS (OLMOS)	0.0	LONE STAR GAS CO
LAS TIENDAS (OLMOS)	146.0	LONE STAR GAS CO
LAS TIENDAS (OLMOS)	54.0	HOUSTON PIPELINE
LAS TIENDAS (OLMOS)	48.0	HOUSTON PIPELINE
LAS TIENDAS (OLMOS)	42.0	HOUSTON PIPE LINE
PEARSALL "AUSTIN CHAL	80.0	TIPPERARY CORP
PEARSALL "AUSTIN CHAL	10.0	TIPPERARY CORP
PEARSALL "AUSTIN CHAL	15.0	ESPERANZA TRANSMI
PANHANDLE	0.0	GETTY OIL CO
KITTIE FURNS SLICK SA	1000.0	VALERO TRANSMISSI
SABINE TRAP W (STRAY	70.0	TEXAS EASTERN TRA
CARTHAGE (COTTON VALL	730.0	UNITED GAS PIPE L
AGUA DULCE (7150')	6.0	UNITED GAS PIPELI
CARTHAGE/COTTON VALLE	694.0	UNITED GAS PIPE L
CARTHAGE (COTTON VALL	694.0	UNITED GAS PIPE L
BETHANY EAST/COTTON V	402.0	UNITED GAS PIPE L
CARTHAGE (COTTON VALL	730.0	UNITED GAS PIPE L
THOMAS LAKE (COTTON V	0.0	TEXAS UTILITIES F
CATARINA S W (OLMOS)	15.0	VALERO TRANSMISSI
CATARINA S W (OLMOS)	60.0	VALERO TRANSMISSI
DOS HERMANOS WEST (OL	58.0	VALERO TRANSMISSI
DOS HERMANOS WEST (OL	48.0	VALERO TRANSMISSI
DOS HERMANOS WEST	55.1	VALERO TRANSMISSI
DOS HERMANOS WEST (OL	57.3	VALERO TRANSMISSI
DOS HERMANOS WEST (OL	54.0	VALERO TRANSMISSI
PENEDUM (FUSSELMAN)	365.0	INTRATEX GAS CO
WASHITA CREEK HUNTON	0.0	NATURAL GAS PIPEL
VINEGARONE (STRAWN)	110.0	INTER NORTH INC
PANHANDLE HUTCHINSON	0.0	
HORIZON CLEVELAND	0.0	
PANHANDLE GRAY	0.0	
PANHANDLE GRAY	0.0	

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8315825	F-10-052132	4223300000	10P	THOM A #4	PANHANDLE HUTCHINSON	0.0	EL PASO NATURAL G
8315808	F-08-049110	4200304805	10P	UNIV ANDREWS #102	EMBAR (YATES)	4.0	EL PASO NATURAL G
-PITTS OIL CO & DALLAS PROD INC			RECEIVED: 12/29/82 JA: TX				
8315921	F-06-056205	4207330400	102-3	HOLCOMB #2	WHITE OAK CREEK (TRAV	565.0	DELMI GAS PIPELIN
-PRODECO EXPLORATIONINC			RECEIVED: 12/29/82 JA: TX				
8316000	F-03-059210	4204150784	102-2	PERT WHEELER #1	KURTEN (WOODBINE)	0.0	PRODUCER'S GAS CO
8315813	F-03-049664	4214971282	102-2	H T BROWN #1	GIDDINGS (AUSTIN CHAL	704.0	CLAJON GAS CO
8315812	F-03-049663	4214970996	102-2	RAY B MOORE #1	GIDDINGS (AUSTIN CHAL	759.0	CLAJON GAS CO
-PYRON EXPLORATION & DRILLING CORP			RECEIVED: 12/29/82 JA: TX				
8315843	F-78-053727	4242933154	103	MAVINS #7	STEPHENS COUNTY REGUL	72.0	WARREN PETROLEUM
-Q M G OPERATIONS INC			RECEIVED: 12/29/82 JA: TX				
8315786	F-03-042415	4204100000	102-4 103	WILLIAM JOHNSON #1 RRC NO: 96707	WELLBORN (GEORGETOW	0.0	CLAJON GAS CO
-R A W ENERGY CORP			RECEIVED: 12/29/82 JA: TX				
8315653	F-78-053882	4243733178	102-4	BRYANT #1	BRA STRAWN	0.0	LONE STAR GAS CO
8315639	F-78-053539	4243532897	102-4	MOORE #1	KESSLER (1900)	0.0	SOUTHWESTERN GAS
-REO INDUSTRIES INC			RECEIVED: 12/29/82 JA: TX				
8315937	F-10-057046	4215500000	103	RATTLESNAKE #1	TEXAS HUGOTON	120.0	DIAMOND SHAMROCK
-RIO PETROLEUM INC			RECEIVED: 12/29/82 JA: TX				
8315841	F-03-057040	4200971770	103	SARA #1	CHENANGO WEST (8150*	0.0	SEAGULL PIPELINE
-RK PETROLEUM CORP			RECEIVED: 12/29/82 JA: TX				
8316086	F-08-60398	4231732577	103	R C STEWART #2-2 #21814	SPRABERRY/TRENS AREA	0.0	INTER NORTH INC
-ROCKWOOD RESOURCES INC			RECEIVED: 12/29/82 JA: TX				
8315900	F-03-055437	4203931780	102-4	MANUEL RUDY #1	ROWAN SOUTH (10,500)	0.0	HOUSTON PIPE LINE
-ROY FARRELL			RECEIVED: 12/29/82 JA: TX				
8315833	F-10-053032	4206531002	103	CHARLES POWERS #1	WEST PANHANDLE	90.0	NATURAL GAS PIPEL
-SAGE ENERGY CO			RECEIVED: 12/29/82 JA: TX				
8315930	F-03-056831	4205113924	102-2	BARON UNIT #1 RRC #16038	GIDDINGS (AUSTIN CHAL	182.5	PHILLIPS PETROLEU
8315929	F-03-056825	4247730479	102-2	DALLMEYER #1 RRC #16035	GIDDINGS (AUSTIN CHAL	252.0	PHILLIPS PETROLEU
-SANCHEZ-OBRIEN OIL & GAS CORP			RECEIVED: 12/29/82 JA: TX				
8316058	F-01-60285	4231131650	103	GLASSCOCK -FROST GAS UNIT #1	BRAZIL SW (SLICK)	500.0	UNITED TEXAS TRAN
-SCANDRILL INC			RECEIVED: 12/29/82 JA: TX				
8315862	F-09-054422	4223734457	103	BIRDWELL #7	BRYSON EAST	54.0	TEXAS UTILITIES F
8315863	F-09-054424	4223734461	103	BIRDWELL "B" #1	BRYSON EAST	73.0	TEXAS UTILITIES F
8315860	F-09-054416	4223734338	102-4 103	CULLERS "B" #2	BORILL (CONGL)	36.5	LONE STAR GAS CO
8315824	F-09-052115	4223734316	103	HENDERSON #6	JACK COUNTY REGULAR	73.0	SUN GAS TRANSMISS
8315940	F-09-057071	4223734597	102-4 103	PEMBERTON #6	STEVE (LOWER STRAWN)	127.0	LONE STAR GAS CO
8315944	F-78-057250	4244733087	103	RICHARDS "A" #15	THROCKMORTON COUNTY R	76.7	THROCKMORTON GAS
8315861	F-76-054421	4244733002	103	SULLIVAN #1	THROCKMORTON CO REG (	20.1	THROCKMORTON GAS
8315877	F-09-054832	4223734336	102-4 103	W L RICHARDS #4	HAZEL (STRAWN)	65.0	LONE STAR GAS CO
-SEAGULL RESOURCES INC			RECEIVED: 12/29/82 JA: TX				
8315934	F-03-056982	4215700000	102-4	HUNTINGTON #1-L	ROSENBURG (NORT) 5200	0.0	CHANNEL INDUSTRIE
-SHELL OIL CO			RECEIVED: 12/29/82 JA: TX				
8315962	F-04-057992	4221531225	103	A A MCALLEN #77	MCALLEN RANCH (VICKSE	300.0	VALERO INTERSTATE
8316006	F-08-059352	4237100000	10P	NOELKE-A- #1	YUCCA BUTTE (DEVONIAN	19.1	EL PASO NATURAL G
-SHORTES V M & MABEL F G			RECEIVED: 12/29/82 JA: TX				
8316011	F-78-59586	4208300000	103	TOBIN J M #. (DRWRD7-RRCID)	GRIEF (FRY)	105.0	EL PASO HYDROCARB
-SIDCO INC			RECEIVED: 12/29/82 JA: TX				
8315909	F-7C-055688	4239932346	102-4 103	BRAGG #2	DOUGLAS (GARDNER SD)	34.2	LONE STAR GAS CO
-SPRUIELL DRILLING CO INC			RECEIVED: 12/29/82 JA: TX				
8316017	F-09-59919	4250335542	103	KELL ESTATE 2175F	YOUNG COUNTY REGULAR	37.0	PRONTO COMPRESSIO
-SUN EXPLORATION & PRODUCTION CO			RECEIVED: 12/29/82 JA: TX				
8316050	F-04-60157	4227331667	103	A T CANALES #57	TIJERINA-CANALES-BLUC	162.0	
8315838	F-04-053509	4204731079	102-4	D J SULLIVAN #13	FLOWELLA/VICKSBURG 4	0.0	

8315798	F-05-048547	4228910427	10?-TF		C N VREN UNIT 2 #1	
8315875	F-0?-059856	4238930?22	10?	10?-TF	EVA OPHYRNE GAS UT #1	
8315?e9	F-04-058?3?	4.4.7?2e52	102-4		GARCIA LAND & LIVESTOCK UNIT #3	
8315996	F-7C-059163	4208130991	102		JAMES'ON REEF UNIT #11-62	
831e059	F-0R-6050?	4213527REE	10?		PAUL MOSS "A" #152	
-SUPERIOR OIL CO			RECEIVED:	12/29/82	JA: TX	
8315952	F-04-057?7?	4221521007	10?		F J JOHNSON #10	
8315995	F-7C-059161	4210553?5.	10?-TF		UNIVERSITY 15-31 #1	
8315994	F-7C-0591?7	4210553?14	10?-TF		UNIVERSITY 23-31 "B" #1	
-TADLOCK PRODUCTIONS			RECEIVED:	12/29/82	JA: TX	
8315?7E	F-1?-0?9?3?	4223500000	10?		SALLIE PRITCHARD "F-1"	
8315?e9	F-1?-05?137	4?253?0000	102		SALLIE PRITCHARD B-1	
-TASCOCITA ENERGY CO			RECEIVED:	12/29/82	JA: TX	
8315?E2	F-03-046?14	4207151111?	102-4	10?	STOPES-MCCUNE #1	
-TLC OPERATING CO			RECEIVED:	12/29/82	JA: TX	
8315?86	F-03-055181	4216730?57	102-4		FIRTH ESTATE GAS UNIT #2-A	
8315?1e	F-03-05597	4216730?57	102-4		FIRTH ESTATE GAS UNIT 2A-L	
8315?7?	F-03-05?4?.	4215?512?E	102-4		GERKE GAS UNIT #2	
8315774	F-05-036022	4228930417	10?-TF		PULLEN #1-L	
8315?81	F-03-054996	4236130417	102-4		SANDERS TRUSTEE #1	
831?9?E	F-01-05?705	4?2?350???	102-4		SOUTH TEXAS SYNDICATE #2-97	
831e041	F-01-60?7?	4?311?1?47	102-4		TEXAS LAND SYNDICATE #1	
831e055	F-01-60072	4?311?1?64	102-4		TEXAS LAND SYNDICATE #2-1R	
831e040	F-01-60073	4?311?0?0??	102-4		TEXAS LAND SYNDICATE #3	
831e042	F-01-60?7E	4?311?17??	102-4		TEXAS LAND SYNDICATE #4-1R	
-TENNECO OIL COMPANY			RECEIVED:	12/29/82	JA: TX	
8315?66	F-?A-055?.?	4207?1?2?	10?		MALLET LAND & CATTLE #2C	
831e003	F-?A-05?42?	4?03330?94	10?		PHILLIPS CLAYTON JOHNSON 1-?	
831?792	F-13-045E4?	421e700001	10?		STATE TRACT 241 #1	
-TEXACO INC			RECEIVED:	12/29/82	JA: TX	
831e018	F-1E-???.?	4235?3124	10?		C M KELLY #C	
8316093	F-0A-e0451	42?.?3?35e?	10?		G R LUCAS #15	
8315949	F-?-057?10	42?.?31022	102-4		JACKIE "B" #1	
831?781	F-7E-040?5L	4243110000	10?-TF		L R COCKRELL #1	
831?805	F-06-04EE17	4240131349	102-4	10?-TF	R D BASSETT G U #1	
831?89E	F-?A-055?3?	421e?32??3	10?		ROBERTSON UNIT #46	
8315?E9	F-?A-055233	4?21?3347E	10?		W I COBLE "A" ACT-1 #37	
-TEXAS CRUDE INC			RECEIVED:	12/29/82	JA: TX	
831?973	F-02-05?41?	4229700000	102-4		P P CROCKER #2	
-THROCKMORTON GAS SYSTEMS			RECEIVED:	12/29/82	JA: TX	
8315?R4	F-7E-05?E?L	4244733165	102-.		AMY CONNRON #1	
8315?E3	F-7E-055?E5	4244732434	102-.		COALSON #1	
8315950	F-7 -0?7525	4244733087	102-.		RICHARDS "A" #1?	
8315?76	F-7E-05?E54	4244733087	102-		SULLIVAN #?	
-TRANSCONTINENTAL OIL CORPORATION			RECEIVED:	12/29/82	JA: TX	
8315?65	F-06-054582	4235?31445	102-4	10?	WHB EXPL JIM G SEALY #2	
-TRINITY RESOURCES INC			RECEIVED:	12/29/82	JA: TX	
8315?94	F-02-0552?7	4223?31?7?	102-4	10?	E CANERDAY #1	
-TXO PRODUCTION CORP			RECEIVED:	12/29/82	JA: TX	
8315?64	F-0?-05444.	421E130?3?	10?	10?-TF	CALLUM #1	
831588?	F-7C-055?2?	4246151?55	102-4		DAMRON "D" #?	
8316100	F-10-60427	4235?31?02	102-4		DANIELS "C" #4	
8315902	F-0E-055?17	4237133e71	10?-4		FITES #1	

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FIELD NAME	DEPTH	PURCHASER
SILVER CREEK	0.0	
GLADEWATER (HAYNESVIL	0.0	DELHI GAS PIPELIN
REILLY	5.0	
JAMESON	140.0	LONE STAR GAS CO
COWDEN SOUTH (CANYON	26.0	EPX CO
MONTE CHRISTO (9000)	0.0	NATURAL GAS PIPEL
UNIVERSITY 31 (STRAWN	0.0	SOUTHWESTERN GAS
UNIVERSITY 31 (STRAWN	0.0	SOUTHWESTERN GAS
PANHANDLE	0.0	DIAMOND SHAMROCK
PANHANDLE	0.0	DIAMOND SHAMROCK
COTTON LAKE N (MARG 6	50.0	TEXAS EASTERN TRA
WILDCAT	0.0	AMOCO GAS CO
GREENS LAKE E (6500)	0.0	AMOCO GAS CO
WILDCAT	0.0	
JEWETT (PETTIT) FIELD	0.0	LONE STAR GAS CO
REVETO (9600)	0.0	
TWO FINGERS EAST (WIL	0.0	VALERO TRANSMISSI
MULA PASTURE E (WILCO	0.0	ESPERANZA TRANSMI
MULA PASTURE E (WILCO	0.0	ESPERANZA TRANSMI
MULA PASTURE E (WILCO	0.0	ESPERANZA TRANSMI
MULA PASTURE E (WILCO	0.0	ESPERANZA TRANSMI
SLAUGHTER	0.0	AMOCO PRODUCTION
LUCKPOT (FUSSELMAN)	0.0	GETTY OIL CO
POINT BOLIVAR N (R-2)	0.0	LONE STAR GAS CO
CREST (DES MOINES)	0.0	PHILLIPS PETROLEU
SLAUGHTER	0.0	AMOCO PRODUCTION
BEDFORD RANCH	245.2	EL PASO NATURAL G
MOON MARBLE FALLS	11.0	LONE STAR GAS CO
HENDERSON NORTH	365.0	TRANSCONTINENTAL
ROBERTSON N (CLEARFOR	0.0	PHILLIPS PETROLEU
LEVELLAND	0.0	AMOCO PRODUCTION
OAKVILLE	730.0	HOUSTON PIPE LINE
MCKNIGHT-SOUTH (CONGL	0.0	WARREN PETROLEUM
THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
THROCKMORTON COUNTY R	76.7	WARREN PETROLEUM
THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
J & S (TRAVIS PEAK 71	0.0	
TEXANA (6320)	158.0	LONE STAR GAS CO
N REED (BOSSIER SD)	0.0	DELHI GAS PIPELIN
HELUMA S E (DEVONIAN)	40.0	DELHI GAS PIPELIN
RICKS (MORROW UPPER)	144.0	DELHI GAS PIPELIN
CACTUS JACK (WICHITA-	450.0	DELHI GAS PIPELIN

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J.D. No.	Lease No.	API No.	(1) Type of Determination	FERC No.	Purchaser
8315810	F-06-049554	4.401 [illegible]	102-4 FAHLE #1	24.0	DELHI GAS PIPELIN
8315895	F-[illegible]-055367	4.23[illegible]	102-4 SCHAFFER B-2	0.0	TEXAS EASTERN TRA
-UNION TEXAS PETROLEUM			RECEIVED: 12/29/82 JA: TX		
8316005	F-70-059324	42235[illegible]	102-4 SUGG "11" #1	85.0	FARMLAND INDUSTRI
-VIRLAR EXPLORATION INC			RECEIVED: 12/29/82 JA: TX		
8315897	F-03-055389	424R130325	102-4 E F #FITZ #1	365.0	DOW PIPELINE CO
-WAGNER & BROWN			RECEIVED: 12/29/82 JA: TX		
8316002	F-10-059232	42211[illegible]	103 LOCKE #1-60	429.9	MICHIGAN WISCONSI
-WAINOCO OIL & GAS CO			RECEIVED: 12/29/82 JA: TX		
8316085	F-70-60381	42353[illegible]	102-# NITA MAE BROOKS #1	2.0	#ALO DURO PIPELIN
-WCS PETROLEUM INC			RECEIVED: 12/29/82 JA: T#		
8315918	F-03-056087	422R731211	102-2 JOHN DURRENBERGER #1	0.0	P G P GAS PRODUCT
8315953	F-03-057843	4205132304	102-2 10' JONES UNIT #1	0.0	FERGUSON CROSSING
8316004	F-03-059284	42149313[illegible]	102-2 TANNER #1	0.0	CLAJON GAS CO
-WESSELY ENERGY CORPORATION			RECEIVED: 12/29/82 JA: TX		
8315572	F-06-058302	42#[illegible]30503	103 107-TF BROWN ##-1	720.0	DELHI GAS PIPELIN
-WESTERN CHIEF OIL & GAS CO			RECEIVE#: 12/29/82 JA: TX		
8315896	F-78-05538.	42367321[illegible]	102-4 HOBSON #1 P #117898	0.0	SOUTHWESTERN GAS
-WILLIAM PERLMAN			RECEIVED: 12/29/8# JA: TX		
8315799	F-70-046984	4243532407	103 107-TF LILLIAN M HUDSPETH MEM HOSP J01	#.0	EL PASO NATURAL G
-WINN EXPLORATION/DULCE CO			RECEIVE#: 12/29/82 J#: TX		
8315970	F-01-058256	42507315[illegible]	102-4 PRYOR RANCH#	#.#	INTER NORTH INC
-WOLF ENERGY CO			RECEIVED: 12/29/82 J#: TX		
8315798	F-08-046980	42301000[illegible]	102-4 FORD CHAPMAN UNIT #1-A	0.0	INTRATEX GAS CO
-WOOD & LOCKER INC			RECEIVE#: 12/29/82 JA: T#		
8316049	F-08-60151	42173312#1	102-# "LALOCK "1" #1-#	91.0	EL PASO NATURAL G

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) #87-48##, 5285 PORT ROYAL #D, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (2#2) 357-86#1.

The above notices of determination were received from the indicated jurisdicational agencies by the Federal Energy Regulatory Commission pursuant to The Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feed (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice. The applications for determination are available for inspection except to the extent such material in confidential under 18 CFR 275.206, at the Commission's Division of Pubic Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA aection are indicated by the following codes:

Section 102–1: New OCS Lease
102–1: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–3: New onshore reservoir
102–5: New reservoir on old OCS Lease
Section 107–DP: 15,000 feet or deeper
107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–DX: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seansonally affected
108–ER: Enlianced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2703 Filed 1–31–83; 8:45 am]

BILLING CODE 6717–01–M

[Volume 620]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 26, 1983.

JD FD	DET	APPL'N	FD(1) SD(2) WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION						
-ADOBE OIL & GAS CORPORATION		RECEIVED:	12/29/82 JA: TX			
8316160	F-78-60909	4213333122	102-4 SATTERWHITE #1 WELL	H T S (STRAWN)	1160.0	EL PASO HYDROCARB
-AKERS AND FULTZ INC		RECEIVED:	12/29/82 JA: TX			
8316156	F-09-60884	4213334475	102-2 ANN PRICE #1 211MG	RICE CONGLOMERATE	10.6	BLACK HAWK GASOLI
8316208	F-09-61164	4223334169	102-4 JOE BURNAM CBI RRC #22387	SHADOW (CONGLOMERATE)	32.9	LONE STAR GAS CO
-AMBER ENERGY INC		RECEIVED:	12/29/82 JA: TX			
8316362	F-08-061589	4210332892	103 M K CARTER TRUST #1	EDWARDS 04(DEV SOUTH)	27.3	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO		RECEIVED:	12/29/82 JA: TX			
8316146	F-08-60826	4213533581	103 DAVID FASKEN "BV" #1	FASKEN SOUTH (STRAWN)	36.5	AMOCO PRODUCTION
8316147	F-08-60825	4222731959	103 MRS COBA LEE ECHOLS "B" #23	IATAN EAST (HOWARD)	0.0	GETTY OIL CO ,
-ARCADIA REFINING CO		RECEIVED:	12/29/82 JA: TX			
8316114	F-06-60603	4242330597	102-4 PILEY B BULL #2 #10781	ANN MCKNIGHT (PALUXY)	0.0	
8316113	F-06-60602	4242330685	102-4 H E DEW #2 #10583	ANN MCKNIGHT (PALUXY)	0.0	
8316115	F-06-60604	4242330369	102-4 R H TOMLIN #1 #10281	ANN MCKNIGHT (PALUXY)	0.0	
8316116	F-06-60605	4242330452	102-4 TYLER INDUST FOUNDATION #2 #10377	ANN MCKNIGHT (PALUXY)	0.0	
-ARMOUR PROPERTIES		RECEIVED:	12/29/82 JA: TX			
8316232	F-05-061206	4207732717	102-4 G W SCALING #14A	TALLY (CONGLOMERATE)	117.2	TEXAS UTILITIES F
-BAR-MAC & HOLLUB DRILLING CO		RECEIVED:	12/29/82 JA: TX			
8316298	F-03-061415	4205132296	102-4 MADDOX #1 RRC LEASE #16025	HOOKER CREEK (NAVARRO	46.0	FERGUSON CROSSING
8316297	F-03-061414	4205132234	102-4 MORRIS UNIT #1 RRC LEASE #15884	HOOKER CREEK (NAVARRA	27.0	FERGUSON CROSSING
-BAYTECH INC		RECEIVED:	12/29/82 JA: TX			
8316363	F-08-061590	4231732522	103 C W STEEL "B" #3	SPRABERRY (TREND AREA	8.0	PHILLIPS PETROLEU
-BILL FORNEY INC		RECEIVED:	12/29/82 JA: TX			
8316139	F-02-60773	4229732177	102-4 SCHREINER RANCH TRUST II WELL #2	LIMES (WILCOX 9900)	358.0	HOUSTON PIPE LINE
-BILL PENN INC		RECEIVED:	12/29/82 JA: TX			
8316166	F-03-60945	4229731371	103 JENNY P #1	GIDDINGS (AUSTIN CHAL	0.0	
-BIRD RALPH B		RECEIVED:	12/29/82 JA: TX			
8316303	F-79-061435	4244732915	102-4 GOBER #1	PATSY (CADDO LOWER) 6	14.6	HST GATHERING CO
-BRIGHT & COMPANY		RECEIVED:	12/29/82 JA: TX			
8316112	F-04-60601	4221531266	102-4 107-TF HAMMAN "A"-4	MONTE CHRISTO (VICKSB	1000.0	TECO PIPELINE CO
-BRUNER OIL & GAS INC		RECEIVED:	12/29/82 JA: TX			
8316335	F-75-061505	4233326980	103 HANSEN FLOOD J #1	LAKE CISCO MARBLE FAL	0.0	LONE STAR GAS CO
8316334	F-76-061504	4213333782	103 HANSEN FLOOD J "A" #2	LAKE CISCO MARBLE FAL	0.0	LONE STAR GAS CO
-BURNS PETROLEUM		RECEIVED:	12/29/82 JA: TX			
8316266	F-05-061290	4223734026	102-4 MCCULLOUGH #1	ANTELOPE S E (PARKER	180.2	SOUTHWESTERN GAS
8316283	F-06-061346	4237133825	102-4 TREES ESTATE #1	BURNS CHERRY CANYON	125.0	DELMI GAS PIPELIN
-CAL-T OIL CO		RECEIVED:	12/29/82 JA: TX			
8316173	F-10-61053	4223331424	103 CARVER AREA WATERFLOOD #2 #32 00729	PANHANDLE - HUTCHINSO	93.1	DIAMOND SHAMROCK
-CERCO PETROLEUM INC		RECEIVED:	12/29/82 JA: TX			
8316366	F-78-061606	4206332729	103 ODESSA MARTIN #1 (18268)	COLEMAN COUNTY REGULA	58.0	LONE STAR GAS CO
-CHEVRON U S A INC		RECEIVED:	12/29/82 JA: TX			

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FIELD NAME	PROD	PURCHASER
IATAN-EAST HOWARD	39.4	GETTY OIL CO
KELLY-SNYDER	67.0	EL PASO NATURAL G
IATAN-EAST HOWARD	1.1	GETTY OIL CO
COWDEN SOUTH	32.0	PHILLIPS PETROLEU
COWDEN SOUTH	17.0	PHILLIPS PETROLEU
GOLDSMITH W (CLEARFOR	29.0	PHILLIPS PETROLEU
GOLDSMITH W (CLEARFOR	17.0	SHELL OIL CO
GOLDSMITH W (CLEARFOR	24.0	SHELL OIL CO
SEMINOLE WEST	67.0	CITIES SERVICE CO
SEMINOLE WEST	186.0	CITIES SERVICE CO
LEE RAY (DUFFERLIME)	35.0	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
WEST PANHANDLE	21.0	CITIES SERVICE GA
WEST PANHANDLE	20.0	CITIES SERVICE GA
SLAUGHTER	0.8	AMOCO PRODUCTION
FLOWERS WEST/CANYON S	0.8	CITIES SERVICE CO
WEST PANHANDLE	20.0	CITIES SERVICE GA
WEST PANHANDLE	15.0	CITIES SERVICE GA
WEST PANHANDLE	19.0	CITIES SERVICE GA
SPRABERRY/TREND AREA/	1.2	ADOBE OIL CO
GERALDINE/4000 DELAWA	0.7	EL PASO NATURAL G
WEST PANHANDLE	17.0	CITIES SERVICE GA
GERALDINE/DELAWARE 34	22.3	EL PASO NATURAL G
ROUND TOP/PALO PINTO	1.2	LONE STAR GAS CO
BIG LAKE/SPRABERRY/	0.2	DORCHESTER GAS PR
LAREDO (LOBO)	730.0	DELHI PIPELINE CO
LAREDO (LOBO)	730.0	DELHI PIPELINE CO
ABELL (PERMIAN GENERA	18.5	INTER NORTH INC
BRADFORD	0.0	TRANSWESTERN PIPE
CALDWELL (AUSTIN CHAL	100.0	FERGUSON CROSSING
SIXTY-SEVEN (CANYON)	25.0	INTER NORTH INC
DOS HERMANOS W (OLMOS	219.0	DELHI GAS PIPELIN
DOS HERMANOS W (OLMOS	80.0	DELHI GAS PIPELIN
DOS HERMANOS W (OLMOS	100.0	DELHI GAS PIPELIN
DOS HERMANOS W (OLMOS	73.0	DELHI GAS PIPELIN
COLEMAN COUNTY REGULA	7.3	LONE STAR GAS CO
WEREWOLF (4900)	0.0	
WEREWOLF (4900)	0.0	
CHAPEL HILL	0.0	LONE STAR GAS CO
KERMIT	14.6	CABOT CORP

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FIELD NAME	PROD	PURCHASER
NORTHEAST	50.0	CONTINENTAL OIL
NORTHEAST	50.0	CONTINENTAL OIL
NORTHEAST	50.0	CONTINENTAL OIL

JD NO	DA AT	API #	FF(1) FF(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8316258	F-10-061775	4235720880	103	BROWNLEE BROS-COOK #2	NORTHRUP	58.0	SOUTHWESTERN PUBL
-DIRKS PETROLEUM CORP			RECEIVED:	12/29/82 JA: TX			
8316278	F-02-061313	#202531294	108	HENRY AMEN #3	HOLZMARK WEST (900) F	66.0	TRANSCO GAS PIPEL
8316275	F-02-061314	#202531415	108	SARA BATOT #1 D#0977	RAGSDALE (1100)	3.7	TRANSCO GAS PIPEL
-DOUBLE EAGLE DRILLING CO			RECEIVED:	12/29/82 JA: TX			
8316150	F-09-60835	4207732618	103	W R FULGHAM #6 WELL 6	TALLY (STRAWN)	0.0	FAGADAU ENERGY CO
-EDEN EXPLORATION INC			RECEIVED:	12/29/82 JA: TX			
8316128	F-78-60653	4236732351	102-A	J J WRIGHT #3 101995	DENNIS WEST (STRAWN)	95.0	PARKER GAS INC
-ENERGY DEVELOPMENT CORPORATION			RECEIVED:	12/29/82 JA: TX			
8316376	F-02-061664	4205731207	102-A	EDC-DOW POWDERHORN RANCH #3 #101797	POWDERHORN S W (MIDDE	109.5	DOW CHEMICAL CO
-ENERGY EXPLORATION INC			RECEIVED:	12/29/82 JA: TX			
8316299	F-06-061419	4220308000	108	D AND E K KNOX 1-T & 1-D	WHELAN	0.0	TEXAS EASTERN TRA
-ESTATE OF WM D MCBEE			RECEIVED:	12/29/82 JA: TX			
8316194	F-06-611##	#245930536	103 107-TF	YOUNG GAS UNIT #1 WELL #2	ROSEWOOD (COTTON VALL	875.0	WESTERN GAS CORP
-EXXCEL PRODUCTION CO			RECEIVED:	12/29/82 JA: TX			
8316367	F-10-061614	#217931263	103	FELIX #13 (I0#0511F)	PANHANDLE GRAY	100.0	CABOT PIPELINE CO
-EXXON CORPORATION			RECEIVED:	12/29/82 JA: TX			
8316339	F-08-061511	4231732351	102-A	BAYES BROTHERS #1	EAGLE (RUSSELMAN)	2.0	
8316138	F-08-6#771	4210332#14	103	J P TUBB B #28L	SAND HILLS (TUBB)	15.0	EL PASO NATURAL G
8316137	F-08-6#77#	#210332914	103	J P TUBB B #2#U	SAND HILLS (JUDKINS)	15.0	EL PASO NATURAL G
8316164	F-08-60#33	4210333178	103	J B TUBB F #25L	SAND HILLS (TUBB)	15.0	EL PASO NATURAL G
8316163	F-08-60934	4210333178	103	J B TUBB B #2#U	SAND HILLS (MCKNIGHT)	15.0	EL PASO NATURAL G
8316327	F-04-061495	4227331289	102-A	K R CHILTIPIN 61-F (0800020)	LOBO (D-57)	408.0	ARMCO STEEL CORP
8316328	F-04-061496	4226130235	102-A	K R SAN JOSE DE LA PARRA 15 073994	CALANDRIA (F-30)	258.0	ARMCO STEEL CORP
8316262	F-04-061281	4204700000	108	MCGILL BROS 163 (053728)	KELSEY DEEP (21-N)	8.0	TRUNKLINE GAS CO
8316264	F-04-061283	4204700000	108	MCGILL BROS 17 (042984)	KELSEY (K-1)	16.0	TRUNKLINE GAS CO
8316146	F-04-60823	4242731664	103	MCGILL BROS 489 (ID PENDING)	JAY SIMMONS	120.0	TRUNKLINE GAS CO
8316177	F-04-61111	4224730806	103	MRS A M K BASS 35 (101200)	KELSEY DEEP (ZONE 22-	1400.0	TRUNKLINE GAS CO
8316178	F-04-61112	4226130740	102-A	MRS S K EAST 141 (101850)	RITA NE (J-57)	642.0	ARMCO STEEL CORP
8316263	F-04-061282	4242700000	108	N R & E A MONTALVO 10 (061881)	SUN (D-1)	2.0	TENNESSEE GAS PIP
8316157	F-7C-60885	4233932376	103	SALLIE ODOM E #95	FORT CHADBOURNE (GARD	32.0	
8316373	F-03-061643	4201530#85	103	SARAH E HELLMUTH #20	RACCOON BEND (COCKFIE	6.2	TEXAS SOUTHEASTER
8316225	F-03-061191	4220131172	102-A	TOMBALL GAS UNIT #9 #15	TOMBALL (WILCOX 8860	438.6	NATURAL GAS PIPEL
8316226	F-03-061194	4220131413	103	WEBSTER FIELD UNIT #2775	WEBSTER	20.0	HOUSTON PIPELINE
8316224	F-03-61189	4220131417	103	WEBSTER FIELD UNIT #2780	WEBSTER	11.0	HOUSTON PIPELINE
-FGB ENERGY INC			RECEIVED:	12/29/82 JA: TX			
8316306	F-78-061#53	4226332278	103	CARSON #1	HORTON (CISCO SAND)	62.0	CONOCO INC
-FLAG-REDFERN OIL CO			RECEIVED:	12/29/82 JA: TX			
8316187	F-08-61124	#247532537	103	RILEY #3 #26653	RHODA WALKER (CANYON	54.7	INTER NORTH INC
#316186	F-08-61123	4247532#0#	103	RILEY #4-A #26653	RHODA WALKER (CANYON	109.5	INTER NORTH INC
8316185	F-08-61182	4247532621	103	STAYTON #4-A #2614#	RHODA WALKER (CANYON	29.5	EXXON CO
-FLOYD J M JR			RECEIVED:	12/29/82 JA: TX			
8316357	F-##-#61580	4232931#80	103	SAUNDERS #1	SPRABERRY (TREND AREA	1#.0	PHILLIPS PETROLEU
-FOREST OIL CORPORATION			RECEIVED:	12/29/82 JA: TX			
#316323	F-08-#61#81	#247538#84	108	BROWN UNIT #1	VERMEJO (DEVONIAN)	21.0	EL PASO HYDROCARB
8316384	F-0#-061860	4230130289	103	TADPOLE #1	VERMEJO (DELAWARE)	19.0	EL PASO HYDROCARB
-FORTUNE PRODUCTION CO			RECEIVED:	12/29/82 JA: TX			
8316290	F-7C-061384	4223531960	103	BAKER "B" #4	EAL (CANYON)	70.0	INTER NORTH INC
8316289	F-7C-061297	4223531962	103	MURPHEY "1221" #5	CAL SOUTH (CANYON)	63.0	FARMLAND INDUSTRI
-FRAC INC			RECEIVED:	12/29/82 JA: TX			
8316279	F-08-061339	4200333292	103	UNIVERSITY "17W" #3	FUHRMAN-MASCHO	7.3	PHILLIPS PETROLEU
-G L PAGE PETROLEUM INC			RECEIVED:	12/29/82 JA: TX			
8316145	F-78-60817	4242933#03	102-A	G E LANGFORD -A- #1-A	LAKE NECESSITY (DUFFE	18.0	LONE STAR GAS CO

JD NO	JA INT	API #	SEC(1)	SEC(2)	WELL NAME
8316234	F-7B-061209	4242933404	102-4		G E LANGFORD -G- #1-G (18901)
			RECEIVED:	12/29/82	JA: TX
-GULF OIL CORPORATION					
8316321	F-10-061477	4229531206	103		CLEO BARTON #5-502
8316372	F-03-061637	4215731021	103		F I BOOTH "A" #50
8316371	F-08-061620	4213533914	103		GOLDSMITH SAN ANDRES UNIT #1367
8316370	F-08-061617	4213533913	103		GOLDSMITH SAN ANDRES UNIT #1368
8316272	F-08-061305	4247532673	103		HUTCHINGS STOCK ASSN #1096
8316273	F-08-061310	4247532679	103		HUTCHINGS STOCK ASSN #1168
8316271	F-08-061304	4247532681	103		HUTCHINGS STOCK ASSN #1197
8316330	F-08-061500	4247532670	103		HUTCHINGS STOCK ASSN #1199
8316300	F-08-061423	4247532688	103		HUTCHINGS STOCK ASSN #1202
8316184	F-09-61120	4249732434	103		I G YATES #14
8316329	F-03-061497	4215730968	103		T R BOOTH #28
8316333	F-08-061503	4200333298	103		TRIPLE-N (GRAYBURG) CONS #A70
8316332	F-08-061502	4200333307	103		TRIPLE-N (GRAYBURG) CONS #M7M
-HAILEY ENERGY			RECEIVED:	12/29/82	JA: TX
8316140	F-7E-60800	4209330634	103		C D MCDANIEL #8 (086264)
8316153	F-7B-60855	4209330618	103		HATTIE ANN ALFORD #1
8316141	F-7P-60801	4209300000	103		M C ALFORD #1 (088135)
8316154	F-7H-60856	4209330700	103		VAUGHN M C #2-R (16690)
-HCW EXPLORATION INC			RECEIVED:	12/29/82	JA: TX
8316118	F-08-60614	4217331294	102-3		REYNOLDS #1
-HH&W OIL CO			RECEIVED:	12/29/82	JA: TX
8316285	F-09-061550	4250300000	102-2		PACE & STRANGE #1A
-HNG OIL COMPANY			RECEIVED:	12/29/82	JA: TX
8316127	F-7C-60704	4243532765	103	107-TF	CAUTHORN "86" #2
-HOLLY ENERGY INC			RECEIVED:	12/29/82	JA: TX
8316239	F-7C-061216	4210534047	102-4		TODD RANCH #1
-HORIZON OIL & GAS CO OF TEXAS			RECEIVED:	12/29/82	JA: TX
8316152	F-10-60844	4219500000	103		MC CLELLAN #1-12
-HUNT OIL COMPANY			RECEIVED:	12/29/82	JA: TX
8316322	F-7C-061479	4246131938	102-4		V T AMACKER 77 #4
-KADANE OIL CO			RECEIVED:	12/29/82	JA: TX
8316365	F-7B-061599	4241700000	108		J WINDHAM A #2
-KCA OIL & GAS INC			RECEIVED:	12/29/82	JA: TX
8316193	F-7B-61136	4236730364	103		COLLINS #1 083562
-KEY PRODUCTION COMPANY			RECEIVED:	12/29/82	JA: TX
8316180	F-06-61115	4236531502	102-4		W T BRIDGES #1
-KILROY CO OF TEXAS			RECEIVED:	12/29/82	JA: TX
8316126	F-03-60701	4270330245	102-4		STATE TRACT 485-L #3-M
8316167	F-03-60981	4260630128	102-4		STATE TRACT 87-S #1-U
-KOMANCHE OIL & GAS			RECEIVED:	12/29/82	JA: TX
8316277	F-10-061332	4217931132	103		MEITHOLT #2
-LAYTON ENTERPRISES INC			RECEIVED:	12/29/82	JA: TX
8316305	F-8A-061446	4207931600	103		REED WRIGHT #C-17
-LESTER CLARK			RECEIVED:	12/29/82	JA: TX
8316129	F-7E-60718	4242933427	103		BLACK "D" #2
-LOUISIANA CAMPBELL ENERGY CORP			RECEIVED:	12/29/82	JA: TX
8316134	F-03-60750	4248132361	102-4		S A WILBECK GAS UNIT WELL NO 2
-LYRIC ENERGY INC			RECEIVED:	12/29/82	JA: TX
8316314	F-10-061463	4217930895	103		BRALLEY #3-A
8316313	F-10-061462	4217931124	103		BRALLEY #4
8316315	F-10-061464	4217931093	103		SCHAFFER #2

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FIELD NAME	FEDC	PURCHASER
LAKE NECESSITY (DUFFE	18.0	WARREN PETROLEUM
BRADFORD	143.0	DIAMOND SHAMROCK
THOMPSON	92.0	UNITED TEXAS TRAN
GOLDSMITH	9.0	PHILLIPS PETROLEU
GOLDSMITH	9.0	PHILLIPS PETROLEU
WARD-ESTES NORTH	140.0	CABOT CORP
WARD-ESTES NORTH	43.0	CABOT CORP
WARD-ESTES NORTH	11.0	CABOT CORP
WARD-ESTES NORTH	8.0	CABOT CORP
WARD-ESTES NORTH	14.0	CABOT CORP
BOONSVILLE (CADDO CON	20.6	NATURAL GAS PIPEL
THOMPSON	8.0	UNITED TEXAS TRAN
TRIPLE-N (GRAYBURG)	0.0	PHILLIPS PETROLEU
TRIPLE-N (GRAYBURG)	0.0	PHILLIPS PETROLEU
COMANCHE COUNTY REGUL	64.0	SOUTHWESTERN GAS
COMANCHE COUNTY REGUL	4.0	ENERGY PIPELINE C
COMANCHE COUNTY REGUL	18.0	SOUTHWESTERN GAS
COMANCHE COUNTY REGUL	18.0	SOUTHWESTERN GAS
CONGER (PENN)	36.0	PHILLIPS PETROLEU
GARVEY	839.5	MID-STATE GAS COR
SAWYER (CANYON)	51.0	INTRATEX GAS CO
SERIGHT (STRAWN)	72.0	PERMIAN CORP
GRUVER N W (MORROW UP	7.3	PHILLIPS PETROLEU
AMACHER-TIPPETT SW (W	130.0	EL PASO NATURAL G
WINDHAM WEST (3400)	0.0	LONE STAR GAS CO
CARTERVILLE (STRAWN ?	188.0	LONE STAR GAS CO
CARTHAGE (TRANSITIONA	1000.0	WESTERN GAS CORP
MATAGORDA ISLAND BLOC	475.0	VALLEY PIPELINE C
BLK 87-S (7400 LO AMP	15.0	UNITED TEXAS TRAN
PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
LEVELLAND	8.9	CITIES SERVICE CO
STEPHENS COUNTY REGUL	46.7	PETROLEUM CORP OF
SPANISH CAMP	803.0	NATURAL GAS PIPEL
PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
PANHANDLE GRAY	0.0	PHILLIPS PETROLEU

JD NO	JA INT	API #	SEC(1)	SEC(2)	WELL NAME
8316316	F-10-061465	4217931092	103		SCHAFFER #3
8316317	F-10-061466	4217931091	103		SCHAFFER #4
8316318	F-10-061467	4217931090	103		SCHAFFER #5
8316319	F-10-061468	4217931089	103		SCHAFFER #6
8316320	F-10-061469	4217931088	103		SCHAFFER #7
8316324	F-7C-061481	4246131939	102-4		V T AMACKER 77 #5
			RECEIVED:	12/29/82	JA: TX
8316325	F-7C-061482	4246131940	102-4		V T AMACKER 77 #6
			RECEIVED:	12/29/82	JA: TX
8316326	F-7C-061483	4246131941	102-4		V T AMACKER 77 #7
			RECEIVED:	12/29/82	JA: TX
8316327	F-7C-061484	4246131942	102-4		V T AMACKER 77 #8
			RECEIVED:	12/29/82	JA: TX
8316328	F-7C-061485	4246131943	102-4		V T AMACKER 77 #9
			RECEIVED:	12/29/82	JA: TX
8316323	F-7C-061480	4246131944	102-4		V T AMACKER 77 #10
			RECEIVED:	12/29/82	JA: TX
8316331	F-7C-061486	4246131945	102-4		V T AMACKER 77 #11
			RECEIVED:	12/29/82	JA: TX
8316334	F-7C-061487	4246131946	102-4		V T AMACKER 77 #12
			RECEIVED:	12/29/82	JA: TX
8316335	F-7C-061488	4246131947	102-4		V T AMACKER 77 #13
			RECEIVED:	12/29/82	JA: TX
8316336	F-7C-061489	4246131948	102-4		V T AMACKER 77 #14
			RECEIVED:	12/29/82	JA: TX
8316337	F-7C-061490	4246131949	102-4		V T AMACKER 77 #15
			RECEIVED:	12/29/82	JA: TX
8316338	F-7C-061491	4246131950	102-4		V T AMACKER 77 #16
			RECEIVED:	12/29/82	JA: TX
8316339	F-7C-061492	4246131951	102-4		V T AMACKER 77 #17
			RECEIVED:	12/29/82	JA: TX
8316340	F-7C-061493	4246131952	102-4		V T AMACKER 77 #18
			RECEIVED:	12/29/82	JA: TX
8316341	F-7C-061494	4246131953	102-4		V T AMACKER 77 #19
			RECEIVED:	12/29/82	JA: TX
8316342	F-7C-061495	4246131954	102-4		V T AMACKER 77 #20
			RECEIVED:	12/29/82	JA: TX
8316343	F-7C-061496	4246131955	102-4		V T AMACKER 77 #21
			RECEIVED:	12/29/82	JA: TX
8316344	F-7C-061497	4246131956	102-4		V T AMACKER 77 #22
			RECEIVED:	12/29/82	JA: TX
8316345	F-7C-061498	4246131957	102-4		V T AMACKER 77 #23
			RECEIVED:	12/29/82	JA: TX
8316346	F-7C-061499	4246131958	102-4		V T AMACKER 77 #24
			RECEIVED:	12/29/82	JA: TX
8316347	F-7C-061500	4246131959	102-4		V T AMACKER 77 #25
			RECEIVED:	12/29/82	JA: TX
8316348	F-7C-061501	4246131960	102-4		V T AMACKER 77 #26
			RECEIVED:	12/29/82	JA: TX
8316349	F-7C-061502	4246131961	102-4		V T AMACKER 77 #27
			RECEIVED:	12/29/82	JA: TX
8316350	F-7C-061503	4246131962	102-4		V T AMACKER 77 #28
			RECEIVED:	12/29/82	JA: TX
8316351	F-7C-061504	4246131963	102-4		V T AMACKER 77 #29
			RECEIVED:	12/29/82	JA: TX
8316352	F-7C-061505	4246131964	102-4		V T AMACKER 77 #30
			RECEIVED:	12/29/82	JA: TX
8316353	F-7C-061506	4246131965	102-4		V T AMACKER 77 #31
			RECEIVED:	12/29/82	JA: TX
8316354	F-7C-061507	4246131966	102-4		V T AMACKER 77 #32
			RECEIVED:	12/29/82	JA: TX
8316355	F-7C-061508	4246131967	102-4		V T AMACKER 77 #33
			RECEIVED:	12/29/82	JA: TX
8316356	F-7C-061509	4246131968	102-4		V T AMACKER 77 #34
			RECEIVED:	12/29/82	JA: TX
8316357	F-7C-061510	4246131969	102-4		V T AMACKER 77 #35
			RECEIVED:	12/29/82	JA: TX
8316358	F-7C-061511	4246131970	102-4		V T AMACKER 77 #36
			RECEIVED:	12/29/82	JA: TX
8316359	F-7C-061512	4246131971	102-4		V T AMACKER 77 #37
			RECEIVED:	12/29/82	JA: TX
8316360	F-7C-061513	4246131972	102-4		V T AMACKER 77 #38
			RECEIVED:	12/29/82	JA: TX
8316361	F-7C-061514	4246131973	102-4		V T AMACKER 77 #39
			RECEIVED:	12/29/82	JA: TX
8316362	F-7C-061515	4246131974	102-4		V T AMACKER 77 #40
			RECEIVED:	12/29/82	JA: TX
8316363	F-7C-061516	4246131975	102-4		V T AMACKER 77 #41
			RECEIVED:	12/29/82	JA: TX
8316364	F-7C-061517	4246131976	102-4		V T AMACKER 77 #42
			RECEIVED:	12/29/82	JA: TX
8316366	F-7C-061518	4246131977	102-4		V T AMACKER 77 #43
			RECEIVED:	12/29/82	JA: TX
8316367	F-7C-061519	4246131978	102-4		V T AMACKER 77 #44
			RECEIVED:	12/29/82	JA: TX
8316368	F-7C-061520	4246131979	102-4		V T AMACKER 77 #45
			RECEIVED:	12/29/82	JA: TX
8316369	F-7C-061521	4246131980	102-4		V T AMACKER 77 #46
			RECEIVED:	12/29/82	JA: TX
8316374	F-7C-061522	4246131981	102-4		V T AMACKER 77 #47
			RECEIVED:	12/29/82	JA: TX
8316375	F-7C-061523	4246131982	102-4		V T AMACKER 77 #48
			RECEIVED:	12/29/82	JA: TX
8316376

JD NO	DA CAT	API N	SEC(1)	SEC(2)	WELL NAME
-MACK PETROLEUM					
8316151	F-05-60843	4239530279	RECEIVED:	12/29/82	JA: TX
			103		PASNIK UNIT #1-102067
-MAPCO PRODUCTION COMPANY			RECEIVED:	12/29/82	JA: TX
8316301	F-10-061429	4223300000	108		JON A #1
-MARATHON OIL COMPANY			RECEIVED:	12/29/82	JA: TX
8316247	F-04-061233	4240931211	102-4		BROOKS GAS UNIT #1-L
8316248	F-04-061234	4240931211	102-4		BROOKS GAS UNIT #1-U
8316235	F-04-061212	4240900000	108		C BAILEY B #2
8316246	F-04-061232	4240931444	102-4		COLE GAS UNIT #1
8316237	F-04-061214	4240900000	108		J H OWEN #4 (GAS UNIT 39-6)
8316245	F-04-061231	4240931316	102-4		KELLOGG GAS UNIT #1-L
8316244	F-04-061230	4240931316	102-4		KELLOGG GAS UNIT #1-U
8316242	F-04-061228	4240931185	102-4		KELLOGG GAS UNIT #2
8316241	F-04-061227	4240931611	103		KELLOGG GAS UNIT #3
8316236	F-04-061213	4240900000	108		L M KELLOGG #3 (GAS UNIT 39-5)
8316238	F-04-061215	4240900000	108		LIZZIE COLE D #1
8316243	F-04-061229	4240931342	102-4		MAYO-KOONCE UNIT #2-L
-MEADCO PROPERTIES			RECEIVED:	12/29/82	JA: TX
8316364	F-7C-061592	4223531622	102-2		FARMAR 29 #1 RRC #09036
-MITCHELL ENERGY CORPORATION			RECEIVED:	12/29/82	JA: TX
8316176	F-03-61106	4214900000	108		C F ABELL UNIT A #1 #14801
8316136	F-09-60758	4249732431	103		H J DEAVERS #14L #18509
8316354	F-7B-061558	4231700000	108		J O BAKER -A- #2 #091526
-MOBIL PRDG TEXAS & NEW MEXICO INC			RECEIVED:	12/29/82	JA: TX
8316267	F-8A-061292	4221933550	103		NORTH CENTRAL LEVELLAND UNIT #362
8316295	F-8A-061397	4221933543	103		NORTH CENTRAL LEVELLAND UNIT #365
-MONSANTO OIL CO			RECEIVED:	12/29/82	JA: TX
8316292	F-10-061388	4219500000	108		MCGREEVY #1-C
-MR OIL CO			RECEIVED:	12/29/82	JA: TX
8316207	F-08-61162	4247532651	103		GRIMES 9 #6
8316296	F-08-061398	4247532419	103		I B MCFARLAND SEC 29 #14
8316203	F-08-61157	4247532695	103		I B MCFARLAND SEC 29 #17
-N D STOVALL & SON			RECEIVED:	12/29/82	JA: TX
8316325	F-7B-061492	4236332408	103		ECHOLS DANIELS WELL #1 89478
-NATURAL GAS ANADARKO INC			RECEIVED:	12/29/82	JA: TX
8316111	F-10-60596	4235731264	102-4		OLMSTEAD 2-018
-NOEL PAUTSKY			RECEIVED:	12/29/82	JA: TX
8316312	F-7B-061461	4244732014	103		RUTH BARKER #1
-OILWELL OPERATORS INC			RECEIVED:	12/29/82	JA: TX
8316343	F-10-061521	4217900000	108		A T SHEPHERD #1 (03643)
8316342	F-10-061520	4217900000	108		A T SHEPHERD #2 (03643)
8316345	F-10-061523	4217900000	108		D I ANDERSON #1 (03609)
8316344	F-10-061522	4217900000	108		D I ANDERSON #2 (03609)
8316324	F-10-061491	4217900000	103		J STEPHENS "B" 3 (03586)
8316326	F-10-061493	4217900000	103		L O EAKIN #2 (03382)
-PANHANDLE PRODUCING COMPANY			RECEIVED:	12/29/82	JA: TX
8316191	F-10-61130	4223300008	108		COCKRELL "B" #3 (00815)
8316188	F-10-61127	4223300000	108		JOHNSTON #12 (00822)
8316189	F-10-61128	4223300000	108		JOHNSTON #13 (00822)
8316190	F-10-61129	4223300000	108		JOHNSTON #9 (00822)
-PARKER & PARSLEY INC			RECEIVED:	12/29/82	JA: TX
8316280	F-08-061341	4231732584	103		WOLCOTT #3
-PARKER OPERATING CO INC			RECEIVED:	12/29/82	JA: TX

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FIELD NAME	PRO-	PURCHASER
HAROLD D ORR (NAVARRO	100.0	LONE STAR GAS CO
WEST PANHANDLE	10.4	COLORADO INTERSTA
WHITE POINT EAST DEEP	730.0	REYNOLDS METALS C
WHITE POINT EAST DEEP	547.5	REYNOLDS METALS C
WHITE POINT EAST	1.2	REYNOLDS METALS C
WHITE POINT EAST DEEP	358.4	REYNOLDS METALS C
WHITE POINT EAST	4.9	REYNOLDS METALS C
WHITE POINT EAST (MER	4.7	REYNOLDS METALS C
WHITE POINT EAST DEEP	365.0	REYNOLDS METALS C
WHITE POINT EAST (KOO	376.7	REYNOLDS METALS C
WHITE POINT EAST (MAY	255.5	REYNOLDS METALS C
WHITE POINT EAST	4.6	REYNOLDS METALS C
WHITE POINT EAST	5.4	REYNOLDS METALS C
WHITE POINT EAST (KOO	474.5	REYNOLDS METALS C
ELA SUGG (CISCO)	14.0	FARMLAND INDUSTRI
GIDDINGS (AUSTIN CHAL	1.4	SOUTH CEN-TEX GAS
ALVORD (ATOKA CONGL)	61.0	NATURAL GAS PIPEL
LAKE MINERAL WELLS (4	9.6	SOUTHWESTERN GAS
LEVELLAND	2.9	AMOCO PRODUCTION
LEVELLAND	1.8	AMOCO PRODUCTION
HANSFORD (UPPER MORRO	4.0	INTER NORTH INC
WARD SOUTH	22.0	
WARD-ESTES NORTH	8.0	WESTERN COUNTIES
WARD-ESTES NORTH	26.0	WESTERN COUNTIES
RYAN CONGLOMERATE (43	35.0	SOUTHWESTERN GAS
FALCON (MORROW UPPER)	150.0	PHILLIPS PETROLEU
THROCKMORTON CO REGUL	72.0	H S T GATHERING C
PANHANDLE-GRAY	9.0	PHILLIPS PETROLEU
PANHANDLE GRAY	9.0	PHILLIPS PETROLEU
PANHANDLE-GRAY	9.0	PHILLIPS PETROLEU
PANHANDLE GRAY	9.0	PHILLIPS PETROLEU
PANHANDLE-GRAY	12.0	PHILLIPS PETROLEU
PANHANDLE - GRAY	6.0	PHILLIPS PETROLEU
PANHANDLE	8.0	PHILLIPS PETROLEU
PANHANDLE	9.0	PHILLIPS PETROLEU
PANHANDLE	9.0	PHILLIPS PETROLEU
PANHANDLE HUTCHINSON	9.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU

8316126	F-09-60717	4250300000	103	HALL PARKS - 9 #9	
-PENNZOIL COMPANY			RECEIVED:	12/29/82	JA: TX
8316289	F-7C-061381	4241100000	10P	BARROW #1	
-PEPPER OIL & GAS INC			RECEIVED:	12/29/82	JA: TX
8316265	F-7B-061289	4208333829	102-2	HEMPHILL 110 #2 18559	
8316156	F-7B-60887	4208333153	102-2	HEMPHILL 84 #4 102140	
-PETROLEUM CORP OF DELAWARE			RECEIVED:	12/29/82	JA: TX
8316340	F-0B-061513	4230130215	103	BASS 46 #2-U	
8316341	F-0B-061515	4230130291	103	BASS 46 #3	
8316204	F-0B-61158	4230130250	103	HUBBARD STATE #1	
8316205	F-0B-61159	4230130251	103	HUBBARD STATE #2	
8316206	F-0B-61161	4230130220	103	JONES 46 #1	
-PETROLEUM CORPORATION OF TEXAS			RECEIVED:	12/29/82	JA: TX
8316192	F-02-61133	4217531585	103	WALTER DIETZEL #3	
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	12/29/82	JA: TX
8316233	F-0B-061207	4200304729	10B	(15362) TEXAS UNIVERSITY-EE #6	
8316319	F-10-061474	4248300000	10P	DESON #10	
8316318	F-10-061471	4217900000	10B	HUSTED #2	
8316360	F-0B-061581	4200304645	10B	TEXAS UNIVERSITY-R#1	
8316361	F-0B-061582	4200304651	10P	UNIVERSITY-O #1	
-PITCOCK INC			RECEIVED:	12/29/82	JA: TX
8316142	F-7B-60806	4238331404	102-4	GIBSON-BELDING #5 091315	
8316143	F-7B-60807	4238332525	102-4	GIBSON-BELDING #6 091691	
-PREMIUM OIL & GAS INC			RECEIVED:	12/29/82	JA: TX
8316256	F-7C-061268	4238300000	103	WALKER #1	
-R A MCDONALD OIL CO			RECEIVED:	12/29/82	JA: TX
8316261	F-10-061277	4223330886	103	THOMPSON #1 04665	
8316260	F-10-061276	4223331025	103	THOMPSON #2 04665	
8316259	F-10-061275	4223331046	103	THOMPSON #304665	
-R K G ENGINEERING INC			RECEIVED:	12/29/82	JA: TX
8316308	F-0B-061415	4200333265	103	H J CRADDOCK LEASE LSE #27454	
-RELIANCE ENERGY & MINERALS CORP			RECEIVED:	12/29/82	JA: TX
8316122	F-03-60657	4205100000	102-2	BLACK LAKE #2	
-RIDGE OIL CO			RECEIVED:	12/29/82	JA: TX
8316196	F-7B-61147	4213334273	102-4 103	BARKER #2	
8316195	F-7B-61146	4213334272	102-4 103	TORNER #2	
-RUE DU LAC VENTURES INC			RECEIVED:	12/29/82	JA: TX
8316317	F-09-061468	4223734766	102-4	RUBY WADE #2 (22621)	
-S R G OIL CORP			RECEIVED:	12/29/82	JA: TX
8316316	F-7B-061466	4209331025	103	M & K KEITH #1	
-SCANDRILL CO			RECEIVED:	12/29/82	JA: TX
8316286	F-0B-061352	4250300000	102-2	SCAN-KING #1	
-SCANDRILL INC			RECEIVED:	12/29/82	JA: TX
8316135	F-09-60752	4223734684	102-4	EMBERTON #9	
8316125	F-09-60689	4223734552	102-4	SANDERS #7	
-SEAGO OIL INC			RECEIVED:	12/29/82	JA: TX
8316346	F-7C-061541	4239932543	103	BONNIE CLARK #1	
8316347	F-7C-061542	4239931991	102-4	EDMONDSON #1	
-SHELL OIL CO			RECEIVED:	12/29/82	JA: TX
8316291	F-01-061386	4231131736	102-4	BRACKEN #2	
8316179	F-8A-61113	4250132253	103	QUNBY SAN ANDRES UNIT #70	
-SIDCO INC			RECEIVED:	12/29/82	JA: TX
8316110	F-7C-60570	4239932242	102-4 103	COMA BETTIE #2	

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FIELD NAME	PROD	PURCHASER
YOUNG COUNTY REGULAR	0.0	NATURAL GAS PIPEL
CODY BELL	15.5	ARCO OIL & GAS CO
LAKE COLEMAN (GRAY)	118.6	CALLACOLE PIPELIN
LAKE COLEMAN (CROSS P	247.5	CALLACOLE PIPELIN
WHEAT	9.1	
WHEAT	29.2	
WHEAT	7.3	
WHEAT	25.9	
WHEAT	5.1	
COLLETOVILLE CREEK (V	53.7	DELHI GAS PIPELIN
BLOCK 12 (DEVONIAN)	7.0	EL PASO NATURAL G
PANHANDLE WHEELER	0.0	
PANHANDLE GRAY	0.0	
MARTIN (MCKEE)	1.9	EL PASO NATURAL G
MARTIN (CLEARFORK SOU	8.0	EL PASO NATURAL G
B R A (CONGL)	0.0	TEXAS UTILITIES F
B R A (CONGL)	0.0	
SPRABERRY (TREND) ARE	15.0	PHILLIPS PETROLEU
PANHANDLE HUTCHINSON	25.6	PHILLIPS PETROLEU
PANHANDLE HUTCHINSON	36.5	PHILLIPS PETROLEU
PANHANDLE HUTCHINSON	43.8	PHILLIPS PETROLEU
SHAFTER LAKE ISAN AND	50.0	PHILLIPS PETROLEU
GIDDINGS/AUSTIN CHALK	0.0	CLAJON GAS CO
RANGER (BLACK LIME WE	36.0	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	45.0	COMPRESSOR RENTAL
AWALT (MARBLE FALLS)	54.0	LONE STAR GAS CO
MITTIE (MARBLE FALLS)	29.0	LONE STAR GAS CO
GARVEY	12.8	MID-STATE GAS COR
MARTIN (STRAWN)	117.2	LONE STAR GAS CO
SHAR-PAT (CONGL)	211.7	LONE STAR GAS CO
BIG ED (GARDNER LIME)	36.0	K-B GAS CO
STRATTON (ELLENBURGER	45.0	LONE STAR GAS CO
A W P (OLMOS)	50.0	
QUNBY (SAN ANDRES)	11.3	AMOCO PRODUCTION
CREWS (MORRIS)	165.6	LONE STAR GAS CO

VOLUME 820 PAGE 007

FIELD NAME	PROD	PURCHASER

C						
-SO-TEX PETROLEUM, IN						
8316256	F-[illegible]-60986			1	225	
-SOUTHLAND ROYALTY CO						
8316255	F-[illegible]-60985	42[illegible]	9	053		
8314392	F-08-[illegible]-1431	42[illegible]	3	000		
-STALLWORTH OIL & GAS						
8316143	F-[illegible]-[illegible]	42[illegible]	31	[illegible]		
-SUN EXPLORATION [illegible]						
[illegible]	6251	F-[illegible]	[illegible]	2	0	0
[illegible]	6277	F-[illegible]	[illegible]	2	2	[illegible]
[illegible]	6253	[illegible]	[illegible]	2	[illegible]	2
[illegible]	6254	[illegible]	[illegible]	2	[illegible]	[illegible]
[illegible]	6252	F-1-[illegible]	42[illegible]	2	[illegible]	[illegible]
[illegible]	6311	F-1-[illegible]	42[illegible]	2	[illegible]	[illegible]
[illegible]	6357	F-[illegible]	42[illegible]	2	[illegible]	[illegible]
[illegible]	6307	F-[illegible]	42[illegible]	2	[illegible]	[illegible]
[illegible]	6308	F-[illegible]	42[illegible]	2	[illegible]	[illegible]
[illegible]	6310	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6355	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6356	F-[illegible]	[illegible]	2	2	[illegible]
[illegible]	6232	F-[illegible]	[illegible]	2	[illegible]	[illegible]
[illegible]	6309	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6213	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6218	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6210	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6219	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6221	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6217	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6215	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6216	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6211	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6214	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6209	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6220	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	6212	F-[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
-SUPERIOR OIL CO						
8316222	F-[illegible]	[illegible]	[illegible]	[illegible]		
8316227	F-RA-061196	[illegible]	[illegible]	[illegible]		
8316231	F-RA-061202	[illegible]	[illegible]	[illegible]		
8316230	F-RA-061201	[illegible]	[illegible]	[illegible]		
8316229	F-RA-061198	4211531566				
-TAUBERT STEED GUNN & MEDDERS						
8316284	F-RA-061348	4226931039				
-TERRA RESOURCES INC						
8316165	F-TC-60943	4223730366				
-TEXACO INC						
8316169	F-10-61016	4206500000				
8316168	F-10-61015	4206500000				
8316170	F-10-61017	4206500000				
8316171	F-08-61021	4230100000				
[illegible]	[illegible]	4230100000				
-TRANSCONTINENTAL OIL CORPORATION						
[illegible]	[illegible]	4223500000				

C [illegible] SEC( ) WELL PART		
RECEIVED:	12/29/82	JA: TX
[illegible]	SOUTH CORNETT #4	
RECEIVED:	12/29/82	JA: TX
[illegible]-4	BARRIE DEAN ROSIER #1	
[illegible]	BRYANT "20" #3	
RECEIVED:	12/23/82	JA: TX
[illegible]	TIMMINS "A" #1 WELL - [illegible]95566	
RECEIVED:	12/29/82	JA: TX
[illegible]03	BIG WELLS (SAN MIGUEL) UNIT #1032	
[illegible]03	BIG WELLS (SAN MIGUEL) UNIT #1306	
[illegible]03	BIG WELLS (SAN MIGUEL) UNIT #1307	
[illegible]03	BIG WELLS (SAN MIGUEL) UNIT #1410	
[illegible]03	BIG WELLS (SAN MIGUEL) UNIT #2127	
[illegible]03	BIG WELLS (SAN MIGUEL) UNIT #2128	
[illegible]	D G OIL CO-[illegible]-#5	
[illegible]	D M MILLICAN "A" #1	
[illegible]	D M MILLICAN "A" #2	
[illegible]02-4	FANT ESTATE "57" #5	
[illegible]0R	FRANCISCA G DE PEREZ #1	
[illegible]0R	FRANCISCA G DE PEREZ #5	
[illegible]	HENRY KELLY UNIT #2	
[illegible]02-4	JACOBSON UNIT #3	
[illegible]03	VEALE-PARKS (CADDO) UNIT #13	
[illegible]03	VEALE-PARKS (CADDO) UNIT #14	
[illegible]03	VEALE-PARKS (CADDO) UNIT #16	
[illegible]03	VEALE-PARKS (CADDO) UNIT #18	
[illegible]03	VEALE-PARKS (CADDO) UNIT #20	
[illegible]03	VEALE-PARKS (CADDO) UNIT #22	
[illegible]03	VEALE-PARKS (CADDO) UNIT #23	
[illegible]03	VEALE-PARKS (CADDO) UNIT #24	
[illegible]03	VEALE-PARKS (CADDO) UNIT #26	
[illegible]03	VEALE-PARKS (CADDO) UNIT #28	
[illegible]03	VEALE-PARKS (CADDO) UNIT #30	
[illegible]03	VEALE-PARKS (CADDO) UNIT #7	
[illegible]03	VEALE-PARKS (CADDO) UNIT #9	
RECEIVED:	12/29/82	JA: TX
[illegible]03	ACKERLY (DEAN) FIELD UNIT #703	
[illegible]03	ACKERLY DEAN FIELD UNIT #1403	
[illegible]03	ACKERLY DEAN FIELD UNIT #1508	
[illegible]03	ACKERLY DEAN FIELD UNIT #602	
[illegible]03	ACKERLY DEAN FILED UNIT #502	
RECEIVED:	12/29/82	JA: TX
[illegible]02-4	S B BURNETT ESTATE "BG" 19	
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[illegible]02-2	MADLYN HELBIGER #1	
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[illegible]0R	C R GARNER "D" NCT-2 #1	
[illegible]0R	C R GARNER "D" NCT-2 #3	
[illegible]0R	E J MOORE NCT-2 #15	
[illegible]0R	EL MAR DELAWARE UNIT #1144	
[illegible]0R	EL MAR DELAWARE UNIT #2233	
RECEIVED:	12/29/82	JA: TX
[illegible]0R	PEARL WILLIAMS "A" #1	

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FIELD NAME	PROD	PURCHASER
JOCELYN-VARN (FRY)	38.5	UNION TEXAS PETRO
DEAN LAKE	5.1	WINNIE PIPELINE C
CRAWAR	9.0	EL PASO NATURAL G
ROCKWOOD (FRY SAND)	55.0	BRADY TEXAS MUNIC
BIG WELLS (SAN MIGUEL	3.0	HOUSTON PIPE LINE
BIG WELLS (SAN MIGUEL	3.0	HOUSTON PIPE LINE
BIG WELLS (SAN MIGUEL	26.0	HOUSTON PIPE LINE
BIG WELLS (SAN MIGUEL	24.0	HOUSTON PIPE LINE
BIG WELLS (SAN MIGUEL	28.0	HOUSTON PIPE LINE
BIG WELLS (SAN MIGUEL	80.0	HOUSTON PIPE LINE
RINCON NORTH (H-3)	8.0	
JAMESON S E (STRAWN)	86.0	LONE STAR GAS CO
JAMESON S E (STRAWN)	198.0	LONE STAR GAS CO
FANT	22.0	SUN GAS TRANSMISS
SUN	13.0	TRANSCONTINENTAL
STRONG (4700)	17.0	
BOONSVILLE (BEND CONG	8.0	NATURAL GAS PIPEL
WINNIE N	125.0	TEXAS EASTERN TRA
STEPHENS COUNTY REGUL	4.0	WARREN PETROLEUM
STEPHENS COUNTY REGUL	2.0	WARREN PETROLEUM
STEPHENS COUNTY REGUL	4.0	WARREN PETROLEUM
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ACKERLY (DEAN SAND)	0.0	GETTY OIL CO
ACKERLY (DEAN SAND)	0.0	GETTY OIL CO
ACKERLY (DEAN SAND)	0.0	GETTY OIL CO
ACKERLY (DEAN SAND)	0.0	GETTY OIL CO
ACKERLY (DEAN SAND)	0.0	GETTY OIL CO
BIG-S- STRAWN 5400	1.1	LONE STAR GAS CO
CELERY (STRAWN 2975)	9.1	
PANHANDLE CARSON COUN	2.1	GETTY OIL CO
PANHANDLE CARSON COUN	3.2	GETTY OIL CO
PANHANDLE CARSON COUN	1.0	GETTY OIL CO
EL MAR (DELAWARE)	0.2	PHILLIPS PETROLEU
EL MAR (DELAWARE)	1.0	PHILLIPS PETROLEU
LAS PERLAS (CANYON SA	8.5	FARMLAND INDUSTRI

VOLUME 820 PAGE 006

JD NO	DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-TRICENTROL RESOURCES INC				RECEIVED:	12/29/82	JA: TX
8316117	F-02-60612	4217531492		102-4		L E SCHRADE 108981
-TRIPLE R OIL & GAS CO				RECEIVED:	12/29/82	JA: TX
8316250	F-78-061238	4213333860		102-4		SMITH #1 (18755)
8316249	F-78-061237	4213333859		102-4		SMITH #2 (18755)
-U S OPERATING INC				RECEIVED:	12/29/82	JA: TX
8316159	F-03-60891	4228731280		102-2		CAMILLE #1 RRC ID #15997
8316255	F-03-061264	4205132076		102-2		JOSEPHINE #1 RRC ID #15905
8316288	F-03-061355	4228731266		102-2		LINDA #2 RRC ID #N/A
8316287	F-03-061354	4228731213		103		MOLLIE C DAVIS #2 RRC ID #N/A
-W B D OIL & GAS CO				RECEIVED:	12/29/82	JA: TX
8316282	F-10-061345	4234130892		103		RUSSELL #3
-W B TRAMMELL				RECEIVED:	12/29/82	JA: TX
8316257	F-78-061269	4215131557		102-4		W B TRAMMELL #13-1º
-W CARLTON WEAVER				RECEIVED:	12/29/82	JA: TX
8316268	F-04-061296	4213132885		103		D SALINAS #2
-W L BRUCE OPERATOR				RECEIVED:	12/29/82	JA: TX
8316174	F-10-61054	4206531228		103		HUNTER #1 (ID #0516B)
-WAGNER & BROWN				RECEIVED:	12/29/82	JA: TX
8316336	F-08-061508	4243131217		103		FLINT "B" #12-26
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	12/29/82	JA: TX
8316331	F-08-061501	4210332964		103		M F HENDERSON #16R
8316338	F-08-061510	4210332950		103		P J LEA #134
8316337	F-08-061509	4210332962		103		P J LEA #138
-WESTERN ENERGY RESOURCES INC				RECEIVED:	12/29/82	JA: TX
8316276	F-78-061327	4236332934		102-4		WELLS #1A
-WHITEHEAD PRODUCTION CO INC				RECEIVED:	12/29/82	JA: TX
8316223	F-09-61186	4223700000		108		J H RICHARDS #1
-WILLIAM E HENDON JR				RECEIVED:	12/29/82	JA: TX
8316175	F-08-61055	4217331308		102-4		POWELL "32" #1
-WILMAR OIL INC				RECEIVED:	12/29/82	JA: TX
8316162	F-78-60927	4236300000		108		WILLIAMS #1
8316161	F-09-609-26	4223700000		108		WIMBERLY ESTATE #1A

FIELD NAME	PROD	PURCHASER
ANDER (1400 SAND)	75.0	VALERO TRANSMISSI
RANGER NW (MARBLE FAL	9.0	LONE STAR GAS CO
RANGER NW (MARBLE FAL	7.0	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
PANHANDLE MOORE	0.0	PHILLIPS PETROLEU
JUDY GIAL EAST (CANYO	0.0	PALO DURO PIPELIN
LEAL (MIOCENE 2200)	50.0	TENNESSEE GAS PIP
PANHANDLE CARSON	50.0	GETTY OIL CO
CONGER (PENN)	99.9	TEXAS UTILITIES C
DUNE	4.7	EL PASO NATURAL G
LEA SOUTH (TUBB)	19.9	EL PASO NATURAL G
LEA (SAN ANDRES)	4.3	EL PASO NATURAL G
WOLFCAMP (STRAWN)	100.0	NATURAL GAS PIPEL
JACK COUNTY REG	202.0	CITIES SERVICE CO
POWELL 8300	45.0	PHILLIPS PETROLEU
PALO PINTO COUNTY REG	2.1	CITIES SERVICE GA
JACK COUNTY REGULAR	1.1	CITIES SERVICE GA

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2704-Filed 1-31-83; 8:45 am]

BILLING CODE 6717-01-C

[Docket No. E

American E
Corp.; Filing

January 27, 19

The filing
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APCO's Rat

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Kenneth F. P

Secretary.

[FR Doc. 83-270
BILLING CODE

[Docket No. ER83-264-000]

American Electric Power Service Corp.; Filing

January 27, 1983.

The filing Company submits the following:

Take notice that on January 18, 1983, the American Electric Power Service Corporation (AEP) tendered for filing on behalf of its affiliate Appalachian Power Company (APCO), which is an AEP operating subsidiary, Modification No. 20 dated January 1, 1983 to the Interconnection Agreement dated February 1, 1948 between Virginia Electric and Power Company and APCO. The Commission has previously designated the 1948 Agreement as APCO's Rate Schedule FERC No. 16.

AEP states that Section 1 of Modification No. 20 provides for an increase in the transmission demand charge for Short Term Power to $0.35 per kilowatt per week and to $0.07 per kilowatt per day. Section 2 increases the Limited Term Power transmission demand charge to $1.50 per kilowatt per month. These transmission demand charges are utilized for multi-party transactions and apply only to APCO. AEP requests an effective date of January 17, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Virginia State Corporation Commission and the Public Service Commission of West Virginia.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2706 Filed 1-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77-485-000]

Carolina Power & Light Co.; Refund Report

January 27, 1983

The filing Company submits the following:

Take notice that on January 11, 1983, Carolina Power & Light Company submitted for filing a refund report pursuant to the Commission's direction.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 11, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2706 Filed 1-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-266-000]

Pacific Power & Light Co.; Filing

January 27, 1983.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on January 19, 1983, tendered for filing, Pacific's Revised Appendix 1, for the State of Oregon. The Revised Appendix 1 calculates an average system cost for the State of Oregon. The Revised Appendix 1 calculates an average system cost for the State of Oregon applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific requests an effective date of August 30, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Bonneville, the Oregon Public Utility Commission and Bonneville's Direct Service Industrial customers.

Any person desiring to be heard or to protest said filing should file a motion petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2707 Filed 1-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. E-7796-007]

Pacific Power & Light Co., et al.; Order Accepting for Filing and Suspending Notice of Cancellation and Establishing Procedures

Issued January 25, 1983.

On November 26, 1982, Pacific Power and Light Company (PP&L) tendered for filing, on behalf of itself and six other utility companies, a notice of cancellation of an agreement known as the Seven-Party Agreement.[1] The agreement is the subject of an investigation ordered by the Federal Power Commission on November 20, 1972, in Docket No. E-7796. PP&L requests that the cancellation be made effective as of July 20, 1978.

Notice of the filing was issued with comments due on or before December 23, 1982. On December 23, 1982, the Northern California Power Agency and its members and the Cities of Anaheim, Riverside, Colton, and Azusa, California (NCPA and Cities) filed a protest in which they set forth the history of the proceedings to date in Docket No. E-7796 and request that the notice of cancellation be rejected on the grounds that the notice presents issues that are currently before the presiding administrative law judge, who has already conducted extensive hearings. The intervenors assert that these issues are not mooted by virtue of the cancellation notice, contrary to the assertions of PP&L, and that the investigation ordered in Docket No. E-7796 should be "reactivated."

On January 7, 1983, Pacific Gas and Electric Company (PG&E), one of the signatories to the agreement, filed a motion for leave to answer the protest of NCPA and Cities on the grounds that (1) the protest did not clearly describe the overlap between the issues in Docket

[1] *See* Attachment A for rate schedule designations. The remaining companies are identified in footnotes 2 and 3, *infra*.

No. E–7796 and in a related docket, Docket No. E–7777 (Phase II), (2) the hearing in Docket No. E–7777 was one of the longest in the Commission's history, and (3) granting the request to "reactivate" Docket No. E–7796 would "institute a completely unnecessary and futile proceeding." The presiding judge issued an order dated January 6, 1983, which stated that PG&E's response is unnecessary because it contains only arguments that have already been made in the course of the proceedings before him. The judge indicated that he will take all arguments made on both sides into account in writing an initial decision in the proceeding.

Background

Proceedings in this docket were initiated when the Commission in 1972 ordered an investigation into the justness and reasonableness of the Seven-Party Agreement pursuant to section 206 of the Federal Power Act. The agreement provides for the purchase and sale of electric energy between the Northwest companies[2] and the California companies.[3] NCPA and Cities intervened in the proceedings and requested that the Commission: (1) Eliminate certain alleged anticompetitive provisions of the agreement; (2) open the agreement to participation by other electric utilities in California, including NCPA and Cities, on a fair and equitable basis; (3) cure its indefinite pricing provisions; and (4) require PG&E and others to transmit energy purchased or sold under the agreement by NCPA and Cities. In May and June of 1978, NCPA and Cities filed direct testimony on these issues. On July 21, 1978, one month before testimony was due from the Northwest and California companies, the Northwest companies filed a motion for partial initial decision, asserting that the proceeding was rendered moot because the parties to the agreement had agreed not to enter into any further transactions under the agreement since 1975. NCPA and Cities opposed the motion and the presiding judge ordered that a hearing be held on the limited question of whether it would be in the public interest to terminate the proceedings in the docket. All parties and staff filed testimony on this limited question, a hearing was held in August 1978, and briefs to the judge were filed in March and April of 1979. The matter currently remains before the presiding judge for initial decision.

On October 29, 1982, the judge issued an order noting that service could not be terminated under the Seven-Party Agreement absent a notice of cancellation filed pursuant to § 35.15 of the Commission's regulations. Accordingly, the judge directed the signatories to the Seven-Party Agreement to file such a notice. It is that notice of cancellation which is the subject of this order.

Discussion

As a preliminary matter, we find that PG&E has not set forth good cause for the Commission to waive Rule 213(a)(2) and accept its answer to NCPA's protest. Accordingly, we shall deny PG&E's motion for leave to file an answer.

NCPA and Cities argue that the notice of cancellation should be rejected because hearings have already been held and briefs filed on the issue of whether it would be in the public interest to terminate the investigation and on related issues, including the extent to which transactions have been conducted under the agreement. They note that they have alleged illegal or anticompetitive practices, and argue that the mere cessation of such conduct does not moot an investigation into the conduct. NCPA and Cities have not challenged the sufficiency of PP&L's filing. Inasmuch as PP&L's filing conforms to the requirements of § 35.15 of the Commission's regulations and no other persuasive basis for rejection has been shown, the request to reject will be denied.

Our review of PP&L's filing and the related pleadings indicates that the notice of cancellation has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the notice for filing and suspend its operation as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC § 61,189 (1982), we explained the Commission's suspension policy primarily in the context of rate schedule filings involving increases in rate level. The instant submittal does not purport to modify rates and charges, but rather to terminate existing service agreements. Because the intervenors in this docket have raised significant questions which should be evaluated before the proposed cancellation becomes effective, we shall suspend the proposed cancellation for five months until June 26, 1983. The presiding judge will be directed to issue an initial decision on the justness and reasonableness of cancellation of the Seven-Party Agreement by such date as will allow the Commission to issue a final order on or before that date.

We also find that the reasonableness of the proposed retroactive effective date ultimately is a matter best left for consideration following the initial decision. While the limited hearing held thus far may have addressed questions concerning cancellation of the Seven-Party Agreement and termination of the related investigation, it is not apparent whether the hearing has addressed the question of an appropriate effective date for cancellation. Accordingly, we shall set that question for whatever hearing may be necessary, and in any event, shall order that the matter be addressed as part of the initial decision.

The Commission orders:

(A) The motion of PG&E for leave to file an answer to the protest of NCPA is hereby denied.

(B) The request of NCPA and Cities to reject the notice of cancellation is hereby denied.

(C) PP&L's notice of cancellation is hereby accepted for filing and suspended for five months from sixty days after filing, to become effective on June 26, 1983, subject to the outcome of the related hearing.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the notice of cancellation and the requested effective date of such cancellation filed by PP&L, to the extent that the presiding judge shall consider further hearing to be necessary.

(E) The presiding administrative law judge shall issue an initial decision on the issues presented by the notice of cancellation by such date as will allow the Commission to issue a final order on the notice of cancellation on or before June 26, 1983.

(F) The Secretary shall promptly publish this order in the **Federal Register**.

[2] PP&L, Puget Sound Power & Light Company (PSP&L), Portland General Electric Company (PGE), and Washington Water Power Company (WWP).

[3] Pacific Gas & Electric Company (PG&E), Southern California Edison Company (So. Cal. Ed.), and San Diego Gas & Electric Company (SDG&E).

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT A—PACIFIC POWER & LIGHT COMPANY, ET AL., DOCKET NO. E-7796, RATE SCHEDULE DESIGNATIONS

Designation	Description
Pacific Power & Light Company, Supplement No. 1 to Rate Schedule FPC No. 105	Notice of cancellation
Portland General Electric Company, Supplement No. 1 to Rate Schedule FPC No. 21.	Do
Puget Sound Power & Light Company, Supplement No. 1 to Rate Schedule FPC No. 36	Do
The Washington Water Power Company, Supplement No. 1 to Rate Schedule FPC No. 73.	Do
Pacific Gas and Electric Company, Supplement No. 1 to Rate Schedule FPC No. 19	Do
Southern California Edison Company, Supplement No. 1 to Rate Schedule FPC No. 62	Do
San Diego Gas & Electric Company, Supplement No. 1 to Rate Schedule FPC No. 27	Do

[FR Doc. 83-2702 Filed 1-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-265-000]

Tampa Electric Co.; Filing

January 27, 1983.

The filing company submits the following:

Take notice that on January 18, 1983, Tampa Electric Company (Tampa Electric) tendered for filing an Agreement for Interchange Service between Tampa Electric and the City of Lakeland, Florida (Lakeland), together with Service Schedules A, B, and C thereunder. This filing would supersede Tampa Electric's Rate Schedule FPC No. 3.

Tampa Electric states that Service Schedules A, B, and C provide for emergency, scheduled, and economy interchange service, respectively, between Tampa Electric and Lakeland.

Tampa Electric proposes an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Lakeland and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2703 Filed 1-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-17-006]

Texas Eastern Transmission Corp. (Texas Eastern); Proposed Changes in FERC Gas Tariff

January 26, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on January 25, 1983, tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Second Substitute Sixty-fourth Revised Sheet No. 14
Substitute Sixty-fourth Revised Sheet No. 14A
Substitute Sixty-fourth Revised Sheet No. 14B
Substitute Sixty-fourth Revised Sheet No. 14C
Substitute Sixty-fourth Revised Sheet No. 14D

The above sheets were issued in substitution for those sheets filed December 30, 1982, consisting of Texas Eastern's semi-annual PGA tracking adjustment to be effective February 1, 1983. The above sheets reflect a reduction in the commodity component of rates of 17.94 cents/dth below the rates filed December 30, 1982. This filing reflects the impact of Texas Eastern's exercise of its "market out" provisions in certain of its gas purchase contracts.

The proposed effective date of the above tariff sheets is February 1, 1983.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214, of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions to intervene or protest should be filed on or before February 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2709 Filed 1-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-2-001]

Wisconsin Electric Power Co.; Order Granting Motion To Strike and Denying Rehearing

Issued January 26, 1983.

By order issued on November 29, 1982,[1] the Commission, *inter alia*, suspended for one day Wisconsin Electric Power Company's (WEPCO) proposed step-two full and partial requirements rates to become effective, subject to refund, on December 2, 1982. On December 27, 1982, an application for rehearing was filed on behalf of the Cities and Villages of Clintonville, Elkhorn, Kiel, Oconto Falls, and Shawano, Wisconsin, the City of Crystal Falls, Michigan, the Oconto Electric Cooperative, the Ontonagon Rural Electrification Association, and the Wisconsin Public Power Incorporated System (Intervenors). Intervenors request that the Commission review the decision in the November 29, 1982 order to determine if an error in the suspension analysis had been made, the correction of which would justify a five month suspension period, or to indicate whether all ratemaking issues had been resolved in WEPCO's favor. On January 6, 1983, Intervenors filed an amendment to their application (and their initial motion to intervene in Docket No. ER83-2-000), expanding upon certain arguments raised in their motion to intervene.

In support of their request, Intervenors reiterate the arguments raised in their motion to intervene. Intervenors also state that the top sheets served by the trial staff in Docket No. ER83-2-000 indicate that the second step rates are excessive by more than ten percent of the proposed increase thereby reinforcing their contention that a five month suspension is appropriate. Intervenors contend that the Commission apparently has followed has followed a practice of presuming that no adjustment should be made to a filing where no clear error or contravention of precedent has been

[1] *Wisconsin Electric Power Co.*, Docket No. ER83-2-000, 21 FERC ¶ 61,220 (1982).

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identified, in effect giving a utility the benefit of the doubt as to any disputed issues. Intervenors assert that such a presumption in favor of the utility ought to be abandoned, or announced, at the very least.

On January 11, 1983, the Commission staff filed a motion to strike all references to the top sheets in Intervenors' application for rehearing. Staff asserts that such references are, by clear precedent, impermissible. On January 20, 1983, Intervenors filed a response opposing staff's motion to strike.

Discussion

Intervenors argue that WEPCO's proposed rates appear to be substantially excessive in light of the top sheet figures submitted by the Commission's trial staff. Intervenors contend that a longer suspension period is appropriate. Similar arguments have been made and rejected repeatedly, because top sheets are privileged, and because the trial staff's top sheet analysis cannot and should not be expected to correspond precisely with the Commission's preliminary examination of the filing for suspension purposes.

The Commission has consistently adhered to a policy of striking all references in pleadings to the trial staff's top sheet positions on the grounds that settlement documents must be afforded a privileged status in order to assure a free exchange of information in settlement discussions.[2] We shall follow that practice in this docket. Moreover, we consider such references to the trial staff's settlement position to be irrelevant for purposes of inquiring into the validity of the *Commission's* initial review of a rate filing.[3]

Having reviewed our suspension decision in this docket in light of the Intervenors' request for rehearing, we find no reason to depart from our earlier conclusion. We believe it appropriate, however, to briefly address the Intervenors' contention that the Commission has followed a policy for suspension purposes of presuming the correctness of the filing utility's position on all issues as to which no clear precedent governs. The Commission has no policy of making such sweeping presumptions. Rather, in instances where no clear precedent controls, the Commission must exercise its judgment as to individual aspects of the filing based on all the circumstances in each case. Sometimes the judgment will be to preliminarily accept the position of the utility, sometimes that of its wholesale customers and sometimes neither, depending on the circumstances. Certain issues which result in close "judgment calls" will later be the subject of a hearing at which time the trial staff may well espouse a position other than that preliminarily adopted by the Commission. Additional information may be available to the trial staff or it may be the case that reasonable individuals would simply come to a different judgment on the merits of a given issue. In any event, a different result reached by the trial staff is not grounds for rehearing of the Commission's preliminary judgment.

The Commission orders:

(A) Staff's motion, filed on January 11, 1983, to strike the figures and arguments in Intevenors' pleading which derive from the trial staff's top sheets is hereby granted.

(B) Intervenors' application for rehearing filed on December 27, 1982, and amended on January 6, 1983, is hereby denied.

(C) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2710 Filed 1-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL83-7-000]

Wholesale Customers of Ohio Edison and Ohio Edison Co.; Filing

January 27, 1983.

The Complainants submit the following:

Take notice that on January 14, 1983, the Wholesale Customers of Ohio Edison Company ("WCOE") filed a complaint against Ohio Edison Company ("Ohio Edison"). WCOE seeks modification to the partial requirements contracts and tariffs governing WCOE members' purchases of the bulk of their wholesale electric requirements from Ohio Edison. According to WCOE, the terms of Ohio Edison's filed tariffs are unjust and unreasonable.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2711 Filed 1-31-83; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-217]

River City Federal Savings and Loan Association; Baton Rouge, Louisiana; Final Action, Approval of Conversion Applications

January 27, 1983.

Notice is hereby given that on November 12, 1982, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of River City Federal Savings and Loan Association, Baton Rouge, Louisiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-2744 Filed 1-31-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-218]

Stockton Savings and Loan Association, Stockton, California; Final Action, Approval of Conversion Applications

Dated: January 27, 1983.

Notice is hereby given that on November 10, 1982, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General

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[2] *Delmarva Power & Light Co.*, Docket No. ER80-363-000, 16 FERC ¶ 61,177 (1981); *New Orleans Public Service, Inc. v. FERC*, 659 F.2d 509 (5th Cir. 1981); *Arizona Public Service Co.*, Docket No. ER82-481-001, et al., 20 FERC ¶ 61,413 (1982); *Wisconsin Electric Power Co.*, Docket No. ER82-347-000, 19 FERC ¶ 61,026 (1982).

[3] *West Texas Utilities Co.*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982), *followed in Arizona Public Service Co.*, Docket Nos. ER82-481-000, *et al.*, 20 FERC ¶ 61,413 (1982).

Counsel or his designee, approved the application of Stockton Savings and Loan Association, Stockton, California, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of San Francisco, P.O. Box 7948, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-2745 Filed 1-31-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2152]

Beacon International Despatch Inc.; Order of Revocation

On January 6, 1983, Beacon International Despatch Inc., P.O. Box 488, North Tonowanda, NY 14120 surrendered its Independent Ocean Freight Forwarder License No. 2152 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2152 issued to Beacon International Despatch Inc. be revoked effective January 6, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Beacon International Despatch Inc.

Albert J. Klingel, Jr.,

Director Bureau of Certification and Licensing.

[FR Doc. 82-2736 Filed 1-31-83; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.6 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No. T-3904-3.

Title: Tacoma/Totem Lease Amendment.

Parties: Port of Tacoma (Port)/Totem Ocean Trailer Express, Inc. (Totem).

Synopsis: Agreement No. T-3904-3 modifies the basic agreement between the parties which provides for the lease by Port to Totem of land and terminal facilities, as well as preferential berthing privileges at Port's Alaska Terminal. The purpose of the modification is to provide for the relocation of Totem's operations to new facilities to be constructed by Port at Blair Waterway. The lease area is increased by 8.8 acres, with corresponding increase in compensation. The number of 2-year renewal options is increased from 9 to 14.

Filing agent: Thomas M. Kilbane, Jr., Garvey, Schubert, Adams & Barer, 30th Floor, The Bank of California Center, Seattle, Washington 98164.

Agreement No. T-4083.

Title: Puerto Rico Ports Authority/ Caribe Shipping Company, Inc. Lease.

Parties: Puerto Rico Ports Authority (PRPA)/Caribe Shipping Company, Inc. (Caribe).

Synopsis: Agreement No. T-4083, provides for the lease to Caribe on an exclusive basis of certain office space, maintenance shop and open area at Pier 9, San Juan. The premises will be used for the purpose of loading and unloading vessels and activities incidental to such operations. Caribe will pay rental to PRPA as mutually agreed and as set forth in the agreement. The agreement's terms is three years.

Filing agent: Carmen Guede Mijares, Esquire, Legal Counsel, Maritime Department, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, Puerto Rico 00936.

Dated: January 27, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-2739 Filed 1-31-83; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Chavez, Bogdanski and Cincinello International, Inc., d.b.a. CBC International, Inc., 4849 No. Scott Street, Suite 20, Schiller Park, IL 60176; Officers: Ronald J. Bogdanski, President; Frank Cincinello, Treasurer; Venustriano Chavez, Secretary

Alirez International, Inc.; 3141 Bordentown Avenue, Parlin, NJ 08859; Officers: Ahmed A. Alireza, President; Patricia M. Tracy, Vice President/ Secretary; Judith Anne McCabe, Vice President/Treasurer

Combined Transport System, Inc., 11 Glen Eagles Drive, Bridgewater, NJ 08807; Officer: Per Ulf Varnum, President

By the Federal Maritime Commission.

Dated: January 26, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-2611 Filed 1-31-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

January 24, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in

carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any actio on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880)

Request for Approval With Revisions

1. Report title: Monthly Survey of Selected Deposits and Other Accounts
Agency form number: FR 2042
Frequency: Monthly
Reporters: Sample of insured commercial banks and mutual savings banks
SIC Code: 602, 603
Small businesses are affected.
General description of report:
Respondent's obligation to respond is voluntary [12 U.S.C. § 248(a)]; a pledge of confidentiality is promised [5 U.S.C. § 552(b)(8)]

These data are used by the Federal Reserve (1) to analyze and interpret movements in the monetary aggregates, (2) to observe competitive developments between banks and thrift institutions, and (3) to help monitor the earnings position of depository institutions. (OMB has been asked to review the request for approval in less than 10 days.)

Board of Governors of the Federal Reserve System, January 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–2659–Filed 1–31–83; 8:45 am]

BILLING CODE 6210–01–M

First Bancorporation of Geraldine, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Bard of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Bancorporation of Geraldine, Inc.*, Geraldine, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of Bank of Geraldine, Geraldine, Alabama. Comments on this application must be received not later than February 25, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Pilot Point Bancshares Corporation*, Pilot Point, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The Pilot Point National Bank, Pilot Point, Texas. Comments on this application must be received not later than February 25, 1983.

Board of Governors of the Federal Reserve System, January 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–2662 Filed 1–31–83; 8:45 am]

BILLING CODE 6210–01–M

Ohio Valley Bancorp, Inc., et al.; Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of St. Louis** (Delmar P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Ohio Valley Bancorp, Inc.*, Henderson, Kentucky (insurance activities; Kentucky): To engage, through its subsidiary, O. V. Insurance Agency, Inc., in the selling of life, accident, and health, and disability insurance directly related to its extensions of credit. These

insurance activities are specifically permitted for bank holding companies pursuant to section 601(A) of the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from an office in Henderson, Kentucky, serving Henderson County, Kentucky. Comments on this application must be received not later than February 21, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Midland Bank PLC, Midland California Holding, Ltd.*, both of London, England and Crocker National Corporation, San Francisco, California (lending activities, worldwide): To engage, through Crocker National Corporation, in making or acquiring loans and other extensions of credit to borrowers located worldwide. These activities would be conducted from offices located in San Francisco, California, and will serve customers worldwide. Comments on this application must be received not later than February 22, 1983.

Board of Governors of the Federal Reserve System, January 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2865 Filed 1-31-83; 8:45 am]

BILLING CODE 6210-01-M

Texas Commerce Bancshares, Inc., et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Texas Commerce Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares of Bank of Pasadena, Pasadena, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 25, 1983.

2. *Unicorp Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares of Unitedbank—Northwest, Houston, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 25, 1983.

Board of Governors of the Federal Reserve System, January 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2863 Filed 1-31-83; 8:45 am]

BILLING CODE 6210-01-M

United Banks of Wisconsin, Inc.; Merger of Bank Holding Companies

United Banks of Wisconsin, Inc., Madison, Wisconsin, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Independent Bankshares, Inc., Madison, Wisconsin, and thereby indirectly acquire 86 percent or more of the voting shares of Lake City Bank, Madison, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

United Banks of Wisconsin, Inc., Madison, Wisconsin, is also engaged through its subsidiary, United Mortgage of Wisconsin, Inc., in the following nonbank activities: making or acquiring for its own account or for the account of others, mortgage loans and other related extensions of credit, and servicing such loans or other extensions of credit. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 25, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2864 Filed 1-31-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82F-0255]

Lonza, Inc.; Filing of Food Additive Petition

Correction

In FR Doc. 82-24309 appearing on page 38988 in the issue of Friday, September 3, 1982, make the following corrections:

1. In the **SUMMARY**, "di-*n*-alkyl ($C_8^{OC}_{10}$) benzyl dimethylammonium chloride, *n*-alkyl ($C_{12}^{OC}_{16}$) dimethylammonium chloride and *alpha*-(*p*-nonylphenyl)-*omega*-hydroxypoly(oxyethylene) 9 to 12 moles of ethylene oxide" should have read "di-*n*-alkyl (C_8-C_{10}) dimethylammonium chloride, *n*-alkyl ($C_{12}-C_{16}$) benzyl dimethylammonium chloride and *alpha*-(*p*-nonylphenyl)-*omega*-hydroxypoly(oxyethylene) 9 to 12 moles of ethylene oxide".

2. Under **SUPPLEMENTARY INFORMATION**, "di-*n*-alkyl (C_8-C_{10}) benzyl dimethylammonium chloride, *n*-alkyl (C_{12}-C_{16}) dimethylammonium chloride and *alpha*-(*p*-nonylphenyl)-*omega*-hydroxypoly(oxyethylene) 9 to 12 moles of ethylene oxide" should have read "di-*n*-alkyl (C_8-C_{10}) dimethylammonium chloride, *n*-alkyl ($_{12}$-C_{16}) benzyl dimethylammonium chloride and *alpha*-(*p*-nonylpheny)-*omega*-hydroxypoly(oxyethylene) 9 to 12 moles of ethylene oxide".

BILLING CODE 1505-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration

ACTION: Notice.

SUMMARY: The food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Cincinnati District Office, chaired by James C. Simmons, District Director.

DATE: Tuesday, March 15, 12 m.

ADDRESS: Findlay Street Neighborhood House, Findlay and Baymiller Sts., Cincinnati, OH 45214.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44114, 216–522–4844.

Cincinnati District Office, chaired by James C. Simmons District Director.

DATE: Wednesday, March 16, 1 p.m.

ADDRESS: Federal Bldg., 200 W. Second St., Rm. 504, Dayton, OH 45402

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44114, 216–522–4844.

Cincinnati District Office, chaired by James C. Simmons, District Director.

DATE: Thursday, March 17, 10 a.m.

ADDRESS: Federal Bldg., 550 Main St., Rm. 5409 Cincinnati, OH 45202.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44114, 216–522–4844.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 25, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–2843 Filed 1–31–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket Nos. 75N–0223, 75N–0184; DESI 3265, 9489]

Drugs for Human Use; Drug Efficacy Study Implementation; Certain Anticholinergic Drugs Containing Tridihexethyl Chloride; Withdrawal of Approval

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application (NDA 11–889) for Pathilon Sequels and those parts of the new drug application (NDA 9–489) pertaining to Pathilon with Phenobarbital Tablets. The basis of the withdrawal is that there is a lack of substantial evidence that these drugs are effective in the treatment of various gastrointestional disorders. The drug products are no longer marketed.

EFFECTIVE DATE: March 3, 1983.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference numbers DESI 3265 or DESI 9489 (whichever is applicable) and directed to the Division of Drug Labeling Compliance (HFN–310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20850.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In notices published in the **Federal Register** of November 11, 1975 (40 FR 52651), and January 16, 1981 (46 FR 3977), the Director of the Bureau of Drugs proposed to withdraw approval of the new drug applications for certain anticholinergic drugs used for the treatment of various gastrointestinal disorders. The notices addressed both anticholinergic/sedative combinations and single-entity anticholinergics; however, the November 11, 1975 notice specified controlled-release formulations, while the January 16, 1981 notice referred to conventional dosage forms. Each notice offered an opportunity for a hearing on the proposal. The proposals were based on the lack of substantial evidence of effectivness as required by section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), 21 CFR 314.111(a)(5), and, for combination products, 21 CFR 300.50.

Lederle Laboratories requested a hearing for Pathilon Sequels (NDA 11–889) in response to the 1975 notice and for Pathilon with Phenobarbital Tablets (NDA 9–489) in response to the 1981 notice. Subsequently, on December 30, 1982, Lederle withdrew its hearing requests as they pertained to these products.

Accordingly, the Director of the National Center for Drugs and Biologics withdraws approval of the new drug applications (or appropriate parts thereof) listed below.

1. NDA 9–489; those parts that provide for Pathilon with Phenobarbital Tablets containing tridihexethyl chloride (25 mg) and phenobarbital (15 mg); Lederle Laboratories, Division of American Cyanamid Co., One Cyanamid Plaza, Wayne, NJ 07470.

This notice does not apply to Pathilon Tablets (NDA 9–489) containing single-entity tridihexethyl chloride, which is classified as effective for the adjunctive treatment of peptic ulcer. Pathilon Tablets is also the subject of a pending hearing request for certain less-than-effective indications whose efficacy evaluation has not been finalized.

2. NDA 11–889; Pathilon Sequels containing tridihexethyl chloride (75 mg) in controlled release forms; Lederle Laboratories.

Any drug product that is identical, related, or similar to these products and is not the subject of an approved new drug application is covered by the new drug applications reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The Director of the National Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1051–1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982), finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications were approved, there is lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of those parts of NDA 9–489 that provide for the drug product named above, and approval of NDA 11–889, and all amendments and supplements thereto, are withdrawn effective March 3, 1983.

Shipment in interstate commerce of the above products, or any identical, related, or similar product that is not the subject of an approved new drug application, will then be unlawful.

Dated: January 25, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83–2845 Filed 1–31–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket Nos. 77N–0230, 77N–0231, 77N–0316, 77N–0317, and 77N–0318]

Penicillin and Tetracycline (Chlortetracycline and Oxytetracycline) in Animal Feeds; Denial of Petitions

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is denying petitions for withdrawal of its notices of opportunity for hearing on its proposed withdrawal of approval of certain uses of penicillin and tetracycline (chlortetracycline and oxytetracycline) in animal feeds; its advanced notice of hearing on the proposed withdrawals; and its proposal to restrict medicated feeds containing such drugs to use by or in the order of a licensed veterinarian.

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Bureau of Veterinary Medicine (HFV–232), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md 20857, 301–443–4940.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 30, 1977 (42 FR 43772), the Director of the Bureau of Veterinary Medicine (the Director) issued a notice of opportunity for hearing proposing to withdraw approval of new animal drug applications (NADA's) for all penicillin-containing premixes intended for use in animal feeds on the grounds that evidence showed that such products have not been shown to be safe; that the applicants failed to establish and maintain records and make reports as required; and that new evidence has shown that there is a lack of substantial evidence that such products are effective for certain uses. The Director issued a similar notice of opportunity for hearing concerning certain subtherapeutic uses of tetracyclines (chlortetracycline and oxytetracycline) in animal feeds in the **Federal Register** of October 21, 1977 (42 FR 56264). The Director issued the notices after evaluating data submitted by the sponsors of the NADA's in response to requirements imposed by § 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* (21 CFR 558.15).

The Commissioner of Food and Drugs (the Commissioner) subsequently published an advance notice of public hearing on the proposed withdrawal of approvals (43 FR 53827; November 17, 1978). However, the Commissioner did not issue a formal notice of hearing as provided by 21 CFR Part 12.

The Commissioner also published a proposal to restrict the use of penicillin, chlortetracycline, and oxytetracycline in animal feeds to use by or on the order of a licensed veterinarian (43 FR 3032; January 20, 1978). On August 8, 1978 (43 FR 35059), the Commisioner issued a notice postponing final action on that proposal.

Thereafter, Congress directed FDA to contract with the National Academy of Sciences (NAS) to study issues related to the use of antibiotics in animal feeds. Congressional committee report language also stated that FDA should hold in abeyance implementation of its proposed withdrawal actions pending final results of this study.

The NAS committee concluded that it is technically not possible to conduct a single comprehensive epidemiological study which would settle the issues, but suggested several studies that could provide useful information. In view of the NAS report, Congreess instructed FDA to conduct the additional studies to collect epidemiological information consistent with the NAS suggestions. These studies will not be completed before 1984. Congress has continued to state that FDA will, in the meantime, be expected to hold in abeyance any implementation of its proposals to restrict subtherapeutic uses of penicillin, chlortetracycline, and oxytetracycline in animal feeds.

In July 1981, sponsors of the NADA's that are the subject of the notices of opportunity for hearing petitioned the agency to vacate the notices of opportunity for hearing, the advance notice of hearing, and the notice of proposed rulemaking. The sponsors also asked the agency to permit approval of new uses and combinations of previously approved products. The petitions received are as follows:

Citizen petition	[illegible]	Docket No	Date received
Penicillin-containing premixes	American Cyanamid Co	77N–0230/CP	July 8, 1981
Penicillin in animal feeds	American Cyanamid Co	77N–/0231/CP	Do
Penicillin/tetracycline-containing premixes	American Cyanamid Co	77N–0316/CP	Do
Proposal to revise tetracycline regulations	American Cyanamid Co	77–0317/CP	Do
Animal feeds containing penicillin and tetracycline.	American Cyanamid Co	77–0318/CP	Do
Penicillin-containing premixes	Daimond Shamrock Co.	77–0230/CP0002	July 9, 1981
Penicillin-containing premixes	Rachelle Laboratories, Inc	77N–0230/CP0003	Do.
Penicillin in animal feeds	Diamond Shamrock Corp	77N–0231/CP0002	Do.
Penicillin in animal feeds	Rachelle Laboratories, Inc	77N–0231/CP0003	Do.
Penicillin/tetracycline-containing premixes	Diamond Shamrock Corp	77N–0316/CP0002	Do.
Penicillin/tetracycline-containing premixes	Rachelle Laboratories, Inc	77N–0316/CP0003	Do.
Proposal to revise tetracycline regulations	Diamond Shamrock Corp	77N–0317/CP0002	Do.
Proposal to revise tetracycline regulations	Rachelle Laboratories, Inc	77N–0317/CP0003	Do.
Animal feeds containing penicillin and tetracycline.	Diamond Shamrock Corp	77N–0318/CP0002	Do.
Animal feeds containing penicillin and tetracycline	Rachelle Laboratories, Inc	77N–0318/CP0003	Do.
Penicillin-containing premixes	Pfizer, Inc	77N–0230/CP0004	July 15, 1981
Penicillin in animal feeds	Pfizer, Inc	77N–0231/CP0004	Do.
Penicillin/tetracycline-containing premixes	Pfizer, Inc	77N–0316/CP0004	Do.
Proposal to revise tetracycline regulations	Pfizer, Inc	77N–0317/CP0004	Do.
Animal feeds containing penicillin and tetracycline	Pfizer, Inc	77N–0318/CP0004	Do.
Penicillin-containing premixes	Merck & Co., Inc	77N–0230/CP0005	July 2, 1981
Penicillin in animal feeds	Merck & Co., Inc	77N–0231/CP0005	Do.
Penicillin/tetracycline-containing premixes	Merck & Co., Inc	77N–0316/CP0005	Do.
Proposal to revise tetracycline regulations	Merck & Co., Inc	77N–0317/CP0005	Do.
Animal feeds containing penicillin and tetracycline	Merck & Co., Inc	77N–0318/CP0005	Do.

The Commissioner has concluded that approval of new applications and supplements for penicillin, chlortetracycline, and oxytetracycline should be permitted, but that § 558.15 must first be amended. Accordingly, the proposal to amend § 558.15 is published elsewhere is this issue of the **Federal Register**.

With respect to the pending notices of opportunity for hearing, the petitioners argued that any future agency action to withdraw approvals will occur only after review of the findings of the studies authorized by Congress. The petitioners' implied position is that if, after agency review of the data, FDA concludes that withdrawal is warranted, it would need to substantially revise the notices. Therefore, the agency should withdraw its notices of opportunity for hearing at this time.

However, the Director[1] does not have any less concern at present about the safety issues that prompted adoption of § 558.15 and publication of the notices of opportunity for hearing. The Director has not changed his earlier conclusion that the available scientific information warrants the proposed actions. In fact, recently published research further substantiates this position. See O'Brien,

[1] The current Director, Dr. Lester M. Crawford, is not participating in this proceeding, having been a consultant during 1981 to American Cyanamid Co., one of the sponsors, and the Natural Resources Defense Council, with respect to issues contained in this proceeding. The responsibilities of "the Director" are assumed in this proceeding by Deputy Director Gerald B. Guest.

T. F., et al., "Molecular Epidemiology of Antibiotic Resistance in Salmonella from Animals and Human Beings in the United States," *The New England Journal of Medicine*, July 1, 1982, Vol. 107, No. 1, p. 1.

The notices of opportunity for hearing represent the Director's formal position that use of the drugs is not shown to be safe. Therefore, the Director has concluded that he does not wish to withdraw the notices of opportunity for hearing. Instead, the Director wishes to place the notices in abeyance pending completion of the studies mandated by Congress.

The Commissioner has reviewed the Director's decision and concurs with it In addition, for the reasons discussed above, the Commissioner has decided that he will not withdraw the advance notice of hearing or the proposal to restrict therapeutic approvals to prescription use, but will hold them in abeyance.

Dated: January 1, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83-2844 Filed 1-31-83; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Institute of General Medical Sciences; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of Medical Sciences for March 1983.

These meetings will be open to the public to discuss administrative details relating to committee business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with provisions set forth in Section 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Diffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A10, Westwood Building, Bethesda, Maryland 20205 (Telephone: 301-496-7301), will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of committee: Cellular and Molecular Basis of Disease Review Committee
Executive secretary: Dr. Helen Sunshine, Room 950 Westwood Building, Telephone: 301-496-7125
Date of meeting: March 25, 1983
Place of meeting: Linden Hill Hotel, Bethesda, Maryland
Open: March 25, 1983, 8:30 a.m.-9:30 a.m.
Closed: March 25, 1983, 9:30 a.m.-adjournment
Name of committee: Minority Access to Research Careers Review Committee
Executive secretary: Dr. Harriet Gordon, Room 949 Westwood Building, Telephone: 301-496-7585
Dates of meeting: March 7-8, 1983
Place of meeting: Building 31C, Conference Room 8, National Institutes of Health
Open: March 7, 1983, 9:00 a.m.-10:00 a.m.
Closed: March 7, 1983, 10:30 a.m.-5:00 p.m.; March 8, 1983, 9:00 a.m.-adjournment
Name of committee: Pharmacological Sciences Review Committee
Executive secretary: Dr. Anthony Demsey, Room 950 Westwood Building, Telephone: 301-496-7125
Dates of meeting: March 17-18, 1983
Place of meeting: Building 31C, Conference Room 8, National Institutes of Health
Open: March 17, 1983, 8:45 a.m.-10:30 a.m.
Closed: March 17, 1983, 10:30 a.m.-5:00 p.m.; March 18, 1983, 8:30 a.m.-adjournment
Closure reason for each committee: To review research applications

(Catalog of Federal Domestic Assistance Program No. 13-863, 13-880, 13-859, National Institute of General Medical Sciences, National Institutes of Health)

Dated: January 14, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83-2854 Filed 1-31-83; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development, Population Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on March 10-11, 1983 in the Landow Building, Conference Room "A," 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on March 10 from 9:00 a.m. to 10.30 a.m to discuss the program status, new developments and projections for population research centers, program projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code, Sections 552b(c)(4) and 552b(c)(6) and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 10 from 10:30 a.m. to adjournment on March 11 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C-08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of committee members. Dr. Dinesh C. Sharma, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 6C-03, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1696, will furnish other information.

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research, National Institutes of Health)

Dated: January 14, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83-2853 Filed 1-31-83; 8:45 am]

BILLING CODE 4140-01-M

Subcommittee on Animal Resources of the Animal Resources Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Subcommittee on Animal Resources, Animal Resources Review Committee, Division of Research Resources on March 3, 1983 from 1:00 p.m. to recess and on March 4, 1983 from 8:00 a.m. to adjournment in Conference Room 7, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public on March 4 from approximately 10:00 a.m. to adjournment for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and

552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 3 from 1:00 p.m. to recess and on March 4 from 8:00 a.m. to approximately 10:00 a.m. for the review, discussion, and evaluation of individual grant applications submitted to the Laboratory Animal Sciences Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Date: January 14, 1983.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83–2852 Filed 1–31–83; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program; Availability of Cancer Bioassay Report on Allyl Isothiocyanate

The HHS National Toxicology Program today announces the availability of a Technical Report on a carcinogenesis bioassay of allyl isothiocyanate, the major component in volatile oil of mustard, a flavoring agent prepared from seed of black mustard.

Allyl isothiocyanate may be present in syrups, meats, condiments, baked goods, candy, ice cream and ices, and non-alcoholic beverages. Allyl isothiocyanate is found in cabbage, broccoli, kale, cauliflower and horseradish. It is also used as a denaturant for alcohol and a medicinal counter-irritant.

Under the conditions of this bioassay, allyl isothiocyanate was carcinogenic for male rats, causing transitional-cell papillomas of the urinary bladder. Evidence for associating allyl isothiocyanate with subcutaneous fibrosarcomas in female rats was equivocal. Allyl isothiocyanate was not carcinogenic for mice of either sex.

Copies of this report—*Carcinogenesis Bioassay of Allyl Isothiocyanate* (T.R. 234)—are available without charge by writing to: NTP Public Information Office, M.D. B2–04, Box 12233, Research Triangle Park, NC 27709. Telephone: (919) 541–3991, FTS 629–3991.

Dated: January 19, 1983.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 83–2855 Filed 1–31–83; 8:45 am]

BILLING CODE 4140–01–M

Social Security Administration

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services covers the Social Security Administration (SSA). Notice is given that Part S, as published in the **Federal Register** on August 7, 1979 (44 FR 46348 and 46353) is being amended to reflect:

(1) The removal of the Press Office from the Office of Public Affairs (OPA) and its establishment as a new office reporting directly to the Office of the Commissioner through the Deputy Commissioner of Social Security, Programs, and Policy. Accordingly, the sections of Chapter SX, which describe the mission, organization and functions of OPA, are being changed to remove reference to the Press Office, and an independent Press Office is established in the Immediate Office of the Commissioner.

(2) The addition of the legislative review function to the functions of the Legislative Reference Staff (SRP1).

The revisions and new material are as follows:

1. Chapter SA, Section SA.10, is being amended to add subsection E.2. The Press Office.

2. Section SA.20 is being revised to include the following:

E.2. The Press Office (SAG):

a. The Press Office, under the leadership of the Press Officer, guides and coordinates all SSA press activities and prepares and issues news items for national release and for release through SSA field offices.

b. Initiates and maintains contacts with members of the working press and responds to requests for information and assistance from newspapers, radio and television news departments, news and general magazines and the specialized press.

c. Prepares news and feature stories for the area press on SSA headquarters' events, programs of community interest, and the accomplishments and activities of SSA employees.

d. Analyzes press coverage of social security programs, prepares responses to press articles when appropriate, assesses public reaction to social security programs and prepares the Daily Press Service for the Executive Staff.

3. Chapter SX, Section SX.00, is being revised so that the first sentence reads as follows: The Office of Public Affairs (OPA) plans, coordinates, implements, and evaluates SSA's nationwide public affairs program, which includes State-administered programs and services, for effective information exchange with the public, other Federal and State agencies, and other organizations concerned with public affairs programs and activities.

4. Section SX.10 is being revised to delete D. The Press Office (SXP). Subsections E and F should be relettered D and E, respectively.

5. Section SX.20 is being revised to delete all of subsection D. Subsections E and F should be relettered D and E, respectively.

6. Paragraph SR.20.D.1 is being revised to include the following function for the Legislative Reference Staff:

c. Reviews legislative proposals for consistency with existing program goals, philosophy and program requirements.

Dated: January 24, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83–2747 Filed 1–31–83; 8:45 am]

BILLING CODE 4110–07–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–83–1204]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, Office of the Secretary HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: T1David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Submission of Proposed Information Collection to OMB

Proposal: Coinsurance Claims Package Section 223(f).
Office: Administration.
Form No: None.
Frequency of submission: On occasion.
Affected public: Businesses or other institutions (except farms).
Estimated burden hours: 30.
Status: New.
Contact: Betty Belin, HUD, (202) 755–5747; Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 24, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

Submission of Proposed Information Collection to OMB

Proposal: Housing Counseling Program and Recordkeeping Requirements (Non-funded).
Office: Housing.
Form Nos. HUD–9900, 9901, 9902, 9903, 9909, and 9914.
Frequency of submission: Semiannually and Annually
Affected public: State and Local Governments and Businesses or Other Institutions (except farms).
Estimated burden hours: 3,030.
Status: New.
Contact: Robert Warner, HUD, (202) 755–6664; Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 24, 1983.

Submission of Proposed Information Collection to OMB

Proposal: Housing Counseling Program and Recordkeeping Requirements (Funded).
Office: Housing.
Form No. SF–424.
Frequency of submission: On Occasion.
Affected public: State or Local Governments and Businesses or Other Institutions (except farms).
Estimated burden hours: 7,579.
Status: New.
Contact: Robert Warner, HUD, (202) 755–6664; Robert Neal, OMB, (202) 395–[illegible]

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 24, 1983.

Submission of Proposed Information Collection to OMB

Proposal: Application by Indian Housing Authority for Indian Low-income Housing Program.
Office: Housing.
Form No. HUD–52730.
Frequency of submission: On Occasion.
Affected public: State or Local Governments.
Estimated burden hours: 1,280.
Status: Extension.
Contact: Patricia Arnaudo, HUD, (202 755–6522; Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 US.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 24, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83–2701 Filed 1–31–83; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Bureau Information Collections Submitted for Review

The proposal of the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Rick Otis at 202–395–7340.

Title: 25 CFR 15.1; 43 CFR 4.210; 43 CFR 4.260, Indian wills and probate
Bureau Form Number: BIA–5407; 5408; 5463; 5464; 5465; 5466
Frequency: On occasion
Description of Respondents: Indians serviced by the BIA
Annual Responses: 28,500
Annual Burden Hours: 21,268
Bureau clearance officer: Ronal D. Eden: (202) 343–7684

Dated: July 6, 1982.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 83–2629 Filed 1–31–83; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Emergency Coal Leasing; Meeting

AGENCY: Bureau of Land Managment, Interior.

ACTION: Notice of Public comment period and public meeting.

SUMMARY: The Bureau of Land Management intends to hold a public meeting concerning an application for coal leasing under the "Emergency Leasing" provisions. The meeting is to provide the opportunity for the public to comment on and discuss the potential effects on mining the proposed lease, including impacts on the environment.

other land uses, other economic activities, and community or regional services. This notice also requests comment on the Fair Market Value and the Maximum Economic Recovery of the coal on the tract under application.

DATES: A public meeting on a draft environmental assessment which addresses the lease application will be held at 7 p.m. on February 9, 1983, in the main building, College of Eastern Utah, Gomer Peacock Room, Price, Utah. Public comments received within 30 days of this Notice will be used to write a final environmental assessment.

SUPPLEMENTARY INFORMATION: The draft environmental assessment has been prepared by the Manti-LaSal National Forest to address the impacts of issuing an emergency coal lease applied for by Getty Mining Company. The 120-acre tract (application U–51948) described below, is located on the Manti-LaSal National Forest in Carbon County approximately 15 miles southwest of Price, Utah. The coal would be mined from the existing underground Star Point Mines of Plateau Mining Company, a subsidiary of Getty Mining Company. The public meeting will be held to obtain comments on the potential impacts from leasing and subsequent mining of the lands under assessment.

T. 15 S., R. 7 E., SLM.
Sec. 1, Lots 7, 9 and 10.

Comments concerning the fair market value of the coal resource and the maximum economic recovery of the coal on the tract are also solicited. Comments should address specifc factors including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return and mining method. Documentation of similar market transactions, including location, terms and conditions, may also be submitted. Public comments will be utilized in establishing fair market value for the coal resources in the described land as prescribed in 30 CFR 211.63 and CFR 3422.1–2. Any proprietary information labeled as such and so stated on the first page of the submission will not be available to the public if it meets exemptions in the Freedom of Information Act. Comments on fair market value or maximum economic recovery should be sent to the Utah State Director, at the second address listed below.

For Further Information (1) Environmental Assessment—Ira W. Hatch, Price District Ranger, Manti-LaSal National Forest, 10 North Carbon Avenue, Price, Utah 84501; (801) 637–2817. (2) Fair Market Value and Maximum Economic Recovery—R. Max Nielson, Coal Program Leader, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111; (801) 524–5326.

Gene Nodine,

District Manager.

[FR Doc. 83–2821 Filed 1–31–83; 8:45 am]

BILLING CODE 4310–84–M

[M 11512]

Montana; Termination of Classification for Multiple Use Management

January 24, 1983.

1. Pursuant to authority delegated to me, the Bureau of Land Management Multiple Use Classification, published in 35 FR 10040, dated June 18, 1970, and described below is hereby terminated from segregation of the public land laws, generally, and from location and entry under the general mining laws.

Principal Meridian

T. 2 S, R. 2 E.,
Sec. 6, Lots 2, 3, 7, 10 and 13.
Containing 157.18 acres in Gallatin County

2. At 8 a.m. on March 9, 1983, the lands above-described shall be open to operation of the public land laws generally, subject to valid existing rights, the provision of existing withdrawals and the requirements of applicable law. All valid applications received prior to 8 a.m. on March 9, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. All lands in paragraph 1 will be open to location and entry under the general mining laws at 8 a.m. on March 9, 1983. These lands have been, and continue to be, open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Kannon Richards,

Acting State Director.

[FR Doc. 83–2823 Filed 1–31–83; 8:45 am]

BILLING CODE 4310–84–M

[W-73813]

Wyoming; Conveyance; Exchange of Public Lands for Private Lands in the City of Worland, Washakie County

January 21, 1983.

Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976, 43 U.S.C. 1716 (1976), the following described land has been conveyed to Cloud Peak Investments, Inc., Worland, Wyoming:

Sixth Principal Meridian, Wyoming

T. 47 N., R. 92 W.,
Sec. 30, Parcel A.
Containing 7.65 acres.

In exchange for the above land, the United States acquired the following described land from Cloud Peak Investments, Inc. within the City of Worland for the new BLM Worland District Office Site:

Sixth Principal Meridian, Wyoming

T. 47 N., R. 92 W.,
Sec. 30, Parcel C.
Containing .471 acres.

David A. Pomerinke,

Acting Chief, Branch of Land Resources.

[FR Doc. 83–2822 Filed 1–31–83; 8:45 am]

BILLING CODE 4310–84–M

Realty Action; Lands Suitable for Sale, Public Lands in Shasta County, California

Classification Decision

Notice is hereby given that the I.O.O.F. Lodge #75 has submitted an application to purchase 1.12 acres of public land for expansion of the existing French Gulch Cemetery.

The following described land has been examined and classified as suitable for lease or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.).

Shasta County, California

T. 33 N., R. 7 W., M.D.M.,
Sec. 22, portion of Lot 9 as shown on Exhibit A.
The tract contains 1.12 acres.

This decision/notice is based on the following reasons:

1. The lands have been found to be valuable for public purposes.

2. The land is not of national significance and not essential to any Bureau of Land Management Program.

3. The proposed use is in conformance with existing land use plans.

4. The proposed action will have no significant (including controversial) effects on the human and natural

environment. (Environmental Assessment RE–83–15).

5. The classification and sale of the land to the I.O.O.F. is in conformance with the Secretary of the Interior's "Good Neighbor Program."

Classification of these lands under the provisions of the Recreation and Public Purposes Act will segregate them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws and applications under the Recreation and Public Purposes Act.

Petition for classification CA 12930 is approved as to the land described on Exhibit "A." The petitioner is the I.O.O.F. Lodge #75, through the Recreation and Public Purposes Act, as amended.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Area Manager, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Bureau of Land Management.

Dated: January 17, 1983.

Robert J. Bainbridge,

Redding Area Manager.

Exhibit A

The subject land adjoins the present cemetery and lies directly to the west. Conforming with the present north-south measurement of 163 feet and a westerly extension of 300 feet containing approximately 1.12 acres.

[FR Doc. 83–2686 Filed 1–31–83; 8:45 am]

BILLING CODE 4310–84–M

Las Vegas District, Grazing Advisory Board, Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Las Vegas District Grazing Advisory Board will be held on March 10, 1983, at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 4765 W. Vegas Drive, Las Vegas, Nevada.

The agenda for the meeting will include: (1) BLM's new range improvement policy and grazing regulations; (2) water policy/implementation; (3) FY83 and FY84 range improvement projects; (4) Clark County EIS-MIC-MFP 3; (5) Wilderness EIS process; (6) Frontier 500 post race analysis; (7) U.S. Fish and Wildlife protest of the Final Clark County EIS; (8) FY83 budget-inability to CRMP Clark County this FY; (9) Forego land decision mail; (10) Review MIC recommendations for Clark County allotments.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 p.m. and 4:15 p.m. on the date of the meeting or file written statements for the Board's consideration before or during the meeting. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 4765 West Vegas Drive, Las Vegas, NV. 89126 (P.O. Box 26569) by March 10, 1983. Depending on the number of persons wishing to make an oral statement, the District Manager may establish a per person time limit.

Summary minutes of the Board meeting will be maintained at the District Office. They will be available for public inspection and reproduction (during regular business hours) within thirty days after the meeting.

Date: January 21, 1983.

Kemp Conn,

District Manager.

[FR Doc. 83–2687 Filed 1–31–83; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS 0246 and 0247, Blocks 101 and 102, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 26, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–2624 Filed 1–31–83; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 21, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the interior, Washington, DC 20243. Written comments should be submitted by February 16, 1983.

Carol D. Shull,

Chief of Registration, National Register.

CALIFORNIA

Butte County

Chico, *Silberstein Park Building,* 426, 430, 434 Broadway

Orange County

San Clemente, *Easley, Oscar, Block,* 101 El Camino Real

GEORGIA

Charlton County

Folkston vicinity, *Hopkins, John M., Cabin,* SW of Folkston, off GA 121/23

ILLINOIS

Cook County

Chicago, *Calumet Plant, R. R. Donnelley & Sons Company,* 350 E. 22nd St.

Chicago, *Sheffield Historic District (Boundary Increase),* Montana, Altgeld Sts. and Southport Ave.

Skokie, *Harrer Building,* 8051 Lincoln Ave.

INDIANA

Elkhart County

Goshen, *Goshen Carnegie Public Library,* 202 N. 5th St.

Goshen, *Goshen Historic District,* Bounded by Pike, RR, Cottage, Plymouth, Main, Purl, the Canal, and Second Sts.

Vanderburgh County

Evansville, *Boehne, John W., House,* 1119 Lincoln Ave.

IOWA

Linn County

Cedar Rapids, *Iowa Building,* 21 Fourth Ave., SE

Cedar Rapids. *Lattner Auditorium Building,* 217 Fourth Ave. SE

Polk County

West Des Moines, *Valley Junction-West Des Moines City Hall and Engine House,* 137 Fifth St.

KENTUCKY

Pendleton County

Falmouth, *Applegate, Leslie T., House (Falmouth MRA),* 410 Maple St.
Falmouth, *Bishop House (Falmouth MRA),* 200 Fourth St.
Falmouth, *Central Falmouth Historic District (Falmouth MRA),* Roughly bounded by Shelby, 2nd, Montjoy, and Main Sts.
Falmouth, *Charity's House (Falmouth MRA),* 108 Montjoy St.
Falmouth, *Chipman House (Falmouth MRA),* 901 Shelby St.
Falmouth, *House at 206 Park Street (Falmouth MRA),* 206 Park St.
Falmouth, *Hughes, Elzev, House (Falmouth MRA),* 308 Second St.
Falmouth, *Jameson, George W., House (Falmouth MRA),* 306 Park St.
Falmouth, *Kellum House (Falmouth MRA),* 714 Shelby St.
Falmouth, *McBride House (Falmouth MRA),* 401 Main St.
Falmouth, *Oldham Plantation (Falmouth MRA),* KY 159
Falmouth, *Pendleton House (Falmouth MRA),* 506 W. Shelby St.
Falmouth, *Reed, Frederick, House (Falmouth MRA),* 405 Broad St.
Falmouth, *Seaman Sisters' House (Falmouth MRA),* 706 Shelby St.
Falmouth, *Sheehan House (Falmouth MRA),* 206 N. Maple St.
Falmouth, *Southgate House (Falmouth MRA),* 106 Montjoy St.
Falmouth, *Watson Store (Falmouth MRA),* 504 W. Shelby St.

LOUISIANA

Ascension Parish

Burnside vicinity, *Tezcuco,* S of Burnside on River Rd.

MICHIGAN

Ionia County

Muir, *Muir Church of Christ,* 138 Garden St.

Wayne County

Detroit, *Vinton Building,* 600 Woodward Ave.

MISSOURI

Jackson County

Kansas City, *City Bank Building,* 1801 Grand Ave.

Marion County

Hannibal, *Ebert-Dulany House,* 1000 Center St.

NEW MEXICO

Grant County

Silver City, *Silver City Historic District North Addition,* Roughly bounded by the San Vicente Arroyo, College Ave., Chloride and 13th Sts.

NORTH CAROLINA

Polk County

Tryon vicinity, *Mill-Screven Plantation,* NE of Tryon on SR 1509

OHIO

Guernsey County

Cambridge, *Broom Building,* 701 Wheeling Ave.

Hamilton County

Cincinnati, *Cincinnati Gymnasium and Athletic Club,* 111 Shillito Pl.
Cincinnati, *East Walnut Hills Firehouse,* Madison Rd. and Hackberry St.

TENNESSEE

Giles County

Waco vicinity, *White, Elisha, House,* W of Waco on Yokley Rd.

VERMONT

Windham County

Brattleboro, *Brattleboro Downtown Historic District,* Main St. from Vernon to Walnut, Flat, Elliot, High, and Grove Sts.

VIRGINIA

Lynchburg (Independent City)

Wood, J. W., Building, 23–27 Ninth St.

Roanoke (Independent City)

Colonial National Bank, 202–208 Jefferson St.

[FR Doc 83-2581 Filed 1-31-83: 8 45 am]
BILLING CODE 4310-70-M

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7:30 p.m., c.s.t., on February 23, 1983, at the Jefferson Parish Council Chambers, 3330 North Causeway Boulevard, Metairie, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95–265, Section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, and in the development and implementation of a general management plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The matters to be discussed at this meeting include:

—Coordination of construction schedules with the Jefferson and St. Bernard Parishes, City of New Orleans, and Louisiana State Agencies
—Land Protection Plan.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, c/o Municipal Auditorium, 1201 St. Peter's Street, New Orleans, Louisiana 70116, telephone, area code 504 589–3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: January 17, 1983.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 83-2723 Filed 1-31-83: 8:45 am]
BILLING CODE 4310-70-M

Office of the Secretary

Water Project Cost Sharing; Request for Public Comments

The Administration is considering a new policy of Federal water project cost sharing. The Interior Department seeks ideas and suggestions from the interested public on this issue. Written ideas and suggestions are invited to be submitted on or before March 18, 1983. Comments should be addressed to the Director, Office of Water Policy, U.S. Department of the Interior, Washington, D.C. 20240.

Dated: January 25, 1983.

James G. Watt,

Secretary.

[FR Doc. 83-2587 Filed 1-31-83: 8:45 am]
BILLING CODE 4310-10-M

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INTERSTATE COMMERCE COMMISSION

[Ex Parte 431]

Adoption of the Uniform Railroad Costing System for Determining Variable Costs for Purposes of Surcharge and Jurisdictional Threshold Calculations

AGENCY: Interstate Commerce Commission.

ACTION: Notice of available of decision.

SUMMARY: The Commission is considering the formal adoption of the Uniform Railroad Costing System (URCS) for the specified purposes of determining variable costs in computing surcharges under 49 U.S.C. 10705a and making jurisdictional threshold determinations under 49 U.S.C. 10709. Comments on this proposal and related issues are invited.

DATE: Comments are due 120 days from **Federal Register** publication.

ADDRESS: An original and 15 copies should be sent to: Interstate Commerce Commission, Room 5340, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Leslie J. Selzer, (202) 275–7627
or
Harold J. Warren, (202) 275–7735

Copies of the full Commission decision and relevant documents concerning the URCS methodology are available from: Interstate Commerce Commission, Room 2215, Washington, D.C. 20423. (202) 275–7428.

SUPPLEMENTARY INFORMATION: 49 U.S.C. 10705a(m)(1) instructs the Commission to use Rail Form A (RFA), or an alternative methodology adopted by the Commission, to make variable cost determinations in computing surcharges under Section 10705a and making jurisdictional threshold determinations under Section 10709. See Section 10709(d)(3).

A standardized approach ensures that the required cost determinations are made in a consistent manner, with a minimum expenditure of time and money.

The purpose of this notice is to obtain comments on the adoption of the Commission's new Uniform Railroad Costing System (URCS) as the exclusive cost method for detemining variable costs under Section 10705a (surcharges) and Section 10709 (jurisdictional threshold determinations). URCS data for 1980 will also be published. Both its use and Rail Form A will be permitted for all regulatory functions other than surcharges and jurisdictional threshold determinations during the rulemaking process. This will give rail cost users and the Commission an opportunity to evaluate URCS in practice. The Commission does not intend to adopt URCS as the exclusive costing methodology for any other purpose. In all other proceedings, parties would be given the opportunity to submit any documented cost evidence.

A full discussion of the issues is contained in the Commission decision, which is available from the Commission.

It does not appear that this action will significantly affect the quality of the human environment or the conservation of energy resources. However, comments on these issues are invited. We also certify that this action will not have a significant effect on a significant number of small entitites participating in these cases is not significant.

(49 U.S.C. 10321, 10705a, 10709, and 5 U.S.C. 553)

Dated: January 21, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-2648 Filed 1-31-83; 8:45 am]
BILLING CODE 7305-01-M

[OP4FC-045]

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Eash transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Note.—Please direct status inquiries to Team 4 at (202) 275–7669.

MC–FC–81067. By decision of January 25, 1983, under 49 U.S.C. 10926 and the Commission's transfer rules at 49 CFR 1181, Review Board Number 1 approved the transfer to ATLANTIC MOTOR EXPRESS, INC., Glen Burnie, MD, of all the authority in Certificate No. MC–123997 and subs thereto, authorizing the transportation of such commodities as are dealt in by wholesale, retail and chain grocery and food business houses, and, in connection therewith, materials, equipment and supplies, between points in WV, except those within 10 miles of Oakland, MD, over regular and irregular routes, general commodities (with exceptions) and specific commodities, over named routes and between points in DE, MD, PA, VA, WV and DC, glass containers, closures, boxes, and materials, equipment and supplies, between named facilities at or near Keyser, WV, and Baltimore, MD, on the one hand, and, on the other, points in CT, GA, DE, IL, IN, KY, MD, MI, MS, OH, NJ, NY, NC, PA, SC, TN, VA, WV, WI and DC, specific commodities, between the facilities of the Clorox Co. at or near Frederick and Baltimore, MD, on the one hand, and, on the other, points in DE, NJ, PA, NY, VA, NC, OH and KY, and general commodities (with exceptions), for the U.S. Government, between points in the U.S. Representative: Maxwell A. Howell, 1511 K St., NW, Washington, DC 20005.

Note.—Transferee has filed a directly-related application for an initial grant of motor common carrier authority in MC–165717, published elsewhere in this same FR issue.

MC–FC–81075, filed December 2, 1982. By decision of January 25, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board

Number 3 approved the transfer to DEMCO TRANSPORT, INC., of Wheeling, WV, of Certificate No. MC-40456 (Sub-No. 16), issued January 19, 1981, to JOHN BENKART & SONS CO., of Pittsburgh, PA, authorizing the transportation of *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), for the United States Government, between points in the U.S.; MC-40456 (Sub-No. 17)X, issued August 12, 1982, authorizing the transportation of (A) *machinery, metal products, and those commodities which because of their size or weight require the use of special handling or equipment*, (1) between specified points in PA, and (2) between specified points in PA, on the one hand, and, on the other, points in MD, WV, and OH, and named points in NJ, and NY, (B) *those commodities requiring the use of special handling or equipment*, (1) between named points in PA, on the one hand, and, on the other, points in the Southern Peninsula of MI, points in OH, WV, DE, NJ, and named points in NY, (2) between points in OH, on the one hand, and, on the other, points in WV, and (3) between points in the Southern Peninsula of MI, on the one hand, and, on the other, named points in NJ and NY, and points in WV and MD; and MC-40456 E-letter notices (Sub-Nos. E2 through E14), published in the **Federal Register** issue of October 31, 1974, as pertinent, authorizing the transportation of *commodities which because of size or weight require special handling or equipment*, between points in OH, NJ, DE, MD, WV, NY, and MI. Representative: John A. Pillar, 1500 Bank Tower, 307 4th Ave., Pittsburgh, PA 15222, for transferor. Condition: The authority under No. MC-40456 and No. MC-40456 (Sub-No. E1) will be cancelled as requested by transferor.

MC-FC-81105, by decision of January 24, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181. Review Board Number 3 approved the transfer to HARRY PHILLIP JAMES, d.b.a. P. J. TRANSPORTATION, San Leandro, CA, of Certificate No. MC-159876, issued July 8, 1982, and Permit No. MC-159876 (Sub-No. 1), issued August 30, 1982, to K-K JR. TRUCKING, A DIVISION OF K-K JR. ENTERPRISES, INC., San Leandro, CA, authorizing the transportation in certificate of *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between San Francisco, CA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY; and in permit of *magazines, scrap or waste paper* for recycling, and *such commodities* as are manufactured, dealt in or used by printing and publishing plants and houses, between points in the U.S. (except AK and HI), under continuing contract(s) with Pacific Press, Inc., Division of Arcata Graphics, of Vernon, CA. Representative: Clayton W. Brunsell, 500 Financial Center Bldg., Oakland, CA 94612, for both transferee and transferor.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-2848 Filed 1-31-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwards; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major reulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involoving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922 (c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly. Please direct status inquiries to Team One at (202) 275–7992.

Volume No. OPI-37

Decided: January 25, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 1540 (Sub-18), Filed January 14, 1983. Applicant: P & J FURNITURE DELIVERY, INC., R.D. 10, Box 468; York, PA 17404. Pepresentative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *furniture and fixtures and appliances*, between points in PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 117940 (Sub-374), filed January 18, 1983. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359, (612) 479–1984. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Montgomery Ward & Company, of Chicago, IL.

MC 124951 (Sub-46), filed January 30, 1982. Applicant: WATHEN TRANSPORT, INC., P.O. Box 237, Henderson, KY 42420. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101, (502) 781–6595. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 143501 (Sub-15), filed January 14, 1983. Applicant: R.G.C. CARGO CARRIERS, INC., 16651 S. Vincennes Road, S. Holland, IL 60473. Representative: Steven T. Blomberg, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S (except AK and HI), under continuing contract(s) with ITT Continental Baking Company, Inc., of Rye, NY

MC 146891 (Sub-6), filed January 7, 1983. Applicant: A & G EXPRESS, INC., 2700 Palmyra Road, P.O. Box 1974, Albany, GA 31702. Representative: Norman L. Underwood, 1400 Candler Bldg., 127 Peachtree Street, NE., Atlanta, GA 30043, (404) 658–8108. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except OR, WA, ID, MT, WY, SD, ND, AK and HI).

MC 165250, filed January 14, 1983. Applicant: B A R TRANSPORTATION, INC., P.O. Box 863, Calhoun, GA 30701. Representative: Mark S. Gray, 1006 South Tower, 225 Peachtree St., N.E., Atlanta, GA 30303, (404) 523–1717. Transporting *such commodities* as are dealt in by automobile supply stores, *textile mill products*, and *metal products*, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2-039

Decided: January 24, 1983.

By the Commission, Review Board No 3, Members Krock, Joyce, and Dowell.

MC 52793 (Sub-118), filed December 28, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Research Cottrell, of Sommerville, NJ.

MC 89734 (Sub-76) (correction), filed November 16, 1982, published in the **Federal Register** issue of December 2, 1982, and republished, as corrected, this issue. Applicant: MISSOURI PACIFIC TRUCK LINES, INC., 210 N. 13 th St., St. Louis, MO 63103. Representative: Michael Thompson (same address as applicant); (314) 622–2011. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between points in CA, CT, DE, FL, GA, ID, ME, MD, MA, MI, MN, MT, NV, NH, NJ, NY, NC, ND, OR, PA, RI, SC, SD, UT, VT, VA, WA, WV, WI, WY, and DC, on the one hand, and on the other, points in AL, AZ, AR, CO, IL, IN, IA, KS, KY, LA, MS, MO, NE, NM, OH, OK, TN, and TX, and (2) between points in AL, AZ, CA, CT, DE, FL, GA, IN, ID, IA, KY, ME, MD, MA, MT, MI, MN, NV, NH, NJ, NY, NC, ND, OH, OR, PA, RI, SC, SD, UT, VT, VA, WA, WV, WI, WY, and DC.

Note.—The purpose of this correction is to reflect "DC" in part (1) of the territorial description before " on the one hand, and, on the other," instead of at the end of part (1).

MC 126253 (Sub-7), filed January 4, 1983. Applicant: WESTERN MASS. BUS LINES, INC., SERVICE CENTER, Northampton, MA 01060. Representative: David M. Marshall, Sixth Floor, 95 State St., Springfield, MA 01103; 413–732–1136. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

Volume OP2-042

Decided: January 25, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 8933 (Sub-4), filed January 13, 1982. Applicant: ART KOHLER TRUCKING, INC.,P.O.Box 68, Audubon, MN 56511. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701)237–4223. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 52793 (Sub-120), filed January 11, 1983. Applicant: BEKINS VAN LINES CO., 333 South Center St. Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), (312) 547–2184. Transporting *exhibits and displays*, between points in the U.S.(except AK and HI), under continuing contract(s) with Society of Manufacturing Engineers, of Dearborn, MI.

MC 58902 (Sub-24), filed January 10, 1983. Applicant: MANLEY TRUCK LINE, INC., 9300 West 110th St., Suite 560, Overland Park, KS 66210. Representative: A. J. Whisler, P.O. Box 25428, Overland Park, KS 66225, (913) 642–2331. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, ND, OH, OK, SD, TN, TX, WI, and WY.

MC 81133 (Sub-6), filed January 7, 1983. Applicant: CORKERY FUEL & MATERIALS COMPANY, 1017 Mary Candace Lane, St. Louis, MO 63125. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *coal*, between points in IL and MO.

MC 118612 (Sub-19), filed January 3, 1983. Applicant: COLUMBIA TRUCKING, INC., 700 131st Place, Hammond, IN 46320. Representative: Richard A. Kerwin, 180 North La Salle St., Suite 3520, Chicago, IL 60601, (312) 332–5106. Transporting *petroleum products*, between points in Lake County, IN, on the one hand, and, on the other, points in IL.

MC 123793 (Sub-1), filed January 18, 1983. Applicant: JAMES H. CLARK &

SON, INC., 4100 S. 500 W., Salt Lake City, UT 84115. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting (1) *flour and grain products,* between points in UT, on the one hand, and, on the other, points in CA, CO, ID, IL, NV, TX, AZ, OR, and WA, and (2) *bananas,* between points in Los Angeles County, CA, and Galveston County, TX, on the one hand, and, on the other, points in CA, AR, NM, NE, OR, WA, ID, MT, WY, UT, CO, ND, SD, KS, OK, TX, MN, WI, IA, MO, AZ, LA, IL, and NV.

MC 125973 (Sub-11), filed January 11, 1983. Applicant: CROWN WAREHOUSE & TRANSPORTATION COMPANY, INC., 710 East 9th Ave., P.O. Box M799A, Gary, IN 46401. Representative: Leonard R. Kofkin, Suite 1515, 140 South Dearborn St., Chicago, IL 60603, (312) 580–2210. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Wickman Traffic Service, Inc., of Western Springs, IL, (b) Specialty Paper Company, of Dayton, OH, (c) G. Pierce Toy Manufacturing Co., of Chicago, IL, (d) United Coatings, Inc., of Chicago, IL, and (e) Hardy Salt Company, of St. Louis, MO.

MC 146102 (Sub-5), filed January 5, 1983. Applicant: TAMWAY CORPORATION, P.O. Box 771, Simpsonville, SC 29681. Representative: Tammy Hill, 401 Poinsettia Dr., Simpsonville, SC 29681, 803–963–4644. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in GA, NC, and SC, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 147873 (Sub-5), filed January 17, 1983. Applicant: G. BAKER EXPRESS, INC., 1250 Executive Place, Suite 402; Geneva, IL 60134. Representative: Joel H. Steiner, 135 S. LaSalle St., Suite 2106, Chicago, IL 60603, 312–236–9375. Transporting *metal products, machinery, and rubber and plastic products,* between points in AZ, CA, CO, IL, IN, MA, MI, MO, NC, OH, OR, PA, TX, and VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150273 (Sub-3), filed January 6, 1983. Applicant: TRANSIT SERVICING, INC., 8121–C East 34 Rd., Cadillac, MI 49601. Representative: Burton A. Hines, Sr., 121 North Mitchell St., Cadillac, MI 49601, (616) 775–8513. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Grand Rapids, MI, on the one hand, and, on the other, points in the Upper Penninsula of MI and those points in the Lower Peninsula of MI north of U.S. Hwy. 21.

MC 150682 (Sub-3), filed January 10, 1983. Applicant: KEDASHAW, INC., P.O. Box 246, Kensington, KS 66951. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603, 913–232–0601. Transporting *food and related products,* between points in Cloud, Mitchell, Phillips, and Russell Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151642 (Sub-2), filed January 6, 1983. Applicant: AUBREY L. JONES, d.b.a. JONES TRUCKING SERVICE, Stewardson, IL 62463. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *fertilizer,* between points in IL and KY.

MC 155022 (Sub-6), filed January 13, 1983. Applicant: PROCHNOW FARMS, INC., Route 5, Medford, WI 54451. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *chemicals and related products,* between points in Williams County, ND, and Manistee County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158583 (Sub-2), filed January 17, 1983. Applicant: RICHARDS BROS. TRANSPORT, LTD., Route 4, Box 293, Fort Atkinson, WI 53538. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd.; Madison, WI 53719, (608) 273–1003. Transporting *petroleum products,* between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Cambeck Petroleum Corporation, of Janesville, WI (b) Edgerton Oasis, Inc., of Edgerton, WI, (c) Hamsphire Fuel Stop, Inc., of Edgerton, WI, and (d) Johnson Lions, Inc., of Janesville, WI.

MC 164313, filed January 10, 1983. Applicant: QUALITY MULCH COMPANY, INC., Rte. 1, Box 203, Hamlet, NC 28345. Representative: Jack L. Schiller, 111 56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NC and SC, on the one hand, and, on the other, points in AL, AR, AZ, CA, CT, DE, FL, GA, IA, IL, IN, KY, LA, MA, MD, ME, MI, MO, MS, NC, NH, NJ, NM, NY, OH, OR, PA, RI, SC, TN, TX, UT, VA, VT, WA, WI, and WV.

MC 165392, filed December 22, 1982. Applicant: SKYWAY TRANSPORTATION, INC., 390 St. Paul Ave., Jersey City, NJ 07306. Representative: Ken Wilson, 167 Sylvan Rd. Bloomfield, NJ 07003, 201–338–5753. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between New York, NY and Philadelphia, PA, on the one hand, and, on the other, points in NJ, NY, and those in Fairfield and New Haven, CT.

MC 165443, filed December 27, 1982. Applicant: VINCENT TRUCKING, INC., P.O. Box 68, Alpine, AL 35014. Representative: Larry Vincent (same address as applicant), 205–268–2884. Transporting *farm equipment,* between points in AL, GA, TN, FL, MS, NC, SC, KY, OH, and IN.

MC 165493, filed January 5, 1983. Applicant: DAKOTA WOOD TRUSS, INC., 1321 South 12th St., Bismarck, ND 58501. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *Lumber and wood products,* between points in ID, MT, OR, and WA, on the one hand, and, on the other, points in IL, IA, MN, NE, ND, SD, and WI.

MC 165522, filed January 3, 1983. Applicant: BETTER COIL & TRANSFORMER CORP., P.O. Box 470, Goodland, IN 47948. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 638–1301. Transporting (1) *metal products,* between points in the U.S., under continuing contract(s) with Capitol Products Corporation, of Mechanicsburg, PA, and (2) *electronic equipment and toys,* between points in the U.S., under continuing contract(s) with Dejay Corporation, of Holbrook, MA, and Klenatron Company, Inc., of Ipswich, MA.

MC 165633, filed January 11, 1983. Applicant: THOMPSON TRUCKING, INC., 3741 Ashley Phosphate Rd., Charleston, SC 29410. Representative: William Thompson, (same address as applicant), (803) 552–5400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Charleston and Greenville, SC, and Atlanta and Savannah, GA, on the one hand, and, on the other, points in FL, TX, LA, GA, NC, SC, TN, AL, CA, OH, MA, VA, PA, IL, NJ, MO, and KS.

MC 165712, filed January 14, 1983. Applicant: ENCINAL TRUCKING, INC., 1521 Buena Vista Ave., Alameda, CA 94501. Representative: Mr. Chengben (Peter) Wang (same address as applicant), (415) 523–8800. Transporting

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general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, on the one hand, and, on the other, points in CA, OR, WA, ID, MT, UT, WY, CO, NM, AZ, and NV.

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–27

Decided: January 25, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 163985, filed January 6, 1983. Applicant: DOTTS TRUCKING, Rt. 2, Box 172, Colville, WA 99114. Representative: Grant A. Dotts, Sr. (same address as applicant), (509) 684–3142. Transporting (1) *beer and wine*, between points in CA, on the one hand, and, on the other, points in WA, under continuing contract(s) with North Columbia Distributors of Colville, WA and (2) *machines*, between points in OR, NV and CA, under continuing contract(s) with Colmac Industries, Inc. of Colville, WA.

MC 165515, filed January 4, 1983. Applicant: D J TRANSPORT, INC., 4931 Myra Ave., Cypress, CA 90630. Representative: Donald W. Eldridge (same address as applicant), (714) 827–8541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with D & N Enterprises, of Hawaiian Gardens, CA, A & E Products Group, A & E Plastik Pak Co., and Tepper Ind., d.b.a. Romanezue Spas, all of Santa Ana, CA, INPAC, Pacific Expanded Metals, and Berglund Perforated Metals, all of Santa Fe Springs, CA, Arrow Machine Products, of Terrell, TX, Com-Pak International Inc., of Garden Grove, CA, Holley Carburetor, of Goodlettsville, TN, Roll A Flex Doors, Inc., and E. G. M. Financial Planners, both of Anaheim, CA, State Industries, Inc., of Ashland City, TN, Patterson Lift Trucks Inc., of Oakland, CA, Rickert International Trading Co., of Richmond, CA, R & W Lift Trucks, Inc., of La Mirada, CA, and Orchid Paper Products Concel, Inc., of La Palma, CA.

MC 165584, filed January 10, 1983. Applicant: MICHAEL F. MANN, d.b.a., CHEMTRANS, 2099 W. 3950 S., Roy, UT 84067. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Van Waters & Rogers, division of Univar Corporation, of Salt Lake City, UT.

MC 165605, filed January 10, 1983. Applicant: GODFREY EXPRESS, INC., 1600 Washington Ave., P.O. Box 1051, Alton, IL 62002. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102, (314) 421–0845. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MO and IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *commodities in bulk*, between points in Greene County, IL, on the one hand, and, on the other, points in IL, IN, IA, and MO.

MC 165614, filed January 10, 1983. Applicant: BIG STATE FREIGHT LINES, INC., 2451 Stemmons Freeway, Dallas, TX 75207. Representative: Lawrence A. Winkle, Suite 1125, Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in TX.

MC 165615, filed January 11, 1983. Applicant: GRUNTHANER TOWING, INC., 2916 Union Rd., Cheektowaga, NY 14227. Representative: Michael A. Wargula, 128 Sherburn Dr., Hamburg, NY 14075, (716) 648–0481. Transporting *disabled, repossessed, stolen*, and *abandoned motor vehicles*, and *replacement vehicles*, between points in NY, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, MO, AR, and LA.

MC 165645, filed January 11, 1983. Applicant: DANIEL D. KADERABEK, d.b.a. KADERABEK TRUCKING, 2110 David Ave., Sheboyan, WI 53081. Representative: Harold O. Orlofske, 145 West Wisconsin Ave., P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting *food and related products*, between points in Brown, Calumet, Door, Manitowoc, Ozaukee, and Sheboygan Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–041

Decided: January 24, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 152117 (Sub-3), filed January 17, 1983. Applicant: LITTLE GINNY TRANSPORT SYSTEMS, INC., 1112 29th Ave., S.W., Cedar Rapids, IA 52408. Representative: Virginia A. Wilson (same address as applicant), Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of grocery and food business houses, *metal products*, and *machinery*, between points in Cedar Rapids, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *pulp, paper and related products, printed matter, rubber and plastic products, petroleum, natural gas and their products*, between points in AL, AR, IL, IA, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (3) *metal products*, between Cedar Rapids, IA, and Minneapolis, MN, and points in Jasper and Poweskiek Counties, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152257 (Sub-4), filed January 17, 1983. Applicant: LORDCO TRUCKING, INC., 535–F Tollgate Rd., Elgin, IL 60120. Representative: Paul J. Maton, 27 East Monroe St., Suite 1000, Chicago, IL 60603, (312) 332–9095. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Z & Z Distributing Company, of Toledo, OH.

MC 156707 (Sub-2), filed January 17, 1983. Applicant: MWK TRANSPORT CO., INC., 5401 West Donges Bay Rd., Mequon, WI 53092. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Carson, Pirie, Scott & Company, of Chicago, IL.

MC 162006, filed January 17, 1983. Applicant: T & M CONSTRUCTION CO., INC., Box 589, Watonga, OK 73772. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting *oil field commodities*, between points in AR, CO, KS, LA, MS, NM, OK, TX, and WY.

MC 165647, filed January 11, 1983. Applicant: Ronald E. Wray, d.b.a. WRAY TRUCKING CO., Route 1, Box 3, Rocky Mount, VA 24151. Representative: Betty Jo Christian, 1250 Connecticut Ave., Washington, DC 20036, (202) 862–2158. Transporting *general commodities* (except classes A and B explosives and household goods), between points in VA, MD, NC, SC, and GA, on the one hand, and, on the other, points in Sullivan, Knox, and Hamilton Counties, TN, and those in VA, MD, NC, SC, GA, AL, WV, OH, PA, NJ, DE, and DC.

MC 165727, filed January 17, 1983. Applicant: WESTERN NEW YORK TRANSPORTATION & RIGGING CO., 189 McGinnis Rd., Scottsville, NY 14546.

Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580, (716) 671–1021. Transporting *metals and metal products, and machinery, equipment and supplies,* between points in NY, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Sabin Metal, Inc., of Scottsville, NY.

MC 165736, filed January 17, 1983. Applicant: MIDWEST CAR CARRIERS, 303 W. 6th St., Fremont, NE 68025. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (412) 392–1220. Transporting *automoblie and trucks,* between points in NE, IA, MO, MN, ND, SD, CO, KS, OK, TX, IL, IN, AZ, NM, MI, WI, WY, OH, and AR.

MC 165786, filed January 17, 1983. Applicant: DAWN TRANSPORTATION, INC., P.O. Box 1885, Glendale, AZ 85311. Representative: A. Bichael Berstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *textile mill products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Wayn-Tex, Inc., of Waynesboro, VA.

Volume No. OP4–043

Decided: January 26, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 153456, (Sub-1) filed January 21, 1983. Applicant: FRANK KOSAR, d.b.a. RITE WAY TRUCK RENTAL, 2606 Cartwright St., Dallas, TX 75212. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, AZ, CO, CA, GA, ID, LA, MS, NM, OH, OK, OR, TN, TX, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *machinery and equipment,* between points in the U.S. (except AK and HI).

MC 161046 (Sub-2), filed January 20, 1983. Applicant: S & B ENTERPRISES, 273 South 1375 East, Bountiful, UT 84010. Representative: Steve Facer, P.O. Box 639, Bountiful, UT 84010, (801) 292–2984. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 162196 (Sub-1), filed January 21, 1983. Applicant: SUPERIOR INSTALLATION SERVICES, INC., 2034 South Clayton, Denver, CO 80210. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102, (314) 421–0845. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Boise Cascade Corporation, of Boise, ID. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410.

MC 162406 (Sub-2), filed January 20, 1983. Applicant: SFZ TRANSPORTATION, INC., 14600 Detroit Ave., P.O. Box 2675, Lakewood, OH 44107. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 164576, filed January 21, 1983. Applicant: DANIEL L. VANDERHOFF, d.b.a. ALDAN TRUCKING, Fairview Rt., Box 360, Coquille, OR 97423. Representative: Sherril Vanderhoef (same address as applicant), (503) 396–2885. Transporting *carpet, vinyl, and tile floor covering,* between points in GA and AL, on the one hand, and, on the other, points in WA, OR, CA, MT, ID, NV, WY, UT, CO, and AZ.

MC 165717, filed January 14, 1983. Applicant: ATLANTIC MOTOR EXPRESS, INC., 7926 E. Starwood Court, Glen Burnie, MD 21061. Representative: Maxwell A. Howell, 2554 Massachusetts Ave., NW., Washington, DC 20008, (202) 483–8633. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—This application is directly related to MC–FC–81067, published elsewhere in this same **Federal Register** issue.

MC 165757, filed January 18, 1983. Applicant: FOUR WINDS INTERNATIONAL, INC., 7035 Convoy Court, San Diego, CA 92138. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. As a broker to arrange for the transportation of *household goods,* between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2849 Filed 1–31–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter or Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statues and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the

Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legily sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an appliant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Please direct status inquiries to Team 2, (202)275–7030.

Volume No. OP2–043

Decided: January 25, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 24643 (Sub-3), filed January 4, 1983. Applicant: OAK TREE BUS SERVICE, INC., 2091 Oak Tree Rd. Oak Tree, Edison, NJ 08820. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017, (212) 532–5100. Transporting *Passengers,* in charter and special operations, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter, and special transportation.

MC 76022 (Sub-3), filed January 7, 1983. Applicant: COMMUNITY COACH, INC., 315 Howe Ave., Passaic, NJ 07055. Representative: J. G. Dail, Jr., P.O. Box IL, McLean, VA 22101, 703–893–3050. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 109312 (Sub-43), filed January 10, 1983. Applicant: DECAMP BUS LINES, 101 Greenwood Ave., P.O. Box 581, Montclair, NJ 07042. Representative: Robert E. Goldstein, 370 Lexington, Ave., New York, NY 10017, (212) 532–5181. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 156452 (Sub-1), filed January 6, 1983. Applicant: BIRNIE BUS SERVICE, INC., 7944 Upper West Thomas St., P.O. Box 630, Rome, NY 13440. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017, 212–532–5181. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159652 (Sub-1), filed January 3, 1983. Applicant: BELL'S BUS SERVICE, 218 Burns Crossing Rd., Severn, MD 21144. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI, but including AK).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162053 (Sub-1), filed January 5, 1983. Applicant: ADVENTURE CHARTERS AND TOURS, INC., 4328 South Seville St., Las Vegas, NV 89121. Representative: Gary E. Mohler, (same address as applicant), (702) 382–5575. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 163942 (Sub-1), filed January 3, 1983. Applicant: EVERETT MILLER, d.b.a. SHERIDAN READY MIX & HAULING, INC., P.O. Box 205, Sheridan, AR 72150. Representative: Everett Miller (same address as applicant), (501) 942–3656. Transporting *general commodities,* between Sheridan, Carthage, Leola, Poyen, and Fordyce, AR, on the one hand, and, on the other, points in the U.S. Conditions: The certificate to be issued, to the extent it authorizes the transportation of explosives, will be conditioned to expire 5 years from its date of issuance, subject to extension upon appropriate petition. Applicant must certify to the Commission, prior to initiating operations, that all rail service has actually terminated at the involved points. Applicants must send an affidavit marked "Certification of Rail Service Termination" to the Deputy Director, Section of Motor, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 165513, filed January 3, 1983. Applicant: BAST CHARTER COACHES, LTD., W. 201, N. 13900 Fond Du Lac Ave., Richfield, WI 53076. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge, No. 832, Portage, WI 53901, (608) 742–3579. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165533, filed January 6, 1983. Applicant: YELLOW BUS COMPANY, INC., P.O. Box 3610, San Clemente, CA 92672. Representative: Donald R. Hedrick. P.O. Box 4334, Santa Ana, CA 92702, 714–667–8107. Transporting *passengers,* in charter and special operations, beginning and ending at points in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Imperial, and Kern Counties, CA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165573, filed January 7, 1983. Applicant: INDEPENDENT COACH CORP., 25 Wanser Ave., Inwood, NY 11696. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, 212–466–0220. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165622, filed January 11, 1983. Applicant: TAYLOR BUS SERVICE, 917 E. Pacifico, Anaheim, CA 92805. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107). Transporting *passengers,* in charter and special operations, beginning and ending at points in CA, OR, WA, and NV, and extending to points in the U.S. (except AK and HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP2-049

Decided: January 24, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 94742 (Sub-44), filed January 4, 1983. Applicant: MICHAUD BUS LINES, INC., 61-63 Jefferson Ave., Salem, MA 01970. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, 617-235-5571.. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165502, filed January 4, 1983. Applicant: SUPERCOACH, INC., 419 Poplar St., Huntington, IN 46750. Representative: Harold O. Orlofske; P.O. Box 368, Neenah, WI 54956, 414-722-2848. Transporting *passengers,* in charter operations, beginning and ending at points in Adams, Allen, Grant, huntington, Wabash, Wells, and Whitley Counties, IN, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation

MC 165543, filed January 4, 1983. Applicant: SUDDATH TRANSPORTATION SERVICES, INC., P.O. Box 60069, Jacksonville, FL 32205. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW.; Suite 1200. Washington, DC 20036; (202) 785.0024. As a *broker of general commodities* (except household goods), between points in the U.S.

For the following, please direct status calls to Team 3 at 202-275-5223.

Volume No. OP3-26

Decided: January 25, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 146955 (Sub-3), filed January 3, 1983. Applicant: LAMERS BUS LINES, INC., 2407 So. Point Rd., Green Bay, WI 54303. Representative: Stanley C. Olsen, Jr/. 5200 Willson Rd., Suite 307, Edina, MN 55424, (616) 927-8555. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165064, filed December 6, 1983. Applicant: D & L MACHINE WORKS, P.O. Box 925, Hwy. 59 So., Siloam Springs, AR 72761. Representative Luther Gl Pilley (same address as applicant), (501) 524-9479. Transporting (1) *machinery and chemicals and related products,* between points in Benton County, AR, on the one hand, and, on the other, points in CA, (2) transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., (3) transporting *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI) and (4) as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165635, filed January 11, 1983. Applicant: BUS TOURS, INC., 101 E. Albert Dr., Manitowoc, WI 54220. Representative: Robert Brandt (same address as applicant), (414) 682-8823. Transporting *passengers,* in charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

Volume No. OP3-32

Decided: January 25, 1983

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 150354 (Sub-2), filed January 11, 1983. Applicant: BIRDSALL & SERBIN, INC., d.b.a. RSB COACHES, 2021 NW 32 Ave., Box 7037, Rochester, MN 55903. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927-8855. Transporting *passengers,* in charter and special operations, between points in the U S. (except HI).

Note.—Applicant seeks to provide private-funded charter and special transportation.

MC 125765 (Sub-4), filed January 10, 1983. Applicant: HUBERS BUS SERVICE, INC., 103 Wells Ave., Ferndale, Glen Burnie, MD 21061. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., N.W., Washington, D.C. 20005, (202) 783-3525. Transporting *passengers,* in charter and special operations, beginning and ending at points in DE, MD, PA, VA, WV and DC and extending to points in the U.S (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 160554 (Sub-1), filed January 7, 1983. Applicant: M. C. J. COACH LINES, INC., 62 Bouton St., South Norwalk, CT 06854. Representative: John J. Logan (same address as applicant), (203) 226-0458. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164644, filed January 11, 1983. Applicant: WHARRY ENTERPRISES, INC., d.b.a. ADVENTURE SOME COACHES, R.R. #2, P.O. Box 724X, Mulvane, KS 67110. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110-L Topeka, KS 66612, (913) 233-9629. Transporting *passengers* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165595, filed January 10, 1983. Applicant: RED ARROW TRANSPORTATION, INC., 2390 Mill Rd., Alexandria, VA 22314. Representative: Lawrence E. Lindeman; 4660 Kenmore Ave, Suite 1203; Alexandria, VA 22304; (703) 751-2441. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165604, filed January 10, 1983. Applicant: THOMAS D. COLLINS, 904 W. Morgan St., Kokomo, IN 46901. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638-1301. As a *broker* of *general commodities,* (except household goods), between points in the U.S. (except AK and HI).

MC 165624, filed January 11, 1983. Applicant: LEE COACHES, INC., Route 4, Box 259-S, Fredericksburg, VA 22401. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722-2848. Transporting *Passengers,* in charter operations, beginning and ending at points in VA, MD, and DC, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter operations.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-042

Decided: January 24, 1983

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 165737, filed January 17, 1983. Applicant: MITSUI-SOKO (USA), INCORPORATED, One World Trade Center, Suite 1867, New York, NY 10048. Representative: Kenichi Kawanishi (same address as applicant), (212) 432-3451. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165756, filed January 18, 1983. Applicant: ROBERT SALLEE, d.b.a. NORTH VALLEY TRAVEL CLUB, P.O. Box 2691, Marysville, CA 95901. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882-5649. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide parivately-funded charter and special transportation.

MC 165766, filed January 19, 1983. Applicant: TRANS-AMERICA CHARTER COACHES, INC., R.R. 7, Box 433, Marion, IL 62959. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP4-044

Decided: January 26, 1983

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 165796, filed January 17, 1983. Applicant: HOWARD WILLIAMS, 1230 2nd St., Eaton, CO 80615. Representative: Charles J. Kimball, 1600 Sherman St., No. 665, Denver, CO 80203, (303) 839-5856. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165806, filed January 20, 1983. Applicant: EXCO, INC., 24645 State Rd. 23, P.O. Box 2853, South Bend, IN 46680. Representative: Thomas J. Gast (same address as applicant), (219) 289-9211. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 165816, filed January 21, 1983. Applicant: NICHOLAS COMANICI, 221 Thompson Run Rd., Pittsburgh, PA 15235. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471-1800. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2850 Filed 1-31-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15066; OP4F-040]

Motor Carriers; Bradley Freight Lines, Inc.—Merger Exemption—C & C Transport, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed By Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), Bradley Freight Lines, Inc. (No. MC-28803) and C & C Transport, Inc. (No. MC-140614), both motor common carriers, seek an exemption from the requirement under section 11343 of prior regulatory approval for the merger of C & C Transport into Bradley Freight Lines.

DATE: Comment must be received within 30 days after the date of publication in the **Federal Register**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioners' representative: Henry E. Seaton, 929 Pennsylvania Bldg., 13th and Pennsylvania Ave., NW., Washington, D.C. 20004

Comments should refer to No. MC-F-15066.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioners' representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 26, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2861 Filed 1-31-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway, (202) 275-7278
or
Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No	Name of railroad, contract No., and specifics	Review Board[1]	Decided date
662	Atchison, Topeka and Santa Fe Railway Co. ICC-ATSF-C-0029, Supplement 3 (wheat) via the Port of Los Angeles.	2	Jan 25, 1983
671	Atchison, Topeka and Santa Fe Railway So., ICC-ATSF-C-0187 (grain) via TX Ports	1	Do
675	Atchison, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0146 (copper products)	2	Do
689	Burlington Northern Railroad Co., ICC-BN-C-0090 (soda ash)	3	Do
690	Burlington Northern Railroad Co., ICC-BN-C-0023-A (soda ash)	3	Do
691	Burlington Northern Railroad Co., ICC-BN-C-0261 (coal)	1	Do
692	Southern Pacific Transportation Co., ICC-SP-C-0120, Supplement 1 (cotton linters)	2	Do
693	The Baltimore and Ohio Railroad Co., ICC-BO-C-0117 (soda ash).	3	Do
703	Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Debtor, ICC-MILW-C-0213 (sodium carbonate).	1	Do

Sub-No	Name of railroad, contract No., and specifics	Review Board[1]	Decided date
704	Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Debtor, ICC-MILW-C-0330 (iron and/or steel articles)	1	Do
705	Baltimore and Ohio Railroad Co., ICC-BO-C-0119 (bituminous steam coal)	2	Do
706	Union Pacific Railroad Co., ICC-UP-C-0249 (empty privately-owned covered hopper cars)	3	Do
707	Atchison, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0191 (copper rods).	1	Do
708	Consolidated Rail Corp., ICC-CR-C-0271 (grain, viz: barley, rye or wheat)	2	Do
709	The Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0053-A (canned goods).	3	Do
710	Transkentucky Transportation Railroad, Inc., ICC-TTIS-C-0001 (unmanufactured tobacco)	1	Do
711	Missouri Pacific Railroad Co., ICC-MP-C-0232 (wheat flour)	1	Do
712	Soo Line Railroad Co., ICC-SOO-C-0157 (barley and wheat)	2	Do
713	Missouri Pacific Railroad Co., ICC-MP-C-0231 (soybeans)	3	Do
714	Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0076 (any commodity)	1	Do
715	Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0070-A (canned goods).	2	[illegible]

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2552 Filed 1-31-83. 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 11, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 11, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 24th day of January 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
General Motors Corp., Buick Motor Div (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,231	Assemble Buick, engines, transmissions components, trailing axle, plastic parts, metals, hood panels, PBM engine cradle, front & rear coil spring
General Motors Corp., Cadillac Motor Car (UAW)	Livonia, MI	1/14/83	1/11/83	TA-W-14,232	Engines
General Motors Corp., Chevrolet Adrian Plt. (UAW)	Adrian, MI	1/14/83	1/11/83	TA-W-14,233	Plastic automotive components
General Motors Corp., Chevrolet Motor Div. (UAW)	Bay City, MI	1/14/83	1/11/83	TA-W-14,234	Carburetor assemblies, heaters, engine, transmission components, parts and steering
General Motors Corp., Guide-Monroe (UAW)	Monroe, GA	1/14/83	1/11/83	TA-W-14,235	Auto lighting
General Motors Corp., Guide-Anderson (UAW)	Anderson, IN	1/14/83	1/11/83	TA-W-14,236	Auto lighting, plastic molding
General Motors Corp., Oldsmobile Div (UAW)	Lansing, MI	1/14/83	1/11/83	TA-W-14,237	Gear assembly, V-8, V-6, V-8 diesel engine, pressed metal, plastic, tanks, etc
General Motors Corp., Oldsmobile Div (UAW)	Lansing, MI	1/14/83	1/11/83	TA-W-14,238	Forging, axle, differential machinery and assembly tools
General Motors Corp., (UAW)	Pontiac, MI	1/14/83	1/11/83	TA-W-14,239	Automotive products
General Motors Corp., Truck & Bus Group (UAW)	St. Louis, MO	1/14/83	1/11/83	TA-W-14,240	Chevrolet & GMC medium truck
General Motors Corp., Truck & Bus Group (UAW)	Pontiac, MI	1/14/83	1/11/83	TA-W-14,241	Inter-city coaches, school buses, heavy duty trucks medium duty trucks & light duty trucks
General Motors Corp., Truck & Bus Group (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,242	Commercial pick-up, commercial blazers and suburbans
General Motors Corp., Delco Electronics (UAW)	Kokomo, IN	1/14/83	1/11/83	TA-W-14,243	Automotive products-receivers, speakers, air controls, voltage regulators, engine & ignition controls.
General Motors Corp., Delco Electronics (UAW)	Milwaukee, WI	1/14/83	1/11/83	TA-W-14,244	Engine controls, carousel programs, flight management systems, military programs
General Motors Corp., Delco Div (UAW)	Anderson, IN	1/14/83	1/11/83	TA-W-14,245	Starting, lighting & ignition equipment
General Motors Corp., Delco Division (UAW)	Muncie, IN	1/14/83	1/11/83	TA-W-14,246	Batteries
General Motors Corp., Delco Division (UAW)	Olathe, KS	1/14/83	1/11/83	TA-W-14,247	Batteries
General Motors Corp., Delco Division (UAW)	Fitzgerald, GA	1/14/83	1/11/83	TA-W-14,248	Batteries.
General Motors Corp., Delco Div. (UAW)	Albany, GA	1/14/83	1/11/83	TA-W-14,249	Delcotrons
General Motors Corp., Delco Div. (UAW)	Meridian, MS	1/14/83	1/11/83	TA-W-14,250	Starting motors
General Motors Corp., Rochester Products Division (UAW)	Rochester, NY	1/14/83	1/11/83	TA-W-14,251	Fuel systems
General Motors Corp., Rochester Products (UAW)	Tuscaloosa, AL	1/14/83	1/11/83	TA-W-14,252	Carburetor assembly
General Motors Corp., Rochester Products Division (UAW)	Grand Rapids, MI	1/14/83	1/11/83	TA-W-14,253	Automotive parts, diesel fuel injectors, throttle body injection
General Motors Corp., Central Foundry Div., Danville Plt (UAW)	Triton, IL	1/14/83	1/11/83	TA-W-14,254	Malleable & grey iron castings.
General Motors Corp., Central Foundry Division (UAW)	Messera, NY	1/14/83	1/11/83	TA-W-14,255	Aluminum castings
General Motors Corp., Central Foundry Division (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,256	Malleable castings

APPENDIX—Continued

Petitioner (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
General Motors Corp., Central Foundry Division (UAW)	Defiance, OH	1/14/83	1/11/83	TA-W-14,257	Gray iron and modular castings.
General Motors Corp., Central Foundry Division (UAW)	Bedford, IN	1/14/83	1/11/83	TA-W-14,258	Aluminum castings
General Motors Corp., Central Foundry Div. (UAW)	Pontiac, MI	1/14/83	1/11/83	TA-W-14,259	Grey iron castings.
General Motors Corp., Delco Moraine Div (UAW)	Fredericksburg, OH	1/14/83	1/11/83	TA-W-14,260	Automotive components, principally for transmissions
General Motors Corp., Delco Moraine Div (UAW)	Dayton, OH	1/14/83	1/11/83	TA-W-14,261	Automotive components, brake systems, engine bearing & transmission parts.
General Motors Corp., Harrison Radiator Div (UAW)	Buffalo, NY	1/14/83	1/11/83	TA-W-14,262	Radiators—car/truck A/C—car/truck, thermostats, oil coolers.
General Motors Corp., Harrison Radiator Division (UAW)	Lockport, NY	1/14/83	1/11/83	TA-W-14,263	Radiators—car/truck; A/C thermostats—car/truck; oil coolers—car/truck.
General Motors Corp., Hydra-matic (UAW)	Ypsilanti, MI	1/14/83	1/11/83	TA-W-14,264	Automatic transmissions
General Motors Corp., Hydra-matic (UAW)	Warren, MI	1/14/83	1/11/83	TA-W-14,265	Control arms, wheels, T car front suspensions
General Motors Corp., Hydra-matic (UAW)	Three Rivers, MI	1/14/83	1/11/83	TA-W-14,266	Automatic transmissions.
General Motors Corp., New Departure-Hyatt (UAW)	Sandusky, OH	1/14/83	1/11/83	TA-W-14,267	Ball bearings, including pumps, shaft bearings, cylindrical roller bearings, integral wheel-spindle bearings, gas caps
General Motors Corp., New Departure-Hyatt (UAW)	Bristol, CT	1/14/83	1/11/83	TA-W-14,268	Standard ball bearings, roller clutch, precision ball and roller bearings, integral wheel spindle bearings
General Motors Corp., Saginaw Steering Gear Div (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,269	Power steering hoses—instrument panel brackets actuators
General Motors Corp., Saginaw Steering Gear Div (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,270	Power steering gears.
General Motors Corp., Saginaw Steering Gear Div. (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,271	Power steering pumps, manual steering gears, odd model gears, drive vacuum pumps.
General Motors Corp., Saginaw Steering Gear Div (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,272	Propeller shafts—lower control arm shafts—front wheel drive axle.
General Motors Corp., Saginaw Steering Gear Div (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,273	Air pumps, front wheel axles, idler arm assemblies
General Motors Corp., Saginaw Steering Gear Div (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,274	Standard steering columns, adjustable steering columns, immediate shafts.
General Motors Corp., Saginaw Steering Gear Div (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,275	Rack and pinion manual gears, rack and pinion power gears, immediate shafts
General Motors Corp., Saginaw Steering Gear Div (UAW)	Athens, AL	1/14/83	1/11/83	TA-W-14,276	Power steering gears, power steering pumps, rack and pinion power gears.
General Motors Corp., Saginaw Steering Gear Div (UAW)	Athens, AL	1/14/83	1/11/83	TA-W-14,277	Air pumps, intermediate shafts
General Motors Corp., Saginaw Steering Gear Div (UAW)	Athens, AL	1/14/83	1/11/83	TA-W-14,278	Front wheel drive axles
General Motors Corp., Detroit Diesel Allison Div (UAW)	Indianapolis, IN	1/14/83	1/11/83	TA-W-14,279	Diesel engines, gas turbine engines, transmission and service parts
General Motors Corp., Detroit Diesel Allison Div (UAW)	Detroit, MI	1/14/83	1/11/83	TA-W-14,280	Diesel engines service parts.
General Motors Corp., Electro-Motive Div (UAW)	Harahan, IN	1/14/83	1/11/83	TA-W-14,281	Parts warehouse
General Motors Corp., Electro-Motive Div (UAW)	Halethorpe, MD	1/14/83	1/11/83	TA-W-14,282	Rebuild branch
General Motors Corp., Electro-Motive Div (UAW)	St. Paul, MN	1/14/83	1/11/83	TA-W-14,283	Parts warehouse
General Motors Corp., Electro-Motive Div (UAW)	Hazelwood, MO	1/14/83	1/11/83	TA-W-14,284	Rebuild branch
General Motors Corp., Electro-Motive Div (UAW)	Fort Worth, TX	1/14/83	1/11/83	TA-W-14,285	Parts warehouse
General Motors Corp., Electro-Motive Div (UAW)	Omaha, NE	1/14/83	1/11/83	TA-W-14,286	Parts warehouse
General Motors Corp., AC Spark Plug (UAW)	Wichita Falls, TX	1/14/83	1/11/83	TA-W-14,287	Exhaust oxygen sensor
General Motors Corp., AC Spark Plug Div (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,288	Spark plugs, fuel pumps, air, oil, gas filters, clusters, gages, switches, other misc. components
General Motors Corp., Chevrolet Motor Div., Parma Plant (UAW).	Cleveland, OH	1/14/83	1/11/83	TA-W-14,289	Pressed metal hoods, fenders, etc., transmission components, propeller shafts
General Motors Corp., Chevrolet Tonawanda Motor Div. (UAW)	Buffalo, NY	1/14/83	1/11/83	TA-W-14,290	Castings for engines and brake drums
General Motors Corp., Electro-Motive Div. (UAW)	La Grange, IL	1/14/83	1/11/83	TA-W-14,291	Diesel electric locomotives
General Motors Corp., Electro-Motive Div (UAW)	La Grange, IL	1/14/83	1/11/83	TA-W-14,292	Diesel electric locomotives
General Motors Corp., Electro-Motive Div. (UAW)	Atlanta, GA	1/14/83	1/11/83	TA-W-14,293	Parts warehouse
General Motors Corp., Electro-Motive Div (UAW)	Jacksonville, FL	1/14/83	1/11/83	TA-W-14,294	Rebuild branch
General Motors Corp., Electro-Motive Div (UAW)	Commerce, CA	1/14/83	1/11/83	TA-W-14,295	Parts warehouse & rebuild branch
General Motors Corp., Detroit Diesel Allison Div. Detroit Operations Mfg. Plant (UAW)	Romulus, MI	1/14/83	1/11/83	TA-W-14,296	Diesel engines/service parts.
General Motors Corp., Detroit Diesel Allison Div Detroit Operations Parts Dist. (UAW)	Romulus, MI	1/14/83	1/11/83	TA-W-14,297	Service parts warehouse and shipment
General Motors Corp., Chevrolet Tonawanda Motor Div Forge Plt. (UAW)	Buffalo, NY	1/14/83	1/11/83	TA-W-14,298	Forged component parts.
General Motors Corp., Chevrolet Tonawanda Motor Div Motor Plt. (UAW)	Buffalo, NY	1/14/83	1/11/83	TA-W-14,299	Engines
General Motors Corp., Chevrolet Motor Div GMC Transmission Plt. (UAW)	Toledo, OH	1/14/83	1/11/83	TA-W-14,300	700R—4 speed transmission 350–3 Speed trans component parts only
General Motors Corp., Chevrolet-Muncie (UAW)	Muncie, IN	1/14/83	1/11/83	TA-W-14,301	Manual transmissions 4 & 3 speed
General Motors Corp., Chevrolet-Motor Div Livonia Plant (UAW)	Livonia, MI	1/14/83	1/11/83	TA-W-14,302	Bumpers, coil springs, leaf springs, miscellaneous stampings
General Motors Corp., Chevrolet-Indianapolis Plant (UAW)	Indianapolis, MN	1/14/83	1/11/83	TA-W-14,303	Automotive metal stampings
General Motors Corp., Chevrolet Motor Div Metal Fabricating Plant (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,304	Hoods & fenders for (A-malibu, B-Reg. pass T-Chevette, F-Camaro, ck 10–30 comm) (2) frames for A-Spec-Pont, buick, olds & X-chev, Pont, buick, olds
General Motors Corp., Chevrolet Flint Manufacturing (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,305	Manufacture of engines & pressed metal & plastic automotive components
General Motors Corp., Flint Engine Plant Chevrolet Motor (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,306	4 cyl & 8 cyl gasoline-engines used in passenger areas and trucks
General Motors Corp., Chevrolet Detroit Plants (UAW)	Flint, MI	1/14/83	1/11/83	TA-W-14,307	Gears, axles, forgings, truck assembly
General Motors Corp. Chevrolet Center Office (UAW)	Warren, MI	1/14/83	1/11/83	TA-W-14,308	None—non-productive maintenance employees
General Motors Corp., Chevrolet Engineering Center (UAW)	Warren, MI	1/14/83	1/11/83	TA-W-14,309	None—non-productive employees working on engineering changes
General Motors Corp., Chevrolet-Buffalo	Buffalo, NY	1/14/83	1/11/83	TA-W-14,310	Rear axle asm steering linkage asm t-car steering knuckle
General Motors Corp. Assembly Div	Norwood, OH	1/14/83	1/11/83	TA-W-14,311	Chevrolet—Camaro, Pontiac—Firebird
General Motors Corp. Assembly Plant (UAW)	Oklahoma City, OK	1/14/83	1/11/83	TA-W-14,312	Chev. X, Chev A, Buick A.
General Motors Corp. Assembly Div (UAW)	Shreveport, LA	1/14/83	1/11/83	TA-W-14,313	Chev, GMC S. S. Truck
General Motors Corp. Assembly Div (UAW)	S. Gate, CA	1/14/83	1/11/83	TA-W-14,314	Chev, Olds Bucks, Cadillacs
General Motors Corp. Assembly Div (UAW)	Van Nuys, CA	1/14/83	1/11/83	TA-W-14,315	Chev Pontiac J
General Motors Corp. Assembly Div (UAW)	Wilmington, DE	1/14/83	1/11/83	TA-W-14,316	Chevette
General Motors Corp. Assembly Div (UAW)	Arlington, TX	1/14/83	1/11/83	TA-W-14,317	Buick, Chevrolet, GMC
General Motors Corp. Assembly Div (UAW)	Baltimore, MD	1/14/83	1/11/83	TA-W-14,318	Chevrolet, Pontiac
General Motors Corp. Assembly Div (UAW)	Bowling Green, KY	1/14/83	1/11/83	TA-W-14,319	Corvette

APPENDIX—Continued

Petitioner (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
General Motors Corp., Assembly Div. (UAW)	Doraville, GA	1/14/83	1/11/83	TA-W-14,320	Olds, Buick.
General Motors Corp., Assembly Div. (UAW)	Kansas City, KS	1/14/83	1/11/83	TA-W-14,321	Buick, Olds, Chev.
General Motors Corp., Assembly Div. (UAW)	Framingham MA	1/14/83	1/11/83	TA-W-14,322	Buicks, Olds, Chev., Pontiac.
General Motors Corp., Assembly Div. (UAW)	Janesville, WI	1/14/83	1/11/83	TA-W-14,323	Chevrolet, Chevrolet & GMC Trucks, Cadillac.
General Motors Corp., Leeds Plant (UAW)	Kansas City,KS	1/14/83	1/11/83	TA-W-14,324	Buick & Chev A special, Pontiac J Body Olds.
General Motors Corp., Assembly Div. (UAW)	Linden, NJ	1/14/83	1/11/83	TA-W-14,325	Cadillac "E", "K", Olds "E", Buicks "E"
General Motors Corp., Assembly Div. (UAW)	Warren, OH	1/14/83	1/11/83	TA-W-14,326	J-Cavalier & Pontiac 2000 G. Van Chev & GMC
General Motors Corp., Warehousing & Distribution Div (UAW).	Jacksonville, FL	1/14/83	1/11/83	TA-W-14,327	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW)	Santa Fe Springs, CA	1/14/83	1/11/83	TA-W-14,328	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div (UAW).	Portland, OR	1/14/83	1/11/83	TA-W-14,329	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW).	Baltimore, MD	1/14/83	1/11/83	TA-W-14,330	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div (UAW).	Buffalo, NY	1/14/83	1/11/83	TA-W-14,331	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div (UAW).	Broadview, IL	1/14/83	1/11/83	TA-W-14,332	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div (UAW).	Denver, CO	1/14/83	1/11/83	TA-W-14,333	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div (UAW)	Sharonville, OH	1/14/83	1/11/83	TA-W-14,334	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div. (UAW)	Atlanta, GA	1/14/83	1/11/83	TA-W-14,335	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW)	Dallas, TX	1/14/83	1/11/83	TA-W-14,336	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW).	Lenexa, KS	1/14/83	1/11/83	TA-W-14,337	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div (UAW).	Minneapolis, MN	1/14/83	1/11/83	TA-W-14,338	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div (UAW)	St. Louis, MO	1/14/83	1/11/83	TA-W-14,339	Auto hardware parts, accy.
General Motors Corp., Warehousing & Distribution Div (UAW).	Flint, MI	1/14/83	1/11/83	TA-W-14,340	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW)	Bethpage, NY	1/14/83	1/11/83	TA-W-14,341	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div. (UAW)	Cleveland, OH	1/14/83	1/11/83	TA-W-14,342	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div. (UAW).	Houston, TX	1/14/83	1/11/83	TA-W-14,343	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div. (UAW)	Boston, MA	1/14/83	1/11/83	TA-W-14,344	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div. (UAW).	Memphis, TN	1/14/83	1/11/83	TA-W-14,345	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div. (UAW)	Richmond, VA	1/14/83	1/11/83	TA-W-14,346	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div. (UAW).	Philadelphia, PA	1/14/83	1/11/83	TA-W-14,347	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW).	Sparks, NV	1/14/83	1/11/83	TA-W-14,348	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW).	Livonia, MI	1/14/83	1/11/83	TA-W-14,349	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW).	Newark, NJ	1/14/83	1/11/83	TA-W-14,350	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div. (UAW)	Atlanta, GA	1/14/83	1/11/83	TA-W-14,351	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div. (UAW)	Martinsburg, WV	1/14/83	1/11/83	TA-W-14,352	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW)	No. Brunswick, NJ	1/14/83	1/11/83	TA-W-14,353	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW)	Dallas, TX	1/14/83	1/11/83	TA-W-14,354	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW)	Columbus, OH	1/14/83	1/11/83	TA-W-14,355	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div. (UAW).	Pittsburgh, PA	1/14/83	1/11/83	TA-W-14,356	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW)	Chicago, IL	1/14/83	1/11/83	TA-W-14,357	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW).	Dallas, TX	1/14/83	1/11/83	TA-W-14,358	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div. (UAW)	Denver CO	1/14/83	1/11/83	TA-W-14,359	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW).	Atlanta, GA	1/14/83	1/11/83	TA-W-14,360	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW).	Kansas City, KS	1/14/83	1/11/83	TA-W-14,361	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW).	Pontiac, MI	1/14/83	1/11/83	TA-W-14,362	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW).	Lansing, MI	1/14/83	1/11/83	TA-W-14,363	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW).	Drayton Plains, MI	1/14/83	1/11/83	TA-W-14,364	Auto hardware parts, accy
General Motors Corp., Warehousing & Distribution Div (UAW).	Belleville, MI	1/14/83	1/11/83	TA-W-14,365	Auto hardware parts, accy
Campbell Industries, Inc. (IAM & AW)	San Diego, CA	1/20/83	1/17/83	TA-W-14,366	Boats—tuna.
Kitt Energy Corp. (Workers)	Meadow Lands, PA	1/18/83	1/17/83	TA-W-14,367	Coal—mining.
Miglo Corp. (company)	So. Lake Worth, FL	1/17/83	1/08/83	TA-W-14,368	Clothing—ladies.
Hoover Universal, Inc., Ball & Roller Div. (USWA)	Erwin, TN	1/14/83	1/10/83	TA-W-14,369	Balls & rollers—industrial
Midway Mfg. & Supply Inc. (workers)	Odessa, TX	1/17/83	12/31/82	TA-W-14,370	Equipment, drilling, oil, mining.

APPENDIX—Continued

Petitioner (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Jeffrey Chain Operations, Dresser Industries, Inc. (workers).	Morristown, TN	1/07/83	1/04/83	TA-W-14,371	Chains all types.
Electronic Interconnect Systems, Inc. (workers)	S. Hadley, MA	1/19/83	1/10/83	TA-W-14,372	Cables, wire & systems interconnect
Uniroyal Tire Co., Uniroyal Distribution Center (workers)	Troy, MI	11/16/82	11/08/82	TA-W-14,373	Tires & distribution.
General Motors Corp., Cadillac Motor Car (UAW)	Detroit, MI	1/14/83	1/11/83	TA-W-14,374	Auto assembly
General Motors Corp., Saginaw Chevrolet Plants (UAW)	Saginaw, MI	1/14/83	1/11/83	TA-W-14,375	Auto & truck components.

[FR Doc. 83-2714 Filed 1-31-83; 8:45 am]
BILLING CODE 4510-29-M

Mine Safety and Health Administration

[Docket No. M-82-102-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1101-8 (water sprinkler systems; arrangement of sprinklers) to its Bailey Mine (I.D. No. 36-07230) located in Greene County, Pennsylvania, and its Buchanan No. 1 Mine (I.D. No. 44-04856) and Buchanan No. 2 Mine (I.D. No. 44-04857), both located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that at least one sprinkler be installed above each belt drive, belt take-up, electrical control, and gear reducing unit, and that individual sprinklers be installed at intervals of no more than 8 feet along all conveyor branch lines.

2. As an alternative method, petitioner proposes the use of a single line of automatic sprinklers for its fire protection system at main and secondary belt-conveyor drives. Automatic sprinklers on the proposed single line will be maintained at a distance of not more than 10 feet apart, so that the discharge of water will extend over the belt drive, belt take-up, electrical control, and gear reducing unit. During operation of the system, water pressure will not be less than 10 psi. Petitioner believes that since the orifice opening of the automatic sprinklers is one-half inch, a strainer is not necessary.

3. Petitioner further states that the proposed alternative method will be more reliable. The second branch line required by the standard is vulnerable to damage from material which may fall off the belt, thereby reducing the system reliability and operability.

4. The proposed alternative method would reduce the amount of piping needed, making it practical to fully fill the system with antifreeze, which is critical since winter air temperatures can fall below freezing in these mines. A test to ensure proper operation will be conducted during the installation of each new system and during repair or replacement of any critical part.

5. Petitioner states that the proposed alternative method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 3, 1983. Copies of the petition are available for inspection at that address.

Dated: January 25, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-2719 Filed 1-31-83; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-82-113-C]

Imperial Colliery Co.; Petition for Modification of Application of Mandatory Safety Standard

Imperial Colliery Company, P.O. Box 8, Burnwell, Virginia 25034 has filed a petition to modify the application of 30 CFR 75.1714-2 (self-rescue devices; use and location requirements) to its No. 14 Mine (I.D. No. 46-01344) located in Kanawha County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that self-contained self-rescue (SCSR) devices be carried by miners on all mantrips into and out of the mine.

2. Neither methane nor areas of oxygen deficiency have been encountered in the mine over the past 20 years; no record of any mine fires exists. Miners are transported to the working sections by track-mounted and rubber-tired vehicles. These trips usually take less than 30 minutes.

3. Petitioner states that requiring miners to carry SCSRs on mantrips would result in a diminution of safety because:

a. The SCSRs are big, bulky and awkward, creating additional hazards for the miners who will have to carry and/or move them to and from mantrips. The use of the SCSRs would expose these workers to additional work around moving vehicles and force them to perform additional pulling, pushing, lifting, and handling;

b. The increased physical stress caused by carrying and moving SCSRs will increase employee fatigue and increase the chances of an accident;

c. Due to the design of the mine, with track or roadway and belt in the same entry for much of the mine, the SCSRs will be carried in low seam and narrow clearance areas. This could cause injury if the SCSRs get caught in moving machinery or if employees carrying them are forced against various pieces of moving machinery; and

d. There is little or no room on the mantrips for carrying or securing the SCSRs, increasing the potential for overcrowded mantrips and the hazard of flying objects should the mantrip come to a sudden stop.

4. As an alternative method, petitioner proposes to store the SCSRs on each section in accordance with a specified storage plan while miners are on mantrips. Filter-type rescuers will be worn by miners at all times.

5. Petitioner states that the alternative method outlined above will provide the same degree of safety for the miners

affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 3, 1983. Copies of the petition are available for inspection at that address.

Dated: January 25, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-2718 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-114-C]

Milburn Colliery Co.; Petition for Modification of Application of Mandatory Safety Standard

Milburn Colliery Company, P.O. Box 8, Burnwell, West Virginia 25034 has filed a petition to modify the application 30 CFR 75.1714-2 (self-rescue devices; use and location requirements) to its No. 4 Mine (I.D. No. 46-01296) located in Fayette County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that self-contained self-rescue (SCSR) devices be carried by miners on all mantrips into and out of the mine.

2. Neither methane nor areas of oxygen deficiency have been encountered in the mine over the past 20 years; no record of any mine fires exists. Miners are transported to the working sections by tract-mounted and rubber-tired vehicles. These trips usually take less than 30 minutes.

3. Petitioner states that requiring miners to carry SCSRs on mantrips would result in a diminution of safety because:

a. The SCSRs are big, bulky and awkward, creating additional hazards for the miners who will have to carry and/or move them to and from mantrips. The use of the SCSR's would expose these workers to additional work around moving vehicles and force them to perform additional pulling, pushing, lifting, and handling;

b. The increased physical stress caused by carrying and moving SCSRs will increase employee fatigue and increase the chances of an accident;

c. Due to the design of the mine, with track or roadway and belt in the same entry for much of the mine, the SCSRs will be carried in low seam and narrow clearance areas. This could cause injury if the SCSR's get caught in moving machinery, or if employees carrying them are forced against various pieces of moving machinery; and

d. There is little or no room on the mantrips for carrying or securing the SCSRs, increasing the potential for overcrowded mantrips and the hazard of flying objects should the mantrip come to a sudden stop.

4. As an alternative method, petitioner proposes to store the SCSRs on each section in accordance with a specified storage plan while miners are on mantrips. Filter-type rescuers will be worn by miners at all times.

5. Petitioner states that the alternative method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 30, 1983. Copies of the petition are available for inspection at that address.

Dated: January 25, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-2716 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-125-C]

Morgan Mining Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Morgan Mining Company, Inc., P.O. Drawer W, Haysi, Virginia 24256 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 4 Mine (I.D. No. 44-05480) located in Dickenson County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The average height of the coal seam is 47 inches, with uneven floor conditions.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies could strike and dislodge the roof support system. Further, canopies restrict the equipment operator's visibility, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 3, 1983. Copies of the petition are available for inspection at that address.

Dated: January 25, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-2717 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-33-M]

Rio Algom Corp.; Petition for Modification of Application of Mandatory Safety Standard

Rio Algom Corporation, LaSal route, Moab, Utah 84532 has filed a petition to modify the application of 30 CFR 57.21-97 (blasts in gassy mines) to its Lisbon Mine (I.D. No. 42-00677) located in Grand County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that blasts in gassy mines be initiated electrically and multiple-shot blasts be initiated only with millisecond-delay detonators.

2. As an alernative method, petitioner proposes to use regular electric blasting detonators in lieu of millisecond-delay detonators.

3. Petitioner states that due to the physical characteristics of a blast using millisecond-delay detonators, broken rock is being thrown much further back from the face. Timber supports are damaged and the ventilation tubing that directs fresh air to the face has to be

removed to a point beyond reach of the broken rock. Miners are then exposed to less clean air than they would be if the tubing could be left installed closer to the face, as can be done when using standard delay electric blasting detonators. In addition, millisecond-delay detonators cause extensive damage to ventilation ducts and bulkheads. The use of the standard delay detonator will allow a safer and healthier work environment after a blast.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 3, 1983. Copies of the petition are available for inspection at that address.

Dated: January 24, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 33-2715 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-34-M]

Rio Algom Corp.; Petition for Modification of Application of Mandatory Safety Standard

Rio Algom Corporation, LaSal Route, Moab, Utah 84532 has filed a petition to modify the application of 30 CFR 57.21-58 (overcasts and undercasts) to its Lisbon Mine (I.D. No. 42-00677) located in Grand County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that overcasts and undercasts be constructed tightly of incombustible material.

2. The mine's ore body is situated on the northeastern flank of the faulted Lisbon Valley anticline at an approximate depth of 2,500 feet. The depth of the ore and the location near the fault create more ground movement than a mine nearer the surface. With this ground movement, the use of cinderblocks, concrete or steel would not only create undue problems with installation, but would prove unsatisfactory from the crushing effect of ground movement.

3. Solid, substantial material has been used for stoppings in crosscuts and other installations that control ventilation airflows. The exposed surfaces are treated to be fire-resistant; those stoppings are not constructed of incombustible material because the material mined is not combustible.

4. Petitioner states that using incombustible materials to maintain ventilation control would result in a diminution of safety because these materials would crack, break, or fall down due to the closure experienced with the openings at the depth mined.

5. As an alternative method, petitioner proposes to maintain the present overcasts, constructed for 8 by 8 inch timber with headboards or squeeze blocks as a framework to absorb the ground movement, and 2 by 12 inch lagging with all exposed surfaces rendered incombustible.

6. For these reasons, petitioner requests a modification of the standard. 84Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 3, 1983. Copies of the petition are available for inspection at the address.

Dated: January 24, 1983. 06Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-2721 Filed 1-31-83; 8:45 am]

BILLING CODE 4510-43-M

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under Section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either or both of the following: That an alternative method exists at the petitioner's mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard to the petitioner's mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register**. Final decisions on these petitions are based upon the petitioner's statement, comments and information submitted by interested persons and a field investigation of the conditions at the petitioner's mine. The Secretary has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon the petitioner's compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: The petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 25, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION

Docket No	FEDERAL REGISTER notice	Petitioner	Regulations affected	Summary of findings
M-81-152-C	47 FR 6504	R C. & R Coal Co	30 CFR 75 1400	Proposed operation of mancage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connection device considered acceptable alternative method of compliance. Granted with conditions.
M-81-191-C	47 FR 65021	Old Ben Coal Co	30 CFR 75 503	Proposed use of a hinged metal locking device in lieu of padlocks for the purpose of locking battery plugs to battery-tray receptacle on permissible, mobile, battery-powered machines considered acceptable alternative method of compliance Granted with conditions.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	FEDERAL REGISTER notice	Petitioner	Regulations affected	Summary of findings
M-81-246-C	47 FR 7897	Sewell Coal Co	30 CFR 75.1105	Petitioner's proposal to ventilate a rectifier and a transformer directly by intake air in lieu of coursing the air directly into the return airway with specified safeguards considered acceptable alternative method. Granted with conditions
M-81-266-C	47 FR 8897	New Way Coal Co	30 CFR 75.301	Proposed airflow reduction in petitioner's mine which would maintain a safe and healthful atmosphere considered acceptable alternative method of compliance. Granted with conditions
M-81-269-C	47 FR 13434	Peabody Coal Co	30 CFR 75.1710	When truss bolts are installed at 45 degree angle, the ATRS does not fit firmly against the roof; petitioner's proposal to install rail bars instead of truss bolts or wait until the area to be trussed is no longer inby the last open crosscut considered acceptable alternative method. Granted with conditions.
M-81-273-C	47 FR 6503	Amherst Coal Co	30 CFR 75.305	Due to numerous roof falls, petitioner's proposal to establish and maintain three specified air measuring stations considered acceptable alternative method. Granted with conditions.
M-82-2-C	47 FR 13435	Valley Camp Coal Co	30 CFR 75.305	Due to roof falls, petitioner's proposal to monitor oxygen deficiency, methane accumulation and the rate of air flow in the return air course from two evaluation points at both edges of the fall area considered acceptable alternative method. Granted with conditions.
M-82-5-C	47 FR 44896	BCNR Mining Corp	30 CFR 75.305	Due to adverse roof conditions, petitioner's proposal to establish and maintain specified ventilation monitoring stations considered acceptable alternative method. Granted in part with conditions.
M-82-10-C	47 FR 14238	South Hopkins Coal Co	30 CFR 75.803	Petitioner's proposal to install a ground field bed of less than 4 ohms to earth at the site of the oil circuit breaker for the mine and to visually inspect the full length of this line on a weekly basis considered acceptable alternative method of compliance. Granted with conditions.
M-82-12-C	47 FR 15932	South Hopkins Coal Co	30 CFR 75.1710	Use of cabs or canopies on certain mining equipment in specified low mining heights would result in a diminution of safety. Granted with conditions
M-82-13-C	47 FR 12402	Alabama By-Products Corp	30 CFR 49.6(a)(2)	Petitioner's proposed alternative to ensure that liquid oxygen be available to all operations within two hours ground travel time in lieu of storing it onsite considered acceptable alternative method of compliance. Granted with conditions
M-82-15-C	47 FR 13434	Raven Coal Co	30 CFR 75.301	Proposed airflow reduction in petitioner's mine which would maintain a safe and healthful atmosphere considered acceptable alternative method of compliance. Granted with conditions.
M-82-19-C	47 FR 13062	Consolidation Coal Co	30 CFR 75.1105	Enclosing pumps in fireproof housing structures with automatic fire suppression devices considered acceptable alternative method of compliance. Granted with conditions
M-82-29-C	47 FR 16912	Laurel Run Mining Co	30 CFR 49.6(a)(1)	Equipping the mine rescue station with six self-contained oxygen breathing apparatus and maintaining an agreement with a fully equipped backup team located 15 minutes ground travel time from the mine considered acceptable alternative method. Granted with conditions.
M-82-30-C	47 FR 13432	Kanawha Coal Co	30 CFR 75.1710	Use of cabs or canopies in specified low mining heights would result in a diminution of safety. Granted with conditions
M-82-32-C	47 FR 18078	Cimarron Coal Corp	30 CFR 77.803	In lieu of monitoring continuously the grounding circuit to assure continuity, petitioner's proposal to place an oil circuit breaker and ground check monitor on the trail cable at the end of the overland circuit with specified safeguards considered acceptable alternative method of compliance. Granted with conditions
M-82-34-C	47 FR 19252	Old Ben Coal Co	30 CFR 75.902	Proposal to distribute power in an underground shop through the use of a standard panel box with specified safeguards and precautions considered acceptable alternative method of compliance. Granted upon compliance with conditions
M-82-38-C	47 FR 22240	Angela Mining Co	30 CFR 75.1710	Use of cabs or canopies in specified low mining heights would result in a diminution of safety. Granted with conditions.
M-82-42-C	47 FR 24482	Island Creek Coal Co.	30 CFR 75.507-1(a)	Proposed use of nonpermissible 20 h.p. 460 V Franklin Electric submergible pump to drain water from the sump beneath the No. 1 return air shaft considered acceptable alternative method. Granted with conditions
M-82-45-C	47 FR 21323	Quarto Mining Co	30 CFR 75.305	Due to adverse roof conditions, petitioner's proposal to establish and maintain specified ventilation monitoring stations considered acceptable alternative method. Granted in part with conditions.
M-82-50-C	47 FR 24486	Youghiogheny and Ohio Coal Co.	30 CFR 75.1101-8	Petitioner's proposal to use a single overhead pipe sprinkler system with specified safeguards and conditions considered acceptable alternative method of compliance. Granted with conditions
M-82-55-C	47 FR 27640	Sahara Coal Co., Inc	30 CFR 75.503	Proposed use of a threaded bolt device in lieu of a padlock to secure screw caps in place on plugs of a battery-operated scoop tractor considered acceptable alternative method. Granted with conditions
M-82-67-C	47 FR 33566	Old Ben Coal Co	30 CFR 75.1700	Proposed plan to plug and mine through abandoned oil and gas wells considered acceptable alternative method to leaving coal barriers around the wells. Granted with conditions
M-79-21-M	44 FR 45789	Sunshine Mining Co	30 CFR 57.12-82	Use of armored cables with external conductive sheath considered acceptable alternative method of compliance. Granted with conditions
M-79-23-M	44 FR 49801	Hecla Mining Co	30 CFR 57.19-71	Allowing workers to ride in skips or buckets with supplies, materials or tools during shaft sinking and repair operations to prevent unattended materials from falling down the shaft on top of workers below, with specified safeguards, considered acceptable alternative method. Granted with conditions
M-80-27-M	45 FR 14965	Cominco American, Inc	30 CFR 57.4-61B	Petitioner's proposal to adjust the main fan so that any smoke generated by a fire, should one occur, would be removed directly from the mine considered acceptable alternative method. Granted with conditions.
M-80-33-M	45 FR 17285	Cominco American, Inc	30 CFR 57.4-61A	Petitioner's proposal to adjust the main fan so that any smoke generated by a fire, should one occur, would be removed directly from the mine in lieu of installing fire doors considered acceptable alternative method of compliance. Granted with conditions.
M-80-94-M	45 FR 61399	Rio Blanco Oil Shale Co	30 CFR 57.19-54	Petitioner's proposal to use plane steel guide ropes on mancage to transport miners into and out of the mine considered acceptable alternative method. Granted with conditions.
M-81-27-M	46 FR 34861	United States Steel Corp	30 CFR 55.16-2(c)	Proposed maintenance and inspection of bins in compliance with specified job procedures considered acceptable alternative method. Granted with conditions.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	FEDERAL REGISTER notice	Petitioner	Regulations affected	Summary of findings
M-81-72-M	47 FR 8898	Ziegler Chemical and Mineral Corp	30 CFR 57.19-3	Use of a seven belt pulley drive mechanism on a personnel hoist with specified safeguards considered acceptable alternative method. Granted with conditions.
M-82-20-M	47 FR 24485	Union Oil Co. of California	30 CFR 57.15-31(a)	Allowing employees to enter and exit underground change rooms and office complex through a specially constructed and illuminated adit without carrying or wearing a self-rescue device considered acceptable alternative method. Granted with conditions.
M-82-21-M	47 FR 24485	Union Oil Co. of California	30 CFR 57.17-10	Allowing employees to enter and exit underground change rooms and office complex through a specially constructed and illuminated adit without carrying individual electric lamps considered acceptable alternative method. Granted with conditions.

[FR Doc. 83-2720 Filed 1-31-83; 8:45 am]
BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

Alaska Teamsters Employer Pension Trust et al.; Proposed Exemptions

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Notice to Interested Persons

Within 30 days of the publication of the proposed exemptions in the **Federal Register**, notice of the proposed exemptions will be provided to all interested persons as agreed upon by the applicant and the Department. The notice to interested persons will include a copy of each applicable notice of pendency and a statement informing interested persons of their right to comment.

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Plans Involved

a. *The Alaska Teamsters Employer Pension Trust* is a multi-employer pension plan which covers participants who are employed in over-the-road and local transportation as well as related industries in Alaska. It has approximately 15,500 participants and had assets of $224,409,000 as of February 28, 1981.

b. *The Alaska Laborers Employer Pension Trust* is a multi-employer pension plan which covers participants who are employed in construction and related industries in Alaska. It has approximately 1,929 participants and had assets of $109,000,000 as of December 31, 1980.

c. *The Alaska Hotel and Restaurant Employees Pension Trust* is a multi-employer pension plan covering participants who are employed in Alaska in restaurant, hotel and cabaret operations and related activities. It has approximately 2,656 participants and had assets of $31,240,631 as of April 30, 1979.

Alaska Teamsters Employer Pension Trust (the Plan) and the Alaska Hotel and Restaurant Employees Pension Trust (the Hotel Plan) Located in Anchorage, Alaska

[Application No. D-2812]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to Carr-Gottstein Properties, Inc. (CGP) by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to CGP for the period from February 5, 1976 to August 9, 1978, and by reason of the Hotel Plan's participation in the loan beginning August 9, 1978.

Effective Date: If the proposed exemption is granted, it will be effective February 5, 1976.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A)

through (D) of the Code, with respect to CGP. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan pursuant to which it agreed to act as investment manager of Plan assets. The Bank is authorized to invest a portion of the Plan's funds held by it in permanent mortgage loans which meet the written criteria of an Investment Services Agreement between the Plan and the Bank.

2. In September 1975, CGP arranged construction financing in the amount of $550,000 for construction of a neighborhood shopping center in Anchorage, Alaska. The construction loan was arranged through the Bank with the funds provided by the Bank. Permanent financing in the amount of $675,000 was also arranged by the Bank on the basis of a commitment from the Plan to acquire the loan.

3. The Bank, prior to issuance of the construction and permanent financing commitments, obtained substantial credit and other information regarding CGP. The Bank also obtained a complete appraisal of the shopping center property showing a value of $900,000. The appraisal was an "as-built" appraisal and assumed that the improvements for which the loan was granted had been completed.

4. The permanent financing was closed on February 5, 1976, after completion of construction, and was secured by a promissory note and a first lien deed of trust. The promissory note bears interest at the rate of 10.5% per annum and calls for equal monthly installments over a period of 25 years. Loan payments have been current throughout the history of the loan.

5. CGP on February 5, 1976 was a wholly-owned subsidiary of Carr-Gottstein Co., Inc. (then known as J. B. Gottstein and Company, Inc.) which was a contributing employer to the Plan at the time of the transaction.

6. Upon becoming aware of the possible prohibited nature of the original transaction, the Bank sold the CGP loan to Capital Consultants, Inc., (Capital) on August 9, 1978. Capital, an investment adviser in Portland, Oregon, acquired the loan on behalf of the Hotel Plan. However, a third-tier subsidiary of CGP, Alaska Catering Company (ACC) was a contributing employer at that time to the Hotel Plan. On May 8, 1979, CGP's second-tier subsidiary sold its interest in ACC to a third party. Thus, after May 8, 1979, no affiliate of CGP had any direct or indirect interest in ACC. Another affiliate of CGP, Carr's Quality Centers, Inc. has also been a contributing employer to the Hotel Plan from the early 1960's to the present.

7. CGP and its affiliates, officers and directors are not and have never been a trustee of the Plan or the Hotel Plan nor have they occupied any other fiduciary relationship with respect to either Plan. CGP was totally unaware of the Plans' interest in the loan.

8. In summary, the applicants represent that the subject transactions meet the criteria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full and on schedule; (2) the applicants had no influence or control over either Plan's involvement in the transactions; and (3) the applicants were unaware of the Plans participation.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D-2813]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to L.J. Carr (Carr), B.J. Gottstein (Gottstein), Carr-Gottstein Co., Inc. (C-G), and Carr-Gottstein Properties, Inc. (CGP) by reason of the Plan's participation beginning October 24, 1975, in a mortgage loan originated by the Alaska Mutual Savings Bank (the Bank) the Carr and Gottstein and in the refinancing of the loan to CGP on December 21, 1977.

Effective Date: If the proposed exemption is granted, it will be effective October 24, 1975.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, with respect to Carr, Gottstein, C-G and CGP. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest mutual savings bank and is regulated by the State of Alaska and the FDIC. The Plan periodically informs the Bank of the availability of Plan funds for investing in permanent mortgages on commercial property located in Alaska. The Bank then selects mortgages from its mortgage pool and submits a package to the Plan. If the purchase is approved by the Plan, it acquires the mortgage or a participating interest therein.

2. On July 12, 1973, the Bank issued a $1,260,000 loan commitment to Carr, Gottstein and 7 L Investors, Inc. (an unrelated corporation) to finance construction of a four story office building at 3rd and K Streets in Anchorage, Alaska. The Property upon which the building was to be constructed was owned 25% by Carr, by Gottstein and 50% by 7 L Investors, Inc. The Bank prior to the issuance of the loan commitment obtained substantial credit and other information regarding the borrowers. A 1976 appraisal of the property shows a value of $2,550,000.

3. The loan was closed on August 2, 1973 to the borrowers as tenants in common and was secured by a promissory note, Deed of Trust and Assignment of Rents. The promissory note bore interest at the rate of 9.5% per annum and called for equal monthly installments over a period of 25 years. Loan payments were current throughout the history of the loan.

4. On October 24, 1975, without the knowledge or consent of the borrowers, the Bank sold a 90% participating interest in the loan to the Plan. The sale occurred at par without a commission or finder's fee. On October 10, 1977, the undivided interests of Carr and Gottstein in the property were sold to CGP.

5. On December 21, 1977, the Bank refinanced the loan. Pursuant to the refinancing, the August 2, 1973 loan was paid in full and a new loan in the amount of $1,785,000 was made. At the time of the refinancing the nine owners of the property were CGP and former shareholders of 7 L Investors, Inc. which had previously dissolved and liquidated its properties.

6. The Note for $1,785,000 was executed by CGP as Maker and C-G as Guarantor. The Deed of Trust was executed by the nine owners as Mortgagor. The loan proceeds were disbursed by the Bank to the nine owners per their ownership percentages.

CGP and C–G were indemnified by the other owners for their pro rata share of the loan. Limited personal guarantees were also given to the Bank by the other owners. The form of the loan was dictated by the Bank's desire for purposes of convenience to look solely to CGP and C–G as the primary obligors. The promissory note bore interest at 10% per annum and calls for equal monthly installments over a period of 25 years. Loan payments are current. The Plan has participated in the refinancing to the extent of a 90% interest evidenced by a participation certificate dated December 27, 1977. As in the original loan transaction, the borrowers were completely unaware of the Plan's participation in the refinancing.

7. CGP was on October 24, 1975, a wholly-owned subsidiary of a contributing employer, J. B. Gottstein and Company, Inc. (an entity organized in 1958 and now known as C–G). On December 21, 1977, CGP was a wholly-owned subsidiary of a contributing employer, J. B. Gottstein and Company, Inc. (an entity newly organized on June 29, 1976 under the old name). Carr and Gottstein were the sole owners of all of the voting stock of J. B. Gottstein and Co., Inc. on October 24, 1975, and of C–G on December 21, 1977. The applicants and their affiliates, officers and directors are not and have never been a trustee of the Plan, nor have they occupied any other fiduciary relationship with respect to the Plan.

8. The sales of participation interests in the original loan and the refinancing were transactions over which the applicants had no control and to which they did not consent. The applicants were not aware of the Plan's possible participation until an Internal Revenue Service audit in the fall of 1980, which revealed the role played by the Plan.

9. In summary, the applicants represent that the subject transactions meet the criteria of section 4975(c)(2) of the Code because: (1) All loan payments have been made in full and on schedule; and (2) the applicants did not know nor had any reason to know of the Plan's involvement in the participations.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number).

Alaska Laborers Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D–2815]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to James and Daris Lundgren (the Lundgrens) by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to the Lundgrens for the period beginning April 16, 1976 through December 30, 1980.

Effective date: If the exemption is granted, it will be effective from April 16, 1976 through December 30, 1980.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to the Lundgrens. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan pursuant to which it agreed to act as investment manager of Plan assets. The Bank is authorized to invest a portion of the Plan's funds held by it as custodian in permanent mortgage loans which meet the written criteria of an agreement between the Plan and the Bank.

2. In 1975, the applicants arranged both construction and permanent financing with the Bank for construction of an industrial and warehouse building located in Fairbanks, Alaska. The interim financing was concluded on February 20, 1976, and is evidenced by a promissory note in the amount of $530,000 to the Bank. Permanent financing was also arranged by the Bank at the same time as the construction loan was closed. Since the loan met all applicable criteria, the Bank as Plan investment manager committed Plan assets to fund the permanent loan.

3. The Bank, prior to issuance of the construction and permanent financing commitments, obtained substantial credit and other information regarding the borrowers. The Bank also obtained a complete appraisal of the property showing a value of $730,000. The appraisal was an "as-built appraisal and assumed that the improvements for which the loan was granted had been constructed.

4. The permanent financing was closed on April 16, 1976, after completion of construction, and was secured by a Promissory Note and a Deed of Trust. The Plan was the sole source of the loan funding. The Promissory Note bears interest at the rate of 10.5% per annum and calls for equal monthly installments over a period of 20 years. Loan payments have been current throughout the history of the loan.

5. At the time of the transaction, the Lundgrens owned 10% of the stock of Lundgren Pacific Construction Company, Inc. (LPCC). Mr Lundgren was also an officer of LPCC. LPCC was a contributing employer to the Plan at the time of the transaction. In 1977, Mr. Lundgren sold his stock interest in LPCC to unrelated persons. Also, since October, 1977, LPCC has not been a contributing employer to the Plan. Mr. Lundgren is not and has never been a trustee of the Plan, nor has he ever occupied any other fiduciary relationship with respect to the Plan.

6. At the time of the transaction, the Lundgrens were unaware of the possible prohibited natute of the transaction. The Bank, when it became aware of the possible prohibited nature of the transaction, repurchased the Lundgren loan from the Plan at par for cash on December 30, 1980.

7. In summary, the applicants represent that the subject transaction meets the criteria of section 4975(c) (2) of the Code because: (1) All loan payments have been made in full and on schedule; (2) the applicants had no influence or control over the Plan's involvement in the transaction; and (3) the applicants were unaware of the possible prohibited nature of the transaction.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Teamsters Plan) and the Alaska Laborers Employer Pension Trust (the Laborers Plan; collectively, the Plans) Located in Anchorage, Alaska

[Application No. D–2818]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c) (2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26,

1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) (1) (A) through (D) of the Code shall not apply to Anchorage Sand & Gravel Company, Inc. (Anchorage) by reason of the participation by the Teamsters Plan in a loan originated by the First Federal Savings and Loan Association (the Association) to Anchorage, effective December 27, 1976, nor to the participation by the Laborers Plan in the loan for the period from December 27, 1976 through May 4, 1979.

Effective Date: If the proposed exemption is granted, it will be effective December 27, 1976.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) (1) (A) through (D) of the Code, with respect to Anchorage. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Association, Alaska's largest savings and loan association, entered an agreement with the Teamsters Plan in 1969 for the purchasing and servicing of mortgage loans and in 1976, the Association entered an agreement with the Laborers Plan for the purchasing and servicing of mortgage loans (the Agreements).

2. Pursuant to the terms of the Agreements, the Plans agreed to maintain funds on account with the Association. The Association was in turn authorized to sell mortgage loans from its portfolio to the Plans which met the written loan criteria of the Plans as set out in the Agreements. In the case of the Teamsters Plan, the National Bank of Alaska, as custodian of the Teamsters Plan, reviewed the appropriateness of the mortgage loans. In the case of the Laborers Plan, the review of the appropriateness of the mortgage loans was undertaken by the Association.

3. On December 27, 1976, the Association closed a loan of $4,000,000 to Anchorage (the Loan). The Loan was secured by a promissory note, a Deed of Trust and Assignment of Rents, and by a UCC Security Agreement on certain property used as collateral for the Loan. The promissory note bears interest at 10.5% per annum and calls for equal monthly installments with a final balloon payment in 12 years. In connection with the Deed of Trust and Assignment of Rents, the Association obtained an appraisal of the real property to be used as security for the Loan. The appraisal, performed by William Wakeland, MAI, SREA, established the fair market value of the real property to be $5,510,000 as of August 2, 1976. With regard to the UCC Security Agreement, the property which is the subject of this agreement was valued at $1,690,000, as estimated by the owner. Thus the total collateral for the Loan was represented to be $7,200,000. Loan payments have been current throughout the history of the Loan.

4. After the Association's letter of commitment to Anchorage, but prior to the closing of the Loan, the Association, relying upon the undertaking of the Plans to purchase mortgage loans, determined to assign a major participating interest in the Loan to the Plans. The Teamsters Plan purchased a 62.50% interest in the Loan and the Laborers Plan purchased a 31.25% interest in the Loan.

5. Anchorage was a contributing employer to the Plans at the time of the closing of the Loan. It had no other relationship to the Plans. Anchorage was not aware of the participation of the Plans in the Loan. All closing documents for the Loan were executed by and in the name of the Association. At no time did the Association disclose to Anchorage the fact that an interest in the Loan had been assigned to the Plans. In fact, the Agreements specifically expressed the intent of the parties that the Plans be isolated from the dealings between the Association and the borrowers insofar as possible.

6. Upon becoming aware of the possible prohibited nature of the Loan, the Association repurchased the Loan from the Laborers Plan on May 4, 1979. The Association has also offered to repurchase the interest of the Teamsters Plan in the Loan. Anchorage did not become aware of the participation by the Plans in the Loan until September 5, 1980, when it was contacted by the Internal Revenue Service.

7. In summary, the applicant represents that the subject transaction satisfies the criteria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full and on schedule; and (2) Anchorage did not know, nor did it have reason to know, of the involvement of the Plans in the Loan.

For further information contact: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523–7462. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D–2819]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to Gavora, Inc. and Mr. and Mrs. V. Paul Gavora by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to Gavora, Inc. for the period beginning May 4, 1977 through August 15, 1978.

Effective dates: If the proposed exemption is granted, it will be effective from May 4, 1977 until August 15, 1978.

Limited scope of exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to Gavora, Inc. and Mr. and Mrs. Gavora. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan which authorizes the Bank to invest a portion of the Plan's funds held by it in permanent mortgage loans which meet the written criteria agreed on by the Bank and the Plan.

2. In early 1976, Gavora, Inc. arranged construction financing in the amount of $6,000,000 for construction of a regional shopping center in Fairbanks, Alaska. The construction was arranged through the Bank with the funds provided by the Bank to the extent of $2.5 million and by Peoples Mortgage Company to the extent of $3.5 million. Permanent financing was also arranged by the Bank at the same time the construction loan was closed. Permanent financing was granted on the basis of commitments from a number of long-term lenders each of whom agreed to acquire a participating interest in the loan. The

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Plan committed for a 58% participating interest in the loan.

3. The Bank, prior to issuance of the construction and permenent financing commitments, obtained substantial credit and other information regarding Gavora, Inc. The Bank also obtained a complete appraisal of the property showing a value of $9,250,000. The appraisal was an "as-built" appraisal and assumed that the improvements for which the loan was granted had been constructed.

4. The permenent financing was closed on May 4, 1977 after completion of construction, and was secured by a promissory note, Deed of Trust and Assignment of Rents, and by a UCC Security Agreement and Financing Statement. Mr. and Mrs. Gavora also personally signed the note. The promissory note bears interest at the rate of 10% per annum and calls for equal monthly installments over a period of 25 years, but the Plan has the right to accelerate the remaining principal and interest in June 1992. Loan payments have been current throughout the history of the loan.

5. At the time of the transaction, Mr. Gavora owned 100% of Gavora, Inc. Mr. Gavora also owned 100% of the stock of Market Basket, Inc (MB) and 79% of the stock of Northland Hub, Inc. (NH). MB and NH were contributing employers to the Plan at the time of the transaction. Mr. Gavora is not and has never been a trustee of the Plan, nor does he occupy any other fiduciary relationship with respect to the Plan.

6. The applicant was unaware at the time of the transaction of its possible prohibited nature. The Bank required Gavora, Inc. to execute a document entitled "Statement Regarding Parties-In-Interest and Disqualified Persons Under ERISA" prior to the closing of the construction and permenent loans. In both instances, the document did not refer to the Plan, but rather to "Nabalaska-180," the Bank's custodial name for the account maintained in the name of the Plan. That fact was not disclosed to Gavora, Inc. or Mr. Gavora. The document did list the names of other pension plans which were participating in the loan.

7. Upon becoming aware of the possible prohibited nature of the transaction, the Bank sold the Gavora loan to an unrelated party at par for cash on August 15, 1978.

8. In summary, the applicant represents that the subject transaction meets the critieria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full and on schedule; (2) the applicant had no influence or control over the Plan's involvement in the transaction; and (3) the applicant was unaware that a party participating in the loan was in fact the Plan.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D–2820]

Proposed exemption

Based on the facts and representatives set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, effective October 24, 1975 through December 30, 1980, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to Spenard Builders Supply, Inc. (Spenard) by reason of the participation by the Plan in a loan originated by the National Bank of Alaska (the Bank) to Spenard.

Effective dates: If the proposed exemption is granted, it will be effective from October 24, 1975 through December 30, 1980.

Limited scope of exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, with respect to Spenard. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank, Alaska's largest financial institution, entered into a custodial agreement (the Agreement) with the Plan in 1967. Pursuant to the Agreement, the Bank is authorized to invest a portion of the Plan's funds held by it in fixed income investments, including permanent mortgage loans which meet certain criteria contained in the Agreement.

2. On August 14, 1974, Spenard obtained a loan of $500,000 (the Loan) from the Bank. The Bank, prior to closing, obtained substantial credit and other information from Spenard. The Bank also obtained a complete appraisal of the real property to be mortgaged as security for the Loan. The appraisal, performned by Simmons & Associates, Inc., established the fair market value of the property to be $1,468,000, as of May 28, 1974. The Loan was secured by a promissory note bearing interest at 10.25% per annum and calling for equal monthly installments over a 15 year period. Loan payments have been current throughout the history of the Loan.

3. On October 24, 1975, the Bank, relying upon the undertaking of the Plan to purchase loans which met the criteria of the Agreement, sold a 25% interest in the Loan at par to itself as custodian for the Plan.

4. Spenard was a contributing employer to the Plan at the time of the closing of the Loan and when the Plan purchased a 25% participation in the Loan. It had no other realtionship to the Plan. Spenard was not aware of the participation of the Plan. All closing documents involved in the Loan were issued in the name of the "National Bank of Alaska as Trustee under Common Trust Fund A." At no time did the Bank disclose to Spenard the fact that an interest in the Loan had been assigned to the Plan. Spenard was not made aware of the Plan's participation in the Loan until an Internal Revenue Service audit in 1980 revealed the role of the Plan.

5. On December 30, 1980, the Bank repurchased the Loan participation from the Plan at par for cash.

6. In summary, the applicant represents that the participation in the Loan satisfies the criteria of section 4975(c)(2) of the Code because: (1) All Loan payments have been made in full and on schedule; and (2) Spenard did not know, nor did it have reason to know, of the involvement of the Plan in the Loan.

For further information contact: Ms. Linda Hamiltion of the Department of Labor, telephone (202) 523–7462. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D–2821]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c) (2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code,

by reason of section 4975(c) (1) (A) through (D) of the Code shall not apply to the Massart Investment Company (MIC), and Keith G. and James E. Massart (the Massarts), by reason of the participation of the Plan in a loan originated by the National Bank of Alaska (the Bank) to MIC for the period beginning May 21, 1975 through December 30, 1980.

Effective date: If the proposed exemption is granted, it will be effective from May 21, 1975 through December 30, 1980.

Limited scope of exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to MIC and the Massarts. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank, Alaska's largest fiancial institution, entered a custodial agreement (the Agreement) with the Plan in 1967. Pursuant to this Agreement, the Bank is authorized to invest a portion of the Plan's funds held by it in fixed income investments, including permanent mortgage loans which meet certain criteria contained in the Agreement.

2. In March 1975, MIC applied to the Bank for long-term financing of a warehouse and official building then under construction. On April 4, 1975, the Bank approved a loan in the amount of $350,000 (the Loan). The Loan was granted on the basis of the Plan's undertaking to purchase the Loan at closing. The financing was closed on May 21, 1975, after completion of construction and was secured by a promissory note and a deed of trust on certain real property to be used as collateral for the Loan.

3. The promissory note bears interest at the rate of 10.5% per annum and calls for equal monthly installments over a period of 25 years. The promissory note was signed by MIC, as a co-partnership, and the Massarts, as co-partners. A complete appraisal was made on the property to be mortgaged. The appraisal, performed by Roger N. Bonnett, M.A.I., established the fair market value of the property to be $500,000 as of January 6, 1975. Loan payments have been current throughout the history of the Loan.

4. MIC and the Massarts are the disqualified persons for whom the exemption is sought. The Massarts were 50% equal co-partners in MIC. James E. Massart also owned 51% of the Massart Company, and Keith G. Massart owned 45% of the Massart Company. At the time of the transaction, the Massert Company was a contributing employer to the Plan. Since June 1977, the Massart Company has ceased to be a contributing employer. The Massarts are not and have never been trustees of the Plan, nor do they occupy any other fiduciary relationship with respect to the Plan.

5. Neither MIC nor the Massarts were aware of the Plan's participation in the Loan until an Internal Revenue Service audit in 1980 revealed the role of the Plan. Neither the Bank nor the Plan disclosed the interest of the Plan. MIC assumed throughout that the source of funds for the Loan was the Bank.

6. On December 30, 1980, the Bank repurchased the Loan at par, for cash, from the Plan.

7. In summary, the applicants represent that the subject transaction satisfies the criteria of section 4975(c) (2) of the Code because: (1) all Loan payments have been made in full and on schedule; and (2) MIC and the Massarts did not know, nor did they have reason to know, of the involvement of the Plan in the Loan.

For further information contact: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523–7462. (This is not a toll-free number.)

The Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D–2824]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, effective December 22, 1976, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the OAR Company (OAR), Donald E. May (May), James D. Moore (Moore) and Letha D. Zuberg (Zuberg) by reason of the Plan's participation in a loan originated by the Alaska Mutual Savings Bank (the Bank) to OAR.

Effective Date: If the proposed exemption is granted, it will be effective December 22, 1976.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, with respect to OAR, May, Moore and Zuberg. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank, Alaska's largest mutual savings bank, entered a written loan participation agreement (the Agreement) with the Plan in 1977. Pursuant to the terms of the Agreement, the Bank selects certain mortgages from its mortgage pool and assembles a package for submission to the Plan. Included in the mortgage package are credit information, appraisals and property and security information. If the purchase of the loan is approved by the Plan, it acquires the mortgage or a participating interest therein.

2. On December 7, 1976, the Bank loaned $328,000 (the Loan) to OAR, a co-partnership comprised of May, Zuberg and Moore. The Loan was secured by a promissory note, deed of trust and assignment of rents executed on behalf of OAR by its partners. The promissory note bore interest at the rate of 10.5% per annum and called for equal monthly payments over a period of 25 years.

3. On December 22, 1976, the Bank sold a 90% interest in the Loan to the Plan. The sale occurred at par without a commission or finder's fee and the interest of the Plan was evidenced by a participation certificate. On August 29, 1977, the amount of the Loan was increased by $80,000, which also bore interest at 10.5% per annum. The Plan also acquired an interest in 90% of the increased loan. Loan payments are current and the Bank is continuing to service the Loan under a servicing contract.

4. OAR is a partnership owned in equal 33⅓% interests by May, Moore and Zuberg. At the time of the Loan transaction, May owned 89.6% of May Contracting, Inc. (May, Inc.). Also, Moore and Zuberg were officers of May, Inc. at that time. May, Inc. was a contributing employer to the Plan at the time of the Loan. The applicants and their affiliates, officers and directors are not, and have never been, trustees of the Plan, nor have they occupied any other fiduciary relationship with respect to the Plan.

5. The applicants were not aware of the Plan's participation in the Loan until March 1978, when they received a letter from the Bank which revealed the role of

the Plan. Prior to March 1978, neither the Bank nor the Plan disclosed the interest of the Plan. The applicants assumed througout that the source of funds for the Loan was the Bank.

6. In summary, the applicants represent that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) all loan payments are current; and (2) the applicants had no knowledge of the Plan's involvement in the participation until after the Loan was consummated.

For further information contract: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523–7462. (This is not a toll-free number.)

Alaska Laborers Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D–2852]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to D&M Rentals (D&M) and James Martin and Don Madsen (the Partners) by reason of the Plan's participation in a mortgage originated by the National Bank of Alaska (the Bank) to D&M, for the period beginning September 1, 1977 through December 31, 1980.

Effective dates: If the proposed exemption is granted, it will be effective from September 1, 1977 through December 31, 1980.

Limited scope of exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to D&M and the Partners. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan pursuant to which it agreed to act as an investment manager of Plan assets. The Bank is authorized to invest a portion of the Plan's funds held by it in permanent mortgage loans which meet the written criteria of an Investment Services and Depository Agreement between the Plan and the Bank.

2. In early 1977, D&M arranged construction financing in the amount of $650,000 for construction of a group of six-plexes in Sitka, Alaska. The construction financing was arranged through the Bank with the funds provided by the Bank. Permanent financing was granted on the basis of commitments from two long-term lenders, each of whom agreed to acquire a participating interest in the loan. The Bank, acting for the Plan, committed for a 25% participating interest, and the state of Alaska Pension Plan committed for a 75% participating interest.

3. The Bank, prior to the issuance of the construction and permanent financing commitments, obtained substantial credit and other information regarding D&M. The Bank also obtained a complete appraisal of the property showing a value of $900,000. The appraisal was an "as-built" appraisal and assumed that the improvements for which the loan was granted had been constructed.

4. The permanent financing was closed on September 1, 1977, after completion of construction, and was secured by a promissory note, Deed of Trust, and by a UCC Security Agreement and Financing Statement. The promissory note bears interest at a rate of 10.25% per annum and calls for equal monthly installments over a period of 25 years. Loan payments have been current throughout the history of the loan.

5. D&M is a co-partnership owned by the Partners. The Partners were also owners of Madsen Development Corp. (Madsen). Madsen's predecessor, Madsen Construction Co., Inc., was a contributing employer to the Plan at the time of the subject transaction. Madsen Construction Co., Inc. was dissolved on March 26, 1981. None of the Partners are, or have ever been, trustees of the Plan nor have they occupied any other fiduciary relationship with respect to the Plan.

6. D&M and Madsen Construction Co., Inc. were assured by the Bank that the transaction was entirely legal and proper. They were not aware of the possible prohibited nature of the transaction until it was brought to their attention by an Internal Revenue Service audit in 1980. The Bank, upon becoming aware of the possible prohibited nature of the transaction and acting as Plan fiduciary, sold the D&M loan at par for cash to an unrelated party on December 31, 1980.

7. In summary, the applicants represent that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) the loan met all applicable criteria contained in the agreement between the Bank and the Plan; (2) all loan payments were made in full and on schedule; and (3) the applicants were assured by the Bank, a Plan fiduciary, that the transaction was legal and were unaware of the possible prohibited nature of the transaction.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

The Alaska Laborers Employer Pension Trust (the Plan) Located,in Anchorage, Alaska

[Application No. D–2855]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to James R. Clinton and Enterprise Co. (Clinton-Enterprise), and the partners of Enterprise Co. (the Partners) by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) which was assumed by Clinton-Enterprise for the period beginning March 23, 1978 through December 30, 1980.

Effective Dates: If the proposed exemption is granted, it will be effective from March 23, 1978 through December 30, 1980.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, with respect to Clinton-Enterprise and the Partners. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan pursuant to which it agreed to act as investment manager of Plan assets. The

Bank is authorized to invest a portion of the Plan's funds held by it in permanent mortgage loans which meet the written criteria of an Investment Services and Depository Agreement between the Plan and the Bank.

2. In early 1976, Mr. and Mrs. Lawrence Curry and Ms. Jane T. Gowan, parties unrelated to the Plan and the applicants, arranged construction and permanent financing with the Bank for construction of a small office building in Anchorage, Alaska. The amount of the loan was $300,000. Since the loan met the plan's criteria, the Bank as Plan investment manager committed Plan assets to fund the permanent loan.

3. The Bank, prior to issuance of the construction and permanent financing commitments, obtained substantial credit and other information regarding the borrowers. The Bank also obtained a complete appraisal of the property showing a value of $508,000. The appraisal was an "as-built" appraisal and assumed that the improvement for which the loan was granted had been constructed.

4. The permanent financing was closed on August 12, 1976, after completion of construction, and was secured by a Promissory Note, Deed of Trust, Assignment of Rents and UCC Security Agreement and Financing Statement. Closing documents were executed in the name of "Nabalaska & Co.-182", the Bank's custodial name for the account in which Plan assets were deposited. The promissory note bears interest at the rate of 10.5% per annum and calls for equal monthly installments over 25 years. Loan payments have been current throughout the history of the loan.

5. On March 23, 1978, the property which was the subject of the Deed of Trust was sold to the applicants. As an element of the transaction, the applicants assumed the loan funded with Plan assets. The Bank as Plan custodian approved the assumption. On the date of the assumption, the outstanding principal balance of the loan was $295,925.

6. Enterprise Co. is a co-partnership owned in equal interests by James R. Clinton, N. F. Kaelber, Marvin E. Smith and Louis A. Wheeler. Enterprise Co. and James R. Clinton conduct business under the business name Clinton-Enterprise. At the time of the sale of the property to Clinton-Enterprise, the Partners were officers, directors and shareholders of SKW-Clinton, a general contractor which was a contributing employer to the Plan.

7. The Bank, upon becoming aware of the possible prohibited nature of the transaction, repurchased the loan from the Plan at par for cash on December 30, 1980. Clinton-Enterprise was not aware of the Plan's participation in the assumed loan until May, 1981, when an Internal Revenue Service audit revealed the role played by the Plan.

8. In summary, the applicants represent that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) All loan payments have been made in full and on schedule; and (2) Clinton-Enterprise did not know nor had any reason to know of the Plan's involvement in the participation until May, 1981, months after the Bank had already repurchased the loan from the Plan.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

Alaska Laborers Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D-3065]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to Enterprise Company (Enterprise), and the partners of Enterprise, J. R. Clinton, N. F. Kaelber, L. A. Wheeler, and M. E. Smith (the Partners), by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to Enterprise for the period beginning April 1, 1976 through December 31, 1980.

Effective Dates: If the proposed exemption is granted, it will be effective from April 1, 1976 through December 31, 1980.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to Enterprise and the Partners. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan pursuant to which it agreed to act as investment manager of Plan assets. The Bank is authorized to invest a portion of the Plan's funds held by it in permanent mortgage loans which meet the written criteria of an Investment Services and Depository Agreement between the Plan and the Bank.

2. In late 1975, Enterprise arranged permanent financing in the amount of $255,000 for construction of an office building in Anchorage, Alaska. The permanent financing was granted on the basis of a commitment from the Plan which agreed to acquire an 80 percent participating interest in the loan.

3. The Bank, prior to issuance of the permanent financing commitment, obtained substantial credit and other information regarding Enterprise and the Partners. The Bank also obtained a complete appraisal of the property showing a value of $340,000. The appraisal was an "as-built" appraisal and assumed that the improvements for which the loan was granted had been constructed.

4. The permanent financing was closed on April 1, 1976, after completion of construction, and was secured by a promissory note, Deed of Trust, and by a UCC Security Agreement and Financing Statement. The promissory note bears interest at the rate of 10 percent per annum and calls for equal monthly installments over a period of 25 years. Loan payments have been current throughout the history of the loan.

5. Enterprise was a co-partnership owned by the Partners. The same persons were also 86.4 percent owners of SKW Contractors, Inc. (SKW). At the time of the subject transaction, SKW was a contributing employer to the Plan None of the Partners are, or have ever been, trustees for the Plan, nor have they occupied any other fiduciary relationship with respect to the Plan.

6. The Bank, upon becoming aware of the possible prohibited nature of the transaction, sold the Enterprise loan at par for cash to an unrelated party on December 31, 1980. The applicants were totally unaware of the Plan's participation in the loan until it was brought to their attention by an Internal Revenue Service audit in 1980.

7. In summary, the applicants represent that the subject transaction meets the criteria contained in section 4975(c)(2) of the Code because: (1) All loan payments have been made in full and on schedule; and (2) the applicants

did not know nor had any reason to know of the Plan's involvement in the participation until several years after the transaction had been consummated.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D–3084]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not appiy to Ocean Technology, Ltd. (OTL) by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to OTL for the period beginning May 23, 1975 through December 30, 1980.

Effective Dates: If the proposed exemption is granted, it will be effective from May 23, 1975 through December 30, 1980.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to OTL. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into an agreement with the Plan pursuant to which it agreed to act as investment manager of Plan assets. The Bank is authorized to invest a portion of the Plan's funds held by it in permanent mortgage loans which meet the written criteria of an Investment Services Agreement between the Plan and the Bank.

2. In early 1975, OTL applied to the Bank for a long-term working capital loan. The Bank approved a loan in the amount of $277,500 to be secured by a promissory note and a first deed of trust on OTL's Anchorage, Alaska office building. A complete appraisal on the building was provided and shows a value of $370,000. The loan was granted on the basis of the Plan's undertaking to purchase the loan at closing.

3. The financing was closed on May 22, 1975, and was secured by the required promissory note and Deed of Trust from OTL. The promissory note bears interest at the rate of 10.5 percent per annum and calls for equal monthly installments over a period of 180 months. On May 23, 1975, the loan was assigned to Trust No. 50–180 #4, a custodial name for the Banks account maintained for the Plan. Loan payments have been current throughout the history of the loan.

4. At the time of the transaction, OTL was a contributing employer to the Plan. OTL, its officers and directors are not and have never been a trustee of the Plan, nor have they occupied any other fiduciary relationship with respect to the Plan.

5. The applicant was not aware of the Plan's possible participation in the loan transaction until an audit by the Internal Revenue Service in 1980. Neither the Bank nor the Plan disclosed the Plan's interest to OTL. The applicant assumed throughout that the source of funds for the loan was from the Bank. The Bank, upon becoming aware of the possible prohibited nature of the transaction, repurchased the OTL loan at par for cash on December 30, 1980.

6. In summary, the applicant represents that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full and on schedule; and (2) the applicant had no knowledge of the Plan's involvement in the participation until years after the transaction had been consummated.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

Alaska Teamsters Employer Pension Trust (the Teamsters Plan) and the Alaska Laborers Employer Pension Trust (the Laborers Plan; collectively, the Plans) Located in Anchorage, Alaska

[Application Nos. D–3108 and 3109]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to Winship Air Service (Winship), S&G Construction, Inc. (S&G), and National Enterprise, Inc. (National) by reason of the Plans' participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to Winship for the period beginning August 29, 1975 through December 30, 1980.

Effective dates: If the proposed exemption is granted, it will be effective from August 29, 1975 through December 30, 1980.

Limited scope of exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to Winship, S&G and National. The Department is not proposing exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions.

Summary of Facts and Representations

1. The Bank is Alaska's largest financial institution. In 1967, it entered into a custodial agreement with the Teamsters Plan, and an agreement with the Laborers Plan pursuant to which it agreed to act as investment manager of the Laborers Plan's assets. Pursuant to the terms of the agreements with both Plans, the Bank is authorized to invest a portion of the Plans' funds held by it in permanent mortgage loans which meet certain written criteria.

2. In mid 1975, Winship, an Alaska partnership, applied to the Bank for long-term financing of an office building and hangar facility in Anchorage, Alaska. The Bank approved a loan in the amount of $500,000 to be secured by a promissory note and first deed of trust on the hangar and office building. The loan was granted on the basis of the respective undertakings of the Teamsters Plan and the Laborers Plan to purchase 60% and 40% participating interests in the loan at or shortly after closing.

3. Substantial credit information regarding the borrowers was required by the Bank, as well as a complete appraisal of the property to be mortgaged as collateral. The appraisal was provided and shows a value of $650,000.

4. The financing was closed on July 10, 1975, after completion of the office building and hangar, and was secured by the required promissory note and Deed of Trust from Winship signed by all of Winship's partners including S&G and National. The note bears interest at

the rate of 10.5% per annum, and calls for equal monthly installments over a period of 180 months. On August 29, 1975, the loan was assigned to Nabalaska & Co. 180 and Nabalaska & Co. 182, custodial names for the Bank's accounts maintained for the Plans. Loan payments have been current throughout the history of the loan.

5. At the time of the transaction, S&G Construction-North Slope Enterprises (SGC–NS) was a contributing employer to the Plans. SGC–NS is a partnership, 100% of which was owned equaly by S&G and National. S&G and National each owned ⅓ of Winship, but sold their ownership interest in Winship in 1977 to an unrelated party. The applicants and their respective officers and directors are not and have never been trustees of either Plan, nor have they occupied any other fiduciary relationship with respect to either Plan.

6. The applicants were not aware of the Plans' possible participation in the loan transactions until an Internal Revenue Service audit in 1980 which revealed the role played by the Plans. Neither the Bank nor the Plans disclosed the interest of the Plans. The applicants assumed throughout that the source of funds for the loan was from the Bank. All loan documents were executed in the name of the Bank, and the interest of the Plans was not reflected in any documentation provided to the applicants. The Bank, upon becoming aware of the possible prohibited nature of the transaction, repurchased the Winship loan at par for cash on December 30, 1980.

7. In summary, the applicants represent that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full and on schedule; and (2) the applicants did not know nor had any reason to know of the Plans' involvement in the participations until years after the transaction had been consummated.

For further information contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4972(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 20th day of January, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83–2722 Filed 1–31–83; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Radioactive Waste Disposal

January 27, 1983.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the Radioactive Waste Disposal Panel of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet on Wednesday, February 16, 1983. The meeting will be held in Room B–100, Page Building #1, 2001 Wisconsin Avenue, NW., Washington, D.C. The session, which will be open to the public, will convene at 9:00 a.m. and adjourn at 4:00 p.m. The meeting will be a work session to draft guidelines for the panel report.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Radioactive Waste Disposal Panel, Dr. John Knauss. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or the Staff Member for the Radioactive Waste Disposal Panel, Mr. William Lounsbery. The mailing address is NACOA, 3300 Whitehaven Street, NW. (Suite 438, Page Building #1), Washington, D.C. 20235.

Dated: January 27, 1983.

Steven N. Anastasion,

Executive Director.

[FR Doc. 83–2725 Filed 1–31–83; 8:45 am]

BILLING CODE 3510–12–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83–12]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Task Force for the Study of Effective Shuttle Utilization.

DATE AND TIME: February 17, 1983, 8:30 a.m. to 5 p.m.

ADDRESS: NASA Langley Research Center, Room 225, Building 1219, Hampton, Virginia 23665.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Praktish, Code LB–4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755–8380).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Task Force for Effective Shuttle Utilization was established under the NASA Advisory Council to conduct a study of the directions NASA should take to ensure the most effective use of the

Shuttle capability and to report its findings and recommendations to the Council. The Task Force is chaired by Edgar M. Cortright, and has a total of 10 members.

At this meeting the members will develop a workplan through a day-long discussion of their task. Visitiors will be admitted to the meeting room up to its capacity, which is approximately 50 persons including Task Force members and other participants. Visitors will be requested to sign a visitor's register.

Type of meeting: Open

Dated: January 25, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-2827 Filed 1-31-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice 83-13]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Rotorcraft Technology.

DATE AND TIME: March 2, 1983, 8 a.m. to 5 p.m.; March 3, 1983, 8 a.m. to 5 p.m.; March 4, 1983, 8 a.m. to 12 noon.

ADDRESS: National Aeronautics and Space Administration, Langley Research Center, Room 225, Building 1219, Hampton, VA.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Ward, National Aeronautics and Space Administration, Code RJL-2, Washington, DC 20546 (202/755-2375).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Rotorcraft Technology was established to assist the NASA in assessing the current adequacy of rotorcraft technology and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program in rotorcraft aerodynamics, acoustics, structures, dynamics, propulsion system components, flight control, and avionics. The Subcommittee, chaired by Mr. Edward S. Carter, Jr., is comprised of eight members. The meeting will be open to the public up to the seating capacity of the room (approximately 60 persons including the Subcommittee members and participants).

Type of meeting: Open

Agenda

March 2, 1983

8 a.m.—Report of Chairperson and Executive Secretary.
8:30 a.m.—Update of Ongoing Rotorcraft Programs—Status since October 1982 Subcommittee Meeting—NASA Ames Research Center, NASA Langley Research Center, NASA Lewis Research Center.
12:30 p.m.—Special Topics from October 1982 Subcommittee Meeting.
3:30 p.m.—Planning for FY 1985 Augmentation Candidates.
5 p.m.—Adjourn.

March 3, 1983

8 a.m.—Subcommittee Working Session.
5 p.m.—Adjourn.

March 4, 1983

8 a.m.—Tour NASA Langley Facilities.
10 a.m.—Subcommittee Draft Summary Report Presentation.
12 Noon—Adjourn.

Dated: January 25, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-2828 Filed 1-31-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

President's Committee on the Arts and Humanities; Meeting

Notiice is hereby given of Plenary Meeting II of the President's Committee on the Arts and Humanities. The purpose of the meeting is to consider ways in which to increase private sector support for the arts and humanities, to consider appropriate Federal involvement in the arts and humanities, and to make recommendations to the President thereon.

Plenary Meeting II will convene at 9:00 a.m. on Friday, February 11, 1983 at the times Mirror Co., Harry Chandler Auditorium, 202 West First Street, Los Angeles, California. The meeting will adjourn at approximately 1:30 p.m.

This meeting, open to the public, is by reservation on a space available basis (room capacity 125 persons). Individuals wishing to attend must request reservations not later than February 7 by calling 202-456-6200 or 212-883-6764. Reservations may be made by sending a postcard with your full name and business telephone (so that you can be notified in the event of rescheduling) to the President's Committee on the Arts and Humanities, New Executive Office Building, Room 2200, 726 Jackson Place, NW., Washington, D.C. 20503.

January 21, 1983.

John H. Clark,

Director, Office of Council & Panel Operations National Endowment for the Arts.

[FR Doc. 83-2888 Filed 1-31-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals; Meeting

Notice is hereby given in accordance with Section 10 of the Federal Advisory Committee Act that NRC's Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals will hold its next meeting at 9:30 a.m., February 25, 1983. This meeting will take place at the office of Shaw, Pittman, Potts and Trowbridge, South Building, 9th Floor Lobby, 1800 M St., NW., Washington, D.C. and will be open for public observation.

At this meeting, the committee will continue its review of administrative proposals for reforming the NRC's licensing process for nuclear plants. A transcript of the meeting will be made available for public inspection and copying at NRC's Public Document Room, 1717 H Street, NW., Washington, D.C.

Further information on the meeting may be obtained from Mr. Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (Telephone 202/634-1465).

Dated at Washington, D.C. this 27th day of January 1983.

John C. Hoyle,

Federal Advisory Committee Management Officer.

[FR Doc. 83-2740 Filed 1-31-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN-50-529-OL, STN-50-530-OL; ASLBP No. 80-447-01 OL]

Arizona Public Service Co., et al., (Palo Verde Nuclear Generating Station, Units 2 and 3 Operating License Proceeding); Order Scheduling Prehearing Conference

January 26, 1982.

Please take notice that the Atomic Safety and Licensing Board has scheduled a prehearing conference in the above indentified proceeding for February 24, 1983, commencing at 10:00 a.m., in Courtroom No. 2 (7th Floor) of

the Federal Building, 230 North First Avenue, Phoenix, Arizona 85025.

The purposes of the perhearing shall be to:

(1) Permit identification of the key issues in the proceeding; and

(2) Establish a schedule for further actions in the proceeding.

It is ordered that:

(1) Attorneys in attendance must have full authority to stipulate for their clients.

(2) Counsel shall meet or confer before the prehearing conference so that they will have an opportunity to reach agreement on the items which will be discussed at the conference.

It is further ordered that at the conference, counsel shall be prepared to discuss the following:

(1) Simplification of the issues.

(2) The date and place of the evidentiary hearing.

(3) Lists of exhibits to be offered in evidence.

(4) Identification of expert witnesses.

(5) Scheduling advance filing of direct testimony.

(6) Any requests for discovery.

(7) Any prehearing motions.

(8) Stipulations concerning admission of facts, documentary evidence, and procedural matters.

(9) Order of presentation of case.

(10) Estimated length of hearing.

(11) Scheduling trial briefs and cross-examination plans, it necessary.

(12) Such other matters as may aid in the orderly disposition of this matter.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

Chairman, Administrative Judge.

[FR Doc. 83-2741 Filed 1-31-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-341]

Detroit Edison Co.; Enrico Fermi Atomic Power Plant Unit 2; Request for Action

By a petition to intervene submitted to the Atomic Safety and Licensing Board in the Fermi 2 operating licensing proceeding, Monroe County, Michigan, raised a number of issues concerning the adequacy of offsite emergency planning for the Fermi 2 facility. Both the Licensing Board and the Atomic Safety and Licensing Appeal Board denied the County's untimely petition to intervene in the operating license proceeding; however, the Appeal Board forwarded the issues raised by the County to the Staff for its consideration. The County's petition to intervene is therefore being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The issues raised by the County will be resolved prior to the Commission's decision on whether to authorize a full power license. Copies of the petition are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room for the Fermi Plant located at the Monroe County Library System, Reference Department, 3700 S. Custer Road Monroe, Michigan 48161.

Dated at Bethesda, Maryland this 24th day of January, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-2742 Filed 1-31-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket 50-267]

Public Service Company of Colorado; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License DPR-34 issued to the Public Service Company of Colorado, which revised Technical Specifications for operation of the Fort St. Vrain Generating Station (the facility) located in Platteville, Colorado. The amendment was authorized by telephone on January 3, 1983, and confirmed by letter dated January 4, 1983.

The amendment revises the Technical Specifications to allow the Plant Protective System moisture monitors to be disabled during the period of January 3, 1983, through January 13, 1983, provided certain compensating measures are implemented.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commision has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, negative declaration, or environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated January 3, 1983; (2) Amendment No. 31 to Facility Operating License DPR-34; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Greeley Public Library, City Complex Building, Greeley, Colorado. A copy of items (2) and (3) may be obatained upon request to the U.S. Nuclear Regulatory Commission, Regional Administrator, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011, Attention: Director, Division of Resident, Reactor Project and Engineering Programs.

Dated at Arlington, Texas, this 20th day of January 1983.

For the Nuclear Regulatory Commission.

Glen L. Madsen,

Chief, Reactor Project Branch 1, Division of Resident, Reactor Project and Engineering Programs, Region IV.

[FR Doc. 83-2743 Filed 1-31-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Proposed Revision to OMB Circular No. A-76, "Performance of Commercial Activities"; Announcement of Public Hearings

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Announcement of public hearings.

SUMMARY: On January 12, 1983, the Office of Federal Procurement Policy published the proposed revision to OMB Circular No. A-76, "Performance of Commercial Activities" in the **Federal Register** (48 FR 1376). The notice announced the commencement of a 60-day public comment period, availability of the proposed revision and its Supplement, and that public hearings would be held.

DATE, TIME AND LOCATION OF HEARING: Hearings will be held March 3, 1983, from 9:30 a.m. until 4:30 p.m. with a one hour adjournment from 12:00 to 1:00 p.m. The location will be the New Executive Office Building, Room 2008, 726 Jackson Place, NW., Washington, D.C. 20503.

ATTENDANCE AT HEARINGS: Persons wishing to attend the hearings must notify the Office of Federal Procurement Policy at (202) 395-6810 at least two

days before the hearings in order to be cleared for admission to the New Executive Office Building.

PRESENTATION OF VIEWS AT HEARINGS: Persons may appear on their own behalf or as representatives of any entity or of any interested group, whether public or private, to make oral presentations. Persons who wish to make oral presentations should notify the information contact below at the Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, NW., Room 9013, New Executive Office Building, Washington, D.C. 20503, at least one week in advance of the hearing date. Notification may be made by phone. (Telephone 202/395–6810.) Oral presentations shall be limited to 15 minutes. A written summary of the oral presentation must be provided to the hearing officer on the day of the hearing.

FOR FURTHER INFORMATION CONTACT: Ms. Lee Miller or Mr. Curt Holland, Office of Federal Procurement Policy, at 202/395–6810.

Donald E. Sowle,

Administrator.

[FR Doc. 83–2746 Filed 1–31–83, 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22835; 70–6828]

Consolidated Gas Supply Corp., et al.; Proposed Sale and Acquisition of Pipeline Segment and Related Facilities, Rights and Land by Affiliates

January 25, 1983.

In the matter of, Consolidated Gas Supply Corporation, 445 West Main Street, Clarksburg, West Virginia 26301; East Ohio Gas Company, 1717 East Ninth Street, Cleveland, Ohio 44114, (70–6828).

Consolidated Gas Supply Corporation ("Supply Corporation") and The East Ohio Gas Company ("East Ohio"), wholly-owned subsidiaries of Consolidated Natural Gas Company, a registered holding company, have filed a declaration and an amendment thereto with this Commission pursuant to Sections 12(d) and 13(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 86, 87, 90 and 91 promulgated thereunder.

Supply Corporation proposes to purchase from East Ohio, and East Ohio proposes to sell to Supply Corporation, (1) a 4.12 mile segment of East Ohio's 30-inch Line No. TPL–3 used for the wholesale sale of natural gas in interstate commerce by Supply Corporation to East Ohio, with related equipment and appurtenant facilities, located between the Ohio River at Clarington in Salem Township, Monroe County, Ohio, and Consolidated's Mullett No. 2 Measuring Station in Switzerland Township, Monore County, Ohio; (2) rights of way related to this pipeline which East Ohio holds; and (3) three related parcels of land.

Supply Corporation and East Ohio have entered into an Agreement, dated September 10, 1982, specifying the terms of the proposed transactions. The transfer will be accomplished by a bill of sale for the pipeline, an assignment of the rights of way, and three quitclaim deeds for the fee properties. All of these documents are attached as exhibits to the Agreement, which will be executed and delivered by East Ohio to Supply Corporation on a mutually convenient date within sixty days of all regulatory approvals.

Supply Corporation will pay East Ohio in cash its "net book value" for the facilities; that is, East Ohio's original cost less accumulated depreciation, as recorded in East Ohio's books of account on the date of delivery of the transfer instruments. If the closing had been held on December 31, 1982, the estimated cost to Supply Corporation of the facilities would be $2,183,158.

The reason for the sale is that there has been a relocation of a major gas delivery point on line TPL–3 that would require Supply Corporation to deliver gas to East Ohio through a 4.12 segment of East Ohio pipeline. This would cause East Ohio to tranport Supply Corporation's gas and to be responsible for necessary repairs. In addition to resolving these problems, the transfer gives Supply Corporation control over the line and greater routing flexibility in case of repairs or emergencies.

The Federal Energy Regulatory Commission has jurisdiction over the acquisition of the properties being sold to Supply Corporation. The Public Utilities Commission of Ohio has jurisdiction over the abandonment and sale of those properties by East Ohio. It is stated that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 17, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegaged authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3657 filed 1–31–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No., 22834; 70–6816]

Mississippi Power & Light Co.; Supplemental Notice of Proposal To Issue and Sell at Competitive Bidding Preferred Stock With an Adjustable Dividend Rate

January 25, 1983.

In the matter of; Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi, (70–6815).

The Mississippi Power & Light Company ("MP&L"), an electric utility subsidiary of Middle South Services, Inc., a registered holding company, has filed with this Commission an amendment to its declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

By prior release dated December 17, 1982 (HCAR No. 22785), this Commission provided notice to the public of a proposal by MP&L to issue and sell at competitive bidding up to 100,000 shares of preferred stock, $100 par value, in one or more series and sales during the period ending December 31, 1983. By amendment to its declaration, MP&L has now requested authority to sell these shares with an adjustable dividend rate, as hereinafter derived.

The dividend rate of each series of preferred stock (other than series with provisions for an adjustable dividend rate, as described below) will be a multiple of 1/25th of 1% and the price to be paid to MP&L for each series of the stock will not be less than $100 nor more than $102.75 per share, plus accumulated dividends, if any.

The terms of each series of the preferred stock (other than series with provisions for an adjustable dividend rate, as described below) will include a

prohibition for five years after the first day of the month of issuance of the respective series against redeeming such series, directly or indirectly, with funds derived from issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with such series as to dividends or assets, at a lower effective dividend cost.

MP&L may include provisions for an adjustable dividend rate for one or more series of the preferred stock. The dividend rate for the initial dividend payment period will be a fixed percentage (which will be a multiple of 1/25th of 1%), to be determined by competitive bidding. Thereafter, the adjustable dividend rate will be determined quarterly on the basis of a certain percentage (to be determined by competitive bidding) above or below, generally, the highest of: (1) The average of the two most recent weekly per annum market discount rates for three-month U.S. Treasury bills, as published by the Federal Reserve Board during a specified period prior to each dividend payment period, (2) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of ten years) during a specified period prior to each dividend payment period, or (3) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of twenty years) during a specified period prior to each dividend payment period; provided, however, that in no event will the effective annual dividend rate, as adjusted in any quarter, be less than 6% per annum or greater than 15% per annum. The maximum and minimum dividend rate for a series of preferred stock will either be set by MP&L prior to a bidding on the basis of then market conditions or will be established by competitive bidding. In the event that provisions for an adjustable dividend rate are included for any series of the preferred stock, the terms of such series will include a prohibition for five years after the first day of the month of issuance of such series against redeeming such series, directly or indirectly, with funds derived from the issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with such series as to dividends or assets, at a lower effective dividend cost, than the effective annual dividend cost to MP&L based upon the initial dividend rate for the preferred stock of such series.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by February 14, 1983, to the Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2656 Filed 1-31-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 16]

Equitable General Insurance Co.; Surety Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Equitable General Insurance Company, Forth Worth, Texas, under Sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on federal bonds is hereby terminated, effective today.

The company was last listed as an acceptable surety on federal bonds at 47 FR 28874, July 1, 1982.

With respect to any bonds currently in force with Equitable General Insurance Company, bond-approving officers of the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Operations Staff (Surety), Banking and Cash Management, Department of the Treasury, Washington, D.C. 20226, Telephone 202-634-5752.

Dated: January 24, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc 83-2736 Filed 1-31-83; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1982 Rev., Supp. No. 15]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308 of Title 31 of the United States Code (formerly 6 U.S.C. Section 6 to 13). An underwriting limitation of $964,000 has been established for the company.

Name of Company:
The Travelers Indemnity Company of Illinois

Business Address:
175 West Jackson Boulevard
Chicago, Illinois 60604

State of Incorporation:
Illinois

Certificates of authority expire on June 30 each year, unless renewal prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28883 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: January 24, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-2737 Filed 1-31-83; 8:45 am]

BILLING CODE 4810-35-M

VOL 48 ISS 22 FE 1 1983 UMI

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs Office

[Exemption Application No. D-4064]

Proposed Class Exemption for Certain Transactions Involving Persons Establishing Individual Retirement Accounts or Retirement Plans for Self-Employed Individuals

AGENCIES: Internal Revenue Service, Treasury; and Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed class exemption.

SUMMARY: This document contains a notice of pendency before the Internal Revenue Service (the Service) and the Department of Labor (the Department) of a proposed class exemption from certain prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed class exemption would exempt the receipt of certain premiums, gifts, or other consideration paid to an individual in connection with a transaction involving an Individual Retirement Account (IRA) or a retirement plan for a self-employed individual (Keogh Plan) provided the conditions of the proposed exemption are met. If granted, the proposed exemption would affect individuals who receive such payments.

DATES: Written comments and requests for a public hearing must be received by the Service on or before March 18, 1983. If adopted, it is proposed that this class exemption will be effective for transactions entered into on or after January 1, 1975.

ADDRESSES: All written comments and requests for a hearing (preferably three copies) should be addressed to the Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. Attention: OP:E:EP:T:7. The comments received will be available for public inspection in the Internal Revenue Service National Office Reading Room, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Richard Eggers, Employee Plans Technical Branch, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: OP:E:EP:T:7), (202) 566-3733, or Ivan Strasfeld, Office of Fiduciary Standards, Pension and Welfare Benefit Programs, United States Department of Labor, 200 Constitution Avenue, NW., Room C-4526, Washington, D.C. 20216, (202) 523-7901. The telephone numbers are not toll-free.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Service and the Department of a proposed class exemption from the sanctions resulting from the application of sections 4975 (a) and (b), 4975(c)(3), and 408(e)(2) of the Code by reason of section 4975(c)(1) of the Code. This exemption is proposed pursuant to section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

1. The Employee Retirement Income Security Act of 1974 (the Act) granted discretionary authority to the Secretaries of Labor and Treasury to issue administrative exemptions from the prohibited transactions provisions contained in Title I and Title II of the Act. In explaining these procedures, the Conference Report [H.R. Report No. 93-1280, 93rd Cong., 2d Sess. (1974) at p. 311] provides that the Secretary of Labor may refuse to grant an exemption if the transaction would constitute an abuse of the labor laws. Similarly, the Secretary of the Treasury may refuse to grant an exemption if the transaction would involve a tax abuse. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code of the Secretary of Labor subject to certain narrow exceptions. Because the scope of the proposed exemption is limited to transactions involving IRAs and Keogh Plans which are not subject to Title I of the Act, the particular concern of the Service and the Department is to assure that the transactions do not conflict with the basic purpose for which such plans are established and afforded special tax benefits, that is, to provide retirement savings for participants and their beneficiaries. The Service and the Department also recognize the business practice of providing incentives to encourage individuals to establish accounts with a particular institution. Accordingly, the Service and the Department have decided to jointly propose a class exemption more fully described below from the prohibited transaction restrictions of section 4975(c)(1) of the Code.

2. Many financial institutions now offer, or plan to offer, premiums to IRA owners, Keogh Plan participants, members of their families, or other individuals in connection with the establishment of, or additional contribution to, an IRA or Keogh Plan. A premium may be in the form of a cash bonus or a gift item. It may also take the form of a high interest rate retail purchase agreement (repo) available to depositors who actually establish or make additional contributions to an IRA.

3. The receipt by, or on behalf of, an individual establishing an IRA of property, cash, or other consideration from the institution sponsoring the IRA may be prohibited under section 4975(c)(1) of the Code, which describes certain types of transactions involving retirement plans that are prohibited. Under such circumstances, an individual for whose benefit an IRA is established and his or here beneficiaries may be exempt from the tax imposed by section 4975(a) and (b) of the Code but the account would cease to be an IRA by reason of section 408(e)(2)(A) of the Code. As a result, the contributions to such an account would not be deductible under section 219(a) of the Code and the account would not be exempt from taxation under section 408(e) of the Code.

4. Similarly, the receipt by, or on behalf of, an individual establishing a Keogh Plan of some personal consideration from the institution sponsoring the Keogh Plan may be prohibited under section 4975(c)(1) of the Code.

5. Although there have been many questions concerning this issue, neither the Service nor the Department has yet received formal applications for individual exemptions or applications for a class exemption for transactions of this type. However, because of the apparent prevalence of this type of transaction and the possible consequences to a large number of individuals establishing IRAs and Keogh Plans, the Service and the Department propose to deal with these transactions as a class on their own motion pursuant to Rev. Proc. 75–26 and ERISA Procedure 75–1. The Service and the Department believe that treating the transactions as a class is likely to be administratively feasible and protective of the interests and rights of IRA and Keogh Plan participants and their beneficiaries.

6. In addressing these transactions as a class, the Service and Department must insure that adequate protections for IRA and Keogh Plan participants and their beneficiaries are common features in all transactions subject to the exemption and that the transactions do not conflict with the basic purpose of such plans which is to provide retirement savings for participants and their beneficiaries. As a result, the proposed exemption contains specific conditions to protect the interests of the participants, their spouses, and beneficiaries. However, in order to insure that, consistent with their tax exempt purposes, IRAs and Keogh Plans provide a maximum deferred return at retirement, the IRA or Keogh Plan must be established solely to benefit the person receiving the property, cash, or other consideration, his or her spouse and their beneficiaries. The fair market value of the property, which may be measured by its cost to the financial institution, or the cash received must not exceed $10 for a deposit of less than $5,000 and $20 for deposits of $5,000 or more. The conditions of the proposed exemption do not specifically limit the form that the premiums may take.

7. The exemption will not be available to exempt individuals establishing Keogh Plans that are subject to Title I of the Act, nor will the exemption be available to exempt the receipt of cash, property or other consideration by third persons other than those described in the exemption.

Notice to Interested Persons

Because many participants in IRAs and Keogh Plans and financial institutions sponsoring IRAs and Keogh Plans could conceivably be considered interested persons, the only practical form of notice is publication in the **Federal Register.**

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the exemption affect the requirement of section 408(a) of the Code that the IRA must operate for the exclusive benefit of the individual for whose benefit the IRA is maintained and his or her beneficiaries or the requirement of section 401(a) of the code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before any exemption may be granted under section 4975(c)(2) of the code, the Service and the Department must find that the exemption is administratively feasible, in the interest of the individual for whose benefit the IRA and Keogh Plan is maintained and protective of the rights of that individual and his or her beneficiaries;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) If granted, the pending class exemption will be applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

Written Comments and Hearing Request

All persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection at the address set forth above.

Proposed Exemption

The Service and the Department are considering granting the exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722, and ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, effective January 1, 1975, the sanctions resulting from the application of section 4975 of the Code, including the loss of exemption of an IRA pursuant to section 408(e)(2)(A) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the payment of cash, property, or other consideration by an organization authorized to sponsor IRAs or Keogh Plans, to an individual establishing or contributing to an IRA or Keogh Plan or to members of his or her family as defined by section 4975(e)(6) of the Code, provided that:

(a) The IRA or Keogh Plan in connection with which cash, property or other consideration is given, is established solely to benefit the participant, his or her spouse and their beneficiaries; and

(b) The fair market value to the financial institutions of the property or other consideration or the cash received, is not more than $10 for deposits to the IRA or Keogh Plan or less than $5,000 and $20 for deposits to the IRA or Keogh Plan of $5,000 or more.

Signed at Washington, D.C., this 3d day of January 1983.

S. Allen Winborne,

Assistant Commissioner for Employee Plans and Exempt Organizations, Internal Revenue Service.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, United States Department of Labor.

[FR Doc. 83–2674 Filed 1–31–83; 8:45 am]
BILLING CODE 4830–01–M

VETERANS ADMINISTRATION

Advisory Committee on Health-Related Effects of Herbicides; Availability of Annual Report

Pursuant to the provisions of section 10(d) of Pub. L. 92–463 (Federal Advisory Committee Act) and OMB Circular A–63 of March 27, 1974, notice is hereby given that the Annual Report of the Veterans Administration Advisory Committee on Health-Related Effects of Herbicides for calendar year 1982 has been issued.

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The report summarizes activities of the Committee on matters related to possible health effects of Agent Orange and other herbicides used during the Vietnam conflict on U.S. military personnel. It is available for public inspection at two locations;

Library of Congress, Serial and Government Publications, Reading Room, LM 133, Madison Building, Washington, DC. 20540

and

Mr. Donald J. Rosenblum, Agent Orange Projects Office (10A7), Room 848, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC. 20420

Dated: January 24, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-2735 Filed 1-31-83; 8:45 am]

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Sunshine Act Meetings

Federal Register
Vol. 48, No. 22
Tuesday, February 1, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Friday, February 4, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public:

1. *Phthalates: Status*
   The staff will brief the Commission on the status of the D: 12-ethylhexal phthalete in consumer products project.
2. *Pharmacy/Medical Community Awareness: Status*
   The staff will brief the Commission on this project which is to make pharmacists and physicians aware of the PPPA and of their obligations and options.
3. *Dual Purpose Closures: Status*
   The staff will brief the Commission on the status of the dual purpose packaging project.
4. *Space Heaters: Exemption Applications (1–23)*
   The staff will brief the Commission on Petitions SW 82–1 through SH 82–23 from state/local jurisdictions which request exemption from the preemption effect of the safety standard for unvented gas-fired space heaters.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Rutts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207; 301–492–6800.

[S–142–83 Filed 1–28–83; 3:44]

BILLING CODE 6355–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Thursday, February 3, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public:

Toy Chests
The Commission will meet with representatives of the toy chest industry to discuss a draft proposed rule which addresses the risk of strangulation to children from falling toy chest lids.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207; 301–492–6800.

[S–143–82 Filed 1–28–83; 3:44 pm]

BILLING CODE 6355–01–M

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CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 2 p.m., Monday, January 31, 1983.

LOCATION: Eighth Floor Conference Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Closed to the public:

Statutory Review
The Commissioners and staff will discuss matters related to statutory review.

The Commission voted that the public interest required holding this meeting without the normal notice.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207; 301–492–6800.

[S–144–83 Filed 1–28–83; 3:44 pm]

BILLING CODE 6355–01–M

4

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, January 27, 1983

January 19, 1983.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, January 27, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

The Commission will be briefed about the January 27, 1983, Meeting of the Long-Range Planning Committee of the National Industry Advisory Committee. (No item will be considered in connection with this briefing.)

General—1—*Title:* Notice of Proposed Rule Making to provide additional channels for the Offshore Radio Telecommunications Service (ORTS). *Summary:* The Commission will consider the merits of a proposal to reallocate UHF-TV Channels 15 (476–482 MHz) and UHF-TV Channel 16 (482–488 MHz) for the Offshore Radio Telecommunication Service. This is to provide new channels for radio communication in an area not presently served by ORTS and to expand the number of radio communication channels in the existing area. Due to the continuing growth of offshore oil and gas operations, these new needs have arisen.

Private Radio—1—*Title:* Use of the digital radioteleprinter code "AMTOR" by amateur radio stations. *Summary:* The Commission will consider whether or not to adopt rules to allow use of the digital radioteleprinter code "AMTOR" by amateur radio stations.

Private Radio—2—*Title:* Amendment of the Amateur Radio Service Rules, Part 97, to make additional frequencies available to the Radio Amateur Civil Emergency Service (RACES) during declared national emergencies. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rule Making proposing to amend Part 97 of the Rules to make additional frequencies available to the Radio Amateur Civil Emergency Service during declared national emergencies.

Common Carrier—1—*Title:* Application of David R. Williams d.b.a. Industrial Communications for review of denial of reconsideration of previous action returning DPLMRS application as defective under Section 22.20. *Summary:* The Commission will consider the Application for Review filed by David R. Williams d.b.a. Industrial Communications (Industrial) challenging the Common Carrier Bureau's return of Industrial's mutually exclusive application as defective under Section 22.20 of the Commission's Rules.

Common Carrier—2—*Title:* Third Report and Order and Further Notice of Proposed Rulemaking in Docket No. 20870; Regulatory Policies and Procedures for the Domestic Public Land Mobile Radio Service. *Summary:* The Commission will consider the adoption of final policies and procedures concerning objective need showings for applications requesting multiple new or additional two-way channels in the DPLMRS. Policies and procedures concerning objective need showings for applications requesting an additional one-way frequency for one-way signaling stations in the DPLMRS are being proposed.

Common Carrier—3—*Title:* Memorandum Opinion and Order in Docket No. 21499 relating to the offer of 48 kHz and 240 kHz analog channels of communication to the public by the American Telephone and Telegraph Company. *Summary:* The

Commission will consider whether AT&T's tariff restrictions limiting the availability of these high capacity analog channels are reasonable.

Common Carrier—4—*Title:* AT&T and the BSOCs (Resale and Sharing of Intrastate WATS Used for Completion and Interstate Communications). *Summary:* Satellite Business Systems (SBS) has filed a petition for a declaratory ruling by the Commission that the Bell System Operating Companies (BSOCs) should not refuse WATS connections wihin a State to carriers which intend to resell the service to endusers as a link to complete interstate communications—despite any resale restrictions in the BSOCs' intrastate WATS tariffs. Other non-Bell interstate carriers, including Western Union, MCI, ARINC, and several certificated interstate resale carriers, have filed comments in support of SBS's petition; ARINC and the resellers advocate that the ruling be framed so as to encompass restrictions on shared use—as well as resale—of WATS for intrastate distribution of interstate communications, whether by other common carriers or by private entities. AT&T (on behalf of the BSOCs), NARUC, and several State utilities commissions have filed in opposition. AT&T and NARUC urge the Commission to permit the BSOCs to continue to enforce resale and sharing restrictions on intrastate WATS used in interstate communications, until such time as the BSOCs shall have revised their intrastate WATS rates to be more usage-sensitive.

Common Carrier—5—*Title:* Comsat application File No. 1–P–C–83–008 requesting authority to provide basic transmission capacity directly to non-carriers; Application for Review filed by RCA of a Bureau grant of special temporary authority to Comsat in application File No. I–P–C–83–008; Motions for Stay filed by RCA and WUI of a Bureau grant of special temporary authority in application File No. I–P–C–83–008; and Application for Review filed by RCA of a Bureau order denying its petition to reject or suspend and investigate revisions by Comsat to its Tariff FCC No. 101. *Summary:* The Commission will consider the Comsat application, three filings by RCA relating to the Bureau's implementation of the Commission's Authorized User decision and one filing by WUI.

Audio—1—*Title:* In re application of Ettlinger Broadcasting Corporation, File No. BPH–10.075, for a new FM station in Westmoreland, California. *Summary:* The Commission considers the above application and a petition by the applicant seeking reconsideration of the Commission's action dismissing the application.

Audio—2—*Title:* Petitions filed by Loyola University seeking review of actions of the Chief Broadcast Facilities Division denying its petitions to specify issues against proposed new facilities on U.S. Class I–A clear channels. *Summary:* The Commission considers the above matters.

Audio—3—*Title:* In re application of Davison Communications Corporation (File No. BPH–800428AH) for a construction permit for a new FM station in Sturgeon Bay, Wisconsin. *Summary:* The Commission considers an application for review of its action, by delegated authority, granting the construction permit, filed by Door County Broadcasting Co., licensee of Stations WDOR (AM & FM), Sturgeon Bay, Wisconsin.

Policy—1—*Title:* In the Matter of Reexamination of the Commission's Rules and Policies Regarding the Attribution of Ownership Interests in Broadcast, Cable Television and Newspaper Entities. *Summary:* The FCC will consider whether to adopt a Notice of Proposed Rule Making aimed at comprehensively reviewing the ownership attribution rules and revising them upward to more realistic levels.

Enforcement—1—*Title:* Petition requesting adoption of an overall renewal/revocation approach to implementation of 47 U.S.C. 312(a)(7) (reasonable access). *Summary:* The Commission will consider petition requesting that it change its present case-by-case implementation of statutory provision requiring reasonable access for Federal candidates. Petitioner seeks an overall review at renewal or upon institution of revocation proceedings.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–137–83 Filed 1–28–83; 10:54 am]

BILLING CODE 6712–01–M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 3695, January 26, 1983.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board meeting scheduled Wednesday, February 2, 1983, at 10:30 a.m.:

Data Processing Activities of Federal Associations; Home Banking Services
Net Worth Certificates; Regulatory Net Worth
[No. 6, January 28, 1983]

[S–141–83 filed 1–28–83; 3:18 pm]

BILLING CODE 6720–01–M

6

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 3906, January 27, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., February 2, 1983.

CHANGES IN THE MEETING: The time of the meeting is changed from 9:00 a.m. on February 2, 1983 to 2:00 p.m. on February 2, 1983. Addition of the following item to the open session:

4. Sea-Land Service, Inc.—Application for special permission to establish new or initial intermodal rates on less than statutory notice.

Addition of the following item to the closed session:

2. Docket No. 82–47: Agreement No. 10266—Agreement Between Intercontinental Transport, B.V. and Compagnie Generale Maritime—Consideration of the record.

[S–138–83 Filed 1–2–83; 11:15 am]

BILLING CODE 6730–01–M

7

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, February 7, 1983.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

James McAfee,

Associate Secretary of the Board.

[S–146–83 Filed 1–28–83; 3:44 pm]

BILLING CODE 6210–01–M

8

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–06A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Telecopied to FR on January 25, 1983 at 4:20 p.m.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Tuesday, February 8, 1983.

CHANGES IN THE MEETING: Notice of change in time for the meeting:

By unanimous consent, the United States International Trade Commission voted, on January 27, 1983, to reschedule the time for the meeting of Tuesday, February 8, 1983, from 2:30 p.m., to 11:30 a.m. There are no other changes to the agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–136–83 Filed 1–28–83; 9:28 am]

BILLING CODE 7020–02–M

9

INTERNATIONAL TRADE COMMISSION

[USITC ERB–83–01A]

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 3695.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Thursday, February 10, 1983.

CHANGES IN THE MEETING: Notice of change of date and time of the meeting:

By memorandum dated January 28, 1983, Commissioners Stern and Haggart voted to reschedule the ERB meeting previously announced for February 10, 1983, at 11:00 a.m. to February 7, 1983, at 12:30 p.m. There are no other changes to the notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–140–83 Filed 1–28–83; 3:17 pm]

BILLING CODE 7020–02–M

10

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–4]

TIME AND DATE: 9 a.m., Tuesday, February 8, 1983.

PLACE: NTSB Board Room, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: The first four items will be open to the public; the last two will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Letter* to the Federal Aviation Administration regarding the Safety Board's reconsideration of the Pacific Southwest Airlines B–727 accident in San Diego, California, on September 25, 1978, and Safety Board policy regarding reconsiderations of probable cause.
2. *Letter* to Air Line Pilots Association regarding the reopening of the investigation of the Pacific Southwest Airlines B–727 accident in San Diego, California, on September 25, 1978.
3. *Marine Accident Report:* Capsizing and Sinking of the U.S. Mobile Offshore Drilling Unit *Ocean Ranger* Off the East Coast of Canada, 166 Nautical Miles East of St. John's, Newfoundland, February 15, 1982, and Recommendations to the U.S. Coast Guard, Ocean Drilling and Exploration Company, Mobil Oil of Canada, Ltd., American Bureau of Shipping, and International Association of Drilling Contractors.
4. *Railroad Accident Report:* Derailment of Amtrak Train No. 5 (The San Francisco Zephyr) on the Burlington Northern Railroad, Emerson, Iowa, June 15, 1982, and Recommendations to Burlington Northern Railroad, National Railroad Passenger Corporation (Amtrak), and Assocation of American Railroads.
5. *Opinion and Order:* Administrator v. Pollauf, Dkt. SE–5497; disposition of respondent's appeal.
6. *Opinion and Order on Interlocking Appeal:* Administrator v. Aerospace Maintenance Co., Dkt. SE–4928; disposition of respondent's interlocking appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

January 28, 1983.

[S–145–83 Filed 1–28–83; 3:44 pm]

BILLING CODE 4910–58–M

11

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 2889.

January 21, 1983.

STATUS: Closed meeting.

PLACE: 450 5th Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, January 18, 1983.

CHANGES IN THE MEETING: Additional items. The following additional items were considered at a closed meeting scheduled for Tuesday, January 25, 1983, at 10:00 a.m.:

Regulatory matters bearing enforcement implications.

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bob Zutz at (202) 272–2091.

January 27, 1983.

[S–139–82 Filed 1–28–83; 11:15 am]

BILLING CODE 8010–01–M

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federal register

Tuesday
February 1, 1983

Part II

Pension Benefit Guaranty Corporation

Supplemental Guarantee Program; Proposed Rule

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2690 through 2695

Supplemental Guarantee Program

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed regulation if adopted would establish a supplemental program to guarantee benefits under multiemployer plans that would otherwise be guaranteed but for the dollar or percentage limitations on guaranteed benefits in the Employee Retirement Income Security Act of 1974, as amended. That law requires the Pension Benefit Guaranty Corporation to establish a supplemental guarantee program, coverage under which must be available by January 1, 1983. Participation by plans in this supplemental program is optional. The regulation is needed to establish a supplemental guarantee program, as required by law, in order to afford participants in multiemployer plans and their beneficiaries the fullest feasible benefit guarantee. The effect of this regulation would be to provide multiemployer plans with the opportunity to obtain a greater benefit guarantee for participants.

DATE: Comments must be received on or before April 4, 1983.

ADDRESSES: Comments should be addressed to the Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, Suite 7300, 2020 K Street, NW., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Office of the Executive Director, Policy and Planning (140), 2020 K Street, NW., Washington, D.C. 20006; 202–254–4862. [This is not a toll-free number].

SUPPLEMENTARY INFORMATION:

The Statute

The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96–364, 94 Stat. 1208 ("Multiemployer Act"), became law on September 26, 1980 and amended the Employee Retirement Income Security Act of 1974 ("ERISA"). (As used herein, "ERISA" means the Act as amended, unless the context requires otherwise.) The Multiemployer Act revised the rules under which the Pension Benefit Guaranty Corporation (the "PBGC") guarantees benefits under a multiemployer plan.

Under section 4022A(a) of ERISA, the PBGC guarantees the payment of certain nonforfeitable benefits ("basic benefits" or "guaranteed benefits") under a multiemployer plan that is insolvent. A plan is insolvent if it is unable to pay benefits when due for the plan year. A plan terminated by a mass withdrawal is not insolvent until it has first been amended to eliminate all benefits that are not eligible for the PBGC's guarantee under section 4022A(b).

Under section 4022A(b), only nonforfeitable benefits or benefit increases that have been in effect for 60 months or more are eligible for PBGC's guarantee ("guaranteeable benefits"). Section 4022A(c) limits the maximum monthly guaranteed benefit to the product of (a) 100 percent of the first $5 of a participant's benefit accrual rate and 75 percent of the next $15 of a participant's benefit accrual rate, and (b) the participant's number of years of credited service. A participant's benefit accrual rate is computed by dividing a participant's monthly guaranteeable benefit by the participant's number of years of credited service under the plan for benefit accrual purposes. In this fraction, the guaranteeable benefit may not exceed the plan benefit payable at normal retirement age as a life annuity and is determined without regard to past service benefit reductions permitted to be made on account of the cessation of contributions by the participant's employer. The 75 percent guarantee is reduced to 65 percent under plans that did not satisfy pre-ERISA funding requirements.[1]

These rules for determining guaranteed benefits are applied without regard to past service benefit reductions permitted to be made on account of the cessation of contributions by an employer (section 4022A(c)(3)). Under section 4022A(d), if a past-service benefit is reduced because of the cessation of contributions by an employer, the guaranteed benefit is the lesser of the benefit determined under section 4022A(c) or the benefit determined under the plan's past service disregard rule. Section 4022A(h) contains a special rule for participants or beneficiaries under a multiemployer plan who, on July 29, 1980, were in pay status or were within 36 months of the plan's normal retirement age and had a nonforfeitable right to a pension. The PBGC will guarantee those individuals' nonforfeitable accrued benefits as of that date under the single-employer rules in section 4022 of the Act, except for plan years following a plan year in which substantially all employers withdrew pursuant to an agreement to withdraw or the plan terminates by mass withdrawal under section 4041A(a)(2).

Section 4022A(g)(2) requires the PBGC to establish a supplemental program to guarantee benefits that would otherwise be guaranteed but for the limitations in section 4022A(c) ("supplemental benefits"). The supplemental benefits of a participant that are guaranteed by the PBGC under section 4022A(g)(2) are nonbasic benefits under Title IV.

The PBGC is required under section 4022A(g)(2) to establish a program to guarantee supplemental benefits, coverage under which must be available by January 1, 1983. Under the Act, participation by plans in this program is voluntary. Supplemental benefits under a plan are guaranteed only if and to the extent the plan elects coverage under the supplemental program. A plan's election to participate in the program can be made only within the time specified by PBGC regulations and cannot be made unless plan assets as of the end of the plan year preceding the election are at least 15 times benefit payments made for that year. Section 4022A(g)(2) also provides that the PBGC regulations, in addition to prescribing exceptions, if any, to the latter rule, shall provide "such other reasonable terms and conditions for supplemental coverage, including funding standards and any other reasonable limitations with respect to plans or benefits covered or to means of program financing, as the corporation determines are necessary and appropriate for a feasible supplemental program consistent with the purposes of [Title IV]."

The supplemental guarantee program is a self-financing program. To this end, a separate revolving fund on the books of the United States Treasury is established by section 4005(e). This fund is one of six revolving funds established on the books of the United States Treasury to be used by PBGC in carrying out its duties under Title IV. Monies in this fund are to be used exclusively for the purpose of making payments under the supplemental guarantee program. These monies are not available to make loans to or on behalf of any other fund. Similarly, monies in other funds are not available for the supplemental guarantee program. In addition, no money borrowed by PBGC from the United States Treasury pursuant to section 4005(c) is available

[1] The insurance limits in section 4022(b) of the Act (other than the limits in section 4022(b)(6), relating to benefit accruals under a plan that ceases to meet the requirements of Internal Revenue Code section 401(a)) apply only to single-employer plans.

for the supplemental guarantee program (section 4005(f)(2)).

Under section 4006(a)(5)(B), the PBGC is authorized to prescribe premium rates for multiemployer plans for supplemental coverage that "reflect any reasonable considerations which the corporation determines to be appropriate." No revised schedule of premiums may go into effect without Congressional approval.

Finally, section 4022A(g)(5) authorizes the PBGC regulation to include rules that supersede the requirements of section 4245 (relating to insolvent plans), section 4261 (relating to financial assistance) and section 4281 (relating to multiemployer plans terminated by mass withdrawal), but only with respect to nonbasic benefits guaranteed under section 4022A(g).

The Regulation

Overview

In designing the supplemental guarantee program, the PBGC attempted to achieve the following goals:

(1) To minimize premiums and the PBGC's administrative expenses, especially in the early years of the program;

(2) To minimize the potential for anti-selection by a plan;

(3) To structure a program that is simple to understand and administer; and

(4) To afford plans flexibility, *e.g.*, the ability to choose the desired amount of coverage.

The proposed regulation sets forth rules under six parts in Subchapter I—Supplemental Guarantee Program for Multiemployer Plans, of the PBGC's regulations. Part 2690 contains all the definitions for Subchapter I. Part 2691 establishes the requirements for PBGC's guarantee of supplemental benefits and for coverage of a multiemployer plan under the supplemental guarantee program. Part 2692 prescribes rules for determining the amount of coverage for a participant and for a multiemployer plan under the supplemental guarantee program. Part 2693 prescribes the premiums for coverage under the supplemental guarantee program. Part 2693 also establishes a late entry fee for a plan that applies for its initial coverage after the plan year in which it is first eligible for coverage under the supplemental program. Part 2694 prescribes the requirements for PBGC financial assistance under the supplemental guarantee program. Finally, Part 2695 prescribes special rules for multiemployer plans covered by the program that experience a mass withdrawal.

Part 2690—Definitions

Part 2690 contains all the definitions for Subchapter I. Section 2690.2 contains definitions of terms of general applicability. The subsequent sections contain definitions of terms specific to each part within the subchapter.

Two of the definitions in § 2690.2 are fundamental to an understanding of the supplemental guarantee program: "supplemental benefit" and "guaranteed supplemental benefit". These benefits may vary from one plan participant to another and may be different amounts for any individual participant.

"Supplemental benefit" is "the monthly benefit under the plan, except for the nonforfeitable benefit accrued prior to July 30, 1980 by participants and beneficiaries to whom section 4022A(h) of the Act applies, that would be guaranteed under section 4022A of the Act, determined without regard to section 4022A(c), reduced by the benefit guaranteed under section 4022A(c) of the Act." As discussed earlier, under section 4022A(c) of the Act, the maximum monthly guaranteed benefit is limited to the product of a) 100 percent of the first $5 of a participant's benefit accrual rate and, generally, 75 percent of the next $15 of a participant's benefit accrual rate, and b) a participant's number of years of credited service. Supplemental benefits are benefits in excess of the section 4022A(c) limits, *i.e.*, 25 percent of a participant's benefit accrual rate between $5.01 and $20, and 100 percent of a participant's benefit accrual rate above $20. The following examples illustrate how to determine a participant's supplemental benefit:

Participant A has 20 years of credited service under a multiemployer plan and a monthly benefit of $300 (based on the benefit in effect for at least five years). The benefit has not been reduced under section 411(a)(3)(E) of the Code. Participant A has a guaranteed monthly benefit of $250. This is based on an accrual rate for purposes of section 4022A, without regard to the section 4022A(c) limits, of $15; *i.e.*, $300, the benefit in effect for five years or more, divided by 20, the number of years of credited service. This $15 rate is reduced by the limits in section 4022A(c) to a guaranteed accrual rate of $12.50; *i.e.*, 100 percent of the first $5=$5, plus 75 percent of the remaining $10=$7.50. The $12.50 accrual rate is then multiplied by 20, the number of years of credited service, to determine Participant A's guaranteed benefit. Participant A's supplemental benefit is $50 per month; *i.e.*, $2.50, the excess of his or her accrual rate under section 4022A without regard to the section 4022A(c) limits ($15), over his or her accrual rate taking into account the section 4022A(c) limits ($12.50), multiplied by 20, the participant's years of credited service.

Participant B has 20 years of credited service under a multiemployer plan and a monthly benefit of $600 (based on the benefit in effect for at least five years). The benefit has not been reduced under section 411(a)(3)(E) of the Code. Participant B has a guaranteed monthly benefit of $325. This is based on an accrual rate for purposes of section 4022A, without regard to the section 4022A(c) limits, of $30; *i.e.*, $600, the benefit in effect for five years or more, divided by 20, the number of years of credited service. This $30 accrual rate is reduced by the limits in section 4022A(c) to a guaranteed accrual rate of $16.25; *i.e.*, 100 percent of the first $5=$5, plus 75 percent of the net $15=$11.25. The $16.25 accrual rate is then multiplied by 20, the number of years of credited service, to determine participant B's guaranteed benefit.

Participant B's supplemental benefit is $275 per month; *i.e.*, $13.75, the excess of his or her accrual rate under section 4022A without regard to the section 4022A(c) limits ($30), over his or her accrual rate taking into account the section 4022A(c) limits ($16.25), multiplied by 20, the participant's years of credited service. Note in this example that while no portion of a participant's accrual rate in excess of $20 per month is subject to PBGC's basic benefit guarantee the entire amount is guaranteeable under this supplemental guarantee program.

"Guaranteed supplemental benefit" is "the supplemental benefit payable with respect to a participant that is guaranteed by the PBGC under the supplemental guarantee program, as determined under § 2692.3 of this subchapter." That section provides that a participant's guarnteed supplemental benefit is the lesser of his or her supplemental benefit or the number of units of supplemental coverage purchased by the plan multiplied by the participant's service multiplier. Under § 2692.3(b), the service multiplier is normally the participant's total number of years of credited service, although there is a special rule for a participant whose benefit has been reduced under section 411(a) (3) (E) of the Code (relating to a past-service disregard provision in a plan). Thus, PBGC will guarantee a participant's supplemental benefit only to the extent of the number of units of supplemental coverage purchased by his or her plan. In the first example above, PBGC will guarantee the participant's entire supplemental

benefit only if his or her plan has purchased at least 3 units of coverage (3×20 (the number of years of credited service)=$60 of supplemental coverage.)

Part 2691—Requirements for Coverage

Part 2691 establishes the requirements for PBGC's guarantee of supplemental benefits and for coverage of a multiemployer plan under the supplemental guarantee program. Section 2691.2 Provides that PBGC will guarantee the payment of supplemental benefits under a multiemployer plan if the plan (1) is covered by Title IV of ERISA, (2) is eligible for coverage, (3) satisfies the requirements for initial coverage, (4) pays its premiums when due, and (5) is insolvent.

A plan is eligible for coverage under § 2691.3 if (1) the fair market value of the plan assets as of the end of the pre-eligibility year equals at least 15 times the total amount of the benefit payments and expenses under the plan for that year ("15-year asset test"); (2) the fair market value of the plan's assets as of the end of the pre-eligibility year, plus expected investment earnings on those assets for the next ten plan years equal or exceed the total amount of expected benefit payments and expected expenses under the plan for that ten-year period ("10-year benefit payment test"); (3) the plan has not experienced a mass withdrawal on or before the date the plan's application for coverage is filed ("mass withdrawal test"); and (4) the maximum supplemental benefit under the plan, as of the date the plan's application for coverage is filed, is greater than zero. "Pre-eligibility year" is defined in § 2690.3 as "the plan year preceding the plan year in which an application for coverage that conforms with the requirements of § 2691.5 is filed."

The 15-year asset test is derived from section 4022A(g)(2)(B)(i) of the Act. That section provides that "unless the corporation determines otherwise, a plan may not elect supplemental coverage unless the value of the assets of the plan as of the end of the plan year preceding the plan year in which the election must be made is an amount equal to 15 times the total amount of the benefit payments made under the plan for that year." In order to reduce plan costs, the regulation provides that the plan's Form 5500 or Form 5500–C filed for the pre-eligibility year is used to determine whether this test is met. For example, under the Form 5500 for plan years beginning in 1981, the value of plan assets as of the end of the 1981 plan year is stated on line 13(h) of the Form 5500 and the total of benefit payments and other expenses for the 1981 plan year is stated on line 14(l). A special rule is included for small plans that have filed or are going to file a Form 5500–R (which does not include this information) for the pre-eligibility plan year. For such plans, the plan sponsor must submit a certification that the plan satisfies the 15-year asset test.

The 15-year asset test is a conservative means for determining eligibility. In view of the fact that this program is voluntary and self-financing, it is necessary, at least at the outset, to adopt a conservative approach to coverage under the program in order to preserve its financial integrity. The 15-year asset test is also necessary to avoid adverse selection by plans that will require financial assistance from PBGC in the near future.

PBGC believes that the 15-year asset test and the fact that this program is voluntary are indicative of Congress' intent that coverage under this program be made available only to plans in good financial condition that are able to pay benefits when due in the near future. However, satisfaction of the 15-year asset test does not necessarily indicate that a plan can pay future benefits when due. Accordingly PBGC is proposing two additional eligibility tests: the mass withdrawal test and the 10-year benefit payment test. The mass withdrawal test is necessary to protect the supplemental insurance program because a mass withdrawal is the result of a shrinkage in the plan's contribution base, and therefore will increase the likelihood that the plan will require financial assistance. The 10-year benefit payment test is intended for those rare situations where a plan that satisfies the 15-year asset test, nevertheless faces an imminent cash flow problem because of a significant increase in the benefits expected to be payable under the plan. For example, assume that all the retirees in a multiemployer plan are "spunoff" to a new plan, with the multiemployer plan transferring the retirees' entire accrued benefit liabilities and substantially all of the plan's assets to the new plan. As a result of this transaction the multiemployer plan satisfies the 15-year asset test. However, the plan has a significant number of active participants who are expected to enter pay status within the next several years. Because of this, the plan may be unable to pay benefits in the near future. In this situation, PBGC believes that the plan should be ineligible for coverage under the supplemental guarantee program.

Finally, a plan is eligible for coverage under § 2691.3 only if the maximum supplemental benefit under the plan, as of the date the plan's application for coverage is filed, is greater than zero. "Maximum supplemental benefit" is defined in § 2690.2 as "the supplemental benefit to which an individual who is or could be a participant under the plan would be entitled at the earlier of age 65 or the plan's normal retirement age if he or she commenced participation at the earlier of the earliest possible entry age under the plan or age 22 and served continuously until the earlier of age 65 or the plan's normal retirement age, based on plan provisions currently in effect five years or more (under which such amount would be the highest)." Under this, a plan is eligible for coverage even if no actual plan participant has yet accrued a supplemental benefit. The purpose of this rule is to enable plans that are otherwise eligible and will have supplemental benefits based on the current plan provisions, to apply for coverage at the earliest possible date. (As will be explained more fully in the discussion of the late entry fee, a plan may defer applying for coverage without penalty until such time as it has participants in pay status who are entitled to supplemental benefits. It may nevertheless be to the plan's advantage to enroll sooner.)

Section 2691.4(a) of the regulation provides that a plan that is eligible for coverage shall become covered under the supplemental guarantee program upon filing with PBGC a written application for coverage, including the initial premium, and any late entry fee, due under Part 2693, and thereafter, approval by PBGC of the application. (See discussion of late entry fee under Part 2693 (relating to premiums)). Coverage is effective under the supplemental guarantee program as of the first day of the plan year during which a complete application is filed by the plan and the initial premium, and if applicable, late entry fee, is paid (§ 2691.4(c)).

Section 2691.4(d) of the regulation relates to changes in coverage. To preserve the fiscal integrity of the program, increases in units of supplemental coverage will be approved by PBGC only if the plan satisfies the requirements for initial coverage. A plan seeking an increase in coverage must satisfy anew the eligibility requirements in § 2691.3(a)(1) and (a)(2) (*i.e.*, the 15-year asset test and the insolvency test; the plan by definition already satisfies the maximum supplemental benefit requirement in § 2691.3(a)(3)) and comply with the requirements for coverage in § 2691.4 (§ 2691.4(d)(1)). That is, the plan must file an application, pay the premium for the additional unit or

units, and thereafter obtain PBGC approval.

Decreases in coverage, on the other hand, do not create a potential for abuse of the supplemental insurance program, because such decreases reduce the exposure of the program. Accordingly, a plan may decrease its coverage without PBGC approval (§ 2691.4(d)(2)). A plan may decrease its coverage no more than once a year, by so indicating on the PBGC–1 and paying the reduced premium. A plan that has already filed its PBGC–1 for a plan year must wait until the following plan year to decrease its coverage. A play may not decrease coverage in any plan year during which it is receiving financial assistance from PBGC under Part 2694 of this subchapter.

Requirements concerning the application for coverage are set forth in § 2691.5. In addition to paying the initial premium and any late entry fee, the application must include the information specified in § 2691.5(d). Among the information required is information that will enable PBGC to determine whether the eligibility tests in § 2691.3 are satisfied and to apply the maximum plan coverage limitation in § 2692.4:

(1) A copy of the plan's Form 5500, 5500–C or 5500–R filed for the pre-eligibility plan year. In addition, for a plan that filed a Form 5500–R for the pre-eligibility plan year, the application shall include the plan's most recent Form 5500 or Form 5500–C. (PBGC notes that a plan will be unable to submit an application for coverage until it has submitted its annual report form for the pre-eligibility plan year.)

(2) A copy of the two most recent actuarial reports.

(3) A statement updating the most recent actuarial report to show any material changes.

(4) A statement of the number of units of supplemental coverage necessary to guarantee the maximum supplemental benefit under the plan, determined as of the date the plan's application for coverage is filed, including supporting documentation.

(5) A certification by the plan sponsor that the plan has not experienced a mass withdrawal on or before the date the plan's application for coverage is filed.

(6) A certification by an enrolled actuary that the plan satisfies the test described in § 2691.3(a)(2), including supporting assumptions and method, and a statement that, in making the certification, due consideration was given to the distribution of benefit liabilities under the plan.

In addition, the plan sponsor must submit a certifcation indicating whether the plan is subject to a late entry fee, and, if so, the amount of the fee (including interest), with supporting calculations. This certification shall include a statement of the year in which the plan first satisfied the 15-year asset test, and for that year and each year thereafter, the amount of the missed premium or a statement that there is no missed premium due for that year, including, calculations or other evidence supporting the statement. (Calculation of the late entry fee is discussed in greater detail later in this preamble.) PBGC may request any additional information it needs, including information to verify the late entry fee (§ 2691.5(e)).

PBGC is required under § 2691.6(a) to accept a plan for coverage if it determines that the plan is eligible for coverage and has submitted a complete application. PBGC may, however, approve lower coverage than the plan requested, if it determines that the plan requested coverage greater than that allowed under § 2692.4 of this subchapter. PBGC's decision to approve or reject an application will be in writing (§ 2691.6(b)). If PBGC rejects the application, in whole or in part, PBGC's decision will state the reasons for the decision and advise the plan sponsor of its right to appeal the decision pursuant to Part 2606 of PBGC's regulations.

Section 2691.7 of the regulation contains rules relating to cancellation of coverage under the supplemental guarantee program. PBGC may cancel coverage if the plan fails to pay a premium when due (§ 2691.7(a)), or if PBGC determines that the plan's application contained a material misrepresentation (§ 2691.7(b)). A plan may cancel coverage upon notice to PBGC (§ 2691.7(c)).

If a plan fails to pay the full amount of any premium due by the last date prescribed for payment under Part 2693, PBGC shall issue the plan a notice of cancellation. A notice of cancellation is effective on the 31st day after it is issued, unless the plan pays its full premium before that date.

PBGC may cancel coverage if it determines that the application contained a material misrepresentation of fact, and that it would have rejected the application had not that fact been misrepresented (§ 2691.7(b)). PBGC will cancel a plan's coverage under this provision only after reviewing all the facts and circumstances, and coverage is cancelled as of the first day the plan was covered under the supplemental guarantee program. If coverage is cancelled, PBGC will refund premiums (and any late entry fee) paid by the plan (§ 2691.7(b)(1)). PBGC's decision to cancel coverage is subject to appeal pursuant to Part 2606 of PBGC's regulations (§ 2691.7(b)(2)). However, the filing of an appeal will not stay the cancellation decision. If the plan appeals the decision and PBGC's Appeals Board determines that the initial determination to cancel coverage was erroneous, the Appeals Board will order that coverage be reinstated upon the plan's repayment of any amounts refunded and payment of any premium subsequently due. These same rules on cancellation also apply to an application for an increase in coverage.

Coverage will become incontestable as to the statements in the application after coverage (or the increased coverage) has been in effect for 10 years (§ 2691.7(b)(3)). PBGC believes that it is reasonable for plans and participants to be able to rely on supplemental guarantee program coverage after coverage has been in effect for this length of time. However, any individual who knowingly and willfully falsifies a material fact in the application will be subject to applicable criminal penalties under 18 U.S.C. 1001, no matter when the false statement is discovered.

Section 4022A(g)(2) of the Act provides that coverage "shall be irrevocable, except to the extent otherwise provided by regulations prescribed by the corporation." This regulation provides that a plan may cancel coverage without PBGC approval in accordance with the rules in § 2691.7(c). A plan may cancel its coverage by so indicating on the Form PBGC–1. A plan may not cancel coverage in any plan year in which it is receiving financial assistance from PBGC under Part 2694; nor may a plan cancel coverage in any plan year in which it has already filed its Form PGBC–1 and paid its premium pursuant to Part 2693. Finally, a plan that cancels its coverage shall not be eligible to re-enter the supplemental guarantee program.

PBGC believes that revocable coverage is consistent with traditional insurance principles and with the concept of a voluntary insurance program. In addition, PBGC is concerned that requiring an irrevocable election of coverage by a plan might deter participation by plans that are uncertain about their long-term interest in the program.

PBGC recognizes that making coverage revocable may increase its administrative burden by making it more difficult to anticipate future experience under the program. This will make it more difficult to prescribe a reasonable and adequate initial premium rate and to recommend

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appropriate adjustments to Congress. Moreover, PBGC understands that revocable coverage could be disruptive to plans and participants because the decision to participate could be subject to yearly reevaluation. Nevertheless, the PBGC believes, on balance, that revocable coverage is preferable. The bar on re-entering the program after voluntarily cancelling coverage is necessary, in PBGC's view, to prevent abuse of the supplemental program and to provide some greater measure of stability to the program.

PBGC specifically requests public comment on these issues.

Part 2692—Coverage Limitation for Participants and Multiemployer Plans

Part 2692 prescribes rules for determining the amount of coverage of a participant and a multiemployer plan under the supplemental guarantee program. Section 2692.2 provides that the guaranteed supplemental benefit of a participant is the lesser of the participant's supplemental benefit or the number of units of supplemental coverage of the plan, multiplied by the participant's service multiplier. Each unit of supplemental coverage is equal to a monthly benefit of $1.00 times a participant's "service multiplier" (§ 2692.3(a)). As discussed earlier in this preamble, a participant's "service multiplier" is normally a participant's total number of years of credited service under the plan (§ 2692.3(b)).

Units of supplemental coverage are available only in whole number increments (§ 2692.3(a)). Thus, to insure the entire supplemental benefit of a participant whose supplemental benefit is $75 per month and who has 30 years of credited service under the plan, a plan must purchase 3 units ($75÷30=$2.50 supplemental accrual rate).

A plan may apply for any number of units of supplemental coverage, up to the limit described in § 2692.4, for the plan as a whole (§ 2692.3(a)). That is, a plan must purchase the same number of units for all participants in the plan, even though the guaranteeable supplemental benefits of the participants will be different amounts. In deciding to propose this guarantee structure, PBGC first considered and rejected two other alternatives. First, PBGC considered a guarantee structure that would make coverage available for all supplemental benefits, regardless of amount, under the plan. Under this structure a plan would pay a single premium for coverage of all participants' full supplemental benefit. PBGC also considered a guarantee structure that would permit a plan to vary coverage for specific groups of participants, *e.g.*, by bargaining units or regions. This structure might be attractive to plans that vary benefit levels for such groups.

PBGC has decided to propose only one guarantee structure at this time in the interest of simplicity and administrative ease. PBGC chose the plan-wide unit benefit guarantee structure, rather than the other two structures, because this structure is comparatively easy to administer, while still providing a plan with the flexibility to select the coverage it wants and the ability to obtain full coverage. Moreover, this structure is attractive because coverage of the plan as a whole will work in the same manner as under the basic benefits program.

Section 2692.4 of the regulation contains a limitation on the number of units of supplemental coverage a plan may purchase. A multiemployer plan that is eligible for coverage under § 2691.3 may apply for any number of units of supplemental coverage, up to the number of units necessary to guarantee the maximum supplemental benefit under the plan, determined as of the date the plan's application for coverage is filed. This rule is designed to make it impossible for plans to circumvent the requirement in § 2691.4(d)(1) that a plan that wants to increase its coverage must satisfy anew the eligibility requirements in § 2691.3, by prohibiting a plan from purchasing more units of supplemental coverage than it currently needs in anticipation of future benefit increases.

Part 2693—Premiums

Part 2693 prescribes the premium for coverage under the supplemental guarantee program. It also requires a late entry fee in certain instances for a plan that applies for initial coverage after the first year it is eligible for coverage under the supplemental program.

To participate in the supplemental program, a multiemployer plan is required to pay an annual premium. (Payment of the premium will not, however, result in coverage under the supplemental guarantee program for plans that have not satisfied the requirements for coverage under the program.) The premium is based on the number of plan participants, the number of units of supplemental coverage elected by the plan, and the supplemental premium rate (§ 2693.4(a)). The definition of "participant" for this purpose is the same definition as that used for payment of premiums for basic benefits guaranteed by PBGC. The supplemental premium rate is $.30.

The premium rate for the supplemental program is based on the ultimate premium rate for multiemployer plans for basic benefits under section 4006(a)(3)(A)(iii)(IV) of the Act. To determine the supplemental premium rate, the premium rate for basic benefits was converted to a premium per $1.00 of basic benefits guaranteed, based on the highest average guaranteed benefit payable under a multiemployer plan covered by Title IV. The cost of one unit of supplemental coverage is a pro-rata portion of the premium for the underlying basic benefits.

The form prescribed by Part 2693 for payment of premiums is Form PBGC–1 (§ 2693.2). A plan must use the same Form PBGC–1 for its premium payment under the supplemental guarantee program and for its premium for basic benefits;

The plan sponsor must file the plan's initial premium payment as part of its application for coverage (§ 2693.3(a)). No Form PBGC–1 is necessary with this premium payment. The filing may be made at any time. The plan administrator must make subsequent premium payments concurrently with premium payments for basic benefits *i.e.*, no later than the last day of the seventh month following the close of the prior plan year (§ 2693.3(b)).

As noted above, under § 2691.7(a), if a plan fails to pay a premium when due, after the initial premium, PBGC shall issue a notice of cancellation. The notice is effective on the 31st day after it is issued, unless the plan pays the premium due on or before the 30th day. Under this proposed regulation, no interest or penalty charges are assessed for a premium payment made during the 30-day period, although a late payment charge will be imposed with respect to a premium for basic benefits paid during that time. (*See* Part 2610 of PBGC's regulations.) PBGC is considering assessing late payment interest and penalty charges for a premium payment under the supplemental program during the 30-day period in order to discourage routine late payments. PBGC specifically requests comments on this issue.

If PBGC determines that a plan has paid less than its full premium, it will issue a notice of cancellation, requiring that the amount due be paid within 30 days. The plan may appeal PBGC's determination. However, filing of an appeal will not stay PBGC's notice of cancellation; the plan must pay the amount determined due by PBGC within the 30-day period in order to avoid cancellation (§ 2693.3(f)). If the plan's appeal is successful, PGBC will refund

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the overpayment with interest (§ 2693.7(c)).

As discussed earlier, § 2693.5 generally requires a late entry fee, in addition to an initial premium, for a plan that fails to apply for coverage during the first year in which it is eligible for coverage. The late entry free equals the plan's missed premiums plus interest (§ 2692.5(a)).

The late entry fee is intended to encourage early entry into the supplemental guarantee program. It is consistent with and authorized by section 4022A(g)(2)(B) (i) and (iii) of the Act, which provide "that a plan must elect coverage under the supplemental program within the time permitted by the [PBGC] regulations" and that the PBGC regulations shall include "such other reasonable terms and conditions for supplemental coverage, including funding standards and any other reasonable limitations with respect to plans or benefits covered or to means of program financing, as the corporation determines are necessary and appropriate for a feasible supplemental program consistent with the purposes of this title." Section 4022A(g)(4)(B)(i) contemplates time limits within which a plan may enter the program. Accordingly, with the exceptions noted below, a plan that enters after the plan year in which it is first eligible is assessed a charge for late entry based on the premiums it would have paid had it applied when first eligible.

Moreover, PBGC believes it is necessary and appropriate for a viable program to charge a late entry fee. First, a late entry fee will encourage early entry. By doing so, it should enable PBGC to identify, at an early date, the majority of the plans interested in the program. This will assist PBGC in determining the viability of the program. Scond, the fee will help finance the cost of the program. (Had the plan joined the program and paid premiums from when it was first eligible, those monies would have been available for the program.)

The late entry fee rules assume that a plan that satisfies the 15-year asset test is eligible for coverage under § 2691.3(a), unless the plan can demonstrate to the contrary. Accordingly, a plan that fails to file an application for coverage on or before the last day of the first plan year in which it satisfies the 15-year asset test described in § 2691.3(a)(1) is presumptively liable for a late entry fee based on the plan's missed premiums for each "missed premium year" (§ 2693.5(a)). A "missed premium year" is defined in § 2690.4 as "any plan year in which the plan satisfies the 15-year asset test described in § 2691.3(a)(1) of this subchapter but does not apply for coverage in accordance with § 2691.5 of this subchapter." (As discussed hereafter, however, there is no missed premium due for any year for which the plan can demonstrate it was not, in fact, eligible for coverage under § 2691.3(a).) Because the effective date of the supplemental guarantee program is January 1, 1983, a plan's first missed premium year cannot be earlier than its plan year beginning in 1983.

Section 2693.5(b) provides that the amount of the missed premium for each missed premium year is the premium determined under § 2693.4 that would have been due had coverage been in effect for that year. For this purpose, the number of participants is the number reported on the plan's Form PBGC–1 filed for that year. The number of units of supplemental coverage used in this calculation is the lesser of a) one-half the number of units necessary to guarantee the maximum supplemental benefit under the plan as of the date the plan's application for coverage is filed, or b) the number of units of supplemental coverage actually necessary in each year to guarantee the highest supplemental benefit for a participant in pay status as of the last day of that year, as demonstrated by the plan sponsor to the satisfaction of PBGC.

PBGC considered several other rules for determining missed premium amounts. For example, PBGC considered basing the computation on the number of units of supplemental coverage for which the plan applies in its initial application. This rule was rejected because it is easily subject to abuse: a plan could apply for 1 unit of coverage in its initial application and apply for additional units the following year. PBGC also considered basing the missed premium amounts on one unit of supplemental coverage for each missed premium year. This rule was rejected because it would not adequately encourage early entry into the supplemental guarantee program. Finally, PBGC considered using the maximum supplemental benefit under the plan in each missed premium year. This rule was rejected as too harsh.

Consequently, PBGC has decided to propose a rule that normally assumes that the number of units in effect for each missed premium year is one-half the maximum number of units the plan could purchase, *i.e.*, one-half the units necessary to guarantee the maximum supplemental benefit under the plan as of the date the plan's application for coverage is filed. However, if for any given year, the plan sponsor can demonstrate that the number of units of supplemental coverage necessary to guarantee the highest supplemental benefit for a participant in pay status on the last day of that year is lower than one-half the maximum, then this lower number of units shall be used to compute the missed premiums. If the plan sponsor demonstrates that no participant in pay status as of the last day of a plan year had a supplemental benefit, then the missed premium for that year is zero (see discussion below).

Section 2693.5(b) contains special rules which provide, among other things, that a plan that satisfies the 15-year asset test described in § 2691.3(a)(1) will not have a missed premium due for any year for which it can show that it did not satisfy either of the other two eligibility requirements, and therefore, was not actually eligible for coverage in that year. Section 2693.5(b)(1) provides that there is no missed premium due for a missed premium year if the plan sponsor demonstrates to the satisfaction of PBGC that, as of the last day of that plan year, the plan could not satisfy the insolvency test described in § 2691.3(a)(2).

Section 2693.5(b)(2) gives somewhat broader relief and provides that there is no missed premium due for a missed premium year if the plan sponsor demonstrates to the satisfaction of PBGC that, as of the last day of that year, there was no participant in pay status entitled to a supplemental benefit. Thus, under this rule, even though a plan was eligible for coverage in a particular year, because the maximum supplemental benefit was greater than zero, it will not be charged a late entry fee with respect to that year if no pay status participant was receiving a supplemental benefit. PBGC believes that this rule achieves a fair result.

As discussed earlier, the maximum supplemental benefit test is used as an eligibility requirement in order to make the supplemental program available to more plans sooner. However, PBGC does not believe it is fair to assess a late entry fee with respect to a year in which a plan did not actually have benefits that would be insured under the program. Thus, PBGC concluded that a missed premium should accrue only for a plan year in which an eligible plan had either participants in pay status with supplemental benefits or participants whose accrued benefits included supplemental benefits. The latter alternative was rejected because of the administrative burden it would have placed on a plan to demonstrate that no participant had accrued a supplemental benefit, in order to avoid a missed premium charge for a given year.

PBGC expects that in many cases a plan sponsor will be able to demonstrate that there is no missed premium due for a year based on the maximum supplemental benefit under the plan for that year. That is, in any year when the maximum supplemental benefit is zero, it automatically follows that no actural plan participant could have a supplemental benefit. In those cases where the maximum supplemental benefit for a missed premium year is greater than zero, the plan would have to review the benefits of only those participants in pay status to determine whether it can satisfy this exception.

Finally, it should be noted that if a plan can demonstrate that the maximum supplemental benefit in a given year was zero, this demonstration will cover all prior missed premium years as well. This is because it is extremely unlikely that a plan with a maximum supplemental benefit of zero in one year, had a maximum supplemental benefit greater than zero in an earlier year. Similarly, if a plan can demonstrate for a given year that it had no pay status participants with supplemental benefits, that demonstration will also cover prior years. PBGC believes that the possibility that there was a participant in pay status with a supplemental benefit in an earlier year is too remote to warrant the administrative expense of making a plan prove that fact for each prior year.

Section 2693.5(b)(3) contains a special rule for multiemployer plans classified as "small" in any missed premium year. A plan is a small plan for a missed premium year is the plan filed a Form 5500–R or Form 5500–C for the preceding plan year. For all such years, there is no missed premium due.

PBGC believes this rule is appropriate because is would be relatively costly for these plans to attempt to determine and demonstrate that no participant in pay status had a supplemental benefit for a prior year. In addition, PBGC is concerned that the late entry fee would operate as a powerful disincentive for a small plan to apply for coverage under the supplemental guarantee program. Finally, PBGC believes that the amount of money involved (potentially waived) under this rule is relatively small.

Under § 2693.5(c), interest accures on the amount of the missed premium for each missed premium year until the late entry fee is paid, at the rate prescribed in section 6621(b) of the Internal Revenue Code. Interest is compounded annually. This interest rate is the same rate applicable to late payments of basic benefits premiums. The rate is currently 20 percent per year, but it is variable and will change whenever the rate under section 6621(b) of the Code changes. The date from which interest accrues for each missed premium year is the last day of that year.

Section 2693.6 of the regulation provides that premiums due from a multiemployer plan for coverage under the supplemental guarantee program for any plan year during which the plan receives financial assistance from the PBGC, either for guarantee supplemental benefits or for basic benefits, are not required to be paid, but instead shall be treated as financial assistance. This is consistent with the rule on payment of the basic benefits premium by multiemployer plans receiving financial assistance for basic benefits.

Section 2693.7 of the regulation sets forth rules for PBGC refunds of overpayments. Under § 2693.7(a), if PBGC rejects an application for coverage, PBGC shall refund to the plan the initial premium and late entry fee, if any. Section 2693.7(b) provides that if the PBGC cancels a plan's coverage for a material misrepresentation or a mass withdrawal, PBGC shall likewise refund to the plan any amounts paid for plan years beginning on or after the effective date of cancellation. If the plan miscalulates the premium or late entry fee and overpays, PBGC shall refund to the plan the excess payment (§ 2693.7(c)). Finally, under § 2693.7(d), if in response to a notice of cancellation a plan pays the premium demanded by PBGC but appeals that determination, and PBGC's Appeals Board finds that the plan did overpay, PBGC shall refund the overpayment amount with interest. Interest will be paid at the rate prescribed in section 6621(b) of the Code.

Part 2694—Financial Assistance

Part 2694 prescribes the rules for PBGC finanical assistance to multiemployer plans covered by the supplemental guarantee program that are or will be insolvent and unable to pay when due supplemental benefits (§ 2694.1(a)). Part 2694 also establishes the procedure under which plan sponsors shall file an application for financial assistance with PBGC and the terms and conditions under which PBGC shall provide financial assistance (§ 2694.1(a)).

Section 2694.2 provides that the plan sponsor of a multiemployer plan covered by the supplemental guarantee program who determines that the plan is or will be insolvent and unable to pay supplemental benefits when due may apply to PBGC for financial assistance. Section 2694.2 also provides that the plan sponsor shall submit any information the PBGC determines it needs to review the application.

PBGC expects to promulgate, at a later date, specific information required to be included in an application. PBGC notes that there is little need to prescribe this information requirement at this time because of the remote possibility that a plan that is covered by the supplemental guarantee program and which thus satisfies the 15-year asset test, will require financial assistance within at least 10 years after coverage under the program is effective. PBGC believes it important in developing these information requirements to minimize reporting requirements and to avoid requiring the submission of duplicative information. Accordingly, PBGC will coordinate the information required to be submitted in an application for financial assistance under the supplemental guarantee program with the information required to be submitted in an application for financial assistance for basic benefits.

If, upon receipt of an application for financial assistance, PBGC verifies that the plan is or will be insolvent and unable to pay supplemental benefits when due, PBGC shall provide the plan financial assistance in an amount sufficient to enable the plan to pay guaranteed supplemental benefits under the plan (§ 2694.3(a)). PBGC decisions on applications for financial assistance shall be in writing. A PBGC decision to disapprove an application shall state the reasons for the determination and state that the plan may file an administrative appeal in accordance with Part 2606 (§ 2694.3(b)).

The rules in §§ 2669.4 and 2694.5 of the regulation for financial assistance for guaranteed supplemental benefits are virtually identical to the rules in section 4261(b) of the Act for financial assistance for basic benefits. Under § 2694.4(a), financial assistance shall be provided under such conditions as PBGC determines are equitable and are appropriate to prevent unreasonable loss to PBGC with respect to the plan. Financial assistance is a loan by PBGC to the plan. A plan which has received financial assistance shall repay the amount of such assistance to PBGC on such reasonable terms and for such periods as PBGC deems equitable and appropriate in the particular case. (*See* section 4067 of the Act; cf. section 4261(b)(2) of the Act, which requires financial assistance to be repaid to PBGC on reasonable terms consistent with regulations prescribed by PBGC.) PBGC may provide interim financial assistance under § 2694.5, pending determination of the proper amount of financial assistance, in such amounts as it considers appropriate in order to

avoid undue hardship to plan participants and beneficiaries.

Sections 4005(e) and 4005(f) of the Act establish a supplemental guarantee program fund on the books of the U.S. Treasury and require the fund to be self-supporting. In addition, no amounts borrowed from the U.S. Treasury pursuant to PBGC's borrowing authority may be used for the supplemental guarantee fund. Accordingly, § 2694.6 of the regulation provides that PBGC shall pay guaranteed supplemental benefits only to the extent there is money available in the supplemental benefit program fund to pay those benefits. PBGC specifically requests public comment on what rules should be adopted to deal with the situation where the program is expected not to have sufficient funds to pay all benefits when due. For example, should a reduction in financial assistance apply to all plans receiving assistance, or only to those that apply after the guarantee fund is exhausted?

One alternative for dealing with the potential insolvency problem would be to establish a much higher premium rate, in order to minimize the likelihood of benefit cutback. PBGC is disinclined to adopt this approach because of the difficulty in determining what that premium rate should be and because a much higher premium might deter many plans from entering the program. But PBGC requests comments on this alternative.

Part 2695—Mass Withdrawals

Part 2695 prescribes special rules for multiemployer plans covered by the supplemental guarantee program that experience a mass withdrawal. Section 2695.2(a) of the regulation provides that PBGC shall cancel the coverage of a multiemployer plan with respect to which there is a mass withdrawal if the mass withdrawal date occurs on or before the earlier of (1) the date on which the last collective bargaining agreement providing for employer contributions under the plan, which has an effective date on or after the plan's initial coverage date, expires, or (2) six years after the plan's initial coverage date.

A "mass withdrawal" is defined in § 2690.5 as "a withdrawal or withdrawals from a multiemployer plan as a result of which the plan is subject to section 4219(c) (1) (D) of the Act, and includes a termination by mass withdrawal under section 4041A (a) (2) of the Act and the withdrawal of substantially all the employers pursuant to an agreement or agreements to withdraw". Section 4219(c) (1) (D) of the Act requires that when a multiemployer plan terminates by the withdrawal of every employer from a plan or where substantially all the employers withdraw from a plan pursuant to an agreement or agreements to withdraw from the plan, the plan's total unfunded vested benefits must be allocated among all such employers. "Initial coverage date" is defined in § 2690.5 as "the date as of which coverage under the supplemental guarantee program is first effective for a plan pursuant to § 2691.4(c)". "Mass withdrawal date" means—"(a) in the case of a termination by mass withdrawal, the date determined under section 4041A(b)(2) of the Act; or (b) in any other case, the earliest employer withdrawal date for an employer subject to section 4219(c) (1) (D) of the Act, as determined under section 4203(e) of the Act" (§ 2690.5).

PBGC believes it necessary ot establish a minimum period of participation during which a plan is covered by the supplemental guarantee program before which a plan may experience a mass withdrawal and continue to be covered. PBGC notes that a mass withdrawal will generally increase the likelihood that a plan will require financial assistance under the supplemental guarantee program. The existence of coverage under the supplemental guarantee program may encourage a mass withdrawal. Therefore, a minimum period of program participation is necessary to deter a plan form electing coverage under the supplemental guarantee program in anticipation of the withdrawal of all or substantially all of the employers in the plan.

Because a mass withdrawal is most likely to occur on the date on which one or more collective bargaining agreements expire, the minimum participation period is tied to the bargaining cycle. The minimum participation period runs from the plan's initial coverage date and in the usual case, will not expire until each collective bargaining agreement under which the plan is maintained has been re-negotiated and thereafter expires. Thus, if the mass withdrawal date is before the date on which the last collective bargaining agreement providing for employer contributions under the plan, which has an effective date on or after the plan's initial coverage date, expires, the plan's coverage will be cancelled. However, in no event will PBGC cancel a plan's coverage because of a mass withdrawal, if the mass withdrawal date is more than six years after the plan's initial coverage date. PBGC believes that six years is a sufficiently long period to deter possible abuse of the insurance system.

PBGC's decision to cancel a plan's coverage as the result of a mass withdrawal shall be in writing. The decision shall state the reasons for the detemination, include a statement of the plan's right to appeal the decision pursuant to Part 2606 of PBGC's regulations, and state that the decision is effective on the date of issuance. The decision shall also state the date as of which the plan's coverage is cancelled. The cancellation date shall be the last day of the plan year preceding the plan year in which PBGC notifies the plan that its coverage is cancelled. PBGC shall refund to the plan any amount paid for plan years beginning after the date as of which the plan's coverage is cancelled. If the plan appeals PBGC's decision and PBGC's Appeals Board finds that the initial determination is erroneous the Appeals Board will order the plan reinstated subject to payment of any amounts refunded and any premium due.

PBGC believes it will be necessary for the supplemental guarantee program to contain certain special rules relating to merges, spinoffs or transfers of assets or liabilities. These rules would address plan coverage in the event a covered plan engaged in one of these transactions. Special rules are necessary because a merger, spinoff or transfer may create a significant risk to the supplemental guarantee program, as for example, in the case of the merger of a finacnially weak, non-covered plan into a covered plan, as well as create substantial administrative problems.

Special rules would need to address the following issues: Under what circumstances, in any, should a plan covered by the program continue to be covered when it is involved in a merger, spinoff or transfer? Should the result be different in the other plan involved in he transaction is a non-covered plan? In this latter situation, should coverage by continued only for those participants who were previously covered by the program? If so, what administrative problems would this create, and how might they be handled?

PBGC currently believes that, except for a *de minimis* transaction, the resulting plans or plan should be treated as new plans that must satisfy the eligibility requirements of § 2691.3(a) and the coverage requirements of § 2691.4 anew in order to participate in the program. Consistent with this rule, participants who, because of a merger, spinoff or transfer, are no longer in a plan covered by the program would not continue to be covered by the program.

This would avoid a tremendous administrative burden on both the non-covered plan and on the guarantee program.

A tentative cut-off for whether a transaction is *de minimis* would be if the transaction affects less than 3% of the total assets or liabilities. For example, in the case of a merger, a transaction would be *de minimis* if the present value of the accrued benefits of the merging plan not covered by the program is less than three percent of the fair market value of the assets of the covered plan.

Finally, under these rules, the merger of two covered plans would not result in cancellation of coverage. However, this raises the issue of the level of coverage, if the two plans had different levels. The approach which would seem to provide the greatest protection to the supplemental guarantee program would be to cover the merged plan at whatever was the lowest level of coverage of the merging plans.

PBGC specifically invites comments on these issues.

The Pension Benefit Guaranty Corporation has determined that this regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The PBGC expects that the total annual premiums collected in the first few years of the program will be less than $10 million. Moreover, this regulation is required by statute.

Under section 605(b) of the Regulatory Flexibility Act, the Pension Benefit Guaranty Corporation certifies that this rule will not have a significant economic impact on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. The proposed regulation affects only multiemployer plans covered by PBGC. Defining "small plans" as those with under 100 participants, such plans represent only 10% of all multiemployer plans covered by PBGC (200 out of 2,000). Further, small multiemployer plans represent only .3% of all small plans covered by the PBGC (200 out of 61,200) and less than .05% of all small plans (200 out of 427,900). Moreover, the PBGC expects that a significant number of multiemployer plans are currently ineligible for coverage under this program because of the 15-year asset test. In addition, the program is voluntary. Therefore, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

Interested parties are invited to submit comments on this proposed regulation. Comments should be addressed to: Assistant Executive Director for Policy and Planning, Pension Benefit Guaranty Corporation (140), 2020 K Street, NW., Washington, D.C. 20006. Written comments will be available for public inspection at the above address, Suite 7100, between the hours of 9:00 a.m. and 4:00 p.m. Each person submitting comments should include his or her name and address, identify this proposed regulation, and give reasons for any recommendation. This proposal may be changed in light of the comments received.

In developing this proposed regulation, PBGC solicited comments from knowledgeable individuals outside the corporation. Copies of these comments are available for public inspection at the above address.

List of Subjects in 29 CFR Parts 2690–2695

Employee benefit plans, Pensions, Pension insurance.

In consideration of the foregoing, it is proposed to amend Chapter XXVI of Title 29, Code of Federal Regulations by adding a new Subchapter I consisting of Parts 2690 through 2695 to read as follows:

SUBCHAPTER I—SUPPLEMENTAL GUARANTEE PROGRAM FOR MULTIEMPLOYER PLANS

Part
2690 Definitions
2691 Requirements for Coverage
2692 Coverage Limitations for Participants and Multiemployer Plans.
2693 Premiums
2694 Financial Assistance
2695 Mass Withdrawals

SUBCHAPTER I—SUPPLEMENTAL GUARANTEE PROGRAM FOR MULTIEMPLOYER PLANS

PART 2690—DEFINITIONS

Sec.
2690.1 Purpose and scope.
2690.2 General definitions.
2690.3 Requirements for coverage.
2690.4 Premiums.
2690.5 Mass withdrawals.

Authority: Secs. 4002(b)(3), 4022A(g)(2), Pub. L. 93–406, as amended by secs. 403(1) and 102 (respectively), Pub. L. 96–364, 94 Stat. 1302, 1214–15 (1980) [29 U.S.C. 1302, 1322a].

§ 2690.1 Purpose and scope.

This part sets forth the definitions used in Subchapter I. Section 2690.2 contains definitions of terms of general applicability. The subsequent sections contain definitions of terms specific to each part within the subchapter.

§ 2690.2 General definitions.

For purposes of Subchapter I—

"Act" means the Employee Retirement Income Security Act of 1974, as amended.

"Actuarial report" means a report submitted to the plan in connection with a valuation of plan assets and liabilities, for purposes of section 412 of the Code.

"Code" means the Internal Revenue Code of 1954, as amended.

"Guaranteed supplemental benefit" means the supplemental benefit payable with respect to a participant that is guaranteed by the PBGC under the supplemental guarantee program set forth in this subchapter, as determined under § 2692.2 of this subchapter.

"Insolvent" means that a plan is unable to pay benefits when due for the plan year. A plan terminated by mass withdrawal is not insolvent until it has first been amended to eliminate all benefits that are not eligible for the PBGC's guarantee under section 4022A(b) of the Act.

"Maximum supplemental benefit" means the supplemental benefit to which an individual who is or could be a participant under the plan would be entitled at the earlier of age 65 or the plan's normal retirement age if he or she commenced participation at the earlier of the earliest possible entry age under the plan or age 22 and served continuously until the earlier of age 65 or the plan's normal retirement age, based on plan provisions in effect five years or more (under which such amount would be the highest.)

"Multiemployer plan" means a pension plan described in section 4001(a)(3) of the Act.

"Participant" means any individual who is included in one of the categories below:

(a) *Active.*—(1) Any individual who is currently in employment covered by the plan and who is earning or retaining credited service under the plan. This category includes any individual who is currently below the integration level in a plan that is integrated with Social Security.

(2) Any non-vested individual who is not currently in employment covered by the plan but who is earning or retaining credited service under the plan. This category does not include a non-vested former employee who has incurred a

break in service of the greater of one year or the break in service period specified in the plan.

(b) *Inactive.*—(1) *Inactive receiving benefits.* Any individual who is retired or separated from employment covered by the plan and who is receiving benefits under the plan. This category does not include an individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

(2) *Inactive entitled to future benefits.* Any individual who is retired or separated from employment covered by the plan and who is entitled to begin receiving benefits under the plan in the future. This category does not include an individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

(c) *Deceased.* Any deceased individual who has one or more beneficiaries who are receiving or entitled to receive benefits under the plan. This category does not include an individual if an insurance company has made an irrevocable commitment to pay all the benefits to which the beneficiaries of that individual are entitled under the plan.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Plan administrator" means the plan administrator, as defined in sections 4001(a)(1) and 3(16) of the Act.

"Plan sponsor" means the plan sponsor, as defined in section 4001(a)(10) of the Act.

"Plan year" means the calendar, policy or fiscal year on which the records of the plan are kept.

"Supplemental benefit" means the monthly benefit under the plan, except for the nonforfeitable benefit accrued prior to July 30, 1980 by a participant to whom section 4022A(h) of the Act applies, that would be guaranteed under section 4022A of the Act without regard to the limitations in section 4022A(c), reduced by the benefit guaranteed under section 4022A(c) of the Act.

"Supplemental guarantee program" means the program described in section 4022A(g)(2) of the Act and established in this subchapter, under which the PBGC guarantees the payment of supplemental benefits.

"Terminate by mass withdrawal" means to terminate under section 4041A(a)(2) of the Act.

§ 2690.3 Requirements for coverage.

For purposes of Part 2691—

"Last entry date" means the last day of the first plan year beginning on or after January 1, 1983, in which a plan satisfies the 15-year asset test described in § 2691.3(a)(1) of this subchapter.

"Pre-eligibility year" means the plan year preceding the plan year in which an application for coverage that conforms with the requirements of §2691.5 is filed.

§ 2690.4 Premiums.

For purposes of Part 2693—

"Missed premium year" means any plan year in which the plan satisfies the 15-year asset test described in §2691.3(a)(1) of this subchapter but does not apply for coverage in accordance with §2691.5.

§ 2690.5 Mass withdrawals.

For purposes of Part 2695—

"Initial coverage date" means the date as of which coverage under the supplemental guarantee program is first effective for a plan pursuant to § 2691.4(c).

"Mass withdrawal" means a withdrawal or withdrawals from a multiemployer plan as a result of which the plan is subject to section 4219(c)(1)(D) of the Act, and includes a termination by mass withdrawal under section 4041A(a)(2) of the Act and the withdrawal of substantially all the employers pursuant to an agreement or agreements to withdraw.

"Mass withdrawal date" means (a) in the case of a termination by mass withdrawal, the date determined under section 4041A(b)(2) of the Act; or (b) in any other case, the earliest employer withdrawal date for an employer subject to section 4219(c)(1)(D) of the Act, as determined under section 4203(e) of the Act.

PART 2691—REQUIREMENTS FOR COVERAGE

Sec.

2691.1 Purpose and scope.
2691.2 Benefits guaranteed under supplemental guarantee program.
2691.3 Eligibility for coverage.
2691.4 Requirements for coverage.
2691.5 Application.
2691.6 PBGC action on application.
2691.7 Cancellation of coverage.

Authority: Secs. 4002(b)(3), 4022A(g)(2), Pub. L. 93–406, as amended by secs. 403(1) and 102 (respectively), Pub. L. 96–364, 94 Stat. 1302, 1214–15 (1980) [29 U.S.C. 1302, 1322a].

§ 2691.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to set forth the requirements for PBGC's guarantee of supplemental benefits and for coverage of a multiemployer plan under the supplemental guarantee program established in this subchapter.

(b) *Scope.* This part applies to each multiemployer plan covered under section 4021(a) of the Act and not excluded by section 4021(b), that applies for coverage or is covered under the supplemental guarantee program.

§ 2691.2 Benefits guaranteed under supplemental guarantee program.

(a) *General requirements.* PBGC shall guarantee, in accordance with this subchapter, the payment of supplemental benefits under a multiemployer plan—

(1) To which section 4021 of the Act applies;

(2) Which is eligible for coverage in accordance with § 2691.3;

(3)Which satisfies the requirements for coverage in accordance with § 2691.4;

(4) Which pays all premiums when due in accordance with Part 2693 of this subchapter; and

(5) Which is insolvent.

(b) *Benefits guaranteed for a participant.* The supplemental benefits of a participant in a plan described in paragraph (a) of this section that are guaranteed by PBGC under the supplemental guarantee program shall be determined in accordance with § 2692.2 of this subchapter.

§ 2691.3 Eligibility for coverage.

(a) *General requirement.* Except as provided in paragraph (b) of this section, a multiemployer plan is eligible for coverage under the supplemental guarantee program if it satisfies the following requirements:

(1) The fair market value of the plan's assets as of the end of the pre-eligibility plan year equals or exceeds 15 times the total amount of the benefit payments and expenses under the plan for that year.

(i) For a plan that has filed or is going to file a Form 5500 or Form 5500–C for the pre-eligibility plan year, that form shall be used to demonstrate satisfaction of the test described in paragraph (a)(1).

(ii) For a plan that has filed or is going to file a Form 5500–R for the pre-eligibility plan year, the plan sponsor's certification in accordance with § 2691.5(d)(12) shall be used to demonstrate satisfaction of the test described in paragraph (a)(1).

(2) The fair market value of the plan's assets as of the end of the pre-eligibility plan year, plus expected investment earnings on those assets for the next ten plan years, equal or exceed the total amount of expected benefit payments and expected expenses under the plan for that ten-year period.

(i) For a plan that has filed or is going to file a Form 5500 or Form 5500–C for the pre-eligibility plan year, that form shall be used to determine the fair market value of plan assets.

(ii) For a plan that has filed or is going to file a Form 5500–R for the pre-eligibility plan year, the fair market value of plan assets shall be the fair market value reported by the plan sponsor in accordance with § 2691.5(d)(12).

(iii) Expected investment earnings shall be determined using the same interest assumption used for determining the minimum funding requirement under section 412 of the Code.

(iv) Expected benefit payments shall be determined by assuming that current benefits remain in effect and that all scheduled increases in benefits occur.

(v) Expected expenses shall be determined using expenses in the pre-eligibility plan year, adjusted to reflect any anticipated changes.

(3) The plan has not experienced a mass withdrawal on or before the date the plan's application for coverage is filed.

(4) The maximum supplemental benefit under the plan, as defined in § 2690.2, is greater than zero, as of the date the plan's application for coverage is filed.

(b) *Re-entry.* A multiemployer plan is not eligible for coverage under the supplemental guarantee program if it was previously covered by the program and its coverage was cancelled in accordance with § 2691.7(a) or (c) of this part, or § 2695.2 of this subchapter. If coverage was cancelled pursuant to § 2691.7(b), the plan shall be eligible for re-entry if it meets the requirements in paragraph (a) of this section.

§ 2691.4 Requirements for coverage.

(a) *General rule.* Except as provided in paragraph (b) of this section, a plan that is eligible for coverage under § 2691.3 shall become covered under the supplemental guarantee program upon—

(1) Filing with PBGC a written application that conforms with the requirements of § 2691.5, including payment of the initial premium and any late entry fee due under Part 2693 of this subchapter; and

(2) Approval by PBGC of the application.

(b) *Late entry fee.* If a plan fails to apply for coverage before its last entry date, as defined in § 2690.3, its application for coverage under the supplemental guarantee program shall include a late entry fee determined in accordance with § 2693.5 of this subchapter.

(c) *Effective date of coverage.* A plan whose application is approved by PBGC is covered under the supplemental guarantee program as of the first day of the plan year during which it files a complete application with PBGC.

(d) *Changes in coverage.*—(1) *Increase coverage.* A plan that is covered under the supplemental guarantee program may increase its coverage at any time upon satisfaction of the requirements of paragraph (a) of this section. When a plan applies for increased coverage, the premium described in paragraph (a)(1) is the premium owed for the plan's existing coverage plus the increased coverage requested. The effective date of increased coverage, if approved by PBGC, shall be the first day of the plan year in which the complete application is filed.

(2) *Decreased coverage.* A plan that is covered under the supplemental guarantee program may decrease its coverage without PBGC's approval by following the procedures, including time limits, for cancellation of coverage set forth in § 2691.7(c) of this part. A plan may not decrease coverage in any plan year during which it is receiving financial assistance from PBGC under Part 2694 of this subchapter.

§ 2691.5 Application.

(a) *General.* Subject to the rule in § 2691.4(b) on late entry, an application for initial or increased coverage may be filed with PBGC at any time. In addition to the initial premium, and any late entry fee, due under Part 2693, the application shall include the information specified in paragraph (d) of this section.

(b) *Who shall file.* The plan sponsor, or a duly authorized representative acting on behalf of the plan sponsor, shall sign the application.

(c) *Where to file.* The application shall be delivered by mail or submitted by hand to the Division of Case Classification and Control (540), Office of Program Operations, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

(d) *Information.* Each application shall contain the following information:

(1) The name of the plan.

(2) The name, address and telephone number of the plan sponsor, and of the duly authorized representative, if any, of the plan sponsor.

(3) The nine-digit Employer Identification Number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the three-digit Plan Identification Number (PIN) assigned by the plan sponsor to the plan, and, if different, the EIN or PIN last filed with the PBGC. The notice should indicate if no EIN or PIN has been assigned.

(4) A copy of the most recent IRS determination letter, if any, relating to the plan.

(5) A statement that the plan is applying for coverage (or increased coverage) under the supplemental guarantee program, indicating the number of units of supplemental coverage for which the plan is applying, *i.e.*, the number of $1.00 units requested.

(6) A statement of the number of units of supplemental coverage necessary to guarantee the maximum supplemental benefit under the plan, determined as of the date the plan's application for coverage is filed, including supporting documentation.

(7) A copy of the plan document currently in effect, *i.e.*, a copy of the last restatement of the plan and all subsequent amendments.

(8) If not included in item 7, a copy of any amendment to the plan adopted or effective within the 5-year period preceding the beginning of the plan year during which the application is filed.

(9) A copy of the two most recent actuarial reports relating to the plan. The reports shall include a complete description of the actuarial assumptions and methods used; an age and service distribution of active and retired lives, and the associated liability distributions for retired lives; the number of contribution base units for the five most recent plan years; all asset and liability figures used to complete Schedule B of the Annual Report Form (Form 5500 series), including the value of vested benefits; and the contribution rates in effect.

(10) A statement updating the most recent actuarial report described in item 9 to show any material changes.

(11) A copy of the plan's Annual Report Form (Form 5500 series) for the pre-eligibility plan year, including schedules. In addition, for a plan that has filed a Form 5500–R for the pre-eligibility plan year, the application shall contain the plan's most recent Form 5500 or Form 5500–C, including schedules.

(12) For a plan that has filed a Form 5500–R for the pre-eligibility plan year, a certification by the plan sponsor that the plan satisfies the 15-year asset test described in § 2691.3(a)(1). The certification shall include a statement as to the fair market value of the plan's assets as of the end of the pre-eligibility year and the total amount of the benefit payments and expenses under the plan for that year.

(13) A certification by the plan sponsor that the plan has not

experienced a mass withdrawal on or before the date the plan's application for coverage is filed.

(14) A certification by an enrolled actuary that the plan satisfies the test described in § 2691.3(a)(3), including supporting assumptions and methods, and a statement that in making the certification due consideration was given to the distribution of benefit liabilities under the plan.

(15) The amount of the initial premium, paid to PBGC in the application, including supporting calculations.

(16) A certification by the plan sponsor indicating whether the plan is subject to a late entry fee, and, if so, the amount of the fee (including interest). The certification shall include a statement as to the year in which the plan first satisfied the 15-year asset test described in § 2691.3(a)(1), and for that year and each year thereafter, a statement with calculations as to the amount of missed premium or a statement that there is no missed premium due for that year, including evidence supporting the statement.

(e) *Additional information.* In addition to the information described in paragraph (d) of this section, PBGC may require the plan sponsor to submit any other information PBGC determines it needs to review an application.

(f) *Duplicate information.* In the case of plan applying for additional units of supplemental coverage, any of the information required by paragraph (d) of this section may be omitted if the identical information was previously filed with PBGC. When information is omitted pursuant to this paragraph, the application shall so indicate and shall state the date on which the information was submitted and that the information is still accurate and complete.

(g) *Date of filing.* An application is not considered filed until all the information required by paragraph (d) of this section and the initial premium, and, if applicable, late entry fee due have been submitted. The date of filing is the date on which all the information (or the final portion of the required information), the premium and late entry fee, if any, are hand-delivered or mailed, or the last such date if these items are submitted separately. An application shall be presumed to have been mailed on the date on which it is postmarked by the United States Postal Service, or three days prior to the date on which it is received by the PBGC if it does not contain a legible United States Postal Service postmark.

§ 2691.6 PBGC action on application.

(a) *General.* PBGC shall accept a plan for coverage if it determines that the plan is eligible for coverage under § 2691.3 and has submitted an application that complies with § 2691.5. PBGC may, however, approve lower coverage than the plan requested, if it determines that the plan requested coverage greater than that allowed under § 2692.4 of this subchapter.

(b) *PBGC decision.* PBGC shall notify the plan sponsor in writing of its decision on the application. If PBGC approves the application, the decision shall state that the plan is covered under the supplemental guarantee program and specify the amount of coverage the plan will receive. If PBGC rejects the application, in whole or in part, the decision shall state the reasons for the rejection and include a statement of the plan sponsor's right to appeal the decision pursuant to Part 2606 of this chapter. Filing of an appeal shall not stay the effectiveness of a decision granting coverage for less than the amount applied for.

§ 2691.7 Cancellation of coverage.

(a) *Missed premiums.* Unless the premium due is not payable under § 2693.6 of this subchapter because the plan is receiving financial assistance from PBGC, if the plan fails to pay any premium due under Part 2693 by the last date prescribed for payment in § 2693.3(b) or (c), PBGC shall issue the plan a notice of cancellation. The notice shall advise the plan that unless the full amount due is paid within 30 days after the date of the notice, the plan's coverage under the supplemental guarantee program shall be cancelled. Cancellation shall be effective on the 31st day after the date of the notice. If a plan's coverage is cancelled pursuant to this paragraph, it shall not be entitled to a refund of premiums paid, nor shall it be eligible to re-apply for coverage.

(b) *Material misrepresentation.* Except as provided in paragraph (b)(3) of this section, if PBGC determines that a plan's application for initial coverage or an increase in coverage contained a misrepresentation as to a material fact that would have caused PBGC to reject the application had not that fact been misrepresented, the plan's coverage shall be cancelled by PBGC. Cancellation shall be effective as of the plan's effective date under § 2691.4(c) of initial coverage or increased coverage, as applicable.

(1) *Effect of cancellation.* A plan whose coverage is cancelled pursuant to paragraph (b) of this section shall be entitled to a refund of amounts paid under the supplemental guarantee program, in accordance with § 2693.7(b) of this subchapter. The plan shall be eligible to re-apply for coverage if it meets the tests in § 2691.3(a).

(2) *PBGC decision.* PBGC shall notify the plan in writing of its decision to cancel the plan's coverage. The decision shall state the reasons for the determination, the date as of which a plan's coverage is cancelled, include a statement of the plan's right to appeal the decision pursuant to Part 2606 of this chapter, and state that the decision is effective on the date of issuance.

(3) *Restriction on right to cancel.* After initial coverage or an increase in coverage has been in effect for 10 years, it shall be incontestable as to the statements contained in the application.

(c) *Cancellation by plan.* Except as provided in paragraph (c)(2) of this section, a plan may cancel coverage, without PBGC approval, by so indicating on its Form PBGC–1 filed in accordance with Part 2693 of this subchapter. To be effective, the form must be filed within the time limits for filing set forth in Part 2693. Cancellation of coverage shall be effective as of the last day of the plan year preceding the plan year for which the Form PBGC–1 is filed.

(1) *Effect of cancellation.* A plan that cancels its coverage pursuant to paragraph (c) of this section shall not be entitled to a refund of premiums (or any late entry fee) paid for plan years when coverage was in effect, nor shall it be eligible to re-apply for coverage.

(2) *Restrictions on right to cancel.* A plan may not cancel coverage in any plan year in which it is receiving financial assistance from PBGC under Part 2694 of this subchapter, nor in any plan year in which it has already filed its Form PBGC–1 and paid its premium pursuant to Part 2693.

PART 2692—COVERAGE LIMITATIONS FOR PARTICIPANTS AND MULTIEMPLOYER PLANS

Sec.

2692.1 Purpose and scope.
2692.2 Guaranteed supplemental benefits.
2692.3 Plan coverage.
2692.4 Maximum plan coverage.

Authority: Secs. 4002(b)(3), 4022A(g)(2), Pub. L. 93–406, as amended by secs. 403(1) and 102 (respectively), Pub. L. 96–364, 94 Stat. 1302, 1214–15 (1980) (29 U.S.C. 1302, 1322).

§ 2692.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe rules for determining the amount of coverage for a participant and a multiemployer plan under the supplemental guarantee program.

(b) *Scope.* This part applies to each multiemployer plan covered under

section 4021(a) of the Act and not excluded by section 4021(b), that applies for coverage or is covered under the supplemental guarantee program and to participants and beneficiaries in those plans.

§ 2692.2 Guaranteed supplemental benefits.

The PBGC shall guarantee the payment with respect to a participant of a supplemental benefit provided under a multiemployer plan covered by the supplemental guarantee program equal to the lesser of the participant's supplemental benefit, or the number of units of supplemental coverage purchased by the plan multiplied by the participant's service multiplier (as defined in § 2692.3(b)).

§ 2692.3 Plan coverage.

(a) *General.* Subject to the limitation in § 2962.4, a multiemployer plan that is eligible for coverage under § 2691.3 may apply for any number of units of supplemental coverage. The same number of units shall be purchased for all participants in the plan. Units may only be purchased in whole number increments. Each unit is equal to a monthly benefit with respect to a participant in the amount of $1.00 times the participant's service multiplier.

(b) *Service multiplier.* Except as provided in the next sentence, a participant's service multiplier is the participant's total number of years of credited service, determined in accordance with section 4022A(c)(4) of the Act. In the case of a participant whose benefit under the plan has been reduced under section 411(a)(3)(E) of the Code and whose benefit guaranteed under section 4022A is determined under section 4022A(d)(1), the participant's service multiplier is the amount determined under section 4022A(d)(1) of the Act, divided by the amount determined under section 4022A(c)(1)(A) of the Act.

§ 2692.4 Maximum plan coverage.

A multiemployer plan may not purchase more than the number of units of coverage necerssary to guarantee the maximum supplemental benefit under the plan, determined as of the date the plan's application for coverage (or increased coverage) is filed.

PART 2693—PREMIUMS

Sec.
2693.1 Purpose and scope.
2693.2 Form.
2693.3 Requirement to pay premiums.
2693.4 Premium rate.
2693.5 Late entry fee.
2693.6 Premium for plan year during which plan receives financial assistance.
2693.7 Overpayments.
2693.8 Date of filing or payment.
2693.9 Computation of time.

Authority: Secs. 4002(b)(3), 4006(a), 4022A(g)(2), Pub. L. 93–406, as amended by secs. 403(1), 105(a) and 102 (respectively), Pub. L. 96–364, 94 Stat. 1302, 1284–88, 1214–15 (1980) (29 U.S.C. 1302, 1306, 1322a).

§ 2693.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe the premiums for coverage of multiemployer plans under the supplemental guarantee program established in this subchapter. This part also prescribes the late entry fee for a plan that applies for coverage after its last entry date.

(b) *Scope.* This part applies to each multiemployer plan that applies for coverage or is covered under the supplemental guarantee program.

§ 2693.2 Form.

The form prescribed by this part for the payment of premiums is Form PBGC–1. A completed Form PBGC–1 shall accompany all payments of premiums under this part (other than the initial premium payment). A plan shall use a single Form PBGC–1 for both its premium payment under this part and under Part 2610 (premium for basic benefit coverage) of this chapter.

§ 2693.3 Requirement to pay premiums.

(a) *Initial premium.* The plan sponsor of a plan that is applying under § 2691.4 of this subchapter for coverage under the supplemental guarantee program shall pay the initial premium due as part of its application for coverage. The payment check shall be made payable to PBGC and shall show the name of the plan and the EIN–PIN with respect to the plan on its face.

(b) *Premium for covered plan.* The plan administrator of each plan covered under the supplemental guarantee program shall file Form PBGC–1 and pay the premium due, in accordance with the instructions accompanying the form, no later than the last day of the seventh month following the close of the prior plan year.

(c) *Change of plan year.* Notwithstanding paragraph (b) of this section, the plan administrator of a plan that is covered under the supplemental guarantee program and that changes its plan year, shall file Form PBGC–1 and pay the premium due for the short plan year, in accordance with the instructions accompanying the form, no later than the later of—

(1) The last day of the seventh month following the close of the short plan year; or

(2) 30 days after the date on which the amendment changing the plan year was adopted.

(d) *Non-payment of premium.* Except as provided in paragraphs (d)(1) and (d)(2), the failure of the plan administrator of a plan covered by the supplemental guarantee program to pay the full premium due under this part within the time limits prescribed in this section shall result in the cancellation of that plan's coverage under the program, in accordance with § 2691.7.

(1) *Non-payment of initial premium.* A plan has not satisfied the requirement for coverage under § 2691.4(a)(1) (filing a complete application), until it has paid the full initial premium due pursuant to this part.

(2) *Financial assistance.* Paragraph (d) of this section shall not apply to a premium that need not be paid pursuant to § 2693.6 of this part for a year in which the plan is receiving financial assistance under Part 2694 of this subchapter or financial assistance under section 4261 of the Act.

(e) *Duration of obligation to pay premiums.* Premiums shall continue to accrue under this part for each plan year until the end of the plan year in which a multiemployer plan's coverage is cancelled in accordance with § 2691.7 or § 2695.2 of this subchapter or until the plan's assets are distributed in connection with the termination of the plan.

(f) *Contested premium amounts.* If PBGC determines that a plan has paid less than the full premium due under this part, it shall so notify the plan, as described in § 2691.7(a) of this subchapter. The plan may appeal PBGC's determination pursuant to Part 2606 of this chapter. However, filing of an appeal shall not stay the effect of a notice of cancellation issued under § 2691.7(a) of this subchapter.

§ 2693.4 Premium rate.

(a) *General.* A multiemployer plan shall pay for each plan year a premium to PBGC for coverage under the supplemental guarantee program in an amount equal to the product of—

(1) The number of individuals who were participants in the plan on the last day of the preceding plan year;

(2) The number of units of supplemental coverage in effect for the year, or for which the plan is applying; and

(3) The supplemental premium rate of $.30.

(b) *Short plan year.* For any plan that changes its plan year, the plan shall pay the applicable premium under paragraph (a) for each individual who is a

participant in the plan on the last day of the short plan year.

§ 2693.5 Late entry fee.

(a) *General.* A multiemployer plan that fails to apply for initial coverage on or before the last day of the first plan year in which the plan satisfies the 15-year asset test set forth in § 2691.3(a)(1) shall be presumptively liable for a late entry fee determined under this section. The late entry fee shall equal the total amount of the plan's missed premiums, determined under paragraph (b) of this section, plus interest, determined under paragraph (c) of this section, for each missed premium year. However, there is no missed premium due for any year in which the plan did not, in fact, satisfy all of the eligibility requirements in § 2691.3(a), as demonstrated in accordance with paragraphs (b)(1) and (b)(2) of this section.

(b) *Computation of missed premiums.* Except as provided in paragraphs (b)(1), (b)(2) and (b)(3) of this section, the amount of the missed premium for each missed premium year is equal to the premium determined under § 2693.4 of this part that would have been due had coverage been in effect for each missed premium year, based on the plan's Form PBGC–1 filed for that year and assuming coverage in each year of the lesser of one-half the number of units of supplemental coverage necessary to guarantee the maximum supplemental benefit under the plan as of the date the plan's application for coverage is filed, or the number of units of supplemental coverage actually necessary to guarantee the highest supplemental benefit for any participant in pay status under the plan as of the last day of that year, as demonstrated by the plan sponsor to the statisfaction of PBGC.

(1) There is no missed premium for any missed premium year if the plan sponsor demonstrates to the satisfaction of PBGC that, as of the last day of that plan year, the plan could not satisfy the plan solvency requirement described in § 2691.3(a)(2).

(2) There is no missed premium for any missed premium year (and all prior missed premium years) if the plan sponsor demonstrates to the satisfaction of PBGC that there is no supplemental benefit payable with respect to any participant in pay status as of the last day of that year.

(3) There is no missed premium for any missed premium year if the plan filed a Form 5500–R or Form 5500–C for the preceding plan year.

(c) *Interest.* Interest shall accrue on the amount of the missed premium for each missed premium year from the last day of the year until the late entry fee is paid. Interest shall be at the rate prescribed in section 6621(b) of the Code and shall be compounded annually.

(d) *Contested amount.* In any case where the plan disputes PBGC's determination of the amount due under this section, the plan may appeal PBGC's determination pursuant to Part 2606 of this chapter. However, notwithstanding the filing of an appeal, a plan shall not be covered under the supplemental guarantee program until it has paid the late entry determined due by PBGC.

§ 2693.6 Premium for plan year during which plan receives financial assistance.

The premium due under this part need not be paid for any plan year during which a plan receives financial assistance from PBGC pursuant to Part 2694 of this subchapter or section 4261 of the Act. Any premium not paid pursuant to this section shall be treated as financial assistance under Part 2694.

§ 2693.7 Overpayments.

(a) *Rejected applications.* If a plan files an application for coverage and pays its initial premium and late entry fee, if any, and thereafter PBGC rejects the application, PBGC shall refund to the plan the total amount paid.

(b) *Cancellation for material misrepresentation or mass withdrawal.* If PBGC cancels a plan's coverage under the supplemental guarantee program under § 2691.7(b) (for a material misrepresentation) or under § 2695.2(a) (for a mass withdrawal), the PBGC shall refund to the plan any amounts paid by the plan under the supplemental guarantee program for plan years beginning on or after the effective date of cancellation.

(c) *Erroneous computation by plan.* If a plan computes and pays an amount that exceeds the premium payment or late entry fee due under this part, PBGC shall refund to the plan the excess amount.

(d) *Contested amounts.* If a plan pays a premium or late entry fee and then appeals the amount of the premium or late entry fee pursuant to § 2693.3(f) or § 2693.5(d), respectively, and the decision on the appeal finds that there has been an overpayment, PBGC shall refund to the plan the excess amount, with interest at the rate specified in section 6621(b) of the Code from the date of the overpayment to the date of the refund.

§ 2693.8 Date of filing or payment.

Any form required to be filed and any payment required to be made under the provisions of this part shall be considered to have been filed or made on the date on which it is hand-delivered or mailed. A form or payment shall be presumed to have been mailed on the date on which it is postmarked by the United States Postal Service, or three days prior to the date on which it is received by the PBGC if it does not contain a legible United States Postal Service postmark.

§ 2693.9 Computations of time.

In computing any period of time under this part, the day of the act, event or default from which the designated period of time begins to run is not counted. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a federal holiday. For the purpose of computing interest under § 2693.5, a Saturday, Sunday or federal holiday referred to in the previous sentence shall be included.

PART 2694—FINANCIAL ASSISTANCE

Sec.

2694.1 Purpose and scope.
2694.2 Application for financial assistance.
2694.3 PBGC action on application.
2694.4 Financial assistance.
2694.5 Interim financial assistance.
2694.6 Limitation on payment of supplemental benefits.
2694.7 Prohibition on changes in coverage.

Authority: Secs. 4002(b)(3), 4022A(g)(2), Pub. L. 93–406, as amended by secs. 403(1) and 102 (respectively), Pub. L. 96–364, 94 Stat. 1302, 1214–15 (1980) (29 U.S.C. 1302, 1322a).

§ 2694.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe the rules for PBGC financial assistance to multiemployer plans covered by the supplemental guarantee program that are or will be insolvent and unable to pay when due supplemental benefits. This part establishes the procedure under which plan sponsors shall file an application for financial assistance with PBGC and the terms and conditions under which PBGC shall provide financial assistance.

(b) *Scope.* This part applies to multiemployer plans that are covered by the supplemental guarantee program and are or will be insolvent and unable to pay when due supplemental benefits.

§ 2694.2 Application for financial assistance.

A plan sponsor of a multiemployer plan covered by the supplemental guarantee program who determines that the plan is or will be insolvent and unable to pay supplemental benefits when due may apply to PBGC for financial assistance. Thereafter, the plan

sponsor shall submit any information PBGC determines it needs to review the application.

§ 2694.3 PBGC action on application.

(a) *General.* If, upon receipt of an application for financial assistance under § 2694.2, PBGC verifies that the plan is insolvent and unable to pay supplemental benefits when due, PBGC shall provide the plan financial assistance in an amount sufficient to enable the plan to pay guaranteed supplemental benefits due under the plan.

(b) *PBGC decision.* PBGC's decision under this section approving or disapproving an application, in whole or in part, shall be in writing. If PBGC disapproves an application, in whole or in part, the decision shall state the reasons for the determination, include a statement of the plan's right to appeal the decision pursuant to Part 2606 of this chapter and state that the decision is effective on the date of issuance.

§ 2694.4 Financial assistance.

(a) *Terms and conditions.* Financial assistance shall be provided under such onditions as PBGC dtermines are equitable and are appropriate to prevent unreasonable loss to PBGC with respect to the plan.

(b) *Repayment.* A plan which has received financial assistance shall repay the amount of such assistance to PBGC on such reasonable terms and for such periods as PBGC deems equitable and appropriate in the particular case.

§ 2694.5 Interim financial assistance.

Pending determination of the proper amount of financial assistance under § 2694.3(a), PBGC may provide interim financial assistance in such amounts as it considers appropriate in order to avoid undue hardship to plan participants and beneficiaries.

§ 2694.6 Limitation on payment of supplemental benefits.

Notwithstanding §§ 2694.3(a) and 2694.5 of this part, PBGC shall provide financial assistance to pay supplemental benefits guaranteed under the supplemental guarantee program only to the extent that there is money available to do so in the supplemental guarantee program fund established under section 4005(e) of the Act.

§ 2694.7 Prohibition on changes in coverage.

A plan may not cancel or decrease its coverage under the supplemental guarantee program in a year during which the plan receives financial assistance under this part.

PART 2695—MASS WITHDRAWALS

Sec.
2695.1 Purpose and scope.
2695.2 Mass withdrawals.

Authority: Secs. 4002(b)(3), 4022A(g)(2), Pub. L. 93–406, as amended by secs. 403(1) and 102 (respectively), Pub. L. 96–364, 94 Stat. 1302, 1214–15 (1980) [29 U.S.C. 1302, 1322a].

§ 2695.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe special rules for multiemployer plans that are covered by the supplemental guarantee program that experience a mass withdrawal.

(b) *Scope.* This part applies to mass withdrawals, including a termination by mass withdrawal under section 4041A(a)(2) of the Act and the withdrawal of substantially all employers in a plan pursuant to an agreement or agreements to withdraw.

§ 2695.2 Mass withdrawals.

(a) *General rule.* PBGC shall cancel the coverage under the supplemental guarantee program of a multiemployer plan with respect to which there is a mass withdrawal if the mass withdrawal date occurs on or before the earlier of—

(1) The date on which the last collective bargaining agreement providing for employer contributions under the plan, which has an effective date on or after the plan's initial coverage date, expires; or

(2) Six years after the plan's initial coverage date.

(b) *Cancellation of coverage.* Cancellation shall be effective as of the last day of the plan year preceding the plan year in which PBGC notifies the plan that its coverage is cancelled. PBGC shall make a refund to the plan for any overpayment in accordance with § 2693.7(b) of this subchapter. If a plan's coverage is cancelled pursuant to this paragraph, it shall not be eligible to re-apply for coverage.

(c) *PBGC decision.* PBGC's decision to cancel a plan's coverage under this section shall be in writing. PBGC's decision shall state the reasons for the determination, the date as of which the plan's coverage is cancelled, include a statement of the plan's right to appeal the decision pursuant to Part 2606 of this chapter and state that the decision is effective on the date of issuance.

Issued at Washington, D.C., this 26th day of January 1983.

Raymond Donovan,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this Notice of Proposed Rulemaking.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 83–2752 Filed 1–31–83; 8:45 am]
BILLING CODE 7708–01–M

Reader Aids

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Tuesday, February 1, 1983

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CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Fnday).

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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TABLE OF EFFECTIVE DATES AND TIME PERIODS—FEBRUARY 1983

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (see 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
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Radio Broadcasting
Federal Communications Commission

Savings and Loan Associations
Federal Home Loan Bank Board

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Interstate Commerce Commission

Truth in Lending
Federal Reserve System

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF THE TREASURY

GENERAL ACCOUNTING OFFICE

4 CFR Part 56

Joint Regulations for Advance Payment of Charges for Transportation Services Furnished the United States

AGENCY: Treasury Department and General Accounting Office.

ACTION: Final rule.

SUMMARY: This rule makes technical and conforming amendments to change citations of law appearing in the Joint Regulations issued by the Secretary of the Treasury and the Comptroller General of the United States. This is necessary because of the enactment of the codification of Title 31, U.S.C., into positive law. As a result of this enactment, the substance of provisions of law currently cited in the Joint Regulations have been included in the codification while the currently cited provisions of law themselves have been repealed. This rule makes no substantive changes in the Joint Regulations.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Richard T. Cambosos, Office of General Counsel, General Accounting Office, 275–5544.

SUPPLEMENTARY INFORMATION: Section 1 of Pub. L. 97–258, September 13, 1982, 97 Stat. 877, revised, codified and enacted certain general and permanent laws of the United States relating to money and finance as Title 31, U.S.C., entitled "Money and Finance."

The purpose of the codification is to restate without substantive change previously adopted provisions of law and to replace them with code provisions. Section 4(a) of Pub. L. 97–258, 96 Stat. 1067. Consequently, upon enactment of Title 31, U.S.C., by the Congress, all provisions of law restated in the codification were repealed. Section 5 of Pub. L. 97–258, 96 Stat. 1068. However, any order, rule or regulation in effect under any law repealed by Pub. L. 97–258, continues in effect under the corresponding provision of Title 31, U.S.C. Section 4(c) of Pub. L. 97–258, 96 Stat. 1067.

Since the Joint Regulations issued by the Secretary of the Treasury and the Comptroller General appearing in Title 4 of the CFR were adopted under authority of provisions of law, the substance of which have been carried forward into Title 31, U.S.C., it is necessary to amend the Joint Regulations to change legal references and citations to the appropriate corresponding section of Title 31, U.S.C.

The Secretary of the Treasury has determined that this is not a major rule for purposes of Executive Order 12291. Accordingly, a regulatory impact analysis is not required. Because the amendments made by this rule are technical and do not make substantive changes, the Department of the Treasury and the General Accounting Office find that a general notice of proposed rulemaking and public procedure thereon, and a delayed effective date are unnecessary. Because no notice of proposed rulemaking is required, this rule is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 6001 et seq.)

PART 56—[AMENDED]

Accordingly, 4 CFR Part 56 is amended as follows:

§ 56.1 [Amended]

1. Section 56.1 is amended by removing the citation "section 3648 of the Revised Statutes, 31 U.S.C. 529" and inserting, in its place, the citation "31 U.S.C. 3324".

§ 56.2 [Amended]

2. Paragraph (a) of § 56.2 is amended by removing the citation "31 U.S.C. 203" and inserting in its place the citation "31 U.S.C. 3727".

Donald Regan,

Secretary of the Treasury.

Charles Bowsher,

Comptroller General of the United States

[FR Doc. 83–2831 Filed 2–1–83; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545 and 556

[No. 83–40]

Branch Office Approval

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board is amending its branch office regulations to eliminate the criterion of undue injury to simplify processing and to reduce unnecessary regulatory burdens currently imposed on institutions that apply for branch offices and relocations. Additionally, these regulations amend the delegation to the Principal Supervisory Agents to approve change of office location and redesignation of offices and to approve amendments to Section 2 of federal charters.

DATE: Effective January 26, 1983.

FOR FURTHER INFORMATION CONTACT: Gayle L. Radley, Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, (202) 377–6961.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board ("Board") by Board Resolution No. 82–669 (October 7, 1982; 47 FR 44333) proposed to eliminate its "undue injury" criterion for branch approvals. The public-comment period on the proposal closed on December 8, 1982, with receipt of 26 comment letters. Having reviewed the comments and other available information, the Board has determined to adopt the amendments as proposed.

By Board Resolution Nos. 80–285 (May 5, 1980; 45 FR 31046) and 80–760 (December 4, 1980; 45 FR 83196), the Board had previously adopted final amendments which revised and consolidated its branching regulations (12 CFR 545.14) and had issued a policy statement on branching (12 CFR 556.5). Among other things, those revisions amended the regulatory criteria for branch approvals by eliminating the tests for "need" and "probability of success." The Board's action today in eliminating the undue-injury criterion for branch approvals is consistent with its general view that the market place is the best regulator of economic activity. This action comports with its policy favoring

deregulation initiatives, while continuing to require an assessment of the applicant's supervisory performance and its observation of the Community Reinvestment Act of 1977 (12 U.S.C. 2901) ("CRA").

At present, § 545.14(e)(1) requires the Board to consider whether the proposed branch "[c]an be established without undue injury to properly conducted existing local thrift and home-financing institutions." Section 556.5 sets out the Board's policy statement on branching and gives guidance regarding the Board's evaluation of protests based on an allegation of undue injury. To support an allegation of undue injury, a protestant must currently demonstrate that the harm to an existing institution is adverse, economic in nature, substantial and harmful to the institution as a whole and not merely to a given branch office. Moreover, while older, established institutions may allege undue injury as a basis for protesting a proposed branch, section 556.5 currently expresses a Board policy which gives particular consideration to protests filed by newly-organized institutions, *i.e.* institutions in operation three years or less.

It is the Board's belief that, subject to certain fundmental regulatory concerns, the decision to open a new branch is a business decision for the management of an institution to make after considering the institution's options in its competitive environment. One of the principal reasons why the Board adopted the undue-injury test was to provide newly-organized institutions some degree of temporary insulation from the branching patterns of established institutions. The Board now finds that this policy, although rational when adopted in the 1960's, is no longer relevant. While prior experience might have supported the conclusion that newly-organized institutions needed special protection, today, newly-organized institutions may have a competitive advantage over older, established institutions. Many are more profitable than older institutions because their loan portfolios consist primarily of market-rate assets.

In addition, the realities of the market place and the deregulatory environment are such that no Board regulation can protect federal associations from the competitive pressures they already experience in the market as a result of the presence of commercial banks, savings banks, credit unions and non-depository competitors. Accordingly, it is both impractical and arbitrary to apply an undue-injury criterion only to one class of a protesting institution's potential competitors in the market, *i.e.*, other federal associations. The Board is of the view that maintaining the criteria of supervisory objection and an acceptable CRA performance record will provide adequate protection to the industry from indiscriminate branching.

An internal study of the Board's Office of Policy and Economic Analysis analyzed the profitability of newly-insured institutions (utilizing a five-year date of insurance) compared to the profitability of older institutions. Newer institutions, on the average, have higher income-and-expense ratios than older institutions. On the income side, they have significantly higher mortgage portfolio yields and a considerably higher gross operating income-to-average-assets ratio. On the expense side, the operating expense-to-average-assets ratio for newer institutions was also significantly higher while their cost of funds was only somewhat higher.

As a practical matter, the use of the undue-injury criterion as a basis for protesting proposed branch activity has substantially diminished, possibly because of changes in the basic structure of the thrift industry. As was stated in the proposal, since 1980 no branch application has been denied based on the likelihood of undue injury to another insured institution as a whole, nor, since the 1970's, has an application protested by a newly-organized federal institution ever been denied solely on the basis of the undue-injury criterion. Thus, whatever need there might have been previously to protect newly-organized federal institutions has been almost entirely diminished.

The Board believes that the public interest is served by a policy which allows branching patterns to satisfy an institution's corporate choices and business plans. The practical effect of this regulation will be to give the consumer a choice of alternative facilities which will serve to improve and maximize the delivery of competitive financial services. Considerable cost savings should also result from this deregulatory action because institutions would no longer be required to compile and analyze extensive amounts of data regarding competitive conditions in the relevant geographic area. Finally, it is logical, generally, to assume that if the management of an institution has made the business decision to expend the money, effort, and capital necessary to establish a branch in a particular market, that market has the potential to support the branch. Rather than causing a reduction, competition may be enhanced by the establishment of a new branch in the market.

This regulatory action taken by the Board today is consistent with recent actions taken by the Office of the Comptroller of the Currency. That agency has recently revised its branch regulations to eliminate a test analogous to the Board's undue-injury criterion. Agency involvement in the decision of a national bank to branch is now minimal, except where supervisory concerns or the CRA performance of an institution must be addressed. *See* 12 CFR 5.30; 47 FR 29823 (1982).

The Board is retaining the criteria which would allow an application to be denied where an applicant has an unacceptable CRA performance record or where there are bases for supervisory objection. In order to provide the Board with greater flexibility in considering branch applications, however, the Board is also amending § 556.5(b). The Board will consider whether the overall policies, condition, and operation of the applicant are satisfactory and, as a whole, afford no bases for supervisory objection. Where the overall condition of the applicant is satisfactory, the Board in its discretion may waive any specific supervisory objection and approve the branch application. In the absence of unacceptable supervisory or CRA concerns, however, institutions will be able to branch without further agency action.

Summary of Comments

Twenty-six public comment letters were submitted in response to the proposal. Eighteen favored the proposed Board action and eleven objected to eliminating the undue-injury criterion as a basis for one institution to protest a proposed branch office of another insured institution.

Those commenters who favored the Board's proposed action generally maintained that financial institutions have benefited from competition and strongly support deregulation in the financial community. In agreement with the Board, these commenters expressed the view that the marketplace is the best regulator of economic activity and that new branching is most properly a business decision to be decided by each institution's management. Branching has not harmed financial institutions; rather, it was argued, it was one way to stimulate healthy competition. When applications were protested on the ground of undue injury, the primary motivation was often, in reality, an attempt to limit legitimate future competition.

Those commenters opposing elimination of the undue-injury criterion based their protests on several grounds. One view was that by permitting a branch to be established without evaluating "need", "probability of success", or "undue injury", the Board was permitting institutions to circumvent the chartering requirements by enabling them to establish or increase their presence in a community without being newly chartered. Another argument was that some communities already are adequately served and that new branches should therefore be limited so profits of existing institutions will not be diminished. However, as was stated above, the Board, as a matter of policy, favors branching as a means of stimulating competition. The undue-injury requirement was never intended to ensure that individual institutions with a secure place in the community would be guaranteed against the threat of new business and competition in the area.

Another argument against eliminating the undue-injury criterion maintained that FSLIC-assisted "Phoenix" institutions would be able to branch only as a result of government assistance. Therefore, since the competitive effects of the market would not be operating anyway, this would work an unfair hardship on unassisted institutions. In response, it should be noted that unlike independently operated institutions, management decisions of "Phoenix" institutions are scrutinized on a number of levels. A "Phoenix" is required to reduce expenses, close inefficient branches and increase its profitability so that it may again operate without FSLIC assistance. Accordingly, the threat which such entities pose as potential branching competitors is relatively remote.

Technical Amendments

The Board is taking this opportunity to adopt two technical amendments to § 545.15, 12 CFR 545.15, pertaining to change of office location and redesignation of offices. In Board Resolution No. 82–785, dated December 8, 1982 (48 FR 178, 1983), the Board delegated authority to its Principal Supervisory Agents to approve the relocation or redesignation of a federal association's home office. Due to an oversight, correlative authority was not granted to approve an amendment to Section 2 of Federal charters which is required to accomplish such action. Paragraph (h) of that section has been amended accordingly. In addition, paragraph (d) has been renumbered as paragraph (c) to conform to changes made in that Resolution.

Regulatory Flexibility Act Certification

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board certifies that the amendments will not have a significant impact on a substantial number of small entities. The regulations eliminate the review for undue injury in the least burdensome and most efficient manner and generally gives subject institutions greater flexibility in their operations. The Board believes that the amendments will benefit small institutions by reducing paperwork and delay but will not have a significant economic impact.

The Board finds that delay of the effective date of the amendments for 30 days after publication pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unncessary because there is a present need to allow institutions to have the flexibility to be able to branch without being subject to protests based on undue injury, and because the amendment relieves a restriction.

Accordingly, the Board hereby amends Parts 545 and 556 of Subchapter C of Title 12, Code of Federal Regulations, as set forth below.

List of Subjects in 12 CFR Parts 545 and 556

Branching, Savings and Loan Associations, Undue Injury.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

1. Paragraph (e) of § 545.14 is revised as follows:

§ 545.14 Branch offices.

* * * * *

(e) *Approval by the board or the Principal Supervisory Agent.*

(1) The Board shall approve an application only if, in its opinion, the overall policies, condition, and operation of the applicant afford no bases for supervisory objection and the proposed branch will open within 12 months of approval unless otherwise allowed by the Board or the Principal Supervisory Agent. In considering whether to approve an application, the Board will assess and take into account an institution's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, pursuant to Part 563e of this Chapter; assessment of an institution's record of performance may be the basis for denying an application. An application may also be denied on the basis of restrictions imposed by the Board pursuant to an existing agreement between the Board and a State agency that regulates State-chartered savings and loan associations.

(2) The Principal Supervisory Agent may approve, on behalf of the Board, an application for permission to establish a branch office if no substantial protest based on Part 563e of this Chapter has been filed. Such application shall be deemed to be approved by the Board 30 calendar days after notification that the application is complete, unless the applicant is otherwise notified by the Supervisory Agent that objection has been taken on grounds set forth in subparagraph (1) of this paragraph (e).

* * * * *

2. Amend § 545.15 by redesignating the text of paragraph (b) thereof as paragraph (b)(1) and adding a new paragraph (b)(2) thereto; and redesignating paragraph (d) thereof as paragraph (c) and revising the first sentence of paragraph (c)(2) thereof, as follows:

§ 545.15 Changes of office location and redesignation of offices.

* * * * *

(b) *Processing of application.*

* * * * *

(2) The Principal Supervisory Agent may approve, on behalf of the Board, an amendment to Section 2 of an association's charter in connection with approval of a home office relocation or redesignation under this section.

(c) *Short-distance relocations.*

* * * * *

(2) An association shall notify the Supervisory Agent in writing at least 30 days before such an office relocation and may proceed with the relocation unless, within 30 days of receipt of the notice, the Supervisory Agent notifies the association that the relocation does not satisfy the criteria in the first sentence of this paragraph (c), in which case the association must file an application and obtain Board approval in accordance with paragraph (b) of this section. * * *

PART 556—STATEMENTS OF POLICY

3. Amend § 556.5 by revising paragraph (b)(1), removing paragraph (d), and redesignating paragraphs (e), (f), (g), (h), (i) and (j) as new paragraphs (d), (e), (f), (g), (h) and (i), respectively, as follows:

§ 556.5 Establishment of branch offices.

* * * * *

(b) *Supervisory clearance.*—(1) *General.* The branching regulations recognize that the decision to branch is a management prerogative. However, in granting supervisory clearance to an

applicant, the Board will consider whether the overall policies, condition, and operation of the applicant are satisfactory and, as a whole, afford no bases for supervisory objection. Where the overall condition of the applicant is satisfactory, the Board in its discretion may waive any specific supervisory objection and approve the branch application.

* * * * *

(c) *Community reinvestment.* * * *
(d) *Protest and oral argument.* * * *
(e) *Basis for approval.* * * *
(f) *Branch openings.* * * *
(g) *Branch closings.* * * *
(h) *Name of branch office.* * * *
(i) *Drive-in and pedestrian offices.*
* * *

(Sec. 5 of the Home Owners' Loan Act, 48 Stat. 132 (12 U.S.C. 1464); secs. 402, 403, and 407 of the National Housing Act, 12 U.S.C 1725, 1728, and 1730; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR Part 1071 (1943–48 Comp.))

Dated: January 20, 1983.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83–2879 Filed 2–1–83; 8:45 am]

BILLING CODE 6720–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 302

[Procedural Reg. Amdt. No. 69; Reg. PR–257]

Rules of Practice in Board Proceedings; Verification of Complaints in Enforcement Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB clarifies its provisions on the institution of formal enforcement proceedings by the Associate General Counsel, Enforcement Division, to reflect the prior elimination of a requirement that Enforcement Division attorneys must verify formal complaints and other pleadings.

DATES: Adopted: January 27, 1983. Effective: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Michael K. Nolan, Office of the General Counsel, Enforcement Division, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5943.

SUPPLEMENTARY INFORMATION: 14 CFR 302.206 (Rule 206 of the Board's Rules of Practice), authorizes the Associate General Counsel, Enforcement Division, to institute formal enforcement proceedings whenever that official believes there are reasonable grounds to believe that any provision of the Federal Aviation Act or its related rules, regulations, and orders have been violated or may be violated, and the investigation of the alleged violation(s) is in the public interest. Rule 206(a) requires the Associate General Counsel to institute formal enforcement proceedings by issuing a notice that incorporates by reference a formal complaint, or by issuing a notice accompanied by a complaint that is verified by the attorney in the enforcement Division who signs the complaint.

The requirement that Enforcement Division attorneys verify the complaint and other pleadings that they sign in formal enforcement proceedings was eliminated by the Board in PR–210, 44 FR 46446, August 8, 1979. PR–210 revoked Rule 202 of the Board's Rules of Practice, 14 CFR 302.202, and the Board stated at that time that the verification requirement was unnecessary and outmoded, that verification of such pleadings was not required by the Federal Rules of Civil Procedure or by the Federal Aviation Act, and that the elimination of this requirement would simplify Board procedures and reduce paperwork. Through an oversight, PR–210 did not delete the verification requirement from Rule 206(a) of the Board's Rules of Practice. The Board is now amending Rule 206(a) to reflect the prior elimination of the verification requirement.

Since this amendment is administrative in nature, affecting agency practice and procedure, the Board finds for good cause that notice and procedure are unnecessary and that the amendment may become effective upon publication in the **Federal Register**.

List of Subjects in 14 CFR Part 302

Administrative practice and procedures, Air rates and fares, Authority delegations, Postal service.

PART 302—[AMENDED]

Accordingly, the Civil Aeronautics Board revised 14 CFR Part 302, Rules of Practice in Board Proceedings, as follows.

1. The Authority for 14 CFR Part 302 is:

Authority: Secs. 101, 203, 204, 401, 402, 403, 404, 406, 412, 901, 1001, 1002, 1005, Pub. L. 85–726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 763, 770, 783, 788, 794; 49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1471, 1481, 1482, 1485; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91–90, 42 U.S.C. 4321; 84 Stat. 772, 39 U.S.C. 5402.

2. Section 302.206(a) is revised to read:

§ 302.206 Commencement of enforcement proceeding.

(a) Whenever in the opinion of the Associate General Counsel, Enforcement Division, there are reasonable grounds to believe that any provision of the Act, or any rule, regulation, order, limitation, condition, or other requirement established pursuant thereto, has been or is being violated, that, in the case of third-party complaints, efforts to satisfy a complaint insofar as required by § 302.204 have failed, and that the investigation of any or all of the alleged violations is in the public interest, the Associate General Counsel, Enforcement Division may issue a notice instituting a formal enforcement proceeding. The notice shall incorporate by reference a formal complaint submitted pursuant to § 302.201 or shall be accompanied by a complaint by an attorney from the Enforcement Division of the Office of the General Counsel. The notice and accompanying complaint, if any, shall be formally served upon each respondent and each complainant. The proceedings thus instituted shall be processed in regular course in accordance with this part. However, nothing in this part shall be construed to limit the authority of the Board to institute or conduct any investigation or inquiry within its jurisdiction in any other manner or according to any other procedures which it may deem necessary or proper.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–2883 Filed 2–1–83; 8:45 am]

BILLING CODE 6320–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Registration; Commission Determination To Deny Certain Requests for Exemption

AGENCY: Commodity Futures Trading Commission.

ACTION: Commission determination.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has recently received numerous inquiries on behalf of [1] futures

commission merchants ("FCMs") which are either (i) not members of any contract market or (ii) not members of all the contract markets on which commodity options are currently traded and (2) agents of such FCMs who desire to enter into agency agreements with exchange-member FCMs for the purpose of offering and selling options to the public. (The term "non-member FCM" is used hereafter to encompass both FCMs which are not members of any contract market and FCMs which are not members of all the contract markets which have been designated to trade options.) The subject of these inquiries is the prohibition on dual and multiple associations by associated persons ("APs") contained in Rule 3.12(f) of the Commission's regulations, 17 CFR 3.12(f) (1982), which, absent an exemption, would generally prohibit APs associated with one FCM or agent of an FCM from also being associated with another exchange-member FCM to offer and sell options, and would thus preclude such persons and their employer FCMs or agents from soliciting or accepting option orders by forming an agency relationship with an exchange-member FCM. The Division of Trading and Markets ("Division") is hereby giving notice that upon consideration of this issue which was referred to the Commission, consistent with the Division's delegated authority, the Commission has instructed the Division in exercising such delegated authority to deny all requests for exemptions from Rule 3.12(f) on behalf of "non-member" FCMs and agents of such FCMs which seek dual or multiple associations for their APs for the purpose of offering and selling commodity options to the public.

DATE: Effective February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Bruce A. Beatus, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: On November 3, 1981, the Commission published in the **Federal Register** final regulations governing its domestic exchange-traded commodity option pilot program.[1] Rule 33.3(b)(1) of those regulations generally makes it unlawful for any person to solicit or accept orders for the purchase or sale of a commodity option unless that person is (1) a registered FCM which either is a member of (i) the contract market on which the option is traded or (ii) a registered futures association which provides for the regulation of the option-related activities of its members in a manner equivalent to that required of contract markets by the Commission's option regulations or (2) an individual registered as an AP of a specified FCM of the type described above.[2] In the preamble of the **Federal Register** release announcing the adoption of the final regulations governing the option pilot program, the Commission, however, interpreted Rule 33.3(b)(1)(ii) to permit an AP associated with an exchange-member FCM, through an agent, to offer and sell options.[3]

This interpretation was premised on the Commission's longstanding view that "an agent of an FCM [is] the functional equivalent of an associated person." *Id.* (Similarly, a person associated with an agent of an FCM as an AP is necessarily an AP of that FCM.) As such, the Commission emphasized that "[a]n FCM is fully responsible for the acts of its agents and, in particular, must supervise the option sales practices of its agents." *Id.* In this connection, the Commission made clear that the sales practice audits of member FCMs which a contract market designated to trade options (or the designated self-regulatory organization for such contract market) is required to conduct pursuant to Rule 33.4(c), 17 CFR 33.4(c) (1982), must include the activities of the agents of member FCMs and of their APs. *Id.* Consistent with this view, the Commission also indicated at that time that this interpretation was not intended to broaden the scope of the option pilot program by modifying the "members only" restriction which presently limits FCM participation in the offer and sale of commodity options to only those FCMs which are members of the exchange on which the option is traded.

The Commission has recently received numerous inquiries concerning the effect of this interpretation upon the prohibition on dual and multiple associations contained in § 3.12(f) of the Commission regulations, which, absent an exemption, would generally prohibit APs associated with a non-member FCM or agent of such an FCM from also being associated with another exchange-member FCM to offer and sell options and would thus preclude such persons and their employer FCMs or agents from soliciting or accepting option orders by forming an agency relationship with an exchange-member FCM. The Commission, of course, as indicated above, did not intend that persons otherwise precluded from participation in the pilot program by the "members only" restriction could solicit and accept option orders by becoming agents of member firms.

In reponse to the Division's referral of these recent inquiries to the Commission, which was done pursuant to delegated authority granted by Rule 3.12(g)(2)(ii), 17 CFR 3.12(g)(2)(ii)(1982), the Comission has directed its staff to deny generally requests for exemption from Rule 3.12(f) on behalf of non-member FCMs and agents of such FCMs which seek dual or multiple associations for their APs with exchange-member FCMs for the purpose of offering options to the public. Such requests will be denied because (1) the Commission specifically excluded non-member FCMs and agents of such non-member FCMs from soliciting or accepting option orders when the final regulations for the pilot program were adopted; (2) the Commission has represented to Congress on numerous occasions that the pilot program would be so limited and that its ability to regulate the program successfully depended on such a limitation; (3) the status of non-member FCMs as independent business entities may be construed to limit the extent of a member FCM's liability for the acts of an affiliated non-member FCM's sales personnel; (4) the granting of such an exemption would materially complicate the Commission's ability to keep accurate records as to the registration status of individual APs; and (5) obvious difficulties of supervision and inherent possibilities for conflicts of interest would arise if the APs of non-member FCMs or agents of such FCMs were to have more than one sponsor. The limitation on participation in the pilot program to member FCMs and their APs was intended as an integral component of the Commission's regulatory framework for options trading and has been designed to assure the public sufficient protection during the pilot program period.

The Commission believes that this disposition of requests for exemptions from Rule 3.12(f) is entirely consistent with its regulatory program for options trading as well as its previous interpretative positions. Although the

[1] 46 FR 54500. The Commission recently has published regulations in the **Federal Register** which would modify the pilot program to permit the trading of options on physical commodities and also would amend certain other rules which pertain to futures contracts and to options on futures contracts, for purposes of clarification as well as to include appropriate references to option transactions. *See* 47 FR 56996 (December 22, 1982.)

[2] 17 CFR 33.3(b)(1)(1982).

[3] 46 FR 54504 (November 3, 1981). The amendments which the Commission has adopted to govern the trading of options on physicals would not substantively affect this provision.

offer and sale of commodity options is currently limited to member FCMs and their APs, as already noted, Rule 33.3(b) expressly allows non-member FCMs and their APs to engage in the offer and sale of commodity options if they are members of a registered futures association which regulates the option-related activities of its members in a manner equivalent to that required of contract markets under the Commission's rules. In this connection, the National Futures Association ("NFA") has submitted, pursuant to Section 17(j) of the Commodity Exchange Act, as amended, 7 U.S.C. 21(j)(1976), proposed compliance rules governing the solicitation and handling of option accounts by NFA-member FCMs and their sales personnel and option sales practice audit procedures. The Division staff is currently reviewing NFA's submission and anticipates completion of the review process shortly.[4] At such time as NFA rules governing options and the requisite joint audit agreements are approved by the Commission, and NFA implements its program to regulate the option-related activities of its members in a manner equivalent to that required of contract markets under the Commission's rules, any person adversely affected by this decision will be able to solicit and accept option orders as an NFA member. Thus, the restrictions imposed by this determination may be expected to be mitigated in the near future.[5]

[4] The NFA proposal, however, also relies upon the execution of joint audit agreements between the NFA and those exchanges designated or applying for designation to trade options. Although those joint audit agreements must also be approved by the Commission before NFA's option program can become effective, NFA and the participant exchanges have not yet submitted the agreements for Commission review.

[5] Consistent with the Commission's prior interpretation of Rule 33.3, the Commission also notes that a member FCM may decide whether to accept option orders solicited and accepted by the APs of its agents (except by agents which are non-member FCMs or agents of such FCMs), so long as the rules of the relevant contract market permit. In this regard, the Commission wishes to reemphasize the obligations of a member FCM which makes an affirmative decision on this issue, as originally expressed at the time the final option rules were adopted. Specifically, an FCM must assume full responsibility for the acts of such agents and, in particular, must supervise the option sales practices of their APs. Further, a member FCM may not accept option orders from non-member FCMs or agents of non-member FCMs which were solicited and accepted in violation of Rule 33.3(b)(1), as interpreted by the Commission. Similarly, contract markets which have option sales practices audit programs are reminded that they have represented that they will carefully monitor participation by agents of member FCMs in the pilot program to ensure that their activities are conducted in conformity with the foregoing limitations and obligations.

Issued in Washington, D.C. on January 26, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-2862 Filed 2-1-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 6a

[T.D. 7832]

Income Tax; Temporary Income Tax Regulations Under Subtitle C of Title XI of the Omnibus Reconciliation Act of 1980; Foreign Investment in United States Real Property

Correction

In FR Doc. 82-25829, beginning on page 41532, in the issue of Tuesday, September 21, 1982, on page 41536, in the first column, in the second line, "June 21, 1982." should read "June 21, 1983."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 65

National Historic Landmarks Program

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: These regulations set forth the Secretary of the Interior's criteria for national significance and the process used to identify, designate, recognize and monitor the integrity of National Historic Landmarks. This final rule incorporates revisions required by the National Historic Preservation Act Amendments of 1980 Pub. L. 96-515 ("Amendments"), and updates and revises in other minor respects the National Historic Landmark procedures based in part on comments received in response to publication of prior regulations. The regulations make available to Federal agencies, State and local governments, private organizations, and individuals information necessary for understanding of and participation in the National Historic Landmarks Program.

DATES: Final rule effective February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Edwin C. Bearss, Chief, History Division (202) 523-0089. Address: Chief, History Division, National Park Service, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The National Historic Landmarks Program, administered by the National Park Service, is the program of the Department of the Interior for identifying, designating, recognizing, listing, and monitoring National Historic Landmarks. Two offices in the national Park Service cooperate in managing the program: the Office of the Associate Director, Cultural Resources Management, through the History Division, manages the functions of identifying, designating and recognizing landmarks; the Office of the Associate Director for National Register Programs lists landmarks on the National Register of Historic Places and monitors their condition. The program provides limited protection to historic properties and assists the planning needs of Federal, State and local agencies and private organizations and individuals because it is the primary Federal means of assessing the national level of significance of historic properties, including those proposed for inclusion in the National Park System and for addition to the World Heritage List. Authority for the National Historic Landmarks Program is derived from the historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461 *et seq.*), which established a national policy to preserve "historic sites, buildings, and objects of national significance," and the National Historic Preservation Act Amendments of 1980 (Amendments).

Interim rules for the National Historic Landmarks Program were published in the **Federal Register** on December 18, 1979, 44 FR 74826, with a request for comments. The December 18, 1979 interim rules are replaced by the final rules published today. Responses to the publication of the December 18, 1979 interim rules indicate the wide range of parties participating in the Landmarks Program, including State Historic Preservation Officers, other State and Federal agencies, university faculties, business firms, private organizations and individuals. On December 12, 1980, the Amendments became law necessitating revisions in the National Historic Landmark designation process. The Amendments require the Secretary of the Interior to promulgate or revise regulations for the following:

(a) Establishing and revising criteria for National Historic Landmarks;

(b) Designating properties as National Historic Landmarks and removing such designations;

(c) Considering appeals from such nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

(d) Notifying the owner of a property, appropriate local governments and the general public, when the property is being considered for designation as a National Historic Landmark;

(e) Notifying the owners of private property and providing them an opportunity (including a reasonable period of time) to concur in or object to the nomination of the property or district for designation;

(f) Reviewing the nomination of the property or district where any such objection has been made, determining whether or not the property or district is eligible for designation, and informing the Advisory Council on Historic Preservation, the appropriate State official, the appropriate chief elected local official and the owner or owners of such property of the Secretary's determination; and,

(g) In the case of National Historic Landmark districts for which no boundaries have been established, publishing proposed boundaries in the **Federal Register** and submitting them to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

The Amendments require the Secretary to send any proposed regulations published thereunder to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate before publication in the **Federal Register** for comment, and to send final regulations to Congress before publication.

In addition to the changes required by the Amendments, these final regulations reflect comments made in response to the December 18, 1979 interim regulations. Since the issuance of the December 18, 1979 interim regulations, the Heritage Conservation and Recreation Service (HCRS) has been abolished and the National Historic Landmarks Program transferred to the National Park Service (NPS). Comments received often refer to the Consulting Committee which was a review board proposed to examine and make professional recommendations to the Director (HCRS) and the Secretary of the Interior regarding the qualifications of nominated National Historic Landmarks. With the transfer of the program to the National Park Service, these regulations substitute the National Park System Advisory Board for the Consulting Committee.

Summary of comments and response to comments on the December 18, 1979 interim regulations:

One State urged that a specific system be established for nominations by State Historic Preservation Officers. The National Park Service also emphasized that National Historic Landmarks should be selected primarily on the basis of theme studies because of the importance of comparative analysis. Both of these concerns are incorporated into the priorities for selecting studies established in these regulations.

Several comments were received concerning the composition of the Consulting Committee and the role of the Committee. One comment suggested that designation by the Secretary without Consulting Committee review should be provisional and should require Committee concurrence within a specified period of time. Another comment recommended that the Committee include expertise in both historic and prehistoric archeology. As a result, the regulations have been made more specific concerning when and how the Secretary may designate National Historic Landmarks without National Park System Advisory Board review.

Several private companies expressed concerns about the effects of designation. One company interpreted the Historic Sites Act to mean that the Department of the Interior must obtain an interest in a property before designation. The Department does not agree with this interpretation of the act. The same company expressed concern that the owners were giving up some right in their property. Under Federal law, National Historic Landmark designation of a private property does not prohibit any actions which may otherwise be taken by the owner with respect to the property.

Others suggested that the role of the Director in the designation process should be clarified. This has been done in the regulations. One comment also urged that NPS should assure that all National Historic Landmark studies, public meetings, etc., should be carried out by NPS or with an NPS representative present. While this concern is not addressed in the regulations, NPS will assure that there is adequate NPS oversight of all aspects of the program.

One comment expressed concern that some aspects of the National Historic Landmark criteria are too broad, for example, the references to movements, ideals, beliefs and phenomena. The regulations make clear that the criteria are the general standards for evaluation of national significance; however, NPS emphasizes that the significance of each property must be evaluated on the basis of a thorough and detailed scholarly study.

The notification procedures before designation were the subject of a number of comments. One State Historic Preservation Officer recommended that State Historic Preservation Officers always participate in public meetings. Although this is not addressed in the regulations, NPS always welcomes State Historic Preservation Officers' participation in public meetings as well as in other aspects of the program.

Other comments recommended that additional parties be notified, as well as those included in the interim regulations. Because notice is costly, NPS can routinely notify only a certain number of parties as part of the nomination process.

A number of comments recommended revising the registration section. Some comments recommended that certificates be presented to all National Historic Landmarks. This has been included. Others recommended that plaques not be presented unless the recipients are willing to publicly display them. This has been included. Another comment questioned getting owners to sign a preservation agreement which is not binding. Based on these comments the registration aspect of the program has been substantially revised.

To fulfill the requirements of the Amendments and on the basis of the comments received on the December 18, 1979 interim regulations, substantive revisions have been made in the sections of the regulations listed below:

Section 65.2. A new section on the effects of designation has been added.

Section 65.4. The National Historic Landmark Criteria, Section 1205.9 in the December 18, 1979 interim rules (reprinted as 36 CFR Part 65 in 1981 to reflect the reorganization of HCRS into NPS) have been moved to a new position to emphasize their importance as the basis for all decisions on landmark designation. These criteria were revised following consultation with historical and archeological associations, the History Areas Committee of the National Park System Advisory Board and the National Register. As a result, the revised criteria herein have been substituted for those of the 1979 rules. With some changes, these are the criteria used by the National Historic Landmarks Program before the 1979 rules. They are less cumbersome and more closely parallel with the criteria of the National Register (36 CFR Part 60).

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Section 65.5. New language has been inserted to clarify the method and priorities used to identify prospective landmarks, to assure general understanding of how National Historic Landmark studies are scheduled, and to define the role of the appropriate State officials, Federal agencies and other parties in that process.

The Department receives numerous requests to designate properties as National Historic Landmarks from State officials, property owners and others. The requests to study and designate such properties far exceed the funds and staff available to the Department for the conduct of the program. National Historic Landmarks will, with rare exceptions, be identified on the basis of theme studies which provide the contextual framework to evaluate the relative significance of properties. The theme studies, which organize the study of American history, and special studies for properties not in active theme studies will be conducted according to priorities established herein.

State and Federal agencies evaluate, document, and nominate significant historic properties to the National Register of Historic Places, under the authorities of the National Historic Preservation Act of 1966, as amended, and Executive Order 11593. Their efforts are one basis for establishing National Historic Landmark Program priorities and assist in avoiding duplication of effort.

Section 65.5(c)(2). This paragraph has been modified to state that onsite visits will be required unless NPS determines such a visit is not necessary and to indicate that NPS may conduct a public information meeting for properties with more than 50 owners and will do so for such a property upon request by the chief elected official of the local, county or municipal political jurisdiction in which the property is located. This section also provides that properties on which the onsite visit was conducted before the effective date of these regulations are not subject to the notice provisions announcing that a study is being conducted.

Section 65.5(c)(4). New language has been added to identify minimum requirements for the study report or nomination for each prospective landmark.

Section 65.5(d)(5). This paragraph has been modified to provide owners an opportunity to concur in or object to designation and to specify how a statement of objection shall be transmitted to NPS.

Section 65.5(e)(2). New language has been added to provide that studies submitted to the Consulting Committee or National Park System Advisory Board before the effective date of these regulations need not be resubmitted to the National Park System Advisory Board. In such instances, if a property appears to qualify for designation, NPS will provide at least 30 days notice, a copy of the study report, and an opportunity to comment, and, for owners, an opportunity to concur in or object to the designation as specified in § 65.5(d) (2) and (3), before submitting a property to the Secretary for designation.

Section 65.5(e)(3). New language has been added to clarify the role of the Director in the evaluation and designation of landmarks.

Section 65.5(f). New language has been added to provide that if the owners of private property or for a district the majority of such owners have objected to the designation, the Secretary shall make a determination of a property's eligibility for National Historic Landmark designation, as required by the Amendments. The paragraph also establishes that the Keeper may list in the National Register properties considered for National Historic Landmark designation which do not meet the National Historic Landmark criteria but do meet the National Register criteria for State or local significance or determine such properties eligible for listing if the private owners or a majority of such owners object to listing.

Section 65.5(g). This paragraph describes the notices which NPS will provide concerning designations, determinations of eligibility for designation or other actions taken by the Secretary.

Section 65.5(h). New language has been added to clarify when the Secretary may designate National Historic Landmarks without review by the National Park System Advisory Board and to identify notification procedures and other procedural steps to be followed in the designation of landmarks without Advisory Board review.

Section 65.6. Landmark Registration has been redefined as Landmark Recognition; this change will eliminate potential confusion between "Registered" Landmarks and National Register properties.

Section 65.8(d)(1). A new provision is added that in the case of National Historic Landmark districts for which no boundaries have been established, proposed boundaries shall be published in the **Federal Register** for comment and submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives to allow not less than 30 nor more than 60 days to comment on the proposed boundaries.

Section 65.9(a). New language expands the potential justification for withdrawals of landmark designation from three to four, including alternation of kind or degree of significance because of previously undiscovered information and reevaluation of the theme under which the designation was originally granted.

Section 65.9(b). This section specifies that properties designated as National Historic Landmarks before enactment of the Amendments, December 13, 1980, can only be designated if they have ceased to meet the criteria for designation because the qualities which caused them to be originally designated have been lost or destroyed. This provision is consistent with the Amendments' "grandfathering" all historic properties listed as National Historic Landmarks in the **Federal Register** of February 8, 1979 or thereafter prior to the effective date of the Amendments, and with the Congressional committee reports on the Amendments which recognize that the Secretary may dedesignate properties which have lost the historic qualities for which they were designated.

Section 65.9(c). A process is established for appeals for dedesignation.

Section 65.9(e). New language provides for possible continued National Register listing when a landmark designation is withdrawn and automatic National Register eligibility when designation is withdrawn because of procedural error.

Section 65.10. A new section has been added which establishes a formal process for appealing decisions not to designate a property a National Historic Landmark.

These substantive revisions are accompanied by minor changes in language throughout the regulations for purposes of clarity and consistency. The Department of the Interior emphasizes that the National Historic Landmark criteria constitute the standards against which all prospective landmarks are measured. These criteria do not contain a specific definition of significance. Instead, they are purposely worded to create a qualitative framework that can be applied to the wide variety of properties of national significance. The basis for designation of properties as landmarks is a scholarly, professional analysis of the historical documentation for each property and of the property's

relative significance within a major field or theme of American history or prehistory.

The Department of the Interior has given particular attention to the need for expanded public participation in the National Historic Landmark designation process. Notification requirements have been set which will insure that property owners, appropriate State officials, local governments, Members of Congress, and other interested parties will have ample opportunity to participate in the National Historic Landmarks Program.

Authority: This rulemaking is developed under the authority of the Historic Sites Act of 1935, 16 U.S.C. 461 *et seq.*, and the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 et seq.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.).* These revisions are procedural, not substantive. They tell the public how properties are nominated for designation as National Historic Landmarks and because they are procedural only they have no significant economic effect on small entities.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C 3501 *et seq.*

Since this rule has to do only with the procedural aspects of the National Historic Landmarks Program and does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 an environmental impact statement is not required.

List of Subjects in 36 CFR Part 65

Historic preservation.

The originator of these procedures is Benjamin Levy, History Division, National Park Service.

Dated: October 19, 1982.

Ric Davidge,

Acting Assistant Secretary, Fish and Wildlife and Parks.

(16 U.S.C. 461 *et seq.*; 16 U.S.C. 470 *et seq.*)

Accordingly 36 CFR Part 65 is revised to read as follows:

PART 65—NATIONAL HISTORIC LANDMARKS PROGRAM

Sec.

65.1 Purpose and authority.
65.2 Effects of designation.
65.3 Definitions.
65.4 National Historic Landmark Criteria.
65.5 Designation of National Historic Landmarks.
65.6 Recognition of National Historic Landmarks.
65.7 Monitoring National Historic Landmarks.
65.8 Alteration of National Historic Landmark Boundaries.
65.9 Withdrawal of National Historic Landmark Designation.
65.10 Appeals for designation.

Authority: 16 U.S.C. 461 et seq., 16 U.S.C. 470 et seq.

§ 65.1 Purpose and authority.

The purpose of the National Historic Landmarks Program is to identify and designate National Historic Landmarks, and encourage the long range preservation of nationally significant properties that illustrate or commemorate the history and prehistory of the United States. These regulations set forth the criteria for establishing national significance and the procedures used by the Department of the Interior for conducting the National Historic Landmarks Program.

(a) In the Historic Sites Act of 1935 (45 Stat. 666, 16 U.S.C. 461 *et seq.*) the Congress declared that it is a national policy to preserve for public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States and

(b) To implement the policy, the Act authorizes the Secretary of the Interior to perform the following duties and functions, among others:

(1) To make a survey of historic and archeological sites, buildings and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States;

(2) To make necessary investigations and researches in the United States relating to particular sites, buildings or objects to obtain true and accurate historical and archeological facts and information concerning the same; and

(3) To erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archeological significance.

(c) The National Park Service (NPS) administers the National Historic Landmarks Program on behalf of the Secretary.

§ 65.2 Effects of designation.

(a) The purpose of the National Historic Landmarks Program is to focus attention on properties of exceptional value to the nation as a whole rather than to a particular State or locality. The program recognizes and promotes the preservation efforts of Federal, State and local agencies, as well as of private organizations and individuals and encourages the owners of landmark properties to observe preservation precepts.

(b) Properties designated as National Historic Landmarks are listed in the National Register of Historic Places upon designation as National Historic Landmarks. Listing of private property on the National Register does not prohbit under Federal law or regulations any actions which may otherwise be taken by the property owner with respect to the property.

(c) Specific effects of designation are:

(1) The National Register was designed to be and is administered as a planning tool. Federal agencies undertaking a project having an effect on a listed or eligible property must provide the Advisory Council on Historic Preservation a reasonable opportunity to comment pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended. The Advisory Council has adopted procedures concerning, *inter alia,* their commenting responsibility in 36 CFR Part 800.

(2) Section 110(f) of the National Historic Preservation Act of 1966, as amended, requires that before approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council a reasonable opportunity to comment on the undertaking.

(3) Listing in the National Register makes property owners eligible to be considered for Federal grants-in-aid and loan guarantees (when implemented) for historic preservation.

(4) If a property is listed in the National Register, certain special Federal income tax provisions may apply to the owners of the property pursuant to Section 2124 of the Tax Reform Act of 1976, the Economic Recovery Tax Act of 1981 and the Tax Treatment Extension Act of 1980.

(5) If a property contains surface coal resources and is listed in the National Register, certain provisions of the Surface Mining and Control Act of 1977 require consideration of a property's historic values in determining issuance of a surface coal mining permit.

(6) Section 8 of the National Park System General Authorities Act of 1970, as amended (90 Stat. 1940, 16 U.S.C. 1–5), directs the Secretary to prepare an

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annual report to Congress which identifies all National Historic Landmarks that exhibit known or anticipated damage or threats to the integrity of their resources. In addition, National Historic Landmarks may be studied by NPS for possible recommendation to Congress for inclusion in the National Park System.

(7) Section 9 of the Mining in the National Parks Act of 1976 (90 Stat. 1342, 16 U.S.C. 1980) directs the Secretary of the Interior to submit to the Advisory Council a report on any surface mining activity which the Secretary has determined may destroy a National Historic Landmark in whole or in part, and to request the advisory Council's advice on alternative measures to mitigate or abate such activity.

§ 65.3 Definitions.

As used in this rule:

(a) "Advisory Council" means the Advisory Council on Historic Preservation, established by the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*). Address: Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW, Washington, DC 20005.

(b) "Chief elected local official" means the mayor, county judge or otherwise titled chief elected administrative official who is the elected head of the local political jurisdiction in which the property is located.

(c) "Advisory Board" means the National Park System Advisory Board which is a body of authorities in several fields of knowledge appointed by the Secretary under authority of the Historic Sites Act of 1935, as amended.

(d) "Director" means Director, National Park Service.

(e) "District" means a geographically definable area, urban or rural, that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

(f) "Endangered property" means a historic property which is or is about to be subjected to a major impact that will destroy or seriously damage the resources which make it eligible for National Historic Landmark designation.

(g) "Federal Preservation Officer" means the official designated by the head of each Federal agency responsible for coordinating that agency's activities under the National Historic Preservation Act of 1966, as amended, including nominating properties under that agency's ownership or control to the National Register.

(h) "Keeper" means the Keeper of the National Register of Historic Places.

(i) "Landmark" means National Historic Landmark and is a district, site, building, structure or object, in public or private ownership, judged by the Secretary to possess national significance in American history, archeology, architecture, engineering and culture, and so designated by him.

(j) "National Register" means the National Register of Historic Places, which is a register of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering and culture, maintained by the Secretary. (Section 2(b) of the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) and Section 101(a)(1) of the National Historic Preservation Act of 1966 (80 Stat. 915; 16 U.S.C. 470), as amended.) (Address: Chief, Interagency Resource Management Division, 440 G Street NW, Washington, DC 20243.)

(k) "National Historic Landmarks Program" means the program which identifies, designates, recognizes, lists, and monitors National Historic Landmarks conducted by the Secretary through the National Park Service. (Address: Chief, History Division, National Park Service, Washington, DC 20240; addresses of other participating divisions found throughout these regulations.)

(l) "Object" means a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

(m) "Owner" or "owners" means those individuals, partnerships, corporations or public agencies holding fee simple title to property. "Owner" or "owners" does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature.

(n) "Property" means a site, building, object, structure or a collection of the above which form a district.

(o) "Secretary" means the Secretary of the Interior.

(p) "Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

(q) "State official" means the person who has been designated in each State to administer the State Historic Preservation Program.

(r) "Structure" means a work made by human beings and composed of interdependent and interrelated parts in a definite pattern of organization.

§ 65.4 National Historic Landmark criteria.

The criteria applied to evaluate properties for possible designation as National Historic Landmarks or possible determination of eligibility for National Historic Landmark designation are listed below. These criteria shall be used by NPS in the preparation, review and evaluation of National Historic Landmark studies. They shall be used by the Advisory Board in reviewing National Historic Landmark studies and preparing recommendations to the Secretary. Properties shall be designated National Historic Landmarks only if they are nationally significant. Although assessments of national significance should reflect both public perceptions and professional judgments, the evaluations of properties being considered for landmark designation are undertaken by professionals, including historians, architectural historians, archeologists and anthropologists familiar with the broad range of the nation's resources and historical themes The criteria applied by these specialists to potential landmarks do not define significance nor set a rigid standard for quality. Rather, the criteria establish the qualitative framework in which a comparative professional analysis of national significance can occur. The final decision on whether a property possesses national significance is made by the Secretary on the basis of documentation including the comments and recommendations of the public who participate in the designation process.

(a) Specific Criteria of National Significance: The quality of national significance is ascribed to districts, sites, buildings, structures and objects that possess exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archeology, engineering and culture and that possess a high degree of integrity of location, design, setting, materials, workmanship, feeling and association, and:

(1) That are associated with events that have made a significant contribution to, and are identified with, or that outstandingly represent, the broad national patterns of United States history and from which an understanding and appreciation of those patterns may be gained; or

(2) That are associated importantly with the lives of persons nationally significant in the history of the United States; or

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(3) That represent some great idea or ideal of the American people; or

(4) That embody the distinguishing characteristics of an architectural type specimen exceptionally valuable for a study of a period, style or method of construction, or that represent a significant, distinctive and exceptional entity whose components may lack individual distinction; or

(5) That are composed of integral parts of the environment not sufficiently significant by reason of historical association or artistic merit to warrant individual recognition but collectively compose an entity of exceptional historical or artistic significance, or outstandingly commemorate or illustrate a way of life or culture; or

(6) That have yielded or may be likely to yield information of major scientific importance by revealing new cultures, or by shedding light upon periods of occupation over large areas of the United States. Such sites are those which have yielded, or which may reasonably be expected to yield, data affecting theories, concepts and ideas to a major degree.

(b) Ordinarily, cemeteries, birthplaces, graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings and properties that have achieved significance within the past 50 years are not eligible for designation. Such properties, however, will qualify if they fall within the following categories:

(1) A religious property deriving its primary national significance from architectural or artistic distinction or historical importance; or

(2) A building or structure removed from its original location but which is nationally significant primarily for its architectural merit, or for association with persons or events of transcendent importance in the nation's history and the association consequential; or

(3) A site of a building or structure no longer standing but the person or event associated with it is of transcendent importance in the nation's history and the association consequential; or

(4) A birthplace, grave or burial if it is of a historical figure of transcendent national significance and no other appropriate site, building or structure directly associated with the productive life of that person exists; or

(5) A cemetery that derives its primary national significance from graves of persons of transcendent importance, or from an exceptionally distinctive design or from an exceptionally significant event; or

(6) A reconstructed building or ensemble of buildings of extraordinary national significance when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other buildings or structures with the same association have survived; or

(7) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own national historical significance; or

(8) A property achieving national significance within the past 50 years if it is of extraordinary national importance.

§ 65.5 Designation of National Historic Landmarks.

Potential National Historic Landmarks are identified primarily by means of theme studies and in some instances by special studies. Nominations and recommendations made by the appropriate State officials, Federal Preservation Officers and other interested parties will be considered in scheduling and conducting studies.

(a) *Theme studies.* NPS defines and systematically conducts organized theme studies which encompass the major aspects of American history. The theme studies provide a contextual framework to evaluate the relative significance of historic properties and determine which properties meet National Historic Landmark criteria. Theme studies will be announced in advance through direct notice to appropriate State officials, Federal Preservation Officers and other interested parties and by notice in the **Federal Register**. Within the established thematic framework, NPS will schedule and conduct National Historic Landmark theme studies according to the following priorities. Themes which meet more of these priorities ordinarily will be studied before those which meet fewer of the priorities:

(1) Theme studies not yet begun as identified in "History and Prehistory in the National Park System," 1982.

(2) Theme studies in serious need of revision.

(3) Theme studies which relate to a significant number of properties listed in the National Register bearing opinions of State Historic Preservation Officers and Federal Preservation Officers that such properties are of potential national significance. (Only those recommendations which NPS determines are likely to meet the landmarks criteria will be enumerated in determining whether a significant number exists in a theme study.)

(4) Themes which reflect the broad planning needs of NPS and other Federal agencies and for which the funds to conduct the study are made available from sources other than the regularly programmed funds of the National Historic Landmarks Program.

(b) *Special Studies.* NPS will conduct special studies for historic properties outside of active theme studies according to the following priorities:

(1) Studies authorized by Congress or mandated by Executive Order will receive the highest priority.

(2) Properties which NPS determines are endangered and potentially meet the National Historic Landmarks criteria, whether or not the theme in which they are significant has been studied.

(3) Properties listed in the National Register bearing State or Federal agency recommendations of potential national significance where NPS concurs in the evaluation and the property is significant in a theme already studied.

(c)(1) When a property is selected for study to determine its potential for designation as a National Historic Landmark, NPS will notify in writing, except as provided below, (i) the owner(s), (ii) the chief elected local official, (iii) the appropriate State official, (iv) the Members of Congress who represent the district and State in which the property is located, and, (v) if the property is on an Indian reservation, the chief executive officer of the Indian tribe, that it will be studied to determine its potential for designation as a National Historic Landmark. This notice will provide information on the National Historic Landmarks Program, the designation process and the effects of designation.

(2) When the property has more than 50 owners, NPS will notify in writing (i) the chief elected local official, (ii) the appropriate State official, (iii) the Members of Congress who represent the district and State in which the property is located, and, (iv) if the property is on an Indian reservation, the chief executive officer of the Indian tribe, and (v) provide general notice to the property owners. This general notice will be published in one or more local newspapers of general circulation in the area in which the potential National Historic Landmark is located and will provide information on the National Historic Landmarks Program, the designation process and the effects of designation. The researcher will visit each property selected for study unless it is determined that an onsite investigation is not necessary. In the case of districts with more than 50 owners NPS may conduct a public information meeting if widespread

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public interest so warrants or on request by the chief elected local official.

(3) Properties for which a study was conducted before the effective date of these regulations are not subject to the requirements of paragraph (c) (1) and (2) of this section.

(4) The results of each study will be incorporated into a report which will contain at least (i) a precise description of the property studied; and (ii) an analysis of the significance of the property and its relationship to the National Historic Landmark criteria.

(d)(1) Properties appearing to qualify for designation as National Historic Landmarks will be presented to the Advisory Board for evaluation except as specified in subsection (h) of this section.

(2) Before the Advisory Board's review of a property, NPS will provide written notice of this review, except as provided below, and a copy of the study report to (i) the owner(s) of record; (ii) the appropriate State official; (iii) the chief elected local official; (iv) the Members of Congress who represent the district and State in which the property is located; and, (v) if the property is located on an Indian reservation, the chief executive officer of the Indian tribe. The list of owners shall be obtained from official land or tax record, whichever is most appropriate, within 90 days prior to the notification of intent to submit to the Advisory Board. If in any State the land or tax record is not the appropriate list an alternative source of owners may be used. NPS is responsible for notifying only those owners whose names appear on the list. Where there is more than one owner on the list each separate owner shall be notified.

(3) In the case of a property with more than 50 owners, NPS will notify, in writing, (i) the appropriate State official; (ii) the chief elected local official; (iii) the Members of Congress who represent the district and State in which the property is located; (iv) if the property is located on an Indian reservation, the chief executive officer of the Indian tribe; and, (v) will provide general notice to the property owners. The general notice will be published in one or more local newspapers of general circulation in the area in which the property is located. A copy of the study report will be made available on request. Notice of Advisory Board review will also be published in the **Federal Register**.

(4) Notice of Advisory Board review will be given at least 60 days in advance of the Advisory Board meeting. The notice will state date, time and location of the meeting; solicit written comments and recommendations on the study report; provide information on the National Historic Landmarks Program, the designation process and the effects of designation and provide the owners of private property not more than 60 days in which to concur in or object in writing to the designation. Notice of Advisory Board meetings and the agenda will also be published in the **Federal Register**. Interested parties are encouraged to submit written comments and recommendations which will be presented to the Advisory Board. Interested parties may also attend the Advisory Board meeting and upon request will be given an opportunity to address the Board concerning a property's significance, integrity and proposed boundaries.

(5) Upon notification, any owner of private property who wishes to object shall submit to the Chief, History Division, a notarized statement that the party is the sole or partial owner of record of the property, as appropriate, and objects to the designations. Such notice shall be submitted during the 60-day commenting period. Upon receipt of notarized objections respecting a district or an individual property with multiple ownership it is the responsibility of NPS to ascertain whether a majority of owners have so objected. If an owner whose name did not appear on the list certifies in a written notarized statement that the party is the sole or partial owner of a nominated private property such owner shall be counted by NPS in determining whether a majority of owners has objected. Each owner of private property in a district has one vote regardless of how many properties or what part of one property that party owns and regardless of whether the property contributes to the significance of the district.

(6) The commenting period following notification can be waived only when all property owners and the chief elected local official have agreed in writing to the waiver.

(e)(1) The Advisory Board evalutes such factors as a property's significance, integrity, proposed boundaries and the professional adequancy of the study. If the Board finds that these conditions are met, it may recommend to the Secretary that a property be designated or declared eligible for designation as a National Historic Landmark. If one or more of the conditions are not met, the Board may recommend that the property not be designated a landmark or that consideration of it be deferred for further study, as appropriate. In making its recommendation, the Board shall state, if possible, whether or not it finds that the criteria of the landmarks program have been met. A simple majority is required to make a recommendation of designation. The Board's recommendations are advisory.

(2) Studies submitted to the Advisory Board (or the Consulting Committee previously under the Heritage Conservation and Recreation Service) before the effective date of these regulations need not be resubmitted to the Advisory Board. In such instances, if a property appears to qualify for designation, NPS will provide notice and a copy of the study report to the parties as specified in subsections (d)(2) and (3) of this section and will provide at least 30 days in which to submit written comments and to provide an opportunity for owners to concur in or object to the designation.

(3) The Director reviews the study report and the Advisory Board recommendations, certifies that the procedural requirements set forth in this section have been met and transmits the study reports, the recommendations of the Advisory Board, his recommendations and any other recommendations and comments received pertaining to the properties to the Secretary.

(f) The Secretary reviews the nominations, recommendations and any comments and, based on the criteria set forth herein, makes a decision on National Historic Landmark designation. Properties that are designated National Historic Landmarks are entered in the National Register of Historic Places, if not already so listed.

(1) If the private owner or, with respect to districts or individual properties with multiple ownership, the majority of such owners have objected to the designation by notarized statements, the Secretary shall not make a National Historic Landmark designation but shall review the nomination and make a determination of its eligibility for National Historic Landmark designation.

(2) The Secretary may thereafter designate such properties as National Historic Landmarks only upon receipt of notarized statements from the private owner (or majority of private owners in the event of a district or a single property with multiple ownership) that they do not object to the designation.

(3) The Keeper may list in the National Register properties considered for National Historic Landmark designation which do not meet the National Historic Landmark criteria but which do meet the National Register criteria for evaluation in 36 CFR Part 60 or determine such properties eligible for the National Register if the private owners or majority of such owners in

the case of districts object to designation. A property determined eligible for National Historic Landmark designation is determined eligible for the National Register.

(g) Notice of National Historic Landmark designation, National Register listing, or a determination of eligibility will be sent in the same manner as specified in subsections (d)(2) and (3) of this section. For properties which are determined eligible the Advisory Council will also be notified. Notice will be published in the **Federal Register**.

(h)(1) The Secretary may designate a National Historic Landmark without Advisory Board review through accelerated procedures described in this section when necessary to assist in the preservation of a nationally significant property endangered by a threat of imminent damage or destruction.

(2) NPS will conduct the study and prepare a study report as described in subsection (c)(4) of this section.

(3) If a property appears to qualify for designation, the National Park Service will provide notice and a copy of the study report to the parties specified in subsections (d)(2) and (3) and will allow at least 30 days for the submittal of written comments and to provide owners of private property an opportunity to concur in or object to designation as provided in subsection (d)(5) of this section except that the commenting period may be less than 60 days.

(4) The Director will review the study report and any comments, will certify that procedural requirements have been met, and will transmit the study report, his and any other recommendations and comments pertaining to the property to the Secretary.

(5) The Secretary will review the nomination and recommendations and any comments and, based on the criteria set forth herein, make a decision on National Historic Landmark designation or a determination of eligibility for designation if the private owners or a majority of such owners of historic districts object.

(6) Notice of National Historic Landmark designation or a determination of eligibility will be sent to the same parties specified in subsections (d)(2) and (3) of this section.

§ 65.6 Recognition of National Historic Landmarks.

(a) Following designation of a property by the Secretary as a National Historic Landmark, the owner(s) will receive a certificate of designation. In the case of a district, the certificate will be delivered to the chief elected local official or other local official, or to the chief officer of a private organization involved with the preservation of the district, or the chief officer of an organization representing the owners of the district, as appropriate.

(b) NPS will invite the owner of each designated National Historic Landmark to accept, free of charge, a landmark plaque. In the case of a district, the chief elected local official or other local official, or the chief officer of an organization involved in the preservation of the district, or chief officer of an organization representing the owners of the district, as appropriate, may accept the plaque on behalf of the owners. A plaque will be presented to properties where the appropriate recipient(s) (from those listed above) agrees to display it publicly and appropriately.

(c) The appropriate recipient(s) may accept the plaque at any time after designation of the National Historic Landmark. In so doing owners give up none of the rights and privileges of ownership or use of the landmark property nor does the Department of the Interior acquire any interest in property so designated.

(d) NPS will provide one standard certificate and plaque for each designated National Historic Landmark. The certificate and plaque remain the property of NPS. Should the National Historic Landmark designation at any time be withdrawn, in accordance with the procedures specified in § 65.9 of these rules, or should the certificate and plaque not be publicly or appropriately displayed, the certificate and the plaque, if issued, will be reclaimed by NPS.

(e) Upon request, and if feasible, NPS will help arrange and participate in a presentation ceremony.

§ 65.7 Monitoring National Historic Landmarks.

(a) NPS maintains a continuing relationship with the owners of National Historic Landmarks. Periodic visits, contacts with State Historic Preservation Officers, and other appropriate means will be used to determine whether landmarks retain their integrity, to advise owners concerning accepted preservation standards and techniques and to update administrative records on the properties.

(b) Reports of monitoring activities form the basis for the annual report submitted to Congress by the Secretary of the Interior, as mandated by Section 8, National Park System General Authorities Act of 1970, as amended (90 Stat. 1940, 16 U.S.C. 1a–5). The Secretary's annual report will identify those National Historic Landmarks which exhibit known or anticipated damage or threats to their integrity. In evaluating National Historic Landmarks for listing in the report, the seriousness and imminence of the damage or threat are considered, as well as the integrity of the landmark at the time of designation taking into account the criteria in Section 65.4.

(c) As mandated in Section 9, Mining in the National Parks Act of 1976 (90 Stat. 1342, 16 U.S.C. 1980), whenever the Secretary of the Interior finds that a National Historic Landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for, removal or production of minerals or materials, the Secretary shall (1) notify the person conducting such activity of that finding; (2) submit a report thereon, including the basis for his finding that such activity may cause irreparable loss or destruction of a National Historic Landmark, to the Advisory Council; and (3) request from the Council advice as to alternative measures that may be taken by the United States to mitigate or abate such activity.

(d) Monitoring activities described in this section, including the preparation of the mandated reports to Congress and the Advisory Council are carried out by NPS regional offices under the direction of the Preservation Assistance Division, NPS [Address: Chief, Resource Assistance Division, National Park Service, 440 G Street NW, Washington, DC 20243] in consultation with the History Division, NPS.

§ 65.8 Alteration of National Historic Landmark boundaries.

(a) *Two justifications exist for enlarging the boundary of a National Historic Landmark:* Documentation of previously unrecognized significance or professional error in the original designation. Enlargement of a boundary will be approved only when the area proposed for addition to the National Historic Landmark possesses or contributes directly to the characteristics for which the landmark was designated.

(b) *Two justifications exist for reducing the boundary of a National Historic Landmark:* Loss of integrity or professional error in the original designation. Reduction of a boundary will be approved only when the area to be deleted from the National Historic Landmark does not possess or has lost the characteristics for which the landmark was designated.

(c) A proposal for enlargement or reduction of a National Historic Landmark boundary may be submitted

to or can originate with the History Division, NPS. NPS may restudy the National Historic Landmark and subsequently make a proposal, if appropriate, in the same manner as specified in § 65.5 (c) through (h). In the case of boundary enlargements only those owners in the newly nominated but as yet undesignated area will be notified and will be counted in determining whether a majority of private owners object to listing.

(d)(1) When a boundary is proposed for a National Historic Landmark for which no specific boundary was identified at the time of designation, NPS shall provide notice, in writing, of the proposed boundary to (i) the owner(s); (ii) the appropriate State official; (iii) the chief elected local official; (iv) the Members of Congress who represent the district and State in which the landmark is located, and (v) if the property is located on an Indian reservation, the chief executive officer of the Indian tribe, and shall allow not less than 30 nor more than 60 days for submitting written comments on the proposal. In the case of a landmark with more than 50 owners, the general notice specified in § 65.5(d)(3) will be used. In the case of National Historic Landmark districts for which no boundaries have been established, proposed boundaries shall be published in the **Federal Register** for comment and be submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives and not less than 30 nor more than 60 days shall be provided for the submittal of written comments on the proposed boundaries.

(2) The proposed boundary and any comments received thereon shall be submitted to the Associated Director for National Register Programs, NPS, who may approve the boundary without reference to the Advisory Board or the Secretary.

(3) NPS will provide written notice of the approved boundary to the same parties specified in subsection (d)(1) of this section and by publication in the **Federal Register.**

(4) Management of the activities described in (d)(1), (2), and (3) is handled by the National Register of Historic Places, NPS, [Address: National Register of Historic Places, National Park Service, Department of the Interior, Washington, DC 20240].

(e) A technical correction to a boundary may be approved by the Chief, History Division, without Advisory Board review or Secretarial approval. NPS will provide notice, in writing, of any technical correction in a boundary to the same parties specified in (d)(1).

§ 65.9 Withdrawal of National Landmark designation.

(a) National Historic Landmarks will be considered for withdrawal of designation only at the request of the owner or upon the initiative of the Secretary.

(b) Four justifications exist for the withdrawal of National Historic Landmark designation:

(1) The property has ceased to meet the criteria for designation because the qualities which caused it to be originally designated have been lost or destroyed, or such qualities were lost subsequent to nomination, but before designation;

(2) Additional information shows conclusively that the property does not possess sufficient significance to meet the National Historic Landmark criteria;

(3) Professional error in the designation; and

(4) Prejudicial procedural error in the designation process.

(c) Properties designated as National Historic Landmarks before December 13, 1980, can be dedesignated only on the grounds established in subsection (a)(1) of this section.

(d) The owner may appeal to have a property dedesignated by submitting a request for dedesignation and stating the grounds for the appeal as established in subsection (a) to the Chief, History Division, National Park Service, Department of the Interior, Washington, DC 20240. An appellant will receive a response within 60 days as to whether NPS considers the documentation sufficient to initiate a restudy of the landmark.

(e) The Secretary may initiate a restudy of a National Historic Landmark and subsequently a proposal for withdrawal of the landmark designation as appropriate in the same manner as a new designation as specified in § 65.5 (c) through (h). Proposals will not be submitted to the Advisory Board if the grounds for removal are procedural, although the Board will be informed of such proposals.

(f)(1) The property will remain listed in the National Register if the Keeper determines that it meets the National Register criteria for evalution in 36 CFR 60.4, except if the property is redesignated on procedural grounds.

(2) Any property from which designation is withdrawn because of a procedural error in the designation process shall automatically be considered eligible for inclusion in the National Register as a National Historic Landmark without further action and will be published as such in the **Federal Register.**

(g)(1) The National Park Service will provide written notice of the withdrawal of a National Historic Landmark designation and the status of the National Register listing, and a copy of the report on which those actions are based to (i) the owner(s); (ii) the appropriate State official; (iii) the chief elected local official; (iv) the Members of Congress who represent the district and State in which the landmark is located; and (v) if the landmark is located on an Indian reservation, the chief executive officer of the Indian tribe. In the case of a landmark with more than 50 owners, the general notice specified in § 65.5(d)(3) will be used.

(2) Notice of withdrawal of designation and related National Register listing and determinations of eligibility will be published periodically in the **Federal Register.**

(h) Upon withdrawal of a National Historic Landmark designation, NPS will reclaim the certificate and plaque, if any, issued for that landmark.

(i) An owner shall not be considered as having exhausted administrative remedies with respect to dedesignation of a National Historic Landmark until after submitting an appeal and receiving a response from NPS in accord with these procedures.

§ 65.10 Appeals for designation.

(a) Any applicant seeking to have a property designated a National Historic Landmark may appeal, stating the grounds for appeal, directly to the Director, National Park Service, Department of the Interior, Washington, DC 20240, under the following circumstances.

Where the applicant—

(1) Disagrees with the initial decision of NPS that the property is not likely to meet the criteria of the National Historic Landmarks Program and will not be submitted to the Advisory Board; or

(2) Disagrees with the decision of the Secretary that the property does not meet the criteria of the National Historic Landmarks Program.

(b) The Director will respond to the appellant within 60 days. After reviewing the appeal the Director may: (1) deny the appeal; (2) direct that a National Historic Landmark nomination be prepared and processed according to the regulations if this has not yet occurred; or (3) resubmit the nomination to the Secretary for reconsideration and final decision.

(c) Any person or organization which supports or opposes the consideration of a property for National Historic

Landmark designation may submit an appeal to the Director, NPS, during the designation process either supporting or opposing the designation. Such appeals received by the Director before the study of the property or before its submission to the National Park System Advisory Board will be considered by the Director, the Advisory Board and the Secretary, as appropriate, in the designation process.

(d) No person shall be considered to have exhausted administrative remedies with respect to failure to designate a property a National Historic Landmark until he or she has complied with the procedures set forth in this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-2-FRL 2295-6]

Hazardous Waste Management Program; Phase I Interim Authorization

AGENCY: Environmental Protection Agency (EPA), Region II.

ACTION: Granting of phase I interim authorization to State hazardous waste program.

SUMMARY: The State of New Jersey has applied for Interim Authorization of its hazardous waste program under Subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, and EPA guidelines for the approval of State hazardous waste programs (40 CFR Part 123, Subpart F). EPA has reviewed New Jersey's hazardous waste program and has determined that the program is substantially equivalent to the Federal program. EPA is hereby granting Phase I Interim Authorization to New Jersey to operate a hazardous waste program in lieu of Phase I of the Federal hazardous waste program in its jurisdiction.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Deborah Craig, Solid Waste Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, 212/264-5166.

SUPPLEMENTARY INFORMATION:

I. Background

Subtitle C of RCRA, requires EPA to establish a comprehensive Federal program to assure the safe management of hazardous waste. Once a Federal program is established, EPA is authorized under Section 3006 of RCRA to approve State hazardous waste programs to operate in lieu of the Federal program in their jurisdictions. Two types of State programs approvals are authorized under RCRA: "Final Authorization" is a permanent approval which may be granted to States whose programs are "equivalent" to and "consistent" with the Federal program and provide adequate enforcement; "Interim Authorization" is a temporary approval for States which might not meet the requirements of Final Authorization but whose programs are at least "substantially equivalent" to the Federal program. RCRA contemplates that States receiving Interim Authorization will use the Interim Authorization period to make the changes in their regulations and statutes necessary to qualify for Final Authorization.

On May 19, 1980, EPA published the first phase of the Federal hazardous waste program regulations (40 CFR Parts 260-263 and 265) including guidelines for authorizing State hazardous waste program under Section 3006 (40 CFR Part 123). These guidelines set forth the requirements for Interim Authorization and the procedures which EPA will follow in acting on State applications for Interim Authorization. They also provide that EPA will grant Interim Authorization in two major phases (Phase I and Phase II), corresponding to the two major phases of the Federal program.

On January 11, 1982, the State of New Jersey submitted to EPA its complete application for Phase I Interim Authorization (IA application). In the February 11, 1982 **Federal Register** (47 FR 6298), EPA announced the availability for public review of the New Jersey application. EPA also indicated that a public hearing would be held on March 24, 1982, with the public record open until March 31, 1982. At the public hearing, the New Jersey Department of Environmental Protection (DEP) made available copies of draft amendments to its hazardous waste regulations which were subsequently proposed in the October 18, 1982 State Register. These and other amendments were initially requested by EPA when it commented on an earlier draft version of the State's IA application. On May 10, 1982, DEP requested that EPA delay making a final determination on the State's IA application until after the State had an opportunity to solicit public comment on the regulatory amendments requested by EPA. EPA granted DEP's request. Presented below in Section II of this notice is a synopsis of the public comments on the State's IA application and EPA's responses.

After detailed review of the final New Jersey IA application, EPA transmitted comments to DEP on June 1, 1982. These comments requested additions and revisions to the Program Description, Attorney General's Statement, Memorandum of Agreement and Authorization Plan portions of the IA application, including the State's hazardous waste regulations. On December 17, 1982, the State submitted amendments to the above mentioned portions of the IA application.

The major issue raised by EPA concerned the confidentiality of information obtained by inspection. New Jersey law may restrict the State's ability to use confidential information collected during inspections in enforcement proceedings or in court, and to share such information with EPA. DEP satisfied this area of concern by amending the Attorney General's Statement so as to commit the State to rely upon RCRA Section 3007(a) to support its inspection authority. As a result of such reliance on Section 3007(a), Section 3007(b) of RCRA would govern the use of information gained through inspections. Thus, there would be no unacceptable restrictions upon the use of information obtained through inspections.

The minor comments in EPA's June 1, 1982 letter were also addressed by DEP in its December 17, 1982 submission. The following summarizes the most significant of these comments and the State's responses:

(1) A Deputy Attorney General signed the Attorney General's Statement in lieu of the Attorney General. Under 40 CFR 123.125, this certification must be made by the Attorney General. In a letter dated August 18, 1982, the Assistant Attorney General demonstrated that the Deputy had the authority to perform this duty for the Attorney General.

(2) New Jersey's statutory definition of "solid waste" excludes from regulation, industrial sewage treated at publicly-owned treatment works (POTWs) devoted exclusively to the treatment of industrial wastes. This exclusion is not provided for under the RCRA definition. DEP satisified this area of concern by amending the Program Description to include a demonstration that no existing POTWs in the State treated exclusively industrial wastes. Therefore, the statutory exemption could not be utilized by any existing POTWs.

(3) Pursuant to 40 CFR 123.127, the State must identify those statutory and regulatory changes needed to make the State program equivalent to the Federal

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program. DEP amended its Authorization Plan so as to identify two statutory amendments (i.e., the POTW exclusion and the confidentiality provision) and two minor regulatory amendments needed for final authorization. The State promised to pursue the adoption of these amendments in 1983.

(4) EPA requested that the State adopt a number of amendments to its hazardous waste regulations so that the State program would be substantially equivalent to the Federal program. The State adopted amendments to address EPA's concerns on August 17, September 8, and November 18, 1982. These amendments included, in part, modifications to certain exemptions and variance provisions so that they would not render the State program less stringent than the Federal program. In addition, the State clarified that, independent of having received a permit, hazardous waste land disposal facilities must comply with groundwater monitoring requirements analogous to the Federal interim status provisions. Prior to amending this regulation, it appeared that State groundwater monitoring provisions were implemented only through New Jersey Pollution Discharge Elimination System (NJPDES) permits. Other amendments included modifications to the State's regulatory definitions.

DEP's submission and EPA's comments are available at EPA Region II and DEP offices.

II. Responses to Public Comments

Seven commenters (two of which represented trade associations) presented oral and/or written testimony, on the New Jersey IA application. Three commenters supported the granting of interim authorization to New Jersey and two commenters requested EPA to withhold its decision until certain deficiencies were corrected. Two commenters opposed authorization of New Jersey's hazardous waste program. The significant issues raised by these commenters and EPA's responses are summarized below.

Issue—The State regulates a broader universe of hazardous waste and hazardous waste handlers than would otherwise be regulated under RCRA. EPA should deny Phase I interim authorization to New Jersey since the State regulations are inconsistent with and more stringent than the Federal regulations.

Response—EPA is required to grant Phase I interim authorization to any State hazardous waste management program which meets the minimum requirements of EPA regulations. Regulations specifically outlining requirements for Phase I interim authorization are contained in 40 CFR Part 123, Subpart F. Subpart F does not preclude a State from adopting or enforcing requirements which are more stringent or more extensive than those required under this subpart (see 40 CFR 123.121(i)).

Issue—There is no guarantee that the State will effectively manage its hazardous waste program or enforce its regulations (particularly those regulations that are more stringent than their Federal counterparts).

Response—EPA has reviewed the New Jersey IA application and has concluded that the State's Phase I hazardous waste program is substantially equivalent to the Phase I Federal program. New Jersey presently has sufficient authority and resources to implement its Phase I hazardous waste regulations. EPA will, on a regular basis, evaluate DEP's administration and enforcement of its hazardous waste program to ensure that the authorized program is being implemented consistent with RCRA, the State's regulations and the Memorandum of Agreement.

Issue—There are no provisions in the State rules for incorporating modifications that EPA makes to its hazardous waste regulations, as required by 40 CFR 123.13, to ensure that the State program will be substantially equivalent to the Federal program.

Response—Requirements under 40 CFR 123.13 apply to States seeking final, not interim authorization. However, even under 40 CFR 123.13, a State is not required to have rule provisions in place which would incorporate by reference, regulatory amendments adopted by EPA. EPA recognizes DEP's commitment in its Phase I IA application to operate a substantially equivalent program and to keep EPA fully informed of any proposed modifications to its statutory or regulatory authority, along with any other factors that affect the State's program. EPA will periodically evaluate the administration and enforcement of the New Jersey hazardous waste program as outlined in the previous response.

Issue—The State regulations were enacted in a piecemeal fashion, without adequate opportunity for public comment. Significant changes were made in the hazardous waste regulations between when they were originally proposed on September 4, 1980 and when they were adopted in two groups on August 6, 1981 and October 8, 1981.

Response—Absent a contrary decision by a court of competent jurisdiction, EPA must assume that regulations which the appropriate governmental body adopts and which the Deputy Attorney General has certified as lawfully adopted are indeed valid under New Jersey law. Pursuant to Section 125(a), Part 123 of Title 40 of the Code of Federal Regulations (40 CFR 123.125(a)), the State submitted, as part of its IA application, a document from the New Jersey Deputy Attorney General. In that document, the Deputy Attorney General stated that, among other things, the statutes and regulations adopted as of the time of the statement were lawfully adopted and would be fully effective at the time the program is approved. Furthermore, at EPA's request, DEP submitted a letter on August 18, 1982, to EPA which provided a review of the procedures used to adopt the 1981 regulations that demonstrates that the procedures satisfy State requirements.

Issue—State regulations governing permitting, design and operating standards for the treatment and storage of hazardous waste in incinerators, tanks and containers are not substantially equivalent to the Federal regulations. Furthermore, EPA should extend the comment period on the State's IA application for a period of 30 days after the State adopts its facility design and operating standards in final form.

Response—State demonstrations of substantial equivalency with Federal permitting procedures and facility design and operating standards are required for Phase II, not Phase I, interim authorization applications. Therefore, EPA did not extend the public comment period on the State's Phase I IA application.

III. Decision

EPA has reviewed the complete application for Phase I interim authorization from the State of New Jersey and has determined that the State program is "substantially equivalent" as defined in 40 CFR Part 123, Subpart F, to the Phase I Federal program. In accordance with Section 3006(c) of RCRA, the State of New Jersey is hereby granted interim authorization to operate its hazardous waste program in lieu of Phase I of the Federal hazardous waste program. The practical effect of this

decision is that generators, transporters, and owners and operators of hazardous waste management facilities in New Jersey will be subject to the State of New Jersey hazardous waste program in lieu of the Federal hazardous waste program (40 CFR Part 260–263 and 265) and will not again be subject to Phase I of the Federal program unless: (1) The State fails to amend its Phase I submission to include all of the components of Phase II interim authorization by the deadline specified in 40 CFR 123.137, or (2) the State fails to obtain final authorization by the deadline specified in 3006(c) of RCRA and implementing regulations, or (3) authorization is withdrawn for good cause by EPA pursuant to Section 3006(e) of RCRA.

IV. Authority

This notice is issued under the authority of Section 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

V. Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

VI. Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: December 23, 1982.

Jacqueline E. Schafer,

Regional Administrator, Region II.

[FR Doc. 83-2880 Filed 2-1-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6487]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedure set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date [1]
Louisiana: Tangipahoa Parish.	Unincorporated areas	220206B	Apr. 18, 1975, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended.	Jan. 17, 1975, Nov. 29, 1977	Feb. 2, 1983.
Maryland: Kent	Betterton, town of	240095A	May 15, 1975, emergency; Feb. 2, 1983, regular; Feb 2, 1983, suspended.	Jan. 24, 1975	Do.
Michigan: Calhoun	Bedford, township of	260052B	May 30, 1975, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	Aug. 16, 1974, Aug. 6, 1976	Do.
LeeLanau	Elmwood, township of	260113C	July 2, 1975, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	Mar. 5, 1976, Sept. 28, 1979, Sept. 20, 1974.	Do.
Antrim	Milton, township of	260637B	Sept. 10, 1975, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	July 8, 1977	Do.
Oakland	Charter township of Waterford	260284B	Aug. 16, 1974, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	Aug. 16, 1974, June 4, 1976	Do.
Mississippi: Rankin	Richland, city of	[redacted]	Nov. 9, 1976, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended.	Apr. 26, 1978	Do.
Missouri: Chariton	Brunswick, city of	290074B	Nov. 12, 1975, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended.	Mar. 29, 1974, Jan. 16, 1976	Do.
New Jersey: Cape May	Lower, township of	340153B	Aug. 9, 1974, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	July 19, 1974	Do
Sussex	Sussex, borough of	340457B	July 15, 1975, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	June 14, 1974, Mar. 5, 1976	[redacted]
Ohio: Jefferson	Brilliant, village of	390297B	June 13, 1975, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended.	Jan. 9, 1974, May 28, 1976	Do.
Licking	Pataskala, village of	390336A	Mar. 6, 1978, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended	Oct. 8, 1976	Do.
Oklahoma: Grady	Alex, town of	400063A	Aug. 20, 1976, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended.	Nov. 8, 1976	Do.
Pennsylvania: Blair	Snyder, township of	421393B	June 10, 1975, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended	Jan. 10, 1975, Dec. 23, 1977	Do
Rhode Island: Newport	Newport, city of	445403C	June 19, 1970, emergency; Dec. 4, 1970, regular; Feb. 2, 1983, suspended.	July 1, 1974, Nov. 21, 1975, June 17, 1970.	Do
Virginia: Northampton	Cape Charles, town of	5101068	June 3, 1974, emergency; Feb. 2, 1983, regular; Feb. 2,1983, suspended	May 31, 1974, June 4, 1976	Do
New York: Allegany	Alfred, town of	360019A	Mar. 14, 1975, emergency; Feb. 2, 1983, regular; Feb. 2, 1983, suspended.	June 18, 1976	[redacted]
New Jersey: Camden	Clementon, borough of	340130A	Jan. 30, 1975, emergency; Feb. 2,1983, suspended	Feb. 6, 1976	Do
Salem	Pittsgrove, township of	340421A	Sept. 8, 1981, emergency; Feb. 2,1983, suspended	Dec. 3, 1976	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 24, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-2805 Filed 2-1-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-556; RM-4152]

FM Broadcast Station in Ocean View, Delaware; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 269A to Ocean View, Delaware, in response to a petition filed by Dragon Communications, Inc. The assignment could provide a first local broadcast service to Ocean View.

DATE: Effective March 22, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau. (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 13, 1983.

Released: January 21, 1983.

In the matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Ocean View, Delaware); BC Docket No. 82–556, RM–4152; Report and Order; Proceeding Terminated.

1. The Commission herein considers the Notice of Proposed Rule Making, 47 FR 35258, published August 13, 1982, proposing the assignment of Channel 269A to Ocean View, Delaware, as its first FM assignment. The Notice was issued in response to a petition filed by Dragon Communications, Inc. ("petitioner"). Supporting comments were filed by the petitioner stating its intention to apply for the channel, if assigned. Coastal Telecommunications, licensee of Station WWTR (FM), Bethany Beach, Delaware, submitted opposing comments to which petitioner responded. Reply comments and a counterproposal to assign Channel 269A to Laurel, Delaware, were submitted by

Stuart D. Frankel.[1] Since this counterproposal was submitted late, we have not accepted it for consideration in this proceeding.

2. The opposing comments of Coastal focused on community size, preclusion and service received from other communities as factors for us to consider in assessing the need for the Ocean View assignment. Since the adoption of the *Second Report and Order*, BC Docket No. 80–130, *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982), consideration of these issues are no longer relevant in non-conflicting FM proceedings. We also note that Coastal (as an alternative) proposed assigning Channel 269A to Snow Hill, Delaware As a general policy we refrain from assigning channels for which we have had no commitment from any interested party that the channel, if assigned, will be put to use. See *Williams, Arizona*, 47 FR 20827, published May 14, 1982, and paragraph 2 of the Appendix to the Notice of Proposed Rule Making.

3. As for the Laurel proposal, we note that alternative channels (Channel 221A and Channel 265A) are available for which Frankel could submit a petition.[2]

4. In response to the Notice petitioner states that a transmitter site is available for Channel 269A, which fully meets the spacing requirements for that channel.

5. After consideration of the proposal and comments, the Commission is persuaded that the public interest would be served by granting the requested assignment in order to provide Ocean View with a first FM assignment. The transmitter site is restricted to 2.5 miles southeast of the city to meet spacing requirements to Station WNNN(FM), Canton, New Jersey.

6. Accordingly, pursuant to Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, That effective March 22, 1983, the FM Table of Assignments (Section 73.202(b) of the Rules) is amended with respect to the following community:

City	Channel No
Ocean View, Delaware	269A

7. It is further ordered, That this proceeding is terminated.

[1] The Frankel counterproposal was submitted after the deadline for filing counterproposals (September 24, 1982). This deadline was set forth in Section 1.420(d) of the Commission's Rules and paragraph 3(a) of the Appendix to the Notice.

[2] Channel 265A would require a site restriction of approximately 6.3 miles southwest of Laurel.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–2845 Filed 2–1–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–539; RM–4126]

FM Broadcast Station in Calexico, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a first noncommercial educational FM channel to Calexico, California, in response to a petition filed by the State of California, San Diego State University.

DATE: Effective March 21, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 12, 1983.

Released: January 18, 1983.

In the matter of; Amendment of § 73.504(a), Table of Assignments, Noncommercial Educational FM Broadcast Stations; (Calexico, California); BC Docket 82–539; RM–4126; Report and order; Proceeding Terminated.

1. The Commission has under consideration its *Notice of Proposed Rule Making*, 47 FR 36248, published August 19, 1982, inviting comments on a proposal to assign Channel 204A to Calexico, California, for noncommercial educational use. The *Notice* was issued in response to a petition filed by the State of California, San Diego State University ("petitioner").[1] Supporting comments were filed by the petitioner, reaffirming its intention to apply for the channel, if assigned. No oppositions were received.

[1] San Diego University is the licensee on noncommercial educational Station KPBS-FM (Channel 208) at San Diego, California.

2. Since the assignment of Channel 204A would satisfy the needs of Calexico for a first noncommercial educational broadcast service, it appears that the public interest would be served by assigning Channel 204A to that community. The transmitter site is restricted to 8 miles[2] northeast of the city to meet spacing requirements to unused Channels 202A and 206A at Esperanza, Mexico.

3. The Mexican Government has given its concurrence in the proposed assignment of Channel 204A at Calexico, California.

4. In view of the foregoing and pursuant to the authority contained in Sections 4(i), 5(d)(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.281 and 0.204(b) of the Commission's Rules, it is ordered, That effective March 21, 1983, § 73.504(a) of the Commission's Rules is amended with respect to the following community:

City	Channel No.
Calexico, California	204A

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–2861 Filed 2–1–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–489; RM–4147]

FM Broadcast Station in San Angelo, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C Channel 298 to San Angelo, Texas, in response to a petition filed by Gary Hess and Karl Calhoun. The assignment could provide a fifth FM service to San Angelo.

DATE: Effective March 22, 1983.

[2] The *Notice* proposed a 7 mile site restriction, however, the restriction is actually 8 miles.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Released: January 21, 1983.

Adopted: January 14, 1983.

In the matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations; (San Angelo, Texas) BC Docket No. 82–489; Rm–4147; Report and Order; Proceeding Terminated.

1. Before the Commission is the Notice of Proposed Rule Making, 47 FR 34597, published August 10, 1982, proposing the assignment of Class C Channel 298 to San Angelo, Texas, in response to a petition filed by Gary Hess and Karl Calhoun. The petitioners did file comments indicating a continuing interest in the channel assignment.

2. In view of the fact that the assignment could provide a fifth FM service to San Angelo, the Commission believes the assignment is warranted. Accordingly, pursuant to the authority contained in Sections 4(1), 5(d) (1) 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered. That effective March 22, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules is amended for the following city:

City	Channel No.
San Angelo, Texas	225, 230, 234, 248, and 298

3. It is further ordered, That this proceeding is terminated.

4. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–2844 Filed 2–1–83; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1043

[Ex Parte No. MC–5 (Sub–4)]

Passenger Broker Surety Bonds or Insurance; Removal of Rules

AGENCY: Interstate Commerce Commission.

ACTION: Removal of rules.

SUMMARY: The "Bus Regulatory Reform Act of 1982" exempts brokers of passenger transportation by motor vehicle from Commission regulation. The Commission retains, however, the discretion to impose insurance and/or bond requirements on passenger brokers if deemed necessary to protect passengers and carriers dealing with brokers.

On November 19, 1982, the passenger broker bond requirements under 49 CFR 1043.4(b) became void as a matter of law and have no legal effect. Accordingly, § 1043.4(b) is being removed from the Code of Federal Regulations. The Commission has decided not to reinstitute any bond or insurance requirement for passenger brokers at this time, and thus discontinues the rulemaking proceeding in a notice published elsewhere in this issuance.

EFFECTIVE DATE: This decision is effective on March 4, 1983.

FOR FURTHER INFORMATION CONTACT: Alice K. Ramsay, (202) 275–0854

or

Margaret Richards, (202) 275–1538.

SUPPLEMENTARY INFORMATION: Because of the exemption from Commission regulation granted to passenger brokers by the "Bus Regulatory Reform Act of 1982," which is discussed in a Notice of Discontinued Rulemaking published in the Proposed Rules section of this issue, § 1043.4(b) is inoperative and is being removed from Title 49 of the Code of Federal Regulations.

This decision will not significantly affect the quality of the human environment of the conservation of energy resources.

We certify that this action will not have a significant impact upon a substantial number of small entities. As stated in this notice, abuses by brokers are rare, and federal regulation is not warranted in this area.

List of Subjects in 49 CFR Part 1043

Insurance, Motor carriers, Surety bonds.

(49 U.S.C. 10321 and 10924, 5 U.S.C. 553, and Sec. 14, Bus Regulatory Reform Act of 1982)

Decided: January 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Simmons concurred with a separate expression. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

Commissioner Simmons, concurring:

I believe that the public interest dictates that the Commission should require brokers of passengers to maintain insurance and/or bonds. In determining whether to impose such a requirement, the Commission has to weigh what I consider to be a minimum regulatory burden on brokers against that of protecting the public. If the requirement is not a significant barrier to entry (which I do not believe it is), then we must consider whether the public needs this protection. I am convinced that there is such a need.

Against my better judgement, I reluctantly concur with the decision, however, because the majority has left open the option to adopt bonding and/or insurance requirements if the need should arise in the future. OCCA should diligently monitor all complaints received regarding brokers and report their findings to the Commission in its regular report to the Commission.

Appendix

Part 1043 Subtitle B, Chapter X of Title 49 of the Code of Federal Regulations is amended as follows:

PART 1043—[AMENDED]

§ 1043.4 [Amended]

In § 1043.4, paragraph (b) is removed.

[FR Doc. 83–2756 Filed 2–1–83; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 48, No. 23
Wednesday, February 2, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Doc. R-0449]

Electronics Fund Transfers; Technical Amendments and Official Staff Commentary Update

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed technical amendments and proposed official staff interpretation.

SUMMARY: The Board is publishing for comment proposed technical amendments to Regulation E (Electronic fund transfer) to correct certain provisions that refer to Regulation Z. These changes are necessary to reflect redesignated sections in revised Regulation Z. This notice also contains proposed changes to the official staff commentary, which applies and interprets the requirements of Regulation E as a substitute for individual staff interpretations of the regulation. Some of the changes reflect regulatory revisions adopted in October 1982.

DATE: Comments must be received on or before March 3, 1983.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue, NW., Washington, D.C. between 8:45 a.m. and 5:15 p.m. Comments should include a reference to Doc. No. R-0449. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: John C. Wood or Jesse B. Filkins, Senior Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-2412 or (202) 452-3867.

SUPPLEMENTARY INFORMATION: 1. *General.* The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) governs any transfer of funds that is electronically initiated and that debits or credits a consumer's account. This statute is implemented by the Board's Regulation E (12 CFR Part 205). The Board's staff has also issued an official commentary that takes the place of individual staff letters interpreting the regulation (EFT-2).

2. *Proposed revisions. Regulation.* Regulation E contains certain provisions that describe the relationship between the rules governing electronic fund transfers and Regulation Z (Truth in Lending). These provisions cover issuance of access devices, § 205.5(c)(1)(ii) and § 205.5(c)(2)(i); liability for unauthorized transfers, § 205.6(d)(1)(i); documentation of transfers, § 205.9(b)(3), and procedures for resolving errors, § 205.11(i). The proposed changes set forth below relate to the updating of Regulation Z sectional references. These changes are needed because Regulation Z sections were redesignated when the Board revised Regulation Z, pursuant to the Truth in Lending Simplification and Reform Act of 1980.

Commentary. This is the first periodic update to the Official Staff Commentary on Regulation E, which was published on September 23, 1981 (46 FR 46876). Some of the proposed revisions to the commentary relate to the amendments to the regulation published on October 12, 1982 (47 FR 44708). These include questions 3-22, 7-18.5, 9-10.5, 9-50, and 9-51, which are new; questions 9-9 and 9-16, which have been revised; and question 9-22, which has been removed. The other changes respond to various questions that have arisen concerning Regulation E since the commentary was originally published: questions 2-5.5, 2-12.5, 2-25.5, 2-27, and 3-19.5 are new, and question 9-26 has been revised. Questions that are being added between existing questions are designated "'.5"—for example, proposed question 2-5.5 belongs after question 2-5.

Certain conventions have been used to highlight the revised language in the commentary. New language is highlighted by bold-faced arrows, while language that has been deleted is set off with brackets.

List of Subjects in 12 CFR Part 205

Banks, banking, Consumer protection, Electronic fund transfers, Federal Reserve System.

PART 205—[AMENDED]

3. *Text of proposed regulatory revisions.* Pursuant to the authority granted in Section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b), the Board proposes to amend Regulation E, 12 CFR Part 205, by revising §§ 20.5 (c)(1)(ii), 205.5(c)(2)(i), 205.6(d)(1)(i), 205.9(b)(3), and 205.11(i) to refer to the revised sections of Regulation Z, to read as follows:

§ 205.5 Issuance of access devices.

* * * * *

(c) *Relation to Truth in Lending*
(1) * * *

(ii) Addition to an accepted credit card, as defined in 12 CFR 226.12(A)(2), foot note 21 (Regulation Z), of the capability to initiate electronic fund transfers; and

* * * * *

(2) * * *

(i) Issuance of credit cards as defined in 12 CFR 226.2(a)(15);

* * * * *

§ 205.6 Liability of consumer for unauthorized transfers.

* * * * *

(d) *Relation to Truth in Lending.*
(1) * * *

(i) Was initiated by use of an access device that is also a credit card as defined in 12 CFR 226.2(a)(15), or

* * * * *

§ 205.9 Documentation of transfers.

* * * * *

(b) *Periodic statements.* * * *

(3) The total amount of any fees or charges, other than a finance charge under 12 CFR 226.7(f), assessed against the account during the statement period for electronic fund transfers or the right to make such transfers, or for account maintenance.

* * * * *

§ 205.11 Procedures for resolving errors.

* * * * *

(i) *Relation to Truth in Lending.* Where an electronic fund transfer also involves an extension of credit under an agreement between a consumer and a financial institution to extend credit

when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account, the financial institution shall comply with the requirements of this section rather than those of 12 CFR 226.13 (a), (b), (c), (e), (f), and (h).

* * * * *

4. *Text of proposed commentary revisions.* The proposed revisions to the Official Staff Commentary to Regulation E (EFT–2) read as follows:

* * * * *

Supplement II—Official Staff Commentary

[Reg. E; EFT–2]

* * * * *

Section 205.2 Definitions and rules of construction.

* * * * *

►Q2–5.5: *Retail repurchase agreements.* A retail repurchase agreement (repo) is essentially a loan made to a financial institution by a consumer that is collateralized by government or government-insured securities. Is a repo an account for purposes of Regulation E?

A: While repos may not be deposits for purposes of some other banking regulations, repos are accounts as defined in Regulation E. (§ 205.2(b))◄

* * * * *

►Q2–12.5: *Deductions for income tax withholding purposes.* A financial institution deducts a portion of the interest payable on a consumer account and sends it to the Internal Revenue Service to comply with withholding requirements. If the account is not already subject to Regulation E, will the electronic transfer of the interest withholding result in coverage?

A: No, in the absence of an agreement between the consumer and the financial institution or other person regarding EFT service. But if an account is subject to the regulation for other reasons, then transfers to IRS will be covered if they are carried out electronically and if they involve debits to the account. (§ 205.2 (b) and (g))◄

* * * * *

►Q2–25.5: *Card-activated telephones.* Does the regulation cover transfers to pay for calls made from a telephone that is activated when the consumer inserts a card into a magnetic strip or card reader, and does the terminal receipt requirement apply?

A: The regulation applies to transfers initiated electronically. As a result the electronic transfers from a consumer's account to pay for telephone calls are covered by the regulation as electronic fund transfers. A receipt is not required provided the only transfer of funds occurring as a result of the use of the card at the combination telephone/reader is to pay for the charges incurred by use of the telephone. (§ 205.2(h))◄

* * * * *

►Q2–27: *Unauthorized transfers—access device obtained from the consumer.* A consumer is conned or forced to furnish another person with an access device for use in an ATM. Are transfers initiated by the person who has obtained the access device from the consumer authorized or unauthorized?

A: They are unauthorized. The definition of "unauthorized electronic fund transfer" states that the term does not include any electronic fund transfer "initated by a person who was furnished with the access device to the consumer's account by the consumer, unless the consumer has notified the financial institution involved that transfers by that person are no longer authorized." This exception only applies when the consumer has furnished an access device to a person intending that the person be authorized to initiate transfers. In the case of a con or a robbery, the consumer did not intend to authorize the use of the access device to make electronic fund transfers and, as a result, the transfers are unauthorized. (§ 205.2(l))◄

* * * * *

Section 205.3 Exemptions.

* * * * *

►Q 3–19.5: *Telephone transfers—money market deposit accounts, retail repurchase agreements.* Are telephone transfers between a money market deposit account (or a retail repo account) and another account within the institution subject to the regulation?

A: The answer will depend on whether the transfers are made pursuant to a written plan or agreement in which periodic or recurring transfers are contemplated. An agreement that merely permits the consumer to telephone institutions for the rollover of all or a portion of the funds at maturity does not meet this test (§ 205.3(e))◄

* * * * *

►Q 3–22: *Small institution exemption—grace period.* If the assets of a previously exempt financial institution exceed $25 million on December 31, when must the institution begin complying with the regulation?

A: Such an institution would have a one-year grace period. For example, if the assets exceed $25 million on December 31, 1983, compliance is not required until January 1, 1985. On the other hand, a previously covered institution whose assets fall below $25 million on December 31, 1983, may take advantage of the exemption beginning on January 1, 1984. (§ 205.3(g))◄

* * * * *

Section 205.7 Initial disclosure of terms and conditions.

* * * * *

►Q 7–18.5: *Error-resolution disclosure—foreign-inititated transfers.* The regulation expands the time periods for resolving errors that involve transfers initiated outside the United States, from 10 to 20 business days and from 45 to 90 calendar days. Must the error-resolution disclosure reflect the longer time periods with respect to accounts on which transfers may be initiated outside the United States?

A: The financial institution may but need not refer to the longer time periods in the error-resolution disclosure. (§§ 205.7(a)(10) and 205.11(c)(4))◄

* * * * *

Section 205.9 Documentation of transfers.

* * * * *

►Q 9–9: *Receipts—type of account [in POS transfer].* A footnote states that the type of account need not be identified if the access device used to initiate the transfer can access only one account [of any type in a point-of-sale transfer] ►at a given terminal. When◄ does this exception apply [when that device is used at an ATM]?

A: The exception [is generally not available for ATM transfers, even if the access device is capable of accessing only one account at an ATM. (There is a limited exception for certain cash-dispensing machines under section 205.9(f), but only if the machines were purchased or ordered before February 6, 1989.)] ►applies to point-of-sale terminals, ATMs, and any other electronic terminals. It◄ [The exception for POS transfers] is available even if the access device can access more than one account when used [at] ►in◄ a different [type of facility, such as an ATM.] ►system, for example, if an access device can access only a single account in a shared ATM system, but can access more than one account in a proprietary system.◄ Morever, account refers only to asset accounts. If a consumer can use an access device at a [POS] terminal to debit an asset account and also to access a credit line, for example, the [exemption] ►exception◄ is still available. (§ 205.9(a)(3), footnote 3)

* * * * *

►Q 9–10.5: *Receipts—type of account, interchange system.* What about an

interchange system in which consumers can access multiple accounts of the same type at their account-holding institution's terminals, but only a primary account of each type at other terminals in the system—may the receipt at such other terminals describe the account in terms of "checking" or "savings," without unique identification?

A: Yes. (§ 205.9(a)(3), footnote 3)◄

* * * * *

►Q 9–16: *Periodic statements—frequency.* How often must periodic statements be sent for accounts that are subject to the regulation?

A: A monthly statement is required for any account to or from which an EFT has occurred during the month, if the account is one that can be debited electronically (by use of an access device, telephone, bill-payment service, or preauthorized transfers from the consumer's account, for example) or if the account can be credited electronically by other than preauthorized deposits. If no transfers occur during some months, the statement must be provided at least quarterly.

There are [special] ►certain◄ exceptions for accounts on which the only EFT service relates to preauthorized credits. The institution may send quarterly statements or, if the account is a passbook account, the institution may simply update the passbook when it is presented for updating (with the amount and date of each EFT since the last update).

►Also, to eliminate duplicative statements, the regulation provides an exception from the periodic statement requirement for certain intrainstitutional transfers between a consumer's accounts (§ 205.9(h)). This exception does not alter the statement provisions, however, with respect to accounts that receive preauthorized credits; such accounts continue to require quarterly statements or passbook updates.◄ (§ 205.9(b), (c), [and] (d) ►, and (h)◄)

* * * * *

Q 9–22: (Reserved.)

* * * * *

Q 9–26: *Periodic statements—terminal location omitted; error.* When a consumer makes a deposit at an ATM, the institution need not identify the ATM location on the periodic statement. Does the consumer's request for the terminal location (or any other information about the deposit) constitute notification of an error under the regulation?

A: Yes, if the request for the location is made in accordance with the requirements of the error-resolution section. ►However, in responding to the error notification, the institution need not provide the consumer with the ATM location, since it is not required to capture that information with regard to deposits. If ◄[On the other hand, if] the consumer merely calls to ascertain whether or not a deposit (ATM, preauthorized, or any other type of electronic transfer) was credited to the account, the error-resolution procedures do not apply. (§§ 205.9(b)(1)(iv), footnote 4a, and 205.11(a)(7))

* * * * *

►Q 9–50: *Periodic statements—transfers between accounts.* The regulation provides that an account is excepted from the periodic statement requirements for transfers to or from another account of the consumer within the institution, if these transfers are described on a complying statement for the other account. What effect does this have on the periodic statement requirements for accounts that are also accessed by other electronic transfer activity?

A: The exception applies only to the transfers between accounts. The financial institution must comply with the applicable periodic statement requirements for any other electronic transfers to or from the account. For example, a quarterly Regulation E statement must be sent for an account that also receives payroll deposits electronically; and a Regulation E statement must be sent for any month in which an account is also accessed by a withdrawal at an ATM. (§§ 205.9(c), (d), and (h))

Q 9–51: *Periodic statements—foreign-initiated transfers.* Failure to provide terminal receipts and periodic statements for transfers initiated outside the United States is deemed not to be a failure to comply with the regulation if an inquiry or request for documentation is treated as a notice of an error. What does this mean?

A: The relaxation in documentation requirements takes account of the fact that some foreign-based terminals do not capture all of the information required by the regulation. However, it is expected that the institution would make a good faith attempt to provide on the periodic statement the information required by the regulation to identify the transfer. For example, even though the institution may not be able to provide the location of the specific terminal, it should, if possible, identify the country and city in which the transfer was initiated. (§ 205.9(i))◄

* * * * *

By order of the Board of Governors of the Federal Reserve System, January 27, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–2751 Filed 2–1–83; 8:45 am]

BILLING CODE 6210–01–M

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12 CFR Part 226

[Reg. Z.; Doc. No. R–0450]

Truth in Lending; Definition of Arranger of Credit; Exemption of Certain Student Loans; Treatment of Certain Disclosure Errors; and Official Staff Commentary Update

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule and proposed official staff interpretation.

SUMMARY: The Board is publishing for comment proposed amendments to revised Regulation Z, (Truth in Lending), to implement Truth in Lending amendments made in the Garn-St Germain Depository Institutions Act of 1982. The proposal would amend 12 CFR Part 226 to delete from coverage arrangers of credit and exempt certain student loans. For purposes of administrative enforcement, the proposal would also amend two footnotes relating to disclosure errors caused by the use of faulty calculation tools. This notice also contains proposed changes to the official staff commentary, which applies and interprets the requirements of the revised Regulation Z as a substitute for individual staff interpretations of the regulation. Some of the changes reflect the statutory amendments while others update the current commentary.

DATE: Comments must be received on or before March 3, 1983.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B–2223, 20th and Constitution Avenue, NW., Washington, D.C. between 8:45 a.m. and 5:15 p.m. To aid in their consideration, comments should include a reference to Doc. No. R–0450, and discussion of each section should begin on a separate page. Comments may be inspected in Room B–1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: The following attorneys in the Division of Consumer and Community Affaris, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452–3667 or (202) 452–3867:

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Regulatory amendments—Claudia Yarus.
Commentary:
Subpart A—Gerald Hurst
Subpart B—Ruth Amberg, Jesse Filkins, Richard Garabedian, Lynn Goldfaden, Gerald Hurst, John Wood
Subpart C and Appendices—Clarence Cain, Lucy Griffin, Rugenia Silver, Susan Werthan, Claudia Yarus, Steven Zeisel
Subpart D—Rugenia Silver

SUPPLEMENTARY INFORMATION: 1. *Introduction.* This notice contains three types of changes to the Board's Regulation Z and the accompanying official staff commentary. First, the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320, October 15, 1982) (DIA) made two amendments to the Truth in Lending Simplification and Reform Act of 1980. Section 103(f) of the Truth in Lending Act was amended by deleting "arrangers of credit" from the definition of "creditor," effective October 1, 1982. Section 104 was amended by exempting from coverage (both prospectively and retroactively) loans made, insured, or guaranteed pursuant to a program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.). To implement these statutory amendments, the Board proposes to amend § 226.2 of Regulation Z by removing the definition of "arranger of credit" and removing "arrangers of credit" from the "creditor" definition, and to amend § 226.3 by adding a new paragraph that exempts loan programs under Title IV of the Higher Education Act of 1965. These changes are being made pursuant to clear congressional guidance and it is expected that there will be little further revision in the final document.

Second, proposed amendments to footnote 31a (§ 226.14(a)) and footnote 45a (§ 226.22(a)) are being made. These footnotes protected creditors from liability for use of faulty calculation tools. The footnotes provided that an error in the disclosure of the annual percentage rate or finance charge was not considered a violation if: (1) The error resulted from a corresponding error in a calculation tool used in good faith by the creditor; and (2) upon discovery of the error, the creditor discontinued use of the tool and notified the Board in writing of the error in the calculation tool. Thus, errors that met these criteria were not violations and creditors found to have such errors were protected from both civil and administrative actions, particularly restitution. These provisions were in the original regulation because the Board believed that the vast majority of creditors did not possess the specialized technical knowledge necessary to evaluate calculation tools internally and needed to rely on the producers of those tools to provide that knowledge.

The Board eliminated the protection provided by the footnotes as of October 1, 1982, the effective date of the amended act, in the belief that the act's expansion of the bona fide error defense to civil liability made the footnotes unnecessary.

Upon further review, however, the Board believes that the elimination of the protection provided by the footnotes has the effect, without the intent, of exposing creditors to restitution. The amended act protects creditors from civil liability for violations resulting from bona fide errors, even in the absence of the footnotes. However, without the protection of the footnotes creditors could be subject to administrative enforcement, including restitution, for the same errors. If the proposal is adopted, the Board anticipates that it would be retroactive to October 1, 1982.

Finally, proposed changes to the Regulation Z official staff commentary (Supplement I to Part 226) are being made. Some of the proposed changes correspond to the regulatory amendments implementing the DIA and serve to conform the regulation and commentary. The other proposed commentary changes update the document.

This is a periodic update to the commentary, as amended effective September 17, 1982 (47 FR 41338, September 20, 1982) and responds to significant questions that have arisen since the last update. The types of changes being proposed generally give creditors more flexibility in making disclosures, while preserving basic consumer protections.

Certain conventions have been used to highlight the revised language in the commentary. New language is highlighted by bold-faced arrows, while language that has been deleted is set off with brackets.

All the proposed regulatory and commentary changes are being published for comment at the same time to minimize the burden on potential commenters and on the credit industry. Staff believes that this document, although comprehensive, will insure uniform compliance and ease the complexity of compliance by prescribing only one effective date.

Comments must be received by March 3, 1983 and it is essential that they be timely in order to assure final action by April 1. To expedite analysis of the comments, commenters are requested to identify comments by section and paragraph numbers and to begin discussion of each section on a separate page. If comments are received on issues not raised by the proposed commentary revisions, these comments would most likely be considered for possible inclusion in the next commentary update.

Final revisions will be published in the **Federal Register**; it is anticipated that final publication will be at the end of March. Although creditors will be able to rely on the revisions at that time, the applicability of the revisions will be optional until October 1, 1983. The later date will be provided to minimize any difficulties that creditors may experience in adjusting to the revisions.

2. *Proposed revisions. Regulation.* Following is a brief description of the proposed regulatory revisions:

Subpart A—General

Section 226.2 Definitions and rules of construction.

(a)(3) "Arranger of credit"

This definition would be removed to implement the Truth in Lending Act amendment to the definition of "creditor" made in the DIA. The paragraph number will be reserved for future use in order to avoid the need for renumbering all subsequent definitions.

(a)(17) "Creditor"

This definition would be amended by removing paragraph (a)(17)(ii). The amendment would conform the regulatory definition to the statutory definition as amended by the DIA. Paragraphs (a)(17)(iii), (iv), and (v) of the current definition would be redesignated as paragraphs (a)(17)(ii), (iii), and (iv), respectively.

Section 226.3 Exempt transactions.

Paragraph (f) would be added to exempt loans made, insured, or guaranteed pursuant to a program authorized by Title IV of the Higher Education Act of 1965. The DIA Truth in Lending amendments expressly exempted these loans from coverage.

Sections 226.14 and 226.22 Determination of annual percentage rate.

The last sentence of both footnote 31a and footnote 45a would be removed. This amendment would reinstate the protections provided by the two footnotes.

Commentary. Following is a brief description of the proposed revisions to the commentary:

Subpart A—General

Section 226.2 Definitions and rules of construction.

2(a)(3) "Arranger of Credit"

Comments 2(a)(3)–1 through 6 would be removed to correspond to the regulatory amendments that remove "arrangers of credit" from the "creditor" definition.

2(a)(4) "Billing Cycle" or "Cycle"

Comment 2(a)(4)–1 would be revised to eliminate possible confusion over whether the periodic statement must in fact be *sent* within the 4-day interval.

2(a)(17) "Creditor"

Comment 2(a)(17)(ii)–1 would be removed to conform the commentary to the regulatory amendments that implement the DIA Truth in Lending amendments.

The comment designations—*Paragraph 2(a)(17)(iv)* and *Paragraph 2(a)(17)(v)*—would be redesignated *Paragraph 2(a)(17)(iii)* and *Paragraph 2(a)(17)(iv)*, respectively.

2(a)(18) "Downpayment"

Comment 2(a)(18)–1 would be revised to include a cross-reference to the commentary to § 226.2(a)(23). Material that would be added to the commentary to § 226.2(a)(23) discusses the allocation of lump-sum payments between the downpayment and the prepaid finance charge.

2(a)(23) "Prepaid Finance Charge"

A new comment 2(a)(23)–4 would be added to clarify the treatment to be given discounts that are finance charges under § 226.4(b)(9) in transactions involving lump-sum payments by a consumer. This comment discusses the allocation of a lump-sum payment between the downpayment and the prepaid finance charge.

2(a)(24) "Residential Mortgage Transaction"

A new comment 2(a)(24)–5 would be added to clarify whether certain transactions are "to finance the acquisition" of the consumer's principal dwelling and are therefore residential mortgage transactions.

References

A sentence would be added to the paragraph under *1981 Changes* discussing "arranger of credit" indicating that the definition has been removed from the statute. This would reflect the DIA Truth in Lending amendment.

Section 226.3 Exempt transactions.

Comment 3(f)–1 would be added to clarify which loan programs are administered under Title IV of the Higher Education Act of 1965. This comment corresponds to the regulatory amendment implementing the DIA Truth in Lending amendments that exempt these loan programs from the regulation.

Section 226.4 Finance charge.

4(d) Insurance

Comment 4(d)–10 would be revised to provide an exception to the requirement that creditors allocate a portion of the premium for coverages that are not VSI or other property insurance when the amount of the premium attributable to the non-VSI coverages is less than $1.00 (or in the case of multi-year policies, $5.00). Comment is specifically requested on the necessity and desirabiltiy of such an exception, as well as the dollar amount that should be provided.

Subpart B—Open-End Credit

Section 226.5 General disclosure requirements.

Comment 5(a)(2)–3 would be added to provide that the rule that the terms "finance charge" and "annual percentage rate" should be more conspicuous than other required disclosures does not apply to numerical amounts or percentages shown as part of the disclosures.

Comment 5(b)(1)–3 would be expanded to clarify that no new initial disclosures need be given when the consumer's account is closed simply to provide the consumer with a new account number, such as when the credit card is reported lost or stolen and a new account number is assigned for security reasons.

Section 226.8 Identification of transactions.

Comment 8–7 would be added to give the creditor the option of two means of identifying credit insurance premiums on the periodic statement when the insurance is offered through the creditor but actually provided by another company. In such a case, the creditor could identify the premium using either the rule in § 226.8(a)(2) for "related" sellers and creditors, or the rule in § 226.8(a)(3) for "non-related" sellers and creditors.

Section 226.9 Subsequent disclosure requirements.

9(c) Change in Terms

The first sentence of comment 9(c)(1)–3 would be revised to clarify that the change-in-terms notice must be provided to the consumer (not merely mailed) no later than the time the change is effective, even when the 15-day advance-notice requirement is inapplicable.

Comment 9(c)(1)–3 would also be revised to add an example of an occurrence that would not be considered an "agreement" for purposes of relieving the creditor of its responsibility to provide an *advance* change-in-terms notice. If the change is the type that has been unilaterally made by the creditor and is of general applicability, advance notice must be given. Thus, the "agreed-to" rule would not apply in the following example: A creditor has decided to change a term in its open-end plan. Instead of providing change-in-terms notices to its customers 15 days in advance of the term change, the creditor decides to wait until each consumer comes to the creditor's office to request a cash advance. At that time, the consumer is given a change-in-terms notice, and, if the consumer agrees to the term change, the advance is made.

The first sentence of comment 9(c)(2)–2 would be revised to add the words "or payments", which is merely an editorial change.

Comment 9(c)(2)–2 would also be revised to give additional guidance on how the change-in-terms requirement may be satisfied when skip features are involved. Some creditors have indicated that to require a change-in-terms notice about resumption of the original terms may inhibit skip-payment programs. Comment is solicited on whether the proposal alleviates these concerns, and, if not, what specific operational problems remain.

Section 226.15 Right of rescission.

15(a) Consumer's Right to Rescind

Comment 15(a)(3)–4 would be revised to clarify that this example is intended to provide that the sale of the consumer's interest in the property will terminate the right to rescind even though the consumer is financing the transaction. Thus, a sale will terminate the right to rescind even though, for example, the consumer takes back a purchase money note and mortgage or retains legal title through a financing device such as an installment sale.

Subpart C—Closed-End Credit

Section 226.17 General disclosure requirements.

17(a) Form of Disclosures

Comment 17(a)(1)–5 would be expanded to add one example of

"directly related" information. This example, relating to § 226.18(q), responds to inquiries about an appropriate assumption policy disclosure when a transaction involves a due-on-sale clause. The example would make clear that the creditor may disclose the existence of a due-on-sale clause.

Comment 17(a)(2)–3 would be added to provide that the rule that the terms "finance charge" and "annual percentage rate" should be more conspicuous than other required disclosures does not apply to numercial amounts or percentages shown as part of the disclosures.

17(i) Interim Student Credit Extensions

Comment 17(i)–1 would be amended to remove references to the Guaranteed Student Loan Program and the PLUS program. These loan programs are administered under Title IV of the Higher Education Act of 1965 and are thus no longer covered, pursuant to the statutory amendments exempting these loan programs.

Comment 17(i)–4 would be deleted. This comment addresses loan programs that are now exempt under the DIA Truth in Lending amendments.

Comment 17(i)–5 would be redesignated comment 17(i)–4.

Section 226.18 Content of disclosures.

18(f) Variable Rate

Comment 18(f)–1 would be revised to indicate that the variable-rate disclosure applies not only to an increase in the interest component of the rate but also to increases in other portions of the rate, such as the rate of required credit life insurance. For example, veterans' loan programs in some states require credit life insurance. If a contract allows increases in the rate of the required credit life insurance, the transaction is considered a variable-rate transaction subject to § 226.18(f).

Comment 18(f)–5 would be revised to explain the circumstances under which footnote 43 is available to institutions authorized by recent federal legislation to make alternative mortgage loans. Footnote 43 permits institutions to omit the § 226.18(f) disclosures if variable-rate disclosures are made in accordance with certain variable-rate regulations of other federal agencies. Title VIII of the Depository Institutions Act of 1982 allows non-federally-chartered housing creditors to offer creative financing in accordance with certain federal regulations, even where applicable state law prohibits such financing by state lenders. The revision to the comment would permit those lenders to take advantage of footnote 43, even though they are not subject to examination by the agencies issuing the regulations. Comment is particularly solicited on whether the availability of the footnote should be contingent on whether the institution is subject to routine examination for compliance with these regulations.

Comment 18(f)–5 and the references to other regulations would also be revised to reflect the citation to the Federal Home Loan Bank Board's amended adjustable mortgage loan regulation.

18(q) Assumption Policy

Comment 18(q)–1 would be revised to include a cross-reference to comment 17(a)(1)–5, which permits creditors to state in the Trust in Lending disclosures that a due-on-sale clause is contained in the loan document.

Section 226.19 Certain residential mortgage transactions.

Comment 19(a)–3 would be amended to clarify when a creditor receives an application that is transmitted by an agent or broker.

Section 226.20 Subsequent disclosure requirements.

20(b) Assumptions

Comment 20(b)–1 would be revised to make clear that assumptions other than those defined in § 226.20(b) do not require disclosures.

Comment 20(b)–7 would be added to specify the time of consummation of an assumption.

Comment 20(b)–8 would be added to explain the relationship between the abbreviated disclosures of § 226.20(b)(1) through (5) and the general disclosure requirements of §§ 226.17 and 226.18.

Section 226.23 Right of rescission.

23(a) Consumer's Right to Rescind

Comment 23(a)(3)–3 would be revised to clarify that this example is intended to provide that the sale of the consumer's interest in the property will terminate the right to rescind even though the consumer is financing the transaction. Thus, a sale will terminate the right to rescind even though, for example, the consumer takes back a purchase money note and mortgage or retains legal title through a financing device such as an installment sale.

Subpart D—Miscellaneous

Section 226.28 Effect on State Laws.

28(a) Inconsistent Disclosure Requirements

The commentary to § 226.28 would be expanded by the addition of three new comments, reflecting recent Board determinations on the effect of the Truth in Lending Act on the consumer credit laws of Arizona, Florida and Missouri.

Section 226.29 State exemptions.

29(a) General Rule

Comment 29(a)–4 would be revised to reflect three state exemptions from the Truth in Lending Act granted by the Board to Massachusetts, Oklahoma and Wyoming.

Appendix D—Multiple-Advance Construction Loans

The commentary and references to Appendix D would be revised to reflect the fact that multiple-advance transactions other than construction loans may also use the appendix.

Appendix H—Closed-End Model Forms and Clauses

Current comments H–17 through 20 as they reflect the approval under section 113 of the act of student loan disclosure forms issued by the Department of Education would be removed. The loan programs to which the forms apply have been exempted from the regulation in the recent DIA amendments to the Truth in Lending Act. New comments H–17 through 20 would be added to reflect the approval under § 113 of the act of four student loan disclosure forms issued by the Department of Health and Human Services in conjunction with the Health Education Assistance Loan (HEAL) program.

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Credit, Federal Reserve System, Finance, Truth in lending, Penalties.

3. *Text of Proposed Regulatory Revisions.* Pursuant to the authority granted in section 105 of the Truth in Lending Act (15 U.S.C. 1604 as amended), the Board proposes to amend Regulation Z, 12 CFR Part 226, by removing the definition of "arranger of credit" and reserving paragraph (a)(3) of § 226.2; removing paragraph (a)(17)(ii) of § 226.2 and redesignating paragraphs (a)(17) (iii), (iv), and (v) as paragraphs (a)(17) (ii), (iii), and (iv), respectively; adding a new paragraph (f) to § 226.3; and removing the last sentence of both

footnote 31a to § 226.14 and footnote 45a to § 226.22, to read as follows:

§ 226.2—Definitions and rules of construction.

(a) *Definitions.* * * *

(3) [Reserved]

* * * * *

§ 226.3— Exempt transactions.

* * * * *

(f) *Student loan programs.* Loans made, insured, or guaranteed pursuant to a program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

* * * * *

4. *Text of Proposed Commentary Revisions.* The proposed revisions to the commentary (Supplement I to Part 226) read as follows:

Supplement I—Official Staff Commentary—TIL–1

* * * * *

Subpart A—General

* * * * *

Section 226.2 Definition and rules of construction.

2(a) Definitions.

* * * * *

2(a)(3) "Arranger of credit"

Comments 2(a)(3)–1 through 6 are deleted in their entiretly.

* * * * *

2(a)(4) "Billing Cycle" or "Cycle"

1. *Intervals.* In open-end credit plans, the billing cycle determines the intervals [at which periodic disclosure statements must be sent;] ►for which periodic disclosure statements are required;◄ these intervals are also used as measuring points for other duties of the creditor. Typically, billing cycles are monthly, but they may be more frequent or less frequent (but not less frequent than quarterly).

* * * * *

2(a)(17) "Creditor"

Comment 2(a)(17)(ii)–1 is deleted. Comment designations *Paragraph 2(a)(17)(iv)* and *Paragraph (2)(a)(17)(v)* are redesignated *Paragraph 2(a)(17)(iii)* and *Paragraph 2(a)(17)(iv).* The reference to § 226.2(a)(17)(iv) in new comment 2(a)(17)(iii)–1 is being changed to § 226.2(a)(17)(iii). The reference to § 226.2(a)(17)(v) in new comment 2(a)(17)(iv)–1 is being changed to § 226.2(a)(17)(iv).

* * * * *

2(a)(18) "Downpayment"

1. *Allocation.* * * * ►(See the commentary to § 226.2(a)(23).)◄

* * * * *

2(a)(23) "Prepaid Finance Charge"

* * * * *

►4. *Allocation of lump-sum payments.* In a transaction involving a lump-sum payment by the consumer and a discount that is a finance charge under § 226.4(b)(9), the discount is a prepaid finance charge to the extent the lump-sum payment is not applied to the cash price. For example, a creditor sells property to a consumer for $10,000 and requires the consumer to pay $3,000 at the time of the purchase. The cash price of the property is $9,000. Under § 226.4(b)(9), the $1,000 difference between the credit and cash prices is a finance charge. If the creditor applies the entire $3,000 to the cash price and adds the $1,000 finance charge to the interest on the $6,000 to arrive at the total finance charge, all of the $3,000 lump-sum payment is a downpayment and the discount is not a prepaid finance charge. However, if the creditor only applies $2,000 of the lump-sum payment to the cash price, then $2,000 of the $3,000 is a downpayment and the $1,000 discount is a prepaid finance charge.◄

2(a)(24) "Residential Mortgage Transaction"

* * * * *

►5. *Acquisition.* A transaction is not "to finance the acquisition of the consumer's principal dwelling (and therefore is not a residential mortgage transaction) if the consumer had previously purchased the dwelling and acquired some type of title to the dwelling, even though the consumer has not acquired full legal title. Thus, the following types of transactions are not residential mortgage transactions:

- The financing of a balloon payment due under a land sale contract.
- A formal agreement between a creditor holding a seller's mortgage and the buyer of the property which allows the buyer to assume the mortgage, where the buyer previsouly purchased the property and agreed with the seller to make the mortgage payments.
- A loan made to a joint owner of property to buy out the other joint owner's interest.◄

* * * * *

Reference

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1981 changes:

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"Arranger of Credit" * * * ►This definition was deleted effective October 1, 1982.

* * * * *

Section 226.3 Exempt transactions.

* * * * *

3(f) Student Loan Programs

►1. *Coverage.* This exemption applies to the Guaranteed student Loan program, the Auxiliary loans to Assist the Students (also known as PLUS) program, and the National Direct Student Loan program.◄

Section 226.4 Finance charge.

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4(d) Insurance

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10. *Single-interest insurance defined.* The term "single-interest insurance" as used in the regulation refers only to the types of coverage traditionally included in the term "vendor's single-interest insurance" (or "VSI"), that is, protection of tangible property against normal property damage, concealment, confiscation, conversion, embezzlement, and skip. Some comprehensive insurance policies may include a variety of additional coverages, such as repossession insurance and holder-in-due-course insurance. These types of coverage do not constitute single-interest insurance for purposes of the regulation, and premiums for them do not qualifiy for exclusion from the finance charge under § 226.4(d). If a policy that is primarily VSI also provides coverages that are not VSI or other property insurance, a portion of the premiums must be allocated to the nonexcludable coverages and included in the finance charge. ►However, such allocation is not required if the premium attributable to the other coverages included in the policy is less than $1.00 (or $5.00 in the case of a multi-year policy).◄

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Subpart B—Open-end Credit

Section 226.5 General disclosure requirements.

5(a) Form of Disclosures

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Paragraph 5(a)(2)

* * * * *

►3. *Disclosure of figures—exception to "more conspicuous" rule.* The rule that the terms "annual percentage rate" and "finance charge" must be disclosed more conspicuously than other required

disclosures is not applicable to the disclosure of figures (including, for example, the disclosure of amounts, percentages, and dollar signs).◄

5(b) Time of Disclosures

5(b)(1) Initial disclosures

* * * * *

3. *Reopening closed account.* If an account has been closed (for example, due to inactivity, cancellation, or expiration) and then is reopened, new initial disclosures are required. ►No new initial disclosures are required, however, when the account is closed merely to assign it a new number (for example, when a credit card is reported lost or stolen) and the "new" account then continues on the same terms.◄

* * * * *

Section 226.8 Identification of transactions.

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►7. *Credit insurance offered through the creditor.* When credit insurance that is not part of the finance charge (for example, volunary credit life insurance) is offered to the consumer through the creditor, but is actually provided by another company, the creditor has the option of identifying the premiums in one of two ways on the periodic statement. The creditor may describe the premiums using either the rule in § 226.8(a)(2) for "related" sellers and creditors, or the rule in § 226.8(a)(3) for "non-related" sellers and creditors. This means, therefore, that the creditor may identify the insurance either by providing, under § 226.8(a)(2), a brief identification of the services provided (for example, "credit life insurance"), or by disclosing, under § 226.8(a)(3), the name and address of the company providing the insurance (for example, ABC Insurance Company, New York, New York). In either event, the creditor would, of course, also provide the amount and the date of the transaction.◄

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Section 226.9 Subsequent disclosure requirements.

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9(c) Change in Terms

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9(c)(1) Written Notice Required

* * * * *

3. *Timing-advance notice not required.* Advance notice of 15 days is not necessary—that is, a notice of change in terms is required, but it may be [sent] ►given◄ as late as the effective date of the change—in two circumstances:

- If there is an increased periodic rate or any other finance charge attributable to the consumer's delinquency or default
- If the consumer agrees to the particular change [(for example, an agreed-upon addition or substitution of collateral)]. ►This provision is intended for use in the unusual instance when a consumer substitutes collateral or when the creditor can advance additional credit only if a change relatively unique to that consumer is made, such as the consumer's providing additional security or paying an increased minimum payment amount.◄ [But] ►Therefore, the following are not "agreements" between the consumer and the creditor for purposes of § 226.9(c)(1):◄ the consumer's general acceptance of the creditor's contract reservation of the right to change terms [,or] ►;◄ the consumer's use of the account (which might imply acceptance of its terms under state law) [.] ►; and the consumer's acceptance of a unilateral term change that is not particular to that consumer, but rather is of general applicability to consumers with that type of account.◄ [is not an "agreement" between the the consumer and the creditor for purposes of § 226.9(c)(1).]

* * * * *

9(c)(2) Notice Not Required

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2. *Skip features.* If a credit program allows consumers to skip or reduce one or more payments during the year, or involves temporary reductions in finance charges, no notice of the change in terms is required either prior to the reduction or upon resumption of the higher rates ►or payment◄ if these features are explained on the initial disclosure statement (including an explanation of the terms upon resumption). For example, a merchant may allow consumers to skip the December payment to encourage holiday shopping, or a teachers' credit union may not require payments during summer vacation. Otherwise, the creditor must give notice prior to resuming the original schedule or rate, even though no notice is required prior to the reduction. ►The change-in-term notice may be combined with the notice offering the reduction. For Example, the periodic statement reflecting the reduction or skip feature may also be used to notify the consumer of the resumption of the original schedule or rate either by stating explicitly when the higher payment or charges resume, or by indicating the duration of the skip option. Language such as "You may skip your October payment, " or "We will waive your finance charges for January," may serve as the change-in-terms notice.◄

* * * * *

Section 226.15 Right of rescision.

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Paragraph 15(a)(3)

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4. *Unexpired right of rescission.* When the creditor has failed to take the action necessary to start the three-day rescission period running, the right to rescind automatically lapses on the occurrence of the earliest of the following three events:

- The expiration of three years after the occurrence giving rise to the right of rescission
- Transfer of all the consumer's interest in the property
- Sale of the consumer's interest in the property, including a transaction in which the consumer sells the dwelling and [takes back] ►retains◄ legal title ►or takes back◄ [through] a purchase money note and mortgage.

Transfer of all the consumer's interest includes such transfers as bequests and gifts. A sale or transfer of the property need not be voluntary to terminate the right to rescind. For example, a foreclosure sale would terminate an unexpired right to rescind. As provided in section 125 of the act, the three-year limit may be extended by an administrative proceeding to enforce the provisions of § 226.15. A partial transfer of the consumer's interest, such as a transfer bestowing co-ownership on a spouse, does not terminate the right of rescission.

* * * * *

Subpart C—Closed-End Credit

Section 226.17 General disclosure requirements.

17(a) Form of Disclosures

Paragraph 17(a)(1)

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5. *Directly related.* The segregated disclosures may, at the creditor's option, include any information that is directly related to those disclosures. Directly related information includes, for example, the following:

* * * * *

- A statement that a due-on-sale clause is contained in the loan document. For example, the disclosure given under § 226.18(q) may state, "Someone

buying your home may, subject to conditions in the due-on-sale clause contained in the loan document, assume the remainder of the mortgage on the original terms."◄

* * * * *

Paragraph 17(a)(2)

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►3. *Disclosure of figures—exception to "more conspicuous" rule.* The rule that the terms "annual percentage rate" and "finance charge" must be disclosed more conspicuously than other required disclosures is not applicable to the disclosure of figures (including, for example, the disclosure of amounts, percentages, and dollar signs).◄

* * * * *

17(i) Interim Student Credit Extensions

1. *Definition.* Student credit plans involve extensions of credit for education purposes where the repayment amount and schedule are not known at the time credit is advanced. These plans include [, for example,] loans made under [the Guaranteed Student Loan program, the PLUS program or] and [other] student credit plan, whether government or private, where the repayment period does not begin immediately. Creditors in interim student credit extensions need not disclose the terms set forth in this paragraph at the time the credit is actually extended but must make complete disclosures at the time the creditor and consumer agree upon the repayment schedule for the total obligation. At that time, a new set of disclosures must be made of all applicable items under § 226.18.

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Comment 17(i)–4 is removed. Comment 17(i)–5 is redesignated comment 17(i)–4.

* * * * *

Section 226.18 Content of disclosures

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18(f) Variable Rate

1. *Coverage.* The requirements of § 226.18(f) apply to all transactions in which the terms of the legal obligation allow the creditor to increase ►any portion of◄ the rate originally disclosed to the consumer. The provisions, however, do not apply to increases resulting from delinquency (including late payment), default, assumption, acceleration or transfer of the collateral.

* * * * *

5. *Other variable-rate regulations.* Transactions in which the creditor is required to comply with and has complied with variable-rate regulations of other federal agencies are exempt from the requirements of [this section,] ►section 226.18(f),◄ by virtue of footnote 43. Those variable-rate regulations include the adjustable mortgage loan instrument regulation issued by the Federal Home Loan Bank Board (12 CFR 545.6–[4] ►2◄ (a)) [, the graduated payment adjustable mortgage loan instrument regulation issued by the Federal Home Loan Bank Board (12 CFR 545.6–4(b)),] the adjustable-rate mortgage regulation issued by the Comptroller of the Currency (12 CFR 29). The exception in footnote 43 is also available to institutions that are required by state law to comply with the federal variable-rate regulations noted above ►or are authorized by Title VIII of the Depository Institutions Act of 1982 (Pub. L. 97–320) to make loans in accordance with those regulations◄.

* * * * *

18(q) Assumption Policy

1. *Policy statement.* Because a creditor's assumption policy may be based on a variety of circumstances not determinable at the time the disclosure is made, the creditor may use phrases such as "subject to conditions" or "under certain circumstances" in complying with §226.18(q). ►The creditor may state that a due-on-sale clause is contained in the loan document. (See comment 17(a)(1)–5 regarding directly related information.)◄ The provision requires only that the consumer be told whether or not a subsequent purchaser might be allowed to assume the obligation on its original terms and does not contemplate any explanation of the criteria or conditions for assumability.

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References

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Other regulations: 12 CFR 545.6–[4] ►2◄ (a) [and (b)], and 12 CFR 29.

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Section 226.19 Certain residential mortgage transactions.

19(a) Time of Disclosure

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3. *Written application.* Creditors may rely on RESPA and Regulation X (including any interpretations issued by HUD) in deciding whether a "written application" has been received. In general, Regulation X requires disclosures "To every person from whom the Lender receives or for whom it prepares a written application an application form or forms normally used by the Lender for a Federally Related Mortgage Loan" (24 CFR 3500.6(a)). An application is received when it reaches the creditor in any of the ways applications are normally transmitted—by mail, hand delivery, or through an intermediary agent or broker. ►If an application reaches the creditor through an intermediary agent or broker, the application is received when it reaches the creditor, rather than when it reaches the agent or broker.◄

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Section 226.20 Subsequent disclosure requirements.

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20(b) Assumptions

1. *General definition.* An assumption as defined in § 226.20(b) is a new transaction and new disclosures must be made to the subsequent consumer. An assumption under the regulation requires the following three elements:

- A residential mortgage transaction
- An express acceptance of the subsequent consumer by the creditor
- A written agreement

The assumption of a non-exempt consumer credit obligation requires no disclosures unless all three elements are present. ►Thus, the creditor of an existing personal property transaction on which a new customer becomes a primary obligor need not provide disclosures. For example, and automobile dealer need not provide Truth in Lending disclosures to a customer who assumes an existing obligation secured by an automobile. However, a residential mortgage transaction with the elements described in § 226.20(b) is an assumption that calls for new disclosures; the disclosures must be given whether or not the assumption is accompanied by changes in the terms of the obligation.◄

* * * * *

►7. *Time of disclosures.* Assumption disclosures must be provided to the new consumer before consummation of the transaction, that is, before the new consumer has been accepted as a primary obligor on the transaction.

8. *Abbreviated disclosures.* The abbreviated disclosures permitted for assumptions of transactions involving add-on or discount finance charges must be made clearly and conspicuously in writing in a form that the consumer may keep. However, the creditor need not comply with the segregation requirement of §226.17(a)(1). The terms "annual percentage rate" and "total of payments," when disclosed according to § 266.20(b)(4) and (5), are not subject to the description requirements of

§ 226.18(e) and (h). The "annual percentage rate" disclosed under § 226.20(b)(4) need not be more conspicuous than other disclosures.◄

* * * * *

Section 226.23 Right of rescission.

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23(a) Consumer's Right to Rescind

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Paragraph 23(a)(3)

* * * * *

3. *Unexpired right of rescission.* When the creditor has failed to take the action necessary to start the three-business day rescission period running, the right to rescind automatically lapses on the occurrence of the earliest of the following three events:

- The expiration of three years after consummation of the transaction
- Transfer of all the consumer's interest in the property
- Sale of the consumer's interest in the property, including a transaction in which the consumer sells the dwelling and [takes back] ►retains◄ legal title ►or takes back◄ [through] a purchase money note and mortgage

Transfer of all the consumer's interest includes such transfers as bequests and gifts. A sale or transfer of the property need not be voluntary to terminate the right to rescind. For example, a foreclosure sale would terminate an unexpired right to rescind. As provided in section 125 of the act, the three-year limit may be extended by an administrative proceeding to enforce the provisions of this section. A partial transfer of the consumer's interest, such as a transfer bestowing co-ownership on a spouse, does not terminate the right of rescission.

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Subpart D—Miscellaneous

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Section 226.28 Effect on State laws.

28(a) Inconsistent Disclosure Requirements

* * * * *

►8. *Preemption determination—Arizona.* Effective October 1, 1983, the Board has determined that the following provisions in the state law of Arizona are preempted by the federal law:

- Section 44-287 B.5—Disclosure of final cash price balance. This provision is preempted in those transactions in which the amount of the final cash price balance is the same as the federal amount financed, since in such transactions, the state law requires the use of a term different from the federal term to represent the same amount.
- Section 44-287 B.6—Disclosure of finance charge. This provision is preempted in those transactions in which the amount of the finance charge is different from the amount of the federal finance charge, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount.
- Section 44-287 B.7—Disclosure of the time balance. The time balance disclosure provision is preempted in those transactions in which the amount is the same as the amount of the federal total of payments, since in such transactions, the state law requires the use of a term different from the federal term to represent the same amount.

9. *Preemption determination—Florida.* Effective October 1, 1983, the Board has determined that the following provisions in the state law of Florida are preempted by the federal law:

- Sections 520.07(2)(f) and 520.34(2)(f)—Disclosure of amount financed. This disclosure is preempted in those transactions in which the amount is different from the federal amount financed, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount.
- Sections 520.07(2)(g), 520.34(2)(g), and 520.34(2)(d)—Disclosure of finance charge and a description of its components. The finance charge disclosure is preempted in those transactions in which the amount of the finance charge is different from the federal amount, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount. The requirement to describe or itemize the components of the finance charge, which is also included in these provisions, is not preempted.
- Sections 520.07(2)(h) and 520.34(2)(h)—Disclosure of total of payments. The total of payments disclosure is preempted in those transactions in which the amount differs from the amount of the federal total of payments, since in such transactions, the state law requires the use of the same term as the federal law to represent a different amount than the federal law.
- Sections 520.07(2)(i) and 520.34(2)(i)—Disclosure of deferred payment price. This disclosure is preempted in those transactions in which the amount is the same as the federal total sale price, since in such transactions, the state law requires the use of a different term than the federal law to represent the same amount as the federal law.

10. *Preemption determination—Missouri.* Effective October 1, 1983, the Board has determined that the following provisions in the state law of Missouri are preempted by the federal law:

- Sections 365.070-6(9) and 408.260-5(6)—Disclosure of principal balance. This disclosure is preempted in those transactions in which the amount of the principal balance is the same as the federal amount financed, since in such transactions, the state law requires the use of a term different from the federal term to represent the same amount.
- Sections 365.070-6(10) and 408.260-5(7)—Disclosure of time price differential and time charge, respectively. These disclosures are preempted in those transactions in which the amount is the same as the federal finance charge, since in such transactions, the state law requires the use of a term different from the federal law to represent the same amount.
- Sections 365.070-2 and 408.260-2—Use of the terms "time price differential" and "time charge" in certain notices to the buyer. In those transactions in which the state disclosure of the time price differential or time charge is preempted, the use of the terms in this notice also is preempted. The notice itself is not preempted.
- Sections 365.070-6(11) and 408.260-5(8)—Disclosure of time balance. The time balance disclosure is preempted in those transactions in which the amount is the same as the amount of the federal total of payments, since in such transactions, the state law requires the use of a different term than the federal law to represent the same amount.
- Sections 365.070-6(12) and 408.260-5(9)—Disclosure of time sale price. This disclosure is preempted in those transactions in which the amount is the same as the federal total sale price, since in such transactions, the state law requires the use of a different term from the federal law to represent the same amount.◄

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Section 226.29 State exemptions.

29(a) General Rule

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4. *Exemptions granted.* Effective October 1, 1982, the Board has granted

the following exemptions from portions of the revised Truth in Lending Act:

- *Maine.* Credit or lease transactions subject to the Maine Consumer Credit Code and its implementing regulations are exempt from chapters 2, 4 and 5 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a creditor of lessor.)
- *Connecticut.* Credit transactions subject to the Connecticut Truth in Lending Act are exempt from chapters 2 and 4 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a creditor.)
- ►• *Massachusetts.* Credit transactions subject to the Massachusetts Truth in Lending Act are exempt from chapters 2 and 4 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a creditor.)
- *Oklahoma.* Credit or lease transactions subject to the Oklahoma Consumer Credit Code are exempt from chapters 2 and 5 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a creditor or lessor.)
- *Wyoming.* Credit transactions subject to the Wyoming Consumer Credit Code are exempt from chapter 2 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a creditor.)◄

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Appendix D—Multiple-Advance Construction Loans

1. *General rule.* Appendix D provides a special procedure that creditors may use, at their option, to estimate and disclose the terms of multiple-advance construction loans when the amounts [and] ►or◄ timing of advances are unknown at consummation of the transaction. This appendix reflects the approach taken in § 226.17(c)(6)(ii), which permits creditors to provide separate or combined disclosures for the construction period and for the permanent financing, if any; i.e., the construction phase and the permanent phase may be treated as one transaction or more than one transaction.

►Appendix D may also be used in multiple-advance transactions other than construction loans, when the amounts or time of advances are unknown at consummation.◄

2. *Variable-rate [construction] ►multiple-advance◄ loans.* The hypothetical disclosure required in most variable-rate transactions by § 226.18(f)(4) is not required for multiple-advance [construction] loans disclosed pursuant to Appendix D, Part I.

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References

1981 changes: The use of Appendix D is limited to multiple-advance loans for construction purposes ► or analogous types of transactions◄.

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Appendix H—Closed-End Model Forms and Clauses

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►17. *HRSA–500–1 9–82.* Pursuant to section 113(a) of the Truth in Lending Act, Form HRSA–500–1 9–82 issued by the U.S. Department of Health and Human Services for certain student loans has been approved. The form may be used for all Health Education Assistance Loans (HEAL) with a variable interest rate that are interim student credit extensions as defined in Regulation Z.

18. *HRSA–500–2 9–82.* Pursuant to section 113(a) of the Truth in Lending Act, Form HRSA–500–2 9–82 issued by the U.S. Department of Health and Human Services for certain student loans has been approved. The form may be used for all HEAL loans with a fixed interest rate that are interim student credit extensions as defined in Regulation Z.

19. *HRSA–502–1 9–82.* Pursuant to section 113(a) of the Truth in Lending Act, Form HRSA–502–1 9–82 issued by the U.S. Department of Health and Human Services for certain student loans has been approved. The form may be used for all HEAL loans with a variable interest rate in which the borrower has reached repayment status and is making payments of both interest and principal.

20. *HRSA–502–2 9–82.* Pursuant to section 113(a) of the Truth in Lending Act, Form HRSA–502–2 9–82 issued by the U.S. Department of Health and Human Services for certain student loans has been approved. The form may be used for all HEAL loans with a fixed interest rate in which the borrower has reached repayment status and is making payments of both interest and principal.◄

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By order of the Board of Governors of the Federal Reserve System, January 27, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–2750 Filed 2–1–83; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF EDUCATION

34 CFR Parts 201, 202, 203, 204, and 302

Chapter 1, Education Consolidation and Improvement Act of 1981; Financial Assistance to State Educational Agencies To Meet Special Educational Needs of Migratory Children, Handicapped, and Neglected or Delinquent Children in Institutions, and General Definitions and Administrative, Fiscal, and Due Processes Requirements

AGENCY: Office of Elementary and Secondary Education and the office of Special Education and Rehabilitation Services, ED.

ACTION: Notice of extended comment period.

SUMMARY: A Notice of Proposed Rulemaking was published on December 3, 1982 in **Federal Register** vol. 47, No 233, pp. 54718–54733. The programs affected by the Notice of Proposed Rulemaking provide financial assistance to (1) State educational agencies for programs designed to meet the special educational needs of migratory children; (2) State agencies for programs to meet the special educational needs of handicapped children; and (3) State agencies for programs to meet the special educational needs of neglected or delinquent children in institutions. In addition, the Notice of Proposed Rulemaking included general definitions and requirements applicable to all three programs.

The comment period on the proposed rules was scheduled to end on February 1, 1983. In order to provide the public with additional time to prepare and submit their views, the comment period is extended to March 18, 1983.

DATE: Comments are due March 18, 1983.

FOR FURTHER INFORMATION CONTACT: Part 201: Dr. Vidal Rivera. Telephone: (202) 245–2222. Part 202: Ms. Shirley A. Jones. Telephone: (202) 426–6114. Parts 203 and 204: Dr. Thomas W. Fagan. Telephone: (202) 245–9877.

Dated: January 27, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83–2830 Filed 1–28–83; 4:10 p.m.]

BILLING CODE 4000–01–M

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 1E2576/P265; PH-FRL 2293-8]

Ametryn; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for residues of the herbicide ametryn in or on the raw agricultural commodities taniers and yams. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodities was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before March 4, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 1E2576 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Puerto Rico.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide ametryn (2-(ethylamino)-4-(isopropylamino)-6-(methylthio)-s-triazine) in or on the raw agricultural commodities taniers and yams at 0.1 part per million (ppm). The petition was late amended increasing the tolerance level for the commodities to 0.25 ppm.

The data submitted in the petition and othe relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances included an acute oral rat toxicity study with a median lethal dose (LD_{50}) of 1,405 milligrams(mg)/kilogram(kg) of body weight(bw), an acute oral mouse toxicity study with an LD_{50} of 945 mg/kg; a sub-acute 90-day dog feeding study with a NOEL of 1,000 ppm (25 mg/kg/day); a sub-acute 90-day rat feeding study with a NOEL of 1,000 ppm (50 mg/kg/day); a sub-acute 90-day rat incubation study with a NOEL of 100 ppm (5 mg/kg/day); a rat teratology study with a NOEL of 5 mg/kg/day; mutagenicity studies were negative for mutagenic potential using microbial reverse mutation and rec-assay techniques. Studies considered desirable but currently lacking include oncongenicity studies on two species, a second tertology study, and a mammalian mutagenicity study.

The provisional acceptable daily intake (PADI), based on the 90-day dog feeding study (NOEL of 25.0 mg/kg or 1,000 ppm/day and using a 2000-fold safety factor, is calculated to be 0.0125 mg/kg/bw/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.75 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.0543 mg/day; the current action will increase the TMRC by 0.00022 mg/day (0.41 percent). Published tolerances utilize 7.24 percent of the PADI; the current action will utilize an additional 0.03 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical. The product contains a nitrosoamine at levels less than 1 ppm. Based on an Agency policy that was pubished in the **Federal Register** of June 15, 1980 (45 FR 42854), this level of nitrosoamine falls below the currently acceptable risk criteria.

Based on the above information considered by the Agency and the fact that there is no reasonsable expectation of secondary residues in meat, milk, poultry or eggs, the tolerances established by amending 40 CFR 180.258 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request with 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, (PP 1E2576/P265). All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not haye a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: January 19, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180--[AMENDED]

Therefore, it is proposed that 40 CFR 180.258 be amended by adding and alphabetically inserting the raw agricultural commodities taniers and yams to read as follows:

§ 180.258 Ametryn; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Taniers	0.25
Yams	0.25

[FR Doc. 83-2527 Filed 2-1-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E1819/P270; PH-FRL 2296-6]

Dinoseb; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the pesticide dinoseb in or on the raw agricultural commodity lentils. The proposed regulation to establish a maximum permissible level for residues of the pesticide in or on the commodity was requested, pursuant to a petition, by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before Feburary 17, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716 B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 6E1819 to EPA of behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Idaho and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the pesticide dinoseb (2-*sec*-butyl-4, 6-dinitrophenol) from application of its phenol or its readily hydrolyzable salts (alkanolamine salts, ammonium salt, or sodium salt) in or on the raw agricultural commodity lentils at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological date considered in support of the proposed tolerance were a 6-month rat feeding study with a no-observed-effect-level (NOEL) of 5.0 milligrams (mg)/kilogram (kg)/day (100 ppm); a 3-month dog feeding study with a NOEL of 7.5 mg/kg/day (300 ppm); a second 3-month dog feeding study with a NOEL of 2.5 mg/kg/day (100 ppm); and teratology studies with NOEL's greater than 15 mg/kg/day for teratogenic effects and 5.0 mg/kg/day for fetotoxic effects in rats and a NOEL of 32 mg/kg/day (highest level tested) for teratogenic effects in mice. Studies considered desirable but currently lacking include chronic feeding studies in at least two species, including one non-rodent species; oncogenic potential evaluation; a multigeneration reproduction study; and a mutagenicity assay.

The provisional acceptable daily intake (PADI), based on the 3-month dog feeding study (NOEL of 2.5 mg/kg/day) and using a 2000-fold safety factor, is calculated to be 0.0013 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.075 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.0534 mg/day; the current action will increase the TMRC by 0.0006 mg/day (0.11 percent). Published tolerances utilize 71.22 percent of the ADI; the current action will utilize an additional 0.08 percent. Thus the tolerance that will be established by this proposed rule is considered to pose a negligible increment in dietary risk since dietary exposure will not be significantly increased.

The nature of the residues is adequately understood and an adequate analytical procedure, gas chromatography, is available for enforcement purposes. A prohibition against feeding of either treated lentil forage or hay will preclude any problem with secondary residues in meat, milk, poultry or eggs resulting from the proposed use.

Although there are presently no actions pending against the continued registration of this chemical, concern was expressed about the presence of *N*-nitrosamine impurities in dinoseb formulations. *N*-Nitrosodiethanolamine (DENA/NDELA), a suspect carcinogen, has been detected in a product containing dinoseb, as the alkanolamine salts of the ethanol series, at levels of 180–270 ppm. The Nitrosamine Panel has reported that a related product containing dinoseb, as the alkanolamine salts of the ethanol and isopropanol series, is expected to contain a similar level of nitrosamine impurities.

Although no data are available to determine the possible level of DENA in lentils, if all the applied DENA were taken up by lentils and translocated to the harvested beans, the calculated maximum DENA residue level would be approximately 2 ppm. Actual residues of DENA, if any, are expected to be several orders of magnitude less than this amount.

For the purpose of this petition, a carcinogenic risk analysis shows that the theoretical risk associated with the dietary intake of 2 ppm of DENA in/on lentils, based on a lentil consumption of 0.04 percent of the diet is 2.18×10^{-7}. This risk value falls well below the 1×10^{-6} risk criteria for nitroso compounds, as defined in the **Federal Register** of June 25, 1980 (45 FR 42856).

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.281 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 15 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. As provided for in the Administrative Procedure Act [5 U.S.C. 553(d)(3)], the comment period time is shortened to less than 30 days because of the necessity to make the pesticide available before the spring planting season. Comments must bear a notation indicating the document control number, [PP 6E1819/P270]. All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 25, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.281 be revised to read as follows:

§ 180.281 Dinoseb; tolerances for residues.

Tolerances are established for residues of the herbicide, insecticide, and fungicide dinoseb (2-*sec*-butyl-4,6-dinitrophenol) from application of its phenol or its readily hydrolyzable salts (alkanolamine salts, ammonium salt, or sodium salt) in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa	0.1(N).
Alfalfa, hay	0.1(N)
Almonds	0.1(N)
Almonds, hulls	0.1(N).
Apples	0.1(N)
Apricots	0.1(N)
Barley, forage	0.1(N).
Barley, grain	0.1(N).
Barley, straw	0.1(N).
Beans	0.1(N)
Beans, forage	0.1(N)
Beans, hay	0.1(N)
Birdsfoot trefoil	0.1(N)
Birdsfoot trefoil, hay	0.1(N)
Blackberries	0.1(N).
Blueberries	0.1(N)
Boysenberries	0.1(N)
Cherries	0.1(N)
Citrus	0.1(N)
Clover	0.1(N)
Clover, hay	0.1(N)
Corn, fodder	0.1(N)
Corn, forage	0.1(N).
Corn, fresh (inc. sweet K + CWHR)	0.1(N)
Corn, grain (inc. popcorn)	0.1(N).
Cotton, forage	0.1(N)
Cottonseed	0.1(N)
Cottonseed, hulls	0.1(N).
Cucurbits	0.1(N)
Currants	0.1(N).
Dates	0.1(N)
Figs	0.1(N)
Filberts	0.1(N)
Garlic	0.1(N)
Gooseberries	0.1(N)
Grapes	0.1(N)
Hops	0.1(N)
Lentils	0.1(N)
Loganberries	0.1(N).
Nectarines	0.1(N)
Oats, forage	0.1(N).
Oats, grain	0.1(N).
Oats, straw	0.1(N)
Olives	0.1(N).
Onions	0.1(N)
Peaches	0.1(N)
Peanuts	0.1(N)
Peanuts, forage	0.1(N)
Peanuts, hay	0.1(N).
Peanuts, hulls	0.1(N)
Pears	0.1(N)
Peas	0.1(N)
Peas, forage	0.1(N)
Peas, hay	0.1(N)
Pecans	0.1(N)
Plums (prunes)	0.1(N)
Potatoes	0.1(N)
Raspberries	0.1(N)
Rye, forage	0.1(N)
Rye, grain	0.1(N)
Rye, straw	0.1(N)
Soybeans	0.1(N).
Soybeans, forage	1.0.
Soybeans, hay	1.0.
Strawberries	0.1(N)
Vetch	0.1(N)
Vetch, hay	0.1(N)
Walnuts	0.1(N).
Wheat, forage	0.1(N)
Wheat, grain	0.1(N)
Wheat, straw	0.1(N)

[FR Doc. 83-2971 Filed 2-1-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP OE2408/P266; PH-FRL 2294-1]

5-Ethoxy-3-Trichloromethyl-1,2,4-Thiadiazole; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the fungicide 5-ethoxy-3-trichloromethyl-1,2,4,-thiadiazole and its metabolite in or on the raw agricultural commodity tomatoes. The proposed regulation to establish a maximum permissible level for residues of the fungicide in or on the commodity was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before March 4, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B,CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition OE2408 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Georgia.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the fungicide 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole in or on the raw agricultural commodity tomatoes at 0.15 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance included a 2-year rat feeding study with a no-observed-effect level (NOEL) of 80 ppm (4.0 milligrams (mg)/kilogram (kg)/day); a 2-year dog feeding study with a NOEL of 100 ppm (2.5 mg./kg/day); a rabbit teratology study with no observed teratogenic or fetotoxic effects at 15 mg/kg/day; an *in vitro* gene mutation assay in cultured chinese hamster ovary cells with no mutagenic effects; and a 3-generation reproduction study in rats with a NOEL of 80 (4.0 mg/kg/day). Toxicological data currently lacking include teratogenicity and oncogenicity in a second species.

The acceptable daily intake (ADI), based on the 2-year dog feeding study (NOEL of 100 ppm or 2.5 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.025 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.5 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0540 mg/day; the current action will increase the TMRC by 0.0065 mg/day (12 percent). Published tolerances utilize 3.59 percent of the ADI; the current action will utilize an additional 0.58 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography with an electron capture detector, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency and the fact that currently established tolerances for meat and milk are adequate to cover any residues resulting from tomato pomace used as animal feed, the tolerance established by amending 40 CFR 180.370 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed

herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, (PPOE 2408/P266). All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Exceutive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure. Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 stat. 514 (21 U.S.C 346a(e)))

Dated: January 18, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.370 be amended by adding and alphabetically inserting the raw agricultural commodity tomatoes to read as follows:

§ 180.370 5-Ethoxy-3-trichloromethyl-1,2,4-thiadiazole, tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Tomatoes	0.15
* * * * *	

[FR Doc. 83–2528 Filed 2–1–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6485]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT:

Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determination of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Arizona	Phoenix, (city), Maricopa County	Cave Creek	Upstream corporate limits	*1,518
			7th Street (upstream side)	*1,464

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Beardsley Road (upstream side)	*1,432
			Union Hills Drive (upstream side)	*1,400
			West Bell Road (upstream side)	*1,365
			19th Avenue (upstream side)	*1,323
			Thunderbird Road (upstream side)	*1,298
			Cactus Road (upstream side)	*1,273
			Peoria Avenue (upstream side)	*1,251
			Dunlap Avenue (upstream side)	*1,223
			Northern Avenue (upstream side)	*1,199
			Glendale Avenue (upstream side)	*1,176
			Bethany Home Road (upstream side)	*1,153
			Indian School Road (upstream side)	*1,114
			Van Buren Street (upstream side)	*1,007
			Durango Street (upstream side)	*1,049
		East Fork Cave Creek	Upstream corporate limits	*1,452
			7th Street (upstream side)	*1,378
			Confluence with Cave Creek	*1,329
		Moon Valley Wash	Thunderbird Road	*1,319
			Confluence with Cave Creek	*1,283
		Scatter Wash	7th Avenue (downstream side)	*1,471
			19th Avenue (upstream side)	*1,435
			Deer Valley Road (upstream side)	*1,375
			Confluence with Skunk Creek	*1,323
		East Branch Scatter Wash	27th Avenue (upstream side)	*1,390
			Confluence with Scatter Wash	*1,364
		Skunk Creek	Upstream corporate limits	*1,461
			Happy Valley Road (upstream side)	*1,432
			Deer Valley Road (upstream side)	*1,362
			Downstream corporate limits	*1,300
		Tenth Street Wash	Desert Cove Avenue (upstream side)	*1,345
			Arizona Canal	*1,242
		Indian Bend Wash	Acoma Road (downstream side)	*1,418
			Sweetwater Avenue (upstream side)	*1,398
			40th Street (downstream side)	*1,385
		Myrtle Avenue Wash	19th Street	*1,290
			Confluence with Dreamy Draw	*1,242
		Flynn Lane Wash	Lincoln Drive	*1,310
			Arizona Canal	*1,242
		Dreamy Draw Wash East	Frier Drive (upstream side)	*1,286
			Confluence with Myrtle Avenue Wash	*1,242
		Salt River	Upstream corporate limits	*1,143
			7th Street (upstream side)	*1,076
			51st Avenue (upstream side)	*1,018
			Downstream corporate limits	*951
		Agua Fria River	Downstream corporate limits	*1,031
			Upstream corporate limits	*1,033
		New River	Downstream corporate limits	*1,032
			Upstream corporate limits	*1,040
		Echo Canyon Wash	Arizona Canal	*1,251
			44th Street (upstream side)	*1,294

Maps available for inspection at the City Hall, 251 West Washington Street, Phoenix, Arizona.
Send comments to Honorable Margaret T. Hance, Mayor of Phoenix, 251 West Washington Street, Phoenix, Arizona 85003

California	Carlsbad (city), San Diego County	Buena Vista Creek	30 feet upstream from center of Haymar Drive	*39
		Pacific Ocean	Area approximately 450 feet west of intersection of Cannon Road and Carlsbad Bouleavrd	*10
			Area approximately 500 feet west of intersection of Cannon Road and Carlsbad Boulevard.	*6

Maps available for inspection at the Engineering Department, 1200 Elm Street, Carlsbad, California 92008.
Send comments to Honroable Mary Casler, 1200 Elm Street, Carlsbad, California 92008.

California	Chula Vista (city), San Diego County.	Sweetwater River	At the intersection of river and San Diego and Arizona Eastern Railroad	*11
			At the intersection of Willow Street and North Grover Avenue	*21
		Telegraph Canyon Creek	40 feet upsteam from center of Second Avenue	*109
			At the intersection of K Street and Colorado Avenue	#1
		Otay River	Area within the corporate limits, approximately 200 feet east from center of Interstate Highway 805 and approximately 1,300 feet south of its intersection with Otay Valley Road	*88
		San Diego Bay	Area along the coastline, 1,800 feet west on G Street from its intersection with Tidelands Avenue	*5

Maps available for inspection at the Department of Engineering, 276 4th Avenue, Chula Vista, California
Send Comments to Honorable George R. Cox, 276 4th Avenue, Chula Vista, California 92010

California	Del Mar (city), San Diego County	Pacific Ocean	400 feet west of the intersection of 18th Street and Coast Boulevard	*9
			450 feet west of the intersection of 24th Street and Camino Del Mar	*6
		Soledad Canyon	The area within the extreme south corporate limits approximately 1,000 feet southeast of the intersection of U.S. Highway 101 and Carmel Valley Road.	*11

Maps available for inspection at the Department of Engineering, 1050 Camino Del Mar, Del Mar, California.
Send Comments to Honorable Harvey Shapiro, 1050 Camino Del Mar, Del Mar, California 92014

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	El Dorado County (unincorporated areas)	Upper Truckee River	150 feet upstream from center of U.S. Highway 50	*6,270
			100 feet upstream from center of Upper Truckee Road (Alpine Camp Bridge)	*6,503
		Angora Creek Tributary	50 feet downstream of center of Sawmill Road	*6,326
		Angora Creek	60 feet upstream of center of Tahoe Boulevard	*6,339
		Trout Creek	20 feet upstream from center of Martin Avenue	*6,257
		Cold Creek	50 feet upstream from center of Pioneer Trail	*6,297
		Heavenly Valley Creek	85 feet upstream from center of Johnson Road	*6,256
	Maps available for inspection at the Department of Public Works, Headington Road, Placerville, California			
	Send Comments to Honorable W. P. Walker, 330 Fair Lane, Placerville, California 95660			
California	Escondido (city), San Diego County	Escondido Creek	50 feet south of intersection of Harmony Grove Road and Howard Avenue	*620
		Reidy Creek	100 feet upstream from center of Nutmeg Street	*[illegible]
			At the intersection of Broadway and Stanley Avenue	*708
		Kit Carson Park Creek	20 feet upstream from center of Via Rancho Parkway	*338
			50 feet upstream from center of Encino Drive	*417
	Maps available for inspection at the Department of Engineering, 100 Valley Boulevard, Escondido, California			
	Send Comments to Honorable Jim Rady, 100 Valley Boulevard, Escondido, California 92025.			
California	Oceanside (city), San Diego County	Buena Vista Creek	50 feet upstream from Center of College Boulevard	*174
		Loma Alta Creek	Intersection of Beachwood Lane and Hillside Street	*16
		Pacific Ocean	150 feet southwest from the intersection of Pacific Street and Forster Street	*11
	Maps available for inspection at the Department of Engineering, 321 N. Nevada Street, Oceanside, California.			
	Send comments to Honorable Lawrence Bagley, 321 N. Nevada Street, Oceanside, California 92054			
California	Placerville (city), El Dorado County	Hangtown Creek Tributary	18 feet upstream from center line of Airport Road	*2,145
		Cedar Ravine	21 feet upstream from center line of Darlington Avenue	*1,914
		Randolph Canyon	100 feet upstream from center of Camino, Placerville and Lake Tahoe Railroad	*1,926
		Hangtown Creek	At the intersection of Canal Street and Main Street	*1,822
			At the intersection of Lucky Street and Broadway	*1,911
	Maps available for inspection at the Department of Community Development, 487 Main Street, Placerville, California			
	Send comments to Honorable Karen Tustin 487 Main Street Placerville, California 95667			
California	Pleasant Hill (city), Contra Costa County	Mangini Creek	25 feet upstream of the centerline of Apollo Way	*73
		East Fork Grayson Creek	Intersection of Leslie Drive and Margie Drive	#2
	Maps available for inspection at the Department of Community Planning, 3300 N. Main Street, Pleasant Hill, California.			
	Send comments to Honorable Oliver L. Holmes, 3300 N. Main Street, Pleasant Hill, California 94523.			
California	San Diego (city)	Las Chollas Creek	50 feet upstream from the center of Federal Boulevard	*110
			Flow over the culvert at Interstate Highway 805	#1
		Wabash Branch	50 feet upstream from center of Pickwick Street	*62
		Holmes Avenue Branch	50 feet upstream from center of Fairmont Avenue	*158
		South Las Chollas Creek	Intersection of Euclid Avenue and Guymon Street	*121
		Encanto Branch	30 feet upstream from center of 54th Street	*129
		Switzer Creek	At the confluence with Florida Drive Branch	*85
		Florida Drive Branch	At the intersection of Florida Drive and Florida Place	*120
		Las Puleta Creek	At the intersection of Cottonwood and Osborn Streets	*19
		Nestor Creek	At the intersection of Grove Avenue and Frontage Road	*32
		Tijuana River	At the intersection of Dairy Mart Road and Tijuana Street	*43
		Sunrise Overflow	At the intersection of Ina Avenue and Tocayo Avenue	*27
		Carmel Valley Creek	At the intersection of Creek and Shaw Valley Road	*83
		Carroll Canyon Creek	At the intersection of Carroll Canyon Drive and El Camino Drive	*150
		Kit Carson Park Creek	At the upstream (northern) corporate limits	*332
		Los Penasquitos Creek	At the intersection of Frontage Road and Sorrento Valley Boulevard	*37
			75 feet downstream from the center of the east lanes of Interstate Highway 15	*312
		Murray Canyon Creek	At the intersection of Frazee Road and Murray Canyon Road	*52
		Otay River	At the intersection of State Highway 75 and 19th Street	*14
		Rose Canyon Creek	50 feet upstream from center of Balboa Avenue	*15
			75 feet upstream from center of Genesee Avenue	*205
		San Clemente Canyon Creek	150 feet upstream from center of Genesee Avenue	*178
		San Diego River	At the intersection of Harney Street and Hotel Circle Place.	*19
			At the intersection of Stadium Way and Conrock Drive	*50
			At the intersection of Camino de la Reina and Mission Center Road.	*#3
		Soledad Canyon	At the intersection of Dunhill and Roselle Streets	*34
		Soledad Canyon	At the intersection of Dunhill and Roselle Streets	*34
		Tecolote Creek	50 feet upstream from center of Mt. Acadia Boulevard	*146

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			At the intersection of Tonopah Street and Knoxville Street	#1
		Telegraph Canyon Creek	Area approximately 1,600 feet southwest from the intersection of L Street and Bay Boulevard (located in the City of Chula Vista)	*18
		Mission Bay	At Mission Point	*4
		San Diego Bay	At Shelter Island	*5
		Pacific Ocean	At the intersection of Avendida de la Playa and LaVerde Grande	*6
			Along the shoreline west of Pacific Beach Drive	*7
Maps available for inspection at the Department of Engineering, 202 C Street, San Diego, California				
Send comments to Honorable Pete Wilson, 202 C Street, San Diego, California				
California	Scotts Valley (city), Santa Cruz County	Carbonera Creek	90 feet upstream from center of Bob Jones Lane	*546
Maps available for inspection at the Department of Community Development, 370 Kings Village Road, Scotts Valley, California				
Send comments to Honorable Reynold Retzlaff, 370 Kings Village Road, Scotts Valley, California 95066				
California	Vista (city), San Diego County	Buena Vista Creek	East side of the intersection of Melrose Drive and Hacienda Drive	*306
		Agua Hedionda Creek	40 feet upstream from center of Sycamore Avenue Extension	*375
		Buena Creek	At the intersection of creek and center of Sycamore Avenue	*358
Maps available for inspection at the Department of Public Works, 600 Eucalyptus Avenue, Vista, California.				
Send comments to Honorable R. Mike Flick, P.O. Box 1988, Vista, California 92083.				
Connecticut	Easton, town, Fairfield County	Aspetuck River	Downstream corporate limits	*190
			Upstream Old Redding Road	*220
			Upstream State Route 58	*230
		Ballwall Brook	Confluence with Aspetuck River	*235
			Upstream Staples Road	*271
		Mill River	Downstream corporate limits	*118
			Upstream first crossing South Park Avenue	*142
			Upstream second crossing South Park Avenue	*164
		Morehouse Brook	Confluence with Mill River	*120
			Upstream Dogwood Drive	*155
			Approximately 800 feet upstream of Dogwood Drive	*209
			Upstream Second Dam	*259
			Upstream Delaware Road	*274
			Upstream corporate limits	*296
Maps available for inspection at the TownHall, 274 Center Road, Easton, Connecticut				
Send comments to Honorable Lois Stueck, First Selectman, Town Hall, 274 Center Road, Easton, Connecticut 06612				
Florida	Charlotte County (unincorporated areas)	Gulf of Mexico	At the center of intersection of Annapolis Lane and Oakland Hills Road	*10
			At the center of intersection of Griggs Road and Short Street	*13
		Charlotte Harbor	At the center of intersection of Woodside Street and Ester Avenue	*8
			At the center of intersection of 4th Street and Larsen Street	*10
			At the center of intersection of Bayshore Road and Larsen Street	*12
Maps available for inspection at the Zoning Office, 18500 Murdock Circle, Port Charlotte, Florida.				
Send comments to Honorable Robert H. Shedd, M.D., 18500 Murdock Circle, Port Charlotte, Florida 33952				
Florida	Naples (city), Collier County	Gulf of Mexico	At the intersection of Pine Grove Lane and Belair Lane.	*12
			At the intersection of Harbour Drive and Crayton Road	*13
Maps available for inspection at Community Development Office, 735 8th Street, South				
Send comments to Honorable Stanley R. Billick, 735 8th Street, South, Naples, Florida 33940				
Florida	Punta Gorda (city), Charlotte County	Charlotte Harbor	At the intersection of Ann Street and Narranja Street	*8
			At the center of intersection of Bastia Court and Macedonia Drive	*10
			At the center of intersection of Maud Street and West Marion Avenue	*11
Maps available for inspection at the Building Department, 326 W. Marion Avenue, Punta Gorda, Florida				
Send comments to Bernard W. Senkel, City Manager, 326 W. Marion Avenue, Punta Gorda, Florida 33950				
Illinois	(C) Dallas City, Hancock and Henderson Counties	Mississippi River	About 2.4 miles downstream of confluence of Camp Creek	*528
			Just downstream of confluence of Camp Creek	*530
Maps available for inspection at City Clerk's Office, City Hall, Dallas City, Illinois				
Send comments to the Honorable Donald E. Anguish, Mayor, City of Dallas City, City Hall, Dallas City, Illinois 62330				
Illinois	(C) East Dubuque, Jo Daviess County	Mississippi River	About 1.5 miles downstream of U.S. Highway 20	*610
			About 0.4 mile upstream of Illinois Central Gulf Railroad	*611
Maps available for inspection at the Zoning Administrator's Office, City Hall, 193 Sinsinawa Avenue, East Dubuque, Illinois				
Send comments to Honorable George Harrison, Mayor, City of East Dubuque, City Hall, 193 Sinsinawa Avenue, East Dubuque, Illinois 61025				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(C) Hamilton, Hancock County..	Mississippi River.	About 1,000 feet downstream of confluence of the Des Moines River	*500
			Just downstream of Lock and Dam No. 19	*501
			Just upstream of Lock and Dam No. 19	*518
			About 0.6 mile upstream of Lock and Dam No. 19	*518
	Maps available for inspection at the Clerk's Office, City Hall, Hamilton, Illinois.			
	Send comments to Honorable Francis Barber, Mayor, City of Hamilton, City Hall, Hamilton, Illinois 62341			
Illinois	(C) Havana, Mason County	Illinois River	Within the community	*459
	Maps available for inspection at City Hall, 227 West Main Street, Havana, Illinois.			
	Send comments to Honorable W. Colleen Curless, Mayor, City of Havana, City Hall, 227 West Main Street, Havana, Illinois 62644			
Illinois	(V) Liverpool, Fulton County	Illinois River	Within the corporate limits	*454
	Maps available for inspection at the Village Hall, Liverpool, Illinois			
	Send comments to Honorable J. K. Westerfield, Village President, Village of Liverpool, Village Hall, Liverpool, Illinois 61543			
Illinois	(V) Mahomet, Champaign County	Sangamon River	Just upstream of State Route 47	*684
			About 0.4 mile upstream of Interstate 74	*687
	Maps available for inspection at the Clerk's Office, Village Hall, Mahomet, Illinois.			
	Send comments to Honorable Dwayne Rogers, Village President, Village of Mahomet, Village Hall, Mahomet, Illinois 61853			
Illinois	(C) Metropolis, Massac County	Ohio River	At downstream corporate limits	*337
			At upstream corporate limits	*338
	Maps available for inspection at the City Clerk's Office, 106 West Fifth Street, Metropolis, Illinois			
	Send comments to Honorable Joseph Sanders, Mayor, City of Metropolis, 106 West Fifth Street, Metropolis, Illinois 62960.			
Illinois	(V) North Barrington, Lake County	North Flint Creek	About 3,800 feet downstream of confluence of Honey Lake Drain	*756
			Just upstream of Woodland Drive	*766
			Just upstream of Eton Drive	*789
			About 2,600 feet upstream of Kimberly Road	*808
		Flint Creek	Within community	*757
		East Tributary Flint Creek	Within corporate limits	*755
		Honey Lake Drain	At confluence with North Flint Creek	*756
			Just upstream of Golf View Drive	*774
			Just downstream of Honey Lake Dam	*777
			Just upstream of Honey Lake Dam	*785
			Just downstream of Signal Hill Road	*803
			Just upstream of Signal Hill Road	*813
			About 700 feet upstream of Pinewood Drive	*831
		Signal Hill Tributary	At confluence with Honey Lake Drain	*786
			About 650 feet upstream of Signal Hill Road	*825
	Maps available for inspection at the Village Clerk's Office, North Barrington, Illinois.			
	Send comments to Honorable Charles E. Hinds, Acting Village President, Village of North Barrington, Village Hall, 563 Miller Road, Barrington, Illinois, 60010, Attention: Norma Behrend			
Illinois	(V) Oquawka, Henderson County	Mississippi River	About 4.2 miles upstream of Dam No. 18	*539
			About 6.5 miles upstream of Dam No. 18	*540
	Maps available for inspection at the Village Hall, Oquawka, Illinois			
	Send comments to Honorable Barbara Lumbeck, Village President, Village of Oquawka, Village Hall, Box 454, Oquawka, Illinois 61469			
Illinois	(V) Pontoosuc, Handcock County	Mississippi River	About 0.77 mile downstream of confluence of Spillman Creek	*527
			About 0.74 mile upstream of confluence of Spillman Creek	*528
	Maps available for inspection at the Village Hall, R.R. #1, Dallas City, Illinois			
	Send comments to Honorable Francis Miller, Village President, Village of Pontoosuc, Village Hall, R.R. #1, Dallas City, Illinois 62330			
Indiana	(C) Rising Sun, Ohio County	Ohio River	Within the community	*484
		Dry Branch (Ohio River backwater)	Within the community	*483
	Maps available for inspection at City Hall, Walnut Street, Rising Sun, Indiana			
	Send comments to Honorable John Mattingly, Mayor, City of Rising Sun, City Hall, Walnut Street, Rising Sun, Indiana 47040			
Indiana	(T) Vernon, Jennings County	Vernon Fork Muscatatuck River	About 1.95 miles downstream of State Route 7 (near downstream corporate limits)	*624
			About 0.8 mile upstream of Conrail (near upstream corporate limits)	*638
	Maps available for inspection at City Hall, Vernon, Indiana.			
	Send comments to Honorable Robert Rockey, Mayor, Town of Vernon, City Hall, P.O. Box 362, Vernon, Indiana 47282			
Iowa	(C) New Vienna, Dubuque County	North Fork Maquoketa River	At downstream corporate limits	*992
			About 2,300 feet upstream of State Highway 136	*1,001
	Maps available for inspection at City Hall, New Vienna, Iowa			
	Send comments to Honorable Bob Mischer, Mayor, City of New Vienna, City Hall, New Vienna, Iowa 62065			
Iowa	(C) Worthington, Dubuque County	Dunon Creek	At downstream corporate limits	*899

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At upstream corporate limits	*913
Maps available for inspection at City Hall, Worthington, Iowa.				
Send comments to Honorable Gilbert Fortmann, Mayor, City of Worthington, City Hall, Worthington, Iowa 52078				
Massachusetts	Otis, town, Berkshire County	West Branch Farmington River	Downstream corporate limits	*1,110
			Upstream Reservoir Road	*1,155
			Upstream State Route 23	*1,221
			Upstream Covered Bridge	*1,223
			Upstream corporate limits	*1,255
Maps available for inspection at the Otis Town Hall, Otis, Massachusetts 01253				
Send comments to Honorable William S. Crittendon, Chairman of the Board of Selectmen, Town Hall, Otis, Massachusetts 01253				
Michigan	(Twp) Coloma, Berrien County	Pawpaw River	About 3.6 miles downstream of Park Street (at downstream corporate limits).	*604
			About 1.4 miles upstream of Pawpaw Lake Road (at upstream corporate limits).	*616
		Pawpaw Lake	Shoreline	*629
Maps available for inspection at the Township Hall, 4919 Pawpaw Lake Road, Coloma, Michigan				
Send comments to Honorable Rodney S. Krieger, Jr., Supervisor, Township of Coloma, Township Hall, 4919 Pawpaw Lake Road, Coloma, Michigan 49038				
Michigan	(C) Midland, Midland and Bay Counties	Tittabawasee River	About 900 feet downstream of Consumers Power Railroad.	*610
			At upstream corporate limits	*617
		Chippewa River	Mouth at Tittabawasee River	*616
			At upstream corporate limits	*617
		Sturgeon Creek	At confluence with Tittabawasee River	*617
			At upstream corporate limits	*617
		Inman Drain	At confluence with Sturgeon Creek	*617
			At upstream corporate limits	*617
		Snake Creek	At confluence with Tittabawasee River	*617
			About 150 feet downstream of Crescent Drive	*618
			Just upstream of Saginaw Road	*626
			Just upstream of Wheeler Road	*630
			At East Wackerly Road	*637
Maps available for inspection at the City Hall, 202 Ashman Street, Midland, Michigan				
Send comments to Honorable Joseph Mann, Mayor, City of Midland, City Hall, 202 Ashman Street, Midland, Michigan 48640				
Michigan	(C) Watervliet, Berrien County	Paw Paw River	About 0.73 mile downstream of Main Street (at downstream corporate limits)	*618
			About 0.29 mile upstream of Dam	*624
Maps available for inspection at City Hall, 158 West Pleasant, Watervliet, Michigan.				
Send comments to Honorable Albert Steffens, Mayor, City of Watervliet, City Hall, 158 West Pleasant, Watervliet, Michigan 49098				
Michigan	(Twp) Watervliet, Berrien County	Paw Paw River	About 2.3 miles downstream of Dam (at downstream corporate limits)	*616
			About 0.2 mile upstream of Dam	*624
			Just downstream of County Line Road	*632
		Paw Paw Lake	Shoreline	*629
Maps available for inspection at the Township Offices, Watervliet, Michigan				
Send comments to Honorable William Gaines, Supervisor, Township of Watervliet, Township Offices, P.O. Box 384, Watervliet, Michigan 49098				
Montana	Flathead County (unincorporated areas)	West Spring Creek	90 feet upstream from center of Meridian Road	*2,954
		Whitefish River at Whitefish	At the intersection of river and center of Burlington Northern Railroad.	*3,000
		Whitefish River near Kalispell	100 feet upstream from center of Birch Grove Road	*2,948
		Whitefish Lake	At the intersection of Lazy Creek and center of Delrey Road	*3,000
		Ashley Creek	At the intersection of creek and center of Burlington Northern Railroad.	*2,939
		Bear Creek	At the intersection of creek and center of U.S. Highway 2	*4,418
		Flathead River	At the intersection of Robocher Lane and Montford Road.	*2,899
			At the intersection of Steel Bridge Road and Kinshella Road.	*2,909
		Lazy Creek	1,740 feet upstream from center of Delrey Road	*3,000
		Middle Fork Flathead River At Nyack.	600 feet North of intersection of U.S. Highway 2 and Burlington Northern Railroad.	*3,359
		Middle Fork Flathead River at West Glacier	At the intersection of McDonald Creek and center of Quarter Circle Bridge.	*3,152
		Stillwater River near Kalispell	50 feet upstream from center of 7th Avenue	*2,935
		Stillwater River near Olney	100 feet downstream from Chute at Lower Stillwater Lake.	*3,036
		Swift Creek	10 feet upstream from center of Delrey Road	*3,017
Maps available for inspection at the County Clerk's Office, 600 S. Main Street, Kalispell, Montana.				
Send comments to Honorable Joan Deist, Box 1078, Kalispell, Montana 59901				
Nevada	Reno (city), Washoe County	Truckee River	150 feet upstream from centerline of South Rock Boulevard	*4,414
			50 feet upstream from centerline of Kietzke Lane	*4,449
			50 feet upstream from centerline of Booth Street	*4,512

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			100 feet upstream from centerline of Diversion Dam	*4,553
			210 feet upstream from centerline of Mayberry Drive	*4,615
		Streamboat Creek	25 feet South of upstream Corporate Limit	*4,414
		Dry Creek	125 feet downstream from centerline of Panorama Drive.	*4,508
		Boynton South	200 feet upstream from centerline of McCarran Boulevard	*4,393

Maps available for inspection at City Clerk's Office, City Hall, 490 South Center, Room 209, Reno, Nevada

Send comments to Honorable Barbara Bennett, P.O. Box 1900, Reno, Nevada 89505.

Nevada	Sparks (city), Washoe County.	Truckee River	600 feet upstream from from centerline of South McCarran Boulevard.	*4,396
			70 feet upstream from centerline of Glendale Avenue	*4,439
		North Truckee Drain	Centerline of West Road	*4,391
			150 feet upstream from centerline of Bering Boulevard	*4,403

Maps available for inspection at Public Works Department, 431 Prater, Sparks, Nevada.

Send comments to Honorable Ronald Player, P.O. Box 857, Sparks, Nevada 89432-0857.

New York	Centre Island, village, Nassau County	Long Island Sound	Entire shoreline within community	*17
		Cold Spring Harbor	Shoreline at Beach Road extended	*16
			Shoreline at Roosevelt Road extended	*15
		Oyster Bay Harbor	Shoreline at South Island Road extended	*12
			Shoreline at Cedar Avenue extended	*15

Maps available for inspection at the Village Hall, Centre Island Road, New York.

Send comments to Honorable Carl Schmidlapp, II, Mayor, Centre Island Road,Oyster Bay, New York 11771

New York	Farmington, town, Ontario County	Ganargua Creek	Downstream corporate limits.	*511
			Brownsville Road (upstream)	*538
		Mud Creek	Downstream corporate limits	[illegible]
			Conrail (upstream)	*641
			Boughton Hill Road (upstream)	*655
			Upstream corporate limits	*679

Maps available for inspection at the Town Hall, 1000 County Road #18, Victor, New York.

Send comments to Honorable Wesley Tayne, Supervisor of Farmington, Town Hall, 1000 County Road #8, Victor, New York 10564

New York	Macedon, village, Wayne County	Ganargua Creek	Downstream corporate limits	*457
			Upstream South Erie Street	*464
			Confluence of Trap Brook	*466
			Upstream corporate limits	*469
		New York State Barge Canal	Upstream State Route 350	*448
			Upstream Lock E-30	*464
		New York State Barge Canal Bypass Channel.	Downstream corporate limits	*448
			Upstream State Route 350	*462
			Upstream Railroad Avenue	*464

Maps available for inspection at the Village Hall, 106 Main Street, Macedon, New York.

Send comments to Honorable Donald Kemp, Mayor, Village Hall, 106 Main Street, Macedon, New York 14502

New York	Oneida, city, Madison County	Oneida Creek	Downstream corporate limits	*398
			Upstream Swallows Bridge Road	*400
			Upstream Old Erie Canal bridge	*417
			Upstream State Route 90	*424
			Upstream Abandoned Railroad	*428
			Upstream Lenox Avenue	*429
			Upstream of Genesee Street	*447
			Upstream Middle Road	*451
			Upstream pipe crossing	*467
			Upstream second crossing Kenwood Avenue	*484
			Approximately 1,300 feet upstream of dam	*494
			Upstream Peterboro Road	*509
			Upstream corporate limits	*520
		Higinbotham Brook	Confluence with Oneida Creek	*429
			Upstream Sylvan Street	*444
			Upstream Conrail	*461
			Upstream State Route 5	*479
		Cowaselon Creek	Downstream Conrail	*426
			Downstream Elm Street	*444
			Upstream Abandoned Railroad	*452
			Upstream State Route 5	*475
			Downstream of 1st upstream corporate limits	*497
			Downstream of most upstream corporate limits	*513

Maps available for inspection at the City Engineer's Office, City Hall, 109 North Main Street, Oneida, New York

Send comments to Honorable Herbert Brewer, Mayor, City Hall, 109 North Main Street, Oneida, New York 13421

New York	Oyster Bay Cove, village, Nassau County	Oyster Bay Harbor	Entire shoreline within community	*15
		Oyster Bay Cove	Entire shoreline within community and area south of the Village of Oyster Bay Cove-Village of Cove Neck corporate limits, near Tiffany Road and Tiffany Creek	*12

Maps available for inspection at 6 Birch Street, Locust Valley, New York

Send comments to Honorable Herman C. Schwarb, Mayor, Route 25A, Oyster Bay, New York 11771.

New York	Victor, town, Ontario County	Ganargua Creek	New York State Thruway (upstream side)	*544

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Plaster Mill Road (upstream side)	*549
			CONRAIL bridge (upstream side)	*554
		Mud Creek	State Route 96 (upstream side)	*564
			Most downstream corporate limits	*598
			Upstream corporate limits	*682
		Irondequoit Creek	New York State Thruway (upstream side)	*489
			Abandoned railroad (upstream side)	*500
			Norris Street (upstream side)	*514
		Tributary to Irondequoit Creek	Wangum Road (upstream side)	*500
			Approximately 53 mile upstream Wangum road	*525

Map available for inspection at the Town Hall, 85 East Main Street, Victor, New York.
Send comments to Honorable Kenneth Wilson, Supervisor, Town Hall, 85, East Main Street, Victor, New Your 14564.

North Carolina	Unincorporated areas of Johnston County	Neuse River	Approximately 2,200 feet upstream of Secondary Road 1201	*87
			Approximately 1,500 feet upstream of Southern Railway	*135
			Approximately 1,200 feet upstream of State Highway	*42
		Moccasin Creek	Approximately 600 feet upstream of Secondary Road 2541.	*86
			Approximately 500 feet upstream of Secondary Road 1007	*90
			Approximately 400 feet downstream of Mill Dam (washed out)	*93
		Mill Creek	Approximately 300 feet upstream of Secondary Road 1009	*99
			Just upstream of Secondary Road 1185	*105
		Mill branch	Approximately 150 feet downstream of Secondary Road 1008	*91
			Just upstream of Secondary Road 1008	*93
		Stone Creek	Approximately 350 feet downstream of State Highway 701	*108
		Hannah Creek	Approximately 1,200 feet upstream of Secondary Road 1185	*109
			Just upstream of State Highway 701	*113
			Just downstream of Interstate Highway 95	*131
		Stony Fork	Just upstream of U.S. Highway 301	* 140
			Just upstream of Seaboard Coastline Railroad	* 149
		Black Creek	Approximately 200 feet upstream of Interstate Highway 95	* 119
			Just upstream of Secondary Road 1162	* 127
			Secondary Road 1309	* 189
		Swift Creek	Just upstream of Secondary Road 1501	* 135
			Just upstream of Secondary Road 1562	* 163
			Just upstream of Secondary Road 1525	* 190
		Middle Creek	Just upstream of Secondary Road 1504	* 148
			Just upstream of Secondary Road 1330	* 181
			Just upstream of Secondary Road 1531	* 211
		Buffalo Creek (west)	Approximately 200 feet downstream of State Highway 42.	* 216
			Approximately 800 feet upstream of State Highway 42	* 222
			Approximately 100 feet downstream of State Highway 50	* 235
		Little Creek	Approximately 150 feet downstream of Secondary Road 1560	* 198
			Approximately 200 feet upstream of Secondary Road 1560	* 200
		Litter River	Just upstream of Secondary Road 2320	* 126
			Just upstream of Secondary Road 1001	* 137
			Just upstream of Secondary Road 1934	* 151
			Just upstream of Secondary Road 2133	* 168
			Just upstream of State Highway 39	* 179
		Buffalo Creek (east)	Just upstream of State Highway 39	* 171
			Just upstream of State Highway 96	* 183
			Just upstream of State Highway 42	* 205

Maps available for inspection at County Planner's Office, 127 South Second Street, Smithfield, North Carolina 27577
Sent comments to: Mr. Kramer Jackson, County Manager or Mr. Harold Blizzard, Assistant County Manager, County Courthouse, P.O. 1049, Smithfield, North Carolina 27577

North Carolina	Village of Walnut Creek, Wayne County	Walnut Creek	Just upstream of Mill Road	* 72
			Just upstream of Dam located approximately 20,800 feet above mouth	* 88
		Walnut Creek tributary B	Just upstream of Dam located approximately 2,450 feet above mouth.	* 97

Maps available for inspection at the home of the Village Clerk, 612 Lake Shore Drive, Goldsboro, North Carolina 27532.
Sent comments to Mayor Roy Lane or Ms. Margaret Teel, Village Clerk, P.O. Box 10911, Goldsboro, North Carolina 27532.

North Carolina	Unincorporated areas of Wayne County	Bear Creek	Just downstream of County Road 1715	*82
			Just downstream of County Road 1136	*93
			Just upstream of County Road 1136	*98
		Beaverdam Creek (backwater from Neuse River).	Just upstream of County Road 1007	*83
		Brooks Swamp	Just downstream of County Road 1120	*105
			Just downstream of U.S. Highway 117	*117
		Brooks Swamp tributary	Approximately 1,200 feet upstream of confluence with Brooks Swamp.	*108

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Buck Swamp	Just downstream of County Road 1324	*110
		Burden Creek	Just upstream of County Road 1225	*89
			Just downstream of County Road 1007	*91
		Burnt Mill branch	Just downstream of County Road 1933	*113
			Just upstream of County Road 1933	*121
		Falling Creek	Just upstream of County Road 1008	*91
			Just downstream of U.S. Highway 13	*100
			Just upstream of County Road 1006	*114
			Just downstream of County Road 1005	*121
		Lee Branch	Just upstream of County Road 1135	*119
		Little River	Just upstream of County Road 581	*95
			Just downstream of County Road 1234	*100
		Mill branch	Just upstream of County Road 1008	*93
		Mill Creek (north)	Just downstream of County Road 1319	*96
		Mill Creek (south)	Just upstream of County Road 1200 (flooding at this location is affected by backwater from Neuse River)	*85
		Moccasin Creek (backwater from Neuse River)	Confluence with Neuse River	*84
		Nahunta Swamp	Just upstream of County Road 1532	*70
			Just upstream of County Road 1534	*78
			Just upstream of County Road	*97
			Just upstream of County Road 1324	*115
			Just upstream of County Road 1340	*119
		Northeast Cape Fear River	Just downstream of County Road	*90
			Just downstream of State Highway 403	*112
			Just downstream of County Road 1558	*121
		Neuse River	Just downstream of State Highway 11	*61
			Just upstream of U.S. Highway 117	*73
			Just downstream of County Road 1008	*76
			Just upstream of County Road 1224	*84
		Peacock branch	Just downstream of County Road 1324	*108
		Reedy branch	Just upstream of County Road 1571	*105
		Sleepy Creek	Just downstream of County Road 1915	*76
			Just downstream of County Road 1933	*129
		The slough	Just upstream of County Road 1535	*82
			Just upstream of County Road 1537	*111
		Slough tributary	Just upstream of County Road 1545	*110
		Stoney Creek	Just upstream of County Road 1571	*101
			Just upstream of County Road 1523	*113
		Stoney Creek tributary	Just downstream of County Road 1547	*105
		Thoroughfare Swamp	Just upstream of County Road 1120	*114
			Just downstream of County Road 1113	*115
		Thunder Swamp	Just upstream of County Road 1118	*120
			Just downstream of County Road 1117	*124
		Walnut Creek	Just upstream of County Road 1730	*60
			Just upstream of County Road 1728	*88
		Walnut Creek tributary A	Just downstream of County Road 1719	*91
		Walnut Creek tributary C	Just downstream of County Road 1728	*97
			Just upstream of County Road 1728	*102
		West Bear Creek	Just upstream of County Road 1719	*87
			Just upstream of County Road 1705	*103
		Yellow Marsh branch	Just upstream of County Road 1127	*110
			Just downstream of U.S.Highway 17	*145

Maps available for inspection at County Planning Director's Office, County Administration Building, 115 South Williams Street, Goldsboro, North Carolina 27530

Send comments to Mr. Bruce Grice, County Administrator, or Mr. B. Reid Tunstall, Jr., Director of Planning, P.O. Box 227, Goldsboro, North Carolina 27530

Ohio	(V) Chesapeake, Lawrence County	Ohio River	At downstream corporate limits	*553
			At upstream corporate limits	*554

Maps available for inspection at the Village Hall, 205 Third Avenue, Chesapeak, Ohio

Send comments to Honorable Robert Templeton, Mayor, Village of Chesapeake, Village Hall, 205 Third Avenue, Chespeake, Ohio 45619.

Ohio	(Uninc.)	Delaware County	About 1.36 miles downstream of Houk Road	*900
			About 0.63 mile upstream of Hills-Miller Road	*946
		Alum Creek	About 1.23 miles downstream of Worthington-Galena Road.	*814
			Just downstream of Lewis Center Road	*827
		Little Walnut Creek	Just upstream of State Route 3	*898
			Just downstream of US Route 36 and State Route 37	*914
		Duncan Run	About 0.25 mile upstream of Red Bank Road	*898
			Just downstream of Harlem Road	*991
			Just upstream of Harlem Road	*996
			Just downstream of Center Village Road	*1,067
		Olentangy River	Just upstream of Delaware-Franklin County line	*785
			Just upstream of Norfolk and Western Railway	*892
		Scioto River	About 300 feet upstream of Delaware-Franklin County line	*795
			Just downstream of O'Shaughnessy Dam	*802
			Just downstream of State Route 257	*860
			About 0.25 mile upstream of Mink Street Road	*897
		Mill Creek	About 500 feet upstream of State Route 745	*860
			About 200 feet downstream of Delaware-Union County line	*919
		Blues Creek	About 500 feet upstream from confluence with Mill Creek	*904
			At Delaware-Union County line	*931

Maps available for inspection at the Delaware County Regional Planning Commission, 110½ North Franklin Street, Delaware, Ohio

Send comments to Honorable Kenneth Reed, President of the County Commissioners, Delaware County, Office of the Delaware County Commissioners, Delaware, Ohio 43015

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(V) Irondale, Jefferson County	North Fork Yellow Creek	About 600 feet downstream of Conrail (downstream of East Avenue).	*699
			Just upstream of East Avenue	*718
			About 1.1 miles upstream of Ford Street	*729
Maps available for inspection at the Village Clerk's Office, Village Hall, Irondale, Ohio				
Send comments to Honorable Harry Diehl, Mayor, Village of Irondale, Village Hall, P.O. Box 223, Irondale, Ohio 43932.				
Ohio	(V) North Bend, Hamilton County	Ohio River	At downstream corporate limits	*492
			At upstream corporate limits	*493
Maps available for inspection at the Mayor's Office, 21 Taylor Street, North Bend, Ohio				
Send comments to Honorable Alan Montague, Mayor, Village of North Bend, 21 Taylor Street, North Bend, Ohio 45052.				
Ohio	(V) Rome, Adams County	Ohio River	Within corporate limits	*525
Maps available for inspection at the Mayor's Office, Stout, Ohio.				
Send comments to Honorable Norma Ralston, Mayor, Village of Rome, P.O. Box 302 Stout, Ohio 45684				
Ohio	(C) Toronto, Jefferson County	Ohio River	About 0.9 mile downstream of confluence of Jeddo Run.	*675
			At confluence of Croxton Run	*677
Maps available for inspection at the Municipal Building, 306 North Sixth Street, Toronto, Ohio				
Send comments to Honorable Andrew Blanter, Mayor, City of Toronto, Municipal Building, 306 North Sixth Street, Toronto, Ohio 43964.				
Ohio	(V) Walbridge, Wood County	Dry Creek	Just upstream of Lemoyne Road	*614
			About 1,200 feet upstream of Conrail	*618
		Cedar Creek	About 1,950 feet downstream of Conrail	*612
			Just downstream of Chessie System	*615
Maps available for inspection at the Mayor's Office, 111 North Main Street, Walbridge, Ohio.				
Send comments to Honorable Gary Revill, Mayor, Village of Walbridge, 111 North Main Street, Walbridge, Ohio 43464.				
Oregon	Yamhill County (unincorporated areas)	Willamette River	50 feet upstream from center of State Highway 219	*96
		Yamhill River	At the intersection of Lafayette Highway and Yamhill River	*107
		North Yamhill River	At the intersection of Poverty Bend Road and North Yamhill River	*113
		South Yamhill River	At the intersection of Three Mile Land Highway and South Yamhill River	*115
			20 feet upstream from center of Salmon River Highway	*162
		Hess Creek	25 feet upstream from center of Mountain Drive	*183
		Chehalem Creek	Intersection of Dayton Avenue and Chehalem Creek	*99
			25 feet upstream from center of County Road 98	*147
		Palmer Creek	Confluence with West Fork Palmer Creek	*103
		West fork Palmer Creek	25 feet upstream from center of Webfoot Road	*103
		Panther Creek	At confluence with Baker Creek	*113
		Baker Creek	100 feet upstream from center of West Side Road	*114
		Yamhill Creek	25 feet upstream from center of State Highway 240	*167
		Cozine Creek	At the intersection of Hill Road and Cosine Creek	*146
		Salt Creek	Intersection of Roy Freeman Ranch Road and Salt Creek	*136
		Ash Swale	At the center of U.S. Highway 99 W crossing near confluence with Sale Creek	*135
		Willamina Creek	25 feet upstream from center of Fort Hill Junction Road.	*244
		Agency Creek	50 feet upstream from center of State Highway 22	*349
Maps available for inspection at the Planning Department, County Courthouse, McMinnville, Oregon				
Send comments to Honorable Ted Lopuszynski, County Courthouse, Room 108, McMinnville, Oregon 97128				
South Carolina	Township of Sullivan's Island, Charleston County	Atlantic Ocean	At the intersection of Keenan and Middle Street	*17
			At the intersection of Thee and Station 19 Streets	*17
			At the intersection of Bayonne and Station 26 Streets	*17
			At the intersection of Atlantic Avenue and Station 26 Street	*16
			At the intersection of L'on Avenue and 26 Street	*15
			At the intersection of Middle and Station 26 Streets	*14
Maps available for inspection at Town Hall, 1610 Middle Street, Sullivan's Island, South Carolina 29482				
Send comments to Mayor C. M. Anderegg or Mr. Sammy Ward, Administrative Assistant, Town Hall, P.O. Box 427, Sullivan's Island, South Carolina 29482.				
Pennsylvania	Benton, borough, Columbia County	Fishing Creek	Downstream corporate limits	*748
			Upstream State Route 487	*764
			Upstream dam	*774
			Upstream corporate limits	*775
		West Creek	Downstream corporate limits	*751
			Upstream Market Street	*763
			Upstream corporate limits	*778
Maps available for inspection at the Borough Building, Third Street, Benton, Pennsylvania				
Send comments to Honorable Ernie Roberts, President of the Benton Borough Council, Third Street, Benton, Pennsylvania 17814				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)
Pennsylvania	Indiana, township, Allegheny County	Little Deer Creek	At downstream corporate limits	*783
			Approximately 125' downstream of Bessemer and Lake Erie Railroad (1st crossing)	*810
			Upstream of Rich Hill Road	*835
			Upstream of Russellton Road	*877
			At most upstream corporate limits	*877
	Maps available for inspection at the Township Building, Indianola, Pennsylvania.			
	Send comments to Honorable Jack A. Rafferty, Mayor of Indiana Township, P.O. Box 153, Indianola, Pennsylvania 15051			
Pennsylvania	North Fayette, township, Allegheny County	Montour Run	Downstream corporate limits	*851
			Upstream State Route 60	*867
			Upstream Cliff Mine Road	*890
			Upstream Railroad Street (1st crossing)	*946
			Upstream U.S. Route 30	*979
		South fork Montour Run	Upstream Santiago Road	*1,013
		Robinson Run	Downstream corporate limits	*887
			Upstream Willow Steet	*923
			Upstream Main Street	*940
			Upstream corporate limits	*965
		North branch Robinson Run	Downstream corporate limits	*913
			Upstream North Branch Road (State Route 978)	*950
			At Donalson Road	*975
	Maps available for inspection at the Township Building, Oakdale, Pennsylvania			
	Send comments to Honorable Louis Chauvert, R.D. 3, Box 760, Oakdale, Pennsylvania, 15071			
Pennsylvania	Spring, township, Centre County	Spring Creek	At most downstream corporate limits	*720
			At downstream corporate limits with the borough of [redacted]	*729
			At upstream corporate limits with the borough of Bellefonte	*752
			At most upstream corporate limits	*757
		Logan Branch	At downstream corporate limits	*757
			Upstream of second upstream private road	*775
			Upstream of Township Route 364	*802
			Ins Hollow Road (extended)	*833
			At upsteam corporate limits	*878
		Gap Run	At downstream corporate limits	*915
			Upstream of State Route 144 (downstream crossing)	*946
			Downstream of Harrison Road	*987
			Upstream on the Hill Road (Township Route 367)	*1,101
			Upstream of State Route 144 (upstream crossing)	*1,245
	Maps available for inspection at the Township Municipal Building, RFD 2, Bellefonte, Pennsylvania.			
	Send comments to Honorable Milo Wilson, Chairman of the Spring Township Board of Supervisors, RFD 2, Box 1100, Bellefonte, Pennsylvania 16823.			
Pennsylvania	West Deer, township, Allegheny County	Deer Creek	Downstream corporate limits	*863
			Upstream of first crossing of State Route 910	[redacted]
			Upstream of private road	*911
			Upstream of 2nd crossing of State Route 910	*922
			Confluence of west branch Deer Creek	[redacted]
		West branch Deer Creek	Confluence with Deer Creek	[redacted]
			Upstream of private road	*948
			Approximately 0.29 mile upstream of private road	*955
		Little Deer Creek	Downstream corporate limits	[redacted]
			Upstream of Little Deer Creek Valley Road	*934
			Upstream of McKrell Road	*947
			Upstream of access road	*961
			Upstream of Bessemer and Lake Erie Railroad	*978
			Upstream of private road	*987
			Approximately 0.3 mile upstream of private road	*992
	Maps available for inspection at the Township Building, Russellton, Pennsylvania			
	Send comments to Honorable Charles Bergensky, Box 2, Russellton, Pennsylvania, 15076			
Washington	Sultan (town), Snohomish County	Sultan River	At the center of First Street and Birch Avenue	*116
		Skykomish River	150 feet south from the center of intersection of Tenth Street and Dyer Road	*117
	Maps available for inspection at Town Hall, Sultan, Washington			
	Send comments to the Honorable Harold Love, P.O. Box 2201 Sultan, Washington 98294			
West Virginia	Pineville, City, Wyoming County	Guyandotte River	Downstream corporate limits	*1,272
			Upstream of Park Street	*1,286
			Upstream corporate limits	*1,313
		Rockcastle Creek	Upstream State Route 10 (River Drive Avenue)	*1,288
			At State Route 97 (Twin Falls Road)	*1,319
			Upstream Hemlock Street	*1,371
			Upstream corporate limits	*1,364
		Bearhold fork	Upstream of confluence with Rockcastle Creek	*1,319
			Upstream corporate limits	*1,364
	Maps available for inspection at the City Hall, Park Street, Pineville, West Virginia			
	Send comments to Honorable Everett W. Bowling, Mayor of Pineville, P.O. Box 220, Pineville, West Virginia 24874.			

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City, town, county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
West Virginia	Williamstown, city, Wood County	Ohio River	Downstream corporate limits	*615
			Upstream corporate limits	*616
		Williams Creek	Downstream corporate limits	*615
			Upstream of Highland Avenue	*626
			Approximately 2,200 feet upstream of Highland Avenue	*630

Maps available for inspection at the Municipal Building, Fifth Street and Park Avenue, Williamstown, West Virginia

Send comments to Honorable Herman Fisher, Mayor of Parkersburg, Fifth Street and Park Avenue, Williamstown, West Virginia 26187

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 14, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-2410 Filed 2-1-83, 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-21; RM-4216]

FM Broadcast Station in Agana, Guam; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to assign FM Channel 248 to Agana, Guam, in response to a petition filed by Radio K–57, Inc., licensee of Station KGUM(AM) in Agana. The proposal could provide a fourth FM service to that community.

DATES: Comments must be filed on or before March 11, 1983, and reply comments must be filed on or before March 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 13, 1983.

Released: January 25, 1983.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Agana, Guam); MM Docket No. 83–21, RM–4216.

1. A petition for rule making was filed October 12, 1982, by Radio K–57, Inc. ("petitioner"), licensee of Station KGUM(AM) in Agana, Guam, proposing the assignment of Class C FM Channel 248 to Agana as its fourth FM assignment.[1] Petitioner expressed an interest in applying for the channel, if assigned, the channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed assignment could provide a fourth FM broadcast service to Agana, Guam, the Commission believes that it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Agana, Guam	230, 238, 262	230, 238, 248, and 262

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel can be assigned.

[1] Petitioner states that it is currently an applicant for Channel 262. That application is mutually exclusive with another application filed by Guam Radio Service, Inc. Should the subject rule making be granted for Channel 248, it would dismiss its application for Channel 262.

4. Interested parties may file comments on or before March 11, 1983, and reply comments on or before March 28, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes

an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-2855 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-23; RM-4215]

FM Broadcast Station in Waterville, Maine; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to substitute Class B FM Channel 253 for Channel 252A at Waterville, Maine and to modify the license of Station WTVL–FM accordingly in response to a petition filed by Kennebec Broadcasting Company.

DATES: Comments must be filed on or before March 11, 1983, and reply comments must be filed on or before March 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 13, 1983.

Released: January 25, 1983.

In the matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Waterville, Maine); MM Docket No. 83–25, RM–4215.

1. A petition for rule making was filed October 12, 1982 by Kennebec Broadcasting Company ("petitioner") [1] seeking to substitute Class B Channel 253 for Channel 252A at Waterville, Maine and to modify the license of Station WTVL–FM, Channel 252A to specify operation on Channel 253. The substitution can be made in compliance with the minimum distance separation requirements. Petitioner states that, should the substitution be made, it will immediately modify its facilities to meet all technical standards for a Class B station. Petitioner further states that, should the Commission open Class B Channel 253 to other applicants and if those applicants cannot be otherwise accommodated, it would withdraw its request for rule making.

2. Waterville, Maine is within 320 kilometers (200 miles) of the United States-Canadian border. Therefore, the proposed substitution requires coordination with the Canadian government.

3. Petitioner points out that the boundary between Zones I and II passes through Waterville, its city of license, and through Winslow, the town in which its transmitter is located. Petitioner states that § 73.205(a) provides that when zone boundary lines pass through a city, that city shall be considered to be located in Zone I. According to petitioner, although its present transmitter site is located in Zone II, it must be considered to be in Zone I by virtue of § 73.205(a), and a Class B allocation is proper. Petitioner asserts that, should the Commission find the meaning of § 73.205(a) to be otherwise, it, nevertheless, requests the Class B allocation for Waterville, indicating that it could serve that city from alternate transmitter sites in Zone I or, since its present transmitter site is only 1,300 feet outside Zone I, it could seek a waiver of the Zone boundaries.

4. Petitioner states that the proposed Channel 253 would preclude operation of WTVL–FM on Channel 252A. Therefore, it assets that it is essential to the rule making that its license be modified to specify operation on the Class B channel.

5. Petitioner indicates that the proposed license modification would result in a more efficient utilization of the frequency, as without such modification, WTVL–FM would be

[1] Petitioner is the licensee of Station WTVL–FM Channel 252A, Waterville, Maine.

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precluded from use of the Class B channel. Petitioner asserts that more efficient use of the frequency is in the public interest and that the higher power will also enable Waterville's only commercial FM station to provide improved service to the area.

6. A station which has a site in Zone I is considered a Class B station. If the site is in Zone II, it is a Class C station. It is the transmitter site that governs, not the location of the city of license. See § 73.211(c) of the Commission's Rules. Petitioner's reliance on § 73.205(a) that the city of assignment determines the class of station is not applicable here. That section applies to vacant assignments so that the mileage separations can be measured from a certain class of channel. Where a transmitter site is already in existence, that site would govern. Here petitioner proposes to use its present site which is located in Zone II (Class C). Petitioner recognized the possibility of the nonapplicability of § 73.205(a) and indicated it may seek a waiver. The Commission's policy on this matter is to permit operation of a Class B station in Zone II in order to take advantage of an existing antenna structure where an applicant states that it will accept a grant of its application conditioned upon the provision that it maintain Class B facilities. See *Doubleday Broadcasting Co., Inc.*, 46 RR 2d 1577 (1980).

7. The Commission also proposes to modify the license of Station WTVL–FM (Channel 252A), Waterville, Maine, to specify operation on proposed Class B Channel 253, provided that no other party expresses an interest in operating a Class B channel. See *Cheyenne, Wyoming*, 62 FCC 2d 63 (1976).

8. On the basis that petitioner will either conform its station to the requirements of § 73.211(c) or seek a waiver thereof, the Commission believes that petitioner's proposal warrants consideration. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, as it pertains to Waterville, Maine as follows:

City	Channel No.	
	Present	Proposed
Waterville, Maine	252A	253

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties my file comments on or before March 11, 1983, and reply comments on or before March 28, 1983, and are advised to read the Appendix for the proper procedures.

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

12. For further information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in the *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 83-2800 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-22; RM-4222]

FM Broadcast Station in Los Alamos, New Mexico; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: Action taken herein proposes the assignment of FM Channel 296A to Los Alamos, New Mexico, as its second FM channel assignment, in respones to a petition filed by Ronald Nedblake.

DATES: Comments must be filed on or before March 11, 1983, and reply comments on or before March 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

Adopted: January 13, 1983.

Released: January 25, 1983.

In the matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Los Alamos, New Mexico); MM Docket No. 82-22, RM-4222.

1. A petition for rule making was filed October 18, 1982, by Ronald Nedblake ("petitioner"), seeking the assignment of FM Channel 296A to Los Alamos, New Mexico, as its second FM assignment. Petitioner has stated that it would apply for the channel, if it is assigned.

2. In view of the fact that the proposed assignment could provide a second FM broadcast service to Los Alamos, New Mexico, the Commission proposes to amend the FM Table of Assignments, §73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Los Alamos, N.Mex.	253	253, and 296A.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before March 11, 1983, and reply comments on or before March 28, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do not Apply to Rule Making to Amend §73.202(b), 73.504 and 73.606(b) of the Commission's Rules.* 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Arthur D. Scrutchins, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the processing. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes and *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be

served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420.(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-2859 Filed 2-1-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-20; RM-4236]

FM Broadcast Station in Cave Junction, Oregon; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Class C FM Channel 274 to Cave Junction, Oregon, in response to a petition filed by Illinois Valley Radio. The proposal could provide a first FM service to that community.

DATES: Comments must be filed on or before March 11, 1983, and reply comments on or before March 28, 1983

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 13, 1983.

Released: January 25, 1983.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Cave Junction, Oregon); MM Docket No. 83-20, RM-4236.

1. A petition for rule making was filed October 28, 1982, by Illinois Valley Radio ("petitioner") proposing the assignment of Class C FM Channel 294 to Cave Junction, Oregon, as its first FM broadcast assignment.

2. The assignment of Channel 294 to Cave Junction would be short-spaced to Channel 295 already proposed for assignment at Medford, Ore. (BC Docket 82-308). The distance between the two communities is approximately 44 miles, whereas the required distance is 150 miles. However, a staff study indicates that Class C Channel 274 is available to Cave Junction as an alternative. The channel can be assigned in compliance with the minimum distance separation requirements.

3. In view of the fact that the proposed assignment could provide a first FM broadcast service to Cave Junction, Oregon, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No	
	Present	Proposed
Cave Junction, Oregon		274

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before March 11, 1983, and reply comments on or before March 28, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1068, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in

connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-2857 Filed 2-1-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-19; RM-4212]

FM Broadcast Station in Bringham City, Utah; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUBJECT: Action taken herein proposes the substitution of Class C FM Channel 295 for Channel 296A at Brigham City, Utah, and modification of the license of the Class A station (KBUH-FM) to specify operation on the Class C channel, at the request of the licensee, Brigham City Broadcasting Company, Inc.

DATE: Comments must be filed on or before March 11, 1983, and reply comments on or before March 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of; Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations; Brigham City, Utah; MM Docket No. 83-19; RM-4212.

Adopted: January 13, 1983.

Released: January 25, 1983.

1. A petition for rule making was filed September 23, 1982, by Brigham City Broadcasting Company, Inc. ("petitioner"), licensee of Station KBUH-FM, proposing the substitution of Class C FM Channel 295 for Channel 296A at Brigham City, Utah, and modification of the license of Station KBUH-FM to specify operation on Channel 295.

2. In a recent action, the license for Station KABE In Orem, Utah, was modified from Channel 296A to Channel 298 (BC Docket No. 80-525). That change must take place before Channel 295 can be used at Brigham City, Utah. We are sending a copy of this Notice to the licensee to inquire as to whether there will be any further delay in switching frequencies.

3. A site restriction of 6.6 miles west of Brigham City is required due to the construction permit issued at Evanston, Wyoming on Channel 292A.

4. According to the Commission's established policy, the proposal to substitute a superior Class C channel for a Class A channel and modify the license to specify operation on the Class C channel is subject to affording other interested parties an equal opportunity to file an application and be given consideration for the new channel. *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). Only in the absence of an expression of interest by the comment deadline could the modification take place.

5. In view of the foregoing, we believe that it is appropriate to solicit comments on the proposed amendment of the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Brigham City, Utah	296A	[illegible]

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 11, 1983, and reply comments on or before March 28, 1983, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. It is requested that the Secretary SHALL SEND a copy of this *Notice of Proposed Rule Making*, Return Receipt Requested, to Station KABE, Morris J. Jones, 66 East, 800 North, Orem, Utah, 84210.

10. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6)

and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-2856 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 82-24; RM-4240]

FM Broadcast Station in Jackson, Wyoming; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to assign FM Channel 238 to Jackson, Wyoming, in response to a petition filed by Phil Keller. The proposed channel could provide a second FM service to that community.

DATES: Comments must be filed on or before March 11, 1983, and reply comments on or before March 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of; Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations (Jackson, Wyoming); MM Docket No. 83-24, RM-4240.

Adopted: January 13, 1983.

Released: January 25, 1983.

1. A petition for rule making was filed November 1, 1982, by Phil Keller ("petitioner") seeking the assignment of Class C Channel 238 to Jackson, Wyoming, as its second FM assignment. Petitioner filed comments in support of the proposal and expressed an interest in applying for the channel, if assigned. A site restriction of 9 miles north of the city is required due to Station KVFM in Ogden, Utah.

2. In view of the fact that the proposed assignment could provide a second FM broadcast service to Jackson, Wyoming, the Commission believes it is appropriate to propose amending the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Jackson, Wyoming	245	238,245

3. The commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before March 11, 1983, and reply comments on or before March 28, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b), of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.292(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply or the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-2858 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1043

[Ex Parte No. MC-5 (Sub 4)]

Passenger Broker Surety Bonds or Insurance; Discontinued Rulemaking

AGENCY: Interstate Commerce Commission.

ACTION: Notice of discontinued rulemaking

SUMMARY: The "Bus Regulatory Reform Act of 1982" exempts brokers of passenger transportation by motor vehicle from Commission regulation. The Commission retains, however, the discretion to impose insurance and/or bond requirements on passenger brokers if deemed necessary to protect passengers and carriers dealing with brokers.

On November 19, 1982, the passenger broker bond requirements under 49 CFR 1043.4(b) became void as a matter of law and have no legal effect. Accordingly, § 1043.4(b) is being removed from the Code of Federal Regulations elsewhere in this issue. The Commission has decided not to reinstitute any bond or insurance requirement for passenger brokers at this time, and thus discontinues the rulemaking proceeding.

DATE: This decision is effective on March 4, 1983.

FOR FURTHER INFORMATION CONTACT:

Alice K. Ramsay, (202) 275-0854

or

Margaret Richards, (202) 275-1538.

SUPPLEMENTARY INFORMATION: An advance notice of proposed rulemaking was served on September 22, 1982, and published on September 29, 1982, at 47 FR 42926. It requested comments on a number of issues concerning the need for passenger broker insurance and/or bonding requirements to protect passengers and motor carriers who use the services of brokers. Sixteen statements were filed in response to the notice from the following parties:

American Bus Association
Bellport Travel, Inc.
James M. Burns, I.C.C. Practitioner
Campus Travel, Inc., Consolidated Terminal and Travel Bureau, Inc., Keri Tours, Inc., and Lincoln Transit Co., Inc.
Capitol Bus Company, Capitol Trailways Tours, Inc., 88 Transit Lines, Inc., Frank Martz Coach Company, Gold Line, Inc., Lincoln Coach Lines, Lincoln Coach Travel, Inc., and Martz Travel, Inc.
Greyhoud Lines, Inc.
John W. Higgins, Inc.
Marshall Motor Coach, Inc.
Moore Travel Service, Unlimited
National Tour Brokers Association, Inc.
Office of the Special Counsel
Quality Tours
Roy Shelton
The Surety Association of America
Triangle Tours
Wertz Motor Coaches, Inc.

Most of the comments are to the effect that bonding and/or insurance coverage is needed to protect the public and bus operators from unscrupulous tour or passenger brokers who collect the tour money and then don't provide some or all of the purchased services. The comments predict that such occurrences will increase due to the deregulation of motor passenger brokers by the "Bus Regulatory Reform Act of 1982." Indeed, the Act exempts interstate passenger brokers from any licensing, recordkeeping, or service requirements and leaves the Commission with only the discretion to impose bonding and/or insurance requirements.

However, there is little substantive evidence that abuses by tour brokers occur with such frequency or magnitude that they constitute a substantial consumer problem. Since 1935, the Commission has received few complaints against tour brokers or reported instances of loss due to defaulting brokers. As a result of our experience, we believe that the abuses

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committed by passenger brokers are not significant enough to warrant a Federal regulation requiring bonding or insurance protection at this time. The public has other means of redressing grievances against brokers. State laws, consumer agencies of cities and counties, and independent consumer advocate groups exist to help protect the rights of the public, especially in instances of fraud and failure to provide services for which payment has been made.

Motor carriers of passengers are able to use their business prerogative in making judgments and decisions about the particular brokers with which they will no business. Many carriers require a broker to show evidence of insurance before providing a contract for service or extending credit to the broker. This practice shows that individual carriers are in a position to protect themselves from unscrupulous brokers without additional Federal regulations.

We believe that many passenger brokers will continue to maintain voluntarily some sort of security for the protection of the public. Both the American Bus Association and the National Tour Brokers Association are active in developing certification and monitoring programs for their members to ensure that bonding or insurance coverage is maintained by the brokers concerned. These programs should be valuable information sources for the users of broker services.

Finally, this Commission desires to act in the spirit of the "Bus Regulatory Reform Act of 1982" by eliminating entry barriers into the broker industry and reducing the cost of compliance with Federal regulations. Although the annual cost of a $5,000 surety bond may be as little as $75.00, the bond normally must be fully collateralized and thus may act as an entry barrier to a potential passenger broker. Many of the commenting parties favor surety bond protection in even greater amounts, of $10,000 or more. The National Tour Brokers Association, on the other hand, favors insurance coverage which includes coverage for errors and omissions as well as bodily injury and property damage liability. This type of insurance in an amount of $1,000,000 may be purchased for an annual permium of $426.00, which could act as a significant deterrent to a potential broker with minimal start up capital.

Since the Act eliminated any licensing requirement for passenger brokers, identifying those persons or companies functioning as brokers could present endless problems for enforcement on a bonding or insurance requirement. The wide variety of services performed by persons involved in developing travel tours and the sometimes complicated financial arrangements make it difficult at times to determine whether they fall within the statutory definition of a broker under 49 U.S.C. 10102(1). If a broker is identified who fails to have proper insurance or bonding, the Commission's recourse for all practical purposes is limited to court action to enjoin the broker from violating a regulation requiring insurance or bonding, were there such a requirement. There will be no license to revoke nor provisions to levy any penalty against a noncomplying broker. Additionally, proper enforcement of a bonding or insurance requirement would require a burdensome filing to prove evidence of security and to ensure against any lapses in security coverage.

The minimal benefits that would be derived from bonding or insurance at this time do not justify the greater cost and burden of compliance for the broker. Therefore, we will not institute a bonding or insurance requirement for brokers at present. There is no limit under 49 U.S.C. 10924(f) for exercising the Commission's discretionary authority to adopt requirements for security for the protection of the public. If a demonstrable need arises in the future, the Commission may again consider the adoption of passenger broker requirements for bonding and/or insurance.

The passenger broker surety bonds now on file with the Commission are no longer required by law. Passenger brokers and surety companies who would like their surety bonds returned to them, should make a request in writing to the Insurance Branch, Interstate Commerce Commission, Washington, D.C. 20423. Members of the public who need information about passenger broker bonds which were required during the period that these brokers were subject to regulation may continue to request such information from the Commission.

Because of the exemption from Commission regulation granted to passenger brokers by the "Bus Regulatory Reform Act of 1982," § 1043.4(b) is inoperative and is being removed from Title 49 of the Code of Federal Regulations elsewhere in this issue.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

We certify that this action will not have a significant impact upon a substantial number of small entities. As stated in this notice, abuses by brokers are rare, and federal regulation is not warranted in this area.

List of Subjects in 49 CFR Part 1043

Insurance, Motor carriers, Surety bonds.

(49 U.S.C. 10321 and 10924, 5 U.S.C. 553, and Sec. 14 Bus Regulatory Reform Act of 1982.)

Decided: January 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Simmons concurred with a separate expression. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

Commissioner Simmons, concurring:

I believe that the public interest dictates that the Commission should require brokers of passengers to maintain insurance and/or bonds. In determining whether to impose such a requirement, the Commission has to weigh what I consider to be a minimum regulatory burden on brokers against that of protecting the public. If the requirement is not a significant barrier to entry (which I do not believe it is), then we must consider whether the public needs this protection. I am convinced that there is such a need.

Against my better judgment, I reluctantly concur with the decision, however, because the majority has left open the option to adopt bonding and /or insurance requirements if the need should arise in the future. OCCA should diligently monitor all complaints received regarding brokers and report their findings to the Commission in its regular report to the Commission.

[FR Doc. 83-2757 Filed 2-1-83; 8:45 am]

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Notices

Federal Register
Vol. 48, No. 23
Wednesday, February 2, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament
Date: February 17 and 18, 1983
Time: 9:00 a.m. each day
Place: State Department Building, Washington, D.C.
Type of meeting: Closed
Contact person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632–5176.
Purpose of advisory committee: To advise the Director of the U.S. Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.

Agenda

Will include the following discussions and presentations:

February 17, 1983

A.M.—U.S. Theater Nuclear Force Modernization Programs
P.M.—U.S. Strategic Nuclear Force Modernization Programs

February 18, 1983

A.M.—Discussion of the foregoing and possibly other similar matters.
Reason for closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.
Authority to close meeting: the closing of this meeting is in accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated January 18, 1983, made pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act, as amended.

John E. Grassle,
Committee Management Officer.

[FR Doc. 83–2734 Filed 2–1–83; 8:45 am]
BILLING CODE 6820–32–M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Agreement Regarding Asset Management in Bureau of Land Management

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement, pursuant to § 800.8 of the Council's regulations (36 CFR Part 800), with the Bureau of Land Management (BLM), Department of the Interior, and the National Conference of State Historic Preservation Officers (NCSHPO) providing for the protection of historic properties in connection with the BLM's Asset Management program and related actions. Comments and suggestions on how such properties should be identified and protected in advance of federal land transfers and other asset management actions are solicited. Drafts of the proposed agreement will be available as consultation progresses.

DATE: Comment due March 4, 1983.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Thomas F. King, Director, Office of Cultural Resource Preservation, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005.

Dated: January 28, 1983.

Robert R. Garvey, Jr.,
Executive Director.

[FR Doc. 83–2841 Filed 2–1–83; 8:45 am]
BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

January 28, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Charles E. Caudill, Acting Statistical Clearance Officer, (202) 447–6201.

New

• Agricultural Marketing Service
Mesa County, Colorado Peaches—Marketing Order No. 919
On occasion
Farm, business: 376 responses; 2,430 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

Revised

• Agricultural Marketing Service
Florida Indian River Grapefruit—Marketing Order No. 912
On occasion, weekly, annually
Business: 2,134 responses; 239 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

• Food and Nutrition Service
State Plan and Operating Guidelines, Forms and Waivers
FNS–366A and FNS–366B
Annually
State and local governments: 108 responses; 3,984 hours; not applicable under 3504(h)
Paul Jones (703) 756–3431

• Agricultural Marketing Service
Florida Interior District Grapefruit—Marketing Order No. 913
On occasion, weekly, annually
Business: 501 responses; 495 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

Extension

• Agricultural Research Service
Taxonomic Data Input Forms—Beatle Genus and Species
ARS–125 and ARS–126
On occasion
Individuals or households: 1,350 responses; 113 hours; not applicable under 3504(h)
John Kingsolver (202) 382–1787

• Food and Nutrition Service
Monthly Report of Commodity Supplemental Food Programs
FNS–153
Monthly
State or local governments: 348 responses; 696 hours; not applicable under 3504(h)
Maxine McMillian (703) 756–3710.

Charles E. Caudill,
Acting Statistical Clearance Officer

[FR Doc. 83–2776 Filed 2–1–83; 8:45 am]
BILLING CODE 3410–01–M

Office of the Secretary

Special and Alcohol Fuels Research Grants Programs for Fiscal Year 1983; Solicitation of Applications

Correction

In FR Doc. 83–1581 beginning on page 2720 in the issue of Thursday, January 20, 1983, make the following corrections:

On page 2720, top of the third column, "**Program Research Grants Program**" should have read "**Special Research Grants Program**".

BILLING CODE 1505–01–M

CIVIL AERONAUTICS BOARD

Airborne Express, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order To Show Cause 83–1–119.

SUMMARY: The Board has tentatively decided to issue a certificate to Airbrone Express, Inc. authorizing it to engage in scheduled foreign air transportation of cargo.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this action be taken as described in the order cited above shall, no later than February 24, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 40669, Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to Airborne Express, Inc. and the Departments of State and Transportation. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will make final the Board's tentative findings and conclusions and issue a certificate authorizing Airborne Express, Inc. to engage in scheduled foreign air transportation of cargo.

TO GET A COPY OF THE COMPLETE ORDER: Request it from the Civil Aeronautics Board, Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington Metropoitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Don Hainbach, (202) 673–5035, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: January 27, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83–2837 Filed 2–1–83; 8:45 am]
BILLING CODE 6320–01–M

Application of APA International Air, S.A.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause; Order 83–1–118.

SUMMARY: The Board proposes to approve the following application.

Applicant: APA INTERNATIONAL AIR, S.A.
Application Date: November 13, 1981, Docket: 40246.
Authority Sought: Scheduled foreign air transportation of persons, property and mail between Puerto Plata, Dominican Republic and Miami, Florida; New York, New York; and San Juan, Puerto Rico.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN February 23, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of the Dominican Republic in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 40246, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428
Applicant: APA International Air, S.A., c/o Mr. James M. Burger, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, Suite 900, Washington, D.C. 20036

TO GET A COPY OF THE COMPLETE ORDER: Request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Gordon H. Bingham, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5134.

By the Civil Aeronautics Board, January 27, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83–2839 Filed 2–1–83; 8:45 am]
BILLING CODE 6320–01–M

Order Concerning Mail Rates

Order 83–1–115, January 27, 1983, Dockets 38961 and 40751, proposes to establish the final service mail rates established in those dockets for the mail services of each air carrier certificated to provide intra-Alaska or intra-Hawaii air transportation on and after the date of this order.

FOR FURTHER INFORMATION CONTACT: Joseph Bolognesi, Bureau of Domestic Aviation, (202) 673–5333 or James E. Gardner, Bureau of International Aviation, (202) 673–5391.

Copies of Order 83–1–115 are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request to that address.

By the Civil Aeronautics Board: January 27, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2838 Filed 2-1-83; 8:45 am]

BILLING CODE 6320-01-M

Trav'lers Aire, Inc., et al.; Commuter Fitness Determination

The Board is proposing to find the following carriers fit, willing and able to provide commuter air carrier service under Section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
83-1-108	Trav'lers Aire, Inc	Feb 16, 1983
83-1-109	Pacific Cal Air, Inc	Do
83-1-110	East Hampton Aire, Inc	Feb. 17, 1983
83-1-111	Ohio Valley Aviation, Inc	Feb. 18, 1983
83-1-112	Tri-State Airlines, Inc	Feb 22, 1983

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas G. Chew for Order 83-1-108 at (202) 673-5340; Ms. Carolyn S. Kramp for Orders 83-1-109 and 83-1-110 at (202) 673-5919; Mr. Paul Samuel Smith for Order 83-1-111 at (202) 673-5450; and Ms. Anne W. Stockvis for Order 83-1-112 at (202) 673-5088; Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

By the Civil Aeronautics Board: January 27, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2836 Filed 2-1-83; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Maine Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 6:00p and will end at 8:00p, on April 6, 1983, in the Board Room, at the Maine Teachers Association, 35 Community Drive, Augusta, Maine 04330. The purpose of this meeting will be to discuss the Block Grant study, Civil Rights Developments in Maine, 1982, and the status of the Maine Equal Rights Amendment.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Lois G. Reckitt, 38 Myrtle Avenue, South Portland, Maine 04106, (207) 775-1451 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 28, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-2818 Filed 2-1-83; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 7:00p and will end at 9:00p, on March 2, 1983, in the Conference Room, at the Vermont National Education Association, 58 East State street, Montpelier, Vermont 05602. The purpose of this meeting will be to discuss the Block Grant study; the reports on Civil Rights Developments in Vermont, 1982, and Franco-Americans; and legislative action on civil rights related bills.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Philip H. Hoff, 192 College Street, Hoff, Wilson and PO, Burlington, Vermont, 05401, (802) 658-4300 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 28, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc 83-2817 Filed 2-1-83; 8:45 am]

BILLING CODE 6335-01-M

Virginia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Virginia Advisory Committee to the Commission will convene at 1:00 p and will end at 4:00 p, on March 8, 1983, in Room 311, at the City Hall, 301 King Street, Alexandria, Virginia 22314. The purpose of this meeting will be to conduct orientation for the new members of the Committee, and discuss program planning of activities for Fiscal Year 1983 and 1984.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Curtis W. Harris, 209 Terminal Street, Hopewell, Virginia 23860, (804) 458-7404 or the Mid-Atlantic Regional Office, 2120 L Street, North West, Room 510, Washington, D.C. 20037, (202) 254-6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 28, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-2819 Filed 2-1-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Stainless Steel Products From Brazil; Suspension of Countervailing Duty Investigations

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of suspension of investigations.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigations involving hot-rolled stainless steel bar, cold-formed stainless steel bar and stainless steel wire rod (certain stainless steel products) from Brazil. The basis for the suspension is an agreement by the government of Brazil to offset with an export tax all benefits which we find to be subsidies on exports of certain stainless steel products to the United States.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street

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and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Case History

On June 16, 1982, the Department received a petition from Al Tech Specialty Steel Corporation, Carpenter Technology Corporation, Colt Industries, Inc., Crucible Specialty Metals Division, Cyclops Corporation, Guterl Special Steel Corporation, Joslyn Stainless Steels and Republic Steel Corporation, filed on behalf of the U.S. industry producing certain stainless steel products. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of certain stainless steel products.

We found the petition to be sufficient and on July 6, 1982, we initiated countervailing duty investigations (47 FR 30274). We stated that we expected to issue preliminary determinations by September 9, 1982. We subsequently determined that the investigations are "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determinations for 65 days until November 15, 1982 (47 FR 40202).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiations. On August 2, 1982, the ITC determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 36038).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. On November 1, 1982, we received the response to that questionnaire. During December 13–17, 1982, we verfied this information by a review of government documents and company books and records of Companhia Acos Especiais Itabira (ACESITA), Acos Finos Piratini S/A (PIRATINI), and Acos Villares S/A (VILLARES), which represented over 85 percent of exports of certain stainless steel products to the United States. On November 15, 1982, we preliminarily determined that the government of Brazil was providing subsidies to manufacturers, producers, or exporters of certain stainless steel products under six programs. The programs preliminarily found to confer subsidies were the Industrialized Products Tax (IPI) export credit premium, preferential working capital financing for exports, income tax exemption for export earnings, long-term loans, IPI rebates for captial investment, and the Industrial Development Council (CDI) program.

Notice of the preliminary affirmative countervailing duty determinations was published on November 19, 1982 (47 FR 52207). We directed the U.S. Customs Service to suspend liquidation of all entries of the certain stainless steel products entered or withdrawn from warehouse, for consumption on or after November 19, 1982, and to require a cash deposit or bond in the amount of 12.50 percent of the f.o.b. value of the merchandise.

On December 28, 1982, the Department initialed a proposed agreement to suspend the countervailing duty investigations involving certain stainless steel products form Brazil. The basis for the proposed agreement to was that the government of Brazil would offset by an export tax the entire amount of benefits we found to confer subsidies on exports of certain stainless steel products to the United States.

On the same date, in compliance with the procedural requirements of section 704(e) of the Act, we discussed with the petitioners the proposed agreement and provided them a copy of the proposed agreement.

Scope of Investigations

The products covered by these investigations are hot-rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod. For a further description of these products, see Appendix A to this notice.

The period for which we are measuring subsidization is that fiscal year for each company which most closely corresponds to calendar year 1981. That period is calendar year 1981 for ACESITA and PIRATINI, and February 1, 1981 to January 31, 1982 for VILLARES. We have referred to these periods as fiscal year 1981 in this notice.

Petitioners' Comments

The Department has consulted with the petitioners, and received the following comments from them concerning the proposed suspension agreement. our responses are shown for each comment.

Comment 1: The petitioners argue that any agreement suspending these investigations should be an agreement eliminating injurious effect under section 704(c) of the Act, rather than an agreement to eliminate or offset completely a subsidy under section 704(b) of the Act. The petitioners contend that the Act states a preference for an agreement under section 704(c) in investigations where there are a large number of subsidy practices, the issues raised are novel and the suspension would be more beneficial to the domestic industry because the countervailing duty determined by the Department would not fully offset the price undercutting.

DOC Position: The statute provides alternate means by which the Department may suspend an investigation. We find no evidence whatsoever that the statute states a preference for one alternative over another. Further, the Department believes that a suspension agreement that will offset completely the net subsidy *a fortiori* eliminates any injury casued by the net subsidy.

Comment 2: The petitioners suggest that we add a provision to the proposed agreement requiring that the export tax be paid in full at the time of export. They contend that a delay in collection of the export tax would reduce the real value of the tax, given the high rate of inflation in Brazil.

DOC Position: The Department believes that the method of collection of the export tax to be used by the government of Brazil will completely offset the subsidy found to exist on the subject products. Brazil requires that the export tax be paid within 45 days of the last day of the month in which the merchandise is exported. This is the minimum amount of time for collection which is administratively feasible. For late payments (payments after 45 days), the government of Brazil imposes penalties sufficient to offset the amount of the benefit derived from the delay in payment. While we do not permit an offset to the IPI export credit (the only subsidy payable on date of export) because of the administrative delay in receipt of the credit, we have ascertained in other cases that the average time period for receipt of the credit is greater than the time period within which the Brazilian government will collect this export tax (which covers the credit and other benefits found to be subsidies). In monitoring the agreement, we will insure that either payment was made within 45 days or the appropriate penalty imposed.

Comment 3: The petitioners propose that we add to the list of programs for which the export tax must offset the benefits to the subject products programs that in other investigations we have found to confer subsidies with respect to other Brazilian products, that

is, subsidy programs which the Department preliminarily determined were not used by the manufacturers, producers, or exporters of stainless steel bar and rod products in Brazil. They request that we add a provision requiring that the export tax completely offset these or other programs which subsequently might be found to confer subsidies upon certain stainless steel products.

DOC Position: Paragraph B.1.g. of the proposed suspension agreement accounts for any program not specifically listed in the agreement which may subsequently be determined to confer subsidies upon the subject products. We believe it is unnecessary to enumerate such programs.

Comment 4: The petitioners propose that paragraph B.2. be modified to read: "The Government of Brazil certifies that no new or equivalent benefit shall be granted on the subject product as a substitute for *or in addition to* any benefits offset by the agreement."

DOC Position: The addition of the phrase "or in addition to" serves no useful purpose, because the proposed agreement adequately protects the domestic industry from additional benefit programs "subsequently determined by the Department to constitute a subsidy under the Act to the subject product." See paragraph B.1.g. of the agreement.

Comment 5: The petitioners request us to change the effective date of the export tax from March 31, 1983 to February 28, 1983.

DOC Position: The statute requires that the export tax which completely offsets the amount of the net subsidy be imposed within six months after suspension of the investigation. This agreement allows approximately two months for imposition of the tax, which the Department feels is a reasonable length of time.

Comment 6: The petitioners request us to modify paragraph C.3. to require that the government of Brazil certify to the Department the amount of the export taxes collected in each quarter-year within 15 days after the end of each preceding quarter. They further request that under section 751 of the Act, the Department verify information needed to monitor the agreement on a quarterly rather than an annual basis.

DOC Position: The requested certifications and quarterly verifications are unnecessary because paragraph C.1. is not limiting. The Department may request, at any time, any information it deems necessary for effective monitoring of the agreement.

Comment 7: The petitioners contend that the Department should have determined that certain fully-indexed long-term loans from the National Bank for Economic Development (BNDE) are countervailable because of an alleged lowered risk premium associated with such loans resulting from government participation. The petitioners claim that it is obvious that these loans are preferential because the Department, in its preliminary determinations, stated that the real interest rates for the BNDE loans were lower than those for other fully-indexed loans from FINAME, a program of BNDE for the purchase of captial equipment manufactured in Brazil. They suggest that we estimate the subsidy rate as the difference between the interest rates for the BNDE and FINAME loans.

DOC POSITION: As stated in the preliminary determinations in these investigations, as well as in other countervailing duty investigations involving steel products from Bazil, BNDE loans (including FINAME loans), when fully indexed, are not made at preferential rates. In explaining the difference in interest rates for these non-preferential loans, the Department pointed out that BNDE loans are granted directly form BNDE to the recipient, while FINAME loans are granted through commercial banks and therefore carry higher real interest rates than BNDE loans. The petitioners have incorrectly attributed this difference to an alleged risk premium factor rather than to a difference in the costs of obtaining a loan through an intermediary.

Comment 8: The petitioners state that a typographical error was made with respect to the calculation of the *ad valorem* subsidy rate stemming from those long-term loans which the Department determined to be countervailable. They claim that in order to determine the subsidy rate, the benefits to VILLARES should be divided by that company's sales and not by the total sales of all companies under investigation.

DOC Position: The calculation stated by the Department in its preliminary determination for this program was correct. VILLARES was the only company under investigation which received benefits from preferential long-term loans. By allocating the benefit to VILLARES under this program over the total sales of all companies under investigation, we derived the average benefit from this program for all of the products investigation. This is consistent with the methodologies employed with other countervailable programs in these and other countervailing duty investigations of products from Brazil.

Comment 9: The petitioners claim that the Department omitted an alleged countervailable loan to "Cobrasma."

DOC Position: The government of Brazil met the Department's requirements by responding to its questionnaire with information from three companies which produce and export over 85 percent of certain stainless steel products to the United States from Brazil. Cobrasma was not one of these companies. Therefore, the Department has not investigated any loans to Cobrasma.

Comment 10: Petitioners claim that the Department, in its preliminary determinations, failed to account for alleged subsidies stemming from government grants to, and equity participation in, the companies under investigation. The petitioners state that such allegations were made in their petition filed on June 16, 1982, and that these allegations were in addition to any subsidies due to government participation in long-term loans which the Department found to be countervailable.

DOC Position: In analyzing the petition filed in this case, the Department does not believe the statement from self-initiated carbon steel plate case against Brazil, that "annual allotments to the steel industry have risen to about $2.5 billion per year," reasonably can be interpreted as an allegation of government participation in addition to the more specific allegations concerning preferential long-term loans. Moreover, petitioners failed to provide in their petition or later during the investigation any information to support an allegation regarding grants or equity participation to certain stainless steel products, as they did regarding long-term loans.

Since the petitioners, to date, have failed to support these allegations (although the prescribed comment period following the publication of our preliminary determinations has expired), we do not have a sufficent basis to investigate these allegations further prior to the suspension of the investigations. The allegations may be reviewed under the provisions of section 751 of the Act.

In the certain carbon steel cases, the Department determined that neither government equity ownership *per se*, nor any secondary benefit to the company reflecting the private market's reaction to government ownership, conferred a subsidy (See 47 FR 39316–39319; September 7, 1982). Government ownership confers a subsidy only when it is on terms inconsistent with commercial considerations. An equity

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subsidy may arise, for instance, when the government makes equity infusions into a company which is sustaining deep or significant continuing losses and for which there does not appear to be any reasonable indication of a rapid recovery. It should be noted that in the countervailing duty investigation of carbon steel plate from Brazil the Department determined that equity participation in manufacturers, producers or exporters in Brazil of carbon steel plate by the government of Brazil did not confer countervailable benefits upon carbon steel plate. (See 43 FR 2568–2578; January 20, 1983).

Suspension of Investigations

The Department consulted with the petitioner and has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the agreement will offset the subsidies completely with respect to the subject merchandise exported directly or indirectly to the United States, that the agreement can be monitored effectively, and that the agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement, signed January 27, 1983, are set forth in Appendix B to this notice. Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of certain stainless steel products from Brazil effective November 19, 1982, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determinations, Certain Stainless Steel Products from Brazil," is hereby terminated.

Any cash deposits on entries of certain stainless steel products from Brazil pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an administrative review within 12 months of the anniversary date of publication of this suspension as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigations if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Dated: January 27, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

Appendix A: Description of products

Appendix B: Suspension Agreement—Certain Stainless Steel Products from Brazil

Appendix A—Certain Stainless Steel Products From Brazil

For purpose of these investigations:

1. The term "*stainless steel wire rod*" covers a coiled, semi-finished, hot-rolled stainless steel product of solid cross section, approximately round in cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured as currently provided for in item 607.26 of the *Tariff Schedules of the United States* (TSUS) or if tempered, treated, or partly manufactured as provided for in item 607.43 of the TSUS.

2. The term "*hot-rolled stainless steel bars*" covers hot-rolled stainless steel products of solid section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not coated or plated with metal as currently provided for in item 606.9005 of the *Tariff Schedules of the United States Annotated* (TSUSA).

3. The term "*cold-formed stainless steel bars*" covers cold-formed stainless steel products of solid section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9010 of the TSUSA.

Stainless steel is an alloy steel which contains by weight less than 1 percent of carbon and over 11.5 percent of chromium. Iron must predominate by weight and the alloy is malleable as first cast. Alloy steel is defined as a steel which contains one or more of the following elements in the quantity, by weight, respectively indicated:

over 1.65 percent of manganese, or
over 0.25 percent of phosphorus, or
over 0.35 percent of sulphur, or
over 0.60 percent of silicon, or
over 0.60 percent of copper, or
over 0.30 percent of aluminum, or
over 0.20 percent of chromium, or
over 0.30 percent of cobalt, or
over 0.35 percent of lead, or
over 0.50 percent of nickel, or
over 0.30 percent of tungsten, or
over 0.10 percent of any other metallic element

Appendix B—Suspension Agreement; Certain Stainless Steel Products From Brazil

Pursuant to section 704 of the Tariff Act of 1930, as amended (the Act), and § 355.31 of the Commerce Regulations, the United States Department of Commerce (the Department) and the government of Brazil enter into the following suspension agreement (the agreement) on the basis of which the Department shall suspend its countervailing duty investigations initiated on July 6, 1982 (47 FR 30274) with respect to certain stainless steel products from Brazil. The agreement shall be in accordance with the terms and provisions set forth below.

A. Scope of the Agreement

The agreement applies to certain stainless steel products manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States (hereinafter referred to as the "subject products"). "Certain stainless steel products" covers stainless steel wire rod, hot-rolled stainless steel bars and cold-formed stainless steel bars.

The term "stainless steel wire rod" covers a coiled, semi-finished, hot-rolled stainless steel product of solid cross section, approximately round in cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured as currently provided for in item 607.26 of the *Tariff Schedules of the United States* (TSUS), or if tempered, treated, or partly manufactured as provided for in item 607.43 of the TSUS. The term "hot-rolled stainless steel bars" covers hot-rolled stainless steel products of solid section having cross sections in the shapes of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9005 of the *Tariff Schedules of the United States Annotated* (TSUSA). The term "cold-formed stainless steel bars" covers cold-formed stainless steel products of solid section having cross sections in the shapes of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9010 of the TSUSA.

Stainless steel is an alloy steel which contains by weight less than 1 percent of carbon and over 11.5 percent of chromium. Iron must predominate by weight and the alloy is malleable as first cast. Alloy steel is defined as a steel which contains one or more of the following elements in the quantity, by weight, respectively indicated:

over 1.65 percent of manganese, or
over 0.25 percent of phosphorus, or
over 0.35 percent of sulphur, or
over 0.60 percent of silicon, or
over 0.60 percent of copper, or
over 0.30 percent of aluminum, or
over 0.20 percent of chromium, or
over 0.30 percent of cobalt, or
over 0.35 percent of lead, or
over 0.50 percent of nickel, or
over 0.30 percent of tungsten, or
over 0.10 percent of any other metallic element.

B. Basis of the Agreement

1. The government of Brazil hereby agrees to offset completely the amount of the net subsidy determined by the Department in this proceeding to exist with respect to the subject products. The offset shall be accomplished by an export tax applicable to the subject products exported on or after March 31, 1983. The export tax shall offset completely any benefits found to exist with respect to the following programs:

(a) Industrialized Products Tax (IPI) export credit premium,
(b) Resolution 674 financing,
(c) income tax exemption for export earnings,
(d) long-term loans,
(e) IPI rebates for capital investment,
(f) Industrial Development Council (CDI) program, and

(g) any other program subsequently determined by the Department to constitute a subsidy under the Act to the subject product.

The Department shall officially notify the government of Brazil of any determination made with respect to items (a) through (g) above.

2. The government of Brazil certifies that no new or equivalent benefits shall be granted on the subject product as a substitute for any benefits offset by the agreement.

3. The offset of these benefits does not constitute an admission by the government of Brazil that such benefits are subsidies within the meaning of the U.S. countervailing duty law.

4. The government of Brazil agrees that from the effective date of the suspension of the investigations and until the imposition of an export tax no later than March 31, 1983 that completely offsets the net subsidy determined by the Department to exist, the rate of exports of the subject product will not exceed the average monthly rate of exports to the United States in the period June 1981–May 1982. Exports in excess of this quantity will constitute a violation of the agreement pursuant to section 704(i) of the Act.

C. Monitoring of the Agreement

1. The government of Brazil agrees to supply to the Department documentation concerning the method and time of payment of the export tax and any other information the Department deems necessary to demonstrate full compliance with the agreement.

2. The government of Brazil shall notify the Department if any Brazilian exporters of the subject products which benefit from the programs described in paragraph B.1 regarding the manufacture, production or export of the subject products transship the subject products through third countries to the United States.

3. The government of Brazil shall certify to the Department within 15 days after the first day of each three-month period beginning on July 1, 1983, whether it continues to be in compliance with the agreement by offsetting completely the net subsidy referred to in paragraph B.1 and whether it has substituted any new or equivalent benefits for the benefits offset by the agreement. Failure to supply such information or certification in a timely fashion may result in the immediate resumption of the investigations or issuance of a countervailing duty order.

4. The government of Brazil shall permit such verification and data collection as is requested by the Department in order to monitor the agreement. The Department will request such information and perform such verification periodically pursuant to administrative reviews conducted under section 751 of the Act.

5. The government of Brazil shall promptly notify the Department, with appropriate documentation, of any change in the amount of benefits to the subject products, of any change in the rate of the export tax, or if it decides to alter or terminate its obligation with respect to any of the terms of the agreement.

6. If quantitative trade restrictions affecting U.S. imports from all or a substantial number of trading partners of the United States are implemented with respect to the merchandise covered by this agreement, the parties agree to consult concerning the possibility of modification or amendment of this agreement in such a fashion that will continue to meet the requirements of U.S. law in light of the quantitative restrictions or other types of relief then in effect. Pending any possible modification of this agreement, the terms of this agreement will remain in effect.

D. Violation of the Agreement

If the Department determines that the agreement is being or has been violated or no longer meets the requirements of section 704(b) or (d) of the Act, then section 704(i) shall apply.

E. Effective Date

The effective date of the agreement is the date of publication.

Signed on this 27th day of January, 1983 for the Government of Brazil.

José Alfredo Graça Lima,

Minister-Counselor, Brazilian Embassy.

I have determined that the provisions of paragraph B completely offset the subsidies that the government of Brazil is providing with respect to certain stainless steel products exported directly or indirectly from Brazil to the United States and that the provisions of paragraph C ensure that this agreement can be monitored effectively pursuant to section 704(d) of the Act. Furthermore, I have determined that the agreement meets the requirements of section 704(b) of the Act and suspension of the investigations is in the public interest.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-2822 Filed 2-1-83; 8:45 am]

BILLING CODE 3510-25-M

[A-412-027]

Diamond Tips for Phonograph Needles From the United Kingdom; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on diamond tips for phonograph needles from the United Kingdom. The review covers the two known exporters of this merchandise to the United States currently covered by the finding and the period April 1, 1981 through March 31, 1982. The review indicates the existence of dumping margins for one exporter.

As a result of the review, the Department has preliminarily determined to assess dumping duties for that one exporter equal to the calculated differences between United States price and foreign market value on each of its shipment during the period of review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 40678) the final results of its last administrative review of the antidumping finding on diamond tips for phonograph needles from the United Kingdom (37 FR 6665, April 1, 1972) and announced its intent to conduct the next administrative review by the end of April 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of diamond tips for phonograph needles ("diamond tips") consisting individually of an almost microscopic chip of diamond bonded to steel and shaped to fit into the grooves of a phonograph record. Diamond tips are currently classifiable under item 685.3400 of the Tariff Schedules of the United States Annotated.

The review covers the two known exporters of British diamond tips to the United States currently covered by the finding and the period April 1, 1981 through March 31, 1982.

Bauden Precision Diamonds Ltd. did not export diamond tips to the United States during the review period. The estimated antidumping duty cash deposit rate for Bauden shall be equal to the most recent rate for that firm.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to the date of importation. Purchase price was based on the ex-factory, packed prices. No adjustments were claimed or allowed.

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Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that, for the period April 1, 1981 through March 31, 1982, the following margins exits:

Exporter	Margin (percent)
Bauden Precision Diamonds Ltd....	[1]0
Diamond Stylus Ltd	6.56

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication on this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time period involved. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins shall be required on all shipments of British diamond tips for phonograph needles from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 25, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-2821 Filed 2-1-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

[Docket No. 21102-223]

Revision to Federal Information Processing Standard 86; Additional Controls for Use With ASC II

Correction

In FR Doc. 82-35213 beginning on page 57982 in the issue of Wednesday, December 29, 1982, make the following corrections:

1. On page 57982, in the last line of the second paragraph of the document, "ASD II" should have read "ASC II".

2. On page 57983, first column, under *Applicability,* in the 15th line, "of stand-" should have read "or stand-".

BILLING CODE 1505-01-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), will meet to discuss reports of the demersal finfish oversight and surf clam Mid-Atlantic liaison committees, as well as the ad hoc committee on gillnets; pelagics-new International Commission for the Conservation of Atlantic Tuna (ICCAT) guidelines; foreign fishing, as well as other fishery management and administrative matters. In addition, the majority of the second day of the Council's meeting will be devoted to discussion of the Regional Director's annual fact-finding report of the Atlantic sea scallop fishery.

DATES: The public meetings will convene on Tuesday, February 22, 1982, at approximately 10 a.m., and will adjourn on Wednesday, February 23, 1982, at approximately 5 p.m. The meeting may be lengthened or shortened, or agenda items rarranged, depending upon progress on the agenda.

ADDRESS: The public meetings will take place at King's Grant Inn, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route One), Saugus, Massachusetts, 01906, Telephone: (617-231-0422).

Dated: January 27, 1983.

Joe P. Glem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-2842 Filed 2-1-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Exempting From Import Levels Certain Cotton, Wool, and Man-Made Fiber Textile and Apparel Products Valued at U.S. $250 or Less, Produced or Manufactured in Poland

January 27, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Exempting from the levels of the bilateral agreement individual commercial shipments of cotton, wool, and man-made fiber textile and apparel products, produced or manufactured in Poland and valued at U.S. $250 or less which have been properly certified for exemption prior to exportation.

SUMMARY: Paragraph 9 of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 15, 1980 and March 20, 1981, between the Governments of the United States and the Polish People's Republic provides that shipments of textile and apparel products from Poland which are individually valued at U.S. $250 or less shall not be charged to the levels established under the terms of the bilateral agreement. Such shipments shall be accompanied by an exempt certification issued by the Government of Poland prior to exportation. A facsimile of the certification stamp is published as an enclosure to the letter to the Commissioner of Customs which follows this notice. Merchandise for the personal use of the importer, not for resale, does not require an exempt certification, regardless of value.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D. C. 20230 (202/377-4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 27, 1983.

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

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Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854) and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 15, 1980 and March 20, 1981, between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on February 2, 1983 and until further notice, to permit entry for consumption and withdrawal from warehouse for consumption of individual commercial shipments of cotton, wool, and man-made fiber textile products in Categories 300–369, 400–469, and 600–669, produced or manufactured in Poland and valued at U.S. $250 or less, which have been properly certified prior to exportation by the Government of the Polish People's Republic.

The certification will be an original rectangular stamped marking in blue ink on the front side of the invoice (Special Customs Invoice, successor document, or commercial invoice when such form is used). Each exempt certification will include its date and the signature of the official issuing the certification. A facsimile of the certification stamp is enclosed. Merchandise for the personal use of the importer and not for resale does not require an exempt certification, regardless of value.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of cotton, wool, and man-made fiber textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

This is to certify that the shipment valued at / _____is subject to exemption from the bilateral Agreement limits
MINISTRY OF FOREIGN TRADE
By Authorized Agent ·

[FR Doc. 83-2820 Filed 1-2-83; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Applicants for Registration as Associated Persons; No-Action Position

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of adoption of no-action position.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has determined not to take enforcement action with respect to any applicant for registration as an associated person ("AP"), based solely on the failure of such a person to be registered, if such person's application for registration was received by the Commission on or before November 18, 1982 and if certain other specified conditions are met. This "no-action" position supplements an earlier no-action position which was made available only to certain applicants for AP registration who were also registered with the National Association of Securities Dealers.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Rosenzweig, Assistant Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: The Commission is aware that the implementation of its new registration processing system has in certain instances delayed the granting of applications for registration, thereby precluding those individuals who have applied for registration as an associated person from engaging in activities which require registration.[1] As indicated above, the Commission has already adopted a no-action position with respect to certain applicants for AP registration. This earlier no-action position, however, is limited to those applicants for AP registration who are associated with a broker or dealer which is a member of the National Assoication of Securities Dealers, Inc. ("NASD") and who are themselves registered with the NASD as "registered representatives" or "registered principals." 47 FR 53764 (November 29, 1982).[2] As the Commission indicated at that time, the availability of that no-action position was limited to those APs "who have previously been determined by the NASD, under screening procedures similar to those of the Commission, to be fit to engage in the securities business * * *, [thereby] assuring that a fitness check exists for persons who are to engage in the commodity business."[3]

The recent enactment of the Futures Trading Act of 1982,[4] however, has now provided the Commission with the ability to grant temporary licenses to applicants for registration. Specifically, that legislation amends Section 8a(1) of the Act (7 U.S.C. 12a (1)) to authorize the Commission to "grant a temporary license to any applicant for registration with the Commission pursuant to such rules, regulations, or orders as the Commission may adopt * * *." This newly-enacted legislation therefore expressly contemplates that, subject to such limitations as the Comission may deem necessary, the Commission may permit an apparently-qualified applicant to commence his employment while the Commission checks the applicant's fitness for registration.[5]

The Commission has not yet developed the regulations and internal procedures necessary to permit the issuance of temporary licenses. In the interim, however, and as described more fully below, the Commission has determined to take no enforcement action based solely on the failure of an associated person to be properly registered if a properly completed application was received by the Commission on or before November 18, 1982.[6] The Commission is taking this action in order to "accelerate the opportunity for apparently qualified individuals who submit complete applications to the Commission to begin work while a fitness check is being conducted" [7] and to afford those individuals who did not qualify for the Commission's earlier no-action position a comparable opportunity "to commence

[1] *See* Section 4k of the Commodity Exchange Act ("Act"), 7 U.S.C. 6k.

[2] *See also* 47 FR 57286 (December 23, 1982); 47 FR 54528 (December 3, 1982).

[3] 47 FR at 53764–65 (footnotes omitted).

[4] Pub. L. No. 97–444 section 223, 96 Stat. 2310 (January 11, 1983).

[5] H.R. Rep. No. 97–964, 97th Cong., 2d Sess. 58 (Conference Committee 1982).

[6] The Commission's no-action positions are, of course, prospective in effect and do not in any way excuse or in any way mitigate the earlier failure of any person who may now qualify for such a no-action position to be registered in accordance with the requirements of the Act and the Commission's regulations thereunder. Furthermore, these no-action positions do not in any way affect any pending enforcement action.

[7] H.R. Rep. No. 97–964, 97th Cong., 2d Sess. 58–59 (Conference Committee 1982).

employment in the commodity futures or options business."[8]

Specifically, the Commission will not take any enforcement action against any applicant or futures commission merchant ("FCM") based solely on the failure or the applicant to be registered as an associated person of such FCM if:

(1) The FCM with whom the applicant for AP registration will be associated is a member of a registered futures association or of a contract market and the FCM provides the Commission with a written certification, signed by a senior officer of that FCM, stating that:

(i) The applicant's application for registration as an associated person was submitted to the Commission on or before November 18, 1982, specifying the date on which the application was submitted;

(ii) The applicant's application for registration included a properly completed "Sponsor's Certification" and that, consistent therewith, upon being granted registration, the applicant will be associated with an FCM which is a member of a registered futures association or of a contract market, or with an agent of such an FCM, and, until such time as that registration is effective (unless withdrawn or refused), the applicant will be "sponsored" by the FCM consistent with the provisions of Commission regulation 3.12 (17 CFR 3.12) as if registration has been granted;

(iii) The applicant's application for registration did not contain any self-declared derogatory information;

(iv) The FCM will cause the applicant to cease doing business as an associated person upon the termination of the no-action position for any reason other than the granting of registration; and

(2) The FCM with whom the applicant for AP registration will be associated receives from the Commission approval of the no-action request with respect to such applicant.

Certifications must be submitted to the Commission at its headquarters office (2033 K Street, NW., Washington, D.C. 20581. Attention: Andrea M. Corcoran, Director, Division of Trading and Markets). The Commission's Division of Trading and Markets will review each such certification for completeness and, where appropriate, may verify information submitted by sponsoring FCMs through coordination with the Securities and Exchange Commission, other Federal or state agencies, or by other appropriate means. The Commission requests that all requests for a no-action position include the social security number of the applicant for AP registration in order to expedite the Commission's processing of the request.

A no-action position, if granted, will become effective upon the return by the Commission's Division of Trading and Markets of a complete certification with respect to an applicant and, for FCMs sponsoring several APs, upon return of a list furnished by the FCM of all the AP applicants to which the FCMs completed certification applies. To assure notification to the affected parties of the Division's approval of a no-action request, each FCM is requested to furnish a duplicate copy of its certification and, for associated persons, the list of sponsored APs on whose behalf the FCM is seeking such relief. The Division will "time-stamp" the duplicate copy and will return it to the FCM.[9]

All such no-action positions granted by the Commission will terminate on April 30, 1983 or the earlier occurrence of any one of the following events: (1) Receipt by the FCM which sought a no-action position on behalf of an AP applicant of a notice from the Commission that the AP's registration has been granted; (2) receipt by the Commission of a termination notice (Form 8–T or U–5) from a sponsoring FCM indicating that an AP applicant has terminated his employment with the FCM, or receipt of any other notice from the FCM indicating that the FCM is withdrawing its certification as to the eligibility of an AP applicant for a no-action position; or (3) notice from the Division of Trading and Markets to the FCM which sought and obtained a no-action position on behalf of an AP applicant that the no-action position has been revoked with respect to such applicant.[10]

The Commission wishes to caution all FCMs seeking a no-action position on behalf of any AP applicants that, based on the principles of the law of agency in conjunction with the certification made by the FCM, as consistently applied by the Commission and the courts, an FCM is fully responsible for the acts of any AP applicants associated with it who obtain a no-action position with respect to violations of the Act or regulations thereunder by virtue of such cerrtification.

Issued in Washington, D.C. this 27th day of January 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83–2803 Filed 2–1–83; 8:45 am]

BILLING CODE 6351–01–M

[8] 47 FR 53784 (November 29, 1982).

[9] To facilitate such return, each FCM is requested to furnish the Division with a pre-posted, pre-addressed envelope for return of the duplicate list.

[10] The acquisition of a no-action position pursuant to the procedure described herein is voluntary Furthermore, the Commission's action constitutes a relief measure. The provisions of the Paperwork Reduction Act of 1980, Pub. L. No. 96–511, 94 Stat 2912 (44 U.S.C. 3501 *et seq.*), do not, therefore, apply.

Publication and Request for Comment on Proposed Amendments to Chicago Board of Trade Capital Requirements for Member Futures Commission Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of contract market rule proposals and request for public comment.

SUMMARY: The Chicago Board of Trade has submitted a proposal to amend its rules establishing minimum capital requirements for member futures commission merchants ("FCMs"). The proposed amendments would increase the adjusted net capital a member FCM must maintain by an amount equal to its guaranty deposits, if any, with clearing organizations other than the Board of Trade Clearing Corporation, to the extent such deposits cannot be used for margin purposes. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before April 4, 1983.

ADDRESS: Interested persons should submit their views and comments to: Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the Chicago Board of Trade Member FCM Net Capital Rules (Exclusion of Guaranty Fund Deposits).

FOR FURTHER INFORMATION CONTACT: Robert H. Rosenfeld, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581; (202) 254–8955.

SUPPLEMENTARY INFORMATION: By letters dated September 14 and November 29, 1982, the Chicago Board of Trade ("CBT") proposed to amend its minimum financial capital rules for

member FCMs. Such rule amendments must be approved by the Commission pursuant to sections 4f(2) and 5a(12) of the Commodity Exchange Act, 7 U.S.C. 6f(2) and 7a(12), before they may be ins effect for the FCMs. The proposed amendments would increase the adjusted net capital a member FCM must maintain by an amount equal to its guaranty deposits, if any, with clearing organizations other than the Board of Trade Clearing Corporation, to the extent such deposits cannot be used for margin purposes. The CBT believes that the proposed amendments are necessary due to Commission approval of rules concerning guaranty funds for the Comex Clearing Association, Inc., and CSC Clearing Corporation.[1]

Under Commission regulation 1.17(c)(2) (viii), guaranty deposits made by an FCM with clearing organizations are considered "current assets" for purposes of determining the FCMs net capital requirements. The CBT essentially contends, however, that in the event of the bankruptcy of an FCM, such guaranty deposits may be required to meet the FCM's obligations at another clearing organization and thus be unavailable to meet obligations at the CBT. In order to avoid such a potential deficiency, the CBT proposes to increase a member FCM's net capital requirement by the amount of any funds committed to another clearing organization's guaranty fund.

One of the proposed amendment (*i.e.*, to Section 201 (A) and (B) ("Minimum Requirements")) of Appendix 4B of the Chicago Board of Trade rules is printed below, showing deletions in brackets and additions in italics:

1. Amend Section 201 (A) and (B) to read as follows:

Each member FCM must maintain Adjusted Net Capital equal to or in excess of—

A. The greater of $50,000 or 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; *plus an amount equal to the guaranty deposits with clearing organizations, other than the Chicago Board of Trade, which were included in current assets under Section 211, to the extent such deposits can not be used for margin purposes.*

B. For Securities Broker Dealers, the greatest of $50,000, or 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and CFTC Regulations, exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account, or the amount of net capital specified in Rule 15c3–1(a) or the regulations of the Securities and Exchange Commission (17 CFR 240.15c–1(a)); *plus an amount equal to the guaranty deposits with clearing organizations, other than the Chicago Board of Trade, which were included in current assets under Section 211, to the extent such deposits can not be used for margin purposes.*

The remaining amendments to Sections 230(A)(2) (a) and (b) ("Equity Withdrawal"); Section 250 (B)(6)(c), (B)(7) and (B)(8)(a) ("Minimum Requirements for Subordination Agreements") and Section 251 (B), (E) and (F)(a) ("Miscellaneous Provisions—Subordination Agreements") similarly revise such Sections to reflect the proposed exclusion of guaranty deposits. The complete text of and justification for the proposed amendments can be obtained through the Division of Trading and Markets, Attention Robert H. Rosenfeld, by mail at the above address or by telephone at (202) 254–8955.

The Commission invites comments from intersted persons concerning the CBT's proposed financial protection rules. Comments should be directed to whether the CBT's proposed rules comply with the provisions of the Act and the Commission's regulations thereunder and should address specifically the manner in which these proposals would, or would not, further the public interest objectives and proposes of the Act. The commission also is soliciting comments on whether the proposals would represent the least anticompetitive means for the CBT to achieve its objectives and, if not, what other means the CBT could employ to achieve its desired results. To the extent possible, comments should be supported by appropriate economic data and statistical or factual analysis which will demonstrate the effect of the CBT's proposed rules on the business or financial operations of the commentator.

Interested persons should send written data, views or arguments on the amendments proposed by the CBT to Ms. Jane K. Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington D.C. 20581, by April 4, 1983. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on January 27, 1983 by the Commission.

Jane K. Stuckey,

Secretary of the Commission

[FR Doc. 83–2802 Filed 2–1–83; 8:45 am]

BILLING CODE 6351–01–M

[1] The Commission, *inter alia*, approved such rules of the CSC Clearing Corporation and Comex Clearing Association, Inc., on January 15 and 19, 1982, respectively. A description of these clearing organizations' guaranty fund proposals is provided at 46 FR 27366 (May 19, 1981) and 46 FR 15192 (March 4, 1981). *See also* 47 FR 50941 (November 10, 1982) (proposal by the New York Mercantile Exchange which, *inter alia*, would increase the required contribution to its Clearing House Guaranty Fund).

DEPARTMENT OF DEFENSE

Department of the Air Force

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondents; (5) And estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Questionnaire for System Safety Program Effectiveness Study

This information is needed to collect industry inputs concerning the effectiveness of Air Force system safety program conducted per MIL–STD–882. The survey results will be used to initiate necessary changes in directives and contract requirements guidance to improve effectiveness and eliminate waste.

All major aircraft and engine manufactures who contract to the Department of the Air Force: 16 responses, 256 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235,

NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD, DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

(A copy of the industry survey proposal may be obtained from Lt Col Don Ross, HQ AFISC/SES, Norton AFB, CA 92409, telephone (714) 382–4104)

Dated: January 28, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–2833 Filed 2–1–83; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

January 27, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee on the Potential Military Utility of a Manned National Space Station will meet at the Pentagon, Washington, DC on February 23–24, 1983. The purpose of the meeting will be to review the Air Staff views of the task and an initial overview by NASA of their Manned National Space Station program. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Darwin W. Berg,

Chief, Special Projects Branch, Administration Management Division, 1947 Administration Support Group.

[FR Doc. 83–2811 Filed 2–1–83; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Diked Disposal Area at the Crow Island State Game Area in Bay and Saginaw Counties, Mich.

AGENCY: Army Corps of Engineers, DoD

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

Proposed Actions

Sediments in the federally maintained portion of the Saginaw River have been determined by the Environmental Protection Agency to be unsuitable for open water disposal. At this time, a new confined disposal facility for Saginaw River dredged materials is required to replace the Middle Ground Island facility, which can no longer be used. The Detroit District has completed the preliminary site selection process. While other sites have been considered, two sites at the Crow Island State Game Area were the only ones acceptable to the Michigan Department of Natural Resources, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service and the Corps. The proposed disposal plan would involve wetland creation and enhancement, and other related features. The agencies have given conditional approval to this plan, pending their review of the results of contaminant uptake tests which are currently underway.

Alternatives

Five alternatives to the tentatively selected plan will be addressed in detail in the Draft Environmental Impact Statement:

(1) "Private Site #1". This site is a diked wetland along the river near Zilwaukee with a make-shift weir. The owner intends to fill the area.

(2) "Private Site #2". This site is a densely vegetated field south of the confluence of Cheboyganing Creek with the Saginaw River. The area has several pockets of wetland and has been used for dumping of some fill material.

(3) "Southeast Airport Site". This site at the James Clements Airport is owned by Bay City and consists mostly of open field.

(4) "Northwest Airport Site". This site is a diverse marsh with patches of open water. Bay City, the owner, wishes to fill the area and eventually develop it.

(5) The "No Action" Alternative. Should no project be constructed, Federal maintenance of the Saginaw River Channel could not continue.

Ten other sites were considered but did not warrant detailed consideration. These sites will be mentioned and discussed briefly in the DEIS.

Scoping Process

a. Public Involvement—A public workshop was held in July 1980 in order to encourage public participation in the study, and to obtain information concerning potential disposal sites. Coordination with Federal, State, and local officials has been, and will continue to be, maintained through a series of meetings and mailings.

b. Significant issues to be addressed in the EIS are:

(1) Impact of using Saginaw River dredged material, which is high in some contaminants, for a type of marsh creation project.

(2) Fisheries and benthos impacts which may result from the proposed project.

(3) Impact of sub-dividing an existing wetland unit and thereby increasing the State's ability to manage the area.

c. Other Environmental Review and Consultation Requirements—This project will be reviewed for compliance with the following:

Fish and Wildlife Act of 1956;
Fish and Wildlife Coordination Act of 1958;
National Historic Preservation Act of 1968;
National Environmental Policy Act of 1969;
Endangered Species Act of 1973;
Water Resources Development Act of 1976;
Executive Order 11990, Wetlands Protection, May 1977;
Executive Order 11988, Floodplain Management, May 1977;
Clean Air Act of 1977;
Clean Water Act of 1977;
Corps of Engineers, Department of the Army, 33 CFR Part 230, Environmental Quality;
Corps of Engineers, Department of the Army, Policy and Procedure for Implementing NEPA (ER 200–2–2).

Estimated Date of DEIS Release

It is anticipated that the DEIS will be available to the public in September 1983.

Address: Questions about the proposed action and DEIS can be answered by Ms. Barbara Schmitt, Environmental Analysis Branch, U.S. Army Corps of Engineers, Box 1027, Detroit, Michigan 48231.

Dated: January 24, 1983

Raymond T. Beurket, Jr.,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83–2770 Filed 2–1–83; 8:45 am]

BILLING CODE 3710–GA–M

President's Commission on Strategic Forces; Advisory Committee Meeting

The President's Commission on Strategic Forces will meet in closed

session on February 14, 15 and 16, at the Pentagon, Washington, D.C.

The mission of the Commission is to review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

Because of the significance of the project to national security and the urgent need for the Commission's recommendation, the President has directed that the Commission submit its report to him by February 18, 1983. Because of the stringent deadline imposed by the President, timely notice of the meeting cannot be provided.

Discussions during the meeting will involve classified matters of national security concern throughout. Such discussion cannot reasonably be segregated into separate classified and unclassified categories without defeating the effectiveness and purpose of the overall meetings.

Accordingly, consistent with Section 10(d) of Pub. L. 92-463, the "Federal Advisory Committee Act," and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

Dated: January 28, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-2834 Filed 2-1-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Desegregation of Public Education Program; Application Notice for New Projects for Fiscal Year 1983

Applications are invited for new projects under the State education agency (SEA) programs for race, sex, and national origin desegregation assistance under Section 403 of the Civil Rights Act.

Authority for this program is contained in Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c-2000c-5).

The program issues awards to State education agencies.

The purpose of the awards is to provide technical assistance, training, and advisory services to school districts in coping with the special educational problems caused by the desegregation of their schools based on race, sex, and national origin.

Closing Date for Transmittal of Applications

Applications for new awards must be mailed or hand delivered by March 18, 1983.

Applications Delivered by Mail

An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.004C, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturday, Sunday, or Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

The regulations provide specific criteria for awards in 34 CFR 270.17-19 (formerly 45 CFR 180.17-19). Applications will be evaluated under these criteria. The Secretary approves only those applications that received a score of at least 60 points on the criteria. The applicant should also refer to 34 CFR 270.11-15 (formerly 45 CFR 180.11-15) in the development of the grant application.

An SEA should submit separate applications for race, sex, or national origin desegregation assistance. SEAs that presently have awards are reminded that they must submit new applications for Fiscal Year 1983.

Available Funds

The Continuing Resolution for Fiscal Year 1983 provides $24 million for Title IV projects. Of this amount approximately $14,000,000 will be made available for approximately 110 new grants. The average award is projected to be $127,000.

These estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant.

Application Forms

Application forms and program information packages are expected to be ready for mailing by February 1, 1983. They may be obtained by writing to the Equity Training and Technical Assistance Program Staff, U.S. Department of Education, (Room 2011, FOB#6), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary urges that applicants not submitted information that is not requested.

The program information is intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulation

Regulations applicable to this program include the following:

(a) Regulations governing the Desegregation of Public Education program 34 CFR Part 270 (formerly 45 CFR Part 180).

(b) Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74 (Administration of Grants), 75 (Direct Grant Programs), 77 (Definitions), and 78 (Education Appeals Board).

For Further Information

For further information contact Jack Simms, Director, Equity Training and Technical Assistance Program Staff, U.S. Department of Education, (Room 2011, FOB#6), 400 Maryland Avenue,

S.W., Washington, D.C. 20202. Telephone: (202) 245–8484.

(42 U.S.C. 2000c–2000–5)

Dated: January 25, 1983.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83–2782 Filed 2–1–83: 8:45 am]

BILLING CODE 4000–01–M

Desegregation of Public Education Program; Application Notice for Noncompeting Continuation Projects for Fiscal Year 1983

Applications are invited for noncompeting continuation projects under the Desegregation Assistance Center (DAC) programs for race, sex, and national origin desegregation under Section 403 of the Civil Right Act.

Authority for this program is contained in Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c-2000c–5).

The purpose of the awards is to provide technical assistance, training, and advisory services to school districts in coping with the special educational problems caused by the desegregation of their schools based on race, sex, and national origin.

Closing Date for Transmittal of Applications

To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by March 18, 1983.

Applications Delivered by Mail.

An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.004D, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturday, Sunday, or Federal holidays.

Program Information

DACs are reminded that they must submit a continuation application for Fiscal Year 1983 if they are to be considered for funding.

Available Funds

The Continuing Resolution for Fiscal Year 1983 provides $24 million for Title IV projects. Approximately $10,000,000 will be used for the 40 continuation projects.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any project.

Application Forms

Application forms and program information packages are expected to be ready for mailing by February 1, 1983. They may be obtained by writing to the Equity Training and Technical Assistance Program Staff, U.S. Department of Education, (Room 2011, FOB#6), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the grant application packets.

The program information is intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations.

Applicable Regulations

Regulations applicable to this program include the following:

(a) Regulations governing the Desegregation of Public Education program 34 CFR Part 270 (formerly 45 CFR Part 180).

(b) Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74 (Administration of Grants), 75 (Direct Grant Programs), 77 (Definitions) and 78 (Education Appeals Board).

For Further Information

For further information contact Jack Simms, Director, Equity Training and Technical Assistance Program Staff, U.S. Department of Education, (Room 2011, FOB#6), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–8484.

(42 U.S.C. 2000c–2000c–5)

Dated: January 25, 1983.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83–2783 Filed 2–1–83: 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Petroleum Council, Chemical Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Chemical Task Group of the Committee on Enhanced Oil Recovery will meet in February 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Chemical Task Group meeting follows:

The Chemical Task Group will hold its third meeting on Thursday, February 10, 1983, starting at 10:00 a.m. in Room 112, Phillips Petroleum Company, Research Forum, Bartlesville, Oklahoma.

The tentative agenda for the Chemical Task Group Meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group Study Assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Chemical Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with

the Chemical Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 26, 1983

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83–2795 Filed 2–1–83; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery will meet in February 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Miscible Displacement Task Group meeting follows:

The Miscible Displacement Task Group will hold its third meeting on Wednesday and Thursday, February 9 and 10, 1983, starting at 9:00 a.m. in Room 1603, Mobile Exploration and Production Services, Inc., 7200 North Stemmons Freeway, Dallas, Texas.

The tentative agenda for the Miscible Displacement Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group Study Assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Miscible Displacement Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Miscible Displacement Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 26, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83–2794 Filed 2–1–83; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed; Week of December 24 Through December 31, 1982

During the Week of December 24 through December 31, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 25, 1983.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 24 through Dec. 31, 1982]

Date	Name and location of applicant	Case No	Type of submission
Dec. 28, 1982	Alkek/Adams/Mobil Oil Corp., Washington, D.C	HFD–0097, HFH–0097	Motion for discovery and request for evidentiary hearing. If granted: Discovery would be granted to Mobil Oil Corporation and an evidentiary hearing would be convened in connection with Mobil's refund application (Case No. RF6–24). *In re Alkek* (Case No. DFF–0002, and others) and *Adams Resources and Energy, Inc.* (Case No. BEF–0055 and others). The issue involved in the discovery and evidentiary hearing proceedings concerns the right of Entitlements Program participants to receive refunds with respect to alleged crude oil miscertifications.
Dec. 28, 1982	Department of Interior, Washington, D.C.	HEZ–0116	Interlocutory Order. If granted: Laketon Asphalt Refining, Inc. would be ordered to provide information requested by the Office of Hearings and Appeals in connection with the Application for Exception filed by the Department of the Interior (Case No. HEE–0051) with the Office of Hearings and Appeals.
Dec. 28, 1982	Little America Refining Co./Mobil Oil Corp., Washington, D.C.	HEJ–0029	Request for protective order. If granted: Mobil Oil Corporation would enter into a protective order with Little America Refining Company regarding release of proprietary information to Mobil in connection with Little America's year-end entitlements review proceedings (Case Nos. HYX–0006 and HYX–0014).
Dec. 29, 1982	O. B. Mobley, Jr., Lafayette County, Ark.	HEX–0071	Supplemental order. If granted: The Decision and Order issued to O. B. Mobley, Jr. on December 5, 1978 (Case No. DEE–1021) would be modified with respect to the disbursement of escrowed funds to the TOSCO Corporation.
Dec. 29, 1982	Pittsburgh-Des Moines Corp., Seattle, Washington.	HFA–0106	Appeal of an information request denial. If granted: The November 22, 1982 Information Request Denial issued by the Department of Energy would be rescinded, and Pittsburgh-Des Moines Corporation would receive access to a draft of a letter dated February 22, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Dec. 24 through Dec. 31, 1982]

Date	Name and location of applicant	Case No	Type of submission
Dec. 29, 1982	Sun Company, Inc., Houston, Tex	HRZ-0117	Interlocutory order. If granted: In view of the Consent Order entered into by Sun Company, Inc., the PRO issued to Mapco, Inc. (Case No. BRO-1457) would be partially dismissed with respect to overcharges attributable to Sun's working interest in Mapco's Sarasota property
Dec. 31, 1982	Dorothy J. Taylor, Bakersfield, Calif	HFA-0105	Appeal of an information request denial. If granted: The Information Request Denial issued by the Office of General Counsel would be rescinded, and Dorothy J. Taylor would receive access to the names and qualifications of the persons who gave expert testimony and a transcript of any testimony received by the DOE relating to a claim which she filed for injuries

NOTICES OF OBJECTION RECEIVED

[Week of Dec. 24, 1982 to Dec. 31, 1982]

Date	Name and location of applicant	Case No
12/28/82	Gulf States Oil & Refining Co., Houston, Tex.	HEE-0008

[FR Doc. 83-2796 Filed 2-1-83; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Determination of Annual Charges, Public Meeting—Falcon-Amistad Projects, Texas

AGENCY: Western Area Power Administration, DOE.

ACTION: Determination of Annual Charges, Public Meeting—Falcon-Amistand Projects, Texas.

SUMMARY: The Salt Lake City Area of the Western Area Power Administration (Western) markets the hydroelectric power and energy generated by the Amistad and Falcon Projects, which is available to the United States under the Treaty with Mexico of February 3, 1944, and under existing agreements between the United States and Mexico contained in minutes of the International Boundary and Water Commission (IBWC). IBWC constructed or is having constructed and will operate, maintain, and replace the facilities for generating the United States share of the hydroelectric power and energy at the Amistad and Falcon Projects.

Under Contract No. 7-07-50-P0890, Western (as successor in interest to the Bureau of Reclamation) must determine the rate for power and energy in the form of an annual charge in advance of the fiscal year to which it will pertain, in consultation with IBWC, and submit it to the contractors on or before August 31 of the year preceding the appropriate fiscal year in the form of a contract exhibit. Service under this contract is expected to be initiated in June

Western has determined the annual charges for FY 1983 and FY 1984 in Accordance with the terms of said Contract No. 7-07-50-P0890 which include:

1. A fixed annual payment for amortization of the Falcon facilities and the penstocks at Amistad Dam;
2. A fixed annual payment for amortization of the United States actual total cost related to the construction of the hydroelectric power features of the Amistad Project, not including penstocks; plus
3. the annual costs for operation, maintenance, replacement, and administration, related to the United States power facilities at the Falcon and Amistad Dams.

Western has determined the proposed annual charges for FY 1983 and FY 1984 to be $3,262,882 and $3, 285,882 respectively. However, the charge due and payable the first fiscal year is determined by multiplying the amount computed as set forth above by the ratio that the number of days following the date of initial service until the end of the fiscal year bears to the total number of days in said year. Assuming initial service begins June 1, 1983, the ratio would be 122/365 of the FY 1983 figure above, or $1,090,607. Dividing the charge into equal monthly amounts would result in a monthly charge for FY 1983 of $272,652, with the first payment due July 1, 1983. The monthly charge for FY 1984 would be $273,824.

Since the computations of the annual charges are necessarily based on certain assumptions and estimates, it will be necessary to adjust the annual charges as actual data becomes available. The need for making such adjustment s will be considered quarterly, but normally will be made only at the end of each fiscal year unless significant differences between estimated and actual information result in the need to make an adjustment as quickly as possible.

In determining the annual charges, major replacements will be capitalized in the fiscal year in which the replacement is made and will be amortized and paid for over the life of the replacement unless the life of the replacement extends beyond the expiration date of the contract. Any unpaid replacement costs shall be due and payable on the date of the expiration of the contract. Any unpaid replacement costs shall be due and payable on the date of the expiration of the contract. Minor replacements are included in annual operation and maintenance expenses.

DATES: Since the intial interpretation of the contract terms by Western will establish the basis for determining all future annual charges, Western representatives will explain the methods that will be used to determine the proposed annual charges and to adjust them and will answer questions at a public meeting which will be held on February 10, 1983, beginning at 2:30 p.m. Interested parties will be given the opportunity to make comments and suggestions at the same meeting. In addition, written comments on the FY 1983 and 1984 annual charges received in the Salt Lake city Area Office, at the address given below, by March 10 1983, will be given consideration.

ADDRESSES: The public meeting on February 10, 1983, will be held at the Ramada Inn, 2101 Avenue F, Del Rio, Texas.

FOR FURTHER INFORMATION CONTACT: Marlene A. Moody, Assistant Area Manager for Power Marketing, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, Utah 84147, Telephon: (801) 524-5497.

Documents used to develop the proposed annual charges will be available in Western's Salt Lake City Area Office at 438 East 2nd South, Suite #2, Salt Lake City, Utah.

Background

The Falcon Dam is an international storage project located on the Rio Grande River About 130 miles upstream form Brownsville, Texas.

The powerplant owned by the United States at Falcon Dam has a generating capacity of 31.5 megawatts.

The Amistad Powerplant is currently under construction at Amistad Dam, located about 300 miles upstream from the Falcon Dam. The Amistad Powerplant is being constructed by the

corps of Engineers, as agent for IBWC. Western is responsible for the marketing of power from the Falcon and Amistad Powerplants, and for the administration of Contract No. 7–07–50–P0890. Contract No. 7–07–50–P089. will become effective no later than 1 month after IBWC is ready to provide service from the Amistad Powerplant. This contract, dated August 9, 1977, commits the output of both the Falcon and Amistad Powerplants to South Texas Electric Cooperative, Inc. (STEC) and Medina Electric Cooperative, Inc. (MEC). The contract under which power from Falcon Powerplants has been sold will terminate concurrently with the effective date of Contract No. 7–07–50–P089. In payment for transmission service, STEC and MEC have agreed to provide a portion of the capacity and energy available to them to the Central Power and Light Company (CPL), and CPL has agreed to resell a portion of that power to the city of Brownsville, Texas. IBWC expects Unit No. 1 of the Amistad Powerplant to be operational in June 1983, and the second unit is scheduled for operation in August 1983.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory Flexibility analysis to describe the impact of the proposed rule on samll entities. In this instance, the determination of the annual charges for power from the Falcon and Amistad Projects relates to nonregulatory services provided by Western at a particular rate.

Under 5 U.S.C 601 (2), rates or services of particular applicability are not considered "rules" within the meaning of the act. Since the charges for Falcon and Amistad power are of limited applicability and are being accomplished in accordance with specific legislation and are being accomdance with specific legislation under particular circumstances, Western believes that no flexibility analysis is required.

National Environmental Policy Act

Western has made a determination based upon environmental considerations of the proposed rules that this action is not a significant action in the context of the National Environmental Policy Act, and that it will not lead to any significant environmental impacts.

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of the Executive Order 12291.

Issued at Golden, Colorado, January 28, 1983.

Robert L. McPhail,

Administrator.

[FR Doc. 83–3013 Filed 2–1–83; 10:20 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–306; PH–FRL 2292–2]

Certain Companies; Pesticide, Food, and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, food, and feed additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments to the product manager (PM) cited in each petition at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number [PF–306] and the petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide, food, and feed additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

A. Initial Filing

1. *PP 3F2785.* FMC Corporation, 2000 Market St., Philadelphia, PA 19103. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the insecticide carbosulfan, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl-[(dibutyl-amino)thio] methylcarbamate; its cholinesterase-inhibiting metabolites, 2,3-dihydro-2,2-dimethyl-7-benzpfuranyl-*N*-methylcarbamate (carbofuran), 2,3-dihydro-2, 2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methycarbamate, and 2,3-dihydro-2,2-dimethyl-3-keto-7-benzofuranyl-*N*-methylcabamate; its phenolic metabolites, 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3-dihydro-2,2-dimethyl-7-benzofurandiol; and its metabolite di-*n*-butylamine which will not exceed the following levels in or on the raw agricultural commodities green alfalfa and alfalfa hay. Green alfalfa: at 26 parts per million (ppm) total, (of which no more than 3 ppm is carbosulfan, 10 ppm cholinesterase-inhibiting metalolites, and 9 ppm of the metabolite di-*n*-butylamine). Alfalfa hay: at 50 ppm total, (of which no more than 3 ppm is carbosulfan, 25 ppm cholinesterase-inhibiting metabolites, and 15 ppm of the metabolite di-*n*-butylamine). Meat, fat, and meat byproducts (except liver and kidney) of cattle, goats, hogs, horses, and sheep: at 1.1 ppm total, (of which no more than 0.02 ppm is carbosulfan and its cholinesterase-inhibiting metabolites, and 1.0 ppm is the metabolite di-*n*-butylamine). Liver and kidney of cattle, goats, hogs, horses, and sheep: at 8.1 ppm total, (of which no more than 0.02 ppm is carbosulfan and its cholinesterase-inhibiting metabolites, and 8.0 ppm is the metabolite di-*n*-butylamine). Milk: at 1.6 ppm total, (of which no more than 0.02 ppm is carbosulfan and its cholinesterase-inhibiting metabolites, and 1.5 ppm is the metabolite di-*n*-butylamine). The proposed analytical method for determining residues is by alumina and gel-liquid chromatography using a nitrogen phosphorus detector. (PM 12, Jay Ellenberger, 703–557–2386).

2. *PP 3F2793.* Union Carbide Corp., T.W. Alexander Drive, Research Triangle Park, NC 27709. Proposes amending 40 CFR 180.407 by establishing tolerances for the combined residues of the insecticide thiodicarb (dimethyl *N,N'*-[thiobis[[(methylimino)-carbonyl]oxyl]]bis[ethanimidothioate] and its metabolite methomyl, *N,*-((methylcarbamoyl)thioacetimidate in or

on the raw agricultural commodity soybeans at 0.2 ppm. The proposed analytical method for determining residues is by liquid chromatography. (PM 12, Jay Ellenberger, 703–557–2386).

3. *FAP 3H5378.* Union Carbide Corp. Proposes amending 21 CFR 561.386 by establishing a regulation permitting the combined residues of the insecticide thiodicarb and its metabolite methomyl in or on the commodity soybean hulls at 0.8 ppm. (PM 12, Jay Ellenberger, 703–557–2386).

4. *FAP 3H5377.* Ciba-Geigy Corp., PO Box 18300, Greensboro, NC 27419. Proposes amending 21 CFR Part 561 by establishing a regulation permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, each expressed as metalaxyl in or on dried citrus pulp at 6.0 ppm and citrus molasses at 5.0 ppm in connection with an experimental use program. (PM-21, Henry Jacoby, 703–557–1900).

5. *FAP 3H5377.* Ciba-Geigy Corp., PO Box 18300, Greensboro, NC 27419. Proposes amending 21 CFR Part 193 by establishing a regulation permitting the combined residues of the metalaxyl and its metabolite in citrus oil at 7.0 ppm in connection with an experimental use program. (PM-21, Henry Jacoby, 703–557–1900).

6. *FAP 3H5379.* Rhone-Poulenc, Inc., PO Box 125, Monmouth Junction, NJ 08852. Proposes amending 21 CFR Part 193 by establishing a regulation permitting the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidine-carboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] in or on raisins at 180 ppm in connection with an experimental use program. (PM 21, Henry Jacoby, 703–557–1900).

B. Amended Petition

PP 2F2720. Ciba-Geigy Corp. EPA issued a notice published in the **Federal Register** of August 25, 1982 (47 FR 37289) that announced that Ciba-Geigy Corp. had submitted a pesticide petition 2F2720 to the Agency proposing to amend 40 CFR 180.368 by increasing and/or establishing tolerances for the combined residues of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl) acetamide] and its metabolites determined as 2-[2-ethyl-6-methylphenyl)-amino]-1-propanol and 4-(2-ethyl-6-methylethyl)-2-hydroxy-5-methyl-3-morpholinons, each expressed as parent metolachlor, in or on the raw agricultural commodities as follows:

(1) Increase the established tolerance levels in or on corn fodder and forage from 1.0 ppm to 6.0 ppm and in or on soybean fodder and forage from 2.0 to 6.0 ppm.

(2) Establish tolerances for residues in or on liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.05 and 0.2 respectively.

The Ciba-Geigy Corporation has amended the petition by raising the tolerance levels for corn fodder and forage and soybean fodder and forage from 6.0 ppm to 8.0 ppm and deleting the proposed tolerance for kidney of poultry. The proposed analytical method for determining residues is gas chromatography. (PM-23, Richard Mountfort, 703–557–1830).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136)), (Sec. 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: January 18, 1983.

Robert V. Brown,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-2271 Filed 2-1-83; 8:45 am]

BILLING CODE 6560-50-M

[PF-307 PH-FRL 2292-1]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment and withdrawal of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number (PF–307) and the specific petition number. All written comments filed in response to this notice will be available for public manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide petitions relating to the establishment and withdrawal of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

A. Initial Filing

1. *PP 3F2803.* E.I. du Pont de Nemours & Company, Wilmington, DE 19898. Proposes amending 40 CFR 180.253 by establishing tolerances for the residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy]thioacetimidate) in or on the raw agricultural commodity rice at 0.5 part per million (ppm). Proposed analytical method for detemining residues is by gas chromatography. (PM–12, Jay Ellenberger, 703–557–2386).

2. *PP 3F2802.* ICI Americas, Inc., Agricultural Chemicals Division, Concord Pike & New Murphy Road, Wilmington, DE 19897. Proposes amending 40 CFR Part 180 by establishing tolerances for the residues of the insecticide permethrin (3-phenoxyphenyl) methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate in or on the raw agricultural commodity peaches at 5.0 ppm. The proposed analytical method for determining residues is by gas chromatography. (PM–17, Franklin D. R. Gee, 703–557–2690).

B. Withdrawal of Petition

PP 6F1753. EPA issued a notice published in the **Federal Register** of April 1, 1976 (41 FR 13984) that announced that Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852 (formerly Rhodia Inc., Agricultural Division, 23 Belmont Dr., Somerset NJ 08873), had filed pesticide petition 6F1753 with the Agency. This petition proposed the establishment of a tolerance for residues of the insecticide phosalone (*S*-[6-chloro-3-(mercaptomethyl-2-benzoxazolinone)*o,o*-diethy phosphorodithioate) including its oxygen analog in or on the raw agricultural commodity alfalfa at 100 ppm. The petitioner has withdrawn this petition without prejudice to future filing. (PM–12, Jay Ellenberger, 703–557–2386).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C 136))

Dated: January 13, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-2272 Filed 2-1-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-36, et al.]

Art Broadcasting Corp. and Freddie Gauthier Broadcasting Co.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: January 21, 1983.

Released: January 25, 1983.

In the matter of applications of ART BROADCASTING CORPORATION, Naranjito, Puerto Rico MM Docket No. 83-36, File No. BPCT-820525KE, and FREDDIE GAUTHIER BROADCASTING COMPANY, Toa Baja, Puerto Rico, MM Docket No. 83-37, File No. BPCT-820824KO; for construction permit.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television station on Channel 64, Naranjito, Puerto Rico or Toa Baja, Puerto Rico.[1]

2. Art Broadcasting Corporation (Art) specifies Naranjito as its community of license and Freddie Gauthier Broadcasting Company (Gauthier) specifies Toa Baha as its community of license. Consequently, it will be necessary to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, whether a new station in Naranjito or Toa Baja would better provide a fair, efficient and equitable distribution of television service. If the Section 307(b) issue is not determinative (the applicants would serve substantial areas in common), both applicants can be considered under the comparative issue.

4. The Commission has not received a determination from the Federal Aviation Administration that Gauthier's proposed tower height and location would not constitute a hazard to air navigation. Accordingly, and appropriate issued will be specified.

5. The proposed tower for Gauthier is to be located 0.97 mile from the directional tower of AM radio station WBMJ, San Juan, Puerto Rico. Because of the proximity of the proposed tower to WBMJ, any grant of a construction permit to Gauthier will be conditioned to ensure that WBMJ's radiation pattern is not adversely affected by the construction of the proposed station.

6. The material submitted in Gauthier's application does not demonstrate the applicant's financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of the release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, Docket No. 82-378 (released July 15, 1982.) [2]

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Freddie Gauthier Broadcasting Company whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

3. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of television service.

4. In the event it is concluded from Issue 3, above, that a choice between applicants should not be based solely on considerations relating to Section 307(b), to determine which proposal would, on a comparative basis, better serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to Issue 1.

10. It is further ordered, That in the event of a grant of Freddie Gauthier Broadcasting Company's application, the construction permit shall contain the following condition:

Prior to the construction of the TV tower authorized herein, permittee shall notify AM station WBMJ so that the AM station may determine operating power by the indirect method and, if necessary, request temporary authority from the Commission in Washington to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the TV tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the array of the AM station has not been adversely affected. The results shall be submitted to the Commission and the AM station. Thereafter, the TV station may commence *Limited Program Tests.*

11. It is further ordered, That Freddie Gauthier Broadcasting Company shall submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

12. It is further order, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, whithin 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence of the issues specified in this Order.

13. It is further order, That the applicants herein shall, pursuant to Section 311(a) (2) of the

[1] Channel 64 is assigned to Vega Baja, Puerto Rico. Naranjito and Toa Baja are located within 15 miles of Vega Baja. Accordingly, under § 73.607 of the Commission's Rules, Channel 64 is available for use in Naranjito or Toa Baja.

[2] Gauthier states that it is presently negotiating for financing.

Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-2789 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-35, et al.]

Celcom Communications Corp. of Georgia, et al., Designating Applications for Consolidated Hearing on Stated Issues

In the matter of applications of Celcom Communications Corp. of Georgia, CC Docket No. 83-35, File No. 26161-CL-P-(11)-82, Cellular Mobile Systems of Georgia, Inc., File No. 26178-CL-P-(11)-82, Gencom Incorporated, File No. 26032-CL-P-(7)-82, Maxicom, Inc., File No. 26076-CL-P-(10)-82, and Unit Telecommunications Systems, Inc., File No. 26122-CL-P-(12)-82; for a Construction Permit to establish a cellular system to operate on frequency Block A in the Domestic Public Cellular Radio Telecommunications Service to serve the Atlanta, Georgia, modified Standard Metropolitan Statistical Area.

Memorandum Opinion and Order Designating Applications for Hearing

Adopted January 21, 1983.

Released January 26, 1983.

1. Presently before the Chief, Common Carrier Bureau, acting under delegated authority, are: (a) The captioned applications of Celcom Communications Corp. of Georgia (Celcom), Cellular Mobile Systems of Georgia, Inc. (CMS), Gencom Incorporated (Gencom), Maxicom, Inc. (Maxicom), and Unity Telecommunications Systems, Inc. (Unity) to construct a cellular radio system to serve the Atlanta, Georgia modified Standard Metropolitan Statistical Area (SMSA); and (b) various motions, petitions, pleadings and amendments related to the applications.[1]

2. Except with respect to the applications of Unity and Maxicom, we find that petitions fail to raise any substantial and material issues requiring designation for hearing. These applications are electrically mutually exclusive; accordingly, we are designating them for a comparative hearing in accordance with the Commission's special hearing procedures for cellular radio applications announced in the Commission's *Report and Order* in CC Docket No. 79-318, 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), *further modified*, 90 FCC 2d 571 (1982). We are designating certain basic qualifying issues against Maxicom and Unity to be considered in the comparative hearing. Finally, we are requiring the CMS, Gencom and Unity applications to be modified as set forth below.

Celcom Application

3. Maxicom and CMS filed petitions against the Celcom application. Both petitioners argue that Celcom has failed to demonstrate site availability and has failed to show that it is financially qualified.

4. In its Opposition, Celcom responds that at the time that it filed its application, it had reasonable assurance that the proposed sites would be available, and it continues to have such assurance. As for its financial qualifications, Celcom explains that it will need a maximum of $9.3 million to cover the construction costs and operating expenses of its Atlanta cellular system.[2] To demonstrate its ability to meet these estimated costs, Celcom submitted in its application a bank letter from Michigan National Bank indicating its willingness to act as the lead bank in a consortium of banks, consisting of holding company affiliates of Michigan National Bank, Mellon Bank and Pittsburgh National Bank, which would lend Celcom $9.5 million. With its Opposition, Celcom provided a second letter from the Michigan National Bank emphasizing that all three banks will participate in the loan and that the loan is adequately secured by Celcom's parent, Associated Communications of America, Inc.

5. After carefully reviewing the Celcom application and the related pleadings, we conclude that Maxicom and CMS have failed to raise any substantial and material issues. Celcom has provided reasonable assurance of site availability. *See Alabama Citizens for Responsive Public Television, Inc.*, 59 FCC 2d 1 (1976); *Beep Communications Systems, Inc.*, Mimeo 16536, Common Carrier Bureau, released April 19, 1979. Celcom has identified the site locations and has indicated that, based on signed statements, it has a good faith belief that all cell sites are available. None of the petitioners has demonstrated that any of the sites would not be available to Celcom. Absent specific evidence rebutting Celcom's showing, we find that Celcom has adequately demonstrated site availability.

6. We also conclude that Celcom is financially qualified to construct and operate the proposed facility. While the petitioners claim that Celcom has failed to adequately estimate its construction and operating costs, Celcom explains in great detail in its Opposition the particulars of its cost estimates. Furthermore, Celcom's letter from Michigan National Bank provides reasonable assurance that the bank consortium will provide $9.5 million for Celcom's proposed cellular system. *See Multi-State Communications, Inc. v. FCC*, 590 F.2d 1117 (D.C. Cir. 1978), *cert. denied*, 440 U.S. 959 (1979). The Michigan National letter identifies the particpating banks and contains the basic payment terms and the formula for the interest rate. The petitioners argue that the loan commitment should be disregarded because it is unclear whether all the banks identified will participate in the loan and whether the proposed loan is adequately secured. These same arguments were raised against Celcom in Pittsburgh and were rejected in our recent *Pittsburgh Order*.[3] Further, Celcom has submitted a letter from the Michigan National Bank which unequivocally states that all three banks have agreed to participate and that the loan is adequately secured. Accordingly, no further consideration of this issue is warranted.

CMS Application

7. Celcom and Maxicom filed petitions against the CMS applications alleging that CMS is not financially qualified and that there are unresolved character qualification issues pending against the parent of CMS, Graphic Scanning Corp. (Graphic), in *A.S.D. Answer Service, Inc., et al. (ASD)*, CC Docket Nos. 82-587 to 590, FCC 82-391, released August 24, 1982. Maxicom also argues that the CMS application should be dismissed because CMS has failed to present a proper direct case.

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[1] Two applications were also filed requesting the wireless allocation (frequency block B) in this SMSA. The two applicants have filed a settlement agreement for this SMSA. *See* Public Notice, Mimeo 383, Report No. CL-4, released October 22, 1982. We will consider the wireline allocation in a separate order

[2] The costs include $6,006,000 for equipment, $161,740 for antenna towers and $3,166,000 for the pre-operating and first year operating expenses.

[3] Advanced Mobile Phone Service, Inc. *et al. (Pittsburgh Order)*, CC Mimeo 1169, released December 6, 1982

6. We are not persuaded by the petitioners' arguments. In the application, CMS estimated that it will need $8,222,000 in capital construction, other pre-operating and first year operating costs. To cover these costs, CMS relies upon a commitment from Graphic for $7 million. In *Advanced Mobile Phone Service Inc., et al. (Chicago Order),* FCC 82–452, released November 1, 1982, the Commission found Graphic and its subsidiaries to be financially qualified to construct and operate the 30 cellular systems it proposes, including the Atlanta system. The petitioners have not raised any arguments with respect to CMS' Atlanta application that were not thoroughly considered in the *Chicago Order.* In addition, the Commission has already held that the character of Graphic would be examined in the *ASD* proceeding and would not be included in cellular application proceedings. *Chicago Order,* at n. 19. *See also* note 21 and para. 38, *infra.*

9. Finally, we find absolutely no merit to Maxicom's argument concerning alleged infirmities in CMS' direct case. Maxicom argues that sponsoring witness affidavits are deficient because they do not identify the specific portion of each exhibit that is being sponsored. Maxicom also argues that CMS' exhibits are not properly paginated. These allegations are frivolous. CMS' direct case submission does not contravene any of the Commission's hearing procedure rules, 47 CFR 1.201–1.364. Thus, dismissal of the CMS application is not appropriate. The issues raised by Maxicom are evidentiary matters that may be considered at the hearing.[4]

Gencom Application

10. Maxicom, Celcom and CMS filed petitions against the Gencom application. Maxicom and Celcom argue that Gencom is not financially qualified. In the application, Gencom estimates the cost to construct and operate the Atlanta facility to be $7,151,000. The capital requirements for Gencom's six top-30 cellular proposals is $32,329,068.[5] To finance these proposals, Gencom relies upon a $30 million line of credit from InterFirst Bank Dallas, N.A. (formerly the First National Bank in Dallas), $20 million in internal funds from Communications Industries, Inc. (CI),[6] and letters from four investment brokers indicating that CI will be able to arrange public equity financing of $40 million. The petitioners dispute the liquidity of Gencom's existing current assets, and the availability of Gencom's future cash flow and its equity financing.

11. In response to the petitioners' objections, Gencom submitted an amendment dated September 13, 1982, which provided a second letter of credit from InterFirst for an additional $30 million. On November 5, 1982, this amendment was returned as unacceptable for filing because it modified the financial plan in a major, material respect.[7] Accordingly, we have not considered this additional source of funds in evaluating Gencom's financial qualifications. Also on September 13, Gencom submitted an amendment to its San Diego application in which it takes the position that its original financial showing should only be applied to the capital requirements for its six top-30 applications. Gencom asserts that the funding requirements for the remaining cities would be met with its second bank commitment.

12. Because we have been evaluating cellular applicants' financial resources in terms of the top-30 SMSAs, we conclude that only Gencom's six top-30 applications need be considered at this time. However, we are unable to verify the capital spending analysis for the six markets contained in the San Diego amendment. Gencom's estimate does not correspond with the aggregate of construction and operating costs for its six proposals (Ex. 9, Tables 9–1–1 and 9–2–1 in each application). Accordingly, for purposes of our analysis here, we have substituted the figure $32,329,068 based on the information in the six applications.

13. After carefully reviewing the material presented, we conclude that Gencom is financialy qualified to meet its commitments for six top-30 cellular proposals. First, Gencom provides a letter from InterFirst Bank that establishes an irrevocable $30 million line of credit, of which $27,898,632 is available for cellular operations. The letter contains all essential details of the loan, including the interest rate, the monthly payments, and the repayment terms. The petitioners have not disputed the availability of this loan. Under applicable precedent, this letter is acceptable as reasonable assurance that $27,898,632 will be available to Gencom. *See Multi-State Communications Inc. v. FCC, supra.* Second, a review of CI's most recent balance sheet (dated March 31, 1982) indicates that CI has net liquid assets of approximately $9 million.[8] In this regard, we agree with the petitioners' claim that CI's projection of future cash flow of $10 million must be disregarded. Gencom's analysis to arrive at its estimate of future cash is too speculative to be considered. However, we disagree with the petitioners' claim that CI's accounts receivable should not be considered. Gencom has submitted an affidavit from its vice president of finance, who is a certified public accountant, which indicates that he has aged CI's accounts receivable and found the average period of collection to be 55 days. Accordingly, based on past Commission precedent, at least 75% of Gencom's accounts receivable may be counted as part of net liquid assets. *See Kaiser Broadcasting,* 62 FCC 2d 246 (1977).

14. In summary, we find that Gencom has demonstrated under applicable precedent reasonable assurance that $36,893,632 will be available to cover approximately $32 million cost of construction and operating its proposed cellular systems. *See Multi-State Communications, Inc. v. FCC, supra.* Gencom thus has a cushion of nearly $4.6 million to cover any minor omissions or shortfalls of funds for this market or its other five cellular proposals.[9] Accordingly, we find Gencom to be financially qualified in its six top-30 market proposals. Any financial issues relevant to specific markets will be resolved in the order dealing with that specific market.

15. *Other matters.* CMS argues that Gencom's application is defective because Gencom included equipment charges in its proposed schedule of charges, despite the Commission's decision that charges for mobile equipment were to be detariffed, and because it did not file engineering data concerning point-to-point microwave links interconnecting its cells. These arguments are without merit. Gencom has explained that its application clearly states that it will offer cellular mobiles at prevailing competitive rates; that its charges were filed in response to

[4] CMS has not specified a control point in the application in accordance with Section 22.909 of the Rules. CMS will be required as an amendment to specify its proposed control point.

[5] Gencom proposes cellular systems in Atlanta, Phoenix, San Diego and Tampa. Gencom is also a participant in joint ventures in Dallas-Ft. Worth and St. Louis. The $32.3 million figure is derived by adding the construction and operating costs for the six top-30 proposals (Ex. 9, Tables 9–1–1 and 9–2–1 in each application).

[6] CI is parent company of Gencom.

[7] A similar amendment to the San Diego application, File No. 28034–CL–P–(10)–82, had been returned on August 31, 1982.

[8] Net liquid assets are the excess of current assets readily convertible to cash over current liabilities. *See Chicago Order,* at para. 8.

[9] Gencom also relies on equity financing of $40 million to provide additional funds for its cellular proposals. The petitioners dispute the availibility of these funds. Because we have found that Gencom has sufficient resources without this equity commitment, we do not reach this question.

the requirements in the Form 401; and that they were not intended to be a formal tariff. With regard to the argument concerning the microwave links, Common Carrier Public Notice, Mimeo 567, November 1, 1982, at page 3, stated that applicants need not include in their applications the associated microwave applications and/or authorizations to connect the cell sites with the system control station to meet the required basic qualifications, and that no comparative preference would be accorded to an applicant submitting such interconnection information. The Public Notice reflects the absence of any requirement in the cellular rules, specifically, or in Part 22 of the rules, generally, that applicants specify the method of connecting transmitter sites with switches and control points. In any case, Gencom has explained that it will file its microwave applications in sufficient time so that the microwave links will be available at the time of the grant of its cellular construction permit.[10]

16. There is one final matter that we are raising on our own motion, which concerns two pending antitrust law suits, one concerning Gencom, and the other concerning its parent, CI. In Exhibit 10.4 of the application, Gencom informed us that it is a defendant in a civil antitrust suit in which it is alleged that Gencom attempted to monopolize the radio common carrier market in Florida.[11] This action has been dismissed once for failure to state a cause of action; a revised complaint has been filed and is still pending. By amendment filed August 3, 1982, Gencom informed us that a civil antitrust action has been filed in Texas against CI and others.[12] The defendants have moved to dismiss this complaint. While the Commission traditionally has been reluctant to inquire into the allegations pending in another forum, it is the Commission's usual practice to condition any award to take into account the pending litigation. *Peoples Broadcasting Corporation, et al.*, 68 FCC 2d 1569, 1573–74 (1978). We will include a condition here and in each other city for which Gencom has applied, but we emphasize that it would be premature to examine this matter in a cellular comparative hearing.

Maxicom Application

17. CMS filed a petition to deny the Maxicom application, alleging that the application failed to include an exhibit explaining the applicant's projected method of system expansion (Section 22.193(a)(4)) and the criteria that the applicant will use to determine whether cell-splitting is warranted (subsection (a)(5)). In its reply, Maxicom clarified the information describing its projected method of system expansion and referenced a July 23, 1982, amendment which described its criteria for cell-splitting. However, on August 13, 1982, Maxicom's July 23 amendment was returned as major because portions of it contained additional information which was not presented in the original application. Maxicom did not resubmit the information concerning cell-splitting.[13]

18. We have reviewed Maxicom's application and the related pleadings. Based on our review, we conclude that the applicant has provided sufficient information concerning its projected method of system expansion. However, because Maxicom's application did not sufficiently describe its criteria for cell-splitting, and the July 23 amendment containing such information was returned as unacceptable, we conclude that Maxicom has failed to provide the information required by § 22.913(a)(5) of the Rules. Accordingly, we will designate an issue whether Maxicom's application provides criteria for cell-splitting and, if not, the effect on Maxicom's technical qualifications. The Administrative Law Judge may use our summary procedures to resolve this issue if Maxicom submits an appropriate amendment.

Unity Application

19. CMS, Maxicam and Celcom filed petitions against the Unity application. The petitioners argue that Unity is not financially qualified, and raise objections to various aspects of the applicant's technical proposal. Additionally, the staff has reviewed the Unity application and indentified a number of inconsistencies or defects in the technical portion of the application. For the reasons described below, we are designating a site availability issue against Unity.

20. *Financial Qualifications.* In the application, Unity estimates $7,765,000 will be required to construct its Atlanta cellular facility, and $2,725,000 will be necessary to operate the facilities for one year. To cover these costs, as well as the costs for its four other top-30 markets (Philadelphia, Miami, Tampa, and Detroit), Unity relies upon a letter from Faneuil Hall Associates specifiying $50 million in venture capital financing, a credit letter from Freedom National Bank of New York for $50 million, and a letter of credit from Chemical Bank for an unspecified amount. The petitioners claim that these letters cannot be considered because they do not contain sufficient detail and are too speculative. In the Phiadelphia Order,[14] the Bureau examined similar arguments and found them to raise a substantial and material question of fact about Unity's financial ability. In view of this conclusion, the Bureau designated for hearing an issue concerning Unity's overall financial package. We will not designate an identical issue here because we want to avoid duplicative litigation. However, we will consider the ultimate finding as to Unity's finacial qualifications in the *Philadelphia* proceeding to be dispositive of the issue, and we reserve the right to reexamine and reconsider any authorization to Unity in the event that Unity's Atlanta application is granted as a result of the comparative hearing.[15]

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[10] The CGSA map submitted by Gencom is not to the proper scale. Gencom will be required to submit, as an amendment, the information requested by § 22.903(A) on one or more U.S. Geological survey map(s) with a scale of 1:250,000.

[11] Westside Communications of Tampa, Inc. v. Gencom Incorporated, Fla. Circuit Court (Hillsborough County), filed September 16, 1981.

[12] Radio Relay Corporation—Texas v. D/FW Signal, Inc., *et al.*, No. CA3 82–0677 G (N.D. Tex., filed June 7, 1982).

[13] On August 23, 1982, Maxicom did resubmit several portions of its July 23, 1982, amendment, together with a Memorandum in support of the amendment. Maxicom argues that the amendatory material was either inadvertently omitted or duplicated material already on file. Specifically, Maxicom attempts to add a statement describing the blocking rate of the proposed system, an explanation concerning the method used for assigning signaling channels, and a statement concerning its maintenance proposal. After carefully reviewing the application and the amendments, we conclude that, with the exception of the portion of the amendment dealing with Maxicom's signaling channel plan, these amendments are minor. The portion of the amendment concerning Maxicom's plan for the signalling channels is, however, major. While Maxicom argues that the requested material was inadvertently omitted from the application, the omission is not apparent on the face of the application, and Maxicom has not demonstrated by reference to other portions of the application that the omitted information was prepared prior to the filing of the application. *Compare* Continental Telephone Company of Illinois, Mimeo 4166, Common Carrier Bureau, released May 21, 1982 (information contained in amendment was used in other parts of the application demonstrating that the information was prepared prior to filing of the application). Accordingly, we are returning Maxicom's August 23, 1982, amendment. These portions of the amendment that are minor may be resubmitted within 15 days of publication of this order in the Federal Register.

[14] Advanced Mobile Phone Service, Inc., *et al. (Philadelphia Order)* CC Mimeo 1882, released January 21, 1983.

[15] However, the petitioners in this proceeding may file a motion for limited intervention in the *Philadelphia* proceeding on the financial issue. *See Philadelphia Order*, at note 3.

21. *Technical qualifications.* All petitioners claim that Unity has failed to demonstrate site availability. In addition, Maxicom argues that Unity failed to provide adequate antenna sketches, and CMS argues that Unity failed to designate Site L (Kennesaw Mountain) as a major environmental action. Celcom argues that Unity failed to provide sufficient environmental information concerning two sites that Unity indicated were major environmental actions, and that the proposed Cellular Geographic Service Area (CGSA) of Unity does not conform with the Commission's 75% Rule.[16]

22. Unity responded that arguments concerning lack of site availability are unsupported by the facts and law. Citing *Alabama Citizen for Public Television, Inc., supra,* Unity argues that when site discussions are actively continuing, the applicant may make a good faith representation that reasonable assurance of site availability exists. With regard to the major environmental action arguments, Unity contends that it submitted all information required by Section 1.1305 of the rules. Unity further argues that its request to use the Kennesaw Mountain site would be filed with the appropriate governmental body. With respect to Maxicam's argument concerning antenna profile sketches, Unity argues that all cell sites will have one of the three antenna structures submitted in the application. Unity also argues that, 39 dBu contour is also its CGSA. Finally, Unity argues that, even if there are deficiencies in its application, they form no basis for denial; Unity contends that it has an absolute right to provide clarification and this should take place in the comparative hearing.[17]

23. *Site availability.* While we agree with Unity that the Commission's rules and policies only require an applicant to demonstrate a good faith belief of site availability, Unity has not made such a showing. In neither the application nor the reply did Unity indicate that it ever contacted potential site lessors or owners. In fact, in Section 3, p. 38, Unity admits "* * * there was not sufficient time to identify an ideal cellular site, visit the site, retain a realtor, law firm, etc. to secure the right to the site * * *." In addition, in reviewing the materials submitted in the Unity application, the staff has identified several apparent inconsistencies with respect to site availability.[18] When these factors are all viewed collectively, we conclude that Unity has not adequately demonstrated reasonable assurance of site availability under the prevailing standard. *See Sampson Broadcasting Co., Inc.,* 52 FCC 2d 954, 959 (1975), and *Silver Beehive Telephone Company,* 35 FCC 2d 333, 337–38 (Rev. Bd. 1972). Accordingly, an appropriate issue will be designated. The Administrative Law Judge may use our summary procedures to resolve this issue if Unity submits amendments showing reasonable assurance and correcting the inconsistencies mentioned above.

24. *Major Environmental Actions.* We have reviewed Unity's application, and we conclude the portion of the application that deals with Site L (Kennesaw Mountain) is a major environmental action in accordance with § 22.913(a)(1) of the Rules. The Kennesaw Mountain National Battlefield Park is listed in the National Register of Historic Places. In accordance with § 1.1305(a)(6)(iii) of the Rules, Unity's proposal to construct this antenna tower is a major action. Therefore, Unity will be required to submit to the presiding Administrative Law Judge (ALJ) an environmental statement which supplies the information required by Section 1.1311 of the Commission's Rules. *See, e.g., Decatur Foursquare, et al.,* BC Docket No. 81–664, BC Mimeo 3538, released September 24, 1981; *Comark Television, Inc., et al.,* 46 FR 24296 (April 30, 1981). If it is determined that Site L will be available to Unity and that construction will have a significant adverse impact on the human environment, the ALJ should consider this issue in conjunction with the site availability issue that we are designating. Meanwhile, the remaining portions of this hearing should proceed without any further delay. Finally, we find no merit to Celcom's argument that Unity failed to provide sufficient environmental information concerning Site A (Hopewell Church) and Site B (Oakdale). Unity's description, although very brief, meets the requirements of § 1.1311 of the Rules.

25. *Antenna profile sketches.* In its application, Unity has submitted three "representative" vertical profile sketches (Exhibit E–14). Unity, however, never identifies which sketch applies to each specific location. We, therefore, instruct Unity to submit to the ALJ an amendment containing a separate sketch for each cell location.

26. *Effective radiated power.* In reviewing the Unity application, the staff has found that the figures for effective radiated power (ERP) are inconsistent with the calculated ERP or transmission line loss figures given in Exhibit E–13. We will therefore require Unity to submit an amendment to the ALJ, which provides the correct figures for losses between the transmitter and the antenna for each location in order to clarify the apparent discrepancies in ERP.

27. *CGSA.* Celcom argues that the Unity application should be dismissed for failure to meet the 75% rule.[19] This argument is based on the fact the Unity's CGSA is not drawn on the contour map submitted in the application. In its reply, Unity claims that the CGSA is the coverage of its 39 dBu contours. While we cannot sanction Unity's approach, we will nevertheless not dismiss Unity's application on this ground. We will, however, require Unity to submit to the ALJ an amendment consisting of a new map which includes the following information: (a) All cell sites plotted; (b) 39 dBu contours for each site; (c) CGSA boundary; and (d) SMSA boundary. The map must indicate pertinent border information to determine proper station plotting of all cell sites.

28. The defects discussed above, when taken individually, appear for the most part to be minor, and some of them will be resolved by amendments which we have instructed Unity to file. Upon considering the technical defects in the aggregate, the engineering proposals for the various cell sites show a lack of detail and consistency. We have decided, however, not to designate a technical qualifications issue. Instead, we will designate a site availability issue and permit the other technical matters discussed above to be resolved through the normal comparative process. Under this approach, many of the technical questions may be satisfactorily answered through resolution of the site availability issue. If, however, the ALJ should determine that technical deficiencies remain, he will be able to award comparative demerits where appropriate.[20]

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[16] Section 22.903(a) of the Rules requires an applicant's 39 dBu contours to cover 75% of the total CGSA.

[17] CMS also contends that the digital transmission rate specified in Unity's technical proposal will render Unity's cellular system incompatible with cellular systems in other markets, in violation of the commission's cellular rules. We find that Unity has adequately responded to the petitoner's allegations on this matter. *See* Philadelpha Order, at para. 10. In any event, a system operated by Unity or any other licensee will be subject to the rules' compatibility requirement.

[18] For example, in Section 3, Unity indicates that most cell sites are to be installed on existing structures, while in Exhibit E–1, only two of the 12 sites show existing structures.

[19] *See* note 16, *supra.*

[20] Because we are adding these qualifying issues, we will suspend the procedural deadline in § 22.916(b)(4) and allow the Administrative Law Judge to require such additional evidence as may be necessary. *See* para 36, *infra.*

Conclusions

29. Based on our analysis of the applications and our resolution of the contested issues in this order, we find that, except as indicated above, the applicants are legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems. As indicated in our previous discussions, the captioned applications of CMS, Unity and Gencom do not comply with one or more of the cellular rules. In the *Chicago Order*, at para. 17, the Commission determined that inflexible application of the rules to applications in the 30 largest markets would not be in the public interest. Accordingly, we are requireing these applicants to bring their applications into conformance with the rules as specified in this order. The applicants who filed mutually exclusive applications may address these amendments in their rebuttal cases. We emphasize that the amendments ordered here may not be used to give the applicants a comparative advantage in the hearing proceeding. As the Commission stated in the *Chicago Order*, in markets for which application have not yet been filed, strict conformance with the rules will be required, and absent unusual circumstances, the applicants will not be allowed to amend nonconforming applications.

30. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the application of Celcom Communications Corp. of Georgia, File No. 26161–CL–P–(11)–82, Cellular Mobile Systems of Georgia, Inc., File No. 26178–CL–P–(11)–82, Gencom Incorporated, File No. 26032–CL–P–(7)–82, Maxicom, Inc., File No. 26078–CL–P–(10)–82, and Unity Telecommunications Systems, Inc., File No. 26122–CL–P–(12)–82, are designated for hearing in a consolidated proceeding upon the following issues:[21]

(a) To determine whether Maxicom's application provides criteria for cell-splitting required by § 22.913(a)(5) and, if not, the effect on Maxicom's technical qualifications;

(b) To determine whether Unity has demonstrated site availability for all of its sites, and to determine the environmental impact of construction of site L if that site proves to be available to Unity and it is determined that Site L will have a significant adverse impact on human environment;

(c) To determine on a comparative basis the geographic area and population that each applicant proposes to serve;[22] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(d) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;[23]

(e) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities);[24] and

(f) To determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

31. It is further order, That the burden of proceeding with the introduction of evidence upon the cell-splitting issue (para. 31(a)) and the site availability issue (para. 31(b)), and the burden of proof, shall be upon Maxicom and Unity, respectively.

32. It is further ordered, that the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[25]

33. It is further ordered, that the applicants shall file written notices of appearances under § 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the **Federal Register**.

34. It is further ordered, that the hearing shall be held according to the procedures specified in § 22.916 of the Rules, except as otherwise noted here, at a time and place and before an Administrative Law Judge to be specified in a later order.

35. It is further ordered, that exceptions to the initial decision of the Administrative Law Judge under § 1.276 of the Commission's Rules shall be taken directly to the Commission.

36. It is further ordered, that CMS, Gencom, and Unity are directed to file the conforming amendments specified in this order within 15 days after publication of this order in the **Federal Register** and that the date for filing rebuttal cases under § 22.916(b)(4) of the Rules is deferred pending establishment of procedural dates by the Administrative Law Judge. Procedures for deciding the qualifying issues designated against Maxicom and Unity shall be determined by the Judge in his or her discretion.

37. It is further ordered, that, except to the extent granted in this order, the Petitions to Deny filed by Maxicom, Celcom and CMS are denied.

38. It is further ordered, that any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of

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[21] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of all applicants except Unity. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). With the exception of Unity, we have found the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Georgia, Inc. or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing. A.S.D. Answer Service, Inc. *et al. (ASD)*, FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 38, *infra*, the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Georgia, Inc. to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals. *See* Chicago Order, at n. 19.

[22] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metroplitan Statistical Area. Consideration should be given to the presence of densely populated regions, highways, and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[23] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502–503.

[24] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[25] Members of the separated trial staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. *See* Communications Act of 1934 as amended section 409(c) (47 U.S.C. 409(c)); Administrative Procedure Act section 554(d) (5 U.S.C. 554(d)); § 1.1221 of the Commission's Rules.

that company's qualifications to hold a cellular license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82–391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

39. It is further ordered, that any authorization granted to Unity as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's financial qualifications as determined in *Advanced Mobile Phone Service, Inc., et al. (Philadelphia Order)*, CC Mimeo 1882, released January 21, 1983.

40. It is further ordered, that any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances.

41. It is further ordered, that any authorization granted to Gencom shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following final disposition of the antitrust litigation cited in para. 16, *supra*, and shall be specifically conditioned on the outcome of those proceedings.

42. This order is issued under Section 0.291 of the Commission's Rules and *Order Delegating Authority*, FCC 82–435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under § 1.106 or applications for review under § 1.115 of the Rules may be filed within the time limits specified in those sections. See also Rule 1.4(b)(2).

43. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83–2790 Filed 2–1–83; 8:45 am]

BILLING CODE 6712–01–M

[FCC 83–9; MM Docket No. 83–12, et al.; File No. BP–810406AA et al.]

Dena Pictures Inc. and Alexander Broadcasting Co. et al.; Applications for Construction Permit; Hearing Designation Order

In the matter of applications of Dena Pictures, Inc. and Alexander Broadcasting Co. a joint venture d/b/a Kaye-Smith Enterprises KXL, Portland, Oregon Has: 750 kHz, 50 kW, DA–1, L-WSB, Req: 750 kHz, 10 kW 50 kW-LS, DA–2, U (MM Docket No. 83.12, File No. BP–810406AA); Mountain West Broadcasting Inc, Park City, Utah, Req: 750 kHz, 1 kW, 5 kW-LS, DA-N, U (MM Docket No. 83–13 File No. PB–810427AP) and Eastern Utah Broadcasting Company, Koal, Price, Utah, Has: 1230 kHz, 250 W, 1 kW-LS, U, Req: 750 kHz, 10 kW, DA-N, U (MM Docket No. 83–14, File No. BP–810831AM).

Adopted: January 13, 1983.

Released: January 24, 1983.

1. The Commission has under consideration: (a) The above-captioned mutually exclusive applications for AM broadcast stations; (b) a petition to deny the application of Dena Pictures, Inc. and Alexander Broadcasting Co., a joint venture d/b/a Kaye-Smith Enterprises (Kaye-Smith), filed by Pioneer Broadcasting Company, Inc., licensee of co-channel station KFQD, Anchorage, Alaska; (c) a petition to deny the application of Eastern Utah Broadcasting Company (Eastern Utah) filed by Kaye-Smith; (d) a petition to deny Eastern Utah's application filed by Dart, Inc., licensee of AM station KRPX, Price, Utah (Dart); (e) a request for waiver of § 73.21 of the Commission's Rules filed by Kaye-Smith and; (f) related pleadings. [1]

2. *Consolidation Issues: Kaye-Smith.* Kaye-Smith's petition requests consolidation of its application with that of Eastern Utah because, while Kay-Smith's nighttime proposal would have a normally protected contour of 10 mV/m, Eastern Utah's proposal would increase this to 12.55 mV/m. As Eastern Utah correctly maintains, its application and Kaye-Smith's present proposal (i.e. 10 kW nighttime power) are not mutually exclusive, as Kaye-Smith would be able to provide principal city service to Portland even with the higher nighttime limit resulting from Eastern Utah's proposal. However, the possibility exists that Kaye-Smith's application may not be granted as proposed.

3. Since the Kaye-Smith proposal does not provide service to substantial white areas, § 73.21(a)(2)(ii)(C) imposes a nighttime power limit of 1 kW. Contending that 10 kW, rather than 1 kW, is necessary to provide 10 mV/m nighttime coverage of Portland in compliance with § 73.24(j), Kaye-Smith has requested waiver of the nighttime power limit rule. (see paragraph 11 *infra*). If waiver is not granted, Kaye-Smith's 10 mV/m contour at 1 kw will not cover all of Portland at night, and a waiver of § 73.24(j) will be necessary. To the extent that Eastern Utah's proposed operation reduces Kaye-Smith's coverage at 1 kW, it will bear upon the resolution of this waiver request. [2] Hence, consolidation is appropriate.

4. The status of Kaye-Smith's station KXL as a limited-time station also requires consolidation with the other proposals. Including KXL, there are twelve limited-time stations, all of them providing some nighttime service either immediately before local sunrise or after local sunset, depending upon the location of the dominant co-channel station. For example, KXL operates for a time prior to local sunrise in Portland with its full daytime power. This operation by an essentially daytime-only station is permitted because the skywave signal of WSB, Atlanta, Georgia, the dominant station on 750 kHz, is not adversely affected by KXL's operation due to the time difference between local sunrise in Atlanta and Portland.

5. Our action in *Clear Channel Broadcasting in the AM Broadcast Band, (Clear Channel Broadcasting)* 78 FCC, 2d 1345, *recon. granted in part and denied in part*, 83 FCC 2d 216 (1980), aff'd *sub nom. Loyala University* v. *FCC*, 670 F. 2d 1222 (D.C. Cir. 1982), dramatically affects the ground rules regarding future limited-time operation of these dozen stations. For example, if KXL is not granted a license to operate on a full-time basis, the present partial nighttime operation of KXL may be effectively eliminated, as KXL may be unable to provide the required nighttime protection to the sucessful unlimited-time applicant(s) in the instant proceeding, as well as to WSB. [3] Recognizing this problem, we contemplated, in our Report and Order, " . . . the inauguration of a separate rule making proceeding inviting comment on whether, and if so, under what conditions, we should accept and consider applications for unlimited-time

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[1] The related pleadings include a letter from Cox Broadcasting Corporation, licensee of co-channel AM station WSB, Atlanta, Georgia contending that the Mountain West and Eastern Utah proposals would cause interference to WSB's then pending minor change proposal and that, therefore, the applications are mutually exclusive. This request was mooted by Cox's subsequent withdrawl of its proposal. Further, all applicants have requested extensions of time to file pleadings which extensions are hereby granted.

[2] The information before us does not indicate KXL's nighttime coverage at 1 kW operating power.

[3] KMMJ, Grand Island, Nebraska and WHEB, Portsmouth, New Hampshire also operate as limited-time stations on 750 kHz. While KMMJ's limited-time operation would curtail a portion of Eastern Utah's proposed white area service, it would not prevent grant of its application. Further, neither Eastern Utah's nor any of the other proposals would affect KMMJ's limited-time operation. Therefore, it is unnecessary to consider KMMJ's limited time operation in relation to these applications. WHEB's operation would be unaffected by the instant proposals.

stations," which would curtail the nighttime operations of the limited-time stations. *Clear Channel Broadcasting*, 78 FCC 2d 1345, 1373.

6. On reflection we realize however that general rule making would be unproductive and inappropriate. There are only a small number of limited-time stations and the consideration of each entails technical considerations and possibilities peculiar to its relationship with relevant existing stations on that frequency and the proposals for new stations. Therefore, ad hoc consideration of each individual limited-time operation is by far the preferable course. Hence we will specify an issue regarding the necessity of modifying the license of KXL with respect to its limited-time operation, pursuant to Section 316 of the Communications Act of 1934, as amended.[4]

7. *The Pioneer Broadcasting Petition.* Pioneer Broadcasting contends that the Kaye-Smith proposal would cause interference to its nighttime operation, reducing its coverage by 6,000–7,000 square miles. While petitioner concedes that this omitted area lies outside of its normally protected contour, it cites the unique qualities of Alaskan broadcasters and the necessity of Kaye-Smith's obtaining a waiver to operate as proposed as warranting more extensive protection for its operation.

8. We do not agree. It is well established that a station is entitled to protection from interference only to its normally protected contour and is not entitled to protection outside of that contour. *Big River Broadcasters*, 44 FCC 1671 (1959), *aff'd sub nom. Interstate Broadcasting Co., Inc.* v *FCC*, 280 F 2d 626 (D.C. Cir. 1960). While the Commission has made special provisions concerning facilities in Alaska, these provisions relate only to the relaxation of certain acceptability separation standards for new applications and are predicated upon existing conditions in Alaska, i.e. the wider spacing between stations in the State's large area, rather than upon a need for more coverage. See *Broadcast Station Assignment Standards*, 19 FCC 2d 472, 486 (1969); *Broadcast Station Assignment Standards* 39 FCC 2d 645, 678–679 (1973). Alaskan stations are specifically held to their normally protected nighttime contours in all respects.

9. *The Dart, Inc. Petition.* Petitioner contends that, due to the proximity of Eastern Utah's proposed site to its existing site (1.28 miles), reradiation will occur, causing interference to Dart's operation. Therefore, Dart requests either denial of the Eastern Utah application or conditioning of any grant. In opposition, Eastern Utah argues that Dart's contentions are factually unsupported and that, in any event, it intends to take preventive measures against reradiation, including adding a "trap" network to its non-directional tower, matching network and "floating" its directional tower.

10. We normally impose reradiation conditions only where an existing station's non-directional tower is located within 0.5 miles of the proposed antenna. The instant situation is outside that parameter. Further, since Dart's KRPX is a daytime-only station and both it and the applicant would be non-directional daytime, we do not believe that the proposed directional facility necessitates the requested conditions. Therefore, the petition is denied.

11. *The Kaye-Smith Waiver Request.* Kaye-Smith proposes 10 kilowatts nighttime power. Recognizing that § 73.21(a)(2)(ii)(C) limits new class II–B stations on the clear channels to a 1 kW nighttime power, KXL requests waiver of the rule. The Commission has adopted a strict standard for waiver requests of this nature, however. Thus waivers will be granted only upon a showing that the higher power proposed is necessary to provide principal city service and will not impede our allocation objectives. While Kaye-Smith has established compliance with the first part of this test, it has not sufficiently supported its claim that the higher power will not preclude other possible co-channel, unlimited time Class II assignments. Therefore, an appropriate issue will be specified.

12. *The Mountain Proposal.* Mountain proposes to serve the city of Park City, Utah, population 2,823. However, its proposed 5 mV/m contour would substantially cover the city of Salt Lake City, Utah, a community of more than 50,000, whose population of 163,033 is over twice that of of Park City. Under the circumstances, a presumption arises that the applicant intends to serve the larger community rather than the smaller specified one. See *Policy Statement on 307(b) Considerations*, 2 FCC 2d 190, *reconsid. denied*, 2 FCC 2d 866 (1965); *AM Station Assignment Standards*, 54 FCC 2d 1, 21–22 (1975). An appropriate issue will be specified.[5]

13. Mountain's local notice of the filing of its application did not include the names of all officers, directors and persons holding 10% or more interest in the applicant. Nor did it specify the class of station involved. To remedy this defect, the applicant must republish a corrected notice complying with § 73.3580 of our Rules.

14. *Other matters.* The Commission has not yet received Federal Aviation Administration clearance for the antenna towers proposed by Eastern Utah. Hence an appropriate issue will be specified.

15. The applicants propose to serve different communities. Therefore, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

16. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed.[6] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

17. Accordingly, it is ordered, that pursuant to Sections 309(e) and 316 of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the application of Dena Pictures, Inc. and Alexander Broadcasting Co., a joint-venture d.b.a. Kaye-Smith Enterprises, whether circumstances exist which warrant waiver of § 73.21(a)(2)(ii)(C) of the Commission's Rules.

2. To determine whether the proposal of Mountain West Broadcasting, Inc. would realistically provide a local transmission service for Park City, Utah, or for Salt Lake City, Utah.

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[4] This procedure would also better facilitate our desire "to opt, ultimately, for whichever competing applications promise to yield the greatest public benefit." *Clear Channel Broadcasting, supra*, 78 FCC 2d at 1373. The available options appear to be (1) continuation and protection of the limited-time operation; (2) discontinuation of the limited-time operation; (3) continuation of the limited time operation, modified to protect the new class II–B station(s); and (4) continuation, without protection, of the limited-time operation.

[5] The suburban community policy is currently under review in BC Docket No. 82–320. The disposition of the issues specified here will, of course, be governed by the policies then in effect as a result of that review.

[6] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

3. To determine, in the event it be concluded pursuant to Issue 2 that the Mountain West Broadcasting, Inc. proposal would not realistically provide a local transmission service for Park City, Utah, whether the proposal meets the technical provisions of the Rules for AM broadcast stations assigned to Salt Lake City, Utah.

4. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower heights and locations proposed by Eastern Utah Broadcasting Company.

5. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

6. To determine, pursuant to Section 316 of the Communications Act of 1934, as amended, whether the limited-time operation authorized to Station KXL should be continued, terminated or otherwise modified, and if so to what extent, to best serve the public interest.

7. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

8. To determine, in the event it be concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

9. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

18. It is further ordered, that the Federal Aviation Administration is made a party to this proceeding.

19. It is further ordered, that with respect to any modification of station KXL's license to operate on a limited-time basis, the burden of introducing evidence and the burden of proof shall be upon the *Mass Media Bureau.*

20. It is further ordered, that the petition to deny the application of Dena Pictures, Inc. and Alexander Broadcasting Co., a joint venture d.b.a. Kaye-Smith Enterprises filed by Pioneer Broadcasting Company, Inc. is denied.

21. It is further ordered, that the petition to deny the application of Eastern Utah Broadcasting Company filed by Dena Pictures, Inc. and Alexander Broadcasting Co., a joint venture d.b.a. Kaye-Smith Enterprises is granted to the extent indicated above and is denied in all other respects.

22. It is further ordered, that the petition to deny the application of Eastern Utah Broadcasting Company filed by Dart, Inc. is denied.

23. It is further ordered, that Mountain West Broadcasting, Inc. shall publish a corrected notice of its application as specified in paragraph 13, above, and shall file a statement of publication with the presiding Administrative Law Judge within 40 days after this order is published in the **Federal Register.**

24. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

25. It is further ordered, that pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of designation for hearing as prescribed in the rule, and shall advise the Commission of the publication of their notices as required by § 73.3594(g) of the Rules.

Federal Communications Commission

William J. Tricarico,

Secretary.

[FR Doc. 83-2787 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 78-97, Transmittal No. 7974]

Western Union Telegraph Co; Revisions to Tariffs F.C.C. Nos. 240, 254, 257, 258, 267, 283, 286, 287, 288 and 289

Memorandum Opinion and order

Adopted January 13, 1983.

Released January 26, 1983.

1. Before the Bureau are petitions seeking rejection or, in the alternative, suspension and investigation of the above-captioned proposed tariff revisions filed by the Western Union Telegraph Company (Western Union).[1] The proposed tariff revisions, which are scheduled to become effective January 13, 1983, would increase Western Union's Charges for Telex I usage, and Telex I and II (TWX) remote access.[2] For reasons to be explained, we find that neither rejection nor suspension is warranted. However, as provided in the Commission's designation order in Docket No. 78-97, *Western Union Telegraph Company*, 67 FCC 2d 1420, 1426 (1978), these revisions are automatically consolidated into that investigation.

Background and Contentions

2. In this filing, Western Union has proposed (1) to increase from $3.50 to $5.00 per mile the monthly charge for remote extension facilities provided to Telex and TWX subscribers located outside of 1600 exchange cities, and (2) to increase the rate to subscribers for basic intra-network (non-interconnected) Telex service from 34.75 cents per minute to 37.75 cents. In conjunction with this latter increase, Western Union would also increase, from 29.54 to 32.09 cents per minute, its charge to other carriers for terminating domestic and inbound international interconnected traffic. This rate, Western Union states, conforms with the requirement that its rate for performing interconnected "terminating functions" equal its intra-network charge, less 15 percent, as prescribed by the Commission's recent *Interim Order* on interconnection between domestic and international carriers.[3] For providing the domestic segment of outbound international telex calls, Western Union proposes to increase its charge from 38.4 to 41.7 cents per minute. This rate reflects both the 15 percent discount from the intra-network rate and an averaging factor of 1.3 domestic minutes for each international minute which the *Interim Order, supra,* permits, but does not require, carriers to use in calculating the rate for this type of interconnected service.[4] Finally,

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[1] Petitions for rejection have been filed by Western Union International (WUI) and Graphnet, Inc. (Graphnet). Petitions for rejection or suspension have been filed by RCA Global Communications, Inc. (RCA Globcom) and TRT Telecommunications Corporation (TRT).

[2] As originally fined, Transmittal No. 7974 also included revisions to increase the rates for Western Union's private line services. However, on November 17, 1982, the Bureau granted Western Union permission to file tariff revisions advancing the effective date of the private line increases. These increases, which were unopposed, became effective November 24, 1982.

[3] *See,* Interconnection Arrangements Between and Among the Domestic and International Record Carriers, Interim Order, 89 FCC 2d 928 (1982), *recon pending.* In this order, the Commission prescribed a 15 percent discount from a carrier's publicly tariffed intranetwork rate which would apply to all carriers when performing interconnected "terminating" functions. This discount applies to (1) terminating interconnected domestic calls, (2) initiating and handing off international outbound calls to a second U.S. carrier and (3) accepting international inbound calls from another U.S. carrier.

[4] In the *Interim Order,* the Commission gave the domestic carrier the option of charging for the domestic component of an international call based upon (1) international minutes, or (2) an imputed count of domestic minutes derived by multiplying international minutes by the 1.3 factor prescribed in the *Interim Order.* Therefore, a domestic carrier may elect to charge for the domestic-component of

Western Union would raise from 58 to 63 cents per minute its domestic inter-network rate, *i.e.*, the charge to its subscribers for originating and handing off a domestic call to another carrier.

3. According to Western Union, its proposed increases in rates for remote extension facilities will produce additional annual revenues of $3.5 million, while increases in Telex usage rates are expected to produce $8.1 million in additional annual revenues. Western Union claims that this additional $11.6 million in revenues is necessary to offset the $12 million annual revenue dilution it is experiencing because of the 15 percent discount it is required to give the IRCs for "terminating" interconnected Telex service.[5] Western Union also cites substantial increases in its labor costs arising out of collective bargaining agreements negotiated in 1982 as a factor contributing to its need for additional revenues.

4. Petitioners raise a number of objections to Western Union's proposed rate increases. TRT, for example, claims that in the *Interim Order* the Commission prescribed Western Union's termination charges; accordingly, TRT maintains, the order connot be interpreted to allow Western Union to unilaterally change its termination charges any time it changes its domestic intra-network rate. TRT further argues that Western Union's proposed termination charge increases will, in effect, wipe out the discount required by the *Interim Order* for terminations at Telex terminals. Assertedly, this is becasuse the termination charge increases will shrink the spread between the IRCs' tariff rates to their own subscribers for inter-network service and the payout IRCs must make to Western Union; thus, the argument runs, the IRCs will retain less profit for such calls than they retain under the present rates and thereby lose the benefit of the prescribed discount. In order to continue providing access to Western Union terminals, the IRCs, according to TRT, will have no choice but to offset this loss by increasing their inter-network rates. And finally, says TRT, recovering the increased termination charges for inbound international traffic is no solution since the IRCs will not be able to renegotiate accounting rates and divisions with foreign administrations.

5. As a separate matter, TRT and WUI dispute the methodology by which Western Union has assigned Telex costs between access and usage elements in determining its revenue requirements. It is WUIs position that Western Union has attempted to recoup part of its increased access costs, attributable to a recent Bell System proposal to increase other common carrier (OCC) rates for local access facilities (tielines), by raising its usage charges. WUI says that this amounts to Western Union's "bundling" of access and usage charges, in violation of the Commission's *Unbundling Order*.[6] TRT focuses, in this regard, on Western Union's assignment of costs related to statistical multiplexing devices in its digital Exchange System (DES) Network. Specifically, TRT says that the costs of these multiplexing devices were initially assigned by Western Union as part of its usage costs to justify usage rate increases which are under investigation in Docket No. 78-97, *supra*. Then, according to TRT, to facilitate a subsequent desired rate structure change, Western Union transferred the costs of these devices from usage to access. And now, in order to increase its usage charges, TRT complains that Western Union has again changed the assignment of the costs of this equipment by allocating one-half of its costs to usage and one-half to access.

6. For its part, Graphnet points out that while Western Union's usage rate for intra-network calls has been raised by only three cents, its rate for inter-network calls has been increased by five cents. There is no attempt by Western Union, says Graphnet, to support the higher increase for domestic inter-network traffic, and it sees no justification for this larger increase since none of Western Union's competitors has sought to increase their own termination charges. And, Graphnet continues, Western Union's proposed domestic inter-network charge of 63 cents is unfair when applied to interconnected calls made to Graphnet, since that termination charge does not reflect the fact that Western Union's payment to Graphnet is six cents less than that made to the IRCs. Finally, RCA Globcom complains that the disparity between rates for intra-network and inter-network traffic will frustrate the free flow of traffic from network to network, and will undermine the usefulness of RCA Globcom's network by imposing "punitive" rates on inter-network calls orignated by Western Union subscribers.

Discussion

7. As an initial matter, we find no merit to TRT's claim that the *Interim Order* prescribed Western Union's charges for terminating interconnected calls. The *Interim Order* did nothing more than prescribe the discount to be applied to a carrier's currently effective intra-network rate in order to determine the termination charge,[7] and Western Union has unquestionably complied with that prescription. Thus, the fact that the dollar amount available for retention by an initiating carrier may incidentally shrink as a result of Western Union's proposed increase in termination charges is not tantamount to a violation of the prescription which warrants rejection.

8. We also find unpersuasive TRT's claim that rejection is warranted because the IRCs allegedly will be unable to recoup these termination charges on interconnected inbound international traffic. The short answer is that Western Union, as any carrier, is entitled to increase its charges to recover its own costs associated with interconnected international traffic. Moreover, to the extent TRT focuses on interconnected in bound traffic, its argument is too narrowly focused. As the Commission recognized in the *Interim Order*, the relevant question in this circumstance is whether a carrier's entire international route structure is profitable, as opposed to the inbound or outbound portion of any individual route.[8] Applying that principle here, there is no immediate question that the IRCs may, with proper authority, raise their rates for interconnected outbound international traffic to recoup Western Union's proposed increased charges. Similarly, the IRCs are free to approach the foreign administrations in order to adjust their settlements to reflect the increased termination charges. While we reconize that there may be some delay in this latter recourse, we cannot agree that Western Union's rights should be abrogated in the meantime. Accordingly, we decline to reject on this basis either.

9. Graphnet's contention that Western Union must be earning more for inter-network calls than for intra-network calls because the inter-network rate has increased by 2 cents more than the intra-network rate is also unconvincing.

an international call based upon a count of international minutes multiplied by 1.3 times the discounted domestic rate. 89 FCC 2d at 970. *See also*, Interconnection Arrangements Between and Among the Domestic and International Record Carriers, Docket No. 82-122, Memorandum Opinion and Order, Mimeo No. 31573, released June 11, 1982.

[5] See footnote 3, *supra*.

[6] Interface of the International Telex Service with the Domestic Telex and TWX Services, Docket No. 21005, Report, Order and Further Notice of Proposed Rulemaking, 76 FCC 2d 61, 78 (1980).

[7] 89 FCC 2d at 960.

[8] *Id.* at 963.

As Western Union explains in its reply, this rate difference is a function of its billing system, which uses pulse meters to accumulate billing information for Telex subscribers. Because of the limitations of the billing equipment, Western Union's inter-network and intra-network Telex rates are measured in the form of pulses per minute, rather than cents per minute. To arrive at a per minute Telex charge, Western Union multiples the number of pulses per minute for each category of traffic by the rate per pulse. For example, for inter-network calls the meter setting is 9 pulses per minute. Since the per minute rate is 37.75 cents for such traffic, the number of pulses is multiplied by a charge of 4.194 cents per pulse (9 x 4.194 = 37.75). At the end of each billing cycle Western Union bills each customer based on the total number of pulses. Because the per pulse charge must remain constant, the higher the meter setting the higher the rate per minute. As explained by Western Union, since there are only five permissible settings on its pulse meters (9, 10, 12, 15 and 18), they lack sufficient gradations to allow optimum flexibility in establishing Telex rates. Thus, the rate for inter-network calls is based on 15 pulses per minute or 63 cents (15 x 4.194). Western Union would actually be entitled to 67.29 cents per minute for inter-network calls, which equals its 37.75 cents intra-network rate, plus a 29.54 cents payout to the IRCs. However, because of the gradations of the pulse meter, Western Union has proposed a rate of 63 cents per minute, rather than 67.29, since that is the closest it can get to that latter level without exceeding it. The next highest rate, based on 18 pulses per minute, would be about 75.5 cents per minute. To sum up, then, because of its use of these pulse meters, Western Union apparently earns less for inter-network calls than it earns for intra-network calls; after payout to the IRCs of 29.54 cents, Western Union retains only 33.26 cents per minute on inter-network calls, or 4.29 cents per minute less than its intra-network charge. Under these circumstances, the case has not been that Western Union is earning more for inter-network calls than for intra-network calls.[9]

10. This brings us to the claim that Western Union's proposed inter-network charge is unfair when applied to interconnected calls made to Graphnet. In reply to this claim, Western Union cites the lack of billing flexibility discussed above to explain why it cannot establish a rate for interconnected traffic terminating on Graphnet's network which is six cents less than the rate applicable to the IRCs. According to Western Union, the next lowest rate, based on 12 pulses per minute, would be 50.33 cents, leaving Western Union with only 26.79 cents after payout to Graphnet of 23.54 cents per minute. We find this explanation somewhat troubling. Specifically, we are concerned here by Western Union's failure to reflect in its inter-network rate the fact that its payment to Graphnet is six cents less than that made to the IRCs. Given the apparent legitimacy of Western Union's immediate problem (it is, as already noted, underbilling most customers who access carriers other than Graphnet) we decline to suspend the inter-network rate for calls terminating on Graphnet's network. However, we will require Western Union to explain, within 30 days of the release of this order, what efforts it can make to rectify this situation. Based upon Western Union's response, we will decide whether formal investigation of this matter is warranted.

11. Finally, TRT's argument that Western Union has improperly assigned costs related to multiplexing devices between access and usage falls short of what is required to warrant rejection or suspension and investigation. As best we can understand it, TRT does not appear to substantively criticize the costing methodology for those multiplexing devices, but rather criticizes Western Union's assigning the costs of these devices differently in this filing than it has done in previous filings. According to Western Union, while it had previously assigned the entire cost of this equipment to the access category, it has since determined for purposes of this filing that it is more appropriate to assign half the costs to usage since the multiplexing devices perform two separate functions. Western Union's explanation of its assignment of costs associated with this equipment does not appear unreasonable. That Western Union has, in this filing, assigned the costs of multiplexing devices differently than it has done in previous filings does not in and of itself create an inference of unlawfulness. On the contrary, such a reassignment of costs seems to be nothing more than a refinement of its costing methodology for these multiplexing devices.[10]

Conclusion

12. These revisions are automatically consolidated into the current investigation in Docket No. 78–97. That proceeding encompasses issues relating to Western Union's Telex/TWX rate of return, and the findings there may have an impact on the lawfulness of the proposed rate increases we permit to take effect here. We also remind Western Union that the accounting order imposed in the original designation order, *Western Union Telegraph Company, supra,* remains in effect to facilitate refunds should the rates be found excessive.

13. Accordingly, it is ordered, that the petitions to reject the tariff revisions filed under Transmittal No. 7974 are denied.

14. It is furhter ordered, that the petitions to suspend and investigate the tariff revisions filed under Transmittal No. 7974 ARE GRANTED to the extent indicated above and otherwise DENIED.

15. It is further ordered, that this Memorandum Opinion and Order is effective upon adoption.

16. It is further ordered, that pursuant to Sction 309(e) of the Communications Act, 47 U.S.C. § 309(e), and § 1.223 of the Commission's Rules, 47 CFR 1.223, a copy of this order shall be published in the **Federal Register.**

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR. Doc. 83–2788 Filed 2–1–83; 8:45 am]

BILLING CODE 6712–01–M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee)

January 25, 1983.

Working Group C: Available U.S. Options & Strategies.

Chairman: Perry Ackerman (213) 648–4134.

Date: Thursday, February 17, 1983.

Time: 9:30 A.M.—1:00 P.M.

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[9] Similarly, this showing lays to rest RCA Globcom's claim that Western Union's proposed increase in its inter-network rate is "punitive" and will frustrate the free flow of traffic between networks

[10] WUI's argument that Western Union is attempting to recoup increased access costs by raising usage charges appears to be based on the misconception that Western Union's increased costs are the result of a recent proposed increase in AT&T's rates for OCC facilities. As Western Union states in Transmital No. 7974, at page 2, its filing is justified on the basis of its revenue requirements, "without regard to the AT&T rate increases."

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Location: Communications Satellite Corporation, 950 L'Enfant Plaza, SW., Room 3262, Washington, D.C.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR. Doc. 83-2784 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunication Industry Advisory Group Auditing and Regulatory Subcommittee, Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a two day meeting of the Telecommunications Industry Advisory Group's Auditing and Regulatory Subcommittee. The meeting is scheduled for Monday, February 28, 1983, at 10:00 a.m. in Room 330 of the Commission's offices at 1200 19th Street, N.W., Washington, D.C. and Tuesday, March 1, 1983, at 9:00 a.m. in the Commission Meeting Room (856) located at 1919 M Street, N.W., Washington, D.C. The meetings will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Continued Analysis of GAAP as it applies to USOA
III. Continued Analysis of impact of ERTA of 1981 on regulated industries
IV. Further Assignment of Tasks
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658-1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-2785 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Plant Accounts Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Plant Accounts Subcommittee scheduled to meet on Wednesday and Thursday, February 16 and 17, 1983. The meeting will begin on February 16 at 9:30 a.m. in the offices of MCI Telecommunications Corporation (1st Floor Meeting Room) at 1133 19th Street, N.W., Washington, D.C., and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Report by Subcommittee Members
IV. Discussion of Reports
V. Further Assignments
VI. Other Business
VII. Presentation of Oral Statements
VIII. Adjournment

With prior approval of Subcommittee Chairman Gyles Norwood, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of Subcommittee and wishing to make an oral presentation should contact Mr. Norwood (202/887-3266) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-2788 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1393]

Petitions for Reconsideration of Actions in Rule Making Proceedings

January 28, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Inquiry into the Policies to be Followed in the Authorization of Common Carrier Facilities to Meet Pacific Telecommunications Needs During the Period 1981-1995. (CC Docket No. 81-343)

Filed by: Thomas J. O'Reilly & Veronica M. Ahern, Attorneys for Hawaiian Telephone Company on 1-3-83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-2778 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-4; File No. BPCT-820712KJ et al.]

Lea County Television, Inc., et al.; Hearing Designation Order

In re applications of: Lea County Television, Inc.; Odessa, Texas; MM Docket No. 83-4; File No. BPCT-820712KJ; Hispanic Broadcasting Co., Inc.; Odessa, Texas MM Docket No. 83-5; File No. BPCT-820909KT; H. Leonard Todd and Gerald K. Fugit; Odessa, Texas; MM Docket No. 83-6; File No. BPCT-820909KU; William R. Bailey et al d/b/a Odessa Family Television, Ltd.; Odessa, Texas; MM Docket No. 83-7; File No. BPCT-820909KX: For Construction Permit; Designating Applications for Consolidated Hearing on Stated Issues.

Adopted: January 10, 1983.

Released: January 18, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above mutually exclusive applications of Lea County Television, Inc. (Lea), Hispanic Broadcasting Co., Inc. (Hispanic), H. Leonard Todd and Gerald K. Fugit (Todd and Fugit) and Odessa Family Television, Ltd. (OFT) for a new commercial television station to operate on Channel 24, Odessa, Texas.

2. The effective radiated visual power, antenna heights above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would be served by each of the proposals. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64dBu (Grade B) contours together with the availability of other television service of 64dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether comparative preferences should accrue to one or more of the applicants.

3. Since we have not received a determination from the Federal Aviation Administration that Todd and Fugit's and OFT's proposed tower height and location would not constitute a hazard to air navigation, an issue regarding this matter will be specified.

Hispanic Broadcasting Co. Inc.

4. Section 73.636(a)(1) of the Commission's Rules sets forth a policy against granting a television construction permit to an applicant with principals who, directly or indirectly, own, operate, or control a radio station licensed to a community which is

completely encompassed by the predicted Grade A contour of their proposed television station. Note 8 exempts UHF applicants from the blanket prohibition of Section 73.636(a)(1) and, instead, requires case-by-case analysis to determine whether common ownership, operation, or control of the station in question would be in the public interest. Hispanic states that Abraham Torres, president and 10% stockholder of the applicant, is also 16.50% owner of KJJT(AM), Odessa, Texas. Since Hispanic's proposed Grade A contour would envelop Odessa, a "one-to-a-market" issue will be designated.

Conclusion and Order

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Todd and Fugit and OFT, whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine, with respect to Hispanic, whether common ownership, operation or control of station KJJT(AM) and Hispanic Broadcasting Co. Inc.'s proposed television station would be in the public interest.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the Federal Aviation Administration IS MADE A PARTY RESPONDENT to this proceeding with regard to Issue 1.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commissions Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-2793 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-641; File No. BPH-810603AG et al.]

Radio Jonesboro, Inc., et al.; Hearing Designation Order

In re applications of: Radio Jonesboro, Inc.; Jonesboro, Arkansas; Req: 100.1 MHz, Channel 261A; 3 kW (H&V), 225 feet; BC Docket No. 82-641; File No. BPH-810603AG; Becmar Communications, Inc.; Jonesboro, Arkansas; Req: 100.1 MHz, Channel 261A; 3 kW (H&V), 300 feet; BC Docket No. 82-642; File No. BPH-810624AD; MSB Communications Corporation; Jonesboro, Arkansas; Req: 100.1 MHz, Channel 261A; 3kW (H&V), 300 feet; BC Docket No. 82-643; File No. BPH-811027AC; Larry A. Wood; Jonesboro, Arkansas; Req: 100.1 MHz, Channel 261A; 3 kW (H&V), 300 feet; BC Docket No. 82-644; File No. BPH-811027AE; Whispering Sounds, Incorporated; Jonesboro, Arkansas; Req: 100.1 MHz, Channel 261A; 3 kW (H&V), 300 feet; BC Docket No. 82-645; File No BPH-811028AL; Wesley Godfrey, Jr & A.T. Moore; d/b/a CLB of Arkansas; Jonesboro, Arkansas; Req: 100.1 MHz, Channel 261A; 3kW (H&V), 300 feet; BC Docket No. 82-646; File No BPH-811028AM; George S. Flinn, Jr.; d/b/a Flinn Broadcasting Co.; Jonesboro, Arkansas; Req: 100.1 MHz, Channel 261A; 1.7 kW (H&V), 385 feet; MM Docket No. 82-848; File No. BPH-811029AC; For Construction Permit for a New FM Station; Designating Applications for Consolidated Hearing on Stated Issues.

Adopted: December 28, 1982.

Released: January 14, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned application of George S. Flinn, Jr. d/b/a Flinn Broadcasting Co. (Flinn) for a new FM broadcast station at Jonesboro, Arkansas. Six other co-channel applications for Jonesboro were designated for hearing on September 7, 1982 in *Hearing Designation Order* BC Docket Nos. 82-641 thru 83-646 (BC 6315, released September 16, 1982). Flinn's application had been misplaced at the Commission and should have been included in that Order. Accordingly, the purpose of this Order is to consolidate Flinn's application into the Jonesboro proceeding.

2. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's rules to give local notice of the filing of their applications. We have no evidence that Flinn published the required notice. To remedy this deficiency, Flinn must publish local notice of its application, if it has not already done so, and so inform the presiding Administrative Law Judge.

3. Except as indicated above, Flinn Broadcasting Co. is qualified to construct and operate as proposed. However, since the proposal is mutually exclusive with the applications already designated for hearing, it is necessary to consolidate Flinn Broadcasting Co. into the proceeding now in progress in Docket Nos. 82-641 thru 82-646.

4. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned application of Flinn Broadcasting Co. is designated for hearing and consolidated in the proceeding now in progress in BC Docket Nos. 82-641 thru 82-646 on the issues specified in the previously noted Hearing Designation Order.

5. It is further ordered, That Flinn Broadcasting Co. shall inform the presiding Administrative Law Judge as to whether it has complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

6. It is further ordered, That, to avail itself of the opportunity to be heard, Flinn Broadcasting Co. shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, That Flinn Broadcasting Co. shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594(g) of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in that Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-2791 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 82-859; File No. BP-810123AA et al.]

Wilson County Broadcast Services, Inc. et al.; Hearing Designation Order

Adopted: December 27, 1982.

Released: January 18, 1983.

In re applications of: Wilson County Broadcast Services, Inc.; [WLSN, Lebanon, Tennesee; Has: 1600 kHz 500 W, D; Req: 1200 kHz, 500 W, 5 kW-LS; DA-2, U MM Docket No. 82-859; File No. BP-810123AA; Lincoln Broadcasting Company, Inc.; WLCB, Hodgenville, Kentucky; Has: 1430 kHz, 500 W, D; Req: 1200 Hz, 250 W, 1 kW-LS, DA-2, U MM Docket No. 82-860; File No. BP-810518AH; Edward M. Johnson and Millard V. Oakley d/b/a Lebanon Broadcasters; Lebanon, Tennessee; Req: 1200 kHz, 500 W, 5 kW-LS, DA-2, U *MM* Docket No. 82-861; File No. BP-810526AC; William Walters d/b/a Radio Radcliff; Radcliff, Kentucky; Req: 1200 kHz, 250 W, 5 kW-LS, DA-N, U; MM Docket No. 82-862; File No. BP-810526AF; For Construction Permit; Designating Applications for Consolidated Hearing on Stated Issue.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration (a) the above-captioned mutually exclusive applications for AM broadcast stations; (b) a petition to deny or dismiss the application of Wilson County Broadcast Services, Inc., filed by Clear Channel Communications, Inc., licensee of Class I-A station WOAI, San Antonio, Texas; (c) a petition to deny the application of Eward M. Johnson and Millard V. Oakley d/b/a Lebanon Broadcasters filed by Wilson County; and (d) related pleadings.

2. *The WOAI petition.* Petitioner seeks an inquiry into the effect of these proposals on the nighttime operation of WOAI, arguing that new services on its frequency may cause interference to existing WOAI listeners.[1] As Wilson County correctly notes, however, we have already acknowledged the possibility of such interference but have found it a necessary cost of satisfying the need for additional services on the Class I-A clear channels, *Clear Channel Broadcasting in the AM Broadcast Band,* 78 FCC 2d 1345, 1367; *recon. granted in part and denied in part,* 83 FCC 2d 216 (1981); *off'd sub nom. Loyola University* v. *FCC,* 670 F.2d 1222 (D.C. Cir. 1982). No basis for further inquiry thus exists.

3. *The Wilson County petition.* Wilson County alleges with respect to the Lebanon Broadcasters proposals: (a) that the application violates Section 73.35(b) of our Rules in that its grant would give Lebanon Broadcasters principal Millard V. Oakley an interest in three broadcast stations, two within 100 miles of the third, and two having primary service contour overlap; [2] (b) that Lebanon Broadcasters' proposed 0.5 mV/m contour overlaps that of a new station authorized to operate on 1190 kHz at Springfield, Tennessee, thereby violating Section 73.37(a); (c) that the applicant's proposed nighttime interference-free (18.75 mV/m) contour will not cover all of Lebanon, as required by § 73.24(j); and (d) that the applicant's engineering proposal was so incomplete when submitted as to be unacceptable for filing. In response, Lebanon Broadcasters has filed a minor amendment changing its transmitter site, in the process removing all overlap with the new station at Springfield, achieving compliance with all coverage requirements and substantially completing the technical proposal.[3] The amendment also notes that Oakley has committed himself to divestiture of his WLIV interest upon grant of the instant application.[4] Hence all issues raised in the petition have been resolved.

4. *The Lebanon Broadcasters proposal.* The material submitted in the application does not demonstrate Lebanon Broadcasters' financial qualifications in that the bank letter submitted can not be relied upon for financing the instant application. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.,* BC Docket No. 82-378, released July 15, 1982.

5. *Other matters.* Wilson County's local notice of the filing of its application was not broadcast over the air as required by Section 73.3580 of the Rules. Lebanon Broadcasters' local notice included neither a description of its proposed antenna nor the location of its proposed antenna site and studio. Also, the notice appeared only once in the local newspaper. Accordingly, we will require (1) Wilson County to broadcast local notice; (2) Lebanon Broadcasters to republish local notice; and (3) both to certify to the presiding Administrative Law Judge that compliance with the rule has been completed.

6. As the proposals indicate three different communities of license, we will specify an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service. In addition, we will specify a contingent comparative issue.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be

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[1] While its petition was originally directed toward the Wilson County proposal, WOAI subsequently asked that it be considered with respect to the other applicants as well.

[2] Stations WLIV, Livingston, Tennessee; WCSV, Crossville, Tennessee; and WREA, Dayton, Tennessee are all within 100 miles of Lebanon. The 0.5 mV/m contour proposed here would overlap that of WLIV.

[3] However, Lebanon Broadcasters must submit a corrected Section V-G of FCC Form 301 to show the correct overall height above ground level of its antenna and a tower sketch for its new site.

[4] Wilson County has similarly committed itself to a divestiture to achieve compliance with § 73.35. In its case, Bart Walker, vice-president and director, will relinquish all interests in the Great Southern Broadcasting Company, Inc., licensee of station WAMB, Donelson, Tennessee, should the Wilson County application be granted.

specified in a subsequent order, upon the following issues:

1. To determine the areas and population which would receive primary service from each proposal and the availability of other primary aural service to such areas and populations.

2. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

3. To determine, in the event it be concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

9. It is further ordered, That the petition to deny or dismiss filed by Clear Channel Communications, Inc., and the petition to deny filed by Wilson County Broadcast Services, Inc., are denied.

10. It is further ordered, That Edward M. Johnson and Millard V. Oakley d/b/a Lebanon Broadcasters shall submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

11. It is further ordered, That Edward M. Johnson and Millard V. Oakley d/b/a Lebanon Broadcasters shall file the amendment indicated in footnote 3, above, within 40 days after this order is published in the **Federal Register**.

12. It is further ordered, That Wilson County Broadcast Services, Inc., shall broadcast notice of the filing of its application and that Edward M. Johnson and Millard V. Oakley d/b/a Lebanon Broadcasters shall publish a corrected notice of its applications in accordance with Section 73.3580 of the Commission's Rules (if they have not already done so), and shall filed statements of publication with the presiding Administrative Law Judge within 40 days after this order is published in the **Federal Register**.

13. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to Section 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

14. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, the applicants shall give notice of designation for hearing as prescribed in the rule, and shall advise the Commission of the publication of their notices as required by Section 73.3594(g) of the Rules.[5]

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix

Appendix

15. The Commission has not yet received Federal Aviation Administrative clearance for the antenna towers proposed by the below listed applications. Accordingly, it is further ordered, That the following issue is specified:

To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower heights and locations proposed by Edward M. Johnson and Millard V. Oakley d/b/a Lebanon Broadcasters and William Walters d/b/a Radio Radcliff.

It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

[FR Doc. 83-2792 Filed 2-1-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Schedule for Awarding Senior Executive Service Bonuses

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the schedule for Senior Executive Service Bonuses.

DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Barry G. Oertel, Chief, Executive Personnel Staff, FEMA, 500 C St. SW., Washington, D.C. 20472, Attn: Office of Personnel, 202-287-0430.

SCHEDULE: The Federal Emergency Management Agency intends to award Senior Executive Service bonuses for the performance appraisal period of July 1, 1981 through June 30, 1982. Payments are scheduled to be made by February 20, 1983.

Dated: January 25, 1983.

Joan C. Mcdonald,

Director of Personnel.

[FR Doc. 83-2769 Filed 2-1-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-221]

Delta Savings & Loan Association, Kenner, La.; Final Action Approval of Conversion Applications

Notice is hereby given that on January 21, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Delta Savings and Loan Association, Kenner, Louisiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

Dated: January 25, 1983.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-2781 Filed 2-1-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-219]

First Federal Savings and Loan Association of Winter Haven, Winter Haven, Fla.; Final Action Approval of Conversion Applications

January 25, 1983.

Notice is hereby given that on January 21, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Winter Haven, Winter Haven, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552

[5] Operation with the facilities specified herein is subject to modifications, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-2779 Filed 2-1-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-220]

Home Federal Savings and Loan Association Tucson, Ariz.; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

January 25, 1983.

Notice is hereby given that on January 24, 1983, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Home Federal Savings and Loan Association, Tucson, Arizona ("Association"). The application had been approved by the Board by Resolution No. 82-107, dated February 18, 1982. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of San Francisco, P.O. Box 7948, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-2780 Filed 2-1-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; Germantown Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each applications may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Germantown Bancshares, Inc.*, Germantown, Tennessee; to acquire at least 85 percent of the voting shares or assets of Tennessee Bank and Trust, Millington, Tennessee. Comments on this application must be received not later than February 25, 1983.

2. *Mercantile Bancorporation, Inc.*, St. Louis, Missouri; to acquire 100 percent of the voting shares or assets of Interestate Bank of St. Peter, St. Peters, Missouri. Comments on this application must be received not later than February 25, 1983.

Board of Governors of the Federal Reserve System, January 27, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2808 Filed 2-1-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Southern Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors; or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern Bankshares, Inc.*, Beckley, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Appalachian National Bank, the successor by merger to Beckley National Bank, Beckley, West Virginia (under the charter of the former, with the title of the latter). Comments on this application must be received not later than February 25, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *CBA Bancshares, Inc.*, Americus, Georgia; to be come a bank holding company by acquiring at least 80 percent of the voting shares of Citizens Bank of Americus, Americus, Georgia. Comments on this application must be received not later than February 23, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. **Farmers Capital Bank Corporation**, Frankfort, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Bank & Capital Trust Company, Frankfort, Kentucky. Comments on this application must be received not later than February 25, 1983.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Financial Corporation*, Arthur, North Dakota; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank of Arthur, Arthur, North Dakota. Comments on this application must be received not later than February 25, 1983.

Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Alex Bancshares, Inc.*, Alex, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Alex, Alex, Oklahoma. Comments on this application must be received not later than February 25, 1983.

Board of Governors of the Federal Reserve System, January 27, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2809 Filed 2-1-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Company; Proposed de Novo Nonbank Activities; Dominion Bankshares Corp.

The organization identified in this notice has applied, pursuant to section 4 (c) (8) of the Bank Holding Company Act (12 U.S.C. 1843 (c) (8)) and section 225.4(b) (1) of the Board's Regulation Y (12 CFR 225.4(b) (1)), for permission to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation*, Roanoke, Virginia (mortgage banking, insurance activities; Tennessee): To continue to engage through its subsidiary, Dominion Bankshares Mortgage Corporation, in mortgage banking activities, including originating residential, commercial, industrial, and construction loans for its own account and for sale to others; serving such loans for others; and the sale of credit life insurance and credit accident and health insurance; and to continue to engage through its subsidiary, Dominion Bankshares Services, Inc., in acting as insurance agent or broker with respect to credit life insurance and credit accident and health insurance related to or arising out of loans made or credit transactions involving Dominion Bankshares Mortgage Corporation. These activities would be conducted from an office in Nashville, Tennessee, serving the Nashville-Davidson Standard Metropolitan Statistical Area. This notification is for the relocation of an existing office in Nashville, Tennessee. Comments on this application must be received not later than February 23, 1983.

Board of Governors of the Federal Reserve System, January 27, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc 83-2810 Filed 2-1-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Repository Address and Hour Correction Card

AGENCY: General Services Administration.

ACTION: Notice of Information Collection; New nonrecurring.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget to review and approve the use of a new nonrecurring information collection request for the collection of data.

DATES: Comments on the information collection request must be submitted on or before February 25, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: George L. Vogt on (202) 724-1083.

SUPPLEMENTARY INFORMATION: The information collection request is necessary to give historical societies, libraries, and archives an opportunity to provide current data on mailing, telephone, and operation for publication of the Directory of Archives and Manuscript Repositories. A maximum of 5,000 organizations will be contacted, the estimated average time per response is 15 minutes. A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone (202) 566-1164.

Dated: January 24, 1983.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc 83-2777 Filed 2-1-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Advisory Council on Alcohol Abuse and Alcoholism et al.; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of February 1983.

National Advisory Council on Alcohol Abuse and Alcoholism
February 1; 9:00 a.m.
National Institutes of Health
Conference Room 10, Building 31C
9000 Rockville Pike, Bethesda, Maryland 20205
Open—9:00 a.m.–4:00 p.m.
Closed—Otherwise
Contact: Mr. James Vaughan, Parklawn Building, Room 16C-20, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4375

Purpose: The National Advisory Council on Alcohol Abuse and Alcoholism advises the Secretary, Department of Health and Human Services regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. The Council reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: From 9:00 a.m.–4:00 p.m., February 1, the open session will be devoted to general business of the Council and a discussion of current budget, legislative and program activities. From 4:00 p.m. to adjournment, the Council will conduct a final review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C 552b(c)(6), and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

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Aging Subcommittee of the Life Course and Prevention Research Review Committee
February 9–11; 9:00 a.m.
Shoreham Hotel, Room 763

Calvert Road and Connecticut Avenue, NW.
Washington, D.C. 20008
Open—February 9, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Dee Herman, Room 9C–02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1220

Purpose: The Aging Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of child, family, and aging, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Basic Psychopharmacology and Neuropsychology Research Subcommittee of the Basic Psychopharmacology Research Review Committee
February 10–11; 9:00 a.m.
Ramada Inn, 8400 Wisconsin Avenue
Bethesda, Maryland 20014
Open—February 10, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Mary Cope, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944

Purpose: The Basic Psychopharmacology and Neuropsychology Research Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 10, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Criminal and Violent Behavior Research Review Committee
February 16–18; 9:00 a.m.
Gramercy Inn, 1616 Rhode Island Avenue NW.
Washington, D.C. 20036
Open—February 16, 9:00–10:30 a.m.
Closed—Otherwise
Contact: Ms. Jean Byrne, Parklawn Building, Room 9C–14, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4868

Purpose: The Criminal and Violent Behavior Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to the mental health aspects of criminal and antisocial behavior, individual violent behavior, sexual assault, and law and mental health interactions, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:30 a.m., February 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Drug Abuse Epidemiology, Prevention, and Services Research Review Committee
February 16–18; 8:30 a.m.
Parklawn Building, Conference Rooms L and M, 5600 Fishers Lane, Rockville, Maryland 20857
Open—February 16; 8:30–9:30 a.m.
Closed—Otherwise
Contact: Mr. Ron Gold, Executive Secretary, DACA
Parklawn Building, Room 10–42
5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Drug Abuse Epidemiology, Prevention, and Services Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30–9:30 a.m., February 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Clinical Program Projects/Clinical Research Centers, Subcommittee of the Treatment Development and Assessment Research Review Committee
February 17–18; 9:00 a.m.
Holiday Inn Bethesda, 8120 Wisconsin Avenue
Bethesda, Maryland 20814
Open—February 17; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Pamela J. Mitchell, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367

Purpose: The Clinical Program Projects/Clinical Research Centers Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of Mental Health Clinical Research Centers, clinical program projects, and other large-scale multidisciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and

Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Psychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee
February 17–18; 9:00 a.m.
The Shoreham Hotel
Calvert Street and Connecticut Avenue, NW.
Washington, D.C. 20008
Open—February 17; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Lu McNay, Parklawn Building, Room 9C–14, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4868

Purpose: The Psychosocial and Biobehavioral Treatments Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Neuropsychology Research Subcommittee of the Basic Psychopharmacology and Neuropsychology Research Review Committee
February 17–19; 10:00 a.m.
The Capitol Hill Hotel, 200 C Street, S.E.
Washington, D.C. 20003
Open—February 17, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Ray Polcak, Parklawn Building, Room 9C–26
5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936

Purpose: The Neuropsychology Research Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of basic psychopharmacology and neuropsychology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Psychopathology and Clinical Biology Research Review Committee
February 17–19; 9:00 a.m.
The Shoreham Hotel, Calvert Street and Connecticut Avenue, NW.
Washington, D.C. 20008
Open—February 17, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Irma Fisher, Parklawn Building, Room 9C–24, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1340

Purpose: The Psychopathology and Clinical Biology Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of clinical psychopathology and clinical biology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Drug Abuse Biomedical Research Review Committee
February 22–25; 9:00 a.m.
Linden Hill Hotel, Sea Pines Room, 5400 Pooks Hill Road, Bethesda, Maryland 20014
Open—February 22, 9:00–9:30 a.m.
Closed—Otherwise
Contact: Dr. Alan A. Schreier, Executive Secretary, DABR, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Drug Abuse Biomedical Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Alcohol Biomedical Research Review Committee
February 23–25; 9:00 a.m.
Embassy Square Hotel, 2000 N Street, NW.
Washington, D.C. 20036
Open—February 23, 9:00–11:00 a.m.
Closed—Otherwise
Contact: Harvey P. Stein, Ph. D., Executive Secretary, Alcohol Biomedical Research Review Committee, Parklawn Building, Room 16C–26, 5600 Fishers Lane, Rockville, Maryland 20857

Purpose: The Alcohol Biomedical Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00–11:00 a.m., February 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the

provisions of 5 U.S.C. 552(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Basic Behavioral Processes Research Review Committee
February 24–25; 10:00 a.m.
The Capitol Hill Hotel, 200 C Street SE., Washington, D.C. 20003
Open—February 24, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Shirley Maltz, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936

Purpose: The Basic Behavioral Processes Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of experimental and physiological psychology and comparative behavior, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Drug Abuse Clinical and Behavioral Research Review Committee
February 22–25; 9:00 a.m.
Linden Hill Hotel, Longwood Room
5400 Pooks Hill Road,
Bethesda, Maryland 20014
Open—February 22, 9:00–9:30 a.m.
Closed—Otherwise
Contact: Mr. Daniel L. Mintz
Executive Secretary, DDACB
Parklawn Building, Room 10–42
5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Drug Abuse Clinical and Behavioral Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., February 22, the meetin[illegible] will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Developement and Assessment Research Review Committee
February 24–25; 9:00 a.m.
Holiday Inn Bethesda
8120 Wisconsin Avenue
Bethesda, Maryland 20814
Open—February 24, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Pamela J. Mitchell, Parklawn Building
Room 9C–18, 5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–1367

Purpose: The Psychopharmacological, Biological, and Physical Treatments Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of development and assessment of psychopharmacological, biological, and physical treatments of mental illness, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Research Scientist Development Review Committee
February 24–25, 7:00 p.m.
Washington Marriott Hotel
1221 22nd Street, NW., Washington, D.C. 20037
Open—February 24, 7:00–7:30 p.m.
Closed—Otherwise
Contact: Diana Souder, Parklawn Building
Room 9C–05, 5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–6470

Purpose: The Research Scientist Development Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for the support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals engaged full time in research and related activities relevant to mental health, and makes recommendations to the Minority Advisory Mental Health Council for final review.

Agenda: From 7:00–7:30 p.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

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Mental Health Behavioral Sciences Research Review Committee
February 24–26; 9:00 a.m.
The Capitol Hill Hotel
200 C Street, SE.
Washington, D.C. 20003
Open—February 24, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Ms. Naomi Rothbaum, Parklawn Building
Room 9C–26, 5600 Fishers Lane
Rockville, Maryland 20857 (301) 443–3936

Purpose: The Mental Health Behavioral Sciences Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to behavioral science areas relevant to mental health and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the

public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Room 16C–21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2860. NIDA: Ms. Claudette Wright, Committee Management Officer, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–164. NIMH: Mrs. Helen W. Garrett, Committee Management Officer, Room 17C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

This **Federal Register** notice is late because it was difficult to coordinate members' schedules.

Dated: January 27, 1983.

Sue Simons,

Committee Management Officer. Alcohol. Drug Abuse, and Mental Health Administration.

[FR Doc. 83–2797 Filed 2–1–83; 8:45 am]

BILLING CODE 4160–20–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C–36416]

Colorado; Invitation for Coal Exploration License Application; Gulf Oil Corp.

All interested parties are hereby invited to participate with Gulf Oil Corporation, acting by and through its division Gulf Mineral Resources Co., in its proposed exploration of certain Federal coal deposits in the following described lands in Routt and Moffat Counties, Colorado:

Sixth Principal Meridian, Colorado

T. 5 N., R. 89 W.
- Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
- Sec. 5, that portion of Tract 43 lying in Sec. 5; Tract 44, lot 19; and lots 5 to 18, inclusive;
- Sec. 6, lots 1, 2, 4, 6, and 7, S½NE¼, E½SW¼, and SE¼
- Sec. 7, lots 1 and 2, NE¼, and E½NW¼;
- Sec. 9, lots 1 to 12, inclusive;
- Sec. 10, lots 4, 5, 11, and 12;
- Sec. 17, SW¼.

T. 5 N., R. 90 W.
- Sec. 1, lots 5 to 20, inclusive;
- Sec. 2, lots 5 to 20, inclusive;
- Sec. 3, lots 5 to 20, inclusive;
- Sec. 4, lots 5, 6, 7, lots 10 to 15, inclusive, lots 18, 19, and 20;
- Sec. 9, lot 3;
- Sec. 10, lots 1 to 8, inclusive;
- Sec. 11, lots 1 to 8, inclusive;
- Sec. 12, lots 1 to 12, inclusive.

The area described contains 6, 943.09 acres.

Any party participating in this exploration license will share all costs on a pro rata basis with the applicant and with any other participants. The exploration plan, as submitted to the Bureau of Land Management, is available under serial number C–36416 for public review during normal business hours at the Colorado State Office, 1037 20th Street, Denver, Colorado. Additional copies of the exploraton plan are available at the BLM Craig District Office, 455 Emerson Street, Craig, Colorado, and at the District Mining Supervior's Office, The Mart 2135 East Main Street, Grand Junction, Colorado.

Any party seeking to participate in the exploration program described in the application must notify both the Bureau of Land Management and Gulf Mineral Resources Co. in writing within 30 days after publication of this Notice of Invitation in the **Federal Register**. Such written notice must be addressed to:

Chief, Mineral Leasing Section, Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202, and

K. M. Castleman, Manager—Fossil Fuels, Gulf Mineral Resources Co., 1720 S. Bellaire Street, Denver, Colorado 80222.

This Notice of Invitation is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c) [47 FR 33135, July 30, 1982].

Rodney A. Roberts,

Chief, Mineral Leasing Section.

[FR Doc. 83–2771 Filed 2–1–83; 8:45 am]

BILLING CODE 4310–84–M

Conveyance; New Mexico

Notice is hereby given that, pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following described public lands have been conveyed to the purchasers shown through non-competitive sale.

Legal Description, Acreage, and Purchaser

New Mexico Principal Meridian, New Mexico

T. 1 S., R. 1 W.
- Sec. 13: Lot 11, 4.71 acres: Middle Rio Grande Conservancy District, 1930 2nd SW, Albuquerque, New Mexico 87102.
- Sec. 22: Lot 2, 0.34 acres;
- Sec. 23: Lots 26 and 27, 0.92 acres; Michael S. Sarracino, 801 Caine NW, Socorro, New Mexico 87801.
- Sec. 23: Lot 38, 1.25 acres; Mary Ann Ulibarri, 3911 Alta Monte NE, Albuquerque, New Mexico 87110.
- Sec. 24: Lot 16, 2.70 acres; Fabiola, Robert, and William Rawlins, 1020 Los Arboles NW, Albuquerque, New Mexico 87107.
- Sec. 35: Lot 13, .003 acres; Bobby Ray McKinley, P.O. Box 57, Socorro, New Mexico 87801.

T. 2 S., R. 1 W.
- Sec. 2: Lot 27, 0.13 acres; Rex and Sheila Gardner, P.O. Box 41, Lemitar, New Mexico 87823.
- Sec. 2: Lot 53, 0.08 acres; Frank Chavez, Jr., P.O. Box 943, Socorro, New Mexico 87801.
- Sec. 2: Lot 54, 0.31 acres; William and Charlene West, Jr., General Delivery, Lemitar, New Mexico 87823.
- Sec. 13: Lots 52 and 53, 1.03 acres; Gerald S. O'Neal, Box 1366, Socorro, New Mexico 87801.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of conveyance documents.

Dated: January 25, 1983.

Donnie R. Sparks,

District Manager.

[FR Doc. 83–2774 Filed 2–1–83; 8:45 am]

BILLING CODE 4310–84–M

[A 6593]

Arizona; Partial Termination of Proposed Withdrawal and Reservation of Lands

Notice of application A 6593, filed by the Bureau of Reclamation U.S. Department of the Interior, for withdrawal and reservation of Lands was published as **Federal Register** Doc. 72–3348 on Page 4728, of March 4, 1972 issue. The application proposes to withdraw the lands for location and construction of the Central Arizona Project. The applicant agency has cancelled its application as to the lands described as follows:

Gila and Salt River Meridian, Arizona

T. 3 N., R. 6 W.
- Sec. 1, NE¼, E½NW¼, SW¼NW¼, S½;
- Sec. 11, NE¼, E½SE¼;
- Sec. 12, W½.

T. 4 N., R. 6 W.
- Sec. 25, S½NW¼, SW¼, W½SE¼, SE¼,SE¼;
- Sec. 26, SE¼, NE¼, NE¼SE¼.

T. 4 N., R. 5 W.
- Sec. 13, SE¼SW¼;
- Sec. 20, SE¼SE¼;
- Sec. 21, S½SW¼, SW¼SE¼;
- Sec. 22, S½SE¼;
- Sec. 23, NE¼SE¼, S½SE¼;
- Sec. 24, E½, E½W½, SW¼NW¼, W½SW¼;
- Sec. 25, W½NE¼, W½, SE¼SE¼;
- Sec. 26, E½, SE¼NW¼, W½NW¼, SW¼;
- Sec. 27, N½, N½S½, SW¼SW¼, SE¼SE¼;

Sec. 28, N½, N½S½, SE¼SE¼;
Sec. 29, E½, SE¼NW¼, SW¼;
Sec. 30, SE¼SE¼;
Sec. 31, E½, S½NW¼, SW¼.
T. 4 N., R. 4 W.
Sec. 7, E½, SE¼SW¼;
Sec. 8, E½;
Sec. 18, E½E½, E½W½, SW¼NW¼, W½SW¼.
T. 5 N., R. 3 W.
Sec. 31, SW¼NW¼, SW¼, SW¼SE¼ except those lands within the Central Arizona Project aqueduct right-of-way described as follows:

Township 5 North, Range 3 East, G&SRM, Arizona, *except* beginning at a point in the west boundary of the Southwest Quarter of said Section 31, that bears South 00°13'06" East 1100.51 feet from the West Quarter corner of said Section 31; thence from said point of beginning and leaving said west boundary South 34°50'58" East 213.28 feet; thence North 89°25'48" East 820.00 feet; thence South 27°41'43" West 569.49 feet; thence South 48°13'19" East 1288.30 feet to a point in the south boundary of said Southwest Quarter; thence along said south boundary South 89°25'48" West 519.17 feet to a point that bears North 89°25'48" East 1112.49 feet from the Southwest corner of said Section 31; thence leaving said south boundary North 48°13'19" West 1496.89 feet to a point in the west boundary of said Southwest Quarter; thence along said west boundary North 00°13'06" West 537.32 feet to the point of beginning.

The areas described contain approximately 7,100 acres in Maricopa County, Arizona.

Therefore, pursuant to the regulations contained in 43 CFR 2310.2–1(c), the lands will be at 10 a.m. on March 4, 1983, relieved of the segregative effect of the above mentioned application. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: January 24, 1983.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–2772 Filed 2–1–83; 8:45 am]

BILLING CODE 4310–84–M

[W–4471–A, W–4471–B, and W–4471–D]

Wyoming; Proposed Continuation of Public Water Reserves, Amendment

Correction

In FR Doc. 83966 appearing on page 1552 in the issue of Thursday, January 13, 1983, make the following corrections:

1. On page 1552, first column, under T. 57 N., R. 93 W., "Sec. 5, SW¼SW¼" Should have read "Sec. 5 SW¼NW¼".

2. In the second column of the same page, under T. 33 N., R. 96 W., "Sec. 18, NW¼, NW¼" should have read "Sec. 18, NW¼NW¼".

3. In the third column, "The are described contains 2,955.98 acres in Freemont County, Wyoming "should have read "The area described contains 2,955.88 acres in Freemont County, Wyoming".

BILLING CODE 1505–01–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with Endangered Species:

Applicant: International Crane Foundation, Inc., Baraboo, WI; PRT 2–9974.

The applicant requests a permit to export three male and three female captive-born Japanese cranes (*Grus japonensis*) to Vogelpark, Walsrode, West Germany for enhancement of propagation and survival.

Applicant: New York Zoological Society, Bronx, NY; PRT 2–9972.

The applicant requests a permit to import one captive-born white-naped crane (*Grus vipio*) from Hong Kong Zoological and Botanical Gardens, Hong Kong for enhancement of propagation and survival.

Applicant: John W. Peterson, USFWS, Augusta, ME; PRT 2–9959.

The applicant requests a permit to take bald eagles (*Haliaeetus leucocephalus*) for banding and to collect addled eggs, feathers, and the like for scientific research and enhancement of survival. The applicant will be assisted by personnel from the Maine Department of Inland Fisheries and Wildlife and from the University of Maine.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22204.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: January 28, 1983.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83–2828 Filed 2–1–83; 8:45 am]

BILLING CODE 4310–55–M

Office of the Secretary

Federal-State Task Force on Hawaiian Homes Commission Act; Extension of Termination Date

Pursuant to Pub. L. 92–463, notice is hereby given of the extension of the termination date of the Federal-State Task Force on the Hawaiian Homes Commission Act from March 21, 1983, to June 21, 1983, in order to permit public comment on the draft recommendations of the Task Force.

Further information may be obtained from Stephen P. Shipley, Executive Assistant to the Secretary, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240; (202) 343–7351.

Dated: January 21, 1983.

James G. Watt,

Secretary of the Interior.

[FR Doc. 83–2824 Filed 2–1–83; 8:45 am]

BILLING CODE 4310–10–M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

PURPOSE OF INFORMATION COLLECTION: The proposed information collection is for use by the Commission in connection with the investigation of processed mushrooms pursuant to section 332(g) of the Tariff Act of 1930, in accordance with a request by the President on March 10, 1977, and amplified by the Office of the United States Trade Representative in a letter of March 30, 1977.

Summary of Proposals:

(1) Number of forms submitted: one
(2) Title of form: Processed Mushrooms—Quarterly Report on Production, Sales, and Inventories
(3) Type of request: reinstatement
(4) Frequency of use: quarterly
(5) Description of respondents: U.S. mushroom processors
(6) Estimated number of respondents: 40
(7) Estimated total number of hours to complete the forms: 40 per quarter
(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.
(9) Section 3504(h) of P.L. 96–511 does not apply.

ADDITIONAL INFORMATION OR COMMENT: Copies of the proposed form and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (tel. no. 202–523–4463). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB. Attention: Desk officer for U.S. International Trade Commission.

If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly, you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436).

Issued: January 24, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–2851 Filed 2–1–83: 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–126]

Certain Handbags, Luggage, and Briefcases; Commission Decision Not To Review Initial Determination To Terminate Investigation With Respect to One Respondent

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondent Edison Brothers Stores, Inc.

AUTHORITY: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in 210.53 (c) and (h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982; to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On January 7, 1983, complainant FHL Accessories, Inc. (hereinafter "FHL"), filed a motion (Motion No. 126–7) to dismiss Edison Brothers Stores, Inc., as a party respondent because that respondent has given FHL written assurances that it no longer is selling goods alleged to infringe an alleged common-law trademark owned by FHL. On January 11, 1983, the presiding officer filed an initial determination with the Commission granting the motion.

Pursuant to § 210.53(h)(2) of the Commission's rules, an initial determination of the presiding officer under § 210.53(c) becomes the determination of the Commission fifteen (15) days from the date of service, unless the Commission orders review of the initial determination.

Having examined the record in this investigation, including Motion No. 126–7 and the initial determination of the presiding officer, the Commission found no grounds for review of the initial determination.

Copies of all nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Clarease E. Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0421.

Issued: January 26, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–2850 Filed 2–1–83: 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–126]

Certain Handbags, Luggage, and Briefcases; Commission Decision Not To Review Initial Determination Granting Motion To Terminate Investigation Without Prejudice

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (Order No. 5) to grant the motion of complainant FHL Accessories, Inc., to terminate the above-captioned investigation without prejudice (Motion No. 126–6). Accordingly, as of January 31, 1983, the initial determination became the Commission's determination with respect to this matter.

AUTHORITY: The authority for the Commission's disposition of this matter is contained in the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.53 (c) and (h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982; to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On January 7, 1983, complainant FHL Accessories, Inc., filed a motion to suspend the investigation or, in the alternative, to terminate the investigation without prejudice (Motion No. 126–6).

Pursuant to § 210.53(h)(2) of the Commission's rules, an initial determination of the presiding officer under § 210.53(c) becomes the determination of the Commission fifteen (15) days from the date of service, unless the Commission orders review of the initial determination.

Having examined the record in this investigation, including Motion No. 126–6 and the initial determination of the presiding officer, the Commission found no grounds for review of the initial determination.

Copies of the presiding officer's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Clarease E. Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–3395.

Issued: January 27, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–2847 Filed 2–1–83: 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–122]

Certain Miniature, Battery-Operated, All-Terrain, Wheeled Vehicles; Denial of Petition for Reconsideration

AGENCY: International Trade Commission.

ACTION: Denial of petition for reconsideration of the Commission's determination in the above-referenced investigation.

SUPPLEMENTARY INFORMATION: On October 15, 1982, the Commission concluded the above-captioned investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) with a determination that there is no violation of that section in the importation into and sale in the United States of certain miniature, battery-operated, all-terrain, wheeled vehicles. On November 2, 1982, the Commission's Unfair Import Investigations Division (UIID) filed a petition for reconsideration, under 19 CFR 210.58, of the Commission's determination.

On January 25, 1983, the Commission denied the petition for reconsideration.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0480.

Issued: January 25, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–2853 Filed 2–1–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation Nos. 104–TAA–16, 17, and 18]

Certain Nonrubber Footwear From Brazil, India, and Spain

AGENCY: International Trade Commission.

ACTION: Institution of countervailing duty investigations and scheduling of a hearing to be held in connection with the investigations.

EFFECTIVE DATE: January 25, 1983.

SUMMARY: Pursuant to section 104(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671), the U.S. International Trade Commission is instituting countervailing duty investigations to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of certain nonrubber footwear from Brazil, India, and Spain covered by an outstanding countervailing duty order, if the order were to be revoked. The investigations cover imports of nonrubber footwear provided for in items 700.05–.45; 700.56; 700.72–.83; and 700.95 of the Tariff Schedules of the United States (TSUS). With respect to India, the investigation covers all of the above footwear except huaraches (TSUS item 700.05); leather ski boots (TSUS item 700.28); and chappals, slippers and footwear having an open toe and heel, however provided for in part 1, subpart A of Schedule 7 in the TSUS.

FOR FURTHER INFORMATION CONTACT: Mr. Reuben Schwartz (202–523–0114), Chief, Textiles, Leather Products, and Apparel Division, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—On September 12, 1974, the Department of the Treasury (Treasury) issued countervailing duty orders T.D. 74–233 and T.D. 74–235, under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), on certain nonrubber footwear imported from Brazil and Spain, respectively (39 FR 32903 and 39 FR 32904). On October 26, 1979, Treasury issued countervailing duty order T.D. 79–275 on certain nonrubber footwear imported from India (44 FR 61588). On January 1, 1980, the provisions of the Trade Agreements Act of 1979 (Pub. L. 96–39) became effective, and on January 2, 1980, the authority for administering the countervailing duty statutes was transferred from Treasury to the Department of Commerce (Commerce).

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to these investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c) as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in these investigations will be placed in the public record on April 1, 1983, pursuant to section 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m., on April 19, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 24, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on March 28, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is April 12, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with section 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on April 26, 1983.

Written submissions.—As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before April 26, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All

written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

Issued: January 27, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2854 Filed 2-1-83: 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-120, 121, and 122 (Preliminary)]

Certain Tapered Roller Bearings and Parts Thereof From Japan, the Federal Republic of Germany, and Italy

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

EFFECTIVE DATE: January 26, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan, the Federal Republic of Germany (West Germany), and Italy of certain tapered roller bearings and parts thereof, provided for in item 680.39 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger, Office of Investigations, U.S. International Trade Commission, 701 E. St. NW., Washington, D.C. 20436, telephone 202-523-0312.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on January 26, 1983, by Brenco, Inc., Petersburg, Va., on behalf of the domestic industry producing railway freight car journal roller bearings. The Commission must make its determination in these investigations within 45 days after the date of the filing of the petition, or by March 14, 1983 (19 CFR 207.17)

Participation.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, February 10, 1982), not later than seven (7) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with section 201.8 of the Commissions rules (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth section 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, August 4, 1982).

In addition to the foregiong, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not acompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before February 22, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15, as amended by 47 FR 6190, February 10, 1982). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m., on February 16, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. parties wishing to participate in the conference should contact the staff investigator, Mr. Robert Eninger (202-523-0312), not later than February 14, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR part 207, as amended by 47 FR 6182, February 10, 1982, and 47 FR 33682, August 4, 1982) and Part 201, Subparts A through E (19 CFR Part 201 as amended by 47 FR 6182, February 10, 1982, 47 FR 13791, April 1, 1982, and 47 FR 33682, August 4, 1982). Further information concerning the the conduct of the conference will be provided by Mr. Eninger.

This notice is published pursuant to section 207.12 of the Commission's rules (19 CFR 207.12).

Issued: January 27, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2848 Filed 2-1-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-100 (Final)]

Certain Tool Steels From the Federal Republic of Germany

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from the Federal Republic of Germany of certain tool steels, provided for in items 606.93, 606.94, 606.95, 607.28, 607.34, 607.46, and 607.54 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-100 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final antidumping determination in the case on or before March 28, 1983, and the Commission will make its final injury determination by May 2, 1983 (19 CFR 207.25).

EFFECTIVE DATE: January 12, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Miller, Office of Investigations, U.S. International Trade Commission, 701 E St., N.W., Washington, D.C. 20436, telephone (202) 523-0305.

SUPPLEMENTARY INFORMATION:

Background.—On September 13, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports from the Federal Republic of Germany of certain tool steels alleged to be sold at LTFV. The preliminary investigation was instituted in response to a petition filed on July 30, 1982, by counsel for several specialty steel producers and the United Steelworkers of America.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 § 201.11, as amended by 47 CFR 6189, February 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, February 10, 1982). A copy of the nonconfidential version of each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, August 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on March 9, 1983, pursuant to § 207.21 of the Commission's Rules (19 CFR 207.21).

Hearing.—The Commission will hold a joint hearing in connection with this investigation and with inv. No. 701-TA-187 (Final), Certain Tool Steels from Brazil, beginning at 10:00 a.m. on March 23, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 1, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on March 4, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is March 18, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, August 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, August 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24, as amended by 47 FR 6191, February 10, 1982) and must be sumbmitted not later than the close of business on April 1, 1983.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 1, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be sumitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, February 10, 1982, and 47 FR 33682, August 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188,

February 10, 1982; 47 FR 13791, April 1, 1982; and 47 FR 33682, August 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, February 10, 1982).

Issued: January 27, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2849 Filed 2-1-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-133]

Certain Vertical Milling Machines and Parts, Attachments and Accessories Thereto; Commission Review of Initial Determination, Amendment of Notice of Investigation and More Complicated Designation

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined upon petitions for review received from respondents in this investigation and complainant's response to the petitions to review an initial determination granting a motion to amend the notice of investigation. Pursuant to that review the Commission has determined to grant the motion to amend the notice of investigation as noted below. In addition, the Commission has determined to declare this investigation more complicated and establish an administrative deadline at fifteen months after publication of the original notice of investigation. The presiding officer's initial determination on violation of section 337 shall be issued and the record of the investigation certified to the Commission within eleven and a half months of the publication of the original notice of investigation.

AUTHORITY: The authority for Commission disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.15, 210.22, and 210.54 of the Commission's Rules of Practice and Procedure (19 CFR 210.22, 210.54).

SUPPLEMENTARY INFORMATION: The initial determination was issued in response to complainant's, Textron, Inc., motion to amend the notice of investigation to include 160 counts allegedly omitted from the notice of investigation. The original notice of investigation published in the **Federal Register** of November 17, 1982 (47 FR 51821), contained 140 counts alleged against 43 named respondents. The presiding officer granted the motion to amend the notice of investigation and required complainant to submit a brief statement of facts upon which it bases each allegation against each respondent. In addition, the presiding officer stated that the period for completion of the investigation would run from the date of publication of the amended notice of investigation in the **Federal Register**.

The Commission received three petitions for review from respondents pursuant to §210.54 of the Commission's Rules of Practice and Procedure. These petitions requested that the Commission deny the motion to amend the notice of investigation. Complainant filed a response to the petitions requesting denial of review.

Based upon the petitions for review and the response thereto, the Commission has determined that a review of the initial determination is warranted. Furtermore, the Commission determined that the notice of investigation should be amended to reflect the following counts against the named respondents. This notice shall be read in conjunction with the original notice of investigation published in the **Federal Register** of November 17, 1982 (47 FR 51821).

	The letters below indicate which of the acts or methods listed in paragraph one of the original notice of investigation applies
Lilian Machinery Industrial Co., Ltd	a, c–h.
Poncho Enterprise Co., Ltd	a, c–h.
Hong Yeong Machinery Industrial Co., Ltd	a–f, h.
Pal-Up Enterprises Co., Ltd	a–f, h
She Hong Industrial Co., Ltd	a–f, h
Yeong Chin Machinery Industries Co., Ltd	a–h.
Yun Fu Machinery Co., Ltd	a–f, h
Chanun Machine Tool Co., Ltd	a–f, h.
Fu Shanlong Industry Co., Ltd	a, c–f, h.
Jenq Shing Enterprises Co., Ltd	a, c–f, h
M.I.T. Machinery & Tool Co., Ltd	a, c–h
Lio Ho Machine Works, Ltd	a, c–f, h.
Long Chang Machinery Co., Ltd	a, c–f, h.
Maw Chang Machinery Co., Ltd	a, c–f, h.
Nahsohn Machinery Co., Ltd	a, c–f, h.
Hsu Pen Machinery Co	a, c–f, h.
Kiheung Machinery Works	a, c–f, h
Shye Shing Machinery Mfg. Co., Ltd	a, c–f, h
Kingtex Corp	a, c–f, h.
Great International Corp	a, c–f, h
King Machinery Inc	a–f, h.
Warner Tool & Machinery Sales, Inc	a, c–h.
Big-Joe Industrial Tool Corp	a, c–h
ABC Industrial Machine Tool Co	a, c–h
Kanematsu-Goso, U.S.A., Inc	a, c–f, h.
Rutland Tool & Supply Co., Inc	a–h
Haem Machinery Inc	a–h.
Cadillac Machines Inc	a–h.
Kabaco Tools, Inc	a–h.
Webb Machinery Corp	a–h.
Select Machine Tool Co	a–h.
Delta Machine & Tool Co., Inc	a, c–f, h.
Jet Equipment & Tools Inc	a, c–f, h.
Pilgrim Industries Inc	a, c–f, h.
Republic Machinery Co., Inc	a–f, h.
South Bend Lathe, Inc	a, c–h
Luson International Distributors Inc	a–h.
Intermark-Hartford Corp	a–h.
Enco Manufacturing Co	a, c–h
Y.C.I. U.S.A. Inc	a–h
Yamazen U.S.A. Inc	a–h
DoAll Co	a, c–f, h.
Deka Machine Sales Corp	a, c–f, h.

In addition to amending the notice of investigation, the Commission determined to declare this investigation more complicated pursuant to § 210.15 of the Commission Rules of Practice and Procedure. This investigation involves forty-three respondents and three hundred counts against these respondents. Even in its initial stages, this investigation has involved numerous motions and extensive discovery. Rendering a determination on all of the three hundred counts against these respondents may prove impracticable within twelve months, particularly in light of the additional effort involved with the amended notice of investigation. Declaring the investigation more complicated will ensure that respondents have adequate notice and time to prepare to meet any counts included in the amended notice. Accordingly the administrative deadline in this investigation is set at fifteen months from the date of publication of the original notice of investigation. The presiding officer shall certify the record and issue an initial determination in this investigation within eleven and a half months of the date of publication of the original notice in the **Federal Register**.

Copies of the Commission's action and order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0143.

Issued: January 26, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2852 Filed 2-1-83; 8:45 am]

BILLING CODE 7020-02-M

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[Investigation No. 751-TA-7]

Salmon Gill Fish Netting of Manmade Fibers From Japan; Institution of Section 751(b) Review Investigation

AGENCY: International Trade Commission.

ACTION: Institution of Section 751(b) review investigation concerning the affirmative determination in investigation No. AA1921–85, Fish Nets and Netting of Manmade Fibers from Japan.

EFFECTIVE DATE: January 28, 1983.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has initiated an investigation pursuant to section 751(b) of the Tariff Act of 1930, 19 U.S.C. 1675(b) (Supp. III 1979), to review its determination in investigation No. AA1921–85. The purpose of the investigation is to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, if the antidumping order regarding fish netting of manmade fibers from Japan were to be modified or revoked with respect to salmon gill fish netting of manmade fibers provided for in item 355.45 of the Tariff Schedules of the United States. Pursuant to § 207.45(b) of the Commission's Rules of Practice and Procedure, the 120-day period for completion of this investigation begins on the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, senior investigator, Office of Investigations, U.S. International Trade Commission, 202–523–1369 or Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, 202–523–0079.

SUPPLEMENTARY INFORMATION:

Background.—On April 18, 1972, the Commission determined that an industry in the United States was injured within the meaning of the Antidumpting Act, 1921, by reason of imports of fish netting of manmade fibers from Japan determined by the Secretary of Treasury to be sold or likely to be sold at less than fair value (investigation No. AA1921–85).

On June 1, 1972, the Department of the Treasury issued a finding of dumping, T.D. 72–158, and published notice thereof in the **Federal Register** 37 FR 11560.

On October 14, 1981, following receipt of a request to review its affirmative determination in investigation No. AA1921–85, the Commission instituted investigation No. 751–TA–5, salmon gill fish netting of manmade fibers from Japan. On March 31, 1982, the Commission unanimously determined that the establishment of an industry in the United States would be materially retarded, by reason of imports of salmon gill fish netting of manmade fibers from Japan covered by antidumping order T.D. 72–158, if the order were to be modified or revoked.

This determination was supported by the finding that the domestic production of salmon gill fish netting was so insignificant that there is no established domestic industry producing salmon gill fish netting in the United States. The Commission also found that Nylon Net Co. of Memphis, Tenn., one of the largest domestic producers of fish netting, had made substantial investments in the development of a marketable crystal salmon gill netting. Nylon Net Co. was developing a manmade fiber yarn in a joint project with Firestone Fibers & Textile Co., which would permit Nylon Net to produce netting that would be competitive with the imported Japanese netting. In the presentation of its position during the investigation, Nylon Net relied on Firestone's capacity to produce 1.5 million pounds of yarn per year. Nylon Net's ability to enter the salmon gill fish netting market was presented as being dependent on the production of the yarn by Firestone.

On November 24, 1982, following receipt of information that Firestone Fibers & Textile Co. expected to cease production of Nylon, the Commission requested comments regarding the institution of a new section 751(b) review investigation (47 FR 53152). Comments were received from counsel representing nine Pacific Northwest importers of salmon gill netting (the petitioners in investigation No. 751–TA–5), counsel representing the America Netting Manufacturers Organization (ANMO), counsel for Nichimen Corporation (an exporter of salmon gill net to the United States), counsel for the Fishing Nets and Twine Division of the Japan Textile Products Exporters' Association, counsel for Trans-Pacific Trading, Inc. (an importer of salmon gill netting), and the firm of McClary, Swift & Co. (Custom house brokers). On the basis of the comments filed, the Commission, on January 25, 1983, voted to institute investigation No. 751-TA-7. The Commission determined that the following changed circumstances existed which were sufficient to warrant a review:

(1) Firestone Fibers & Textile Co. Has ceased production of nylon fiber at its Hopewell, Va., plant;

(2) Nylon Net Co. has not secured an alternative source of nylon fiber for use in production of salmon gill netting;

(3) Changes have taken place with respect to the types of salmon gill netting beging sold in the United States.

The investigation will be conducted in accordance with § 207.45(b) of the Commission's Rules of Practice and Procedure (46 FR 18023) (March 23, 1981). The purpose of this investigation is to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded if the present antidumping order were to be modified or revoked to exclude salmon gill fish netting of manmade fibers. Modification or revocation of the dumping finding as to salmon gill fish netting would not affect the Commission's affirmative determination as to other forms of fish netting of manmade fibers from Japan.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11, as amended by 47 FR 6189, February 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to 201.11(d) of the Commission's rules (19 CFR § 201.11(d), as amended by 47 FR 6189, February 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without the certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, August 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on April 6, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. to April 27, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on April 1, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on April 6, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is April 20, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, August 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24, as amended by 47 FR 6191, February 10, 1982) and must be submitted not later than the close of business on May 4, 1983.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 4, 1983. A signed original and fourteen (14) true copies of each submission must filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982). All written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, February 10, 1982, and 47 FR 33682, August 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, February 10, 1982; 47 FR 13791, April 1, 1982; and 47 FR 33682, August 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, February 10, 1982).

Record.—The record of investigation No. 751–TA–5, Salmon gill fish netting of manmade fibers from Japan, will be incorporated into the record of investigation No. 751–TA–7.

Issued: January 28, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–2848 Filed 2–1–83. 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Agricultural Cooperative; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: January 28, 1983.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C

(1) Agate Elevator Agricultural and Livestock Cooperative Association.

(2) P.O. Box 4, Agate, Colorado 80101.

(3) 40984 Highway 40, Agate, CO 80101.

(4) Robert L. Benjamin, P.O. Box 4, Agate, CO.

(1) Tennessee Farmers Cooperative.

(2) P.O. Box 157, Lavergne, TN 37086.

(3) P.O. Box 157, Lavergne, TN 37086.

(4) Joe L. Wright, P.O. Box 157, Lavergne, TN 37086

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2766 Filed 2–1–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 21]

Motor Carriers; Applications, Alternate route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by 49 CFR Part 1161 of the Commission's Rules of Practice which provide, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

California Docket A 83–01–19, filed January 13, 1983. Applicant: JOE HARTSELL, d.b.a. HARTSELL TRUCKING, 1167 Grange St., Redding, CA 96001. Representative: James H. Gulseth, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *general commodities* between all points and places in Butte, Colusa, Glenn, Lassen, Modoc, Plumas, Sacramento, Shasta, Siskiyou, Tehama, Trinity and Yolo Counties, California, except that pursuant to the authority herein granted, carrier shall not transport any shipments of: 1. Used household goods and personal effects, office, store, and institution furniture and fixtures. 2. Automobiles, trucks, and buses, new and used. 3. Ordinary livestock. 4. Liquids, compressed gases, commodities in semiplastic form, and commodities in suspension in liquids in bulk in any tank truck or tank trailer. 5. Mining, building,

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paving, and construction materials, except cement or liquids, in bulk in dump truck equipment. 6. Portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages, when loaded substantially to capacity. 7. Explosives subject to U.S. Department of Transportation regulations governing the transportation of hazardous materials. 8. Fresh fruits, nuts, vegetables, logs and unprocessed agricultural commodities. 9. Any commodity, the transportation or handling of which, because of width, length, height, weight, shape, or size, requires special authority from a governmental agency regulating the use of highways, roads or streets. 10. Transportation of liquid or semisolid waste, or any other bulk liquid commodity in any vacuum type tank truck or trailer. Intrastate, interstate and foreign commerce authority sought.

Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the California Public Utilities Commission, State Bldg., Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

[FR Doc. 83-2764 Filed 2-1-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

Decided: January 25, 1983.

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275-5223.

Volume No. OP3-MC-FC-39

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC 81088. By decision of January 25, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 3 approved the transfer to G & A TRUCK LINES, INC., of Hibbing, MN. 55746, of Certificate No. MC 147595 (Sub No. 2X), issued March 16, 1981, to LYLE GUENTZEL TRUCKING, INC. Doing business as G & A Trucking, Hibbing, MN 55746, authorizing the transportation of general commodities (except classes A and B explosives), over irregular routes, between points in Hennepin and Ramsey Counties, MN, on the one hand, and, on the other, points in St. Louis and Itasca Counties, MN. Applicant's Representative: John B. Van De North, Jr., 2200 First National Bank Building, St. Paul, MN 55101.

Note.—Pursuant to transferor's request certificate No. MC-147595 will be cancelled concurrently with the issuance to transferee of a new certificate as a result of this transaction.

Volume No. OP3-MC-FC-41

By the Commission, Review Board No. 2, Members Carleton, Ewing, and Williams.

MC-FC-81125. By decision of January 25, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to H & H LUMBER COMPANY, of Billings, MT, of a portion of Certificate No. MC-138875 Sub 312X, issued March 2, 1982, and Certificate No. MC-138875 Sub 114, issued June 5, 1979, to Shoemaker Trucking Company (Loren Wetzel, Trustee in bankruptcy), of Boise, ID, authorizing the transportation of *waste or scrap materials not identified by industry producing*, between points in MT, on the one hand, and, on the other, points in CA, ID, NV, OR, UT, and WA. An application for temporary authority has been filed. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701.

[FR Doc. 83-2762 Filed 2-1-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to administrative requirements

stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

No. MC–FC–80080. By decision of January 20, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3, approved the transfer to LEWIS BUS LINES, INC., of Augusta, GA, of Certificate No. MC–140444 (Sub-Nos. 1 and 3F) issued August 25, 1980 and December 8, 1980, to SHORELINE STAGES, INC., of Jacksonville, FL respectively authorizing the transportation over irregular routes, of (1) *passengers* and *express* and *baggage,* in the same vehicle, with passengers, in round-trip, charter operations, beginning and ending at Jacksonville, FL, and extending to points in Camden County, GA, and (2) *passengers* and *their baggage,* in round-trip charter operations, beginning and ending at points in Duval County, FL, and extending to points in AL, CT, DE, GA, IN, KY, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and the District of Columbia. Representative: Harold McElmurray, P.O. Box 1041, Augusta, GA 30903.

Note.—No TA filed. Transferee holds authority in MC–144296.

No. MC–FC–80126. By decision of January 19, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3, approved the transfer to EASY WAY TRUCKING, INC., of Yakima, WA, Certificate No. MC–30092 and Sub-Nos. 7 and 23, issued December 9, 1981, May 1, 1957 and September 15, 1978 to HERRETT TRUCKING CO., of Yakima, WA respectively authorizing the transportation of (1) over regular routes of *fresh fruits and vegetables, building materials, livestock, salt, feed and asphalt* within specified points in WA and OR, and (2) over irregular routes of specified commodities, not limited to but including, *petroleum products, steel pipe, sheet metal pipe, sheet metal, lumber and shingles, feed and flour, hay, canned and processed fruits and vegetables, household goods, heavy machinery and equipment, structural steel, cattle and poultry feed, alfalfa and cottenseed meal,* within specified points in OR, WA, IS and MT. Representative: Marvin A. Wagner, P.O. Box 1329, Yakima, WA 98907.

Note.—Transferee holds no authority. No TA filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2760 Filed 2–1–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP4–046]

Motor Carrier; Permanent Authority Decisions; Restriction Removals

Decided: January 26, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 4, at (202) 275–7669.

MC 10627 (Sub-19)X, filed January 14, 1983. Applicant: NEW YORK-KEANSBURG-LONG BRANCH BUS CO., INC., 50 Hwy 36, Leonardo, NJ 07737. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Lead and Sub 15F certificates: (Lead) remove service restrictions (1) "serving no intermediate points, and serving the junction of U.S. Hwy 9 and New Jersey Hwy 440 for purposes of joinder only", (2) "Restriction: The authority granted above is restricted (a) against the transportation of passengers who originate at Keansburg, NJ, or at intermediate points on routes authorized herein between Keansburg, NJ, and Staten Island, NY, and are destined to Staten Island, NY, or who originate at Staten Island, NY, and are destined to Keansburg, NJ, or to intermediate points on routes authorized herein between Keansburg, NJ, and Staten Island, NY; and (b) against the transportation of passengers between Staten Island, NY, on the one hand, and, on the other, the Borough of Manhattan, New York, NY", and (3) "serving no intermediate points, and serving the junction of New Jersey Turnpike and the Newark Bay-Hudson County extension for purposes of joinder only"; (Sub 15) remove restriction against the transportation of passengers between New York, NY, and Newark International Airport, Newark, NJ.

[FR Doc. 83–2765 Filed 2–1–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Broker (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon

payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note. All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275-7992.

Volume No. OP1-38

Decided: January 25, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 2060 (Sub-17), filed January 5, 1983. Applicant: PINE HILL, KINGSTON BUS CORP., P.O. Box 1758, Kingston NY 12401. Representative: Lawrence E. Lindeman 4860 Kenmore Ave., Suite 1203, Alexandria, VA 22304 (703) 751-2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant intends to provide privately-funded charter and special transportation.

MC 48561 (Sub-15), filed January 11, 1983. Applicant: WILSON BUS LINES, INC., Maine Street, East Templeton, MA 01438. Representative: David M. Marshall, 95 State St., Sixth Floor, Springfield, MA 01103. Transporting *passengers*, in charter and special operations between points in the U.S. (execpt HI).

Note—Applicant intends to provide privately-funded charter and special transportation.

MC 143170 (Sub-2), filed December 27, 1982. Applicant: A-1 BUS LINES, INC., 65 Northeast 27th Street, Miami FL 33137. Representative: Henry L. Beardsley (same address as applicant) (305) 573-0550. Transporting *passengers*, in charter and special operation, between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343 (e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343 (A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164400, filed January 4, 1983. Applicant: DENIS S. FOWLER, d.b.a., CHEROKEE TOURS, 7113 Fairytale Street, Citrus Heights, GA 95610. Representative: Denis S. Fowler (same address as applicant) (916) 969-5793.Transporting *passengers*, in charter and special operations, between points in CA, OR, WY, NV, UT, AZ, AK and ports of entry on the international boundary line in WA, ID, and MT.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165691, filed January 14, 1983. Applicant: R & T FACTORING, INC., 15 Scout Avenue, South Kearny, NJ 07032. Representative: Edward F. Bowes, P.O. Box Y, Roseland, NJ 07068 (201) 992-2200. As a *broker* of *general commodities* (except household goods), between points in the U.S. (Except HI).

MC 165701, filed January 14, 1983. Applicant: GARY AND MARLYCE BROCK, a Partnership d.b.a. ALPINE REFRIGERATED FREIGHT LINES, 2499 Eggleston Court, Rockford, IL 61108. Representative: Richard D. Armstrong, 925 Hyland Drive, Stoughton, WI 53589 (608) 873-8929. Transporting *Food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165711, filed January 17, 1983. Applicant: DREW MEILSTRUP, d.b.a. MEILSTRUP TRUCKING, P.O. Box 39, Tustin, CA 92681. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617) 657-6071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 3 at 202-275-5223.

Volume No. OP3-34

Decided: January 26, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 113974 (Sub-84), filed January 13, 1983. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., 211 Washington Ave., Dravosburg, PA 15034. Representative: James D. Porterfield (same address as applicant), (412) 461-5100. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 148434 (Sub-4), filed January 14, 1983. Applicant: SECURITY INCORPORATED, 711 Franklin Square, P.O. Box 274, Michigan City, IN 46360. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 636-1301. Transporting *passengers*, in charter or special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165675, filed January 13, 1983. Applicant: ABBEYS TRANSPORTATION SERVICE, INC., 37–39 31st St., Long Island City, NY 11101. Representative: Bruce J. Robbins, 18 East 48th St., New York, NY 10017, (212) 786–0073. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165705, filed January 13, 1983. Applicant: HARVEY DUBB, d.b.a. DUBB BUS TRANSPORTATION, Building 104, Rotterdam Industrial Park, Rotterdam, NY 12302. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. (212) 466–0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–048

Decided: January 26, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 287 (Sub-11), filed January 21, 1983. Applicant: PLYMOUTH & BROCKTON STREET RAILWAY CO., 8 Industrial Park Rd., Plymouth, MA 02360. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., NW, Washington, DC 20005, (202) 783–3525. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 62296 (Sub-6), filed January 20, 1983. Applicant: WERNER BUS LINES, INC., Paradise and Chester Avenues, Phoenixville, PA 19460. Representative: Richard M. Ochroch, 316 S. 16th St., Philadelphia, PA 19102, (215) 735–2707. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA, MD, NJ, NY and DE, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 115676 (Sub-7), filed January 21, 1983. Applicant: CONWAY'S BUS SERVICE, INC., 3220 Mendon Rd., Cumberland, RI 02864. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162617, filed January 18, 1983. Applicant: WIL-DOM INDUSTRIES, INC., 1200 N. Main St., Suite 530, Santa Ana, CA 92701. Representative: Roger C. McKee, 5030 Camino de la Siesta, Suite 305, San Diego, CA 92108, (619) 296–5051. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2763 Filed 2–1–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP4]

Motor Carriers; Permanent Authority Decisions

Decided: January 28, 1983.

In the matter of; Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight forwarders; Water carriers; Household goods brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, with three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed application involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be

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issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1 Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquires to Team 4 at (202) 275–7669.

MC 30657 (Sub-33), filed January 18, 1983. Applicant: DIXIE HAULING COMPANY, 540 Englewood Ave., SE, Atlanta, Ga. 30315 Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345, (404) 321–1765. Transporting (1) *containers and container closures,* (2) *pulp, paper and related products,* (3) *chemicals and related products,* (4) *plastic and plastic products,* (5) *starch,* (6) *waste or scrap paper,* (6) *machinery,* (7) *reels,* (8) *adhesives,* (9) *lumber and wood products,* and (10) *metal buildings and parts,* between those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

MC 54567 (Sub-18), filed January 19, 1983. Applicant: RELIANCE TRUCK CO., 2500 N. 24th Ave., Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 102616 (Sub-1038), filed January 21, 1983. Applicant: COASTAL TANK LINES, INC., 250 Cleveland Massillon Rd., Akron, OH 44319. Representative: Fred H. Daly, 2555 M. St., N.W., Suite 100, Washington, DC 20037, (202) 293–3204. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Monsanto Company, of St. Louis, MO, and Union Carbide Corporation, of Danbury, Ct.

MC 105457 (Sub-107), filed January 21, 1983. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Rd., Charlotte, NC 28206. Representative: John V. Luckadoo (same address as applicant), (704) 373–1933. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with K Mart Corporation, of Troy, MI.

MC 105457 (Sub-108), filed January 21, 1983. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Rd., Charlotte, NC 28206. Representative: John V. Luckadoo (same address as applicant), (704) 373–1933. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Southeastern Bonded Warehouses, Inc., of Atlanta, GA.

MC 110567 (Sub-33), filed January 19, 1983. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50304. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304, (515) 245–2725. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Albertsons, Inc., of Boise, ID.

MC 119787 (Sub-13), filed January 21, 1983. Applicant: F. W. GROVES TRUCKING COMPANY, Route 4, Box 89, Leland, NC 28451. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602, (919) 828–0731. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in GA, NC, SC, and VA.

MC 120776 (Sub-3), filed January 20, 1983. Applicant: KRESSER MOTOR SERVICE, INC., 900 E. Church St., Sandwich, IL 60548. Representative: Edward G. Bazelon, 135 S. La Salle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kresser Broker Service, Inc., of Sandwich, IL.

MC 129087 (Sub-5), filed January 21, 1983. Applicant: L. A. BELL MOTOR LINES, INC., P.O. Box F, Chesterton, IN 46304. Representative: Lorain A. Bill, 111 Sexton St., Porter, IN 46304, (219) 926–5993. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Cook, Lake, and Dupage Counties, IL, on the one hand, and, on the other, points Lake, Porter, and LaPorte Counties, IN.

MC 145627 (Sub-2), filed January 19, 1983. Applicant: M & T TRUCKING, INC., 4290 State Route 7, New Waterford, OH 44445. Representative: David A. Turano, 100 E Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *coal and coal products,* between points in OH and NY.

MC 147436 (Sub-5), filed January 21, 1983. Applicant: BELTMANN NORTH AMERICAN CO., INC., 3400 Spring St. NE, Minneapolis, MN 55413. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Tranporting *household goods, furniture and fixtures,* (1) between points in WI, IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, OH, SD, and OK, and (2) between points in (1) above, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147716 (Sub-1), filed January 21, 1983. Applicant: OVERLAND TRA PORT, INC., 1701 Wright Ave., Richmond, CA 94804. Representative: James H. Gulseth, 100 Bush St., 21st Fl., San Francisco, CA 94104, (415) 986–5778. Transporting *general commodities* (except classes A and B explosives household goods and commodities in bulk), between points in CA.

MC 148496 (Sub-4), filed January 19, 1983. Applicant O. W. SMITH TRANSPORT, INC., Rt. 3, Hwy 71 N., DeQueen, AR 71832. Representative: Wm. Dean Overstreet, 1550 Tower Bldg., Little Rock, AR 72201, (501) 375–9151. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between points in TX, OK, KS, MO, AR, LA, MS, AL, FL, GA, TN, SC, NC, KY, IL, and IN, and (2) between points in (1) above, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152366 (Sub-4), filed January 21, 1983. Applicant: AMERICAN COLLOID CARRIER CORP., P. O. Box 951, Scottsbluff, NE 69361. Representative: Robert N. Garity (same address as applicant), (308) 635–3157 Ext. 357). Transporting *building materials, lumber, wood* and *forest products,* between points in the U.S. (except AK and HI).

MC 156327 (Sub-23), filed January 21, 1983. Applicant: TRUCK ONE, INC., P.O. Box 433, Reynoldsburg, OH 43068. Representative: A. Charles Tell, 100 E Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general*

commodities (except classes A and B explosives, household goods and commodities in bulk), between points in Crawford County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157577 (Sub-1), filed January 21, 1983. Applicant: DENNIS RAY, d.b.a. GOLDEN WEST, 1753 Clinton St., Apt. 4, Aurora, CO 80010. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, (303) 424–1761. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI.

MC 160297 (Sub-1), filed January 18, 1983. Applicant: LAKES AREA TRANSPORT, INC., 79 NW Fourth St., Forest Lake, MN 55025. Representative: Timothy H. Butler, 4200 IDS Center, 80 S 8th St., Minneapolis, MN 55402, (612) 371–3211. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Nationwide Industries, Inc. and Hallberg Marine, Inc. of Wyoming, MN.

MC 165797, filed January 17, 1983. Applicant: WESTRAN TRUCKLINE, INC., 1148 W Western Ave, Muskegon, MI 49443. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting (1) *metal products and machinery*, between points in the U.S. (except AK and HI), and (2) *such commodities* as are dealt in or used by foundry suppliers, between points in AL, IL, IN, IA, KS, KY, MI, MN, MS, MO, NJ, NY, NC, ND, OH, OK, OR, PA, SD, TX, UT, VA, WV. WI, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI.

MC 165807, filed January 20, 1983. Applicant: CAROLINA TANK LINES, INC., P.O. Box 1534, Burlington, NC 27216. Representative: Terrell C. Clark, P.O. Box 25,. Stanleytown, VA 24168, (703) 629–2818. Transporting *general commodities* (except classes A and B explosives, household goods), between points in NC, on the one hand, and, on the other, points in FL, GA, MD, NJ, PA, TN, SC and VA.

MC 165817, filed January 21, 1983. Applicant: TYCO TRUCKING, INC., 916 Lowell Lane, Fort Collins, CO 80524. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, (303) 424–1761. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between points in the U.S. in and west of ND, SD, NE, KS, OK and LA (except AK and HI), and (2) between points in the U.S. in and west of ND, SD, NE, KS, OK and LA (except AK and HI), and points in KY.

[FR Doc. 83–2761 Filed 2–1–83; 8:45 am]

BILLING CODE 7035–01

Motor Carrier, Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier orver irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–235

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 118612 (Sub-4–12TA), filed January 21, 1983. Applicant: COLUMBIA TRUCKING, INC., 700–131st Place, Hammond, IN 46320. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601, (312) 332–5106. Chemicals: Between Seneca, IL, on the one hand, and, on the other, Clinton, IA and Tecumseh, KS. Supporting shipper: E. I. du Pont de Nemours & Co., Inc., 1007 Market Street, Wilmington DE 19898.

MC 165275 (Sub-4–1TA), filed December 20, 1982. Applicant: SHEEHY MAIL CONTRACTORS, INC. 644 11th Ave North, Onalaska, WI 54650. Representative: Joseph E. Ludden, 2707 South Avenue., P.O. Box 1567, La Crosse, WI 54601. *Contract* irregular: Books, catalogs, catalog parts or section, magazines and/or periodicals and printed articles and supplies between points in Jefferson, Dane, and Sauk Counties, WI on the one hand and, on the other, points in the states of MN, IA, MO, IL, IN and OH. Restricted to traffic moving under continuing contract with Perry Printing Corporation. Supporting shipper: Perry Printing Corporation, 240 West Madison Street, Waterloo, WI 53594.

MC 165751 (Sub-4–1TA) filed January 18, 1983. Applicant: DAN RAUTIO d.b.a. DAN RAUTIO TRUCKING, P.O. BOX 271, FLOODWOOD, MN 55736. Representative: Robert D. Gisvold, 1600 TCF Tower, Minneapolis, MN 55402 (612) 333–1341. *Wood pellets in bulk*, from Virginia, MN to Ladysmith and Fort McCoy, WI. Supporting shipper is Aspenal, Inc. of Virginia, MN.

MC 165752 (Sub-4–1TA), filed January 18, 1983. Applicant: M & J TRANSPORT INC., 17 W. 741 Lorraine, Addison, IL. 60101. Representative: Marion Stout (Same as applicant). *General Commodities*, (except Classes A & B explosives, commodities in bulk requiring special equipment and household goods), between points in CT, DE, IL, IN, MA, MD, MO, NJ, NY, ME, OH, PA, and RI. Seven Statements in support attached to this application.

MC 165782 (Sub-4–1TA), filed January 19, 1983. Applicant: DAN KING d.b.a. DAN KING TRUCKING, 5251 Browns Beach Road, Rockford, IL 61103. Representative: Dan King (Same address as applicant). Transporting *general commodities* (except Classes A and B explosives) between points in the U.S.A. Supporting shipper: The Pillsbury Company, Box 781, Ottawa, IL 61350.

MC 165783, (Sub-4–1TA), filed January 19, 1983. Applicant: PARAGON EXPRESS, INC., 3520 S. Creyts Road, P.O. Box 2703, Lansing, MI 48909. Representative: Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. *Contract* irregular: *Lumber and wood products*, between Kalamazoo, Mason, Rudyard, Traverse City, and Detroit, MI and its commercial zone and Toledo, OH, on the one hand, and, on

the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MS, NY, NC, OH, PA, TN, TX and WI. Restricted to continuing contract(s) with Schultz, Snyder & Steel Lumber Company, 610 East Grand River, Lansing, MI 48906. An underlying ETA seeks 120 days authority. Supporting shipper: Schultz, Snyder & Steel Lumber Company, 610 East Grand River, Lansing, MI 48906.

The following applications were filed in region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 67234 (Sub-5–44TA), filed January 21, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, irregular, *General Commodities* (except Classes A and B explosives and commodities in bulk) between points and places in the U.S. (including AK and HI) under continuing contract(s) with Raychem Corporation. Supporting shipper: Raychem Corporation, Menlo Park, CA.

MC 83835 (Sub-5–2TA), filed January 21, 1983. Applicant: WALES TRANSPORTATION, INC., P.O. Box 226186, Dallas, TX 75266. Representative: J. Michael Alexander, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237–2385. Contract, Irregular; *General commodities (except household goods, and Classes A and B explosives),* between points in the U.S., under continuing contract with Phillips Petroleum Company and Phillips Driscopipe, Inc. Supporting shipper: Phillips Petroleum Company, Bartlesville, OK.

MC 117740 (Sub-5–1TA), filed January 19, 1983. Applicant: HORTON BROTHERS TRUCKING COMPANY, INC., 11613 Denton Drive, Dallas, TX 75229. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular; *General Commodities (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between Dallas, TX on the one hand, and, on the other, points in the U.S. (except AK and HI). Under continuous contract(s) with The Southland Corporation. Supporting shipper: The Southland Corporation, Dallas, TX.

MC 138134 (Sub-5–2TA), filed January 19, 1983. Applicant: DONALD HOLLAND TRUCKING, INC., P.O. Box 646, Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Contract* irregular; General Commodities (Except Household Goods, Classes A and B Explosives and Commodities in Bulk), Between points in Lee County, IA, on the one hand, and, on the other, points in the U.S. (Except AK and HI) under continuing contract(s) with Henkel Corporation of Minneapolis, MN. Supporting shipper: Henkel Corporation, Minneapolis, MN.

MC 143165 (Sub-5–4TA), filed January 20, 1983. Applicant: McCLELLAND LUMBER TRANSPORTS, P.O. Box 73, Cuba, Mo 65453. Representative: Charles W. McClelland (Same address as applicant). Contract, irregular; *Such commodities as are dealt in and used by manufacturers and distributors of metal products,* between points in the U.S. (except AK & HI), under contract with Pershing-Ohio Co. Supporting shipper: Pershing-Ohio Co., St. Louis, MO.

MC 159026 (Sub-5–1TA), filed January 20, 1983. Applicant: U.S. CONTRACT TRUCKING, INC., 2730 Carl Road, Irving, TX, 75060. Representative: Bill W. Huie (Address same as above). Contract, Irregular; *General Commodities (except HHG's, Class A & B explosives, and bulk)* having prior interstate movement by rail or pool car/truck, from Irving, TX to Houston, TX. Supporting shipper: T.P.S. Freight Distribution, Inc. Irving, TX.

MC 161124 (Sub-5–2TA), filed January 21, 1983. Applicant: C. TILE TRANSPORTATION, INC., 515 Houston Street, Ft. Worth, TX 76102. Representative: Dean O'Leary, 515 Houston Street, Ft. Worth, TX 76102. *Mercer commodities,* between Colony and Lovell, WY, on the one hand, and, on the other, points in the U.S. Supporting shipper: NL Baroid/NL Industries, Inc., Houston, TX.

MC 165777 (Sub-5–1TA), filed January 19, 1983. Applicant: ROGERS TRUCKING, INC., Star Route, Purdum, NE 69157. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Rendering plant by-products* from the commercial zones of Sioux Falls and Watertown, SD, to points in FL and the commercial zones of Mobile, AL; Valdosta, GA and Wheeling, WV. Supporting shipper: Girdner & Son Company, Sioux Falls, SD.

MC 165823 (Sub-5–1TA), filed January 21, 1983. Applicant: W. A. QUERNER, d.b.a. RAINBOW MOTOR LINES, 120 Beverly Drive, San Antonio, TX 78201. Representative: William E. Collier, 5622 Evers #1303, San Antonio, TX 78238. *Contract, irregular; Fresh meat* between Greeley, CO and San Antonio, TX under continuous contract with Bill Miller Bar-B-Que, Inc., San Antonio, TX.

MC 165824 (Sub-5–1TA), filed January 21, 1983. Applicant: CHARLES WILSON, d.b.a. SKEETER WILSON TRUCKING, 1167 Viking Road, Story City, IA 50248. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses, (except commodities in bulk),* between Tama County, IA, on the one hand, and, on the other, points in IL, KS, MN, MO, ND, NE, OK, SD, TX, and WI. Supporting shipper: Tama Meat Packing Corporation, Tama, Iowa.

The Following Applications Were Filed in Region 6.

Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St. Suite 501, San Francisco, CA 94105.

MC 41098 (Sub-6–17TA), filed January 20, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, D.C. 20006. *Contract carrier,* irregular routes, *Household goods* between points in the U.S. under continuing contract(s) with TRW, Inc. of Redondo Beach, CA., for 270 days. Supporting shipper: TRW, Inc. One Space Park, Redondo Beach, CA 90278.

MC 165842 (Sub-6–1TA), filed January 21, 1983. Applicant: WAYNE L. HANSON, Rt. 3, Box 1540, Ellensburg, WA 98926. Representative: Wayne L. Hanson, (same as applicant). *Contract carrier,* irregular routes, *bulk fertilizer* from Cenex Soil Service Center in Interstate, ID to Midstate Co-op in Ellensburg, WA for the account of Midstate Co-op, for 270 days. Supporting shipper: Midstate Co-op, P.O.B. 480, Ellensburg, WA 98926.

MC 165871 (Sub-6–1TA), filed January 24, 1983. Applicant: HUGO NEU STEEL TRANSPORTATION, INC., P.O. Box 27324, Salt Lake City, UT 84127. Representative: Bill Milner (same address as applicant). *Contract carrier,* irregular routes, *Metal Products and Waste or Scrap Materials Not Identified by Industry Producing,* between AZ, CA, NV, UT and WY, under continuous contract(s) with Hugo Neu Steel Products, Inc., of Salt Lake City UT, for 270 days. Supporting shipper: Hugo Neu Steel Products, Inc., 4221 W 7 So, Salt Lake City, UT 84104.

MC 165870 (Sub-6–1TA), filed January 24, 1983. Applicant: H. B. LEE CONSTRUCTION, INC., 185 Buckskin St., Baggs, WY 82321. Applicant's Representative: Howard B. Lee (same as applicant). *Water and any oil field* related supplies and equipment between points in CO, WY, and UT, for 270 days.

Supporting shippers: Garvin & Sons Crane Service, Box 58, Baggs, WY 82321; River Implement, Inc., P.O.B. 175, Baggs, WY 82321; and Snyder Oil Co., P.O.B. 129, Baggs, WY 82321.

MC 165348 (Sub-6–1TA), filed January 20, 1983. Applicant: MID-CONTINENTAL TANK LINES, INC., P.O.B. 265 Station "T", Calgary, Alberta, CD. Applicant's Representative: Mr. Ben Froese (same as applicant). Liquid Sulphur, between ports of entry on the U.S.-CD border at MT, ID, and WA and points in MT, ID, and WA. For 270 days, an underlying ETA seeks 120 days authority. Supporting shippers: Canadian Occidental Petroleum Ltd., 1600 McFarlane Tower, 700 4 Ave. S.W., Calgary, Alberta, CD, T2P 3J5. Superior Oil Ltd., Three Calgary Place, 355 4 Ave. S.W., Calgary, Alberta, CD. T2P 0J3. Shell Canada Resources Ltd., P.O.B. 100 Station "M", Calgary, Alberta, CD, T2P 2H5.

MC 165840 (Sub-6–1TA), filed January 21, 1983. Applicant: LLOYD PETERSON d.b.a., Peterson Trucking, Rt. 2, Box 71–H, Moses Lake, WA 98837. Applicant's Representative: Boyd Hartman, P.O.B. 3641, Bellevue, WA 98009. *Contract carrier,* irregular routes, *Titanium, Titanium Aggregate, Sponges and Fines* from Grant County, WA to points in the U.S. for the account of International Titanium, Inc., for 270 days. Supporting shipper: International Titanium, Inc., 1320 Rd. 3 N.E., Moses Lake, WA 98837.

MC 151061 (Sub-6–3TA), filed January 21, 1983. Applicant: ROBERTS HOLIDAY LINES, INC., 930 Poinsettia St., Santa Ana, CA 92701. Applicant's Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702. *Common Carrier,* Regular routes: *Passengers and their baggage,* in the same vehicle, between Laguna Hills, CA and Las Vegas, NV; from Laguna Hills, CA, over Interstate Hwy. 5 to junction California Hwy. 22, then over California Hwy. 22 to junction California Hwy. 55, then over California Hwy. 55 to junction California Hwy. 91, then over California Hwy. 91 to junction Interstate 15E, then over Interstate Hwy. 15E to junction Interstate Hwy. 15, then over Interstate Hwy. 15 to Las Vegas, NV, and return over the same route, serving Santa Ana, Riverside and San Bernardino, CA as intermediate points, for 270 days. An underlying ETA seeks 120 days authority. Supporting witnesses: Sahara Hotel & Casino, 2535 Las Vegas Blvd. So., Las Vegas, NV; Casino Connection, 930 Poinsettia, Santa Ana, CA 92701.

MC 165841 (Sub-6–1TA), filed January 21, 1983. Applicant: WARREN G. WOOD, Rt. 3, Box 1641, Ellensburg, WA 98926. Applicant's Representative: Warren G. Wood (same as applicant). *Contract carrier,* irregular routes, *bulk fertilizer* from Cenex Soil Service Center in Interstate, ID to Midstate Co-op in Ellensburg, WA for the account of Midstate Co-op, for 270 days. Supporting shipper: Midstate Co-op, P.O.B. 480, Ellensburg, WA 98926.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–2755 Filed 2–1–83; 8:45 am]
BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub-130)]

Rail Carriers; Burlington Northern Railroad Company—Abandonment in Lincoln County, WA; Findings

The Commission has issued a decision authorizing the Burlington Northern Railroad Company to abandon its 17.51-mile rail line between milepost 0.41 near Davenport and milepost 17.92 near Eleanor in Lincoln County, WA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued, and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–2759 Filed 2–1–83; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 30094]

Rail Carriers; St. John's River Terminal Company—Abandonment Exemption—In Duval County, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts St. John's River Terminal Company from 49 U.S.C. 10903–4 in connection with 0.66-mile line in Jacksonville, FL, subject to employee protective conditions.

DATES: This exemption is effective on March 4, 1983. Petitions to stay effectiveness of this decision must be filed by February 11, 1983, and petitions for reconsideration must be filed by February 22, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Nancy S. Fleischman, Southern Railway Company, P.O. Box 1808, Washington, DC 20013.

Pleadings should refer to Finance Docket No. 30094.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

DECIDED: January 27, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–2758 Filed 2–1–83; 8:45 am]
BILLING CODE 7035–01–M

[No. MC–F–15059]

Corporate Transport, Inc.—Purchase Exemption—Sigma-4 Express, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343,* 47 FR 53303 (November 24, 1982), Corporate Transport, Inc. seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of a portion of the operating rights of Sigma-4 Express, Inc., a motor carrier, (i.e., certificates Nos. MC–125023 (Sub-Nos. 19, 27, 33, 40, 44, 49, 53F, 54F, 60F, 74F, 75F, and 79F), which certificates, collectively, authorize the irregular-route motor common carrier transportation of malt beverages from and to various points and States located primarily east of the Mississippi River).

DATES: Comments must be received within 30 days after the date of publication in the Federal Register.

ADDRESSES:

(1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative, James T. Darby, 1021 Irving Avenue, Colonial Beach, VA 22443.

Comments should refer to No. MC–F–15059.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 27, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2768 Filed 2–1–83, 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15073]

Robert W. Swanson, Gerald E. Malke, Richard V. Pickard, and Joseph A. Eschenbacher—Continuance in Control Exemption—Dahlen Transport, Inc. and DTI, Ltd.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343,* 47 FR 53303 (November 24, 1982), Robert W. Swanson, Gerald E. Malke, Richard V. Pickard, and Joseph A. Eschenbacher seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of Dahlen Transport, Inc., a motor common carrier (No. MC–105375 and sub numbers) and DTI Ltd., a motor contract carrier (No. MC–156733).

DATES: Comments must be received within 30 days after the date of publication in the Federal Register.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036.

Comments should refer to No. MC–F–15073.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 27, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2767 Filed 2–1–83; 8:45 am]

BILLING CODE 7035–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22–12226]

Allis-Chalmers Credit Corp.; Application and Opportunity for Hearing

January 26, 1983.

Notice is hereby given that Allis-Chalmers Credit Corporation (the "Applicant") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the successor trusteeship of J. Henry Schroder Bank & Trust Company ("Schroder") under certain existing indentures of the Applicant dated May 15, 1979, June 1, 1980 and June 1, 1981, which are qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from continuing to act as successor trustee under the Applicant's indentures.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within 90 days after ascertaining that is has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this Section provides, in effect, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of Subsection (1), there is excluded from the operation of this provision another indenture or indentures under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under the qualified indenture and such other indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under such indentures.

The Applicant alleges that:

1. The Applicant has outstanding as of December 15, 1982, $50,000,000 principal amount of its 10.35% Debentures Due 1999 (the "10.35% Debentures") issued under an indenture dated as of May 15, 1979 (the "1979 Indenture"), between the Applicant and Chemical Bank ("Chemical"), as Trustee, which was heretofore qualified under the Act. The 10.35% Debentures were registered under the Securities Act of 1933 on Form S–1 (Reg. No. 2–64359) and the 1979 Indenture was filed as Exhibit 4.2 to said registration statement.

2. The Applicant has outstanding as of December 15, 1982, $75,000,000 principal amount of its 12% Notes Due 1990 (the "12% Notes") under and Indenture dated as of June 1, 1980 (the "1980 Indenture"), between the Applicant and Chemical, as Trustee, which was heretofore qualified under the Act. The 12% Notes were registered under the Securities Act of 1933 on Form S–1 (Reg. No. 2–67766) and the 1980 Indenture was filed as Exhibit 4.2 to said registration statement.

3. The Applicant has oustanding as of December 15, 1982, $75,000,000 principal amount of its 16% Notes Due 1991 (the "16% Notes") issued under an indenture dated as of June 1, 1981 (the "1981 Indenture"), between the Applicant and The Chase Manhattan Bank (National Association), as Trustee, which was heretofore qualified under the Act. The 16% Notes were registered under the Securities Act of 1933 on Form S–1 (Reg. No. 2–72495) and the 1981 Indenture was filed as Exhibit 4.2 to said registration statement.

4. On December 20, 1982, Schroder was appointed the successor trustee under the 1981 Indenture.

5. On January 6, 1983, Schroder was appointed successor trustee under the 1980 Indenture.

6. On January 6, 1983 Schroder was

appointed successor trustee under the 1979 Indenture.

7. The successor trusteeships under the indentures will constitute a conflicting interest under the 1981 Indenture after 90 days from the date of Schroder's appointment and acceptance of the successor trusteeship under the 1980 Indenture unless, in accordance with Section 608(c)(1)(ii) of the 1981 Indenture, the Commission determines that the successor trusteeships under the 1979 and 1980 Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from continuing to act as successor trustee under such indentures.

8. The Applicant appointed Schroder to act as successor trustee under the 1979 and 1980 Indentures and Schroder accepted such appointments pursuant to Tripartite Agreements each dated as of January 6, 1983 (the "Tripartite Agreements", among the Applicant, Chemical and Schroder. The Tripartite Agreements provide that, if the Commission does not issue an order under Section 310(b)(1)(ii) of the Act that Schroder is not disqualified from ating as successor trustee prior to April 5, 1983, Schroder shall resign, and upon such resignation by Schroder, the Applicant shall promptly appoint Chemical as successor trustee under the 1979 and 1980 Indentures and Chemical shall accept such appointments. *See Niagara Mohawk Power Corp.*, Order of the Commission dated January 9, 1950, File No. 2–8214 (22–942).

9. The Applicant is not in default under any of the indentures.

10. The Applicant's obligations under the indentures and the securities issued thereunder are wholly unsecured and rank *pari passu inter se*. There are no material differences between the 1979, 1980 and 1981 Indentures except for variations as to aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates, redemption prices and sinking fund provisions.

11. In the opinion of the Applicant, the provisions of the aforementioned indentures are not so likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any holder of any of the securities issued under such indentures to disqualify Schroder from continuing to act as successor trustee under the 1979 and 1980 Indentures.

12. The Applicant is presently negotiating agreements pursuant to which it will grant security for the equal and ratable benefit of its bank and insurance company lenders and the holders of its public debt under the 1979, 1980 and 1981 Indentures. The Applicant expects such security to be granted prior to April 5, 1983. Since each of the 1979, 1980 and 1981 Indentures contains identical provisions requiring the securities issued thereunder to be equally and ratably secured in the event security is granted to other indebtedness of the Applicant, and since the Applicant will secure such securities equally and ratably, the Applicant has stated its belief that the granting of such security should not affect the Commission's consideration of this application.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person, may not later than February 19, 1983, submit to the Commission his views of any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether the hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponents thereof. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2799 Filed 2–1–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12995; 811–2229]

Chase Convertible Fund of Boston, Inc.; Filing of Application

January 26, 1983.

In the matter of Chase Convertible Fund of Boston, Inc., One American Row, Hartford, Connecticut 06115 (811–2229).

Notice is hereby given that Chase Convertible Fund of Boston, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified, management investment company, filed an application on July 13, 1982, for an order of the Commission, pursuant to Section 8(f) of the Act and Rule 8f–1 thereunder, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on September 16, 1971, and filed a registration statement pursuant to Section 8(b) of the Act on September 16, 1971. Applicant states that on September 16, 1971, it filed a registration statement on Form S–4 pursuant to the Securities Act of 1933 with respect to 4,000,000 shares of its common stock ($1 par value). Applicant represents that the registration statement, as amended, became effective with respect to 5,500,000 shares of common stock ($1 par value) on July 26, 1972 (File No. 2–41775). Applicant states further that the initial public offering of its shares commenced on July 26, 1972. Applicant represents that, as of March 18, 1982, there were 5,515,988 shares outstanding of its common stock, $1 par value. Applicant represents further that, as of that same date, it had net assets of $73,495,176 and a net asset value of $13.32 per share.

Applicant states that, pursuant to an agreement and plan of reorganization, including a plan of complete liquidation and dissolution (the "Plan"), on March 19, 1982, Applicant transferred substantially all of its assets to another registered investment company, Phoenix-Chase Series Fund ("Series Fund"), a Massachusetts business trust, in exchange for shares of beneficial interest in the Phoenix-Chase Convertible Fund Series ("Convertible Series").

Applicant represents that, pursuant to the Plan, Convertible Series shares have been distributed pro rata to the former shareholders of Applicant in complete cancellation and retirement of all of the

issued and outstanding shares of Applicant by registering in the name of each former shareholder of Applicant, through the Series Fund's transfer agent, the number of shares of Convertible Series to which each such shareholder became entitled as a result of the exchange of substantially all the assets of Applicant for shares of beneficial interest of Convertible Series. Applicant states that, accordingly, its assets were exchanged for an aggregate of 5,515,987.786 shares of beneficial interest of Convertible Series, having a total value of $73,495,176, which were distributed to the shareholders of record of Applicant on March 19, 1982. Applicant states that each former shareholder of Applicant received one share of Convertible Series for each share of Applicant. Applicant states further that its Articles of Dissolution were filed with the Secretary of State of the Commonwealth of Massachusetts on May 14, 1982, whereupon Applicant was dissolved.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 18, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2801 Filed 2-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12994; 811-3494]

First Financial Strategies, Corp.; Filing of Application

January 26, 1983.

In the matter of First Financial Strategies Corporation, 4500 Beverly Drive, Dallas, Texas 75205 (811-3496).

Notice is hereby given that First Financial Strategies Corporation ("Applicant") a Texas corporation registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on August 25, 1982, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that the Applicant has never made a public offering of its securities. The application states, however, that the Applicant's legal existence and corporate charter is still in existence, and the company is in good standing as a corporation in the State of Texas. The application also states that the Applicant has assets represented by capital stock of the Applicant in the amount of $1,000. The application further states that the Applicant has only one stockholder, has no debts or liabilities, and is not a party to any litigation or administrative proceeding.

The Applicant asserts that it mistakenly applied to be an investment company based on a legal misinterpretation of the legal requirements for such business activity. The Applicant further asserts that Applicant never intended to operate as an investment company, and has no intention to operate in such capacity. The application states that the Applicant has applied with the Commission and intends to operate as an investment adviser and has no present plans to operate in any other capacity.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 18, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter ordered a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2800 Filed 2-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12993, 812-5424]

Keystone Provident Life Insurance Co. et al.; Application

January 26, 1983.

In the matter of Keystone Provident Life Insurance Company and KMA Variable Account, 99 High Street, Boston, Massachusetts 02105 and Dean Witter Reynolds, Inc., 5 World Trade Center, New York, New York 10048 (812-5424).

Notice is hereby given that Keystone Provident Life Insurance Company ("Company"), a stock life insurance company established under the laws of the State of Rhode Island, KMA Variable Account, a separate account of the company registered under the Investment Company Act of 1940 ("Act") as a unit investment trust ("Variable Account"), and Dean Witter Reynolds, Inc., one of the underwriters for the Variable Account ("Dean Witter"), (collectively, "Applicants"), filed an application on January 14, 1983 and an amendment thereto on January

24, 1983 for an order of the Commission pursuant to Section 6(c) of the Act extending the terms of two previous orders of the Commission, as discussed below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant statutory provisions.

On April 9, 1981 (Investment Company Act Rel. No. 11727), the Commission issued an order pursuant to Section 6(c) of the Act granting an exemption to the Company, the Variable Account, and other persons from provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(c)(1), 27(c)(2), and 27(d) of the Act and rule 22c–1 thereunder to the extent necessary to permit certain transactions and pursuant to Section 11 of the Act approving the terms of certain offers of exchange. On August 3, 1982 (Investment Company Act Rel. No. 12571), the Commission issued an order pursuant to Section 6(c) granting exemptions to the Company, the Variable Account, and another person from provisions of Sections 22(e), 26(a), 27(c)(1), 27(c)(d), and 27(d) of the Act to the extent necessary to permit certain transactions and pursuant to Section 11 of the Act approving the terms of certain offers of exchange. Applicants now request an order amending the two prior orders to the extent necessary to include Dean Witter as a second underwriter for the Variable Account.

Applicants represent that the reasons that formed the bases for the Commission granting the previous orders still exist and that the addition of a second underwriter does not materially alter the discussions presented at the time of the previous applications, which discussions are specifically incorporated by reference into the instant application.

Section 6(c) of the Act generally authorizes the Commission to exempt any person, security, or transaction, from the provisions of the Act and rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, no later than February 18, 1983, at 5:30 p.m., do so by submitting a written request, setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the addresses stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2798 Filed 2–1–83; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TREASURY

Public Information Collection Requirements Submitted To OMB for Review

During the period January 21 through January 27, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, P.L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0704
Form Number: 5471 and Schedules M, N and O
Title: Information Return with Respect to a Foreign Corporation

OMB Number: 1545–0008
Form Number: W–2, W–2P, W–2AS, W–2GU, W–2C, W–2VI, W–3, W–3PR, W–3SS, W–3C
Title: Wage and Tax Statement and Transmittal of Income and Tax Statements

OMB Number: 1545–0313
Form Number: Letters 31C, 31SC and 31SP
Title: Two Returns Filed, Explanation Requested

OMB Number: N/A (Reinstatement)
Form Number: 4742
Title: Questionnaire—Medical & Dental Expense

OMB Number: 1545–0503
Form Number: Letter 919 (DO)
Title: Request for Information—Highway Motor Vehicle Use Tax

OMB Number: 1545–0118
Form Number: 1099–PATR
Title: Statement for Recipients (Patrons) of Taxable Distributions Received from Cooperatives

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Alcohol, Tobacco and Firearms

OMB Number: N/A (reinstatement)
Form Number: ATF F 8 Part III (5310.11)
Title: Renewal of Firearms License

OMB Number: N/A (New submission)
Form Number: ATF F 5100.32
Title: Certificate of Distilled Spirits Exported to Italy

OMB Number: 1512.0033
Form Number: ATF F 1534–A
Title: Tax Information Authorization

OMB Number: 1512–0204
Form Number: ATF F 5110.38
Title: Formula for Distilled Spirits under the Federal Alcohol Administration Act.

OMB Number: 1512–0167
Form Number: ATF F 3072(5210.14)
Title: Transportation in Bond and Notice of Release of Puerto Rican Cigars, Cigarettes, Cigarette Paper or Tubes

OMB Number: 1512–0236
Form Number: Respd Letterhead—236
Title: Removal and Receipt of Non-Beverage Wine

OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: January 28, 1983.

Joy Tucker,

Departmental Reports, Management Officer.

[FR Doc. 83–2835 Filed 2–1–83; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

[Department Circular; Public Debt Series—No. 4–83]

10⅜% Treasury Bonds of 2007–2012; Invitation for Tenders

1. Invitation for Tenders

January 27, 1983.

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of

Title 31, United States Code, invites tenders for approximately $3,500,000,000 of United States securities, designated 10¾% Treasury Bonds of 2007–2012 (CUSIP No. 912810 DB 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be issued February 15, 1983, and are offered as an additional amount of 10¾% Treasury Bonds of 2007–2012 (CUSIP No. 912810 DB 1) dated November 15, 1982. Payment for the securities will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from November 15, 1982, to February 15, 1983. Interest on the securities offered as an additional issue is payable on a semiannual basis on May 15, 1983, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 2012, but may be redeemed at the option of the United States on and after November 15, 2007, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Thursday, February 3, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, February 2, 1983, and received no later than Tuesday, February 15, 1983.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 11.21% will not be accepted, because the equivalent prices would fall below the original issue discount limit of 92.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from November 15, 1982, to February 15, 1983, in the amount of $26.36740 per $1,000 of securities allotted. Except as otherwise stipulated, settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, February 15, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors not later than Friday, February 11, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. The Federal Reserve Bank Branch of New Orleans will be closed on February 15. Settlement for accepted tenders from institutional investors at that branch must be completed no later than Wednesday, February 16, 1983, with payment including one day's accrued interest, unless settlement is made with Treasury securities maturing on or before February 15, 1983. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-2816 Filed 1-28-83; 3:32 pm]

BILLING CODE 4810-40-M

[Department Circular; Public Debt Series—No. 3-83]

Treasury Notes of Feburary 15, 1993; Series A-1993; Invitation for Tenders

January 27, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $4,500,000,000 of United States securities, designated Treasury Notes of February 15, 1993, Series A-1993 (CUSIP No. 912827 PD 8). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securitites may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated February 15, 1983, and will bear interest from that date, payable on a semiannual basis on August 15, 1983, and each subsequent 6 months on February 15 and August 15 until the principal becomes payable. They will mature February 15, 1993, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible

bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, February 2, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 1, 1983, and received no later than Tuesday, February 15, 1983.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Govenment securities and report daily to the Federal Reserve Band of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the custormers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Except as otherwise stipulated, settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, February 15, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the insitituion to which the tender was submitted, which must be received from institutional investors no later than Friday, February 11, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. The Federal Reserve Bank Branch of New Orleans will be closed on February 15. Settlement for accepted tenders from institutional investors at that branch must be completed no later than Wednesday, February 16, 1983, with payment including one day's accrued interest, unless settlement is made with Treasury securities maturing on or before February 15, 1983. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the

Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-2815 Filed 1-28-83; 3:32 pm]

BILLING CODE 4810-40-M

[Department Circular; Public Debt Series—No. 2-83]

Treasury Notes of February 15, 1986; Series L-1986; Invitation for Tenders

January 27, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,500,000,000 of United States securities, designated Treasury Notes of February 15, 1986, Series L-1986 (CUSIP No. 912827 PC 0). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated February 15, 1983, and will bear interest from that date, payable on a semiannual basis on August 15, 1983, and each subsequent 6 months on February 15 and August 15 until the principal becomes payable. They will mature February 15, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, February 1, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, January 31, 1983, and received no later than Tuesday, February 15, 1983.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisons or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent

required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Except as otherwise stipulated, settlement on securities alloted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, February 15, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, February 11, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. The Federal Reserve Bank Branch of New Orleans will be closed on February 15. Settlement for accepted tenders from institutional investors at that branch must be completed no later than Wednesday, February 16, 1983, with payment including one day's accrued interest, unless settlement is made with Treasury securities maturing on or before February 15, 1983. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompnay the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as many be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promplty provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-2814 Filed 1-28-83; 3:32 pm]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Medical Research Service Merit Review Boards; Availability of Annual Report

Under section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) and OMB Circular A-63 of March 27, 1974, notice is hereby given that the Annual Report of the Veterans Administration Medical Research Service Merit Review Boards for calendar year 1981 has been issued.

The report summarizes activities of the Boards on matters related to the review, discussion and evaluation of individual investigator initiated medical research projects. It is available for public inspection at two locations:

Library of Congress, Serial and Government Publications Reading Room, LM 133, Madison Building, Washington, DC 20540;
and
Veterans Administration, Medical Research Service Chief, Merit Review Board Staff Division, Room 755, 810 Vermont Avenue, NW, Washington, DC 20420.

Dated: January 25, 1983.
By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-2826 Filed 2-1-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 23
Wednesday, February 2, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, February 7, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552 (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum re: Franklin National Bank, New York, New York.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389–4425.

Dated: January 31, 1983.

Federal Deposit Insurance Corporation.

[S–149–83 Filed 1–31–83; 3:35 pm]

BILLING CODE 6714–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, February 7, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,577–SR—Hohenwald Bank & Trust Company, Hohenwald, Tennessee

Case No. 45,578–L—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Office of Corporate Audits:

Audit Report re: Control Weaknesses Evident During Accountable Property Sale Investigation, dated July 30, 1982.

Discussion Agenda

Memorandum and Resolution re: Proposed amendment to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," which would subject any deposit, even though by its terms payable solely outside of the United States and the District of Columbia, to interest rate ceilings where the deposit may be accessed either through an account maintained within the United States or the District of Columbia or through instruction for payment by any person who is not a resident of the extraterritorial sovereignty, possession or territory where the deposit account is maintained.

The meeting will be held in the Board Room on the sixth floor of the FDIC building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Excutive Secretary of the Corporation, at (202) 389–4425.

Dated: January 31, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–150–83 Filed 1–31–83 3:35 pm]

BILLING CODE 6714–01–M

3

FEDERAL RESERVE SYSTEM

Board of Governors.

TIME AND DATE: 2.15 p.m., Thursday, February 3, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Proposed changes to the employee benefits program to implement the Omnibus Reconciliation Act of 1982. (This item was originally announced for a meeting on Tuesday, February 1, 1983.)

Vice Chairman Martin and Governor Teeters, a subquorum of the Board with

delegated authority to act on matters relating to this subject.

CONTACT PERSON FOR MORE INFORMATION:50 Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: January 31, 1983.

James McAfee,

Associate Secretary of the Board.

[S–151–83 Filed 1–31–83; 3:49 pm]

BILLING CODE 6210–01–M

4

NATIONAL MEDIATION BOARD

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 2888.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:00 P.M., February 9, 1983.

CHANGES IN THE MEETING: Meeting rescheduled for 2:00 P.M., February 14, 1983.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523–5920.

Date of notice: January 27, 1983.

[S–147–83 Filed 1–31–83; 3:50 pm]

BILLING CODE 7550–01–M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 31, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Thursday, February 3

2:00 p.m.—Discussion of Proposed Enforcement Action (Closed—Ex. 5)

Friday, February 4

2:30 p.m.—Briefing on SEP Program—Phase II Results (Public meeting)

ADDITIONAL INFORMATION: Affirmation of NFS Erwin Hearing: NRDC's Request for DOE's Classified Information; Hearing Scope Issues; and Related Matters scheduled for January 27 *postponed.* On January 27 the Commission voted 4–0 (Commissioner Gilinsky not present) to hold Discussion of Regulatory Reform Task Force—Legislative Proposals, held that day.

On January 27 the Commission voted 4–0 (Commissioner Gilinsky not present) to hold Discussion of Regulatory Reform Task Force—Legislative Proposals, to be held January 28.

Automatic telephone answering service for schedule update: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Gary Gilbert, (202) 634–1410.

Dated: January 27, 1983.

Gary Gilbert,

Office of the Secretary.

[S–152–83 Filed 1–31–83; 3:50 pm]

BILLING CODE 7590–01–M

6

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 7, 1983, at 450 5th Street, N.W., Washington, D.C.

An open meeting will be held on Thursday, February 10, 1983, at 10:00 a.m. in Room 1C30 followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, February 10, 1983, at 10:00 a.m., will be:

1. Consideration of whether to propose for comment a plan for the allocation of regulatory responsibilities pertaining to options-related sales practice matters pursuant to Rule 17d–2 under the Securities Exchange Act of 1934 between the American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Midwest Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc. For further information, please contact Elizabeth S. York at (202) 272–2377.

2. Consideration of whether to issue an advance concept release requesting public comment as to whether the Commission should propose rules under the Investment Company Act of 1940 to utilize private entities to perform certain functions involving routine examinations of investment companies to supplement the Commission's investment company examination program. For further information, please contact Mary S. Champagne at (202) 272–2079.

The subject matter of the closed meeting scheduled for Thursday, February 10, 1983, immediately following the 10:00 a.m. open meeting, will be:

Formal order of investigation.
Settlement of administrative proceeding of an enforcement nature.
Institution of injunctive actions.
Regulatory matter regarding financial institution.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Catherine McGuire at (202) 272–3085.

January 31, 1983.

[S–148–83 Filed 1–31–83; 3:34 pm]

BILLING CODE 8010–01–M

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Federal Register

Vol. 48, No. 23

Wednesday, February 2, 1983

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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Marine Safety
Coast Guard
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 564; Navel Orange Reg. 563, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 4–10, 1983, and increases the quantity of such oranges that may be so shipped during the period January 28–February 3, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective February 4, 1983, and the amendment is effective for the period January 28–February 3, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: Findings. This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on February 1, 1983 at Visalia, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. Section 907.864 is added as follows:

§ 907.864 Navel Orange Regulation 564.

The quantities of navel oranges grown in California and Arizona which may be handled during the period February 4, 1983 through February 10, 1983, are established as follows:

(1) District 1: 1,650,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

2. Section 907.863 Navel Orange Regulation. 563 (48 FR 3714), is hereby amended to read:

§ 907.863 Navel Orange Regulation 563.

* * * * *

(1) District 1: 1,700,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 2, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 83-3163 Filed 2-2-83; 11:59 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes; Alien Graduates of United States Medical Schools

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule incorporates an existing interpretation relating to alien graduates of United States medical schools who seek admission to the United States. Publishing this interpretative rule will assist the public in understanding the eligibility of these alien medical graduates for temporary worker classification.

DATE: Effective February 3, 1983.

FOR FURTHER INFORMATION CONTACT:
For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

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For Specific Information: Alice Strickler, Immigration Examiner, 425 I Street, NW., Washington D.C. 20536, Telephone: (202) 633–5014.

SUPPLEMENTARY INFORMATION: The Health Professions Educational Assistance Act of 1976, Pub. L. 94–484, placed restrictions on the admission of foreign medical graduates and added section 101(a)(41) to the Immigration and Nationality Act. That section defines "graduates of a medical school" as "aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state, other than such aliens who are of national or international renown in the field of medicine."

Public Law 94–484 also amended section 101 (a)(15)(H) of the Act. As a result of that amendment, a graduate of a medical school coming to the United States as an H–1 alien of distinguished merit and ability to perform services as a member of the medical profession must be coming primarily to teach or conduct research, or both, at or for a public or nonprofit private educational or research institution or agency at the invitation of that institution or agency. Any patient care performed by the alien must be incidental to the teaching or research. In addition, a graduate of a medical school coming to the United States to perform services as a member of the medical profession is ineligible for classification as an H–2 temporary worker.

It was originally thought that the term "graduates of a medical school," for purposes of section 101(a)(15)(H) of the Act, included alien graduates of United States medical schools. On July 5, 1979, however, the General Counsel of the Immigration and Naturalization Service issued an advisory opinion stating that the term is limited to graduates of *foreign* medical schools. Consequently, alien graduates of United States medical schools are eligible for H–1 and H–2 Classification.

The General Counsel's interpretation was based on the legislative history of Pub. L. 94–84. In his opinion, he cited House Report 94–266 which discussed the problems caused by graduates of *foreign* medical schools.

Public Law 94–484 had initially placed certain testing requirements on all alien medical school graduates seeking immigrant visas or exchange visitor's visas. The General Counsel pointed out that in 1977, Pub. L. 95–83 eased the effects of the prior legislation by exempting from these requirements immigrants and foreign exchange visitors who were graduates of United States-accredited medical schools regardless of where the schools were located. Graduates of Canadian medical schools which were accredited in the United States thus became eligible for immigrant or exchange visitor's visas. Nevertheless, Congress has not amended the provisions relating to the admission of foreign medical graduates as temporary workers. Under the circumstances, for purposes of qualifying as an H–1 or H–2 temporary worker, an alien graduate of a United States-accredited medical school physically located abroad is considered to have graduated from a medical school in a foreign state.

On July 9, 1979, all Immigration Service offices were advised, in accordance with the General Counsel's opinion, that the term "graduates of a medical school" includes only aliens who have graduated from medical schools in a foreign state or who have qualified to practice medicine in a foreign state. Although this interpretation has been followed since that time, the Service believes that including it in the Code of Federal Regulations will assist the public in understanding it.

It should be noted that, while it is technically possible for an alien graduate of a United States medical school to qualify for H–2 classification, the alien would more likely seek H–1 classification. A petition for H–1 classification, unlike that for H–2 classification, is easier to file because it does not require a certification from the Secretary of Labor concerning the availability of United States workers.

The former 8 CFR 214.2(h)(2) (iii) is divided into two paragraphs: 8 CFR 214.2(h)(2)(iii) and (iv), and revised for editorial reasons. New CFR 214.2(h)(2)(iv) also clarifies that a physician who graduated from medical school in a foreign state who is of national or international renown in the field of medicine is exempt from the requirement for enagaging primarily in teaching or research, or both, for purposes of H–1 classification. A new 8 CFR 214.2(h)(v) containing the Service interpretation on alien graduates of United States medical schools is added, and the former paragraphs, 8 CFR 214.2(h) (iv) and (v) are redesignated as 8 CFR 214.2(h) (vi) and (vii) respectively and are republished with minor editorial changes.

Compliance with 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is unnecessary because the rule is interpretative and merely formalizes existing practice.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of EO 11291.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Schools.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended to read as follows:

PART 214—NONIMMIGRANT CLASSES

In § 214.2, paragraphs (h)(2) (iii) through (vii) are revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(2) * * *

(iii) *General documentary requirements for H–1 physicians.* A petitioner seeking to have a physician classified under section 101(a)(15)(H) (i) of the Act shall attach to the petition satisfactory evidence that the physician has a full and unrestricted license to practice medicine in a foreign state or has graduated from a medical school in the United States or in a foreign state.

(iv) *H–1 classification for alien graduates of foreign medical schools.* A petitioner seeking to have a physician who graduated from a medical school in a foreign state classified under section 101(a)(15)(H)(i) of the Act must establish that the beneficiary is coming to the United States primarily to teach or conduct research, or both, at or for a public or nonprofit private educational or research institution or agency at the invitation of the institution or agency. The petitioner must also submit documents which establish that any patient care activities by the beneficiary are incidental to the physician's teaching or research. A physician who graduated from a medical school in a foreign state who is of national or international renown in the field of medicine is exempt from this requirement.

(v) *H–1 and H–2 classification for alien graduates of United States medical schools.* The term "graduates of a medical school" as defined in section 101(a)(41) of the Act means aliens who have graduated from medical schools in a foreign state, who have qualified to practice medicine in a foreign state, or who have graduated from United States-accredited medical schools abroad. An alien graduate of a medical school in the United States who is in all respects qualified for nonimmigrant classification

under section 101(a)(15)(H)(i) or (ii) of the Act is eligible for that classification in order to participate in a medical residency in the United States, and is also eligible for that classification in order to perform any other services as a member of the medical profession, including services primarily involving direct patient care.

(vi) *Nurses.* A petitioner seeking to accord a nurse a classification as a nonimmigrant under section 101 (a)(15)(H)(i) of the Act shall attach to the petition (Form I–129B)-(A) Evidence that the beneficiary has obtained a full and unrestricted license to practice professional nursing in the country where the beneficiary obtained nursing education, or evidence that the education was obtained in the United States or Canada; (B) evidence that the beneficiary has passed the examination given by the Commission on Graduates of Foreign Nursing Schools, Philadelphia, Pa. 19104, or evidence that the beneficiary has obtained a full and unrestricted license to practice professional nursing in the state of intended employment; and (C) a statement by the petitioner certifying that the beneficiary is fully qualified and eligible under the laws governing the place of intended employment to engage in the practice of professional nursing immediately upon admission to the United States, and that under those laws the petitioner is authorized to employ the beneficiary to perform services as a professional nurse. If the laws governing the place where the services will be performed place any limitations on the services to be rendered by the beneficiary, the statement should contain details as to the limitations. The district director shall consider any limitations in determining whether the services which the beneficiary would perform are of the exceptional nature required by the Act.

(vii) *Accompanying aliens.* Managers, trainers, musical accompanists, and other persons determined by the district director to be necessary for successful performance by the beneficiary of a petition approved for classification under section 101(a)(15)(H)(i) of the Act may also be accorded this classification if included in the same or a separate petition. The petitioner must establish that accompanying aliens possess unique qualities, experience, or knowledge of the performance as to render success of the performance dependent upon their participation.

* * * * *

(Sec. 101(a)(41), 101(a)(15)(H) and 214 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1101(a)(41), 1101(a)(15)(H), and 1184))

Dated: January 14, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83–2825 Filed 2–2–83; 8:45 am]

BILLING CODE 4410–10–M

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8 CFR Parts 214 and 245

Nonimmigrant Classes; Adjustment of Status to That of Persons Admitted for Permanent Residence

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations to identify eligibility and provide instructions for adjustment of status to permanent residence under the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 in order to eliminate the uncertainty and insecurity of aliens who legally entered the Virgin Islands as non-immigrants under the Temporary Alien Labor Program.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. Telephone: (202) 633–3048.

For Specific Information: Thomas Cook, Immigration Examiner, Joseph D. Cuddihy, Immigration Examiner, 425 I Street, NW., Washington, D.C. 20536. Telephone: (202) 633–5014.

SUPPLEMENTARY INFORMATION: On September 30, 1982, Pub. L. 97–271 (96 Stat. 1157), was enacted. Section 2 of that law amended the Immigration and Nationality Act, 8 U.S.C. 1101 *et seq.*, to allow for the adjustment of status of certain aliens in the U.S. Virgin Islands.

The new 8 CFR 245.5 provides for the adjustment of status of aliens in the U.S. Virgin Islands who had been admitted as H–2 temporary workers and their accompanying spouse and children on or before June 30, 1975. They must have continuously resided in the U.S. Virgin Islands since that date, and must be physically present in the U.S. Virgin Islands at the time of application. 8 CFR 214.2(h)(3)(ii) is amended by adding that H–2 temporary worker visa petitions will not be approved for workers in the Virgin Islands, except petitions for entertainers and athletes for a period not to exceed 45 days. 8 CFR 214.2(h)(11) is amended by adding that the only H–2 extensions of stay that will be considered are those for entertainers and athletes for a maximum stay of 45 days.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment is required by statute.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This order is not a major rule within the definition of section 1(b) of E.O. 12291.

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment.

8 CFR Part 245

Aliens, Immigration and Nationality Act.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. In § 214.2, paragraphs (h)(3)(ii) and (iii) are redesignated as paragraphs (h)(3)(iii) and (iv) and revised, a new paragraph (h)(3)(ii) is added, and paragraph (h)(11) is revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(3) * * *

(ii) *U.S. Virgin Islands.* After September 29, 1982, visa petitions filed under section 101(a)(15)(H)(ii) of the Act for employment in the U.S. Virgin Islands may be approved only for entertainers or athletes for periods not to exceed 45 days.

(iii) *Multiple beneficiaries.* When the petitioner seeks the services of more than one beneficiary and all the beneficiaries are not included in a single certification, a separate visa petition must be submitted for the beneficiary or beneficiaries covered in each certification.

(iv) *Statement of need.* A statement shall be furnished with the visa petition describing in detail the situation or conditions which make it necessary to bring the alien to the United States, and whether the need is temporary, seasonal, or permanent; if temporary or seasonal, the statement shall indicate

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whether the situation or conditions are expected to be recurrent.

* * * * *

(11) *Extension of stay.* An extension of stay may be authorized in increments of not more than 12 months each under the same terms and conditions that apply to an admission, except that an applicant for an individual extension on Form I–539 does not need a new petition to continue previously authorized employment or training. A new petition is required on behalf of an applicant who seeks employment or training other than that previously authorized, and the applicant, if maintaining status, may be granted an extension of stay for the period of validity of the approved petition without a Form I–539. Form I–129B must be used when filing an application for a group extension; however, when Form I–129B is filed solely for that purpose, there is no appeal from a denial. In the case of an alien as defined in section 101(a)(15)(H)(ii) of the Act, the application for extension must be accompanied by a labor certification or a notice that the certification cannot be made; and the alien shall not be granted an extension which would result in an unbroken stay in the United States for more than 3 years. An application for an alien athlete or entertainer, admitted under section 101(a)(15)(H)(ii) of the Act to perform services in the United States Virgin Islands, cannot be approved for extension of stay beyond a total of 45 days.

* * * * *

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR PERMANENT RESIDENCE

§§ 245.5, 245.6, and 245.7 [Redesignated as §§ 245.6, 245.7, and 245.8]

2. Sections 245.5, 245.6, and 245.7 are redesignated as §§ 245.6, 245.7, and 245.8, respectively, and the following new § 245.5 is added to read as follows:

§ 245.5 Adjustment of Status under the Nonimmigrant Alien Adjustment Act of 1982 (Pub. L. 97–271)

(a) *Application.* Each person applying for benefits under the Virgin Islands Nonimmigrant Alien Adjustment Act (Pub. L. 97–271) must file a Form I–485 application with the district director having jurisdiction over the Virgin Islands of the United States. Each applicant must file a separate application with the appropriate fee. No application for benefits under Pub. L. 97–271 may be filed after September 30, 1983.

(b) *Eligibility.* Benefits under Pub. L. 97–271 are limited to aliens who—

(1) Were inspected and admitted to the Virgin Islands of the United States either as nonimmigrant workers under section 101(a)(15)(H)(ii) of the Act or as the spouses or minor children of such workers;

(2) Have resided continuously in the Virgin Islands of the United States since June 30, 1975;

(3) Are physically present in the Virgin Islands of the United States at the time of filing of the applications; and

(4) Are admissible to the United States except under paragraphs (14), (20), (21), (25), and (32) of section 212(a) of the Act.

(Secs. 103, 214, 245 Immigration and Nationality Act, as amended; (8 U.S.C. 1103, 1184, 8 U.S.C. 1255, Sec. 2, 96 Stat. 1157, 8 U.S.C. 1255 note))

Dated: January 7, 1983.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 83–2876 Filed 2–2–83; 8:45 am]
BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82–CEF–6–AD; Amdt. 39–4559]

Airworthiness Directives; Britten-Norman Models BN–2, BN–2A, BN–2A–6, BN–2A–8, BN–2A–9, BN–2A–26, BN–2A–27, BN2A MKIII, BN2A MKIII–2, BN2A MKIII–3 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 82–24–06, Amendment 39–4506, applicable to Britten Norman Model BN–2 Series Islander and BN–2A MKIII Series Trislander airplanes which requires inspection and, if necessary, replacement or modification of carburetor air box shutters. It deletes applicability of this AD to Models BN–2A–2, BN–2A–3, BN–2A–20 and BN-2A–21 airplanes because these models have fuel injection engines and are not equipped with carburetor air boxes. This action will relieve a restriction on owners of the airplane models deleted without adversely affecting safety.

EFFECTIVE DATE: February 7, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Information pertaining to this revision is contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: C. Christie, Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30; or Paul Cormaci, Federal Aviation Administration ACE–109, 601 East 12th Street, Kansas City, Missouri 64106 Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: As a result of several reports of air box shutters cracking on Britten-Norman Models BN–2 and BN–2A MKIII series airplanes, the FAA published AD 82–24–06 (Amendment 39–4506) which requires inspection and modification of the carburetor air box shutters. Since publication of this AD, the FAA has determined that it was made applicable to certain models (BN–2A–2, BN–2A–3, BN–2A–20 and BN–2A–21) which have fuel injection engines and are not equipped with carburetor air boxes. This amendment revises the AD by deleting all reference to these model airplanes and has no adverse effect on safety.

Since this amendment is both clarifying and relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, the applicability statement of AD 82–24–06, Amendment 39–4506, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended so that it now reads as follows:

Britten-Norman: Applies to Models BN–2, BN–2A, BN–2A–6, BN–2A–8, BN–2A–9, BN–2A–26, BN–2A–27, BN2A MKIII, BN2A MKIII–2, and BN2A MKIII–3 (all serial numbers) airplanes certificated in any category.

This amendment becomes effective February 7, 1983.

Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(a)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).

Note—The FAA has determined that this amendment involves revision of a regulation which is not considered to be major under

Executive Order 12291 or significant under DOT Regulatory Policies and Procedure (44 FR 11034; February 26, 1979) because it has no adverse effect on the economy and reduces a regulatory burden.

Issued in Kansas City, Missouri, on January 21, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-2926 Filed 2-2-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-CE-26-AD; Amdt. 39-4465]

Airworthiness Directives, Embraer Models EMB-110P1 and EMB-110P2 Airplanes; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of Final Rule.

SUMMARY: This action corrects Airworthiness Directive (AD) 82-20-02, Amendment 39-4465 (47 FR 42321-42323), applicable to Embraer Models EMB-110P1 and EMB-110P2 airplanes. This correction is necessary since the phrase "equipped with pneumatic deicing systems" was inadvertently omitted from the applicability statement when the AD was issued and published in the **Federal Register**.

EFFECTIVE DATE: February 7, 1983.

FOR FURTHER INFORMATION CONTACT: George Carver, ACE-130A, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 763-7781.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of AD 82-20-02, Amendment 39-4465 (47 FR 42321-42323), applicable to Embraer Models EMB-110P1 and EMB-110P2 airplanes, the FAA ascertained that the phrase "equipped with pneumatic deicing systems" was inadvertently omitted from the applicability statement of the AD when it was published in the **Federal Register**. Therefore, action is taken herein to make this correction. Since this action is both relieving and clarifying in nature, notice and public procedure thereon are not considered necessary.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

In FR Doc. 82-CE-26-AD (47 FR 42321-42323) appearing on page 42322 in the **Federal Register** of September 27, 1982, make the following correction:

Restate the applicability statement to read as follows:

"**Embraer:** Applies to Models EMB-110P1 and EMB-110P2 (S/Ns 110001 through 110415) airplanes equipped with pneumatic deicing systems certificated in any category.

(Sec. 313(a), 601 amd 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)).

Issued in Kansas City, Missouri, on January 21, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-2930 Filed 2-2-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-124 (Louisiana—8); Order No. 277]

High-Cost Gas Produced From Tight Formations; Louisiana

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of Louisiana Office of Conservation that the Gray Sand in the Smackover Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357-8571 or Walter Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: January 21, 1983.

In the matter of High-Cost Gas Produced from Tight Formations; Docket No. RM79-76-124 (Louisiana—8), Order No. 277.

The Commission hereby amends § 271.703(d) of its regulations to include the Gray Sand in the Smackover Formation underlying portions of Bienville, Bossier, Claiborne, Lincoln, Ouchita, Union, and Webster Parishes in North Louisiana as a designated tight formation, eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, (OPPR), issued July 23, 1982 (47 FR 32731, July 29, 1982), based on a recommendation by the State of Louisiana Office of Conservation (Louisiana) that the Gray Sand in the Smackover Formation be designated as a tight formation. On August 10, 1982, Louisiana amended its recommendation to include additional acreage in Webster Parish, and an Amended Notice of Proposed Rulemaking reflecting such amendment was issued by the Director, OPPR, on September 3, 1982 (47 FR 39865, September 10, 1982).[1]

Evidence submitted by Louisiana supports the assertion that the Gray Sand in the Smackover Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Louisiana recommendation, as amended.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

PART 271—[AMENDED]

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below, effective January 21, 1983.

By the Commission.

Kenneth F. Plumb,

Secretary.

Section 271.703 is amended by adding new paragraph (d) (117) to read as follows:

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[1] Comments were invited on the proposed rule, and one comment supporting the recommendation was received. No party requested a public hearing and no hearing was held.

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(117) *Gray Sand in Smackover Formation in Louisiana.* RM79–76–124 (Louisiana—8) (i) *Delineation of formation.* The Gray Sand in the Smackover Formation is located in the following portions of Bienville, Bossier, Claiborne, Lincoln, Ouchita, Union, and Webster Parishes, north Louisiana: Township 22 North, Range 8 West through 13 West; Township 21 North, Range 2 West through 13 West; Township 20 North, Range 2 West through 13 West; Township 19 North, Range 1 East; Township 19 North, Range 1 West through 10 West; Township 18 North, Range 1 East; Township 18 North, Range 1 West through 5 West.

(ii) *Depth.* The Gray Sand in the Smackover Formation is defined as that formation occurring between the measured depths of 11,000 and 11,570 feet on the induction electric log of the Sun Oil Company—Northcott No. 2 Well, located in Section 29, Township 22 North, Range 11 West, Bossier Parish.

[FR Doc. 83–2833 Filed 2–2–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–119 (New Mexico—2 Addition); Order No. 274]

High-Cost Gas Produced From Tight Formations; New Mexico

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Regulatory Energy Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of New Mexico Oil Conservation Division that additional areas of the Atoka Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357–8571 or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

In the matter of: High-Cost Gas Produced from Tight Formations; Docket No. RM79–76–119 (New Mexico—2 Addition); Order No. 274.

Issued: January 21, 1983.

The Commission hereby amends § 271.703(d) of its regulations to include additional areas of the Atoka Formation underlying lands in Lea County, New Mexico, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued June 8, 1982 (47 FR 25540, June 14, 1982), based on a recommendation by the State of New Mexico Oil Conservation Division (New Mexico) in accordance with § 271.703, that the additional areas of the Atoka Formation be designated as a tight formation.

The Commission received three comments in response to the Notice of Proposed Rulemaking. Champlin Petroleum Company and James R. McCrory, royalty owner and oil and gas operator, submitted comments in support of the recommendation. Southern California Gas Company and its affiliate, Pacific Gas Supply Company (SoCalGas), filed comments opposing New Mexico's recommendation.

According to §271.703(c)(2)(i)(A), for an area to be designated as a tight formation, the estimated average *in situ* permeability, throughout the pay section, must be expected to be 0.1 millidarcy (md) or less. One method used to determine permeability is based upon the Morris-Biggs equation. This equation includes a constant value when used to calculate permeability for natural gas. New Mexico used the Morris-Biggs equation to calculate the permeability of the Atoka Formation, and the evidence it submitted revealed that its calculations were based on the use of a constant of 80.

SoCalGas urged the Commission to exclude from tight formation designation portions of the recommended Atoka Formation on the grounds that New Mexico, in applying the Morris-Biggs equation, used a constant of 80, and that it failed to justify the use of this constant. SoCalGas further argued that the use of a larger constant would have yielded a permeability calculation which would substantially exceed the 0.1 md standard allowed by §271.703(c)(2)(i)(A). The Commission has determined that the accepted constant for calculating permeability for natural gas, using the Morris-Biggs equation, will vary from a low of 71 to a high of 87 and that the generally accepted constant is 79.[1] Use of the larger constant of 87 in the Morris-Biggs equation results in a permeability value of .0495 md which is well below the .1 md guideline expressed in § 271.703(c)(2)(i)(A). Since a lower constant in the equation results in a lower permeability value, use of the constant of 80 by New Mexico is acceptable.

SoCalGas further argued that the evidence presented regarding the pre-stimulated production rate was insufficient to meet the Commission's quidelines as detailed in § 271.703(c)(2)(i)(B). These guidelines specify that the maximum allowable production rate, without stimulation, for a well completed in a formation, the average depth to the top of which is 12,200 feet, is 1238 Mcf per day.

As the McDonald No. 1 Well is the only well completed in the recommended area,[2] information regarding pre-stimulated flow rates is not available for much of the recommended area. Because this recommendation involves an addition to the area designated in Docket No. RM79–76 (New Mexico–2), (Order No. 138, issued March 30, 1981), New Mexico also reviewed evidence that was submitted in the proceedings for the designation of that formation. Accordingly, New Mexico examined the permeability of the Betenbough No. 1 Well, which is completed in the portion of the Atoka Formation which has previously been designated as a tight formation. The Betenbough No. 1 Well had a pre-stimulated flow rate below 403 Mcf per day. New Mexico then compared the permeability calculations of the two wells, and obtained a ratio of 1.67. It then multiplied the pre-stimulated flow rate of the Betenbough No.1 Well by 1.67, and determined that the pre-stimulated flow rate for the McDonald No. 1 Well would be approximately 673 Mcf per day. New Mexico also submitted evidence showing that the post-stimulation production rate for the Betenbough No. 1

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[1] *See* Schlumberger Log Interpretation Charts Permeability: Sandstones, Shaly Sands, Chart K–2, Page 73, 1978 Edition.

[2] New Mexico noted in its recommendation that eighteen wells, other than the McDonald No. 1 Well, penetrated the formation in the recommended areas. Twelve of the wells were plugged and abandoned. Four of these plugged and abandoned wells are located in the west contiguous area and eight wells are located in the east contiguous area. The remaining six wells were completed in a different formation.

Well has ranged from 177 Mcf to 795 Mcf per day.

The Commission therefore finds that the evidence submitted by New Mexico supports the assertion that the additional areas of the Atoka Formation meet the guidelines contained in § 271.703(c)(2). Thus, the Commission adopts the New Mexico recommendation.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

PART 271—[AMENDED]

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations,* is amended as set forth below, effective January 21, 1983.

By the Commission.

Kenneth F. Plumb,

Secretary.

Section 271.703 is amended by revising paragraph (d)(19) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(19) *Atoka Formation in New Mexico.* RM79–76 (New Mexico—2). (i) *Delineation of formation.* The Atoka Formation is found in Lea County, New Mexico, and underlies an area approximately 9 miles north of Lovington, New Mexico, 3 miles southwest of Tatum, New Mexico, and 15 miles west of the Texas border. The formation underlies Township 12 South, Range 35 East, Sections 31 through 36; Township 12 South, Range 36 East, Sections 31 through 36; Township 13 South, Ranges 35 and 36; All; Township 14 South, Range 35 East, Sections 1 through 24; and Township 14 South, Range 36 East, Sections 1 through 24, NMPM.

(ii) *Depth.* The Atoka Formation is defined as that formation the depth to the top of which ranges from 11,500 to 12,450 feet, and averages 12,200 feet, and the base of which is defined by the top of the Morrow Formation. The thickness varies from 375 to 750 feet.

[FR Doc. 83–2936 Filed 2–2–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 25

[CGD 82–112]

Editorial Citation; Claims Regulations

AGENCY: Coast Guard.

ACTION: Final rule.

SUMMARY: This amendment updates the references to Title 31 U.S.C. found in 33 CFR Part 25. These references, which delegate settlement authority to the Chief Counsel, were revised and recodified without substantive change by the Money and Finance Codification Act of 1982, Pub. L. 97–258.

DATE: This amendment is effective on February 3, 1983.

FOR FURTHER INFORMATION CONTACT: LCDR William K. Bissell, Office of Chief Counsel (G–LCL/34), Room 3414, U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593, (202) 426–2245.

SUPPLEMENTARY INFORMATION: The Money and Finance Codification Act of 1982, Pub. L. 97–258, revised and recodified certain laws in Title 31, United States Code, "Money and Finance," without substantive change. Paragraph (a) of 33 CFR 25.131 delegates to the Chief Counsel of the Coast Guard the authority to carry out the functions of the Secretary or the head of an agency under 31 U.S.C. 240–243 and 951–953, among others. Paragraph (b) of that section also delegates to the Comptroller the authority to carry out the functions of the head of an agency under 31 U.S.C. 951–953. Since these sections have been recodified by Pub. L. 97–258 and are now located in 31 U.S.C. §§ 3721 and 3711 respectively, it is necessary to amend 33 CFR § 25.131 to reflect this change.

Because this amendment is an editorial change only, notice and public comment are unnecessary under 5 U.S.C. 552(b)(3)(B). The Coast Guard has determined that this amendment is not a major rule under Executive Order 12291 and is nonsignificant under the guidelines set forth in Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). A draft Evaluation has not been prepared since the impact is expected to be minimal. This amendment is a nonsubstantive editorial change. For this reason the Coast Guard certifies that this amendment will not have a significant impact upon a substantial number of small entities.

Drafting Information

The principal persons involved in drafting this amendment are LCDR William K. Bissell, Project Manager, Office of Chief Counsel and LT Walter J. Brudzinski, Project Attorney, Office of Chief Counsel.

List of Subjects in 33 CFR Part 25

Authority delegations (government agencies), Claims, Tort claims.

PART 25—[AMENDED]

In consideration of the foregoing, Part 25 of Title 33 Code of Federal Regulations is amended as follows:

1. The authority citation of Part 25 reads as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.45(a); 49 CFR 1.45(b); 49 CFR 1.46(b).

2. Section 25.131 is amended by revising paragraphs (a)(10) and (a)(11) and paragraph (b) to read as follows:

§ 25.131 Delegation of authority.

(a) * * *

(10) To carry out the functions of the head of an agency under the Military Personnel and Civilian Employees' Claims Act, as amended (31 U.S.C. 3721);

(11) To carry out the functions of the head of an agency under the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711);

* * * * *

(b) The Comptroller is delegated the authority to carry out the functions of the head of an agency under the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711).

Dated: January 26, 1983.

R. B. Helsel,

Chief Counsel (Acting).

[FR Doc. 83–2940 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD13 82–12]

Drawbridge Operation Regulations; Youngs Bay, Lewis and Clark River and Skipanon River, Oregon

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Oregon State Department of Transportation, the Coast Guard is changing the regulations governing the highway drawbridges across Youngs Bay at Fifth Street, in Astoria, Oregon (Old Youngs Bay Bridge), and across the Lewis and Clark River, mile 1.0, near Astoria, Oregon, by

requiring one-half hour advance notice of opening be given between the hours of 9:00 p.m. and 5:00 a.m. Vessels requiring openings of these bridges will contact the drawtender at the U.S. 101 highway bridge across Youngs Bay at Smith Point, Astoria (New Youngs Bay Bridge) by marine radio, telephone or other suitable means. The Coast Guard also is changing the regulations governing the Burlington Northern Railroad Company bridges across Youngs Bay at Smith Point, and across the Skipanon River at Warrenton, Oregon. These bridges will be maintained in the open to navigation position except when required to be closed for the passage of trains. These changes are being made because of a steady decrease in requests for opening the draws. This action will relieve the bridge owners of the burden of having a person constantly available to open these draws and still provide for the reasonable needs of navigation.

The former Oregon State removable span highway bridge across the Skipanon River at Warrenton, Oregon, has been replaced by a fixed span bridge, thus making unnecessary the need for drawbridge regulations concerning this bridge.

EFFECTIVE DATE: March 7, 1983.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174 (Telephone: (206) 442–5864).

SUPPLEMENTARY INFORMATION: On 18 November 1982, the Coast Guard published a proposed rule (47 FR 51892) concerning this amendment. The Commander, Thirteenth Coast Guard District, also published this proposal as a Public Notice dated November 22, 1982. In each notice interested persons were given until January 3, 1983 to submit comments.

Drafting Information

The drafters of this rule are John E. Mikesell, project officer, and Lieutenant Commander D. Gary Beck, project attorney.

Discussion of Comments

Four letters were received in response to the Notice of Proposed Rule Making. Two of the letters were from federal agencies and offered no objection to the proposal. One of the letters was from a private individual and offered support for the proposal. The final letter was from the City of Warrenton and suggested that the Burlington Northern Railroad Company bridge across the Skipanon River, at Warrenton, be maintained in the open to navigation position, instead of the closed to navigation position as stated in the proposed rule. This information was relayed to the Burlington Northern Railroad Company, who subsequently amended their proposal to include that provision. This change has been incorporated in the final rule. Other than the Oregon State Departmrent of Transportation and the Burlington Northern Railroad Company, there are no known businesses, including small entities, that would be significantly affected by this rule. There are only minimal economic impacts on navigation or other interests. Therefore, an economic evaluation has not been prepared for this action. The Oregon State Department of Transportation and the Burlington Northern Railroad Company would benefit economically because they would be relieved of the burden of providing full-time drawtenders for infrequent bridge openings.

The former Oregon State Department of Transportation removable span highway bridge across the Skipanon River at Warrenton, Oregon, has been replaced by a fixed span bridge. The Coast Guard issued permit number 60–76 on October 26, 1976, to construct a new bridge at this site. The bridge was completed in April of 1979. Therefore, drawbridge operating regulations are no longer applicable. This fact has been incorporated in this final rule.

Since the Burlington Northern Railroad Company bridge across Youngs Bay at Smith Point will be maintained in the open to navigation position, opening signals for that bridge have been deleted from this final rule. Additionally, minor editorial changes have been made in this final rule to further clarify the revised regulations.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising section 117.740 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.740 Youngs Bay, Lewis and Clark River and Skipanon River, Oreg.; bridges.

(a) The draw of the U.S. 101 highway bridge across Youngs Bay at Smith Point, Astoria (New Youngs Bay Bridge) shall open on signal for the passage of vessels.

(b) The draws of the Burlington Northern railroad bridges across Youngs Bay at Smith Point, Astoria, and the Skipanon River at Warrenton, shall be kept fully open at all times except when actually required to be closed for the passage of trains or other railroad equipment or when maintenance to the drawspans is being performed. When a draw is closed and visibility at the drawtender's station is less than one mile up or down the channel, the drawtender shall sound two long blasts every minute. When a draw is reopened, the drawtender shall sound one long blast followed by one short blast.

(c) The draw of the Oregon State highway bridge across Youngs Bay at the foot of Fifth Street, Astoria (Old Youngs Bay Bridge), and the draw of the Oregon State highway bridge across the Lewis and Clark River, mile 1.0 shall open on signal between the hours of 5:00 a.m. and 9:00 p.m. At all other times, at least one-half hour notice shall be given. Advance notice for openings shall be given to the drawtender at the New Youngs Bay Bridge by marine radio, telephone or other suitable means.

(d) Opening signals for the above listed bridges may be made by a whistle, horn, siren, trumpet, or by shouting. Signals for each bridge are:

(1) New Youngs Bay Bridge—two long blasts followed by two short blasts.

(2) Old Youngs Bay Bridge—two long blasts followed by one short blast.

(3) Oregon State highway bridge across the Lewis and Clark River, mile 1.0—one long blast followed by four short blasts.

(e) The owners of the Old Youngs Bay, New Youngs Bay, and Lewis and Clark River bridges shall keep conspicously posted on both the upstream and downstream sides, in such a manner that they can be easily read at any time, a summary of these regulations, together with a notice stating exactly how the

bridge drawtender may be reached to obtain openings including radio frequencies, telephone numbers, and addresses.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: January 18, 1983.

C. F. DeWolf,

Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 83–2930 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD13 82–11]

Drawbridge Operation Regulations; Hoquiam and Wishkah Rivers, Washington

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Washington State Department of Transportation, the Coast Guard is changing the regulations governing the Riverside Avenue (Sixth Street) highway drawbridge across the Hoquiam River, at Hoquiam, Washington, by requiring that one hour advance notice of opening be given between the hours of 8:00 p.m. and 4:00 a.m. Vessels requiring passage will contact the Washington State Department of Transportation by marine radio, long distance telephone, or other suitable means. Notification can also be made through the drawtender at the U.S. 101 highway bridge across the Chehalis River at Aberdeen. This change is being made because of a steady decrease in requests for opening the draw. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and still provide for the reasonable needs of navigation.

At the request of the Burlington Northern Railroad Company, the Coast Guard is changing the regulations governing the railroad drawbridge across the Hoquiam River, mile 0.3, at Hoquiam, Washington, and the railroad drawbridge across the Wishkah River, mile 0.1, at Aberdeen, Washington, by permitting the draws to be maintained in the open to navigation position, except when required to be closed for the passage of trains. This change is being made because the amount of rail traffic using the bridges has declined. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: March 7, 1983.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174 (Telephone: (206) 442–5864).

SUPPLEMENTARY INFORMATION: On November 18, 1982, the Coast Guard published a proposed rule (47 FR 51894) concerning this amendment. The Commander, Thirteenth Coast Guard District, also published this proposal as a Public Notice dated November 22, 1982. In each notice interested persons were given until January 3, 1983 and January 5, 1983 respectively to submit comments.

Drafting Information

The drafters of this rule are John E. Mikesell, project officer, and Lieutenant Commander D. Gary Beck, project attorney.

Discussion of Comments

Three letters were received in response to the Notice of Proposed Rule Making. Two of the letters were from federal agencies: one offered no comment to the proposal, and one offered no objection to the proposal. The final letter was from the City of Hoquiam and offered support for the proposal. Therefore, there are no substantive changes being made to the final rule. Other than the Burlington Northern Railroad Company and the Washington State Department of Transportation there are no known businesses, including small entities, that would be significantly affected by the final rule. There are only minimal economic impacts on navigation or other interests. Therefore, an economic evaluation has not been prepared for this action. The Burlington Northern Railroad Company and the Washington State Department of Transportation would benefit because they would be relieved of the burden of providing salaried full time operators for infrequent bridge openings and closures.

Some minor editorial changes have been made in this final rule to further clarify the revised regulations.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.775(b) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.775 Grays Harbor and tributaries, Wash.; bridges.

* * * * *

(b) *Special regulations.* (1) The following signals are prescribed for vessels wishing to have the draws opened:

(i) Washington State highway bridge over the Hoquiam River at Simpson Avenue, Hoquiam: two long blasts of whistle followed quickly by one short blast of whistle.

(ii) Washington State Riverside Avenue (Sixth Street) Bridge over the Hoquiam River, Hoquiam: two long blasts of whistle followed quickly by two short blasts of whistle.

(iii) Burlington Northern railroad bridge over the Hoquiam River near forks of river, Hoquiam: One long blast of whistle followed quickly by one short and one long blast of whistle.

(iv) Burlington Northern railroad bridge over the Wishkah River at Aberdeen: One long blast of whistle followed quickly by one short blast of whistle.

(v) Washington State highway bridges over the Wishkah River at Heron Street and at Wishkah Street, Aberdeen: One long blast of whistle followed quickly by two short blasts of whistle.

(2) The draw of the Washington State Riverside Avenue (Sixth Street) Bridge across the Hoquiam River, Hoquiam, shall open on signal between the hours of 4:00 a.m. and 8:00 p.m. At all other times the draw shall open on signal if at least one hour advance notice is given. Advance notice for openings shall be given to the Washington State Department of Transportation by marine radio, long distance telephone, or other suitable means. Advance notice may also be given to the drawtender at the U.S. 101 highway bridge across the Chehalis River at Aberdeen.

(3) The draws of the Burlington Northern railroad bridges across the

Wishkah River, mile 0.1, at Aberdeen, Washington, and across the Hoquiam River, mile 0.3, at Hoquiam, Washington, shall be kept fully open at all times except when actually required to be closed for the passage of trains or other railroad equipment, or when maintenance to the drawspan is being performed. When the draw of either bridge is closed and the visibility at the drawtender's station is less than one mile up or down the channel, the drawtender shall sound two long blasts every minute. When the draw is reopened, the drawtender shall sound one long blast followed by one short blast.

(4) The owner of the Riverside Avenue (Sixth Street) Bridge across the Hoquiam River shall keep conspicuously posted on both the upstream and downstream sides, in such a manner that they can be easily read at any time, a summary of these regulations, together with a notice stating exactly how the drawtender may be reached to obtain openings including radio frequencies, and telephone numbers.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: January 18, 1983.

C. F. DeWolf,

Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 83–2938 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Parts 154 and 159

[CGD 82–063a]

Revision of Staff Codes and Addresses

AGENCY: Coast Guard, DOT.

ACTION: Administrative Revision; Final Rule.

SUMMARY: The Office of Merchant Marine Safety, U.S. Coast Guard Headquarters, has recently reorganized. This document revises the staff codes and addresses of the component divisions of the office to reflect the structural changes brought about by the reorganization.

EFFECTIVE DATE: These revisions become effective on February 3, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Office of Merchant Marine Safety (G–MTH/12), Room 1216, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593, (202) 426–1577.

SUPPLEMENTARY INFORMATION: The Coast Guard uses "staff codes" as an abbreviated means of identifying offices, divisions, and branches within the organizational structure of Coast Guard Headquarters. Staff codes are most commonly used in mailing addresses of correspondence directed to headquarters components. For example, the staff code for the Office of Merchant Marine Safety is "G–M"; its mailing address is "Commandant (G–M), U.S. Coast Guard, Washington, DC. 20593."

The Office of Merchant Marine Safety, G–M, has recently been reorganized. The Merchant Marine Technical Division, G–MMT, has been disbanded. Three branches of the former G–MMT have been transferred to the Merchant Vessel Inspection Division, G–MVI; the remaining branches of G–MMT have been consolidated with the branches of the Cargo and Hazardous Materials Division, formerly G–MHM, to form a new division—Marine Technical and Hazardous Materials Division, designated G–MTH.

This document revises the references to the former Merchant Marine Technical and Cargo and Hazardous Materials Divisions and Coast Guard Headquarters mailing addresses throughout 33 CFR Parts 154 and 159 to reflect the above organizational changes.

This final rule is an editorial correction concerning agency organization and has no impact of any kind on the public. Therefore, notice of proposed rulemaking and opportunity for public comment are not required by 5 U.S.C. 553, and good cause exists for making this rule effective less than 30 days after its publication date.

This rule has been evaluated under Executive Order 12291 and DOT Order 2100.5 and has been determined to be non-major and nonsignificant. Since no impact is anticipated, an economic evaluation has not been prepared.

In accordance with Section 605(b) of the Regulatory Flexibility Act (30 Stat. 1164), it is certified that these revisions will have no significant impact on a substantial number of small entities.

Drafting Information

The principal persons involved in drafting this document are Mr. Frank K. Thompson, Project Manager, Office of Merchant Marine Safety, and LT Mark Hanlon, Project Attorney, Office of Chief Counsel.

List of Subjects in 33 CFR Parts 154 and 159

Environmental protection, Vessels, Water pollution control.

In consideration of the foregoing, Title 33, Code of Federal Regulations, is amended as follows:

PART 154—OIL POLLUTION PREVENTION REGULATIONS FOR MARINE OIL TRANSFER FACILITIES

2. § 154.106(c) is revised to read as follows:

§154.106 Incorporation by reference.

* * * * *

(c) The standards may also be examined at the offices of the Marine Technical and Hazardous Materials Division, U.S. Coast Guard Headquarters, 2100 Second Street, S.W. Washington, D.C. 20593 (Telephone 202–426–2167).

PART 159—[AMENDED]

3. The staff codes "(G–MMT)" and "(G–MMT/82)" are changed to "(G–MVI)" wherever they appear in 33 CFR Part 159.

(14 U.S.C. 633; 49 U.S.C. 1655(b); 49 CFR 1.46(b))

Dated: January 25, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83–2941 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Service to Israel

AGENCY: Postal Service.

ACTION: Final action on International Express Mail Service to Israel.

SUMMARY: Pursuant to an agreement with the postal administration of Israel, the Postal Service began International Express Mail Service with Israel at the rates indicated in the schedules below. Service began on January 24, 1983.

EFFECTIVE DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: J. Dwayne Redio, (202) 245–4414.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on November 17, 1982 (47 FR 51767), the Postal Service announced that it was proposing to begin International Express Mail Service with Israel on January 24, 1983. Comments were invited on published rate schedules, which were proposed amendments to the International Mail Manual (incorporated by reference in the **Federal Register**, 39 CFR 10.1), and with were to become effective on the date service began. No comments were received.

Accordingly, the Postal Service is confirming the beginning of International Express Mail Service to Israel at the rates indicated in the schedules below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

PART 10—[AMENDED]

In the International Mail Manual, incorporated by reference in 39 CFR 10.1–10.3:

In Table 7–1. *International Express Mail Service—Summary Conditions Service Offerings:*

In paragraph 1, Custom Designed Service, add "Israel" after "Hong Kong."

In Table 7–2. *International Express Mail Service Standards (From International Exchange Office):*

Add after the line for Hong King a new line which reads "Israel" in the "Country of Destination" column, and "Third Day" in the "On Demand" column.

In the Individual Country Listing:

Add after the entry entitled "Parcel Post Israel" the following new entry:

International Express Mail—State of Israel

Conditions for Mailing and Definitions of Express Mail Service: See Table 7–1 and 494 for detailed characteristics.

Services Available: Custom Designed: On Demand

Acceptable Items and Customs Declaration—Contents Restricted to the Following

Items Containing

1. Non-dutiable business documents, Business letters, non-negotiable instruments, computer printouts, cancelled checks.

2. Microfilm, microfiche or samples or merchandise without commercial value.

3. Merchandise, advertising materials or any dutiable articles.

Customs Declaration Required

1. None. Endorse items clearly next to address label "BUSINESS PAPERS".

2. Form 2976, identify contents briefly, but completely.

3. Form 2966–A, identify completely and state whether import license (if required) is attached.

POSTAGE RATES

[Custom Designed Service [1]]

Weight not over	Rate
1 lb	$28.00
2 lb	31.70
3 lb	35.40
4 lb	39.10

POSTAGE RATES—Continued

[Custom Designed Service [1]]

Weight not over	Rate
5 lb	42.80
6 lb	[illegible]
7 lb	50.20
8 lb	53.90
9 lb	[illegible]
10 lb	[illegible]
11 lb	[illegible]
12 lb	[illegible]
13 lb	72.40
14 lb	76.10
15 lb	[illegible]
16 lb	[illegible]
17 lb	87.20
18 lb	[illegible]
19 lb	[illegible]
20 lb	[illegible]
21 lb	102.00
22 lb	105.70
23 lb	109.40
24 lb	113.10
[illegible] lb	116.80
26 lb	120.50
27 lb	124.20
[illegible] lb	127.90
[illegible] lb	131.60
[illegible] lb	135.30
31 lb	139.00
32 lb	142.70
33 lb	146.40

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[On Demand Service [1]]

Weight not over	Rate
1 lb	$20.00
2 lb	23.70
3 lb	27.40
4 lb	31.10
5 lb	[illegible]
6 lb	[illegible]
7 lb	42.20
8 lb	45.90
9 lb	[illegible]
10 lb	53.30
11 lb	[illegible]
12 lb	[illegible]
13 lb	64.40
14 lb	[illegible]
15 lb	71.80
16 lb	75.50
17 lb	79.20
18 lb	[illegible]
19 lb	90.50
20 lb	90.30
21 lb	[illegible]
22 lb	[illegible]
23 lb	101.40
24 lb	105.10
25 lb	[illegible]
26 lb	112.50
27 lb	116.20
28 lb	119.90
29 lb	123.60
30 lb	127.30
31 lb	131.00
32 lb	134.70
33 lb	138.40

[1] Pickup is available under a Service agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Areas Served

Jerusalem, Tel Aviv-Yafo, Haifa.

Weight Limit: 33 Lbs. (15 Kg.).

Size Limit: Minimum: 3½" x 5½". Maximum: Greatest length 36 inches. Greatest length and girth combined: 78 inches.

Service Standard From International Exchange Office: See Table 7–2.

A transmittal letter making these changes in the pages of the International Mail Manual will be published and will be transmitted to subscribers automatically. Notice of these changes will be published in the **Federal Register** as provided in 39 CFR 10.3.

(39 U.S.C. 401, 404, 407)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-3002 Filed 2-2-83, 3:10 pm]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[W-7-FRL 2288-1]

Nebraska Oil and Gas Conservation Commission, Underground Injection Control; Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Nebraska has submitted an application under Section 1425 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) Program governing Class II oil and natural gas related injection wells. After careful review of the application, the Agency has determined that the State's injection well program for Class II wells meets the requirements of Section 1425 of the Act and, therefore, approves it.

EFFECTIVE DATE: February 3, 1983.

FOR FURTHER INFORMATION CONTACT: Angela Ludwig, Ground Water Protection Section, U.S. Environmental Protection Agency, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374–6514. Copies of the Responsiveness Summary are available at the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing

satisfactory to the Administrator that the State: (i) Has adopted, after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove, or approve in part and disapprove in part, the State's UIC program.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC Program related to the recovery and production of oil and gas (Class II wells). Specifically, instead of meeting the Consolidated Permit Regulations (40 CFR Parts 122, 123 and 124) and the UIC Technical Criteria and Standards (40 CFR 146), a State may demonstrate that its program meets the more general statutory requirements of Section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of underground sources of drinking water.

The State of Nebraska was listed as needing a UIC program on June 19, 1979 (44 FR 35288). The State of Nebraska submitted complete applications under Sections 1422 and 1425 on March 4, 1982, for the approval of a UIC program governing Classes I, II, III, IV and V injection wells. The program would be administered by the Nebraska Department of Environmental Control (NDEC) for Classes I, III, IV and V wells (Section 1422 application), and the Nebraska Oil and Gas Conservation Commission (NOGCC) for Class II wells (Section 1425 application), with the NDEC designated the lead Agency in the administration of the program. On March 26, 1982, EPA published notice of its receipt of the applications, announced the availability of the applications for review, requested public comments, and scheduled a public hearing (47 FR 13011). The public hearing was held on April 29, 1982, in Sidney, Nebraska. No comments were received.

Because the revision processes for each of the two components of the application did not coincide, only the Class II component of the application is going forward at this time. A decision on the application for Class I, III, IV and V wells will be made at a later date. After careful review of the application, I have determined that the Nebraska UIC program for Class II wells submitted by the NOGCC meets the requirements established by Federal regulations pursuant to Section 1425 of the SDWA and, hereby, approve it.

EPA is publishing this approval effective immediately so that Nebraska can begin issuing UIC permits for Class II injection wells under the UIC program.

In this application, Nebraska chose not to assert jurisdiction over Indian lands or reservations for purposes of its UIC program. Therefore, the Environmental Protection Agency will, at a future date, prescribe a UIC program governing injection wells on any Indian reservations or other lands in Nebraska.

Nebraska has submitted for approval as part of its Class II program the exemption of a portion of the Dakota Aquifer. Under the Federal UIC program a state may exempt an aquifer or its portion when it is not currently being used as a source of drinking water and will not in the future be used as a source of drinking water because it meets one of several criteria set out in the UIC regulations at 40 CFR 146.04. An aquifer that meets these standards and is designated as exempt is deemed not to be an underground source of drinking water and, therefore, is not required to be protected from injection activities.

The portion of Dakota aquifer exempted by the State covers fourteen counties: Banner, Cheyenne, Deuel, Dundy, Frontier, Furnas, Garden, Harlan, Hitchcock, Kimball, Lincoln, Morrill, Red Willow, and Scotts Bluff.

The State has exempted this aquifer in accordance with the procedures in 40 CFR 122.35. The aquifer is not now being used as a source of drinking water and will not in the future be used as such because it is hydrocarbon producing, which meets the criterion in 40 CFR 146.04(b)(1). EPA is, therefore, approving the exemption of the identified portion of the Dakota Aquifer in Nebraska.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 123, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part; these terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1425 of the Safe Drinking Water Act of the application by the Nebraska Oil and Gas Conservation Commission will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83-2950 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6488]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP) and eligible for second layer insurance coverage. These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

/State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	[illegible] area identified
New Mexico: Bernalillo	Los Ranchos, village of	[illegible]	780626, emergency; 830103, regular	781105
California: Riverside	Riverside city of	[illegible]	701204, emergency; 830106, regular	740719
Colorado: Mesa	Grand Junction, city of	080117	781013, emergency; 830106, regular	740201
Georgia: Troup	West Point, city of	130178	750303, emergency; 830106, regular	740607
Illinois: Sangamon	Sangamon County [2]	170912	750729, emergency; 830106, regular	[illegible]
Indiana:				
Noble	Kendallville, city of	180185	750324, emergency; 830106, regular	740614
Do	Ligonier, city of	[illegible]	750923, emergency; 830106, regular	[illegible]
Michigan: Oakland	Bloomfield, township of	[illegible]	730522, emergency; 830106, regular	740517
[illegible]				
Hennepin	Independence, city of	270167	750128, emergency; 830106, regular	740628
Pine	Sandstone, city of	270351	750514, emergency; 830106, regular	740510
Missouri: Ray	Hardin, city of	290307	751110, emergency; 830106, regular	740607
Montana:				
Yellowstone	Laurel, city of	[illegible]	750319, emergency; 830106, regular	740329
Missoula	Missoula, city of	[illegible]	750314, emergency; 830106, regular	[illegible]
North Carolina:				
Haywood	Hazelwood, town of	370123	741102, emergency; 830106, regular	[illegible]
Lenoir	Lenoir county [2]	370144	800707, emergency; 830106, regular	741227
Pitt	Pitt county [2]	370372	800922, emergency; 830106, regular	780630
New Jersey:				
Monmouth	Howell, township of	340301	741126, emergency; 830106, regular	740322
Warren	Knowlton, township of	[illegible]	750711, emergency; 830106, regular	740816
Gloucester	Logan, township of	[illegible]	760629, emergency; 830106, regular	740913
Ocean	Ocean, township of	340518	740430, emergency; 830106, regular	750228
Somerset	Somerville, borough of	340444	750522, emergency; 830106, regular	740726
Ocean	South Toms River, borough of	340392	750627, emergency; 830106, regular	740726
New Mexico:				
Sandoval	Bernalillo, town of	350056	750117, emergency; 830106, regular	740607
Do	Corrales, village of	[illegible]	751014, emergency; 830106, regular	741220
Bernalillo	Tijeras, village of	350135	750709, emergency; 830106, regular	760702
New York:				
Montgomery	Canajoharie, town of	360442	750613, emergency; 830106, regular	[illegible]
Broome	Colesville, town of	360041	750519, emergency; 830106, regular	[illegible]
Montgomery	Fonda, village of	[illegible]	750701, emergency; 830106, regular	740301
Albany	Guilderland, town of	360010	741009, emergency; 830106, regular	760206
Ohio:				
Stark	Canton, city of	390512	750417, emergency; 830106, regular	731217
Jefferson	Mingo Junction, city of	[illegible]	750430, emergency; 830106, regular	740301
Do	Steubenville, city of	[illegible]	750806, emergency; 830106, regular	[illegible]
Oklahoma:				
Garvin	Lindsay, city of	[illegible]	750226, emergency; 830106, regular	741227
Jefferson	Waurika, city of	[illegible]	740923, emergency; 830106, regular	[illegible]
Pennsylvania: Delaware	Ridley, township of	[illegible]	720908, emergency; 830106, regular	730427
Tennessee: Wilson	Lebanon, city of	[illegible]	750623, emergency; 830106, regular	740412
Texas:				
Jefferson	Bevil Oaks, town of	480878	760719, emergency; 830106, regular	770513
Orange	Orange County [2]	480510	701106, emergency; 830106, regular	770311
Do	Orange, city of	480512	740115, emergency; 830106, regular	740614
Do	Pinehurst, city of	480513	701231, emergency; 830106, regular	0
Wichita	Pleasant Valley, city of	480661	761226, emergency; 830106, regular	761217
Orange	Vidor, city of	480514	731127, emergency; 830106, regular	740322
Do	West Orange, city of	480515	740411, emergency; 830106, regular	740531
Wisconsin: Oconto	Oconto County [2]	550294	730521, emergency; 830106, regular	[illegible]
Illinois: Marshall	Henry, city of	170456	790614, emergency; 830107, regular	[illegible]
Maryland: Carroll	Hampstead, town of	240090	731127, emergency; 830107, regular	0
Michigan: Oakland	Orchard Lake Village, city of	260477	751001, emergency; 830107, regular	750718
Minnesota:				
Chisago	Chisago, city of	270707	820628, emergency; 830107, regular	0

/State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
do	Lindstrom, city of	[illegible]	750904, emergency; 830107, regular	0
New Jersey: Salem	Oldmans, township of	[illegible]	750715, emergency; 830107, regular	740802
Pennsylvania:				
Crawford	Rome, township of	[illegible]	760211, emergency; 830107, regular	750103
Schuylkill	Rush, township of	[illegible]	750421, emergency; 830107, regular	741122
North Carolina: Wilson	Wilson County	370370	830112, emergency; 830112, regular	780310
Illinois:				
Bureau	Cherry, village of	170011	760920, emergency; 830114, regular	750711
Will	Peotone village of	170709	740814, emergency; 830114, regular	740315
Cook	Wilmetta, village of	170175	731009 emergency; 830114, regular	740621
Mississippi: Washington	Hollandale, city of	[illegible]	730504, emergency; 830114, regular	740531
Pennsylvania: Carbon	Lehigh, township of	421224	750730, emergency; 830114, regular	740809
West Virginia: Monroe	Monroe County [2]	540278	761026, emergency; 830114, regular	750725
Total #: 59				

[1] Key for reading 4th column (effective date): First two digits designate the year, middle two digits designate the month, last two digits designate the day.
[2] Disaster community.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 25, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–2944 Filed 2–2–83; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Ch. I

[CGD 82–063b]

Revision of Staff Codes and Addresses

AGENCY: Coast Guard, DOT.

ACTION: Administrative Revision; Final rule.

SUMMARY: The Office of Merchant Marine Safety, U.S. Coast Guard Headquarters, has recently reorganized. This document revises the staff codes and addresses of the component divisions of the office to reflect the structural changes brought about by the reorganization.

EFFECTIVE DATE: These revisions become effective on February 3, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Office of Merchant Marine Safety (G–MTH/12), Room 1216, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593. (202) 426–2174.

SUPPLEMENTARY INFORMATION: The Coast Guard uses "staff codes" as an abbreviated means of identifying offices, divisions, and branches within the organizational structure of Coast Guard Headquarters. Staff codes are most commonly used in mailing addresses of correspondence directed to headquarters components. For example, the staff code for the Office of Merchant Marine Safety is "G–M"; its mailing address is "Commandant (G–M), U.S. Coast Guard, Washington, D.C. 20593."

The Office of Merchant Marine Safety, G–M, has recently reorganized. The Merchant Marine Technical Division, G–MMT, has been disbanded. Three branches of the former G–MMT have been transferred to the Merchant Vessel Inspection Division, G–MVI; the remaining branches of G–MMT have been consolidated with the branches of the Cargo and Hazardous Materials Division, formerly G–MHM, to form a new division—Marine Technical and Hazardous Materials Division, designated G–MTH.

This document revises all the references to the Office of Merchant Marine Safety and the former Merchant Marine Technical and Cargo and Hazardous Materials Divisions and Coast Guard Headquarters mailing addresses throughout Chapter I of Title 46 CFR to reflect the above organizational changes. This document also corrects many mailing addresses which have not been updated over several successive relocations of the headquarters offices. In revising these staff codes and addresses, this document adopts a uniform method of identifying Office of Merchant Marine Safety components in place of many non-standardized methods used in the past.

This final rule is an editorial correction concerning agency organization and has no impact of any kind on the public. Therefore, notice of proposed rulemaking and opportunity for public comment are not required by 5 U.S.C. 553, and good cause exists for making this rule effective less than 30 days after its publication date.

This rule has been evaluated under Executive Order 12291 and DOT Order 2100.5 and has been determined to be non-major and nonsignificant. Since no impact is anticipated, an economic evaluation has not been prepared.

In accordance with Section 605(b) of the Regulatory Flexibility Act (30 Stat. 1164), it is certified that these revisions will have no significant impact on a substantial number of small entities.

Drafting Information

The principal persons involved in drafting this document are Mr. Frank K. Thompson, Project Manager, Office of Merchant Marine Safety, and LT Mark Hanlon, Project Attorney, Office of Chief Counsel.

In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations, is amended as follows:

SUBCHAPTER A—PROCEDURES APPLICABLE TO THE PUBLIC

1. Paragraph (b)(1) of § 1.01 is revised to read as follows:

§ 1.01 Organization.

(b) * * *

(1) The Chief, Office of Merchant Marine Safety under the general direction of the Commandant directs, supervises, and coordinates the activities of the Chief, Marine Technical and Hazardous Materials Division, Chief, Merchant Vessel Personnel Division, and Chief, Marine Investigation Division, located at Headquarters; supervises through the District Commanders the administration of the Merchant Marine Safety Divisions of District Offices and Officers in

Charge, Marine Inspection; and exercises technical control over the Merchant Marine Details in foreign ports.

(i) The Chief, Marine Technical and Hazardous Materials Division, at Headquarters, under the direction of the Chief, Office of Merchant Marine Safety, passes on plans and specifications for the construction or alteration of merchant vessels, conducts or reviews stability tests on merchant vessels, examines equipment and devices submitted to Headquarters, supervises the load lines assigned by classification societies, and otherwise provides technical assistance with respect to enforcing and improving merchant marine material standards; administers the program for the development of safe containment systems for certain bulk dangerous cargoes, administers the certification program for foreign vessels carrying cargoes of unusual hazard and evaluates the hazards involved in the shipment of dangerous cargoes.

(ii) The Chief, Merchant Vessel Inspection Division, at Headquarters, under the direction of the Chief, Office of Merchant Marine Safety, administers the inspection program for merchant vessels and the program of enforcing and improving merchant marine material and operational safety standards, examines and approves lifesaving and firefighting equipment, and reviews and maintains records of marine casualties other than recreational boating accidents.

(iii) The Chief, Merchant Vessel Personnel Division, at Headquarters, under the direction of the Chief, Office of Merchant Marine Safety, administers the program for the enforcement and development of prescribed merchant marine personnel standards, including but not limited to the licensing, certificating, shipment, and discharge of seamen.

(iv) The Chief, Marine Investigation Division, at Headquarters, under the direction of the Chief, Office of Merchant Marine Safety, administers the program of marine casualty investigation and the investigation and institution of proceedings looking to suspension and revocation under Title 46, U.S. Code, sections 239 and 239b, of licensees, certificates, and documents held by persons.

2. Section 2.75–1 is amended as follows:

a. In the first sentence of paragraph (d), by changing "(MMT)" to "(G–M)."

b. By revising the second and third sentences of paragraph (c) to read as follows:

§ 2.75–1 Approvals.

* * * * *

(c) * * * Under the direction of the Commandant, the Chief, Office of Merchant Marine Safety is delegated the authority to exercise the necessary actions relating to the granting, suspension, cancellation or revocation of approvals for special items of safety equipment, materials or installations required by law in regulation in this Chapter or in 33 CFR Chapter I to have the Commandant's approval. The authority delegated to the Chief, Office of Merchant Marine Safety, may be further delegated by him.

* * * * *

3. In § 2.75–5(a), the words "Merchant Marine Technical Division" are changed to "Office of Merchant Marine Safety, or his delegate."

4. In § 2.75–10(b), "(G–MMT–3/TP12)" is changed to "(G–M)."

5. In § 2.75–15(a) "(MMT)" is changed to "(G–M)."

6. In § 2.75–17(d)(1), "(MMT)" is changed to "(G–M)" and the Zip Code "20591" is changed to "20593."

7. In §§ 2.75–25(c)(1), and 2.75–30(c)(1), "(MMT)" is changed to "(G–M)" and the Zip Code "20226" is changed to "20593."

SUBCHAPTER D—TANK VESSELS

8. In § 31.10–33(a)(2), "(G–M/82)" is changed to "(G–M)", and the street address "400 Seventh St S.W." is removed.

9. In § 32.53–3(b), "(G–MMT/82)" is changed to "(G–MVI)" and the Zip Code "20590" is changed to "20593."

SUBCHAPTER F—MARINE ENGINEERING

10. In § 50.20–5(c), "(MMT)" is changed to "(G–MTH)", the Zip Code "20591" is changed to "20593," and the street address "1300 E Street NW" is removed.

11. In § 50.25–10(c)(1), "(MMT)" is changed to "(G–MTH)."

12. In §§ 54.05–30(b), 54.05–30(c), and 54.15–25(C–1), "(G–MMT)" is changed to "(G–MTH)."

13. In the sections listed below, the phrase "Coast Guard (MMT)" is changed to "Commandant (G–MTH)":

§ 55.05–1 (a), (a)(6), (b), and (c).
§ 55.15–15(a).
§ 55.20–10.

SUBCHAPTER H—PASSENGER VESSELS

14. In § 70.10–19, the Zip Code "20226" is changed to "20593."

15. In § 71.65–15(a)(2), "(MMT)" is changed to "(G–MTH)," the Zip Code "20226" is changed to "20593", and the street address "1300 'E' Street N.W." is removed.

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

16. In § 91.55–15(a)(2), "(MMT)" is changed to "(G–MTH)" and the Zip Code "20590" is changed to "20593."

17. In §§ 98.25–90(c), and 98.35–3(b), "(MHM)" is changed to "(G–MTH)."

18. In § 98.35–7(a), "(MHM)" is changed to "(G–MTH)," the Zip Code "20591" is changed to "20593", and the street address "1300 'E' Street, N.W." is removed.

19. In § 98.35–7(c), "(mmt)" is changed to "(G–MTH)."

SUBCHAPTER I–A—MOBILE OFFSHORE DRILLING UNITS

20. In § 107.117(b), "(G–MMT)" and "(G–MMT/82)" are changed to "(G–MTH)" and the Zip Code "20590" is changed to "20593."

21. In the following sections, "(G–MMT)" is changed to "(G–MTH)":

§ 108.201(a).
§ 108.399(b).
§ 108.508(a)(1), (a)(2), and (a)(3).
§ 109.121(b).

SUBCHAPTER J—ELECTRICAL ENGINEERING

22. In § 110.10–1(a), "(G–MMT–2/12)" is changed to "(G–MTH)" and "Room 1214" is removed.

23. In §§ 110.20–1 and 110–25–3, "(G–MMT)" is changed to "(G–MTH)."

SUBCHAPTER N—DANGEROUS CARGOES

24. In §§ 146.05–3(b), 146.09–11(c), and 146.09–15(d), "(G–MHM)" is changed to "(G–MTH)."

25. In § 148.01–9(a), and in two places in § 148.01–11(a)(2), "(G–MHM–2/83)" is changed to "(G–MTH)."

SUBCHAPTER O—CERTAIN BULK DANGEROUS CARGOES

26. In § 150.140(a) and (b), "(G–MHM)" is changed to "(G–MTH)" and the telephone number "426–6260" is changed to "426–2167."

27. In the sections listed below, "(G–MHM)" is changed to "(G–MTH)":

§ 150.150.
§ 150.160(a).
§ 151.50–20(i).
§ 151.50–23(e).
§ 151.50–50(n).
§ 151.50–75(a).
§ 151.50–76 (b) and (c).
§ 151.50–77(a).
§ 151.50–80(c).
§ 151.50–84(e)(2).
§ 153.5(b), 2 places.
§ 153.7 (b)(4), (b)(4)(iii), (c)(3), (c)(4), (c)(5), and (c)(6).
§ 153.9 (a), (b), and (c).
§ 153.10(b).
§ 153.16(a).
§ 153.250.
§ 153.336 (a)(3) and (b)(2).

§ 153.365(a)(3).
§ 153.407(b).
§ 153.436.
§ 153.525(d)(3).
§ 153.530 (c), (c)(1) and (c)(2).
§ 153.556(a).
§ 153.557 (a)(3) and (b).
§ 153.558(b).
§ 153.808.
§ 153.809 (a), (b), and (c).
§ 153.810, 3 places.
§ 153.811.
§ 153.900 (a), (b)(2), and (c)(2).
§ 153.921.
§ 153.935a(a)(2).
§ 153.1011(a)(2) and (a)(3).
§ 153.1025(c), 2 places.
§ 153.1052.
§ 154.5(a), (a)(10), and (b).
§ 154.12 (a), and (b), 2 places.
§ 154.151.
§ 154.152.
§ 154.153.
§ 154.1725 (a)(2) and (a)(4).
§ 154.1735(a).

28. In the sections listed below, "(G-MMT)" is changed to "(G-MTH)":

§ 153.34 (a)(2) and (h).
§ 153.219(b)(3).
§ 153.353(c).
§ 153.365(b)(1).
§ 153.460 (b) and (c).
§ 153.530(a).
§ 153.940(a)(3).
§ 153.1010(b)(4).
§ 153.1502(a).
§ 154.170 (b)(1) and (b)(2).
§ 154.172(c).
§ 154.230(h).
§ 154.315(b)(2).
§ 154.350(a).
§ 154.356(c).
§ 154.405(c).
§ 154.406(c).
§ 154.409(a).
§ 154.410 (a) and (b).
§ 154.411.
§ 154.418.
§ 154.419.
§ 154.425.
§ 154.426.
§ 154.428.
§ 154.430.
§ 154.431(b).
§ 154.435.
§ 154.436.
§ 154.438(b).
§ 154.440 (a)(2) and (b).
§ 154.447(b).
§ 154.448, introductory paragraph and (g).
§ 154.449.
§ 154.453.
§ 154.459 (b) and (c), 2 places.
§ 154.467.
§ 154.503(e).
§ 154.516.
§ 154.519(a)(2).
§ 154.520.
§ 154.522(a).
§ 154.524(e).
§ 154.546(a).
§ 154.610 (c) and (f).
§ 154.620(b).
§ 154.630 (a) and (c).
§ 154.650 (d) and (e).
§ 154.655(b).
§ 154.703 (b)(3) and (d)(2).
§ 154.709(b).
§ 154.805(e).
§ 154.904(a).
§ 154.908(b).
§ 154.1005 (a) and (b).
§ 154.1135(a)(3).
§ 154.1335 (b)(1) and (c)(1).
§ 154.1340 (c)(1) and (d).
§ 154.1345(b)(2)(i).
§ 154.1725(b)(1).
§ 154.1755.
§ 154.1860.

29. In footnote 1 of Table I—"Alphabetical List of Cargoes" following § 150.160, "(G–MHM–3/TP14)" is changed to "(G–MTH)" and the telephone number "426–6260" is changed to "426–2167."

30. In the last paragraph of Step 3 of Appendix III of Part 150, "(G–MHM–3/TP14)" is changed to "(G–MTH)."

31. In § 151.50–76(g), "(MHM)" is changed to "(G–MTH)."

32. In § 153.2, under "Commandant", the Zip Code "20590" is changed to "20593" and under "Letter of Compliance", "(G–MHM)" is changed to "(G–MTH)."

33. In the sixth paragraph of the Notes of Table 1 following § 153.12, "(G–MMT)" is changed to "(G–MTH)."

34. In § 153.963(a), footnote 7 is removed.

35. In § 154.5(a), "(G–MHM)" is changed to "(G–MTH)" and the Zip Code "20590" is changed to "20593."

36. In § 154.9, the phrase "(G–MHM) or (G–MMT)" is changed to "(G–MTH)", and the mailing address is changed to read: Commandant (G–MTH), U.S. Coast Guard, Washington, D.C. 20593.

37. In paragraphs I and II of Appendix A following § 154.1872, "(G–MMT)" is changed to "(G–MTH)."

38. In Part 154a, which is not enumerated in accordance with the standard CFR system, "(G–MHM)" is changed to "(G–MTH)" in the following paragraphs:

3(b)(4).
4(a).
4(b)(5).
4(c), 2 places.
4(d)(1)(ii).
4(f), (1), 2 places.
4(g)(2).

39. In paragraph 2 of Annex A of Part 154a, "U.S. Coast Guard Headquarters (G–MHM–1/83)" is changed to "Commandant (G–MTH), U.S. Coast Guard."

SUBCHAPTER Q—EQUIPMENT, CONSTRUCTION, AND MATERIALS: SPECIFICATIONS AND APPROVAL

40. In the following sections, "(G–MMT–3/TP12)" is changed to "(G–MVI)":

§ 159.001–5(a).
§ 160.022–1(c).
§ 160.037–1(c).
§ 160.057–1(c).

41. In the following sections, "(G–MMT–3/TP12)" is changed to "(G–MVI)", and the word "Headquarters" is removed:

§ 160.021–9(b).
§ 160.022–9(b).
§ 160.024–9(b).
§ 160.028–9(b).
§ 160.031–9(b).
§ 160.036–9(b).
§ 160.037–9(b).
§ 160.040–9(b).
§ 160.057–9(b).
§ 160.066–18(b).

42. In § 160.035–8(b), "(MMT–3)" is changed to "(G–MVI)."

43. In the following sections, the address "Coast Guard (MMT), Room 8301, 400 Seventh St. S.W., Washington, D.C. 20590" is changed to "Commandant (G–MTH), U.S. Coast Guard, Washington, D.C. 20593":

§ 160.047–1(c)(1).
§ 160.052–1(c)(1).
§ 160.060–1(c)(1).

44. In the following sections, "(G–MMT–3)" is changed to "(C–MVI)":

§ 160.047–3(h).
§ 160.052–3(f).
§ 160.060–3(f), 2 places.

45. In § 161.004–7(a), "Commandant (MMT), U.S. Coast Guard, 1300 E Street N.W., Washington, D.C. 20226" is changed to "Commandant (G–MTH) U.S. Coast Guard, Washington, D.C. 20593."

46. In § 161.008–8 (a) and (c), "(G–MMT–1)" is changed to "(G–MTH)" and the Zip Code "20591" is changed to "20593"; and in § 161.008–8(b), "(G–MMT–1)" is changed to "(G–MTH)."

47. In § 161.010–7(a), the Zip Code "20591" is changed to "20593"; and in § 161.010–7(c) the Zip Code "20591" is changed to "20593" and the word "Headquarters" is removed.

48. In the following sections, "(MMT)" is changed to "(G–MTH)" and the Zip Code "20591" is changed to "20593":

§ 162.001–6(a).
§ 162.012–7(a).
§ 162.013–7(a).
§ 162.017–6(a).

49. In § 162.002–5(b) and 162.002–6(c), "(MMT)" is changed to "(G–MTH)."

50. In § 162.002–6(a), "(MMT)" is changed to "(G–MTH)" and the word "Headquarters" is removed.

51. In § 162.014–8(a), the Zip Code "20591" is changed to "20593" and the word "Headquarters" is removed; and in 162.014–8 (b) and (c), "(MMT)" is changed to "(G–MTH)", the Zip Code "20591" is changed to "20593", and the word "Headquarters" is removed.

52. In the following sections, "(G–MMT–3/83)" is changed to "(G–MVI)" and the Zip Code "20590" is changed to "20593."

§ 160.050–7(a).

§ 160.050–15 (a), (e), and (h).

53. In § 162.050–7 (f) and (g), "(G–MMT)" is changed to "(G–MVI)."

54. In §§ 164.007–1(c)(1) and 164.008–1(c)(1), "(MMT)" is changed to "(G–MVI)", and the Zip Code "20591" is changed to "20593."

55. In § 164.009–9(a), "(G–MMT–3/83)" is changed to "(G–MVI)" and the phrase "Chief, Merchant Marine Technical Division, whose address is" is removed; in § 164.009–9(d), the phrase "Chief, Merchant Marine Technical Division" is changed to "Commandant (G–MVI)"; and in § 164.009–9(e), the phrase "Chief, Merchant Marine Technical Division" is changed to "Commandant."

56. In § 164.009–11(a), "Chief, Merchant Marine Technical Division" is changed to "Commandant (G–MVI)."

57. In § 164.018–7(a), "(G–MMT–3/83)" is changed to "(G–MVI)" and the Zip Code "20590" is changed to "20593."

SUBCHAPTER T—SMALL PASSENGER VESSELS (UNDER 100 GROSS TONS)

58. In §§ 182.15–40(a)(3) and 182.20–40(a)(2)(ii), in two places in each paragraph, "(MMT)" is changed to "(G–MTH)."

SUBCHAPTER U—OCEANOGRAPHIC VESSELS

59. In § 189.55–15(a)(2), "(MMT)" is changed to "(G–MTH)", the Zip Code "20591" is changed to "20593", and the street address "1300 E St. N.W." is removed.

60. Footnote 1 of § 194.10–30(a) is removed.

61. In the lists "Material Approved for Incorporation by Reference" found in the Finding Aids portion of the following volumes of Title 46 CFR, under the entry "Coast Guard", "G–MMT/12" is changed to "Commandant (G–MVI)":

Parts 30 to 40 (Subchapter D).
Parts 70 to 89 (Subchapter H).
Parts 90 to 109 (Subchapter I).
Parts 150 to 165 (Subchapter Q).
Parts 166 to 199 (Subchapter U).

(14 U.S.C. 632; 46 U.S.C. 369, 375, and 416; 49 U.S.C. 1655(b); 49 CFR 1.46(b))

Dated: January 25, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83–2945 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2 and 95

[PR Docket No. 82–184; RM–3624; RM–3028; FCC 83–21]

Temporary Permit for Additional Users of Authorized Mobile Relay Stations in the General Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the General Mobile Radio Service Rules, Rules of Practice and Procedure, and Frequency Allocations Rules to provide for a Temporary Permit for additional users of multiply-licensed mobile relay stations (repeaters) in the General Mobile Radio Service. The amendment is necessary in order to eliminate the delay that occurs while a license application is being processed. With the Temporary Permit, the additional users will be able to begin immediate operation in a multiple-licensed GMRS repeater system.

DATES: See paragraph 17 of Report and Order

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Parts 1, 2 and 95

Radio.

Report and Order

Adopted: January 20, 1983.

Released: January 31, 1983.

In the matter of amendment of Parts 1, 2 and 95, Subpart A, of the Commission's Rules to provide for Temporary Permit for additional users of authorized mobile relay stations in the General Mobile Radio Service (GMRS).

Introduction

1. On April 1, 1982, the Commission adopted a Notice of Proposed Rule Making (47 FR 17836; April 26, 1982) proposing to amend Subpart A of Part 95 to provide for a Temporary Permit to allow immediate operation by additional users of multiply-licensed base stations, acting as mobile relays (repeaters) in already-licensed GMRS systems. Comments on the proposal were due May 26, 1982, and reply comments were due June 10, 1982. Six comments and five reply comments were filed in this proceeding. All were timely.

Background

2. The Commission's proposal stemmed from a petition for rule making (RM–3624) filed March 11, 1980 by Joseph Mancuso of Casper, Wyoming. Mr. Mancuso requested that the GMRS Rules be amended so that radio units proposed for immediate operation with already-licensed GMRS mobile relay systems (repeater) could be authorized under a Temporary Permit to eligible applicants while the formal application was being processed by the Commission's licensing facility at Gettysburg, Pennsylvania. The Temporary Permit would only be available to additional users of multiply-licensed repeaters. In this Report and Order, we will also consider a related rule making petition filed on December 20, 1977, by Standard Communications Corporation of Carson, California (RM–3028). Standard petitioned for amendments to the GMRS Rules to simplify the form used to apply for a GMRS license, and to make a Temporary Permit available to all purchasers of GMRS radio equipment.

Discussion

3. Palomar Communications, Inc. (Palomar); The General Electric Company (GE); Uniden Corporation of America (Uniden); and, the Citizens Band Radio Subcommittee of the National Industry Advisory Committee (NIAC) filed comments supporting the proposal. Corwin D. Moore, Administrative Coordinator, Personal Radio Steering Group (PRSG) and P. Randall Knowles (Knowles) filed comments in opposition to the proposal.

4. PRSG argues that equipment vendors, who support this proposal, will have a clientele composed primarily of business interests, thus upsetting the "delicate balance" in GMRS between business and personal users. It also asserts that adding on users to repeaters by means of a Temporary Permit would ruin the careful, voluntary coordination that now takes place in the GMRS. We note, however, that the GMRS is designed for private, short-distance, personal or business radiocommunications. Thus, the "business/personal use" issue raised by

PRSG is irrelevant. This proceeding revolves around the question as to whether there is a need for a Temporary Permit for certain GMRS users. The comments received verify that there is a need, even though our application processing procedures now result in the issuance of a GMRS license within 24 to 30 days after an application is received. We are not persuaded that "add-on" users to existing repeaters will destroy the voluntary coordination of frequencies that now takes place in the GMRS. All licensees, whether they use the service for their business or personal activities, must cooperate in the use of the frequencies assigned in order to minimize interference and obtain the most effective use of the authorized facilities, and we emphasize this point for business and personal users alike.

5. With respect to PRSG's contention that a waiting period to receive a license is beneficial because it affords the applicant the time to observe proper GMRS operating etiquette, we see no merit in such a delay. When a GMRS licensee operates a station, he/she must assure that his/her transmissions and practices conform to applicable rules. We do not feel that the Commission should be engaged in prescribing methods, such as educational waiting periods, to apprise licensees how to be certain that they are in compliance with the Rules. Moreover, a Temporary Permit could lead to less premature, unlicensed operation (see paragraph 10, below).

6. PRSG alleges that issuance of Temporary Permits for additional users of repeaters favors repeater usage over "direct" communications. Our purpose in proposing a Temporary Permit is to eliminate license delays experienced by some GMRS applicants. This will not tilt the balance in favor of repeater licensees. Repeater users will still want that type of communications to meet their needs. Likewise, there will still be persons in the GMRS whose needs can be met by direct base-mobile communications, without the need for extending their communications range through a repeater. PRSG asserts that it is "highly wasteful of spectrum" to permit the Temporary Permit for additional repeater users. However, some users prefer, or need, repeater-type communications, not just base-mobile communications without repeater assistance. PRSG has not shown that there is a necessary relationship between how soon an additional repeater user can go on the air and how many additional repeater users there are.

7. Finally, PRSG takes issue with our finding that the proposal would not significantly impact small entities, stating that the "general citizen" is a small entity and could be financially impacted if his/her investment in GMRS equipment is threatened because of usurpation of the service by business interests. Section 601 of the Regulatory Flexibility Act, 94 Stat. 1164, 5 U.S.C. 601, defines a "small business" as one which is independently owned and operated and which is not dominant in its field. It must be within the size standards regarding the number of employees or dollar volume set by the Small Business Administration. A "small organization" is any not-for-profit enterprise which is independently owned and not dominat in its field. A "small governmental jurisdiction" means the government of a body with a population of fewer than 50,000 persons. The term "small entity" refers collectively to the above three terms (see § 601, (6), Reg. Flex. Act, *supra*.) Therefore, an individual, or "general citizen", is not encompassed within the meaning of "small entity", and our finding that the proposal does not impact a substantial number of small entities is correct.

8. The opposition comments filed by Knowles, and also his reply comments, are in the same vein as PRSG's. Knowles concludes that adoption of a Temporary Permit would result in much greater interference and the degradation of discipline in the GMRS. We believe that our discussion in the preceding paragraphs meets Knowles' concerns. What we propose does not address questions of the number of GMRS users and their communications needs, nor does it relate to user compliance or non-compliance with the rules. What it does do is to allow additional repeater users to start transmitting approximately a month earlier than they would be able to without a Temporary Permit.

9. Reply comments filed by Nathan L. Maryn and Edward W. N. Smith both opposed the proposal. Both felt that, although a Temporary Permit has been authorized for Business Radio Service applicants (PR Docket No. 79–338, 45 FR 59880, September 11, 1980), no Temporary Permit should be allowed in the GMRS because of the dissimilarities of the two radio services. We do not agree. Establishment of a GMRS Temporary Permit will not blur the distinction between the Business Radio Service and the GMRS. It will, however, eliminate licensing delays for certain GMRS applicants just as it has for Business Radio Service applicants.

10. Rule making petition RM–3028, filed by Standard Communications Corporation (Standard), requested that the GMRS license application form be simplified, and that a Temporary Permit be authorized for all GMRS applicants. Standard is a manufacturer of radio equipment and states that the delay in obtaining a GMRS license has an adverse economic impact upon its business. Further, Standard avers that the waiting period before a license is issued invites unlicensed operation. Standard believes that if the application form were simplified, application processing would be accelerated. Forty-two comments to the petition were filed before the comment period closed on April 21, 1978. For the most part, persons filing comments to RM–3028 were commercial establishments that sold radio equipment. Without exception, they supported Standard's petition for amendment of the rules. The California Mobile Radio Association, in general, supported the petition and suggested that the Temporary Permit be issued by a local field office of the Commission with the permanent call sign for the GMRS station or system assigned at the time of issuance.

11. Standard's request for the temporary licensing of all GMRS applicants exceeds what we think is desirable for that service. We have no difficulty in licensing add-on users to existing repeaters because it will already have been determined that it was in the public interest to license the repeater; that its antenna array conformed to the rules; and, that its power would be within the maximum authorized. However, we believe that it would set a singularly inappropriate precedent to authorize, in the GMRS, by means of a Temporary Permit, brand-new stations whose particulars would only be examined after the fact of authorization and operation had occurred. Therefore, we will not expand the Temporary Permit beyond that proposed in this proceeding, i.e., it will be restricted to addtional users of already-licensed repeaters. With respect to the simplification of the GMRS license application form that aspect of petitioner's request is rendered moot since FCC Form 574 is scheduled to replace the present application form (See Memorandum Opinion and Order, adopted August 24, 1982; released August 31, 1982; FCC 82–397; 32011). The date that FCC Form 574 can be used by applicants in the Private Land Mobile and General Mobile Radio Services will be announced by the Commission at a later date.

Conclusion

12. No valid reasons have been advanced which persuade us that we should abandon our proposal in this proceeding. On the contrary, we believe that it is in the public interest to eliminate licensing delays for the additional users of multiply-licensed GMRS mobile relay (repeater) systems. Therefore, the rules will be amended, as proposed.

13. The Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, September 19, 1980; 5 U.S.C. § 601) do not apply to the amendments adopted herein since they are deregulatory in nature, and will not have a significant economic impact on a substantial number of small entities.

14. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511, December 11, 1980; 44 U.S.C. 3501), the Commission will forward a copy of the final rules adopted herein to the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

15. The date for use of the Temporary Permit Form for the GMRS and the effective date of these rule amendments are contingent upon the approval of the form by the Office of Management and Budget. When such approval of the form has been obtained, we will announce, in a public notice, the effective date of these rule amendments and the use of the form. Until that time, the existing rules remain in effect.

16. It is ordered, That the Secretary shall cause a copy of this Report and Order to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this Report and Order to be published in the **Federal Register**.

17. In view of the foregoing, it is further ordered, that Parts 1, 2, and 95, Subpart A, are amended as set forth in the Appendix hereto, effective on a date to be published in the **Federal Register** following Office of Management and Budget approval of the GMRS Temporary Permit. It is further ordered, That RM–3624 is granted, it is further ordered, that RM–3028, to the extent specified herein, is granted, and in all other respects is denied. This action is taken pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended. It is further ordered, that this proceeding is terminated.

18. Information on this matter may be obtained by contacting Maurice J. DePont, (202) 632–4964, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Parts 1, 2 and 95, Subpart A, of Chapter I of Title 47 of the Code of Federal Regulations, are amended, as follows:

PART 1—[AMENDED]

1. At the end of § 1.922, a new FCC Form and Title are added to read.

§ 1.922 Forms to be used.

FCC form	Title
. . . . .	
000	Temporary Permit for a General Mobile Radio Service System.

2. In § 1.925, a new paragraph (h) is added to read:

§ 1.925 Application for special temporary authorization, temporary permit, temporary operating authority, or interim amateur permit.

* * * * *

(h) An applicant for a General Mobile Radio Service system license, sharing a multiply-licensed base station used as a mobile relay station, may operate the system for a period of 180 days, under a Temporary Permit, evidenced by a * properly-executed certification made on FCC Form —, after mailing FCC Form 574 to the Commission.

PART 2—[AMENDED]

3. At the end of § 2.302, a new class of station, composition of call sign, and call sign block are added to the table of call signs, to read:

§ 2.302 Call signs.

* * * * *

Class of station	Composition of call sign	Call sign blocks
.	.	.
General Mobile Radio Service, [illegible] permit.	2 letters, 7 digits.....	WT plus business or [illegible] telephone number
.	.	.

PART 95—[AMENDED]

4. In § 95.15, a new paragraph (d) is added to read:

§ 95.15 Standard forms to be used.

* * * * *

(d) Form , Temporary Permit for a General Mobile Radio Service System, should be used if applicant is eligible and desires to operate the station pending the processing of the application. (See also Section 95.16).

5. A new § 95.16 is added to read:

§ 95.16 Temporary Permit.

An applicant for a General Mobile Radio Service system license, sharing a multiply-licensed base station used as a mobile relay station, may operate the system for a period of 180 days, under a Temporary Permit, evidenced by a properly-executed certification made on FCC Form , after mailing FCC Form 574 to the Commission.

6. In § 95.53, a new paragraph (c) is added to read:

§ 95.53 Posting station license.

* * * * *

(c) The Temporary Permit for a General Mobile Radio Service system shall be retained as part of the station records. The Temporary Permit need not be posted.

BILLING CODE 6712–01–M

APPENDIX B

Federal Communications Commission
Washington, D.C. 20554

TEMPORARY PERMIT TO OPERATE
A GENERAL MOBILE RADIO SERVICE
SYSTEM

1 INSTRUCTIONS

Use this form only if you want a Temporary Permit in the General Mobile Radio Service to share a multiply-licensed base station used as a mobile relay station while your application, FCC Form 574, is being processed by the Federal Communications Commission.

Do not use this form if you operate an individual, non-shared station or if you will be the first user of a facility intended for shared use.

Do not use this form for any radio service, other than the General Mobile Radio Service.

2 CERTIFICATION
Read, Check
Blanks, and Sign

I hereby certify that:

☐ I am not a foreign government or a representative thereof.

☐ I am eligible in the General Mobile Radio Service under Section 95.11 of the FCC Rules.

☐ I have not been denied a license or had my license revoked by the FCC.

☐ I am not the subject of any other legal action concerning the operation of a radio station.

☐ My completed Form 574 has been mailed to the FCC.

Name of Applicant	Date Form 574 Mailed to FCC
Mailing Address of Applicant (Number, Street, City, State, Zip Code)	
Signature of Applicant	

If you cannot certify to all of the above statements, you are not eligible for a Temporary Permit. Willful false statements void this Permit and are punishable by fine and/or imprisonment (see United State Code, Title 18, Section 1001).

3 TECHNICAL INFORMATION

Location of Existing Licensed Facility

Location of Control Station(s) or point(s)

Number of Mobile Units	Licensee Presently Operating on the Shared Facility	
	Name	Call Sign

4 TEMPORARY CALL SIGN

Use this temporary call sign until a call sign is assigned by the Federal Communications Commission

Your temporary call sign will consist of the letters "WT" plus your business or residence telephone number.

W T

5 LIMITATIONS

Your authority under this Permit is subject to all applicable treaties, statutes and rules and is subject to the right of use or control by the Government of the United States.

This permit is valid for 180 days from the date the Form 574 is mailed to the FCC.

You must have a Temporary Permit or a license from the FCC to operate your General Mobile Radio Service system transmitters.

This Temporary Permit must be kept with your station records until your license is received.

DO NOT SUBMIT THIS FORM TO THE FCC

FCC Form _____
(Date)

[FR Doc. 83-2931 Filed 2-2-83; 8:45 am]
BILLING CODE 6712-01-C

47 CFR Part 15

[FCC 82-430]

Petitions Filed by the American Telecommunications Corp. and Electronics Industries Association Concerning Application of the Commission's Rules for Cordless Telephones

AGENCY: Federal Communications Commission.

ACTION: Order granting conditional waiver.

SUMMARY: This Order grants a conditional waiver of a certain section of the FCC Rules, to American Telecommunications Corporation (ATC) for its cordless telephone under certain technical and other conditions. Authority is delegated to the Chief Scientist to grant similar waivers to other cordless phone manufacturers who are able to meet the same conditions. The waiver is required because the technical limit in this section is difficult to apply to cordless phones and allows too weak a signal for such operation. This action will permit ATC and other manufacturers to continue to market viable cordless phones.

DATE: Order becomes effective September 29, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Julius P. Knapp, Office of Science and Technology, RF Devices Branch, Washington, D.C. 20554, (202) 653-8247, Room 8302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 15

Communications equipment, Computer technology, Labeling, Radio, Reporting requirements, Security measures, Wiretapping and electronic surveillance.

Adopted: September 29, 1982.

Released: October 4, 1982.

In the matter of petitions filed by the American Telecommunications Corporation and Electronics Industries Association concerning application of § 15.7 of FCC Rules for cordless telephones; Order Granting Conditional Waiver.

1. On December 8, 1981, the Commission received a letter from the American Telecommunications Corporation (ATC), a subsidiary of General Dynamics Corporation, requesting clarification of the applicability of the general requirements for a restricted radiation device in § 15.7 of FCC Rules (47 CFR § 15.7) to cordless telephones. In the event that § 15.7 does apply to cordless phones, ATC asks for a waiver of this Section to permit operation of its cordless telephone in the frequency band 1.6 to 2.0 MHz. Also considered herein is a letter dated October 27, 1981 from the Personal Radio Section of the Electronics Industries Association (EIA), suggesting interim technical standards for the 2 MHz cordless phones. Both letters were considered petitions for waiver and placed on public notice on December 21, 1981 asking for comments from the public (mimeo No. 1247, 46 FR 62930).

2. Comments on the two petitions were filed by GTE Service Corporation (GTE), Mura Corporation (MURA), American Telephone and Telegraph Company (AT&T), Astech, Inc., Mr. James L. Swaters, Jr., Mr. Keith Olson, Electronics Industries Association (EIA), Uniden Corporation of America, American Radio League, Inc. (ARRL), and American Telecommunication Corporation (ATC). Reply comments were filed by EIA.

3. For the reasons discussed herein, which are based on the comments received in response to the publication of the two subject petitions and the investigations of the 2 MHz cordless telephones by the FCC Laboratory in Columbia, Maryland, the Commission is conditionally waiving § 15.7 of its Rules for cordless phones marketed by ATC, subject to the conditions in paragraph 25, below. Since it is expected that other manufacturers and distributors of cordless phones will petition for a similar waiver, authority is delegated to the Chief Scientist to grant a similar waiver to any manufacturer who meets the same conditions.

Introduction

4. A cordless telephone is a two-way power communication system, which is intended to eliminate the connecting handset cord of the standard telephone, thus allowing the user the freedom of movement without regard to the confines of the connecting wires. Cordless phones operate in a full duplex mode (i.e., they are capable of simultaneously transmitting and receiving radio signals), which allows a continuous conversation between both parties of the conversation. This method of operation requires the use of two frequencies for each cordless phone. The systems includes a base station low power transmitter and receiver, connected to the telephone network, and a portable handset that incorporates a low power transmitter and receiver. Most of the early cordless phones advertised an operating range of up to several hundred feet.

5. Cordless phones first appeared on the U.S. market around 1973. From 1973 to 1975, most of the cordless phones on the market operated under the general provisions for low power communications devices in Subpart D of Part 15 of FCC Rules. At that time, a low power transmitter could be operated on any frequency between 26.9–27.3 MHz without an individual license, subject to certain technical and administrative constraints. Most of the cordless phones operated under these provisions at 27 MHz. In early 1976 in Docket 20119,[1] the Commission shifted low power voice transmitters from 27 MHz to 49 MHz in order to relieve an enforcement problem between the unlicensed low power voice transmitters and licensed 27 MHz citizen band (CB) radios.

6. Two manufacturers of cordless phones at that time petitioned the Commission to reconsider the action taken in Docket 20119, since both claimed that the insufficient frequency spectrum at 49 MHz would put their companies out of business. In response to these petitions, the Commission, in a *Memorandum Opinion and Order*, authorized cordless phones to continue operating at 27 MHz for a period of three years, during which time the cordless phone industry was to petition the Commission for new frequencies for cordless telephones.[2] Unfortunately, the industry was new and did not respond in a timely manner to the request. As a result, the Commission did not receive a petition for finding a new home for cordless telephones, until recently.[3] Under the interim rules, cordless telephones at 27 MHz could be manufactured and marketed until January 1, 1980 and January 1, 1981, respectively.[4]

7. As noted in paragraph 9 of the *Memorandum Opinion and Order* in Docket 20119, one of the earlier cordless phones used carrier current techniques

[1] Report and Order, FCC Docket No. 20119, In the Matter of Amendment of Rules Part 15 Subpart D—Low Power Communications Devices to delete the frequency band 26.97–27.27 MHz and to add the frequency band 49.8–49.9 MHz and to promulgate technical specifications 57 FCC 2nd 1134 (1976), 41 FR 7394, February 18, 1976.

[2] The history of cordless phones at 27 MHz is discussed in more detail in the Memorandum Opinion and Order in Docket No. 20119, 62 FCC 2nd 573 (1977), 42 FR 4461, January 25, 1977.

[3] Petitions seeking a frequency allocation and permanent rule provisions for cordless phones were ultimately submitted by MURA and EIA and were designated RM-4062 and RM-4075, respectively. These petitions were put on public notice on March 22, 1982 (Report 1338) and on March 24, 1982 (Report 1340).

[4] See 47 CFR 15.114.

for the base station transmitter of the phone and 27 MHz return frequency for the portable handset transmitter. Carrier current systems use a technique which couples radio frequency (RF) energy into the electrical and/or telephone wiring. Some of this energy is "leaked" into space from the wiring and picked up by a nearby receiver. In practical terms, the house telephone and electrical wiring becomes a leaky cable acting as an antenna for the base station of the cordless phone system. Most carrier current type cordless telephones operate around 1.7 MHz just above the frequencies allocated for AM Broadcasting (535–1605 kHz). As the expiration dates for the interim rules for cordless phones approached, manufacturers elected to shift the transmitter frequency of the base station portion of the phones from 27 MHz to 1.7 MHz using carrier current techniques.

8. Thus most of the presently marketed cordless telephones operate duplex at 49 MHz for the portable transmitter and 1.7 MHz for the base station transmitter using carrier current techniques.[5] Under the present FCC Rules, both parts of the system may be operated without an individual license, provided each part complies with certain technical and administrative requirements. The 49 MHz transmitter is subject to the technical and certification requirement in Subpart D of Part 15 of FCC Rules. The 49 MHz receiver in the base station is also subject to certification pursuant to Part 15 Subpart C. Certification is a bilateral equipment authorization procedure where the manufacturer submits measurement data demonstrating compliance with FCC Rules and the Commission issues a grant of certification.

9. Carrier current systems, such as wireless intercoms, campus radio systems and the base station transmitter in cordless telephone systems are classified by the Commission as restricted radiation devices. Such systems are subject to the general requirements for a restricted radiation device in § 15.7 of FCC Rules, which places two primary conditions on the operation of such systems. First, the level of RF energy from any part of the system shall not exceed a certain limit.[6] Second, the system shall not cause harmful interference to authorized radio communications. A more detailed explanation of the devices subject to § 15.7, as well as an historical background of this regulation is provided in the *Notice of Poposed Rule Making* in FCC Docket No. 20780, 41 FR 17938, April 21, 1976.

Petitions

10. In its letter of December 1, 1981 and subsequent submittal responding to a request for additional information,[7] ATC asks the Commission for a clear statement about the applicability of § 15.7 to cordless phones. In the event that § 15.7 applies to its phones, ATC seeks a waiver of this rule to permit marketing of its phones, which operate in the frequency band of 1.6 to 1.8 MHz using carrier techniques. The company argues that § 15.7 should be ruled inapplicable for the following reasons:

(a) The note under § 15.7 clearly states that low power communication devices are regulated elsewhere in the Commission's Rules (Subparts D and E of Part 15). ATC argues that a cordless phone is a low power communication device, notwithstanding the fact that there are no provisions for such devices in the 2 MHz band.

(b) It is impractical to apply the limit in § 15.7, since it would unduly restrict the operating range of the phone operating at 2 MHz to 50 feet or less.

(c) The Commission has tacitly approved use of the cordless phone system when it granted certification of the portable 49 MHz link of the cordless phone system.

11. ATC also argues that it is capable of producing a cordless telephone where the carrier current radio link complies with § 15.7. However, according to ATC, such a phone will have an effective communications distance much less than the several hundred feet advertised by the competition's phones. Furthermore, American Telephone and Telegraph, ATC's primary customer, will not purchase any cordless phones when there is question of compliance with the rules. Because of AT&T's reluctance to buy and distribute cordless phones until the § 15.7 question is settled, ATC states that it is suffering economic hardship.

12. In its letter of October 27, 1981 and subsequent filing of February 26, 1982, the personal communications section of EIA argues that § 15.7 is inappropriate to apply to cordless phones and more importantly that there is a need to establish practical standards for these phones at 2 MHz. EIA suggests a specific technical limit of ½ watt of RF Power delivered to the radiating load, with the manufacturer selecting the matching impedance. Unfortunately, EIA did not adequately specify a measurement procedure.

13. Most cordless phone manufacturers agree with ATC that § 15.7 should not be found to apply to cordless telephones. They also, in general, support ATC's petition for waiver of § 15.7 (if applicable), *provided* the waiver is made available for all cordless phones on the market.

FCC Laboratory Investigations

14. In response to allegations that 2 MHz cordless telephones do not comply with § 15.7 and with receipt of the subject petitions, 14 cordless telephones were evaluated at the FCC Laboratory located in Columbia, Maryland. Preliminary examinations revealed that several of the phones were similar in design with respect to the carrier current transmitter circuitry. Thus only seven of the 14 phones were actually tested, since these phones were considered to be representative of the carrier current type phones currently on the market.

Radiated and conducted emissions measurements were made on the seven phones at a simulated test installation specifically constructed for this project at the Maryland facility. Radiated measurements were also made at four homes to determine variabilities of cordless phone performance at individual houses of different types of construction. A report of these investigations, titled "Investigations of Emission Characteristics of Cordless Telephones Using Carrier Current Techniques" is available.[8]

15. The following is a summary of some of the observations and conclusions made during the investigations of the fourteen samples:

a. All the units tested under the conditions specified in the report exhibit higher levels of emission than is permitted by the technical limit in § 15.7 of the Rules.

b. Some of the carrier current phones coupled FR energy in the two or more conductors of the power cord; some into the telephone line; and some into both the power and telephone wires.

c. It was considered impracticable to devise a standard test set-up for measuring radiated RF energy due to the variabilities in building structures, coupling techniques, electrical and

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[5] One or two models of cordless telephones on the market operate duplex at 49 MHz, i.e., both the mobile and base station transmitters operate separate 20 kHz channels spaced 60 kHz apart at 49 MHz. These phones are not considered herein.

[6] Section 15.7 provides that "the total electromagnetic field produced at any point a distance of 157,000/F(kHz) feet (equivalent to $\iota/2\pi$) from the apparatus (system) shall not exceed 15 microvolts per meter". The distance in feet is equal to 157 divided by the frequency of the emission being measured in Megahertz.

[7] *Clarification of Petition for Waiver and Comments of American Telecommunications Corporation*, filed February 19, 1982.

[8] Report in Project No. 2247–58, August 1982. This report is available from the FCC's duplicating contractor: Downtown Copy Center, 1114–21st St., NW, Washington, DC 20037, phone 202–452–1422.

telephone service connections and distribution arrangements. A measure of the RF currents coupled into the power and telephone lines by cordless phones is at this time considered a more practical method for determining the interference potential of these phones.

d. When measured using the methods described in the report, the RF currents on the power cord and telephone line of all the phones tested were less than:

—90 mA on any single power conductor,

—12 mA on the telephone lines,

—12 mA when measuring all power conductors together (including ground conductor).

e. The observations in (d) above were obtained in the following manner. The RF currents were measured in a shielded enclosure, with the equipment under test (EUT) power supply fed through the Line Impedance Stabilization Network (LISN) specified in IEEE Standard 213 [9] and with the telephone cord conductors terminated in the resistive load to ground specified in FCC Rules Part 68, § 68.308, for measurements above 12 kHz. Measurements of current were made with a clip-on RF current probe, Stoddard 91550–1, in combination with a suitable tuned RF voltmeter (Potomac Instruments FIM–41–1), with the EUT carrier unmodulated. Current measurements for telephone cord and all power conductors together were made by applying the probe around the cord at the plug end by which it is connected to the building wiring. Current measurements for individual power conductors were made by using an adapter provided with suitable male and female power connectors connected by individual wires approximately 15 cm. in length, so that the probe could be applied separately to the ungrounded and grounded power conductors. Test arrangements not specified here followed IEEE Std. 213 insofar as practicable.

f. Although operating ranges of the phone systems tested varied considerably depending upon locations and conditions of installation, it appeared that the effective operating ranges of the phones tested could reasonably be claimed to be a few hundred feet.

Discussion of Petitions and Comments

16. As previously stated, § 15.7 sets forth both the technical and general operating requirements for a restricted radiation device, which is defined briefly as a device which intentionally generates RF energy, but does not intentionally radiate that energy (e.g., transmitter), *and* is not regulated elsewhere in the Commission's Rules.[10] Carrier current systems, i.e., systems which feed an RF signal into the distribution or house electrical wiring, have long been classified by the Commission as restricted radiation devices subject to § 15.7. This fact has been clearly discussed in a number of FCC information bulletins and FCC docketed proceedings over the past 30 years. [11] It was also clearly stated in paragraph 9 and footnote 7 of the Memorandum Opinion and Order in Docket 20119 (see footnote 2 supra) that one of the earlier phones used carrier current techniques. As such, it was subject to § 15.7.

17. In addition to cordless phones, there are a number of other devices on the market that use carrier current techniques. One of the oldest is the Campus Radio Systems used by a number of college campuses throughout the country. These systems operate in the AM broadcast band using carrier current techniques to distribute and AM broadcast signal in the dorm. Other types of devices sybject to § 15.7 are discussed in more detail in the proposal to revise this section in FCC Docket 20780.[12]

18. In view of the above history and the fact that § 15.7 is being applied to a number of other carrier current systems and devices, the Commission cannot accept the contention that § 15.7 does not apply to cordless phones using carrier current techniques. We recognize that in the frequency band (1.6–2.0 MHz) selected by cordless phone manufacturers [13] the present limit in § 15.7 is overly restrictive.[14] However, it was not until recently that the Commission learned about the noncompliance of most 2 MHz phones, since the manufacturer is not required to demonstrate compliance of a device subject to § 15.7.[15] It is now apparent that the limit in § 15.7 does not provide an effective operating distance for cordless phones.

19. There are a number of reasons why cordless phones might best be shifted to a different part of the frequency spectrum to permit continued growth and operation of cordless phones. At our prompting, the industry has filed two petitions for rule making (see footnote 3 supra) to find a new home in the frequency spectrum for cordless phones. These petitions are currently being studied by the Commission and will be acted upon in the near future. One reason for shifting cordless phones out of the frequency band 1.6–2.0 MHz just above the AM broadcast band is the reallocation of that spectrum at the World Administrative Radio Conference in 1979. An agreement was reached at WARC '79 to reallocate the band 1605–1705 kHz for broadcasting. This obviously could have a serious detrimental impact on the operation of cordless phones at 1.6–1.8 MHz.[16]

Commisson Decision

20. The Commission has decided to grant ATC a conditional waiver of § 15.7 to allow the continued operation of cordless phones using carrier current techniques on an interim basis while a new home is found in the spectrum for cordless phones. Other manufacturers willing to meet the same condition will also have the opportunity to obtain the

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[9] Institute of Electrical and Electronics Engineers Standard 213. Available from IEEE, 345, E. 47th St., New York, NY 10017.

[10] Restricted Radiation Device is defined in § 15.4(d) of the rules as "A device in which the generation of radio frequency energy is intentionally incorporated into the design and in which the radio frequency energy is conducted along wires or is radiated, exclusive of transmitters which require licensing under other parts of this chapter and exclusive of devices in which the radio frequency energy is used to produce physical, chemical or biological effects in materials and which are regulated under the provisions of Part 18 of this chapter."

[11] See for example, FCC Bulletins OCE 11 and OCE 12. Both Bulletins are available upon request from the FCC District Offices and Consumer Assistance Office. See also the Notice of Inquiry and Proposed Rule Making in Docket No. 19092 (36 FR 7018), 28 FCC 2nd 357 (1971) concerning campus radio stations. This document discusses the application of § 15.7 to carrier current radio and gives references to several earlier docketed proceedings dealing with the subject.

[12] Notice of Proposed Rule making in FCC Docket 20780: In the matter of amendment of Part 15 to redefine and clarify the rules governing restricted radiation devices and low power communication devices; adopted April 14, 1976; released April 23, 1976; 41 FR 17938, April 29, 1976.

[13] The reasons why the band 1.6–2.0 MHZ was selected by manufacturers have not been specifically stated. We suspect it has to do with technical characteristics which make carrier current operation viable at these frequencies. Also, in comparison to other bands, this band is not heavily populated in residential areas. See Part 2 of the FCC Rules for the radio spectrum allocations in this band. Both government and nongovernment stations utilize frequencies in this band.

[14] The present field strength limit in § 15.7, referenced in footnote 6, above, is frequency dependent. At higher frequencies the limit becomes more severe. In its *Notice of Proposed Rule Making* in Docket 20780, the Commission proposed to change this approach and set a fixed limit for radiated field strength at any frequency above 1600 kHz.

[15] Under the present rules, a manufacturer is not required to demonstrate compliance of his equipment with § 15.7. Compliance, however, is a prerequisite before the equipment can legally be marketed, pursuant to § 2.806 of the Commission's Rules.

[16] The WARC '79 treaty is currently pending review and ratification by the U.S. Senate.

same conditional waiver. These waivers will be granted by the Chief Scientist under delegated authority. The waiver is based on the fact that several million of the 2 MHz phones currently on the market have not resulted in a single case of interference being reported to the Commission, to date. (However, we have heard of one or two cases of co channel interference to amateur radio operations. See paragraph 21, below.) Assuming this continues to hold true, the Commission is willing to grant a waiver to ATC and other manufacturers subject to certain conditions as set forth in paragraph 25, below, which we believe are reasonable. These conditions are intended to provide for the continued use of the cordless phones now on the market. Additionally, they establish a ceiling to preclude introduction of new phones that may use excessive power in an effort to increase the operating distance.

21. In its comments, the American Radio Relay League, an association of amateur radio operators, expressed concern that there will be interference between cordless phone users in the band 1.6–2.0 MHz and amateurs operating in the band 1.8–2.0 MHz. More specifically, ARRL states that it believes cordless phones will receive co-channel interference in the band 1.8–2.0 MHz. In addition, it contends that cordless phones will suffer adjacent channel interference in the band 1.6–1.8 MHz because, in its assessment, the cordless phone receiver possesses poor adjacent channel rejection. To avoid the cochannel interference, the Commission is restricting the operation of cordless phones under the waiver granted herein to the band 1.625–1.80 MHz.[17] Only one or two of the phones currently on the market utilize the band 1.8–2.0 MHz and on the basis of the comments filed there should be little difficulty or cost involved in shifting to the lower frequencies. The manufacturers are expected to improve the design of the cordless phone receiver to minimize the adjacent channel problem. In any event, under § 15.3, the cordless phone must accept any interference that it may receive including that from licensed amateur stations operating on adjacent channels.

22. AT&T expressed concern about RF signals coupled onto the telephone lines. In particular, it is concerned about the 500 milliwatt power limit proposed in the petition filed by EIA. AT&T states that the proposed 500 mW limit exceeds the levels recommended by the company to the Commission in a separate proceeding, FCC Docket No. CC 81–216,[18] which proposes to amend Part 68 governing equipment that connects to the telephone network. While the Commission is obviously concerned about protecting the telephone network, it has not received any information that the present generation of carrier current cordless phones has been a source of harm to phone lines. The technical standards we are prescribing for purposes of this waiver have been designed to maintain the same levels of conducted RF energy as exhibited by cordless phones now on the market (which the Commission staff has measured) and therefore are considered not to be future sources of harm to the phone network.

23. Astech, a manufacturer of carrier current control and communication systems that operate between 50 and 500 kHz, expresses concern that cordless phones will interfere with its TELLINK communication system but does not explain why it anticipates such interference. Although no explanation is provided, it objects to the ATC and EIA petitions. We have no reason to believe that a cordless phone at 1.625–1.8 MHz will interfere with the TELLINK system at 50–500 kHz. Moreover, we must remind Astech, as we have the manufacturers of cordless phones (paragraph 21 above) that a carrier current system is a restricted radiation device and that the present Part 15 rules do not afford any protection from interference (§ 15.3). Manufacturers of such devices, including Astech, must build into their devices protection to insure proper operation under adverse conditions.

24. Although the Commission has not received any formal complaints of interference with the cordless phone identified as the source, we have received complaints about the lack of privacy afforded by these phones. Apparently, most consumers who use these phones are unaware that unless the manufacturer incorporates a scheme for coding or scrambling the signal at the transmitter and descrambling it at the receiver, a signal transmitted through space can be received by an unintended listener. A number of consumers are surprised and concerned about this feature of cordless phones. The Commission, therefore, believes the public should be informed about this lack of privacy of communication involved in the use of cordless phones. A statement about this matter on a label on the phone has therefore been imposed as a condition for the waiver.

Conditions of Waiver

25. For the reasons discussed above, the technical provisions of § 15.7 are hereby waived for cordless telephones marketed by American Telecommunications Corporation subject to the following conditions:

a. The carrier current portion of the cordless phone shall operate on a frequency in the band 1625 kHz to 1800 kHz.

b. The RF currents on the power cord and telephone line of each cordless phone shall not exceed the following values:

—90 mA on any single power conductor,

—12 mA on the telephone line,

—12 mA where measuring all power cord conductors together, including ground conductor.

c. The measurements of the RF currents on the cordless phone power cord and telephone line shall be made in accordance with the procedure described under item (e) in paragraph 15 to show compliance with the technical and other conditions herein.

d. Each model of the cordless phone marketed under the terms of this waiver shall be certificated pursuant to the procedures in Subpart J of Part 2 and Subpart B of Part 15.

e. This waiver applies only to cordless phones produced up until October 1, 1984.

f. Each cordless telephone base station shall have a conspicuously displayed and permanently attached label containing the following statements:

> The base station of this phone is a radio link operating under the terms of a waiver granted by the FCC. Use of this phone may not ensure privacy of communication. Operation is subject to two conditions: (1) It may not cause harmful interference and (2) it must accept any interference received, including that which may cause undesired operation.

26. In view of the above, the request by American Telecommunications Corporation for waiver of the technical portion of § 15.7 is granted, subject to the conditions in paragraph 25, above.

27. It is further ordered that the Chief Scientist is authorized to grant similar waivers to other manufacturers subject to the same conditions.

28. Pursuant to § 1.427(b), since it relieves a regulatory restriction, this Order shall become effective on September 29, 1982.

[17] The lower limit of 1.625 MHz was selected to protect Travelers Information Service operating at 1.610 MHz.

[18] Notice of Proposed Rule Making and Notice of Inquiry in Common Carrier Docket 81–216; adopted March 26, 1981; released April 10, 1981; 46 FR 22215, April 16, 1981.

29. Further information about this waiver may be obtained from Mr. Julius P. Knapp, OST, FCC, Washington, DC 20554, phone 202–653–8247. Information about the measurement procedure required by paragraph 25(c) may be obtained from Mr. Phil Inglis, OST, FCC, P.O. Box 429, Columbia, Maryland 21045, phone 301–725–1585.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83–2865 Filed 2–2–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 81–634; RM–3875]

Radio Broadcast Services; TV Broadcast Station in Victoria, Texas; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects an error made with regard to the docket number of this proceeding which concerns a TV Station in Victoria, Texas.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Mass Media Bureau, (202) 632–5414.

SUPPLEMENTARY INFORMATION:

In the matter of an amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Victoria, Tex.); BC Docket No. 81–634 (Previously stated as 81–364) RM–3875; erratum.

On January 19, 1983, a Final Rule (Report & Order) was published in this proceeding concerning the assignment of a TV Broadcast Station in Victoria, Texas, (48 FR 2331). Inadvertently, the docket number of this proceeding was stated as being BC Docket No. 81–364. The correct docket number is BC Docket No. 81–634.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–2946 Filed 2–2–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 90

[PR Docket No. 82–470; FCC 83–20]

Private Land Mobile Radio Services; Eliminate Certain Restrictions on Non-Voice Operations in the Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report & Order).

SUMMARY: The Commission adopts a *Report and Order* which relaxes two limitations on Private Land Mobile operations: (1) A two second limitation on non-voice base/mobile communications; and (2) the secondary status of non-voice communications. These limitations currently inhibit the effect use of non-voice systems. This action is necessary to permit data communications to develop in the Private Land Mobile Radio Services.

DATE: Effective March 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Keith Plourd, Private Radio Bureau, Land Mobile and Microwave Division, (202) 634–2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Administrative practice and procedure, Business and industry, Industrial radio services, Land transportation radio services, Private land mobile radio services, Public safety radio services, Radiolocation radio service, Special emergency radio service.

Report and Order

Adopted: January 20, 1983.

Released: January 31, 1983.

In the matter of amendment of Part 90 of the Commission's Rules and Regulations to Eliminate Certain Restrictions on Non-voice Operations in the Private Land Mobile Radio Services.

Background

1. On July 22, 1982, the Commission adopted a Notice of Proposed Rule Making (Notice) in the above-captioned matter.[1] By its proposals, the Commission sought to promote the efficient and effective use of private land mobile radio spectrum by removing certain restrictions on non-voice (i.e. data) transmissions. Existing rules limited such transmissions on base/mobile frequencies to a maximum duration of two (2) seconds [2] and designated these transmissions as secondary to voice operations.[3] The Commission in its Notice proposed to remove both the two second limitation and the secondary status of non-voice communications vis-a-vis analog voice communications. In proposing these changes, the Commission cited: (1) The reduced transmission time which can result from digital data messages; (2) the reluctance of Commission licensees to invest in digital data equipment, when these operations are subject to a secondary use restriction; (3) and the inconsistency between a two second limitation in the transmission of digital data message and the new rules placing no message length restriction on digital voice transmissions, since the two types of digital transmissions are substantially similar from a technical perspective.[4]

2. The scope of the proposal was limited to base/mobile frequency bands below 800 MHz and only extended to frequencies subject to the coordination requirements of § 90.175 (a) or (b) (47 CFR 90.175).[5] Additionally, the Notice proposed to drop a redundant station identification requirement set out in the non-voice rules (see 47 CFR 90.233(c)). Finally the Commission proposed to amend § 90.235 of the Rules to add additional emission types to the list of those permitted for secondary fixed operations. (See 47 CFR 90.235.)

Comment and Replies

3. The County of Los Angeles (L.A.), the Canada Systems Group (CSG), Forest Industries Telecommunications (FIT), Motorola, the Utilities Telecommunications Council (UTC), the Special Industrial Radio Service Association (SIRSA), the Central Committee on Telecommunications of the American Petroleum Institute (API) and the National Association of Business and Educational Radio, Inc. (NABER) all commented and, to varying degrees, supported the Commission's proposals. For example CSG, in its

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[1] Notice of Proposed Rule Making, PR Docket No. 82–470, FCC 82–340, 47 FR 34603, adopted July 22, 1982, released August 6, 1982.

[2] Section 90.233(b) reads: (b) Maximum duration of a transmission for each distinct non-voice message, including automatic repeats of the message, may not exceed 2 seconds. There must be a break in the carrier between each such transmission

[3] The introductory text of § 90.233 reads: 90.233 Secondary base/mobile non-voice signaling operations. *On a secondary basis to voice operations*, the use of A2, A9, F2, F9 (audio frequency toneshift or tone phase shift) or F9Y emission may be authorized to base/mobile operations in accordance with the following limitations and requirements * * * [emphasis supplied]

[4] *First Report and Order*, PR Docket No. 80–416, FCC 81–186, adopted April 23, 1981, released May 11, 1981; *Second Report and Order*, PR Docket No. 80–416, 82–134, adopted March 18, 1982, released April 1, 1982.

[5] Non-voice limitations on frequencies above 800 MHz were relaxed in the Commission's Second Report and Order in the proceeding in Docket No. 79–191. *Second Report and Order*, PR Docket No. 79–191, FCC 82–338, Adopted July 22, 1982, released August 16, 1982.

comments, stated that it "* * * wholeheartedly applauds the Commission's recommendations as set out in the Notice * * *" L.A. supported the proposal and stated that "* * * the rules the Commission proposes to delete are unnecessary. We commend the Commission for their positive approach to this potential problem." Motorola commented, "We are pleased that the Commission has acted so speedily to extend the relief afforded to non-voice users at 800 MHz to those operating in the lower bands. We would urge the quick adoption of an appropriate Report and Order." UTC expressed its view "* * * that with proper coordination, use of non-voice technologies can be expanded without any adverse effects on existing voice communications." Reply comments were filed by UTC and the General Electric Co. (GE).

4. No comments opposed elevating non-voice transmissions to primary status, co-equal to analog voice communications. Most commentors also supported the coordination of non-voice systems, although Motorola suggested we might extend primary non-voice operations to uncoordinated frequencies, as well. Most who commented also supported both our limiting these non-voice provisions to base/mobile operations and retaining the current requirement of § 90.403(e) to frequency monitor before transmission.[6]

5. On the matter of the removal of the limitation on the length of a digital data message, however, UTC, SIRSA, API, and GE all voiced some concern about its complete elimination. Instead, most of these parties sought to increase the time of permissible transmission from 2 seconds to 10 seconds (other periods of time were also suggested). The retention of some limitation, UTC noted, would control the amount of digital traffic. Without some time limitation, UTC argued, emergency analog communications could receive interference, if digital data messages were permitted in a continuous stream without any strictures as to time. SIRSA also recommended a ten second limitation, for similar reasons. "Data terminals," SIRSA said, "are essentially insensitive to voice signals and would therefore totally ignore any call for assistance, particularly if the facility operator is not monitoring the channel for other traffic." API's comments paralleled these, and it also suggested a 10 second on/2 second off rule. GE expressed the same concern for interference on shared frequencies, if no time limits are applied, and suggested that the two second rule be relaxed but not eliminated.

6. In response to these arguments, CSG, which sponsors a "Computer Dispatch" system now in operation in several cities in Canada, stated that "* * * because of the substantial gains in overall systems efficiency * * * any limitation on signal duration is inappropriate and unduly burdensome." CSG was supported in this view by Motorola which also opposed any limitation on the duration of a non-voice message. Motorola also pointed to the precedent set for permitting virtually unrestricted non-voice systems in the recent release of 800 MHz channels.[7] UTC, in replying to Motorola, essentially argued that voice messages should have priority over data messages because voice can be understood by co-channel users and data cannot. UTC also maintained that the signal received by a voice system from a non-voice transmission is not merely "foreign noise" as described by Motorola, but rather interference that impedes voice communications. UTC additionally noted that computers can engage in runaway conversations unless some limit on the length of any given transmission is imposed.

7. Apart from the duration issue, several other points were made. One party (FIT) questioned the importance of digital transmissions in the private land mobile services. FIT said "* * * it would appear that voice communications will continue to be the mainstay in the land mobile radio services in the foreseeable future." FIT also cited what it regarded as a lack of digital data trends indicated in the comments in the proceeding in PR Docket No. 82-10,[8] and suggested the Commission consider alternatives to the proposed rules such as geographic separation, separate frequency allocations and other actions to prevent the intermixture of the two types of emission.

8. As a final issue, CSG expressed concern that the proposal to remove § 90.233(c) would impose undue burdens upon licensees. CSG noted that a removal of § 90.233(c) would require both mobile and base stations to identify by call sign, rather than permitting a single station in the system to identify for the entire system, as provided for in § 90.233(c). Such a requirement for mobile stations to identify would possibly necessitate voice circuitry in the radios, thereby increasing cost, CSG said.

Decision

9. We have considered all of the comments carefully. The problem raised with regard to co-channel users of the two different technologies being able to understand each other's transmissions and clear the channel in cases of an emergency is a difficult problem, and one which does not lend itself to any easy solution. By the very nature of the two technologies involved, the licensees of digital and analog communications systems cannot routinely comprehend each other's transmission. While the commentors identified the inability of digital data system licensees to comprehend and give way in the presence of emergency analog voice transmissions, it is equally true that analog licensees cannot comprehend and give way to emergency digital communications. Moreover, this problem of mutual intelligibility transcends the issues of this proceeding and extends also to digital voice systems which have previously been authorized by the Commission.[9,10]

10. With regard to those comments which suggested rules be adopted to impose a time limitation on digital data transmissions, we must observe no information was submitted as to appropriate standard for such a transmission limitation. While ten seconds was the time limit most often mentioned, no information was supplied as to why this, rather than some other time duration should be selected. In the absence of some reasoned basis for selecting a particular limitation, we agree with CSG that such a limitaton would be inappropriate and could adversely impact on our objective of encouraging the unfettered development of digital data technology in the private services. We are, therefore, not adopting any limitation on the length of a data transmission. However, should this result in generic interference problems which cannot be resolved on an individualized basis, we may readdress this issue.

11. Similarly, with respect to the appropriate status of digital data systems, the prospect for increased

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[6] 47 CFR § 90.403(e) provides: Licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in the progress and such other measures as may be necessary to minimize the potential for causing interference.

[7] *Second Report and Order*, PR Docket No. 79-191, *Supra*.

[8] *Notice of Inquiry*, PR Docket No. 82-10, FCC 82-8, adopted: January 13, 1982, released: January 26, 1982.

[9] See *First Report and Order*, Docket No. 21142, FCC 78-70, released February 9, 1978; *Second Report and Order*, Docket No. 21142, FCC 79-756, released December 3, 1979; *First Report and Order*, PR Docket No. 80-416, FCC 81-186, released May 11, 1981; *Second Report and Order*, PR Docket No. 80-416, FCC 81-134, released April 1, 1982.

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channel efficiency through non-voice operations has been demonstrated both in Canada and in various European countries. Moreover, the record of this proceeding demonstrates the willingness of private land mobile services licensees and manufacturers to take the steps necessary to implement these systems in this country. It is undisputed by any party that there are benefits to be had from the extension of non-voice emission capabilities in the Private Land Mobile Radio Services. We believe that retaining the secondary status of non-voice impedes the evolution of such systems because licensees are always at risk of having to shut down their systems, if a primary status user complains. Several commentors representing Industrial Radio Service licensees have indicated that unlimited non-voice emissions would cause emergency communications involving the safety of life or property to be unheard and therefore would prevent co-channel non-voice system users from clearing a channel during an emergency. On the other hand, the converse is also true—that unlimited analog voice could severely impede digital messages of an emergency nature. Moreover, in most instances the latter type of message would be of much shorter duration and could convey the nature of the emergency much more quickly than a voice message. Additionally, this same concern of non-intelligibility applies to digital voice systems. However, to date we have had no evidence that this is an actual operational problem serious enough to warrant delaying digital technology.

12. After carefully considering this matter, we believe the issue concerning channel use priorities for emergency communications is real but the dimensions of this problem and the effectiveness of the solution proposed in the comments are speculative. We believe the public interest is not served by further delays in the implementation of this technology because of speculation. Therefore, we are adopting rules that raise non-voice transmissions to a primary status.

13. We proposed confining these digital data systems to coordinated frequencies. While some suggested this was not necessary, we have determined, in light of the above-discussed concerns, to adopt this approach. This will allow licensees and coordinators to cooperate in the selection and implementation of systems and will greatly enhance the opportunities for minimizing interference. Moreover, § 90.173 requires licensees to cooperate to minimize the potential for interference and gives us the power to impose solutions if licensees cannot work out a solution among or between themselves. Furthermore, § 90.403(e) requires that licensees take reasonable precautions to avoid causing harmful interference, including monitoring the transmitting frequency for communications in progress. If individual problems develop, we can address them on an ad hoc basis under these rules and impose some requirement to assure that priority messages, in fact, receive priority from co-channel users. After some experience is gained, we can re-address this issue if appropriate. However, in the absence of a demonstration that these technologies cannot per se operate compatibly on a co-equal, co-channel basis, we conclude our mandate under the Act should be to encourage innovative technology. (47 U.S.C. 303 (g)) We will never know the potential of these systems, if we deny them the opportunity to evolve in a substantially unfettered fashion.

14. With regard to the other points raised in the comments, we reaffirm our intention to limit these provisions to base/mobile operations, We are also adding new emission types to those permitted for secondary fixed operations.[11] Finally, in response to CSG we, are maintaining the station identification provision which permits a base station to identify on behalf of all of its associated mobile units.

Final Regulatory Flexibility Analysis

Need for and Objectives of the Final Rule

To eliminate unnecessary rules that restrict the use of efficient digital technology and to encourage efficient use of Private Land Mobile Radio Service frequencies.

Summary of Issues Raised by the Public Comments

Most issues received unanimous support. There were no comments specifically addressing the initial Regulatory Flexibility Analysis. However, several of the comments expressed concern that the unlimited duration of non-voice transmissions would imperil safety of life and property communications. Also, one commentor felt that one of the proposed rule changes would needlessly burden licensees employing non-voice only equipment in fulfilling station identification requirements.

[10] The essential reason for digital voice system is to assure privacy of communications. This objective is vitiated by any mechanism which enables co-channel users to decipher these communications

Alternatives to the Rules

Several comments recommended limiting non-voice transmissions to other lengths of time. Also suggested were schemes to isolate non-voice systems from voice in order to avoid any issues of interference. The Commission carefully considered but ultimately rejected those alternatives. However, in recognition of the burden which the proposed rule on station identification might have imposed on small business, the Commission retained its existing rule on this point.

15. In consideration of the foregoing, the Commission amends the rules as set forth in the attached Appendix. This will permit increased efficiencies in the use of private land mobile service spectrum, will encourage technological innovation and will generally encourage the larger and more effective use of radio in the public interest.

16. Accordingly, it is hereby ordered, that, pursuant to Sections 4(i) and 303 (r) of the Communications Act of 1934, as amended, Part 90 of the Commission's Rules is amended, effective 30 days after publication in the **Federal Register**, as set forth in the attached Appendix. It is further ordered that this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082: 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 90—[AMENDED]

The Federal Communications Commission amends 47 CFR Part 90, as follows:

1. Revise § 90.233 to read as follows:

§ 90.233 Base-mobile non-voice operations.

The use of A2, A9, A9Y, F2, F9, or F9Y emission may be authorized to base/mobile operations in accordance with the following limitations and requirements.

(a) Licensees employing non-voice communications are not relieved of their responsibility to cooperate in the shared use of land mobile radio channels. See also § 90.403 and § 90.173 (a) and (b).

(b) Authorization for non-voice emission may be granted only on frequencies subject to the coordination requirements set forth in § 90.175. Non-voice operations on frequencies not subject to these requirements are permitted only a secondary basis to voice communications.

(c) Provisions of this section do not apply to authorizations for paging, telemetry, radiolocation, AVM radioteleprinter, radiofacsimile, or radio call box operations, which are governed by other sections of this part.

2. Revise paragraph (k) of § 90.207 to read as follows:

§ 90.207 Types of emissions.

* * * * *

(k) F3Y emission may be employed on any frequency which is subject to the coordination requirements set forth in § 90.175. The use of F3Y must be specifically requested and approved by the Commission. Authorization to use F3Y shall include authorization to use F9Y emission.

3. Revise paragraph (c)(3) of § 90.235 to read as follows:

§ 90.235 Secondary fixed tone signalling and alarm operation.

* * * * *

(c) * * *

(3) A1, A2, A9, A9Y, F1, F2, F9 and F9Y emission may be authorized. In the Police Radio Service, A3, F3 or F3Y emission may also be authorized.

* * * * *

4. Revise the introductory text of paragraph (a) of § 90.425 and add new paragraph (d)(7) to read as follows:

§ 90.425 Station identification.

* * * * *

(a) Identification procedure. Except as provided for in paragraph (d) of this section, each station shall be identified by the transmission of the assigned call sign during each transmission or exchange of transmission, or once each 15 minutes (30 minutes in the Public Safety and Special Emergency Radio Services) during periods of continuous operation. The call sign shall be transmitted by voice in the English language or by International Morse Code in accordance with paragraph (b) of this section. If the station is employing either analog or digital voice scrambling, or non-voice emission, transmission of the required identification shall be in the unscrambled mode using A3 or F3 emission, or International Morse Code, with all encoding disabled. Permissible alternative identification procedures, as follows:

* * * * *

(d) *General exemptions.* * * *

(7) It is a mobile station employing non-voice emissions and the associated base station identifies on behalf of the mobile unit(s).

5. Revise the introductory text of § 90.175 to read as follows:

§ 90.175 Frequency coordination requirements.

Except for applications listed in paragraph (e) of this section each application: (1) For a new frequency assignment; or (2) for a change in existing facilities by increasing the authorized power, raising the authorized antenna height or changing the authorized station location or the location of the antenna; (3) for the addition of a base station within the licensee's existing area of operation; or (4) for a change to or the addition of digital voice or non-voice emission, shall include a showing of frequency coordination as set forth in either paragraph (a) or (b) of this section.

* * * * *

[FR Doc. 83-2943 Filed 2-2-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of Bobcats Taken in 1981-82 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of effective date.

SUMMARY: On October 14, 1981, the Fish and Wildlife Service issued a notice of final findings and rule on the export of bobcats under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The effective date for the findings and rule was suspended pending the removal of an injunction by the District Court for the District of Columbia against the export of bobcats. That injunction was removed on December 23, 1982. Accordingly, the Service is establishing an effective date for the findings and rule to authorize bobcat exports under CITES.

EFFECTIVE DATE: February 3, 1983.

FOR FURTHER INFORMATION CONTACT:
Scientific Authority—Dr. Richard M. Mitchell, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653-5948.
Management Authority—Mr. S. Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235-2418.
Export Permits—Ms. Maggie Tieger, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235-1903.

SUPPLEMENTARY INFORMATION: On October 14, 1981, the Service published a notice of final findings and rule for the export of bobcats taken in the 1981-82 harvest season (46 FR 50774). The Service then announced that the effective date for the findings was delayed for at least 60 days in order for the Service to seek vacation of an injunction issued by the United States District Court for the District of Columbia. The court had enjoined the Service from allowing the export of bobcats taken on or after July 1, 1981, until it promulgated guidelines consistent with standards set by the United States Court of Appeals for the District of Columbia on February 3, 1981 [Defenders of Wildlife v. Endangered Species Scientific Authority, 659 F. 2d 168 (D.C. Cir. 1981)].

Section 4(a)(1) of the Endangered Species Act Amendments of 1982 added a paragraph to Section 8A of the Act to overrule the Court of Appeals decision. The amendment made it clear that the Secretary of the Interior "is required to base export determinations and advice upon the best available biological information derived from professionally accepted practices used in wildlife management, but is not required to make, nor may he require any state to make, estimates of population size in making such determinations or giving such advice." This amendment was made effective as of January 1, 1981, in order to diminish as much as possible the adverse effect of the court ruling on collection of scientific data by state wildlife agencies. On December 23, 1982, the United States District Court for the District of Columbia dismissed the case and vacated the injunction against bobcat exports on the basis of this amendment. The Service has reviewed its findings and rule in terms of the new amendment to the Act, and has determined that they are consistent with the amendment.

The Service finds good cause to make these findings and rule effective

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immediately because (a) the Service has already provided an opportunity for public comment in developing them, (b) the guidelines initially used for the findings were at least as rigorous as the standards established by the 1982 Amendments to the Act, and (c) the administrative burden of delaying the effective date or publishing further notice about the findings would not provide any further benefit to the conservation of the species. Therefore, the findings and rule for § 23.52(e), issued on October 14, 1981, will become effective on February 3, 1983.

Dated: January 28, 1983.

Ric Davidge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-2867 Filed 2-2-83; 8:45 am]

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Proposed Rules

Federal Register
Vol. 48, No. 24
Thursday, February 3, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 180

Plant Variety Protection Act; Expanded Eligibility for Protection of Foreign Varieties

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Plant Variety Protection Act of 1970 provides legal protection to breeders of sexually-reproduced plant varieties. In compliance with the International Union for the Protection of New Varieties of Plants (UPOV), the Department proposes to modify and extend for all breeders the period during which a foreign variety would be eligible for protection in the United States. Eligibility would be determined from the date of the marketing of the variety in a foreign country, and the breeder would have 6 years in the case of woody plants or 4 years for all other plants to file an application in the United States. The Department also proposes to extend all the rights under the Act to those members of UPOV who grant to U.S. nationals the same plant variety protection rights granted their own citizens. These changes are proposed to make the plant variety protection regulations comply with the UPOV treaty and thus obtain the benefits of UPOV membership for U.S. breeders of sexually reproduced varieties and make more varieties available for U.S. agriculture.

DATE: All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal must file the same not later than April 4, 1983.

ADDRESS: Submit written comments to Kenneth H. Evans, Acting Commissioner, Plant Variety Protection Office, Livestock, Meat, Grain, and Seed Division, Agricultural Marketing service, U.S. Department of Agriculture, Room 500, National Agricultural Library Building, Beltsville, Maryland 20705. Comments will be available for public inspection at this location during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Evans, Acting Commissioner, Plant Variety Protection Office, telephone: (301) 344–2518.

SUPPLEMENTARY INFORMATION: The Plant Variety Protection Act of 1970 as amended [7 U.S.C. 2321 et. seq., "Act"] gives the Secretary of Agriculture authority to establish regulations, not inconsistent with the law, for the conduct of proceedings in the Plant Variety Protection Office after consultation with the Plant Variety Protection Board (Board) (7 U.S.C. 2326).

The intent of the Act is to provide patent-like protection to breeders of sexually-reproduced plant varieties. Regulations promulgated under the Act presently prohibit the protection of foreign varieties for which an application for plant variety protection has been made in a foreign country more than 1 year prior to applying in the United States (which period may be extended for up to 5 years to permit for required grow-out tests except that this period of extension may not exceed by more than 1 year the issuance date of a foreign certificate). The United States became a member of the International Union for the Protection of New Varieties of Plants (UPOV) on November 8, 1981, and thus became subject to the treaty requirements of the International Convention for the Protection of New Varieties of Plants (Convention). The Convention limits the requirements a member country may impose on applications for plant variety protection. The Convention provides for the protection of foreign varieties which have not been marketed in a foreign country more than 6 years in the case of vines and trees or 4 years in the case of all other plants. Presently, the Plant Variety Protection Regulations of the United States are not in conformity with the Convention because of the difference in eligibility requirements.

Increased Eligibility of Foreign Varieties

The Department of Agriculture proposes to amend the PVP regulations to conform to the UPOV Convention and to expand the reciprocity. The Board concurred in amending the regulations in a September 28 and 29, 1982, meeting.

This proposal would determine the eligibility for protection of a foreign variety in the United States based on the date of first sale in the foreign country. A variety could be marketed in a foreign country for up to 6 years for woody plants and 4 years for all other plants prior to the filing of an application in the United States.

If the Department did not revise its regulations to agree with the Convention, this would leave the United States, a treaty member of UPOV, in noncompliance with the Convention and therefore not accepted for full participation. The recommended change would permit full participation by the United States in UPOV and allow U.S. breeders to acquire protection of varieties in UPOV member countries thus expanding the markets for U.S. breeders. The ability to protect foreign varieties in the United States which are presently ineligible, could result in an increase in the number of varieties available to U.S. agriculture. The Department with the concurrence of the Board proposes to amend the regulations to comply with the Convention.

Change in Reciprocity

The Plant Variety Protection Act allows reciprocity with foreign nations to be limited by regulations. Presently, reciprocity is limited to granting foreign nationals as much of the U.S. protection as is afforded to U.S. nationals by the foreign country for a specific genus and species. This limitation in the U.S. Plant Variety Protection Regulations is considered unfair by those nations which have offered to grant U.S. nationals, in accordance with Article III of the Convention, all the plant variety protection provided their own citizens. Some nations therefore have not concluded reciprocity agreements with the United States which has in some instances prevented U.S. breeders from marketing their varieties as protected varieties in these foreign countries and prohibited protection of new varieties in the United States by some foreign breeders. In many cases, these breeders have then refused to export these new varieties to the United States denying American agriculture some potentially productive varieties. Some foreign

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varieties which could be profitably raised in the United States and the seed exported to other countries are not grown here because protection is not available for the variety.

The Department of Agriculture recommends that the Plant Variety Protection Regulations be revised to grant full reciprocity to all UPOV member countries which provide U.S. nationals the same protection provided their own citizens. This recommendation would make more varieties eligible for protection in the United States with the potential that these new varieties would be available to U.S. agriculture. This recommendation could also open potential markets for American seedsmen. The Board concurred with this recommendation to amend the regulations.

These proposed rules have been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been determined to be "nonmajor." It will not result in an annual effect on the economy of $100 million or more; or in a major increase in production costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effect on competition, employment, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601) full consideration has been given to the potential economic impact upon small businesses. A number of breeders of novel varieties fall within the confines of "small businesses" as defined in the Regulatory Flexibility Act.

Deputy Administrator William T. Manley has determined that this action will not have a significant adverse economic impact on these small entities because the increased eligibility of foreign varieties and expanded reciprocity can open up new markets for American breeders, increase the number of desirable varieties available to U.S. agriculture and expand the possibility of producing seed of foreign varieties for export. All of these will increase the relative profitability of U.S. agriculture. It has been determined that the economic impact upon all entities, small and large, by the increased eligibility and expanded reciprocity will not be adverse and will not affect normal competition in the marketplace.

Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in duplicate to the Plant Variety Protection Office and should bear a reference to the date and page number of this issue of the **Federal Register**. Comments submitted pursuant to this document will be made available for public inspection in the Plant Variety Protection Office.

List of Subjects in 7 CFR Part 180

Plant Variety Protection Act, Administrative practices and Procedures, Fees, Reciprocity.

PART 180—REGULATIONS AND RULES OF PRACTICE UNDER THE PLANT VARIETY PROTECTION ACT

The Department proposes to amend the regulations under the Plant Variety Protection Act contained in 7 CFR Part 180 as follows.

1. Section 180.5 and (a) and (c) are revised and (b) (4) is added to read as follows:

§ 180.5 General requirements.

(a) Protection under this Act shall be afforded in the following manner:

(1) Limited to nationals of the United States except where this limitation would violate a treaty.

(2) Member States of the International Union for the Protection of New Varieties of Plants which grant all of their plant variety protection rights to U.S. nationals shall receive all of the protection provided by the Plant Variety Protection Act for their nationals.

(3) Nationals of foreign States not eligible under (2) above shall be entitled to only so much of the protection afforded under this Act as is afforded by said foreign State to nationals of the United States for the same genus and species under the laws of said foreign State in effect at the time that the application for protection under this Act is filed.

* * * * *

(b) * * *

(4) Nationals of foreign States shall, at the time of filing an application for plant variety protection in the United States, furnish the Plant Variety Protection Office, for use in determining the extent of protection to be provided in accordance with paragraph (a) of this section, with a copy of the current plant variety protection laws and the regulations for the country of which the applicant is a national and an accurate English translation of such laws and regulations.

* * * * *

(c) Application and exhibit forms shall be issued by the Commissioner. (Copies of the forms may be obtained from the Plant Variety Protection Office, Livestock, Meat, Grain, and Seed Divison, AMS, USDA, Room 500, National Agricultural Library Buiding, Beltsville, Maryland 20705.)

2. In § 180.7 paragraph(a)(7) and paragraph (b) are revised to read as follows:

§ 180.7 Statement of applicant.

(a) * * *

* * * * *

(7) He or his privies have not offered for sale or marketed the variety, with the agreement of the breeder, in a foreign state for longer than 6 years in the case of vines, forest trees, fruit trees, and ornamental trees, including, in each case, their rootstocks, or for longer than 4 years in the case of all other plants.

(b) If the same variety has been marketed with the agreement of either the applicant or his privies, the applicant shall state the names of the countries in which the variety was marketed and give the day, month, and year of first marketing in each country.

* * * * *

Done at Washington, D.C.; January 27, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR. Doc. 83–2732 Filed 2–2–83; 8:45 am]

BILLING CODE 3410–02–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Membership in Federal Credit Unions; Interpretive Ruling and Policy Statement; Request for Comments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed amendment to interpretive ruling and policy statement (IRPS); request for comments.

SUMMARY: In IRPS 82–3, effective April 21, 1982, the NCUA Board delegated to NCUA Regional Directors the authority to approve Federal credit union fields of membership including more than one distinct group. Where the multiple groups involve common bonds of occupation or association, they must be within a "well-defined area," as that phrase is defined by the Regional Director. The present request for comments concerns whether or not to include in a definition of "well-defined area," in IRPS 82–3, groups meeting all specified criteria but that are situated near a branch office of the Federal credit union.

DATE: Comments must be received by April 1, 1983.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert Fenner, Deputy General Counsel or Todd Okun, Assistant General Counsel, at the above address, or telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION: In IRPS 82–3, effective April 21, the NCUA Board delegated to NCUA Regional Directors the authority to approve Federal credit union fields of membership including more than one distinct group. Where the multiple groups involve common bonds of occupation or association, they must be within a "well-defined area," as that phrase is defined by the Regional Director. Other standards must also be met, including a request for service from affected groups, proof that service can be provided and proof of economic feasibility and general advisibility.

At issue in this request for comments is the requirement that the groups must be within a "well defined area." Even though not specifically addressed in IRPS 82–3, each Regional Director has consistently applied a policy that restricted consideration of the "well defined area" when granting a multiple-group charter expansion, i.e., an existing credit union request to expand its field of membership to include another group is limited to groups within a "well defined area" of the *home office* of the applicant. This Regional policy limited charter amendment requests and further resulted in automatic disapproval of requests to include groups that were beyond the "well defined area" of the home office but within a "well defined area" of an existing branch office. This proposal, if adopted, would provide greater flexibility to credit unions within the statutory common bond constraint to expand their fields of membership and, obviously, provide credit union services to a greater number of people.

Any ultimate policy that expansions within a "well defined area" of branch offices be permitted would only occur if the branch office exists to serve the existing field of membership. This latter distinction is significant because the proposal would not be to encourage credit unions to establish branch offices for the purpose of adding groups. Rather, comments are requested on a proposal to provide credit unions with the flexibility to add groups that are within a "well defined area," as determined by the Regional Director, of a branch office that exists for the primary purpose of serving its existing field of membership.

While the Regional Directors have the delegated authority to adopt this proposal, it is their view and that of the NCUA Board that its potentially far-reaching result and the importance of equal and consistent Regional application demand that public comments be solicited before final policy is formulated.

Therefore, comments are solicited on whether IRPS 82–3 should be amended to include a clarifying and specific delegation to the Regional Director to define "well defined area" not only as it applies to the home office of the Federal credit union but also to any of its branch offices.

List of Subjects in 12 CFR Part 701

Credit unions.

Dated: January 28, 1983.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 83–2935 Filed 2–2–83; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82–AGL–27]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Vincennes, Indiana, transition area by designating an additional amount of airspace necessary for a newly established NDB Runway 4 instrument approach procedure to serve Mt. Carmel, Illinois, Municipal Airport.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATE: Comments must be received on or before March 6, 1983.

ADDRESSES: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 82–AGL–27, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Divesion, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 994–7360.

SUPPLEMENTARY INFORMATION: The development of the proposed procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace.

The airspace involved would be an area approximately 3.5 miles by 6 miles located southwest of the airport and extending from the 5-mile radius area to 8.5 miles south of the Mt. Carmel Municipal Airport.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–AGL–27" The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The Proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket

both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Vincennes, Indiana.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71.

Transition area, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Vincennes, IN

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Lawrenceville-Vincennes Municipal Airport (latitude 38°45′35″ N., longtitude 87°36′27″ W.); within 3 miles each side of the 186° bearing from the airport, extending from the 7-mile radius to 8 miles south; and 3 miles each side of the 352° bearing from the airport, extending from the 7-mile radius to 8 miles north; within 3 miles each side of the 102° bearing from the airport, extending from the 7-mile radius to 8 miles east; and within a 5.5-mile radius of O'Neal Airport (latitude 38°41′29″ N., longtitude 87°33′06″ W.); and within 3 miles each side of the 258° bearing from the O'Neal Airport, extending from the 7-mile and 5¼-mile radius area to 8 miles west of the O'Neal Airport; and within a 5-mile radius of the Mt. Carmel Municipal Airport (latitude 38°36′24″ N., longitude 87°43′34″ W.); within 3 miles either side of the 038° bearing from the Mt. Carmel Airport, extending from the 5-mile radius area northeast to join the Lawrenceville and O'Neal radius areas; and within 3 miles either side of the 196° bearing from the Mt. Carmel Airport extending from the 5-mile radius area to 8.5 miles south of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on January 19, 1983.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 83–2612 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271 and 274

[Docket Nos. RM80–50–003, RM80–50–004, RM80–50–005]

High-Cost Natural Gas; Production Enhancement Procedures

January 21, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of request for additional comments.

SUMMARY: The Federal Energy Regulatory Commission is requesting additional comments on issues raised by petitions for rehearing of Order No. 107. Order No. 107 is a final rule establishing an incentive maximum lawful price under section 107 of the Natural Gas Policy Act of 1978 for natural gas subject to existing intrastate contracts (section 105) on which production enhancement work has been performed. The Commission requests additional comments on whether Order No. 107 should be expanded to apply to interstate natural gas (section 104) or rollover contracts (section 106). The Commission will also accept comments on other issues raised by the petitions for rehearing.

DATE: Comments must be received on or before March 7, 1983.

ADDRESS: Comments should be addressed to Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should refer to Docket No. RM80–50.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Office of General Counsel, Room 8100, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357–8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is requesting additional comments on issues raised by petitions for rehearing of Order No. 107.[1] Order No. 107 established an incentive maximum lawful price under section 107 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301, 3317 (Supp. IV 1980), for natural gas produced from wells on which production enhancement work has been performed. The final rule limited the incentive price to intrastate natural gas subject to section 105 of the NGPA. The major issue raised by the petitions for rehearing relates to extending the rule to natural gas subject to NGPA section 104 (natural gas committed or dedicated to interstate commerce on November 8, 1978) and section 106 (interstate and intrastate rollover contracts). In order to assist the Commission in evaluating this issue, the Commission requests additional comments on whether Order No. 107 should be expanded to apply to natural gas subject to sections 104 and 106 of the NGPA. The Commission also will accept comments on other issues raised by the petitions for rehearing.

II. Background

Under section 107 of the NGPA, the Commission has the legal authority to set an incentive price for categories of high-cost natural gas provided two statutory findings are made. First, section 107(c)(5) requires the Commission to find that the gas is "produced under such * * * conditions as the Commission determines to present extraordinary risks or costs." Second, section 107(b) requires the Commission to find that the prescribed incentive maximum lawful price is "necessary to provide reasonable incentives for the production of such high-cost natural gas."[2]

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[1] High-Cost Natural Gas: Production Enhancement Procedures, Order No. 107, Docket No. RM80–50, 45 mFR 77,421 (1980).

[2] "Such special ceiling prices are not intended by the conferees to be cost-based in nature and do not

Shortly after the enactment of the NGPA, the Commission sought comments on potential categories of high-cost, high-risk gas and the incentive prices necessary to produce such gas.[3] Several commenters suggested an incentive price for natural gas produced from wells on which certain types of production enchancement work had been completed.[4]

A. The Production Enhancement Rule

Based upon these comments, the Commission issued a notice of proposed rulemaking to establish an incentive price for gas from wells on which specified production enhancement work has been performed.[5] The Commission proposed an incentive price to encourage continued production from economically marginal wells producing intrastate gas subject to ceiling prices under section 105 of the NGPA. However, the notice requested comment on whether the rule should be expanded to include natural gas subject to NGPA section 104 and 106.

In Order No. 107, the Commission adopted a final rule which limited the application of the production enhancement incentive price[6] to gas subject to section 105 of the NGPA for two reasons. First, the Commission indicated that it would not extend the rule to gas subject to sections 104 and 106 because there was a lack of sufficient information respecting the economic impact of the proposed rule on the natural gas industry and consumers and our inability to elicit enough information during the comment period to permit us to predict the exact nature and extent of the impact * * *.[7]

The second reason related to the different regulatory environments in which prices were established for interstate and intrastate gas. The Commission declined to establish additional production incentives for gas priced under sections 104 or 106(a) because price inadequacies for these sections due to ratemaking methods used under the Natural Gas Act were taken into account by parties contracting in that "regulatory environment". The Commission noted that these price inadequacies could be remedied by either a special relief rulemaking or a new just and reasonable rate proceeding pursuant to sections 104(b)(2) and 106(c) of the NGPA.[8]

By contrast, gas subject to section 105 was not federally regulated prior to the enactment of the NGPA; only state law or contractual provisions limited renegotiation of the price for intrastate gas to take account of costs attributable to production enhancement work. Under section 105 of the NGPA, however, Congress "froze" intrastate contract prices and did not provide a specific repricing mechanism. The commission reasoned that it was only necessary to extend the incentive price to gas subject to section 105 since price inadequacies under section 105 "derive from a different regulatory context," than did price inadequacies under sections 104 and 106(a).[9]

B. The Petitions for Rehearing

Petitions for rehearing were filed by Indicated Producers, the Railroad Commission of Texas (Texas), and Inexco Oil Company which adopted the Indicated Producers' filing.[10] Petitioners requested the following changes in the rule on rehearing:

(1) Extending the production enhancement rule to gas subject to sections 104 and 106;

(2) Eliminating the renegotiated contract price requirement because it is both unnecessary and in excess of the Commission's authority under section 107;

(3) Eliminating the continuing regulation requirement under § 271.704(a)(3) because it is beyond the Commission's authority;

(4) Eliminating several filing requirements in § 274.205(f), including the requirement that a jurisdictional agency find that a reasonable basis exists for the production enhancement work, and the itemized cost statement requirement, because they are unnecessary and burdensome; and

(5) Establishing a separate incentive price for wells whose production is enhanced by use of inert gas injection.

Both Indicated Producers and Texas contend that the rationale supporting production enhancement incentives for section 105 gas supports the inclusion of sections 104 and 106 gas in the incentive pricing category. Indicated Producers argue that extension of the incentive price is "necessary" under section 107 because the costs and risks are the same for gas subject to section 104 or 106 as for gas subject to section 105. Moreover, Indicated Producers claim the Commission's failure to include section 104 and section 106(a) gas in the incentive price category erroneously discriminates between interstate and intrastate gas producers. Indicated Producers allege that the distinction between the interstate and intrastate markets is contrary to the Congressional intent to eliminate disparities between those markets. In additions, if the purpose of section 107 is to encourage investment not already made, that purpose applies to gas subject to sections 104 and 106 just as it applies to section 105 gas.

Indicated Producers also challenge the Commission's belief that other methods are available to provide incentives to increase production of flowing interstate gas and interstate rollover contract gas. They suggest that although a new just and reasonable rate proceeding might be necessary to increase the ceiling prices of gas subject to sections 104, 106 or 109,[11] there is also a need to encourage production enhancement work on wells producing section 104 or 106 gas either in the absence of or during the pendency of such a proceeding.

Further, the producers claim that special relief-type measures will not

require cost justification." H.R. Rep. No. 1752, 95th Cong., 2d Sess. 88 (1978).

[3] Notice of Inquiry, Ceiling Prices, High-Cost Natural Gas, Docket No. RM79-44, issued June 13, 1979, 44 FR 34,511 (1979). Shortly after the Notice of Inquiry was issued, the Sun Gas Company filed a petition for a rulemaking requesting that the Commission "determin[e] whether natural gas production achieved as a result of supply enhancement procedures should be classified as 'high-cost natural gas' pursuant to Section 107(c)(5) of the NGPA * * *." Petition for Rulemaking, Sun Gas Company, Docket No. RM81-41, filed February 27, 1980.

[4] *See, e.g.*, Comments of Sun Gas, July 16, 1979; Note, *Regulatory Opportunity and Statutory Ambiguity in the Search for High-Cost Natural Gas*, 57 Tex. L. Rev. 641 (1978-1979), filed as a comment, July 16, 1979.

[5] Notice of Proposed Rulemaking, High-Cost Natural Gas: Production Enhancement Techniques, Docket No. RM80-50, issued July 25, 1980, 45 FR 51,219 (1980).

[6] The incentive price cannot exceed the lesser of the NGPA section 109 maximum lawful price or the renegotiated contract price. In order to insure that the incentive price was "necessary" for a particular well (*see* section 107(b)), the Commission required a "unit cost cap" calculation. Sales of qualifying gas are eligible for the incentive price only to the extent that the projected increase in revenue, attributable solely to the projected increase in units of gas production [does] * * * not exceed a price per MMBtu equal to 200 percent of the maximum lawful price allowed for conventional, onshore development (i.e., the section 103 maximum lawful price) for the month in which the development occurs. Order No. 107, 45 FR 77,421 at 77,427 (1980).

[7] *Id.* at 77,422.

[8] *Id.* at 77,422.

[9] *Id.* at 77,421-22.

[10] Application for Rehearing of Inexco Oil Company, Docket No. RM80-50-004, filed December 15, 1980; Application of Indicated Producers for Rehearing of Order No. 107, Docket No. RM80-50-003, filed December 12, 1980; Motion for Rehearing on Behalf of the Railroad Commission of Texas, Docket No. RM80-50-005, filed December 15, 1980. While referred to variously as Applications, Motions or Petitions, the Commission will refer to these documents generically as "petitions for rehearing."

[11] Section 109(b) (2), like sections 104(b) (2) and 106(c), gives the Commission authority to increase the ceiling price for gas subject to that section if such increased ceiling is just and reasonable within the meaning of the Natural Gas Act.

result in the risk-taking and new investment which Congress intended section 107 to encourage and that only incentives which are known and available prior to making the investment, such as those under section 107, can serve this purpose. The producers contend that cost-based special relief measures are no substitute for the incentives Congress provided in section 107, and that special relief is more appropriate "where investments have already occurred and the venture has proved to be uneconomic at the otherwise applicable rate."

Indicated Producers also argue that excluding intrastate rollover gas (section 106(b)) from incentive treatment is "especially illogical." Noting that Order No. 107 amended the regulations to provide for the continued collection of the incentive price once a qualified intrastate contract rolls over,[12] Indicated Producers argue that the rationale for encouraging production enhancement is identical both before and after rollover. They conclude that no reason exists to discourage production enhancement work after rollover has occurred.

Texas challenges the narrow scope of the production enhancement incentive price on two general bases. First, Texas argues that the certainty of the production enhancement incentive price would better stimulate production of gas subject to sections 104 and 106. Second, Texas notes that producers in the interstate market and those with intrastate rollover contracts need the same incentives to perform production enhancement which Order No. 107 made available for section 105 intrastate producers.

III. Discussion

The Commission has reviewed the issues raised in the petitions for rehearing and request additional comments on whether the production enhancement rule should be applied to interstate gas subject to section 104 and interstate and intrastate rollover gas subject to section 106.[13] Specifically, the Commission seeks comments on whether natural gas subject to these categories is produced under such conditions that present extraordinary risks or costs and whether an incentive maximum lawful price is necessary to provide reasonable incentives for the production of such gas. In addition, the Commission seeks information, which it lacked at the time it issued Order No. 107, to assess the economic impact that extending the rule to such gas would have on the natural gas industry and its customers.

Although the petitions for rehearing provide some support for the statutory threshold requirements of NGPA section 107 and make several non-economic arguments which properly could be relied upon by the Commission as reasons to expand the application of the production enhancement incentive price, they do not contain sufficient evidence or arguments concerning the economic impact of applying the incentive price to flowing interstate gas and rollover gas. In addition, the petitions do not offer sufficient evidence or arguments to demonstrate why the prices available under sections 104 and 106 and the Commission's current regulations are inadequate to encourage production enhancement without futher incentive.

There are several areas which could be explored by commenters in order to assist the Commission in determining economic impact., For example, in the area of supply, commenters could estimate how much interstate gas and rollover gas would qualify for the incentive price and how much additional gas would be produced under the exisiting price formula. Commenters could also explore the relationship between the production enhancement incentive and exisitng special relief procedures, and estimate the relative impacts of each on natural gas production. These guidelines are only suggestions, however, and the Commission wishes to encourage the submission of any specific information or data relevant to the issue of extending on rehearing the production enhancement rule to gas subject to sections 104 and 106 of the NGPA.

In the event that it decides to extend the production enhancement rule to other categories of gas on rehearing, it will be necessary to establish an effective date for production enhancement work performed on section 104 or 108 wells which will qualify for the incentive price (qualification date). For natural gas subject to section 105, Order No. 107 applies to work commenced on or after May 29, 1980, the date the matter was first publicly discussed at a Commission meeting. The Commission does not believe that it is possible to use the May 29, 1980, qualification date for section 104 and section 106 production enhancement gas because producers of such gas could not have reasonably relied upon the Commission's earlier discussion to initiate production enhancement work on wells subject to these sections. Nor does the Commission believe that it is necessary in this instance to provide an incentive to increase production prior to the Commission's decision to extend the rule to other categories of gas. Accordingly, if the Commission decides to extend the production enhancement rule to sections 104 and 106 gas, the rule would apply to qualified production enhancement work performed after the effective date of the rule. The Commission seeks comment on this issue.

Because the primary thrust of this notice for additional comments is to request data on extending the application of the production enhancement rule to sections 104 and 106 natural gas, this request discusses only the comments filed on that issue. However, the Commission is willing to consider additional comments on any of the other issues raised by the petitions for rehearing of Order No. 107.

IV. Comment Procedures

Interested persons are invited to submit written comments, data, views or arguments with respect to the issues raised in this request. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426. An original and 14 exact copies should be filed. All comments received prior to 4:30 p.m. EST, March 7, 1983, will be considered by the Commission. Comments should indicate the name, title, mailing address, and telephone number of the persons to whom communications concerning the request may be addressed. Comments should reference Docket No. RM80–50 on the outside of the envelope and all documents submitted to the Commission. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol St., NE., Washington, D.C 20426 during regular business hours.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. IV 1980); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. IV 1980))

List of Subjects

18 CFR Part 271

Natural gas, Incentive prices.

18 CFR Part 274

Natural gas, Reporting and record-keeping requirements, Wage and price control.

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[12] *See* § 271.602(c) of the Commission's regulations.

[13] In the final rule, the Commission did not extend the incentive price to gas subject to section 106(b) (intrastate rollover gas). The Commission, however, allowed a producer to carry forward under section 106(b) an incentive price already granted at the time of rollover. 45 FR 77422–23.

In consideration of the foregoing, the Commission requests additional comments on issues raised by the petitions for rehearing of Order No. 107.

By the direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2837 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 25, 245, and 252

[Notice No. 449]

Beer

AGENCY: Bureau of Alcohol, Tobbaco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobbaco and Firearms (ATF) is proposing the amendment and recodification of regulations regarding the qualification of breweries, the production and removal of beer and cereal beverages, and the taxpayment of beer. The regulations in 27 CFR Part 245 are to be reissued as Part 25. These regulations as reissued would incorporate a large number of revenue rulings and ATF rulings. Many substantive changes to these regulations are proposed which should relieve the regulatory burden on brewers, and result in some cost savings.

DATE: Written comments or requests to hold a public hearing must be received by May 4, 1983.

ADDRESSES: Send comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco, and Firearms, P.O. Box 385, Washington, DC 20044-0385, Attn.: Notice No. 449.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, Research and Regulations Branch, Telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:

General

The proposed regulations are part of ATF's recodification plan to reissue its regulations and also to review and update them. Unduly restrictive regulations have been deleted and where possible ATF rulings and IRS revenue rulings have been incorporated. Also, many regulations have been rewritten to improve clarity and understanding. The organization of this part has been changed in order to group related regulations together better. Substantive changes from Part 245 are noted below.

Location and Use of Brewery

Proposed Subpart C contains regulations relating to the location and use of the brewery.

Revenue Ruling 60-267 held that only a brewer could use a brewery for purposes not related to the production of beer. This revenue ruling is being made obsolete since its provisions are adequately covered in regulations.

Brewery Construction and Equipment

Subpart D contains regulations governing brewery construction and equipment. This subpart contains regulations which currently appear in Subparts D and E of Part 245. In § 25.35, it is proposed to eliminate the requirement to mark the "use" on each stationary tank. This would relieve brewers of an unnecessary marking requirement.

Measuring System Required

It is proposed to delete Subpart F, Beer Meters, of Part 245. In its place would be Subpart E, Measurement of Beer. This subpart requires brewers to measure the quantity of beer transferred from brewers to measure to quantity of beer transferred from brewery cellars to packaging operations. The actual system of measurement would be left to the brewer who could use the system best suited to the brewery operations. A brewer could continue to employ a beer meter for this purpose, or could use other systems such as gauge glass or tank readings. Under § 25.42, the brewer is required to test and adjust meters, gauge glasses, or other devices used to insure their accuracy and its required to keep records of those tests. The notice of acquistion of meter, now required by § 245.31, and the meter test approval required by § 245.33 are deleted.

ATF Rulings 72-3 and 74-30 relating to use of beer meters, and 80-7 relating to operation of a brewery without a beer meter, would become obsolete.

Qualifications of a Brewery

Proposed Subpart G, Qualifications of a Brewery, contains regulations relating to the filing of notices and qualifying documents (except bonds). This subpart replaces the following subparts of Part 245: Subpart G, Notices; Subpart J, Approval of Documents; Subpart L, Changes in Name, Proprietorship, Control, Location, Premises, and Equipment; and Subpart M, Notice of Discontinuance of Business.

Brewer's notice. Several major changes are proposed with respect to the brewer's notice. Form 27-C is redesignated Form 5130.10.

The most significant change is to allow the brewer's notice to remain in effect on a continuing basis rather than require renewal every 4 years. Elimination of this renewal requirement will remove a significant administrative and paperwork burden on brewers and the Government, and should result in some cost savings. However, under § 25.71, the regional regulatory administrator may at any time require a brewer to give a superseding notice in conjunction with the filing of a new brewer's bond.

When changes occur in the information to be shown on the Form 5130.10, § 25.71 allows brewers to file amended notices within 30 days of the change rather than within 10 days. This proposed change allows brewers more time to file amended notices for most matters. Changes in proprietorship or in partnership generally require the filing of a new notice before commencing business. It is also proposed in § 25.74 to allow brewers to file a list of changes in the stockholders in the corporation, annually on July 1, rather than to file these changes within 30 days.

Section 25.66 no longer requires brewers to submit articles of incorporation with the brewer's notice. However, this section does require that the articles of incorporation, corporate bylaws, and certificate authorizing the brewer to do business in the State be kept available at the brewery for inspection by ATF officers.

The requirement to include a list of major brewery equipment on the brewer's notice has been deleted. Several elements have been added to the brewer's notice from other sections in Part 245. These include a statement of the brewer's business day, now required in § 245.5; evidence of control to allow tranfers of beer without payment of tax between breweries, now required in § 245.140; and statement of process by which a brewer will render beer unfit for beverage use.

Section 25.62, Data for notice, simplifies existing instructions relating to the filing of corporate documents and the description of the brewery. This information has been incorporated in separate sections, §§ 25.66 and 25.67.

Statement of process. Major changes are proposed in the statement of process filed to cover the production of fermented beverages.

Fermented beverages produced and marketed under the designations of "lager" or "malt liquor" would be added to those for which no statement of process is required; i.e., "beer", "ale".

"porter", and "stout." Products such as flavored beer, flavored malt liquor, those designated "malt beverage", and the like would still require the filing of a statement of process under §§ 25.62(a)(10) and 25.67.

The second proposed change adds a new section, § 25.67 covering the statement of process. In addition to the general requirement to file a statement for certain fermented products, this section requires that the base product conforms to the definition of "beer." It is ATF's position that all fermented products (except sake which is a wine) produced by a brewer should have the characteristics of beer in order to insure their proper tax classification, and to insure they may be produced at a brewery.

Proposed § 25.76 requires brewers who change a statement of process to file and receive ATF approval prior to using the changed process. Currently, this change in process may be filed as part of an amended brewer's notice within 30 days of the change. Prior approval of a brewer's statement of process will insure that only products conforming to the statutory definition of "beer" are produced at breweries, and that only products subject to the excise tax for beer are produced at breweries. This proposed change is consistent with the approval of formulas for wine or distilled spirits products prior to their production.

Trade names. A brewer is required to list trade names to be used on the Brewer's Notice, Form 5130.10. Revenue Ruling 61–34 authorized brewers to operate simultaneously under two or more trade names upon approval by the regional regulatory administrator. This approval will now be given through the approval of the brewer's notice, and this revenue ruling will become obsolete.

Incorporation of qualifying documents by reference. Section 25.82(b) permits a brewer to incorporate certain organizational documents by reference into the brewer's notice. These organizational documents may be filed for any type of premises such as a distilled spirits plant or another brewery, and may be filed in any ATF region. Thus, a brewer could file organizational documents in the ATF regional office in which the brewer's home office is located, and reference all of their brewer's notices in any region to these organizational documents. These proposed changes will reduce the paperwork load on brewers.

Plats. Requirements for brewers to prepare and submit plats of the brewery premises, now contained in Subpart I of Part 245, are deleted. The preparation of brewery plats is expensive for brewers and their elimination will relieve a substantial paperwork burden on both brewers and ATF.

Bonds and Consents of Surety

All provisions relating to the execution and filing of bonds and consents of surety are contained in new Subpart H. The Brewer's Bond, Form 1566, is renumbered Form 5130.22, and the Brewer's Bond Continuation Certificate, Form 1566–A, is renumbered Form 5130.23. Major changes are proposed in the brewer's bond which will reduce the penal sums of bonds in less than the maximum amount.

Currently, the penal sum is based on the amount of tax which, in the opinion of the regional regulatory administrator, the brewer may become liable to pay in a one-month period. This requirement forces a brewer to purchase a bond covering the maximum removals, usually in the Summer, for any month. During other months, the brewers bond coverage is often far greater than necessary. As proposed, the penal sum of the bond would be equal to 10 percent of the amount of tax a brewer would pay during a calendar year. For example, if a small brewer removed 300,000 barrels of beer a year subject to tax and made no other removals, the penal sum of the bond would be established as follows:

60,000 barrels @ $7 = $420,000
240,000 barrels @ $9 = $2,160,000
Annual liability = $2,580,000

The penal sum would be 10 percent of this or $258,000. A brewer would, however, be free to obtain a bond with a greater penal sum.

In conjunction with the change in calculating the penal sum, brewers would be required to prepay the tax on removals when their outstanding tax liability exceeds the limits of coverage on the bond (when less than the maximum penal sum)..When the outstanding liability equals or exceeds the penal sum, § 25.174 requires the brewer to prepay subsequent removals until the outstanding tax liability is reduced below the limits of coverage of this bond. Rules for prepayments are contained in § 25.175.

These proposed changes are intended to aid small brewers in obtaining brewer's bonds, and to reduce premiums. ATF especially solicits comments on the proposed method of determining the penal sum, and on the proposed requirement for prepayment when the tax liability exceeds bond coverage.

Requirements relating to penal sums of bonds have been consolidated in § 25.93, including the penal sum calculated on beer used in producing beer concentrate, now found in § 245.235. Also, this section includes beer removed for research, development, or testing, since this condition is part of all brewer's bonds or continuation certificates now in force.

Special Tax Stamps

All provisions relating to special tax liability and the purchase of special tax stamps are located in Subpart I, Special Taxes. This subpart contains requirements found in Subpart K of Part 245, and in §§ 245.97–245.100 relating to changes in special tax stamps. Section 25.112 recognizes that many brewers today are wholesale dealers in beer. Brewers who purchase for resale beer produced by other brewers ae required to purchase special tax stamps as wholesalers. Section 25.113 incorporates Revenue Ruling 55–549 which allows brewers to make sales of beer at locations contiguous to the brewery, without incurring additional liability for special tax.

Marks, Brands and Labels

Subpart J, Marks, Brands and Labels, contains requirements concerning the marks on bottles, cans, kegs, barrels, and other containers used to remove beer from the brewery. This subpart contains regulations now found in Subpart O of Part 245.

Marks on barrels and kegs. Section 25.141 contains marking requirements for barrels and kegs of beer. This section allows a brewer to utilize a coding system to show the place of production when kegs are branded with the location of two or more breweries. However, it is proposed that a brewer need only notify the regional regulatory administrator of this coding system, rather than apply for and receive permission to use a particular coding system.

Under § 25.141(c), brewers would need to obtain label approval for beer in kegs introduced into interstate commerce when required by 27 CFR Part 7. This paragraph incorporates Revenue Ruling 57–177, and does not impose new requirements on brewers.

Although not incorporated into § 25.141, ATF notes that barrels or kegs need not be owned by the brewer, and may be leased as long as they bear the required markings of the brewer filling them. Revenue Ruling 60–209 is, therefore, revoked.

Marks on bottles and cans. As proposed in § 25.142, a brewer may employ a coding system for labels on bottles or cans upon notification to the

regional regulatory administrator of the coding system to be used.

Tolerances in filling bottles and cans. It is proposed to incorporate Revenue Ruling 71–227 into § 25.142. This ruling amplifies the meaning of "good commercial practice" used in determining the tolerances in filling bottles and cans. The tolerance would be established as not more than plus or minus 0.5 percent, determined by comparing the brewer's fill test record of bottles filled against the barrel equivalent of bottles filled according to the stated label capacity, calculated over a period of not less than three consecutive months.

Case markings. Section § 25.143 incorporates Revenue Ruling 65–176 which allows the use of unmarked cases when cartons containing beer or the visible portions of bottles or cans within the case show the required markings.

Other markings. Markings for tanks, vehicles, and vessels in § 25.145 remain unchanged, but incorporate marking requirements for containers of bulk beer being exported. The designation "beer" would be included in the mandatory markings on bulk containers of beer removed from a brewery without payment of tax, for export or for transfer to another brewery of the same brewer. Because of the increased quantities of various taxable and non-taxable products being shipped from breweries, ATF believes this requirement is necessary to distinguish shipments of taxable products.

Tax on Beer

Subpart K contains regulations concerning the determination and payment of tax on beer. This subpart has been substantially reorganized.

Liability for tax. Sections 25.151–25.153 contain general requirements imposing a tax on beer.

Determination of tax. Sections 25.155–25.160 contain requirements relating to the method of determining tax due on beer. In the tax computation on bottled beer, § 25.158, the barrel equivalent for cases containing bottles of 6, 9, 13, and 15 fluid ounces have been deleted since ATF believes these sizes are no longer used. Barrel equivalents for cases of 12–24 fluid ounce bottles and cases of 24-one-half liter bottles have been added. ATF welcomes comments from brewers concerning other case or bottle sizes in use.

Section 25.159 contains the provisions of ATF Ruling 79–6, somewhat modified. This section prohibits a brewer from receiving an offset or deduction for beer returned to the brewery if the brewer does not issue credit to the customer who returned the beer within 30 days after the return of the beer to the brewery. A brewer who takes an offset or deduction for returned beer, but who does not timely credit the customer for an amount at least equal to the tax, is required to make an increasing adjustment on the next tax return. The reason for this change, as explained in ATF Ruling 79–6, is to prevent a brewer from being indemnified for the tax by the payment received from a customer, in addition to the offset of tax taken on the tax return. The time period has been increased to 30 days from the ATF ruling to allow adequate time for the issuance of credits to customers by those brewers having centralized accounting systems

Preparation and remittance of tax returns. All sections relating to the preparation of tax returns and the remittance of returns are grouped in §§ 25.163–25.169. These include current § 245.112, Method of tax payment; § 245.117a, Semimonthly return; § 245.110b, Payment of reduced rate of tax; § 245.110c, Notice of brewer to pay reduced rate of tax; and § 245.117e, Employer identification number.

Prepayment of tax. A new section, § 25.174, now provides for a brewer to prepay tax on removals of beer when the penal sum of the brewer's bond is not sufficient to cover outstanding tax liability.

Failure to pay tax. Section 25.177 adds a reference to penalties under the Internal Revenue Code for evasion or failure to pay tax, or for failure to file a tax return.

Removal of Beer Without Payment of Tax

All provisions of Part 245 relating to the removal of beer from a brewery without payment of tax have been compiled in Subpart L, Removals Without Payment of Tax. This subpart includes present Subpart Q, Transfer to Another Brewery of Same Ownership; Subpart R, Removal of Beer Unfit for Beverage Use; Subpart Y, Removal for Analysis, Research, Development, or Testing; Subpart U, Exportation; Subpart V, Beer for Personal or Family Use; and § 245.210, Beer removed to contiguous distilled spirits plants.

Transfer of Beer Between Breweries of Same Ownership

Regulations governing the transfer of beer between breweries of the same ownership are included in §§ 25.181–25.186. There are several major changes.

The first in § 25.186 is the proposed elimination of Form 2035, Notice of Transfer of Untaxpaid Beer, and its replacement with commercial records or invoices. At present, this form is used for brewers to notify the regional regulatory administrator of shipment of untaxpaid beer between breweries, and as a source record for the Brewer's Monthly Report, Form 103. ATF believes that notice to the ATF region that beer is being transferred is unnecessary and does little to further protect the revenue. Moreover, ATF believes that Form 2035 duplicates information already appearing in the brewer's commercial papers or invoices. In place of this form, § 25.186 requires the shipping brewer to prepare a commercial record or invoice concerning the beer to be transferred. This invoice would be serially numbered and information shown would be similar to that appearing on Form 2035.

The shipping brewer would prepare the invoice, in duplicate, and upon shipment furnish the original to the receiving brewer, and file the other copy. The receiving brewer would note any discrepancy in the beer received on a copy of the invoice and maintain this invoice with the brewery records. These invoices would then be used by both brewers to prepare their daily records and their monthly reports.

The second change allows reconsignment of beer while in transit to another brewery of the same ownership, or the return of the beer to the shipping brewery. Under § 25.181, the shipping brewer could reconsign the beer while in transit, or could return the beer to the shipping brewery for any reason, and beer could be reconsigned to any brewery of the same ownership. When beer is reconsigned during transit, § 25.186 requires the shipping brewer either to void all copies of the first invoice and prepare a new invoice showing the new recipient brewery, or to mark all copies of the original invoice with "Reconsigned to", followed by the name and address of the new receiving brewery. The new invoice would be distributed and filed in the same manner as the original invoice.

A third change in § 25.184 would require a brewer to file a claim for remission of tax liability on beer lost during transit only when the loss exceeds 2 percent of the quantity transferred. Currently, a brewer must file a claim when more than 1 percent of the beer transferred is lost during transit. However, it is proposed to require that any loss of beer in cases or in kegs or barrels be reported immediately to the regional regulatory administrator in the same manner as losses involving theft or casualty are now required to be reported.

Section 25.183 (currently § 245.142) no longer requires brewers to receive approval from the regional regulatory administrator of their facilities for

measuring beer to be transferred. The responsibility for the accurate determination of the quantity of beer transferred remains with the brewer, and quantities must be recorded in daily records.

Removal of Beer Unfit for Beverage Use

Sections 25.191–25.192 govern the removal of beer unfit for beverage use. Under § 25.191, a brewer may deliberately render beer unfit for use and remove it without payment of tax for use in manufacturing of non-beverage products, as well as remove beer which had unintentionally become unfit for beverage use. The application now required by § 245.152 is no longer required since ATF does not believe this application serves to protect the revenue. Under § 25.192, brewers shall keep appropriate records of the removal of unfit beer. It is expected that these proposed changes will reduce the administrative burden on brewers producing beer to be used in manufacturing processes.

Exportation

Section 25.203 governs the exportation of beer without payment of tax. This section incorporates § 245.170 and ATF Ruling 78–13. That ruling allows brewers to export beer without payment of tax in shipping containers which are defined as tanks, tank cars, tank trucks, tank ships, barges, or deep tanks of vessels. Exportation of beer without payment of tax in bottles, kegs and shipping containers would be specifically authorized by § 25.203. Additionally, § 25.145, Tanks, vehicles and vessels, requires the same markings on bulk containers of beer removed without payment of tax from a brewery for export, as the marks required for bulk containers being removed for transfer to another brewery of the same ownership.

Conforming changes would be made in Part 252, Exportation of Liquors. The definition of "shipping tank" meaning a tank, tank car, tank truck, tank ship, barge or deep hold of vessel would be added to § 252.11. Current marking requirements for beer being exported without payment of tax would be extended to beer exported in "shipping tanks" by § 252.143.

Procedures for exportation of beer without payment of tax and for exportation of beer with benefit of drawback are found in 27 CFR Part 252.

Other Removals Without Payment of Tax

Sections 25.195–25.196 govern removals of beer without payment of tax for analysis, research, development or testing purposes. Brewers would no longer be required to apply to the regional regulatory administrator for permission to remove beer for research, development or testing. Removal of this requirement will eliminate a paperwork burden on industry and Government.

Revenue Ruling 56–236, and Revenue Ruling 57–272 prohibit removal of beer without payment of tax for package testing. However, package testing of beer was authorized under Pub. L. 91–673. The regulations in Part 245 and those in § 25.196 provide for this testing and these revenue rulings are declared obsolete.

Section 25.201 allows the removal of beer by pipeline to a contiguous distilled spirits plant. Sections 25.205–25.207 govern the removal of beer for personal or family use.

Beer Returned to Brewery

Proposed Subpart M concerns the return of beer to a brewery. This subpart contains regulations found in Subpart S of Part 245 as well as notice requirements found in § 245.161.

Section 25.211 requires a brewer to determine the actual quantity of beer in kegs or cases returned to the brewery which contain less than the original contents. Section 25.211 incorporates Revenue Ruling 60–82 as modified by Revenue Ruling 60–296. Accordingly, a brewer need not use weight to determine the actual quantity of beer returned, but may use other accurate methods such as gauging by stick or by a gauging glass in the case of an accumulation tank. Brewers need not notify the regional regulatory administrator of these other accurate methods to be used. In the case of kegs equipped with tamper-proof fittings, brewers are relieved of making balling and alcoholic content determinations, thus incorporating ATF Ruling 75–26.

Voluntary Destruction of Beer

Subpart N contains requirements relating to the voluntary destruction of beer. The most important change proposed for this subpart is to make the notice of destruction, now required by § 245.161, optional at the discretion of the regional regulatory administrator. Elimination of this notice in some cases will reduce the paperwork burden on industry and ATF.

Section 25.222, Notice of brewer, requires the brewer to determine the actual quantity of beer to be destroyed, but as authorized by Revenue Ruling 60–296, brewers may use gauging or other accurate means to determine beer to be destroyed.

Beer Purchased From Another Brewer

Subpart O, Beer Purchased from Another Brewer, incorporates provisions appearing in Subpart W of Part 245. Under § 25.231, a brewer may purchase beer in kegs from another brewer which bear the marks and brands of the purchasing brewer. In accordance with 26 U.S.C. 5413, the producing brewer will taxpay the beer.

Several changes are proposed. One would delete the requirement that the purchasing brewer give notice to the regional regulatory administrator of intent to purchase the beer. ATF can find no revenue or administrative reason for requiring this notice. Similarly, the requirement that the purchasing and producing brewers make separate notations in their brewer's monthly reports of the sale or purchase of such beer has been deleted. Both purchasing and producing brewers are required to keep details of the sale or purchase of such beer in accordance with § 25.302, Daily records of operations.

Section 25.231 incorporates Revenue Ruling 62–146 which prohibits a brewer from purchasing taxpaid or tax determined beer in bottles or cans bearing the marks of the purchasing brewer.

A new section, § 25.232, incorporates Revenue Ruling 57–25. A brewer engaging in the business of purchasing beer from another brewer must obtain a basic permit under the Federal Alcohol Administration Act as a wholesale dealer of malt beverages.

Production of Cereal Beverage

Section 245.5 now defines "cereal beverage" as a malt beverage, either fermented or unfermented, which contains, when ready for consumption, less than ½ of 1 percent of alcohol by volume. It is proposed to change this definition by deleting the term "malt beverage" since, under the Federal Alcohol Administration Act, a malt beverage must be fermented. The proposed definition in § 25.11 of "cereal beverage" would be a beverage produced from malt (or a substitute) but either fermented or unfermented, which contains, when ready for consumption, less than ½ of 1 percent of alcohol by volume. This definition recognizes that some cereal beverages are produced without alcoholic fermentation. This proposed definition change will not affect brewing operations.

Requirements governing labeling of cereal beverages appear in § 25.242. These include labeling requirements formerly appearing in § 245.211 and in Revenue Ruling 57–322 which allows the

designation "Near Beer" to be used on containers of cereal beverages.

Beer Concentrate

Subpart R contains regulations relating to the process of concentration of beer, and the reconstitution of beer from concentrate. The definition for concentrate has been moved into § 25.11. This definition makes it clear that concentration is an authorized process in the production of beer.

Other requirements relating to concentrate have been greatly simplified. As proposed in Subpart R, brewers producing concentrate or reconstituting beer would no longer be required to register their process of concentration or reconstitution. Therefore, Form 3019 would become obsolete, and would not be replaced with any other application or notice. Brewers could conduct all operations relating to beer concentrate without notifying the regional regulatory administrator. Criteria for the production of concentrate, and for the reconstitution of beer remain in § 25.262. Also, the extra labeling requirements for beer produced from concentrate are retained in § 25.263.

The requirement for brewers to obtain a consent of surety in order to concentrate beer or reconstitute beer is being deleted. These processes will be covered under the brewer's bond. Requirements for the penal sum of bonds of brewers producing concentrate or reconstituting beer have been moved into § 25.93, penal sum of bond. The basis for tax liability is changed to 10 percent of the liability on beer entered into the concentration process during a calendar year.

Regulations relating to records and reports of brewers producing concentrate or reconstituting beer have been moved into Subpart U.

Form 3020, Transfer of Concentrate Produced from Beer, has been eliminated. Under § 25.264, brewers transferring concentrate may use invoices or commercial records as a record of transfer. The shipping brewer will prepare an invoice which contains the information now found on Form 3020. Upon shipment, the original invoice will be sent to the consignee brewer, and a copy retained for the shipping brewer's records.

ATF especially welcomes comments from brewers regarding these proposed changes in the concentrate regulations. Moreover, ATF solicits comments concerning the present use of concentration processes, and the continued need for these regulations.

Pilot Brewing Plants

Subpart S contains regulations applicable to pilot brewing plants. Several major changes are proposed.

Operation of pilot brewing plants would be on a continuing basis, and an approved application would remain current as long as the operator maintained a brewer's bond.

Brewers would no longer be required to execute Form 2035 covering transfers of beer from a pilot brewing plant to a brewery of the same ownership. Instead, brewers would be required to keep the same commercial records or invoices as proposed under Subpart L. Also, brewers would no longer apply to the regional regulatory administrator for authorization to transfer beer without payment of tax from a pilot brewing plant to a brewery of the same ownership. This operation would be authorized by § 25.271 which requires only that commercial records or invoices be used to document the transfer. A consent of surety would not be required when transferring beer from a pilot brewing plant to a brewery since this operation is now a condition of the Brewer's Bond, Form 5130.22. All of these proposed changes will reduce the paperwork and administrative burden on operators of pilot brewing plants.

Refund or Adjustment of Tax

Regulations concerning the filing of claims for refund or credit of tax on beer lost, destroyed, rendered unmerchantable, or on which the tax was overpaid, are found in Subpart T. Information now contained in Subpart T of Part 245 relating to the filing of notices for the return of beer to a brewery or for voluntary destruction has been moved into Subparts M and N. Also, Subpart T contains two sections moved from other subparts: § 25.285, Refund of beer tax excessively paid (currently § 245.166); and § 25.286, Claims for remission of tax of beer lost in transit between breweries, (currently § 245.148).

An important change is the proposed allowance of adjustment to the beer tax return for beer returned to a brewery, lost, destroyed, or rendered unmerchantable. Presently, brewers must file claims for credit of tax which, after approval are used as adjustments to the tax return. Under the proposed system, brewers could simply make an adjustment, without interest, for the tax paid on beer returned to a brewery of the brewer, lost, destroyed, or rendered unmerchantable. Brewers would no longer be required to file claims for credit of tax and thus could receive their tax monies more quickly through use of tax adjustments. Brewers could continue to file claims for refund of taxes paid and for relief from tax liability in appropriate circumstances. Elimination of claims for credit should result in substantial savings for brewers and ATF through the reduction of unnecessary paperwork, and through the prompt crediting to brewers for taxes paid.

Record and Reports

A number of important changes are proposed in Subpart U relating to records and reports. Section 245.225 has been subdivided into four sections. Section 25.291 relates to the format of records, time of entry, and details required on records. It is proposed to permit a brewer to post records by the third business day following the date of the transaction or operation if transaction or business records are prepared at the time of the operation. ATF especially welcomes comments from brewers concerning the time necessary for posting their records when automatic data processing equipment is used.

Form 2051 would be discontinued as a required form for the maintenance of records. Section 25.291 (c) does not prescribe a form, but requires daily records to reflect all mandatory information. The brewer may also use commercial records or invoices to show beer removed from the brewery for consumption or without payment of tax.

Section 25.292 lists items to be included in the brewer's daily records. This section has been clarified by requiring a separate record of beer transferred for bottling and of beer transferred for racking. The recordkeeping requirements of ATF Ruling 78-13 have also been incorporated. Section 25.292 requires brewers to show separately the quantities of beer removed in bulk without payment of tax, as well as quantities removed in bottles and in kegs.

A record of balling and the alcoholic content of wort produced, beer and cereal beverage transferred for bottling or racking, transferred between breweries and to pilot brewing plants is required by § 25.293.

Monthly inventories of breweries are required by § 25.294. This section allows brewers to take inventories within 7 days of the end of the month for which taken.

The Monthly Report of Brewer's Operations, Form 103, has been redesignated Form 5130.9. Submission of this report will be by the 15th day of the month, rather than by the 10th as now required. This report is used both for tax

compliance and statistical purposes. In keeping with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), and as an economy move to reduce the cost of government, ATF is considering changes in the monthly reporting requirement specified at § 25.297. ATF is soliciting comments on several alternative reporting requirements including:

(1) No change in current reporting requirement (Monthly as required by § 245.226);

(2) Monthly reporting in abbreviated format; continue monthly statistics;

(3) Monthly reporting; quarterly statistics;

(4) Quarterly reporting, quarterly statistics;

(5) Monthly or quarterly reporting for tax compliance purposes only, leaving compilation and publication of detailed statistics to the private sector.

Under § 25.301, brewers would no longer be required to obtain approval from the regional regulatory administrator for the copying of records. Brewers could copy records by any process which accurately reproduces the original record and leaves a durable record capable of being preserved.

ATF welcomes comments from brewers regarding the proposed recordkeeping requirements. We especially request comments on methods to simplify required records, inventories, and the Monthly Report of Brewer's Operations.

Treatment of Revenue Rulings

The following IRS Revenue Rulings and ATF Rulings will either be incorporated into the proposed regulations, or their provisions will become obsolete at the time these proposed regulations become effective: Revenue Rulings 54–451, 1954–2 C.B. 515; 55–549, 1955–2 C.B. 699; 56–236, 1956–1 C.B. 705; 56–238, 1956–1 C.B. 711; 57–25; 1957–1 C.B. 610; 57–83; 1957–1 C.B. 563; 57–176, 1957–1 C.B. 609; 57–177, 1957–1 C.B. 625; 57–272, 1957–1 C.B. 563; 57–322, 1957–2 C.B. 930; 57–414, 1957–2 C.B. 978; 60–82, 1960–1 C.B. 711; 60–201, 1960–1 C.B. 712; 60–209, 1960–1 C.B. 733; 60–267, 1960–2 C.B. 618; 60–296, 1960–2 C.B. 516; 61–30, 1961–1 C.B. 795; 61–34, 1961–1 C.B. 822; 62–146, 1962–2 C.B. 380; 65–176, 1965–2 C.B. 514; 65–247, 1965–2 C.B. 515; 71–227, 1971–1 C.B. 470; ATF Rulings 72–3, 1973–ATF C.B. 84; 74–30, 1974–ATF C.B. 44; 75–28, 1975–ATF C.B. 53; 78–13, 1978–ATF C.B. 69; 79–6, ATF Quarterly Bulletin 1979–1, 24; 80–7 ATF Quarterly Bulletin 1980–2, 18.

Regulatory and Paperwork Reform

These proposed regulations significantly decrease paperwork on brewers, especially in the area of forms and applications. Under these regulations 5 of 9 required brewery forms would be eliminated. Three forms would be replaced by commercial records, and 2 would be eliminated altogether.

In addition to the forms eliminated, the frequency of filing remaining forms, especially claims forms, will be dramatically reduced. This will further reduce the paperwork burden on brewers.

Currently, regulations provide for up to 17 letterhead applications for brewers to receive authorization for variances or authorization to conduct certain operations. Under the proposed regulations, only 5 letterhead applications would remain. Most variances have been incorporated directly into the regulations by allowing brewers to conduct certain operations without special permission.

The proposed regulations contain 145 sections, a reduction of 32 sections from current Part 245. These proposed regulations have been under review and study since 1978.

Public Participation

ATF requests comments from all interested persons concerning this proposal. All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be inappropriate for disclosure to the public should not be included in comments. The name of a person submitting comments is not exempt from disclosure.

All comments on this notice of proposed rulemaking may be inspected in the ATF Reading Room, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC, during normal business hours.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. This proposal is expected to reduce significantly the paperwork and recordkeeping burdens imposed on brewers.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document is Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Compliance with Executive Order 12291

It has been determined that this proposed rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of 100 million dollars or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects

27 CFR Parts 25 and 245

Administrative practice and procedure, Authority delegations, Beer, Claims, Electronic fund transfers, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping, requirements, Research, Surety bonds, Transportation.

27 CFR Part 252

Aircraft, Alcohol and alcoholic beverages, Armed forces, Authority delegations, Beer, Claims, Excise taxes, Exports, Fishing vessels, Foreign trade zones, Liquors, Reporting and recordkeeping requirements, Surety bonds, Vessels, Warehouses, Wine.

Authority and Issuance

These proposed regulations are issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917, as amended).

Accordingly, Title 27 Code of Federal Regulations is amended as follows:

PART 245—[REMOVED]

Paragraph 1. Part 245 is removed.

Par. 2. A new Part 25 is added which reads as follows:

PART 25—BEER

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25.2 Territorial extent.
25.3 Forms prescribed.

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Authority: The provisions of this Part 25 issued under 68A Stat. 917, as amended; 26 U.S.C. 7805, unless otherwise noted.

Subpart A—Scope of Regulations

§ 25.1 Production and removal of beer.

The regulations in this part relate to beer and cereal beverages and cover the location, construction, equipment, operations and qualifications of breweries and pilot brewing plants.

§ 25.2 Territorial extent.

This part applies to the several states of the United States and the District of Columbia.

§ 25.3 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part, including bonds, applications, notices, reports, returns, and records. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) ATF Publication 1322.1, Public Use Forms, is a numerical listing of forms issued by the Bureau of Alcohol, Tobacco and Firearms. This publication is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(c) Requests for forms should be mailed to the ATF Distribution Center, 3800 South Four Mile Run Drive, Arlington, Virginia 22206.

Subpart B—Definitions

§ 25.11 Meaning of terms.

When used in this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms have the meanings ascribed in this subpart.

ATF officer. An officer of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administrative or enforcement of this part.

Balling. The percent by weight of dissolved solids at 60° F present in wort and beer usually determined by a balling saccharometer.

Bank. Any commercial bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute for malt.

Bottle. A bottle, can, or similar container.

Bottling. The filling of bottles, cans and similar containers.

Brewer. Any person who brews beer (except a person who produces only beer exempt from tax under 26 U.S.C. 5053(e)) and any person who produces beer for sale.

Brewery. The land and buildings described in the Brewer's Notice, Form 5130.10, where beer is to be produced and packaged.

Brewing. The production of beer for sale.

Business day. The 24-hour cycle of operations in effect at the brewery and described on the Brewer's Notice, Form 5130.10.

Cereal beverage. A beverage, produced either wholly or in part from malt (or substitute for malt), and either fermented or unfermented, which contains, when ready for consumption, less than one-half of 1 percent of alcohol by volume.

Commercial bank. A bank whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

Concentrate. Concentrate produced from beer by the removal of water under the provisions of Subpart R of this part. The processes of concentration of beer and reconstitution of beer are considered authorized processes in the production of beer.

Delegate. Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the functions mentioned or described in the context.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

Director of the service center. A director of an Internal Revenue Service Center.

District Director. A district director of internal revenue.

Electronic fund transfer or EFT. Any transfer of funds effected by a brewer's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, when no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this ———— (insert type of document such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct and complete."

Fiscal year. The period which begins October 1 and ends on the following September 30.

Gallon. The liquid measure containing 231 cubic inches.

Package. A bottle, can, keg, barrel, or other original consumer container.

Packaging. The filling of any package.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Racking. The filling of kegs or barrels.

Region. A Bureau of Alcohol, Tobacco and Firearms region.

Regional regulatory administrator. The principal ATF regional official

responsible for administering regulations in this part.

Removed for consumption or sale. Except when used with respect to beer removed without payment of tax as authorized by law, (a) the sale and transfer of possession of beer for consumption at the brewery, or (b) any removal of beer from the brewery.

Secretary. The Secretary of the Treasury or his or her delegate.

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

This chapter. Title 27, Code of Federal Regulations, Chapter I (27 CFR Chapter I).

Treasury account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

U.S.C. The United States Code.

Wort. The product of brewing before fermentation which results in beer.

Subpart C—Location and Use of Brewery

§ 25.21 Restrictions on location.

A brewery may not be established or operated in any dwelling house or on board any vessel or boat, or in any building or on any premises where the revenue will be jeopardized or the effective administration of this part will be hindered.

§ 25.22 Continuity of brewery.

Brewery premises will be unbroken except that they may be separated by public passageways, streets, highways, waterways, carrier rights-of-way, or partitions. If the brewery premises are separated, the parts will abut on the dividing medium and be adjacent to each other. If the brewer has facilities for loading, or for case packing or storage which are located within reasonable proximity to the brewery, the regional regulatory administrator may approve the packaging facilities as part of the brewery if the revenue will not be jeopardized.

(Sec. 201 Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5402))

§ 25.23 Restrictions on use.

(a) *Use of brewery in production of beer or cereal beverage.* A brewery may be used only for the following purposes when its use involves the production of beer or cereal beverage:

(1) For producing, packaging and storing beer, cereal beverages, vitamins, ice, malt, malt syrup, and other byproducts of the brewing process, or soft drinks and other nonalcoholic beverages;

(2) For processing spent grain, carbon dioxide, and yeast; and

(3) For storing packages and supplies necessary or connected to brewery operations.

(b) *Other authorized uses.* A brewer may use a brewery for other purposes, not involving the production of beer or cereal beverage, upon approval from the Director, if the purposes:

(1) Require the use of byproducts or waste from the production of beer;

(2) Utilize buildings, rooms, areas, or equipment not fully employed in the production or packaging of beer;

(3) Are reasonably necessary to realize the maximum benefit from the premises and equipment and reduce the overhead of the brewery;

(4) Are in the public interest because of emergency conditions; or

(5) Involve experiments or research projects related to equipment, materials, processes, products, byproducts, or waste of the brewery.

(c) *Application.* A brewer desiring to use a brewery for other purposes shall submit to the Director through the appropriate regional regulatory administrator, an application listing the purposes. The Director will approve the application if the use for other purposes will not jeopardize the revenue or impede the effective administration of this part and is not contrary to specific provisions of law.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

§ 25.24 Storage of beer.

(a) *Taxpaid beer.* Beer on which the tax has been paid or determined may not be stored in the brewery except as provided in § 25.213 or as specifically authorized by the regional regulatory administrator.

(b) *Untaxpaid beer.* Packaged beer on which tax has not been paid or determined may be stored in any suitable location in the brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

Subpart D—Construction and Equipment

Construction

§ 25.31 Brewery buildings.

Brewery buildings shall be arranged and constructed as to afford adequate protection to the revenue and to facilitate inspection by ATF officers.

§ 25.32 Division of brewery.

The brewer shall designate the use of each building, cellar, room, or other division of the brewery where wort or beer is kept or handled by placing a plain and durable sign or legend (descriptive of its use) on or near the entrance to the building, cellar, room or division. If more than one building, cellar or room is used for the same purpose, alphabetical or numerical designations shall be used to further identify these divisions.

Equipment

§ 25.35 Tanks.

Each stationary tank, vat, cask or other container used, or intended for use, as a receptacle for wort, beer or concentrate produced from beer shall:

(a) Be durably marked with a serial number and capacity; and

(b) Be equipped with a suitable measuring device. The brewer may provide meters or other suitable portable devices for measuring contents of tanks or containers, in lieu of providing each tank or container with a measuring device.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

Subpart E—Measurement of Beer

§ 25.41 Measuring system required.

The brewer shall accurately and reliably measure the quantity of beer transferred from the brewery cellars to packaging operations. The brewer may use a measuring device, such as a meter or gauge glass, or any other suitable method.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

§ 25.42 Testing of measuring devices.

(a) *General requirements.* If a measuring device such as a meter or gauge glass is used to measure beer, the brewer shall periodically test the measuring device, and adjust or repair it, if necessary. The brewer shall keep records of tests available for inspection by ATF officers. Records of tests will include:

(1) Date of test;

(2) Identity of meter or measuring device;

(3) Result of test; and

(4) Corrective action taken, if necessary.

(b) *Requirements for beer meters.* The allowable variation for beer meters as established by testing may not exceed ± 0.5 percent. If a meter test discloses an error in excess of the allowable variation, the brewer shall immediately adjust or repair the meter. Adjustments will reduce the error to as near zero as practicable.

(c) *Authority to require tests.* If the regional regulatory administrator has reason to believe that the accuracy or reliability of a measuring device is not being properly maintained, he or she may require the brewer to test the

measuring device and, if necessary, adjust or repair the measuring device.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

Subpart F—Miscellaneous Provisions

§ 25.51 ATF officer's right of entry and examination.

An ATF officer may enter during normal business hours, a brewery or other place where beer is stored, and may, when the premises are open at other times, enter those premises, in the performance of official duties. ATF officers shall make inspections as the regional regulatory administrator deems necessary to determine that operations are conducted in compliance with the law and this part. The owner of any building or place where beer is produced, made, or kept, or person having charge over such premises, who refuses to admit an ATF officer acting under 26 U.S.C. 7606, or who refuses to permit an ATF officer to examine beer shall, for each refusal, forfeit $500.

(Act of August 16, 1954, 68A Stat. 872, 903, as amended (26 U.S.C. 7342, 7606))

§ 25.52 Variations from requirements.

(a) *Exceptions to construction, equipment and methods of operations.* The Director may approve details of construction, equipment or methods of operations, in lieu of those specified in this part. The brewer shall show that it is impracticable to conform to the prescribed specification, and that the proposed variance: (1) Will afford the protection to the revenue intended by the specifications in this part; (2) will not hinder the effective administration of this part, and (3) is not contrary to any provision of law. A brewer may not employ construction, equipment, or methods of operations other than those specified in this part until receiving approval from the regional regulatory administrator.

(b) *Application for variance.* A brewer who proposes to employ methods of operations or construction or equipment other than as provided in this part shall submit an application to the regional regulatory administrator. The application will describe the proposed variation and state the need for it. The brewer shall submit drawings or photographs if necessary to describe the proposed variation.

(c) *Approval.* The regional regulatory administrator shall make inquiry necessary to establish the necessity for the proposed variation, to determine if approval would hinder the effective administration of this part or result in jeopardy to the revenue, and to determine if it would be contrary to any provision of law. On completion of the inquiry, the regional regulatory administrator will forward the application to the Director, together with a report of findings and a recommendation. The regional regulatory administrator will return the approved application to the brewer. The regional regulatory administrator may at any time require the brewer to conform construction, equipment, or methods of operation to the requirements of this part if necessary to protect the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended, 1396, as amended (26 U.S.C. 5552, 5556))

Subpart G—Qualification of a Brewery

Original Qualification

§ 25.61 General requirements for notice.

(a) *Establishment.* Operations as a brewer may be conducted only by a person who has given notice as a brewer under this subpart. A person may not commence the business of a brewer until the regional regulatory administrator approves the brewery and the brewer's notice, including all documents made part of that notice.

(b) *Brewer's Notice, Form 5130.10.* Each person shall, before commencing business as a brewer, give notice on Form 5130.10 to the regional regulatory administrator of the region in which the brewery is located. Each person continuing business as a brewer as provided in § 25.71 shall give notice on Form 5130.10 to the regional regulatory administrator. Each notice will be executed under penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the notice will be made part of the notice.

(c) *Additional information.* The regional regulatory administrator may at any time require the brewer to furnish as part of the notice, additional information which is necessary to protect and insure collection of the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended, (26 U.S.C. 5401))

§ 25.62 Data for notice.

(a) *Required information.* The brewer shall prepare the notice on Form 5130.10 and shall include the following information:

(1) Serial number.

(2) Purpose for which filed.

(3) Name and principal business address of the brewer, and the location of the brewery if different than the business address.

(4) Statement of the type of business organization and of the persons interested in the business, supported by the information listed in § 25.66.

(5) Description of brewery, as specified in § 25.68.

(6) A list of trade names which the brewer intends to use in doing business or in packaging beer, and the offices where the names are registered, supported by a copy of any certificate or other document filed or issued in respect to those trade names.

(7) A statement of process for fermented beverages if required by § 25.67.

(8) The name and address of the owner of the land or buildings comprising the brewery, and of any mortgagee or other encumbrancer of the land or buildings comprising the brewery.

(9) The 24-hour cycle of operations at the brewery which is to be the brewer's business day.

(10) The process by which the brewer intends to render beer unfit for beverage use when beer is to be removed for use in manufacturing under §§ 25.191–25.192.

(11) Evidence of ownership or controlling interests in other breweries which will establish eligibility for the transfer of beer without payment of tax between breweries of the same ownership, as authorized in § 25.181.

(12) The date of the notice and the name and signature of the brewer, or person authorized to sign on behalf of the brewer.

(b) *Incorporation by reference.* If any of the information required by paragraph (a)(4) of this section is on file with the regional regulatory administrator of any ATF region in connection with the qualification of any other premises operated by the brewer, that information, if accurate and complete, may be incorporated into the brewer's notice by reference.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.63 Notice of registration.

The Brewer's Notice, Form 5130.10, when approved by the regional regulatory administrator, will constitute the notice of registration of the brewery. The regional regulatory administrator may require inspection of the brewery, or may require correction of inaccurate or incomplete documents. The regional regulatory administrator will not approve the notice until the notice and all incorporated documents are complete, accurate, and in compliance with the requirements of this part. A person may not operate a brewery until the notice required by this subpart has been approved by the regional regulatory administrator.

(Sec 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.64 Maintenance of notice file.

The brewer shall maintain the approved Brewer's Notice, Form 5130.10, and all incorporated documents, in looseleaf form in complete and current condition, readily available for inspection by an ATF officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.65 Power of attorney.

The brewer shall execute and file with the regional regulatory administrator a Form 1534 for each person authorized to sign or act on behalf on the brewer. The Form 1534 is not required for persons whose authority is furnished in the Brewer's Notice, Form 5130.10.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.66 Organizational documents.

The supporting information required by paragraph (a)(4) of § 25.62 includes, as applicable, copies of—

(a) *Corporate documents.* (1) Corporate charter or a certificate of corporate existence or incorporation;

(2) List of directors and officers, showing their names and addresses;

(3) Extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation; and

(4) Statement showing the number of shares of stock or other evidence of ownership, authorized and outstanding, and the voting rights of the respective owners or holders.

(b) *Articles of partnership.* Copy of the articles of partnership or association, if any, or certificate of partnership or association if required to be filed by any State, county, or municipality.

(c) *Statement of interest.* (1) Names and addresses of all persons having 10% or more stock in the corporation, or other legal entity, and the nature and amount of the stockholding or other interest of each, whether the interest appears in the name of the interested party or in the name of another person. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary, and the names thereof need be furnished only upon request of the regional regulatory administrator; or

(2) In the case of an individual owner or partnership, the name and address of each person interested in the brewery, whether the interest appears in the name of the interested party or in the name of another for that person.

(d) *Availability of additional corporate documents.* The originals of documents required to be submitted under this section, and additional documents such as the articles of incorporation, bylaws, and State certificates authorizing the brewer to operate in the State were located (if other than the State in which the brewery is incorporated) shall be made available to any ATF officer upon request.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.67 Statement of process.

(a) The Brewer's Notice, Form 5130.10 will contain a statement of process for any fermented beverage which the brewer intends to produce and market under a name other than "beer", "ale", "porter", "stout", "larger", or "malt liquor."

(b) The statement of process will give the name or designation of the product, the kinds and quantities of materials to be used, the method of manufacture, and the approximate alcohol content of the finished product.

(c) A statement of process for any fermented beverage (other than sake) will not be approved unless the base product has the characteristics of beer as defined in § 25.11.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended, 1388, as amended (26 U.S.C. 5052, 5401))

§ 25.68 Description of brewery.

(a) The Brewer's Notice, Form 5130.10, will include a description of (1) each tract of land comprising the brewery, and (2) a listing of each brewery building by its designated letter or number, giving the approximate ground dimensions and the purpose for which ordinarily used.

(b) The description of the land will be in sufficient detail to enable ATF officers to determine the boundaries of the brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

Changes After Original Qualification

§ 25.71 Amended or superseding notices.

(a) *Requirement for amended notice.* (1) When there is a change with respect to the information shown in the Brewer's Notice, Form 5130.10, the brewer shall within 30 days of the change (except as otherwise provided in this subpart) submit to the regional regulatory administrator an amended notice setting forth the new information. Changed notices will be submitted in skeleton form, with unchanged items marked "No change since Form 5130.10, Serial No. _____."

(2) The regional regulatory administrator may require immediate filing of an amended Form 5130.10 if the accuracy of existing documents has been materially affected by any change.

(b) *Requirement for superseding notice.* (1) The regional regulatory administrator may require a brewer to file a new and complete notice, superseding those previously filed, in conjunction with the filing of a new bond. This superseding notice will become effective on the date of the brewer's bond or of the brewer's bond continuation certificate.

(2) If the information required by § 25.62 (a)(4), (5), (6), (7), (9), and (10) is on file as part of an approved Form 5130.10 and is current, the brewer may incorporate by reference those documents as part of any superseding notice.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.72 Change in proprietorship.

(a) *General.* if there is a change in the proprietorship of a brewery, the outgoing brewer shall comply with the requirements of § 25.81. The successor brewer shall, before beginning operations, qualify in the same manner as the proprietor of a new brewery. The successor brewer shall file a new notice and bond in his or her own name. Beer on hand may be transferred without payment of tax to the successor brewer and will be accounted for by that brewer.

(b) *Fiduciary.* (1) If the successor to the brewer is an administrator, executor, receiver, trustee, assignee or other fiduciary, the fiduciary may in lieu of filing a new notice and bond, file an amended notice and furnish a consent of surety extending the terms of the predecessor's bond or continuation certificate.

(2) The fiduciary shall furnish the regional regulatory administrator a certified copy of the court order or other document showing qualification as fiduciary. The effective date of the qualifying documents filed by a fiduciary will be the same as the date of the order, or the date therein specified for the fiduciary to assume control. If the fiduciary was not appointed by the court, the date of the appointment will be the effective date of the qualifying documents filed by the fiduciary.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

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§ 25.73 Change in partnership.

(a) *New notice required.* The withdrawal of one or more members of a partnership or the taking in of a new partner, whether active or silent, constitutes a change in proprietorship. Unless exempted by paragraph (b) of this section, the death, bankruptcy or adjudicated insolvency of one or more partners results in a dissolution of the partnership and a change in proprietorship. The successor shall qualify the brewery in the same manner as the proprietor of a new brewery.

(b) *Continuing partnership.* If under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the termination of the partnership affairs, but continues until termination of the surviving partner has the exclusive right to control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to operate the brewery for such purpose under the prior qualification of the partnership, provided a consent of surety is filed, wherein the surety and the surviving partner agree to remain liable on the bond. If the surviving partner acquires the business on completion of the settlement of the partnership, that partner shall qualify in his or her own name from the date of acquisition and give a new notice on Form 5130.10 and new bond on Form 5130.22. This section also applies when there is more than one surviving partner.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.74 Change in stockholders.

Changes in the list of stockholders furnished under the provisions of § 25.66(c)(1) shall be submitted annually by the brewer on July 1 on other date approved by the regional regulatory administrator. When the sale or transfer of capital stock results in a change in the control or management of the business, notification of the change will be made within 30 days in accordance with § 25.71.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.75 Change in officers and directors.

When there is any change in the list of officers or directors furnished under the provisions of § 25.66(a)(4), the brewer shall submit, within 30 days of the change, an amended notice on Form 5130.10. If the proprietor has shown to the satisfaction of the regional regulatory administrator that certain corporate officers listed on the original notice have no responsibilities in connection with the operations covered by the notice, the regional regulatory administrator may waive the requirements for submitting applications for amended notice to cover changes of those corporate officers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.76 Change in statement of process.

When there is a change in the information in a statement of process required by § 25.62(a)(7) for any fermented beverage produced and marketed under a name other than "beer", "ale", "porter", "stout", "lager", or "malt liquor", the brewer shall submit an amended notice and obtain approval of the notice prior to using the changed statement of process.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.77 Change in location.

When there is a change in the location of the brewery, the brewer shall file an amended Form 5130.10, and a new bond, Form 5130.22, or a consent of surety, Form 5133, in accordance with § 25.91, extending the terms of the bond or continuation certificate to cover operations at the new location. The brewer may not begin operations at the new location until the regional regulatory administrator approves the required documents.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.78 Change in premises.

When the brewery is to be extended or curtailed, the brewer shall file with the regional regulatory administrator an amended Form 5130.10. The additional facilities covered by the extension may not be used for the proposed purposes, and the portion to be curtailed may not be used for other than the previously approved purposes, prior to approval of Form 5130.10.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

Discontinuance of Business

§ 25.81 Notice of permanent discontinuance.

When a brewer desires to discontinue business permanently, he or she shall file with the regional regulatory administrator a notice on Form 5130.10. The brewer shall state the purpose of the notice as "Discontinuance of business" and give the date of the discontinuance. When all beer has been lawfully disposed of, the regional regulatory administrator will approve the Form 5130.10, and return a copy to the brewer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

Subpart H—Bonds and Consents of Surety

§ 25.91 Requirement for bond.

(a) *General.* Every person intending to commence the business of a brewer shall file a bond, Form 5130.22, as prescribed in this subpart, covering operations at the brewery, at the time of filing the original Brewer's Notice, Form 5130.10. Every brewer intending to continue the business of a brewer shall, once every 4 years, or as provided in § 25.95, file a new bond, or continuation certificate as provided in § 25.97, with the regional regulatory administrator.

(b) *Conditions of the bond.* The Brewer's Bond, Form 5130.22, will be conditioned that the brewer shall faithfully comply with all provisions of law and regulations relating to the activities covered by the bond, and shall pay all taxes imposed by 26 U.S.C. Chapter 51, and shall pay all penalties incurred or fines imposed for violations of those provisions.

(c) *Additional information.* The regional regulatory administrator may require, in connection with any brewer's bond, a statement executed under the penalties of perjury, as to whether the principal or any person owning, controlling, or actively participating in the management of the business of the principal has been convicted of or has compromised any offense set forth in § 25.101(a)(1), or has been convicted of any offense set forth in § 25.101(a)(2). In the event the above statement contains an affirmative answer, the applicant shall submit a statement describing in detail the circumstances surrounding the conviction or compromise.

(d) *Bond required before beginning business.* A person may not begin business or continue business as a brewer until first receiving notice that the regional regulatory administrator has approved the bond continuation certificate, or consent of surety, as required by this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401); sec. 4(a), Pub. L. 91–673, 84 Stat. 2057 (26 U.S.C. 5417))

§ 25.92 Consent of surety

A brewer may change the terms of any bond filed under this part by filing a consent of surety. Consents of surety will be executed on Form 1533 by the Brewer and the surety on the bond, with the same formality and proof of authorization as required for the execution of a bond.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

25.93 Penal sum of bond.

(a) *Calculation.* The penal sum of the brewer's bond will be equal to 10 percent of the maximum amount of tax, calculated at the rates prescribed by law, which the brewer will become liable to pay during a calendar year on beer:

(1) Removed for transfer to the brewery from other breweries owned by the same brewer;

(2) Removed without payment of tax for export or for use as supplies on vessels and aircraft;

(3) Removed without payment of tax for use in research, development, or testing; and

(4) Removed for consumption or sale.

(b) *Concentrate.* A brewer who concentrates beer under Subpart R of this part shall calculate the penal sum of the bond by computing 10 percent of the amount of tax at the rates prescribed by law, on the maximum quantity of beer used in the production of concentrate during a calendar year. The brewer shall add this amount to the penal sum calculated under paragraph (a) of this section to determine the total penal sum of the brewer's bond.

(c) *Maximum and minimum penal sums.* The maximum penal sum of the bond (or total penal sum if original and strengthening bonds are filed) is not to exceed $150,000 when the tax on beer is to be prepaid, or $500,000 when the tax is to be deferred as provided in § 25.164. The minimum penal sum of a bond is $1,000.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.94 Strengthening bonds.

(a) *Requirement.* When the penal sum of the brewer's bond in effect is not sufficient, the principal may prepay the tax on beer as provided in Subpart K of this part, or give a strengthening bond in sufficient penal sum if the surety is the same as on the bond in effect. If the surety is not the same, a new bond covering the entire liability is required.

(b) *Restrictions.* A strengthening bond may not in any way release a former bond, or limit a bond to less than the full penal sum.

(c) *Date of execution.* Strengthening bonds will show the current date of execution and their effective date.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.95 New bond.

The regional regulatory administrator may at any time, at his or her discretion, require a new bond. A new bond is required immediately in the case of insolvency of a surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity shall execute a new bond or obtain a consent of surety on all bonds in effect. When the interests of the Government demand, or in any case when the security of the bond becomes impaired for any reason, the principal will be required to give a new bond. When a bond is found to be not acceptable, whe principal will be required immediately to obtain a new and satisfactory bond, or discontinue business. When required by the regional regulatory administrator, the principal shall file a new bond prior to continuing business.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.96 Superseding bond.

When the principal submits a new bond to supersede a bond or bonds in effect, the regional regulatory administrator after approving the superseding bond, will issue a notice of termination for the superseded bond under the provisions of the this subpart. Superseding bonds will show the current date of execution and their effective date.

§ 25.97 Continuation certificate.

If the contract of surety between the brewer and the surety on an expiring bond or continuation certificate is continued in force for a succeeding period of not less than 4 years from the expiration date of the bond or continuation certificate, the brewer may submit, in lieu of a new bond, a Brewer's Bond Continuation Certificate on Form 5130.23, executed under the penalties of perjury, by the brewer and the surety attesting to continuation of the bond. Each continuation certificate will constitute a bond and all provisions of law and regulations applicable to bonds on Form 5130.22 given under this part, including the disapproval of bonds, are applicable to continuation certificates.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.98 Surety or security.

(a) *Bond coverage.* Bonds required by this part will be given with corporates surety or collateral security.

(b) *Corporate surety.* Surety bonds may be given only with surety companies holding certificates of authority from the Secretary as acceptable sureties on Federal bonds, subject to the limitations set forth in the current revision of Treasury Department Circular No. 570, Companies Holding Certificates of Authority as Acceptable Reinsuring Companies.

(c) *Revisions of Circular No. 570.* Treasury Department Circular No. 570 is published in the Federal Register annually as of the first workday in July. As the occur, interim revisions of the circular are published in the Federal Register. Copies may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury.

(d) *More than one corporate surety.* A bond may be executed by two or more corporate sureties. Each corporate surety may limit its liability in terms on the face of the bond in a specified amount. This amount may not exceed the limitations set forth for corporate security by the Secretary which are set forth in the current revision of Treasury Department Circular No. 570. The sum of the liabilities for the sureties will equal the required penal sum of the bond.

(e) *Deposit of collateral securities in lieu of corporate surety.* In lieu of corporate surety, the principal may pledge and deposit, as surety for the bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR Part 225. Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of corporate surety in accordance with 31 CFR Part 225.

(61 Stat. 648 as amended, 649, 650 (6 U.S.C. 6, 8, 15); (sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401)))

§ 25.99 Filing powers of attorney.

Each bond, and each consent of surety will be accompanied by a power of attorney authorizing the agent or officer to execute the bond or consent of surety. The power of attorney will be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it will be accompanied by a certificate of its validity.

(61 Stat. 648, as amended (6 U.S.C. 6, 7))

Disapproval or Termination of Bonds or Consents of Surety

§ 25.101 Disapproval of bonds or consents of surety.

(a) *Reasons for disapproval.* The regional regulatory administrator may disapprove a bond or consent of surety if the individual, firm, partnership,

corporation, or association giving the bond or consent of surety, or if any of the above entities owning, controlling or actively participating in the management of a business giving a bond as a brewer, has been previously convicted in a court of competent jurisdiction of:

(1) Any fraudulent noncompliance with any provision of law of the United States related to internal revenue or customs taxation of distilled spirits, wines or beer, or it the offense shall have been compromised with the individual, firm, partnership, corporation, or association on payment of penalties or otherwise; or

(2) Any felony under a law of any State or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wines, beer, or other intoxicating liquor.

(b) *Appeal of disapproval.* If the regional regulatory administrator disapproves a bond or consent of surety, the person giving the bond may appeal the disapproval to the Director, who will grant a hearing in the matter if requested by the applicant or brewer. The decision of the Director shall be final.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

§ 25.102 Termination of surety's liability.

The liability of a surety on a bond required by this part will be terminated only as to liability arising on or after: (a) The effective date of a superseding bond; (b) the date of approval of the discontinuance of business of the brewer; or (c) following the giving of notice by the surety as provided in § 25.103.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.103 Notice by surety for relief from liability under bond.

A surety may, at any time, in writing, notify the principal and the regional regulatory administrator that the surety desires after a specified date (not less than 60 days after the date of service on the principal) to be relieved of any liability under the bond which is incurred by the principal after the date named in the notice. The surety shall include proof of service of the notice on the principal with the notice filed with the regional regulatory administrator. The notice will become effective on the date named, unless the surety withdraws the notice. The surety on the bond remains liable under the bond with respect to any liability incurred by the principal while the bond is in effect.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.104 Termination of bonds.

Brewer's bonds may be terminated as to liability for future removals or receipts (a) pursuant to appplication of the surety as provided in § 25.103, (b) on approval of a superseding bond, or (c) on notification by the principal that the business has been discontinued. On termination of the surety's liability under a bond, the regional regulatory administrator will notify the principal and sureties.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.105 Release of collateral security.

Bonds, notes, and other obligations of the United States, pledged and deposited as security in connection with bonds required by this part will be released in accordance with 31 CFR Part 225. When the regional regulatory administrator determines there is no outstanding liability against the bond and that it is no longer necessary to hold the security, he or she shall fix the date or dates on which a part or all of the security will be released. At any time prior to the release of the security, the regional regulatory administrator may, for proper cause, extend the date of release of the security for an additional length of time as may be appropriate.

(Ch. 390, Pub. L. 80–280, 61 Stat. 650 (6 U.S.C. 15))

Subpart I—Special Taxes

Liability for Special Tax

§ 25.111 Brewer's special tax.

Brewers are required to pay, on or before the first day of July in each year, or before commencing operations, a special tax at the rate imposed by 26 U.S.C. 5091. Special taxes are imposed as of the first day of July in each year, or on commencing the business of a brewer. In the former case, special tax is computed for the entire year; in the latter case, special tax is computed from the first day of the month in which liability is incurred until the 30th day of June following.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1339, 1346, as amended (26 U.S.C. 5091, 5142))

§ 25.112 Wholesaler's special tax.

Brewers who purchase beer from other brewers for resale, including brewers purchasing beer in their own kegs or barrels, may be liable for special tax as wholesale dealers in beer under 26 U.S.C. 5111. Special taxes are imposed as of the first day of July in each year, or on commencing the business of a wholesaler.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340, as amended, 1346, as amended (26 U.S.C. 5111, 5142))

§ 25.113 Each place of business taxable.

(a) *General.* A brewer incurs special tax liability at each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(b) *Exemption for contiguous areas.* A brewer will not incur additional special tax liability for sales of beer made at a location other than on brewery premises described on the brewer's notice, Form 5130.10, if the location where such sales are made is contiguous to the brewery premises in the manner described in paragraph (a) of this section.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1347, as amended (26 U.S.C. 5143))

§ 25.114 Exemptions from dealer's special taxes.

(a) *Brewer.* A brewer is not required to pay special tax as a wholesale or retail dealer in beer because of sales, at the principal place of business or at the brewery, of beer which at the time of sale is stored at the brewery or which had been removed and stored in a taxpaid storeroom operated in connection with the brewery. Each brewer shall have only one exemption from dealer's special tax for each brewery. The brewer may designate, in writing to the regional regulatory administrator, that the principal place of business will be exempt from dealer's special tax; otherwise, the exemption will apply to the brewery.

(b) *Wholesale dealer.* A wholesale dealer in beer who has paid the appropriate special tax will not again be required to pay special tax as a wholesale dealer in beer because of sales of beer to wholesale or retail dealers in liquors or beer or to limited retail dealers, at the purchaser's place of business.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340, as amended (26 U.S.C. 5113))

Execution of Special Tax Returns

§ 25.117 Special tax returns.

(a) *General.* Each person required to pay special tax shall prepare a return on IRS Form 11. The return will be filed, with payment of tax, with the director of the service center serving the internal

revenue district in which the taxpayer's business is located, or by hand carrying in accordance with paragraph (c) of this section.

(b) *Multiple locations.* A taxpayer subject to special tax for the same period at two or more locations shall: (1) File one special tax return, IRS Form 11 (prepared in the manner prescribed in § 25.118), with payment of tax to cover all locations. The return with tax will be filed with the director of the service center serving the internal revenue district in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address, employer identification number, class of tax, and period covered by the return. The list will show, by States, the name and address of each location (including the taxpayer's principal place of business, or principal office, if subject to special tax) for which special tax is being paid. The original of the list will be attached to the IRS Form 11, as a part of the return, and the copy will be retained by the taxpayer for a period of not less than two years.

(c) *Hand carried returns.* If the return is filed by hand carrying, the taxpayer shall file it with the district director for the district in which the taxpayer's business is located or in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located.

(Act of August 16, 1954, 68A Stat. 752, as amended (26 U.S.C. 6091); sec. 201, Pub. L. 85-859, 72 Stat. 1346, as amended (26 U.S.C. 5142))

§ 25.118 Data required on IRS Form 11.

Each return on IRS Form 11 will be prepared in accordance with the instructions on the form or issued in respect to the form. Each return will include the following:

(a) If the taxpayer is an individual or a corporation, the true name of the individual or corporation;

(b) If the taxpayer is a partnership, the true name of every person comprising the partnership;

(c) The employee identification number (see §§ 25.121–25.123);

(d) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description, in addition to the post office address. In the case of one return for two or more locations as provided in § 25.117, the location to be shown on IRS Form 11 will be the taxpayers principal place of business (or principal office in the case of a corporate taxpayer);

(e) The classes of tax; and

(f) All other information required by the form.

(Act of August 16, 1954, 68A Stat. 732, as amended, 845, as amended (26 U.S.C. 6011, 7011); sec. 1, Pub. L. 87-397, 75 Stat. 828, as amended (26 U.S.C. 6109))

§ 25.119 Execution of IRS Form 11.

(a) *Ordinary returns.* The return of an individual proprietor will be signed by the individual. The return of a partnership will be signed by any of the partners. The return of a coproration will be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner", "member of firm", or in the case of a corporation the title of the officer.

(b) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(c) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature will be preceeded by the name of the principal followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed with the internal revenue office with whom IRS Form 11 is required to be filed, a power of attorney authorizing the agent to perform the act.

(d) *Perjury statement.* IRS Form 11 will contain or be verified by a written declaration that it has been executed under penalties of perjury.

(Act of August 16, 1954, 68A Stat. 748, as amended, 749, as amended, 757, as amended, 845, as amended (26 U.S.C. 6061, 6065, 6151, 7011))

Employer Identification Numbers

§ 25.121 Employer identification number.

The employer identification number defined in 26 CFR 301.7701–12 of the taxpayer who has been assigned the number will be shown on each IRS Form 11, including amended IRS Form 11, filed under this subpart. Failure of the taxpayer to include the employer identification number on IRS Form 11 may result in the imposition of the penalty specified in 26 CFR 301.6676–1.

(Sec. 1, Pub. L. 87-397, 75 Stat. 828, as amended (26 U.S.C. 6109, 6676))

§ 25.122 Application for employer identification number.

Each taxpayer who files a return on IRS Form 11 or ATF Form 5130.7 shall file IRS Form SS–4 to apply for an employer identification number. The taxpayer shall apply for and be assigned one employer identification number regardless of the number of places of business for which the taxpayer is required to file a return. If a taxpayer has filed the first return, IRS Form 11 of ATF Form 5130.7, before applying for or being assigned an employer identification number, he or she shall apply within 7 days of the filing of the return. IRS Form SS–4 may be obtained from the director of the service center or from any district director.

Sec. 1, Pub. L. 87-397, 75 Stat. 828, as amended (26 U.S.C. 6109))

§ 25.123 Execution of IRS Form SS–4.

(a) *Preparation.* The taxpayer shall prepare IRS Form SS–4, together with any supplement any statement, in accordance with the instructions on the form. The taxpayer shall file IRS Form SS–4 with the district director of any internal revenue district in which the taxpayer operates a business subject to special tax, unless the instructions on IRS Form SS–4 require it to be filed with the director of the service center serving the internal revenue district.

(b) *Signature.* The application will be signed by:

(1) The individual if the taxpayer is an individual;

(2) The president, vice president, or other principal officer, if the taxpayer is a corporation;

(3) A responsible and authorized member or officer having knowledge of its affairs, if the taxpayer is a partnership or other unincorporated organization; or

(4) The fiduciary, if the taxpayer is a trust or estate.

(Sec. 1, Pub. L. 87-397, 75 Stat. 828, as amended (26 U.S.C. 6109))

Issuance of Special Tax Stamps

§ 25.125 Issuance of stamps.

Upon filing a properly executed return on IRS Form 11, together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment to IRS Form 11 required by § 25.117(b), but showing as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

§ 25.126 Distribution of stamps for multiple locations.

On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to IRS Form 11. The

taxpayer shall designate one stamp for each location and type on each stamp the address of the business conducted for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

§ 25.127 Examination of special tax stamps.

All stamps denoting payment of special tax will be kept available for inspection by ATF officers, at the location for which designated, during business hours.

(Act of August 16, 1954, 68A Stat. 831, as amended (26 U.S.C. 6808); sec. 201, Pub. L. 85–859, 72 Stat. 1348, as amended (26 U.S.C. 5146))

Changes in Special Tax Stamps

§ 25.131 Change in name

If there is a change in the corporate or firm name, or in the trade name, the brewer shall, within 30 days after the change, file with the director of the service center who issued the stamp, an additional return on IRS Form 11 covering the new corporate or firm name, or trade names. The brewer shall forward the special tax stamp or stamps to the director of the service center who issued the stamp for appropriate notation with respect to the change in name.

(Act of August 16, 1954, 68A Stat. 845, as amended (26 U.S.C. 7011))

§ 25.132 Change in proprietorship.

(a) *General.* If there is a change in the proprietorship of a brewery, the successor shall obtain the required special tax stamps.

(b) *Exemption for certain successors.* Persons having the right of succession provided for in § 25.133 may carry on the business for the remainder of the period for which the special tax was paid, if within 30 days after the date on which the successor begins to carry on the business, the successor files a return on IRS Form 11 with the director of the service center who issued the stamp, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(Act of August 16, 1954, 68A Stat. 845, as amended (26 U.S.C. 7011); sec. 201, Pub. L. 85–859, 72 Stat. 1347, as amended (26 U.S.C. 5143))

§ 25.133 Persons having right of succession.

Under the conditions indicated in § 25.132, the right of succession will pass to certain persons in the following cases:

(a) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(b) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(c) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(d) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1347, as amended) (25 U.S.C. 5143))

§ 25.134 Change in location.

If there is a change in location of a taxable place of business, the brewer shall within 30 days after the change, file with the director of the service center who issued the stamp, an amended return on IRS Form 11 covering the new location. The brewer shall forward the special tax stamp or stamps to the director of the service center for endorsement of the change in location. If the brewer does not file the amended return within 30 days, the brewer is required to obtain a new special tax stamp.

(Act of August 16, 1954, 68A Stat. 845, as amended (26 U.S.C. 7011); sec. 201, Pub. L. 85–859, 72 Stat. 1347, as amended (26 U.S.C. 5143))

Subpart J—Marks, Brands, and Labels

§ 25.141 Barrels and kegs.

(a) *General requirements.* The brewer's name or trade name and the place of production (city and, if necessary for identification, State) shall be permanently marked on each barrel or keg. If the place of production is clearly shown on the bung or on the tap cover, or on a label securely affixed to each barrel or keg, the place of production need not be permanently marked on each barrel or keg. No statement as to payment of internal revenue taxes may be shown.

(b) *Breweries of same ownership.* (1) If two or more breweries are owned and operated by the same person, firm or corporation (as defined in § 25.181), the place of production may be shown as provided in paragraph (a) of this section. If two or more brewery locations are shown, the place of production (including street address if two or more breweries are located in the same city) will be shown on the bung or on the tap cover or on a label securely affixed to each barrel or keg.

(2) The brewer may use a coding system on the bung or tap cover or label in order to identify the place of actual production and which will permit ATF officers to determine the place of production of the beer. The brewer shall notify the regional regulatory administrator prior to employing a coding system.

(c) *Label approval required.* Labels or tap covers used by brewers shall be covered by certificates of label approval when required by Part 7 of this chapter.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5412))

§ 25.142 Bottles.

(a) *Label requirements.* Each bottle of beer shall show by label or otherwise the name or trade name of the brewer, the net contents of the bottle, the nature of the product such as beer, ale, porter, stout, etc., and the place of production (city and, when necessary for identification, State). No statement as to payment of internal revenue taxes may be shown.

(b) *Breweries of same ownership.* (1) If two or more breweries are owned or operated by the same person, firm, or corporation (as defined in § 25.181), the place of production may be included in a listing of the locations of the breweries if the place of production is not given less emphasis than any of the other locations. If the location of two or more breweries is shown on the label, the place of production may be indicated either by printing, coding or other markings on the label, crown or lid.

(2) The coding system employed will permit an ATF officer to determine the place of production (including street address if two or more breweries are located in the same city) of the beer. The brewer shall notify the regional regulatory administrator prior to employing a coding system.

(c) *Distinctive names.* If the brewer's name, trade name or brand name includes the name of a city which is not the place where the beer was produced, the Director may require the brewer to state the actual place of production on the label.

(d) *Tolerances.* The statement of net contents shall indicate exactly the volume of beer within the bottle except for variations in measuring as may occur in filling conducted in compliance with good commercial practice. The barrel equivalent of bottles filled during a consecutive three month period, calculated on the basis of the brewer's fill test records, may not vary more than 0.5 percent from the barrel equivalent of

bottles filled during the same period, calculated on the basis of the stated net contents of the bottles.

(e) *Label approval required.* Labels used by brewers shall be covered by certificates of label approval when required by Part 7 of this chapter.

(f) *Short-fill bottles.* A brewer may dispose of short-fill bottles of beer to employees for their use but not for resale. These bottles need not be labeled, but if labeled they need not show an accurate statement of net contents.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5412))

§ 25.143 Cases.

(a) *Brewer's name.* The brewer's name, or trade name is to be shown on each case or other shipping container of bottled beer. A brewer may use unmarked cases to hold:

(1) Cartons of beer, if the visible portion of the cartons show the required name; or

(2) Bottles or cans with plastic carriers, if the visible portion of the bottles or cans show the required information.

(b) *Other information.* The brewer may show on a case or shipping container the place of production (city and, when necessary for identification, State), and the addresses of other breweries owned by the same person, firm, or corporation (as defined in § 25.181). If only one address is shown, it will be that of the producing brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5412))

§ 25.144 Rebranding barrels and kegs.

(a) A brewer may not use a barrel or keg which bears the name of more than one brewer, and except as provided in § 25.231, may not use a barrel or keg bearing the name of a brewer other than the producing brewer.

(b) A brewer who purchases or otherwise obtains barrels or kegs from another brewer shall permanently remove or durably cover the original marks and brands after notifying the regional regulatory administrator of the proposed action. A brewer may use the barrels or kegs obtained without removing or covering the original marks and brands if the brewer: (1) adopts a trade name substantially identical to the name appearing on the barrels or kegs; or (2) succeeds to a brewer who has discontinued business, in which case the brewer may add marks or brands, in accordance with § 25.141, which indicate ownership.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5412))

§ 25.145 Tanks, vehicles, and vessels.

(a) Each brewer who transfers beer to another brewery of the same ownership (as defined in § 25.181), or who exports beer without payment of tax, as provided in § 25.203, shall plainly and durably mark each tank, tank car, tank truck, tank ship, barge, or deep tank of a vessel used in accordance with paragraph (b) of this section. These marks may be placed on a label securely affixed to the route board of the container.

(b) The brewer shall mark each container with—

(1) The designation "Beer";

(2) The brewer's name;

(3) The address of the brewery from which removed;

(4) The address of the brewery to which transferred or the marks required for exportation in Part 252 of this chapter, as applicable;

(5) The date of shipment; and

(6) The quantity, expressed in barrels.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1389 as amended (26 U.S.C. 5414))

Subpart K—Tax on Beer

Liability for Tax

§ 25.151 Rate of tax.

All beer, brewed or produced, and removed for consumption or sale, is subject to the tax prescribed by 26 U.S.C. 5051, for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for the fractional parts of a barrel as authorized in § 25.156.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051, 5052))

§ 25.152 Reduced rate of tax for certain brewers.

(a) *General.* Section 5051(a) (2) of Title 26 U.S.C. provides for a reduced rate of tax on the first 60,000 barrels of beer removed for consumption or sale by a brewer during a calendar year. To be eligible to pay the reduced rate of tax, a brewer:

(1) Shall brew or produce the beer at a qualified brewery in the United States;

(2) May not produce more than 2,000,000 barrels of beer per calendar year; and

(3) May not be a member of a "controlled group" of brewers whose members together produce more than 2,000,000 barrels of beer per calendar year.

(b) *Definitions.* For the purpose of determining eligibility for payment of the reduced rate of tax on beer, terms have the following meanings:

(1) *Controlled group.* A related group of brewers as defined in 26 U.S.C. 5051(a)(2)(B). Controlled groups include, but are not limited to:

(i) Parent-subsidiary controlled groups as defined in 26 CFR 1.1563–1(a)(2);

(ii) Brother-sister controlled groups as defined in 26 CFR 1.1563–1(a)(3); and

(iii) Combined groups as defined in 26 CFR 1.1563–1(a)(4). Stock ownership in a corporation need not be direct and 51% constructive ownership, defined in 26 CFR 1.1563–3, may be acquired through:

(A) An option to purchase stock;

(B) Attribution from partnerships;

(C) Attribution from estates or trusts;

(D) Attribution from corporations; or

(E) Ownership by spouses, children, grandchildren, parents, and grandparents.

(2) *Production of beer.* The production of beer as recorded in the brewer's daily records and reported in the monthly report, Form 5130.9. For the purpose of determining compliance with the 2,000,000 barrel limitation, production of beer by a brewer or a controlled group of brewers includes both beer produced at qualified breweries within the United States and beer produced outside the United States.

(c) *Brewers operating more than one brewery.* Brewers who operate more than one brewery shall include the combined production of beer at all their breweries when determining eligibility under the 2,000,000 barrel limitation. The reduced rate of tax applies to the first 60,000 barrels of beer removed for consumption or sale in a calendar year by the brewer; the brewer shall apportion the 60,000 barrels among the breweries in the manner described in the notice as provided by § 25.168(b)(3).

(d) *Controlled groups of brewers.* Members of a controlled group of brewers shall include the combined production of beer by all member brewers when determining eligibility under the 2,000,000 barrel limitation. The reduced rate of tax applies to the first 60,000 barrels of beer removed for consumption or sale in a calendar year by the controlled group of brewers; the controlled group of brewers shall apportion the 60,000 barrels among member brewers in the manner described in each brewer's notice as provided by § 25.168(b)(3).

(Sec. 201, Pub. L. 85–859, 72 Stat. 133,3 as amended (26 U.S.C. 5052))

§ 25.153 Persons liable for tax.

The tax imposed by law on beer (including beer purchased or procured by one brewer from another) shall be paid by the brewer of the beer at the brewery where produced. The tax on beer transferred to a brewery from other breweries owned by the same brewer in

accordance with Subpart L of this part shall be paid by the brewer at the brewery from which the beer is removed for consumption or sale.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1388, as amended (26 U.S.C. 5054, 5413, 5414))

Determination of Tax

§ 25.155 Types of containers.

Beer may be removed from a brewery for consumption or sale only in barrels, kegs, bottles, and similar containers, as provided in this part. Beer may be bottled only in bottles. A container which the Director determines to be similar to a bottle or can will be treated as a bottle for the purposes of this part. A container which the Director determines to be similar to a barrel or keg and which conforms to one of the sizes prescribed for barrels or kegs in § 25.156 will be treated as such for the purposes of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended, 1390, as amended (26 U.S.C. 5412, 5416))

§ 25.156 Determination of tax on keg beer.

In determining the tax on beer removed in kegs, a barrel is regarded as a quantity of not more than 31 gallons. The authorized fractional parts of a barrel are halves, thirds, quarters, sixths, and eighths, and beer may be removed only in kegs rated at those capacities. If any barrel or authorized fractional part of a barrel contains a quantity of beer more than two percent in excess of its rated capacity, tax will be determined and paid on the actual quantity of beer (without benefit of any tolerance) contained in the keg. The quantities of keg beer removed subject to tax will be computed to 5 decimal places. The sum of the quantities computed for any one day will be reduced to 3 decimal places by dropping the numerals in the 4th and 5th decimal places and the tax will be calculated and paid on the reduced sum.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051))

§ 25.157 Determination of tax on bottled beer.

The quantities of bottled beer removed subject to tax shall be computed to 5 decimal places in accordance with the table and instructions in § 25.158. The sum of the quantities computed for any one day will be reduced to 3 decimal places by dropping the numerals in the 4th and 5th decimal places and the tax will be calculated and paid on the reduced sum.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051))

§ 25.158 Tax computations for bottled beer.

Barrel equivalents for various case sizes are as follows:

Number of bottles per case	Fluid contents (ounces) of each bottle	Barrel equivalent
1	128	0.03228
1	[illegible]	.07258
4	[illegible]	.06452
6	[illegible]	.09677
12	7	.02117
12	8	.02419
12	11	.03327
12	12	[illegible]
12	14	.04234
12	24	.07258
12	30	.09073
12	32	.09677
12	40	.12097
24	7	[illegible]
24	[illegible]	[illegible]
24	10	[illegible]
24	11	[illegible]
24	11½	.06956
24	12	.07258
24	14	[illegible]
24	16	.09677
24	[1]16.9	[illegible]
32	7	.05645
35	7	.06174
36	7	.06351
36	[illegible]	.07258
40	7	.07057
48	10	.12096
48	12	.14516
50	12	.15120

[1] One-half liter

If beer is to be removed in cases or bottles of sizes other than those listed in the above table, the brewer shall notify the regional regulatory administrator in advance and request to be advised of the fractional barrel equivalent applicable to the proposed case size.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5412))

§ 25.159 Time of tax determination and payment; offsets.

(a) *Time and payment.* The tax on beer will be determined at the time of its removal for consumption or sale, and will be paid by return as provided in this part.

(b) *Offsets.* During any business day, the quantity of beer returned to the same brewery from which removed is to be taken as an offset against or deducted from the total quantity of beer removed for consumption or sale from that brewery on the day that the beer is returned.

(c) *Offsets not allowed.* An offset or deduction for returned beer will not be allowed if:

(1) The brewer was indemnified by insurance or otherwise in respect of the tax; or

(2) The brewer does not issue credit to the customer for the tax on the returned beer within 30 days of the return of the beer. If the tax is not timely credited after the offset or deduction is taken, the brewer shall make an increasing adjustment on the next tax return.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1335, as amended (26 U.S.C. 5054, 5056, 5061))

§ 25.160 Tax adjustment for brewers who produce more than 2,000,000 barrels of beer.

Each brewer who has paid tax on beer by return, Form 5130.7, at the reduced rate of tax during a calendar year, but whose production (or the production of a controlled group of brewers of which the brewer is a member) exceeds 2,000,000 barrels of beer in that calendar year, is no longer eligible to pay tax on beer at the reduced rate of tax for any beer removed that calendar year for consumption or sale. The brewer shall make a tax adjustment for the payment of additional tax no later than the return period in which production (or the production of a controlled group of brewers of which the brewer is a member) exceeds 2,000,000 barrels of beer. The adjustment will be determined by multiplying the difference between the higher and lower rates of tax applicable to beer by the number of barrels removed by the brewer that year at the reduced rate of tax. The brewer shall make tax adjustments for all breweries where tax was paid at the lower rate that year, and shall include interest payable from the date on which tax was paid at the lower rate. In the case of a controlled group of brewers whose production exceeds 2,000,000 barrels of beer, all member brewers who paid tax at the lower rate shall make tax adjustments as determined in this section.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051))

Preparation and Remittance of Tax Returns

§ 25.163 Method of taxpayment.

A brewer shall pay the tax on beer by return on Form 5130.7, as provided in §§ 25.164, 25.173 and 25.175. The brewer shall pay the tax by remittance to the district director at the time the tax return is rendered, and the remittance will be in cash, or by check or money order payable to the "Internal Revenue Service" and delivered to the district director; or will be effected by an electronic fund transfer. In paying the tax, a fractional part of a cent will be disregarded unless it amounts to one-half cent or more, in which case it will be increased to one cent.

(Act of August 16, 1954, 68A Stat. 775, as amended, 777, as amended, 778, as amended (26 U.S.C. 6302, 6311, 6313); sec. 201, Pub. L.

85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

§ 25.164 Semimonthly return.

(a) *Requirement for filing.* Each brewer shall pay the tax on beer (unless prepaid) by semimonthly return on Form 5130.7. The brewer shall file Form 5130.7 as a semimonthly return regardless of whether tax has been prepaid as provided in § 25.175 during the return period. The brewer shall file a return on Form 5130.7 for each return period even though no beer was removed for consumption or sale.

(b) *Payment of tax.* The brewer shall include for payment with the return, the full amount of tax required to be determined (and which has not been prepaid) on all beer removed for consumption or sale during the period covered by the return. Prepayments made by the brewer during the semimonthly period will be separately stated on the return.

(c) *Information to be furnished.* The brewer shall state on the return the quantities of keg and bottled beer removed daily for consumption or sale during the period covered by the return, and the total quantities removed during the period. In the case of a brewer who has filed the notice required by § 25.168 and is paying the tax on beer at a reduced rate, the brewer shall state the cumulative number of barrels of beer removed for consumption or sale during the calendar year at the reduced rate of tax.

(d) *Return periods.* Return periods run from the brewer's business day beginning on the first day of each month through the brewer's business day beginning on the 15th day of that month, and from the brewer's business day beginning on the 16th day of the month through the brewer's business day beginning on the last day of the month.

(e) *Time for filing returns and paying tax.* The brewer shall file the semimonthly tax return, Form 5130.7, for each return period, and remittance as required by this section, not later than the last full calendar day of the return period next succeeding that period.

(f) *Timely filing.* (1) When the brewer sends the semimonthly return by U.S. mail, with remittance as required by this section to the office of the district director or without remittance as required by § 25.165 to the director of the service center, the date of the official postmark of the United States Postal Service stamped on the cover in which the return and remittance were mailed is considered the date of delivery of the return and the date of delivery of the remittance, if enclosed with the return. When the postmark on the cover is illegible, the brewer shall prove when the postmark was made.

(2) When the brewer sends the semimonthly return with or without remittance by registered mail or by certified mail, the date of registry or the date of the postmark on the sender's receipt of certified mail will be treated as the date of delivery of the semimonthly return and of the remittance, if enclosed with the return.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

§ 25.165 Payment of tax by electronic fund transfer.

(a) *Eligible brewers.* Notwithstanding any provisions of § 25.164, except as provided in this section, a brewer who pays an amount of five million dollars or more in excise taxes on beer during a fiscal year (including a brewer who is eligible to pay at the reduced rate of tax under § 25.167) shall use a commercial bank in making payment of the tax for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, except for a brewer already remitting the tax by EFT, each brewer who paid an amount of five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year will be delivered by EFT.

(2) The brewer shall, for each return period, direct his or her bank to effect a transfer of funds to the Treasury Account as provided in § 25.166. The request shall be made to the bank early enough for the transfer to be effected to the Treasury Account by no later than the close of the last full calendar day of the return period next succeeding that period. The request shall take into account any time limit established by the bank.

(3) If a brewer paid less than five million dollars by EFT in the preceding fiscal year, the brewer may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed in § 25.164. During the first return period in which the brewer chooses to discontinue delivering the remittance by EFT and to begin sending the remittance with the tax return to the district director, the brewer shall notify the director of the service center and the regional regulatory administrator by attaching a written notification to Form 5130.7, stating that no taxes are due by EFT, because the amount of taxes paid during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, will be filed with the district director.

(c) *Remittance.* (1) Each brewer shall show on the return, Form 5130.7, information about remitting the tax by EFT for that return period and shall file the return with the director of the service center.

(2) The brewer shall direct the bank to effect an EFT message as required by paragraph (b)(2) of this section. The brewer shall retain transfer data showing the record of payment as part of the brewer's records.

(3) Remittances shall be considered as made when the brewer unconditionally directs the bank to immediately effect an EFT in the amount of the taxpayment to the Treasury Account, in accordance with the procedures established by the bank.

(d) *Failure to request an EFT message.* For provisions relating to the penalty for failure to request an EFT message within the prescribed time, see the provisions of 26 U.S.C. 6656.

(e) *Application of this section and § 25.166.* The application of regulations in this section and in § 25.166, relating to electronic fund transfer as a method of taxpayment, is suspended until notification appears in the **Federal Register**. This notification shall be published in the **Federal Register** not less than 30 days prior to the date when this section and § 25.166 begin to apply.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended) (26 U.S.C. 6302))

§ 25.166 ATF Publication 5000.8, Payment of Tax by Electronic Fund Transfer.

Upon notification required under § 25.165(b)(1), the regional regulatory administrator will issue to the brewer an ATF procedure entitled "Payment of Tax by Electronic Fund Transfer" (ATF P 5000.8). This publication outlines the procedure a brewer is to follow when preparing returns and remittances and when instructing the bank to effect an EFT.

§ 25.167 Payment of reduced rate of tax.

(a) *By return, Form 5130.7.* A brewer who is eligible to pay the reduced rate of tax on beer may, upon filing the notice required by § 25.168, pay the reduced rate of tax on beer by semimonthly return as provided in § 25.164 or by prepayment return as provided in § 25.175. Payment of the reduced rate of tax on beer by return, Form 5130.7, may commence with any tax return filed

during a calendar year and will continue until the brewer has taxpaid 60,000 barrels of beer at the lower rate of tax, or taxpaid the number of barrels of beer apportioned under § 25.168(b)(3) for that calendar year.

(b) *By claim for refund of tax.* A brewer, eligible to pay the reduced rate of tax on beer during a calendar year, but who has not paid the reduced rate of tax by return during that year, may file a claim, Form 843, for refund of tax excessively paid on beer during that year. Claims for refund of tax will be filed as provided in § 25.285.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended) (26 U.S.C. 5051))

§ 25.168 Notice of brewer to pay reduced rate of tax.

(a) *Requirement to file notice.* Every brewer who desires to pay the reduced rate of tax on beer authorized by 26 U.S.C. 5051(a)(2) by tax return, Form 5130.7, shall prepare a notice containing the information required by paragraph (b) of this section. The brewer shall file this notice with the copy of the tax return sent to the regional regulatory administrator for the first return period (or prepayment return) during which the brewer pays tax on beer at the reduced rate. The brewer shall file the notice each year in which payment of the reduced rate of tax on beer is made by return.

(b) *Information to be furnished.* Each notice described in paragraph (a) of this section will contain the following information:

(1) A statement that the brewer will not or is not likely to produce more than 2,000,000 barrels of beer in the calendar year for which the notice is filed.

(2) A statement that the brewer is not a member of a controlled group of brewers, or if the brewer is a member of a controlled group of brewers, a statement that the controlled group will not or is not likely to produce more than 2,000,000 barrels of beer in the calendar year for which the notice is filed.

(3) If the brewer operates more than one brewery, a statement of the locations of all the breweries and a statement of how the 60,000 barrel limitation for the reduced rate of tax will be apportioned among the breweries. If the brewer is a member of a controlled group of brewers, a statement of the names and locations of all other brewers in the group and a statement of how the 60,000 barrel limitation will be apportioned among the brewers in the group.

(c) *Foreign brewer's production statement.* Each brewer who operates foreign breweries or each brewer who is a member of a controlled group of brewers which has one or more foreign members, and who has paid the reduced rate of tax by return during a calendar year, shall prepare an additional notice. The brewer shall list all breweries operated, or all member brewers in the controlled group of brewers, and shall state their combined production (in barrels of 31 U.S. gallons) for the calendar year in which the brewer paid tax at the reduced rate. The brewer shall file the notice with the regional regulatory administrator together with the tax return, Form 5130.7, covering the last return period in the calendar year.

(d) *Perjury statement.* Each notice described in this section will be executed by the brewer under penalties of perjury as required by § 25.11.

(Act of Aug. 16, 1954, 68A Stat. 749, as amended (26 U.S.C. 6065); sec. 201 Pub. L. 85–859, 72 Stat. 1390, as amended, 1395, as amended (26 U.S.C. 5415, 5555))

§ 25.169 Employer identification number.

The employer identification number (defined at 26 CFR 301.7701–12) of the taxpayer who has been assigned the number will be shown on each return on Form 5130.7, filed under this part. Failure of the taxpayer to include the employer identification number on Form 5130.7 may result in imposition of the penalty specified in 26 CFR 301.6676–1. A brewer shall apply for an employee identification number on Form SS–4 as provided in §§ 25.122 and 25.123.

(Pub. L. 87–397, 75 Stat. 828, as amended (26 U.S.C. 6109, 6676))

Prepayment of Tax

§ 25.173 Brewer in default.

(a) When a remittance in payment of taxes on beer is not paid upon presentment of check or money order tendered, or when the brewer is otherwise in default in payment of tax under § 25.164, beer may not be removed for consumption or sale or taken from the brewery for consumption or sale until the tax has been prepaid as provided in § 25.175. The brewer shall continue to prepay while in default and thereafter until the regional regulatory administrator finds the revenue will not be jeopardized by deferred payment of tax as provided in § 25.164.

(b) Any remittance made while the brewer is required to prepay under this section will be in cash or in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the law of any State, Territory, or possession of the United States, or in the form of a money order as provided in 26 CFR 301.6311–1 (payment by check or money order), or will be effected in the form of an electronic fund transfer as provided by §§ 25.164 and 25.165.

§ 25.174 Bond not sufficient.

When the penal sum of the brewer's bond is in less than the maximum amount, the brewer shall prepay the tax on any withdrawal which would cause the outstanding liability for tax to exceed the limits of coverage of the bond. Prepayments will be made in accordance with § 25.175.

§ 25.175 Prepayment of tax.

(a) *General.* When a brewer is required to prepay tax under § 25.173, or if the penal sum of the bond, Form 5130.22, is insufficient for deferral of payment of tax on beer to be removed for consumption or sale, or if a brewer is not entitled to defer the tax under the provisions of this subpart, the brewer shall prepay the tax before any beer is removed for consumption or sale, or taken out of the brewery for removal for consumption or sale.

(b) *Method of prepayment.* (1) Prepayment will be made by forwarding or delivering to the district director a tax return, Form 5130.7, with remittance covering the tax on beer.

(2) If a brewer is required by § 25.165 to effect payment of tax by electronic fund transfer, the brewer shall prepay the tax before any beer can be removed for consumption or sale by completing the return and by delivering or forwarding it to the director of the service center and by delivering or forwarding a copy to the regional regulatory administrator. At the same time, the brewer shall direct his or her bank to effect an EFT.

(3) For the purpose of complying with this section, the term "forwarding" means depositing in the U.S. mail, properly addressed to the district director, director of the service center, or the regional regulatory administrator, as the case may be.

(Act. of Aug. 16, 1954, 68A Stat. 777, as amended (26 U.S.C. 6311); sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

Failure To Pay Tax

§ 25.177 Evasion of or failure to pay tax; failure to file a tax return.

Sections 5671, 5673, 5684 and 6651 of Title 26 United States Code provide penalties for evasion or failure to pay tax on beer, or for failure to file a tax return.

(Act. of Aug. 16, 1954, 68A Stat. 821, as amended (26 U.S.C. 6651); sec. 201, Pub. L. 85–859, 72 Stat. 1408, 1410, as amended (26 U.S.C. 5671, 5673, 5684))

Subpart L—Removals Without Payment of Tax

Transfer to Another Brewery of Same Ownership

§ 25.181 Eligibility.

A brewer may remove beer without payment of tax for transfer to any other brewery of the same ownership. These removals include a removal from a brewery owned by one corporation to a brewery owned by another corporation if (a) one corporation owns the controlling interest in the other corporation, or (b) the controlling interest in each corporation is owned by the same person. Beer removed under this section may, while in transit, be reconsigned to another brewery of the same ownership or be returned to the shipping brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5414))

§ 25.182 Kinds of containers.

A brewer may transfer beer without payment of tax from one brewery to another brewery belonging to the same brewer (a) in the brewer's packages or (b) in tanks, tank cars, tank trucks, tank ships, barges, or deep tanks of vessels, subject to limitations and conditions as may be imposed by the regional regulatory administrator. The brewer shall mark, brand or label containers as provided by Subpart J of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5414))

§ 25.183 Determination of quantity transferred.

The shipping brewer shall determine the quantity of beer shipped at the time of removal from the consignor brewery, and the receiving brewer shall determine the quantity of beer received at the time of receipt at the consignee brewery. The brewer shall equip the consignor and consignee breweries with suitable measuring devices to allow accurate determination of the quantities of beer to be shipped and received in bulk conveyances.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5414))

§ 25.184 Losses in transit.

(a) *Liability for losses.* The brewer is liable under the bond of the brewery to which beer is transferred for the tax on beer lost in transit. If the brewer reconsigns beer while in transit, or returns beer to the shipping brewery, the brewer is liable under the bond of the brewery to which the beer is reconsigned or returned to for the tax on beer lost in transit.

(b) *Losses allowable without claim.* If loss of beer being transferred in tanks, tank cars, tank trucks, tank ships, barges, or deep tanks of vessels during transit does not exceed two percent of the quantity shipped, the brewer is not required to file a report of loss or a claim for allowance of the loss if there are no circumstances indicating that the beer, or any portion of the beer lost, was stolen or otherwise diverted to an unlawful purpose.

(c) *Losses requiring claim.* If loss of beer during transit exceeds two percent of the quantity shipped, the brewer shall submit a claim under penalties of perjury for remission of the tax on the entire loss. The brewer shall submit the claim to the regional regulatory administrator of the region in which the brewery to which the beer was shipped, reconsigned or returned, is located. The brewer shall prepare and submit the claim as provided in § 25.286.

(d) *Losses requiring immediate report.* (1) The brewer shall report to the regional regulatory administrator a loss by fire, theft, casualty or any other unusual loss as soon as it becomes known.

(2) The brewer shall report to the regional regulatory administrator any loss of beer in packages as soon as it becomes known.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended, 1389 (26 U.S.C. 5056, 5414))

§ 25.185 Mingling.

Beer transferred without payment of tax from one brewery to another brewery belonging to the same brewer may be mingled with beer of the receiving brewery. The brewer may handle the beer transferred in accordance with the requirements of this part relating to beer produced in the receiving brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5414))

§ 25.186 Record of beer transferred.

(a) *Preparation of invoice.* When beer is transferred between breweries without payment of tax, the shipping brewer shall prepare a serially numbered invoice or commercial record, in duplicate, covering the transfer. The invoice will be marked "transfer without payment of tax" and will contain the following information:

(1) Name and address of shipping brewer;

(2) Date of shipment;

(3) Name and address of receiving brewer;

(4) For cases, the number and size of cases and the total barrels;

(5) For kegs, the number and size of kegs and the total barrels;

(6) For shipments in bulk containers, the type of container, identify of the container and the total barrels.

(b) *Reconsignment of beer.* When beer is reconsigned in transit to another brewery of the same ownership, the shipping brewer shall (1) prepare a new invoice showing reconsignment to another brewery and shall void all copies of the original invoice, or (2) shall mark all copies of the original invoice with the words "Reconsigned to ———", followed by the name and address of the brewery to which the beer is reconsigned.

(c) *Disposition of invoice.* On shipment of the beer, the shipping brewer shall send the original copy of the invoice to the receiving brewer, and shall retain the other copy for the files. On receipt of the beer, the receiving brewer (including a brewer to whom beer was returned or reconsigned in transit) shall note on the invoice any discrepancies in the beer received, and retain the invoice in the files.

(d) *Preparation of records and report.* The shipping brewer shall use the invoice showing beer removed to another brewery without payment of tax in preparing daily records under § 25.292, and in preparing the monthly report, Form 5130.9. The receiving brewer (including a brewer to whom beer was returned or reconsigned in transit) shall use the invoice showing beer received from another brewery without payment of tax in preparing daily records under § 25.292 and in preparing the monthly report, Form 5130.9.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5414))

Removal of Beer Unfit for Beverage Use

§ 25.191 General.

A brewer may remove sour or damaged beer, or beer which the brewer has deliberately rendered unfit for beverage use, from the brewery without payment of tax, for use in manufacturing.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

§ 25.192 Removal of sour or damaged beer.

(a) *Packages.* The brewer shall remove sour or damaged beer in casks, or other packages, containing not less than one barrel each and unlike those ordinarily used for packaging beer. The brewer shall mark the nature of the contents on each cask or package.

(b) *Beer meter.* The brewer shall remove sour or damaged beer without

passing it through the meter (if any) or racking machine.

(c) *Records and reports.* The brewer shall record removal of sour or damaged beer in daily records under § 25.292, and on the monthly report, Form 5130.9.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

Removals for Analysis, Research, Development or Testing

§ 25.195 Removals for analysis.

A brewer may remove beer, without payment of tax, to a laboratory for analysis to determine the character or quality of the product. Beer may be removed for analysis in packages, or in bulk containers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

§ 25.196 Removals for research, development or testing.

(a) A brewer may remove beer, without payment of tax, for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment relating to beer or brewery operations. Beer may be removed for research, development or testing in packages, or in bulk containers.

(b) The brewer shall mark each barrel, keg, case, or shipping container with the name and address of the brewer and of the consignee, the identity of the product, quantity of the product, and the words "Not for Consumption or Sale." If beer is removed in a bulk conveyance, the brewer shall place the marks on the route board of the conveyance.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

Removal of Beer to Contiguous Distilled Spirits Plant

§ 25.201 Removal by pipeline.

A brewer may remove beer from the brewery, without payment of tax, by pipeline to the bonded premises of a distilled spirits plant which is authorized to produce distilled spirits and which is located contiguous to the brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1365, as amended, 1389, as amended (26 U.S.C. 5222, 5412))

Exportation

§ 25.203 Exportation without payment of tax.

A brewer may remove beer without payment of tax (a) for exportation, (b) for use as supplies on vessels and aircraft, or (c) for transfer to and deposit in foreign-trade zones for exportation or for storage pending exportation, in accordance with Part 252 of this chapter. Beer may be removed from a brewery in bottles, kegs, tanks, tank cars, tank trucks, tank ships, barges, or deep tanks of vessels.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

Beer for Personal or Family Use

§ 25.205 Production.

(a) Any adult may produce beer, without payment of tax, for personal or family use and not for sale. An adult is any individual who is 18 years of age or older. However, if the locality in which the household is located requires a greater minimum age for the sale of beer to individuals, the adult shall be that age before commencing the production of beer. This exemption does not authorize the production of beer for use contrary to State or local law.

(b) The production of beer per household, without payment of tax, for personal or family use may not exceed:

(1) 200 gallons per calendar year if there are two or more adults residing in the household, or

(2) 100 gallons per calendar year if there is only one adult residing in the household.

(c) Partnerships except as provided in § 25.207, corporations or associations may not produce beer, without payment of tax, for personal or family use.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

§ 25.206 Removal of beer.

Beer made under § 25.205 may be removed from the premises where made for personal or family use including use at organized affairs, exhibitions or competitions such as homemaker's contests, tastings or judging. Beer used under this section may not be sold or offered for sale.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

§ 25.207 Removal from brewery for personal or family use.

Any adult, as defined in § 25.205, who operates a brewery under this part as an individual owner or in partnership with others, may remove beer from the brewery without payment of tax for personal or family use. The amount of beer removed for each household, without payment of tax, per calendar year may not exceed 100 gallons if there is one adult residing in the household or 200 gallons if there are two or more adults residing in the household. Beer removed in excess of the above limitations will be reported as a taxable removal.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

Subpart M—Beer Returned to Brewery

§ 25.211 Beer returned to brewery.

(a) *General.* Beer, produced in the United States, on which the brewer has paid or determined the tax may be returned to any brewery of the brewer. Upon return of the beer to the brewery, the brewer shall determine the actual quantity of beer received, expressed in barrels. For cases or bottles, the label may be used to determine the quantity. When kegs or cases containing less than the actual contents are received, the brewer shall determine the actual quantity of beer by weight or by other accurate means. The brewer shall determine the balling and alcoholic content of returned keg beer unless the keg is equipped with tamper-proof fittings.

(b) *Dispostion of returned beer.* The brewer may dispose of beer returned under this subpart in any manner prescribed for beer which has never left the brewery. If returned beer is again removed for consumption or sale, tax will be determined and paid without respect to the tax which was determined or paid at the time of prior removal of the beer.

(c) *Records.* For beer returned to the brewery under this subpart, the brewer's daily records under § 25.292 will show:

(1) Date;

(2) Quantity of beer returned;

(3) If the title to the beer has passed, the name and address of the person returning the beer; and

(4) Name and address of the brewery from which the beer was removed, if different than brewery to which returned.

(d) *Supporting records.* The records of returned beer will be supported by invoices, credit memorandums or other commercial papers, and will differentiate between beer returned to the brewery from which removed, and beer returned to a brewery different from the one from which removed.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1335, as amended, 1390, as amended (26 U.S.C. 5054, 5056, 5415))

§ 25.212 Beer returned to brewery from which removed.

If beer on which the tax has been determined or paid is returned to the brewery from which removed, the brewer shall take the quantity of beer as an offset or deduction against the quantity of beer removed for

consumption or sale from the brewery on that business day, as provided in § 25.159.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended, 1390, as amended (26 U.S.C. 5056, 5415))

§ 25.213 Beer returned to brewery other than that from which removed.

(a) *Refund or adjustment of tax.* If beer on which the tax has been determined or paid is returned to a brewery of the brewer other than that from which removed, the brewer may make a claim for refund or relief of tax, or may make an adjustment to the beer tax return, for the tax on the beer returned to the brewery. The brewer may not take an offset for beer returned to the brewery other than the one from which removed. Procedures for filing claims for refund or relief of tax, or for making adjustments to the beer tax return are contained in Subpart T of this part.

(b) *Notice.* A brewer need not file notice of intention to return beer to a brewery other than that from which removed unless required by the regional regulatory administrator. When a notice is required, the brewer shall serially number each notice and execute it under penalties of perjury as defined in § 25.11. The notice will contain the following information:

(1) The number and sizes of kegs and the actual quantity of beer, in barrels; or the number of cases and the number and sizes of bottles within the cases, and the actual quantity of beer in barrels.

(2) The name and address of the brewery from which the beer was removed.

(3) A statement that the tax on the beer has been fully paid or determined and the rate at which the tax on the beer was paid or determined.

(4) If the title to the beer has passed, the name and address of the person returning the beer.

(c) *Return of beer.* If the brewer is required to file a notice of intention to return beer to the brewery, the brewer may bring the beer onto the brewery premises prior to filing the notice. The brewer shall segregate the returned beer from all other beer at the brewery, and clearly identify it as returned beer. The returned beer will be retained intact for inspection by an ATF officer until the notice has been filed and disposition authorized.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

Subpart N—Voluntary Destruction

§ 25.221 Voluntary destruction of beer.

(a) *On brewery premises.* A brewer may destroy, at the brewery, beer on which the tax has not been determined or paid.

(b) *Destruction without return to brewery.* A brewer may destroy beer on which the tax has been paid or determined at a location other than any of the breweries operated by the brewer, upon compliance with this subpart.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

§ 25.222 Notice of brewer.

(a) *When required.* The regional regulatory administrator may require, in writing, the brewer to give notice of intention to destroy beer at a location other than one of the brewer's breweries. The notice will be given to the regional regulatory administrator of the region in which the beer is to be destroyed. The brewer may submit this notice directly to an ATF officer at any of the brewer's breweries if the brewery is in the same region as the place of destruction.

(b) *Execution of notice.* The brewer shall serially number each notice, and execute each notice under penalties of perjury as defined in § 25.11. The brewer shall specify the date on which the beer is to be destroyed; this date may not be less than 12 days from the date of the notice.

(c) *Information to be furnished.* The notice will contain the following information:

(1) The number and sizes of kegs and the actual quantity of beer, in barrels; or the number of cases and the number and sizes of bottles within the cases, and the actual quantity of beer in barrels. When kegs containing less than the actual contents are to be destroyed, the brewer shall determine the actual content of beer by weight or by other accurate means.

(2) The date on which the beer was received for destruction.

(3) A statement that the tax on the beer has been fully paid or determined and the rate at which the tax on the beer was paid or determined.

(4) If the title of the beer has passed, the name and address of the person returning the beer.

(5) The location at which the brewer desires to destroy the beer and the reason for not returning the beer to the brewery.

(Sec. 201 Pub. L. 85–859, 72 stat. 1335, as amended (26 U.S.C. 5056))

§ 25.223 Destruction of beer.

(a) *Destruction without supervision.* A brewer may destroy beer without supervision—

(1) If the regional regulatory administrator does not advise the brewer before the date specified in the notice that destruction of the beer is to be supervised, or

(2) If the regional regulatory administrator does not require the brewer to file a notice of intention to destroy beer under § 25.222.

(b) *Destruction with supervision.* The regional regulatory administrator may require that an ATF officer verify the information in the notice of destruction, or witness the destruction of the beer. The regional regulatory administrator may also require a delay in the destruction of the beer or, if the place of destruction is not readily accessible to an AFT officer, may require that the beer be moved to a more convenient location. In this case, the brewer may not destroy the beer except under the conditions imposed by the regional regulatory administrator.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

§ 25.224 Refund or adjustment of tax.

(a) *Claim for refund or relief of tax.* The tax paid by a brewer on beer produced in the United States and destroyed in accordance with this subpart may be refunded to the brewer. If the tax has not been paid, the brewer may be relieved of liability for the tax. Claims for refund or relief of tax will be filed as provided in Subpart T of this part.

(b) *Adjustments to the beer tax return.* A brewer may make an adjustment (without interest) to the beer tax return, Form 5130.7, covering the tax paid on beer produced in the United States and destroyed in accordance with this subpart. Procedures for making adjustments to tax returns are contained in Subpart T of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

Subpart O—Beer Purchased From Another Brewer

§ 25.231 Finished beer.

(a) A brewer may obtain beer in barrels and kegs, finished and ready for sale from another brewer. The purchasing brewer may furnish the producing brewer barrels and kegs marked with the purchasing brewer's name and location. The producing brewer shall pay the tax as provided in Subpart K of this part.

(b) A brewer may not purchase taxpaid or tax determined beer from another brewer in bottles or cans which bear the name and address of the purchasing brewer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5413))

§ 25.232 Wholesaler's basic permit

A brewer who engages in the business of purchasing beer from another brewer is required to possess a wholesaler's basic permit under the provisions of section 3(c) of the Federal Alcohol Administration Act and Part 1 of this chapter.

Subpart P—Cereal Beverage

§ 25.241 Production.

Brewers may produce cereal beverage and remove it without payment of tax from the brewery. The method of production shall insure that the alcohol content of the cereal beverage will not increase while in the original container after removal from the brewery. The brewer shall keep cereal beverage separate from beer, and shall measure the amount of cereal beverage transferred for packaging in accordance with § 25.41.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

§ 25.242 Markings.

(a) *Designation.* When bottled or packaged, cereal beverage may be designated "Cereal Beverage", "Malt Beverage", "Near Beer", or other distinctive name. If designated "Near Beer", the words will be printed identically in the same size or style of type, in the same color of ink, and on the same background.

(b) *Barrels and Kegs.* A brewer may remove cereal beverage in barrels and kegs if the sides are durably painted at each end with a white stripe not less than 4 inches in width and the heads are painted in a solid color, with conspicuous lettering in a contrasting color reading "Nontaxable under section 5051 I.R.C." The word "Nontaxable" shall be not less than one inch high and of proportionate width, and the remaining words shall be not less than ½ inch high and of proportionate width. The brewer shall also legibly mark the brewer's name or trade name and the address on the container.

(c) *Bottles.* Bottle labels shall show the name or trade name and address of the brewer, the distinctive name of the beverage, if any, and the legend "Nontaxable under section 5051 I.R.C." Other information which is not inconsistent may be shown on bottle labels.

(d) *Cases.* The brewers shall mark cases or shipping containers to show the nature of the product, and the name or trade name and address of the brewer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

Subpart Q—Removal of Brewer's Yeast and Other Articles

§ 25.251 Authorized removals.

(a) *Brewer's yeast.* A brewer may remove brewer's yeast, in liquid or solid form containing not less than 10 percent solids (as determined by the methods of analysis of the American Society of Brewing Chemists), from the brewery in barrels, tank trucks, in other suitable containers, or by pipeline.

(b) *Containers.* Containers will bear a label giving the name and location of the brewery and including the words "Brewer's Yeast."

(c) *Pipeline.* If brewer's yeast is removed by pipeline, the pipeline will be described in the Brewer's Notice, Form 5130.10. The premises where the brewer's yeast is received is subject to inspection by an ATF officer during ordinary business hours.

(d) *Other articles.* A brewer may remove malt, malt syrup, wort, and other articles from the brewery.

(e) *Methods of Analysis of the American Society of Brewing Chemists, Seventh Edition (1976).* In reference to paragraph (a) of this section, this incorporation by reference was approved by the Director of the Federal Register on March 31, 1982, and is available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, DC. This publication is available from the American Society of Brewing Chemists, 40 Pilot Knob Road, St. Paul, Minnesota 55121.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

§ 25.252 Records.

(a) *Production.* The brewer shall keep records of the production of malt, malt syrup, wort, and other articles removed from the brewery. The record shall include the quantities and kinds of materials used, and in the case of wort and concentrated wort, the balling.

(b) *Removals.* The brewer shall keep records of removals of brewer's yeast and other articles from the brewery. The record shall include the quantity and date of removal of each lot, and the name and address of the consignee. These records may consist of invoices or shipping documents.

(c) *Inspection.* All records under this section shall be available for inspection by an ATF officer during normal business hours.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended (26 U.S.C. 5415))

Subpart R—Beer Concentrate

§ 25.261 General.

(a) *Authorized processes.* A brewer may, in accordance with this subpart—

(1) Produce concentrate from beer,

(2) Reconstitute beer from concentrate,

(3) Transfer concentrate from one brewery to another brewery of the same ownership, and

(4) Remove concentrate without payment of tax for exportation, or for transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation in accordance with part 252 of this chapter.

(b) *Brewery treatment of concentrate.* Beer reconstituted from concentrate in accordance with this subpart shall (except with respect to the additional labeling of reconstituted beer under § 25.263) be treated the same as beer which has not been concentrated and reconstituted.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

§ 25.262 Restrictions and conditions on processes of concentration and reconstitution.

(a) *Conditions on concentration.* A brewer may not employ any process of concentration which separates alcoholic spirits from any fermented substance.

(b) *Conditions on reconstitution.* (1) The process of reconstitution of beer will consist of the addition to the concentrate of carbon dioxide and water only.

(2) A brewer may not employ any process of concentration or reconstitution unless the beer, upon reconstitution, will without the addition of any substance other than carbon dioxide and water, possess the taste, aroma, color, and other characteristics of beer which has not been concentrated.

(3) The process of reconstitution shall provide for the addition of sufficient water to restore the concentrate to a volume not less than, and an alcoholic content not greater than, that of the beer used to produce the concentrate.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1315, as amended, 1388, as amended (26 U.S.C. 5002, 5401))

§ 25.263 Production of concentrate and reconstitution of beer.

(a) *Operations at brewery.* A brewer may concentrate beer or reconstitute beer only at a brewery.

(b) *Marking of containers.* Containers of concentrate transferred to other breweries of the same ownership, and containers of concentrate removed for export shall be marked, branded and labeled in the same manner as prescribed for containers of beer in Subpart J of this part. All containers shall be identified as containers of beer concentrate.

(c) *Mingling with beer.* A brewer may not mingle concentrate with unconcentrated beer. A brewer may mingle reconstituted beer with other beer at the receiving brewery.

(d) *Additional labeling.* Barrels, kegs, and bottles containing beer produced from concentrate will show by label or otherwise the statement "PRODUCED FROM ———— CONCENTRATE", the blank to be filled in with the appropriate class designation of the beer (beer, lager, ale, stout, etc.) from which the concentrate was made. This statement will be conspicuous and readily legible and, in the case of bottled beer, will appear in direct conjunction with, and as a part of, the class designation. All parts of the class designation will appeal in lettering of substantially the same size and kind.

(e) *Records and reports.* Brewers producing concentrate and brewers reconstituting beer from concentrate shall keep the records and reports required by Subpart U of this part.

§ 25.264 Transfer between breweries.

(a) *Authorized transfers.* A brewer may remove from the brewery, without payment of tax, concentrate produced from beer for transfer to any other brewery of the same ownership (within the limits of ownership described in § 25.181).

(b) *Record of concentrate transferred.* When transferring concentrate between breweries, the shipping brewer shall prepare for each conveyance, a serially numbered invoice or commercial record covering the transfer. The invoice will be clearly marked to indicate concentrate produced from beer is being transferred. The invoice will contain the following information:

(1) Name and address of shipping brewer;

(2) Date of shipment;

(3) Name and address of receiving brewer;

(4) The number of containers transferred, the balling, percentage of alcohol by volume, and the total barrels of concentrate; and

(5) A description of the beer from which the concentrate was produced including the number of barrels, balling, and percentage of alcohol by volume

(d) *Disposition of invoice.* On shipment of the concentrate, the shipping brewer shall send the original copy of the invoice to the receiving brewer, and shall retain a copy for the brewery files. On receipt of the concentrate, the receiving brewer shall note on the invoice any discrepancies in the concentrate received, and retain the invoice in the brewery files.

Subpart S—Pilot Brewing Plants

§ 25.271 General.

(a) *Establishment.* A person may establish and operate a pilot brewing plant off the brewery premises for research, analytical, experimental, or developmental purposes with regard to beer or brewery operations. Pilot brewing plants will be established as provided in this subpart.

(b) *Authorized removals.* Beer may be removed from a pilot brewing plant only for analysis or organoleptic examination.

(c) *Transfers between brewery and pilot brewing plant.* Subject to Subpart L of this part, beer may be transferred to a pilot brewing plant from a brewery of the same ownership, and beer may be transferred without payment of tax from a pilot brewing plant to a brewery of the same ownership.

(d) *Other regulations applicable.* The provisions of Subparts A, B, F, I, K, and of §§ 25.63, 25.64, and 25.21 are applicable to pilot brewing plants established under this subpart. Also, the provisions of §§ 25.72–25.75, 25.77, 25.92 and 25.94–25.105 relating to bonds, and consents of surety, and §§ 25.11–25.134 are applicable to bonds, and consents of surety given, and to changes in the proprietorship, location, and premises of pilot brewing plants established under this subpart.

(Sec. 4, Pub. L. 91–673, 84 Stat. 2057, as amended (26 U.S.C. 5417))

§ 25.272 Application.

(a) *Form of application.* Any person desiring to establish a pilot brewing plant under this subpart shall file an application with the regional regulatory administrator. The application will be in writing and will include the following:

(1) Name and address of the applicant;

(2) Description of the premises and equipment to be used in the operations;

(3) Nature, purpose, and extent of the operations; and

(4) A statement that the applicant agrees to comply with all provisions of this part applicable to the operations to be conducted.

(b) *Additional information.* The regional regulatory administrator may at any time before or after approval of an application, require the submission of additional information necessary for administration of this part or for protection of the revenue.

(c) *Authorization of operations.* The regional regulatory administrator may authorize the operation of a pilot brewing plant if he or she determines that the plant will be operated solely for one or more of the purposes specified in § 25.271, and that operations will not jeopardize the revenue.

(d) *Withdrawal of authorization.* The regional regulatory administrator may withdraw authorization to operate a pilot brewing plant if in his or her judgement, the revenue would be jeopardized by the operations of the plant.

(e) *Commencement of operations.* A person may not begin operation of a pilot brewing plant until the regional regulatory administrator has approved the application required by this section.

(Sec. 4, Pub. L. 91–673, 84 Stat. 2057, as amended (26 U.S.C. 5417))

§ 25.273 Action on application.

If the regional regulatory administrator approves the application for a pilot brewing plant, he or she will note approval on the application and forward a copy to the applicant. The applicant shall file the copy of the application at the premises, available for inspection by an ATF officer.

§ 25.274 Bond.

(a) *Requirement.* Any person requesting authorization to establish a pilot brewing plant under this subpart shall execute and file a brewer's bond, Form 5130.22. A person may not begin operation of a pilot brewing plant until receiving notice from the regional regulatory administrator of the approval of the bond. Operations may continue only as long as an approved bond is in effect.

(b) *Penal sum.* The penal sum of a bond covering the premises of a pilot brewing plant will be an amount equal to the potential tax liability of the maximum quantity of beer on hand, in transit to the plant, and unaccounted for at any one time, computed by multiplying the quantity of beer in barrels by the rate of tax in 26 U.S.C 5051. The penal sum of the bond (or total penal sum if original and strengthening bonds are filed) may not exceed $50,000 or be less than $500.

(c) *Conditions of bonds.* The bond will be conditioned that the operator of the pilot brewing plant shall pay, or cause to be paid, to the United States according to the laws of the United States and the provisions of this part, the taxes, including penalties and interest for which the operator shall become liable, on all beer brewed, produced, or received on the premises.

(Sec. 4, Pub. L. 91-673, 84 Stat. 2057, as amended (26 U.S.C. 5417))

§ 25.275 Special tax.

The special tax imposed on a brewer by 26 U.S.C. 5091 shall be paid in accordance with Subpart I of this part.

§ 25.276 Operations and records.

(a) *Commencement of operations.* A person may commence operation of a pilot brewing plant upon receipt of the approved application and bond.

(b) *Reports.* The operator of a pilot brewing plant is not required to file monthly reports with the regional regulatory administrator.

(c) *Records.* The operator of a pilot brewing plant shall maintain records which, in the opinion of the regional regulatory administrator, are appropriate to the type of operation being conducted. These records will include information sufficient to fully account for the receipt, production, and disposition of all beer received or produced on the premises, and the receipt (and disposition, if removed) of all brewing materials. These records will be available for inspection by an ATF officer.

(Sec. 4, Pub. L. 91-673, 84 Stat. 2057, as amended (26 U.S.C. 5417))

§ 25.277 Discontinuance of operations.

When operations of a pilot brewing plant are to be discontinued, the operator shall notify the regional regulatory administrator stating the purpose of the notice and giving the date of the discontinuance. When operations have been completed and all beer at the premises has been disposed of and accounted for, the regional regulatory administrator will note approval on the notice and return a copy to the operator.

Subpart T—Refund or Adjustment of Tax or Relief From Liability

§ 25.281 General.

(a) *Reasons for refund or adjustment of tax or relief from liability.* The tax paid by a brewer on beer produced in the United States may be refunded or adjusted on the tax return (without interest) or, if the tax has not been paid, the brewer may be relieved of liability for the tax on:

(1) Beer returned to any brewery of the brewer subject to the conditions outlined in Subpart M of this part;

(2) Beer voluntarily destroyed by the brewer subject to the conditions outlined in Subpart N of this part;

(3) Beer lost by fire, theft, casualty, or act of God subject to the conditions outlined in § 25.282.

(b) *Refund of beer tax excessively paid.* A brewer may be refunded the tax excessively paid on beer subject to the conditions outlined in § 25.285.

(c) *Rate of tax.* Brewers who have filed the notice required by § 25.168 and who have paid the tax on beer at the reduced rate of tax shall make claims for refund or relief of tax, or adjustments on the tax return based upon the lower rate of tax. However, any brewer may make adjustments or claims for refund or relief of tax based on the higher rate of tax if the brewer can establish to the statisfaction of the regional regulatory administrator that he or she paid or determined the tax on the beer at the higher rate of tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

§ 25.282 Beer lost by fire, theft, casualty, or act of God.

(a) *General.* The tax paid by any brewer on beer produced in the United States may be adjusted (without interest) on the beer tax return, may be refunded or credited (without interest) or, if the tax has not been paid, the brewer may be relieved of liability for the tax if, before transfer of title to the beer to any other person, the beer is lost, whether by theft or otherwise, or is destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God. The tax liability on excessive losses of beer from transfers between breweries of the same ownership may be remitted as provided in § 25.286.

(b) *Unmerchantable beer.* When beer is rendered unmerchantable by fire, casualty, or act of God, refund, credit or adjustment of tax, or relief from liability of tax will not be allowed unless the brewer proves to the satisfaction of the regional regulatory administrator that the beer cannot be salvaged and returned to the market for consumption or sale.

(c) *Beer lost or destroyed.* When beer is lost or destroyed, whether by theft or otherwise, the regional regulatory administrator may require the brewer to file a claim for relief from the tax and to submit proof as to the cause of the loss.

(d) *Beer lost by theft.* When it appears that beer was lost by theft, the tax shall be collected unless the brewer proves to the satisfaction of the regional regulatory administrator that the theft occurred before removal from the brewery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(e) *Notification of regional regulatory administrator.* A brewer who sustains a loss of beer before transfer of title of the beer to another person and who desires to adjust the tax on the beer tax return or to file a claim for refund or for relief from liability of tax, shall, on learning of the loss of beer, immediately notify the regional regulatory administrator of the region in which the loss occurred of the nature, cause, and extent of the loss, and the place where the loss occurred. Statements of witnesses or other supporting documents shall be furnished if available.

(f) *Additional information.* The regional regulatory administrator may require the brewer to submit additional evidence necessary to verify the tax adjustment or for use in connection with a claim.

(Sec. 201, Pub. L. 85-589, 72 Stat. 1335, as amended (26 U.S.C. 5056))

§ 25.283 Claims for refund of tax.

(a) *Beer returned to brewery or voluntarily destroyed.* Claims for refund of tax on beer returned to a brewery under the provisions of § 25.213 or voluntarily destroyed at a location other than a brewery shall include:

(1) The name and address of the brewer filing the claim, the address of the brewery from which the beer was removed, and the address of the brewery to which the beer was returned, as applicable;

(2) The quantity of beer covered by the claim and the rate(s) of tax at which the beer was tax paid or determined;

(3) The amount of tax for which the claim is filed;

(4) The reason for return or voluntary destruction of the beer and the related facts;

(5) Whether the brewer is indemnified by insurance or otherwise in respect of the tax, and if so, the nature of the indemnification;

(6) The claimant's reasons for believing the claim should be allowed;

(7) The date the beer was returned to the brewery, if applicable;

(8) The name of the person from whom the beer was received;

(9) A statement that the tax has been fully paid or determined; and

(10) A reference to the notice (if required by the regional regulatory administrator) filed under §§ 25.213 or 25.222.

(b) *Beer lost, destroyed, or rendered unmerchantable.* Claims for refund of tax on beer lost, whether by theft or otherwise, or destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God shall contain:

(1) Information required by paragraphs (a)(1), (2), (3), (5), (6) of this section;

(2) A statement of the circumstances surrounding the loss;

(3) When applicable, the reason the beer rendered unmerchantable cannot be returned to the market for consumption or sale;

(4) Date of the loss, and if lost in transit, the name of the carrier;

(5) A reference incorporating the notice required by § 25.282; and

(6) When possible, affidavits of persons having knowledge of the loss, unless the affidavits are contained in the notice given under § 25.282.

(c) *Additional evidence.* The regional regulatory administrator may require the submission of additional evidence in support of any claim filed under this section which he or she considers necessary for proper action on the claim.

(d) *Filing of claim.* Claims for refund of tax shall be filed on Form 843 with the regional regulatory administrator of the region in which the beer was lost, returned, destroyed, or rendered unmerchantable. Claims shall be filed within 6 months after the date of the return, loss, destruction, or rendering unmerchantable. Claims will not be allowed if filed after the prescribed time or if the claimant was indemnified by insurance or otherwise in respect of the tax.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

§ 25.284 Adjustment of tax.

(a) *Adjustment of tax in lieu of refund.* In lieu of filing a claim for refund of tax as provided in § 25.283, a brewer may make an adjustment (without interest) to the beer tax return, Form 5130.7, for the amount of tax paid on beer returned to the brewery, voluntarily destroyed, lost, destroyed, or rendered unmerchantable.

(b) *Beer returned to brewery other than from which removed.* An adjustment may be made on the beer tax return for the amount of tax paid on beer returned to the brewery under § 25.213. The adjustment will be made on the tax return filed for the brewery to which the beer was returned. The adjustment may not be made prior to the return of beer to the brewery. If the brewer is required to file a notice under § 25.213, the adjustment may not be made until the regional regulatory administrator authorizes disposition of the beer.

(c) *Beer voluntarily destroyed.* An adjustment may be made on the beer tax return for the amount of tax paid on beer voluntarily destroyed under subpart N of this part. The adjustment will be made on the tax return filed for the brewery from which the beer was removed. The adjustment may not be made prior to the destruction of the beer.

(d) *Beer lost, destroyed or rendered unmerchantable.* An adjustment may be made on the beer tax return for the amount of tax paid on beer lost, destroyed, or rendered unmerchantable under § 25.282. The adjustment will be made on the tax return filed for the brewery from which the beer was removed. A brewer may not make an adjustment prior to notification of the regional regulatory administrator required under § 25.282(e). In the case in which beer appears to have been lost due to theft, the brewer may not make an adjustment to the tax return until establishing to the satisfaction of the regional regulatory administrator that theft occurred before removal from the brewery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(e) *Conditions on adjustments.* (1) All adjustments will be made within 6 months of the return, destruction, loss, or rendering unmerchantable of the beer.

(2) Adjustment of the tax paid will be made without interest.

(3) An adjustment may not be taken if the brewer was indemnified by insurance or otherwise in respect of the tax.

(f) *Records.* When brewers make adjustments on the beer tax return in lieu of filing a claim, they shall keep the following records:

(1) For beer returned to the brewery or voluntarily destroyed, the records required by §§ 25.283 (a) (1), (2), (4), (5), (7), (8), and (10).

(2) For beer lost, destroyed, or rendered unmerchantable, the records required by § 25.283(a) (1), (2), (5), (b) (2), (3), (4), (5), and (6).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

§ 25.285 Refund of beer tax excessively paid.

(a) *Eligibility.* A brewer who, under the provisions of § 25.152, is eligible to pay the reduced rate of tax on beer prescribed by 26 U.S.C. 5051(a)(2), but who did not pay tax at the reduced rate by return, Form 5130.7, during the calendar year for which the brewer was eligible, may file a claim for refund of tax excessively paid on beer for that year. The brewer shall file the claim for refund of tax on Form 843 with the regional regulatory administrator in the region in which the brewer's principal place of business is located, within the period of limitation prescribed in 26 U.S.C. 6511(a). For rules relating to the period of limitation on filing claims, see 26 CFR 301.6511(a)–1 and 301.6511(b)–1.

(b) *Calculation of refund.* The brewer shall file the claim based on the quantity of beer eligible to be taxpaid at the lower rate of tax, but which was paid at the higher rate of tax, subject to a maximum of 60,000 barrels of beer per calendar year or the limitation as determined in § 25.152(d). The brewer shall excude from the claim the quantity of beer removed that calendar year on which a credit or refund at the higher rate of tax has been taken.

(c) *Information to be furnished.* Each claim for refund of tax filed under this section shall include the following information:

(1) Name and address of the brewer.

(2) Quantity of beer covered by the claim as determined in paragraph (b) of this section.

(3) Amount of tax paid in excess.

(4) A statement of the exact number of barrels of beer which the brewer produced during the calendar year.

(5) A statement that the brewer is not a member of a controlled group of brewers (as defined in § 25.152(b)(1)) or, if the brewer is a member of a controlled group of brewers, a list of the names and addresses of all the members of the controlled group of brewers and a statement of the combined number of barrels of beer produced by all members of the controlled group in the calendar year.

(6) If the brewer is a member of controlled group of brewers, a statement of how the 60,000 barrel limitation for the reduced rate of tax is to be apportioned among the members of the controlled group of brewers.

(Act of August 16, 1954, 68A Stat. 791, as amended (26 U.S.C. 6402); sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C 5051))

§ 25.286 Claims for remission of tax on beer lost in transit between breweries.

(a) *Filing of claim.* Claims for remission of tax on beer lost in transit between breweries of the same ownership shall be prepared on Form 2635 by the brewer or the brewer's authorized agent and submitted with Form 5130.9 of the receiving brewery for the month in which the shipment is received. When the loss is by casualty,

the claim will be submitted with the Form 5130.9 for the month in which the loss is discovered. When, for valid reasons, the required claim cannot be submitted with Form 5130.9, the brewer shall attach a statement to the monthly report stating the reason why the claim cannot be filed at that time and stating when it will be filed. A claim may not be allowed unless filed with the regional regulatory administrator within 6 months of the date of the loss.

(b) *Information to be shown.* The claim will show the following information:

(1) The date of the shipment;

(2) The quantity of beer lost (number and size of packages and their equivalent in barrels), and the rate(s) of tax at which the beer would have been removed for consumption or sale;

(3) The percent of loss;

(4) The specific cause of the loss;

(5) The nature of the loss (leakage, breakage, casualty; etc.);

(6) Information as to whether the claimant has been indemnified by insurance or otherwise in respect to the tax, or has any claim for indemnification; and

(7) For losses due to casualty or accident, statements from the carrier or other persons having personal knowledge of the loss, if available.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended, 1389, as amended (26 U.S.C. 5056, 5414))

Subpart U—Records and Reports

§ 25.291 General.

(a) *Entries.* (1) Each entry required by this part to be made in daily records will be made not later than the close of the business day next succeeding the day on which the transaction occurs.

(2) When the brewer prepares transaction or business records concurrent with the individual operation or transaction, and these records contain all the required information with respect to the operation or transaction, entries in daily records may be made not later than the close of business the third business day succeeding the day on which the operation or transaction occurs.

(b) *Content.* (1) All entries in the daily records required by this subpart will show the date of the operation or transaction.

(2) Daily records will accurately and clearly reflect the details of each operation or transaction and, as applicable, contain all data necessary to enable—

(i) Brewers to prepare summaries, reports, and returns required by this part; and

(ii) An ATF officer to verify removals of beer and cereal beverages, to verify claims, and to ascertain if there has been compliance with law and regulations.

(c) *Format.* (1) Daily records required by this part shall be so maintained that they clearly and accurately reflect all mandatory information. When the format or arrangement of the daily records is such that the information is not clearly or accurately shown, the regional regulatory administrator may require a format or arrangement which will clearly and accurately show the information.

(2) A brewer may utilize commercial records or invoices which bear all required details in lieu of the record of beer removed from the brewery for consumption or sale of beer removed without payment of tax required to be kept under § 25.292(h). The brewer shall maintain invoices or commercial records in such a manner that the regional regulatory administrator is satisfied that the required information may be ascertained by an ATF officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended (26 U.S.C. 5415))

§ 25.292 Daily records of operations.

A brewer shall maintain daily records of operations which show by quantity the following:

(a) Each kind of material received and used in the production of beer and cereal beverage (including the balling and the quantity of each type of material used in the production of wort or concentrated wort).

(b) Beer and cereal beverage produced (including water added after production is determined).

(c) Beer and cereal beverage transferred for and returned from bottling.

(d) Beer and cereal beverage transferred for and returned from racking.

(e) Beer and cereal beverage bottled.

(f) Beer and cereal beverage racked.

(g) Cereal beverage removed from the brewery.

(h) Beer removed for consumption or sale. For each removal, the record will show the date of removal, the person to whom the beer was shipped or delivered (not required for sales in quantities of one-half barrel or less for delivery at the brewery), and the quantities of beer removed in kegs and in bottles.

(i) Beer removed without payment of tax. For each removal, the record will show the date of removal, the person to whom the beer was shipped or delivered, and the quantities of beer removed in kegs, bottles, tanks, tank cars, tank trucks, tank ships, barges or deep tanks of vessels.

(j) Beer used for laboratory samples at the brewery.

(k) Beer consumed at the brewery.

(l) Beer returned to the brewery from which removed.

(m) Beer returned to the brewery after removal from another brewery owned by the brewer.

(n) Beer reconditioned, used as material, or destroyed.

(o) Beer received from other breweries or received from pilot brewing plants.

(p) Brewing materials, beer and cereal beverage in process, and finished beer and cereal beverage on hand.

(q) Beer and cereal beverage lost due to breakage, theft, casualty, or other unusual cause.

(r) Brewing materials sold or transferred to pilot brewing plants (including the name and address of the person to whom shipped or delivered) and brewing materials used in the manufacturer of wort, wort concentrate, malt syrup, and malt extract for sale or removal.

(s) Record of meter tests (when meters are used).

(t) Beer purchased from other brewers in the purchasing brewer's barrels and kegs, and such beer sold to other brewers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, 1395, as amended (26 U.S.C. 5415, 5555))

§ 25.293 Record of ballings and alcoholic content.

The brewer shall maintain a record of the ballings of the wort produced, and of the ballings and the alcohol content of beer and cereal beverage transferred for bottling and racking, between breweries in bulk conveyances, and to pilot brewing plants. Records showing ballings and alcohol content need not be consolidated and averaged daily unless the brewer so desires.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended (26 U.S.C. 5415))

§ 25.294 Inventories.

(a) The brewer shall take a physical inventory of beer and cereal beverage at least once each calendar month. The brewer may take this inventory within 7 days of the close of the calendar month for which made.

(b) The brewer shall make a record of inventories of beer or cereal beverage which will show the following:

(1) Date taken,

(2) Quantity of beer and cereal beverage on hand,

(3) Losses, gains, or shortages, and

(4) Signature, under penalties of perjury, of the brewer or person taking the inventory.

(c) The brewer shall retain inventory records and make them available for inspection by an ATF officer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended) (26 U.S.C. 5415))

§ 25.295 Record of unsalable beer.

A brewer having unsalable beer in packages or tanks in the brewery, may destroy, recondition, or use the beer as material. The brewer shall report the quantity of the beer destroyed, reconditioned, or used as material, in daily records and on Form 5130.9. If the unsalable beer consists of rejects from the packaging operations, the beer may be destroyed without being included in the packaging production records, and, when so destroyed, will be so reported in the brewer's daily records and on Form 5130.9. When reject bottled beer is to be consumed at the brewery or sold to brewery employees, or is cased or otherwise accumulated pending other disposition, the quantity will be included in the packaging production and be so reported in the brewer's daily records and on Form 5130.9.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1389, as amended, 1390, as amended, 1395, as amended (26 U.S.C. 5411, 5415, 5555))

§ 25.296 Record of beer concentrate.

(a) *Daily records.* A brewer who produces concentrate or reconstitutes beer shall maintain daily records which accurately reflect the balling, quantity, and alcoholic content of—

(1) Beer entered into the concentration process,

(2) Concentrate produced,

(3) Concentrate transferred to other breweries,

(4) Concentrate exported,

(5) Concentrate received,

(6) Concentrate used in reconstituting beer, and

(7) Beer reconstituted.

(b) *Monthly summary reports.* A brewer who produces concentrate or reconstitutes beer shall report by specific entries on Form 5130.9, the quantity of beer entered into the concentration process, and the quantity of beer reconstituted from concentrate. In addition, the brewer will prepare on Form 5130.9, a summary accounting of all concentrate operations at the brewery for the month. This summary accounting will show, in barrels of 31 gallons with fractions reduced to 3 decimal places:

(1) Concentrate on hand beginning of the month,

(2) Concentrate on hand end of the month,

(3) Concentrate produced,

(4) Concentrate received, and

(5) Specific disposition of concentrate such as "used in reconstitution", "removed for export", "removed to foreign-trade zone", or "transferred to other breweries".

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended (26 U.S.C. 5415))

§ 25.297 Brewer's monthly report, Form 5130.9.

The brewer shall prepare and submit a monthly report of brewery operations on Form 5130.9 to the regional regulatory administrator not later than the 15th day of the month following the close of the month for which prepared. The brewer shall retain a copy of the Form 5130.9 for the brewery records.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, 1395 as amended (26 U.S.C. 5415, 5555))

§ 25.298 Beer tax return, Form 5130.7.

All entries in the beer tax return, Form 5130.7, will be fully supported by accurate and complete records. The brewer shall file a copy of Form 5130.7 as a part of the records at the brewery.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended, 1390, as amended, 1395, as amended (26 U.S.C. 5061, 5415, 5555))

§ 25.299 Execution under penalties of perjury.

When a return, form, or other document is required by this part or in the instructions on or with the return, form, or other document to be executed under the penalties of perjury, as defined in § 25.11, it will be so executed and will be signed by the brewer or other duly authorized person.

(Act of August 16, 1954, 68A Stat. 749, as amended (26 U.S.C. 6065))

§ 25.300 Retention and preservation of records.

Records required by this part will be prepared and kept by the brewer at the brewery where the operation or transaction occurs and will be available for inspection by any ATF officer during business hours. Whenever any record, because of its condition, becomes unsuitable for its intended or continued use, the brewer shall reproduce the record by a process under § 25.311. The reproduced record will be treated and considered for all purposes as though it were the original record, and all provisions of law applicable to the original are applicable to the reproduction. Records required by this part will be preserved for a period of not less than four years from the date thereof or the date of the last entry required to be made thereon, whichever is later.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, (26 U.S.C. 5415))

§ 25.301 Photographic copies of records.

(a) *General.* Brewers may record, copy, or reproduce records required by this part. Brewers may use any process which accurately reproduces the original record, and which forms a durable medium for reproducing and preserving the original record.

(b) *Copies of records treated as original records.* Whenever records are reproduced under this section, the reproduced records will be preserved in conveniently accessible, files, and provisions will be made for examining, viewing, and using the reproduced record the same as if it were the original record, and it will be treated and considered for all purposes as though it were the original record. All provisions of law and regulations applicable to the original are applicable to the reproduced record. As used in this section, "original record" means the record required by this part to be maintained or preserved by the brewer, even though it may be an executed duplicate or other copy of the document.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1390, as amended, 1395, as amended, (26 U.S.C. 5415, 5555))

Par. 3. Section 252.11 is amended by adding a definition for "shipping tank." As amended, § 252.11 reads as follows:

PART 252—EXPORTATION OF LIQUORS

§ 252.11 Meaning of terms.

* * * * *

Shipping tank. A tank, tank car, tank truck, tank ship, barge, or deep tank of a vessel used for the exportation of beer in bulk.

* * * * *

Par. 4. Section 252.143 is amended by specifically allowing beer to be withdrawn for export without payment of tax in shipping tanks. As revised, § 252.143 reads as follows:

§ 252.143 Export marks.

In addition to the marks and brands required to be placed on each shipping tank or package (including crates) or beer at the time they are filled under the provisions of Part 25 of this chapter, the brewer shall mark the word "Export" on each container or case before removal from the brewery for any removal authorized under this subpart.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C.

81c); sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended (26 U.S.C. 5053))

Dated: July 9, 1982.

W. T. Drake,

Acting Director.

Approved: August 31, 1982.

Robert E. Powis,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 83–2726 Filed 2–2–83; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 13 82–18]

Anchorage Ground; Elliott Bay, Seattle, Washington

Correction

In FR Doc. 83–984, beginning on page 1988, in the issue of Monday, January 17, 1983, on page 1989, in the first column, in § 110.230(a)(10), in the sixth line "355°" should read "335°"; also in the eighth line "122°20'44" W.;" should read "122°21'44" W.;".

BILLING CODE 1505–01–M

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33 CFR Part 110

[CGD 09–80–02]

Special Anchorage Area; Little Traverse Bay, Lake Michigan, Harbor Springs, MI

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: On 6 May 1982, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for this regulation (47 FR 19555). The Coast Guard received a comment from the city of Harbor Springs requesting a change in the coordinates describing the Special Anchorage Area. In consideration of this comment, the Coast Guard is proposing to amend its original proposal. The proposed change does not alter the circumstances creating the need or the impact from that of the original proposal.

DATES: Comments must be received on or before March 21, 1983.

ADDRESSES: Comments should be mailed to Commander, Marine Port and Environmental Safety Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199. The comments and other materials referenced in this notice will be available for inspection or copying at the Marine Port and Environmental Safety Office, Room 2019, 1240 East 9th Street, Cleveland, OH 44199. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ensign Steven J. Boyle, Marine Port and Environmental Safety Branch, 1240 East 9th Street, Cleveland, OH 44199, (216) 522–7064.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his/her name and address, identify this notice CGD 09–80–02, and the specific section of the proposal to which their comment applies, and give reasons for each comment. Persons desiring acknowledgment that their comments have been received should enclose a stamped self-addressed postcard or envelope. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this rule were Ensign Steven J. Boyle, Marine Port and Environmental Safety Branch, Project Officer, and Lieutenant Commander Arthur R. Butler, Assistant Legal Officer, Project Attorney, Ninth Coast Guard District.

Discussion of Proposed Rule

On 6 May 1982, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for this regulation (47 FR 19555). A comment was received from the city of Harbor Springs concerning the northern boundary of the proposed Special Anchorage Area. The area description requested by the city would have established the northern boundary approximately 90 yards further north than proposed by the Coast Guard in the **Federal Register** on 6 May 1982 (47 FR 19555). The size of the Special Anchorage Area as proposed by the Coast Guard, was approximately twenty percent smaller than originally requested by the city. The city contends that the navigational safety of vessels using the Special Anchorage Area would not be compromised if the boundary were further north as originally requested.

It was also argued that the larger area described in the original request was needed to meet the amount of boating traffic in the area. In light of this comment, the Coast Guard is proposing to change the description of the Special Anchorage Area in order to move the northern boundary further north as originally requested by the city of Harbor Springs.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal. Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1971, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations by adding § 110.82a to read as follows:

§ 110.82a Little Traverse Bay, Lake Michigan, Harbor Springs, MI.

The area within the following boundaries: Beginning at latitude 45°25'42.2" North, and longitude 84°59'7.5" West; thence to latitude 45°25'39.5" North, longitude 84°59'09" West; thence to latitude 45°25'35" North, longitude 84°59'07" West, thence to latitude 45°25'35" North, longitude 84°58'24.8" West; thence to latitude 45°25'36.1" North, longitude 84°58'23" West; thence to latitude 45°25'42.2" North, longitude 84°58'39" West; thence to point of beginning.

(Sec. 1, 28 Stat. 647, as amended (33 USC 258); sec. 6 (g)(1)(c) 80 Stat. 937 (49 USC 1655(g)(1)(c); 49 CFR 1.46(c)(3); 33 CFR 1.05–1(g) (1) and (2))

Dated: December 5, 1982.

J. R. Kirkland,

Deputy Commander, 9th Coast Guard District.

[FR Doc. 83–2947 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 144

[CGD 82-075b]

Exposure Suits; Requirements for Mobile Offshore Drilling Units

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: This proposal would require exposure suits for personnel on board mobile offshore drilling units including foreign mobile offshore drilling units engaged in activities on the Outer Continental Shelf of the United States. Units that operate in waters where the water temperature does not present a severe threat of injury due to exposure would be exempted from the requirements. The need for this action arises from casualties in which some of the loss of life might have been prevented if the persons on board had been provided with exposure suits. These regulations are intended to prevent some of the loss of life that can occur when persons are forced to enter the water after abandoning ship.

DATE: Comments must be received on or before May 4, 1983.

ADDRESSES: (1) Comments should be mailed to the Commandant (G-CMC/44) (CGD 82-075b), U.S. Coast Guard, Washington, DC 20593. Between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday, comments may be delivered to, and are available for inspection and copying at the Marine Safety Council (G-CMC/44) Room 4402, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC.

(2) The Draft Evaluation has been included in the public docket for this rulemaking and may be examined at the Marine Safety Council (G-CMC/44) at the address listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Office of Merchant Marine Safety (G-MVI-3/24), Department of Transportation, U.S. Coast Guard Headquarters, Washington, DC 20593, (202) 426-1444.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Comments should include the name and address of the person making them, identify this Notice (CGD 82-075b) and the specific section to which each comment applies, and give reasons for the comments. If an acknowledgement is desired, a stamped, self-addressed postcard should be enclosed. The proposal may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one will be held if a written request for a hearing is received from anyone raising a genuine issue.

Drafting Information

The principal persons involved in drafting these regulations are: Mr. Robert Markle, Office of Merchant Marine Safety, and Mr. Michael Mervin, Office of the Chief Counsel.

Discussion of the Proposed Regulations

This proposal would require that MODUs be equipped with exposure suits for all persons on board to be stowed in or near the berthing area. In addition, it is proposed to require exposure suits at each work station sufficient for the number of persons normally assigned to that station at one time, unless the work station is readily accessible to the berthing area (and the exposure suits stowed in that location). Related changes are proposed for boat drills and equipment marking.

The need for exposure suits on mobile offshore drilling units (MODUs) is fully discussed in the preamble of another proposal (CGD-075a) that appears elsewhere in this edition of the **Federal Register.** The proposal made in docket CGD-075a is to revise Subchapter I-A of Title 46 of the Code of Federal Regulations, however, the provisions of Subchapter I-A generally apply only to U.S. registered MODUs contracted for on or after January 3, 1979. This proposal would affect U.S. registered MODUs contracted for before January 3, 1979 as well as foreign registered MODUs engaged in activities on the Outer Continental Shelf of the United States.

Draft Evaluation

A Draft Evaluation has been prepared for these regulations in accordance with the Department of Transportation's Order on Regulatory Policies and Procedures. That order (DOT 2100.5, 5/22/80) requires that the evaluation quantify, to the maximum extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State and local governments, as well as the anticipated benefits and impact of the regulations. The Draft Evaluation also includes the Environmental Assessment required by the National Environmental Policy Act of 1969 (Pub. L. 91-190). This proposed rulemaking has also been evaluated under Executive Order 12291 ("Federal Regulation," 2/17/81, 46 FR 13193, 2/19/81), and has been determined not to be a "major rule" as defined in that order since the annual effect on the economy would be less than $100 million and no major increase in prices will result.

The Draft Evaluation is fully discussed under docket CGD 82-075. The regulations proposed in this notice are expected to affect approximately 31 U.S. registered MODUs contracted for before January 3, 1981, and one foreign registered MODU. The regulations proposed under this docket would result in an initial cost of about $998,400 and a recurring annual cost of about $108,800. These costs will be imposed directly on the private sector (the operators of affected MODUs). The operators are expected to pass the costs through to the ultimate consumers of affected maritime services in the form of price increases. However, because the cost of the proposal is spread over a number of vessels, increases in individual prices will be negligible. The average initial cost of these proposed regulations would be about $31,200 for each affected MODU, with an average annual upkeep or replacement cost of approximately $3,400. There is no effect on Federal, State, and local governments except in their capacities as consumers of maritime services. Implementation and enforcement of these rules would be accomplished within the scope of current Coast Guard marine safety activities, so that there will not be any need for additional Federal budget commitments.

The primary benefit identified for the proposal is to improve the chances of survival for persons that have to enter cold water as the result of a vessel casualty. There is no valid statistical basis for predicting the number of lives that might be saved by these regulations, but it is felt that perhaps 30 persons that were near rescue vessels in the OCEAN RANGER casualty might have survived long enough to be rescued if they had been wearing exposure suits.

Under the Regulatory Flexibility Act (Pub. L. 96-354), it is certified that this rule will not have a significant economic impact on a substantial number of small entities. There are no operators of MODUs known to be small entities.

List of Subjects in 33 CFR Parts 144

Marine safety, Mobile offshore drilling units, Outer Continental Shelf Activities.

In consideration of the foregoing, it is proposed to amend title 33 of the Code of Federal Regulations as follows.

1. By adding entries for subparts 144.20 and 144.30 to the table of contents for Part 144 as follows:

PART 144—LIFESAVING APPLIANCES

* * * * *

Subpart 144.20—Requirements for U.S. and Undocumented MODU's

144.20–1 Applicability.
144.20–5 Exposure suits.

Subpart 144.30—Requirements for Foreign MODU's

144.30–1 Applicability.
144.30–5 Exposure suits.

2. By adding a new subpart 144.20 as follows:

Subpart 144.20—Requirements for U.S. and Undocumented MODU's

§ 144.20–1 Applicability.

This subpart applies to each MODU documented under the laws of the United States that was contracted for before January 3, 1979, and to each MODU engaged in OCS activities that is not documented under the laws of any nation.

§ 144.20–5 Exposure suits.

(a) This section applies to each MODU except those operating between 35° N and 35° S latitude or on the Atlantic Ocean outer continental shelf of the United States south of 38° N latitude.

(b) Each MODU must carry an exposure suit for each person on board.

(c) In addition to the exposure suits required by paragraph (b) of this section, each watch station and work station must have enough exposure suits to equal the number of persons normally on watch in, or assigned to, the station at one time. However, an exposure suit need not be provided at a watch or work station for a person whose cabin, stateroom, or berthing area (and the exposure suits stowed in that location) is readily accessible to the station.

(d) Each exposure suit on a MODU must be of a type approved under 46 CFR 160.071.

(e) Each exposure suit must have a personal flotation device light that is approved under 46 CFR 161.012. Each light must be securely attached to the front shoulder area of the exposure suit.

(f) Each exposure suit on a MODU must be provided with a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order. The whistle must be attached to the exposure suit by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer. If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the exposure suit, or with the lanyard coiled and stopped off.

(g) No stowage container for exposure suits may be capable of being locked.

(Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; 49 CFR 1.46(z))

3. By adding a new Subpart 144.30 as follows:

Subpart 144.30—Requirements for Foreign MODU's

§ 144.30–1 Applicability.

This subpart applies to each MODU engaged in OCS activities that is documented under the laws of a foreign nation.

§ 144.30–5 Exposure suits.

Each foreign MODU must meet the requirements of § 144.20–5 of this chapter, except as follows:

(a) Exposure suits (immersion suits, survival suits, etc.) approved by the nation under which the MODU is documented may be used in lieu of suits approved under 46 CFR 160.071, provided that they are accepted by the Commandant as providing equivalent thermal protection to the wearer. (Requests for acceptance of such suits should be sent to Commandant, U.S. Coast Guard (G–MVI–3/24), Washington, DC 20593, along with technical data supporting the thermal performance of the suits.)

(b) Personal floatation device lights approved by the nation under which the MODU is documented may be used in lieu of lights approved under 46 CFR 161.012.

(Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; 49 CFR 1.46(z))

Clyde J. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

November 24, 1982.

[FR Doc. 83–2937 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL 2257–4]

Approval and Promulgation of Implementation Plans; Rhode Island; New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve revisions to Air Pollution Control Regulation Number 9 and Section VI, Part II, "Stationary Source Permitting and Enforcement," of the narrative portion of the Rhode Island State Implementation Plan (SIP) submitted on May 14, 1982 and July 1, 1982, respectively. These revisions were made to satisfy the requirements of the Clean Air Act and EPA regulations for preconstruction permitting of new major sources and major modifications in nonattainment areas. The revisions also add rules for Banking of Emissions to Regulation 9 which are consistent with EPA's emission trading policy. The intended effect of this action is to propose approval of revisions to Regulation 9 and the SIP narrative giving Rhode Island authority for the new source review (NSR) requirements of Part D of the Clean Air Act and authority to establish a system for banking emission reductions under the SIP.

DATE: EPA must receive your comments on or before March 7, 1983.

ADDRESSES: Send any comments to Harley F. Laing, Director, Air Management Division, EPA Region I, J.F.K. Federal Building, Boston, MA 02203. You may inspect copies of the submittal and EPA's evaluation during normal business hours at (i) the Environmental Protection Agency, Region I, J.F.K. Federal Building, Rm. 2111, Boston, MA 02203; and (ii) the Department of Environmental Management, 75 Davis Street, Cannon Building, Rm. 204, Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT Marcia L. Spink, (617) 223–5130, FTS 223–5130.

SUPPLEMENTARY INFORMATION: This notice is divided into two sections. Section I discusses the revisions made to Rhode Island's NSR requirements submitted on May 14, 1982 as amendments to Regulation 9 and on July 1, 1982 as amendments to the narrative portion of the SIP. Section II discusses Rhode Island's rules for Emission Banking found at Section 9.12 of Regulation 9.

Section I—Rhode Island's NSR Plan Revisions

Background

The requirements of state plans for reviewing and permitting new major sources and major modification in nonattainment areas, to implement Part D, Sections 172(b)(6) and 173 of the Clean Air Act, are contained in 40 CFR 51.18. Rhode Island revised its SIP to incorporate those NSR requirements, and the revisions were conditionally approved by EPA on May 7, 1982 (46 FR 25446). EPA imposed two conditions on that approval. In developing its regulations, Rhode Island used definitions from the Emission Offset

Interpretative Ruling (EOIR) (40 CFR Part 1, Appendix S) as published on January 16, 1979 and also from 40 CFR 51.81(j) as amended on August 7, 1980 (45 FR 52743). This resulted in Rhode Island's definitions of "potential to emit" and "major modification" being less stringent than the federal definitions. EPA's approval was thus conditioned upon (i) the state revising Regulation 9 to be consistent with the definitions in 40 CFR 51.81(j) (45 FR 52743, August 7, 1980) and (ii) the state's agreement to subject any modification at a major stationary source to NSR if the net increase in actual emissions of any pollutant was above the applicable significance level set forth for each pollutant at 40 CFR 51.18 (j)(1)(xiii) (45 FR 52743, August 7, 1980).

Today's Action

EPA received revisions to Regulation 9 and to the narrative portion of Rhode Island's NSR plan submitted by the Department of Environmental Management (DEM) on May 14, 1982 and July 1, 1982, respectively. EPA has evaluated these revisions for consistency with the federal requirements (40 CFR 51.18) for the preconstruction permitting of new major sources and major modifications in nonattainment areas. EPA's evaluation found the revisions to Regulation 9 and the narrative portion of the SIP to meet federal requirements. Rhode Island's NSR requirements and EPA's evaluation are detailed in a memorandum dated October 15, 1982 entitled, "Rhode Island NSR Plan." Copies of that memorandum are available upon request from the EPA Regional Office specified in the ADDRESSES section of this notice.

Except for the definition of "Stationary source" found at Section 9.1.1. of the regulation, EPA is proposing approval of the revisions to Regulation 9 and the NSR-related narrative portion of the Rhode Island SIP. The revised "Stationary source" definition employs the concept that a stationary source consists of all the pollutant emitting activities which belong to the same industrial grouping located on one or more contiguous or adjacent properties under control of the same person (or persons under common control). This concept is referred to as the "plant-wide definition" of the term "Stationary source." EPA promulgated this "plant-wide definition" on October 14, 1981 (46 FR 50766). Prior to this promulgation the term "Stationary source" had a "dual definition" under 40 CFR 51.18(j)(1)(i) (45 FR 52743, August 7, 1980). The "dual definition" of a stationary source encompasses not only the "plant-wide definition," but also each identifiable piece of process equipment.

EPA is taking no action at this time on Rhode Island's revised definition of the term "Stationary source" found in Regulation 9 at Section 9.1.1. Therefore, the "dual definition" of stationary source approved for the State of Rhode Island on May 7, 1981 (46 FR 25446) for NSR purposes under Regulation 9 will remain in effect under the federally approved SIP. EPA is not taking action on Section 1.1 because of the decision in *Natural Resources Defense Council, Inc.* v. *Gorsuch*, 685 F.2d 718 (D.C. Cir. 1982). If this decision becomes effective in its present form, it will vacate the October 14, 1981 regulations (46 FR 50766) upon which the revision is based.

Action: EPA proposes: (1) to approve revisions made to Air Pollution Control Regulations Number 9 (except the revision to the definition of "Stationary source" found in Section 9.1.1.) and Section VI, Part II of the narrative as submitted by the DEM on May 14, 1982 and July 1, 1982, respectively, for NSR under the Rhode Island SIP. (2) to remove the conditions imposed on its approval of Rhode Island's NSR plan (46 FR 25446) because those conditions have been satisfied by the revisions to Subsections 9.1.5, 9.1.7., 9.1.8., and 9.1.9. submitted May 14, 1982 by the DEM.

EPA is not taking action at this time on the revised definition of "Stationary Source" in section 9.1.1 of Regulation 9, submitted on May 14, 1982 by the DEM.

Section II—Rhode Island's Emission Banking Rules

In its May 7, 1981 approval of Rhode Island's NSR plan (46 FR 25446), EPA took no action on Section 9.12 of Regulation 9, entitled Banking of Emissions.

On April 7, 1982 EPA proposed its Emission Trading Policy Statement (ETPS) (47 FR 15076). EPA has reviewed Rhode Island's rules for banking emission under Section 9.12 of Regulation 9, and found them consistent with the ETPS.

Under Rhode Island's banking rules the administering agency for banking emission reductions is the DEM, Air and Hazardous Materials Division. The Director of the DEM will maintain a registry of available approved banked emissions. The registry will be available for inspection during normal business hours at the office of the DEM given in the ADDRESSES section of the notice.

Elements of Rhode Island's banking rules include:

- Emission reductions must be surplus, permanent and quantifiable.
- Emission reductions achieved will be incorporated into both a source's construction and operating permits to make them enforceable by DEM and EPA.
- Emission reductions achieved prior to August 7, 1977 are not elibible for banking.
- Emission reductions achieved during the time period between August 7, 1977 and the effective date of this regulation may be banked providing the source can present an adequate demonstration of actual emission reductions to the Director of the DEM.
- Emission reductions achieved after the effective date of the regulation may be banked if a request is submitted within six months of the emission reduction.
- No banked emission reductions may be transferred unless approved in writing in advance by the Director of the DEM.

Under Rhode Island's rules, once an emission reduction is achieved by a source the amount of the reduction eligible to be banked is determined by the following formula:

$$A = B[1 - C(D/E)]$$

Where:

A = emission reductions eligible to be banked (TPY)
B = proposed total emission reduction (TPY)
C = percent reduction needed to meet the national ambient air quality standards (NAAQS) in the year when the emission reduction was achieved (%)
D = the number of months an emission reduction was achieved prior to the projected attainment date in the current SIP (months)
E = the number of months until the projected attainment date in the current SIP (months)

This formula provides for "up front" discounting of emission reductions prior to banking, and assures that, once banked, an emission reduction will not be further reduced. The discounting is prorated according to:

(1) The percentage reduction needed to meet the NAAQS for the year in which the emission reduction was achieved,

(2) The amount of time between the achievement of the emission reduction and the projected attainment date for meeting the NAAQS, and

(3) The time between the application for banking an emission reduction and the projected attainment date for meeting the NAAQS.

The Director of the DEM will notify the source of the amount of its emission reduction credited for banking. That written notification will also state that the banked emission reductions will not

be reduced due to possible future changes in the percent reduction needed to meet the NAAQS.

The use of banked emissions, under Rhode Island's rules, is limited to meeting applicable offset requirements of the NSR plan. Banked emissions may not be used in bubble or neting trades under Rhode Island's rules. Therefore, the use of banked emissions under Rhode Island's rules is more restrictive than required under EPA's ETPS (47 FR 15076).

Rhode Island's complete banking rules and EPA's evaluation are detailed in a memorandum dated October 15, 1980 entitled, "Rhode Island NSR Plan." Copies of that memorandum are available upon request from the EPA Regional Office specified in the ADDRESSES section of this notice.

Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant impact on a substantial number of small entities (46 FR 8709).

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review

List of Subjects in 40 CFR Part 52

Air Pollution Control, Ozone, Sulfur Oxides, Nitrogen Dioxide, Lead, Particulate Matter, Carbon Monoxide, Hydrocarbons, Intergovernmental Relations.

(Secs. 110(a) and 301(a) Clean Air Act, as amended, 42 U.S.C. 7410(a) and 7601(a))

Dated: November 10, 1982.

Lester A. Sutton,

Acting Regional Administrator, Region I.

[FR Doc. 83-2951 Filed 2-2-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 123

[SW-5 FRL 2298-3]

Hazardous Waste Management Programs; Phase I Interim Authorization Hearing for Ohio

AGENCY: Environmental Protection Agency (EPA), Region V.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980 [45 FR 33063]. These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Ohio application for Phase I Interim Authorization, inviting public comment, and giving notice of public hearing to be held on the application.

DATES: Comments on the Ohio Interim Authorization application must be received by March 28, 1983.

Public Hearing: EPA will conduct a public hearing on the Ohio Interim Authorization application at 1:30 p.m. on March 16, 1983. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed. The State of Ohio will participate in the public hearing.

ADDRESSES: The public hearing will be held at 1:30 p.m. on March 16, 1983, at the Ohio Environmental Protection Agency, Room 303, 361 East Broad Street, Columbus, Ohio.

Copies of the Interim Authorization application are available at the following addresses for inspection by the public during normal business hours:

(1) Ohio Environmental Protection Agency, 361 East Broad Street, Columbus, Ohio. Telephone (614) 466–7220 for other locations within the State;

(2) U.S. Environmental Protection Agency, Region V, Waste Management Division, Waste Management Branch, 230 South Dearborn, Chicago, Illinois 60604;

(3) U.S. Environmental Protection Agency, Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460.

Written comments and notification of intent to provide oral comments at the hearing and requests for transcripts of the hearing should be sent to: Judy Kertcher, Chief, Regulatory Analysis and Information Unit, Waste Management Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn, Chicago Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Patricia Vogtman, Regulatory Analysis and Information Unit, Waste Management Branch, U.S. Environmental Protection Agency, 230 South Dearborn, Chicago, Illinois 60604, (312) 886–7450.

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1980, [45 FR 33063], pursuant to the requirements of § 3001 through 3006 of the Resource Conservation and Recovery Act of 1976, (Act), as amended, EPA promulgated Phase I of its regulations to protect human health and the environment from the improper management of hazardous waste. Section 3006 of the Act provides for the Authorization of a State to administer and enforce a hazardous waste management program in lieu of the Federal program. EPA Phase I regulations established, among other things: the initial identification and listing of hazardous wastes; standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits. The regulations also provide for two different types of EPA approval of State programs; (1) Interim Authorization which will become effective in phases and which may extend until January 26, 1985, and (2) Final Authorization. Although for Final Authorization the State must have a program which is "equivalent to" and "consistent with" the full Federal program, during Interim Authorization States need programs that are only "substantially equivalent" to the Federal program.

Any State may submit evidence of a hazardous waste program existing pursuant to State law and may request Interim Authorization to administer and enforce such a program.

EPA shall grant Interim Authorization if the evidence submitted by a State demonstrates that the State program is substantially equivalent to the Federal program.

On January 7, 1983, the State of Ohio submitted its complete application for Phase I Interim Authorization of its hazardous waste management program. This notice solicits public comments on the State of Ohio's application and its hazardous waste management program. The elements of the Federal program are listed in the May 19, 1980, **Federal Register**. A full description of the requirements and procedures for Interim Authorization of a State hazardous waste program are listed in Part 123 Subpart F [45 FR 33479], and as amended January 26, 1981 [46 FR 8298]. To receive Interim Authorization a State's hazardous waste management program must be substantially

equivalent to the Federal program and must meet the requirements in § 123.128. Copies of the State submittal are available for public inspection and comment as noted above. A public hearing is to be held on the submittal, unless significant public interest is not expressed, also as noted above.

II. Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Ohio Interim Authorization for Phase I of the RCRA program.

A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony. The hearing will be informally structured. Representatives from the State of Ohio will testify first and present a short overview of the State program. Other commentors will then be called in the order in which their requests were received by EPA.

As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I Interim Authorization will also be given an opportunity to testify. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes.

III. Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statements to the hearing chairperson. Transcripts will be available at cost upon request from the address listed above approximately two weeks after the hearing.

Under Executive Order 12291 (Order), EPA must judge whether an action is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. Todays's action is not a major rule, since it merely announces receipt and availability of the documents submitted by the State of Ohio and the public comment period. Rulemaking action on these documents will be detailed in a separate Federal Register notice.

Dated: January 24, 1983.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 83-2974 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 25, 33, 35, 94, 97, 107, 108, 109, 160 192, and 196

[CGD 82-075a]

Exposure Suits; Requirements for Mobile Offshore Drilling Units and Other Oceangoing and Coastwise Vessels

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: This proposal would require exposure suits for personnel on board mobile offshore drilling units and on certain oceangoing and coastwise tank vessels, cargo and miscellaneous vessels, and oceanographic vessels. Vessles and units operating in waters where the water temperature does not present a severe threat of injury due to exposure would be exempted from the requirements. It would also permit the carriage of exposure suits in lieu of life preservers on uninspected vessels not carrying passengers for hire. The need for this action arises from casualties in which some of the loss of life might have been prevented if the persons on board had been provided with exposure suits. These regulations are intented to prevent some of the loss of life that can occur when persons are forced to enter the water after abandoning ship. A number of minor revisions to existing regulations are also proposed.

DATE: Comments must be recieved on or before May 4, 1983.

ADDRESSES: (1) Comments should be mailed to the Commandant (G-CMC/44) (CGD 82-075a), U.S. Coast Guard, Washington, D.C. 20593. Between the hours of 7:00 A.M. and 5:00 P.M. Monday through Friday, comments may be delivered to, and are available for inspection and copying at the Marine Safety Council (G-CMC/44) Room 4402, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C.

(2) The Draft Evaluation has been included in the public docket for this rulemaking and may be examined at the Marine Safety Council (G-CMC/44) at the address listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Office of Merchant Marine Safety (G-MVI-3/24), Department of Transportation, U.S Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-1444.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Comments should include the name and address of the person making them, identify this Notice (CGD 82-075a) and the specific section to which each comment applies, and give reasons for the comments. If an acknowledgement is desired, a stamped, self addressed postcard should be enclosed. The proposal may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one will be held if a written request for a hearing is received from anyone raising a genuine issue.

Drafting Information

The principal persons involved in drafting these regulations are: Mr. Robert Markle, Office of Merchant Marine Safety, and Mr. Michael Mervin, Office of the Chief Counsel.

Discussion of the Proposed Regulations and Major Issues

a. *Mobile Offshore Drilling Units.* This proposal would require that MODU's be equipped with exposure suits for all persons on board to be stowed in or near the berthing area. In addition, it is proposed to require exposure suits at each work station sufficient for the number of persons normally assigned to that station at one time, unless the work station is readily accessible to the berthing area (and the exposure suits stowed in that location). Related changes are proposed for boat drills and equipment marking.

The need for exposure suits on mobile offshore drilling units (MODU's) was demonstrated by the loss of the MODU OCEAN RANGER off Newfoundland, Canada, on February 15, 1982. All 84 persons on board the OCEAN RANGER lost their lives when the unit sank. Twenty-two of the bodies were recovered after the casualty and the primary contributing factor in their deaths was attributed to hypothermia (loss of body heat, in this case due to immersion in cold water). The water temperature at the site was 29°F (−2°C). The Coast Guard Marine Board of Investigation for the casualty estimated that the chances for rescue were excellent for anyone able to survive in the water for up to two hours after the casualty.

Standby boats were on scene when the OCEAN RANGER was abandoned at approximately 1:30 A.M. in heavy seas. It is not known exactly how many people escaped the sinking rig in lifeboats, but shortly afterwards, a group

of survivors in a damaged lifeboat came alongside one of the standby boats. Approximately eight persons exited the lifeboat as it capsized. In spite of the short distance from the lifeboat to the standby boat, none of these individuals survived. Witnesses report that none of the persons in the water were able to assist in their own rescue.

A significant but undetermined number of people had entered the water, as witnessed by the lights and retroreflective material on lifejackets that were sighted by helicopter and standby boat rescue forces. None of these persons survived even though rescue forces were on scene and in position to effect rescue within one-half hour of the time the persons entered the water.

As a result of findings to date, the Coast Guard Marine Board of Investigation and the National Transportation Safety Board (NTSB) both recommended that all personnel on U.S. flag MODUs and foreign flag MODUs operating under U.S. lease (i.e., on the U.S. outer continental shelf) be provided with approved exposure suits during such times, or at such locations, as would expose personnel to severe hypothermia conditions during an abandon ship evolution. This proposal addresses U.S. flag MODUs under Subchapter I–A of Title 46 of the Code of Federal Regulations (those contracted for on or after January 3, 1979). A similar proposal for other U.S. MODUs and for foreign flag MODUs on the U.S. outer continental shelf is in another proposal (CGD 82–075b) elsewhere in this edition of the Federal Register.

The Coast guard Marine board noted that Canadian authorities have required the remaining MODUs operating in the area where the OCEAN RANGER was lost, to have exposure suits for 100% of the persons on board prior to their return to drilling sites. In November 1982, these units were required to have exposure suits for 200% of the persons on board.

b. *Offshore Supply Vessels.* The Coast Guard Marine Board further recommended that the requirement for exposure suits include U.S. flag Offshore Support Vessels (OSVs) associated with the MODUs. Another regulatory project (CGD 82–004) will propose unified rules for all new OSVs, and the requirements for exposure suits on new OSVs will be addressed in that notice to be published at a future date. This proposal addresses existing OSVs which are inspected as cargo vessels, and which would be affected by the changes discussed in the following paragraph.

c. *Oceangoing and Coastwise Tank, Cargo and Miscellaneous, and Oceanographic Vessels.* This proposal would extend the existing requirements for exposure suits on Great Lake vessels to all U.S. flag oceangoing and coastwise tank vessels, cargo and miscellaneous vessels, and oceanographic vessels. The exposure suit requirement would not apply to vessels with totally enclosed lifeboats on each side with sufficient capacity to accommodate all persons on board.

On January 10, 1977, the coastal tankship CHESTER A. POLING broke up and sank in 30° F (−1° C) water off Cape Ann, MA. Of the seven persons on board, six were rescued from the water suffering from hypothermia, and one who was not wearing a life preserver was lost. Surface and helicopter rescue forces were on scene when the POLING sank at mid-day. The loss of life might have been greater if rescue forces had not been on scene, or if the accident had happened at night.

As a result of the loss of the Chester A. Poling, NTSB recommended that exposure suits be required for each crewman on vessels that normally operate in areas of cold air or sea temperatures. The Coast guard Marine Board of Investigation recommended that consideration be given to amending regulations to require carriage of exposure suits.

Other casualties have resulted in similar recommendations on exposure protection:

1. M/V Maryland, 18 Dec 1971 (6 lives lost, 1 survivor hospitalized for treatment of exposure)—NTSB recommended adequate thermal protection for seamen on all commercial vessels.

2. M/V Comet, 19 May 1973 (12 lives lost, 4 missing, 11 survivors)—NTSB recommended cold water survival equipment for vessels operating in waters with temperatures below 60° F. The Coast Guard Marine Board recommended lifesaving devices to keep people out of the water when prevailing water temperature is expected to be below 60° F.

3. SS Edmund Fitzgerald, 10 Nov 1975 (29 missing and presumed dead)—The Marine Board recommended exposure suits for everyone on board Great Lakes vessels during the severe weather season.

As a result of the Edmund Fitzgerald casualty and the report of the Marine Board of Investigation published 28 July 1977, approval specifications for exposure suits were developed and a final rule was published April 10, 1980 that requires exposure suits on Great Lakes vessels. In the preamble to this rule, it was stated that the Coast Guard was working within IMCO (now IMO, International Maritime Organization) to develop requirements for exposure suits on oceangoing vessels. These efforts are now virtually completed, and an exposure protection requirement for vessels without totally enclosed lifeboats has been incorporated in a draft revision of Chapter III of the Safety of Life at Sea Convention (SOLAS). (Under the proposed revision, immersion suits (exposure suits) or a combination of immersion suits and "thermal protective aids" would be required on cargo vessels not equipped with totally enclosed lifeboats.)

d. *Exemption for vessels with totally enclosed lifeboats.* Tank vessels, cargo and miscellaneous vessels and oceanographic vessels with totally enclosed lifeboats on each side capable of accommodating all persons on board would not be required to carry exposure suits under this proposal. This exemption would not apply to MODUs. In general, it is believed that totally enclosed lifeboats provide sufficient exposure protection. In the case of the Ocean Ranger, many of the persons on board apparently did not get to the lifeboats, and the lifeboats that were launched were severely damaged so that they did not keep those on board out of the water. Many persons on board the Norwegian Alexander L. Kielland, a semi-submersible rig that capsized in the North Sea in March, 1980 were also unable to get to the totally enclosed boats, or were in boats that were severely damaged. Apparently, the characteristics of MODUs are such that those on board are less likely to be able to successfully abandon in the boats than is the case on more conventional vessels. The Norwegian government has introduced a requirement for exposure suits on their MODUs, and so has the Canadian government as discussed previously.

e. *Exemption for vessels operating in warm waters.* The requirements for exposure suits would not apply to any vessel operating in waters between 35°N latitude and 35°S latitude, or on the outer continental shelf of the United States in the Atlantic Ocean south of 38°N latitude, since the water temperature in these areas is usually above 60°F (15.5°C) and would therefore not present an immediate threat from hypothermia.

The risk of hypothermia exists in virtually all waters with temperatures less than 70°F, however, the degree of risk increases with decreasing water temperatures. It is impossible to state with certainty what a person's survival time will be in any given water temperature since this varies widely

with the physical condition of the person in question, the type of clothing being worn, and the prevailing sea conditions. It can be stated that the expected survival time of a person without special protective garments will be on the order of minutes in near-freezing waters. This was borne out in the OCEAN RANGER casualty where those who entered the water were unable to survive during the short period of time that they were in the water. The water temperature selected to determine where the exposure suit requirement should apply is 60°F (15.5°C). Although this temperature is not risk-free in terms of hypothermia, it is high enough that a person of average body build, in good health, wearing work clothes and a life preserver could be expected to survive approximately 8 hours. This estimate is subject to wide variation depending upon the physical characteristics of the person involved, type of clothing, and weather and sea conditions. Using the 60°F criterion, waters on the U.S. outer continental shelf in the Atlantic Ocean south of 38°N latitude would be exempted from the exposure suit requirement, as would other waters within 35°N and 35°S latitude worldwide. The temperature in these waters is usually above 60°F (15.5°C) and generally does not fall below 57°F (14°C). The only exceptions are the waters off the Pacific coast of South America, and the East China Sea and waters just east of Japan (based on Washington, W.M. and Theil, L.G., "Digitized Global Monthly Mean Ocean Surface Temperatures", National Center for Atmospheric Research, Boulder, CO, Report NCAR–TN–54, December 1970]. Since most U.S. vessels in these two areas would not be limited to a certain geographic area of operation, it is not proposed to provide for these exceptions in the regulations. The exempted U.S. coastal areas would include the Gulf of Mexico, the Pacific Ocean from north of the Santa Barbara channel south, the Pacific Ocean areas surrounding Hawaii, and the Atlantic Ocean outer continental shelf from the Virginia shore south.

Since risk of hypothermia is a function of water temperature, the regulation could be based on the water temperature where the unit or vessel is operating. For example, exposure suits could be required at all times while operating in waters less than 60°F. While this type of regulation would be more directly related to the risk, it would be an administrative problem for both vessel operators and enforcement. It is believed that most vessels operating beyond the 35° latitude limit would have to purchase exposure suits anyway to comply with the requirement for some portion of the year, so very little money would be saved by such a requirment. Exemptions may still be considered for special cases where a vessel may operate above 35° latitude limit (38° on Atlantic coast) in warm temperature conditions.

Under the draft revision of Chapter III of SOLAS, vessels operating constantly in warmer waters could be exempted from the contemplated requirements for exposure protection.

f. *Uninspected vessels and carriage of exposure suits in lieu of life preservers.* Because exposure suits as presently constructed do not automatically bring an unconscous person to the face-up position, they cannot be classified as life preservers. Because exposure suits are too bulky to wear as a precaution or for doing extensive work, they do not totally replace life preservers. The exception to this is on uninspected vessels, primarily fishing vessels, where life preservers are generally not worn as a precautionary measure or for working. Because of these considerations, carriage of exposure suits in lieu of life preservers cannot be considered for vessels, other than uninspected vessels at the present time.

On uninspected vessels, this proposal would permit exposure suits to be substituted for the required life preservers, buoyant vests, or special purpose buoyant water safety devices; provided that the vessel is not carrying passengers for hire.

One of the earliest groups to recognize the need for exposure protection was commercial fishermen. Their boats comprise a major part of the U.S. uninspected vessel fleet. These vessels frequently work in cold, severe weather, and over the past ten years it is estimated that 200 to 300 fishermen have been saved wearing exposure suits after abandoning ship. These vessels are required to carry a life preserver for everyone on board (or buoyant vest or special purpose water safety buoyant device in the case of vessels under 40 ft. not carrying passengers). Since exposure suits are not life preservers and cannot be counted toward meeting this requirement, operators that choose to carry exposure suits must still carry life preservers for everyone on board. The Coast Guard has authority to allow substitution of exposure suits for life preservers on an uninspected vessel not carrying passengers for hire (46 U.S.C. 526e).

At the request of local fishermen, the Thirteenth Coast Guard District, Seattle, WA, recommended that exposure suits be allowed to be carried in lieu of life preservers on uninspected vessels. It was pointed out that when exposure suits are carried, they are the preferred device to use in case it is necessary to abandon ship. The life preservers are carried for compliance purposes only since they are generally not used at any other time.

g. *Personal flotation device lights and whistles.* All exposure suits carried under these rules would be required to have personal flotation device lights so that the exposure suits would have the same type of night detection aids as life preservers. (Coast Guard approved exposure suits are constructed with retroreflective material attached to them.) Note that this would result in a new requirement for exposure suits on Great Lakes vessels. These lights were not required when the final rule for exposure suits on the Great Lakes was adopted because the regulations covering these lights had not been adopted at that time.

Whistles would be required on exposure suits on vessels which are now required to have whistles on life preservers. Changes to the whistle requirements are also proposed to make them less restrictive and more performance oriented. Multi-tone whistles would be permitted as well as ball-type whistles. The whistle lanyard would be required to be long enough to allow the whistle to reach the mouth of the wearer, instead of the present requirement for a 3 foot lanyard capable of extending 15 in. from the body of the device.

h. *Exposure suit specification regulation.* Several revisions, clarifications, and corrections are proposed to the specification regulation for exposure suits (46 CFR 160.071). Those which are not simply editorial improvements are as follows:

1. The present version of the specification regulation provides for adult size and child size exposure suits. It has been found that there are persons too large for the adult size suit, and that manufacturers have been requested to provide approved oversize adult suits. These suits are identical to the adult suit except for the extra material provided to increase the size of the suit. Accordingly, revisions to provide for oversize adult suits are proposed for §§ 160.071–7(c), –9(m), –11(a)(1), and –17(a)

2. Revisions to §§ 160.071–11(a)(2) and –11(a)(3) are proposed to more clearly describe the desired floating position in the suit. These suits generally have flotation material from head to toe, resulting in a horizontal floating

position. This position is tiring to wearers of the suit since they must hold their heads up and out of the water to see around them. To eliminate this problem, manufacturers have provided an inflatable auxiliary buoyancy device to support the head out of the water. In the existing regulations, this modified position is described as "a more upright stable floating position" with "the torso * * * inclined slightly backward from the upright position." While the inflatable auxiliary buoyancy device generally provides such an effect to a slight degree, its most important function is to support the head out of the water, tilted up from horizontal between 30° and 80°. The proposed revision reflects this as a performance requirement.

3. Several failures have been reported in the inflation tube arrangement used on the inflatable auxiliary buoyancy device. These failures occurred in tube joints that had been glued but not clamped together, and in unreinforced flanges used to join the tube to the inflatable device. New § 160.071–9(p) is proposed to require clamped joints and reinforced flanges on these inflation tubes.

4. A specific requirement for instructions on use of the inflation device is proposed as a new § 160.071–15(d). These instructions have not always been provided with the suits and the method of operating the device may not always be apparent.

5. Two new marking requirements are proposed in §§ 160.071–23(c) and –23(d). One would require a marking to be added to child size suits stating "Children Require Adult Assistance for Donning and Use." It has been found during testing that many children are unable to don their suits without adult assistance. The other proposal would require marking of suits with removable auxiliary buoyancy devices to the effect that a suit is not approved without the device.

6. Section 160.07–17(e) contains a test of the thermal insulation properties of the material used in the suit. A standard neoprene material is the basis of comparison. The thermal conductivity of this standard material is given in § 160.071–17(e)(1)(iii) as 0.050 watt/Meter-°K (0.346 Btu-in/hr.-sq. ft.-°F), but testing over the past several years has revealed that this number is slightly too low to be truly representative. It is proposed to change the maximum thermal conductivity in § 160.071–17(e)(1) (iii) to 0.055 watt/meter-°K (0.38 Btu-in./hr.-sq. ft.-°F).

7. It is proposed to revise §§ 160.071–25(b) and –25(c) to reject suits found during production testing to have a measured buoyancy that differs by more than 10% from the suit tested for approval. Such suits would be considered significantly different from the suit originally approved and some investigation into the reason for the variation would have to be made.

Draft Evaluation

A Draft Evaluation has been prepared for these regulations in accordance with the Department of Transportation's Order on Regulatory Policies and Procedures. That order (DOT 2100.5, 5/22/80) requires that the evaluation quantify, to the maximum extent practicable, the estimated cost of the regulations to the private sector, consumers, and federal, state and local governments, as well as the anticipated benefits and impact of the regulations. The Draft Evaluation also includes the Environmental Assessment required by the National Environmental Policy Act of 1969 (P.L. 91–190). This proposed rulemaking has also been evaluated under Executive Order 12291 ("Federal Regulation," 2/17/81, 46 FR 13193, 2/19/81), and has been determined not to be a "major rule" as defined in that order since the annual effect on the economy would be less than $100 million and no major increase in prices will result.

These regulations are expected to affect approximately 5000 uninspected vessels and 1100 inspected vessels and MODUs. This number includes approximately 31 U.S. registered MODUs contracted for before January 3, 1981, and one foreign registered MODU which would be affected by the changes to 46 CFR 109 proposed in this notice, as well as the changes to 33 CFR 144 proposed under docket CGD 82–075b. The proposed regulations would result in an initial cost of about $13,858,000. These costs will be imposed directly on the private sector (the operators of affected vessels). The operators are expected to pass the costs through to the ultimate consumers of affected maritime services in the form of price increases. However, because the cost of the proposal is spread over a large number of vessels, increases in individual prices will be negligible. The average initial cost of these proposed regulations would be about $12,600 for each affected inspected vessel.

The average annual upkeep or replacement cost for each affected inspected vessel is approximately $1,400. The average annual savings for each affected uninspected vessel resulting from elimination of the requirement to carry life preservers, is estimated to be about $6. Since about 5000 vessels are expected to take advantage of this option, these annual savings are estimated to be $30,000. The estimated total annual cost including the effect of this savings is therefore $1,480,000.

There is no effect on federal, state, and local governments except in their capacities as consumers of maritime services. Implementation and enforcement of these rules would be accomplished within the scope of current Coast Guard marine safety activities, so that there will not be any need for additional federal budget commitments.

The primary benefit identified for the proposal is to improve the chances of survival for persons that have to enter cold water as a result of a vessel casualty. There is no valid statistical basis for predicting the number of lives that might be saved by these regulations, but it is felt that perhaps 30 persons that were near rescue vessels in th OCEAN RANGER casualty might have survived long enough to be rescued if they had been wearing exposure suits.

Under the Regulatory Flexibility Act (P.L. 96–354), it is certified that this rule will not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by the rule are operators of some of the 5000 uninspected vessels that would realize an estimated average $6 annual savings.

List of Subjects

46 CFR Part 25

Marine safety, Uninspected vessels.

46 CFR Parts 33 and 35

Barges, Marine safety, Tank vessels.

46 CFR Parts 94 and 97

Cargo vessels, Marine safety.

46 CFR Parts 107, 108, and 109

Marine safety, Mobile offshore drilling units.

46 CFR Part 160

Marine safety

46 CFR Parts 192 and 196

Marine safety, Oceanographic vessels.

In consideration of the foregoing, it is proposed to amend Title 46 of the Code of Federal Regulations as follows:

SUBCHAPTER C—UNINSPECTED VESSELS

PART 25—REQUIREMENTS

Subpart 25.25—Life Preservers and Other Lifesaving Equipment

1. By adding a new § 25.25–5 (e) as follows:

§ 25.25–5 Life preservers and other lifesaving equipment required.

* * * * *

(e) Each vessel not carrying passengers for hire may substitute an exposure suit for a life preserver, boyant vest, or special purpose water safety buoyant device required under paragraphs (b) or (c) of this section. Each exposure suit carried in accordance with this paragraph must be of a type approved under Subpart 160.071 of this chapter.

(46 U.S.C. 526e; 49 CFR 1.46)

2. By revising paragraph (a) of § 25.25–9 as follows:

§ 25.25–9 Storage.

(a) The lifesaving equipment designed to be worn required in § 25.25–5(b), (c) and (e) must be readily accessible.

* * * * *

(46 U.S.C. 526p; 49 CFR 1.46)

3. By revising paragraphs (b) and (c) of § 25.25–13 as follows:

§ 25.25–13 Personal flotation device lights.

* * * * *

(b) Each exposure suit carried in accordance with § 25.25–5(e), each life preserver, each special purpose water safety buoyant device intended to be worn, and each buoyant vest must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(c) Each light required by this section must be securely attached to the front shoulder area of the exposure suit, life preserver, or other personal flotation device.

* * * * *

(46 U.S.C. 526p; 49 CFR 1.46)

SUBCHAPTER D—TANK VESSELS

4. By revising the table of contents for Part 33 as follows:

PARTS 33—LIFESAVING EQUIPMENT

* * * * *

Subpart 33.35—Life Preservers

Sec.

33.35–1 Number and type required—TB/All.
33.35–5 Distribution and stowage—TB/All.
33.35–10 Shipboard inspections—TB/All.
33.35–15 Requirements for life preservers—TB/All.
33.35–25 Retroeflective material—TB/All.

Subpart 33.37—Exposure Suits

33.37–1 Applicability—TB/OCL.
33.37–5 Number and type required—TB/OCL.
33.37–10 Shipboard inspections—TB/OCL.
33.37–15 Stowage containers—TB/OCL.

Subpart 33.38—Personal Flotation Device Lights and Whistles

33.38–1 Personal flotation device lights—TB/OCL.
33.38–5 Whistles—T/O

* * * * *

Subpart 33.35—Life Preservers

§ 33.35–1 [Amended]

5. By removing § 33.35–1(c) (replaced by § 33.38–5).

§ 33.35–20 [Removed]

6. By removing § 33.35–20 (replaced by § 33.38–1).

Subpart 33.37—Exposure Suits

7. By revising § 33.37–1 as follows:

§ 33.37–1 Applicability—TB/OCL.

This subpart applies to each tank vessel in ocean, coastwise or Great Lakes service, except those—

(a) With totally enclosed lifeboats on each side capable of accommodating all persons on board, or

(b) Operating on routes between 35° N and 35° S latitude or on the Atlantic Ocean outer continental shelf of the United States south of 38° N latitude.

(46 U.S.C. 391a; 49 CFR 1.46)

8. By revising the heading of § 33.37–5 as follows:

§ 33.37.5 Number and type required—TB/OCL.

* * * * *

(46 U.S.C. 391a; 49 CFR 1.46)

9. By revising the heading of § 33.37–10 as follows:

§ 33.37–10 Shipboard inspections—TB/OCL.

* * * * *

(46 U.S.C. 391a; 49 CFR 1.46)

10. By revising the heading of § 33.37–15 as follows:

§ 33.37–15 Stowage containers—TB/OCL.

* * * * *

(46 U.S.C. 391a; 49 CFR 1.46)

11. By adding a new Subpart 33.38 as follows:

Subpart 33.38—Personal Flotation Device Lights and Whistles

§ 33.38–1 Personal flotation device lights—TB/OCL.

(a) Each life preserver and each exposure suit carried on a vessel engaged in ocean, coastwise, or Great Lakes service, must have a personal flotation device light that is approve under Subpart 161.012 of this chapter.

(b) Each light required by this section must be securely attached to the front shoulder area of the life preserver or exposure suit.

§ 33.38–5 Whistles—T/O

(a) Each life preserver and each exposure suit on tankships of 500 gross tons and over on a international voyage must be provided with a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order.

(b) The whistle must be attached to the life preserver or exposure suit by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer. If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the life preserver or exposure suit, or with the lanyard coiled and stopped off.

(46 U.S.C. 391a; 49 CFR 1.46)

12. By revising the table of contents for Part 35 as follows:

PART 35—OPERATIONS

* * * * *

Subpart 35.10—Fire and Emergency Requirements

* * * * *

33.10–6 Exposure suits—TB/OCL.

* * * * *

Subpart 35.30—General Safety Rules

* * * * * *

35.30–50 Stowage of exposure suits—TB/OCL.
35.30–55 Child size exposure suit—TB/OCL.

* * * * *

Subpart 35.10—Fire and Emergency Requirements

13. By revising introductory paragraph (a) of § 35.10–6 as follows:

§ 35.10–6 Exposure suits—TB/OCL.

The master or person in charge of a tank vessel carrying exposure suits in accordance with Subpart 33.37 of this chapter shall ensure that—

(a) Each crew member wears an exposure suit in at leat one fire and boat drill per month unless it is impracticable due to warm weather;

* * * * *

(46 U.S.C. 391a; 49 CFR 1.46)

Subpart 35.30—General Safety Rules

14. By revising the introductory paragraph of § 35.30–50 as follows:

§ 35.30–50 Stowage of exposure suits—TB/OCL.

The master or person in charge of a tank vessel carrying exposure suits in accordance with Subpart 33.37 of this chapter shall ensure that—

* * * * *

(46 U.S.C. 391a; 49 CFR 1.46)

15. By revising § 35.30–55 as follows:

§ 35.30-55 Child size exposure suit—TB/OCL.

The master or person in charge of a tank vessel carrying exposure suits in accordance with Subpart 33.37 of this chapter shall ensure that children, when carried, are provided with child size exposure suits.

(46 U.S.C. 391a; 49 CFR 1.46)

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

16. By revising the table of contents for Part 94 as follows:

PART 94—LIFESAVING EQUIPMENT

* * * * *

Subpart 94.40—Life Preservers

94.40-1 Application.
94.40-5 General.
94.40-10 Number and type required.
94.40-15 Distribution and stowage.
94.40-25 Retroreflective material.
94.40-80 Vessels contracted for prior to May 28, 1965.

* * * * *

Subpart 94.42—Personal Flotation Device Lights and Whistles

94.42-1 Personal flotation device lights.
94.42-5 Whistles.

* * * * *

Subpart 94.40—Life Preservers

§ 94.40-5 [Amended]

17. By removing § 94.40-5(b) (replaced by § 94.42-5).

§ 94.40-20 [Removed]

18. By removing § 94.40-20 (replaced by § 94.42-1).

Subpart 94.41—Exposure Suits

19. By revising § 94.41-1 as follows:

§ 94.41-1 Applicability.

This subpart applies to each vessel in ocean, coastwise or Great Lakes service, except those—

(a) With totally enclosed lifeboats on each side capable of accommodating all persons on board, or

(b) Operating on routes between 35° N and 35° S latitude or on the Atlantic Ocean outer continental shelf of the United States south of 38° N latitude.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

20. By revising § 94.41-5 introductory paragraph (d) as follows:

§ 94.41-5 Number and type required.

* * * * *

(d) An exposure suit in use on a vessel before November 1, 1960 may remain in use on the vessel in place of an exposure suit approved under Subpart 160.071 of this chapter if:

* * * * *

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

21. By adding a new Subpart 94.42 as follows:

Subpart 94.42—Personal Flotation Device Lights and Whistles

§ 94.42-1 Personal Flotation Device Lights.

(a) Each life preserver and each exposure suit carried on a vessel engaged in ocean, coastwise, or Great Lakes service, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(b) Each light required by this section must be securely attached to the front shoulder area of the life preserver or exposure suit.

§ 94.42-5 Whistles

(a) Each life preserver and each exposure suit on vessels on an international voyage must be provided with a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order.

(b) The whistle must be attached to the life preserver or exposure suit by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer. If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the life preserver or exposure suit, or with the lanyard coiled and stopped off.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

PART 97—OPERATIONS

Subpart 97.15—Tests, Drills, and Inspections

22. By revising § 97.15-37 the introductory paragraph and paragraph (a) as follows:

§ 97.15-37 Exposure suites.

The master of a vessel carrying exposure suits in accordance with Subpart 94.41 of this chapter shall ensure that—

(a) each crew member wears an exposure suit in at least one fire and boat drill per month unless it is impracticable due to warm weather;

* * * * *

(46 U.S.C. 491, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

Subpart 97.85—Exposure Suits

23. By revising § 97.85-1 as follows:

§ 97.85-1 Applicability.

This subpart applies to each vessel required to carry an exposure suit under Subpart 94.41 of this chapter.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

SUBCHAPTER I-A—MOBILE OFFSHORE DRILLING UNITS

PART 107—INSPECTION AND CERTIFICATION

Subpart B—Inspection and Certification

24. By revising § 107.231(g) as follows:

§ 107.231 Inspection for certification.

* * * * *

(g) Each life preserver and each exposure suit is serviceable.

* * * * *

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

25. By revising the table of contents for Part 108 as follows:

PART 108—DESIGN AND EQUIPMENT

* * * * *

Subpart E—Lifesaving Equipment

* * * * *

Sec.
108.513 Exposure suits.

* * * * *

Subpart G—Equipment Markings and Instructions

* * * * *

108.649 Life preservers, exposure suits and ring life buoys.

* * * * *

Subpart E—Lifesaving Equipment

26. By adding a new § 108.513 as follows:

§ 108.513 Exposure suits.

(a) This section applies to each unit except those operating between 35° N and 35° S latitude or on the Atlantic Ocean outer continental shelf of the United States south of 38° N latitude.

(b) Each unit must carry an exposure suit for each person on board.

(c) In addition to the exposure suits required by paragraph (b) of this section, each watch station and work station must have enough exposure suits to equal the number of persons normally on watch in, or assigned to, the station at one time. However, an exposure suit need not be provided at a watch or work station for a person whose cabin, stateroom, or berthing area (and the exposure suits stowed in that location) is readily accessible to the station.

(d) Each exposure suit on a unit must be of a type approved under Subpart 160.071 of this chapter.

(e) Each exposure suit must have a personal flotation device light that is approved under Subpart 161.012 of this chapter. Each light must be securely attached to the front shoulder area of the exposure suit.

(f) Each exposure suit on a unit must be provided with a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order. The whistle must be attached to the exposure suit by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer, if the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the exposure suit, or with the lanyard coiled and stopped off.

(g) No stowage container for exposure suits may be capable of being locked.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

27. By revising § 108.514(d) as follows:

§ 108.514 Life preservers.

* * * * *

(d) Each life preserver on a unit must be provided with a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order. The whistle must be attached to the life preserver by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer. If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the life preserver, or with the lanyard coiled and stopped off.

* * * * *

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

Subpart G—Equipment Markings and Instructions

28. By revising § 108.649 (a) and (b) as follows:

§ 108.649 Life preservers, exposure suits and ring life buoys.

(a) Each life preserver and exposure suit must be marked in a contrasting color with the unit's name.

(b) Each locker box or closet used for stowing life preservers or exposure suits must be marked "LIFE PRESERVERS" or "EXPOSURE SUITS" as appropriate.

* * * * *

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

29. By revising the table of contents for Part 109 as follows:

PART 109—OPERATIONS

* * * * *

Subpart C—Operation and Stowage of Safety Equipment

* * * *

Sec.*

109.314—*Stowage of exposure suits.*

* * * * *

Subpart B—Tests, Drills, and Inspections

30. By revising paragraphs (c) and (d), and adding paragraph (e) to § 109.215 as follows:

§ 109.215 Boat drill.

* * * * *

(c) Weather permitting, at least one lifeboat is partially lowered, and its engine started and operated;

(d) Each person not assigned duties in the station bill is instructed in the use of life preservers and exposure suits (if carried); and

(e) Each person wears an exposure suit (if carried) in at least one boat drill per month unless it is impracticable due to warm weather.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

Subpart C—Operation and Stowage of Safety Equipment

31. By adding a new § 109.314 as follows:

§ 109.314 Stowage of exposure suits.

The master or person in charge shall ensure that—

(a) Each exposure suit required by § 108.513(b) is stowed in a readily accessible location in or near the berthing area of the person for whom the exposure suit is provided; and

(b) Each exposure suit required by § 108.513(c) for a watch or work station is stowed in a readily accessible location in or near the station.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

Subpart E—Station Bill

32. By revising § 109.501(c)(7) as follows:

§ 109.501 Station bill: duties of personnel

* * * * *

(c) * * *

(7) Instructing all personnel on use and wearing of their life preservers and exposure suits (if carried).

* * * * *

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

SUBCHAPTER Q—EQUIPMENT, CONSTRUCTION, AND MATERIALS; SPECIFICATIONS AND APPROVAL

PART 160—LIFESAVING EQUIPMENT

Subpart 160.071—Exposure Suits

33. By revising § 160.071–7(c) as follows:

§ 160.071–7 Approval procedure.

* * * * *

(c) *Approval of child size and oversize adult suits.* No child size or oversize adult sized suit will be approved unless the adult size of the suit has been approved.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

34. By revising § 160.071–9(i), (m), and (n), and adding (p) as follows:

§ 160.071–9 Construction.

* * * * *

(i) *Buoyant materials and compartments.* Buoyant materials used in a suit must not be loose or granular. The suit must not have an inflated or inflatable chamber, except as prescribed in § 160.071–11(a)(2).

* * * * *

(m) *Size.* Each adult suit must fit persons ranging in weight from 50 kg (110 lb.) to 150 kg (330 lb.) and in height from 1.5 m (59 in.) to 1.9 m (75 in.). Each child size suit must fit children ranging in weight from 20 kg (44 lb.) to 50 kg (110 lb.) and in height from 1.0 m (39 in.) to 1.5 m (59 in.). An oversize adult suit is intended for persons too large for the standard adult suit. Each suit must be capable of being worn comfortably over clothing and must not restrict the wearer's motion. The suit size and design must allow successful completion of the mobility tests prescribed in §§ 160.071–17 (c)(2) through (c)(7).

(n) *Retroreflective material.* Each exposure suit must be fitted with Type I retroreflective material that meets Subpart 164.018 of this chapter. When the wearer of an exposure suit is in the face-up, stable floating position described in § 160.071–11(a)(2), at least 200 cm^2 (31 sq. in.) of the material must be visable above water to observers at water level directly in front of the wearer.

* * * * *

(p) *Inflation tube.* If the suit has an inflatable auxiliary means of buoyancy, each joint in the oral inflation tube must be joined with a clamping device. A flange connection between the tube and the inflatable chamber mut be reinforced so that the flange on the inflation tube is secured between the

material of the inflatable section and the reinforcement.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

35. By revising § 160.071–11 (a)(1) through (a)(3) as follows:

§ 160.071–11 Performance.

(a) * * *

(1) The adjusted buoyancy of each adult and each oversize adult size suit must be at least 100 N (22 lb.). The adjusted buoyancy of each child size suit must be at least 50 N (11 lb.).

(2) Each suit must have a stable floating position in which the wearer's head must be tilted to a position between 30° and 80° above the horizontal, with the mouth and nose at least 100 mm (4 in.) above the surface of the water. If necessary, this position may be obtained through use of an auxiliary means of buoyancy such as an inflatable bladder behind the wearer's head.

(3) If an auxiliary means of buoyancy is necessary to meet paragraph (a)(2) of this section, the suit must have a stable floating position without the auxiliary means of buoyancy in which the mouth and nose of the wearer are at least 50 mm (2 in.) above the surface of the water.

* * * * *

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

36. By adding a new paragraph (d) to § 160.071–15 as follows:

§ 160.071–15 Instructions.

* * * * *

(d) If the suit has an inflatable auxiliary means of buoyancy and if the instructions required by paragraph (a) of this section do not cover the use of the inflation valve, separate instructions covering operation of the inflation valve must be provided on the suit near the valve or on a waterproof card attached near the valve.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

37. By revising § 160.071–17(a), (c)(8), (e)(1)(iii), (g)(1)(iii), and revising the title of § 160.071–17(c)(7) as follows:

§ 160.071–17 Approval testing for adult size exposure suit.

* * * * *

(a) *General.* An adult size exposure suit must be tested as prescribed in this section. If the suit is also made in a child size, a child size suit must be tested as prescribed in § 160.071–19. If the suit is also made in an oversize adult size, an oversize adult suit must be tested as prescribed in § 160.071–17(g) to determine the measured buoyancy for the suit, however no additional testing will be required if the suit is of the same design as the adult suit except for extra material to provide for larger persons.

* * * * *

(c) * * *

(7) *Water emergence.* * * *

(8) *Stability and retroreflective material.* While wearing the suit in water without any auxiliary means of buoyancy, each subject assumes a face-up position and then allows his or her body to become limp. The distance from the water surface to the lowest part of the subject's mouth or nose is measured. This procedure is repeated using the auxiliary means of buoyancy, if one is provided. For each test subject, the stable position and the distance of the mouth and nose above the water must be as prescribed in §§ 160.071–11(a)(2) and –11(a)(3). During this test, each subject must be viewed by observers at water level from the front and back to determine whether the retroreflective material of the suit meets § 160.071–9(n).

* * * * *

(e) * * *

(1) * * *

(iii) A control sample of two flat pieces of 4.75 mm (3/16 in.) thick, closed-cell neoprene foam of sufficient size to enclose the can between them. The control sample must have a thermal conductivity of not more than 0.055 watt/meter-°K (0.38 Btu-in./hr.-sq.ft.-°F). The thermal conductivity of the control sample must be determined in accordance with the procedures in ASTM C 177 or ASTM C 518.

* * * * *

(g) * * *

(1) * * *

(iii) A scale or load cell that has an accuracy of 0.15 N (½ oz.) and that is arranged to support and weigh the basket in the tank.

* * * * *

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

38. By changing the caption of Figure 160.071–17(j)(1) to identify it as Figure 160.071–17(l)(1) as follows:

Figure 160.071–17(l)(1). Body strength test apparatus.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

39. By changing the caption of Figure 160.071–17(k)(1) to identify it as Figure 160.071–17(m)(1) as follows:

Figure 160.071–17(m)(1). Method of mounting sample for seam strength test.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

40. By revising § 160.071–23(c) and adding a new paragraph (d) as follows:

§ 160.071–23 Marking.

* * * * *

(c) The markings for the child size exposure suits required under paragraphs (a) and (b) of this section must also include the following statements in print smaller than the word "CHILD": "(SMALL ADULT UNDER 50 kg (110 lb.))", and "CHILDREN REQUIRE ADULT ASSISTANCE FOR DONNING AND USE."

(d) If an auxiliary means of buoyancy is removable and is needed to meet § 160.071–11(a)(2), the marking on the suit must indicate that the suit is not considered Coast Guard approved unless the auxiliary means of buoyancy is attached.

(46 U.S.C. 481, U.S.C. 1655(b)(1); 49 CFR 1.46)

41. By revising § 160.071–25 (b) and (c) as follows:

§ 160.071–25 Production testing.

* * * * *

(b) One out of every 100 exposure suits produced must be tested as prescribed in § 160.071–17(g) and must be given a complete visual examination. The suit must be selected at random from a production lot of 100 suits and tested by or under the supervision of the independent laboratory. A suit fails this test if—

(1) The measured buoyancy of the suit differs by more than 10 percent from the measured buoyancy of the suit tested for approval,

(2) The adjusted buoyancy of the suit calculated using the buoyancy loss factor determined during approval testing, is less than that required in § 160.071–11(a)(1), or

(3) The visual examination shows that the suit does not conform to the approved design.

(c) If the suit fails to pass the test as prescribed in paragraph (b)(1) or (b)(2) of this section, 10 additional suits from the same lot must be selected at random and subjected to the test. If a defect in the suit is detected upon visual examination, 10 additional suits from the same lot must be selected at random and examined for the defect.

* * * * *

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

SUBCHAPTER U—OCEANOGRAPHIC VESSELS

42. By revising the table of contents for Part 192 as follows:

PART 192—LIVESAVING EQUIPMENT

* * * * *

Subpart 192.40—Life Preservers

Sec.
192.40–1 Application.
192.40–5 General.
192.40–10 Number required.
192.40–15 Distribution and stowage.
192.40–25 Retroreflective material.
192.40–90 Vessels contracted for prior to March 1, 1968.
* * * * *

Subpart 192.42—Personal Flotation Device Lights and Whistles

192.42–1 Personal flotation device lights.
192.42–5 Whistles.
* * * * *

Subpart 192.40—LIFE PRESERVERS

§ 192.40–5 [Amended]

43. By removing § 192.40–5(b) (replaced by § 192.42–5).

§ 192.40–20 [Removed]

44. By removing § 192.40–20 (replaced by § 192.42–1).

Subpart 192.41—Exposure Suits

45. By revising § 192.41–1 as follows:

§ 192.41–1 Applicability.

This subpart applies to each vessel in ocean, coastwise or Great Lakes service, except those—

(a) with totally enclosed lifeboats on each side capable of accommodating all persons on board, or

(b) operating on routes between 35° N and 35° S latitude or on the Atlantic Ocean outer continental shelf of the United States south of 38° N latitude.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

46. By adding a new Subpart 192.42 as follows:

Subpart 192.42—Personal Flotation Device Lights and Whistles

§ 192.42–1 Personal flotation device lights.

(a) Each life preserver and each exposure suit carried on a vessel engaged in ocean, coastwise, or Great Lakes service, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(b) Each light required by this section must be securely attached to the front shoulder area of the life preserver or exposure suit.

§ 192.42–5 Whistles.

(a) Each life preserver and each exposure suit on vessels on an international voyage must be provided with a whistle of the ball type or multi-tone type, of corrosion resistant construction, and in good working order.

(b) The whistle must be attached to the life preserver or exposure suit by a lanyard without hooks, snaps, clips, etc., that is long enough to permit the whistle to reach the mouth of the wearer. If the lanyard allows the whistle to hang below the waist of the wearer, the whistle must be stowed in a pocket on the life preserver or exposure suit, or with the lanyard coiled and stopped off.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

PART 196—OPERATIONS

Subpart 196.15—Tests, Drills, and Inspections

47. By revising § 196.15–37 as follows:

§ 196.15–37 Exposure suits.

The master of a vessel carrying exposure suits in accordance with Subpart 192.41 of this chapter shall ensure that each crew member and all scientific personnel wear their exposure suits in at least one fire and boat drill per month unless it is impracticable due to warm weather.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

Subpart 196.90—Exposure Suits

48. By revising § 196.90–1 as follows:

§ 196.90–1 Applicability.

This subpart applies to each vessel required to carry an exposure suit under Subpart 192.41 of this chapter.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

November 24, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83–2948 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 5, 15, 21, 73, 74, 78, and 94

[Gen. Docket No. 83–10]

Expand the Notification and Verification Equipment Authorization Procedures; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects an error made concerning the adoption date of the Report and Order in Gen. Docket 82–242, which was referenced in this proceeding concerning the expansion of equipment authorization procedures.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Science and Technology, (202) 653–6288.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of the regulations to expand the notification and verification equipment authorization procedures.

Released: January 27, 1983.

On January 21, 1983, the Commission released a Notice of Proposed Rulemaking in the above-captioned proceeding (48 FR 4298, Jan. 31, 1983). Inadvertently, the reference to the adoption date of a Report and Order in Gen. Docket No. 82–242 was not stated. The date to be inserted in paragraph 1, line 1, is January 13, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–2942 Filed 2–2–83; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 82–109; RM–4013]

Radio Broadcast Services; FM Broadcast Station in Morgan City, Louisiana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of petition for rulemaking.

SUMMARY: This action grants a request to withdraw the petition for rule making to substitute FM Channel 243 for 244A at Morgan City, Louisiana, in response to a request by the proponent, Tri-City Broadcasting, Inc. Tri-City request resulted from a stated expression of interest in the proposal by another party.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 13, 1983.

Released: January 25, 1983.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Morgan City, Louisiana), BC Docket No. 82–109, RM–4013; Report and Order (Proceeding Terminated).

1. The Commission has before it for consideration the Notice of Proposed

Rule Making, 47 FR 8793, published March 2, 1982, in response to a petition filed by Tri-City Broadcasting, Inc. ("petitioner"), licensee of broadcast Stations KMRC (AM) and KFXY (FM) (Channel 244A), in Morgan City, Louisiana. Petitioner seeks the substitution of Class C FM Channel 243 for Channel 244A, and modification of its license for Station KFXY (FM) to specify operation on Channel 243.

2. In response to the *Notice*, comments were filed by Teche Broadcasting Corporation [1] ("Teche") in support of the proposal, and in opposition to the proposed license modification for Station KFXY (FM). Petitioner filed a response to Teche's comments and reaffirmed its intention to apply for the channel, if assigned, which elicited a further response from Teche.

3. Morgan City, in St. Mary Parish, is located approximately 112 kilometers (70 miles) southwest of New Orleans, Louisiana. It is currently served by daytime-only AM Station KMRC and FM Station KFXY, both of which are licensed to the petitioner.

4. Although petitioner supplied information in response to our *Notice* regarding preclusion, that information is no longer required in light of the Commission's recent adoption of the *Second Report and Order* in BC Docket No. 80–130 regarding *Revisions of FM assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982). Moreover, we no longer consider population criteria nor the appropriate class of channel to be assigned in noncomparative cases. Therefore, to the extent that the comments addressed those areas, they are no longer relevant and will not be discussed herein.

5. The *Notice* proposed the substitution of Class C Channel 243 for Channel 244A at Morgan City, Louisiana, and the modification of license for Station KFXY (FM) Morgan City, to specify operation on Channel 243. It also indicated that in accordance with prior Commission precedent, as established in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976), should another interest in the assignment be expressed, the proposed modification could not be made and the channel, if assigned, would be opened to competing applications. In response to the *Notice*, Teche filed comments opposing the proposed modification and stating its intention to submit an application for Channel 243.

6. In its comments, petitioner expressed its belief that the *Cheyenne* precedent is not valid where the pre-existing Class A channel must be deleted to accommodate the proposed Class C assignment, citing *Endicott, New York*, 51 F.C.C 2d 50 (1975).[2] It asserts that, unlike its situation, *Cheyenne* did not place upon the petitioner the risk of a comparative evaluation in an evidentiary hearing to select among the applicants for the Class C assignment since the Class A channel was not required to be deleted in order to accommodate the nonadjacent Class C channel. Consequently, it asserts that in *Cheyenne* the continuation of petitioner's station was not at risk and the public would not lose service therefrom. According to petitioner, these factors distinguish its case from the *Cheyenne* doctrine and cases decided pursuant thereto.

7. Petitioner states that the limitations inherent in its daytime-only AM station initially led it to seek assignment of an FM channel. In an effort to keep pace with Morgan City's growing needs, it now seeks to upgrade its present facilities. However, it claims that if the modification of its license is not made, it would lessen the Commission's policy of encouraging the operation of FM stations in conjunction with daytime-only AM stations. It claims that *Cheyenne* did not intend such a result.

8. Petitioner further maintains that the Commission's determination in *Statesboro, Georgia*, 40 R.R. 2d 1021 (1971), and *Bonita Springs, Florida*, 45 R.R. 2d 1585 (1979), support its modification of license. It asserts that in *Statesboro, Georgia*, the Commission declined to modify the petitioner's license since a second interest was expressed by a competing licensee of an existing AM station in the same community. It alleges that unlike the *Statesboro* case, Morgan City has no competing stations. As for *Bonita Springs*, the allocation there would have required channel substitutions in other communities which is distinguishable from the present situation.

9. In response to the expression of interest by Teche, petitioner claims that since Teche is the licensee of KQKI–FM in nearby Bayou Vista, it would be ineligible for a Class C license in Morgan City, consistent with the provisions of § 73.240(a)(1) of the Commission's rules which prohibits signal overlap. To avoid the duopoly considerations, petitioner asserts that Teche would have to surrender its KQKI–FM facilities in order to operate Channel 243 in Morgan City, which would deprive Bayou Vista of its only FM service.

10. Petitioner claims that if Teche should consider operation on Channel 243 at Bayou Vista, it has not provided proof of site availability and that in any event, its interest is motivated by private and not public interest considerations. It states that if the Commission declines to modify its license, it would be required to withdraw its petition in order to preserve its Class A facilities. As a result, petitioner maintains that both it and Teche would be "locked in" to Class A facilities for the foreseeable future since there are no other Class C channels available to Morgan City.

11. As an alternative, petitioner suggests that if Teche sincerely desires to pursue a Class C operation, Channel 225 could be assigned to Bayou Vista with a site restriction 24.8 miles south of the community. Additionally, it notes that under the pending proposals in BC Docket No. 80–90,[3] Class C Channel 235 could be substituted at Bayou Vista with an 11.1 mile site restriction, and urges consideration of these alternative proposals. Petitioner concludes that if these requests cannot be implemented, that the proceeding be terminated and the *status quo ante* maintained in Morgan City.

12. In its reply comments, Teche notes that petitioner's attempt to distinguish the facts in its case from those in *Cheyenne* and subsequent decisions, failed to address the specific holding, *i.e.*, irrespective of other factors, the single underlying reason for denying the requested modifications was attributable to the additional expressions of interest. Teche further notes that the Commission's authority to modify a stations's license is restricted by the Supreme Court's holding in *Ashbacker Radio Corporation* v. *F.C.C.*, 326 U.S. 327 (1945), that an application for a new frequency cannot be granted without giving comparative consideration to other mutually exclusive applications. Moreover, Teche asserts that petitioner's efforts to distinguish *Cheyenne* based on the footnote reference to Endicott, *New York, supra*, is misplaced. Teche observes that the Commission has previously explained that the expression

[1] Teche is the licensee of Stations KQKI (AM) and KQKI–FM (Channel 237A) in Bayou Vista, Louisiana.

[2] Petitioner notes that in *Endicott*, cited in footnote 17 of the *Cheyenne* decision, the Commission determined that for technical reasons, the deletion of the Class A channel was required in order to assign the Class C channel and modify the stations's license to specify operation on the newly-assigned channel.

[3] *Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments, Notice of proposed Rule Making*, 78 F.C.C. 2d 1235 (1982).

"deleted for technical reasons" was not intended to apply to cases such as the instant one. Rather, its applicability was meant in cases where, for example, existing interference problems necessitated a substitute for the existing Class A channel and the only possible substitute was a Class C channel, citing *Statesboro, Georgia*, supra.

13. Teche concedes that it could not operate on both Channel 243 in Morgan City and Channel 237A in Bayou Vista without violating § 73.240(a)(1). Therefore, it states that it would surrender its right to operate on Channel 237A as a condition to the grant of a construction permit to operate on Channel 243. Further, it maintains that such relinquishment would not reduce service to Bayou Vista since Channel 237A would be available to another applicant, thereby conceivably resulting in a greater diversity of voices in the area.

14. In response to petitioner's alternative suggestion that Class C Channel 225 could be allocated to Bayou Vista, Teche responds that such proposal is not feasible from a technical standpoint. In particular, it claims that the limited area in which a transmitter could be sited is unsuitable for constructing a tower since it is mainly composed of marsh; it is completely inaccessible by land; the area has no recorded population; and there is no available source of electrical power. Further, it notes that petitioner could apply for Channel 225, and still serve Morgan city with its current Class A station without a duopoly problem. Finally, Teche notes that the Docket 80–90 alternative is equally inappropriate since it is uncertain to what extent, or when, that proposal may be adopted.

15. Teche concludes that petitioner has not demonstrated good cause for modification of the license of Station KFXY (FM) to specify operation on Channel 243 in Morgan City. Additionally, Teche asserts that petitioner failed to explain why the *Cheyenne* doctrine should not apply to its proposal, and that in the absence of such a showing, its *Ashbacker* rights cannot be denied.

16. The basic issue in this case is whether, in view of the filing by Teche of an expression of interest in the proposed Morgan City Class C assignment, the modification of the license for Station KFXY (FM) can be effectuated. We hold that it cannot in light of the *Ashbacker* and *Cheyenne* cases.[4] The *Ashbacker* decision requires that when a new channel is made available at a community, any interested party expressing a desire to apply for the channel is entitled to comparative consideration. We do not believe that these comparative rights are defeated merely because an existing licensee would lose its station. The petitioner here has a business decision to make and must bear the risk. As Teche ccorrectly noted, *Cheyenne* and related cases[5] were decided on this basis, regardless of other factors, and the fundamental justification for not granting the requested modifications was solely attributable to the additional expressions of interest. Petitioner's reliance on *Endicott, New York, supra*, overlooks one important factor. No other party expressed an interest in the Class B channel proposed to be assigned to Endicott in place of the existing Class A. Thus, the modification there can not serve to justify similar action here. As for the footnote reference in *Cheyenne* to the term "deleted for technical reasons" we have since interpreted that term in *Statesboro, Georgia, supra* at 1024, footnote 2. Therein we stated that in such cases where existing harmful electrical interference problems, such as harmonic interference on channel adjacencies were present, a modification could occur without providing others an opportunity to apply. However, neither this case nor *Statesboro* nor *Endicott* are cases involving harmful electrical interference problems. These cases involve a modification requested by the petitioner which can only be effectuated in the absence of a competing interest.

17. Petitioner requested that in the event we determine *Cheyenne* is applicable here, rather than risk the uncertainties of a comparative evaluation, its proposal be withdrawn. See, *Bonita Springs, Florida*, and *Statesboro, Georgia, supra*. We have decided to follow that course of action and permit petitioner's withdrawal, as requested. Petitioner alleges that not only would comparative consideration of its proposal create the risk of termination of service, but it may suffer a determinative demerit under the diversification criterion.

18. In view of the above determination, we have made no finding to petitioner's suggested assignment of Channel 225 to Bayou Vista since we have no party stating an interest in that proposal.

19. In view of the above consideration, and in accordance with the authority contained in sections 4 (i), 5(d)(1), 303 (g) and (r) and 307 (b) of the Communications Act of 1934, as amended, and sections 0.204 (b) and 0.281 of the Commission's Rules, IT IS ORDERED, That the request to withdraw the petition for rule making in RM–4013, filed by Tri-City Broadcasting, Inc., IS GRANTED.

20. It is further ordered, That this proceeding is terminated.

21. For futher information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 49 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–2862 Filed 2–3–83; 8:45 am]

BILLING CODE 6712–01–M

[4] See also, *Fort Smith, Arkansas and Poteau, Oklahoma*, 47 FR 23189, published May 27, 1982.

[5] See, *e.g., Statesboro, Georgia*, 40 R.R. 2d 1021 (1977); and *Bonita Springs, Florida*, 45 R.R. 2d 1585 (1979).

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47 CFR Part 83

[PR Docket No. 83–11; FCC 83–6]

Acceptable Level of Radiated Power of 500 kHz for Compulsory Telegraph Vessels

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This item proposes to amend the FCC's marine rules to require a minimum radiated power on the distress frequency 500 kHz from the main and reserve installations aboard compulsory fitted radiotelegraph vessels. Measurements indicate a progressive decline in radiated power aboard large oceangoing vessels. The proposed action would set a minimum acceptable level of radiated power.

DATES: Comments must be received by February 28, 1983, reply comments must be received by March 15, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Walter E. Weaver, Private Radio Bureau (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 83

Ship stations, Telegraph.

Adopted: January 13, 1983.

Released: January 27, 1983.

In the matter of amendment of Part 83 of the rules to require compulsory telegraph vessels to be capable of generating a specified minimum field strength at a distance of one nautical

mile; PR Docket No. 83–11; notice of proposed rule making.

1. In this Notice of Proposed Rule Making, we propose to amend Part 83 of the Commission's rules to require that all compulsory telegraph vessels be capable of generating a minimum field strength of 30 millivolts per meter (mV/m) for the (main installation) and 10 mV/m (reserve installation) at a distance of one nautical mile on the international distress and calling frequency 500 kHz.

Background

2. Title III, Part II, Section 355(e), of the Communications Act of 1934, as amended, sets forth the distances over which vessels of 1600 gross tons and over must be capable of communicating. The distances are as follows:

> (e) The main and reserve installations shall, when connected to the main antenna, have a minimum normal range of two hundred nautical miles and one hundred nautical miles, respectively; that is they must be capable of transmitting and receiving clearly perceptible signals from ship to ship by day and under normal conditions and circumstances over the specified ranges.

3. In our Order in Docket 5212,[1] "Investigation of Power Requirements for Ship Radio Transmitters", we determined that a ship station meets the statutory range requirements of Title III, Part II of the Communications Act, if the field strength of its signal at one nautical mile is 30 mV/m. We determined, in turn, that, considering the efficiencies of antennas then in use, this field strength could, on the average, be produced by a transmitter delivering 200 watts to the antenna.[2] Accordingly we adopted a rule, now § 83.552(b), which specified only output power requirements for the subject vessels. Similarly, we determined that the values for the reserve installation were 10 mV/m and 25 watts. See Rule § 83.553(b).

Problem

4. The standards that the main and reserve installations of vessels provide a field strength of 30 mV/m and 10 mV/m, respectively, at one nautical mile have remained unchanged since 1939. Over the past forty years most of the consideration leading to the established values have remained constant.[3] The one exception is antenna efficiencies. During this period, with the swing first to single-wire antennas and then to vertical antennas there has been a progressive decline in the efficiency of antennas aboard the larger oceangoing vessels. This has continued to the point where the use of 200 and 25 watt transmitters in conjunction with presently used vertical and some long-wire antennas no longer assures a field strength of 30 mV/m and 10 mV/m at a distance of one nautical mile.

5. In Gen. Docket No. 78–185, released June 27, 1978 (FCC 78–435, 43 FR 28840), we initiated a Notice of Proposed Rule Making to require that the main installation of all compulsory telegraph vessels be capable of generating a field strength of 30 mV/m at a distance of one nautical mile. That proceeding was terminated by Report and Order, released March 24, 1981 (FCC 81–96, 46 FR 19007, 85 FCC 2d 686), without decision, in order to enable us to obtain additional information regarding antennas currently installed aboard U.S. vessels. We issued a Public Notice with our Report and Order in which we stated:

> The Commission * * * has decided to institute a series of tests to determine the antenna efficiencies of U.S. flag vessels. When these tests are completed and the results analyzed, the Commission will return to a consideration of how to implement the two hundred and one hundred nautical mile range requirements of Title III, Part II of the Communications Act 1934, as amended.

6. In paragraph 13 of the Report and Order we noted:

> If the vertical antenna efficiencies are substantially up to those of long-wire antennas, we need not amend our rules. If, on the other hand, they are shown to be considerably less, we may have to again propose new rules.

Discussion

7. We have completed field strength measurements of the main installations aboard 32 vessels, 16 fitted with vertical antennas and 16 fitted with long-wire antennas.[4] Of the 16 vessels fitted with vertical antennas, the average field strength was 15.5 mV/m at one nautical mile. Of the 16 vessels fitted with long-wire antennas, the average field strength was 24.9 mV/m at one nautical mile. Of the vessels fitted with vertical antennas, none provided a field strength equal to or greater than 30 mV/m; the highest measured value was 26 mV/m. Of the vessels fitted with long-wire antennas, five measured as equal to or greater than 30 mV/m at one nautical mile.

8. We have made no measurements of the field strength of the reserve installation. Except for the transmitter, the reserve installation is usually the same or similar to that of the main installation. The losses experienced by the reserve installation would, therefore, be the same or similar to those of the main installation. Thus, we have no reason to believe that the efficiencies of the reserve installation differ in a substantial manner from those of the main installation.

9. More recently, we have also completed field strength measurements of a vertical antenna [5] manufactured by Southern Avionics Company, Beaumont, Texas, and installed aboard the cargo vessel "Star of Texas". The report of those measurements shows that this vertical antenna far exceeded the minimum field strength required.[6]

10. The high level of electromagnetic energy radiated by the "Star of Texas" is due to efficiencies: (1) In coupling the transmitter to the transmission line, (2) of the transmission line, (3) in coupling the transmission line to the antenna and (4) of the antenna itself. In regard to some of the vertical antennas measured by the Commission, we believe several failed to meet the minimum required field strength because of inefficiencies in the first three of the above four factors, rather than in the antenna itself. The same may be true of some of the long-wire antennas. Also, it is not uncommon for the power delivered by the transmitter to the antenna to be less than the output power at which the transmitter is rated.

Proposal

11. From the foregoing, it appears that our present rules §§ 83.444(a) and 83.446(b) are inadequate to implement Section 355(e) of the Communications Act. Due to variables relating to antenna efficiency and design it is insufficient to specify simply the output power of the transmitter as the means to assure the required communications range. Clearly there are both vertical and long-wire antennas on the market as well as improved methods of installation which will enable vessels to meet a field strength standard, rather than an output power standard.

12. Accordingly, we propose to amend § 83.444(a) of the Commission's rules to require that all vessels of 1,600 gross tons and over, fitted with a radiotelegraph installation as required

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[1] 7 FCC 365, adopted July 26, 1939.

[2] This was based on the average antenna efficiency of the 80 vessels measured in 1938.

[3] These include geographical noise levels, signal to noise ratios and propagation characteristics.

[4] A copy of the measurement data, prepared by the Commission's staff, has been placed in the docket folder of this proceeding.

[5] Measured input power 750 watts, measured field strength at 1 nautical mile 92 mV/m; measured input power 65 watts, measured field strength at 1 nautical mile 34 mV/m; using the ship's main transmitter and antenna.

[6] It is appropriate to note that the system which delivers the power from the transmitter to the antenna (coupling and transmission line system) is an essential and integral part of the overall system and must be efficient if substantial power losses are to be avoided.

by Title III, Part II of the Communications Act, produce a field strength on the frequency 500 kHz of 300 mV/m at a distance of one nautical mile, using the main antenna and main transmitter. Further, we propose to amend § 83.444(a)(2) to require that the reserve antenna and reserve transmitter produce a field strength on the frequency 500 kHz of 10 mV/m at a distance of 1 nautical mile. Additionally we propose that implementation of this requirement be completed within a period of three years.

13. We recognize, however, that a specific field strength figure, such as 30 mV/m or 10 mV/m, is derived from assumptions, averages and calculations which may be subject to reevaluation in light of transmitter improvements or other factors. Therefore, we will consider comments as to what alternative criteria should be established (if indeed any need by) to assure the ability of compulsory-fitted vessels to transmit a clearly perceptible signal the required distances. We will also consider a program of self-certification as an alternative method by which a vessel may demonstrate that its radio installation transmits a clearly perceptible signal the required distances. Thus, we specifically request comment as to the feasibility of a procedure whereby a vessel would periodically conduct actual test transmissions to another vessel, located the statutory distance away, and retain evidence in its station records of the successful communication of a clearly perceptible signal to that other vessel.

14. The proposed amendment to the Commission's rules as set forth in the attached Appendix is issued under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

15. Under the procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before February 28, 1983, and reply comments on or before March 15, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

16. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

17. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

18. We have determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) do not apply to this proposed rulemaking proceeding because the only vessels affected are large oceangoing vessels compelled by law to be fitted with radiotelegraph equipment meeting certain specified standards. The operation of a single such vessel typically runs into many millions of dollars per year. Therefore, if promulgated, it will not have a significant impact on a substantial number of small entities.

19. Regarding questions on matters covered in this document contact Walter E. Weaver (202) 632-7175.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

It is proposed to amend Part 83 of Chapter I of Title 47 of the Code of Federal Regulations as follows:

Part 83—Stations on Shipboard in the Maritime Services

Section 83.444(a) is amended by removing the first sentence and replacing it with the following:

§ 83.444 [Amended]

(a) The main antenna shall be as efficient as is practicable. It shall be installed and protected so as to ensure proper operation of the station. Effective (3 years), the main antenna energized by the main transmitter on the frequency of 500 kHz shall produce at one nautical mile a minimum field strength of thirty (30) millivolts per meter.* * *

2. Paragraph (a)(2) of § 83.446 is revised to read as follows:

§ 83.446 Requirements of reserve installation.

(a) * * *

(2) The reserve antenna shall be as efficient as is practicable. It shall be adequately installed and protected so as to ensure proper operation in time of an emergency. Effective (3 years), the reserve antenna energized by the reserve transmitter on the frequency of 500 kHz shall produce at one nautical mile a minimum field strength of ten (10) millivolts per meter.

* * *

[FR Doc. 83-2864 Filed 2-2-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR 87

[PR Docket No. 83-29; FCC 83-24]

Transition Period for Removal of A3 Class of Emission (Voice) From Aeronautical Radiobeacon Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes to make a change in the class of emission and emission designator authorized for use at aeronautical radiobeacon stations. The action is necessary to make

additional spectrum available for reassignment and to permit frequency assignments consistent with recommendations of the Federal Aviation Administration. The intended effect is to alleviate a longstanding frequency congestion problem associated with radiobeacon stations.

DATES: Comments must be received on or before March 28, 1983, and reply comments must be received on or before April 27, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert E. Mickley, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 87

Aeronautical stations, Communications equipment, General aviation, Radio.

In the matter of amendment of Part 87 of the rules to provide a transition period for the removal of the A3 class of emission (voice) from aeronautical radiobeacon stations.

Adopted: January 20, 1983.

Released: January 31, 1983.

Summary

1. The Commission proposes to amend the Rules in order to provide for a transition period for the removal of the A3 class of emission (voice) from radiobeacon stations in the Aeronautical Radionavigation Service. In order to provide for an orderly transition, we propose to permit the use of voice transmissions at radiobeacon stations for a limited period of time, in accordance with the terms and conditions of the existing station license. Further, and unrelated to the proposed removal of the A3 class of emission, the Commission proposes to authorize the A9 class of emission and emission designator 1.12A9 for frequency assignments below 50 megahertz at radiobeacon stations in order to be consistent with existing frequency assignments.

Backgound

2. Radiobeacon stations are an integral part of the NDB/ADF aeronautical navigation system which is administered by the Federal Aviation Administration (FAA). The system consists of airborne automatic direction finders (ADF) and ground stations called nondirectional beacons (NDB). Authorization for operation of NDB's by non-FAA stations may be granted by the Commission after coordination with the FAA and upon a special showing of need for a service the Government is not yet prepared to provide. When the Commission licenses an NDB, it is referred to as a radiobeacon station. Of approximately 2000 NDB's operating within the NDB/ADF aeronautical navigation system, approximately 1200 of them are licensed by the Commission as radiobeacon stations. The Commission licenses radiobeacon stations in accordance with recommendations received from the FAA, because the FAA has the statutory authority to administer and prescribe standards for the operation of the NDB/ADF system. Frequency congestion associated with radiobeacon stations has been a longstanding problem. In a large portion of the continental United States, the FAA is finding it difficult or impossible to satisfy all NDB requirements. NDB frequency congestion is expected to worsen unless corrective action is taken.

3. The Radio Technical Commission for Aeronautics (RTCA), a Federal Advisory Committee, has recently completed a study which recommends "Minimum Operational Performance standards for Automatic Direction Finding (ADF) Equipment" (Document No. RTCA/DO-179). The emphasis of this study is directed toward the long term (mid-1990's and later) solution of the NDB frequency congestion problem which is based upon tighter ADF selectivity with a resultant more efficient use of the radio frequency spectrum. Associated with the RTCA study, is a letter to the FAA in which the RTCA makes recommendations to alleviate NDB frequency congestion in the short term (1983—early 1990's). One of the recommendations is to "Remove voice transmissions from NDB's in the 190–535 kHz band and satisfy these requirements by other means". The RTCA rationale provided for this recommendation follows, in part:

> The aviation community is currently using the NDB/ADF system for both navigation and communications. This results in an unfortunate compromise for both services. ADF bandwidth is less than ideal for voice reception. In addition, the communications bandwidth requirements are substantially larger than the navigation bandwidth requirements. Consequently, the communication function requires greater frequency protection than the navigation function. Therefore, the use of voice on the NDB places a constraint on the assignment of new NDB's and seriously restricts NDB growth.
>
> The primary purpose of the NDB/ADF system is navigation, and therefore voice should be removed from NDB installations in the 190–535 kHz band.

The authorized bandwidth for the communications portion of the NDB/ADF system is 8.00 kilohertz compared with 2.74 kilohertz for the navigation portion. Thus, the elimination of A3 voice transmissions from radiobeacon stations will ultimately make additional spectrum available for reassignment.

Proposal

4. The Commission, by action taken on January 13, 1982, adopted PR Docket No. 80-758 which amended Part 87 of the rules so as to incorporate technical specifications and the new frequency allotment plan contained in the Final Acts of the World Administrative Radio Conference on the Aeronautical Mobile (R) Service, Geneva, 1978. As a result of this action, the A3 class of emission (voice) was inadvertently deleted from frequency assignments in the Aviation Services below 50 megahertz. It was not the Commission's intent to abruptly eliminate voice transmissions at radiobeacon stations which operate on frequencies in the Aeronautical Radionavigation Service. Therefore, to provide for a transition period, we propose to amend § 87.87(b) of the rules by adding an appropriate footnote to the table contained therein. We propose that the A3 emission not be authorized on new or renewed radiobeacon station licenses processed subsequent to a date 180 days from the effective date a Report and Order associated with this rulemaking document.

5. In a matter related to the operation of radiobeacon stations, we also propose to amend the table in § 87.87(b) by adding another footnote which will provide for the use of emmission designator 1.12A9 for frequency assignments below 50 megahertz at radiobeacon stations using dual carrier nondirectional beacon transmitter equipment with 1020 Hertz modulation. Heretofore, the 1.12A9 emmission designator has been authorized at radiobeacon stations based upon frequency coordination effected by the Interdepartment Radio Advisory Committee (IRAC) notwithstanding the fact that specific provision for the use of 1.12A9 at radiobeacon stations did not appear in the rules. This amendment will make existing fequency assignments consistent with the rules.

Comments

6. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final

order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

7. The proposed amendments to the rules, as set forth in the Appendix, are issued under authority contained in Sections 4(i) and 303 (a), (b), (c), and (r) of the Communications Act of 1934, as amended.

8. Under the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before March 28, 1983, and reply comments on or before April 27, 1983. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching it decision, the Commission may take into consideration information and ideas not contained in the comments, provided such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

9. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

10. A review of radiobeacon station licenses reveals that there are approximately 100 such stations, authorized to use the A3 voice transmission, which would be affected by the rule amendments proposed herein. Since the equipment currently utilized at these radiobeacon stations may continue to be utilized under the conditions of the proposed rule amendments, the Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rulemaking proceeding. Therefore, the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

11. Regarding questions on matters covered in this document, contact Robert E. Mickley, telephone (202) 632–7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

§ 87.67 [Amended]

In § 87.67, paragraph (b) is amended by:

a. Adding footnote number "(12)" to the table opposite Class of Emission "A3" and under the columns headed "Class of Emission" and "Authorized Bandwidth—Below 50 MHz",

b. Adding the following footnote, appropriately, below the table: "(12) Authorized for use with an authorized bandwidth of 8.0 kilohertz at radiobeacon stations in accordance with the terms and conditions of the current license until the expiration date of same. The A3 emission will not be authorized on new or renewed radiobeacon station licenses processed subsequent to .",

c. Adding a new line to the five column table between "Class of Emission—A9" and "Class of Emission—A9J" with columnar entries as follows:

Columns					
1st	2d	3d	4th	5th	
A9(13)	1.12A9(13)	2.74(13)	.....	.....	[illegible]

d. Adding the following footnote, appropriately, below the table: "(13) Authorized for use at radiobeacon stations."

[FR Doc. 83–2932 Filed 2–2–83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 81–416; RM–3500; FCC 83–7]

Amendment Concerning Medical Service in the Special Emergency Radio Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission proposes to amend the Rules concerning the Special Emergency Radio Service so as to delete the requirement that a base or control station in an emergency medical service (EMS) system must be both wired and equipped to transmit/receive on any particular number of MED channels and to establish standard nomenclature for the EMS channels 462.950/467.950 and 462.975/467.975 MHz (i.e. MED-9 and MED-10, respectively). These rules are proposed to decrease licensee burdens and promote efficient system operation.

DATES: Comments are due by March 4, 1983 and replies by March 21, 1983.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Arthur C. King, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Special emergency radio service.

In the matter of amendment of rules concerning medical services operations in the 450–470 MHz band in the Special Emergency Radio Service; PR Docket 81–416 RM–3500.

Notice of Proposed Rule Making

Adopted: January 13, 1983.

Released: January 24, 1983.

By the Commission: Commissioner Jones concurring in the result.

Summary

The Commission hereby gives notice of its intention to amend its Sepcial

Emergency Radio Service (SERS) Rules: (1) By eliminating the requirement that base stations which operate on the MED 1-MED 8 channels must employ equipment which is both wired and equipped to transmit/receive on at least four of these eight frequency pairs; [1] and (2) by designating two additional SERS channels as MED–9 and MED–10).[2]

Background

1. On October 1, 1979, the National Traffic Safety Administration of the U.S. Department of Transportation (NHTSA) filed a Petition for Rule Making in which it requested that the Commission adopt rules which would: (1) Restrict eligibility in the Special Emergency Radio Service on the MED frequencies [3] to organizations engaged in emergency medical services; (2) require adherence by licensees to state or regional medical service communications plans; (3) require the use of tone-coded squelch by all licensees; (4) require all base and control stations which operate on the MED 1-MED 8 channels to be equipped for all ten frequency pairs; and (5) require certain other changes in the rules as they apply to emergency medical services. A similar petition was received from the Maryland Institute for Emergency Medical Services Systems (MIEMSS). These proposals were opposed by nearly all who commented on the petitions. In a Memorandum Opinion and Order, adopted July 23 and released September 2, 1980, FCC 80–458, the Commission denied both petitions.

2. On October 2, 1980, the Commission received a Petition for Reconsideration in which NHTSA affirmed that in the time which had elapsed since it had filed its original petition significant new information had been developed relating to important problems and deficiencies in medical services radio operations that, in its view, provided a mandate for further review and public input. In response to NHTSA's Petition for Reconsideration, the Commission, on June 30, 1981, adopted a Memorandum Opinion and Order and Notice of Inquiry (FCC 81–293). Acknowledging that a public forum would be beneficial for considering rule changes, including deregulation, the Commission instituted an inquiry into these matters.

[1] See § 90.53(b)(15)(iii) of the Commission's Rules and Regulations, 47 CFR 90.53(b)(15)(iii).

[2] 462.950/467.950 MHz and 462.975/467.975 MHz.

[3] 463.000/468.000 MHz; 463.125/468.125 MHz; 463.025/468.025 MHz; 463.150/468.150 MHz; 463.050/468.050 MHz; 463.175/468.175 MHz; 463.075/468.075 MHz; 462.950/467.950 MHz; 463.100/468.100 MHz; and 462.975/467.975 MHz. The first eight of these frequencies are commonly referred to as MED 1-MED 8.

The Inquiry

3. The Notice of Inquiry (NOI) requested comments with respect to the following:

A. Are the present structure and provisions of the Commission's Rules in Part 90 adequate for licensing, operation, and development of medical services radio systems in the 450–470, MHz band in the Special Emergency Radio Service? If not, what specific problems are occurring?

B. What impact, if any, is being made by advances or changes in technology that is applicable to the operation of medical services radio systems?

C. What specific rule changes of a more stringent nature are needed in this area?

D. What rule changes of a deregulatory nature are needed in this area?

4. Comments responding to the Notice of Inquiry were received from:

American Hospital Association (AHA)
Arizona Department of Public Safety (Arizona)
Associated Public Safety Communications Officers, Inc. (APCO)
California Public Safety Radio Association, Inc. (CPRA)
Chicago Communication Service, Inc. (Chicago Com)
Colorado Department of Health (Colorado)
Connecticut, State of (Connecticut)
Department of Transportation (NHTSA)
Florida, State of (Florida)
Illinois Department of Health (Illinois)
Indiana, State of (Indiana)
International Association of Fire Chiefs, Inc. (IAFC)
Los Angeles, County of (Los Angeles)
Marlyand Institute for Emergency Medical Services Systems (MIEMSS)
Massachusetts, Commonwealth of (Massachusetts)
Mid-Atlantic Emergency Medical Services Council, Inc. (MAEMSC)
Missouri, State of (Missouri)
Motorola, Inc. (Motorola)
New Jersey State First Aid Council, Inc. (NJSFAC)
New Mexico Communications Division (New Mexico)
North Carolina, State of (North Carolina)
Orange County, Cal. (Orange County)
Riverside County, Cal. (Riverside County)
Virginia, Commonwealth of (Virginia)
West Virginia, State of (West Virginia)

No reply comments were received.

4. Generally, NHTSA and the State organizations favored restricting access to the MED frequencies. Presently the rules permit all classes of medical services eligibles to use the MED frequencies. However, routine or administrative transmissions must secondary to emergency transmissions relating to medical supervision and instruction for treatment and transport of patients in the rendition or delivery of medical services. NHTSA and others request that we amend this rule to permit only emergency transmission on these frequencies.[4] [5] They also ask the Commission to establish as a pre-condition of licensing that applicants be in conformity with a State Communications Plan. Also, may commenters supported the designation of a frequency coordinator for the SERS, and particularly for the MED frequencies.[6]

5. Other suggestions made in the comments were that tone squelch should be mandated on SERS fequencies; that new technology should be excluded from these frequencies unless it could be demonstrated that it would have no adverse consequences on existing systems; that the requirement for multi-channel based station equipment on the MED channels should be revised; and that standard nomenclature for the channels 462.950/467.950 and 462.975/467.975 MHz should be adopted.

6. NHTSA, rather than responding to the questions in the NOI, generally re-iterated the points made in its original petition. It requested the Commission to revisit the proposals made in a prior proceeding. The NHTSA proposals were dealt with individually in our Memorandum Opinion and Order, FCC 90–448, adopted July 23, and released September 2, 1980, which was issued in response to petitions by NHTSA and MIEMSS, RM Nos. 3500 and 3364, respectively. We are not readdressing those proposals here. We thoroughly discussed our conclusions on each point and reasons therefor and nothing in this round of comments persuades us that those conclusions were incorrect.

Adequacy of Present Rules

7. In response to question A, many of the State organizations, instead of relating specific problems to inadequacies in the Commission's Rules, discussed their concerns about "uncoordinated frequency assignments"

[4] The MED frequencies 463.000/468.000 MHz, 463.025/468.025MHz, 463.050/468.050 MHz are primarily authorized for operations in biomedical telemetry systems. On a secondary basis, the frequencies may be utilized for any other permissible communication consistent with 47 CFR 90.35. See 47 CFR 90.35(a), 90.53(b)(19). The MED frequencies 463.075/468.075 MHz, 463.100/468.100 MHz, 463.125/468.125 MHz, 463.150/468.150 MHz, and 463.175/468.175 MHz are primarily authorized for communications between medical facilities' vehicles and personnel related to medical supervision and instruction for treatment and transportation of patients in the rendition or delivery of medical services. On a secondary basis, these frequencies may be utilized for any other permissible communication consistent with 47 CFR 90.35. See 47 CFR 90.35(a), 90.53(b)(20).

[5] 47 CFR 90.35 describes eligible users.

[6] Presently applications in the Special Emergency Radio Service need not be accompanied by evidence of frequency coordination. See 47 CFR 90.175(e)(2).

or "maverick" stations that could operate in a manner not in accordance with state or regional plans. The arguments against authorizing these entities were not based on violation of the Commission's Rules. The objection was that they were not part of the state plan. AHA, however, representing 6,100 hospitals and 30,000 individuals, noted "no significant problems in the 450–470 MHz band under present rules."

Impact of Technology

8. Only six parties had specific comments regarding the impact of technology on EMS communications and none made specific proposals. Essentially these comments expressed some ambivalence on this subject. The Commonwealth of Virginia suggested that digital signaling be permitted in the UHF SERS allocation. Los Angeles County discussed automatic number identification (ANI) for field units which a computer would use to select the "best" channel for the hospital and field units. Colorado stated that frequency synthesized transmitters and analog and digital squelch codes will open up new possibilities for interfacing between regions.

9. Other significant comments received on technological impacts were as follows:

> New modulation techniques such as Amplitude Compandored Sideband (ACSB) and improved digital encoding could be of significant benefit in new or replacement systems. However, development of EMS systems on the UHF–SERS channels is both well under way, and too young to replace, using "last year's" technology. Therefore, applicable rules should address present technology and require that new technological developments be used only after a showing of compatibility with existing systems. . . . This requirement would not be unique. In the past, the FCC has not allowed color television to develop without proof of compatibility with black and white.
> —Comments of Maryland Institute for Emergency Medical Services System, p.2.

> Spectrum conserving technolgy such as digital paging and computerized trunking systems are useful to medicial radio systems. However, those medical entities which can afford such technologies on their own are few and far between. The present rules do not adequately encourage sharing of spectrum conserving systems. As a matter of fact, the lack of encouragement through rules to use such technology has stifled developmen of systems in all radio services, thereby keeping costs up and potential users left with no recourse but to obtain less expensive spectrum wasteful systems. In addition, many do not realize that trunking is allowable under current rules and so overlook the possibility.
> —Comment of Missouri Department of Social Services at p.4.

> The Commission, in many rule making proceedings, has often failed to recognize future needs and the applicability of up and coming technologies. The Commission has usually compensated in rule making for only present, pressing needs. Of course, over-compensating for future needs is unwarranted. It just seems that a little additional flexibility would help future requirements.
> —*Id.* at p.5.

11. NHTSA summarized the feelings of many users concerning the employment of new technologies:

> [T]he use of advanced technology for EMS communications is usually very expensive, not necessarily cost-effective, and possibly counter-productive.
> —Comments of Department of Transportation, National Highway Traffic Safety Administration at p.10.

Needed Rule Changes

12. Most of the comments dealt prinicpally with recommendations for rule changes of a more stringent nature designed to restrict access to MED channels or to mandate additional system requirements. The more strict proposals concerned the following four major areas:

A. Proposals for frequency coordination in some form: either (1) through a designated frequency coordinator such as APCO or (2) by requiring compliance with state or regional plans;

B. Proposals to restrict the eligibility for 450 MHz EMS channels to: (1) eligibles providing *emergency* medical service or (2) local governmental jurisdictions (i.e., states, counties, etc.,);

C. Proposals to require squelch codes on some or all MED channels; and

D. Finally, many requested two additional channels be included within the Commission's standard MED channel nomenclature.

The single significant deregulatory proposal discussed was for the deletion of the four-channel requirement at EMS base stations. Comments suggested substitution of one, two, or three-channel requirements. No comments supported NHTSA's proposal that the Commission's Rules mandate ten channels at base stations, except where they might be needed in congested urban areas.

Discussion

13. Most states which commented expressed the view that the Commission should require all applicants for licenses in the Special Emergency Radio Service on the MED frequencies to submit evidence that they would be in compliance with a state or regional communications plan. This is one of the issues raised previously by NHTSA which the Commission declined to do:

> NHTSA asks us to require that there be a showing of conformity by an applicant to any existing medical communications plan for the area of operation involved. Further, for ambulance companies, NHTSA proposes that licensing be permitted only if there is such a plan. These proposals would require us to tie our responsibility for licensing eligible persons into planning standards over which we could not control. We do not find this to be either feasible or in the public interest. In addition, no basis was presented for making a licensing distinction for ambulance companies. Nor are we aware of any factors that would require or justify such a distinction. With regard to medical communications plans, as we have noted, our rules encourage participation in area-wide planning efforts of this nature. In heavily congested areas, where independent operations are not feasible, what is happening is that all licensees are getting together to set up common control and dispatch centers that tie together for efficiency and effectiveness all of the medical operations for the region involved. We provide a procedure and an opportunity for applicants in these areas to coordinate their proposed systems with the authorities who have submitted plans for these combined operations. It appears that the primary concern of NHTSA is that persons who do not participate in the existing plan may cause harmful interference to operations under that plan. This is the so-called "maverick" issue. However, this type of problem has been almost non-existent in practice. In any event, our rules contain adequate enforcement provisions for resolving problems of this kind and we see no need at this time for the restrictive licensing requirements that NHTSA has proposed.

Nothing submitted in response to the NOI persuades us that there has been any change which would warrant modification of this position notwithstanding the arguments made in the comments and we again decline to propose such a rule.

14. The next most common subject was frequency coordination. While this appears at first blush to be an easy answer to reducing interference, we are not yet persuaded it is feasible in the case of the Special Emergecy Radio Service. In other public safety services where frequency coordination is successful, there are relatively few users and a relatively large number of frequencies. Even where the channels are shared by a number of Public Safety users, they are relatively uncrowded, although exceptions could be cited. On the other hand, in the lower Special Emergency Radio Service bands (30 to 50 and 150 to 170 MHZ), there are ten (10) major categories of eligibles with some, such as Medical Services, having several subcategories. Most of these

categories of users have little in common. APCO and CPRA suggested that APCO be designated the coordinator for the Special Energency Radio Service for the MED frequencies. However, these frequencies are available to a broad class of eligibles and APCO has not yet been demonstrated to be representative of these users, nor have the users generally indicated any desire to have APCO as their coordinator. Since APCO represents only a portion of those eligible in the Special Emergency Radio Service to use the MED channels, we are not persuaded, in the absence of user support, that it should be proposed as the recognized frequency coordinator for this spectrum. Similarly, since no other single organization has been demonstrated to be representative of all users, we are declining to propose a frequency coordinator for the MED frequencies at this time.

15. Further comments are invited, however, from any organization, including APCO, that considers itself qualified to be the frequency coordinator for the MED frequency channels. Frequency coordination, we feel, is the best means available for assigning these types of frequencies. This has been recognized by the Commission for many years and more recently by the Congress of the United States.[7] The Commission is ready to appoint as frequency coordinator any user sponsored organization that can satisfy the necessary coordinator requirements.

16. Many of the commenters also suggested amendments to § 90.35(a) that would restrict eligibility for EMS channels to entities which provide medical service of an emergency nature, in order to assure that all communications are related to EMS. A few others proposed limiting eligibility for licensing on these channels to states, counties, or regional authorities with system licensees being held by them for the smaller jurisdictions, even though the smaller jurisdiction would operate the local stations. We find little merit to denying local governments or private parties the right to apply for and be licensed for their own communications systems and no persuasive reasons for such a restriction in our opinion are set forth in the record of this proceeding. We therefore decline to propose these rule changes.

17. As for limiting EMS channels to only emergency use, we think this is also unnecessary restrictive, particulary in the absence of a demonstration that a problem exists. The current rules provide only secondary status for non-emergency use of these channels, and we believe this provides sufficient protection for emergency communications. There is no question that transmissions of an emergency nature take precedence and we have ample authority to enforce this requirement should an actual problem be demonstrated. However, there are many areas in our country where both types of operations can exist and there has been no demonstration that this approach has resulted in any impairment of emergency operations. We see no need to preclude medical services eligibles from using these frequencies for non-emergency communications where this is feasible and where it can eliminate duplicative system costs. The record in this proceeding does not support such an amendment, and we also decline to propose this.

18. A number of organizations commenting in response to the NOI asked that Continuous Tone Coded Squelch (CTCS) be mandated, some suggesting that the requirement be restricted to one or two channels, others for all channels. Indiana opposes any CTCS requirement. None of the respondents offered any argument for CTCS aside from a suggestion that it be required. The Commission believes that the decision to use or not use tone coded squelch is one properly left up to the system designer. The Commission has consistently refrained from madating tone coded squelch in other services and is reluctant to do so in the SERS. Additionally, the matter was thoroughly discussed in another proceeding (RM-3854) and recently denied. We are not persuaded to propose it here.

19. The existing requirement for base stations to have four channels implemented (three if bio-medical telemetry is not required) was questioned by several respondents. Colorado, for example, stated:

> * * * Many rural areas are capable of operating very satisfactorily on one or two frequencies. To impose restrictions which require additional channels is an added expense. The requirement for multi-channel mobile operation is appropriate and we support this requirement for it provides the interface and compatibility necessary between systems. Two channel restriction will allow State and Regional planners to require more channels if necessary.

Illinois stated similarly that base stations should be required to implement no less than two channels while all others who addressed this issue suggested that the minimum number of required channels should be dropped altogether. None, however, suggested that the mobile station ten channel requirement be changed.

20. The Commission is persuaded by the number and sincerity of the comments that the requirement of four channels at EMS base stations, particularly in rural areas, is an added expense that may be burdensome and not always necessary. Even in certain more populous areas, the needs may not justify four channels. The design of medical communications systems is, in our view, best decided at the local level. We are therefore proposing to delete the four channel requirement, leaving it up to the individual licensee to determine its own requirements. This would neither force existing systems to change nor prevent the implementation of more channels for new or up-graded systems. We are also again inviting comment on the issue of the need for this Commission to maintain the multi-channel mobile station requirement, since this too is part of the local planning process.

21. Finally, some respondents ask that the channels 462.950/467.950 and 462.975/467.975 MHz be designated "Call-1, Call-2", "Dispatch-1, Dispatch-2", or "MED-9, MED-10" according to whose comments one refers. While this appears to be the sort of question that should be left to individual preference, we shall accede to the wishes of those desiring standard nomenclature and propose that the Rules be amended to reflect designation of those two channels as MED-9 and MED-10. Such identification in the Rules, however, will not prevent the use of other designations by users. They may refer to them in whatever fashion they have been accustomed.

Miscellaneous Matters

22. Since no specific recommendations were presented as to how the rules might be modified to accommodate new technologies, we are not proposing any rule changes in this area. Missouri suggests that present rules do not adequately encourage sharing of spectrum conserving systems but does not offer any suggestions as to how the rules could be improved in this respect. As Missouri notes, the rules already provide for shared trunk systems and rules were recently adopted to permit interservice sharing in the land mobile radio services. We would appreciate specific suggestions so that, if appropriate, rules can be adopted.

23. Accordingly, notice is hereby given of rule making to amend Part 90 of the

[7] Communications Amendments Act of 1982, P.L. 97-259, September 13, 1982, § 120 (47 U.S.C. 331(b)(1)); See Conference Report No. 97-765, 97th Cong., 2nd Sess. (1982), pp. 53-54.

Commission's Rules, in accordance with the proposals set forth in the Appendix.

24. After an analysis of these proposed rules, the Commission concludes that they are not likely to have a significant impact either economically or otherwise on a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980 (Public Law 96–354). In fact, the Commission anticipates an overall beneficial effect through the proposed reduction in the required number of frequency channels heretofore required at base stations. This proposal does not affect eligibility in any way.
Accordingly, the Commission certifies that Sections 603 and 604 of the Regulatory Flexibility Act do not apply to these proceedings. See U.S.C. Section 605(b).

25. The proposed amendment to the Rules is issued pursuant to authority contained in Sections 4(i), and 303(b), 303(f), 303(g), and 303(r) of the Communications Act, as amended.

26. Pursuant to procedures set out in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before March 4, 1983, and reply comments on or before March 21, 1983. The Commission will consider all relevant and timely comments before taking final action in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

27. We encourage all interested parties to respond to this Notice since such information as they may provide often forms the basis for further Commission action. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who initiates an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day or oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

28. In accordance with the provisions of Section 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

29. For further information, contact Arthur King, Federal Communications Commission, Private Radio Bureau, Land Mobile and Microwave Division, Washington, D.C. 20554, (202) 634–2443.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 90—[AMENDED]

It is proposed that 47 CFR Part 90 be amended as follows:

1. Section 90.53 is amended by removing and reserving paragraphs (b)(15) (iii) and (iv), and by the revision of (vi) to read as follows:

§ 90.53 Frequencies available.

* * * * *

(b) * * *
(15) * * *
(iii) [Reserved]
(iv) [Reserved]

* * * * *

(vi) Stations located in areas above line A, as defined in § 90.7, will be required to meet multi-channel equipment requirements only for those frequencies up to the number specified in subparagraph (ii) which have been assigned and coordinated with Canada in accordance with the applicable U.S.-Canada agreement.

2. Section 90.53(b)(16) is revised as follows:

§ 90.53 Frequencies available.

(a) * * *
(b) * * *

(16) This frequency is primarily authorized for use under §90.35(a) in the dispatch of medical care vehicles and personnel for the rendition or delivery of medical services. This frequency may also be assigned for intra-system and inter-system mutual assistance purposes. For uniformity in usage, the frequency pairs 462.950/467.975 MHz may be referred to as MED–9 and MED–10, respectively.

[FR Doc. 83-2888 Filed 2-3-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 83-26; FCC 83-23]

Establishment of a Class of Operator License Not Requiring a Demonstration of Proficiency in the International Morse Code

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend the Amateur Radio Service Rules to establish a class of operator license which would not require an applicant to first demonstrate proficiency in the international Morse code. The current rules require that applicants for each of the five existing license classes prove that they are able to send and receive texts in the Morse code. However, the Commission is often in receipt of requests to delete or waive this requirement. The proposed rules would establish a license class without the code requirement and limit the privileges of the license to frequencies above 30 MHz—frequencies upon which Morse code is seldom used.

DATE: Comments are due by April 29, 1983 and replies by May 31, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Lett, Private Radio Bureau, Special Services Division, (202) 632–4064.

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SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Notice of Proposed Rule Making

Adopted: January 20, 1983.

Released: February 1, 1983.

In the matter of establishment of a class of amateur operator license not requiring a demonstration of proficiency in the international Morse Code, PR Docket No. 83–28.

Introduction

1. Notice of Proposed Rule Making in the above captioned matter is hereby given.

2. The Commission is proposing to establish an amateur radio operator license class which an individual may obtain without first demonstrating a proficiency in the international Morse code. We are doing this in the belief that there are intelligent, disciplined persons who can make a valuable contribution to the Amateur Radio Service without such a proficiency. These persons may include, but are not limited to, many of our nation's younger, school-aged individuals whose primary interest lies in the burgeoning field of computer technology or individuals with a physical handicap which prevents them from being able to successfully complete a Morse code examination. The license class we propose to establish would be an "entry" type license class which would provide to these individuals the same introduction to amateur radio that the current Novice class license provides. However, instead of requiring a demonstration of proficiency in the Morse code, the proposed license class would require additional testing, above that required of a Novice class license applicant, in the areas of radio theory, operation and practice. In this way, we believe that individuals can prove in an alternative fashion that they have the ability and discipline to make a serious contribution to the Amateur Radio Service.

Background

3. As the amateur community is aware, the issue of a "codeless" amateur operator license has been addressed in past Commission proceedings. On December 4, 1974 the Commission adopted a Notice of Proposed Rule Making in Docket 20282 that dealt comprehensively with the Amateur Radio Service Rules concerning operator classes, privileges and requirements.[1] In that Notice, the Commission said:

> We recognize the desire by some amateurs, and would be amateurs * * * for a class of amateur operator license having requirements that do not include a knowledge of telegraphy * * *. A survey and analysis conducted in 1971 indicated that there may be as many non-licensees interested in amateur radio activities, if not more, than there are persons already licensed in the Amateur Radio Service. The most often mentioned reason for not obtaining an amateur license is the telegraphy requirements.

The Commission then stated, "We believe, under carefully established provisions, a new 'telephony-only' type of operator license (the 'Communicator class' license), limited to frequencies above 144 MHz, could and should be incorporated into the Amateur Radio Service."

4. On August 8, 1978 the Commission adopted a Notice of Inquiry in General Docket 78–250 concerning the administration of Morse code examinations to handicapped applicants for amateur operator licenses.[2] That Notice contained information about our current examination procedures and sought comments about improvements that could be made in administering Morse code examinations to handicapped applicants. One of the alternatives that was considered in that proceeding was the creation of a new class of amateur operator license which would not have a Morse code examination and which would have an eligibility restricted to handicapped applicants.

5. On March 6, 1979 the Commission adopted a Third Report and Order in Docket 20282 to address matters not disposed of in Commission actions since the adoption of its Notice in that docket.[3] Among these was the issue of a codeless operator license. The Commission stated:

> (W)e have decided to take no action at this time * * * on the creation of a * * * license having no telegraphy privileges or requirements. We firmly believe in the principle, articulated in the Notice, that in any licensing system there should be a logical relationship between the qualification requirements and the operator privileges authorized at each license class level. We feel that the (codeless) "Communicator Class," as proposed, was in keeping with this principle; and we do not agree with the majority filing comments who asserted that the privileges to be conveyed by the "Communicator Class" were "out of proportion" to the qualification requirements. Nevertheless, since much time has elapsed since the issuance of the Notice (4 years) * * * we would like to get the views of * * * newer licensees on the need or desirability of a "codeless" class of amateur license. Accordingly, we hope to revisit this matter later * * * in a new rule making proceeding.

6. On March 11, 1982 the Commission adopted a Report and Order terminating, without action, the proceeding in General Docket 78–250.[4] The Commission stated:

> After careful consideration of the issues and comments in this proceeding, it appears that selecting a particular group of license applicants for favorable treatment in terms of less stringent amateur operator requirements would not be sound licensing policy. For example, if such a policy were instituted, the Commission ultimately could find itself in the untenable position of deciding which applicants actually qualified for telegraphy exemptions and which did not. Commission personnel clearly are not trained to make such judgments. Therefore, if we decide to introduce a class of amateur radio operator license without telegraphy requirements, it will be available to any applicant, instead of limited to applicants with certain physical or learning disabilities.

7. Today, we note that internationally there are at least two countries with significant amateur radio operator populations which provide for a class of operator license which does not require a proficiency in the Morse code: Japan and Canada. In Japan, where the difference in privileges between operator classes is for the most part determined by authorized maximum operating power, license classes are provided for low power operation in the HF as well as VHF bands[5] without a Morse code examination requirement. In Canada, operators holding a Digital Amateur Class Certificate may use virtually all emission types throughout the Canadian amateur frequency bands above 144 MHz. The examination requirements for the Digital Amateur Class Certificate include a test in radio regulations, a test in radio theory and operation of modern amateur radio transmitters and receivers, and a rigorous examination in the theory of communications, computing, and analog and digital transmissions, but no examination in the international Morse code. For each of these cases, we are unaware of any difficulty that has been experienced because of the creation of such license classes.

Proposals

8. The Commission is proposing to establish one of two kinds of codeless operator license class. The first kind would be created by eliminating the

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[1] 39 FR 44042, December 20, 1974.

[2] 43 FR 37729, August 24, 1978.

[3] 44 FR 16460, March 19, 1979.

[4] 47 FR 14197, April 2, 1982.

[5] The HF (High Frequency) bands are the bands between 3 and 30 MHz. The VHF (Very High Frequency) bands are the bands between 30 and 300 MHz.

five-word-per-minute Morse code examination element from the existing Technician class operator licensing requirements. The operator license to be issued would still be called the "Technician class" license and the privileges would continue to include all authorized amateur privileges above 50 MHz. However, the license would convey the Novice class privileges (Morse telegraphy in portions of certain HF bands)—which are authorized to current Technician class licensees—only after the license holder had successfully completed the additional examination element 1(A) (beginner's code test at five words per minute). The second form that such a license could take would be one similar to the Canadian Digital Amateur Class Certificate. We propose to call this license the "Experimenter class" license, since, as will be explained later, this would more accurately reflect the privileges to be conveyed.

9. Both of the potential codeless license classes we propose to establish have certain features in common, most notably, the authorized frequencies under consideration. The Commission believes that requirements for a knowledge of the international Morse code still serve an important purpose for operation on the frequencies below 30 MHz. Furthermore, the United States is a signatory of the treaty established at the 1959 Administrative Radio Conference and that treaty requires that the operator of an amateur radio station using frequencies below 144 MHz must be capable of sending and receiving Morse code signals.[6] At the 1979 World Administrative Radio Conference (WARC) the specification of 144 MHz was changed to 30 MHz and this new limit will apply upon ratification of the new treaty by the United States. Accordingly, the Commission will consider only privileges above 30 MHz for the codeless license class. The specific frequencies above 30 MHz to authorize for such a license class is an issue upon which we encourage comments. Our proposals for frequencies as well as other specific aspects of the two proposed license classes are discussed below.

10. Another common aspect of the two codeless license classes under consideration is that they would both be "entry" type licenses, and, in that respect, be similar to the existing Novice class license. As mentioned earlier, the intention of the entry type license is to provide an individual with an introduction to amateur radio in order that he/she may come to learn more of the art and techniques of radio and become interested in different and varied aspects of the Amateur Radio Service. The license classes we propose to establish would supplement the Novice class license in this regard. They would differ from the Novice class in that instead of requiring the five-word-per-minute code test, the new entry class license would require additional examination in radio theory and practice.

Technician Class License (Without Morse Code Examination)

11. With the elimination of the five-word-per-minute Morse code examination requirement (examination element 1(A)) from the Technician class license the remaining requirements would include examination element 2 (basic law comprising rules and regulations essential to the beginner's operation, including sufficient elementary radio theory for the understanding of those rules) and element 3 (general amateur practice and regulations involving radio operation and apparatus and provisions of treaties, statutes, and rules affecting amateur stations and operators). We note that elements 2 and 3 are also the only examinations in theory, practice and regulations required for the General class operator license—a license which conveys all amateur privileges on frequencies in all amateur frequency bands and which is considered to be a significant credential of an individual's technical competence. In essence, we would be requiring the Technician class licensee to meet all of the requirements of the General class licensee, save for the examination in Morse code. Under these circumstances, we believe that an individual, having obtained a Technician class license under our proposal, would be able to make a worthy contribution to the Amateur Radio Service and that the individual would possess the degree of discipline appropriate to amateur radio.

12. Under our proposal, the privileges for the Technician class license would continue to include operation on all amateur frequencies above 50 MHz since this would be consistent with the current privileges for that license class (with the exception of the Morse telegraphy privileges in the HF bands which would be authorized upon the licensee's successful completion of examination element 1(A)). Such privileges would also be consistent with our international responsibilities. We are also proposing that the privileges include the use of all emission modes currently authorized to amateurs on those frequency bands. Once again this is consistent with the privileges currently authorized to Technician class licensees and is in keeping with our objective of having the proposed license class provide a broad exposure to the Amateur Radio Service and opportunities for experimentation. We believe, for example, that persons whose primary interest lies in the field of computers will take advantage of the emission modes used for radio-teleprinter and computer communications (i.e., A2, F1 and F2 emission modes). In this way they could discover more about radio communications through the converging technologies of amateur radio and personal computers. They would then have an opportunity to go on to learn about other modes such as facsimile (A4 and F5 emissions), television (A5 and F5 emissions) and the Morse code (A1 emissions) in addition to the common voice modes (A3 and F3 emissions).

Experimenter Class License

13. As noted earlier, the requirements for the Canadian Digital Amateur Class Certificate, while not including an examination in the Morse code, do include examinations in radio regulations, radio theory and digital techniques. The examinations in radio regulations and theory are the same as those given to applicants for the Canadian Advanced Amateur Class Certificate which has as its only additional requirement a fifteen-word-per-minute Morse code examination. So, in essence, the applicant for the Digital Class Certificate must pass the same examinations requirements as an applicant for the Advanced Class Certificate except that the Morse code examination is replaced with an extremely difficult examination on digital techniques.

14. In keeping with this model, we propose to create for our Experimenter class license a new examination element—element 5—which would be the sole examination required of the license applicant. The appropriate content for this examination is something which we believe deserves discussion in the comments on this proceeding. Clearly this examination element must test an applicant's knowledge of radio regulations and

[6] Article 41, Section 3(1) of the Radio Regulations which complete the International Telecommunication Convention (Geneva, 1959) states, "Any person operating the apparatus of an amateur station shall have proved that he is able to send correctly by hand and to receive correctly by ear, texts in Morse code signals. Administrations concerned may, however, waive this requirement in the case of stations making use exclusively of frequencies above 144 MHz."

theory as is required for the Canadian Digital Amateur Class Certificate. However, the *level* at which this examination should test an applicant's knowledge is an issue that we believe should be addressed in the comments. The level of the examination in these areas could be at or between the levels required for any of the five current operator license classes.

15. To be in perfect keeping with the model of the Canadian Digital Class Certificate, the examination required for the Experimenter class license should also test an applicant's knowledge of digital techniques. We note, however, that applicants for the current Technician and Amateur Extra class licenses are also tested in this area. Under these circumstances, and given that an examination in radio regulations and theory should clearly be required for the Experimenter class license applicant, we believe that it may be appropriate for our proposed new examination element 5 to simply be comprised of certain of our existing examination elements. For example, if the new element 5 consisted of the same subject matter as the current elements 2 and 3, the examination requirements for the Experimenter class license would be the same as those for our proposed codeless Technician class license. Alternatively, examination element 5 could, perhaps, consist of the current elements 2, 3 and 4(A). We specifically invite comments as to whether the approach of having element 5 be comprised of certain current examination elements is desirable, and if so which ones, or whether an entirely new examination and syllabus should be developed for it. This also brings us to the first reason that we believe this proposed new license should be called the Experimenter class rather than the Digital class license. Since the examination requirements in the area of digital techniques for the new license would not be unique to that license (unless we were to remove those requirements from other classes of licenses, which we do not plan to do), we believe it would be a misnomer to single that license class out as a "digital" license.

16. The Canadian Digital Amateur Class Certificate conveys all of the privileges accorded to the two other Canadian amateur operator classes on frequencies above 144 MHz, both in terms of authorized frequencies and emission modes. However, it also conveys emission mode privileges which neither of the other two license classes are entitled to use—specifically the use of pulse modulation (type P emissions). In the U.S., all classes of amateur operator licensees, other than Novice, are authorized full amateur privileges above 50 MHz, including the use of pulse modulation where it is permitted in those bands. Consequently, there are no exclusive mode privileges which we can reserve for the Experimenter class license without removing certain privileges from other license classes. Once again, this is something which we do not plan to do. Consistent with the above, we propose that the Experimenter class license convey all amateur privileges on frequencies above 144 MHz. We are proposing 144 MHz as the lower limit of frequency privileges since this is consistent with that of the Canadian Digital Amateur Class Certificate. However, there is nothing to prevent the authorization of privileges down to 50 MHz and, here again, we plan to be flexible on the issue of frequencies to authorize to the new codeless license. This also brings us to the second reason that we believe that calling this proposed license the "Digital class" license would be a misnomer. There are no "digital" privileges which we plan to exclusively convey to such a license.

Discussion

17. Essentially, we will be considering the authorization of the same frequencies for whichever codeless license we may implement. There are, then, only two principle differences between our proposed codeless Technician class and Experimenter class operator licenses. These are the subject and level of the written examination to be administered to the applicant, and the total number of operator license classes to be provided for in the Amateur Radio Service. In the case of our codeless Technician class license proposal, that license class would take the place of the current Technician class license and the total number of operator license classes would remain the same. In the case of our Experimenter class license proposal, we would be adding one entirely new class of operator license.[7] In this respect, we must point out that the Technician class license proposal has an advantage over the Experimenter class license proposal. Implementation of the Experimenter class license may require the Commission to develop a new syllabus and provide, by some means, for the preparation and administration of new examinations. It would also certainly require the revision and reprinting of our application forms and other Commission publications as well as a complete revision of our data processing procedures and programs used for issuing licenses. We would be remiss if we did not consider these administrative burdens in weighing the respective desirability of the two license classes proposed. Accordingly, we request that this matter be addressed in the context of comments on this proceeding.

18. Finally, the Commission does not wish to de-emphasize the importance of the international Morse code as a communications mode in the Amateur Radio Service. In the recent proceeding regarding expansion of the HF telephony "subbands" the Commission stated: "Current regulations permit emission type A1 Morse telegraphy operation on all amateur radio frequencies. This unique universal authorization for that mode results from its character as an efficient and widely recognized communications language that can be employed with the simplest type of equipment." [8] We believe that this character has not changed. However, it is precisely these attributes that make us believe that Morse code as a valuable mode of communication "can stand on its own feet." We believe that once an individual has had an opportunity to become involved in the Amateur Radio Service and become acquainted with its many intricate facets, there is a desire to learn more about radio and the offerings of the service. We anticipate that in the case of the codeless class licensees these new interests may include the international Morse code, just as we anticipate with all other licensees that these interests may include radio theory at a greater level of comprehension and Morse code proficiency at a greater speed.

19. Beyond station identification and use in certain weak signal communictions modes, we note that the Morse code is seldom used on frequencies above 50 MHZ, even though all amateur operators are currently required to demonstate their proficiency in it prior to licensing. We then ask why the Federal Government should continue to require of operators a skill which may have less utility than other skills in these bands for which the license would be granted to operate. We do not, for example, require applicants to demonstrate proficiency with a typewriter even though radioteleprinting

[7] Depending on the final examination requirements and privileges which may be included for the Experimenter class license, the license class structure may dictate that it be permissible for that class of license to be able to be held concurrently with another class of license. This is the case for the Canadian Digital Amateur Class Certificate.

[8] Notice of Inquiry and Proposed Rule Making in PR Docket No. 82-83. 47 FR 8798, March 2, 1982.

may be the most efficenct mode for certain "traffic" handling. We believe that a more important qualification for an operator license is an individuals ability to understand the Commission's regulations and the radio station for which he/she is responsible. Other than this, we would leave to the individual the decision as to whether learning the Morse code would benefit his/her endeavors in amateur radio.

Conclusion

20. The Commission is aware that the matter of a codeless license is probably the most controversial matter that we can raise with the amateur radio community. For many amateur radio operators, the Morse code stands as the absolute cornerstone of the service. We have taken note of a survey conducted for the American Radio Relay League, Inc. (ARRL) by Florida State University's Institute for Social Research,[9] which is indicative of these attitudes. Of those U.S.-licensed amateur operators responding, 83% believed that a Morse code requirement is either essential or important for operator privileges below 30 MHz, while 64% believed that such a requirement is essential or important for operator privileges above 30 MHz. We are also aware that many amateur radio licensees believe that our intention with a codeless license will be simply to increase the growth of the Amateur Radio Service. While this would be a likely consequence of the establishment of a codeless class license this, in fact, is not our principle intent. We wish to reiterate that our intention is to enhance, not necessarily enlarge, the Amateur Radio Service. We believe that this can be accomplished by allowing fully-qualified, technically competent individuals, who are not presently part of the amateur fraternity, to make a contribution to the Amateur Radio Service, provided only that the operating privileges they receive are commensurate with the examination material they are required to pass.

21. It has also come to our attention that some of the current amateur licensees are particularly concerned that even if a codeless license class were to convey privileges only in the VHF bands and higher, that those privileges might include certain well populated bands (e.g. the popular 2 meter band). With respect to this, we would like to reemphasize that we plan to be flexibie on the issue of frequencies that would be authorized for the codeless license class (in particular the Experimenter class, since we are not considering changes in the privileges for Technican class licensees). We will carefully consider the comments of both amateurs and non-amateurs on this issue and make appropriate adjustments in the frequency bands eventually authorized.

22. Finally, we are in receipt of a letter from the ARRL requesting us to delay for 18 months the issuance of this Notice due to recent developments with respect to the fate of the amateur operator examination program. Public Law 97–259, adopted September 13, 1982, permits the Commission to use volunteers in the examination of candidates for amateur operator licenses. In response to that legislation, the ARRL has filed a petition for rule making, RM–4229, requesting that the Commission's Rules be amended to establish a volunteer examiner program. The ARRL letter states that, "It seems unwise and perhaps unfair to contemplate enlarging the license examination burden by an additional burden of unknown dimensions until the amateur community has responded to the principle challenge involved. . . . The amateur community needs time to absorb the Commission's license examination task before it as a result of PL 97–259 before it contemplates additional license examination assignments from the Commission."

23. While we are completely sympathetic to the burdens invloved with the examination of amateur operator license candidates, we reject the ARRL's request. The ARRL has, in RM–4229, invited upon the amateur community the burden of the operator examination program. Although we recognize and appreciate that there are benefits to be realized by the public from the ARRL's proposal in its petition, the Commission is not forcing this burden upon the amateur community. The Commission has been considering the establishment of a codeless amateur license class for over a decade and we do not believe that any further delay can be warranted.

24. Accordingly, we are moving ahead with this proceeding and anticipate that the amateur community, as well as other interested parties, will carefully and objectively consider our proposals and provide constructive comments to aid us in our final decision on this matter.

25. Notice is hereby given that it is proposed to amend 47 CFR Part 97 in accordance with the proposal set forth in the attached Appendix I or Appendix II.

Procedural Matters

26. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before April 29, 1983, and reply comments on or before May 31, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

27. In accordance with § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants must file an original and five copies of their comments and other materials. Participants who wish each Commissioner to have a personal copy of their comments should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. Each set of comments must state on its face the proceeding to which it relates (PR Docket Number) and should be submitted to: The Secretary, Federal Communications Commission, Washington, DC 20554. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

28. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contracts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the

[9] The American Radio Relay League, Inc. is an association of amateur radio operators with over 100,000 members who are licensed by the Commission. Information from survey excerpted from "QST" (the official journal of the ARRL), March 1981, pp. 11–18.

Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer Assistance Office, FCC Washington, DC 20554, (202) 632–7000.

29. The Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding since this proposal would only amend the operator license class structure of the Amateur Radio Service. There would be no significant impact on small businesses, small organizations or small governmental jurisdictions.

30. It is ordered that the Secretary shall cause a copy of this Notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this Notice to be published in the **Federal Register**.

31. For further information on this proceeding, contact Steve Lett, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632–4964.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix I—Alternative 1

PART 97—[AMENDED]

It is proposed that Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, be amended as follows:

1. In § 97.7 paragraph (d) would be revised to read as follows:

§ 97.7 Privileges of operator licenses.

* * * * *

(d) Technician Class. All authorized amateur privileges on the frequencies 50.0 MHz and above. Technician Class licenses also convey the full privileges of Novice Class licenses if—

(1) The Technician Class operator license was first obtained prior to [the effective date of the Order in this proceeding]; or

(2) The licensee has been examined by a volunteer examiner meeting the qualifications set forth in § 97.28(b) who has administered Examination Element 1(A) to the Technician Class licensee and has determined that the licensee has successfully completed that element.

* * * * *

2. In § 97.23, paragraph (d) would be revised to read as follow:

§ 97.23 Examination requirements.

(d). Technician Class: Elements 2 and 3;

* * * * *

Appendix II—Alternative 2

It is proposed that Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, be amended as follows:

1. Section 97.5 would be revised to read as follows:

§ 97.5 Classes of operator licenses.

Amateur extra class.
Advanced class.
General class.
Conditional class.
Technician class.
Novice class.
Experimenter class.

2. In § 97.7, a new paragraph (f) would be added to read as follows:

§ 97.7 Privileges of operator licenses.

* * * * *

(f) Experimenter Class. All authorized amateur privileges on the frequencies 144.0 Mhz and above.

3. In § 97.21, a new paragraph (h) would be added to read as follows:

§ 97.21 Examination elements.

* * * * *

(h) Element 5: Intermediate amateur practice involving intermediate level radio theory and operation as applicable to modern amateur techniques, including, but not limited to, radiotelephony and digital communications.

4. In § 97.23, a new paragraph (f) would be added to read as follows:

§ 97.23 Examination requirements.

* * * * *

(f) Experimenter Class: Element 5.

[FR Doc. 83–2975 Filed 2–2–83; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Reopening of Comment Period for 5-year Notice of Status Review

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of comment period.

SUMMARY: The Service reopens the comment period for the 5-year Status Review on Endangered and Threatened Wildlife and Plants for an additional 90 day period. The Service has received several requests to extent this period in order to provide more data.

DATES: Comments must be received on or before May 4, 1983 in order to insure consideration.

ADDRESSES: Comments may be mailed to the Director (OES), U.S. Fish and Wildlife Service, Washington, D.C. 20240; or to the Regional Director, Region 1, (ARD/FA), U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 N.E. Multnomah Street, Portland, Oregon 97232; or to the Regional Director, Region 4, (ARD/FA). U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION: The Notice of Status Review published in the September 27, 1982, **Federal Register** (47 FR 42387–42388) had a comment period that would expire on January 25, 1983. The Service has reopened this to May 4, 1983. Comments received after that date may still be considered. The notice of September 22 identities those species of Endangered and Threatened Wildlife and Plants that are now under the 5-year review. Such a review is required under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subject in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: January 20, 1983.

J. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–2019 Filed 2–2–83; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 21228-264]

Pacific Halibut Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA proposes a rule imposing a moratorium on the entry of certain fishermen into the halibut fishery in waters under U.S. jurisdiction in the northern Pacific Ocean (International Pacific Halibut Commission management areas 2C and 3), and that part of the Bering Sea and Aleutians (management area 4) south of 56° N. latitude. The proposed rule would forbid any person to harvest and sell halibut for commercial purposes from those waters from May 1, 1983, through December 31, 1985, who had not lawfully harvested and sold halibut from those waters between January 1, 1978, and December 31, 1982. This action is necessary to prevent a rush of new participants from entering the fishery in hopes of obtaining rights under a limited entry system which is being considered by the North Pacific Fishery Management Council.

DATE: Comments on the proposed rule must be received on or before March 21, 1983.

ADDRESS: Comments on the proposed rule should be sent to Jim Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510 (*Please see request for comments in SUPPLEMENTARY INFORMATION, below).* Copies of the initial regulatory flexibility analysis of this action are available at the same adddress.

FOR FURTHER INFORMATION CONTACT: Jim Branson, 907–274–4563.

SUPPLEMENTARY INFORMATION:

Background

In recent years, the fishery for Pacific halibut (*Hippoglossus stenolepis*) off the coasts of Alaska and the Pacific Northwest has witnessed a large increase in the number of participating fishermen despite the fact that halibut stocks during this time have been at depressed levels of abundance. This has required that halibut fishing seasons in these areas be restricted to periods of as little as five days per year. The resulting combination of many participants, a depressed resource, and short seasons has had a number of undesirable effects:

(1) The concentration of halibut fishing effort in very short periods of time each year may result in overharvesting of stocks that happen to be on the fishing grounds during those periods, while leaving underutilized other stocks that are on the grounds at other times of the year.

(2) For the great majority of participants, the halibut fishery no longer generates sufficient income to earn a significant part of their livings. (For some participants, this has had the effect of encouraging their diversification into other fisheries.)

(3) Fresh halibut, which is superior to the frozen product, is available to consumers only during the few weeks of commercial halibut seasons.

In order to address these problems, the North Pacific Fishery Management Council (Council) is investigating the establishment of a limited entry system for the northern Pacific halibut fishery. Major goals of this system would be the extension of the halibut fishery over a longer period of the year, and the encouragement of voluntary arrangements among current participants that would enable some of them to earn a major portion of their income from halibut fishing, perhaps through the trading of authorized harvest shares. The establishment of such a system is authorized by section 5(c) of the Northern Pacific Halibut Act of 1982 (the Act), Pub. L. 97–176, 16 U.S.C. 773 *et seq.*

It is feared that the prospect of a limited entry system will cause substantial numbers of people with no previous participation or stake in the fishery to consider entering the fishery for the first time, solely in the hope of gaining a financially valuable right in the fishery under any limited entry system which might be adopted. A sudden influx of new participants during the period prior to implementation of a permanent limited entry system would have several undesirable effects:

(1) It would allow an unlimited increase in pressure on the halibut resource;

(2) It would allow unlimited reductions in the average harvests of individual participants and hence reductions in per-vessel earnings;

(3) It would increase the number of individuals whose participation in and dependence on the fishery would have to be taken into account in the establishment of a limited entry program, and whose participation in the fishery might have to be terminated;

(4) It would result in additional and excessive investment in vessels and gear, much of which might have to be involuntarily retired in the establishment of an effective limited entry program.

In order to mitigate these undesirable results (particularly the third and fourth), the Council, under the authority of section 5(c) of the Act, has developed a proposed rule which would impose a moratorium on entry into the northern Pacific halibut commerciai fishery; it is expected that the effective date of the moratorium will be May 1, 1983 (prior to opening of the 1983 halibut season). Under this moratorium (which applies to fishing in the fishery conservation zone. the U.S. territorial sea and internal waters off the coasts of Alaska), no person could harvest and sell halibut for commercial purposes in International Pacific Halibut Commission (IPHC) management areas 2C and 3, and in that part of IPHC management area 4 south of 56° N. latitude, unless that person had lawfully harvested halibut for commercial purposes from those waters and sold that halibut, reporting the sale in his name as required by State or Federal law, between January 1, 1978, and December 31, 1982. A person would be considered to have harvested halibut lawfully from those waters if that person has served as master or crew aboard a vessel there at a time when that vessel harvested halibut. If the halibut so harvested was sold, any person considered to have harvested that halibut would be considered to have sold it if the sale of the halibut was reported to the extent required by State and Federal law, and such sale lawfully recorded in the name of that person on the document of sale (State fish ticket or equivalent) required by law. The moratorium would not apply to that portion of area 4 north of 56° N. latitude in order to implement a provision of section 5(c) of the Act authorizing the Council:

> To provide for the rural coastal villages of Alaska the opportunity to establish a commercial halibut fishery in areas in the Bering Sea to the north of 56 degrees north latitude during a 3 year development period.

The moratorium would expire at midnight on December 31, 1985. By that time it is expected that the Council will have developed the permanent limited entry system and that system will have been implemented; or that the Council will have determined that a permanent limited entry system should not be developed.

The fact that a person has obtained a State or IPHC license or permit to fish for or to sell halibut would not affect the application of the moratorium to that

person. Unless a person met the criteria for participation in the fishery established by the proposed rule, that person would be forbidden to harvest halibut in the area specified and to sell that halibut, even if he had obtained all necessary permits.

It should be noted that the Council has not yet determined whether a limited entry system should ultimately be adopted, or what form any such system might take. In view of the Council's desire to avoid imposing unnecessary interim constraints on the fishery, the proposed moratorium allows every current participant, whether master, crew member, or owner of vessels or gear, to continue to participate in that current capacity. New masters or crew members may be employed in the fishery, and investment in vessels and gear may continue. However, it should be noted that the rule requires that an individual qualified to harvest and sell halibut for commercial purposes must be aboard each vessel engaged in the commercial harvest of halibut; moreover, the sale of such halibut from such vessel must be reported and recorded in the name of that individual. Furthermore, it is emphasized that any new participation and investment is undertaken at risk, since imposition of a limited entry system is under active consideration.

The prohibition imposed by this rule, than, would be against the harvest of halibut within the area specified *and* the sale of such halibut, by those who have not harvested halibut within that area and sold such halibut during the qualifying period. Any scheme to evade this rule would fall within the prohibition of the rules.

Request for Comments

The Council and Secretary seek public comment on the proposed moratorium Comments should be submitted to the Council at the address noted above; the Council will transmit copies of all comments received to the Secretary for his consideration in this rulemaking proceeding.

Comments on the following issues would be particularly helpful in assuring that the moratorium meets the requirements of the Act:

((1) Is the allocation of fishing privileges under the proposed moratorium fair and equitable to all fishermen? Are any hardships created? If so, what is their nature and extent? What, if any, exceptions to the specified criteria should be made to ameliorate those hardships?

(2) Is reliance upon documents of sale (fish tickets or equivalent documents) as sole indicators of participation in and dependence on the fishery reasonable, fair, and equitable? Does the use of this criterion for participation under the moratorium create any hardships? If so, what other indicators should be examined?

(3) The Council has elected a five-year qualification period, 1978 through 1982, as indicative of present participation in the fishery. Is this approach reasonable, fair and equitable?

(4) Does the proposed moratorium take account of historical fishing practices in, and the economics of, the fishery? Will it raise any question regarding the capacity of vessels used in the fishery to engage in other fisheries? If so, what is that capacity?

(5) Might the proposed moratorium cause any individual, corporation, or other entity to acquire an excessive share of the halibut fishing privileges?

In developing the proposed moratorium, the Council considered and rejected alternative approaches, including a moratorium on entry by vessels. Comments on such alternatives are welcome, however.

It must be emphasized that the Secretary has not made a final determination that the moratorium as proposed can be approved under the Halibut Act's criteria; comments are being solicited to enable the Secretary to make the necessary determinations. Thus, commenters are urged to make as comprehensive a review of the proposed regulation as possible. Final rules to implement the moratorium will be influenced by comments received on the proposed rule; comments received may lead to adoption of final rules that differ from this proposal or to withdrawal of the rulemaking.

The Council and Secretary will be holding public hearings on this proposal. The time(s), date(s) and place(s) of such hearings will be announced in separate **Federal Register** notices.

Classification

The NOAA Administrator has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, because it will not result (1) In an annual effect on the economy of $100 million or more; (2) in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Among alternatives considered, this rule involves the least net cost to society. By discouraging potentially unprofitable investment in and entry into the halibut fishery, and by reducing the number of persons whose participation will have to be considered in the implementation of any limited entry system, this proposed rule can be expected to yield a net benefit to society.

An initial regulatory flexibility analysis has been prepared on this proposed rule under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This document analyzes alternative approaches to the moratorium, including the proposed action, the inclusion under the moratorium of all prior participants and vessel owners, a prohibition against the entry of new vessels into the fishery, and a continuation of the status quo (no moratorium). The analysis presents a range of impacts on individual entities based on various numbers of participants that might be active in the fishery. On the one extreme, if approximately 15 percent of the 3,041 participants who were active in 1981 temporarily withdraw from the fishery for economic considerations and the remaining 2,500 individuals actually fish during the moratorium, average earnings per vessel would be expected to increase by about 21 percent from the average $8,873 earned in 1981 (assuming static quotas and prices). On the other extreme, if all of the 6,481 "qualified" individuals actively participate in the fishery, average earnings per vessel could decline about 53 percent to just over $3,000 per vessel. Regardless of how many "qualified" individuals participate, the analysis shows that a substantial risk exists that average vessel performance would be even more severely affected absent some mechanism (the moratorium) to reduce speculative entry into the fishery. The analysis concludes that among the alternatives considered, the proposed rule will have the least economic impact on small entities. Copies of the initial regulatory flexibility analysis may be obtained from the address noted above.

This proposed rule does not contain an information collection requirement or involve any Federal agency in the collection of information for purposes of the Paperwork Reduction Act of 1980.

An environmental assessment on this proposed rule was filed with the Environmental Protection Agency on December 22, 1982. Based upon this assessment, the Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule does not involve a major Federal action significantly affecting the quality of the human environment and requiring an

environmental impact statement under section 102(2)(C) of the National Environmental Policy Act.

The Council has determined that this proposed rule will be carried out in a manner that is consistent to the maximum extent practicable with the Alaska Coastal Management Program, in accordance with section 307 of the Coastal Zone Management Act of 1972 and its implementing regulations.

List of Subjects in 50 CFR Part 301

Fish, Fisheries, Fishing, International organizations.

Dated: February 1, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 301—PACIFIC HALIBUT FISHERIES

For the reasons set out in the preamble, 40 CFR Part 301 is proposed to be amended as follows:

1. The authority citation for Part 301 is revised to read as follows:

Authority: TIAS No. 9855; 16 U.S.C. 773–773k.

2. A new § 301.15 is added to read as follows:

§ 301.15 Moratorium on entry into the Pacific halibut fishery.

(a) *Criteria for participation.*

(1) From 12:01 A.M., Alaska Standard Time, on May 1, 1983, until 11:59 P.M., Alaska Standard Time, on December 31, 1985, no person may harvest and sell halibut for commercial purposes from the northern Pacific Ocean or that part of the Bering Sea and Aleutian Islands area south of 56° N. latitude unless that person had lawfully harvested and sold halibut for commercial purposes from those waters and reported such sale to the extent required by law, at any time between January 1, 1978, and December 31, 1982.

(2) An individual qualified to harvest and sell halibut for commercial purposes under paragraph (a)(1) of this section must be on board each vessel engaged in the commercial harvest of halibut in the waters described in paragraph (a)(1) of this section, and the sale of halibut so harvested must be recorded in the name of that individual as required by law.

(3) For purposes of this section—

(i) A person shall be considered to have harvested halibut for commercial purposes from the waters referred to in paragraph (a)(1) of this section if that person served as master or crew aboard a vessel at a time when that vessel harvested halibut for commercial purposes from those waters; and

(ii) Any person who is considered to have harvested halibut under paragraph (a)(3)(i) shall be considered to have sold that halibut for commercial purposes if sale of that halibut was reported to the extent required by law, and such sale was lawfully recorded in the name of that person on the document of sale required by law.

(b) *Definitions.* The terms used in this section have the following meanings:

(1) *Bering Sea and Aleutian Islands area*—means waters under the jurisdiction of the United States within management area 4 (as defined in § 301.1 of this part).

(2) *Halibut*—means *Hippoglossus stenolepi.*

(3) *Northern Pacific Ocean*—means waters under the jurisdiction of the United States within management areas 2C, 3A and 3B (as defined in § 301.1 of this part).

(4) *Waters under the jurisdiction of the United States*—means the internal waters and territorial sea of the United States and the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

(c) *Relationship to other licenses and permits.* The requirements of this section are in addition to all other requirements imposed by law for participation in the halibut fishery. The issuance to a person of a State or International Pacific Halibut Commission license or permit purporting to authorize fishing for or sale of halibut during the moratorium period shall neither excuse nor constitute evidence of that person's compliance with paragraph (a)(1) of this section.

[FR Doc. 83–3019 Filed 2–3–83; 8:45 am]
BILLING CODE 3510–22–M

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Notices

Federal Register
Vol. 48, No. 24
Thursday, February 3, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Fasteners From Japan; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On December 6, 1982, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on certain fasteners from Japan. The review covered the period January 1, 1980 through December 31, 1980. The notice stated that the Department had preliminarily determined the net subsidy to be 0.15 percent *ad valorem*, a rate the Department considers to be *de minimis*.

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as those presented in the preliminary results of review.

EFFECTIVE DATE: February 3, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black or Kenneth K. Haldenstein, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 54840) the preliminary results of its last administrative review of the countervailing duty order on certain fasteners from Japan (42 FR 23147, May 6, 1977; 44 FR 31972, June 4, 1979). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are all fasteners currently classifiable under items 646.5400 and 646.5600, and non-metric fasteners currently classifiable under items 646.1700, 646.4000, 646.4100, 646.4920, 646.4940, 646.5100, 646.5300, 646.5800, 646.6020, 646.6040, 646.6320, 646.6340, 646.6500, 646.7200, 646.7400, 646.7500, 646.7600, and 646.7800, of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1980 through December 31, 1980, and two programs found countervailable in the final determinations plus other lending programs that were included in our last review.

Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review. We determine that the aggregate net subsidy for the period was 0.15 percent *ad valorem*.

Because the aggregate net subsidy is less than 0.5 percent and therefore *de minimis*, the Department will instruct the Customs Service not to assess countervailing duties on any shipments of certain fasteners from Japan entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980.

Further, the Department will instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

The Department intends to conduct the next administrative review by the end of May 1983. The amount of countervailing duties to be imposed on exports made during 1981 will be determined in that review. Consequently, the suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after January 1, 1981.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.

January 26, 1983.

[FR Doc. 83-3001 Filed 2-2-83; 8:45 am]
BILLING CODE 3510-25-M

Postponement of Final Determination; Certain Stainless Steel Sheet and Strip Products From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of postponement of final determination.

SUMMARY: The Department of Commerce hereby extents the period for its final determination with respect to the antidumping investigation of certain stainless steel sheet and strip products from the Federal Republic of Germany (FRG). The final determination will be made no later than May 2, 1983.

EFFECTIVE DATE: February 3, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230 (202) 377–5288.

SUPPLEMENTARY INFORMATION: On November 22, 1982, the Department of Commerce determined preliminarily that certain stainless steel sheet and strip products from FRG were being sold, or were likely to be sold, at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act). We announced our determination in the **Federal Register** on December 17, 1982 (47 FR 56529).

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An exporter who accounted for a significant proportion of exports of the merchandise which is the subject of this investigation requested that the Department extend the period for final determination. This request is in accordance with section 735(a)(2)(A) of the Act (19 U.S.C. 1673d(a)(2)(A)).

Accordingly, the period for determination in this case is hereby postponed. Final determination will be made not later than May 2, 1983.

Public Comment

A public hearing was requested in accordance with § 355.35 of the Commerce Regulations. The hearing has been rescheduled and will be held at 10:00 a.m. on February 28, 1983 at the Department of Commerce, Room 3708, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230. One brief has been submitted. Any additional briefs concerning this matter should be submitted to the Deputy Assistant Secretary by February 22, 1983, at the above address.

Dated: January 28, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-3000 Filed 2-2-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council, Public Meeting With a Partially Closed Session and Public Meetings of Scientific and Statistical Committee and Groundfish and Salmon Subpanels

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meetings with a partially closed session.

SUMMARY: This notice sets forth the schedule and proposed agendas of the forthcoming separate public meetings of the Pacific Fishery Management Council, its Salmon and Groundfish Advisory Subpanels, and Scientific and Statistical Committee (SSC). The Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), and the Council has established Salmon and Groundfish Advisory Subpanels and a SSC to assist the Council in carrying out its responsibilities.

DATES: March 16-17, 1983.

ADDRESS: The meetings will take place at the Cosmopolitan Hotel, 1030 NE Union Avenue, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Agendas

Council (open meetings) March 16-17, 1983 (9 a.m. to 5 p.m., on March 16; 10 a.m. to 5 p.m., on March 17) in the Capri-Del Rio-Bombay Room—review public comments and the latest fishery information; decide on the 1983 ocean salmon management measures to be recommended to the Secretary of Commerce; review and develop position on the proposed U.S.-Canada Salmon Interception Treaty; review comments from the scoping session and recommendations from the groundfish team for amendments to the Pacific Groundfish Fishery Management Plan (FMP); consider possible management measures for sablefish, south of Point Conception; review groundfish experimental fishing permit applications; review options for handling the Mexican anchovy harvest in the Anchovy FMP, and consider other matters that may come before the Council by the meeting date. A public comment period will be conducted on March 16, beginning at 4 p.m.

Council (closed session) March 16, 1983 (8 a.m. to 10 a.m.) in the Capri-Del Rio-Bombay Room. Discussion of the status of fishery negotiations between the U.S. and Canada dictates that only those Council members having selected security clearances will be allowed to attend this closed session.

Scientific and Statistical Committee (open session) March 15-16, 1983 (10 a.m. to 5 p.m., on March 15; 8 a.m. to 5 p.m., on March 16) in the Athens Room—Review the latest information and develop recommendations on the 1983 ocean salmon management measures; consider groundfish and anchovy FMP management issues referred to the Committee by the Council and a public comment period will be conducted at 3:30 p.m., on March 15.

Salmon Subpanel (open session) March 15-16, 1983 (10 a.m. to 5 p.m., on March 15; in the Bombay Room 8 a.m. to 10 a.m., on March 16) in the Hall of Fame Room—review the latest information and develop comments on the 1983 ocean salmon management measures and on the proposed U.S.-Canada Interception Treaty.

Groundfish Subpanel (open session) March 16, 1983 (10 a.m. to 5 p.m.) in the Hall of Fame Room—consider management measures for sablefish south of Point Conception; review groundfish team recommendations for amending the Pacific Groundfish FMP; review groundfish experimental fishing permit applications and consider other Groundfish FMP matters.

Scoping Session on a Groundfish FMP Amendment (open session) in the Capri-Del Rio-Bombay Room, March 17, 1983 (8 a.m. to 10 a.m.) as required by Section 1501.7 of the National Environmental Policy Act.

Dated: January 31, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-3010 Filed 2-2-83; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Western Pacific Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended). The Council will hold public meetings to discuss the Billfish, Spiny Lobster and Precious Corals Fishery Management Plans; review FY 83 administrative and programmatic budgets; discuss 5-year Council plan, foreign fishing and enforcement, status of NMFS law review project in the Western Pacific region, as well as discuss other Council business.

DATES: The Council meeting will convene on Tuesday, February 22, 1983, and Wednesday, February 23, 1983, at approximately 10 a.m. to 4 p.m., both days; reconvene on Thursday, February 24, 1983, at approximately 9 a.m., adjourn at approximately 2 p.m. On February 22, 1983, the public meeting will take place at the Saipan Grand Hotel, Saipan, Commonwealth of the Northern Mariana Islands. On February 23-24, 1983, the public meetings will take place at the Cliff Hotel, Agana Heights, Guam.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, Room 1608—1164 Bishop Street, Honolulu, Hawaii 96813, Telephone: (808) 523-1368.

Dated: January 31, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-3011 Filed 2-3-83; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditous commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents; U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

George Kudravetz,

Manager, Program Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

Department of Agriculture

SN 6–380,374 Wrapping Machine
SN 6–385,161 Dehydration of Ethanol
SN 6–409,288 Process for Conversion of Cellulose to Amino Acids by Radio-Frequency Plasma of Nitrogen and Hydrogen
SN 6–423,403 Process for Controlling Antimicorbial Activity Using Glycolic Acid Derivatives
SN 6–415,778 Method for Screening Bacteria and Application Thereof for Field Control of Diseases Caused by *Gaeumannomyces graminis*
SN 6–426,439 Chemotherapeutically Active Maytansinoids: Treflorine, Trenudine, and *N*-Methyltrenudone
SN 6–436,541 Production of Food-Grade Corn Germ Product by Supercritical Fluid Extraction
SN 6–411,196 Spectrophotometric Method for Simultaneously Analyzing Protein and Fat Contents in Milk
SN 6–385,172 Method for Removing the Outer Waxy Cutin-Containing Layer from Papaya
SN 6–436,497 T–1–R9, A New Strain of *Trichoderma Viride*
SN 6–435,597 Method of Increasing Biomass in Plants
SN 6–429,913 Chemical Applicator
SN 6–426,438 Rapid Production of Isopropenyl

Department of Health and Human Services

SN 6–350,221 A Short Total Synthesis of Dihydrothebainone, Dihydrocodeinone, and Nordihydrocodeinone
SN 6–308,110 Protein from SV40 Recombinants
SN 6–445,451 Process for Using Poxviruses as Vectors for Expression of Foreign Genes
SN 6–445,892 Production of Vaccinia Virus Recombinants that Express Hepatitis B Virus Surface Antigen
SN 6–442,173 Detection of Closed Circular DNA in DNA Mixtures and Separation
SN 6–452,783 Human Growth Hormone Produced by Recombinant DNA in Mouse Cells
SN 6–436,542 Plyhalogenated Phenyl Isocyanate Synthesis with Excess Phosgene and either Triethylamine or Tetramethylurea
SN 6–426,141 Lysis Filtration Culture Chamber.

[FR Doc. 83–2955 Filed 2–2–83; 8:45 am]
BILLING CODE 3510–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Advisory Committee on the Air Force Historical Program; Meeting

January 17, 1983.

The Advisory Committee on the Air Force Historical Program will hold a meeting on Feburary 28, 1983 from 8:00 a.m. to 4:00 p.m. and March 1, 1983 from 8:00 a.m. to 12:00 noon at Bolling Air Force Base (AFB), D.C., Building 5681, Office of Air Force History's 4th Floor Conference Room. The purpose of the meeting is to examine the mission, scope, progress, and productivity of the Air Force Historical Program and make recommendations thereon for the consideration of the Secretary of the Air Force.

The meeting will be open to the public. Topics to be discussed include: organization and personnel, current status of historical projects, and status of the field history program.

For further information, contact Major Elliott Converse, Executive, Office of Air Force History, Bolling AFB, D.C., telephone (202) 767–5764.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83–2874 Filed 2–2–83; 8:45 am]
BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Women's Educational Equity Act Program; Application Notice for New Projects for Fiscal Year 1983

Applications are invited for new projects under the Women's Educational Equity Act Program.

Authority for this program is contained in Title IX, Part C of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978.

(20 U.S.C. 3341–3348)

This program issues awards to public agencies, private nonprofit organizations, and individuals.

The purpose of the awards is to develop educational materials and model programs designed to promote women's educational equity. These materials and programs are developed for replication throughout the United States.

An application under this program must be marked Attention: 84.083A for general grants, and Attention: 84.083B for small grants.

Closing Date for Transmittal of Applications: Applications for new awards must be mailed or hand delivered by April 25, 1983.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.083A for general grants, and 84.083B for small grants, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturday, Sunday, or Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Final regulations governing grants under the Women's Educational Equity Act (WEEA) Program were published in the **Federal Register** on April 3, 1980 in 45 FR 22730. The regulations provide five priorities that are applicable to general grants in order to ensure that available funds are awarded to projects that are likely to achieve the purpose of the Act most effectively. These priorities are described in 34 CFR 745.23 through 745.27 of the regulations.

Each year, the Secretary selects one or more of these priorities and determines whether the selected priorities will also apply to small grants. The Secretary also allocates a percentage of available funds to each selected priority.

Available Funds and Program Priorities: The Continuing Resolution enacted by Congress on December 21, 1982, authorizes $5.76 million to be made available for the Women's Educational Equity Program for fiscal year 1983. Although processing of applications will proceed on this basis, it should be noted that the Department of Education is not bound by these estimates. Final resolution of spending limits for fiscal year 1983 may result in a change of available funds.

In fiscal year 1982, $5.76 million was available for this program. Approximately $400,000 was used for 6 new general grants; approximately $200,000 was used for 9 new small grants. Approximately $3 million was used for 19 noncompeting continuation grants and approximately $2 million was used to fund continuations of 6 contracts. The average new general grant was $67,000 and the average new small grant was $23,000.

In fiscal year 1983, the priorities described below will apply to both general and small grants.

The Secretary plans to allocate the funds available for new grants among the selected priorities in the percentages set out below. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount to be awarded to any priority.

Section 745.23—Priority for model projects on Title IX Compliance: 15%. The Secretary will support the development of model programs and educational materials that enable local educational agencies, institutions of higher education, and other educational agencies and institutions to meet the requirements of Title IX of the Education Amendments of 1972.

Section 745.24—Priority for model projects on educational equity for racial and ethnic minority women and girls: 20%. The Secretary will support projects that focus on issues of double discrimination, bias, and stereotyping based on sex and race or ethnic origin, affecting women and girls of racial and ethnic minority groups.

Section 745.25—Priority for model projects on educational equity for disabled women and girls: 20%. The Secretary will support projects that address issues of double discrimination, bias, and stereotyping affecting disabled women and girls.

Section 745.27—Priority for model projects to eliminate persistent barriers to educational equity for women: 20%. The Secretary will support projects that are designed to remove or reduce persistent barriers confronting women in achieving educational equity. Project activities may focus on barriers that have received little attention in the past or on barriers that past efforts have been unsuccessful in removing or reducing.

Section 745.20—Other authorized activities: 25%. The Secretary will support projects that do not fall under any of these priorities but which carry out other activities authorized in § 745.20.

Applicants are reminded that § 745.6 ("Equity for all women: Diverse approaches") of the regulations requires that any project which proposes to address the needs of all women must address the diverse needs of racial and ethnic minority women, women of various socio-economic and geographical backgrounds, and women of various age groups.

The Secretary especially requests applications that focus on the particular problems of women in mathematics and science programs in elementary and secondary schools, colleges and universities, and the work place. The Secretary believes that these problems are at the present time, central to the purpose of the Act. Except as provided in 34 CFR 745.30, an application that focuses on these problems does not receive any competitive preference over applications that do not focus on these problems.

The Secretary believes that applications which do not require more than one year of funding reflect a more appropriate resource allocation, a more realistic schedule, and costs that are more reasonable in relation to the scope of the project, than a similar project requiring multi-year funding.

An applicant must select and identify in its application the priority area in which the application will compete. Applications compete only against other applicants in that priority area.

An applicant that does not identify a priority area in its application will compete in the category of "other authorized activities."

Applications for all grants will be evaluated competitively under the evaluation criteria in 34 CFR 745.29 through 745.35.

Application forms: Application forms and program information packages are expected to be ready for mailing by February 23, 1983. They may be obtained by writing to the Women's Educational Equity Act Program, U.S. Department of Education, (Room 2031, FOB–6), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing projects under the Women's Educational Equity Act, 34 CFR Part 745.

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

FOR FURTHER INFORMATION CONTACT: Dr. Leslie R. Wolfe, Director, Women's Educational Equity Act Program, U.S. Department of Education, (Room 2031, FOB–6), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–2181.

(20 U.S.C. 3341–3348)

(Catalog of Federal Domestic Assistance No. 84.083, Women's Educational Equity Act Program)

Dated: January 28, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83–3003 Filed 2–2–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Petroleum Council, Costs and Economics Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Costs and Economics Task Group of the Committee on Enhanced Oil Recovery will meet in February 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of

Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Costs and Economics Task Group meeting follows:

The Costs and Economics Task Group will hold its third meeting on Wednesday, February 16, 1983, starting at 9:00 a.m. in Room 1720, Stouffer's Greenway Plaza Hotel, Six Greenway Plaza East, Houston, Texas.

The tentative agenda for the Costs and Economics Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group Study Assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Costs and Economics Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Costs and Economics Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 28, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-2886 Filed 2-3-83; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Thermal Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Thermal Task Group of the Committee on Enhanced Oil Recovery will meet in February 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Thermal Task Group meeting follows:

The Thermal Task Group will hold its third meeting on Tuesday, February 15, 1983, starting at 8:30 a.m. in the 19th Floor Conference Room of the Getty Oil Company, 3810 Wilshire Boulevard, Los Angeles, California.

The tentative agenda for the Thermal Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Thermal Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Thermal Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 28, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-2885 Filed 2-3-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF83-124-000]

BMB Enterprises, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 31, 1983.

On January 3, 1983, BMB Enterprises, Inc., 1015 South Davis Blvd., Bountiful, Utah 84010 (Attention: W. Berry Hutchings, President), filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a hydroelectric project located near the City of Sterling in Sanpete County, Utah. The electric power production capacity of the facility will be 4,125 kilowatts. BMB Enterprises does not own any other small power production facility located within one mile of the facility. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2895 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-125-000]

BMB Enterprises, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 31, 1983.

On January 3, 1983, BMB Enterprises, Inc., 1015 South Davis Blvd., Bountiful, Utah 84010 (Attention: W. Berry Hutchings, President), filed with the

Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a hydroelectric project located near the Town of Charleston in Wasatch County, Utah. The electric power production capacity of the facility will be 415 kilowatts. BMB Enterprises does not own any other small power production facility located within one mile of the facility. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2896 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-126-000]

BMB Enterprises, Inc.; Application for Commission Certification of Qualifying status of a Small Power Production Facility

January 31, 1983.

On january 3, 1983, BMB Enterprises, Inc., 1015 South Davis Blvd., Bountiful, Utah 84010 (Attention: W. Berry Hutchings, President), filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a hydroelectric project located near Garrison in Millard County, Utah. The electric power production capacity of the facility will be 1,500 kilowatts. BMB Enterprises does not own any other small power production facility located within one mile of the facility. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commision in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2897 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-127-000]

BMB Enterprises, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 31, 1983.

On January 3, 1983, BMB Enterprises, Inc., 1015 South Davis Blvd., Bountiful, Utah 84010 (Attention: W. Berry Hutchings, President), filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a hydroelectric project located near the City of Alpine in Utah County, Utah. The electric power production capacity of the facility will be 950 kilowatts. BMB Enterprises does not own any other small power production facility located within one mile of the facility. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commision in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2898 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-128-000]

BMB Enterprises, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 31, 1983.

On January 3, 1983, BMB Enterprises, Inc., 1015 South Davis Blvd., Bountiful, Utah 84010 (Attention: W. Berry Hutchings, President), filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a hydroelectric project located near the City of Mount Pleasant in Sanpete County, Utah. The electric power production capacity of the facility will be 500 kilowatts. BMB Enterprises does not own any other small power production facility located within one mile of the facility. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commision in determining the appropriate action to be taken but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2899 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-129-000]

BMB Enterprises, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 31, 1983.

On January 3, 1983, BMB Enterprises, Inc., 1015 South Davis Blvd., Bountiful, Utah 84010 (Attention: W. Berry Hutchings, President), filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a hydroelectric project located near Trout Creek in Juab County, Utah. The electric power production capacity of the facility will be 391 kilowatts. BMB Enterprises does not own any other small power production facility located within one mile of the facility. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2900 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-130-000]

BMB Enterprises, Inc., Application for commission Certification of Qualifying Status of a Small Power Production Facility

January 31, 1983.

On January 3, 1983, BMB Enterprises, Inc., 1015 South Davis Blvd., Bountiful, Utah 84010 (Attention: W. Berry Hutchings, President), filed with the Federal Energy Regulatory Commission (Commission) an application for certification of facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a hydroelectric project located near Trout Creek in Juab County, Utah. The electric power production capacity of the facility will be 1,170 kilowatts. BMB Enterprises does not own any other small power production facility located within one mile of the facility. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rule of Practice and Procedure. All such petitions or protest must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determing the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2901 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-131-000]

BMB Enterprises, Inc., Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 31, 1983.

On January 3, 1983, BMB Enterprises, Inc., 1015 South Davis Blvd., Bountiful, Utah 84010 (Attention: W. Berry Hutchings, President), field with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a hydroelectric project located near the City of Manti in Sanpete County, Utah. The electric power production capacity of the facility will be 3,850 kilowatts. BMB Enterprises does not own any other small power production facility located within one mile of the facility. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2902 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-23-000]

El Paso Electric Co.; Application

January 31, 1983.

Take notice that on January 18, 1983, El Paso Electric Company (Applicant) filed a request with the Federal Energy Regulatory Commission pursuant to Section 204 of the Federal Power Act requesting authorization to assume up to $125,000,000 of the obligations of Rio Grande Resources Trust (the "Trust"), an independent trust established for the purpose of providing a source of financing of Applicant's nuclear fuel requirements in connection with Applicant's 15.8% interest in Units 1, 2 and 3 of the Arizona Nuclear Power Project in Maricopa County, Arizona.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR

385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2903 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-25-000]

Gulf States Utilities Co.; Application

January 31, 1983.

Take notice that on January 24, 1983, Gulf States Utilities Company (Applicant) filed an application seeking an order under Section 204 of the Federal Power Act, authorizing the Applicant to issue not more than 500,000 Additional Shares of Common Stock, without par value, pursuant to its Employees Stock Ownership Plan.

Any person desiring to be heard or to make any protest with reference to the application should on or before February 23, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 385.211 or 385.214 of the Commission's Rules of Practice and Procedure. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR. Doc. 83-2904 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-26-000]

Gulf States Utilities Co.; Application

January 31, 1983.

Take notice that on January 24, 1983, Gulf States Utilities Company (Applicant) filed a request, pursuant to Section 204 of the Federal Power Act, requesting authorization to negotiate for the placement of not more than 6,000,000 shares of Common Stock, without par value.

Any person desiring to be heard or to make any protest with reference to the application should on or before February 23, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 385.211 or 385.214 of the Commission's Rules of Practice and Procedure. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2905 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-24-000]

Iowa Public Service Co.; Application

January 28, 1983.

Take notice that on January 20, 1983, Iowa Public Service Company (Applicant) filed an application pursuant to Section 204 of the Federal Power Act, seeking authority to issue not more than $60 million of short-term unsecured promissory notes to commercial banks and commercial paper dealers. All proposed notes are to be issued on or before March 31, 1984, and will bear final maturity dates of not later than March 31, 1985.

Any person desiring to be heard or to make any protest with reference to the application should on or before February 18, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 385.211 or 385.214 of the Commission's Rules of Practice and Procedure. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2906 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-133-000]

Mississippi Valley Gas Co.; Application

January 31, 1983.

Take notice that on December 17, 1982, Mississippi Valley Gas Company (MVG), P.O. Box 3348, Jackson, Mississippi 39207, filed in Docket No. CP83-133-000 an application pursuant to Section 284.127 of the Commission's Regulations for authorization to transport natural gas for a term in excess of 2 years for Texas Eastern Transmission Corporation and its division, Texas Eastern Gas Pipeline Company (Tetco), pursuant to an agreement dated June 22, 1982, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MVG requests authorization to transport gas for Tetco for a 5-year term starting with the date of the initial delivery. MVG states that the minimum quantity to be delivered is 1,000 Mcf per day and the maximum is 4,500 Mcf per day. It is asserted that the gas would be transported from the Splunge and Four Mile Creek Fields to a point of interconnection between MVG's and Tetco's facilities, all in Monroe County, Mississippi. It is stated that the transportation rate to be charged by MVG is 21.9 cents per million Btu as proposed in Docket No. ST82-487-000.

Any person desiring to be heard or to make any protests with reference to said application should on or before February 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2907 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-7-004]

Mountain Fuel Supply Co.; Petition To Amend

January 31, 1983.

Take notice that on January 3, 1983, Mountain Fuel Supply Company (Petitioner), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP80-7-004 a petition to amend the order issued March 12, 1982, in Docket No. CP80-7 pursuant to Section 7(c) of the Natural Gas Act so as to authorize additional receipt points for the transportation of natural gas for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), and to authorize Petitioner to add or delete receipt points in the future as required to facilitate transportation of gas by Petitioner on behalf of Northern, Natural Gas Pipeline Company of America (Natural), and Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner proposes to establish two receipt points for Northern's Steamboat Mountain Prospect area supplies. These points are located in Sections 8 and 29 of Township 23 North, Range 103 West,

Sweetwater County, Wyoming, it is explained.

Additionally, Petitioner requests blanket authority to add or delete receipt points as required for Natural's, Northern's and Columbia's gas within the authorized volume limitations. Petitioner proposes to file tariff revisions by January 31 of each year to reflect the additions or deletions made during the previous year. It is explained that the subject gas has been dedicated for transportation on the Trailblazer Pipeline System and would be transported by Petitioner to its interconnection with the facilities of the Trailblazer System near Rock Springs, Wyoming.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2915 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-494-001]

Natural Gas Pipeline Co. of America; Petition To Amend

January 31, 1983.

Take notice that on December 27, 1982, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP81-494-001 a petition to amend the order issued August 2, 1982, in Docket No. CP81-494-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize an extension of the sale of natural gas to Bridgeline Gas Distribution Company (Bridgeline), for resale, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Natural states that by order of August 2, 1982, it was authorized to sell on a best-efforts basis up to 36,300,000 Mcf of natural gas to Bridgeline for a six-month term.[1] Natural states that its gas supply is sufficient to extend the term of the sale to Bridgeline without impairing or reducing service to its present customers and that the factors contributing to Natural's situation of having gas deliverable from its sources in excess of its current requirements which were described in its previous application are equally relevant today. Further, Natural states that there is a serious deficiency of economic gas supplies in Louisiana.

Natural proposes an extension for an additional period of 363 days commencing on the later of February 6, 1983, or the date which Natural receives the requested authorization. Natural further proposes the sale of an additional 36,300,000 Mcf of gas during the additional term of 363 days. Further, Natural proposes no change in the rate to be paid by Bridgeline.

Any person desiring to be heard or to make protest with reference to said petition to amend should on or before February 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2916 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-M

[1] Natural states that ordering paragraph (A) of the August 2, 1982 order provided for a "term of 6 months from the commencement of sales under this authorization, as hereinbefore described and as more fully set forth in the application in Docket No. CP81-494-000." On page 5 of Natural's August 31, 1981, application, Natural had requested that the term begin "on the date deliveries commence." However, on page 4 of the Slip Opinion, the Commission established a term of "six months from the date of this order". Natural states that given that ordering paragraph language would take precedence over a discussion in the order, Natural has assumed that the term of the authorization ends on February 5, 1983, not on February 2, 1983, given that the sale commenced on August 5, 1982.

[Docket No. CP82-354-001]

Northwest Pipeline Corp.; Amendment

January 31, 1983.

Take notice that on December 28, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82-354-001 an amendment to its pending application in Docket No. CP82-354-000, filed pursuant to Section 7(c) of the Natural Gas Act, so as to reflect certain changes in its proposed transportation of natural gas for the account of Phillips Pacific Chemical Company (Phillips), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Pursuant to a gas transportation agreement with Phillips dated May 12, 1982, Applicant proposes in its application to transport up to 5,000 Mcf of natural gas per day, plus additional volumes at Applicant's sole discretion, for the account of Phillips.

Applicant states that in its application it proposed to transport gas for Phillip's account which Phillips had arranged to purchase from Rocky Mountain Natural Gas Company, Inc. (Rocky Mountain), at the interconnection of Rocky Mountain's facilities with Applicant's Piceance Creek pipeline and to purchase from RMNG Gathering Company (RMNG) at the interconnection of RMNG's facilities with Applicant's Ignacio-Sumas mainline in Mesa County, Colorado. Applicant further states it proposed to utilize its transmission facilities to transport Phillips' gas from both Rocky Mountain and RMNG to Applicant's existing Coulee Plant delivery point to Phillips in Benton County, Washington.

On November 16, 1982, the transportation agreement was amended to exclude the transportation of volumes of gas which Phillips had contracted to purchase from Rocky Mountain. Applicant indicates that the transportation agreement, as amended, now provides for only the best-efforts transportation of up to 2,000 Mcf per day, plus additional volumes at Applicant's sole discretion, which Phillips purchases from RMNG.

Applicant proposes herein to delete the transportation receipt point from Rocky Mountain as proposed in its application and the consequent reduction in volumes to be transported for Phillips.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to

intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2917 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI83-72-000]

Producer's Gas Co.; Petition for Declaratory Order

January 31, 1983.

Take notice that on December 3, 1983, Producer's Gas Company (PGC), 4925 Greenville Avenue, Dallas, Texas 75206, filed a petition for declaratory order pursuant to Rule 207(c) of the Commission's Rules of Practice and Procedure requesting that the Commission issue a declaratory order disclaiming jurisdiction over a 2,200 feet pipeline facility which PGC proposes to install and operate for delivery of gas produced from a Texas lease through a wellhead located in the state of Louisiana into the pipeline system of Transcontinental Gas Pipe Line Corporation (Transco) for delivery to Houston Pipe Line Company (HPL) on PGC's behalf.

PGC owns and operates intrastate natural gas pipeline systems in the state of Texas. PGC has executed Gas Purchase Agreements with Houston Oil & Minerals Corporation, Border Exploration Company, and Cinco Exploration Company, under which PGC has agreed to purchase all gas produced from the Texas State Tract No. 3 No. 1 well which was drilled in the Sabine Lake Area, Orange County, Texas. HPL, one of PGC's main resale customers in Texas, has expressed a willingness to purchase all resale gas produced from the said well.

Due to a slant hole drilling completion, the gas reserves attributable to Texas State Tract No. 3 are being produced from a well on a barge platform in North Sabine Lake, Cameron Parish, Louisiana. In order to deliver the gas from the barge platform in Louisiana to Transco, PGC proposes to construct the aforesaid 2,200 feet pipeline. PGC asserts that the Commission should not find that the pipeline is jurisdictional because it is engaged primarily in the ownership and operation of intrastate pipeline systems, and the proposed pipeline would be used solely for the purpose of facilitating the sale and delivery of Texas gas to its intrastate Texas market.

In order to deliver the gas to HPL, Transco has indicated a willingness to enter into a transportation agreement with PGC pursuant to Part 284 of the Regulations under which Transco would transport gas on behalf of PGC and deliver it to HPL in Texas for PGC's account on a back haul basis volumes equivalent to those delivered to PGC from the Texas State Tract No. 3 No. 1 well. Transco would propose to charge PGC a rate of 4.2¢ per dekatherm for this service.

Any person desiring to be heard or to make any protest with reference to said petition should or or before February 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). all protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2916 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-141-000]

Southern Natural Gas Co.; Application

January 31, 1983.

Take notice that on December 29, 1982, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP83-141-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon in place five 1,300 horsepower compressor units and appurtenant facilities located at Applicant's Perryville Compressor Station in Ouachita Parish, Louisiana, all as more fully described in its application which is on file with the Commission and open to public inspection.

Applicant states that these units have become obsolete and no longer operational on its system. Four of the five units proposed to be abandoned were installed in 1934 and the remaining unit was installed in 1936, it is asserted. The abandoned compressor units would be utilized as a source of spare parts for the units remaining at the Perryville station, Applicant explains. Applicant indicates that due to a decline in deliverability of its supply source, the remaining compression would be sufficient.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If motion for leave to intervene is timely filed, or if the Commisson on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2918 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-152-000]

Texas Eastern Transmission Corp.; Application

January 31, 1983

Take notice that on January 12, 1983, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP83-152-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for New Jersey Natural Gas Company (NJN), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that NJN has agreed to purchase a quantity of natural gas from Consolidated Gas Supply Corporation (Consolidated). Applicant proposes to receive from Consolidated, by displacement, quantities of natural gas up to a maximum daily transportation quantity of 40,000 dt equivalent for the account of NJN at either the existing point of interconnection between Applicant and Consolidated located at Applicant's meter station 082 in Westmoreland County, Pennsylvania, or other mutually agreeable existing delivery points in Applicant's Zone C, and to transport and redeliver equal quantities, less quantities retained for applicable shrinkage, to NJN at the existing point of interconnection between Applicant and NJN located at Applicant's meter station 953 in Middlesex County, New Jersey, or meter station 082 in Westmoreland County, Pennsylvania, for storage under any storage rate schedule, or other mutually agreeable delivery points. Applicant further requests that the authorization be limited to a term commencing upon the date of initial delivery and terminating six months from such date of initial delivery.

Applicant states that NJN agrees to pay Applicant the presently applicable effective Rate Schedule TS-1 basic rate of 18.72 cents per dt equivalent. However, for quantities transported and delivered by Applicant which, when added to the quantities delivered to NJN under Applicant's Rate Schedule TS-1, non-firm SS-II and other transportation agreements, exceed the combined total curtailment of natural gas sales to NJN under all of Applicant's firm sales rate schedules, Applicant states that it would charge NJN the presently applicable effective Rate Schedule TS-1 excess rate of 21.58 cents per dt equivalent. Applicant proposes to retain for applicable shrinkage an amount of gas equal to 5 percent of the quantities transported for the period from April 16 through November 15 of each year and 11 percent for the period from November 16 through April 15 of each year; provided, however, in the event the Commission should establish, by final nonappealable order, shrinkage under Rate Schedule TS-1 which is less than or greater than the amount specified above, Applicant advises that commencing on the date of such order, Applicant would charge the applicable shrinkage established in such order.

Applicant states that the proposed service would not adversely affect or displace capacity for services or sales to high priority users. Applicant requests that the retention of revenues derived from the transportation service proposed herein be subject to Applicant's pending rate proceeding in Docket No. RP81-109 which Applicant reports has now been consolidated with Docket No. RP83-35.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2920 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-147-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

January 31, 1983.

Take Notice that on January 11, 1983, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-147-000 a request pursuant to Section 157.205 of the Regulation under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to construct and operate a 1-inch sales tap under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request to file with the Commission and open to public inspection.

Applicant states that pursuant to the terms of an April 17, 1979, service agreement with Entex, Inc. (Entex), a distributor, Applicant would install a 1-inch sales tap on its 4-inch Carencro line in Lafayette Parish, Louisiana. The proposed sales tap would supply approximately an average of 6.6 Mcf of gas per day for residential use with service being provide by Entex, it is explained. It is indicated that peak day and annual volumes to be delivered at the proposed tap are 30 Mcf and 2,400 Mcf, respectively. There would be no increase in Entex's contractural maximum daily quantities nor Entex's entitlement under Applicant's effective curtailment plan, it is asserted. Applicant states that it would make the proposed gas sale pursuant to its Rate Schedule DG-S.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulation under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall

be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2908 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-128-000]

West Lake Arthur Corp.; Application

January 31, 1983.

Take notice that on December 13, 1982, West Lake Arthur Corporation (Applicant), 1200 Milam, Suite 3300, Houston, Texas 77002, filed in Docket No. CP83-128-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the facilities and service authorized in Docket Nos. CP80-225 and CP81-115, respectively, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the subject abandonment so that United States Natural Gas Corporation (US Natural) can succeed to Applicant's authorization received in Docket Nos. CP80-225-000 and CP81-115-000. It is indicated that the subject proposal is a result of a proposed corporate reorganization of the divisions and subsidiaries of Tatham Pipeline Company (Tatham). Applicant states that it is a wholly-owned subsidiary of Tatham and that the facility to be abandoned and conveyed to US Natural is a 1.8-mile length of 8-inch pipeline located in West Lake Arthur Field in Jefferson Davis Parish, Louisiana.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2924 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-M

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VOL 48
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[Volume 823]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 28, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
						KENTUCKY DEPARTMENT OF MINES & MINERALS			
-ASHLAND EXPLORATION INC				RECEIVED:	01/05/83	JA: KY			
8317061	502517	1619535980	108			JOHN S CLINE #3-025540	EASTERN KENTUCKY GAS	2.6	COLUMBIA GAS TRAN
8317062	502518	1619503760	108			JOHN S CLINE #5-025770	EASTERN KENTUCKY GAS	2.6	COLUMBIA GAS TRAN
8317060	502516	1619503281	108			JOHN S CLINE JR #1-025040	EASTERN KENTUCKY GAS	2.5	COLUMBIA GAS TRAN
-CN OPERATING CO				RECEIVED:	01/05/83	JA: KY			
8317063	502729	1605100000	107-DV			WHITE KELLOGG MOSER #1	RADER CREEK	5.0	TEXAS EASTERN TRA
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	01/05/83	JA: KY			
8317130	503148	1615900000	108			A E DEMPSEY ET AL 801533	KENTUCKY AREA C	3.0	COLUMBIA GAS TRAN
8317131	503149	1615900000	108			AARON STEPP 801594	KENTUCKY AREA C	7.0	COLUMBIA GAS TRAN
8317119	503136	1615900000	108			ALLEN F CASSADY 800075	KENTUCKY AREA C	10.0	COLUMBIA GAS TRAN
8317141	503159	1615900000	108			AMY STEPP 803937	KENTUCKY AREA C	14.0	COLUMBIA GAS TRAN
8317118	503135	1615900000	108			BERGER HEIRS #00064	KENTUCKY AREA C	6.0	COLUMBIA GAS TRAN
8317122	503139	1615900000	108			BIDDY WEBB 800094	KENTUCKY AREA C	12.0	COLUMBIA GAS TRAN
8317138	503156	1607100000	108			DAVID MARTIN #03858	KENTUCKY AREA B	8.0	COLUMBIA GAS TRAN
8317139	503157	1607100000	108			DELLA OSBORN #03872	KENTUCKY AREA B	7.0	COLUMBIA GAS TRAN
8317126	503143	1615900000	108			G W F CHAPMAN 800820	KENTUCKY AREA C	2.0	COLUMBIA GAS TRAN
8317140	503158	1607100000	108			HATTIE TURNER #03875	KENTUCKY AREA B	7.0	COLUMBIA GAS TRAN
8317121	503138	1615900000	108			J C CASSADY 800092	KENTUCKY AREA C	12.0	COLUMBIA GAS TRAN
8317120	503137	1615900000	108			JAS WARD 800084	KENTUCKY AREA C	20.0	COLUMBIA GAS TRAN
8317128	503146	1607100000	108			K F MARTIN #01211	KENTUCKY AREA B	0.9	COLUMBIA GAS TRAN
8317124	503141	1615900000	108			LEWIS DEMPSEY 800408	KENTUCKY AREA C	10.0	COLUMBIA GAS TRAN
8317129	503147	1615900000	108			LEWIS DEMPSEY 801486	KENTUCKY AREA C	4.0	COLUMBIA GAS TRAN
8317132	503150	1615900000	108			LEWIS DEMPSEY 801815	KENTUCKY AREA C	2.0	COLUMBIA GAS TRAN
8317133	503151	1615900000	108			LEWIS DEMPSEY 801816	KENTUCKY AREA C	3.0	COLUMBIA GAS TRAN
8317135	503153	1615900000	108			LEWIS DEMPSEY 801931	KENTUCKY AREA C	4.0	COLUMBIA GAS TRAN
8317136	503154	1615900000	108			LEWIS DEMPSEY 801933	KENTUCKY AREA C	18.0	COLUMBIA GAS TRAN
8317137	503155	1607100000	108			LUTHER FRAZIER 802548	KENTUCKY AREA B	3.0	COLUMBIA GAS TRAN
8317127	503145	1607100000	108			NOAH MARTIN 801177	KENTUCKY AREA B	8.0	COLUMBIA GAS TRAN
8317125	503142	1615900000	108			W B STEPP 800720	KENTUCKY AREA C	2.0	COLUMBIA GAS TRAN
8317134	503152	1607100000	108			W S MARTIN ET AL 801910	KENTUCKY AREA B	14.0	COLUMBIA GAS TRAN
8317142	503160	1615900000	108			WARD & BURGET 803939	KENTUCKY AREA C	6.0	COLUMBIA GAS TRAN
8317123	503140	1615900000	108			WARFIELD PROPERTY 800106	KENTUCKY AREA C	18.0	COLUMBIA GAS TRAN
-CONTROLLED RESOURCES OIL & GAS CORP				RECEIVED:	01/05/83	JA: KY			
8317066	503083	1619500000	103			IDA FRALEY 80-13	BRUSHY	90.0	COLUMBIA GAS TRAN
-E C WARE				RECEIVED:	01/05/83	JA: KY			
8317065	503082	1615900000	107-DV			BASCOMB COPLEY	MARTIN COUNTY GAS FIE	41.5	COLUMBIA GAS TRAN
8317064	503081	1611900000	107-DV			R H FIELDS 1C	KNOTT COUNTY GAS FIEL	28.6	COLUMBIA GAS TRAN
-INLAND GAS CO INC				RECEIVED:	01/05/83	JA: KY			
8317088	503105	1611900000	107-DV			BELLE HAMMONDS 468	BIG SANDY	4.1	
8317072	503089	1611900000	107-DV			D W WALLEN 438	BIG SANDY	6.5	
8317117	503134	1611900000	107-DV			E H PIGMAN 210	BIG SANDY	4.6	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317084	503101	1613300000	107-DV			ELIZA COLLINS 457	BIG SANDY	3.7	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317084	503101	1613300000		107-DV		ELIZA COLLINS 457	BIG SANDY	3.7	
8317086	503103	1613300000		107-DV		ELIZA COLLINS 463	BIG SANDY	7.0	
8317115	503132	1611900000		107-DV		EVANS OIL & GAS TRUST CO 514	BIG SANDY	4.0	
8317116	503133	1611900000		107-DV		EVANS OIL & GAS TRUST CO 516	BIG SANDY	4.0	
8317100	503117	1611900000		107-DV		FRANCES G SPODEN ET AL 476	BIG SANDY	4.6	
8317090	503107	1611900000		107-DV		FRANCES G SPODEN 474	BIG SANDY	4.6	
8317102	503119	1611900000		107-DV		FRANCES G SPODEN 478	BIG SANDY	4.6	
8317112	503129	1611900000		107-DV		FRANCES G SPODEN 484	BIG SANDY	4.6	
8317103	503120	1611900000		107-DV		GOODLOE BROS CO INC 482	BIG SANDY	3.2	
8317111	503128	1611900000		107-DV		GOODLOE BROS CO INC 486	BIG SANDY	2.8	
8317109	503126	1611900000		107-DV		GOODLOE BROS CO INC 489	BIG SANDY	2.8	
8317107	503124	1611900000		107-DV		GOODLOE BROS CO INC 491	BIG SANDY	3.2	
8317087	503104	1611900000		107-DV		GRANT COMBS ET AL 467	BIG SANDY	7.1	
8317078	503095	1613300000		107-DV		HETTIE COLLINS 447	BIG SANDY	11.6	
8317110	503127	1611900000		107-DV		IRA BACK 487	BIG SANDY	2.2	
8317108	503125	1611900000		107-DV		IRA BACK 490	BIG SANDY	4.5	
8317067	503084	1611900000		107-DV		JETHRO AMBURGEY 409	BIG SANDY	5.3	
8317070	503087	1611900000		107-DV		JETHRO AMBURGEY 435	BIG SANDY	5.3	
8317069	503086	1613300000		107-DV		JOE TIGNOR 426	BIG SANDY	8.6	
8317113	503130	1611900000		107-DV		KENTUCKY-WEST VIRGINIA GAS CO 285	BIG SANDY	0.9	
8317068	50385	1607100000		107-DV		KY W VA GAS CO 415	BIG SANDY	9.4	
8317081	503098	1613300000		107-DV		L W FIELDS 451	BIG SANDY	9.3	
8317083	503100	1611900000		107-DV		LEO DICE SMITH 454	BIG SANDY	4.4	
8317080	503097	1611900000		107-DV		LEO DICIE SMITH 449	BIG SANDY	4.4	
8317085	503102	1611900000		107-DV		LEO DICIE SMITH 461	BIG SANDY	4.4	
8317074	503091	1611900000		107-DV		N L COMBS 442	BIG SANDY	4.6	
8317073	503090	1613300000		107-DV		OPAL RISNER ET AL 441	BIG SANDY	7.6	
8317071	503088	1613300000		107-DV		OPAL RISNER 437	BIG SANDY	7.6	
8317075	503092	1613300000		107-DV		PITTSBURGH CONSOLIDATION COAL C 444	BIG SANDY	1.7	
8317076	503093	1613300000		107-DV		PITTSBURGH CONSOLIDATION COAL C 445	BIG SANDY	7.1	
8317079	503096	1613300000		107-DV		PITTSBURGH CONSOLIDATION COAL C 448	BIG SANDY	8.2	
8317082	503099	1613300000		107-DV		PITTSBURGH CONSOLIDATION COAL C 453	BIG SANDY	7.5	
8317091	503108	1611900000		107-DV		R S CORNETT 475	BIG SANDY	3.9	
8317101	503118	1611900000		107-DV		R S CORNETT 477	BIG SANDY	3.9	
8317104	503121	1611900000		107-DV		S B STACY 501	BIG SANDY	3.6	
8317114	503131	1615300000		107-DV		SAM HOWARD HEIRS 364	BIG SANDY	15.8	
8317106	503123	1611900000		107-DV		SAM STAMPER 493	BIG SANDY	2.8	
8317089	503106	1613300000		107-DV		THELMA S NAPIER & NANNIE TAYLOR 469	BIG SANDY	5.9	
8317105	503122	1613300000		107-DV		VINA COLLINS 496	BIG SANDY	7.3	
8317077	503094	1611900000		107-DV		W A COMBS HEIRS 446	BIG SANDY	3.1	
-KEPCO INC				RECEIVED:	01/05/83	JA: KY			
8317145	503163	1611		107-DV		GRACE CALHOUN - #KL38	KENTUCKY EAST	21.3	KENTUCKY WEST VIR
-NEWSOM TIVIS				RECEIVED:	01/05/83	JA: KY			
8317092	503109	1619500000		107-DV		THOMAS RATLIFF #17	BEAR FORK - ROBINSON	0.0	COLUMBIA GAS TRAN
8317093	503110	1619500000		107-DV		THOMAS RATLIFF #18	BEAR FORK - ROBINSON	0.0	COLUMBIA GAS TRAN
8317094	503111	1619500000		107-DV		THOMAS RATLIFF #19	BEAR FORK - ROBINSON	0.0	COLUMBIA GAS TRAN
-OSBORNE AILEEN				RECEIVED:	01/05/83	JA: KY			
8317144	503162	1611		108		PERKINS AMBURGEY HEIRS #1	KY EAST	6.0	COLUMBIA GAS & TR
-SOUTHEASTERN GAS COMPANY				RECEIVED:	01/05/83	JA: KY			
8317095	503112	16		108		P M DINGUS #728		8.0	COLUMBIA GAS TRAN
8317096	503113	16		108		P M DINGUS #753		8.0	COLUMBIA GAS TRAN
-W E ELLIOTT TRUSTEE				RECEIVED:	01/05/83	JA: KY			
8317143	503161	1619		107-DV		JAMES HATCHER ESTATE ACCT 501 #2	BIG SANDY	21.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	VOLUME 823 PAGE 003 FIELD NAME	PROD	PURCHASER
-WHITELAND PETROLEUM CORP				RECEIVED:	01/05/83	JA: KY			
8317097	503114	1612700000		108		HINKLE #1 F36412	HINKLE	1.5	KENTUCKY WEST VIR
8317098	503115	1612700000		108		HINKLE #2 F36904	HINKLE	1.5	KENTUCKY WEST VIR
8317099	503116	1612700000		108		HINKLE #3 F36933	HINKLE	1.5	KENTUCKY WEST VIR
MONTANA BOARD OF OIL & GAS CONSERVATION									
-SMOKY HILL EXPLORATION CO INC				RECEIVED:	01/10/83	JA: MT			
8317225	5-82-152	2504122222		102-2		MELAND 1-13	WILDCAT	1500.0	INTER NORTH INC
8317223	2-82-50	2504122208		102-2		PETERSON #1-19	WILDCAT	1500.0	INTER NORTH INC
8317224	5-82-151	2504122202		102-2		PETERSON 1-24	WILDCAT	1500.0	INTER NORTH INC
WEST VIRGINIA DEPARTMENT OF MINES									
-ASHLAND EXPLORATION INC				RECEIVED:	01/07/83	JA: WV			
8317218		4701900450		102-2		H T SMARR #1 - OR8731	PAINT CREEK	5.5	
-BEREA OIL AND GAS CORPORATION				RECEIVED:	01/07/83	JA: WV			
8317219		4709320054		102-4		PENNINGTON STATE UNIT #1	CANAAN VALLEY	70.0	BROOKLYN UNION GA
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	01/07/83	JA: WV			
8317220		4700101613		102-4		DOROTHY SWANSON WN-12730	PHILIPPI DISTRICT	25.0	GENERAL SYSTEM PU
8317221		4701011553		102-4		JAMES C FRIDLEY WN-12893	PHILIPPI DISTRICT	51.0	GENERAL SYSTEM PU
8317222		4700100853		102-4		LINDSEY-BRYANT WN 12343	GLADE DISTRICT	33.0	GENERAL SYSTEM PU
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
-GULF OIL CORPORATION				RECEIVED:	01/07/83	JA: AR 4			
8317202	ARA-1526-82	03I311I219		I03		F C FEDERAL #1-2I	BONANZA	572.0	ARKANSAS LOUISIAN
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	01/07/83	JA: AR 4			
8317187	NM1281821021	03I3110235		103-4		USA I-1S-C	KIBLER - WILLIAMS (FE	325.0	
8317186	ARA1281821021	03I311I236		102-4		USA I-1S-T	KIBLER - WILLIAMS (FE	145.0	
-AMOCO PRODUCTION CO				RECEIVED:	01/07/83	JA: NM 4			
8317148	NM 1349-82	3004524958		103		GALLEGOS CANYON UNIT #166E	BASIN DAKOTA	38.9	EL PASO NATURAL G
8317216	NM-0145-82	3003921322		108		JICARILLA APACHE 108 #26	TAPACITO - PICTURED C	19.0	GAS CO OF NEW MEX
8317207	NM-1531-82	3003906718		108		JICARILLA APACHE 102 #5 (2ND)	BLANCO MESAVERDE	14.0	GAS CO OF NEW MEX
8317188	NM-1241-82	3003906154		108		JICARILLA CONTRACT 146 #2(2ND)	SOUTH BLANCO - PICTUR	10.0	NORTHWEST PIPELIN
8317173	NM-1348-82	3003922522		103		JICARILLA CONTRACT 146 #39	GONZALES MESAVERDE	35.6	NORTHWEST PIPELIN
-BTA OIL PRODUCERS				RECEIVED:	01/07/83	JA: NM 4			
8317161	NM 0840-82	3002500000		102-4		MESA 8105 JV-P	RED HILLS (WOLFCAMP)	730.0	UNITED GAS PIPE L
-CHACE OIL COMPANY INC				RECEIVED:	01/07/83	JA: NM 4			
8317174	NM 1347-82	3003922957		103		JICARILLA 47-2 JV	S LINDRITH GALLUP-DAK	48.0	EL PASO NATURAL G
-CURTIS J LITTLE				RECEIVED:	01/07/83	JA: NM 4			
8317208	NM-1529-82	3004525424		103		KELLY FEDERAL #1	BASIN DAKOTA	60.0	EL PASO NATURAL G
8317176	NM1553-82107	3003922908		103	107-TF	TURNER #2	SO BLANCO PC	25.0	EL PASO NATURAL G
-DAVE M THOMAS JR				RECEIVED:	01/07/83	JA: NM 4			
8317162	NM 1283-82	3004320639		103		CHACON JICARILLA APACHE D-111	CHACON DAKOTA ASSOCIA	128.0	EL PASO NATURAL G
-DAVID FASKEN				RECEIVED:	01/07/83	JA: NM 4			
8317201	NM-1512-82	3001524035		103		GULF FEDERAL "COM" #1	BURTON FLAT (MORROW)	360.0	EL PASO NATURAL G
-DEPCO INC				RECEIVED:	01/07/83	JA: NM 4			
8317170	NM 1323-82	3003922917		103		MKL #16R	OTERO CHACRA/	600.0	
-DUGAN PRODUCTION CORP				RECEIVED:	01/07/83	JA: NM 4			
8317147	NM-1380-82	3004525122		103		APRIL SURPRISE #3	BISTI LOWER GALLUP EX	18.0	EL PASO NATURAL G
8317177	NM-1381-82	3004522937		103		BLANCO WASH #5	WHITE WASH MANCOS DAK	2.0	EL PASO NATURAL G
8317151	NM-1382-82	3004522472		103		CHACO #3	WHITE WASH MANCOS - D	7.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	VOLUME 823 PAGE 004 FIELD NAME	PROD	PURCHASER
8317158	NM-1461-82	3003922836		103		ENNISKILLEN #1	UNDESIGNATED GALLUP	7.3	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317158	NM-1461-82	3003922036		103		ENNISKILLEN #1	UNDESIGNATED GALLUP	7.3	EL PASO NATURAL G
-EL PASO EXPLORATION CO				RECEIVED:	01/07/83	JA: NM 4			
8317206	NM-0171-82PB	3003906568		108-PB		JICARILLA 119 N #1	TAPACITO - PICTURED C	20.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/07/83	JA: NM 4			
8317166	NM 1302-82	3003920757		108		CANYON LARGO UNIT #207	BALLARD - PICTURED CL	22.0	EL PASO NATURAL G
8317184	NM-1201-82	3004500000		108		DELHI TURNER #1	BLANCO - MESA VERDE	13.0	EL PASO NATURAL G
8317168	NM 1306-82	3004520333		108		HARGRAVE #4	FULCHER KUTZ - PICTUR	21.0	SOUTHERN UNION GA
8317195	NM-1506-82	3004570049		103		HUERFANITO UNIT #77A	BLANCO MESAVERDE	100.0	EL PASO NATURAL G
8317185	NM-1182-82	3004520273		108		HUERFANO UNIT #127 R	BASIN - DAKOTA	20.0	EL PASO NATURAL G
8317192	NM-1493-82	3004520767		108		HUERFANO UNIT #210	BASIN - DAKOTA	14.0	EL PASO NATURAL G
8317196	NM-1505-82	3004320642		103		JICARILLA 183 #12	BALLARD PICTURED CLIF	50.0	EL PASO NATURAL G
8317180	NM 0862-82	3004511748		108		LACKEY B #20	AZTEC PICTURED CLIFFS	19.0	EL PASO NATURAL G
8317198	NM-1516-82	3003923026		103		LINDRITH UNIT #185	BLANCO SOUTH PICTURED	15.0	EL PASO NATURAL G
8317197	NM-1517-82	3003923025		103		LINDRITH UNIT #189	BLANCO SOUTH PICTURED	40.0	EL PASO NATURAL G
8317199	NM-1515-82	3003923027		103		LINDRITH UNIT #110	BLANCO SOUTH PICTURED	15.0	EL PASO NATURAL G
8317182	NM-1168-82	3004520841		108		NYE #6	AZTEC-PICTURED CLIFFS	20.0	EL PASO NATURAL G
8317215	NM-0341-82	3003922642		108		RINCON UNIT #238	LARGO - CHACRA	10.0	EL PASO NATURAL G
8317146	NM-1115-82	3004508230		108		SAN JACINTO #1	AZTEC - PICTURED CLIF	20.0	EL PASO NATURAL G
8317200	NM-1514-82	3003922993		103		SAN JUAN 27-4 UNIT #148	TAPACITO PICTURED CLI	20.0	EL PASO NATURAL G
8317210	NM 0172-82PB	3003920574		108-PB		SAN JUAN 28-6 UNIT #130	BASIN - DAKOTA	20.0	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:	01/07/83	JA: NM 4			
8317172	NM-1528-82	3002527720		103		ZIMMERMAN FEDERAL #1	UNDESIGNATED VADA PEN	1.0	
-FRASER INDUSTRIES INC				RECEIVED:	01/07/83	JA: NM 4			
8317205	NM-1522-82	3002527834		103		EXXON A FEDERAL #2 N M 29694	DOUBLE X DELAWARE	25.0	PHILLIPS PETROLEU
-GETTY OIL COMPANY				RECEIVED:	01/07/83	JA: NM 4			
8317193	NM 1486-82	3003922842		103		JICARILLA "B" #26	BASIN DAKOTA	375.0	EL PASO NATURAL G
8317190	NM 1485-82	3003922840		103		JICARILLA "C" #1E	BASIN DAKOTA	35.0	EL PASO NATURAL G
8317156	NM-1448-82-B	3003970200		103		JICARILLA "C" #27E	BASIN DAKOTA	350.0	EL PASO NATURAL G
8317157	NM-1448-82-A	3003970206		103		JICARILLA "C" #27E	OTERO GALLUP	125.0	EL PASO NATURAL G
8317191	NM 1484-82	3003922929		103		JICARILLA "C" #6E	BASIN DAKOTA	250.0	EL PASO NATURAL G
-GRACE PETROLEUM CORPORATION				RECEIVED:	01/07/83	JA: NM 4			
8317169	NM 1324-82	3002520709		103		EAST SMITH RANCH FEDERAL COM #1	TEAS PENN	0.0	SOUTHERN UNION GA
-GULF OIL CORPORATION				RECEIVED:	01/07/83	JA: NM 4			
8317167	NM 1322-82	3001524024		103		WHITE CITY PENN GAS COM UNIT 2 #1	WHITE CITY PENN MORRO	0.0	TRANSWESTERN PIPE
-HOLLY ENERGY INC				RECEIVED:	01/07/83	JA: NM 4			
8317181	NM 0853-82	3000560310		102-4		NORTH KING CAMP UNIT #11	UNDESIGNATED	100.0	CABOT PIPELINE CO
-INTEGRATED ENERGY INC				RECEIVED:	01/07/83	JA: NM 4			
8317217	NM-1549-82	3004320393		102-2		FEDERAL 29-22-6 #2	RUSTY CHACRA	18.3	SOUTHWEST GAS COR
-J C WILLIAMSON				RECEIVED:	01/07/83	JA: NM 4			
8317209	NM-05156210F	3001500000		102-4		EP-USA #1	WILDCAT	365.0	EL PASO NATURAL G
8317214	NM-05168210E	3001500000		102-4		EP-USA #2	WILDCAT	73.0	EL PASO NATURAL G
-J E M RESOURCES				RECEIVED:	01/07/83	JA: NM 4			
8317183	NM-1140-80	3001500000		102-4		HODGES FEDERAL #2	CAVE GRAYBURG-SAN AND	35.0	TRANSWESTERN PIPE
-LADD PETROLEUM CORPORATION				RECEIVED:	01/07/83	JA: NM 4			
8317203	NM-1524-82	3004525390		103		BUTTE #1E	BASIN DAKOTA	259.0	EL PASO NATURAL G
8317204	NM-1523-82	3003922915		103		LINDRITH #1-3E	BASIN-DAKOTA	507.0	EL PASO NATURAL G
-LUDWICK JAMES L				RECEIVED:	01/07/83	JA: NM 4			
8317178	NM 1480-82	3001922958		103		M & M #1	BALLARD PICTURED CLIF	81.0	EL PASO NATURAL G
-MARTIN W B & ASSOCIATES				RECEIVED:	01/07/83	JA: NM 4			
8317179	NM-1479-82	3003930302		103		M & M #2	BALLARD PICTURED CLIF	7.0	EL PASO NATURAL G
-MARTIN W B SR & W B JR				RECEIVED:	01/07/83	JA: NM 4			
8317189	NM-1478-82	3003930000		103		MARTIN BLACKFORD #1	BALLARD PICTURED CLIF	6.5	EL PASO NATURAL G
-MERRION OIL & GAS CORP				RECEIVED:	01/07/83	JA: NM 4			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8317175	NM-1547-82	3003923043		103		ANNIE #1
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	01/07/83	JA: NM 4
8317211	NM 0176-82PB	3004521487		108-PB		HOLT UNIT #3
8317212	NM 0175-82PB	3003921130		108-PB		JICARILLA 92 #8
8317213	NM 0174-82PB	3003907964		108-PB		ROSE UNIT #10
-PREMIER PRODUCTION CO				RECEIVED:	01/07/83	JA: NM 4
8317165	NM 1256-82	3001524040		103		YATES PREMIER FEDERAL #1
-READ & STEVENS INC				RECEIVED:	01/07/83	JA: NM 4
8317154	NM-1446-82	3000560290		102-4		WEST HAYSTACK FEDERAL #1
-ROBERT L BAYLESS				RECEIVED:	01/07/83	JA: NM 4
8317149	NM-1386-82	3003923014		103		JICARILLA 41 B #1
8317150	NM-1385-82	3003923015		103		JICARILLA 65 B #1
-ROBERT N ENFIELD				RECEIVED:	01/07/83	JA: NM 4
8317159	NM-1455-82	3001500000		102-4		FEDERAL "18" #1
-SCHALK DEVELOPMENT COMPANY				RECEIVED:	01/07/83	JA: NM 4
8317194	NM-1507-82	3004525181		103		SCHALK 94-4
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	01/07/83	JA: NM 4
8317163	NM 1264-82-A	3003923002		103		JICARILLA "E" #10-E
8317164	NM 1264-82-B	3003900000		103		JICARILLA "E" #10-E
-STEVENS OPERATING CORP				RECEIVED:	01/07/83	JA: NM 4
8317160	NM1400-82107	3000561423		102-4	107-TF	EDMONDSON FEDERAL #4
-SUPERIOR OIL CO				RECEIVED:	01/07/83	JA: NM 4
8317152	NM-1430-82	3002527708		102-3		TRISTE DRAW FED #2
-YATES PETROLEUM CORPORATION				RECEIVED:	01/07/83	JA: NM 4
8317171	NM 1332-82	3002527759		103		HOWE "TG" FEDERAL #1
8317153	NM-1421-82	3001524049		102-4		LECHUGUILLA CANYON UNIT #9
8317155	NM-1453-82	3001523698		103		SLINKARD "UR" FEDERAL #1

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FIELD NAME	PROD	PURCHASER
UNDESIGNATED GALLUP	91.0	EL PASO NATURAL G
BLANCO PICTURED CLIFF	21.0	NORTHWEST PIPELIN
BLANCO MESAVERDE	24.0	NORTHWEST PIPELIN
BLANCO MESAVERDE	18.3	EL PASO NATURAL G
TURKEY TRACK SK QUEEN	21.8	PHILLIPS PETROLEU
WILDCAT	182.0	TRANSWESTERN PIPE
WEST LINDRITH GALLUP/	52.0	EL PASO NATURAL G
WEST LINDRITH GALLUP/	52.0	EL PASO NATURAL G
UNDESIGNATED MORROW	547.5	GAS CO OF NEW MEX
BLANCO MESA VERDE	0.0	NORTHWEST PIPELIN
WILDHORSE GALLUP	100.0	GAS CO OF NEW MEX
BASIN DAKOTA	244.0	GAS CO OF NEW MEX
UNDESIGNATED ABO	20.0	TRANSWESTERN PIPE
TRISTE DRAW	0.0	
UND BONE SPRINGS	0.0	CONTINENTAL OIL C
WILDCAT MORROW	0.0	EL PASO NATURAL G
UND MORROW	0.0	EL PASO NATURAL G

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 10 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 10 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 mile rule)
- 102-3: New well (1000 ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CB: Coal seams
- 107-DV: Devonian shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

Orig. Date
FERC Pub. in

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR TERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
82-10102	OK	Whitmar Expl. Co	Rees #1-13 UT	573	1-08-82	C:	Well Name
82-18400	OH	Leader Equities Inc	#3 Huber	604	3-05-82	C:	103 & 107-TF Approved
82-29992	MMS(WY)	America Quasar Pet Co	Riley Ridge Federal N-24	652	5-28-82	C:	107-DP Denied by JA
82-37473	TX	Morrow Resources	Mathews #3	679	7-06-82	C:	102-2 & 103 Approved
82-39567	PA	Fox Oil & Gas Inc	Fred Golden #2	687	7-14-82	C:	102-2 Approved, not Denied
82-48884	CO	Continental Gas Trans	Thompson 44-13	725	9-15-82	C:	Well Name
82-51835	UT	Texas Oil & Gas Corp	Squier #1	735	9-22-82	C:	107-TF Denied
82-52436	MMS(LA)	Aminoil USA Inc	OCS-G-2405 Well #A-5	737	9-22-82	C:	108-ER Approved
82-52441	MMS(LA)	Aminoil USA Inc	OCS-G-2405 Well #A-1	737	9-22-82	C:	108-ER Approved
82-53258	MMS(NM)	Yates Petroleum Corp	Federal "HJ" No. 3	740	9-28-82	C:	102-3 & 107-TF Approved
82-53305	TX	Pioneer Production Corp	M W Broyles #1 RRCID 07397	740	9-28-82	C:	108 & 108-SA Approved
82-53330	OK	George R Brown	Ham #1	740	9-28-82	C:	108 & 108-ER Approved
82-53365	WV	Consolidated Gas Supply	Loup Creek Cullimry WN0869	740	9-28-82	C:	Well Name
82-53609	TX	Hufo Production Corp	Brent 60-1	742	9-30-82	C:	Applicant Name
82-53610	TX	Hufo Production Corp	Brent 60-2	742	9-30-82	C:	Applicant Name
82-53614	TX	Hufo Production Corp	Brent 61-2	742	9-30-82	C:	Applicant Name
82-53667	TX	Texas Oil & Gas	Schultz C #1	742	9-30-82	C:	Applicant Name
82-53762	TX	Santa Fe-Windsor	Roadrunner #3	742	9-30-82	C:	102-2 Approved; 103 W/D
82-54047	TX	Thomas-Powell Royalty	Vick #3 (08683)	743	9-30-82	C:	Well Name
82-54082	TX	Stahl Petroleum Co	Webb E #1	743	9-30-82	C:	Well Name
82-54141	TX	Gulf Oil Corporation	C.A. Goldsmith #1396	743	9-30-82	C:	Well Name
82-54184	TX	C. R. Sproul	JS WR & MH Whitten #1	743	9-30-82	C:	103 & 107-TF Approved
82-54512	TN	Sunbright Oil & Gas Inc	Clyde Freels No. 1	745	10-7-82	C:	Well Name
82-54553	TN	Continental Energy Corp	Oneida Wood #2	745	10-7-82	C:	Well Name
82-56022	OH	Oxford Oil Company	Donald Ullman #1	752	10-14-82	C:	107-DV Approved; not 107-TF
82-56572	MMS(NM)	El Paso Natural Gas Co	San Juan 28-7 NP #94	755	10-25-82	C:	Well Name
82-56833	TX	Champlin Petroleum Co	John D. Hicks #1	756	10-25-82	C:	102-2 & 103 Approved
82-56999	TX	Lomax Exploration Co	C.F. Cason #1 098238	756	10-25-82	C:	Well Name
82-57304	PA	Boyd & Shriver	Elder #427	758	10-27-82	C:	108 Approved; Not 103
82-57368	PA	Envirogas Inc	J Hipps #1	758	10-27-82	C:	103 & 107-TF Approved
82-57784	OK	Texas Oil & Gas	Condreay #1	759	10-27-82	C:	Applicant Name
82-57960	OK	Kahard Explora & Dril Co	Hartwell No. HO-25	760	11-02-82	C:	Well Name
82-57980	OK	Texas Oil & Gas	Calumet Nm.1	760	11-02-82	C:	Applicant Name
82-58027	OK	Seneca Oil Company	Garten #1-29	760	11-02-82	C:	102-4 & 103 Approved
82-58028	OK	Seneca Oil Company	Jech #1-21	760	11-02-82	C:	102-4 & 103 Approved
82-58035	OK	George Rodman Inc	Morris #1-24	760	11-02-82	C:	Well Name
82-58036	OK	Seneca Oil Company	Collett #1-21	760	11-02-82	C:	102-4 & 103 Approved
82-58046	OK	Shell Oil Company	Shell Wood #1-21	760	11-02-82	C:	Well Name
82-58118	MMS(NM)	Phillips Petroleum Co	EY GB/SA U Tract 1881 #1	761	11-02-82	C:	Well Name

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
83-00373	TX	Exxon Corporation	John Ben Sheppard GU 1 #1	761	11-02-82	C:	Well Name
83-00586MMS(NM)		Mobil Prdg Tx & NM	Jicarilla B #1	762	11-02-82	C:	108 Approved; Not 108-SA
83-00587MMS(NM)		Mobil Prdg Tx & NM	C M Morris #6	762	11-02-82	C:	108 Approved; Not 108-SA
83-00588MMS(NM)		Mobil Prdg Tx & NM Inc	Jicarilla F #2	762	11-02-82	C:	108 Approved; Not 108-SA
83-00589MMS(NM)		Mobil Prdg Tx & NM Inc	Jicarilla D #10-PC	762	11-02-82	C:	108 Approved; Not 108-SA
83-00590MMS(NM)		Mobil Prdg Tx & NM Inc	Jicarilla D #9	762	11-02-82	C:	108 Approved; Not 108-SA
83-00708	PA	T.W. Phillips Gas & Oil	C. F. Burns #1	763	11-02-82	C:	Well Name
83-01604	OK	Western Pacific	Edwards #2-11	766	11-10-82	C:	102-4 Approved; Not 103
83-01699	OH	N.E. Natural Gas Co Inc	Conotton Land Co #1	766	11-10-82	C:	108 Denied by JA
83-02225	TX	Sage Energy Co	University 48-13 #1	768	11-10-82	C:	Well Name
83-02226	TX	Sage Energy Co	University 19-G #1	768	11-10-82	C:	Well Name
83-02652	KY	Al J Keyser	Ted Campbell #C-4	769	11-10-82	C:	Well Name
83-02653	NY	Eclipse Energy Corp	Cotton #1	769	11-10-82	C:	107-TF Denied by JA
83-02654	NY	Eclipse Energy Corp	Martin #2	769	11-10-82	C:	107-TF Denied by JA
83-02780	CO	William H McElwain	McElwain #1	770	11-12-82	C:	107-TF Approved; Not 107-PE
83-02877	OK	Blue Quail Energy Inc	Kirchnes #1	770	11-12-82	C:	Applicant Name
83-03800	KS	Graves Drilling Co	Pennock #1	773	11-22-82	C:	Well Name
83-04111	OK	Continental Resources	Patterson #1-8	774	11-22-82	C:	Well name
83-04543	OH	Glenn L Haught & Sons	Glenn Fulmer #1	775	11-22-82	C:	107-DV Approved; Not 107-TF
83-04544	OH	Glenn L Haught & Sons	Arnett Whitacre #1	775	11-22-82	C:	107-DV Approved; Not 107-TF
83-04573	OH	N.E. Natural Gas Co Inc	Beamer -Maydock #1	775	11-22-82	C:	108 Denied by JA
83-04577	OH	N.E. Natural Gas Co Inc	Yanice Brooks #2A	775	11-22-82	C:	108 Denied by JA
83-04580	OH	N.E. Natural Gas Co	Starcher #1	775	11-22-82	C:	108 Denied by JA
83-04723	KS	Hibernian Co	Hibernian #50 Rosedale	776	11-23-82	C:	Applicant Name
83-04735	MS	Bow Valley Petro. Inc	Federal CAFB 25-2 #1	776	11-23-82	C:	103 Approved; 102-2 Denied
83-04745	MS	Texmco Inc	H L Rankin #1	776	11-23-82	C:	102-4 & 103 Approved
83-04774	OK	AIR Oil Co	Harris #3	776	11-23-82	C:	Well Name
83-04802	OK	Rebel Oil Co	W D Greenshields #1	776	11-23-82	C:	108 Denied by JA
83-04831	OK	Barbour Energy Corp	Winters #1-18	776	11-23-82	C:	Well Name
83-04842	OK	Sun Expl. & Prdg Co	S W Wakita Unit #2-3	776	11-23-82	C:	Well Name
83-04964	WV	D G Haney Inc	Burdette-Bonwell #20	776	11-23-82	C:	Well Name
83-05054	PA	Atlas Resources Inc	Mahalso Tipton Unit #1	777	11-26-82	C:	103 & 107-TF Approved
83-05055	PA	Atlas Resources Inc	Jeffrey Benliss #1	777	11-26-82	C:	103 & 107-TF Approved
83-05393	OK	Sidewell Oil & Gas Inc	Ray #1	778	11-26-82	C:	108 Denied by JA
83-05394	OK	Sidewell Oil & Gas Inc	Knox #1	778	11-26-82	C:	108 Denied by JA

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2964 Filed 2-2-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 821]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 28, 1983

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Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 28, 1983.

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION								
-CITIES SERVICE COMPANY			RECEIVED:	12/27/82	JA: KS			
8316385	K 82-1041	1505520496	103		GARDEN CITY H #4	PANOMA	54.0	KANSAS-NEBRASKA N
-CONTINENTAL ENERGY			RECEIVED:	01/03/83	JA: KS			
8316455	K-81-1006	1505520420	103		POPE ADAMSON #1-16	HUGOTON	8.5	INTER NORTH INC
8316454	K-81-1005	1505520419	103		POPE HAZELTON 1-21	HUGOTON	184.0	INTER NORTH INC
-GULF OIL CORPORATION			RECEIVED:	01/03/83	JA: KS			
8316448	K-80-0342	1508700000	108-PB		INSLEE #1		0.0	CITIES SERVICE GA
8316449	K-80-0191	1500700000	108-PB		INSLEE #1		0.0	CITIES SERVICE GA
8316450	K-82-0342	1500700000	108-PB		INSLEE A #1		0.0	CITIES SERVICE GA
8316443	K-82-0981	1501920924	108-PB		KYGAR #2	LAYTON	0.0	CITIES SERVICE GA
8316444	K-82-0981	1501920924	108-PB		KYGAR #2	HEWINS (LAYTON)	0.0	CITIES SERVICE GA
8316445	K-82-098	1501920924	108-PB		KYGAR #2	LAYTON	0.0	CITIES SERVICE GA
8316447	K-79-0857	1500700000	108-PB		ROOT /B/ #2	MEDICINE LODGE KANSI	0.0	ZENITH NATURAL GA
8316446	K-79-0857	1500700000	108-PB		ROOT B #2	LAYTON	0.0	ZENITH NATURAL GA
8316451	K-80-0334	1500700000	108-PB		VERNON G COLEMAN #1	RHODES NE (MISSISSIPP	0.0	CITIES SERVICE GA
8316452	K-80-0334	1500700000	108-PB		VERNON G COLEMAN #1		0.0	CITIES SERVICE GA
8316453	K-80-0334	1500700000	108-PB		VERNON G COLEMAN #1		0.0	CITIES SERVICE GA
-IMCA OIL CO			RECEIVED:	01/07/83	JA: KS			
8316681	K-82-0822	1517520256	108		GOOD #1		4.6	PANHANDLE EASTERN
-J MARK RICHARDSON			RECEIVED:	01/03/83	JA: KS			
8316456	K-82-1057	1509700000	102-2		RALSTIN #1	NW THACH	158.0	KANSAS GAS SUPPLY
-KAISER-FRANCIS OIL COMPANY			RECEIVED:	01/03/83	JA: KS			
8316442	K81-1261	1502500000	108-SA		THEIS B #2	MCKINNEY	17.0	INTER NORTH INC
-MARCO PRODUCTION CO			RECEIVED:	01/07/83	JA: KS			
8316680	K-82-1198	1511520705	103		KJELLIN #2	LOST SPRINGS	5.4	CLOVER PIPELINE C
MICHIGAN DEPARTMENT OF NATURAL RESOURCES								
-AMOCO PRODUCTION CO			RECEIVED:	01/07/82	JA: MI			
8316682		2107935277	102-4		SNYDER #1-6	BLUE LAKE 08-28N-5W	128.0	CONSUMERS POWER C
MONTANA BOARD OF OIL & GAS CONSERVATION								
-WEST GAS INC			RECEIVED:	01/03/83	JA: MT			
8316458	1-82-8	2509521047	108		KEATING 4-25	LAKE BASIN	16.4	MONTANA DAKOTA UT
8316460	1-82-7	2509521062	108		LEUTHOLD 1-35	LAKE BASIN	13.5	MONTANA DAKOTA UT
8316457	1-82-9	2509521146	108		MILLER 4-9	RAPELJE	11.5	MONTANA DAKOTA UT
8316459	1-82-6	2509521160	108		NORDAHL 8-11	LAKE BASIN	2.7	MONTANA DAKOTA UT
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS								
-ARCO OIL AND GAS COMPANY			RECEIVED:	01/05/83	JA: NM			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8316633		3000510448		108		STATE "BF" #3
8316626		3001524059		103		STATE BX #1
-C & E OPERATORS INC				RECEIVED:	01/05/83	JA: NM
8316632		3004523355		108		MARY SHEPHERD #1
-DUGAN PRODUCTION CORP				RECEIVED:	01/05/83	JA: NM
8316631		3003□2478		108		MCDUG #1
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/05/83	JA: NM
8316634		3004520407		108		HUERFANO UNIT #194
-GETTY OIL COMPANY				RECEIVED:	01/05/83	JA: NM
8316639		3□025□000□		108		LOVINGTON PADDOCK UNIT #26
8316638		3002500□00		108		LOVINGTON PADDOCK UNIT #37
-GULF OIL CORPORATION				RECEIVED:	01/05/83	JA: NM
8316647		3□015□2345		108		EDDY "GB" STATE COM #2
8316640		3002506775		108		NANCY STEPHENS #2
-MERRION OIL & GAS CORP				RECEIVED:	01/05/83	JA: NM
8316636		3003□23051		103		SALAZAR B COM #21-1
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	01/05/83	JA: NM
8316627		3002500□□0		108		STATE "A" A/C 1 #15
8316628		3002500□□0		108		STATE "A" A/C 1 #25
8316629		3002500□00		108		STATE "A" A/C 1 #38
8316630		3002□0000□		108		WINNINGHAM #2
-TEXACO INC				RECEIVED:	01/05/83	JA: NM
8316637		3002500000		103		NEW MEXICO "AT" STATE #8
-TRIO OIL CO				RECEIVED:	01/05/83	JA: NM
8316635		3002500000		108		PERSONS #1
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	01/05/83	JA: NM
8316643		3002504888		108		ARNOTT RAMSAY (NCT D) #7
8316642		3002504890		108		ARNOTT RAMSAY (NCT-D) #9
8316648		3002506989		108		CENTRAL DRINKARD UNIT #157
8316641		3002525224		108		CENTRAL DRINKARD UNIT #413
8316644		3002522821		108		GRAHAM STATE (NCT-J) #1
8316645		3002508758		108		HARRY LEONARD (NCT-D) N□ □
8316646		3001504875		108		J F JANDA (NCT-B) #3

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NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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-BEREA OIL AND GAS CORPORATION				RECEIVED:	01/06/83	JA: NY
8316675	4547	3101316868		103		M BURNSIDE UNIT #1
-CHAUTAUQUA ENERGY INC				RECEIVED:	01/06/83	JA: NY
8316662	4604	3101317823		103		EADES #1
8316659	45□8	3101317899		103		GIBBS #2
8316661	46□2	3101317890		103		GRISWOLD #1
8316658	4596	3101317887		103		MORRIS #2
8316663	4□05	3101317796		103		PERSONS #1
8316660	46□□	3101317919		103		REED #1
-J F S INC				RECEIVED:	01/06/83	JA: NY
8316666	46□8	3102905207		108		GANEY #1
8316665	46□9	3102905509		108		GANEY #2
8316□□4	461□	3102906638		108		GANEY #3
8316□□□	4606	3102960370		108		JFS INC #1
8316667	4607	3102904663		108		VICTOR #1
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	01/06/83	JA: NY
8316670	4619	3100917888		103		ALLAN SCHLEGEL #1

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FIELD NAME	PROD	PURCHASER
CHAVEROO SAN ANDRES	3.2	CITIES SERVICE CO
SOUTH EMPIRE (MORROW)	315.0	CABOT PIPELINE CO
AZTEC-PICTURED CLIFFS	19.0	EL PASO NATURAL G
GAVILAN PICTURED CLIF	2.5	EL PASO NATURAL G
BASIN - DAKOTA	19.0	EL PASO NATURAL G
LOVINGTON PADDOCK	0.3	PHILLIPS PETROLEU
LOVINGTON PADDOCK	3.0	PHILLIPS PETROLEU
PENASCO DRAW MORROW	17.8	EL PASO NATURAL G
BLINEBRY & DRINKARD	14.4	GETTY OIL CO
DEVILS FORK BALLUP	78.0	
JALMAT TANSILL YT 7 R	5.0	EL PASO NATURAL G
JALMAT TANSILL YT 7 R	2.0	EL PASO NATURAL G
JALMAT TANSILL YT 7 R	8.0	EL PASO NATURAL G
JALMAT TAN□ILL YT 7 R	3.0	EL PASO NATURAL G
SAUNDERS PERMO UPPER	208.1	WARREN PETROLEUM
EUMONT	0.0	WARREN PETROLEUM
EUNICE SOUTH & JALMAT	13.0	EL PASO NATURAL G
EUNICE SOUTH & JALMAT	20.9	EL PASO NATURAL G
□□INK□□□	9.0	EL PASO NATURAL G
□RINKARD	12.1	EL PASO NATURAL G
PENROSE SKELLY	12.0	EL PASO NATURAL G
EUNICE SOUTH	9.5	EL PASO NATURAL G
EUNICE SOUTH	10.9	EL PASO NATURAL G
GERRY	14.0	COLUMBIA GAS TRAN
SHERMAN	12.0	COLUMBIA GAS TRAN
SHERMAN	12.0	COLUMBIA GAS TRAN
SHERMAN	12.□	COLUMBIA GAS TRAN
SHERMAN	12.□	COLUMBIA GAS TRAN
SHERMAN	12.0	COLUMBIA GAS TRAN
SHERMAN	12.0	COLUMBIA GAS TRAN
02LAKEVIEW	0.□	NATIONAL FUEL GAS
02LAKEVIEW	0.0	NATIONAL FUEL GAS
02LAKEVIEW	0.0	NATIONAL FUEL GAS
02LAKEVIEW	□.0	NATIONAL FUEL GAS
02LAKEVIEW	□.□	NATIONAL FUEL GAS
SKINNER HOLLOW	18.□	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8316656	4582	3100917835		103		AMELIA S ROTE #1

FIELD NAME	PROD	PURCHASER
SKINNER HOLLOW	18.0	NATIONAL FUEL GAS

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JD NO	JA DKT	API NO	*	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8316656	4582	3100917835		103		AMELIA S NOTE #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8316676	4552	3100916423		103		BAIRD #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8316672	4538	3100916919		103		BUGENHAGEN #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8316649	4354	3100916922		107-TF		FRANK HUBER #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8316650	4356	3100917704		107-TF		HOWARD EATON #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8316677	4553	3100917794		103		LETTIE VANETTEN #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8316655	4584	3100916920		103		ROBERT CLARK #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8316654	4219	3100916410		107-TF		WALTER WILDER #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8316669	4617	3100916931		103		WILLIAM HOJNACKI #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-MIDWEST DRILLING PROGRAM 82-1				RECEIVED:	01/06/83	JA: NY			
8316673	4540	3102917807		103		PIERCE #1	BENNINGTON	20.0	NATIONAL FUEL GAS
-NEW GAS DRILLING CO				RECEIVED:	01/06/83	JA: NY			
8316679	4692	3101317048	D	107-TF		MILITELLO #1	LAKE SHORE	0.0	NATIONAL FUEL GAS
-NYS NATURAL GAS COMPANY				RECEIVED:	01/06/83	JA: NY			
8316652	4366	3101317863		107-TF		BEST #1	LAKESHORE	20.0	NATIONAL FUEL GAS
8316651	4368	3101317862		107-TF		NORTHROP #1	RIPLEY	20.0	NATIONAL FUEL GAS
-P & S DRILLING INC				RECEIVED:	01/06/83	JA: NY			
8316674	4537	3102915046		108		BUFFALO CREEK #4	BUFFALO CREEK	12.0	NATIONAL FUEL DIS
-POI ENERGY INC				RECEIVED:	01/06/83	JA: NY			
8316678	3469	3100916030		107-TF		HOXIE #1		15.0	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	01/06/83	JA: NY			
8316653	4513	3101315410		107-TF		O OLSON #1	GERRY	20.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP				RECEIVED:	01/06/83	JA: NY			
8316671	4531	3101317849		103		A HANSON #2	GERRY	20.0	COLUMBIA GAS TRAN
-4-R INVESTMENT CO				RECEIVED:	01/06/83	JA: NY			
8316657	4588	3101317921		103		M J ELDERKIN #1	GERRY	20.0	NATIONAL FUEL GAS

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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

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-ANGERMAN ASSOCIATES INC				RECEIVED:	01/06/83	JA: PA			
8316469	17657	3706326003		108		ANN CAVALIER #1 - IND-26003	W PENNA - UPPER DEVON	6.0	INDUSTRIAL ENERGY
8316468	17308	3712921608		108		E J & J P BATTISTELLA #1-WES-21608	W PENNA UPPER DEVONIA	3.5	INDUSTRIAL ENERGY
8316470	17658	3712921769		108		LAWRENCE W SCHAEFFER #1-WES-21709	W PENNA-UPPER DEVONIA	8.0	INDUSTRIAL ENERGY
8316467	17307	3712921598		108		W P & A L EIDEMILLER #1 - WES-21598	W PENNA - UPPER DEVON	3.6	INDUSTRIAL ENERGY
-ATLAS RESOURCES INC				RECEIVED:	01/06/83	JA: PA			
8316465	10812	3705202480		102-2		KIRILA #1	SOUTH PYMATUNING	0.0	COLUMBIA GAS TRAN
8316505	18556	3706327066		103		SCHROTH 1-370A	CHERRYHILL	47.0	COLUMBIA GAS TRAN
-BOYD & SHRIVER				RECEIVED:	01/06/83	JA: PA			
8316506	18559	3706323428		108		CRAIG #467	E MAHONING	0.0	CONSOLIDATED GAS
8316510	18563	3706323399		108		DORN #464	E MAHONING	0.0	CONSOLIDATED GAS
8316508	18561	3706324788		108		EDWARDS #511	N MAHONING	0.0	CONSOLIDATED GAS
8316507	18560	3706323195		108		KNOX #440	N MAHONING	0.0	CONSOLIDATED GAS
8316511	18564	3706323114		108		MOOT #433	N MAHONING	0.0	CONSOLIDATED GAS
8316509	18562	3706323459		108		WETZEL #455	CANOE	0.0	CONSOLIDATED GAS
8316512	18565	3706323810		108		WILLIAMS #474	N MAHONING	0.0	CONSOLIDATED GAS
-CABOT OIL & GAS CORP				RECEIVED:	01/06/83	JA: PA			
8316475	18450	3712132774		107-TF		BRUCE KREPP #1	JACKSON	50.0	TENNESSEE GAS PIP
8316476	18451	3712132774		102-2		BRUCE KREPP #1	JACKSON	50.0	TENNESSEE GAS PIP
8316472	18258	3708520482		107-TF		WILLIAM GUNTER #1	FRENCH CREEK	50.0	TENNESSEE GAS PIP
-COCHRAN MILLS DRILLING PROGRAM				RECEIVED:	01/06/83	JA: PA			
8316578	18692	3712921596		108		JOHN A BEZICH #1	LOYALHANNA	10.0	T W PHILLIPS OIL
8316579	18693	3708522390		108		JOSEPH V MAUCHER #1	BURRELL	3.0	PEOPLES NATURAL G
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	01/06/83	JA: PA			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8316485	18510	3703120819		102-3		A P WEAVER & SONS #1 WN-1768	HIGHLAND	2.0	GENERAL SYSTEM PU
8316484	18508	3703320751		102-2		LEITZINGER BROS REALTY CO WN-1676	KARTHAUS	4.0	GENERAL SYSTEM PU
8316582	18699	3703300080		108		PA DEPT FOREST & WATERS #5 WN-527	GOSHEN	17.0	GENERAL SYSTEM PU
-DEWEY GAS CO				RECEIVED:	01/06/83	JA: PA			
8316547	18617	3700522433		103		1-79 (TANK HILL #2)	E S DEWEY LANDS	0.0	NATIONAL FUEL GAS
-ENERGY PRODUCTION CO				RECEIVED:	01/06/83	JA: PA			
8316482	18479	3706327010		103		CHARLES BASH #1	NOLO MOUNTAIN	71.0	COLUMBIA GAS TRAN
8316483	18480	3706326956		103		WALTER FOREBACH #1	NOLO MOUNTAIN	93.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	01/06/83	JA: PA			
8316487	18536	3704920704		108		J FISKE #1	ERIE DEEP	5.0	NATIONAL FUEL GAS
8316488	18537	3704920717		108		J NOONAN #1	ERIE DEEP	3.0	NATIONAL FUEL GAS
8316486	18535	3704920572		108		JOHNSON #1	ERIE DEEP	0.4	NATIONAL FUEL GAS
-G & G GAS INC				RECEIVED:	01/06/83	JA: PA			
8316481	18463	3706522661		103		WM HOLLOBAUGH JR #2	CLOVER	7.0	COLUMBIA GAS TRAN
-H A COAL				RECEIVED:	01/06/83	JA: PA			
8316548	18619	3706326606		103		JOHN GETZ 76	MARION CENTER	12.0	T W PHILLIPS GAS
-HANLEY & BIRD				RECEIVED:	01/06/83	JA: PA			
8316577	18652	3706522517		103		J E MILLIGAN (BOWER) #8 SN1706	HAZEN	10.1	
8316559	18651	3704721173		103		TEXASGULF INC #1243 SN169[illegible]	WILCOX	4.4	
-INGRAM ENTERPRISES INC				RECEIVED:	01/06/83	JA: PA			
8316477	18454	3703921892		103	107-TF	HATZ[illegible] #1	COONS CORNER - CONNE	36.0	NATIONAL FUEL GAS
-J & J ENTERPRISES INC				RECEIVED:	01/06/83	JA: PA			
8316478	18456	3706325347	D	103		BERTH[illegible] W WEAVER #1	SOUTH MANNING	0.0	PEOPLES NATURAL G
8316496	18546	3703320533		108		BLAIR S [illegible]EATTY #1	BURNSIDE	0.0	CONSOLIDATED GAS
8316497	18547	3706322775		108		G R HAWK #1	CANOE	0.0	CONSOLIDATED GAS
8316504	18554	3706324651		108		H HEISTER #1	WASHINGTON	0.0	T W PHILLIPS GAS
8316501	18551	3706324061		108		J B DUNLAP #2	CANOE	6.7	T W PHILLIPS GAS
8316471	18129	3703321445		103		J L BROTHERS #10	BURNSIDE	0.0	CONSOLIDATED GAS
8316494	18543	3706323686		108		L P FRAILEY #1	ARMSTRONG	0.0	PEOPLES NATURAL G
8316480	18459	3703321449		103		LEVI A LEAMER #2	BURNSIDE	0.0	CONSOLIDATED GAS
8316503	18553	3706324425		108		MICHAEL B LAWER #1	WHITE	0.0	T W PHILLIPS GAS
8316479	18458	3703321464		103		MILLIE E FULTON #1	BURNSIDE	0.0	CONSOLIDATED GAS
8316499	18549	3706322149		108		MINNIE M RISHEL #1	BANKS	16.5	CONSOLIDATED GAS
8316495	18545	3706521368		108		R & P COAL CO #20 (CHARLES DICKEY)	HENDERSON	0.0	CONSOLIDATED GAS
8316500	18550	3706321904		108		W A SCROTH #1	CANOE	0.0	CONSOLIDATED GAS
8316498	18548	3706322723		108		WILLIAM LOWMASTER #1	CANOE	0.0	CONSOLIDATED GAS
8316502	18552	3712920791		108		WM R SHONDELMYER #1	BELL	10.0	T W PHILLIPS GAS
-JAMES F SCOTT				RECEIVED:	01/06/83	JA: PA			
8316533	18602	3706522611		103		HAROLD HARTZFELD PS-387	GASKILL	0.1	CONSOLIDATED GAS
-JAMES WINNER JR				RECEIVED:	01/06/83	JA: PA			
8316466	17226	3708520425		107-TF		WINNER-HALLIDAY #4	GREENE	20.0	NATIONAL FUEL GAS
-KEPCO INC				RECEIVED:	01/06/83	JA: PA			
8316555	18646	3705921760		102-4		MARGARET E SHOUP #1 (PK-55)	RUFF CREEK	13.0	NEW JERSEY NATURA
8316556	18647	3705921764		102-4		MARGARET E SHOUP #2 (PK-56)	RUFF CREEK	14.0	NEW JERSEY NATURA
8316557	18648	3705921776		102-4		MARGARET E SHOUP #3 (PK-66)	RUFF CREEK	12.5	NEW JERSEY NATURA
8316558	18649	3705921765		102-4		MARGARET E SHOUP #4 (PK-58)	RUFF CREEK	15.5	NEW JERSEY NATURA
-KRIEBEL WELLS 83				RECEIVED:	01/06/83	JA: PA			
8316546	18615	3706327204		103		CAREY #1	JOHNSONBURG	19.0	
8316492	18541	3706327186		103		CHARDELLA #1	MARCHAND	19.7	
8316544	18613	3706327187		103		CHARDELLA #2	MARCHAND	19.0	
8316543	18612	3706327188		103		CHARDELLA #3	MARCHAND	20.0	
8316542	18611	3706327235		103		CHARDELLA #4	MARCHAND	20.0	
8316490	18539	3706522657		103		FENCHAK #1	BELLS MILLS	20.0	

JD NO	SF FKT	API NO	SPEC(1)	SPEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8316545	18614	3706327245	103		MCCULLY #2	TUNNELTON	19.0	
8316491	18540	3706327185	103		SIMPSON-RYEN #1	ROCHESTER MILLS	19.5	
8316493	18542	3706327184	103		THOMAS #1	MARION CENTER	19.0	
-LOYALHANNA DRILLING PROGRAM			RECEIVED:	01/06/83	JA: PA			
8316580	18694	3712921741	108		BOWMAN #1	BELL	10.0	T W PHILLIPS GAS
8316581	18697	3712921712	108		STINE #1	LOYALHANNA	10.0	T W PHILLIPS GAS
-PEACOCK/DOVERSPIKE GAS VENTURE -	79		RECEIVED:	01/06/83	JA: PA			
8316553	18632	3703321297	102-2		BELTOWSKI #1 CLE-21297	BURNSIDE	36.0	COLUMBIA GAS TRAN
8316549	18626	3703321287	102-2		J PIERCE #1 CLE-21287	BURNSIDE	36.0	COLUMBIA GAS TRAN
8316554	18633	3703321308	102-2		J PIERCE #2 CLE-21308	BURNSIDE	36.0	COLUMBIA GAS TRAN
8316551	18628	3703321234	102-2		MCKEE #2 CLE-21234	BURNSIDE	36.0	COLUMBIA GAS TRAN
8316550	18627	3703321235	102-2		MCKEE #3 CLE-21235	BURNSIDE	36.0	COLUMBIA GAS TRAN
-PNB PETROLEUM CORP			RECEIVED:	01/06/83	JA: PA			
8316473	18278	3708520362	103		N WENGERD UNIT #1		30.0	TENNESSEE GAS PIP
8316474	18279	3708520362	107-TF		N WENGERD UNIT #1		30.0	TENNESSEE GAS PIP
-REX-HIDE REALTY INC			RECEIVED:	01/06/83	JA: PA			
8316560	18664	3712922118	103		LOGAN & BRANTHOOVER #3	SALEM	65.0	
-SAND HILL OIL & GAS CO INC			RECEIVED:	01/06/83	JA: PA			
8316517	18586	3705900000	108		BARGEN # 1	RYERSON	1.8	CARNEGIE NATURAL
8316522	18591	3705900000	108		BURLEY # 1	RYERSON	1.8	CARNEGIE NATURAL
8316518	18587	3705900000	108		D W PHILLIPS # 1	RYERSON	1.8	CARNEGIE NATURAL
8316529	18598	3705900000	108		D W WEIGHEN # 1	RYERSON	1.8	CARNEGIE NATURAL
8316520	18589	3705900000	108		DAVID KIMBLE # 1	RYERSON	1.8	CARNEGIE NATURAL
8316531	18600	3705900000	108		DAVID NULL # 1	RYERSON	1.8	CARNEGIE NATURAL
8316532	18601	3705900000	108		DAVID NULL # 2	RYERSON	1.8	CARNEGIE NATURAL
8316521	18590	3705900000	108		ELIZABETH JOHNSON #1	RYERSON	1.8	CARNEGIE NATURAL
8316515	18584	3705900000	108		G B KEFFER # 1	RYERSON	1.8	CARNEGIE NATURAL
8316519	18588	3705900000	108		H E CHANEY # 1	RYERSON	1.8	CARNEGIE NATURAL
8316514	18583	3705900000	108		J W MCNICHOLAS # 1	RYERSON	1.8	CARNEGIE NATURAL
8316516	18585	3705900000	108		J W MCNICHOLAS # 2	RYERSON	1.8	CARNEGIE NATURAL
8316524	18593	3705900000	108		JACOB RICE # 1	RYERSON	1.8	CARNEGIE NATURAL
8316523	18592	3705900000	108		JAMES MCGUFFIE # 1	RYERSON	1.8	CARNEGIE NATURAL
8316525	18594	3705900000	108		JOHN W MARTIN #1	RYERSON	1.8	CARNEGIE NATURAL
8316528	18597	3705900000	108		MCCLELLAN MILLER # 1	RYERSON	1.8	CARNEGIE NATURAL
8316513	18582	3705900000	108		T J BISSETT #1	RYERSON	1.8	CARNEGIE NATURAL
8316530	18599	3705900000	108		WILLIAM FLAHERTY # 1	RYERSON	1.8	CARNEGIE NATURAL
8316527	18596	3705900000	108		WILLIAM SOLE # 1	RYERSON	1.8	CARNEGIE NATURAL
8316526	18595	3705900000	108		WILLIAM SOLE # 2	RYERSON	1.8	CARNEGIE NATURAL
-T W PHILLIPS GAS & OIL CO			RECEIVED:	01/06/83	JA: PA			
8316578	18680	3700500000	108		A A BOWSER #1	WASHINGTON	1.6	T W PHILLIPS GAS
8316571	18681	3700500000	108		A B BOWSER #2	WASHINGTON	1.4	T W PHILLIPS GAS
8316573	18683	3700500000	108		ALEX FOSTER #2	WASHINGTON	2.0	T W PHILLIPS GAS
8316574	18684	3700500000	108		ALEX FOSTER #5	WASHINGTON	1.8	T W PHILLIPS GAS
8316534	18606	3700500000	108		C R VASBINDER	SUGAR CREEK	1.3	T W PHILLIPS GAS
8316537	18604	3700500000	108		CHAMBERS M CRAWFORD # 2	SUGAR CREEK	2.3	T W PHILLIPS GAS
8316566	18670	3700500000	108		D L CLOWSER #1	COWANSHANNOCK	2.0	T W PHILLIPS GAS
8316562	18666	3700520693	108		FLORENCE M BOYER #1	COWANSHANNOCK	2.0	T W PHILLIPS GAS
8316563	18667	3700520779	108		FLORENCE M BOYER #2	COWANSHANNOCK	1.0	T W PHILLIPS GAS
8316564	18668	3700500000	108		H F BOYER #1	COWANSHANNOCK	2.8	T W PHILLIPS GAS
8316567	18671	3700500000	108		H H HARKLEROAD #2	COWANSHANNOCK	1.3	T W PHILLIPS GAS
8316561	18665	3700520562	108		M N BARKER #1	COWANSHANNOCK	1.6	T W PHILLIPS GAS
8316535	18608	3700500000	108		JOSEPH M LITTLE #3	SUGAR CREEK	1.1	T W PHILLIPS GAS
8316575	18685	3700500000	108		L G STOOPS #3	WASHINGTON	1.1	T W PHILLIPS GAS

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JD NO	DA NBR	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8316540	16609	3700500000	108		MARTIN F GEIBEL #1	SUGAR CREEK	1.9	T W PHILLIPS GAS
8316535	18607	3700500000	108		MCKEE (W H FISHER) #2	SUGAR CREEK	1.6	T W PHILLIPS GAS
8316576	18686	3700500000	108		R R STOOPS & G E EARLY #1	WASHINGTON	1.5	T W PHILLIPS GAS
8316538	18605	3700500000	108		ROBERT CAMPBELL # 1	SUGAR CREEK	0.4	T W PHILLIPS GAS
8316536	18603	3700500000	108		ROBERT CAMPBELL #3	SUGAR CREEK	0.7	T W PHILLIPS GAS
8316541	18610	3700500000	108		ROBERT R CAMPBELL #5	SUGAR CREEK	2.2	T W PHILLIPS GAS
8316569	18679	3700500000	108		SARAH E COOPER ETAL #1	HOVEY	2.0	T W PHILLIPS GAS
8316565	18669	3700520366	108		VERNON ROYER #3	COWANSHANNOCK	1.0	T W PHILLIPS GAS
8316572	18682	3700500000	108		WM H ELDER #1	WASHINGTON	1.7	T W PHILLIPS GAS
8316568	18672	3700520662	108		WM R & GLADYS I HARKLEROAD #1	COWANSHANNOCK	1.5	T W PHILLIPS GAS
-TURM OIL INC			RECEIVED:	01/06/83	JA: PA			
8316489	18538	3706327091	103		MOLLIE HESS & ROY R GANOE #1	GIPSY	27.0	T W PHILLIPS GAS
-VICTORY DEVELOPMENT CO			RECEIVED:	01/06/83	JA: PA			
8316552	18630	3703321867	102-2		KREVEL #6 CLF 21387	BURASIDE	36.0	COLUMBIA GAS TRAN

SOUTH DAKOTA DEPARTMENT OF NATURAL RESOURCE DEVELOPMENT

-INLAND OIL & GAS CORP			RECEIVED:	01/04/83	JA: SD			
8316462		4006300000	102-4		FEDERAL #1-29	WEST SHORT PINE HILLS	0.0	MONTANA DAKOTA UT

UTAH DIVISION OF OIL,GAS, & MINING

-CONOCO INC			RECEIVED:	01/04/83	JA: UT			
8316463	K-117-7	4304730906	107-TF		CONOCO STATE 31 #32	OURAY	150.0	MOUNTAIN FUEL SUP
8316464	K-117-6	4304730906	103		CONOCO STATE 31 #32	OURAY	150.0	MOUNTAIN FUEL SUP

WEST VIRGINIA DEPARTMENT OF MINES

-ASHLAND EXPLORATION INC			RECEIVED:	01/03/83	JA: WV			
8316607		4701900414	108		EASTERN GAS & FUEL #65 - 088481	PAINT CREEK	20.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION			RECEIVED:	01/03/83	JA: WV			
8316593		4700121404	108		A HILL #1	BARKER	17.0	CONSOLIDATED GAS
8316596		4700121374	108		B FINDLEY #1	BARKER	8.0	CONSOLIDATED GAS
8316610		4710721030	108		C HOWARD #3	UNION	20.0	CONSOLIDATED GAS
8316598		4700121472	108		COONTZ #2	VALLEY	0.1	CONSOLIDATED GAS
8316609		4710721049	108		CORBIN #2	UNION	1.6	CONSOLIDATED GAS
8316599		4700121388	108		DAVIS #1	BARKER	15.0	CONSOLIDATED GAS
8316600		4710721094	108		DAVIS #2	UNION	4.0	CONSOLIDATED GAS
8316595		4700121524	108		FITZWATER #1	VALLEY	2.0	CONSOLIDATED GAS
8316588		4710720926	108		GARRISON #1	UNION	3.0	CONSOLIDATED GAS
8316591		4710720907	108		HOWARD #1	UNION	9.0	CONSOLIDATED GAS
8316611		4710721029	108		HOWARD #2	UNION	7.0	CONSOLIDATED GAS
8316587		4710720927	108		HUGGINS #1	UNION	3.0	CONSOLIDATED GAS
8316614		4710720999	108		LINGER-PHILLIPS #1	UNION	5.5	CONSOLIDATED GAS
8316613		4710721000	108		LIVINGSTON #1	UNION	6.0	CONSOLIDATED GAS
8316602		4710721113	108		LOCKHART #1	UNION	1.6	CONSOLIDATED GAS
8316592		4700121511	108		MATKINS #1	BARKER	5.0	CONSOLIDATED GAS
8316586		4710720929	108		MCCALE #1	UNION	5.3	CONSOLIDATED GAS
8316603		4710721101	108		MCCALE #2	UNION	0.3	CONSOLIDATED GAS
8316612		4710721012	108		MOORE #2	UNION	5.0	CONSOLIDATED GAS
8316604		4710720910	108		MOORE-PRITCHETT #1	UNION	0.3	CONSOLIDATED GAS
8316597		4700121387	108		R L CARPENTER #1	BARKER	0.0	CONSOLIDATED GAS
8316594		4700121373	108		SHAFFER #1	BARKER	3.0	CONSOLIDATED GAS

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JD NO	DA NBR	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8316606		4701900415	108		EASTERN GAS & FUEL #66 - 088482	PAINT CREEK	20.0	COLUMBIA GAS TRAN
8316608		4701900416	108		EASTERN GAS & FUEL #67 - 088483	PAINT CREEK	20.0	COLUMBIA GAS TRAN
8316601		4710721111	108		HOWARD #4	UNION	0.3	CONSOLIDATED GAS
8316605		4710721112	108		HOWARD #5	UNION	0.3	CONSOLIDATED GAS
8316590		4700121525	108		MCCOY #1	VALLEY	0.0	CONSOLIDATED GAS
8316589		4700121526	108		MCCOY #2	VALLEY	0.0	CONSOLIDATED GAS
8316585		4710720928	108		MCCOY #3	UNION	0.0	CONSOLIDATED GAS
8316615		4710721114	108		MCCOY #4	UNION	0.0	CONSOLIDATED GAS
8316616		4710721115	108		MCCOY #5	UNION	0.0	CONSOLIDATED GAS
8316617		4710721116	108		MCCOY

JD NO	JA CKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8316590		4710720911		108		STUDENIC #1
8316589		4710720924		108		T CORBIN #3
8316605		4710701029		108		TANNER #2
8316601		4710721110		108		WILKINSON #1
8316585		4710720981		108		WILKINSON-BLANKENSHIP #1
8316615		4710720982		108		WRIGHT #1
				RECEIVED:	01/03/83	JA: WV
-CHASE PETROLEUM						
8316608		4701703043		102-3		GRAY #2
				RECEIVED:	01/03/83	JA: WV
-HUGHES RIVER 78-J						
8316606		4701702378		107-DV		C P HUDSON HEIRS H-734
				RECEIVED:	01/03/83	JA: WV
-JAMES F SCOTT						
8316583		4704103058		108		AUBRA MICK S-353
				RECEIVED:	01/03/83	JA: WV
-SENECA-UPSHUR PETROLEUM CO						
8316623		4705900999		107-DV		C-30
8316622		4709702269		103		HARPER #1
8316624		4709702274		103		JESSE CARPENTER #1
8316625		4709702275		103		SAMPSON #1-A
				RECEIVED:	01/03/83	JA: WV
-UNION DRILLING INC						
8316621		4708300388		103		HARRY MCMULLAN #16A 1516
8316620		4708300419		103		HARRY MCMULLAN #18A 1658
8316617		4708300487		103		HARRY MCMULLAN #4C 1702
8316616		4708300488		103		HARRY MCMULLAN #5C 1707
8316619		4708300389		103		HARRY MCMULLAN JR EST #17 - 1522
8316618		4708300420		103		HARRY MCMULLAN JR EST #19 - 1659
				RECEIVED:	01/03/83	JA: WV
-V-H JOINT VENTURE						
8316584		4701702325		107-DV		COPLIN VH-711
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES,CA						
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-QUINTANA PETROLEUM CORP				RECEIVED:	01/03/83	JA: CA 2
8316461	CA-1-82	0408321657		102-4		U S A 1-5
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY						
**********						
-MIDLANDS GAS CORPORATION				RECEIVED:	01/03/83	JA: MT 5
8316396	M 210-2	2507121294		108		BOWDOIN FEDERAL 1 2432
-EVERETT DRILLING VENTURES INC				RECEIVED:	01/03/83	JA: ND 5
8316411	ND 229-2	3300700761		102-2		E D V INC -FEDERAL #5-22
-LADD PETROLEUM CORPORATION				RECEIVED:	01/03/83	JA: ND 5
8316388	ND 200-2	3305301378		102-2		DUNCAN FEDERAL #30-22A
-AMOCO PRODUCTION CO				RECEIVED:	01/03/83	JA: WY 5
8316390	W 203-2	4903721816		103		LOST SOLDIER UNIT #150 (DARWIN)
8316391	W 204-2	4903721816		103		LOST SOLDIER UNIT #150 (MADISON)
8316418	W 239-2	4900720459		103		WERTZ ABC UNIT #54 (TENSLEEP)
8316389	W 201-2	4903721666		103		WERTZ ABC UNIT #64 (TENSLEEP)
8316419	W 240-2	4903721667		103		WERTZ ABC UNIT #65 (TENSLEEP)
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/03/83	JA: WY 5
8316404	W 221-2	4901321107		103		ARCO TRIBAL #34
-BELCO PETROLEUM CORPORATION				RECEIVED:	01/03/83	JA: WY 5
8316413	W 231-2	4903520563		102-4		C 72-25
-CHINOOK RESOURCES INC				RECEIVED:	01/03/83	JA: WY 5
8316395	W 208-2	4900921A04		102-4		GATES FEDERAL #4
8316394	W 207-2	4900922014		102-2		SHEILA FEDERAL 21-3

FIELD NAME	PROD	PURCHASER
UNION	8.0	CONSOLIDATED GAS
UNION	1.7	CONSOLIDATED GAS
UNION DIST	0.0	CONSOLIDATED GAS
UNION	5.6	CONSOLIDATED GAS
UNION	2.4	CONSOLIDATED GAS
UNION	2.0	CONSOLIDATED GAS
SOUTHWEST DISTRICT	20.0	
CENTRAL DISTRICT	60.0	COLUMBIA GAS TRAN
HACKERS CREEK	48.0	CONSOLIDATED GAS
HARDEE	35.0	COLUMBIA GAS TRAN
WASHINGTON AND MEADE	35.0	COLUMBIA GAS TRAN
WASHINGTON	35.0	TENNESSEE GAS PIP
WASHINGTON	35.0	TENNESSEE GAS PIP
MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
NEW MILTON DISTRICT	40.0	CONSOLIDATED GAS
WILDCAT	150.0	ARCO OIL & GAS CO
BOWDOIN	1.0	KANSAS-NEBRASKA N
ST JACOBS	73.0	NORTHERN GAS PROD
SCAIRT WOMEN	170.3	KOCH HYDROCARBON
LOST SOLDIER - DARWIN	5.0	NORTHERN GAS CO
LOST SOLDIER - MADISO	5.0	NORTHERN GAS CO
WERTZ - TENSLEEP	3.1	NORTHERN GAS CO
WERTZ - TENSLEEP	20.9	NORTHERN GAS CO
WERTZ - TENSLEEP	19.3	NORTHERN GAS CO
RIVERTON DOME	350.0	MONTANA DAKOTA UT
C 56	0.0	NORTHWEST PIPELIN
SCOTT FIELD	8.0	CHINOOK CONSTRUCT
SCOTT	1.3	CHINOOK CONSTRUCT

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JD NO	JA INT	API NO	SEC(1) SEC(2) WELL NAME	FIELD NAME	PROD	PURCHASER
-CORONADO OIL CO			RECEIVED: 01/03/83 JA: WY 5			
8316414	W 235-2	4901720234	102-4 BROWN-GOVERNMENT #3	ENOS CREEK	60.0	MONTANA-DAKOTA UT
-DAVIS OIL COMPANY			RECEIVED: 01/03/83 JA: WY 5			
8316393	W 206-2	4900525980	102-2 JUMPING CREEK FEDERAL #1	WILDCAT	52.8	PHILLIPS PETROLEU
8316401	W 217-2	4900525609	102-2 MARION HARRIS FEDERAL #1	WILDCAT	30.8	PHILLIPS PETROLEU
8316417	W 238-2	4904521730	103 PATRICK WALSH FEDERAL #1	WILDCAT	11.0	PHILLIPS PETROLEU
-ENERGETICS INC			RECEIVED: 01/03/83 JA: WY 5			
8316416	W 237-2	4903721483	107-TF FEDERAL 32-28	MONUMENT BUTTE IV UNI	21.0	COLORADO INTERSTA
8316415	W 236-2	4903721896	107-TF LITTLE MONUMENT UNIT II WELL #2	BUCKHORN	450.0	NORTHWEST PIPELIN
-ENSERCH EXPLORATION INC			RECEIVED: 01/03/83 JA: WY 5			
8316405	W 222-2	4900720608	103 SEPARATION FLATS FEDERAL 1-6	WILDCAT	113.0	COLORADO INTERSTA
-EXETER EXPLORATION COMPANY			RECEIVED: 01/03/83 JA: WY 5			
8316402	W 218-2	4900921971	102-2 SCOTT-FEDERAL 7-32	SCOTT	29.0	CHINOOK CONSTRUCT
-FOREST OIL CORPORATION			RECEIVED: 01/03/83 JA: WY 5			
8316403	W 219-2	4904120441	102-2 HENRY UNIT #4A	HENRY UNIT	820.0	MOUNTAIN FUEL SUP
-GEORGE DOLEZAL JR			RECEIVED: 01/03/83 JA: WY 5			
8316420	W 241-2	4900720819	102-2 FEDERAL 3-6	UNKNOWN	350.0	INTER NORTH INC
-HPC INC			RECEIVED: 01/03/83 JA: WY 5			
8316421	W 242-2	4903721860	102-2 TRITON UNIT #6	TRITON UNIT	400.0	PANHANDLE EASTERN
-KENAI OIL AND GAS INC			RECEIVED: 01/03/83 JA: WY 5			
8316[illegible]0	W 216-2	4900526537	103 LUNNE FEDERAL #21-31	LAZY B	30.0	CRA INC
-NATURAL GAS CORPORATION OF CALIF			RECEIVED: 01/03/83 JA: WY 5			
8316410	W 228-2	4902321468	103 NGC #2-22D	FONTENELLE II	66.0	PACIFIC GAS TRANS
-NATURAL GAS PROCESSING CO			RECEIVED: 01/03/83 JA: WY 5			
8316379	W 215-2	4701320248	108 BONNEVILLE UNIT #2	BONNEVILLE	15.0	MONTANA-DAKOTA UT
-SANTA FE ENERGY PRODUCTS CO			RECEIVED: 01/03/83 JA: WY 5			
8316412	W 23[illegible]-2	4903721829	107-TF FEDERAL #1-3D	SIBERIA RIDGE	365.0	CITIES SERVICE GA
-SNYDER OIL CO			RECEIVED: 01/03/83 JA: WY 5			
8316387	W 199-2	4900720739	107-TF BEVERLY FEDERAL 1A-35-14-92	ROBBERS GULCH	350.0	NORTHWEST PIPELIN
8316408	W 225-2	4900720781	107-TF CIGE FEDERAL 1C-25-14-93	ROBBERS GULCH	300.0	NORTHWEST PIPELIN
8316398	W 214-2	4900720779	107-TF MARATHON FEDERAL 1A-13-14-93	ROBBERS GULCH	350.0	NORTHWEST PIPELIN
8316397	W 213-2	4900720779	103 MARATHON FEDERAL 1A-13-14-93 LEWIS	ROBBERS GULCH	350.0	NORTHWEST PIPELIN
8316386	W 198-2	4900720795	107-TF SANTA FE FEDERAL 1A-9-14-92	ROBBERS GULCH	350.0	NORTHWEST PIPELIN
8316392	W 205-2	4900720560	107-TF SUN FEDERAL 1A-30-14-91	ROBBERS GULCH	300.0	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO			RECEIVED: 01/03/83 JA: WY 5			
8316406	W 223-2	4901920317	102-2 TETON FEDERAL #1-21	HOLLER DRAW	17.0	PHILLIPS PETROLEU
8316407	W 224-2	4901920318	102-2 TETON FEDERAL #2-21	HOLLER DRAW	16.0	PHILLIPS PETROLEU
-TRIGG DRILLING COMPANY INC			RECEIVED: 01/03/83 JA: WY 5			
8316409	W 227-2	4900720551	103 BROWNING #1-12	BROWNING	0.0	WESTERN TRANSMISS
-WOODS PETROLEUM CORPORATION			RECEIVED: 01/03/83 JA: WY 5			
8316422	W 244-2	4903721904	102-2 FREIGHTER GAP UNIT #1	WILDCAT	497.0	INTER NORTH INC
8316423	W-245-2	4903721329	102-2 LOST VALLEY UNIT #1	WILDCAT	147.0	INTER NORTH INC
8316424	W 246-2	4903721300	102-2 LOST VALLEY UNIT #2	WILDCAT	37.0	INTER NORTH INC
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK						
-BROOKS OIL CO			RECEIVED: 01/03/83 JA: OK 8			
8316436		3511300000	108 #3		0.0	NATIONAL ZINC CO
-CENTENNIAL PETROLEUM INC			RECEIVED: 01/03/83 JA: OK 8			
8316441		3511300000	103 WELL #1-A NE 1/4 33-21N-12E	FLAT ROCK	45.7	PHILLIPS PETROLEU
-ECC OIL CO			RECEIVED: 01/03/83 JA: OK 8			
8316435		3511300000	103 MULLENDORE #1A SW/S17-T29N-R11E	TURKEY CREEK	21.0	AJAX OIL & GAS CO
8316433		3511300000	103 MULLENDORE #2A SW S17-T29N-R11E	TURKEY CREEK	27.0	AJAX OIL & GAS CO

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JD NO	JA INT	API NO	SEC(1) SEC(2) WELL NAME	FIELD NAME	PROD	PURCHASER
-CONOCO INC			RECEIVED: 01/03/83 JA: WY 5			
8316411	W 229-2	4902321469	103 NGC #2-23D	FONTENELLE II	66.0	PACIFIC GAS TRANS
-CONTINENTAL OIL CO			RECEIVED: 01/03/83 JA: WY 5			
8316418	W 239-2	4903721484	107-TF FEDERAL 32-29	MONUMENT BUTTE IV UNI	21.0	COLORADO INTERSTA
-DAVIS OIL COMPANY			RECEIVED: 01/03/83 JA: WY 5			
8316400	W 208-2	4900525981	102-2 JUMPING CREEK FEDERAL #2	WILDCAT	52.8	PHILLIPS PETROLEU
-ENSERCH EXPLORATION INC			RECEIVED: 01/03/83 JA: WY 5			
8316404	W 221-2	4900720607	103 SEPARATION FLATS FEDERAL 1-5	WILDCAT	113.0	COLORADO INTERSTA
-EXETER EXPLORATION COMPANY			RECEIVED: 01/03/83 JA: WY 5			
8316413	W 234-2	4900921972	102-2 SCOTT-FEDERAL 8-32	SCOTT	29.0	CHINOOK CONSTRUCT
-FOREST OIL CORPORATION			RECEIVED: 01/03/83 JA: WY 5			
8316419	W 240-2	4904120442	102-2 HENRY UNIT #5A	HENRY UNIT	820.0	MOUNTAIN FUEL SUP
-HPC INC			RECEIVED: 01/03/83 JA: WY 5			
8316399	W 215-2	4903721861	102-2 TRITON UNIT #7	TRITON UNIT	400.0	PANHANDLE EASTERN
-NATURAL GAS CORPORATION OF CALIF			RECEIVED: 01/03/83 JA: WY 5			
8316395	W 211-2	4902321467	103 NGC #2-21D	FONTENELLE II	66.0	PACIFIC GAS TRANS
-SANTA FE ENERGY PRODUCTS CO			RECEIVED: 01/03/83 JA: WY 5			
8316396	W 212-2	4903721828	107-TF FEDERAL #1-34	SIBERIA RIDGE	365.0	CITIES SERVICE GA
-SNYDER OIL CO			RECEIVED: 01/03/83 JA: WY 5			
8316388	W 200-2	4900720740	107-TF BEVERLY FEDERAL 1A-36-14-92	ROBBERS GULCH	350.0	NORTHWEST PIPELIN
8316409	W 226-2	4900720782	107-TF CIGE FEDERAL 1C-26-14-93	ROBBERS GULCH	300.0	NORTHWEST PIPELIN
8316391	W 204-2	4900720778	107-TF MARATHON FEDERAL 1A-24-14-93	ROBBERS GULCH	350.0	NORTHWEST PIPELIN
8316390	W 203-2	4900720778	103 MARATHON FEDERAL 1A-24-14-93 LEWIS	ROBBERS GULCH	350.0	NORTHWEST PIPELIN
8316385	W 197-2	4900720796	107-TF SANTA FE FEDERAL 1A-8-14-92	ROBBERS GULCH	350.0	NORTHWEST PIPELIN
8316393	W 207-2	4900720561	107-TF SUN FEDERAL 1A-29-14-91	ROBBERS GULCH	300.0	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO			RECEIVED: 01/03/83 JA: WY 5			
8316405	W 222-2	4901920319	102-2 TETON FEDERAL #3-21	HOLLER DRAW	16.0	PHILLIPS PETROLEU
-TRIGG DRILLING COMPANY INC			RECEIVED: 01/03/83 JA: WY 5			
8316394	W 210-2	4900720552	103 BROWNING #1-13	BROWNING	0.0	WESTERN TRANSMISS
-WOODS PETROLEUM CORPORATION			RECEIVED: 01/03/83 JA: WY 5			
8316425	W 247-2	4903721330	102-2 LOST VALLEY UNIT #3	WILDCAT	37.0	INTER NORTH INC
8316426	W 248-2	4903721331	102-2 LOST VALLEY UNIT #4	WILDCAT	37.0	INTER NORTH INC
8316427	W 249-2	4903721332	102-2 LOST VALLEY UNIT #5	WILDCAT	37.0	INTER NORTH INC
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK						
-CENTENNIAL PETROLEUM INC			RECEIVED: 01/03/83 JA: OK 8			
8316440		3511300000	103 WELL #1-B NE 1/4 33-21N-12E	FLAT ROCK	45.7	PHILLIPS PETROLEU
-ECC OIL CO			RECEIVED: 01/03/83 JA: OK 8			
8316434		3511300000	103 MULLENDORE #1B SW/S17-T29N-R11E	TURKEY CREEK	21.0	AJAX OIL & GAS CO
8316432		3511300000	103 MULLENDORE #2B SW S17-T29N-R11E	TURKEY CREEK	27.0	AJAX OIL & GAS CO

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JD NO	JA CRT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8316438		3511300000		103		MULLENDORE #3A SW/4 S17--T29N-R11E	TURKEY CREEK	21.0	AJAX OIL & GAS CO
-FALCON PETROLEUM COMPANY				RECEIVED:	01/03/83	JA: OK 8			
8316439		3511300000		103		NELAGONEY #1-A	NORTH PERSHING	72.0	PHILLIPS PETROLEU
8316440		3511300000		103		NELAGONEY #2-A	NORTH PERSHING	72.0	PHILLIPS PETROLEU
-J M GRAVES				RECEIVED:	01/03/83	JA: OK 8			
8316426		3511300000		102-4		MULL #1	E OSAGE CITY	180.0	CITIES SERVICE GA
8316427		3511300000		102-4		MULL #1-B	E OSAGE CITY	90.0	CITIES SERVICE GA
-NADEL & GUSSMAN				RECEIVED:	01/03/83	JA: OK 8			
8316437		3511300000		103		HARDY #1	PAXTON EAST	1.0	PHILLIPS PETROLEU
8316436		3511300000		103		HARDY #2	PAXTON EAST	8.0	PHILLIPS PETROLEU
8316431		3511300000		103		ST JOHN #1A	DALTON WEST	1.5	PHILLIPS PETROLEU
8316432		3511300000		103		ST JOHN #2A	DALTON WEST	1.5	PHILLIPS PETROLEU
8316430		3511300000		103		ST JOHN #3	DALTON WEST	1.5	PHILLIPS PETROLEU
8316428		3511300000		103		ST JOHN #4	DALTON WEST	3.0	PHILLIPS PETROLEU
8316429		3511300000		103		ST JOHN #5	DALTON WEST	1.5	PHILLIPS PETROLEU
-NORMAN W MORTON				RECEIVED:	01/03/83	JA: OK 8			
8316425		3511300000		103		MULLENDORE #M-2	HICKORY CREEK SW/4 OF	16.1	AJAX OIL & GAS CO

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8661.

BILLING CODE 6717-01-C

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The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (^) before the Control (JD) number denote additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–2965 Filed 2–2–83; 8:45 am]

BILLING CODE 6717–01–M

[Volume 822]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

[Volume 822]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 28, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-AARDOLIE OIL CO				RECEIVED:	01/05/83	JA: TX			
8316743	F-09-055417	4223700000	103			W O LOND #2	DEWEBER (CONGLOMERATE	20.0	TEXAS UTILITIES F
-ABCO ENERGY CORP				RECEIVED:	01/05/83	JA: TX			
8316719	F-7C-052500	4245130775	103			G S WINTERBOTHAM C-4	DOVE CREEK (CANYON-D-	77.8	INTER NORTH INC
8316764	F-7C-056328	4210533695	103	107-TF		MARLEY #10-81	HUDSPETH (CANYON)	11.7	VALERO TRANSMISSI
8316763	F-7C-056326	4210533762	103	107-TF		MARLEY #13-81	HUDSPETH (CANYON)	21.7	VALERO TRANSMISSI
8316762	F-7C-056325	4210533763	103	107-TF		MARLEY #15-81	WILDCAT	0.0	VALERO TRANSMISSI
8316769	F-7C-056333	4210533687	103	107-TF		MARLEY #2-81	HUDSPETH (CANYON)	31.5	VALERO TRANSMISSI
8316768	F-7C-056332	4210533691	103	107-TF		MARLEY #6-81	HUDSPETH (CANYON)	19.0	VALERO TRANSMISSI
8316767	F-7C-056331	4210533692	103	107-TF		MARLEY #7-81	HUDSPETH (CANYON)	25.8	VALERO TRANSMISSI
8316766	F-7C-056330	4210533693	103	107-TF		MARLEY #8-81	HUDSPETH (CANYON)	136.8	VALERO TRANSMISSI
8316765	F-7C-056329	4210533694	103	107-TF		MARLEY #9-81	HUDSPETH (CANYON)	12.1	VALERO TRANSMISSI
-AEGEAN OIL CORP				RECEIVED:	01/05/83	JA: TX			
8316888	F-01-061443	4217731351	102-2	103		STEVE HENDERSHOT UNIT #1	PEACH CREEK (AUSTIN C	219.0	VALERO TRANSMISSI
-AMARILLO OIL COMPANY				RECEIVED:	01/05/83	JA: TX			
8316684	F-10-007466	4217900000	108-ER			DARSEY "E" #3	EAST PANHANDLE	10.6	PIONEER NATURAL G
-AMERICAN OPERATING CO				RECEIVED:	01/05/83	JA: TX			
8316748	F-03-055493	4216730888	102-4	103		COL WM E LOBIT #1	WILDCAT	1095.0	
-ARAPAHOE PRODUCTION CO				RECEIVED:	01/05/83	JA: TX			
8316988	F-10-061824	4223331274	103			VIDA (05159) #1	PANHANDLE HUTCHINSON	13.0	DIAMOND SHAMROCK
-ARIES OPERATING INC				RECEIVED:	01/05/83	JA: TX			
8316872	F-7B-061236	4208300000	102-4			SEALY-SMITH #1	WILDCAT	255.0	EL PASO HYDROCARB
-AVIPS PETROLEUM INC				RECEIVED:	01/05/83	JA: TX			
8316821	F-7B-059583	4225332275	102-4			BROWN SNYDER "37" #1 (19023)	NOODLE S (CANYON REEF	274.0	CONOCO INC
-BASS ENTERPRISES PRODUCTION CO				RECEIVED:	01/05/83	JA: TX			
8316883	F-04-061392	4235532011	103			STATE OF TEXAS 300 WELL #2	RED FISH BAY (FRIO 7B	20.8	UNITED GAS PIPE L
-BAYTECH INC				RECEIVED:	01/05/83	JA: TX			
8316902	F-08-061591	4231732537	103			TANT LINDSAY #1-A	SPRAWBERRY (TREND AREA	8.8	PHILLIPS PETROLEU
-BEAL OPERATING				RECEIVED:	01/05/83	JA: TX			
8316761	F-7B-058300	4200332937	102-4			STRAWN #5 (100998)	CAMP COLORADO S (GUNS	70.0	SOUTHWESTERN GAS
-BELCO PETROLEUM CORPORATION				RECEIVED:	01/05/83	JA: TX			
8316686	F-7C-018179	4210531118	108-ER			UNIVERSITY 13-2 71656	INGHAM (DEVONIAN)	0.8	EL PASO NATURAL G
-BENGAIL INC				RECEIVED:	01/05/83	JA: TX			
8316846	F-08-060584	4235500000	102-4			R W THOMPSON #1	(BALZER)-1600'	40.0	GEETMANS INC
-BORDER EXPLORATION CO				RECEIVED:	01/05/83	JA: TX			
8316827	F-08-059972	4242731857	102-4			B S SEYFRIEDT #1-J	YZAGUIRRE (4900')	72.0	VALERO TRANSMISSI
-BURK ROYALTY CO				RECEIVED:	01/05/83	JA: TX			
8317054	F-09-062045	4248731157	103			HALL DUFFIE UNIT #1	WILBARGER COUNTY REGU	0.4	KIBO COMPRESSOR C
8317052	F-09-062042	4248731348	103			JUDD "C" #1	WILBARGER COUNTY REGU	31.4	KIBO COMPRESSOR C
8317053	F-09-062043	4248731296	103			JUDD UNIT #1	WILBARGER COUNTY REGU	18.3	KIBO COMPRESSOR C
-BURNS PETROLEUM				RECEIVED:	01/05/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8317046	F-09-061992	4223734641		102-4		GAHAGAN "A" #2
8317047	F-09-061993	4223734671		102-4		GAHAGAN "A" #3
-CASS OIL CO				RECEIVED:	01/05/83	JA: TX
8316829	F-7C-059985	4243532712		103	107-TF	ALLISON-MIERS 7101
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	01/05/83	JA: TX
8316996	F-04-061852	4235500000		108		CARVER ESTATE "B" #1
-CHENOWETH GROVER L				RECEIVED:	01/05/83	JA: TX
8317048	F-713-061996	4213300000		108		H BRASHEARS #1 (0209[illegible]7)
-CHEVRON U [illegible] A INC				RECEIVED:	01/05/83	JA: TX
8316978	F-8A-06179[illegible]	4241532261		103		SACROC UNIT #12A-23
8317055	F-8A-062066	4241532224		103		SACROC UNIT #127-4
8317057	F-8A-062068	42[illegible]1532182		103		SACROC UNIT #17A-12
8317056	F-8[illegible]-062067	[illegible]241532183		103		SACROC UNIT #17A-13
8316974	F-8A-061783	4241532251		103		SACROC UNIT #172-6
8316975	F-8A-061784	[illegible]241532250		103		SACROC UNIT #28-15
8316977	F-8[illegible]-06178[illegible]	4241532271		103		SACROC UNIT #79-7
-CHIMOS OPERATING INC				RECEIVED:	01/05/83	JA: TX
8316723	F-08-053511	4210332795		103		SYNDICATE FEE "A" #4
-CITIES SERVICE COMPANY				RECEIVED:	01/05/83	JA: TX
8317059	F-08-062100	4238931293		103		PRIEST E #3
-CLAYTON W WILLIAMS JR				RECEIVED:	01/05/83	JA: TX
8316732	F-[illegible]-05[illegible]37	[illegible]2[illegible]51[illegible]0[illegible]0		102-2		THOMAS KACHTIK UNIT #1
[illegible]316725	F-[illegible]-0537[illegible]3	421[illegible]90[illegible]000		102-2		VASTINE PHILLIPS #1
-CONOCO INC				RECEIVED:	01/05/83	JA: TX
8316[illegible]35	F-76-[illegible]1718	[illegible]2[illegible]3[illegible]31388		103		ARTHUR BRINKLEY JR-A- ID#04263
[illegible]316[illegible]87	F-[illegible]-061[illegible]14	[illegible]21350[illegible]0[illegible]0		108		GIST UNIT #29 ID # 19373
[illegible]316[illegible]91	F-[illegible]-[illegible]61843	42317312[illegible]7		108		GRISHAM & GREEMAN #25 ID #22261
8317095	F-08-061[illegible]01	[illegible]210[illegible]31657		103		RAMSEY "44" #5 ID #27636
8316730	F-[illegible]4-0535[illegible]1	[illegible]2[illegible]793325[illegible]		102-2	107-TF	VAQUILLAS RANCH "D" #19
8316[illegible][illegible]	F-[illegible]8-061815	[illegible]2003[illegible]0[illegible]0[illegible]		108		WEST FUHRMAN MASCHO #74 ID #21220
-COSTA RESOURCES INC				RECEIVED:	01/05/[illegible]3	JA: TX
8316[illegible]03	F-[illegible][illegible]-046012	[illegible]210332556		102-4	103	ADAMS #5
-[illegible] [illegible] [illegible] PETROLEUM INC				RECEIVED:	01/05/[illegible]3	JA: TX
8316709	F-10-[illegible]4[illegible]226	4248330881		103		RUTH ANNE #1
-DAMSON OIL CORPORATION				RECEIVED:	01/05/83	JA: TX
8316756	F-[illegible]2-05[illegible]053	4225530958		102-4		GREEN UNIT #4
-[illegible]ELRAY OIL INC[illegible]				RECEIVED:	01/05/83	JA: TX
8316884	F-7[illegible]-[illegible]6139[illegible]	4220731232		102-4		L D LEFEVRE #1
-DELTA DRILLING CO				RECEIVED:	01/05/83	JA: TX
8316876	F-[illegible]6-[illegible]61280	42[illegible]2300[illegible]00		102-4		S WALTON #1
-[illegible]EMINEX US OIL COMPANY				RECEIVED:	01/05/83	JA: TX
8316721	[illegible]-10-053121	4248300[illegible]0		108		SCHWARTING #1
-[illegible]ENTON & DENTON OIL CO				RECEIVED:	01/05/83	JA: TX
[illegible]3169[illegible]0	F-7[illegible]-061731	[illegible]208300[illegible]00		108		VOSS E P ET AL 072172
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	01/05/83	JA: TX
8316714	F-1[illegible]-051666	422113146[illegible]		103		FRANK SHALLER #4-1
[illegible]316[illegible]87	F-7[illegible]-026772	4236332331		103		J J MATHIS JR #1
[illegible]316715	F-10-051781	4235731220		103		MORRISON "F" 53 #2
8316773	F-10-056431	4221131463		103		WALTER KILLEBREW #4-119
-[illegible][illegible]COVERY OPERATING INC				RECEIVED:	01/05/83	JA: TX
[illegible]31[illegible]882	F-0[illegible]-061382	4231732495		103		HOLCOMB "A" #2
-DYNAMIC PRODUCTION INC				RECEIVED:	01/05/83	JA: TX
8316819	F-03-0594[illegible]4	4205100[illegible]0		102-4	103	EVANS #1 15289

FIELD NAME	PROD	PURCHASER
CRUM (MARBLE FALLS)	70.0	SOUTHWESTERN GAS
CRUM (MARBLE FALLS)	70.0	SOUTHWESTERN GAS
SAWYER (CANYON)	115.0	EL PASO NATURAL G
AGUA DULCE	8.3	TENNESSEE GAS PIP
EASTLAND COUNTY REGUL	3.0	LONE STAR GAS CO
KELLY-SNYDER	14.0	EL PASO NATURAL G
KELLY - SNYDER	20.0	EL PASO NATURAL G
KELLY - SNYDER	143.0	EL PASO NATURAL G
KELLY - SNYDER	132.0	EL PASO NATURAL G
KELLY - SNYDER	164.0	EL PASO NATURAL G
KELLY-SNYDER	65.0	EL PASO NATURAL G
KELLY-SNYDER	74.0	EL PASO NATURAL G
COSTA LOWER CLEARFORK	180.0	P&P GAS PRODUCTS
DOLLIE (DELAWARE)	55.0	INTRATEX GAS CO
[illegible]IDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
[illegible]IDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
FLOWER[illegible]/CANYON SAN[illegible]/	2.2	CITIES SERVICE CO
FOSTER	0.1	ODESSA NATURAL CO
[illegible]RAWBERRY / TREND ARE	8.5	ADOBE OIL CO
GERALDINE /3[illegible]00 DELE[illegible]	21.9	EL PASO NATURAL G
VAQUILLAS RANCH (WILC	0.0	E I DUPONT DE NEM
FUHRMAN MASCHO	0.0	PHILLIPS PETROLEU
COSTA (CLEARFORK UPPE	730.0	INTER NORTH INC
PANHANDLE EAST	0.0	WARREN PETROLEUM
MCCASKILL N [illegible]	90.[illegible]	VALERO TRANSMISSI
WEREWOLF (4900)	0.0	
CHAPEL HILL NE TRAVIS	0.0	ETEXAS PRODUCERS
PANHANDLE EAST	3.0	ASHLAND EXPLORATI
COLEMAN COUNTY REGULA	2.3	LONE STAR GAS CO
BIG TIMBER CREEK	76.0	INTER NORTH INC
J V T (STRAWN 2400)	332.0	SOUTHWESTERN GAS
PARSELL	281.0	
BIG TIMBER CREEK	4.0	
SPRABERRY (TREND AREA	5.[illegible]	PHILLIPS PETROLEU
STONE CITY (AUSTIN CH	0.0	FERGUSON CROSSING

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8316[illegible]31	F-[illegible]-[illegible]61[illegible]0	[illegible]2[illegible]3[illegible]31[illegible]0[illegible]		103		[illegible]ARTHUR BRINKLEY JR-A- ID#04263
[illegible]316[illegible]87	F-[illegible]-061[illegible]14	[illegible]21350[illegible]0[illegible]0		108		GIST UNIT #29 ID # 19373
[illegible]316[illegible]91	F-[illegible]-[illegible]61843	42317312[illegible]7		108		GRISHAM & GREEMAN #25 ID #22261
8317095	F-08-061[illegible]01	[illegible]210[illegible]31657		103		RAMSEY "44" #5 ID #27636
8316730	F-[illegible]4-0535[illegible]1	[illegible]2[illegible]793325[illegible]		102-2	107-TF	VAQUILLAS RANCH "D" #19
8316[illegible][illegible]	F-[illegible]8-061815	[illegible]2003[illegible]0[illegible]0[illegible]		108		WEST FUHRMAN MASCHO #74 ID #21220
-COSTA RESOURCES INC				RECEIVED:	01/05/[illegible]3	JA: TX
8316[illegible]03	F-[illegible][illegible]-046012	[illegible]210332556		102-4	103	ADAMS #5
-[illegible] [illegible] [illegible] PETROLEUM INC				RECEIVED:	01/05/[illegible]3	JA: TX
8316709	F-10-[illegible]4[illegible]226	4248330881		103		RUTH ANNE #1
-DAMSON OIL CORPORATION				RECEIVED:	01/05/83	JA: TX
8316756	F-[illegible]2-05[illegible]053	4225530958		102-4		GREEN UNIT #4
-[illegible]ELRAY OIL INC[illegible]				RECEIVED:	01/05/83	JA: TX
8316884	F-7[illegible]-[illegible]6139[illegible]	4220731232		102-4		L D LEFEVRE #1
-DELTA DRILLING CO				RECEIVED:	01/05/83	JA: TX
8316876	F-[illegible]6-[illegible]61280	42[illegible]2300[illegible]00		102-4		S WALTON #1
-[illegible]EMINEX US OIL COMPANY				RECEIVED:	01/05/83	JA: TX
8316721	[illegible]-10-053121	4248300[illegible]0		108		SCHWARTING #1
-[illegible]ENTON & DENTON OIL CO				RECEIVED:	01/05/83	JA: TX
[illegible]3169[illegible]0	F-7[illegible]-061731	[illegible]208300[illegible]00		108		VOSS E P ET AL 072172
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	01/05/83	JA: TX
8316714	F-1[illegible]-051666	422113146[illegible]		103		FRANK SHALLER #4-1
[illegible]316[illegible]87	F-7[illegible]-026772	4236332331		103		J J MATHIS JR #1
[illegible]316715	F-10-051781	4235731220		103		MORRISON "F" 53 #2
8316773	F-10-056431	4221131463		103		WALTER KILLEBREW #4-119
-[illegible][illegible]COVERY OPERATING INC				RECEIVED:	01/05/83	JA: TX
[illegible]31[illegible]882	F-0[illegible]-061382	4231732495		103		HOLCOMB "A" #2
-DYNAMIC PRODUCTION INC				RECEIVED:	01/05/83	JA: TX
8316819	F-03-0594[illegible]4	4205100[illegible]0		102-4	103	EVANS #1 15289

FIELD NAME	PROD	PURCHASER
[illegible]IDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
[illegible]IDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
FLOWER[illegible]/CANYON SAN[illegible]/	2.2	CITIES SERVICE CO
FOSTER	0.1	ODESSA NATURAL CO
[illegible]RAWBERRY / TREND ARE	8.5	ADOBE OIL CO
GERALDINE /3[illegible]00 DELE[illegible]	21.9	EL PASO NATURAL G
VAQUILLAS RANCH (WILC	0.0	E I DUPONT DE NEM
FUHRMAN MASCHO	0.0	PHILLIPS PETROLEU
COSTA (CLEARFORK UPPE	730.0	INTER NORTH INC
PANHANDLE EAST	0.0	WARREN PETROLEUM
MCCASKILL N [illegible]	90.[illegible]	VALERO TRANSMISSI
WEREWOLF (4900)	0.0	
CHAPEL HILL NE TRAVIS	0.0	ETEXAS PRODUCERS
PANHANDLE EAST	3.0	ASHLAND EXPLORATI
COLEMAN COUNTY REGULA	2.3	LONE STAR GAS CO
BIG TIMBER CREEK	76.0	INTER NORTH INC
J V T (STRAWN 2400)	332.0	SOUTHWESTERN GAS
PARSELL	281.0	
BIG TIMBER CREEK	4.0	
SPRABERRY (TREND AREA	5.[illegible]	PHILLIPS PETROLEU
STONE CITY (AUSTIN CH	0.0	FERGUSON CROSSING

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JD NO	DA SRT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EDWIN S NICHOLS EXPLORATIONS LTD			RECEIVED: 01/05/83 JA: TX					
8316901	F-7B-0B156[illegible]	4236332968	102-4		T D WILLIAMS #1	RIEBE (ATOKAN CONGL)	150.0	LONE STAR GAS CO
-EL PASO NATURAL GAS COMPANY			RECEIVED: 01/05/83 JA: TX					
8317050	F-10-062007	4217923696	108		CALLHAM #1	PANHANDLE WEST	24.0	EL PASO NATURAL G
8316817	F-7C-05927[illegible]	4243519203	108		DEMERRY-BOYETT UNIT #1	SONORA (CANYON UPPER)	23.0	EL PASO NATURAL G
8316683	F-10-003255	4248326189	108-ER		MONTGOMERY #1	PANHANDLE EAST	6.2	EL PASO NATURAL G
-ENSERCH EXPLORATION INC			RECEIVED: 01/05/83 JA: TX					
8317032	F-02-061959	4212300008	108		MATHILDA EGG #1	ARNECKEVILLE S	18.0	LONE STAR GAS CO
-EXPANDO OIL CO			RECEIVED: 01/05/83 JA: TX					
8316984	F-02-061801	4239131535	102-4		J F WELDER #1	GRETA NORTH (6650)	69.3	LONE STAR GAS CO
-EXXON CORPORATION			RECEIVED: 01/05/83 JA: TX					
8316936	F-03-061723	4220131421	103		A M MICHEL #5	TOMBALL (SCHULTZ SE)	29.0	NATURAL GAS PIPEL
8316937	F-06-061724	4207330476	103		HYACINTH CARTER KELLEY #1	REKLAW (TRAVIS PEAK)	420.0	ARMCO STEEL CORP
8317050	F-08-062069	4203332775	103		MEANS/SAN ANDRES/UNIT #9274	MEANS	15.0	PHILLIPS PETROLEU
8316867	F-8A-061138	4216532392	103		ROBERTSON CLEARFORK UNIT #3001	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8316886	F-8A-061420	4216532367	103		ROBERTSON CLEARFORK UNIT #3003	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8316862	F-8A-061125	4216532374	103		ROBERTSON CLEARFORK UNIT #5501	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8316861	F-04-061114	4226130080	102-4		SARITA FIELD OIL & GAS UNIT 174	SARITA (12-B W)	11.0	NATURAL GAS PIPEL
8316913	F-04-061686	4204731197	103		VIBORAS FLD GU #1 V-102 12207	VIBORAS (MASSIVE FIRS	135.0	ARMCO STEEL CORP
8316914	F-04-061687	4204731198	103		VIBORAS FLD GU #1 V-103-D 102249	VIBORAS (MASSIVE SECO	568.0	ARMCO STEEL CORP
-FAGADAU ENERGY CORP			RECEIVED: 01/05/83 JA: TX					
8316939	F-09-061729	4207700000	102-4		SCALING RANCH "F" #1	TALLY (CONGL)	75.0	BLUEGROVE GASOLIN
-FLYNN ENERGY CORP			RECEIVED: 01/05/83 JA: TX					
8316979	F-02-061791	4229732977	103		HERRING RANCH 56 #1	CLAYTON (QUEEN CITY)	182.0	ESPERANZA TRANSMI
-FRANK CASS			RECEIVED: 01/05/83 JA: TX					
8316805	F-7C-05847[illegible]	4243531942	103	107-TF	ALLISON-MIERS 7903	SAWYER (CANYON)	280.0	EL PASO NATURAL G
8316735	F-7C-05[illegible]58	4243532618	103	107-TF	ALLISON-MIERS 8002	SAWYER (CANYON)	150.0	EL PASO NATURAL G
-GENESIS PETROLEUM CORP			RECEIVED: 01/05/83 JA: TX					
8316976	F-04-061787	4213136098	102-4		LOONEY #2-09571	STARR BRITE W (5850')	11.0	VALERO TRANSMISSI
-GETTY OIL COMPANY			RECEIVED: 01/05/83 JA: TX					
8316809	F-04-058851	4247900000	102-4	107-TF	DIX RANCH #1761	PROPOSED DIX RANCH	0.0	
8316839	F-7B-060356	4243300000	108		FLOWERS CANYON SAND UNIT #82	FLOWERS (CANYON SAND)	0.3	CITIES SERVICE CO
8316751	F-03-055647	4205100000	102-2		J KRENEK #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
8316833	F-03-060212	4205100000	108		M L MEYERS #1 RRC LEASE NO 13800	GIDDINGS (AUSTIN CHAL	12.0	FERGUSON CROSSING
8316834	F-03-060214	4205100000	108		NIX UNIT #1 RRC LEASE NO 14396	GIDDINGS (AUSTIN CHAL	4.0	FERGUSON CROSSING
8316770	F-03-056397	4205100000	102-2		ODC #4	GIDDINGS (AUSTIN CHAL	8.0	FERGUSON CROSSING
8316739	F-03-055138	4204100000	102-2		RICHARD SMITH "B" #1	N BRYAN (GEORGETOWN)	480.0	FERGUSON CROSSING
8316734	F-03-055852	4204100000	102-2		WOODVILLE DEVELOPMENT CORP #1	KURTEN (WOODBINE)	100.0	FERGUSON CROSSING
-GHK ENERGY CORP			RECEIVED: 01/05/83 JA: TX					
8316818	F-04-059485	4247933300	103-4	107-TF	CARR #8	MUJERES CREEK (LOBO 6	500.0	VALERO TRANSMISSI
-GILLRING OIL CO			RECEIVED: 01/05/83 JA: TX					
8316801	F-04-058026	4204700000	102-4		THELMA BLAKE GAS UNIT #1	LA GLORIA S	85.5	VALERO INTERSTATE
-GO OIL CORP			RECEIVED: 01/05/83 JA: TX					
8316944	F-7B-061738	4236731539	108		CEARLEY #1 (ID NO 0845501	RENO (CONGL)	0.0	NATURAL GAS PIPEL
-GOUGH CHARLES D			RECEIVED: 01/05/83 JA: TX					
8316982	F-09-061799	4223732730	103		T A OWEN #19577	WOODKIRK (STRAWN)	20.0	SOUTHWESTERN GAS
-GRACE PETROLEUM CORPORATION			RECEIVED: 01/05/83 JA: TX					
8316722	F-08-053173	4241930380	103	107-TF	WILSON GAS UNIT #1	TENAHA	127.0	UNITED GAS PIPELI
-GRAND BANKS ENERGY CO			RECEIVED: 01/05/83 JA: TX					
8316799	F-08-057650	4217331189	103	107-TF	EDMONDSON #1	CONGER SW (PENN)	0.0	INTER NORTH INC
8316798	F-08-057648	4217331216	103	107-TF	EDMONDSON #2	CONGER SW (PENN)	0.0	INTER NORTH INC
-GULF OIL CORPORATION			RECEIVED: 01/05/83 JA: TX					
8316813	F-08-059037	4247532627	103		HUTCHINGS STOCK ASSN #1181	WARD-ESTES NORTH	254.0	CABOT CORP

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JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME
8316857	F-09-060895	4223734521	103		I G YATES WELL #12-U
8316878	F-08-061312	4238931168	107-DP		NORTHWEST HAMON UNIT #1
8316707	F-08-048369	4200333028	103		TRIPLE-N GRAYBURG CONSOLIDATED N9N
			RECEIVED: 01/05/83 JA: XX		
-H L BROWN JR					
8316885	F-8A-061413	4207931259	103		JACK FROST C #2
			RECEIVED: 01/05/83 JA: TX		
-HARRISON INTERESTS LTD					
8316863	F-7C-061131	4210534152	103	107-TF	JOHN W HENDERSON III "K" #28
			RECEIVED: 01/05/83 JA: TX		
-HERITAGE OPERATING CO INC					
8316826	F-03-059961	4208900000	102-4		KAECHELE #1AT
			RECEIVED: 01/05/83 JA: TX		
-HILL INTERNATIONAL PRODUCTION CO					
8316757	F-06-056116	4234730697	102-4		E J EDWARDS #2
			RECEIVED: 01/05/83 JA: TX		
-HUFO PRODUCTION CORP					
8316758	F-10-056173	4234130756	103		BRENT 25-3
			RECEIVED: 01/05/83 JA: TX		
-INDIAN WELLS OIL CO					
8317031	F-7C-061958	4223531982	103		SMITH 59-2
			RECEIVED: 01/05/83 JA: TX		
-INTERNATIONAL OIL & GAS CORP					
8316744	F-7C-055462	4210533354	102-4	103	L B COX JR #1
8316746	F-7C-055466	4210533638	102-4	103	PERNER "31" #2
8316745	F-7C-055463	4210533438	102-4	103	UNIVERSITY LANDS 13 #1-T
8316747	F-7C-055469	4210533355	102-4	103	VERNON B COX #1
			RECEIVED: 01/05/83 JA: TX		
-INTERNORTH INC					
8316790	F-10-056671	4221100000	103		LOCKHART "A" 36 #2
			RECEIVED: 01/05/83 JA: TX		
-J H PURVIS					
8317030	F-08-061957	4231732452	103		J G WILKINSON #2
8317028	F-08-061955	4231732374	103		MCADAMS LEWIS #1
8317029	F-08-061956	4231732477	103		MCADAMS LEWIS "A" #1
			RECEIVED: 01/05/83 JA: TX		
-J M HUBER CORPORATION					
8316915	F-10-061688	4234130831	103		FULLER #12
8317043	F-10-061984	4234130830	103		FULLER #13
			RECEIVED: 01/05/83 JA: TX		
-JACK JOHNSON JR					
8316946	F-10-061742	4223300000	103		OTIS PHILLIPS #5 RRC #02363
			RECEIVED: 01/05/83 JA: TX		
-JAMES K ANDERSON INC					
8317044	F-7C-061990	4239932499	102-4		PROCTOR #1
			RECEIVED: 01/05/83 JA: TX		
-JAMES P DUNIGAN INC					
8316948	F-7B-061744	4213333917	102-2		A ROBERTS RRC #16887
			RECEIVED: 01/05/83 JA: TX		
-JERDONTRA OIL & GAS CO					
8316900	F-10-061540	4234100000	108		MCLAUGHLIN #1
8316893	F-10-061533	4234100000	108		MCLAUGHLIN #10RC
8316899	F-10-061539	4234100000	108		MCLAUGHLIN #2
8316898	F-10-061538	4234100000	108		MCLAUGHLIN #3
8316897	F-10-061537	4234100000	108		MCLAUGHLIN #4
8316896	F-10-061536	4234100000	108		MCLAUGHLIN #5
8316895	F-10-061535	4234100000	108		MCLAUGHLIN #7
8316894	F-10-061534	4234100000	108		MCLAUGHLIN #9
			RECEIVED: 01/05/83 JA: TX		
-KAARI OIL CO					
8316930	F-10-061712	4206531253	103		BEDNORZ "D" #1-11 (ID#05213)
8316931	F-10-061713	4206531252	103		BEDNORZ "D" #2-12
8316929	F-10-061711	4217931283	103		FUTURE #3 (ID#05164)
			RECEIVED: 01/05/83 JA: TX		
-KCA OIL & GAS INC					
8316865	F-7B-061135	4236731003	103		GARY LYNCH #1 082084
8316864	F-09-061134	4249732033	103		RYAN "A" #2 093426
8316866	F-7B-061137	4236700000	103		UPSHAW #1 079561
			RECEIVED: 01/05/83 JA: TX		
-KEITH D GRAHAM					

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FIELD NAME	PROD	PURCHASER
BOONSVILLE (CADDO CON	13.0	NATURAL GAS PIPEL
HAMON NORTHWEST (ELLE	527.2	TRANSWESTERN PIPE
TRIPLE-N (GRAYBURG)	18.6	PHILLIPS PETROLEU
BUCKSHOT (4950)	14.4	WARREN PETROLEUM
OZONA (CANYON SAND)	500.0	INTRATEX GAS CO
CHESTERVILLE SOUTHEAS	0.0	SEAGULL PIPELINE
TOOLAN (LOWER PETTIT)	0.0	LIBERTY NATURAL G
BRENT (PANHANDLE MOOR	0.0	PANHANDLE EASTERN
PROBANDT CANYON	0.0	INTERNORTH INC
DUDLEY EAST (DEVONIAN	73.0	INTRASTATE GATHER
DUDLEY EAST (DEVONIAN	39.0	INTRASTATE GATHER
DUDLEY EAST (DEVONIAN	25.0	INTRASTATE GATHER
DUDLEY (EAST DEVONIAN	40.0	INTRASTATE GATHER
FELDMAN (TONKAWA)	0.0	INTERNORTH INC
SPRABERRY (TREND AREA	13.2	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	8.3	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	13.0	PHILLIPS PETROLEU
PANHANDLE	51.0	COLORADO INTERSTA
PANHANDLE	3.5	COLORADO INTERSTA
PANHANDLE HUTCHINSON	72.0	PHILLIPS PETROLEU
FRITZESS EAST FIELD (	100.0	LONE STAR GAS CO
EASTLAND CO REGULAR	1.0	LIQUID ENERGY COR
PANHANDLE (RED CAVE)	0.4	PANHANDLE EASTERN
PANHANDLE (RED CAVE)	0.4	PANHANDLE EASTERN
PANHANDLE (RED CAVE)	0.4	PANHANDLE EASTERN
PANHANDLE (RED CAVE)	0.4	PANHANDLE EASTERN
PANHANDLE (RED CAVE)	0.4	PANHANDLE EASTERN
PANHANDLE (RED CAVE)	0.4	PANHANDLE EASTERN
PANHANDLE (RED CAVE)	0.4	PANHANDLE EASTERN
PANHANDLE CARSON	40.0	CABOT PIPELINE CO
PANHANDLE CARSON	40.0	CABOT PIPELINE CO
PANHANDLE GRAY	40.0	GETTY OIL CO
CAL-TEX (CADDO)	184.0	LONE STAR GAS CO
BOONSVILLE (BEND CONG	127.8	LONE STAR GAS CO
CAL-TEX (CADDO)	109.5	LONE STAR GAS CO

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JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME
8316917	F-10-061690	4234130811	103		FULLER #14
8316916	F-10-061689	4234130812	103		FULLER #15
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8316944	F-10-061740	4223300000	103		OTIS PHILLIPS #3 RRC #02361
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8316943	F-10-061739	4223300000	103		OTIS PHILLIPS #2 RRC #02360
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8316942	F-10-061738	4223300000	103		OTIS PHILLIPS #1 RRC #02359
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8316941	F-10-061737	4223300000	103		OTIS PHILLIPS #6 RRC #02364
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8316939	F-10-061735	4223300000	103		OTIS PHILLIPS #8 RRC #02366
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8316921	F-10-061703	4234130834	103		FULLER #37
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8316906	F-10-061696	4234130841	103		FULLER #44
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JD NO	JA DKT	API NO	[SEC(1)	SEC(2)	WELL NAME
831668■	F-03-06■342	4205130673	102-2		KOEHLER #1
-KERR-MCGEE CORPORATION			RECEIVED:	01/05/83	JA: TX
8317007	F-10-061953	4221131431	103		METREE 22-#7
-KILROY CO OF TEXAS			RECEIVED:	01/05/83	JA: TX
8316851	F-03-060658	4270330245	102-4		STATE TRACT 485-L #3-U
-KOMANCHE OIL & GAS			RECEIVED:	01/05/83	JA: TX
8316969	F-10-061775	42■653126■	103		COBB #7
-L & M OIL CO			RECEIVED:	01/05/83	JA: TX
■316■11	F-7B-061680	■23630■■■■	108		W H BELDING (017348)
-LAND PETROLEUM CORPORATION			RECEIVED:	01/05/83	JA: TX
■31■831	F-01-0■0087	■212732112	102-2		FITZSIMONS RANCH #2-45
-LAGUNA PETROLEUM CO			RECEIVED:	01/05/83	JA: TX
0316772	F-7C-056■25	■2■6131848	103		V J POWELL #1
-LAMBERT HOLLUM DRILLING CO			RECEIVED:	01/05/83	JA: TX
8316941	F-03-061735	■205132347	102-■		AUSLEY #1
8316943	F-03-061737	■205132344	102-4		MASSEY #2
8316942	F-0■-06173■	■205132313	102-4		STEGMILLER #3
-LAYTON ENTERPRISES INC			RECEIVED:	01/05/83	JA: TX
8316916	F-8A-061692	■2■7931597■	103		REED WRIGHT #C-12
8316947	F-■A-■61783	■2■7931597	103		REED WRIGHT #D-12
-LEXINGTON EXPLORATION CO			RECEIVED:	01/05/83	JA: TX
8316708	F-03-0■6708	4236130370	103		J B HEARD #1
-LINDAIRE CORP			RECEIVED■	01/05/83	JA: TX
8316755	F-7B-055845	4241733617	103		SNYDER 1A RRC ID #17323
-LOUIS A NEWITT			RECEIVED:	01/05/83	JA: TX
8316718	F-03-052238	4208930575	102-4		HEIMAN-FLING #1-L
-LOUISIANA LAND & EXPLORATION CO			RECEIVED:	01/05/83	JA: TX
8316733	F-03-054698	4207131213	102-4		STATE TRACT 295 #1
-LYONS PETROLEUM INC			RECEIVED:	01/05/83	JA: TX
8316904	F-03-061■98	420■130778	102-2	103	LYONS FEE UNIT I WELL #1
-LYRIC ENERGY INC			RECEIVED:	01/05/83	JA: TX
8316889	F-10-061465	4217■30883	103		SCHAFFER #1
-M BRAD BENNETT INC & RKH LTD			RECEIVED:	01/05/83	JA: TX
8316907	F-08-0■165■	■247532730	102-4		MOBIL #2
-MAPCO PRODUCTION COMPANY			RECEIVED:	01/05/83	JA: TX
8316■87	F-10-0■1■28	■2233■■■00	108		JON B #1
-MARATHON OIL COMPANY			RECEIVED:	01/05/83	JA: TX
8316788	F-7C-056■54	42■61■■■■0	108		BENEDUM SPRABERRY UNIT #2503
8316787	F-7E-056■53	42■61■■■■■	108		BENEDUM SPRABERRY UNIT #2903
■316786	F-7C-05■■52	42■610■■■0	108		BENEDUM SPRABERRY UNIT #3503
8316785	F-7C-05■■57	42■61000■■	108		BENEDUM SPRABERRY UNIT #6102
8316784	F-7C-05■6■5	4210500■■0	108		UNIVERSITY -A- #7
■316785	F-7C-056■84	4210500■■■	108		UNIVERSITY -A- WELL #2
8316777	F-7C-056634	4210500000	108		UNIVERSITY -K- #2
8316778	F-7E-05■■35	421■5■■00■	108		UNIVERSITY -X- #2
8316775	F-7E-05■636	421■500■■0	108		UNIVERSITY -Y- #1
8316780	F-7C-056637	42105■■0■0	108		UNIVERSITY -Y- #4
8316781	F-7C-05■6■■	421■500■■0■	108		UNIVERSITY -Z- #1
■316783	F-7E-05■■■1	423830■0■■	108		UNIVERSITY -8560- #25
8316782	F-7C-056637	421■5■■■0■	108		UNIVERSITY M #2
-MARK IV ENERGY			RECEIVED:	01/05/83	JA: TX
■316892	F-01-061527	424933114■	102-4		JEROME FLIELLER JR #2 NO RRC # ASS•
-MARTIN OIL & GAS CO			RECEIVED:	01/05/83	JA: TX

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FIELD NAME	PROD	PURCHASER
BIG "A" (TAYLOR)	■35.1	CHAMPLIN PETROLEU
HEMPHILL (GRANITE WAS	7■6.■	PIONEER NATURAL G
MATAGORDA ISLAND BLOC	■15.■	VALLEY PIPELINES
PANHANDLE GRAY COUNTY	72.0	INTER NORTH INC
BRAD SOUTH (LAKE)	9.7	LONE STAR GAS CO
HUGH FITZSIMONS (OLMO	95.8	VALERO TRANSMISSI
PEGASUS SOUTH	■50.■	MOBIL PRODUCING T
HOOKER CREEK (NAVARRO	34.2	FERGUSON CROSSING
HOOKER CREEK (NAVARRO	34.2	FERGUSON CROSSING
HOOKER CREEK (NAVARRO	34.2	FERGUSON CROSSING
LEVELLAND	8.9	CITIES SERVICE CO
LEVELLAND	8.9	CITIES SERVICE CO
ECHO	■.0	UNITED GAS PIPELI
LEWIS CONGLOMERATE	■.0	DELMI GAS PIPELIN
E EASTER (3400)	556.6	HYDROCARBON GATHE
SEABROOK "TEX 2" (PRO	2■20.■	UNITED TEXAS TRAN
BRYAN (WOODBINE) FIEL	9■.■	FERGUSON CROSSING
PANHANDLE GRAY	■.0	PHILLIPS PETROLEU
COLLIE (DELAWARE)	73.■	INTRATEX GAS CO
WEST PANHANDLE	15.1	COLORADO INTERSTA
BENEDUM SPRABERRY UNI	0.3	UNION TEXAS PETRO
BENEDUM SPRABERRY UNI	0.6	UNION TEXAS PETRO
BENEDUM SPRABERRY UNI	2.8	UNION TEXAS PETRO
BENEDUM SPRABERRY UNI	0.3	EL PASO NATURAL G
BLOCK 49/2450	2.1	BIG LAKE GAS CORP
BLOCK 49/2450	10.4	BIG LAKE GAS CORP
FARMER/SAN ANDRES	1.7	BIG LAKE GAS CORP
FARMER/SAN ANDRES	6.6	BIG LAKE GAS CORP
FARMER/SAN ANDRES	1.6	BIG LAKE GAS CORP
FARMER/SAN ANDRES	2.7	BIG LAKE GAS CORP
FARMER/SAN ANDRES	6.3	BIG LAKE GAS CORP
BIG LAKE	1.5	DORCHESTER GAS PR
AMIGO - SAN ANDRES	8.6	BIG LAKE GAS CORP
CINDY ANN (AUSTIN CHA	16■.■	J L DAVIS

JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8316968	F-03-061770	4214931275	102-2		RING #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-MCCANN CORP			RECEIVED: 01/05/83 JA: TX					
8316852	F-06-060742	4231732568	103		W J RINGENER #1	SPRABERRY (TREND AREA	32.4	PHILLIPS PETROLEU
-MCCORD EXPLORATION			RECEIVED: 01/05/83 JA: TX					
8316803	F-02-058104	4223931732	102-4		MCCORD #1 PRICE GAS UNIT	WILDCAT	100.0	HOUSTON PIPELINE
8316792	F-04-056975	4235500000	102-4		MCCORD #2C - COOKE B	DOUGHTY FIELD	1000.0	HOUSTON PIPELINE
8316793	F-04-056976	4235500000	102-4		MCCORD #2T-COOKE B	DOUGHTY	400.0	HOUSTON PIPELINE
-MERCURY EXPLORATION CO			RECEIVED: 01/05/83 JA: TX					
8316870	F-7B-061166	4205933895	102-4		ALBERT RETCHER #2	TURNAROUND GRAY SAND	20.0	LONE STAR GAS CO
8316869	F-7B-061165	4205933785	102-4		LEON BARR #4	BARR - GARDNER	20.0	LONE STAR GAS CO
-MEWBOURNE OIL COMPANY			RECEIVED: 01/05/83 JA: TX					
8316998	F-10-061857	4235730811	108		PECKENBAUGH #1 RRC ID #079095	SHARE S E (MORROW LOW	9.0	PANHANDLE EASTERN
8316759	F-10-056273	4235731136	102-4		TURNER "104" #1 RRC #098035	TORNADO ALLEY (MORROW	110.0	INTER NORTH INC
8316997	F-10-061856	4219530691	108		VANDERBURG #1 RRC ID #086213	VANDERBURG (CHEATER)	20.0	PANHANDLE EASTERN
-MICHAEL J THOMAS INTERESTS INC			RECEIVED: 01/05/83 JA: TX					
8316983	F-08-061800	4247532639	103		HARRAGE & WILSON M-4	WARD SOUTH	6.0	WARREN PETROLEUM
-MILLS BENNETT ESTATE			RECEIVED: 01/05/83 JA: TX					
8316980	F-04-061792	4204700000	108		MILLS BENNETT ESTATE FEE #10	MILLS BENNETT (A SAND	0.0	TEXAS EASTERN TRA
-MIRAMAR PETROLEUM INC			RECEIVED: 01/05/83 JA: TX					
8316849	F-04-060636	4221531264	102-4		LEPOVITZ GAS UNIT #2	HIDALGO (8000)	550.0	VALERO INTERSTATE
-MITCHELL ENERGY CORPORATION			RECEIVED: 01/05/83 JA: TX					
8316776	F-09-056620	4249700000	108-FR		ANN WORLES #1 #072489	BOONSVILLE (BEND CONG	11.8	NATURAL GAS PIPEL
8316860	F-09-061107	4249700000	108		D W WILEY #1 #028850	BOONSVILLE (BEND CONG	13.0	NATURAL GAS PIPEL
8316795	F-09-057230	4249700000	108		FT BEND ENSLEY #1 #068358	ALVORD (ATOKA CONGL)	12.7	NATURAL GAS PIPEL
8316717	F-09-052206	4249700000	108		J R LEWIS #1 #35050	BOONSVILLE (BEND CONG	14.1	NATURAL GAS PIPEL
8316716	F-7B-052198	4236300000	108		JOHN B WALDRUP #1 #064271	MEEKER (4400 CONGL)	9.3	SOUTHWESTERN GAS
8316737	F-09-055119	4249700000	108		JUNE L GRIFFETH #2 #091970	RHOME (ATOKA)	10.5	NATURAL GAS PIPEL
8317002	F-03-061881	4237300000	108		LOUISE BONNETTI #1 #60821	HORTENSE (WOODBINE)	2.6	HOUSTON PIPELINE
8316726	F-09-053772	4249700000	108-FR		M GREINES #1 #28665	BOONSVILLE (BEND CONG	13.0	NATURAL GAS PIPEL
8316775	F-09-056599	4249700000	108-FR		M L WAGGONER #21 35934	BOONSVILLE (BEND CONG	10.0	LONE STAR GAS CO
8316740	F-02-055151	4217500000	108		R R LYTTON #1 #000995	BRANDT (YEGUA 4700)	12.5	TEXAS EASTERN TRA
-MOBIL PRDG TEXAS & NEW MEXICO INC			RECEIVED: 01/05/83 JA: TX					
8316808	F-7B-058651	4242933258	103		J F BROWN #17	STEPHENS COUNTY REGUL	58.4	WARREN PETROLEUM
8316710	F-04-49750	4213135460	102-4	103	MAG DUVAL RANCH SEC 208-209 BSL	GOVT WELLS N (MIRANDO	109.5	TENNESSEE GAS PIP
8316985	F-8A-061809	4216532385	103		RUSSELL (7000 CLEARFORK) UNIT #227	RUSSELL (CLEAR FORK 7	9.9	PIONEER NATURAL G
8316973	F-08-061782	4200333232	103		SHAFTER LAKE SAN ANDRES UNIT #303	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8317005	F-08-061898	4200333223	103		SHAFTER LAKE SAN ANDRES UNIT #312	SHAFTER LAKE (SAN AND	0.4	PHILLIPS PETROLEU
8316791	F-04-056782	4270230136	102-4		TEXAS GULF 7651R (TRACT 881-L) #2	MUSTANG ISLAND BLK 88	3083.2	VALLEY PIPELINES
-MONTERREY PETROLEUM CORP			RECEIVED: 01/05/83 JA: TX					
8316688	F-04-034742	4247932775	103	107-TF	BLOCKER RANCH "1043" #2 (92657)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316691	F-04-042828	4247932769	107-TF		BLOCKER RANCH-D-#10 (93606)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316694	F-04-042832	4247932492	103	107-TF	BRISCO CORP 0387379DD ALAMO SAVINGS	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316695	F-04-042902	4247932487	103	107-TF	BRISCOE "D" 1-28 (08636B)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316692	F-04-042830	4247932610	103	107-TF	BRISCOE "D" 2-24 (86384)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316700	F-04-043133	4247932443	103	107-TF	BRISCOE "E" 2-34	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316696	F-04-042903	4247932490	103	107-TF	BRISCOE "F" #1-11 (86796)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316698	F-04-043130	4247932438	103	107-TF	BRISCOE "F" #1-24 (86792)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316699	F-04-043131	4247932493	103	107-TF	BRISCOE "F" #1-32 (86791)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316697	F-04-042904	4247932489	103	107-TF	BRISCOE "F" 1-13 (08B9353)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316693	F-04-042831	4247932467	103	107-TF	BRISCOE "F" 1-3 (087575)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
-MOODY ENERGY CO			RECEIVED: 01/05/83 JA: TX					
8316990	F-10-061835	4221131492	103		FLOWERS-224 #1 (ID NO 100594)	HEMPHILL (GRANITE WAS	0.0	EL PASO NATURAL G
-MOORE MCCORMACK OIL & GAS CORP			RECEIVED: 01/05/83 JA: TX					

JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MOORE MCCORMACK OIL & GAS CORP			RECEIVED: 01/05/83 JA: TX					
8316991	F-04-042829	4247932768	103	107-TF	BLOCKER RANCH "1043" #3 (92658)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316693	F-04-042831	4247932467	103	107-TF	BRISCOE "F" 1-3 (087575)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
-MOODY ENERGY CO			RECEIVED: 01/05/83 JA: TX					
8316990	F-10-061835	4221131492	103		FLOWERS-224 #1 (ID NO 100594)	HEMPHILL (GRANITE WAS	0.0	EL PASO NATURAL G
-MOORE MCCORMACK OIL & GAS CORP			RECEIVED: 01/05/83 JA: TX					
8316989	F-10-061834	4221131491	103		FLOWERS-224 #2 (ID NO 100595)	HEMPHILL (GRANITE WAS	0.0	EL PASO NATURAL G
-MORRIS & ANDERSON			RECEIVED: 01/05/83 JA: TX					
8316977	F-08-061786	4200333233	103		SHAFTER LAKE SAN ANDRES UNIT #304	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8316978	F-08-061787	4200333234	103		SHAFTER LAKE SAN ANDRES UNIT #305	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8316979	F-08-061788	4200333235	103		SHAFTER LAKE SAN ANDRES UNIT #306	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8316975	F-08-061784	4200333236	103		SHAFTER LAKE SAN ANDRES UNIT #307	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8316976	F-08-061785	4200333237	103		SHAFTER LAKE SAN ANDRES UNIT #308	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8316974	F-08-061783	4200333238	103		SHAFTER LAKE SAN ANDRES UNIT #309	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8316972	F-08-061781	4200333239	103		SHAFTER LAKE SAN ANDRES UNIT #310	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8316971	F-08-061780	4200333240	103		SHAFTER LAKE SAN ANDRES UNIT #311	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8317005	F-08-061898	4200333223	103		SHAFTER LAKE SAN ANDRES UNIT #312	SHAFTER LAKE (SAN AND	0.4	PHILLIPS PETROLEU
8316970	F-08-061779	4200333241	103		SHAFTER LAKE SAN ANDRES UNIT #313	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8316969	F-08-061778	4200333242	103		SHAFTER LAKE SAN ANDRES UNIT #314	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8316968	F-03-061770	4214931275	102-2		RING #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-MCCANN CORP			RECEIVED: 01/05/83 JA: TX					
8316852	F-06-060742	4231732568	103		W J RINGENER #1	SPRABERRY (TREND AREA	32.4	PHILLIPS PETROLEU
-MCCORD EXPLORATION			RECEIVED: 01/05/83 JA: TX					
8316803	F-02-058104	4223931732	102-4		MCCORD #1 PRICE GAS UNIT	WILDCAT	100.0	HOUSTON PIPELINE
8316792	F-04-056975	4235500000	102-4		MCCORD #2C - COOKE B	DOUGHTY FIELD	1000.0	HOUSTON PIPELINE
8316793	F-04-056976	4235500000	102-4		MCCORD #2T-COOKE B	DOUGHTY	400.0	HOUSTON PIPELINE
-MERCURY EXPLORATION CO			RECEIVED: 01/05/83 JA: TX					
8316870	F-7B-061166	4205933895	102-4		ALBERT RETCHER #2	TURNAROUND GRAY SAND	20.0	LONE STAR GAS CO
8316869	F-7B-061165	4205933785	102-4		LEON BARR #4	BARR - GARDNER	20.0	LONE STAR GAS CO
-MEWBOURNE OIL COMPANY			RECEIVED: 01/05/83 JA: TX					
8316998	F-10-061857	4235730811	108		PECKENBAUGH #1 RRC ID #079095	SHARE S E (MORROW LOW	9.0	PANHANDLE EASTERN
8316759	F-10-056273	4235731136	102-4		TURNER "104" #1 RRC #098035	TORNADO ALLEY (MORROW	110.0	INTER NORTH INC
8316997	F-10-061856	4219530691	108		VANDERBURG #1 RRC ID #086213	VANDERBURG (CHEATER)	20.0	PANHANDLE EASTERN
-MICHAEL J THOMAS INTERESTS INC			RECEIVED: 01/05/83 JA: TX					
8316983	F-08-061800	4247532639	103		HARRAGE & WILSON M-4	WARD SOUTH	6.0	WARREN PETROLEUM
-MILLS BENNETT ESTATE			RECEIVED: 01/05/83 JA: TX					
8316980	F-04-061792	4204700000	108		MILLS BENNETT ESTATE FEE #10	MILLS BENNETT (A SAND	0.0	TEXAS EASTERN TRA
-MIRAMAR PETROLEUM INC			RECEIVED: 01/05/83 JA: TX					
8316849	F-04-060636	4221531264	102-4		LEPOVITZ GAS UNIT #2	HIDALGO (8000)	550.0	VALERO INTERSTATE
-MITCHELL ENERGY CORPORATION			RECEIVED: 01/05/83 JA: TX					
8316776	F-09-056620	4249700000	108-FR		ANN WORLES #1 #072489	BOONSVILLE (BEND CONG	11.8	NATURAL GAS PIPEL
8316860	F-09-061107	4249700000	108		D W WILEY #1 #028850	BOONSVILLE (BEND CONG	13.0	NATURAL GAS PIPEL
8316795	F-09-057230	4249700000	108		FT BEND ENSLEY #1 #068358	ALVORD (ATOKA CONGL)	12.7	NATURAL GAS PIPEL
8316717	F-09-052206	4249700000	108		J R LEWIS #1 #35050	BOONSVILLE (BEND CONG	14.1	NATURAL GAS PIPEL
8316716	F-7B-052198	4236300000	108		JOHN B WALDRUP #1 #064271	MEEKER (4400 CONGL)	9.3	SOUTHWESTERN GAS
8316737	F-09-055119	4249700000	108		JUNE L GRIFFETH #2 #091970	RHOME (ATOKA)	10.5	NATURAL GAS PIPEL
8317002	F-03-061881	4237300000	108		LOUISE BONNETTI #1 #60821	HORTENSE (WOODBINE)	2.6	HOUSTON PIPELINE
8316726	F-09-053772	4249700000	108-FR		M GREINES #1 #28665	BOONSVILLE (BEND CONG	13.0	NATURAL GAS PIPEL
8316775	F-09-056599	4249700000	108-FR		M L WAGGONER #21 35934	BOONSVILLE (BEND CONG	10.0	LONE STAR GAS CO
8316740	F-02-055151	4217500000	108		R R LYTTON #1 #000995	BRANDT (YEGUA 4700)	12.5	TEXAS EASTERN TRA
-MOBIL PRDG TEXAS & NEW MEXICO INC			RECEIVED: 01/05/83 JA: TX					
8316808	F-7B-058651	4242933258	103		J F BROWN #17	STEPHENS COUNTY REGUL	58.4	WARREN PETROLEUM
8316710	F-04-49750	4213135460	102-4	103	MAG DUVAL RANCH SEC 208-209 BSL	GOVT WELLS N (MIRANDO	109.5	TENNESSEE GAS PIP
8316985	F-8A-061809	4216532385	103		RUSSELL (7000 CLEARFORK) UNIT #227	RUSSELL (CLEAR FORK 7	9.9	PIONEER NATURAL G
8316973	F-08-061782	4200333232	103		SHAFTER LAKE SAN ANDRES UNIT #303	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8317005	F-08-061898	4200333223	103		SHAFTER LAKE SAN ANDRES UNIT #312	SHAFTER LAKE (SAN AND	0.4	PHILLIPS PETROLEU
8316791	F-04-056782	4270230136	102-4		TEXAS GULF 7651R (TRACT 881-L) #2	MUSTANG ISLAND BLK 88	3083.2	VALLEY PIPELINES
-MONTERREY PETROLEUM CORP			RECEIVED: 01/05/83 JA: TX					
8316688	F-04-034742	4247932775	103	107-TF	BLOCKER RANCH "1043" #2 (92657)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316691	F-04-042828	4247932769	107-TF		BLOCKER RANCH-D-#10 (93606)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316694	F-04-042832	4247932492	103	107-TF	BRISCO CORP 0387379DD ALAMO SAVINGS	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316695	F-04-042902	4247932487	103	107-TF	BRISCOE "D" 1-28 (08636B)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316692	F-04-042830	4247932610	103	107-TF	BRISCOE "D" 2-24 (86384)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316700	F-04-043133	4247932443	103	107-TF	BRISCOE "E" 2-34	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316696	F-04-042903	4247932490	103	107-TF	BRISCOE "F" #1-11 (86796)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316698	F-04-043130	4247932438	103	107-TF	BRISCOE "F" #1-24 (86792)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316699	F-04-043131	4247932493	103	107-TF	BRISCOE "F" #1-32 (86791)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316697	F-04-042904	4247932489	103	107-TF	BRISCOE "F" 1-13 (08B9353)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
8316693	F-04-042831	4247932467	103	107-TF	BRISCOE "F" 1-3 (087575)	GOLD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
-MOODY ENERGY CO			RECEIVED: 01/05/83 JA: TX					
8316990	F-10-061835	4221131492	103		FLOWERS-224 #1 (ID NO 100594)	HEMPHILL (GRANITE WAS	0.0	EL PASO NATURAL G
-MOORE MCCORMACK OIL & GAS CORP			RECEIVED: 01/05/83 JA: TX					

JD NO	JA DKT	API NO	S	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8316711	F-04-050361	4247933242		102-4		HUBBERD "EE" #2	LIZ	182.0	TRANSCONTINENTAL
-CANNAN MORRIS				RECEIVED:	01/05/83	JA: TX			
8316689	F-01-03677	4[illegible]311315[illegible]1		102-4		HAGIST RANCH #1	WILDCAT; LOMA ALTA (W	365.0	TEXAS EASTERN TRA
-MORROW RESOURCES INC				RECEIVED:	01/05/83	JA: TX			
8316875	F-7C-061278	4245131[illegible]3[illegible]		102-2	103	BROWN #5	K W B (STRAWN)	0.0	LONE STAR GAS CO
-MOTE RESOURCES INC				RECEIVED:	01/05/83	JA: TX			
8316903	F-09-061596	4249732453		103		J C STONE #1 (RRC ID# NOT ASSIGNED)	WORKE (CONGLOMERATE)	300.0	LONE STAR GAS CO
-MR OIL CO				RECEIVED:	01/05/83	JA: TX			
8317049	F-08-062001	4247532650		103		GRIMES B #5	WARD SOUTH	0.0	
-MUSTANG EXPLORATION CO INC				RECEIVED:	01/05/83	JA: TX			
8316879	F-03-061344	4214931372		102-2		SPACEK #1	GIDDINGS (AUSTIN CHAL	50.0	PHILLIPS PETROLEU
-NEWTON OIL & GAS CORP				RECEIVED:	01/05/83	JA: TX			
8316727	F-04-053843	4247900000		103	107-TF	BARREDA #1	LAS TIENDAS (OLMOS)	150.0	TEJAS GAS CORP
8316728	F-04-053844	4247900000		103	107-TF	BARREDA #3	LAS TIENDAS (OLMOS)	200.0	TEJAS GAS CORP
8316729	F-04-053850	4247900000		103	107-TF	GONZALEZ #2	LAS TIENDAS (OLMOS)	75.0	LONE STAR GAS CO
-NORTH PLAINS ENERGY CORP				RECEIVED:	01/05/83	JA: TX			
8316917	F-10-061693	4234113081		103		HARRIS - LADD (05190) #1	PANHANDLE MOORE COUNT	73.0	DIAMOND SHAMROCK
-NORTH RIDGE CORP				RECEIVED:	01/05/83	JA: TX			
8316854	F-7B-060821	4242933411		102-4	103	R B WYMER #1	RANGER (BLACK LIME WE	7.2	PRISM ENTERPRISES
-PAYNE OIL FIELD CONSULTING & OPER				RECEIVED:	01/05/83	JA: TX			
8316855	F-09-060837	4223734594		102-4		ADAMS #1	TRUEE W (4000	17.0	LONE STAR GAS CO
-PENNZOIL PRODUCING COMPANY				RECEIVED:	01/05/83	JA: TX			
8316994	F-04-061850	4235500000		108		B B SIMMONDS #10	AGUA DULCE (5150')	3.0	UNITED GAS PIPE L
8316705	F-06-048021	4236531248		103	107-TF	LEWIS UNIT #5	BETHANY EAST/COTTON W	475.0	UNITED GAS PIPE L
8316794	F-04-057025	4235500000		108-ER		M L RIVERS #1	AGUA DULCE	0.0	UNITED GAS P L CO
-PETRO-LEWIS CORPORATION				RECEIVED:	01/05/83	JA: TX			
8316720	F-01-052898	4212700000		103	107-TF	GATES "A" #3-217	CATARINA E W	85.1	VALERO TRANSMISSI
8316724	F-04-053641	4247900000		103	107-TF	O S PETTY #4-20	DOS HERMANOS W (OLMOS	318.6	VALERO TRANSMISSI
8316749	F-10-055547	4247900000		103	107-TF	O S PETTY #5-8	CATARINA S W (OLMOS)	31.0	VALERO TRANSMISSI
8316713	F-04-051310	4247900000		103	107-TF	O S PETTY "B" #4-18	DOS HERMANOS WEST (OL	172.7	VALERO TRANSMISSI
-PETRO-TEX PETROLEUM CO				RECEIVED:	01/05/83	JA: TX			
8316814	F-03-059128	4220131406		102-4		CARTER HEIRS #1	OLEOTT (3100' MID SD)	2.7	TERMAC GATHERING
-PETROLEUM CORP OF DELAWARE				RECEIVED:	01/05/83	JA: TX			
8316868	F-08-061160	4230130256		103		HUBBARD STATE #3	WHEAT	9.1	
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/05/83	JA: TX			
8317004	F-08-061897	4213506430		108		(21556) NORTH PENWELL UNIT #136	PENWELL	2.0	EL PASO NATURAL G
8316753	F-10-055761	4221100000		108		BRAINARD A #2	HORSE CREEK SE CLEVEL	0.0	
8317003	F-08-061896	4213503114		108		GOLDSMITH ANDECTOR UNIT #L-05	GOLDSMITH (CLEARFORK)	2.0	EL PASO NATURAL G
-PINTO PETROLEUM INC				RECEIVED:	01/05/83	JA: TX			
8316750	F-7B-055622	4213332903		102-4		HAL B PAGE #1	PAGE (BIG SALINE)	44.0	LONE STAR GAS CO
-POWDER RIVER OIL CO				RECEIVED:	01/05/83	JA: TX			
8316906	F-7B-061605	4209330810		103		G L & C C CHICAGO #1-2 (10740)	COMANCHE COUNTY REGUL	13.0	SOUTHWESTERN GAS
-QUESTA OIL & GAS CO				RECEIVED:	01/05/83	JA: TX			
8316938	F-7C-061727	4210534146		103	107-TF	PIERCE-HENDERSON 10-1	OZONA (CANYON SAND)	8.0	INTER NORTH INC
-R A W ENERGY CORP				RECEIVED:	01/05/83	JA: TX			
8316806	F-7B-058414	4236732319		102-4		BARRETT #1	GARNER NW (4300)	150.0	SOUTHWESTERN GAS
8316850	F-7B-060655	4236732366		102-4		DOBBS #1	DICEY S (B CONGL)	30.0	EMPIRE PIPELINE C
8316835	F-7B-060241	4236700000		102-4		F JONES #1	CABBAGE PATCH (BIG SA	350.0	EMPIRE PIPELINE C
8316847	F-7B-060586	4236732295		103		HODGES #3	B R A (STRAWN)	300.0	SOUTHWESTERN GAS
8316836	F-7B-060242	4236731231		102-4		JEFFERSON #1	CABBAGE PATCH (ATOKA)	350.0	EMPIRE PIPELINE C
8316796	F-7B-057280	4236332945		102-4		KIZER #1 RRC# NOT ASSIGNED	KEESLER (3900)	0.0	SOUTHWESTERN GAS
8316702	F-7B-044179	4236732112		102-4		MCMINN #1	MINERAL WELLS (STRAWN	8.0	SOUTHWESTERN GAS
8316815	F-7B-059183	4236332841		102-4		RIEBE #1-	STRAWN N (BIG SALINE)	203.0	SOUTHWESTERN GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-RANGER PETROLEUM				RECEIVED:	01/05/83	JA: TX			
8316934	F-10-061717	4206531170		103		ROBIN #1	PANHANDLE CARSON FIEL	119.0	PANHANDLE EASTERN
8316933	F-10-061716	4206531180		103		ROBIN #2	PANHANDLE CARSON FIEL	120.0	PANHANDLE EASTERN
8316932	F-10-061715	4206531226		103		TERRY #2	PANHANDLE CARSON FIEL	85.0	PANHANDLE EASTERN
-RICHARD D ATKINS				RECEIVED:	01/05/83	JA: TX			
8316807	F-7B-058648	4236300000		102-4		TALBERT #1	SCHWARTZ (4200)	255.0	LIQUID ENERGY COR
-RIDDLE OIL CO				RECEIVED:	01/05/83	JA: TX			
8316690	F-06-041871	4220330759		103		BROOKS #1	NORTH LANSING (PETTIT	18.3	ARKANSAS LOUISIAN
-RIDGE OIL CO				RECEIVED:	01/05/83	JA: TX			
8316804	F-7B-058397	4242933330		102-4	103	HARRIS #1	RANGER NW (MARBLE FAL	100.8	COMPRESSOR RENTAL
8316877	F-7B-061294	4242933448		102-4	103	J P BOOLES ESTATE #2	RANGER NW (MARBLE FAL	39.6	COMPRESSOR RENTAL
8317026	F-7B-061940	4213334304		102-4	103	MATTIE THOMAS #2	RANGER NW (MARBLE FAL	39.6	COMPRESSOR RENTAL
-RIO PETROLEUM INC				RECEIVED:	01/05/83	JA: TX			
8316701	F-03-044091	4203931590		103		RIO #1 SARA	CHENANGO WEST (8900 F	165.0	SEAGULL PIPELINE
-ROBERT P LAMMERTS				RECEIVED:	01/05/83	JA: TX			
8316771	F-03-056405	4214900000		102-2		SHAWNEE UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-RUTHERFORD OIL CORP				RECEIVED:	01/05/83	JA: TX			
8316981	F-02-061795	4229732974		102-4		WATSON GAS UNIT #1	MIKESKA S W (12600 WX	219.0	TECO PIPELINE CO
-SAGE ENERGY CO				RECEIVED:	01/05/83	JA: TX			
8316820	F-03-059500	4214931405		102-2		UNDERWOOD #1 RRC #16052	GIDDINGS (AUSTIN CHAL	100.0	PHILLIPS PETROLEU
8317051	F-7C-062030	4238332334		103		UNIVERSITY 17-6A #1 RRC #09827	FARMER (SAN ANDRES)	2.9	INTER NORTH INC
-SALURIA OPERATING CO				RECEIVED:	01/05/83	JA: TX			
8317037	F-04-061971	4200700000		108		STATE TRACT 201 #1	SOUTH ROCKPORT	0.0	VALERO TRANSMISSI
-SAMSON RESOURCES COMPANY				RECEIVED:	01/05/83	JA: TX			
8316738	F-06-055123	4236531296		103	107-TF	C T ROGERS #1	SOUTH CARTHAGE	284.5	UNITED GAS PIPELI
8316685	F-10-008813	4229500000		108-ER		MOUNSEY NO 1	BECHTHOLD (TONKAWA)	16.1	NORTHERN NATURAL
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	01/05/83	JA: TX			
8316837	F-02-060286	4229733008		102-4		KITTIE WEST OWEN API# 42 297 33008	GEORGE WEST WEST (860	500.0	UNITED TEXAS TRAN
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	01/05/83	JA: TX			
8316992	F-8A-061844	4207931582		103		WEST LEVELLAND UNIT #19X	LEVELLAND (SAN ANDRES	1.4	AMOCO PRODUCTION
-SANTA FE-ANDOVER OIL CO				RECEIVED:	01/05/83	JA: TX			
8317001	F-06-061876	4220330858		103	107-TF	CHARLOTTE GAS UNIT #1	WOODLAWN SW (COTTON V	75.8	INTRASTATE GATHER
8316912	F-06-061683	4220330790		103	107-TF	G E HOLMUSEN GAS UNIT WELL #1	WOODLAWN SW (COTTON V	100.0	INTRASTATE GAS CO
-SEELY OIL CO				RECEIVED:	01/05/83	JA: TX			
8316858	F-7B-061047	4215131356		103		MATTIE KEY 18429	PAUL HUNTER (CANYON S	2.0	CONOCO INC
-SHELL OIL CO				RECEIVED:	01/05/83	JA: TX			
8316945	F-8A-061741	4250132034		103		DENVER UNIT #5718	WASSON	28.1	SHELL OIL CO
8316816	F-04-059213	4250531227		102-4		L GARZA #2	FANDANGO	600.0	UNITED TEXAS TRAN
-SNOW OIL CO				RECEIVED:	01/05/83	JA: TX			
8316905	F-7B-061604	4210332810		108		CHRISTIAN #1	EASTLAND COUNTY REGUL	13.0	LONE STAR GAS CO
-SOUTHEASTERN RESOURCES CORP				RECEIVED:	01/05/83	JA: TX			
8316919	F-7B-061700	4213333238		102-4		CLAUDE HEARN #1 (18639)	JMJ (MARBLE FALLS)	9.0	EL PASO HYDROCARB
8316920	F-7B-061701	4213333792		102-4		CLAUDE HEARN #2 (18639)	JMJ (MARBLE FALLS)	53.0	EL PASO HYDROCARB
8316922	F-7B-061703	4213333815		102-4		CLAUDE HEARN #4 (18639)	JMJ (MARBLE FALLS)	16.0	EL PASO HYDROCARB
8316927	F-7B-061709	4213332995		102-4		KINCAID #1 (101676)	JMJ (MARBLE FALLS)	195.0	EL PASO HYDROCARB
8316928	F-7B-061710	4213332477		103		M K COURTNEY #1 (16891)	EASTLAND COUNTY REGUL	2.0	EL PASO HYDROCARB
8316923	F-7B-061704	4213333655		102-4		M K COURTNEY "A" #1 (18887)	JMJ (MARBLE FALLS)	73.0	EL PASO HYDROCARB
8316924	F-7B-061705	4213334187		102-4		M K COURTNEY "A" #3 (18887)	JMJ (MARBLE FALLS)	110.0	EL PASO HYDROCARB
8316925	F-7B-061706	4213334222		102-4		M K COURTNEY "A" #4 (18887)	JMJ (MARBLE FALLS)	181.0	EL PASO HYDROCARB
8316926	F-7B-061707	4213333800		102-4		NASH #2 (102345)	JMJ (MARBLE FALLS)	507.0	EL PASO HYDROCARB
8316921	F-7B-061702	4213333951		102-4		NASH #3 (102346)	JMJ (MARBLE FALLS)	301.0	EL PASO HYDROCARB
-STRAGO PETROLEUM CORP				RECEIVED:	01/05/83	JA: TX			
8316741	F-06-055231	4200131304		102-4	103	GEORGE RHODES #1	HURT WEST (RODESSA 10	180.0	ESPERANZA ENERGY

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8316940	F-7B-061744	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-STRATA PRODUCTION CO				RECEIVED:	01/05/83	JA: TX			
8316966	F-7B-061772	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	01/05/83	JA: TX			
8316967	F-7B-061773	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LP				RECEIVED:	01/05/83	JA: TX			
8316968	F-7B-061774	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD				RECEIVED:	01/05/83	JA: TX			
8316969	F-7B-061775	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316970	F-7B-061776	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316971	F-7B-061777	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316972	F-7B-061778	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316973	F-7B-061779	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316974	F-7B-061780	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316975	F-7B-061781	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316976	F-7B-061782	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316977	F-7B-061783	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316978	F-7B-061784	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316979	F-7B-061785	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316980	F-7B-061786	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316981	F-7B-061787	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316982	F-7B-061788	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316983	F-7B-061789	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316984	F-7B-061790	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316985	F-7B-061791	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316986	F-7B-061792	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316987	F-7B-061793	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316988	F-7B-061794	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316989	F-7B-061795	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316990	F-7B-061796	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316991	F-7B-061797	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316992	F-7B-061798	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316993	F-7B-061799	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316994	F-7B-061800	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316995	F-7B-061801	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316996	F-7B-061802	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316997	F-7B-061803	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316998	F-7B-061804	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8316999	F-7B-061805	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317000	F-7B-061806	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317001	F-7B-061807	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317002	F-7B-061808	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317003	F-7B-061809	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317004	F-7B-061810	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317005	F-7B-061811	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317006	F-7B-061812	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317007	F-7B-061813	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317008	F-7B-061814	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317009	F-7B-061815	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317010	F-7B-061816	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317011	F-7B-061817	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317012	F-7B-061818	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317013	F-7B-061819	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317014	F-7B-061820	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317015	F-7B-061821	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317016	F-7B-061822	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317017	F-7B-061823	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317018	F-7B-061824	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317019	F-7B-061825	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317020	F-7B-061826	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317021	F-7B-061827	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317022	F-7B-061828	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317023	F-7B-061829	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317024	F-7B-061830	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317025	F-7B-061831	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317026	F-7B-061832	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317027	F-7B-061833	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317028	F-7B-061834	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317029	F-7B-061835	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317030	F-7B-061836	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317031	F-7B-061837	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317032	F-7B-061838	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317033	F-7B-061839	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317034	F-7B-061840	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317035	F-7B-061841	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317036	F-7B-061842	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317037	F-7B-061843	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317038	F-7B-061844	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317039	F-7B-061845	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317040	F-7B-061846	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317041	F-7B-061847	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317042	F-7B-061848	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317043	F-7B-061849	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317044	F-7B-061850	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317045	F-7B-061851	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317046	F-7B-061852	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317047	F-7B-061853	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317048	F-7B-061854	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317049	F-7B-061855	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317050	F-7B-061856	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317051	F-7B-061857	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317052	F-7B-061858	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317053	F-7B-061859	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317054	F-7B-061860	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEIVED:	01/05/83	JA: TX			
8317055	F-7B-061861	4213333975		102-4		NASH #4 (102347)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
-SUNDOWN ENERGY LTD PARTNERSHIP				RECEI

JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-STRINGER OIL & GAS			RECEIVED: 01/05/83 JA: TX					
8317000	F-08-061874	4231732549	103		BROWN ROBERT #1	SPRABERRY (TREND AREA	150.0	ADOBE OIL & GAS C
-SUN EXPLORATION & PRODUCTION CO			RECEIVED: 01/05/83 JA: TX					
8316908	F-01-061667	4212732207	103		BIG WELLS (SAN MIGUEL) UNIT #5455	BIG WELLS (SAN MIGUEL	14.0	HOUSTON PIPE LINE
8316967	F-08-061763	4249500000	108		BROWN ALTMAN A/C5 #4	EMPEROR (HOLT)	3.0	CABOT CORP
8317038	F-7C-061978	4208130948	103		CENTRAL NATIONAL BANK #20	LYGAY	48.0	LONE STAR GAS CO
8316951	F-08-061747	4200300000	108		F M DRACHENBERG #15	FUHRMAN-MASCHO-GRBG-S	5.0	PHILLIPS PETROLEU
8317041	F-7B-061981	4243330943	103		EAST FRANKIRK (CANYON SD) UT #18	FRANKIRK EAST (CANYON	1.0	CITIES SERVICE CO
8317040	F-7B-061980	4243331343	103		EAST FRANKIRK (CANYON SD) UT #20	FRANKIRK EAST (CANYON	3.0	CITIES SERVICE CO
8317042	F-09-061982	4227531173	102-4		FANT EST "57" #1	FANT	18.0	SUN GAS TRANSMISS
8317039	F-09-061976	4227531187	102-4		FANT EST "57" #3	FANT	20.0	SUN GAS TRANSMISS
8316909	F-09-061668	4227531203	102-4		FANT EST "57A" #1	FANT	7.0	SUN GAS TRANSMISS
8316910	F-09-061669	4227531166	102-4		FANT EST 57 #2	FANT	19.0	SUN GAS TRANSMISS
8316952	F-04-061748	4242700000	108		GEO H SPEER STATE-B-#21	SUN (C-2)	7.0	TRANSCONTINENTAL
8316953	F-09-061749	4223700000	108		J B EVANS #2	JUPITER	14.0	LONE STAR GAS CO
8316954	F-7B-061750	4242933037	103		J M WARD "C" #108	STEPHENS COUNTY REGUL	39.0	PETROLEUM CORP OF
8316956	F-7B-061752	4242933034	103		J M WARD "C" #109	STEPHENS COUNTY REGUL	51.0	PETROLEUM CORP OF
8316957	F-7B-061753	4242933033	103		J M WARD "C" #110	STEPHENS COUNTY REGUL	7.0	PETROLEUM CORP OF
8316958	F-7B-061754	4242933038	103		J M WARD "C" #111	STEPHENS COUNTY REGUL	9.0	PETROLEUM CORP OF
8316959	F-7B-061755	4242933039	103		J M WARD "C" #112	STEPHENS COUNTY REGUL	0.4	PETROLEUM CORP OF
8316960	F-7B-061756	4242933127	103		J M WARD "C" #113	STEPHENS COUNTY REGUL	3.0	PETROLEUM CORP OF
8316961	F-7B-061757	4242933117	103		J M WARD "C" #114	STEPHENS COUNTY REGUL	0.4	PETROLEUM CORP OF
8316962	F-7B-061758	4242933119	103		J M WARD "C" #115	STEPHENS COUNTY REGUL	0.4	PETROLEUM CORP OF
8316963	F-7B-061759	4242933118	103		J M WARD "C" #116	STEPHENS COUNTY REGUL	0.4	PETROLEUM CORP OF
8316955	F-7B-061751	4242933190	103		J M WARD "C" #118	STEPHENS COUNTY REGUL	3.0	PETROLEUM CORP OF
8316964	F-7B-061760	4242933182	103		J M WARD "C" #119	STEPHENS COUNTY REGUL	3.0	PETROLEUM CORP OF
8316965	F-7B-061761	4242933175	103		J M WARD "C" #120	STEPHENS COUNTY REGUL	0.4	PETROLEUM CORP OF
8316966	F-7B-061762	4242933174	103		J M WARD "C" #121	STEPHENS COUNTY REGUL	17.0	PETROLEUM CORP OF
8316950	F-08-061746	4249500000	108		SEALY SMITH FDN "A" #3	HALLEY (CLEAR FORK)	8.0	WARREN PETROLEUM
-SUPERIOR OIL CO			RECEIVED: 01/05/83 JA: TX					
8316706	F-04-048360	4221531172	102-4	103	JOHN HAMMAN "B" #2	MONTE CHRISTO NORTH (	0.0	
-TADCO INC			RECEIVED: 01/05/83 JA: TX					
8316871	F-10-061204	4223300000	103		WEATHERLY #5-A	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
-TAUBERT STEED GUNN & MEDDERS			RECEIVED: 01/05/83 JA: TX					
8316880	F-8A-061347	4226931[illegible]	102-4		S B BURNETT ESTATE "GG" 16	BIG -S- CONGLOMERATE	1.3	LONE STAR GAS CO
8316881	F-8A-061348	4226931[illegible]	102-4		S B BURNETT ESTATE "GG" 17	BIG -S- STRAWN REEF	1.3	LONE STAR GAS CO
-TAYLOR OPERATING COMPANY			RECEIVED: 01/05/83 JA: TX					
8316823	F-09-059738	4249700000	108		J D HOLDER #1 (077228)	BOONSVILLE (BEND CONG	5.5	NATURAL GAS PIPE
8316822	F-09-059737	4249700000	108		L H KAKER "A" #1 (074078)	BOONSVILLE (BEND CONG	19.0	NATURAL GAS PIPE
8316824	F-09-059739	4249700000	108		MIDDLEBROOKS-CAMPSEY #2 (089485)	BOONSVILLE (BEND CONG	18.3	NATURAL GAS PIPE
8316825	F-09-059741	4249700000	108		STULTZ #1 (090885)	BOONSVILLE (BEND CONG	29.2	NATURAL GAS PIPE
-TENNECO OIL COMPANY			RECEIVED: 01/05/83 JA: TX					
8316845	F-8A-060562	4250132[illegible]	103		PRENTICE (6700 CLEARFORK UT) #1004	PRENTICE (6700)	8.0	AMOCO PRODUCTION
8316844	F-8A-060497	4250132240	103		PRENTICE (6700 CLEARFORK UT) #1122	PRENTICE (6700 CLEARF	0.0	AMOCO PRODUCTION
-TEX-WELL OIL & GAS CORP			RECEIVED: 01/05/83 JA: TX					
8317036	F-10-061953	4206500000	103		WILLIAMS #1 (ID #05221)	PANHANDLE CARSON	75.0	GETTY OIL CO
8317035	F-10-061962	4206531249	103		WILLIAMS #2 (ID #05221)	PANHANDLE CARSON	70.0	GETTY OIL CO
-TEXACO INC			RECEIVED: 01/05/83 JA: TX					
8316840	F-8A-060497	4221933539	103		BOB SLAUGHTER BLOCK #339	SLAUGHTER	0.0	AMOCO PRODUCTION
8317018	F-10-061911	4206500000	108		FIRST STATE BANK OF WHITE DEER #10	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317016	F-10-061903	4206500000	108		FIRST STATE BANK OF WHITE DEER #12	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317009	F-10-061902	4206500000	108		FIRST STATE BANK OF WHITE DEER #13	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317008	F-10-061901	4206500000	108		FIRST STATE BANK OF WHITE DEER #14	PANHANDLE CARSON COUN	0.3	GETTY OIL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317013	F-10-061906	4206500000		108		FIRST STATE BANK OF WHITE DEER #18	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317012	F-10-061905	4206500000		108		FIRST STATE BANK OF WHITE DEER #2	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317007	F-10-061900	4206500000		108		FIRST STATE BANK OF WHITE DEER #20	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317006	F-10-061899	4206500000		108		FIRST STATE BANK OF WHITE DEER #22	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317019	F-10-061912	4206500000		108		FIRST STATE BANK OF WHITE DEER #24	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317017	F-10-061910	4206500000		108		FIRST STATE BANK OF WHITE DEER #25	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317016	F-10-061909	4206500000		108		FIRST STATE BANK OF WHITE DEER #26	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317015	F-10-061908	4206500000		108		FIRST STATE BANK OF WHITE DEER #28	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317014	F-10-061907	4206500000		108		FIRST STATE BANK OF WHITE DEER #30	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317011	F-10-061904	4206500000		108		FIRST STATE BANK OF WHITE DEER #4	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8316812	F-8A-058996	4216532379		103		ROBERTSON UNIT #54	ROBERTSON N (CLEARFOR	0.0	PHILLIPS PETROLEU
8316828	F-8A-059978	4216532378		103		ROBERTSON UNIT #55	ROBERTSON N (CLEARFOR	0.0	PHILLIPS PETROLEU
8316842	F-08-060456	4243131167		103		STERLING "E" FEE #10	CONGER (PENN)	0.0	VALERO TRANSMISSI
8316811	F-08-058992	4243131165		103		STERLING "E" FEE #12	CONGER (PENN)	109.5	VALERO TRANSMISSI
8316843	F-08-060457	4243131175		103		STERLING "I" FEE #5	CONGER (PENN)	0.0	VALERO TRANSMISSI
8316841	F-08-060452	4243131174		103		STERLING "I" FEE #6	CONGER (PENN)	0.5	VALERO TRANSMISSI
-THROCKMORTON GAS SYSTEMS				RECEIVED:		01/05/83 JA: TX			
8316736	F-7B-054890	4244700000		102-2		BERT GREGORY #2	BONNER-KIMBELL (CADDO	0.0	WARREN PETROLEUM
-TRINITY RESOURCES INC				RECEIVED:		01/05/83 JA: TX			
8316848	F-02-060611	4246?318?3		102-?	103	KEEHAN #1	GARCITAS CREEK (6030)	128.0	TENNGASCO GAS GAT
-TSPI INC				RECEIVED:		01/05/83 JA: TX			
8316797	F-10-057416	4233??????		103		MISS QUAIL #1	EAST PANHANDLE LOWER	208.0	DIAMOND SHAMROCK
-TUCKER DRILLING COMPANY INC				RECEIVED:		01/05/83 JA: TX			
8316802	F-7C-058102	4241331248		102-4	103	HARDEMAN #2	GENEVA (ELLENBURGER)	127.4	PRODUCER'S GAS CO
8316890	F-7C-061480	4223531981		103		LINDLEY "40" #4	ROCK PEN (CANYON)	72.0	INTER NORTH INC
8316774	F-7C-056479	4241331233		102-4	103	MOORE #1	MOORE J (ELLENBURGER)	378.0	PRODUCER'S GAS CO
-TXO PRODUCTION CORP				RECEIVED:		01/05/83 JA: TX			
8316731	F-0?-05?32?	?213135139		102-?		BARBERA A 1-DC	J R (4120')	0.0	VALERO TRANSMISSI
8316712	F-02-050585	4228531376		102-?		HANCOCK G U "G" #1	PROVIDENT CITY (13???	0.0	TEXAS EASTERN TRA
8316754	F-03-055776	4248100000		103		HENDERSON #3	WHARCO-SHILLING	0.0	DELHI GAS PIPELIN
-U S OPERATING INC				RECEIVED:		01/05/83 JA: TX			
8316818	F-03-058?53	422??31?5?		102-2		SHERRY #1 RRC ID #15995	BIDDINGS (AUSTIN CHAL	0.0	PDP GAS PRODUCTS
-UNION EXPLORATION				RECEIVED:		01/05/83 JA: TX			
8316760	F-7B-056199	4205933242		102-4		DRAKE -A- #2	BOWNE N (CADDO)	3.0	LONE STAR GAS CO
8316830	F-7B-060034	4205933906		102-4		WILLIAMS -61- #62 (102446)	FIDDLERS GREEN (BLUFF	42.0	LONE STAR GAS CO
-UNION TEXAS PETROLEUM				RECEIVED:		01/05/83 JA: TX			
8316832	F-02-060192	4228531656		102-4		HILDA S DAGG #1	DRY HOLLOW (WILCOX DA	1113.0	HOUSTON PIPELINE
8316708	F-10-048550	4248330780		107-DP		ONA BLACK 1-49	WHEELER NE (MORROW)	1095.0	COLORADO INTERSTA
-VALWOOD PRODUCTION CO				RECEIVED:		01/05/83 JA: TX			
8316752	F-03-055690	4205100000		102-2	103	JAMES MATIS #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-W B D OIL & GAS CO				RECEIVED:		01/05/83 JA: TX			
8316972	F-10-061780	4223331488		103		ROSS #1 05209	PANHANDLE	0.0	DIAMOND SHAMROCK
8316970	F-10-061776	4223331489		103		ROSS #3	PANHANDLE HUTCHINSON	0.0	DIAMOND SHAMROCK
8316971	F-10-061777	4234130891		103		RUSSELL #4 01353	PANHANDLE	0.0	PHILLIPS PETROLEU
-W B TRAMMELL				RECEIVED:		01/05/83 JA: TX			
8316874	F-7B-061268	4215131565		102-4		W B TRAMMELL #5-19	JUDY GAIL EAST (CANYO	0.0	PALO DURO PIPELIN
8316873	F-7B-061267	4215131486		102-4		W B TRAMMELL #8-19	JUDY GAIL EAST (CANYO	0.0	PALO DURO PIPELIN
-W C S PETROLEUM INC				RECEIVED:		01/05/83 JA: TX			
8316859	F-03-061101	4205132338		102-2		SHANKLIN #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-W R EDWARDS JR				RECEIVED:		01/05/83 JA: TX			
8317033	F-10-061960	4223300000		103		MERCHANT #1	PANHANDLE HUTCHINSON	250.0	PANHANDLE PRODUCI
8317034	F-10-061961	4223300000		103		MERCHANT #2	PANHANDLE HUTCHINSON	250.0	PANHANDLE PRODUCI
-WAGNER & BROWN				RECEIVED:		01/05/83 JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8316891	F-08-061507	4243131181		103		BARBEE "A" #1-3	CONGER (PENN)	1.9	TEXAS UTILITIES C
-WALSH AND WATTS INC				RECEIVED:	01/05/83	JA: TX			
8316918	F-78-061699	4215131560		103		YORK #7 (15270)	JUDY GAIL (CANYON SAN	3.0	LONE STAR GAS CO
-WALTER EXPLORATION INC				RECEIVED:	01/05/83	JA: TX			
8316853	F-09-060761	4233700800		102-A		BRITE 1-C	ROOTER (CONGL)	0.0	LONE STAR GAS CO
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	01/05/83	JA: TX			
8317020	F-08-061913	4210300311		108		STATE LB #1	DUNE	15.5	EL PASO NATURAL G
-WAYNE HARPER				RECEIVED:	01/05/83	JA: TX			
8316993	F-09-061849	4209732084		103		WILLIAM HOWELL "C"	SIVELLS BEND FIELD	29.0	SIVELLS GAS LTD
8316999	F-09-061872	4209732098		103		WILLIAM HOWELL "C" #2	SIVELLS BEND FIELD	32.0	SIVELLS GAS LTD
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED:	01/05/83	JA: TX			
8316800	F-04-057715	4224931537		102-A		JOSEPHINE ALMOND #1	ALMOND 3000'	21.0	SOUTHERN GAS PIPE
-WESTERN CHIEF OIL & GAS CO				RECEIVED:	01/05/83	JA: TX			
8316742	F-78-055383	4236732110		102-A		HORSON #2 P #117899	BRA (STRAWN)	0.0	SOUTHWESTERN GAS
-WHEELER OIL COMPANY				RECEIVED:	01/05/83	JA: TX			
8317021	F-10-061926	4248330704		108		AUSTIN (97261) #1	EAST PANHANDLE	1.0	HIGH PLAINS NATUR
8317022	F-10-061927	4248330804		108		GUEST #1 (91905)	EAST PANHANDLE	9.0	HIGH PLAINS NATUR
8317023	F-10-061928	4248330807		108		HOLMES (97259) #1	EAST PANHANDLE	2.0	HIGH PLAINS NATUR
8317025	F-10-061930	4248330479		108		JOHN MERTEL (90756) #1	EAST PANHANDLE	1.0	HIGH PLAINS NATUR
8317024	F-10-061929	4248330806		108		LUMMUS (91523) #1	EAST PANHANDLE	3.0	HIGH PLAINS NATUR
8316989	F-10-061825	4248330809		103		WILLIAMS (04815) #1	PANHANDLE WHEELER COU	7.0	RAEL GAS CO
-WILSON ENERGY INC				RECEIVED:	01/05/83	JA: TX			
8316949	F-08-061745	4200333168		103		MCKINNEY #1	WEMAC (WOLFCAMP)	27.0	PHILLIPS PETROLEU
-WOOLEY PETROLEUM				RECEIVED:	01/05/83	JA: TX			
8316856	F-09-060837	4249732393		103		H M BRANCH #1	BOONSVILLE (BEND CONG	120.0	DELHI GAS PIPELIN
-WY-VEL CORP				RECEIVED:	01/05/83	JA: TX			
8316995	F-10-061851	4217731261		103		ACKER (04707) #2	PANHANDLE	31.0	CABOT CORP

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New Tight Formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 83–2986 Filed 2–2–83; 8:45 am]
BILLING CODE 6717–01–M

Office of Energy Research

High Energy Physics Advisory Panel; Renewal

This notice is published in accordance with the provisions of Section 7 of the Office of Management Budget Circular (OMB) A–63, Revised. Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the High Energy Physics Advisory Panel has been renewed for a 2-year period ending on January 27, 1985. The Panel will provide advice to the Secretary of Energy, through the Director, Office of Energy Research on long range planning and priorities in the national high energy physics program.

I certify that renewal of the Panel is in the public interest. The Panel will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), the Department of Energy Organization Act (Pub. L. 95–91), OMB Circular No. A–63 (Revised), and other directives and instructions issued in implementation of those acts.

Further information regarding this Advisory Panel may be obtained from Gloria Decker at 202–252–8990.

Issued at Washington, DC, on January 28, 1983.

K. Dean Helms,
Advisory Committee Management Officer.

[FR Doc. 83–2800 Filed 2–2–83; 8:45 am]
BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed; Week of January 3 Through January 7, 1983

During the Week of January 3 through January 7, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: January 27, 1983.

George B. Breznay,
Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 3 through Jan. 7, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 20, 1982	Atlantic Richfield Co., Los Angeles, Calif.	HRZ–0116	Interlocutory order. If granted: The Office of Hearings and Appeals would strike the December 14, 1982, Economic Regulatory Administration's reply memorandum from the record in Atlantic Richfield Company (Case No. HRZ–0110).
Jan. 3, 1983	Margaret Knoll, Santa Barbara, Calif.	HFA–0107	Appeal of an information request denial. If granted: The December 3, 1982, Information Request Denial issued by the Idaho Operations Office would be rescinded, and Margaret Knoll would receive access to certain DOE information.
Jan. 3, 1983	Southport Exploration, Inc., Norman, Okla.	HEE–0057	Exception to the reporting requirements. If granted: Southport Exploration, Inc. would not be required to file Form EIA–23 "Annual Survey of Domestic Oil and Gas Reserves."
Jan. 4, 1983	Continental Claims Service, Portland, Oreg.	HFA–0108	Appeal of an information request denial. If granted: The December 17, 1982, Information Request Denial issued by the Bonneville Power Administration would be rescinded and Continental Claims Service would receive access to information in the possession of Bonneville Power Administration concerning a helicopter accident.
Jan. 4, 1983	Economic Regulatory Administration/Cordele Operating Co., Washington, D.C.	HRZ–0119	Interlocutory order. If granted: The Proposed Remedial Order (Case No. HRO–0069) issued to Cordele Operating Company would be amended to include H.J. Porter, W.L. Pickens, and the Wheelock Oil Company as parties in the proceeding.
Jan. 4, 1983	Vanderbilt Energy Corp., Denver, Colo.	HRD–0098, HRH–0098	Motion for discovery and request for evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections in response to the Proposed Remedial Order (Case No. HRO–0080) issued to Vanderbilt Energy Corporation.
Jan. 6, 1983	Atlantic Richfield Co., Washington, D.C.	HRZ–0120	Interlocutory order. If granted: Atlantic Richfield Company would receive from the Office of Special Counsel the data base relied upon by DOE in computing "maximum" and "representative" price for certain Iranian and Venezuelan crude oils during period October 1973 through May 1975.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Jan. 3 through Jan. 7, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 6, 1983	Economic Regulatory Administration/Hudson Oil Co., Inc., Washington, D.C.	HRZ-0124	Interlocutory order. If granted: The Economic Regulatory Administration would be permitted to amend the March 23, 1982, Proposed Remedial Order issued to Hudson Oil Company, Inc. to reflect a recalculation of overcharges.
Jan. 6, 1983	Hudson Oil Co., Inc., Washington, D.C.	HRZ-0123	Interlocutory order. If granted: The March 23, 1982, Proposed Remedial Order issued to Hudson Oil Company would be dismissed on the grounds that it fails to set forth a *prima facie* case.
Jan. 6, 1983	Marathon Oil Co., Washington, D.C.	HRZ-0121	Interlocutory order. If granted: Marathon Oil Company would receive from the Office of Special Counsel the data base relied upon by DOE in computing "maximum" and "representative" price for certain Libyan crude oil during period October 1973 through May 1975.
Jan. 6, 1983	Murphy Oil Corp., Washington, D.C.	HRZ-0122	Interlocutory order. If granted: Murphy Oil Corporation would receive from the Office of Special Counsel the data base relied upon by Department of Energy in computing "maximum" and "representative" price for certain Venezuelan crude oils during period October 1973 through May 1975.

REFUND APPLICATIONS RECEIVED

[Week of Jan. 3, 1983 to Jan. 7, 1983]

Date	Name of refund proceeding/ name of refund applicant	Case No.
1/6/83	Tenneco/Kellenmyer, Inc.	RF7-104
1/5/83	Nordstrom Oil Co/Pacific Intermountain Express Co.	RF22-1.

[FR Doc. 83-2887 Filed 2-2-83; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of January 7 Through January 14, 1983

During the week of January 7 through January 14, 1983, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: January 27, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 7 through Jan. 14, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 7, 1983	Exxon Co., U.S.A./Mobil Oil Corp., Washington, D.C.	HED, HEH-0100	Motion for discovery, motion for evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the statements of objection submitted by Exxon Co., U.S.A. and Mobile Oil Corp. in response to the September 14, 1982, Proposed Decision and Order issued to Little America Refining Company, Inc. (Case Nos. HYX-0006 and HYX-0014).
Jan. 7, 1983	Little America Refining Co., Inc., Washington, D.C.	HED-0099	Motion for discovery. If granted: Discovery would be granted to Little America Refining Company, Inc. in connection with the statements of objection submitted in response to the September 14, 1982, Proposed Decision and Order issued to Little America Refining Co., Inc. (Case Nos. HYX-0006 and HYX-0014).
Jan. 7, 1983	Office of Special Counsel/Mustang Fuel Corp., Washington, D.C.	HEF-0011	Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement Special Refund procedures pursuant to 10 C.F.R. Part 205, Subpart V, in connection with the December 23, 1982, Consent Order issued in Mustang Fuel Corporation.
Jan. 10, 1983	Office of Enforcement/Ethyl Corp., Houston, Tex.	HQF-0013	Interlocutory order. If granted: The Office of Hearings and Appeals would implement the second stage refund proceeding regarding the Consent Order entered into by the Department of Energy and the Ethyl Corporation (Case No. BEF-0070).
Jan. 11, 1983	Little America Refining Co., Inc./Cities Service Co., Tulsa, Okla.	HEJ-0030	Request for Protective Order. If granted: Cities Service Company would enter into a Protective Order with Little America Refining Company regarding the release of proprietary information to Cities Service Company in connection with Little America Refining Company's year end review.
Jan. 11, 1983	Gulf Oil Corporation/Office of Special Counsel, Washington, D.C.	HRJ-0031	Request for protective order. If granted: The Office of Hearings and Appeals would issue a Protective Order limiting the use the Office of Special Counsel could make of certain allegedly privileged documents that the Gulf Oil Corporation would release pursuant to the decision in *Office of Special Counsel*, 10 DOE ¶ 84,015 (1982).
Jan. 11, 1983	Office of Special Counsel/Tenneco Oil Co., Washington, D.C.	HFX-0073	Supplemental order. If granted: The per-gallon refund amount by which refunds are calculated in the Tenneco special refund proceeding (*Office of Special Counsel*, 9 DOE ¶ 82,538 (1982)) would be increased.
Jan. 12, 1983	State of California, Landover, Md	HRZ-0125	Interlocutory order. If granted: The State of California would be permitted to participate in the proceeding regarding the Proposed Remedial Order (Case No. HRO-0091) issued to P&R Trading Company with respect to the issue of the appropriate method of its distribution of any overcharges that are recovered through the enforcement proceeding.
Jan. 12, 1983	Red Rock Petroleum Co., Inc., Oklahoma City, Okla.	RR1-2	Request for modification/Recission in the Vickers Refund Proceeding. If granted: The December 21, 1982 Decision and Order issued to Red Rock Petroleum Company, Inc. (Case No. RF1-163 in connection with the Vickers Petroleum Refund proceeding) would be modified to correct a computational error.
Jan. 13, 1983	Science Management Corp., Landover, Md	HFA-0109	Appeal of an information request denial. If granted: The December 14, 1982, Information Request Denial issued by the Contract Operations Division would be rescinded, and the Science Management Corporation would receive access to a copy of any technical and management proposal submitted by Electronic Data Systems.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Jan. 7 through Jan. 14, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 13, 1983	Robert Gregory, Fairfax, Calif.	HRZ-0126	Interlocutory order. If granted: The April 15, 1982, Proposed Remedial Order (Case No. HRO-0054) issued to Robert Gregory would be dismissed on the basis that he is not the proper recipient of the Proposed Remedial Order.

Refund Applications Received

[Week of Jan. 7 to Jan. 14, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
1/7/83	AMOCO/Tel-Maple, Car Care, Inc.	RF21-1
1/10/83	AMOCO/Jack Bingham	RF21-2
1/10/83	AMOCO/Flushing Service Center	RF21-3
1/10/83	AMOCO/Kevorkian Brothers Standard, Inc.	RF21-4
1/10/83	AMOCO/Hammons AMOCO Services	RF21-5
1/10/83	AMOCO/Ronald C. Hord	RF21-6
1/10/83	AMOCO/Austar Car Wash, Inc	RF21-7
1/10/83	AMOCO/Mack Moross Standard Service	RF21-8
1-10-83	AMOCO/Rochester Colonial Standard	RF21-9
1/10/83	AMOCO/Zoufal's I-94 Standard	RF21-10
1/10/83	Charter Oil/Dearybury Oil Company	RF23-1
1/11/83	AMCO-Romes Standard	RF21-11
1/11/83	AMOCO/Cable's 3 Chopt AMOCO	RF21-12
1/11/83	AMOCO/Lisk Standard Service	RF21-13
1/11/83	AMOCO/Bob's Standard Service	RF21-14
1/11/83	AMOCO/Clair's Standard	RF21-15
1/11/83	AMOCO/Sunny's Standard	RF21-16
1/11/83	AMOCO/Richardson Service	RF21-17
1/11/83	AMOCO/McAllister Service	RF21-18
1/11/83	AMOCO/Orchard Ridge Standard, Inc.	RF21-19
1/11/83	AMOCO/Shipley Standard Service	RF21-20
1/11/83	AMOCO/D.B.A. Territorial Standard Service	RF21-21
1/11/83	AMOCO/Bridgeport Standard Service	RF21-22
1/11/83	AMOCO/Howell Standard Service	RF21-23
1/11/83	AMOCO/Johnson's Service	RF21-24
1/11/83	ADA Resources/C&H Transportation	RF24-1
1/11/83	AMOCO/Valecks Standard Service	RF21-25
1/11/83	AMOCO/GLO Auto Wash, Inc	RF21-26
1/11/83	AMOCO/VAHS Standard Service	RF21-27
1/11/83	AMOCO/Don & Son Standard Service	RF21-28
1/11/83	AMOCO/15-Van Dyke Standard	RF21-29
1/11/83	AMOCO/10-Hoover Standard	RF21-30
1/11/83	AMOCO/Dave's Eastland Standard	RF21-31
1/11/83	AMOCO/Crova Sales & Service, Inc.	RF21-32
1/11/83	AMOCO/Ron's Ray Brothers Standard Service	RF21-33
1/11/83	AMOCO/Arborland Standard Service	RF21-34
1/11/83	AMOCO/Downtown Standard	RF21-35
1/11/83	AMOCO/Lester Fisher	RF21-36
1/11/83	AMOCO/Johnson's Standard Service	RF21-37
1/11/83	AMOCO/Mint-Man Car Wash	RF21-38
1/11/83	AMOCO/Rods Standard (AMOCO)	RF21-39
1/11/83	AMOCO/Coon Bros., Inc	RF21-40
1/11/83	AMOCO/Charlotte Standard Service	RF21-41
1/11/83	AMOCO/Saginaw Waverly Service, Inc.	RF21-42
1/11/83	AMOCO/James B. Donati	RF21-43
1/11/83	AMOCO/James B. Donati, Jr	RF21-44
1/11/83	AMOCO/Gary's Cascade Standard	RF21-45
1/11/83	AMOCO/Monahans Standard Service	RF21-46
1/11/83	AMOCC/Kenney's Olympic Standard Service	RF21-47
1/11/83	AMOCO/Remondini Standard Service	RF21-48
1/11/83	AMOCO/George E. Riede	RF21-49
1/11/83	AMOCO/Mel's X-Way Standard Service	RF21-50
1/11/83	AMOCO/Chuck & Sons Standard	RF21-51
1/11/83	AMOCO/Chuck & Sons Standard	RF21-52
1/11/83	AMOCO/Beaumont Standard Service	RF21-53
1/11/83	AMOCO/John C. Hoogeveen Standard Service	RF21-54
1/11/83	AMOCO/Hackert Enterprises, Inc.	RF21-55
1/13/83	AMOCO/Wisber Standard	RF21-56
1/13/83	AMOCO/Merle Oil Company, Inc.	RF21-57
1/13/83	AMOCO/Merle Oil Company, Inc.	RF21-58
1/13/83	AMOCO/Jack's Service Center	RF21-59
1/13/83	AMOCO/Howdy Jones Standard, Inc	RF21-60
1/13/83	AMOCO/Franklin Standard Service, Inc	RF21-61
1/13/83	AMOCO/Harry's Standard Service	RF21-62
1/13/83	AMOCO/Steven C. Munger	RF21-63
1/13/83	AMOCO/Doyle's Standard	RF21-64
1/13/83	AMOCO/Donald B. Sherer	RF21-65
1/13/83	AMOCO/Al Parks	RF21-66
1/13/83	AMOCO/L&S Standard Service	RF21-67
1/13/83	AMOCO/Romeo Standard Service	RF21-68
1/13/83	AMOCO/Jack's Standard Service	RF21-69
1/13/83	AMOCO/Weeks Standard Service	RF21-70
1/13/83	AMOCO/Borg Standard	RF21-71
1/13/83	AMOCO/Lower's West Bloomfield Car Care	RF21-72
1/13/83	AMOCO/Ernest Sanders	RF21-73
1/13/83	AMOCO/Mar's Standard	RF21-74
1/13/83	AMOCO/Hancock AMOCO Service	RF21-75
1/13/83	AMOCO/Steve Kunhart	RF21-76
1/13/83	AMOCO/Dennis Kunhart	RF21-77

REFUND APPLICATIONS RECEIVED—Continued

[Week of Jan. 7 to Jan. 14, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No
1/13/83	AMOCO/Patricia Kunhart	RF21-78
1/13/83	AMOCO/Vahs Standard Service	RF21-79
1/13/83	AMOCO/Cranbrook Car Care	RF21-80
1/13/83	AMOCO/Pit Stop	RF21-81
1/13/83	AMOCO/Rochester RD & I-75 Standard Service	RF21-82
1/13/83	AMOCO/Pontiac Mall Standard Service	RF21-83
1/13/83	AMOCO/Zoufal Standard Service	RF21-84
1/13/83	AMOCO/Grosse Pointe Standard	RF21-85
1/14/83	AMOCO/M&M Gasoline Ent., Inc	RF21-86
1/14/83	AMOCO/Graul's Standard Service	RF21-87
1/14/83	AMOCO/Morgan's AMOCO Auto Repair	RF21-88
1/14/83	AMOCO/Otis L. Alford	RF21-89
1/14/83	AMOCO/Garth's Standard	RF21-90
1/14/83	AMOCO/Housing Authority of Baltimore City	RF21-91

[FR Doc. 83-2886 Filed 2-2-83; 8:45 am]

BILLING CODE 6450-01

ENVIRONMENTAL PROTECTION AGENCY

[A-9-FRL 2299-2]

Issuance of PSD Permit to U.S. Borax & Chemical Co.

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to U.S. Borax Chemical Co., located in Kern County, California, EPA project number SE82-02.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on December 16, 1982, the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to install duct burners, modifying the combustion gas turbine facility located near Boron, Calif.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including an allowable emission rate for NO_x of 102 tons/year and CO of 1200 tons/year.

Best Available Control Technology (BACT) requirements for NO_x are the installation of the proposed low NO_x burner system with an emission rate of 23.2 lbs/hr. This is considered to be BACT for the control of NO_x emissions. Best Available Control Technology (BACT) requirements for CO are the use of combustion controls with an emission rate for CO of 274 lbs/hr. This constitutes BACT for CO emissions.

Air Quality Impact Modeling was required for NO_x and CO. Continuous monitoring is required; the source is not subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by [60 days after publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address request to: Roccena Lawatch, M-5, U.S. EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Dated: January 20, 1983.

David P. Howekamp,

Director, Air Management Division, Region 9.

[FR Doc. 83-2972 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59112A; BH-FR 2297-6]

Certain Chemicals; Approval of Test Marketing Exemption(s)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: This notice announces EPA's approval of TM-83-16, and TM-83-17, two applications for test marketing exemptions (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M St. SW., Washington, DC. 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-16

Date of Receipt: December 14, 1982.

Notice of Receipt: December 23, 1982 (47 FR 57338).

Applicant: Confidential.

Chemical: (Generic) Substituted Polyalkylene glycol quaternary ammonium chloride.

Use: Confidential.

Producton Volume: Confidential.

Number of Customers: 1.

Exposure Information: During manufacture, a total of 35 workers may be exposed to the test market substance 8 hours per day, up to 14 days. At the customer's use sites, 2-4 workers per site may have potential for exposure for 2 hours per day, up to 10 days per site. Other potential for exposure could occur during sampling, or through accidental

spills or splashes. However, protective clothing (including gloves and goggles) will be used by workers at the manufacturing site to minimize contact with the new chemical.

Test Marketing Period: One year.

Commencing on: January 27, 1983.

Risk Assessment: EPA has established that the chemical substance submitted under TM–83–16 will not present an unreasonable risk of injury to health or the environment under the specific conditions set out in the application. Although there are health and environmental effect concerns for the new chemical based on previously-reviewed structurally-related compounds, the concerns are mitigated by the low exposure and release potential in this specific test market application. However, these effects would be unlikely due to the low levels of exposure to the new chemical substance and the short duration of exposure during the test market period. Ecotoxicity is unlikely since the new chemical will not be released (except through accidential spills) to the environment.

Public Comments: None.

TME 83–17

Date of Receipt: December 16, 1982.

Notice of Receipt: December 23, 1982 (47 FR 57338).

Applicant: Confidential.

Chemical: Modified copolymer of alkenoic esters and substituted alkenoic esters (Generic).

Use: Confidential.

Production Volume: 7,850 kg.

Number of Customers: 1

Worker Exposure: Potential exposure will be by the dermal route. During manufacture, 27 workers will be potentially exposed for 6 hours a day for 10 days; during processing, 4 workers for 6 hours a day for 10 days and during use, 15 workers for 3 hours a day for 250 days.

Test Marketing Period: 45 days.

Commencing on: January 27, 1983.

Risk Assessment: Based on the type of polymer, molecular weight, and that the test market substance is not designed to be water soluble, no significant health or environmental concerns were identified. Therefore, the Agency finds that the test marketing activity will not result in an unreasonable risk.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: January 27, 1983.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83–2970 Filed 2–2–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS 140029; TSH–FRL 2296–3]

Computer Sciences Corporation; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will provide Computer Sciences Corporation (CSC) access on EPA premises to information submitted by manufacturers, processors, and importers of chemical substances under sections 5 and 8 (a), (b), and (d) of the Toxic Substances Control Act (TSCA). Some of this information may be claimed confidential. Under EPA guidance, CSC will maintain conversion and optimization software and implement ADP systems which will process this information.

DATE: Access to information submitted to EPA and claimed confidential will take place no sooner than 10 working days after publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Chris Tirpak, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Under section 5(a) of TSCA, 15 U.S.C. 2604(a), manufacturers and importers of chemical substances are required to submit premanufacture notices (PMNs) for new chemical substances which they intend to manufacture or import and which are not included in EPA's Inventory of Chemical Substances. Under section 8(a), 15 U.S.C. 2607(a), manufacturers, importers, and processors of Chemical Substances may be required to submit basic information on use, release, and exposure to enable EPA to set priorities for testing and for assessing chemical risk. In accordance with section 8(b) 15 U.S.C. 2607(b), and the TSCA Inventory Reporting Regulations at 40 CFR Part 710, manufacturers, importers, and processors of chemical substances reported information concerning those substances to the TSCA Inventory of Chemical Substances. Under authority of section 8(d), 15 U.S.C. 2607(d), manufacturers, processors, and distributors of chemical substances will be required to submit lists of health and safety studies. Some of the information submitted under these sections of TSCA may be claimed confidential.

Under its contract with EPA (No. 6639–039), Computer Sciences Corporation, with guideance from EPA, will convert, optimize, and maintain software for processing of this confidential TSCA data at the secure computer data center at EPA's regional office in Research Triangle Park, N.C. CSC will require access to information which has been submitted or which will in the future be submitted to EPA under sections 5 and 8 (a), (b),and (d) of TSCA.

In accordance with 40 CFR 2.306(j), it has been determined that access by CSC to TSCA confidential business information will be necessary for the satisfactory performance of work under this contract.

CSC is legally required under the terms of its contract to safeguard from any unauthorized disclosure the confidential business information to which it receives access from EPA or which it generates during the performance of its work. CSC will not remove any confidential business information EPA premises.

CSC personnel will be required to sign a nondisclosure agreement before they are permitted access to such information. CSC is required to treat all confidential business information in accordance with the requirements of the TSCA Confidential Business Information Security Manual and the Contractor Requirements for the Control and Security of TSCA Confidential Business Information Manual.

Dated: January 13, 1983.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83–2957 Filed 2–2–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 83–44, et al.]

Metrocom of St. Louis, et al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: January 26, 1983.

Released: January 28, 1983.

The matter of Applications of Metrocom of St. Louis, CC Docket No. 83–44, File No. 26033–CL–P–(4)–82; Cybertel-Cox Celluar, File No. 26097–CL–P–(11)–82; and Cellular Mobile Systems of Missouri, Inc., File No. 26194–CL–P–(12)–82. For a Construction

Permit to establish a cellular system to operate on frequency Block A in the Domestic Public Cellular Radio Telecommunications Service to serve the St. Louis, Missouri-Illinois Standard Metropolitan Statistical Area.

1. Presently before the Chief, Common Carrier Bureau, under delegated authority are the captioned applications of Metrocom of St. Louis (Metrocom), Cybertel-Cox Cellular (CCC), and Cellular Mobile Systems of Missouri, Inc. (CMS). Metrocom, CCC and CMS propose to construct a cellular system on the non-wireline allocation (frequency block A) to serve the St. Louis, Missouri Standard Metropolitan Statistical Area (SMSA).[1] CMS and CCC filed Petitions to Deny each other's applications and Metrocom's application. Responsive pleadings have also been filed.

2. As discussed below, we find that the petitions fail to raise any substantial and material issues requiring designation for hearing. Since the three applications are mutually exclusive, we are designating them for a comparative hearing in accordance with the Commission's *Report and Order* in CC Docket No. 79–318, 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), *further modified*, 90 FCC 2d 591 (1982). We are also requiring that CMS modify its application as set forth below.

Metrocom Application

3. Metrocom's legal, technical and financial qualifications have been challenged. CMS argues that Metrocom has improperly proposed to provide cellular mobile equipment to customers under tariff and that it has failed to apply for or demonstrate the availability of microwave channels to interconnect its cell sites and switches. CCC states that Metrocom's proposed coverage of the St. Louis Standard Metropolitan Statistical Service Area is so deficient that its application should be disqualified from comparative consideration. CCC further alleges that Metrocom's proposed omni-directional antenna pattern is erroneous and its calculation of effective radiated power based on omni-directional gain results in the maximum ERP for cells 3 and 4 exceeding the 100-watt limit. Finally, petitioners challenge Metrocom's financial qualifications.

4. *Tariff Issue.* Based upon our review of the pleadings, Metrocom's application and response, we do not find support for the allegation that Metrocom has illegally included the cost of equipment in its proposed tariff. The application states that Metrocom will offer mobiles "at a competitive price for lease or rental to prospective (subscribers) through several financial arrangements" (Ex. 4, p. 4–147), and that rental and maintenance of equipment "will be available at prevailing tariffed or market rates at time of subscriber request." (Ex. 9, p. 9–26, 9–29 fn. **). Moreover, Metrocom states in its reply pleading that it has no intention of offering mobile equipment undertariff. Therefore, we decline to designate this issue for hearing.[2]

5. *Microwave Channels.* CMS's allegation regarding the absence of information about microwave channels is without merit. Common Carrier Public Notice, Mimeo 567, November 1, 1982, at page 3, stated that applicants need not include in their applications microwave applications and/or authorizations to connect the cell sites with the system control station to meet the required basic qualifications, and that no comparative preference would be accorded to an applicant submitting such interconnection information. The Public Notice reflects the absence of any requirements in the cellular rules, specifically, or in Part 22 of the Rules, generally, that applicants specify the method of connecting transmitter sites with switches and control points.

6. *Geographic Coverage.* We reject CCC's allegation that Metrocom's application should be disqualified from comparative consideration because the proposed coverage of its SMSA is insufficient. The Commission did not establish a threshold requirement for minimum coverage of the SMSA. Section 22.903(a) specifies only that an applicant must provide coverage of 75% of the proposed cellular geographic service area (CGSA) and Metrocom has clearly satisfied this requirement. Moreover, the Commission expressly stated in the *Report and Order* that the geographic area that an applicant proposes to serve, including its indications of substantial public need for the services proposed, would be a comparative and not basic criterion. 86 FCC 2d at 502. Therefore, CCC's allegations should be properly raised during the comparative portion of this proceeding.

7. *Erroneous Antenna Pattern.* Metrocom has submitted some minor amendments in response to CCC's allegations pertaining to its antenna pattern. We are satisfied that these amendments rectify the problem and do not alter Metrocom's CGSA or its 75% coverage of the CGSA. Therefore, we find that this allegation does not warrant an issue in hearing or disqualification of the applicant.

8. *Financial Issue.* Metrocom must demonstrate the availability of $5,666,800 to cover the $4,281,800 construction costs and $1,385,000 start up and first year operating costs for its cellular system. It is relying on the finances of its two joint venturers: Gensub, Inc. (Gensub) a subsidiary of Gencom, Incorporated, a subsidiary in turn of Communications Industries, Inc. (CI), and Ram Cellular Communications Corporation (RCCC), a subsidiary of Ram Broadcasting Corporation. Gensub and RCCC are each responsible for 50%, or $2,833,400, of Metrocom's financial requirements.[3]

9. Before addressing the financial showings of each joint venturer, we will resolve CCC's allegations concerning the financial requirements of Metrocom itself. CCC first argues that an additional $1,035,000 for interest expenses should be added to Metrocom's projected operating costs. It claims that this figure was mentioned by Metrocom in its direct case Testimony of David A. Bornowski, Controller for Gencom, who addressed the financial details of Gencom's contribution to Metrocom. CCC also asserts that Metrocom's costs and expense figures should include an allowance for investment in subscriber equipment. Metrocom responds that the $1,035,000 cost of capital figure was derived as part of the direct case testimony of Gencom's controller, solely for the purpose of testing the validity of Metrocom's rates. (Ex. 1 at p. 12). It explains that this figure does not represent a cost to Metrocom or to either joint venturer and that interest expenses have already been factored into Gencom's financial showing as set forth in the direct case testimony of Michael H. Barnes. Second, Metrocom argues that the cost of mobile equipment is not required to be included in financial projections. In any event, it asserts that it could finance any mobile equipment its subscribers might want to obtain. Using what it characterizes as a highly conservative cost per-unit of $2,000, and based upon Gencom's preliminary subscriber projections, Metrocom claims that the cost of equipment would be less than 50% of the estimated surplus cash that CI will generate by 1984 (Barnes Test. at 14).

[1] Two applications were also filed requesting the wireline allocation (frequency block B) in this SMSA. On December 9, 1982, the two applicants filed a statement agreement for this SMSA. We will consider the wireline allocation in a separate order.

[2] *See* Advanced Mobile Phone Service, Inc. *et al.* (Buffalo Order), CC Mimeo 1320, released December 14, 1982, at para. 23.

[3] Gensub is relying on the finances of its parent corporation, Gencom, Incorporated (Gencom) and of Gencom's parent, CI. Therefore, the analysis above will refer to the financial demonstration of Gencom.

10. We are persuaded by Metrocom's response that the $1,035,000 cost of capital figure was used by Gencom's Controller only to test the validity of Metrocom's rates and that interest expenses were properly factored into Gencom's financial projections. Further, § 22.917 of our Rules does not require that the cost of mobile equipment be included in an applicant's financial projections. Therefore, this allegation is irrelevant to our assessment of Metrocom's basic financial qualifications and does not warrant the designation of a financial issue against Metrocom.

11. *Gencom's Funds.* For its $2,833,400 commitment, Gencom is relying upon (1) existing cash of $10 million; (2) cash surplus of $10 to $20 million to be generated by 1984; (3) a $30 million line of credit at the First National Bank in Dallas; [4] and (4) equity financing of $40,000,000. CCC challenges each of these sources of funds and attacks Gencom's ability to fund the St. Louis system and its financial obligations in nine other cellular markets.[5]

12. The Common Carrier Bureau has resolved these allegations and found Gencom to be financially qualified for its commitment to six cellular systems, including the St. Louis system. *See Celcom Communication Corp. of Georgia, et al. (Atlanta Order),* Mimeo No. 1988, released January 28, 1983. Therefore, we will only address the financial allegations which are unique to this application.

13. CCC argues that Gencom cannot rely on the $30 million line of credit from the First National Bank of Dallas (InterFirst) for several reasons. First, it claims that the credit letter reflects that the Arizona Bank will fund 50% of the commitment, yet no documentation has been provided from the Arizona Bank confirming its willingness to participate. Further, CCC claims that the Arizona Bank cannot lend $15 million without violating its lending limit under federal law. Finally, CCC argues that a loan restriction dated March 26, 1974, between Prudential and CI, Gencom's parent, prohibits CI from incurring a "funded debt", which includes revolving credit agreements. Therefore, CCC argues that Gencom cannot rely on the $30 million credit agreement, or must deduct the $673,000 currently unpaid on the note to Prudential. Metrocom expressly rejects all of these contentions. It states that the InterFirst commitment is by no means dependent upon participation by the Arizona Bank, but rather is an unconditional commitment by InterFirst alone. It further states that the federal lending limit does not apply to the Arizona Bank because it is state chartered; it attaches a letter from the Arizona Bank confirming this fact. Metrocom also argues that the Prudential loan agreement will not in any way restrict CI's ability to borrow funds. CI can either satisfy the remaining indebtedness to Prudential or it can obtain a waiver of the restriction.

14. We find that CCC has not raised any substantial and material questions about Metrocom's financial showing. Metrocom's response adequately resolves the allegations concerning the Arizona Bank's contribution to the $30 million line of credit, the applicability of the lending limit to the Arizona Bank and the loan restriction between Prudential and Gencom's parent, CI. Therefore, since CCC has not raised any substantial issues particular to the St. Louis application, the conclusion in the *Atlanta Order* that Gencom is financially qualified for its six cellular commitments controls the disposition of CCC's arguments here.[6]

15. *Ram Cellular's Funds.* For RCCC to meet its $2,833,400 commitment to Metrocom, it is relying on (1) a $2.3 million standby letter of credit from the European—American Bank and (2) a guarantee from its parent, Ram Broadcasting Corporation (Ram) to absorb all of RCCC's liabilities, obligations and duties under the joint venture agreement. Both CMS and CCC challenge the adequacy of Ram's financial showing. First, they challenge the alleged guarantee by Ram on the ground that no information has been submitted which indicates Ram's ability to incur RCCC's financial obligation.[7] Therefore, relying only on the $2.3 million loan from the European American Bank [8] would leave RCCC short of its commitment by $533,400. Metrocom responds that the $2.3 million from the European American Bank adequately meets its commitment because the actual amount to be financial by Ram is only $2.185 million based on the unusual analysis discussed in note 6, *supra.* It states further than under the joint venture agreement, RCCC's obligation is guaranteed "unconditionally and irrevocably" by Ram, and pursuant to § 3.6 of that agreement, Gencom can, and will, satisfy any shortfall in Ram's contributions.

16. We will not credit RCCC with Ram's guarantee because it has not been documented that Ram could absorb RCCC's financial commitment. However, Gencom has established its willingness and ability to satisfy any deficiency in RCCC's contribution. In the *Atlanta Order, supra,* we found that Gencom demonstrated the reasonable assurance of 36.9 million to cover aggregate costs of $32,329,068 for its six top-30 applications, including St. Louis. Therefore, it is clear that Gencom has sufficient funds of $4.6 million to absorb RCCC's $533,400 shortfall.[9] Accordingly, no financial issue will be designated against Metrocom.

Cybertel-Cox Cellular (CCC) Application

17. CMS asserts that CCC has failed to demonstrate the availability of microwave frequencies and that its plan to substitute 11 GHz facilities for microwave frequencies is technically impossible and will alter CCC's financial requirements. CMS also alleges that CCC has violated § 22.913(a)(3) of the rules by failing to describe adequately its basis for determining congestion which would warrant cell-splitting and that the application raises serious questions as to whether the control point will be staffed "during the normal rendition of service," as required by § 22.909(a)(2) of the Commission's Rules. Finally, CMS argues that CCC has not demonstrated its financial qualifications.[10]

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[4] The First National Bank of Dallas has changed its name to InterFirst Bank Dallas, N.A. (InterFirst).

[5] Gencom is an applicant in six of the 30 largest markets. We do not here consider its financial qualifications with respect to any applications filed for markets below the top-30.

[6] In making this finding we do not adopt Metrocom's financial analysis. Metrocom attempted to reduce the liability of its joint ventures by deducting certain items, such as depreciation expenses, tax credits and revenue projections. The result is somewhat confusing and is inconsistent with the straightforward approach typically used by the Commission to examine financial ability. As stated, *infra,* we find Metrocom to be qualified on other grounds.

[7] CCC also mentions a reference in Ram's guarantee letter to Ramsub of Missouri, Inc. and confusion with respect to the guarantee signature page. Metrocom corrected these errors in a minor amendment dated September 13, 1982.

[8] CCC questions whether the European American Bank letter was missing text, however, Metrocom responds that the letter was complete.

[9] It is well settled that the provision of an adequate surplus of available funds in circumstances such as these obviates the need for a hearing issue. James B. Francis, *et al.,* 41 FCC 2d 303, 310 (Rev. Bd. 1973), and Home Service Broadcasting Corporation, *et al.,* 21 FCC 2d 168, 184 (Rev. Bd. 1970).

[10] In its reply, CCC attacks the allegations raised in the CMS petition as speculative and procedurally defective since the facts alleged are not supported by an affidavit of a person with personal knowledge as required by Section 309(d) of the Communications Act and § 22.30 of the Commission's Rules. Although this petition may be procedurally defective for failure to contain affidavits, we find that it is in the public interest to consider and resolve these objections.

18. *Microwave Channels.* As discussed above with reference to Metrocom's application, we do not require cellular applicants to apply for or demonstrate the availability of microwave frequencies prior to receiving a cellular authorization. Even so, CCC has included in its response affidavits which demonstrate that microwave frequencies are presently available in the St. Louis SMSA.

19. *System Congestion.* We reject CMS's allegation that CCC's proposal to add additional channels or cell site locations within a reasonable period of time, when the grade of service degrades to .03 is insufficient. The Commission has never specifically indicated what would constitute a sufficient response to Rule 22.913(a)(5), or in what degree of detail it should be articulated. We find that CCC has adequately complied with § 22.913(a)(5) of the Rules.

20. *Staffing of Control Points.* CMS alleges that CCC's applications is defective because the control point will not be staffed in accordance with the requirements of § 22.909(a)(2). CMS claims that in light of CCC's response to questions on the Form 401, it appears that two different locations have been identified as the control point and contradictary statements have been made concerning control point staffing. CCC responds that its application is confusing in terms of the control point location, but that the two locations mentioned will both be control points and they will be staffed at all hours by competent personnel. CCC also submits an affidavit from the company's President explaining the proposal in further detail and attesting that multiple control points and continuous staffing have always been intended. We find that CCC's control point locations will be staffed in accordance with our requirements.

21. *Financial Issue.* CMS questions CCC's financial qualifications by arguing (1) that operating costs are not specified in sufficient detail; (2) that CCC has not shown an ability to fund the first three years of operational expenses; (3) that interest and certain microwave costs are not reflected in the cost estimate; and (4) that Cox Broadcasting Corporation, joint venturer of CCC, has not demonstrated the availability of funds which are not committed to other projects.[11]

22. First, we find that CCC has sufficiently detailed its first year operating costs. These costs include, among others, floorspace, power and rent, telephone facilities maintenance, sales and marketing. No greater detail is required by the Rules. Second, we do not require applicants to demonstrate financial qualifications for more than one year of operation. See 47 CFR 22.917, and *Advanced Mobile Phone Service, Inc., et al.* (*Buffalo Order*), Mimeo 1320, released December 14, 1982, at para. 16. CCC claims that its system will be fully operational after construction of its Phase 1 six-cell system, and it has demonstrated its ability to fund the first year operating costs. Further, the allegation about the submission of microwave costs is irrelevant, because we do not require that these costs be submitted.

23. We find CCC to be financially qualified to construct and operate for 1 year, even when interest costs are included in the calculation. CCC asserts in its reply that interest expenses will be $353,000 during first year operation. Therefore, CCC must demonstrate the availability of $7,100,500–$6,206,000 construction costs and $541,500 first year operating costs—including $353,000 interest expenses. To demonstrate that it has sufficient funds, CCC relies on (1) a June 3, 1982, letter to Cybertel Corporation from the First National Bank of Chicago committing unutilized and available funds in excess of $1,000,000 for its participation in Cybertel-Cox Cellular; (2) a June 3, 1982, letter to Cox Broadcasting Corp. From the First National Bank of Chicago indicating its commitment to lend the Cybertel-Cox Cellular, joint venture, $4,000,000 for its cellular system; and (3) $1,700,000 from Cox Broadcasting Corp.'s net liquid assets. In addition, CCC relies on an existing revolving credit arrangement of $150 million from the Texas Commerce Bank to Cox Broadcasting, of which $68 million has been available since June 30, 1982.[12] Absent the $68 million revolving credit, CCC has demonstrated the availability of $6.7 million, as shown above. This amount leaves a shortfall of $300,500 to meet the $7,100,500 financial obligation. While we will not credit CCC with the entire $68 million revolving credit because the full amount is not expressly earmarked for cellular,[13] it is reasonable to assume that at least $300,500 will be available from those funds to satisfy the cellular commitment. Further, Cybertel Corporation's balance sheet was not sufficiently broken down into net liquid assets and liabilities, but it appears that some liquid assets will be available from the Cybertel Corporation.

24. Finally, we address CMS's allegation that Cox Broadcasting does not have sufficient funds to provide to Cybertel-Cox which are uncommitted to other corporate projects. CCC's response and attached letter from Mr. Dillion, Vice President-Finance, Cox Broadcasting, unequivocably assert that "Cox has resources uncommitted to other projects sufficient to fulfill its financial commitments to Cybertel-Cox Cellular." This is a specific, unrebutted statement that Cox has sufficient uncommitted funds for CCC and in light of Rule § 22.917(b), we do not require more. *See Advanced Mobile Phone Service, Inc., et al. Chicago Order)*, FCC 82–452, released November 1, 1982. Accordingly, we conclude that no financial issue should be designated for hearing against CCC.

CMS Application

25. CCC alleges that CMS has failed to comply with §§ 1.65 and 22.13(a)(5) of the Commission's Rules and that pending proceedings against its parent corporation, Graphic Scanning, bear substantially on CMS's fitness to be a Commission licensee. CCC also claims that CMS is not financially qualified, that it has violated § 22.15(a) of the Rules by not demonstrating site availability, and that Graphic Scanning has violated the Commission's Rules and Illinois State Law in connection with the construction and operation of DPLMRS facilities in Illinois. Finally, CCC states that CMS's claim to an omni-directional pattern is unsupported, and its calculation of effective radiated power based on omni-directional gain understates the maximum level of power radiated.

26. *Section 1.65 and 22.13(a)(5).* The thrust of this allegation is that CMS has failed to disclose the fact that petitions to deny have been filed against applications of Graphic subsidiaries for construction permits to provide paging services in the Domestic Public Land

[11] CCC is a joint venture between Cox Broadcasting Corporation and Cybertel Corporation. Therefore, its finances will be provided from both of these corporations.

[12] This credit arrangement was mentioned in the application, Exhibit 10B, and further clarified in CCC's response and attachments thereto. Further, CCC filed a September 8, 1982, Petition for Leave to Amend and attached a financial amendment containing this information, which had been previously returned on August 25, 1982. We will reverse our previous decision as erroneous and accept this amendment because it was mentioned in the application and it merely elucidates the terms and reaffirms the Bank's commitment to the credit arrangement.

[13] There are statements in CCC's response and attachments which assert that Cox Broadcasting has sufficient funds for cellular which are uncommitted to other projects. However, these statements do not expressly earmark Cox's $68 million revolving credit for cellular.

Mobile Radio Services. Thus, it claims that items 34 and 37 of FCC Form 401 were not answered candidly, and Rule §§ 22.13(a)(5) and 1.65 were violated.[14] In this regard, CCC argues that CMS's lack of candor in its cellular application, in conjunction with the serious allegations raised against Graphic in *ASD*, [15] indicate that CMS does not possess the requisite character qualifications to be a Commission licensee.

27. We conclude that CCC has failed to raise substantial and material questions of fact. CMS responds that none of the Graphic applications subject to investigation in the *ASD* case have been denied, nor have licenses been revoked. The rule sections that CCC cites do not require disclosure of applications which have petitions to deny pending against them. Moreover, the Commission has already held that the character of Graphic would be eamined in the *ASD* proceeding and would not be included in cellular application proceedings. *See Chicago Order, supra,* at n. 19. Consistent with that decision, the Commission reserves the right to reexamine and reconsider the qualifications of CMS to hold a cellular license should *ASD* be resolved against any of CMS's affiliates, parent companies or against any of their principals.

28. *Financial Issue.* CCC alleges that CMS has not demonstrated that its parent, Graphic, can cover the costs of the 30 cellular systems it proposes to fund, including St. Louis, in light of the costs of other communications projects to which Graphic is committed. CMS responds that it has adequately demonstrated its ability to finance the St. Louis system as well as all 30 cellular systems. For St. Louis, CMS estimates that the costs of its proposed system total $7.946 million and a commitment letter from Graphic confirms that $8.9 million will be available to cover these costs.

29. We are unpersuaded by CCC's financial allegations. The adequacy of Graphic's financial showing for its 30 market cellular commitment has already been decided by the Commission. The Commission has found Graphic to be financially qualified to construct the 30 cellular systems it proposes, including the St. Louis system. *See Chicago Order, supra,* At paras. 6–12. Since CCC has not raised any points particular to the St. Louis application, those findings control the disposition of CCC's arguments here.

30. *Site availability.* CCC asserts that the CMS application should be returned as defective for failing to demonstrate site availability as required by § 22.15(a) of the Rules. CCC urges us to reject the "reasonable assurance" standard and adopt a strict standard for site availability. It then argues that CMS has not met either standard. CCC attacks most of CMS's site availability letters, alleging among other things, that some letters are not signed by the owner of the site or by one with "legal control", that different site coordinates are contained in the letter and application, and that references are made to use of antenna and radio equipment space although no tower exists on the site. In CMS's response, its asserts the availability of all its site locations, and submits letters which reaffirm the initial demonstration of site availability.[16]

31. We find that CMS has made an adequate showing of site availability. An applicant need not have a binding agreement or absolute assurance of the availability of a proposed site but rather must show that it has obtained reasonable assurance that its proposed site is available. *See Advanced Mobile Phone Service, Inc. et al. (Pittsburgh Order),* Mimeo 1169, released December 6, 1982, at para. 8. Accordingly, we find no reason to designate a site availability issue against CMS.

32. *Violation of Illinois State Law.* CCC states that Graphic, through its wholly-owned subsidiary, Radio Relay Corporation–Missouri (RRC), has constructed and operated a satellite radio transmitter in Belleveille, Illinois, but has never obtained a state certificate of public convenience while operating the Bellville station. Therefore, CCC claims that RRC is in violation of both FCC Rules and Illinois law which reflects on Graphic's qualifcations to be a Commission licensee in the cellular radio service. CCC attaches RRC's January 20, 1982 application for license on Form 403, which indicates that construction of the Belleville, Illinois, facilities was completed on January 19, 1982, and that the station was ready for operation on that date. It also attaches and affidavit of an individual who on July 17, 1982, used testing equipment to confirm that the station was operating. Finally, it attaches a certificate of the Chief Clerk, Illinois Commerce Commission, stating that as of June 23, 1982, RRC had not applied for a Certificate of Convenience and Necessity to provide radio paging service in Belleville (St. Clair County), Illinois. CMS responds that this is the first time in any pleading before the Commission that this charge has been made and it states that CCC did not file these allegations in the context of the Belleville proceeding. CMS also claims that it is unaware of any complaint filed against RRC in a state court or before the Illinois State Public Utilities Commission. In this regard, it submits an affidavit from RRC's attorney in the Belleville matter attesting that he has never heard of this allegation before and that to his knowledge it has not been raised in the context of any existing license or pending application of RRC. CMS further argues that the Commission traditionally declines to interfere in questions of alleged state law violations where no challenge has been made in the State courts, and it urges us to forbear from action in this situation as well.

33. We will not designate an issue based upon the allegations submitted here. This matter is not before the State commission and no allegations have previously been brought before this Commission. Moreover, these allegations are traditionally acted on by the state utility commission. If the state takes action or determines that the state law has been violated, the Commission will review the relevance of that action at an appropriate time.

34. *Engineering.* Finally, CCC alleges that the CMS application contains a serious engineering defect because CMS

[14] Item 34 of Form 401 requires the applicant and each party to the application to disclose information regarding the revocation of any license or denial by the Commission of any application for permit or license. Item 37 requires the applicant to disclose whether it, or any party directly or indirectly controlling it, is presently a party in any matter referred to in Item 34. Section 22.13(a)(5) of the Commission's Rules requires applications to be maintained "substantially accurate and complete in all significant respects in accordance with the provisions of § 1.65 [of the Commission's Rules]." 47 CFR 22.13(a)(5) and § 1.65 requires that applicants maintain the accuracy and completeness of information furnished in a pending application.

[15] A.S.D. Answer Service, Inc., *et al.*, FCC 82–391, released August 24, 1982.

[16] CMS also resubmitted an amendment dated September 13, 1982, which indicated the availability of a new cell site 8 and a new cell site 5. CMS claims that it is changing site 8 because of a collating error and that it lost site 5 due to pending highway construction. We had already returned the amendment to site 8 as a major amendment in a letter to CMS dated August 16, 1982. We continue to believe that this is a voluntary, major change because it adds a large area previously unserved, which changes the 39 dbu contour for that cell, and because there is no evidence that the original site was lost. Therefore, CMS must rely for comparative purposes on the original cell site material which was filed in the application and which included reasonable assurance of site availability. We will accept the amendment to cell site 5, however, because the loss of this site is involuntary, and is caused by unforseen circumstances beyond the applicant's control. Moreover, the change in distance is so minimal that CMS will not receive a comparative advantage nor will any other party to the proceeding be prejudiced by this change. Therefore, we will retain the portion of the September 13, 1982, amendment regarding cell site 5 and the site availability letter submitted with CMS's supplement to its response.

proposes to utilize an omni-directional antenna for six of its cell sites. CCC argues that CMS has proposed to side-mount omni-directional antennas on towers which will result in a directional pattern with increased gain in some directions and decreased gain in others. Therefore, CCC asserts that five of CMS's sites will exceed the 100 watt ERP limit. CMS responds that the re-radiation effects are minimal when compared to the factors which actually establish the transmitter's ERP as seen at the receiving point. Moreover, CMS challenges the lack of specificity and completeness of CCC's analysis.

35. Upon review of the pleadings, we have determined that although the effect on CMS's engineering and overall system coverage is minimal, the omni-directional patterns submitted by CMS are in fact technically incorrect. In addition, at those sites where the proposed effective radiated power is at the maximum level of 100 watts, as required by § 22.904 of the Commission's Rules, the use of side-mounted omni-directional antennas may cause this power limit to be exceeded by some small amount. Therefore CMS is required to file within fifteen days of the publication of this Order in the **Federal Register**, an amendment containing corrected antenna patterns and any corresponding changes to the effective radiated power calculations. This amendment should not cause any 39 dBu contours to cover an area not previously covered.

Conclusions

36. Based on our analysis of the applications and our resolution of the contested issues in this order, we find the applicants to be legally, technically, financially and otherwise qualified [17] to construct and operate their proposed cellular system. As indicated in our previous discussions, the captioned CMS application does not comply with one of the cellular rules. In the *Chicago Order*, at para. 17, the Commission determined that inflexible application of the rules to applications in the 30 largest markets would not be in the public interest. Accordingly, we are requiring CMS to bring its application into conformance with the rules as specified in this order. We emphasize that the amendment ordered here may not be used to give CMS a comparative advantage in the hearing proceeding. As the Commission stated in the *Chicago Order*, in markets for which applications have not yet been filed, strict conformance with the rules will be required, and absent unusual circumstances, the applicants will not be allowed to amend nonconforming applications.

37. Accordingly, it is ordered that pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Metrocom of St. Louis, File No. 26033–CL–P–(4)–82, Cybertel-Cox Cellular, File No. 26097–CL–P–(11)–82, and Cellular Mobile Systems of Missouri, File No. 26194–CL–P–(12)–82, are designated for hearing in a consolidated proceeding upon the following issues: [18]

(a) To determine on a comparative basis the geographic area and population that each applicant proposes to serve; [19] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(b) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for both local and roamer service; [20]

(c) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities); [21] and

(d) To determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

38. It is further ordered that the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding. [22]

39. It is Further ordered that the applicants shall file written notices of appearances under § 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the **Federal Register.**

40. It is further ordered that the hearing shall be held according to the procedures specified in § 22.916 of the Rules, except as otherwise noted here, at a time and place and before an Administrative Law Judge to be specified in a later order.

41. It is further ordered that exceptions to the initial decision of the Administrative Law Judge under § 1.276 of the Commission's Rules shall be taken directly to the Commission.

42. It is further ordered that Cellular Mobile Systems is directed to file the amendment specified in this order within 15 days after publication of this order in the **Federal Register** and that all applicants are directed to file rebuttal cases under § 22.916(b)(4) of the Rules within 45 days rather than 30 days after publication of this order in the **Federal Register.**

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[17] We recognize that the qualifications of Graphic, CMS' parent, may be in issue in CC Docket Nos. 82–587, *et al. See* note 18, *infra.*

[18] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). We have found the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Missouri or its parent, Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing, A.S.D. Answer Service, Inc., *et al.* (*ASD*), FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 44, *infra*, the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Missouri to hold a cellular license should ASD be resolved adversely to any of CMC's affiliate or parent companies or to any of their principals. *See Chicago Order*, at n. 19.

[19] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Consideration should be given to the presence of densely populated regions, highways and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the service proposed. *See* 86 FCC 2d at 502.

[20] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502–503.

[21] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[22] Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision making or agency review on an ex parte basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. *See* Communications Act of 1934 as amended § 409(c) (47 U.S.C. 409(c)); Administrative Procedure Act section 554(d) (5 U.S.C. 554)); § 1.1221 of the Commission's Rules.

43. It is further ordered that the Petitions to Deny filed by Cybertel-Cox Cellular and Cellular Mobile Systems of Missouri, Inc., are denied.

44. It is further ordered that any authorization granted to Cellular Mobile Systems of Missouri, Inc., as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82–391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

45. It is further ordered that any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances.

46. This order is issued under Section 0.291 of the Commission's Rules and *Order Delegating Authority*, FCC 82–435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under § 1.106 or applications for review under § 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* Rule 1.4(b)(2).

47. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83–2894 Filed 2–2–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; First Wyoming Bancorporation et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation woud not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Wyoming Bancorporation*, Cheyenne, Wyoming; to acquire 100 percent of the voting shares or assets of Bank of Laramie, Laramie, Wyoming. Comments on this application must be received not later than February 25, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Harris County Bankshares, Inc.*, Houston, Texas; to acquire at least 51 percent of the voting shares or assets of Harris County Bank-Cy-Fair, N.A., Jersey Village, Texas. Comments on this application must be received not later than February 25, 19833.

2. *Harris County Bankshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Harris County Bank-Airport, N.A., Houston, Texas. Comments on this application must be received not later than February 25, 1983.

C. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Allied Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares of Texas Bank & Trust Company of Houston, Houston, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 25, 1983.

Board of Governors of the Federal Reserve System, January 28, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–2884 Filed 2–2–83; 8:45 am]

BILLING CODE 6210–01–M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Chase Manhattan Corp. et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York (reinsurance activities; Delaware): To underwrite as reinsurer credit life insurance and credit accident and health insurance directly related to extensions of credit by the bank holding company system. This activity is permissable for bank holding companies pursuant to section 601(A), Title VI, of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97–320, 96 Stat. 1536 (1982). These activities would be conducted by The Chase Manhattan Corporation's subsidiary, Western Hemisphere Life Insurance Company, Newark, Delaware, for insurance written in Delaware. Comments on this application must be received not later than February 25, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *NBD Bancorp, Inc.*, Detroit, Michigan (mortgage banking activities; Florida): To engage, through its subsidiary, NBD Mortgage Company, in mortgage banking activities, including the making and acquiring of mortgage loans for its own account and for the account of others and such other extensions of credit as would be made

by a mortgage company. These activities would be conducted from an office in Plantation, Florida, serving the State of Florida. Comments on this application must be received not later than February 23, 1983.

Board of Governors of the Federal Reserve System, January 28, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc 83-2885 Filed 2-2-83, 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority

Part A (Office of the Secretary), Chapter AE (Office of the Assistant Secretary for Planning and Evaluation) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (last amended at 46 FR 9783, January 29, 1981) is amended.

The changes are made to promote effectiveness of the organization and clarify assignment of responsibilities.

1. Amend Chapter AE by deleting the current chapter in its entirety and replacing it with the following:

AE.00 Mission
AE.10 Organization
AE.20 Functions

Section AE.00 Mission

The Assistant Secretary for Planning and Evaluation serves as the principal advisor to the Secretary on policy development, program analysis, and economic policy. He/She is responsible for the major decisions and support activities which encompass legislative development, planning, policy analysis and research and evaluation oversight. This mission is accomplished through an organization consisting of functional and programmatic units. This dual approach provides both an operational framework to direct, coordinate and evaluate departmental activities and a research and analytic capability to perform policy analyses.

Section AE.10 Organization

The Office of the Assistant Secretary for Planning and Evaluation (OASPE) consists of the following components:

A. Immediate Office (IO).
B. Office of Program Systems (OPS).
(1) Division of Policy Analysis and Research.
(2) Division of Planning and Policy Coordination.
(3) Division of Technical Analysis.
(4) Division of Intergovernmental Policy.
C. Office of Health Policy (OHP).
(1) Division of Health Financing Policy.
(2) Division of Science and Public Health Policy.
(3) Division of Health Resources and Services Policy.
(4) Division of Economic Analysis.
D. Office of Social Services Policy (OSSP).
(1) Division of Children, Youth and Family Policy.
(2) Division of Disability, Aging and Long-Term Care Policy.
E. Office of Income Security Policy (OISP).
(1) Division of Income Assistance Policy.
(2) Division of Social Security Policy.
(3) Division of Policy Research.
F. Office of Evaluation and Technical Analysis (OETA).
(1) Division of Evaluation.
(2) Division of Technical Support.

Section AE.20 Functions

A. *The Immediate Office* of the Assistant Secretary for Planning and Evaluation provides executive direction, leadership and guidance to ASPE components. The Assistant Secretary acts as the principal advisor to the Secretary and is responsible for major decisions and support activities in the areas of legislative development, planning, policy analysis and research and evaluation oversight.

B. *The Office of Program Systems*, in conjunction with the offices of Health, Income Security and Social Services Policy, is responsible for the general development, coordination, and operation of the Department's policy planning, development, and policy support activities, including formulation of legislation, and for direct policy and program analysis for crosscutting issues which involve more than one HHS agency or which involve HHS interaction with other Federal departments or agencies or other levels of government. This office also is responsible for oversight of research and regulatory analysis conducted throughout the Department.

1. *The Division of Policy Analysis and Research* is responsible for developing procedures to insure the quality, relevance, and utility of the Department's research activities; for the conduct of policy analysis in subjects and areas, such as civil rights, not covered by, or cutting across, the programmatic offices of OASPE; for providing the Department's analysis and representation on issues of primary concern to other Federal departments and agencies; for representing the Department on government wide task forces; for the oversight of regulatory analysis and related analytic activities concerning regulations; and for developing approaches to conduct effective policy analysis of social programs and providing technical support to other offices on techniques of policy, systems, and benefit cost analysis.

2. *The Division of Planning and Policy Coordination* is responsible for the development, coordination, and oversight of policy planning and formulation of legislation by the Department, including the establishment of schedules and procedures to insure the availability of supporting information. This Division is further responsible for performing analyses to identify program duplication and opportunities for consolidation, for the review of legislative proposals affecting HHS but prepared by other Departments, and for development of guidelines and data concerning income and state allotments.

3. *The Division of Intergovernmental Policy* is responsible for conducting and coordinating the necessary policy planning, program analysis, research, and evaluation on the implications of alternative departmental policies on State, territorial, local and tribal governments. Functions include: Conduct of policy planning and analysis when such policies have particular impact on State or local governments, review of proposed policies to insure that views of other governments are included in the consideration of proposed policies; oversight of research in areas having intergovernmental significance; assistance to the Deputy Under Secretary for Intergovernmental Affairs on particular initiatives with real or potential impact on State or local governments; and coordination of implementation of selected policy initiatives which have major impact on State or local governments and concern more than one departmental agency, such as the implementation of block grants.

C. *The Office of Health Policy* is responsible for policy development—including policy planning, policy and budget analysis, review of regulations and formulation of legislation—and for the conduct and coordination of research and evaluation on issues relating to health programs. In these matters, the office works closely with the Public Health Service and the Health Care Financing Administration.

1. *The Division of Health Financing Policy* is responsible for policy coordination, long-range planning, formulating budget and legislation, economic analysis, program analysis, review of regulations, evaluation, and information dissemination related to the Department's health financing programs, primarily Medicare and Medicaid and policies affecting health care financing and health care costs. Functions include: formulating and analyzing alternative legislative and regulatory proposals; preparing short-term policy analyses and evaluations on the efficacy of existing and potential programs in terms of cost, effectiveness and other variables; and synthesizing technical analyses performed outside of the Government in a manner that is relevant to policy formulation.

2. *The Division of Science and Public Health Policy* is responsible for policy coordination, long-range planning, formulating budget and legislation, economic analysis, program analysis, review of regulations, evaluation, and information dissemination related to three agencies of the Public Health Service: the National Institutes of Health, the Food and Drug Administration, and the Centers for Disease Control and policies affecting health promotion and disease prevention as well as review and oversight of the scientific research and public health and safety components of the Public Health Service.

3. *The Division of Health Resources and Services Policy* is responsible for policy coordination, long-range planning, formulating budget and legislation, economic analysis, program analysis, review of regulations, evaluation, and information dissemination related to two agencies of the Public Health Service: Health Resources and Services Administration and Alcohol, Drug Abuse, and Mental Health Administration as well as policies afffecting the health care delivery system and reimbursement and regulatory policies related to health manpower and capital resources. Specific responsibilities include: preparation of studies on the distribution, adequacy, and organization of health resources and services and the effects of these resources and services on costs and health status; appropriateness of services utilization; formulation and analysis of alternative legislative and regulatory proposals; performance of research and evaluation studies of health resources; and synthesis of these studies into special initiatives and new legislation.

4. *The Division of Economic Analysis* has responsibility for the performance of economic and statistical analyses of the Department's existing and proposed health care financing and reimbursement programs, policies and proposed legislation; performance of economic research and statistical analysis, as well as development, coordination and monitoring of health research and evaluation contracts in the areas of financing and reimbursement; and the estimation and analysis of the costs of existing and proposed Departmental health programs for use in the development of health policy.

D. *The Office of Social Services Policy* is responsible for policy development—including policy planning, policy and budget analysis, review of regulations and formulation of legislation—and for the conduct and coordination of research and evaluation on issues relating to social services, child welfare, aging, Native American and human development programs; deinstitutionalization and long-term care; and volunteerism and private sector initiatives. In these matters, the office works closely with the Office of Human Development Services.

1. *The Division of Children, Youth and Family Policy* is responsible for policy coordination, long-range planning, formulating budget and legislation, economic analysis, program analysis, review of regulations, research, evaluation, and information dissemination related to service programs and human development policies affecting children, youth, and families. The Division oversees and assists the development of legislative, budgetary, regulatory, and research/evaluation proposals for programs typically administered by the Office of Human Development Services, Office of Community Services, and other human services agencies. The Division performs independent policy research and evaluation of these programs and maintains a clearinghouse for improving the delivery of human services.

2. *The Division of Disability, Aging and Long Term Care Policy* is responsible for policy coordination, long-range planning, formulating budget and legislation, economic analysis, program analysis, review of regulations, research, evaluation, and information dissemination related to service programs and human development policies regarding the disabled, retarded, and aging populations, including deinstitutionalization, rehabilitation, long-term, and non-institutional community assisted care. The Division is the focal point for the coordination of disability and long-term care policy, including home and community care and institutional care, with related policies which affect the aged and disabled. Specific functions include design and execution of research studies and review and coordination of departmental research and demonstration activities.

E. *The Office of Income Security Policy* is responsible for policy development—including policy planning, policy and budget analysis, review of regulations and formulation of legislation—and for the conduct and coordination of research and evaluation on issues relating to income assistance and income security, and to employment programs that affect departmental programs and initiatives. In these matters, the office works closely with the Social Security Administration.

1. *The Division of Income Assistance Policy* is responsible for policy coordination, long-range planning, budget and legislation formulation, economic analysis, program analysis, review of regulations and reports on legislation, and information dissemination related to the Department's programs that provide, directly or through the States, cash assistance to the low-income population based on determinations of current need, and to employment and income support policies of this and other departments designed to enhance the earnings capacity of the non-aged chronically poor and to sustain them in periods of unemployment or unavoidable dependency. The principal departmental programs examined are Aid to Families with Dependent Children, Supplemental Security Income, Child Support Enforcement, Low-Income Home Energy Assistance, Work Incentive program, and refugee assistance. Key programs and areas outside the department that are monitored include the Earned Income Tax Credit, Food Stamps, housing assistance programs, and employment and training programs. In addition, the division assists the Division of Policy Research in the review and conduct of welfare and transfer policy research and welfare demonstrations.

2. *The Division of Social Security Policy* is responsible for policy coordination, long-range planning, budget and legislation formulation, economic analysis, program analysis, review of regulations and reports on legislation, and information dissemination related to the Old Age, Survivors and disability Insurance program and the Black Lung program and to policies of this and other

departments concerning income provision for retirement, old age and disability (e.g., the tax treatment of deferred compensation). These responsibilities include advising the Secretary about his or her decisions as a Trustee of the several Social Security funds. In addition, the division assists the Division of Policy Research in the latter's review an conduct of social security and retirement policy research.

3. *The Division of Technical Analysis,* in conjunction with the Divisions of Income Assistance Policy and Social Security Policy, is responsible for performing in-depth quantitative analyses of major income security policies, including alternatives to current law. Income Security programs of the department and related programs of other departments are analyzed, with particular emphasis on the construction of microsimulation models that use large data bases consisting of samples of the population or of program participants.

4. *The Division of Policy Research* is responsible, in conjunction with the other divisions of Income Security Policy, the Office of Evaluation and Technical Analysis, and the Office of Programs Systems, for reviewing the Department's research and evaluation activities in the areas of income assistance, employment and retirement income provision (as previously described); and for conducting an intramural and extramural research program in those same areas that, according to priorities of the Secretary, cuts across and complements research conducted by the agencies.

F. *The Office of Evaluation and Technical Analysis,* in conjunction with all other offices in the Office of the Assistant Secretary for Planning and Evaluation, is responsible for developing the Department's evaluation policies and procedures, oversight of the Department's evaluation and social and demographic statistical policy activities, insuring that the Department's evaluation system is responsive to priority information needs, developing and disseminating new and effective evaluation techniques, and performing direct evaluations. It is also responsible for providing a full range of technical support services to the OASPE.

1. *The Division of Evaluation* is responsible for developing the Department's evaluation policies and procedures, oversight of the Department's activities in evaluation, planning and coordinating a departmental evaluation program which is responsive to priority information needs for management, policy, legislative, and budget decisions, review and approval of the evaluation plans of the Operating Divisions and coordinating the development of the evaluation plan for the Office of the Assistant Secretary for Planning and Evaluation. It is also responsible for designing and managing short-term evaluation projects to carry out the Department's evaluation program and other priority evaluation projects in areas not covered by or cutting across other components of OASPE and providing training and technical assistance both to departmental evaluation staff on particular problems of evaluation design or management and to the Office of the Inspector General on service delivery assessments, and monitoring the usefulness of evaluation to the Department's decision makers.

2. *The Division of Technical Support* is responsible for providing analytic and statistical staff services, computer systems support and scientific computer programming in support of a variety of policy research and evaluation activities of the Office of the Assistant Secretary for Planning and Evaluation.

The division coordinates departmental statistical policy pertaining to social and demographic statistics. It provides a full range of automatic data processing services, including operation of the Computer Center, analytical staff services and technical advice in modeling socio-economic processes, developing and operating large-scale computer simulations of priority departmental initiatives, specialized scientific computation and analysis services, survey development, development of new quantitative methods for planning and evaluation, and performance of special studies and research to improve existing statistical techniques. In addition, the Division coordinates all Privacy Act, Computer Systems Security, Information Collection Budget and OMB Forms Clearance activities within the Office of the Assistant Secretary for Planning and Evaluation and operates the HHS Evaluation Documentation Center.

Dated: January 27, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-3005 Filed 2-2-83; 8:45 am]

BILLING CODE 4110-12-M

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part A (Office of the Secretary) and Part S (Social Security Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, to include reference in Chapter AF, Office of Inspector General (last amended at 47 FR 39616, August 9, 1982), of an SSA Program Integrity Division and a Regional Office SSA Field Integrity Staff. In addition, this notice removes from Chapter SL, Office of Assessment (last amended at 45 FR 70584, October 24, 1980) reference to the Division of Program Integrity (SLB1) and the Field Integrity Staff (SLF14–SLFX4). The functions assigned these two organizations are being transferred from the Social Security Administration to the Office of Inspector General in order to eliminate an overlap of functions between the Social Security Administration and the Office of Inspector General.

1. Chapter AF, Office of Inspector General, Section AF.20 is amended by deleting current subsection D, The Office of Investigations, and adding the revised section as follows:

D. *The Office of Investigations.* The Office of Investigations is under the general supervision of the Assistant Inspector General for Investigations.

1. *The Office of Investigations:* (a) Provides leadership, policy direction, planning, coordination, and management of the investigative programs of the Department and is responsible for the physical, documentary, and executive security programs of the Department.

(b) Conducts investigations pertaining to the Department's programs and operations and reports results of investigations to the Inspector General and keeps the Inspector General informed of significant developments regarding OI activities;

(c) Provides technical assistance and advice to the program staffs of the OPDIVs within the Department in identifying areas of high fraud potential and in developing integrity controls to minimize that potential;

(d) Reports information, allegations, and complaints regarding suspected criminal activity and conduct involving Departmental employees to the Department of Justice pursuant to the requirements of 28 U.S.C. 535;

(e) Serves as the Department's principal liaison with the Department of Justice on all matters relating to investigations of Departmental programs and personnel;

(f) Provides technical assistance and advice to the program staffs of the OPDIVs of the Department regarding physical and documentary security concerns and the integrity of program files;

(g) Reports information, allegations, and complaints regarding the

compromise, theft, or loss of classified material to the Department of Justice and other interested Government agencies;

(h) Advises appropriate Department OPDIVs and STAFFDIVs of the results of investigations and security surveys conducted by the Office of Investigations, including the disposition of any matter presented to the Department of Justice for possible criminal prosecution;

(i) Works with other OIG components and other investigative agencies on special assignments and projects; and

(j) Reviews legislative and program proposals for investigative implications.

The Office of Investigations consists of the following divisions and staff offices:

(a) Criminal Investigations Division
(b) Civil Fraud Division
(c) State Fraud Division
(d) Security and Protection Division
(e) SSA Program Integrity Division
(f) SSA Field Integrity Staff
(g) Investigative Systems Staff
(h) Regional and Field Offices

(a) *The Criminal Investigations Division:* (i) Provides direction and coordination to the investigative field offices concerning projects and investigations;

(ii) Implements guidelines and policies for the detection, investigation, and prevention of fraud and abuse in Department programs, and for the investigation of wrongdoings by grantees or contractors, or by Department employees in the performance of their official duties;

(iii) Identifies systemic and programmatic vulnerabilities in the Department's operations, and makes recommendations for changes in statutes, policies, and procedures;

(iv) Develops investigative techniques and programs and coordinates investigative projects with other OIG components and with other agencies;

(v) Provides programmatic expertise and disseminates information on new programs, procedures, regulations, and statutes to the field offices;

(vi) Reviews completed reports of investigation for accuracy and compliance with OI guidelines and policies and disseminates reports to prosecutive agencies, management officials, and through the Inspector General, to the Secretary;

(vii) Maintains liaison with OPDIVs and STAFFDIVs, OIG counterparts, and other investigative and law enforcement agencies;

(viii) Assists Assistant Inspector General for Investigations in establishing investigative priorities, supervising and evaluating field offices, and monitoring and reporting on the effectiveness of Division efforts;

(ix) Prepares management and statistical reports for the Assistant Inspector General for Investigations;

(x) Assists OIG in responding to Congressional inquiries, and requests for information made under the Privacy and Freedom of Information Acts;

(xi) Maintains a laboratory facility which provides examination and analysis of questioned documents to establish authorship and authenticity.

(b) *The Civil Fraud Division:* (i) Investigates or coordinates investigations which result in civil fraud litigation or imposition of a civil money penalty;

(ii) Investigates or coordinates investigations which result in administrative actions against employees, contractors, or grantees for misconduct;

(iii) Investigates or coordinates investigations of allegations of violations of standards of conduct by Department employees;

(iv) Recommends to the Secretary, OPDIVs and STAFFDIVs, when necessary, consideration of debarment actions against contractors and grantees, and personnel actions against employees who have committed wrongful acts against the Department;

(v) Monitors and coordinates administrative sanctions taken by OPDIVs or STAFFDIVs as a result of OIG referrals;

(vi) Maintains liaison with OPDIVs and STAFFDIVs to insure that appropriate procurement review and action is made on OIG referrals;

(vii) Maintains an index of individuals, corporations, and organizations which are prohibited from conducting business with the Department or any of its components;

(viii) Operates the OIG Hotline and receives and evaluates all complaints against HHS employees or programs, which have been filed with GAO or other agencies' Hotlines;

(ix) Conducts a Department-wide employee education program regarding availability of the Hotline;

(x) Analyzes patterns or trends which indicate problems developing within STAFFDIVs and OPDIVs, and conducts management reviews when necessary.

(c) *The State Fraud Division:* (i) Develops strategies, techniques, and manuals to assist State efforts to detect, prevent, investigate, audit, prosecute, or take administrative or programmatic action against those who defraud or abuse governmental programs funded by the Department;

(ii) Fosters improved relations and effective interaction among Federal, State, and local agencies and organizations responsible for the investigation and prosecution of fraudulent and abusive activities within the programs funded by the Department;

(iii) Analyzes, reviews, and evaluates State efforts in the administration of such programs, and their efforts to control fraud and abuse, and recommends improvements;

(iv) Reviews Federal policies, practices, and statutes which impact upon State effectiveness to control fraud and, when necessary, recommends improvements;

(v) Administers program aspects of grants to States for the investigation and prosecution of Medicaid provider fraud, and certifies State units designated for this purpose;

(vi) Plans, coordinates, and conducts regional and National training conferences relevant to fraud and abuse in HHS programs;

(vii) Assists various jurisdictions in investigations and prosecutions through the detailing of personnel; the coordination of multi-jurisdictional investigations; and the development of computer profile techniques, which identify suspected fraudulent activity.

(d) *The Security and Protection Division:* (i) Provides for the personal protection of the Secretary, and when necessary the Secretary's family, in order that the Secretary may effectively execute the duties of his office;

(ii) On a contingency basis provides personal protection, guidance, and assistance to other high-level Department officials;

(iii) Provides and maintains Department-wide policy, oversight, and guidance for the protection of Department property, activities, and personnel;

(iv) Develops and maintains an Occupant Emergency Plan (OEP), pursuant to GSA Federal Property Management Regulations, for the HHS Headquarters complex and provide OEP policy guidance to OPDIVs and STAFFDIVs;

(v) Establishes departmental policies, procedures, and guidelines for the protection of classified (national security) information, as mandated by Executive Order 12356, National Security Information; for communications security and industrial security; and for development, control, and safeguarding of all Departmental identification media;

(vi) Conducts evaluations, inspections, and reviews to ascertain the effectiveness of Department-wide

executive, physical, and information security programs;

(vii) Provides and maintains a Department-wide security awareness/education/training program relating to the safeguarding of classified and non-classified sensitive information, protection of Government property, and crime prevention;

(viii) Maintains liaison with OPDIVs and STAFFDIVs and other federal agencies on all matters pertaining to executive protection and other security programs affecting the Department.

(e) *The SSA Program Integrity Division:* (i) Develops policies, procedures and instructions for maintaining the integrity of SSA programs and processes and for the handling of cases of fraud and abuse;

(ii) Evaluates the integrity of SSA programs and processes;

(iii) Identifies the need for management actions to correct fraud and abuse in SSA programs and processes, monitors and reports on those actions;

(iv) Conducts studies and special projects related to the integrity of SSA programs and processes including special investigations and reviews of personnel irregularities;

(v) Refers individual cases to the United States Attorney where appropriate;

(vi) Provides direction and coordination to the SSA Field Integrity Staff concerning policy, procedures, and reporting;

(vii) Prepares investigative, management and statistical reports pertaining to SSA programs and processes.

(f) *The SSA Field Integrity Staff:* (i) Carries out a program to identify and prevent fraud, abuse, and waste in SSA programs and administrative processes;

(iii) Receives and evaluates allegations of fraud, abuse and wrongdoing in SSA programs or processes;

(iii) Provides technical direction to SSA operating components in the development of the fraud aspects of cases and performs investigations under guidelines and policies established by the Assistant Inspector General for Investigations;

(iv) Refers individual cases to the United States Attorney where appropriate;

(v) Prepares investigative, management and statistical reports pertaining to SSA programs and processes;

(vi) Within their area of responsibility, maintains liaison with and provides assistance to local SSA officials; other OIG components; other federal, state and local enforcement agencies; and U.S. Attorneys and other prosecutors.

(g) *Investigative Systems Staff:* (i) Provides for the development, maintenance, and operation of all centralized investigative data and management information systems for OI;

(ii) Analyzes, distributes, and reports the information required by the Assistant Inspector General for Investigations to support OI Headquarters and field activities;

(iii) Renders technical electronic data processing assistance to OI investigative units in the form of evidence analysis and computerized data interpretation;

(iv) Maintains official OI investigative files and indices;

(v) Operates mail and supply distribution functions for OI Headquarters.

(h) *Regional and Field Investigative Offices:* (i) Receives and evaluates allegations of fraud, abuse, or wrongdoing;

(ii) Initiates and conducts investigations under guidelines and policies established by the Assistant Inspector General for Investigations;

(iii) Prepares investigative, management, and statistical reports;

(iv) Assists government attorneys in criminal, civil, or administrative proceedings resulting from investigations;

(v) Provides assistance to the Civil Fraud Division, State Fraud Division, and Security and Protection Division in the furtherance of their missions;

(vi) Within their area of responsibility, maintains liaison with and provides assistance to local HHS officials; other OIG components; other federal, state, and local enforcement agencies; and U.S. Attorneys and other prosecutors.

2. Part S, Chapter SL, Office of Assessment is amended as follows:

(a) Section SL.10 is amended by deleting Subsection F.1, The Division of Program Integrity; renumbering Subsections F.2 and F.3 as F.1 and F.2 respectively; and by deleting Subsection G.4, the Field Integrity Staff (SLF14–SLFX4).

(b) Section SL.20 is amended by deleting Subsection F.1, The Division of Program Integrity (SLB1) in its entirety; renumbering Subsections F.2 and F.3 as F.1 and F.2 respectively, and by deleting Subsection G.4, The Field Integrity Staff (SLF14–SLFX4) in its entirety.

Effective: November 28, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 83–3008 Filed 2–2–83; 8:45 am]

BILLING CODE 4150–04–M

Statement of Organization, Functions and Delegations of Authority

This notice amends Part A (Office of the Secretary) and Part F (Health Care Financing Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, to make certain changes in Chapter AF, Office of the Inspector General (47 FR 20035, May 10, 1982), and Chapter FP, Office of the Associate Administrator for Operations (46 FR 56919, November 19, 1981).

The purpose of this amendment is to reflect the establishment of a major new component within the Office of the Inspector General, the Office of Health Financing Integrity, to be the focal point of activities designed to control fraud, abuse and waste in the Department's health care financing programs, transferring this responsibility from the Health Care Financing Administration.

1. Chapter AF is amended by adding at the end of Section AF.20 the following new subsection:

F. *The Office of Health Financing Integrity.* The Office of Health Financing Integrity is under the general supervision of the Assistant Inspector General for Health Financing Integrity.

1. *The Office of Health Financing Integrity:*

(a) Provides leadership, policy direction, planning, coordination, and management to the efforts of the OIG to minimize the opportunity for fraud, abuse and waste in health care financing programs;

(b) Works with other components of the OIG on special assignments and projects related to the financing of health care;

(c) Conducts inspections to assess the propriety of health care provider practices or adequacy of program policies or operations relating to providers;

(d) Conducts inspections and reviews program reimbursement data to assess the adequacy of program reimbursement systems to identify and control fraudulent, abusive or wasteful practices;

(e) Makes recommendations for legislative, regulatory, policy or operational changes which are based on the results of inspections, case development and data analyses;

(f) Provides technical assistance upon request on methods to combat fraud, abuse, and waste in health care financing programs;

(g) Monitors fraud and abuse case activities and developments;

(h) Where inappropriate payments exist, undertakes or refers for appropriate legal, administrative or financial action;

(i) In cases which involve abuse, takes or recommends appropriate administrative actions;

(j) In cases involving potential civil or criminal fraud, initiates corrective action by referring the case to the Office of Investigations (OI);

(k) Under the guidance of OI, investigates potential civil fraud violations, and considers the desirability of referral for action;

(l) Develops policies, procedures, and guidelines necessary to provide direction to HFI central and regional office staffs;

(m) Exercises authority under Social Security Act Sections 1128; 1156; 1160; 1862; and 1866 to determine and propose to the IG sanctions against individuals, practitioners and providers.

2. The Office of Health Financing Integrity consists of the following divisions:

Operations Division
Policy and Procedures Division
Regional Health Financing Integrity Offices

(a) *Operations Division:*

(i) Provides general goals and objectives for regional operations and assures that each region conforms to such goals and objectives;

(ii) Maintains a system to measure accomplishments of regional offices;

(iii) Provides information and recommendations to the Health Care Financing Administration (HCFA) on the performance of the various entities engaged in control of fraud, abuse and waste;

(iv) In consultation with HCFA, participates in the development of guidance to State Medicaid Agencies and Medicare Contractors for control of health provider fraud, abuse, and waste;

(v) Refers to OI cases for criminal or civil fraud investigation;

(vi) Under guidance of OI, conducts investigations of potential civil fraud and evaluates the potential for referral for administrative actions;

(vii) Supervises sanctions activities authorized by Social Security Act Sections 1128, 1156, 1160, 1862 and 1866. Notifies HCFA of all such actions taken by the IG in order to insure prompt notification of appropriate State authorities and program contractors and officials.

(b) *Policy and Procedures Division:*

(i) Conducts analyses of program data and other information to assess the Department's effectiveness in identifying and correcting policy or operational problems in Medicare and Medicaid;

(ii) In consultation with regional staff who conduct inspections, develops the protocols for such reviews and coordinates regional work products;

(iii) Makes recommendations for legislative, regulatory, policy or operational changes which are based on the results of inspections, case development and data analyses;

(iv) Maintains ongoing liaison with other organizational entities to assure well coordinated approaches in controlling fraud, abuse and waste.

(c) *Regional Health Financing Offices:*

Carry out the field duties consistent with the functions described above for the Office of Health Financing Integrity in their assigned geographic areas.

2. Chapter AF, Section AF.10 Organization, is amended by adding the title "Office of Health Financing Integrity" at the end of the section.

3. Amend Part F, Health Care Financing Administration, Chapter FP, Office of the Associate Administrator for Operations, Section FP.20.B.3. Office of Program Validation, by deleting the third sentence: "Monitors fraud and abuse case activities and developments."

Dated: January 27, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-3007 Filed 2-2-83; 8:45 am]

BILLING CODE 4150-04-M

Health Resources and Services Administration

Application Announcement for Grants for Preventive Medicine Residency Training Programs

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1983 Grants for Preventive Medicine Residency Training Programs are now being accepted under the authority of Section 793 of the Public Health Service Act. The deadline date for receipt of applications is March 14, 1983.

Section 793 authorizes the award of grants to accredited schools of medicine, osteopathy and public health to meet the costs of projects to plan and develop new residency training programs and maintain or improve existing residency training programs in preventive medicine. Funds for this program are also authorized to be used to provide financial assistance to residency trainees enrolled in such programs.

In the funding of approved applications preference will be given to projects which will:

1. Conduct residency training in areas of general preventive medicine or public health; and/or

2. Train at least three residents in the academic year and three residents in the field year and provide evidence that the projected number can be realized from a current or projected applicant pool.

Request for application materials and questions regarding grants policy should be directed to: Grants Management Officer, Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436-6098.

Should additional programmatic information be requested, please contact: Multidisciplinary Resources Development Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 3-22, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6436.

Approximately $1,000,000 is expected to be available in Fiscal Year 1983 for competitive grants.

This program is not presently listed in the *Catalog of Federal Domestic Assistance*, therefore, no catalog number has been assigned. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular No. A-95.

Dated: January 28, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83-2882 Filed 2-2-83; 8:45 am]

BILLING CODE 4160-16-M

Application Announcement for Nursing Research Emphasis Grants for Doctoral Programs in Nursing

The Bureau of Health Professions, Health Resources and Services Administration, announces that Nursing Research Emphasis Grants for Doctoral Programs in Nursing are being accepted under the authority of Section 301 of the Public Health Service Act.

The major goal of these grants is to stimulate the development of nursing research in areas of emphasis related to the health needs of the Nation, and to enhance the research effort and resources of faculty members in Schools of Nursing with doctoral programs. It is

expected that such support will ultimately result in an institution's achieving increased capability to attract scholars as well as recognition for excellence in the chosen substantive area. Emphasis areas of particular interest are:

1. Health promotion and disease prevention;

2. Competency for self care and coping with health problems;

3. Problems of nursing care in acute, homecare, and long-term care settings; and

4. Issues of quality and cost-effectiveness of nursing care.

Vulnerable populations of particular interest are minorities and other underserved groups; the elderly; the chronically ill; the terminally ill; children; and beginning families, including those of adolescents.

An institution may submit only one application for a period of up to three years. It is expected that applications for renewal of successful projects will be accepted in the future to allow for a total support period of up to five years. Applications should request no more than $75,000 in direct costs per year. Deadline dates for receipt of new applications are March 1, July 1, and November 1.

Questions regarding grants policy should be directed to: Grants Management Officer (R–21), Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–7450.

Requests for programmatic information should be directed to: Research Support Section, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 3–50, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6204.

The Nursing Research Program is listed at 13.361 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular No. A–95.

Dated: January 28, 1983.

Robert A. Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83–2883 Filed 2–2–83; 8:45 am]

BILLING CODE 4160–16–M

Public Health Service

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 47 FR 46142–46144, October 15, 1982) is amended to reflect (1) the establishment of the division-level organizational substructure within the Center for Professional Development and Training (HCT); and (2) the transfer of the drug distribution function in the Center for Infectious Diseases (HCR) from the *Division of Parasitic Diseases (HCRS)* to the *Division of Host Factors (HCRQ).*

Section HC–B, *Organization and Functions,* is hereby amended as follows:

1. After the heading and statement for the *Center for Professional Development and Training (HCT),* insert the following:

Office of the Director (HCT1) (1) Plans, directs, and evaluates the activities of the Center for Professional Development and Training (CPDT); (2) coordinates assistance provided by the CPDT to the CDC, State and local health departments, PHS, and other Federal agencies; (3) coordinates collaborative projects with learning institutions, especially schools of public health and departments of preventive and social medicine, to develop and implement improved learning programs for disease prevention and health promotion; (4) provides administrative, fiscal, and publications services to the CPDT.

Division of Instructional Media (HCT2) (1) Provides advice and consultation to State, local, and Federal health agencies and academic institutions in the selection, design, utilization, and evaluation of instructional media for disease control and prevention programs; (2) provides graphic arts and photographic consultation and services for the CDC; (3) designs, prepares, and evaluates instructional media in support of CDC training activities; (4) manages the operation of training facilities in the Atlanta area and provides consultation and technical services for conferences, meetings, seminars, and special functions; (5) provides instructional media consultation and services to international health agencies and associations to assist them in achieving mutual public health goals and objectives in disease control.

Division of Instructional Services (HCT3) (1) Provides assistance to State, local, and Federal health agencies and academic institutions in the establishment, maintenance, improvement, and evaluation of State and other health training and technology transfer programs, which includes: (a) providing instruction in a wide variety of disease prevention and control areas, including training courses on topics such as the principles and application of epidemiologic methods in disease prevention and control, and the control of hospital infections and foodborne diseases; and (b) selecting and preparing health professionals as implementers of performance-based training designed to qualify persons to perform essential disease control program work; (2) provides assistance to local and State health agencies in the implementation of performance-based management systems; (3) provides training services to international health agencies and associations to assist them in achieving mutual public health goals and objectives in disease control.

Division of Instructional Systems (HCT4) (1) Assists CDC's programs and State, local, and Federal health agencies and academic institutions by (a) identifying and analyzing program performance problems; (b) specifying explicit standards and efficient systems of work, including performance-based management systems, for achieving program purposes; (c) developing instructional materials and making other appropriate recommendations for solving performance problems, and (d) evaluating instructional systems; (2) ensures that the instructional integrity of CPDT-developed instruction is maintained; (3) provides consultation to disease control and prevention programs in the application of performance/instructional technology; (4) provides consultation and training services to international health agencies to resolve skill and knowledge problems preventing achievement of disease control objectives of mutual concern.

2. Under the heading Center for Infectious Diseases (HCR), make the following changes:

a. In the subparagraph titled *Division of Host Factors (HCRQ),* amend item 5 to read as follows: "(5) obtains and distributes experimental vaccines and drugs, antisera and antitoxins, skin test antigens, and immune serum globulins to prevent and control laboratory infections and to prevent or minimize disease in particular groups;".

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b. In the subparagraph titled *Division of Parasitic Disease (HCRS)*, add an "s" to the word Disease in the title, delete item 6 of the statement, and renumber items (7)–(13) to (6)–(12), respectively.

Dated: January 27, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-3008 Filed 2-2-83; 8:45 am]

BILLING CODE 4160-18-M

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 47 FR 46142–46144, October 15, 1982) is amended to reflect the division-level substructure within the International Health Program Office (HCG).

Section HC–B Organization and Functions, is hereby amended as follows:

After the heading and statement for the *International Health Program Office (HCG),* insert the following:

ffice of the Director (HCG1). (1) Manages, directs, and coordinates the activities of the International Health Program Office (IHPO); (2) provides leadership in development of IHPO policy, program planning, implementation, and evaluation; (3) provides liaison and coordination of IHPO international health activities with the Office of International Health/ OASH, other PHS agencies, HHS, Department of State, Agency for International Development, World Health Organization, World Bank, United Nations Development Program, and other national and international organizations; (4) provides liaison and coordination with other CDC components on international health activities; (5) coordinates the special foreign currency program (PL–480) activities overseas; (6) provides staff support for CDC involvement in bilateral health agreements; (7) provides liaison and coordination of CDC involvement with national and international agencies in response to natural or manmade crisis situations outside the United States, e.g., earthquakes, volcano eruptions, floods, and social disruptions; (8) provides staff support to the Assistant Director for International Health in carrying out overall direction and coordination of international activities throughout the CDC; (9) develops and implements on-site training for Foreign Nationals in technical and management aspects of health care delivery in developing countries; (10) provides for the reception, orientation, and scheduling of international visitors to the CDC, and coordinates long-term training, as appropriate; (11) provides administrative, fiscal, and support services to the IHPO.

Division of Evaluation and Research (HCG3). (1) Develops and tests surveillance methodologies to identify and quantitate health status and disease problems in developing countries; (2) assists international organizations and other nations in developing methodologies to document progress in meeting objectives and in identifying and solving problems; (3) identifies and prioritizes technical problems in management strategy, implementation, monitoring, and evaluation for which operational research is needed to identify new or improved approaches; (4) plans, implements, analyzes, and disseminates operations research to solve identified medical and epidemiological problems; (5) provides technical supervision, support, and monitoring of medical epidemiologists assigned overseas.

Division of Program Services (HCG5). (1) Provides consulation to and participates with other nations and international agencies in indigenous programs to reduce morbidity and mortality; (2) implements Agency for International Development funded technical assistance to developing countries in child health, including immunization and diarrheal disease control; (3) provides technical consultation in problem identification, priority setting, implementation, strategy, and evaluation; (4) provides administrative direction and support to IHPO staff other than medical epidemiologists assigned overseas; (5) plans, implements, analyzes, and disseminates operations research to solve logistical and operational problems.

Dated: January 27, 1983.

Richard S. Schweiker,

Secretary

[FR Doc. 83-3009 Filed 2-2-83; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Casper District Office, Casper, WY; Casper District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Casper District Grazing Advisory Board will be held on Wednesday, March 9, 1983. The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office at 951 Rancho Road, Casper, Wyoming.

The agenda will include:

(1) Election of Officers;

(2) Range Betterment Projects and Policy;

(3) Stock Driveway Withdrawal Review;

(4) Animal Damage Control Policy;

(5) Land Disposal Issues.

The meeting is open to the public. Interested persons may testify or submit written statements for Board consideration. Anyone wishing to make a oral statement should notify the District Manager by March 7, 1983. Depending on the number of persons wishing to make statements, a per person time limit may be imposed by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and be available for public inspection within 30 days following the meeting.

Dated: January 25, 1983.

Leslie A. Olver,

Acting District Manager.

[FR Doc. 83-2775 Filed 2-2-83; 8:45 am]

BILLING CODE 4310-84-M

Treasure County, Montana; Conveyance of Public Land

January 26, 1983.

Notice is hereby given that, pursuant to the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), Ole Redland and Shirley Redland, Hysham, Montana, have purchased by modified competitice-sale the following public land in Treasure County, Montana:

Principal Meridian, Montana

T. 6 N., R. 35 E.,
Sec. 30, Lot 6.
Containing, 4.59 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of

the conveyance document to the Redlands.

Edgar D. Stark,

Chief, Lands Adjudication Section.

[FR Doc. 83-2956 Filed 2-2-83; 8:45 am]

BILLING CODE 4310-84-M

[M55146]

Custer County, Montana; Conveyance of Public Lands

January 27, 1983.

Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716), the following public land was conveyed through the land exchange process by Quitclaim Deed to B 6, Inc., and James A. Graham and Helen M. Graham:

B 6, Inc., Deed

Principal Meridian, Montana

T. 12 N., R. 45 E.,
Sec. 14, W½NW¼, SW¼, S½SE¼,
Sec. 22, W½W½;
Sec. 24, N½; and
Sec. 26, W½
T. 12 N., R. 46 E.,
Sec. 30, Lots 1, 2, 3 and 4, E½, E½NW¼, SE¼SW¼.

Containing 1,712.36 acres.

James A. Graham and Helen M. Graham Deed

Principal Meridian, Montana

T. 8 N., R. 52 E.,
Sec. 30, Lots 1, 2, 3, 4, E½, E½W½.

Containing 626.72 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance documents.

John A. Kwiatkowski,

Deputy State Director, Division of Lands & Renewable Resources.

[FR Doc. 83-2873 Filed 2-2-83; 8:45 am]

BILLING CODE 4310-84-M

Boise District Grazing Advisory Board; Meeting

ACTION: Boise District, Idaho, grazing advisory board meeting.

SUMMARY: In accordance with Pub. L. 92-463, the Federal Advisory Committee Act, and Pub. L. 94-579, the Federal Land Policy and Management Act, notice is hereby given that the Boise District Grazing Advisory Board will meet on February 17 and 18, 1983, from 9:00 a.m. to 4:00 p.m.

SUPPLEMENTARY INFORMATION: The meeting will begin at 9:00 a.m. each day in the lower conference room at the Bureau of Land Management, Boise District Office, at 3948 Development Avenue in Boise, Idaho. A public comment period is scheduled from 1:00 p.m. to 2:00 p.m. each day. The agenda includes the following topics:

—Introduction of New Board Members
—Election of Officers
—Discussion of Coordinated Management Agreement (CMA) Criteria
—Report of Range Betterment (8100) Expenditures for FY-82
—Proposed Additional 8100 Projects
—Presentation of Water Tanks to BLM by Idaho Birdhunters, Inc.

FOR FURTHER INFORMATION CONTACT: Further information is available from the Boise District, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, phone (208) 334-1582. Minutes of the meeting will be available for public inspection at the District Office.

Dated: January 21, 1983.

Martin J. Zimmer,

District Manager.

[FR Doc. 83-2876 Filed 2-2-83; 8:45 am]

BILLING CODE 4310-84-M

[A-9052]

Mohave County Arizona; Exchange of Public Lands for Private Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty Action—Exchange of public lands for private lands in Mohave County, Arizona (A-9052).

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Gila & Salt River Meridian, Arizona

T. 16 N., R. 21 W.,
Sec. 14, NW¼NE¼, N½N½SW¼NE¼, E½NW¼.
That portion of the SW¼NW¼ East of Highway 95; that portion of SW¼ and of the SE¼ West of Highway 95.

Containing 220 acres of public land, more or less.

The above described lands are scheduled for resurvey. Pending completion of the survey for correct identification of the lands, the above description is considered accurate for the purposes of this Notice of Realty Action.

In exchange for these lands, the United States will acquire the following described lands from Heinrich J. Thiele and Gertrud Thiele Trust:

Gila & Salt River Meridian, Arizona

T. 12 N., R. 19 W.,
Sec. 3, SW¼;
Sec. 11, N½.

Containing 480 acres of private land, more or less.

Only the surface estate of the non-federal land will be acquired since the mineral state belongs to a non-participating third party. The Federal mineral estate will be transferred with the Federal surface.

The purpose of the exchange is to acquire isolated non-Federal lands located within the Lake Havasu Management Plan boundary which contains crucial bighorn sheep habitat. The transfer of public lands to private ownership will fulfill the need for community expansion. The exchange is consistent with the Bureau's planning system.

The values of the lands and interests to be exchanged are approximately equal. Upon the completion of a final appraisal, acreages may be adjusted or a cash payment made to equalize the value difference.

Where a money payment is required to equalize values, the payment shall not exceed 25 percent of the values of the public interests being conveyed.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A right-of-way for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1980 (Stat. 391; 43 U.S.C. 945);

2. All valid existing rights (e.g. rights-of-way of record).

Private lands to be acquired by the United States will be subject to the following reservations, terms, and conditions:

1. All minerals in the subject lands are reserved to the Santa Fe Pacific Railroad Company.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange, including the Environmental Analysis, is available for review at the Havasu Resource Area Office, Bureau of Land Management, 2049 Swanson Avenue, P.O. Box 685, Lake Havasu City, Arizona 86403.

Publication of this Notice will segregate the subject Federal lands from all appropriations under the public land laws, including the mining laws, and the mineral leasing laws. This segregation will terminate upon the issuance of a patent or two years from the date of this Notice, or upon publication of a Notice of Termination.

For a period of 45 days from the date of this Notice. interested parties may submit comments to the District Manager, Yuma District Office, P.O. Box

5680, Yuma, Arizona 85364–0097. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action, and issue a final determination. In the absence of any action by the District Manager this Realty Action will become the final determination of the Department of the Interior.

Dated: January 28, 1983.

Gary A. McVicker,

Acting District Manager.

[FR Doc. 83–2975 Filed 2–2–83; 8:45 am]

BILLING CODE 4310–84–M

Washakie Resource Area, Worland District, Wyoming: Notice of Intent To Prepare Resource Management Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Initiation of a Resource Management Plan and Environmental Impact Statement for the Washakie Resource Area, Worland District, Wyoming.

SUMMARY: The Worland District is initiating development of a Resource Management Plan (RMP), an integral component of which is an environmental impact statement (EIS). In addition, the public is invited to identify issues to be addressed in the RMP or to comment on issues identified by BLM staffs and included below.

Location of Documents

Throughout the development of the RMP, documentation records and completed documents pertaining to the RMP will be available for public review at the Washakie Resource Area, 1700 Robertson, Worland, Wyoming 82401.

FOR FURTHER INFORMATION CONTACT: For additional information, to be placed on the Washakie mailing list or to add to a comment on the list of issues to be addressed on the RMP, contact John Moorhouse, Project Manager of Roger Inman, Area Manager, Washakie Resource Area, Box 119, 1700 Robertson, Worland, Wyoming 82401, (307) 347–6151.

SUPPLEMENTARY INFORMATION: The Worland District is initiating development of a Resource Management Plan (RMP) to guide future management actions on public lands within the Washakie Resource Area. The Washakie Resource Area is located in north-central Wyoming Counties of Washakie, Hot Springs, and Big Horn in the Big Horn Basin, Wyoming. Within the three counties, BLM manages 60 percent of the surface, approximately 1.1 million acres.

The RMP will be a long-range comprehensive land use plan. The objective of the RMP is to improve resource management decisions on public lands through a planning process which incorporates public participation, maximizes use of the best available data, and analyzes alternatives for multiple use management. Resource management plans are required under the Federal Land Management Policy Act of 1976. Standards, guidelines, and procedures for RMP preparation are contained in 43 CFR Part 1600.

The steps in the RMP process include identification of issues, development of planning criteria to address the issues, inventory data and information collection, analysis of the management situation, formulation of alternatives, estimation of effects of alternatives, selection of preferred alternative, selection of the resource management plan, and monitoring and evaluation of the plan. Completion of the RMP is scheduled for September 1985.

The identification of issues focuses the direction of the RMP at the outset of the process. BLM staff has identified general issues to be addressed. These include: wilderness study; present and future developments of energy and non-energy minerals; rangeland uses; land disposal; recreation; wildlife uses; access and rights-of-way; and soil, air and water quality.

The public, including other federal agencies and state and local governments, is invited to suggest additional issues that should be addressed by the RMP or to comment on those issues identified by the BLM staff. Comments should be sent to the address indicated above and should be received by the BLM within 30 calendar days of publication of this notice.

Alternatives developed in the RMP process will range from those favoring resource protection to those favoring resource production and will include the no action alternative, which is a continuation of present management. An integral component of the RMP process will be an environmental impact statement (EIS).

Public participation will also be an essential element of the RMP process with opportunities for public input offered throughout the process. In addition to the opportunity to suggest or comment on the RMP, there will be a 60-day comment period on the draft EIS. A formal hearing will be conducted on the wilderness portion of the RMP. Notice will all public participation opportunities will be given through Federal Register notices, local media, and mailings to all parties on the mailing list. Public meetings will be considered when requested and when accompanied by appropriate rationale.

An interdisciplinary team will be formed to develop the RMP. Disciplines to be represented include: geology, range, realty, forestry, archaeology, sociology, economics, hydrology, wildlife, recreation, soils and air quality.

Chester E. Conard,

District Manager.

[FR Doc. 83–2952 Filed 2–2–83; 8:45 am]

BILLING CODE 4310–84–M

Montrose District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Montrose District Grazing Advisory Board will be held on March 9, 1983. The meeting will convene at 10:00 a.m. in the conference room of the Bureau of Land Management Office, Highway 550 South, Montrose, Colorado. The agenda for the meeting will include: (1) Update on the implementation of Range Programs in the Uncompahgre and Gunnison Basin Resource Areas; (2) briefing on the RMP schedule for the San Juan Resource Area; (3) a review of Range Improvement projects programmed for FY 83; (4) the expenditure of advisory board funds for range improvements; and (5) the arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 10:00 and 11:00 a.m. on March 9, 1983, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1269, Montrose, Colorado 81401, by March 4, 1983. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

R. S. Schmidt,

Acting District Manager.

[FR Doc. 83–2992 Filed 2–2–83; 8:45 am]

BILLING CODE 4310–84–M

[I–19367]

Realty Action Exchange of Public Lands; Jerome County, Idaho

The following described public lands have been determined to be suitable for

disposal by exchange under Sec. 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

	Acres
T. 9 S., R. 17 East, Boise Meridian: Section 22:	
NW¼NE¼	40
W½W½NE¼NE¼	10
SW¼NE¼	40
W½W½W½SE¼NE¼	5
NW¼SE¼	40
Total	135

In exchange for these lands, the Federal Government will acquire private land in Gooding, Camas and Lincoln Counties from the Thorn Creek Cattle Association, described as follows:

THORN CREEK CATTLE ASSOCIATION LANDS

	Acres
T. 2 S., R. 16 East, Boise Meridian:	
Section 29:	
NW¼NE¼	40
E½NW¼	80
SW¼NW¼	40
Section 30:	
S½NE¼	80
SE¼SW¼	40
N½SE¼	80
SW¼SE¼	40
Section 31:	
W½NE¼	80
NE¼NW¼	40
N½SE¼	80
SE¼SE¼	40
T. 3 S., R. 16 East, Boise Meridian:	
Section 5:	
SW¼NW¼	40
Section 6:	
Lot 1	23
Lot 7	43.40
E½SW¼	80
SE¼NE¼	40
N½SE¼	80
Section 7:	
Lot 1	43.49
Total	1,000.12

This exchange proposal is in conformance with both the Bennett Hills and Canyon Land Use Management Framework Plans. The lands are determined suitable for acquisition and disposal.

The preliminary value estimates for the offered and selected lands indicate some adjustments in selected land acreage may occur upon final official appraisal.

The public lands identified are hereby segregated from any and all appropriation under the public land and mining laws.

The public lands shall be deleted from the Interstate Livestock Allotment when title is passed. A two year notification of grazing preference partial cancellation will issue, if AUMs are not relinquished.

The reservations on the private and public lands are:

Private:

(1) Electrical power transmission line R/W to Idaho Power Company.

(2) 50 inches of spring water, 1915 priority right, filed on the springs south of the Thorn Creek Reservoir Dam, appurtenent to private land in Section 26, T. 3 S., R. 15 E. B.M.

Public:

(1) U.S. Highway 93 R/W I–2409.

(2) Telephone buried cable R/W, Mtn Bell, I–20180.

(3) Land for highway clover leaf, I–2031.

(4) Access road R/W I–02117.

(5) 80' frontage and 60' road right-of-ways will be reserved on the section and half mile lines and on frontage roads.

(6) Electrical power transmission line R/W I–04130.

(7) D/C as per public law.

(8) Two year reservation for existing grazing permit (if no previous relinquishment).

There are no mineral reservations, including geothermal, on either the private or public lands.

This notice provides 45 days from date of issuance for comments by the public and interested parties. Comments should be sent to: Shoshone Bureau of Land Management District Office, Re: Thorn Creek Land Exchange, I–19367, P.O. Box 2B, Shoshone, ID 83352.

Any adverse comments should be noted. The Secretary of the Interior reserves the right to affirm, remand, or vacate this notice.

Charles J. Haszier,

District Manager.

[FR Doc. 83–2997 Filed 2–2–83; 8:45 am]

BILLING CODE 4310–84–M

Designation of Public Lands; Winnemucca District, Nevada Sonoma-Gerlach Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of public lands within the Sonoma-Gerlach Resource Area as the Soldier Meadow Desert Dace Area of Critical Environmental Concern (ACEC).

SUPPLEMENTARY INFORMATION: Correction is made to the above action in **Federal Register**, Vol. 48, No. 14, Thursday, January 20, 1983: The first sentence in paragraph three should read as follows: In accordance with 43 CFR 1601.6–7, formal designation of this ACEC area is documented in the Sonoma-Gerlach Management Framework Plan.

Dated: January 28, 1983.

Roger J. McCormack,

Associate State Director, Nevada.

[FR Doc. 83–2996 Filed 2–2–83; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing Southeast Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 4453, Block 240, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Matairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 28, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico Outer Continental Shelf Region.

[FR Doc. 83–2995 Filed 2–2–83; 8:45 am]

BILLING CODE 4310–31–M

Outer Continential Shelf Advisory Board; South Atlantic Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. 92–463).

Name: South Atlantic Regional Technical Working Group
Date: March 3, 1983
Place: Holiday Inn, Downtown, 175 Piedmont Avenue, N.E., Atlanta, Georgia
Time: 9:00 a.m. to 5:00 p.m.

Committee membership consists of representatives from federal agencies, the coastal states of Virginia through Florida, the petroleum industry, and other private interests.

Agenda: Presentations on ongoing contracted South Atlantic OCS environmental studies; status report on the Sale No. 78 environmental impact statement; and discussion of pre-sale milestones for proposed OSC Sale No. 90.

This meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding items on the agenda should contact Judith Gresham of the New York OCS Office (212) (264–1061) by February 24, 1983. Written statements should be submitted by March 10 to the New York OCS Office, Minerals Management Service, 26 Federal Plaza, Suite 32–120, New York, New York 10278.

Minutes of the meeting will be available for public inspection and copying by April 28, 1983 at the above address.

Judith Gresham,

Acting Manager, New York OCS Office.

[FR Doc. 83–2853 Filed 2–2–83; 8:45 am]
BILLING CODE 4310–MR–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 133.1 (Revised)]

Asia Mission Directors; Redelegation of Authority Regarding Authorization of Project and Non-Project Assistance

1. Pursuant to the authority delegated to me by A.I.D. Delegation of Authority No. 133, dated December 11, 1981, regarding authorization of project and non-project assistance, I hereby redelegate to the Directors of A.I.D. Missions in Bangladesh, India, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, and Thailand, authority to exercise any of the following functions with respect to assistance for the country to which he or she is assigned, retaining for myself concurrent authority to exercise such functions and the authority to reserve to myself the authorization of any particular project or projects:

(A) The authority to authorize a project, if the project:

(a) Does not exceed $20 million over the approved life of project (except as provided in subparagraph (B) below);

(b) Does not present significant policy issues;

(c) Does not require issuance of waivers that may only be approved by the Assistant Administrator or the Administrator or if such waivers are required they are approved by the Assistant Administrator or the Administrator, as appropriate, prior to such authorization; and

(d) Does not have a life of project in excess of seven years.

(B) The authority to amend project authorizations executed by any A.I.D. official, if the amendment:

(a) Does not result in a total life of project funding of more than $30 million;

(b) Does not present significant policy issues; and

(c) Does not require issuance of waivers that may only be approved by the Assistant Administrator or the Administrator or if such waivers are required they are approved by the Assistant Administrator or the Administrator, as appropriate, prior to such authorizations.

2. (A) "Project", for purposes of this delegation, includes project and non-project assistance.

(B) "Project Assistance Completion Date" (PACD) is the estimated date by which all A.I.D.-financed goods are to have been delivered or all services performed under the Project Agreement. In non-project assistance, the equivalent date is the terminal date for requests for disbursement authorizations.

(C) "Life of Project" is the planned length of the project as determined in project preparation. The life of project runs from the estimated date of signature of the Project Agreement or other obligating document to the PACD.

3. (A) Technical review, including legal, shall be completed prior to the exercise of the authorities delegated herein, in accordance with procedures established by the Asia Bureau.

(B) Authorities redelegated hereunder may be exercised by persons performing the functions of the Mission Director in an "Acting" capacity and may be redelegated by the Mission Director to the principal deputy of the Mission Director, but may not be further redelegated.

(C) All redelegations heretofore issued by the Assistant Administrator for Asia with regard to the authority to authorize project and non-project assistance and to amend the authorization of such assistance are hereby revoked to the extent such prior redelegations of authority are inconsistent with this redelegation. This redelegation shall not be construed to affect the validity of any authorization or amendment granted by a properly authorized official prior to the effective date of this redelegation and any such authorization or amendment shall continue in effect unless modified or revoked by an official to whom such authority has been delegated by this redelegation.

(D) This redelegation of authority is effective immediately.

Dated: April 15, 1982.

Eugene S. Staples,

Acting Assistant Administrator, Bureau for Asia.

[FR Doc. 83–2904 Filed 2–3–83; 8:45 am]
BILLING CODE 6116–01–M

[Redelegation of Authority No. 40.10 (Revised)]

Asia Mission Directors, et al.; Redelegation of Authority Regarding Waivers of Source, Origin, and Nationality for Procurement

Pursuant to the authority delegated to me by Delegation of Authority No. 40 dated December 28, 1981, I hereby redelegate to the Directors of A.I.D. Missions in Asia under my authority, to A.I.D. Representatives under my authority, to the Director of the Office of Project Development, Bureau for Asia, and to any duly designated person performing the functions of any such Mission Director, A.I.D. Representative, or Office Director in an acting capacity, the authority to waive:

A. U.S. source, origin, and nationality requirements to permit A.I.D. financing of the procurement of goods and services, other than transportation services, in countries included in A.I.D. Geographic Code 941 (selected Free World) and the cooperating country when the cost of the goods and services does not exceed $1,000,000 per transaction (exclusive of transportation costs); and

B. U.S. or Code 941 source, origin, and nationality requirements for specific transactions to permit A.I.D. financing of the procurement of goods and services, other than transportation services, in any country included in A.I.D. Geographic Code 899 (Free World) or

A.I.D. Geographic Code 935 (Special Free World) when the cost of the goods and services does not exceed $1,000,000 per transaction (exclusive of transportation costs); provided, however.

1. That all waivers of source, origin, and nationality for procurement of goods authorized pursuant to paragraph B shall contain a certification by the approving official that "Exclusion of procurement from free world countries other than the cooperating country and countries included in Code 941 would seriously impede attainment of U.S. foreign policy objectives and objectives of the foreign assistance program";

2. That all waivers of the nationality requirements for services, other than ocean transportation services, authorized pursuant to paragraph B shall contain a certification by the approving official that "The interests of the United States are best served by permitting the procurement of services from free world countries other than the cooperating country and countries included in Code 941";

3. That the authority to waive source and origin requirements for procurement of motor vehicles shall not exceed $50,000 for any one transaction (exclusive of transportation costs);

4. That A.I.D. Representatives may exercise the authroity provided in this redelegation only when the cost of goods and services does not exceed $100,000 per transaction (exclusive of transportation costs); and

5. That the authority redelegated herein shall be exercised in accordance with the criteria prescribed in Supplement B of Handbook 1 and after appropriate consultation with A.I.D. technical personnel and legal officers.

The authority redelegated above may not be further redelegated.

All redelegations heretofore issued by the Assistant Administrator for Asia with regard to the authority to issue waivers for source, origin and nationality for procurement are hereby revoked to the extent such prior redelegations are inconsistent with this redelegation. This redelegation shall not be construed to affect the validity of any waiver or redelegation granted by a properly authorized official prior to the effective date of this redelegation, and any such waiver shall continue in effect unless modified or revoked by an official to whom such authority has been delegated by this redelegation.

This redelegation of authority shall be effective immediately.

Dated: April 15, 1982.

Eugene S. Staples,

Acting Assistant Administrator, Bureau for Asia.

[FR Doc. 83-2993 Filed 2-2-83; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway, (202) 275-7278

or

Tom Smerdon, (202) 275-7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract number, and specifics	Review Board [1]	Decided date
716	Norfolk and Western Railway Co., ICC-NW-C-7016 (Coal)	3	1-26-83
717	Seaboard System Railroad, Inc., ICC-SBD-C-0008 (Chemicals)	1	1-26-83
718	Southern Pacific Transportation Co., ICC-SP-C-0343 (Lime rock)	2	1-26-83
719	Southern Pacific Transportation Co., SP-C-0355 (Petroleum and petroleum lubricating oil)	3	1-26-83
720	Seaboard System Railroad, Inc., ICC-SBD-C-011 (Beer) and 0012 (Returned containers)	2	1-26-83
721	Soo Line Railroad Co., ICC-SOO-C-0111, Supplement 4 (Starch, latex)	1	1-26-83
722	Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0034-A and 0071-A (Canned goods)	2	1-26-83
723	Consolidated Rail Corp., ICC-CR-C-0292 (Synthetic plastics)	3	1-26-83
725	Burlington Northern Railroad Co., ICC-BN-C-0268 (Molasses, beet sugar)	2	1-26-83
726	Burlington Northern Railroad Co., ICC-BN-C-0227 (Grain or grain products)	3	1-26-83
735	Consolidated Rail Corp., ICC-CR-C-0278 (Grain, viz Barley, rye or wheat)	2	1-26-83
736	Southern Pacific Transportation Co., ICC-SP-C-0206, Supplement 2 (Cotton)	3	1-26-83
737	Southern Pacific Transportation Co., ICC-SP-C-0356 (Steel rebar)	1	1-26-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier; Review Board No. 2, Members Carleton, Williams, and Ewing; Review Board No. 3, Members Krock, Joyce, and [illegible].

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2754 Filed 2-2-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

In the matter of; Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See

49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–38

Decided: January 25, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 12811 (Sub-4), filed January 10, 1983. Applicant: LINCOLN TOUR AND TRAVEL CORPORATION, P.O. Box 94819, Lincoln, NE 68509. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *passengers*, in special and charter operations, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 74070 (Sub-1(B)), filed January 13, 1983. Applicant: ROBERT S. LEWIS & SON–TRUCKMEN, INC., 18 Pulaski Ave., Wallington, NJ 07057. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (210) 234–0301. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Note.—Applicant has also filed under the Non-Fitness Criteria, docketed MC–74070 Sub 1(A), published in this same **Federal Register** issue.

MC 134890 (Sub-16), filed January 10, 1983. Applicant: MARION'S TRANSFER, INC., 3011 N. 30th St., Milwaukee, WI 53210. Representative: David Zimmerman, P.O. Box 1564, York, PA 17405, (717) 854–3138. Transporting *General commodities*, between Brantley, Dozier, Gantt, Glenwood, Heath, and Searight, AL, Belfast, Delight, and Sheridan, AR, Detour, CA, Cheraw and McClave, CO, Largo, FL, Mineral Bluff, GA, Darlington, Leslie, Mackay, and Moore, ID, Bryant, Liverpool, Maples Mill, Moon and Richmond, IL, Benton, Eddy, Foraker, Hamilton, Helmer, Hudson, Mays, Milton, New Lisbon, Oliver, Sexton, Solitude, South Milford, Springfield, Topeka, and Wadesville, IN, Bedford, Clearfield, Conway, Dent, Lenox, and Merle Junction, IA, Barage, Basswood, Beechwood, Berrien Center, Butternut, Chassell, Dollar Bay, Eau Claire, Elmwood, Gogebic Station, Herman, Iron River, Keweenaw Bay, Houghton, L'Anse, Lyons, Marenisco, Naults, North Niles, Palatka, Pentoga, Scott Lake, Sheridan, Sodus, Stager, Stambaugh, Stickley, Summit, Thayer, Vickeryville, and Watersmeet, MI, Anguilla, Blodgett, Panther Burn, Richton, and Tucker, MS, Frisbee, Holcomb, Hopkins, Pickering, and Whiteoak, MO, Burwell, Cushing, Elyria, Greeley, Avoca, Ithaca, Malmo, Memphis, Prague, and Wolbach, NE, Lewiston and Ranger, NC, Clementsville and Durupt, ND, Edgefield, Edon, Jenera, Milledgeville, Mount Blanchard, New Jasper, Oberlin, Octa, Pandora, Pittsfield, Rimer, Rushmore and Vaughnsville, OH, Parkdale, OR, Agar, Gettysburg, and Gorman, SD, Coalmont, TN, Robert Lee, and Skellytown, TX, Rupert, West Pawlet, and West Rupert, VT, Aloha, Carlisle, and Copalis Crossing, WA, Aniwa, Antigo, Bear Creek, Birnamwood, Clintonville, Darien, Delavan, Deerbrook, Edgerton, Elcho, Elkhorn, Florence, Hematite, Kempster, Lyons, McFarland, Malvern, Monico, Nine Springs, Pelican Lake, Spread Eagle, Porters, Springfield, Stoughton, and Summit Lake, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI). CONDITION: To the extent a certificate in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service

MC 165640, filed January 11, 1983. Applicant: CUMMINGS TRANSPORT COMPANY, 4707 Pageland Drive, Greensboro, NC 27410. Representative: Rodney Franklin Cummings (same address as applicant), (919) 288–4060. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Blanche, Gatewood, Milton, Providence, and Semora, NC, on the one hand, and on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 (202) 275–7030.

Volume No. OP2–045

Decided: January 26, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 96273 (Sub-3), filed January 3, 1983. Applicant: CURTIS A. DORSEY, d.b.a. DORSEY'S BUS SERVICE, Box 13, Still Pond, MD 21667. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *passengers*,

in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded, charter and special transportation.

MC 165462, filed December 28, 1982. Applicant: VINCENT L. ADDO, d.b.a., ALTA LOMA CHARTER LINES, 8928 Pearl St., Alta Loma, CA 91701. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, 714–667–8107. Transporting *passengers*, in special and charter operations, beginning and ending at points in Los Angeles, Orange, San Bernardino, Riverside, San Diego, Kern and Ventura Counties, CA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded, charter and special transportation.

MC 165452, filed January 3, 1983. Applicant: THE FRESH APPROACH TRANSPORTATION CO., INC., 506 E. Fairway Dr., Litchfield Park, AZ 85340. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, 602–264–4891. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165472, filed January 3, 1983. Applicant: TIFFANY TOURS & TRAVEL SERVICE, INC., 5316 Imperial Hwy., Los Angeles, CA 90045. Representative: Jamshid Anvaripour (same address as applicant), 213–642–0555. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Notes.—Applicant seeks to provide private-funded, charter and special transportation.

MC 165632, filed January 7, 1983. Applicant: CAPITOL BUS RENTAL, INC., d.b.a. CAPITOL TOURS, 5310 1st St. NW, Washington, DC 20012. Representative: Mary A. Reid, (same address as applicant), 202–829–8856. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Notes.—Applicant seeks to provide private-funded, charter and special transportation.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–050

Decided: January 27, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 165837, filed January 21, 1983. Applicant: WHARTON ENTERPRISES, d.b.a., GALLIVANTN', AGAIN, 4700 Everlou Rd., S.W., Cedar Rapids. IA 52401. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Notes.—Applicant seeks to provide privately-funded, charter and special transportation.

Agatha L. Mergenovich,

Secretary.

[FR. Doc. 83–2871 Filed 2–3–83: 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

In the matter of Motor Common Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Suppart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53217. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the except of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Please direct status inquiries to Team One at (202) 275–7992.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in interstate commerce over regular routes as a motor carrier of passengers are duly.

Volume No. OP1-39

Decided: January 25, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 47171 (Sub-225), filed January 13, 1982. Applicant: COOPER-MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant), (803) 987-2101. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ralston Purina Company, of St. Louis, MO.

MC 66810 (Sub-22), filed January 7, 1983. Applicant: PEORIA-ROCKFORD BUS CO., 1034 Seminary St., Rockford, IL 61108. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751-2441. Over regular routes, transporting *passengers*, between Rockford, IL, and O Hare International Airport, Chicago, IL, from Rockford over U.S. Hwy 20 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Interstate Hwy 294, then over Interstate Hwy 294 to O'Hare International Airport, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 74070 (Sub-1A), filed January 13, 1983. Applicant: ROBERT S. LEWIS & SON-TRUCKMEN, INC., 18 Pulaski Ave., Wallington, NJ 07057. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234-0301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between New York, NY, and points in NJ, on the one hand, and, on the other, points in CT, MA, RI, NY, NJ, DE, and MD.

Note:—Applicant has also filed under the Fitness criteria docketed MC-74070 Sub 1 (B), published in this same FR issue.

MC 128951 (Sub-48), filed January 10, 1983. Applicant: ROBERT H. DITTRICH, d.b.a. BOB DITTRICH TRUCKING, P.O. Box 816, New Ulm, MN 56073. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440; (612) 542-1121. Transporting *general commodities* (execpt classes A and B explosives, and household goods) between points in the U.S. (execpt AK and HI).

MC 148791 (Sub-38), filed January 10, 1983. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531-1777. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Valley Distributing Company, d/b/a Yellow Front Stones and the Automotive Division, of Phoenix, AZ. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 1134(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of this filing to Team 1, Room 2379.

MC 163851 (Sub-1), filed January 11, 1983. Applicant: THOMAS L. MILES, JR. AND B. A. RUSSELL, d.b.a. U.S.A. MOTOR FREIGHT & BROKERAGE, 2122 West 11th St., Irving, TX 75060. Representative: Wayland Little, 617 Medina Dr., Lewisville, TX 75067, (214) 436-8493. Transporting *general commodities* (execpt classes A and B explosives, household goods and commodities in bulk), between points in AR, NM, OK, and TX.

MC 164601, filed January 10, 1983. Applicant: PAPER TRANSPORT, LTD., 0-1013 McClelland, Grandville, MI 49418. Representative: D. Richard Black, Jr., 285 James St., P.O. Box 638C, Holland, MI 49423, (616) 399-3400. Transporting (1) *pulp, paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Bell Fibre Products Corporation, of Marion, IN and Packaging Corporation of America, of Evanston, IL, and (2) *pulp, paper and related products, and plastic and plastic products*, between points in the U.S. (except AK and HI), under continuing contract(s) with James River Corporation, of Richmond, VA.

MC 165660, filed January 13, 1983. Applicant: S&H TRANSPORTATION, INC., P.O. Box 878, Mansfield, OH 44901. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 (202) 275-7030.

Volume No. OP2-044

Decided: January 28, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 32122 (Sub-12), filed January 4, 1983. Applicant: PAZEN TRANSFER LINE, INC., P.O. Box 243, Wauhau, WI 54980. Representative: Edward J. Gerrity, P.O. Box 914, 601 W. College Ave., Appleton, WI 54912, 414-735-5608. Transporting *lumber and wood products*, between points in Winnebago County, WI, on the one hand, and, on the other, points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, and WV.

MC 117313 (Sub-11), filed January 10, 1983. Applicant: TRYON TRUCKING, INC., P.O. Box 68, Fairless Hills, PA 19030. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215, 614-228-1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 144413 (Sub-2), filed December 28, 1982. Applicant: THOMPSON TRUCK TRANSPORTATION, INC., 11281 Elm St., Omaha, NE 68144. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, 402-392-1220. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Victor's Iowa Pack, Inc., of Council Bluffs, IA.

MC 153273 (Sub-8), filed January 3, 1983. Applicant: SCHREIBER TRANSIT, INC., 425 Pine St., P.O. Box 610, Green Bay, WI 54305. Representative: John H. Sage (same address as applicant), 414-437-7601. Transporting *food and related products*, between Atlanta, GA, Bellmawr, NJ, Romulus, MI, Houston, TX, Miami, FL, Oxford, MA, New Hope, MN, Santa Fe Springs and Milpitas, CA, Jericho, Long Island, NY, Oakwood, OH, Greensboro, NC, Arlington, TX, Denver, CO, Kent, WA, and Lenexa, KS, on the one hand, and, on the other, points in the U.S. (except HI), under continuing contract(s) with Distron (Division of Burger King Corporation), of Miami, FL.

MC 159863 (Sub-3), filed January 10, 1983. Applicant: DAVIDSON TRANSPORTATION AGENCY, INC., P.O. Box 716, Beverly Shores, IN 46301. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, 801-531-

1777. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 at (202) 275–7030.

Volume No. OP3–33

Decided: January 25, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF–354, filed January 11, 1983. Applicant: APEX FORWARDING CO., INC., P.O. Box 4356, Burlingame, CA 94010. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833–8884. As a freight forwarder, in connection with the transportation of *used household goods, unaccompanied baggage,* and *used automobiles,* between points in AK, on the one hand, and, on the other, points in the U.S.

MC 113855 (Sub-542), filed January 7, 1983. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., SE., Rochester, MN 55901. Representative: Michael E. Miller, 15 Broadway—Suite 502, Fargo, ND 58102, (701) 235–4487. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI), under continuing contract(s) with Leonard W. Baur, Jr. and Associates, Inc. of Renton, WA.

MC 142994 (Sub-12), filed January 11, 1983. Applicant: VIRGINIA COURIER SERVICE, INC., P.O. Box 287, Harrisonburg, VA 22801. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, DC 20005. Transporting *drugs and chemicals,* between those points in the U.S. in and east of MN, IA, KS, OK, and TX.

MC 154795 (Sub-2), filed January 10, 1963. Applicant: MMR, INC., 3528 Whippoorwill Rd., Louisville, KY 40213. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, (502) 589–5400. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Colgate-Palmolive Company, Inc. of Jeffersonville, IN.

MC 164714, filed January 10, 1983. Applicant: MORTENSON BROS., INC., Rt. 1, Box 12, Aniwa, WI 54408. Representative: Nancy J. Johnson, 103 E. Washington St., Box 218, Crandon, WI 54520, (715) 478–3341. Transporting *tires, rubber products, and truck accessories,* between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, points in Langlade and Marathon Counties, WI.

MC 165155, filed January 7, 1983. Applicant: PAUL THOMPSON d.b.a. PLT TRUCKING, 4855 So. 157 St., Omaha, NE 68135. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *food and related products,* between points in Douglas County, NE and Pottawattamie County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165554, filed January 7, 1983. Applicant CALVIN L. SMITH d.b.a. C & M TRUCKING, P.O. Box 99, Haynesville, VA 22472. Representative: Calvin L. Smith (Same address as applicant) (804) 333–4367. Transporting *chemicals and related products and minerals,* between points in the U.S., under continuing contract(s) with USS Agri-Chemicals Division United States Steel Corporation of Atlanta, GA.

Volume No. OP 3–35

Decided: January 26, 1983.

By the Commission, Review Board No. 1, members Parker Chandler, and Fortier.

MC 2934 (Sub-126), filed January 10, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 No. Michigan Rd., Carmel, IN 46032. Representative: W.G. Lowry (Same address as applicant), (317) 875–1142. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Motorola, Inc. and its subsidiaries of Schaumburg, IL.

MC 128205 (Sub-110), filed January 7, 1983. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 So. Doty Ave., Chicago, IL 60628. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500, Washington, D.C. 20006, (202) 828–5015. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Conagra, Inc. of Omaha, NE, Marblehead Lime Company of Chicago, IL and Ralston Purina Comany of St. Louis, MO.

MC 136315 (Sub-148), filed January 10, 1983. Applicant: OLEN BURRAGE TRUCKING, INC., P.O. Box 706, Philadelphia, MS 39530. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of TX, OK, KS, NE, SD and ND.

MC 144484 (Sub-19), filed January 13, 1983. Applicant: FREIGHTWAYS, INC., 412 E. 2nd St., P.O. Box 31, Eldon, MO 65026. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50329, (515) 244–2329. Transporting *general commodities* (except classes A and B explosives and household goods, and commodities in bulk), between points in MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160284 (Sub-1), filed January 13, 1983. Applicant: T.S.W., INC.,537 turtle Creek Dr., P.O. Box 1972, Indianapolis, IN 46227. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 638–1301. Transporting (1) *farm products,* (2) *food and related products,* (3) *such commodities* as are dealt in or used by grocery and food business house, and/(4) *dairy products,* between points in the U.S. under continuing contract(s) with Maplehurst Farms, Inc., of Farnsworth, IN.

MC 161974 (Sub-1), filed January 13, 1983. Applicant: TRIDENT TRUCK LINE, INC., P.O. Box 4030, Hayward, CA 94540. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579 (415) 357–6236. Transporting (1) *food industry equipment and meat packers supplies,* between points in AZ, CA, NV, OR, and WA, under continuing contract(s) with S. Blondheim & Co., Inc., of Oakland, CA, (2) *electrical switchboards, circuits and components,* between points in AZ, CA, NV, OR, and WA, under continuing contract(s) with Industrial, Electric Manufacturing, Inc., of Freemont, CA, (3) *truck parts and related equipment,* between points in AZ, CA, NV, OR, and WA, under continuing contract(s) with Dana Corporation, of Hayward, CA, (4) *forgings, marine hardware, turnbuckles, block assemblies, clevises and related articles,* between points in CA, NV, OR, and WA, under continuing contract(s) with Gardiner Manufacturing Co., of Oakland, CA, (5) *airplane engines, containers or other shipping devices for aircraft engines and parts,* between points in AZ, CA, NV, OR, and WA, under continuing contract(s) with United Air Lines Inc., & Transamerica Airlines, of Oakland, CA, (6) *lumber and lumber products* and *building materials,* between points in AZ, CA, NV, OR, and WA, under continuing contract(s) with American Forest Products Company, of San Francisco, CA, (7) *iron, steel and aluminum stamping and fenders,* between points in CA, WA, and NV, under continuing contract(s) with Gilro

Stamping Co., of Oakland, CA, and (8) *rubber and plastic products*, between points in CA, AZ, and OR, under continuing contract(s) with Emerald Packaging, Inc., of Berkeley, CA.

MC 164874 (Sub-1), filed November 26, 1982. Applicant: VAN DE HOGEN CARTAGE, INC., 10500 Southern Ave., Dearborn, MI 48126. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202 (716) 853–0200. Transporting *building materials, clay, concrete, glass or stone products, ores and minerals and lumber and wood products*, between points in the U.S.

Volume No. OP3–42

Decided: January 27, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 3104 (Sub-8), filed December 10, 1982, published in the **Federal Register** issue of December 30, 1982. Applicant: Z & M MOTOR LINE, INC., P.O. Box 2345, Cumberland, MD 21502. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740 (301) 797–6060. Transporting *glass products, chemicals, coatings, ink and fiberglass products*, between points in the U.S. (except AK and HI).

Note.—This republication corrects the territorial description.

for the following, please direct status calls to Team 4 at 292–275–7669.

Volume No. OP4–049

Decided: January 27, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 165836, filed January 24, 1983. Applicant: CLYDE D. MENDOZA d.b.a. CDM TRANSPORT, 5925 S Faith Home Rd., Turlock, CA 95380. Representative: Arden Riess, P.O. Box 7965, Stockton, CA 95207 (209) 957–6128. Transporting *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165846, filed January 21, 1983. Applicant: D. P. McGUINNESS, INC., 33 Beverly Dr., Brookfield CT. 06804. Representative: James M. Burns, 1365 Main St., Suite 403 Springfield, MA 01103 (413) 781–8205. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, NY, and NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *those commodities which because of size or weight require the use of special handling or equipment*, between points in CR, ME, MA, NH, NJ, NY, RI, and VT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3270 Filed 2–3–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49980, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12 A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

For status, please call Team 2 at 202–275–7030.

Volume No. OP2–046

Decided: January 28, 1983.

MC 43963 (Sub-35)X filed December 30, 1982. Applicant: CHIEF TRUCK LINES, INC., 1479 Ripley St., Lake Station, IN 46405. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Sub-Nos. 1, 4, 7, 8, 10, 11, 12, 13, 15, 16F, 19F, 21F, 23F, 24F, 25F, 26, 28, and 30 certificates: broaden Sub 1 from material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes and highway freight trailers and parts, attachments, and accessories therefor to transportation equipment, machinery, and metal products; Sub 7 from lift trucks and parts and attachments therefor to transportation equipment; Sub 8 from iron and steel articles and scrap metal used in the manufacture thereof to metal products; Sub 10 from iron and steel articles and materials, equipment and supplies used in the manufacture and distribution thereof to metal products; Sub 11 from iron and steel articles to metal products; Sub 12 from lumber and pallets, lumber and lumber products to lumber and wood products; Sub 13 from plastic pipe and accessories therefor and materials, equipment and supplies used in the manufacture, distribution, and sale thereof to rubber and plastic products; Sub 15 from iron and steel articles and materials, equipment and supplies used in the manufacture and distribution thereof to metal products; Sub 16F from cast iron pipe, fittings, valves, hydrants, and accessories to metal products; Sub 21F from aluminum and aluminum articles to metal products; Sub 23F from lime in bags to chemicals and related products; Subs 24F, 25F, and 26F from iron and steel articles to metal products; and Sub 30 from asbestos-cement pipe and pipe fittings and plastic pipe and pipe fittings to clay, concrete, glass or stone products, and rubber and plastic products; from cast iron soil pipe and fittings and bituminized fibre pipe and fittings to metal products and pulp, paper and related products; from conduit pipe, and fittings and attachments therefor to lumber and wood products, rubber and plastic products, clay, concrete, glass or stone products, and metal products; from fibre conduit and fibre pipe and fittings and couplings therefor to lumber and wood products, rubber and plastic products, clay, concrete, glass or stone products, and metal products; from metal bleachers, pipe and pipe fittings to metal products, lumber and wood products, rubber and plastic products, clay, concrete, glass or stone products, and pulp, paper and related products; from lumber to lumber and wood products; from plastic pipe and fittings to rubber and plastic products; from iron and steel articles to metal products; and from conduit, pipe and cable, and fittings and attachments therefor to lumber and wood products, rubber and plastic products, clay, concrete, glass or stone products, and metal products: (1) Remove plant-sites in Subs 1, 4, 7, 12, 16F, 21F, 26F, and 30; (2) change city-wide authority to county-wide authority

in Subs 1 (from Danville, Kewanee and Peoria, IL to Vermilion, Henry, Peoria, Woodford, and Tazewell Counties, IL and Vermillion and Warren Counties, IN, and from Crawfordsville, IN to Montgomery County, IN); Sub 4 (from Northbrook and Joliet, IL to Cook and Will Counties, IL); Sub 7 (from Minneapolis, MN to Hennepin, Carver, Scott, Dakota, Washington, Ramsey and Anoka Counties, MN; Berea, KY to Madison, Garrard and Rockcastle Counties, KY); Sub 8 (from Centerville, IA to Appanoose County, IA); Sub 10 (from Wilton, IA to Muscatine and Cedar Counties, IA); Sub 12 (from Jackson and Mobile, AL to Clarke, Washington, Mobile and Baldwin Counties, AL); Sub 15 (from Sterling, IL to Whiteside County, IL); Sub 16F (from Bessemer and Birmingham, AL to Jefferson, Shelby, Blount and Saint Clair Counties, AL); Sub 19F (from Joliet, Aurora, Morton, Peoria, Mapleton, Decatur, Rock Island and Mossville, IL to Will, Kane, Tazewell, Peoria, Macon, Rock Island and Woodford Counties, IL); Sub 21F (from Ravenswood, WV to Jackson County, WV and Meigs County, OH); Sub 23F (from Rockwood, WI to Manitowoc County, WI); Sub 24F (from Crawfordsville, IN to Montgomery County, IN); Sub 25F (from Davenport, IA to Scott and Muscatine Counties, IA and Rock Island and Henry Counties,. IL; from Waupaca, Berlin, Racine and Kenosha, WI to Waupaca, Green Lake, Waushara, Racine and Kenosha Counties, WI); Sub 28 (from Minneapolis, MN to Hennepin, Anoka, Ramsey, Washington, Carver, Dakota and Scott Counties, MN and Waukesha, WI to Waukesha County, WI); Sub 30 (from Ravenna, OH to Portage County, OH; from Holt, AL to Tuscaloosa County, AL; from Glendale to Marshall County, WV and Belmont County, OH; from Orangeburg, NY to Rockland County, NY and Bergen County NJ; from Demopolis, AL to Sumter, Greene, Hale and Marengo Counties, AL; from Holt, AL to Tuscaloosa County, AL; from Kokomo, IN to Howard, Miami, Cass and Taylor Counties, IN); from Glendale, WV to Marshall County, WV and Belmont County, OH; (3) remove traffic originating at and/or destined to restrictions in Subs 1, 4, 7, 8, 10, 12, 25F and 30; (4) change one-way authority to two-way radial authority in Subs 4, 8, 10, 11, 12, 13, 15, 16F, 21F, 23F, 25F, 26F and 30; (5) remove size and weight and 15,000 pound restrictions and restriction against service to specific shipper in Sub 7; (6) remove dump truck and size and weight and bulk restrictions in Sub 8; (7) remove bulk restrictions in Sub 10 and Sub 19; (8) remove foreign commerce and Canadian restrictions in Sub 12; (9) remove commodities in bulk and dump vehicle restrictions in Sub 15; (10) remove size, weight and Mercer restrictions in Sub 30; (11) change the territorial description in Sub 11 from points within 50 miles of Chicago, IL to points in Lake, McHenry, Boone, DeKalb, Kane, Cook, DuPage, Will, Kendall, LaSalle, Grundy, Kankakee and Iroquios Counties, IL and points in LaPorte, Porte, Lake, Jasper and Newton Counties, IN; and (12) remove a size and weight restriction in Sub 28.

For status, please call Team 4 at 202–275–7669.

Volume No. OP4–051

Decided: January 27, 1983.

MC 142096 (Sub-22)X, filed January 17, 1983. Applicant: MILLER BROS. TRUCKING CO., INC., 4100 N. Mitchell St., Milwaukee, WI 53215. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Sub-Nos. 8F, 11F, 12F, 14F, and 17F Certificates: (1) Broaden (a) paper towels, napkins, facial tissue and toilet tissue, to "pulp, paper and related products" in Sub 8F, (b) containers (plastic), to "rubber and plastic products" in Sub 11F, (c) such commodities as are dealt in and used by manufacturers, converters and printers of paper and paper products, to "pulp, paper and related products in Sub 12F, (d) empty metal containers, to "fabricated metal products" in Sub 14F, (e) glass containers and equipment, supplies and accessories, to "clay, concrete, glass or stone products" in Sub 17F; (2) eliminate the facilities limitations in Subs 8F, 11F, and 12F; (3) broaden Green Bay to Brown County, WI; Milwaukee and Glendale to Milwaukee County, WI; Columbus to Dodge County, WI; and Mosinee to Marathon County, WI; in Subs 8F, 11F, 12F, and 14F; (broaden one-way irregular routes to radial authority in Subs 8F and 14F; and (5) remove in bulk exception in Sub 12F; and (6) remove restriction to traffic originating at named facilities and change territory to between the named facilities at points in IL, IN, MI, and WI, on the one hand, and, on the other, points in IL, IN, MI, and WI in Sub 17F.

[FR Doc. 83–2868 Filed 2–2–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278; or Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions: These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review Board	Decided date
[illegible]	Chesapeake and Ohio Railway Co., ICC–CO–C–1126, Supplement 2, (Iron or steel sheet)	[1]2	1–127–83
724	[illegible] Co., ICC–MKT–C–0179 Supplement 3, (chemicals)	[1]1	1–27–83
727	Burlington Northern Railroad Co., ICC–BN–C–0207, Supplement 1, (Soda ash)	[1]1	1–28–83
[illegible]	Burlington Northern Railroad Co., ICC–BN–C–0166, Supplement 1, (Soda ash)	[1]2	1–28–83
[illegible]	Burlington Northern Railroad Co., ICC–BN–C–0160, Supplement 1, (Soda ash)	[1]3	1–28–83
731	Burlington Northern Railroad Co., ICC–BN–C–0093, Supplement 1, (Soda ash)	[1]1	1–28–83
732	Burlington Northern Railroad Co., ICC–BN–C–0187, Supplement 1, (Soda ash)	[1]2	[illegible]
[illegible]	Burlington Northern Railroad Co., ICC–BN–C–0267, (Residual fuel oil)	[1]3	[illegible]
734	Union Pacific Railroad Co., ICC–UP–C–0172, Supplement 2, (Liquid chlorine gas)	[1]1	1–27–83

Sub-No.	Name of railroad, contract No. and specifics	Review Board.	Decided date
738	Kansas City Southern Railway Co., ICC–KCS–C–0050 (Vinyl chloride)	[1]2	1–27–83
739	Missouri Pacific Railroad Co., ICC–MP–C–0236, (Cotton)	[1]3	1–27–83
740	Missouri Pacific Railroad Co., ICC–MP–C–0234, (Scrap paper)	[1]1	1–27–83
741	Missouri Pacific Railroad Co., ICC–MP–C–0155, Supplement 2, (Grain sorghums, corn and sorghums)	[2]1	1–28–83
742	Boston and Maine Corp., ICC–BM–C–0033, (Sugar)	[1]1	1–27–83
743	Consolidated Rail Corp., ICC–CR–C–0274, (Iron and steel products, scrap iron or steel)	[1]3	1–27–83
744	Richard B. Ogilvie, Trustee, for Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC–MILW–C–0285, (Bituminous Coal)	[2]1	1–28–83
745	Soo Line Railroad Co., ICC–SOO–C–0146, Supplement 1, (Coiled or sheeted tin plate and tin plate scrap)	[1]2	1–28–83
746	The Baltimore and Ohio Railroad Co., ICC–BO–C–0120, (Cooper products)	[1]3	1–28–83
748	Burlington Northern Railroad Co., ICC–BN–C–0092, Supplement 8, (Beet sugar molasses)	[1]2	1–28–83
751	Chicago and North Western Transportation Co., ICC–CNW–C–0435, (Tomato paste)	[2]1	1–28–83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

[2] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Parker not participating.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2869 Filed 2–2–83; 8:45 am]

BILLING CODE 7535–01–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Visual Arts Advisory Panel (Forums); Meeting

Pursuant to Section 10(a)(2) of the Federal advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Forums) to the National Council on the Arts will be held on February 15–16, 1983, from 9:00 a.m.–5:30 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations National Endowment for the Arts.

January 24, 1983.

[FR Doc. 83–2954 Filed 2–2–83; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems; Meeting

The ACRS Subcommittee on Emergency Core Cooling Systems will hold a closed meeting on February 17 and 18, 1983, at the General Electric facilities in San Jose, CA. The Subcommittee will continue its review of the GE proposed SAFER/GESTER ECCS licensing code. Notice of this meeting was published January 18, 1983 (FR 48 2237).

The entire meeting will be closed to public attendance. The meeting will be closed to protect proprietary information (Sunshine Act Exemption 4).

The agenda for subject meeting shall be as follows:

Thursday, February 17, 1983—8:30 a.m. until the conclusion of business Friday, February 18, 1983—8:30 a.m. until the conclusion of business.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it will be necessary to close this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: January 31, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–2950 Filed 2–2–83; 8:45 am]

BILLING CODE 7590–01–M

Appointments to Performance Review Board for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointments to Performance Review Board for Senior Executive Service.

SUMMARY: The Nuclear Regulatory Commission (NRC) has announced the following new appointments and reappointments to the NRC Performance Review Board (PRB):

Guy A. Arlotto, Director, Division of Engineering Technology, RES.

Edson G. Case, Deputy Director, Office of Nuclear Reactor Regulation.

John G. Davis, Director, Office of Nuclear Material Safety and Safeguards.

Richard C. DeYoung, Director, Office of Inspection and Enforcement.

Martin G. Malsch, Deputy General Counsel for Domestic Licensing and Regulation, OGC.

Thomas E. Murley, Director, Regional Operations and Generic Requirements Staff.

Patricia G. Norry, Director, Office of Administration.

These appointments are to three year terms, and are made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code.

In addition to the above appointments, the following members are continuing on the PRB:

Guy H. Cunningham, Executive Legal Director.

Ronald C. Haynes, Regional Administrator, Region I.

Clemens J. Heltemes, Deputy Director, Office of Analysis and Evaluation of Operational Data.

John C. Hoyle, Assistant Secretary of the Commission.

James G. Keppler, Regional Administrator, Region III.

Ralph G. Page, Chief, Uranium Fuel Licensing Branch, Office of Nuclear Material Safety and Safeguards.

Denwood F. Ross, Deputy Director, Office of Nuclear Regulatory Research.

Hugh L. Thompson, Director, Division of Human Factors Safety, Office of Nuclear Reactor Regulation.

EFFECTIVE DATE: January ??, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia G. Norry, Chair, Performance Review Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301–492–7335.

Dated at Bethesda, Maryland, this 26th day of January 1983.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Chairman, Executive Resources Board.

[FR Doc. 83-2979 Filed 2-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN-50-528-OL, STN-50-529-OL and STN-50-530-OL]

Arizona Public Service Company, et. al. (Palo Verde Nuclear Generating Station, Units 1, 2 and 3); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding: Alan S. Rosenthal, Chairman; Stephen F. Eilperin, Howard A. Wilber.

Dated: January 27, 1983.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-2980 Filed 2-3-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

Baltimore Gas and Electric Co.; Granting of Relief From ASME Section XI, Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted a relief from certain requirements of the ASME code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Baltimore Gas and Electric Company (the licensee), which revised the inservice inspection program for Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The code relief, granted in accordance with 10 CFR Part 50, Section 50.55(g)(6)(i), relates to (1) Examination of reactor vessel closure head cladding, (2) Code Case N-210, "Exemption to Hydrostatic Tests after Repairs," (3) Code Case N-307 for Centerdrilled Hole Ultrasonic Examination of Studs, (4) Increased inservice leak testing in lieu of hydrostatic pressure testing of the Class III component cooling water system, and (5) Hydrostatic testing of welds that cannot be isolated from the steam generators (Unit 2 only).

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee's requests for relief from code requirements dated November 6, 1981 and December 21, 1982 and (2) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Calvert County Library, Prince Frederick, Maryland. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 24th day of January, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 83-2981 Filed 2-3-83; 8:45 am]

BILLING CODE 7590-01-M

Docket No. 50-261-OLA, ASLBP No. 83-484-03LA]

Carolina Power & Light Co. (H. B. Robinson Steam Electric Plant, Unit 2); Order (Setting Time and Place of Special Prehearing Conference)

January 28, 1983.

The special prehearing conference, scheduled for March 24, 1983, will commence at 9:30 a.m. local time on that date, in Council Chambers, Room 605, Florence City-County Complex, 180 North Irby Street, Florence, South Carolina.

Dated at Bethesda, Maryland, this 28th day of January 1983.

It is so ordered.

For the Atomic Safety and Licensing Board.

Morton B. Margulies,

Chairman, Administrative Judge.

[FR Doc. 83-2982 Filed 2-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co., Ohio Edison Co. and Pennsylvania Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications such that anticipatory reactor trip on turbine trip may be bypassed when the plant is at 50% rated power or below.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connections with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated October 27, 1978, supplemented by letter dated November 3, 1982, (2) Amendment No. 62 to License No. DPR-66 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of January, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-2983 Filed 2-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminile Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications (TSs) for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

This amendment provides for the deferment of certain monthly channel functional tests of engineered safeguards components until Crystal River Unit No. 3 is shutdown for Reload IV.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated January 14, 1983, as supplemented January 20, 1983, (2) Amendment No. 61 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of January 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-2984 Filed 2-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana and Michigan Electric Co.; Notice of Issuance of Amendments to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 67 to Facility Operating License No. DPR-58, and Amendment No. 49 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to require an audit of Emergency Preparedness Programs and the Safeguards Contingency Plans (Security Plan) at a frequency of at least once per twelve (12) months.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated December 9, 1982, (2) Amendment Nos. 67 and 49 to License Nos. DPR-58 and DPR-74, and (3) the Commission's letter dated January 20, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of January 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-2986 Filed 2-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-213, 50-245 and 50-336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 88 to Provisional Operating License No. DPR-21 and Amendment Nos. 51 and 80 to Facility Operating License Nos. DPR-61 and DPR-65, to Connecticut Yankee Atomic Power Company, The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company and Northeast Nuclear Energy Company (the licensees), which revised the Environmental Technical Specifications (TS) for operation for the Haddam Neck Plant and the Millstone Nuclear Power Station, Units 1 and 2 (the facilities). Haddam Neck is located in Middlesex County, Connecticut and Millstone Station is located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

The amendments approve changes to the Appendix B Environmental TS which are administrative in nature and primarily reflect organizational title changes. In addition, the amendment for Haddam Neck also approves a change to the upper range intake water-temperature sensor.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which set forth in the license amendments. Prior public notice

of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to these actions, see (1) The application for amendments dated June 11, 1982, (2) Amendment No. 88 to License No. DPR-21 and Amendment Nos. 51 and 80 to License Nos. DPR-61 and DPR-65, and (3) the Commission's related letter of transmittal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC 20555, the Russell Library, 119 Broad Street, Middletown, Connecticut 16457 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of January, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-2985 Filed 2-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-311]

Public Service Electric and Gas Co., Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. DPR-75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 2 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment modifies License Condition 2.C.15(b) to allow delaying installation of upper inspection ports in the steam generators until the second refueling outage.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d) (4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For futher details with respect to this action, see (1) The application for amendment dated October 7, 1982, (2) Amendment No. 17 to License No. DPR-75, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of January, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-2987 Filed 2-2-83; 8:45]

BILLING CODE 7590-01-M

[Docket No. 30-19101 (50-529, -260 and -296)]

Tennessee Valley Authority; Issuance of Materials License and Negative Declaration for the Onsite Storage of Low-Level Radioactive Waste at the Browns Ferry Nuclear Plant

The U.S. Nuclear Regulatory Commission (the Commission) has issued Materials License No. 01-21075-01 to the Tennessee Valley Authority (TVA or licensee) authorizing the receipt, possession, storage and transfer of low-level radioactive waste (LLRW) at its onsite LLRW Storage Facility at the Browns Ferry Nuclear Plant (BFNP) near Athens, Alabama. The license authorizes the storage of up to five years of LLRW generated from the operation of the BFNP. The license is effective as of the date of issuance and the term of the license is five years.

Application for storage of LLRW was made by TVA as requests for amendments to facility operating licenses Nos. DPR-33, DPR-52, and DPR-68. Notice of receipt of the application and offering an opportunity for public particpation in connection with the action was published in the **Federal Register** on December 11, 1980 (45 FR 81697). For administrative purposes the application has been reviewed and the license issued pursuant to 10 CFR Part 30 of the Commission's regulations.

The application for amendment to the facility operating license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the license.

The Commission's Office of Nuclear Materials Safety and Safeguards, Division of Fuel Cycle and Material Safety, has completed its safety and environmental reviews in support of the issuance of Materials License No. 01-21075-01. The notices of issuance and availability of the staff's safety evaluation report and environmental impact appraisal were published in the **Federal Register** on June 11, 1982 (47 FR 25431) and June 17, 1982 (47 FR 26262), respectively. Based on the conclusions of the staff's environmental review and evaluation (47 FR 26262) that the issuance of the materials license will not significantly affect the quality of the human environment and that there will be no significant environmental impact from the issuance of the license, the Commission therefore concludes that this Negative Declaration is appropriate and an environmental impact statement for this particular action is not warranted.

Materials License No. 01-21075-01 is available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the Local Public Document Room established at the Athens Public Library, South and Forrest Streets, Athens, Alabama 35611 under the Browns Ferry Nuclear Plant Docket Nos. 50-259, -260, and -296.

Dated at Silver Spring, Maryland this 27th day of January, 1983.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 83-2989 Filed 2-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-266]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant Unit 1); Exemption

I

Wisconsin Electric Power Company (the licensee) is the holder of Facility Operating License No. DPR-24 (the license) which authorizes operation of the Point Beach Nuclear Plant, Unit No. 1 (the facility) at a steady state reactor power level not in excess of 1518 megawatts thermal. The facility consists of a Westinghouse Electric Corporation designed pressurized water reactor (PWR) located at the licensee's site in Manitowoc County, Wisconsin.

The license is subject to all rules, regulations and Orders of the Commission.

II

10 CFR 50.44(c)(3)(iii) requires a licensee to provide each lightwater nuclear power reactor with high point vents for the reactor coolant system, for the reactor vessel head, and for other systems required to maintain adequate core cooling if the accumulation of non-condensible gases would cause the loss of function of these systems. Required modifications are to be completed by the end of the first scheduled outage of sufficient duration beginning after July 1, 1982.

By letter dated June 18, 1982, the licensee requested an exemption to the schedular requirements of paragraph (c)(3)(iii) of 10 CFR Part 50.44. The licensee requests that it be granted an exemption until no later than January 1, 1984 to install the reactor coolant system and reactor vessel head high point vents for the Point Beach Nuclear Plant, Unit No. 1.

The licensee has stated that the control panels necessary to permit complete remote operation of the reactor coolant gas vent system for Point Beach Unit No. 1 were not available for installation during the Fall 1982 annual refueling outage for this unit. The Fall 1982 refueling outage was the first scheduled outage of sufficient duration after July 1, 1982 to permit installation of the reactor coolant gas vent system at Point Beach Unit 1. The licensee has further stated that the Point Beach Unit No. 1 reactor coolant gas vent system valves and piping are installed and have been hydrostatically tested. Manual valves upstream of the vent valves are closed to preclude inadvertent operation of system.

The licensee has further stated that temporary power supplies could be utilized to operate the reactor vessel head vent in the event of an accident occurring before final installation is completed. The existing Power Operated Relief Valves form the pressurizer high point vent portion of the system. These are fully operable.

Delivery of the control panels necessary to permit remote operation of the reactor coolant vents system is expected in the Spring of 1983. The next scheduled outage for Point Beach Unit No. 1 is the Fall 1983 annual refueling outage. Final hookup and functional system testing will be accomplished during this outage.

The NRC staff has reviewed the basis for an exemption to the RCS vents schedule for Point Beach Unit No. 1. The licensee's efforts to minimize inadvertent actuation by removing power from the power operated solenoid isolation valves until construction is completed are warranted. Since the likelihood that vents would be needed prior to the completion of the vent system is low, the NRC staff concludes that a schedular exemption to the hydrogen rule vents requirements (10 CFR 50.44(c)(3)(iii)) until the system controls are installed and fully tested, but no later than January 1, 1984, is reasonable and that the licensee's request for exemption should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letter of June 18, 1982, as discussed above, is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The requested exemption is hereby granted as follows:

The date specified in Paragraph (c)(3)(iii) of 10 CFR Part 50.44 to complete installation of reactor coolant system high point vents is extended to no later than January 1, 1984 for the Point Beach Nuclear Plant, Unit No. 1.

The Commission has concluded, based on the considerations discussed above, that: (1) Because the granting of this Exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated, does not create the possibility of an accident of a type different from any evaluated previously, and does not involve a significant reduction in a margin of safety, the Exemption does not involve a significant hazards consideration, (2) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, and (3) such activities will be conducted in compliance with the Commission's regulations and the granting of this Exemption will not be inimical to the common defense and security or to the health and safety of the public.

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 25th day of January, 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 83-2988 Filed 2-2-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19456; File No. 4-208]

American Stock Exchange, Inc., et al.; Intermarket Trading System

January 27, 1983.

In the matter of; American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., and Philadelphia Stock Exchange, Inc.; Order Approving Intermarketing Trading System.

On December 29, 1982, the National Association of Securities Dealers, Inc. ("NASD") and the American ("AMEX"), Boston ("BSE"), Cincinnati ("CSE"), Midwest ("MSE"), New York ("NYSE"), Pacific ("PSE") and Philadelphia ("Phlx") Stock Exchanges, Inc. [collectively, "Intermarketing Trading Systems ("ITS") participants"] jointly requested that the Commission, pursuant to Section 11A(a)(3)(B), of the Securities Exchange Act of 1934 ("Act") and Rule 11Aa3-2 thereunder, terminate the status of ITS as an experimental system by extending its duration for an indefinite period.[1] After carefully

[1] Letter to George A. Fitzsimmons, Secretary, SEC, from Charles Forman, Chairman, ITS Operating Committee, dated December 29, 1982.

reviewing the ITS participants' request, the Commission has determined to issue an order authorizing the participants to operate ITS on an indefinite basis.

I. Background

On March 9, 1978, the Amex, BSE, NYSE, PSE and Phlx jointly filed with the Commission a Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage ("ITS Plan"). On April 14, 1978, the Commission, pursuant to Section 11A(a)(3)(B) of the Act, issued an order approving the ITS Plan and authorizing the filing exchanges, and any other self-regulatory organization which agreed to become a participant to the ITS Plan, to act jointly in planning, developing, operating and regulating the ITS in accordance with the terms of the Plan for 120 days from the date of the order.[2] On August 11, 1978, the Commission approved an extension of ITS for an additional year [3] and, on September 21, 1979, the Commission extended that approval through January 31, 1983.[4]

Following the initial approval of the ITS Plan, on April 17, 1978, the NYSE and the Phlx were the first participants to be linked through ITS. Subsequently, the Los Angeles floor of the PSE was linked on June 26, 1978 (the San Francisco floor of the PSE was linked on November 16, 1978) and the Amex was linked on August 7, 1978. On April 25, 1978, the ITS Plan was amended to include the MSE which thereafter was linked on July 24, 1978. On February 11, 1981, the CSE became a participant and was linked by way of a manual interface between the CSE's National Securities Trading System ("NSTS") and ITS.[5] On May 17, 1982, the NASD became a participant through an automated link between the NASD's Computer Assisted Execution System ("CAES") [6] and ITS.[7]

The primary function of the ITS is to link the various market centers by routing messages between them. The ITS enables a broker or dealer who is physically present in one market center to transmit his own or his customer's order in an ITS-traded stock to another market center. With respect to all participating market centers, this is accomplished by the entry of an order, known as a "commitment to trade," into a computer terminal located on the floor or a participating exchange, or for CAES market makers, on the premises of the CAES market makers.

A commitment to trade is initiated by an originating market center by making an entry into a computer terminal; the message is then delivered or queued for delivery to the destination market center output terminal in a matter of seconds.[8] A "commitment to trade" entered into the system is a firm obligation for a fixed period of time on the part of its originator to buy or sell the specified security.[9] If a commitment to trade is accepted by a broker or dealer at the receiving market center, a simplified message is entered into the system and the system immediately reports an execution back to the originating market center. If a commitment is not accepted during the designated time-period (*i.e.*, one or two minutes, whichever period the sender chooses), the commitment is automatically cancelled.

II. System Performance

Since the ITS began operating in April 1978, the Commission has received, complied and analyzed a substantial volume of data relating to the ITS as part of the Commission's program to monitor the operation of the system.[10] In this connection, the Commission would note that ITS trading commenced in 11 securities on April 17, 1978, and as of November 1982, approximately one thousand securities were being traded through the system. During the 12 months ending November 30, 1982, 1.1 million trades were executed through the ITS, totalling 785 million shares. This compares to 927 thousand ITS trades totalling 538 million shares in the previous twelve months. Moreover, there has been a substantial increase in ITS volume relative to total volume in ITS stocks. For example, ITS share volume expanded by 37 percent during 1981 while total share volume in ITS stocks increased by only 12 percent. Indeed, the number of trades executed through the ITS grew by 28 percent in 1981 as compared with 1980, while there was an actual decrease in total trades in ITS stocks.

As a result of this linked trading environment, the ITS also has provided a mechanism for a participant to reach a better price quoted in another participant's market center, thereby reducing the possibility of a "trade-through" [11] of that market center's superior quotation. Indeed, in a specific effort to discourage trade-throughs, each participant has adopted, and the Commission has approved, trade-through rules which provide procedures for remedying trade-throughs, in the event that they occur.[12] Subsequent to the adoption of the trade-through rules, the Commission's monitoring has identified less than one percent of ITS transactions as involving potential trade-throughs. In addition, the Commission notes that it appears that market professionals have, on a

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[2] Securities Exchange Act Release No. 14661 (April 14, 1978), 43 FR 17419.

[3] Securities Exchange Act Release No. 15058 (August 11, 1978), 43 FR 36732.

[4] Securities Exchange Act Release No. 16214 (September 21, 1979), 44 FR 56069 ("September 1979 Exension Order").

[5] Securities Exchange Act Release No. 17532 (February 10, 1981), 46 FR 12919. The NSTS is a fully automated electronic trading system which permits CSE members, without the necessity of maintaining a physical presence on the floor of the CSE or any other exchange, to enter agency or principal orders into the system. Once entered, orders are stored, queued and executed by the system's computer according to price and time priorities. The markets reflected in the NSTS are updated and displayed instantaneously upon the entry of new or revised orders, the cancellation of orders or the execution of orders entered into the system. *See* Securities Exchange Act Release No. 19315 (December 9, 1982), 47 FR 56236.

[6] CAES is a computerized order routing an execution facility operated by the NASD as part of the NASD's NASDAQ System.

[7] *See* Securities Exchange Act Release No. 18713 (May 6, 1982), 47 FR 20413. The ITS/CAES interface is presently being operated on a pilot basis in 30 exchange-traded securities which are not subject to exchange off-board trading restrictions ("Rule 19c-3 Securities"). On December 21, 1982, the Commission deferred the inclusion of the remaining Rule 19c-3 Securities in the linkage until June 1, 1983, in order to permit the Commission to review comments received in response to its release concerning a possible order exposure rule that might govern trading in those stocks included in the linkage. *See* Securities Exchange Act Release No. 19371 (December 23, 1982), 47 FR 58287.

[8] At the time of the transaction, each commitment is validated, assigned a unique commitment identification number, time stamped, and logged by the ITS. When received at a destination exchange market center, the commitment is displayed on a cathode ray tube terminal and printed out on an ITS printer. Commitments routed through the ITS/CAES interface to the NASD receive automatic executions at the best price quoted in CAES.

[9] The commitment is irrevocable for that time period following acceptance by the System as chosen by the sender of the commitment to trade. The ITS provides two time-period options known as "T-1" (one-minute option) and "T-2" (two-minute option) (as a practical matter, senders seldom use the T-2 option). Thus, if the one-minute option is chosen, a commitment is automatically cancelled after the one minute if not accepted by the destination market center.

[10] *See* Securities and Exchange Commission, *A Monitoring Report on the Operation of the Intermarket Trading System* (February 1981) and Securities and Exchange Commission, *A Report on the Operation of the Intermarket Trading System: 1978–1981* (June 1982) ("*1982 Monitoring Report*").

[11] A "trade-through" occurs when an execution takes place in one ITS market center at a time when another ITS market center is offering a better price. The Commission traditionally has viewed the occurrence of trade-throughs as "unacceptable in an evolving national market system." Securities Exchange Act Release No. 15671 (March 22, 1979), 44 FR 20360, 20364 n. 35.

[12] Securities Exchange Act Release No. 17704 (April 9, 1981), 46 FR 22520 (exchange trade-through rules); Securities Exchange Act Release No. 19249 (November 17, 1982), 47 FR 53552 (approval of NASD trade-through rules).

continuous basis, used the ITS to seek prices better than those displayed through published quotations, and that approximately one-third of such attempts have been successful.[13]

III. Discussion

In mandating the development of a national market system ("NMS"), Congress expresaly stated that "[n]ew data processing and communications techniques create the opportunity for more efficient market operations"[14] and that "[t]he linking of all markets for qualified securities through communication and data processing facilities will foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to best execution of such orders."[15] In carrying out Congress' mandate, the Commission has taken an evolutionary approach by encouraging the securities industry to take the primary initiative in fashioning trading mechanisms which are consistent with the objectives of a NMS. The Commission believes that, as a general matter, the industry has responded well to changing economic and technological demands by attempting to integrate state of the art data processing and communications technology to develop new trading systems which have advanced the goals of an evolving NMS. In this respect, the Commission believes that ITS, CAES and the NSTS represent constructive approaches to integrating trading in physically dispersed locations.[16]

In the Commission's September 1979 Extension Order, the Commission indicated that, if the ITS was to become a permanent feature of the NMS, the ITS participants "must continue to make improvements, changes and adaptations to meet the needs of people trading in the various market centers and to accommodate Commission regulatory requirements designed to improve order interaction and price protection between and among markets."[17] In this respect, the Commission indicated that "at a minimum, the ITS participants should continue their efforts to enhance the System to further reduce response times in order to increase the efficiency and usefulness of the system"[18] and "should promptly take whatever steps are necessary to (1) arrive at a satisfactory basis for a linkage between the ITS and NSTS, and (2) conclude discussions with the NASD with respect to implementing a linkage between the ITS and over-the-counter market makers regulated by the NASD."[19]

Since the September 1979 Extension Order, the CSE became an ITS participant as of February 10, 1981, through a manual interface between the NSTS and ITS. In addition, the NASD became an ITS participant as of May 17, 1982, through an automated interface between CAES and ITS.[20] Moreover, as further encourage by the Commission, the ITS participants have continued their efforts to increase ITS operational efficiency and capacity levels. For example, the NYSE, has used optical scanner technology in developing an ITS "commitment card"[21] and "turn-around card"[22] for use on its floor. These and other system-wide enhancements have, in part, lead to the decrease of average response times for executed commitments. For instance, in 1982, the average response time for executed commitments declined from 40 seconds in January 1982 to 35 seconds in December 1982.

The Commission also notes that the ITS has provided numerous other benefits to the securities industry and the investing public. For example, the NYSE estimates that the ITS saved investors approximately $40 million in 1981 alone by allowing market professionals on one exchange to obtain superior prices on other exchanges for their customers.[23] In addition, ITS allows regional and over-the-counter market makers effectively to interact with the primary exchanges' order flow both by providing a mechanism through which they may attract orders by disseminating superior quotations and by providing an efficient means for those market makers to adjust their principal positions, thus limiting risk. As a result, such market makers are better able to compete by using their capital more effectively and contributing to the depth and liquidity of the markets for ITS securities. Indeed, the Commission expects that the ITS participants will continue their efforts to ensure that all market makers have effective access to the system.

Finally, the Commission notes that the ITS participants are continuing to

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[13] In this regard, the Commission would note that the use of ITS as a mechanism for reaching prices which are superior to displayed quotations as well as the apparent practice of some market professionals to match another ITS market center's superior quotations in order to retain the execution of orders initially routed to them, suggests that some displayed quotations, at times, do not reflect the entire extent of trading interest in the markets disseminating those quotations. *See* Securities Exchange Act Release No. 18482 (February 11, 1982), 47 FR 7399, 7400. Accordingly, the Commission is concerned that this practice may lessen the ability of ITS to provide increased competitive opportunities to its users as well as stymie the system's progress in the area of contributing to pricing efficiency. The Commission is hopeful, however, that the continued increase in the operational efficiency of the system will prompt more complete disclosure of trading interest in each participant's market center.

[14] Section 11A(a)(1)(B) of the Act.

[15] Section 11A(a)(1)(D) of the Act.

[16] The Commission also notes that since 1978, ITS has provided an unique opportunity for an ITS participant to participate in another participant's opening. In this area, the Commission is encouraged by the continued progress of a Pre-opening Task Force, created by the ITS Operating Committee, in seeking improvements to the preopening process. Current ITS opening procedures require a market maker opening or reopening a security traded in ITS at a price ¼ point or more away from the previous day's close to send a notice to other markets requesting their interest in participating at various prices away from the previous day's close. In this regard, the Commission believes that, because the pre-opening procedures are clearly defined, they should be routinely followed by market makers, especially since these procedures are critical to ensuring that an opening reflects all buying and selling interest. Accordingly, the ITS participants should review their internal procedures to ensure that specialists are in full compliance with the letter and the spirit of the ITS pre-opening procedures and that prompt corrective action is taken in the event a specialist fails to comply with the appropriate pre-opening procedures. Finally, the Commission encouages the ITS participants to agree upon standard resolutions of any damages suffered by specialists or market makers as a result of non-compliance with the pre-opening procedures.

[17] September 1979 Extension Order, *supra* note 5 at 2, 44 FR at 56076.

[18] *Id.*

[19] *Id.*

[20] The Commission recognizes that for CAES to be able to effectively prevent trade-throughs and for the system to operate at maximum efficiency, CAES' ITS order entry process must be enhanced so that CAES orders can be automatically entered into ITS without the manual intervention of a CAES market maker whenever an ITS exchange market is displaying a quotation superior to any interest in CAES. The NASD recently has proposed to develop such a capability, which would enhance CAES to provide for automated routing to ITS if an exchange market is displaying a superior quotation and no CAES market maker matches or betters such a quotation within a specified time period. The Commission believes that use of the interface in this manner does not raise concerns with respect to CAES being employed as an order-routing mechanism by the users of CAES enabling those users to avoid brokerage and transaction fees and the need for exchange membership. Accordingly, the Commission expects the participants to amend the ITS Plan by the end of the pilot phase of the linkage to provide for such an automated interface.

The Commission also notes that in order to achieve fully the Congressional goal that all markets for qualified securities be linked (Section 11A(a)(1)(D) of the Act), it will be necessary in the future for the ITS/CAES interface to be expanded to include all stocks traded in the third market. The Commission encourages the ITS participants to move promptly to achieve this goal once all Rule 19c-3 Securities are included in the interface.

[21] The "commitment card" streamlines the entering of outgoing ITS commitments. In this respect, floor brokers may directly input outgoing commitments into ITS using mark sense cards instead of having the orders entered by an exchange employee.

[22] The "turn-around card" prints incoming ITS commitments on mark sense cards at specialists' locations allowing the specialist clerk to complete the card and enter it into the ITS without the necessity of using a keyboard.

[23] NYSE 1981 Annual Report at 10–11.

improve the system. Specifically, they have approved a total facilities upgrade of ITS, at a cost of approximately $1 million, scheduled for completion by mid-1983.[24] The ITS participants believe that this significant upgrade will improve ITS operations, expand trading capacity [25] and enable ITS to adapt more readily to future system enhancements.[26] The Commission believes that these systems enhancements represent positive and constructive developments by the ITS participants.[27]

IV. Conclusion

Although, as indicated in the above discussion, there are a number of aspects of ITS which deserve further attention and improvement, the development and operation of the ITS represents a significant achievement in terms of cooperation among self-regulatory organizations and their respective memberships. The system has grown into a major trading facility which has provided new and increased opportunities for inter-market competition and improved execution of customer orders.

The Commission's monitoring program with respect to the ITS and the *1982 Monitoring Report* support the participants' request for termination of ITS' experimental status. Accordingly, the Commission has determined to terminate the ITS as an experimental program by extending its duration for an indefinite period. In so doing, the Commission has determined that authorization of the ITS on an indefinite basis is consistent with the Act, particularly the requirements of Section 11A thereunder.[28]

* * * * *

It is hereby ordered, pursuant to Section 11A(a)(3)(B) of the Act and Rule 11Aa3–2 thereunder, that the ITS participants are authorized to act jointly in operating the ITS in accordance with the ITS Plan on an indefinite basis. This order is subject to modification or revocation at any time if the Commission determines that such action is necessary or appropriate in light of progress made toward an NMS or otherwise in furtherance of the purposes of the Act.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2910 Filed 2–2–83; 8:45 am]

BILLING CODE 8010–01–M

[File No. 2–26377]

Continental Air Lines, et al.; Notice of Application and Opportunity for Hearing

January 27, 1983.

In the Matter of Continental Air Lines, Inc. and Texas International Airlines, Inc.; File No. 2–26377; Trust Indenture Act of 1939, Section 310(b)(1)(ii); notice of application and opportunity for hearing.

Notice is hereby given that Continental Air Lines, Inc. ("Continental") and Texas International Airlines, Inc. ("TXI") have filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of United States Trust Company of New York (the "Trust Company") under the three Continental indentures and seven TXI indentures hereinafter described are not so likely to involve a material conflict of interest under the Act as to make it necessary in the public interest or for the protection of investors to disqualify the Trust Company from acting as trustee under such indentures.

Section 310(b) of the Act provides, in part, that if an indenture trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined therein) it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this Section provides, with certain execeptions stated therein, that a trustee is deemed to have a conflicting interest if it is acting as trustee under a qualified indenture and is trustee under another indenture of the same obligor. However, an issuer may sustain the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under a qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one or more of such indentures.

Continental and TXI alleges that:

1. As of November 30, 1982, there were outstanding the following securities issued by, or in connection with aircraft financings involving, Continental:

(a) $25,358,000 principal amount of 3½% Convertible Subordinated Debentures, due May 1, 1992, issued under an Indenture dated as of May 1, 1967 as amended between Continental and the Trust Company, as successor trustee. The Debentures were registered under the Securities Act of 1933 (the "Securities Act") on Form S–1, as amended (File No. 2–16377). The Indenture was qualified under the Act.

(b) First Security Bank of Utah, National Association ("First Security"), as owner trustee, had outstanding in connection with two Continental 1980 DC–10 aircraft leveraged lease financings the following securities:

(i) $28,838,614.12 principal amount of Loan Certificates, issued under a Trust Indenture and Security Agreement No. I dated as of August 20, 1980, between First Security, as owner trustee, and the Trust Company, as loan trustee, as supplemented by Trust Supplement No. 1 dated as of August 28, 1980 and executed by First Security, as owner trustee.

(ii) $28,849,704.49 principal amount of Loan Certificates, issued under a Trust Indenture and Security Agreement No. II dated as of August 25, 1980 between First Security, as owner trustee, and the Trust Company, as loan trustee, as supplemented by Trust Supplement No 1 thereto dated September 25, 1980 and executed by First Security, as owner trustee.

The Loan Certificates were not registered under the Securities Act pursuant to the exemption contained in Section 4(2) thereof. The related Trust Indentures and Security Agreements were not qualified under the Act in reliance on the exemption contained in Section 304(b)(1) of the Act.

The obligation for payment in respect of the Loan Certificates is not the

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[24] In connection with these enhancements, the Commission understands that the ITS participants are in the process of developing four standard ITS interfaces, any of which may be utilized by any participant.

[25] Initially, trading capacity will triple. In addition, it will be possible to expand the system further through the use of additional hardware.

[26] The Commission would note that, to date, it has not received any formal submission relating to these enhancements. In this regard, the Commission would expect that the participants, prior to implementing these enhancements, will submit, for Commission approval, an amendment to the ITS Plan reflecting these system improvements.

[27] The Commission remains concerned, however, that the ITS participants have yet to achieve a mechanism for providing for the system-wide protection of public limit orders. The Commission recognizes that the ITS participants are continuing to address this area and encourages them to reach agreement on a means to address this problem at the earliest possible time. *Cf.* Securities Exchange Act Release No., 14416 (January 26, 1978), 43 FR 4354, Securities Exchange Act Release No. 15671 (March 22, 1979), 44 FR 20360 and Securities Exchange Act Release No. 15770 (April 26, 1979), 44 FR 26892.

[28] It should be noted that the Commission will, of course, continue to collect data on the ITS as part of its ongoing program to monitor the evolving NMS.

personal obligation of Continental, but is the obligation of First Security, as owner trustee.

The payment of each series of Loan Certificates is secured by a security interest in favor of the Trust Company, as loan trustee, in the owner trustee's right, title and interest in (A) a McDonnell Douglas DC–10–20 aircraft and (B) a lease of the aircraft between the owner trustee and Continental, including the right to receive rent. Upon the default of Continental under either of the leases, the owner trustee has the right to take possession of and sell or relet the related aircraft and to receive liquidated damages as set forth in the leases in lieu of rent due and to become due.

2. As of November 30, 1982, there were outstanding the following securities issued by or in connection with aircraft financings involving, TXI:

(a) The following Loan Participation Certificates were outstanding in connection with the five Texas International DC–9 aircraft trusts:

(i) $2,253,420 principal amount of Class A Loan Participation Certificates and $250,380 principal amount of Class B Loan Participation Certificates, issued under a Trust Agreement dated as of January 15, 1976 between Aetna Insurance Company ("Aetna") and The Chase Manhattan Bank (National Association) ("Chase"), as loan participants, and the Trust Company, as trustee.

(ii) $1,205,280 principal amount of Class A Loan Participation Certificates and $133,920 principal amount of Class B Loan Participation Certificates, issued under a Trust Agreement dated as of September 1, 1976 between Aetna and Chase, as loan participants, and the Trust Company, as trustee.

(iii) $2,217,724 principal amount of Class A Participation Certificates and $246,636 principal amount of Class B Loan Participation Certificates, issued under a Trust Agreement dated as of November 1, 1976 between The Philadelphia Saving Fund Society and Chase, as loan participants, and the Trust Company, as trustee.

(iv) $5,838,480 principal amount of Class A Loan Participation Certificates and $648,720 principal amount of Class B Loan, Participation Certificates, issued under a Trust Agreement dated as of May 1, 1977 between Dollar Savings Bank of New York ("Dollar") and Chase, as loan participants, and the Trust Company, as trustee.

(v) $3,296,700 principal amount of Class A Loan Participation Certificates and $366,300 principal amount of Class B Loan Participation Certificates, issued under a Trust Agreement dated as of September 1, 1977 between Dollar and Chase, as loan participants, and the Trust Company, as trustee.

The Loan Participation Certificates were not registered under the Securities Act pursuant to the exemption contained in Section 4(2) thereof. The related Trust Agreements were not qualified under the Act in reliance on the exemption contained in Section 304 (b) (1) of the Act. All the loans made by the aircraft trusts to Texas International for the purchase of the DC–9 aircraft are evidenced by notes (the "Notes"). Payment of ninety percent of the aggregate principal amount of the Notes and one hundred percent of the aggregate unpaid interest on the Notes is guaranteed by the FAA.

(b) The following Equipment Trust Certificates which were outstanding in connection with two Texas International DC–9 Series 30 aircraft equipment trusts:

(i) $23,914,395.72 principal amount cf 10½% Equipment Trust Certificates due August 1, 1994, issued under an Equipment Trust Agreement dated as of March 1, 1979 between the Trust Company, in its individual capacity and as trustee, and Texas International; and

(ii) $24,171,539.76 principal amount of 10⅝% Equipment Trust Certificates due October 1, 1994, issued under an Equipment Trust Agreement dated as of August 1, 1979 between the Trust Company, in its individual capacity and as trustee, and Texas International.

The Equipment Trust Certificates were not registered under the Securities Act pursuant to the exemption contained in Section 4(2) thereof. The related Equipment Trust Agreements were not qualified under the Act in reliance on the exemption contained in Section 304(b)(1) of the Act.

3. On October 28, 1982 Texcon Mergerco, Inc. ("Mergerco"), an indirect wholly-owned subsidiary of Texas Air Corporation ("Texas Air"), merged in to Continental, with the result that Continental become an indirect wholly-owned subsidiary of Texas Air. Pursuant to the merger, Continental's 3½% Convertible Subordinated Debentures became convertible into the Common Stock and 15% 20.00 Cumulative Preferred Stock of Texas Air and Continental become a wholly-owned subsidiary of Continental Airlines Corporation, which is itself a wholly-owned subsidiary of Texas Air and is the holder of all of the outstanding common stock of Texas International.

4. Although after the merger the routes and operations of the two airlines have been integrated under the name "Continental Airlines", each of Continental and Texas International continues its corporate existence and constitutes a separate legal and financial entity. Furthermore, although Continental and Texas International have cross-guaranteed certain bank and institutional loans, neither Continental nor Texas International has guaranteed any of the outstanding securities of the other with respect to which Trust Company acts as trustee. Accordingly, in the opinion of Continental and Texas International, the fact that after the merger Continental and Texas International are affiliated companies does not cause the Trust Company to have a conflict of interest prohibited by Section 310(b)(1) of the Act.

5. Although Continental, as lessee, makes rental payments under the leases for the two Continental DC–10 aircraft owned by First Security Bank of Utah, National Association, as owner trustee, Continental is neither the obligor nor a guarantor of the Loan Certificates issued by First Security Bank, as owner trustee. Accordingly, in the opinion of Continental and Texas International, Continental is not an obligor of the Loan Certificates pursuant to the definition in Section 303(12) of the Act or within the meaning of Section 310(b) of the Act.

Continental and TXI have waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application which is a public document on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, NW. Washington, D.C. 20549.

Notice is further given that any interested person may, not later than February 25, 1983 submit to the Commission, in writing, his view or any substantial facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert or he may request that he be notified if the Commission should order a hearing thereon. At any time after such date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem

necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporate Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2913 Filed 2-2-83; 8:45 am]
BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 27, 1983.

In the matter of applications of the Midwest Stock Exchange, Incorporated for Unlisted Trading Privileges in Certain Securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Timeplex, Inc., Common Stock, $.01 Par Value (File No. 7-6422)
Carolina Freight Corporation, Common Stock, $.50 Par Value (File No. 7-6423)
Allied Corporation, $6.74 Cumulative Convertible Preferred A, No Par Value (File No. 7-6424)
Allis Chalmers Corporation, $5.875 Cumulative Convertible Preferred C, No Par Value (File No. 7-6425)
American General Corporation, Convertible Series B Preferred, No Par Value (File No. 7-6426)
American General Corporation, $3.25 Convertible Junior Preferred, $1.50 Par Value (File No. 7-6427)
Anheuser Busch Companies, Inc., $3.60 Preferred Series A Convertible, No Par Value (File No. 7-6428)
Associated Dry Goods Corporation, $4.75 Cumulative Convertible Preferred A, $50 Par Value (File No. 7-6429)
Beatrice Foods Co., $4 Cumulative Convertible 2nd Preferred, No Par Value (File No. 7-6430)
Beatrice Foods Co., $3.38 Cumulative Convertible A, No Par Value (File No. 7-6431)
Bendix Corporation, 9¾% Cumulative Convertible Preferred B, No Par Value (File No. 7-6432)
Cooper Industries, Inc., $2.90 Cumulative Convertible Preferred, $1 Par Value (File No. 7-6433)
Crown Zellerbach Corporation, $4.625 Cumulative Convertible Preferred A, No Par Value (File No. 7-6434)
DiGiorgio Corporation, $2.25 Cumulative Convertible Preferred B, No Par Value (File No. 7-6435)
FMC Corporation, $2.25 Cumulative Convertible Preferred, No Par Value (File No. 7-6436)
Fairchild Industries, Inc., Convertible Preferred A, No Par Value (File No. 7-6437)
Flexi Van Corporation, $2.75 Cumulative Convertible Preferred, $1 Par Value (File No. 7-6438)
GAF Corporation, $1.20 Cumulative Convertible Preferred, $1 Par Value (File No. 7-6439)
General Cinema Corporation, Series A Cumulative Convertible Preferred, $1 Par Value (File No. 7-6440)
General Dynamics Corporation, $4.25 Cumulative Convertible Preferred A, $1 Par Value (File No. 7-6441)
Georgia Pacific Corporation, Convertible Preferred A, No Par Value (File No. 7-6442)
Georgia Pacific Corporation, Cumulative Convertible Preferred B, No Par Value (File No. 7-6443)
Georgia Pacific Corporation, Adjustable Rate Convertible Preferred C, No Par Value (File No. 7-6444)
Goodrich, B. F. Co. $3.125 Cumulative Convertible Preferred C, $1 Par Value (File No. 7-6445)
Household International Inc., $2.50 Cumulative Convertible Voting Preferred C, No Par Value (File No. 7-6446)
Household International Inc., $6.25 Cumulative Convertible Voting Preferred D, No Par Value (File No. 7-6447)
Ingersoll Rand Co., $2.35 Corporation, Cumulative Convertible Preferred B, No Par Value (File No. 7-6448)
Integrated Resources Inc., $3.03 Cumulative Convertible Preferred, $1 Par Value (File No. 7-6449)
International Harvestor Co., $5.76 Cumulative Convertible Preferred C, No Par Value (File No. 7-6450)
International Telephone & Telegraph, $4.50 Cumulative Convertible Preferred I, No Par Value (File No. 7-6451)
International Telephone & Telegraph, $4 Cumulative Convertible Preferred K, No Par Value (File No. 7-6452)
Jewel Companies, Inc., $2.31 Cumulative Convertible Preferred A, $1 Par Value (File No. 7-6453)
Koppers Company Inc., $10 Convertible Preferred, No Par Value (File No. 7-6454)
Mark Controls Corporation, $1.20 Preferred A, $1 Par Value (File No. 7-6455)
Mattel Incorporated, $25 Convertible Preferred A, $1 Par Value (File No. 7-6456)
McDermott Inc., $2.20 Cumulative Convertible Preferred A, $1 Par Value (File No. 7-6457)
Natomas Company, $4 Cumulative Convertible Preferred C, $1 Par Value (File No. 7-6458)
Northwest Energy Co., $2.125 Cumulative Convertible Preferred A, $1 Par Value (File No. 7-6459)
Pitney Bowes Inc., $2.12 Cumulative Preferred, No Par Value (File No. 7-6460)
RCA Corporation, $4 Cumulative Convertible 1st Preferred, B, No Par Value (File No. 7-6461)
RCA Corporation, $2.125 Cumulative Convertible Preferred, No Par Value (File No. 7-6462)
Rohr Industries Incorporated, $3.125 Cumulative Convertible Preferred, B, $1 Par Value (File No. 7-6463)
Rowan Companies Inc., $2.4375 Cumulative Convertible Preferred, A, $1 Par Value (File No. 7-6464)
Tesoro Petroleum Corporation, $2.16 Cumulative Convertible Preferred, $1 Par Value (File No. 7-6465)
Time Inc., $1.575 Cumulative Convertible Preferred, B, $1 Par Value (File No. 7-6466)
Trans World Corporation, $2 Cumulative Convertible Preferred, A, No Par Value (File No. 7-6467)
Trans World Corporation, $1.90 Cumulative Convertible Preferred, B, No Par Value (File No. 7-6468)
Transco Energy Co., $3.875 Cumulative Convertible Preferred, No Par Value (File No. 7-6469)
Union Pacific $7.25 Convertible Preferred, No Par Value (File No. 7-6470)
United States Steel Corporation, Adjustable Rate Cumulative Preferred, No Par Value (File No. 7-6471)
United Technologies Corporation, $3.875 Cumulative Convertible Preferred, C, $1 Par Value (File No. 7-6472)
United Technologies Corporation, $2.55 Cumulative Convertible Preferred, $1 Par Value (File No. 7-6473)
US LIFE Corporation, $2.25 Convertible Preferred, D, $1 Par Value (File No. 7-6474)
Western Air Lines Inc., $2 Cumulative Convertible Preferred, A, No Par Value (File No. 7-6475)
Western Union Corporation, 4.60% Cumulative Convertible Preferred, A, $100 Par Value (File No. 7-6476)
Western Union Corporation, 4.90% Cumulative Convertible Preferred, C, $100 Par Value (File No. 7-6477)
Weyerhaeuser Company, $2.80 Cumulative Convertible Preferred, $100 Par Value (File No. 7-6478)

Weyerhaeuser Company, $4.50 Cumulative Convertible Preferred, A, $1 Par Value (File No. 7–6479)
Wheelabrator Frye Inc., 8.25% Cumulative Convertible Preferred, A, $1 Par Value (File No. 7–6480)
Wheelabrator Frye Inc., Cumulative Convertible Preferred, B, $1 Par Value (File No. 7–6481)
Woolworth FW Co., $2.20 Cumulative Convertible Preferred, A, No Par Value (File No. 7–6482)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 18, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2911 Filed 2–2–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19455; SR–NASD–82–20]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

January 27, 1983.

The National Association of Securities Dealers, Inc. ("NASD") submitted on October 12, 1982, a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), and Rule 19b–4 thereunder, to require additional disclosure concerning foreign securities and American Depositary Receipts ("ADRs") on the NASD's NASDAQ system, and to give the NASD additional authority to suspend these securities from NASDAQ. This rule change consists of modifications to Section C of Part II of Schedule D of the NASD's By-Laws, which govern the authorization of foreign securities and ADRs for inclusion of NASDAQ.

The rule changes are generally intended to respond to concerns raised by the Commission's staff regarding the inclusion on NASDAQ of foreign securities and ADRs that are not registered with the Commission pursuant to Section 12(g) of the Act, and thus are not subject to full Commission reporting requirements or administrative remedies. Although the Commission staff urged that the NASD require full Section 12(g) registration of these securities, the NASD Board of Governors concluded that the Commission concerns could be addressed through the proposed rule change requiring additional disclosure by the issuers of these securities.[1]

The NASD's proposed rule change requires for initial or continued inclusion on NASDAQ that financial information concerning the issuer of the foreign security or security underlying an ADR [2] be made available on a timely basis to shareholders and the NASD. This information must be independently certified in accordance with the generally accepted accounting practices of the issuer's country of domicile.[3] As a condition of continued authorization, a foreign issuer would also be required to disclose any material information promptly to the public by attempts to disseminate this information in the United States through international wire services or the media. In addition, the proposed rule change provides that foreign securities shall be subject to deletion from NASDAQ if the Commission suspends trading in the security under Section 12(k) of the Act and the NASD finds that deletion would be consistent with the public interest. Furthermore, the proposed rule change provides that foreign issuers whose principal marketplace fails to coordinate its regulatory activities with the NASD will not be newly authorized or continue to be authorized for inclusion on NASDAQ.

Notice of the proposed rule change and its terms were given in Securities Exchange Release No. 19169 (October 22, 1982) and published in the **Federal Register** (47 FR 49772) on November 2, 1982. No comments were received with respect to the proposed rule change. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and, in particular, the requirements of Sections 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2909 Filed 2–2–83; 8:45 am]

BILLING CODE 8010–01–M

[1] The Commission notes that it has proposed modifications to Rule 12g3–2 under the Act, that if adopted, would, among other things, require Section 12(g) registration of foreign securities and securities underlying ADRs included on NASDAQ. The NASD rule changes, however, would supplement these proposed Commission rule changes.

[2] The NASD clarified that this information requirement applies to the issuer of a security underlying an ADR trading on NASDAQ, rather than the issuer of the ADR itself, in Amendment No. 1 to SR–NASD–82–20, submitted to the Commission on January 17, 1983.

[3] This information dissemination provision will not become effective until 6 months after the date of the approval of the rule changes, in order to provide issuers time in which to comply with its requirements.

[Release No. 34–19454; File No. SR–NYSE–83–4]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to the Proposed Rule Change Altering the Qualification Requirements for Supervisory Analysis

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78 s (b)(1), notice is hereby given that on January 20, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would alter the qualification examination requirements for supervisory analyst. In lieu of full CFA designation, completion of only CFA Level I would be acceptable.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has

prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Rule 344 requires a supervisory analyst candidate to either pass an Exchange Supervisory Analyst Examination or present evidence of having earned a Chartered Financial Analyst (CFA) designation and pass the part of the Exchange Supervisory Analyst Examination dealing with Exchange rules on research standards. The Exchange believes that completion of CFA Level I in lieu of the existing requirement for full CFA designation (requires completon of Level I, II and III) would provide sufficient analytical knowledge to insure proper performance of the required tasks. Supervisory analysts successfully completing CFA Level I would still be required to complete the part of the Exchange examination dealing with Exchange rules. The proposed amendment is intended to alter the qualification requirements for supervisory analysts as set forth above.

Statutory Basis for the Proposed Rule Change

The proposed rule change is consistent with Section 6(c)(3)(A) of the Act in that it insures that the Exchange will examine and verify the qualifications of natural persons associated with a member organization to ensure that they meet the standards of training, experience and competence as are prescribed by the rules of the Exchange.

B. Self-Regulatory Organization's Satement on Burden on Competition

The proposed rule change does not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Exchange Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change,

or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Marketing Regulation, pursuant to delegated authority.

Dated: January 27, 1983.

George A. Fitzsimmons,

Secretary.

[FR. Doc. 83-2912 Filed 2-2-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Texas; Region VI—Advisory Council Meeting

The Small Business Administration—Region VI—Advisory Council, located in the geographical area of Houston, Texas, will hold a public meeting from 12:00 noon until 4:00 p.m., Wednesday March 2, 1983, at the University of Houston, Continuing Education Center, 2nd Floor, in the Gemini Room, located at 4800 Calhoun, Houston, Texas, to discuss such business as may be presented by members of the District Council, the staff of the U.S. Small Business Administration, and others attending. For further information, write or call Donald D. Grose, District Director, U.S. Small Business Administration, 2525 Murworth, Suite 112, Houston, Texas 77054—(713) 660-4409.

Dated: January 28, 1983.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 83-2978 Filed 2-2-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2074; Amt #1]

Louisiana; Declaration of Disaster Loan Area

Declaration #2074 (See 48 FR 2886) is amended in accordance with FEMA's declaration of January 11, 1983, to include Avoyelles, Caldwell, Evangeline, Franklin, Lincoln, Morehouse, Richland, Union, and Vernon Parishes and adding the adjacent Parishes of Acadia, Cameron, Concordia, East Carroll, Jackson, Jefferson Davis, Madison, St. Landry, Tensas, and West Carroll in the State of Louisiana.

All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on March 14, 1983, and for economic injury until the close of business on October 11, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59006).

Dated: January 21, 1983.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-2977 Filed 2-2-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/600]

Fine Arts Committee; Meeting

The Fine Arts Committee of the Department of State will meet on Saturday, February 19, 1983 at 10:00 a.m. in the Diplomatic Reception Rooms. The meeting will last approximately until 11:30 a.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in March 1982, the announcement of all gifts and loans in calendar year 1982 and a discussion of the role of the Fine Arts Committee in the future.

Public access to the Department of State is controlled. Members of the public wishing to take part in the

meeting should telephone the Fine Arts Office by Monday, February 14, 1983, telephone (202) 632–0298 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: January 18, 1983.

Clement E. Conger,

Chairman, Fine Arts Committee.

[FR Doc. 83–2880 Filed 2–2–83; 8:45 am]

BILLING CODE 4710–01–M

[Public Notice CM–8/599]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Multinational Investment Standards for MNEs and U.N. Activities of the Advisory Committee on International Investment, Technology, and Development on Thursday, February 24, 1983, from 10:00 a.m. to 1:00 p.m. in Room 1207 at the Department of State, 2201 C Street, NW., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to discuss continuation of the negotiations within the U.N. on a Code of Conduct for Transnational Corporations; the activities of the U.N. Centre on Transnational Corporations; the developments within the OECD relating to the Guidelines for Multinational Enterprises.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: January 25, 1983.

Diana M. Montgomery,

Acting Executive Secretary.

[FR Doc. 83–2879 Filed 2–2–83; 8:45 am]

BILLING CODE 4710–01–M

[Public Notice CM–8/598]

Study Group 7 of the U.S. Organization for International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on February 18, 1983 at the U.S. Naval Observatory, Room 300, Building 52, 34th and Massachusetts Avenue, NW., Washington, D.C. The meeting will begin at 8:30 a.m.

Study Group 7 deals with time-signal services by means of radiocommunications. The purpose of the meeting is to review the progress of work in preparation for the international Study Group 7 meeting to be held in November 1983.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520 (telephone (202) 632–2592).

Dated: January 18, 1983.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 83–2878 Filed 2–2–83; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/601]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct an open meeting on April 19, 1983, at 2:00 P.M. This meeting is being held in conjunction with the Radio Technical Commission Maritime (RTCM) at their Assembly meeting in Savannah, Georgia at the Hyatt Regency Hotel.

The purpose of the meeting is to prepare position documents for the Twenty-sixth Session of the Subcommittee on Radiocommunications of the International Maritime Organization (IMO) to be held in London on September 12, 1983. In particular, the working group will discuss the following:

—Performance standards for shipboard radio equipment
—Maritime distress system
—Digital selective calling
—Matters related to CCIR Study Group 8
—Satellite EPIRBs
—Narrow Band Direct Printing.

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. R. L. Swanson, U.S. Coast Guard (G–TPP–3/63), Washington, D.C. 20593. Telephone: (202) 426–1231.

Dated: January 19, 1983.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 83–2881 Filed 2–2–83; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Information Collection Disapproval

On August 9, 1982, the Federal Aviation Administration (FAA) issued Special Federal Aviation Regulation (SFAR) No. 44–5 [49 FR 35156; August 12, 1982]. In that SFAR, the FAA lifted a number of restrictions on the trading of slots. On September 27, 1982, the FAA amended SFAR 44–5. In both SFAR 44–5 and the Amendment thereto carriers were reminded that the prohibition against selling slots was continued. In order to verify that slots involved in a trade were not involved in a sale, the agency in the Amendment to SFAR 44–5 stated that a carrier obtaining a slot would have to make an affirmative statement that the transaction did not involve consideration other than slots. This statement was required to be submitted to API–1 as part of any request for approval for trade of slots or position in the slot selection process by a principal of that airline.

On November 29, 1982, the Office of Management and Budget (OMB), in accordance with the Paperwork Reduction Act, approved the forms used for submission of slot allocation and trade requests. In their approval of this form, OMB stated as follows:

> OMB approves the use of this form for maintaining slot capacity restrictions provided that FAA eliminates the requirement that a principal of each of the airlines involved in a trade make an affirmative statement that the transaction did not involve consideration other than slots. FAA must publish a notice in the **Federal Register** that this requirement has been dropped.

The purpose of this Notice is to advise all conerned parties in accordance with the direction received from OMB.

Although this statement need no longer be submitted with slot trade requests, all parties are reminded that the prohibition against selling slots is continued. The agency will continue to monitor (in some situations this may include auditing of appropriate carrier

records) slot trades to ensure that this restriction is not violated.

Issued in Washington, D.C., on January 12, 1983.

J. E. Murdock III,

Chief Counsel.

[FR Doc. 83-2807 Filed 2-2-83; 8:45 am]

BILLING CODE 4910-62-M

[Summary Notice No. PE-83-2]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before February 23, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on January 27, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division

Petitions for Exemption

Docket No	Petitioner	Regulations affected	Description of relief sought
23495	Department of the Army	14 CFR 91.73 (a) and (b)	To conduct tactical night vision flight training without lighted external aircraft lights
19444	Kodiak Western Alaska Airlines, Inc	14 CFR 135.203(a)(1)	To permit petitioner to conduct day visual flight rule (VFR) operations below 500 feet MSL when outside controlled airspace, subject to certain conditions and limitations
23454	The Pittston Coal Group	14 CFR 91.31(e)(9)	To allow such momentary flight as is necessary for takeoff and landing through the prohibited range of the limiting height-velocity envelope for the helicopter in their area of operations
20044	Air Transport Assn. of America	14 CFR 61.63(b) and 121.437(c)	An extension of Exemption 2965A to permit petitioner, its member airlines and any other Part 121 certificate holder and its pilot employees to be issued an additional category and class rating to that person's pilot certificate subject to certain conditions and limitations
23488	Amway Corp	14 CFR 61.58(c)	To permit petitioner's company pilots to complete a 24-month pilot-in-command check for the Boeing 727 in an FAA-approved simulator.
21297	Ice Ware Flying Service	14 CFR 135.243(b)(3)	Reconsideration of denial of Exemption 3586 to allow petitioner to serve as pilot in command of his single engine Bonanza aircraft in day visual flight rule (VFR) conditions, even through he does not possess an instrument rating
23492	United States Hang Gliding Assn., Inc	14 CFR 103.1 (a) and (b)	To permit the operation of two-place unpowered vehicles of not more than 155 pounds for purposes of sport and recreation or flight instruction
21015	Ransome Airlines	14 CFR 135.63(c)(8)	Extension of Exemption 3316 to permit petitioner, during scheduled passenger carrying operations conducted under Part 135, to take off with a load manifest lacking the identification of crewmembers and their crew position assignments subject to certain conditions
23505	Cameron Balloons, Ltd	14 CFR 91.42(c)	To permit petitioner to operate hot air balloons over populated areas
23430	McDonnell Douglas Corp	14 CFR 61.57	To permit petitioner's employees to act as pilot in command of certain aircraft without having made three takeoffs and landings within the preceding 90 days in an aircraft of the same type
23499	Lifeline, Inc	14 CFR 61.118	To allow petitioner's private pilots to be reimbursed for fuel when serving on official Lifeline missions
23511	Embraer S.A	14 CFR 25.571(e)(2)	To allow Embraer EMB-120 aircraft to be certificated without meeting the propeller blade impact requirements

Dispositions of Petitions for Exemption

Docket No	Petitioner	Regulations affected	Description of relief sought disposition
23253	Suburban Airlines, Inc	14 CFR 121.61(c)(1)	To permit an employee of Suburban Airlines Division of Reading Aviation Service, Inc., to serve as director of maintenance although he does not meet the 5-year experience requirements Withdrawn 11/15/82
23421	Bell Helicopter Textron	14 CFR 21.271	To provide that in lieu of allowing a manufacturer to issue an airworthiness approval tag (FAA Form 8130-31) for parts of each product, he may provide a statement on shipping documents or other appropriate vehicle identifying the approval basis (T.C., P.C., T.S.O.) for the production of the items and attesting to their airworthiness. Withdrawn 12/7/82
23264	1st Lt. Paul A. Corbin, USAF	14 CFR 61.73(g)(5)	To permit petitioner to apply for a type rating in the Boeing 707/720 aircraft, although he does not possess an official U.S. Armed Forces record of a military checkout as pilot in command. Withdrawn 12/5/82.
23392	Beaver Aviation Service, Inc	14 CFR 141.91(a)	To permit petitioner to conduct training at a satellite base located more than 25 nautical miles from the main base of operation. Granted 1/12/83.

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23336	Simulator Training, Inc	14 CFR Portions of Part 61	To permit trainees of petitioner to complete a practical test for the issuance of a type rating to be added to any grade of pilot certificate that includes the items and procedures for testing in an airplane simulator. Granted 1/12/83.
23471	Aermediterranea-Linee Aeree Mediterranee, S.P.A. (Aermediterranea).	14 CFR Portions of Parts 21 and 125	To permit petitioner to operate two leased U.S.-registered DC-9-32 aircraft using an FAA-approved minimum equipment list and to maintain the aircraft with an FAA-approved continous airworthiness maintenance and inspection program. Granted 1/11/83.
23001	Mr. Dean E. May	14 CFR 61.131	To permit petitioner to apply military flight time towards the 50 hours helicopter time required for a commercial pilot certificate. Denied 1/11/83.
21061	Air Methods, Inc	14 CFR 135.261	Amendment and extension of Exemption No. 3105 to permit petitioner to operate a helicopter in helicopter hospital emergency medical evacuation service without complying with the duty-time limtations. Granted 1/11/83.
23489	Air Transport Assn. on behalf of Delta, Eastern, Northwest, and Trans World.	14 CFR 121.391(e)	To permit certain airlines to maintain less than the required number of required flight attendants on board an aircraft during intermediate stops when passengers remain on Board until March 1, 1983. Granted 1/13/83.
20862	Puerto Rico Int'l. Airlines, Inc. (Pnnair)	14 CFR 91 50(a), 135.158	An amendment to and an extension of Exemption No. 3175 to permit petitioner to operate its DeHavilland Heron aircraft without an operating pitot heat indicating system. The amendment is necessary in order to provide relief from § 135.158 in lieu of § 91.50 since § 91.50 has been revoked. Granted 1/19/83.
22705	Pitts Aerobatics	14 CFR 23.1325(b)(3)	To relieve petitioner from the requirement to install an alternate static air source with a suitable valve and placard located on the instrument panel of its five models of aircraft. The aircraft are limited to day VFR only with flight into known icing conditions prohibited, and the aircraft are for exclusive use as aerobatic machines. Denied 11/5/82.
23176	Tenneco, Inc	14 CFR 91.169	To permit petitioner and its affiliated companies to operate an inspection program for its helicopters in accordance with § 91.217. Granted 1/13/83.
23240	Royale Airlines	14 CFR 135.169(b)(6)	To permit petitioner to operate the Embraer EMB-110 P1 and P2, "Bandeirante" airplanes under the provisions of Part 135 at a maximum take-off gross weight of 13,007 pounds, without accomplishing all the modifications required by SFAR 41. Denried 1/18/83.
22992	Miami Air Lease, Inc	14 CFR 91 31(a)	To reconsider Denial of Exemption No. 3618 to permit petitioner to operate its Douglas DC-6B (cargo service only) aircraft, Serial No. 45515, at a 55% increased zero fuel and landing weight. Granted 1/18/83.
22552	Northern Pacific Transport, Inc. (NPT)	14 CFR 91.39(b) 125.1(b)(2)	To permit petitioner to operate its restricted category jet packet-equipped C-82A aircraft in the compensated private carriage of cargo under applicable provisions of Part 125. Denied 1/18/83.
19826	Lone Star Helicopters	14 CFR 135.261(b)	Extension of Exemption No. 2923 to permit petitioner to operate helicopters in hospital emergency service without meeting the flightcrew duty time limtations. Granted 1/13/83.
23263	Chaparral Airlines	14 CFR 121.667	To permit petitioner to operate its aircraft under Visual Flight Rules using company flight following and company radio communications in lieu of filing a flight plan. Denied 1/13/83.
23256	Hammonds Commuter Airlines	14 CFR 135.107	To permit petitioner to operate certain aircraft in scheduled and on-call/on-demand charter flight operations with 20 fare paying passenger seats without a flight attendant. Denied 1/14/83.
23267	DHL Cargo	14 CFR Portions of Parts 121	To permit petitioner to perform certain prescribed proficiency check maneuvers during scheduled revenue flights. Denied 1/14/83.
23359	Arrow, Airways Inc	14 CFR 121.291(b)	To permit petitioner to operate its DC-8-63 aircraft in passenger service without performing a partial demonstration of emergency evacution procedures. Denied 1/13/83
23220	Summit Airlines	14 CFR 121 583(a)(8)	To provide transportation for a dependent of an employee of petitioner on its cargo aircraft without the dependent being accompanied by the employee Denied 1/13/83
23286	Sealand Helicopters, Inc.	14 CFR 43.3(h)	To permit petitioners' appropnately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs on its Allison 250C series engines used on certain helicopters. Granted 1/12/83.
21635	Airborne Express, Inc	14 CFR 91 307	TRequest of Robert J. Zitney, on behalf of Airborne Express for relief from the noise level requirements for civil, subsonic planes under Subpart E of Part 91. Granted 1/13/83.

[FR Doc. 83-2806 Filed 2-2-83; 8:45 am]
BILLING CODE 4910-13-M

Proposed Advisory Circular—Guidelines on the Marking of Powerplant Instruments; Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed Advisory Circular; extension of comment period.

SUMMARY: This notice announces an extension of the comment period for Proposed Advisory Circular 20-88A, Guidelines on the Marking of Powerplant Instruments (48 FR 1583; January 13, 1983). This AC is proposed to include recommended limit markings for conditional ratings, transients, and other concepts of instrument markings that were not included in the original advisory circular. This extension period is necessary to afford all interested persons an opportunity to present their views on the proposed AC.

DATE: Comments must be received on or before March 28, 1983.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Regulations and Policy Office, ANM-110, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Neil Schalekamp, Regulations and Policy Office (ANM-110), at the above address; telephone (206) 764-7053.

SUPPLEMENTARY INFORMATION: Request for extension of the comment period have been received indicating that the closing date for comments, as originally stated, does not allow sufficient time for an adequate review of the proposed AC and preparation of comments. In view of this fact, the comment period has been extended. A copy of the draft AC may be obtained by contacting the persons named above under "For Further Information Contact." Interested persons are invited to comment on the proposed AC by submitting such written

data, views, or arguments as they may desire. Communications should identify AC 20–88A and be submitted to the address specified above. All communications received on or before the closing date for comments will be considered by the Regulations and Policy Office before issuing the final AC.

Issued in Seattle, Washington, on January 21, 1983.

Leroy A. Keith,

Manager, Aircraft Certification Division, Northwest Mountain Region.

[FR Doc. 83–2613 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

[FHWA Docket No. 83–3]

Federal Assistance Apportionment Study; Request for Comments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Request for Comments.

SUMMARY: This notice requests comments from interested persons and organizations regarding the procedures for distributing Federal financial assistance for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System.

DATE: Comments must be received on or before February 15, 1983.

ADDRESS: Submit comments, preferably in triplicate, to FHWA Docket No. 83–3, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed postcard.

FOR FURTHER INFORMATION CONTACT: Mr. William F. Reulein, Policy Planning and Coordination Division, Program Coordination Branch, (202) 426–0226, or Mr. Edward J. Mullaney, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Pursuant to section 137(b) of the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424; 96 Stat. 2097), the Federal Highway Administration, in conjunction with the Office of the Secretary of Transportation, is preparing a study and recommendations to Congress regarding the procedures for distributing Federal Financial assistance for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System in order to maintain a high level of transportation service.

Section 137(b) specifically requires an analysis of current conditions and factors that can be utilized to determine the most equitable and efficient method of apportioning such Federal assistance to the several States. Currently, Interstate resurfacing, restoration, rehabilitation, and reconstruction funds authorized by section 105 of the Surface Transportation Assistance Act of 1978, as amended, are apportioned in accordance with section 104(b)(5)(B) of Title 23, United States Code.

The study, in analyzing and determining the most equitable and efficient method of apportioning Federal assistance, shall consider such criteria as need, national importance, impact on individual State highway programs, structural and operation integrity, and any other relevant criteria. The results of the study, together with recommendations for necessary legislation, are to be submitted to Congress by May 6, 1983.

To assure that all concerned parties have an opportunity to express their views, the Federal Highway Administration is soliciting comments on the subject of the study. Although any area of the subject may be commented upon, the Federal Highway Administration would be mostly interested in views concerning the criteria to be considered in determining the most equitable method of distribution.

All comments and related information should be submitted to FHWA Docket 83–3 at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: January 26, 1983.

Ray Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83–2628 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

Consolidated Rail Corporation; Hearing

The Consolidated Rail Corporation (Conrail) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with certain procedural requirements of 49 CFR 235.2 (Instructions governing applications for approval of a discontinuance or material modification of a signal system). The petition is identified as RS&I Waiver Petition Docket Number 835 and involves a request for approval of (1) guidelines for future changes in Conrail's signal systems, and (2) proposed special procedures for the handling of applications that fall within the guidelines.

The FRA published a public notice describing this petition in the **Federal Register** on August 12, 1982 (47 FR 35061). That notice set forth the Conrail proposal in detail and solicited written comments or views. In response to that notice, some commenters requested that FRA provide a public hearing on the proposal before reaching a decision.

In view of the comments received, the FRA has decided to hold a public hearing. Accordingly, a public hearing is hereby set for 10 a.m. on February 28, 1983. The public hearing will be held in Room 2230 of the Nassif Building located at 400 Seventh Street, SW., Washington, D.C.

The hearing will be an informal one and will be conducted in accordance with the provisions of section 211.55 of the FRA Rules of Practice (49 CFR Part 211). The hearing will not be and adversary proceeding, and there will be no cross-examination of persons presenting statements. An FRA representative will conduct the hearing and will make an opening statement outlining the scope of the hearing. All interested persons will be permitted to make statements, or rebuttal statements and any additional procedures necessary for the conduct of the hearing will be announced at the start of the hearing.

Issued in Washington, D.C. on January 27, 1983.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 83–2804 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

Crash Test Repeatability Program

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of crash test repeatability program.

SUMMARY: This notice announces the 35 mph frontal crash test Repeatability Program being conducted by the National Highway Traffic Safety Administration (NHTSA). The program resulted from concerns over the significance of New Car Assessment

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Program data from a single crash test. The Repeatability Program is the first phase of a program to estimate the repeatability and reproducibility of the 35 mph frontal barrier vehicle impact tests. The program will provide a measurement of the variability of crash test results from one test site to another and within a single test site.

DATES: The testing began on October 11, 1982, and was completed on December 22, 1982.

FOR FURTHER INFORMATION CONTACT: John Machey, Office of Market Incentives, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–1740).

SUPPLEMENTARY INFORMATION: The design of the NHTSA sponsored program consists of four 35 mph frontal barrier impact tests of 1982 Chevrolet Citations at three different test sites for a total of twelve tests. Additionally, General Motors Corporation has a test program for four 35 mph frontal barrier impact tests of 1982 Chevrolet Citations, which are identical to the twelve vehicles in the NHTSA sponsored tests. The sixteen identical make and model test vehicles were manufactured consecutively on the same production line in the same assembly plant in an attempt to achieve maximum possible uniformity. The three NHTSA test sites are Calspan Corporation, Buffalo, N.Y.; Dynamic Science, Inc., Phoenix, Ariz.; and the Transportation Research Center, East Liberty, Ohio. The General Motors Corporation test site is in Milford, Mich.

The results of the program will be analyzed in an effort to determine similarities and/or differences in the occupant's (test dummy) and vehicle's performance. A statistical analysis will be performed on the data to determine within-test site and test site-to-test site variability. Upon completion of the program the test reports, films, and results will be placed in the public docket for review.

Issued on: January 31, 1983.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 83–2976 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–59–M

Urban Mass Transportation Administration

Rapid Rail Transit Safety Information Reporting System

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The Urban Mass Transportation Administration (UMTA) is issuing this notice to advise the public that a voluntary rapid rail transit safety information reporting and analysis system (SIRAS) will begin operation on February 1, 1983. Under SIRAS, operational safety information on accidents/incidents and casualties will be submitted to UMTA voluntarily by the rapid rail transit authorities. The SIRAS information will be stored, analyzed and disseminated in the form of periodic reports.

FOR FURTHER INFORMATION CONTACT: Lloyd G. Murphy, U.S. Department of Transportation, Urban Mass Transportation Administration, Safety and Security Staff, Room 6429, 400 7th Street, SW., Washington, D.C. 20590, Telephone: (202) 426–2896.

SUPPLEMENTARY INFORMATION:

Background

From 1975 to 1977, the rapid rail transit authorities reported their accident/incident information to the Federal Railroad Administration (FRA) as a regulatory requirement. In December 1977, the U.S. Court of Appeals for the Seventh Circuit negated this prior mandatory relationship by ruling that "railroads" and "rapid rail transit" were not the same. In order to maintain continuity in the reporting, UMTA, which had assumed the responsibility for rail transit safety in 1978, requested that the rapid rail transit authorities continue to report their safety information under the FRA reporting system until a new UMTA reporting system could be designed and deployed. Development of SIRAS began in 1979 and has resulted in a cooperative government/industry designed safety information reporting system.

Description

SIRAS is a computerized data base reporting system designed to accommodate the reporting of rapid rail transit accidents/incidents and casualties that occur in transit operations. Safety information, voluntarily submitted, will cover such events as passenger train collisions, train derailments, fires and explosives, and provide details on passenger injuries and fatalities. The information reported to UMTA will be processed for analysis and disseminated to the transit industry for review and evaluation.

Scope

All operational rapid rail transit authorities may participate in the SIRAS program. Rapid rail transit systems that are under development or in the early planning stages are invited to coordinate their safety information collection activity with UMTA to ensure optimal compatibility with the SIRAS program.

Utilization

Safety information voluntarily submitted under the SIRAS program will be made available to Federal, state, and local agencies to enable planners to (1) assess the status of rapid rail transit safety, both locally and nationwide; (2) to provide guidance for the identification and the establishment of priorities of safety generic problems; (3) to permit determination of cost effective areas of safety research; and (4) provide a means of performing countermeasure assessment.

SIRAS Documentation

The following list of forms and documents will be used in the voluntary reporting of safety information by the rapid rail transit authorities:

(1) Rapid Rail Transit Train Accident Report Form, UMTA F6600.1.

(2) Rapid Rail Transit Casualty Report Form, UMTA F6600.2.

(3) Rapid Rail Transit Statistical Data Report Form, UMTA F6600.3.

(4) SIRAS Instruction Manual for Rapid Rail Transit Reporting Forms, UMTA–MA–06–0060–82.

Issued on: January 25, 1983.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 83–2810 Filed 2–2–83; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF THE TREASURY

Customs Service

[T. D. 83–35]

Approval of Public Gauger Performing Gauging Under Standards and Procedures Required by Customs

Notice is hereby given pursuant to the provisions of section 151.43 of the Customs Regulations (19 CFR 151.43) that the application of Watson Gray (U.S.A.) Inc., 9001 Airport Boulevard, Houston, Texas 77034, to gauge imported petroleum and petroleum products in all Customs districts in accordance with the provisions of section 151.43, Subpart C, of the Customs Regulations is approved.

Dated: January 31, 1983.

Donald W. Lewis,

Director, Entry Procedures.

[FR Doc. 83–2934 Filed 2–2–83; 8:45 am]

BILLING CODE 4820–02–M

[T. D. 83-34]

Customhouse Broker License; Cancellation

In the matter of; Cancellation with Prejudice of Individual Customhouse Broker's License No. 5066 and Corporate Customhouse Broker's License No. 6580 Issued for the New York Region.

Notice is hereby given that the Commissioner of Customs on January 21, 1983, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and section 111.51(b), Customs Regulations, as amended (19 CFR 111.51(b)), upon the specific request of Edward K. Saar, Jamaica, New York, cancelled with prejudice individual Customhouse Broker's License No. 5066 issued to him on October 23, 1974, and Corporate Customhouse Broker's License No. 6580 issued for Saar Systems, Inc., on August 22, 1980, for the New York Region.

The Commissioner's decision is effective as of January 21, 1983.

William von Raab,

Commissioner of Customs.

[FR Doc. 83-2933 Filed 2-2-83; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "Treasures from the Shanghai Museum: 6,000 Years of Chinese Art" (included in the list[1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the foreign lenders and the Asian Art Museum of San Francisco. I also determine that the temporary exhibition or display of the listed exhibit objects at the Asian Art Museum of San Francisco, San Francisco, California, beginning on or about May 2, 1983, to on or about September 30, 1983; the Field Museum of Natural History, Chicago, Illinois, beginning on or about November 1, 1983, to on or about February 14, 1984; the Museum of Fine Arts, Houston, Texas, beginning on or about March 16, 1984, to on or about July 9, 1984; and the National Museum of Natural History of the Smithsonian Institution, Washington, D.C., beginning on or about August 11, 1984, to on or about November 30, 1984, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: January 26, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison

[FR Doc. 83-2893 Filed 2-2-83; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document

U.S. Advisory Commission on Public Diplomacy

In connection with its oversight responsibilities, the Advisory Commission on Public Diplomacy will meet on February 16 at 9:30AM in the 12th floor conference room in the United Nations building, 799 U.N. Plaza, New York City, to discuss USIA's Press Center operations and its activities in the U.S. Mission to the UN.

Since space is limited, please call Elizabeth Fahl, (202) 485-2457, if you are interested in attending the meeting.

Mary Jane Winnett,

Management Analyst, Management Plans, Analysis, Directives Staff, Bureau of Management, United States Information Agency.

[FR Doc. 83-2892 Filed 2-2-83; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 24
Thursday, February 3, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, February 15, 1983.

PLACE: 2033 K Street, NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Bankruptcy Final Rules.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–153–83 Filed 2–1–83; 11:30 am]

BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, February 11, 1983.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–154–83 Filed 2–1–83; 11:38 am]

BILLING CODE 6351–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, January 31, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague, (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Edwards, Roberts & Winterstein, Oklahoma City, Oklahoma, in connection with the receivership of Penn Square Bank, National Association, Oklahoma City, Oklahoma.

By the same majority vote, the Board further determined that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: January 31, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–158–83 Filed 2–1–83; 3:06 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, January 31, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13(e) of the Federal Deposit Insurance Act.

Discussion of administrative enforcement and injunctive remedies against an insured bank.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: January 31, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–159–83 Filed 2–1–83; 3:06 pm]

BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION

FEDERAL REGISTER NO. 127

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, February 3, 1983 at 10 a.m.

CHANGE IN MEETING: The following matters were added to the open meeting for this date:

Finance Committee Report.
Budget Execution Report—August and September—Closeout Fiscal Year 1982.

DATE AND TIME: Tuesday, February 8, 1983 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance, Personnel, Litigation, Audits.

DATE AND TIME: Thursday, February 10, 1983 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Advisory Opinions: Draft AO 1982–64, Ronald R. Hein, Ron Hein for Congress Committee. Draft AO 1983–1, Lawrence Coughlin, Member of Congress, Coughlin for Congress Committee.
Finance Committee Report

Commission Appointment and Promotion Procedures (Non-Bargaining Unit).

Budget Execution Report for October and November, 1982.

Application of Proposed or Current Regulations to Matching Fund Submissions Made in 1983.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–155–83 Filed 2–1–83; 11:49 am]

BILLING CODE 6715–01–M

6

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., February 9, 1983.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Agreement No. 8900–18: Modification of the "8900" Lines Rate Agreement to provide for alternate port service.

2. Agreement No. 93–27: Modification of the North Europe-United States Pacific Freight Conference to provide equipment substitution and absorption of inland charges.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–160–83 Filed 2–1–83; 3:16 pm]

BILLING CODE 6730–01–M

7

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Thursday, February 10, 1983.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to Public

(1) Oral Argument in Cliffdale Associates, Inc., et al., Docket 9156.

Portions Closed to the Public

(2) Executive Session to follow Oral Argument in Cliffdale Associates, Inc., et al., Docket 9156.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523–1892; Recorded Message: (202) 523–3806.

[S–161–83 Filed 2–1–83; 3:58 pm]

BILLING CODE 6760–01–M

8

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (To be published.

STATUS: Closed meetings.

PLACE: 450 5th Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, January 25, 1983.

CHANGES IN THE MEETING: Additional meeting/item.

The following item was considered at a closed meeting scheduled on Monday, January 31, 1983, at 2 p.m.

Regulatory matter having enforcement implication.

The following additional item will be considered at a closed meeting scheduled for Tuesday, February 1, 1983, at 10 a.m.

Regulatory matter regarding financial institution.

Chairman Shad and Commissioners Evans, Thomas, Longstreth have determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted, or postponed, please contact: Steve Boehm at (202) 272–2467.

January 31, 1983

[S–156–83 Filed 2–1–83; 12:28 pm]

BILLING CODE 8010–01–M

9

TENNESSEE VALLEY AUTHORITY.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:— FR — (January —, 1983)

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:15 a.m., Wednesday, February 2, 1983.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTER: The following item is added to the previously announced agenda:

Old Business

Consideration of a power credit to be applicable on electric power bills in March. The effect of this credit would be to lower consumer bills by approximately 10 percent for that month.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting to be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: Februrary 1, 1983.

Approved:

C. H. Dean, Jr.

S. David Freeman.

Richard M. Freeman.

Disapproved: (None).

[S–157–83 Filed 2–1–83; 2:46 p.m.]

BILLING CODE 8120–01–M

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federal register

Thursday
February 3, 1983

Part II

Environmental Protection Agency

National Ambient Air Quality Standards; Implementation Plans; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD–FRL 2294–7 Docket No. A–83–01]

Compliance with the Statutory Provisions of Part D of the Clean Air Act

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Clean Air Act, in Sections 171–178, requires that the primary ambient air quality standards for particulate matter, sulfur dioxide, and nitrogen dioxide be attained no later than December 31, 1982. The primary standards for ozone and carbon monoxide were also to be attained by that date except where extensions of the attainment date beyond 1982, but prior to December 31, 1987, were granted under strictly prescribed statutory provisions. Additionally, areas identified as nonattainment were required to meet other provisions of Sections 171–178, such as implementation plan submittal. On December 29, 1982, the Agency announced a policy for evaluating State progress toward the requirement for meeting the provisions of Sections 171–178 by December 31, 1982, and for Agency action required by the Act. This statement is included as Appendix A to this document. Today's document proposes to find the implementation plan inadequate for each area the Agency does not believe will be able to demonstrate attainment of the primary national ambient air quality standards (NAAQS) or otherwise meet the requirements of Sections 171–178. The Agency is also proposing certain actions regarding the appropriate statutory consequences (sanctions) for failure to meet these requirements.

DATES: Written comments must be received by the Central Docket Section no later than March 21, 1983.

ADDRESSES: Docket No. A–83–01, containing material relevant to this action, is located in the West Tower Lobby, Gallery 1, U.S. Environmental Protection Agency, Central Docket Section, 401 M Street, SW., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays and a reasonable fee may be charged for copying. A duplicate copy of Docket A–83–01 will be maintained in each EPA Regional Office for the convenience of the public.

All written comments should be submitted (in duplicate if possible) to: Central Docket Section (A–130), Docket No. A–83–01, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Johnnie L. Pearson, Office of Air Quality Planning and Standards (MD–15), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711 (Telephone: 919–541–5540). (See also the Regional Contacts listed in Appendix B).

SUPPLEMENTARY INFORMATION:

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I. Background
II. Procedures for Determining Failure to Attain by December 31, 1982
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VI. Related Issues
A. Procedures for Redesignation of Areas to Attainment
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Part 52—Approval and Promulgation of Implementation Plans

Appendix A—"Policy for Areas That Do Not Attain the Primary National Ambient Air Quality Standards by December 31, 1982," dated December 29, 1982
Appendix B—Regional Office Contacts
Appendix C—Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be able to Demonstrate Attainment by 1982
Appendix D—Areas Not Anticipated to Meet the Requirements of the Clean Air Act

I. Background

The 1977 amendments to the Clean Air Act took effect August 7, 1977. These amendments added specific provisions to the current Statute, Sections 171–178 (Part D of the Act), which directed remedial action for areas which had not attained the national ambient air quality standards (NAAQS).

The first step in addressing this "nonattainment" problem was to identify those areas that had failed to meet the NAAQS. In Section 107 of the Act, Congress provided for the identification of nonattainment areas as a cooperative effort between the States and EPA. The Agency promulgated initial designations of nonattainment areas on march 3, 1978 (43 FR 8962). Beyond that, Section 172 established deadlines for attainment of the national primary ambient air quality standards. For particulate matter, sulfur dioxide, and nitrogen dioxide, Section 172(a)(1) required attainment of the appropriate primary standards by December 31, 1982.

For ozone and carbon monoxide, attainment of the primary standards was required no later than December 31, 1982. However, for these two pollutants there are strictly prescribed statutory provisions for extensions of the attainment date up to December 31, 1987. These extensions were authorized if the request for an extension of the attainment date was submitted by January 1, 1979, and the area demonstrated that attainment of the primary NAAQS in the area was not possible by December 31, 1982, even after application of all reasonably available control measures to all sources. The Act required all such extension areas to make a supplemental submittal to EPA, no later than July 1, 1982, to revise the implementation plan to demonstrate attainment of the primary NAAQS of either ozone or carbon monoxide by December 31, 1987. Elsewhere in today's **Federal Register** the Agency is proposing to approve or disapprove these implementation plan revisions required under this provision.

One of the most important requirements of Part D was the 1979 submission of a revised implementation plan for all areas designated as nonattainment under Section 107. Implementaion plans that were submitted in response to the statutory provisions were reviewed and approved/disapproved in accordance with the procedures outlined in the "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas" (44 FR 20372, April 4, 1979) and subsequent additions to that Preamble. On January 22, 1981, the Agency published an additional policy statement on the plan requirements for those extension area implementation plans to be submitted by July 1, 1982 (46 FR 7181, "Approval of 1982 Ozone and Carbon Monoxide Plans for Areas Needed an Attainment Date Extension").

Lastly, the Agency, on December 29, 1982, announced a general policy for evaluating State progress toward meeting the specific statutory provisions of Part D of the act. In that policy, the

Agency noted that some areas have apparently failed to meet the requirements of Part D. This included those areas that either: (1) Fail to attain the national primary ambient air quality standards by December 31, 1982, or (2) have otherwise failed to meet the requirements for submittal of an adequate Part D implementation plan. The policy statement discusses: (1) The date for attainment of the primary NAAQS, (2) the consequences of failure to attain by December 31, 1982, and (3) procedures for determining whether the area has failed to attain or otherwise meet the statutory requirements for 1979 implementation plans.

For purposes of implementing the December 29, 1982 policy, areas required to attain the primary NAAQS by December 31, 1982 can be divided into three classes:

(A) Those areas that the Agency believes *will be able to demonstrate compliance* with all requirements of Part D (See Appendix C):

(B) Those areas that the Agency believes *will be unable to demonstrate compliance* with the Part D requirement for attainment of the primary NAAQS by December 31, 1982 (See Appendix D); or

(C) Those areas that the Agency believes *have not met other provisions* of Part D of the Clean Air Act (See Appendix D). The following discussion is designed to implement the guidance laid down in the December 29, 1982, policy statement.

II. Procedures for Determining Failure To Attain by December 31, 1982

A principal criterion for determining the attainment status of an area, is the area's designation under Section 107 of the Act. This identification (See 40 CFR Part 81, Subpart C), primarily performed in 1978, was meant, in part, to identify those areas where revisions to the State Implementation Plan (SIP) were necessary because the NAAQS had not been attained. For areas classified as nonattainment, the Act required the State to revise the implementation plan by January 1, 1979 to meet the requirements of Part D (Sections 171–178) of the Act.

The regulatory scheme established by the Act contemplates that if a State believes that an area classified as nonattainment under Section 107 for a primary standard has met the NAAQS, the State generally would prepare the supporting documentation and submit to the Agency a request for redesignation of the area from nonattainment to attainment. If a State currently believes that attainment of the national standards can be demonstrated in an area that remains designated as nonattainment, the Agency encourages the prompt submittal of information to support the belief. As will be discussed, the Agency believes that it is appropriate to impose a deadline for the submission of these requests for redesignation.

The Agency believes there will be cases where current or future air quality data will demonstrate that the standards have been attained by December 31, 1982, in a particular area despite the current designation. In other cases the data will show that an area is truly nonattainment. The Agency believes, therefore, that it is appropriate to divide all nonattainment areas required to attain be December 31, 1982, into two categories. The first category includes those areas which, based upon information available to the Agency, the Agency believes the State will be able to make an appropriate demonstration of attainment (See Appendix C). This demonstration by the State may be based upon information currently available or on data to be collected in the near term. The second category includes those areas which, based upon information currently available, the Agency believes will be *unable* to make such a demonstration (See Appendix D). It should be recognized that this division has no effect on the Section 107 designation of nonattainment. To be redesignated as attainment, the State must submit a specific request to the Agency.

To determine which nonattainment areas the Agency believes *will be unable to demonstrate* attainment of the primary NAAQS (see Appendix D), the Agency initiated an evaluation of available air quality data, emission compliance data, and other such factors that might affect an area's ability to demonstrate attainment. The EPA Regional Offices surveyed air qualifty data that included the SAROAD national air data system, State and local agency annual, quarterly, and monthly reports, and other such sources to determine air quality data for each area classified as primary nonattainment under Section 107 of the Act. While the Agency attempted to obtain current air quality data, EPA recognizes that additional information may be available in the States that indicated that an area listed in Appendix D can demonstrate compliance with the Part D requirements. Based upon national air quality trends each area was initially classified as: (1) Potentially *able* to demonstrate attainment, or (2) potentially *unable* to demonstrate attainment. The Regional Offices then examined information which would tend to contradict the initial determination, particularly information regarding the status of compliance of major sources affecting the air quality data. Where, based upon information available to the responsible Regional Office, a recommendation to change the initial determination appeared appropriate, the recommendation was presented to a review group consisting of representatives of all Regional Offices and appropriate Headquarters components. No changes to the initial determinations were made unless the recommendation was approved by the review group. In this manner the Agency ensured that the individual area decisions are nationally consistent. Two separate opportunities were provided for this review to ensure the maximum opportunity for Regional presentation of information that would justify changing the initial determination.

An example of a circumstance that could give rise to a change in the initial determination is an area which, even though air quality indicated potential difficulty in attaining the primary NAAQS, is anticipated to attain due to emission controls that were implemented, on a source or sources affecting the problem, subsequent to the collection of the air quality data. Another example is an area where air quality, even though not substantially in excess of the NAAQS, is consistently above the primary NAAQS and an examination of compliance information indicates a low possibility of further implementation of emission controls that would result in attainment. Data used in support of these determinations is included in "Determination of Nonattainment After December 31, 1982, Technical Support Document" January 26, 1983, which is located in Docket A–83–01. The end result of this process was:

(1) A list of areas *anticipated to be able to demonstrate* compliance with Part D (Appendix C); and

(2) A list of areas *not anticipated to be able to demonstrate* compliance with Part D (Appendix D).

III. Failure To Comply With Other Provisions of Part D

Areas that do not attain the primary NAAQS by the 1982 deadline have failed to meet one of the requirements of the Act. Part D of the Act, however, requires that the State comply with other provisions in addition to attainment of the national primary standards. For example, all State Implementation Plans for areas that are currently designated as nonattainment must contain a new source review

program. In some cases, States have failed to respond with the submission of an adequate implementation plan. These cases generally fall into two classes: (1) Those nonattainment areas for which no plan was submitted or for which the plan submitted was wholly or partially deficient in meeting the requirements of Part D, or (2) those nonattainment areas for which the implementation plan contained defects and the Agency determined that approval of the plan conditioned on the further submission by the State of information, regulations, etc., by a specific date was appropriate but, those conditions remain unfulfilled. In either case the plan is now subject to disapproval and the area subject to sanctions (See "Consequences of failure to comply with Part D").

It should be recognized that while an area still designated nonattainment may in fact be attaining the primary NAAQS, if the area does not meet the requirements of the Statute, this failure furnishes a separate and independent test for disapproving the plan and imposing the sanctions. Special notice should be made that some areas may be included for one or more of the above reasons. For a more accurate description of the areas referred to by Appendix D as not able to demonstrate compliance with the Part D requirements refer to 40 CFR Part 81, Subpart C, which is the official designaion of the area deemed to be in nonattainment.

IV. Consequences of Failure To Comply With Part D of the Act

Unless information from the public indicates to the contrary, the Agency intends to promulgate a finding that areas identified in Appendix D have failed to comply with the requirements of the Act and, therefore, the plan is inadequate. The official finding of implementation plan inadequacy will invoke certain statutory consequences. The Clean Air Act requires the imposition of these consequences or "sanctions." where an area fails to attain the primary NAAQS by the statutory date or to comply with the other provisions of Part D of the Act. Section 110(a)(2)(I) requires the imposition of a moratorium on major stationary source construction or modification (see also 40 CFR 52.24). Section 176(a) of the Clean Air Act requires EPA to withhold certain grant funds from States that have failed to "submit" revisions to the implementation plans that are required by the Clean Air Act. Section 176(b) requires similar actions where a State has failed to "Implement" the plan.

A. The Construction Moratorium

Section 110(a)(2)(I) of the Clean Air Act requires that the State implementation plan provide:

> that after June 30, 1979, no major stationary source shall be constructed or modified in any nonattainment area . . . if the emissions from such facility will cause or contribute to concentrations of any pollutant for which a national ambient air quality standard is exceeded in such area, unless, as of the time of application for a permit for such construction or modification, such plan meets the requirements of Part D (relating to nonattainment areas).

One of the "requirements of Part D" that a plan must meet is to "provide for" attainment of the NAAQS by December 31, 1982 (Section 172(a)(1)). In general, Areas that are determined not to have attained the primary NAAQS by that date cannot be said to have "provided for" attainment by that date in any realistic sense. Accordingly, the Act requires that areas that have not "provided for" attainment are generally subject to a moratorium on the construction or modification of major stationary sources of the pollutant. This moratorium on major source construction or modification also applies in circumstances where the Administrator finds that the implementation plan is inadequate to meet any provision of Part D. Therefore, EPA is proposing to impose this construction moratorium on each area listed in Appendix D, irrespective of the reason the area has failed to meet the requirements of Part D.

As discussed in 40 CFR 52.24(c) this moratorium will affect those permits applied for after the date of imposition of the moratorium (See discussion at 44 FR 38472, July 2, 1979, "Grandfathered Permits"). The Agency is soliciting comment on those circumstances under which the moratorium on construction or modification of major stationary sources may be removed.

B. Funding Restrictions

Section 176(a) of the Clean Air Act provides that no Clean Air Act projects or grants, or highway projects or grants (with certain exceptions) may be approved or awarded in air quality control regions where primary standards are not being attained, where transportation control measures are needed to achieve the standards, and

> where the Administrator finds after July 1, 1979, that the Governor has not submitted an implementation plan which considers each of the elements required by Section 172 or that reasonable efforts toward submitting such an implementation plan are not being made.

Attainment of the standards by the 1982 deadline is one of the "elements required by Section 172." EPA believes that the word "consider" in the context of Section 176(a) means "provide for," and that plans that do not attain the standards by the end of 1982 might be found lacking under this Section. This conclusion would only apply if transportation controls are necessary to attain the primary NAAQS. As a practical matter the Agency has generally limited the application of this Section to carbon monoxide, ozone, and nitrogen dioxide. However, there may be circumstances where failure to attain the primary standards for particular matter could result in the imposition of restrictions on transportation funding. Limitations under this Section for nonattainment of the primary NAAQS for sulfur dioxide are highly unlikely. In addition to other requirements, EPA would also have to find that the State failed to make "reasonable efforts" to submit a satisfactory plan. Section 176(a) exempts projects from this sanction if the project is for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance. Application of this funding restriction will be subject to the April 10, 1980, joint Department of Transportation/EPA policy statement (45 FR 24692).

A parallel statutory provision is Section 176(b), which states:

> In any area in which the (State or local government) is not implementing any requirement of an approved or promulgated plan under Section 110, including any requirement for a revised implementation plan under this Part D, the Administrator *shall not* make any grants under this Act. (Italics added.)

This language requires the Agency to terminate Clean Air Act grant funds (see especially Section 105 of the Act related to Federal grants) to any State where an implementation plan has been approved but is not being implemented. Under similar circumstances, where a plan provision was not being implemented, the Agency has proposed to withhold funds to the level of government (State, local, etc.) responsible for implementing that provision to the extent that those funds were to be spent in the area affected by the provision. Other Section 105 grants within the State generally have not been affected (47 FR 9477–9478, March 5, 1982). These funds may be subject to the funding cutoff after opportunity for adequate notice and public comment in accordance with Section 105(e) of the Act.

The Agency has not previously terminated grant funding under either

Section 176 (a) or (b) without providing full opportunity for public notice and comment. The imposition of restrictions on grant funds under Section 176(a) is subject to the joint DOT/EPA policy statement previously mentioned. EPA has also stated that an opportunity for comment on funding restrictions under Section 176(b) will be provided (47 FR 9477–9478, March 5, 1982; 46 FR 62651, December 28, 1981). In this notice the Agency is soliciting advance comment on when and under what circumstances the funding restrictions and removal of these restrictions under each Section may be appropriate. The Agency is particularly soliciting comment on any circumstances where funding restrictions should be immediately effective upon a final determination that the plan is inadequate to comply with Part D of the Act.

Section 316(b) of the Act allows the Administrator to withhold, condition, or restrict sewage treatment grants in areas if the appropriate determinations are made by the Administrator. As this funding restriction is entirely discretionary, the Administrator is soliciting comment on those circumstances where imposition of this funding restriction may be appropriate.

V. Areas Anticipated To Comply With Part D

As previously noted, the Agency believes that some areas currently designated as nonattainment for a primary NAAQS under Section 107 will be able to demonstrate compliance with the provisions of Part D of the Act. These areas are identified in Appendix C of this notice. The Agency believes there is good justification for anticipating that these areas will be able to demonstrate compliance with the Part D provisions. However, the Agency believes that it is appropriate to impose two basic requirements on the area identified in Appendix C:

(1) To collect, validate, and submit air quality data within a reasonable time period. The Agency has already established time periods for the submission of air quality data to EPA for review, and expects these schedules to be maintained, and

(2) To submit by a specific date a request for redesignation of the area to attainment under Section 107. The specific date could be a negotiated date for each area depending upon a State/EPA evaluation of the area. The Agency is inclined to impose a July 1, 1984, deadline upon such areas because this date would allow these areas to collect air quality data throughout 1983 and submit the request for redesignation six months later. The State could, however, demonstrate why a later date would be more appropriate. Failure to comply with these provisions would result in action by the Agency consistent with this notice.

VI. Related Issues

A. Procedures for Redesignation of Areas to Attainment

One anticipated consequence of today's action is that many areas will proceed to collect and submit appropriate data requesting that a specific area be redesignated as attainment under Section 107 of the Act. As noted in the December 29, 1982, policy statement "the Agency will consider exceptions to existing requirements for redesignation (to attainment) on a case-by-case basis in order to facilitate redesignation, where appropriate." The Agency, therefore, intends to continue the Section 107 redesignation policy under the basic principles previously established, but will also examine circumstances where exceptions may be appropriate. If a State believes that the boundaries of the nonattainment area are no longer accurate, a request for redesignation must be submitted to the Agency for review.

B. Effects of Transported Ozone

The Agency recognizes that transported ozone air pollution may have a significant effect on the ability of an area to attain the primary NAAQS. In preparing the list of potentially affected areas in Appendix D, the Agency attempted to account for the effect of policy regarding the transport of ozone and ozone precursors from urban areas to rural areas or from urban areas to other urban areas. (See "General Preamble" 44 FR 20372, April 4, 1979, Footnote 22). The ultimate result of that specific policy was to allow areas to account, in development of the control strategy, for transported pollution that may significantly affect, or in some areas may prevent, attainment of the ozone NAAQS. In some instances the Agency is aware of transported ozone preventing attainment. In general, this included only rural areas affected by urban areas for ozone, and the area is not included in Appendix D on an air quality basis. States desiring to demonstrate that an area listed in Appendix D is nonattainment due to transported air pollution will be subject to a two-part test:

(1) Has the area complied with all requirements for the 1979 implementation plan for attainment of the primary NAAQS, and

(2) Can a demonstration be made that the area would attain the primary NAAQS except for the effect of transported ozone air pollution in excess of the NAAQS?

In general, unless both of these tests are satisfied, the Agency does not intend to remove the area from the list in Appendix D and will, at the appropriate time, impose sanctions as required by the Act. Information on specific procedures for making the demonstration can be obtained by contacting the Regional Office listed in Appendix B.

C. Applicability of Attainment Provisions Based Upon Nonattainment Discovery Date

As noted above, attainment of the national standards by December 31, 1982 is required in nearly all cases. For particulate matter, sulfur dioxide, and nitrogen dioxide, Congress provided that the primary NAAQS be attained by December 31, 1982, *without regard to when the nonattainment status of the area is determined.* Section 172(a)(1) states that:

> The provisions of an applicable implementation plan for a State relating to attainment and maintenance of national ambient air quality standards in any nonattainment area which are required by Section 110(a)(2)(I) as a precondition for the construction or modification of any major stationary source in such areas on or after July 1, 1979, shall provide for attainment of each such national ambient air quality standard in each such area as expeditiously as practicable, but, *in the case of national primary ambient air quality standards, not later than December 31, 1982.* (Italic added.)

Section 172(a)(2) provides the only exception to this provision and applies only to the primary standards for "photochemical oxidants (ozone) or carbon monoxide." The Clean Air Act thus appears to indicate that Congress intended that no exceptions to the December 31, 1982 deadline for attainment of the primary NAAQS for particulate matter, sulfur dioxide, and nitrogen dioxide be granted. Therefore, even if nonattainment were discovered after the original determination, the area would still be subject to the 1982 deadline. That is to say that no matter when an area is determined to be in violation of the primary NAAQS, the State must have resolved the nonattainment by December 31, 1982.

By previous action the Agency promulgated 40 CFR 52.24 entitled "Statutory restriction on new sources." One provision of that regulation, paragraph (k), stated that the Agency would delay the imposition of the

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construction moratorium in an area until 18 months after the formal designation of the area as nonattainment. This provision, however, does not account for passage of the statutory date for attainment of the primary NAAQS. Since the statutory date has passed, except for those areas already granted an extension under the strict statutory provisions of Section 172(a)(2), this provision is no longer appropriate. Therefore, the administrator, by today's action, is proposing to modify the language of § 52.24(k) to indicate that subsequent to December 31, 1982, any area officially declared to be nonattainment will be immediately subject to the construction moratorium imposed by § 52.24 (a) and (b).

The Agency would like to note that some areas not eligible for extensions beyond 1982, because the area is required to attain under Section 172(a)(1), have previously been incorrectly granted attainment dates beyond December 31, 1982. The Agency will, after final action is taken on the proposed regulatory change, proceed with appropriate action to correctly identify December 31, 1982, as the attainment date for these areas.

D. Extensions of the Attainment Date for Ozone or Carbon Monoxide

As briefly discussed previously, Section 172(a)(2) provides an opportunity for extensions beyond the 1982 deadline, but only for the primary standards for ozone and carbon monoxide under strict statutory circumstances. An extension was available if the State involved demonstrated "on or before the date required for submission of (the 1979) plan" that attainment by the end of 1982 was "not possible." Section 129(c) of Pub. L. 95–95 (which was not codified as part of the Clean Air Act) required submission of the 1979 plans by January 1, 1979. Therefore, no extension is possible unless the State requested the extension with the submission of the 1979 plan. The attainment date for implementation plans for attainment of the ozone and carbon monoxide NAAQS without an extension is December 31, 1982, and has the same legal consequences as the statutory attainment date for particulate matter, nitrogen dioxide, and sulfur dioxide.

E. Effect of Schedules for Compliance Beyond 1982

The Agency, under specific statutory authority, has agreed to schedules of compliance which extend beyond the December 31, 1982, deadline for attainment of the primary NAAQS for specific sources. These authorities are Section 119 of the Clean Air Act (Primary Nonferrous Smelter Orders), Section 113 of the Clean Air Act (Federal Enforcement), and "The Steel Industry Compliance Extension Act of 1981" (Pub. L. 97–23). The Agency recognizes that the extended compliance dates authorized under the provisions of these Statutes could have a significant effect on the ability of the area to attain the primary NAAQS. However, Section 110(a)(3)(C) of the Clean Air Act provides that no State may be required to revise the implementation plan based on an extension under one of these provisions if the plan would be adequate when considered without the extension. EPA believes that if no SIP revision is required in such circumstances, it follows that sanctions should not be imposed. Nevertheless, in many cases the source receiving the extended compliance schedule must "use such measures * * * as may be necessary * * * to assure attainment" (See especially Section 113(d)(5)(B) and Section 119(d)(1)(A)).

The Agency, therefore, proposes to impose a test on affected areas that would require a demonstration that, "but for the extended compliance schedule" granted by the Agency, the State would have required compliance by the source and that standards would, therefore, be attained. This test requires the State demonstrate: (1) That all other sources in the nonattainment area, except those granted an appropriate compliance date extension, are in compliance with approved emission regulations, and (2) the standards would be attained if the source(s) with an extended compliance date were in compliance. The easiest case would be where a single major source is affecting nonattainment and that source had in effect an extension of the compliance date under one of the authorities previously cited. Where this test is met, the Agency, subject to public comment, does not intend to impose any sanctions. The area could subsequently be subject to sanctions if the source fails to comply by the extended date. No area was excluded from Appendix D on the basis of the above test.

F. Federal Enforcement

There is no exact link between an individual source's obligations under the Clean Air Act and the date established for attaining the standards, even in the area within which that source is located. Many sources have quite properly been subject to regulatory requirements that took effect well before the attainment date for their area. EPA, however, also believes that major sources located in nonattainment areas should be the subject of a special enforcement priority, and that certain conditions must be met before the operation of violating sources can be continued. EPA has already issued a Post-1982 enforcement policy, a copy of which is included in Docket A–83–01.

G. Revisions of National Ambient Air Quality Standards

Section 109(d) of the Clean Air Act provides for the periodic revision of the national ambient air quality standards. Any revision which changes a primary standard may affect the ability of an area to attain the revised standard and the determination of whether a specific area is either attaining or not attaining the revised standard. The Agency recognizes this concern, but regards speculation on changes that may occur due to the potential of a standard revision as an inappropriate consideration because the States are required by law to ensure attainment of existing NAAQS. Should the Administrator promulgate a revised standard, the Agency will reevaluate the nonattainment proposal/finding and take appropriate action after considering the effect of the revised standard upon the previous determination.

VII. Solicitation of Public Comment

The Agency, by today's notice, is soliciting comment upon the many facets of the process for implementing the December 29, 1982 policy for areas that have failed to attain the primary NAAQS or otherwise have failed to meet the requirements of Part D of the Act. Major topics of concern include, but are not limited to:

(1) Areas identified in Appendix D as not being able to demonstrate compliance with the requirements of Part D, either attainment of the primary NAAQS by December 31, 1982 or failure to meet the other provisions of Part D;

(2) The applicability of sanctions to areas that have failed to meet the requirements of Part D;

(3) Procedures for imposing funding restrictions including those circumstances where immediate imposition of funding restrictions may be appropriate;

(4) The proposed modification to 40 CFR Part 52.24(k);

(5) The conditions under which the sanctions should be removed; and

(6) Extent of the area to which sanctions should be applied. Commenters are invited to direct comments to both the general policy issues as well as providing comments specific to an indivicual area and how

this policy may be applied to a specific area identified in Appendix D. It should be recognized that area specific analyses, as a result of public comment, will be accomplished by the appropriate Regional Office.

Following receipt and evaluation of public comment the Agency will determine the status of each area identified in Appendix D, and will promulgate a final finding, where appropriate, that the specific area is not in compliance with the requirements of Part D of the Act. Additionally, the Agency will impose, as appropriate, the sanctions discussed by this notice.

VIII. Statement of Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the Agency must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. Under 5 U.S.C. 605(b) this requirement may be waived if the Agency certifies that the rule will not have a significant economic effect on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

If EPA takes final action to disapprove any SIP for a nonattainment area as proposed today, a moratorium on the construction and modification of major stationary sources of pollution will go into effect in the area for which the plan is disapproved as required by Section 110(a)(2)(I) of the Clean Air Act and 40 CFR 52.24 (1981). This moratorium will prohibit construction of major new stationary sources of the pollutant for which the plan is disapproved. A major stationary source is any source which emits, or has the potential to emit, 100 tons per year or more of a pollutant. *See* 40 CFR 52.24(f)(5) (1981). The moratorium would also prohibit major modifications to existing major stationary sources; a major modification is any physical change in a source or change in the operation of a source that would result in a significant net increase of a pollutant. *See* 40 CFR 52.24(f))6) (1981). Thus, it is clear that final disapprovals would be likely to affect some small entities.

EPA has in the past made efforts to quantify the impacts of Clean Air Act rules on the construction and modification of sources but has been unable to do so. EPA's lack of success is due in part to the need to obtain information on future plans for business growth. This information is difficult to obtain, as businesses are understandably reluctant to make their plans public. Consequently, EPA is making no quantified assessment of the potential economic impact on small entities of the disapprovals proposed today.

Additionally, although EPA believes that a final action would be likely to have some impact on small entities, this impact cannot affect the Agency's actions. Under the Clean Air Act, the imposition of the construction moratorium is automatic and mandatory whenever the Agency determines that a plan for a nonattainment area fails to satisfy all of the applicable requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

X. Authority

This notice of proposed rulemaking is issued under the authority granted by Sections 105, 107, 171–178, 301, and 316 of the Clean Air Act, 42 U.S.C. §§ 7405, 7407, 7410, 7501–7508, 7601, 7616.

Dated January 25, 1983

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

It is proposed to amend Part 52 Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. Section 52.24 is amended by revising paragraph (k) as follows:

§ 52.24 Statutory restrictions on new sources

* * * * *

(k) For an area designated as nonattainment after July 1, 1979, the provisions of paragraph (a) and (b) of this Section will apply upon redesignation of the area to nonattainment under Section 107 of the Clean Air Act as amended (Pub. L. 95–95) until such time as the Administrator determines that the construction moratorium imposed by that paragraph should not apply to that area.

Note.—These Appendices will not appear in the Code of Federal Regulations.

Appendix A.—Policy for Areas That Do Not Attain the Primary National Ambient Air Quality Standards by December 31, 1982

December 29, 1982.

Memorandum

Subject: Policy For Areas That Do Not Attain the Primary National Ambient Air Quality Standards by December 31, 1982

From: Kathleen M. Bennett, Assistant Administrator for Air, Noise, and Radiation (ANR–443)

To: Regional Administrator, Regions I–X I. The 1982 Attainment Date

The Clean Air Act requires that the primary ambient air quality standards for particulate matter, sulfur dioxide, and nitrogen dioxide be attained no later than December 31, 1982. The primary standards for ozone and carbon monoxide were also to be attained by that date, except where extensions of the attainment date beyond 1982 were granted under strictly prescribed statutory circumstances.*

This memorandum delineates the Agency's policy for all areas subject to the 1982 deadline for attainment of the primary ambient air quality standards.

II. Consequences of Failure To Attain by December 31, 1982

In general, if an area fails to attain the primary ambient air quality standards, the Clean Air Act imposes certain statutory consequences:

A. The area is subject to a ban on the construction or modification of major stationary sources emitting the pollutant for which the area is nonattainment, and

B. The area may be subject to a suspension of certain Federal grant funds for failing to "submit" a satisfactory plan (Section 176 (a)) or failing to "implement" the plan the State submitted (Section 176 (B)).

III. Procedures for Determining Nonattainment

A. The initial indicator of whether an area is "attainment" or "nonattainment" under the Clean Air Act is the area's designation under Section 107. If a State believes that an area designated as nonattainment has attained the national standards, and can make a demonstration to that effect in accordance with current EPA policy, the State should promptly apply for redesignation. The Agency will consider exceptions to existing requirements for redesignation on a case-by-case basis in order to facilitate redesignation, where appropriate.

B. There will be cases where data will demonstrate that the area has attained the standards by the end of 1982 even though the area retains a nonattainment designation. To give States which have areas having a high probability of attainment an opportunity to make such a showing, all areas currently designated as nonattainment under Section 107 will be divided into two classes—those areas the Agency believes will be able to demonstrate attainment and those areas which the Agency believes will not be able to make such a demonstration.

C. To provide adequate notice and ensure broad public participation, the Agency will propose a formal finding that the State plan is inadequate to attain the standards before the sanctions will be imposed. Therefore, the Agency will propose, in the **Federal Register**,

*Areas that received this extension should have submitted to the Agency by July 1, 1982, a revised State Implementation Plan to provide for attainment of these standards no later than December 31, 1987.

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to find the implementation plan deficient for those areas designated as nonattainment where the Agency believes the standards have not been attained by the statutory date or where the plan does not meet the requirements of Part D of the Act.

D. The Agency will also propose for comment the extent of the area to be found nonattainment and the nature and scope of the consequences which the Agency believes should apply. After public comment, EPA will proceed to take final action and impose the sanctions, unless information obtained from those comments indicates that the area has attained the standards, and that the plan also meets other Part D requirements.

While attainment of the national standards by December 31, 1982, is one general requirement of Part D of the Act, there are other provisions of the Act with which some States have not yet complied. Some States have not submitted an adequate implementation plan as required by the Act. In other cases, States have not fulfilled conditions (such as requirements for additional regulations or information) on which Federal approval of the State plan had been contingent. Where either of these two circumstances exist, the Agency intends to find that the State plan is inadequate following the public comment period, unless information to the contrary is presented, and to impose the applicable sanctions.

Action to implement this post-1982 policy will be inititated by issuing proposals of implementation plan deficiency in the Federal Register by January 31, 1983. The analysis needed to support the identification of those areas we believe will not attain the national standards has begun. We will appreciate your continuing efforts with the Office of Air Quality Planning and Standards to develop a Federal Register notice consistent with this policy.

IV. Other

A. The deadline for attainment of the national primary standards described above applies to all nonextension areas irrespective of when the area is determined to be nonattainment. Existing regulations will be revised, where necessary, to reflect this interpretation.

B. A plan for an area that is still experencing violations after 1982 may nevertheless meet the Part D requirements, if interstate transport is the sole cause of the violations and the plan is adequate to assure that intrastate sources would not cause the violations.

Appendix B.—Regional Office Contacts

Region I—Ms. Linda Murphy, Chief, Air Programs Branch, EPA, Region I, JFK Federal Building, Boston, Massachusetts 02203

Region II—William S. Baker, Chief, Air Programs Branch, EPA, Region II, 26 Federal Plaza, New York, New York 10007

Region III—Ray Cunningham, Chief, Air Programs and Energy Branch, EPA, Region III, Curtis Building, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106

Region IV—James T. Wilburn, Chief, Air Management Branch, EPA, Region IV, 345 Courtland NE., Atlanta, Georgia 30365

Region V—Steve Rothblatt, Chief, Air Programs Branch, EPA, Region V, 230 South Dearborn, Chicago, Illinois 60604

Region VI—Jack Divita, Chief, Air Programs Branch, EPA, Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270

Region VII—Carl M. Walter, Chief, Air, Noise, and Radiation Branch, EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106

Region VIII—Robert DeSpain, Chief, Air Programs Branch, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295

Region IX—David L. Calkins, Chief, Air Programs Branch, EPA, Region IX, 213 Fremont Street, San Francisco, California 94105

Region X—Clark L. Gaulding, Chief, Air Programs Branch, EPA, Region X, 1200 Sixth Avenue, Seattle, Washington 98101.

Appendix C.—Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which Are Likely To Be Able To Demonstrate Attainment by 1982

(An area listed in Appendix C may also appear in Appendix D. A number of areas have been designated nonattainment for more than one pollutant.)

BILLING CODE 6560-50-M

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF ALABAMA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Etowah					X*
Jackson		X*			
Mobile	X*				X*
Russell					X*

Table reflects 9/7 designations as of December 31, 1982. *Redesignation request received.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF ARIZONA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Coconino	X				
Navajo	X				

Table reflects 4/7 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF ARKANSAS

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Pulaski					X

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF CALIFORNIA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Kern		X*			
Stanislaus			X*		
Sutter					X
Yuba					X

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

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Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF COLORADO

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Adams				X*	
Arapahoe				X*	
Boulder	X			X*	
Denver				X*	
Douglas	X			X*	
El Paso	X				
Jefferson	X			X*	
Mesa	X				

Table reflects §107 designations as of December 31, 1981. *Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF FLORIDA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Duval					X
Hillsborough					X
Orange					X
Pinellas		X			X

Table reflects §107 designations as of December 31, 1981.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

GUAM TERRITORY

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Piti/Cabras		X			

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF GEORGIA

County	Pollutants named in §107 Designation				
	TSP	[illegible]	CO	NO_X	O_X
Muscogee					**

Table reflects §107 designations as of December 31, 1982. [illegible]

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF HAWAII

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Honolulu		X			
Maui	X	X			

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF IDAHO

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Nez Perce	X				

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

STATE OF ILLINOIS

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Adams					X*
Boone					X*
Cook				X	
Dekalb					X*
Du Page	X				
Grundy					X*
Jo Daviess	X*				
Kankakee					X*
Kendall					X*
Knox	X*				
La Salle	X				X*
Monroe	X*				
Peoria	X		X		X*
Rock Island	X		X*		
Sangamon					X*
Tazewell	X				X*
Will	X				
Williamson					X*

Table reflects §107 designations as of December 31, 1982. *Redesignation Request Received

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

STATE OF INDIANA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Dearborn	X				
Dubois	X				
Marion					X
Vigo	X				

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF IOWA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Cerro Gordo	X				
Linn	X				
Polk			X		
Scott	X				

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF KANSAS

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Douglas					X
Johnson					X
Wyandotte					X

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

COMMONWEALTH OF KENTUCKY

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Boyd		X			X
Bullitt	X				
Daviess	X				
Fayette					X*
Jefferson		X			
Muhlenberg	X*	X*			
Pike	X				

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF LOUISIANA

Parrish	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Ascension					X
Beauregard					X
Bossier					X
Caddo					X
Calcasieu					X
Grant					X
Iberville					X
Lafayette					X
Lafourche					X
Pointe Coupee					X
St Charles					X
St James					X
St John the Baptist					X
St Mary					X

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF MAINE

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Androscoggin			X		X
Cumberland					X
Franklin					X
Kennebec					X
Knox					X
Lincoln					X
Oxford					X
Penobscot		X	X		
Sagadahoc					X
Somerset					X
Waldo					X
York					X

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF MARYLAND

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Baltimore	X				
Baltimore City	X				

Table reflects §107 designations as of December 31, 1982.

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Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

COMMONWEALTH OF MASSACHUSETTS

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Worcester	X*				

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF MICHIGAN

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Allegan					X
Barry					X
Bay					X
Berrien					X
Branch					X
Calhoun	X				X
Cass					X
Clinton					X
Eaton					X
Genesee	X				X
Gratiot					X
Hillsdale					X
Huron					X
Ingham		X*			X
Ionia					X
Jackson					X
Kalamazoo					X
Kent					X
Lapeer	X				X
Lenawee					X
Livingstor					X
Marquette					X*

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

STATE OF MINNESOTA

County	Pollutants named in §107 Designation				
	TSP	SO2	CO	NOx	O3
Anoka	X*	X	X	X	
Carver	X*	X	X		
Dakota	X*		X		
Hennepin		X	X		
Olmsted		X	X		
Ramsey		X			
Scott	X*	X	X		
St. Louis	X				
Washington	X*	X	X		

STATE OF MICHIGAN (Partial)

County	Pollutants named in §107 Designation				
	TSP	SO2	CO	NOx	O3
[illegible]					X
[illegible]	X				X
[illegible]					X
[illegible]					X
[illegible]					X
[illegible]	X				X
[illegible]					X
[illegible]					X
[illegible]					X
[illegible]					X
[illegible]					X
[illegible]					X
[illegible]					X
[illegible]					X

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

STATE OF MISSOURI

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Buchanan	X*				
Clay	X				X
Jackson	X				X
Platte	X				X

Table reflects §107 designations as of December 31, 1981. *Redesignation request received

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

STATE OF MISSISSIPPI

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Jones	X				

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

STATE OF MONTANA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Cascade	X				
Flathead	X				
Lake	X				
Lincoln	X				
Missoula	X				
Sanders	X				

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

STATE OF NEBRASKA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Douglas	X				
Lancaster	X				
Sarpy	X				

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF MONTANA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Flat Head	X				
Lewis and Clark		X			
Missoula	X				
Rosebud	X				
Yellowstone		X			

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF NEVADA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Churchill	X				
Douglas			X		
Humboldt	X				
Lyon	X				
Mineral	X				
Storey	X				
Carson City			X		

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

STATE OF NEW MEXICO

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Dona Ana			X*		
Eddy	X*				
Lea	X*				
San Juan		X*			

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

STATE OF NEW HAMPSHIRE

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Coos		X			

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

STATE OF NEW YORK

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

STATE OF NORTH CAROLINA

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF NEW YORK

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Albany			X*		X*
Cayuga					X*
Columbia					X*
Dutchess					X*
Erie		X*			X*
Genesee					X*
Greene					X*
Livingston					X*
Monroe					X*
Niagara	X*				X*
Onondaga			X*		X*
Ontario					X*
Orange					X*
Orleans					X*
Putnam					X*
Rensselaer					X*
Saratoga			X*		X*
Schenectady			X*		X*
Seneca					X*
Ulster					X*
Wayne					X*
Wyoming					X*
Yates					X*

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF NORTH CAROLINA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Mecklenburg					X

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF OHIO

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Allen					X*
Ashland					X*
Ashtabula					X
Belmont	X				X*
Brown					X*
Butler	X*				
Carroll					X*
Champaign					X*
Clark					X
Clermont		X*			
Clinton					X
Columbiana		X*			X*
Cuyahoga		X*			
Darke					X*
Delaware					X*
Erie					X*
Fairfield					X*
Fayette					X*
Franklin	X		X		X
Fulton					X*
Geauga					X*
Greene					X*

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF OHIO (Cont'd)

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Hamilton	X				
Hancock					X*
Harrison					X*
Henry					X*
Highland					X*
Hocking					X*
Holmes					X*
Huron					X*
Jefferson		X*			X
Knox					X*
Lake	X	X*			
Lawrence	X				X*
Licking					X*
Logan	X				X*
Lorain	X	X*			
Lucas	X*	X*			X
Madison					X*
Mahoning					X
Marion					X
Miami	X				X*

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

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Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF OHIO (Cont'd)

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Monroe	X				
Montgomery	X		X		X
Morrow					X*
Ottawa					X*
Perry					X*
Pickaway					X*
Preble					X
Richland					X*
Ross					X*
Sandusky					X*
Scioto	X				
Seneca					X*
Shelby					X*
Stark	X				X
Summit	X				
Trumbull	X				X*
Tuscarawas					X*
Union					X*
Wayne					X*
Wood					X*

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF OKLAHOMA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Mayes	X				
Oklahoma	X				X*
Tulsa	X		X		

Table reflects §107 designations as of December [illegible], 1982. *Redesignated as January 19, 1983.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF OREGON

Coun /	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Jackson					X
Marion			X		X
Polk			X		X

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

COMMONWEALTH OF PENNSYLVANIA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Adams					X
Armstrong		X*			
Beaver	X	X*			
Bedford					X
Berks					X
Blair					X
Bradford					X
Cambria	X				X
Cameron					X
Carbon					X
Centre					X
Clarion					X
Clearfield					X
Clinton					X
Columbia					X
Crawford					X
Cumberland					X
Dauphin					X
Elk					X
Erie	X*				X
Fayette	X*				X

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

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COMMONWEALTH OF PENNSYLVANIA (Cont'd)

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Forest					X
Franklin					X
Fulton					X
Greene					X
Huntingdon					X
Indiana					X
Jefferson					X
Juniata					X
Lancaster	X				
Lawrence	X				X
Lebanon					X
Lehigh	X				
Lycoming					X
McKean					X
Mercer					X
Mifflin					X
Monroe					X
Montour					X
Northhampton	X				
Northumberland		X*			X

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

COMMONWEALTH OF PENNSYLVANIA (Cont'd)

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Perry					X
Pike					X
Potter					X
Schuylkill					X
Snyder		X*			X
Somerset					X
Sullivan					X
Susquehanna					X
Tioga					X
Union					X
Venango					X
Warren					X
Washington	X				
Wayne					X
Westmoreland	X				
Wyoming					X
York	X				X

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

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Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

COMMONWEALTH OF PUERTO RICO

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Bayamon	X				
Catano	X				
Guayanabo	X				
Toa Baja	X				

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF RHODE ISLAND

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Providence			X		

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

Areas Currently Designated Nonattainment for [illegible] NAAQS Under Section [illegible] Which Are Likely to Be Able to Demonstrate Attainment by 1982

STATE OF SOUTH CAROLINA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_x	Ox
Berkeley					X
Charleston	X*				X*
Georgetown					
Lexington					X
Richland					X
York					X

Areas Currently Designated Nonattainment for [illegible] NAAQS Under Section [illegible] Which Are Likely to Be Able to Demonstrate Attainment by 1982

STATE OF [illegible] DAKOTA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_x	Ox
Pennington	X				

Table reflects [illegible] designations as of December [illegible], 1982. *Redesignation request received [illegible] Total Nonattainment [illegible] Under Jurisdiction as of December [illegible], 1982.

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Able to Demonstrate Attainment by 1982

STATE OF TENNESSEE

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Benton		X*			
Bradley					X*
Campbell	X*				
Davidson	X*				X*
Hamilton	X*				X
Humphreys		X*			
Knox					X*
Maury					X*
Polk		X*			
Roane					X*
Rutherford					X*
Shelby					X*
Sullivan					X*
Sumner					X*
Williamson					X*
Wilson					X*

Table reflects §107 designations as of December 31, 1982.
*Redesignation request received.

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

STATE OF TEXAS

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Brazoria					X
Galveston					X
Gregg					X
Jefferson					X
Nueces					X
Orange					X
Victoria					X

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary
NAAQS Under Section 107 Which are Likely to be
Able to Demonstrate Attainment by 1982

Areas Currently Designated Nonattainment for Primary
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Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF UTAH

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Davis			X		
Iron		X*			
Utah	X				
Weber	X				

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF VERMONT

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Chittenden			X		

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF WASHINGTON

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Asotin	X				
Yakima			X		

Table reflects §107 designations as of December 31, 1982.

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

COMMONWEALTH OF VIRGINIA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Chesterfield					X
Fairfax					X
Henrico					X
Roanoke					X
Stafford					X*
Alexandria City					X
Chesapeake "					X*
Falls Church "					X
Hampton "					X*
Manassas "					X
Manassas Park "					X
Newport News "					X*
Norfolk "					X*
Portsmouth "					X*
Richmond "					X
Roanoke "					X*
Salem "					X*
Suffolk "					X*
Virginia Beach "					X*

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

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Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF WEST VIRGINIA

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Brooke	X				
Hancock	X	X			
Marion	X*				
Marshall	X*				
Ohio	X				

Table reflects §107 designations as of December 31, 1982. Redesignation request received

Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF WISCONSIN

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Brown		X			X
Columbia	X				X
Dane		X			X
Marathon		X			
Milwaukee	X				
Rock	X				
Sheboygan					X
Waukesha	X				
Vilas					X

Table reflects §107 designations as of December 31, 1982.

• Areas Currently Designated Nonattainment for Primary NAAQS Under Section 107 Which are Likely to be Able to Demonstrate Attainment by 1982

STATE OF WYOMING

County	Pollutants named in §107 Designation				
	TSP	SO_2	CO	NO_X	O_X
Sweetwater	X*				

Table reflects §107 designations as of December 31, 1982. *Redesignation request received

APPENDIX D

Areas Not Anticipated to Meet the

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

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APPENDIX D

Areas Not Anticipated to Meet the

Requirements of the Clean Air Act

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF ALABAMA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Those portions of Jefferson County within Central Birmingham and the area surrounding the Universal Atlas Cement Plant	TSP	x		x*
Jefferson County	O_3	x		
That portion of Etowah County within the western section of Gadsden	TSP			x*

* Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. Restrictions will remain in effect.

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF ARIZONA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Phoenix, Maricopa County	CO	x		
Phoenix, Maricopa County	O_3	x		
Phoenix, Maricopa County	TSP	x		x*
Tucson, Pima County	CO	x		
Tucson, Pima County	TSP	x		
Ajo, Pima County	SO_2	x		x*
Ajo, Pima County	TSP	x		x*
Hayden, Gila & Pinal Counties	SO_2	x		x*
Hayden, Gila & Pinal Counties	TSP	x		x*
Miami, Gila County	SO_2	x		x*
Miami, Gila County	TSP	x		x*
Morenci, Greenlee County	SO_2	x		x*
Morenci, Greenlee County	TSP	x		x*
San Manuel, Pinal County	SO_2	x		x*
Douglas, Cochise County	SO_2	x		x*
Douglas, Cochise County	TSP	x		x*
Paul Spur, Cochise County	TSP	x		x*

* Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. Restrictions will remain in effect.

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Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF CALIFORNIA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
South Coast Air Basin (Metropolitan Los Angeles including Orange County-all Riverside County-part San Bernardino County-part Los Angeles County-part	NO_x	x		
South Coast Air Basin (Metropolitan Los Angeles, including Orange County-all Riverside County-part, San Bernardino County-part, Los Angeles County-part)	TSP	x		
San Diego County	TSP	x		
Santa Barbara County (Western-Non-AQMA Part	TSP	x	x	
Ventura County (South Part)	TSP	x	x	
Fresno County	TSP	x	x	
Kern County (San Joaquin Valley Part)	O_3	x	x	
Kern County (San Joaquin Valley Part)	TSP	x	x	
Kern County (Bakersfield Metro Area)	CO	x	x	
Kings County	TSP	x	x	
San Joaquin County	TSP		x	
Madera County	TSP	x	x	
Merced County	TSP	x	x	
Stanislaus County	TSP	x	x	
Tulare County	TSP	x	x	
Tulare County	O_3		x	
Los Angeles County (Lancaster Area)	TSP	x		x*
Santa Barbara County (Southern Area)	CO		x	
Butte County	CO		x	
Butte County	O_3		x	
Sutter County	O_3		x	
Yuba County	O_3		x	
Kings County	O_3		x	
Madera County	O_3		x	
Merced County	O_3		x	
Imperial County	O_3		x	
San Bernardino County (Desert AQMA)	O_3		x	
San Bernardino County (Victorville area)	TSP			x*

*Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. Restrictions will remain in effect.

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF COLORADO

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF FLORIDA

Area [illegible] which [illegible] Year
[illegible] requirements of the Clean Air Act

STATE OF COLORADO

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Denver area (including Denver County, portions of Arapahoe County, portions of Adams County)	TSP			
Pueblo, Pueblo County	TSP			

Area [illegible] which [illegible] Year
[illegible] requirements of the Clean Air Act

STATE OF FLORIDA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Dade County	[illegible]	[illegible]		
Broward County	[illegible]	[illegible]		
Palm Beach County	[illegible]	[illegible]		

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF GEORGIA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Atlanta Metropolitan area (including Clayton County, Cobb County, Coweta County, DeKalb County, Douglas County, Fayette County, Fulton County, Gwinnett County, Henry County, Paulding County, and Rockdale County)	O_3	x		

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

TERRITORY OF GUAM

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Tanguisson	SO_2	x		x*

*Area presently has restrictions on the construction or modification of major stationary sources for failure to submit an adequate SIP. Restrictions will remain in effect.

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF IDAHO

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF ILLINOIS

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Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF IDAHO

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Pocatello area including Bannock County, and Power County	TSP	x		
Soda Springs/Conda, Caribou County	TSP			

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF ILLINOIS

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Part of Cook County	TSP	x		
Part of Macon County	TSP	x		
Part of St. Clair County	TSP	x		
Part of Madison County	TSP	x		
Part of Peoria County	SO_2		x	
Part of Tazewell County	SO_2		x	

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF INDIANA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Part of Lake County	SO_2		x	
Part of Lake County	TSP	x		x*
Marion County	SO_2		x	
Part of Marion County	TSP			x**
Part of Marion County	CO	x		
Part of La Porte County	SO_2		x	
Part of Wayne County	SO_2			x**
Part of Porter County	TSP			x
St. Joseph County	O_3			x**
Elkhart County	O_3			x**
Allen County	O_3			x**
Part of Clark County	TSP	x		
Vigo County	SO_2			x

* Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. Draft implementation plan was now been submitted but not yet approved.

** Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. Restrictions will remain in effect.

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF IOWA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Des Moines, Polk County	TSP	x		

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF KANSAS

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Kansas City, Wyandotte County	TSP	x		
Wichita, Sedgwick County	CO	x		

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

COMMONWEALTH OF KENTUCKY

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Bell County	TSP	x		
Boyd County	TSP	x		
That portion of Campbell County in Newport	TSP	x		
That part of Henderson County in Henderson	TSP	x		
Jefferson County	TSP	x		
That portion of Lawrence County in Louisa	TSP	x		
McCracken County	TSP	x		
That portion of Perry County in Hazard	TSP	x		
That portion of Madison County in Richmond	TSP	x		
That portion of Whitley County in Corbin	TSP	x		

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF LOUISIANA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Baton Rouge including				
East Baton Rouge Parish and	O_3	x		
West Baton Rouge Parish	O_3	x		
New Orleans including				
Jefferson Parish,	O_3	x		
St. Bernard Parish, and	O_3	x		
Orleans Parish	O_3	x		

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF MICHIGAN

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Part of Wayne County	TSP	x	x	

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF MINNESOTA

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF MISSOURI

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STATE OF MINNESOTA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Hennepin County	TSP	x		
Part of Stearns County	CO	x		
Part of St. Louis County	CO	x		
Dakota County	SO_2	x		
Ramsey County	CO	x		

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF MISSOURI

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
St. Louis (an area extending west about 2 miles from the Mississippi River, north to near I-270 and south to about 1 mile beyond the city limits)	TSP	x		

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF NEBRASKA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Lincoln, Lancaster County	CO	x		x*
Omaha, Douglas County	CO	x		x*
Omaha, Douglas County (24th & O Street)	TSP			x*
Omaha, Douglas County (16th & Nicholas Street)	TSP			x*
Louisville, Cass County (municipal area)	TSP			x*
Weeping Water, Cass County (municipal area)	TSP			x*

* Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. Implementation plan has now been submitted but not yet approved.

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF MONTANA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Missoula, Missoula County	CO	x		x*
Billings, Yellowstone County	CO			x
Great Falls, Cascade County	CO			x
Butte, Silver Bow County	TSP		x	

* Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. Restrictions will remain in effect.

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF NEVADA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Las Vegas, Clark County	CO	x		x*
Las Vegas, Clark County	TSP			x*
Reno, Washoe County	CO	x		x*
Reno, Washoe County	TSP			x*
Sparks, Washoe County	CO	x		x*
Sparks, Washoe County	TSP			x*

* Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. Implementation plan has now been submitted but not yet approved.

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF NEW HAMPSHIRE

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Manchester, Hillsborough County	CO	x		x*
Manchester, Hillsborough County	TSP			x*
Nashua, Hillsborough County	CO	x		x*
Nashua, Hillsborough County	TSP			x*

* Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. Implementation plan has now been submitted but not yet approved.

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STATE OF NEVADA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Las Vegas, Clark County	O_3	x		
Las Vegas, Clark County	TSP	x		
Reno, Washoe County	TSP	x		
McGill, White Pine County	SO_2	x		

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF NEW HAMPSHIRE

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Metropolitan Berlin, Coos County	TSP	x		
Nashua, Hillsborough County	CO	x		x
New Hampshire portion Merrimack Valley Southern New Hampshire AQCR (including Sullivan County, Merrimack County, Belknap County, Cheshire County, Hillsborough County, Strafford County, and Rockingham County)	O_3		x	

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF NEW MEXICO

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Portions of Bernalillo County	TSP	x		
Portions of Grant County	TSP	x		
Portions of Grant County	SO_2	x		

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF NEW YORK

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
City of Lackawanna, Erie County	TSP	x		x*

* Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. The required 1979 SIP was submitted but was not approved by EPA because a revised SIP was being prepared by the State. This revised SIP, which is expected to be received in mid-1983, will reflect recent emission source shutdowns in this location.

Areas Not Anticipated to Meet
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STATE OF OHIO

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF OKLAHOMA

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STATE OF OHIO

AREA	POLLUTANT	UNLIKELY TO ATTAIN NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Part of Cuyahoga County	TSP	x		x*
Part of Columbiana County	TSP	x		x*
Part of Jefferson County	TSP	x		x*
Part of Mahoning County	TSP	x		x*
Richland County	TSP	x		x*
Sandusky County	TSP	x		x*
Portage County	O_3	x		
Summit County	O_3	x		
Part of Coshocton County	SO_2			x

* Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. SIP has now been submitted but not yet approved.

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF OKLAHOMA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Tulsa County	O_3	x		

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

COMMONWEALTH OF PENNSYLVANIA

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Conewango Township, Warren County	SO_2			x
Allegheny County, area within a 2-mile radius of the Hazlewood monitor	SO_2	x		
Allegheny County, A three-mile strip which is within a perpendicular distance two miles north and east and one-mile south and west of the Ohio and Monongahela rivers from the I-79 bridge on the Ohio river to the Westmoreland County line on the Monongahela river	TSP	x		
Sharon, Mercer County	TSP	x		
Scranton, Lackawanna County	O_3	x		
Wilkes-Barre, Luzerne County	O_3	x		

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF OREGON

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Medford, Jackson County	TSP			x*

*Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate STP. Restrictions will remain in effect.

Areas Not Anticipated to Meet
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STATE OF TENNESSEE

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF TEXAS

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STATE OF TENNESSEE

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Those portions of Shelby County within two sections of downtown Memphis	TSP			x*
Those portions of [illegible] County within a sector of Bristol and a section of Kingsport	TSP	x		
That portion of Knox County located in metropolitan Knoxville	CO	x		

* Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. Restrictions will remain in effect.

Areas Not Anticipated to Meet the Requirements of the Clean Air Act

STATE OF TEXAS

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Dallas County	O_3	x		
Tarrant County	O_3	x		
Portions of Cameron County San Benito	TSP	x		
Portions of Harris County Houston	TSP	x		x*
Portion of Nueces County Corpus Christi	TSP	x		
Portions of El Paso County El Paso	TSP	x		
El Paso County	O_3	x		
Portions of El Paso County El Paso	CO	x		

* Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. Restrictions will remain in effect.

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF WASHINGTON

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Tacoma, Pierce County	CO	x		x*
Tacoma, Pierce County	TSP	x		
Spokane, Spokane County	CO	x		
Spokane, Spokane County	TSP	x		
Vancouver, Clark County	TSP	x		
Seattle, King County	TSP	x		

* Recent air quality data indicate that peak concentrations are occurring in a different area from that originally determined. The existing, EPA approved, 1979 State Implementation Plan ensures attainment of the NAAQS by December 1982 only in areas originally determined to be nonattainment. The State has not yet provided an implementation plan adequate to ensure attainment of the NAAQS by December 1982 in the newfound area.

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF UTAH

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Portions of Salt Lake County	TSP			x*
Salt Lake County and portions of Tooele County	SO_2			x**

* Area presently has restrictions on construction or modification of major stationary sources for failure to submit adequate SIP. Restrictions will remain in effect.

** Area presently has restrictions on construction or modification of major stationary sources for failure to submit an adequate SIP. The revised SIP is currently being evaluated by EPA. The restrictions will remain in effect.

Areas Not Anticipated to Meet
the Requirements of the Clean Air Act

STATE OF WISCONSIN

Areas Not Anticipated to Meet the Requirements of the Clean Air Act

STATE OF WISCONSIN

AREA	POLLUTANT	UNLIKELY TO ATTAIN THE NAAQS	FAILURE TO COMPLY WITH SIP CONDITIONS	FAILURE TO SUBMIT AN ADEQUATE SIP
Part of Brown County	SO_2			x*
Part of Milwaukee County	SO_2			x*

* Area presently has restrictions on construction or modification of major stationar sources for failure to submit an adequate SIP. Restrictions will remain in effect.

[FR Doc. 83-2535 Filed 2-2-83, 8:45 am]
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40 CFR, Part 52

[AD-FRL 2294-6]

Approval/Disapproval of July 1, 1982, State Implementation Plan (SIP) Revisions for Attainment of Ozone and Carbon Monoxide Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: General preamble to proposed rulemakings.

SUMMARY: The Clean Air Act requires that all States which received an extension beyond December 31, 1982, for attainment of either the ozone or carbon monoxide standards submit a revised plan by July 1, 1982, demonstrating that the standards would be attained by December 31, 1987. Following this general preamble, the Agency discusses the individual plan revisions in detail for 28 of the 31 States required to make submittals and proposes each for approval or disapproval. (As discussed later in this notice, EPA has already proposed or taken final action on all portions of the plans for the remaining three States.)

The statutory and policy requirements used to evaluate the July 1982 SIP revisions are briefly reviewed. Additionally, the implications of final disapproval of these plans, i.e., a moratorium on the construction of new major sources and the possible withholding of funds for air quality program and transportation projects are indicated.

The nonattainment areas in the affected States that may be subject to a moratorium on new major source construction and funding restrictions are identified.

EPA is soliciting comments on its proposed actions.

DATES: Written comments must be received no later than March 21, 1983.

ADDRESSEES: General comments on the approval/disapproval of the July 1, 1982, SIP's should be addressed to Mr. John Pratapas, Plans Analysis Section, MD–15, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711.

Comments pertaining to any proposed action on a specific State plan should be addressed to the appropriate EPA Regional Office listed below:

Ms. Linda Murphy, Chief, State Air Programs Branch, EPA Region I, J.F.K. Federal Building, Room 2303, Boston, Massachusetts 02203 (Connecticut, Massachusetts, New Hampshire, Rhode Island)

Mr. William Baker, Chief, Air Programs Branch, EPA Rggion II, Federal Office Building, 26 Federal Plaza, New York, New York 10278 (New York, New Jersey)

Mr. Ray Cunningham, Chief, Air Programs and Energy Branch (3AH10), Air and Waste Management Division, EPA Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106 (Delaware, Maryland, Pennsylvania, Virginia, District of Columbia).

Mr. James T. Wilburn, Chief, Air Management Branch, Air and Waste Management Division, EPA Region IV, 345 Courtland, N.E., Atlanta, Georgia 30365 (Georgia, Kentucky, North Carolina, Tennessee).

Mr. Steve Rothblatt, Chief, Air Programs Branch, Air Management Division, EPA Region V, 230 South Dearborn, Chicago, Illinois 60604 (Indiana, Illinois, Michigan, Ohio, Wisconsin).

Mr. Jack Divita, Chief, Air Programs Branch, Air and Waste Management Division, EPA Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270 (New Mexico, Texas).

Mr. Carl M. Walter, Chief; Air, Noise, and Radiation Branch; EPA Region VII; 324 E. 11th Street, Kansas City, Missouri 64106 (Missouri).

Mr. Robert DeSpain, Chief, Air programs Branch, Air and Waste Management Division, EPA Region VIII, 1860 Lincoln Street, Denver, Colorado 80295 (Utah, Colorado).

Mr. David Calkins, Chief, Air Programs Branch, Air Management Division, EPA Region IX, 215 Fremont Street, San Francisco, California 94105 (California, Nevada)

Mr. Clark Gaulding, Chief, Air Programs Branch, Air and Waste Management Division, EPA Region X, 1200 Sixth Avenue, Seattle, Washington 98101 (Alaska, Washington, Oregon, Idaho)

Copies of each State's submission and EPA's technical evaluation are available during normal business hours at the respective Regional Office as well as the location identified in each specific State action.

FOR FURTHER INFORMATION CONTACT: Mr. John Pratapas, U.S. EPA, Mail Drop 15, Research Triangle Park, N.C. 27711. Phone 629–5665 (FTS) or 919–541–5665 (commercial).

SUPPLEMENTARY INFORMATION: Part D of the Clean Air Act relating to nonattainment areas was included in the Clean Air Act Amendments of 1977. (Sections 171–178 of the Clean Air Act, Section 129(c) (uncodified) of Pub. L. 95–95.) Under this Part, each State was required to revise its State Implementation Plan (SIP) for all nonattainment areas and submit the revisions to EPA by January 1, 1979. The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the ozone (O_3) or carbon monoxide (CO) standard by that date (Sections 172(a)(1), 172(a)(2)).

If EPA approved this demonstration, the law authorized the extensions of the attainment date for O_3 or CO up to December 31, 1987, and the State could defer compliance with certain of the Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provided for attainment by the approved attainment date and complied with all of the Part D requirements (Section 172(c)).

Those second SIP revisions were to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95–95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1]

Status of 1982 SIP Submittals

Table I lists the States which were required to submit plan revisions to EPA by July 1, 1982, for attainment of O_3, CO, or O_3 and CO standards. Included in the table is the status of State plan (i.e., draft plan or final plan) as of December 1, 1982.

[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583); August 28, 1979 (44 FR 50371); September 17, 1979 (44 Fr 53761); and November 23, 1979 (44 FR 67182).

Table I
STATUS OF 1982 SIP SUBMITTALS
(December 1, 1982)

Region	State	Ozone	Carbon Monoxide	Region	State	Ozone	Carbon Monoxide
I	RI	Final	N.R.	V	MI	Draft	Draft
	MA	Final	Final		WI	Draft	Draft
	CT	Draft	Draft		IL	Draft	Draft
	NH	N.R.	Final		IN	Draft	Draft
					OH	Final	Final
II	NY	Final	Final				
	NJ	Draft	Draft	VI	NM	N.R.	Final
					TX	Draft	N.R.
III	PA	Final	Final				
	DE	Final	N.R.	VII	MO	Draft	Draft
	MD	Final	Final				
	DC	Draft	Draft	VIII	CO	Final	Final
	VA	Draft	Draft		UT	Final	Final
IV	GA	N.R.	Final	IX	CA	Draft	Draft
	KY	Final	Final		NV	N.R.	Final
	NC	N.R.	Final				
	TN	Final	Final	X	ID	N.R.	Draft
					OR	Final	Final
					WA	Final	Final
					AK	N.R.	Final

N.R. - none required
Final - State adopted
Draft - State adoption not completed

For States that have not adopted final plans prior to the preparation of this proposed rulemaking notice, EPA is today proposing action to approve or disapprove the plans based upon the draft submittals. Where appropriate, the "parallel processing" technique for proposing approval on draft SIP's is being implemented.[2]

In general, "parallel processing" provides for simultaneous proposals of SIP adoption and approval by States and EPA, respectively. If the State substantially changes the draft revisions, EPA will evaluate those changes, and publish a revised notice of proposed rulemaking. Otherwise, EPA will publish a notice of final rulemaking on the revisions (discussed in today's notice) once the State adopts these revisions and submits them to EPA for incorporation into the SIP.

In cases where EPA is proposing disapproval of a draft SIP, the State's final plan must correct the deficiencies; otherwise EPA will prepare a final rulemaking notice disapproving the SIP. EPA will evaluate any changes made by the State to determine whether they are adequate and, where appropriate, publish a revised notice of proposed rulemaking.

[2] This and other techniques designed to expedite SIP processing are discussed in a **Federal Register** published June 23, 1982 (47 FR 27073).

Criteria for Approval of July 1982 SIPs

In reviewing and evaluating the July 1982 SIP submittals, EPA is guided by the requirements of Sections 172 (b) and (c) in Part D of the Act and the criteria in the EPA policy notice published on January 22, 1981 (46 FR 7182). Continued approval of a State Part D SIP is contingent upon a finding that these requirements have been met. In some cases, if a State plan includes sufficient enforceable measures to provide for reasonable further progress in the early part of the extended attainment period, the Agency is proposing to accept schedules for the submittal of other measures (excluding inspection/maintanance programs) needed to provide additional reductions in the remaining years. I/M is excluded because, under Agency policy, all I/M programs were required to startup no later than January 1, 1983.

Actions Proposed on July 1, 1982 SIP's

Tables II and III list the States required to submit July 1982 SIP's for O_3 and CO, respectively, and indicate whether the Agency is proposing to approve or disapprove these plan revisions. Those plans that have previously been proposed for approval in an earlier **Federal Register** are identified by publication date and **Federal Register** cite. Only two plans, the Portland, Oregon, SIP O_3 and CO and the Vancouver, Washington, SIP for O_3, have received final approval (October 7, 1982, 45 FR 44261, and December 17, 1982, 47 FR 56497, respectively). Proposal notices for the other 28 State plans are included immediately following this general preamble.

The new proposals related to this **Federal Register** could result in the disapproval of O_3, CO, or O_3 and CO plans for 17 of the 31 States with extensions until December 31, 1987, for attainment of standards. Individual State actions discuss the specific bases for proposing these disapprovals and approvals. Table IV lists the State plans that are proposed for disapproval and identifies the major deficiencies.

Consequences of SIP Disapproval

Section 110(a)(2)(I) of the Clean Air Act and 40 CFR 52.24 impose a moratorium on the construction of major new stationary sources and major modifications of existing stationary sources in any area where a State does not have a plan meeting the requirements of Part D of the Act. Section 176(a) of the Clean Air Act requires EPA to withhold Clean Air Act funds from any nonattainment area for which a State has not submitted or made reasonable efforts to submit a Part D SIP. It also requires the Department of Transportation to withhold funds for highway projects that are not within certain exemptions for safety, mass transit, or air quality benefits. EPA and DOT have published a joint policy for implementing Section 176(a) (45 FR 24692, April 10, 1980). Section 316(b) authorizes the Agency to withhold grants for the construction of sewage treatment facilities under the Clean Water Act in any area where a State fails to have in effect an approved Part D plan. The implications of these requirements for areas required to attain national ambient air quality standards (NAAQS) by December 31, 1982, are discussed in a separate notice published in today's **Federal Register**.

Final disapproval of the July 1982 SIP's would automatically trigger a construction moratorium. These restrictions would remain in effect until the State has a State plan approved by the Agency (unless that plan approval occurs after the 1987 attainment deadline). Disapproval of these July 1982 SIP's may also result in the restrictions of Federal funding authorized in Section 176(a) of the Act. The areas potentially

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affected by both the funding restrictions and construction moratorium are identified in Tables II and III under the column heading "Disapprovals."

Review and Comment

The **Federal Register** notice for all July 1982 SIP's proposed for disapproval have been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the locations listed in the "Addresses" section of each notice. EPA is soliciting public comments on the imposition of funding limitations, including which areas should be affected and when these funding limitations, if imposed, should be removed.

During the next few weeks EPA will work closely with the affected States concerning the identified problems in the State plans. The Agency anticipates that a number of the problems can be rectified before the Agency makes its final determinations in response to the public comments received.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the Agency must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. Under 5 U.S.C. 605(b) this requirement may be waived if the Agency certifies that the rule will not have a significant economic effect on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

If EPA takes final action to disapprove any SIP for a nonattainment area as proposed today, a moratorium on the construction and modification of major stationary sources of pollution will go into effect in the area for which the plan is disapproved as required by Section 110(a)(2)(I) of the Clean Air Act and 40 CFR 52.24 (1981). This moratorium will prohibit construction of major new stationary sources of the pollutant for which the plan is disapproved. A major stationary source is any source which emits,or has the potential to emit, 100 tons per year or more of a pollutant. *See* 40 CFR 52.24(f)(5) (1981). The moratorium would also prohibit major modifications to existing major stationary sources; a major modification is any physical change in a source or change in the operation of a source that would result in a significant net increase of a pollutant. *See* 40 CFR 52.24(f)(6) (1981). Thus, it is clear that final disapprovals would be likely to affect some small entities.

EPA has in the past made efforts to quantify the impacts of Clean Air Act rules on the construction and modification of sources but has been unable to do so. EPA's lack of success is due in part to the need to obtain information on future plans for business growth. This information is difficult to obtain, as businesses are understandably reluctant to make their plans public. Consequently, EPA is making no quantified assessment of the potential economic impact on small entities of the disapprovals proposed today.

Additionally, although EPA believes that a final action would be likely to have some impact on small entities, this impact cannot affect the Agency's actions. Under the Clean Air Act, the imposition of the construction moratorium is automatic and mandatory whenever the Agency determines that a plan for a nonattainment area fails to satisfy all of the applicable requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: January 25, 1983

Anne M. Gorsuch,

Administrator.

BILLING CODE 6560-50-M

Table II

ACTIONS PROPOSED ON JULY 1982 CARBON MONOXIDE SIPs

Region	State	Metropolitan Area	County	Proposed Action: Approval	Proposed Action: Disapproval
1982 CARBON MONOXIDE SIP's					

Table II

ACTIONS PROPOSED ON JULY 1982 CARBON MONOXIDE SIPs

Region	State	Metropolitan Areas	Counties	Proposed Action Approval	Proposed Action Disapproval
I	Connecticut	Bridgeport	Fairfield		X
		Hartford	Hartford		X
			Middlesex		X
			Tolland		X
		New Haven	New Haven		X
	Massachusetts	Springfield	Hampden	X	
		Boston	Middlesex	X	
			Norfolk	X	
			Suffolk	X	
		Worcester	Worcester	X	
		Lowell	Middlesex	X	
	New Hampshire	Manchester	Hillsborough	X[a]	
II	New Jersey	Atlantic City	Atlantic	X	
		Hackensack	Bergen	X	
		Burlington	Burlington	X	
		Camden	Camden	X	
		Newark	Essex	X	
		Jersey City	Hudson	X	
		Trenton	Mercer	X	
		Perth Amboy	Middlesex	X	
		Freehold	Monmouth	X	
		Morristown	Morris	X	
		Toms River	Ocean	X	
		Paterson	Passaic	X	
		Penns Grove	Salem	X	
		Somerville	Somerset	X	
		Elizabeth	Union	X	
	New York	New York City	Bronx		X
			Kings		X
			Nassau		X
			New York		X
			Queens		X
			Richmond		X
			Westchester		X
III	District of Columbia	Washington	District of Columbia		X
	Maryland	Baltimore	Baltimore		X
		Washington	Montgomery		X
			Prince George's		X
	Virginia	Washington	Arlington	X	
			Fairfax	X	

1982 CARBON MONOXIDE SIP's

Region	State	Metropolitan Area	County	Proposed Action Approval	Proposed Action Disapproval
	Pennsylvania	Pittsburgh	Allegheny		X
		Philadelphia	Philadelphia		X
IV	Georgia	Atlanta	Clayton	X	
			Dekalb	X	
			Fulton	X	
	Kentucky	Louisville	Jefferson		X
	North Carolina	Charlotte	Mecklenberg	X	
	Tennessee	Nashville	Davidson		X
		Memphis	Shelby		X
V	Illinois	Chicago	Cook		X
	Indiana	Gary	Lake		X
	Michigan	Detroit	Wayne		X
	Ohio	Cleveland	Cuyahoga	X	
		Cincinnati	Hamilton	X	
	Wisconsin	Milwaukee	Milwaukee		X
VI	New Mexico	Albuquerque	Bernalillo	X[b]	
VII	Missouri	St. Louis	St. Louis City		X
			St. Louis County		X
VIII	Colorado	Denver	Adams		X
			Arapahoe		X
			Boulder		X
			Denver		X
			Douglas		X
			Jefferson		X
		Ft. Collins	Larimer	X	
		Greeley	Weld	X	
		Colorado Springs	El Paso	X	
	Utah	Salt Lake City	Salt Lake		X
			Weber	X	
			Utah	X	
IX	California	Fresno	Fresno		X
		Sacramento	Sacramento		X

1982 CARBON MONOXIDE SIP's

Region	State	Metropolitan Area	County	Proposed Action Approval	Proposed Action Disapproval
IX	California	Lake Tahoe	Placer	X	
			El Dorado	X	
		San Diego	San Diego		X
		San Francisco Bay Area	Alameda		X
			Contra Costa		X
			Marin		X
			Napa		X
			San Francisco		X
			San Mateo		X
			Santa Clara		X
			Solano		X
			Sonoma		X
		South Coast Basin	Los Angeles		X
			Orange		X
			Riverside		X
			San Bernadino		X
		Stockton	San Joaquin	X	
	Nevada	Las Vegas	Clark		X
		Reno	Washoe		X
X	Alaska	Anchorage	Anchorage Borough	X	
		Fairbanks	Fairbanks/North Star Borough	X	
	Idaho	Boise	Ada	X	
	Oregon	Medford	Jackson	X	
		Portland	Multnomah	X[c]	
	Washington	Seattle	King	X[d]	

[a]Published September 13, 1982 (47 FR 40185)
[b]Published November 10, 1982 (47 FR 50927)
[c]Proposal published July 21, 1982 (47 FR 31586)
Final rule published October 7, 1982 (47 FR 44261)
[d]Published October 19, 1982 (47 FR 46[illegible]49)

TABLE III

ACTIONS PROPOSED ON JULY 1982 OZONE SIP'S

Region	State	Metropolitan Area	County	Proposed Action Approval	Proposed Action Disapproval
I	Connecticut	Statewide	Fairfield		X
			Hartford		X
			Litchfield		X
			Middlesex		X
			New Haven		X
			New London		X
			Tolland		X
			Windham		X
	Massachusetts	Statewide	Barnstable	X	
			Berkshire	X	
			Bristol	X	
			Dukes	X	
			Essex	X	
			Franklin	X	
			Hampden	X	
			Hampshire	X	
			Middlesex	X	
			Nantucket	X	
			Norfolk	X	
			Plymouth	X	
			Suffolk	X	
			Worcester	X	
	Rhode Island	Statewide	Bristol	X	
			Kent	X	
			Newport	X	
			Providence	X	
			Washington	X	
II	New Jersey	Statewide	Altantic	X	
			Bergen	X	
			Burlington	X	
			Camden	X	
			Cape May	X	
			Cumberland	X	
			Essex	X	
			Gloucester	X	

1982 OZONE SIP'S

Region	State	Metropolitan Area	County	Proposed Action Approval	Proposed Action Disapproval
II	New Jersey	Statewide	Hudson	X	
			Hunterdon	X	
			Mercer	X	
			Middlesex	X	
			Monmouth	X	
			Morris	X	
			Ocean	X	
			Passaic	X	
			Salem	X	
			Somerset	X	
			Sussex	X	
			Union	X	
			Warren	X	
	New York	Statewide	Albany	X	
			Allegany	X	
			Bronx	X	
			Broome	X	
			Cattaraugus	X	
			Cayuga	X	
			Chautauqua	X	
			Chemung	X	
			Chenango	X	
			Clinton	X	
			Columbia	X	
			Cortland	X	
			Delaware	X	
			Dutchess	X	
			Erie	X	
			Essex	X	
			Franklin	X	
			Fulton	X	
			Genesee	X	
			Greene	X	
			Hamilton	X	
			Herkimer	X	
			Jefferson	X	
			Kings	X	
			Lewis	X	
			Livingston	X	
			Madison	X	
			Monroe	X	
			Montgomery	X	
			Nassau	X	
			New York	X	
			Niagara	X	
			Oneida	X	
			Onondaga	X	
			Ontario	X	
			Orange	X	
			Orleans	X	
			Oswego	X	
			Otsego	X	
			Putnam	X	
			Queens	X	
			Rensselaer	X	
			Richmond	X	
			Rockland	X	
			Saratoga	X	
			Schenectady	X	
			Schoharie	X	
			Schuyler	X	
			Seneca	X	
			St. Lawrence	X	
			Steuben	X	
			Suffolk	X	
			Sullivan	X	
			Tioga	X	
			Tompkins	X	
			Ulster	X	
			Warren	X	
			Washington	X	
			Wayne	X	
			Westchester	X	
			Wyoming	X	
			Yates	X	

1982 OZONE SIP'S

Region	State	Metropolitan Area	County	Proposed Action: Approval	Proposed Action: Disapproval
	New Jersey	Statewide	Hudson	X	
			Hunterdon	X	
			Mercer	X	
			Middlesex	X	
			Monmouth	X	
			Morris	X	
			Ocean	X	
			Passaic	X	
			Salem	X	
			Somerset	X	
			Sussex	X	
			Union	X	
			Warren	X	
	New York	New York City	Bronx		X
			Kings		X
			Nassau		X
			New York		X
			Queens		X
			Richmond		X
			Rockland		X
			Suffolk		X
			Westchester		X
III	Delaware	Wilmington	New Castle	X	
	District of Columbia	Washington	District of Columbia		X
	Maryland	Baltimore	Anne Arundel		X
			Baltimore		X
			Carrol		X
			Harford		X
			Howard		X
		Washington	Montgomery		X
			Prince George's		X
	Pennsylvania	Pittsburgh	Allegheny		X
			Armstrong		X
			Beaver		X
			Butler		X
			Washington		X
			Westmoreland		X
		Philadelphia	Bucks		X
			Chester		X

1982 OZONE SIP'S

Region	State	Metropolitan Area	County	Proposed Action: Approval	Proposed Action: Disapproval
		Philadelphia	Delaware		X
			Montgomery		X
			Philadelphia		X
		Allentown	Lehigh		X
			Northampton		X
	Virginia	Washington	Arlington	X	
			Fairfax	X	
			Loudon	X	
			Prince William	X	
IV	Kentucky	Cincinnati	Boone	X	
			Campbell	X	
			Kenton	X	
		Louisville	Jefferson		X
V	Illinois	Chicago	Cook		X
			DuPage		X
			Kane		X
			Lake		X
			McHenry		X
			Will		X
		St. Louis	Madison		X
			Monroe		X
			St. Clair		X
	Indiana	Louisville	Clark		X
			Floyd		X
		Chicago	Lake		X
			Porter		X
	Michigan	Detroit	Macomb		X
			Oakland		X
			Wayne		X
	Ohio	Cincinnati	Butler	X	
			Clermont	X	
			Hamilton	X	
			Warren	X	

1982 OZONE SIP'S

Region	State	Metropolitan Area	County	Proposed Action Approval	Proposed Action Disapproval
		Cleveland	Cuyahoga	X	
			Lake	X	
			Lorain	X	
			Medina	X	
	Wisconsin	Milwaukee	Kenosha		X
			Milwaukee		X
			Ozaukee		X
			Racine		X
			Waukesha		X
VI	Texas	Houston	Harris		X
VII	Missouri	St. Louis	Franklin		X
			Jefferson		X
			St. Charles		X
			St. Louis County & City		X
VIII	Colorado	Denver	Adams	X	
			Arapahoe	X	
			Boulder	X	
			Denver	X	
			Douglas	X	
			Jefferson	X	
	Utah	Salt Lake City	Davis		X
			Salt Lake		X
IX	California	San Francisco Bay Area	San Mateo		X
			Alameda		X
			Contra Costa		X
			Marin		X
			Napa		X
			San Francisco		X
			Santa Clara		X
			Yolo		X
			Solano		X
			Sonoma		X
			Stanislaus		X
		North Central Coast	Monterey	X	
			San Benito	X	
			Santa Cruz	X	
		Stockton	San Joaquin	X	
		South Coast	Orange		X
			San Bernadino		X
			Los Angeles		X
			Riverside		X
		Santa Barbara	Santa Barbara	X	
		Fresno	Fresno		X
		Ventura-Oxnard	Ventura		X
		Sacramento	Sacramento		X
			El Dorado		X
			Solano		X
			Placer		X
		San Diego	San Diego		X
X	Oregon	Portland--	Clackamas	X[a]	
			Multnomah	X[a]	
			Washington	X[a]	
	Washington	Seattle	King	X[b]	
			Pierce	X[b]	
			Snohomish	X[b]	
		Vancouver	Clark	X[c]	

[a]Proposal published July 21, 1982 (47 FR 31586)
Final rule published October 7, 1982 (47 FR 44261)
[b]Published October 19, 1982 (47 FR 46549)
[c]Proposal published September 30, 1982 (47 FR 43083)
Final rule published December 17, 1982 (47 FR 56497)

Table IV. 1982 SIP's--PROPOSED DISAPPROVALS

State	Area	SIP submittal status	Affected pollutant(s)	Major Deficiencies: Attainment demonstration	I/M*	Control measures RFP*
Wisconsin	Milwaukee	Complete	Ozone	X	X	X
Texas	Houston	Complete	Ozone	X	X	X
Missouri	St. Louis	Complete	Ozone	X	X	X
Colorado	Denver	Complete	Ozone	X	X	X
Utah	Salt Lake City	Complete	Ozone	X	X	X
California	San Francisco Bay Area	Complete	Ozone	X	X	X
California	North Central Coast	Complete	Ozone	X	X	X
California	Stockton	Complete	Ozone	X	X	X
California	South Coast	Complete	Ozone	X	X	X
California	Santa Barbara	Complete	Ozone	X	X	X
California	Fresno	Complete	Ozone	X	X	X
California	Ventura-Oxnard	Complete	Ozone	X	X	X
California	Sacramento	Complete	Ozone	X	X	X
California	San Diego	Complete	Ozone	X	X	X
Oregon	Portland--	Complete	Ozone	X	X	X
Washington	Seattle	Complete	Ozone	X	X	X
Washington	Vancouver	Complete	Ozone	X	X	X

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Table I. 1982 SIP's--PROPOSED DISAPPROVALS

State	Area	SIP submittal status	Affected pollutant(s)	Major Deficiencies: Attainment demonstration	I/M*	Control measures	RFP*
California	Los Angeles, Fresno	Draft	O_3, CO	x	x	x	x
	Sacramento	Draft	O_3, CO	x	x	x	x
	Ventura	Draft	O_3	x	x	x	x
	San Diego, San Francisco	Draft	O_3, CO		x		
Colorado	Denver	Final	CO	x		x	x
Connecticut	Statewide	Draft	O_3, CO			x	
District of Columbia	Metro. Washington	Draft	O_3, CO	x		x	
Illinois	Chicago	Draft	O_3, CO	x	x	x	x
	East St. Louis	Draft	O_3	x	x	x	x
Indiana	Metro. Chicago and Metro. Louisville area	Draft	O_3, CO	x	x	x	
Kentucky	Louisville	Final	O_3, CO		x		
Maryland	Baltimore & Metro. Washington	Final	O_3, CO		x		
Michigan	Detroit	Draft	O_3, CO	x	x	x	
Missouri	St. Louis	Draft	O_3, CO	x	x	x	x
Nevada	Las Vegas	Final	CO		x		
	Reno			x			x
New York	New York City	Final	O_3, CO	x		x	x

* I/M = Inspection and Maintenance
RFP = Reasonable Further Progress

[FR Doc. 83-2538 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-C

Table IV. 1982 SIP's--PROPOSED DISAPPROVALS

State	Area	SIP submittal status	Affected pollutant(s)	Major Deficiencies: Attainment demonstration	I/M	Control measures	RFP
Pennsylvania	Allentown	Final	O_3		x		
	Philadelphia & Pittsburgh	Final	O_3, CO	x	x	x	x
Tennessee	Memphis	Final	CO		x		
	Nashville	Final	CO		x		
Texas	Houston	Draft	O_3		x		
Utah	Salt Lake City	Final	O_3, CO		x		
Wisconsin	Milwaukee	Draft	O_3, CO	x	x	x	x

40 CFR Part 52

[A-8-FRL 2248-8]

Approval and Promulgation of State Implementation Plans; Colorado Carbon Monoxide/Ozone Attainment Plan

AGENCY: Environmental Protection Agency.
ACTION: Proposed rulemaking.

SUMMARY: This notice proposes to approve most elements of the 1982 State Implementation Plan (SI) revisions for the State of Colorado which were submitted June 24, 1982. With the exception of the carbon monoxide SIP for Denver, these revisions appear to meet the requirements of the Clean Air Act and EPA policy. The intended effect of this action is to provide for attainment of the primary National Ambient Air Quality Standards for ozone and carbon monoxide, as required under Part D of the Clean Air Act Amendments of 1977.

DATES: Comments due March 21, 1983.

ADDRESSES: Written comments should be addressed to: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following office: Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–3471.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 add a new Part D to Title I of the Act. Under this Part, the States had to revise their State Implementation Plans (SIP's) for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (sections 171–178 of the Clean Air Act; section 129(c) (uncodified) of Pub. L. 95–95). The revised plan was to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the ozone (O_3) or carbon monoxide (CO) standards which could be extended up to December 31, 1987, and the State could defer compliance with certain of the Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements (section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (section 129(c) (uncodified), Pub. L. 95–95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1]

Colorado's SIP submittal of January 2, 1979, did not contain the required evidence of legal authority, but a subsequent submittal allowed EPA to conditionally approve the I/M portion of the SIP (44 FR 57401). When the date provided in the conditional approval passed, EPA disapproved the CO and O_3 portions of the Colorado SIP (45 FR 16486 and 45 FR 21634). The Colorado Legislature passed a bill on May 7, 1980, which Governor Richard Lamm submitted as a SIP revision to EPA on May 28, 1980. The law established legal authority for an I/M program throughout the Colorado Front Range from Colorado Springs through Greeley and Ft. Collins, encompassing all Colorado CO or O_3 nonattainment areas. EPA's evaluation and approval of that SIP revision is documented in 45 FR 47682 (July 16, 1980)

Colorado submitted its 1982 revisions to its CO/O_3 SIP on June 24, 1982. EPA's review of the State's submittal is divided into the following main discussions:

- Data Bases and Modeling Analyses
- Stationary Source Measures
- Inspection and Maintenance (I/M)
- Transportation Control Plan
- Reasonable Further Progress
- Public Participation and Consultation with State and Local Officials.

Within some headings, the discussion is further divided into each of the areas requiring extension (Fort Collins, Greeley, Denver, and Colorado Springs).

Data Bases and Modeling Analyses

As stated in the January 1981 policy, the air quality and emissions data bases should be consistent with the modeling approach used. The State of Colorado maintains an adequate air quality monitoring system, and a very detailed emissions inventory. Point sources of either CO, hydrocarbons (HC), and oxides of nitrogen emitting one ton or more per year are included in the inventory. Mobile source emissions have been calculated with EPA's Mobile 2 Emission Factor Model. The air quality data for 1979, 1980, and 1981 are summarized in the SIP. The modeling analyses for all areas exceed the minimum EPA requirements in sophistication, and EPA finds them approvable.

Stationary Source Measures

There are no major stationary sources of CO in the Fort Collins, Greeley, or Colorado Springs areas; thus, there are no stationary source requirements in these areas. The Denver area has major sources of both CO and hydrocarbons (volatile organic compounds or "VOCs").

The January 22, 1981, policy requires the adoption of Reasonably Available Control Technology (RACT) for: (1) All Control Technique Guidelines (CTGs) issued by EPA; (2) all remaining major stationary sources of VOCs (those emitting more than 100 tons per year potential emissions); and (3) all sources of CO emitting more than 1,000 tons per year potential emissions.

The Colorado SIP meets requirement (1) for the adoption of regulations equivalent to the CTGs. Colorado Regulation No. 7 was approved as meeting the requirements for Group I CTGs on March 13, 1981 (46 FR 16687), and for Group II CTGs on November 30, 1981 (46 FR 58079). However, there is no indication in the Denver element of the SIP that requirements (2) and (3) have been met.

EPA cannot approve the ozone plan for Denver unless it can determine that the RACT requirements for stationary sources described above have been satisfied. In response to this concern, the State has committed to clarify this aspect of its submittal during the public comment period.

Inspection and Maintenance (I/M)

Consistent with section 172(b)(11)(B) of the Act, the January 22, 1981, SIP policy and the requirements for the 1979 SIP revisions, an I/M program is required in all major urban areas (areas with populations over 200,000) needing an extension beyond 1982 for attainment of the CO or O_3 standards. The policy requires that the 1982 SIPs include:

(1) Inspection test procedures;

(2) Emission standards;

(3) Inspection station licensing requirements;

(4) Emission analyzer specification and maintenance/calibration requirements;

[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583); August 28, 1979 (44 FR 50371); September 17, 1979 (44 FR 53761); and November 23, 1979 (44 FR 67182).

(5) Recordkeeping and record submittal requirements;

(6) Quality control, audit, and surveillance procedures;

(7) Procedures to assure that noncomplying vehicles are not operated on the public roads;

(8) Any other official program rules, regulations, and procedures;

(9) A public awareness plan; and,

(10) A mechanics training program if additional emission reduction credits are being claimed for mechanics training.

EPA approved the Colorado I/M program with respect to the first four elements on January 29, 1982 (47 FR 4257).

Subsequent to the adoption of the original Regulation 11, the Colorado Legislature passed amendments to the program which remove the Weld County portions of the area (the Greeley area) and allow the use of less sophisticated emissions analyzers. The removal of the Greeley area meets EPA policy and is approvable because this area has a population under 200,000. The amendments concerning emission analyzers also meet EPA requirements, and the updated Regulation 11 is still approvable with respect to the first four elements of the 1982 SIP policy.

The Colorado 1982 CO/O_3 SIP includes an updated Regulation 11 with the previously mentioned amendments and documentation addressing the remaining six items of the January 22, 1981, policy. Record keeping and reporting by the inspection stations is discussed; surveillance, audit, and quality assurance procedures are discussed (stations are audited a minimum of once every 60 days); enforcement via a windshield sticker by Law Enforcement Officers is discussed; a public awareness plan is included; and the mechanics training program is outlined. A 60-day audit period is not acceptable. EPA requires a minimum of a 30-day audit period. EPA understands that the State is actually auditing the inspection stations once every 30 days, and will document this fact prior to final rulemaking. The equivalence of a 30-day audit period must be maintained for the Colorado I/M program to remain acceptable. The Colorado I/M program meets EPA requirements, and will provide at least a 25 percent reduction in 1987 CO and hydrocarbon emissions from light duty vehicles.

On July 22, 1981, an additional amendment to Regulation 11 was submitted modifying the adjustment procedures for two-cycle engines. This amendment does not conflict with EPA policy and proposed approval of this amendment is included in today's action.

Transportation Control Plan

Section 172(b)(2) of the Clean Air Act requires implementation of all reasonably available control measures as expeditiously as practicable. For areas which have received an extension of the CO or Oz attainment date beyond 1982, section 172(c) specifies that the SIP shall contain enforceable measures to assure attainment of the applicable NAAQS no later than December 31, 1987. Under sections 172(b)(7) and (b)(10), the SIP must identify and commit financial and manpower resources necessary to carry out the plan and include evidence that the responsible agencies have adopted the plan requirements and are committed to implement and enforce the plan elements. Any area which has received an extension of the attainment date is also subject to the requirement in sections 110(a)(3)(D) and 110(c)(5)(B) for implementation of public transportation measures necessary to meet basic transportation needs.

The January 22, 1981, policy established transportation control plan requirements consistent with the statutory provisions. See 46 FR 7187–7188, and 7191–7192. The major requirements are that the SIP revision include: (1) All reasonably available transportation measures to assure expeditious attainment; a decision not to implement any of the measures identified in section 108(f) of the Act must be documented: (2) committments and schedules for implementation of these measures, including, where appropriate, evidence of legal authority, an identification of costs and funding sources, and an identification of the tasks and responsibilities of agencies and officials responsible for programming, implementation, operation, and enforcement activities associated with each measure; and (3) public transportation measures necessary to meet basic transportation needs, including an identification and commitment to use, to the extent necessary, Federal, State, and local funds to implement these measures. Other requirements identified in the January 1981 policy include: (1) A monitoring plan for periodically assessing the success or failure of transportation measures in meeting emission reduction targets; (2) administrative and technical procedures and agency responsibilities in response to section 176(c) of the Act; and, (3) a contingency plan identifying transportation projects that may adversely affect air quality and will be delayed if expected air quality improvements do not occur, and a procedure for determining and implementing additional measures to compensate for unanticipated shortfalls in emission reductions.

As noted in the January 1981 policy, actions by many agencies are usually required before a transportation project is implemented. Recognizing this practical consideration, EPA believes it is reasonable to interpret the requirement in section 172(c) of the Act (i.e., that "enforceable measures" be in effect), to allow, in some cases, submission of schedules. Therefore, if a measure has not yet been implemented, received budget approval, or is otherwise not yet enforceable, *per se*, then implementation commitments may be in the form of a schedule (which, in itself, will be enforceable) listing the projected dates for the major steps required to advance the measure through the planning and programming process and identifying the agencies or officials required to take each action. These schedules must represent a genuine commitment to develop and adopt these measures.

Fort Collins

EPA is proposing to approve the Fort Collins plan. Seven of the eighteen 108(f) measures were determined to be unreasonable; five by the Air Quality Policy Committee (vapor controls, road pricing, idling control, retrofit, extreme cold start controls) and two by the Air Quality/Transportation Technical Advisory Committee (exclusive bus/carpool lanes and pedestrian malls/auto free zones). A brief description of the reasons for not implementing these measures was included. It should be noted that the I/M program is in effect in Fort Collins, even though it is not required by EPA since the area is under 200,000 in population. The Federal Motor Vehicle Emissions Control Program and I/M were shown to easily attain standards by 1987 (the highest concentration was projected to be 7.0 ppm for 8–hours compared with the 9 ppm standard). The other identified control measures and their impact are identified below.

Control measure	1987 percent ambient CO improvement
Traffic Flow Improvements:	
a. Traffic light synchronization	1–4
b. Fort Collins Expressway	1–4
c. Other	.....
Transit Expansion (not quantifiable at present)	(*)

Control measure	1987 percent ambient CO improvement
Bikeway Facilities	
Ride-share Program	
Fleet Vehicle Alternative Fuel Program	0.23
Staggered Work Hours	
Land Use Controls	

[1] Indicates a negligible amount.

The Fort Collins element includes a monitoring plan for assessing the transportation measures annually. A contingency provision is included, should shortfalls occur. Procedures for complying with section 176(C) of the Clean Air Act for assuring that transportation plans and programs conform to the SIP are also included, and major Federal actions which may affect air quality between 1982 and 1987 are identified. There is also a commitment to meeting basic transportation needs.

Greeley

EPA is proposing to approve the Greeley portion of the plan. The differences between the Greeley and Fort Collins elements of the SIP are that: (1) The I/M program is not in effect in the Greeley area; and (2) park-and-ride lots were found to be unreasonable in Greeley, while pedestrian malls were found to be reasonable. EPA does not require I/M in Greeley because the population is well under 200,000.

The Federal Motor Vehicle Emission Control Program alone was shown to attain the CO standard by 1987. The impact of the other control measures is shown below.

Control measure	1987 percent ambient CO improvement
Transit improvements, mall, and parking controls	0.28
Fleet modifications	[illegible]
Carpooling	
Staggered work hours	
Cycle facilities	

The Greeley area element contains the same monitoring plan, contingency provisions, 176(c) procedures, and commitment to meeting basic transportation needs that is contained in the Fort Collins elements. It is stated that there are currently no major Federal actions planned for the Greeley area.

Denver

The Denver element contains a list of measures not considered reasonably available. This list contains specific strategies, may of which are not specified in section 108(f) of the Clean Air Act. The SIP contains evidence of a reasonably comprehensive process which considered the air quality benefits and the technical and economic feasibility of each measure prior to determining that the measures were not reasonably available. The SIP also does not list certain of the 108(f) measures as unreasonable but these measures are not part of the Denver element. These omitted 108(f) Measures are road use charges, fleet vehicle conversion, non-light duty vehicle retrofit, and extreme cold start emission reduction programs. These measures were considered and rejected during the 1979 SIP revisin process. The SIP does list one 108(f) measure as unreasonable which is not included in the SIP: programs to limit portions of road surface to the use od nonmotorized vehicles or pedestrian use. This measure was rejected due to severe socio-economic impacts and minimal air quality benefits.

The plan submitted by the Denver Regional Council of Governments (DRCOG) demonstrated attainment of the O_3 standard with only the 1979 SIP measures. Transportation measures submitted in the 1982 SIP revision should have an additional benficial effect on O_3 levels, however, a 25% reduction was still required to meet the CO standard. The 1979 SIP measures which are a part of the 1982 SIP include the Federal Motor Vehicle Emission Control Program, I/M, doubling transit ridership, stationary source controls, carpool matching, variable work hours by Federal employees, bicycle plan and high occupancy vehicle lanes on Santa Fe Drive. The following list of measures and associated 1987 CO reductions were submitted by DRCOG to the Air Quality Control Commission (AQCC):

Control measure	1987 CO reduction (tons/day)
Double Park and Ride Lots	2.9
Light Rail Transit	10.0
Freeway Ramp Metering	6.2
Exclusive Bus Ramps	0.3
Traffic Signal Improvements	25.0
Display Signs at Drive-throughs to Turn Off Engine	0.4
Continue Implementation of Bicycle Plan	1.5
Parking Management	5.6
¾ Ton Truck 1968–1978 I/M	25.0
Employer Participation Program	7.5
Tax Incentives for Transit Users	50.3
20¢ per Gallon Gas Tax Increase	16.5
The AQCC modified the plan by deducting and adding the following measures	
Deleted by the AQCC:	
Employer Participation Program	7.5
Tax Incentives for Transit Users	50.3
20¢ per Gallon Gas Tax Increase	16.5
Added by the AQCC:	
Episodic Share-a-Ride	200
Warranty Enforcement	125
Ride Share Research	
Gasohol Research	

The plan submitted by DRCOG did not show attainment of the CO standard in 1987, but the plan as modified by the AOCC did predict attainment in 1987. EPA does not believe that the plan will, in fact, attain the CO standard in 1987, however, due to the heavy reliance on the episodic share-a-ride strategy.

The SIP includes implementation schedules and identifies funding sources and agencies responsible for each measure. However, effective implementation and enforcement of a few of the adopted measures will depend on actions by the State legislature: Expansion of I/M program to cover ¾ ton 1968–1978 trucks, warranty enforcement program, and perhaps, episodic share-a-ride strategy. Schedules are included for securing the necessary legal authority. A major issue is whether these schedules can be considered "enforceable" as required by Sections 172(b)(10) and 172(c). The agencies which have certified their commitment to all or part of the SIP (e.g., APCD, DRCOG) have no control over actions by the legislature, so there is no express guarantee that these measures will be implemented. EPA has strong doubts that schedules calling for legislative action can be considered enforceable because there appear to be no mechanisms for enforcement of such schedules in a court of law. Therefore, EPA is proposing to disapprove these measures.

The reductions claims for the control measures appear reasonable with the exception of the Episodic Share-a-Ride program. The CO attainment demonstration relies heavily on two strategies added to the SIP by the AQCC: The warranty enforcement program and the episodic share-a-ride strategy.

The warranty enforcement program adopted by the AQCC can be considered an enhanced I/M program designed to identify a larger percentage of high emitting 1982 and later vehicles which will in part be repaired under the 50,000 mile emission control warranty required by section 207 of the Clean Air Act. Increasing the identification rate plus additional reductions in projected emission rates of light duty vehicles which are built into EPA's latest

emission factors program (Mobile "2.5"), but which were not included in the Colorado projections, will combine to make the 125 tons per day claimed reduction for the warranty enforcement program a reasonable figure. Legislative authority will be necessary to implement this program, which would consist of a contractor operated, centralized, loaded mode I/M program. Funds will also be required to implement the program. Legislative "approval" is included as a scheduled milestone.

The episodic share-a-ride strategy adopted by the AQCC is a rather innovative transportation measure designed to restrict automobile use on days when air quality levels are expected to exceed NAAQS. The implementation schedule allows over two years to develop tools for predicting high pollution days and to develop the program structure. Beginning in July 1984, the program would be implemented on a voluntary basis and its effectiveness would be assessed. If it is not effective on a voluntary basis, the schedule calls for seeking legislative authority for a mandatory program and implementing a mandatory program in October 1987. The two major issues associated with this strategy are: whether the emission reductions claimed are reasonably achievable and whether, due to the intermittent nature of the program, section 123 of the Clean Air Act prohibits crediting the reductions claimed as an attainment strategy. There is also an issue of whether this strategy can be considered enforceable because of its initial (and perhaps, permanent) implementation on a voluntary baisis. There is a schedule for making it mandatory, but as discussed earlier, a substantial issue exists regarding enforceability of that schedule.

Very little detail is provided in the submission to justify the 200 ton reduction claimed for the episodic share-a-ride day. If this estimate is based on the operation of the strategy in a voluntary mode it seems highly unlikely that reductions that large would be attainable. The SIP submission also suggests that to meet the standards, a 30% reduction in areawide emissions by the eligible public, would be required. If this is roughly equated to a 30% reduction in travel, the SIP would seem to contemplate a travel reduction which would be the same as eliminating vehicle operation for worktrips. Worktrips probably amount to 30–40% of the areawide travel. On the face of it, this seems overly optimistic for a voluntary measure. If the measure were assumed to be mandatory, some extraordinary means of enforcement would be required. No enforcement mechanism for this measure was discussed in the SIP, and EPA does not believe that an effective enforcemnt program could be developed. A few of the problems which will be very difficult to overcome include: many individuals have access to more than one car, and if the enforcement is tied to license plate numbers, they will just use the other car. There will have to be allowances for exemptions, including the emergency use of vehicles which would normally be prohibited from being driven on a particular day. This will decrease effectiveness and provide an opportunity for circumvention.

Small percentage changes in travel amounts, trip lengths, trip frequencies, and vehicles occpancy have been traditionally quite difficult to effect over the past 10 to 20 years from any reason. A 5% reduction in travel (VMT) due to voluntarism seems high given that it amounts to about twice what is envisioned from the doubling of transit ridership—certainly a voluntary type measure. If all relations are linear, admittedly a simplifying assumption, the expected reduction in emissions might be closer to 30 tons than 200 tons. However, neither this analysis nor that included in the plan is technically sufficient for justification of the claimed reductions.

A Los Angeles plan which is intended to reduce vehicle use took credit for a 2.5% reduction in emissions (10 tons of 400 needed). The Los Angeles program is claimed as mandatory although there is little, if any, enforcement or monitoring, so actual effectiveness remains unknown.

The Episodic Share-a-Ride measures also is contingent upon the ability to predict the 15 or so days with the greatest potential for high levels of CO. This predictive capability does not yet exist, and two years are to be used to develop this capability. Without the ability to limit the number of days on which the Share-a-Ride measure will be used, the measure becomes more unreasonable due to its greater social and economic impacts because of the decreased mobility of the citizens. The DRCOG rejected the measure for this very reason. Although EPA cannot disapprove a SIP measure on the basis of unreasonableness, the unproven reliability of the predictive techniques is an issue.

In addition, EPA considers that the high CO potential days cannot be limited to anywhere near so few as 15 days. The Denver area experiences a temperature inversion and high CO potential almost every weekday, during the evening rush hour, in November, December, and January. About the only time when it can be said with any certainty that there will be *low* CO potential is when there is a storm or frontal passage. The time for such an occurrence is also difficult to predict because of Denver's proximity to the Rocky Mountains. It is not unusual for fronts to be delayed by as much as 12 hours. The attempt to limit the share-a-ride program to certain days may also be self-defeating in that, on days when it is not in effect, travel demand will likely be higher because it was previously repressed. This increased travel demand will cause higher than normal CO levels when the strategy is not in effect.

Even assuming that necessary predictive techniques can be developed and the emission reductions claimed can be adequately documented as achievable, a second major issue affects approvability of this program as an attainment strategy: Whether the Clean Air Act prohibits reliance on an intermittent control strategy to demonstrate attainment.

Section 123 of the Clean Air Act prohibits allowing the degree of emission limitation which is necessary to attain standards to be affected by any unauthorized dispersion technique, including specifically "intermittent controls of air pollutants varying with atmospheric conditions." Although the legislative history of this section deals almost exclusively with stationary sources, many of the problems identified by Congress in establishing this prohibition apply to intermittent mobile source controls (e.g., unreliability of methods of predicting atmospheric conditions, enforcement/administrative problems associated with implementation). In addition, the Clean Air Act clearly requires constant and continuous emission reductions to assure attainment. Finally, sections 110(a)(2)(F)(v) and 303 establish independent requirements for "emergency episode plans" which are to be included in the SIP, but are arguably not intended for use as a final means of attainment.

Given these statutory provisions and the "episodic" nature of this strategy, there is some doubt that this measure can be approved as an attainment strategy for purposes of the Part D nonattainment SIP (although it may be acceptable as part of the emergency episode plan required by the Act). Although a number of control measures specified in section 108(f) are intended for implementation on a "time and

place" basis (e.g., HOV lanes during "peak" hours), the time and place should be constant and pre-determined—and not variable or based on atmospheric conditions.

The Denver area element does include a monitoring plan for annually assessing the transportation measures, and procedures for complying with Section 176(c) of the Clean Air Act for assuring that transportation plans and programs conform to the SIP, and with the exception of the episodic share-a-ride program and expanded light duty truck I/M, the schedules and commitments to implement the transportation control measures are adequate. There is no schedule for the adoption of the expanded light duty truck I/M program.

The Denver element does not include a list of planned transportation projects which may adversely affect air quality and that will be delayed while the SIP is being revised if the expected emission reductions or air quality improvements do not occur. There is no description of the process which will be used to determine and implement additional transportation measures to compensate for these shortfalls.

Also, omitted from the Denver element is the identification of direct and indirect emissions from major Federal actions (including wastewater treatment grants) during the 1982 to 1987 period which is required by the January 1981 policy and Section 316(b) of the Clean Air Act.

Because the episodic share-a-ride day was rejected by DRCOG, the transportation planning agency, as unreasonable, the basic transportation needs of the Denver area probably have not been shown to be committed to in the Denver element. Implementation of this strategy would clearly affect transportation needs, and it is unclear how much of the needs could be met through ridesharing. There is a discussion of the adequacy of the planned bus system which is included in the SIP, but it is questionable whether this discussion shows a commitment by the Regional Transportation District (RTD) for doubling transit ridership, light rail, or expansion of the bus system in the event that a light rail program is not passed.

In addition, the statements by RTD in the SIP preceeded the AQCC's adoption of the episodic share-a-ride strategy. Since the SIP does not include evidence that transportation needs will be met after the share-a-ride strategy is implemented, the basic transportation needs requirement has not been met for the Denver area.

The O_3 attainment demonstrations for Denver were adequate. However, the episodic no-drive-day strategy in the Denver element is only projected to result in CO emission reductions of about 30 tons per day instead of the 200 tons used in the Denver attainment demonstration. The Denver element CO attainment demonstration indicated that without the no-drive-day, a 13% reduction in air quality levels would be needed to attain the CO standard. This reduction would require a reduction in emissions of about 160 tons per day assuming a one-for-one reduction ratio between emissions and air quality. Therefore, the Denver element CO attainment demonstration is not adequate.

Colorado Springs

EPA is proposing to approve the Colorado Springs portion of the SIP. The following 108(f) measures were found to be not reasonably available due to economic constraints and insignificant emission reduction:

Long Range Transit Improvements
On Street Parking Controls
Staggered Work Hours
Bicycle Lanes and Storage Facilities
Exclusive Bus and Carpool Lanes
Road Surface Limitations and Malls
Park-and-Ride Lots
Road Pricing
Alternative Fuels
Vapor Recovery
Extended Idling
Retrofit
Extreme Cold Starts

The plan also lists implementation details and schedules for the following control measures which are included:

Control measure	1987 percent emissions reduction
Improved Public Transit	1.5
Carpool Locator Service	0.2
Traffic Flow Improvements	0.6

These measures, together with the Federal Motor Vehicle Emission Control Program and I/M, are projected to attain the CO standard by mid-1986.

The Colorado Springs element states that there are no major transportation projects planned which would increase vehicle use in the 1982 to 1987 period. A process is described which would be used to determine additional control measures which could be used to compensate for unanticipated shortfalls in the planned emission reductions.

Procedures for determining the conformity of transportation plans and programs with the SIP pursuant to section 176(c) of the Clean Air Act are included in the Colorado Springs element. A statement is also made that there are no direct or indirect emissions from any major Federal actions. The Colorado Springs element also includes a commitment to meeting basic transportation needs.

The Colorado Springs element does not contain an acceptable monitoring plan for periodically assessing the success or failure of the transportation measures in meeting the required emission reductions, as required by the January 22, 1981, policy. EPA understands that Colorado will correct this deficiency.

Reasonable Further Progress

Section 172b(3) of the Clean Air Act requires that the 1982 SIPs require reasonable further progress in attaining the standards in the period between 1982 and 1987. The January 22, 1981, policy requires the SIP to include a demonstration that the annual reduction in emissions for each year between 1982 and the attainment year be at least as great as would be achieved by a linear reduction in emissions over the period. The demonstration must distinguish between those reductions from mobile and stationary controls, and the reductions due to each of these two categories of controls must be consistent with emission reduction targets established through the State and local official consultation process.

The 1982 Colorado SIP does not contain the required demonstration of reasonable further progress for any of the four areas. EPA understands that Colorado will correct this deficiency.

Public Participation and Consultation With State and Local Officials

The January 22, 1981, policy requires that the control strategy for the 1982 SIP reflect agreement among affected State and local officials on the emission reductions needed to attain the standards. Section 121 of the Clean Air Act requires each state to provide a process for consultation with local governments, organizations of local elected officials, and Federal land managers for SIP development. *See also* 40 CFR Part 51, Subpart M.

The Colorado 1982 CO/O_3 SIP meets the above requirements. Each of the four elements of the 1982 CO ozone SIP contains a description of the public participation and elected official consultation activities during the SIP development. In each case, the metropolitan planning organization (MPO) was the lead Agency for SIP development. In each case, agreements were reached including the Colorado

Department of Health and the Air Quality Control Commission in the development process. Thus, State and local official consultation was built into the SIP development process (local elected officials were represented by being parties to the MPOs). Also, in each case, citizen advisory committees were utilized in the SIP development process, and public hearings were held with adequate public notice. An outline for each area is provided below. Since none of the measures specifically impact Federal lands, consultation with Federal land managers was not required.

Fort Collins and Greeley

The Larimer-Weld Regional Council of Governments (LWRCOG) was designated as the lead Agency for the development of both the Fort Collins and Greeley elements of the SIP, pursuant to Section 174 of the Clean Air Act. Through a Memorandum of Agreement between LWRCOG, the Colorado Department of Highways, and the Colorado Department of Health, those three Agencies participated in an Air Quality/Transportation Technical Advisory Committee (AQTAC). The AQTAC chose the specific control measures for recommendation to the LWRCOG for implementation after the elimination of certain measures as unreasonable by the Air Quality Policy Committee, which was composed of elected officials from both Fort Collins and Greeley.

Denver

The DRCOG was designated as the lead agency for the development of the Denver Region element of the SIP, pursuant to section 174 of the Clean Air Act. A Joint Determination Agreement was signed between DRCOG, the Colorado AQCC and the Air Pollution Control Division of the Colorado Department of Health (APCD). A citizen's advisory committee, the Clean Air Task Force, directed SIP development, which was carried out jointly by APCD and DRCOG Board, and that body forwarded the plan to the AQCC. The plan submitted by DRCOG did not show attainment of the CO standard by 1987. The AQCC revised the DRCOG plan by deleting three measures and adding four additional measures. The revised plan did predict attainment of the CO standard by 1987. As stated previously, EPA does not agree with the prediction of attainment.

Colorado Springs

The Pikes Peak Area Council of Governments (PPACG) was designated as the lead agency for the Colorado Springs element of the SIP, pursuant to section 174 of the Clean Air Act. An Agreement was signed between PPACG, the Colorado Department of Highways, the AQCC, and the APCD for development of the SIP.

Proposed Action

Based on the above information, EPA is proposing to take the following actions on the SIP revisions:

(1) Approval of the Colorado I/M program as meeting EPA criteria.

(2) Approval of the Colorado Springs, Fort Collins, and Greeley CO SIP's with the understanding that reasonable further progress will be demonstrated and that a monitoring plan will be submitted to annually assess the effect of the transportation measures in Colorado Springs.

(3) Approval of the Denver area ozone SIP with the understanding that reasonable further progress will be demonstrated; that a contingency plan will be developed which will: (a) List planned transportation projects which may adversely affect air quality and will be delayed while the SIP is being revised if there are shortfalls in emission reductions or expected air quality reductions do not occur, and (b) describe the process which will be used to determine and implement additional transportation measures to compensate for these shortfalls; that an identification of direct and indirect emissions from major Federal actions (including wastewater treatment grants) during the 1982 to 1978 period will be made; and that the State will confirm and adequately document that RACT is required on all major sources of FOC not covered by a published CTG and will commit to adopt RACT for any VOC sources subsequently covered by a CTG.

(4) Disapproval of the Denver area CO SIP.

The proposed disapproval of the Denver area CO SIP is based on the following factors which are due to the unacceptability of the episodic share-a-ride strategy:

(A) The Claimed reductions are not adequately documented and too high; therefore, there is a shortfall of about 130 tons per day in attaining the standard in 1987.

(B) The strategy includes no implementation or enforcement details, and is unenforceable as described.

(C) The strategy relies on the unrealistic assumption that it only must be in effect on about 15 days a year.

(D) The predictive mechanism has not been developed and likely will not be 100% effective so that no violations will occur.

(E) EPA considers that such a predictive capability will not be reliable enough and that there are many more than 15 days with high CO potential each year.

(F) Episodic control measures of this type may be prohibited as an attainment strategy by Section 123 of the Clean Air Act.

(G) Since it is not clear how the travel demand affected by the strategy will be met, the basic transportation needs requirement for the Denver area has not been met.

The proposed disapproval is also based on EPA's concerns about the enforceability of the schedules requiring legislative action for light-duty truck I/M, warranty enforcement, and episodic share-a-ride strategy.

If the major deficiencies discussed above are not remedied before EPA takes final action, EPA will be required to disapprove the revisions to the Denver CO plan. Under section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapproval would trigger a moratorium on the construction and modification of major stationary sources of CO in the Denver nonattainment areas to which these plan revisions apply.

Disapproval may also result in restrictions on Federal funding pursuant to Section 176(a). EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

Under Executive Order 12291, this action is not Major. It has been submitted to the Office of Management and Budget for review. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Public Information Reference Unit.

This notice of proposed rulemaking is issued under the authority of section 110 of the Clean Air Act (42 USC 7410).

List of Subjects in 40 CFR Part 52

Air Pollution Control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: November 2, 1982.

Steven J. Durham,

Regional Administrator.

[FR Doc. 83-2433 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[TN-006; A-4-FRL 2252-7]

Approval and Promulgation of Implementation Plans; Tennessee: 1982 Carbon Monoxide Attainment Plan for Memphis

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to disapprove the 1982 State Implementation Plan (SIP) revisions which the State of Tennessee submitted on June 30, 1982, for the Memphis carbon monoxide nonattainment area. The revisions generally meet the requirements of the Clean Air Act and EPA policy except for the portion of the SIP dealing with the Inspection and Maintenance (I/M) program. The I/M portion is not approvable because the I/M rules and regulations are inadequate to ensure implementation and the city did not implement the program by the December 31, 1982, deadline. The purpose of these revisions is to control emissions of carbon monoxide in order to attain the primary carbon monoxide National Ambient Air Quality Standards (NAAQS) within the City of Memphis by December 31, 1987, and to provide for reasonable further progress in the interim, as required under Part D of Title I of the Clean Air Act.

DATE: Comments must be received on or before March 21, 1983.

ADDRESSES: Comments may be sent to Drew Peake at the EPA Region IV Air Management Branch address listed below. Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Air Management Branch, EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365

Division of Air Pollution Control, Tennessee Department of Public Health, 150 9th Avenue North, Nashville, Tennessee 37203

Memphis and Shelby County Office of Planning and Development, City Hall, 125 North Main Street, Memphis, Tennessee 38103.

FOR FURTHER INFORMATION CONTACT: Drew Peake, Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 881-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION:

A. Background

The Clean Air Act (the Act), as amended in 1977, specifies that all areas of the country must attain the primary National Ambient Air Quality Standards (NAAQS) by no later than December 31, 1982. The Act requires states to have submitted revisions to their State Implementation Plan (SIPs) in 1979 which included enforceable regulations and demonstrated attainment of the NAAQS by the 1982 deadline. For states unable to demonstrate attainment of the ozone and carbon monoxide standards by 1982, the Act allows an extension until 1987. In order to receive an extension until 1987, states were required to adopt, as part of their 1979 attainment plans, reasonably available control strategies and to commit to submit an additional SIP revision by July 1, 1982.

Although Tennessee's 1979 carbon monoxide attainment plan for the City of Memphis included various transportation control measures, the State was unable to demonstrate attainment of the carbon monoxide standards by 1982. Therefore, the Governor requested an extension until 1987. EPA approved this request in the final action on the State's 1979 attainment plan, published on February 6, 1980 (45 FR 8004). (Through an oversight, this extension was omitted from 40 CFR 52.2226, "Extensions;" however, the extension is shown in 40 CFR 52.2230, "Attainment Dates for National Standards.")

EPA policy requires that the SIP revision due by July 1, 1982, include a demonstration of attainment by 1987 and any control measures needed to support that demonstration. These requirements are discussed in detail in a policy document published on January 22, 1981 (46 FR 7182). As required, Tennessee submitted 1982 revisions to its carbon monoxide SIP for the City of Memphis on June 30, 1982. The revisions provide a demonstration that carbon monoxide standards will be achieved by 1987 throughout the city. The technical support for the demonstration is based on the utilization of a linear rollback model and an analysis of the impacts on carbon monoxide levels that currently planned projects will have on the nonattainment area.

This notice will discuss the Tennessee submittal as outlined below:

Memphis CO Attainment Plan

1. Introduction
2. Monitoring
3. Modeling
4. Inspection and Maintenance (I/M)
5. Transportation Control Measures (TCM)
6. Reasonable Further Progress (RFP)
7. Emission Inventory
8. Public Participation and Intergovernmental Cooperation
9. Resource Commitment

B. Memphis Carbon Monoxide Attainment Plan

1. *Introduction:* Violations of the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO) are primarily caused by automobile emissions and are generally associated with traffic congestion at the intersection of major roads, in a central business district and on major arterials. At these locations, vehicles tend to idle (queue) for relatively long periods of time while waiting for the congestion to clear. The emissions during this period are very high and tend not to be diluted.

2. *Monitoring:* The Memphis-Shelby County Health Department (MSCHD) monitors carbon monoxide at several locations in the nonattainment area. The proposed Tennessee SIP revision presents ambient carbon monoxide monitoring data for the last three years, summarized as follows:

Ambient air quality data

Year	8-hr highest-second-high	Location	Sarcad site No
1978	13.90 PPM	416 Alabama.	44-2340-024-GO1
1979	12.20 PPM	416 Alabama.	44-2340-024-GO1
1980	10.74 PPM	416 Alabama.	44-2340-024-GO1
1981	14.38 PPM	726E Parkway.	44-2340-036-GO1
1981	13.60 PPM	416 Alabama.	44-2340-024-GO1

Proposed Action: EPA is proposing to approve the monitoring portion of the Tennessee 1982 SIP revisions.

3. *Modeling:* The Memphis and Shelby County Office of Planning and Development (MSCOPD) used the linear rollback modeling approach to show attainment of the standard at all locations by demonstrating attainment of the standard at the worst (design) location. In their capacity as the lead agency for transportation planning (as designated under section 174 of the Act), the MSCOPD determined that a 37.4% reduction of emissions would be

required to reduce the carbon monoxide levels at 726 E. Parkway (design site) from 14.38 parts per million (PPM) to the National Ambient Air Quality Standard of 9.0 PPM.

Proposed Action: EPA is proposing to approve the modeling portion of the Tennessee 1982 SIP.

4. *Inspection and Maintenance:* The most effective carbon monoxide control measure will be the addition of a motor vehicle emissions inspection and maintenance program to the existing safety inspection program currently operated by the Motor Vehicle Inspection Bureau of the City of Memphis Division of Public Services (DPS). EPA has reviewed the adequacy of the following key I/M program elements: inspection test procedures, emission standards, inspection station licensing requirements, emission analyzer equipment specifications and maintenance/calibration requirements, recordkeeping and submittal requirements, quality control, audit and surveillance procedures, enforcement mechanisms, and rules and regulations.

EPA finds all of these key elements adequate with the exception of the rules and regulations and the schedule for implementation of I/M. Memphis was advised that their rules and regulations were not sufficiently binding on the City to ensure implementation of the program, and thus had to be revised. Memphis indicated that the necessary revisions to the rules and regulations would be adopted and submitted to EPA for approval as part of the 1982 Tennessee SIP revisions.

Memphis has recently missed significant deadlines in the schedules for implementing I/M. This indicates that the City cannot implement the program by December 31, 1982. The bids for the analyzer equipment were opened on October 15, 1982 and a committee was appointed to review the one bid received. That committee has not met, nor had a meeting been scheduled as of December 1, 1982. We interpret this to mean that Memphis cannot award a contract, receive the necessary equipment, and implement the I/M program by December 31, 1982. Therefore, we propose to disapprove this portion of the SIP.

Proposed Action: EPA is proposing to disapprove the I/M portion of the Memphis 1982 SIP.

5. *Transportation Control Measures:* The MSCOPD studied the "Reasonably Available Control Measures" as defined by § 108 of the Act. The State and the MSCOPD are proposing three control measures which are sufficient to show the NAAQS will be achieved by 1987. The controls are: (1) Traffic Flow Improvement through refinements to computer signal timing patterns, generating timings for arterial signal systems, and through expanded computer system control of signalized intersections at key locations in the CO nonattainment area; (2) Ridesharing will be expanded under several State and Federal grant programs; and (3) Urban Goods Movement Management will be implemented through revisions to local ordinances as needed, development of a curbside loading zone program, relocation of bus stops as needed and identification and implementation of signal timing adjustments. Implementation of these measures has begun and will continue as part of the transportation planning process. A schedule on milestones is listed in the text of the Transportation Control Plan (TCP) which satisfies EPA requirements.

Two additional measures were included in the SIP. These measures are: (1) Peak Period Demand Management which would be implemented as a component of the Memphis Area Ridesharing Program; and (2) Controls on Extended Vehicle Idling which would be implemented via a public information and awareness campaign for the Memphis Inspection and Maintenance Program. These measures may not be implemented because of lack of funds. The reductions from these measures, however, are not needed to demonstrate attainment or reasonable further progress.

The State has also made a commitment to meet the "basic transportation needs" of the nonattainment area as required by section 110(a)(3)(D) of the Act. The City has made efforts to improve the public transit service, and in EPA's judgement, the basic transportation needs of the area are being met.

The State submitted a description of the section 176(c) transportation conformity procedures which EPA finds to be fully approvable. With regard to comformity of the SIP with Federal projects, only one major Federal project other than highways was identified and it is not expected to affect attainment of CO. In addition, the state submittal contains adequate monitoring and contingency plan provisions to compensate for unanticipated shortfalls in planned emission reduction.

Proposed Action: EPA is proposing to approve the transportation control measures for the City of Memphis.

6. *Reasonable Further Progress:* The Tennessee proposed 1982 SIP revisions contain a Reasonable Further Progress (RFP) demonstration for the 726 E. Parkway location showing attainment by 1987.

Proposed Action: EPA is proposing to approve the RFP demonstration for carbon monoxide.

7. *Emission Inventory:* For the 1982 SIP revisions, the State is required to submit a carbon monoxide emission inventory of sufficient accuracy and detail to provide the necessary input to models, and to determine the effectiveness of proposed control measures. The inventory is to cover the entire urban area and represent a typical weekday during the worst carbon monoxide season. The areawide emissions data presented in the proposed revisions are for the City of Memphis, as the City is the only portion of the urban area designated nonattainment. The State used Mobile 1 emission factors, worst case meterological data, and average daily traffic data to develop the mobile source emission inventory.

Memphis has only two stationary sources of carbon monoxide with a capacity to emit more than 1000 ton/year. These sources have been controlled.

Proposed Action: EPA is proposing to approve the carbon monoxide emission inventory.

8. *Public Participation and Intergovernmental Consultation:* The proposed revisions to the Tennessee SIP include a detailed discussion of Citizen Information and Participation Work Tasks. EPA has reviewed these 24 work tasks and concludes that this element of the 1982 SIP is fully approvable.

Proposed Action: EPA is proposing to approve the Public Participation and Intergovernmental Consultation portion of the SIP revision.

9. *Resource Commitments:* In order to assure that the control strategies included in Tennessee's 1982 attainment plan are implemented, EPA has requested that the State discuss how the actions will be supported financially. The Tennessee 1982 SIP submission discusses the State's or City's commitment to providing the resources necessary to implement the 1982 plan revisions in some detail citing specific resources to be utilized for each measure.

Proposed Action: EPA is proposing to approve the resource commitments listed in the SIP revision.

C. *Proposed Actions:* Based on the above information, EPA is proposing to take the following action on the SIP revision. EPA proposes approving all portions of the plan, except I/M. EPA proposes to disapprove the portion of the SIP which deals with I/M because the I/M rules and regulations are not sufficiently binding on the City to ensure

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implementation of the program and because the I/M program was not implemented by the December 31, 1982 deadline. Failure to implement an I/M program will also invalidate many other portions of the SIP, since emission reductions projected from the program are one of the major control strategies.

Under section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapproval would trigger a moratorium on the construction and modification of major stationary sources of carbon monoxide in the nonattainment area to which this plan revision applies.

Disapproval may also result in restrictions on Federal funding pursuant to section 176(a) and 316(b) of the Clean Air Act. Under section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit a plan meeting the requirements of section 172. Under section 316(b), the Administrator has discretion to limit sewage treatment funds in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IV office.

The Administrator's decision to approve or disapprove the 1982 SIP for Memphis will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and section 110(a)(3) of the Clean Air Act, as set forth in 40 CFR Part 51. This SIP is being proposed pursuant to sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: December 10, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-2345 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[GA-003; A-4-FRL 2252-8]

Approval and Promulgation of Implementation Plans; Georgia: 1982 Carbon Monoxide Attainment Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the 1982 State Implementation Plan (SIP) revision for the Metropolitan Atlanta Carbon Monoxide nonattainment area. The State of Georgia submitted this revision on July 30, 1982. EPA has determined that these revisions meet the requirements of the Clean Air Act and EPA policy and provide for attainment of the primary National Ambient Air Quality Standards for carbon monoxide, as required under Part D of Title I of the Clean Air Act.

DATE: EPA must receive your comments on or before March 21, 1983.

ADDRESSES: Send any comments to Don Stone, Air Planning Section, EPA Region IV, 345 Courtland Street N.E., Atlanta, Georgia 30365.

You may inspect copies of the submittal and EPA's evaluation during normal business hours at the following locations:

EPA Region IV, Air Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, SW., Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Don Stone at 404/881-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. Under this Part, the states had to revise their SIPs for all nonattainment areas and submit the revisions to EPA by January 1, 1979. The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the ozone (O_3) or carbon monoxide (CO) standard by that date despite the implementation of all reasonably available control measures (section 172(b)(2)).

If EPA approved this demonstration, the attainment date for O_3 or CO could be extended up to December 31, 1987. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements.

These second SIP revisions had to be submitted by July 1, 1982. On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble for SIP Revisions for Nonattainment Areas," which was published on April 4, 1979 (44 FR 20372).

The State of Georgia submitted an initial SIP revision for the Atlanta CO and O_3 nonattainment area in April, 1979. The State requested that EPA extend the attainment date for the CO standard in this area until December 31, 1987. EPA granted this request and approved the initial plan revision on January 24, 1980 (45 FR 5698). Georgia submitted its 1982 revision to the CO SIP on July 30, 1982.

PLAN EVALUATION: EPA's evaluation of the State's submittal is presented in two parts: A) the *Carbon Monoxide SIP*, and B) the *Additional Requirements* set out in EPA's guidance, including basic transportation needs, conformity of federal actions, and consultation with State and local officials.

A. Carbon Monoxide (CO) SIP

CO violations are caused primarily by automobile emissions. They generally occur in the areas around major intersections, or in central business districts, where vehicles tend to idle for relatively long periods of time. The State currently operates five CO monitors at various locations in the Atlanta area. The monitored design value for the 1982 SIP revision is 18 mg/m³ (8-hr). During its work on the emissions inventory the State determined that 98% of CO emissions in the Atlanta area were from mobile sources.

To control emissions from mobile sources, Section 108 of the CAA lists several transportation control measures to be studied for feasibility for implementing as part of the SIP control strategy. One of the measures, inspection and maintenance, is required for post-1982 CO/O_3 extension areas. A discussion of the Georgia inspection and maintenance program is given later. After reviewing the Section 108 measures and consulting with all affected State and Local officials, the Atlanta Regional Commission conducted a detailed analysis of those

Section 108 measures on a regionwide basis. Linear rollback modeling was used to establish that a 44% reduction in 1980 base year emissions of 279,040 tons per year (TYP) was required to attain the CO standard. The plan projects that emissions for the attainment year 1987 will be 146,688 TPY. TCMs scheduled for implementation will reduce emissions by 132, 352 TPY, which is more than sufficient to attain the 44% reduction needed. The demonstration of Reasonable Further Progress (REP) was also done on a regional basis. Today's notice also discusses the other sections of the State's submittal as follows:

1. Emission Inventories

For the 1982 SIP, states were to submit comprehensive emissions inventories indicating 1980 and attainment year emissions levels from all sources of carbon monoxide. The Georgia submittal contains the required inventories including stationary as well as mobile sources. The attainment year emission levels are a combination of base year emissions and the projected reductions.

Proposed Action: Approval.

2. Stationary Source Control

According to the emission inventory, only 2% of the CO emissions can be attributed to stationary sources. There are no stationary sources of 1000 TPY of CO. The Georgia SIP, therefore, contains controls for mobile sources only.

Proposed Action: Approval.

3. Inspection and Maintenance (I/M)

All major urban areas that needed an extension beyond 1982 to attain the standards for O_3 and CO were required to include vehicle I/M as a portion of the 1979 SIP revisions. On January 24, 1980, EPA evaluated and acted on the I/M portion of Georgia's 1979 SIP revision (45 FR 5698).

The 1982 SIP revision must also contain an I/M portion. This portion must include: (1) the rules and regulations for implementing an I/M program that will meet the minimum requirements for emission reduction, and (2) commitments to other needed program details. (However, I/M elements already submitted and approved as part of an earlier SIP submittal need not be resubmitted.) The 1982 SIP policy published on January 22, 1982 (46 FR 7182), discussed these requirements.

On April 1, 1981, Phase I of Georgia's inspection and maintenance program began in Fulton, Dekalb, and Cobb Counties in the Atlanta area. The program required inspection but no maintenance if a vehicle failed. Phase II, which began on April 1, 1982, requires I/M for motorists in theses three counties.

The phased-in approach was for public education concerning the program as well as providing the State with data to use in setting the vehicle emission standards. According to current information collected, the failure rate is approximately 17%. The State plans to increase the stringency in 1985. According to EPA's review of the program, the emissions reductions achieved qualify the program as Reasonably Available Control Technology, as required by EPA policy. EPA has compared the critical elements of the Georgia I/M program with established I/M policy and has determined that all rules and regulations pertaining to the daily operation of the program, such as calibration procedures, data recording, and inspection procedures, comply with EPA's policy. The Georgia Department of Public Safety operates a "referee" station if a citizen disagrees with the inspection station's results. The referee station is also maintained within EPA's requirements for CAA Section 207(b) warranty regulations.

Proposed Action: Approval.

4. Transportation Control Measure (TCM) Analysis

Section 108 of the Clean Air Act identifies eighteen categories of reasonably available control measures. The Atlanta Regional Commission (ARC) analyzed these categories and identified sixty-five (65) specific measures for further evaluation.

ARC performed a detailed analysis to determine the feasibility of implementing the various measures. In addition to air quality; social, economic, and administrative impacts, were considered.

ARC held several public workshops on the results of its analysis including the formation of a formal Transportation/Air Quality Task Force Committee to provide input into the Atlanta transportation planning process. Adjustments were also made in the ARC citizen participation efforts for air quality. The SIP contains commitments to the air quality transportation measures from each responsible agency or jurisdiction and identifies anticipated emissions reductions to occur from each project. The Reasonable Further Progress Curve includes a 2% reduction from transportation control measures. Measures to be implemented in the Atlanta area are high Occupancy Vehicle Lanes, expansion of mass transit, synchronization of signal lights, and intersection improvements. The emissions reductions from the various projects were determined using analytical techniques applicable to each measure. U.S. DOT's Urban Transportation Planning System, a four step modeling procedure involving trip generation, trip distribution, mode choice, and traffic assignment and EPA's Transportation Air Quality Analysis—Sketch Planning Methods document were employed. The methodologies accounted for such impacts as increased transit ridership, decreased mileage, and decreased idle times.

The SIP also contains contingency provisions to compensate for unanticipated shortfalls in planned emission reductions. EPA's assessment of the analysis indicates that the ARC efforts fully comply with the requirements of the Clean Air Act.

Proposed Action: Approval.

5. Reasonable Further Progress (RFP)

The Atlanta CO SIP uses 1980 as the base year. The SIP design value is 18 mg/m^3 (8-hr), which requires a 44% reduction in emissions to achieve attainment. The 1980 CO inventory for mobile sources is 279,040 tons/year. Projections of future emissions indicate attainment in the first half of 1987. Provisions for monitoring the progress in reducing emissions are also included in the SIP.

EPA finds that these emission projections comply with the Clean Air Act's attainment deadline of December 31, 1987.

Proposed Action: Approval.

B. Additional Requirements

1. Basic Transportation Needs

The demonstration of basic transportation needs in the Atlanta area is based upon the continued expanison of the Metropolitan Atlanta Rapid Transit Authority (MARTA) Rail Line as well as operation of the MARTA Bus System. Ridership of the combined system has steadily increased, representing fewer individual vehicle miles travelled and lower emissions of carbon monoxide as a result. EPA has determined that this portion of the SIP meets the requirements of CAA sections 110(a)(3)(D) and 110(c)(5)(B).

Proposed Action: Approval.

2. Conformity of Federal Actions

After consultation, EPA and the various states in Region IV, agreed that a major impact of Federal actions is in population growth which increases emissions. EPA regional personnel met with all Federal agencies sponsoring projects affecting the nonattainment areas. Region IV submitted lists of these

projects to the MPOs in the Region. The MPOs in turn assured conformity by including the population impacts of these Federally-supported projects in their regional emission forecasts. EPA has determined that this portion of the section 176(c) requirements has been met.

Additionally, for the MPO level conformity determination, ARC is providing EPA with a description of its criteria and procedures to determine the conformity of transportation plans, programs, and projects with the SIP.

Proposed Action: Approval.

3. Consultation With State and Local Officials

Section 121 of the CAA required each state to provide a process for consultation with locally elected officials as well as Federal officials. Section 174 required these local officials to jointly determine the respective roles each government agency would take in developing the SIP. These designations and roles were determined for the 1979 SIP revision and have not changed. Based upon the established process and how well it is currently working, EPA feels that this portion of the SIP is adequate.

Proposed Action: Approval.

C. Proposed Action

Based on the above information, EPA is proposing to approve Georgia's 82 SIP revision for the Atlanta CO nonattainment area.

Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Section 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)))

Dated: November 16, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83–2436 Filed 2–2–83; 8:45 am]

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40 CFR Part 52

[KY–007; A–4–FRL 2256–2]

Approval and Promulgation of Implementation Plans; Kentucky: 1982 Ozone and Carbon Monoxide Attainment Plans for Jefferson County

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to disapprove the 1982 State Implementation Plan (SIP) revisions for the Jefferson County (Louisville, Metropolitan area) ozone and carbon monoxide nonattainment area. Kentucky submitted these revisions in draft on June 30, 1982. The revisions generally meet the requirements of the Clean Air Act and EPA policy, but no provisions are made for a vehicle inspection and maintenance program as required by the Clean Air Act. The purpose of these revisions is to provide for attainment of the primary National Ambient Air Quality Standards for ozone and carbon monoxide, as required under Part D of Title I of the Clean Air Act.

DATE: EPA must receive your comments on or before March 21, 1983.

ADDRESSES: Send any comments to Thomas P. Lyttle, Air Planning Section, US EPA Region IV, 345 Courtland Street N.E., Atlanta, Georgia 30365.

You may inspect copies of the submittal and EPA's evaluation during normal business hours at the following locations:

EPA, Region IV, Air Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Kentucky Division of Air Pollution Control, 18 Reilly Road, Frankfort, Kentucky 40601

Kentuckiana Regional Planning and Development Agency, 914 E. Broadway, Louisville, Kentucky 40204

FOR FURTHER INFORMATION CONTACT: Thomas P. Lyttle at the address above or 404/881–2864 (FTS 257–2864).

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. Part D required the states to revise their SIPs for all nonattainment areas and submit the revisions to EPA by January 1, 1979. The revised plans had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the ozone (O_3) or carbon monoxide (CO) standard by that date despite the implementation of all reasonably available control measures (section 172(b)(2)).

If EPA approved this demonstration, the attainment date for O_3 or CO could be extended up to December 31, 1987. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements.

These second SIP revisions had to be submitted by July 1, 1982. On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble for SIP Revisions for Nonattainment Areas," which was published on April 4, 1979 (44 FR 20372).

Kentucky submitted an initial SIP revision for the Jefferson County CO and O_3 nonattainment area in June, 1979. The State requested that EPA extend the attainment date for the CO standard in this area until December 31, 1987. EPA granted this request and approved the initial revision of the CO plan on August 7, 1981 (46 FR 40186). The State also requested an extension to December 1987 for attaining the O_3 standards in Jefferson County. This extension was granted on January 25, 1980 (45 FR 6092), when EPA conditionally approved the ozone SIP for Jefferson County; full approval was given on August 7, 1981 (46 FR 40188).

On June 30, 1982, Kentucky submitted draft 1982 revisions to its CO and O_3 SIP for Jefferson County. The State is still considering these revisions and proposes to adopt them through its SIP revision procedures. If the State substantially changes the draft revisions—except to remedy deficiencies cited in this notice—EPA will have to evaluate those changes, and publish a revised notice of proposed rulemaking. Otherwise, EPA will publish a notice of final rulemaking on the revisions discussed in today's notice once the State adopts these revisions and submits them to EPA for incorporation into the SIP.

EPA's discussion of its review of the State's submittal is presented in three main parts:

A. The ozone SIP;

B. The carbon monoxide SIP; and

C. The additional requirements set out in EPA's guidance, including basic transportation needs, conformity of Federal actions, and consultation with State and local officials.

A. The Ozone (O_3) SIP

The Kentucky portion of the Louisville interstate nonattainment area is Jefferson County. Floyd and Clark Counties, Indiana, are the remainder of the nonattainment area and are discussed, along with the other nonattainment areas in Indiana, more thoroughly in a separate FR notice. The ozone modeling analysis indicates that hydrocarbon emission reductions of 32.5% will be needed to eliminate violations of the ozone standard in the Louisville area. A hydrocarbon emission reduction of 37% was projected by 1987 which will allow attainment of the ozone standard by 1987.

Kentucky's proposed 1982 SIP for ozone combines stationary and mobile source strategies to achieve these necessary reductions. It is divided into six sections:

- Emission Inventories
- Modeling and Monitoring
- Stationary Source Controls
- Inspection and Maintenance (I/M)
- Transportation Control Measures (TCMs)
- Reasonable Further Progress (RFP)

1. Emission Inventories

For the 1982 SIP, States were to submit comprehensive emission inventories indicating 1980 and attainment year emission levels from all sources of volatile organic compounds (VOCs) and oxides of nitrogen. The stationary source inventories were prepared by the local air agency, the Air Pollution Control District (APCD) of Jefferson County, for Kentucky and by the Indiana State Board of Health for Indiana. Mobile source emissions were developed by the Kentuckiana Regional Planning and Development Agency (KIPDA). Area source inventories were prepared by Engineering-Science, Inc., under contract to EPA Region IV. Engineering-Science also compiled all of the inventories into a single document which included preparing summary tables of emissions by source categories for 1980 and 1987. These inventories were used for the 1980 base year, but subsequently the projected 1987 stationary source inventories were substantially revised to reflect more accurately the recent growth patterns, which are lower than those originally used. These revised projections were used in the SIP.

Questions regarding the mobile and area sources were resolved in preparing the Engineering-Science document. The only outstanding issue in these areas is the amount of emission reductions credited to a vehicle inspection/maintenance (I/M) program. Originally it was expected that both States would implement an I/M program by January 1, 1983. Indiana now does not expect to enact a program, and Jefferson County's will be delayed. The inventories must be revised to reflect this. EPA raised several questions at the public hearing held on the draft SIP on July 20, 1982, and in subsequent correspondence with the affected agencies. Among the changes requested are:

(a) Better documentation of the revised growth factors;

(b) A revised source category summary for Jefferson County to replace the 1987 summary in the Engineering-Science report;

(c) The reconciling of differences in emissions for Indiana stationary sources between the Kentucky and Indiana SIPs; and

(d) Better documentation of estimated emission reductions from installation of stationary source controls. In particular, emission reductions claimed for certain source categories in Indiana seemed overly optimistic.

Proposed Action: EPA proposes to approve the emission inventories provided they are revised to reflect the delayed I/M program and provided the necessary corrections noted above are made in the final SIP.

2. Modeling and Monitoring

To ensure consistency among the states that have to demonstrate attainment by 1987, EPA encouraged each state to use the City-Specific Empirical Kinetic Modeling Approach (EKMA).

EKMA modeling was done by APCD and KIPDA with the assistance of EPA Region IV. In general, recommended procedures were used, but the following minor variations were made in consultation with EPA:

(1) Downtown precursor data were gathered only in 1981 while almost all ozone violations which were modeled occurred in 1980. EPA's Office of Air Quality Planning and Standards recommended use of precursor data from those 1981 days which had meteorology (temperature, wind speed, cloud cover) similar to the 1980 days on which violations occurred. In consultation with EPA Region IV, these days were selected and average precursor data from the 1981 "meteorologically equivalent" days was used in modeling 1980 ozone violations.

(2) EPA guidance recommends calculating emission densities on a county-by-county basis. In the case of Clark County, this is unrepresentative because most of the emissions occur in the 15% of the county between downtown Louisville and the monitor at Charlestown in Clark County. The remaining 85% of the county is largely rural. For this reason, the county was subdivided at Charlestown, with emissions south of their apportioned over the area south of Charlestown.

(3) EKMA assumes a straight line trajectory from the downtown starting point to the monitoring location. A straight line to Charlestown does not pass through Floyd County, although it is relatively close. Thus Floyd County emissions would not be considered in the modeling analysis of the Charlestown monitor. This was also considered unrepresentative, since Clark County has a relatively high ratio of VOC to NO_x emissions, while in Floyd County NO_x emissions are much higher, due to the presence of the Gallagher power plant. If something other than a straight line trajectory occurred, and the trajectory actually covered parts of Floyd County, the emission densities would be substantially misrepresented by using only Clark County. To account for the uncertainty as to the exact trajectory of the air parcel which resulted in the measured ozone value, the Floyd County emissions were averaged with those of Clark County (subdivided). EPA believes this is the most representative procedure, given the uncertainty as to actual trajectories and the wide disparity between Clark and Floyd County emissions.

For use in modeling, ozone monitoring data for the area were obtained at 4 sites—2 in Louisville, one upwind, and one downwind site in Charlestown. Data from these monitors have been validated by the States and EPA.

Ozone violations from all of these sites (except the one upwind) were modeled. The control requirement for the area was derived from Charlestown, which had the highest ozone value and also had been in operation only since 1980. This required the use of the 3rd highest control requirement at the site to account for having only two years of data. (The Louisville sites had been in operation all 3 years, 1979–81, and these could use the 4th highest control value.) The final control requirement was determined to be 32.5%

Proposed Action: EPA proposes to approve this portion of the plan.

3. Stationary Source Control

The Clean Air Act requires states to adopt all Reasonably Available Control Technology (RACT). Therefore, as part of the 1982 submittal, states must include RACT for: (1) All sources of VOCs covered by a Control Technique

Guidelines (CTG) and (2) all remaining major stationary sources of VOCs with the potential to emit more than 100 tons of VOCs per year.

EPA requires that the submittal either include legally enforceable measures to implement RACT for these sources, or else document the State's determination that the existing level of control represents RACT for each of these sources.

Regulations have been adopted for all Group I & II CTG sources. The draft SIP does not contain a specific schedule for adoption of Group III CTG regulations, but EPA has since received a letter from APCD expressing its intent to adopt regulations within one year after the publication of the CTG. An EPA contractor has studied controls for major non-CTG sources and developed a report which is undergoing peer review within EPA. The report demonstrates that most affected sources have the equivalent of RACT control. APCD has indicated its intention to develop RACT regulations for any remaining sources within one year after publication of the report.

Proposed Action: EPA proposes to approve this portion of the SIP with the understanding that a specific commitment and schedule to adopt any necessary RACT regulations will be added to the final SIP.

4. Transportation Control Measures (TCMs)

As required by Section 108(f) of the Act, KIPDA and Peat, Marwick & Mitchel, Inc., (PMM), studied various TCMs to determine their feasibility for implementation in Jefferson County. Of the 18 measures listed in 108(f), 4 were found to be feasible and effective for hydrocarbon control:

(1) Inspection/Maintenance (I/M).
(2) Improved Ridesharing,
(3) Improved Transit, and
(4) Transportation Improvement Projects.

Reasons for rejecting the remaining measures were documented by PMM in its report, which was included as part of the SIP. The SIP also contains contingency provisions to compensate for unanticipated shortfalls in planned emissions reductions. New projects inconsistent with the SIP will not be constructed.

At the time the draft SIP was submitted, the necessary approvals of the TCMs by KIPDA committees had not been obtained and no documentation of the sources of funding and responsible agencies was included except for Transportation Improvement Plan (TIP) projects. The necessary approvals have since been obtained and KIPDA has reported it will enclose documentation of funding and commitments from the responsible agencies in the final SIP. I/M is the responsibility of the APCD and will be discussed separately.

Proposed Action: EPA proposes approval of this portion of the plan with the understanding that the additional documentation discussed above will be included in the final SIP.

5. Reasonable Further Progress

A demonstration of reasonable further progress (RFP) toward meeting the ozone standard was not included in the draft SIP. APCD has since developed a RFP demonstration which is to be included in the final SIP. EPA has reviewed this draft demonstration and found it to be in accordance with Agency policy.

Proposed Action: EPA proposes to approve this portion of the SIP with the understanding that the RFP demonstration and supporting documentation will be included in the final SIP.

6. Inspection and Maintenance (I/M)

All major urban areas that needed an extension beyond 1982 to attain a standard for O_3 or CO were required to include vehicle I/M as a portion of the 1979 SIP revision. On August 7, 1981, EPA approved the I/M portion of Kentucky's 1979 CO/O_3 SIP revision for Louisville (46 FR 40186, 80188).

The 1982 SIP revision must also contain an I/M program. This portion must include: (1) The rules and regulations for implementing an I/M program that will meet minimum requirements for emission reduction, and (2) commitments to other needed program details. (However, I/M elements already submitted and approved as part of an earlier SIP submittal need not be resubmitted.) The 1982 SIP policy published on January 22, 1981 (46 FR 7182), discusses these requirements.

Jefferson County Fiscal Court passed an I/M ordinance in 1980 which met the requirements of the 1979 SIP. Although some work on I/M has occurred at APCD, essentially no progress has been made in over a year and starting up a program by the end of 1982 is impossible. During the last year, Fiscal Court expressed dissatisfaction with the contractor-run, centralized program selected by APCD. Fiscal Court hired a contractor to study alternative programs and the contractor recommended a decentralized program. An ordinance was proposed to give control of a decentralized program to the County Consumer Protection Department. However, a public hearing on the plan brought out substantial opposition to many aspects of it. Subsequently, another ordinance was proposed to return control to APCD, but requiring a decentralized program unless strong justification for some other program were presented. However, this did not pass either. The County Attorney has since issued an opinion that APCD is an autonomous agency which cannot be ordered to set up any I/M program, although PCD can probably do so on its own. As a result, the existing ordinance has been rescinded and APCD is attempting to proceed on its own authority. The question of whether APCD can set up I/M on its own is not entirely clear and whether the Air Pollution Control Board, which directs APCD, will decide to adopt a program by regulation is uncertain. In any case, no decision has been made as to whether there will be a program, who would run it and the type of program. Based on this, EPA has no choice but to disapprove this portion of the plan. Indiana has indicated it will not implement an I/M program in Floyd and Clark Counties, although the program might be implemented later as a contingency measure.

Proposed Action: EPA proposes to disapprove this portion of the plan. In a separate notice, EPA is also proposing to disapprove the I/M portion of the Indiana SIP.

B. Carbon Monoxide (CO) SIP

CO violations are caused primarily by automobile emissions. They generally occur in the areas around major intersections, or in central business districts, where vehicles tend to idle for relatively long periods. EPA calls these problem areas "hot spots."

The State draft submittal contains a detailed modeling analysis which demonstrated attainment at all but three local hot spot intersections.

APC analyzed 150 intersections which potentially could exceed the CO standards, using modified Volume 9 techniques. Of these, 55 were projected to exceed the CO standards in 1987 without additional controls. PMM analyzed TCMs for their feasibility for implementation to reduce CO violation. Of those, 5 were selected:

(1) Inspection/Maintenance (I/M),
(2) Improved Ridesharing,
(3) Improved Transit,
(4) Signal Coordination, and
(5) Intersection Modifications.

1. Control Measures

The implementation of I/M was predicted to reduce the number of intersections with post-1987 violations

to 7 and the remaining TCMs reduced the number to 3. The maximum projected 8-hour CO concentration at two of the intersections is 10.6 ppm, with the third showing 9.9 ppm. The draft SIP indicated these three intersections would continue to be nonattainment past 1987 without additional controls.

Since that time, APCD, KIPDA and the Kentucky Department of Transportation have determined major intersection improvements to allow the 3 remaining intersections to attain the standard by 1987. The final SIP is to be modified to include these additional measures to insure compliance at all intersections by 1987. The final SIP is also to include additional documentation of the funding and responsible agencies for the TCMs as discussed under the ozone portion of the SIP.

The attainment demonstration included the assumption that I/M would be implemented January 1983. Because this will not occur on schedule, the attainment demonstrations at the major hot spots must be reviewed to ensure that a delay in the I/M program will not affect attainment. In addition, as discussed in the ozone portion of this notice, the I/M program in Jefferson County is being proposed for disapproval for several reasons. For the same reasons, EPA is proposing to disapprove I/M in the CO portion of the SIP.

Jefferson County has no stationary sources of 1000 tons/year carbon monoxide. Consequently, RACT controls are not required.

Proposed Action: Except for the I/M portion which is disapproved, EPA proposes to approve this CO portion of the SIP for Jefferson County with the understanding that additional control measures necessary to allow attainment at all intersections will be adopted and included in the SIP. Furthermore, additional documentation of the commitments and funding for TCMs and verification of the effect of I/M delays must be included in the final SIP.

2. Reasonable Further Progress (RFP)

APCD has supplied a copy of an RFP demonstration for CO based on an area-wide inventory of CO emissions. This demonstration meets EPA requirements. EPA intends to monitor the State's progress in meeting RFP for CO by reviewing annual RFP reports. If any deficiency occurs, EPA will take corrective action.

Proposed Action: EPA proposes to approve the RFP demonstration upon its inclusion in the final SIP.

C. Additional Requirements

1. Basic Transportation Needs

KIPDA prepared a separate document, "Basic Transportation Needs," which explains in considerable detail the procedures followed by KIPDA and the local transit and paratransit providers to insure that basic transportation needs are met.

Proposed Action: EPA proposes to approve this portion of the plans.

2. Conformity of Federal Actions

Compliance with Section 176(c) of the Clean Air Act requires a close cooperative effort between all agencies granted federal funding. EPA contacted other federal agencies and found that no new major federal projects which will be inconsistent with the SIP are anticipated for construction in the Louisville area by 1987. Additionally, similar population projections are used in the SIP and for other planning programs as another means to ensure SIP conformity. KIPDA annually reviews the area transportation planning process for conformity with the SIP and has committed to continue this function.

Proposed Action: EPA proposes to approve this portion of the plan.

3. Consultation With State and Local Officials

Chapter 1 of the SIP discusses the involvement of State and local officials in the development of the SIP. A significant effort was made to involve local and State officials in all aspects of the plan development. Representatives of all major affected agencies were included on the Clean Air Act Subcommittee which was responsible for the development and approvals of the SIP.

Proposed Action: EPA proposes to approve this portion of the plan.

D. Proposed Action

Based on the above information, EPA is proposing to take the following action on the SIP revision.

EPA proposes approving all portions of the plan, except I/M, on the understanding that deficiences outlined in this notice will be corrected in the final SIP. EPA proposes to disapprove the portion of the SIP which deals with I/M, because the plan contains no details of an I/M plan and no final decision has been made even as to whether there will, in fact, be a program. Failure to adopt an I/M program will also invalidate many other portions of the SIP, since emission reductions projected from the program are one of the major control strategies.

If the major deficiencies discussed above are not remedied before EPA takes final action, EPA will be required to disapprove the revisions to the ozone and carbon monoxide plans. Under Section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapproval would trigger a moratorium on the construction and modification of major stationary sources of hydrocarbons and carbon monoxide in the nonattainment area to which these plan revisions apply.

Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Clean Air Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Section 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IV office.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110(a) and 301(a) of the Clean Air Act.

as amended (42 U.S.C. 7410(a) and 7601(a)).

Dated: November 23, 1982.

Charles R. Jeter,

Regional Administrator.

FR Doc. 83-2437 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-1-FRL 2211-7]

Approval and Promulgation of Implementation Plans; Massachusetts; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This Notice proposes approval of the draft 1982 State Implementation Plan revisions for the Commonwealth of Massachusetts which were submitted on May 21, 1982 and November 22, 1982. The intended effect of these revisions is to control emissions of volatile organic compounds and carbon monoxide in order to attain the ozone and carbon monoxide National Ambient Air Quality Standards as required under Part D of the Clean Air Act. Public comments on this document are requested and will be considered before taking final actions on these SIP revisions.

DATE: Comments must be received on or before March 21, 1983.

ADDRESSES: Comments may be sent to Harley F. Laing, Director, Air Management Division, JFK Federal Building, Room 2312, Boston, Massachusetts 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Building, Boston, Massachusetts 02203 and the Massachusetts Department of Environmental Quality Engineering, One Winter Street, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Green, (617) 223-5130.

SUPPLEMENTARY INFORMATION:

A. Introduction

The Clean Air Act (the Act) requires that States with areas that violate the primary National Ambient Air Quality Standards (NAAQS) submit revisions to their State Implementation Plans (SIPs) in 1979 which demonstrate attainment of the NAAQS by December 31, 1982. For States unable to demonstrate attainment of the ozone and carbon monoxide (CO) standards by 1982, the Act allows an extension until 1987. In order to receive an extension until 1987, States were required to adopt, as part of their 1979 attainment plans, control strategies considered to be reasonable available at that time and to commit to the submission of additional revisions by July 1, 1982.

Massachusetts' 1979 attainment plan included controls on specific stationary sources of volatile organic compounds (VOCs), a commitment to implement an inspection and maintenance program, and various transportation control measures. Massachusetts was unable to demonstrate attainment of the ozone and CO standards by 1982 and, therefore, the Governor requested an extension until 1987. EPA approved this request on September 16, 1980 (see 40 FR 61293).

EPA policy requires that the 1982 SIP revisions include: a demonstration of attainment by 1987, a stationary source control program and transportation control measures. These requirements are discussed in detail in a policy document published on January 22, 1981 (see 46 FR 7182).

Massachusetts submitted draft 1982 revisions to its ozone and CO SIP on May 21, 1982 and November 22, 1982. The 1982 SIP contains new and quantifiable emission reductions which will be achieved through new source review regulations, transportation control measures, the bubble policy, reasonably available control technology (RACT) regulations for major sources, and vehicle inspection and maintenance. The detailed ozone and CO modeling demonstrates that Massachusetts will attain these standards by December 31, 1987.

EPA has reviewed the State's submittal and finds that the majority of the 1982 SIP is consistent with EPA requirements. The following sections of this Notice discuss in detail those issues that need to be resolved before EPA can approve the final SIP. Our review of the State's submittal is divided into three main parts:

(1) Ozone

(2) Carbon Monoxide

(3) Additional requirements.

Our review of the ozone portion begins with a summary and is then divided into six additional sections:

- Emissions Inventories,
- Modeling,
- Stationary Source Controls,
- Inspection and Maintenance (I/M),
- Transportation Control Measures, and
- Reasonable Further Progress (RFP).

Next, we discuss the CO SIP. This section contains a summary, a review of the modeling analysis, and a discussion of the transportation control measures and the RFP demonstration. Finally, we review the additional requirements set out in EPA guidance, including public participation and the commitment of resources.

B. Ozone

1. *Summary:* Ozone is formed by complex chemical reactions involving various precursors, primarily oxides of nitrogen and a class of hydrocarbons called VOCs. Emissions of VOCs are controlled in order to reduce ozone concentrations.

Massachusetts is divided into three analysis areas: the Boston, Worcester and Springfield urban areas. The ozone modeling analysis indicates that the following emission reductions will be required to eliminate violations of the ozone standard:

Urban area	VOC percent reduction
Boston	35
Worcester	40
Springfield	35

The Proposed Massachusetts 1982 State Implementation Plan (Massachusetts 1982 SIP) combines a mix of strategies, stationary and mobile source, to achieve these necessary reductions.

2. *Emissions Inventories:* For the 1982 SIP, States are required to submit comprehensive emissions inventories indicating 1980 and attainment year emissions levels from all sources of VOCs and oxides of nitrogen (NO_x).

Massachusetts submitted inventories for mobile sources on February 18, 1982, for area sources on March 8, 1982 and for point sources on March 9, 1982 and May 21, 1982. EPA finds that the mobile and area source inventories are consistent with our guidance. However, the point source inventory is not entirely consistent with our guidance. It contains a list of major facilities and their total emissions, but it does not include reporting requirements such as: sample calculations, a breakdown of total emissions into individual emission points at major facilities, and a completed, detailed categorization of miscellaneous point sources into specific processes.

However, the quality assurance section of the emissions inventory contains a description of the special audits which will be performed to update and to include the reporting requirements in the point source inventory by the June 1, 1985. Therefore, EPA finds the point source inventory approvable.

Proposed Action: EPA is proposing to:

(1) Approve the mobile and area source inventories, and

(2) Approve the point source inventory with the understanding that the inventory will be improved through the State's quality assurance and updating procedures by June 1, 1985.

3. *Modeling:* In order to insure consistency in demonstrating attainment by 1987, EPA encouraged each State to use the City-Specific Empirical Kinetic Modeling Approach (EKMA). Massachusetts submitted a well-documented and detailed summary of the modeling which contains an evaluation of all the ozone monitoring data for each urban area. Using the EKMA model, Massachusetts analyzed each urban area to determine the percent of emission reductions required for each area. The table below summarizes the results of this modeling:

OZONE SUMMARY TABLE

Nonattainment area	Design [1] value (ppm)	Receptor location	Percent reduction required	Attainment date
Boston	0.16	Nashua, NH	35	1987
Worcester	0.16	Lexington, MA.	40	1987
Springfield	0.15	Nashua, NH	35	1987

[1] The "daily design value" is used to refer to the measured maximum hourly ozone value for the day being modeled. (See "Guidelines for Use of City-specific EKMA in Preparing Ozone SIPs", EPA 450/4-80-027.)

Proposed Action: EPA is proposing to aprove the modeling portion of the SIP.

4. *Stationary Source Controls:* The Clean Air Act requires States to implement all required stationary source controls as expeditiously as practicable. In order to complete the requirement to adopt all reasonably available control measures, States must include, as part of the 1982 submittal, adopted regulations applying RACT to the following categories of sources: (1) All sources of VOCs covered by a Control Technique Guideline (CTG) and (2) all remaining major stationary sources of VOCs (defined under Section 302(j) of the Act as having more than 100 tons per year (TPY) potential emissions).

EPA requires the submittal to include either legally enforceable measures implementing RACT on these sources, or documentation supporting a determination by the State that the current level of control represents RACT for each of these sources.

Group I and II CTG Regulation Revisions Submitted by the State

(a) Massachusetts submitted fifteen revisions for its existing regulations. EPA finds that all of these revisions are consistent with our guidance. The revisions are discussed below.

(i) The regulations for cutback asphalt and the surface coating of miscellaneous metal parts and products were revised to include EPA-approved exemptions (see 310 CMR 7.18(9) and (11)).

(ii) The regulations for the surface coating of metal furniture, metal cans, large appliances, magnet wire insulation, automobiles, metal coil, miscellaneous metal parts and products, paper, fabric, and vinyl were revised to require that EPA Methods 24 and 25 (originally promulgated in the Federal Register, Volume 45, Number 194, October 3, 1980) be used to determine compliance (see 310 CMR 7.18(3), (4), (5), (6), (7), (10), (11), (14), (15) and (16)). EPA has since proposed to modify Method 24. Therefore, the revisions will be approvable if the federal promulgation reference is deleted.

(iii) The regulation for graphic arts-rotogravure and flexography was revised to include a wording change that will allow graphic arts sources to use high solids ink in order to comply with the regulation (see 310 CMR 7.18(12)).

(iv) The regulation for the surface coating of metal coils was revised to delete the extended compliance schedule. The only source in the State is now in compliance and no longer needs an extended compliance date (see 310 CMR 7.18(11)).

(v) The regulation for perchloroethylene drycleaning systems was revised to include EPA test methods (see 310 CMR 7.18(13)).

Proposed Action: EPA is proposing to approve these fifteen revisions, with the understanding that the revisions described in 4(a)(ii) above will be changed to delete the federal promulgation reference.

(b) Massachusetts submitted revisions for two CTG categories not previously regulated. EPA finds that the following revisions will be consistent with our guidance if Massachusetts includes in the final SIP, the required information discussed below:

(i) *Solvent Metal Cleaning:* The existing regulation for solvent metal cleaning does not require controls on small conveyorized vapor degreasers or small open top vapor degreasers (see 310 CMR 7.18(8)). EPA approved this regulation in the 1979 SIP (see 40 FR 61293) with the condition that the State either:

- Demonstrate that the emissions from small solvent metal degreasers are within 5% of EPA guidance, or
- Revise the existing regulation.

The Massachusetts 1982 SIP does not contain a revised regulation, but the State has committed to include in the final SIP a public education program that will describe the emission reductions and cost benefits of using covers and safety switches on small metal degreasers. This program will encourage use of these devices and thereby reduce emissions. This information will be distributed through central locations, such as suppliers and trade journals.

Proposed Action: EPA is proposing to:

(1) Approve Massachusetts' solvent metal cleaning control strategy, with the understanding that (a) the final SIP will include a schedule to implement a public education program by May 1, 1983, and (b) EPA will receive a copy of the public education program by May 1, 1983, and

(2) Remove the conditions of the Massachusetts 1979 SIP for solvent metal cleaning Part 52, Subpart W, § 52.1166(2)(b).

(ii) *External Floating Roof Tanks:* The existing regulation for bulk plants and terminal handling of organic material was submitted for the control of petroleum storage in external floating roof tanks (see 310 CMR 7.02(12)). This regulation did not include the CTG-recommended requirements for secondary seals on external floating roof tanks, inspection of those seals, and a compliance date. Therefore, EPA took no action on the State's program to control emissions from external floating roof tanks (see 47 FR 5731). The Massachusetts 1982 SIP submittal did not include a revised regulation or a demonstration that the existing State controls are equivalent. However, Massachusetts and EPA have discussed this issue and the State has agreed to submit a schedule in the final SIP which ensures compliance by December 31, 1983.

Proposed Action: EPA is proposing to approve Massachusetts' agreement to control external floating roof tanks with the understanding that:

(1) The final SIP will contain a proposed control strategy, and a schedule to complete the program by December 31, 1983, and

(2) After the control strategy is adopted, by March 1, 1983, the strategy will be submitted as a SIP revision to EPA.

(c) *Gasoline Tank Trucks:* EPA took no action on Massachusetts' lack of a gasoline tank truck regulation in the Federal Register on CTG II regulations because the State was committed to working with Northeast States for Coordinated Air Use Management (NESCAUM) to develop and to submit a control strategy in the 1982 SIP (47 FR 5731).

NESCAUM was unable to develop a control strategy and Massachusetts did not submit a tank truck regulation in the 1982 SIP. After discussions with DEQE, EPA requested the State commit to a schedule to adopt and implement a RACT gasoline tank truck regulation. On November 22, 1982, DEQE submitted a commitment to propose a gasoline tank truck regulation and to hold public hearings on the regulation no later than June 1, 1983. DEQE also committed to adopt a RACT gasoline tank truck regulation within 90 days of the close of hearings, *if no adverse comments are made*. DEQE anticipates start up of the program by no later than May 1984.

Upon adoption of the gasoline tank truck regulation, EPA requires that the regulation be submitted as a SIP revision.

Proposed Action: EPA is proposing to approve the State commitment with the understanding that:

(1) The State will adopt a gasoline tank truck regulation for submittal into the SIP.

(2) The adopted regulation will be RACT, and

(3) The program will start up as expeditiously as possible, but no later than May 1984.

(d) *The 100 TPY RACT Regulation.* Massachusetts submitted a generic RACT regulation (see 310 CMR 7.18(17)) for the control of all VOC sources that have the potential to emit 100 tons per year (TPY) or more, and that are not currently regulated under existing Massachusetts regulations. This regulation was submitted to fulfill the 1982 SIP policy requirement to control Group III CTG and 100 TPY non-CTG sources, and should control 16 sources (updates of the emissions inventory may increase the number of sources controlled under this regulation) which presently emit 5,200 TPY.

Massachusetts is not waiting for the publication of the Group III CTGs, but is adopting a regulation to achieve emission reductions from Group III CTG sources and nonCTG sources before EPA publishes the Group III CTGs. The 100 TPY RACT regulation requires that each 100 TPY source will comply with RACT by December 31, 1983, or document that the source cannot meet RACT by December 31, 1983 and submit a plan by December 31, 1982, with periodic increments of progress, that demonstrates compliance as expeditiously as practicable, but no later than December 31, 1986. To determine whether a source has 100 TPY or more of emissions and should be controlled by this regulation, the State will aggregate the source's unregulated VOC emissions so that more sources not covered by CTGs will be controlled.

The State has committed to review all EPA published guidelines and available information when determining RACT for each source under the generic regulation. To be consistent with EPA guidance, the State must also commit to review all EPA Group III CTG documents as they are published to determine if the emission reductions achieved by Massachusetts are less than the CTG projected emission reductions. Also the State must commit to control CTG III sources less than 100 TPY if the control measures are RACT for Massachusetts, and give the public a chance to comment on each RACT determination.

The RACT regulation does not contain federally enforceable emission limits and EPA will not have the authority to enforce State-determined RACT requirements unless they are issued in a federally enforceable permit or are submitted into the federally approved SIP.

We have discussed these issues with the State and they have agreed that in the final SIP they will commit to: review CTG IIIs when they are published, propose regulations for CTG III sources under 100 TPY if the control measures are RACT for the State, and give the public a chance to comment on each RACT determination. Also, in the November 22, 1982 submittal, the State agreed to submit each RACT determination as a SIP revision.

Proposed Action: EPA is proposing to approve the 100 TPY RACT regulation (see 310 CMR 7.18(17)) with the understanding that upon State approval each RACT determination will be submitted as a source specific SIP revision, and that the final SIP will include:

(1) A schedule to review the Group III CTGs, as they are published, and to evaluate and adopt regulations for sources with less than 100 TPY emissions if the control measures specified by the CTG are found to be RACT for Massachusetts, and

(2) A provision for public participation including a comment period and a hearing, or an opportunity for public hearing.

(e) *Generic Bubble Regulations.* Massachusetts has developed two generic VOC bubble regulations, an addition to the existing generic VOC bubble regulation for surface coaters (see 310 CMR 7.18(2)(b)), and a comprehensive generic VOC bubble regulation (see 310 CMR 7.00 Appendix A(7)), that should enable sources to reduce emissions in a cost-effective manner. As discussed below, there are areas which need to be addressed in order for these regulations to be consistent with EPA policy. These regulations do not ensure that hazardous pollutants (identified as hazardous in accordance with Section 112 of the Act) will not be increased in exchange for a decrease in non-hazardous pollutants. Also, the comprehensive generic VOC bubble regulation should clearly specify that the State will be issuing a federally enforceable document for each approved bubble plan. Finally, the generic VOC bubble regulations do not address the time period within which the emission limitations shall be averaged in an approved bubble plan. EPA's Emissions Trading Policy Statement of April 7, 1982 (see 47 FR 15076) specifies that to be enforceable, the emission limitations "must state the minimum time period over which they will be averaged (e.g., lbs/hour, lbs/MMBtu averaged over 24 hours, production rate/day)."

We have discussed these issues with the State and they have agreed to address them in the final SIP.

Proposed Action: EPA is proposing to approve:

(1) The revision to the generic VOC bubble regulation for surface coaters (see 310 CMR 7.18(2)(b)) with the understanding that the final SIP submission will:

(a) Ensure that emissions of pollutants identified as hazardous in accordance with Section 112 of the Clean Air Act are not increased in exchange for reductions in emissions of non-hazardous pollutants and

(b) Address the time period within which the emission limitations shall be averaged in an approved bubble plan.

(2) The revision for the comprehensive generic VOC bubble regulation (see 310 CMR 7.00 Appendix A(7)) with the understanding that the final SIP submission will:

(a) Ensure that emissions of pollutants identified as hazardous in accordance with Section 112 of the Clean Air Act are not increased in exchange for reductions in emissions of non-hazardous pollutants,

(b) Ensure that a federally enforceable document is issued for each approved Bubble plan, and

(c) Address the time period within which the emission limitations shall be averaged in an approved bubble plan.

(f) *Other Revisions Submitted with the SIP.* EPA is giving notice that Massachusetts also submitted in the 1982 SIP changes to two regulations, Emission Offset and Nonattainment Review, 310 CMR 7.00 Appendix A, and

Plan Approval and Emission Limitations, 310 CMR 7.02 (2), (4), (13) and (14). These regulation changes, which effect the new source review program, and two programs that have been delegated to the state, National Emission Standards for Hazardous Air Pollutants (NESHAPs) and New Source Performance Standards (NSPS) will be discussed in separate rulemakings as they do not impact on the ozone or carbon monoxide attainment demonstrations.

5. *Transportation Control Measures:* State and regional agencies have been involved in the evaluation and recommendation of transportation control measures for the Massachusetts 1982 SIP in accordance with EPA guidance. As a result, the State has adopted measures such as on-street parking controls, improved public transit, park and ride fringe parking lots, employer-based carpools, bicyle lanes, and traffic flow improvements. However, DEQE did not adopt a contingency provision to list planned transportation measures and projects, for areas of over 200,000 in population, that may adversely affect air quality and that will be delayed if expected air quality improvements do not occur. The state has committed to include this in its final submittal.

EPA has reviewed the State's procedures for determining the conformity of transportation plans and programs, and finds them to be consistent with EPA guidance. Massachusetts defines its Basic Transportation Needs (BTN) as maintaining and, where possible, improving transit service levels to the extent that State and Federal funds will allow.

All of the State's documentation has been included in the 1982 SIP submittal and the Metropolitan Planning Organization's (MPOs) documentation will be submitted with the final SIP.

Proposed Action: EPA is proposing to approve this portion of the SIP, with the understanding that the MPOs documentation will be consistent with EPA guidance.

6. *Reasonable Further Progress:* The Massachusetts 1982 SIP indicates that the State will attain the ozone standard by December 31, 1986. The State submitted separate RFP demonstrations for Boston, Worcester and Springfield. The Massachusetts 1982 SIP also contains a description of the procedures that will be used to demonstrate the annual emission reductions of each urban area. The procedures described will be acceptable if the final submittal states that the vehicle miles of travel (VMT) data used for the mobile source emission estimates will be generated at a minimum for each analysis area.

Proposed Action: EPA is proposing to approve the Reasonable Further Progress portion of the SIP with the understanding that the final submittal commits to providing VMT data for each analysis area.

7. *Inspection and Maintenance (I/M):* All major urban areas needing an extension beyond 1982 for attainment of a standard for ozone or CO were required to include vehicle I/M as an element of the 1979 SIP revision. Massachusetts included I/M in the 1979 SIP revision. EPA's evaluation of, and action on, the I/M portion of the Massachusetts 1979 SIP revision is documented in the September 16, 1980 Federal Register (see 45 FR 61293).

As discussed in the January 22, 1981 Federal Register on 1982 SIP policy (see 46 FR 7182), States with areas that have I/M programs under development, or operational as part of their 1979 SIP revisions, were required to submit only qualitative descriptions of their I/M program elements in the 1979 SIP submittal.

Unless already submitted and approved as part of a previous SIP submittal, the 1982 SIP revision must include the rules and regulations needed to implement the I/M program to achieve the minimum emission reduction requirements and commitments to other program details.

EPA will determine the overall adequacy of the critical elements of each I/M program and, therefore, the approvability of the I/M portion of the Massachusetts 1982 SIP by comparing those elements to the established I/M guidance.

In its 1982 SIP revision, Massachusetts submitted an I/M section which included draft rules and regulations and descriptions of the critical elements required by the 1982 SIP policy except as noted below. EPA has determined that the rules and regulations, once they are finalized, and all of the I/M elements included in the 1982 SIP are approvable except: (1) Adequate information was not included to describe the audit and surveillance procedures that will be used by the State to supervise the inspection stations and equipment suppliers, and (2) no information was included regarding the enforcement procedures that will be used by the State.

EPA's evaluation also revealed that the 1982 SIP revision had two other minor deficiencies regarding the implementation schedule and the demonstration that the Massachusetts I/M program will achieve the required emissions reductions. The Massachusetts I/M program was originally scheduled to begin January 1, 1982. After Massachusetts' original schedule had been approved, EPA determined that States planning decentralized I/M programs could benefit by the use of automated analyzers and that schedule extensions to allow use of such analyzers were justified. Massachusetts decided to take advantage of this opportunity to improve the I/M program and requested EPA's approval of an April 1, 1983 start-up date. EPA has agreed to this date in principle. However, Massachusetts' enabling legislation has not been amended to reflect the new date.

The 1982 SIP revision included a description of the emissions reductions that will be achieved by the I/M program. However, the description included did not clearly demonstrate that the Massachusetts' I/M program will achieve the required emissions reductions of hydrocarbons and CO in 1987.

Proposed Action: EPA is proposing to approve this portion of the SIP with the understanding that Massachusetts submits the following prior to final rulemaking: (1) The final regulations necessary to implement the I/M program, (2) the audit and surveillance procedures, (3) the enforcement procedures, (4) a statement that Massachusetts has the authority to start up the I/M program on April 1, 1983 and (5) a demonstration that the Massachusetts I/M program will achieve the required emission reductions in 1987.

C. Carbon Monoxide

1. *Summary:* CO violations are primarily caused by automobile emissions and are generally associated with traffic congestion at the intersection of major roads or in a central business district. At these locations, vehicles may idle for relatively long periods of time. The emissions during this time period are very high and are less diluted. These problem areas are called hot spots. The only violations of the CO standards by Massachusetts are hot spot violations.

2. *Hot Spot Analysis:* In order to eliminate CO violations, Massachusetts has analyzed known and potential hot spots through the use of EPA's "Volume 9 (Revised) Evaluating Indirect Sources" (EPA–450/ 4–78–001). The table below summarizes the state's findings:

CARBON MONOXIDE SUMMARY TABLE

Maximum (8-hr) concentration parts per million (ppm)			
Non-attainment area	Monitored or modeled site	1987 No. controls	1987 with controls
Boston	Kenmore Square	10	8.5.
	Leverett Circle	9	8.5.
	Cambridge St. at Staniford St.	9	6.
	Callahan Tunnel	9	5.
Cambridge	Science Park	6	N/A.
Lowell	John St. Garage	2	N/A.
Medford	Wellington Circle	6	N/A.
Quincy	Fore River Bridge	5	N/A.
Springfield	E. Columbus Ave.	5	N/A.
Waltham	Moody Street	4	N/A.
Worcester	New Salem Street.	2	N/A.

We have reviewed the hot spot analysis and found it to be consistent with EPA guidelines. An evaluation of the results indicates that with the reductions in CO emissions expected from the Federal Motor Vehicle Emissions Control Program, Massachusetts will attain the CO standards by 1987 in all but four Boston locations: Kenmore Square, Leverett Circle, Cambridge Street at Staniford Street, and the Callahan Tunnel. For these remaining four locations, the Massachusetts 1982 SIP contains a process for implementing site-specific controls. These controls will assure that they attain the standards by 1987.

The Boston-Essex Street was not included in the hot spot analysis because it was only recently identified as recording violations of the CO standard. Also, the City of Springfield elected to undertake the analysis of CO hot spots in its Central Business District as part of an environmental assessment of its redevelopment program and proposed transit mall.

Proposed Action: EPA is proposing to approve the CO portion of the SIP with the understanding that the State will submit a schedule for conducting the hot spot analysis for Boston-Essex Street and the Springfield Central Business District.

3. *Transportation Control Measures and Reasonable Further Progress:* The Massachusetts 1982 SIP contains RFP demonstrations for all locations that the hot spot program identified as having the potential to violate the CO standard in 1987. Massachusetts has committed to analyzing two additional locations under the hot spot program: Boston-Essex Street and Springfield Central Business District, and will develop RFP demonstrations for any of these locations that do not show attainment by 1987.

Proposed Action: EPA is proposing to approve the CO RFP demonstrations with the understanding that the final SIP will include a schedule for implementing mitigation measures for the Boston locations: Kenmore Square, Callahan Tunnel, Leverett Circle, and Cambridge Street at Staniford Street.

D. Additional Requirements

1. *Resource Commitments:* In order to assure that the control strategies includes in the 1982 attainment plan are implemented, EPA has requested that the State indicate what financial support will be associated with these actions. In its submittal, the State commits to measures necessary to demonstrate attainment of the ozone and CO standards. The State has indicated that the final 1982 SIP submission will discuss the State's commitment to provide the resources needed to implement the 1982 SIP.

Proposed Action: EPA is proposing to approve this portion of the SIP with the understanding that the State will discuss its commitment to provide the resources needed to implement the 1982 SIP in their final submittal.

2. *Public Participation/ Intergovernmental Consultation Documentation.* The 1982 SIP submission, outlines the process that was used to involve elected officials, representatives from private industry, special interest groups, transportation and economic development policy makers and private citizens during the preparation of the SIP. The State has established a mechanism for on-going public participation in the development of transportation air quality planning and has implemented a program to promote greater awareness of air quality problems to the public. All of the public participation programs have been developed in accordance with EPA guidelines.

Proposed Action: EPA is proposing to approve this portion of the SIP.

II. Proposed Action:

EPA is proposing to approve the Massachusetts 1982 State Implementation Plan Revisions for Ozone and Carbon Monoxide, which were submitted in draft on May 21, 1982, and November 22, 1982, 1982. EPA is soliciting public comments on issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA address in the ADDRESSES section above.

These revisions are being proposed under a new procedure called "parallel processing" (see 47 FR 27073). If the proposed revisions are substantially changed, in areas other than those identified in this notice, EPA will evaluate those changes and may publish a revised NPR. If no substantial changes are made, EPA will issue a notice of final rulemaking on the revisions. "Parallel processing" will reduce the time necessary for final approval of these SIP revisions.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Managment and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Section 110(a) and 301(a) of the Clean Air Act, as amended (42 USC 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: September 10, 1982.

Lester A. Sutton, P.E.,

Regional Administrator.

[FR Doc. 83–2432 Filed 2–2–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[EPA Docket No. AW601MD; A–3–FRL 2257–5]

State of Maryland; Proposed Revision of the Maryland State Implementation Plan for Ozone and Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to approve in part and disapprove in part the 1982 State Implementation Plan revision for the Maryland portion of the National Capital Interstate Air Quality Control Region (AQCR) which was submitted on November 5, 1982. Except for the portion pertaining to the State's Inspection and Maintenance (I/M) program, this revision appears to meet the requirements of the Clean Air Act and EPA policy. The intended effect of this action is to provide for attainment of the primary National Ambient Air

Quality Standards for Ozone and Carbon Monoxide as required under Part D of the Clean Air Act Amendments of 1977. However, EPA is proposing disapproval of the State's I/M program because the submittal is incomplete and because the SIP contains no schedule for implementing the I/M program.

DATE: EPA must receive any comments on or before March 21, 1983.

ADDRESSES: Copies of the revision and accompanying documents are available during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs & Energy Branch, Curtis Building, Second Floor, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: Harold A. Frankford (3AW12)

Maryland Air Management Administration, 210 West Preston Street, Baltimore, MD 21201, Attn: George P. Ferreri

All comments should be addressed to: Henry J. Sokolowski, P.E. (3AW12) MD–DE–DC Metro Section, at the EPA, Region III address above.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford (3AW12) at the EPA, Region III Address above or telephone 215/597–8392.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. Under this Part, the States had to revise their State Implementation Plans (SIPs) for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (Section 171–178 of the Clean Air Act; Section 129(c) (uncodified) of Pub. L. 95–95). The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the Ozone (O_3) or Carbon Monoxide (CO) Standard by that date (Sections 172(a)(1), 172(a)(2)).

If EPA approved this demonstration, the attainment date for O_3 or CO could be extended up to December 31, 1987, and the State could defer compliance with certain of the Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements. (Section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95–95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1]

If there are major deficiencies in the SIP submittal and they are not remedied before EPA takes final action, EPA will be required to disapprove the revisions to the O_3 and/or CO plans. Under Section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapproval would trigger a moratorium on the construction and modification of major stationary sources of O_3 and/or CO in the nonattainment areas to which these plan revisions apply.

Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Clean Air Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

The State of Maryland submitted an initial SIP revision for its designated O_3/CO nonattainment areas in January, 1979. The State requested that EPA extend the attainment date for the standards in only the Maryland portion of the National Capital Interstate Air Quality Control Region (AQCR) until late 1983. EPA approved extensions until January 1, 1984 for CO and December 31, 1987 for O_3. EPA also approved the initial plan on August 12, 1980 (45 FR 53494). Subsequent revisions were also approved on May 11, 1982 (46 FR 20126).

On November 5, 1982, Maryland submitted the 1982 revisions to its O_3/CO SIPs. On October 20, 1982 (47 FR 46711), EPA published a notice of availability of a draft 1982 SIP revision submitted to EPA by Maryland on July 1, 1982.

[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53871), and November 23, 1979 (44 FR 67182).

EPA's review of the State's submittal is divided into three main discussions:

A. The Ozone SIP,

B. The Carbon Monoxide SIP, and

C. The additional requirements set out in EPA guidance, including conformity of Federal actions, consultation with State and local officials, and requirements of section 172 of the Clean Air Act.

The following is a brief description of elements contained in the SIP revision. A more detailed discussion may be found in the Technical Support Document available at the EPA office listed under Addresses in this notice.

A. The Ozone SIP

Ozone is formed from various precursors, primarily oxides of nitrogen (NO_x) and a class of hydrocarbons called "reactive volatile organic compounds" (VOCs). VOC emissions are controlled to reduce ozone concentrations.

The entire Maryland portion of the National Capital AQCR (Montgomery and Prince Georges Counties) cannot demonstrate attainment by December 31, 1982. The ozone modeling analysis indicates that a 46 percent emission reduction will be needed to eliminate violations of the Ozone Standard in this area.

The proposed Maryland 1982 SIP for O_3 combines a mix of stationary and mobile source strategies to achieve these necessary reductions. It is divided into six sections:

—Emissions Inventory,

—Domonstration of Attainment/Modeling,

—Reasonable Further Progress (RFP),

—Stationary Source Controls,

—Transportation Control Measures, and

—Inspection and Maintenance.

1. *Emissions Inventory.* For the 1982 SIP, States were to submit a comprehensive emissions inventory indicating 1980 and attainment year (1987) emissions levels from all sources of VOCs and NO_x.

On July 1, 1982, the State of Maryland submitted a draft of its emissions inventory, including both point sources and mobile sources. Because the National Capital AQCR is comprised of three jurisdictions (Maryland, District of Columbia, Virginia), the SIP describes that portion of the inventory attributed to each area. EPA noted several deficiencies in the draft emissions inventory, and informed Maryland of the concerns by letter. On September 28, 1982 the Metropolitan Washington Council of Governments (COG), which had assumed the responsibility of

coordinating the tri-jurisdiction SIP revision, responded by letter containing information which addressed most of EPA's concerns. EPA finds that the emissions inventory is generally consistent with our guidance and other requirements.

Proposed Action: EPA proposes to approve the emissions inventory portion of the SIP.

2. *Demonstration of Attainment/ Modeling.* To insure consistency among the States having to demonstrate attainment by 1987, EPA encouraged each State to use the City-Specific Empirical Kinetic Modeling Approach (EKMA). The modeling was performed by the COG on a tri-state region-wide basis. Maryland has accepted COG's analysis and has included it as part of its SIP. COG considered for use in its EKMA exercise the five highest ozone concentrations recorded during the 1979–1981 period at each monitor within the Natinal Capital AQCR. The EKMA model simulates a parcel of air traveling in a straight line from the center of the urban area to a destination point at the site where the maximum ozone value is observed.

The EKMA analysis in Maryland's SIP is based on monitored air quality data in the Metropolitan Washington, D.C. area from 1980 and 1981. COG modeled numerous representative days and determined that a 46 percent reduction in VOC emissions for the region is required based on a 0.16 ppm ozone value recorded at the Takoma monitoring site in Washington, D.C. on July 16, 1980. Using this 46 percent emission reduction target, COG determined that the Metropolitan Washington, D.C. area must reduce 1980 VOC emissions of 342 tons per day by 157 tons to achieve attainment by the end of 1987. The current plan demonstrates a VOC emission reduction of 118 tons per day by 1987, leaving an additional reduction of 39 tons per day needed to attain the standard. Emission reduction targets were agreed upon by the three jurisdictions to achieve the needed 39 tons. The targets are: District of Columbia—9 tons, Maryland—14 tons, and Virginia—16 tons. Control measures in Maryland's 1982 Ozone/CO SIP will reduce VOC emissions by about 7.5 tons per day. This leaves a shortfall in 1987 of 6.5 tons per day. Maryland has committed to evaluate a mix of additional control measures, including Stage II Vapor Recovery, and to implement regulations in order to achieve the additional 6.5 tons per day reduction. This schedule for and commitment to develop additional regulations to ensure attainment by 1987 is discussed in the Stationary Source Controls portion of this notice. (See Section 4.)

Proposed Action: EPA proposes to approve the demonstration of attainment/modeling portion of the SIP.

3. *Reasonable Further Progress.* Maryland has submitted an adequate Reasonable Further Progress (RFP) presentation and discussion in their SIP. Although the RFP curve does not demonstrate attainment of the Ozone Standard by December 31, 1987, i.e., a 6.5 tons per day shortfall, Maryland has committed to study and implement additional control measures in order to eliminate this shortfall and attain the standard by December 31, 1987. Maryland has also certified that its existing new source review and offset requirements will be adequate to allow growth while remaining within the RFP limitation and to maintain attainment of the Ozone Standard after 1987.

EPA intends to monitor the State's progress in meeting RFP be reviewing annual RFP reports. If any deficiency occurs, EPA will take corrective action.

Proposed Action: EPA proposes to approve the reasonable further progress portion of the SIP. However, the Maryland RFP schedule, and EPA's proposed action of same, assumes implementation of the State's inspection and maintenance (I/M) program by July 1, 1983. Should Maryland delay its implementation of the I/M program, it will be required to submit to EPA a revised RFP schedule.

4. *Stationary Source Controls.* The Clean Air Act requires States to adopt regulations requiring Reasonably Available Control Technology (RACT). Therefore, as part of the 1982 submittal, States must include RACT for: (a) All sources of VOCs covered by a Control Techniques Guideline (CTG) and (b) all remaining major stationary sources with the potential to emit more than 100 tons of VOC per year.

EAP requires that the submittal either include legally enforceable measures to implement RACT for these sources, or else document the State's determination that the existing level of control represents RACT for each of these sources.

Current EPA policy, allows the State to submit schedules in lieu of adopted regulations as long as the schedules call for adoption and implementation dates of the necessary control measures within a time frame so as not to impede reasonable further progress towards attainment.

a. *CTG Regulations.* Maryland has adopted RACT regulations for all VOC source categories covered by a CTG. The State has also committed to adopt RACT regulations for the Group III CTGs after they are published by EPA.

b. *Additional Stationary Source Control Regulations.* The proposed SIP revision submitted by Maryland contains a schedule under which Maryland will evaluate possible measures for controlling VOC emissions from sources emitting less than 100 tons per year, including stage II vapor recovery. The State would then adopt control regulations. According to this schedule, the State will have decided its optimum mix of control measures by July 1, 1983. In order to inform the public and local government officials about the nature of these additional emission reduction targets, the State will hold public hearings during January, 1984. The state will adopt and submit these regulations to EPA by March 1, 1984.

EPA has determined that the State's schedule for developing, adopting, and submitting the necessary RACT regulations represents as expeditious a timetable as practicable, so as not to impede reasonable further progress towards attainment.

C. Regulations for 100 Tons per Year Sources

The State has certified that there are no 100 tons per year sources in Maryland which are not covered by a CTG or not currently controlled at RACT levels.

Proposed Action: EPA proposes to approve the stationary source controls portion of the SIP.

5. *Transportation Control Measures (TCMs).* In developing a regional transportation control plan as part of the overall control strategy, COG examined the feasibility of applying the 18 categories of measures listed in Section 108(f) of the Act and considered to be "reasonably available." COG considered fifteen of these 18 categories to be feasible for implementation in the National Capital AQCR. The COG then considered 60 specific measures derived from these categories for inclusion into the SIP . The State of Maryland has participated in analyzing the relative effectiveness of these control measures. The State, in conjunction with the District of Columbia, Virginia and COG, analyzed the benefits (regional emission reductions in tons per day, total energy savings in gallons per weekday, and additional benefits which encompass other than air quality goals). The State also analyzed the costs (capital, operating, maintenance, other) associated with each prospective measure.

As a result of this analysis, COG has developed for inclusion in the Maryland SIP the following transportation control measures that are designed to reduce VOC emissions in the Maryland portion of the National Capital AQCR:

1. METRO
2. Parking Restrictions in District of Columbia CBD (potentially reducing vehicle trips from Maryland)
3. Bicycle Improvements
4. Transportation System Management Improvements
5. Ridesharing Improvements

These measures, when fully implemented, are designed to reduce VOC emissions in Maryland by 7.5 tons/day.

The COG transportation plan contains some legally enforceable commitments for the State and local agencies necessary to implement the above-listed transportation measures. The process is continuing and additional State and local commitments for certain TCMs are being obtained, where appropriate. EPA will take final action approving this portion of the SIP after these commitments are received.

The COG transportation plan also identifies a recent study conducted by the Urban Mass Transit Administration and Washington Metropolitan Area Transit Authority (WMATA) that addresses basic transportation needs. Since the completion of this study, WMATA and the local and State jurisdictions have been implementing programs to expand and improve public transportation.

Proposed Action: EPA proposes approval of the COG-developed transportation plan for the Maryland portion of the National Capital AQCR, with the understanding that additional commitments for State and local TCMs will be obtained where appropriate.

6. *Inspection and Maintenance (I/M).* According to the currently approved Maryland SIP, the State is to begin implementation of its inspection and maintenance (I/M) program by January 1, 1983. However, the State's 1982 SIP contains a statement that the currently-approved I/M schedule is invalid, and that the I/M start-up date is to be no earlier than July 1, 1983. No new schedule was submitted with this SIP revision to replace the current schedule.[2]

An approvable I/M program must also contain the following major elements:

1. Inspection Test Procedures
2. Emission Standards
3. Inspection Station Licensing Requirements
4. Emission Analyzer Specifications.
5. Recordkeeping and Record Submittal requirements
6. Quality Control, Audit, and Surveillance Procedures
7. Public Awareness Plan
8. Mechanics Training Plan
9. RACT Compliance
10. Procedures to assure that noncomplying vehicles are not operated on public roads.

While Appendix D of Maryland's SIP contains information about Maryland's public awareness and mechanics training plans, as well as State-developed proposed emissions standards, this SIP submittal contains no information about the remaining major elements of the I/M program.

Proposed Action: In view of the fact that the State's 1982 SIP contains no valid schedule for implementing the I/M program and that the State's 1982 SIP does not address most of the major elements contained in an approvable I/M program, EPA proposes to disapprove this portion of the SIP.

B. Carbon Monoxide SIP

Because portions of Montgomery and Prince Georges Counties have been designated as nonattainment areas for carbon monoxide (CO), (45 FR 24469 (1980)), Maryland was required to submit a plan revision designed to attain the CO standards as expeditiously as practicable, but by no later than December 31, 1987. During January 1979, Maryland submitted a CO nonattainment SIP which EPA subsequently approved on August 12, 1980, 45 FR 53494 (1980). The current Federally approved SIP calls for a January 1, 1984 attainment date.

On November 5, 1982, the State submitted a revised CO SIP for the nonattainment portion of Montgomery and Prince Georges Counties. The plan is basically an AQCR-wide plan developed by COG with inputs from Maryland, Virginia and the District of Columbia, but there are certain variations to account for differences in vehicle use (motor vehicles are the most significant source of CO emissions). Therefore, EPA must review each plan separately.

Transportation sources, particularly the automobile, are responsible for most regional CO emissions. CO is monitored at 10 sites throughout the region; however, no monitors measuring congested intersections are located in the Virginia or Maryland portions of Washington, D.C. Violations of the 8 hour CO standard have been recorded and these areas are designated nonattainment for CO.

In order to demonstrate attainment of the CO standard the State and COG used the Intersection Midblock Model (IMM), an approved EPA modeling technique. The model predicted that certain hotspots (e.g. specific intersections) may still show violation of the CO NAAQS beyond January 1, 1984, and probably through 1987. Therefore, the State has requested a revision to the extension, until December 31, 1987, for attaining the CO standards.

CO concentrations are expected to decrease significantly by 1987 due to a continuation of the Federal Motor Vehicle Control Program and implementation of vehicle I/M. The state submittal contains a detailed modeling analysis which demonstrates attainment by 1987 at local "hot spot" intersections relying solely on the Federal Motor Vehicle Control Program and I/M. It also contains demonstrations of Reasonable Further Progress (RFP). This material satisfies the EPA criteria. EPA intends to monitor the State's progress in meeting RFP by reviewing annual RFP reports. If any deficiency occurs, EPA will take corrective action.

The State also intends to perform an independent follow-up evaluation based on analysis of air quality data from a CO monitor located near a "hot spot" intersection in Rockville. The State will collect one year of monitoring data and complete its evaluation by October 31, 1984. This study will serve to verify the results from the above-discussed modeling analysis.

As discussed in the ozone portion of this notice, the I/M program in Maryland is being proposed for disapproval for several reasons. For the same reasons, EPA is proposing to disapprove I/M in the CO portion of the SIP. Also, EPA intends to monitor the State's progress in meeting RFP for CO reviewing annual RFP reports. If any deficiency occurs, EPA Will take corrective action

Proposed Action: EPA proposes to approve all portions of the CO SIP, except for the I/M portion. EPA also proposes to revise the CO attainment date extension from January 1, 1984 to December 31, 1987.

C. Additional Requirements

1. *Conformity of Federal Actions.* Compliance with Section 176(c) of the Clean Air Act requires a close cooperative effort between all agencies granted Federal funding. Routine procedures which are part of the basic planning process performed by COG

[2] For centralized programs such as that planned by Maryland, EPA's I/M policy requires implementation by December 31, 1982. Therefore, EPA cannot approve a new schedule which delays final implementation beyond that date.

and the State and local governments will ensure that no projects will be constructed or implemented which will produce emissions that are inconsistent with the adopted SIP. Compliance with Sections 176(c) and 316 also requires the use of consistent population projections in all federal funding activities. COG has developed a "Cooperative Forecasting Process" which fills this need.

Proposed Action: EPA proposes to approve this portion of the SIP.

2. *Consultation with State and Local Officials.* During the preparation of the 1982 SIP, the State, via the COG planning process, insured the continual involvement of the public and all appropriate government agency officials. Opportunity was given for all interested parties to participate in the development of the transportation plan and other elements of the SIP. In addition, the current Maryland SIP contains a procedure developed by Maryland to assure consultation with State and local officials, 47 Fed. Reg. 15140 (1982).

Proposed Action: EPA proposes to approve this portion of the SIP.

3. *Conformance with Other Requirements of Section 172 of the Clean Air Act.* Section 172(b) of the Clean Air Act requires that certain items be included in all SIP revisions. Most of these requirements have been addressed above. The following is a discussion of the remaining requirements.

a. Commitment of financial and manpower resources—The State has committed adequate financial and manpower resources to carry out the programs established in the 1982 SIP.

b. Analysis of effects—The State had submitted in 1979 an analysis of the effects of the SIP will have on air quality health, welfare, the economy, energy and society. In general, there are few changes since that appraisal and these are minimal. The majority of the effects of the plan on each of the above-mentioned criteria continue to be neutral or positive.

c. Contingency plan—EPA's January 1981 policy also requires States to develop a process for identifying and implementing additional transportation control measures that can be used in the event that there is an unanticipated shortfall in emission reductions. The June 1982 draft COG plan includes a list of measures which will be considered in such circumstances. The final plan is expected to provide additional detail.

Proposed Action: EPA proposes to approve this portion of the SIP.

Proposed Action

Based on the above information, EPA is proposing to approve Maryland's SIP revision, except for the I/M program. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above. EPA is also proposing to disapprove the I/M portion of the Maryland SIP, since the SIP contains no valid schedule for implementation, and since the SIP contains no description of certain elements that are key to an acceptable I/M program in both the ozone and carbon monoxide portions of the SIP.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2) (A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monxide, Hydrocarbons, Intergovernmental relations.

Authority: Section 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.,C. 7410(a), 7502, and 7601(a)).

Dated: November 26, 1982

Peter N. Bibko,

Regional Administrator.

[FR Doc. 83-2441 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[NC-002; A-4-FRL 2252-6]

Approval and Promulgation of Implementation Plans; North Carolina: 1982 Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the 1982 State Implementation Plan (SIP) revision for the Mecklenburg County Carbon Monoxide nonattainment area. The State of North Carolina submitted this revision on June 17, 1982. EPA has determined that this revision meets the requirements of the Clean Air Act and EPA policy and provides for attainment of the primary National Ambient Air Quality Standards for carbon monoxide, as required under Part D of Title I of the Clean Air Act.

DATE: EPA must receive your comments on or before March 21, 1983.

ADDRESSES: Send any comments to Don Stone, Air Planning Section, EPA Region IV, 345 Courtland Street N.E., Atlanta, Georgia 30365.

You may inspect copies of the submittal and EPA's evaluation during normal business hours at the following locations:

EPA Region IV, Air Management Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Air Quality Section, Division of Environmental Management, N.C. Department of Natural Resources and Community Development, P.O. Box 26787, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT: Don Stone at 404/881-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATON: The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. Part D required the states to revise their SIPs for all nonattainment areas and submit the revisions to EPA by January 1, 1979. The revised plan had to provide for attainment by December 31, 1982, unless the state demonstrated that it could not attain either the ozone (O_3) or carbon monoxide (CO) standard by that date despite the implementation of all reasonably available control measures (section 172(b)(2)).

If EPA approved this demonstration, the attainment date for O_3 or CO could be extended up to December 31, 1987. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements.

This second SIP revision had to be submitted by July 1, 1982. On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble for SIP Revisions for Nonattainment Areas," which was published on April 4, 1979 (44 FR 20372).

In June 1979, the State of North Carolina submitted an initial SIP revision for the Mecklenburg County CO nonattainment area. The State requested that EPA extend the attainment date for the 8-hour standard in this area to December 31, 1987. EPA granted this request and conditionally approved the initial revision of the plan on April 17, 1980 (45 FR 26038). EPA gave final approval to this initial revision on March 19, 1981 (46 FR 17556), after the State had fulfilled the conditions.

North Carolina submitted its 1982 SIP revision on June 17, 1982. The State is still considering additional revisions and proposes to adopt them through its SIP revision procedures. EPA is proposing to review these revisions concurrently—a procedure called "parallel proposing." We estimate that this will reduce the time needed for our approval by 3 or 4 months. However, if the State substantially changes the draft revisions—except to remedy deficiencies cited in this notice—EPA will have to evaluate those changes and publish a revised notice of proposed rulemaking. Otherwise, EPA will publish a notice of final rulemaking on the revisions discussed in today's notice once the State adopts these revisions and submits them to EPA for incorporation into the SIP.

Plan Evaluation

EPA's discussion of its review of the State's submittal is presented in two parts: A) the *Carbon Monoxide SIP,* and B) the *Additional Requirements* set out in EPA guidance, including basic transportation needs, conformity of Federal actions, and consultation with State and local officials.

A. Carbon Monoxide (CO) SIP

CO violations are caused primarily by automobile emissions. They generally occur in the areas around major intersections, or in central business districts, where vehicles tend to idle for relatively long periods.

The State submittal contains a detailed modeling analysis which demonstrates attainment throught the implementation of an inspection and maintenance (I/M) program and various transportation control measures at local "hot spot" intersections. It also contains demonstrations of Reasonable Further Progress (RFP) for the worst case intersection and the entire nonattainment area.

Section 108 of the Act lists several transportation control measures to be studied for feasibility for implementing as part of the SIP control strategy. One of the measures, inspection and maintenance, is required for post-1982 CO/O_3 extension areas. A discussion of the North Carolina inspection and maintenance program is given later. After reviewing the Section 108 measures and consulting with all affected State and local officials, the North Carolina Division of Environmental Management conducted a detailed analysis of those Section 108 measures on a regionwide basis. The RFP demonstration was done for all of Mecklenburg County. Today's notice also discusses the other sections of the State's submittal as follows:

1. *Emission Inventories.* For the 1982 SIP, states were to submit comprehensive emission inventories indicating 1980 and attainment year emission levels from all sources of carbon monoxide. The North Carolina SIP contains the required inventories and conforms to EPA's policies and procedures.

Proposed Action: Approval.

2. *Stationary Source Control.* Carbon monoxide is primarily a mobile source pollutant. EPA policy defines a major stationary source of CO emissions to be greater than 1000 tons/yr. Since the CO emissions inventory for Mecklenburg County identifies no stationary source units of more than 10 tons/yr, the SIP contains no control strategies for stationary sources. EPA concurs with this approach that no stationary source controls are needed.

Proposed Action: Approval.

3. *Inspection and Maintenance (I/M).* All major urban areas needed an extension beyond 1982 to attain the standards for O_3 and CO were required to include vehicle I/M as a portion of the 1979 SIP revisions. On April 17, 1980, EPA evaluated and approved the I/M portion of North Carolina's 1979 SIP revision (45 FR 26038).

The 1982 SIP revision must also contain an I/M portion. This portion must include: (1) The rules and regulations for implementing an I/M program that will meet the minimum requirements for reducing emissions and (2) commitments to other needed program details. (However, I/M elements already submitted and approved as part of an earlier SIP submittal need not be resubmitted.) The 1982 SIP policy published on January 22, 1981 (46 FR 7182), discusses these requirements.

North Carolina's June 17, 1982, submittal did not contain rules and regulations necessary to operate the program in Mecklenburg County. This was because proposed amendments to the Clean Air Act would have removed the I/M requirement in North Carolina. However, EPA advised the State on June 30, 1982, that until changes are made in the Clean Air Act, EPA must enforce the existing requirements.

Governor Hunt responded by establishing December 1, 1982, as a new implementation date for the I/M program. The State has taken all the sets necessary to begin operating the program. EPA recognizes that this new startup date is against agency policy. However, EPA proposes to approve the North Carolina SIP since the program has begun. North Carolina also submitted draft I/M regulations to EPA in September 1982. EPA has reviewed the draft I/M regulations and, as submitted, the regulations meet EPA policy. Unless the State makes significant changes, EPA will approve the regulations, as submitted in draft, upon final adoption.

The State has projected that it will hold a public hearing in early 1983 on the remaining I/M submittal items. EPA will use the parallel processing procedure in publishing Agency rulemaking on the I/M rules and regulations. EPA will compare the critical elements of an I/M program with established I/M policy to determine both their overall adequacy and the approvability of the 1983 SIP that contains them.

Proposed Action: Approval contingent upon official State adoption and submittal of regulations consistent with the draft submittal.

4. *Transportation Control Measures.* The SIP contains transportation improvement projects for the identified hot spot intersections as well as commitments from the responsible local governments to implement these projects.

The SIP also contains monitoring and contingency provisions to compensate for unanticipated shortfalls in planning emission reductions. The North Carolina Department of Transportation will have committed to the projects under its responsibility by the date of today's publication. The TCM's contained in the SIP include expanded transit, intersection improvements such as turn lanes, and expansion of areawide carpool program. The SIP contains documentation of modifications made in the transportation planning process to include these air quality projects. Periodic assessments of the implementation of the TCM's will occur. If a reasonable further progress shortfall should occur, alternative TCM's will be investigated.

Proposed Action: Approval contingent upon State adoption and submittal of necessary commitments.

5. *Hot Spot Analysis.* The City of Charlotte identified twenty-nine intersections as potential hot spots for air quality. An EPA contractor determined by modeling that without mitigation measures, ten intersections would be violating the national standards by 1983 and that four of those ten intersections would still be violators by December 1987.

The contractor then remodeled the ten post-1982 intersection including the control measures (I/M and/or suggested

transportation intersections improvements) recommended by the City of Charlotte Transportation Department. The modeling indicated that attainment could be achieved at all hot spot intersections by 1987 if I/M and the transportation improvements were implemented.

The contractor used the most current information in the study and EPA concurs with the results.

Proposed Action: Approval.

6. *Reasonable Further Progress (RFP).* The SIP submittal contains both an RFP demonstration for the nonattainment area and one of the worst hot spot intersections. Both RFP curves demonstrate attainment by the deadline of December 31, 1987. EPA concurs with this portion of the SIP.

Proposed Action: Approval.

B. Additional Requirements

1. *Basic Transportation Needs.* The SIP contains documentation on the Charlotte bus system, ridesharing efforts, and park-and-ride lots. All of these programs are targeted for future expansion, with public input an ongoing consideration. Local officials maintain their commitments to effective public transportation as a high priority of the City of Charlotte. No transportation control measures are included that restrict mobility. EPA concurs with this portion of the SIP.

Proposed Action: Approval.

2. *Conformity of Federal Actions.* Compliance with Section 176(c) of the CAA requires a close cooperative effort between all agencies granted Federal funding to ensure conformity with the SIP. After consulting with the various states in EPA Region IV, it was agreed that the major impact of Federal actions (e.g., airport construction, highway construction, sewage treatment construction) is on population growth which in turn affects emissions.

EPA's regional personnel met with all Federal agencies sponsoring projects affecting emissions in the nonattainment areas. EPA submitted lists of these projects to the Metropolitan Planning Organization (MPOs) in the Region. The MPOs in turn ensured conformity in the SIP by including the population impacts of these projects in their regional emission forecasts. In addition all Federal actions are required to be in conformity with the approved SIP and the plan submitted by the state meets these requirements. In addition, the MPO committed that it would not give its approval to any project, program or plan that does not conform with the SIP.

Proposed Action: Approval.

3. *Consultation with State and Local Officials.* Section 121 of the CAA required each state to provide a process for consultation with locally elected officials as well as Federal officials. Section 174 required these local officials to jointly determine the respective roles each governmental agency would take in developing the SIP. These designations and roles were determined for the 1979 SIP revision and have not changed. Based upon the established process and how well it is presently working, EPA believes that this portion of the SIP is adequate.

Proposed Action: Approval.

C. Proposed Action

Based on the above information, EPA is proposing to approve the 1982 revisions for the Mecklenburg County nonattainment area. The State must still take the I/M regulations to public hearing, adopt them as final regulation and submit them for EPA's approval in early 1983. The North Carolina Department of Transportation must still provide the necessary commitments to implement elements of the plan within its jurisdiction. EPA will take final action on the North Carolina plan only after these two missing elements have been supplied. If these elements are adopted and submitted in substantially different form from what is being proposed here today, another proposal may be necessary.

The Administrator's decision to approve or disapprove this plan revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and section 110(a)(3) of the Clean Air Act, as amended, and EPA's implementing regulations in 40 CFR Part 51.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, nitrogen dioxide, lead, particulate matter, Carbon monoxide, Hydrocarbons.

(Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 USC 7410(a) and 7601(a)).

Dated: November 16, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-2434 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-1-FRL 2260-1]

Approval and Promulgation of Implementation Plans: Connecticut; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes action on the 1982 State Implementation Plan revisions for the State of Connecticut which were submitted on June 15, 1982 and September 29, 1982. The intended effect of these revisions is to control emissions of volatile organic compounds and carbon monoxide in order to attain the Ozone and Carbon Monoxide National Ambient Air Quality Standards as required under Part D of the Clean Air Act. Public comments on this document are requested and will be considered before taking final actions on these SIP revisions.

DATE: Comments must be received on or before March 21, 1982.

ADDRESSES: Comments may be sent to Harley F. Laing, Director, Air Management Division, JFK Federal Building, Room 2312, Boston, Massachusetts 02203. Copies of the submittal and EPAs evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Building, Boston, Massachusetts 02203; and the Connecticut Department of Environmental Protection, State Office Building, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Susan S. Hager, (617) 223–5130.

SUPPLEMENTARY INFORMATION:

Introduction: The Clean Air Act (the Act) requires that states with areas that violate the primary National Ambient Air Quality Standards (NAAQS) submit revisions to their State Implementation Plans (SIPs) in 1979 which demonstrate attainment of the NAAQS by December 31, 1982. For states unable to demonstrate attainment of the ozone and carbon monoxide standards by 1982, the Act allows an extension until 1987. In order to receive an extension until 1987, states were required to adopt, as part of their 1979 attainment plans,

control strategies considered to be reasonably available at that time and to commit to the submission of additional revisions by July 1, 1982.

Connecticut's 1979 attainment plan included controls on specific stationary sources of volatile organic compounds (VOCs), a commitment to implement an automobile Inspection and Maintenance (I&M) program, and various transportation control measures. Connecticut was unable to demonstrate attainment of the ozone and carbon monoxide standards by 1982 and, therefore, the Governor requested an extension until 1987. EPA approved this request on December 23, 1980 (see 45 FR 84769).

EPA policy requires that the SIP revisions due by July 1, 1982 include: a demonstration of attainment by 1987, stationary source control measures, implementation of a vehicle I&M program and transportation control measures. These requirements are discussed in detail in a policy document published on January 22, 1981 (see 46 FR 7182).

Connecticut submitted draft 1982 revisions to its ozone and carbon monoxide SIP on June 15, 1982 and September 29, 1982. The 1982 SIP contains new and quantifiable emission reductions which will be achieved through reasonably available control, technology (RACT) regulations for major sources, vehicle I&M, and transportation control measures. The ozone and carbon monoxide modeling analyses demonstrate that Connecticut will attain these standards by December 31, 1987.

EPA has reviewed the State's submittal and finds that the proposed revisions do not meet all EPA requirements for 1982 SIP revisions. EPA has proposed a qualified approval of elements for which EPA has some assurance that Connecticut can correct deficiencies prior to EPA taking final action, and disapproval of elements for which EP has no such assurance and the deficiencies are serious enough to warrant a disapproval. EPA has prepared a separate technical support document which discusses in detail the State's submittal and its compliance with EPA requirements. Anyone wishing additional information may request a copy of this document from the Regional Office at the above location. The following sections of this notice summarize EPA's findings and proposed actions.

Our review of the State's submittal is divided into four parts:

A. Ozone
- Summary
- Emissions Inventories
- Air Quality Data
- Attainment Demonstration
- Stationary Source Controls
- Inspection and Maintenance (I&M)
- Transportation Control Measures
- Reasonable Further Progress (RFP)

B. Carbon Monoxide
- Summary
- Air Quality Data
- Attainment Demonstration and Reasonable Further Progress (RFP)
- Transportion Control Measures

C. Additional Requirements
- Resources
- Public Participation and Intergovernmental Consultation Documentation

A. Ozone

1. *Summary*: Ozone is formed by complex chemical reactions involving various precursors, primarily consisting of oxides of nitrogen and a class of hydrocarbons called reactive VOCs. Emissions of VOCs are controlled in order to reduce ozone concentrations.

Connecticut is divided into four Air Quality Control Regions, but uses its State boundaries to define the analysis area for ozone. The ozone modeling analysis indicates that a 48% emission reduction in VOCs will be required to eliminate violations of the ozone standard.

The proposed Connecticut 1982 State Implementation Plan (Connecticut 1982 SIP) combines a mix of strategies—stationary and mobile source—to achieve the necessary reductions. The State has proposed a SIP which, if approved, would provide in 1987 a 30,000 kg/day reduction of VOC greater than that needed to achieve ozone standards. This is called an "accommodative" SIP and allows a margin of growth for new sources to construct or for existing sources to expand without being required to obtain a "one for one" offset for their resulting emission increases.

2. *Emissions Inventories*: For the 1982 SIP, states are required to submit comprehensive emissions inventories indicating 1980 and attainment year emission levels from all sources of VOCs and oxides of nitrogen (NO_x).

Connecticut submitted inventories for mobile sources and for area sources (those stationary sources too small to be inventoried individually) on September 29, 1982, and for point sources on April 8, 1982. EPA finds that the mobile source inventory meets EPA guidance. However, the point source inventory submitted in April is not consistent with the inventory numbers presented in the narrative portion of the SIP submitted in September. Further, the State has not documented how emission figures for point sources were derived. EPA has asked DEP to provide the final point source inventory used for plan development along with additional documentation.

Within the area source inventory the State may have significantly underestimated emissions in several categories. If the State accepts EPA's higher estimate of emissions in these categories, the State will still be able to achieve ozone standards by 1987 since the SIP provides for greater emission reductions than are necessary to show attainment. However, any increase in projected emissions will have the effect of decreasing the margin of emissions growth the SIP allows for new sources to construct or existing sources to modify. EPA has, therefore, notified the State that the full growth margin proposed in the submittal cannot be accepted until questions on area source emission projections have been resolved.

Proposed Action: EPA is proposing to:

(1) Approve the mobile source inventory,

(2) Approve the point source inventory provided Connecticut submits the inventory used for plan development along with additional documentation prior to EPA taking final action, and

(3) Approve the area source inventory with the understanding that EPA can only accept part of the growth margin until Connecticut resolves questions in categories EPA believes may be underestimated.

3. *Air Quality Data*: The 1982 plan revisions are to include the best data available at the time of SIP development. The most recent three years of air quality data from the State monitoring network must be reduced, validated and summarized. Connecticut has not complied with this condition for plan approval for ozone-related data. In cases where a State has not used the most recent data, the SIP is to discuss how the more current data could affect the plan. Connecticut has also not met this requirement.

Further, the State has not made the requisite commitment to collect hydrocarbon and NO_x data necessary for a refined ozone modeling analysis.

Proposed Action: EPA is proposing to disapprove the air quality data base. EPA will approve this portion of the submittal if, prior to final action, Connecticut: (a) submits the most recent three years of ambient ozone data, (b) commits to collect valid hydrocarbon and NO_x data, and (c) discusses in the final submission how the more current air quality data could affect the SIP.

4. *Attainment Demonstration:* In order to insure consistency in demonstrating

attainment by 1987, EPA encouraged each state to use the City-Specific Empirical Kinetic Modeling Approach (EKMA). Connecticut studied the use of City-Specific EKMA, but concluded that the model could not be used in the development of the 1982 SIP revisions because the DEP operated a non-conventional hydrocarbon monitor which gave readings far higher than those recorded by other states using conventional monitors (see EPA guidance on monitoring, EPA 450/4–80–011). In lieu of City-Specific EKMA, the State has used the analysis from the 1979 SIP revisions based on the less refined model, Standard EKMA. As discussed in the submittal, the State only looked at violations within its boundaries which were caused by emissions from Connecticut sources. The results of the modeling are as follows:

OZONE SUMMARY TABLE

Nonattainment [illegible]	Design [1] [illegible] (ppm)	Receptor location	Percent reduction [illegible] required	Attainment [illegible]
Connecticut—Statewide.	0.148	Groton, CT	48	1987

[1] The "daily design value" is used to refer to the measured maximum hourly ozone value for the day being modeled. (See "Guidelines for Use of City-Specific EKMA in Preparing Ozone SIPs, EPA 450/4–80–027).

EPA has asked the State to explain in the final SIP why it used Standard EKMA and to describe what steps are being taken to provide valid HC data.

Proposed Action: EPA is proposing to approve the modeling portion of the SIP, provided the State submits the additional information as described above, prior to EPA taking final action.

5. *Stationary Source Controls:* The Clean Air Act requires states to implement all required stationary source controls as expeditiously as practicable. In order to complete the requirement to adopt all reasonably available control measures, states must include, as part of the 1982 submittal, adopted regulations applying RACT to the following categories of sources: (a) All sources of VOCs covered by a Control Technique Guideline (CTG) and (b) all remaining major stationary sources of VOCs (defned under Section 302(j) of the Act as having more than 100 tons per year (TPY) emissions).

EPA requires the submittal to include either legally enforceable measures implementing RACT on these sources, or documentation supporting a determination by the State that the current level of control represents RACT for each of these sources. (a) Controls on Source Categories Covered by CTG's. The CTGs are divided into three groups, Group I, Group II and Group III.

(i) Connecticut has adopted, and EPA has approved, controls for all Group I CTG Source Categories with the exception of solvent metal cleaners. This was a deficiency of the 1979 plan revisions which has not yet been fully corrected by the State and which caused EPA on October 12, 1982 (47 FR 44729) to impose a moratorium on stationary source VOC growth as required by section 110(a)(2)(I) of the Act. EPA believes that adequate control can be achieved through a public education program for the use of covers and safety switches on small solvent metal cleaners at automobile repair facilities and has requested such a program be part of the final submittal.

(ii) In the Group II CTG categories, Connecticut has adopted, and EPA has approved, controls for all but two categories: external floating roof tanks, and gasoline tank trucks. EPA cannot accept the Connecticut plan revisions without regulations which adequately control emissions from these two categories of sources, or a schedule with milestone dates to submit regulations.

In the case of external floating roof tanks, the State has regulations which make the use of secondary seals discretionary. The CTG for this category defines RACT as secondary seals. Connecticut does not feel secondary seals are necessary because it has so few sources in this category, and has not agreed to tighten its regulation. In order for EPA to approve this portion of the submittal, Connecticut must either document its position that additional control is unnecessary with a showing that emissions based on the existing regulation are within 5% of emissions based on a RACT regulation, or revise its regulation to require secondary seals.

For the second category, gasoline tank trucks, Connecticut has been unwilling to adopt controls without a determination of RACT made specifically for the New England states. The determination was never made, and without evidence to the contrary, Connecticut must adopt controls at least as stringent as the CTG's in order for EPA to approve this section of the submittal.

(iii) For Group III CTG categories, the State is to adopt controls within one year of the January after a CTG for a particular source category is published. The Connecticut 1982 SIP does not make this commitment specific to the Group III CTG's; however, as stated in 40 CFR 52.383, the State is obligated to adopt these controls. At this time, EPA has published one Group III CTG category, petroleum solvent dry cleaners, in September 1982. Thus, Connecticut must adopt controls on this category by January 1984.

Proposed Action: EPA is proposing to:

(1) Disapprove the proposed Connecticut 1982 SIP revisions as not meeting the requirement to adopt controls on all Group I CTG source categories.

(2) Disapprove the proposed Connecticut 1982 SIP revisions as not meeting the requirement to adopt controls on all Group II CTG source categories.

Should Connecticut submit acceptable regulations and commitments which meet EPA requirements for controlling CTG source categories prior to EPA taking final action, EPA would approve these portions of Connecticut's 1982 SIP revisions.

(b) The 100 TPY RACT Regulation: Connectcut submitted a generic RACT regulation (Connecticut Regulation 19–508–20(ee)) for the control of all VOC sources that emit 100 tons per year (TPY) or more, not currently regulated under existing Connecticut regulations. This regulation was submitted to fulfill the 1982 SIP policy requirement to control 100 TPY non-CTG sources. Because the regulation, as written does not establish federally enforceable emission limitations, it cannot be approved by EPA. EPA has asked Connecticut to make provisions to submit each individual RACT determination made pursuant to the regulation to EPA for approval as SIP revision.

Proposed Action: EPA is proposing to disapprove Connecticut Regulation 19–508–20(ee) as not meeting the requirement to control VOC sources with actual emissions of 100 TPY or more. Should the State submit changes which make this regulation acceptable prior to EPA taking final action, EPA will approve this portion of Connecticut's 1982 SIP revisions.

6. *Inspection and Maintenance (I&M):* All major urban areas needing an extension beyond 1982 for attainment of a standard for ozone or carbon monoxide were required to include vehicle I&M as an element of the 1979 SIP revision. Connecticut included I&M in its 1979 SIP revision. EPA's evaluation of, and action on, the I&M portion of the Connecticut 1979 SIP revision is documented in the December 23, 1980 Federal Register (see 45 FR 84769).

As discussed in the January 22, 1981 Federal Register on 1982 SIP policy (see 46 FR 7182), states with areas that have I&M programs under development, or

operational as part of their 1979 SIP revisions, were required to submit only qualitative descriptions of their I&M program elements in the 1979 SIP submittal. Unless already submitted and approved as part of a previous SIP submittal, the 1982 SIP revision must include the rules and regulations needed to implement the I&M program to achieve the minimum emission reduction requirements and commitments to other program details. EPA will determine the overall adequacy of the critical elements of each I&M program and, therefore, the approvability of the I&M portion of the 1981 SIP by comparing those elements to the established I&M guidance. Draft rules and regulations and information on all program elements with the exception of quality control, audit and surveillance procedures have been reviewed by EPA and determined to be approvable once they are finalized. While EPA's own estimate of the projected effectiveness of the I&M program indicate that the emissions reduction will be achieved, the State's draft submittal does not clearly show that this is the case. Therefore, although Connecticut has moved successfully toward implementing its I&M program by January 1, 1983. Connecticut must submit the following information in the final plan revisions:

- Department of Motor Vehicle (DMV) and DEP regulations contract, and memoranda of understanding necessary to support the I&M program,
- Quality control, audit and surveillance procedures for contractor and fleet stations, and
- Support information to show how the emission reductions claimed for the I&M program were calculated.

Proposed Action: EPA is proposing to approve the Connecticut I&M program provided the above information is submitted and found acceptable prior to EPA taking final action.

7. *Transportation Measures:* State and regional agencies have been involved in the evaluation and recommendation of reasonably available transportation control measures (RACMs) for the Connecticut 1982 SIP in accordance with EPA guidance. As a result, the State has adopted measures such as ride-share programs and traffic flow improvments. While the submittal does commit to an annual reduction of VOC emissions, which accounts for 1425 kg/day in 1987, it does not show the emission reduction attributable to individual RACMs or categories of RACMs as required by EPA guidance. Further, the State has not supported the annual target reductions with commitments, schedules of key milestones and, where appropriate, evidence of legal authority. Additionally, EPA believes the submittal does not adequately address the monitoring plan requirements for tracking the effectiveness of adopted RACMs, and modeling procedures for assessing the conformity of transportation projects with the SIP. The submittal also needs minor clarifying changes made to the plan and program level conformity provisions.

Proposed Action: EPA is proposing approval of the Transportation Measures portion of the Connecticut submittal with the understanding that the final revisions will: (1) show emissions attributable to individual RACMs or RACM categories, (2) provide additional information to support the annual emission reduction targets, (3) describe an acceptable monitoring plan, (4) describe acceptable project level modeling procedures, and (5) clarify the plan and program level conformity provisions.

8. *Reasonable Further Progress:* The Connecticut 1982 SIP indicates that the State will attain the ozone standard by December 31, 1987. The demonstration is acceptable, although, as discussed above under Section 4, Stationary Source Controls, EPA is only proposing approval of that portion of the growth margin which is based on inventory projections accepted by EPA. An additional 14,000 kg/day of VOCs in years 1982 through 1987 will be accepted by EPA as allowance for growth if the State resolves questions in several area source inventory categories.

Proposed Action: EPA is proposing to approve the Reasonable Further Progress demonstration and the associated growth margin minus 14,000 kg/day as explained above. EPA may approve a larger growth margin if Connecticut resolves questions in several area source inventory categories prior to EPA taking final action.

B. Carbon Monoxide

1. *Summary:* Carbon monoxide violations are primarily caused by automobile emissions and are generally associated with traffic congestion at the intersection of major roads or in a central business district. At these locations, vehicles may idle for relatively long periods of time. The emissions during this time period are very high and are less diluted. These problem areas are called hotspots. The only violations of the carbon monoxide standards in Connecticut are hotspot violations.

2. *Air Quality Data:* The requirements for air quality data, as discussed under the ozone section of this notice, have not been met for carbon monoxide. The submission contained no current ambient air quality data.

Proposed Action: EPA is proposing to disapprove the air quality data base. Should Connecticut submit the most recent three years of carbon monoxide data prior to EPA taking final action, EPA would approve this portion of the submittal.

3. *Attainment Demonstration and Reasonable Further Progress:* In order to determine the extent and severity of carbon monoxide violations, Connecticut ranked likely hotspot locations using the "Carbon Monoxide Hotspot Screening Guidelines" (EPA–450/3–78–033–035). Additionally, the State has committed to analyzing the top-ranked modeled and monitored violations with a more refined dispersion model, Caline 3. The results of the analysis are to be completed by February 28, 1983. Since the refined analysis has not yet been completed, Connecticut's proposed attainment demonstration and Reasonable Further Progress lines were based only on a rollback model. A rollback model assumes changes in ambient levels will be directly proportional to changes in emission levels, and does not consider parameters critical to an accurate assessment of carbon monoxide levels such as meteorology and site geometry. EPA can accept this on an interim basis, but before final approval, Connecticut must submit a carbon monoxide attainment demonstration and Reasonable Further Progress lines which are based on a dispersion model and on current ambient data.

Proposed Action: EPA is proposing to approve the attainment demonstration and Reasonable Further Progress lines based on the understanding that the State will submit a dispersion analysis prior to EPA taking final action.

4. *Transportation Control Measures:* Measures adopted by Connecticut to reduce VOC emissions will also reduce carbon monoxide levels at hotspots. The most important of these measures for carbon monoxide reductions are I&M, traffic flow improvements, and the right-turn-on-red program. The State will consider site-specific measures if the refined modeling shows that additional measures are needed to attain standards at a particular location.

Proposed Action: EPA has proposed action under "Transportation Measures" of the ozone section of this Notice; no separate action in being proposed.

C. Additional Requirements

1. *Resource Commitments:* In order to assure that the control strategies included in the 1982 attainment plan are implemented, EPA has requested that the State show the financial support which will be associated with these actions. In its submittal, the State commits to measures necessary to demonstrate attainment of the ozone and carbon monoxide standards. The State has indicated that the final 1982 SIP submission will discuss the State's commitment to provide the resources needed to implement the measures.

Proposed Action: EPA is proposing to approve this portion of the SIP, with understanding that the State will provide a commitment to resources prior to EPA taking final action.

2. *Public Participation and Intergovernmental Consultation Documentation:* The State has established a mechanism for on-going public participation in the development of stationary source and transportation control measures and has implemented a program to promote greater awareness of air quality problems by the public. All of the public participation programs have been developed in accordance with EPA guidelines. However, these programs have been only briefly described in the proposed 1982 SIP revisions. EPA has asked the State to more fully describe its program in the final submittal.

Proposed Action: EPA is proposing to approve this portion of the SIP with the understanding that Connecticut will submit additional information.

Summary of Proposed Action

EPA is proposing to disapprove the Connecticut 1982 State Implementation Plan Revisions for ozone and carbon monoxide, which were submitted in draft on June 15, 1982 and September 29, 1982. Specifically, EPA is proposing the following actions:

1982 SIP Element	Proposed Action
A. Ozone:	
Emissions Inventory	Qualified Approval.
Air Quality Data	Disapproval
Attainment Demonstration	Qualified Approval.
Stationary Source Controls	Disapproval.
Inspection and Maintenance Program.	Qualified Approval.
Transportation Control Measures.	Qualified Approval.
Reasonable Further Progress.	Qualified Approval
B. Carbon Monoxide:	
Air Quality Data	Disapproval.
Attainment Demonstration and RFP.	Qualified Approval.
Transportation Control Measures.	(No separate action proposed).
C. Additional Requirements: Resources	Qualified Approval.
Public Participation and Intergovernmental Consultation Documentation.	Approval.

EPA is soliciting public comments on issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting a written document to the EPA address in the ADDRESSES section above.

Under Section 110(a)(2)(I) and 40 CFR 52.24, in addition to the construction moratorium already in affect for sources of VOCs, disapproval would trigger a moratorium on the construction and modification of major stationary sources of carbon monoxide in the nonattainment area to which these plan revisions apply. Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Clean Air Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24892 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

If the State corrects the deficiencies prior to EPA taking final action, EPA will approve Connecticut's plan revisions. If the proposed revisions are substantially changed, in areas other than those identified in this notice, EPA will evaluate those changes and may publish a revised NPR. If no substantial changes are made, EPA will issue a notice of final rulemaking on the revisions. The final rulemaking action by EPA will be published only after the SIP revisions have been adopted by Connecticut and submitted to EPA for incorporation into the SIP.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region I office (see address above).

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Section 110(a) and 301(a) of the Clean Air Act, as amended (42 USC 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: November 26, 1982.

Lester A. Sutton, P.E.,

Regional Administrator, Region I.

[FR Doc. 83-2449 Filed 2-2-83; 8:45 am]

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40 CFR Part 52

[TN-007; A-4-FRL 2256-7]

Approval and Promulgation of Implementation Plans; Tennessee: 1982 Ozone and Carbon Monoxide Attainment Plan for Nashville—Davidson County

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the 1982 State Implementation Plan revisions which the State of Tennessee submitted on June 30, 1980, for the Nashville ozone nonattainment area. These revisions meet the requirements of the Clean Air Act (CAA) and EPA policy. EPA proposes to disapprove the carbon monoxide revision unless a vehicle inspection and maintenance (I/M) program is added. The intended purpose of these actions is to provide for attainment of the National Ambient Air Quality Standards for ozone (O_3) and carbon monoxide (CO), as required under Part D of Title I of the Clean Air Act, for without an I/M program, the CO standard will not be attained by the CAA's December 1987 deadline.

DATE: EPA must receive your comments on or before March 21, 1983.

ADDRESSES: Send any comments to Waymond Blackmon, EPA Region IV, Air Management Branch, 404/881-2864 or FTS 257-2864. You may inspect

copies of the submittal and EPA's evaluation during normal business hours at the following locations:

EPA Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365
Tennessee Air Pollution Control Division, 150 9th North Ave, Terra Building, Nashville, Tennessee 37203
Air Pollution Section, Metropolitan Health Department, 1600 Hayes Street, Nashville, Tennessee 37203

FOR FURTHER INFORMATION CONTACT: Waymond Blackmon, EPA Region IV, Air Management Branch, 404/881-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added a new Part D Title I of the Act. Under this Part, the states had to revise their State Implementation Plans (SIPs) for all nonattainment areas and submit the revisions to EPA by January 1, 1979. The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the ozone (O_3) or carbon monoxide (CO) standard by that date despite the implementation of all reasonably available control measures (section 172(b)(2)).

If EPA approved this demonstration, the attainment date for O_3 or CO could be extended up to December 31, 1987. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements.

These second SIP revisions had to be submitted by July 1, 1982. On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble for SIP Revisions for Nonattainment Areas," which was published on April 4, 1979 (44 FR 20372).

On February 13, 1979, the State of Tennessee submitted an initial SIP revision for the Nashville—Davidson County CO and O_3 nonattainment areas. The State requested that EPA extend the attainment date for the CO and O_3 standards until December 31, 1987. EPA granted this request and conditionally approved the initial plan revision on August 13, 1980 (45 FR 53809). (The extensions were inadvertently omitted from 40 CFR 52.2226, Extensions, but are reflected in the Table of 40 CFR 52.2230, Attainment dates for national standards.)

EPA granted the request on the condition that the State submit a revised definition of Volatile Organic Compounds (VOC) and an approvable enforement mechanism for the I/M program. The State submitted a revised VOC definition, which EPA approved on December 16, 1981 (45 FR 61270). However, the enforcement mechanism for the I/M program has not been submitted. Therefore, the 1979 SIP has not received final approval. For further details on the I/M program, see the discussion below under Section B., the carbon monoxide SIP.

The State of Tennessee submitted its 1982 revisions to the CO/O_3 SIP on June 30, 1982. EPA's review of the State's submittal is presented in three main parts:

A. The ozone SIP;
B. The carbon monoxide SIP; and
C. The additional requirements set out in EPA guidance, including basic transportation needs, conformity of Federal actions, and consultation with State and local officials.

A. The Ozone (O_3) SIP

EPA designated Nashville—Davidson County as an urban nonattainment area for ozone. The ozone modeling analysis indicates that a 9.2% emission reduction will be needed to eliminate violations of the ozone standard in the Metropolitan Nashville—Davidson County nonattainment area. Through adopting rules and regulations for stationary sources and the Federal Motor Vehicle Emission Control Program, the local air agency demonstrated that a 35% reduction would occur by 1982. It thus ensured an adequate margin over the 9.2% emission reduction required by using ozone modeling. Because the present SIP demonstrates attainment of the ozone standard by December 31, 1982, EPA is rescinding the extension (until December 31, 1987) that had been granted when the 1979 SIP was approved. The new date for attainment of the ozone standard is December 31, 1982. The present submittal was evaluated using criteria that were applicable to the 1979 SIP.

The State of Tennessee's 1982 SIP for O_3 combines stationary and mobile source strategies to achieve the necessary reduction. It is divided into six sections:

1. Emissions Inventories
2. Modeling and Monitoring
3. Stationary Source Controls
4. Inspection and Maintenance (I/M)
5. Transportation Control Measures (TCMs)
6. Reasonable Further Progress (RFP)

1. *Emission Inventories:* For the 1982 SIP, states were to submit comprehensive emission inventories indicating 1980 and attainment year emission levels from all sources of Volatile Organic Compounds (VOCs) and oxides of Nitrogen (No_x).

The 1980 emission totals are based on the most recent data available. Point source totals are based on permit application data and stack testing data. Area source totals are based upon calculations using appropriate emission factors and EPA's section 298 population projections. The highway emissions were obtained by applying EPA's MOBILE 2 (Mobile Source Emissions Model) emission factors to travel estimates obtained from the Tennessee Department of Transportation.

In developing the inventory of emissions from mobile sources, the Metropolitan Planning Commission (MPC) seasonally adjusted all emissions to a summer workday. The inventory of emissions from stationary sources, developed by the Metropolitan Health Department (MHD), included all major stationary sources located in Metropolitan Nashville and Davidson County.

Proposed Action: EPA proposes to approve the Emission Inventory portion of the Ozone SIP.

2. *Modeling and Monitoring:* To ensure consistency among the states having to demonstrate attainment by 1987, EPA encouraged each state to use the City-Specific Empirical Kinetic Modeling Approach (EKMA). This procedure uses an ozone isopleth diagram to estimate the reductions in Nonmethane Organic Carbon and/or Oxides of Nitrogen needed to attain the ozone standard.

The Metropolitan Nashville—Davidson County Health Department operated two ozone monitoring sites, and the State of Tennessee operated a site downwind of Nashville. Once the days for modeling were determined, the Ozone Isopleth Plotting Package (OZIPP—a computer package model that generates the ozone isopleths used in the EKMA procedure) was used to generate an isopleth diagram for each day. The model required using day-specific modeling inputs. Based upon the input variables for developing day-specific isopleths, it was determined that a 9.2% control value would be used to meet the ozone standard of 0.12 ppm by 1982.

Proposed Action: EPA proposes to approve the Modeling and Monitoring portion of the SIP.

3. *Stationary Source Control:* Cities with a post 1982 attainment demonstration are required to adopt the third in a series of VOC regulations for certain source categories. Those cities must also adopt regulations for all other major VOC sources (non-RACT sources). Since Nashville has demonstrated attainment by 1982, it is

not required to adopt any stationary source regulations at this time.

The State of Tennessee has successfully addressed all the requirements outlined in the January 22, 1981, **Federal Register** (46 FR 7182) for "Stationary Sources."

Proposed Action: EPA proposes to approve the Stationary Source Controls portion of the Ozone SIP.

4. *Imspection and Maintenance (I/M):* EPA is proposing to approve the ozone SIP revision that demonstrates attainment by December 31, 1982. Therefore, an I/M program is not required for ozone.

Proposed Action: EPA proposed to approve the ozone plan, since an I/M program is not required.

5. *Transportation Control Measures:* Based upon EPA's proposal to approve the ozone demonstration, transportation control measures are not required.

Proposed Action: EPA proposes to approve the Transportation Control Measures portion of the O_3 SIP.

6. *Reasonable Further Progress:* The SIP demonstrates that the ozone standard will be achieved by December 31, 1982. This satisfies the RFP requirements.

Proposed Action: EPA proposed to approve the RFP demonstration for ozone.

B. Carbon Monoxide (CO) SIP

CO violations are caused primarily by automobile emissions. They generally occur in the areas around major intersections, or in central business districts, where vehicles tend to idle for relatively long periods. EPA calls these problem areas "hot spots."

The State submittal combines a mix of mobile source strategies to achieve the emission reductions necessary to project attainment of the carbon monoxide standard. It is divided into six sections:

1. Emission Inventories.
2. Modeling and Monitoring.
3. Stationary Source Controls.
4. Inspection and Maintenance (I/M).
5. Transportation Control Measures (TCMs).
6. Reasonable Further Progress (RFP).

1. *Emnission Inventory:* The emission inventory for carbon monoxide (CO) was done using a typical winter workday and a three month average temperature of 38.8° F. The inventory was done for a base year of 1980 with projections for 1982 through 1987. The mobile source inventory was developed by the MPC and the stationary source inventory was developed by the MHD. The emission inventory was compiled using appropriate EPA policies and procedures. Further, there were no point sources of CO greater than 1000 TPY.

Proposed Action: EPA proposed to approve the Emission Inventory portion of the CO SIP.

2. *Modeling and Monitoring:* The State submittal contains a detailed modeling analysis that demonstrates attainment of the CO standard by 1987 at local hot spot intersections. Fifty-one intersections were screened, and twenty-two were found to need further investigation.

Upon further screening, eleven were found to need a detailed modeling analysis to determine what type of strategies would be needed to reduce the CO emissions to an acceptable level. These eleven were analyzed with the Intersection Midblock Model (IMM). The IMM uses meteorological inputs as well as traffic parameters and emission factors for mobile sources to predict one and eight-hour concentrations of CO. These concentrations are then compared to the one and eight-hour standards for CO.

Using IMM, the State demonstrated that attainment would be achieved at four intersections in 1980. Of the remaining seven, three were demonstrated to attain the standards by 1983 before any reduction strategies could be put into place. This leaves only four intersections where TCMs are needed to attain the CO standard. These four intersections were modeled using strategies of (a) Road alignment, (b) throat widening, and (c) the optimization of signalization for the downtown area. From the SIP submittal it becomes apparent that two of these intersections will not come into compliance unless the projected improvements are made. These two intersections are Harding Road with Woodmont/White Bridge, and Broadway with Eighth and Ninth Avenues. These two intersections require, respectively, straightening the alignment and the signal optimization project to attain the CO standard.

On September 22, 1982, EPA received a copy of a letter to the MHD from the MPC concerning the failure of Nashville residents to pass a referendum for a one-cent gasoline sales tax. The letter also stated that the signal optimization system was being delayed because of personnel shortages in the Metropolitan Traffic and Parking Commission (MT&P).

Proposed Action: EPA is proposing to disapprove this portion for failure of the MT&P to carry out the signal optimization system as adopted and approved in the SIP revision. Further, EPA is requiring that the MPC substitute contingency measures to replace the TCMs that were affected by the one-cent gas tax referendum (see discussion under Transportation Control Measures).

3. *Stationary Source Controls:* EPA policy requires that regulations for the RACT control of 1000 TPY stationary sources of CO be submitted with the 1982 SIP revision.

Based upon the state of Tennessee's submittal of the CO emission inventory, there are no 1000 TPY stationary sources of CO in the Davidson County area. Since EPA policy only requires controlling of sources greater than 1000 TPY, no RACT regulations were required to be submitted from the MHD.

Proposed Action: EPA is proposing to approve the Stationary Source Controls portion of the CO SIP.

4. *Inspection and Maintenance (I/M):* All urban nonattainment areas that needed an extension beyond 1982 to attain a standard for O_3 or CO were required to include a vehicle I/M program with their 1979 SIP submittal. The 1979 SIP for the Nashville area included an I/M program, and EPA conditionally approved the SIP on August 13, 1980 (45 FR 53809). The approval was conditional because the I/M program submittal did not contain an adequate enforcement mechanism to keep noncomplying vehicles from operating on Davidson County streets and roads.

The 1982 SIP revision must also contain an I/M portion. This portion must include: (1) The rules and regulations for implementing an I/M program that will meet the minimum requirements for emission reduction, and (2) commitments to other needed program details. (However, I/M elements already submitted and approved as part of an earlier SIP submittal need not be resubmitted.) The 1982 SIP policy published on January 22, 1981 (46 FR 7182), discussed these requirements. EPA will compare the critical elements of an I/M program with established I/M policy to determine both their overall adequacy and the approvability of the 1982 SIP that contains them.

On April 30, 1982, EPA notified Governor Lamar Alexander of its intent to propose a finding in the **Federal Register** that Nashville was no longer meeting its commitments to implement an I/M program. Further, if this finding were affirmed, EPA would be required to impose restrictions in Tennessee under the mandates of the Clean Air Act. The Governor responded by stating that attainment of the CO standard would be achieved by December 31, 1987, without I/M and by 1985 with I/M. Because of the projected attainment by December 1987, the cost involved in

starting the program, and the possibility that Congress might revise the requirements for I/M, Governor Alexander asked EPA to take no further action on I/M until Congress completed its revision of the Act.

On May 21, 1982, EPA wrote Governor Alexander again, reminding him of the 1977 Amendment of the Clean Air Act requiring states to submit a 1982 SIP revision for cities that were granted an extension to attain the CO and O_3 standards. This letter stated that the 1982 SIP revision must comply with the requirements of section 172 (b) and (c) of the Act, which include implementation of an I/M program.

Even though the CAA requires an I/M program for post-1982 nonattainment areas, Nashville has chosen not to implement a program. It has not complied with any of the requirements for I/M as published in the 1982 SIP policy in the **Federal Register** of January 22, 1981 (46 FR 7182).

Proposed Action: EPA proposes to disapprove the I/M portion of the CO SIP, for failure to submit an acceptable program.

5. *Transportation Control Measures (TCMs):* Section 108 of the Clean Air Act (CAA) requires urban nonattainment areas to analyze TCMs and to implement those measures that are found feasible. After thoroughly analyzing the measures listed in section 108 of the CAA, the MPC selected six TCMs for inclusion in the 1982 SIP revision: (1) Return to the 1980 level of service for transit, (2) flat fare system for transit, (3) improvement of transit route speed, (4) variable work hours program, (5) subsidizing employee transit cost, and (6) signal optimization. Contingency provisions to compensate for unanticipated shortfalls in planned emissions reductions were also included. On September 22, 1982, EPA received a copy of a letter sent from the MPC to the MHD indicating that the one-cent gasoline sales tax referendum did not pass. It is EPA's understanding that this will prevent the implementation of the transit strategies adopted for the SIP. Further, the letter stated that the Metropolitan Traffic and Parking Commission (MT&P) was not implementing the signal optimization program because of personnel shortages.

With regard to the one-cent gasoline sales tax referendum, the MPC will have to substitute measures to replace those that will not be carried out because of the loss of revenue. EPA suggests that the MPC consider substituting measures from its contingency plan. Without the signal optimization program, it is apparent from the SIP that attainment of the standard cannot be achieved at the intersection of Broadway with Eighth and Ninth Avenue. The RFP graph in figure 1 of the SIP shows that attainment of the CO standard is not projected until mid-1986, and the signal optimization program was scheduled to reduce CO emissions by 41% between the years 1984 and 1985.

Proposed Action: EPA proposes to disapprove the TCMs portion of the CO SIP.

6. *Reasonable Further Progress (RFP):* The SIP contained RFP graphs for the intersections that needed TCMs to attain the CO standard. These appear to be reasonable, except that the TCMs that were adopted may not be implemented because of failure of a one-cent tax referendum and personnel shortages.

Proposed Action: EPA is proposing to disapprove the RFP portion of the CO SIP. (See discussion under Transportation Control Measures above.)

C. Additional Requirements

1. *Basic Transportation Needs (BTN):* The BTN for Nashville was developed by the MPC in conjunction with the Citizen Advisory Committee (CTC) and the Technical Coordinating Committee (TCC). Working together, these groups determined and selected a transportation system that would meet and enhance the transportation system's goals of increasing efficiency, quality, and mobility. An intergal part of the BTN involved adopting and selecting the TCM strategies for the area. In particular, the low cost-transit emphasis package for the TCM analysis was being used to enhance the BTN for Nashville. Failure of the one-cent tax referendum has placed the BTN in limbo because the low-cost transit improvements cannot be implemented.

Proposed Action: EPA proposes to disapprove the BTN portion of the CO SIP. In order for this to be approved, the MPC will have to demonstrate to the satisfaction of EPA and the public that not implementing the low-cost transit improvements will not affect the BTN. The MPC can also substitute measures for those that were lost because of the failure of the one-cent gas tax.

2. *Conformity of Federal Actions:* Under section 176 (c) of the CAA all Federal projects must conform to the SIP. EPA met with other Federal agencies and identified only one significant project. The projected emissions from that project, Cockrill Bend Airport, were included in the 1982 and 1987 emission inventories for Nashville-Davidson County. In addition all Federal actions are required to be in conformity with the approved SIP, the plan submitted by the state meets these requirements.

Proposed Action: EPA proposes to approve the Conformity of Federal Actions portion of the CO SIP.

3. *Consultation with State and Local Officials:* Sections 121 and 174 of the CAA require each state to provide a process for consultation among Federal, State, and local officials and to determine jointly the roles that various governmental agencies would take in developing, carrying out, and enforcing the SIP. The 1979 SIP satisfied these requirements. No significant changes or revisions have been made. The 1982 SIP describes, in Appendix A and B, the process established and submitted in the 1979 SIP. The process is established and seems to be working well.

Proposed Action: EPA proposes to approve the Consultation with State and Local Officials portion of the CO SIP.

4. *Public Participation and Intergovernmental Consultation:* The proposed revisions to the Tennessee SIP include a detailed discussion of Citizen Information and Participation Work Tasks. EPA has reviewed these work tasks and concludes that this element of the 1982 SIP is fully approvable.

Proposed Action: EPA is proposing to approve the Public Participation and Intergovernmental Consultation portion of the CO SIP.

5. *Resource Commitments:* To ensure that the control strategies included in Tennessee's 1982 attainment plan are implemented, EPA has requested that the State discuss how the actions will be supported financially. Tennessee's 1982 SIP submittal explains in some detail, the State's or City's commitment to provide the resources necessary to implement the 1982 plan revisions and cites specific resources to be used for each measure. However, these resources are not available. (See TCM discussion above.)

Proposed Action: EPA is proposing to disapprove the Resource Commitments portion of the CO SIP.

D. *Proposed Action:* Based upon the above discussions, EPA is proposing to approve the 1982 ozone SIP revision and to disapprove the 1982 CO SIP revision for Nashville-Davidson County, Tennessee.

If the major deficiencies discussed above are not remedied before EPA takes final action, EPA will be required to disapprove the revision to the carbon

monoxide plan. Under Section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapproval would trigger a moratorium on the construction and modification of major stationary sources of carbon monoxide in the nonattainment area to which this plan revision applies.

Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Clean Air Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IV office.

The Administrator's decision to approve or disapprove the 1982 SIP for Nashville-Davidson County will be based on whether it meets the requirements of § 110(A)(2)(A)–(K) and § 110(a)(3) of the Clean Air Act, as set forth in 40 CFR Part 51. This SIP is being proposed pursuant to Sections 110(a), 172, and 301(a) of the Clean Air Act, as amended (43 U.S.C. 7410(a), 7502, and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: November 16, 1982, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-2438 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-1-FRL 2257-6]

Approval and Promulgation of Implementation Plans; Rhode Island; 1982 Ozone Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to approve the 1982 State Implementation Plan revisions for the State of Rhode Island which were submitted on May 14, 1982; July 1, 1982; July 7, 1982; and October 4, 1982. These revisions meet the applicable requirements of the Clean Air Act (the Act) and EPA policy. The intended effect of this action is to provide for attainment of the primary National Ambient Air Quality Standard (NAAQS) for ozone, as required under Part D of the Clean Air Act Amendments of 1977. These Rhode Island State Implementation Plan revisions now demonstrate attainment of the ozone standard by December 31, 1982.

DATE: EPA must receive your comments on or before March 21, 1983.

ADDRESSES: Send any comments to Harley F. Laing, Director, Air Management Division, EPA Region I, JFK Federal Building, Boston, MA 02203. You may inspect copies of the submittal and EPA's evaluation during normal business hours at: (i) The Environmental Protection Agency, Region I, JFK Federal Building, Room 2111, Boston, MA 02203; and (ii) the Department of Environmental Management, 75 Davis Street, Cannon Building, Room 204, Providence, Rhode Island 02908.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (617) 223–5130, FTS 223–5130

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act Amendments of 1977 add a new Part D to Title I of the Act. Under this Part, the States had to revise their State Implementation Plans (SIPs) for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (Sections 171–178 of the Clean Air Act; Section 129(c) (uncodified) of Pub. L. 95–95). The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain the ozone standard by that date (Sections 172(a)(1), 172(a)(2)).

If EPA approved this demonstration, the attainment date for ozone could be extended up to December 31, 1987, and the State could defer compliance with certain of the Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements (Section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95–95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (4 FR 20372).[1]

The State of Rhode Island submitted initial SIP revisions for meeting the Part D requirements of the Act in May, June, and August 1979. At that time the State requested that EPA extend the attainment date for the ozone standard until December 31, 1987. EPA approved this request, approved portions of the initial plan revisions, and conditionally approved other portions of those revisions on May 7, 1981 (46 FR 25446). Rhode Island submitted revisions to the ozone SIP on May 14, 1982; July 1, 1982; July 7, 1982; and October 14, 1982. Rhode Island is no longer requesting an extension until December 31, 1987. The State's submittals, discussed in detail below, demonstrate attainment of the primary ozone standard by December 31, 1982. EPA's review of the State's ozone SIP evaluates its content against the requirements of an ozone attainment strategy which achieves the standard by December 31, 1982.

II. The Ozone SIP

Ozone is formed from various precursors, primarily oxides of nitrogen and a class of hydrocarbons called "reactive volatile organic compounds" (VOCs). VOC emissions are controlled to reduce ozone concentrations.

Rhode Island's nonattainment area for ozone is statewide. The ozone modeling analysis indicates that a 12 percent reduction in VOC emissions is needed to eliminate violations of the ozone standard caused by the State of Rhode Island.

The Rhode Island submittal contains a mix of additional stationary source control requirements with previously approved stationary and mobile source strategies (46 FR 25446) to achieve this necessary reduction by December 31, 1982. The ozone attainment SIP evaluation is divided into five sections:

A. Emissions Inventories,

[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

B. Modeling and Monitoring,
C. Stationary Source Controls,
D. Reasonable Further Progress,
E. Other issues.

A. Emissions Inventories

For the 1982 SIP, States were to submit comprehensive emissions inventories indicating 1980 and attainment year emissions levels from all sources of VOCs and oxides of nitrogen (NO_x).

Rhode Island's 1982 submittal includes these emissions inventories in Summary Tables found in Section III of the narrative portion of the SIP. These Summary Tables provide emissions data for the years 1980–1987.

Appendix F of the SIP submittal documents the procedures, assumptions, data, and projections used in compiling the emissions inventories for VOCs and NO_x.

EPA has reviewed the State's submittal and determined that these emissions inventories are comprehensive and their documentation meets federal guidance requirements.

Proposed Action: EPA proposes to approve the emissions inventories and accompanying documentation portions of the 1982 ozone SIP for the State of Rhode Island.

B. Modeling and Monitoring

To insure consistency among the States having to demonstrate attainment by 1987, EPA required each State to use the City-Specific Empirical Kinetic Modeling Approach (EKMA). The modeling is used to calculate the percentage reduction in VOCs needed to eliminate violations of the ozone standard from nonattainment urban areas. The model becomes City-Specific when its input data are specified for a particular city. That city-specific data include:

—Sunlight density
—Temporal and spatial VOC and NO_x emission patterns
—Transported ozone and precursors

Rhode Island's City-Specific EKMA modeling is found in Appendix G of the 1982 Submittal. The table below summarizes the information, provided by the EKMA modeling study, used to determine the percent reduction in VOC emissions required to eliminate violations of the ozone standard:

Nonattainment area	Monitor location	Design [1] value (ppm)	Percent reduction	Attainment year
[illegible] Island (Statewide).	Medfield, MA.	135	12	1982

[1] The "daily design value" refers to the measured maximum hourly ozone value for the day being modeled. (See "Guidelines for Use of City-Specific EKMA in Preparing Ozone SIPs", EPA 450/4–80–027).

EPA worked closely with the Rhode Island Department of Environmental Management (RIDEM) while that agency conducted its EKMA modeling study. Rhode Island identified fifteen days when there were violations of the primary ozone standard at sites downwind of Providence in 1979, 1980, and 1981. Due to prevailing winds, Rhode Island is often downwind of the New York, New Jersey, and Connecticut urban area. Rhode Island has documented that most of the fifteen violations were directly attributable to this upwind tri-state urban area (see Table G–1 of Appendix G). EPA has concurred with Rhode Island that these days not be used in the design value determination for ozone. EPA has reviewed Appendix G, the City-Specific modeling study, and found it was conducted according to EPA guidance.

With regard to ambient air quality data requirements, the 1982 submittals must include the most recent three years of air quality data from the State and local air monitoring system network. That data must be reduced, validated, and summarized in the submittal.

Rhode Island presents a comprehensive description of its ambient air quality monitoring network and methods for utilizing that network in Section VII of the narrative portion of the 1982 submittal. Appendix G of the submittal includes a table which summarizes the monitoring data from sites used in the EKMA modeling analysis.

EPA has reviewed the ambient air quality monitoring data presented in Section VII and Appendix G of the 1982 submittal. We have determined that it was collected, reduced, validated, and summarized according to federal guidance.

Proposed Action: EPA proposes to approve the modeling and monitoring portions of the 1982 ozone SIP for the State of Rhode Island.

C. Stationary Source Controls

Section 172(b)(3) of the Act requires States to adopt regulations requiring the use of Resonably Available Control Technology (RACT) for existing sources in nonattainment areas. To identify RACT for stationary sources of VOC, EPA has issued two groups of Control Technique Guidelines (CTG's) containing "presumptive norms" which EPA uses to evaluate State regulations. Work is continuing on a third set of CTG's.

Section 172 requires all SIPs for nonattainment areas to assure attainment of the national standards. Because of the imprecision inherent in most currently available modeling techniques, for ozone it is difficult to produce reliable attainment demonstrations. Consequently, to insure that ozone SIPs for nonattainment areas will provide for attainment, EPA has issued minimum control requirements for existing stationary sources of VOC. Additional controls are also required if the minimum controls will not provide sufficient emission reductions to assure attainment. The minimum controls are based on the CTG's described above. (See the General Preamble, 44 FR 20372, 20376.)

As previously stated, Rhode Island's submittal demonstrates attainment of the ozone standard by the end of 1982. For urbanized areas that show attainment by the end of 1982, EPA requires control of all major sources in a category for which EPA has issued a CTG. A major source is defined as one that has the potential to emit 100 tons per year (tpy) or more of VOC. (See 44 FR 20376).

The following Group I and II source categories are located in Rhode Island:

Group I
—Surface Coating of Fabrics
—Surface Coating of Paper Products
—Tank Truck Gasoline Loading Terminals
—Gasoline Service Stations—Stage I
—Fixed-Roof Petroleum Storage Tanks
—Cutback Asphalt
—Solvent Metal Cleaning

Group II
—Surface Coating of Miscellaneous Metal Parts and Products
—Manufacture of Synthesized Pharmaceutical Products
—Graphic Arts—Rotogravure and Flexography
—Perchlorethylene Dry Cleaning Systems
—Petroleum Liquid Storage in External Floating Roof Tanks
—Leaks from Gasoline Tank Trucks and Vapor Collection Systems.

Rhode Island has already adopted and EPA has already approved regulations requiring RACT for the following CTG categories (See 46 FR 25446, 46 FR 6024, and 47 FR 17816):

Group I
—Surface Coating of Fabrics
—Surface Coating of Paper Products
—Tank Truck Gasoline Loading Terminals
—Bulk Gasoline Plants
—Gasoline Service Stations—Stage I
—Fixed Roof Petroleum Storage Tanks
—Solvent Metal Cleaning

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Group II
—Petroleum Liquid Storage in External Floating Roof Tanks.

Rhode Island has adopted regulations, or submitted schedules for adopting regulations, which impose RACT for the following CTG categories:

Group II
—Manufacture of Synthesized Pharmaceutical Products
—Graphic Arts
—Leaks from Gasoline Tank Trucks and Vapor Collection.

EPA is proposing to approve these regulations and schedules.

The regulations Rhode Island has already adopted appear to have provided for attainment of the ozone standard. Nevertheless, to satisfy EPA's minimum control requirements, the State still needs to adopt regulations for the following CTG categories:

Group I
—Cutback Asphalt

Group II
—Surface Coating of Miscellaneous Metal Parts and Products
—Perchloroethylene Dry Cleaning Systems.

Rhode Island has submitted a schedule for amending Regulation 15 of its SIP to require RACT on all presently unregulated stationary sources of VOCs greater than or equal to 100 typ, except cutback asphalt. This regulation was amended by the end of 1982. Under existing provisions of Regulation 15, RACT determinations for each individual source will be submitted to EPA as source-specific SIP revisions. All of these revisions will be submitted by December 31, 1983.

This revision to Regulation 15 will fulfill Rhode Island's requirements to control major sources in the two remaining Group II categories (metal parts and perchloroethylene dry cleaners). In addition, this regulation will require control of major VOC sources which will not be covered by an CTG.

The revision to Regulation 15 will not address the remaining CTG category, cutback asphalt. EPA guidance requires States to consider as major sources of VOC all counties where applications of cutback asphalt exceeds 100 tpy. Two counties in Rhode Island meet this criterion. These two major sources emit a total of 290 typ of VOC, compared to Rhode Island's total emission inventory of over 27,000 tpy of VOC. Rhode Island has proposed to substitute its regulation of major sources that are not covered by CTG's for the regulation of cutback asphalt. Rhode Island has submitted information showing that control of the non-CTG sources has the potential to reduce emissions by at least the same amount as controls on the use of cutback asphalt. EPA has determined that, in theory, such a substitution would be acceptable because control of the non-CTG sources is not needed either to meet EPA's minimum ozone control requirements or to provide for attainment of the ozone standard. Thus, the substitution should result in emission reductions at least equivalent to those required under EPA's RACT policy. However, EPA has concluded that it must require Rhode Island to submit a specific demonstration showing that the reductions of VOC emissions that will be attained by imposing controls on the non-CTG sources will offset the amount of VOC reductions which would result from imposing RACT on the use of cutback asphalt. The State has agreed to submit, by December 31, 1983, either a demonstration that regulations adopted for non-CTG sources will achieve equivalent emission reductions, or a schedule for adoption of a regulation controlling VOC emissions from cutback asphalt.

Proposed Action: EPA proposes to approve:

(1) The amendments to Regulation 15 to impose RACT on otherwise unregulated stationary sources of VOC which emit greater than or equal to 100 TPY.

(2) The use of the reductions achieved by controlling Group III and non-CTG sources greater than or equal to 100 TPY in lieu of reductions which would result from RACT on the use of cutback asphalt.

There follows, below, a discussion of Rhode Island's stationary source RACT regulations which were added to or revised in the 1982 submittals:

Surface Coating of Paper and Fabric

As previously indicated, EPA has already approved Rhode Island's Regulation 19, *Control of VOCs from Surface Coating Operations* (46 FR 25446, 47 FR 60204).

On July 7, 1982 EPA received a request from Rhode Island to amend Regulation 19. That SIP revision makes the definition section of Regulation 19 more comprehensive, and makes Section 19.4, "Alternative Standards Allowing Internal Offsets for Surface Coating Facilities (The Bubble Concept)," federally approvable.

This section allows a source to demonstrate compliance with the RACT limitations imposed by Regulation 19 on a plantwide daily-averaged basis. Rhode Island's provisions that sources may opt to apply alternative emission limitations for meeting RACT requirements is approvable under EPA's Emission Trading Policy Statement (47 FR 15076). Basically, an alternative emission reduction strategy, or bubble, allows sources to increase emissions above SIP-required rates at some emission points in exchange for compensating emission reductions below SIP-required rates at other emission points so that overall ambient air quality impact is equivalent to that which would result from the application of traditional SIP emission limitations.

Under Sections 19.4 and 19.8 of the Rhode Island regulation, bubble strategy approvals must:

—Demonstrate the alternative emission limitations are mathematically equivalent to the SIP RACT limitations
—Calculate the emission reductions credited on a solids-applied basis
—Not allow the alternative emissions imposed to supercede any applicable Best Available Control Technology or Lowest Achievable Emission Rate determinations, New Source Performance Standards, or any National Emission Standards for Hazardous Air Pollutants
—Allow the public the opportunity to comment on the alternative emission limitations prior to issuance of the approval, and notify the public after each approval
—Apply the provisions of EPA's policy with regard to the trading of emissions identified as hazardous
—Include the alternative emission limitations in a federally enforceable document (i.e., compliance schedule).

Rhode Island's provisions for bubbling to meet RACT requirements are more stringent than EPA's emission trading policy in that the credited emission reductions must be achieved at the same plant site where emission increases occur. This means that while EPA's policy allows multiplant bubbles, Rhode Island's Regulation 19 does not.

Proposed Action: EPA proposes to approve the amendments made to Regulation 19 as submitted on July 7, 1982 by the State of Rhode Island.

Petroleum Liquids Storage and Marketing

EPA has already approved Rhode Island's Regulation 11, *Petroleum Liquids Marketing and Storage* (46 FR 25446, 47 FR 17816). The regulation imposed RACT requirements for the following source categories:

Group I
—Fixed-Roof Petroleum Storage Tanks
—Bulk Gasoline Plants
—Tank Truck Gasoline Loading Terminals

—Gasoline Service Station I Vapor Controls

Group II

—Petroleum Liquid Storage in External Floating Roof Tanks

It should be noted that Section 11.5 of this federally approved regulation also controls leaks from gasoline tank trucks. Because the SIP demonstrates attainment of the ozone standard by December 31, 1982, Rhode Island needs only to impose RACT on Group II CTG sources greater than or equal to 100 TPY. No single gasoline tank truck emits VOCs greater than or equal to 100 TPY. Therefore, the Rhode Island SIP needs no RACT regulation for this source category. However, as described in the SIP narrative on pages III–55 and III–56 of the 1982 submittal, Rhode Island tests for leaks in gasoline tank trucks outfitted with vapor collection systems on a periodic basis using an explosimeter. The testing is done four times a year at each of the nine gasoline loading terminals located in Rhode Island. When leaks are detected, truck owners will be notified by a letter giving them twenty days to come into compliance. Failure to make the necessary repairs to the tank truck will result in the RIDEM issuing a Notice of Violation of Regulation 11 to the owner.

Rhode Island has requested that Section 11.5 and the accompanying narrative on pages III–55 and III–56 be made part of the federally-approved SIP. EPA is proposing to approve Rhode Island's request. EPA's approval does not mean that Rhode Island's procedures for testing gasoline tank trucks meet the CTG document for RACT for that source category. As previously stated, under EPA guidance, no RACT regulation for gasoline tank trucks is required in SIPs which demonstrate attainment by the end of 1982. EPA's approval of Rhode Island's request is based on the fact that the procedures and requirements of Section 11.5 of Regulation 11 and accompanying narrative are adequate for Rhode Island's SIP.

Proposed Action: EPA proposes to approve Section 11.5 of Regulation 11 and pages III–55 and III–56 of Attachment 2 as submitted on October 4, 1982 by the State of Rhode Island.

Manufacture of Synthesized Pharmaceutical Products

The State has submitted a schedule for adoption of a RACT regulation to control VOC emissions from the manufacture of synthesized pharmaceutical products. That schedule extends the effective date of the regulation to the end of 1983. While this is beyond the December 31, 1982 date by which EPA expects RACT regulations to become effective, Rhode Island also intends to control VOC emissions from organic chemcial manufacturing at the same sources. Because Rhode Island's ozone SIP demonstrates attainment by the end of 1982, control of this latter source category is not required for SIP approval.

Since Rhode Island also intends to regulate the manufacture of organic chemicals, and the ozone SIP demonstrates attainment by 1982 without VOC emission reductions from control of the manufacture of synthesized pharmaceuticals, EPA can accept this extended schedule.

Proposed Action: EPA proposes to approve the schedule for adoption of a RACT regulation for the Manufacture of Synthesized Pharmaceutical Products submitted on July 1, 1982 as part of the ozone SIP for Rhode Island.

Graphic Arts—Rotogravure and Flexography

On January 14, 1982, EPA proposed to approve Rhode Island Regulation 21, Control of Volatile Organic Compound Emissions from Printing Operations (47 FR 2130), conditioned upon the submittal of a revision to the regulation to include specialty printing and EPA-recommended overall reduction efficiencies. EPA did receive the revision to Regulation 21 in the July 7, 1982 SIP submittal. We have determined that Regulation 21 is now consistent with the guidance specified in the CTG document.

Rhode Island has also included Section 21.5, "Alternative Standards Showing Internal Offsets for Printing Facilities (The Bubble Concept)." As previously explained under the portion of this notice on *Surface Coating of Paper and Fabric,* a bubble control strategy allows sources to meet SIP requirements on a plantwide daily-averaged basis. These alternative control strategies allow emission increases above SIP emissions rates in exchange for compensating emission reductions below SIP required rates so long as the impact on ambient air quality is equivalent to that resulting from application of the traditional SIP emission limitations.

Under Sections 21.5 and 21.4, bubble strategy approvals must meet the same criteria, provided previously in this notice, as bubble approvals issued under Rhode Island's Regulation 19, Sections 19.4 and 19.8.

Proposed Action: EPA proposes to approve the revisions made to Regulation 21, submitted on July 7, 1982 by the State of Rhode Island.

D. Reasonable Further Progress

EPA policy requires that an ozone SIP demonstrate reasonable further progress (RFP) from 1980 through the year of attainment. This demonstration should provide a linear attainment program, represented by a geographically straight line, showing annual RFP toward attainment. Rhode Island's discussion and demonstration of RFP in the 1982 ozone SIP submittal is provided in the narrative portion of the SIP on pages III–17 through III–23. It demonstrates attainment by December 31, 1982 by counting the emission reductions in VOCs achieved by the stationary source controls and the Federal Motor Vehicle Emission Control Program. Rhode Island's RFP demonstration meets the federal policy requirements.

Proposed Action: EPA proposes to approve the RFP demonstration portion of the 1982 ozone SIP for the State of Rhode Island.

E. Other Issues

1. *Transportation and Control Measures.* On May 7, 1981 EPA approved the following portions of the Rhode Island SIP (46 FR 25446):

—Transportation planning process
—Reasonably Available Control Measures (RACMs)
—Commitment to public transportation

Since Rhode Island is no longer requesting an extension beyond 1982 for demonstrating attainment of the ozone standard, the SIP is not required to meet the criteria for adopting transportation measures as outlined in the January 22, 1981 **Federal Register** (46 FR 7182).

2. *Ensuring Conformity of Federal Actions.* The conformity procedures and criteria required under Section 176(c) of the Act were approved for transportation plans, programs, and projects in Rhode Island on May 7, 1981 (46 FR 25446) and remain in effect.

3. *Inspection and Maintenance (I/M).* Since Rhode Island is no longer requesting an extension beyond 1982 for demonstrating attainment, no motor vehicle inspection and maintenance (I/M) program is required as part of the ozone SIP. At the time of the final rulemaking on the 1982 ozone SIP, EPA will withdraw the conditions regarding I/M imposed on May 7, 1981 (46 FR 25460), coded in § 52.2084(a)(2) of Title 40 of the Code of Federal Regulations (CFR).

4. *Consultation with State and Local Officials.* The requirements to evidence consultation with the public, as well as State and local oficials during SIP development, were approved for Rhode

Island on May 7, 1981 (46 FR 25446) and remain in effect.

5. *Resource Commitments*. In order to assure that the control strategies included in Rhode Island's 1982 attainment plan are implemented, the State submittal must indicate what financial support will be associated with these actions. In its July 1, 1982 submittal, Rhode Island has supplied this information under Section IX of Attachment 2 of the narrative portion of the SIP entitled, "Resources."

Proposed action: EPA proposes to approve the revisions submitted on May 14, 1982; July 1, 1982; July 7, 1982; and October 4, 1982 by the State of Rhode Island for attainment of the NAAQS for ozone.

Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (46 FR 8709).

The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hyrdocarbons, Intergovernmental relations.

(Sec. 110(a) and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7410(a) and 7601(a).)

Dated: November 22, 1982.

Lester A. Sutton, P.E.,

Regional Administrator, Region I.

[FR Doc. 83-2439 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[EPA Docket No. AW600DC; A-3-FRL 2258-3]

District of Columbia; Proposed Revision of the District Implementation Plan for Ozone and Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to disapprove the 1982 District of Columbia Implementation Plan revision, which was submitted in final draft form on November 8, 1982. This revision does not appear to meet the requirements of the Clean Air Act and EPA policy. The intended effect of the 1982 Ozone and Carbon Monoxide State Implementation Plans (SIPs) is to provide for attainment of the primary National Ambient Air Quality Standards for Ozone and Carbon Monoxide as required under Part D of the Clean Air Act Amendments of 1977.

DATE: EPA must receive comments on or before March 21, 1983.

ADDRESSES: Copies of the revision and accompanying documents are available during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs & Energy Branch, Curtis Building, Second Floor, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: Joanne T. McKernan (3AW12)

District of Columbia Department of Environmental Services, Bureau of Air and Water Quality, 5010 Overlook Avenue SW., Washington, D.C. 20032, Attn: V. Ramadass

All comments should be addressed to: Henry J. Sokolowski, P.E., Chief, MD–DE–DC Metro Section (3AW12), U.S. Environmental Protection Agency, Region III, Curtis Building, Second Floor, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: AW600DC.

FOR FURTHER INFORMATION CONTACT: Joanne T. McKernan (3AW12) at the EPA, Region III address above or telephone 215/597–8182.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. Under this Part, the States had to revise their State Implementation Plans (SIPs) for all nonattainment areas and submit the revision to EPA by January 1, 1979 (Section 171–178 of the Clean Air Act; Section 129(c) (uncodified) of Pub. L. 95–95). The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it would not attain either the Ozone (O_3) or Carbon Monoxide (CO) Standard by that date (Sections 172(a)(1), 172(a)(2)).

If EPA approved this demonstration, the attainment date for O_3 and/or CO could be extended up to December 31, 1987, and the State could defer compliance with certain of the Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements. (Section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95–95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1]

The District of Columbia submitted in December, 1978, an initial SIP revision for the entire District area, which was designated as nonattainment for O_3 and CO. The District requested that EPA extend its attainment date for the standards until December 31, 1987. EPA approved this request and the initial plan on December 16, 1981 (46 FR 61254).

The District submitted a draft revision to its O_3/CO SIP on July 8, 1982. EPA published a Notice of Availability on October 20, 1982 (47 FR 46711). The District submitted the final draft SIP revision on November 8, 1982 and held a public hearing on this revision on December 6, 1982. EPA is proposing action based on the November 8, 1982 draft submittal.

Today's notice proposes to disapprove the District of Columbia's 1982 Ozone/CO plan revision, since this submittal does not meet the requirements of Sections 172 (b) and (c) of the Clean Air Act relating to the adoption of enforceable control measures and the inclusion of specific commitments. Instead, the District's draft submittal for attainment of the Ozone Standard is addressed from the perspective of three alternative scenarios with no indication as to which scenario or combination thereof (and therefore which enforceable control measures) will be finally selected or implemented.

In a letter dated December 28, 1982, the District submitted its final air quality plan. The submittal, which is now under review, appears to address some of the major issues raised in today's notice. Once EPA completes its review, EPA will either publish a notice of final rulemaking on the revisions discussed in today's notice or will publish a subsequent proposal notice.

Following is a brief description of the SIP revision.

Background and Summary

O_3 is formed from various precursors, primarily oxides of nitrogen and a class

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[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

of reactice hydrocarbons called "volatile organic compounds" (VOCs). VOC emissions are controlled to reduce ozone concentrations.

Transportation sources, particularly the automobile, are responsible for most regional CO emissions. CO is monitored at ten sites throughout the National Capital Interstate Air Quality Control Region, however, no monitors measuring congested intersections are located in the Virginia or Maryland portions of the Washington, D.C. Metropolitan area. Violations of the eight-hour CO Standard have been recorded and the entire District of Columbia is designated nonattainment of CO. Recent information from District of Columbia monitors indicates there are violations at several congested intersections, or "hot spots."

As previously noted, EPA designated the entire District of Columbia as a nonattainment area for ozone and carbon monoxide. The attainment date for both ozone and CO in the District of Columbia is December 31, 1987.

The District's draft plan for attainment of the Ozone/CO Standards is addressed from the perspective of three alternative scenarios. Under Scenario I, the District accepts the regional attainment plan developed jointly by the jurisdictions of Maryland, Virginia and the District of Columbia, and the Metropolitan Washington Council of Governments (COG), the designated "lead" planning agency for the Washington, D.C. Metropolitan area. This scenario includes demonstrations of attainment of the Ozone/CO Standards by December 31, 1987 based on the plan's recommendations for controls to be implemented by the District, Maryland, and Virginia.

Scenario II also provides a demonstration of attainment for the region, but is based on several changes to basic assumptions and certain projections made in the Scenario I plan, particularly in the areas of population projections, emission estimates, and in hydrocarbon reduction requirements.

The District's proposed Scenario III involves a reconsideration of the District's proposed commitments to emission controls, based on their contention that they are responsible for controlling a disproportionate share of the regional emission reduction burden. Under Scenario III, the District proposes to eliminate or relax certain proposed control measures, to abandon some of its previous commitments, and to work with Maryland and Virginia to implement alternative controls which would reallocate the emission control requirements needed for regional attainment of the Ozone/CO Standards.

In reviewing 1982 Ozone/CO SIPs, EPA evaluates the following major plan elements, as outlined in the EPA policy of January 22, 1981 (46 FR 7182):

1. The Ozone Plan.
—Emission Inventories
—Demonstration of Attainment/ Modeling
—Reasonable Further Progress
—Stationary Source Control Measures
—Transportation Control Measures
—Inspection and Maintenance Program
2. The CO Plan.
3. Additional requirements including conformity of Federal actions, consultation with State and local officials, and other requirements of section 172 of the Clean Air Act.

For each outlined major plan element, the District's approach to meeting the requirements of the Clean Air Act and EPA policy varies across the three scenarios. EPA cannot take action on the content of each plan element until one scenario is selected by the District and submitted to EPA. Due to the uncertainty of which scenario, or combination thereof, will be finally submitted by the District, EPA finds that the requirements of Sections 172(b) and 172(c) of the Clean Air Act have not been met by the submission of the November 8, 1982 draft District plan. Therefore, EPA is proposing to disapprove all the above outlined major elements of the District of Columbia 1982 Ozone/CO draft submittal.

Proposed Action

Based on the above information, EPA is proposing to disapprove the draft revisions submitted to EPA for consideration. As noted earlier, recent submissions by the District appear to address some of the concerns. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. Interested parties may participate in the federal rulemaking procedure by submitting written comments to the address above.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

If there are major deficiencies in the SIP submittal and they are not remedied before EPA takes final action, EPA will be required to disapprove the revisions of the O_3 and/or CO plans. Under Section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapproval would trigger a moratorium on the construction and modification of major stationary sources of O_3 and/or CO in the nonattainment areas to which these plan revisions apply.

Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Clean Air Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region III office (see address above).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: Section 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a), 7502, and 7601(a)).

Dated: November 26, 1982.

Peter N. Bibko,

Regional Administrator.

[FR Doc. 83-2444 Filed 2-2-83: 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[EPA Docket No. AW600MD; A-3-FRL 2258-4]

Proposed Revision of the Maryland State Implementation Plan: 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This document proposes to approve portions and disapprove

portions of the 1982 State Implementation Plan revisions for the Metropolitan Baltimore Intrastate Air Quality Control Region in the State of Maryland. The revisions were submitted July 1, 1982. These revisions, where approvable, appear to meet the requirements of the Clean Air Act and EPA policy. The intended effect of this action is to provide for attainment of the primary National Ambient Air Quality Standards (NAAQS) for ozone and carbon monoxide, as required under Part D of the Clean Air Act Amendments of 1977.

DATE: EPA must receive your comments on or before March 21, 1983.

ADDRESSES: Send any comments to: Henry J. Sokolowski, P.E. Chief, Maryland-Delaware-D.C. Metro Section, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106.

You may inspect copies of the submittal and EPA's evaluation during normal business hours at:

U.S. Environmental Protection Agency, Region III, Air & Waste Management Division, Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: Harold A. Frankford (3AW12)

Maryland Air Management Administration, 201 West Preston Street, Baltimore, MD 21201, Attn: George P. Ferreri

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AW12), Maryland-Delaware-D.C. Metro Section, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106, Phone: 215/597-8392, Ref: AH600MD.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 add a new Part D to Title I of the Act. Under this Part, the States had to revise their State Implementation Plans (SIPs) for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (sections 171–178 of the Clean Air Act; Section 129(c) (uncodified) of Pub. L. 95–95). The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the ozone (O_3) or carbon monoxide (CO) standard by that date (Sections 172(a)(1), 172(a)(2)).

If EPA approved this demonstration, the attainment date for O_3 or CO could be extended up to December 31, 1987, and the State could defer compliance with certain of the Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements (section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified) of Pub. L. 95–95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for the SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1]

If the major deficiencies discussed below are not remedied before EPA takes final action, EPA will be required to disapprove the revisions to the ozone/carbon monoxide plans. Under Section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapproval would trigger a moratorium on the construction and modification of major stationary sources of ozone/carbon monoxide in the nonattainment area to which these plan revisions apply.

Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Clean Air Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382) (sewage treatment grants).

The State of Maryland submitted an initial SIP revision for the Metropolitan Baltimore Intrastate Air Qualtiy Control Region (AQCR) CO/O_3 nonattainment areas in January 1979. The State requested that EPA extend the attainment dates for the standards in this area until December 31, 1987 for O_3 and January 1, 1984 for CO. EPA approved the requests and conditionally approved the initial plan revision on August 12, 1980 (45 FR 53470). EPA gave final approval to this initial plan revision on May 11, 1982 (47 FR 20126) after the conditions had been fulfilled.

On July 1, 1982, Maryland submitted the 1982 revisions to its O_3/CO SIPs. The State certified that a public hearing was held in Baltimore on June 16, 1982 in accordance with the requirements of 40 CFR 51.4. On October 20, 1982 (47 FR 46711) EPA published a notice of availability of the State's SIP revisions.

EPA's review of the State's submittal is divided into three main discussions:

A. The Ozone SIP,

B. The Carbon Monoxide SIP, and

C. The additional requirements set out in EPA guidance, including conformity of federal actions, consultation with State and local officials, and other § 172(b) requirements of the Clean Air Act.

A. The Ozone (O_3) SIP

Ozone is formed from various precursors, primarily oxides of nitrogen (NO_x) and a class of hydrocarbons called "reactive volatile organic compounds" (VOCs). VOC emissions are controlled to reduce ozone concentrations.

Maryland is divided into two nonattainment areas: the Metropolitan Baltimore Intrastate AQCR (Anne Arundel, Baltimore, Carroll, Harford and Howard Counties; Baltimore City); and the National Capital Interstate AQCR comprised of Montgomery and Prince Georges Counties. The ozone modeling analysis indicates that a 48% reduction in VOC emissions will be needed to eliminate violations of the ozone standard in the Metroplitan Baltimore Intrastate AQCR. In a separate notice, EPA will be proposing action on Maryland's SIP for the National Capital Interstate AQCR.

The proposed Maryland 1982 SIP for O_3 in the Metropolitan Baltimore Intrastate AQCR combines a mix of stationary and mobile source strategies to achieve these necessary reductions. It is divided into six sections:

1. Emission Inventory,
2. Demonstration of Attainment/Modeling,
3. Reasonable Further Progress (RFP),
4. Stationary Source Controls,
5. Transportation Control Measures, and
6. Inspection and Maintenance.

1. *Emissions Inventory.* Maryland's SIP contains an emissions inventory of both VOC and NO_x for the Metropolitan Baltimore AQCR. The inventory consists of a comparison of the 1980 and 1987 emissions levels, and is broken down by certain category classifications: (1) Registered sources for storage, transportation and marketing of VOC;

[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

industrial processes; industrial surface coating; non-industrial surface coating; other solvent use; other miscellaneous; (2) small nonregistered sources consisting of off-highway mobile sources, gasoline handling, and area sources; and (3) highway motor vehicles according to vehicle types. The numbers in this inventory, representing kilograms per day, were used in the State's modeling analysis. Several items in the point source inventory needed clarification as a result of EPA's review. In response to EPA's comments, the State submitted additional information on October 22, 1982 and November 5, 1982. This information clarifies items in the State's emissions inventory, but contains no substantive changes. The emissions inventory is generally consistent with EPA's guidance and other requirements.

Proposed Action: EPA proposes approval of the State's emission inventory.

2. *Demonstration of Attainment Modeling.* According to ambient air quality data submitted by Maryland for the Metropolitan Baltimore AQCR, violations of the ozone standard were recorded at almost every station in the AQCR. In order to determine the level of emissions reduction necessary to attain ozone standards by 1987, the State utilized the City-Specific Empirical Kinetic Modeling Approach (EKMA), which simulates the complex chemical reactions between VOC and the ambient air in the presence of sunlight. An additional modification—the use of the Ozone Isopleth Plotting Package (OZIPP)—allows the model to simulate reactions from different combinations of VOC and NO_x concentrations. For each combination used, a different isopleth, which can be used to predict VOC reductions, was produced. The State's analysis used a non-methane hydrocarbons (NMHC-NO_x) ratio of 8.26/1.0.

The State also modified its use of the EKMA approach in order to compensate for using a limited data set. It developed a statistical methodology for the development of a number of "design days" on which to base its control estimates. This methodology used observations of days on which the characteristics were most conducive to the formation of ozone. Since this methodology was relatively new, the State, in its analysis, compared the results of its technique with one of the recommended EPA methods.

To determine the days chosen for modeling purposes, the State followed a suggestion by the EPA *Guidelines for Use of City-Specific EKMA in Preparing Ozone SIPs* (EPA–450/4–80–27) (Guidelines) that each day with the violation of the ozone standard be modeled. Maryland used this approach because it reduced the number of computer runs needed to determine the proper emission reductions.

The design value from which the reduction requirement was derived was 0.183. ppm, recorded on July 17, 1980 at the Fort Meade monitor. Using its modified technique, the State determined that a 48% reduction in 1980-level VOC emissions would be necessary to attain the NAAQS by 1987. (The EPA-approved technique had predicted a 49% emissions reduction.) This corresponds to an emissions reduction from 319 tons/day to 166 tons/day.

EPA considers the modeling analysis performed by Maryland to be adequate, since it validates favorably with EPA's recommended modeling protocol. While every segment of Maryland's procedure does not necessarily agree with the EPA Guidelines, the Agency accepts Maryland's approach.

Proposed Action: EPA proposes approval of the State's modeling and demonstration approach. EPA also considers the State's overall demonstration of attainment to be adequate.

3. *Reasonable Further Progress.* The Reasonable Further Progress (RFP) schedule is the tool used to assist in monitoring progress toward attainment. It is a schedule which indicates reductions in the VOC emissions inventory at a rate sufficient to attain the NAAQS. Progress is tracked each year by comparing an updated emissions inventory to the anticipated RFP emissions inventory. The monitoring of the schedule is designed to assist in identifying possible errors in the control strategy.

The State's RFP curve for the Metropolitan Baltimore AQCR consists of a basically linear reduction in VOC emissions over the seven year period between 1980 and 1987. This schedule allows for growth in several categories such as employment, housing and population (reflected in the emissions imventory for area sources), as well as for a new power plant. The RFP curve demonstrates an overall reduction from 319 tons per day in 1980 to 166 tons per day in 1987 (as determined by the State's EKMA modeling study) to be the VOC level that will ensure attainment of the ozone standard.

Although the RFP schedule that appears in the SIP is described as "proposed," the State acknowledges in an October 22, 1982 letter that the chart was inadvertently mislabeled, and that it does represent the State's best analysis of reasonable further progress. Maryland has also certified that its existing new source and offset requirements will be adequate to remain within the RFP limitations and to ensure maintenance of the NAAQS after 1987.

Maryland's RFP schedule, and EPA's proposed action of same, is based on implementing the State's inspection and maintenance (I/M) program by July 1, 1983. Any delay in implementation of I/M beyond this date will necessitate revision by Maryland of the RFP schedule accordingly. EPA intends to monitor the State's progress in meeting RFP by reviewing annual RFP reports. If any deficiency occurs, EPA will take corrective action.

Proposed Action: EPA proposes to aprove the State's RFP schedules as submitted.

4. *Stationary Source Control Measures.* The Clean Air Act requires States to adopt regulations requiring Reasonably Available Control Technology (RACT). Therefore, as part of the 1982 submittal, States must include RACT for: (a) All sources of VOCs covered by a Control Techniques Guideline (CTG) published by EPA and (b) all remaining major stationary sources with the potential to emit more than 100 tons of VOC per year.

EPA requires that the submittal either include legally enforceable measures to implement RACT for these sources, or else document the State's determination that the existing level of control represents RACT for each of these sources.

Current EPA policy issued August 11, 1982, allows the State to submit schedules in lieu of adopted regulations as long as the schedules call for adoption and implementation dates of the necessary control measures within a time frame so as not to impede reasonable further progress towards attainment.

a. *CTG Regulations.* Maryland has adopted RACT regulations for all VOC source categories covered by a CTG. They have also committed to adopt RACT regulations for the Group III CTGs after they are published by EPA.

b. *100 TPY Regulations.* The State of Maryland has identified six 100 ton/year VOC sources located in the Metropolitan Baltimore AQCR which are not covered by CTG's. The proposed SIP revision submitted by Maryland contains a schedule under which Maryland will evaluate possible measures for controlling VOC emissions from these sources and then adopt control regulations. According to this schedule, Maryland will complete its evaluation by July 1, 1983 and adopt the

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applicable control regulations by March 1, 1984. In order to inform the public and local government officials about the nature of these additional emissions reduction targets, the State will hold public hearings on or about February 1, 1984.

Under this same time frame, the State is also evaluating other feasible control measures including Stage II vapor recovery, to assure attainment of the ozone standard by 1987. The State will have decided its optimum mix of control measures by July 1, 1983.

EPA has determined that the State's schedule for developing, adopting and submitting the necessary RACT regulations is as expeditious as practicable and represents a time frame so as not to impede reasonable further progress towards attainment.

Proposed Action: EPA proposes to approve Maryland's schedule to develop, adopt and submit stationary source control measures as set out in this SIP.

5. *Transportation Control Measures*. The State, in conjunction with the Regional Planning Council (RPC) of Baltimore, has developed and submitted a series of transportation control measures to be implemented in the Metropolitan Baltimore Intrastate AQCR. These measures consist of the following:

1. Park and Ride/Park and Pool Lots,
2. Bus and Rail Transportation,
3. Traffic Flow Improvements,
4. Employer-Based Programs,
5. Parking Management Programs,
6. "Clean and Efficient Driving" Programs,
7. Bicycling Programs,
8. Ridesharing Programs,
9. Land Use Management.

The RPC outlines in detail the policy recommendations, actions to be taken, and the funding commitments for each measure through fiscal year 1987. The report also describes each control measure, and then assesses the potential benefits, expected benefits, and expected costs of each control measure.

The State and the RPC believe that these nine measures constitute an effective package of strategies to assure attainment of the ozone and carbon monoxide standards. EPA concurs with this assessment and believes that the expected emission reductions accounted for by these strategies are reasonable.

The Regional Planning Council's *Program of Efficient Transportation* contains a statement that the State and the local jurisdictions in the Baltimore Region intend to meet the basic transportation needs of the region's citizens. The RPC considers mobility as well as improved air quality to be a goal of its program.

Proposed Action: EPA proposes to approve the transportation control measures developed by RPC for the Baltimore area as part of the Maryland SIP.

6. *Inspection and Maintenance (I/M)*. According to the currently-approved Maryland SIP, the State is to begin implementation of its inspection and maintenance (I/M) program by January 1, 1983. However, the State's 1982 SIP contains a statement that the currently-approved I/M schedule is invalid, and tha the I/M start-up date is to be no earlier than July 1, 1983. No new schedule was submitted with this SIP revision to replace the current schedule.[2]

An approvable I/M program must also contain the following major elements:

1. Inspection Test Procedures,
2. Emission Standards,
3. Inspection Station Licensing Requirements,
4. Emission Analyzer Specifications,
5. Recordkeeping and Record Submittal Requirements,
6. Quality Control, Audit, and Surveillance Procedures,
7. Public Awareness Plan,
8. Mechanics Training Plan,
9. RACT Compliance,
10. Procedures to assure that noncomplying vehicles are not operated on public roads.

Appendix D of Maryland's SIP contains information about Maryland's public awareness and mechanics training plans, as well as State-developed proposed emissions standards. However, this SIP submittal contains no information about the remaining major elements of the I/M program.

Proposed Action: In view of the fact that this SIP revision contains no schedule to implement the State's I/M program and that the State's 1982 SIP does not contain most of the major elements contained in an approvable I/M program, EPA proposes to disapprove this portion of the SIP.

B. Carbon Monoxide SIP

Maryland submitted a revised SIP to attain carbon monoxide standards in Baltimore's Central Business District (CBD). The State requested that, based on its latest analysis, the attainment date currently predicted to be January 1, 1984, be extended by six months to July 1, 1984.

The State has determined that a 33% reduction in CO emissions must be achieved between 1981 and July 1984 to achieve the NAAQS. The State derived this estimate by employing the linear rollback technique. The 33% reduction was determined by measuring the difference between the second high eight-hour average recorded in 1981 (15mg/m^3) and the national standard (10mg/m^3).

The State also provided an emissions inventory of CO emissions from stationary sources. The State also certified that there are no sources emitting greater than 1000 tons of CO per year. The State's analysis shows that mobile sources emit 93% of CO emissions in the CBD.

The State estimated the peak level of CO emissions (1981) to be 206 tons per peak period (2 PM—10PM). Therefore, the State SIP must contain control measures designed to reduce CO emissions by 72 tons per peak period (33% control). According to the SIP, the necessary reductions will be achieved through the use of the Federal Motor Vehicle Control Program (FMVCP), transportation control measures, and the State's I/M program.

EPA has reviewed Maryland's SIP and believes that the control measures, when implemented, will be adequate to assure attainment of the NAAQS for CO by July 1, 1984. EPA also considers this date to be as expeditious as practicable.

As discussed in the ozone portion of this notice, the I/M program in Maryland is being proposed for disapproval for several reasons. For the same reasons, EPA is proposing to disapprove I/M in the CO portion of the SIP. Also, EPA intends to monitor the State's progress in meeting RFP for CO by reviewing annual RFP reports. If any deficiency occurs, EPA will take corrective action.

Proposed Action: EPA proposes approval of the CO SIP, except for the I/M portion. EPA is also proposing to approve the State's request for a revision to the extension date for attaining the CO standard.

C. Additional Requirements

1. *Consultation With State and Local Officials.* The RPC's *Program for Efficient Transportation* contains commitments from the county and local agencies responsible for developing, funding, and implementing the transportation control and land use measures in the Metropolitan Baltimore AQCR. EPA considers these commitments, consisting of letters from the agency principal or resolutions by

[2] For decentralized programs such as that planned for Maryland, EPA's I/M policy requires implementation by December 31, 1982. Therefore, EPA cannot approach any new schedule which delays final implementation beyond that date

the agency to perform the required tasks, to be adequate.

In addition, EPA had approved Maryland's general SIP revision pertaining to the State's public consultation process with State and local officials, 47 FR 15150 (1982). Therefore, EPA does not need to take additional action on the State's consultation process in this rulemaking action.

Proposed Action: EPA proposes to approve this portion of the Maryland SIP.

2. *Conformity of Federal Actions.* Compliance with Section 176(c) of the Clean Air Act requires a close cooperative effort among all agencies granted Federal funding. This cooperation ensures that no projects will be constructed or implemented which will produce emissions that are inconsistent with the adopted SIP. The State has submitted evidence that it will use consistent population projections for evaluating air quality, water quality, solid waste, sewerage facilities, and other State-administered EPA environmental programs in Maryland.

According to the RPC's *Program for Efficient Transportation,* the State, RPC and local agencies will address the need to modify commitments during the annual conformity analysis. According to the SIP, those measures which show promise in producing air quality benefits or being cost-effective may be implemented on an accelerated schedule. This SIP's commitment ensures that the package of transportation measures will be consistent with reasonable further progress in reducing the transportation-related emissions such as O_3 and CO.

Proposed Action: EPA proposes to approve this portion of the Maryland SIP.

3. *Analysis of Effects (§ 172(b)(9), CAA).* The State prepared as part of its January, 1979 Part D nonattainment SIP an analysis of the air quality, health, welfare, economic, energy and social effects resulting from implementation of the plan. EPA had approved the State's analysis as part of the SIP on August 12, 1980 (45 FR 53470). The State believes that the 1979 analysis is still accurate and determined that no revision was needed for the 1982 SIP. Since this SIP contains no new measures for consideration as part of the SIP, EPA accepts the State's determination. For the transportation measures, the RPC plan analyzes the costs and benefits of implementing the transportation control measures included in this SIP revision. EPA believes that this analysis satisfactorily meets the requirements of Section 172(b)(9), and proposes approval as part of the SIP.

Proposed Action: EPA proposes to approve this portion of the Maryland SIP.

4. *Manpower Requirements (Section 172(b)(7)).* The State has determined that it has adequate manpower for FY 1983 to carry out the responsibilities necessitated by the 1981 SIP. EPA accepts the determination and proposes approval as part of the SIP.

Proposed Action: EPA proposes to approve this portion of the Maryland SIP.

5. *Contingency Plan.* EPA's January 1981 policy also requires States to develop a process for identifying and implementing additional transportation control measures that can be used in the event that there is an unanticipated shortfall in emission reductions. The State has developed such a process. In addition, it has found that there currently are no plans for transportation projects detrimental to air quality which would need to be delayed.

Proposed Action: EPA proposes to approve this portion of the SIP.

Proposed Action

Based on the above information, EPA is proposing to approve, with the exception of the I/M program in both the ozone and carbon monoxide portions of the SIP, Maryland's 1982 State Implementation Plan for the Metropolitan Baltimore Intrastate AQCR submitted on July 1, 1982. EPA is proposing to disapprove the State's I/M program, since the State has not officially submitted a description of all the key elements of an I/M program and since the SIP contains no schedule to implement the mandatory portion of the program. EPA is soliciting public comments on issues discussed in this notice or on other relevant matters. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. If the major deficiencies discussed above are not remedied before EPA takes final action, EPA will be required to disapprove the revisions to the ozone/carbon monoxide plans.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relation.

Authority: Section 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a), 7502 and 7601(a)).

Dated: November 23, 1983.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 83-2445 Filed 2-2-83; 8:45 am]

BILLING CODE 4560-50-M

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40 CFR Part 52

[A-9-FRL 2259-4]

Nevada State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to disapprove the Nevada 1982 State Implementation Plan (SIP) revisions for the Truckee Meadows and Las Vegas Valley carbon monoxide (CO) nonattainment areas. Disapproval would result in the imposition of a moratorium on construction or modification of major stationary sources of CO, and could lead to restrictions on Federal funding pursuant to Section 176(a) and 316(b) of the Clean Air Act. These revisions have been evaluated against the requirements of the Clean Air Act and EPA policy for areas which have received an extension to 1987 for attainment of the National Ambient Air Quality Standards (NAAQS) for CO.

DATE: Comments should be submitted to EPA on or before March 21, 1983.

ADDRESSES: Send any comments to: Regional Administrator, Attn: Air Management Division, Air Programs Branch, State Liaison Section (A-2-2), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the 1982 SIP revisions and EPA's evaluations may be inspected during normal business hours at the above address or at the following locations:

Nevada Division of Environmental Protection, 201 South Fall Street, Carson City, NV 89710

Clark County Department of Comprehensive Planning, 225 Bridger Avenue, 7th Floor, Las Vegas, NV 89155

Regional Administrative Planning Agency, 241 Ridge Street, Reno, NV 89504

FOR FURTHER INFORMATION CONTACT: Wallace D. Woo, Chief, State Liaison Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Telephone No. (415) 974–7634, FTS: 454–7634.

SUPPLEMENTARY INFORMATION:

Introduction

This discussion contains the following three sections: Background, Plan Evaluation and Proposed Actions. The "Background" section briefly summarizes the history behind the development of the 1982 SIPs. The "Plan Evaluation" section discusses EPA's review of the 1982 SIP revisions. The evaluation is based on EPA's final policy criteria for reviewing 1982 SIPs published on January 22, 1981 (46 FR 7182). This policy supplements the "General Preamble" for SIP revisions for nonattainment areas published on April 4, 1979 (44 FR 20372 [1]). The "Proposed Action" section describes the rulemaking actions which are being proposed and the potential impact of any disapproval actions. Public comment is invited on all actions proposed by EPA.

Background

The Clean Air Act (CAA) Amendments of 1977 required states to revise their SIPs by January 1979 for all areas that had not attained the NAAQS. The "1979 SIP revisions" were to provide for attainment of the NAAQS by December 31, 1982, unless the state demonstrated that it could not attain either the O_3 or CO standard by that date despite implementation of all reasonably available control measures (CAA Section 172). For these areas, Section 172(a)(2) of the CAA allowed EPA to extend the attainment date to no later than December 31, 1987. For areas where EPA approved an extension of the attainment date beyond 1982, states were required to submit to EPA by July 1, 1982 a SIP revision providing for attainment by 1987 and which complied with other requirements of the CAA.

EPA took final action to conditionally approve the 1979 SIP revisions for Las Vegas Valley and Truckee Meadows on April 14, 1981 (46 FR 21758). On April 13, 1982 (47 FR 15790) EPA revoked the conditions because they had been fulfilled by the State. EPA approved the request for extension of the Las Vegas Valley CO attainment date to 1987 in the April 14, 1981 rulemaking action and on September 14, 1981, approved the Truckee Meadows extension request (46 FR 45605). On June 23, 1982 the Nevada Division of Environmental Protection submitted the 1982 SIP revisions for these two areas to EPA.

Plan Evaluation

This evaluation is divided into three parts. The first part provides a general description of the control strategy methodology for achieving the CO NAAQS. The second part evaluates the requirement that Nevada adopt and implement an inspection and maintenance program. The third part contains a more detailed evaluation of portions of the 1982 SIP revision for each nonattainment area ("the plan"). The evaluation includes a summary of the adequacy of the area's control strategy for attaining the standards, and discusses additional elements of the 1982 SIP, such as a contingency provision, public/governmental involvement, conformity of federal actions and basic transportation needs. The detailed evaluation is based on a more comprehensive review contained in EPA's Technical Support Document (TSD) which is available at the addresses listed above.

A. General Summary

Control Strategy Methodology: Development of a control strategy begins by compiling an area's recent (base year) emissions inventory and evaluating the highest measured air quality levels (design value/design day). A mathematical model is then used to determine how much the base year emissions must be reduced (to allowable emissions) in order to attain the NAAQS. Once this allowable emission level is known, control measures can be developed, adopted and implemented to reduce attainment year projected emissions to the allowable emission level.

Violations of CO are caused primarily by mobile source emissions. They generally occur in the areas around major intersections or in central business districts where vehicles tend to idle for relatively long periods. The control measures normally used to attain the CO standard are motor vehicle inspection and maintenance (I/M) programs and transportation control measures (TCM's).

B. Inspection and Maintenance (I/M) Program: The Las Vegas Valley nonattainment area is the only area in Nevada required to implement an I/M program. I/M is not required for Truckee Meadows because the area has a population less than 200,000. Although I/M is not required, the Truckee Meadows plan includes I/M as a control measure.

On January 22, 1981, EPA published criteria for reviewing the 1982 SIP revisions in the **Federal Register.** As discussed in this policy, the 1982 SIP revisions were required to include ten specific I/M program elements. Nine of the required I/M elements had been previously submitted to EPA as a SIP revision on December 29, 1978. On April 14, 1981, EPA published final rulemaking approving these nine completed elements of Nevada's I/M program (46 FR 21758). A public awareness plan was the single remaining requirement that needed to be addressed in the 1982 SIP revision.

The I/M authority originally adopted by the Nevada Legislature required mandatory program start-up on July 1, 1979. During the 1979 State Legislative session, the Legislature, which convenes every two years, postponed this date to July 1, 1981. The approved 1979 SIP includes July 1, 1981 as the I/M start-up date. During the 1981 session, the start-up date was delayed again until July 1, 1983. This date is included in the Las Vegas Valley and Truckee Meadows 1982 SIP submittal as the I/M implementation date.

Since 1979, the State has had the capability to implement and enforce the I/M program through the Department of Motor Vehicles. The Department currently administers a change-of-ownership I/M program in both the Reno and Las Vegas areas. In addition, since the change-of-ownership program is decentralized, private garages are already equipped to conduct I/M testing and repair.

Nevada's legal authority allows the Clark County Board of Commissioners (Las Vegas) the flexibility to request the State to implement I/M prior to July 1, 1983. The previous version of Nevada's I/M legal authority also provided this flexibility. The Board of Commissioners for Clark County exercised this option in September 1979 and requested the State to start the program in January 1980. The program was repealed in May 1980. Annual I/M has not been implemented in Las Vegas Valley since the local ordinance was repealed.

On April 30, 1982, Kathleen M. Bennett, EPA Assistant Administrator for Air, Noise and Radiation, notified the Governor of Nevada of EPA's intention to find the State in violation of their approved 1979 SIP commitments for I/M. As indicated above, the

[1] EPA published four additional notices supplementing the General Preamble: July 2, 1979 (44 FR 38583, August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

approved 1979 SIP included a July 1, 1981 start-up date for mandatory annual I/M. Although the State and Clark County Health District responded to EPA's letter of intent, neither the State nor Clark County demonstrated that they were making resonable efforts to implement the I/M program as expeditiously as practicable. In addition, no technical justification was provided to explain the delays in mandatory I/M start-up from July 1, 1979 to July 1, 1983. Established EPA policy requires that I/M programs begin no later than December 31, 1982.

Section 172(b) of the Act requires that all reasonably available control measures be implemented as expeditiously as practicable. The July 1, 1983 I/M implementation date included in the Las Vegas Valley 1982 SIP submittal is inconsistent with EPA policy and the Act's requirement to implement control measures as expeditiously as practicable. Further, the 1982 SIP submittal also fails to include a public awareness plan for the I/M program.

C. Detailed Plan Evaluation

Truckee Meadows: As discussed below, the plan contains deficiencies in the emission inventory, modeling, attainment demonstration and control measure adoption elements.

The 1980 baseline CO emission inventory is 92,841 tons/year. The projected 1987 baseline inventory (without additional controls) is 81,458 tons/year. The air quality design value is 18.3 ppm. The baseline and projected emission inventories and data are not adequate to support the control strategy. Details regarding the deficiencies are discussed in the Technical Support Document. These deficiencies are:

1. The plan omits 1987 emissions for off-road vehicles, aircraft and railroads in the control strategy evaluation. After this error is corrected, 1987 controlled emissions exceed the allowable attainment level specified in the plan.

2. The plan assumes a 28% reduction in all mobile source emissions in 1987 due to implementation of I/M. This methodology incorrectly claims I/M emission reductions for medium duty and heavy duty vehicles, and motorcycles. The 28% reduction should only be applied to those vehicles subject to the I/M program.

3. The emission inventories are not based on a typical weekday during the worst CO season.

4. The plan does not adequately document the methodology used to estimate the inventories or the emission reductions claimed for TCMs, parking and traffic controls, Rideshare, Citifare and wood burning controls. Annual emission reductions are not specified for each measure or package of measures.

5. The rollback modeling analysis is also deficient since it fails to account for background CO levels. EPA policy requires that a minimum background CO levels of 1 ppm be included in the modeling analysis.

The modeling analysis in the plan indicates the allowable level of emissions is 45,659 tons/year. In order to achieve that level, a 35,799 tons/year reduction from the 1987 baseline inventory of 81,458 tons/year is required to attain the CO standard. The control strategy includes an inspection and maintenance program (14,662 tons/year), TCMs (11,941 tons/year) and controls on wood burning (5,000 tons/year). These reductions are not sufficient to demonstrate attainment by December 31, 1987. If the modeling analysis is revised to include background concentration, the shortfall in achieving sufficient emission reductions to attain the standard would be greater. Since the plan does not demonstrate attainment by 1987, the requirement for annual incremental reductions in emissions providing for reasonable further progress is not met.

While there is evidence in the plan that some parts of the control strategy have been legally adopted by the implementing agencies, the majority of the measures are not supported by implementation schedules that warrant the expected 1987 reductions. The State and lead planning agency have committed to providing information regarding commitments and schedules for these transportation control measures.

However, the plan does meet the following requirements of the CAA, except for minor deficiencies noted in the Technical Support Document: (1) Adequate evidence of public and governmental involvement; (2) A contingency provision which describes the process for correcting failure to meet reasonable further progress; (3) Procedures to ensure conformance with the SIP for transportation plans, programs, and projects which are approved by the metropolitan planning organization; and (4) A commitment to developing, expanding or improving public transportation to meet basic transportation needs.

Las Vegas Valley: The control strategy is based on an analysis for the subregional area with the projected worst case air quality. The strategy is based on a model developed by the Clark County Health District. The allowable emission level was calculated to be 1.54 tons/day. The implementation of an I/M program and TCMs would reduce emissions to 1.10 tons/day by 1987. Therefore, the plan demonstrates attainment by the statutory deadline for the worst case subregional area. Since emission reductions are primarily achieved through regional control measures, the micoscale analysis is sufficient to demonstrate attainment by 1987 throughout the nonattainment area.

The control measures are included as legally adopted measures, or schedules for adoption are included in the plan. The necessary commitments for adoption and implementation are included, and the schedule for implementation is considered to be as expeditious as practicable, with the exception of I/M.

The plan includes a control strategy that will be implemented so there are annual incremental reductions in emissions which will provide for reasonable further progress toward attainment of the CO standard.

Therefore, the plan satisfies the requirements for (1) A demonstration that the standard will be attained by December 31, 1987, (2) commitments to adopt the necessary measures, and (3) reasonable further progress. In addition, the plan satisfies the following requirements, except for minor deficiencies noted in the Technical Support document: (1) Adequate evidence of public and governmental involvement; (2) A contingency provision which describes the process for correcting failure to meet reasonable further progress; (3) Procedures to ensure conformance with the SIP for transportation plans, programs, and projects which are approved by the metropolitan planning organization; and (4) A commitment to developing, expanding or improving public transportation to meet basic transportation needs.

Proposed Actions

Based on the above evaluation, EPA is proposing to take the following actions on the 1982 SIP revisions:

1. All portions of Nevada's 1982 SIP revisions, submitted on June 23, 1982, are proposed to be approved and incorporated into the SIP, except as noted below, since they update the SIP data base, provide new control measures which are needed to attain the NAAQS and meet other specific requirements of Part D of the Act.

- That portion of the Las Vegas Valley plan which delays implementation of the motor vehicle I/M program from July 1, 1981 to July 1, 1983 is proposed to be disapproved since it would weaken the SIP, and it is inconsistent

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with Part D of the Clean Air Act and established EPA policy.

- The attainment and reasonable further progress (RFP) demonstration portions of the Truckee Meadows plan are proposed to be disapproved, since technical errors exist which invalidate the demonstration.

2. Overall, the 1982 SIP revision for Truckee Meadows is proposed to be disapproved, since it fails to demonstrate attainment of the standards by December 31, 1987 and does not provide for RFP. The plan must also include evidence of commitments to the control measures.

3. Overall, the 1982 SIP revision for Las Vegas Valley is proposed to be disapproved, since the delay in implementation of the I/M program from July, 1981 to July 1, 1983 does not represent an implementation schedule which is as expeditious as practicable and is inconsistent with established EPA policy for I/M.

If the major deficiencies listed in items 2 and 3 above are not remedied before EPA takes final action, EPA proposes to disapprove the 1982 SIP revisions for Las Vegas Valley and Truckee Meadows. Under Section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapproval would trigger a moratorium on the construction and modification of major stationary sources of CO in these nonattainment areas.

Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Clean Air Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a state has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances. EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

Interested parties are invited to comment on all aspects of these proposed actions. Comments should be submitted to the EPA Region 9 office.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: Sections 110, 129, 171–178 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508 and 7601(a)).

Dated: November 30, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 83–2446 Filed 2–2–83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A–9–FRL 2259–5]

California State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to approve the California 1982 State Implementation Plan (SIP) revisions for the ozone (O_3) and/or carbon monoxide (CO) nonattainment areas in the San Francisco Bay Area Air Basin (O_3 and CO), the North Central Coast Air Basin (O_3), the San Joaquin County (O_3 and CO) and Stanislaus County (O_3) portions of the San Joaquin Valley Air Basin, the Sacramento Metropolitan Area portion of the Sacramento Valley Air Basin (CO), the San Diego Air Basin (O_3 and CO), the Santa Barbara County portion of the South Central Coast Air Basin (O_3) and the California portion of the Tahoe Interstate Air Basin (CO). This notice also proposes to disapprove the California 1982 SIP revisions for O_3 and/or CO nonattainment areas in the Fresno County portion of the San Joaquin Valley Air Basin (O_3 and CO), the Sacramento Metropolitan Area portion of the Sacramento Valley Air Basin (O_3), the South Coast Air Basin (O_3 and CO), and the Ventura County portion of the South Central Coast Air Basin (O_3). These revisions have been evaluated against the requirements of the Clean Air Act and EPA policy for areas which have received an extension to 1987 for attainment of the O_3 or CO National Ambient Air Quality Standards (NAAQS).

EPA is proposing to approve the motor vehicle inspection and maintenance (I/M) legislation submitted on September 17, 1982 as a revision to the SIP. However, EPA is proposing to disapprove the I/M implementation schedule included in that submittal. This would result in a continuation of the existing moratorium on the construction of major O_3 and CO stationary sources in the San Francisco Bay Area Air Basin, Fresno County, Sacramento Metropolitan Area, San Diego County, South Coast Air Basin, and Ventura County.

DATE: Comments should be submitted to EPA on or before March 21, 1983.

ADDRESSES: Send any comments to: Regional Administrator, Attn: Air Management Division, Air Programs Branch, State Liaison Section (A–2–2). Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105. Copies of the 1982 SIP revisions and EPA's evaluations may be inspected during normal business hours at the above address or at the following locations: California Air Resources Board, 1102 Q Street, Sacramento, CA 95812. The offices of the lead planning agencies for each of the plans.

FOR FURTHER INFORMATION CONTACT: Wallace D. Woo, Chief, State Liaison Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Telephone No. (415) 974–7634, FTS: 454–7634.

SUPPLEMENTARY INFORMATION:

Introduction

This discussion contains the following three sections: Background, Plan Evaluation, and Proposed Actions. The "Background" section briefly summarizes the history behind the development of 1982 SIPs and explains EPA's parallel processing rulemaking procedure. The "Plan Evaluation" section discusses EPA's review of the 1982 SIP revisions. This discussion is based on EPA's final policy criteria for reviewing 1982 SIPs published on January 22, 1981 (46 FR 7182). This policy supplements the "General Preamble" for SIP revisions for nonattainment areas published on April 4, 1979 (44 FR 20372 [1]). The "Proposed Action" section describes the rulemaking actions which are being proposed and the potential impact of any disaproval action. Public comment is invited on all actions proposed by EPA.

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[1] EPA published four additional notices supplementing the General Preamble: July 2, 1979 (44 FR 38583); August 28, 1979 (44 FR 50371); September 17, 1979 (44 FR 53761); and November 23, 1979 (44 FR 67182).

Background

The Clean Air Act (CAA) Amendments of 1977 required states to revise their SIPs by January 1979 for all areas that had not attained the NAAQS by December 31, 1982, unless the state demonstrated that it could not attain either the O_3 or the CO standards by that date despite the implementation of all reasonably available control measures (CAA Section 172, paragraphs (a)(1) and (2)). For these areas, Section 172(a)(2) of the Act allowed EPA to extend the attainment date to no later than December 31, 1987. For areas where EPA approved an extension of the attainment date beyond 1982, states were required to submit to EPA by July 1982 a SIP revision which provided for attainment by 1987 and which complied with other requirements of Part D of the Act.

EPA has taken formal action on the thirteen California 1979 SIP revisions which requested an extension beyond 1982. The draft 1982 SIP revisions for eleven of these areas are addressed in this notice.[2] The eleven areas are listed in Table 1 along with the date of final rulemaking action on the 1979 SIP revisions, and the date on which EPA received the draft 1982 revisions.

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[2] An extension was also granted for the western portion of El Dorado County and the Mid-County portion of Placer County. A 1982 SIP revision is not required for these areas, since they are rural areas which are expected to attain the standards as a result of emission reductions achieved in the Sacramento Metropolitan Area.

Table 1 - Status of 1982 SIP Revisions for California

Nonattainment Area	Final Action on 1979 Plan[a]	1982 SIP Revision For Pollutants	1982 Draft Plan Received by EPA on[d]
San Francisco Bay Area Air Basin[b,c]	3-19-82 (47 FR 11866)	O_3, CO	7-14-82
Fresno Co.[b]	7-1-82 (47 FR 28617)	O_3, CO	12-23-81
North Central Coast Air Basin	12-4-80 (45 FR 80279)	O_3	8-6-82
Sacramento Metropolitan Area[b]	7-1-82 (47 FR 28617)	O_3, CO	11-12-81
San Diego Co.[b,c]	4-14-81 (46 FR 21749)	O_3, CO	10-29-82
San Joaquin Co.	5-7-82 (47 FR 19694)	O_3, CO	8-10-82
Santa Barbara Co.	5-5-82 (47 FR 19330)	O_3	9-24-82
South Coast Air Basin[b,c]	1-21-81 (46 FR 5965)	O_3, CO	8-12-82
Stanislaus Co.[c]	5-7-82 (47 FR 19694)	O_3	6-29-82
Ventura Co.[b]	7-1-82 (47 FR 28617)	O_3	1-11-82
Lake Tahoe Basin	6-23-82 (47 FR 27065)	CO	10-4-82

a) In addition, EPA published the following final rulemaking notices which approved or conditionally approved regulations for the Group I and II Control Technique Guideline source categories: June 4, 1982 [47 FR 24306] (San Diego); June 18, 1982 [47 FR 26984] (San Joaquin and Stanislaus); July 8, 1982 [47 FR 29668] (for all areas listed above except Lake Tahoe).

b) Urban areas which require a motor vehicle I/M program.

c) EPA published a separate Federal Register notice approving the extension to 1987 for these areas on November 10, 1982 [47 FR 50864].

d) Other information used in support of EPA's evaluation is referenced in the Technical Support Document.

Several of the final rulemaking actions on the 1979 SIPs listed conditions that had to be met before the 1979 SIP revisions could be fully approved under Part D of the Act. The 1982 SIP revisions satisfy some of these conditions (see Proposed Action section). Other conditions still outstanding must be satisfied pursuant to the January 22, 1981 policy for 1982 SIP revisions.

For areas that received an extension of the O_3 or CO attainment deadline, the Act required that specific measures be included in the 1979 SIP revisions. One measure, for urban areas with populations greater than 200,000 (1970 census), is a motor vehicle inspection and maintenance (I/M) program. Six of the thirteen areas receiving an extension had populations greater than 200,000 and were required to satisfy the I/M requirement (see Table 1). The 1979 SIP revisions for these areas did not include evidence of I/M legal authority or a schedule to implement the program by December 31, 1982. These I/M deficiencies prevented EPA from approving or conditionally approving the 1979 O_3 and CO SIPs for the six areas.

Legislation which provides the necessary legal authority to implement an I/M program in these six areas was recently passed by the California Legislature. The Governor signed the I/M legislation into law on September 10, 1982. This legislation, along with a schedule to implement the I/M program in March, 1984, was submitted to EPA on September 17, 1982 as a revision to the SIP.

This **Federal Register** notice proposes EPA action on the September 17, 1982 revision as it relates to both the outstanding deficiencies in the 1979 SIP revisions and the requirements for an acceptable 1982 SIP revision.

Today's **Federal Register** action on the 1982 SIPs is being processed concurrently with state and local level action to adopt and submit the final 1982 SIP revisions. In order to expedite the rulemaking process, EPA reviewed the draft 1982 SIPs received on the dates indicated in Table 1. Copies of the plans, and any revised versions, are generally available at the office of the Air Pollution Control Districts and the Metropolitan Planning Organization within the individual areas. While final 1982 SIPs may have been submitted to EPA by the time of publication of this notice, none were received in the time to be reviewed and discussed in today's notice. This notice allows EPA to accomplish its administrative rulemaking process roughly parallel with that of the State. Consequently, final EPA action may be completed shortly after the State completes its adoption and submittal processes.

If the draft 1982 SIP revisions are substantially changed—except to remedy deficiencies cited in this notice—EPA will evaluate those changes and publish a revised notice of proposed rulemaking. Otherwise, following the state's adoption and submittal of the 1982 SIP revisions, EPA will consider public comments received and proceed directly to a notice of final rulemaking on the revisions discussed in today's notice.

Plan Evaluation

This evaluation is divided into two parts. The first part: (1) Provides a general description of the control strategy for achieving the O_3 and CO NAAQS throughout California, (2) evaluates the requirement that California adopt and implement an I/M program, (3) discusses California's submittals of stationary source control regulations, and (4) evaluates the adequacy of the plans for certain additional requirements. The second part contains a more detailed evaluation of portions of the 1982 SIP revision for each nonattainment area ("the plan"). The evaluation includes a summary of the adequacy of the area's control strategy for attaining the standards. The detailed evaluation is based on a more comprehensive review contained in EPA's Technical Support Document (TSD) which is available at the addresses listed above. The TSD includes a description of major deficiencies addressed in this notice as well as other minor deficiencies not addressed specifically in this notice.

A. General Plan Evaluation

Control Strategy Methodology: Development of control strategies begins by compiling an area's recent (base year) emissions inventory and evaluating the area's worst air quality measurements (design value/design day). A mathematical model is then used to determine how much the base year emissions must be reduced (allowable emissions) in order to achieve acceptable air quality measurements (attainment of the NAAQS). Once this allowable emission level is known, control measures can be developed, adopted, and implemented to reduce attainment year projected emissions to the allowable emission level.

O_3 is formed from various precursors—primarily oxides of nitrogen (NO_x) and a class of hydrocarbons called "volatile organic compounds" (VOC). Eight of the ten 1982 O_3 control strategies rely solely on additional reductions in VOC emissions to attain the NAAQS. Two of the O_3 control strategies rely on reductions of both VOC and NO_x. The reductions are achieved through measures such as motor vehicle inspection and maintenance, control of stationary sources, and reduction of vehicle traffic through transportation control measures (TCMs).[3] Table 2 presents the base year VOC emission inventory, air quality (O_3) design value, allowable VOC emission level, 1987 projected VOC emissions (without additional controls), and the required emission reductions from the 1987 projected emission level for each of the O_3 nonattainment areas in California.

Violations of CO are caused primarily by mobile source emissions. They generally occur in the areas around major intersections or in central business districts where vehicles tend to idle for relatively long periods. The control measures normally used to attain the CO standard are motor vehicle I/M and TCMs. Table 3 presents information, similar to that presented in Table 2, which forms the basis for the CO control strategies in California.

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[3] Further emission reductions are also achieved through the California Motor Vehicle Emission Control Program. The reductions are generally reflected in the baseline emission estimates. However, some plans claim a separate emission reduction credit for this program.

Table 2 - Ozone Control Strategy Basis

Nonattainment Area	Base year VOC Inventory (tons/day)	O_3 design value, ppm	% VOC Reduction Required	Allowable VOC Emissions (tons/day)	1987 Projected VOC Emissions (tons/day)	Required VOC Emission Reduction (tons/day)
San Francisco Bay Area Air Basin[a]	1393 (732[b])	0.19	31	967 (430[b])	1091 (515[b])	124 (85[b])
Fresno Co.[a]	157.5	0.18	70	47.6	163.7	116.2
North Central Coast Air Basin[b]	109	0.12	0	109	96	0
Sacramento Metropolitan Area[a]	112.2	0.22	50	56.1	80.6	24.5
San Diego Co.[b]	305.5	0.18	31	210.8	222.2	11.4
San Joaquin Co.[b]	98.5	0.14	28	71.4	86.2	14.8
Santa Barbara Co.[b]	24.4	0.14	18	20.0	17.7	0
South Coast Air Basin[b,c]	1501	0.44	85	225	963	738
Stanislaus Co.[b]	50.2	0.14	31	34.6	39.1	4.5
Ventura Co.						
- Oxnard Area[a,d]	88.7	0.19	48	46.1	58.9	12.8
Ojai Area[a,e]	13.7	0.17	42	7.9	9.6	1.7

a) Emission estimates are based on an average summer day.
b) Emission estimates are based on an average annual day.
c) The South Coast will also require a 28% reduction in NO_x emissions (50 tons/day) to attain by 1987.
d) Oxnard Area will also require a 48% reduction in NO_x emissions (18.3 tons/day) to attain by 1987.
e) Ojai Area will also require a 42% reduction in NO_x emissions (5.3 tons/day) to attain by 1987.

Table 3 - CO Control Strategy Basis

Nonattainment Area	Base Year Inventory (tons/day)	CO design value ppm	% Reduction Required	Allowable Emissions (tons/day)	1987 Projected Emissions (tons/day)	Required Emission Reduction (tons/day)
San Francisco Bay Area Air Basin	3220	19.4[b]	NA	NA	NA	NA
Fresno Co.	360.2	16.1[a]	41	211.4	321.6	110.2
Sacramento Metropolitan Area	634.0	14.3[a]	NA	NA	NA	NA
San Diego Co.	1237.2	10.1[a]	11	1101.1	999.5	0
San Joaquin Co.	311.2	10.1[a]	9	283.4	263.0	0
South Coast Air Basin	6747	25[a]	65	2346	4824	2478
Lake Tahoe Basin	198.8	28[b]	NA	NA	NA	NA

a) Regional Design Value
b) Local Design Value
NA - Not Applicable: Control Strategy based on estimated ambient concentrations with supporting inventories as described in the Technical Support Document.

California Inspection and Maintenance Program: The California Legislature recently passed Senate Bill 33 which outlines an I/M program for urbanized areas. This program covers passenger cars and other light and medium duty vehicles, and provides for inspection at initial registration, upon change of ownership, and at vehicle registration on a biennial basis. Inspections will be carried out by private garages (decentralized program) licensed by the state. A loaded-mode or an idle exhaust test will be used depending upon the program specifications to be developed by the State Department of Consumer Affairs. The test will also include a visual inspection of emission control devices. The program will be enforced through the vehicle registration system. Vehicles failing inspection must be repaired and reinspected before the registration is renewed.

Vehicles exempt from the I/M requirement include vehicles over twenty years old, motorcycles, heavy-duty vehicles and diesel powered vehicles. A limit on the cost of repairs has been initially set at $50. This amount may be increased up to $100 if justified by increases in the Consumer Price Index.

Based on: (1) The previously submitted 1979 SIPs, (2) the legislation and implementation schedule submitted on September 17, 1982, and (3) the draft 1982 revisions, EPA evaluated the plans for the six urban areas in which I/M is required as follows:

(1) *Legal Authority*—The legal authority to implement and enforce an I/M program is contained in the submittal of Senate Bill 33 (Chapter 892, Statutes of 1982, signed by the Governor on September 10, 1982).

(2) *Commitment to Implement*—The 1979 SIPs submitted for the urbanized areas contained commitments to implement I/M by local air planning agencies and the California Air Resources Board. Senate Bill 33 completes the State's commitment to implement an I/M program.

(3) *Resources*—The legislation contains a fee system to support the cost of the inspection program and authorizes a $3.5 million loan to support initial implementation. The repair costs are paid by the vehicle owner or manufacturer

(c) *Schedule for Implementation*—The legislation specifies that the State shall endeavor to implement the required program as soon as practicable after January 1, 1983. The schedule submitted by the State contains interim milestones as required in the July 17, 1978 I/M Policy memorandium and indicates a program startup date in March, 1984. The Act requires that all reasonably available control measures be implemented as expeditiously as practicable (Section 172(b)(2)). To satisfy this requirement, EPA policy requires that states begin implementation of I/M programs by December 31, 1982. The March, 1984 I/M implementation date is inconsistent with the policy and prevents EPA from approving the submitted implementation schedule.

(5) *Program Effectiveness*—The required commitment to achieve a 25% reduction in light duty vehicle exhaust hydrocarbon and CO emissions by 1987 from I/M is included in the September 17 SIP revision submitted by the State. Further, EPA has evaluated the biennial I/M program authorized by Senate Bill 33 and determined that it meets EPA's minimum 25% reduction requirement.

In addition to these five I/M requirements for the 1979 plans, 1982 SIP revision requirements for I/M were published in the January 22, 1981 Federal Register. As discussed in this policy, the 1982 SIP revisions were to include ten specific I/M program elements. These ten elements pertain to rules, regulations and all other I/M provisions which could affect the ability of the I/M program to achieve the minimum emission reduction requirements. The ten elements are: (1) Inspection test procedures; (2) emission standards; (3) inspection station licensing requirements; (4) emission analyzer specifications and maintenance/calibration requirements; (5) recordkeeping and record submittal requirements; (6) quality control, audit, and surveillance procedures; (7) procedures to assure that non-complying vehicles are not operated on the public roads; (8) any other official program rules, regulations and procedures; (9) a public awareness plan; and (10) a mechanics training program if additional emission reduction credits are being claimed for mechanics training.

As stated above, the legal authority to develop, implement and operate the I/M program was signed by the Governor on September 10, 1982. Although the State is working on an expeditious implementation the State has not yet completed work on the program details to address these ten elements.

The implementation schedule submitted by the State on September 17, 1982 indicates full program start-up in March 1984. Interim milestones, consistent with EPA's I/M policy memorandum of July 17, 1978, have been identified for the public information program, regulation adoption for testing procedures and quality control, station licensing, emission standards, analyzer specifications and mechanics training. It is EPA's understanding from the State that the ten required elements will be submitted to EPA as soon as they are adopted.

Together, the 1979 SIP submittals and the September 17, 1982 I/M SIP revision satisfy the criteria for approval of the 1979 plans, except for the schedule to implement I/M. The March 1984 date to begin I/M implementation is inconsistent with EPA policy. EPA policy requires implementation of I/M programs by December 31, 1982. This deficiency prevents EPA from fully approving the 1979 SIP revisions.

Stationary Source Control Measures: The State of California has submitted stationary source regulations which represent reasonably available control technology (RACT) for all sources of VOC covered by EPA's Group I and II Control Technique Guideline (CTG) documents, except for minor deficiencies noted in the Technical Support Document. EPA has taken final action on these regulations in the Federal Register actions referenced in Table 1.

For some of the regulations, EPA determined that there were minor deficiencies, and required the State (at 40 CFR 52.232) to correct the deficiencies as a condition of the 1979 SIP approval. The Technical Support Document lists all of the rules which still contain deficiencies, and discusses deletion of the conditions for the following two rules:

(1) Ventura County Rule 74.3 "Paper, Fabric and Film Coating"

(2) Stanislaus County Rule 410, "Storage of Petroleum Products"

With respect to Rule 74.3, EPA has reviewed information submitted by the affected source. EPA has determined that allowance of a seven-day averaging period for compliance with the rule will not significantly affect attainment and maintenance of the NAAQS for ozone and will allow for increased flexibility of source operations. Rule 410 does not represent RACT for floating roof tanks. However, the Air Resources Board has informed EPA that there are no affected sources within the District.

Additional Requirements: The Clean Air Act also requires the 1982 SIP revisions to contain:

(1) Adequate evidence of public and governmental involvement.

(2) A contingency provision which describes the process for correcting failure to meet reasonable further progress.

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(3) Procedures to ensure conformance with the SIP for transportation plans, programs, and projects which are approved by the Metropolitan Planning Organization.

(4) A commitment to developing, expanding or improving public transportation to meet basic transportation needs.

Each of the plans addressed in this Notice satisfies these requirements, except for minor deficiencies noted in the Technical Support Document.

B. Detailed Plan Evaluation

San Francisco Bay Area: O_3 Plan—The baseline and projected emission inventories and air quality data are adequate to support the control strategy. Certain minor deficiencies are discussed in the Technical Support Document. The control strategy is based on the LIRAQ model. The modeling analysis is adequate to support the control strategy. Minor deficiencies are noted in the Technical Support Document.

The control strategy demonstration indicates that an 85 ton/day reduction (annual average VOC) is required to attain the standard. This reduction will be achieved through implementation of an I/M program (29 tons/day) and stationary source control measures (56 tons/day). Transportation control measures (TCMs) are expected to provide additional reductions (2.7 tons/day). However, the TCM contribution is not included as part of the demonstration of attainment since the emission reductions achieved would not provide for attainment of the ozone standard any sooner. Stationary source control measures in addition to those already adopted and/or TCMs are needed to attain the standard and these additional measures are addressed in the plan. Either these additional measures have already been submitted for inclusion in the SIP or schedules for their adoption are included in the plan. The scheduled measures are detailed in the Technical Support Document. The necessary commitments for adoption and implementation of the control measures will be included in the adopted plan. The schedules for adoption and implementation of the additional measures are as expeditious as practicable.

The plan contains a strategy that will be implemented so that there are annual incremental reductions in emissions which will provide for reasonable further progress toward attainment of the O_3 standard.

CO Plan—Baseline and projected regional emission inventories and air quality data are presented to support the control strategy. However, certain documentation has not been provided to support the modeling approach. This documentation must include the areawide and local emission inventories and the derivation of the modeled design value. This is further discussed in the Technical Support Document. The control strategy is based on a modified rollback model, which is adequate to support the control strategy, except for the documentation previously noted and discussed in the Technical Support Document.

The control strategy demonstration indicates that a 28% reduction in CO emissions at the design intersection is required to attain the CO standard. This reduction is achieved through implementation of an inspection and maintenance program (20%) and TCMs (8%). The control strategy demonstration of attainment of the CO standard by 1987 must be documented in the final plan. This is further discussed in the Technical Support Document.

The TCM measures must be included as legally adopted measures, or a schedule for adoption needs to be included in the plan. The necessary commitments for adoption and implementation will also need to be included in the adopted plan along with documentation that the schedule for adoption is as expeditious as practicable. This is further discussed in the Technical Support Document.

As required by Section 172(b) of the CAA, the strategy will be implemented so that there are annual incremental reductions in emissions which will provide for reasonable further progress toward attainment of the CO standard. However, documentation of these reductions has not been provided. This is further discussed in the Technical Support Document.

Fresno County: O_3 Plan—The baseline and projected emission inventories and air quality data are adequate to support the control strategy. The control strategy is based on the city-specific EKMA model. The modeling analysis is adequate to support the control strategy

The control strategy demonstration indicates that a 116.2 ton/day hydrocarbon (HC) reduction is required to attain the standard. Emission reductions for 1987 are achieved through implementation of an I/M program (5.5 tons/day), stationary source control measures (59.2 tons/day) and TCMs (0.4 tons/day). Attainment is not projected by 1987, as there is an anticipated shortfall of 48.0 tons/day.

Stationary source regulations for VOC sources have been previously submitted for inclusion in the SIP and are addressed in separate **Federal Register** actions. Additional measures are needed to attain the standard and these additional measures are included in the plan. Schedules for adoption of stationary control measures and TCMs are included in the plan. (These measures are detailed in the Technical Support Document.) The necessary committments for adoption and implementation of all of the control measures are also included in the plan.

Therefore, the 1979 plan condition for TCMs contained in EPA's July 1, 1982 final rulemaking notice (47 FR 28617) will be satisfied. The transportation control portion of the plan fails to provide adequate documentation for the limited extent of implementation of the Section 108(f) measures contained in the plan. EPA's analysis indicates that, without a technical basis for rejection, the limited coverage and voluntary nature of several transportation control measures included in the plan do not represent an acceptable demonstration of implementing all reasonable and available measures. Although substantial progress is made towards attainment of the ozone standard, attainment is not projected to occur by 1987. Thus the requirement for demonstrating reasonable further progress in achieving the standard, as specified in Section 172(b) of the CAA, is not met.

CO Plan—The baseline and projected emission inventories and air quality data are presented to support the control strategy. The control strategy is based on the rollback model. The background concentration was not specified.

The control strategy demonstration contained in the plan indicates that a 110.15 ton/day reduction is required to attain the CO standard. 1987 emission reductions are achieved through implementation of an I/M program (62.09 tons/day) and TCMs (3.52 tons/day). The plan estimates a shortfall of 24.47 tons/day in attaining the standard by 1987. Analysis of the control measures for carbon monoxide is included in the evaluation of the ozone plan noted above.

Attainment is not projected to occur by 1987. Thus the requirement for demonstrating reasonable further progress is not met.

North Central Coast Air Basin: O_3 Plan—The North Central Coast Air Basin is currently designated nonattainment for O_3 with an extension to 1987 for attainment of the NAAQS. However, the highest violations of the O_3 NAAQS at Hollister were not used in the selection of the design value because the California Air Resources Board determined that these violations

were due to transport from the Santa Clara Valley. This resulted in selection of a design value of 0.12 ppm, which equals the O_3 NAAQS, and results in a maintenance rather than an attainment plan. The maintenance plan is supported by a contingency strategy rather than a control strategy.

The baseline and projected emission inventories and air quality data are adequate to support the contingency strategy. Certain minor deficiencies are discussed in the Technical Support Document. The air quality analysis is based on the city-specific EKMA model.

No additional stationary source control measures and TCMs are needed to attain the standard. However, additional measures have either already been submitted for inclusion in the SIP or schedules for their adoption are included in the plan. These measures are detailed in the Technical Support Document. The necessary commitments for adoption and implementation of the control measures will be included in the final plan; the schedules will be based upon future ozone nonattainment status.

Sacramento Metropolitan Area: O_3 Plan—The baseline and projected emission inventories and air quality data are adequate to support the control strategy. The control strategy is based on the SMOG model. The modeling analysis is adequate to support the control strategy. Minor deficiencies in the inventories and modeling analysis are noted in the Technical Support Document.

The control strategy demonstration indicates that a 24.5 ton/day reduction is required to attain the standard. 1987 emission reductions will be achieved through implementation of an inspection and maintenance program (6.6 tons/day), stationary source control measures (3.9 tons/day) and TCMs (3.8 tons/day). The plan estimates a shortfall of 6.6 tons/day in attaining the standard in 1987.

Stationary source control measures beyond the CTGs and remaining major sources as well as TCMs are identified in the plan. Either these measures have already been included in the SIP or schedules for their adoption are included. Therefore, the 1979 plan conditions for TCMs contained in EPA's July 1, 1982 final rulemaking notice (47 FR 18617) will be satisfied. The transportation control portion of the plan fails to provide adequate documentation for the limited extent of implementation of the Section 108(f) measures contained in the plan. EPA's analysis indicates that, without a technical basis for rejection, the limited coverage and voluntary nature of several transportation control measures included in the plan do not represent an acceptable demonstration of implementing all reasonable and available measures.

Although substantial progress is made towards attainment of the ozone standard, attainment is not projected to occur in 1987. Thus the requirement for demonstrating reasonable further progress is not met.

CO Plan—The baseline and projected emission inventories and air quality data are adequate to support the control strategy. The regional control strategy is based on the SMOG model and the Caline III model is used to analyze CO hotspots. These modeling analyses are adequate to support the control strategy. Minor deficiencies are discussed in the Technical Support Document.

The SMOG analysis indicates the highest 8 hour average concentrations for the design day in 1987. These estimates plus a chosen background concentration value indicate attainment of the 8-hour CO standard. No estimate of an allowable emission level is provided. The plan indicates that with I/M and the California emission standards, the area will project attainment of the CO Standard by 1987.

The plan does not presently include annual incremental reductions in emissions that would provide for reasonable further progress (RFP) towards attainment of the CO standard. The Sacramento Area Council of Governments has committed to include an RFP demonstration in the final plan.

San Diego County: O_3 Plan—The baseline and projected emission inventories and air quality data are adequate to support the control strategy. The control strategy is based on the MADCAP model. The modeling analysis is not adequate to support the control strategy. Documentation is needed to verify the design day selection and other modeling assumptions discussed in the Technical Support Document.

The control strategy demonstration indicates that a 76 ton/day reduction is required to attain the standard. This reduction will be achieved through implementation of an I/M program, stationary source control measures, TCMs, and mobile source control measures.

Stationary source control measures beyond the CTGs and remaining major sources as well as TCMs are needed to attain the standard. Either these additional measures need to be submitted for inclusion in the SIP or schedules for their adoption need to be included in the plan. These measures are detailed in the Technical Support Document. The necessary commitments for adoption and implementation of the control measures must be included in the plan, and the schedules for adoption and implementation of the additional measures need to be as expeditious as practicable. This deficiency is discussed in the Technical Support Document.

The plan contains a strategy that will be implemented so that there are annual incremental reductions in emissions which will provide for reasonable further progress toward attainment of the O_3 standard.

CO Plan—The baseline and projected emission inventories are adequate to support a control strategy demonstration. The plan does not include sufficient air quality data and does not include a modeling analysis, although sufficient information does exist in the plan to estimate the allowable emission level. A rollback calculation performed by EPA based on data in the plan indicates that a 136 ton/day reduction from the 1979 emission level is required to attain the CO standard by 1987. This reduction is achieved through implementation of an I/M program, TCMs and mobile source control measures as discussed above in the O_3 plan section. The control strategy demonstrates attainment of the CO standard by 1983.

San Joaquin County: O_3 Plan—The baseline and projected emission inventories and air quality data are adequate to support the control strategy. The control strategy is based on the city-specific EKMA model. The modeling analysis is adequate to support the control strategy.

The control strategy demonstration indicates that a 14.8 ton/day reduction is required to attain the standard. This reduction will be achieved through implementation of the mobile source control measures, including the California Motor Vehicle Emission Control Program (14.2 tons/day), stationary source control measures (22.6 tons/day), and TCMs (0.14 tons/day). The control strategy demonstrates attainment of the O_3 standard by 1986.

Stationary source control measures beyond the CTGs and remaining major sources as well as TCMs are needed to attain the standard, and they are included in the plan. Either these additional measures have already been submitted for inclusion in the SIP or schedules for their adoption are included in the plan. These measures are detailed in the Technical Support Document. The necessary commitments for adoption and implementation of the control measures are included in the plan, and the schedules for adoption and implementation of the additional measures are as expeditious as

practicable. Therefore, the 1979 plan condition for TCMs contained in EPAs May 7, 1982 final rulemaking notice [47 FR 19694] will be satisfied.

The plan includes a strategy that will be implemented so that there are annual incremental reductions in emissions which will provide for reasonable further progress toward attainment of the O_3 standard.

CO Plan—The baseline and projected emission inventories and air quality data are adequate to support the control strategy. The control strategy is based on the rollback model. The modeling analysis is adequate to support the control strategy.

The control strategy demonstration indicates that a 27.7 ton/day reduction from the 1979 emission level is required to attain the CO standard by 1987. This reduction is achieved through implementation of the California Motor Vehicle Emission Control program (52.2 tons/day) and TCMs (7.4 tons/day). The control strategy demonstrates attainment of the CO standard by 1983.

These control measures are included as legally adopted measures, or schedules for adoption are included in the plan. The necessary commitments for adoption and implementation are included in the adopted plan and the schedules for adoption are considered to be as expeditious as practicable. Therefore, the TCM condition contained in EPA's May 7, 1982 final notice is satisfied.

The plan includes a strategy that will be implemented so that there will be annual incremental reductions in emissions which will provide for reasonable further progress toward attainment of the CO standard.

Santa Barbara County: O_3 Plan—The baseline and projected emission inventories and air quality data are adequate to support the control strategy. The control strategy is based on the EKMA model. The modeling analysis is adequate to support the control strategy except that it does not model the entire inventory. This deficiency is discussed in the Technical Support Document.

The control strategy demonstration indicates that a 2.4 ton/day reduction from the 1979 emission baseline is required to attain the standard. This reduction will be achieved through implementation of the 1979 plan measures. Additional measures were adopted both prior to and as part of this plan revision. Emission reduction credit is not taken for them, however. The control strategy demonstrates attainment of the O_3 standard by 1984.

Stationary source regulations for VOC sources covered by EPA's CTG documents have been previously submitted for inclusion in the SIP, except for minor deficiencies noted in the Technical Support Document.

The plan includes a strategy that will be implemented so that there are annual incremental reductions in emissions which will provide for reasonable further progress toward attainment of the O_3 standard.

South Coast Air Basin: O_3 Plan—The baseline and projected emission inventories and air quality data are adequate to support the control strategy. Certain minor deficiencies are discussed in the Technical Support Document. The control strategy is based on city-specific EKMA as a first-phase modeling/screening tool. A trajectory-specific EKMA analysis was also conducted to determine the emission reductions required to achieve the standard and to estimate future ozone concentrations. A sophisticated photochemical model was used to assess the effectiveness of the plan's control strategy. The modeling analysis is adequate to support the control strategy. Minor deficiencies are noted in the Technical Support Document.

The control strategy demonstration indicates that a 738 tons/day reduction in hydrocarbons and a 50 tons/day reduction in NO_x are required to attain the ozone standard by 1987. Attainment is not projected by 1987 with an anticipated shortfall of 524 tons/day in VOC.

Stationary source control measures beyond those already adopted, and mobile source control measures, including TCMs, are needed to attain the standard. Additional measures have already been submitted for inclusion in the SIP and schedules for the adoption of other measures are included in the plan. Schedules for adoption and implementation of additional measures are as expeditious as practicable. The measures are detailed in the Technical Support Document.

The plan contains a short-range strategy, consisting of 104 measures for implementation between 1982 and 1987. The strategy includes measures covering petroleum industries, power plants, surface coatings and solvent use, transportation system design, aviation and marine sources, energy conservation and vehicle emission controls. The air quality modeling analysis shows that implementation of all measures in the short-range strategy will reduce the peak ozone level from 0.44 ppm in 1979 to 0.28 ppm in 1987. In addition, by 1987, first-stage air pollution episode days will be reduced by up to 30% and second-stage episodes reduced by 95%.

A long-range ozone control strategy is also included in the plan to indicate the direction the Air Basin would need to take to demonstrate attainment. No emission reductions are claimed for this portion of the plan which is offered only for consideration and further study. The long-range strategy falls into three areas: (a) energy use; (b) transportation and land use; and (c) new technology.

The plan does not contain a technical/fiscal analysis leading to rejection of TCMs. EPA's evaluation indicates that a significant number of TCMs are listed in the plan as "not reasonably available" or available for use as offsets. However, based on substantial experience in both the South Coast and other urban areas in the country, these measures have been found by EPA to be reasonable and available, technically defensible and cost-effective.

The plan does not include commitments to adopt all measures which are recommended for implementation between 1982 and 1987. In addition, the plan claims emission reduction credits for short-range strategy measures which may require state or federal enabling legislation prior to local enactment of the measure. The plan also claims emission reductions for short range strategy measures which assume promulgation of federal regulations although a notice of intent by the appropriate federal agency to promulgate such regulations has not been signed.

Although all measures which appear reasonable and available for implementation should be identified along with associated emissions reductions, EPA cannot accept measures as part of the control strategy which are not accompanied by legal authority or commitments to implement.

Although substantial progress toward attainment will occur, the requirement for reasonable further progress is not met since the control strategy does not provide for attainment by December 31, 1987.

CO Plan—The baseline and projected emission inventories and air quality data are adequate to support the control strategy. Minor deficiencies are discussed in the Technical Support Document. The controls strategy is based on a proportional roll-back model.

The control strategy demonstration indicates that a 2168 tons/day reduction is required to attain the CO standard. Reductions through 1987 will be achieved through implementation of area source, on-road and off-road mobile source controls, including an inspection and maintenance program

and TCMs. Attainment of the CO standard is not projected by 1987 with an anticipated shortfall of 1127 tons/day; however, the plan does provide for attainment of the standard by the year 2000 through implementation of measures adopted between 1982 and 1987.

Measures in the control strategy are included as legally adopted measures, or schedules for adoption are included in the plan. Schedules for adoption are considered to be as expeditious as practicable. However, EPA finds that this portion of the CO plan is deficient for the same reasons identified for this portion of the ozone plan.

Section 172(b) of the CAA requires the control strategy to provide for annual incremental reductions for reasonable further progress toward attainment of the CO standard. Althrough substantial progress toward attainment will occur, the requirement for reasonable further progress is not met since the control strategy does not provide for attainment by December 31, 1987.

Stanislaus County: O_3 Plan—The baseline and projected emission inventories and air quality data are adequate to support the control strategy, with the exceptionof two deficiencies. Apparent discrepancies among the inventories and annual averages of emissions potentially could affect the adequacy of the control strategy. EPA anticipates that these issues will be resolved soon. (The deficiencies are discussed in the Technical Support Document.) The control strategy is based on the city-specific EKMA model. The modeling analysis is adequate to support the control strategy.

The control strategy demonstration indicates that a 4.5 ton/day emission reduction from projected 1987 emissions is required to attain the standard. This reduction will be achieved through implementation of stationary source control mearuses (4.8 tons/day) and TCMs (0.18 tons/day).

Stationary source control measures beyond those already adopted and TCMs are needed to attain the standard and are included in the plan. Either these aditional measures have already been submitted for inclusion in the SIP or schedules for their adoption are included in the plan. These measures are detailed in the Technical Support Document. The necessary commitments for adoption and implementation of the additional measures are as expeditious as practicable.

The plan is deficient in not including documentation for the stationary source reductions. EPA anticipates that this issue will be remedied soon. This deficiency and one minor deficiency pertaining to TCMs are discussed in the Technical Support Document.

The plan includes a strategy that will be implemented so that there are annual incremental reductions in emissions which will provide for reasonable further progress toward attainment of the O_3 standard.

Ventura County: O_3 Plan—The baseline and projected emission inventories and air quality data are adequate to support the control strategy. Certain minor deficiencies are discussed in the Technical Support Document. The control strategy is based on the city-specific EKMA model. The modeling analysis is adequate to support the control strategy. Minor deficiencies are noted in the Technical Support Document.

The control strategy demonstration indicates that in the Oxnard Plain portion of the air basin a reduction of 12.8 tons/day of VOC and 18.3 tons/day of NO_x is required to attain the standard, while in the Ojai Valley portion of the air basin a reduction of 1.7 tons/day of VOC and 5.3 tons/day of NO_x is required. Reductions will be achieved through implementation of an inspection and maintenance program, stationary source control measures, and TCMs. The total emission reductions achieved by 1987 from measures contained in the plan is estimated to be 6.6 tons/day for VOC and 16.0 tons/day for NO_x. However, despite implementation of all adopted measures, the ozone standard will not be attained. The plan does indicate that the nonattainment area can attain an ozone level of 0.13 ppm sometime after 1987 if all measures contained in the plan are implemented.

Stationary source measures beyond those already adopted and mobile source control measures, including TCMs, are needed to attain the standard and are addressed in the plan. Additional measures have already been submitted for inclusion in the SIP and schedules for the adoption of other measures are included in the plan. These measures are detailed in the Technical Support Document. The necessary commitments for adoption and implementation of control measures are included in the plan, and the schedules for adoption and implementation of the additional measures are as expeditious as practicable.

Three of the control measures contained in the plan are intermittent, voluntary control measures. One additional measure is an intermittent control, but it is mandatory. Adequacy of any control strategy is partially dependent upon verifiable claimed emission reductions, with supportable technical analysis and documentation. In any case, Section 123 of the Clean Air Act prohibits allowing the degree of emission reduction which is necessary to attain standards to be affected by "intermittent controls of air pollutants varying with atmospheric conditions." Even if such measures were made mandatory, and legally enforceable, problems related to the unreliability or verification of methods of predicting atmospheric conditions would need to be overcome.

The transportation control portion of the plan fails to provide adequate documentation for the limited extent of implementation of the Section 108(f) measures contained in the plan. EPA's analysis indicates that, without a technical basis for rejection, the limited coverage and voluntary nature of several transportation control measures included in the plan do not represent an acceptable demonstration of implementing all reasonable and available measures.

Although substantial progress toward attainment will occur, the requirement for reasonable further progress is not met since the control strategy does not provide for attainment by December 31, 1987.

Lake Tahoe Basin: CO Plan—This notice evaluates that Lake Tahoe Basin Plan for its adequacy in demonstrating attainment of the CO standard in the California portion of the Basin, since only this area was granted an extension to 1987. EPA is deferring action on the plan as its pertains to the Nevada portion of the Basin.

The baseline emission inventory, air quality data, and modeling analyses are adequate to support the control strategy. The control strategy demonstration indicates ambient air quality reductions at each modeled site resulting from the control measures. These reductions are achieved through adoption and implementation of an I/M program and TCMs. Emission reduction credits are taken for both non-resident vehicles subject to the I/M program in the six urbanized areas of California and for resident vehicles in El Dorado County. The control strategy demonstrates attainment of the CO standard by 1987.

Certain of these control measures are included as legally adopted measures; schedules for adoption are also included in the plan. For I/M, the legal authority for the non-resident program is the California legislation discussed earlier in this notice. The Tahoe Regional Planning Compact (Pub. L. 96-511) gives the Tahoe Regional Planning Agency the authority to develop an I/M ordinance

for the Basin. The plan specifies that the Tahoe program will be similar to the one being developed for the California urbanized areas.

Necessary commitments for adoption and implementation of the various control measures are included, and their schedule for adoption is considered to be as expeditious as practicable. The State has committed to providing the remaining required evidence of control measure adoption and implementation schedules. Therefore, the 1979 plan conditions for TCMs, resources, and evidence of adoption and implementation schedules contained in EPA's June 23, 1982 final rulemaking notice (47 FR 27065) will be satisfied. In addition, the conditional approval contained in the final rulemaking notice which related to Basic Transportation Needs has been satisfied in the 1982 SIP revision.

The plan does not presently include annual incremental reductions in emissions that would provide for reasonable further progress towards attainment of the CO standards. The State will submit a revised demonstration in the final plan.

Proposed Actions

Based on EPA's review of California's September 17, 1982 submittal regarding motor vehicle I/M, it is proposed that the following actions be taken:

1. The September 17, 1982 submittal is proposed to be approved and incorporated into the SIP as meeting all the I/M requirements of the 1979 plans (except for the implementation schedule) since it strengthens the control requirements of the SIP.

2. The implementation schedule is proposed to be disapproved since it does not require program start-up by December 31, 1982. This would result in a continuation of the existing moratorium on the construction of new or modified major sources of O_3 and/or CO in the San Francisco Bay Area Air Basin, Fresno County, Sacramento Metropolitan Area, San Diego County, South Coast Air Basin and Ventura County.

3. It is proposed that the California I/M program is adequate to satisfy the I/M requirements for the 1982 SIP revision, provided the ten elements for a fully approvable I/M program are submitted prior to EPA's final action on the 1982 SIP revisions. Failure to submit the ten elements could result in plan disapproval.

Based on evaluation of the draft 1982 SIP revisions, EPA is proposing to take the following actions on the 1982 SIP revisions under the procedure of "parallel processing":

1. All portions of California's 1982 SIP revisions are proposed to be approved and incorporated into the SIP (except as noted below), since they update the SIP data base, provide new control measures which are needed to attain the NAAQS, and meet other specific requirements of Part D of the Act.

—Intermittent control measures identified in the Ventura County plan as R–38/N–16 (No Use Day), R–39/N–17 (No Drive Day), R–40 (No Spray Day) and R–41/N–18 (Stationary Source Curtailment) are proposed to be disapproved, since they are inconsistent with Sections 110 and 123 of the Act.

—Control measures contained in the South Coast Air Basin plan which are not accompanied by (1) certification of legal authority to implement the measures, (2) a commitment by the appropriate agency to implement the measures, and (3) evidence that adequate funding will be available to implement the measures, are proposed to be disapproved, since they are inconsistent with Section 110 of the Act and 40 CFR Part 51.

2. Overall, the 1982 SIP revisions for the following areas are proposed to be approved as meeting the requirements of Part D of the Act, except for the deficient plan elements noted. Remedies for the noted deficiencies must be submitted to EPA prior to final approval of the plans. Failure to remedy the deficiences could result in disapproval of the overall plan.

San Francisco Bay Area Air Basin (O_3 and CO):

—The CO plan lacks adeaute documentation to support the attainment demonstration.

—The CO plan lacks documentation of a process for determining reasonable further progress.

North Central Coast Air Basin (O_3): The plan does not include a demonstration that reasonable further progress will be met.

San Diego County (O_3) and (CO) :

—The plans lack the necessary evidence of adoption of the control measures.

—The plans lack documentation for the attainment demonstrations (including a modeling analysis for CO).

San Joaquin County (O_3 and (CO) :

Santa Barbara County (O_3):

–The attainment demonstration is not based on an adequate modeling analysis since the tidelands portion of the inventory was excluded.

Stanislaus County (O_3) :

—The emission inventory may not be adequate to support the attainment demonstration.

—The plan lacks documentation for the estimates of stationary source emission reductions.

Tahoe Interstate Air Basin (CO) :

—The plan lacks evidence of local agency commitment to the recommended control measures.

—The plan lacks an adequate demonstration of reasonable further progress.

3. Overall, the 1982 SIP revisions for the following areas are proposed to be disapproved, since they fail to satisfy the following requirements of Part D of the Act: 1) the plans fail to demonstrate attainment of the standards by December 31, 1987; 2) the plans do not provide for reasonable further progress; and 3) the plans do not contain adequate justification for the rejection of certain TCM's listed under Section 108(f) of the Act.

Fresno County (O_3 and CO).
Sacramento Metropolitian Area (O_3).
South Coast Air Basin (O_3 and CO).
—*Ventura County (O_3).*

4. Elements of the 1982 SIP revisions and additional information received on VOC regulations satisfy the following conditions of approval of the 1979 SIP revisions. It is proposed that these conditions be removed upon final action on the 1982 SIP revisions.

Fresno County:
—TCM commitments
Sacramento Metropolitan Area:
—TCM commitments
San Joaquin County:
—TCM commitments.
Stanislaus County:
—Rule 410 deficency.
Ventura County:
—Rule 74.3 deficiency.
Lake Tahoe:
—Resource commitments to implement the plan.
—Commitment to Basic Transportation Needs.
—TCM commitments.

If the major deficiencies listed above in item 3 are not remedied before EPA takes final action, EPA is proposing to disapprove the four 1982 SIP revisions. Under Section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapproval would trigger contiunation of a moratorium on the construction and modification of major stationary sources of O_3 and/or CO in the nonattainment areas.

Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where

transportation control measures are necessary for attainment and where EPA finds that a state has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has the discretion to limit sewage treatment funding in similar circumstances. EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

Interested parties are invited to comment on all aspects of these proposed actions regarding the California SIP. Comments should be submitted to the EPA Region 9 Office.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

. Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Authority: Sections 110, 123, 129, 171–178 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7423, 7429, 7501 to 7508 and 7601(a)).

Dated: November 30, 1982

Sonia F. Crow,

Regional Administrator.

[FR Doc. 83–2447 Filed 2–2–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[EPA Action MO 999; A–7–FRL 2261–3]

Approval and Promulgation of Implementation Plans: State of Missouri; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The Clean Air Act requires that all states which received an extension beyond December 31, 1982, to attain either the ozone or carbon monoxide standards submit a revised plan by July 1, 1982, showing that the standards would be attained by December 31, 1987. The State of Missouri has submitted a draft plan for the St. Louis area. EPA is proposing to disapprove this plan. The plan contains numerous deficiencies including a failure to demonstrate attainment of the ozone standard, an inadequate inspection and maintenance program for motor vehicles, inadequate controls on stationary sources and other deficiencies. Disapproval of the plan would result in a moratorium on the construction and modification of major stationary sources of ozone and carbon monoxide in the nonattainment areas. Restrictions on funds for air quality planning and transportation projects could follow.

EPA is soliciting comments on its proposed action.

DATE: Comments must be received on or before March 21, 1983.

ADDRESSES: Comments should be addressed to Mr. Wayne G. Leidwanger, Air Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state's submission and EPA's technical evaluation are available during normal business hours at the preceding address as well as at the following locations: Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65101; East-West Gateway Coordinating Council, 112 North Fourth Street, St. Louis, Missouri 63102.

FOR FURTHER INFORMATION CONTACT: Wayne Leidwanger at (816) 374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. (Sections 171–178 of the Clean Air Act; Section 129(c) (uncodified) of Pub. L. 95–95). Under this Part, the states had to revise their State Implementation Plans (SIPs) for all nonattainment areas and submit the revisions to EPA by January 1, 1979. The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the ozone or carbon monoxide (CO) standard by that date (Sections 172(a)(1), 172(a)(2)).

If EPA approved this demonstration, the attainment date for ozone or CO could be extended up to December 31, 1987, and the State could defer compliance with certain of the Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements (Section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodifed), Pub. L. 95–95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1]

The State of Missouri submitted an initial SIP revision for the St. Louis ozone and CO nonattainment areas in July 1979. The State requested that EPA extend the attainment date for the standards in this area until December 31, 1987. EPA approved this request and conditionally approved the initial plan revision on April 9, 1980 (45 FR 24140). (EPA gave final approval to this initial plan revision on June 10, 1982 (47 FR 25143) after the conditions had been fulfilled.)

This draft is the subject of today's notice. On December 28, 1982, Missouri submitted its final 1982 plan. EPA is currently reviewing Missouri's final submittal. The final submittal may address some of the major issues raised in today's notice. Once EPA completes its review, EPA will either publish a notice of final rulemaking on the revisions discussed in today's notice or will publish a revised notice of proposed rulemaking if the final submittal differs significantly from the draft submittal.

EPA's review of the State's draft submittal is divided into three main discussions.

A. the ozone SIP,

B. the carbon monoxide SIP, and

C. the additional requirements set out in EPA guidance, including conformity of federal actions, consultation with State and local officials, and the effect assessment.

A. The Ozone SIP

Ozone is formed from various precursors, primarily oxides of nitrogen and a class of hydrocarbons called "reactive volatile organic compounds" (VOCs). VOC emissions are controlled to reduce ozone concentrations.

The St. Louis nonattainment area includes the City of St. Louis and St. Charles, Franklin, Jefferson and St. Louis Counties in Missouri and Madison, Monroe and St. Clair Counties in Illinois. (Today's notice addresses only the Missouri plan; EPA will publish a separate notice on the Illinois SIP.) The ozone modeling analysis for the nonattainment area claims that a 24.9 percent emission reduction will be needed to eliminate violations of the ozone standard. The draft Missouri 1982 SIP combines a mix of stationary and

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[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

mobile source strategies to achieve the reduction.

EPA's review of the ozone SIP is divided into seven sections:

—Emission Inventory
—Air Quality Data
—Modeling Analysis and the Emission Reduction Target
—Stationary Source Controls
—Inspection and Maintenance Program
—Transportation Control Measures
—Reasonable Further Progress and the Attainment Demonstration.

1. Emission Inventory

Section 172(b)(4) of the Clean Air Act requires the SIP to contain a comprehensive, accurate and current inventory of actual emissions. In the case of the ozone plan, an inventory of volatile organic compounds (VOC) is necessary for projecting attainment of the ozone standard of 0.12 ppm. Also required for the modeling analysis is an inventory of NO_x emissions. These emission inventories should be prepared for a 1980 base year and projected to a date that will, at a minimum, include the anticipated year of attainment (46 FR 7184, January 22, 1981).

The Missouri SIP provides a base year 1980 emission inventory and projects emissions through 1987, the anticipated year of attainment. Typical summer weekday emission rates are reported for stationary and area sources, the latter including mobile sources. The SIP shows 1980 VOC emissions to be 315,030 kg/day in the Missouri portion of the ozone nonattainment area and projects those emissions to be reduced to 244,290 kg/day without enactment of any additional control measures.

Stationary, area and mobile sources are quantified in the SIP. All stationary sources whose emissions were greater than 40 TPY in 1980 are specifically identified. The East-West Gateway Coordinating Council used EPA's MOBILE–2 emission factor program to determine mobile source emissions. East-West Gateway is the lead planning agency designated under Section 174 of the Clean Air Act. East-West Gateway and the Missouri Division of Employment Security provided the bases foir projecting future emissions. Documentation of the methodology employed in developing the emission inventory is contained in the SIP.

EPA believes the emission inventory was prepared in accordance with the applicable guidelines.

Proposed Action: EPA proposes to approve the emission inventory as meeting the requirements of Section 172(b)(4).

2. Air Quality Data

For the 1982 SIP, requires the most recent three years of air quality data to be used in the modeling analysis. Generally, this should include all data collected through the third quarter of 1981 (46 FR 7189, January 22, 1981).

The Missouri SIP provides a summary of the ozone monitoring data for a five-year period ending with the third quarter of 1981. (Only the last three years of data were used in the modeling analysis.) The highest last three years of data were used in the modeling analysis.) The highest ozone value recorded during the last three years was 0.12 ppm on September 11, 1979; a number of exceedances of the standard of 0.12 ppm were recorded each year from 1979 to 1981. The "design day", i.e., the day on which the modeled control requirement is based, is also attributed to September 11, 1979, at another monitoring site where the ozone level was recorded as 0.188 ppm.

EPA believes that the SIP provides sufficient quality assured monitored ozone data on which to develop a control strategy.

Proposed Action: EPA proposes to approve the air quality data for use in the modeling analysis.

3. Modeling Analysis and Emission Reduction Target

In its policy on the 1982 SIPs, EPA specified the minimum acceptable models which the states could use in preparing their SIPs. EPA noted the inability of simple models, such as linear or proportional rollback, to adequately consider chemical kinetics and meteorological parameters. Accordingly, EPA required the use of more sophisticated models. Photochemical dispersion models have the greatest potential for evaluating the effectiveness of ozone control strategies. However, EPA recognized that these models were very data intensive. Therefore, EPA recommended the use of city-specific EKMA (Empirical Kinetic Modeling Approach) for the 1982 ozone plans (46 FR 7190, January 22, 1981). EKMA is less data intensive but still considers meteorological influences and atmospheric chemistry. By encouraging each state to use city-specific EKMA, consistency among the states having to demonstrate attainment by 1987 could be achieved.

The State of Missouri chose to use city-specific EKMA for its 1982 ozone SIP. The state's modeling shows the control requirement to be 38.5 percent. As described below, the state takes credit for certain emission reductions which allows the control requirement to be reduced to 24.9 percent. However, a review of the state's modeling revealed a number of instances in which the state deviated from EPA's guidelines without adequate justification. These modifications are summarized below; for a complete discussion of the issues, the reader should consult EPA's technical support document.

The state modified the modeling by halting the simulation at the time of observed ozone maxima. EPA does not believe this is proper because it can result in an under-predicted control requirement. Because this modification may have altered the predicted control requirement for each day modeled, the choice of the particular design day, i.e., the level of control needed to achieve the standard, may have been affected also.

The state did not treat mixing heights consistent with EPA's policy. The initial mixing height, maximum mixing height and the time of the maximum mixing height are variables in the modeling. An initial mixing height which is too low can cause the model to under-predict the control requirement.

Missouri modeled for an ozone standard of 0.124 ppm. A monitored value of this level would be reported as 0.12 ppm and not be considered a violation. However, the model is not sufficiently accurate to judge the third significant digit. The state's use of 0.124 serves to consistently lower the control requirement for each day modeled.

Missouri also takes credit for a reduction in future ozone transported from upwind areas by arguing that St. Louis is downwind from a number of nonattaiment areas. Some reduction in future ozone aloft is expected. However, EPA does not believe St. Louis meets the criteria that would allow extra credit for a reduction in future ozone levels in upwind noattainment areas. The St. Louis area is not close to a large number of ozone nonattainment areas such as occurs in the northeastern United States

The SIP indicates that adequate NMOC and NO_x data were not gathered. These data are important elements of the modeling analysis. Without these data, the state had to make assumptions regarding the NMOC/NO_x ratio. The state selected a ratio from the mid-1970s from an EPA study (the Regional Air Pollution Study) and then adjusted it downward on the basis of VOC emission reductions which occurred between 1977 and 1980. The year 1977 was the base year inventory for the 1979 SIP. The state increased the 1977 emission inventory without providing any documentation thereby allowing a greater credit to be taken. EPA does not

believe that the state has provided evidence that such emission reductions actually occurred. Adjusting the NMOC/NO_x ratio downward results in a lower control requirement.

The state then further adjusted its modeled control requirement of 38.5 percent by taking credit for emission reductions between 1979 and 1980. The credit (13.6 percent) is based on a straight-line interpolation between the 1977 and 1980 emission inventories. The state's emission reduction target then becomes 24.9 percent as applied to the 1980 emission inventory. As noted previously, the state has not provided documentation that the emission reductions between 1977 and 1980 actually occurred.

Proposed Action: EPA proposes to disapprove the modeling and the emission reduction target. EPA specifically solicits comments on the modifications the state made to the modeling and to the emission reduction target.

3. Stationary Source Control

Section 172(b)(3) of the Clean Air Act requires states to adopt Reasonably Available Control Technology (RACT). Therefore, as part of the 1982 submittal, states must include RACT for: (1) all sources of VOCs covered by a Control Technique Guideline (CTG) and (2) all remaining major stationary sources of VOCs with the potential to emit more than 100 tons of VOC per year (250 kg/day). EPA requires that the submittal either include legally enforceable measures to implement RACT for these sources, or else document the State's determination that the existing level of control represents RACT for each of these sources (46 FR 7186, January 22, 1981).

The State of Missouri has satisfied the first requirement; that is, it has adopted RACT regulations for all VOC sources for which EPA has issued a CTG. (For a listing of previous EPA actions on Missouri's RACT rules, the reader should consult EPA's technical support document.)

The Missouri SIP identifies 18 major sources which are not covered by previous RACT regulations. Missouri has determined that control of emissions from nine of these sources is not reasonable considering available technology and the cost of control.

The SIP presents proposed Rule 10 CSR 10–5.360, Control of Emissions from Polyethylene Bag Sealing Operations, which would apply to two sources. The rule would require sources to control no less than 65 percent of the uncontrolled VOC emissions. The rule allows sources to use exempted solvents in place of add-on controls. Certain solvents have been exempted from control by EPA because they do not contribute to the formation of ozone in the atomosphere. However, EPA discourages their use because they may contribute to stratospheric ozone depletion. State officials and sources are advised of the possibility of future regulatory action to control these compounds. Nevertheless, EPA believes Rule 10 CSR 10–5.360 does represent RACT.

The SIP states that one source will limit its emissions in accordance with Rule 10 CSR 10–6.100, Alternate Emission Limit, which was submitted to EPA as a SIP revision on November 17, 1982. This rule would not require RACT but only provide a procedure to "bubble" the required reductions at the source. The SIP does not demonstrate that RACT will be met. Without this demonstration, EPA cannot evaluate the emission reductions which are being claimed. EPA is proposing action in a separate notice on Rule 10 CSR 10–6.100 because the rule will apply to numerous sources and because EPA has other criteria by which to judge the approvability of the rule. If EPA approves Rule 10 CSR 10–6.100, the source and the state may agree to be an alternate emission reduction plan without EPA's review as long as it meets the requirements for RACT. However, the 1982 SIP is deficient in that it does not provide this RACT demonstretion.

Permit conditions have been used to limit the emissions of one source to less than 250 kg/day. EPA believes such an approach is acceptable but notes that the permit was not submitted with the SIP. EPA understands the permit to be an operating permit issued under a permit program which is not part of the SIP. Therefore, the permit must be incorporated into the SIP to be enforceable by EPA. EPA believes this is a significant deficiency.

For four of the emission sources, the state has committed to schedules for adopting RACT by August 1983. There is also a commitment by the state to adopt addition RACT requirements within 12 months of EPA issuing a CTG. EPA believes these schedules represent firm commitments from the state to expeditiously meet the RACT requirement.

One major source of VOC emissions is not covered by any existing or proposed RACT rule nor is there a schedule for adopting an enforceable RACT requirement.

EPA believes the state has only partially met the requirement for RACT on major stationary sources.

Proposed Action: EPA proposes to approve Rule 10 CSR 10–5.360 and the schedules for adopting additional RACT requirements by August 1983. EPA proposes to disapprove the SIP because it fails to demonstrate that RACT will be required on all major sources.

4. Inspection and Maintenance (I/M) Program

All major urban areas that needed an extension beyond 1982 to attain a standard for ozone or CO were required to include a vehicle I/M program as a portion of the 1979 SIP revision (Section 172(b)(11) of the Clean Air Act). I/M is a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excess emissions must then undergo mandatory maintenance.

EPA evaluated and conditionally approved the I/M portion of Missouri's 1979 SIP revision on April 9, 1980, at 45 FR 24140. The state later submitted a specific schedule for implementing I/M in St. Louis by December 31, 1981. That submission was approved by EPA on March 16, 1981, at 46 FR 16895 as fulfilling one of the conditions for EPA's approval of the 1979 SIP. The other condition required the state to submit to EPA a report on the recommended type of I/M program and other details. On August 27, 1981, (46 FR 43139) EPA noted that the state had submitted the report and had fulfilled the condition. However, EPA took no action on the specific recommendations in the report. EPA noted that the state would have to submit a SIP revision in 1982 addressing the requirements for an I/M program.

The 1982 SIP revision must include: (1) The rules and regulations for implementing an I/M program that will meet the minimum requirements for emission reduction, and (2) commitments to other needed program details. (However, I/M elements already submitted and approved as part of an earlier SIP submittal need not be submitted again.) The 1982 SIP policy published on January 22, 1981, discusses these requirements at 46 FR 7186.

The Missouri plan presents a revised schedule calling for implementation of a decentralized mandatory I/M program in St. Louis by December 31, 1983. EPA required that decentralized programs commence by December 31, 1981. The schedule in the plan does not comply with EPA's requirements.

The SIP contains proposed Rule 10 CSR 10–5.380, Motor Vehicle Emissions Inspections. This rule sets the date for a mandatory I/M program after January 1, 1984, and therefore, it does not comply with EPA's policy.

The SIP is also deficient in that it does not contain inspection test procedures, licensing requirements for inspection stations, emission analyzer specifications and maintenance/calibration requirements, quality control and audit and surveillance procedures, and procedures to assure that noncomplying vehicles are not operated on the public roads. The SIP does not include any of the relevant rules and regulations of the State Highway Patrol and the Department of Revenue. These two agencies are responsible for implementing the program.

The SIP does contain a public awareness plan for the I/M program. EPA believes this element meets the requirements of the 1982 SIP policy.

The SIP also fails to demonstrate that the I/M program will meet the requirement for RACT. EPA has specified that I/M programs must achieve a 35 percent reduction in exhaust emissions from light-duty vehicles as calculated by MOBILE-2. The State has not made this demonstration.

Proposed Action. EPA proposes to disapprove the 1982 ozone SIP and Rule 10 CSR 10–5.380 because the plan does not contain the necessary commitments and elements for an I/M program.

5. Transportation Control Measures (TCMs)

The 1982 SIP must include: (1) An updated emission reduction target for the transportation sector, (2) all reasonably available TCMs, (3) commitments to implement TCMs, (4) measures to meet basic transportation needs, (5) public participation activities, (6) a TCM monitoring plan, (7) conformity procedures and (8) a contingency plan. The reader should consult the 1982 SIP policy at 46 FR 7187 on January 22, 1981, for a full discussion of these requirements.

The East-West Coordinating Council has adopted a transportation plan which EPA believes meets the above requirements. However, the state has not fully incorporated the plan into the SIP. In particular, the state has not included East-West Gateway's review of individual TCMs including the justification for not adopting difficult measures, the discussion of basic transportation needs, the monitoring and contingency plans, and the description of the transportation planning process. Without these elements the SIP is deficient in meeting the requirements of Section 172 and Section 110 of the Clean Air Act.

Proposed Action: EPA proposes to disapprove the 1982 ozone SIP because it does not contain the necessary elements of a transportation control program.

6. Reasonable Further Progress and the Attainment Demonstration

Sections 172 (a)(2) and (b)(3) of the Clean Air Act require that the ozone standard be attained as expeditiously as practicable, but not later than December 31, 1987, and that in the interim, reasonable further progress (as defined in Section 171) be shown in achieving emission reductions. No extension beyond December 31, 1987, is available. Furthermore, as described in EPA's 1982 SIP policy, the annual emission reductions must at least equal the emission reductions that would be achieved through a linear attainment program (46 FR 7187, January 22, 1981).

The Missouri SIP projects a 27.8 percent reduction in emissions as a result of RACT on stationary sources, the I/M program, the TCMs and the Federal motor vehicle control program. The state further claims a 2.9 percent margin for growth by comparing the projected emission reductions against the emission reduction target (24.9 percent). However, EPA believes the modeling and the control requirement are inadequate and that the emission reductions should be substantially higher. Consequently, the state's plan fails to demonstrate that the ozone standard will be attained. It also fails to demonstrate that the annual emission reductions will at least equal the emission reductions that would be achieved through a linear attainment program based on a substantially higher emission reduction target. The SIP does not show reasonable further progress.

Proposed Action: EPA proposes to disapprove the 1982 SIP because it fails to demonstrate attainment of, and reasonable further progress towards attaining, the ozone standard.

B. Carbon Monoxide (CO)

CO violations are caused primarily by automobile emissions. They generally occur in the areas around major intersections, or in central business districts, where vehicles tend to idle for relatively long periods. EPA calls these problem areas "hot spots."

The state submittal contains a detailed modeling analysis which demonstrates attainment of the CO standard at local "hot spot" intersections. It also contains a demonstration of reasonable further progress (RFP) where the state modeling indicated violations. Today's notice discusses both of these sections as well as the requirements for stationary source controls, an I/M program and transportation control measures.

1. Hotspot Analysis

The APRAC–2 CO diffusion model using MOBILE–2 emission was used to project future CO concentrations. This is the EPA-approved model as specified in the 1982 SIP policy. The model predicted maximum 1-hour CO concentrations at 201 receptor sites in the region. With transportation control measures, an I/M program and the Federal motor vehicle control program, the maximum 1-hour CO concentration is predicted to be 8.8 ppm. Compared to the CO standard of 35 ppm, this shows the area will attain the 1-hour standard. The SIP also shows that the predicted 8-hour concentration for 1987 will be 6.2 ppm. This compares favorably to the standard of 9.0 ppm.

Proposed Action: EPA proposes to approve the hotspot analysis.

2. Reasonable Further Progress (RFP)

The SIP demonstrates that the CO standard will be attained through the implementation of the federal motor vehicle control program, an I/M program, and the TCMs. The SIP shows that annual emission reductions will occur as a result of these programs. The modeling demonstrated that the standard will be attained. With an I/M program and the TCMs, progress in attaining the standard will occur even faster than what would be accomplished by the Federal motor vehicle control program.

Proposed Action: EPA proposes to approve the demonstration of reasonable further progress.

3. Stationary Source Controls

There is some uncertainty regarding the contribution of stationary sources to the nonattainment problem. Stationary sources cannot be factored into the APRAC model. EPA's policy is that all stationary sources which emit more than 1000 (or 2500 kg/day) must comply with the requirement for RACT is specified by Section 172 of the Clean Air Act (46 FR 7186, January 22, 1981). This policy will insure that the stationary source contribution to the CO problem, although usually small in comparison to the mobile source sector, will be minimized.

The Missouri SIP indicates that there are three sources which emit greater than 2500 kg/day. EPA agrees that control of emissions from two sources is not considered practical.

The emissions from the third source are estimated at 56,270 kg/day in 1980 and are projected to decline to 17,393 kg/day in 1983. The SIP indicates that this source will be installing a control system which will meet the requirement for RACT. However, there is no RACT

demonstration and no regulation to enforce the emission reductions. Consequently, the SIP is deficient in that it does not demonstrate that the requirements of Sections 172(b) (3) and (10) will be met, i.e., RACT and a mechanism for enforcement.

Proposed Action: EPA proposes to disapprove the CO plan because it does not meet the requirement for RACT on all sources whose emissions are greater than 2500 kg/day.

4. Inspection and Maintenance Program and Transportation Control Measures

As explained previously, EPA granted an extension through 1987 for attainment of the CO standard in the St. Louis area. Therefore, Section 172(b)(11) requires that the CO plan contain the I/M and TCM measures previously discussed in the context of the ozone plan.

Proposed Action: EPA proposes to disapprove the CO plan because it contains the same deficiencies described for the ozone plan.

C. Additional Requirements

1. Conformity of Federal Actions

Section 176(c) of the Clean Air Act requires that all Federal activities conform to the SIP. In addition, the SIP must identify to the extent possible, the direct and indirect emissions associated with major Federal actions. (See 46 FR 7188, January 22, 1981.)

The SIP indicates that the state has reviewed this matter. No major Federal actions have been identified which would have an appreciable affect on the population of the St. Louis area. The SIP further names the East-West Gateway Coordinating Council as the responsibile agency for assuring regional consistency and conformity with the SIP.

Proposed Action: EPA proposes to approve the 1982 SIP as meeting the requirements for conformity of Federal action.

2. Public Participation and Consultation with State and Local Officials

The SIP provides evidence of an extensive public participation program which meets the requirements of Section 121 of the Clean Air Act. The East-West Gateway Coordinating Council is the designated lead planning agency under Section 174 of the Act. A memorandum of understanding among the responsible agencies was developed for the purpose of defining the roles and responsibilities for the 1982 SIP. That document is provided in the SIP.

Although the state has not yet provided documentation of the public hearings, the requirements of 40 CFR 51.4 have likely been met. The state provided adequate notice and held two public hearings on the 1982 SIP.

Proposed Action: EPA proposes to approve the 1982 SIP insofar as it meets the requirements for public participation and consultation provided the state submits documentation of the public hearings.

3. Effect Assessment

The Missouri SIP provides a limited analysis of the air quality, health, welfare, economic, energy and social effects of the plan as required by Section 172(b)(9) of the Clean Air Act. EPA has not set forth specific requirements for such an effect assessment.

Proposed Action: EPA proposes to approve Missouri's effect assessment. EPA is specifically soliciting comments on the adequacy of the effect assessment in the 1982 SIP.

D. Summary

EPA is proposing to disapprove Missouri's ozone and CO SIP for the reasons listed above. As noted earlier, Missouri's December 28, 1982 final submittal, which EPA is currently reviewing, may address some of the concerns. If the final plan differs significantly from the draft, EPA will evaluate the changes and publish a revised notice of proposed rulemaking.

EPA is soliciting comments on the state's submission and on the proposed actions described in this notice. The Administrator's decision to approve or disapprove this submission will be based upon the comments received on whether the SIP revisions meet the requirements of the Clean Air Act, 40 CFR Part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans) and the 1982 SIP policy.

If the major deficiencies discussed above are not remedied before EPA takes final action, EPA will be required to disapprove the revisions to the ozone and carbon monoxide plans. Under Section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapprovel would trigger a moratorium on the construction and modification of major stationary sources of ozone and carbon monoxide in the nonattainment area to which these plan revisions apply.

Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Clean Air Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxide, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

This notice is issued under the authority of Sections 110 and 301 of the Clean Air Act, as amended.

Dated: November 30, 1982.

William W. Rice,

Acting Regional Administrator.

[FR Doc. 83-2451 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5 FRL 2261-4]

Approval and Promulgation of Implementation Plans; Michigan 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: The purpose of this document is to address the 1982 State Implementation Plan (SIP) revision which has been submitted in draft form by the State of Michigan. Part D of the Clean Air Act (CAA) requires that a plan be submitted by July 1, 1982, to attain the ozone and carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS) in nonattainment areas with approved attainment date extensions. In today's proposed rulemaking, EPA is presenting the results of its review of the Michigan ozone/CO revision, which was based on the State's September 7, 1982, draft plan submittal. At this time, EPA is

identifying portions of the plan that are clearly deficient, and proposing to disapprove the plan on that basis. In addition, this notice identifies other deviations from EPA policy guidance and requirements. EPA is soliciting the State's response and public comments on the proposed disapproval, and the significance of the deviations discussed in this notice. The Agency will consider these comments in its final rulemaking package.

DATE: EPA must receive your comments on or before March 21, 1983.

ADDRESSES: Comments should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section (5AP–11), Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Please submit an original and three copies if possible. You must inspect copies of the submittal and EPA's evaluation during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 3150 Harris Drive, Lansing, Michigan 48917

FOR FURTHER INFORMATION CONTACT: Toni Lesser at (312) 886–6037.

SUPPLEMENTARY INFORMATION: The CAA Amendments of 1977 added a new Part D to Title I of the Act. Under this Part, the States had to revise their SIPs for all nonattainment areas and submit the revisions to EPA by January 1, 1979, (Sections 171–178 of the CAA; Section 129 (c) (uncodified) of Pub. L. 95–95). The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the ozone or CO standard by that date despite the implementation of all reasonably control measures (Sections 172 (a) (1), 172 (a) (2)).

If EPA approved this demonstration, the State could request the attainment date for ozone or CO be extended up to December 31, 1987, and the State could defer compliance with certain portions of the Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by December 31, 1987, and complies with all of the Part D requirements (Section 172 (c)).

These second SIP revisions had to be submitted by July 1, 1982, (Section 129 (c) (uncodified), Pub. L. 95–95). On January 22, 1981, (46 FR 7182); EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979, (44 FR 20372).[1]

The State of Michigan submitted an initial SIP revision for the Detroit ozone/CO nonattainment areas on April 25, 1979. The attainment plan for ozone was submitted to EPA on July 25, 1979. The State requested that EPA extend the attainment date for the Detroit nonattainment area until December 31, 1987. EPA approved this request on June 2, 1980 (45 FR 37188).

Michigan submitted its draft 1982 revisions to its ozone/CO SIP on September 7, 1982. This draft revision was used as the basis for a State and local public hearing held on October 7, 1982. The State is still considering these revisions and proposes to adopt them through its SIP revision procedures. EPA reviewed the draft revision and prepared comments which incorporate EPA's evaluation of the plan in meeting the requirements of the CAA. This evaluation was forwarded to Michigan in a letter from EPA dated October 5, 1982. That letter also referenced a number of guidelines which were used in EPA's review of Michigan's draft ozone/CO SIP.

In the interim, EPA is proceeding with rulemaking action on these revisions while the State continues to work toward finalizing its draft plan. EPA anticipates the State's response prior to final rulemaking. However, if the State substantially changes the draft revisions—except to remedy deficiencies cited in this notice of proposed rulemaking—EPA will have to evaluate those changes, and publish a revised notice of proposed rulemaking. Otherwise, EPA will publish a notice of final rulemaking on the revisions discussed in today's notice once the State adopts these revisions and submits them to EPA for incorporation into the SIP.

The review of the State's submittal is divided into three main sections:

1. Plan Description;
2. Major Plan Deficiencies; and
3. Other Deviations from EPA policy and Requirements.

[1] EPA published four additional notices supplementing the general premble in 1979: July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371); September 17, 1979 (44 FR 53761); and November 23, 1979 (44 FR 67182).

1. Plan Description

Demonstration of Attainment for Ozone [2]

On March 3, 1978 (43 FR 8962) and October 5, 1978 (43 FR 45993), pursuant to the requirements of Section 107 of the CAA as amended, EPA designated certain areas in each State as not meeting the NAAQS for ozone and CO (40 CFR, Part 81). Specifically, EPA designated 37 counties in southern Michigan plus Marquette County in the Upper Peninsula as nonattainment areas for ozone, the remaining 45 counties were designated as unclassifiable or attainment. Of the nonattainment areas, nine counties include major urban areas (populations greater than 200,000 as defined by the 1970 census). The remaining 27 counties are rural nonattainment areas.

Part D of the CAA as amended, requires each State to review its SIP to meet specific requirements for areas designated nonattainment. Michigan's July 25, 1979, ozone SIP submittal contained an ozone control strategy for the Detroit urban area in the form of regulations limiting emissions of volatile organic compounds (VOC) (precursors of ozone along with oxides of nitrogen) from stationary sources in nonattainment areas. It further included attainment demonstrations for urbanized nonattainment areas. It further included attainment demonstrations for urbanized nonattainment areas. The Detroit urban area demonstration covered all or portions of Wayne, Oakland, Macomb, Livingston, Monroe, St. Clair and Wastenaw Counties.

On May 6, 1980 (45 FR 29790), June 2, 1980 (45 FR 37188) and September 4, 1980 (45 FR 58527), EPA published final rulemaking notices approving and conditionally approving Michigan's SIP submittals of: April 25, 1979 (partial control plan for areas designated nonattainment) and July 25, 1979 (official ozone attainment plan). The control strategy for ozone was approved on May 6, 1980, except for Michigan Rules 336.1603 and 336.1606, which were conditionally approved on September 4, 1980 (45 FR 58528).

On June 2, 1980 (45 FR 37188), EPA took final action to approve the ozone attainment plans for urbanized nonattainment areas. With the exception of the Detroit demonstration area, these plans demonstrated

[2] Ozone is formed from various precursors—primarily oxides of nitrogen and a class of hydrocarbons called "reactive volatile organic compounds" (VOCs). VOC emissions are controlled to reduce ozone concentrations.

attainment by December 31, 1982. EPA's approval included an attainment date extension to December 31, 1987 for Wayne, Oakland, Macomb, Livingston, Monroe, St. Clair and Wastenaw Counties (the Detroit area). On September 1, 1982, the State of Michigan formally requested that EPA propose approval to reduce the size of the seven county Detroit urbanized area to the three counties of Wayne, Oakland and Macomb. EPA will be publishing a notice proposing approval of Michigan's attainment demonstration area reduction request in a separate rulemaking action.

Michigan's 1982 draft plan deals with VOC control measures and attainment of the primary ozone NAAQS in the counties of Wayne, Oakland and Macomb. The proposed SIP addresses attainment of the ozone NAAQS and VOC emission reductions through a mix of controls on stationary and mobile sources. To determine the reduction needed for attainment, the City-Specific Empirical Kinetics Modeling Approach (City-Specific EKMA) was utilized. Based on this analysis, a 27.1 percent reduction in reactive VOC emissions from stationary and mobile sources from the levels emitted in the base year of 1980 would be necessary to achieve the ozone NAAQS.

Michigan's SIP revision considers monitored ozone exceedances at the following monitoring sites: Warren (1979–1981); New Haven (1980–1981); Port Huron (1979–1981); Sarnia (1981); Allen Park (1980–1981); Wilkesport (1981); 7 Mile Road, Detroit (1979–1981); Marquette, Detroit (1980–1981); and GM-Lake Orion (1980). In addition to ozone standard exceedance levels, background ozone levels and precursor (volatile organic compounds and oxides of nitrogen) concentrations were measured at a number of other monitoring sites.

The Michigan Department of Natural Resources (MDNR) determined that the worst-case monitoring sites is located at New Haven. MDNR and the Southeastern Michigan Council of Governments (SEMCOG) further determined that the 1980 base year VOC emission level is 239,069 tons per year. Michigan's strategy of control measures will reduce VOC emission levels in 1987 to 142,000 tons per year, or a total of 41 percent. Annual emission estimates for point sources and graphic estimates of source emission totals have been presented as a demonstration of reasonable further progress (RFP).

Demonstration of Attainment for Carbon Monoxide[3]

On June 2, 1980 (45 FR 37188, 37192), EPA approved Michigan's CO attainment demonstration and Inspection and Maintenance (I/M) program for the Detroit Urban area. Despite implementation of reasonably available control measures, the CO NAAQS cannot be attained by December 31, 1982. Under Section 172(a)(2) of the CAA, the State requested a five-year extension for Wayne, Oakland and Macomb Counties.

The State's September 7, 1982, draft plan submittal considers CO violations at the following monitoring sites: 536 Shelby, Detroit ; Southfield; Allen Park; Warren; 14590 Auburn, Detroit; and 2451 Marquette, Detroit from 1978 thru 1981. Using the Ford Motor Company's General Rollback Model, the NDNR determined that a 25.5 percent reduction in CO emissions from the nonattainment area 1980 base year emissions is needed to achieve the CO NAAQS standard.

VOC and CO Control Measures

Stationary and Mobile Source Control Measures Contained in the Ozone/Co SIP: Section 172(b)(2) of the CAA requires States to adopt reasonably available control technology (RACT). EPA has determined RACT for a number of source categories and published its determinations in Control Technique Guidelines (CTGs). At present, two sets of CTG's have been published, known as RACT I and RACT II. As part of the 1982 submittal, States must include RACT for all sources of VOCs covered by a CTG and all remaining major stationary sources of VOCs with the potential to emit more than 100 tons of VOC per year.

EPA requires that the submittal include either legally enforceable measures to implement RACT for these sources, or else document the State's determination that the existing level of control represents RACT for each of these sources.

The Michigan SIP describes a variety of measures for reducing VOC emissions so as to reduce Ozone concentrations. Some of these control measures have already been adopted, including "RACT I" which control emissions from 15 categories of stationary sources, and "RACT II" which control emissions from nine categories of stationary sources.

Further, Michigan commits "to adopt and submit legally enforceable regulations for the RACT III and major Non-CTG sources by a reasonable timetable." Specifically, Michigan commits to present the proposed rules to the Air Pollution Control Commission by January 1, 1983, for the purpose of receiving public hearing. Following public hearing, the State commits to present the rules to the Joint Committee on Administrative Rules by April 1, 1983.

Federal Motor Vehicle Control Program (FMVCP): The FMVCP is the primary control measure for CO. The FMVCP will also provide a significant control of reactive VOC emissions. The SIP indicates that reactive VOC emissions from mobile sources are projected to be reduced by approximately 55 percent between 1980 and 1987 as a result of the FMVCP combined with the increased use of more fuel-efficient vehicles.

Transportation Control Measures (TCMs): The Transportation Control Plan (TCP) portion of the Michigan SIP was prepared by SEMCOG. The TCP included specific targets for emission reductions as well as specific projects to be implemented to achieve those reductions. Additionally, the plan includes the necessary commitments from the implementing Agencies insuring project completion. SEMCOG also fully documented the process used in the development of the plan and adhered to USEPA's guidance in the preparation of the plan.

Inspection and Maintenance (I/m): Section 5 of the Michigan ozone draft SIP, states that the State has prepared all elements needed to operate a functional and effective I/M; however, these elements are not included as part of this SIP revision. The SIP further states that Michigan will proceed to implement this I/M program should it be necessary to achieve attainment by December 1987. The ozone draft SIP also states that Michigan will adopt and meet a revised schedule when EPA publishes a schedule on extension procedures.

All major urban areas that needed an extension beyond 1982 to attain a standard for ozone or CO were required to include vehicle I/M as a portion of the 1979 revision. EPA evaluated and acted on the I/M portion of Michigan's 1979 SIP revision which included an I/M program, on June 2, 1980, (45 FR 37188). The I/M portion of the 1982 ozone/CO SIPs must include the rules and regulations for implementing an I/M program that will meet the minimum requirements for emission reduction, and commitments to other needed program details. (I/M elements already

[3] CO violations are caused primarily by automobile emissions. They generally occur in the areas around major intersections, or in central business districts, where vehicles tend to idle for relatively long periods.

submitted and approved as part of an earlier SIP submittal need not be submitted again.) The 1982 SIP policy published on January 22, 1981, (46 FR 7182), discusses these requirements in more detail.

2. Major Plan Deficiencies

The following discussion summarizes those portions of the State's draft revisions which contain deficiencies in meeting the requirements of the CAA. EPA's complete evaluation of these deficiencies is contained in the technical support memorandum entitled, "Technical Support Document for the 1982 SIP for Michigan" and in EPA's comment letter to the State dated October 5, 1982.

a. Vehicle/Inspection and Maintenance: The Draft SIP submittal is deficient in several areas. Michigan's commitment to implement an I/M program only if it is needed for attainment of the air quality standards by 1987 is inappropriate, given the CAA requirement for an I/M program where and extension beyond 1982 is granted. In addition, the State's commitment to proceed on a new schedule if EPA changes its implementation date policy is also unacceptable, because EPA's 1982 SIP policy requires that State rules and regulations and any additional program elements which affect the ability of the I/M program to achieve sufficient emission reductions, must be submitted as a part of the 1982 revision. The Michigan draft submittal does not contain these necessary elements.

b. Regulations for Major Stationary Sources of VOC: Michigan's failure to submit regulations or commit to a schedule for submission of regulations to USEPA constitutes a major departure from compliance with the 1982 SIP requirements as specified by USEPA. Even if Michigan is unable to prejudge the outcome of the Legislative Rules Committee's Review, it may, nevertheless, commit to the date by which approved rules will be out of the Committee and by which these approved rules will be submitted to USEPA.

In the case of RACT III sources, the State, as a minimum, must commit to the submittal of control requirements within one year after January 1, following USEPA's publication of the final version of each CTG.

For major Non-CTG sources, the States, as a minimum, must submit an enforceable schedule for the submittal of control regulations. The proposed schedule must be as expeditious as practicable. For regulations or RACT III and major Non-CTG sources, a legally binding schedule must include commitments from all legally responsible governmental entities involved in the development and the adoption of the regulations.

c. Demonstration of Attainment for CO: The SIP contains acceptable modeling data indicating that CO exceedances may occur along unmonitored portions of major roadways. However, contrary to the requirements for 1982 SIPs (46 FR 7182), attainment of the NAAQS was not demonstrated at these locations. This is a major SIP deficiency requiring significant additional analysis and commitments to additional control measures.

3. Other Deviations From EPA Policy and Requirements

The following discussion summarizes those portions of the State's draft revisions, which contain deviations from EPA policy and guidance given to the State regarding the preparation of the 1982 SIP revisions. EPA's complete evaluation of these portions is included in EPA's October 5, 1982, comment letter sent to the State. EPA believes that some of the deviations cited in the October 5, 1982, comment letter, may not be considered major in and of themselves. However, the deviations considered together may constitute a major deficiency.

The additional deviations from EPA guidance include deviations in the areas of emission inventory estimation and documentation, ozone monitoring and modeling, CO monitoring and demonstration of attainment, and the adequacy of commitments by the State to implement transportation control measures. The deviations from emission inventory guidance include such items as: lack of sufficient documentation on procedures and assumptions used; possible incorrect use or lack of consideration of seasonal and weekday adjustment factors; failure to include an updated major point source facility/operation specific emissions listing (a draft, possibly outdated listing was submitted to EPA significantly in advance of the draft SIP submittal); possible incorrect distinctions between point and area sources in terms of use of reactivity factors; and possible emission point source emissions. The deviations from ozone modeling and monitoring include items such as: use of a possibly incorrect non-methane organic compound to NO_x ratio; use of incorrect or questionable ozone transport levels; and incorrect use of NO_2/NO_x ratios. The deviations from EPA CO guidance include: use of an incorrect standard target level of 9.2 ppm, eight-hour average; insufficient documentation of the use of a non-EPA recommended rollback approach; failure to satisfactorily document the background concentration used; and use of an incorrect emission inventory base year. In addition, there is no technical support for the 250,000 gallon per year throughput exemption contained in Michigan Rule 336.1606, which regulates emissions from gasoline dispensing facilities.

EPA is waiting for the State's response to these deviations and will evaluate any response to determine if the State has adequately corrected or explained the deviations. EPA is also specifically soliciting public comment on the significance of any or all of the deviations from EPA policy cited in the October 5, 1982, comment letter to the State.

EPA encourages the State of Michigan and the public to respond to EPA's comments on the draft revisions. EPA further encourages the State to complete its SIP revisions and submit the final plan to EPA in a timely manner.

If the major deficiencies discussed in Part 2 are not remedied, EPA will be required to disapprove the revisions to the ozone and carbon monoxide plans. EPA will make a judgment on the significance of the deviations discussed in Part 3 after reviewing public comment and the State's response.

Under Section 110(a)(2)(I) and 40 CFR 52.24 (1982), disapproval would trigger a moratorium on the construction and modification of major stationary sources of ozone/carbon monoxide in the nonattainment areas to which these revisions apply. Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Act.

Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow see: 45 FR 24692 (April 10, 1980), (air quality planning and transportation grants) and

45 FR 53382 (August 11, 1980), (sewage treatment grants.) However, if the State substantially changes the draft revisions—except to remedy the deficiencies and deviations cited in Parts 2 and 3 of this notice—EPA will have to evaluate those changes, and publish a revised notice of proposed rulemaking. Otherwise, EPA will publish a notice of final rulemaking on the revisions discussed in today's notice once the State adopts these revisions and submits them to EPA for incorporation into the SIP. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address listed in the front of this notice.

Under Executive Order 12291, today's section is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Act, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a), 172, and 301(a) of the Clean Air Act as amended (424 U.S.C. 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: November 29, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 83–2452 Filed 2–2–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[EPA Docket No. AW600DE; A–3–FRL 2258–2]

Approval and Promulgation of Implementation Plans: 1982 Ozone State Implementation Plan for the State of Delaware

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to approve the 1982 State Implementation Plan revision for the State of Delaware which was submitted July 6, 1982. This revision meets the requirements of the Clean Air Act and EPA policy. The intended effect of this action is to provide for attainment of the primary National Ambient Air Quality Standard (NAAQS) for Ozone as required under Part D of the Clean Air Act Amendments of 1977.

DATE: EPA must receive your comments on or before March 21, 1983.

ADDRESSES: Copies of the revision and accompanying documents are available during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs & Energy Branch (3AW12), Curtis Building, Second Floor, Sixth & Walnut Streets, Philadelphia, PA 19106.
ATTN: Cynthia A. Clark

Delaware Department of Natural Resources & Environmental Control, Air Resources Section, Edward Tatnall Building, P.O. Box 1401, Dover, DE 19901.
ATTN: Robert R. French

All comments should be addressed to: Henry J. Sokolowski, P.E., Chief, MD–DE–DC Metro Section (3AW12), U.S. Environmental Protection Agency, Region III, Curtis Building, Second Floor, Sixth & Walnut Streets, Philadelphia, PA 19106. ATTN: AW600DE.

FOR FURTHER INFORMATION CONTACT: Cynthia A. Clark (3AW12), U.S. Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, PA 19106, telephone: (215) 597–9377.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 add a new Part D of Title I of the Act. Under this Part, the States had to revise their State Implementation Plans (SIPs) for all nonattainment areas and submit the revision to EPA by January 1, 1979 (Sections 171–178 of the Clean Air Act; Section 129(c) (uncodified) of Pub. L. 95–95). The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the Ozone (O_3) or Carbon Monoxide (CO) Standard by that date (Sections 172(a)(1), 172(a)(2)).

If EPA approved this demonstration, the attainment date for O_3 and/or CO could be extended up to December 31, 1987, and the State could defer compliance with certain of the Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved date and complies with all of the Part D requirements (Section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95–95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1]

The entire State of Delaware is designated as attainment/unclassified for CO, therefore a SIP revision is not required for this pollutant.

The State of Delaware submitted an initial SIP revision for the New Castle County O_3 nonattainment area in May, 1979. The State requested that EPA extend the attainment date for the O_3 standard in this area until December 31, 1987. EPA approved this request and conditionally approved the initial plan revision on March 6, 1980 (45 FR 14551). EPA gave final approval to this initial plan revision on March 11, 1982 after the conditions had been fulfilled (47 FR 10535).

Delaware submitted a draft revision to its Ozone SIP on May 10, 1982. EPA, Region III reviewed the draft SIP revision and provided comments at the public hearing held on June 9, 1982. Delaware submitted revisions to its Ozone SIP on July 6, 1982. A Notice of Availability was published on October 20, 1982 (47 FR 46711). Today's notice proposes full approval of Delaware's 1982 Ozone SIP.

EPA's review of the State's submittal is divided into two main discussions:

A. The Ozone SIP, and

B. Additional requirements including conformity of federal actions, intergovernmental consultation/public participation and requirements of Section 172 of the Clean Air Act.

Following is a brief description of elements contained in the SIP revision. A more detailed discussion may be found in the Technical Support Document available at the EPA office listed under Addresses in this notice.

A. The Ozone SIP

O_3 is formed from various precursors—primarily oxides of nitrogen and a class of hydrocarbons called "reactive volatile organic compounds" (VOCs). VOC emissions are controlled to reduce ozone concentrations.

Delaware has one nonattainment area, New Castle County. The ozone modeling analysis indicates that a 44 percent emission reduction will be needed to eliminate violations of the Ozone Standard.

The proposed Delaware 1982 SIP for O_3 combines a mix of stationary and mobile source strategies to achieve the necessary reduction. The following

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[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38563), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

discussion of the revision is divided into six sections:

—Emissions Inventory,
—Demonstration of Attainment/ Modeling,
—Reasonable Further Progress (RFP),
—Stationary Source Controls,
—Transportation Control Measures, and
—Inspection and Maintenance.

1. Emissions Inventory

For the 1982 SIP, States were to submit a comprehensive emissions inventory indicating 1980 and attainment year emissions levels from all sources of VOCs and oxides of nitrogen.

Delaware submitted an emissions inventory including point sources, area sources and mobile sources on December 30, 1981. Several items in the point source inventory needed clarification as a result of EPA's review at that time. Several changes were made in the revised emissions inventory included as part of this revision; the other items were addressed in a letter from Delaware to EPA submitted on October 13, 1982, but no substantive changes were made. The emissions inventory is consistent with EPA's guidance and other requirements.

Proposed Action: EPA proposes to approve the emissions inventory portion of the SIP.

2. Demonstration of Attainment/ Modeling

To insure consistency among the States having to demonstrate attainment by 1987, EPA encouraged each State to use the City-Specific Empirical Kinetic Modeling Approach (EKMA). Delaware used EKMA to determine the VOC reduction necessary to achieve the Ozone Standard by December 31, 1987. Unfortunately, city-specific data is limited for the Wilmington area in New Castle County. Consequently, numerous "default" values were required to be used, which provided a result with limited credibility. The Delaware Valley Regional Planning Commission (DVRPC) made the necessary estimates of VOC reductions for the entire Philadelphia Air Quality Control Region (AQCR), of which New Castle County is a part. Since New Castle County has lower population and industrial concentrations and a lower motor vehicle density than Philadelphia, it is believed that an estimate developed with Philadelphia AQCR data will produce a conservative estimate for New Castle County. Nevertheless, Delaware has accepted DVRPC's analysis and has included it as part of its SIP.

The EKMA analysis in Delaware's SIP is based on monitored air quality data collected between 1979 and 1981. Numerous representative days were modeled resulting in a 44 percent VOC reduction requirement, based on a 0.171 ppm ozone value recorded at the Trenton, NJ monitoring site on June 24, 1980. Using the 44 percent reduction requirement, Delaware must reduce 1980 VOC emissions by 18,267 tons per year to achieve attainment by the end of 1987. Delaware's SIP adequately demonstrates attainment by 1987 by reducing VOC emissions in 1987 by 18,741 tons per year.

Proposed Action: EPA proposes to approve the demonstration of attainment/modeling portion of the SIP.

3. Reasonable Further Progress

Delaware has submitted an adequate Reasonable Further Progress (RFP) presentation and discussion in their SIP. It verifies that the State will attain the Ozone Standard by December 31, 1987. Delaware also certifies that its existing new source and offset requirements will be adequate to remain within the RFP limitation and to maintain attainment of the NAAQS after 1987.

Proposed Action: EPA proposes to approve the reasonable further progress portion of the SIP.

4. Stationary Source Controls

The Clean Air Act requires States to adopt regulations requiring Reasonably Available Control Technology (RACT). Therefore, as part of the 1982 submittal, States must include RACT for: (a) all sources of VOCs covered by a Control Techniques Guideline (CTG) published by EPA and (b) all remaining major stationary sources with the potential to emit more than 100 tons of VOC per year.

EPA requires that the submittal either include legally enforceable measures to implement RACT for these sources, or else document the State's determination that the existing level of control represents RACT for each of these sources.

a. *CTG Regulations:* Delaware has adopted RACT regulations for all VOC source categories covered by a CTG. A status report on these regulations was submitted as part of the 1982 SIP. Delaware also submitted an addition and a revision to its Regulation No. XXIV, Control of Volatile Organic Compounds:

1. A regulation controlling emissions from the manufacture of synthesized pharmaceutical products. The regulation will provide a means of reasonable control for a newly constructed, non-major facility of this source category located in New Castle County.

2. An amendment exempting those gasoline bulk plants and delivery vessels which exclusively service gasoline storage tanks with capacities of 2000 gallons or less (storage tanks which are currently exempted), from vapor balance and/or recovery requirements. The State has determined that no emission reduction will be achieved by requiring controls during vessel loading if they are allowed to escape during filling of small storage tanks. EPA finds both of these minor changes to be acceptable.

Delaware has submitted a preliminary review of the draft Group III CTGs and has committed to promulgate RACT regulations within nine months of final adoption of each applicable CTG by EPA.

b. *Control Measures for 100 Ton Per Year Sources:* There are four processes in New Castle County with the potential to emit more than 100 tons of VOC per year. Each of these processes are controlled via operating permits which establish emission limits and ensure RACT. The four processes are: pigment tray dryers at E.I. duPont DeNemours and Company—Newport; the magnetic tape dryer at the same plant; chlorination of benzene at Standard Chlorine of Delaware, Inc.—Delaware City; and chlorine liquefaction at Diamond Shamrock Corporation—Delaware City. Delaware submitted these operating permits to EPA for approval as part of its SIP so that the permits will be federally enforceable. The operating permits represent RACT and will be legally enforceable with EPA's approval.

Proposed Action: EPA proposes to approve the stationary source control portion of the SIP.

5. Transportation Control Measures (TCMs)

The Wilmington Metropolitan Area Planning Coordinating Council (WILMAPCO) was the lead agency in the development of the transportation portion of the 1982 SIP. In order to assess the feasibility of each transportation control measure (TCM), a series of working papers were developed. General findings of the WILMAPCO review of the candidate TCMs were that most were not reasonably available to New Castle County because the County does not have the major transportation problems associated with more densely populated metropolitan areas having a strong central business district attracting a significant portion of the work force. The TCMs recommended by WILMAPCO (park and ride lots, park

and pool lots, and ridesharing) are in the process of being implemented as part of the 1979 SIP. Delaware will continue to implement these and all other TCMs which were recommended in the 1979 SIP. Adequate commitments to these measures have been included in Delaware's SIP submittal. All items were reviewed by the public and all applicable State and local agencies. Evaluations and comments were included in the SIP revision.

In order to satisfy the requirements for a contingency plan, Delaware submitted a list of measures which it is holding in reserve for further consideration, if necessary. These are the kinds of measures which Delaware would consider for implementation in the event of an unforeseen shortfall in meeting RFP. In a subsequent communication, the state has confirmed its commitment to the evaluation of these measures as a contingency plan.

Basic transportation needs were addressed and commitments to continue advocating public transportation by WILMAPCO and the State were submitted in the SIP.

The transportation portion of Delaware's 1982 Ozone SIP meets EPA's basic criteria for an approvable SIP.

Proposed Action: EPA proposes to approve the transportation portion of the SIP.

6. Inspection and Maintenance (I/M)

All major urban areas that needed an extension beyond 1982 to attain a standard for O_3 or CO were required to include vehicle I/M as a portion of the 1979 SIP revision. EPA evaluated and acted on the I/M portion of the Delaware 1979 revision in 46 FR 14551, March 6, 1980. On December 29, 1980, Delaware submitted a revised schedule for implementation of the I/M program in New Castle County. The schedule contained a delay in the final date for implementation from January 1, 1982 until August 1, 1982. The revised schedule was approved by EPA on March 11, 1982 (47 FR 10535).

The 1982 SIP revision must include: (1) The rules and regulations for implementing an I/M program that will meet the minimum requirements for emission reduction, and (2) commitments to other needed program details that will provide for an acceptable I/M program. I/M elements already submitted and approved as part of an earlier SIP submittal need not be submitted again. The 1982 SIP policy published on January 22, 1981 (46 FR 7182), discusses these requirements.

The overall adequacy of each critical element of the I/M program, and therefore the approvability of the 1982 SIP revision was determined by comparing each element to established I/M policy. I/M program elements must be consistent with EPA policy or a demonstration must be made that the program elements are equivalent.

This SIP revision requests a further delay in start-up of the I/M program until January 1, 1983. This delay is necessary because of delayed appropriation of funds by the State Legislature, necessary alterations to emission analyzers, and time required to hire and train necessary personnel. The State will continue to operate its voluntary I/M program until December 31, 1982 to ensure a smooth transition to the mandatory program. This change is acceptable to EPA.

The State submitted the following elements to satisfy the requirements of the 1982 SIP revision:

—Inspection Test Procedures
—Emission Standards
—Emission Analyzer Specifications and Maintenance/Calibration Requirements
—Recordkeeping and Record Submittal Requirements
—Quality Control, Audit, and Surveillance Procedures
—Public Awareness Plan
—Other Program Rules, Regulations, and Procedures.

The State has elected not to license private garages or fleet operators. All fleet vehicles will be required to undergo testing at one of the State's two locations; therefore, inspection licensing requirements are not applicable. Similarly, the State is not claiming additional emission reduction credits resulting from a mechanics training program. EPA finds all elements of Delaware's I/M program follow established policy and are acceptable to EPA.

Proposed Action: EPA proposes to approve the I/M portion of the SIP and the revised implementation schedule.

B. Additional Requirements

1. Conformity of Federal Actions

Compliance with Section 176(c) of the Clean Air Act requires a close cooperative effort between all agencies granted federal funding. Routine procedures which are part of the basic planning process performed by State Agencies, WILMAPCO and local governments will ensue that no projects will be constructed or implemented which will produce emissions that are inconsistent with the adopted SIP. Delaware is using similar population projections for the SIP and for other planning programs as one means to accomplish this result.

Additional WILMAPCO and the State have provided assurances in the SIP that transportation projects supported by federal funding will be in conformance with the SIP.

Proposed Action: EPA proposes to approve this portion of the SIP.

2. Intergovernmental Consultation/ Public Participation

Delaware submitted a public awareness plan that involves all segments of the public in the development of the 1982 SIP and other aspects of air pollution control. A number of activities are discussed including meetings, public addresses and informational clinics. A Public Information Advisory Committee has been formed to provide input on air pollution control issues. In addition, the Clean Air Public Advisory Group and all local agencies involves with WILMAPCO provided input during the review of the transportation control plan. EPA finds Delaware's consultation process to be adequate.

Proposed Action: EPA proposes to approve this portion of the SIP.

3. Conformance With Other Requirements of Section 172 of the Clean Air Act

Section 172(b) of the Clean Air Act requires that certain items be included in all SIP revisions. The major requirements have been previously addressed in this notice. Following is a discussion of the remaining requirements.

a. Commitment of financial and manpower resources—The State has committed adequate financial and manpower resources to carry out the programs established in the 1982 SIP.

b. Analysis of effects—The State submitted an analysis of the effects the SIP will have air quality, health, welfare, the economy, energy and society. In general, there are few negative effects and these will be minimal. The majority of the effects of the plan on each of these factors will be positive or non-existent. Delaware has adequately addressed all requirements of section 172 of the Clean Air Act.

Proposed Action: EPA proposes to approve this portion of the SIP.

Proposed Action

Based on the above information, EPA is proposing to approve the Delaware 1982 State Implementation Plan for Ozone submitted on July 6, 1982. EPA is soliciting public comments on issues discussed in this notice and on other relevant matters. Interested parties may participate in the Federal rulemaking

procedure by submitting written comments to the address above.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Intergovernmental relation, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Authority: Section 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a), 7502 and 7601(a)).

Dated: November 23, 1982.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 83-3443 Filed 2-2-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[EPA Docket No. AW600PA; A-3-FRL 2258-1]

State of Pennsylvania; Proposed Revision of the Pennsylvania State Implementation Plan for Ozone and Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to approve portions and disapprove portions of the 1982 State Implementation Plan (SIP) revision for the Commonwealth of Pennsylvania which was submitted on June 30, 1982. The intended effect of this SIP revision is to provide for attainment of the primary National Ambient Air Quality Standards for Ozone and Carbon Monoxide as required under Part D of the Clean Air Act Amendments of 1977. Portions of this revision meet the requirements of the Clean Air Act and EPA policy. Other required items are inadequate or lacking. This document discusses the components of the plan, the deficiencies in it, and EPA's intended action on it.

DATE: EPA must receive comments on or before March 21, 1983.

ADDRESSES: Copies of the revision and accompanying documents are available during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs & Energy Branch, Curtis Building, Second Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: Gregory Ham

Department of Environmental Resources, Bureau of Air Quality Control, Fulton Bank Building, Third and Locust Streets, Harrisburg, PA 17120, Attn: Gary L. Triplett

All comments should be addressed to: David L. Arnold, Acting Chief, Pennsylvania Section (3AW11), U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: AW600PA.

FOR FURTHER INFORMATION CONTACT: Gregory Ham at the EPA address above or at (215) 597–2745.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 add a new Part D to Title I of the Act. Under this Part, the States had to revise their State Implementation Plans (SIPs) for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (sections 171–178 of the Clean Air Act; section 129(c) (uncodified) of Pub. L. 95–95). The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the Ozone (O_3) or Carbon Monoxide (CO) Standard by that date (Sections 172(a)(1), 172(a)(2)).

If EPA approved this demonstration, the attainment date for O_3 or CO could be extended up to December 31, 1987, and the State could defer compliance with certain of the Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements (Section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95–95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1]

[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

The Commonwealth of Pennsylvania submitted a SIP revision for the entire State in 1979. the State requested extensions of the ozone attainment date for the Philadelphia, Pittsburgh, and Allentown-Bethlehem-Easton areas until December 31, 1987. For CO, extensions were requested until June 30, 1983 for Philadelphia and December 31, 1985 for Pittsburgh. EPA approved these request and conditionally approved the 1979 revision on May 20, 1980. In subsequent notices, EPA acted on supplemental information submitted by the State and removed the remaining conditions, thereby fully approving the 1979 SIP revision.

Pennsylvania submitted revisions to its Ozone and Carbon Monoxide SIP on June 30, 1982. A Notice of Availability was published on October 20, 1982 (47 FR 46711). Today's notice proposes approval of some portions of this 1982 Ozone and Carbon Monoxide plan, while proposing disapproval of other portions.

This notice is divided into five main sections:

A. General Requirements.

B. General Issues.

C. The Southeastern Pennsylvania Area (Philadelphia).

D. The Southwestern Pennsylvania Area (Pittsburgh).

E. The Allentown-Bethlehem-Easton Area.

These sections describe the elements of Pennsylvania's SIP revision. A more detailed discussion may be found in the Technical Support Document, available for inspection at the EPA office listed under "**ADDRESSES**" in this notice.

A. General Requirements

I. Ozone

Ozone (O_3) is formed various precursors, primarily oxides of nitrogen and a class of reactive hydrocarbons called Volatile Organic Compounds (VOC). VOC emissions are controlled to reduce ozone concentrations.

Pennsylvania is designated as nonattainment statewide. Three urbanized areas, Philadelphia, Pittsburgh, and Allentown-Bethlehem-Easton, received extensions of the attainment date until December 31, 1987. This encompasses a 13 county area. The remainder of the State is either rural or projected for attainment by December 31, 1982.

For the three urbanized areas, the planning commissions in each area were designated as the lead transportation/air quality agency, responsible for development of the transportation portion of the SIP. the Pennsylvania

Department of Environmental Resources (DER) was responsible for stationary source portions of the SIP, and for providing information and support to the local agencies. In addition, DER also retained overall responsibility for 1982 Ozone SIP's.

Another requirement for 1982 Ozone SIP's is the commitment to and I/M program. This program was to have been implemented in the three urbanized areas where extensions of the attainment date were granted. The responsibility for this program remains with the State.

II. Carbon Monoxide

Carbon Monoxide violations are caused primary by automobile emissions. They generally occur in the areas around major intersections, or in central business districts, where vehicles tend to idle for for relatively long periods.

In Pennsylvania, the Philadelphia and Pittsburgh Central Business Districts are the only areas designated as nonattainment. Extensions of the attainment dates have been granted until June 30, 1983 for Philadelphia and December 31, 1985 for Pittsburgh. 1982 plans for these areas have been developed by the Delaware Valley Regional Planning Commission (DVRPC) and the Southwest Pennsylvania Regional Planning Commission (SPRPC).

III. Additional Requirements

The following items are additional requirements which apply to 1982 SIP revisions for Ozone and CO.

1. Conformity of Federal Actions—All federally funded projects must be consistent with the SIP.

2. Consultation with State and local officials—States must ensure appropriate consultation with State and local officials has occurred during SIP development.

3. Conformance with other requirements of Section 172(b) of the Clean Air Act.

The following sections discuss the elements of Pennsylvania's SIP. Section B discusses general issues which apply to all three urbanized areas, or to the entire State. Section, C, D, and E discuss in detail the elements of the SIP submitted for each of the three urbanized areas in the following order:

I. Ozone

(1) Emission Inventories; (2) Demonstrations of Attainment/ Modeling; (3) Reasonable Further Progress; (4) Stationary Source Controls; (5) Transportation Control Measures.

II. Carbon Monoxide

III. Additional Requirements.

B. General Issues

I. Public Hearing

One requirement under Section 172(b)(1) of the Clean Air Act is that any SIP revision must include evidence of adoption after reasonable notice and public hearing. A comment was received on September 9, 1982, from a citizen's environmental group claiming that this requirement was not satisfied for the Pennsylavania SIP.

EPA has made a formal determination that this requirement was not satisfied for the Pennsylvania SIP revision. Although public hearings were held in Philadelphia, Pittsburgh, and Allentown, these hearings dealt with the transportation portions of the SIP only, not the entire plan. Much of the information used in the demonstrations of attainment for these areas was not available for coment at the hearing.

Proposed Action: EPA is proposing to disapprove this portion of the SIP for all three metropolitan areas. This deficiency can be remedied by the State holding an adequate public hearing. Final action approving the SIP can not be taken until this deficiency is remedied.

II. Inspection/Maintenance

All major urban areas that needed an extension beyond 1982 to attain the standards for O_3 or CO were required to include vehicle inspection/maintenance (I/M) as part of the 1979 SIP revision. The requirements for the 1982 SIP revision include any elements which remain to complete an acceptable I/M program. The specific requirements for the 1982 SIP revision include the following critical elements: (1) Inspection test procedures; (2) emission standards; (3) inspection station licensing requirements; (4) emission analyzer specification and maintenance/calibration requirements; (5) recordkeeping and record submittal requirements; (6) quality control, audit, and surveillance procedures; (7) procedures to assure that non-complying vehicles are not operated on the public roads; (8) a public awareness plan; and (9) any other official program rules, regulations and procedures.

Pennsylvania had made commitments to an I/M program for Philadelphia and Pittsburgh in a Consent Agreement which resulted from a suit on Pennsylvania's failure to implement I/M. An I/M program was developed and submitted as part of Pennsylvania's 1979 SIP revision, including a commitment to I/M in the Allentown-Bethlehem-Easton area also. This program consisted of a detailed schedule for preparation and implementation of an I/M program, and the enabling legislation for this program. None of the specific requirements identified above were part of the 1979 revision, although it contained commitments and schedules for development. This program was approved by EPA (45 FR 33607) conditioned on the retention by the Governor of the authority to prepare and implement an I/M program.

Since the approval of the 1979 SIP, the State Legislature has acted to prohibit any Pennsylvania agencies from implementing an I/M program. In addition, none of the requirements listed above have been satisfied. Therefore, Pennsylvania's I/M program does not meet the requirements for an acceptable program.

Proposed Action: EPA is proposing to disapprove this portion of the ozone and carbon monoxide SIPs.

III. Perchloroethylene Dry Cleaning Regulation

Pennsylvania has submitted stationary source control measures which satisfy the requirement for adopting Reasonably Available Control Technology (RACT) on all categories of VOC sources (Groups I and II) except the Perchloroethylene Dry Cleaning sources. In proposed notices of May 27, 1982 (45 FR 23186), for Pennsylvania and August 24, 1982 (45 FR 36857) for Allegheny County, EPA discussed the deficiencies in the Dry Cleaning regulations, and explained why no action was taken on them at that time. The deficiencies remain and EPA is still proposing to take no action.

Proposed Action: EPA is proposing to take no action on these regulations at this time.

C. Southeastern Pennsylvania Area

I. The Ozone (O_3) SIP

O_3 is formed by the chemical reaction between reactive volatile organic compounds (VOC) and the oxides of nitrogen (NO_x) in the presence of strong sunlight. VOC emissions are controlled in order to reduce ozone concentrations. The Metropolitan Philadelphia Interstate AQCR includes the following counties: Bucks, Chester, Delaware, Montgomery and Philadelphia in Pennsylvania; Burlington, Camden, Gloucester, Mercer, and Salem in New Jersey; and New Castle in Delaware.

This notice applies only to the Pennsylvania portion of the AQCR. In its initial SIP revision submitted on April 24, 1979, Pennsylvania

demonstrated that attainment of the National Ambient Air Quality Standard for Ozone would not be possible despite the implementation of all reasonably available control technologies (RACT). The State therefore requested an extension of the attainment date for ozone from December, 1982 to December, 1987. EPA granted this request in its approval of the 1979 SIP (45 FR 33627).

Pennsylvania submitted its 1982 revision of the State Implementation Plan for Ozone and Carbon Monoxide for the Pennsylvania Portion of the Philadelphia Air Quality Control Region on June 30, 1982. A Notice of Availability was published on October 20, 1982 (45 FR 46711). Today's notice proposes to approve certain portions of the Pennsylvania SIP for Philadelphia and disapprove those portions which are deficient.

The Pennsylvania 1982 SIP for Philadelphia combines a mix of stationary and mobile source controls to achieve the requied reduction. The elements of this 1982 SIP are discussed in the following paragraphs.

1. Emission Inventory

For the 1982 SIP, States were required to submit a comprehensive emissions inventory indicating emission levels from all sources of VOCs and oxides of nitrogen for both 1980 and 1987.

Pennsylvania submitted an emissions inventory including point sources, area sources and mobile sources on June 30, 1982. Several deficiencies in both point and area source inventories were noted and transmitted to the State on August 15, 1982. The deficiencies are being rectified and the appropriate revisions will be submitted prior to the Notice of Final Rulemaking. EPA finds that the emission inventory, with minor exceptions, is consistent with EPA guidelines and requirements.

Proposed Action: EPA proposes to approve the emissions inventory portion of the SIP.

2. Demonstration of Attainment/ Modeling

To insure consistency among the States which are required to demonstrate attainment by 1978, EPA encouraged each State to use the City-Specific Empirical Kinetic Modeling Approach (EKMA). The Delaware Valley Regional Planning Commission (DVRPC) conducted the EKMA analysis for the Metropolitan Philadelphia Interstate AWCR, using local input data in accordance with the EPA document, "Guideline for Use of City-Specific EKMA IN Preparing Ozone SIPs" (EPA-450.4-80-027).

The EKMA analysis in the Philadelphia SIP is based on monitored air quality data from 1979 to 1981. Thirty-one days on which ozone violations were recorded downwind of the urban center were modeled. Local input data for each specific day were used for the majority of the designated days. When local data were not available for the specific modeling day, default values were used in accordance with EPA guidelines. As specified in the guidelines, the maximum (among the twelve monitoring sites) fourth-highest VOC reduction requirement was determined to be 44 percent, based on the 0.171 ppm ozone concentration recorded at the Trenton, N.J., monitoring site on June 24, 1980. Hence, in order to attain the Ozone Standard of 0.12 ppm by 1987, the required VOC reduction is 324,100 kg/day in the interstate region, or 110,750 kg/day in the Pennsylvania portion. Since the implementation of all reasonably available control measures (including I/M) results in a projected reduction of 97,600 kg/day, a shortfall of 23,1250 kg/day is anticipated in the Pennsylvania portion of the Metroplitan Philadelphia Interstate AQCR.

In another section of this notice, the disapproval of the I/M program is discussed. Any action on I/M may affect this section. Also, Pennsylvania has claimed reductions from an I/M program to which commitments have not been made.

EPA has reviewed the demonstration analysis and finds that the EKMA modeling was conducted in accordance with EPA guidelines. However, the State has failed to demonstrate attainment of the Ozone Standard by December 31, 1987. In addition, the State has not evaluated or committed to adopt measures beyond Reasonably Available Control Technology to make up this shortfall.

Proposed Action: EPA proposes to disapprove the demonstration of attainment portion of the SIP.

3. Reasonable Further Progress

Pennsylvania has submitted a Reasonable Further Progress (RFP) presentation and discussion in their SIP. Pennsylvania and Philadelphia also have new source and offset requirements which will be adequate to remain within the FRP limitations, and to maintain attainment of the NAAQS when they are attained. However, the RFP curve fails to demonstrate attainment of the Ozone Standard by December 31, 1987, and fails to indicate the anticipated date when VOC emission reductions are sufficient to indicate attainment of the Ozone Standard.

In another section of this notice, the disapproval of the I/M program is discussed. Any action on I/M may affect this seciton. Also, Pennsylvania has claimed reductions from an I/M program to which commitments have not been made.

Proposed Action: EPA proposes to disapprove the reasonable further progress portion of the SIP.

4. Stationary Source Controls

The Clean Air Act mandates that States adopt regulations requiring Reasonably Available Control Technology (RACT). Therefore, as part of the 1982 submittal, States must include RACT for: (a) All sources of VOC's covered by a Control Techniques Guideline (CTG); and (b) all remaining major stationary sources with the potential to emit more than 100 tons of VOC per year.

EPA requires that the submittal either include legally enforceable measures to implement RACT for these sources, or else document the State's determination that the existing level of control represents RACT for each of these sources.

a. *CTG Regulations:* The State has adopted adequate regulations for all VOC sources covered by EPA CTG's published to date (Groups I and II), except for the control of Perchloroethylene Dry Cleaning emissions. This regulation is discussed in the "General Issues" section of this notice. The State has also committed to adopt, implement, and enforce RACT regulations for applicable VOC source categories after future guidelines are released.

b. *Regulations for 100 Ton Per Year Sources:* The Department of Environmental Resources has confirmed that RACT has been applied to all but three of the major sources of VOC emissions in Bucks, Chester, Delaware, and Montgomery Counties. For Philadelphia County, two major sources are not controlled to RACT levels. In any area receiving an extension beyond 1982 for attaining the ozone standard, control of all sources of VOC emissions over 100 tons per year is a required part of the 1982 SIP revision. This includes sources not covered by CTG's. Therefore, RACT regulations, or a commitment to evaluate and adopt RACT regulations, are required for these five sources.

Proposed Action: EPA proposes to disapprove the stationary source control portion of the SIP, because RACT regulations for five 100 tons per year sources have not been included in the SIP.

Transportation Control Measures

The Delaware Valley Regional Planning Commission (DVRPC) was the lead agency in the development of the transportation portion of the Philadelphia SIP. The Technical Advisory committee for Transportation, which included representatives of local governments and transportation agencies in both Pennsylvania and New Jersey, performed a preliminary analysis of 75 measures, which encompassed all of the reasonably available transportation measures (RATM) identified in Section 108(f) of the Clean Air Act. Of the original 75 measures, 33 measures (15 in Pennsylvania, 18 in New Jersey) were analyzed in detail and recommended for approval by the DVRPC Board, which subsequently approved the recommended measures for submission to the State.

The SIP includes commitments to the implementation of the following types of transportation measures:

- Improved public transportation facilities
  - —Purchase of 125 new rapid transit cars for the Broad Street Subway
  - —purchase of 141 replacement Light Rail Vehicles
  - —Purchase of new buses
  - —Rapid Transit and Light Rail Station Improvements
  - —Consideration of new bus stop shelters and improved route information
  - —Rapid Transit safety and security program
  - —Completion of Route 66 Trolley Line Extention
  - —Newtown Commuter Rail Line Electrification
  - —Completion of Airport High-Speed Line with two additional intervening stops
  - —Completion of Center City Commuter Tunnel, Ancillary Station Improvements and Commuter Railroad Facilities Coordination
- Employer and community-based ridesharing programs
- Center City Philadelphia Parking Policies
- Bicycle Storage Facilities
- Bicycle Route Maps
- Consideration of Educational Campaign to Reduce Automobile Emissions

The total VOC emission reduction resulting from the measures included in the SIP was determined to be 1980 kg/day in 1987, thus providing 4.5 percent of the regional shortfall, or 4.2 percent of the shortfall in the Pennsylvania portion. 37 additional measures were recommended for further consideration in the event that additional emission reductions are required.

Commitments to the recommended measures are made in Appendix D of the plan by the City of Philadelphia, Southeastern Pennsylvania Transportation Authority and the Greater Philadelphia Bicycle Coalition. This process of commitments is continuing and additional State and local agencies may provide additional support for these projects, where appropriate.

The analysis results and recommendations were reviewed by the public and all State and local agencies in the region. Evaluation and comments were included in the SIP revision.

Basic Transportation Needs have been adequately addressed in the SIP, as part of the basic planning process performed by DVRPC and the State. Full public participation was provided and encouraged throughout the development of the transportation control plan.

Proposed Action: EPA proposes to approve the transportation portion of the Philadelphia SIP.

II. Carbon Monoxide

1. Demonstration of Attainment/Modeling

The Carbon Monoxide design value used in the State's 1979 demonstration of attainment was 11.1 ppm. Although no monitored violations of the standard occurred in the based year of 1980, the numerous violations in 1981 indicated a 1981 design value of 10.4 ppm. This design value would necessitate a 16.7% emission reduction, or 280,000 kg/day of the base year. Based on the design value and the expected reductions in emissions, attainment was expected to occur by June of 1983. Although the State did not submit a reasonable further progress curve, sufficient information was available in the plan to show that reasonable further progress will be maintained. In the 1979 CO SIP, the State based its analysis on a rollback model. The estimated attainment date of June 30, 1983, was based on the results of this model.

In a subsequent analysis using a more sophisticated model for CO hotspots, the State determined that the CO standard will not be met until 1987, and that the original rollback model was apparently incorrect. The State has informed EPA of its plan to submit a proposed revision of its CO attainment date from June 30, 1983 to December 31, 1987. This proposed revision will be formally submitted to EPA by January 15, 1983. EPA has evaluated this preliminary request and finds it to be acceptable. Final action approving this portion of the SIP will not be taken until the formal revision request is submitted to EPA.

Proposed Action: EPA is proposing to approve all portions of the CO SIP with the exception of the I/M program. EPA is also proposing to approve the CO extension date for Southeastern Pennsylvania when it receives formal receipt of a request for revision of the CO attainment date.

III. Additional Requirements

DVRPC has submitted an analysis which demonstrates that projects being completed in the Southeastern Pennsylvania area conform with the SIP and that resultant emissions will be at or below the RFP curve.

Adequate provision was included for expansive consultation with the public and officials from appropriate government agencies, both during the SIP preparation and on a continuing basis thereafter.

The State has provided evidence of its commitment of adequate financial and staff resources to assure timely implementation of the SIP. In addition, all other requirements of Section 172(b) of the Clean Air Act and EPA's January 1981 policy on SIP revisions for extension areas have been satisfied by the plan submitted by DVRPC and Pennsylvania.

A description of the process for identifying transportation contingency measures is also included in the SIP.

D. The Southwestern Pennsylvania Area (Pittsburgh)

I. Ozone

The Ozone SIP for the Southwestern Pennsylvania area was developed by the Southwestern Pennsylvania Regional Planning Commission (SPRPC), with modeling and stationary source input from the Department of Environmental Resources (DER). This SIP was submitted by DER Secretary Peter S. Duncan on June 30, 1982. The following paragraphs discuss the components of this SIP.

1. Emissions Inventory

The emissions inventory for the 1982 SIP must include a comprehensive inventory of 1980 and attainment year emission levels from all sources of VOC and oxides of nitrogen. The mobile and area source inventory was developed by SPRPC, while the inventory for stationary sources was developed by DER and the Allegheny County Bureau of Air Pollution Control. The emission inventory was reviewed and found to be adequate; several issues that were raised by EPA were clarified by DER in a letter and subsequent

communications. Therefore, this inventory is consistent with EPA guidance and requirements.

Proposed Action: EPA is proposing to approve this portion of the SIP.

2. Demonstration of Attainment/ Modeling

The demonstration of attainment for the Southwestern Pennsylvania area consisted of the use of the City-Specific Empirical Kinetic Modeling Approach (EKMA), as recommended by EPA. This analysis is based on monitored air quality data collected from 1979 to 1981. The ozone design value for this area was 0.155 ppm, on July 20, 1979. Representative days were selected for modeling, and the prediction from the highest site was used as the required reduction. This resulted in a need for a 35.2 percent reduction, which would be 50,665 tons reduction by 1987 (based on the 1980 emission inventory). The demonstration for the Southwestern Pennsylvania portion indicates that this reduction in emissions will occur, and that attainment will occur by 1987. Expected reductions, including those from I/M, will amount to 59,550 tons, providing a margin of 8,885 tons by 1987. The methodology used by DER in this EKMA analysis has been reviewed by EPA and conforms with EPA guidelines. Since the I/M reduction claimed in the Southwestern Pennsylvania area is smaller than the projected margin below attainment, this analysis indicates that this area will attain the ozone standard by 1987 even without I/M.

Proposed Action: EPA is proposing to approve the demonstration of attainment and modeling portion of the SIP for Southwestern Pennsylvania.

3. Reasonable Further Progress

Pennsylvania has submitted a graphical demonstration that reasonable further progress (RFP) will be accomplished. This demonstration for ozone shows that attainment by 1987 will occur, and shows reductions that are expected from stationary and mobile sources. Pennsylvania also has new source and offset requirements which will be adequate to remain within the RFP limitations and to maintain attainment of the NAAQS after 1987.

In another section of this notice, disapproval of the I/M program is discussed. This action on I/M may affect this section. Also, credit has been claimed in the RFP graph for I/M reductions which have not been committed to.

EPA intends to monitor the Commonwealth's progress in meeting RFP by reviewing the Commonwealth's annual RFP reports. If any deficiency occurs, EPA will require corrective action.

Proposed Action: EPA is proposing to approve the RFP portion of the SIP.

4. Stationary Source Controls

Requirements for the 1982 SIP's include Reasonably Available Control Technology (RACT) for: (a) all sources of Volatile Organic Compounds (VOC) covered by a Control Techniques Guideline (CTG), and (b) all remaining major stationary sources with the potential to emit more than 100 tons of VOC per year. EPA requires that the submittal either include legally enforceable measures to implement RACT for these sources, or else document the State's determination that the existing level of control represents RACT for each of these sources.

a. *CTG Regulations:* Pennsylvania has adopted acceptable RACT VOC regulations for all categories of CTG sources except Perchloroethylene Dry Cleaning. This regulation is discussed in the "General Issues" section of this notice. The State has also committed to adopt and implement RACT regulations for applicable VOC source categories after future EPA guidelines are published.

b. *Regulations for 100 Ton Per Year Sources:* The other requirement for stationary sources is control of all sources greater than 100 tons per year that are not covered by a CTG, or a certification that no such sources exist. For the five counties outside of Allegheny County, DER has certified that no such sources exist. For Allegheny County, this certification has not been included. EPA believes that such sources do exist in Allegheny County. The County Bureau of Air Pollution Control has committed to develop a schedule for study, development, and implementation of RACT regulations for any such sources.

Proposed Action: EPA proposes to disapprove the stationary source control portion of the SIP because RACT regulations have not been included for all 100 ton per year VOC sources in Allegheny County. However, since the County is submitting a commitment with a schedule to develop RACT regulations if needed, EPA will not take final action on this until information is submitted by the County.

5. Transportation Control Measures

The Southwestern Pennsylvania Regional Planning Commission (SPRPC) was responsible for developing the transportation portion of the 1982 SIP. SPRPC completed a detailed analysis of all reasonably available measures for improving air quality. From this analysis, four measures were selected for implementation: (1) Expanded ridesharing program, (2) transit maintenance program, (3) traffic operations improvements, and (4) a bridge repair strategy. Any measures not selected were justified because of air quality impacts, economic impacts, or consideration of acceptability of projects. In addition, several measures proposed in the 1979 SIP were since rejected. These rejected measures were also justified. Emission reductions claimed from these measures are 3,350 tons of ozone per year. Adquate commitments to these measures were submitted with the SIP and in a subsequent submittal. SPRPC has indicated that Basic Transportation Needs are being provided in the area, and that the ongoing transit program will continue to provide for these needs.

As indicated above, the Southwestern Pennsylvania transportation portion of the Pennsylvania Ozone SIP meets EPA's basic criteria for an approvable SIP.

Proposed Action: EPA proposes to approve the Southwestern Pennsylvania transportation portion of the Ozone SIP.

II. Carbon Monoxide

The CO plan for the Pittsburgh area which was developed by SPRPC consists of a modeling demonstration and a showing of reasonable further progress.

Demonstration of Attainment/ Modeling: SPRPC completed a linear rollback model to estimate CO levels for the downtown Pittsburgh area. This model showed the need for a 15% reduction in CO emissions. This is based on the second highest CO value monitored, which was 10.6 ppm. The 15% reduction translates to an emission reduction of 1,313 tons by 1985. Expected reductions are 3,089 tons, providing a significant margin below the standard.

During EPA's review of the CO SIP revision, an error in the method used to calculate the maximum CO level was discovered. This error was discussed with the local agency responsible, who agreed that the method was incorrect. The revised miximum is therefore 11.5 ppm, not 10.6 ppm. The required reduction in emissions will now be 21.7 percent, rather than 15 percent. As mentioned above, a 35.2 percent reduction will be achieved by 1985, so attainment of the standard is not jeopadized by this error. A margin of 1,189 tons below the standards will still be achieved based on the RFP graph for CO in the plan, so this demonstration of attainment is acceptable. (This

demonstration includes reductions from I/M, which is not being implemented).

The RFP graph shows that attainment for CO will occur prior to the December 31, 1985 attainment date, with a margin of approximately 1,200 tons. It also shows a continued reduction in emissions through 1987.

No transportation measures were developed specifically to reduce CO emissions, but reductions will occur from measures developed for the Ozone SIP.

The disapproval of the I/M program for Pennsylvania is discussed elswere in this notice. Any action on I/M could affect this section. In addition, Pennsylvania has claimed reduction from an I/M program which they have not committed to implement.

EPA intends to monitor Commonwealth's progress in meeting RFP by reviewing the Commonwealth's annual RFP reports. If any deficiency occurs, EPA will require corrective action.

Proposed Action: EPA proposes to approve all portions of the CO SIP for Southwestern Pennsylvania, with the exception of the I/M program.

III. Additional Requirements

SPRPC has submitted an analysis that the projects being completed in the Southwestern Pennsylvania area conform with the SIP. The conformity analysis has been adopted as a routine procedure to insure conformity during project development and approval stages.

The procedure used by SPRPC in developing this SIP revision included measures to provide for sufficient consultation with State and local officials. In addition, all other requirements of Section 172(b) of the Clean Air Act have been satisfied by the plan submitted by SPRPC and Pennsylvania. Information showing that SPRPC had developed a contingency program to compensate for unanticipated shortfalls in emission reductions was submitted in a letter dated January 12, 1983.

Proposed Action: EPA proposes to approve this portion of the SIP.

E. The Allentown-Bethlehem-Easton Area

I. Ozone

Pennsylvania's SIP provides for bringing Lehigh and Northampton Counties into attainment with the O_3 standard by 1987. Attainment will be achieved by substantially reducing volatile organic compound (VOC) emissions. The SIP contains a mix of stationary and mobile source strategies that are expected to bring about the necessary reductions. The SIP's main provisions are discussed below.

1. Emissions Inventory

Pennsylvania's 1982 O_3 SIP contains emission inventories listing all sources of VOCs and oxides of nitrogen and providing estimates of their 1980 and 1987 emissions. EPA has reviewed these inventories and has determined that they are consistent with EPA guidance and other requirements. EPA did have some minor concerns regarding the inventories when EPA first reviewed them, but EPA contacted the State regarding the concerns and the State has addressed them adequately. EPA has included a discussion of the concerns that arose and the State's response to them in this notice's technical support document. Copies of this document are available for inspection at the EPA address listed above.

Proposed Action: EPA proposes to approve the SIP's emission inventory.

2. Demonstration of Attainment/ Modeling

Pennsylvania's SIP includes a demonstration that the Lehigh/ Northampton area will attain the O_3 standard by 1987. EPA has reviewed this demonstration and has found it acceptable. The demonstration consists of a determination of the 1987 emission level consistent with attainment and a showing that 1987 emissions will be below that level. Pennsylvania used the EPA recommended Empirical Kinetic Modeling Approach (EKMA) to determine the emission level consistent with attainment. Using this model, Pennsylvania determined that the 1980 VOC emission level of 23,935 tons per year must be reduced 27.5% to 17,353 tons per year to bring about attainment. Pennsylvania claims attainment will be achieved based on the fact that actual 1987 emissions are predicted to be 15,390 tons per year, a level 1,963 tons below the minimum level required to bring about attainment.

This 1987 actual emission level includes reductions from an I/M program which is not being implemented. However, the I/M reduction claimed in the Allentown-Bethlehem-Easton area is smaller than the projected margin below attainment. Therefore, the analysis indicates that this area will attain the ozone standard by 1987 even without I/M.

Pennsylvania's EKMA modeling was done in accordance with EPA guidance. All O_3 air quality data available from the four monitoring sites in the Lehigh/ Northampton area for the period from 1979 to 1981 were considered. Modeling was done using representative data. The 27.5% reduction estimate was the highest reduction determined to be necessary for attainment after modeling all four sites. This is based on an ozone design value of 0.154 ppm, on June 15, 1979.

Proposed Action: EPA proposes to approve Pennsylvania's demonstration of attainment for the Lehigh/ Northampton area and the EKMA modeling supporting the demonstration.

3. Reasonable Further Progress

Pennsylvania has submitted a graphical demonstration that reasonable further progress (REP) will be accomplished. This demonstration shows that attainment by 1987 will occur, and shows reductions that are expected from stationary and mobile sources. Pennsylvania also has new source and offset requirements which will be adequate to remain within the RFP limitations and to maintain attainment of the NAAQS after 1987. In another section of this notice, disapproval of the I/M program is discussed. This action on I/M may affect this section.

EPA intends to monitor the Commonwealth's progress in meeting RFP by reviewing the Commonwealth's annual RFP reports. If any deficiency occurs, EPA will require corrective action.

Proposed Action: EPA is proposing to approve the RFP portion of the SIP.

4. Stationary Source Controls

Requirements for the 1982 SIP's include Reasonably Available Control Technology (RACT) for: (a) All sources of Volatile Organic Compounds (VOC) covered by a Control Techniques Guideline (CTG), and (b) all remaining major stationary sources with the potential to emit more than 100 tons of VOC per year. EPA requires that the submittal either include legally enforceable measures to implement RACT for these sources, or else document the State's determination that the existing level of control represents RACT for each of these sources.

a. *CTG Regulations:* Pennsylvania has adopted acceptable VOC RACT regulations for all categories of CTG sources except Perchloroethylene Dry Cleaning (this regulation is discussed in the "General Issues" section of this notice). The State has also committed to adopt and implement RACT regulations for applicable VOC source categories after future EPA guidelines are published.

b. *Regulations for 100 Ton Per Year Sources:* Pennsylvania has certified that no 100 ton per year sources exist in

Lehigh or Northampton counties to which RACT has not been applied.

Proposed Action: EPA is proposing to approve the stationary source portion of the SIP.

5. Transportation Control Measures

The Joint Planning Commission (JPC) of Lehigh and Northampton Counties was responsible for developing the transportation portion of the 1982 SIP. The JPC completed a detailed analysis of all reasonably available measures for improving air quality.

The JPC chose transportation measures including traffic flow improvements, intersection improvements, corridor improvements, replacing all-way stop signs with a minimum number of signs, and permitting right turn on red for inclusion in its plan for reducing pollution from mobile sources. The JPC estimates that these measures will result in a 10.2 ton reduction in VOC emissions by 1987. The JPC estimates the average annual reduction in VOC emissions due to the measures as 2.0 tons per year.

JPC chose the above measures for inclusion in the SIP because it determined them to have air quality and transportation benefit, to have local support, and to be reasonable to implement. The SIP includes adequate commitments to these measures. The JPC rejected a number of measures that did not meet the above criteria. Adequate explanation of the rejections are given.

The JPC indicates in the SIP that it considers basic transportation needs as a routine measure when calculating all potential transportation measures.

Proposed Action: EPA believes that the transportation portion of the Lehigh/Northampton SIP meets all criteria for approval and EPA proposes to approve this portion of the SIP.

II. Carbon Monoxide

The Allentown-Bethlehem-Easton area was originally designated as an attainment area for carbon monoxide. Therefore, no extension for attainment was requested, and no 1982 SIP revision for CO is required.

III. Additional Requirements

The procedure used by Pennsylvania and the JPC in developing this SIP revision included measures that provided for sufficient consultation with State and local officials. The JPC has submitted an analysis showing that the projects being completed in the Allentown-Bethlehem-Easton area conform with the SIP. The conformity analysis has been adopted as a routine procedure to ensure conformity during project development and approval stages. A description of the process for identifying transportation contingency measures is also included in the SIP. In addition, EPA believes the plan developed by Pennsylvania and the JPC meets all other requirements of Section 172(b) of the Clean Air Act.

Proposed Action: EPA proposes to approve this portion of the SIP.

Proposed Actions

Based on the review discussed above, EPA is proposing the disapproval of the following portions of Pennsylvania's 1982 Ozone and Carbon Monoxide SIP:

1. The Public Hearing for the entire SIP.
2. The Inspection/Maintenance Program (Statewide) for both ozone and carbon monoxide in all areas.
3. Portions of the Ozone Plan for the Southeastern Pennsylvania Area, specifically:
   a. Demonstration of Attainment/Modeling.
   b. Reasonable Further Progress.
   c. Stationary Source Control Strategy.
4. The stationary source portion of the plan for the Southwestern Pennsylvania area.

EPA is proposing the approval of the following portions of the Pennsylvania SIP:

1. Portions of the Plan for the Southwestern Pennsylvania area, including:
   a. Emission Inventory.
   b. Transportation Control Strategy.
   c. Additional Requirements.
   d. Carbon Monoxide Plan (except for the I/M program).
2. Portions of the Plan for the Southwestern Pennsylvania Area Including:
   a. Emission Inventory.
   b. Demonstration of Attainment/Modeling.
   c. Reasonable Further Progress.
   d. Transportation Control Strategy.
   e. CO Plan (except for the I/M program).
   f. Additional Requirements.
3. The entire ozone plan for the Allentown-Bethlehem-Easton area (except for I/M and the public hearing as mentioned above).

EPA is proposing to continue to defer action on the following portions of the Pennsylvania SIP:

1. Perchloroethylene Drycleaning Regulations

If the major deficiencies discussed above are not remedied before EPA takes final action, EPA will be required to disapprove the revisions to the ozone and carbon monoxide plans. Under Section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapproval would trigger a moratorium on the construction and modification of major stationary sources of ozone and carbon monoxide in the nonattainment areas to which these plan revisions apply.

Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Clean Air Act. Under 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

EPA is soliciting public comments on issues discussed in this notice or on other relevant matters. Interested parties may participate in Federal rulemaking procedures by submitting written comments to the address above.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

This moratorium, however, would only apply to major sources.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur Oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovermental relations.

Authority: Section 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a), 7502 and 7601(a))

Dated: November 23, 1982.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 83-2442 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2261-5]

Approval and Promulgation of Implementation Plans; Wisconsin 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this document is to address the 1982 State Implementation Plan (SIP) revision which has been submitted in draft form by the Wisconsin Department of Natural resources (DNR) pursuant to the Part D requirements of the Clean Air Act (hereafter referred to as the Act). Part D of the Act requires plans to be submitted by July 1, 1982 to attain the ozone and carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS) in nonattainment areas with approved attainment date extensions. In today's action, EPA is presenting the results of its review of the Wisconsin SIP revision based on the draft plan submitted to EPA on June 28, 2982. At this time, EPA is identifying portions of the plan that are clearly deficient, and proposing to disapprove the plan on that basis. In addition, this notice identifies other deviations from EPA policy guidance and requirement. EPA is soliciting the State's response and public comments on the proposed disapproval, and the significance of the deviations discussed in this notice. The Agency will consider these comments in its final rulemaking notice.

DATE: Comments must be received on or before March 21, 1983.

ADDRESS: Comments should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section (5AP-11), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Please submit an original and three copies, if possible.

you may inspect copies of the draft SIP submited by the State and EPA's evaluation during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders at (312) 886-6034) (FTS, 886-6034).

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendements of 1977 added a new Part D to Title I of the Act. Under this Part, the States had to revise their State Implementation Plans (SIPs) for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (sections 171-178 of the Clean Air Act; Section 129(c) (uncodified) of Pub. L. 95-95). The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the ozone or carbon monoxide (CO) standard by that date despite the implementation of all reasonably available control measures (Sections 172(a)(1), 172(a)(2)).

If EPA approved this demonstration, the attainment date for ozone or CO could be extended up to December 31, 1987, and the State could defer compliance with certain Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements (Section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95-95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1] Other requirements for plan preparation and EPA policy guidance are contained in a technical support memorandum dated November 17, 1982 entitled, Technical Support Document for the 1982 SIP for Wisconsin, which is available for review at the Region V office listed above.

The State of Wisconsin submitted an initial SIP revision in 1979 for the ozone nonatainment areas in Brown and Dane Counties and for the ozone/CO nonattainment area in Kenosha, Milwaukee, Ozaukee, Racine, and Waukesha Counties. The State requested that EPA extend the attainment date for the standards in Kenosha, Milwaukee, Ozaukee, Racine, and Waukesha Counties until December 31, 1987. EPA approved this request and conditionally approved the initial plan revision on May 6, 1981 (46 FR 25244).

The Wisconsin DNR submitted a draft of the 1982 revisions to Wisconsin's CO/ozone SIP on June 28, 1982. This draft was used as the basis for a State and local public hearing held on October 26, 1982. The State is still considering these revisions and proposes to adopt them through its SIP revision procedures. EPA reviewed the revisions and prepared comments which incorporate EPA's evaluation was forwarded to the Wisconsin DNR in a letter from EPA dated October 26, 1982. EPA's evaluation is also contained in the technical support memorandum noted above.

In the interim, EPA is proceeding with rulemaking action on these revisions as the State completes its SIP revisions. EPA anticipates the state's response prior to final rulemaking.

EPA's review of the State's submittal is divided into three discussions.

A. Plan Description;

B. Major Deficiencies; and,

C. Other Deviations from EPA Policy and Requirements.

A. Plan Description

1. Demonstration of Attainment for Ozone

Ozone is formed from various precursors—primarily oxides of nitrogen and a class of hydrocarbons called "reactive volatile organice compounds" (VOCs). VOC emissions are controlled to reduce ozone concentrations.

Wisconsin's 1982 proposed SIP pertains to the seven-county Southeastern Wisconsin ozone nonattainment area consisting of Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington and Waukesha Counties. This region contains the Milwaukee demonstration area. The proposed SIP addresses attainment of the ozone NAAQS and VOC emission reductions in these seven counties through a mix of controls on stationary and mobile sources. To determine the reduction needed for attainment, the DNR utilized the city-specific Empirical Kinetics Modeling Approach (EKMA) Model.

The proposed SIP revision considers ozone violations monitored at the Grafton (Ozaukee County) site and at the University of Wisconsin-Milwaukee (UWM) North site from 1979 through 1981. The DNR determined that the worst-case monitoring site is the UWM North site. The DNR states, however, that the UWM-North ozone data reflect a combined impact of ozone generated

[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583); August 28, 1979 (44 FR 50371); September 17, 1979 (44 FR 53761); and November 23, 1979 (44 FR 67182).

from precursors emitted in both the Milwaukee urbanized area and the Chicago-Northwest Indiana urbanized area. Thus, as described below, the DNR developed the proposed SIP incorporating two VOC emission reduction targets.

For Washington, Walworth, Waukesha and Ozaukee Counties, the DNR estimates that a VOC emission reduction of 29 percent in 1980 base year VOC emission levels in the seven-county region is necessary to attain the standard. This estimate is the fourth highest VOC emission reduction based on daily ozone standard exceedances occurring at the Grafton (Ozaukee County) monitoring site. To achieve this reduction, the State is implementing the stationary and mobile source controls described in Part I.A.3 below. These controls are expected to reduce the calculated VOC emission levels from 336,400 kilograms (kg) per average summer weekday in the 1980 base year to 231,400 kg per average summer weekday in 1987, or a reduction of 31 percent.

For Kenosha, Milwaukee, and Racine Counties, the DNR estimates that an additional 6 percent VOC emission reduction, or 35 percent from 1980 base year VOC emission levels, is necessary to attain the standard. This estimate is the average of the fourth highest VOC emission reductions computed for the Grafton and UWM-North sites. The State's strategy of control measures for stationary and mobile sources in Kenosha, Milwaukee and Racine Counties reduces VOC emission levels from 235,100 kg per average summer weekday in 1980 to 152,300 per average summer weekday in 1987, or a reduction of 35 percent.

2. Demonstration of Attainment for CO

Violations of the CO standards are caused primarily by automobile emissions and generally occur in the areas around major intersections, or in central business districts, where vehicles tend to idle for relatively long periods.

The State submittal considers CO violations monitored in Milwaukee at the 7528 West Appleton Avenue site from 1979 through 1981. During this time period, violations of the CO NAAQS occurred only at the Appleton Avenue monitoring site. Based on a linear rollback analysis, the DNR determined that a 29 percent reduction in CO emissions from the 1979 base year is needed to achieve the standard.

The control measures in the proposed SIP addressing CO are the Federal Motor Vehicle Control Program (FMVCP) and Inspection and Maintenance (I/M). The FMVCP is the primary control measure and is adequate to lower CO emission levels within acceptable limits by 1986. I/M is not considered by the State to be a necessary control measure for CO but will provide some emission reductions if implemented to control ozone precursor emissions. Based on the rollback analysis, the expected second-high CO concentration in 1987 is 6.55 parts per million (ppm), 8-hour average, with implementation of an I/M program. Without an I/M program, the expected second-high is 8.03 ppm, 8-hour average. Thus, the State demonstrates attainment of the CO NAAQS prior to December 31, 1987, with or without an I/M program.

3. Stationary and Mobile Source Control Measures Contained in the Ozone and CO SIP Revision

a. Reasonably Available Control Technology (RACT): The Act requires States to adopt RACT on industrial sources of VOC emissions. Therefore, as part of the 1982 submittal, States must include RACT for all sources of VOCs covered by a Control Technique Guideline (CTG) for Groups I, II, and III VOC categories and all remaining major source of VOCs with the potential to emit more than 100 tons of VOC per year. EPA requires that the 1982 SIP submittal either include legally enforceable measures to implement RACT for these sources, or else document the State's determination that the existing level of control represents RACT for each of these sources.

Stationary source controls on Groups I and II CTG categories of VOC emissions in the Southeastern Wisconsin Region are embodied in Wisconsin Administrative Code Chapters NR 154.01 and NR 154.13. These regulations have been submitted to EPA by the State for incorporation in the existing SIP. EPA approved these submittals as SIP revisions in separate actions on January 11, 1980 (47 FR 2319) for VOC Group I, and on June 21, 1982 (47 FR 26622), for VOC Group II. Wisconsin's submittal, however, does not contain regulations or a commitment and a schedule for adoption and submittal of Group III RACT measures and RACT control on other major non-CTG sources.

b. Federal Motor Vehicle Control Program (FMVCP): The FMVCP will also provide a significant reactive VOC emission reduction from mobile sources in the Southeastern Wisconsin region.

The FMVCP is expected to result in an 18 percent reduction in total reactive VOC emissions in the period between 1980 and 1987.

c. Transportation Control Measures. (TCMs): Appendix S of Wisconsin's proposed SIP includes the following TCMs which are being implemented in the State: public transit improvements, long-range transit improvements, on-street parking controls, park and ride/pool lots, employer participation in reducing personal vehicle use, and programs to reduce vehicle idling time, improve traffic flow and reduce extreme cold start conditions. However, estimates of emission reductions from TCMs are not included in the proposed SIP because the State believes that emission reductions from the implementation of TCMs in the Southeastern Wisconsin region are not necessary to demonstrate attainment of the ozone NAAQS.

d. Inspection and Maintenance (I/M): All major urban areas that needed an extension beyond 1982 to attain a standard for ozone or CO were required to include vehicle I/M as a portion of the 1979 revision. EPA evaluated and acted on the I/M portion of Wisconsin's 1979 SIP revision in 46 FR 25294, on May 6, 1981. The 1982 SIP revision must also contain an I/M portion. This portion must include the rules and regulations for implementing an I/M program that will meet the minimum requirements for emission reduction, and commitments to other program requirements. (I/M elements already submitted and approved as part of an earlier SIP submittal need not be submitted again.) The 1982 SIP policy published on January 22, 1981 (46 FR 7182), discusses these requirements.

Wisconsin's proposed SIP includes a centralized I/M program in the Southeastern Wisconsin region, not including Walworth County, as well as the draft rules and regulations of the DNR and Department of Transportation detailing operational portions of the program. The proposed SIP states that the program will not be operational before April 1, 1984.

B. Major Deficiencies

The following discussion summarizes those portions of the State's proposed revisions which contain major deficiencies in meeting the requirements of the Act. EPA's complete evaluation of these deficiencies is contained in the technical support memorandum entitled, Technical Support Document for the 1982 SIP for Wisconsin, and in EPA's comment letter to the State dated October 26, 1982.

1. Demonstration of Attainment for Ozone

The Act requires 1982 ozone SIPs to demonstrate that all locations in an urban nonattainment area will attain the NAAQS by 1987. EPA policy requires that the precursor emission reduction to be achieved by 1987 in a metropolitan area be equal or greater than the design control percentage for the site indicating the greatest need for emission reductions. The worst-case monitoring site in the Milwaukee demonstration area is UWM-North. Because the DNR used a lower emission control estimate based on an average of estimates for UWM-North and Grafton, the SIP has failed to comply with EPA policy and the Act. EPA policy dictates that the fourth-high emission control percentage based on the UWM-North data be applied to the nonattainment demonstration area as a whole. This level of control, 41 percent, is significantly higher than the control level of 29 percent demonstrated for the seven-county Milwaukee area. Thus, the demonstration of attainment of the ozone NAAQS in the Milwaukee demonstration area is inadequate.

2. Implementation of Vehicle I/M

As part of the 1979 SIP, Wisconsin submitted, and EPA approved, the State plan to begin a mandatory inspection and maintenance program by January 1, 1983. However, the I/M portion of Wisconsin's proposed 1982 SIP delays the implementation date to April 1, 1984. This delay is not consistent with the Act and EPA policy. Therefore, the revised I/M program is not approvable because it does not meet the required implementation date of January 1, 1983.

3. Lack of Commitment to Submit Stationary Source RACT Regulations

Wisconsin's failure to commit to a schedule for submission of regulations to EPA constitutes a major departure from compliance with the 1982 SIP requirements as specified by the EPA. Wisconsin must address RACT III and major non-CTG source emissions in the SIP. In the case of RACT III sources, the State must commit to the adoption and submittal of control regulations within one year after the January 1st, following EPA's publication of the final version of the CTGs. For major non-CTG sources, the State, at a minimun, must submit an enforceable schedule for the adoption and implementation of control regulations. Wisconsin may make use of a rigorous analytical technique employed in photochemical dispersion models to demonstrate that additional VOC control is not required. However, this demonstration has not been done for the Southeastern Wisconsin region and, therefore, RACT III and major non-CTG source controls must be included in the SIP.

C. Other Deviations From EPA Policy and Requirements

The following discussion summarizes those portions of the State's draft revisions which contain deviations from EPA policy and guidance given to the State regarding the preparation of the 1982 SIP revisions. EPA's complete evaluation of these portions is included in EPA's October 26, 1982, comment letter sent to the State. EPA believes that some of the deviations cited in our comment letter may not be considered major in and of themselves. However, the deviations considered together may constitute a major deficiency.

The deviations from EPA guidance include deviations in the areas of emissions inventory estimation and documentation, ozone modeling and monitoring, CO emission control regulations and demonstration of attainment, and emission reductions from committed transportation control measures. The deviations from emission inventory guidance include such items as: lack of sufficient documentation on some procedures and assumptions used; use of incorrect emission factors; use of incorrect seasonal and weekday adjustment factors; and possible missing point source emissions based on EPA source directories. The deviations from ozone modeling and monitoring include items such as: use of low resolution OZIPP generated isopleths resulting in uncertainty in computed reactive VOC emission control requirements; lack of sufficient documentation of assumptions and calculations; and possibly incorrect post 8 a.m. precursor emission fractions used in the EKMA. The deviations from EPA CO guidance includes items such as: failure to adequately address control of major (potential to emit more than 1000 tons CO per year) CO sources; inappropriate background CO concentration estimates; and possibly incorrect adjustment of background concentrations.

EPA is waiting for the State's response to EPA's comment letter of October 26, 1982, and will evaluate any response to determine if the State has adequately corrected or explained the cited deviations. EPA is also specifically soliciting public comment on the significance of any or all of the deviations from EPA policy cited in the October 26, 1982, comment letter to the State.

II. Proposed Action

EPA encourages the State of Wisconsin and the public to respond to our comments on the proposed SIP. EPA further encourages the State to complete its SIP revisions and submit the final plan to EPA in a timely manner.

If the major deficiencies discussed in Part B above are not remedied, EPA will be required to disapprove the revision to the ozone and CO, plans. EPA will make a judgment on the significance of the deviations discussed in Part C above, after reviewing public comment and the State's response. Under Section 110(a)(2)(I) and 40 CFR 52.24 (1982), disapproval would trigger a moratorium on the construction and modification of major stationary sources of ozone and CO in the nonattainment areas to which these revisions apply.

Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

However, if the State substantially changes the draft revisions—except to remedy the deficiencies and deviations cited in this notice—EPA will have to evaluate those changes, and publish a revised notice of proposed rulemaking. Otherwise, EPA will publish a notice on final rulemaking on the revisions discussed in today's notice once the State adopts these revisions and submits them to EPA for incorporation into SIP. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address listed at the front of this notice.

Under Executive Order 12291, today's action is not "Major". It has been

submitted to the Office of Management and Budget (OMB) for review.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Section 110(a)(2)(A)–(K) and 110(a)(3) of the Act, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a), 172 and 301(a) of the Clean Air Act as amended (42 USC 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: November 29, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 83-3453 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2283-2]

Approval and Promulgation of Implementation Plans, Indiana; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Proposed Rulemaking.

SUMMARY: On September 2, 1982, The Indiana Air Pollution Control Board (IAPCB) submitted a draft of its proposed 1982 revisions to the ozone (O_3) and carbon monoxide (CO) portions of the Indiana State Implementation Plan (SIP). This submittal was in response to Part D of the Clean Air Act (Act), which requires states to submit by July 1, 1982 plans for attaining the O_3 and CO National Ambient Air Quality Standards (NAAQS) for those areas which could not attain the NAAQS by 1982 and which have EPA approved attainment date extensions. In today's action, EPA is presenting the results of its preliminary review of the Indiana SIP revision, based on the draft plan submitted to EPA on September 2, 1982. At this time, EPA is identifying portions of the plan that are clearly deficient, and proposing to disapprove the plan on that basis. In addition, this notice identifies other deviations from EPA policy guidance and requirements. EPA is soliciting the State's response and public comments on the proposed disapproval, and the significance of the deviations discussed in this notice. The Agency will consider these comments in its final rulemaking package.

DATE: Comments must be received on or before March 21, 1983.

ADDRESSES: Comments should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section (5AP-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Please submit an original and three copies of all comments, if possible. Copies of the draft revision submitted by the State, EPA's comments to the State, and EPA's present evaluation may be inspected during normal business hours at (please contact Robert B. Miller at (312) 886-6031 prior to visiting the Region V office):

Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Air Pollution Control Division, Indiana Board of Health, 1330 W. Michigan Street, Indianapolis, Indiana 46206

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air Programs Branch, U.S. Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604 (312) 886-6031.

SUPPLEMENTARY INFORMATION: In enacting the Clean Air Act Amendments of 1977, Congress added Part D to Title I of the Act. Under this Part, the states were required to revise their SIPs for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (Sections 171–178 of the Clean Air Act; Section 129(c) (uncodified) of Pub. L. 95-95). The revised plan had to provide for attainment of the O_3 and CO NAAQS by December 31, 1982, unless a state demonstrated that it could not attain either the O_3 or CO NAAQS by that date, despite the implementation of all Reasonably Available Control Technology (RACT), Sections 172(a)(1), 172(a)(2).

If EPA approved this demonstration, the attainment date for O_3 or CO could be extended up to December 31, 1987, and the state could defer compliance with certain of the Part D planning requirements. States receiving such extensions were required to submit a second SIP revision which provides for attainment by the approved attainment date and which complies with all Part D requirements (Section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95-95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1] These requirements for plan preparation and EPA policy guidance are contained in a November 19, 1982 technical support memorandum entitled "Technical Review of Indiana's Draft 1982 Ozone and Carbon Monoxide State Implementation Plan," which is available for review at the Region V office listed above.

The State of Indiana submitted, among other items, its 1979 CO/O_3 nonattainment area SIP revision for Clark, Floyd, Lake, and Porter Counties on June 26, 1979, with supplements on May 19, 1980; September 24, 1980; October 9, 1980; and October 15, 1980. EPA conditionally approved Indiana's vehicle emission control inspection and maintenance program (I/M) for these counties on January 2, 1981 (46 FR 36). On June 26, 1979, the State requested that EPA extend the attainment date for the O_3 and CO standards in these areas until December 31, 1987. On February 11, 1982 (47 FR 6274), EPA approved this request and conditionally approved the plan revision as meeting (with the exception of VOC regulations for stationary sources) the initial requirements of Part D. EPA conditionally approved Indiana's stationary source VOC regulations for those source categories addressed in EPA's Group I Control Technique Guidelines (CTG) on October 27, 1982 (47 FR 47552), and has recently conditionally approved the Group II CTG regulations. Upon this approval, EPA has either approved or conditionally approved all the necessary parts of Indiana's plan for meeting the requirements of Part D of the Act which were due before 1982.

Indiana submitted the draft 1982 revisions of its CO/O_3 SIP to EPA on September 2, 1982. This draft revision was used as the basis for State and local public hearings held on October 26–27, 1982. The State is still considering these revisions and intends to adopt them through its rulemaking procedures in the near future.

EPA reviewed the revisions and prepared comments which incorporate EPA's evaluation of the overall plan in meeting the requirements of the Act. These comments were forwarded to Indiana in a November 10, 1982, letter from David Kee, Director of the EPA Region V Air Management Division, to Harry D. Williams, Technical Secretary of the Indiana Air Pollution Control Board.

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[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

In order to expedite EPA rulemaking, EPA is proceeding with rulemaking action on these revisions as the State completes its rulemaking. EPA anticipates the State's response prior to final rulemaking.

EPA's review of the State's submittal is divided into three Sections:

A. Plan Description
B. Major Plan Deficiencies
C. Other Deviations from EPA Policy and Requirements

A. Plan Description

1. Ozone SIP

O_3 is formed from various precursors—primarily oxides of nitrogen and a class of hydrocarbons called "reactive volatile organic compounds" (VOCs). VOC emissions are controlled to reduce O_3 concentrations.

Indiana's O_3 nonattainment areas consist of Allen, Clark, Elkhart, Floyd, Lake, Porter, and St. Joseph Counties.[2] Of these, extensions were only requested for Clark and Floyd Counties, which contain the Indiana portion of the Louisville (Kentucky-Indiana) Urbanized Area,[3] and Lake and Porter Counties, which contain the Indiana portion of the Chicago, Illinois—Northwestern Indiana Urbanized Area.

Indiana proposed 1982 SIP address attainment of the O_3 NAAQS and VOC emission reductions for these four counties through a mix of controls on stationary and mobile sources. Indiana's plan also contains a contingency that if monitoring in Indiana shows the standards are still being violated in 1985, despite the emission reductions expected to occur in the interim, then additional measures would be adopted by the State to bring these areas into attainment by 1987. These measures include implementation of a vehicle I/M program, gasoline station stage II vapor recovery controls, and RACT controls on major sources where such controls do not currently exist.

To determine the reduction needed for attainment, the Empirical Kinetics Modeling Approach (EKMA) model was used.[4] Based on these analyses, Indiana has determined that a 32% emission reduction of VOC emissions from stationary and mobile sources is necessary to achieve the O_3 standard in the overall Louisville area, i.e., Jefferson County, Kentucky and Clark and Floyd Counties, Indiana, and that a 16% reduction is necessary to attain the O_3 standard in Lake and Porter Counties.

Indiana's 1982 plan projects a 33% reduction in VOC emissions in Floyd and Clark Counties, a 32% reduction in the overall Louisville area, a 31% reduction in Lake and Porter Counties, and a 34% reduction in the Northwest Indiana/Northeast Illinois area. Indiana found that an 11% VOC reduction in Indiana will be necessary to attain the O_3 standard in Illinois. Indiana asserted that the 31% VOC reduction predicted to occur in Indiana should ensure that Indiana's VOC emissions will not prevent the attainment of the O_3 standard in Illinois.

Indiana has stated that emissions from Indiana do not contribute to violations of the O_3 standard in Southeast Wisconsin and, therefore did not provide in its strategy the emission reductions necessary to attain the O_3 standard in Kenosha and Racine Counties in Wisconsin (the counties immediately north of the Chicago, Illinois–Northwestern Indiana Urbanized Area). Data provided by the State of Illinois indicate to EPA that an approximate 50% reduction in emissions in the Chicago, Illinois–Northwestern Indiana Urbanized Area is necessary if these Wisconsin counties are to attain the O_3 standard. Emission reductions predicted to occur in Indiana are less than 50%. Therefore, attainment of the O_3 standard in Wisconsin will be prevented by emissions from Indiana (and Illinois), in contravention of Section 110(a)(2)(E) of the Act.

2. CO SIP

CO violations are caused primarily by automobile emissions. They generally occur in the areas around major intersections, or in central business districts, where vehicles tend to idle for relatively long periods.

Indiana's attainment demonstration for CO in Lake County relies principally on rollback modeling. The modeling shows a need for a 10% reduction in CO emissions. Indiana's revision demonstrates a 42% emission reduction due to the Federal Motor Vehicle Control Program (FMVCP) and an additional 4% due to transportation control measures (TCMs). The submittal also presents hot spot modeling using techniques described in Volume 9 of *Guidelines for Air Quality Maintenance Planning and Analysis* and using the CALINE 3 computer dispersion model. This modeling demonstrates that exceedances of the CO standard could be expected at 34 locations in Lake County. Therefore, Indiana did not demonstrate attainment of the CO standards at all locations in Lake County.

3. Stationary and Mobile Source Control Measures Contained in Ozone and CO SIPs

(a) *Stationary Source Reasonably Available Control Technology (RACT):* The Act requires states to adopt RACT in nonattainment areas. Therefore, as part of the 1982 submittal, states must either (1) include regulations requiring RACT for all sources of VOCs covered by a Control Technique Guideline (CTG) and all remaining major stationary sources of VOCs with the potential to emit more than 100 tons of VOC per year, or (2) must commit to adopt such regulations and provide an enforceable schedule for their adoption.

As stated before, Indiana has adopted RACT regulations for the 15 CTG Group I source categories and the 9 CTG Group II source categories. EPA has conditionally approved these regulations. The 1982 Indiana strategy does not, however, contain or provide enforceable commitments to adopt any additional control measures. Indiana indicates that it may adopt control regulations for the 6 Group III CTG source categories once these CTGs become available. However, Indiana makes the adoption of such regulations contingent on the draft guidelines being "acceptable" to it. If the State finds the draft CTG's to be acceptable, it has committed to develop a VOC regulation for the 6 RACT III sources by July 6, 1983.

Indiana's 1982 strategy also discusses a "contingency plan" for adopting RACT regulations for miscellaneous major sources. This contingency plan, as discussed earlier, is to be implemented only if a review in 1985 of air quality data shows these controls are needed to meet the O_3 air quality standard by the end of 1987. Source categories that may be controlled then include the following: Coke oven missions, adhesive application, barge and tanker loading of volatile organic liquids, beer making, fabric printing, surface coating of large ships, and wine making. The State's "contingency plan" commitment and its commitment to adopt RACT for CTG III sources only if the guidelines are "acceptable" do not comport with the Act's unconditional requirement that RACT must be adopted for all VOC sources.

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[2] Under Section 107(d) of the Clean Air Act, the Administrator of EPA promulgated the attainment status for each area of every State. These counties in Indiana were designated nonattainment for O_3 on March 3, 1978 (43 FR 8962).

[3] Urbanized areas are defined by the Bureau of the Census. They consist of a central city, or cities, and surrounding closely settled territory. For the purposes of implementing the 1977 Amendments to the Act, EPA uses the area and population census data as defined at that time.

[4] EPA guidance for the use of EKMA in determining the amount of VOC control needed is found in *Guidance for Use of City-specific EKMA in Preparing Ozone SIPs*, March 1981, EPA–450/4–80–027.

(b) *Federal Motor Vehicle Control program (FMVCP):* The Indiana 1982 plan takes credit for those emission reductions which will be attained from the auto emission controls contained in the national FMVCP.

(c) *Transportation Control Measures (TCMs):* Indiana adopted multiple TCM commitments as a part of its 1979 SIP plan (see EPA's conditional approval of that plan (47 FR 6274, February 11, 1982)). Additional TCMs have been identified in the 1982 strategy to reduce VOC and CO emissions for the Lake and Porter Counties areas. These are: speed limit reviews, placing traffic signals on flash, removal of nonwarranted stop signs, carpooling, employee vanpooling, and various projects already under consideration in the Northwestern Indiana Regional Planning Commission's (NIRPC) annual Transportation Improvement Program (TIP).

For Clark and Floyd Counties, the following TCMs have been identified to reduce ozone emissions: Selected measures from the transportation improvement program, improved ride-sharing, and improve transit.

These TCMs were referenced in the 1982 strategy, but the plan does not clearly document that commitments have been obtained to implement these measures.

(d) *Inspection and Maintenance (I/M):* All major urban areas that needed an extension beyond 1982 to attain a standard for O_3 or CO were required to include vehicle I/M as a portion of the 1979 revision. EPA evaluated and conditionally approved on January 2, 1981 (46 FR 36) the I/M portion of Indiana's 1979 SIP revision, which was a plan and commitment to implement a contractor-run, centralized program by January 1983. The 1982 SIP revision also must contain the rules and regulations for implementing an I/M program that will meet the minimum requirements for emission reduction, and commitments to other needed program details. (I/M elements already submitted and approved as part of earlier SIP submittals did not need to be submitted again.) The 1982 SIP policy published on January 22, 1981 (46 FR 7182) discusses these requirements.

The Indiana Air pollution Control Board's (IAPCB) 1982 plan, however, removes its earlier commitment to implement an I/M program. The IAPCB now maintains that an I/M program should not be a part of the 1982 plan at this time, because the Board does not consider I/M to be a reasonably available control strategy. The IAPCB contends that the Act does not require an I/M program in Indiana at this time, based on its interpretation of Congressional intent regarding I/M programs. The IAPCB indicates that an I/M program will be pursued in the future only if all other planned control measures fall short of meeting interstate air quality goals.

The IAPCB's draft 1982 strategy raises four basic issues which are presented as contingencies to I/M program implementation in the State. First, the plan commits to I/M implementation only if it is necessary to attain the NAAQS by 1987, as determined through monitoring in future years. This is inconsistent with the Act and with EPA's I/M implementation policy, which require an I/M program if an area will not attain the NAAQS by 1982. Further, the plan states that,"[i]n fact, Indiana will not commit to an I/M program until its neighboring states also commit to I/M program implementation". This contingency bears no relationship to the legal requirements of the Act or to EPA's policy for I/M implementation. Indiana's I/M program connot be contingent on I/M programs in neighboring states. If a neighboring state fails to implement a required I/M program, then EPA will act upon that state's failure consistent with the Act's requirements.

The IAPCB's plan also state that EPA must develop a consistent policy which insures that the same type of I/M program is implemented within the same interstate region, as well as similar implementation schedules. In actuality, Indiana, Illinois and Kentucky all committed in their 1979 SIP's to implement similar programs a contractor-run, centralized I/M program starting in January 1983. Additionally, EPA's policy to implement the I/M requirements of the 1977 Amendments to the Act is unchanged from its inception in 1978 and 1979 (see the July 17, 1978 memorandum on EPA's Inspection/Maintenance Policy from David G. Hawkins, then Assistant Administrator for Air and Waste Management, to Regional Administrators, Regions I-X, and subsequent **Federal Register** notices listed earlier in this notice), which require programs to achieve specified reductions in hydrocarbons and carbon monoxide emissions. EPA has also maintained the policy that mandatory, decentralized program must begin by December 31, 1981 and mandatory, centralized programs by December 31, 1982. EPA's policy I/M is consistent, without imposing rigid uniformity on the development of State programs. The IAPCB's contention that I/M policy is not consistent, not evenhanded, and not comprehensive is unsupportable based upon EPA's policy history.

Finally, the IAPCB's 1982 plan states that Indiana will not implement an I/M program if Jefferson County, Kentucky's I/M program uses only CO cutpoint emission limits, as opposed to requiring both CO and VOC emission limits to be met. Contrary to what the IAPCB plan states, an I/M program, based on only CO cutpoint limits, is an effective means of reducing VOC emissions. Jefferson County's proposed program will achieve the reduction in hydrocarbons required under EPA policy, as demonstrated in computer runs of the MOBILE 2 model conducted specifically for the Jefferson County, Kentucky program design. Even though Jefferson County may test for CO emissions only, the repairs required to correct CO failures will result in measurable reductions in VOC emissions. Thus, the IAPCB's contention that Jefferson County must have a VOC cutpoint in order to achieve emission reductions has no basis in fact.

B. Major Plan Deficiencies

EPA's approval criteria for the 1982 plans are contained in a January 22, 1981 (46 FR 7182) **Federal Register** notice. As discussed earlier, Indiana's plan significantly deviates from these criteria as follows:

(1) The plan does not contain enforceable commitments either to adopt RACT for Group III CTG sources or to adopt RACT emission limits for all other major VOC sources.

(2) The IAPCB has withdrawn its commitment to implement an I/M program by January 1, 1983.

(3) Although the projected emission reductions predicted to occur in Lake and Porter Counties appear to be sufficient to attain the O^3 standard in Indiana and to contribute to attaining the O^3 standard in Illinois, the reductions, when combined with those predicted to occur in Illinois, are not sufficient so that the O^3 standard can be attained in Wisconsin. The plan, therefore, does not meet the requirements of Section 110(a)(2)(E) of the Act.

(4) Indiana has developed a contingency plan which includes RACT on all miscellaneous major sources, stage II vapor recovery for gasoline stations, and a vehicle I/M program. The plan provides that these measures will be implemented in either or both Northwest Indiana and in Clark and Floyd Counties only if 1985 analyses of air quality in these areas show that these measures are needed to attain the standard by 1987. Indiana's contingency approach deviates from the Act and EPA's approval criteria in that, in relying on contingency measures to

achieve necessary emission reductions, the plan does not contain an enforceable strategy for assuring that the standards will be attained as expeditiously as practicable.

(5) Finally, although Indiana's CO plan shows attainment at all CO sites in Lake County where ambient monitors are located, it fails to address attainment of the CO standard at 34 predicted nonattainment locations in the County. The State, therefore, has filed to demonstrate attainment of the CO standard in Lake County.

Further information on these and other deficiencies in the O_3 and CO plans are contained in EPA's November 19, 1982 technical support memorandum and in EPA's November 10, 1982 comment letter to the State.

C. Other Deviations from EPA Policy and Requirements

In addition to the above deviations, Indiana's 1982 plan deviates in a variety of other respects from EPA's guidance and the requirements of the Act. These deviations are detailed in EPA's comments on the Indiana SIP as transmitted by letter from David Kee to Harry Williams dated November 10, 1982. These comments cover deviations from guidance on area, mobile, and point source emissions inventories, ozone modeling and air quality data, the carbon monoxide attainment demonstration, stationary source measures, vehicle inspection and maintence, and transportation control measures. The comments on the various portions of the emission inventory generally reflect either probable inaccuracies in the inventory or facets of the inventory which are not documented enough to be suitably evaluated.

Examples of such comments are:

(1) The plan did not document the major VOC point sources for Lake and Porter Counties.

(2) The plan did not document the modeling for the Louisville Urbanized Area such that it could be evaluated by EPA.

(3) The plan did not address EPA's requirement that RACT be imposed on all major sources of CO.

(4) The plan did not include evidence of commitments by the implementing agencies to implement the specified TCM measures.

These and other deviations are discussed in more detail in EPA's November 10, 1982 letter sent to the State. EPA believes that any one of the deviations cited in the comment letter may not be considered major in and of itself. However, all of the deviations considered together may constitute a major deficiency. Therefore, EPA is waiting for the State's response to these deviations and will evaluate any response to determine if the State has corrected the deviations. EPA is also specifically soliciting public comment on the significance of any or all of the deviations from EPA policy cited in the November 10, 1982 comment letter to the State.

Proposed Action

EPA is proposing to disapprove Indiana's 1982 O_3 and CO plan because it deviates from the requirements of the Act. These deviations include failure to make a noncontingent commitment to an inspection and maintenance program, failure to provide enforceable, noncontingent commitments to adopt RACT regulations for Group III source categories and for all remaining major sources, failure to demonstrate attainment of the O_3 standard in all impact areas, specifically Southeast Wisconsin, and failure to demonstrate attainment of the CO standard.

EPA requests that the State of Indiana and the public respond to our comments on the draft revisions and on EPA's proposed disapproval. EPA encourages the State to modify its proposed plan to meet the objections delineated in EPA's November 10, 1982 comment letter, this notice of proposed rulemaking, the technical support document for this notice, and any comments EPA may receive in response to this notice. EPA finally encourages the State to submit a final, approvable plan to EPA in a timely manner. If the State changes the draft revisions to remedy all of the deficiencies cited in this notice and in EPA's comments to the State, EPA will publish a notice approving the plan. If the State substantially changes the plan in a manner other than that suggested to the State, EPA will evaluate those changes, and publish a revised notice of proposed rulemaking.

However, if the major deficiencies previously discussed in Part B are not remedied, EPA will be required to disapprove the revisions to the O_3 and CO plans. EPA will make a judgment on the significance of the deviations discussed in Part C after reviewing public comment and the State's response. Under Section 110(a)(2)(I) of the Act and 40 CFR 52.24 (1982), disapproval would trigger a moratorium on the construction and modification of major stationary sources of VOC and CO in the nonattainment areas to which these revisions apply. Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning, transportation projects, and certain other categories of projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address listed at the front of this notice. EPA is providing a 45-day comment period on this portion of the State's Part D SIP in order to expedite Federal rulemaking because of the passage of the Act's deadline of July 31, 1982, by which 1982 O_3 and CO plans sufficient to attain the NAAQS must be adopted by the State and submitted to EPA.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Act, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a), 172, and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7410(a), 7502 and 7601(a).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: November 30, 1982.

Valdas V. Adamkus,

Regional Administrator.

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BILLING CODE 6560-50-M

40 CFR Part 52)

[A-5-FRL 2263-1]

Approval and Promulgation of Implementation Plans; Illinois 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this document is to address the 1982 State Implementation Plan (SIP) revision which has been submitted in draft form by the Illinois Environmental Protection Agency (IEPA), pursuant to the Part D requirements of the Clean Air Act (hereafter referred to as the Act). Part D of the Act requires a plan to be submitted by July 1, 1982, to attain the ozone and carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS) in nonattainment areas with approved attainment date extensions. In today's action, EPA is presenting the results of its preliminary review of the Illinois SIP revision based on the draft plan submitted to EPA on June 30, 1982. At this time, EPA is identifying portions of the plan that are clearly deficient, and proposing to disapprove the plan on that basis. In addition, this notice identifies other deviations from EPA policy guidance and requirements. EPA is soliciting the State's response and public comments on the proposed disapproval, and the significance of the deviations discussed in this notice. The Agency will consider these comments in its final rulemaking package.

DATE: Comments must be received on or before March 21, 1983.

ADDRESSES: Comments should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section (5AP-11), U.S. Environmental Protection Agency, Region, V, 230 South Dearborn Street, Chicago, Illinois 60604.

You may inspect copies of the draft SIP submitted by the State and EPA's evaluation during normal business hours at:

U.S. Environmental Protection Agency, Region V; Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604, and at:

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, at (312) 886-6035.

SUPPLEMENTARY INFORMATION: The Act Amendments of 1977 added a new Part D to Title I of the Act. Under this Part, the States had to revise their State Implementation Plans (SIPs) for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (Sections 171-178 of the Act; Section 129(c) (uncodified) of Pub. L. 95-95). The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the ozone or CO standard by the date despite the implementation of all reasonably available control technology (RACT) (Sections 172(a)(1), 172(a)(2)).

If EPA approved this demonstration, the attainment date for ozone or CO could be extended up to December 31, 1987, and the State could defer compliance with certain of the Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements (Section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95-95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1] Other requirements for plan preparation and EPA policy guidance are contained in a technical support memorandum dated November 15, 1982 which is available for review at the Region V office listed above.

The State of Illinois submitted an initial SIP revision for the Northeastern Illinois and St. Louis (Illinois portion) Metropolitan CO/ozone nonattainment areas in April 1979. The State requested that EPA extend the attainment date for the standards in these areas until December 31, 1987. EPA approved this request and conditionally approved the initial plan revision on February 21, 1980 (45 FR 11472).

Illinois submitted its draft 1982 revisions to its CO/ozone SIP on June 30, 1982. This draft revision was used as the basis for State and local public hearings held on August 23, August 26, and September 14, 1982. The State is still considering these revisions and proposes to adopt them through its SIP revision procedures. EPA reviewed the revisions and prepared comments which incorporate EPA's evaluation of the overall plan in meeting the requirements of the Act. This evaluation was forwarded to Illinois in a letter from EPA dated August 23, 1982. EPA's evaluation is also contained in a technical support memorandum dated November 15, 1982. In the interim, EPA is proceeding with rulemaking action on these revisions as the State completes its SIP revisions. EPA anticipates the State's response prior to finel rulemaking.

EPA's review of the State's submittal is divided into three discussions.

A. Plan Description;
B. Major Plan Deficiencies; and,
C. Other Deviations from EPA policy and Requirements.

A. Plan Description

1. Ozone Demonstration of Attainment

Ozone is formed from various precursors—primarily oxides of nitrogen and "reactive volatile organic compounds" (VOCs). VOC emissions are controlled to reduce ozone concentrations.

The ozone portion of the SIP revision contains assessments of emission reductions needed to achieve the standard and projections of the emission reductions that are expected. The assessments of emission reduction requirements are based on the Empirical Kinetics Modeling Approach (EKMA). This modeling approach considers the chemical and local meteorological influences on ozone formation in estimating the emission reductions needed to attain the air quality standard for ozone. The SIP also includes an inventory of emissions in 1980, and inventory of emissions projected to occur in 1987 if no regulations beyond RACT II were adopted, and inventories of projected 1987 emissions if various additional regulations were adopted. The SIP also includes discussion of these possible additional control strategies, giving a particularly detailed description of proposed regulations for controlling emissions from a variety of stationary source categories. The SIP then compares the 1987 emissions inventories to the 1980 inventory to show that sufficient emission reductions will be obtained to meet the air quality standard.

The Illinois ozone SIP estimates a range of control requirements rather than making a single best estimate. This approach was used in both the Chicago area and the East St. Louis area. Illinois shows that in both areas the lower end of the range is met by emission reductions attributable to already adopted regulations (including "RACT I," the Federal Motor Vehicle Control Program, and Transportation Control Measures) in combination with "RACT

[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583); August 28, 1979 (44 FR 50371); September 17, 1979 (44 FR 53761); and November 23, 1979 (44 FR 67182).

II" regulations and the additional set of proposed stationary source regulations described in the SIP. Illinois shows that in both urban areas, the upper end of the control requirements range can be met on a contingency basis. That is, the SIP states that if future air quality data indicate the need, the State will implement a "Contingency Program" including Stage II vapor recovery and credit for plant shutdowns. The State may, in addition, implement an inspection and maintenance program, if necessary. Furthermore, in the Chicago area, the SIP distinguishes between the range of control requirement based solely on Illinois air quality data and the range of control requirements based on air quality for the entire impact area including Southeast Wisconsin.

Specifically, the SIP states for ozone in the Chicago area that the Illinois data show a need for 0% to 11% reduction in emissions, and the Wisconsin data imply a need for 20% to 41% reduction in emissions. The SIP indicates that the lower end of the control requirement range based on Illinois data has already been met, and the lower end of the control requirement range based on the complete data set will be met by the end of 1983, based solely on the existing control program plus "RACT II." This demonstration is based on emissions data for six counties in Northeast Illinois including Cook, Dupage, Kane, Lake, McHenry and Will Counties. The demonstration does not currently consider emissions in either Porter or Lake County, Indiana.

In the East St. Louis area, the SIP indicates a need for 16% to 35% emission reduction. The SIP states that the lower end of the range has aready been met, and the upper end of the range will be met by 1985 or 1986, depending on the growth in auto traffic. This demonstration is based on emissions data for three counties in the East St. Louis area, including Madison, Monroe and St. Clair Counties. The demonstration does not currently consider emissions from the Missouri portion of the St. Louis area.

2. The CO Demonstration of Attainment

CO violations are caused primarily by automobile emissions. They generally occur in the areas around major intersections, or in central business districts, where vehicles tend to idle for relatively long periods.

For carbon monoxide in the Chicago area, the SIP uses several tools for demonstrating attainment. The downtown area attainment demonstration is based on a multiple regression analysis using several years of data which correlates annual second highest concentration, annual frequency or exceedances, and annual exceedance-dose with trends in emissions. For the remainder of the Chicago area (apparently including the same six counties as included in the ozone demonstration area), a modeling analysis using the CLAINE 3 model was conducted to assess the 1987 concentrations at intersections and at other critical locations along expressways and major arterial roadways.

3. Stationary and Mobile Source Control Measures Contained in the Ozone and CO SIP

a. *General and Federal Motor Vehicle Control Program:* The Illinois SIP describes a variety of measures for reducing hydrocarbon emissions so as to reduce ozone concentrations. Some of these control measures have already been adopted, including "RACT I," which controls emissions from 15 categories of stationary sources, and the Federal Motor Vehicle Control Program, (FMVCP). The Illinois SIP also calculates emissions as if "RACT II" had already been adopted, although in fact the regulations for these nine categories of stationarysources have not yet been adopted by the State of Illinois. The Illinois SIP also describes in substantial detail a set of proposed regulations for six additional categories of stationary sources plus miscellaneous major stationary sources but makes no statement of commitment to the ultimate adoption of such regulations. The SIP discusses certain transportation control measures, (TCM's) which have been adopted and takes credit for these and other unspecified TCM's which are expected to be adopted in the future. The SIP also briefly describes several other measures which may be adopted on a contingency basis.

b. *Stationary Source Control Measures:* The Act requires States to adopt RACT. Therefore, as part of the 1982 submittal, States must submit adopted RACT regulations for all sources of VOCs covered by a Control Technique Guideline (CTG) and all remaining major stationary source of VOCs with the potential to emit more than 100 tons of VOC per year. Alternatively, EPA requires that the submittal either include a legally enforceable commitment and schedule to implement RACT for these sources, or documentation of the State's determination that the existing level of control represents RACT for each of these sources.

The stationary source regulations proposed in the plan cover process leaks from chemical and plastics manufacturing, asphalt roofing manufacturing, volatile organic liquid storage, offset and letterpress printing, petroleum solvent dry cleaning, wood products finishing, and miscellaneous other sources with the potential to emit over 100 tons of hydrocarbons per year. For each of these categories, the SIP includes a discussion of the processes involved, the emissions before and after the controls are in place, and the economic reasonableness of these controls. The SIP states that these regulations have been proposed to the Illinois Pollution Control Board, and the SIP includes the text of the proposed regulations. However, the SIP includes no discussion of or commitment to a schedule for adopting these or similar regulations, and the SIP makes no statement of commitment to the ultimate adoption of such regulations.

Therefore, Illinois' submittal does not contain a legally enforceable commitment and schedule to implement RACT to control VOC emissions.

The SIP also describes a contingency plan which may be adopted pending a future review of air quality data. This plan includes Stage II vapor recovery (i.e., recovery of gasoline vapors from auto refueling) and taking credits for emission reductions caused by plant shutdowns since 1980.

c. *Vehicle Inspection and Maintenance:* The SIP states that a vehicle inspection and maintenance program (I/M) will be adopted only if future air quality data indicate that attainment by December 31, 1982 would not otherwise occur. Chapter VIII of the SIP describes IEPA's interpretation of legal requirements with respect to I/M and estimates the potential impacts and costs of I/M programs in the Chicago and East St. Louis areas. IEPA contends that the I/M program is not a reasonably available control measure due to low cost-effectiveness. Therefore, the Act does not require its implementation unless absolutely necessary to meet the air quality standard.

The State has devoted over 60 pages of its SIP to presenting an historical perspective of the study and evaluation of I/M in Illinois. The major issue raised regarding the reasonableness of I/M is the cost-effectiveness of the program. In these recent cost effectiveness estimates, the State revised previous assumptions used in earlier estimates. These new assumptions reflect recommendations which were contained in a May 18, 1981, letter to Daniel Goodwin, Manager, Division of Air Pollution Control, IEPA, from Charles Gray, Director, Emission Control

Technology Division. This letter provided comprehensive comments on Illinois' previous cost-effectiveness calculations. A second major issue relates to the required data for the implementation of the program. The State's contention is that only a schedule is required for the program should it be needed as a future control measure.

All major urban areas that needed an extension beyond 1982 to attain a standard for ozone or CO were required to include vehicle I/M as a portion of the 1979 revision. EPA evaluated and acted on the I/M portion of Illinois 1979 SIP revision in the **Federal Register** at 45 FR 11472 on February 2, 1980. The 1982 SIP revision must also contain an I/M portion. This portion must include the rules and regulations for implementing an I/M program that will meet the minimum requirements for emission reduction, and commitments to other needed program details. (I/M elements already submitted and approved as part of an earlier SIP submittal need not have been submitted again.) The 1982 SIP policy published on January 22, 1981 (46 FR 7182) discusses these requirements.

d. Transportation Control Measures (TCM's): The Transportation Control Plan (TCP) for Northeastern Illinois describes eight TCM's to be implemented to obtain the hydrocarbon (HC) reduction goal. The TCP will implement the following TCM's: public transportation, ridesharing, traffic flow improvements, bicycle promotion, long range transit, park-and-ride lots, alternative work schedules, and exclusive bus/carpool lanes.

The TCP for East St. Louis describes six TCM's to be implemented to attain the HC and CO emission reduction targets. The TCP will implement the following TCM package: traffic flow improvements, electric vehicles use, increase in ridesharing, increase in van pooling, 30% increase in transit ridership, and park and ride lots.

The SIP also describes related items such as the meeting of basic transportation needs, plans for monitoring the progress in implementing TCM's, TCM contingency plans, and criteria and procedures to determine conformance of the annual transportation improvement program with the SIP.

B. Major Plan Deficiencies

The following discussion summarizes those portions of the State's draft revisions which contain major deficiencies in meeting the requirements of the Act. A more complete evaluation of these deficiencies is contained in EPA's comment letter to the State dated August 23, 1982.

Vehicle Inspection and Maintenance

The State has not implemented the I/M program to which it committed in its 1979 State Implementation Plan. Further, the I/M portion of the Illinois SIP does not contain the various elements required under EPA's 1982 SIP policy. Particularly, there is no commitment to implement I/M by December 31, 1982, and there are no rules and regulations included. The SIP also commits to I/M implementation only if it is necessary to attain the National Ambient Air Quality Standards by 1987, as determined through monitoring in future years. This contingent commitment is inconsistent with the Act, as amended, and with EPA I/M implementation policy. Thus the Illinois SIP does not meet the requirements of the 1982 SIP policy.

Regulations for Stationary Sources

Illinois has not included a commitment for the adoption and final submittal of the VOC RACT regulations for sources covered by the Group II and Group III CTGs, and for all other major VOC sources not covered by CTGs.

In the case of RACT III sources, Illinois, as a minimum, must commit to the submittal of control regulations within one year after the January 1st following EPA's publication of the final version of each CTG. This commitment must be made by all agencies which are in any way responsible for adopting these regulations.

For major non-CTG sources, the State as a minimum must submit an enforceable schedule for the submittal of control regulations. Again, the SIP must provide commitments to adopt these regulations by all agencies which are in any way responsible. The proposed schedule must be as expeditious as practicable.

For regulations for RACT III and major non-CTG sources, a legally binding schedule must include commitments from all legally responsible governmental entities involved in the development and adoption of the regulations.

The above requirements have not been met. The SIP implies that RACT II regulations will be adopted soon, but provides no enforceable commitment to complete the adoption of these regulations. Illinois provides language for and discussion of proposed regulations for Group III sources and miscellaneous major sources, but provides no assurances that these or any similar regulations will be adopted. Furthermore, the SIP provides no commitments by the Illinois Pollution Control Board (IPCB), although the IPCB plays a central role in adopting RACT regulations. The SIP fails to provide the necessary commitments to adopt these regulations.

Reliance on Contingency Measures and Related Modeling Deficiencies

EPA has provided detailed guidance on procedures for estimating emission reductions necessary to meet the ozone air quality standard. (See, for example, *Guidelines for Use of City Specific EKMA in Preparing Ozone SIPs.*) A demonstration of attainment of the standard must include a demonstration that enforceable control measures will cause emissions to be reduced at least as much as the recommended procedures show is needed.

The Illinois ozone SIP does not provide a suitable demonstration of attainment. First, the SIP relies on contingency measures to achieve some of the emission reductions that may be necessary. These measures cannot be enforced, in part, because by definition the State has not committed to adopting these measures. Thus, the SIP demonstrates that the "noncontingent measures" may not be sufficient to attain the standard.

Second, the SIP provides ranges of estimates of emission control requirements, rather than providing single best estimates of control requirements for each demonstration area. This makes it difficult to judge whether an appropriately derived best estimate of control requirements will be achieved. Nevertheless, by developing a range of control requirements estimates, Illinois implies that the best estimate of control requirements may be as high as the upper end of the range.

If EPA were confident that the best estimate of control requirements was within EPA's range, EPA could judge Illinois' attainment demonstration on the basis of whether sufficient enforcement control measures were included to meet the upper end of the range. However, EPA believes the best estimate of emission control requirements in each case may be higher than even the upper end of the range of estimates because various procedures IEPA used in its modeling deviate substantially from EPA recommended procedures. For example, IEPA adjusted the results of its EKMA modeling by reducing the upper end of the range by 10 percentage points and reducing the lower end of the range by 20 percentage points. These modeling issues are discussed in more detail in the August 23, 1982, comment letter to the State. For the above several reasons, the Illinois SIP must be considered not

to demonstrate attainment of the ozone standard in either the Chicago area or in the St. Louis area.

Failure To Demonstrate Attainment in Southeast Wisconsin

The Illinois SIP distinguishes between estimates of emission reductions required to attain the standard in Illinois and estimates of emission reductions required to attain the standard in Wisconsin. Although the evidence is clear that violations of the ozone standard in Kenosha and Racine are principally caused by emissions in the Chicago-Northwest Indiana metropolitan area, the Illinois SIP argues that it need not demonstrate attainment in the Wisconsin counties. The SIP notes that the Southeastern Wisconsin data were "not addressed in the 1979 plan, and therefore cannot be considered a controlling factor in (the 1982) plan". This is contrary to the Act, which requires that sources of emissions in one State not prevent attainment in any other State. In light of the evidence linking the violations in Southeast Wisconsin (defined here to mean Kenosha and Racine Counties) with source emissions in Northeast Illinois and Northwest Indiana, the Act must be interpreted as requiring the Illinois SIP to demonstrate attainment in Southeast Wisconsin.

The Illinois SIP does include a graph and other data which purport to show that Southeast Wisconsin will attain the standard in 1987, "assuming that EKMA modeling is valid (for modeling transport from the Chicago area to Southeast Wisconsin)." However, as discussed above, this demonstration relies on contingency measures and is based on attaining a percent emission reduction which may be lower than the best estimate of emission reduction requirements based on Southeast Wisconsin data. The reliance on contingency measures for demonstrating attainment in Southeast Wisconsin raises additional concerns. Because Illinois denies responsibility for demonstrating attainment in Southeast Wisconsin, it is not clear that Illinois would implement these measures, particularly if the State considers these measures unnecessary to attain the standard in Illinois.

The Illinois SIP does not show commitments to adopt regulations which (in combination with already adopted regulations) will achieve an appropriate best estimate of emission reductions required to attain the standard in Southeast Wisconsin. Therefore, the SIP has failed to demonstrate attainment in Southeast Wisconsin.

Failure To Demonstrate Attainment of the CO Standard

The Illinois SIP assesses the need for CO emission reductions in the downtown area of Chicago by using a multiple regression analysis. This technique does not provide an acceptable estimate of the required emission reductions.

This statistical approach attributes decreasing trends in ambient CO concentrations that may be caused by variations in meteorology entirely to changes in emissions. In the case of downtown Chicago, this technique, as applied in the Illinois SIP, shows that CO concentrations decrease more rapidly than emissions. Since the SIP is based on this statistical technique, which includes meteorology as an independent variable, the SIP does not provide a valid demonstration of attainment.

C. Other Deviations From EPA Policy and Requirements

EPA's complete evaluation of various deviations from EPA requirements and recommendations is included in EPA's August 23, 1982, comment letter sent to the State. Some of the deviations cited in our comment letter may not be considered major in and of themselves. However, all of the deviations considered together may constitute a major deficiency.

Therefore, EPA is waiting for the State's response to these deviations and will evaluate any response to determine if the State has corrected the deviations. EPA is also specifically soliciting public comment on the significance of any or all of the deviations from EPA policy cited in the August 23, 1982, comment letter to the State.

Proposed Action

EPA encourages the State of Illinois and the public to respond to our comments on the draft revisions. EPA further encourages the State to complete its SIP revision and submit the final plan to EPA in a timely manner.

If the major deficiencies cited in Part B are not remedied, EPA will be required to disapprove the revisions to the ozone and CO plans. EPA will make a judgment on the significance of the deviations discussed in Part C after reviewing public comment and the State's response. Under Section 110(a)(2)(I) and 40 CFR 52.24 (1982), disapproval would trigger a moratorium on the construction and modification of major stationary sources of ozone and CO in the nonattainment areas to which these revisions apply.

Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

However, if the State substantially changes the draft revisions particularly with respect to the major deficiencies cited in Part B of this notice, EPA will have to evaluate those changes, and publish a revised notice of proposed rulemaking. Otherwise, EPA will publish a notice of final rulemaking on the revisions discussed in today's notice once the State adopts these revisions and submits them to EPA for incorporation into the SIP. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address listed in the front of this notice.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Section 110(a)(2)(A)–(K) and 110(a)(3) of the Act, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a), 172, and 301(a) of the Clean Air Act as amended (424 USC 7410(a) and 7601(a)).

List of Subject in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

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Dated: November 30, 1982.
Valdas V. Adamkus,
Regional Administrator.
[FR Doc. 83-2456 Filed 2-2-83; 8:45 am]
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40 CFR Part 52

[A-6-FRL 2261-7]

Approval and Promulgation of Implementation Plans: Texas Attainment Plan for Ozone in Harris County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to disapprove the inspection/maintenance (I/M) portion and approve other portions of State Implementation Plan (SIP) revisions for attainment of the ozone (O_3) standard in Harris County (Houston), submitted by the State of Texas. The proposed action is based on review of revisions submitted on December 9, 1982. Although most of the proposed plan is acceptable, one of the essential elements of the plan, vehicle inspection maintenance (I/M), is not acceptable. A final disapproval action on I/M would trigger a moratorium on the construction and modification of major stationary sources of volatile organic compounds (VOC) in Harris County and could result in restrictions in certain Federal funding.

DATES: Comments must be received on or before March 21, 1983.

ADDRESSES: Written comments should be submitted to Jack Divita, Air Branch Chief, the U.S. Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270. Copies of the State submittals and EPA's evaluation report are contained in SIP file TX-82-9 and are available for public inspection during normal business hours at the above address and the following location: Texas Air Control Board, 6330 Hwy. 290 East, Austin, Texas 78723.

FOR FURTHER INFORMATION CONTACT: Randy Brown, SIP Section, Air Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1599.

SUPPLEMENTARY INFORMATION:

Background

In 1978, Harris County, Texas was designated as a nonattainment area for ozone (O_3). In accordance with the requirements of the Clean Air Act Amendments of 1977 for such nonattainment areas, the State of Texas submitted a SIP revision in April 1979. The 1979 SIP demonstrated that the O_3 standard could not be met in Harris County by December 31, 1982, despite the implementation of all reasonably available control measures. On the basis of this demonstration, an extension until December 31, 1987, to attain the O_3 standard was requested by the State. EPA approved the request for an extension in the March 25, 1980, **Federal Register** (45 FR 19244). The 1979 strategy for O_3 in Harris County was conditionally approved by EPA in the March 25, 1980, **Federal Register**. After additional State submittals, EPA removed the conditions on the 1979 Harris County O_3 strategy. (See 44 FR 74830, 45 FR 52148, 46 FR 25642, and 46 FR 47444).

In order to demonstrate attainment of the O_3 standard by the extension date of December 31, 1987, the State submitted a draft second SIP revision to EPA on July 23, 1982. Public hearings were held on the draft O_3 SIP on July 12, and 13, 1982. Based on comments received at the public hearings, Texas Air Control Board (TACB) staff developed responses to the comments and recommendations for the final SIP revision. The responses and recommendations were documented and submitted to EPA on October 22, 1982. TACB adopted these revisions on December 3, 1982 and the Governor submitted them on December 9, 1982. EPA has reviewed these revisions concurrently with the State adoption process in order to expedite final action on the plan. The plan has deficiencies in the I/M program as discussed below. If these deficiences are not remedied before EPA takes final action, EPA will be required to disapprove the I/M portion of the ozone plan.

Under Section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapproval would trigger a moratorium on the construction and modification of major stationary sources of VOC in Harris County. Disapproval may also result in restrictions on Federal funding pursuant to Sections 176(a) and 316(b) of the Clean Air Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

SIP Development Process

The control strategy for attainment of the O_3 standard in Harris County was prepared by the TACB with the assistance of the Houston-Galveston Area Council (HGAC). TACB is the agency designated by the State as the principal authority for air pollution control matters in Texas. HGAC is the designated planning agency to develop the transportation portion of the SIP in Houston. In addition, the Houston Department of Public Health provided assistance in the preparation of emissions inventories and provided air quality data. HGAC conducted extensive public participation and consultation with local elected officials in the development of transportation measures (TCMs) related to air quality. TCMs considered reasonable for implementation in Harris County were recommended to TACB for inclusion in the SIP. TACB incorporated the recommended TCMs with the other portions of the proposed SIP and conducted public hearings on the entire plan.

Plan Review:

The 1982 SIP submission for O_3 in Harris County was reviewed by EPA in accordance with requirements of the 1982 Carbon Monoxide and Ozone Policy (46 FR 7182) published on January 22, 1981 and the "General Preamble" for SIP revisions for non-attainment areas published on April 4, 1979 (44 FR 20372).[2] The results of the review are contained in the evaluation report available for review in the SIP file (TX-82-9) at the EPA Region 6 Office in Dallas, Texas.

Strategy

The Harris County area experiences numerous violations of the O_3 standard (0.12 ppm), generally during the months of April through October. Hourly levels as high as 0.35 ppm have been observed in recent years in the Houston area. O_3

[1] EPA Review of Texas SIP revision for Ozone in Harris County, January 1983.

[2] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38383), August 28, 1979, (44 FR 50371), September 17, 1979, (44 FR 53761), and November 23, 1979 (44 FR 76182).

is formed primarily from emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOCs). VOC emissions are controlled to reduce O_3 concentrations. TACB's modeling analysis indicates that a 41% reduction in VOC emissions is needed to attain the O_3 standard in 1987. The SIP estimates that a mix of stationary and mobile source controls will achieve a 47% reduction (41% not including any reductions for I/M). Control measures included in the plan and the net reductions estimated by the State to be achieved in 1987 are as follows:

Stationary Source Controls will provide a net reduction of 29.5%.

Federal Motor Vehicle Control Program for new cars will provide a net reduction of 10.3%.

Motor Vehicle Inspection/ Maintenance (I/M) program will provide a net reduction of 5.5%.

Transportation controls measures (TCMs) will provide a net reduction of 0.7%.

Data and Modeling Analysis

TACB developed a base year 1980 emissions inventory for VOC of 231,250 tons and for NO_x of 202,644 tons. The base year VOC emissions were composed of 57.4% from point sources, 15% from area sources and 27.6% from mobile sources. The inventory and projections were developed in accordance with EPA guidelines and are considered adequate.

The State used air quality data from 1978 through 1980 at 8 sites in the Houston area to select days for modeling. Observed O_3 values ranged from 0.18 to 0.35 ppm. Ozone data recorded in 1978 and through June 1979 were reduced by 18% to account for a bias in the data introduced by the calibration method used during this period (neutral-buffered potassium iodide (NBKI)). TACB submitted documentation on the adjustment which demonstrates there was at least an 18% bias. The details of the demonstration are contained in the evaluation report. The State used the City—Specific Empirical Kinetic Modeling Approach (EKMA) to estimate the amount of reductions needed for attainment. A VOC reduction value of 41% needed to attain the 0.12 ppm O_3 standard was established by this analysis. The EKMA analysis was performed in accordance with EPA guidelines for the model (EPA–450/4–80–027, March 1981). The model performed well for the 40 cases.

Stationary Source Control

According to EPA's policy, the stationary source portion of the 1982 SIP submittal must contain legally enforceable regulations which reflect the application of reasonably available control technology (RACT), for the following sources: (1) all sources of volatile organic compounds (VOCs) covered by a Control Technique guideline (CTG) published by EPA and (2) all remaining major sources of VOCs with the potential to emit 100 tons or more of VOC per year. EPA has published two series of CTG documents, (i.e., Set I and Set II). Texas submitted RACT regulations for the Set I and Set II CTG source categories on April 13, 1979 and July 25, 1980, respectively. EPA approved these regulations on March 25, 1980, (at 45 FR 19231), July 10, 1981 (at 46 FR 35642), September 29, 1981 (at 46 FR 47544), and May 3, 1982 (at 45 FR 18857). Therefore, the existing Texas SIP contains RACT regulations for all VOC sources covered by a CTG document.

It should be noted that, should EPA issue additional CTG documents in the future, the State will be required to adopt and submit legally enforceable regulations for the source categories covered therein, since continued satisfaction of the Part D requirements of the Clean Air Act for adoption and submittal of the O_3 portion of the SIP is contingent on this condition. (See 40 CFR 52.2273).

The 1982 SIP submittal also contained revisions to the General Rules and Regulation V, entitled, "Control of Air Pollution from Volatile Organic Compounds," which, according to the State, will result in VOC emission reductions from additional source categories or process types. The revisions to Regulation V consist of, among other things, additional requirements for large bulk terminals and vent gas streams, and new requirements for fugitive emission control in synthetic organic chemical, polymer and resin manufacturing plants, located in Harris County. Concerning the bulk terminal requirements, the State requires that VOC emissions from gasoline terminals having a daily throughput of 500,000 gallons or more, must be reduced to a level not to exceed 0.33 pounds of VOC per 1,000 gallons of gasoline transferred. For vent gas streams, the State requires that a vent gas stream, emitted from any process vent, be properly burned in a smokeless flare or direct flame incinerator. For synthetic organic chemical, polymer, and resin manufacturing plants, the State has new rules prescribing monitoring, maintenance, and recordkeeping requirements to reduce fugitive VOC emissions from such facilities. The revisions to the General Rules consist of the addition of new definitions of terms used in conjunction with the above mentioned source categories, and the revision of several other terms. The State has specified that these measures, in addition to the Set I and Set II VOC RACT controls, will result in the control of all major stationary sources in Harris County.

EPA's review of the regulations, and of the State's determination that all major stationary sources are controlled, is discussed in detail in the evaluation report referenced above. Based on the Agency's review, EPA has determined that this portion of the SIP submittal meets the requirements of EPA's 1982 ozone policy.

Transportation Control Measures

The submittal includes provisions for a transportation control plan (TCP) designed to reduce VOC mobile source emissions. The TCP includes a commitment to implement or continue operation of the following transportation control measures (TCMs).

A. Local bus service expansion

B. New transit maintenance facilities

C. Park and ride sites

D. Park and ride express bus service

E. Construction of High Occupancy Vehicle Lanes

F. Continuation and expansion of carpool/vanpool program

These transportation provisions were recommended for the SIP by elected officials and staff of numerous local governments. The TCMs in the plan were selected based on the results of an analysis by the HGAC of the 17 measures listed in Section 108(f) of the 1977 CAA. The TCMs are designed to reduce automobile emissions by reducing vehicle miles traveled (VMT) report [3] on TCM evaluation provides the rationale for selection or through greater use of public transit, carpool and vanpools. The HGAC rejection of each TCM. The recommended TCMs are projected to reduce automobile emissions by 1664 tons in 1987.

The submittal provides details on a plan for monitoring annual emission reductions from the TCMs. The emission reduction will be established based on the monitoring of surrogate traffic parameters. The results of the monitoring effort will be used by TACB to annually update the emissions inventory and ensure that reasonable further progress (RFP) requirements are being met. If it is determined that RFP is not being maintained due to emission reduction shortfalls, contingency provisions are provided in the submittal

[3] An Analysis of Transportation Control Measures for Harris County, Houston-Galveston Area Council, July 1981.

for identifying additional TCMs and developing lists of transportation projects which have adverse air quality impacts and could be postponed. The submittal also includes procedures for an annual evaluation of the conformity of transportation planning programs and projects with the SIP.

The Houston area has established a transportation authority and is placing emphasis on the improvement of the public transit system and ridesharing programs as means of providing mobility to the general public. The submittal contains commitments to implement the previously listed transit and ridesharing measures which are part of the transit plan developed for the Houston area by MTA. The commitment to the measures in the plan satisfies the requirements for basic transportation needs.

The transportation provisions of the submittal are considered by EPA to fulfill the requirements of the January 22, 1981 SIP policy guidance in a satisfactory manner. A detailed evaluation of all elements of the TCP is contained in the evaluation report.

Vehicle Inspection and Maintenance (I/M)

Section 172(b)(11)(B) of the Clean Air Act requires all areas that receive extensions beyond 1982 to attain the O_3 or carbon monoxide standards to develop vehicle inspection/maintenance (I/M) programs. Section 172(c) requires the SIP revisions due by July 1, 1982 to contain enforceable rules and regulations for implementing I/M.

EPA has developed a detailed policy governing many aspects of these required I/M programs. The basic elements of this policy are summarized in the January 22, 1981 policy for SIPs for extension areas (47 FR 7182). More detail is provided in the April 4, 1979 "General Preamble" to SIPs for all nonattainment areas (44 FR 20372), and a July 17, 1978 memorandum from Assistant Administrator David Hawkins to the Regional Administrators. (This memorandum is specifically referenced in the January 22, 1981 notice. *See* 47 FR 7190.)

EPA has defined I/M as a program requiring motor vehicles to undergo periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then receive mandatory maintenance and undergo reinspection to ensure that emissions have been reduced. EPA's I/M policy contains interpretations of the Act's requirements for nonattainment areas as they related to I/M.

For example, section 172(b)(2) requires plans for nonattainment areas to implement all "reasonably available control measures" as "expeditiously as practicable." EPA has determined that fulfillment of this requirement requires full implementation of I/M no later than January 1, 1983. In addition EPA believes that I/M programs that are capable of reducing hydrocarbon emissions from light-duty motor vehicles by 25% are "reasonably available" within the meaning of this provision. This 25% reduction requirement is based on I/M programs that were operating at the time of the enactment of the 1977 Clean Air Act amendments. Based on an implementation date of January 1, 1983 and data from the operating programs, EPA has predicted that all I/M programs can achieve a 25% reduction of hydrocarbon emissions by December 31, 1987. EPA also believes that a 25% reduction in emissions represents "reasonably available control technology" as required by Section 172(b)(3). EPA has made similar determinations in its I/M policy memoranda. *See* the July 17, 1978 memorandum described above and the January 19, 1981 memorandum, "Questions on Inspection/ Maintenance", from Deputy Assistant Administrator Michael Walsh to EPA Air and Hazardous Materials.

The Texas submittal includes a commitment for a vehicle parameter I/M program. The proposed program does not include a tailpipe test of exhaust emissions and differs from currently operating I/M programs. The program places emphasis on the reduction of excess emissions caused by tampering, misfueling and improper maintenance of vehicle emission control systems. The submittal also provides for a public information program, a mechanic training program and programs to deter misfueling and tampering. EPA is proposing to disapprove Texas' program because it does not appear to satisfy the 25 percent emission reduction requirement.

Parameter Inspection

The first part of Texas' program is the visual inspection of certain emission control components as part of the annual Texas safety inspection, administered by the Department of Public Safety (DPS), and mandatory repair of disabled components. TACB has proposed enforcing a section of the safety code which will allow Texas to deny a safety sticker to vehicles with disabled PCV systems, air injection systems, evaporative control systems, or choke systems. The inspection of these four components would apply to all 1968 and later model year vehicles. In addition, TACB proposes to add an inspection for closed-loop sensor connections, catalyst removal, and filler neck tampering for all 1984 and later model year vehicles. For 1984 and later vehicles, the inspection would also require a road test for misfire, documentation from the vehicle owner that all manufacturer recommended maintenance was performed, and compliance with all Federal emission recalls. Implementation of this program was scheduled to start in January 1983 with the training of inspectors and an increased emphasis on inspecting the emission control components described above.

The emissions reductions from that portion of Texas's program involving inspection and mandatory repair can be considered toward compliance with the 25 percent reduction requirement. Texas's estimate of an 18.1 percent reduction, however, is higher than the reduction that EPA has calculated could result from this aspect of the program. EPA believes that the methodology used by Texas to project this reduction contains several technical errors. First, Texas's estimate of the emission benefits attributable to repair of specific components is based on faulty interpretations of data collected in EPA's emission factor (EF) program. Specifically, Texas compared the average emissions from two different groups of vehicles (with and without a specific disablement) and attributed the difference in emission levels to the disabled component. This method does not account for the many other factors that could contribute to the difference, including mileage differences, other disablements and maladjustments, mix of vehicle types and statistical variability. This method does not show the effects on emissions of repairing specific disablements.

EPA has made available test data which more accurately assess the impact of specific disablements on emissions. These data are from tests performed on the same cars with and without disablements, thereby reducing the uncertainties involved in estimating possible benefits from repair of specific disablements in the field. When EPA's disablement data is substituted, the benefits of repair are lower than those estimated by Texas.

Second, EPA disagrees with Texas's assumption on the impact on emissions of misfueling on 1981 and later model computer-controlled vehicles. Texas assumed that half of the misfueled closed-loop vehicles would undergo primary failure as a result of a single

misfueling; however, EPA has not observed this type of failure in any of its test programs, including those with deliberate misfueling of closed-loop vehicles for long periods of time. Thus, EPA has not accepted Texas's estimate of the added emissions from primary failures.

Third, Texas's estimate of the effectiveness of the planned inspections in identifying disabled components is based on assumptions that may be highly optimistic. Texas has estimated identification rates ranging from 25 percent to 100 percent for various components. EPA believes that estimates of 100 percent effectiveness are too optimistic. EPA has prepared three estimates of the emission reduction benefits of this program. The low estimate of six percent (6%) is based on a 50 percent identification rate for all elements which the State had rated over 50 percent. The medium estimate of 10 percent is based on reducing identification rates over 90 percent down to 90 percent. The high, or most optimistic estimate of 13 percent accepts the State's identification rates. All of these estimates make the adjustments suggested in the preceding paragraphs.

Other Programs

The TACB program also includes three additional program elements. These additional elements are:

(1) A public information program to encourage proper maintenance.

(2) A training program for upgrading the skills of DPS inspectors, in-service automobile mechanics, and automotive repairs technicians.

(3) Adoption of additional TACB regulations to deter misfueling and tampering, implementation of a public information program to discourage such actions, and adoption of a certificate of conformance program.

Texas has estimated emission reductions expected to result from each of these programs and has counted these estimated reductions toward the 25 percent reduction required for I/M. EPA is proposing to find that Texas has overestimated the benefits of these programs. EPA is also proposing not to count any emission reductions from these programs against the I/M reduction requirement.

The public information program is described as a cooperative effort of the TACB, DPS and appropriate local agencies to inform the residents of Harris County of the benefits of regular maintenance. The program was scheduled to begin in January 1983. The submittal does not provide a detailed description of specific public information activities or include commitments for local agency participation. However, the State has committed to submit additional information on the program by January 1983. Texas estimates that this program will reduce hydrocarbon emissions by 1.33 percent by 1987.

The mechanics training program is intended to enhance the skill level of mechanics in repairing and maintaining vehicle emission control systems. It will emphasize repair and maintenance of the new, complex "closed loop" emission control technology. Participation by in-service mechanics or repair technicians would be voluntary. However, the program will issue certificates mechanics who pass a performance test. The certificates will identify trained mechanics to the public. According to the schedule included in the submittal, the State was to begin developing the training program in January 1983. Training and certification is to start in January 1984. The submittal does not provide detailed descriptions of the actions which the State and local agencies will perform to implement this program; however, Texas has committed to provide additional details by January 1983. Texas estimates emission reductions of 6.35 percent from this program.

The final program is based on deterring misfueling and tampering. Texas plans to amend its Regulation IV to prohibit individuals from misfueling vehicles and to limit or prohibit the use of parts designed to by-pass or defeat emission control systems. Teas also plans to amend its regulation to require service station owners to report misfueling. To further discourage misfueling and tampering, Texas is planning to amend its regulations to require 1984 and later model year vehicles to obtain certificates of conformance stating that, at the time of resale, all factory installed emisson equipment is in place. All of the rule changes necessary to expand the program are scheduled to take place in July 1983. Enforcement is to be carried out by the TACB and local agencies. The State plans to publicize all these activities in order to deter tampering and misfueling. Texas has estimated the emission reduction benefits that will result from this deterence. In other words, rather than estimating the number of cases of tampering or misfueling that will be detected and any repairs that will result, the State has attempted to estimate the number of motorists that will refrain from misfueling or tampering. Texas estimates that reductions in tampering and misfueling incidents will reduce hydrocarbon emissions by a total of 7.11 percent by 1987.

EPA is relucant to allow the State to count emission reductions from these programs against its I/M requirement. All of these programs depend to a large extent on voluntary participation and modification of consumer and mechanic attitudes. This makes the benefits of such programs highly speculative, and not subject to measurement or verification. In contrast, the emission reduction benefits from I/M are based on data from the actual performance of existing I/M program. In addition, due to the mandatory nature of the inspection/rapair/reinspection cycle, I/M provides strong assurances that the perdicted emission reductions will actually be achieved. Moreover, actual emission reductions can be measured more diredtly, because a tailpipe test measures the hydrocarbon content of each vehicle's exhaust. Thus, it is possible to determine that repairs have actually reduced emissions. Because these Texas programs are so speculative, EPA has decided that it is not willing to accept them as substitutes for any portion of the 25 percent I/M emission reduction requirement. Consequently, EPA is proposing not to count the emission reduction estimates from these programs against the I/M requirement.

EPA is also concerned that none of these three programs is an I/M program within EPA's definition of the term. As explained above, EPA has interpreted the Act as requiring a program that provides regular, periodic, and mandatory inspection, maintenance and reinspection. None of the three Texas programs provide all of these elements. For example, although the public information program has the potential to reduce emissions through better vehicle maintenance, the maintenance would not be either regular or mandatory and is not coupled to any inspection program. This is another reason for proposing not to count the results of these programs against the I/M requirements.

Finally, EPA has found that the State's emission reduction estimates appear to be too optimistic. The State has estimated that it will obtain a total emission reduction of 13.79 percent from these other programs. EPA estimates that, at best, the State may obtain a 9.12 percent reduction. EPA's more realistic estimate is that the programs will produce no measurable emission reduction benefits.

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Conclusion

EPA has estimated that Texas's parameter inspection program will reduce emissions by only 6 to 13 percent. Furthermore, even if EPA gave credit for Texas's other programs, the total program is not likely to reduce hydrocarbon emissions by 25 percent by 1987. EPA's "realistic" total estimate is six percent (6%). A more optimistic estimate is 9.33 percent, and the most optimistic estimate is 22 percent. Thus, EPA has concluded that it must propose to find that Texas's program does not satisy the requirements for "reasonably available control measures" and "reasonably available control technology" in section 172(b)(2) and section 172(b)(3). Furthermore, Texas's submittal has made no showing that a 25 percent reduction is for some reason not "reasonably available" in the Houston area. Consequently, EPA is proposing to disapprove the I/M portion of the Texas SIP.

Reasonable Further Progress

EPA has determined that for each year from 1982 through 1987 there will be reasonable further progress (RFP) each year toward attainment of the standard. The State committed to track VOC emissions in Houston and report annually on RFP to assure these reductions will occur.

Proposed Action

EPA proposes to disapprove the I/M portion of SIP revision for attainment of the O_3 standard in Harris County, Texas. The reason for this proposed action is that the State submittal does not demonstrate that all EPA I/M requirements are met. The other portions of the plan revision are acceptable and EPA proposes to approve them.

Regulatory Process

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

This notice of proposed rulemaking is issued under the authority of Section 110(a) and 172 of the Clean Air Act, 42 U.S.C. 7410(a) and 7502.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: November 30, 1982.

Dick Whittington,

Regional Administrator.

[FR Doc. 83-3291 Filed 2-2-83; 8:45 am]

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40 CFR Part 52

[A-5-FRL 2269-3]

Approval and Promulgation of Implementation Plans; Ohio and Kentucky Revisions to the Ozone and Carbon Monoxide Attainment Plan

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this document is to address State Implementation Plan (SIP) revisions pertaining to the Cleveland urban area which were submitted by the Ohio Environmental Protection Agency (OEPA) and the Cincinnati urban area plans which were submitted by both OEPA and the Kentucky Department for National Resources and Environmental Protection (KDNREP). These revisions were submitted pursuant to the Part D requirements of the Clean Air Act (hereafter referred to as the Act). On October 31, 1980, the State of Ohio was granted an extension to December 31, 1987 to demonstrate attainment of both the ozone and carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS) in th Cleveland and Cincinnati urban areas. Additionally, on January 5, 1980 (45 FR 6092) the State of Kentucky was granted an extension to December 31, 1987 to demonstrate attainment of the ozone NAAQS for the Kentucky Counties located in the Cincinnati urban area. The SIP revisions, under consideration in today's proposed rulemaking action, were developed by OEPA and KDNREP in accordance with the provisions of Part D of the Act and include attainment demonstrations which show that both the ozone and CO NAAQS will be attained in Cleveland and Cincinnati by December 31, 1982. The SIP revisions withdraw OEPA's and KDNREP's requests for extensions of the attainment date to 1987. EPA approval of these revisions would remove the requirement for a vehicle inspection and maintenance (I/M) program in both areas.

In today's action, EPA presents a description of the revisions for both areas, discusses any issues remaining on the States' analyses and discusses the potential impact of these issues. Based on our review, EPA is proposing to approve the Cleveland and Cincinnati SIP revisions. EPA is requesting public comments on its proposed action and on the State's proposed SIP revisions for a period of 45 days.

DATE: Comments must be received on or before March 21, 1983.

ADDRESSES: Comments regarding the Ohio portion of the plan should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section (5AP-11), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Comments regarding the Kentucky portion of the plan should be addressed to: Thomas P. Lyttle, Air Planning Section, USEPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

Please submit an original and three copies, if possible.

You may inspect copies of the SIP revision submitted by the States and the accompanying support documents during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Environmental Protection Agency, Air Management Branch, Region IV, 345 Courtland St., N.W., Atlanta, Georgia 30365

Ohio Environmental Protection Agency, 361 East Broad Street, Columbus, Ohio 43216

Kentucky Division of Air Pollution Control; 18 Reilly Road, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Sharon Reinders (Cleveland, Ohio) at (312) 886-6034 (FTS 886-6034) or Debra Marcantonio (Cincinnati, Ohio) at (313) 886-6088 (FTS 886-6088) and Thomas P. Lyttle (Kentucky) (404) 881-2864 (FTS 257-2864).

SUPPLEMENTARY INFORMATION:

I. Introduction

This notice presents a discussion of EPA's review of OEPA's and KDNREP's SIP revisions in six parts: I. Introduction; II. Background Information; III. Cleveland Urban Area Demonstration of Attainment; IV. Cincinnati Urban Area Demonstration of Attainment; V. Stationary and Mobile Source Control Measures Contained in the SIP; and VI. Proposed Action.

II. Background Information

The 1977 Amendments added a new Part D to Title I of the Act. Under this Part, the States were required to revise their SIPs for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (sections 171-178 of the

Clean Air Act; Section 129(c) (uncodified) of Pub. L. 95–95). The revised plan was to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the ozone or CO standard by that date despite the implementation of all reasonably available control measures (Sections 172(a)(1), 172(a)(2)).

If EPA approved this demonstration, the attainment date for ozone or CO could be extended up to December 31, 1987, and the State could defer compliance with certain Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements (Section 172(c)). These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95–95).

The OEPA submitted an initial SIP revision for the Cleveland and Cincinnati urban ozone and CO nonattainment areas to EPA on July 27, 1979. Additionally, OEPA submitted amendments to the plan on September 13, 1979; December 28, 1979; January 16, 1980; April 24, 1980; and September 17, 1980. In these SIP revisions, the State of Ohio failed to demonstrate attainment of the NAAQS by December 31, 1982, for both ozone and CO, in the Cleveland and Cincinnati urban areas. Therefore, OEPA requested that EPA extend the attainment date for the standards in these areas until December 31, 1987. EPA granted this request and conditionally approved the 1979 plan revision in separate actions on October 31, 1980 (45 FR 72122) and on June 18, 1981 (46 FR 31881).

Kentucky submitted an initial SIP revision for the Boone, Campbell, and Kenton Counties ozone nonattainment area in June 1979. The State requested that EPA extend the attainment date for the ozone standard in this area until December 31, 1987. EPA approved this request and conditionally approved the initial plan revision on January 25, 1980 (45 FR 6092).

EPA disapproved the SIP on September 19, 1980 (45 FR 62506) because of a failure by the State or Counties (other than Boone) to adopt legal authority for the required inspection and maintenance (I/M) program. The SIP for Boone County was approved on November 30, 1981 (46 FR 58080).

On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing the revisions which were to be submitted by July 1, 1982. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372).[1] EPA reviewed the recent SIP revisions for Cleveland and Cincinnati in accordance with these requirements with the exceptions of the requirements for a mandatory vehicle I/M program, additional control on stationary sources, and additional transportation control measures beyond what is included in the existing SIP. These control measures are no longer required for these areas since the State have domonstrated attainment by December 31, 1982. Other requirements for preparation of the July 1, 1982, SIP revisions and EPA policy guidance, which EPA used in its review, are contained in technical support documents for today's action entitled, Technical Support Document Ohio's Ozone and Carbon Monoxide SIP for Cleveland, dated November 22, 1982, and 1982 Ozone and CO State Implementation Plan for the Cincinnati Area, dated November 24, 1982, and Technical Support Document-Northern Kentucky which are available for review at the Region IV and V offices listed above.

III. Cleveland Urban Area Demonstration of Attainment

The proposed 1982 SIP revision for the Cleveland urban area address attainment of the NAAQS in the following areas disignated as nonattainment for ozone: Cuyahoga County, Lake County, Lorain County and Medina County. Cuyahoga County is also designated as a nonattainment area for CO. OEPA evaluated 1979 through 1981 ozone and CO monitoring data along with ozone precursor, reactive volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) emissions data for 1980, 1982, and 1987. Based on this evaluation, OEPA demonstrated that attainment of both the ozone and CO standards will occur by December 31, 1982. Proposed SIP revisions incorporating these demonstrations were submitted to EPA on June 9, 1982.

EPA's review of the June 9, 1982, submittal noted several of technical deviations from EPA's SIP requirements. These deviations, along with recommended corrections, are discussed in a comment letter which was forwarded to OEPA on July 13, 1982. In addition to EPA's review, the State of Ohio held a public hearing on the proposed SIP revision on July 14, 1982. In response to comments received from the public and EPA, OEPA submitted revised portions of the SIP to EPA on November 9, 1982. Thus, the final SIP revision for Cleveland consists of both the June 9 and November 9, 1982, submittals. The following discussion presents a summary of the attainment demonstrations in terms of major review points.

A. Demonstration of Attainment for Ozone

OEPA developed the Cleveland urban area ozone SIP revision by evaluating air quality data gathered at the Painesville monitoring site during the period of 1979 through 1981. Three exceedances of the ozone NAAQS were recorded during this period. OEPA determined that Painesville was the only site which experienced ozone standard exceedances attributable to Cleveland area emissions. To determine the reactive VOC emission reduction needed for attainment, OEPA used the Ozone Isopleth Plotting Package (OZIPP) of the City-Specific Empirical Kinetics Modeling Approach (EKMA). Based on this modeling analysis, the fourth highest VOC emission reduction indicates that no additional control beyond what is contained in the existing SIP is needed for a demonstration of attainment. However, OEPA conservatively adopted the second highest reactive VOC emission reduction target of nine percent. To demonstrate attainment, OEPA determined that the 1980 base year point, area, and mobile source VOC emissions level is 421,000 kilograms (kg) per average summer weekday. The SIP documents that the State's existing strategy of control on stationary and mobile sources reduces the 1982 VOC emission level to 322,500 kg per day, or a reduction of 23 percent. This analysis demonstrates that the ozone standard will be attained in the Cleveland area prior to December 31, 1982, without the implementation of additional Reasonably Available Control Technology (RACT) measures on stationary sources and any mobile source control measures beyond what is contained in the existing SIP. This demonstration is acceptable.

B. Demonstration of Attainment for CO

OEPA developed the Cleveland urban area CO SIP revision by evaluating air quality data gathered in Cuyahoga County at the 8907 Carnegie Avenue monitoring site during the period of 1979 through 1981. Monitoring data were also collected at 3136 Lorain Avenue during the last half of 1981. The Carnegie Avenue site recorded two exceedances and the Lorain Avenue site recorded one

[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583); August 28, 1979 (44 FR 50371); September 17, 1979 (44 FR 53761); and, November 23, 1979 (44 FR 67182).

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exceedance of the CO NAAQS in 1981. No exceedances were recorded in 1980 and one exceedance was recorded at the Carnegie Avenue site in 1979. OEPA determined that the worst-case site is Carnegie Avenue with the highest second-high CO concentration of 9.8 parts per million (ppm), 8-hour average, recorded in November, 1981. Using a proportional rollback approach, OEPA determined that an eight percent reduction in CO emissions is necessary to achieve the standard.

To demonstrate attainment of the CO NAAQS, OEPA adjusted area and mobile source CO emissions to the November, 1981, base period and projected the emissions to December 31, 1982. Point source emissions were assumed to remain constant. Use of November, 1981, as the base period is in accordance with EPA guidance provided to OEPA on the preparation of the CO SIP for Cleveland. That is, if a rollback approach was used, base emission inventories should reflect the conditions existing at the time of the CO exceedance. The total CO emissions level estimated for November, 1981, is 1,370,000 kg per day. The total CO emissions level projected to December, 1982, is 1,243,700 kg per day, or a reduction of 9.2 percent. This reduction is due primarily to the Federal Motor Vehicle Control Program. Thus, attainment of the CO NAAQS is demonstrated to occur prior to December 31, 1982.

EPA notes that Transportation Control Measures (TCMs) were not considered in the demonstration of attainment despite the fact that some TCMs were implemented during the period of November, 1981, through December, 1982. EPA could accept additional CO emission reductions resulting from these TCMs. Based on data contained in Cleveland's SIP, emission reductions from these TCMs may amount to 1.1 to 1.4 percent of the total CO emissions for Cuyahoga County.

IV. Cincinnati Urban Area Demonstration of Attainment

The Cincinnati urban area consists of the following counties designated as nonattainment for ozone: Hamilton, Butler, Clermont, and Warren Counties in Ohio and Boone, Campbell, and Kenton Counties in Kentucky. Hamilton County is also designated as a nonattainment area for CO. OEPA evaluated 1979 through 1981 ozone and CO monitoring data along with ozone precursor VOC and NO_x emissions data for 1980, 1982, and 1987. Based on this evaluation, OEPA demonstrated that attainment of both the ozone and CO standards will occur by December 31, 1982. Draft SIP materials incorporating those demonstrations were submitted to EPA by Ohio on May 24, 1982 and by Kentucky on June 23, 1982.

EPA's review of these submittals noted several areas of technical deviations from EPA's SIP requirements. These deviations, along with recommended corrections, are discussed in a comment letter which was forwarded to OEPA on June 25, 1982. These comments were also submitted to Kentucky and included in the public hearing record. In addition to EPA's review, the State of Ohio held a public hearing on the proposed SIP revision on June 21, 1982. The State of Kentucky held a public hearing on July 28, 1982. In response to comments received from the public and from EPA, OEPA submitted revised portions of its demonstration to EPA on September 23, 1982, and November 4, 1982. Thus, the final demonstration of attainment for Cincinnati consists of the May 24, 1982, September 23, 1982, and November 4, 1982 submittals. KDNREP submitted revised portions of its demonstration September 27, 1982 and November 3, 1982. The following discussion presents a summary of the attainment demonstration in terms of major review points.

A. Demonstration of Attainment for Ozone

The Cincinnati urban area ozone SIP revision was developed by evaluating air quality data gathered at various monitoring sites during 1979 through 1981. To determine the reactive VOC emission reduction needed for attainment, OEPA used the Ozone Isopleth Plotting Package (OZIPP) of the City-Specific Empirical Kinetics Modeling Approach (EKMA). The model inputs used by Ohio are consistent with EPA guidelines (e.g., mixing height data, estimates of post 8 a.m. emission fractions and transported ozone concentrations). OEPA's modeling concludes that the Cincinnati area must achieve at least a 14 percent reduction in VOC emissions to demonstrate attainment of the ozone standard.

EPA's review of OEPA's modeling analysis noted certain model inputs for which alternate assumptions could be made. EPA conducted an EKMA modeling analysis to assess the emission reduction requirements based on these alternate assumptions. This analysis found the same emission reduction requirement as the Ohio EPA analysis.

Therefore, based on both EPA's and OEPA's modeling analyses, an adequate demonstration of attainment for ozone for the Cincinnati nonattainment area must include a demonstration that the area's VOC emissions would have decreased by at least 14 percent of the 1980 emissions level. (Because the EKMA modeling was based on 1979 through 1981 data, a 1980 base year emissions inventory is the most appropriate basis from which to calculate the 14 percent reduction.)

Therefore, to demonstrate attainment, OEPA analyzed the emission inventory for the seven-county area. OEPA's emissions inventory included point, area, and mobile source emissions. OPEA's inventory shows that the 1980 base year VOC emissions level is 303,716 kg per average summer weekday. The corresponding emissions in 1982, which includes the impact of the various control strategies in effect by the end of 1982, is 248,750 kg per day. This represents a reduction in VOC emissions of 18 percent.

Ozone monitoring data collected in 1982 indicate that exceedances of the ozone standard occurred during the summer of 1982. Ozone levels in excess of 0.120 ppm were measured 3 times at one site, twice at three others and once at three more. Nevertheless, EPA's judgement is that sufficient emission reductions will be achieved after these exceedances occurred, but before December 31, 1982, such that attainment will occur by December 31, 1982. EPA specifically solicits public comments on the significance of the 1982 ozone monitoring data.

The SIP includes an accurate and comprehensive inventory of mobile, area, and point source emissions. However, due to the sparsity of documentation provided regarding the Kentucky point source emissions, there was some concern regarding the comprehensiveness of this data. Nevertheless, the contribution of the point sources in Kentucky to the overall emission inventory for the Cincinnati nonattainment area is small enough that this uncertainty is likely to have only a negligible impact on the overall percent emission reduction. Additionally, EPA believes that the 4 percent growth margin would more than compensate for any potential inadequacies in the Kentucky inventory. Nevertheless, Kentucky has indicated that they will submit additional documentation regarding the point source emissions.

Therefore, EPA concludes that Ohio's analysis demonstrates that the Cincinnati urban area in both Ohio and Kentucky can attain the ozone standard by December 31, 1982, (with a margin equal to 4 percent) without the implementation of additional RACT measures on stationary sources and any mobile source control measures.

B. Demonstration of Attainment for Carbon Monoxide

OEPA developed the Cincinnati urban area CO attainment demonstration by evaluating air quality data gathered at five monitors in Hamilton County. Four of these monitors were operational at least from 1979 to 1981. The other monitor began operation in 1981. Four of the five monitors recorded no exceedances of either the 8-hour or the 1-hour standard in the entire period from 1979 to 1981. The only site which recorded exceedances of the CO standard was the Vine and St. Clair Streets monitor. This monitor recorded 8-hour average concentrations of 11.1 ppm and 9.6 ppm in November, 1981. No exceedances of the 1-hour average CO standard were recorded at this monitor.

Therefore, OEPA's analyses must demonstrate that sufficient emission reductions would be achieved by the end of 1982 such that a recurrence of the meteorological conditions under which a concentration of 9.6 ppm occurred would not lead to an exceedance of the 9.0 ppm standard.

Using a proportional rollback approach, OEPA determined that a 6.2 percent reduction in CO emissions is necessary to achieve the standard.

In projecting whether attainment will be achieved in the vicinity of the monitor which recorded violations, OEPA focused its analysis on a localized area including the two traffic zones surrounding the monitor. This is a reasonable approach, because violations of the CO standard are usually primarily attributable to emissions in a localized area. Therefore, OEPA's analysis focused on whether a 6.2 percent reduction occurred in the CO emissions in the localized principal impact area.

OEPA found emissions in the principal impact area decreased from a 1980 level of 14.888 tons per year to a 1982 level of 13.215 tons per year, representing a reduction of 11.2 percent. OEPA assumed that the reductions occurring between November, 1981, and the end of 1982 would be 14/24 times the reduction between 1980 and 1982. This calculation was necessary because the violation occurred in November, 1981, 14 months before the end of 1982. Ohio EPA thus calculated a 6.5 percent emissions reduction between November, 1981, and the end of 1982, showing attainment by the end of 1982 with a 0.3 percent margin. In recalculating the data supplied by OEPA (recalculating the emissions reduction relative to a November, 1981, baseline), EPA found the actual emission reduction to be 6.9 percent. This represents a growth margin of 0.7 percent above the 6.2 percent reduction required.

A review of OEPA's demonstration raised two concerns by EPA. First, EPA believes that further documentation of several of the assumptions inherent in the emissions inventory is necessary. EPA anticipates receiving this information during the public comment period.

Secondly, in OEPA's rollback calculation, it assumed a zero background concentration. EPA believes this may underestimate the actual background concentrations. In order to evaluate the impact of this concern, EPA also conducted an analysis using the rollback technique.

The rollback calculation was performed assuming that an appropriate estimate of the November, 1981, background concentration was 1.0 ppm. Using the 1980 and 1982 Hamilton County CO emissions totals (305,965 kg/day and 279,802 kg/day, respectively) and estimating the reduction that would occur from November, 1981, to the end of 1982, the end of 1982 background concentration was estimated at .95 ppm. The rollback calculation estimates that a 6.4 percent reduction in CO emissions is necessary to achieve the standard. Therefore, since the actual emission reduction is 6.9 percent, based on EPA's analysis the Cincinnati area provides for attainment of the CO standard with a growth margin of 0.5 percent.

Therefore, both Ohio EPA and EPA's analysis demonstrate that Hamilton County will provide attainment of the CO standard by December 31, 1982.

EPA notes that TCMs were not included in the submittal by Ohio and the demonstration of attainment did not rely on any of these measures. If these measures have been implemented since November, 1981, or if commitments have been obtained to implement additional measures prior to December 31, 1982, credit may be taken for any corresponding emission reductions. These measures would, of course, increase the margin by which attainment is achieved.

V. Stationary and Mobile Source Contol Measures Contained in the SIP

The States of Ohio and Kentucky have adopted stationary source control measures in conjunction with the 1979 SIP revision. The measures pertain to RACT control of VOC emissions from the Groups I and II Control Technique Guideline (CTG) stationary source categories. Implementation of RACT control has occurred throughout the 1980–1982 period, with final implementation for affected sources scheduled to occur prior to December 31, 1982.

The Federal Motor Vehicle Control Program (FMVCP) is an emission control program mandated for all new automobiles by the Act. The FMVCP will result in significantly reduced emissions of reactive VOC, NOx, and CO. The FMVCP causes reduced emissions as new vehicles replace older vehicles in the vehicle fleet. These continuing emissions reductions assure maintenance of the ozone and CO standards in both the Cleveland and Cincinnati areas after 1982.

Because attainment is projected by the end of 1982, Kentucky and Ohio are not required to adopt additional RACT regulations or TCMs for the Cincinnati urban area. Therefore, the States have not committed to adopting additional RACT regulations or additional TCMs although several additional TCMs were identified as feasible for implementation during the review of TCM measures listed in Section 108(f) of the Act. Campbell and Kenton Counties, Kentucky have not adopted I/M legal authority. Boone County adopted an I/M ordinance in 1980 and has been proceeding toward implementation of the program by January 1, 1983. However, the ordinance requires testing of vehicles only if the program is required by Federal law.

Restrictions on highway and sewage treatment grant funds and on construction of major new or modified stationary sources of hydrocarbons have been in effect in Campbell and Kenton Counties since December 1980 because of the lack of legal authority for I/M in these counties. These restrictions would be lifted at the time of final approval of this attainment demonstration.

Pages 23–35 of the proposed SIP revision for Cleveland outline the transportation control plan. The plan was developed by the Northeast Ohio Areawide Coordinating Agency (NOACA) and lists a number of projects to be implemented that would contribute to improve air quality. As noted above, the proposed SIP revision indicates that the Cleveland urbanized area will be able to attain the standards prior to December 31, 1982, without the implementation of specific TCMs. However, the proposal indicates that TCMs will be implemented on a voluntary basis and the extra emission reduction credits will be utilized as a growth cushion for future growth. Cleveland's transportation control plan would generate 3,660 tons per year of hydrocarbon reductions and 43,890 tons per year of CO reductions by 1987 through the implementation of various

TCMs. Representative TCMs included in the plan are highway improvement projects, coordination of traffic signal systems, traffic signal removal, and an alternative engine program.

In the July 9, 1982, comment letter to OEPA, EPA agreed to a growth cushion concept to future development. However, in order for the TCMs to be incorporated into this concept, the emission reductions generated must be real, surplus, and enforceable. In that regard, the transportation control plan must include: (1) emission reduction targets for hydrocarbons and CO; (2) letters of commitment to implement the projects; (3) an indication of the ability to fund these projects; (4) enforcement measures to assure proper TCM implementation and operation; and, (5) a plan to monitor the implementation of the measures including corrective action procedures if some of the planned measures are not implemented. Because the proposed SIP revision indicates that the standards will be attained prior to December 31, 1982, without the implementation of TCMs, the requirements assuring TCM implementation are not necessary if OEPA chooses not to utilize TCMs within the growth cushion concept.

VI. Proposed Action

Review of the data analyses of monitoring, modeling, and emission inventories indicates that adequate demonstrations of attainment of the NAAQS by December 31, 1982, have been made for ozone and CO in the Cleveland and Cincinnati urban areas. EPA proposes approval of these demonstrations and agrees that it is no longer necessary to implement those additional controls required for areas for areas failing to demonstrate attainment of the ozone and CO NAAQS by 1982. Therefore, EPA is also proposing to remove the extension of the attainment date to 1987 for the Cleveland and the Cincinnati Ohio—Kentucky urban areas.

However, due to the narrow demonstration of attainment for CO in Cleveland, EPA is additionally soliciting public comment on the need to maintain the TCMs implemented between November, 1981, and December, 1982, as a margin of safety as discussed in Section III B of this notice.

Additionally, EPA is soliciting public comment on the 1982 ozone monitoring data for the Cincinnati area as discussed in Section IV A of this notice.

Because I/M is no longer required, EPA is also proposing to lift the restrictions on highway and sewage treatment grant funds and on construction of major new or modified stationary sources of hydrocarbons which have been in effect in Campbell and Kenton Counties since December 1980 because of the lack of legal authority for I/M in these counties. These restrictions would be lifted at the time of final approval of this attainment demonstration.

EPA is further proposing to remove its conditions on the approval of Ohio's 1979 SIP revision as it relates to the requirement for an I/M program for the Cleveland and Cincinnati urban areas. These conditions are contained in 40 CFR Part 52.1878.

Under Executive Order 12291, Today's action is not "Major". The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. [See 46 FR 8709].

These revisions are being proposed pursuant to Sections 110(a), 172, and 301(a) of the Act as amended (42 USC 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: December 9, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 83-2457 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-10-FRL 2259-6]

Approval and Promulgation of the State Implementation Plan: State of Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking addresses a State Implementation Plan (SIP) revision to be submitted by the State of Alaska Department of Environmental Conservation (ADEC). This SIP revision was developed pursuant to provisions of Part D of the 1977 Clean Air Act, which require attainment plans to be submitted by July 1, 1982 for areas with approved attainment date extensions for meeting National Ambient Air Quality Standards for carbon monoxide (CO).

In today's action, EPA is proposing to approve the 1982 CO SIP revision for the Fairbanks nonattainment area based on a formal SIP submittal by the State on September 29, 1982 and on draft revisions to the September submittal described in a letter from the State dated November 29, 1982. In addition, EPA is proposing to remove all conditions of approval published December 30, 1980 [45 FR 85744]. Formal rulemaking action will be taken based upon the submittal of a State adopted SIP revision which is substantially consistent with the draft. EPA is requesting public comments on its proposed action for a period of 30 days.

DATE: Comments must be received on or before March 21, 1983.

ADDRESSES: *Comments should be addressed to:* Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section (10A-82-17), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101

State of Alaska, Department of Environmental Conservation, 3220 Hospital Drive, Juneau, AK 99811

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442-4016, FTS 399-4016.

SUPPLEMENTARY INFORMATION:

I. Introduction

Today's **Federal Register** action has been developed in parallel with action on the State and local level to adopt and submit a revision to the currently approved SIP. This process enabled EPA to comment on the SIP revision in the early stages of SIP development. It also allows EPA to carry out its administrative rulemaking process concurrent with that of the State so that final EPA action can be completed expeditiously once the State submits its adopted SIP revision.

II. Background

The Fairbanks CO SIP revision was developed in two stages. The first stage of the SIP was submitted in June 1979 to satisfy the requirements of Part D of the Clean Air Act (hereafter referred to as the Act). At that time an extension of the attainment date for the CO standard

to December 31, 1987 was requested and later approved by EPA. A full discussion of the background describing the development of the CO SIP up to that point can be found in the December 30, 1980 **Federal Register** (45 FR 85744), wherein EPA conditionally approved the Fairbanks SIP. All conditions of approval are being proposed for removal in today's action.

The SIP subject to proposal today is the second phase of the 1979 SIP. It implements some measures and contains commitments to implement others described in the 1979 SIP. Since June of 1979 the Fairbanks North Star Borough (FNSB) has been updating the emission inventories for stationary and mobile sources of CO, refining the air quality modeling, holding additional public hearings and meetings with the advisory and policy making committees, evaluating various combinations of transportation control measures (TCMs), and finally, obtaining commitments to implement the selected TCMs. As a result of these activities, a SIP revision was finalized by the FNSB Department of Environmental Service and submitted to ADEC in July 1982. After ADEC's adoption and submittal of the SIP revision in September 1982, further changes to it were developed. These changes constitute the draft SIP being considered today. They will be officially submitted by ADEC in December 1982.

III. Plan Review

The general requirements of CO SIP revisions were described in the **Federal Register** published on January 22, 1981 (46 FR 7182). EPA reviewed the draft Fairbanks CO SIP revision in accordance with those requirements and developed a technical support document which describes the elements of the draft SIP revision, their location in the SIP and EPA's conclusions regarding approvability. The following discussion will briefly describe the SIP revision in terms of the major review points and indicate what action EPA proposes.

A. Technical Data and Modeling Results

1. *Technical Review.* the Fairbanks CO SIP was developed using an adjusted design concentration of 15.6 parts per million (ppm). This design value was derived from data collected at the 4th and Lacey site over the past three years (1979, 1980, and 1981).

Based on this design concentration, a 45.2 percent reduction in 1979 baseline emissions is needed to achieve the 9 ppm standard. The rollback model analysis was used to determine the reduction needed for attainment and is fully described in the SIP. Using mobile source control measures described in the following section, the required emission reduction is expected to be achieved by the end of 1987.

In response to EPA's conditions of approval on the 1979 SIP (December 30, 1979 (45 FR 85744)) FNSB has included in the 1982 SIP revision (1) an expanded 1980 CO emission inventory to include emissions from off-street parking, (2) verification that population projections for air and water planning activities are consistent and (3) a procedure for determining conformity of Federal projects with the SIP. The fourth condition dealing with the new source alternatives analysis required by Section 172(b)(11)(A) of the Act is no longer required (See B 1.).

2. *EPA Proposed Action.* EPA proposes to approve the technical analysis and modeling results supporting the Fairbanks CO SIP revision.

B. Control Measures

1. *Stationary Sources.* The 1979 emission inventory indicates that there are no stationary CO sources in Fairbanks which emit more 1,000 tons per year. Therefore, the control measures are confined to mobile sources. Also, the ADEC has opted to utilize the "emissions allowance approach," per Section 173(1)(B) of the Act, to accommodate new source growth in a nonattainment area. ADEC's regulations (18AAC50.900(18)) require that this emissions allowance be defined in each applicable local air quality control plan. Because Fairbanks has not adopted a CO emission allowance as part of their SIP, new or modified major (100 tons per year) CO sources cannot be permitted in the nonattainment area. Since this prohibits new or modified major CO sources, it also negates the need at this time for the new source alternatives analysis procedure required by the Act. Should a CO emissions growth allowance be adopted by Fairbanks in the future, it must be submitted to EPA and approved as part of the SIP. EPA's approval of the emissions allowance will be contingent upon submittal at the same time of an acceptable new source alternatives analysis procedure that satisfies Section 172(b)(11)(A) of the Act.

2. *Mobile Sources.* Measures for controlling CO emissions from mobile sources include the Federal Motor Vehicle Emission Control Program (FMVECP), regional TCMs and vehicle inspection/maintenance (I/M). The regional TCMs that have been committed to include the continuation of transit and traffic improvements, vehicle preheating and a district (centralized) heating system. The SIP describes each TCM and projected emission reductions.

The remaining strategy element is vehicle I/M. The Fairbanks North Star Borough contains the City of Fairbanks, which has a population of about 50,000. It has been EPA's policy, as first stated in a July 17, 1978 policy memorandum, that areas with populations under 200,000 are not required to have I/M programs as a condition of extending the attainment date and subsequently for obtaining SIP approval. However, measures necessary to demonstrate attainment by December 31, 1987 are required to be implemented.

The I/M program has been approved by local policy-making bodies based upon the preliminary results of the first year of the cold temperature emission study being carried out in Fairbanks under the joint sponsorship of ADEC and EPA. By April, 1983, after the second year of study, the actual effectiveness of I/M will be verified. By July 1, 1983 I/M and/or other control measures designed to achieve the CO standard by December 31, 1987 will be adopted. I/M, if necessary, will be implemented in accordance with the schedule in Section III.A.5.1. of the SIP. This schedule identifies July 1, 1983 as the date by which the State Legislature will authorize funding and, by that action, commit the State to I/M.

The enabling legal authority for an I/M program in Fairbanks is located in Section 46.03.190 of the Alaska Statutes. Sections 46.03.210 and 220 of the Alaska statutes describe the local agency role in such programs. This enabling authority was approved by EPA on May 31, 1972 and currently meets the EPA requirements for enabling authority published January 22, 1981 (46 FR 7182).

3. *EPA Proposed Action.* EPA proposes to approve the control strategy for mobile sources of CO, based on the measures and the schedule submitted by the State: Following the completion of the cold temperature emission studies and verification of I/M effectiveness, I/M or other control measures, designed to achieve attainment of the CO standard by December 31, 1987, will be adopted by July 1, 1983. I/M, if necessary, will be implemented in accordance with the schedule in Section III.A.5.1 of the SIP and will be reviewed for conformance with EPA policy requirements for I/M programs. EPA will not finally approve the SIP until after I/M is officially adopted and resource commitments are obtained. In addition, EPA proposes to remove the conditions of approval (45 FR 85744) relating to emission inventory omissions, population projection

inconsistencies, and new source alternatives analysis procedures.

C. Other Major Elements

1. *Reasonable Further Progress.* Reasonable further progress (RFP) toward attainment of the CO standard will be assessed in terms of measured air quality coupled with the emission reductions resulting from the implementation of TCMs. The plan includes a TCM monitoring procedure whereby FNSB will analyze the effectiveness of each measure and report the results annually. In addition, the emission reductions will be compared to the projected RFP for the design site and the monitoring network will be used to assess the RFP toward attainment and maintenance of the standard. If it is determined that RFP is not being maintained, the contingency plan contained in the SIP revision will be implemented to account for the shortfall.

2. *Basic Transportation Needs.* The SIP revision addresses "basic transportation needs" in relation to the selection of reasonably available control measures and their effect on public mobility. The control measures selected emphasize the local commitment to reduce CO emissions and improve public transportation facilities and general mobility.

3. *Conformity.* Conformity will be determined in accordance with the procedures set forth in the SIP. After determining conformity of the plans and programs, all federal aid projects will still be evaluated in accordance with procedures specified in the National Environmental Policy Act. If the analysis indicates that the project will create new violations or exacerbate existing violations, then the project will not be constructed without modifications to the project or plan sufficient to maintain reasonable further progress toward attainment. The inclusion of this procedure satisfies the condition of approval published December 30, 1980.

4. *Public and Elected Official Participation.* Participation in the SIP revision development process involved representation from Federal, State and local government officials, citizens groups and industry groups. The primary decision making bodies were the Fairbanks Metropolitan Area Transportation Study (FMATS) Policy Committee and the FNSB Pollution Control Commission. After numerous public hearings and other public meetings, both bodies adopted the control strategy. The SIP revision was then completed by the FNSB Department of Environmental Services and submitted to ADEC in July 1982.

5. *Proposed EPA Action.* EPA proposes to approve the elements of the SIP dealing with "reasonable further progress," "basic transportation needs," "conformity" and "public and elected official participation." In addition, EPA proposes to remove the condition of approval published on December 30, 1980 (45 FR 85744) relating to conformity analysis procedures.

Interested parties are invited to comment on all aspects of this proposed approval of the Alaska SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by March 18, 1983, will be considered in any final action EPA takes on this proposal.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant impact on a substantial number of small entities (46 FR 8709 (January 27, 1981)).

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the addresses above.

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Sections 110, 172, Clean Air Act (42 U.S.C. 7410(b) and 7502))

Dated: November 30, 1982.

John R. Spencer,

Regional Administrator.

[FR Doc. 82-2533 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[EPA Docket No. AW600Va; A-3-FRL 2257-7]

Proposed Revision of the Ozone/Carbon Monoxide, Commonwealth of Virginia State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to approve the 1982 State Implementation Plan revision for the Commonwealth of Virginia. These revisions appear to meet the requirements of the Clean Air Act and EPA policy. The intended effect of this action is to provide for attainment of the primary National Ambient Air Quality Standard for Ozone and Carbon Monoxide as required under Part D of the Clean Air Act Amendments of 1977.

DATE: EPA must receive your comments on or before March 21, 1983.

ADDRESSES: Copies of the revision and accompanying documents are available during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs and Energy Branch, Curtis Building, Second Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn.: Eileen M. Glen

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, VA 23219, Attn.: John M. Daniel, Jr.

All comments should be addressed to: James E. Sydnor (3AW13) WV/VA Section at the EPA, Region III address above.

FOR FURTHER INFORMATION CONTACT: Eileen M. Glen (3AW13) at the EPA, Region III address above or telephone 215/597-8187.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added a new Part D to Tile I of the Act. Under this Part, the States had to revise their State Implementation Plans (SIPs) for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (Section 171-178 of the Clean Air Act; Section 129(c) (uncodified) of Pub. L. 95-95). The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the Ozone (O_3) or Carbon Monoxide (CO) Standard by that date (Section 172(a)(1), 172(a)(2).

If EPA approved this demonstration, the attainment date for o3 or CO could be extended up to December 31, 1987, and the State could defer compliance with certain of the Part D planning requirements. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements. (Section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub.L. 95-95). On January 22, 1981 (46 FR. 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR. 20372).[1]

[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371),

The Commonwealth of Virginia submitted an initial SIP revision for its designated O_3/CO nonattainment areas in January, 1979. The Commonwealth requested that EPA extend the attainment date for the standards in only the Virginia portion of the National Capital Interstate Air Quality Control Region (AQCR) (hereinafter Northern Virginia) until December 31, 1987. EPA approved this request and the initial plan, on August 19, 1980 (45 FR 55180). Subsequent revisions were also approved on November 23, 1981 (46 FR 57282), April 6, 1982 (47 FR 14707), May 3, 1982 (47 FR 18859), and May 6, 1982 (47 FR 19523).

The Commonwealth submitted a draft revision to its O_3/CO SIP on June 15, 1982. EPA Region III reviewed the draft SIP revision and provided comments at the public hearing held on September 10, 1982. A Notice of Availability of receipt of Virginia's draft SIP was published on October 20, 1982 (47 FR 46711). Supplemental SIP material was submitted on August 11, 1982. The final draft, also submitted for parallel processing, was forwarded to EPA on November 3, 1982 and incorporates the June 15 and August 11 material. Material submitted after the Virginia public hearing of September 10, 1982 was in response to specific comments raised by EPA at the public hearing. On October 19, 21, and 22, 1982, the Commonwealth submitted regulations and administrative procedures which are intended to correct previously noted deficiencies. These revisions, except the October 21, 1982 submittal of administrative procedures which need not undergo a public hearing and review prior to adoption, were subject to statewide public hearings on December 16, 1981 and April 19, 1982.

EPA is proposing to review these revisions concurrently; a procedure called "parallel processing". However, if the State substantially changes the draft revisions, EPA will have to evaluate those changes, and publish a revised notice of proposed rulemaking. Otherwise, EPA will publish a notice of final rulemaking on the revisions discussed in today's notice once the State adopts these revisions and submits them to EPA for incorporation into the SIP. Today's notice proposes full approval of Virginia's 1982 Ozone/CO SIP, based on their draft submittal.

EPA's review of the State's submittal is divided into three main discussions:

A. The Ozone SIP,

B. The Carbon Monoxide SIP, and

C. The additional requirements set out in EPA guidance, including conformity of Federal actions, consultation with State and local officials, and requirements of § 172 of the Clean Air Act.

Following is a brief description of elements contained in the SIP revision. A more detailed discussion may be found in the Technical Support Document available at the EPA office listed under Addresses in this notice.

A. *The Ozone (O_3) SIP*

O_3 is formed from various precursors, primarily oxides of nitrogen, and a class of hydrocarbons called "reactive volatile organic compounds" (VOCs). VOC emissions are controlled to reduce ozone concentrations.

The Commonwealth has only one nonattainment area, Northern Virginia, which cannot demonstrate attainment by December 31, 1982. The ozone modeling analysis indicates that a 46 percent emission reduction will be needed to eliminate violations of the Ozone Standard in this area by December 31, 1987.

The proposed Virginia 1982 SIP for O_3 combines a mix of stationary and mobile source strategies to achieve these necessary reductions. It is divided into six sections:

—Emissions Inventory,

—Demonstration of Attainment/Modeling,

—Reasonable Further Progress (RPF),

—Stationary Source Controls,

—Transportation Control Measures, and

—Inspection and Maintenance.

1. *Emissions Inventory.* For the 1982 SIP, States were to submit a comprehensive emissions inventory indicating 1980 and attainment year emissions levels from all sources of VOCs and oxides of nitrogen.

The Commonwealth included in their submittal an emissions inventory including point sources, area sources, and mobile sources. Several items in the inventory needed clarification as a result of EPA's review at that time. Several changes were made in the emissions inventory included as part of this submittal; other items were addressed in a letter from the Washington Council of Governments (COG) to EPA submitted on September 28, 1982. The emissions inventory is generally consistent with EPA's guidance and other requirements.

Proposed Action: EPA proposes to approve the emissions inventory portion of the SIP.

2. *Demonstration of Attainment/Modeling.* To ensure consistency among the States having to demonstrate attainment by 1987, EPA encouraged each State to use the City-Specific Empirical Kinetic Modeling Approach (EKMA). The Metropolitan Washington Council of Governments (COG), which prepared the 1982 Ozone/CO plan, ran EKMA to determine the VOC reduction necessary to achieve the Ozone Standard by December 31, 1987. COG was the agency designated, in 1977, as having overall responsibilty for the development of an air quality plan for use by Virginia, Maryland, and the District of Columbia in developing the SIP's for their portion of the National Capital Interstate AQCR. The Commonwealth has acccepted COG's analysis and has included it as part of its SIP.

The EKMA analysis in Virginia's SIP is based on monitored air quality data in the Metropolitan Washington D.C. area from 1980 and 1981. Numerous representative days were modeled by COG resulting in a 46 percent VOC reduction requirement for the region based on a 0.16 ppm ozone value recorded at the Takoma monitoring site in Washington, D.C. on July 16, 1980. Using the 46 percent reduction required, the Metropolitan Washington D.C. area must reduce 1980 VOC emissions of 342 tons per day by 157 tons to achieve attainment by the end of 1987. The current plan demonstrates a VOC emission reduction of 118 tons per day by 1987, leaving an additional reduction of 39 tons per day needed to attain the standard. Emission reduction targets were agreed upon by the three jurisdictions to achieve the needed 39 tons. The targets are: District of Columbia—9 tons, Maryland—14 tons, and Virginia—16 tons. Control measures in Virginia's 1982 Ozone/CO SIP will reduce VOC emissions by 8.9 tons per day. This leaves a shortfall in 1987 of 7.1 tons per day. Virginia has committed to evaluate a mix of additional control measures, including Stage II Vapor Recovery, and to implement regulations in order to achieve the additional 7.1 tons per day reduction. The schedule for and commitment to develop additional regulations to ensure attainment in 1987 is discussed in the Stationary Source Controls portion of this notice.

Proposed Action: EPA proposes to approve the demonstration of attainment/modeling protion of the SIP.

3. *Reasonable Further Progress.* Virginia has submitted an adequate Reasonable Further Progress (RFP) presentation and discussion in their SIP. Although the RFP curve does not demonstrate attainment of the Ozone Standard by December 31, 1987, i.e., a

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September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

7.1 tons per day shortfall, Virginia has committed to study and implement additional control measures in order to eliminate this shortfall and attain the standard by December 31, 1987. Virginia has also certified that their existing new source review and offset requirements will be adequate to allow growth while remaining within the RFP limitation and to maintain attainment of the Ozone Standard after 1987.

Proposed Action: EPA proposes to approve the reasonable further progress portion of the SIP.

4. *Stationary Source Controls.* The Clean Air Act requires States to adopt regulations requiring Reasonably Available Control Technology (RACT). Therefore, as part of the 1982 submittal, States must include RACT for: (a) all sources of VOCs covered by a Control Techniques Guidelines (CTG) and (b) all remaining major stationary sources with the potential to emit more than 100 tons of VOC per year.

EPA requires that the submittal either include legally enforceable measures to implement RACT for these sources, or else document the State's determination that the existing level of control represents RACT for each of these sources.

Enforceable schedules for adoption and implementation of regulations may be acceptable in lieu of adopted regulations, if reasonable further progress is maintained and the schedules are as expeditious as practicable.

a. *CTG Regulations:* Several earlier submittals of SIP revisions by the Commonwealth included the required RACT regulations for sources covered by CTG's. These earlier revisions were partially approved by EPA (see Technical Support Document for detailed discussions) and the submittal now before EPA addresses those RACT deficiences or omissions noted in our earlier rulemakings. A summary of the current submittal follows:

1. § 1.02, Definition of Vapor Tight—definition has been revised and satisfies EPA criteria.

2. § 1.02, Definition of Drycleaning System—definition has been revised and satisfies EPA criteria.

3. § 1.02, Definition of Waxy, Heavy Pour Crude Oil—definition has been added and satisfies EPA criteria.

4. § 4.54(h), VOC storage—Floating Roof Tanks—the Commonwealth has added routine inspection and recordkeeping requirements which are acceptable to EPA.

5. § 4.55(m), Graphic Arts (Printing)—the Commonwealth has revised this regulation to separate the packaging and publication rotogravure printing process. The requirement that *packaging* rotogravure printing VOC emissions be reduced by 65% remains the same. The Commonwealth has added a § 4.55(m)(3) which requires overall VOC emissions from *publication* rotogravure printing to be reduced by 75%. These reduction requirements satisfy EPA criteria.

6. § 4.56(f), Tank Trucks/Account Trucks and Vapor Collection/Control System—the Commonwealth has revised this regulation and added new §§ 4.56(f) (6), (7), (8), (9), (10), (11), (12), (13), and (14) addressing the yearly certification requirements for tank trucks. These revisions are acceptable to EPA.

7. § 4.56(h), Petroleum Liquid Storage—Floating Roof Tanks—the Commonwealth has added routine inspection and recordkeeping requirements which are acceptable to EPA.

8. § 4.57(a), VOC Emissions—Miscellaneous Industry—General—the Commonwealth has revised § 4.57(a)(5) to eliminate the pharmaceutical and pneumatic rubber tire regulations from the general exemption contained in § 4.57(a)(4)(i).

9. Appendix M, Control Technology Guidelines for Volatile Organic Compound Emissions—the Commonwealth has made several miscellaneous revisions to this Appendix which are acceptable to EPA.

Virginia has also committed to adopt RACT regulations for applicable VOC source categories after future CTG's are published by EPA.

b. *Regulations for 100 Tons Per Year Source:* The Commonwealth has certified that there are no 100 tons per year sources in Northern Virginia not covered by a CTG.

c. *Additional Stationary Source Regulations:* The SIP revision submitted by Virginia contains a schedule under which the Commonwealth will evaluate a mix of additional control measures including Stage II Vapor Recovery and implement regulations in order to achieve the 6.1 tons per day shortfall. According to this schedule, Virginia will complete the analysis of measures by July 1, 1985. Regulations, required to achieve the 7.1 tons per day reduction, will be developed and promulgated by July 1, 1986. These additional regulations will be designed to have full effect in time to ensure attainment of the Ozone Standard by the 1987 deadline. EPA believes this schedule is as expeditious as practicable and that reasonable further progress toward attainment will be maintained.

Proposed Action: EPA proposes to approve the stationary source controls portion of the SIP.

5. *Transportation Control Measures (TCMs)* The Metropolitan Washington Council of Governments (COG) was the lead agency designated by the Governor in development of the transportation portion of the 1982 SIP in Northern Virginia. In developing a regional transportation control plan as a part of the overall control strategy, COG examined the feasibility of applying the 18 categories of measures listed in Section 108(f) of the Act and considered to be "reasonably available." COG considered fifteen of these 18 categories to be feasible for implementation in the National Capital Interstate AQCR. The COG then considered 60 specific measures derived from these categories for inclusion into the SIP. The Commonwealth of Virginia has participated in analyzing the relative effectiveness of these control measures. Virginia, in conjunction with the District of Columbia, Maryland and COG, analyzed the benefits (regional emission reductionas in tons per day, total energy savings in gallons per weekday, and additional benefits which encompass other than air quality goals). The States and COG analyzed the costs (capital, operating, maintenance, other) associated with each prospective measure. As a result of this analysis, COG has developed for inclusion in the Virginia SIP the following transportation measures that are designed to reduce VOC emissions in the Northern Virginia portion of the National Capital Interstate AQCR:

1. METRO.
2. Traffic Signalization Systems.
3. Exclusive Lanes for High Occupancy Vehicles.
4. Parking Restrictions in District of Columbia CBD (potentially reducing vehicle trips from Virginia).
5. Bicycle Improvements.
6. Transportation System Management Improvements.
7. Ridesharing Improvements.

The COG transporation plan and Virginia Appendix I contain some legally enforceable commitments for the State and local agencies necessary to implement the above-listed transportation measures. The process is continuing and additional State and local commitments for certain TCMs are being obtained, where appropriate. EPA will take final action approving this portion of the SIP after these commitments are received.

The COG transportation plan also identifies a recent study conducted by the Urban Mass Transit Administration and Washington Metropolitan Area Transit Authority (WMATA) that addresses basic transportation needs.

Since the completion of this study, WMATA and the local and State jurisdictions have been implementing programs to expand and improve public transportation.

Proposed Action: EPA proposes approval of the COG-developed transportation plan for the Northern Virginia portion of the National Capital Interstate AQCR, with the understanding that additional State and local commitments to TCMs will be obtained where appropriate.

6. *Inspection and Maintenance (I/M).* All major urban areas that needed an extension beyond 1982 to attain the standard for O_3 or CO were required to include vehicle I/M as a portion of its 1979 SIP revision. EPA evaluated and acted upon the I/M portion of Virginia's 1979 SIP revision on May 3, and May 6, 1982 (47 FR. 18859, 47 FR. 19523, respectively). The May 3, 1982 **Federal Register** Notice addressed, among other issues, the revised design value for the Richmond AQCR and the deletion of this area from thel/M program, The May 6, 1982 **Federal Register** Notice approved the I/M program implementation schedule for the Northern Virginia area.

On July 13, 1981, the Commonwealth submitted the I/M Administrative and Procedural Regulations and on August 10, 1981, the Commonwealth submitted the Mobile Source Emission Standards. These SIP revisions were reviewed and approved by EPA on April 6, 1982 at 47 FR. 14707. Although the Commonwealth has had a viable, effective I/M program functioning since December 1981, certain elements of the I/M program were not included in the previous submittals. These elements are:

a. Under Recordkeeping and Record Submittal Requirements: Adequate description of the inspection data that will be collected and reported to EPA.

b. Under Quality Control, Audit & Surveillance Requirements: Description of procedures to be followed by the State in conducting unannounced unscheduled audits.

c. Submittal of a Public Awareness Plan.

These elements have now been submitted by the Commonwealth in this SIP submittal for parallel processing by EPA. EPA has reviewed this material and finds it satisfies EPA's requirements for an acceptable I/M program.

As EPA stated in its earlier rulemaking approving Virginia's I/M program (47 FR 14707), we preliminarily determined that the program provides for the 35% reduction of 1987 emissions as well a a 20% failure rate, however, Virginia must submit a complete analysis of its I/M program. This analysis must be submitted after one full year's operation of the program, using Virginia-specific data and 1980 Census information. This analysis must be submitted in order for EPA to finalize its determination of the overall effectiveness of Virginia's I/M program.

Proposed Action: EPA proposes to approve the I/M portion of the SIP.

B. Carbon Monoxide (CO)

Transportation sources, particularly the automobile, are responsible for most regional CO emissions. CO is monitored at 10 sites throughout the region, however, no monitors measuring congested intersections are located in the Virginia or Maryland portions of the Washington. D.C. metropolitan area. Violations of the 8 hour CO standard have been recorded and areas of high traffic density are designated nonattainment for CO. The attainment date for the Northern Virginia area is December 31, 1987.

CO concentrations are expected to decrease significantly by 1987 due to a continuation of the Federal Motor Vehicle Control Program and implementation of vehicle I/M. a "hot spot" analysis performed by the Washington Council of Governments, modeled selected intersections using the intersection Midblock Model (IMM). This detailed modeling analysis, which demonstrates attainment by 1987 at local "hot spot" intersections, relying solely on the Federal Motor Vehicle Control Program and I/M, is a part of the State plan. The plan also contains adequate demonstrations of Reasonable Further Progress (RFP). This material statisfies the EPA criteria. The formal State submittal will include all items necessary for an approvable CO plan.

Proposed Action: EPA proposes to approve the CO portion of the SIP.

C. Additional Requirements

1. *Conformity of Federal Actions.* Compliance with Section 176(c) of the Clean Air Act requires a close cooperative effort between all agencies granted Federal funding.

Routine procedures which are part of the basic planning process performed by COG and the State and local governments will ensure that no projects will be constructed or implemented which will produce emissions that are inconsistent with the adopted SIP. Compliance with Sections 176(c) and 316 also requires the use of consistent population projections in all federal funding activities, COG has developed a "Cooperative Forecasting Process" which fills this need.

Proposed Action: EPA proposes to approve this portion of the SIP.

2. *Consultation with State and Local Officials.* During the preparation of the 1982 SIP, the State, via the COG planning process, insured the continual involvement of the public and all appropriate government agency officials. Opportunity was given for all interested parties to participate in the development of the transportation plan and other elements of the SIP.

Proposed Action: EPA proposes to approve this portion of the SIP.

3. *Conformance with Other Requirements of Section 172 of the Clean Air Act.* Section 172(b) of the Clean Air Act requires that certain items be included in all SIP revisions. Most of these requirements have been addressed above. Following is a discussion of the remaining requirements.

a. Commitment of financial and manpower resources—The Commonwealth has committed adequate financial and manpower resources to carry out the programs established in the 1982 SIP.

b. Analysis of effects—The Commonwealth submitted an analysis of the effects the SIP will have on air quality, health, welfare, the economy, energy and society. In general, there are few negative effects and these will be minimal. The majority of the effects of the plan on each of the above-mentioned criteria will be neutral or positive.

c. Contingency plan—EPA January 1981 policy also requires States to develop a process for identifying and implementing additional transportation control measures that can be used in the event that there is an unanticipated shortfall in emission reductions. The June 1982 draft COG plan includes a list of measures which will be considered in such circumstances. The final plan is expected to provide additional detail.

Proposed Action: EPA proposes to approve this portion of the SIP.

Proposed Action

Based on the above information, EPA is proposing to approve the SIP revision under the procedure of parallel processing. Final action will not be taken on this revision until it is formally submitted by the Commonwealth. EPA is soliciting public comments on the issues discussed in this Notice or on other relevant matters. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as

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amended, and EPA regulations in 40 CFR Part 51.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monxide, Hydrocarbons, Intergovernmental relations.

Authority: Section 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C.) 7410(a), 7502, and 7601(a))

Dated: November 23, 1982.

Stanley Laskowski,

Acting Regional Administrator.

[FR Doc. 83-2440 Filed 2-3-83; 8:45 am]

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40 CFR Part 52

[A-9-FRL-2271-4]

Approval and Promulgation of State Implementation Plans; Utah Carbon Monoxide/Ozone Attainment Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This document proposes to disapprove the carbon monoxide and ozone 1982 State Implementation Plan (SIP) revisions submitted by the State of Utah on September 20, 1982, because they do not contain the necessary commitments to a vehicle Inspection/Maintenance (I/M) program and do not address other requirements of the Clean Air Act and EPA policy. The State developed the plan to provide for attainment of the primary National Ambient Air Quality Standards for ozone and carbon monoxide, as required under Part D of the Clean Air Act Amendments of 1977.

DATES: Comments are due March 21, 1983.

ADDRESSES: Written comments should be address to: Robert R. DeSpain, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

Copies of the revisions and EPA's Technical Support Document are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following office: Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT: Barry Levene, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295. (303) 837-3711.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 add a new Part D to Title I of the Act. Under this Part, each State has to revise its SIP for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (Sections 171-178 of the Clean Air Act; Section 129(c) (uncodified) of Pub. L. 95-95). The revised plan was to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain either the ozone or carbon monoxide standards by that date, in which case the attainment date for either or both pollutants could be extended up to December 31, 1987. The State could then defer compliance with certain of the Part D planning requirements. Any State receiving such an extension was required to submit a second SIP revision that provides for attainment by December 31, 1987 and complies with all of the Part D requirements (Section 172(c)).

These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95-95). On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas, which were published on April 4, 1979 (44 FR 20372).[1]

Background

Utah submitted an initial SIP revision for its carbon monoxide and ozone nonattainment areas on January 3, 1979. In that submittal, and in supplemental submittals on November 5, 1979, and August 11, 1980, Utah requested extensions for several of its carbon monoxide and ozone nonattainment areas. Table 1 summarizes the currently approved attainment dates for areas with extensions beyond December 31, 1982.

[1] EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583); August 28, 1979 (44 FR 50371); September 17, 1979 (44 FR 53761); and November 23, 1979 (44 FR 67182).

TABLE 1.—AREAS IN UTAH WITH CURRENTLY APPROVED ATTAINMENT DATE EXTENSIONS

Nonattainment area	Carbon monoxide	Ozone	Publication date in FEDERAL REGISTER	Attainment date extended to—
Salt Lake City	X		5/5/81	12/31/83
Ogden	X		5/5/81	12/31/83
Provo	X		9/22/82	12/31/83
Salt Lake City		X	5/5/81	12/31/85
Salt Lake County		X	5/5/81	12/31/85
Davis County		X	5/5/81	12/31/85

With the exception of the I/M plan and a revised extension date for Provo, EPA approved the Utah carbon monoxide/ozone plan on May 5, 1981 (46 FR 25092). A revised extension date for Provo was approved on September 22, 1982 (47 FR 41928).

EPA proposed to disapprove the Utah I/M plan on May 16, 1979 (44 FR 28688). In response, the State submitted revisions to the SIP on November 5, 1979, including provisions for county-run I/M programs. Several essential requirements were not addressed in this submittal including the enforcement mechanism to be used. EPA proposed on February 19, 1980 (45 FR 10817) to approve the I/M plan provided that materials related to these requirements were submitted prior to final rulemaking.

On August 11, 1980, the State submitted supplemental material including the general enforcement mechanism and legal authority for that mechanism. The State did not, however, provide adequate evidence that the mechanism had been adopted or would be effective. On May 5, 1981 (46 FR 25112) EPA proposed that the I/M component of the SIP be approved conditioned on adoption and submission to EPA of a specific procedure for effective enforcement of the program, along with rules, ordinances, or other documentation representing a commitment to enforce, and supporting legal opinions. These mechanisms have not been adopted. In the meantime, both Salt Lake and Davis Counties have missed several key milestones in the implementation schedules EPA had proposed to approve. On September 22, 1982 (47 FR 41931) EPA proposed to disapprove the I/M plan because it does not meet all the requirements of Section 172 of the Clean Air Act and EPA policy, particularly those requirements for enforceability, commitments, and schedules.

Utah submitted the 1982 revisions to its carbon monoxide/ozone SIP on September 20, 1982. EPA has reviewed

that plan and has prepared a detailed Technical Support Document which is available for public review. This notice summarizes EPA's findings and proposes action on the Utah submittal. Both the carbon monoxide and ozone plans are evaluated for adequacy of data bases, modeling, control strategies, and reasonable further progress requirements. Other requirements applicable to both plans are then assessed.

Carbon Monoxide Plan

I. Data Bases

The required three years of carbon monoxide data are summarized in the plan. An average second high value for 1980 and 1981 was selected as the design value for each nonattainment area because neither year was typical from a meteorological standpoint. Because of the downward trend in carbon monoxide levels, this is a conservative approximation.

The carbon monoxide emission inventory is based on a typical winter day. Mobile II high altitude emission factors are used to estimate mobile source emissions. The base year inventory and the 1987 projections include all major sources, including woodburning. EPA proposes to approve the data bases submitted.

II. Modeling

The needed emission reductions to attain the ambient standard in each area were determined by a linear rollback technique. The calculated reductions needed are 25% for Salt Lake City, 11% for Ogden, and 25% for Provo. Although no hotspot analysis were performed, previous modeling using an areawide model, CDM–QC, indicated that an areawide problem exists with some hotspot problem overlay. In view of these findings, EPA considers the use of linear rollback to be appropriate in this situation. EPA proposes to approve the calculated emission reduction targets based on the modeling performed.

III. Control Strategies

The following control strategies are proposed by the State to attain the carbon monoxide standard by 1987:

1. The Federal Motor Vehicle Emission Control Program (FMVECP) is estimated to reduce emissions by 40%.

2. An I/M program is estimated to reduce emissions by 25% in Salt Lake and Davis Counties only.

3. Transportation Control Measures (TCM's) are estimated to reduce emissions by 3% in Salt Lake City, 2.4% in Ogden, and 1% in Provo. These measures include improved transit service, rideshare brokerage, and a computerized traffic signalization system for Salt Lake City.

Although implementation schedules for the TCM's and resource commitments were not included in the September 20, 1982, submittal, adequate documentation was provided by the State on November 29, 1982. This additional documentation is considered acceptable and EPA proposes to approve it as part of the State's plan submittal. All measures in Section 108(f) of the Act were evaluated by the State for reasonableness. The three measures selected for implementation were based on this evaluation. EPA proposes to approve these measures.

The 1982 submittal does not fully satisfy the I/M requirements. No further documentation has been submitted than that in the plan EPA proposed to disapprove on September 22, 1982. The I/M portion cannot be approved without this documentation. I/M is not a requirement in Provo and Ogden because it is EPA policy not to require the program in areas with less than 200,000 population.

IV. Reasonable Further Progress

As required, the plan demonstrates annual incremental progress toward meeting the carbon monoxide standard. The attainment dates are projected to be May 1, 1984 for Salt Lake City; July 1, 1982, for Ogden; and February 1, 1986, for Provo. EPA proposes to approve these attainment dates as meeting the requirement of 172(a)(2). These dates will replace the current projected dates recorded in 40 CFR 52.2331 (See also Table 1 in this notice). The State must still submit the required quarters of air quality data and other information to confirm attainment in Ogden by July 1, 1982.

Ozone Plan

I. Data Bases

Ozone data for the most recent three years are summarized. The sites with the highest concentrations are located in Bountiful and Salt Lake City.

An emissions inventory was completed for each county and for the modeling area, the Salt Lake City urban core. The inventory is based on a typical summer weekday. Utah provided EPA a draft inventory on February 23, 1982. EPA provided comments on this inventory at the July 6, 1982 Utah public hearing. EPA proposes to approve the inventory as meeting the requirements of 172(b)(4).

II. Modeling

The city-specific EKMA model was used to determine the emission reduction target for the air basin which includes both Davis and Salt Lake Counties.

A monitoring program was conducted in 1981 to determine the nonmethane hydrocarbon to nitrogen oxides ratio used for input to the model. Because of the unique climatology, wind patterns, and emission characteristics of the Salt Lake Basin, the assumptions used in the Utah modeling approach differ from EPA Guidelines. However, the differences are appropriate and are explained in the EPA Technical Support Document.

Based on the modeling approach, an emission reduction of 29% is necessary to attain the standard. EPA proposes to approve the modeling and emissions reductions target.

III. Control Strategies

The following control strategies are proposed by the State to attain the ozone standard by 1987:

1. The FMVECP is expected to decrease total emissions of volatile organic compounds (VOC's) by 38% from 1980 to 1987.

2. An I/M program would be expected to reduce total emissions by about 5.4% by 1987. Documented commitments to the program are lacking, however, and the I/M portion cannot be approved without these commitments.

3. Control of stationary sources of VOC's would reduce emissions by 4% in 1987. Utah has adopted and EPA has approved regulations (46 FR 25092 and 47 FR 23447) controlling sources covered by Group I and Group II Control Technique Guidelines (CTG's). EPA policy is to accept, at this time, a commitment to adopt RACT for Group III CTG sources. Such a commitment is not included in the Utah SIP, but must be submitted prior to final rulemaking. The emissions inventory does not show that there are any other sources greater than 100 tons per year in the affected areas.

4. Transportation controls, including transit improvements, traffic signalization, and rideshare brokerage, would reduce VOC emissions by 2% by 1987. All measures in Section 108(f) of the Act were evaluated for reasonableness. The ones selected were based on this analysis. EPA proposes to approve the transportation control measures and implementation schedules based on the supplemental information received on November 29, 1982.

IV Reasonable Further Progress

Progess toward meeting the standard is demonstrated with a 29% reduction required and an estimated 48% reduction achieved by the control measures. Attainment is expected by December 1, 1983. Attainment has also been demonstrated by 1984 without an I/M program. EPA proposes to approve the attainment date and to change the current attainment date from the one listed in Table 1 and recorded in 40 CFR 52.2331.

Other Requirements Applicable to Both the CO and Ozone Plans

The January 22, 1981, policy established transportation control plan requirements consistent with the statutory provisions (See 46 FR 7187–7188, and 7191–7192.) In addition to the requirements specific to either the carbon monoxide or ozone plans, there are several requirements applicable to both plans. These include (1) under section 110(a)(3)(D) and 110(c)(5)(B), identification of public transportation measures necessary to meet basic transportation needs, including an identification and commitment to use, to the extent necessary, Federal, State, and local funds to implement these measures; (2) a monitoring plan for periodically assessing the success or failure of transportation measures in meeting the emissions reduction target; (3) under section 176(c), administrative and technical procedures to address conformity of agency activities with the SIP; and (4) a contingency plan identifying transportation projects that may adversely affect air quality and that will be delayed if expected air quality improvements do not occur, and a procedure for determining and implementing additional measures to compensate for unanticipated shortfalls in emission reductions.

The Utah carbon monoxide/ozone SIP does not address these four additional requirements. These requirements must be addressed prior to final rulemaking.

The January 22, 1981, EPA policy also requires that the control strategy for the 1982 SIP reflect agreement among affected state and local officials on the emission reductions needed to attain the standards. Section 121 of the Clean Air Act requires each state to provide a process for consultation with local governments, organizations of local elected officials, and Federal land managers for SIP development. See also 40 CFR Part 51, Subpart M.

The Utah 1982 carbon monoxide/ozone SIP meets this requirement. It contains a description of the public participation and elected official consultation activities. Metropolitan planning organizations (MPO's) were the lead agencies for the transportation-related elements of SIP development. For Salt Lake City-Ogden, the Wasatch Front Regional Council took a lead role. In Provo, Mountainland Association of Governments did the same. Thus, State and local official consultation was built into the SIP development process. Also, in each case, citizen advisory committees were utilized in the SIP development process, and public hearings were held with adequate public notice.

According to the SIP Review Agreement signed by EPA and DOT Region VIII offices, the Utah submittal has been reviewed by appropriate DOT agencies. Their review also pointed out the need to have schedules, resource commitments, and defined agency roles for all transportation control measures.

Proposed Actions

Based on the foregoing evaluation, EPA is proposing to take the following actions:

1. Disapproval of the Salt Lake City carbon monoxide plan because the I/M program requirements have not been met and because the monitoring plan, contingency plan, conformity determination procedures, and basic transportation needs requirements were not adequately addressed.

2. Disapproval of the Salt Lake County and Davis County ozone plans for the same reasons as stated above. The State must also commit to develop and adopt regulations to control VOC emissions from sources covered by Group III CTG's. EPA policy requires adoption and submittal of these regulations by the second January following the year that EPA issues the CTG.

3. Approval of the Ogden and Provo carbon monoxide plans. It is EPA policy, wherever possible, to evaluate the requirements for an area commensurate with its size and magnitude of the air pollution problem. Both Ogden and Provo are under 200,000 population and can demonstrate attainment prior to 1987. EPA has, in the past, used these criteria to judge whether an area must meet certain requirements. For example, areas under this population have not been required to implement I/M and have been exempted from some ozone planning requirements.

However, EPA expects that in the context of responding to items 1 and 2 above Utah can address, for both Provo and Ogden, the requirements for a monitoring plan, conformity determination procedures, a contingency plan, and measures to meet basic transportation needs prior to final rulemaking.

If the I/M requirements are not submitted and the other deficiencies discussed above are not adequately addressed before EPA takes final action, EPA will be required to disapprove the revisions to the Utah plan. Under Section 110(a)(2)(I) and 40 CFR 52.24 (1981), disapproval would continue the existing moratorium on the construction and modification of major stationary sources of carbon monoxide and VOC's in the Salt Lake and Davis County nonattainment areas to which these plan revisions apply.

Disapproval may also result in restrictions in Federal funding pursuant to Section 176(a). EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit a plan meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing any funding restrictions. For more information on the scope of the restrictions and the procedures, EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

Under Executive Order 12291, this action is not Major. It has been submitted to the Office of Management and Budget (OMB) for review.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7420).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: December 3, 1982.

Steven J. Durham,

Regional Administrator.

[FR Doc. 83-2534 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 52 and 81

[A-10-FRL 2200-6]

Approval and Promulgation of State Implementation Plan: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking addresses State Implementation Plan (SIP) revisions to be submitted by the State of Oregon Department of Environmental Quality pursuant to the requirements of Part D of the 1977 Clean Air Act (hereafter referred as the Act). In today's action, EPA is proposing to approve the 1982 carbon monoxide (CO) plan for the Medford nonattainment area based on a draft plan submitted June 30, 1982. State and local public hearings on the draft plan were held in August and October 1982. Major revisions are not anticipated. EPA is also proposing to approve the redesignation of the Medford CO nonattainment boundary. The intended effect of these revisions is to control emissions of volatile organic compounds and carbon monoxide in order to attain the ozone and carbon monoxide National Ambient Air Quality Standards as required under Part D of the Clean Air Act.

DATE: Comments must be received on or before March 21, 1983.

ADDRESSES: Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section, (10A-82-7), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101

State of Oregon, Department of Environmental Quality, Yeon Building, 522 S.W. Fifth, Portland, OR 97207

FOR FURTHER INFORMATION CONTACT: Loren C. McPhillips, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442-7369, FTS 399-7369.

SUPPLEMENTARY INFORMATION:

I. Introduction

This **Federal Register** action is being processed in parallel with action at the State and local level to adopt and submit a revision to the currently approved SIP. It is an attempt to accelerate the EPA rulemaking process by proposing approval based on an acceptable draft SIP revision, rather than postponing action unitl a final adopted and submitted SIP revision is received. The key to this shortened process is incorporation of EPA comments in the early stages of SIP development so that the SIP revision, when submitted, is approvable without additional corrections. This process also assumes that no major changes will be made to the draft SIP revision as a result of the State public hearing. Such changes could necessitate a reproposal on those portions of the SIP.

II. Background

The Clean Air Act Amendments of 1977 require States to submit CO plans to demonstrate how they will attain and maintain compliance with National Ambient Air Quality Standards for those areas designated as nonattainment. The Act further requires these CO plans to demonstrate compliance with primary standards no later than December 31, 1982. An extension until December 31, 1987 is available if the State can demonstrate that, despite implementation of all reasonable available control measures, the December 31, 1982 attainment date cannot be met.

On March 3, 1978, the Medford-Ashland Intrastate Air Quality Maintenance Area (AQMA) was designated by the EPA as a nonattainment area for CO. In accordance with Section 174 of the Act, former Governor Straub designated the Jackson County Board of Commissioners as the lead agency for the development of the SIP revisions for the area.

On June 20, 1979, the Governor submitted a CO plan for the Medford area to EPA. This plan made an initial estimate of the CO emission reduction required to attain the Federal standards. The plan also laid the framework for the potential control measures to be evaluated, demonstrated that the December 31, 1982 attainment date could not be met despite the implementation of reasonably available measures, and requested an extension of the attainment date.

EPA published an approval of this request in the **Federal Register** on June 24, 1980 (45 FR 42278) allowing an extension of the Medford attainment date beyond December 31, 1982, but before December 31, 1987. A specific attainment date was to be identified in the 1982 SIP revision to be submitted to EPA prior to July 1, 1982. Today EPA is proposing to take action on the 1982 Medford CO SIP revision which was presented before a local public hearing on July 8, 1982.

III Plan Review

The general requirements for a CO SIP are described in the **Federal Register** published on January 22, 1981 (46 FR 7182). EPA reviewed the draft SIP revision in accordance with those requirements and developed a technical support document for the plan which briefly describes EPA's conclusions regarding each SIP requirement and its approvability. The following discussion will briefly describe the SIP in terms of its content.

A. Data Base and Modeling Results

Numerous violations of the 8-hour CO standard of 10 milligrams per cubic meter (mg/m^3) have been recorded in the Medford Central Business District (CBD). Based upon three years of air quality monitoring data, the adjusted CO design concentration is 19.1 mg/m^3, which corresponds to a required emission reduction of 53 percent in order to meet the standard.

The rollback model and the Earth Metric's diffusion model were used to predict air quality concentrations. The results of the analysis indicates that several streets in the Medford CBD are projected to violate the 8-hour CO ambient air quality standard beyond 1982. Analysis also shows that the controls adopted in this plan are projected to bring the region into attainment by 1987. Therefore, the state identified the attainment deadline for the CO ambient air quality standards to be December 31, 1987.

B. Control Strategy

The emission inventory indicates that there are no stationary CO sources in Medford greater than 1,000 tons per year. In light of the dominant motor vehicle contribution to the CO nonattainment problem, the control strategy focuses on transportation measures. It should be noted that measures designed to reduce vehicle emissions work in one of three ways: (1) by reducing vehicle trips and miles traveled; i.e., improved mass transit, carpooling, etc., or (2) by improving traffic speeds; i.e., improved traffic signalization, traffic flow improvements, parking restrictions, etc., or (3) by reducing the emissions from individual vehicles; i.e., an inspection and maintenance (I/M) program or the Federal Motor Vehicle Emission Control Program.

The following is a list of areawide control measures contained in the plan:

1. Inspection and maintenance program;
2. Improved public transit;
3. Parking controls;
4. Traffic flow improvements;
5. Bicycle program.

Adequate authority to implement measures 2 through 5 is contained in the SIP. However, implementation of an I/M program requires enabling authority from the State Legislature. I/M is discussed in greater detail in Section E. EPA is proposing to approve the plan upon the passage of enabling authority.

The commitment to implement these areawide measures ensures that the requirements for basic transportation needs are satisfied and that improved mobility will be emphasized.

A hotspot near Biddle and McAndrews Road was projected to be nonattainment past December 31, 1987 without local controls in addition to the areawide measures. The plan also contains a control strategy which addresses this hotspot problem area. The specific schedule for implementation of the strategy is as follows:

1. A continuous CO monitoring station will be installed in the projected problem area in 1983;
2. Ambient CO data and potential traffic adjustments will be evaluated by 1985; and
3. Traffic signal changes or other site-specific improvements will be implemented prior to 1987, which will demonstrate attainment by the statutory date.

C. Monitoring Reasonable Further Progress (RFP)

The draft CO plan meets the RFP requirements contained in the Act. A monitoring plan has been established to periodically assess the extent to which the transportation measures actually result in meeting this RFP requirement. Although emphasis will be placed on monitoring emission reductions each year, ambient air quality monitoring data will be examined. To the extent possible, other reasonable indicators will also be used to monitor RFP such as monitoring land use and traffic volumes. To monitor RFP, the Oregon Department of Environmental Quality and the City of Medford will jointly submit a report each July 1, for the preceding calendar year which will comply with the following EPA requirements:

1. Identification of growth of major new or modified stationary sources and mobile sources;
2. Reduction in emissions for existing sources;
3. Update of the emission inventory;
4. Land use inventory; and
5. Implementation of transportation control measures.

If ambient air quality data suggests the RFP is not being maintained, Jackson County, the City of Medford, and DEQ will examine the emission inventories and CO concentrations to determine if a problem exists. If it is determined that RFP is not being maintained, the contingency provisions contained in the SIP revision will be implemented.

D. Conformity of Federal Actions with the SIP

Existing State rules already ensure that Federal Actions will be reviewed for conformity with the SIP in a manner consistent with the criteria contained in the April 1, 1980 Federal Register (45 FR 21590). Procedures for specifically evaluating Department of Transportation plans, programs and projects are included in the draft SIP produced by Jackson County. As indicated in the CO plan, regardless of the initial conformity finding of the transportation plans and program, individual projects still must comply with all provisions and requirements of the SIP. Specifically this includes the provisions that a project must not cause new or exacerbate existing violations of the standards.

E. Inspection and Maintenance Program

Jackson County, which contains the city of Medford, has a population of approximately 130,000 persons. It has been EPA's policy, as first stated in July 17, 1987 policy memorandum, that areas with populations under 200,000 persons are not automatically required to have an I/M program as a condition for SIP approval or extension of the attainment date. Because an I/M program has been determined by State and local officials to be necessary in the Medford area, the Jackson County Board of Commissioners, the Medford and Ashland City Councils, the Rogue Valley Council of Governments, and several Air Quality Advisory Committees have all strongly supported I/M as an intergral part of the CO attainment strategy. However, implementation of an I/M program will require enabling legislation from the State Legislature. This will be pursued in the 1983 session by the Jackson County Board of Commissioners and DEQ. The plan contains a schedule calling for the passage of legal authority in April 1983 and the implementation of a mandatory I/M program by January 1984. It is anticipated tha any program initiated in Jackson County would be equivalent to the Portland program which is currently run by DEQ.

F. Public Participation

Participation in the SIP development process extended to a wide range of public and elected officials. Two groups played a major role in the development of the CO plan: The City of Medford and the Air Quality Advisory Committee (AQAC). The City of Medford, in conjunction with Jackson County, gathered base data, conducted analysis of the data, developed attainment procedures to achieve Federal air quality standards for CO, and completed a transportation study of the Medford area. The (AQAC) has provided citizen involvement leadership in the areas of public education, air control strategy recommendations, and analysis of attainment measures.

Jackson County submitted its adopted plan to the Oregon Department of Environmental Quality on August 11, 1982. The plan was adopted and forwarded by the Governor to EPA in mid-October.

IV. CO Boundary Redesignation

Jackson County has also submitted a revision to the boundaries of the Medford CO nonattainment area. On March 3, 1978, the entire Medford-Ashland AQMA was designated nonattainment for CO. However, actual CO nonattainment problems are confined to the Medford CBD. Thus, Jackson County has reduced the nonattainment area boundaries to include that area of Medford described as follows:

Beginning at the intersection of Crater Lake Highway (Highway 62) south of Biddle Road to the intersection of Fourth Street, west on Fourth Street to Riverside Avenue (Highway 99), south on Riverside Avenue to Tenth Street, west on Tenth Street to the intersection with Oakdale Avenue, north on Oakdale Avenue to the intersection with Fourth Street, east on Fourth Street to Central Avenue, north on Central Avenue to Court Street, north on Court Street to the intersection with Crater Lake Highway (Highway 62) and east on Crater Lake Highway to the point of beginning.

V. Proposed Rulemaking Action

A. CO Attainment Plan

EPA is proposing to approve all portions of the Medford CO attainment plan submitted by the DEQ pursuant to part D requirements.

EPA has strong doubts about the enforceability of schedules requiring legislative action because there appears to be no mechanism for judicial enforcement of such schedules. The Medford I/M schedule, however, calls

for the legislature to provide legal authority in April 1983, which is only a few months away. Therefore, EPA will approve the I/M portion of the Medford plan only upon the passage of legal authority for the I/M. If the State fails to provide the needed authority EPA will disapprove the plan.

B. Nonattainment Area Boundary

EPA is also proposing to approve the revisions to the Medford CO nonattainment area boundary.

Interested parties are invited to comment on all aspects of this proposed approval of the Oregon SIP revision. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by 45 days after publication) will be considered in any final action EPA takes on this proposal.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals and nonattainment area redesignations do not have a significant impact on a substantial number of small entities (46 FR 8709 (January 27, 1981)).

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CRF

Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Part 81

Air pollution control, National parks, Wilderness areas.

(Section 110, 172, Clean Air Act (42 U.S.C. 7410(b) and 7502))

Dated: August 24, 1982.

Robert S. Burd,

Acting Regional Administrator.

[FR Doc. 83-2431 Filed 2-2-83; 8:45 am]

BILLING CODE [illegible]

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40 CFR Part 52 and 81

[A-10-FRL 2259-7]

Approval and Promulgation of State Implementation Plan: Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking addresses State Implementation Plan (SIP) revisions to be submitted by the State of Idaho Department of Health and Welfare pursuant to the requirements of Part D of the 1977 Clean Air Act (hereafter referred to as the Act). In today's action, EPA is proposing to approve the 1982 carbon monoxide (CO) plan for the Boise-Ada County nonattainment area based on a draft plan submitted November 8, 1982. Upon final approval by EPA, the CO plan will become a federally enforceable part of the SIP as required by the Clean Air Act.

DATE: Comments must be received on or before March 21, 1983.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101

State of Idaho, Department of Health and Welfare, Statehouse, Boise, Idaho 83720

Comments should be addresed to: Laurie M. Kral, Air programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Loren C. McPhillips, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, telephone No. (206) 442-7369, FTS 399-7369.

SUPPLEMENTARY INFORMATION:

I. Introduction

This **Federal Register** action is being processed in parallel with action at the State and local level to adopt and submit a revision to the currently approved SIP. It is an attempt to accelerate the EPA rulemaking process by proposing approval based on an acceptable draft SIP revision, rather than postponing action until a final adopted and submitted SIP revision is received. The key to this shortened process is incorporation of EPA comments in the early stages of SIP development so that the SIP revision, when submitted, is approvable without additional corrections. This process also assumes that no major changes will be made to the draft SIP revision as a result of the State public hearing. Such changes could necessitate a reproposal on affected portions of the SIP.

II. Background

The Clean Air Act Amendments of 1977 require States to submit CO plans to demonstrate how they will attain and maintain compliance with National Ambient Air Quality Standards for those areas designated as nonattainment. The Act further requires these CO plans to demonstrate compliance with primary standards no later than December 31, 1982. An extension until December 31, 1987 is available if the State can demonstrate that, despite implementation of all reasonable available control measures, the December 31, 1982 attainment date cannot be met.

On March 3, 1978, certain areas of Ada County were designated by the EPA as a nonattainment area for CO. In accordance with section 174 of the Act, on February 6, 1978 the Governor of the State of Idaho designated the Ada Planning Agency (APA) as the lead agency for the development of the SIP revisions for the area.

On January 31, 1980, the Governor submitted a CO plan for the Boise-Ada County area to EPA. This plan made an initial estimate of the CO emission reduction required to attain the Federal standards. It also laid the framework for the potential control measures to be evaluated, demonstrated that the December 31, 1982 attainment date could not be met despite the implementation of reasonably available measures, requested an extension of the attainment date, and called for the implementation of a centralized vehicle inspection and maintenance (I/M) program prior to December 31, 1983.

EPA published an approval of this request in the **Federal Register** on October 23, 1980 (45 FR 70252) allowing an extension of the Boise-Ada County attainment date to December 31, 1987. Today EPA is proposing to take action on the 1982 Boise-Ada County CO SIP revision which was presented before a local and State public hearing on December 14, 1982.

III. Plan Review

The general requirements for a CO SIP are described in the **Federal Register** published on January 22, 1981 (46 FR 7182). EPA reviewed the draft SIP revision in accordance with those requirements and developed a technical support document for the plan which briefly describes EPA's conclusions regarding each SIP requirement and its approvability. The following discussion will briefly describe the SIP In terms of its content.

A. Data Base and Modeling Results

Numerous violations of the 8-hour CO standard of 9 parts per million (ppm) have been recorded in the Boise-Ada County area. Based upon an analysis of ambient air quality monitoring data for three years, the adjusted CO design concentration is 15.9 ppm, which corresponds to a required emission reduction of 53 percent in order to meet the standard.

A rollback model was used to predict air quality concentrations. The results of

the analysis indicates that Boise-Ada County will have several violations of the 8-hour CO ambient air quality standard beyond 1982. However, analysis also shows that the controls adopted in this plan will achieve a 56 percent reduction and are projected to bring the region into attainment by July 31, 1986.

B. Control Strategy

The emission inventory indicates that there are no stationary CO sources in the Boise-Ada County nonattainment area greater than 1,000 tons per year. Consequently, RACT controls are not required. In light of the dominant motor vehicle contribution to the CO nonattainment problem, the control strategy focuses on transportation measures. It should be noted that measures designed to reduce vehicle emissions work in one of three ways: (1) by reducing vehicle trips and miles traveled; i.e., improved mass transit, carpooling, etc., or (2) by improving traffic speeds; i.e., improved traffic signalization, traffic flow improvements,. parking restrictions, etc., or (3) by reducing the emissions from individual vehicles; i.e., an I/M program or the Federal Motor Vehicle Emission Control Program. The following is a list of measures contained in the SIP with commitments for implementation or continued implementation:

1. Inspection and maintenance program;
2. Public transit improvement and expansion;
3. Parking management program;
4. Traffic flow improvements;
5. Bicycle program;
6. Park and ride lots;
7. Drive-in management ordinance;
8. Staggered work hours;
9. Cold start education;
10. Mechanic's training.

The commitment to these measures ensures that the requirements for basic transportation needs are satisfied and that improved mobility will be emphasized.

C. Inspection and Maintenance Program (I/M)

A local I/M program was adopted by ordinance by the Boise City Council and by the Ada County Board of Commissioners in September, 1982. Enforcement procedures, program operation, rules and regulations will be development and submitted to EPA for inclusion in the SIP based upon schedules contained in the SIP. EPA expects the enforcement procedures to be equally as effective as a denial of vehicle registration enforcement mechanism. The mandatory I/M program is scheduled to start prior to December 31, 1983. Program start-up is being financed under an existing section 105 grant.

D. Monitoring Reasonable Further Progress (RFP)

The draft CO plan meets the RFP requirements contained in the Act. A monitoring plan has been established to periodically assess the extent to which the transportation measures actually result in meeting this RFP requirement. Although emphasis will be placed on monitoring emission reductions each year, ambient air quality monitoring data will be examined. To the extent possible, other reasonable indicators will also be used to monitor RFP such as monitoring vehicle miles traveled, transit ridership, and vehicle occupancy. The Idaho Department of Health and Welfare (IDHW) and the APA will jointly submit a RFP progress report each July 1, for the preceding calendar year.

If ambient air quality data or other indicators suggest that RFP is not being maintained, Ada Planning and IDHW will examine the emission inventories and CO concentrations to determine if a problem exists. If it is determined that RFP is not being maintained, the contingency plan contained in the SIP revision will be implemented.

E. Conformity of Federal Actions With the SIP

The SIP revision contains procedures to ensure that federal actions will be reviewed for conformity with the SIP in a manner consistent with the criteria contained in the April 1, 1980 notice on conformity (45 FR 21590). Procedures for specifically evaluating Department of Transportation plans and programs are included in the draft SIP. After determining conformity of the plans and programs, all federal aid projects will still be evaluated in accordance with procedures specified in the National Environmental Policy Act. If the analysis indicates that the project will create new violations or exacerbate existing violations, then the project will not be constructed without modifications to the project or plan sufficient to maintain reasonable further progress toward attainment.

Indirect effects of the other federal planning activities were accounted for in the emission inventory and will also be reviewed on a case-by-case basis through project level analysis.

F. Public Participation

Participation in the SIP development process extended to a wide range of public and elected officials. Several committees played a major role in the development of the CO plan including the Citizens Advisory Committee on Air Quality, the Policy Committee, the Technical Committee and the Mayor's Advisory Committee. Specifically, the Citizen Advisory Committee has provided citizen involvement and leadership in the areas of public education and air control strategy recommendations. The APA and IDHW adopted the plan at a public hearing on December 14, 1982.

IV. Proposed Rulemaking Action

EPA is proposing to approve the Boise CO attainment plan and establish a new attainment date of July 31, 1986. This proposed approval is based on a draft plan submitted by the IDHW, to EPA on November 8, 1982. Final EPA approval will be contingent upon the receipt of a State adopted CO attainment plan which substantially consistent with the draft plan.

Interested parties are invited to comment on all aspects of this proposed approval of the Idaho SIP revision. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by March 18, 1983, will be considered in any final action EPA takes on this proposal.

Under 5 U.S.C. Section 605(b), I certify that SIP approvals and nonattainment area redesignations do not have a significant impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR

Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Part 81

Air pollution control, National Parks, Wilderness areas.

(Section 110, 172, Clean Air Act (42 U.S.C. 7410(b) and 7502))

Dated: November 29, 1982.

John R. Spencer,

Regional Administrator.

[FR Doc. 83-2448 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-10-FRL 2219-3]

Approval and Promulgation of the State Implementation Plan: State of Alaska

AGENCY Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this Notice is to present the results of EPA's review of the 1982 Anchorage, Alaska, carbon monoxide (CO) State Implementation Plan (SIP) revision. This SIP revision was developed in accordance with the provisions of Part D of the 1977 Clean Air Act, as amended, which requires plans for CO nonattainment areas with approved attainment date extensions to be submitted by July 1, 1982.

In today's action, EPA is proposing approval of a plan which was subject to State and local public hearings and was submitted in final form to EPA in September 29, 1982. In addition, EPA is proposing to remove two conditions of approval published December 30, 1980 [45 FR 85744]. EPA is requesting public comments on its proposed action for a period of 45 days.

DATE: Comments must be received on or before March 21, 1983.

ADDRESSES Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

Copies of the materials submitted to EPA may be examind during normal business hours at:

Central Docket Section (10A-82-9), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Steeet, SW., Washington, D.C. 20460

Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101

State of Alaska, Department of Environmental Conservation, 3220 Hospital Drive, Juneau, AK 99811

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442-4016, FTS 399-4016.

SUPPLEMENTARY INFORMATION:

I. Introduction

Today's **Federal Register** action has been developed in parallel with action on the State and local level to adopt and submit a revision to the currenty approved SIP. This process enabled EPA to comment on the SIP revision in the early stages of SIP development and eliminated the need for changes in the SIP revision after it was adopted by the State. It also allows EPA to carry out its administrative rulemaking process concurrent with that of the State so that final EPA action can be completed expeditiously once the State submits its adopted SIP revision.

II. Background

The Anchorage CO SIP revision was developed in two stages. The first stage of the SIP was submitted in June 1979 to satisfy the requirements of Part D of the Clean Air Act (hereafter referred to as the Act). At that time an extension of the attainment date was requested and later approved by EPA. A full discussion of the background describing the development of the CO SIP up to that point can be found in the December 30, 1980, **Federal Register** (45 FR 85744), wherein EPA conditionally approved the Anchorage SIP. Two conditions of approval have been satisfied and a proposal to remove them is included in today's action.

The SIP subject to proposal today is the second phase of the 1979 SIP. It implements some measures and contains commitments to implement others described in the 1979 SIP. Since June of 1979 the Municipality of Anchorage (MOA) and the Anchorage Air Pollution Control Authority (AAPCA) have been updating the emission inventories for stationary and mobile sources of CO, refining the air quality modeling, holding additional public hearings and meetings with their advisory and policy making committees, evaluating various combinations of transportation control measures (TCMs), and finally, obtaining commitments from the local governmental jurisdictions to implement the selected TCMs. As a result of these activities, a *draft* SIP revision was prepared and submitted to EPA by the Alaska Department of Environmental Conservation (ADEC) in May 1982. A formal public hearing was held on June 29, 1982. The SIP was adopted by MOA at that hearing and forwarded to ADEC. ADEC held another public hearing on July 15 and adopted the SIP. ADEC submitted the SIP revisions to EPA on September 29, 1982.

III. Plan Review

The general requirements for CO SIP revisions were described in the **Federal Register** published on January 22, 1981 (45 FR 7182). EPA reviewed the draft Anchorage CO SIP revision in accordance with those requirements and developed a technical support document which describes the elements of the draft SIP revision, their location in the SIP and EPA's conclusions regarding approvability. The following discussion will briefly describe the SIP revision in terms of the major review points and indicate what action EPA proposes.

A. Technical Data and Modeling Results

The Anchorage CO SIP was developed using a baseline design concentration of 15.4 parts per million (ppm). This design value was derived from data collected at the 7th and "C" Street monitoring site over the past three years. While there are presently two other sites where higher vales have been measured, the 7th and "C" Street is considered by the lead agency to more accurately represent the nonattainment area.

However, EPA felt that, because of the higher readings in two other "hot spots", the design value needed to be verified. EPA, ADEC, and Anchorage agreed to conduct a CO design value verification study with saturation monitoring. The study is designed to define the representativeness of the 7th and "C" site and identify the best design monitor location if different from 7th and "C" Street.

Because the CO saturation monitoring study will be completed in the spring of 1983, the results will be available for use in conjunction with the completion of the EPA/ADEC cold temperature emission study in Fairbanks, Alaska, which is designed to determine the effectiveness of a vehicle inspection/maintenance (I/M) program and other measures in cold climates. Completing both studies at the same time will ensure that an I/M program and other mobile emission control measures are designed to achieve emission reductions based on a design value that is verified as representative of the nonattainment area.

Therefore, EPA, in agreement with the State, will process this SIP revision using the design value of 15.4 ppm CO. The State has committed to a schedule that includes completion of the joint EPA/Anchorage CO design value verification study in the spring of 1983 and submittal, by July 1, 1983, of any SIP revisions needed to provide attainment at all locations within the nonattainment area.

Based on this design concentration a 22.5 percent reduction is needed to achieve the 9 ppm standard. The reduction needed for attainment was determined using the rollback model. The analysis is fully described in the SIP. Using mobile source measures described in the following section, the

required emission reduction is expected to be achieved by the end of 1987.

In response to EPA's conditions on the approval on the 1979 SIP (December 30, 1980 (45 FR 85744)) MOA has included in the 1982 SIP revision (1) an expanded 1980 CO emission inventory to include emissions from off street parking and (2) verification that population projections for air and water planning activities are consistent. The third condition dealing with the new source alternatives analysis required by Section 172(b)(11)(A) of the Act is not statisfied (See B 1.).

B. Control Measures

1. *Stationary Sources.* The 1980 emission inventory indicates that there are no CO sources in Anchorage which emit more than 1,000 tons per year. Therefor, the control measures are confined to mobile sources. Also, the State's new source review program requires locally adopted growth allowances to accommodate new source growth in a nonattainment area. Because Anchorage has not adopted a CO emission growth allowance as part of their SIP, new major (100 tons per year) CO sources cannot locate in the nonattainment area. Since this prohibits new major CO sources, it also negates the need for the new source alternative analysis procedure at this time. Should a CO emissions growth allowance be adopted by Anchorage in the future, it must be submitted to EPA and approved as part of the SIP. EPA's approval of the growth allowance will be contingent upon submittal at the same time of an acceptable new source alternatives analysis procedure that statisfies Section 172(b)(11)(A) of the Act.

2. *Mobil Sources.* Measures for controlling CO emissions from mobile sources include the Federal Motor Vehicle Emission Control Program (FMVECP), regional TCMs and vehicle inspection maintenance (I/M). The regional TCMs that have been committed to include transit and traffic improvements and a carpool/variable work hour program. The SIP describes each TMC in detail including funding commitments from implementing agencies and projected emission reductions.

The remaining strategy element is vehicle I/M. The Anchorage Borough, which contains the City of Anchorage, has a population of about 175,000. It has been EPA's policy, as first stated in July 17, 2978 policy memorandum, that areas with populations under 200,000 are not required to have I/M programs as a condition of extending the attainment date and subsequently for obtaining SIP approval.

The I/M program has been approved by local officials as necessary, contingent upon the results of the METFac study being carried out in Fairbanks under the joint sponsorship of ADEC and EPA. If the study results indicate that I/M can achieve reasonable CO emission reductions in cold climates, I/M will be implemented according to the schedule in Section III.A.4.f. of the SIP.

The enabling legal authority for an I/M program in Anchorage is located in Section 46.03.190 of the Alaska Statutes. Sections 46.03.210 and 220 of the Alaska statutes describe the local agency role in such programs. This enabling authority was approved by EPA on May 31, 1972 and currently meets the EPA requirements for enabling authority published January 22, 1981 (46 FR 7182).

3. *EPA Proposed Action.* EPA proposes to approve the technical analysis and the control measures for mobile sources of CO, based on a commitment by the State to meet the following schedule:

(1) By July 1, 1983 the CO monitor site review must be completed and the results applied to correcting the design value and revising the control strategy if necessary to ensure all areas attain the CO standard by the statutory deadline.

(2) By July 1, 1983 commitment must be made to implement an I/M program if the results of the METFac study indicate that I/M is required to attain the CO standard prior to December 31, 1987. If I/M is required it will be implemented according to the schedule in Section III.A.4.f of the SIP and will be reviewed for conformance with EPA policy requirements for I/M programs. EPA will not finally approve the SIP until after the decision concerning I/M is formally made and resource commitments are obtained. In addition, EPA proposes to remove the conditions of approval (45 FR 85744) relating to emission inventory omissions and population projection inconsistency. The condition relating to new source alternatives analysis remains in effect.

C. Other Major Elements

1. *Reasonable Further Progress.* Reasonable further progress (RFP) toward attainment of the CO standard will be assessed in terms of the expected emission reductions described for the nonattainment area and the actual implementation of control measures. The plan includes a TCM monitoring procedure whereby the Municipality of Anchorage will analyze the effectiveness of each measure and report the results annually. In addition the emission reductions will be compared to the projected RFP for the design site and the monitoring network will be used to assess the RFP toward attainment and maintenance of the standard. If it is determined that RFP is not being maintained, the contingency plan contained in the SIP revision will be implemented to account for the shortfall.

2. *Basic Transportation Needs.* The SIP revision addresses "basic transportation needs" in relation to the selection of reasonably available control measures and their effect on public mobility. The control measures selected emphasized the local commitment to reduce CO emissions and improve public transportation facilities and general mobility.

3. *Conformity.* Conformity will be determined in accordance with the procedures set forth in the SIP. After determining conformity of the plans and programs, all federal aid projects will still be evaluated in accordance with procedures specified in the National Environmental Policy Act. If the analysis indicates that the project will create new violations or exacerbate existing violations, then the project will not be constructed without modifications to the project or plan sufficient to maintain reasonable further progress toward attainment.

4. *Public and Elected Official Participation.* Participation in the SIP revision development process involved representation from Federal, State and local government officials, citizens groups and industry groups. Three different technical and policy advisory committees were formed to develop the plan. Of these, the Air Quality Policy Committee had overall responsibility for the development, adoption, and submission of an air quality plan. After a public hearing, the completed Anchorage SIP revision was adopted on June 29, 1982 and forwarded to ADEC for inclusion in the Alaska SIP.

5. *Proposed EPA Action.* EPA proposes to approve the elements of the SIP dealing with "reasonable further progress," "basic transportation needs," "conformity " and "public and elected official participation."

Interested parties are invited to comment on all aspects of this proposed approval of the Alaska SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by (30 days after publication) will be considered in any final action EPA takes on this proposal.

Under 5 U.S.C. Section 605(b) the Administrator has certified that SIP approvals do not have a significant

impact on a substantial number of small entities (46 FR 8709 (January 27, 1981)).

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the addresses above.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Section 110, 172, Clean Air Act (42 U.S.C. 7410(b) and 7502))

Dated: October 19, 1982

John R. Spencer,

Regional Administrator.

[FR. DOC 83-2532 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-2-FRL 2261-2]

Approval and Promulgation of State Implementation Plans; Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This document proposes approval of a revision to the New York State Implementation Plan (SIP). The revision includes State requirements for control of emissions of volatile organic compounds from several categories of stationary air pollution sources. Upon final approval by EPA, the State requirements will become a federally enforceable part of the SIP, as required by the Clean Air Act. Implementation of the State requirements will achieve National Ambient Air Quality Standards for ozone in New York.

DATE: Comments must be received by March 21, 1983.

ADDRESSES: All comments should be addressed to: Jacqueline E. Schafer, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the State's submittal are available for inspection during normal business hours at:

U.S. Environmental Protection Agency, Region II Office, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act, as amended in 1977, requires states to revise their State Implementation Plans (SIPs) for areas that have not attained national ambient air quality standards. For areas which are designated "nonattainment" for ozone, the Environmental Protection Agency (EPA) requires in part that the SIP must include regulations calling for the application of reasonably available control technology (RACT) to sources of volatile organic compounds (VOCs) emissions for which EPA has published a Control Technique Guideline (CTG) by January 1978. The SIP must also include, on an annual basis, additional regulations for VOC sources covered by CTGs published by January of the preceding year. [See 44 FR 20372 (April 4, 1979) as supplemented at 44 FR 38583 (July 2, 1979); 44 FR 50371 (August 28, 1979); 44 FR 53761 (September 17, 1979); and 44 FR 67182 (November 23, 1979).] Adoption and submittal of additional RACT regulations for sources covered by CTGs published between January 1978 and January 1979 (Group II CTGs) were due to be submitted to EPA by January 1, 1981 (45 FR 78121, November 25, 1980).

EPA published each of the CTGs in order to assist the states in determining the degree of control representative of RACT for the particular VOC source category covered. The CTGs provide information on available air pollution control techniques and provide recommendations on what EPA calls the "presumptive norm" for RACT. On several previous occasions, EPA evalulated and conditionally approved the New York SIP with regard to its provisions for ozone nonattainment areas (see 45 FR 74472, November 10, 1980; 45 FR 33981, May 21, 1980; and 45 FR 7803, February 5, 1980). With the exception of requirements for the control of cutback asphalt, the SIP included legally enforceable regulations that reflected the application of RACT to the VOC sources for which EPA had published a CTG by January 1978 (Set I CTGs). EPA also noted that its approval was dependent on the State's commitment to adopt additional VOC control measures for sources covered by future CTGs.

Today's action deals with regulatory revisions submitted by New York State to correct the cutback asphalt deficiency and to address certain Set II CTGs. (Note: The adequacy of the State's program to control all Set II CTG sources and to provide for attainment of the ozone standard is addressed in a separate notice of proposed rulemaking also published in today's issue of the Federal Register. The overall approvability of the New York ozone SIP for the New York City metropolitan area is treated in this other proposal and is not discussed in this notice).

State Submission

On July 2, 1981, the State of New York submitted to EPA adopted additions to and revisions of Title 6 of the New York Code of Rules and Regulations (6 NYCRR) affecting the following Parts of the New York Code:

- Part 200, "General Provisions,"
- Part 201, "Permits and Certificates," which addresses requirements for State permits to construct and certificates to operate,
- Part 211, "General Prohibitions," which addresses cutback asphalt,
- Part 233, "Petroleum Refineries," which addresses petroleum refinery fugitive emissions (leaks),
- Part 228, "Surface Coating Processes," which addresses factory surface coating of flatwood paneling and surface coating of miscellaneous metal parts and products,
- Part 232, "Dry Cleaning," which addresses perchloroethylene dry cleaning,
- Part 233, "Pharmaceutical Manufacturing Processes," which addresses the manufacture of synthesized pharmaceutical products, and
- Part 234, "Graphic Arts," which addresses graphic arts, rotogravure and flexography printing.

The State also submitted a Consent Order dated August 19, 1981 for the only rubber tire manufacturing source subject to RACT requirements. This order was revised on January 29, 1982 and March 3, 1982.

Subsequently, on August 19, 1982 the State submitted proposed revisions to Parts 200, 211, 212, 223, 228, 232, and 234. Public hearings on the proposed revisions were held during the period from August 31, 1982 through September 9, 1982.

The following is a brief summary of EPA's review and findings. Further details are available in a Technical Support Document, available at the

locations identified in the "Addresses" section of this notice.

These regulations have statewide applicability to all nonattainment areas for sources with potential emissions exceeding 100 tons per year. However, for the New York City metropolitan area (New York City and Nassau, Suffolk, Rockland and Westchester Counties), where attainment of the ozone standard by December 31, 1982 has not been demonstrated, the regulations also apply to smaller sources. This approach is consistent with EPA policy and guidance.

Adequacy

• Part 200—General Provisions

This regulation has been revised by modifying and adding definitions of terms used in other regulations and by including other minor changes. The definition of VOC has been modified by identifying those organic compounds that are being excluded from control because of their negligible photochemical reactivity. These revisions improve the clarity of the regulation and are consistent with EPA policy. EPA, therefore, proposes to approve this revision.

• Part 201—Permits and Certificates

This regulation has been revised by extending from three years to five, the period for which certificates to operate remain valid. Although there are no specific Clean Air Act requirements concerning certificates to operate, EPA believes that SIPs should be consistent with current State regulations. Consequently, EPA is proposing to approve this revision.

• Part 211—General Prohibitions

The one remaining condition included in EPA's previous conditional approval of the 1979 SIP (40 CFR 52.1674(a)(1)) required that the State submit either an acceptable justification for retaining a 15 percent exemption for asphalt emulsions or an adopted revised regulation which corrects this deficiency. In response, the State has proposed a revision of Part 211 which exempts asphalt emulsions with a VOC content of less than 7 percent. The Commissioner of the New York State Department of Environmental Conservation (NYSDEC) may allow higher VOC content asphalt emulsions when it can be demonstrated that physical conditions exist requiring their use. EPA proposes to find this revision acceptable in fulfilling the condition. If the final version of the regulation is substantially the same as the proposed one, EPA will revoke its previously promulgated condition on approval.

• Part 212—Process and Exhaust and/or Ventilation System

This general process control regulation is being revised to exempt those source categories which are subject to other, more specific, requirements found in other Parts of 6 NYCRR, unless the compound(s) emitted are "A-rated" (i.e., would cause serious adverse air pollution effects). Other minor administrative revisions are also proposed. This revision is consistent with EPA policy; therefore, EPA proposes to approve it.

• Part 223—Petroleum Refineries

This regulation has been revised by adding Section 223.10, "Component Leakage." This addition is intended to reduce the emissions of VOCs from leaking petroleum refinery equipment. It requires the development and operation of a monitoring program to check equipment, pipes, valves, etc. for leaks, and repair any identified leaking components. It also includes certain recordkeeping and reporting requirements.

The regulation, as currently adopted, limits coverage to refinery operations involving "light petroleum products," the definition for which is less inclusive than that recommended in the CTG. By limiting its coverage, the regulation constrains its ability to reduce VOC emissions from the facility, but does not significanlty reduce the cost for its implementation since the facility still must have a monitoring program. However, the State has proposed a change in the definition to make it inclusive of more VOCs.

The State has also made other minor changes which serve to improve the clarity and intent of the regulation. Except for the current definition, this regulation is substantively equivalent to what the CTG recommends. With the understanding that the State will make its proposed change in the definition, EPA proposes to approve this revision.

• Part 228—Surface Coating Processes

This regulation has been revised to add emission limits for the source categories concerned with the surface coating of miscellaneous metal parts and products, and the surface coating of flatwood paneling. These emission limits are the same as those recommended by the applicable CTG's. In addition, the revised regulation has exemptions which have been more narrowly defined.

Finally, the State has proposed changes to the compliance schedule provisions of the regulation. The regulation in the presently approved SIP calls for compliance by May 10, 1981. The proposed revision to the regulation requires that each affected facility submit a compliance schedule immediately after adoption of the regulation by the State which shows final compliance within six months (i.e., 1983). Additionally, the proposed regulation provides for administrative flexibility for further extending the final compliance date to May 10, 1984, or later under certain circumstances. These circumstances involve technological or economic considerations, or changes in Federal compliance schedule guidelines. However, EPA will not honor any compliance date that goes beyond six months of adoption by the State unless it is first submitted as a SIP revision and receives prior approval from EPA. Approval will be based on the effects of the proposed compliance schedule on air quality and on the ability of a facility to comply with the regulation within six months.

EPA proposes to approve this revision.

• New Part 232—Dry Cleaning

This new regulation has been adopted to limit the emissions of perchloroethylene from existing dry cleaning facilities with annual losses of perchloroethylene exceeding 100 tons. In addition, it will apply to existing facilities with annual losses of less than 100 tons in the New York City metropolitan area and to all new facilities, regardless of size, constructed anywhere in the State after its effective date. The regulation provides operating requirements related to diatomaceous earth filters, wet waste from stills, filtration cartridges and leaking components. For new facilities a carbon adsorption system or equivalent control equipment would also be required. Emissions from existing facilities have to be vented through a properly functioning condenser and/or carbon adsorption system, or equivalent control equipment. However, this particular requirement for existing facilities does not conform to the recommendations of the CTG on the "presumptive norm" for RACT. Included as one of the requirements in the definition of RACT is that the dryer must be vented through a condenser *and* carbon adsorption system, or equivalent control equipment.

The State maintains that this regulation results in emission reductions within 5 percent of those that would be obtained by applying the recommended controls in the CTG. The State has submitted a demonstration to show that this regulation meets this 5 percent criteria. However, EPA has not found this demonstration acceptable because of the limited number of facilities

surveyed, the use of poor survey techniques and the use of unsubstantiated data in calculations.

Additional technical studies are underway regarding regulation of perchloroethylene for dry cleaning. No action is being taken pending the completion of these studies.

• Part 233—Pharmaceutical Manufacturing Processes

This new regulation has been adopted to limit the emissions of VOCs from synthesized pharmaceutical manufacturing facilities. It limits the emissions from reactors, extractors, distillation operations, crystallizers, certrifuges, and vacuum dryers by specifying operating conditions for condensers. It limits fugitive VOC emissions from air dryers and exhaust systems. It controls emissions from storage tanks, transfer operations, centrifuges and filters, and requires other operational and maintenance procedures to minimize emissions. The regulation provides control substantively equivalent to that which the CTG recommends. Therefore, EPA proposes to approve this regulation.

• Part 234—Graphic Arts

This new regulation has been adopted to limit the emissions of VOCs from existing packaging rotogravure, publication rotogravure and flexographic printing processes with potential emissions greater than 100 tons per year and which are located in ozone nonattainment areas. It is also applicable to all new facilities, regardless of size. It limits emissions either by requiring the use of complying inks or the installation of a capture system and air cleaning device which must meet a specified efficiency. The regulation provides control substantively equivalent to that which the CTG recommends. Therefore, EPA proposes to approve this regulation.

• Consent Order—Rubber Tire Manufacturing

The State chose to regulate its only rubber tire manufacturing source, Dunlop Tire and Rubber Corporation located in Buffalo, New York, through the use of an individually determined control program, based on Part 212 requirements. This control program was formalized in the Consent Order originally dated August 19, 1981 and subsequently modified on January 29, 1982 and March 3, 1982. Based on the information submitted, EPA has made a determination that this control program represents RACT. EPA proposes to approve this Consent Order as fulfilling the requirement to control the emissions from the rubber tire manufacturing source category.

Proposed Action: EPA's review of the material submitted indicates that these proposed revisions to the New York SIP will be approvable provided that the State submits final versions of its regulations which are substantially the same as the versions proposed. In the interest of expediting federal review, EPA is proposing approval of this SIP revision now, before submission to EPA of the final regulations by the State. EPA refers to this procedure as "parallel processing." If the regulations submitted by the State are substantively changed, EPA will evaluate those changes and publish a revised notice of proposed rulemaking. Alternatively, if no substantive changes occur as a result of the State's public review process, EPA will take final reulemaking action on today's proposal after it is adopted by the State.

EPA is soliciting comments on the State's submission and on the proposed approval of these regulations as a revision to the New York SIP. The Administrator's decision to approve or disapprove this submission will be based upon the comments received and on whether the SIP revision meets the requirements of Section 110 and Part D of the Clean Air Act and 40 CFR Part 51.

Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709; January 27, 1981). The attached rule, if promulgated, consititutes a SIP approval under Section 110 and 172 within the terms of the January 27 certification.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Sections 110, 172, and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7472, and 7601))

Dated: November 30, 1982.

Jacqueline E. Schafer,

Regional Administrator Environmental Protection Agency.

[FR Doc. 83-2450 Filed 2-3-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-2-FRL 2262-3]

Approval and Promulgation of Implementation Plans; New York; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This document proposes to disapprove a State implementation Plan revision request from the State of New York because it does not meet Clean Air Act requirements. The State's submittal was prepared in response to nonattainment area planning requirements under Part D of the Clean Air Act. The measures in the State submittal were developed to attain the National Ambient Air Quality Standards for ozone and carbon monoxide (CO) in the City of New York and in Nassau, Suffolk, Westchester and Rockland Counties. Disapproval of the New York submittal would continue the moritorium on the construction of certain major air pollution sources and may result in restrictions on Federal funding.

DATE: EPA must receive your comments on or before March 21, 1983.

ADDRESSES: All comments should be addressed to: Jacqueline E. Schafer, Regional Administrator, Environmental Protection Agency, Region II Office, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278.

Copies of the proposed revision are available for public inspection during normal business hours at:

Environmental Protection Agency, Region II, Air Programs Branch, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 1005, New York, New York 10278

New York State, Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233

New York State, Department of Environmental Conservation, Region 1, State University of New York, Building 40, Stony Brook, New York 11790

New York State, Department of Environmental Conservation, Region 2, Two World Trade Center, New York, New York 10047

New York State, Department of Environmental Conservation, Region 3, 202 Mamaroneck Avenue, White Plains, New York 10601

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs

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Branch, Environmental Protection Agency, Region II, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 1005, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Clean Air Act Requirements

The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. Under this Part, each state had to revise its State Implementation Plan (SIP) for all areas within the state which were not attaining a National Ambient Air Quality Standard. These revisions were to be submitted to the Environmental Protection Agency (EPA) by January 1, 1979 and had to provide for attainment of the contravened standard by December 31, 1982. However, if a state could demonstrate that it was unable to attain either the ozone or CO standard by December 31, 1982 despite the implementation of "reasonably available measures," an extension up to December 31, 1987 could be granted by EPA. States receiving such an extension were to submit by July 1, 1982 a second SIP revision providing for attainment by the approved attainment date and complying with all of the Part D requirements.

On January 22, 1981 (46 FR 7182), EPA published criteria for reviewing these revisions. These supplemented a "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372). EPA also published four additional notices supplementing the General Preamble: July 2, 1979 (44 FR 38583); August 28, 1979 (44 FR 50371); September 17, 1979 (44 FR 53761); and November 23, 1979 (44 FR 67182).

B. New York State Implementation Plan

In May 1979 the State of New York submitted a SIP revision for its ozone and CO nonattainment areas in the New York City metropolitan area (the City of New York, and Nassau, Suffolk, Westchester and Rockland Counties). In this submittal the State requested and EPA approved an extension to the attainment date for ozone and CO standards until December 31, 1987. EPA conditionally approved the initial SIP revision on May 21, 1980 (45 FR 33981). In addition, the State subsequently satisfied several of the conditions on EPA approval (July 1, 1980 (45 FR 44273); January 27, 1981 (46 FR 8477); and May 28, 1981 (46 FR 28155)]. However, two conditions on EPA's approval of the 1979 SIP remain outstanding (40 CFR 52.1674 (a)(1) and (f)(2)). These relate to the control of cutback asphalt and to the development of an emissions inventory for volatile organic compounds (VOCs). Both these conditions are addressed in the State's current submittal.

On July 1, 1982 the Commissioner of the New York State Department of Environmental Conservation (NYSDEC) transmitted a 1982 SIP revision request to EPA. Supplementary information was also submitted by the Director of the Division of Air, NYSDEC in an August 3, 1982 letter. Public hearings on the State's submittal were held on June 2, 3, and 8, 1982.

C. General Findings

EPA finds that the SIP does not provide for attainment of the ozone or CO standards by December 31, 1987. Consequently, it also does not provide for reasonable further progress towards attainment. The SIP also does not include commitments to implement all reasonably available control measures nor does it contain all needed schedules for the evaluation and adoption of such measures. Thus, EPA proposes to disapprove both the ozone and CO portions of the SIP.

However, EPA has found that its earlier condition relating to the development of a VOC emissions inventory [40 CFR 52.1674(f)(2)] has been met by the State's submittal. Therefore, today's notice also proposes to revoke this condition. The remaining condition, relating to the control of cutback asphalt, is treated in a separate proposal also published in today's issue of the **Federal Register**.

The following review of the SIP, including the supplementary information, is divided into three main discussions:

- The ozone attainment program.
- The CO attainment program.
- Additional requirements, including basic transportation needs, conformity of federal actions, and consultation with state and local officials.

This review is based on the provisions of Part D of the Clean Air Act, the January 22, 1981 criteria, and other EPA policy guidance. A more detailed review of the SIP and a justification of EPA's proposed rulemaking action is available in a Technical Support Document available at the locations identified in the "**ADDRESSES**" section of today's notice.

II. Ozone

A. Background and Summary

Under Section 107(d) of the Clean Air Act the entire New York City metropolitan area has been designated as not attaining the National Ambient Air Quality Standard for ozone. Based on an air quality modeling analysis, it was determined that a 60 percent reduction in 1980 emissions of VOCs will be needed to attain the ozone standard. The SIP's program for new VOC control measures combined with existing measures will provide for a 41 percent reduction in VOC emissions, less than the 60 percent reduction needed for attainment by 1987.

B. Emission Inventories

The SIP must contain emission inventories for VOCs and nitrogen oxides (NO_x) of sufficient quality to support at least a Level III City-Specific Empirical Kinetic Modeling Approach (EKMA). In addition, as a condition on its approval of the 1979 SIP (45 FR 33993; May 21, 1980) EPA required the State to submit by January 1, 1981 an adequate VOC emissions inventory for the New York City metropolitan area.

The SIP presents inventories for VOC and NO_x emissions in the New York City metropolitan area. Total VOC emissions for the years 1980, 1987 and other selected years through 2000 are provided. For 1987, two inventories are presented; the first is based on the implementation of control measures in existence prior to the current SIP revision and the second is based on implementation of measures contained in this current SIP revision. Emissions are presented for each major source category. Since the SIP does not contain any new NO_x control measures, only one NO_x inventory is presented for the years 1980 and 1987.

The inventories are accurate, comprehensive, and consistent with EPA guidance and policy requirements. EPA finds the emission inventories to be adequate and approvable. Therefore, EPA is proposing to revoke this condition on approval of the 1979 SIP as found at 40 CFR 52.1674(f)(2).

C. Modeling and Monitoring

The SIP must contain an ozone modeling analysis using an EPA approved model for purposes of determining the reduction in VOC emissions needed to attain the ozone standard. To insure consistency among the states having to demonstrate attainment by 1987, EPA encouraged each state to use City-Specific EKMA.

The New York SIP provides an analysis of the ozone problem in the entire three-state region of the New York City metropolitan area, the New Jersey-New York-Connecticut Air Quality Control Region. The State applied the City-Specific EKMA model

using air quality data collected in 1980 at Bridgeport, Connecticut (which had the highest observed ozone concentration in the region). This yielded a prediction that a 60 percent reduction in 1980 VOC emissions is required for all of the New Jersey-New York-Connecticut Air Quality Control Region to attain the ozone standard by 1987.

However, in its SIP the State chose to reject this result because it claims that the Bridgeport monitoring site is not representative of human exposure. Instead, the State used an unspecified "highest remaining" Connecticut monitoring site. Using this site, the SIP notes that only a 58 percent VOC emission reduction is necessary for attainment of the ozone standard. In addition, the State views the use of the EKMA model as a "preliminary step for determining the relationship between emissions of VOC and ozone air quality." The State will not commit to further measures until a photochemical model is developed which it finds to be acceptable.

EPA finds the modeling analysis and the predicted reduction of 60 percent to be accurate and consistent with EPA guidelines and policy. Also, based on comparisons with observed ozone data, EPA believes that the EKMA model is a reliable predictor of ozone concentrations. In addition, EPA believes tha Bridgeport monitoring site is properly located for determining the needed emission reduction. The monitoring site, located along the harbor of Bridgeport, is indicative of the concentrations affecting the adjacent urbanized area of Bridgeport. In addition, the monitoring site meets all EPA siting criteria for an ozone monitor.

The State has provided no technical basis for eliminating the monitoring data from the Bridgeport site. Therefore, the State's rejection of the Bridgeport monitoring site is not acceptable and the modeling analysis, including the determination of 58 percent as being the needed emission reduction, is unapprovable.

D. Stationary Source Controls

The State must adopt reasonably available control technology (RACT) for:

- All sources of VOCs covered by an EPA Control Technique Guideline (CTG) document, and
- All remaining "major" stationary sources of VOCs with the potential to emit more than 100 tons per year.

In addition, because controls on these source categories are not adequate for the attainment of the ozone standard, the State must consider additional control measures so as to provide for attainment.

EPA requires that the SIP either include legally enforceable regulations for source categories for which the "presumptive norm" has been determined y a CTG, or documentation of the State's determination that its required level of control represents RACT for each of the CTG source categories.

1. Set I CTG. Provisions for the control of Set I CTG source categories were previously provided in the 1979 SIP and subsequent submittals. The State also submitted a proposed revision to Part 211, "General Prohibition," of Title 6 of the New York Code of Rules and Regulations (6 NYCRR) which lowers the allowable VOC content of asphalt emulsions to less than 7 percent. With the exception of Part 211, was which conditionally approved, all other State regulations conform to the recommendations of the Set I CTG's and were approved by EPA on May 21, 1980 and July 1, 1980 (45 FR 33981, and 45 FR 44273, respectively).

The proposed revision to Part 211 conforms to the applicable CTG recommendations and EPA guidance and therefore is adequate and approvable provided that the adopted regulation is substantially the same as the proposed revision. This regulatory revision is discussed in greater detail in a separate proposal appearing in today's issue of the **Federal Register**.

2. CTG Set II. On July 2, 1982 the State submitted regulations which it has adopted for certain Set II CTG source categories. Also, proposed revisions to these regulations were submitted on August 19, 1982. The following regulations control, on a statewide basis, all the Set II CTG source categories except for "Leaks from Gasoline Tank Trucks and Vapor Collection System," and "Petroleum Liquid Storage in External Floating Roof Tanks." The regulations included:

- Part 223, "Petroleum Refineries," which addresses petroleum refinery fugitive emissions (leaks),
- Part 228, "Surface Coating Processes," which addresses factory surface coating of flatwood paneling and surface coating of miscellaneous metal parts and products,
- Part 232, "Dry Cleaning," which addresses perchloroethylene dry cleaning,
- Part 233, "Pharmaceutical Manufacturing Processes," which addresses the manufacture of synthesized pharmaceutical products, and
- Part 234, "Graphic Arts," which addresses graphic arts, rotogravure and flexography printing.

The State also submitted a Consent Order requiring RACT to be used at the only rubber tire manufacturing source within the State.

In a separate notice appearing in today's issue of the **Federal Register** EPA proposes to find four of these five regulations of the New York Code, which control a majority of the CTG Set II source categories, to be approvable as a part of the SIP. With the exception of Part 232, "Dry Cleaning," these regulations, as proposed for modification by the State, provide for RACT on the affected source categories.

For the purpose of meeting the RACT requirements of the Clean Air Act, the proposed and adopted regulations submitted on July 2 and August 19, 1982 and the submitted Consent Order are adequate in controlling six of the nine CTG Set II source categories. Part 232, "Dry Cleaning" is not fully acceptable for the perchloroethylene dry cleaning source category. Additional technical studies are underway regarding regulation of perchloroethylene for dry cleaning. No action is being taken pending the completion of these studies. Also, the SIP does not contain adopted regulations or a commitment, with a schedule, to adopt the two missing CTG Set II source categories ("Leaks from Gasoline Tank Trucks and Vapor Collection System," and "Petroleum Liquid Storage in External Floating Roof Tanks"). Consequently, EPA finds the State's program for control of Set II CTG sources, with the exception of the four regulations being proposed for approval in a separate rulemaking action, to be incomplete and, therefore, unapprovable.

3. CTG Set III. The SIP contains a commitment to adopt regulations for any source category for which EPA identifies RACT through the future issuance of a CTG. This is a sufficient commitment to satisfy the requirements of EPA policy.

4. Major Sources. The SIP includes a discussion of the State's control program for major sources. Major sources are controlled by regulations specific to the source, by the generic regulation Part 212, "Process and Exhaust and/or Ventilation System," or by future regulations to be developed for CTG Set III source categories.

The control program for major sources is adequate to meet the requirements of EPA policy and guidance provided that any variance issued by the State from a regulation's normal control requirements and/or variance from a "B" rating under Part 212 requiring 90 percent or greater

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control must first be submitted and approved by EPA as a SIP revision. EPA finds the State's control program for major sources to be approvable.

5. Additional Controls. The SIP contains a commitment to change from "D" to "B" the environmental rating of those VOC sources emitting over ten pounds per hour which are subject to Part 212. While EPA agrees that this change would result in additional VOC emission reductions beyond those currently obtainable, a shedule for implementing this rerating strategy is not contained in the SIP.

The SIP contains a commitment to adopt State II vapor controls at gasoline stations after such time as EPA publishes a CTG for this source category. This will also result in additional emission reductions. However, again the SIP does not contain an implementation schedule for this measure.

Other additional control measures are discussed in the SIP, but reductions are claimed to occr after 1987 and to be dependent on technological advances and breakthroughs rather than on State action. Consequently, the reductions will not benefit the State's control program to provide for attainment by 1987. Further, such a reliance on VOC control measures, which have not been committed to by those responsible for their implementation, cannot be found approvable as a part of the SIP.

In general the SIP fails to commit to adequate additional stationary source control measures. Those that are contained in the SIP are inadequate because of their lack of implementation schedules. Therefore, the State's program of additional controls has been found to be unapprovable.

E. Mobile Source Controls

1. Light Duty Vehicle Inspection and Maintenance (I/M). The SIP must include regulations for implementing an I/M program that provides the minimum requirements for emission reduction, and commitments to other needed I/M program elements.

EPA evaluated and acted on the State's current I/M program in its May 21, 1980 **Federal Register** notice (45 FR 33961) concerning the 1979 New York SIP. The State's light duty vehicle I/M program began operation with mandatory inspection, and voluntary maintenance in January 1981; mandatory maintenance began in January 1982. The I/M program calls for a 10 percent stringency factor, (i.e., 10 percent of the vehicles taking the test in the first year would not be expected to pass their initial inspection).

In its 1982 SIP the State has committed to increase the stringency factor of its program to 20 percent beginning in January 1984. Such a program achieves the minimum emission reduction that is required and is approvable.

2. Taxicab I/M. An I/M program for medallion taxicabs was previously established and included in the SIP (40 CFR 50.1670(c)(46)(i)), and will be continued.

The program began in 1977 and is conducted jointly by the New York City Taxi and Limousine Commission and the New York City Department of Environmental Protection. Inspections are performed three times a year. The program currently uses a garage inspection station system with field monitoring. By early 1983, the inspection station system will be centralized at facilities operated by the City of New York.

EPA finds the State's I/M program for medallion taxicabs to be adequate and approvable.

3. Heavy Duty Vehicles. The SIP currently contains a program for the control of heavy duty vehicles (40 CFR 52.1670(c)(46)(i)).

Based upon a study it conducted, the State has found that the retrofit of heavy duty tracks with catalytic converters and the mandatory maintenance of these vehicles is not reasonably available. However, the study did find that the establishment of an I/M program for heavy duty trucks and tax incentives to promote the purchase of newer, less polluting vehicles is promising. If, after further study, heavy duty truck I/M and/or tax incentives are found to be reasonably avilable, the State will commit to their implementation.

A preliminary determination of the reasonableness of a heavy duty I/M was to be completed by October 1982. A final analysis of feasibility will be completed by February 1983. If found feasible, a heavy duty I/M program would begin in January 1984. The State is committed to work with other public agencies to study the feasibility of tax incentives and will adopt them to the extent possible.

EPA finds the State's program for the further development of heavy duty truck measures to be adequate and approvable.

F. Transportation Control Measures

The SIP must contain all reasonably available transportation control measures and packages of measures. Categories of such measures are identified in Section 108(f) of the Clean Air Act. The State's analysis of transportation control measures is described in the SIP.

County and city governments have found some transportation measures to be reasonably available, and have committed to their implementation. The SIP, however, does not provide commitments to adopt any transportation control measures for the reduction of VOC emissions. The State bases this decision on its assertion that transportation control measures have a limited ability to reduce VOC emissions.

EPA agrees that the implementation of transportation control measures will not contribute significantly to the VOC emission reductions necessary for attainment. However, the State is required to adopt all measures that are reasonably available and to consider adopting additional controls, since the minimum control measures required for inclusion in the SIP are not sufficient to attain the ozone standard. Since transportation control measures developed by city and county governments were found by them to be reasonably available and could be used to produce some additional emission reductions, the State should have included at least these in its ozone control program.

EPA finds the State's absence of a commitment to transportation control measures to be inadequate and unapprovable.

G. Reasonable Further Progress

The State's efforts to demonstrate reasonable further progress towards attainment of the ozone standard are described in the SIP. Since the ozone standard will not be met by 1987, the States does not present an adequate demonstration of reasonable further progress. This is due to the inability of the State's control program to achieve the needed VOC emission reductions for each year between 1980 and 1987. EPA finds the State's demonstration of reasonable further progress to be inadequate and unapprovable.

H. Attainment Demonstration

The SIP must demonstrate that the ozone standard will be attained no later than 1987 through the adoption and implementation of the committed control measures. The State's control program does not demonstrate attainment of the ozone standard by 1987; rather it commits to attain the standard by 2000. Therefore, the State's demonstration of attainment for ozone is inadequate and unapprovable.

III. Carbon Monoxide

A. Background

The areas that have been designated under Section107(d) of the Clean Air Act as nonattainment for CO are:

- The City of New York except for the northwestern part of Staten Island,
- The part of Nassau County east of the New York City border, south of the Long Island Expressway, west of the Oyster Bay Expressway and north of the Southern State Parkway, and
- The Cities of Yonkers and Mount Vernon.

Since 1980 the State has been conducting a monitoring and modeling study to identify CO hot spots in the New York City metropolitan area. However, the study has yet to be completed. Therefore, the SIP identifies only two known hot spots. Any determination of additional hot spots and of the emission reductions necessary for attainment must await the completion of the study. Although the I/M program contained in the SIP provides for improvement of the hot spot problems, the SIP contains no additional control measures, no demonstration of attainment, nor a commitment to attain the standard. Therefore, as it now stands, the New York SIP for attainment of the CO standard in the New York City metropolitan area is unapprovable.

IV. Other Requirements

A. Basic Transportation Needs (BTNs)

As required by Sections 110(a)(3)(D) and 110(c)(5)(B) of the Clean Air Act, the SIP must include comprehensive public transportation measures to meet BTNs. This should be accompanied by a demonstration that the measures provide for emission reductions equivalent to the reductions which were expected to be achieved from an earlier strategy to toll the East and Harlem River crossings.

The SIP includes a discussion of BTNs. The State has determined that BTNs, as defined by the State, are met in the New York City metropolitan area. The State defines BTNs as being the level of transit and paratransit service needed to sustain the public's mobility when the SIP imposes measures that restrict automobile use. Since the SIP does not contain any measures which are expected to restrict mobility, according to the State's definition BTNs are being met and the SIP does not need to include a BTNs program. Though the SIP does not commit to a BTNs program, major ongoing efforts to rehabilitate and improve the public transit system are described.

Using the State's definition, BTNs are met, and no program of public transportation measures is needed. However, since transportation control measures might be needed to attain the ozone and CO standards, this conclusion will neet to be reconsidered by the State at such time as additional transportation control measures are identified, evaluated and adopted.

Even accepting the State's definition of BTNs, the SIP does not provide and analysis and demonstration that its public transportation measures provided for emission reductions equivalent to the reductions which were expected to be achieved from tolling the East and Harlem River crossing. Therefore, EPA finds the demonstration of meeting BTNs to be not fully adequate and thus unapprovable.

B. Conformity of Federal Actions

In preparing the SIP, State and local governments must identify, to the extent possible, the direct and indirect emissions associated with major Federal actions, including the award of grants for wastewater treatment facilities. For transportation actions the SIP must contain administrative and technical procedures and agency responsibilities for ensuring the conformity with the SIP of transportation plans, programs, and projects.

The SIP includes a discussion of the procedures whereby transportation plans, programs, and projects are reviewed for their conformity with the SIP and for their effect on air quality. However, due to the demise of the Tri-State Regional Planning Commission, which was the Metropolitan Planning Organization for the New York City metropolitan area, it is not clear if previously adopted conformity procedures will be continued. This issue should be clarified. However, this discussion was not included. The SIP should also discuss the procedures to assess the emission impacts of other major Federal actions.

EPA finds this element to be inadequate and unapprovable.

C. Consultation With State and Local Officials

The SIP must demonstrate that it was developed by a process which allowed for consultation with local governments, organizations of local officials, and Federal land managers.

A discussion of consultation and public participation activities is presented in the SIP. In addition the SIP describes commitments to future consultation and public participation activities.

EPA finds that the program of consultation and public participation described in the SIP was extensive enough to assure that local government and local officials participated in its development. Therefore, EPA finds that the State's consultation program is adequate and approvable.

V. Findings

Based on the above information, EPA is proposing to disapprove the proposed 1982 New York SIP for attainment of the ozone and CO standards in the New York City metropolitan area. However, EPA is also proposing to revoke one of its conditions for approving the 1979 SIP, promulgated at 40 CFR 52.1674(f)(2).

The Administrator's decision to approve or disapprove the SIP is based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

If the major deficiencies discussed (Sections II, III, and IV of this notice) are not remedied before EPA takes final action, EPA will be required to disapprove New York's revision to its SIP. Under Section 110(a)(2)(I), Section 172(a) and 40 CFR 52.24 (1981), disapproval would continue the existing moratorium on the construction and modification of major stationary sources of ozone in the nonattainment areas to which this SIP applies.

Disapproval may also result in restrictions on federal funding pursuant to Sections 176(a) and 316(b) of the Clean Air Act. Under Section 176(a), EPA and the U.S. Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation controls measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a SIP meeting the requirements of Section 172. Under Section 316(b), the Administrator has discretion to limit sewage treatment funding in similar circumstances.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing either of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692, April 10, 1980 (air quality planning and transportation grants) and 45 FR 53382, August 11, 1980 (sewage treatment grants).

Interested persons are invited to comment on any element of the subject revision and on whether or not the proposed New York SIP revision meets

Clean Air Act requirements. Comments received on or before March 18, 1983, will be considered in EPA's final decision. All comments received will be available for inspection at the Region II office of EPA at 26 Federal Plaza, Room 1005, New York, New York 10278.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public information at the locations listed in the "Addresses" section of this notice.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Section 110(a) and 301(a) of the Clean Air Act, as amended (42 USC 7410(a) and 7601(a)

Dated: November 30, 1982.

Jacqueline E. Schafer,

Regional Administrator.

[FR Doc. 83-2454 Filed 2-2-83; 8:45 am]

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40 CFR Part 52

[A-2-FRL 2262-4]

Approval and Promulgation of Implementation Plans; New Jersey; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This document proposes approval of a draft revision to the New Jersey State Implementation Plan (SIP) submitted by the New Jersey Department of Environmental Protection (NJDEP) on October 8, 1982. Specifically, the State's proposed SIP revision consists of regulations, schedules and programs to control the emission of volatile organic compounds through stationary source control measures, vehicle inspection amd maintenance and transportation control measures. The State has agreed to submit detailed schedules for certain extraordinary measures before EPA takes final approval action. The SIP also contains regulations, schedules and programs to control the emission of carbon monoxide through vehicle inspection and maintenance and transportation control measures. The SIP provides for attainment of both the ozone and carbon monoxide standards by December 31 1987.

Public hearings on this proposed revision to the New Jersey SIP were held by NJDEP on October 14, 19 and 20, 1982. Concurrent with the State's adoption process, EPA is proposing to approve the New Jersey SIP revision request contingent upon its final adoption by New Jersey in a substantially unchanged form. This concurent review, which EPA refers to as "parallel processing," is designed to expedite EPA action.

DATE: EPA must receive comments on or before March 21, 1983.

ADDRESSES: All comments should be addressed to: Jacqueline E. Schafer, Regional Administrator, Environmental Protection Agency, Region II Office, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278.

Copies of the proposed revision are available for public inspection during normal business hours at:

Environmental Protection Agency, Region II, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 1005, New York, New York 10278

New Jersey Department of Environmental Protection, Labor and Industry Building, John Fitch Plaza, Trenton, New Jersey 08625

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 1005, New York, New York 10278 (212) 264-2517.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements

The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. Under this Part, each state had to revise its State Implementation Plan (SIP) for all areas within the state which were not attaining a national ambient air quality standard. These revisions were to be submitted to the Environmental Protection Agency (EPA) by January 1, 1979 and had to provide for attainment of the contravened standard by December 31, 1982. However, if a state could demonstrate that it was unable to attain either the ozone or carbon monoxide (CO) standards by December 31, 1982 despite the implementation of "reasonable available measures" an extension up to December 31, 1987 could be granted by EPA. States receiving such an extension were to submit by July 1, 1982 another SIP revision providing for attainment by the approved attainment date and complying with all of the Part D requirements.

On January 22, 1981 (46 FR 7182), EPA published criteria for reviewing these revisions. These supplemented a "General Preamble" for SIP revisions for nonattainment areas, which was published on April 4, 1979 (44 FR 20372). EPA also published four additional notices supplementing its General Preamble: July 2, 1979 (44 FR 38583); August 28, 1979 (44 FR 50371); September 17, 1979 (44 FR 53761); and November 23, 1979 (44 FR 67182).

B. New Jersey State Implementation Plan

The State of New Jersey submitted an initial SIP revision for the State's ozone and CO nonattainment areas on December 29, 1978. In this document the State requested that EPA extend the date for the attainment of the ozone and CO standards until December 31, 1987. EPA approved this SIP revision on March 11, 1980 (45 FR 15531).

On October 8, 1982 the Commissioner of the New Jersey Department of Environmental Protection (NJDEP) submitted to EPA a draft of the State's 1982 SIP revision. Also, on November 23, 1982, the Director of the Division of Air and Noise Quality, NJDEP, submitted supplementary information. Public hearings on the draft were held by the State on October 14, 19, and 20, 1982. However, because it has not yet been submitted to EPA in final form, EPA is processing this draft SIP in parallel with the State's public review period. This is being done in order to reduce the time required for EPA action. It should be noted that EPA's final action on the New Jersey SIP is dependent on its analysis of the comments EPA receives during the public comment period established by this notice and on the contents of the SIP as ultimately adopted by the Governor of New Jersey.

This **Federal Register** notice provides the results of EPA's review of the draft New Jersey SIP revision. Additional discussion of this submittal, EPA's review criteria and the results of EPA's review are contained in a Technical Support Document which is available for public inspection at the locations identified in the "Addresses" section of today's notice.

II. Ozone

A. Background

Under Section 107(d) of the Clean Air Act the entire State of New Jersey has been designated as not attaining the national ambient air quality standard for ozone. The volatile organic

compound (VOC) reductions needed to attain the ozone standard in the State's four Air Quality Control Regions (AQCRs) are identified in the SIP as follows:

	Percent
New Jersey—New York—Connecticut (NJ–NY–CT) AQCR (New Jersey portion)	50
Metropolitan Philadelphia AQCR (New Jersey portion)	[illegible]
New Jersey Intrastate AQCR	[illegible]
Northeast Pennsylvania—Upper Delaware Valley AQCR (New Jersey portion)	28

The SIP provides for attainment of the ozone standard by December 31, 1987 through the continued implementation of existing control measures and through the development and implementation of "additional" and "extraordinary" control measures. These measures and the Federal Motor Vehicle Control Program (FMVCP) provide for reasonable further progress towards attainment of the ozone standard.

B. Emission Inventories

The SIP must contain emission inventories for VOCs and oxides of nitrogen (NO_x) of sufficient quality to support at least a Level III City-specific Empirical Kinetic Modeling Approach (EKMA).

The SIP contains comprehensive emission inventories for VOC and NO_x which include 1980 and 1987 emissions, with and without the implementation of the additional and extraordinary control measures. The VOC and NO_x inventories presented in the SIP adequately address EPA's emission inventory criteria. However, some additional detail would be desirable in the 1987 inventories.

This need results from the fact that the extraordinary measures are not yet fully developed and information on the projected 1987 emissions of the affected sources is not available. The State will update this part of the inventory in developing the necessary extraordinary measures. The State has committed to submitting a more detailed schedule for the extraordinary measures before EPA takes final approval action on the SIP. Completing the update of the emission inventory will be one of the milestones in the schedule. Based on the State's commitment, EPA finds that, subject to the satisfaction of the commitment, the emissions inventories presented in the SIP would be approvable.

C. Modeling and Monitoring

EPA requires that the monitoring of ambient concentrations be sufficient to support the SIP's modeling analysis. Moreover, the modeling analysis to determine the needed VOC emission reductions must use an EPA approved technique. The analysis contained in the SIP was based on an EPA approved model (City-specific EKMA) and considered:

- Ozone concentrations, upwind and downwind of the AQCRs,
- The ratio of ambient concentrations of NO_x to VOC, and
- Various meteorological parameters (e.g., mixing heights, solar radiation).

Consequently, the SIP adequately addresses EPA's ozone modeling and monitoring criteria and EPA finds the State's analysis to be approvable.

D. Stationary Source Controls

1. *CTG Set I and II Sources.* The SIP must contain a program for implementing reasonably available control technology (RACT) for all sources of VOCs covered by an EPA Set I or II Control Technique Guideline (CTG).

a. Set I: Set I CTG source categories were adequately regulated by an October 17, 1979 revision of Subchapter 16, "Control and Prohibition of Air Pollution by Volatile Organic Substances," Title 7, Chapter 27 of the New Jersey Administrative Code (NJAC 7:27–16 *et seq*) which was approved by EPA on March 11, 1980 (45 FR 15542).

The State again revised Subchapter 16 on December 31, 1981. This revision eliminated those compliance schedules and final compliance dates which New Jersey had adopted for Set I CTG sources. This action was taken because all such sources should now be in compliance with State requirements or on an approved compliance schedule. For any source not in compliance, the State is expected to take appropriate enforcement action.

Nevertheless, in its oversight capacity of enforcing state regulations, EPA requires the specification of an enforceable final compliance date. This is because EPA uses such final compliance dates to calculate noncompliance penalties should an enforcement action be necesary. In order to clarify this situation, EPA is hereby providing notice that it intends to use the final compliance dates which were orginally contained in Subchapter 16 if federal enforcement action is necessary.

b. Set II: The State has addressed the Set II CTG source categories through its December 31, 1981 revision of Subchapter 16 and through Subchapter 17, "Control and Prohibition of Air Pollution by Toxic Substances," NJAC 7:37–17 *et seq.*:

- Section 16.1, as revised, contains definitions of terms used in other sections of the regulation. These are consistent with those of the CTGs.
- Section 16.2, as revised, requires secondary seals for external floating roof tanks, but uses different applicability criteria than the CTG. The State has submitted an equivalency demonstration which EPA finds adequate. This revision is consistent with EPA policy and guidance.
- Section 16.3, as revised, requires gasoline delivery trucks to be tested and to meet performance standards for vapor tightness; it also requires vapor collection systems to be operated at specified conditions. This revision is consistent with EPA policy and guidance.
- Section 16.5, as revised, contains emission limits and control requirements for the surface coating of miscellaneous metal parts and products, the surface coating of flatwood paneling, and graphic arts operations. This revision is consistent with EPA policy and guidance.
- Section 16.6, as revised, contains monitoring and repair program requirements for petroleum refinery equipment. In addition, this section requires synthesized pharmaceutical manufacturing facilities to meet "generic" emission reduction requirements. The State has submitted a demonstration showing that the generic reduction requirements of the regulation are equivalent to those recommended by the CTG.
- Section 16.7, which regulates cutback and emulsified asphalts, has been revised to provide exceptions for emulsified asphalt and cold-mix stockpile asphalt. These exceptions are consistent with EPA policy and guidance.
- The State has made other revisions to its regulation, usually administrative modifications, that do not substantially change any of the affected sections. These revisions conform to EPA policy and guidance.
- The State has revised "Air Test Method 3" (Title 7, Chapter 27B, Subsection 3) to include additional test methods for the Set II categories. These methods are consistent with EPA policy and guidance.

The above revisions to Subchapter 16 are consistent with the applicable CTGs, EPA policy and guidance. EPA finds these revisions adequate and approvable.

Perchloroethylene Dry Cleaners

The State of New Jersey has designated perchloroethylene as a toxic VOC; consequently dry cleaners which

emit this compound must comply with Subchapter 17 as well as Subchapter 16. Subchapter 17 requires perchloroethylene dry cleaners to have control equipment and operating procedures which are state-of-the-art for this type of source. This requirement has been in effect since December 17, 1979 and the State has been using the CTG in determining state-of-the-art controls for this source category.

In order to clarify the requirements of state-of-the-art, NJDEP has issued a memorandum, "Subchapter 17 Requirements for Perchloroethylene Dry Cleaning Systems," dated October 25, 1982. This memorandum defines the state-of-the-art requirements, which have been based on the CTG and reflects the requirements which the State has been enforcing since December 17, 1979.

The emission limits, control requirements, and operating and maintenance procedures which are required by Subchapter 17, as defined by the memorandum, are consistent with the CTG and EPA policy. EPA finds Subchapter 17, as it relates to perchloroethylene dry cleaners, and the perchloroethylene dry cleaning memorandum adequate and approvable to cover this source category.

In summary, EPA finds the State's control program for the Set II CTG source categories to be adequate and approvable.

2. *CTG Set III Sources.* The SIP must contain a commitment to implement RACT for all sources of VOCs covered by Set III CTGs after their final publication.

The State has reviewed the proposed Set III CTG source categories and has indicated that they are already being regulated by Section 16.6 of Subchapter 16. Subchapter 16 requires, as a minimum, that an emission source reduce its uncontrolled emissions by 85 percent. This percentage reduction is generally considered RACT for a majority of source categories.

The SIP also includes a required commitment to review the Set III CTGs at the time of their publication in order to insure that the standards contained in Subchapter 16 are at or more stringent than those recommended in the CTGs. The SIP commits to propose appropriate revisions to subchapter 16 if it does not regulate the Set III source to the same extent as the "presumptive norm" of control identified in each CTG.

EPA finds the State's control program for Set III source categories to be adequate and approvable.

3. *Major sources.* The SIP must contain a program to implement RACT for all major stationary sources of VOCs (i.e., sources emitting over 100 tons per year).

The State, in its current regulation of non-CTG source categories using Subchapter 16, includes controls for a majority of the major stationary sources in New Jersey. However, the SIP indicates that seven major VOC sources currently are not regulated and it does not contain regulations for their future control. The major sources not regulated primarily are those which engage in surface coating or are sources that use VOCs in a unique manner. The SIP does contain a detailed implementation schedule and a commitment to develop regulations for the control of these sources. The schedule calls for adoption of revisions to Subchapter 16 by July 1, 1985 and compliance by the sources by January 1, 1987.

In summary, the SIP adequately fulfills the requirement to adopt regulations for all unregulated major sources of VOCs. The SIP addresses most major non-CTG sources with the State's general emission limitation requirements contained in Subchapter 16 and contains an adequate schedule to address the remaining major sources. EPA finds the State's control program for major sources to be adequate and approvable.

4. *Additional Measures.* Where necessary to provide for attainment of the ozone standard by 1987, the SIP should consider extending additional controls to stationary source categories which have not yet been regulated or to minor sources in categories in which major sources have been regulated.

The SIP contains an evaluation of minor unregulated VOC emission source categories and contains four measures to reduce the emissions from these sources:

- Application of RACT to Minor Sources,
- State II Vapor Recovery,
- Revision to Subchapter 17, and
- Revision to Subchapter 16.

Regulatory revisions covering these additional measures will be adopted from July 1984 through July 1985 and source compliance will be required from January 1985 through January 1987.

The SIP should also consider the feasibility of more stringent controls on major sources. This would involve emission limits more stringent than those generally regarded as RACT which could be implemented as quickly as possible, but not later than 1987. In this regard the SIP states that, in most cases, these sources have recently been required to meet new emission limitations and that any further requirements would result in severe economic problems. Consequently, it does not contain any new, more stringent requirements on major sources.

EPA concurs with the State's position and finds the program to use additional measures to control stationary sources as contained in the SIP to be adequate and approvable.

5. *Extraordinary Measures.* Where necessary to provide for attainment of the ozone standard by 1987, the SIP should consider other (extraordinary) measures which are feasible in a longer time frame or with application of additional resources.

The SIP submitted by the State identified and included a commitment to study the feasibility of implementing some extraordinary measures. These measures include new controls on:

- Additional, unregulated source categories,
- Off-highway vehicles,
- Miscellaneous surface coating operations,
- Commercial and consumer solvent use, and
- Barge and tanker VOC transfer and cleaning operations, and
- Possible changes in exclusion rates and batch averaging provisions.

The State has committed itself to adopt as many of these regulations as are necessary to provide the emission reductions required to demonstrate attainment in the NJ–NY–CT AQCR. The SIP contains an implementation schedule which calls for adoption of regulations for the extraordinary measures by January 1, 1987 and compliance by December 31, 1987.

EPA finds that for the State's program to use extraordinary measures to control stationary sources to be adequate and approvable, the State must select the specific measures that will be implemented in the NJ–NY–CT AQCR and submit a schedule for implementation. EPA will not take final approval action on the NJ–NY–CT AQCR until the schedules for specific measures are submitted.

E. Light Duty Vehicle Inspection and Maintenance

The SIP must include fully adopted regulations and all other elements of an automobile emission inspection and maintenance (I/M) program which could affect the ability of the program to achieve a minimum VOC emission reduction of twenty-five percent or more.

In its 1979 SIP the New Jersey I/M program for automobiles and light-duty trucks is described in detail. This program, which remains a part of the

SIP, adequately addressed EPA criteria. The I/M program provides for annual inspections, with reinspections at private garages. However, because New Jersey needs additional VOC reductions to attain the ozone standard, it has proposed several expansions to its program. These expansions are scheduled to be in effect by October 1, 1984.

While the SIP proposes to expand the I/M program that was described in the 1979 SIP, it also discusses an effort that is underway to reevaluate the entire New Jersey safety and exhaust inspection program. This is being done primarily to reduce the waiting time required for inspections. The State has implemented a temporary biennial inspection program which is to remain in effect from August 1982 through December 1982, during which time ten alternatives to the I/M program will be evaluated. Seven of ten alternatives being evaluated include annual inspections either at state inspection stations or at private garages. However, the effect on air quality of implementation of the ten alternatives is not presented in the SIP.

The I/M program, without the expansions proposed in the SIP, meets EPA's criteria for a minimum program. The expanded I/M program, although not yet adopted, adequately meets EPA's criteria for additional control measures required for attainment of the ozone standard and is approvable. Although the State has not yet made a final decision on which of the ten alternatives now under review it will implement, EPA is confident that any modification to reduce waiting time will provide the emission reductions that the SIP attributes to the State's I/M program. Therefore, EPA proposes to approve the modification to the I/M program provided that the alternative chosen provides the necessary emission reductions.

F. Transportation Control Measures

The SIP must contain reasonably available transportation control measures. Categories of such measures are identified in Section 108(f) of the Clean Air Act.

The SIP contains an extensive analysis of transportation control measures performed by State, regional, county and local agencies which is detailed in Appendices 17 through 36 of the SIP. This analysis provided a basis for three commitment categories in the SIP to implement specific transportation measures, or for further analysis of projects and strategies in the period 1982–1987. "Commitment Category I" measures are to be implemented by 1987 and are therefore used by the State in the attainment demonstration of the ozone standard. Commitments to the implementation of State transportation projects are summarized in Appendix 16 of the SIP. Commitments to county and local projects are listed in Appendix 15 and Appendix 15A. A summary and reference to these transportation commitments slated for implementation, as well as a list other of projects and strategies committed for further analysis (Commitment Category II), and a list of potential projects and strategies reserved for future study (Commitment Category III) are included in Tables 4–1, 4–2, and 4–3 (pages 62–72) of the SIP. For additional discussion of commitments see the EPA Technical Support Document.

The SIP includes State, county and local commitments to the implementation to the following types of measures:

- Carpool Programs
- Major Employer-Based Ridesharing Assistance
- Exclusive Bus/Carpool Lanes
- Park and Ride/Fringe Parking
- Improved Public Transit
- Employer Education Programs
- Bicycle Lanes, Route Maps and Storage Facilities
- Traffic Flow Improvements
- Extended Vehicle Idling Controls

Commitments made by State Agencies and Authorities for implementation were made by New Jersey Transit, the Port Authority of New York and New Jersey, New Jersey Department of Transportation (NJDOT) and the New Jersey Highway Authority.

The SIP includes agreements among NJDOT, NJDEP and the Metropolitan Planning Organizations (MPOs) to pursue transportation-air quality planning.

- Anticipated VOC reductions for various transportation measures,
- Individual transportation plans for the State's major urban areas, counties and cities, and
- Provides monitoring and contingency plans.

EPA proposes to approve the transportation measures with the understanding that additional local commitments will be obtained where appropriate.

G. Reasonable Further Progress Towards Attainment of Standards

The SIP must demonstrate reasonable further progress toward attainment of the ozone standard.

Although a linear reduction in emissions between now and December 31, 1987 is not achieved in the NJ–NY–CT AQCR, substantial emission reductions will be obtained in early years and additional regular reductions will be obtained during the remainder of the implementation period. Linear reduction emission reductions in early years are obtained. Linear reduction is achieved in the other three AQCRs. Consequently, the SIP demonstrates that reasonable further progress toward attainment will be made throughout the implementation period in all AQCRs.

H. Attainment of Standards

The SIP must demonstrate that the ozone standard will be attained no later than 1987 through the adoption and implementation of the committed control measures.

The SIP adequately demonstrates attainment of the ozone standard by 1987 in all AQCRs. Attainment is accomplished through a combination of committed and yet to be developed measures. EPA finds the attainment demonstration for the Metropolitan Philadelphia, Northeast Pennsylvania—Upper Delaware Valley and New Jersey Intrastate AQCRs to be adequate. The attainment demonstration for the NJ–NY–CT AQCR would be adequate provided that the extraordinary control measures that are identified in the SIP provide the anticipated emission reductions.

EPA proposes to approve the attainment demonstration presented in the SIP, but will not take final approval action until the State submits the more detailed schedule for the extraordinary measures.

III. Carbon Monoxide

A. Background

The New Jersey nonattainment areas for CO consist of fourteen central business districts located throughout the State. Also, 75 communities in the State have been designated under Section 107(d) of the Clean Air Act as unclassifiable for CO. The SIP contains a CO control program which includes I/M (as expanded), transportation control measures and the FMVCP.

B. Carbon Monoxide Problem Analysis

The SIP must contain a detailed analysis to determine if CO concentrations exceed the standard on a local or "hot spot" basis.

The fourteen central business districts were designated as nonattainment based primarily on air monitoring. Although the 75 unclassifiable areas did not have to be addressed in the 1982 SIP (because Part D requirements apply only to nonattainment areas), a CO hot spot analysis of these communities and other

locations was presented. EPA finds that the State's problem analysis to be adequate and approvable.

C. Vehicle Inspection and Maintenance

The SIP must contain commitments to implement an I/M program. In the 1979 SIP, the I/M program for automobiles and light duty trucks is described in detail. This program, which remains in effect, and the expansions proposed for it address all of the applicable criteria and are discussed in detail in the ozone section of today's notice (see Section II.E.). The expanded I/M program presented in the SIP is adequate and approvable.

4. Transportation Control Measures. The SIP must contain an analysis and program of transportation control measures designed to help attain the CO standard.

The SIP contains an extensive discussion of the development of transportation control measures, an anlysis of the CO reductions which can be anticipated from their implementation, and commitments to study further and implement transportation control measures in nonattainment areas. More detail on transportation control measures is included in Section II.F. of today's notice.

EPA finds the transportation control measure portion of the New Jersey SIP to be adequate and approvable.

5. Reasonable Further Progress Toward Attainment. The SIP must identify reasonable further progress toward attainment of the CO standards. The SIP presents demonstrations of progress toward attainment for all nonattainment areas.

Individual CO nonattainment areas will attain the standard according to specific schedules during the 1982 to 1987 period. This demonstrates that reasonable further progress will be made in correcting CO problems in the nonattainment areas and is approvable.

6. Demonstration of Attainment. The SIP must demonstrate attainment of CO standards by December 31, 1987. The State demonstrates that, through a combination of the FMVCP, expanded I/M, and transportation control measures, it will be able to attain the CO standard in all nonattainment areas by 1987. Based on the information in the State submittal, EPA finds the demonstration of attainment of the CO standard to be adequate and approvable.

III. Other Requirements

A. Basic Transportation Needs

The SIP must include comprehensive public transportation measures to meet basic transportation needs. The SIP states that NJDOT has prepared three elements of a state transportation plan which address New Jersey's basic transportation needs. The SIP notes that NJDOT adheres to a commitment to preserve and improve the State's public transportation system.

The discussion of basic transportation needs appears to adequately address EPA criteria and is approvable. EPA recognizes that New Jersey's public transportation system recently has undergone operational changes because of financial constraints. These changes should be monitored by the State to insure adequate efforts and funding to carry out its commitment to meet basic transportation needs.

B. Conformity of Federal Actions

In preparing the SIP, state and local governments must identify the direct and indirect emissions associaed with major federal actions, including the award of grants for wastewater treatment facilities. For transportation actions the SIP must contain administrative and technical procedures and agency responsibilities for ensuring the conformity of transportation plans, programs, and projects with the SIP.

The population projections used in the SIP and for wastewater treatment facility "needs" determinations are based on identical Water Quality Planning population projections. Federal facilities and activities in New Jersey are subject to the requirements of New Jersey air pollution control regulations. The National Environmental Policy Act and the A–95 review process provide NJDEP with the opportunity to identify possible conflicts with the SIP and to inform the appropriate federal agency. Also, the conformance assessment process will insure that federally funded transportation projects conform to the SIP requirements. A work program by NJDOT for continued development and implementation of the SIP, including development of conformity procedures, is presented in the SIP. However, it is not clear whether conformity criteria and procedures currently exist for the Northern New Jersey area.

The discussion of conformity of federal actions adequately addresses EPA requirements and is approvable. EPA expects that criteria and procedures for determining conformity of transportation projects in Northern New Jersey will be developed as the Metropolitan Planning Organization for this area begins full operation. Following receipt of acceptable conformity procedures, EPA expects to approve this requirement.

C. Consultation With State and Local Officials

The SIP must demonstrate that it was developed by a process which allowed for consultation with local governments, organizations of local elected officials, and federal land managers.

The SIP notes that its transportation components were developed pursuant to the Section 108(e)(4) public participation guidelines developed by the U.S. Department of Transportation and EPA. Although not discussed in the SIP, adoption of, or changes to NJDEP regulations are subject to New Jersey's own published and hearing requirements.

Public hearings on the SIP were conducted on October 14 in Atlantic City, October 19 in East Rutherford, and October 20 in Trenton. The SIP was available for review a number of locations throughout the State and was also available from NJDEP on request.

Consultation with State and local officials has been conducted adequately and is approvable. EPA expects to receive from the State a record of the public hearings that it held on the SIP. Furthermore, EPA expects that consultation with elected officials and affected interests will continue as the State develops its control measures and details implementation of its SIP commitments.

D. Resources

The SIP must identify financial and manpower resources necessary to carry out the SIP provisions. New Jersey has indicated that it will be negotiating this issue with EPA in the future. At this time it is assumed that adequate resources will be made availale for the State to meet its commitments.

IV. Findings and Proposed Action

Based on the above information, EPA is proposing to approve the draft New Jersey SIP, but final approval depends on action by New Jersey to honor the schedules and program development commitments that it has made in the SIP and on submission of a final version of the SIP which is substantially the same as the draft. The State must also submit more detailed schedules for implementing specific extraordinary measures in the NJ–NY–CT AQCR before EPA takes final approval action. In the interest of expediting federal review, EPA is proposing approval of this SIP revision now, before submission to EPA of the final SIP by the State. EPA refers to this procedure is "parallel processing." If the SIP submitted by the State is substantially changed, EPA will evaluate those changes and publish a

revised notice of proposed rulemaking. Alternatively, if no substantive changes occur as a result of the State's public review process, EPA will take final rulemaking action on today's proposal after the SIP is adopted by the State.

EPA is soliciting comments on the State's submission and on its proposed approval of this revision to the New Jersey SIP. The Administrator's decision to approve or disapprove this submission will be based upon the comments received and on whether the SIP revision meets the requirements of Section 110 and Part D of the Clean Air Act and 40 CFR Part 561.

Pursuant to the provisions of 5 U.S.C. 605(b) the Regional Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709; January 27, 1982). The attached rule, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

(Secs. 110(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a))

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: November 30, 1982.

Jacqueline E. Schafer,

Regional Administrator Environmental Protection Agency.

(Secs. 110, 172, and 301, Clean Air Act, as amended (42 U.S.C. 7410, 7472, and 7601)

[FR Doc. 83-2530 Filed 2-2-83; 8:45 am]

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Part III

Department of Energy

Federal Energy Regulatory Commission

Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act; Final and Interim Rules

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, 270, and 271

[Docket No. RM80-47-002; Order No. 94-A]

Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act

January 24, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule and Order on Rehearing of Order No. 94.

SUMMARY: The Federal Energy Regulatory Commission is amending Subpart K of Part 271 of its regulations to provide new rules under the Natural Gas Policy Act of 1978 (NGPA) for "first sellers" as defined by the NGPA, who incur production-related costs. The new rules replace the current application procedure with a self-executing mechanism to permit first sellers, under the express terms of their gas sales contracts, to add to their maximum lawful prices amounts necessary to recover production-related costs borne by them. As part of this change, the new rules also amend important definitions, provide for the recovery of all production-related costs, impose recordkeeping and notice requirements, and amend the Commission's blanket affidavit rules for gas sales subject to Natural Gas Act jurisdiction. In addition, the order by which the new rules are issued disposes of related matters by amending the Commission's policy respecting production-related costs borne by interstate pipelines (lower-48 states). These changes are in response to comments and petitions to rehear filed in response to the interim rules and policy of Order No. 94. This final rule and order on rehearing is the first of four rulemakings relating to production-related costs published today.

DATE: New rule effective March 7, 1983

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Introduction

In this order, the Federal Energy Regulatory Commission (Commission) is granting in part and denying in part petitions for rehearing of order No. 94.[1] Order No. 94 amended the Commission's interim regulations implementing section 110 of the Natural Gas Policy Act of 1978 (NGPA)[2] with respect to production-related costs. In response to the petitions for rehearing and to comments from members of the public, the Commission is making further amendments to those regulations. Specifically, this order amends 18 CFR 270.102, 271.1100 and 271.1103 through 271.1105 relating to the types of costs that sellers of natural gas can recover and the method by which the costs can be recovered. In addition, conforming amendments are made to 18 CFR 154.94 relating to the recovery of those costs by sellers subject to the Commission's Natural Gas Act jurisdiction. Consistent with the intent of section 110, the amended regulations provide a better mechanism for the recovery of production-related costs, while significantly reducing the administrative burden on those subject to the regulations.

Three aspects of implementing section 110 were not addressed in Order No. 94 and therefore are not addressed in this order. They are the focus of three separate rulemaking proceedings in which the Commission is also taking action today. The first is an interim rule setting generic allowances for recovery of compression and gathering costs borne by sellers.[3] The second is an order amending the rules governing recovery of production-related costs by sellers of natural gas subject to certain intrastate contracts.[4] The third is an interim rule implementing procedures for refunds.[5] Together, the actions in those proceedings and the amendments made in this order establish the Commission's regulations to implement section 110 of the NGPA for production-related costs.[6]

In addition to amending the interim regulations implementing section 110, Order No. 94 contained a policy statement under the Natural Gas Act[7] on production-related costs borne by interstate gas pipelines. In response to petitions for rehearing and public comments, this order amends the policy statement, at 18 CFR 2.102, to provide clearer guidance to interstate pipelines that incur such costs.

II. Amendments to the Section 110 Regulations

This section discusses the amendments made in this order to the regulations implementing section 110 of the NGPA and the Commission's reasons for making the amendments. However, before proceeding with that discussion, we first present some background information that will help in understanding the discussion. The background information includes a description of production-related costs, a review of regulation of these costs in producer rate proceedings under the Natural Gas Act, the Commission's legal authority under section 110, and a description of the Commission's prior regulations implementing section 110.

A. Background

Costs incurred in producing and selling natural gas to gas pipelines, local distribution companies or end users can be divided into two categories: production costs and post-production costs. Production costs are those incurred in finding gas and bringing it to the wellhead.[8] Post-production costs are those incurred in moving natural gas from the wellhead to a gas pipeline's mainline transportation system or in processing, treating, or conditioning the gas prior to its entering the transportation system.

Processing, treating and conditioning the gas is often undertaken because natural gas is not found in a "pure" state.

Although most natural gas is composed primarily of methane, the effluent of a gas well may contain many other compounds. Some of these,

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[1] Order No. 94, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy under the Natural Gas Act," Docket No. RM80-47 (issued July 25, 1980) 45 FR 53099 (Aug. 11, 1980), FERC Stat. and Reg., Preambles ¶ 30,178 [1977-1981].

[2] 15 U.S.C. 3301-3432 (Sup. IV 1980).

[3] Interim Rule, "Delivery Allowances Under Section 110 of the Natural Gas Policy Act of 1978 and Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978", Docket Nos. RM80-73-000, *et al.*

[4] Order No. 94-B, "Order Amending Regulations in Subpart B of Part 270 and Subparts E, F, and K of Part 271 and Affirming Certain Final Regulations Issued in Order No. 68," Docket No. RM80-47-003.

[5] Interim Rule, "Regulations Implementing Refund Procedures under Subpart K of Part 271 for Production-Related Costs," Docket No. RM83-6-000.

[6] For ease of reference, §§ 271.1104 through 271.1108 as amended by all four rulemakings are reprinted as an appendix to this order. The appendix, while filed with the original document, is not printed in the **Federal Register**; however, copies of this order, including the appendix, are available at the Federal Energy Regulatory Commission, Division of Public Information, 825 North Capitol Street, N.E., Room 1000, Washington, D.C. 20426

[7] 15 U.S.C. 717a-717w, as amended (Supp. IV 1980).

[8] More specifically, production costs include costs incurred for exploration, development, production including enhanced recovery, gas-lift pumping or other liquid lifting equipment and compression necessary for lifting liquids, cycling gas in a gas-condensate reservoir or pressurizing an oil reservoir, and abandonment costs. *See generally*, Order No. 94, note 1 supra at 8, 80, 45 FR at 53101, 53114.

although normally occurring in the gaseous state, are impurities that must be taken out of the gas stream so that the gas can be safely and efficiently transported. Other compounds, including water and the more complex hydrocarbon compounds, exist as liquids at most pressures and temperatures in production operations and may interfere with the production, transportation, and marketability of the gas. Some of these liquids are also extracted from the gas stream because they have a higher economic value when sold separately. Still other compounds, commonly known as liquefiable hydrocarbons, including ethane, propane, and butanes, although gaseous at most pressures and temperatures in production and transportation, are also extracted from the gas stream because they may have a higher economic value when isolated and sold separately than when left in the gas stream.[9]

Post-production costs can be divided into two types of costs. The first consists of costs that are incurred for activities that do not benefit gas customers. These costs may include, for example, costs to handle the liquid components of the gas effluent. The second type consists of all other post-production costs, including costs for gathering, treating, conditioning, compressing or liquefying natural gas, and are called production-related costs.

If a natural gas producer or other seller incurs production-related costs in selling the gas to a pipeline, the Commission is responsible for determining how the seller may recover those costs. This has been a regulatory problem since before the enactment of the NGPA.[10]

In the period immediately following the beginning of producer gas pricing regulation,[11] the Federal Power Commission considered production-related costs, as it did other items of cost, in the context of individual producer rate proceedings brought under the Natural Gas Act. This approach was based on the Commission's experience in case-by-case rate setting for interstate gas pipelines. After six years, the case-specific approach proved to be administratively unacceptable because of the large number of producers and the nature of the gas production business.[12]

In 1960, the Commission began generic ratemaking with the development of an "in-line" rate policy.[13] This policy established general price standards for geographical producing regions. Those standards were to serve only as guides in determining whether proposed initial rates should be certificated or whether proposed rate changes should be accepted or suspended.

In arriving at the in-line standards for the various producing areas, the Commission considered, among other things, cost information from decided and pending cases, existing and historical price structures, volumes and trends in production, price trends, and exploration and development trends.[14] With respect to production-related costs, the in-line policy declared that the price standards applied to pipeline quality gas as that term was generally understood in each area. However, the Commission stated that the prices did not reflect adjustments that must be made to reflect every contract provision affecting actual prices paid as, for example, conditions of delivery. The relevance of such adjustments to the basic contract price and to the appropriate established price standard of the policy were to be considered individually in each case.[15]

In the area rate proceedings, the Commission replaced, prospectively, the in-line policy with regulations setting base ceiling rates for gas sales in each geographic region. These rates, with adjustments, were established by using data collected from natural gas producers, natural gas sales agreements and rate schedules on file at the Commission, as well as numerous publicly available published reports, statistics, and studies.[16] The Commission examined prevailing and customary commercial practices of the natural gas industry so that particular area rates would, to the maximum extent possible, reflect contracting practices and the costs of treating, conditioning, gathering, and compression observed in a particular area.

The Commission had previously considered establishing uniform national quality standards upon which all area rates would be based.[17] In that case, each area rate would reflect the production-related costs necessary to provide gas of a uniform quality. However, producer and pipeline contracts showed that prevailing practices with respect to gas quality and delivery conditions varied significantly among the areas. Thus, the area rate proceedings of the 1960's and early 1970's reflected these practices as closely as possible by establishing quality standards on an area-by-area basis.

As a general matter, the quality standards adopted for the area rate proceedings reflected acceptable amounts of water, sulphur, hydrogen sulphide, carbon dioxide and other impurities, Btu content and delivery pressure. These standards were either explicitly prescribed by Commission

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[9] How these different compounds are handled has spawned a particular lexicon. The impurities that are removed from the stream for the safe and efficient handling of natural gas are removed by "treating" the gas. Included under this activity is gas purification. Compounds removed because of particular gas transportation design specifications—which can be impurities or liquefiable hydrocarbons—are removed by "gas conditioning." Compounds removed because they have a higher economic value when isolated and sold separately than when left in the stream—the liquefiable hydrocarbons and non-hydrogen constituents such as helium—are removed by "gas processing." Compounds that fall out during, or soon after, production—called natural gasoline, condensate, or liquids—are removed from the gas stream by "separation."

For a discussion of the differences between natural gas treating, conditioning and processing as presented here, see "Order Clarifying and Modifying Conditions Attached to Certificates of Public Convenience and Necessity", Pacific Offshore Pipeline Co., *et al.*, Docket Nos. CP74–35 and CI79–533 (issued June 8, 1981), 15 FERC ¶61,235 at 61,531–532 (1981).

[10] Although the term "production-related costs" was created in the NGPA, it is merely a shorthand way to refer to costs incurred in compressing, gathering, treating, liquefying, processing, or transporting natural gas, or other similar activities. Natural gas producers or pipelines have incurred these costs for many years prior to the NGPA.

[11] Federal regulation of gas producer rates began in the mid-1950's in response to the Supreme Court's decision, Phillips Petroleum Co. v. Wisconsin, 347 U.S. 672 (1954).

[12] For a discussion of the particular problems involved in attempting to fix rates for the entire industry through case-specific determinations, see Phillips Petroleum Company, Docket Nos. G–1148 *et al.*, 24 FPC 537, 545–546 (1960); *see also* Permian Basin Area Rate Cases, 390 U.S. 747, 756–759 (1968).

[13] Statement of General Policy No. 61–1, "Establishment of Price Standards to be Applied in Determining the Acceptability of Initial Price Proposals and Increased Rate Filings by Independent Producers of Natural Gas," 24 FPC 818 (1960); codified, as amended, 18 CFR 2.56 [1982].

[14] 24 FPC at 819.

[15] *Id.*

[16] The information used included information collected in response to a number of Commission questionnaires disseminated to independent producers, pipeline-affiliate producers, pipelines with their own production, and small producers, in all geographic producing regions. In establishing area rates, although certain information from pipelines with their own production and small producers was examined, the Commission relied on information submitted by independent producers and pipeline-affiliate producers in response to the questionnaires, and cost studies submitted by the parties and the Commission Staff in the individual area proceedings.

[17] A Proposed Statement of Policy, "Certificate Applications, Rate Filings, Pipeline Quality Gas Standards, Delivery Conditions, and Certain Price Adjustments," Docket No. R–200, 26 FR 4614–15 (1961) stated that the Commission was considering prescribing the minimum quality, pressure and delivery provisions for determining natural gas to be of "pipeline quality." The Commission proposed to make price adjustments in independent producer rates whenever the natural gas, as delivered, deviated from the proposed standards. This specific proposal was never issued as a final rule.

order or established in an order through reference to specific contracting practices and contracts. The standards were the basis for adjustments to Commission-established base ceiling prices. Adjustments were to be made for failing to deliver the gas at a prescribed standard.

In Southern Louisiana II[18] gas quality was not a major issue, and the settlement accepted by the Commission provided that quality would be governed by the sales contracts and, except for Btu content, would not affect the area ceiling price for the gas.[19] As a result, no upward or downward quality adjustments have been required for this gas except for Btu content.

Costs to deliver the gas in this area were handled by adjustment. An allowance of 1 cent per Mcf could be added to the price for certain deliveries of gas by the producer.[20] A downward adjustment of .51 cent per Mcf to the base ceiling price was required if deliveries were made closer to the wellhead than at various points downstream;[21] however, since the Commission found that gas was, in this area, customarily delivered to the pipeline at a central point in the field or at the tailgate of a plant;[22] very few, if any downward adjustments were necessary.

In the Hugoton-Anadarko Area, the Commission approved a rate settlement that, among other things, provided that the standards in individual contracts were to govern in each case as to sales made of flowing gas.[23] However, one could not renegotiate a contract dated before November 1, 1969, if the result was to relax the quality standards, including Btu content, because the effect of such a renegotiation would be to increase rates above the settlement levels.[24]

For new gas in that area, the Commission set standards as to sulphur and hydrogen sulphide content, carbon dioxide, and Btu content.[25] Except for these standards, adjustments to the base ceiling price were to be made in accordance with the provisions of particular gas sales contracts. Downward adjustments to the base ceiling price were to be made if gas was not delivered to the pipeline at the prescribed quality level.[26] The Commission found that the dollar impact of these rate reductions was negligible.[27]

The area rate settlement also provided that an add-on to the base ceiling price could be charged and collected to recover gathering costs, if they were incurred for substantial off-lease gathering. However, no reduction in the base ceiling price was required for gathering not done.[28]

In the Rocky Mountain Area, the Commission examined contracts as to quality standards and delivery points in various sub-areas and decided that any variances to prevailing practices were sufficiently dealt with by the contracting parties.[29] As a result, the Commission declared that the ceiling prices established for this area should generally be applicable to contracts that meet customary and predominant quality and delivery conditions of the particular sub-area. Downward adjustments to the price were to be made for sales of gas not meeting the customary and predominant contract standards.[30] In addition, an add-on to the ceiling price could be collected for gathering if delivery were made at certain points downstream of the wellhead.[31]

In the Texas Gulf Coast Area, the Commission found that the gas was of such a quality that it was generally unnecessary to provide quality standards or price adjustments for contracts covering flowing gas. The exception was an adjustment for Btu content.[32] For contracts covering new gas, the Commission set standards for water content, pressure, sulphur, hydrogen sulphide, carbon dioxide and other impurities.[33] It also required, for sales of this gas, downward adjustments to the price charged by the producer to reflect net costs incurred by a pipeline to bring gas up to the standards.[34]

This area rate proceeding did not allow producers an additional allowance for substantial off-lease gathering. This was included in the base rate. In addition, reductions to the price were required if delivery was made closer to the wellhead than at the specified delivery points.[35]

In the Appalachian and Illinois Basin Areas, the Commission did not provide any quality standards for either flowing or new gas.[36] The price established by the Commission applied to sales at the point of delivery, whether at the wellhead or after on- or off-lease gathering. The ceiling price was for "pipeline quality gas," which was defined as dehydrated, sweet gas, with sufficient pressure to enter buyers' gathering line. There were no provisions for a reduction in price if less than "pipeline quality gas" was delivered.[37]

In Permian I and Permian II, area ceiling prices were established on the basis that producers would deliver "pipeline quality" gas and that the prices were to be reduced when the producer did not make such deliveries.[38] The Commission established the standards as to water content, pressure, sulphur, hydrogen sulphide, carbon dioxide, and other impurities for all gas sales. Producers were required to reduce

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[18] Opinion Nos. 598 and 598–A, Southern Louisiana II, Docket Nos. AR61–2, 69–1, *et al.* 46 FPC 86 and 633, respectively (1971), *aff'd sub nom.* Placid Oil v. FPC, 483 F.2d 880 (5th cir. 1973), *aff'd sub nom.* Mobil Oil Corp. V. FPC, 417 U.S. 283 (1974). This rate proceeding replaced the rates established under Opinion Nos. 546 and 546–A, Southern Louisiana I, Docket Nos. AR61–2 *et al.*, 40 FPC 530 and 41 FPC 301 (1968), respectively, *affirmed sub nom.*, Austral Oil Co. v. FPC, 428 F.2d 407 (5th Cir. 1970), *cert. denied*, 400 U.S. 950 (1970).

[19] 46 FPC at 138, 154; 46 FPC 633.

[20] *See* 18 CFR 154.105(h) of the Commission's regulations.

[21] *See* 18 CFR 154.105(c)(4) of the Commission's regulations.

[22] 46 FPC at 133.

[23] Opinion No. 586, Hugoton-Anadarko Area, Docket Nos. AR64–1 *et al.*, 44 FPC 761, 787 (1970), *aff'd sub nom.* People of the State of California v. FPC, 466 F.2d 974 (9th Cir. 1972).

[24] 44 FPC at 777, n. 10; Kaiser-Francis Special Account v. FPC 675 F.2d 249 (10th Cir. 1982).

[25] 44 FPC at 787–88.

[26] *See* 18 CFR 154.106(d)(2) of the Commission's regulations.

[27] 44 FPC at 778.

[28] *Id.* at 776–777; 18 CFR 154.106(e) of the Commission's regulations.

[29] Order No. 435, Rocky Mountain Area, Initial Rates, Docket Nos. R–389 *et al.*, 46 FPC 68, 79–81 (1971), *aff'd sub nom.* American Public Gas Association v. FPC, 498 F.2d 718 (D.C. Cir. 1974); Opinion Nos. 658 and 658–A, Rocky Mountain II, Docket No. R–425, 49 FPC 924 and 1279 (1973) respectively.

[30] 46 FPC at 81.

[31] 18 CFR 154.109b(d) of the Commission's regulations.

[32] Opinon Nos. 595 and 595–A Texas Gulf Coast Area, Docket Nos. AR64–2 *et al.*, 45 FPC 674, 714 and 46 FPC 827, respectively (1971), *reversed* and *remanded sub nom.* Public Service Commission of New York v. FPC, 487 F.2d 1043 (D.C. Cir. 1973), *vacated* and *remanded sub nom.* Shell Oil Co. v. Public Service Commission of New York, 417 U.S. 964 (1974), *aff'g.* 516 F.2d 746 (D.C. Cir. 1975).

[33] *Id.*

[34] *See* 18 CFR 154.109(e)(3) of the Commission's regulations.

[35] *See* 18 CFR 154.109(c)(4) of the Commission's regulations.

[36] Order Nos. 411, 411–A, and 411–B, Appalachian and Illinois Basin Areas, Docket Nos. R–371, *et al.*, 44 FPC 1112, 1334, and 1467, respectively (1970). The Commission declined to establish new area rates for this area in Opinon No. 639, 48 FPC 1299 (1972), *aff'd sub nom.* Shell Oil Co. v. FPC, 491 F.2d 82 (5th Cir. 1974).

[37] 44 FPC at 1122–23; 18 CFR 154.107(b) and 154.108(b) of the Commission's regulations. Components for compression, dehydration, and gathering were included in the base price. 44 FPC at 1112–13.

[38] Opinion Nos. 468 and 468–A, Permian I, Docket Nos. AR61–1 *et al.*, 34 FPC 159 and 1068, respectively (1965), *reversed* Skelly Oil Co. v. FPC, 375 F.2d 6 (10th Cir. 1967), *aff'd. in part and reversed in part*, Permian Basin Area Rate Cases, 390 U.S. 747 (1968); Opinion Nos. 662 and 662–A, Permian II, Docket No. AR70–1 (Phase I), 50 FPC 390 and 932, respectively (1973).

their prices to reflect the net cost incurred by a pipeline to meet the quality standards.[39]

In Permian I, the Commission did not create a set of differentials; it merely posited a series of pipeline standards and placed the responsibility for reaching the specific price differentials upon the parties to each sale. In administering the Permian Area prices, the Commission indicated that it would accept any agreement that appeared to be a good faith effort to determine the pertinent processing costs. The Commission's method, "premised on an agreement between the parties to each sale," had "the advantage of requiring a discrete and accurate adjustment for each transaction."[40] Under the Permian II rate proceeding, if a producer performed substantial off-lease gathering, he could adjust the base ceiling price to collect a gathering allowance.[41]

In the Other Southwest Area, the Commission established gas quality standards for water content, pressure, sulphur, hydrogen sulphide, carbon dioxide, and other impurities. These standards were to apply to all gas sales.[42] A reduction in the producer's price was to be made to reflect the net cost actually incurred by the purchaser to bring the gas up to the standard. A similar reduction was required if the purchaser processed the price gas.[43]

A gathering allowance was included in this area rate for gas delivered to various points downstream of the wellhead. If gas was delivered any closer to the wellhead, a reduction of the price was required.[44]

In the early 1970's the Commission abandoned the area-by-area rate approach and instead developed a single uniform national base rate through a series of national rate opinions. The national rate opinions did not specify any particular quality standard for delivering "pipeline quality gas" or even discuss the relevance of "pipeline quality gas" in setting the national base ceiling prices.[45] Instead, the adjustments to the national rate explicitly provided for under these opinions were limited to adjustments for Btu content and for particular gathering and offshore services.[46] Any other quality adjustments were to be made in accordance with the provisions of the particular gas sales contract.[47] Moreover, to the extent that any Commission regulations establishing area rates were inconsistent with the provisions of the national rate regulations, the area rate regulations were modified to reflect the provisions of the national rate regulations.

The national rate structure remained in place until December 1, 1978, the date that the NGPA became effective. Title I of the NGPA replaced the Commission's producer rate structure with a new incentive pricing scheme of Congressionally-established maximum lawful prices for the "first sale" of natural gas.[48] The maximum lawful prices, established for different types of gas, are ceiling prices. Although a producer can contract to sell gas at a price below the applicable ceiling, no first sale can lawfully be made at a price above the applicable ceiling.[49]

In addition to establishing maximum lawful prices, the Congress provided a separate mechanism for dealing with production-related costs. Section 110 of the NGPA states that:

> * * * a price for the first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to the first sale of such natural gas under this subtitle if such first sale price exceeds the maximum lawful price to the extent necessary to recover * * * any costs of compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or other similar costs, borne by the seller and allowed for, by rule or order, by the Commission.[50]

Section 110 gives the Commission authority to permit any first seller to collect amounts in excess of a maximum lawful price, within certain constraints. One constraint is that section 110 applies only to production-related costs. Section 110 does not authorize collection of amounts in excess of the applicable maximum lawful price for production costs or for post-production costs incurred for activities that do not benefit gas customers.[51] Another constraint, provided by the phrase "borne by the seller", is that a first seller must actually incur the cost in order to receive compensation under section 110. Further, the phrase "to the extent necessary to recover" means that a first seller can neither recover an amount in excess of the cost incurred nor can he recover costs for which he has already received compensation.

In addition, section 110 does not authorize the collection of an amount not permitted under the gas sales contract. Any amount received for the sale of gas, including an amount allowed under section 110, is controlled by

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[39] *Id.*

[40] Permian Basin Area Rate Cases, 390 U.S. 747, at 809, n.90 and 811 (1968).

[41] 50 FPC at 397–98 and 936.

[42] Opinion Nos. 607 and 607–A, Other Southwest Area, Docket Nos. AR67–1 *et al.*, 46 FPC 900 and 47 FPC 99, respectively (1971), *aff'd sub nom.* Shell Oil Co. v. FPC, 484 F.2d 469 (5th Cir. 1973), *cert. denied*, 417 U.S. 973 (1974).

[43] *See* 18 CFR 154.109a(d)(3) of the Commission's regulations.

[44] *See* 18 CFR 154.109a(c)(4) of the Commission's regulations.

[45] Opinions Nos. 699 and 699–H, Docket No. R–389–B, 51 FPC 2212 and 52 FPC 1604, respectively (1974) *aff'd sub nom.* Shell Oil Co. v. FPC, 520 F.2d 1061 (5th Cir. 1975), *cert. denied*, 426 U.S. 941 (1976); Opinion Nos. 749, 749–A, B, and C, Docket No. R–478, 54 FPC 3090, 55 FPC 825 and 1525, and 56 FPC 303, respectively (1975), *aff'd* except as to waiver of refund credits, Tenneco Oil Co. v. FERC, 571 F.2d 834 (5th Cir. 1978), *cert. dismissed*, 439 U.S. 801 (1978); and Opinions Nos. 770 and 770–A, Docket No. RM75–14, 56 FPC 509 and 2898, respectively, *aff'd sub nom.* American Public Gas Association v. FPC, 567 F.2d 1016 (D.C. Cir. 1977), *cert. denied*, 435 U.S. 907 (1978).

[46] There was also an upward or downward adjustment for state or federal production, severance or similar taxes, *see* 18 CFR 2.56a(b) and b(c) of the Commission's regulations.

[47] These regulations were issued after consideration of, among other things, a "Notice Issuing Staff Rate Recommendations and Prescribing Procedures" issued on September 12, 1974, in Docket No. R–478, in which the Commission Staff recommended that a national gas quality standard be set in Opinion No. 749. Recommendations of Federal Power Commission Staff, *mimeo* at 2; *see also* "Notice Instituting Proposed Rulemaking and Order Prescribing Procedures" Docket No. R–478 (issued May 23, 1973) 38 FR at 14295–98. Instead of adopting this approach, the regulations, in virtually identical fashion in Opinion Nos. 699, 699–H, 749, 770, 770–A, reference the provisions of the particular sales contracts for these adjustments. They did so without explicitly stating whether the national base ceiling rates included producer compensation for performing all activities necessary to deliver gas of a certain quality. *See, e.g.*, 18 CFR 2.56b(d)(2) of the Commission's regulations: *"Other quality adjustments.* All quality standards and the resulting adjustments to the rates prescribed in paragraph (a)(1) of this section [the base national rates] shall be made in accordance with the provisions of the particular gas sales contract except that all Btu adjustments shall be governed by paragraph (d)(1) of this section." *See also* 18 CFR 2.5a(c)(2) of the Commission's regulations.

[48] Under Section 2(21)(A) of the NGPA, 15 U.S.C. 3301(21)(A) (Supp. IV 1980), a "first sale" is defined in part as:

> Any sale of any volume of natural gas—
> (i) to any interstate pipeline or intrastate pipeline;
> (ii) to any local distribution company;
> (iii) to any person for use by such person;
> (iv) which precedes any sale described in clauses (i), (ii), or (iii); and
> (v) which precedes or follows any sale described in clauses (i), (ii), (iii), or (iv) and is defined by the Commission as a first sale in order to prevent price established under this Act.

Certain sales, such as those of volumes of natural gas by pipelines or local distribution companies, are not included in the definition of "first sale" unless they are sales of volumes of natural gas "attributable" to the production of these sellers; *see* section 2(21)(B) of the NGPA 15 U.S.C. 3301(21)(B) (Supp. IV 1980).

[49] *See* section 101(B)(9) of the NGPA, 15 U.S.C 3311(b)(9) (Supp. IV 1980); *see also* Joint Explanatory Statement of the Committee on Conference, H. Rep. No. 95–1752, 95th Cong., 2d Sess. at 74 [hereinafter cited as Conference Report].

[50] Section 110(a)(2) of the NGPA, 15 U.S.C. 3320(a)(2) (Supp. IV 1980).

[51] The analysis that leads to this conclusion was presented in detail in Order No. 94. *See* Order No 94, note 1 *supra*, at 9–13, 45 FR at 53101–53102

contract.[52] Therefore, amounts in excess of maximum lawful prices for production-related costs can only be recovered if the first seller has contractual authorization to do so.

Within these statutory constraints, section 110, as supported by legislative history, provides the Commission with broad discretion on how to implement the section.[53] Under section 110, no production-related costs can be recovered unless "allowed for, by rule or order, by the Commission." The most detailed discussion in the legislative history of the Commission's discretion in implementing section 110 is the statement of one of the floor managers of the legislation to the House on the introduction of that section:

> With respect to section 110, it has been correctly observed that the authority to permit adjustments is discretionary. However, by authorizing discretionary adjustments the Conferees did not intend to authorize a refusal to grant appropriate allowances where such refusal would be an abuse of discretion. Thus, if the function performed is not usually performed by the producer without provision being made for compensation over and above the amount paid for the gas, prevailing industry practice may guide FERC to approve ceiling price adjustments which the Commission determines appropriate and consistent with the purposes of the legislation. For example, if the producer undertakes to compress the gas to pipeline pressure, and if an allowance is customarily made by the pipeline for such compression, the Conferees anticipated that FERC would consider approval of an appropriate al[l]owance under section 110. However, administrative flexibility was deemed important. Therefore, it was also intended that FERC could selectively focus on the areas which appear apropriate for approval of adjustments under section 110 in such a manner that the implementation of the section would not become administratively burdensome.[54]

This statement makes clear that the Congressional intent in implementing section 110 was two-fold. First, the Commission has great flexibility in determining permissible allowances. Second, the Commission has great flexibility in developing the administrative processes to effect recovery of the allowances.

The Commission began to determine permissible allowances and develop administrative processes to implement section 110 on November 14, 1978, with the issuance of proposed regulations for public comment.[55] On December 1, 1978, as part of the general interim rules implementing the NGPA, made effective upon issuance, the Commission issued regulations for section 110.[56]

The Interim Regulations of December 1, 1978, established an application procedure for first sellers to request Commission approval to charge allowances in excess of the applicable maximum lawful prices to recover production-related costs. Certain first sellers were not permitted to apply for the allowances, including those selling natural gas subject to certain intrastate sales contracts, those selling certain gas that was committed or dedicated to interstate commerce prior to enactment of the NGPA, and those selling gas produced at Prudhoe Bay, Alaska for transport through the Alaska Natural Gas Transportation System.[57] In addition, applications could not be made for certain types of production-related costs, including costs to gather, transport or liquefy gas if such activities took place on the lease from which the natural gas was produced. Costs incurred to get natural gas up to specified minimum quality standards were also excluded unless the costs were incurred in making first sales to end-users of the gas.

Because these regulations were promulgated within the brief time period dictated by Congressional action, the Commission expressly invited further comment on them.[58] The rulemaking proceeding in this docket was initiated in response to comments on the part of the Interim Regulations implementing section 110 of the NGPA for production-related costs.[59] After analyzing those comments, the Commission amended the Interim Regulations in Order No. 94.[60]

The amendments covered several provisions. First, those selling certain natural gas that was committed or dedicated to interstate commerce before enactment of the NGPA were allowed to apply for production-related costs. Second, the restrictions preventing applications for gathering, transporting, and liquefying natural gas on the leases were removed.

Third, sellers allowed to make applications under the regulations were permitted to increase maximum lawful ceiling prices by the area-wide gathering allowances without application or prior Commission approval. Fourth, applications for costs to gather or compress natural gas were no longer allowed. In making this last change, the Commission declared its intent to begin rulemaking proceedings to establish representative amounts for these two activities to be applied generically and, once established, to allow these amounts for costs incurred at least back to the suspension of the application process.[61]

Other aspects of the Interim Regulations were not changed by Order No. 94. The regulations continued to preclude application by those selling gas priced under the terms of certain intrastate contracts.[62] An application procedure was still required for most production-related cost adjustments. The rule continued to exclude production-related costs incurred to get gas to minimum quality standards for sales made to anyone but an end user.

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[52] *See* section 101(b)(9) of the NGPA, 15 U.S.C. 3311(b)(9) (Supp. IV 1980). "In no case may a seller receive a higher price than his contract permits." Conference Report, note 49 *supra*, at 74 (explaining NGPA section 101(b)(9)).

[53] *See, e.g.*, Conference Report, note 49 *supra* at 90; *see also* 124 Cong. Rec. at H13118 (daily ed. Oct 11, 1978) (statement of Congressman Dingell); 124 Cong. Rec. at S16257 (daily ed. Sept. 27, 1978) (colloquies of Senators Gravel and Jackson and Senators Stevens and Jackson); *see also*, Interim Regulations, note 56 *infra* at 80–83, 43 FR 56490–56492; Order No. 94, note 1 *supra*, at 4–5, 45 FR at 53100–53101; Order No. 45, note 59 *infra* at 20–26, 44 FR at 51558–51559.

[54] 124 Cong. Rec. at H13118 (daily ed. Oct. 11, 1978) (statement of Congressman Dingell).

[55] Notice of Proposed Rulemaking, "Regulations Implementing the Natural Gas Policy Act of 1978," Docket No. RM79–3 (Nov. 14, 1978) at 45–47, 164–170, 43 FR 53270, 53293–53294, 53353–53356 (Nov. 15, 1978).

[56] *See* "Natural Gas Policy Act of 1978: Interim Regulations", Docket No. RM79–3 (issued Dec. 1, 1978) at 73–85, 247–253, 43 FR 56448, 56487–56493, 56574–56577 (Dec. 1, 1978), FERC Stat. and Reg. Preambles ¶ 30,028 [1977–81].

[57] An exception was made for certain sales of gas that was committed or dedicated to interstate commerce prior to enactment of the NGPA. The price for these sales could be increased by applicable area-wide gathering allowances and this increase required no prior application or Commission approval.

[58] *See* Interim Regulations, note 56 *supra* at 169–170, 43 FR at 56535; *see also* Notice of Proposed Rulemaking, note 5 *supra* at 87, 43 FR at 53314.

[59] In addition to Docket No. RM80–47–002, the Commission instituted two other rulemaking proceedings to deal with particular problems of implementing section 110 for certain types of natural gas first sellers; *see* Order No. 68–A, "Order Clarifying Order No. 68, Granting in Part and Denying in Part Rehearing of Order No. 68, and Amending Regulations in Subparts E, F, and K of Part 271", Docket No. RM80–14 (issued Nov. 10, 1980), 45 FR 76676 (Nov. 20, 1980), FERC Stat. and Reg. Preamble ¶ 30,209 (special rules governing section 110 allowances for those selling gas subject to existing intrastate contracts, successors to existing intrastate contracts and intrastate rollover contracts); and Order No. 45, "Treatment of Certain Production-Related Costs for Natural Gas to be Sold and Transported Through the Alaska Natural Gas Transportation System: Regulations and Statement of Policy," Docket No. RM79–19 (issued Aug. 24, 1979), 44 FR 51554 (Sept. 4, 1979), *order vacated*, "Order Rescinding Order No. 45 and Terminating Docket," Docket No. RM79–19 (issued Jan. 4, 1982) (special rules governing section 110 allowances for those selling gas produced from Prudhoe Bay, Alaska).

[60] Order No. 94, note 1 *supra*.

[61] *Id.* at 42–43, 45 FR at 53107–53108.

[62] Special rules for these sellers were issued under Order No. 68–A. *See* note 59 *supra*. In addition, a special rule was developed for those selling Prudhoe Bay Gas. *See* Order No. 45, note 59 *supra*.

Because of the changes made to the Interim Regulations and in order to obtain more information on how the rules would work, the Commission invited additional written comment and provided an opportunity for oral comments on Order No. 94.[63] The Commission received written and oral comments on Order No. 94 from 29 corporations and trade organizations.[64] The Commission also received 19 timely petitions to rehear Order No. 94.[65]

[63] Order No. 94, note 1 *supra*, at 74–76, 45 FR at 53114. At the request of members of the public, the period for filing the written comments was extended from September 22, 1980 to October 6, 1980; *see* Notice of Extension of Time, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," Docket No. RM80–47 (issued Sept. 22, 1980); *see also* Notice of Public Hearing (issued Sept. 26, 1980), "Regulations Implementing Section 110 of the Natural Gas Act", Docket No. RM80–47; and Notice of Proposed Rulemaking, "Special Rules Under Part 270: Production Costs and Maximum Lawful Prices in Sales Under the Natural Gas Policy Act of 1978," Docket No. RM80–72.

[64] Written comments were received from the Atlantic Richfield Company; Colorado Interstate Gas Company; Columbia Gas Transmission Corporation; Indicated Producers; (representing 26 corporations or other groups); the Interstate Natural Gas Association of America (INGAA); the Michigan Wisconsin Pipe Line Company; the Natural Gas Pipeline Company of America (Natural Gas); the Northern Natural Gas Company; Panhandle Eastern Pipeline Company and Trunkline Gas Company (Panhandle-Trunkline) (joint comments); the Pennzoil Company; the Phillips Petroleum Company (Phillips); the Shell Oil Company (Shell); the Sonat Exploration Company; the Southern Natural Gas Company; the Texas Eastern Transmission Corporation and Transwestern Pipeline Company (Texas Eastern-Transwestern) (joint comments); the Texas Gas Transmission Corporation (Texas Gas); the Texas Independent Producers and Royalty Owners Association (Tipro); the Transcontinental Gas Pipe Line Corporation (Transco); and the United Gas Pipe Line Company.

Ten of the persons presenting oral comments had previously submitted written comments: INGAA; Mich-Wisc.; Natural Gas; Panhandle-Truckline; Phillips; Shell; Texas Eastern-Transwestern; Texas Gas; Tipro; and Transco. The six others presenting oral comments were: The American Public Gas Association (representing 169 municipally-owned gas distribution systems in 27 states); Associated Gas Distributors; the Exxon Corporation; the Sun Gas Company, a division of Sun Oil; the Tennessee Gas Pipeline Company, a division of Tenneco, Inc.; and Texaco, Incorporated.

The opportunity to present oral comments was held on October 21, 1980, pursuant to public notice; *see* note 63 *supra*.

[65] Petitions to rehear were timely filed by Columbia Gas Transmission Corp.; Cities Service Gas Co.; El Paso Natural Gas; Exxon Corp.; Indicated Producers; INGAA; Michigan-Wisconsin Pipeline; Mississippi River Transmission Corp.; Mobil Oil Corp., with Mobil Oil Exploration and Producing; Natural Gas; Northwest Pipeline Corp.; Panhandle-Trunkline; Pennzoil Co.; Southern Natural Gas Co.; Tennessee Gas Pipeline Corp.; Texas Eastern-Transwestern ; Texas Gas; Transco; and United Gas Pipeline Co., and Sea Robin. The petitions were granted for the limited purpose of providing the Commission more time to consider them. "Order Granting Rehearing for the Purpose of Further Consideration", Docket No. RM80–47 (issued Sept. 19, 1980), *as corrected*.

Several petitioners requested that their petitions also be considered as comments.[66]

In addition to the comments and petitions to rehear filed in this proceeding, the Commission has received several other filings. These filings include petitions for expedited action and supplementary comments.[67]

B. Discussion

The regulations implementing section 110 of the NGPA are being amended in several important respects. The two major changes are the elimination of minimum quality standards and the elimination of the application procedures. They are replaced with a self-executing mechanism allowing sellers to automatically adjust maximum lawful prices to recover most types of production-related costs. The mechanism operates within well-defined limits to ensure that the requirements of section 110 are carried out. Before proceeding to describe these amendments in detail, we present the reasons which have persuaded us to adopt them.

The Interim Regulations contained threshold quality standards which were pipeline quality standards for the content of total sulphur, hydrogen sulphide, water, carbon dioxide and other impurities. As a general matter, to be eligible to apply for price adjustments for costs of treating, conditioning or processing natural gas, a seller had to be incurring costs to exceed the standards, and applications were limited to only those costs incurred to exceed the standards.[68] The standards were derived from a review of gas contracts on file with the Commission. One concept behind using the standards was that, as a matter of prevailing industry practice as represented by those contracts, sellers regularly agreed to deliver gas to purchasers which met the standards. Another concept was that the Commission should exercise its discretion to allow adjustments under section 110 only for extraordinary production-related costs and, inasmuch as sellers usually delivered gas of pipeline quality to purchasers, the costs incurred to do so were not extraordinary.[69] These quality standards were discussed by almost everyone who commented on, or filed petitions to rehear, Order No. 94.

Only one commenter supported the standards. It argued that inherent in the idea of setting maximum lawful prices for gas sales is the concept that gas sold at a maximum lawful price should be of marketable quality. The comment went on to argue that quality standards are consistent with this concept in that their use ensures that a seller would get no more than the ceiling price for providing quality gas.

The problem with this view is the initial premise that the NGPA pricing scheme requires the sale of marketable quality gas. The premise cannot be supported by either the language of the statute or its legislative history. In fact, the Congressional intent appears otherwise. Beyond reference to a Btu content, the provisions of Title I of the NGPA make no reference to any gas quality standards to which maximum lawful prices apply.[70] Further, the statute is clear that the maximum lawful prices are to apply whenever there is a "first sale". Such a sale may take place at the wellhead or at any other point before being commingled in a pipeline's system supply. While a producer may sell his gas after conditioning or gathering, the intent appears to be that he is free to contract to sell the gas right at the wellhead immediately after production.[71] Thus, although the sale may take place at the purchaser's mainline system before it enters that system, with the producer thereby incurring all of the production-related costs necessary to deliver at the point, the Act provides that the sale can take place at the wellhead with the producer incurring no production-related costs. For either sale, the same maximum lawful price applies.[72] Finally, to interpret the Act as requiring the sale of natural gas at a quality level in order to

[66] Those that incorporated their petitions to rehear Order No. 94 into their comments were: Columbia Gas; Texas Gas; INGAA; Michigan-Wisconsin Pipeline; Natural Gas; Panhandle-Trunkline; Southern Natural (by implication), and Texas Eastern-Transwestern.

[67] Motions for expedited action were filed by the Gas Processor's Association of America, the Phillips Petroleum Company, the Atlantic Richfield Company, and the Pennsylvania Natural Gas Associates. In addition, the Exxon Company filed additional comments respecting the Commission's authority under section 110.

[68] Interim Regulations, note 56 *supra* at 251–252, 43 FR at 56576; *see* also Order No. 94, note 1 *supra* at 83–84, 45 FR at 53115. These rules applied unless a sale was made to an end user, in which case an application could be made for any cost incurred to treat, process, or condition the gas. *See* Order No. 94, note 1 *supra* at 84, 45 FR at 53115.

[69] *See* Interim Regulations, note 56 *supra* at 79–83, 43 FR at 56490–56492.

[70] *Cf.* the several area-wide rate proceedings that did require price adjustments for sales of gas at less than specific quality. *See e.g.*, text accompanying notes 38–44 *supra*.

[71] *See* 124 Cong. Rec. S16,257 (daily ed. Sept. 27, 1978) (remarks of Senators Gravel and Jackson).

[72] The point was made in Order No. 94; *see* Order No. 94, note 1 *supra* at 60, 45 FR at 53111. It was also made by several who commented or petitioned for the removal of the standards.

charge a maximum lawful price requires that the Act be interpreted to provide for reducing prices below maximum lawful prices for sales of gas made below quality. The Act contains no such provision."[73]

All of the other commenters and petitioners who addressed the quality standards argued for their removal on both legal and factual grounds. The legal objections, while varied, can be reduced to a few essentials. One of the most frequent arguments made was that, because the regulations precluded adjustments for production-related costs to bring gas up to the quality standards, first sellers incurring these costs suffered an unlawful diminution of their statutory maximum lawful prices. We disagree. This argument is predicated upon the presumption that Congress intended maximum lawful prices to apply only for producing the gas. Yet this presumption ignores the fact that, under the NGPA, the maximum lawful prices are to apply to any first sale. While this may be a sale at a wellhead, it can also be a sale from a gathering system or the tailgate of a conditioning plant. The NGPA, through the definition of "first sale," leaves to contracting parties the determination of what services the producer must provide to receive any price up to a maximum lawful price. In short, the fact that producers may have to incur production-related costs under the terms of their gas sales contracts in return for a maximum lawful price is not inconsistent with the Congressional intent in setting maximum lawful prices for first sales.

The second major legal argument against the use of the quality standards was that, because neither the maximum lawful price sections nor section 110 referenced such standards, to use them to implement section 110 was beyond the Commission's authority. To accept this argument is to accept too narrow a definition of the Commission's authority to implement section 110 for production-related costs. As discussed above, the statute and its legislative history make clear that the Commission has broad discretion to determine the means of implementing section 110.[74] To read the section as these commenters apparently do would limit the Commission's role to no more than approving adjustments for any and all production-related costs.[75]

Commenters and petitioners also objected to the quality standards on factual grounds. Some commenters argued that the contracts on file with the Commission, upon which the Commission based its determination that the quality standards established by the rule represented prevailing industry practice, did not provide a sufficient basis for that determination. Additionally, some commenters argued that, even assuming that the contracts on file are representative, contracts are not a good basis for determining prevailing industry practice because they only reflect the bargaining power and positions of the parties.

We do not agree with these objections. Contracts for the sale of gas under the Natural Gas Act to interstate pipelines have been required to be on file with the Commission since the *Phillips'* decision in 1954. These contracts are more than adequate to provide the Commission with a basis for ascertaining contracting practices in the industry. In response to the argument that contracts merely reflect bargaining power and do not reflect industry practice with respect to incurrence and recovery of production-related costs, we fail to understand the commenters' reasoning. As other commenters have suggested, we believe that contracts are one of the best indicators of industry practice. Contracts do, of course, reflect bargaining power and positions, and it is that bargaining which results in the parties' performance and compensation. The contracts show industry practice.

Historically, the Commission has relied heavily on gas sales contracts to determine how a producer's production-related costs should be handled. Area rate opinions, which established quality standards and downward adjustments to prices for gas that did not meet quality standards, were based on contracts as indicators of prevailing industry practices. National rate opinions provided for adjustments for these costs through reference to the contracts. Although the NGPA does not explicitly adopt these historical practices nor mandate their use in implementing section 110, it attaches great importance to contracts, as evidenced in section 101(b)(9) of that Act.[76]

Apart from objections to contracts as valid indicators of prevailing industry practice regarding quality standards, some commenters and petitioners objected to the concept of applying the quality standards to all sellers on a nationwide basis. They noted that, because the quality of gas as produced varies widely between, and even within, geographic producing areas, a single standard for the nation could not reflect industry practice accurately enough. Moreover, because of variations in relative bargaining positions between individual gas sellers and purchasers, there were wide variations as to contracted-for quality specifications of gas being sold."[77]

We agree with the commenters that determining industry practice on a national basis as to the quality of delivered gas is, and has always been, a difficult task. As several of the commenters and petitioners pointed out, and our own review of Natural Gas Act producer pricing verifies, the Federal Power Commission avoided establishing national quality standards. In its attempts to reflect prevailing industry practices the Commission either referenced the terms of particular contracts or established area-wide gas quality standards based, in large part, on the terms of existing contracts for sales of gas in the particular area.[78] On at least two occasions, the Commission had before it proposals to adopt nationwide quality standards and each time rejected that approach.[79] When the Commission did move to nationwide producer base ceiling rates, it explicitly referenced contracts as the appropriate mechanism for determining quality standards adjustments. In this way, individual practices could be reflected accurately.[80]

In establishing the generic quality standards in the regulations implementing section 110 and using those standards across-the-board to limit what sellers could receive as adjustments for production-related costs, the Commission, in its discretion, chose to use a generic standard rather than one that more accurately reflected individual practices. However, in using these standards the Commission, in

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[73] To the contrary, Commission authority under the Act's primary provisions extends only to establishing ceiling prices above the mandated maximum lawful prices. *See, e.g.*, sections 104(b)(2), 106(c) and 109(b)(2) of the NGPA, 15 U.S.C. 3314(b)(2), 3316(c), 3319(b)(2) (Supp. IV 1980).

[74] *See* text accompanying notes 50–54 *supra*.

[75] In addition to arguments directed exclusively at the use of the quality standards to implement section 110, several commenters and most petitioners raised legal issues respecting this aspect of the regulations in conjunction with their arguments against the pipeline policy of 18 CFR 2.102. These are discussed below, in the next section, when we address the policy statement.

[76] In addition, there is some evidence that the drafters specifically considered this point and left it to Commission discretion. See Conference Report, note 49 supra, at 91: "[t]he conferees recognize that in certain cases, the just and reasonable rates under the Natural Gas Act include an allowance for production related costs. The conference agreement is not intended to alter or change that practice."

[77] A few commenters, citing to the same point and their own contracting practices, argued for changes in some of the particular quality standards.

[78] See generally text accompanying notes 17 to 47 supra.

[79] See notes 17 and 47 supra.

[80] See text accompanying notes 45 to 47 supra.

effect, froze industry practice at one point in time, instead of providing a flexible procedure that would allow for change in industry practices. As a result, sellers, particularly resellers, may well have been forced into changing their practices to conform to those found by the Commission to be generally prevailing. The rule denying producers certain types of production-related costs based on pipeline quality standards may work to change whatever contracted-for arrangement have been made as to who, as between seller and purchaser, would incur these costs. In other words, the rule that reflected generic industry practice at one time may operate in the future to encourage contractual changes that would shift responsibility for production-related costs away from producers and to gas pipelines. Therefore, we agree with commenters who suggest that individual gas sales contracts provide a better mechanism for determining who performs the work to provide quality gas and whether, if sellers perform that work, they should be allowed an adjustment under section 110. By referencing the contracts directly, the generic rules can be applied in a manner best designed to account for costs incurred by sellers on an individual basis. In addition, because contract negotiation represents market forces at work in the sale and delivery of natural gas,[81] changing conditions of industry practice can be accounted for by contractual amendment.

Regulations implementing section 110 that specifically reference contractual terms ensure, in the first instance, satisfaction of the legal requirements of that section. They ensure that the first seller who receives an adjustment has the contractual authority to do so. They also ensure that the first seller is performing the activity for which the adjustment is permitted. Moreover, they help to ensure that only amounts necessary to recover the costs are collected. Assuming arms' length negotiations, a producer would not contract to receive an amount for performing production-related activities that is less than the cost of performing those activities. By the same token, the purchaser would not contract to pay an amount for these activities if the purchaser could perform them at less cost.

The foregoing leads us to conclude that the quality standards should be removed and replaced with regulations that look to individual contracts as the test for whether a particular seller should receive an amount under section 110 for performing the production-related services such as treating or conditioning necessary to get gas to any standard. In addition, the same reasons lead us to conclude that the terms of individual gas sales contracts should serve the same purpose for any type of production-related service and its attendant cost. It is the contract which dictates whether a producer will be responsible for gathering or transporting the gas or performing any production-related service. And that agreement, in the first instance, represents the best indicator of prevailing practices as to how the producer should be compensated for that service.

The mechanism allowing additions to maximum lawful prices through gas sales contracts cannot, however, be permitted to operate without some restrictions. First, contracting practices in and of themselves will not guarantee that a seller receives only that amount under section 110 necessary to recover his costs. To ensure that this statutory requirement is met, the Commission has developed limits for allowances to recover production-related costs under section 110.[82] Because contracting practices provide, in the first instance, the best indicator of the appropriate amounts to be paid, and because, through section 101(b)(9) of the NGPA, the contract governs at prices lower than maximum lawful prices, the regulations issued today provide that a first seller may receive the amount he is expressly authorized to collect under the terms of the contract (as defined in the regulations) for providing the production-related service or the amount established under the regulations, whichever is less.

The second restriction that we impose is that any amount that may be collected as a section 110 adjustment for production-related costs must be expressly authorized under the terms of the contract. Contracts may be amended, but only to have prospective effect.[83] This will hold parties to the terms of their bargain.

Some commenters and petitioners also criticized the application procedures of the Interim Regulations and Order No. 94 regulations. Those procedures required first sellers to apply to the Commission for approval for most production-related cost adjustments under section 110. In applying, the sellers were required to furnish detailed information concerning the applicable maximum lawful price that would be adjusted, documents supporting that price, a description of the production-related costs to be recovered and the method used to compute those costs, a summary of contract provisions as to who bears those costs, and a statement as to the circumstances which make it necessary for the applicant to collect amounts above the maximum lawful price for those costs.

Comments to Order No. 94 argued that this information requirement was too burdensome, too detailed, and in several respects duplicated information already on file with the Commission. Some recommended that the information be reduced to a bare minimum necessary to inform the Commission of the nature of the amounts that would be added to maximum lawful prices.

Others questioned the need of an application procedure unless the Commission contemplated reviewing every single application. Finally, some commented that the types of information requested, for example a description of why an allowance was necessary, was prejudicial and appeared to show that the Commission would use rather stringent criteria in allowing adjustments under section 110 for production-related costs.

The Commission agrees with the comments and petitions that the information requirements of the Interim Regulations and Order No. 94 impose greater burdens than necessary on those required to use them. In addition, with the removal of the quality standards limits, we must question whether those information collection and application requirements, or any application requirements, are necessary or would unnecessarily burden the industry and the resources of the Commission.

In removing the quality standard limits, the regulations will permit first sellers to collect allowances under section 110 for most types of production-related costs. Because of this and because the new rules reference express contractual provisions, there may be a

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[81] *Cf.* Pennzoil Co. v. FERC, 671 F.2d 119 at 126–127 (5th Cir. 1982).

[82] These include specific provisions for costs incurred to transport and gather gas as well as to compress it. *See* Interim Rule, note 3 *supra*. It also includes a methodology for determining the highest amount to be allowed for treating or conditioning the gas. *See* discussion below under Part C(1)(d) "Amounts necessary to recover production-related costs."

[83] This is consistent with general view developed under the Natural Gas Act, that retroactive amendments should not be allowed. See Opinion No. 135, Transcontinental Gas Pipeline Corporation, Docket No. GP80–24, issued Dec. 11, 1981, 17 FERC ¶ 61,232 at 61,453, see also Order No. 23, Docket No. RM79–22 (March 13, 1979); Order on Rehearing of Order No. 23, Docket No. RM79–22 (May 11, 1979); Order No. 23–A, Docket No. RM79–22 (June 12, 1979); Order No. 23–B, Docket No. RM79–22 (June 21, 1979); Order on Rehearing of Order No. 23–B, Docket No. RM79–22 (August 6, 1979); Order on Rehearing of Order No. 23–A, Docket No. RM79–22 (August 13, 1979).

large burden imposed on the Commission if it is to review every sales contract through an application process or other formal submission to the Commission. Moreover, such procedures would result in unwarranted delay in sellers receiving adjustments under section 110.

For these reasons, the application procedures are being removed from the regulations. The new regulations referencing the gas sales contracts are designed to be self-executing. We are confident that the contractual authorization requirements of the new rules, coupled with Commission-established methods of determining limits, will serve to ensure that the provisions of section 110 and the Commission's regulations are properly implemented. However, we are mindful of the potential for abuse inherent in any self-implementing regulatory scheme. Field audits will ensure that sellers adhere to the new rules.

In addition, the Commission's enforcement authority under the NGPA should stand as a deterrent to the misuse of the new rule. The collection of a price in excess of the otherwise applicable maximum lawful price by an amount not authorized under the new regulations would be a statutory pricing violation. Depending, then, upon the results of investigations, the Commission may, in accordance with the provisions of section 504 of the NGPA, assess a civil penalty of up to $5,000 per violation per day if a "knowing" violation within the meaning of section 504(b)(6) of the NGPA has occurred.[84] Alternatively, the Commission may initiate proceedings to determine whether a violation of the NGPA, or the Commission's regulations has occurred, as well as whether such violation was "knowing" within the meaning of section 504(b)(6).[85]

Consequently, the Commission believes that the existing civil and criminal penalty provisions of the NGPA constitute an adequate deterrent to potential abuses and violations of the new rules.

Apart from the quality standards and the application procedure, the comments to Order No. 94 discussed other important areas of the Interim Regulations. Most of these comments are very specific and are more appropriately discussed in the following section which describes the amended rules in detail. Several comments to Order No. 94 and petitions to rehear that order renewed arguments made in response to the Interim Regulations of December 1, 1978, that the rules for those selling gas under certain intrastate contracts should be changed to allow these sellers the same adjustments as other sellers. Those comments are addressed in a separate order.[86]

One commenter noted that Order No. 94 reproduced the special rules of Order No. 45 that were prescribed for sales made of Alaskan gas to be transported through the Alaskan Natural Gas Transportation System. Because these rules had been stayed at the time Order No. 94 was issued, the commenter noted that, by reissuing them as part of Order No. 94, the Commission may have inadvertently confused the public as to whether these rules were actually stayed. No such result was intended. Moreover, these special rules were rescinded after Order No. 94 was issued.[87]

One commenter expressed dissatisfaction with the regulations permitting those selling gas directly to end-users to apply for production-related costs incurred to make the gas of suitable quality for the end-user. This dissatisfaction stemmed from having any rule that treated one group or class of sellers differently from another. Another questioned the intent of the rule. As discussed in both the Interim Regulations and Order No. 94, this rule was implemented because the Commission had no factual basis on which to judge what were prevailing practices for these types of sales.[88] Because the amendments made today do away with the quality standards, the rules distinguishing between sales made to end-users and sales made to others are likewise removed.

In summary, this order amends the regulations by replacing the potentially cumbersome application process with provisions that allow first sellers to charge amounts necessary to recover contractually authorized production-related costs without prior Commission approval. These provisions operate only if, under the express terms of a gas sales contract, the seller agrees to perform the production-related service and the purchaser agrees to compensate the seller for performing that service by paying an amount apart from the amount paid for the gas itself. To ensure that only an amount necessary to recover the production-related cost is charged, the rules provide that the amount to be collected must be the lesser of the amount agreed to under the terms of the contract for performing the service or the amount computed under methods established by the Commission.

Because the new rules implementing section 110 reference individual gas sales contracts as the test for whether a particular seller should receive any amount in excess of the maximum lawful price for performing production-related services, the earlier regulations that rested on concepts of "prevailing industry practice" to generically direct what types of production-related costs may be collected are no longer necessary. These regulations are, therefore, removed.

The new regulations are designed to be self-executing. Therefore, the provisions that required applications to the Commission and described the content of those applications have also been removed. These have been replaced with provisions that impose a general record-keeping requirements on sellers collecting allowances for production-related costs and provisions that will require these sellers to provide gas purchasers with a description of the amounts collected.

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[84] This would be in addition to any refund that might be ordered. See generally, Interim Rule, note 5 supra.

[85] The term "knowing" under section 504(b) of the NGPA means the having of (1) actual knowledge, or (2) the constructive knowledge deemed to be possessed by a reasonable person who acts under similar circumstances. In this regard, the Conference Report on section 504(b) provides that the conferees intended that every person shall be presumed to have constructive knowledge of the Act itself, but not necessarily of the regulations adopted pursuant to the Act. The latter was viewed to be a question of fact to be determined by a reasonableness test. Conference Report, note 49 supra, at 121. Accordingly, the Commission believes that knowledge of the rules promulgated today must be established in order to assess a civil penalty for a violation arising in connection with a disallowed production-related cost, even though the violation would be, in our view, a statutory violation. But we note that the Commission may find it difficult to conclude that, under the circumstances, a seller who collected a price in excess of the applicable maximum lawful price by an amount reflecting the inclusion of production-related costs cannot reasonably be charged with knowledge of these rules.

Even if a seller were laboring under a legal misapprehension as to whether certain costs were allowable add-ons this "mistake of law" would not affect the seller's civil penalty liability. Moreover, if a first seller knows that an add-on for a production-related cost is not allowed, but, disregarding that knowledge, collects a price in excess of the maximum lawful price by an amount attributable to such costs, the seller's violation is both knowing and willful. This type of case may be referred by the Commission for criminal prosecution under section 504(c) of the NGPA. If, on the other hand, a seller relied upon a mistaken interpretation of the contract, or of the Commission's regulations implementing section 110, the seller's violation may not be "willful", but would nonetheless be 'knowing" for civil penalty purposes. See *U.S.* v. *International Mineral & Chemical Corp.* 402 U.S. 558, 564–65 (1971).

[86] See generally Order No. 94–B, note 4 supra.

[87] See note 59 supra.

[88] See Interim Rules, note 56 supra at 79, 43 FR at 56490; Order No. 94, note 1 supra, at 46–47, 45 FR at 53108.

In addition, this order makes other amendments in response to comments and petitions to Order No. 94. The definition of "production-related costs" is amended to include any cost of performing production-related services that is properly allocable to natural gas customers and a method by which such costs can be so allocated. As a result, the term "non-allocable costs" is removed from the regulations.

Amendments are also made to the blanket affidavit filing provisions of the Commission's regulations to provide gas sellers still subject to the Natural Gas Act with an administratively simple method of meeting their obligations under that Act when charging for production-related costs.

The amendments are being issued as final rules. As a general matter, the final rules will not operate to authorize the collection of amounts for production-related costs incurred prior to today.[89] A basic principle of administrative procedure is that rules should operate prospectively only. We see no reason to depart from this principle in implementing these amendments. To the contrary, there is good reason to adhere to it.

First, while the general subject of the rules has been before the Commission since December 1, 1978, the rules themselves are a change in the established practice that has been in effect as interim rules since that date. Although, the Commission left open the possibility of changing the rules issued December 1, 1978, it did not provide any indication of what the changes might be. Thus, there was no notice that the interim rules in existence from December 1, 1978, through today, would not govern during that period.

Second, making the new rules retroactive may impose substantial burdens on those who have acted in reliance on the earlier, interim rules. It would result in the reopening of past transactions developed under those rules and may result in hardships and unfairness.

Not making the rules retroactive works no hardships or unfairness. In keeping with regulatory practice, the new rules do not permit new contractual agreements to operate retroactively. Therefore, only those who had contractual authority to receive a production-related cost allowance, and were prohibited from collecting that allowance because of the Commission's regulations, would gain by making the rules retroactive. We do not believe that this gain justifies retroactive rulemaking in this instance, because the class of persons involved is small and adequate mechanisms have been, and continue to be, available to consider any hardship, inequity, or an unfair distribution of burdens incurred.

Before proceeding further, one point raised by those seeking rehearing of Order No. 94 should be addressed and that is the view that the changes made by that Order should be made retroactive to December 1978, the date the Interim Regulations were issued. For the same reasons we decline to make the amendments made today retroactive, we decline to make those of Order No. 94 retroactive.

C. Section-by-Section Analysis of the Rule

This order amends §§ 271.1104 and 271.1105 of the Commission's regulations implementing section 110 of the NGPA. It also amends § 271.1103 of the regulations requiring retention of certain records and makes conforming changes to §§ 270.102(b) (15), (16) and (17) and § 271.1100. In addition, this order amends § 154.94 of the regulations respecting certain Natural Gas Act filing requirements.

1. *Rules for Production-Related Cost Adjustments.* Section 271.1104 has been considerably revised. As revised, the section is made up of seven paragraphs. Paragraph (a) states the general rule that a price for a first sale of natural gas will not be considered to exceed the maximum lawful price applicable to that sale if it exceeds that price by an amount necessary to recover production-related costs and if certain conditions are met. Paragraph (b) describes the types of sales excluded from the scope of the generic rules of the section. Paragraph (c) provides definitions for key phrases used in the general rule including the terms "production costs" and "production-related costs." The latter definition has been changed to include costs incurred by a seller to handle crude oil, other liquids and liquefiable hydrocarbons to the extent that activity inures to the benefit of gas customers. Paragraph (d) sets out limits on amounts that may be recovered as production-related costs. Paragraph (e) provides a series of special transition rules to allow the collection of delivery or compression costs incurred prior to the date of this order. Paragraph (f) provides that sellers must give notice to purchasers of charges to be collected. Finally, paragraph (g) provides that one may apply to the Commission for an allowance to cover types of costs not otherwise provided for by the generic rules.

Section 271.1105 described the types of information that a first seller would have to submit to the Commission as part of an application for a production-related adjustment under section 110. Because of the amendments made by this order, the application process is no longer required. For this reason, the text of § 271.1105 has been removed. In its stead, the Commission is putting into place, by separate order, special refund provisions.[90]

Section 271.1106 has provided a cross-reference to the Commission's procedural regulations for those seeking relief under section 502(c) of the NGPA. A technical change is made to § 271.1106 to reflect the recent recodification of the Commission's rules of practice and procedure.

a. *The general rule.* Paragraph (a) provides that the price for a first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to that sale, as determined by the regulations implementing sections 102 through 109 of the NGPA, if three conditions are met. Each of the three is based on the requirements of section 110 of the NGPA. The first condition is that the price can only exceed the maximum lawful price by an "amount necessary to recover" production-related costs as determined under paragraph (d). (Paragraph (d) sets out the limits of what can be collected; these are the lesser of the amount expressly authorized under the terms of the gas sales contract or the amounts determined under the Commission's methodologies.) The second is that the production-related costs being recovered must actually be borne by the seller. The third is that the seller must be "expressly authorized" to be compensated for bearing the production-related cost. "Expressly authorized" is a defined term relating to the gas sales contract.

The first condition serves an important regulatory function. As already discussed, any rule implementing section 110 for production-related costs must work to ensure that the seller who collects a price in excess of the applicable maximum lawful price for the sale receives only that amount necessary to recover production-related costs. While the seller should not be foreclosed from recovering these costs, neither should he be allowed to recover

[89] An exception is made in the case of delivery or compression services. However, this exception is based upon the Commission's notice in Order No. 94 that these costs could be recovered. In addition, this recovery is under particular safeguards to insure that amounts collected for these services may only be collected if contractual authority existed to collect them at the time they were incurred. See text accompanying notes 120–123, infra.

[90] See Interim Rule, note 5, supra.

more. To allow the recovery of production-related costs in amounts greater than that necessary would be in derogation of the Commission's section 110 authority.

The third condition, that a seller have contractual authority to collect an amount for production-related costs, also serves an important regulatory function. By having a rule that relies on contractual authority for the collection of production-related costs, the Commission focuses on the decisions made by those closest to the situation as to who will bear the costs necessary to bring the gas to market and whether those costs, if borne by the seller, are to be recovered by collecting the ceiling price paid for the gas. In so doing, the Commission adopts the views expressed in response to Order No. 94 that decisions as to who should bear production-related costs should be left, in the first instance, to contracting parties. In addition, this rule is also consistent with the concept that, under the NGPA, an important determinant of sales prices is the sales contract. The result of adopting the contractual test, aside from administrative simplicity and ease of enforcement, is that contracting parties—both first sellers and gas purchasers—are left to the benefits or detriments of their bargains.

b. *The exclusions.* The generic rules implementing section 110 will apply to all but two categories of natural gas first sales made under the terms of a written gas sales contract. The excepted categories are listed under paragraph (b). They include the first sale of natural gas produced from the Prudhoe Bay Unit of Alaska for transport through the natural gas transportation system (ANGTS) approved under the Alaska Natural Gas Transportation Act of 1976 (14 U.S.C. 719 *et seq.*) (ANGTA), and a sale in which the price applicable to the sale has been established under the Commission's optional rate procedures.

Sales of Prudhoe Bay gas have always been subject to special consideration under the Commission's rules implementing section 110. These sales were explicitly excluded from the ambit of the Interim Regulations, and a special rule limiting the types of production-related costs that could be applied for by sellers of Alaska gas was issued under a separate rulemaking.[91] These actions were taken on the basis that production and pipeline transportation of Alaskan gas involved unique circumstances that required limiting the types of production-related costs that would be allowed producers under section 110.[92] The particular circumstances that warranted this treatment of Alaska gas sales, especially the exclusion of the gas conditioning facilities from the ANGTS and the prohibition against producers participating in the ownership of the ANGTS, were removed by an act of Congress. Because of this, Order No. 45 was vacated.[93]

There are, today, no reasons to limit what first sellers of natural gas produced from the Prudhoe Bay Unit of Alaska for transport through the ANGTS can receive as an add-on under NGPA section 110 for production-related costs borne by them. The exception of paragraph (b)(1) should not be read as such a limitation. Instead, it reflects the Commission's view that decisions as to what to allow these sellers under section 110 for production-related costs are best made in the context of specific cases and not through generic rules. This is because of the peculiarity of the gas sales arrangements for this gas and because the Commission recognizes that both producers and pipelines may be co-owners and operators of the conditioning plant. The Commission has, therefore, decided to treat allowances for production-related costs for this gas on a case-specific basis and through ongoing and future transportation certification proceedings.[94]

The second exception of paragraph (b) excludes sales made at just and reasonable rates set by the Commission under the Natural Gas Act and collected by first sellers pursuant to a certificate issued under the optional rate procedures of § 2.75. One who sells gas at such rates cannot increase those rates above the certificated amounts unless relieved of the obligations imposed by certificates authorizing the rates.[95] The rule provides that sellers who collect prices based on optional procedure rates can collect the allowances under the rules issued today in one of two ways: either the certificate authorizing the sale has been amended to permit the rate increase; or, through redesignation or otherwise, the gas sale is no longer subject to the Commission's Natural Gas Act jurisdiction. In such circumstances, the exclusion no longer pertains.

The exclusion of gas priced under an optional procedure rate is the only exclusion of natural gas that was committed or dedicated to interstate commerce before enactment of the NGPA. Thus, the Commission's generic rules of § 271.1104 apply to any other situation in which the maximum lawful price for the sale of the gas is based on just and reasonable rates established by the Commission under the Natural Gas Act. Of course, such sellers must still make any relevant filings required under the Natural Gas Act if the sale of the gas is still subject to the Commission's Natural Gas Act jurisdiction.[96]

The generic rules, as amended, apply only to a "first sale" of natural gas (as that term is defined under the NGPA) that is made under the terms of a written gas sales contract. Because of the requirement that there be a written gas sales contract, transactions that might otherwise be considered a first sale but do not involve gas sales contracts are outside the ambit of the generic rules of § 271.1104.

In a recent opinion, the Fifth Circuit Court of Appeals held that an intracorporate transfer of a pipeline company's own gas production from its production division to its transportation division constitutes an NGPA "first sale" and, on the basis of this holding, vacated Commission rules and orders that had found to the contrary.[97] While this decision is now pending review before the Supreme Court, the amendments we make to our regulations should not be read as reflecting Commission approval or disapproval of that decision. We wish to point out, however, that these amendments, conditioned as they are on the existence of gas sales contracts developed through arms' length negotiation, do not include the types of intracorporate transactions characterized by the court as being first sales. Accordingly, those who are involved in such transactions, and who seek an adjustment under section 110 for production-related costs, must instead apply to the Commission.

c. *The definitions.* Paragraph (c) provides definitions for important terms used in § 271.1104. In Order No. 94, the definitions of "production costs," "production-related costs," and "non-

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[91] *See* Interim Regulations, note 56, *supra* at 83–85, 43 FR at 56492–56493; Order No. 45, note 59 *supra*.

[92] Order No. 45, note 59 *supra* at 26–42, 44 FR at 51558–51561.

[93] *See* "Order Rescinding Order No. 45 and Terminating Docket", note 59 *supra; see also* President's Findings and Proposed Waiver of Law (Oct. 15, 1981), approved by Joint Resolution of Congress, S.J. Res. 115, Pub. L. 97–93, 95 Stat. 1204 (1981).

[94] The Commission's authority to treat production-related costs on a case-specific basis is predicated on the provisions of section 110 of the NGPA which explicitly permits the Commission to grant an allowance by "rule or order."

[95] *See* Order No. 94, "Order Reissuing Part 271, Subpart D of the Commission's Regulations as Final Regulations", Docket No. RM80–19 at 15–26 (issued Jan. 3, 1980), 45 FR 1862 (Jan. 9, 1980), *aff'd*, Columbia Gas Development Corp. v. FERC, 651 F.2d 1146 (5th Cir. 1981).

[96] *See* text accompanying notes 128–129, *infra*.

[97] Mid-Louisiana Gas Company v. Federal Energy Regulatory Commission, 664 F.2d 530 (5th Cir. 1981), *pet. for cert. granted*, 103 S. Ct. 49 (1982).

allocable costs" were introduced and placed under the general definitional provisions of § 270.102(b). These definitions are amended and are removed from that section and placed under § 271.1104 for ready reference. In addition, the definition of "non-allocable costs" is rescinded. The concept originally intended by the creation of this definition is included under an amended definition of "production-related costs." Finally, several important phrases used in the general rule of paragraph (a) and elsewhere in the section are defined.

Borne by the seller. This definition is to make clear that a seller is to be considered as bearing a production-related cost whether or not he is actually performing the service which has engendered the cost. There may be situations in which the seller is not himself performing the service but has, instead, contracted with another person to perform the service on his behalf. In such a situation, the seller should be allowed to recover from the purchaser the amount paid to the other person, provided that other requirements of the section are met.

Deliver. As a practical matter, it is exceedingly difficult to define "gathering" in terms of a particular activity.[98] Moreover, while section 110(a)(2) of the NGPA refers to both "gathering" and "transportation" as activities that may involve production-related costs, transporting natural gas is a function that, under sections 2 (15) and (16) of the NGPA, is undertaken not by producers, but by interstate and intrastate pipelines.[99] To prevent confusion as to what "gathering" is, and to prevent the possible misapplication of the term "transportation" as undertaken by producers, both activities are included under the term "deliver" natural gas.

The term "deliver" is limited to gathering or transporting through natural gas pipelines. Moving gas by other means, as for example by truck or barge, is excluded from the definition and, therefore, from the generic rules. This exclusion is intentional. Costs for such activities fall outside of the mainstream of experience and are not reflected in the limits of paragraph (d). Those who wish to file an application under section 110 for these or other methods of moving natural gas should refer to paragraph (g) of § 271.1104.

Expressly authorized. The general rule of paragraph (a) requires that, for a first seller to add-on an amount to an applicable maximum lawful price for the recovery of a production-related cost, the seller must be "expressly authorized" to be compensated for bearing that cost. This key phrase is defined in two parts. The first requires that the gas sales contract governing the first sale, by its express terms, shows that the seller has agreed to provide a specified production-related service. That is, the contract must show that the seller is responsible for the performance of a particular production-related activity, for example, delivering gas to the purchaser, or for the performance of the work to provide gas of an agreed upon quality. General provisions that the seller will sell and deliver the gas for a price without a description of where the delivery will be made or what the quality will be will not suffice. Nor will informal sales procedures or separate agreements not expressly reflected in the express terms of the contract suffice. The gas sales contract is to be the only means of showing who, precisely, is responsible for providing the specified production-related service and incurring the production-related costs.

If a first seller is responsible for providing a production-related service under the express terms of the contract, the second part of the definition requires some evidence that the purchaser has agreed to pay the seller for providing that service apart from an amount paid for the gas. This is done by requiring that the contract, by its express terms, shows that the purchaser has agreed to compensate the seller for the cost of providing that specified production-related service. This can be done under the rule in two ways. The contract can either contain a provision that expresses that the purchaser will pay some amount to the seller to recover the cost, or it can contain a so-called "area rate clause." However, as explained more fully below, the use of an area rate clause will, under the regulation, only suffice to allow an adjustment if gas is priced under certain applicable maximum lawful prices and then only for delivering the gas. It cannot be used as authority for collecting any other types of production-related costs.

For a contract to be considered as expressly providing that the purchaser agrees to compensate the seller for the cost of providing a production-related service, it must describe that payment as being separate from the amount paid for the gas. A contract that merely states that gas is to be sold at some price, for example, the applicable maximum lawful price, and delivered in a condition and at a particular quality suitable for pipeline entry will not suffice. Instead, a contract must expressly provide for the payment of an amount directly tied to the performance of the activity that results in the incurrence of the production-related cost.

The amount itself need not be specified. It can, for example, be based on a pricing formula or reference the Commission's regulations implementing section 110. However, no express reference to section 110 of the NGPA or the regulations implementing that section is required. For example, a contract might provide for the sale of the gas at an applicable maximum lawful price and that the seller is to perform all necessary gathering and conditioning, and as compensation for performing those services, the seller may collect the "highest amount" permitted by the Commission for that activity. This would suffice. The point is that some payment provision segregable from the amount paid for the gas must be identified on the face of the gas sales contract as compensation for providing the production-related services.

The alternative that considers an area rate clause as evidence of the purchaser's agreement to compensate the seller for the cost of delivering the gas is inserted in recognition of the long-standing practice in setting and implementing Natural Gas Act producer rates to consider these clauses as sufficient to permit sellers to adjust their rates by adding on delivery allowances. Throughout the area and national rate proceedings, the Commission allowed producers to file for and collect gathering and delivery allowances if "contractually authorized."[100] The Commission's practice during this period was to allow area rate clauses to trigger the applicable Commission-established just and reasonable rate.[101] Parties included an area rate clause in their contracts in the expectation of receiving any gathering or delivery adjustment that the Commission allowed. For example, in the national rate opinions and regulations, no specific statement

[98] *See, e.g.*, Chase Gathering Systems, Inc., "Order Granting Petition for Declaratory Order," Docket No. CP80-493 (issued Sept. 17, 1981), 16 FERC ¶ 61,199. That case cites to three tests for gathering, all used by the Commission: the "behind the plant" theory, the "central point" in the field test, and the "primary function" test. *Id.* at 61,447-48.

[99] Sections 2(15) and 2(16) of the NGPA, respectively, define the terms "interstate pipeline" and "intrastate pipeline. 15 U.S.C. 3301 (15) and (16) (Supp. IV 1980)."

[100] *See e.g.*, note 45 *supra*, Opinion No. 699-H, 52 FPC at 1655; Opinion No. 749, 54 FPC at 3116.

[101] *See* Order No. 23, FERC Stat. & Reg. Preamble ¶ 30,040 at 30,312. Athough gathering and delivery allowances could be added to base ceiling prices, the Commission made it clear that these rates were to be viewed in their totality and that the entire rate was just and reasonable. *See* Placid Oil Co. v. FPC, note 18 *supra*, 483 F.2d at 891, *aff'd* Mobil Oil Corp. v. FPC, note 18 *supra*, 417 U.S. at 330.

was made that a seller with an area rate clause could collect national rates.[102] However, Commission practice was to allow producers to file for, and collect, the national rates if the producer cited an area rate clause as the contractual basis for the Natural Gas Act section 4 rate increase filing.[103] In addition, since the national rate was also a "total rate,"[104] the Commission's practice was to allow an area rate clause to be cited by a producer as the basis for collecting a gathering or delivery allowance. This is in contradistinction to compression, treating, conditioning, or liquefying gas; these activities never being allowed for under area rate clauses. In light of this history and the fact that the Commission is today establishing delivery allowances, the rule allows first sellers to collect delivery allowances if all other requirements of the rule are met and the contract contains an area rate clause.

To reiterate, this type of clause can only be used to justify an adjustment for delivering gas (for gathering or transportation); it cannot be used to justify the collection of any other type of production-related cost. Should a contract contain both a provision specifying an amount to be paid for delivering gas and an area rate clause, the specific provision will control unless the two are phrased as operating in the alternative. If the two are phrased as operating in the alternative, the parties must mutually agree as to which will control.

The use of an area rate clause to allow adjustments for delivering the gas is allowed for all NGPA pricing categories except gas sold under sections 105 and 106(b) of the NGPA. Sales made under these sections, which involve certain types of intrastate gas sales contracts, are excluded by not referencing subparts E and F, the subparts of the Commission's regulations under which an applicable maximum lawful price is determined for these types of sales. The exclusion is based on the fact that prior Commission practice regarding the use of area-rate clauses did not extend to these types of sales. For this reason, those making sales under subparts E and F had no expectation that the Commission would extend this practice to them.

The requirements that the contract contain both an express provision that the seller agrees to provide the production-related service and that the purchaser agrees to compensate the seller for that service define the types of contracts that will trigger generic adjustments under section 110 for production-related costs. The contract, reflecting the bargain made between seller and purchaser, is the basic mechanism for allowing recovery of production-related costs. Given the great number of contracts that will be involved and the diversity of provisions that can be used in such contracts, these rules are necessary to ensure that this mechanism will operate in an administratively effective manner.

Production costs. In Order No. 94, the Commission offered a detailed analysis of the need to ensure that only production-related costs be compensated for under its rules implementing section 110.[105] One result of that analysis was to define "production costs," the costs incurred to find and produce gas to the wellhead. This was done to exclude these types of costs from the ambit of "production-related costs."

The comments received in response to Order No. 94 raised no substantive questions as to the concept that "production costs" should not be included as "production-related costs." Most of the comments to this definition instead questioned the use of the term "compression" in the definition of production costs and argued that, as drafted, the definition would include any compression that even partly enured to production. This, they argued, would include as a production cost all compression activities and their related costs if only a part of their function went to production. That is, the definition did not consider compression activities that might have more than one purpose or objective.[106] For similar reasons, the specific reference to compression for stripper well production in the definition of "production costs" was also criticized as unfairly denying producers of this type of gas an adjustment under section 110 for compression.

The definition of "production costs" has been retained without substantive change. With respect to the particular problem of compression that can serve to both produce gas and to provide production-related services such as moving the gas from the wellhead, two things should be noted. First, to the extent such compression is to produce the gas priced under the incentive provisions of section 108 of the NGPA, the producer should be considered as collecting an amount "necessary" to recover costs of providing such compression through the revenue collected under the pricing provisions that permit him to continue charging the section 108 price. To allow compensation under section 110 for these compression costs would, therefore, be improper. Second, to the extent that compression is for the production of natural gas priced under the production enhancement regulations issued under section 107 of the NGPA, that price also provides adequate compensation for costs incurred by adding necessary compression to qualify for that price. To allow compensation for that compression under section 110 would, therefore, also be improper. However, should a first seller wish to have the Commission consider a particular compression activity as being a production-related costs instead of a "production costs," he may apply for an adjustment under the provisions of section 502(c) of the NGPA. Moreover, if the primary function of the compression is to effectuate delivery instead of production, it will be allowed under the generic rules.[107]

The definition of the term "production costs" has been changed non-substantively. The various components have been classified and arranged in an order that should make its provisions more understandable.

Production-related service. Production-related costs are incurred because of specific activities that are performed as, for example, delivering, treating or conditioning natural gas. To reflect this fact, and to link costs to the actual performance of an activity, we have adopted the term "production-related service."

Production-related costs. As originally introduced by the Interim Regulations, the term "production-related costs" was defined by using the list of activities set out under section 110(a)(2).[108] In Order No. 94, this definition was amended to exclude "production costs" and "non-allocable costs"; it was also expanded to include the phrase "other similar costs."

This definition has been amended in several important respects. First, and

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[102] Notice of Proposed Rulemaking and Public Hearing, Docket No. RM79-22 (issued Feb. 13, 1979) at 24, 44 FR 10336 (Feb. 16, 1979), FERC Stat. & Reg. Proposed Reg. ¶ 32,008 at 32,079.

[103] *Id.*

[104] *See* note 45 *supra*, Opinion No. 699-H, 52 FPC at 1624; Opinion No. 770-A, 56 FPC at 2804.

[105] Order No. 94, note 1 *supra*, at 9, 45 FR at 53101-53102.

[106] *See, e.g.*, Shell Comments at 8; Indicated Producers' Comments at 18; Transcript of Public Hearing held Oct. 21, 1980 for Docket Nos. RM80-72 and RM80-47 at 172 (comments of Sun Gas).

[107] For a more detailed discussion of these concepts, see the Interim Rule issued today under Docket No. RM80-73-000 *et al.*, establishing generic allowances for, among other things, compression: Interim Rule, note 3 *supra* at 35-37.

[108] Interim Regulations, note 56, *supra* at 248, 43 FR at 56574. This definition also included "conditioning," an activity not specifically listed under section 110(a)(2).

most importantly, while it continues to exclude "production costs," it now excludes costs that were described as "non-allocable" under Order No. 94 but only to the extent that the incurrence of such costs does not enure to the benefit of natural gas customers. Because of this change, the definition of "non-allocable costs" has been removed from the regulations.

In Order No. 94, the Commission presented arguments for excluding costs incurred to construct or operate facilities to recover, separate, extract, process, treat, dehydrate, store or transport crude oil or natural gas liquids from those allowed to be collected under section 110 as production-related costs.[109] These arguments rested on grounds similar to those used to justify the exclusion of "production costs"—that, under section 110, the Commission could not allow add-ons for costs that were not "production-related." With respect to the costs to handle crude oil, condensate, or other similar liquids, these costs were not considered necessary to handle natural gas and, as such, were beyond the scope of section 110.[110] These costs were grouped under the definition of "non-allocable costs" and, as such, were excluded from the ambit of "production-related costs."

Several comments and petitions to Order No. 94 pointed out that, as worded, the definition of "non-allocable costs" was too broad. It excluded even those costs which, while incurred to handle liquids, also served to promote the efficient, safe, and economic use of a gas pipeline. In addition, the comments and petitions pointed out that by being so broad, the definition would define cost allocation so that none of the costs to handle liquids could be passed on to gas customers, even those properly incurred to benefit these customers.

The amended definition of "production-related costs" recognizes the point made by commenters and petitioners that the mere fact a particular cost is incurred to handle liquids or liquefiable hydrocarbons does not mean that gas customers derive no benefit from the activity that engendered that cost. The first seller and the purchaser must be prepared, however, to demonstrate that benefit, otherwise, the adjustment for the activity will not be permitted. The new definition of "production-related costs" thus excludes costs that are incurred which do not benefit the gas customer.

Given that the activity does benefit the gas customers to some extent, there remains the question of how to allocate the costs of the activity between the gas customers and the owners of the products such as natural gas liquids that are removed from the gas stream. Various methods have been used to allocate these costs. One such method, and perhaps the simplest, is to allocate costs in proportion to the Btu content of the various products that result from the activities that engender the costs.[111] This approach, while of limited application, recognizes that, as a general matter, the relative worth of a product is sufficiently related to its energy content so that costs can be allocated on that basis for purposes of this rule. The amended definition includes this cost allocation method. However, it is to be used only when another method has not already been determined by the Commission as the appropriate method to be used in the particular situation involved (e.g., the generic allowance) or when the Commission has not barred the use of the method for the particular situation involved. The regulations explicitly reference these limitations. The phrase "particular service and seller" is intended to narrow the exceptions to particular situations involving these types of costs.

The "straight Btu method" of cost allocation as presented under this regulation is presented only to implement section 110 for production-related costs. In adopting this allocation method to implement section 110, we imply no opinion as to whether this method should be used in any other context or proceeding. These caveats are presented in the last clause. How these cost allocation problems are to be handled in a particular gas pipeline rate case or other Commission proceeding, is a question to be answered on the individual facts involved.

The regulations of paragraph (d)(3) describe a methodology for assessing production-related costs other than costs to deliver or compress natural gas. Once that assessment is made, the cost allocation provisions of the definition would apply, as necessary, to allocate the total costs.

A second change to the definition is to include "liquefiable hydrocarbons" as a product which, like liquids, may be handled as part of a gas stream and sold separately. This addition recognizes that certain liquefiable hydrocarbon constituents can be removed from the gas stream at a cost that may have to be allocated between gas consumers and owners of the liquefiables.

Apart from the inclusion of costs to handle liquids and liquefiables, the definition of "production-related costs" includes the newly-defined term "deliver." This change replaces the words "gathering" and "transporting."

The term "other similar costs" included in the definition under Order No. 94 has been deleted. As a practical matter, there was no support for including this term apart from the fact that it was used under section 110(a)(2). The only activity that was identified by comments as appropriately under this heading was gas "storage."[112] To date, no application has been received for an activity that would fall under the "other" category. To include this general catch-all phrase in the definition of production-related costs may result in confusion as to specifically what costs are allowed under the Commission's generic regulations implementing section 110. Because of this, the term has been deleted. However, the deletion should not be interpreted as a decision to exclude a particular type of production-related cost from the ambit of the Commission's regulations because it may not fall squarely within the enumerated activities. A seller who incurs a cost for an activity other than delivering, compressing, treating, conditioning, or liquefying natural gas may seek a decision from the Commission as to whether the activity is, in the Commission's assessment, a "production-related" service for which an adjustment may be collected.

Finally, the term "processing" has been removed from the list of activities defining production-related costs. Processing, as a general matter, refers to removing valuable components of the gas stream for separate sale.[113] This activity is generally undertaken for the extraction of natural gas liquids or liquefiable hydrocarbons, for example, ethane, propane, butanes, natural gasoline, and the like, because these constituents generally have a higher economic value when isolated and sold separately than when left in the gas stream. There are over 850 natural gas processing plants in operation in the United States. The investments in these plants were made based upon the

[109] Order No. 94, note 1, *supra* at 9–13, 45 FR at 53101–53102.

[110] *Id.*

[111] *See, e.g.*, Opinion No. 749, note 45 *supra*, 54 FPC at 3130–31 (Dunham, concurring).

[112] This was brought to the Commission's attention by a comment made to the Interim Regulations of December 1, 1978; *see* Order No. 94, note 1, *supra* at 47, 45 FR at 53108. In addition, it does not appear appropriate to specifically include such delivery practices as hauling natural gas by truck or barges under this "other similar costs" category. While such situations do occur, they will be considered by the Commission on a case-by-case basis, and not under the general rules implementing section 110.

[113] *See* note 9 *supra*.

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anticipated economic value of the liquids or liquefiables. As a general matter, it appears inappropriate to require natural gas ratepayers to bear processing costs under these circumstances. However, there may be other costs incurred, for example, to treat or condition the gas stream before processing, that may benefit both the processing operation and the natural gas consumer. In such situations, it may be appropriate to allocate some of these costs to the natural gas consumer. Those who might seek an adjustment for processing costs should refer to § 271.1106.

d. *Amounts necessary to recover production-related costs.* One of the most important elements of the general rule of paragraph (a) is that the amount to be added on to a maximum lawful price cannot exceed specific limits. These limits are, or will be, presented under paragraph (d).

The basic rule of paragraph (d) is that a seller may add on the lesser of the amount expressly authorized under the terms of the gas sales contract under which the first sale is made or an amount determined by specific rule or methodology of the Commission. Such a rule is necessary because of the injunction of section 110(a)(2) that a first seller may collect only an "amount necessary" to recover the production-related costs borne by him. To ensure that this requirement is met, the Commission has established ceilings for the recovery of these costs. In so doing, we have adopted the view that, under section 110, we must consider all relevant costs, including the cost of capital, devoted to a particular production-related service.

There are three cost ceilings depending upon the type of production-related service involved. The first two, for delivering gas and for compressing it, are the result of the Commission's efforts to develop generic adjustments for these two types of activities. The third is a methodology to determine the appropriate ceiling, depending on particular circumstances, for other production-related costs such as treating or conditioning.

As previously discussed, the Commission issued Notices of Inquiry for establishing gathering and compression allowances. Today, the Commission is issuing a separate interim rule to establish these allowances.[114] This interim rule sets generic allowances for costs incurred by a first seller to deliver natural gas sold by that first seller to a purchasing interstate pipeline, intrastate pipeline, local distribution company or any person for use by such person. If construction of the delivery system commenced before November 9, 1978, the Commission has established an allowance of 5 cents per MMBtu. If construction of the delivery system commenced on, or after, November 9, 1978, the Commission has established an allowance of 7 cents per MMBtu for the first mile of haul or fraction thereof plus 2 cents per MMBtu for each mile of haul or fraction thereof, the total mileage not to exceed 20 miles. The maximum generic allowance is, therefore, 45 cents per MMBtu for delivery systems the construction of which commenced on or after November 9, 1978.

The interim rule also establishes generic allowances for compressing natural gas if performed to effectuate delivery of gas to any interstate pipeline, intrastate pipeline, local distribution company or any person for use by such person. If construction of the compression facility commenced on, or after, November 9, 1978, an allowance of 6.0 cents per MMBtu for each stage of compression set at a ratio of 3.5 to 1 (representing the overall compression ratio of the delivery pressure at the outlet side of the last stage of compression to the inlet pressure of the first stage of compression), not to exceed three stages, plus the costs of the fuel or power to drive the compressor.

Because these allowances are being established under a separate rulemaking, the particular regulatory provisions under which they appear are being reserved in the regulations issued under this order on rehearing. These provisions are, however, reproduced in the appendix accompanying this final rule.

Apart from the costs incurred to deliver or compress natural gas, there are other production-related costs for which limits must be defined. To provide for this, the rules provide a particular methodology for calculating maximum allowable costs for other production-related costs such as treating (including purification) or conditioning the gas.

Natural gas treating, including purification operations, is generally performed to remove constituents such as carbon dioxide, hydrogen sulfide and water from the gas stream because they interfere with the safe and efficient handling and transportation of the gas. For example, carbon dioxide can cause corrosion of facilities, particularly when it combines with any free water present in the gas stream to produce carbonic acid. Also, carbon dioxide may freeze to form "dry ice" and cause interference with operations. Hydrogen sulfide is highly corrosive. More importantly, hydrogen sulfide is dangerous and can be lethal in even small concentrations. Its removal is, therefore, required for operating and safety reasons. Water may occur as a liquid or as water vapor in the gas stream, depending on the pressure and temperature existing in the operation (production, processing, or transportation). In a gaseous state, water reduces transportation efficiency. As a liquid, it may cause malfunctions and damage to equipment, as well as reduce efficiencies of operations and processes. Also, water will combine with hydrocarbons in the gas stream to produce "hydrates" (complex compounds with crystalline structures), which may lead to "freeze-ups" or "plugging" and thereby reduce capacity. And, as already noted, water will combine with "acid gases" to produce corrosive carbonic acid and sulfuric acid. Because of these and other physical and chemical features, it is frequently necessary to treat or purify natural gas before it enters a gas pipeline. A seller may collect an allowance under section 110 for these costs provided that the purchaser has expressly agreed under the terms of the gas sales contract to pay the seller to provide these services.

The design specifications of individual pipeline facilities will generally determine the temperature and pressure of any natural gas to be introduced into the system and these specifications also control the amount of water vapor and heavy hydrocarbons that can be handled by the facilities. Sufficient hydrocarbons and water vapor must be removed to assure that the hydrocarbon and water dew points will not be reached at the lowest operating temperature of the pipeline; otherwise, liquids will collect and cause operating problems. Facilities such as dehydration units or liquids/gas separators may be utilized to condition the gas to the pipeline operating specifications. A seller may also collect an allowance under section 110 for these conditioning costs provided the purchaser has expressly agreed under the terms of the contract to pay the seller to provide this service.

While we agree that treatment and conditioning cost should be eligible for allowances as production-related costs, such allowances should be no greater than amounts necessary to compensate for the actual costs of performing the operations and, in no event, should such allowances exceed amounts agreed to by the contracting parties. Therefore, the allowances are the lesser of the amount

[114] *See generally*, Interim Rule, note 3, *supra*

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expressly authorized in the contract or an amount computed in accordance with the following methodology.

The methodology has been tailored to be used only for costs incurred during 1983 and 1984. It is based on costs computed for a specific time period. We have selected the four-year period of 1981 through 1984. For those facilities in operation during the period and for which actual cost and operating data are available, any allowances should be computed using actual expense data and estimating future expenses based upon that actual data. In the event that facilities are constructed during the period and actual experience is not available at the time allowances are being computed, estimates should be made for the remainder of the period from the time the facilities become operational. Since the allowances will apply prospectively, they will be applicable to first sales made during calendar years 1983 and 1984.

We have concluded that it would serve no useful purpose to prescribe allowances beyond 1984. Perhaps the most persuasive reason is the fact that section 102(c) and section 103 (below 5,000 feet) NGPA gas is scheduled to be deregulated on January 1, 1985, and will, therefore, be subject to market pricing. Moreover, while most of the gas priced under NGPA sections 104, 105 and 106 will continue to be price regulated after that date, costs and operations may change so that allowances applicable to the prior period may no longer be appropriate. If necessary, we will revisit the methodology to establish cost allowances to be effective after January 1, 1985.

In deriving the costs of treating and conditioning natural gas, an average annual cost of service should be developed for the years 1983 and 1984 as follows: (1) Operation and maintenance expenses should be developed for each of the years 1983 and 1984 by using actual experience for 1981 and 1982, where available, and estimating future expenses based upon this actual experience; (2) average annual net plant investment should be developed for the two-year period by using the amount of undepreciated investment recorded on the company's books as of January 1, 1981, or such other date as a new investment is made and the facility becomes operational, and depreciating the investment over the two-year period ending December 31, 1984, using the annual amount of depreciation booked for the particular facility or for the class of investment, whichever method is imployed by the company; (3) average annual depreciation expense for the two-year period should be computed from the annual amounts used to depreciate the plant investment over that same two-year period; and (4) after tax earnings should be no greater than 15.0 percent times the average annual net plant investment for the years 1983 and 1984 and taxes should be computed using the debt and equity ratios of the company's overall capital structure unless it can be demonstrated that the facility was financed by a particular source of capital. For purposes of these allowances, we will accept the imputation of Federal income taxes based upon the statutory tax rate. No provision for administrative and general expenses or working capital will be included in the methodology because this type of cost should represent a relatively small part of the company's total cost and these costs frequently present difficult allocation problems which could be the source of controversy.

An average annual cost of service is to be determined on the basis of the above considerations. It should then be divided by the total volumes (MMBtu) expected to be available after the service is provided to compute the allowance. This allowance will apply until January 1, 1985, or until otherwise changed by the Commission through rule or order.

The computations will be audited by the Commission staff to verify their reasonableness.

It may be argued that this is a cost-based methodology in violation of the intent of the NGPA. However, while the NGPA prescribed incentive prices for first sales of natural gas, it also permitted the Commission to establish allowances "necessary to recover" production-related costs. The allowances computed in accordance with this methodology will be reasonable and can be effectuated without prior review and approval by the Commission. This is not intended to preclude first sellers from seeking allowances based upon some other methodology, but any such allowances would be subject to prior approval by the Commission.

Moreover, the 15 percent return is not based upon any evaluation of risk associated with the treatment, purification or conditioning operations. Rather, it is based upon our evaluation of the opportunity cost of capital for oil and gas operations in the lower-48 states. We recognize that many independent producers are engaged in the exploration for and development of both oil and natural gas reserves as well as the refining of crude and the processing of liquids. We also recognize that investments will be made in facilities depending upon the relative returns that can be expected. Consequently, we have examined the earnings reported by certain independent producers in Form 10–K's filed with the Securities and Exchange Commission and annual reports to their shareholders. We have also reviewed the returns earned on domestic operations for the last four years as reported by the Chase Manhattan Bank as well as earnings reported by the Value Line Investment Survey. Chase showed the returns on average net assets [115] for the domestic operations of 26 producing companies as follows:

Group Income Statements for the 26 companies.

Year:	Per cent
1977	14.2
1978	13.8
1979	18.2
1980	18.1
Average	16.1

This translates to an overall after-tax return of 15.1% based upon average interest cost [116] and average debt-equity ratios for the same four-year period. [117]

Value Line publishes individual and composite figures on roughly 60 companies involved in domestic oil and gas operations. The companies are grouped based upon the nature of their operations. The "Integrated" companies are involved in such related activities as exploration and production, refining, processing, chemicals and marketing. Many of these companies have foreign as well as domestic operations and Value Line has not differentiated between earnings on domestic and foreign operations. A review of earnings on net worth [118] reported by Value Line for the same four-year period shows that the Integrated companies earned an average of 17.5 percent for the period. This would convert to an overall after-tax return of 16.7 percent, assuming a debt-equity ratio of 25–75 percent and an interest cost of 12.0 percent.

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[115] Preferred and common shareholder equity

[116] Computed from annual interest expenses included in The Group Income Statements for the 26 companies.

[117] Computed from The Group Balance Sheets and includes long-term debt, preferred and common stock, retained earnings and capital surplus.

[118] Sum of preferred and common stockholder equity along with intangibles.

Those companies engaged primarily in exploring for and producing oil and natural gas have been grouped by Value Line as "Producing" companies. For the most part, these companies' operations are domestic and their earnings are largely dependent upon their ability to find, produce and sell oil and gas in the field. Value Line shows that these companies earned an average of 15.3 percent of net worth for the four-year period, 1977–1980. This would translate into an overall after-tax return of 14.5 percent, assuming a debt-equity ratio of 25–75 percent and an interest cost of 12.0 percent. Obviously a larger equity ratio or a higher interest cost would result in a higher overall return.

The Producing companies provide a reasonable indication of the opportunity cost of capital for domestic exploration and production activities. However, their experience does not necessarily provide an accurate measure of the opportunity cost of capital for the Integrated companies. Moreover, it is reasonable to assume that the major share of producer investment in treating and conditioning facilities has been made by the Integrated companies. While we cannot specifically identify the earnings achieved from domestic operations, we are of the view that the earnings experience for both the Integrated and Producing companies as reported by Value Line supports an overall after-tax return of 15.0 percent. This level of return is further supported by data contained in the 1982 Annual Edition of Standard and Poor's Analyst's Handbook for the year 1977 through 1980. The after tax returns on book value for the limited number of integrated oil companies, both domestic and international, reported in the Handbook fall between the Value Line returns and near the 15 percent level.

Consideration of the above leads to the conclusion that 15 percent reasonably represents the opportunity cost of capital for domestic oil and gas operations. We have adopted this approach to provide certainty to individual companies as to how to determine their allowances for treatment, purification and conditioning costs without prior Commission approval. An alternative would have been to permit allowances based upon individual companies' claimed opportunity cost of capital. However, this would present complex problems associated with the basis for the opportunity cost of capital claimed by the particular company, and how the Commission could assure that the allowances were no more than the amount necessary to recover costs. Solutions to these problems would undoubtedly involve either prior applications by the seller, or, alternatively, extensive audit activities by the Commission staff. Neither of these options appear viable due to the resources that would be required and the potential delays attendant with such procedures.

It is often necessary to treat or purify natural gas before it enters processing facilities to avoid damage to those facilities, to permit satisfactory and efficient operation of those facilities, and to assure that the residue gas stream has a sufficiently high Btu or heat content to meet contractual requirements. The treating or purification of natural gas, obviously, can also be beneficial to gas transportation. Therefore, when wellhead production has constituents that must be removed before processing or introduction into a natural gas transportation system, the costs of such removal by treatment or purification should be apportioned to both the processing and transportation operations. Because the heating value of the liquids removed and the heating value of the residue gas reflect a reasonable measure of the relative benefits received, it is appropriate that heating value (MMBtu's) form the general basis for apportioning the treatment or other costs. The last clause of the rule under paragraph (d)(3) explicitly provides for this cost allocation. It does so by referencing the definition of production-related costs that contains the cost allocation methods. Also, any such allowance must give appropriate recognition to any economic benefits received as the result of the sale or disposition of certain constituents removed.[119]

e. *Special rules to collect delivery and compression costs.* In implementing these rules under section 110, we must be concerned with a first seller who has, prior to the issuance of this order, incurred delivery or compression costs under the terms of his contract in reliance on statements in Order No. 94 that sellers would be able to retroactively collect adjustments for these activities under the Commission's generic rulemakings. The special rules of paragraph (e) are designed to cover this situation.

When the Commission announced, in Order No. 94, its intention to establish generic allowances for production-related costs to gather and compress natural gas, it suspended applications for these types of allowances during the development of the generic allowances.[120] In doing so, the Commission stated that, when implemented, the generic adjustments could be recovered for costs incurred from the earlier of the date of an application or July 25, 1980.[121] Through a related interim rule,[122] we are implementing these generic allowances. Therefore, we must provide special rules to ensure an orderly procedure for the collection of allowances for costs incurred prior to the date this interim rule is effective.

The special rule of § 271.1104(e) provides that, to collect an allowance for the delivery and compression costs incurred before the effective date of the interim rule, a first seller must have had the contractual authority to do so. This provision is made by referencing the term "expressly authorized" as used in the definitions of paragraph (c). In addition, the rule explicitly provides that the contractual authority must have been in effect during the time period the costs to be collected were incurred. That is, the collection was prohibited only because of the Commission's then existing rules.

The rule also provides that any collection must be offset by amounts collected for gathering or compression during the pendency of the generic rulemaking establishing the allowances. For example, if a first seller collected a former Natural Gas Act gathering or delivery allowance during the pendency of the establishment of the generic allowances, as was permitted by the Interim Regulations and Order No. 94, the collections of the generic allowance must be reduced to reflect the already collected amounts. Alternatively, a seller may have been allowed to add-on gathering or compression allowances through proceedings instituted under section 502(c) of the NGPA and § 271.1106 of the Commission's regulations. The collections of the generic allowances must be reduced to reflect these amounts as well.[123]

[119] Benefits from gas treating or purification could include the sale of elemental sulfur as a result of removing hydrogen sulfide from the gas stream. Carbon dioxide removed from the gas stream could be sold or used for enhanced oil recovery projects. Helium could also be a source of revenue. It would not be appropriate to apportion costs to these, or other similar constituents, on an energy content (MMBtu) basis, because these compounds have zero heating value (i.e., zero MMBtu's), although they could have significant economic value. The gas treating costs attributable to such constituents should be borne by the respective beneficiaries.

[120] Order No. 94, note 1 *supra* at 41–43, 45 FR at 53107–53108.

[121] *Id.* at 43, 45 FR at 53107 n. 76.

[122] *See generally,* Interim Rule, note 3 *supra.*

[123] However, no such reduction is prescribed for previously approved amounts collected pursuant to section 502(c) of the NGPA, 15 U.S.C. 3412(c) (Supp.

The collections authorized under this paragraph may include amounts for interest. That amount is defined by reference to § 154.102. However, interest can only be collected on that portion of the balance due but not yet collected. Moreover, the contract must, as with the amount itself, expressly provide for such collections.

Some who petitioned for rehearing of Order No. 94 argued that suspending applications for gathering or compression costs, even with retroactive collection, would work special hardships or would not really provide adequate recovery for these costs. Given the allowances established under the interim rule designed to recover these costs, and the provisions of this special rule, we believe that we have adequately dealt with the concerns of petitioners.

Finally, the rule provides that the collection of the generic allowances must be pro-rated over time. This provision is necessary to prevent any large scale economic dislocations that may result from any one seller or group of sellers attempting to recover the allowances for prior costs in one lump sum or a few large payments. The rule provides that the allowances are to be collected over a time period commencing with the date this order becomes effective and ending December 31, 1984. This period was selected because of the provisions in the NGPA requiring major pricing changes as of January 1, 1985. After that date, many types of gas sales will no longer be price regulated under the NGPA. What impact this may have on collections of amounts for delivering or compressing gas is uncertain. To avoid any possible unfairness, therefore, the rules provide that the collection of these amounts for costs incurred prior to the effective date of this order on rehearing is to be completed before 1985. During the time that the amounts are to be collected under this paragraph, they are to be collected under a schedule of payments that ensures, as nearly as possible, that amounts are paid in equal installments.

The provisions of this paragraph extend to all NGPA pricing categories except those of sections 105 and 106(b) of the NGPA. These are the sections that apply to sales of natural gas made under certain types of intrastate contracts. They are excepted by not citing to subparts E or F of the Commission's regulations, the subparts under which maximum lawful prices for these types of sales are determined. This exclusion is intended. At the time Order No. 94 was issued, and the provision made for the retroactive collection, those selling gas priced under sections 105 and 106(b) of the NGPA were precluded from collecting adjustments for these types of production-related services. Moreover, the amendments made by Order No. 68–A enabled certain sellers to apply to collect only the production-related costs not allocated to them under the terms of the gas sales contract in effect on November 9, 1978.[124] This change was made prospectively.[125] Therefore, those selling gas under these provisions had no expectation that the retroactive collection for gathering or compression would apply to them. For this reason they are excluded from this provision. In the event this exclusion causes special hardship, inequity or an unfair distribution of burdens, recourse may be had under section 502(c) of the NGPA and the regulations implementing that section, for a waiver of this exclusion.

f. *Description of charges.* First sellers collecting allowances under § 271.1104 for production-related costs will be under a continuing obligation to show, if required, the authority by which they are allowed to make those collections. This is particularly important given the fact that these collections will be automatically allowed without prior Commission approval. In addition, provisions should be made to require sellers to give some notice to gas purchasers before they are actually charged for the allowances. The provisions of § 271.1104(f) address these concerns.

Section 271.1104(f) requires that all first sellers who charge an amount for production-related costs must, before charging the purchasers for these costs, notify the purchaser of this fact. This notification is to be a written description of the basis for collecting the production-related costs add-on showing, by well or by completion location, whichever is appropriate, the adjustment by amount and type of production-related service, and references to the express contractual authority under which the amounts are to be collected. This notice should be made a reasonable time before the charge is made.

This description need only be made once to cover all future charges provided that the amounts charged, the activities charged for, or the contractual provisions permitting the charges do not change in such a way as to alter the authority to collect the charges. Should any such changes occur, the seller must amend the submission to reflect those changes and that amendment must be submitted to the purchaser before the changes are implemented.

This requirement will provide purchasers with notice and opportunity to contest the seller's authority to collect the proposed allowances. In addition, because the purchasers themselves are, under the rule, required to retain these submissions, the rule works to provide information as workpapers available to other parties, such as customers of the purchasers, to contest the allowances. This should be particularly valuable in those situations when the purchaser is an interstate pipeline that may receive compensation for paying these allowances through its purchased gas adjustment clauses.

All gas purchasers are required to retain a copy of these descriptions for at least three years from the date of the last sale for which the purchaser paid a charge based on the description. This would include those buying the gas for resale under the first sale provisions of the NGPA and § 270.202 of Part 270 of the Commission's regulations, interstate pipelines, intrastate pipelines and local distribution companies.[126] With respect to the latter two types of gas purchasers, the filing requirement can be an important tool for state and local regulation.

g. *Production-related costs not covered under the generic regulations.* The regulations of paragraphs (a) through (e) describe how a seller may receive an adjustment under section 110 for almost all types of production-related services. However, these rules do not cover all possible activities. For example, delivering the gas through a system over a distance greater than 20 miles and delivery by truck or barge, are excluded. In addition, other activities may be undertaken that do not fall under the generic regulations. Paragraph (g) provides a general statement that the Commission will entertain applications

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IV 1980), if such amounts were in excess of the generic allowances. Nor do the generic allowances supplant the authority to collect allowances pursuant to section 502(c) if the allowances exceed the generic allowances.

[124] Order No. 68–A, note 59 supra at 6–12, 45 FR 76677–76679.

[125] Id. at 11–12, 45 FR at 76678.

[126] Section 501(a) of the NGPA vests in the Commission authority to "prescribe, issue, amend and rescind such rules and orders as it may find necessary or appropriate to carry out its functions under this Act." 15 U.S.C. 3411(a) (Supp. IV 1980). In view of the necessity of providing adequate means for ensuring that the regulations of § 271.1104 are properly adhered to, consistent with imposing the minimum of regulatory burden, this requirement is necessary for the proper implementation of section 110 of the NGPA. For these reasons, we find that we have the statutory authority to impose upon all purchasers in a first sale the requirement to keep these submissions.

for activities not covered under paragraphs (a) through (e).

This provision does not cover the situations of a particular seller who seeks a greater amount for an adjustment under section 110 than provided for under this section. Nor does it cover situations in which, because of particular circumstances, the seller is barred from collecting an allowance under this section. Such situations should be brought to the Commission's attention under the provisions implementing section 502(c) of the NGPA.

h. *Other changes.* Because the general application procedures of the Interim Regulations are no longer necessary, the requirements for those procedures that were under § 271.1105 are being removed. That section is being reserved for the refund procedures that are being made effective by a separate rule.[127] the appendix to this order on rehearing reproduces the provisions of the new § 271.1105.

Section 271.1106, which references the Commission's procedures for those seeking an adjustment under the provision of section 502(c) of the NGPA, is kept substantively unchanged. The only change is to update the cross reference contained in that section to the new rules of practice and procedure. Those who seek exceptions from the rule of § 271.1104, as for example, those who seek to lawfully charge amounts in excess of the limits prescribed by the Commission's regulations, can only do so under the provisions of section 502(c) of the NGPA.

The new rules implementing section 110 are, for the most part, self-executing. The basic concept is that contracting parties will, within the limits set by the rules, implement the rules through their gas sales contracts. The Commission believes that current field auditing practices should suffice to ensure that the new rules are being adhered to. In order to ensure this, however, it is necessary to specifically require that those who collect an add-on for production-related costs maintain records sufficient to justify their add-ons and their conformance to the rules. A new paragraph (b) to the records retention provisions of § 271.1103 sets out this requirement.

The rule does not specify the exact records that must be kept by sellers who collect an add-on for production-related costs. Instead, it merely provides that records sufficient to justify the add-on must be kept. Individual situations are too diverse to warrant specifying detailed records or their format. To require such detail would only increase the burden on the sellers without necessarily providing any regulatory benefits.

We would note, however, that the burden is upon sellers to justify the amounts they have added to their maximum lawful prices under these rules. The failure to provide, through detailed and well-kept records, the justification when required to do so may result in Commission orders to refund the amounts collected and may, in extreme cases, result in enforcement actions and consequent penalties.

In amending § 271.1103 to include a records retention requirement for production-related cost adjustments, the existing records retention requirements for state severance taxes has been amended in two technical respects. First, it has been designated as a separate paragraph (a); second, it has been given a title. These are the only changes made to this requirement.

Finally, a technical change has been made to § 271.1100, the general applicability section for Subpart K. The change, to paragraph (a)(2), removes the words "by rule or order" and substitutes merely the reference to § 271.1104. The change is made to avoid any potential confusion as to how the regulations of that section will apply.

B. Natural Gas Act Filing Requirements

Certain first sales of natural gas are still, and will continue to be, subject to aspects of the Commission's Natural Gas Act jurisdiction. Those selling natural gas that falls under these categories must, therefore, make certain rate filings to collect additions to applicable maximum lawful prices to recover production-related costs under the new rules. To provide a simple means of fulfilling this requirement, we amend § 154.94.

If a first seller seeks to collect a section 110 allowance for gas still subject to the Commission's Natural Gas Act jurisdiction,[128] the requirements of Natural Gas Act sections 4, 5 and 7 must be satisfied. In implementing the NGPA, the Commission adopted a blanket affidavit procedure to permit first sellers to collect the monthly inflation adjustments to NGPA base rates in order to meet these statutory filing requirements.[129] Essentially, once a first seller established the right to collect a base rate by the filing of a notice of rate change for an NGPA maximum lawful price, he could make a one-time filing to collect statutorily authorized monthly inflation adjustments to the base rate. This procedure eliminated an annual burden of approximately 200,000 rate change filings. The same type of filing is to be used for the adjustments established by this order.

First sellers of gas still subject to the Commission's Natural Gas Act jurisdiction must file blanket affidavits indicating their intention to collect the production-related allowance applicable to their sales and that they are contractually authorized to collect those allowances. Such affidavit filing should reflect the rate schedule number, the buyer, the applicable NGPA section for the sale, and the specific types of section 110 allowances to be collected (*e.g.*, delivery, compression, etc.). Sellers must amend this affidavit to reflect subsequent entitlements to collect allowances or when they propose to initiate a new jurisdictional sale in interstate commerce to which the adjustment would apply.

This requirement is made by introducing a new paragraph (k) to § 154.94 to require the filing of an affidavit to collect production-related costs. This affidavit would cover the same sales, and have the same effect, as a blanket affidavit filed under § 154.94(h) to recover the base price. However, different protest procedures would apply. Instead of the procedure used under paragraph (h), the standard Commission protest procedures would be used.

The affidavit would be effective for all deliveries made in which production-related costs were collected under § 271.1104 on and after the date the affidavit was filed. To the extent circumstances change, as for example, a contract amendment that results in discontinuing the collection of the allowances, a new filing would have to be made.

The affidavit itself is simple. The form of the affidavit is reproduced as a new Appendix B to § 154.94. Copies must be filed with each affected purchaser.

In that some filing is required under the Natural Gas Act, we believe that this affidavit method is the least burdensome method. The alternative is to amend the blanket filing affidavit required under paragraph (h). While this would not create a new type of filing, it would require the refiling of thousands

[127] *See* Interim Rule, note 5 *supra*.

[128] *See* NGPA section 601(a)(1) (A) and (B), 15 U.S.C. 3431(a)(1) (A) and (B) (Supp. IV 1980).

[129] Order No. 15, "Amendments to the Commission's Regulations Relating to Independent Producer Filing Requirements", Docket No. RM79–4, 43 FR 55756 (Nov. 29, 1978), FERC Stat. and Reg. Preamble ¶ 30,022; Order No. 15–A, 44 FR 1100 (Jan 4, 1979), FERC Stat. and Reg. Preamble ¶ 30,031; Order No 25, Docket No. RM79–31, 44 FR 19387 (Apr. 3, 1979), FERC Stat. and Reg. Preamble ¶ 30,046.

of affidavits, amended to show the new attachments. We reject this alternative as too burdensom. The affidavit filing only applies to natural gas sellers whose sales are still within the Commission's Natural Gas Act jurisdiction.

Section 157.40 provides special filing exemptions for "small producers" selling natural gas under the Commission's Natural Gas Act authority. These provisions need not be revised to reflect the collection of add-ons under § 271.1104. As presently worded, the exemptions encompass such collections.

III. The Policy Statement

One of the more important, but least undestood, aspects of Order No. 94 was the policy statement deeming prudent certain types of production-related activities undertaken by jurisdictional natural gas pipelines. The policy was codified at 18 CFR 2.102 and read as follows:

> If an interstate pipeline purchases natural gas in a first sale, then, in any proceeding brought under the Natural Gas Act to determine the lawfulness of the rates and charges of such pipeline, any activity that results in the pipeline incurring a production-related cost with respect to such gas (whether or not the activity for which the cost is incurred is conducted by the pipeline) shall be deemed prudent if:
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> (1) the activity is one the cost of which could have been applied for under Subpart K of Part 271 [the regulations implementing section 110 of the NGPA for production-related costs] had it been undertaken by the seller; or
>
> (2) the cost incurred is a prudent compression cost.[130]

The policy statement was a response to a series of problems that predate enactment of the NGPA. By this order on rehearing, we amend that policy in response to various comments and petitions to rehear received in response to its issuance.[131]

A. Background

The term "production-related" services is, technically speaking, a misnomer. They can be, and frequently are, performed by those who are not producers. Production-related services may be performed by different entities including pipelines that "go to the wellhead" to purchase a gas stream from a producer and gather the gas, treat it and perform all work necessary to make the gas of pipeline quality; resellers who purchase gas from producers, perform production-related activities, and subsequently sell the gas to pipelines, or others such as service companies, who are under contract to producers or pipelines to perform production-related services. In additon, responsibility for some of these services might be shared between the seller and pipeline buyer.

If a producer incurs costs in performing production-related services, compensation for those services is through the price charged for the gas. Prior to December 1, 1978, how the amount for such compensation might be determined depended upon whether the seller sold the gas in intrastate or interstate commerce. If a sale was made in intrastate commerce, the price could be regulated only by individual state and local regulatory agencies. If a sale was made in interstate commerce, the price of the gas, consequently any compensation for performing production-related services, was regulated under the Natural Gas Act by the Commission or its predecessor, the Federal Power Commission. Since December 1, 1978—the date the NGPA went into effect—the gas sales price is determined under Title I of the NGPA. If a producer is to receive more than a maximum lawful price to recover the costs of performing production-related services, this is determined under Section 110 of the NGPA.

If a pipeline purchases gas from a producer and, after that purchase, incurs costs to perform production-related services, compensation for the costs to perform the services are through the rates charged the pipeline's customers. For intrastate pipelines these rates, and consequently what should be allowed as compensation for performing production-related services, is to be decided by individual state and local regulatory agencies. For interstate pipelines, the question of compensation for these costs is to be resolved by this Commission under its Natural Gas Act authority.

That interstate pipelines have incurred production-related costs at all has been a function of their individual gas purchasing practices. Over time, prevailing industry practices as to who, producer or purchasing pipeline, performs production-related services has changed. In the early days of the industry it was largely a buyer's market and producers, anxious to find purchasers, were willing to contract to sell gas at terms favorable to the purchaser. Frequently, this meant that producers would agree to perform many production-related services. During the 1970's, bargaining positions changed and it became more of a seller's market.[132] Pipelines, facing severe curtailment, began to "go to the wellhead" to purchase gas from producers and thereby assumed more of the responsibility for performing production-related services.

For most of this period of transition producer pricing for sales made to interstate pipelines was regulated under the Natural Gas Act and the Federal Power Commission's area wide and nation-wide ceiling rate opinions. Because of this, the question of compensation to producers or interstate gas pipelines for incurring production-related costs was, in part, a function of the producer rates. For example, if a producer rate included compensation for what we now call a production-related service, and a producer charged the rate but did not perform the service, then the pipeline's customers would be charged twice for the same service. This would come about if, in addition to being charged the ceiling rate (that included compensation for costs to perform the service) which pipelines generally pass through to their customers, the customer was also charged the costs incurred by the pipeline to perform the service. This problem, of shifting costs from producers to purchasing pipelines, was particularly dealt with in some of the area-wide producer rate opinions:[133] and generally dealt with through the use of area-wide quality standards.[134] Under the nation-wide rate opinions it was addressed, very generally, through reference to the terms of gas sales contracts.[135]

In dealing with the problem of cost shifting, the Commission has not had a hard and fast rule. Instead, over time, it has attempted to provide general guidelines. The first such general guideline came in 1977 when the Commission responded to an application of the Phillips Petroleum Company for a certificate to sell natural

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[130] 18 CFR 2.102(a). "Prudent compression costs" were defined under paragraph (b) of the policy statement.

[131] At the outset, we want to emphasize that because it is a policy statement and is not intended to provide a binding rule without further proceedings, petitions for the rehearing of the policy do not lie. We treat the filings as petitions for reconsideration.

[132] *See* note 45 *supra*, Opinion No. 770, 56 FPC at 509.

[133] *See, e.g.*, Opinion Nos. 595 and 595–A (Texas Gulf Coast Area), notes 32–34 *supra* and accompanying text (downward adjustments to price charged by producer required to reflect net costs incurred by pipelines to bring gas up to standard); Opinion Nos. 468 and 468–A (Permian Basin Area), notes 38–39 *supra* and accompanying text (downward adjustments to price charged by producer required to reflect net costs incurred by pipeline to bring gas up to standard); *but see* Order Nos. 411, 411–A and 411–B (Appalachian and Illinois Basin Areas), notes 36–37 *supra* and accompanying text (no reductions in producer rate if less than pipeline quality gas was delivered.

[134] *See generally* notes 18–44 *supra* and accompanying text.

[135] *See* notes 46–47 *supra* and accompanying text.

gas. The facts of the Phillips Petroleum Company's 1977 request to initiate sales to the United Gas Pipe Line Company have been given elsewhere.[136] The request presented the situation of a producer selling natural gas at a national ceiling rate and shifting to the purchasing pipeline some of the costs previously incurred by the producer to make the gas of pipeline quality. In December 1977, the Commission responded by authorizing the sale and conditioning the certificate in the following terms:

> Phillips and United are advised that, insofar as the subject sale involves the subsequent acquisition by United of the Waveland Field Gas Treating Facilities, issuance of the certificate and acceptance of the related rate schedule does not constitute approval of such acquisition. At such time as United seeks to include the costs associated with that acquisition in its rates, it will be required to prove that these costs have not been compensated for in the applicable national ceiling rate.

Variants of this condition became a feature of almost every producer gas sale certificate and related certificates issued by the Commission after December 9, 1977. Rehearings on this condition and its subsequent variants were requested by almost all who received certificates containing it or would be affected by such conditions.

The petitions were consolidated and responded to in Opinion No. 90.[137] In Opinion No. 90, the Commission declared that pipelines incurring production-related costs would have to show that the activity which generated the cost was "prudent" instead of showing whether a particular cost was compensated for in the applicable national ceiling rate.[138] To do this the Commission revised the language of the Phillips condition to read as follows:

> At such time as the pipeline proposes to recover in its rates any costs incurred by it to compress, process, treat, or gather natural gas purchased by it, the pipeline may be required to prove that the activity which engendered those costs is prudent. In determining prudence the Commission will apply the policy set out under § 2.102 of the regulations.[139]

Thus, to show that a particular activity was "prudent," a pipeline could show that it was among the select group of activities "deemed prudent" under the policy statement of Order No. 94. If the activity did not belong to this rather limited group, the pipeline might have to show, in its next rate case, that it was prudent to incur such costs.

The policy statement of Order No. 94, as was the Phillips condition and Opinion No. 90, was directed to interstate pipelines who, in purchasing natural gas, performed production-related services and thereby incurred the cost of those services. In issuing the policy statement, the Commission explicitly recognized that, under the NGPA, first sellers were free to sell their gas without incurring production-related costs. That is, a bargain could be made whereby the purchaser undertakes responsibility for any or all of the activities—such as gathering, treating, or conditioning—necessary before the gas can enter the mainline transporting systems.[140] Thus, interstate pipelines could, lawfully, purchase "raw" natural gas at a wellhead and perform production-related activities. The policy was developed to provide guidance to these gas purchasers.

When an interstate pipeline incurs costs and seeks to pass those costs on to its customers, it does so through its rates. Well-established principles of ratemaking apply to define what costs may be passed through to the pipelines' customers. In the simplest form, these principles include justifying that the activity performed that engendered the cost is proper and that the amount spent in performing the activity is likewise proper. Both justifications are based on a concept of prudence, both are part of determining cost-of-service.

The policy statement of Order No. 94 did no more than recognize these principles and apply them to some of the activities that might be undertaken by jurisdictional pipelines purchasing gas from NGPA first sellers. In doing this, the policy focused on the activities and not on the costs of performing those activities. This was because, for a variety of factors, the actual costs of doing any particular type of activity will probably be different for different pipelines. With respect to the costs of performing those activities, the Commission stated that the level of expenditures for any particular type of activity could be subject to challenge.[141] In addition, the policy statement did not cover all production-related services a pipeline might undertake; instead, it addressed only some.

The policy deemed prudent only those types of services which, had they been undertaken by a first seller, the first seller could have received an add-on for them under the Commission's regulations implementing section 110. It also deemed prudent certain types of pipeline compression. Of these two types of services, the most important were those that referenced the types of services for which a first seller could receive an add-on. The Commission was quite clear as to why these types of services should be deemed prudent. The rationale was that, since an adjustment allowed under section 110 must, as a matter of law, be deemed just and reasonable for purposes of approving jurisdictional pipeline rates under the Natural Gas Act, it made little sense to question the activities which engendered the cost merely because they were done by pipelines and not first sellers.[142] Because an amount lawfully paid the first seller by the pipeline for performing these services is guaranteed to be passed through to gas customers, the Commission should not question whether the same activities, if undertaken by interstate pipelines, are prudent.[143]

Because the Commission's regulations implementing section 110 limited the types of production-related activities for which first sellers could receive an add-on, the reference to these regulations in the policy statement necessarily limited the types of activities that would, under the policy, be deemed prudent. For example, because a first seller could apply for costs incurred to bring natural gas above pipeline quality, such an activity, when undertaken by a pipeline instead of the seller, would be deemed

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[136] *See* Order Issuing Certificate of Public Convenience and Necessity, Docket No. CI77–412 at 4, 6 (issued Dec. 9, 1977) [unreported].

[137] Opinion No. 90, "Opinion and Order Granting Rehearing in Part and Denying Rehearing in Part," Docket No. CI77–412 (issued July 25, 1980), 12 FERC ¶ 61,080 [1980].

[138] An important question involved in Opinion No. 90 was whether the national rates applicable prior to enactment of the NGPA included producer compensation for these activities. This question was not answered in Opinion No. 90. However, as to whether NGPA maximum lawful prices include compensation for these activities, Opinion No. 90 did specifically speak to "production" costs. *See id.* at 4; *cf* Order No. 94, note 1 *supra* at 60, 45 FR at 53111 (explicitly recognizing that a first seller could, under NGPA, lawfully sell raw, unprocessed gas at the wellhead and still charge the NGPA maximum lawful price).

[139] Opinion No. 90, note 137 *supra* at 16.

[140] *See* Order No. 94, note 1 *supra* at 60, 45 FR at 53111.

[141] *Id.* at 64, 45 FR at 53113.

[142] That section 110 adjustments must be deemed just and reasonable when paid to the first seller by a jurisdictional pipeline is derived from section 601(b) of the NGPA, 15 U.S.C. § 3431(b) (Supp. IV 1980). *See generally,* Order No. 94, Note 1 *supra* at 60–62, 45 FR at 53111.

[143] The deeming prudent of certain compression activities stood on similar, but somewhat different, grounds. While compression was not one of the activities for which a first seller could get an add-on under the regulations of Order No. 94, this limit was newly imposed by Order No. 94 and expected to last but a short time pending the development of generic add-ons. In addition, jurisdictional pipelines frequently compress natural gas in situations that, had sellers done so, would have been production-related compression. For these reasons, it was included in the policy statement as a prudent activity.

prudent. However, because a first seller could not, under the Commission's regulations, apply for the costs to get the gas up to pipeline quality, this activity, when undertaken by the pipeline instead of the seller, was not among those deemed prudent under the policy.

For the activities that were not among those deemed prudent under the policy, the Commission had two choices. It could specifically find them to be "imprudent"; or it could decide the question of prudence, as is normally done, in specific pipeline applications brought under the National Gas Act for certificates of public convenience and necessity, for initial rates or for rate changes. The Commission chose the latter alternative.[144]

In adopting this alternative, the Commission recognized a common fact of life of rate cases; not all pipeline costs are challenged by intervenors or staff. Whatever the particular burdens may be to demonstrate that rates charged are just and reasonable, practical considerations often intervene to limit the scope of debate as to the prudence of particular activities or amounts spent to perform those activities. The Commission explicitly recognized this by citing to the then recently-issued Opinion No. 86, *Minnesota Power and Light Co.*[145] The Commission went on to say that:

> The Commission will apply the Minnesota Power and Light precedent in determining the prudence of "production-related" costs which are incurred by an interstate pipeline but which are not addressed in the policy statement. That is, for such costs, a pipeline may be required to provide information which, at a minimum, explains the nature of the cost and whether it is reasonable for the customers of the pipeline to bear the particular costs.
>
> When a pipeline files its case-in-chief in a rate proceeding, the information it files may be considered by the Commission and participants in determining whether the costs described in that filing are of the kind described in the policy statement. If they are, those costs should not be subject to challenge (except with respect to the level of the claimed cost).[146]

In short, the Commission, in Order No. 94, issued a policy to be applied for future pipeline rate cases that, by its terms, could operate to reduce litigation burdens on those, including pipelines, involved in such cases. Prior to the issuance of the policy, all elements of a cost of service—activities and the costs generated by them—were open to examination as a matter of course. Through the policy statement of Order No. 94 the Commission showed a predisposition to consider some of the activities that pipelines may be required to undertake as "prudent".[147]

In summary, the Commission used two vehicles to provide guidance to the pipeline industry. The first, through certificate conditions, provided notice that, as with any other element of its cost of service, a pipeline must be prepared to show in its rate cases that its costs of performing production-related services are appropriate for the ratepayers to bear. The second, through a policy statement, provided an indication as to the types of activities that would be accepted without question as activities the costs of which could be borne by rate payers irrespective of what was paid the producer. However, by referencing the pipeline policy statement of Order No. 94 in the revised Phillips condition of Opinion No. 90, the Commission inextricably linked the two. In addition, because the policy referenced the sellers' rules of Order No. 94 implementing section 110 of the NGPA (by referencing the activities for which sellers could get add-ons under those rules), all three—condition, policy, and rules—became entwined in ways which created confusion and controversy.

B. Comments and Petitions to Rehear

Next to the particular provisions of Order No. 94 that continued to exclude from the section 110 regulations allowances for costs to treat or condition natural gas up to pipeline quality standards, the policy statement was subjected to the greatest amount of criticism. Comments and petitions to rehear Order No. 94, as well as petitions to rehear Opinion No. 90, were almost unanimous in reading the policy statement as an attempt on the part of the Commission to force pipelines and first sellers to incur production-related costs without receiving compensation for those costs. All but one commenter, and all petitioners, described this action as unwarranted and unlawful.[148] And so it would have been, had the Commission intended such a result.

There are several ways to present the arguments raised by commenters and petitioners against the policy statement. For our purposes, we believe the simplest is to divide them into two categories: Arguments focusing on the policy in and of itself and arguments based on a perceived interaction of the policy statement and the rules for NGPA sellers that implement section 110 of the NGPA.

1. *Arguments against the policy statement.* Several commenters and most petitioners argued that the policy statement was illegal. One argument was based on the view that, because only certain activities were deemed prudent under the policy, the Commission had, without notice or factual support, found that the activities not deemed prudent under the policy were to be considered "imprudent". This view was advanced in spite of the Commission's references in Order No. 94, quoted above, that activities not deemed prudent under the policy would be subjected to the standard regulatory treatment accorded any activity the cost of which pipelines sought to pass on to their customers. Moreover, this view was advanced in light of the Commission's Opinion No. 90 which specifically provided that pipelines' performance of production-related activities and their attendant costs were to be the subject of pending and future rate cases.[149] Had the Commission intended to deem activities imprudent—which it did not—it would have done so on an explicit basis, grounded in law and fact.

A second argument advanced to show the illegality of the policy was that it was based on the NGPA and, as such, unlawfully extended the Commission's authority under that statute. Because of the references made in the policy to the activities that a first seller might be compensated for under the regulations implementing section 110 of the NGPA, and the use of section 601 of the NGPA to justify deeming these activities prudent, this confusion is, in part, understandable. However, while the explanation of the policy could have been more precise on the points

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[144] *See* Order No. 94, note 1 *supra* at 72, 45 FR at 53113.

[145] *Id.* at 72–73, 45 FR at 53113. The particular provisions of Opinion No. 86 that were cited and quoted were as follows: As a matter of practice, utilities seeking a rate increase are not required to demonstrate in their cases-in-chief that all expenditures were prudent unless the Commission's filing requirements, policy or precedent otherwise require. However, where some other participant in the proceeding creates a serious doubt as to the pr[u]d[e]nce of an expenditure, then the applicant has the burden of dispelling these doubts and proving the questioned expenditure to have been prudent. Opinion No. 86, Minnesota Power and Light Co., Docket No. ER76–827 at 17–18 (footnotes omitted) 11 FERC ¶ 61,312, quoted in Order No. 94 at 73, 45 FR at 53113.

[146] Order No. 94, note 1 *supra*, at 73–74, 45 FR at 53113.

[147] Because it was a "policy" and not a rule, the statement could be tested in each individual rate case or proceeding to determine its applicability to that case.

[148] The one commenter who appeared in favor of the policy appeared to base its support on the wrongful assumption that the intent of the policy was to prohibit a pipeline's purchase of natural gas at less than pipeline quality when purchased for a maximum lawful price.

[149] *See* Opinion No. 90, note 137 *supra*, at 14.

respecting the NGPA, it could hardly have been clearer in declaring that the policy was a creature of the Commission's Natural Gas Act authority and jurisdiction. The focal point of the policy was interstate pipeline rate cases brought under the Natural Gas Act. Through the policy, the Commission sought to ease the burden on these involved in such rate cases through the exercise of its authority under the Act to deem some, but not all, pipeline activities prudent. While the activities that were deemed prudent were selected on the basis of the Commission's actions to implement section 110 of the NGPA, and on the basis of section 601 of the NGPA as to how to treat, under the Natural Gas Act, amounts paid to first sellers under the NGPA, the policy itself rested squarely on the Natural Gas Act.[150]

A third criticism leveled at the policy was that, through it, the Commission was inaugurating a new but unarticulated standard by which to determine prudence. This view was based, in part, on the argument that the policy worked to implement the NGPA and in part on the Commission's lack of explaining what it meant by prudent activities or prudent costs. In retrospect, it might have been better had the Commission been clearer that no new standard was being introduced. However, given the discussion of how the policy was to be used, coupled with the discussion respecting the activities not deemed prudent, the fault, if any, is slight. The reason for not explaining the term "prudent" was simple: The Commission intended that it be used in the normal sense as typified by countless pipeline certificate and rate cases. Nothing more, and nothing less, was intended.

Fourth, some who responded to the policy statement argued that it was, in reality, a rule or regulation substantively affecting the rights and privileges of persons and that, as such, it was unlawfully promulgated. The argument that it substantively affected rights and privileges was based on the view that it established new rules respecting determining prudence and that it sought to force producers or pipelines to incur production-related costs without compensation. Apart from the fact that such was not the intended result of the policy, and that it has not been applied that way,[151] the criticism is perhaps understandable considering the lack of Commission description in Order No. 94 as to how the policy statement and its use differed from a rule or regulation.

Finally, some, principally those who petitioned to rehear Opinion No. 90, argued that, by being referenced in the amended certificate condition of Opinion No. 90, the policy worked an unlawful retroactive change to existing certificates. That is, the policy would work to reopen issues of prudency long-since resolved in approved certificates and rates. For this reason, some argued that the policy should not apply to gas sales contracts and purchases contracted for at the time the policy was issued. As we tried to make clear in issuing the policy, it would only be applied to future rate cases. As to the impact of the policy on already certificated pipeline activities, that is discussed below.

In sum, those criticizing the policy of Order No. 94 appear to have misread the policy and misunderstood its use. While a number of factors may have contributed to this result, some of the Commission's own making, it is nonetheless unfortunate for it has resulted in needless confusion and complexity.

2. *The policy statement and the rules implementing section 110 of the NGPA.* Most of the comments and petitions to rehear Order No. 94 read the policy statement and the rules implementing section 110 of the NGPA together as a unified regulatory attempt on the part of the Commission to control the problem of producers shifting to interstate pipelines costs of production-related services by either requiring producers to sell, under the pricing provisions of Title I of the NGPA, pipeline quality gas or forcing interstate pipelines to bear production-related costs shifted to them without allowing rate treatment of those costs. Which view prevailed in the arguments depended to a great extent on whether it was offered by a producer or a pipeline. Both views, however, were predicated on interpreting the policy statements as explicitly or implicitly finding costs incurred by pipelines to attain minimum pipeline quality standards to be imprudent.

As a general matter, producers gave two reasons for their views. First, by failing to allow them additional compensation above maximum lawful prices for costs incurred to get gas to quality standards, the regulations forced them to incur these costs without compensation. Second, by a policy that failed to deem such costs prudent if incurred by pipelines, the Commission in effect required pipelines not to incur them at their financial peril. As a result, producers would be forced to incur these costs.

The pipelines, as a general matter, took a somewhat different view. While, in the main agreeing on the interpretation that the policy worked to hold costs not deemed prudent as being deemed imprudent, pipeline comments and petitions focused on an alleged regulatory "gap". Several argued that because the Commission's regulations allow producers to sell gas raw, at a wellhead, for a NGPA maximum lawful price, the producers could still shift costs of bringing gas to pipeline quality yet, through the policy, pipelines were precluded from passing those costs on to their customers. To some, this was an illegal pipeline "squeeze" barred under the precepts of *Federal Power Commission* v. *Texaco, Inc.*, 417 U.S. 380, 393 (1974) and *Consumer Federation of America* v. *Federal Power Commission*, 515 F.2d 347, 358–359, *cert. denied*, 423 U.S. 906 (1975). To some, this fostered a competitive disadvantage for interstate pipelines competing for gas with intrastate pipelines, a disadvantage barred under the purposes and intent, if not the actual provisions of the NGPA. For these commenters and petitioners, the Commission should either rescind the policy or amend the regulations implementing the NGPA to flatly prohibit producer cost-shifting.

Finally, several commenters and petitioners argued that the regulatory effect of the sellers rules and the policy was contrary to both the NGPA and the Natural Gas Act. The reasons offered in support of these arguments have already been presented. In summary, they boil down to the fact that not only does the NGPA not provide authority for the proposition that gas sold at maximum lawful prices be of pipeline quality, but that its provisions and legislative history show quite conclusively that the Commission lacks any authority to require such sales.

All of these arguments rest on the mistaken premise that the intent of the policy issued in Order No. 94 was to deem certain costs to be imprudent. As already explained, this was not the intent. Moreover, to the extent those who argued against the policy argued in terms of an unfairness bring visited upon interstate pipelines to the advantage of intrastate pipelines, we

[150] Had the Commission attempted to use its Title I NGPA authority to so directly regulate interstate pipelines, such an action would have been illegal in light of section 601(b) of the NGPA. Under the section 601, the Commission's authority is limited to regarding "fraud, abuse, or similar grounds" as reasons to prevent interstate pipeline pass through of prices paid under Title I of the NGPA. *See generally* "Statement of Policy: Natural Gas; Fraud Standard" Docket No. PL82–1–000 (issued Feb. 4, 1982), 47 FR 6253 (Feb. 11, 1982), codified at 18 CFR 2.300.

[151] *See* NGPL-Canyon Compression Co., Docket No. CP80–547–000 (issued Mar. 30, 1982), 18 FERC ¶ 61,280.

would note that the Natural Gas Act, its jurisdiction and requirements, continue unchanged with respect to activities performed by interstate pipelines purchasing natural gas. The NGPA cannot be used as a talisman to reduce the Commission's Natural Gas Act responsibilities beyond those areas specifically described in the NGPA.

C. The Amended Policy

In dealing with the problem of providing sellers with added compensation for production-related costs under the NGPA, we are forced to consider the problem of how interstate pipelines who purchase the natural gas from these sellers are to be compensated for costs they incur that would otherwise be classified as production-related costs if incurred by a first seller. While creatures of different legislative schemes—the costs incurred by gas sellers being a NGPA problem and the costs incurred by interstate pipeline companies being a Natural Gas Act problem—these two problems are intimately related. What the first seller does not do must be done by the interstate pipeline purchaser. Irrespective of who performs this work, there must be a viable and legal regulatory process to ensure adequate compensation, as necessary, to perform that work.

The Commission addressed one aspect of the problem of interstate pipelines performing production-related activities in Order No. 94. In that order, the Commission issued a policy statement under the Natural Gas Act.[152] That policy dealt with situations of an interstate pipeline, instead of a first seller, bearing production-related costs because it has performed production-related activities. Those activities were of two types: activities that, had the first seller performed them, the seller could have made application for their recovery under the rules implementing section 110 of the NGPA; and certain types of compression activities. The policy did not address the question of the level of costs a pipeline can incur and later recover in its rates; rather it only described what production-related activities, if undertaken by an interstate pipeline that purchases gas, will be deemed prudent for purposes of setting its rates.[153] There was no comparable Commission policy statement under the Natural Gas Act with regard to intrastate pipelines because the Commission does not have jurisdiction to prescribe rules or otherwise regulate an intrastate pipeline's passthrough of production-related costs.

This final rule on rehearing amends the policy statement issued in Order No. 94. This amendment, a product of both comments and petitions to rehear Order No. 94, greatly simplifies the policy. The most important change is to provide a policy that deems any production-related activity performed by an interstate pipeline as "prudent" for purposes of the Natural Gas Act, provided that the seller is not contractually obligated to perform that activity. However, as was done under Order No. 94, no statement is made respecting the prudence or imprudence of the level of costs incurred by interstate pipelines to perform these activities. Questions as to the level of the costs will, as before, be considered in the context of particular pipeline general rate cases by which the pipeline seeks to recover those costs or in certificate proceedings.

The circumstances that warranted the issuance of the policy statement of Order No. 94 are still with us. Under law, either a first seller or an interstate pipeline can perform production-related activities and thereby incur the cost of performing those activities. If the first seller provides the production-related services, he can receive an add-on for them under the Commission's regulations implementing section 110 of the NGPA. Because of the changes made to those regulations by this final rule on rehearing, the first seller can collect an add-on for all types of production-related services undertaken by him.[154] However, if an interstate pipeline undertakes production-related activities after purchasing the gas from a first seller, the NGPA and the Commission's regulations implementing section 110 cannot be applied. Questions as to whether these activities or the costs that attend performing them are appropriate as part of a pipeline's costs of service to be borne by gas customers should be decided in the context of general rate cases brought under the Natural Gas Act. Because of this, the Commission should provide guidance to those pipelines that incur these costs.

The guidance is particularly necessary given the history surrounding how these activities and their costs are to be treated. The Commission's actions that led up to the issuance of Opinion No. 90, as well as that Opinion, have created widespread concern that the Commission will view a pipeline's undertaking of production-related activities as *per se* improper or "imprudent". The policy statement of Order No. 94 exacerbated that concern. By this order on rehearing, as well as our companion Opinion No. 90–A,[155] we hope to dispel these concerns once and for all.

The question of whether a particular production-related activity or its resulting cost is prudent for a pipeline to perform or expend is to be approached no differently than the question of the prudence of any other activity or cost for which a pipeline seeks compensation in its rates. The one distinction, preserved in the policy statement, is that as a matter of policy, the Commission is predisposed to find that certain production-related activities are prudent activities if performed by interstate pipelines.

If it is appropriate for first sellers to undertake these activities and to be compensated for them, it is likewise appropriate for interstate pipelines to undertake the activities and to be compensated for them. This is particularly appropriate given the fact that first sellers cannot be required to perform production-related activities. As several commenters to Order No. 94 pointed out, the activities must be performed by someone; if not by the gas seller, then by the gas purchaser.

In reissuing the policy statement, we must be careful to fully describe its limits. As a policy, it can only serve to show, generally, how the Commission is predisposed to view particular matters. Unlike a rule, the policy cannot be applied blindly to every case or fact situation. Instead, it must be tested anew and found to be appropriate for each case. That is, in a particular case, the Commission "must be prepared to support the policy just as if the policy statement had never been issued."[156] The purpose is to give guidance, not to dictate results. For example, while the policy declares that production-related activities which the gas seller is not expressly obligated to perform under the terms of the gas sales contract are to be deemed prudent, a particular fact

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[152] *See* Order No. 94, note 1 *supra* at 59–74. 45 FR at 53111–53113.

[153] In light of the policy statement, the Commission proposed a rule to require pipelines who incur production-related costs to file data regarding the activity with the Commission. "Regulations to Amend Filing Requirements for Interstate Pipelines Respecting the Incurrence of Production-Related Activities, and Non-Allocable Costs," Docket No. RM80–76, (issued Sept. 9, 1980). 45 FR 61,418 (Sept. 17, 1980), FERC Stat. & Reg. Preambles ¶ 32, 079. No further action has been taken on this proposed rule.

[154] Of course, as explained above, to collect an add-on, the first seller must be contractually obligated to provide the services and contractually authorized to collect an amount for providing them.

[155] Opinion No. 90–A, "Order Denying Rehearing". Docket No. CI77–412.

[156] Pacific Gas Electric Company v. FPC, 506 F.2d 33, 38 (D.C. Cir. 1974).

situation may show that a pipeline has performed needless compression and incurred costs for facilities to provide that compression. In such a case, the unnecessary activity and its attendant costs would be found imprudent. In short, the policy is not to provide the means by which pipelines may perform activities that do not enure to the benefit of their gas customers.

The policy continues to speak only to types of production-related activities; it does not address the costs that may be incurred by a pipeline to perform those activities. The question of whether the actual level of cost incurred by any pipeline to perform production-related activities should be passed through to customers is to be handled in individual rate cases as any other cost of service item. For example, it may be that compression must be performed by the pipeline but that the cost of doing that compression is excessive because of mismanagement or poor planning (for example, incorrect compression sizing or location). While the type of activity—compression in this case—is deemed prudent under the policy, and while the performance of the activity is appropriate as evidenced by the facts of the situation, some portion of the costs would be disallowed.

The policy statement has been amended in three important respects. First, the types of activities deemed prudent are described by reference to the definition of "production-related service" now codified at § 271.1104(c)(4) and not to the types of production-related services a first seller can receive an adjustment for under the Commission's regulations implementing section 110 of the NGPA. This should eliminate the confusion that activities deemed prudent for pipelines are, under the policy, solely the function of NGPA regulations governing first sellers. It also works to expand the scope of the types of activities that will be deemed prudent. Because of this, the detailed description of prudent compression activities that were a part of the policy statement as originally issued have been deleted. By specifically referencing the definition of production-related services that appears under the amended 18 CFR 271.1104, services that are not "production-related" are excluded. These include activities which result in "production" costs and activities whose costs do not benefit natural gas consumers. This limitation, to have the policy deal only with production-related activities, was a feature of the policy of Order No. 94. It is continued here.

The second important change has been to exclude from the ambit of the types of production-related activities deemed prudent under the policy statement those that, under the express terms of the gas sales contract, a first seller is obligated to perform. Contractual provisions presume consideration. If the contract provides that a gas seller will perform production-related activities, one must presume that the interstate pipeline has agreed to pay some form of consideration for this work. This may be reflected in the price terms of the contract, as, for example, the payment of a specific amount for performance or it may have been undertaken by the seller in return for certain non-price elements of the contract, as for example, better (to the seller) take-or-pay provisions. If, in spite of a seller's contractual obligations to perform production-related activities, the pipeline nonetheless undertakes them, some inquiry should be made to determine whether the additional cost that evolves to the pipeline is appropriate. For this reason, it is not deemed prudent under the policy statement.

This is not to say that contractual provisions are to be the sole determinant for allowing interstate pipelines to recover costs incurred by them to perform production-related activities nor that cost shifting would necessarily be found imprudent. For example, a gas-seller and a pipeline-purchaser could renegotiate a gas sales contract so that production-related activities previously performed by the seller are to be performed by the purchaser and in doing so, the parties agree that the pipeline will purchase the facilities necessary to perform those activities. While the type of activity now to be undertaken by the pipeline may be deemed prudent under the policy statement, the amount the pipeline can recover from its customers for performing that activity will be a function of the benefit that accrues to those customers in having the pipeline perform that activity. For example, did the pipeline receive some consideration from the seller for taking on the responsibility, or is the cost less for customers if the pipeline performs the activity? Answers to these and similar questions would determine how much of the cost could be passed through to the pipeline's customers. This would be true even if the facilities were, as they logically would be, transferred to the pipeline at net cost.

Finally, the policy statement is amended to provide that activities not deemed prudent under its terms and the costs of performing any production-related service are not deemed imprudent but that the prudence of these activities or the level of the costs will be determined in an appropriate pipeline rate or certificate proceeding bought under the Natural Gas Act. This is only to make explicit what was previously implicit.

There remains the issue of applying the policy to activities already undertaken by pipelines. These can be either jurisdictional activities involving certificated facilities or nonjurisdictional activities whose costs have been allowed in past rate cases. Several who responded to the policy statement of Order No. 94 were concerned that the policy inaugurated a new approach to both types of activities that would result in these activities or their costs being deemed imprudent.

Aside from the misconception respecting "imprudent" costs already discussed, this concern evidences a basic confusion as to the relation of certification procedures and rate cases. Obviously, a certificate of public convenience and necessity issued by the Commission for a particular facility stands as a determination that the activity and the certificate facility are prudent. (If the certificate approves an initial rate under section 7 of the Natural Gas Act, that approval means, of course, that the rate does not adversely affect the public convenience and necessity.) However, such a certificate can never be the sole basis for approving the recovery of the costs that attend those facilities in subsequent rate cases. However, assuming that the authorized facilities remain used and useful, such a certificate has been, and will continue to be, dispositive that the activity and attendant costs are prudent.

Pipelines under the Commission's jurisdiction are required to seek authorization pursuant to section 7 of the Natural Gas Act to construct and operate facilities typically involved in some production-related activities. As in the past, if the Commission has jurisdiction under the Natural Gas Act, the Commission will require an affirmative showing of "public convenience and necessity" prior to issuing a certificate to the pipeline. Once the certificate is obtained by the pipeline, the question of the "prudence" of the activity will have been decided. As long as the operations remain unchanged from those authorized by the certificate, the only questions respecting the facility involved in setting the pipeline's rates subsequent to issuing the certificate are compliance with the terms of the certificate and the prudence of the costs related to the operation of

the facility (for example, the rate of return, depreciation, administrative and general expenses). Any conditions imposed by the certificate will be applicable and controlling in the pipeline's subsequent rate cases. The Commission does not expect to depart from this procedure absent a showing of improper management, misrepresentation or other improper conduct by the pipeline. In short, the Commission does not intend to require or permit "double review" of pipeline activities, once in a certificate proceeding and then again in the pipeline's rate proceeding(s). This clarification is appropriate in order to provide assurances to pipelines if they perform certain production-related activities.

With respect to the non-jurisdictional services for which pipelines have, in the past, recovered costs in their rates, the Commission will continue to treat them as it always has. The impact of the policy is only to show a predisposition on the part of the Commission to find such activities that are production-related to be prudent. The attendant costs would, as with the certificated services, be subject to scrutiny in rate cases, but no more scrutiny than any other aspect of a rate case.

IV. Conclusion

By this order, the Commission does three things. First, it completes its administrative proceedings respecting Order No. 94 with consideration of the petitions to rehear that order. For this reason, Order No. 94 and the interim rules implementing section 110 of the NGPA are now ready for judicial review under the provisions of the remand issued August 17, 1981, by the United States Court of Appeals for the Fifth Circuit in the proceeding designated as *Texas Eastern Transmission Company, et al. v. Federal Energy Regulatory Commission*, Nos. 80–1928, *et al.*[157] In considering the petitions to rehear the regulations issued in Order No. 94, we deny those petitions save to the extent arguments and suggestions presented by them are reflected in the amendments made to the regulations. In addition, other motions filed under this docket for expedited action are denied.

Second, by this order, the Commission amends the regulations implementing section 110 of the NGPA and, as amended, issues the regulations as final regulations. These final regulations are the product of public notice and comment procedures dating back to November, 1978. The original rule, from which these rules evolved, was issued December 1, 1978, as part of the Commission's rules implementing the NGPA. As issued, it was made effective immediately. However, because of the short comment period allowed prior to its issuance, the rule was styled as "interim" and further comments on it were solicited. As a result of the comments received to the December 1, 1978 rule, the Commission revised the rules implementing section 110. This revision was issued July 25, 1980, as Order No. 94. Again, the Commission solicited written comments. At the same time, an opportunity was afforded, under section 502(b) of the NGPA, for the presentation of oral data, views and comments on the amendments of Order No. 94, and public hearing for these presentations was held on October 21, 1980. In addition, petitions to rehear the amendments of Order No. 94 were received. All three, written and oral comments as well as the petitions, were considered by the Commission in developing further amendments and issuing the final rule. For this reason, no further comment is considered necessary prior to issuing the final regulations. However, because these are the final regulations, the Commission will consider petitions to rehear them.

Finally, by this order, the Commission amends the policy statement issued in Order No. 94 and reproduced at 18 CFR 2.102.

[157] *See* Ecee, Inc. v. Federal Energy Regulatory Commission, 611 F.2d 554 (5th Cir. 1980).

List of Subjects

18 CFR Part 2

Administrative practice and procedure, Electric power, Environmental impact statements, Natural gas, Pipelines.

18 CFR Part 154

Natural gas.

18 CFR Part 270

Natural gas, Wage and price controls.

18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

(Natural Gas Act, as amended, 15 U.S.C. 717. *et seq.*; Department of Energy Organization Act, 47 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

In consideration of the foregoing, Parts 2, 154, 270 and 271 of Title 18, Code of Federal Regulations, are amended as set forth below to become effective 30 days after publication in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 2—[AMENDED]

1. Section 2.102 of Part 2 is revised to read as follows:

§ 2.102 Policy respecting production-related activities performed by an interstate pipeline.

(a) *Policy.* (1) If an interstate pipeline purchases natural gas in a first sale, then in any proceeding brought under the Natural Gas Act to determine the lawfulness of the rates and charges of such pipeline, a production-related service provided by the pipeline with respect to the purchase of such gas, or by another on behalf of the pipeline, shall be deemed prudent, unless the terms of the gas sales contract governing the pipeline's purchase of the gas expressly provide that the seller perform the activity.

(2) Any production-related service not deemed prudent under paragraph (a)(1) of this section, and the level of costs to perform any production-related service, is not deemed imprudent. The prudence of such service, or of the level of costs, is to be determined in an appropriate pipeline rate or certificate proceeding brought under the Natural Gas Act.

(b) *Definitions.* For purposes of this section the following definitions apply:

(1) The terms "first sale" and "interstate pipeline" have the same meaning as such terms have under the NGPA.

(2) The term "production-related service" has the same meaning as that term has under § 271.1104(c)(6) of this part.

PART 154—[AMENDED]

2. Section 154.94 of Part 154 is amended by adding a new paragraph (k) to read as follows:

§ 154.94 Changes in rate schedules.

* * * * *

(k) *Affidavit to collect production-related costs.*—(1) *General rule.* If an independent producer has made an effective filing under paragraph (h) of this section, the producer may file an affidavit under this paragraph under which he may, in addition to the base rate described under the affidavit filed under paragraph (h) of this section, collect an amount necessary to recover production-related costs if:

(i) The producer is permitted, in accordance with § 271.1104 of this chapter, to charge for the production-related costs; and

(ii) The production-related costs are incurred as part of the sales transaction described in the filing made under paragraph (h).

(2) *Amendments.* The affidavit filed under paragraph (k)(1) of this section may be amended to reflect any changes in eligibility to recover production-related costs under new or old contracts.

(3) *Effect of affidavit.* An affidavit filed under paragraphs (k)(1) or (k)(2) of this section shall be deemed to be a notice of change of rate for purposes of section 4(d) of the Natural Gas Act.

(4) *Effective date of coverage under affidavit.* An affidavit filed under this paragraph by May 6, 1983 shall become effective with respect to deliveries beginning on the date this Order becomes effective; an affidavit filed under this paragraph after May 6, 1983 becomes effective shall become effective on the date of filing. Any amendment filed under paragraph (k)(2) of this section will be subject to the notice requirements of § 154.22 of this chapter.

(5) *Form of affidavit and service.* Any affidavit filed under paragraph (k)(1) of this section shall be signed. The form for such affidavit appears as Appendix B to this section. Concurrently, with any filing made under this paragraph, the filing party must serve each affected purchaser with a copy of the affidavit or amendment.

(6) *Protests.* Any protest to the filing of an affidavit under paragraphs (k)(1) and (k)(2) of this section shall be submitted to the Commission under the provisions of § 385.211 of this chapter (Rule 211).

3. Section 154.94 of Part 154 is further amended by adding at the end of the section a new Appendix B, to read as follows:

§ 154.94 Changes in rate schedules.

* * * * *

Appendix B to § 154.94

Blanket Affidavit Filing Under § 154.94(k)

———— (the affiant) certifies that he is ———— (exact legal title or capacity of the affiant) of (filing ———— party) and, that:

(1) Under 18 CFR 154.94(k) the filing party is entitled, and intends, to collect an adjustment under section 110 of the Natural Gas Policy Act of 1978 (NGPA) for each of the sales identified in the form attached as Exhibit A to his affidavit; and

(2) he will notify the Commission of any changes to be covered by this affidavit in accordance with the requirements of § 154.94(k)(2).

The undersigned swears or affirms that with respect to each rate schedule which is identified in Exhibit A and on which he relies to collect the applicable production-related cost allowance, he has made a diligent inquiry of individuals with personal knowledge of the facts contained in such filing and has determined after such inquiry that all statements made in such filing are true and accurate to the best of his knowledge, information and belief concerning, among other things, the factors relating to the eligibility to charge the allowances therein, and that he has examined the schedules covered by this affidavit and found them to be in accordance with sections 110 of the NGPA and § 271.1104 of Title 18 Code of Federal Regulations.

Signature ————————

Exhibit A

Respondent name ————————

FERC rate schedule No.	Buyer	Applicable NGPA section	Type of adjustments

Instructions for Completing Exhibit A

I. *General Instructions.* Exhibit A shall be attached to the affidavit filed pursuant to § 154.94(k) to identify those sales which qualify for production-related allowances established by the Commission pursuant to section 110 of the NGPA. The rate schedules should be shown in numerical sequence, and where necessary the list may be continued on succeeding pages in the same form.

II. *Specific Instruction. Respondent Name.* Enter the name of the respondent.

FERC Rate Schedule Number: Enter the rate schedule number assigned by the FERC. If none, or unknown, enter the contract date and certificate docket number, if known.

Buyer Name: Enter the buyer name.

Applicable NGPA Section: Enter the NGPA section applicable to the sales qualifying for the allowance (i.e., section 102(d), 104, 106(a), 107(c)(5), 108, 109).

Type of Adjustment: Enter the type of adjustment (e.g., delivery, compression, treating, conditioning).

PART 270—[AMENDED]

§ 270.102 [Amended]

4. Section 270.102 of Part 270 is amended by removing paragraphs (b)(15), (b)(16), and (b)(17).

PART 271—[AMENDED]

5. Section 271.1100 is amended by revising paragraph (a)(2) to read as follows:

§ 271.1100 Authority.

(a) *General.* * * *

(2) Production-related costs allowed under § 271.1104.

6. Section 271.1103 of Part 271 is revised to read as follows:

§ 271.1103 Record retention.

(a) *State severance taxes.* A seller in a first sale in which the price includes State severance taxes permitted under § 271.1102 shall retain a record of the sale which shall identify the seller, and shall retain such other records as are necessary to demonstrate that such seller has borne the amount of State severance taxes included in the sale price. Such records shall be preserved for at least three years from the date on which the sale occurred.

(b) *Production-related costs.* A seller in a first sale in which the price includes an amount necessary to recover production-related costs permitted under § 271.1104 shall retain such records of the sale as may be necessary to identify the amount collected and demonstrate the basis for the collection. Such records shall be retained for at least three years from the date on which the sale occurred.

7. Section 271.1104 of Part 271 is revised to read as follows:

§ 271.1104 Production-related costs.

(a) *General rule.* Except as provided in paragraph (b) of this section, the price for a first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to that sale, as determined under Subparts B through I of this part, if:

(1) Such first sale price exceeds the maximum lawful price by an amount necessary to recover a production-related cost as determined in accordance with paragraph (d) of this section;

(2) The production-related cost is borne by the seller; and

(3) The seller is expressly authorized, as defined in paragraph (c)(4) of this section, to be compensated for bearing that production-related cost.

(b) *Exclusions.* This section does not apply to a first sale of natural gas:

(1) Produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976; or

(2) In which the price applicable to that sale has been established under § 2.75 of this chapter (optional rate procedures), unless:

(i) The certificate authorizing the sale of the gas has been amended to delete the limitations imposed by § 2.75(m) of this chapter; or

(ii) The gas is no longer sold subject to the jurisdiction of the Commission under the Natural Gas Act.

(c) *Definitions.* For purposes of this section the following definitions apply:

(1) "Borne by the seller" means costs incurred by the seller in providing a production-related service, or in having other persons provide a production-related service on behalf of the seller.

(2) [Reserved]

(3) "Deliver" means to gather or transport natural gas through a natural gas pipeline.

(4) "Expressly authorized" means that the gas sales contract governing the first sale expressly provides that:

(i) The seller agrees to provide a specified production-related service; and

(ii) The purchaser agrees to compensate the seller for the cost of providing that specified service as evidenced by either:

(A) A contract provision expressing an amount, or a method for determining an amount, that the purchaser agrees to pay the seller for providing the specified service; or

(B) An area rate clause as defined in § 154.93(b–1) of this chapter, except that such clause shall be considered to evidence only the purchaser's agreement to compensate the seller for the cost of delivering the natural gas and then only with respect to sales having an applicable maximum lawful price determined under Subparts B through D and G through I of this part.

(5) "Production costs" means all costs incurred for:

(i) Exploration;

(ii) Development;

(iii) Production, including:

(A) Enhanced recovery techniques (including costs of compression incurred in the production of stripper well natural gas to which the pricing provisions of Subpart H of part 271 of this chapter apply);

(B) Gas-lift, pumping, or other liquid lifting equipment located on or in the vicinity of the wellhead or in the vicinity of the point of commingling the gas on the offshore platform from which the gas is produced; or

(C) Compression necessary for lifting liquids, cycling gas in a gas condensate reservoir or pressurizing a gas condensate or oil reservoir; or

(iv) Abandonment operations.

(6) "Production-related service" means any activity that results in the incurrence of a production-related cost.

(7) "Production-related costs" means costs, other than production costs, that are incurred:

(i) To deliver, compress, treat, liquefy, or condition natural gas; or

(ii) For services, other than processing, that benefit the gas customer and are incurred to construct or operate facilities to recover, separate, extract, treat, dehydrate, store, or transport crude oil, condensate or similar liquids or liquefiable hydrocarbons removed from the natural gas stream, to the extent:

(A) Such costs are properly allocable to the gas stream in accordance with the method approved by the Commission with respect to the particular service and seller; or

(B) If no such method has been approved by the Commission, such costs as do not exceed an amount equal to the total costs of constructing and operating the facilities, multiplied by the fraction whose numerator is the quantity of Btu's contained in the natural gas stream delivered to the pipeline and whose denominator is the sum of the quantity of Btu's contained in the natural gas stream delivered to the pipeline and the quantity of Btu's contained in the liquids and liquefiable hydrocarbons removed from the gas stream; provided that the use of this method has not been expressly prohibited by the Commission with respect to the particular service and seller.

(C) The cost allocation method described under paragraph (c)(7)(ii)(B) of this section shall apply only to the allocation of costs incurred by first sellers and then only to determine appropriate production-related costs to be allowed those sellers under section 110 of the NGPA. This limited application is not, in any way, an approval or disapproval of the propriety of using the cost allocation methodology of paragraph (c)(7)(ii)(B) of this section in any other circumstance.

(d) *Amounts necessary to recover production-related costs.*

(1) [Reserved]

(2) [Reserved]

(3) For any other production-related costs, an amount necessary to recover production-related costs shall be the lesser of the amount that the seller is expressly authorized to collect under the terms of the contract for the recovery of the cost, as evidenced under paragraph (c)(4)(ii)(A) of this section, or an amount per unit of gas determined by dividing the average annual cost of service of the facility used to provide the production-related service (as determined under paragraph (d)(3)(A) of this section) by the total volumes (MMBtu) of natural gas available after the service is provided; except that, if the service is one described under paragraph (c)(7)(ii) of this section (involving crude oil, condensate or similar liquids or liquefiable hydrocarbons), the provisions of paragraph (d)(3)(B) of this section shall apply.

(A) The average annual cost of service is to be computed for each of the two years 1983 and 1984 on the basis of the following:

(*1*) Operation and maintenance expenses developed for each of the years 1983 and 1984 on the basis of actual expenses incurred in 1981 and 1982, as available, and estimates of future expenses;

(*2*) An average annual net plant investment developed for the years 1983 and 1984 using the amount of undepreciated investment recorded on the company's books as of January 1, 1981, for facilities in operation on that date, or such later date as the facility becomes operational, and depreciating the investment, using the amount of depreciation booked annually for the particular facility or for that class of investment, whichever method is used by the company, over the two-year period commencing January 1, 1983 and ending December 31, 1984;

(*3*) An average annual depreciation expense for the two years 1983 and 1984 computed from the annual amounts used to depreciate the plant investment over that two-year period; and

(*4*) After tax earnings at an amount no greater than 15.0 percent times the average annual net plant investment for 1983 and 1984, with taxes computed using the debt/equity ratios of the company's overall capital structure unless it can be demonstrated that the facility was financed by a particular source of capital, in which case taxes should be computed consistent with the particular financing arrangement used.

(B) If the service is one described under paragraph (c)(7)(ii) of this section (involving crude oil, condensate or similar liquids or liquefiable hydrocarbons), the amount determined by using the average annual cost of service computed under paragraph (d)(3)(A) of this section shall be reduced to the amount allocated to the gas stream as provided for under paragraph (c)(7)(ii)(A) or (B) of this section as appropriate; and further reduced, as necessary, to reflect revenues received for sales of constituents removed for the gas stream but having no energy content. The resulting amount shall be divided by the MMBtu's of gas that are expected to be available at the discharge side of the facility.

(e) *Collecting past costs incurred to deliver or compress natural gas.* (1) Subject to the provisions of paragraphs (e)(2) and (e)(3) of the section, a first seller for sales having an applicable maximum lawful price determined under Subparts B through D and G through I of this part, may collect the amounts provided under paragraph (d) of this section for delivering and compressing natural gas, to recover the costs incurred in providing those services prior to March 7, 1983 but after the earlier of July 25, 1980, or the date on which the seller filed an application with the Commission to recover these costs;

provided that the seller is expressly authorized, as defined in paragraph (c)(4) of this section, to provide such service and be compensated for so doing, and that this authorization was in effect during the period the costs to be collected were incurred; however, amounts so collected must be reduced by any amounts collected prior to March 7, 1983 to recover these costs.

(2) In addition to the amount collected under paragraph (e)(1) of this section, the seller may, if expressly authorized under the terms of the contract governing the first sale, collect interest on that portion of the amount due but not yet collected, subject to the limits specified under § 154.102 of this chapter.

(3) Amounts collected under paragraphs (e)(1) and (e)(2) of this section are to be collected through installments over a period of time commencing with March 3, 1983 and ending December 31, 1984; and such installments should, to the maximum extent practicable, be of equal amounts.

(f) *Description of charges.*—(1) *Submission to purchaser.* A first seller charging an amount, or changing the basis for a previously-charged amount, under the provisions of this section must submit to the gas purchaser to be charged that amount by the seller, a written description of the basis for the charges at a reasonable time prior to that charge. The description must state, on a well-by-well or completion location basis:

(i) The amount per MMBtu to be charged;

(ii) The specified production-related service for which the charge is to be made; and

(iii) The contractual provisions expressly authorizing the charge.

(2) *Retention of descriptions.* A gas purchaser receiving a description made under paragraph (f)(1) of this section must retain a copy of that description for a period of at least three years from the date of the last sale for which the purchaser paid a charge based on the description.

(g) *Other.* In the event that a first seller performs services for which the provisions of paragraphs (b) through (e) of this section, are not representative (e.g. delivering natural gas through a natural gas pipeline system at a distance greater than 20 miles, delivering natural gas by methods other than a natural gas pipeline, performing more than three stages of compression or proposing some other method for computing costs) then application may be made to the Commission for an allowance to recover these costs under section 110 of the NGPA, to the extent they are determined to be production-related and in an amount necessary to recover those costs.

§ 271.1105 [Removed and Reserved]

§ 271.1106 [Amended]

7. Subpart K of Part 271 is further amended in its table of contents and text by removing the title and text of § 271.1105 and reserving that section for future use; and by amending § 271.1106 by removing the phrase "§ 1.41 of this chapter." and inserting in lieu thereof the phrase "Subpart K of Part 385 of this chapter.".

[FR Doc. 83-2898 Filed 2-2-83; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket Nos. RM 80-73-000 and RM 80-74-000]

Delivery Allowances Under Section 110 of the Natural Gas Policy Act of 1978, and Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978; Interim Rule

January 24, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim rule.

SUMMARY: The Federal Energy Regulatory Commission is further amending its regulations of Subpart K, Part 271. By this rule, limits on allowances for two production-related services under section 110 of the Natural Gas Policy Act of 1978 (NGPA) are established. The interim rule establishes the maximum amount of allowances which may be recovered by "first sellers," as defined by the NGPA, for delivering (gathering and transporting) natural gas and compression. The interim rule both establishes the maximum amounts that may be collected for these activities and imposes limitations on their collection. These rules are being issued in response to comments received by the Commission. This interim rule is the second of four rulemakings relating to production-related costs published today.

DATES: Interim rule effective March 7, 1983. Comments due March 25, 1983. Public hearings to be held on April 8, 1983, beginning at 10:00 a.m. Requests to participate in the public hearing are due by March 25, 1983.

ADDRESSES: All filings should refer to Docket Nos. RM80-73-000, *et al.*, and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Public hearing to be held at Federal Energy Regulatory Commission, Hearing Room A, 825 North Capitol St. NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Stosser, Office of the General Counsel, (202) 357-8033
Louis J. Engel, Office of Pipeline and Producer Regulation, (202) 357-8666.

SUPPLEMENTARY INFORMATION:

I. Introduction

By this interim rule, the Federal Energy Regulatory Commission (the Commission) is amending its regulations to provide that a "first seller" [1] under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. IV 1980) may receive, without prior application, allowances to recover costs incurred for gathering, transporting, or compressing that gas. This rule only establishes the generic allowances which may be collected for these particular production-related activities and imposes limitations on those allowances.[2]

This interim rule is a companion to Order No. 94-A, issued today. Order No. 94-A implements the general rules of NGPA section 110,[3] defines production-

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[1] NGPA section 2(21) defines first sale as:

(A) Any sale of any volume of natural gas—

(i) To any interstate pipeline or intrastate pipeline;

(ii) To any local distribution company;

(iii) To any person for use by such person;

(iv) Which precedes any sale described in clauses (i), (ii), or (iii); and

(v) Which precedes or follows any sale described in clauses (i), (ii), (iii), or (iv) and is defined by the Commission as a first sale in order to prevent circumvention of any maximum lawful price established under this Act.

(B) *Certain Sales Not Included*—Clauses (i), (ii), (iii), or (iv) of subparagraph (A) shall not include the sale of any volume of natural gas by any interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof, unless such sale is attributable to volumes of natural gas produced by such interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof.

See also, Mid-Louisiana v. FERC, 664 F.2d 530 (Former 5th Cir. 1981), *cert. granted,* —— U.S. ——, 74 L.Ed.2d 56, 103 S.Ct. 49 (1982).

[2] For recovery of costs incurred for other production-related costs, *see* Order No. 94-A, "Final Rule and Order on Rehearing: Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," Docket No. RM80-47-002, issued today [hereinafter cited as *Order No. 94-A*].

[3] NGPA section 110(a) provides in pertinent part that:

A price for the first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to the first sale of such natural gas under this subtitle if such first sale price exceeds the maximum lawful price to the extent necessary to recover * * * any costs of compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or other similar costs, borne by the seller and allowed for, by rule or order, by the Commission.

related costs, determines who is eligible to receive an allowance for those costs, and establishes a method by which those costs can be recovered. In addition, Order No. 94–A sets out a general policy to consider certain activities undertaken by interstate pipelines as prudent for purposes of regulation under the Natural Gas Act, 15 U.S.C. 717a–717w, as amended (Supp. IV 1980).

In defining gathering and transportation, Order No. 94–A does not distinguish between these two production-related activities for purposes of implementing NGPA section 110. This is because that section applies to first sales of gas delivered by sellers or resellers to interstate pipelines, intrastate pipelines, local distribution companies, or any person for use by such person. Thus, the Commission's concern lies with delivery costs, whether gathering or transportation, which are borne by the seller in order to deliver gas in a first sale.[4]

The Background section of the preamble to this interim rule sets out the procedural history and the legal authority of the Commission to establish these generic allowances. The discussion of the generic allowances is divided into two major sections: Section III, for delivering natural gas, and Section IV for compressing natural gas. Section V discusses the effective date and further proceedings.

II. Background

Under section 110(a)(2) of the NGPA, the price for a first sale will not be considered to exceed the applicable maximum lawful price to the extent it includes an allowance determined by the Commission for certain production-related costs. Among the costs listed under section 110 for which an allowance may be permitted are costs borne by the seller for gathering, transporting, and compressing the gas sold.

In December of 1978, the Commission issued interim rules implementing the NGPA.[5] Under those rules as limited, certain sellers could apply for costs incurred to gather, transport, and compress gas sold.[6] In order to collect an allowance, the seller had to file an application with the Commission providing specific information as to the maximum lawful price involved in the sale for which the application was made, supporting documents, summaries of contract provisions, the specific cost for which the application was made, a description of the method used to compute that cost, and the circumstances that made it necessary for the applicant to collect any amount in excess of the applicable maximum lawful price.[7]

On July 25, 1980, in Order No. 94,[8] the Commission suspended applications for gathering and compression allowances under section 110 and stated that it intended to develop generic allowances for those two activities rather than relying upon case-by-case determinations.[9]

In Order No. 94, the Commission described what it perceived to be the problem with the case-by-case method of application begun under the interim regulations of December 1978:

> Compression is perhaps the single most complex cost category which we must consider for a production-related add-on. First, of the activities specifically listed under section 110, compression, more than any other, can be undertaken as a production or non-allocable activity. Second, no standard or prevailing industry practice now exists for determining the costs of compression. This means that a seller seeking to add-on compression costs must make a showing as to the costs incurred and the type of compression undertaken. If this must be case-by-case for each seller there is a potential for long delay and inconclusive results.[10]

The Commission went on to say:

> What we have just said for compression applies equally to costs to gather the gas. For this reason we will also begin a generic proceeding to establish an appropriate gathering allowance. As with compression, we will not accept applications for the case-by-case determination of gathering costs save only those that are made pursuant to section 502(c) of the NGPA, and a retroactive collection procedure will be provided.[11]

The Commission retained, however, the application procedure for costs incurred to "transport" gas.[12]

On December 16, 1980, the Commission issued a Notice of Inquiry (Notice) for establishing gathering and compression allowances.[13] In preparing the Notice, the Commission staff estimated the costs of gathering and compression. The estimates were based on various sources available to the staff at the time, including information submitted to the Commission in area [14]

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[4] *See* Order No. 94–A, *supra* note 2, text accompanying notes 98–99. The title of Docket No. RM80–73–000 has been changed to reflect this technical change.

[5] Interim Regulations Implementing the Natural Gas Policy Act of 1978, Docket No. RM79–3 (issued Dec. 1, 1978), 43 FR 56448 (Dec. 1, 1978). FERC Stat. and Regs. Preambles ¶ 30,026.

[6] 18 CFR 271.1105(c)(1) [1979]. These include, among others, those selling gas produced at Prudhoe Bay, Alaska for transportation through the Alaska Natural Gas Transportation System. (*See* Order No. 45, "Treatment of Certain Production-Related Costs for Natural Gas to be Sold and Transported through the Alaska Natural Gas Transportation System: Regulations and Statement of Policy," Docket No. RM79–19 (issued Aug. 24, 1979). On January 4, 1982, the Commission vacated Order No. 45 ("Order Rescinding Order No. 45 and Terminating Docket No. RM79–19," issued January 4, 1982) as a result of the President's Findings and Proposed Waiver of Law (Oct. 15, 1981), approved by Joint Resolution of Congress, S.J. Res. 115 Pub. L. 97–93, 95 Stat. 1204 (1981)). The President's waiver set aside certain provisions of Federal law that would otherwise have governed the construction and operation of the Alaska natural gas pipeline.)

[7] Interim Regulations, *supra* note 3, at 252–53, 43 Fed. Reg. at 56576; previously codified at 18 CFR 271.1105(e) [1979].

[8] Order No. 94, "Amending Interim Regulations Under the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," Docket No. RM80–47, issued July 25, 1980, 45 FR 53099 (Aug. 11, 1980), FERC Stat. & Regs. Preambles ¶ 30,178.

[9] The authority of the Commission to allow production-related costs under section 110 of the NGPA is broad enough to permit the use of generic allowances applicable over a broad spectrum of sellers as well as the use of informal rulemaking procedures to establish those allowances. The legislative history of section 110, in speaking of the Commission's authority under that section, supports this view:

> . . . administrative flexibility was deemed important. Therefore it was also intended that FERC could selectively focus on the areas which appear appropriate for approval of adjustments under section 110 in such a manner that the implementation of the section would not become administratively burdensome.

124 Cong. Rec. At H13118 (daily ed. Oct. 11, 1978) (statement of Congressman Dingell).

[10] Order No. 94, *supra* note 8, at 41–42 (footnote omitted).

[11] *Id.* at 43.

[12] *Id.* at 43–44. The Commission notes that because gathering and transportation are not distinguished for purposes of implementing NGPA section 110, the Commission will permit a first seller to collect a transportation allowance if an application were filed under NGPA section 110, retroactive to the earlier of the date of that application or to July 25, 1980.

[13] "Gathering Allowances Under Section 110 of the Natural Gas Policy Act of 1978," Docket No. RM80–73, and "Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978, Docket No. RM80–74, 45 FR 84814 (Dec. 23, 1980), IV FERC Stat. and Regs. ¶ 35,309.

[14] Opinion Nos. 546 and 546–A, Southern Louisiana I, Docket Nos. AR61–2, *et al.*, 40 FPC 530 and 41 FPC 301, respectively (1968), *aff'd sub nom.* Austral Oil Co., v. FPC, 428 F.2d 407 (5th Cir. 1970), *cert. denied*, 400 U.S. 950 (1970); Opinion Nos. 598 and 598–A, Southern Louisiana II, Docket Nos. AR61–2, 69–1, *et al.*, 46 FPC 86 and 633, respectively (1971), *aff'd sub nom.* Placid Oil v. FPC, 483 F.2d 880 (5th Cir. 1973), *aff'd sub nom.* Mobil Oil Corp. v. FPC, 417 U.S. 283 (1974), Southern Louisiana II superseded Southern Louisiana I; Opinion No. 586, Hugoton-Anadarko Area, Docket No. AR64–1, *et al.* 44 FPC 761 (1970), *aff'd sub nom.* People of State of California v. FPC, 466 F.2d 974 (9th Cir. 1972); Order No. 435, Rocky Mountain Area, Initial Rates, Docket Nos. R–389 *et al.*, 40 FPC 66 (1971), *aff'd sub nom.* American Public Gas Association v. FPC, 498 F.2d 718 (D.C. Cir. 1974); Opinion Nos. 658 and 658–A, Rocky Mountain II, Docket No. R–425, 49 FPC 924 and 1279, respectively, (1973). Opinion Nos. 595 and 595–A, Texas Gulf Coast Area, Docket Nos. AR64–2 *et al.*, 45 FPC 674 and 46 FPC 827, respectively, (1971), *reversed* and *remanded sub nom.* Public Service Commission of New York v. FPC, 487 F.2d 1043 (D.C. Cir. 1973), *vacated* and *remanded sub nom.* Shell Oil Co. v. Public Service Commission of New York, 417 U.S. 964 (1974), *aff'd* 516 F.2d 746 (D.C. Cir. 1975); Order Nos. 411, 411–A and 411–B,

and national rate [15] proceedings, reports submitted under the Natural Gas Act and the NGPA, comments filed in other rulemakings, and information specifically solicited by the staff. A staff report which discussed the allowances and the data and the underlying assumptions used to develop those allowances was appended to the Notice.

For gathering activities, staff recommended a two-part allowance. The first would apply for single-well gas streams gathered from the wellhead to a central point lying a quarter mile or more from the well. This allowance would be 4 cents per MMBtu. The second would apply to gas streams gathered after commingling of volumes from two or more wells. This allowance would be 1 cent per MMBtu for each mile or fraction of a mile the gas is gathered. These two allowances would be additive and the maximum proposed allowance for gathering applicable to any first sale would not exceed 24 cents per MMBtu.

For compression, the staff proposed an allowance of 4 cents per MMBtu per stage of compression, exclusive of the cost for fuel or power to operate the compressor power unit. A stage of compression was defined as compression ratio not exceeding 4.5 to 1, and the number of stages was based on the ratio of the pressure required for delivery into the buyer's pipeline to the flowing wellhead pressure.

The Commission received 51 comments in response to the Notice. The most detailed comment was received from Indicated Producers, a group composed of 61 producers who produce over 50 percent of all natural gas sold in the United States. This comment supplied the Commission with empirical studies reflecting costs of delivery and compression activities on a nationwide scale. Of the remaining comments, a large portion were either from sellers who believed that the generic allowance would be inappropriate because of an unusual circumstance which applied only to them, or from those submitting only general comments either in favor of or against the rule without any cost data upon which to base an allowance. The Commission has evaluated all comments filed in response to the Notice prior to issuing this interim rule.

III. Allowance for Delivering Natural Gas

A. Summary

The Commission is setting generic allowances for costs incurred to deliver natural gas to any interstate pipeline, intrastate pipeline, local distribution company or any person for use by such person. The generic delivery allowances established in this rule do not include compensation for any costs incurred to compress the gas in order to effectuate delivery. Similarly, the compression allowances established here are independent of any costs incurred to deliver the gas.

The Commission received comments which argued that the delivery allowance should be based upon Mcf's sold, rather than MMBtu's. Because the Commission believes that to must conform to the pricing provisions of the NGPA, it is setting MMBtu as the base unit rather than Mcf. The Commission, however, is aware that this may result in an increase in the allowance in certain instances, but it does not consider any such increase significant.[16]

The Commission has established two types of allowances based upon the date of commencement of construction [17] of the delivery system [18] because the allowances are intended to provide recovery of, among others,[19] the cost of investment of the delivery system. The Commission believes that two different allowances are necessary in order to account for recovery for the investment made on some delivery systems. Therefore, if construction of the delivery system commenced before November 9, 1978 (old system), the Commission will permit 5 cents per MMBtu. If construction of the delivery system commenced on, or after, November 9, 1978 (recent system), the Commission will permit 7 cents per MMBtu for the first mile of haul,[20] or fraction thereof, measured from the wellhead or lease separator, plus 2 cents per MMBtu for each mile of haul, or fraction thereof, not to exceed 20 miles.

These allowances are intended to apply to sales of natural gas subject to any maximum lawful price category. However, certain limitations are imposed upon sellers of gas which is subject to the maximum lawful prices under sections 105 and 106(b) [21] and upon gas produced from the Prudhoe Bay Unit of Alaska.[22]

The Commission has imposed general limitations on when, where, and how both of these allowances may be collected. In addition, the Commission has imposed a specific procedure for collecting the allowances for old and recent systems. The following discussion will first focus on the general limitations on collecting the allowances for both old and recent delivery systems, and then outline the specific procedures for collecting the allowances for recent delivery systems.

B. General Limitations

In establishing delivery allowances, the Commission has imposed three general limitations on collecting those allowances. First, if a gas sales contract specifically provides that a first seller may collect an amount for delivering the gas, the lesser of that amount or the allowance will be permitted. If a lesser amount for delivery may have been or may be contractually agreed to by the parties, the generic allowances do not

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Appalachian and Illinois Basin Areas, Docket Nos. R–371, *et al.*, 44 FPC 1112, 1334, and 1487, respectively, (1970) in which the Commission declined to establish new area rates for this area in Opinion No. 639, 48 FPC 1299 (1972), *aff'd sub nom.* Shell Oil Co. v. FPC 491 F.2d 82 (5th Cir. 1974); Opinion Nos. 468 and 468–A, Permian I, Docket Nos. AR61–1 *et al.*, 34 FPC 159 and 1068, respectively, (1965), *reversed* Skelly Oil Co. v. FPC, 375 F.2d 6 (10th Cir. 1967), *aff'd in part and reversed in part,* Permian Basin Area Rates Cases, 390 U.S. 747 (1968); Opinion Nos. 662 and 662–A, Permian II, Docket No. AR70–1 (Phase I), 50 FPC 390 and 932, respectively, (1973); Opinion Nos. 607 and 607–A, Other Southwest Area, Docket Nos. AR67–1 *et al.*, 46 FPC 900 and 47 FPC 99, respectively (1971), *aff'd sub nom.* Shell Oil Co. v. FPC 484 F.2d 469, (5th Cir. 1973), *cert. denied,* 417 U.S. 973 (1974).

[16] Opinion Nos. 699 and 699–H, Docket No. R–389B, 51 FPC 2212 and 52 FPC 1604, respectively, (1974), *aff'd sub nom.* Shell Oil Company v. FPC, 520 F.2d 1061 (5th Cir. 1975), *cert. denied,* 426 U.S. 941 (1976); Opinion Nos. 749, 749–A, B, and C, Docket No. R–478, 54 FPC 3090, 55 FPC 825 and 1525, and 56 FPC 303, respectively, (1975), *rehearing denied,* Opinion No. 749–C, 56 FPC 303 (1976), *aff'd in part and rev'd in part, sub nom.* Tenneco Oil Co. v. FERC, 571 F.2d 834 (5th Cir. 1978), *cert. dismissed,* 439 U.S. 801 (1978); Opinion Nos. 770 and 770–A, Docket No. RM75–14, 56 FPC 509 and 2866, respectively, (1976), *aff'd sub nom.* American Public Gas Assoc. v. FPC, 567 F.2d 1016 (D.C. Cir. 1977), *cert. denied,* 435 U.S. 907 (1978).

[15] The Commission notes that the average MMBtu content of 1 Mcf of natural gas purchased by a pipeline is between 1.0 and 1.05.

[17] The Commission is using the term "commencement of construction" to mean the date site preparation was begun.

[18] *See* Order No. 94–A, *supra* note 2, text accompanying notes 98–99, and § 271.1104(g). In the case of alternative forms of gathering or transportation, such as trucking, the Commission will consider applications under NGPA section 110 for compensation wherein the applicant will sustain the burden of proof that an allowance is justified.

[19] *See* Order No. 94–A, *supra* note 2, text accompanying note 114, and Order No. 94–B, "Order Amending Regulations in Subpart B of Part 270 and Subparts E, F, and K of Part 271, and Affirming Certain Final Regulations Issued in Order No. 68," Docket No. RM 80–47–003, issued today [hereinafter cited as *Order No. 94–B*].

[20] The Commission is using the term "haul" to mean the physical movement of gas from one point to another.

[21] The allowances for recent delivery systems established in this rule also apply to sellers of gas subject to the maximum lawful prices under sections 105 and 106(b). Therefore, the regulations setting forth these amounts include those sellers. However, the rationale for this determination is set forth in Order No. 94–B. That order also discusses sections 105 and 106(b) sellers and allowances for old delivery systems.

[22] *See* Order No. 94–A, *supra* note 2, text accompanying note 93.

replace such an agreement. This is designed to insure that no more than the amount necessary to recover the costs incurred for the delivery of such gas is collected.[23]

The Commission realizes that because the delivery allowances are generic, in some situations, they may be inadequate. In such cases, the Commission will entertain applications for adjustment under NGPA section 502(c). Furthermore, if the gas sales contract does not currently specify that the seller may collect a specific amount for delivering the gas, the Commission generally permits parties to amend or renegotiate their contract to provide for such compensations, prospective from the date of the amendment.[24]

The second limitation is imposed to permit the collection of a delivery allowance only at the "final" first sale location. This is the point of delivery to any interstate pipeline, intrastate pipeline, local distribution company or any person for use by such person, and is almost always where the purchaser receives transfer of title to the gas.[25] Under the area and national rates, the Commission only permitted application of the gathering allowances at the location of sales from the producer to the interstate pipeline or distribution company. These type of sales are included in the NGPA definition of first sale. The Commission is imposing the same location limitation on the collection of the allowance for delivery systems the construction of which commenced prior to, or after, November 9, 1978.

This limitation is imposed because, under the NGPA, there may be more than one "first sale" of any gas stream. For example, a producer may sell gas to a reseller who combines it with other gas for resale. Without this limitation, there may be successive collections of the allowance. To allow repeated collections counters the basis upon which the allowances have been determined. As explained more fully below, the allowances are based upon the operation of a typical delivery system and costs incurred to operate such a system. They have not been established for a system divisible by the mere transfer of title of the gas. Therefore, to permit such a division would result in abuse of the allowance.

Third, the Commission is requiring that where the allowance is to be divided among several parties who perform this activity, it is the responsibility of the seller authorized to collect that allowance to properly allocate it.

A seller authorized to collect the total delivery allowance for himself and on behalf of other sellers, if any, must make a fair and proportional distribution to other sellers of the revenue reflecting the total allowance collected from the purchaser. The Commission does not wish to become involved in apportioning the delivery allowance where different parties perform the delivery activity along the continuous line leading from the wellhead or lease separator to the final first sale location. In addition to the fact that the Commission does not wish to be involved in contract interpretation and disputes, such action might result in a serious administrative burden upon the Commission.

C. Amount of the Allowance for Old Delivery System

In establishing an allowance of 5 cents for delivery systems where construction commenced prior to November 9, 1978, the Commission based its determination upon the comments received in response to the Notice, general indicators of construction costs, and current operation and maintenance expenses for these delivery systems.[26]

1. *Determining the 5 Cents Allowance.* There are several reasons for establishing a distinction based upon when construction of the delivery system was commenced. First, the Commission believes that the base ceiling prices under the Natural Gas Act plus the area gathering allowance provided compensation for most, if not all, on-lease gathering costs and a substantial amount of off-lease gathering costs. Second, construction costs for old systems were much lower than those recently constructed. Third, sellers should have recouped much, if not all, of their capital investment on the older systems.

The Natural Gas Act national base ceiling prices were established on the basis of the average unit cost of gas exploration, development and production.[27] These costs included the cost of lease equipment and production facilities including delivery operations which are performed at the lease and field level. Off-lease gathering costs, including in some instances those associated with processing plants served as the cost basis for developing the area gathering allowances established in various area rate proceedings. Those area gathering allowances ranged from 0.4 cent to 2.5 cents per Mcf and have been collected for many years to date.[28] Second, construction costs and other capital costs for old facilities were incurred over a period of several years predating the enactment of the NGPA. The Commission recognizes a trend in pipeline construction and equipment costs which is a general indicator of delivery cost trends.[29] The general trend shows that costs have more than doubled over the past 10 or 15 years. It is thus obvious that capital costs of pre-NGPA delivery systems are significantly lower than those of recently constructed systems.

Finally, the Commission notes that at the time Congress passed the NGPA, particularly section 110, industry management probably had the expectation of receiving a gathering allowance and planned their investment decisions accordingly. In contrast, industry management authorized the capital expenditures necessary to construct old delivery systems on the basis of economic feasibility derived from cost-based ceiling prices and allowances established by the Commission in past area and national rate proceedings under the Natural Gas Act. Therefore, it is doubtful that delivery costs were incurred without the expectation of cost-recovery through the previous Natural Gas Act pricing scheme. However, the Commission recognizes that there are exceptions to this general conclusion as evidenced by several special relief applications filed prior to the passage of the NGPA.

The Notice proposed an allowance of 4 cents for the first mile of line plus 1 cent for each mile thereafter. The majority of the commenters argued that this allowance was too low. Some commenters proposed higher allowances

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[23] As explained in Order No. 94–A, NGPA section 110 allows for those amounts "necessary to recover" production-related costs, and the Commission, in the first instance, looks to the sales contract to determine that amount. (*See* Order No. 94–A *supra* note 2, text accompanying note 100.

[24] *See* Order No. 94–A, *supra* note 2, text accompanying notes 120–125.

[25] This type of transaction falls within the NGPA definition of "first sale." *See supra* note 1 and accompanying text.

[26] *See* Appendices 1–6. Appendices 1–6, while filed with the original document, are not printed in the Federal Register. However, copies of this rule, including the appendices, are available at the Federal Energy Regulatory Commission, Division of Public Information, 825 North Capitol Street, N.E., Room 1000, Washington, D.C. 20426.

[27] Opinion No. 749, 54 FPC 3090 (1975), Opinion No. 699–H, 52 FPC 1604 (1974); and Opinion No. 770–A, 56 FPC 2698 (1976).

[28] *See* 18 CFR 154.105–154.109b.

[29] *See* the Handy-Whitman Index of Public Utility Construction Costs, Trends of Construction Costs, Bulletin No. 111, to January 1, 1980, and the U.S. Department of Labor, Bureau of Labor Statistics, Producer Price Index for Line Pipe, March 1982. (hereinafter cited as *Indices*).

intended to compensate them for unusual circumstances of delivery. These commenters outlined the extreme circumstances which, they claimed, justified much higher allowances.

The Comment of Indicated Producers included a cost study for older delivery systems the construction costs of which were incurred prior to 1981. The study estimated average capital costs of such old systems to be 59 percent of current replacement costs. This estimate reflects average construction costs from 1966 to 1981. This resulted in an allowance of 7 cents for small diameter pipe.[30] No comparable study was provided for large diameter older delivery lines. In spite of not having reviewed large diameter pipe for older systems, the commenters recommended a two-part allowance for older delivery systems of 7 cents for the first mile of line plus 2 cents for each additional mile.

The Commission has evaluated the proposal that the allowance be provided for every delivery system, regardless of when it was placed in service, but finds that it is unacceptable because the study estimated capital costs without an adjustment for past cost recovery. The Commission recognizes that most of these old delivery systems have been in operation for many years, particularly those of the large resellers. In most instances the facilities have been fully depreciated. Moreover, in 1975,[31] the Commission determined that the annual revenue impact due to collection of the area gathering allowances (0.4 cent to 2.5 cents) would be $26,550,000 subsequent to July 1, 1976. Although the volumes have declined for this locked-in flowing gas vintage, this indicates that substantial delivery costs have been recovered solely by the collection of area allowances established under the Natural Gas Act.

In addition to a study of construction costs, Indicated Producers developed operation and maintenance expenses for old systems by increasing the operation and maintenance expenses for new systems by 15 percent because there are higher maintenance costs for an old system. The Commission agrees that such an adjustment is reasonable because that older systems will require minor equipment replacement. The study also indicated unit operation and maintenance expenses of 2.9 cents at 100 percent utilization of line capacity, and 3.5 cents at 84 percent utilization of line capacity. As discussed below, these amounts are on the high side of a reasonable range.[33] The Commission believes that these unit operation and maintenance expenses support the 5 cents allowance because these expenses are less than the allowance. Consequently, the 5 cents allowance has considered capital cost recovery or a return on capital (5 cents minus either 2.9 cents or 3.5 cents).

In addition to the comments, the Commission reviewed general indicators of construction costs, including equipment costs, in order to determine an allowance which would be adequate to compensate the seller for those costs. In so doing, the Commission considered evidence it had received in previous producer rate proceedings under the Natural Gas Act. In the proceedings in Docket No. R–478 which led to Opinion No. 749,[33] the Commission staff, in their recommendation issued September 12, 1974, developed a national off-lease gathering cost of 1.83 cents per Mcf based upon 1972 data supplied by various gas producers. Using the Indices,[34] this cost, if trended to 1979 in order to identify a gathering system where construction commenced prior to November 9, 1978, would range up to approximately 5 cents per Mcf.

Third, in establishing this allowance, the Commission considered current operation and maintenance costs. These are recurring, and may be higher for old systems which are more likely to require frequent repairs resulting in increased maintenance costs. In addition, under-utilization of capacity may also occur due to the depletion of gas supply sources which would increase the unit cost of delivering the gas. On the other hand, the unit cost of delivering the gas may decrease because resellers of large volumes of gas often attach new supply to their old delivery systems with the ultimate objective of continuing to supply gas to their gas processing plants which extract liquids and liquefiables.

Having considered the comments, general indicators of construction costs, and operation and maintenance expenses, the Commission has determined that the appropriate amount should be 5 cents. While this allowance is not as high as most of the commenters had recommended, it is higher than had been allowed under the area and national rates. Those allowances coupled with the fact that most of the investment costs of those systems have already been recovered leads the Commission to conclude that 5 cents is reasonable.[35]

2. *Adjustments for Inflation to the Allowance for Old Systems.* The Commission has evaluated the allowance for old systems for future inflation. The Commission notes that if the unit operation and maintenance expenses discussed above were increased by future inflation to 1985, the 5 cents allowance would be adequate to at least the time of deregulation of some categories of gas. For example, if inflation is as high as 10 percent per year over the next three years, the 5 cents allowance would permit recovery of operation and maintenance expenses and some capital recovery. The Commission may reevaluate, after 1985, the allowances for gas which remains regulated.

D. Allowances for Recent Delivery Systems

The Commission has adopted a two-part allowance for delivery systems constructed after November 9, 1978. This allowance is 7 cents for the first mile, or any fraction thereof, plus 2 cents for every mile thereafter. This allowance is based upon studies conducted by the Commission and by the Indicated Producers.

The study conducted by the Indicated Producers showed a higher unit cost for small diameter delivery lines[36] as compared to large diameter delivery lines.[37] Large diameter lines have a greater capacity to handle gas produced from several wells, and thus have a lower unit cost of service. These studies proposed an allowance of 7 cents per MMBtu for small diameter delivery lines and an allowance of 2 cents per MMBtu for large diameter delivery lines. Based upon their studies, the Indicated Producer comment recommended allowances of 7 cents per MMBtu for the first mile of line extending from the wellhead plus 2 cents per MMBtu for each mile thereafter. The Commission believes that a two part allowance based upon a distinction of the size of delivery lines is reasonable for this category because it is fully cost-supported and because the allowance is intended to compensate the majority of

[30] Small diameter pipe was defined as 2, 4 or 6-inch of connecting-type lines.

[31] *See supra* note 27.

[33] *See infra* note 46 and accompanying text.

[33] *See supra* note 27.

[34] *See supra* note 29.

[35] The Commission notes that included in certain area-wide gathering allowances was the off-lease gathering requirement which required that substantial off-lease gathering be performed prior to receiving the allowance. This requirement, eliminated in Order No. 94, *supra* note 8, is also not included in this rule.

[36] See Appendices 1 and 2.

[37] See Appendices 3 and 4.

sellers bearing costs of recent or new gas delivery systems.[38]

The staff study in the Notice, using a somewhat similar approach, proposed comparable allowances of 4 cents and 1 cent per MMBtu. The Commission rejects the allowance proposed in the Notice because implicit in that proposal was a rate of return of 12 percent on the investment. This appears to be too low.[39]

The Indicated Producer comment concurred with recent studies conducted by the staff which evaluated construction costs and capital investment in varying sizes or diameter of gas delivery lines. These costs, other capital costs, and income taxes are the most significant factors in the cost determination. The Commission's studies also resulted in an allowance of 7 cents per MMBtu for the first mile of haul plus 2 cents per MMBtu for each mile of haul thereafter.

1. Determining the 7 Cents Allowances. In establishing the amount of the first part of the allowance, 7 cents per MMBtu,[40] the Commission evaluated recent construction costs to estimate the cost of connecting "new wells," as defined in section 2(3) of the NGPA. Based upon a typical delivery system, the Commission used a combination of 2½, 4 and 6-inch diameter lines which would total three miles with an estimated construction cost of $150,000. (The $150,000 figure is a rounded figure which is slightly higher than that used in the study by Indicated Producers.) Small diameter lines are the most frequently used sizes of lines in connecting wells. The Commission then evaluated a cost of service for this system. It did so for a four year period[41] beginning in 1980.[42] The Commission assumed that three miles of gathering line, at a minimum, can connect and deliver gas from four gas wells to a central field point. The Commission chose four gas wells as representative of a typical field.[43] An annual volume of 800,000 Mcf was estimated to be delivered from four gas wells.[44] Annual operation and maintenance expense was estimated at $12,000 per year which averages $4,000 per mile (3 miles of line).[45] (The $4,000 figure compares to $2,027 proposed in the Notice and $5,333 proposed in the study of the Indicated Producers.) Federal Income Tax was calculated at the full corporate rate of 46 percent. A rate of return of 15 percent was employed.[46] The three miles of 2½, 4 and 6-inch diameter lines were tested at an upstream working pressure of 50 psig with a psig per mile pressure drop and the results indicated that under these conditions the gathering lines can accomodate an aggregate throughput of 800,000 Mcf per year.

Based upon the Commission's study of a typical system, the Commission has determined that 7 cents MMBtu for the first mile of haul, or fraction thereof, is reasonable.

2. *Determining the 2 Cents Allowance.* The Commission has established 2 cents per MMBtu for each mile, or fraction thereof, after the first mile, not to exceed 20 miles. In developing this allowance the Commission evaluated the construction and equipment costs of large diameter lines, *i.e.*, 8, 10, and 12-inch lines. These costs were similar to those evaluated by the Commission staff report appended to the Notice. Assuming a 15 percent rate of return and adopting the detailed operation and maintenance costs in the study submitted by the Indicated Producers, the Commission believes that 2 cents per MMBtu is reasonable. In the majority of cases, the allowance for the second category will not significantly exceed an increment of 7 cents per MMBtu for most new delivery operations. This is because many new wells are connected to old delivery systems already in operation.

3. *Adjusting the Allowances for Recent Delivery Systems.* The Commission does not believe that the allowance for recent systems should be adjusted by an inflation factor. The Commission recognizes that the allowance for the second category is intended to apply to capital costs incurred since the date of enactment of the NGPA. However, the Commission is unable to predict future capital and construction costs on a nationwide scale. Construction costs may dramatically increase or decrease. Furthermore, because much of the gas involved will be deregulated in 1985 or 1987, these costs and the price of the gas may change drastically. However, as discussed in conjunction with the 5 cents allowance, the Commission may reevaluate this allowance in 1985.

While the Commission is not willing to permit an inflation factor, it will consider applications under NGPA section 502(c) which request an adjustment for new construction to recover operation and maintenance expenses and capital costs to the extent necessary to recover costs borne by the seller.

4. *Procedure for Determining the Appropriate Amount of the Allowance.* In order to determine the appropriate amount of the allowance which may be collected, the Commission outlines the following procedure: first, the gas delivered must be commingled with other gas delivered; second, the length of the delivery line must be measured from a specific point; third, the line of measurement must be continuous; and fourth, the overall distance may not exceed 20 miles.

The first requirement is that gas must be delivered to a point of commingling with other gas. In the case of gas from a single gas well, the gas must be commingled with gas from other wells. In the case of gas produced from an offshore platform, the gas must be commingled and delivered from two or more wells at the platform. In the case of oil wells producing natural gas, delivery of the gas must extend downstream from the lease or field separator to a point of commingling with

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[38] The Commission recognizes that it is common practice to deliver gas from several individual well streams, using small diameter pipe, to a central commingling point or points from which the gas flows into the larger diameter gas collection lines and finally to a first sale location.

[39] *See infra* note 46. *See also,* Order 94–A, *supra* note 2, text accompanying notes 115–19.

[40] *See* Appendix 6. *See also,* Appendices 2 and 4.

[41] The Commission used a four year period based on the assumption that most gas from new wells will be deregulated in 1985 or 1987.

[42] The Commission began its cost of service assessment in 1980 because Order No. 94 assured retroactivity to at least that year.

[43] This was based on 640 acre well spacing. If smaller well spacing were assumed, which may also be common, the three miles of line could accommodate more wells and possibly larger delivery volumes. Also, the Indicated Producers comment stated that the average number of producing gas wells per field is 3.91.

[44] This volume averages 200,000 Mcf per well which is less than the average volume from a new well of 206,000 Mcf per year as indicated from FERC well determination reports. A volume decline was not estimated for the cost-of -service test period.

[45] From the Indicated Producers, the Commission received detailed operation and maintenance expenses evaluation for different facilties. The commenters estimated each element of expense for a typical gas delivery system which delivers gas from 36 wells to a first sale location through a network of lines totalling 35 miles, with the total operation and maintenance expenses allocated to various diameter sized lines and also estimated construction costs. (*See* Appendix 5.) The Commission finds that this study is on the high side of a reasonable range. This is because the study assigns metering stations to each well at a cost to the seller contrary to industry practices reflected by contracts on file at the Commission which require the purchaser to bear these costs, and because ad-valorem taxes applied to production facilties are, in many instances, either not levised or are reimbursed as production taxes.

[46] Although in the Notice of Inquiry the Commission had proposed a rate of return of 12 percent, recent staff studies and the comments received indicated that 15 percent is more reasonable. Also, 15 percent was used by the Commission in its national rate proceedings which took into account the much higher risk of gas exploration as compared to development, including production-related facilties which were installed only after production had been established. (*See also, supra* note 39.)

gas from other wells or other lease or field separators.

The Commission has decided to impose this requirement because the allowance is for the delivery of gas for the first mile, or any fraction thereof. As such, a seller might seek to deliver gas from a single well to a distance significantly less than one mile to the final first sale location and still seek the allowance. The requirement is designed to prevent a situation where the delivery allowance may be sought for extremely short lines where the purchaser incurs practically all the delivery costs in addition to paying the allowance to the seller. Therefore, the gas must be delivered to a point where entry causes commingling with other gas.

The second requirement is that the distance be measured from the wellhead (gas wells), platform (offshore wells), or lease or field separator (gas separated from crude oil) to the final first sale location. This requirement is based on comments received in response to the Notice which indicated that most well connecting lines are one mile or less. In light of that, it would be unnecessary to provide a two-part allowance where the first part of the allowance measures to the point of commingling. Also, this will allow for a simple application of the allowance.

Third, in order to assure simplicity and full compensation, the distance must be measured in miles by tracking a continuous line of gas flow (haul) through gas delivery lines beginning at the wellhead, platform, or lease separator and ending at the final first sale location.

Fourth, the Commission has placed a maximum overall limitation of 20 miles on the allowance. In other words, the allowance may not exceed 45 cents per MMBtu. Comments received from producers indicated that a typical gathering system did not exceed 20 miles measured from the well or lease separator to the final first sale location. Furthermore, applications filed under NGPA sections 110 and 502(c) indicate that a distance of over 20 miles is extraordinary or unrepresentative of the majority of producer delivery operations in the United States. In fact, the Commission is aware of only a handful of delivery operations of greater length. Because the Commission has determined that 20 or less miles is representative of the length of delivery systems, and because the Commission is establishing a generic delivery allowance, it has decided to impose this distance limitation. However, the Commission will consider applications under section 110 for extraordinary operations. Under such circumstances, the Commission will permit an allowance on a fully-distributed cost basis.

5. *Collection of the Allowances.* In order to collect the total allowance, the final first seller must determine the unit allowance based upon the distance from the well to the final first sale location, determine the amount of MMBtu's sold from each of the wells, multiply the amount of the unit allowance by the MMBtu's of the gas sold, and then make a pro rata distribution of the allowance collected based upon the length of delivery line he owns and the length of delivery line another owns.

The following example illustrates this procedure. Assume gas is being delivered from two wells, each with a delivery line 5 miles long, commingled at a point on a reseller's delivery line which is 15 miles long from the point of that commingling to the final first sale location. Assume, also, that the Btu content of the gas produced and sold from each well is 100 MMBtu. Delivery for each well is 100 MMBtu for a distance of 20 miles. If construction of the delivery system commenced on, or after, November 9, 1978, based only on the distance of the haul, the allowance for each well would be 7 cents for the first mile and 2 cents for each additional mile, or 45 cents. This figure, multiplied by the Btu content of the gas sold, 45 cents times 100 MMBtu, yields a total allowance for each well of $45.00. The reseller must then apportion that amount to each of the sellers. Each seller, with a haul distance of 5 miles, would receive 7 cents for the first mile and 2 cents for each additional mile, totaling 15 cents, multiplied by the amount of gas produced and sold, 100 MMBtu, or $15.00. The reseller would retain $30.00 for delivery from each well, or $60.00 for both wells. Of course, this apportionment will depend upon the contract terms of the seller and the reseller and of the reseller and the purchaser.[47]

IV. Allowances for Compression

A. Summary

The Commission is setting generic allowances for costs incurred by a seller for compressing natural gas in order to effectuate delivery of that gas to any interstate pipeline, intrastate pipeline, local distribution company, or any person for use by such person.

As previously discussed.[48] the compression allowances established in this rule as compensation for compression to effectuate delivery are independent of the delivery allowances.

The Commission received comments which argued that the compression allowance should be based upon Mcf's sold, rather than MMBtu's. As previously discussed in conjunction with the allowances for delivery,[49] the Commission is using MMBtu as the base unit rather than Mcf for the allowances in order to conform to the pricing provisions of the NGPA.

In establishing the allowances, the Commission evaluated the comments received in response to the Notice and prepared studies which had relied on those comments. As indicated above, 51 comments were received which addressed the proposed compression allowances.[50]

Of the comments received, some comments provided the Commission with general data with which to reevaluate its proposal. Others merely described compression activities peculiar to their own operation. Many of the comments were supportive of the proposed methodology, but considered the allowances proposed to be obsolete. Specifically, comments received from Indicated Producers provided cost data to support their arguments and calculations of their proposed compression allowances. As with the delivery allowance, the Commission gave serious consideration to these comments because of the collective experience of the commenters.

The Commission is also establishing compression allowances based on when construction of the compression facility commenced.[51] If construction of the compression facility commenced on, or after, November 9, 1978, an allowance of 6.0 cents per MMBtu for each stage of compression set at a ratio of 3.5 to 1 (representing the overall compression ratio of the outlet pressure of the last stage of compression to the inlet pressure of the first stage of compression), with the overall allowance not to exceed three stages. If construction commenced before November 9, 1978, no generic allowance will be allowed.

[47] When new facilities are constructed to attach a new well to an old delivery system, the total allowance will be the sum of the allowances applicable to old delivery systems and to recent delivery systems. In other words, the 5 cents will be permitted for the old system and the 7 cents plus 2 cents allowances will be permitted only for the recent system.

[48] *See supra* p. 10.

[49] *See supra* p. 11.

[50] *See supra* p. 10.

[51] The Commission is defining "commencement of construction" for purposes of this allowance the same as for the delivery allowance. *See supra* note 17.

B. Types of Compression

The Commission intends that only production-related compression costs be allowed under the regulation, that is, costs incurred to raise the pressure of the gas stream to effectuate its delivery to the facilities of the purchaser. This is done when the pressure of the gas stream flowing in the pipeline exceeds the pressure of the gas flowing from the well or lease separator and compression of the gas is necessary to deliver the gas into the pipeline.

Production-related compression is to be contrasted with compression used in the production of the gas, *i.e.*, a "production cost." In Order No. 94–A, issued today, the Commission has defined "production cost" as:

> All costs incurred for exploration, development, production and abandonment operations, enhanced recovery techniques (including costs of compression incurred in the production of stripper well natural gas to which the pricing provisions of Subpart H of Part 271 apply), gas-lift pumping or other liquid lifting equipment located on or in the vicinity of the wellhead or the point of commingling the gas on the offshore platform from which the gas is produced, and costs that attend compression necessary for lifting liquids, cycling gas in a gas-condensate reservoir or pressurizing an oil reservoir.

If a compression activity falls within one of the above-described operations, no allowance will be permitted.

The Commission will permit compensation for compression activity used to effectuate the delivery of gas priced under any NGPA pricing category. However, peculiarities exist with respect to the compression allowance and gas sold as production enhancement gas under NGPA section 107(c)(5),[52] or gas sold as stripper well gas under NGPA section 108.[53] The Commission does not intend to exclude all compression costs incurred in the production of production enhancement gas and stripper well gas. However, when a seller qualifies for receiving the maximum lawful price under either section 107(c)(5) for production enhancement gas or section 108 enhanced recovery, because of adding compression, the compression activity may not qualify for the allowance.

Specifically, if the gas qualifies under NGPA section 107 as a result of production enhancement work, the seller will not be permitted the allowance for compression if that compression were installed as part of the production enhancement work. This is because compensation for costs incurred for such compression are already provided for in the NGPA section 107 incentive price. However, if the compression were added after the gas from that well qualified as production enhancement gas, and the compression itself qualifies as a production-related activity, the allowance will be permitted.

If the well qualifies under NGPA section 108 as a stripper well and the compression were added in order to increase production after the gas qualifies for section 108 pricing due to an enhanced recovery technique, no allowance would be permitted. As with production enhancement gas, costs incurred for such compression resulting in the increased production of gas sold at the section 108 incentive ceiling price sufficiently compensate the seller. However, if there is more than one well producing gas which would flow through that compression facility and if not all of the wells which use that facility qualify under section 108, the compression allowance will be permitted for gas from that well if the compression facility were constructed on the delivery line at a point after the gas is commingled.

There may be instances where a compression facility is used at a well and where it will be unclear as to whether the function of that compressor is to increase gas production or to effectuate delivery. The Commission intends that in such instances the "primary function" of the compression for each well will determine whether the allowance will be permitted. In other words, if the compressor is used to effectuate delivery and it is only incidental that additional gas is produced then the "primary function" of that compressor would be considered to effectuate delivery. As such, the compression would be considered production-related and an allowance would be permitted.[54]

The Commission received comments which argued for a separate allowance for offshore compression. These comments argued that offshore compression was much costlier than onshore compression. The Commission is not setting a separate allowance for offshore compression because the Commission thus far has not received the cost data necessary to establish such an allowance. Furthermore, the Commission believes that most of this compression is undertaken by the purchasing pipeline, and the cost thereof can be recouped in the pipeline's cost-of-service. However, in instances where the seller is liable for offshore compression, the Commission will accept applications for an adjustment pursuant to section 502(c) of the NGPA. Of course, the Commission will consider comments on this issue.

C. Applicability

As with the generic allowances established for the delivery of natural gas, the Commission will permit allowances for compression if the seller is expressly authorized under the terms of the gas sales contract to perform and to be compensated for compression activity. Furthermore, the Commission will permit parties to amend or renegotiate their gas sales contract to provide the seller compensation for costs incurred to compress the gas after the date of the amendment. Although the Commission is establishing generic allowances, as provided by the rules issued in Order No. 94–A, the seller will be permitted only the lesser of the allowance or the amount expressly authorized under the terms of the contract.[55]

The Commission has limited the allowances for compression to the use of compression facilities where construction commenced on, or after, the date of enactment of the NGPA, November 9, 1978. Several comments were received requesting that the Commission permit the compression allowance for compression facilities which had commenced operation prior to November 9, 1978.

The Commission rejects these comments because rates charged for the sale of gas prior to the date of enactment of the NGPA can be presumed to have included compensation for investment in compression facilities constructed prior to November 9, 1978. In fact, no allowance for production-related compression costs was permitted under the area and national rates.[56] Therefore, the Commission believes that most capital investment for a compression facility, incurred prior to the date of enactment, is being recovered through collections under the area or national rates. Similarly, the Commission believes that the capital investment for a compression facility incurred by an

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[52] Section 271.704 of the Commission's regulations defines qualified production enhancement gas. It is gas which involves production enhancement work, including installation of compression equipment used to maintain or to increase production from a well, or to return an abandoned well to production.

[53] Stripper well natural gas is defined in section 108(b) of the NGPA as natural gas determined by the appropriate jurisdictional agency to be gas from wells producing not more than sixty Mcf per day of nonassociated gas at maximum efficient rates of flow during the preceding ninety-day production period.

[54] *See* Order No. 94–A, *supra* note 2, text accompanying notes 107–08.

[55] *See supra* p. 13.

[56] *See supra* text accompanying note 25

intrastate seller prior to the date of enactment is being recouped by that intrastate seller under his gas sales contract.

D. Amount of Allowances

1. *Determining the Allowances.* The compression allowances, although stated in cents per MMBtu per stage, are based upon the overall compression ratio required to deliver the gas into the buyer's pipeline. This ratio is of the outlet pressure of the last stage of compression to the inlet pressure of the first stage of compression. This is different from the ratio proposed in the Notice.[57] There, the compression ratio was not in terms of the overall inlet and outlet pressure, but, rather, defined as the ratio of the overall pressure required for delivery into the buyer's pipeline to the flowing wellhead pressure. The Commission believes that the ratio proposed in the Notice may be inaccurate because the compression ratio may vary depending on where the compressor is located; that is, the distance of the compressor from the wellhead or the delivery point may cause the ratio of the pressure required for delivery into the buyer's pipeline to the flowing wellhead pressure to increase or decrease. A less variable ratio, based upon a comparison of the overall outlet and the inlet pressures, is more easily ascertainable and representative.

Comments received in response to the Notice argued for allowances for different regions in the United States because compression might cost more in some areas than in others. As previously stated,[58] the Commission is establishing a generic allowance. This allowance is representative of all areas. As such, it is designed to apply to typical compression. The Commission believes that a representative allowance is preferable to a high generic allowance designed to overcompensate the majority to meet the needs of a few. However, not all sellers will be fully compensated by the generic allowance. In instances where this allowance may be inadequate to recover costs incurred, the Commission will entertain applications for adjustment under NGPA section 502(c).

The compression allowances are based upon the costs necessary to install and operate a reciprocating compressor. The Commission believes that this type of compressor is the most representative. The Commission recognizes however, that sellers may use other types of compressors. As indicated above, if another type of compressor is used and the allowance is inadequate, the Commission will consider applications under NGPA section 502(c).

To arrive at the allowance, the Commission used a methodology which evaluated the costs involved with purchasing, shipping, and installing compression facilities. As proposed in the Notice, the Commission first considered three compressor sizes representative of the sizes required to compress one MMcf of gas per day at a compression ratio of 3 to 1 per stage in one, two, and three stage configurations. These were 65 horsepower, 150 horsepower, and 250 horsepower. This evaluation covers the range of operation of a compressor from maximum efficiency (3.5 to 1) to a level of less than maximum effeciency (3.0 to 1).[59] Annual volumes at 14.73 psia [60] and a 95 percent load factor [61] were computed for each of the three compressors. The Commission determined a representative purchase cost of the compressor per brake horsepower (BHP) for each of the compressor sizes considered. [62] In addition, the Commission estimated costs of installation and freight per BHP.[63] This summation of costs per BHP, when multiplied by the BHP of the respective compressors, provided an estimate of the investment for each of the representative compressors.

In setting this allowance, the Commission has relied upon the operation and maintenance expenses in the cost studies supplied by the Indicated Producers. The Commission recognized that these expenses are representative of those incurred by a cross-section of a large number of producers nationwide. The Commission used this data in a discounted cash flow study.[64] This study is similar to the study presented in the Notice in that it assumes a 15 year life and a 10 percent salvage value. However, the current study provides for a 15 percent rate of return, after allowance for Federal income taxes, rather than 12 percent. As with the rate of return determined for delivery costs, the Commission believes that a 15 percent rate of return is appropriate.[65]

As a result of its analysis, the Commission has determined that an appropriate representative allowance to recover all operation and maintenance expenses, Federal income taxes, and a return of, and on, the investment in the representative compressors for one stage of compression is 5.8 cents per MMBtu; for two stages of compression, 11.0 cents per MMBtu; and for three stages of compression, 19.0 cents per MMBtu. In order to simplify the allowances, the Commission has decided to round the allowance for the first stage of compression to 6 cents per MMBtu. Furthermore, because the representative allowances for the three stages are practically linear, reasonably close to a multiple of 6, the Commission has decided to preserve the linearity and to round the allowances for each stage of compression to 6 cents per MMBtu. Therefore, the allowance for the first stage is 6 cents per MMBtu, for the second stage 12 cents per MMBtu, and for the third stage 18 cents per MMBtu.

2. *Adjustments to the Allowances.* Although the Commission received comments which argued for an inflation factor to be added to the allowances, the Commission has determined that these allowances will not be allowed to escalate for inflation. These allowances are representative of current costs as well as costs in the near future.[66]

As proposed in the Notice, the actual cost of fuel or power used to drive the compressor may be added to these allowances. The Commission, in allowing the addition of natural gas fuel costs to the compression allowance at the maximum lawful price, recognizes that the gas used to run the compressor is a valuable commodity which the seller could sell if it were not necessary for the operation of the compressor. While alternative fuels may be used rather than the gas, they too would be costly. In either case, the cost of the natural gas fuel necessary to drive the compressor has not been included in the determination of the allowances established and may be collected in addition to the generic allowance. Thus, if the fuel is gas furnished by the seller operating the compression facility, it may be charged at the maximum lawful price applicable to the gas used. Consequently, the maximum lawful price for the sale of the gas for this purpose, is the maximum lawful price allowed by the contract and collectible

[57] *See* IV FERC Stat. & Regs. ¶ 35,509 at 35,598.

[58] *See* text *supra* note 9 and a accompanying text.

[59] *See* Appendix 7. *See also, supra* note 28.

[60] This is the pressure base used by the NGPA to compute the maximum lawful prices. *See* NGPA section 2(29).

[61] This load factor considers that compressors do not operate at 100 percent efficiency.

[62] The Commission used data submitted by the commenters and trended the data by using the U.S. Department of Labor, Bureau of Labor Statistics, Producer Price Index for Gas Compressors, March 1982.

[63] These estimates, also provided in the comments, were trended by using the inflation adjustment of section 101 of the NGPA which reflects the GNP price deflator.

[64] *See* Appendix 8. *See also, supra* note 28.

[65] *See supra* note 48 and accompanying text.

[66] *See supra* p. 27.

under the NGPA if gas is used to operate the compressor from the same source. In the event gas is commingled, the weighted averaged cost of the applicable maximum lawful prices of the different price categories of gas will be used. The total allowance thus derived may be proscribed by limiting provisions in the gas sales contract.

E. Limitations

As defined above, the ratio adopted here is one which compares the inlet pressure to the outlet pressure. Therefore, when the overall compression ratio is less than or equal to 3.5 to 1, the seller will qualify for one stage of compression and be permitted an allowance of 6.0 cents per MMBtu. When the overall compression ratio is greater than 3.5 to 1 and less than or equal to 12.25 to 1, the seller will qualify for two stages of compression and be permitted an allowance of 12.0 cents per MMBtu. When the overall compression ratio exceeds 12.25 to 1, the seller will qualify for three stages of compression and be permitted an allowance of 18.0 cents per MMBtu, exclusive of the fuel costs discussed above.

The Commission is imposing three limitations on the collection of the compression allowances. First, the Commission has limited the allowances to three stages of compression. Second, it has specified the means of calculating the total allowance. Third, it has specified who, in a succession of first sellers, is qualified to collect the allowance.

The Commission has determined that, for efficient operation, the compression ratio per stage should be set at 3.5 to 1, and limited to three stages. The Commission considered comments which argued against a limit of three stages. These comments presented cases where more than three stages of compression would be required. However, the Commission believes that the overall compression ratio limit of 42.875 to 1 (3.5 to 1 to the third power) will cover a large majority of compression requirements. Because the Commission is establishing generic allowances, it has imposed this limitation. Of course, in those situations where a higher number of stages is required and the allowance provided does not permit a full recovery of costs, the Commission will consider applications under NGPA section 110 for an allowance at a fully-distributed cost basis.

The second limitation relates to the computation of the allowance. The Commission has determined that if compression is provided at more than one location from the wellhead to the point of delivery into the buyer's pipeline, the allowance would be determined at the final first sale location.[67] In cases where there are multiple first sales and compression is provided in a location other than the final first sale location, it will be the overall compression ratio of the outlet pressure of the last compressor to the inlet pressure of the first compressor which will determine the allowance collectible by the final first seller.

The third limitation relates to the allowance and multiple first sales. It is the Commission's belief that if multiple first sales are made between the wellhead and the point of delivery into the buyer's pipeline, the allowance should be payable to any first seller who provided the compression which qualified as production-related. It will be the responsibility of the final first seller who is authorized to collect the total compression allowance on his behalf or on behalf of other sellers, if any, to make a fair and proportional distribution to other sellers of the revenue collected from the total allowance.[68]

V. Effective Dates and Further Proceedings

The interim regulations of Subpart K of Part 271 are amended as set forth below and are being made effective 30 days from the date of publication in the **Federal Register.**

Appended to the Notice was a staff study which proposed the generic gathering and compression allowances and provided the methodology used by staff to determine those allowances. Comments were received in response to that Notice which addressed the types of allowances, the proposed amounts, and the methodology used to determine those amounts. Furthermore, comments received in response to Order No. 94 also discussed these production-related activities and the applicability of generic allowances. While the Commission had indicated in the Notice that it would issue a notice of proposed rulemaking subsequent to its review of the comments in response to the Notice, it believes that a notice of proposed rulemaking at this time is unnecessary. This is because the Commission believes that the public received adequate notice and had sufficient opportunity to comment on the generic allowances proposed by staff in the Notice and established in this rule. Furthermore, this is not a final rule. The Commission is issuing this rule on an interim basis. As such, it is requesting and encouraging interested persons to submit comments. Also, it is providing the public with an opportunity for oral presentation.

Inasmuch as the amendments to Part 271 made by this rule are interim, comments will be considered before the rule is made final. Interested persons may submit comments on the amendments made under this rule by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 25, 1983. Each person submitting a comment should include his name and address, identify Docket Nos. RM80–73, *et al.* and give reasons for any recommendations. An original and 14 conformed copies should be filed with the Secretary of the Commission. Comments should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the amendments may be addressed. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Division of Public Information Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours.

The Commission intends to offer an opportunity for oral comment on the amendments made to Subpart K of Part 271 in Docket No. RM80–73, *et al.*, under the requirements of section 502(b) of the NGPA. The hearing will be held April 8, 1983, at 10:00 a.m., at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., Hearing Room A.

The hearing will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. Transcripts of the hearing will be available in the public file for this proceeding, Docket No. RM80–73, *et al.*, in the Commission's Division of Public Information, and may be ordered from that office.

Requests to participate in the hearing should be submitted by the close of the comment period to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street,

[67] *See supra* note 25 and accompanying test.
[68] *See supra* p. 15.

NE., Washington, D.C. 20426. Requests should indicate the amount of time required for the oral presentation. Persons participating at the hearing should, if possible, bring 25 copies of their presentation to the hearing.

The amendments shall not become final until the Commission has had an opportunity to receive oral presentation of relevant data, views and arguments.

List of Subjects in 18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

(Natural Gas Act, as amended, 15 U.S.C. 717–717w (Supp. IV 1980); Department of Energy Organization Act, 47 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. IV 1980).)

PART 271—[AMENDED]

In consideration of the foregoing, Part 271 of Title 18, Code of Federal Regulations, is amended as set forth below to become effective 30 days after publication in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Section 271.1104 of Part 271, as revised by Order No. 94–A, is amended by adding paragraphs (c)(2) and (d)(1) of that section to read as follows:

§ 271.1104 Production-related costs.

* * * * *

(c) *Definition.* * * *

(2) "Commencement of construction" means the date site preparation was begun. * * *

(d) *Amounts to recover production-related costs.* (1) Except as provided in (d)(2) of this section, an amount necessary to recover a production-related cost borne by the seller shall be the lesser of: The amount that the seller is expressly authorized to collect under the terms of the contract for the recovery of the cost, as evidenced under paragraph (c)(4)(ii)(A) of this section, or the following:

(i) For delivering natural gas to any interstate pipeline, intrastate pipeline, local distribution company or any person for use by such person,

(A) By delivery systems, the construction of which commenced prior to November 9, 1978 and for sales having an applicable maximum lawful price determined under Subparts B through D and G through I of this part, an amount not to exceed five cents ($0.05) per MMBtu, to be collected only by the person selling to the interstate pipeline, intrastate pipeline, local distribution company or any person for use by such person. Any person collecting an allowance under this clause shall make a fair and proportional distribution of that allowance to any other first seller who, by sales made to that person, incurred delivery costs in moving the gas sold by that person;

(B) By delivery systems, the construction of which commenced on, or after, November 9, 1978, and for sales having an applicable maximum lawful price determined under Subparts B through I of this part, an amount not to exceed seven cents ($0.07) per MMBtu for the first mile or fraction thereof of gas haul plus two cents ($0.02) per MMBtu for each mile or fraction thereof of gas haul thereafter, not to exceed a total distance of 20 miles of continuous gas haul as measured from the wellhead, platform, or first lease separator, provided that the gas is delivered from a single gas well, platform, or lease separator to a point of commingling the gas hauled with other gas. The allowance is to be collected only by the person selling to the interstate pipeline, intrastate pipeline, local distribution company or any person for use by such person. The person collecting an allowance under this clause shall make a fair and proportional distribution of that allowance to any other first seller who, by sales made to that person, incurred delivery costs in moving the gas sold by the person.

(ii) For compressing natural gas by compressor facilities, the construction of which commenced on, or after, November 9, 1978, used to effectuate delivery of such gas to any interstate pipeline, intrastate pipeline, local distribution company or any person for use by each person, an allowance of:

(A) Six cents ($0.06), per MMBtu, for each stage of compression set at a ratio of 3.5 to 1 [representing the overall compression ratio of the outlet pressure of the last stage of compression to the inlet pressure of the first stage of compression), not to exceed three stages; and

(B) Costs of fuel or power to drive the compressor. The allowance is to be collected only by the person selling to the interstate pipeline, intrastate pipeline, local distribution company, or any person for use by such person. The person collecting an allowance under the clause shall make a fair and proportional distribution of that allowance to any other first seller who, by sales made to that person, incurred compression costs to effectuate delivery of the gas sold by that person.

* * * * *

[FR Doc. 83–2697 Filed 2–2–83; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Parts 270 and 271

[Docket No. RM80–47–003; Docket 94–B]

Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act; Order Amending Regulations in Subpart B of Part 270 and Subparts E, F, and K of Part 271, and Affirming Certain Final Regulations Issued in Order No. 68

January 24, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is further amending its regulations of Subpart K, Part 271. By this rule, special provisions are made for "first sellers", as defined by the Natural Gas Policy Act of 1978 (NGPA), of natural gas priced under NGPA sections 105 and 106(b) who incur production-related costs. Sections 105 and 106(b) generally relate to gas that, prior to enactment of the NGPA, was sold in intrastate commerce. In addition, and as a related matter, the rule provides amendments to other regulations of the Commission involving the pricing of gas sold under sections 105 and 106(b) of the NGPA. Most importantly, the amended regulations provide that those selling gas under these two sections can prospectively amend gas sales contracts as they relate to responsibility for providing production-related services. This rule is being issued in response to comments and petitions to rehear interim rules that have been filed with the Commission. This rule is the third of four rulemakings relating to production-related costs published today.

DATE: New rule effective March 7, 1983.

FOR FURTHER INFORMATION CONTACT:

Robert Fleishman, Office of the General Counsel (202) 357–5313.

Marilyn Rand, Office of Pipeline and Producer Regulation (202) 357–8585.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) today amends those sections of the regulations implementing the Natural Gas Policy Act of 1978 (NGPA) which preclude recovery of production-related costs under section 110 of the NGPA [1] by

[1] Section 110 of the NGPA, 15 U.S.C. 3320 (Supp. IV 1980) reads in pertinent part as follows:

Section 110. Treatment of State Severance Taxes and Certain Production-related costs.

sellers of gas subject to sections 105 and 106(b) of the NGPA (relating to existing intrastate contracts, successors to existing intrastate contracts, and rollover intrastate contracts). Specifically, the Commission is eliminating §§ 271.505 and 271.604 of 18 CFR Part 271 (the "no cost-shift rule"), and further amending § 271.1104 of 18 CFR Part 271, to allow sections 105 and 106(b) sellers to collect amounts in excess of the maximum lawful prices prescribed for those sections to recover production-related costs as defined by the Commission. As amended, the regulations provide that those selling natural gas priced under sections 105 and 106(b) of the NGPA may collect an adjustment under section 110 of the NGPA for production-related costs borne by them as other sellers do.

This order is being issued in conjunction with Order No. 94–A in this docket [2] and the Interim Rule establishing delivery and compression allowances [3] as part of a comprehensive effort to address section 110 allowances. It is being issued in light of comments and petitions to rehear Order No. 94 [4] and the Commission's response to those comments and petitions in Order No. 94–A. In issuing this order, the Commission has reconsidered decisions made in Order Nos. 68 and 68–A.[5]

(a) ALLOWANCE FOR STATE SEVERANCE TAXES AND CERTAIN PRODUCTION-RELATED COSTS.—Except as provided in subsection (b), a price for the first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to the first sale of such natural gas under this subtitle if such first sale price exceeds the maximum lawful price to the extent necessary to recover—

(1) State severance taxes attributable to the production of such natural gas and borne by the seller, but only to the extent the amount of such taxes does not exceed the limitation of subsection (b); and

(2) any costs of compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or other similar costs, borne by the seller and allowed for, by rule or order, by the Commission.

[2] Order No. 94–A, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978, and Establishing Policy Under the Natural Gas Act, Final Rule and Order on Rehearing of Order No. 94," Docket No. RM80–47–002.

[3] Interim Rule, "Delivery Allowances Under Section 110 of the Natural Gas Policy Act of 1978 and Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978," Docket Nos. RM80–73–000, *et al.*

[4] Order No. 94, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," Docket No. RM80–47 (issued July 25, 1980) 45 FR 53099 (Aug. 11, 1980), FERC Stat. and Reg. Preambles ¶ 30,178 [1977–81].

[5] Order No. 68, "Final Regulations Under Sections 105 and 106(b) of the Natural Gas Policy Act of 1978," Docket No. RM80–14 (issued Jan. 18, 1980), 45 FR 5678 (Jan. 24, 1980), FERC Stat. and Reg. Preambles ¶ 30,125; Order No. 68–A, "Order Clarifying Order No. 68, Granting in Part and Denying in Part Rehearing of Order No. 68, and Amending Regulations in Subparts E, F, and K of Part 271," (issued Nov. 10, 1980), 45 FR 76676 (Nov. 20, 1980), FERC Stat. and Reg. Preambles ¶ 30,209.

[6] State of Oklahoma v. FERC, 494 F. Supp. 636, 655 (W.D. Okla. 1981), *aff'd* 661 F. 2d 832 (10th Cir. 1981), *cert. denied*, 102 S.Ct. 2902 (1982).

[7] NGPA sections 104 and 105, 15 U.S.C. 3314 and 3315 (Supp. IV 1980).

II. Background

The Commission is in the position of having reevaluated a difficult issue with respect to which the dictates of the NGPA are not clear. As described below, the Commission struggled to resolve the issue in three prior orders. In those orders, the Commission grounded its decisions regarding section 110 allowances on a view of sections 105 and 106(b) implemented by a no cost-shift rule which the Commission felt compelled to adjust in progressive steps. In this order, that no cost-shift rule has finally been abandoned. Before we begin to describe the particulars of the issue involved and its history, it may be helpful to briefly discuss the background against which the no cost-shift rule must be examined.

Sections 105, 106(b) and 110 are pieces of a complex and comprehensive act that represents Congress' attempt to respond to even more complex and pervasive problems in the natural gas industry. The NGPA not only represents a compromise of disparate interests, but an attempt to implement a very broad scope of objectives. Many of the NGPA's purposes run counter to other equally important purposes embraced by it. As a consequence, the Act and the regulations implementing it do not fully serve any single objective; rather, they attempt to balance the variety of conflicting objectives.

In this decision, the Commission cannot simply exercise its own judgment, but must try to discern what the balance reached by Congress would dictate. This endeavor is made difficult by the fact that the issue of section 110 allowances for intrastate sellers was not directly addressed and conflicting objectives of the NGPA are relevant. On the one hand, Congress sought to eventually eliminate the distinctions between the intrastate and the interstate markets.[6] On the other, Congress intended to restrict the increase in prices paid for flowing gas, particularly unregulated intrastate gas.[7]

Initially, the Commission focused solely on the second consideration, that Congress intended to restrict the increase in prices paid for flowing intrastate gas. We now believe that such a limited focus was incorrect and that it did not give enough weight to the Commission's responsibilities to the intrastate markets, and the objective of minimizing the distinctions between the intrastate and interstate markets. In light of these broader considerations, we now modify our previous interpretation of the NGPA pricing scheme relating to section 110 production-related cost allowances for gas subject to sections 105 and 106(b) of the NGPA.

A. Interim Rules

On December 1, 1978, the Commission issued interim regulations udner the NGPA.[8] Section 271.1105(b) of those interim regulations provided that no section 110 production-related cost allowance would be allowed for gas priced subject to an "existing intrastate contract," [9] an "intrastate rollover contract," [10] or a "successor to an existing intrastate contract." [11] The Commission justified the exclusion on the basis that existing provisions in contracts "reflect the allocation of costs of production as they were contemplated by the parties at the time the contract was negotiated," [12] and that any change in such provisions would change the "price" actually paid for the gas. At that time, the Commission believed it would be contrary to the intent of Congress to permit a change in such prices and terms if that change would have the effect of increasing the total costs the purchaser paid for acquiring the very same commodity he was acquiring at a lower price before the date of enactment.[13]

To further implement this interpretation, the Commission also promulgated §§ 271.505 and 271.604. Those sections prohibited contract amendments which allocated production-related costs from the seller to the purchaser in a manner that differed from the contract as it existed on November 9, 1978.[14] An exception was provided in the case of costs to "hook-up" a new purchaser, *i.e.*, for new investment costs to connect the seller's system to that of a purchaser who was not a party to the contract in existence

[8] Interim Regulations Implementing the Natural Gas Policy Act of 1978, Docket No. RM79–3 (issued Dec. 1, 1978), 43 FR 56448 (Dec. 1, 1978), FERC Stat. and Reg. Preambles ¶ 30,026 [1977–1981].

[9] NGPA section 2(13), 15 U.S.C. 3301(13) (Supp. IV 1980) and 18 CFR 270.102(b)(8).

[10] NGPA section 2(12), 15 U.S.C. 3301(12) (Supp. IV 1980) and 18 CFR 270.102(b)(11).

[11] NGPA section 2(14), 15 U.S.C. 3301(14) (Supp. IV 1980) and 18 CFR 270.102(b)(9).

[12] Interim Regulations, not 8 *supra* at 30, 160.

[13] *Id.* at 30,161.

[14] The no cost-shift rule never prevented a purchaser who performed a production-related activity from agreeing with the seller that the seller should now perform that production-related activity.

on date of enactment. The rationale for the no cost-shift rule was generally the same as the rationale for the exclusion of the regulations implementing section 110 for production-related costs.[15]

R. Final Rules

On January 18, 1980, in Docket No. RM80–14, the Commission issued Order No. 68 implementing final rules for sections 105 and 106(b) of the NGPA.[16] In Order No. 68, the Commission clarified the definition of the term "price". It stated that "price" when used in sections 105 and 106(b) meant all proceeds of the sale. Otherwise, Order No. 68 kept the no cost-shift rule substantively intact, and clarified the new purchaser exception.

On November 10, 1980, the Commission issued Order No. 68–A, denying in part and granting in part petitions to rehear Order No. 68. In Order No. 68–A the Commission further discussed the term "price" and clarified its view that Congress intended "price" in sections 105 and 106(b) of the NGPA to have meaning only when related to a specific set of obligations allocated between the parties as of November 9, 1978, and concluded that the sections 105 and 106(b) ceiling rates themselves "provide reimbursement for production-related costs borne by the seller according to the terms of contracts."[17] In addition, the Commission interpreted the term "price" when used in the context of "contract price" or "price under the terms of the existing contract," to mean all the money paid for the gas, even amounts labeled as severance tax reimbursement, gathering allowances, and so forth. The basis for the Commission's conclusion was that "contract price" as defined in NGPA section 105(c), is the price "paid or payable," and in the total amount actually paid to obtain the gas, regardless of the label affixed to the payment. This definition was used to justify the no cost-shift rule of §§ 271.505 and 271.604 as well as the rules implementing section 110 for production-relatred costs borne by NGPA sections 105 and 106(b) sellers. The Commission also based its conclusions on the proposition that the ceiling rates under sections 105 and 106(b) already provided full compensation for these costs.

However, in Order No. 68–A the Commission did revise § 271.1104(b)(1) to provide for the first time that a seller subject to sections 105 or 106(b) of the NGPA could apply for a production-related cost allowance if the seller was not obligated to incur the cost under his "existing contract."[18] The reason for this change was that allowances for costs of new or different services not bargained for in the contract in existence on date of enactment of the NGPA were appropriate.

Thus, under Order No. 68–A, if a cost, such as for gathering, was allocated to the seller under the terms of the existing contract, *i.e.*, the contract as it was in effect on November 9, 1978, he could neither amend the contract to "shift" that cost to the purchaser (§§ 271.505(a) and 271.604(b)), nor apply for a price increase under section 110 to recoup that cost (§ 271.1104(b)).

C. Criticism of the Rules

Some commenters to the December 1, 1978 Interim Regulations, some petitioners in their applications to rehear Order No. 68, and commenters and petitioners to rehear Order No. 94, asserted that the Commission's regulations excluding those selling gas priced under sections 105 and 106(b) of the NGPA from all or even part of the production-related cost application procedures, together with the no cost-shift rule of §§ 271.505 and 271.604, prevented purchasers of intrastate gas from paying their full share of production-related costs. Therefore, they claimed the regulations were discriminatory and provided disincentives for sellers to incur costs to upgrade services. The consequences of both sets of rules, they claimed, would be either degradation in service or early abondonment of wells.

One of the main arguments made by commenters and petitioners was that by presuming that *all* ceiling prices applicable under section 105—even, when applicable, the section 102 price—are inclusive of reimbursement for production-related costs expressly or impliedly allocated to the seller in an existing intrastate contract, the Commission has defeated the Congress intent to eliminate the dual gas market that existed under the Natural Gas Act. To prevent this result, as well as to prevent the other perceived problems with the rules, the petitioners and commenters suggested that we permit these sellers to apply for section 110 allowances for production-related costs or eliminate §§ 271.505 and 271.604 and allow contract amendments to permit production-related costs allocated by contract to these sellers to be reallocated to purchasers.

Resellers—those who both purchase gas in an NGPA first sale and then sell the gas in an NGPA first sale—who make sales under contracts subject to sections 105 and 106(b) of the NGPA claim that the rules inflict special hardship on them. Under the Commission's regulations, resellers can charge and collect the *higher* of the maximum lawful price which would be applicable to such sale if it were not a resale *or* the maximum lawful price applicable to the gas sold to the reseller.[19] Many resellers incur production-related costs after they purchase the gas and before they sell it. Prior to enactment of the NGPA, resellers had the opportunity to bargain so as to receive the highest possible differential between the amount paid for the gas and the amount charged when the gas is later sold. Since enactment of the NGPA, some resellers have claimed that the amount of that differential was frozen or reduced by the operation of the Commission's regulations.[20]

Other petitioners charged that the exclusion of intrastate gas sales from the section 110 provisions was arbitrary and, in light of existing contracts or allowances, prejudicial. These commenters claimed that the exclusions violated the intent of section 110 because that section was to apply to all ceiling prices and did not expressly exclude any type of first sale from its provisions. In addition, it is alleged that the Commission lacked authority to limit contract modifications.

III. Discussion

The Commission's decision to establish a no cost-shift rule in the Interim Regulations of December 1978, and in Order Nos. 68 and 68–A was derived from the provisions of section 105 which determined maximum lawful prices by reference to the "contract price" applicable on November 9, 1978, and "price under the terms of the existing contract" as that contract was in effect on November 9, 1978. The Commission believed that each such

[15] *See* Interim Regulations, note 8 *supra* at 30,164–65.

[16] Order No. 68, note 5 *supra*.

[17] Order No. 68–A, note 5 *supra*, at 31,397.

[18] Order No. 68–A, note 5 *supra* at 31,398–31,400. If the only applicable maximum lawful price was that under sections 105 or 106(b), a seller could not collect any of the former Natural Gas Act allowances relating to gathering. However, if the gas qualified for an otherwise applicable maximum lawful price, the seller could, if his contract so permitted, collect the applicable former Natural Gas Act allowances without making an application to the Commission.

[19] *See* 18 CFR 270.202(a).

[20] A number of resellers have applied for NGPA section 502(c) adjustments under 18 CFR 270.202(d) of the current regulations allegedly because costs of purchasing gas have increased, but they cannot adequately increase the amount they sell the gas for above the ceiling price because they could not collect a section 110 allowance. *See* 18 CFR 270.202(c).

negotiated price referred to the obligations allocated between the parties as of November 9, 1978. Further, it believed that to give proper effect to sections 105 and 106(b) of the NGPA, it should not permit production-related costs that were allocated to the seller to be shifted to the purchaser.[21] Assuming this to be the appropriate interpretation of Congress intentions, the Commission precluded cost-shifting, and would not permit section 110 allowances for production-related costs that had been allocated to the seller.

The Commission believed the rule furthered the NGPA's purposes, but did not believe that the rule was an unassailable tenet of the NGPA. In fact, from the time the rule was codified in the Interim Regulations, it was modified to respond to recognized problems. For instance, in the Interim Regulations an exception was carved out for new purchasers. In Order No. 68–A the Commission made it clear that the rule applied only to those obligations that had been allocated to the seller under the existing contract. Recognizing that it had the authority to permit section 110 production-related cost allowances for gas subject to sections 105 and 106(b), the Commission specifically noted in Order No. 68:

> * * * we may wish to reexamine [§§ 271.505 and 271.604] and the principles on which they are based when we deal with the question of final regulations under section 110 of the NGPA.[22]

Since adoption of the rule, the statutory language has not changed. It is as ambiguous now as it always was. So what has changed? Simply, the Commission's regulations implementing section 110 for production-related costs borne by those selling gas priced under other sections of the NGPA and its opinion as to what best implements the policies that dictated the NGPA.

At the time Order Nos. 68 and 68–A were issued, the approach adopted in them with respect to sections 105 and 106(b) gas was consistent with the approach adopted in Order No. 94 for other categories of gas. In Order Nos. 68 and 68–A, the Commission attempted to preserve the *status quo* that existed with respect to the obligations of the parties to the sale established by the terms of the existing intrastate contract. Similarly, in Order No. 94, costs incurred to bring gas to minimum pipeline quality standards were considered to be costs normally incurred to prepare the gas for delivery and sellers were, therefore, not permitted a section 110 adjustment for such costs.[23] Thus, in Order No. 94, the Commission attempted to preserve the *status quo* of the industry, established historically by industry practice and prior regulation. As in Order Nos. 68 and 68–A, in Order No. 94 the Commission presumed certain services to be purchased as a part of the purchase of the gas. The Commission, in effect, codified and froze industry practice as of a given time, and attempted to prevent contractual changes that would shift responsibility for production-related services to the purchasers.

Order No. 94–A reverses the exclusion of costs incurred to bring the gas to minimum quality standards. It does so for a variety of reasons—mainly because the Commission now believes that the individual gas sales contract provides a better mechanism for allowing industry practice to operate. The new regulations issued in Order No. 94–A provide that the individual gas sales contract is to determine who is responsible for providing services to bring gas to the necessary quality and whether a seller can receive an adjustment under section 110 for costs to perform that or any other production-related service; and allow the financial responsibility to shift from sellers to purchasers.

To hold those selling gas priced under sections 105 and 106(b) to pre-NGPA agreements respecting obligations to provide production-related services while permitting those selling gas priced under sections 104 and 106(a) to shift these obligations would establish a wide variation in treatment between interstate and intrastate gas flowing at the time of enactment of the NGPA. As explained below, such variance in treatment is neither justified by policy, nor necessary to preserve the integrity of the statute.

The no cost-shift rule clearly serves one purpose evident in the NGPA—to minimize cost increases for gas that, prior to enactment of the NGPA, was sold in the intrastate market. While we are eliminating the rule, we are not doing so because we have entirely abandoned that purpose. The NGPA clearly establishes a basis for promulgating regulations which treat these intrastate sales differently for pricing purposes. The Congressionally-established pricing mechanism for sections 105 and 106(b), with its reliance on contract prices, is different from all other Title I sections. Indeed, some distinctions are inherent in the NGPA and those distinctions have withstood constitutional attack.[24] But nothing in the NGPA specifically precludes section 110 production-related cost adjustments for sections 105 and 106(b) gas. The statutory definitions of "successor to an existing contract" and "rollover contract" in NGPA sections 2(14) and 2(12) do not require an identity of terms with those of the existing contract. Thus it is obvious that Congress envisioned that some, although it is not clear what, changes could occur. Also, as noted in Order No. 94–A, a maximum lawful price may be charged at the wellhead for raw, unprocessed gas. That is, a first sale may take place at the wellhead or at any other point before being commingled in a pipeline's system supply. While a producer may sell his gas after incurring production-related costs, the intent appears to be that he is likewise free to contract to sell the gas right at the wellhead immediately after production.[25]

In addition, section 110 authorizes the Commission to determine what production-related adjustments should be permitted, and the legislative history of section 110 makes it clear that the Commission's discretion under that section for production-related cost adjustments extends to all NGPA maximum lawful prices.[26] Nowhere is there a statutory requirement that sections 105 or 106(b) sellers must be excluded from collecting section 110 adjustments for production-related costs.

In light of the changes made by Order No. 94–A, preservation of the no cost-shift rule exaggerates differences in treatment of interstate and intrastate gas.[27] In so doing, it would discriminate against the intrastate markets, and frustrate the purpose of the NGPA to

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[21] *See* Order No. 68–A, note 5 *supra*, at 31,397.

[22] Order No. 68, note 5 *supra*, at 30,854.

[23] Order No. 94, note 4 *supra* at 31,220. A narrow exception was made for those selling gas directly to end users. *Id.*

[24] *See* note 6 *supra*.

[25] *See* Order No. 94–A, note 2 *supra* at text accompanying note 71.

[26] S. Rep. No. 1128, 95th Cong., 2d Sess. 91 (1978).

[27] The problem which led to the passage of the NGPA arose due to the bifurcated nature of the U.S. gas markets. Maryland v. Louisiana, 451 U.S. 725, 747 n.22, (1981); State of Oklahoma v. FERC, 494 F. Supp. 636, 655 (W.D. Okla. 1981); *see also*, Staff of the House Subcomm. on Energy and Power, Comm. on Interstate and Foreign Commerce, Economic Analysis of H.R. 5289, 95th Cong., 2d Sess. 2 (1978), Comm. Print No. 95–62, October 13, 1978; H.R. 8444, section 401(a)(6), 95th Cong., 1st Sess. (1977). Statistics showed that the higher-priced intrastate market was drawing away some 80 percent of all new discoveries at the expense of the interstate market. Economic Analysis of H.R. 5289, *supra*, at 2; S. Rep. No. 436, 95th Cong., 1st Sess. 8, 18 (1977), *reprinted in* [1978] U.S. Code Cong. & Ad. News 7855, *et seq. Cf.* H.R. 8444, section 401(a)(7). Parity between the interstate and intrastate markets was sought, *see* H.R. 8444, section 401(b)(1), with an emphasis on equal access to new supplies of natural gas.

eliminate the dual market that had arisen under the Natural Gas Act.

We recognize that the NGPA was enacted in response to the interstate market's inability to compete with intrastate markets for new gas supplies, and that preservation of the no cost-shift rule would have the opposite effect, in that it would put the intrastate markets at a significant disadvantage. The Commission now has regulatory responsibilities over first sales in both markets and has no directive to assume one is to be favored over the other. In the past, prior to the NGPA, the Commission focused on the needs of the interstate markets and endeavored to assure that adequate reserves would be available for them. The Commission would not be fulfilling its responsibilities under the NGPA if it continued to assume such a bias in the absence of a clear policy or statutory mandate that dictates it. None exists here.

Accordingly, the Commission believes that an interpretation of sections 105 and 106(b) which strictly preserves the specific set of obligations allocated between the parties as of November 9, 1978, is no longer viable. This is especially true given the view in Order No. 94–A that it is for the parties to a gas sales contract to agree as to who should provide production-related services and whether, if the seller provides them, he should be compensated for the resulting costs. In essence, this means that even though costs for certain production-related services might have been specifically allocated to the sections 105 or 106(b) seller under the express terms of the contract in effect on November 9, 1978, upon the effective date of a contract amendment executed by the parties after this order takes effect, the purchaser may provide those services and incur the resulting costs, and the seller will not be held to have violated the applicable maximum lawful price.

IV. Changes to the Regulations Regarding Section 110 Allowances for Sections 105 and 106(b) Sellers

For reasons discussed above, the Commission is eliminating the no cost-shift rule of §§ 271.505 and §§ 271.604 which had the effect of precluding sections 105 and 106(b) sellers from shifting any production-related costs from the seller to the purchaser.[28] For the same reasons, the regulations of § 271.1104, which only allowed these sellers to collect an adjustment under section 110 for costs not allocated to them on November 9, 1978, and then only upon application to the Commission, are being amended. As a result, these sellers may, after this order takes effect, collect an adjustment under section 110 for production-related costs if the gas sales contract expressly provides that the seller agrees to provide the services and the purchaser agrees to compensate the seller for the cost of providing the services (*see* § 271.1104(c)(4) of the regulations issued in Order No. 94–A). In addition, these sellers may prospectively modify their contracts to either collect for the production-related services or shift to the purchaser the responsibility of providing the services.

By this order, the Commission, with three specific differences discussed below, extends to those selling gas priced under sections 105 and 106(b) the same opportunity to collect adjustments as those selling gas priced under other sections of the NGPA for production-related costs. These new regulations are set out in Order No. 94–A.[29] Under them, a seller may collect an adjustment under section 110 for any production-related cost. The amount that may be collected in excess of the applicable maximum lawful price is the lesser of the amount expressly authorized under the terms of the gas sales contract which governs the first sale or an amount determined by specific rule or methodology of the Commission. There are three ceilings as to amounts that may be added-on depending on the type of production-related service involved. Two, one for delivering gas and one for compressing gas, are the result of the Commission's efforts to develop generic allowances for these two types of services.[30] The third is a methodology to determine the appropriate amount, depending on particular circumstances, for all other production-related services. In addition to the provisions as to whether a seller may collect an amount under section 110 and the limits as to how much may be collected, the new regulations of Order No. 94–A provide recordkeeping and notice requirements. These too would apply to those selling gas priced under sections 105 and 106(b) of the NGPA.

The regulations for sections 105 and 106(b) sellers differ in three respects from the regulations that apply to those selling under all other NGPA categories. First, as explained in Order No. 94–A, an area rate clause shall not constitute evidence that the purchaser specifically provided that an express amount be paid to the sections 105 and 106(b) seller for the delivery of gas. That is, if gas is sold at an applicable maximum lawful price under Subparts E and F, § 271.1104(c)(4)(ii)(B), by exclusion, does not consider an area rate clause as defined in 18 CFR 154.93(b)(1) to evidence a purchaser's agreement to compensate the seller for the cost of delivering the gas. This is true even though such a clause is considered to have met the "expressly authorized" requirement applicable to other categories of gas sales.

As we explain in Order No. 94–A, there is a long-standing practice in setting and implementing Natural Gas Act producer rates to consider this type of clause as sufficient authority to permit sellers to adjust their rates by adding-on delivery allowances.[31] Interstate producers included area rate clauses in their contracts in the expectation of receiving gathering or delivery allowances that the Commission allowed. Intrastate sellers of gas did not necessarily have this same expectation because the prices they collected for gas sold were not regulated by the Commission, nor was there any indication that they would come within the Commission's jurisdiction. The Commission believes it would not be appropriate to extend this provision to section 105 and 106(b) sellers. Therefore, a sections 105 and 106(b) seller must be "expressly authorized" to be compensated for bearing a production-related cost for delivering gas as defined in § 271.1104(c)(4)(i) and (ii)(A).

The second difference for sections 105 and 106(b) sellers is the maximum delivery allowances that will be permitted for systems the construction of which commenced prior to November 9, 1978. Under the Interim Rule establishing generic allowances for delivering gas, the limit for such delivery systems is 5 cents per MMBtu.[32] The Commission is not setting a generic delivery allowance for gas which is sold under NGPA sections 105 and 106(b), where construction of the delivery system commenced prior to November 9, 1978.[33] Prior to the passage of the NGPA,

[28] The elimination of the no-cost shift rule requires a conforming amendment to 18 CFR 270.205. In addition, the exception of §§ 271.505(b) and 271.604(b)(2) for new purchaser hook-ups is no longer necessary and is, therefore, deleted.

[29] Order No. 94–A, note 2 *supra*.

[30] *See* Interim Rule, note 3 *supra*. For purposes of the Interim Rule for Delivery and Compression Allowances, the term "delivery" means to gather or transport natural gas through a natural gas pipeline. *See* § 271.1104(c)(3), as amended.

[31] *See* Order No. 94–A, note 2 *supra* at 66–67.

[32] *See* Interim Rule, note 3 *supra*.

[33] *Cf.* § 271.1104(d)(1)(i)(A). The record in Docket No. RM80–73–000 does not support a $.05 per MMBtu delivery allowance for sections 105 and 106(b) sellers.

the Commission lacked jurisdiction over these types of sales. This lack of jurisdiction, and the fact that we do not have any data indicating precisely how gathering allowances were established in the intrastate market, has led to the Commission's determination that a generic allowance for gas delivered through a system where construction commenced prior to the date of enactment of the NGPA is inappropriate.

The Commission nonetheless must derive some limit on the amount that section 105 and 106(b) sellers may collect as a delivery allowance for such delivery systems.[34] In lieu of a specific generic allowance, and in light of the determination in Order No. 94–A that the contract is the best mechanism for determining who, as between the seller and purchaser, is to provide production-related services and incur the resulting costs, the Commission's regulations established in the Interim Rule for generic delivery and compression allowances under § 271.1104(d)(1) is supplemented in this order by a new § 271.1104(d)(2). This new subparagraph provides that for those selling gas under NGPA sections 105 and 106(b), the amount necessary to recover a production-related cost for delivering natural gas through a delivery system the construction of which commenced prior to November 9, 1978, shall not exceed the amount that the seller is expressly authorized to collect under the terms of the contract for the recovery of the cost as evidenced under § 271.1104(c)(4)(ii)(A); except that if the seller amends the contract for the recovery of the delivery costs after the effective date of this order, the amount shall not exceed an amount reasonably comparable to amounts collected under section 110 for gas delivery by similarly situated sellers.

Under this new subparagraph, a section 105 or 106(b) seller can only charge a section 110 adjustment for delivering the gas if, under the terms of the gas sales contract, he has expressly agreed to provide that service and the purchaser has expressly agreed to compensate the seller for the cost of providing that specified service as evidenced by a contract provision expressing an amount or a method for determining an amount that the purchaser agrees to pay the seller for providing the service. How much can be charged is a function of when the contract was executed to provide for the necessary criteria. If the contract in effect on November 9, 1978 meets the necessary criteria, the amount that can be charged for delivery is no more than the amount expressed under the terms of the contract. If, after the effective date of this order, the contract is amended to provide a different amount, or to meet the necessary criteria, the amount that can be charged is no more than an amount reasonably comparable to the adjustments collected by similarly situated sellers for gas delivery.

Since the parties may amend their gas sales contract after the effective date of this order with regard to who, as between the seller and purchaser, will perform the delivery service and incur the resulting costs,[35] the Commission believes that the amount which a seller may collect if the contract is so amended should be "reasonably comparable" to the section 110 allowance for such delivery costs collected by similarly situated sellers. If a seller wishes to use the generic delivery allowance of $.05 per MMBtu as a guideline, that is permissible, but he is not required to do so. The "reasonably comparable" rate can be no more than an amount necessary to recover costs borne by the seller, which includes a reasonable profit level.

The Commission believes that the extent to which sellers and purchasers will amend their contracts so as to collect higher delivery allowances after the effective date of this order will be limited by the inability of producers to sell gas at a price which pipelines consider unmarketable. Moreover, the Commission will, as with other sellers collecting an adjustment under § 271.1104, order refunds, with interest, if audits reveal that the seller has not made a good-faith effort to determine a "reasonably comparable" rate.[36]

As a general matter, if the parties to contracts under which gas is sold and priced under sections 105 and 106(b) have a dispute as to whether their contract authorizes the collection of a section 110 allowance, the Commission is not the proper forum in which to adjudicate contract interpretation questions. The Commission will leave any intrastate contract interpretation relating to section 110 adjustments to the parties in the first instance and then to state and federal courts, however, the parties may not interpret their contracts in a manner inconsistent with the regulations issued today. This is consistent with the Commission's view on interpreting section 105 and 106(b) contracts in the Order No. 23 series.[37]

The third difference for those selling gas priced under sections 105 and 106(b) of the NGPA is that the final rules will not operate to authorize the collection of amounts for delivering and compressing gas incurred prior to the effective date of the rules. This regulation is described in Order No. 94–A.[38]

Generally, the determination of whether to accord retroactive or prospective effect is one within the broad discretion of the agency. That general rule is of particular importance in the implementation of any section 110 rule that relies on the Commission's discretion. The Commission has the requisite discretion under section 110(a)(2) to make a determination that prospective application of the new regulations implementing section 110 for production-related costs is appropriate and reasonable, and in so doing, declines to give retroactive effect to the new rules.[39] After considering the relevant factors, the Commission has decided to issue these rules on a prospective, rather than retroactive, basis.

The elimination of the no cost-shift rule and permitting sections 105 and 106(b) sellers to collect section 110 allowances are changes from Commission-established rules in place from December 1, 1978, to the present and raise an identical concern. Good reasons exist not to permit retroactively effective contract amendments or any retroactive collections because sellers and purchasers have operated under, and relied on, the Commission rules and to permit retroactive collections based on such changes would be unfair to purchasers.[40] In Order No. 94–A, the

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[34] *See* Order No. 94–A, note 2 *supra* at 20–21 and 76–77 for a discussion of the limits on amounts necessary to recover production-related costs.

[35] Parties may not, however, execute retroactively effective contract amendments and thereby collect a section 110 allowance for a period in which the contract did not, at that time, authorize collection of such an amount. The Commission believes this is consistent with the general view developed under the Natural Gas Act in Opinion No. 135, Transcontinental Gas Pipe Line Corporation, Docket No. GP80–24, 17 FERC ¶ 61,232 at 61,453 (1981).

[36] *See* Interim Rule, "Regulations Implementing Refund Provisions Under Subpart K of Part 271 for Recovering Production-Related Costs," Docket No. RM83–6–000.

[37] *See* Order No. 23, Amendment and Clarification of the Commission's Interim Regulations Implementing the Natural Gas Policy Act of 1978, FERC Stat. and Reg. Preambles ¶ 30,040, 30,317 (March 13, 1979), and Order on Rehearing of Order No. 23, issued May 11, 1979, *mimeo* at 3.

[38] *See* Order No. 94–A, note 2 *supra* at 89–94. In those instances when sections 105 and 106(b) sellers relied on the Commission's rule in Order No. 68–A and submitted an application to the Commission under § 271.1105 to recover production-related costs not allocated to them in the contract as in effect on November 9, 1978, the Commission will permit collection of the appropriate section 110 allowance from the later of the date such application was filed with the Commission or the date on which service from the production-related facility commenced.

[39] *SEC* v. *Chenery*, 332 U.S. 194, 203 (1946); *Retail, Wholesale and Department Store Union* v. *NLRB*, 466 F.2d 380, 389–90 (D.C. Cir. 1972).

[40] *See* Order 68–A, note 5 *supra*, at 31,399–400.

Commission generally does not allow section 110 allowances to be collected retroactively either. The only exception is for delivery and compression allowances collected by those selling gas priced under NGPA pricing categories other than those of sections 105 and 106(b) because the Commission had previously indicated to both sellers and purchasers that such allowances could be collected retroactively. Moreover, the degree of the burden of a retroactive order in this instance could be large. In some instances, it might lead to a recomputation of maximum lawful prices.

As a result of the regulations issued in this order, if a section 105 or 106(b) seller [41] satisfies all the requirements of the rule in § 271.1104 issued today, he may collect an amount for a section 110 adjustment from the purchaser without making an application to the Commission.[42] This means that the price for any first sale shall not be considered to exceed the sections 105 and 106(b) maximum lawful price applicable to that sale, even if that maximum lawful price is computed with reference to the maximum lawful price prescribed for gas sales under section 102 of the NGPA, if the seller meets the requirements of the new § 271.1104. This change, that is, not requiring a seller to file an application with the Commission to collect a section 110 adjustment, is made in order to make it feasible to administer the section 110 rules. It is also made to be consistent with Order No. 94–A that also permits a seller to collect a section 110 adjustment without filing an application with the Commission. Under § 271.1104(f) all first sellers must submit a written description to the purchaser at a reasonable time prior to charging a section 110 allowance. Moreover, the retention of descriptions and records required by §§ 271.1104(f) and 271.1103 as well as the refund rules issued today in § 271.1105 apply with equal force to sections 105 and 106(b) sellers.

V. Other Regulations Promulgated in Order Nos. 68 and 68–A

The Commission is amending the regulations regarding sections 105 and 106(b) sellers to the extent they involve section 110 adjustments for production-related costs. The Commission has, in the past, issued regulations regarding section 110 adjustments for production-related costs borne by these sellers as part of Order Nos. 68 and 68–A. Those orders, however, also promulgated various other rules for sections 105 and 106(b) sellers. Therefore, the Commission today affirms the other current regulations not discussed above which implement sections 105 and 106(b) as well as the accompanying preambles. As a result, they are retained, *in toto*, as promulgated in Order Nos. 68 and 68–A.[43]

VI. Conclusion

This order is one of many orders that are the product of the Commission's efforts to codify its decisions regarding treatment of section 110 production-related costs. Those issues have been the subject of several opportunities for public comment and Commission response and consideration. Several commenters advocated abandonment of the Commission's no cost-shift rule regarding gas subject to section 105 and 106(b). Those comments echoed the concerns raised in Docket No. RM80–14 and the applications for rehearing. For the reasons discussed above, we are not convinced that proper implementation of section 110 requires us to amend the regulations.

We have discussed these decisions in a separate order mainly because the issues addressed here include issues not relevant to any other categories of gas. Moreover, the Commission has historically addressed treatment of section 110 costs for sections 105 and 106(b) in a separate docket, and ultimately, separate orders. Rather than bury resolution of these issues in the larger Order No. 94–A, which addresses a much broader range of decisions, we are issuing this separate order.

The Commission finds that there is good cause to issue Order No. 94–B without providing further opportunity for notice and public comment. There are several reasons for this. First, Order No. 94–B conforms to the resolution of the issues decided in Order No. 94–A. Specifically, Order No. 94–A permits the parties to a gas sales contract to decide who, as between seller and purchaser, is to provide production-related services and incur the related costs, eliminates the application procedure to collect NGPA section 110 production-related cost adjustments, and permits renegotiation of contracts with certain restrictions. In the interest of preventing unreasonable discrimination between intrastate and interstate sellers, the Commission belives that intrastate sellers should be generally allowed to collect production-related cost adjustments comparable to those collected by interstate sellers.

Second, the Commission recognizes that the court remand of Order Nos. 68 and 68–A [44] is an indication to the Commission that because the issues involved in these related dockets are interdependent, there should be final Commission action on all these issues prior to judicial review. The Commission in this rulemaking is coordinating all the issues involved in implementing NGPA section 110 which generally relate to the intrastate market. Through Order Nos. 94–A and 94–B, and the interim rule establishing delivery and compression allowances, it is developing a regulatory scheme which is consistent, comprehensive, and integrated.

Third, the conforming changes and clarifications are in response to the comments and applications for rehearing received in response to the Interim Regulations of December 1, 1978, Order Nos. 68 and 94. The Commission, therefore, believes that the public has had notice of the issues decided in Order No. 94–B and has had adequate opportunity to comment upon them. In issuing Order No. 94–B, the Commission has considered all these comments and petitions and, to the extent described above, grants or denies the petitions to rehear the issues raised.

However, because these are final regulations, the Commission will consider petitions to rehear them.

List of Subjects

18 CFR Part 270

Natural gas, Wage and price controls.

18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 Supp. IV 1980).

In consideration of the foregoing, Parts 270 and 271 of Title 18, Code of Federal Regulations, are amended as set

[41] This includes a reseller. *See* 18 CFR 270.202.

[42] The section 110 rules issued today apply to production-related costs "borne by the seller." Therefore, if a seller has a third party perform the production-related activity, only the seller may collect a section 110 allowance from the purchaser. The third party must collect his fee from the seller.

[43] Among the issues resolved and regulations promulgated in Order Nos. 68 and 68–A that do not involve section 110 production-related costs are: §§ 271.502 and 271.602 of the regulations describing the general rules relating to sections 105 and 106(b) maximum lawful prices; the definition of a "rollover" in section 106(b); and § 270.202(h) regarding percentage-of-proceeds sales. There were also conforming changes and other clarifications and revisions in those orders which we also affirm in today's order. However, the Commission is not expressing any opinion on the issues involved in Docket No. RM80–21 relating to state severance taxes under NGPA section 110(a)(1). *See* Order No. 108 (issued Nov. 14, 1980), 45 FR 76664 (Nov. 20, 1980), FERC Stat. and Reg. Preambles ¶30,205, effective date stayed pending the issuance of an order granting or denying rehearing of Order No. 108, 46 FR 2975 (Jan. 13, 1981).

[44] The United States Court of Appeals for the Fifth Circuit, by order dated August 17, 1981, remanded these proceedings to the Commission in Texas Eastern Transmission Co. v. FERC, Nos. 80–1928 *et. al.*

forth below, to become effective 30 days after publication in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 270—[AMENDED]

1. Section 270.205 of Part 270 is amended in paragraph (b)(2) by adding at the end thereof a new sentence to read as follows:

§ 270.205 Contractual authorization to Collect NGPA rates.

* * * * *

(b) *Existing intrastate contracts.* * * *

(2) * * * However, if a seller collects an adjustment for production-related costs in accordance with Subpart K of Part 271, that amount shall not be considered to be in excess of the new natural gas price under section 102 of the NGPA.

* * * * *

2. Section 270.205 of Part 270 is further amended by revising paragraph (c) to read as follows:

§ 270.205. Contractual authorization to Collect NGPA rates.

* * * * *

(c) *Modification of contracts.* The NGPA does not prohibit the parties to a contract for the first sale of natural gas from amending or modifying such contract to permit the seller to charge and collect any applicable NGPA rate or an adjustment under Subpart K of Part 271 for production-related costs. If natural gas sold under such contract is subject to section 105(b)(1) of the NGPA and qualifies for no higher maximum lawful price under any other provision of the NGPA, no amendment or modification of such contract may provide authorization for a seller to charge and collect a price which exceeds the price under the terms of the contract as in effect on November 9, 1978, except to the extent the amendment provides authorization to collect an adjustment for production-related costs in accordance with Subpart K of Part 271.

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PART 271—[AMENDED]

§§ 271.505 and 271.604 [Removed]

3. Part 271 is amended in its table of contents and text by removing §§ 271.505 and 271.604.

4. Section 271.1104, as revised by Order No. 94–A, is amended by adding a new paragraph (d)(2) to read as follows:

§ 271.1104 Production-related costs.

* * * * *

(d) *Amounts necessary to recover production-related costs.* * * *

(2) An amount necessary to recover a production-related cost borne by the seller for delivering natural gas to any interstate pipeline, intrastate pipeline, local distribution company or any person for use by such person by delivery systems, the construction of which commenced prior to November 9, 1978, for sales having an applicable maximum lawful price determined under Subparts E and F of this part shall not exceed the amount that the seller is expressly authorized to collect under the terms of the contract for the recovery of the cost in accordance with paragraph (c)(4)(ii)(A) of this section; except that, if the seller amends the terms of the contract for the recovery of such delivery costs after March 7, 1983, it shall not exceed an amount reasonably comparable to the section 110 adjustments collected by similarly situated sellers for gas delivery. Any person collecting an allowance under this clause shall make a fair and proportional distribution of that allowance to any other first seller who, by sales made to that person, incurred delivery costs in moving the gas sold by that person.

* * * * *

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18 CFR Part 271

[Docket No. RM83–6–000]

Regulations Implementing Refund Procedures for Production-Related Costs; Interim Rule

January 24, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim rule.

SUMMARY: The Federal Energy Regulatory Commission is further amending Subpart K of Part 271 of its regulations. By this rule, refund procedures for excess amounts recovered under new regulations implementing section 110 of the Natural Gas Policy Act of 1978 (NGPA) are established. The amendment establishes special procedures whereby "first sellers," as defined by the NGPA, recovering production-related costs must refund overcollections of amounts paid to them for providing production-related services. This interim rule, the fourth of four rulemakings relating to production-related costs published today, is established to aid in implementing new final rules issued today under Commission Order No. 94–A.

DATES: Interim rule effective March 7, 1983. Comments due March 25, 1983. Public hearings to be held on April 8, 1983, beginning at 10:00 a.m. Requests to participate in the public hearing are due by March 25, 1983.

ADDRESSES: All filings should refer to Docket No. RM83–6–000, and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Public hearing to be held at Federal Energy Regulatory Commission, Hearing Room A, 825 North Capitol St. NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

John Conway, Office of the General Counsel, (202) 357–8033.

Howard Kilchrist, Office of Pipeline and Producer Regulation, (202) 357–8585.

SUPPLEMENTARY INFORMATION:

By this interim rule, the Federal Energy Regulatory Commission (Commission) amends § 271.1105 of its regulations implementing section 110 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432 (Supp. IV 1980). The amendment is to provide special refund determination procedures for those recovering production-related costs under § 271.1104 of the Commission's regulations.[1]

A. Background

In Order No. 94–A, the Commission is implementing a series of regulations to provide first sellers with an administratively efficient means whereby they may recover production-related costs borne by them.[2] These regulations, to be codified at 18 CFR 271.1104, allow for automatic additions to maximum lawful prices of amounts necessary to recover production-related costs. However, prior to charging these amounts, a first seller must be able to demonstrate that, under the express terms of the gas sales contract, it is obligated to provide the production related service for which it is charging the amount and the purchaser has agreed to compensate the first seller some amount, separate from amounts paid for the gas, for performing the service. In addition, the regulations of § 271.1104 provide that the first seller may only charge the lesser of the amount provided under the contract for

[1] By separate order issued today, the Commission is amending 18 CFR 271.1104. *See* Order No. 94–A, "Final Rule and Order on Rehearing of Order No. 94", Docket No. RM80–47–002.

[2] *Id.*

the service or amounts provided under § 271.1104.

B. Summary of Regulations

While we are confident that the contractual authorization requirement and the limits we have placed upon the amounts that may be recovered by first sellers under revised § 271.1104 will serve to ensure that the provisions of section 110 of the NGPA are properly implemented, we are nonetheless mindful of the potential for abuse inherent in any self-implementing regulatory scheme. So, too, we recognize that genuine differences of opinion may arise concerning the allowability of certain costs which result in the collection of a price which, but for the operation of the provisions of § 271.1104, would be considered to exceed the otherwise applicable maximum lawful price.

New § 271.1105 is our response to these concerns. It establishes the administrative framework within which the prices collected under § 271.1104 will be reviewed by the Commission. It provides, in our view, a fair and efficient mechanism for determining the allowability of disputed add-ons.

The Commission will rely upon its current field auditing practice to ensure that sellers adhere to the new rules. Through compliance audits, staff will make a preliminary judgment regarding the appropriateness of the collection of a price by a first seller which exceeds the maximum lawful price by an amount necessary to recover production-related costs.

If staff believes that a first seller has collected a price in excess of the otherwise applicable maximum lawful price which is not authorized to be collected for production-related costs under § 271.1104, it shall notify the seller.[3] Because the burden is upon sellers to justify the costs they have added-on under these rules, staff's notice, which takes the form of a refund notification, merely places upon the seller an obligation to respond to the matters raised in the notification. That response, due within sixty days of the receipt of the notification, may be made in one of two ways: either the seller may agree that a refund is due and file a refund report with the Commission showing that the refund, with interest, has been made, or the seller may tell staff why a refund is not due.

As to refunds, three key points should be noted. First, staff's belief that refunds are due, while triggering an obligation to respond on the part of the seller, does not constitute a determination that refunds are due. Such determinations can only be made by the Production-Related Costs Board, subject to review by the Commission. Second, although the seller may agree with staff's conclusion and make a refund, the making of a refund will not automatically absolve the seller from an enforcement action should such be necessary. Third, even if the seller does nothing in response to a refund notification by staff, a refund obligation can be imposed only by order of the Board, upon referral of the matter by staff, and after notice to the seller of the initiation of a proceeding before the Board.

By giving sellers an opportunity to challenge staff's conclusions at the staff level, the Commission hopes to reduce or eliminate the possibility that matters referred for determination are based upon mistake or misunderstanding. Moreover, a dialogue between staff and seller should serve to identify and narrow issues that cannot be resolved through negotiation, and must therefore be referred to the Board. This should ensure that the determination process, when invoked, will be well-focused and it may result in fewer cases being referred to the Board.

The creation of a mechanism by which disputes concerning the allowability of certain costs may be resolved raises the question of how the allowability determination should be made. The answer to this question must consider several factors.

First, because allowability determinations may require familiarity with the technical aspects of the production of natural gas, an initial decisionmaker with such expertise is desirable. Second, in order to provide some measure of predictability and reliability to both seller and purchaser, by whose agreement the primary determinant of allowability—the contract—is created, cases should be treated in a consistent and uniform manner. Third, since substantial property rights of sellers may be affected by the allowability determination, the requirements of due process should be observed. And fourth, because substantial property rights of buyers are impacted by the collection of amounts not authorized by § 271.1104, and because both the public interest and the integrity of the administrative process are adversely affected by any improper use of the rules, allowability determinations should be made with a minimum of administrative delay.

The creation of a Board, to whom the authority to make the allowability determination shall be delegated, satisfies each of these criteria. Because its responsibilities are limited to determinations arising under § 271.1104, proceedings before the Board should not suffer from inordinate delay. Moreover, while notice and an opportunity to be heard will be afforded to the affected seller prior to any proceeding before the Board, the proceeding itself will be informal, and its form will be flexible. A record will be made of all proceedings, but because these proceedings are not "hearings", as that term is used in Part 385 of the Commission's regulations, the full panoply of rights that may be available in "hearings" *per se* need not be afforded in proceedings before the Board. Rather, the form of each proceeding will be dictated by such factors as the complexity of the issues presented and whether a factual dispute exists in the case. This flexibility as to the conduct of the proceeding should further promote expeditious agency action.

In addition, because all matters arising under § 271.1104 will be initially decided (subject only to review by the Commission) by a single Board, there should be a consistency and uniformity in the treatment of such cases. While the precise composition of the panel has yet to be decided, we expect that the Board will include staff with the required technical expertise.

The Commission will defer setting the specific terms of the delegation of authority to the Board pending public comment on this procedure. We note, however, that our decision to confer upon a staff panel the authority to make determinations of this kind is not without precedent. The Commission has delegated broad authority to act on matters arising under certain provisions of the Interstate Commerce Act, 49 U.S.C. 1, *et seq.*, to the Oil Pipeline Board.[4] And the Commission follows a variant of this procedure in connection with another self-implementing provision of the NGPA, section 311. There, the question of rates and charges for the transportation of natural gas authorized under § 284.122(a) of the Commission's regulations, 18 CFR 284.122(a), may be determined by application to the Commission. The Commission may, in such cases, initiate a proceeding in which interested parties

[3] Staff's belief may be based upon one or more of several factors. For example, in staff's opinion, the amount charged may not be expressly authorized under the terms of the contract for the first sale of such gas; or, if authorized, the amount may not relate to a production-related cost borne by the seller; or, if it does so relate, the amount may exceed the limits set forth in § 271.1104(d)

[4] 18 CFR 375.308 (1982).

are afforded an opportunity for written comment, and oral presentation of data, views, and arguments.[5] These proceedings are conducted by a panel comprised of staff designated by the Commission in the order instituting the proceeding.[6]

C. Effective Date and Public Proceedings

This Interim Rule is being made effective without prior notice or comment. Good cause exists to do so because these rules are, in part, rules of agency procedure and practice. These rules are also required for the full and effective implementation of other rules being issued today so that prior notice is impracticable.

However, the Commission solicits written comments on all aspects of this rule. Interested persons may submit comments on the amendments made under this rule by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 25, 1983. Each person submitting a comment should include his or her name and address, identify Docket No. RM83–6–000, and give reasons for any recommendations. An original and 14 conformed copies should be filed with the Secretary of the Commission. Comments should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the amendments may be addressed. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours.

The Commission intends to offer an opportunity for oral comment on the amendments made to Subpart K of Part 271 in Docket No. RM83–6–000, under the requirements of section 502(b) of the NGPA. The hearing will be held April 8, 1983, at 10:00 a.m., at the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C., Hearing Room A. The hearing will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. Transcripts of the oral comment proceeding will be available in the public file for this proceeding, Docket No. RM83–6–000, in the Commission's Division of Public Information, and may be ordered from that Office.

Requests to participate in the hearing should be submitted by the close of the comment period to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Requests should indicate the amount of time required for the oral presentation. Persons participating at the hearing should, if possible, bring 25 copies of their presentation to the hearing.

The amendments shall not become final until the Commission has had an opportunity to receive oral presentation of relevant data, views and arguments.

List of Subjects in 18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. IV 1980))

In consideration of the foregoing, Part 271 of Title 18, Code of Federal Regulations, is amended as set forth below to become effective 30 days after publication in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Subpart K of Part 271 as amended by Order No. 94–A, is further amended in the table of contents and text by adding a new § 271.1105 to read as follows:

§ 271.1105 Refunds.

(a) *Refund Procedure.* (1) After conducting a compliance audit, Staff shall notify a first seller in writing of any refund it believes to be due as a result of the collection by that first seller of an amount for production-related costs in excess of the otherwise applicable maximum lawful price by an amount not authorized to be collected for production-related costs under § 271.1104.

(2) Within sixty (60) days of receipt of such notification, the first seller shall either:

(i) File with the Commission a refund report which includes: an identification of the subject contract; the amount of overcharges and interest to be refunded; the date(s) on which any refunds were due; and the date(s) on which refunds were paid; or

(ii) Submit a written statement to Staff setting forth the reason(s) why a refund is not due.

(3) If, after the expiration of the 60 days, the first seller has not filed a refund report with the Commission or if, upon review of a statement filed in accordance with § 271.1105(a)(2), Staff still believes that a refund is due, Staff shall refer the matter to the Production-Related Costs Board for a determination under § 271.1105(b) as to the allowability of the disputed production-related costs.

(4) Staff may, if appropriate, refer matters involving refunds under § 271.1105(a)(1) to the Enforcement Division of the Office of General Counsel for review and possible investigation.

(b) *Allowability Determination.* Any refund due as the result of the collection by a first seller of an amount for production-related costs in excess of the otherwise applicable maximum lawful price shall be determined by the Production-Related Costs Board, subject to review by the Commission, as provided for hereunder.

(1) After Staff's referral of a matter pursuant to paragraph (a)(3) of this section, the Board shall, upon notice to the first seller, conduct an informal proceeding at which facts concerning the allowability of the production-related cost(s) shall be elicited. This proceeding is not a "hearing" as that term is used in Part 385 of the Commission's regulations; however, a transcript will be made of the proceeding.

(2) The Board shall, after conducting such a proceeding, issue an order determining the allowability of disputed amounts and requiring the first seller to make a refund, including interest subject to the limits specified under § 154.102 of this chapter if appropriate.

(3) Determinations of the Board may be appealed to the Commission by Staff or by an aggrieved party pursuant to Rule 1902 of the Commission's Rules of Practice and Procedure. In matters of complexity, the Commission may issue an order tolling the provision of Rule 1902 which deems petitions for appeal to be denied if not acted upon by the Commission within 30 days of its filing.

(4) The Board may, in its discretion, refer appropriate matters to the Enforcement Division of the Office of General Counsel for review and possible investigation.

[FR Doc. 83–2690 Filed 2–3–83; 8:45 am]

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[5] 18 CFR 284.123(b)(ii).

[6] *See e.g., Producers' Gas Company,* Docket No. ST81–106 (issued May 11, 1981) (unpublished).

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Part IV

Department of Transportation

Federal Aviation Administration

National Airspace Review Plan; Revision 1

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: National Airspace Review Plan; Revision 1.

SUMMARY: On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. This comprehensive plan contained an administrative structure and detailed task assignments which has already resulted in recommendations to the FAA. This notice outlines changes which have been made to the April 22, 1982 plan, as of this publication date, and includes the revised plan in its entirety.

EFFECTIVE DATE: February 3, 1983.

FOR FURTHER INFORMATION CONTACT: Karl D. Trautmann, Manager, Special Projects Staff, National Airspace Review, AAT-30, Room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, (202) 426-3560.

SUPPLEMENTARY INFORMATION: On April 22, 1982, the NAR plan was published in the **Federal Register** (47 FR 17448). Since that date, the program has proceeded on schedule with only minor changes having taken place. However, as a result of the October 26, 1982, Executive Steering Committee (EXCOM) meeting and the knowledge gained since the program began, a revision to the plan is necessary. These changes are listed below, and are included in the revised plan in its entirety which follows:

(1) The Program Manager (PM) position has been consolidated to reside within the Special Projects Staff, AAT-30. The AAT-30 Manager, Karl D. Trautmann, is now the PM.

(2) The Program Management Staff (PMS) has been expanded to six full time members.

(3) In accordance with the recommendation of EXCOM I, all task group meeting locations have been moved to Washington, D.C.

(4) Task group membership has been expanded for user organizations by limiting FAA to one member.

(5) As an expressed desire of EXCOM II members, the NAR schedule has been condensed through the combining of some task assignments, reducing the time frame between meetings, and the duration of some meetings.

(6) A review of task group assignments was made to verify the validity of all study areas. Some assignments identified in the April 22, 1982, **Federal Register** publication of the NAR plan have been accomplished through normal administrative activities and therefore, have been removed

Two additional task assignments have been identified and, as requested, both have been included within the review schedule.

(7) New Task Group.—*Task Group 1-7:* A new task group, has been formed with three task assignments; Airspace Classification, Airspace Application, and Pilot Requirements.

National Airspace Review Plan

Purpose

The purpose of the NAR is to conduct an in-depth study of airspace and procedural aspects of the existing air traffic system. This will enable the FAA to identify and implement changes which will promote greater efficiency for all airspace users and simplify the system. Additionally, the NAR will match airspace allocations and air traffic procedures to technological improvements and fuel efficiency programs with recommended changes to the present air traffic system, as a result of NAR studies, integrated into associated R&D efforts.

The rescheduling of this review resulted in shortening the overall duration of the program. Therefore, the NAR study assignment period is scheduled to be completed by the end of 1984.

Objectives

There are three main objectives of the NAR:

Objective 1 is to develop and incorporate into the air traffic system a more efficient relationship between traffic flows, airspace allocation, and system capacity. This will involve the use of improved air traffic flow management to maximize system capacity and improved airspace management.

Objective 2 is to review and eliminate, wherever possible, governmental restraints to system efficiency levied by FAR's and FAA Handbooks. The intent is to reduce complexity and simplify the ATC system.

Objective 3 is to revalidate ATC services within the National Airspace System with respect to state-of-the-art and future technological improvements. This will entail a complete review of separation criteria, TCA/TRSA requirements, IFR/VFR services to the pilot, etc.

Around these objectives evolved the proposed list of task areas to be studied.

Administrative structure

To effectively manage a program of this magnitude, an organizational structure was developed to provide the necessary direction and coordination. It consists of: (1) An Executive Steering Committee, (2) a Program Manager, (3) a Program Management Staff, and (4) Task Groups. A brief description of the role and responsibilities of each entity is listed below:

The Executive Steering Committee (EXCOM) is composed of members from the FAA, DOD, and a cross section of aviation industry organizations. The membership is as follows:

Chairman—Deputy Administrator of the FAA, (ADA-1)
Executive Director—FAA, Air Traffic Service Director, (AAT-1)
Member Organizations:
- FAA—Federal Aviation Administration
- DOD—Department of Defense
- ATA—Air Transport Association
- NBAA—National Business Aircraft Association
- RAA—Regional Airline Association
- AOPA—Aircraft Owners and Pilots Association
- EAA—Experimental Aircraft Association
- HAI—Helicopter Association International

Responsibilities of the EXCOM are to:

1. Review staff studies and progress reports on TG activities to insure that recommendations meet the intent and purpose of the NAR.
2. Provide guidance by recommending further study in areas where, in the opinion of the committee, TG recommendations fall short of stated program objectives.
3. Recommend to the Federal Aviation Administrator, adoption or nonadoption of TG proposals associated with the NAR.

The Program Manager (PM) is Karl D. Trautmann, AAT-30, Manager, Special Projects Staff, Air Traffic Service.

PM responsibilities are to:

1. Provide liaison between the Program Management Staff and FAA organizational elements and provide administrative services which are required.
2. Report directly to the EXCOM providing staff studies and status reports on task group activities.
3. Select task group chairmen.
4. Supervise program development and implementation.
5. Supervise the PMS to insure a systematic approach is taken as

development and implementation progresses.

6. Determine the adequacy and validity of task group's recommendations.

The Program Management Staff (PMS) is composed of six fulltime members. The PMS members are:

George Booth, AAT–31.1
Jimmie H. Walker, AAT–32.1
John Watterson, AAT–32.2
Stephen Harless, AAT–33.1
Anthony Borden, AAT–33.2
Major Michael Ball, USAF, AAT–34.1.

PMS responsibilities are to:

1. Recommend task group chairmen and participants to PM.
2. Monitor task group progress.
3. Forward task group reports to the PM.
4. Provide interface between task groups to insure compatibility of recommendations.
5. Provide guidance and technical expertise to task groups.
6. Coordinate all program activities to insure a smooth transition occurs from one task group to the next.
7. Track implementation of task group recommendations.
8. Evaluate candidates for contractual service requirements in support of the NAR program.
9. Recommend specific contractors to the PM.
10. Develop, review, and update program budget requirements.

Task group members have been selected from the aviation industry (management and labor), and Federal and state government aviation agencies. Personnel selected will possess expertise related to the specific task assignment. The responsibilities of each task group are to:

1. Review and analyze data related to the task assignment.
2. Identify system impact of recommended changes.
3. Provide regular reports to the PMS on TG progress.
4. Submit final recommendations, via staff study, to the PMS.

Task group composition should not exceed 10 members. However, the exact number will be determined by the PMS depending on task assignment and length of study. Limiting the size of each TG will prevent some organizations that have shown an interest in specific TGs or assignments from participating as group members. However, the FAA recognized the expertise of the various entities and offers them an opportunity to provide input to the specific TG's. The TG meetings will be announced in the **Federal Register** at least 15 days in advance and will be open to the public. Interested parties may submit, it writing, recommendations relative to the task assignment prior to the TG meeting. Those comments will be given full consideration during the deliberation period. Additionally, organizations may present their views through a representative organization in the TG.

TASK GROUPS (TG)

TG 1–1 Airspace for Special Use

Military Training Routes—(TG 1–1.1) completed.

Study Date: June 7, 1982. (3 weeks)

The Military Training Route program should be reviewed, on a national basis, to determine the adequacy of route depiction and information dissemination. An overall review of existing procedures for both DOD and FAA should be conducted in light of experience gained since the program began in 1978.

Temporary Special Use Airspace—(TG 1–1.2) completed.

Study Date: September 7, 1982. (3 weeks)

Temporary special use airspace should be studied for possible changes to increase efficiency of airspace usage. Areas to be reviewed are lead time requirements for charting and a means to accommodate composite training.

Real-Time Joint Use—(TG 1–1.2) completed.

Study Date: September 7, 1982. (3 weeks)

The joint use of designated special use airspace requires close coordination and cooperation between using and controlling agencies. The concept of real-time joint use requires study to develop a means to effectively and efficiently administer its use.

Special Use Airspace Requirement Review—(TG 1–1.3) completed.

Study Date: November 8, 1982. (2 weeks)

Special use airspace should be reviewed, on a national level, to validate items such as establishment criteria, usage rates, and retention criteria.

Separation From Special Use Airspace—(TG 1–1.3) completed.

Study Date: November 8, 1982. (2 weeks)

Special use airspace is usually controlled by the using agency and released to them to conduct their activities. This has created concern over buffer zones and separation from special use airspace boundaries. A study is necessary to determine what, if any, separation requirements should be applied around these designated areas.

National Security Areas—(TG 1–1.4)

Study Date: January 31, 1983. (3 weeks)

The concept of National Security Areas is to provide protective airspace in areas which presently do not qualify for special use airspace designation. This area should be evaluated with regard to need, criteria, charting, application, and relationship to special use airspace.

Flight Test Areas—(TG 1–1.4)

Study Date: January 31, 1983. (3 weeks)

Flight test areas are presently not charted. A review of this type of activity should be accomplished to determine the need for charting and the best method to depict these areas.

Part 73—Review—(TG 1–1.5)

Study Date: January 30, 1984. (2 weeks)

Part 73 of the Federal Aviation Regulations (FARs) concern special use airspace. A review of special use airspace categories under Part 73 and related procedures under Handbook 7400.2 is necessary for adequacy and redefinition as they related to previous task assignments under this TG study.

Participants

Chairman—FAA
Department of Defense
Aerospace Industries Association
Aircraft Owners and Pilots Association
Experimental Aircraft Association
Helicopter Association International
National Association of State Aviation Officials
Airline Transport Association
Air Line Pilots Association
FAA, Airspace and Air Traffic Rules Division, AAT–200
FAA, Procedures Division, AAT–300
FAA, Western Pacific Region
FAA, Flight Service Station—Atlanta FSS
FAA, Southern Region Facility

TG 1–2 Terminal Airspace

Terminal Control Areas—(TG 1–2.1) completed.

Study Date: June 7, 1982. (3 weeks)

Our intent is to review previous studies and reports concerning terminal control areas (TCA's) and develop recommendations for a concept(s) of controlled airspace necessary for the conduct of safe flight in the terminal environment. Criteria, design, simplicity, and applicability will be considered.

Mandatory Communication Areas—(TG 1–2.2) completed.

Study Date: August 9, 1982. (3 weeks)

Terminal radar service areas (TRSAs) will be reviewed to determine validity of

this airspace concept along with previous study assignments. Previous TRSA studies, safety, user needs, efficiency, and simplicity will be major factors in this review.

Terminal Radar Service Area—(TG 1–2.2) completed.

Study Date: August 9, 1982. (3 weeks)

Terminal radar service areas (TRSAs) will be reviewed to determine validity of this airspace concept along with previous study assignments. Previous TRSA studies, safety, user needs, efficiency, and simplicity will be major factors in this review.

Control Zones, Transition Areas, Airport Traffic Area Evaluation—(TG 1–2.3) completed.

Study Date: October 4, 1982. (2 weeks)

There is growing concern over the present complexities of airspace assignments in terminal areas, including redundancies and overlap. A review of these areas will be conducted to simplify the entire concept.

Stage II/III Services Evaluation—(TG 1–2.4) completed.

Study Date: November 29, 1982. (1 week)

Present ATC services in terminal areas are divided into Basic, Stage II, and Stage III. These services will be reviewed to validate pilot/controller understanding, requirements, and application within the air traffic system. Additionally, this review will consider what ATC services are necessary as they would relate to previous NAR studies.

Additional Services IFR/VFR—(TG 1–2.5).

Study Date: April 11, 1983. (2 weeks)

In addition to its primary function, the ATC system has the capability to provide (with certain limitations) additional services. This area should be reviewed to determine if services provided are sufficient to meet the needs of the aviation community. The TG would be expected to make recommendations as to specific improvements that may be necessary.

VFR Terminal Routes—(TG 1–2.6)

Study Date: January 3, 1984. (2 weeks)

There has been much concern in the area of VFR flight paths in and around metropolitan areas having large volumes of traffic. These routes should be evaluated for concept, VFR flyway depiction, and services provided.

Traffic Patterns (Altitude-Size)—(TG 1–2.6)

Study Date: January 3, 1984. (2 weeks)

Traffic patterns, including horizontal and vertical limits, lack definition and uniformity. FAA recognizes that performance characteristics of individual aircraft create this situation. A review of traffic patterns will be made to identify concerns and specific flight pattern requirements from which recommendations can be made to improve and simplify this segment of flight.

Part 93—Review—(TG 1–2.7)

Study Date: August 13, 1984. (3 weeks)

Special air traffic rules tailored for specific locations and identifying unique flight rules and procedures will need to be reviewed based on previous NAR studies and implementation of recommendations. Some rules may need amending or elimination.

Participants

Chairman—FAA

Aircraft Owners and Pilots Association
Air Transport Association
Air Line Pilots Association
Department of Defense
National Business Aircraft Association
National Association of State Aviation Officials
Experimental Aircraft Association
Helicopter Association International
Regional Airline Association
FAA, Procedures Division, AAT–300
FAA, Airspace and Air Traffic Rules Division, AAT–200

TG 1–3 Routes

Random Routes—(TG 1–3.1) completed.

Study Date: September 7, 1982. (3 weeks)

The FAA's "Operation Free Flight" data has been analyzed and results indicate considerable fuel savings can be achieved if a program of this nature is implemented. This TG will study the concept of random routes, in both low and high altitude structures, for implementation on a national basis.

Alternate Airway Reduction and Reidentification—(TG 1–3.2) completed.

Study Date: November 8, 1982. (2 weeks)

The present alternate airway structure is still based largely on nonradar separation standards. With the increased use of radar, a study is needed to evaluate the possibility of eliminating unnecessary alternate airways and reidentify remaining routes taking into consideration ICAO standards. This would also contribute to a reduction in chart clutter.

Airway Realignment—(TG1–3.2) completed.

Study Date: November 8, 1982. (2 weeks)

Jet routes and low altitude airways provide airspace protection, charted courses, and altitide information. A review of these routes is necessary to insure that they conform to existing traffic flows. Establishment and retention criteria of airways and jet routes should also be studied.

Fixed Routes (RNAV) Evaluation)—(TG 1–3.2) completed.

Study Date: November 8, 1982. (2 weeks)

The use of area navigation opens many avenues for flight in the Random Route area. An evaluation of the fixed route concept for RNAV use is necessary to determine continued justification.

SID/STAR Evaluation—(TG 1–3.3).

Study Date: February 22, 1983. (3 weeks)

While these routes and charts are of value to both pilot and controller, further study and evaluation is necessary regarding traffic flows and information depiction. A review is necessary to:

1. Determine their need.
2. Reduce complexity.
3. Simplify development criteria.
4. Insure system compatibility.

Preferential Arrival/Departure Routes—(TG 1–3.3)

Study Date: February 22, 1983. (3 weeks)

These routes are designed to segregate traffic flows. This area should be evaluated for changes which will increase system efficiency and simplify the program while making this information available to the pilot.

Jet Routes/Airway Modeling—(TG 1–3.3)

Study Date: February 22, 1983. (3 weeks)

A model for an improved airway/route structure should be developed to use in the En Route Navigation (VOR) Network Program.

Part 75—Elimination—(TG 1–3.4)

Study Date: January 30, 1984. (2 weeks)

FAR Part 75, "Establishment of Jet Routes and Area High Routes," describes specific fixed routes from FL180 through FL450. This area should be reviewed for possible exclusion from the regulatory process since the associated airspace is already designated in Part 71.

Participants

Chairman—FAA

Air Transport Association
National Business Aircraft Association
Aircraft Owners and Pilots Association
Aerospace Industries Association
Regional Airline Association

Air Line Pilots Association
Department of Defense
Helicopter Association International
FAA, Office of Flight Operations, AFO–700
FAA, Airspace and Air Traffic Rules Division, AAT–220
FAA, Southern Region Facility
FAA Southwest Region

TG 1–4 Weather Programs

Water Dissemination—(TG 1–4.1) completed.

Study Date: July 6, 1982. (3 weeks)

A longstanding area of concern for the FAA and aviation community is accurate and timely dissemination of real-time weather information. Although future enhancements are being developed, studies must be done to improve existing methods of disseminating aviation weather.

Participants

Chairman—FAA

Aircraft Owners and Pilots Association
Allied Pilots Association
Air Transport Association
National Business Aircraft Association
Department of Defense
National Weather Service
FAA, System Programs Division, AAT–100
FAA, Procedures Division, AAT–300
FAA, New England Region

TG 1–5 US/Canada/Mexico Interface (Government participation only)

Facility Shutdown Agreement—(TG 1–5.1) completed.

Study Date: June 21, 1982. (1 week)

More dependence has been placed on nondomestic facilities for use in the ATC system. However, there is no formal agreement insuring notification of shutdown of these facilities in sufficient time to allow for adjustment in procedures and airspace designation. This group will develop a formal Memorandum of Agreement between nondomestic facilities to cover planned NAVAID shutdowns.

Canadian Airspace Category Redefinition—(TG 1–5.1) completed.

Study Date: August 9, 1982. (2 weeks)

Canada is in the process of redefining its airspace, by category, to simplify their present system. A review of this action is needed to determine compatibility with the U.S. system or for possible U.S. adoption.

Common Airspace and Procedures Integration—(TG 1–5.3) completed.

Study Date: September 12, 1983. (3 weeks)

Present airspace and procedural applications are different along U.S. border areas. This causes confusion among the flying public as well as control agencies. This group will study the feasibility of common procedures and airspace designation between the two countries.

Participants

Chairman—FAA

Department of Defense
Transport Canada
FAA, Procedures Division, AAT–300
FAA, Maintenace Engineering Division, APM–100
FAA, Great Lakes Region
FAA, Northwest Mountain Region
FAA, Office of Flight Operations, AFO–700
FAA, Alaska Region
FAA, New England Region

TG 1–6 Charts

VFR Charting—(TG 1–6.1) completed.

Study Date: July 6, 1982. (3 weeks)

Efforts are underway to improve information depicted on VFR Charts. While a prototype series is planned, requirements and specifications need to be reviewed through the Interagency Air Cartographic Committee for evaluation.

RF Charts—(TG 1–6.2) completed.

Study Date: October 12, 1982. (2 weeks)

The present low and high altitude enroute charts need review. Simplification and combination with military charting requirements should be considered. This would be in conjunction with Interagency Air Cartographic Committee efforts.

Instrument Approach Procedure Charts—(TG 1–6.3) completed.

Study Date: January 3, 1983 (2 weeks)

A review of the charting aspects of Instrument Approach Procedures (IAPs) is needed for amount of data recovery, charted features, and format.

Charted Visual Flight Procedures Charts—(TG 1–6.3) completed.

Study Date: January 3, 1983. (2 weeks)

There is an increasing number of charted visual flight procedures and charts being developed. This area should be studied with regard to purpose, procedural application, and charting requirements.

Participants

Chairman—FAA

Aircraft Owners and Pilots Association
Experimental Aircraft Association
Allied Pilots Association
Department of Defense
National Association of State Aviation Officials
National Business Aircraft Association
National Ocean Survey
Air Line Pilots Association
Air Transport Association
FAA, Southern Region
FAA, Western Pacific Region
FAA, Procedures Division, AAT–300
FAA, Office of Flight Operations, AFO–700

TG 1–7 US Airspace Reclassification

Airspace Classification—(TG 1–7.1) completed.

Study Date: January 3, 1983. (2 weeks)

A review of current airspace designation, including a proposed model for a U.S. Airspace Classification which is similar to a Canadian Airspace Proposal. ICAO proposals will also be discussed.

Airspace Application—(TG 1–7.2)

Study Date: March 21, 1983. (3 weeks)

A model base for application of Airspace Classification needs to be developed and reviewed for national application.

Pilot Requirements—(TG 1–7.3)

Study Date: June 13, 1983. (2 weeks)

A review of airspace classification as it relates to pilot certification/requirement/endorsement to certificate is needed for possible simplification and application to each airspace category.

Participants

Chairman—FAA

Department of Defense
Air Transport Association
National Business Aircraft Association
Regional Airline Association
Experimental Aircraft Association
Helicopter Association International
Aircraft Owners and Pilots Association
Airline Pilots Association
Transport Canada/Mexico
FAA, Procedures Division, AAT–300
FAA, New England region
FAA, Northwest Mountain Region
FAA, Airspace and Air Traffic Rules Division, AAT–200
FAA, Office of Policy and International—API–5
FAA, Office of Flight Operations—AFO–500

TG 2–1 Traffic Flow Management

Severe Weather Avoidance Plan Evaluation—(TG 2–1.1)

Study Date: May 9, 1983. (2 weeks)

A review, on a national basis, of the Severe Weather Avoidance Plan is necessary to determine:

1. Effectiveness of the present plan.
2. Changes that may be necessary for improvement.
3. The continued need for the plan.

Flow Management—(TG 2–1.2)

Study Date: September 6, 1983. (3 weeks)

A review of the effectiveness of flow management on a national level.

Participants

Chairman—FAA

Regional Airline Association
Air Transport Association
National Business Aircraft Association
Department of Defense
Air Line Pilots Association
General Aviation Manufacturers Association
FAA, Great Lakes Region
FAA, Automation Division, AAT–500
FAA, Procedures Division, AAT–300
FAA, Boston ARTCC
FAA, Southwest Region
FAA, New York ARTCC
FAA, Operations Division, AAT–400

TG 2–2 Separation Standards

Separation Review (General)—(TG 2–2.1)

Study Date: June 13, 1983. (3 weeks)

A review of separation standards as applicable in today's ATC radar environment and based on aircraft operating characteristics such as size and speed, with further consideration of airway acceptance and other identifiable factors which may increase the airport acceptance rate without decreasing safety. Appropriate separation standards in the En Route environment will also be reviewed.

Traffic Segregation by Category—(TG 2–2.2)

Study Date: August 15, 1983. (2 weeks)

A look at the feasibility of separating aircraft and runway use by specific aircraft categories is needed. Procedures may be developed for some airports using this concept.

Special VFR Separation Review—(TG 2–2.3)

Study Date: March 12, 1984. (3 weeks)

A close look is required at Special VFR procedures and their application at high density airports. This review should include regulatory and/or procedural requirements.

Parachute, Glider and Ultralights Operations—(TG 2–2.4)

Study Date: May 28, 1984. (2 weeks)

Parachute, glider and recently the ultralight operations are increasing in number and are having more effect on the ATC system. These areas need review with regard to impact, information dissemination, and advisory/flight-following services.

Participants

Chairman—FAA

Air Traffic Control Association
Allied Pilots Association
Helicopters Association International
Department of Defense
Regional Airline Association
Aircraft Owners and Pilots Association
Air Transport Association
Air Line Pilots Association
FAA, Great Lakes Region
FAA, Oakland ARTCC
FAA, Office of Flight Operations, AFO–700
FAA, Los Angeles TRACON
FAA, Southern Region
FAA, Procedures Division, AAT–300

TG 2–3 FAR Simplification and Reduction

Part 91—Subpart B Evaluation—(TG 2–3.1)

Study Date: October 11, 1983. (3 weeks)

Subpart B, "Flight Rules," of Part 91 needs review for simplification and reduction of regulations. This would include associated equipment requirements.

Part 77—Rewrite—(TG 2–3.2)

Study Date: July 9, 1984. (1 week)

Part 77, "Objects Affecting Navigable Airspace," is an area which should be analyzed and rewritten for simplification and clarity.

Part 1—Review—(TG 2–3.3)

Study Date: August 20, 1984. (1 week)

The present FAR's and ATC system have increased in complexity over the past decade resulting in a need to review definitions to insure adequate guidance and reduce the possibility of misinterpretation. Deletion or changes to current definitions may be required based on recommendations from previous NAR studies.

Participants

Chairman—FAA

Airline Pilots Association
Regional Airline Association
Aircraft Owners and Pilots Association
Department of Defense
National Business Aircraft Association
National Air Transportation Association
Aerospace Industries Association
National Association of State Aviation Officials
Helicopter Association International
FAA, Regulations and Enforcement Division, AGC–200
FAA, Central Region
FAA, Office of Flight Operations, AFO–700
FAA, Airspace and Air Traffic Rules, AAT–200

TG 2–4 Helicopter Operations

Helicopter Separation—(TG 2–4.1)

Study Date: February 22, 1983. (3 week)

The unique operating characteristics of helicopters and their increasing use in the ATC system require a review of separation criteria presently employed with the possibility of reduction in some instance.

Helicopter Routes—(TG 2–4.2)

Study Date: May 2, 1983. (2 weeks)

The possibility of special routes into and out of major terminals that would avoid the standard flow of traffic should be evaluated. This would provide the needed flexibility to make maximum use of terminal airspace while meeting the needs of the helicopter community.

Helicopter Charts—(TG 2–4.3)

Study Date: August 1, 1983. (2 weeks)

The concept of separate charts for helicopters should be evaluated to provide the specialized information required to meet their needs. This group would make recommendations on:

1. The need for separate charts.
2. What should be depicted.

Helicopter Instrument Approach Procedures—(TG 2–4.4)

Study Date: October 17, 1983. (2 weeks)

The possibility of special helicopter instrument approach procedures with reduced development criteria and minima should be evaluated. Associated weather information dissemination requirements unique to rotorcraft operations will also be studied.

Participants

Chairman—FAA

National Business Aircraft Association
Department of Defense
Helicopter Association International
Air Transport Association
National Air Transportation Association
National Association of State Aviation Officials
American Helicopter Society, Inc.
FAA, Southern Region
FAA, Eastern Region
FAA, Office of Flight Operation, AFO–700
FAA, Office of Airport Standards, AAE–100
FAA, Houston ARTCC
FAA, Southwest Region
FAA, Rotorcraft Program Office, ARO–1

TG 2–5 ARTCC Infrastructure (Government participation only)

National Beacon Code Allocation Plan (NBCAP)—(TG 2–5.1)

Study Date: May 2, 1983. (1 week)

A review should be conducted with regard to the concept of NBCAP, its adequacy for providing code allocation, and operation effectiveness.

Consolidation of U.S. Oceanic ATC Control Centers—(TG 2–5.2)

Study Date: August 1, 1983. (2 weeks)

There are presently seven ARTCCs in the U.S. which exercise oceanic control. Consolidation should be studied to simplify and provide uniformity in application of oceanic procedures in the ATC system.

Airspace Jurisdiction and Responsibilities—(TG 2–5.3)

Study Date: September 26, 1983. (2 weeks)

Relationship of ARTCC airspace within the System and its effectiveness.

Participants

Chairman—FAA

Department of Defense
FAA, Great Lakes Region
FAA, Southern Region
FAA, Eastern Region
FAA, Southwest Region
FAA, Central Region
FAA, Alaskan Region
FAA, Northwest Mountain Region
FAA, Western Pacific Region
FAA, New England Region
FAA, Operations Division, AAT–400
FAA, Procedures Division, AAT–300
FAA, Automation Division, AAT–500

TG3–1 National Flight Data System

NOTAM Evaluation—(TG 3–1.1)

Study Date: July 5, 1983. (3 weeks)

The Notice to Airman system has grown complex and large. It should be reviewed for simplification, recategorization, and dissemination improvement.

Flight Data Dissemination—(TG 3–1.1)

Study Date: July 5, 1983. (3 weeks)

The amount of information available to the flying public is growing at an increasing rate. This area needs study to determine adequacy and priority in regard to user requirements. It should also include military activity and airport information.

Flight Plan Format—(TG 3–1.2)

Study Date: November 14, 1983. (1 week)

There are presently separate requirements and format for international, military, and civil flight planning. Each flight plan requirement should be studied for commonality and possible combination into one, simple, uniform format.

Airman's Information Manual—(TG 3–1.3)

Study Date: July 9, 1984. (3 weeks)

A review of content and structure of this handbook is necessary.

Airport Information Service—(TG 3–1.4)

Date: September 10, 1984. (1 week)

A review of the use and content of airport information service broadcasts is necessary. There is a need to identify essential and nonessential information to keep these broadcasts short and concise.

Participants

Chairman—FAA

Air Line Pilots Association
International Air Transport Association
Helicopter Association International
Aircraft Owners and Pilots Association
Department of Defense
Regional Airlines Association
Air Transport Association
FAA, System Programs Division, AAT–100
FAA, Airspace and Air Traffic Rules Division, AAT–200
FAA, Office of Airport Standards, AAS–300
FAA, Great Lakes Region
FAA, Alaskan Region
FAA, FSS—Washington FSS

TG 3–2 Oceanic

International Delegated Airspace—(TG 3–2.1)

Study Date: January 3, 1984. (3 weeks)

The area from the continental limits to the Flight Information Region (FIR)/Control Area (CTA) lacks commonality and creates confusion in airspace designation and procedural application. This area should be reviewed for simplification.

Continental Airspace Expansion—(TG 3–2.2)

Study Date: March 5, 1984. (2 weeks)

In conjunction with the International Civil Aviation Organization (ICAO), a request has been received to expand the U.S. continental limits from its present 3-mile limit to a 12-mile offshore. This area needs study to determine the impact on civil and military operations.

Participants

Chairman—FAA

Air Transport Association
Department of Defense
International Air Transport Association
Helicopter Association International
National Air Transportation Association
Aerospace Industries Association
FAA, Procedures Division, AAT–300
FAA, Office of International Affairs, AIA–100
FAA, Southern Region
FAA, Alaskan Region
FAA, Eastern Region

TG 3–3 Handbok Reorganization (Government participation only)

The following FAA handbooks should be updated with regard to state-of-the-art improvements and also reorganized to put data in a more logical subject related order for easier reference.

FAAH 7110.10—Flight Services—(TG 3–3.1)

Study Date: April 30, 1984. (3 weeks)

FAAH 7110.80—Data Communications—(TG 3–3.1)

Study Date: April 30, 1984. (3 weeks)

FAAH 7130.3—Holding Pattern Criteria—(TG 3–3.2)

Study Date: October 1, 1984. (1 week)

FAAH 7400.2—Airspace Matter—(TG 3–3.3)

Study Date: November 5, 1984. (1 week)

Participants

Chairman—FAA

Department of Defense
FAA, System Program Division, AAT–100
FAA, Airspace and Air Traffic Rules Division, AAT–200
FAA, Procedures Division, AAT–300
FAA, New England Region
FAA, Central Region
FAA, Atlanta FSS
FAA, Dayton FSS

TG 3–4 Handbook Reorganization (Procedures)

The organization structure of the following FAA handbooks should be reviewed and recommendations made to make data easier to find. The direction of this study is more toward structure than content.

FAAH 7210.3—Facility Operations and Administration—(TG 3–4.1)

Study Date: March 26, 1984. (3 weeks)

FAAH 7110.65—Air Traffic Control—(TG 3–4.2)

Study Date: May 29, 1984. (3 weeks)

FAAH 7610.4—Special Military Operations—(TG 3–4.3)

Study Date: August 6, 1984. (2 weeks)

FAAH 7210.7—Flow Control Procedures—(TG 3–4.4)

Study Date: October 1, 1984. (1 week)

FAAH 7110.83—Oceanic Air Traffic Control—(TG 3–4.5)

Study Date: October 29, 1984. (2 weeks)

Participants

Chairman—FAA

Department of Defense
FAA, ATC Operations Division, AAT–[illegible]00
FAA, Airspace and Air Traffic Rules Division, AAT–200
FAA, Western Region

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FAA, Northwest Mountain Region
FAA, ARTCC, Washington ARTCC
FAA, Air Traffic Control Tower
Washington, National ATCT
FAA, FSS, Washington FSS

Issued in Washington, D.C. on January 25, 1983.

R. J. Van Vuren,

Director, Air Traffic Service.

[FR Doc. 83-2925 Filed 2-2-83; 8:45 am]
BILLING CODE 4910-13-M

federal register

Thursday
February 3, 1983

Part V

Department of Transportation

Federal Highway Administration

Truck Size and Weight; Policy Statement

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. I

[FHWA Docket No. 83-4]

Truck Size and Weight; Policy Statement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of policy statement; request for comments.

SUMMARY: This notice provides a statement of FHWA interpretation and policy addressing the truck size and weight provisions contained in the Surface Transportation Assistance Act of 1982 (STAA) and the DOT Appropriations Act of 1982.

The STAA and the Appropriations Act have made several significant changes in Federal law governing the weight, length, and width of trucks using the Interstate System and other qualifying Federal-aid highways. Highlights of these changes include:

1. Uniform Weight Requirements:
(a) Axle weight: 20,000 pounds.
(b) Tandem weight: 34,000 pounds.
(c) Gross weight: 80,000 pounds.
(d) Compliance with the bridge formula.

2. Truck Length Requirements:
(a) States must allow semitrailers of no less than 48 feet in length when in a tractor-semitrailer combination.
(b) States must allow trailing units of no less than 28 feet in length when in a tractor-semitrailer-trailer combination.
(c) States must allow tractors with double trailers no later than April 6, 1983.
(d) States cannot set overall length limitations on tractor-semitrailer or tractor-semitrailer-trailer combinations.

3. Uniform Width Requirement:
(a) 102 inches.

Three primary issues emerge from an analysis of these size and weight provisions, namely: (1) Effective dates; (2) Identification of the "qualifying highways" referred to in Sections 411 of the STAA and 321 of the DOT Appropriations Act; and (3) Definition of "reasonable access" referred to in Sections 133 and 412 of the STAA. This notice addresses these three issues in addition to the explicit truck weight, length and width statutory provisions. It also fulfills the requirement to make an initial determination of the classes of qualifying Federal-aid Primary System highways capable of safely accommodating the truck lengths established by Section 411 of the STAA within 90 days of enactment. These classes of highways may be supplemented by additional highways which, in the judgment of the individual State highway agencies, are capable of safely accommodating the longer vehicles. The FHWA is specifically requesting comments before the issuance of final rules, which are required no later than 270 days from the STAA enactment.

DATES: This policy statement is effective February 3, 1983, and will expire October 6, 1983, or upon issuance of the final rule, if earlier. Comments must be received on or before July 1, 1983.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 83-4, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. to 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Skinner, Office of Traffic Operations, (202) 426-1993, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426-0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

On December 18, 1982, the President signed into law the Department of Transportation Appropriations Act (Pub. L. 97-369) and on January 6, 1983, he signed into law the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424, 96 Stat. 2097).

These acts have made several significant changes with respect to the Federal provisions governing the width and weight of trucks and the length of trailers using the Interstate and other qualifying Federal-Aid Primary System highways. For the first time, semitrailer and trailer lengths in commercial motor vehicle operations on certain highway systems are regulated at the Federal level. Truck width has been changed and truck weight limits have been mandated to achieve national uniformity.

The FHWA fully acknowledges and all interested parties should recognize that the designation and selection of highways for the operation of large vehicles and the determination of reasonable access are expected to be continuously refined. As States gain experience with the safety and operational impacts of the new truck size and weight limits, changes to both the designated highway network and to reasonable access practices are both desirable and inevitable.

Uniform Weight

Section 133 requires that all States permit vehicles on the Interstate System with weights as follows:

(a) 80,000 pounds gross weight for vehicle combinations of five or more axles in accordance with the bridge formula,

(b) 34,000 pounds on a tandem axle, and

(c) 20,000 pounds on a single axle. These weights are inclusive of all tolerances. The legal gross vehicle weight must satisfy the limiting conditions in the bridge gross weight formula. The bridge formula establishes maximum allowable weights for all groupings and spacings of axles. This formula is included in 23 U.S.C. 127.

As of December 31, 1982, five (5) States do not have a bridge gross weight formula as a part of their weight laws. Three (3) States have single axle and tandem axle limits that are lower than the mandated 20,000 and 34,000 pounds, respectively, and four (4) States have gross vehicle weight limits lower than 80,000 pounds.

No withholding of a State's Federal-aid apportionment will be imposed prior to October 1, 1983. The FHWA understands that each affected State legislature will meet in regular session and will have an opportunity to adopt corrective legislation prior to October 1, 1983.

Truck Length

Section 411 of the STAA requires that all States permit the operation of tractor-semitrailer-trailer combinations on the Interstate System and on other designated portions of the Federal-aid Primary System. Thirteen States and the District of Columbia currently do not permit tractor-semitrailer-trailer combinations on the Interstate System. These States must amend their statutes and/or their regulations to achieve conformance with this requirement.

Section 411 also prohibits a State from establishing, maintaining or enforcing a length limitation of less than 48 feet on the semitrailer portion of a tractor-semitrailer combination, and of less than 28 feet on the length of any semitrailer or trailer of a tractor-semitrailer-trailer combination, on any segment of the Interstate System and on the qualifying Federal-aid Primary System highways. In addition, Section 411 prohibits all States from imposing

overall length limits on the operation of tractor-semitrailers and tractor-semitrailer-trailer combinations on the Interstate System and the designated portions of the Federal-aid Primary System. Also, no State may impose a length limitation on the tractor portion of truck combinations consisting of a tractor and either one (1) or two (2) trailing units because it could have the practical effect of imposing an overall length limitation on these truck combinations.

Section 411 further requires that no State shall establish, maintain or enforce any regulation which prohibits the use of trailers or semitrailers of such dimensions as those that were in actual and lawful use in that State on December 1, 1982.

The lengths of trailers and semitrailers stated above refer to the cargo-carrying portion of the unit. Therefore, the length is measured from the front of the cargo carrying unit to its rear.

Fifty (50) States and the District of Columbia will have to modify their laws with respect to either trailer lengths or overall length limits of tractor-semitrailer or tractor-semitrailer-trailer combinations, operating on the Interstate System and other qualifying Federal-Aid Primary System highways.

Section 413 of the STAA authorizes injunctive action rather than withholding of Federal-aid funds for noncompliance with the truck length provisions.

Uniform Width

Section 321 of the Appropriations Act provides for the denial of apportionments of Federal-aid highway funds to any State which imposes a width limitation other than 102 inches on any segment of the Interstate System, and any other qualifying Federal-aid highway.

The 102 inches refers to the total otuside width of any vehicle or its load, excepting mirrors. Other safety devices as determined by the States, which may extend up to three (3) inches on each side of the vehicle are excepted as well.

As of December 31, 1982, most States had maximum widths less than 102 inches and will be required to increase their legal width.

Effective Dates

Section 133 (weight) of the STAA became effective at the time the President signed the STAA on January 6, 1983. Some State laws will have to be changed to bring all States into compliance with the provisions of this Section. No withholding of a State's Federal-aid apportionment will be imposed prior to October 1, 1983.

Section 411 (length) of the STAA becomes effective 90 days after enactment, April 6, 1983. As with Section 133, State laws must be changed to bring all States into compliance. The FHWA does not intend to initiate injunctive action prior to October 1, 1983, for failure to adopt corrective legislation. However, Federal injunctive action may be necessary if State enforcement actions are contrary to the Section 411 requirements after the April 6, 1983, effective date.

Section 321 (width) of the DOT Appropriations Act became effective when the President signed the Act on December 18, 1982. This Section specifies that no withholding of a State's Federal-aid apportionment will take place for failure to be in compliance with this Section prior to October 1, 1983. As with Sections 133 and 411 of the STAA, State laws must be amended to achieve full compliance.

The FHWA understands that each affected State legislature will meet in regular session and will have an opportunity to adopt corrective legislation prior to October 1, 1983.

Qualifying Highways and Reasonable Access

Section 411(e) of the STAA requires the Secretary to designate certain "* * * qualifying Fedral-aid Primary System highways * * *" The Secretary must make an initial determination within 90 days (April 6, 1983) and enact final rules within 270 days (October 3, 1983).

Section 321 of the DOT Appropriations Act calls for the Secretary to designate "* * * other qualifying Federal-aid highways * * * with traffic lanes designed to be a width of 12 feet or more * * *" to accommodate 102-inch width vehicles.

Before addressing the qualifying highways and reasonable access provisions in detail, it may be helpful to restate the underlying premise upon which the Federal role in providing transportation assistance to the States is predicated. The Federal-aid highway program has always been, and continues to be, a federally assisted State program. This is a crucial and sometimes overlooked principle when discussing the mix of issues which underlie interstate commerce. The States design, construct, maintain and operate the highways of the United States, subject to State and Federal statutes.

The intent of the legislation is to provide for the needs of interstate commerce by granting appropriate access to highways built with Federal-aid financial assistance without compromising the safety of the traveling public and the structural integrity of the highway system.

The States are most familiar with their highway systems, including the structural capacity of bridges and pavements, traffic volumes, and unique climatic conditions. Also, the States are responsible for traffic regulation and enforcement. Therefore, the determination of highways for use by vehicles covered in this policy statement, in addition to the qualifying highways, defined below, and the determination of reasonable access will reside at the State level. The FHWA will intervene only in those instances where the needs of interstate commerce are being impeded.

The Interstate System and those sections of the Federal-aid Primary System which are divided highways with 4 or more lanes and full control of access will be eligible for use by vehicles whose dimensions are established by Sections 133 (STAA), 411 (STAA) or 321 (DOT Appropriations Act of 1982) except where the State can justify that such use is not in the public interest, such as on parkways or other routes where truck traffic is currently prohibited. Additionally, the State may designate other Federal-aid Primary System highways that comply with safety and operational requirements, such as traffic lanes designed to be at least 12-feet wide and bridges structurally capable of accommodating the allowable loads.

It is not intended that States be required to place new restrictions on truck operations to accommodate this Section of the law.

The FHWA encourages the States to work cooperatively to achieve uniformity in the selection criteria for designated highways and to ensure maximum continuity in designated highway routes from State to State.

By March 15, 1983, each State highway agency is requested to provide the FHWA, through the FHWA Division Administrator, the following: (in three separate lists, each to include signed route number, termini locations and length)

(1) All Federal-aid Primary System highways, meeting the 4 or more lane, divided and full control of access criteria, which have been defined in this policy statement as "qualifying highways,"

(2) All other roadways not included in (1) which have been designated by the State for use by the vehicles covered in this policy statement, and

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(3) All roadways which meet the classes of qualifying highways criteria defined in this policy statement but have not been designated by the State due to current truck prohibitions such as on parkways, etc.

Prior to October 3, 1983, the Secretary will issue final rules on the designation of this system of highways. As a service to the public, the FHWA will publish a nationwide list of the interim designated highways in early April 1983 and of the final designated highways in early October 1983.

Section 133(b) of the STAA mandates "reasonable access" to trucks loaded to the legal weight limits between the Interstate System and "* * * terminals and facilities for food, fuel, repairs, and rest." Section 412 of the STAA uses similar language for trucks at the length limits set out in Section 411 of the STAA and adds "* * * points of loading and unloading for household goods carriers" to the list of destinations which must be accommodated.

No State shall deny "reasonable access" to their Interstate System, and designated highways as stated in the Sections cited above with the underlying condition that the needs of commerce shall not be impeded.

Discussion

In adopting this policy, the FHWA has attempted to interpret the intent of the Congress to accommodate the needs of the Nation for a safe, efficient, and economical highway transportation system.

We strongly encourage the States to implement these Congressional Acts in a uniform manner which does not impede the needs of commerce. It should again be emphasized that implementation of the size and weight mandates should be related to safety and operational requirements.

A public docket is hereby established and comments are invited on this policy statement. The FHWA is considering a series of public meetings on the implementation of truck size and weight legislative mandates.

Issued on: February 1, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83-3064 Filed 2-2-83; 8:45 am]

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: This regulation amends the interim procedures of the Merit Systems Protection Board with respect to discovery and subpenas. This action provides a simplified procedure for discovery as an aid to parties in preparing their cases for hearing.

DATE: Effective February 4, 1983.

FOR FURTHER INFORMATION CONTACT: Charles J. Stanislav, (202) 653–8900.

SUPPLEMENTARY INFORMATION: On June 29, 1979, the Board published final regulations (44 FR 38342) implementing its adjudicatory responsibilities under the Civil Service Reform Act of 1978 (Pub. L. 95–454). After three years' experience adjudicating cases under those regulations, it was determined that the Board's procedures with respect to discovery and subpenas should be changed for the purpose of clarification, and to recognize the willingness and ability of the parties and practitioners to proceed in an orderly and cooperative manner. Accordingly, on July 2, 1982, the Board published amended regulations which provided a more simplified procedure for the discovery and subpena process. The amended regulations became effective upon publication (July 2, 1982) on an interim basis, to permit public comment and to provide for a period of testing before issuance of final amended regulations.

The Board received comments from various federal agencies and labor unions. These comments have been carefully considered by the Board and the Board has adopted, in whole or in part, the suggestions made. The comments received were supportive of the concept of direct discovery between the parties, establishing time limits, and distinguishing between parties and nonparties as provided for in the interim regulations. These final rules adopt suggestions which more clearly define the scope of discovery directed to nonparties generally; set time limits for initial and subsequent discovery based upon receipt; provide for objections to discovery and motions to compel; allow reasonable time for preparation for a hearing following discovery; and provide that a failure to deny a request for admission does not constitute a binding admission. Also, motions to quash may be filed by the parties as well as the person to whom directed, and may be served by any person of proper age and detachment.

Subpart B—Hearing Procedures for Appellate Cases

Discovery

Section 1201.71 Statement of purpose.

This paragraph has been revised to state that discovery is designed to enable a party to obtain relevant information needed for preparation of the party's case, rather than just the presentation of the case.

Section 1201.72 Explanation and scope.

Paragraph (a) has been revised to redefine relevant information, to avoid confusion and to eliminate unnecessary information.

Paragraph (b) has been revised to reflect that relevant information has been defined in paragraph (a) and to limit the scope of discovery directed to nonparties.

Paragraph (c) has been revised to add that a failure to deny a request for admission is not to be deemed to constitute a binding admission, in recognition of the fact that persons appearing before the Board need not be admitted to the bar.

Section 1201.73 Procedures governing discovery.

Paragraph (a) has been revised to apply only to a party.

Paragraph (b) has been revised to apply to nonparties, and to encourage attempts at voluntary cooperation before requesting Board assistance.

Paragraph (c)(1) has been revised to eliminate unnecessary words.

Paragraph (c)(2) has been revised to require that copies of a motion to compel be served on the other party and on the person from whom discovery was sought.

Paragraph (c)(2)(i) is revised to remove redundant words.

Paragraph (c)(2)(ii) is not changed.

Paragraph (c)(3) has been added to allow response to a motion to compel by the other party and by the person from whom discovery was sought.

Paragraph (d)(1) has been revised to set the time limits to initiate *initial* requests for discovery and to mark the time from the Board's order rather than from the date or appeal.

Paragraph (d)(2) has been revised to require prompt response to a discovery request and to mark the time for response after receipt of the request, rather than the date of filing; and to establish a time limit for subsequent discovery requests.

Paragraph (d)(3) has been revised to correct grammatical errors.

Paragraph (d)(4) has been revised to set the time limit based upon receipt, rather than filing date, and to set time limits for filing an opposition to a motion to compel.

Paragraph (d)(5) has been revised to make grammatical corrections, and to provide for the completion of discovery within a reasonable time prior to the date set for the hearing.

Paragraph (d)(6) has been revised to permit the presiding official to alter the time limits for discovery upon a showing of good cause, provided the parties have 14 days after completion of discovery to prepare for the hearing, unless the parties do not object to less preparation time.

Section 1201.74 Orders for discovery.

Paragraph (a) has been revised for technical corrections.

Paragraph (b) has been revised for technical corrections.

Paragraph (c) has been added to provide that failure to comply may result in sanctions.

Section 1201.75 This section has not been changed.

Subpenas

Section 1201.81(b) This section has not been changed.

Section 1201.82 Motions to quash.

This section has been revised to make grammatical corrections and for clarity.

Section 1201.83 Service.

This section has been revised to delete service by a U.S. Marshal or Deputy Marshal, and to describe who may serve a subpena.

Section 1201.84 Return of service.

This section has been revised to delete reference to U.S. Marshals and Deputy marshals.

Section 1201.85 Enforcement.

This section has been completely revised to describe what is necessary to obtain enforcement.

Regulatory Flexibility Act

The Chairman, Merit Systems Protection Board, certifies that the Board is not required to prepare an initial or final regulatory analysis of this final rule, pursuant to section 603 or 604 of the Regulatory Flexibility Act, because of his determination that this rule would not have a significant economic impact on a substantial number of small entities, including small business, small organizational units, and small governmental jurisdictions.

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Merit Systems Protection Board amends 5 CFR by amending Part 1201, Subpart B, as follows:

PART 1201—PRACTICES AND PROCEDURES

Discovery

1. Section 1201.71 is revised to read as follows:

§ 1201.71 Statement of purpose.

Proceedings before the Board shall be conducted as expeditiously as possible with due regard to the rights of the parties. Discovery is designed to enable a party to obtain relevant information needed for preparation of the party's case. These regulations are intended to provide a simple method of discovery. They will be interpreted and applied so as to avoid delay and to facilitate adjudication of the case. The parties are expected to initiate and complete needed discovery with a minimum of Board intervention.

2. Section 1201.72, paragraphs (a), (b), and (c) are revised to read as follows:

§ 1201.72 Explanation and scope.

(a) *Explanation*: Discovery is the process apart from the hearing whereby a party may obtain relevant information from another person, including a party, which has not otherwise been provided. Relevant information includes information which appears reasonably calculated to lead to the discovery of admissible evidence. This information is obtained for the purpose of assisting the parties in preparing and presenting their cases. The Federal Rules of Civil Procedure may be used as a general guide for discovery practices in proceedings before the Board. However, the federal rules shall be deemed to be instructive rather than controlling.

(b) *Scope*: Any person may be examined regarding any nonprivileged matter which is relevant to the issues involved in the appeal, including the existence, description, nature, custody, condition, and location of documents or other tangible things, and the identity and location of persons having knowledge of relevant facts. Discovery requests to nonparties and nonparty federal agencies and employees are limited to information which appears directly material to the issues involved in the appeal.

(c) *Methods*: Discovery may be obtained by one or more of the methods provided under the Federal Rules of Civil Procedure, including: written interrogatories, depositions, production of documents or things for inspection or copying, and requests for admission addressed to parties. Failure to deny a request for admission shall not be deemed to constitute a binding admission.

3. Section 1201.73, paragraphs (a), (b), (c), and (d) are revised to read as follows:

§ 1201.73 Procedures governing discovery.

(a) Discovery from a party. A party seeking discovery from another party shall initiate the process by serving a request for discovery on the other party. The request for discovery shall—

(1) state the time limit for responding, as prescribed in § 1201.73(d), and

(2) in the case of a request for deposition of a party or an employee of a federal agency party, (i) shall specify the time and place of the taking of the deposition, and (ii) shall also be served on the person to be deposed.

When a request for discovery is directed to an officer or employee of a federal agency party, the agency shall make the officer or employee available on official time for the purpose of responding to the request, and shall assist the officer or employee as necessary in providing relevant information that is available to the agency. For purposes of discovery under these regulations, a party includes an intervenor. (See 5 CFR 1201.4(f))

(b) Discovery from a nonparty including nonparty federal agencies. Parties are encouraged to attempt to obtain voluntary discovery from nonparties whenever possible. A party seeking discovery from a nonparty federal agency or employee shall initiate the process by serving a request for discovery on the nonparty federal agency or employee. Discovery from other nonparties may be initiated by serving a request for discovery on the nonparty directly. Absent such a request or upon failure to obtain voluntary cooperation, discovery from a nonparty may be obtained by a written motion directed to the presiding official, showing the relevance, scope and materiality of the particular information sought and, in addition in the case of a deposition, the date, time, and place of the proposed deposition. A ruling on the motion will be issued by an authorized official of the Board and will be served on the moving party together with a subpena, if approved, directed to the individual or entity from which discovery is sought, specifying the manner and time limit for compliance. It shall be the responsibility of the moving party to serve or arrange for service of a Board-approved discovery request and subpena on the individual or entity.

(c) Responses to discovery requests. (1) A party, or a federal agency which is not a party, shall answer a discovery request within the time provided by § 1201.73(d)(2), either by furnishing to the requesting party the information or testimony requested or agreeing to make deponents available to testify within a reasonable time, or by stating an objection to the particular request, and the reasons for objection.

(2) Upon the failure or refusal of a party to respond in full to a discovery request, or a nonparty to respond in full to Board-approved discovery, the requesting party may file with the presiding official a motion to compel. A copy of the motion shall be served on the other party and on any nonparty entity or person from whom the discovery was sought. The motion shall be accompanied by:

(i) A copy of the original request and a statement showing the relevancy and materiality of the information sought.

(ii) A copy of the objections to discovery or, where appropriate, a verified statement that no response has been received.

(3) The other party and any other entity or person from whom discovery was sought may respond to the motion to compel within the time limits set forth in (d)(4) below.

(d) Time limits.

(1) Initial requests or motions for discovery shall be initiated within 25 days after the date of issuance of the Board's order to the respondent to produce the agency file and response.

(2) A party or nonparty shall respond to a discovery request promptly, but not later than 15 days after receipt of the request or order of the Board. Any discovery requests following the initial request shall be served within 10 days of receipt of the prior response, unless otherwise directed.

Deposition witnesses shall give their testimony at the time and place stated in the request for deposition or in the subpena, unless otherwise agreed by the parties.

(3) A motion to depose nonparties (along with a request for a subpena) shall be submitted to the presiding official within the time limits set forth in paragraph (d)(1) above or as otherwise directed.

(4) A motion for an order compelling discovery shall be filed with the presiding official within 5 days of the expiration of the time limit for response when no response is received. Opposition to a motion to compel must be filed with the presiding official within 5 days of receipt of the motion.

(5) Discovery shall be completed within the time designated by the presiding official, but no later than 65 days after the filing of the appeal. A different time limit may be set by the presiding official after due consideration of the particular situation, including the dates set for hearing and closing of the case record. In cases involving a hearing, discovery shall be completed 14 days prior to the date set for hearing, unless the parties consent to a later completion date.

(6) The time limits prescribed in this section may be altered by the presiding official upon a showing of good cause; however, even upon such a showing, the presiding official should not normally permit discovery to be completed later than 14 days prior to the date set for hearing if a party objects thereto.

4. Section 1201.74, paragraphs (a) and (b) are revised and paragraph (c) added to read as follows:

§ 1201.74 Orders for discovery.

(a) *Motion for an Order Compelling Discovery.* Motions for orders compelling discovery and motions for appearance of nonparties shall be submitted to the presiding official in accordance with section 1201.73(c)(2) and (d)(4) above.

(b) *Content of Order.* Any order issued shall include, where appropriate:

(1) Provision for notice to the person to be deposed as to the time and place of such deposition;

(2) Such conditions or limitations concerning the conduct or scope of the proceedings or the subject matter as may be necessary to prevent undue delay or to protect a party or other individual or entity from undue expense, embarrassment or oppression;

(3) Limitations upon the time for conducting depositions, answering written interrogatories, or producing documentary evidence; and

(4) Other restrictions upon the discovery process as determined by the presiding official.

(c) *Noncompliance.* Failure to comply with an order compelling discovery may subject the noncomplying party to sanctions under 5 CFR 1201.43.

* * * * *

5. Section 1201.82 is revised to read as follows:

§ 1201.82 Motion to quash.

Any person to whom a subpena is directed or any party may file a motion to quash or limit the subpena, setting forth the reasons why the subpena should not be complied with or why it should be limited in scope. This motion shall be filed with the presiding official.

(6) Section 1201.83 is revised to read as follows:

§ 1201.83 Service.

A subpena may be served by any person at least 18 years of age who is not a party, including a private process server or other person authorized to serve process in actions brought in state courts of general jurisdiction or in federal courts.

7. Section 1201.84 is revised to read as follows:

§ 1201.84 Return of service.

The person who has served the subpena shall certify on the return of service that service was made (1) by delivery to the witness in person, (2) by registered or certified mail, or (3) by delivery to a responsible person (named) at the residence or place of business (as appropriate) of the person to be served, and that the prescribed fees have been tendered or provided for.

8. Section 1201.85 is revised to read as follows:

§ 1201.85 Enforcement.

If a person has been served with a Board subpena but fails or refuses to comply with its terms, the party seeking compliance may apply to the presiding official, orally or in writing for enforcement. The party shall present the return of service and, except where the witness was required to appear before the presiding official, shall submit affidavit evidence of the failure or refusal to obey the subpena. The Board, pursuant to 5 U.S.C. 1205(c), may then request the appropriate United States district court to enforce the subpena.

Dated: January 27, 1983.

Herbert E. Ellingwood

Chairman.

[FR Doc. 83-2982 Filed 2-3-83; 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 83-303]

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. These amendments establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Plant Protection and Quarantine performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: February 4, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final action has been reviewed under Executive Order 12291, and has been determined to be exempt from those requirements. Nicholas E. Bedessem, Special Assistant to the Administrator, made this determination because commuted traveltime allowances are strictly a function of where the APHIS employee lives in relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. These amendments merely reflect such changes and serve to notify the public of the new allowed hours.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

List of Subjects in 7 CFR Part 354

Agricultural commodities, Exports, Government employees, Imports, Plants (Agriculture), Quarantine, Transportation.

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, are amended by adding or removing (in appropriate alphabetical sequence) the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In Hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
Remove:			
* * * * *			
New York: Jamaica, Long Island		3	
* * * * *			
Add:			
* * * * *			
California: Tecate	San Ysidro		3

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In Hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
* * * * *			
New York: Jamaica, Long Island		2	
* * * * *			

(64 Stat. 561; (7 U.S.C. 2260))

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Done at Washington, D.C., this 26th day of January 1983.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-2870 Filed 2-3-83; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 397; Lemon Reg. 396, Amdt. 1]

Lemons Grown in California and Arizona Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period February 6–12, 1983, and increases the quantity of lemons that may be shipped during the period January 30–February 5, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective February 6, 1983, and the amendment is effective for the period January 30–February 5, 1983.

FOR FURTHER INFORMATION CONTACT: Willian J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. Willian T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on February 1, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons has improved somewhat.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.697 is added as follows:

§ 910.697 Lemon Regulation 397.

The quantity of lemons grown in California and Arizona which may be handled during the period February 6, 1983 through February 12, 1983, is established at 210,000 cartons.

2. Section 910.696 Lemon Regulation 396 (48 FR 3935) is revised to read as follows:

§ 910.696 Lemon Regulation 396.

The quantity of lemons grown in California and Arizona which may be handled during the period January 30, 1983, through February 5, 1983, is established at 200,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: February 3, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–3267 Filed 2–3–83; 11:58 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Physician's Use of Radioactive Drugs

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to provide an exception from certain regulatory requirements for technetium-99m pentetate (a Food and Drug Administration (FDA)-approved drug) used for lung function studies which is a use not yet approved by FDA. Prior to this final rule, NRC regulations required that a physician using an approved drug for an unapproved procedure follow FDA-approved labeling for (1) physical form, (2) route of administration, and (3) dosage range. Because in the lung function studies, technetium-99m pentetate is used as an aerosol and administered by inhalation, it does not meet the FDA-approved method for use of this radiopharmaceutical, and an exception is necessary. The preamble to this rulemaking also sets out the criteria and procedures that NRC will use to evaluate similar requests for exceptions of other diagnostic radiopharmaceuticals. This final rule responds to the petition filed by the late Dr. George V. Taplin to approve the use of technetium-99m pentetate for lung function studies (PRM 35–1). The final rule will relieve many of NRC's medical licensees from applicable regulatory requirements. The final rule and the new exception procedures are intended to remove unnecessary restrictions on the physician in patient treatment while continuing to provide an adequate level of radiation protection for the patient and the worker.

EFFECTIVE DATE: March 7, 1983.

FOR FURTHER INFORMATION CONTACT: Deborah A. Bozik, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC, 20555 (Phone 301–427–4566).

SUPPLEMENTARY INFORMATION: On April 13, 1982, the NRC published a proposed rule (47 FR 15798) to amend its regulations to provide an exception from certain regulatory requirements for technetium-99m pentetate in § 35.14 of 10 CFR Part 35, which contains the specific license requirements for certain groups of medical uses of byproduct material. In addition, this proposed rule also offered criteria and information for evaluation of similar future exceptions to NRC regulations.

This rulemaking was developed in response to a petition filed by George V. Taplin, M.D. (deceased) for a rulemaking to remove NRC restrictions that apply when a physician uses an FDA-approved radioactive drug for a clinical procedure that does not have FDA approval. Specifically, the petitioner sought the nonrestricted use of technetium pentetate as an aerosol for lung function studies (PRM–35–1; 44 FR 26817; May 1, 1979). The NRC grants that portion of the petition that requests a specific exception for technetium-99m pentetate used for lung function studies. The NRC denies the petitioner's request that NRC remove all restrictions on the physican's use of an FDA-approved radioactive drug for a clinical procedure that does not have FDA approval. However, the procedures and criteria established in this rulemaking create an appropriate mechanism for addressing future requests for exceptions to these restrictions and, as such, are an attempt to provide the greater flexibility desired by the petitioner.

The public was invited to submit written comments on the proposed rule by June 14, 1982, and 35 comment letters were received. Thirty-one commenters supported the proposed rule, and 15 specifically noted their support of the criteria and procedures for evaluating similar future exceptions. Copies of the public comments received and the Commission analysis of the comments may be examined in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

Two commenters opposed the proposed rule because of their feeling that NRC would be authorizing the addition of non-FDA-approved procedures to its regulations, thereby starting a precedent for such procedures to be added without close evaluation. Careful consideration was given to the questions raised by these commenters, but the NRC does not believe that patient protection is being compromised. Technetium-99m penetetate gives several times less radiation to the lung than other radiopharmaceuticals which are more slowly absorbed and thus are retained longer in the lungs. Taplin and Chopra, "Inhalation Lung Imaging with Radioactive Aerosols and Gases," Prog. Nucl. Med., Vol. 5, pp. 119–143 (Karger, Basel 1978), and Taplin and Chopra, "Lung Perfusion-Inhalation, Scintigraphy in Obstructive Airway Disease and Pulmonary Embolism," Radiological Clinics of North America, Vol. XVI, No. 3, pp. 491–513, December 1978.

It is noteworthy that NRC and FDA have sought a solution to the general problem of drug labeling for unapproved uses, and FDA currently is considering a program to add presently unapproved uses of approved radiopharmaceuticals. However, until such a program is implemented, NRC believes that this rulemaking is the most appropriate way to resolve the problem in this interim period. Nine commenters either addressed topics not specifically covered in this rulemaking or requested that NRC consider other unapproved uses of FDA-approved radiopharmaceuticals. The most common requests centered on the uses of technetium-99m pertechnetate for voiding cystograms and technetium-99m sulfur colloid for evaluation of LeeVeen shunt patency. NRC developed criteria and procedures for evaluating exceptions to § 35.14(b)(6). These procedures and criteria were published in the April 13, 1982 proposed rule and were open to the public for comment. They were very favorably received. The Commission will use these criteria to determine whether an exception from the requirements in § 35.14(b)(6) of 10 CFR Part 35 will result in an unreasonable risk to the health and safety of the public or will minimize danger to life or property.

Any interested person should submit a request for an exception to NRC's Office of Nuclear Material Safety and

Safeguards detailing the following information:

- Description of the procedures,
- Justification for the exception (including an explanation of why the procedure is not included in the product labelling),
- Purpose and benefits of the procedure,
- Analysis of the radiation dose, and
- Supporting technical and scientific information, including any provisions necessary to ensure occupational safety and patient safety.

In order to reach a conclusion regarding the possible inclusion of these radiopharmaceuticals in the regulations, NRC would expect that such requests would provide evidence that the following two criteria, upon which NRC will conduct its assessment, would be met:

- No unjustified radiation dose to the patient, and
- Demonstration of adequate occupational radiation protection measures.

The NRC staff would review a request, and based upon its findings as well as the recommendation of its Advisory Committee on the Medical Uses of Isotopes (ACMUI), would publish in the **Federal Register** a notice of rulemaking. The notice would provide for a 30- to 45-day comment period. The final rule establishing the exception would be made immediately effective.

Environmental Impact: Negative Declaration

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in 10 CFR Part 51, that promulgation of this regulation is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. The environmental impact appraisal and negative declaration on which this determination is based are available for public inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C.

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.), the NRC has made a determination that this rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact upon a substantial number of small entities. The final rule affects about 2,000 specific licenses under §§ 35.11, 35.12, and 35.14 of 10 CFR Part 35. These licenses are issued principally to medical institutions. Small business entities, primarily physicians in private practice, comprise about 275 of the specific medical licenses.

The final rule relieves NRC's medical licensees from regulatory requirements by relaxing restrictions on the physician concerning patient care. The final rule has no significant economic impact on these licensees. In the proposed rule, the NRC specifically requested comments on this conclusion as to impact on small entities. No comments were received that questioned this conclusion.

List of Subjects in 10 CFR Part 35

Byproduct material, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Penalty, Radiation protection, Reporting and recordkeeping requirements.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 35, are published as a document subject to codification.

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

1. The authority citation of Part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 35.2, 35.14(b), (e) and (f), 35.21(a), 35.22(a), 35.24, and 35.31 (b) and (c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 35.14(b)(5) (ii), (iii), and (v) and (f)(2), 35.27 and 35.31(d) are issued under sec. 161o, 68 Stat. 950 as amended (42 U.S.C. 2201(o)).

2. Section 35.14 is amended by revising paragraph (b)(6) and adding paragraphs (b)(7) and (b)(8) to read as follows:

§ 35.14 Specific licenses for certain groups of medical uses of byproduct material.

* * * * *

(b)* * *

(6) Except for those radiopharmaceuticals listed in paragraph (b)(7) of this section, for Groups I, II, and III any licensee using byproduct material for clinical procedures other than those specified in the product labeling (package insert) shall comply with the product labeling regarding:

(i) Chemical and physical form;

(ii) Route of administration; and

(iii) Dosage range.

(7) The following radiopharmaceutical(s) when used for the listed clinical procedure(s), are not subject to the restrictions in paragraph (b)(6) of this section:

(i) Technetium-99m pentetate as an aerosol for lung function studies.

(8) Radioactive aerosols must be administered with a closed, shielded system that either is vented to the outside atmosphere through an air exhaust or provides for collection and disposal of the aerosol.

* * * * *

Dated at Bethesda, MD, this 28th day of January, 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-3221 Filed 2-3-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

10 CFR Part 810

Unclassified Activities in Foreign Atomic Energy Programs

AGENCY: Energy.

ACTION: Final rule.

SUMMARY: Pursuant to the Nuclear Non-Proliferation Act of 1978 (NNPA) and in accordance with the Executive Branch Procedures established and published June 9, 1978 (43 FR 25326), the Department of Energy (DOE) is amending its regulations, 10 CFR Part 810 "Unclassified Activities in Foreign Atomic Energy Programs." The amended regulations reflect changes made by the NNPA to Section 57.b. of the Atomic Energy Act and incorporate the additional export criteria mandated by the NNPA to govern the export of sensitive nuclear technology for peaceful purposes. The amended regulations update the list of countries to which the general authorization contained in § 810.7(a) does not apply. Added to the listed countries are all non-nuclear weapon states that are not parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) (except for those that accept fullscope safeguards or for which the Treaty of Tlatelolco is currently in force) and certain countries in regions of particular volatility and sensitivity. Withdrawal of the general authorization to these countries will assure that authorizations

by the Secretary of Energy under 10 CFR Part 810 involving these countries are consistent with other U.S. export licensing requirements under the NNPA. Many sections of the final rule are unchanged from the proposed rule of September 17, 1982 (47 FR 41320).

EFFECTIVE DATE: These regulations are effective February 4, 1983.

FOR FURTHER INFORMATION CONTACT:
Mrs. Johnnie Raymond (202) 252–2129
or
Robert Newton, Esquire (202) 252–6975

SUPPLEMENTARY INFORMATION:

I. Background

On March 10, 1978, the Nuclear Non-Proliferation Act of 1978 (NNPA), Pub. L. 95–242, was enacted. The NNPA specifically addressed nuclear export licensing and procedures and amended the procedures and criteria governing DOE action under Section 57.b.(2) of the Atomic Energy Act (42 U.S.C. 2077). In particular, Section 305 of the NNPA amended Chapter 11 of the Atomic Energy Act of 1954, as amended, by adding at the end thereof a new Section 127, "Criteria Governing United States Nuclear Exports" (42 U.S.C. 2156). This section added criteria which, in addition to other requirements of law, govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology. Section 306 of the NNPA also amended Chapter 11 of the Atomic Energy Act by adding at the end thereof a new Section 128, "Additional Export Criterion and Procedures," (42 U.S.C. 2157), which establishes a further condition on exports of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology. All requests for specific authorization submitted pursuant to Section 57.b.(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2077), will be handled in accordance with the procedures required by Section 302 of the NNPA and agreed to by the Departments of Energy, State, Commerce, and Defense, the Arms Control and Disarmament Agency and the Nuclear Regulatory Commission. These agreed upon procedures were published on June 9, 1978, by the Departments of State, Energy, and Commerce in the **Federal Register**, "Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978," (43 FR 25326).

II. Regulatory Changes

The major changes to Part 810 are summarized below in the order in which they appear:

1. *§ 810.3.* Definitions have been deleted for "Administration" and "Administrator of ERDA" and added for "Secretary," "Department of Energy," "IAEA," "NNPA," "NPT," "retransfer," "sensitive nuclear technology," "source material," and "special nuclear material."

2. *§ 810.6.* The requirement for authorization under Section 57.b. of the Atomic Energy Act of 1954, as amended, has been changed to reflect the language as amended by the NNPA. The NNPA amendment to Section 57.b. established the requirement for formal review by the Departments of State, Defense, and Commerce, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, of applications submitted pursuant to Section 57.b.(2).

3. *§ 810.7(a)(1).* The list of countries to which the general authorization will not apply has been expanded to include the following categories of countries: (1) Those countries which are non-nuclear weapon states that are not parties to the NPT (however, the general authorization will continue for those non-nuclear weapon countries which accept full scope safeguards or for which the Treaty of Tlatelolco is currently in force); (2) Afghanistan, which has been added to the list of countries in accordance with current U.S. policy; (3) additionally, the general authorization is withdrawn from certain countries in regions of particular volatility and sensitivity; and (4) the list of countries is revised to update and modernize the names of countries. (Since publication of the proposed rule, Uganda has become a party to the NPT; therefore, it has been deleted from the list of countries to which the general authorization does not apply.) The new requirement for specific authorization for activities in these countries or, in some instances, a report under these regulations, will provide timely information on nuclear activities which do not presently require specific authorization.

4. A new paragraph (5) has been added to § 810.7(b) to permit the furnishing of information and assistance at an operating nuclear power plant outside the United States, related to the prevention or correction of an imminent radiological emergency posing a danger to the public health and safety. This is not intended to cover routine exports and assistance, but is intended only to apply to imminent radiological emergencies in rare circumstances.

5. § 810.8. A new paragraph (c) is added to reflect the requirement established by Section 305 and 306 of the NNPA (new Section 127 and 128 of the Atomic Energy Act) for additional criteria which must be met for authorization to export "sensitive nuclear technology."

The NNPA amendments to Section 57.b. did not substantively change the provisions of the Atomic Energy Act that apply to the export of unclassified, unpublished technology, other than that defined as "sensitive nuclear technology."

6. § 810.8. A new subparagraph (d)(3) is added to reflect the provision of Section. 129 of the Act, added by Section 307 of the NNPA, (42 U.S.C. 2158), concerning termination of nuclear exports of sensitive nuclear technology to a country or countries which engage in any of the proscribed activities identified in Section 129 of the Act.

7. A new paragraph (4) has been added at § 810.10(b) to require a report on the furnishing of radiological emergency assistance to operating nuclear reactors outside the United States.

8. A phrase is added to § 810.11 to permit the Secretary to request additional information on activities approved pursuant to § 810.8.

If the Department decides on further significant modifications to Part 810, it is the intention of the Department, unless urgent national security or foreign relations interest of the United States dictate otherwise, to seek public comment in advance of making those modifications effective, under procedures similar to those used for the current revisions.

III. Statutory Requirements

Pursuant to Section 57.b.(2) of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 (NNPA), and with the concurrence of the Department of State and following consultations with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, the Department of Commerce and the Department of Defense, the Secretary of Energy has authorized these proposed revisions to Part 810 of Title 10 CFR.

IV. Saving Clause

Except for any action taken by DOE pursuant to § 810.8(d), this revision shall not affect the validity or terms of any specific authorization granted under the regulations previously in effect, or generally authorized activities in the identified countries for which contracts, orders or licensing arrangements were in place prior to September 17, 1982.

V. Reporting Requirements

It should be stressed that the reporting requirements in § 810.10 of these regulations extend to most of the

activities covered by the general authorization in § 810.7. Reports under § 810.10 are required within 30 days after commencement of the activity in question.

VI. Rulemaking Requirements

Sec. 501(a)(1) of the DOE Organization Act (Pub. L. 95–91) provides that the provisions of subchapter II of chapter 5 of title 5, United States Code (Administrative Procedure Act, "APA") shall apply in accordance with their terms to any rule or regulation issued pursuant to authority vested by law in, or transferred or delegated to, the Secretary of Energy. Section 553(a)(1) of the APA provides an exemption to the normal notice and comment procedures or rules involving a foreign affairs function of the United States.

Because the amendments deal with the export of sensitive nuclear technology and the need for authorization for activities which assist in the production of special nuclear material in certain countries, these amendments involve the foreign affairs functions of the United States. Therefore, the exemption of Section 553(a)(1) applies and notice and comment are not required. Nevertheless, DOE provided interested persons 45 days in which to submit comments on the proposed rule. These comments are addressed in section VII of the Supplementary Information section.

Because notice and comment are not required for this rule, this rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. as provided in Section 601(2). This rule is also not subject to the requirements of Executive Order 12291 [46 FR 13193, February 19, 1981], because it relates to a foreign affairs function of the United States. See Section 1(a)(2).

VII. Analysis of Public Comments

On September 17, 1982, the Department published a proposed revision to 10 CFR Part 810 in the **Federal Register** (47 FR 41320). During the forty-five day period allowed for public comment, comments were received from six interested parties. These letters were available for public inspection in the DOE Reading Room, Room 1E–190, James Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. These comments were considered in drafting the final rule, as noted below.

1. As a result of comments received, the following changes and clarifications in the proposed rule were made.

(a) Two changes were made in the Supplementary Information section. At the end of II.5., a new sentence has been added to clarify that the NNPA did not change substantive standards for technology exports other than those involving transfers of "sensitive nuclear technology."

At the end of paragraph II of the Supplementary Information section, a new sentence has been added to note that an opportunity for public comments will also be provided in the event of any further revisions to Part 810.

(b) Several deletions and changes were made in the definitions section at § 810.3. The definitions of "production facility" and "utilization facility" at § 810.3 (n) and (v) were dropped as unnecessary and the definitions of "Department" and "Secretary" were placed in their proper alphabetical order. The lettering of all the definitions was changed in accordance with these revisions. In addition, the definition of "nuclear material" was revised, to be consistent with the definition of "nuclear material" in the Nuclear Regulatory Commission regulations, 10 CFR Part 110. Finally, the definition of "sensitive nuclear technology" (now at § 810.3(q)) has been revised by deleting plutonium fuel fabrication from the definition. The revised definition is now consistent with the definition of "sensitive nuclear technology" in the NNPA. Assistance to foreign plutonium fuel fabrication activities will continue to require a specific authorization under § 810.7(a)(2).

(c) A new subparagraph (5) has been added to § 810.7(b) to permit radiological emergency information and assistance to be furnished to countries on the list at § 810.7(a)(1) without specific authorization by the Secretary of Energy.

(d) A new subparagraph (3) has been added to § 810.8(d) to clarify that the provisions of Section 129 of the NNPA also serve as reason for the revocation of a specific authorization to export "sensitive nuclear technology." Section 810.8(e) of the proposed rule has been deleted and § 810.8(f) has been changed to § 810.8(e), which has been revised to clarify the language with regard to the grandfathering of previous authorizations.

(e) A phrase has been added to § 810.10(c)(1)(v) in order to clarify the range of nuclear-related activities that are exempt from the reporting requirements of that section.

2. A number of comments or suggestions were not accepted.

(a) Several of the comments advocated that the proposed revision be delayed or withdrawn, pending additional review of the reserved issues, consultation with industry and further Congressional hearings and study. These suggestions were not accepted as the Executive Branch has determined that it is necessary to proceed with the final rule in order to advance the non-proliferation objectives of the United States.

(b) A proposal to permit technology transfers only under U.S. nuclear cooperation agreements was rejected as being an overly restrictive control on the flow of unclassified information, much of which is already widely available to the public. Section 57.b. of the Atomic Energy Act clearly permits technology transfers either as specifically authorized under an agreement for cooperation or upon authorization by the Secretary of Energy. A proposal to allow transfers to take place only under agreements for cooperation would unnecessarily restrict technology transfers.

(c) A proposal to extend the criteria of Section 127 and Section 128 of the NNPA to all Part 810 cases was also not accepted. Such an extension would go beyond the requirements of the NNPA and would apply the very strict criteria of these provisions, that are intended to apply only to transfers of sensitive nuclear technology, to non-sensitive technology.

(d) One comment recommended advance notice to Congress and the public of pending Part 810 applications and public notice and reporting to Congress on all activities subject to Part 810. The adoption of such a procedure could violate the confidential and proprietary nature of these activities. Many of the proposed activities are at the negotiation stage between the applicant and potential foreign customer at the time of Part 810 application. An advance public disclosure could adversely affect these negotiations. DOE provides a summary of Part 810 activities in its annual unclassified reporting to Congress, and the Congress receives more detailed information on a confidential basis as requested. Where feasible, additional information is also released in response to public inquiries.

(e) One comment requested establishment of time limits for DOE action on Part 810 cases. A review time period already exists in section 1 of Part D of the Executive Branch procedures, 43 FR 25326, 28–29 (June 1978).

(f) A comment proposing to interpret rather than quote Section 57.b. of the Atomic Energy Act at § 810.6 was not accepted since it was felt that the specific language of the statute should be retained.

(g) A suggestion to require specific authorization for transfers of uranium hexafluoride conversion and uranium fuel fabrication technology was considered overly restrictive and unnecessary. Such technology is widely available and possible transfers to specific countries of concern will continue to be regulated pursuant to § 810.7(a)(1).

(h) A request to include South Korea and Taiwan on the list at § 810.7(a)(1) was not accepted as they meet the criteria for exclusion as described in Supplementary Information II.3.

(i) A comment suggested that § 810.8(e)(2) be modified to refer to the date of the final rule and to clarify the impact of § 810.8(e)(2). DOE believes that § 810.8(e)(2) is sufficiently clear and appropriate as drafted. Questions regarding the application of this provision in specific situations may be directed to the Department of Energy, Office of International Security Affairs.

(j) Another comment maintained that under the present regulations, the Secretary of Energy could still authorize the transfer of sensitive technology, which was "dangerous." This comment was considered to be without merit for the following reasons. First, we note that the statute contemplates the possibility that sensitive nuclear technology may be transferred where criteria set forth in the statute are met. Second, the requirements of the statutory findings "that such activity will not be inimical to the interest of the United States," as well as the findings of § 810.8 (b) and (c), ensure that no "dangerous" transactions will be authorized.

3. In addition to the comments discussed above, one comment requested a clarification of the application of Part 810 to Commerce-licensed items. The revisions do not change the present situation—a Commerce validated license is required in some cases even after a Part 810 authorization has been granted. However, the Executive branch is exploring the feasibility of a system of unified review for such exports. Finally, several comments were received on the subject of retransfers, including a suggestion to establish retransfer guidelines. As indicated in the September 17, 1982, **Federal Register** notice and repeated here in the final rule (end of paragraph II of Supplementary Information), DOE intends to conduct a review of the retransfer issue in the future which would be directed at clarifying the extent to which Part 810 covers retransfers.

List of Subjects in 10 CFR Part 810

Foreign relations, Nuclear energy, Reporting and recordkeeping requirements.

(Secs. 57, 127, 128, 129, 161, and 223 of the Atomic Energy Act of 1954, as amended by Nuclear Non-Proliferation Act of 1978 (Pub. L. 95–242), 68 Stat. 932, 948, 950, 958, 92 Stat. 126, 136, 137, 138 (42 U.S.C. 2077, 2156, 2157, 2158, 2201, 2273); Sec. 104, Energy Reorganization Act of 1974 (Pub. L. 93–438); Sec. 301, Department of Energy Organization Act (Pub. L. 95–91))

For the reasons set out in the preamble, Part 810 of Title 10 of the Code of Federal Regulations is revised as set forth below.

Issued at Washington, D.C., January 31, 1983.

Herman E. Roser,

Assistant Secretary for Defense Programs.

PART 810—UNCLASSIFIED ACTIVITIES IN FOREIGN ATOMIC ENERGY PROGRAMS

Sec.

810.1 Purpose.
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Authority: Sections 57, 127, 128, 129, 161, and 223, Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 (Pub. L. 95–242), 68 Stat. 932, 948, 950, 958, 92 Stat. 126, 136, 137, 138 (42 U.S.C. 2077, 2156, 2157, 2158, 2201, 2273); Section 104, Energy Reorganization Act of 1974, (Pub. L. 93–438); Section 301, Department of Energy Organization Act (Pub. L. 95–91).

§ 810.1 Purpose.

The regulations in this part incorporate a general authorization made by the Secretary under Section 57.b(2) of the Atomic Energy Act of 1954, as amended (92 Stat. 126); establish reporting requirements applicable to persons who engage in certain unclassified activities in foreign atomic energy programs; and establish procedures governing applications for specific authorizations to engage directly or indirectly in the production of special nuclear material outside the United States.

§ 810.2 Scope.

The regulations in this part apply to all persons within or under the jurisdiction of the United States.

§ 810.3 Definitions

As used in this part:

(a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919, 42 U.S.C. 2011), as amended.

(b) "Agreement for Cooperation" means an agreement for cooperation with another nation or group of nations concluded under Sec. 123 of the Act.

(c) "Atomic weapon" means any device utilizing atomic energy (exclusive of the means for transporting or propelling the device where such means is a separate and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, or weapon prototype or a weapon test device.

(d) "Classified information" means National Security information classified pursuant to Executive Order 12356 or any superseding order; or Restricted Data classified under the Atomic Energy Act of 1954, as amended.

(e) "Commission" as used in this regulation refers to the Nuclear Regulatory Commission.

(f) "Department" means the United States Department of Energy.

(g) "IAEA" means the International Atomic Energy Agency.

(h) "NNPA" means the Nuclear Non-Proliferation Act of 1978 (Pub. L. 95–242).

(i) "NPT" means the Treaty on the Nonproliferation of Nuclear Weapons of July 1, 1968.

(j) "Nuclear material" means special nuclear material or source material, deuterium or nuclear grade graphite.

(k) "Nuclear reactor" means an apparatus, other than an atomic weapon, or nuclear explosive device, designed or used to sustain nuclear fission in a self-supporting chain reaction.

(l) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Department; any State or any political subdivision of, or any political entity within a State; and (2) any legal successor, representative agent or agency of the foregoing.

(m) "Research and development" means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative facilities and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of motors, devices, equipment, materials, and processes.

(n) "Restricted Data" means all data concerning (1) design, manufacturing or utilization of atomic weapons; (2) the

production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include any data declassified or removed from the Restricted Data category pursuant to Section 142 of the Act.

(o) "Retransfer" means the transport from one foreign country or group of nations to another such entity of information which has been exported from the United States or of nuclear material or equipment produced through the use of such information.

(p) "Secretary" means the Secretary of the United States Department of Energy.

(q) "Sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof) which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility, or a facility for the production of heavy water, but shall not include Restricted Data controlled pursuant to Chapter 12 of the 1954 Act. The information may take a tangible form, such as a model, prototype, blueprint, or operation manual; it may also take an intangible form such as technical services.

(r) "Source material" means:

(1) Uranium or thorium, other than special nuclear material; or

(2) Ores which contain by weight 0.05% or more of uranium or thorium, or any combination of these.

(s) "Special nuclear material" means plutonium, uranium-233 or uranium enriched above 0.711 percent by weight in the isotope U–235.

(t) "United States", when used in a geographical sense, includes all territories and possessions of the United States.

§ 810.4 Communications.

All communications concerning regulations in this part should be addressed to the Secretary, U.S. Department of Energy, Washington, D.C. 20585, Attention: Office of International Security Affairs, DP–332. Communications and reports may be delivered in person at the Department's main offices at 1000 Independence Avenue, S.W., Washington, D.C. Any clearly marked trade secret, commericial or financial, or other proprietary information shall be afforded the maximum degree of protection allowed by law.

§ 810.5 Interpretations.

Except as specifically authorized by the Secretary in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Department other than a written interpretation by the General Counsel will be binding upon the Department.

§ 810.6 Authorization requirement.

Section 57.b. of the Act, as amended by the Nuclear Non-Proliferation Act of 1978, provides that:

> It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to Section 123, including a specific authorization in a subsequent arrangement under section 131 of this Act, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: *Provided*, That any such determination by the Secretary of Energy shall be made only with the concurrence of the Department of State and after consultation with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense: * * *

§ 810.7 Generally authorized activities.

(a) In accordance with Section 57.b.(2) of the Act, the Secretary has determined with the concurrence of the Department of State and after having consulted with the Departments of Commerce and Defense, the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, that any activity which constitutes directly or indirectly engaging in the production of any special nuclear material outside of the United States will not be inimical to the interest of the United States and is authorized, provided that it:

(1) Does not constitute directly or indirectly engaging in any such activity in any of the following countries or areas:

Afghanistan
Albania
Algeria
Andorra
Angola
Antigua and Barbuda
Argentina

Bahrain
Belize
Bhutan
Brazil
Bulgaria

Burma
Chile
Comoros
Cuba

Czechoslovakia
Democratic People's Republic of Korea
Djibouti
Dominica
Estonia
Equatorial Guinea
German Democratic Republic (and Berlin, eastern sector)
Guyana
Hungary
India
Iran
Iraq
Israel
Kampuchea
Kiribati
Kuwait
Laos
Latvia
Libya
Lithuania
Malawi
Mauritania
Mongolian People's Republic
Mozambique
Niger
Oman
Pakistan
People's Republic of China
Poland
Qatar
Romania
Saint Vincent and the Grenadines
Sao Tome and Principe
Saudia Arabia
Seychelles
Solomon Islands
South Africa
Soviet Union
Syria

Tanzania
United Arab Emirates
Vanuatu
Vietnam
Yemen Arab Republic
Zambia and Zimbabwe

(2) Does not constitute directly or indirectly engaging in any of the following activities outside of the United States:

(i) Designing or assisting in the design of facilities for the chemical processing of irradiated special nuclear material, facilities for the production of heavy water, facilities for the separation of isotopes of any source or special nuclear material, facilities especially designed for the fabrication of nuclear fuel containing plutonium, or equipment or components especially designed, modified, or adapted for use in any of the foregoing; or

(ii) Constructing, fabricating, operating, or maintaining such facilities; or

(iii) Constructing or fabricating equipment or components especially designed, modified, or adapted for use in such facilities; or

(iv) Training foreign persons in the design, construction, fabrication, or operation or maintenance of such facilities or equipment or components especially designed, modified, or adapted for use in such facilities; or

(v) Furnishing information not available to the public in published form[1] for use in the design, construction, fabrication, operation or maintenance of such facilities or equipment or components especially designed, modified, or adapted for use is such facilities; and

(3) Does not involve the communication of Restricted Data or other classified information; and

(4) Is not in violation of other provisions of law.

(b) In accordance with Section 57.b.(2) of the Act, the Secretary has determined with the concurrence of the Department

[1] For purposes of this section, "information which is available to the public in published form" shall include, but not be limited to any information contained in an application filed in accordance with the regulations of the U.S. Patent Office and eligible for foreign filing under 35 U.S.C. 184. In addition, information which has been made available from the department pursuant to 5 U.S.C. 552 (the Freedom of Information Act) shall, for purposes of this section, be deemed to be information available to the public in published form.

of State and after having consulted with the Departments of Commerce and Defense, the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, that any activity not generally authorized pursuant to paragraph (a) of this section, which constitutes directly or indirectly engaging in the production of any special nuclear material outside of the United States, will not be inimical to the interest of the United States, and is authorized by the Secretary, provided that it:

(1) Does not involve the communication of Restricted Data or other classified information; and

(2) Is not in violation of other provisions of law; and either

(3) Is limited to participation in (i) meetings of or conferences sponsored by educational institutions, laboratories, scientific or technical organizations; (ii) international conferences held under the auspices of a nation or group of nations; (iii) exchange programs approved by the Department of State; or (iv) implements the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America; and

(4) Is limited to the furnishing of information which is available to the public in published form; [1] or

(5) Is limited to the furnishing of information and assistance at an operating nuclear power plant outside the United States, related to the prevention or correction of an imminent radiological emergency posing a danger to the public health and safety. This authorization does not extend to the furnishing of components or equipment under the licensing jurisdiction of other agencies. Any person intending to export information or provide assistance under this subparagraph should notify the Department before taking such action. This does not negate the reporting requirement in § 810.10(b)(4).

§ 810.8 Grant and revocation of specific authorization.

(a) Any person who proposes to directly or indirectly engage in the production of special nuclear material outside of the United States may apply, unless such proposed activity is specifically authorized pursuant to an agreement for cooperation or is authorized by § 810.7, for a specific authorization to the Department of Energy, Washington, D.C. 20585, Attention: Office of International Security Affairs, DP–332.

(b) In accordance with Section 57.b.(2). of the Act, the Secretary, with the concurrence of the Department of State and after having consulted with the Departments of Commerce and Defense, the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, will approve an application for a specific authorization to directly or indirectly engage in the production of special nuclear material outside of the United States by conducting any of the activities enumerated in § 810.7(a) if, after taking into account the following factors, he determines that such activity will not be inimical to the interest of the United States:

(1) Whether the United States has an agreement for cooperation with the nation or group of nations in which the proposed activity will be conducted.

(2) Whether the country in which the proposed activity will be conducted is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) or is a full party to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) and, pursuant to either or both of these treaties, has entered into an agreement with the International Atomic Energy Agency (IAEA) for the application of safeguards to all its peaceful nuclear activities;

(3) Whether the country in which the proposed activity will be conducted, if not a party to the NPT or Treaty of Tlatelolco, accepts IAEA safeguards on all its peaceful nuclear activities;

(4) Whether the country in which the proposed activity will be conducted, if not a party to the NPT or Treaty of Tlatelolco, will accept IAEA safeguards with respect to the project;

(5) The relative significance of the proposed activity and availability of comparable assistance from other sources; and

(6) Any other factor which may bear upon the political, economic, or security interests of the United States including U.S. obligations under international agreements or treaties.

(c) In addition to consideration of the above factors, if the proposed activity involves the export of "sensitive nuclear technology" as defined in § 810.3(q), other requirements of law (Section 127 and Section 128 of the Act) and the requirements of any international commitments to which the U.S. subscribes must be met.

(d) An authorization pursuant to § 810.8 may be revoked, suspended, or modified, in whole or in part:

(1) For any materially false statement in the application for an authorization, or in any additional information submitted pursuant to § 810.11; or

(2) If the Secretary finds that the conduct of any or all of the authorized activities would be inimical to the interest of the United States or would otherwise not meet the criteria specified by law for approval of such export; or

(3) Pursuant to Section 129 of the Act with regard to the transfer of sensitive nuclear technology.

(e) Except for any action taken by DOE pursuant to § 810.8(d), this revision made on February 4, 1983, shall not affect (1) the validity or terms of any specific authorization granted under the regulations previously in effect, or (2) generally authorized activities in the identified countries for which contracts, orders or licensing arrangements were in place prior to September 17, 1982.

§ 810.9 Contents of application.

(a) Each application shall contain the following information:

(1) The full name and address and citizenship of the applicant. If the applicant is a corporation or other entity, it shall indicate the State where it was incorporated or organized, the location of the principal office, and shall furnish information known to the applicant concerning the control of ownership, if any, exercised over the applicant by any alien, foreign corporation or foreign government. Each application shall contain complete and accurate disclosure with respect to the real party or parties in interest.

(2) A complete description of the activity for which authorization is requested, including the geographical location, the name and address of the person or organization for which such activity is to be performed, and a detailed description of the specific project to which the activity relates.

(b) If the application contains classified information, it shall be prepared in such manner that all classified information is separated from the unclassified information.

(c) Information contained in applications, statements or reports otherwise filed by the applicant with the Department may be incorporated by reference, provided that each such reference is clear and specific.

§ 810.10 Reports.

(a) Except as provided in paragraph (c) of this section, any person who engaged in an activity specified in paragraph (b) of this section shall within 30 days from the commencement of such activity report to the U.S. Department of Energy, Washington, D.C. 20585, Attention: Office of International Security Affairs, DP–332.1. Each such report shall contain the following information:

(1) The name, address and citizenship of person submitting the report;

(2) The name, address and citizenship of person or persons for whom the activity is performed; and

(3) A description of the activity, including its location.

(b) Activities to be reported:

(1) Directly or indirectly assisting in the design, construction, fabrication or operation, outside the United States, of:

(i) A nuclear reactor; or

(ii) A facility for the fabrication of uranium fuel;

(iii) A facility for the production of zirconium (hafnium-free or low-hafnium), reactor-grade graphite, or reactor-grade beryllium, or

(2) Directly or indirectly assisting in the design or fabrication outside the United States, of any component part especially designed or fabricated for a nuclear reactor or other facilities specified in paragraph (b)(1) of this section; or

(3) The furnishing of designs, drawings, or other technical data for use outside the United States in the construction or operation of a facility specified in paragraph (b)(1) of this section or in the fabrication of a component part specified in paragraph (b)(2) of this section; or

(4) The furnishing of information and assistance at an operating nuclear power plant outside the United States, related to the prevention or correction of an imminent radiological emergency posing a danger to the public health and safety.

(5) The transmittal outside the United States of conceptual design or performance characteristics of nuclear reactors or facilities specified in paragraph (b)(1) of this section.

(6) The separation outside of the United States of isotopes of uranium or plutonium;

(7) The production, outside of the United States of heavy water, zirconium (hafnium-free or low-hafnium), reactor-grade graphite, reactor-grade beryllium; or

(8) The chemical, physical or metallurgical processing or fabricating or alloying, outside the United States, of special nuclear material.

(c) The reporting requirements of this section shall not apply to:

(1) Any activity consisting only of (i) the communication of information generally available to the public in published form; or (ii) financial assistance; (iii) the furnishing of component parts which are not especially designed and which are not intended for use in a reactor, facility or component part specified in paragraph (b) (1) or (2) of § 810.10; or (iv) the comparative evaluation of types of reactors or facilities, but not including performance characteristics; or (v) the export of a nuclear reactor and the information associated with siting, construction, operation and maintenance of that reactor, and the export of nuclear equipment or material for which an export license has been granted by the Nuclear Regulatory Commission; or (vi) any combination of the foregoing.

(2) Any person to the extent that such person engages in an activity authorized by § 810.7 as the employee of a person required to submit a report pursuant to paragraph (a) of this section.

(3) Any activity specifically authorized by the Secretary.

§ 810.11 Additional information.

The Department may at any time require any person who engages in activities authorized pursuant to § 810.8 or specified in § 810.10 to submit additional information with respect to such activity. The public may request an opinion from the Department on whether particular export circumstances or exchanges of information are generally authorized under § 810.7, require a specific authorization under § 810.8, or are a reportable activity under § 810.10.

§ 810.12 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the act or any regulation or order issued thereunder. Any person who willfully violates any provision of the act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

§ 810.13 Effective date.

These regulations are effective February 4, 1983.

[FR Doc. 83-3014 Filed 2-3-83; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 106, 9031, 9032, 9033, 9034, 9035, 9036, 9037, 9038 and 9039

[Notice 1983-3]

Presidential Primary Matching Fund

AGENCY: Federal Election Commission.

ACTION: Transmittal of regulations to Congress.

SUMMARY: The Federal Election Commission is revising its regulations which implement the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 et seq, and have transmitted those regulations to Congress pursuant to 26 U.S.C. 9039(c). The revisions are based on the Commission's experience in administering the Act and on public comments received on the Notice of Proposed Rulemaking. The revisions would clarify the current submission and certification procedures to ensure that candidates submissions for matching funds are processed promptly and that matching funds are distributed properly. The revisions include expanded sections governing allocation of expenditures under the State expenditure limits and audits by the Commission. They also provide a more detailed statement of the requirements for making submissions for matching payments and include a new means for making such submissions by letter request. Further information on the intended effect of the revised regulations is contained in the supplemental information below.

EFFECTIVE DATE: Further action, including the announcement of an effective date, will be taken by the Commission after these regulations have been before the Congress 30 legislative days in accordance with 26 U.S.C. 9039(c).

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street NW. Washington, D.C. 20463, (202) 523-4143 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The revisions are based on the Commission's experience in administering the Act and on public comments received in response to the Commission's Notice of Proposed Rulemaking (47 FR 35892; August 17, 1982). A public hearing was held on the proposed rules on December 7, 1982, (47 FR 53030; November 24, 1982).

26 U.S.C. 9039(c) requires that any rule or regulation prescribed by the Commission to implement Chapter 96 of Title 26, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. If neither House of Congress disapproves of the regulations within 30 legislative days of their transmittal, the Commission may finally prescribe the regulations in question. The following regulations were transmitted to Congress on January 24, 1983.

Explanation and Justification of the Presidential Primary Matching Funds Regulations, Parts 106 and 9031 Through 9039

Part 106—Allocation of Candidate and Committee Activities

Section 106.2 State Allocation of Expenditures Incurred by Authorized Committees of Presidential Primary Candidates Receiving Matching Funds.

This section, as in the current regulations, implements 2 U.S.C. 441a(b)(1)(A) and 441a(g).

Subsection (a)(1) has been redrafted to explain the scope of the application of this section. It also sets forth the general rule that an expenditure is not necessarily allocated to the State in which it is incurred or paid. For instance, an expenditure incurred or paid in State A would be allocated to State B if the purpose of the expenditure is to influence the candidate's campaign in State B. Where an expenditure is made for the purpose of influencing the nomination of a candidate in more than one State, the methods for allocating expenditures described in subsection (b) will govern allocation under this section.

Subsection (a)(2) provides that disbursements made while an individual is "testing the waters" for the purpose of determining whether to become a candidate must be allocated in accordance with this section if the individual later becomes a candidate. Therefore, individuals "testing the waters" should keep records of all disbursements made during that period to enable proper allocation in the event they become candidates.

Subsection (b)(1) sets forth the general requirement that allocations between two or more States be made on a reasonable and uniformly applied basis. For an allocation to be considered "uniformly applied", it should be based on consistent data as required under subsection (b)(2).

Subsection (b)(2) generally follows current section 106.2(b) and (c)(1) but contains more specificity regarding the actual methods to be used when allocating expenditures between two or more States. It requires that a candidate select one source of data to be used for each category of expenditures in that State. Thus, for example, once a method is used to allocate an advertisement on television in a State, the same method must be used for all allocations of television expenditures within that State unless in some portion of that State, such method is not available, in which event, a reasonable alternative method may be used.

Subsection (b)(2)(i) contains specific methods for allocating media expenditures. Under subsection (b)(2)(i)(A), expenditures for print media, such as newspaper or magazines, must be allocated based on the relative circulation percentages of that publication in each State. The amount allocated must include any commission charged. For the purpose of this section "commission" includes any amounts paid to an individual for services provided in obtaining advertising space in a publication. Allocation need not be made under this subsection to any State in which the circulation is less than 3% of the total estimated readership of that publication.

Subsection (b)(2)(i)(B) covers the allocation method for broadcast media. As in subsection (b)(2)(i)(A), the amount allocated must include any commission paid for buying media time. The industry market data that may be used to determine the allocations under this section include ADI, CCR, Grade B Contour and similar data sources. However, once a method has been selected, it must be used for all allocations of expenditures in that media category in a particular State. Examples of media categories include television broadcast, radio, and cable.

Subsection (b)(2)(i)(C) allows refunds received for media time or space not used to be credited on the same basis as the original allocation. Subsection (b)(2)(i)(D) prohibits allocation to any State in which the primary election has been held. This prohibition is based on the Act's requirement at 2 U.S.C. 441a(g) that allocation be made to each State in which the voting age population "can reasonably be expected to be influenced by such expenditure".

Subsection (b)(2)(ii) governs the allocation of salaries. If an individual is working in a State for four days or less, he or she will be presumed to be working on national campaign strategy and not influencing the primary in that particular State. Despite comments received that suggested exempting advance staff from any allocation requirement, such personnel are included in the class of persons whose salaries must be allocated if they remain in a State for five days or more. As the category of persons who could be considered "advance staff" is a difficult one to define, it was thought better to include them as persons working in a State; however, the Commission has recognized that most advance staff do not remain in a State for five days or more. For purposes of determining the length of time an individual remains in a State, the Commission will generally look to the calendar days or any portion thereof that that person was in a State rather than using 24-hour periods. If an individual works in a State for five consecutive days or more, that individual's salary must be allocated to that State from the date of his or her arrival. While this section sets forth the basic rule for allocating salaries, a candidate may demonstrate that a particular individual or group of individuals is in a State for five days or more to work on national campaign strategy. Although the Commission expects such exemptions to be the exception rather than the rule, the Commission does recognize that national campaign strategy meetings, for example, may be held in a centrally located State for an extended period of time.

Subsection (b)(2)(iii) follows current § 106.2(c)(2) but limits this requirement to individuals remaining in a State for five days or more. This rule also applies to intra-state travel and subsistence expenses for the candidate, his or her family and the candidate's representatives if they remain in a State for five days or more.

Subsection (b)(2)(iv) describes the overhead expenditures of State and regional offices that must be allocated.

Subsection (b)(2)(v) sets forth a new method for allocating telephone charges other than base service charges. All calls made within a particular State must be allocated to that State. Calls made between two States, whether or not using toll-free service, are exempted from allocation. Calls charged to a credit card should be allocated on the same basis as calls charged to a phone number.

Subsection (b)(2)(vi) governs allocation of public opinion polls. Polls taken in two or more States must be allocated based on the number of people interviewed in each State unless the poll is a nationwide poll. Thus, candidates must keep records of the number of persons interviewed in each poll covering two or more States to support the allocations made as required by subsection (e).

Subsection (c) sets forth the categories of expenditures that are exempted from the allocation requirements. Subsection (c)(1)(i) exempts national campaign expenditures from allocation.

Under subsection (c)(1)(ii), the regulations exempt "national advertising". This exemption, however, is limited to advertising that is distributed on a nationwide basis and does not include ads that appear only in a regional edition of a national publication.

Under subsection (c)(2), the costs of producing media advertising are exempted from allocation as it is often difficult to determine, for example, what footage was used in commercials aired in particular States.

Subsection (c)(3) exempts the costs of transporting media personnel as such costs are not related to influencing the voters of any particular State. Subsection (c)(4) generally follows current § 106.2(c)(2) with respect to interstate travel. Travel across State lines that is occasioned by transportation or lodging facilities will not be deemed exempt interstate travel. For example, a candidate or persons campaigning on a candidate's behalf in a particular State may have lodging accommodations in a contiguous State. In such cases, travel across State lines to campaign in the contiguous State would not be considered exempt interstate travel. A similar situation involves transportation. If a candidate makes a campaign trip to a particular State, but for example, arrives at an airport in a neighboring State, travel from the airport to the State in which the campaign is being conducted would not be considered interstate travel.

Under subsection (c)(5), a candidate may claim a standard exemption of 10% of salaries and overhead in each State for compliance costs. An additional 10% of such costs may be claimed as exempt fundraising expenses, subject to the 28 day limit of 11 CFR 110.8(c)(2). If the candidate wishes to exempt more than 10% of expenditures under either category, he or she must then document the entire amount spent on compliance and/or fundraising for all individuals in that State to justify claiming the larger exemption.

Subsection (d) generally follows current § 106.2(a).

Subsection (e) requires that candidates retain detailed records to support the calculations made under this section.

Section 106.3 Allocation of Expenses Between Campaign and Noncampaign related Travel.

A technical amendment has been made in subsection (a) to make clear that this section does not apply to Presidential primary candidates receiving matching funds. No other changes have been made in this section.

Part 9031—Scope

§ 9031.1 Scope.

Section 9031.1 has been revised to conform to 11 CFR 9001.1.

Part 9032—Definitions

Section 9032.1 Authorized Committee.

Subsection (a) has been revised to conform to 11 CFR 9002.1. Subsection (b) generally follows current § 9032.1(a). Subsection (c) has been added to make clear that responsibilities of the candidate are also those of his or her authorized committee(s).

Subsection (d) generally follows current § 9032.1(b). Subsection (e) has been added to cross-reference the Commission's regulations governing delegate committees.

Section 9032.2 Candidate.

This section generally follows current § 9032.2 but clarifies in subsection (d) that the time for disavowal begins to run after receipt of notification from the Commission.

Section 9032.3 Commission.

This section generally follows current § 9032.3.

Section 9032.4 Contribution.

This section generally follows current § 9032.4.

Section 9032.5 Matching Payment Account.

This section generally follows current § 9032.5.

Section 9032.6 Matching Payment Period.

This section generally follows current § 9032.6 but has been clarified to state that the period will not exceed the applicable date as determined under subsection (a) or (b).

Section 9032.7 Primary Election.

Section 9032.7 has been revised to clarify that the definition of "primary election" under this subchapter includes elections held by a State as well as by a political party. This section now also provides, in subsection (b), that if both the party and the State sponsor primary elections, the primary election will be the election held by the political party.

Section 9032.8 Political Committee.

This section generally follows current § 9032.8.

Section 9032.9 Qualified Campaign Expense.

Subsection (a) generally follows current § 9032.9(a) but includes the phrase "on behalf of" in subsection (a)(1) to clarify the intent of subsection (b). Subsection (b) generally follows current § 9032.9(b). Subsection (c) has been added to cross-reference the provisions of 11 CFR 9034.4.

Section 9032.10 Secretary

This new section has been added to permit use of the word "Secretary" to mean Secretary of the Treasury in this subchapter.

Section 9032.11 State.

This section generally follows current § 9032.10.

Part 9033—Eligibility for Payments

Section 9033.1 Candidate and Committee Agreements

Subsection (a)(1) generally follows current § 9033.1 (a) and (b). Subsection (a)(2) has been added to make clear that the candidate must submit a candidate agreement that meets the stated requirements before the Commission will review the candidate's threshold submission to determine eligibility.

Under subsection (b), references to the candidate's authorized committee(s) have been included to make clear that such committees are also subject to the requirements of this section. In subsection (b)(2), the specific documentation requirements have been moved to a new § 9033.11 and this subsection now contains an agreement by the candidate to comply with § 9033.11. Subsections (b) (4) and (5) require the candidate to maintain and furnish to the Commission all documentation relating to matching fund submissions, disbursements and receipts. Subsection (b)(6) clarifies that audits conducted under 11 CFR Part 9038 will cover both receipts and disbursements, and may include a review of disbursements by persons or entities authorized by the candidate to make expenditures on the candidate's behalf. Subsection (b) (1), (3), and (7) through (10) generally follow current § 9033.1(a) and (b).

Current subsection (c) has been deleted in these regulations as that provision is covered under 11 CFR 9033.9.

Section 9033.2 Candidate and Committee Certifications; Threshold Submission.

Subsection (a)(1) generally follows current § 9033.2. Subsection (a)(2) is a parallel provision to 11 CFR 9033.1(a)(2).

Subsection (b)(3) follows current § 9033.2(c)(1) but has been reworded for clarity. Subsection (b)(3)(iv) has been added to state that in the case of contributions from an individual who is a resident of more than one State, the candidate may count contributions from that individual towards the $5000 threshold in only one State. This State

will be the one from which the individual's earliest contribution was made.

The format requirements for threshold submissions have been moved from current § 9033.2(c) to 11 CFR 9036.1. Subsection (c) in these regulations explains that candidates must submit proof of the contributions required to establish eligibility and cross-references 11 CFR 9036.1 for the format in which submissions must be made.

Section 9033.3 Expenditure Limitation Certification.

This section generally follows current § 9033.3 but contains cross-references to new § 9033.10 for the procedures to be followed when the Commission makes a determination under this section. The requirement that a violation of this section be done "willfully" has been deleted.

Section 9033.4 Matching Payment Eligibility Threshold Requirements.

The time for reviewing a threshold submission during a Presidential election year has been extended from 5 working days to 15 business days during a Presidential election year.

Subsection (a) and (b) generally follow current § 9033.4 but cross-reference new § 9033.10 for the procedures to be followed when determinations are made under this section.

Section 9033.5 Determination of Ineligibility Date.

The introductory language of this section has been reworded for clarity. Subsection (a) generally follows current § 9033.5(a). Under subsection (b), a candidate who "permitted or authorized his or her name to appear on the ballot" includes a candidate who participates or receives votes in a caucus that is a primary election. Subsections (b) (1) and (2) generally follow current § 9033.5(b) (1) and (2). Subsection (b)(2) has been expanded, however, to address the situation in which there are two or more primaries held in the same State on different dates. If one of these primaries is held by the State and the other by the party, the primary held by the party will be the primary election as provided under 11 CFR 9032.7(b).

Subsection (c) generally follows current § 9033.5(c).10. Subsection (d) has been added to cross-reference the provisions on re-establishment of eligibility under 11 CFR 9033.8.

Section 9033.6 Determination of Inactive Candidacy.

Subsection (a) generally follows current § 9033.6 (a) and (f). In subsection (b), two additional factors that may be considered by the Commission have been included at subsections (b) (5) and (6). Subsection (c) and (d) now cross-reference the procedures for making determination under 11 CFR 9033.10.

Section 9033.7 Determination of Active Candidacy.

This section generally follows current § 9033.7 but cross-references in subsections (b) and (c) the procedures for making determinations under 11 CFR 9033.10.

Section 9033.8 Reestablishment of Eligibility.

Subsection (a) and (b) generally follows current § 9033.8 (a) and (b). Subsection (c) has been added to clarify that candidates who have re-established eligibility need not submit new candidate agreements and certifications, and that contributions received during the period of ineligibility are matchable once the candidate re-establishes eligibility regardless of whether the candidate has any net outstanding campaign obligations.

Section 9033.9 Failure to Comply With Disclosure Requirements or Expenditure Limitations

This section has been re-titled to conform to other sections in these regulations dealing with ineligibility. As in § 9033.3, the standard that violations be done "willfully" under this section before payments will be suspended has been deleted. Subsections (b) and (c) generally follow current § 9033.9 (b), (c) and (d) but contain cross-references to 11 CFR 9033.10 for the procedures to be followed in making determinations. Subsection (d) generally follows current § 9033.9(e).

Section 9033.10 Procedures for Initial and Final Determinations

This new section contains the written hearing procedures for determinations regarding a candidate's eligibility to receive matching funds under 11 CFR Part 9033. These procedures have been taken from the various substantive provisions in current Part 9033 and consolidated in this section. The time limits on responses filed by candidates have been retained in each substantive section, however, as these time limits vary. This section also specifies, in subsection (d), that an eligibility determination made pursuant to this section may be independent of any Commission decision to insititute an enforcement proceeding under 2 U.S.C. 437g. In addition, the Commission may rely upon the legal and factual basis on which an initial determination was made in the future repayment determination if the Commission took no final action to suspend payments at the time of the initial determination.

Section 9033.11 Documentation of Disbursements.

This new section generally follows current § 9033.1(a)(1). Subsection (a) reiterates the general rule, also found in 11 CFR 9033.1, that the candidate has the burden of proving that disbursements are qualified campaign expenses. In subsection (b)(1), the threshold for documentation of disbursements has been raised to $200 and is no longer an aggregate figure, in accordance with Pub. L. No. 96–187. References to "particulars" in subsection (b) have been changed to "purpose", also in accordance with Pub. L. No. 96–187.

Subsection (b)(3)(i) has been revised to clarify that an individual to whom $500 or less is advanced by the campaign for travel and/or subsistence and who is the recipient of the goods or services purchased will be considered a payee under this section. In that case, the candidate must retain documentation of the advance of $500 or less to that individual.

Subsection (c) has been added to provide a list of categories of documents that must be retained by the candidate and presented to the Commission on request.

Part 9034—Entitlements

Section 9034.1 Candidate Entitlements.

This section generally follows current § 9034.1 with two exceptions. First, the language of subsection (b) has been revised to make clear that contributions deposited on or before December 31 of the Presidential election year may be matched. Second, subsection (b) has been revised to state that, to receive matching funds after the date of ineligibility, candidates must have net outstanding campaign obligations as of the date of payment rather than the date of submission. Thus, if the candidate's financial position changed between the date of his or her submission for matching funds and the date of payment, reducing the candidate's net outstanding campaign obligations, that candidate's entitlement would be reduced accordingly.

Section 9034.2 Matchable Contributions.

Subsection (a) generally follows current § 9034.2(a) except that a new provision has been added in subsection (a)(4) stating that donations received by an individual who is "testing the

waters" may be matched when the individual becomes a candidate if the donations meet the requirements for matchability.

Subsection (b) has been revised to make clear that all written instruments submitted for matching must represent contributions of the contributor's personal funds.

In subsection (c), the language excepting contributions from joint accounts and money orders has been deleted. These contributions are now subject to the provisions of subsections (c) (1) and (4). In subsection (c)(1) regarding contributions drawn on joint accounts, a provision has been added to subsection (i) requiring that joint tenants indicate that amount to be attributed to each contributor if attribution is other than equal. Subsection (c)(1)(ii) has been added to address the situation in which the imprinting on the check does not reflect whether each contributor is a joint tenant of the account on which the check is drawn. Subsection (c)(2), concerning checks drawn on escrow or trust accounts, has been revised to state that the contributor must have equitable, rather than beneficial, ownership of the account. This change is intended as a more precise definition of the contributor's interest in the account. In addition, subsection (c)(2)(ii) has been expanded to add requirements that will allow accompanying written documentation to be more easily correlated with the corresponding check. Finally, the provision in the current regulations that requires a statement that the contribution does not violate the conditions of the trust or escrow agreement has been deleted. This deletion was made in response to comments received that stressed the difficulty committees would have in seeking to assure that such contributions were lawfully made.

With respect to contributions drawn on partnership or other unincorporated association accounts, subsection (c)(3) has been revised to require a statement that the account is not maintained or controlled by a corporate entity as well as information allowing the accompanying written documentation to be correlated with the corresponding check.

Subsection (c)(4), which governs contributions made by money order or cashier's check, has been substantially revised in these regulations. In the past the Commission has faced difficulties in processing and verifying the authenticity of contributions submitted for matching in the form of money orders or cashier's checks. Unlike other written instruments (e.g., personal checks), money orders generally do not require the signature of the individual whose funds such instrument represents. Where the money order that evidences the contribution does not clearly identify the contributor, the matchability of the contribution is placed in doubt. Moreover, the possibility of certifying for matching payments contributions which are not properly matchable increases due to the uncertainty that money order contributions represent the personal funds of listed contributions.

To preserve money orders and cashier's checks as contributions that may be matched, while ensuring that such contributions are properly matchable, subsection (c)(4) now requires that the signature of each contributor appear on the money order or cashier's check at the time it is initially submitted for matching and that the written instrument be accompanied by a signed statement evidencing that the contribution is made with the contributor's personal funds. If these requirements are not met, the money order or cashier's check may not be resubmitted for matching at a later date. Candidates should therefore obtain any additional documentation needed from the contributor before the contribution is submitted for matching purposes.

Subsection (c)(5), regarding contributions in the form of the purchase price paid to attend an entertainment activity, such as concert tickets, has also been significantly revised. These contributions are now matchable up to the full amount paid for such tickets. As a result, the submission requirements for these contributions have been substantially relaxed, although the promotional material and tickets must still reflect that the purchase price of a ticket is a contribution to the candidate.

Subsection (c)(6), regarding contributions in the form of the purchase price paid to attend a political event such as a political dinner, has been moved from current § 9034.3(i)(2).

Subsection (c)(7) has been added to provide that contributions received through joint fundraising may be matched.

Section 9034.3 Non-Matchable Contributions.

This section generally follows current § 9034.3. In subsection (h), the phrase "or otherwise induced by" has been added to make clear that this provision applies to any contribution involving a lottery or other drawing for prizes, whether or not a contribution is required for participation in the drawing. The provisions governing concert tickets and political dinners have been moved from this section to 11 CFR 9034.2.

Some of the comments received suggested that contributions made using credit cards be matchable. The Commission has rejected this suggestion because credit cards present problems for ensuring that the requirements of matchability are met. For example, credit card contributions could be made by phone and therefore lack the contributor's signature. Another problem is that of determining the source of funds contributed as many cards that appear to be personal accounts are paid for by incorporated businesses. A third difficulty is that credit card companies deduct varying amounts to pay for their services and thus candidates would be requesting more in matching funds than they had received in contributions.

Section 9034.4 Use of Contributions and Matching Payments.

This section generally follows current § 9034.4 but has been reorganized to separate qualified campaign expenses from non-qualified campaign expenses.

In subsection (a)(2), a provision has been added to make clear that disbursements made while "testing the waters" will count against the State and overall expenditure limits when the individual becomes a candidate.

In subsection (a)(3), the provisions limiting the winding down period to ten months and governing extensions of that time which were included in the Commission's Notice of Proposed Rulemaking, have been deleted from these regulations in response to the comments received opposing this proposal. The Commission has also deleted another provision contained in the Notice of Proposed Rulemaking in subsection (b)(3). That provision would have classified litigation costs incurred after the candidate's date of ineligibility as non-qualified campaign expenses. By deleting this provision, litigation costs that meet the requirements of subsection (a)(3) will be considered qualified campaign expenses.

The third provision deleted from this section was proposed in the Notice of Proposed Rulemaking as subsection (c). This provision would have allowed candidates to receive donations not subject to the contribution limitations for making repayments to the Treasury, but the Commission rejected this approach on final consideration of the regulations.

Section 9034.5 Net Outstanding Campaign Obligations.

Subsection (a) generally follows current § 9034.5 (a) and (b).

Subsection (b)(1) basically follows current § 9034.5(c) but gives examples of

property that would be considered capital assets. Also, the requirement that such property have a remaining useful life exceeding one year has been deleted.

Subsection (b)(2) has been added to cover property acquired by a campaign that does not fit the concept of "capital assets" but can be liquidated to pay outstanding debts of the campaign. Therefore, this property should be included in the candidate's statement of net outstanding campaign obligations to reflect these assets if the aggregate value of all property in this category exceeds $5,000. Items that should be considered "other assets" include artwork, gifts such as pen sets acquired for use in fundraising, and items acquired by the campaign to be used as collateral for loans.

Subsection (c) has been added to require candidates to include in their statement funds they are due to receive from joint fundraising activity, even though such funds have not yet been transferred to the candidate by the fundraising representative. The intent of this provision is to avoid overpayment of matching funds when the candidate is due to receive additional contributions received through joint fundraising.

Subsection (d) reflects the Commission's requirement that statements be updated with each matching fund submission to reflect the candidate's current financial situation.

Subsection (e) provides the circumstances under which the Commission may temporarily suspend all or a portion of further matching payments based upon a Commission determination that a candidate's outstanding campaign obligations do not exceed campaign assets either to the extent claimed by the candidate or perhaps at all.

Section 9034.6 Reimbursements for Transportation and Services Made Available to Media Personnel.

This new section generally follows the current general election public financing regulations at 11 CFR 9004.6. However, references to expenditures for travel and services provided to Secret Service personnel and other staff required by law have been deleted as other government regulations govern payment for those expenditures.

In subsection (a), the language has been revised to make clear that expenditures for travel and services provided to media personnel will be subject to the overall expenditure limitation under 2 U.S.C. 441a(b)(1)(A) although they do not need to be allocated among the various State limits.

Under subsection (b), the reimbursements received from each person may not exceed the total cost of providing services to that person by more than 10%. The 10% figure will be based on the total cost of providing services to each person over the course of the campaign rather than on a per-trip basis. Candidates may include the cost of "down-time" for leased aircraft in the amount requested for reimbursement as this is a cost of providing transportation to the media. The reimbursements may be deducted from the amount applied to the overall expenditure limit but only to the extent that the reimbursements do not exceed the actual cost to the campaign.

Section 9034.7 Allocation of Travel Expenditures.

This new section generally follows the current general election public financing regulations at 11 CFR 9004.7 with one significant change. Subsection (b)(5) has been revised to require that candidates using government conveyance, such as government aircraft, pay the equivalent of first class commercial air fare or commercial charter fare rather than the actual cost of such government transportation. Candidates must also pay the cost of other government conveyances or accommodations used, such as government-owned cars or buses.

Section 9034.8 Joint Fundraising.

This section has been added in response to the number of questions that arose during the 1980 election cycle concerning joint fundraising by candidates receiving matching funds. The requirements of this section generally follow the procedures established in the Commission's advisory opinions and in the course of the Commission's consideration of joint fundraising events during the 1980 election cycle.

Subsection (a)(1) describes the persons or entities with whom a Presidential primary candidate may engage in joint fundraising. Subsection (a)(2) outlines the various permissible uses for funds received as a result of joint fundraising.

Subsection (b) essentially follows the Commission's advisory opinions by requiring that the participants either establish a separate political committee or select a participating political committee to act as the fundraising representative. The fundraising representative then is responsible for collecting contributions, paying the costs of the fundraising effort and disbursing net proceeds to each participant. While the participant may engage a commercial fundraising firm to assist in conducting the activity, they must still select a fundraising representative.

Subsection (c) sets out the procedures to be followed for conducting joint fundraising activities. Under subsection (c)(1), the participants must enter into a written agreement. A copy of this agreement must be submitted by Presidential primary candidates when they submit the contributions received for matching.

Subsection (c)(2) limits the amount that can be advanced by each participant as start-up costs. Under subsection (c)(3), each solicitation for contributions to a joint fundraiser must contain a fundraising notice informing contributors of specified details of the fundraising activity.

Subsection (c)(4) requires that the participants establish a separate account for the receipt and disbursement of joint fundraising proceeds. Only funds permissible under the Act may be deposited into this account. If one of the participants can accept funds prohibited under the Act, the participants may either set up a second account to collect those funds or transfer them directly to those participants that can accept prohibited funds. In either case, the prohibited funds need not be included in the allocation formula for payment of expenses or distribution of proceeds.

Subsection (c)(4)(iii) makes clear that, although distribution of proceeds may be delayed until all expenses are paid, the participants will be deemed to have received the contributions as of the date they are received by the fundraising representative.

Subsection (c)(5) describes the recordkeeping responsibilities of the fundraising representative and participating committees. The fundraising representative should request the contributor records of each participant for those contributing to the fundraising activity to aid in screening and distributing contributions.

Subsection (c)(6) permits contributors to donate to a joint fundraiser an amount up to that which the contributor could give, in the aggregate, to all the participants subject to the applicable contribution limits. Therefore, if five Presidential primary candidates participated in a joint fundraiser, and agreed to share proceeds equally, an individual could contribute up to $5,000, minus any amount that individual had previously contributed to any of the participants.

Subsection (c)(7) governs the manner in which the fundraising representative must allocate gross proceeds among the

participants. Subsection (c)(7)(i) prohibits any allocation method used to maximize the matchability of the contributions received. That is, the allocation method cannot be based on whether any of the participating Presidential primary candidates have received the maximum amount of matchable contributions from an individual. Thus, candidates may not "trade" contributions from individuals who have already contributed the maximum amount that could be matched.

For a candidate seeking to extinguish outstanding debts, subsection (c)(7)(ii) prohibits reallocation of the receipts of a joint fundraiser once that candidate has received sufficient matchable contributions to pay off his or her debts after those contributions have been matched. Rather, candidates must continue to receive their share of joint fundraising contributions until those contributions alone are sufficient to pay the candidate's debts. For example, assume that Candidate A has outstanding debts of $100,000, Candidate B has outstanding debts of $200,000 and that these two candidates have agreed to share proceeds of a joint fundraiser on a 50–50 basis. If the joint fundraiser nets $200,000, Candidate A may not reallocate his share to Candidate B after receiving only $50,000 in reliance on receiving another $50,000 in matching funds to extinguish his debts. Instead, Candidate A must take his full share of $100,000 and pay his debts with the contributions raised.

Subsection (c)(8) governs allocation of expenses and distribution of net proceeds. Under subsections (c)(8) (i) and (ii), "committees of the same political party" refers only to party committees and not to candidates running on the same party ticket.

Subsection (c)(9) explains when and how receipts and disbursements must be reported by the fundraising representative and participating political committees.

Section 9034.9 Sale of Assets Acquired for Fundraising Purposes.

Section 9034.9 has been added to the regulations to set forth rules regarding the sale of "Other Assets" as defined in § 9034.5(b)(2) of these regulations. Subsection (a) follows Advisory Opinion 1980–34 in setting forth the general rule that a candidate may sell assets donated to a campaign or otherwise acquired for fundraising purpose (e.g. artwork) provided that the sale does not violate the limitations and prohibitions of Title 2, United States Code, and the regulations prescribed thereunder (11 CFR Parts 110 and 114). Subsection (b) provides the exception to the general rule. The exception permits a candidate who is in a debt situation at the end of the matching payment period to dispose of such assets in an arms-length transaction, without regard to the limitations and prohibitions of Title 2, United States Code and 11 CFR Parts 110 and 114, if the candidate is still in a debt position at the time of the transaction. Accordingly, under this specific factual situation a candidate may dispose of assets acquired for fundraising purposes in a sale to a wholesaler or other intermediary who will in turn sell such assets to the public. Any such wholesaler or other intermediary may then sell the items to the public without regard to the limitations and prohibitions of the Act.

If the candidate has more than one category of items to dispose of, such as cars and artwork, he or she may have to sell each category of assets to a different wholesaler or wholesalers depending upon the circumstances. The Commission expects, however, that candidates will limit the number of these liquidation transactions to the fewest possible.

Part 9035—Expenditure Limitations

Section 9035.1 Campaign Expenditure Limitation.

Subsection (a) generally follows current § 9035.1 (a). Subsection (b) has been added to cross-reference the allocation requirements of 11 CFR 106.2.

Under subsection (c), candidates may exempt 10% of all salaries and overhead expenditures from the overall expenditure limitation as exempt compliance costs. Candidates may also exempt 10% of such costs as exempt fundraising expenditures. The procedures for claiming a larger exemption under this section are the same as those under 11 CFR 106.2(c)(5).

Subsection (d) generally follows current § 9035.1(b).

Section 9035.2 Limitation on Expenditures from Personal or Family Funds.

This section follows current § 9035.2.

Part 9036—Review of Submission and Certification of Payments by Commission

Section 9036.1 Threshold Submission.

Subsection (a) generally follows current § 9033.2(e) but explains that the threshold submission may be presented either with or after the candidate agreement and certifications are submitted.

Subsection (b)(1) essentially follows current § 9033.2(c)(2)(i) but has been reorganized for clarity. In addition, the requirement in current § 9033.2(c)(2)(i) that the candidate indicate which contributions were received as a result of entertainment activity has been changed to require a notation only for contributions received as a result of joint fundraising activities.

Subsection (b)(2) generally follows current § 9033.2 (c)(2)(ii) but requires that the photocopies submitted be full-size. This new requirement was added because the Commission has had difficulty in the past with photocopies that were reduced in size and therefore difficult or impossible to read. The option of requiring that photocopies be "legible" rather than "full-size" was rejected as the former term could be subject to many varying interpretations.

In addition, some commenters suggested that the Commission permit use of microfilm in place of photocopies. This was also rejected as an option for several reasons. First, microfilm does not always reproduce as well as photocopying particularly in the case of checks on colored paper. Therefore, microfilm impedes the Commission's ability to review candidate submissions. Second, there is greater risk to candidates who use microfilm. If the film is damage or improperly developed, it is generally too late to make new films of the checks received as they will have been deposited. In that case, the candidate cannot receive matching funds for any of the contributions involved.

Subsections (b) (3) and (4) have been added to reflect established Commission requirements.

Subsections (b)(5) generally follows current § 9036.1(b). Subsection (b)(6) generally follows current § 9033.2(c)(3).

Subsection (c)(1) essentially follows current § 9036.1(a). Subsections (c) (2) and (3) generally follow current § 9036.1(c) but explain the difference in procedure between the Presidential election year and the year preceding it.

Section 9036.2 Additional Submissions for Matching Fund Payments.

Subsection (a) generally follows current § 9036.2(b).

Subsection (b) generally follows current § 9036.2 (a) and (b). Subsection (b)(1) contains several new provisions. First, a requirement that the first submission contain all the contributions and supporting documentation from the threshold submission, in addition to the contributions presented in that submission, has been included in this subsection. Second, all documentation for each submission presented after the

threshold submission must be presented in straight alphabetical order and not segregated by State as in the threshold submission. Formerly, candidates could choose either method of presentation in additional submissions but the second method created too many problems for committees. Finally, an alternative method of submitting the supporting documentation of written instruments that accompanies contributions submitted for matching has been included in subsection (b)(1)(v). This subsection provides that a candidate may batch contributions in deposits of 50 contributions or less and cross-reference the contributions by deposit number and sequence number on the contributor list. Under this method, committees would not have to alphabetize the checks supporting a submission for matching funds but would still have to alphabetize the contributor list.

Under subsection (b)(2), candidates may request additional matching funds, on dates prescribed by the Commission, by making a letter request in lieu of a full submission as required under 11 CFR 9036.2(b)(1). These letter requests must state an amount of matchable contributions which were not previously submitted for matching and be accompanied by bank documentation, such as bank-validated deposit slips or unvalidated deposit slips and the relevant bank statement, to demonstrate that the committee has received the contributions submitted. The amount requested for matching in a letter request may include contributions received up to the last business day preceding the date of the letter request. Subsection (b)(2) also specifies that the next submission following a letter request must contain documentation for the contributions included in the letter request as well as the contributions submitted for matching in that submission. A committee may not submit two consecutive letter requests, but the committee may choose to make a full submission on a date designated as a letter request date.

Subsection (c)(1)(i) explains that, during a candidate's period of eligibility, the Commission will certify an amount based on its holdback procedure within 5 business days after receiving a regular submission. If a candidate makes a letter request, the Commission will certify an amount based upon the ratio of verified matchable contributions to total deposits for that candidate in the candidate's last regular submission. The Commission will then certify any additional amount to which the eligible candidate is entitled within 15 business days after receipt of the candidate's submission.

Consideration was also given to incorporating rejection criteria into the regulations. As initially proposed, these criteria would have operated to reject from further Commission review a submission in which the pilot sample was determined to contain an error rate in excess of 15%. The Commission was reluctant to include these criteria in the regulations and, therefore, no provisions to this effect have been drafted. However, in recognition of the increased time which is required for Commission review of a matching fund submission which has a high error rate, subsection (c)(1)(ii) permits 25 business days, rather than 15 business days, for review of such submissions.

Subsection (c)(2) provides that the Commission's certification process under the holdback procedure will no longer apply after the candidate's date of ineligibility. Rather, the Commission will conduct its review of the submission before certifying any funds.

Subsection (d) explains that submissions made in the year before the Presidential election year must contain a minimum of $50,000 in contributions. No certifications of matching funds will be made based on such submissions until after January 1 of the Presidential election year, in accordance with 26 U.S.C. 9037(b).

Section 9036.3 Submission Errors and Insufficient Documentation.

This section generally follows current § 9036.3 with some changes. First, this section now states that money orders and cashier's checks cannot be resubmitted as provided under 11 CFR 9034.2. Second, subsection (b) no longer provides that misspelling will be a basis for rejection. However, to the extent that misspelling triggers other errors in the submission, such as aggregation errors, other error categories may apply. Subsections (b) (3) and (4) have been added to follow established Commission practice.

A fourth change, in subsection (c)(2), represents a change in Commission policy. Formerly, the Commission considered all aggregation errors as a basis for rejection, whether the error resulted in a request for too much or too little in matching funds. As revised, this subsection now states that only aggregation errors which could cause more than $250 to be matched for a contributor will be the basis for rejection.

Finally, subsections (c)(3) and (d) have been added to follow established Commission practice.

Section 9036.4 Commission Review of Submissions.

Section 9036.4 has been reorganized to clarify the distinction between a submission which is not accepted for review because it does not satisfy format requirements and a submission which satisfies these requirements and is reviewed. This section thus codifies the past practice of not accepting for review submissions that do not meet minimum facial standards necessary for proper processing.

Subsection (d) provides that the Commission may conduct an audit and examination under Part 9039 of contributions submitted for matching.

Section 9036.5 Resubmissions.

This section has been revised to more accurately reflect Commission resubmission procedures. Under subsection (c)(6), candidates must include a statement with each resubmission that the committee's contributor records have been corrected consistently with the resubmission. This requirement follows established Commission practice. Subsection (d) now provides that the Commission will certify any funds within 15 business, rather than calendar, days.

Section 9036.6 Continuation of Certification.

This section changes the time for making the last submission from January 21 to the last Monday in January. This deadline only applies to contributions submitted for the first time. It does not apply to resubmissions of contributions that were previously rejected for matching.

Part 9037—Payments

Section 9037.1 Payments of Presidential Primary Matching Funds.

This section follows current § 9037.1.

Section 9037.2 Equitable Distribution of Funds.

This section follows current § 9037.2.

Section 9037.3 Deposits of Presidential Primary Matching Funds.

This section follows current § 9037.3.

Part 9038—Examinations and Audits

Section 9038.1 Audit

Subsection (a)(1) Generally follows current § 9038.1(a). Subsection (a)(2) generally follows current § 9038.1(b). Subsection (a)(3) has been added to make clear that information obtained pursuant to an audit may be used as the basis for a Commission repayment determination.

Subsection (b) provides a description of audit fieldwork. Subsection (b)(1) makes clear that it is the committee's responsibility to provide adequate office space and access to committee records and personnel pursuant to the candidate and committee agreement. If the committee fails to provide adequate office space, access to records and/or personnel, the Commission will notify the candidate and recommend corrective action. If the dispute is not resolved, the Commission may seek judicial intervention to enforce the candidate and committee agreement. Subsection (b)(1)(iv) sets forth the procedures by which a candidate may seek Commission review of disputes that arise during the conduct of the audit that cannot be resolved informally.

Subsections (b) (2), (3) and (4) describe the various steps in the audit fieldwork based on past Commission practice.

Subsection (c) describes the preparation of, and candidate's response to, an interim audit report. The contents of the interim audit report are generally described in subsection (c)(1). Pursuant to subsection (c)(1)(v), the candidate will also have an opportunity to respond to the Commission's preliminary calculations regarding future repayments, in addition to any issues that may have been raised by the audit. This last provision was added in response to comments suggesting that candidates be given the earliest possible opportunity to respond to the Commission's thinking with respect to its future repayment determination. These preliminary calculations will not, however, be considered as the Commission's initial repayment determination under 11 CFR 9038.2(c)(1).

Subsection (d) describes the preparation of the audit report that is publicly released. This report is the same as the interim report with two main distinctions. First, this report may be revised based on the candidate's response to the interim report. Second, this report will contain the Commission's initial repayment determination pursuant to 11 CFR 9038.2(c)(1) instead of the preliminary calculations found in the interim report.

Subsection (e) explains the public release of the audit report. It also makes clear that addenda to the audit report may be issued later on. These addenda may be based, in part, on follow-up fieldwork conducted by the Commission.

Section 9038.2 Repayments.

Subsection (a) includes language to advise candidates to give preference to repayments required by § 9038.2 over all other outstanding obligations of their committees once the Commission has made a final repayment determination.

Subsection (b) has been revised and reorganized to provide greater detail regarding the different bases for Commission repayment determinations. Language in the current regulations regarding specific repayment formulas (e.g., "the candidate shall repay * * * an amount equal to the amount * * *") has been deleted from this section. As that language generally follows 26 U.S.C. 9038(b), the Commission will continue to follow its past practice in applying repayment formulas. Therefore, this deletion is not intended to indicate a change in policy.

Subsection (c) sets forth each step involved in the making of a repayment determination. Under subsection (c)(3), the Commission may permit a candidate to make an oral presentation to the Commission prior to the Commission's final repayment determination.

Subsections (d) and (e) clarify the time periods in which the candidate must repay the United States Treasury.

Subsection (f) clarifies that the Commission may make additional repayment determinations on the basis of new facts.

Subsection (g) requires the candidate or committee to inform the Commission of newly-discovered assets after a repayment determination has been made.

Section 9038.3 Liquidation of Obligations; Repayment.

This section generally follows current § 9038.3, but subsection (c)(3) has been added to distinguish the Commission's ability to determine that the candidate has a surplus from the candidate's own determination and decision to voluntarily return funds to the Treasury.

Section 9038.4 Extensions of Time.

This new section governs applications for extensions of time throughout the audit and repayment process.

Part 9039—Review and Investigative Authority

Section 9039.1 Retention of Books and Records.

Part 9039 has been added to describe the Commission's review responsibilities and authority in its administration of the matching fund program. In making determinations, certifications, and findings under the Presidential Primary Matching Payment Account Act and related regulations, the Commission must perform a continuing review of candidate and committee reports and submissions, and other relevant information. For the most part, the Commission's review is routine. In the past, however, there have been instances when the Commission has decided to conduct a more extensive review, or investigation, in order to properly discharge its statutory responsibilities. Prompted in part by a number of court decisions over the years, this new Part 9039 sets forth, for the first time in the regulations, the nature of the Commission's review in administering the matching fund program, including its authority under 26 U.S.C. 9039 to conduct investigations.

Section 9039.1 restates the responsibilities of candidates and committees to keep and furnish to the Commission certain information required by the Act and regulations.

Section 9039.2 Continuing Review.

This section briefly describes the routine Commission review conducted on a continuing basis as part of the Commission's administration of the matching fund program. Subsection (b) provides that Commission staff may contact representatives of the candidate on an informal basis.

Section 9039.3 Examination and Audits; Investigations.

This section describes the Commission's investigations under Part 9039. Generally, the Commission will exercise its authority under Part 9039 when the issues raised relate to the candidate's continuing eligibility or the amount of his or her entitlement during the course of the campaign. Part 9039 therefore provides the Commission with a means for resolving such questions expeditiously in the course of fulfilling its statutory obligation to review submissions and certify funds. Subsection (a)(1) requires that the Commission initiate an inquiry under this section on an affirmative vote of four of its members. Subsection (a)(2) sets forth the uses to which information obtained could be put, and describes the relationship between an investigation conducted under this section and one made under 2 U.S.C. 427g. Subsection (a)(3) provides that the Commission must first seek to obtain relevant information as part of its continuing review before exercising its authority to conduct an inquiry. This subsection also makes reference to the judicial standard of "patent irregularities suggesting the possibility of fraud" which the Commission must find before it can withhold matching payments prior to concluding its inquiry.

Subsection (b)(1) provides for notification to the candidate, and

subsection (b)(2) sets forth the Commission's possible methods in conducting the inquiry. Subsection (b)(3) distinguishes an inquiry conducted under part 9039 from the procedures for an investigation conducted under 2 U.S.C. 437g.

PART 106—[AMENDED]

1. The authority citation for Part 106 is revised to read as follows:

Authority: Pub. L. 92–225, title III, Sec. 315, formerly Sec. 320, as added by Pub. L. 94–283, title I, Sec. 112(2), 90 Stat. 486, renumbered by Pub. L. 96–187, title I, Sec. 105(a)(5), 93 Stat. 1354 (2 U.S.C. 441a(b), 441a(g)).

2. 11 CFR Part 106 is amended by revising §§ 106.2 and 106.3(a) to read as follows:

§ 106.2 State allocation of expenditures incurred by authorized committees of Presidential primary candidates receiving matching funds.

(a) *General.*

(1) This section applies to Presidential primary candidates receiving or expecting to receive Federal matching funds pursuant to 11 CFR Parts 9031 *et seq.* Except for expenditures exempted under 11 CFR 106.2(c), expenditures incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of that candidate for the office of President with respect to a particular State shall be allocated to that State. An expenditure shall not necessarily be allocated to the State in which the expenditure is incurred or paid.

(2) Disbursements made prior to the time an individual becomes a candidate for the purpose of determining whether that individual should become a candidate pursuant to 11 CFR 100.7(b)(1) and 100.8(b)(1), i.e., payments for testing the waters, shall be allocable expenditures under this section if the individual becomes a candidate.

(b) *Method of Allocating Expenditures Among States.*

(1) *General Allocation Method.* Unless otherwise specified under paragraph (b)(2) of this section, an expenditure incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of that candidate in more than one State shall be allocated to each State on a reasonable and uniformly applied basis.

(2) *Specific Allocation Methods.* Expenditures that fall within the categories listed below shall be allocated based on the following methods. The method used to allocate a category of expenditures shall be based on consistent data for each State to which an allocation is made.

(i) *Media Expenditures.*—(A) *Print Media.* Except for expenditures exempted under paragraph (c) of this section, allocation of expenditures for the publication and distribution of newspaper, magazine and other types of printed advertisments distributed in more than one State, including any commission charged for the purchase of print media, shall be made using relative circulation percentages in each State or an estimate thereof. For purposes of this section, allocation to a particular State will not be required for a publication which is circulated to less than 3% of the total estimated readership of that publication in that State.

(B) *Broadcast Media.* Except for expenditures exempted under paragraph (c) of this section, expenditures for radio, television and similar types of advertisements purchased in a particular media market that covers more than one State shall be allocated to each State in proportion to the estimated audience. This allocation of expenditures, including any commission charged for the purchase of broadcast media, shall be made using industry market data.

(C) *Refunds for Media Expenditures.* Refunds for broadcast time or advertisement space, purchased but not used, shall be credited to the States on the same basis as the original allocation.

(D) *Limits on Allocation of Media Expenditures.* No allocation of media expenditures shall be made to any State in which the primary election has already been held.

(ii) *Salaries.* Except for expenditures exempted under paragraph (c) of this section, salaries paid to persons working in a particular State for five consecutive days or more, including advance staff, shall be allocated to each State in proportion to the amount of time spent in that State during a payroll period.

(iii) *Intra-State Travel and Subsistence Expenditures.* Travel and subsistence expenditures for persons working in a State for five consecutive days or more shall be allocated to that State in proportion to the amount of time spent in each State during a payroll period. This same allocation method shall apply to intra-state travel and subsistence expenditures of the candidate and his family or the candidate's representatives.

(iv) *Overhead Expenditures.*—(A) *Overhead Expenditures of State Offices.* Except for expenditures exempted under paragraph (c) of this section, overhead expenditures of offices located in a particular State shall be allocated to that State. For purposes of this section, overhead expenditures include, but are not limited to, rent, utilities, office equipment, furniture, supplies, and telephone service base charges.

(B) *Overhead Expenditures of Regional Offices.* Except for expenditures exempted under paragraph (c) of this section, overhead expenditures of a regional office or any office with responsibilities in two or more States shall be allocated to each State on a reasonable and uniformly applied basis. For purposes of this section, overhead expenditures include but are not limited to, rent, utilities, office equipment, furniture, supplies, and telephone service base charges.

(v) *Telephone Service Expenditures.*—(A) *Intra-state Telephone Calls.* Expenditures for all calls made within a particular State shall be allocated to that State.

(B) *Inter-state Telephone Calls.* Expenditures for telephone calls between two States need not be allocated to any State.

(vi) *Public Opinion Poll Expenditures.* Expenditures incurred for the taking of a public opinion poll covering only one State shall be allocated to that State. Except for expenditures incurred in conducting a nationwide poll, expenditures incurred for the taking of a public opinion poll covering two or more States shall be allocated to those States based on the number of people interviewed in each State.

(c) *Expenditures Exempted from Allocation.*—(1) *National Campaign Expenditures.*—(i) *Operating Expenditures.* Expenditures incurred for administrative, staff, and overhead expenditures of the national campaign headquarters need not be allocated to any State. Overhead expenditures shall be defined as in paragraph (b)(2)(iv) of this section.

(ii) *National Advertising.* Expenditures incurred for advertisements on national networks, national cable or in publications distributed nationwide need not be allocated to any State.

(iii) *Nationwide Polls.* Expenditures incurred for the taking of a public opinion poll which is conducted on a nationwide basis need not be allocated to any State.

(2) *Media Production Costs.* Expenditures incurred for production of Media advertising, whether or not that advertising is used in more than one State, need not be allocated to any State.

(3) *Expenditures For Transportation and Services Made Available to Media.* Expenditures incurred by the candidate's authorized committee(s) to provide transportation and services for media personnel need not be allocated

to any State. Reimbursement for such expenditures shall be made in accordance with 11 CFR 9034.6.

(4) *Interstate Travel.* Expenditures incurred for inter-state travel costs, such as travel between State campaigns or between State offices and national campaign headquarters, need not be allocated to any State.

(5) *Compliance Costs and Fundraising Expenditures.* An amount equal to 10% of campaign workers' salaries and overhead expenditures in a particular State may be excluded from allocation to that State as an exempt compliance cost. An additional amount equal to 10% of such salaries and overhead expenditures in a particular State may be excluded from allocation to that State as exempt fundraising expenditures, but this exemption shall not apply within 28 calendar days of the primary election as specified in 11 CFR 110.8(c)(2). Any amounts excluded for fundraising expenditures shall be applied against the fundraising expenditure limitation under 11 CFR 100.8(b)(21). If the candidate wishes to claim a larger compliance or fundraising exemption for any person, the candidate shall establish allocation percentages for each individual working in that State. The candidate shall keep detailed records to support the derivation of each percentage in accordance with paragraph (e) of this section.

(d) *Reporting.* All expenditures allocated under this section shall be reported on FEC Form 3P, page 3.

(e) *Recordkeeping.* All assumptions and supporting calculations for allocations made under this section shall be documented and retained for Commission inspection. For compliance and fundraising deductions that exceed the 10% exemptions under paragraph (c)(5) of this section, such records shall indicate which duties are considered compliance or fundraising and the percentage of time each person spends on such activity.

§ 106.3 Allocation of expenses between campaign and non-campaign related travel.

(a) This section applies to allocation for expenses between campaign and non-campaign related travel with respect to campaigns of candidates for Federal office, other than Presidential and Vice Presidential candidates who receive federal funds pursuant to 11 CFR Part 9005 or 9036. (See 11 CFR 9004.7 and 9034.7) All expenditures for campaign-related travel paid for by a candidate from a campaign account or by his or her authorized committees or by any other political committee shall be reported.

* * * * *

3. 11 CFR is amended by revising Subchapter G, Parts 9031 through 9038, and by adding new Part 9039 to read as follows:

PART 9031—SCOPE

§ 9031.1 Scope.

This subchapter governs entitlement to and use of funds certified from the Presidential Primary Matching Payment Account under 26 U.S.C. 9031 *et seq.* The definitions, restrictions, liabilities and obligations imposed by this subchapter are in addition to those imposed by sections 431–455 of Title 2, United States Code, and regulations prescribed thereunder (11 CFR Parts 100 through 115). Unless expressly stated to the contrary, this subchapter does not alter the effect of any definitions, restrictions, obligations and liabilities imposed by sections 431–455 of Title 2, United States Code, or regulations prescribed thereunder (11 CFR Parts 100 through 115).

(Pub. L. 93–443, title IV, sec. 408(c), 88 Stat. 1297 (26 U.S.C. 9031))

PART 9032—DEFINITIONS

Sec.

9032.1 Authorized committee.
9032.2 Condidate.
9032.3 Commission.
9032.4 Contribution.
9032.5 Matching payment account.
9032.6 Matching payment period.
9032.7 Primary election.
9032.8 Political committee.
9032.9 Qualified campaign expenses.
9032.10 Secretary.
9032.11 State.

Authority: Pub. L. 93–443, title IV, Sec. 408(c), 88 Stat. 1297, as amended by Pub. L. 94–283, title I, sec. 115(c)(2), title III, sec. 306(b)(1), 90 Stat. 495, 500 (26 U.S.C. 9032).

§ 9032.1 Authorized committee.

(a) Notwithstanding the definition at 11 CFR 100.5, "authorized committee" means with respect to candidates (as defined at 11 CFR 9032.2) seeking the nomination of a political party for the office of President, any political committee that is authorized by a candidate to solicit or receive contributions or to incur expenditures on behalf of the candidate. The term "authorized committee" includes the candidates principal campaign committee designated in accordance with 11 CFR 102.12, any political committee authorized in writing by the candidate in accordance with 11 CFR 102.13, and any political committee not disavowed by the candidate in writing pursuant to 11 CFR 100.3(a)(3).

(b) Any withdrawal of an authorization shall be in writing and shall be addressed and filed in the same manner provided for at 11 CFR 102.12 or 102.13.

(c) For the purposes of this subchapter, references to the "candidate" and his or her responsibilities under this subchapter shall also be deemed to refer to the candidate's authorized committee(s).

(d) An expenditure by an authorized committee on behalf of the candidate who authorized the committee cannot qualify as an independent expenditure.

(e) A delegate committee, as defined in 11 CFR 100.5(e)(5), is not an authorized committee of a candidate unless it also meets the requirements of 11 CFR 9032.1(a). Expenditures by delegate committees on behalf of a candidate may count against that candidate's expenditure limitation under the circumstances set forth in 11 CFR 110.14.

§ 9032.2 Candidate.

"Candidate" means an individual who seeks nomination for election to the office of President of the United States. An individual is considered to seek nomination for election if he or she—

(a) Takes the action necessary under the law of a State to qualify for a caucus, convention, primary election or runoff election;

(b) Receives contributions or incurs qualified campaign expenses;

(c) Gives consent to any other person to receive contributions or to incur qualified campaign expenses on his or her behalf; or

(d) Receives written notification from the Commission that any other person is receiving contributions or making expenditures on the individual's behalf and fails to disavow that activity by letter to the Commission within 30 calendar days after receipt of notification.

§ 9032.3 Commission.

"Commission" means the Federal Election Commission, 1325 K Street, Northwest, Washington, D.C. 20463.

§ 9032.4 Contribution.

For purposes of this subchapter, "contribution" has the same meaning given the term under 2 U.S.C. 431(8)(A) and 11 CFR 100.7, except as provided at 11 CFR 9034.4(b)(4).

§ 9032.5 Matching payment account.

"Matching payment account" means the Presidential Primary Matching Payment Account established by the Secretary of the Treasury under 26 U.S.C. 9037(a).

§ 9032.6 Matching payment period.

"Matching payment period" means the period beginning January 1 of the calendar year in which a Presidential general election is held and may not exceed one of the following dates:

(a) For a candidate seeking the nomination of a party which nominates its Presidential candidate at a national convention, the date on which the party nominates its candidate.

(b) For a candidate seeking the nomination of a party which does not make its nomination at a national convention, the earlier of—

(1) The date the party nominates its Presidential candidate, or

(2) The last day of the last national convention held by a major party in the calendar year.

§ 9032.7 Primary election.

(a) "Primary election" means an election held by a State or a political party, including a runoff election, or a nominating convention or a caucus—

(1) For the selection of delegates to a national nominating convention of a political party;

(2) For the expression of a preference for the nomination of Presidential candidates;

(3) For the purposes stated in both paragraphs (a) (1) and (2) of this section; or

(4) To nominate a Presidential candidate.

(b) If separate primary elections are held in a State by the State and a political party, the primary election for the purposes of this subchapter will be the election held by the political party.

§ 9032.8 Political committee.

"Political committee" means any committee, club, association, organization or other group of persons (whether or not incorporated) which accepts contributions or incurs qualified campaign expenses for the purpose of influencing, or attempting to influence, the nomination of any individual for election to the office of President of the United States.

§ 9032.9 Qualified campaign expense.

(a) "Qualified campaign expense" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value—

(1) Incurred by or on behalf of a candidate or his or her authorized committees from the date the individual becomes a candidate through the last day of the candidate's eligibility as determined under 11 CFR 9033.5;

(2) Made in connection with his or her campaign for nomination; and

(3) Neither the incurrence nor payment of which constitutes a violation of any law of the United States or of any law of any State in which the expense is incurred or paid, or of any regulation prescribed under such law of the United States or of any State, except that any State law which has been preempted by the Federal Election Campaign Act of 1971, as amended, will not be considered a State law for purposes of this subchapter.

(b) An expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

(1) An authorized committee or any other agent of the candidate for purposes of making an expenditure;

(2) Any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure; or

(3) A committee which has been requested by the candidate, by an authorized committee of the candidate, or by an agent of the candidate to make the expenditure, even though such committee is not authorized in writing.

(c) Expenditures incurred either before the date an individual becomes a candidate or after the last day of a candidate's eligibility will be considered qualified campaign expenses if they meet the provisions of 11 CFR 9034.4(a). Expenditures described under 11 CFR 9034.4(b) will not be considered qualified campaign expenses.

§ 9032.10 Secretary.

For purposes of this subchapter, "Secretary" means the Secretary of the Treasury.

§ 9032.11 State.

"State" means each State of the United States, Puerto Rico, the Canal Zone, the Virgin Islands, the District of Columbia, and Guam.

PART 9033—ELIGIBILITY FOR PAYMENT

Sec.

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9033.2 Candidate and committee certifications; threshold submission.
9033.3 Expenditure limitation certification.
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9033.10 Procedures for initial and final determinations.
9033.11 Documentation of disbursements.

Authority: Pub. L. 93–443, title IV, sec. 408(c), 88 Stat. 1297, as amended by Pub. L. 94–283, title III, secs. 305(c) and 306(b)(2), 90 Stat. 499–500 (26 U.S.C. 9033).

§ 9033.1 Candidate and committee agreements.

(a) *General.* (1) A candidate seeking to become eligible to receive Presidential primary matching fund payments shall agree in a letter signed by the candidate to the Commission that the candidate and the candidate's authorized committee(s) will comply with the conditions set forth in paragraph (b) of this section. The candidate may submit the letter containing the agreements required by this section at any time after January 1 of the year immediately preceding the Presidential election year.

(2) The Commission will not consider a candidate's threshold submission until the candidate has submitted a candidate agreement that meets the requirements of this section.

(b) *Conditions.* The candidate shall agree that:

(1) The candidate has the burden of proving that disbursements by the candidate or any authorized committee(s) or agents thereof are qualified campaign expenses as defined at 11 CFR 9032.9.

(2) The candidate and the candidate's authorized committee(s) will comply with the documentation requirements set forth in 11 CFR 9033.11.

(3) The candidate and the candidate's authorized committee(s) will provide an explanation, in addition to complying with the documentation requirements, of the connection between any disbursements made by the candidate or authorized committee(s) of the candidate and the campaign if requested by the Commission.

(4) The candidate and the candidate's authorized committee(s) will keep and furnish to the Commission all documentation for matching fund submissions, any books, records (including bank records for all accounts) and supporting documentation and other information that the Commission may request.

(5) The candidate and the candidate's authorized committee(s) will keep and furnish to the Commission all documentation relating to disbursements and receipts including any books, records (including bank records for all accounts), all documentation required by this section including those required to be maintained under 11 CFR 9033.11, and other information that the Commission may request.

(6) The candidate and the candidate's authorized committee(s) will permit an audit and examination pursuant to 11 CFR Part 9038 of all receipts and disbursements including those made by the candidate, all authorized committee(s) and any agent or person authorized to make expenditures on behalf of the candidate or committee(s). The candidate and authorized committee(s) shall facilitate the audit by making available in one central location, office space, records and such personnel as are necessary to conduct the audit and examination, and shall pay any amounts required to be repaid under 11 CFR Parts 9038 and 9039.

(7) The candidate and the candidate's authorized committee(s) will submit the name and mailing address of the person who is entitled to receive matching fund payments on behalf of the candidate and the name and address of the national or State bank designated by the candidate as a campaign depository as required by 11 CFR Part 103 and 11 CFR 9037.3.

(8) The candidate and the candidate's authorized committee(s) will prepare matching fund submissions in accordance with the Federal Election Commission's Guideline for Presentation in Good Order.

(9) The candidate and the candidate's authorized committee(s) will comply with the applicable requirements of 2 U.S.C. 431 *et seq.*; 26 U.S.C. 9031 *et seq.* and the Commission's regulations at 11 CFR Parts 100–115, and 9031–9039.

(10) The candidate and the candidate's authorized committee(s) will pay any civil penalties included in a conciliation agreement imposed under 2 U.S.C. 437g against the candidate, any authorized committee of the candidate or any agent thereof.

§ 9033.2 Candidate and committee certifications; threshold submission.

(a) *General.* (1) A candidate seeking to become eligible to receive Presidential primary matching fund payments shall make the certifications set forth in paragraph (b) of this section to the Commission in a written statement signed by the candidate. The candidate may submit the letter containing the required certifications at any time after January 1 of the year immediately preceding the Presidential election year.

(2) The Commission will not consider a candidate's threshold submission until the candidate has submitted candidate certifications that meet the requirements of this section.

(b) *Certifications.* (1) The candidate shall certify that he or she is seeking nomination by a political party to the Office of President in more than one State. For purposes of this section, in order for a candidate to be deemed to be seeking nomination by a political party to the office of President, the party whose nomination the candidate seeks must have a procedure for holding a primary election, as defined in 11 CFR 9032.7, for nomination to that office. For purposes of this section, the term "political party" means an association, committee or organization which nominates an individual for election to the office of President. The fact that an association, committee or organization qualifies as a political party under this section does not affect the party's status as a national political party for purposes of 2 U.S.C. 441a(a)(1)(B) and 441a(a)(2)(B).

(2) The candidate and the candidate's authorized committee(s) shall certify that they have not incurred and will not incur expenditures in connection with the candidate's campaign for nomination, which expenditures are in excess of the limitations under 11 CFR Part 9035.

(3) The candidate and the candidate's authorized committee(s) shall certify:

(i) That they have received matchable contributions totalling more than $5,000 in each of at least 20 States; and

(ii) That the matchable contributions are from individuals who are residents of the State for which their contributions are submitted.

(iii) A maximum of $250 of each individual's aggregate contributions will be considered as matchable contributions for the purpose of meeting the thresholds of this section.

(iv) For purposes of this section, contributions of an individual who maintains residences in more than one State may only be counted toward the $5,000 threshold for the State from which the earliest contribution was made by that contributor.

(c) *Threshold Submission.* To become eligible to receive matching payments, the candidate shall submit documentation of the contributions described in 11 CFR paragraph (b)(3) of this section to the Commission for review. The submission shall follow the format and requirements of 11 CFR 9036.1.

§ 9033.3 Expenditure limitation certification.

(a) If the Commission makes an initial determination that a candidate or the candidate's authorized committee(s) have knowingly and substantially exceeded the expenditure limitations at 11 CFR Part 9035 prior to that candidate's application for certification, the Commission may make an initial determination that the candidate is ineligible to receive matching funds.

(b) The Commission will notify the candidate of its initial determination, in accordance with the procedures outlined in 11 CFR 9033.10(b). The candidate may submit, within 20 calendar days after receipt of the Commission's notice, written legal or factual materials, in accordance with 11 CFR 9033.10(b), demonstrating that he or she has not knowingly and substantially exceeded the expenditure limitations at 11 CFR Part 9035.

(c) A final determination of the candidate's ineligibility will be made by the Commission in accordance with the procedures outlined in 11 CFR 9033.10(c).

(d) A candidate who receives a final determination of ineligibility under paragraph (c) of this section shall be ineligible to receive matching fund payments under 11 CFR 9034.1.

§ 9033.4 Matching payment eligibility threshold requirements.

The Commission will, as soon as practicable and, during the Presidential election year generally within 15 business days, examine the submission made under 11 CFR 9033.1 and 9033.2 and either—

(a) Make a determination that the candidate has satisfied the minimum contribution threshold requirements under 11 CFR 9033.2(c); or

(b) Make an initial determination that the candidate has failed to satisfy the matching payment threshold requirements. The Commission will notify the candidate of its initial determination in accordance with the procedures outlined in 11 CFR 9033.10(b). The candidate may, within 30 calendar days after receipt of the Commission's notice, satisfy the threshold requirements or submit in accordance with 11 CFR 9033.10(b) written legal or factual materials to demonstrate that he or she has satisfied those requirements. A final determination by the Commission that the candidate has failed to satisfy threshold requirements will be made in accordance with the procedures outlined in 11 CFR 9033.10(c).

§ 9033.5 Determination of ineligibility date.

The candidate's date of ineligibility shall be whichever date by operation of paragraph (a), (b) or (c) of this section occurs first. After the candidate's date of ineligibility, he or she may only receive matching payments to the extent that he or she has net outstanding campaign obligations as defined in 11 CFR 9034.5

(a) *Inactive Candidate.* The ineligibility date shall be the day on which an individual ceases to be a candidate because he or she is not actively conducting campaigns in more than one State in connection with seeking the Presidential nomination. This date shall be the earliest of—

(1) The date the candidate publicly announces that he or she will not be actively conducting campaigns in more than one State; or

(2) The date the candidate notifies the Commission by letter that he or she is not actively conducting campaigns in more than one State; or

(3) The date which the Commission determines under 11 CFR 9033.6 to be the date that the candidate is not actively seeking election in more than one State.

(b) *Insufficient Votes.* The ineligibility date shall be the 30th day following the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of popular votes cast for all candidates of the same party for the same office in that primary election, if the candidate permitted or authorized his or her name to appear on the ballot, unless the candidate certifies to the Commission at least 25 business days prior to the primary that he or she will not be an active candidate in the primary involved.

(1) The Commission may refuse to accept the candidate's certification if it determines under 11 CFR 9033.7 that the candidate is an active candidate in the primary involved.

(2) For proposes of this paragraph, if the candidate is running in two primary elections in different States on the same date, the highest percentage of votes the candidate receives in any one State will govern. Separate primary elections held in more than one State on the same date are not deemed to be consecutive primaries. If two primary elections are held on the same date in the same State (e.g., a primary to select delegates to a national nominating convention and a primary for the expression of preference for the nomination of candidates for election to the office of President), the highest percentage of votes a candidate receives in either election will govern. If two or more primaries are held in the same State on different dates, the earliest primary will govern.

(c) *End of Matching Payment Period.* The ineligibility date shall be the last day of the matching payment period for the candidate as specified in 11 CFR 9032.6

(d) *Reestablishment of Eligibility.* If the Commission has determined that a candidate is ineligible under paragraph (a) or (b) of this section, the candidate may reestablish eligibility to receive matching funds under 11 CFR 9033.8.

§ 9033.6 Determination of inactive candidacy.

(a) *General.* The Commission may, on the basis of the factors listed in paragraph (b) of this section, make a determination that a candidate is no longer actively seeking nomination for election in more than one State at any time after March 1 but before July 1 of the Presidential election year. Upon a final determination by the Commission that a candidate is inactive, that candidate will become ineligible as provided in 11 CFR 9033.5.

(b) *Factors Considered.* In making its determination of inactive candidacy, the Commission may consider, but is not limited to considering, the following factors:

(1) The frequency and type of public appearances, speeches, and advertisements;

(2) Campaign activity with respect to soliciting contributions or making expenditures for campaign purposes;

(3) Continued employment of campaign personnel or the use of volunteers;

(4) The release of committed delegates;

(5) The candidate urges his or her delegates to support another candidate while not actually releasing committed delegates;

(6) The candidate urges supporters to support another candidate.

(c) *Initial Determination.* The Commission will notify the candidate of its initial determination in accordance with the procedures outlined in 11 CFR 9033.10(b) and will advise the candidate of the date on which active campaigning in more than one State ceased. The candidate may, within 15 business days of receipt of the Commission's notice, submit in accordance with 11 CFR 9033.10(b) written legal or factual materials to demonstrate that he or she is actively campaigning in more than one State.

(d) *Final Determination.* A final determination of inactive candidacy will be made by the Commission in accordance with the procedures outlined in 11 CFR 9033.10(c).

§ 9033.7 Determination of active candidacy.

(a) Where a candidate certifies to the Commission under 11 CFR 9033.5(b) that he or she will not be an active candidate in an upcoming primary, the Commission may, nevertheless, on the basis of factors listed in 11 CFR 9033.6(b), make an initial determination that the candidate is an active candidate in the primary involved.

(b) The Commission will notify the candidate of its initial determination within 10 business days of receiving the candidate's certification under 11 CFR 9033.5(b). The Commission's initial determination will be made in accordance with the procedures outlined in 11 CFR 9033.10(b). Within 10 business days of receipt of the Commission's notice the candidate may submit, in accordance with 11 CFR 9033.10(b), written legal or factual materials to demonstrate that he or she is not an active candidate in the primary involved.

(c) A final determination by the Commission that the candidate is active will be made in accordance with the procedures outlined in 11 CFR 9033.10(c).

§ 9033.8 Reestablishment of eligibility.

(a) *Candidates Found to be Inactive.* A candidate who has become ineligible under 11 CFR 9033.5(a) on the basis that he or she is not actively campaigning in more than one State may reestablish eligibility for matching payments by submitting to the Commission evidence of active campaigning in more than one State. In determining whether the candidate has reestablished eligibility, the Commission will consider, but is not limited to considering, the factors listed in 11 CFR 9033.6(b). The day the Commission determines to be the day the candidate becomes active again will be the date on which eligibility is reestablished.

(b) *Candidates Receiving Insufficient Votes.* A candidate determined to be ineligible under 11 CFR 9033.5(b) by failing to obtain the required percentage of votes in two consecutive primaries may have his or her eligibility reestablished if the candidate receives at least 20 percent of the total number of votes cast for candidates of the same party for the same office in a primary election held subsequent to the date of the election which rendered the candidate ineligible.

(c) The Commission will make its determination under paragraphs (a) or (b) of this section without requiring the individual to reestablish eligibility under 11 CFR 9033.1 and 2. A candidate whose eligibility is reestablished under this section may submit, for matching payment, contributions received during ineligibility.

§ 9033.9 Failure to comply with disclosure requirements of expenditure limitations.

(a) If the Commission receives information indicating that a candidate

or his or her authorized committee(s) has knowingly and substantially failed to comply with the disclosure requirements of 2 U.S.C 434 and 11 CFR Part 104, or that a candidate has knowingly and substantially exceeded the expenditure limitations at 11 CFR Part 9035, the Commission may make an initial determination to suspend payments to that candidate.

(b) The Commission will notify the candidate of its initial determination in accordance with the procedures outlined in 11 CFR 9033.10(b). The candidate will be given an opportunity, within 20 calendar days of the Commission's notice, to comply with the above cited provisions or to submit in accordance with 11 CFR 9033.10(b) written legal or factual materials to demonstrate that he or she is not in violation of those provisions.

(c) Suspension of payments to a candidate will occur upon a final determination by the Commission to suspend payments. Such final determination will be made in accordance with the procedures outlined in 11 CFR 9033.10(c).

(d)(1) A candidate whose payments have been suspended for failure to comply with reporting requirements may become entitled to receive payments if he or she subsequently files the required reports and pays or agrees to pay any civil or criminal penalties resulting from failure to comply.

(2) A candidate whose payments are suspended for exceeding the expenditure limitations shall not be entitled to receive further matching payments under 11 CFR 9034.1.

§ 9033.10 Procedures for initial and final determinations.

(a) *General.* The Commission will follow the procedures set forth in this section when making an initial or final determination based on any of the following reasons.

(1) The candidate has knowingly and substantially exceeded the expenditure limitations of 11 CFR Part 9035 prior to the candidate's application for certification, as provided in 11 CFR 9033.3;

(2) The candidate has failed to satisfy the matching payment threshold requirements, as provided in 11 CFR 9033.4;

(3) The candidate is no longer actively seeking nomination in more than one state, as provided in 11 CFR 9033.6;

(4) The candidate is an active candidate in an upcoming primary despite the candidate's assertion to the contrary, as provided in 11 CFR 9033.7; or

(5) The Commission receives information indicating that the candidate has knowingly and substantially failed to comply with the disclosure requirements or exceeded the expenditure limits, as provided in 11 CFR 9033.9.

(b) *Initial Determination.* If the Commission makes an initial determination that a candidate may not receive matching funds for one or more of the reasons indicated in paragraph (a) of this section, the Commission will notify the candidate of its initial determination. The notification will give the legal and factual reasons for the determination and advise the candidate of the evidence on which the Commission's initial determination is based. The candidate will be given an opportunity to comply with the requirements at issue or to submit, within the time provided by the relevant section as referred to in paragraph (a) of this section, written legal or factual materials to demonstrate that the candidate has satisfied those requirements. Such materials may be submitted by counsel if the candidate so desires.

(c) *Final Determination.* The Commission will consider any written legal or factual materials timely submitted by the candidate before making its final determination. A final determination that the candidate has failed to satisfy the requirements at issue will be accompanied by a written statement of reasons for the Commission's action. This statement will explain the legal and factual reasons underlying the Commission's determination and will summarize the results of any investigation upon which the determination is based.

(d) *Effect on Other Determinations.* If the Commission makes an initial determination under this section, but decides to take no further action at that time, the Commission may use the legal and factual bases on which the initial determination was based in any future repayment determination under 11 CFR Part 9038 or 9039. A determination by the Commission under this section may be independent of any Commission decision to institute an enforcement proceeding under 2 U.S.C. 437g.

§ 9033.11 Documentation of disbursements.

(a) *Burden of Proof.* Each candidate shall have the burden of proving that disbursements made by the candidate or his or her authorized committee(s) or persons authorized to make expenditures on behalf of the candidate or committee(s) are qualified campaign expenses as defined in 11 CFR 9032.9. The candidate and his or her authorized committee(s) shall obtain and furnish to the Commission on request any evidence regarding qualified campaign expenses made by the candidate, his or her authorized committees and agents or persons authorized to make expenditures on behalf of the candidate or committee(s) as provided in paragraph (b) of this section.

(b) *Documentation Required*

(1) For disbursements in excess of $200 to a payee, the candidate shall present either:

(i) A receipted bill from the payee that states the purpose of the disbursement, or

(ii) If such a receipt is not available, a cancelled check negotiated by the payee, and

(A) One of the following documents generated by the payee: a bill, invoice, or voucher that states the purpose of the disbursement; or

(B) Where the documents specified in paragraph (b)(1)(ii)(A) of this section are not available, a voucher or contemporaneous memorandum from the candidate or the committee that states the purpose of the disbursement; or

(iii) If neither a receipted bill as specified in paragraph (b)(1)(i) of this section nor the supporting documentation specified in 11 CFR paragraph (b)(1)(ii) of this section is available, a cancelled check negotiated by the payee that states the purpose of the disbursement.

(iv) Where the supporting documentation required in paragraph (b)(1) (i), (ii) or (iii) of this section is not available, the candidate or committee may present a cancelled check and collateral evidence to document the qualified campaign expense. Such collateral evidence may include but is not limited to:

(A) Evidence demonstrating that the expenditure is part of an identifiable program or project which is otherwise sufficiently documented such as a disbursement which is one of a number of documented disbursements relating to a campaign mailing or to the operation of a campaign office;

(B) Evidence that the disbursement is covered by a preestablished written campaign committee policy, such as a per diem policy.

(2) For all other disbursements the candidate shall present:

(i) A record disclosing the identification of the payee, the amount, date and purpose of the disbursement, if made from a petty cash fund; or

(ii) A cancelled check negotiated by the payee that states the identification

of the payee, and the amount, date and purpose of the disbursement.

(3) For purposes of this section,

(i) "Payee" means the person who provides the goods or services to the candidate or committee in return for the disbursement; except that an individual will be considered a payee under this section if he or she receives $500 or less advanced for travel and/or subsistence and if he or she is the recipient of the goods or services purchased.

(ii) "Purpose" means the identification of the payee, the date and amount of the disbursement, and a description of the goods or services purchased.

(c) *Retention of Records.* The candidate shall retain records, with respect to each disbursement and receipt, including bank records, vouchers, worksheets, receipts, bills and accounts, journals, ledgers, fundraising solicitation material, accounting systems documentation, matching fund submissions, and any related materials documenting campaign receipts and disbursements, for a period of three years pursuant to 11 CFR 102.9(c), and shall present these records to the Commission on request.

PART 9034—ENTITLEMENTS

Sec.

9034.1 Candidate entitlements.
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9034.4 Use of contributions and matching payments.
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9034.9 Sale of assets acquired for fundraising purposes.

Authority: Pub. L. 93–443, title IV, Sec. 408 (c), 88 Stat. 1299, as amended by Pub. L. 94–283, title III, sec. 307 (b), 90 Stat. 501 (26 U.S.C. 9034).

§ 9034.1 Candidate entitlements.

(a) A candidate who has been notified by the Commission under 11 CFR 8036.1 that he or she has successfully satisfied eligibility and certification requirements is entitled to receive payments in an amount equal to the amount of each matchable campaign contribution received by the candidate, except that a candidate who has become ineligible under 11 CFR 9033.5 may not receive further matching payments regardless of the date of deposit of the underlying contributions if he or she has no net outstanding campaign obligations as defined in 11 CFR 9034.5.

(b) If on the date of ineligibility a candidate has net outstanding campaign obligations as defined under 11 CFR 9034.5, that candidate may continue to receive matching payments for matchable contributions received and deposited on or before December 31 of the Presidential election year provided that on the date of payment there are remaining net outstanding campaign obligations, i.e., the sum of the contributions received on or after the date of ineligibility plus matching funds received on or after the date of ineligibility is less than the candidate's net outstanding campaign obligations. This entitlement will be equal to the lesser of:

(1) The amount of contributions submitted for matching; or

(2) The remaining net outstanding campaign obligations.

(c) A candidate whose eligibility has been reestablished under 11 CFR 9033.8 or who after suspension of payments has met the conditions set forth at 11 CFR 9033.9(d) is entitled to receive payments for matchable contributions for which payments were not received during the ineligibility or suspension period.

(d) The total amount of payments to a candidate under this section shall not exceed 50% of the total expenditure limitation applicable under 11 CFR Part 9035.

§ 9034.2 Matchable contributions.

(a) Contributions meeting the following requirements will be considered matchable campaign contributions.

(1) The contribution shall be a gift of money made: by an individual; by a written instrument and for the purpose of influencing the result of a primary election.

(2) Only a maximum of $250 of the aggregate amount contributed by an individual may be matched.

(3) Before a contribution may be submitted for matching, it must actually be received by the candidate or any of the candidate's authorized committees and deposited in a designated campaign depository maintained by the candidate's authorized committee.

(4) The written instrument used in making the contribution must be dated, physically received and deposited by the candidate or authorized committee on or after January 1 of the year immediately preceding the calendar year of the Presidential election, but no later than December 31 following the matching payment period as defined under 11 CFR 9032.6. Donations received by an individual who is testing the waters pursuant to 11 CFR 100.7(b)(1) and 100.8(b)(1) may be matched when the individual becomes a candidate if such donations meet the requirements of this section.

(b) For purposes of this section, the term "written instrument" means a check written on a personal, escrow or trust account representing or containing the contributor's personal funds; a money order; or any similar negotiable instrument.

(c) The written instrument shall be: payable on demand; and to the order of, or specifically endorsed without qualification to, the Presidential candidate, or his or her authorized committee. The written instrument shall contain: the full name and signature of the contributor(s); the amount and date of the contribution; and the mailing address of the contributor(s).

(1) In cases of a check drawn on a joint checking account, the contributor is considered to be the owner whose signature appears on the check.

(i) To be attributed equally to other joint tenants of the account, the check or other accompanying written document shall contain the signature(s) of the joint tenant(s). If a contribution on a joint account is to be attributed other than equally to the joint tenants, the check or other written documentation shall indicate the amount to be attributed to each joint tenant.

(ii) In the case of a check for a contribution attributed to more than one person, where it is not apparent from the face of the check that each contributor is a joint tenant of the account, a written statement shall accompany the check stating that the contribution was made from each individual's personal funds in the amount so attributed and shall be signed by each contributor.

(2) Contributions in the form of checks drawn on an escrow or trust account are matchable contributions, provided that:

(i) The contributor has equitable ownership of the account; and

(ii) The check is accompanied by a statement, signed by each contributor to whom all or a portion of the contribution is being attributed, together with the check number, amount and date of contribution. This statement shall specify that: the contributor has equitable ownership of the account and the account represents the personal funds of the contributor.

(3) Contributions in the form of checks written on partnership accounts or accounts of unincorporated associations or businesses are matchable contributions, so long as:

(i) The check is accompanied by a statement, signed by each contributor to whom all or a portion of the contribution is being attributed, together with the check number, amount and date of

contribution. This statement shall specify that the contribution is made with the contributor's personal funds and that the account on which the contribution is drawn is not maintained or controlled by an incorporated entity; and

(ii) The aggregate amount of the contributions drawn on a partnership or unincorporated association or business does not exceed $1,000 to any one Presidential candidate seeking nomination.

(4) Contributions in the form of money orders, cashier's checks or other similar negotiable instruments are matchable contributions, provided that:

(i) At the time it is initially submitted for matching, such instrument is signed by each contributor and is accompanied by a statement which specifies that the contribution was made in the form of a money order, cashier's check, or other similar negotiable instrument, with the contributor's personal funds;

(ii) Such statement identifies tne date and amount of the contribution made by money order, cashier's check or other similar negotiable instrument and the check or serial number; and

(iii) Such statement is signed by each contributor.

(5) Contributions in the form of the purchase price paid for the admission to any activity that primarily confers private benefits in the form of entertainment to the contributor (i.e., concerts, motion pictures) are matchable. The promotional material and tickets for the event shall clearly indicate that the ticket purchase price represents a contribution to the Presidential candidate.

(6) Contributions in the form of a purchase price paid for admission to an activity that is essentially political are matchable. An "essentially political" activity is one the principal purpose of which is political speech or discussion, such as the traditional political dinner or reception.

(7) Contributions received from a joint fundraising activity conducted in accordance with 11 CFR 9034.8 are matchable, provided that such contributions are accompanied by a copy of the joint fundraising agreement when they are submitted for matching.

§ 9034.3 Non-matchable contributions.

A contribution to a candidate other than one which meets the requirements of 11 CFR 9034.2 is not matchable. Contributions which are not matchable include, for example:

(a) In-kind contributions of real or personal property;

(b) A subscription, loan, advance, or deposit of money, or anything of value;

(c) A contract, promise, or agreement, whether or not legally enforceable, such as a pledge card or credit card transaction, to make a contribution for any such purposes (but a gift of money by written instrument is not rendered unmatchable solely because the contribution was preceded by a promise or pledge);

(d) Funds from a corporation, labor organization, government contractor, political committee as defined in 11 CFR 100.5 or any group of persons other than those under 11 CFR 9034.2(c)(3);

(e) Contributions which are made or accepted in violation of 2 U.S.C. 441a, 441b, 441c, 441e, 441f, or 441g;

(f) Contributions in the form of a check drawn on the account of a committee, corporation, union or government contractor even though the funds represent personal funds earmarked by a contributing individual to a Presidential candidate;

(g) Contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value, such as a watch;

(h) Contributions in the form of the purchase price paid for or otherwise induced by a chance to participate in a raffle, lottery, or a similar drawing for valuable prizes;

(i) Contributions which are made by persons without the necessary donative intent to make a gift or made for any purpose other than to influence the result of a primary election; and

(j) Contributions of currency of the United States or currency of any foreign country.

§ 9034.4 Use of contributions and matching payments.

(a) *Qualified Campaign Expenses.*—(1) *General.* Except as provided in paragraph (b)(3) of this section, all contributions received by an individual from the date he or she becomes a candidate and all matching payments received by the candidate shall be used only to defray qualified campaign expenses or to repay loans or otherwise restore funds (other than contributions which were received and expended to defray qualified campaign expenses), which were used to defray qualified campaign expenses.

(2) *Testing the Waters.* Even though incurred prior to the date an individual becomes a candidate, payments made for the purpose of determining whether an individual should become a candidate, such as those incurred in conducting a poll, shall be considered qualified campaign expenses if the individual subsequently becomes a candidate and shall count against that candidate's limits under 2 U.S.C. 441a(b). See 11 CFR 100.8(b)(1).

(3) *Winding Down Costs.* The following costs shall be considered qualified campaign expenses:

(i) Costs associated with the termination of political activity, such as the costs of complying with the post-election requirements of the Act and other necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries and office supplies; or

(ii) Costs incurred before the candidate's date of ineligibility, for which written arrangement or commitment was made on or before the candidate's date of ineligibility.

(b) *Non-Qualified Campaign Expenses.*—(1) *General.* The following are examples of disbursements that are not qualified campaign expenses.

(2) *Excessive Expenditures.* An expenditure which is in excess of any of the limitations under 11 CFR Part 9035 shall not be considered a qualified campaign expense.

(3) *Post-Ineligibility Expenditures.* Any expenses incurred after a candidate's date of ineligibility, as determined under 11 CFR 9033.5, are not qualified campaign expenses except to the extent permitted under paragraph (a)(3) of this section.

(4) *Civil or Criminal Penalties.* Civil or criminal penalties paid pursuant to the Federal Election Campaign Act are not qualified campaign expenses and cannot be defrayed from contributions or matching payments. Any amounts received or expended to pay such penalties shall not be considered contributions or expenditures but all amounts so received shall be subject to the prohibitions of the Act. Amounts received and expended under this section shall be reported in accordance with 11 CFR Part 104.

(c) *Transfers to Other Campaigns.* If a candidate has received matching funds and is simultaneously seeking nomination or election to another Federal office, no transfer of funds between his or her principal campaign committees or authorized committees may be made. See 2 U.S.C. 441a(a)(5)(C) and 11 CFR 110.3(a)(2)(v).

§ 9034.5 Net outstanding campaign obligations.

(a) Within 15 calendar days after the candidate's date of ineligibility, as determined under 11 CFR 9033.5, the candidate shall submit a statement of net outstanding campaign obligations. The candidate's net outstanding campaign obligations under this section

equal the difference between paragraphs (a) (1) and (2) of this section:

(1) The total of all outstanding obligations for qualified campaign expenses as of the candidate's date of ineligibility as determined under 11 CFR 9033.5, plus estimated necessary winding down costs as defined under 11 CFR 9034.4(a)(3), less

(2) The total of:

(i) Cash on hand as of the close of business on the last day of eligibility (including all contributions dated on or before that date whether or not submitted for matching);

(ii) The fair market value of capital assets and other assets on hand; and

(iii) Amounts owed to the campaign in the form of credits, refunds of deposits, returns receivables, or rebates of qualified campaign expenses; or a commercially reasonable amount based on the collectibility of those credits, returns, receivables or rebates.

(b)(1) *Capital Assets.* For purposes of this section, the term "capital asset" means any property used in the operation of the campaign whose value on the last day of the candidate's eligibility exceeds $500. Property that must be valued as capital assets under this section includes, but is not limited to, office equipment, furniture, vehicles, and fixtures acquired for use in the operation of the candidate's campaign, but does not include property defined as "other assets" under paragraph (b)(2) of this section. The value of a capital asset shall be the fair market value on the date of ineligibility or on the date the item is acquired if acquired after the date of ineligibility.

(2) *Other Assets.* The term "other assets" means any property acquired by the campaign for use in raising funds or as collateral for campaign loans. "Other assets" must be included on the candidate's statement of net outstanding campaign obligations if the aggregate value of such assets exceeds $5,000. The value of "other assets" shall be determined by the fair market value of each item on the candidate's date of ineligibility or on the date the item is acquired if acquired after the date of ineligibility.

(c) Contributions received from joint fundraising activities conducted under 11 CFR 9034.8 may be used to pay a candidate's outstanding campaign obligations.

(1) Such contributions shall be deemed monies available to pay outstanding campaign obligations as of the date these funds are received by the fundraising representative committee and shall be included in the candidate's statement of net outstanding campaign obligations.

(2) The amount of money deemed available to pay a candidate's net outstanding campaign obligations will equal either—

(i) An amount calculated on the basis of the predetermined allocation formula, as adjusted for 2 U.S.C. 441a limitations; or

(ii) If a candidate receives an amount greater than that calculated under paragraph (c)(2)(i) of this section, the amount actually received.

(d) The candidate shall submit a revised statement of net outstanding campaign obligations with each submission for matching funds payments filed after the candidate's date of ineligibility. The revised statement shall reflect the financial status of the campaign as of the close of business on the last business day preceding the date of submission for matching funds.

(e)(1) If the Commission receives information indicating that substantial assets of the candidate's authorized committee(s) have been undervalued or not included in the statement or that the amount of outstanding campaign obligations has been otherwise overstated in relation to campaign assets, the Commission may decide to temporarily suspend further matching payments pending a final determination whether the candidate is entitled to receive all or a portion of the matching funds requested.

(2) In making a determination under paragraph (e)(1) of this section, the Commission will follow the procedures for initial and final determinations under 11 CFR 9033.10 (b) and (c). The Commission will notify the candidate of its business days after receipt of the candidate's statement of net outstanding campaign obligations. Within 10 business days after receipt of the Commission's notice, the candidate may submit written legal or factual materials to demonstrate that he or she has net outstanding campaign obligations that entitle the campaign to further matching payments.

(3) If the candidate demonstrates that the amount of outstanding campaign obligations still exceeds campaign assets, he or she may continue to receive matching payments.

§ 9034.6 Reimbursements for transportation and services made available to media personnel.

(a) If an authorized committee incurs expenditures for transportation, ground services and facilities (including air travel, ground transportation, housing, meals, telephone service, and typewriters) made available to media personnel, such expenditures will be considered qualified campaign expenses subject to the overall expenditure limitations of 11 CFR 9035.1(a).

(b) If reimbursement for such expenditures is received by a committee, the amount of such reimbursement for each individual shall not exceed either: the individual's pro rata share of the actual cost of the transportation and services made available; or a reasonable estimate of the individual's pro rata share of the actual cost of the transportation and services made available. An individual's pro rata share shall be calculated by dividing the total number of individuals to whom such transportation and services are made available into the total cost of the transportation and services. The total amount of reimbursements received from an individual under this section shall not exceed the actual pro rata cost of the transportation and services made available to that person by more than 10%. Reimbursements received in compliance with the requirements of this section may be deducted from the amount of expenditures that are subject to the overall expenditure limitation of 11 CFR 9035.1(a) except to the extent that such reimbursements exceed the amount actually paid by the committee for the services provided.

(c) The total amount paid by an authorized committee for the cost of transportation or for ground services and facilities shall be reported as an expenditure in accordance with 11 CFR 104.3(b)(2)(i). Any reimbursement received by such committee for transportation or ground services and facilities shall be reported in accordance with 11 CFR 104.3(a)(3)(ix).

§ 9034.7 Allocation of travel expenditures.

(a) Notwithstanding the provisions of 11 CFR Part 106, expenditures for travel relating to the campaign of a candidate seeking nomination for election to the office of President by any individual, including a candidate, shall, pursuant to the provisions of paragraph (b) of this section, be qualified campaign expenses and be reported by the candidate's authorized committee(s) as expenditures.

(b)(1) For a trip which is entirely campaign-related, the total cost of the trip shall be a qualified campaign expense and a reportable expenditure.

(2) For a trip which includes campaign-related and non-campaign related stops, that portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense and a reportable expenditure. Such portion shall be determined by

calculating what the trip would have cost from the point of origin of the trip to the first campaign-related stop and from that stop through each subsequent campaign-related stop, back to the point of origin. If any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related.

(3) For each trip, an itinerary shall be prepared and such itinerary shall be made available for Commission inspection.

(4) For trips by government conveyance or by charter, a list of all passengers on such trip, along with a designation of which passengers are and which are not campaign-related, shall be made available for Commission inspection.

(5) If any individual, including a candidate, uses government conveyance or accommodations paid for by a government entity for campaign-related travel, the candidate's authorized committee shall pay the appropriate government entity an amount equal to:

(i) The first class commercial air fare plus the cost of other services, in the case of travel to a city served by a regularly scheduled commercial service; or

(ii) The commercial charter rate plus the cost of other services, in the case of travel to a city not served by a regularly scheduled commercial service.

(6) Travel expenses of a candidate's spouse and family when accompanying the candidate on campaign-related travel may be treated as qualified campaign expenses and reportable expenditures. If the spouse or family members conduct campaign-related activities, their travel expenses will be treated as qualified campaign expenses and reportable expenditures.

(7) If any individual, including a candidate, incurs expenses for campaign-related travel, other than by use of government conveyance or accommodations, an amount equal to that portion of the actual cost of the conveyance or accommodations which is allocable to all passengers, including the candidate, travelling for campaign purposes will be a qualified campaign expense and shall be reported by the committee as an expenditure.

(i) If the trip is by charter, the actual cost for each passenger shall be determined by dividing the total operating cost for the charter by the total number of passengers transported. The amount which is a qualified campaign expense and a reportable expenditure shall be calculated in accordance with the formula set forth at paragraph (b)(2) of this section on the basis of the actual cost per passenger multiplied by the number of passengers traveling for campaign purposes.

(ii) If the trip is by non-charter commercial transportation, the actual cost shall be calculated in accordance with the formula set forth at paragraph (b)(2) of this section on the basis of the commercial fare. Such actual cost shall be a qualified campaign expense and a reportable expenditure.

§ 9034.8 Joint fundraising.

(a) *General.*—(1) *Permissible Participants.* Presidential primary candidates who receive matching funds under this subchapter may engage in joint fundraising with other candidates, political committees or unregistered committees or organizations.

(2) *Use of Funds.* Contributions received as a result of a candidate's participation in a joint fundraising activity under this section may be—

(i) Submitted for matching purposes in accordance with the requirements of 11 CFR 9034.2 and the Federal Election Commission's Guideline for Presentation in Good Order;

(ii) Used to pay a candidate's net outstanding campaign obligations as provided in 11 CFR 9034.5;

(iii) Used to defray qualified campaign expenses;

(iv) Used to defray exempt legal and accounting costs; or

(v) If in excess of a candidate's net outstanding campaign obligations or expenditure limit, used in any manner consistent with 11 CFR 113.2, including repayment of funds under 11 CFR Part 9038.

(b) *Fundraising Representatives.*—(1) *Establishment or Selection of Fundraising Representative.* The participants in a joint fundraising effort under this section shall either establish a separate committee or select a participating committee, to act as fundraising representative for all participants. The fundraising representative shall be a reporting political committee and an authorized committee of each candidate.

(2) *Separate Fundraising Committee as Fundraising Representative.* A separate fundraising committee established by the participants to act as fundraising representative for all participants shall—

(i) Be established as a reporting political committee under 11 CFR 100.5;

(ii) Collect contributions;

(iii) Pay fundraising costs from gross proceeds and funds advanced by participants; and

(iv) Disburse net proceeds to each participant.

(3) *Participating Committee as Fundraising Representative.* A participant selected to act as fundraising representative for all participants shall—

(i) Be a political committee as defined in 11 CFR 100.5;

(ii) Collect contributions; however, other participants may also collect contributions and then forward them to the fundraising representative as required by 11 CFR 102.8;

(iii) Pay fundraising costs from gross proceeds and funds advanced by participants; and

(iv) Disburse net proceeds to each participant.

(4) *Independent Fundraising Agent.* The participants or the fundraising representative may hire a commercial fundraising firm or other agent to assist in conducting the joint fundraising activity. In that case, however, the fundraising representative shall still be responsible for ensuring that the recordkeeping, reporting and documentation requirements set forth in this subchapter are met.

(c) *Joint Fundraising Procedures.* Any joint fundraising activity under this section shall be conducted in accordance with the following requirements:

(1) *Written Agreement.* The participants in a joint fundraising activity shall enter into a written agreement, whether or not all participants are political committees under 11 CFR 100.5. The written agreement shall identify the fundraising representative and shall state a formula for the allocation of fundraising proceeds. The participants shall also use the formula to allocate the expenses incurred for the fundraising activity. The fundraising representative shall retain the written agreement for a period of three years and shall make it available to the Commission on request.

(2) *Funds Advanced for Fundraising Costs.*

(i) Except as provided in paragraph (c)(2)(ii) of this section, the amount of funds advanced by each participant for fundraising costs shall be in proportion to the allocation formula agreed upon under paragraph (c)(i) of this section.

(ii) A participant may advance more than its proportionate share of the fundraising costs; however, the amount advanced which is in excess of the participant's proportionate share shall not exceed the amount that participant could legally contribute to the remaining participants. See 11 CFR 102.12(c)(2) and Part 110.

(3) *Fundraising Notice.* In addition to any notice required under 11 CFR 110.11, a joint fundraising notice shall be

included with every solicitation for contributions.

(i) This notice shall include the following information:

(A) The names of all committees partcipating in the joint fundraising activity whether or not such committees are political committees under 11 CFR 100.5;

(B) The allocation formula to be used for distributing joint fundraising proceeds;

(C) A statement informing contributors that, notwithstanding the stated allocation formula, they may designate their contributions for a particular participant or participants; and

(D) A statement informing contributors that the allocation formula may change if a contributor makes a contribution which would exceed the amount that contributor may give to any participant.

(ii) If one or more participants engage in the joint fundraising activity solely to satisfy outstanding debts, the notice shall also contain a statement informing contributors that the allocation formula may change if a participant receives sufficient funds to pay its outstanding debts.

(4) *Separate Depository Account.*

(i) The participants or the fundraising representative shall establish a separate depository account to be used solely for the receipt and disbursement of the joint fundraising proceeds. All contributions deposited into the separate depository account must be permissible under Title 2, United States Code. Each political committee shall amend its Statement of Organization to reflect the account as an additional depository.

(ii) The fundraising representative shall deposit all joint fundraising proceeds in the separate depository account within ten days of receipt as required by 11 CFR 103.3. The fundraising representative may delay distribution of the fundraising proceeds to the participants until all contributions are received and all expenses are paid.

(iii) For contribution reporting and limitation purposes, the date of receipt of a contribution by a participating political committee is the date that the contribution is received by the fundraising representative. The fundraising representative, shall report contributions in the reporting period in which they are received. Participating political committees shall report joint fundraising proceeds in accordance with 11 CFR 9034.8(c)(9) when such funds are received from the fundraising representative.

(5) *Recordkeeping Requirements.* (i) The fundraising representative and participating committees shall screen all contributions received to insure that the prohibitions and limitations of 11 CFR Parts 110 and 114 are observed. Participating political committees shall make their contributor records available to the fundraising representative to enable the fundraising representative to carry out its duty to screen contributions.

(ii) The fundraising representative shall collect and retain contributor information with regard to gross proceeds as required under 11 CFR 102.8 and shall also forward such information to participating political committees.

(iii) The fundraising representative shall retain the records required under 11 CFR 9033.11 regarding fundraising disbursements for a period of three years. Commercial fundraising firms or agents shall forward such information to the fundraising representative.

(6) *Contribution Limitations.* Except to the extent that the contributor has previously contributed to any of the participants, a contributor may make a contribution to the joint fundraising effort which contribution represents the total amount that the contributor could contribute to all of the participants under the applicable limits of 11 CFR 110.1 and 110.2.

(7) *Allocation of Gross Proceeds.* (i) The fundraising representative shall allocate proceeds according to the formula stated in the fundraising agreement. Funds may not be distributed or reallocated so as to maximize the matchability of the contributions.

(ii) If distribution according to the allocation formula extinguishes the debts of one or more participants or if distribution under the formula results in a violation of the contribution limits of 11 CFR 110.1(a), the fundraising representative may reallocate the surplus funds. Candidates seeking to extinguish outstanding debts shall not reallocate in reliance on the receipt of matching funds to pay the remainder of their debts; rather, all funds to which a participant is entitled under the allocation formula shall be deemed funds available to pay the candidate's outstanding campaign obligations as provided in 11 CFR 9034.5(c).

(iii) Reallocation shall be based upon the remaining participants' proportionate shares under the allocation formula. If reallocation results in a violation of a contributor's limit under 11 CFR 110.1, the fundraising representative shall return to the contributor the amount of the contribution that exceeds the limit.

(iv) Earmarked contributions which exceed the contributor's limit to the designated participant under 11 CFR Part 110 may not be reallocated by the fundraising representative without the written permission of the contributor.

(8) *Allocation of Expenses and Distribution of Net Proceeds.* (i) If participating committees are not affiliated as defined in 11 CFR 110.3 prior to the joint fundraising activity and are not committees of the same political party:

(A) After gross contributions are allocated among the participants under 11 CFR 9034.8(c)(7), the fundraising representative shall calculate each participant's share of expenses based on the percentage of the total receipts each participant had been allocated. To calculate each participant's net proceeds, the fundraising representative shall subtract the participant's share of expenses from the amount that participant has been allocated from gross proceeds.

(B) A participant may only pay expenses on behalf of another participant subject to the contribution limits of 11 CFR Part 110.

(ii) If participating committees are affiliated as defined in 11 CFR 110.3 prior to the joint fundraising activity or if participants are party committees of the same political party, expenses need not be allocated among those participants. Payment of such expenses by an unregistered committee or organization on behalf of an affiliated political committee may cause the unregistered organization to become a political committee.

(iii) Payment of expenses may be made from gross proceeds by the fundraising representative.

(9) *Reporting of Receipts and Disbursements.*—(i) *Reporting Receipts.* (A) The fundraising representative shall report all funds received in the reporting period in which they are received. Each Schedule A filed by the fundraising representative under this section shall clearly indicate that the contributions reported on that schedule represent joint fundraising proceeds.

(B) After distribution of net proceeds, each participating political committee shall report its share of net proceeds received as a transfer-in from the fundraising representative. Each participating political committee shall also file a memo Schedule A itemizing its share of gross receipts as contributions from original contributions to the extent required under 11 CFR 104.3(a).

(ii) *Reporting Disbursements.* The fundraising representative shall report all disbursements in the reporting period in which they are made.

§ 9034.9 Sale of assets acquired for fundraising purposes.

(a) *General.* A candidate may sell assets donated to the campaign or otherwise acquired for fundraising purposes (See 11 CFR 9034.5(b)(2)), subject to the limitations and prohibitions of Title 2, United States Code and 11 CFR parts 110 and 114.

(b) *Sale After End of Matching Payment Period.* A candidate whose outstanding debts exceed his or her cash on hand after the end of the matching payment period as determined under 11 CFR 9032.6 may dispose of assets acquired for fundraising purposes in a sale to a wholesalers or other intermediary who will in turn sell such assets to the public, provided that the sale to the wholesaler or intermediary is an arms-length transaction. Sales made under this subsection will not be subject to the limitations and prohibitions of Title 2, United States Code and 11 CFR Parts 110 and 114.

PART 9035—EXPENDITURE LIMITATIONS

Sec.
9035.1 Campaign expenditure limitation.
9035.2 Limitations on expenditures from personal or family funds.

Authority: Pub. L. 93–443, title IV, Sec. 408(c), 88 Stat. 1300, as amended by Pub. L. 94–283, title III, Secs. 305(a), 307(c), 90 Stat. 494, 501 (26 U.S.C. Sec. 9035).

§ 9035.1 Campaign expenditure limitation.

(a) No candidate or his or her authorized committee(s) shall knowingly incur expenditures in connection with the candidate's campaign for nomination, which expenditures, in the aggregate, exceed $10,000,000 (as adjusted under 2 U.S.C. 441a(c)), except that the aggregate expenditures by a candidate in any one State shall not exceed the greater of: 16 cents (as adjusted under 2 U.S.C. 441a(c)) multiplied by the voting age population of the State (as certified under 2 U.S.C. 441a(e)); or $200,000 (as adjusted under 2 U.S.C. 441a(c)).

(b) Each candidate receiving or expecting to receive matching funds under this subchapter shall also allocate his or her expenditures in accordance with the provisions of 11 CFR 106.2.

(c) A candidate may exclude from the overall expenditure limitation of this section an amount equal to 10% of salaries and overhead expenditures of his or her national campaign headquarters and state offices as an exempt legal and accounting compliance cost under 11 CFR 100.8(b)(15). For purposes of this section overhead expenditures include, but are not limited to rent, utilities, office equipment, furniture, supplies, and telephone base service charges. An additional amount of 10% of such salaries and overhead expenditures may be excluded from the overall expenditure limitation of this section as exempt fundraising expenditures but this exemption shall not apply within 28 days of the primary election as specified in 11 CFR 110.8(c)(2). Any amount excluded for fundraising expenditures shall be applied against the fundraising expenditure limitation under 11 CFR 100.8(b)(21). If the candidate wishes to claim a larger compliance or fundraising exemption for any person, the candidate shall establish allocation percentages for each individual who spends all or a portion of his or her time to perform duties which are considered compliance or fundraising. The candidate shall keep detailed records to support the derivation of each percentage. Such records shall indicate which duties are considered compliance or fundraising and the percentage of time each person spends on such activity.

(d) The expenditure limitations of this section shall not apply to a candidate who does not receive matching funds at any time during the matching payment period.

§9035.2 Limitation on expenditures from personal or family funds.

No candidate who has accepted matching funds shall knowingly make expenditures from his or her personal funds, or funds of his or her immediate family, in connection with his or her campaign for nomination for election to the office of President which exceed $50,000, in the aggregate. This section shall not operate to prohibit any member of the candidate's immediate family from contributing his or her personal funds to the candidate, subject to the limitations of 11 CFR Part 110.

(b) For purposes of this section, the term "immediate family" means a candidate, spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(c) For purposes of this section, "personal funds" has the same meaning as specified in 11 CFR 110.10.

PART 9036—REVIEW OF SUBMISSION AND CERTIFICATION OF PAYMENTS BY COMMISSION

Sec.
9036.1 Threshold submission.
9036.2 Additional submission for matching fund payments.
9036.3 Submission errors and insufficient documentation.
9036.4 Commission review of submissions.
9036.5 Resubmissions.
9036.6 Continuation of certification.

Authority: Pub. L. 93–443, title IV, Sec. 408(c), 88 Stat. 1300 (26 U.S.C. 9036).

§ 9036.1 Threshold submission.

(a) *Time for Submission of Threshold Submission.* At any time after January 1 of the year immediately preceding the Presidential election year, the candidate may submit a threshold submission for matching fund payments in accordance with the format for such submissions set forth in paragraph (b) of this section. The candidate may submit the threshold submission simultaneously with or subsequent to his or her submission of the candidate agreement and certifications required by 11 CFR 9033.1 and 9033.2.

(b) *Format for Threshold Submission.* (1) For each State in which the candidate certifies that he or she has met the requirements of the certifications in 11 CFR 9033.2(b), the candidate shall submit an alphabetical list of contributors showing:

(i) Each contributor's full name and residential address;

(ii) The occupation and name of employer for individuals whose aggregate contributions exceed $200 in the calendar year;

(iii) The date of deposit of each contribution into the designated campaign depository;

(iv) The full dollar amount of each contribution submitted for matching purposes;

(v) The matchable portion of each contribution submitted for matching purposes;

(vi) The aggregate amount of all matchable contributions from that contributor submitted for matching purposes;

(vii) A notation indicating which contributions were received as a result of joint fundraising activities.

(2) The candidate shall submit a full-size photocopy of each check or written instrument and of supporting documentation in accordance with 11 CFR 9034.2 for each contribution that the candidate submits to establish eligibility for matching funds. For purposes of the threshold submission, the photocopies shall be segregated alphabetically by contributor within each State, and shall be accompanied by and referenced to copies of the relevant deposit slips.

(3) The candidate shall submit bank documentation, such as bank-validated deposit slips or unvalidated deposit slips accompanied by the relevant bank statements, which indicate that the contributions submitted were deposited into a designated campaign depository.

(4) For each State in which the candidate certifies that he or she has met the requirements to establish eligibility, the candidate shall submit a listing, alphabetically by contributor, of all checks returned by the bank to date as unpaid (e.g., stop payments, non-sufficient funds) regardless of whether the contribution was submitted for matching. This listing shall be accompanied by a full-size photocopy of each unpaid check, and copies of the associated debit memo and bank statement.

(5) The candidate shall submit all contributions in accordance with the Federal Election Commission's Guideline for Presentation in Good Order.

(6) Contributions that are not submitted in compliance with this section shall not count toward the threshold amount.

(c) *Threshold Certification by Commission.* (1) After the Commission has determined under 11 CFR 9033.4 that the candidate has satisfied the eligibility and certification requirements of 11 CFR 9033.1 and 9033.2, the Commission will notify the candidate in writing that the candidate is eligible to receive primary matching fund payments as provided in 11 CFR Part 9034.

(2) If the Commission makes a determination of a candidate's eligibility under paragraph (a) of this section in a Presidential election year, the Commission shall certify to the Secretary, within 10 calendar days after the Commission has made its determination, the amount to which the candidate is entitled.

(3) If the Commission makes a determination of a candidate's eligibility under paragraph (a) of this section in the year preceding the Presidential election year, the Commission will notify the candidate that he or she is eligible to receive matching fund payments; however, the Commission's determination will not result in a payment of funds to the candidate until after January 1 of the Presidential election year.

§ 9036.2 Additional submissions for matching fund payments.

(a) *Time for Submission of Additional Submissions.* The candidate may submit additional submissions for payments to the Commission on dates to be determined and published by the Commission.

(b) *Format for Additional Submissions.* The candidate may obtain additional matching fund payments subsequent to the Commission's threshold certification and payment of primary matching funds to the candidate by filing an additional submission for payment. All additional submissions for payments filed by the candidate shall be made in accordance with the Federal Election Commission's Guideline for Presentation in Good Order.

(1) The first submission for matching funds following the candidate's threshold submission shall contain all the contributions included in the threshold submission and any additional contributions to be submitted for matching in that submission. This submission shall contain all the information required for the threshold submission except that:

(i) The candidate is not required to resubmit the candidate agreement and certifications of 11 CFR 9033.1 and 9033.2;

(ii) The candidate is required to submit an alphabetical list of contributors, but not segregated by State as required in the threshold submission;

(iii) The candidate is required to submit a listing, alphabetical by contributor, of all checks returned unpaid, but not segregated by State as required in the threshold submission;

(iv) The occupation and employer's name need not be disclosed on the contributor list for individuals whose aggregate contributions exceed $200 in the calendar year, but such information is subject to the recordkeeping and reporting requirements of 2 U.S.C. 432 (c)(3), 434(b)(3)(A) and 11 CFR 102.9(a)(2), 104.3(a)(4)(i); and

(v) The photocopies of each check or written instrument and of supporting documentation shall either be alphabetized and referenced to copies of the relevant deposit slip, but not segregated by State as required in the threshold submission; or such photocopies may be batched in deposits of 50 contributions or less and cross-referenced by deposit number and sequence number within each deposit on the contributor list.

(2) Following the first submission under paragraph (b)(1) of this section candidates may request additional matching funds on dates prescribed by the Commission by making a letter request in lieu of making a full submission as required under paragraph (b)(1) of this section. Letter requests shall state an amount of matchable contributions not previously submitted for matching and shall provide bank documentation, such as bank-validated deposit slips or unvalidated deposit slips accompanied by the relevant bank statement, demonstrating that the committee has received the funds for which matching payments are requested. The amount requested for matching may include contributions received up to the last business day preceding the date of the request. On the next submission after a letter request has been made, the committee shall submit the documentation required under paragraph (b)(1) of this section for all contributions included in the letter request, as well as those contributions submitted for matching in that submission. A committee may not submit two consecutive letter requests, but the committee may choose to make a full regular submission on a date designated by the Commission as a letter request date for that committee.

(c) *Certification of Additional Payments by Commission.* (1)(i) When a candidate who is eligible under 11 CFR 9033.4 submits an additional submission for payment in the Presidential election year, the Commission may certify to the Secretary within 5 business days after the Commission's receipt of information submitted by the candidate under paragraph (a) of this section, an amount based on the holdback procedure described in the Federal Election Commission's Guideline for Presentation in Good Order. If the candidate makes a letter request, the Commission may certify to the Secretary an amount which is less than that requested based upon the ratio of verified matchable contributions to total deposits for that committee in the committee's last regular submission.

(ii) The Commission will certify to the Secretary any additional amount to which the eligible candidate is entitled, if any, within 15 business days after the Commission's receipt of information submitted by the candidate under paragraph (a) of this section unless the projected dollar value of the nonmatchable contributions contained in the submission exceeds 15% of the amount requested. In the latter case, the Commission will certify any additional amount within 25 business days. See 11 CFR 9036.4 for Commission procedures for certification of additional payments.

(2) After a candidate's date of ineligibility, the Commission will certify to the Secretary within 15 business days after receipt of a submission by the candidate under paragraph (a) of this section, an amount to which the ineligible candidate is entitled in accordance with 11 CFR 9034.1(b), unless the projected dollar value of the nonmatchable contributions contained in the submission exceeds 15% of the amount requested. In the latter case, the Commission will certify any amount to which the ineligible candidate is entitled within 25 business days.

(d) *Additional Submissions Submitted in Non-Presidential Election Year.* The

candidate may submit additional contributions for review during the year preceding the Presidential election year; however, the amount of each submission made during this period must exceed $50,000. Additional submissions filed by a candidate in a non-Presidential election year will not result in payment of matching funds to the candidate until after January 1 of the Presidential election year.

§ 9036.3 Submission errors and insufficient documentation.

Contributions which are otherwise matchable may be rejected for matching purposes because of submission errors or insufficient supporting documentation. Contributions, other than those defined in 11 CFR 9034.3 or in the form of money orders, cashier's checks, or similar negotiable instruments, may become matchable if there is a proper resubmission in accordance with 11 CFR 9036.5 and 9036.6. Insufficient documentation or submission errors include but are not limited to:

(a) Discrepancies in the written instrument, such as:

(1) Instruments drawn on other than personal accounts of contributors and not signed by the contributing individual;

(2) Signature discrepancies; and

(3) Lack of the contributor's signature, the amount or date of the contribution, or the listing of the committee or candidate as payee.

(b) Discrepancies between listed contributions and the written instrument or supporting documentation, such as:

(1) The listed amount requested for matching exceeds the amount contained on the written instrument;

(2) A written instrument has not been submitted to support a listed contribution;

(3) The submitted written instrument cannot be associated either by account holder identification or signature with the listed contributor; or

(4) A discrepancy between the listed contribution and the supporting bank documentation or the bank documentation is omitted.

(c) Discrepancies within or between contributor lists submitted, such as:

(1) The address of the contributor is omitted or incomplete or the contributor's name is alphabetized incorrectly, or more than one contributor is listed per item;

(2) A discrepancy in aggregation within or between submissions which results in a request that more than $250 be matched for that contributor, or a listing of a contributor more than once within the same submission; or

(3) A written instrument has been previously submitted and matched in full or is listed twice in the same submission.

(d) The omission of information, supporting statements, or documentation required by 11 CFR 9034.2.

§ 9036.4 Commission review of submissions.

(a) *Non-Acceptance of Submission for Review of Matchability.* The Commission will make an initial review of each submission made under 11 CFR Part 9036 to determine if it substantially meets the format requirements of 11 CFR 9036.1(b) and 9036.2(b) and the Federal Election Commission's Guideline for Presentation in Good Order. If the Commission determines that a submission does not substantially meet these requirements, it will not review the matchability of the contributions contained therein. In such a case, the Commission will return the submission to the candidate and request that it be corrected in accordance with the format requirements. If the candidate makes a corrected submission within 3 business days after the Commission's return of the original, the Commission will review the corrected submission prior to the next regularly-scheduled submission date. Corrected submissions made after this three day period will be reviewed subsequent to the next regularly-scheduled submission date.

(b) *Acceptance of Submission for Review of Matchability.* If the Commission determines that a submission made under 11 CFR Part 9036 satisfies the format requirements of 11 CFR 9036.1(b) and 9036.2(b) and the Federal Election Commission's Guideline for Presentation in Good Order, it will review the matchability of the contributions contained therein. The Commission, in conducting its review, may utilize statistical sampling techniques. Based on the results of its review, the Commission may calculate a matchable amount for the submission which is less than the amount requested by the candidate. If the Commission certifies for payment to the Secretary an amount that is less than the amount requested by the candidate in a particular submission, or reduces the amount of a subsequent certification to the Secretary by adjusting a previous certification made under 11 CFR 9036.2(c)(1), the Commission will notify the candidate in writing of the following:

(1) The amount of the difference between the amount requested and the amount to be certified by the Commission;

(2) The amount of each contribution and the corresponding contributor's name for each contribution that the Commission has rejected as nonmatchable and the reason that it is not matchable; or if statistical sampling is used, the estimated amount of contributions by type and the reason for rejection;

(3) The amount of contributions that have been determined to be matchable and that the Commission will certify to the Secretary for payment; and

(4) A statement that the candidate may supply the Commission with additional documentation or other information in the resubmission of any rejected contribution under 11 CFR 9036.5 in order to show that a rejected contribution is matchable under 11 CFR 9034.2.

(c) *Adjustment of Amount to be Certified by Commission.* The candidate shall notify the Commission as soon as possible if the candidate or the candidate's authorized committee(s) has knowledge that a contribution submitted for matching does not qualify under 11 CFR 9034.2 as a matchable contribution, such as a check returned to the committee for insufficient funds, so that the Commission may properly adjust the amount to be certified for payment.

(d) *Commission Audit of Submissions.* The Commission may determine, for the reasons stated in 11 CFR Part 9039, that an audit and examination of contributions submitted for matching payment is warranted. The audit and examination shall be conducted in accordance with the procedures of 11 CFR Part 9039.

§ 9036.5 Resubmissions.

(a) *Alternative Resubmission Methods.* Upon receipt of the Commission's notice of the results of the submission review pursuant to 11 CFR 9036.4(b), a candidate may choose to:

(1) Resubmit the entire submission; or

(2) Make a written request for the identification of the specific contributions that were rejected for matching, and resubmit those specific contributions.

(b) *Time for Presentation of Resubmissions.* If the candidate chooses to resubmit any contributions under paragraph (a) of this section, the contributions shall be resubmitted on dates to be determined and published by the Commission. The cutoff date for original submissions as provided by 11 CFR 9036.6 will not apply to resubmissions made under this section.

(c) *Format for Resubmissions.* All resubmissions filed by the candidate shall be made in accordance with the

Federal Election Commission's Guideline for Presentation in Good Order. In making a presentation of resubmitted contributions, the candidate shall follow the format requirements as specified in 11 CFR 9036.2(b)(1), except that:

(1) The candidate need not provide photocopies of written instruments, supporting documentation and bank documentation unless it is necessary to supplement the original documentation.

(2) Each resubmitted contribution shall be referenced to the submission in which it was first presented.

(3) Each list of resubmitted contributions shall reflect the aggregate amount of contributions submitted for matching from each contributor as of the date of the original submission.

(4) Each list of resubmitted contributions shall reflect the aggregate amount of contributions submitted for matching from each contributor as of the date of the resubmission.

(5) Each list of resubmitted contributions shall only contain contributions previously submitted for matching and no new or additional contributions.

(6) Each resubmission shall be accompanied by a statement that the candidate has corrected his or her contributor records (including the data base for those candidates maintaining their contributor list on computer).

(d) *Certification of Resubmitted Contributions.* Contributions that the Commission determines to be matchable will be certified to the Secretary within 15 business days. If the candidate chooses to request the specific contributions rejected for matching pursuant to paragraph (a)(2) of this section, the amount certified shall equal only the matchable amount of the particular contribution that meets the standards on resubmission, rather than the amount projected as being nonmatchable based on that contribution due to the sampling techniques used in reviewing the original submission.

(e) *Interim Determinations.* If the candidate resubmits a contribution for matching and the Commission determines that the rejected contribution is still nonmatchable, the Commission will notify the candidate in writing of its determination. The Commission will advise the candidate of the legal and factual reasons for its determination and of the evidence on which that determination is based. The candidate may submit written legal or factual materials to demonstrate that the contribution is matchable within 30 calendar days after receipt of the Commission's notice. Such materials may be submitted by counsel if the candidate so desires.

(f) *Final Determinations.* The Commission will consider any written legal or factual materials timely submitted by the candidate in making its final determination. A final determination by the Commission that a contribution is not matchable will be accompanied by a written statement of reasons for the Commission's action. This statement will explain the reasons underlying the Commission's determination and will summarize the results of any investigation upon which the determination is based.

§ 9036.6 Continuation of certification.

Candidates who have received matching funds and who are eligible to continue to receive such funds may continue to submit additional submissions for payment to the Commission on dates specified in the Federal Election Commission's Guideline for Presentation in Good Order. No contribution will be matched if it is submitted for the first time after the last Monday in January of the year following the election, regardless of the date the contribution was deposited.

PART 9037—PAYMENTS

Sec.

9037.1 Payments of Presidential primary matching funds.
9037.2 Equitable distribution of funds.
9037.3 Deposits of Presidential primary matching funds.

Authority: Pub. L. 93–443, title IV, sec. 408(c), 88 Stat. 1300 (26 U.S.C. 9037).

§ 9037.1 Payments of Presidential primary matching funds.

Upon receipt of a written certification from the Commission, but not before the beginning of the matching payment period, the Secretary will promptly transfer the amount certified from the matching payment account to the candidate.

§ 9037.2 Equitable distribution of funds.

In making such transfers to candidates of the same political party, the Secretary will seek to achieve an equitable distribution of funds available in the matching payment account, and the Secretary will take into account, in seeking to achieve an equitable distribution of funds available in the matching payment account, the sequence in which such certifications are received.

§ 9037.3 Deposits of Presidential primary matching funds.

Upon receipt of any matching funds, the candidate shall deposit the full amount received into a checking account maintained by the candidate's principal campaign committee in the depository designated by the candidate.

PART 9038—EXAMINATIONS AND AUDITS

Sec.

9038.1 Audit.
9038.2 Repayments.
9038.3 Liquidation of obligations; repayment.
9038.4 Extensions of time.

Authority: Pub. L. 93–443, title IV, sec. 408(c), 88 Stat. 1300 (26 U.S.C. 9038).

§ 9038.1 Audit.

(a) *General.* (1) The Commission will conduct an audit of the qualified campaign expenses of every candidate and his or her authorized committee(s) who received Presidential primary matching funds. The audit may be conducted at any time after the date of the candidate's ineligibility.

(2) In addition, the Commission may conduct other examinations and audits from time to time as it deems necessary to carry out the provisions of this subchapter.

(3) Information obtained pursuant to any audit and examination conducted under paragraphs (a)(1) and (2) of this section may be used by the Commission as the basis, or partial basis, for its repayment determinations under 11 CFR 9038.2.

(b) *Conduct of Fieldwork.* (1) The Commission will give the candidate's authorized committee at least two weeks' notice of the Commission's intention to commence fieldwork on the audit and examination. The fieldwork shall be conducted at a site provided by the committee.

(i) *Office Space and Records.* On the date scheduled for the commencement of fieldwork, the candidate or his or her authorized committee(s) shall provide Commission staff with office space and committee records in accordance with the candidate and committee agreement under 11 CFR 9033.1(b)(6).

(ii) *Availability of Committee Personnel.* On the date scheduled for the commencement of fieldwork, the candidate or his or her authorized committee(s) shall have committee personnel present at the site of the fieldwork. Such personnel shall be familiar with the committee's records and operation and shall be available to Commission staff to answer questions and to aid in locating records.

(iii) *Failure to Provide Staff, Records or Office Space.* If the candidate or his or her authorized committee(s) fail to provide adequate office space, personnel or committee records, the

Commission may seek judicial intervention under 2 U.S.C. 437d or 26 U.S.C. 9040(c) to enforced the candidate and committee agreement made under 11 CFR 9033.1(b). Before seeking judicial intervention, the Commission will notify the candidate of his or her failure to comply with the agreement and will recommend corrective action to bring the candidate into compliance. Upon receipt of the Commission's notification, the candidate will have 10 calendar days in which to take the corrective action indicated or to otherwise demonstrate to the Commission in writing that he or she is complying with the candidate and committee agreement.

(iv) If, in the course of the audit process, a dispute arises over the documentation sought or other requirements of the candidate agreement, the candidate may seek review by the Commission of the issues raised. To seek review, the candidate shall submit a written statement, within 10 calendar days after the disputed Commission staff request is made, describing the dispute and indicating the candidate's proposed alternative(s).

(2) Fieldwork will include the following steps designed to keep the candidate and committee informed as to the progress of the audit and to expedite the process:

(i) *Entrance Conference.* At the outset of the fieldwork, Commission staff will hold an entrance conference, at which the candidate's representatives will be advised of the purpose of the audit and the general procedures to be followed. Future requirements of the candidate and his or her authorized committee, such as possible repayments to the United States Treasury, will also be discussed. Committee representatives shall provide information and records necessary to conduct the audit, and Commission staff will be available to answer committee questions.

(ii) *Review of Records.* During the fieldwork, Commission staff will review committee records and may conduct interviews of committee personnel. Commission staff will be available to explain aspects of the audit and examination as it progresses. Additional meetings between Commission staff and committee personnel may be held from time to time during the fieldwork to discuss possible audit findings and to resolve issues arising during the course of the audit.

(iii) *Exit Conference.* At the conclusion of the fieldwork, Commission staff will hold an exit conference to discuss with committee representatives the staff's preliminary findings and recommendations which the Commission staff anticipates that it may present to the Commission for approval. Commission staff will advise committee representatives at this conference of the projected timetable regarding the issuance of an audit report, the committee's opportunity to respond thereto, and the Commission's initial and final repayment determinations under 11 CFR 9038.2.

(3) Commission staff may conduct additional fieldwork after the completion of the fieldwork conducted pursuant to paragraph (b)(1) and (2) of this section. Factors that may necessitate such follow-up fieldwork include, but are not limited to, the following:

(i) Committee responses to audit findings;

(ii) Financial activity of the committee subsequent to the fieldwork conducted pursuant to paragraph (b)(1) of this section;

(iii) Committee responses to Commission repayment determinations made under 11 CFR 9038.2.

(4) The Commission will notify the candidate and his or her authorized committee if follow-up fieldwork is necessary. The provisions of paragraph (b)(1) and (2) of this section shall apply to any additional fieldwork conducted.

(c) *Preparation of Interim Audit Report.* (1) After the completion of the fieldwork conducted pursuant to paragraph (b)(1) of this section, the Commission will issue an interim audit report to the candidate and his or her authorized committee. The interim audit report may contain Commission findings and recommendations regarding one or more of the following areas:

(i) An evaluation of procedures and systems employed by the candidate and committee to comply with applicable provisions of the Federal Election Campaign Act, Primary Matching Payment Account Act and Commission regulations;

(ii) Eligibility of the candidate to receive primary matching payments;

(iii) Accuracy of statements and reports filed with the Commission by the candidate and committee;

(iv) Compliance of the candidate and committee with applicable statutory and regulatory provisions except for those instances where the Commission has instituted an enforcement action on the matter(s) under the provisions of 2 U.S.C. 437g and 11 CFR Part 111; and

(v) Preliminary calculations regarding future repayments to the United States Treasury.

(2) The candidate and his or her authorized committee will have an opportunity to submit, in writing, within 30 calendar days of recepit of the interim report, legal and factual materials disputing or commenting on the contents of the interim report. Such materials may be submitted by counsel if the candidate so desires.

(3) The Commission will consider any written legal and factual materials submitted by the candidate or his or her authorized committee in accordance with paragraph (c)(2) of this section before approving and issuing an audit report to be released to the public. The contents of the publicly-released audit report may differ from that of the interim report since the Commission will consider timely submissions of legal and factual materials by the candidate or committee in response to the interim report.

(d) *Preparation of Publicly-Released Audit Report.* An audit report prepared subsequent to an interim report will be publicly released pursuant to paragraph (e) of this section. This report will contain Commission findings and recommendations addressed in the interim audit report but may contain adjustments based on the candidate's response to the interim report. In addition, this report will contain an initial repayment determination made by the Commission pursuant to 11 CFR 9038.2(c)(1) in lieu of the preliminary calculations set forth in the interim report.

(e) *Public Release of Audit Report.* (1) After the candidate and committee have had an opportunity to respond to a written interim report of the Commission, the Commission will make public the audit report prepared subsequent to the interim report, as provided in paragraph (d) of this section.

(2) If the Commission determines, on the basis of information obtained under the audit and examination process, that certain matters warrant enforcement under 2 U.S.C. 437g and 11 CFR Part 111, those matters will not be contained in the publicly-released report. In such cases, the audit report will indicate that certain other matters have been referred to the Commission's Office of General Counsel.

(3) The Commission will provide the candidate and committee copies of the audit report 24 hours prior to releasing the report to the public.

(4) Addenda to the audit report may be issued from time to time as circumstances warrant and as additional information becomes available. Such addenda may be based, in part, on follow-up fieldwork conducted under paragraph (b)(3) of this section, and will be placed on the public record.

§ 9038.2 Repayments.

(a) *General.* (1) A candidate who has received payments from the matching payment account shall pay the United States Treasury any amounts which the Commission determines to be repayable under this section. In making repayment determinations under this section, the Commission may utilize information obtained from audits and examinations conducted pursuant to 11 CFR 9038.1 and Part 9039 or otherwise obtained by the Commission in carrying out its responsibilities under this subchapter.

(2) The Commission will notify the candidate of any repayment determinations made under this section as soon as possible, but not later than 3 years after the end of the matching payment period.

(3) Once the candidate receives notice of the Commission's final repayment determination under this section, the candidate should give preference to the repayment over all other outstanding obligations of his or her committee, except for any federal taxes owed by the committee.

(b) *Bases for Repayment.*—(1) *Payments in Excess of Candidate's Entitlement.* The Commission may determine that certain portions of the payments made to a candidate from the matching payment account were in excess of the aggregate amount of payments to which such candidate was entitled. Examples of such excessive payments include, but are not limited to, the following:

(i) Payments made to the candidate after the candidate's date of ineligibility where it is later determined that the candidate had no net outstanding campaign obligations as defined in 11 CFR 9034.5;

(ii) Payments or portions of payments made to the candidate which are later determined to have been excessive due to the operation of the Commission's expedited payment procedures as set forth in the Federal Election Commission's Guideline For Presentation In Good Order;

(iii) Payments or portions of payments made on the basis of matched contributions later determined to have been non-matchable; and

(iv) Payments or portions of payments made to the candidate which are later determined to have been excessive due to the candidate's failure to include funds received by a fundraising representative committee under 11 CFR 9034.8 on the candidate's statement of net outstanding campaign obligations under 11 CFR 9034.5.

(2) *Use of Funds For Non-Qualified Campaign Expenses.*

(i) The Commission may determine that amount(s) of any payments made to a candidate from the matching payment account, or contributions received by the candidate, were used for purposes other than those set forth in (A)–(C) below:

(A) Defrayal of qualified campaign expenses;

(B) Repayment of loans which were used to defray qualified campaign expenses; and

(C) Restoration of funds (other than contributions which were received and expended to defray qualified campaign expenses) which were used to defray qualified campaign expenses.

(ii) Examples of Commission repayment determinations under paragraph (b)(2) of this section include, but are not limited to, the following:

(A) Determinations that a candidate, a candidate's authorized committee(s) or agents have made expenditures in excess of the limitations set forth in 11 CFR 9035;

(B) Determinations that funds described in paragraph (b)(2)(i) were expended in violation of state or federal law; and

(C) Determinations that funds described in paragraph (b)(2)(i) were expended for expenses resulting from a violation of state or federal law, such as the payment of fines or penalties.

(3) *Failure to Provide Adequate Documentation.* The Commission may determine that amount(s) spent by the candidate, the candidate's authorized committee(s), or agents were not documented in accordance with 11 CFR 9033.11.

(4) *Surplus.* The Commission may determine that the candidate's net outstanding campaign obligations, as defined in 11 CFR 9034.5, reflect a surplus.

(c) *Repayment Determination Procedures.* Commission repayment determinations will be made in accordance with procedures set forth at paragraphs (c) (1) through (4) of this section.

(1) *Initial Determination.* The Commission will provide the candidate with a written notice of its initial repayment determination(s). This notice will be included in the Commission's publicly-released audit report, pursuant to 11 CFR 9038.1(d), and will set forth the legal and factual reasons for such determination(s). Such notice will also advise the candidate of the evidence upon which any such determination is based. If the candidate does not dispute an initial repayment determination of the Commission within 30 calendar days of the candidate's receipt of the notice, such initial determination will be considered a final determination of the Commission.

(2) *Submission of Written Materials.* If the candidate disputes the Commission's initial repayment determination(s), he or she shall have an opportunity to submit in writing, within 30 calendar days of receipt of the Commission's notice, legal and factual materials to demonstrate that no repayment, or a lesser repayment, is required. The Commission will consider any written legal and factual materials submitted by the candidate within this 30 day period in making its final repayment determination(s). Such materials may be submitted by counsel if the candidate so desires.

(3) *Oral Presentation.* A candidate who has submitted written materials under paragraph (c)(2) of this section may request that the Commission provide such candidate with an opportunity to address the Commission in open session. If the Commission decides by an affirmative vote of four (4) of its members to grant the candidate's request, it will inform the candidate of the date and time set for the oral presentation. At the date and time set by the Commission, the candidate or candidate's designated representative will be allotted an amount of time in which to make an oral presentation to the Commission based upon the legal and factual materials submitted under paragraph (c)(2) of this section. The candidate or representative will also have the opportunity to answer any questions from individual members of the Commission.

(4) *Final Determination.* In making its final repayment determination(s), the Commission will consider any submission made under paragraph (c)(2) of this section and any oral presentation made under paragraph (c)(3) of this section. A final determination that a candidate must repay a certain amount will be accompanied by a written statement of reasons for the Commission's actions. This statement will explain the reasons underlying the Commission's determination and will summarize the results of any investigation upon which the determination is based.

(d) *Repayment Period.* (1) Within 90 calendar days of the candidate's receipt of the notice of the Commission's initial repayment determination(s), the candidate shall repay to the Secretary amounts which the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 90 calendar days in which to make repayment.

(2) If the candidate submits written materials under paragraph (c)(2) of this section disputing the Commission's initial repayment determination(s), the time for repayment will be suspended until the Commission makes its final repayment determination(s). Within 20 calendar days of the candidate's receipt of the notice of the Commission's final repayment determination(s), the candidate shall repay to the Secretary amounts which the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 90 days in which to make repayment.

(e) *Computation of Time.* The time periods established by this section shall be computed in accordance with 11 CFR 111.2.

(f) *Additional Repayments.* Nothing in this section will prevent the Commission from making additional repayment determinations on one or more of the bases set forth at paragraph (b) of this section after it has made a final determination on any such basis. The Commission may make additional repayment determinations where there exist facts not used as the basis for a previous final determination. Any such additional repayment determination will be made in accordance with the provisions of this section.

(g) *Newly-Discovered Assets.* If, after any initial or final repayment determination made under this section, a candidate or his or her authorized committee(s) receives or becomes aware of assets not previously included in any statement of net outstanding campaign obligations submitted pursuant to 11 CFR 9034.5, the candidate or his or her authorized committee(s) shall promptly notify the Commission of such newly-discovered assets. Newly-discovered assets may include refunds, rebates, late-arriving receivables, and actual receipts for capital assets in excess of the value specified in any previously-submitted statement of net outstanding campaign obligations. Newly-discovered assets may serve as a basis for additional repayment determinations under paragraph (f) of this section.

§ 9038.3 Liquidation of obligations; repayment.

(a) The candidate may retain amounts received from the matching payment account for a period not exceeding 6 months after the matching payment period to pay qualified campaign expenses incurred by the candidate.

(b) After all obligations have been liquidated, the candidate shall so inform the Commission in writing.

(c)(1) If on the last day of candidate eligibility the candidate's net outstanding campaign obligations, as defined in 11 CFR 9034.5, reflect a surplus, the candidate shall within 30 calendar days of the ineligibility date repay to the Secretary an amount which represents the amount of matching funds contained in the candidate's surplus. The amount shall be an amount equal to that portion of the surplus which bears the same ratio to the total surplus that the total amount received by the candidate from the matching payment account bears to the total deposits made to the candidate's accounts.

(2) For purposes of this subsection, total deposits shall be considered all deposits to all candidate accounts minus transfers between accounts, refunds, rebates, reimbursements, checks returned for insufficient funds, proceeds of loans and other similar amounts.

(3) Notwithstanding the payment of any amounts to the United States Treasury under this section, the Commission may make surplus repayment determination(s) which require repayment in accordance with 11 CFR 9038.2.

§ 9038.4 Extensions of time.

(a) It is the policy of the Commission that extensions of time under 11 CFR Part 9038 shall not be routinely granted.

(b) Whenever a candidate has a right or is required to take action within a period of time prescribed by 11 CFR Part 9038 or by notice given thereunder, the candidate may apply in writing to the Commission for an extension of time in which to exercise such right or take such action. The candidate shall demonstrate in the application for extension that good cause exists for his or her request.

(c) An application for extension of time shall be made at least 7 calendar days prior to the expiration of the time period for which the extension is sought. The Commission may, upon a showing of good cause, grant an extension of time to a candidate who has applied for such extension in a timely manner. The length of time of any extension granted hereunder will be decided by the Commission and may be less than the amount of time sought by the candidate in his or her application.

(d) If a candidate fails to seek an extension of time, exercise a right or take a required action prior to the expiration of a time period prescribed by 11 CFR Part 9038 the Commission may, on the candidate's showing of excusable neglect:

(1) Permit such candidate to exercise his or her right(s), or take such required action(s) after the expiration of the prescribed time period; and

(2) Take into consideration any information obtained in connection with the exercise of any such right or taking of any such action before making decisions or determinations under 11 CFR Part 9038.

PART 9039—REVIEW AND INVESTIGATION AUTHORITY

Sec.
9039.1 Retention of books and records.
9039.2 Continuing review.
9039.3 Examinations and audits; investigations.

Authority: Pub. L. 93–443, title IV, sec. 408(c), 88 Stat. 1301, as amended by Pub. L. 94–283, title III, sec. 304(b), 90 Stat. 499 (26 U.S.C. 9039).

§ 9039.1 Retention of books and records.

The candidate and his or her authorized committee(s) shall keep all books, records and other information required under 11 CFR 9033.11, 9034.2 and Part 9036 for a period of three years pursuant to 11 CFR 102.9(c) and shall furnish such books, records and information to the Commission on request.

§ 9039.2 Continuing review.

(a) In reviewing candidate submissions made under 11 CFR Part 9036 and in otherwise carrying out its responsibilities under this subchapter, the Commission may routinely consider information from the following sources:

(1) Any and all materials and communications which the candidate and his or her authorized committee(s) submit or provide under 11 CFR Part 9036 and in response to inquiries or requests of the Commission and its staff;

(2) Disclosure reports on file with the Commission; and

(3) Other publicly available documents.

(b) In carrying out the Commission's responsibilities under this subchapter, Commission staff may contact representatives of the candidate and his or her authorized committee(s) to discuss questions and to request documentation concerning committee activities and any submission made under 11 CFR Part 9036.

§ 9039.3 Examinations and audits; investigations.

(a) *General.* (1) The Commission will consider information obtained in its continuing review under 11 CFR 9039.2 in making any certification, determination or finding under this subchapter. If the Commission decides by an affirmative vote of four of its members that additional information must be obtained in connection with any such certification, determination or

finding, it will conduct a further inquiry. A decision to conduct an inquiry under this section may be based on information that is obtained under 11 CFR 9039.2, received by the Commission from outside sources, or otherwise ascertained by the Commission in carrying out its supervisory responsibilities under the Presidential Primary Matching Payment Account Act and the Federal Election Campaign Act.

(2) An inquiry conducted under this section may be used to obtain information relevant to candidate eligibility, matchability of contributions and repayments to the United States Treasury. Information obtained during such an inquiry may be used as the basis, or partial basis, for Commission certifications, determinations and findings under 11 CFR Parts 9033, 9034, 9036 and 9038. Information thus obtained may also be the basis of, or be considered in connection with, an investigation under 2 U.S.C. 437g and 11 CFR Part 111.

(3) Before conducting an inquiry under this section, the Commission will attempt to obtain relevant information under the continuing review provisions of 11 CFR 9039.2. Matching payments will not be withheld pending the results of an inquiry under this section unless the Commission finds patent irregularities suggesting the possibility of fraud in materials submitted by, or in the activities of, the candidate or his or her authorized committee(s).

(b) *Procedures.* (1) The Commission will notify the candidate of its decision to conduct an inquiry under this section. The notice will summarize the legal and factual basis for the Commission's decision.

(2) The Commission's inquiry may include, but is not limited to, the following:

(i) A field audit of the candidate's books and records;

(ii) Field interviews of agents and representatives of the candidate and his or her authorized committee(s);

(iii) Verification of reported contributions by contacting reported contributors;

(iv) Verification of disbursement information by contacting reported vendors;

(v) Written questions under order;

(vi) Production of documents under subpoena;

(vii) Depositions.

(3) The provisions of 2 U.S.C. 437g and 11 CFR Part 111 will not apply to inquiries conducted under this section except that the provisions of 11 CFR 111.12 through 111.15 shall apply to any orders or subpoenas issued by the Commission.

Dated: January 24, 1983.

Lee Ann Elliott,

Vice Chairman, Federal Election Commission.

[FR Doc. 83-2286 Filed 2-3-83; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81-19]

Publication of Project Cost Limits Under Blanket Certificates

AGENCY: Federal Energy Regulatory Commission DOE.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(t), the Director of the Office of Pipeline and Producer Regulation computes and publishes natural gas pipeline project cost and annual dollar limits specified in Table I of 157.208(d) and Table II of 157.215(a) for each calendar year.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Director, OPPR, (202) 357-8500.

SUPPLEMENTARY INFORMATION:

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶ 61,216). Section 157.215(a) specifies the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the "limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GNP implicit price deflator' published by the Department of Commerce for the previous calendar year."

Pursuant to § 375.307(t) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Pipeline and Producer Regulation. The cost limits for calendar years 1982 and 1983, as published in Table I of § 157.208(d) and Table II of § 157.215(a), are hereby issued.

List of Subjects in 18 CFR Part 157

Natural gas.

Issued: January 28, 1983.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I

	Limit	
	Auth. project cost limit (col. 1)	Prior notice project cost limit (col. 2)
Year:		
1982	$4,200,000	$12,000,000
1983	4,500,000	12,800,000

TABLE II

	Limit
Year:	
1982	$2,700,000
1983	2,900,000

[FR Doc. 83-3004 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Director, Bureau of Foods, et al.

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority on food- and color-related matters to update current delegations and add new delegations to Bureau of Foods' officials. The new delegations of authority will expedite the administrative handling of certain routine actions.

EFFECTIVE DATE: February 4, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: In § 5.31 (21 CFR 5.31) a new paragraph (e) is added delegating to the Director and Deputy Director of the Bureau of Foods the authority to issue 180-day tentative responses to citizen petitions on food matters under § 10.30(e)(2)(iii) (21 CFR 10.30(e)(2)(iii)).

In § 5.61 (21 CFR 5.61) the section heading is revised, and the introductory

paragraph is designated as paragraph (a) and revised to add to the delegatees the Deputy Directors of the Bureaus. Paragraph (b) is revised to delegate to the Director and Deputy Director of the Bureau of Foods the authority to issue notices of temporary permits for foods varying from standards of identity under § 130.17 (21 CFR 130.17) and approvals of the use of food additives under section 409(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(e)) and color additives under section 706(d) of the act (21 U.S.C. 376(d)). Paragraph (c) is added delegating to the Director, Deputy Director, Associate Director for Compliance, and Director of the Division of Food and Color Additives the authority to issue 90-day letters to food additive petitioners under section 409(c)(2) of the act and color additive petitioners under section 706(d)(1) of the act. Paragraph (d) is added to move the color certification delegation of authority from § 5.64 (21 CFR 5.64) to consolidate all color-related authorities into this expanded paragraph; in addition, the title "Associate Director for Technology" is changed to agree with the new title, "Associate Director for Physical Sciences."

Section 5.62 (21 CFR 5.62) is being added to delegate to the Director and Deputy Director of the Bureau of Foods authority to issue initial emergency permit orders under § 108.5 (21 CFR 108.5) and notices of confirmation of effective dates of final regulations on food matters promulgated under section 701(e) of the act.

Section 5.64 *Certification of color additives* (21 CFR 5.64) is being removed (paragraph (d) added to §5.61 incorporates this material).

The Commissioner of Food and Drugs will retain authority over actions concerning provisionally listed color additives, and regulations that approve or amend approvals of food additive or color additive petitions where there is a novel or controversial issue, including any question about the applicability of the Delaney Anti-Cancer Clause. In addition, the Bureau Director will refer to the Commissioner for signature any document that in the Bureau Director's judgment should be signed by the Commissioner, even though it is within the authority delegated to the Bureau Director. The functions of the Commissioner under this reservation of authority may be exercised by an official authorized under § 5.20(b) (21 CFR 5.20(b)) to perform the functions of the Commissioner.

The Office of General Counsel will continue to review all Federal Register documents before publication.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. By adding new paragraph (e) to §5.31, to read as follows:

§ 5.31 Petitions under Part 10.

* * * * *

(e) The Director and Deputy Director of the Bureau of Foods are authorized to issue 180-day tentative responses to citizen petitions on food matters under § 10.30(e)(2)(iii) of this chapter.

2. By revising §5.61, to read as follows:

§ 5.61 Food standards, food additives, and color additives.

(a) The Director and Deputy Director of the Bureau of Foods and the Director and Deputy Director of the Bureau of Veterinary Medicine are authorized to perform all the functions of the Commissioner of Food and Drugs under sections 401, 409, and 706 of the Federal Food, Drug, and Cosmetic Act (the act) regarding the issuance of notices of proposed rulemaking pertaining to food standards and notices of filing of petitions on food additives and color additives that relate to the assigned functions of the respective Bureau.

(b) The Director and Deputy Director of the Bureau of Foods are authorized to perform all the functions of the Commissioner of Food and Drugs under sections 401, 409, and 706 of the act regarding the issuance of notices of temporary permits for foods varying from standards of identity under § 130.17 of this chapter; and approvals of the use of food additives under section 409(e) of the act, and color additives, other than those on the provisional list, under section 706(d) of the act, where these approvals do not involve novel or controversial issues, including any question about the applicability of the Delaney Anti-Cancer Clause.

(c) The Director and Deputy Director of the Bureau of Foods, the Associate Director for Compliance, and the Director and Deputy Director of the Division of Food and Color Additives of that Bureau are authorized to issue 90-day letters to food additive petitioners under section 706(d)(1) of the act.

(d) The Director and Deputy Director of the Bureau of Foods, the Associate Director and Deputy Associate Director for Physical Sciences, and the Director and Deputy Director of the Division of Color Technology of that Bureau are authorized to certify batches of color additives under section 706 of the act.

3. By adding new § 5.62, to read as follows:

§ 5.62 Issuance of initial emergency permit orders and notices of confirmation of effective date of final regulations on food matters.

The Director and Deputy Director of the Bureau of Foods are authorized to issue initial emergency permit orders under § 108.5 of this chapter and notices of confirmation of effective date of final regulations on food matters promulgated under section 701(e) of the Federal Food, Drug, and Cosmetic Act.

§ 5.64 [Removed]

4. By removing § 5.64 *Certification of color additives.*

Effective date. This regulation shall become effective February 4, 1983.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: January 25, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-3108 Filed 2-3-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 74, 81, and 82

[Docket No. 83N-0009]

FD&C Blue No. 2

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is "permanently" listing FD&C Blue No. 2 for use in food and ingested drugs. This action is in response to a petition filed by the Certified Color Industry Committee, now the Certified Color Manufacturers Association, Inc. This rule will remove FD&C Blue No. 2 from the provisional list of color additives for use in food and ingested drugs. Published elsewhere in this issue of the Federal Register is an order extending the closing date for the provisional listing of FD&C Blue No. 2 until April 29, 1983, to provide an

opportunity for the filing of objections to this order.

DATES: Effective March 8, 1983, objections by March 7, 1983.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Falci, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5741.

SUPPLEMENTARY INFORMATION:

I. Introduction

FD&C Blue No. 2 is a water soluble color additive of the indigoid class. It is used in coloring food and ingested drugs. The food uses include candy, frozen dairy desserts, coffee and tea, confections, and bakery goods. The ingested drug uses include over-the-counter preparations and prescription drugs for long-term use (over 6 weeks).

FD&C Blue No. 2 is principally the disodium salt of 2-(1,3-dihydro-3-oxo-5-sulfo-2*H*-indol-2-ylidene)-2,3-dihydro-3-oxo-1*H*-indole-5-sulfonic acid (CAS Reg. No. 860–22–0) with smaller amounts of the disodium salt of 2-(1,3-dihydro-3-oxo-7-sulfo-2*H*-indol-2-ylidene)-2,3-dihydro-3-oxo-1*H*-indole-5-sulfonic acid (CAS Reg. No. 54947–75–0) and the sodium salt of 2-(1,3-dihydro-3-oxo-2*H*-indol-2-ylidene)-2,3-dihydro-3-oxo-1*H*-indole-5-sulfonic acid (CAS Reg. No. 605–18–5).

The Color Additive Amendments of 1960 (the amendments) require FDA premarket clearance of any color additive that is intened to be used or that is represented for use in or on food, drugs, certain medical devices, cosmetics, or the human body. Under the amendments, a use of a color additive may be approved and listed if there are sufficient data establishing that the color additive is safe for this use.

Recognizing that many color additives were already in use at the time it enacted the amendments, Congress established transitional provisions to allow for the provisional listing and continued use of these color additives for the period of time necessary to complete scientific investigations needed to evaluate the safety of these substances under the standards prescribed in the amendments.

Section 81.1 of the color additive regulations (21 CFR 81.1) identifies those color additives that are provisionally listed under section 203(b) of the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and sets forth the closing date for each color additive. The closing date is the last day upon which a provisionally listed color additive can be use legally, absent approval of a color additive petition and permanent listing of the substance by FDA. (See section 203(a)(1) of the Transitional Provisions.)

FD&C Blue No. 2 has been provisionally listed for use in food and ingested drugs since the enactment of the amendments. During that time, a series of toxicological studies have been performed on this color additive. Based upon the evaluation of the results of these studies and other pertinent data, the agency has concluded that FD&C Blue No. 2 is safe for use in food and ingested drugs. Therefore, FDA is listing FD&C Blue No. 2 for these uses.

II. Regulatory History of FD&C Blue No. 2

FDA announced in the **Federal Register** of July 2, 1968 (33 FR 9627) that a petition (CAP 8C0064) for the listing of FD&C Blue No. 2 as a color additive for use in food and ingested drugs had been filed by the Certified Color Industry Committee (now the Certified Color Manufacturers Association, Inc. (CCMA)), 900 17th St. NW., Suite 600, Washington, DC 20006. The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376).

Regulations published in the **Federal Register** of February 4, 1977 (42 FR 6992) required new chronic toxicity studies for FD&C Blue No. 2 as a condition of its continued provisional listing for food and ingested drug uses because the studies conducted previously were not adequate under current standards. FDA placed this requirement on FD&C Blue No. 2 and 31 other color additives mentioned in the 1977 regulation because the toxicity studies the petitioners had submitted supporting the safe use of these color additives were deficient in several respects. FDA described these deficiencies in the **Federal Register** of September 23, 1976 (41 FR 41360):

1. Many of the studies were conducted using groups of animals, i.e., control and those fed the color additive, that are too small to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color. The small number of animals used does not, in and of itself, cause this result, but when considered together with the other deficiencies in this listing, does do so. By and large, the studies used 25 animals in each group; today FDA recommends using at least 50 animals per group.

2. In a number of the studies, the number of animals surviving to a meaningful age was inadequate to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested.

3. In a number of the studies, an insufficient number of animals was reviewed histologically.

4. In a number of the studies, an insufficient number of tissues was examined in those animals selected for pathology.

5. In a number of the studies, lesions or tumors detected under gross examination were not examined microscopically.

As a result of the February 4, 1977 order, the petitioners sponsored long-term oral feeding studies of FD&C Blue No. 2 in rats exposed in utero and in mice. The closing date for the provisional listing of the color additive for both food and ingested drug uses was postponed until January 31, 1981, for completion of the studies.

In the **Federal Register** of March 27, 1981 (46 FR 18954), the agency established a new closing date of October 30, 1982, for the complete evaluation of FD&C Blue No. 2. In the **Federal Register** of November 2, 1982 (47 FR 49637), the agency announced that it had decided to list this color additive but postponed the closing date until January 28, 1983, to allow for the uninterrupted use of FD&C Blue No. 2 while FDA prepared a final listing rule. When the order set forth below becomes effective, it will remove FD&C Blue No. 2 from the provisional list. Published elsewhere in this issue of the **Federal Register** is an order extending the closing date for the provisional listing of FD&C Blue No. 2 until April 29, 1983, to provide the opportunity for the filing of objections to this order.

FD&C Blue No. 2 is currently permanently listed as a color additive in nylon surgical sutures (21 CFR 74.1102). The specifications published in this regulation for food and ingested drug use identify FD&C Blue No. 2 more precisely and, therefore, differ from those currently established for FD&C Blue No. 2 for use in coloring sutures. FDA is listing the color additive with two sets of specifications and will propose in the near future to remove the current specifications for FD&C Blue No. 2 for use in coloring sutures. In the meantime, certified batches of FD&C Blue No. 2 that comply with either set of specifications may be used for sutures. FDA has determined that no harm to the

public health will result from continuing the suture regulation with different specifications until the agency can publish a proposal and issue a final regulation.

III. Safety Requirements and Studies on FD&C Blue No. 2 for Food and Ingested Drug Use

A. *Statutory safety requirements.* Under section 706(b)(4) of the act (21 U.S.C. 376(b)(4)), the so-called "general safety clause" for color additives, a color additive cannot be listed for a particular use unless the data presented to FDA establish that the color additive is safe for that use. Although what is meant by "safe" is not explained in the general safety clause, the legislative history makes clear that this word is to have the same meaning for color additives as for food additives. (See H. Rep. No. 1761, "Color Additive Amendments of 1960," Committee on Interstate and Foreign Commerce, 86th Cong., 2d Sess. 11 (1960).) The Senate report on the Food Additives Amendment of 1958 states:

> The concept of safety used in this legislation involves the question of whether a substance is hazardous to the health of man or animal. Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance.
>
> This was emphasized particularly by the scientific panel which testified before the subcommittee. The scientists pointed out that it is impossible in the present state of scientific knowledge to establish with complete certainty the absolute harmlessness of any chemical substance.

S. Rep. No. 2422, "Food Additives Amendment of 1958," Committee on Labor and Public Welfare, 85th Cong., 2d Sess. 6 (1958).

FDA has incorporated this concept of safety into its color additive regulations. Under 21 CFR 70.3(i), a color additive is "safe" if "there is convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive." Therefore, the general safety clause prohibits approval of a color additive if doubts about the safety of the additive for a particular use are not resolved to an acceptable level in the minds of competent scientists.

B. *Safety studies on FD&C Blue No. 2.* In reviewing food and color additive petitions, FDA routinely reviews all data submitted to it by the petitioner. The agency also reviews any other pertinent data that may be available to it. The agency's review includes consideration of the appropriateness of the data, of the methods used for their evaluation, and of the conclusions drawn from them. On the basis of this review, the agency makes an independent scientific judgment on whether the additive is safe.

To establish that FD&C Blue No. 2 is safe for use in food and ingested drugs, the petitioners submitted reports on a number of animal toxicology studies for the color additive. Among the earlier studies were a lifetime oral feeding study in rats and a long-term oral carcinogenicity study in mice. These studies did not produce any evidence that the use of this color additive, for the petitioned uses, would be unsafe.

However, as stated above, in 1977 FDA required that additional chronic toxicity studies be conducted. As a result, CCMA sponsored additional chronic feeding studies on FD&C Blue No. 2: A long-term feeding study in mice and a long-term feeding study following in utero exposure to the color additive in rats. The studies were conducted by Bio/dynamics, Inc., East Millstone, NJ. The new long-term studies represent current state-of-the-art toxicological testing. The protocols for these studies have benefited from knowledge of deficiencies in previously conducted carcinogenesis bioassays and other chronic toxicity protocols. The use of large numbers of animals of both sexes, pilot studies to determine maximum tolerated dosages, two control groups (thereby effectively doubling the number of controls), and in utero exposure significantly increases the power of these tests to detect dose-related effects. The studies were designed and conducted in full compliance with the agency's good laboratory practice regulations and were subject to inspections during their course by FDA officials. On October 30, 1981, the agency received the final reports on these studies from CCMA. The description and results of the two studies are discussed below.

1. *Long-term feeding study in mice.* Charles River CD–1, COBS (ICR derived) mice were administered FD&C Blue No. 2 *ad libitum* at dietary levels of 0 percent (2 control groups), 0.5 percent, 1.5 percent, and 5.0 percent. Sixty males and 60 females were randomly selected for each group. The study was terminated at 22 months for the males and 23 months for the females by sacrificing the surviving animals. No adverse effects on general appearance, behavior, or survival of the mice were noted by the petitioner throughout the study. Not unexpectedly, gross post-mortem examinations of the treated mice revealed blue-green discoloration of the gastrointestinal tract. Also, there was occasional concomitant coloration of the liver, gallbladder, and urine.

Mean body weights for males and females at the 5.0 percent dietary level of FD&C Blue No. 2 were slightly lower than those of the controls during the first 6 and 2 months, respectively, of the study. The mean body weights of the animals during the rest of the study were comparable. Food consumption, hematological values, organ weights, and gross necropsy showed no compound-related effects.

A review by FDA's Division of Pathology, Bureau of Foods (the Bureau), of the histopathologic findings contained in the final report revealed that there was an increased incidence of total liver (hepatocellular) neoplasms (hepatocellular adenomas plus hepatocellular carcinomas) in the high-dose group of male mice when compared to the concurrent control groups. In general, the agency believes that the appropriate procedure is to compare the incidences of hepatocellular tumors with the combined concurrent control groups (Ref. 1). When the agency made this comparison, it found that the incidence in the high-dose group compared to the combined control groups was not significant. Furthermore, there was a good deal of variability in the incidence of tumors between the control groups in this study. One control group had a zero incidence of hepatocellular tumors, a very unusual phenomenon in this strain of male mice, while the other had an incidence of 10.4 percent. The occurrence of the control group with a zero incidence exaggerted the difference between the combined controls and the high-dose group. A p-value greater than that calculated here ($p=0.055$) would be expected if the incidence of tumors in the control group was more consistent with the usual incidence found in this strain of mice in other laboratories. In three other laboratories testing the other color additives, 16 control groups of this strain of male mice displayed a range of spontaneous incidences of approximately 1 to 18 percent for hepatocellular carcinomas and a range of 0 to 13 percent for hepatocellular adenomas. The incidences of 8 percent and 10 percent for hepatocellular carcinomas and adenomas, respectively, in the male high-dosage group of the FD&C Blue No. 2 mouse study fall in the middle of these ranges, which makes them all the more an unremarkable finding. Based on these factors, FDA does not consider the observed hepatocellular tumors in male mice to be related to the administration of FD&C Blue No. 2.

2. *Long-term feeding study in rats.* The long-term feeding study in rats included in utero exposure to FD&C Blue No. 2. Charles River Albino ($CD^{(R)}$) rats (parental animals) were randomly assigned (60 males and 60 females per group) and mated to produce the F_1 generation. FD&C Blue No. 2 was mixed with standard laboratory chow and fed *ad libitum* to the parental animals during the mating and gestation period and to their offspring (the F_1 generation animals) during the long-term feeding study. The dosage levels of FD&C Blue No. 2 were 0 percent (2 control groups), 0.5 percent, 1.0 percent, and 2.0 percent in the diets of the parents and F_1 generation rats. Three hundred fifty males and 350 females selected randomly were assigned to the post-weaning segment (F_1 generation) of the study (70 males and 70 females per dosage group).

Interim sacrifice and necropsy of 10 rats/sex/group were performed at 12 months after the initiation of the post-weaning segment of the study (F_1 generation). The study was terminated at 122 weeks for males and 129 weeks for females. Histopathological examinations were performed on all preserved tissues from all animals in the control and high-dose groups. Histopathological evaluations of additional tissues from animals in the low- and mid-dosage groups were performed when indicated by experimental findings (e.g., gross changes of an uncertain nature and all tissue masses).

No effect on survival, general appearance, or behavior of the rats was noted for the parental animals fed diets containing FD&C Blue No. 2. Mean body weights among the groups of rats were comparable during the study, except some loss of weight was noted in the mid- and high-dose groups of females on day 21 of lactation.

In the F_1 generation, no compound-related changes in general appearance or behavior were observed in pups. No significant dose-related effect on viability of pups at birth or survival at weaning was noted. During the post-weaning period, prior to randomization, pup survival was significantly reduced in the groups fed 1.0 percent and 2.0 percent but not in those fed 0.5 percent of the test material. At the end of the lactation period mean body weights of the pups were significantly reduced for the mid-and high-dose groups but not for the low-dose group.

Following the selection of the F_1 generation rats for the study, no adverse effects on general appearance and behavior, body weights, or survival of the rats were noted. All treated groups showed dose-related increased mean food consumption values compared to the control groups. Urine samples from the treated groups were generally blue to green in appearance. Urinalysis values for the control and treated groups were comparable. The survival at termination was similar for control and treated rats. Gross post-mortem examinations revealed blue or green discoloration of the gastrointestinal tract in some of the rats in the treated groups.

The testing laboratory's report of its histopathological examination revealed increased incidences of neoplasms in the brain, urinary bladder, and mammary gland for male rats in the treated groups compared to controls. The agency reviewed these findings, and in March 1982, the agency requested from the petitioner microslides of the brain and urinary bladder sections from male animals in the study for review by FDA pathologists. In addition, FDA requested that the petitioner provide the agency with historical control data concerning mammary tumors in male rats. By the beginning of July 1982, the agency had completed its review of the submitted data.

The petitioner reported an increased incidence in the urinary bladder transitional cell neoplasms in the high- and mid-dose groups of male rats when compared to the control group rats. After considering (1) the histopathologic findings of the Bureau's Division of Pathology from its review of the microslides of urinary bladders of male rats, (2) the fact that historical evidence indicates that urinary bladder transitional cell neoplasia in this rat strain is not rare, (3) the small number of urinary bladder neoplasms noted in the high-dose group, and (4) the fact that the number of tumors in the high-dose group was not significantly increased over the control groups, the Bureau's Cancer Assessment Committee (the Committee) concluded that the occurrence of urinary bladder tumors in the FD&C Blue No. 2 study was not related to treatment.

The petitioner also reported an elevated incidence of malignant tumors of the mammary gland in male rats in the high-dosage group. Three male rats were reported with malignant mammary tumors in this group compared to none in either of the concurrent control groups. No benign tumors of the mammary gland were reported in this high-dosage group. In the two concurrent control groups on the other hand, although no malignant mammary tumors were reported, the number of animals with benign mammary tumors was reported to be 1 and 3, respectively (Ref. 2). Agency scientists believe that the best procedure is to evaluate the combined incidence of benign and malignant mammary neoplasms in each dose group because of the inherent difficulty in definitively interpreting these tumors upon routine microscopic examination (Ref. 3). When these tumors were combined, the incidence of mammary tumors in the high-dosage group (3/51) was not singificantly higher than the incidence in the two control groups (4/114). Thus, the Committee concluded that the incidences were so low and the difference between control and high-dose group so small that there was no evidence of a treatment-related effect of FD&C Blue No. 2 on the occurrence of mammary tumors in male rats.

However, the questions created by the reported incidence of brain gliomas in males in the high-dose treated group compared to control groups were not as easily resolved. The statistical analyses performed by the petitioner and the agency suggested that the difference between the incidence of brain gliomas in treated and control animals was possibly not due to chance. Nevertheless, the Committee was reluctant to conclude that FD&C Blue No. 2 is a carcinogen because of a number of biological findings that were not consistent with such a conclusion, including the lack of gliosis in the high-dose animals and the fact that the two earliest observed gliomas of the brain occurred in control animals. In addition, the Committee found that interpretation of the results was more difficult because information on the historical incidence of brain gliomas in Charles River Albino ($CD^{(R)}$) rats that survive for 30 months (rather than the more traditional 24 months) was not readily available.

Thus, in July 1982, FDA found that it could not draw any definitive conclusions on the meaning of the increased incidence of gliomas in the high-dose group. Because FDA tries to resolve definitively the issues presented in a petition (see confirmation of effective date for D&C Green No. 5; 47 FR 49628, 49629; November 2, 1982), the agency decided to request review of the data by the Board of Scientific Counselors (the Board) of the National Toxicology Program (NTP) (Refs. 4 and 5).

IV. Peer Review

In the **Federal Register** of July 9, 1982 (47 FR 29880), the Board announced that a meeting would be held on August 11, 1982, to provide peer review of the data from the chronic carcinogenesis bioassay of FD&C Blue No. 2. The Board,

with consultants, included the following members:

Leila Diamond, Ph.D, Professor, Wistar Institute, 36th St. and Spruce, Philadelphia, PA 19104.

Curtis Harper, Ph.D., Associate Professor, Department of Pharmacology, School of Medicine, University of North Carolina, Chapel Hill, NC 27514.

Margaret Hitchcock, Ph.D., Associate Fellow, John B. Pierce Foundation Laboratory, New Haven, CT 06519.

Jerry B. Hook, Ph. D., Professor and Director, Center for Environmental Toxicology, Michigan State University, East Lansing, MI 48824.

Majorie G. Horning, Ph.D., Professor of Biochemistry, Institute for Lipid Research, Baylor College of Medicine, 1200 Moursund, Rm. 826–E, Houston, TX 77030.

James A. Swenberg, D.V.M., Ph.D., Chief, Pathology Department, Chemical Industry Institute of Toxicology, 6 Davis Dr., Research Triangle Park, NC 27709.

Norton Nelson, Ph. D., Chairman, Professor, Institute of Environmental Medicine, 550 First Ave., New York, NY 10016.

Consultants:

Roy Shore, Ph.D., D.P.H., New York University Medical Center, Health Survey Unit, 2nd Floor, 341 E. 25th St., New York, NY 10020.

Richard Griesemer, D.V.M., Ph.D., Director, Biology Division, P.O. Box Y, Oak Ridge National Laboratory, Oak Ridge, TN 37830.

Carl M. Leventhal, M.D., Acting Director, Demyelinating, Atrophic, and Dementing Disorders Program, National Institute of Neurological and Communicative Disorders and Stroke, Federal Bldg., Rm. 714, Bethesda, MD 20205.

During the Board's meeting on FD&C Blue No. 2, presentations were made by representatives of FDA, the petitioner, and others. Dr. Griesemer and Dr. Shore, the Board's consultants, were in agreement with FDA concerning the bladder and mammary tumors. At the meeting, Dr. Griesemer stated, "I agree with the FDA on the breast tumors. I don't see any evidence there to associate the occurrence of breast tumors with the compound." (Ref. 5 at 81.) Concerning the bladder tumors, Dr. Griesemer stated, "I think the whole bladder issue can be dismissed as related to cystitis and calculus formation * * *. I don't think there is any reason to believe that the bladder lesions are cancers related to administration of the compound." (Ref. 5 at 82.) Dr. Shore stated, "I concur with both the Bio/dynamics and FDA that there is no clear evidence of increases of tumors of the urinary bladder or mammary glands in the high dose male rats * * *." (Ref. 5 at 84.) After considering the data, the Board concluded:

> Dietary administration of FD&C Blue No. 2 to male rats resulted in an excess of brain gliomas when compared to controls in the same study. Biological considerations against positive compound-related carcinogenicity are: (1) Lack of evidence of preneoplastic lesions; (2) lack of reduction in time-to-tumor formation compared to controls; and (3) negative bacterial mutagenicity tests. Contemporary controls from the same laboratory showed a wide variation in incidence of brain gliomas, and one of these groups has an incidence nearly as high as that found in the high dose group. There was no excess of gliomas in female rats and in mice of either sex. There was no excess of tumors in other tissues examined including urinary bladders and mammary glands in any treated group when compared to controls. Based on this study, it is concluded that except for brains of male rats for which the data are equivocal, there is no evidence for carcinogenicity in rats or mice of either sex for all organs examined.

V. Request for Further Data

Although NTP review did not provide a definitive resolution of the issues presented by FD&C Blue No. 2, the discussion before the Board did provide the agency with new insights into those issues. As a result of the meeting, FDA decided that examination of additional brain sections was necessary to determine whether there were any gliomas in high dose, control, or other treatment group animals that had been missed in the initial routine examination. Because the brain gliomas were observed only upon microscopic examination and not gross examination, the agency believed that additional sampling of brains was necessary. The agency also believed that the additional sections would be useful in providing further information about the occurrence of gliomas as related to the animal's termination history, as well as about the presence of any other related lesions. Therefore, on August 27, 1982, FDA met with the petitioner and agreed on a protocol for collecting information from examination of additional brain sections from these animals.

On September 21, 1982, the sponsor submitted to the Bureau for its review and evaluation the following: (1) Microslides of nine additional brain sections, taken whenever possible, from each brain of male rats not having previously been diagnosed as having a brain glioma, (2) results of the sponsor's microscopic examination, and (3) microslides of the three sections routinely examined from each brain of male rats in the FD&C Green No. 3 contemporary control group. The agency was interested in the latter microslides because the FD&C Green No. 3 study was performed by the same laboratory as, was started within 1 month of, and was conducted under the same protocol as, the FD&C Blue No. 2 study. This control group had a reported glioma incidence similar to that in the high-dose group of the FD&C Blue No. 2 study. The agency believed that microscopic examination of the FD&C Green No. 3 control group brain slides would provide not only a validation of the brain lesions in this group reported by the performing laboratory but also a morphologic comparison to the brain lesions observed in the animals of the FD&C Blue No. 2 study. All pathologists (both the petitioner's and FDA's) who examined slides of the additional brain sections did so initially without knowing the identity of the experimental group from which the slides were taken.

VI. Findings From the Second Examination

The microslide review of the additional brain sections from the FD&C Blue No. 2 study both by the contracting laboratory and by FDA's pathologists revealed four additional male rats with brain gliomas (Ref. 24). Of the four rats with gliomas, two occurred in the control group in which none was reported previously and one each in the low- and high-dose groups. Thus, the total number of gliomas found in the male rats in the study was two in each of the two FD&C Blue No. 2 concurrent control groups, two in the low-dose group, two in the mid-dose group, and seven in the high-dose group. Statistical analysis of the new incidences resulted in *p*-values that were increased from those calculated from the original incidences for pairwise comparison of controls to high dose from *p*-0.017 to 0.038 for the Cox (Ref. 6) and from *p*-0.040 to 0.053 for the Breslow (Ref. 6) time-adjusted analyses. The *p*-values for the dose-related trend for the incidences of gliomas increased from *p*-0.005 to 0.018 for the Cox and from *p*-0.021 to 0.047 for the Breslow.

Microscopic examination by FDA's pathologists of the microslides containing brain sections from the FD&C Green No. 3 contemporary control group male rats also confirmed the performing laboratory's diagnosis of the brain gliomas in this study. In addition, the agency's pathologists found an additional glioma-bearing rat which had been diagnosed by the performing

laboratory as having gliosis. With this addition, the incidence of brain gliomas in this contemporary control group increased to six. In addition, the agency's pathologists confirmed that the brain gliomas in the FD&C Blue No. 2 treatment groups were no different in morphologic appearance than those in the concurrent control or those in the FD&C Green No. 3 contemporary control group. In the FD&C Blue No. 2 study, even after examination of additional brain sections, no brain gliomas were noted in any of the animals dying earlier than the two control group animals with brain gliomas that had been reported on the original examination.

VII. Evaluation of Data

A. *Introduction.* With the benefit of the insights of the Board and of the information from the additional sections of the rat brains, FDA reevaluated the data developed in the rat bioassay of FD&C Blue No. 2. Because the Board had agreed with the agency's conclusion that there was no evidence of a treatment-related effect for FD&C Blue No. 2 on the occurrence of urinary bladder tumors and mammary tumors in male rats, the agency found no reason to reconsider these data. The issue that remained to be resolved was the meaning of the higher number of brain gliomas in the high-dose male rat group.

The statistical analysis of the data following the second examination resulted in increased *p*-values from those calculated following the initial examination. The incidence of gliomas in male rats produces *p*-values of 0.038 and 0.053 for the pairwise comparison of control to high-dose groups for the Cox and Breslow time-adjusted analyses, respectively. For the detection of a dose-related trend for the incidence of gliomas, the *p*-values using the Cox and Breslow methods are 0.018 and 0.047, respectively.

These *p*-values are below or slightly above 0.05, a value sometimes considered significant for a single question experiment. However, the current carcinogen bioassays are multiple question experiments that involve (1) multiple-dose testing, (2) statistical tests on multiple tissue sites, and (3) focus on the extreme of two *p*-values computed from two time-adjusted tests. The chances of observing low *p*-values for events that are not related to treatment become greater under these circumstances than when only one question is addressed. Therefore, although statistical methods provide insight into the likelihood of being right or wrong in making specific conclusions, they do not provide for certainly as to whether an increase or decrease in tumor incidence is related to treatment. The agency believes, as has been expressed by others, that as a result, "any decision process concerning the carcinogenic potential of a test chemical must incorporate the experience and knowledge of other disciplines such as pathology, toxicology, and pharmacology" (Ref. 7). Therefore, the agency has consistently asserted that statistical factors must be analyzed in conjunction with biological factors in determining what, if any, conclusions can be drawn from a study (see Commissioner's decision in Cyclamate; 45 FR 61474, 61478; September 16, 1980). As the Commissioner stated in the Aspartame decision:

> The factors to be considered in determining biological significance (including a lack of dose response) may increase or *decrease* that confidence (that may otherwise be placed in low *p*-values).

46 FR 38285, 38299 (July 24, 1981) (emphasis in original).

The reason biological and statistical evidence must be considered together is because there are factors other than treatment that can affect the outcome of any experiment. These factors can be collectively viewed as "noise" or extraneous variability and can account, singly or collectively, for effects seen in the experiment. The statistical tests used to analyze tumor incidence data are based on mathematical models that do not take into account this extraneous variation (Ref. 1). Thus, biological factors must be brought to bear and may be determinative when evaluating the results of a carcinogenesis bioassay.

For example, in the FD&C Blue No. 2 study, six male rats in control groups were found to have granular cell tumors of the brain, as compared to one in the low-dose group and none in the other treatment groups. These results provide for a significantly negative dose response. Thus, it could be argued that FD&C Blue No. 2 inhibited the occurrence of these tumors. However, when this finding is evaluated in the light of biological factors, it becomes clear that this result is not a real treatment-related effect.

Also, as noted by the Board, contemporary control groups from the same laboratory displayed a wide variation of incidence in gliomas. One of the control groups from the FD&C Green No. 3 study has six male rats bearing gliomas. This number was the same as that found in the high-dosage group of male rats in the FD&C Blue No. 2 study under the original sampling protocol. Based upon the experimental controls, the occurrence of six male rats with gliomas in the high-dosage group of the FD&C Blue No. 2 study might be perceived to be a relatively rare chance event. However, the fact that the same number was observed in a contemporary control group that was very close to being a concurrent control group of the FD&C Blue No. 2 study supports the possibility of the existence of the extraneous variation mentioned above and underscores the need to consider the biological evidence.

There are a number of other biological factors, drawn mostly from knowledge of the actions of known carcinogens, that either do not support or tend to contradict the conclusion that the observed increase in brain gliomas among male rats in the high dose group in the FD&C Blue No. 2 bioassay was treatment related.

FDA has evaluated all the results of the FD&C Blue No. 2 bioassay using these biological criteria, which are regarded as appropriate for determining whether a substance is a brain carcinogen. For each criterion, FDA has not found the evidence that would be consistent with the conclusion that a carcinogenic process is present. Although none of these criteria individually establishes a basis for concluding that this substance is not a carcinogen, taken together, the cumulative weight of these factors establishes to a reasonable certainty that FD&C Blue No. 2 is not a carcinogen. A discussion of each of these factors, and of the evidence on FD&C Blue No. 2 that is relevant, follows.

B. *Discussion of biological effects.* In the rat bioassay of FD&C Blue No. 2, there was an increased number of brain gliomas in the male in the high-dose group compared to control groups. This finding could be interpreted to mean that this color additive has an effect on brain tissue. The cumulative experience with bioassays establishes, however, that if this effect was actually treatment related, there would be some supporting evidence. For FD&C Blue No. 2, no other scientific information, including data from the female rats and from the mouse bioassay, supports that the observed increase in brain gliomas is associated with treatment.

1. While almost any increase in tumor incidence in the high-dosage group only is compatible with a dose-related trend from a statistical point of view, a dose-related trend for gliomas in this study has not been confirmed in male rats because no increases were observed in the mid- and low-dosage groups. Data from low- and mid-dosage groups offer no scientific information in support of

the notion that the higher number of animals with glioma in the high-dosage group is treatment related. Thus, no dose response was established in the FD&C Blue No. 2 rat bioassay.

2. Data from studies on bona fide glioma-producing carcinogens usually show evidence of gliosis and other toxic manifestations to glia and other cells of the brain (Refs. 8, 13, and 16). (Gliosis may be considered to be a preneoplastic lesion in the chemically induced production of gliomas.) Carcinogens are generally either reactive or are metabolized to reactive chemical compounds that are fairly nonspecific and capable of including cellular injury indicative of both neoplastic and non-neoplastic processes (Refs. 10 and 11). Therefore, FDA would expect a neurocarcinogen to produce non-neoplastic cellular changes in addition to frank neoplasia.

In the FD&C Blue No. 2 study, although the agency pathologists observed a few instances of gliosis, they were sporadic, and there was no indication that the gliosis bore any relationship to treatment. Although the only increase of gliomas was observed in the high-dose group of the study, there was no gliosis observed in any of the rats in this group in the initial examination. Agency pathologists were able to reaffirm the absence of gliosis in the high-dose group on the basis of their examination of the additional sections. Additionally, examination of the brains failed to uncover any other toxic lesions in these male rats that were related to treatment.

3. Carcinogens not only increase the incidence of tumors but also reduce the latency period to the appearance of the tumors. This is particularly true of brain carcinogens administered in utero (Refs. 9, 14, and 15). Fetal brain tissue is particularly sensitive to the action of carcinogenic agents. Some of the most dramatic reductions in latency periods that have been observed have been caused by carcinogens administered in utero to rats. For example, one hundred percent incidence of brain tumors that are lethal to rats before they are a year old have been observed with ethylnitrosoureas administered only once during gestation (Ref. 15). Thus, FDA would expect it likely that evidence of a decreased latency period would accompany evidence of increased tumor incidence caused by a brain carcinogen administered in utero.

In the FD&C Blue No. 2 study, the second examination of the rat brains reconfirmed that, based on the mortality record of these animals, there was no earlier occurrence of brain gliomas found in treated rats. As stated previously, the two earliest observed gliomas of the brain occurred in the control groups, and the examination of the additional sections failed to reveal any evidence of earlier-occurring gliomas in treated animals. In addition, agency pathologists, in their review of the FD&C Green No. 3 control group, confirmed a glioma that was observed earlier than any of the gliomas in the control or treated groups of the FD&C Blue No. 2 study.

4. Neurocarcinogens induce gliomas that have varying, i.e., increasing, degrees of anaplasia indicating progression of the tumors to more malignant states. The induced tumors are also often multiple and invasive (Refs. 8, 17, and 18). In contrast, spontaneously occurring gliomas are usually singular and tend to be well differentiated (Ref. 18). FDA would thus expect some evidence of neoplastic progression as well as the existence of multiple gliomas to be produced by a neurocarcinogen.

Both the initial and the more extensive examination of the brains did not reveal any neoplastic progression or any multiple gliomas in the FD&C Blue No. 2 study. Although no additional brain sections were taken from rats originally diagnosed with gliomas, the agency's initial examination of the brains of these rats suggested that the neoplasms were not multiple. The four animals identified during examination of additional brain sections as having brain gliomas had tumors (glioma) that were solitary and relatively small. All of the gliomas examined in the FD&C Blue No. 2 study and in the FD&C Green No. 3 control group were non-invasive except for one relatively invasive glioma that occurred in the FD&C Green No. 3 control group.

5. For a substance to act as a neurocarcinogen, brain tissue must be exposed to the substance at concentrations high enough to produce cellular change necessary to the neoplastic process. There exists in rats (and humans) a blood-brain barrier to chemical compounds that are polar or ionic and relatively lipid insoluble (Ref. 12). Less polar, lipid soluble compounds can pass through this barrier relatively easily. For example, classes of known neurocarcinogens, such as the nitrosoureas, are relatively non-polar and lipid soluble and, thus, are able to penetrate the blood-brain barrier and affect brain tissue.

FD&C Blue No. 2 and its known main metabolites have sulfonic acid groups in their molecular structure. These groups are ionic at physiological pH. This characteristic makes them unlikely to be able to penetrate the blood-brain barrier and reach glia and other brain tissue. This low potential for reaching brain tissue is consistent with the findings of the histopathological evaluation of the brain that revealed no evidence of any pathological alteration to brain tissue that could be associated with treatment.

Because the FD&C Blue No. 2 rat study involved in utero exposure to the color additive, and the blood-brain barrier is relatively undeveloped in the fetal brain, presumably, there may have been an opportunity for exposure to substances normally excluded from brain tissue during this period. However, as stated above, agency pathologists found none of the enhancing effects associated with in utero exposure to brain carcinogens.

6. Substances known to cause brain cancer of various types, including glioma, are mutagenic to the standard microbial test systems (Ref. 22). FD&C Blue No. 2 did not produce a mutagenic effect when tested in several microbial assays.[1]

7. Although the use of structure activity relationships is not sufficient in itself to make definite conclusions about the potential carcinogenicity of a compound, an extensive body of knowledge has accumulated about classes of chemical carcinogens that are carcinogenic to laboratory animals (Refs. 10 and 11). The molecular structure of FD&C Blue No. 2 is not closely related to any of these classes of carcinogens, let alone known classes of brain carcinogens. FD&C Blue No. 2 also does not have any structural features that might be predictive of carcinogenicity. In fact, it contains sulfonic acid groups in its molecular structure. The alteration of chemical carcinogens by introducing sulfonic acid groups into their structure has led to the elimination of their carcinogenic activity, and these groups are considered to be a structural feature that reduces the likelihood of the compound being a carcinogen (Refs. 19, 20, and 21).

Thus, taken as a whole, these factors provide no support for any conclusion other than that FD&C Blue No. 2 has not been shown to be a carcinogen, and that the increased number of tumors among male rats in the high-dose group was not related to treatment. FDA was reluctant

[1] FDA reported to the Board that FD&C Blue No. 2 had a positive effect in a transformation test and a clastogenic effect in Chinese hamster ovary cells. Summary minutes of the Board of Scientific Counselors' Meeting, NTP, August 11, 1982, p. 3 (Ref. 4). However, FDA subsequently reexamined the underlying studies and discovered that they are faulty, and that they cannot be relied upon to establish the transformation ability or genotoxicity of this compound (Ref. 23).

to make such a conclusion on the basis of its original review of the data. However, as a result of the comments on the data by the Board, of the higher *p*-values that resulted after the new sections were examined, and of the confidence the additional sections provide that the agency has been given as complete a view of the high-dose and control brains as is reasonably practicable and, therefore, that any treatment-related effect would have been discovered, the agency now is able to find that the data do establish to a reasonable certainty that FD&C Blue No. 2 does not cause harm.

VII. Estimated Allowable Intake and Exposure to FD&C Blue No. 2

Using appropriate safety factors (see 21 CFR 70.40) and the chronic rat feeding study, the agency has estimated a maximum acceptable daily intake of FD&C Blue No. 2 for humans of approximately 2.5 milligrams per kilogram of body weight per day or 150 milligrams per day for a 60 kilogram person. FDA determined this acceptable daily intake on the basis of the low dose used in the rat study, where no toxic effects were observed. Based on its review of available data on the current uses of FD&C Blue No. 2, FDA has also estimated that the upper limit lifetime-average internal exposure to this color additive from food, including dietary supplements, and ingested drugs is 13 milligrams per day (food, 3 milligrams; ingested drugs, 10 milligrams). Thus, the acceptable daily intake of FD&C Blue No. 2 is approximately 12 times the estimated intake of the color additive.

IX. References

The following references are on file in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

1. Mantel, N., "Assessing Laboratory Evidence of Neoplastic Activity," *Biometrics*, 36, 3:381–399, 1980.

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3. Foron, V. J., et al., "Basic Requirements for Long-Term Assays for Carcinogenicity," *in* "International Agency for Research on Cancer, Monograph on the Evaluation of the Carcinogenic Risk of Chemicals to Humans." Supplement 2, Lyon, France, p. 69, 1980.

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11. Arcos, J. and M. Argus, "Chemical Induction of Cancer: Structural Bases and Biological Mechanisms," Vols. IIA and IIB, Academic Press, New York, 1974.

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17. Swenberg, J. A., "Current Approaches to the Experimental Investigation of Chemicals in Relation to Cancer of the Brain," *in* "Annals of the New York Academy of Sciences," Vol. 381, 1982.

18. Ward, J. M. and J. M. Rice, "Naturally Occurring and Chemically Induced Brain Tumors of Rats and Mice in Carcinogen Bioassays," *in* "Annals of the New York Academy of Sciences," Vol. 381, 1982.

19. Clayson, D. B., "Chemical Carcinogenesis," Little, Brown, Boston, p. 264, 1962.

20. Arcos, J. and M. Argus, "Chemical Induction of Cancer—Structural Bases and Biological Mechanisms," Vol. IIB, Academic Press, New York, p. 202, 1974.

21. Weisburger, J. H. and G. M. Williams, "Decision Point Approach to Carcinogen Testing," *in* "Structural Correlates of Carcinogenesis and Mutagenesis," Asher and Zervos, eds., FDA, 1977.

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23. Memorandum from Color and Cosmetics Evaluation Branch to Petitions Control Branch, Subject: Genotoxicity of FD&C Blue No. 2, File No. 201.

24. Supplemental Pathology Report on FD&C Blue No. 2 (Pathology Project, Project No. PR—77).

X. Conclusion

The agency, following evaluation of all available data, concludes that FD&C Blue No. 2 is safe for general use in food and ingested drugs, and that certification is necessary for the protection of the public health. The final toxicity study reports, interim reports, and the agency's toxicology evaluations of these studies are on file at the Dockets Management Branch (address above) and may be reviewed in that office between 9 a.m. and 7 p.m., Monday through Friday.

The agency is establishing new chemical specifications in 21 CFR 74.102(b) that identify FD&C Blue No 2 more precisely than those specifications currently in 21 CFR Part 82. Also, the chemical name for the color additive in the new listing under 21 CFR Part 74 is different from the name currently listed under Part 82. The agency is listing the nomenclature designated in the Chemical Abstracts Index Guide (September 1982) because the agency believes that it gives the best description of the color additive.

The agency concludes that it is necessary to include in the listing regulation for FD&C Blue No. 2 a brief description of the manufacturing process to ensure the safety of the color additive. The agency is concerned that the color additive may contain potentially toxic impurities dependent upon the manufacturing process used to produce the color additive. The agency is not able at this time to set specifications that would control the presence of these impurities. The agency has contracted with the National Academy of Sciences/National Research Council to develop appropriate specifications for color additives including FD&C Blue No. 2 for use in food as part of the Food Chemicals Codex. These specifications would also be adopted for color additives used in drugs and cosmetics. The agency concludes that specifying, through a general description, the manufacturing process in the regulations for this color additive will provide adequate assurance of safety until suitable specifications can be developed. Production of the color additive by the specified method will assure

qualitatively similar batches and thus adequately assure the absence of any potentially toxic impurities. The agency is including a description of the manufacturing procedure in 21 CFR 74.102(a) and is incorporating it by reference in 21 CFR 74.1102(a)(1).

The agency has determined under 21 CFR 25.24(d)(5) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 74

Color additives, Color additives subject to certification, Cosmetics, Drugs.

21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Color additives lakes, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d))) and the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. Part 74 is amended:

a. By adding new § 74.102 to Subpart A, to read as follows:

§ 74.102 FD&C Blue No. 2.

(a) *Identity.* (1) The color additive FD&C Blue No. 2 is principally the disodium salt of 2-(1,3-dihydro-3-oxo-5-sulfo-2*H*-indol-2-ylidene)-2,3-dihydro-3-oxo-1*H*-indole-5-sulfonic acid (CAS Reg. No. 860–22–0) with smaller amounts of the disodium salt of 2-(1,3-dihydro-3-oxo-7-sulfo-2*H*-indol-2-ylidene)-2,3-dihydro-3-oxo-1*H*-indole-5-sulfonic acid (CAS Reg. No. 54947–75–0) and the sodium salt of 2-(1,3-dihydro-3-oxo-2*H*-indol-2-ylidene)-2,3-dihydro-3-oxo-1*H*-indole-5-sulfonic acid (CAS Reg. No. 605–18–5). Additionally, FD&C Blue No. 2 is obtained by heating indigo (or indigo paste) in the presence of sulfuric acid. The color additive is isolated and subjected to purification procedures. The indigo (or indigo paste) used above is manufactured by the fusion of *N*-phenylglycine (prepared from aniline and formaldehyde) in a molten mixture of sodamide and sodium and potassium hydroxides under ammonia pressure. The indigo is isolated and subjected to purification procedures prior to sulfonation.

(2) Color additive mixtures for food use (including dietary supplements) made with FD&C Blue No. 2 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring foods.

(b) *Specifications.* The color additive FD&C Blue No. 2 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by current good manufacturing practice:

Sum of volatile matter at 135° C (275° F) and chlorides and sulfates (calculated as sodium salts), not more than 15 percent.
Water insoluble matter, not more than 0.4 percent.
Isatin-5-sulfonic acid, not more than 0.4 percent.
5-Sulfoanthranilic acid, not more than 0.2 percent.
Disodium salt of 2-(1,3-dihydro-3-oxo-7-sulfo-2*H*-indol-2-ylidene)-2,3-dihydro-3-oxo-1*H*-indole-5-sulfonic acid, not more than 18 percent.
Sodium salt of 2-(1,3-dihydro-3-oxo-2*H*-indol-2-ylidene)-2,3-dihydro-3-oxo-1*H*-indole-5-sulfonic acid, not more than 2 percent.
Lead (as Pb), not more than 10 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 85 percent.

(c) *Uses and restrictions.* The color additive FD&C Blue No. 2 may be safely used for coloring foods (including dietary supplements) generally in amounts consistent with current good manufacturing practice except that it may not be used to color foods for which standards of identity have been promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act unless added color is authorized by such standards.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of FD&C Blue No. 2 shall be certified in accordance with regulations in Part 80 of this chapter.

b. By revising § 74.1102, to read as follows:

§ 74.1102 FD&C Blue No. 2.

(a) *Identity.* (1) The color additive FD&C Blue No. 2 shall conform in identity to the requirements of § 74.102(a)(1).

(2) Color additive mixtures for use in ingested drugs made with FD&C Blue No. 2 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Specifications.* (1) The color additive FD&C Blue No. 2 for use in coloring surgical sutures shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by current good manufacturing practice:

Sum of volatile matter at 135° C (275° F) and chlorides and sulfates (calculated as sodium salts), not more than 15 percent.
Water insoluble matter, not more than 0.4 percent. Isatin-5-sulfonic acid, not more than 0.4 percent. Isomeric colors, not more than 18 percent. Lower sulfonated subsidiary colors, not more than 5 percent. Lead (as Pb), not more than 10 parts per million. Arsenic (as As), not more than 3 parts per million. Total color, not less than 85 percent.

(2) The color additive FD&C Blue No. 2 for use in coloring ingested drugs shall conform to the specifications in § 74.102(b).

(c) *Uses and restrictions.* (1) The color additive FD&C Blue No. 2 may be safely used for coloring nylon (the copolymer of adipic acid and hexamethylene diamine) surgical sutures for use in general surgery subject to the following restrictions:

(i) The quantity of color additive does not exceed 1 percent by weight of the suture.

(ii) The dyed suture shall conform in all respects to the requirements of the U.S.P.

(iii) When the sutures are used for the purposes specified in their labeling, the color additive does not migrate to the surrounding tissues.

(iv) If the suture is a new drug, an approved new drug application, pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, is in effect for it.

(2) The color additive FD&C Blue No. 2 may be safely used for coloring ingested drugs in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of FD&C Blue No. 2 shall be certified in accordance with regulations in Part 80 of this chapter.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS AND COSMETICS

2. Part 81 is amended:

§ 81.1 [Amended]

a. In § 81.1 *Provisional lists of color additives,* by removing the entry "FD&C Blue No. 2" from the table in paragraph (a).

§ 81.27 [Amended]

b. In § 81.27 *Conditions of provisional listing,* by removing the entry "FD&C Blue No. 2" from the table in paragraph (d).

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

3. Part 82 is amended by revising § 82.102, to read as follows:

§ 82.102 FD&C Blue No. 2.

The color additive FD&C Blue No. 2 shall conform in identity and specifications to the requirements of § 74.102(a)(1) and (b) of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 7, 1983, submit to the Dockets Management Branch (address above) written objection thereto. Objections shall show how the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issue for the hearing and shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Three copies of all documents shall be filed and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This final rule shall become effective March 8, 1983, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the **Federal Register.**

(Sec. 706(b), (c) and (d), 74 Stat. 399–403 (21 U.S.C. 376(b), (c), and (d)); sec. 203, Pub. L. 86–618, 74 Stat. 409–407 (21 U.S.C. 376, note))

Dated: January 28, 1983.

Arthur Hull Hayes, Jr.

Commissioner of Food and Drugs.

[FR Doc. 83–2812 Filed 1–28–83; 2:50 pm]

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21 CFR Part 81

[Docket No. 76N–0366]

Provisional Listing of FD&C Blue No. 2; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of FD&C Blue No. 2 for use as a color additive in food and ingested drugs. The new closing date will be April 29, 1983. This brief postponement will provide time for receipt and evaluation of any objections submitted in response to the final regulation (published elsewhere in this issue of the **Federal Register**) approving the petition for the listing of FD&C Blue No. 2 for these uses.

EFFECTIVE DATE: Effective January 28, 1983, the new closing date for FD&C Blue No. 2 will be April 29, 1983.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of January 28, 1983, for the provisional listing of FD&C Blue No. 2 by a rule published in the **Federal Register** of November 2, 1982 (47 FR 49637). The agency extended the closing date until January 28, 1983, to provide time for the preparation of a document that explains the basis for the agency's decision to approve this color additive.

Elsewhere in this issue of the **Federal Register,** FDA is publishing that document and a regulation that lists FD&C Blue No. 2 for use in food and ingested drugs. The regulation set forth below will postpone the January 28, 1983 closing date for the provisional listing of the color additive until April 29, 1983. This postponement will provide sufficient time for the receipt and evaluation of any comments or objections submitted in response to the regulation that lists FD&C Blue No. 2 for use in food and ingested drugs.

Because of the shortness of time until the January 28, 1983 closing date, FDA concludes that notice and public procedure on this regulation are impracticable. Moreover, good cause exists for issuing this postponement as a final rule because the agency has concluded that FD&C Blue No. 2 is safe for its intended use. This regulation will permit the uninterrupted use of this color additive until April 29, 1983. To prevent any interruption in the provisional listing of FD&C Blue No. 2 and in accordance with 5 U.S.C. 553(d)(1) and (3), this regulation is being made effective on January 28, 1983.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. Section 81.1 *Provisional lists of color additives* is amended in paragraph (a) by changing the closing date for the entry "FD&C Blue No. 2" in the table to read "April 29, 1983."

§ 81.27 [Amended]

2. Section 81.27 *Conditions for provisional listing* is amended in paragraph (d) by changing the closing date for the entry "FD&C Blue No. 2" in the table to read "April 29, 1983."

Effective date. This final rule is effective January 28, 1983.

(Sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: January 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–2813 Filed 1–28–83; 2:50 pm]

BILLING CODE 4160–01–M

21 CFR Parts 81 and 82

[Docket No. 76N-0368]

Termination of Provisional Listing of D&C Red No. 19 and D&C Red No. 37 for Use in Ingested Drugs and Cosmetics

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is terminating the provisional listing of the color additives D&C Red No. 19 and D&C Red No. 37 for use in coloring ingested drugs and cosmetics. FDA is taking this action because it has concluded, on the basis of animal experiments that were performed as a condition of the provisional listing of these color additives, that these color additives are carcinogens when administered in the diet. The petitioner, the Cosmetic, Toiletry and Fragrance Association, Inc., has withdrawn the portion of its petition that pertains to ingested use of these colors. Therefore, D&C Red No. 19 and D&C Red No. 37 may not be added to ingested drugs and cosmetics after February 4, 1983. These two color additives remain provisionally listed for use in externally applied drugs and cosmetics until February 28, 1983.

EFFECTIVE DATE: February 4, 1983.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: The Color Additive Amendments of 1960 (the amendments) require premarket clearance of any color additive that is intended to be used or that is represented for use in or on food, drugs, cosmetics, some medical devices, or the human body. Under the amendments, a color additive may be approved only if data establish that it is safe under its intended conditions of use. Recognizing that many color additives were already in use at the time it enacted the amendments, Congress provided for the "provisional listing" of these color additives while they were being tested for safety under section 203(b) of the transitional provisions of the amendments (Title II, Pub. L. 86-618, 74 Stat. 404-407 (21 U.S.C. 376 note)).

The color additives D&C Red No. 19 and D&C Red No. 37 have been in use for many years. These color additives were approved for drug and cosmetic use as "coal tar" dyes after enactment of the Federal Food, Drug, and Cosmetic Act (the act) in 1938 by a regulation published in the **Federal Register** of May 9, 1939 (4 FR 1922). Because D&C Red No. 19 and D&C Red No. 37 were in use at the time the amendments were passed, they were provisionally listed for drug and cosmetic use in the **Federal Register** of October 12, 1960 (25 FR 9759). These color additives are currently provisionally listed under § 81.1(b) (21 CFR 81.1(b)) for use in drugs and cosmetics, with a closing date of Febraury 28, 1983. Specifications for certification of D&C Red No. 19 and D&C Red No. 37 are listed under §§ 82.1319 and 82.1337 (21 CFR 82.1319 and 82.1337), respectively.

FDA established the present closing date for these color additives in the **Federal Register** of March 27, 1981 (46 FR 18954). The agency conditioned the continued provisional listing of D&C Red No. 19 and D&C Red No. 37 upon submission of final reports of chronic toxicity studies by February 28, 1982 (see 21 CFR 81.27(d)).

D&C Red No. 19 and D&C Red No. 37 are the subject of a petition (CAP 9C0091) submitted by the Toilet Goods Association, Inc. (now the Cosmetic, Toiletry and Fragrance Association, Inc. (CTFA)), 1110 Vermont Ave. NW., Washington, DC 20005. This petition was filed for the use of D&C Red No. 19 and D&C Red No. 37 for coloring drugs and cosmetics as noted in the **Federal Register** of August 6, 1973 (38 FR 21199).

The color additives D&C Red No. 19 and D&C Red No. 37 are classified as xanthene derivatives. D&C Red No. 19 is principally the 3-ethochloride of 9-*o*-carboxyphenyl-6-diethylamino-3-ethylimino-3-isoxanthene (CAS Reg. No. 81-88-9). D&C Red No. 37 is principally the 3-ethostearate of 9-*o*-carboxyphenyl-6-diethylamino-3-ethylimino-3-isoxanthene (CAS Reg. No. 6373-07-5). The test material in the recent chronic rat and mouse studies was D&C Red No. 19. Because D&C Red No. 19 and D&C Red No. 37 are chemically similar, the agency considers the two color additives to be toxicologically equivalent when ingested orally. Thus, any safety conclusion drawn from chronic feeding studies of D&C Red No. 19 applies equally to D&C Red No. 37.

Section 81.27(d) specifies the conditions under which D&C Red No. 19 and D&C Red No. 37 are provisionally listed. The petitioner, CTFA, has met those conditions, including the submission of final reports of chronic toxicity tests on rats and mice by February 28, 1982. FDA has reviewed the final reports of the chronic feeding studies in which D&C Red No. 19 was administered in the diet to Charles River CD rats and CD-1 mice.

In the CTFA-sponsored mouse study, the color additive was fed at levels of 0.005, 0.02, and 0.1 percent in the diet for 96 and 108 weeks for males and females, respectively. A higher incidence of hepatocellular neoplasms (carcinomas or adenomas) was observed in every female mouse dosage group compared with the untreated control groups. The observed incidence of hepatocellular neoplasms in the dosage groups were, respectively: High-dosage group—17/58, mid-dosage group—7/60, low-dosage group—5/58, and control groups—4/114. The incidence of hepatocellular neoplasms in the high-dosage group was significantly higher than in the control groups using the Fisher's Exact Test ($p<0.0001$). The response observed was dose-related. Furthermore, most of the hepatocellular neoplasms observed in the treated groups of female mice were malignant neoplasms. Historical data on control groups show that female mice have a low spontaneous incidence of malignant hepatocellular neoplasms. The treated male mice also showed an increased incidence of liver neoplasms when compared with concurrent controls, but the incidence in each treated group was within the range of historical controls. In addition, for males, the data do not support a dose-related effect. Therefore, the agency concludes from these data that dietary exposure to D&C Red No. 19 causes an increase in liver neoplasia in female mice.

CTFA sponsored two long-term feeding studies in rats in which D&C Red No. 19 was administered in the diet following in utero exposure. The first study was designed to include two control groups and dose levels of 0.002, 0.005, and 0.02 percent of the diet. A second study had a single dose level of 0.075 percent of the diet and a separate control group. The 0.075 percent dose level study showed an increase in both malignant and benign follicular cell tumors of the thyroid in male rats (18/69) that was significantly higher than controls (2/70) using the prevalence test ($p<0.0001$). (An earlier chronic study in the rat had displayed no increase in neoplastic disease, but enlargement of the thyroid glands was associated with treatment.)

The average spontaneous incidence for follicular cell tumors of the thyroid in control groups of recent studies with the same protocol design is about 5 percent, ranging from 0 to 10.5 percent. The agency has considered the fact that tumor incidence (28 percent) in the high-dosage (0.075 percent of the diet) group far exceeds both the average spontaneous incidence and the high end of the range of incidences. The agency believes that the tumor incidence data

provide evidence of a treatment-related effect. On the basis of this evidence, and of the evidence that enlargement of the thyroid gland occurred in treated rats in an earlier study, the agency concludes that D&C Red No. 19 induces neoplasms in the thyroids of rats when administered in the diet.

Additionally, the incidence of parathyroid adenomas was elevated in the highest dosage group (0.075 percent of the diet). In male rats, the incidence of the parathyroid tumors in this treatment group (8/55) was significantly higher than among controls (0/56) using the prevalence test (p=0.005). The agency has decided that this evidence is a sufficient basis upon which to conclude that dietary treatment with D&C Red No. 19 also caused a tumorigenic effect in the parathyroid of male rats.

In summary, the agency concludes that D&C Red No. 19 is an animal carcinogen when administered in the diet based on an increased incidence of hepatocellular neoplasms in mice and an increased incidence of thyroid and parathyroid neoplasms in rats.

Shortly after the agency completed its review of the chronic toxicity tests of D&C Red No. 19, the petitioner amended its color additive petition by letter, stating that it was no longer requesting permanent listing of the color additives for ingested drugs or "for external cosmetic and drug products subject to incidental ingestion (e.g., lipstick and other lip products, mouthwash, and toothpaste)." See letter of October 15, 1982, from Norman F. Estrin, CTFA, to Gerad L. McCowin. The petitioner continues to seek permanent listing of these color additives for use in external cosmetic and drug products that are not subject to incidental ingestion. The petitioner has submitted analyses of the saftey and legal issues for external use of these color additives, including data regarding skin penetration.

The agency is now considering the CTFA submissions in support of listing the external uses of these color additives. The agency believes that the continued use of the color additives in externally applied products for the short time needed to evaluate the data will not pose a hazard to the public health. In the near future, FDA will publish in the **Federal Register** its final decision on the amended color additive petition for use of D&C Red No. 19 and D&C Red No. 37 in externally applied drugs and cosmetics. The current closing date for the provisional listing of the color additives for external use in February 28, 1983.

Section 203(a) of the transitional provisions of the amendments provides for provisional listing of a color additive pending completion of scientific investigations. However, section 203(a)(2) states: "The Secretary may terminate a postponement of the closing date at any time if he finds * * * that by reason of a change in circumstances the basis for such postponement no longer exists * * *", and section 203(d)(l)(E) provides "for the termination of a provisional listing (or deemed provisional listing) of a color additive or particular use thereof forthwith whenever in [the Secretary's] judgment such action is necessary to protect the public health." Because of the agency's finding that D&C Red No. 19 is carcinogenic when ingested by laboratory animals, FDA concludes that continued use of these color additives in ingested products poses a potential hazard to the public health. Furthermore, because the petitioner has withdrawn that portion of the petition pertaining to ingested use, there is no longer a basis for continued provisional listing of these uses.

The final toxicity study reports, the agency's toxicology evaluations of these studies, and other information relied upon by the agency in reaching its decision are on file at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. They may be reviewed between 9 a.m. and 4 p.m., Monday through Friday.

Accordingly, on the basis of the evidence before it, FDA concludes that (1) the provisional listing of D&C Red No. 19 and D&C Red No. 37 for use in ingested drugs and ingested cosmetics should be terminated forthwith under section 203 (a)(2) and (d)(1)(E) of the transitional provisions of the amendments; (2) all certificates heretofore issued for batches of D&C Red No. 19 and D&C Red No. 37, their lakes, and all mixtures containing these color additives for ingested use are cancelled as of February 4 1983; and (3) after that date the addition of D&C Red No. 19 or D&C Red No. 37 to ingested drugs or ingested cosmetics will cause such products to be adulterated within the meaning of sections 501 and 601 of the act (21 U.S.C. 351 and 361) and to be subject to regulatory action. This prohibition applies only to the ingested use of the straight color additives, their lakes, and mixtures of the color additives and their lakes. FDA also concludes that the health concern regarding the use of these color additives is limited to chronic ingested use, and that such use of these color additives does not represent an acute imminent hazard. Therefore, the protection of the public health does not require (1) the recall from the market of drug and cosmetics products for ingested use that contain either color additive, or (2) the destruction of such drug or cosmetic preparations to which either color additive has already been added.

Manufacturers of new drugs and new animal drugs (including certifiable antibiotics for animal use) that may be ingested and that contain D&C Red No. 19 or D&C Red No. 37 may either discontinue use of the color additives or substitute a different color additive in accordance with the provisions of 21 CFR 314.8 (d)(3) and (e) or 21 CFR 514.8 (d)(3) and (e), as appropriate. If a substitute color additive is used, the manufacturer shall file with FDA a supplemental new drug application or supplemental new animal drug application containing data describing the new composition and showing that the change in composition does not interfere with any assay or other control procedures used in manufacturing the drug, or that the assay and control procedures have been revised to make them adequate. The applicant shall also submit data available to establish the stability of the revised formulation. If the data are too limited to support a conclusion that the drug will retain its declared potency for a reasonable marketing period, the applicant shall submit a commitment to test the stability of marketed batches at reasonable intervals, to sumbit the data as they become available, and to recall from the market any batch found to fall outside the approved specifications for the drug.

Each sponsor of a notice of claimed investigational exemption for a new drug (IND) or a notice of claimed investigational exemption for a new animal drug (INAD) containing the subject color should promptly amend the IND or INAD to indicate that the color additives have been deleted or a different color additive substituted.

FDA is aware that supplies of alternative color additives may be difficult to obtain immediately. Consequently, drug and cosmetic labeling that states that the product contains "artificial color" or that specifically identifies D&C Red No. 19 or D&C Red No. 37 may continue to be used with the uncolored product or products containing alternative colors during the time necessary to obtain supplies of revised labeling or until Feburary 6, 1984, whichever occurs first.

The Executive Order 12291 and the Regulatory Flexibility Act, Pub. L. 96–354, do not apply to actions of this type.

The agency has considered the environmental effects of this action and, because the action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not necessary. A copy of the FDA environmental assessment is on file with the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Color additive lakes, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 81 and 82 are amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

1. Part 81 is amended:

a. In § 81.1(b) by revising the entries for D&C Red No. 19 and D&C Red No. 37, to read as follows:

§ 81.1 Provisional lists of color additives.

* * * * *

(b) * * *

	Closing date	Restrictions
*	*	*
D&C Red No. 19 (sec. 82.1319 of this chapter).	Feb. 28, 1983	External use only.
*	*	*
D&C Red No. 37 (sec. 82.1337 of this chapter).	Feb. 28, 1983	External use only.
*	*	*

* * * * *

b. In § 81.10 by adding new paragraph (q), to read as follows:

§ 81.10 Termination of provisional listings of color additives.

* * * * *

(q) *D&C Red No. 19 and D&C Red No. 37.* Having concluded that, when ingested, D&C Red No. 19 causes cancer in rats and mice, the agency hereby terminates the provisional listings of D&C Red No. 19 and chemically related D&C Red No. 37 for use in ingested drugs and ingested cosmetics, effective February 4, 1983.

c. In § 81.25 (a)(1) and (c)(1) by removing the entries for "D&C Red No. 19" and "D&C Red No. 37" and by revising paragraphs (a)(2), (b)(1)(ii) and (2), and (c)(2) to read as follows:

§ 81.25 Temporary tolerances.

* * * * *

(a) * * *

(2) Combinations of the color additives named in paragraph (a)(1) of this section may be used in a lipstick or other lip cosmetic, provided the individual temporary tolerance is not exceeded, except that the combined total of D&C Red No. 8 and D&C Red No. 9 may not exceed 3.0 percent.

* * * * *

(b) * * *

(1) * * *

(ii) D&C Orange No. 17, D&C Red No. 8, and D&C Red No. 9 individually may be used in a dentifrice at not more than 0.002 percent of the pure dye by weight of the dentifrice or, in a mouthwash, at not more than 0.005 percent of the pure dye by weight of the mouthwash.

(2) Combinations of the color additives named in paragraph (b)(1) of this section may be used, provided the individual temporary tolerance is not exceeded, except that the combined total of D&C Red No. 8 and D&C Red No. 9 may not exceed 0.002 percent in a dentifrice or 0.005 percent in a mouthwash, measured as the pure dyes by weight of the product.

* * * * *

(c) * * *

(2) Combinations of the color additives named in paragraph (c)(1) of this section may be used in a product, provided the individual temporary tolerance is not exceeded, except that the combined total of D&C Red No. 8 and D&C Red No. 9 may not exceed 0.1 milligram per day.

(d) In § 81.30 by adding new paragraph (r), to read as follows:

§ 81.30 Cancellation of certificates.

* * * * *

(r)(1) Certificates issued for D&C Red No. 19 and D&C Red No. 37, their lakes, and all mixtures containing these color additives are cancelled and have no effect as pertains to their use in ingested drugs and cosmetics after February 4, 1983, and use of these color additives in the manufacture of ingested drugs or cosmetics after this date will result in adulteration.

(2) The agency finds, on the scientific evidence before it, that no action has to be taken to remove from the market drugs and cosmetics to which the color additives were added on or before February 4, 1983.

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

2. Part 82 is amended:

a. In § 82.1319 by adding a new paragraph at the end of the section, to read as follows:

§ 82.1319 D&C Red No. 19.

* * * * *

D&C Red No. 19 is restricted to use in externally applied drugs and cosmetics.

b. § 82.1337 by adding a new paragraph at the end of the section, to read as follows:

§ 82.1337 D&C Red No. 37.

* * * * *

D&C Red No. 37 is restricted to use in externally applied drugs and cosmetics.

Notice and public procedure are not necessary prerequisites to promulgating these regulations because section 203(d)(2) of Pub. L. 86–618 so provides.

Effective date. This regulation shall be effective February 4, 1983.

(Sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note))

Dated: January 31, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–3164 Filed 2–2–83; 1:15 pm]

BILLING CODE 4160–01–M

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21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Neomycin Sulfate, Prednisolone, Tetracaine, and Squalane Topical-Otic Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to codify a previously approved new animal drug application (NADA) held by Evsco Pharmaceutical Corp. The NADA provides for use of a topical-otic suspension containing neomycin sulfate, prednisolone, tetracaine, and squalane for treating moist dermatitis in dogs and certain ear conditions in dogs and cats.

EFFECTIVE DATE: February 4, 1983.

FOR FURTHER INFORMATION CONTACT: Terence Harvey, Bureau of Veterinary Medicine (HFV-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Evsco Pharmaceutical Corp., P.O. Box 209, Harding Highway, Buena, NJ 08310, is holder of NADA 32–322, which provides for use of Liquisone F with Cerumene Suspension containing neomycin sulfate, prednisolone, tetracaine, and squalane. The suspension is used in treating acute otitis externa and as adjunctive therapy in managing chronic otitis externa in dogs and cats. It is also used in treating moist dermatitis in dogs.

The NADA was originally approved January 17, 1966. At that time, approvals were not routinely codified by publication in the **Federal Register.** Accordingly, the regulations are now amended to codify Evsco Pharmaceutical's approved NADA.

This action, reflecting an approved NADA, does not constitute reaffirmation of the safety and effectiveness data supporting this approval. Since the NADA was approved before July 1, 1975, the sponsor has not been required to submit a summary of the safety and effectiveness data and information in accordance with the freedom of information provisions of the animal drug regulations in 21 CFR 514.11(e)(2)(ii).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is excluded from Executive Order 12291 by section 1 (a)(1) of the Order.

List of Subjects in 21 CFR Part 524

Animal drugs, Topical.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), under authority delegated to the Commissioner of Food and drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended by adding new § 524.1484k, to read as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 524.1484k Neomycin sulfate, prednisolone, tetracaine, and squalane topical-otic suspension.

(a) *Specifications.* Each milliliter of suspension contains 5 milligrams neomycin sulfate (equivalent to 3.5 milligrams neomycin base), 2 milligrams prednisolone, 5 milligrams tetracaine, and 0.25 milliliter squalane.

(b) *Sponsor.* See 01703 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 2 to 3 applications daily or as needed.

(2) *Indications for use.* Indicated for use in dogs and cats for treating acute otitis externa and as adjunctive therapy in management of chronic otitis externa. The product may also be used for treating moist dermatitis in dogs.

(3) *Limitations.* Tetracaine and neomycin have the potential to sensitize. If signs of irritation or sensitivity develop, discontinue use. Prolonged use of this product may result in overgrowth of nonsusceptible organisms. If new infections due to bacteria or fungi appear during therapy, appropriate measures should be taken. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: February 4, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))

Dated: January 26, 1983

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83–2928 Filed 2–3–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Aministration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Feed Fortifiers, Inc., providing for use of certain lincomycin premixes for the manufacture of a complete swine feed. The feed is used for control and treatment of swing dysentery.

EFFECTIVE DATE: February 4, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV–128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: Feed Fortifiers, Inc., Manson, IA 50563, is sponsor of NADA 132–659 filed in its behalf by the Upjohn Co. The NADA provides for manufacture of 8- and 20-gram-per-pound lincomycin premixes from 50-gram-per-pound lincomycin premix for use in making 40- and 100-gram-per-ton lincomycin complete swine feeds used for control and treatment of swine dysentery as provided in 21 CFR 558.325(f)(2). Based on the data and information submitted, the NADA is approved and the regulations are amended to reflect the approval.

Approval of this application is based on safety and effectiveness data contained in Upjohn's approved NADA 97–505. Upjohn has authorized use of the data in NADA 97–505 to support approval of this application. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is equivalent to a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in the original approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.325 by revising paragraph (b)(5) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.325 Lincomycin.

* * * * *

(b) * * *

(5) Premix level of 8 and 20 grams per pound has been granted to No. 017255 and 017790 in § 510.600(c) of this chapter for use as provided in paragraph (f)(2)(i), (ii), and (iii) of this section.

* * * * *

Effective date: February 4, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 27, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-2927 Filed 2-3-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Cadco, Inc., providing for use of certain lincomycin premixes for the manufacture of a complete swine feed. The feed is used for treatment and control of swine dysentery.

EFFECTIVE DATE: February 4, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: Cadco, Inc., P.O. Box 3599, 10100 Douglas Ave., Des Moines, IA 50322, is sponsor of NADA 132-658 filed in its behalf by the Upjohn Co. The NADA provides for manufacture of 8-, 10-, and 20-gram-per-pound lincomycin premixes from a 50-gram-per-pound lincomycin premix to make 40-and 100-gram-per-ton lincomycin complete swine feeds. The feed is used for the control and treatment of swine dysentery as provided in 21 CFR 558.325(f)(2). Based on the data and information submitted, the NADA is approved and the regulations are amended to reflect the approval.

Approval of this application is based on safety and effectiveness data contained in Upjohn's approved NADA 97-505. Use of the data in NADA 97-505 to support this application has been authorized by Upjohn. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (December 23, 1977; 42 FR 64367), this is equivalent to a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in the parent NADA.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.325 is amended by adding new paragraph (b)(4) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§558.325 Lincomycin.

* * * * *

(b) * * *

(4) Premix levels of 8, 10, and 20 grams per pound have been granted to No. 011490 in § 510.600(c) of this chapter for use as provided in paragraph (f)(2)(i), (ii), and (iii) of this section.

* * * * *

Effective date: February 4, 1983

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 26, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-2929 Filed 2-3-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3280

[Docket No. R-82-1017]

Manufactured Home Construction and Safety Standards; Confirmation of Effective Date and Corrections

AGENCY: Office of Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule; confirmation of effective date and corrections.

SUMMARY: This document announces the effective date for the final rule published in the **Federal Register** on November 1, 1982 (47 FR 49383) which made editorial changes to material incorporated by reference into the Federal Manufactured Home Construction and Safety Standards. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, and announced that future notice of the effective date of this rule would be published in the **Federal Register.**

This document also makes corrections to printing and editorial errors made in the rule published November 1, 1982.

EFFECTIVE DATE: The effective date for the final rule published November 1, 1982 at 47 FR 49383, which includes material incorporated by reference and approved by the Director of the Office of the Federal Register, is March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Mendlen, Standards Officer, Office of Manufactured Housing and Construction Standards, Manufactured Housing Standards Division, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone number (202) 755-5798. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On November 1, 1982 the Department published a final rule (47 FR 49383) which made changes to material incorporated by reference into the Federal Manufactured Home Construction and Safety Standards (24 CFR Part 3280). The changes: (1) Added language to § 3280.4 making clear that an incorporation by reference was

intended, (2) provided complete citations of all referenced material in Part 3280, and (3) provided a statement indicating where each referenced standard is available.

As published, the rule contained several editorial errors. The Department is correcting those errors with this document. No substantive change has been made to the rule published on November 1, 1982.

List of Subjects in 24 CFR Part 3280

Fire prevention, Housing standards, Mobile homes, Incorporation by reference.

In FR Doc. 82–29865 beginning on page 49383 of the issue for Monday, November 1, 1982, the following corrections are made:

§ 3280.304 [Corrected]

1. On page 49386, the middle column, the first entry should read:

Application and fastening schedule. Power driven, mechanically driven and manually driven fasteners	HUD-FHA Use of Materials Bulletin No. UM 25d–1973

§ 3280.305 [Corrected]

2. On the same page, the same column, in § 3280.305(i)(1)(i), the ninth line "AIISI–1968" should read "AISI–1968".

§ 3280.306 [Corrected]

3. On the same page, the same column, in § 3280.306(g)(2), the fifth line, "FS QQ–S–7B1H–1974" should read "FS QQ–S–781H–1974".

§ 3280.403 [Corrected]

4. On the same page, the third column, the first line should read "(ii), (e)(2), and (i) are revised to".

5. On the same page, the third column, the eleventh line, in § 3280.403(b)(1)(i), "ASTM § 3110–1972" should read "ASTM D 3110–1972".

6. On page 49387, the middle column, make the following changes:

a. Paragraph (e)(2) should read:

(2) Insect screening shall be of a material compatible with aluminum and shall meet Insect Wire Screening CS–138–1955, Wire Fabric (Insect Screening) FS RR–W–365–1967, Vinyl-coated Glass Fiber Insect Screening and Louver Cloth CS 248–1964, or Screening, Insect, Non-metallic FS L–S 125B–1972.

b. In paragraph (e)(2)(i), the seventh line, "ANSI 734.1–1947" should read "ANSI Z34.1–1947".

§ 3280.405 [Corrected]

c. Item 9, the second line should read "(e)(2) (i), (ii), (iii) and (iv)".

d. In § 3280.405(d)(1)(i), the following sentence should be added to the end of the paragraph: "Doors shall conform to the Type 1 requirements of wood flush doors, NWMA I.S.1–1974."

§ 3280.511 [Corrected]

7. On page 49388, the footnote designated [1], which begins at the end of the first column and continues up to the first complete paragraph in the second column, should be removed.

8. On the same page, the third column, paragraph (b), the first line, the word "originated" should read "designated".

§ 3280.604 [Corrected]

9. On page 49389, the first table, the seventh entry reading "Plumbing system components for mobile homes and recreational vehicles" should be removed.

§ 3280.611 [Corrected]

10. On the same page, the third column of text, the fourth line, insert the word "and" immediately following "765B–1970".

§ 3280.703 [Corrected]

11. On the same page, the second table, the second entry ("Liquid fuel-burning heating appliances for mobile homes and travel trailers"), the entry under the column designated "UL" should read "307a–1969".

12. On page 49390, the following changes should be made in the table:

a. The entry reading "Factory-built chimneys" should be removed.

b. For the entry reading "Chimneys, factory built residential type and building appliance", the entry under the column designated "ANSI" should read "A 131.1–1971" and the entry under the column designated "UL" should read "UL103–1971".

c. For the entry reading "Standard for fireplace stoves for installation in mobile structures", the entry "GAL–1973", currently under the column designated "ANSI", should be placed under the column designated "Other standards".

§ 3280.707 [Corrected]

13. On page 49391, the first column, the fourth line from the bottom, "221.10.1–1974" should read "Z21.10.1–1974".

Dated: January 31, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83–2903 Filed 2–3–83; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to Cotton Dust; Stay for Knitting Operations

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Stay for knitting operations.

SUMMARY: Pending completion of the current review of the standard for occupational exposure to cotton dust (29 CFR 1910.1043), the Occupational Safety and Health Administration (OSHA) is staying enforcement of the standard for knitting operations. During this period, the preexisting standard for exposure to cotton dust in 29 CFR 1910.1000, Table Z–1 will continue to be enforced.

DATE: This stay shall be effective on February 4, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Occupational Safety and Health Administration, Room N–3637, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone (202) 523–8151.

SUPPLEMENTARY INFORMATION: On June 23, 1978, OSHA issued an occupational health standard regulating exposure to cotton dust at 29 CFR 1910.1043 (43 FR 27350). This new standard, where effective, was intended to supersede the previous OSHA standard which had been adopted from an established federal standard pursuant to Section 6(a) of the Occupational Safety and Health Act.

The new standard was immediately challenged in the United States Court of Appeals for the District of Columbia Circuit by affected employees and by various groups of affected employers. The knitting industry did not participate in any of these court challenges to the cotton dust standard. After the standard was upheld by the court, a new effective date of March 27, 1980 was set by OSHA and the knitting industry became subject to all pertinent compliance requirements.

On November 6, 1980, a group of trade associations, consisting of the National Knitwear Manufacturers Association (NKMA), the National Association of Hosiery Manufacturers (which had already submitted its own petition), the Knitted Textile Association, the National Knitted Outerwear Association, and the Northern Textile Association, petitioned OSHA for a "Stay or Suspended Enforcement of Cotton Dust Standard in Knitting

Operations." The NKMA served as representative for this group. The petitioners claimed that OSHA had not demonstrated that cotton dust posed a significant risk to workers in the knitting industry that no risk was evident from industry data and experience, and that the requirements of the standard placed a needless burden upon the industry.

On March 31, 1981, in response to the knitters' petition, OSHA granted a 60-day administrative stay of enforcement to the knitting industry. Following its expiration, the knitters' stay was extended to August 31, 1981, to provide further time for the petitioners to prepare and submit a comprehensive analysis of the data they had collected. Hosiery knitting was also included in the stay.

The NKMA collected much medical surveillance data but was unable to complete its analysis before the extension expired. Arrangements were made by the industry for Cotton Incorporated to fund analysis of the data by Dr. Brian Boehlecke and Dr. Mario Battigelli of the University of North Carolina. On August 31, 1981, after meetings with representatives of some of the various organizations involved, OSHA extended the stay to January 31, 1982, to provide time for the investigators to review the data collection procedures and analyze the data. On November 9, 1981, the required interim report was sent to OSHA, and on January 29, 1982, OSHA received a draft copy of the study entitled "Analysis of Pulmonary Function Data of Knitting Industry Workers." The stay was subsequently extended to July 31, 1982, to permit analysis of the draft report and receipt of the final report.

The final report was received by OSHA on July 14, 1982. The report addressed the question of whether or not there is an association between adverse respiratory health effects and employee exposure to cotton dust in knitting operations. The data upon which the report was based were collected by 12 companies as part of a medical surveillance program and were supplied to the investigators by ELB Associates, Inc. of Chapel Hill, N.C., a private company which performs pulmonary function testing, administers health questionnaires, and conducts industrial hygiene sampling. The analysis in the report of Drs. Boehlecke and Battigelli indicates that the prevalences of chronic cough, chronic phlegm, mild dyspnea, and byssinotic symptoms are similar to those reported in a group of Southeastern blue-collar workers not exposed to respiratory hazards. Drs. Boehlecke and Battigelli found little evidence of respiratory impairment in the workers surveyed. They found no significant effect of duration of employment in knitting on FEV_1 values. The percentage of workers with a small decrement in FEV_1 is similar to that for workers processing non-cotton fibers. A deleterious effect relating to cigarette smoking was evident.

Based on an initial analysis of the information contained in the report, OSHA proposed in a Federal Register notice of August 13, 1982 (47 FR 35255) to stay the new cotton dust standard, 29 CFR 1910.1043, for the knitting industry (including the hosiery industry) until the current review of the cotton dust standard and subsequent rulemaking proceedings have been completed. OSHA announced the availability of the final report and requested comments on the proposed stay. OSHA also extended the temporary stay of the standard in order to give adequate time for the public to review the study and submit comments on the proposed action, and to give OSHA adequate time to review these comments before determining whether the stay should be extended.

OSHA has reviewed the comments received in response to the August 13, 1982 Federal Register notice. Based on the study by Drs. Boehlecke and Battigelli discussed above, and the comments discussed below the agency has decided to stay the new cotton dust standard, 29 CFR 1910.1043, for the knitting and hosiery industries until the current review of the cotton dust standard and the subsequent rulemaking proceedings have been completed.

Of the comments received, only two discussed in detail the report of Drs. Boehlecke and Battigelli. Environmental Resources Group, Inc. ("ERG"), a consulting service, was critical of the study because it did not address the dose response relationship between dust concentrations and manifestations of respiratory impairment (Exhibit 182–1). In addition, ERG noted that the study's data was inconsistent with that available from other sources. ERG indicated that its exposure monitoring results show an average of 176 ug/m^3 for hosiery mills and 248 ug/m^3 for knitting. These numbers are not substantially different from those in the report and both sets of numbers are well below the PEL of 500 ug/m^3 set in the new standard. ERG concluded by expressing concern that the agency's further extension of the stay would discourage the acquisition of additional monitoring and medical data.

A substantial amount of medical and monitoring data has been gathered. In its review of the Boehlecke and Battigelli study, NIOSH concluded: "The authors were very thorough and clear in the methodology over which they had control and in their presentation of data which show generally negative results." (Exhibit 182–20). NIOSH's main criticism of the study was that: "there may be a strong selection bias, not under the control of the investigators . . . which throws into question the generalization of the results of this study to the entire knitwear and hosiery industries."

Eighteen other comments were received, all of them from specific manufacturers or trade association representatives. None of them opposed an extension of the stay. The common themes in these comments were that exposure levels for knitting and hosiery segments of the industry were substantially below the permissible exposure limit of 500 ug/m^3, and therefore, the current stay should be extended and eventually these segments should be exempted from the standard. Several hosiery manufacturers noted that they use a very low percentage of cotton in their processes. Others indicated that monitoring revealed dust levels considerably below 250 ug/m^3. Furthermore, several manufacturers commented that their experience with workers' compensation indicates that no employees in their industries have filed claims based on pulmonary disability.

Based on the report of Drs. Boehlecke and Battigelli, OSHA has decided to extend the stay for the knitting and hosiery industries until the current review of the cotton dust standard and the subsequent rulemaking proceedings have been completed. The report indicates little or no excess risk of byssinosis or other pulmonary disease in the knitting sector at the low exposure levels which exist. As discussed above, the two comments which made some criticisms of the report did not dispute the basic findings regarding the lack of adverse health effects at the exposure levels studied. Furthermore, none of the other comments objected to the extension of the stay or presented evidence which contradicts the findings of Drs. Boehlecke and Battigelli.

At this time, OSHA is not making a final decision on whether the knitting and hosiery industries should be

permanently exempted from the cotton dust standard; it is only continuing the stay for these industries. After it has issued a proposal, OSHA will invite comments and the presentation of new data on the issue. OSHA will also hold a hearing and at that time a full review will be given to all the data. In the interim, knitting and hosiery operations will continue to be subject to the 1 mg/m³ exposure limit specified by 29 CFR 1910.1000, Table Z–1.

List of Subjects in 29 CFR Part 1910

Cotton dust, Occupational safety and health.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, N.W., Washington, D.C. It is issued pursuant to Sections 6(b) and 8(g) of the Occupational Safety and Health Act. (84 Stat. 1593, 1600, 29 U.S.C. 655, 657), 29 CFR Part 1911; Secretary of Labor's Order No. 8–76 (41 FR 25059) and 5 U.S.C. 551 et seq.

Signed at Washington, D.C. this 31st day of January 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83–2877 Filed 2–3–83; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket No. 107PA–8; A–3–FRL 2270–6]

Designation of Areas for Air Quality Planning Purposes; Approval of Redesignation of Attainment Status for the State of Pennsylvania

Corrections

In FR Doc. 83–1545 beginning on page 2770 in the issue of Friday, January 21, 1983, make the following corrections.

1. On page 2770, third column, in the fourteenth and nineteenth lines from the top of the page; and the first, twelfth and sixteenth lines from the bottom of the page, the word "Secondary" should read "Primary".

2. On page 2771, first column, the fourth and ninth lines of the first complete paragraph, and the fourth line of the second complete paragraph, the word "Secondary" should read "Primary".

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1003 and 1043

[Ex Parte No. MC 5 (Sub-1)]

Motor Carriers of Property Minimum Amounts of Bodily Injury and Property Damage Liability Insurance

AGENCY: Interstate Commerce Commission.

ACTION: Stay of effective date of final rules.

SUMMARY: On November 2, 1982, by decision, served December 13, 1982, and published at 47 FR 55939 (December 14, 1982), the Commission adopted Final Rules to modify its insurance regulations pursuant to the requirements of 49 U.S.C 10927. When effective on February 14, 1983, these final rules would replace final rules adopted on June 29, 1981, (46 FR 33277) which were stayed on July 27, 1981, (46 FR 38486) and temporary insurance rules which were published on July 27, 1981, and codified at Title 49 CFR 1043.2(c). Due to the critical importance of insurance filings the need for both the carriers and insurers to know with certainty the meaning of the filings, and the desirability of avoiding repetitive filings, the February 14, 1983 effective date of the Commission's decision and final rules is postponed.

DATE: The effective date of the final rules is postponed until June 3, 1983.

FOR FURTHER INFORMATION CONTACT:
Alice K. Ramsay (202) 275–0854,
or
Delores Patterson (202) 275–0898

SUPPLEMENTARY INFORMATION:

Background

On June 11, 1981, 46 FR 30974, DOT set the minimum amounts of financial responsibility for motor carriers of property in accordance with Section 30 of the "Motor Carrier Act of 1980." In accordance with Section 29 of the Act, this Commission adopted the same amounts prescribed by the Secretary of Transportation, in a notice of final rules published on June 29, 1981, 46 FR 33277. In that decision, we also revised the required Form BMC 90, "Endorsement for Motor Carrier Policies of Insurance for Automobile Bodily Injury and Property Damage Liability," and continued all of the existing procedures regarding insurance filings.

A Notice was given to Insurance Companies that in order to avoid filing new certificates of insurance with the Commission for every property carrier affected, the Commission would deem any certificates of insurance on file as of August 7, 1981, to provide insurance coverage to the full amount and extent provided in the revised Form BMC 90 endorsement. This date was later changed to August 28, 1981. The proceeding was reopened on July 27, 1981, 46 FR 38486, and the final rules of June 29, 1981, 46 FR 33277, were stayed. The decision adopted temporary rules; and instituted a notice of proposed rulemaking to propose alternative final rules.

The temporary rules established that the certificate of insurance (Form BMC 91) would certify only to the basic, $500,000 primary insurance coverage for all affected motor carriers of property regardless of the type of commodities hauled, and regardless of whether or not the Form BMC 90 endorsement was attached physically to the policy. The date when the certificates on file would certify to the higher amount was changed from August 28, 1981, to September 11, 1981, while any new or replacement certificates of insurance received after August 1, 1981, would certify to the basic $500,000 coverage.

Because Commission regulated property carriers must comply with DOT's insurance regulations as well as this Commission's, it was decided to depend temporarily on its requirements for $1 million coverage on hazardous substances carriers to protect the public. The temporary rules also readopted the revised Form BMC 90 endorsement for attachment to motor carrier policies, no deadline was set for attaching it to the motor carrier's policies.

The Stay of the Effective Date

The American Insurance Association, which previously filed comments in this proceeding, has submitted a letter request which is accepted as a petition for stay of the February 14, 1983, effective date of the final rules. The Association suggests that the February 14 date is inappropriately soon. More specifically, it points out that Section 406 of the Surface Transportation Act of 1982 (Pub. L. 94–424)—more widely known as the Gas Tax Bill—will require changes in the Commission's rules inasmuch as it has (1) included under DOT regulation for the first time vehicles weighing less than 10,000 pounds GVWR, while transporting Class A or B explosives, any quantity of poison gas, or a large quantity of radioactive materials in interstate or foreign commerce, and (2) given the Secretary of Transportation discretion to maintain current minimum limits requirements until January 1, 1985, rather than have the statutory limits go into effect on July 1, 1983, a date

incorporated in the Commission final rules which would be effective February 14, 1983. The Association also points to the need for clarification or correction of some of the final rules, problems in the use of the forms adopted, and the short time available to print the new forms, distribute them across the country and effect all new filings before February 14, 1983.

Numerous insurance companies and their associations and printers have also brought to the Commission's attention for the first time their desire to have the two-sided forms reworded and formatted to allow all typing to be done on one side for more convenient packaging, completion, and computer use. This problem cannot be addressed before the current effective date.

Due to the critical importance of insurance filings, the need for both the carriers and insurers to know with certainty the meaning of the filings, and the desirability of avoiding repetitive filings, the February 14, 1983 effective date of the Commission's decision and final rules is postponed.

This decision will not affect the quality of the human environment or the conservation of energy resources, not will it have an adverse affect on small business.

Decided: January 26, 1983.

By the Commission: Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2870 Filed 2-3-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 21021-216]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues final regulations implementing the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic. The intended effect of these regulations is to reduce user-group conflicts and prevent overfishing of the king and Spanish mackerel and cobia stocks.

EFFECTIVE DATE: February 4, 1983.

ADDRESSES: A copy of the combined final regulatory flexibility analysis/regulatory impact review may be obtained from Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Jack T. Brawner, 813-893-3141.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries, NOAA, approved the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP) on April 1, 1982, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). These regulations implement the FMP, which was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). A proposed rulemaking was published on May 18, 1982 (47 FR 21279), initiating a 45-day comment period which ended July 2, 1982.

The proposed rulemaking contained information on the coastal migratory pelagic fishery, its economic value, and its relative importance to the recreational and commercial sectors. The major problems in the fishery (i.e., prevention of overfishing and gear conflicts) and the management measures to resolve them were also discussed in detail.

In the proposed regulations, § 642.5 pertaining to recordkeeping and reporting was reserved. This section is also being reserved in this final rule because the reporting system has not been completely developed and forms have not yet been prepared. It is anticipated that the mandatory reporting system will be implemented when sampling procedures and reporting forms are developed and approved. The forms will be submitted to the Office of Management and Budget for clearance under section 3507 of the Paperwork Reduction Act of 1980.

Section 642.7(e) in the proposed regulations prohibited fishing for king mackerel with gill nets having a mesh size of less than 4¾ inches. In the final rule, this section has been changed to prohibit possession of king mackerel in the FCZ on board a vessel with gill nets less than this size, except as provided for under § 642.24(a)(2). Section 642.24(a)(2) has been revised to allow an incidental catch of king mackerel equal to ten percent of the total catch by number of Spanish mackerel on board a vessel with gill nets with a mesh size smaller than 4¾ inches (stretched mesh). These two changes have been made to facilitate enforcement of the FMP.

The final rule differs from the proposed rule in that several minor technical modifications were made for clarification in the definitions of *fishery conservation zone* and *commercial fisherman*, § 642.2, and in the texts of §§ 642.7(d) and (1), 642.8(b), and 642.24(a). Errors in the location of Points 3 and 4 on Table 1 of § 642.26(a)(1)(i) are corrected. The U.S. Coast Guard (USCG) requested minor revisions of § 642.8 to reflect recent changes in USCG boarding procedures and of § 642.9 to reflect the recent revision of 50 CFR Part 621 (Civil Procedures); these are revised in the final rule. Also, changes were incorporated in the final rule in response to comments received during the public comment period. These changes are discussed below.

Comments and Responses

The Councils and the Florida Department of Natural Resources (FDNR) questioned consistency of the proposed regulations with the FMP concerning the mandatory requirement of placing observers on purse-seine vessels. The Councils requested modification of § 642.7(f) and § 642.24(b)(4) to clarify their intent that all purse-seine vessels fishing for Spanish and king mackerel must have an observer on board, unless such observer cannot be made available by the National Marine Fisheries Service (NMFS). Section 642.24(b)(4) was rewritten in response to this request.

The Councils also recommended that § 642.24(b)(1) and (2) be changed to specify the contents of the letter of intent and telephone notification prior to fishing with purse seines. These include the number of vessels and area to be fished, and information on the port of departure and return. Sections 642.24(b)(1) and (2) were revised to comply with this request.

FDNR questioned implementation of the FMP without an effective statistical reporting system. The Southeast Fisheries Center will utilize its present collection system with an expeditious analysis of dealer and processor data for the commercial fishery. The catch data from charter boats, expanded to other recreational segments, will be used for determination of the recreational fishery catch. These methods will be adequate for management purposes until the FMP's mandatory statistical reporting system is developed and implemented.

The State of Mississippi commented that the regulations were inconsistent with its Coastal Zone Management Program (CZMP) due to their coverage of areas within Mississippi Sound over

which the jurisdication is disputed between Mississippi and the United States. These areas are referred to as enclaves, i.e., areas surrounded by State waters but subject to Federal jurisdiction. Mississippi's conclusion of inconsistency depends upon the question of jurisdiction over these enclaves, rather than any substantive conflict between the proposed regulations and the tenets of its CZMP. The present juridical status of these enclaves is that they are under Federal jurisdiction, and not within Mississippi's coastal zone management jurisdiction. NOAA's Office of Coastal Zone Management, in a supplemental finding dated January 26, 1981, specified that the enclaves are not part of Mississippi's coastal zone. Therefore, as a matter of law, there is no inconsistency with Mississippi's CZMP.

The FDNR questioned the consistency of the regulations with Florida's CZMP, to the extent that the regulations allow the harvest of coastal pelagic fish with purse seines. State law, incorporated into Florida's CZMP, prohibits the utilization of such gear to take food fish within and without the waters of Florida (Florida Statutes § 370.071(3)). Florida's claim of inconsistency is without legal foundation for the following reasons:

1. The Gulf of Mexico Fishery Management Council forwarded copies of the FMP to Florida's Office of Coastal Zone Management on April 8, 1981, and on October 16, 1981, with letters requesting comments on its finding of consistency with Florida's CZMP. The FMP sent in October contains an extensive discussion of the purse-seine measures and reasons (including statutory prohibitions) for rejecting Florida's ban on the use of this gear. Florida did not respond to either of these letters until FDNR submitted its comments on the proposed regulations last July. In accordance with the provisions of 15 CFR 930.41, it is appropriate for the Federal agency to presume State agency agreement to the Federal determination of consistency after 45 days. NOAA has properly assumed Florida's agreement with the Gulf Council's conclusion of consistency.

2. The Administrator, NOAA, has independently reviewed the issue of consistency with Florida's CZMP and determined that the FMP is consistent to the maximum extent practicable. The regulation regarding purse seines is in concert with the articulated goal of Florida's CZMP regarding the utilization of the marine resources of the State, as set forth at page II–33 of the CZMP. Though the Federal and State regulations are not identical, identity is not required by the Coastal Zone Management Act (CZMA). The statutory requirement of consistency is qualified. Consistency is required only to the "maximum extent practicable" (CZMA § 307(c)(1)). This qualified requirement of consistency requires that Federal activities be fully consistent with State coastal zone programs "unless compliance is prohibited based on the requirements of existing law applicable to the Federal agency's operations" (15 CFR 930.32(a)). In this instance, NOAA is constrained by the Magnuson Act. To implement a regulation prohibiting the use of purse seines for the harvest of coastal pelagic fish would violate several of the national standards of the Magnuson Act. Therefore, to the maximum extent practicable, this regulation is consistent with Florida's CZMP. The Administrator of NOAA has considered and rejected Florida's request to delay implementation of the FMP because the State did not respond to the Council's consistency determination within the 45-day period, and because Florida has offered no challenge to NOAA's determination that the FMP is consistent with the CZMP "to the maximum extent practicable."

One commenter questioned whether her statements presented during public hearings had been considered. This commenter also questioned why her written comments had not been appended to the final Environmental Impact Statement (FEIS). A review of the administrative record, established during the preparation of the FMP, showed that the comments were considered by the Councils, their Scientific and Statistical Committees, and NMFS. The written comments were not appended to the FEIS because they were not submitted during the National Environmental Policy Act comment period.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), after considering all comments received on the FMP and the proposed regulations, has determined that the FMP and final regulations comply with the national standards, other provisions of the Magnuson Act, and other applicable law.

The adoption and implementation of the FMP is a major Federal action that will have a significant impact on the quality of the human environment. Under the National Environmental Policy Act and NOAA Directive 02–10, a draft environmental impact statement was filed with the Environmental Protection Agency. The notice of availability was published on February 5, 1980 (45 FR 7831). The final environmental impact statement was filed and the notice of availability was published on April 30, 1982 (47 FR 18652).

The Administrator, NOAA, has determined that these proposed regulations are not major under Executive Order 12291. A Regulatory Impact Review (RIR) has been prepared that analyzes the expected benefits and costs of the regulatory action. The review provides the basis for the Administrator's determination. The FMP's management measures are designed to maintain current landings and the productivity of each user group, while preventing overfishing of the king and Spanish mackerel and cobia stocks.

The RIR indicates that the proposed regulations will result in benefits to fishermen and the economy that are greater than the associated Federal costs to manage the fishery on a continuing basis. Benefits that will accrue from implementation of the proposed measures come from the prevention of overfishing. The benefit, in terms of pounds of fish, is the difference between the OY specified in the plan and the amount caught after overfishing occurs; in monetary terms, the benefit is the difference between the contribution to the Gross National Product (GNP) by OY and the contribution to GNP associated with the catch after overfishing occurs. The expected benefits range from $5.6 to $27.9 million annually over the next five years. Empirical data indicated that the level of fishing effort by commercial and recreational fishermen is increasing rapidly, and mackerel stocks and catch will decline if effort increases.

These regulations will have a significant impact on a substantial number of small entities, under the Regulatory Flexibility Act. A final regulatory flexibility analysis (RFA) has been prepared in compliance with the Regulatory Flexibility Act and has been combined with the RIR summarized above. Copies of the final RFA/RIR are offered to the public.

The FMP and implementing regulations will not increase the Federal paperwork burden as defined by the Paperwork Reduction Act, because the data collection system will not be implemented at this time. Section 642.24(b) of the implementing regulations requires that owners or operators of purse-seine vessels fishing for king and Spanish mackerel report their catch for each trip by telephone. Since there are fewer than 10 vessels in this fleet, this information is to be

gathered from fewer than 10 persons, so no "collection of information" is involved for purposes of the Paperwork Reduction Act.

The Coastal Zone Management offices for each State having an approved program under the CZMA and whose territorial waters are adjacent to the management area were provided copies of the FMP for review as to consistency with their coastal zone management programs. The only comments are discussed above. NOAA has concluded that, to the maximum extent practicable, the FMP is consistent with the applicable coastal zone management programs. The States of Georgia and Texas do not have approved programs.

The Assistant Administrator has determined that there is a good cause to waive the 30-day period of delayed effectiveness required under the Administrative Procedure Act. Fishing activity for Spanish mackerel begins to intensify in October, and effective regulations are essential during that period to ensure orderly prosecution of the fishery. The regulations establish annual quotas and allocations for various user groups. Delaying implementation of the regulation would also interfere with the orderly installation of observers aboard purse-seine vessels, and thereby result in adverse impacts on this segment of the fishery during the initial part of the fall fishing season when mackerel are most susceptible to that gear. For these reasons, the Assistant Administrator has found that it would be impracticable to delay the effective date of this action.

List of Subjects in 50 CFR Part 642

Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 1, 1983.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

50 CFR is amended by adding a new Part 642 to read as follows:

PART 642—COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Subpart A—General Provisions

Sec.

642.1 Purpose and scope.
642.2 Definitions.
642.3 Relation to other laws.
642.4 Permits and fees.
642.5 Recordkeeping and reporting requirements [Reserved].
642.6 Vessel identification [Reserved].
642.7 Prohibitions.
642.8 Facilitation of enforcement.
642.9 Penalties.

Subpart B—Management Measures

642.20 Seasons.
642.21 Quotas.
642.22 Closures.
642.23 Size restrictions.
642.24 Vessel, gear, equipment limitations.
642.25 Specifically authorized activities.
642.26 Area, time limitations.

Authority: 16 U.S.C. 1801 et seq.

Subpart A—General Provisions

§ 642.1 Purpose and scope.

(a) The purpose of this Part is to implement the Fishery Management Plan for Coastal Migratory Pelagic Resources developed by the Gulf of Mexico and South Atlantic Fishery Management Councils under the Magnuson Act.

(b) This Part regulates fishing for coastal migratory pelagic fish by fishing vessels of the United States within the fishery conservation zone off the Atlantic coastal States south of the Virginia-North Carolina border and in the Gulf of Mexico.

§ 642.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this Part shall have the following meaning:

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement officer or special agent of NMFS;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Center Director means the Center Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149; telephone 305–361–5761.

Coastal migratory pelagic fish means the following species:

King mackerel, *Scomberomorus cavalla*
Spanish mackerel, *Scomberomorus maculatus*
Cero mackerel, *Scomberomorus regalis*
Cobia, *Rachycentron canadum*
Little tunny, *Euthynnus alletteratus*
Dolphin, *Coryphaena hippurus*
Bluefish, *Pomatomus saltatrix* (Gulf of Mexico only)

Commercial fisherman means a person who sells, trades, or barters any part of his catch of coastal migratory pelagic fish.

Dealer means the person who first receives or purchases fish directly from a commercial fisherman.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Fork length means the distance from the tip of the head to the center of the tail (caudal fin).

Magnuson Act means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

NMFS means the National Marine Fisheries Service.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage; or

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; and

(d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States),

corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Processor means a person who processes fish or fish products for commercial use or consumption.

Regional Director means the Regional Director, Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone, 813–893–3141, or a designee.

Secretary means the Secretary of Commerce or a designee.

U.S. fish processor means a facility located within the United States for, and vessels, of the United States used for or equipped for, the processing of fish for commercial use or consumption.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Magnuson Act.

Vessel of the United States means:

(a) Any vessel documented or numbered by the U.S. Coast Guard under United States law; or

(b) Any vessel, under five net tons, that is registered under the laws of any State.

§ 642.3 Relation to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) Certain responsibilities relating to data collection and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

(c) These regulations apply within the boundaries of any national park, monument, or marine sanctuary in the Gulf of Mexico and South Atlantic FCZ.

§ 642.4 Permits and fees.

No permits or fees are required for domestic recreational or commercial fishing vessels engaged in fishing in the coastal migratory pelagic fishery.

§ 642.5 Recordkeeping and reporting requirements. [Reserved]

§ 642.6 Vessel identification. [Reserved]

§ 642.7 Prohibitions.

It is unlawful for any person to:

(a) Fail to comply immediately with enforcement and boarding procedures specified in § 642.8;

(b) Fish for king or Spanish mackerel in violation of any area closures or season closures as specified in § 642.22 or § 642.26;

(c) Possess in or harvest from the FCZ Spanish mackerel under the minimum size limit specified in § 642.23(a)(1), except for the catch allowance specified in § 642.23(a)(2);

(d) Possess in or harvest from the FCZ cobia under the minimum size limit specified in § 642.23(b);

(e) Possess in the FCZ king mackerel on board a vessel with gill nets with a minimum mesh size less than that specified in § 642.24(a)(1), except for a catch allowance as specified in § 642.24(a)(2);

(f) Fish for king or Spanish mackerel using a purse seine, except in compliance with § 642.24(b);

(g) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any fish or parts thereof taken or retained in violation of the Magnuson Act, this Part, or any other regulation under the Magnuson Act;

(h) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this Part, or any other regulation or permit issued under the Magnuson Act;

(i) Forcibly to assault, resist, oppose, impede, intimidate, threaten, or interfere with any Authorized Officer in the conduct of any search or inspection described in paragraph (h) of this section;

(j) Resist a lawful arrest for any act prohibited by this Part;

(k) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this Part; or

(l) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested coastal migratory pelagic fish to any foreign fishing vessel, while such vessel is in the FCZ, unless the foreign fishing vessel has been issued a permit under Section 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested coastal migratory pelagic fish;

(m) Violate any other provision of this Part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 642.8 Facilitation of enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook, and catch for purposes of enforcing the Magnuson Act and this Part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you,"

(3) "AA AA AA etc." is the call to an unknown station, to which the signaled vessel should respond by identifying the vessel by radio, visual signals or illuminating the vessel identification, and

(4) "RY–CY" meaning "You should proceed at slow speed. A boat is coming to you."

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his party to come aboard;

(2) Provide a ladder, enough light, and a safety line when necessary or requested by the Authorized Officer to facilitate the boarding and inspection; and

(3) Take such other actions as necessary to ensure the safety of the Authorized Officer and his party and facilitate the boarding.

§ 642.9 Penalties.

Any person or fishing vessel found to be in violation of this Part is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Part 620 (Citations), 50 CFR Part 621 and 15 CFR Part 904 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 642.20 Seasons.

The fishing year of all species of coastal migratory pelagic resources begins on July 1 and ends on June 30.

§ 642.21 Quotas.

(a) *Hook-and-line and net fishing.*—(1) *King mackerel.* The total allowable catch for king mackerel is 37 million pounds per year.

(i) Annual quotas are 28 million pounds for the recreational fishery and 9 million pounds for the commercial fishery. A fish is counted against the commercial quota if it is sold.

(ii) The commercial quota is further divided between hook-and-line fishing and net fishing as follows:

Hook and Line: 3,877,200 pounds

Net: 5,122,800 pounds

(2) *Spanish mackerel.* The total allowable catch for Spanish mackerel in 27 million pounds per year.

(b) *Purse seine fishing.*—(1) *King mackerel.* The harvest of king mackerel by purse seines is limited to 400,000 pounds in the Atlantic and 400,000 pounds in the Gulf of Mexico per fishing year. King mackerel harvested by purse seines are included in the net quotas under paragraph (a)(1)(ii) of this section.

(2) *Spanish mackerel.* The harvest of Spanish mackerel by purse seines is limited to 300,000 pounds in the Atlantic and 300,000 pounds in the Gulf of Mexico per fishing year. Spanish mackerel harvested by purse seines are included in the total allowable Spanish mackerel catch under paragraph (a)(2) of this section.

(3) *Geographic boundary.* The boundary between the Gulf of Mexico and the Atlantic Ocean begins at the intersection of the other boundary of the FCZ and the 83° W. longitude, proceeds north to 24°35′ N. latitude (Dry Tortugas), east to Marquesas Key, then through the Florida Keys to the mainland.

§ 642.22 Closures.

(a) The Secretary, by publication of a notice in the **Federal Register**, shall close the king or Spanish mackerel fishery for a particular gear type or user group when the quota for that gear type or user group under § 642.21(a)(1) or (b) has been harvested.

(b) The Secretary, by publication of a notice in the **Federal Register**, shall close the king or Spanish mackerel fishery when the total allowable catch for the fishery under § 642.21(a)(1) or (2) has been harvested.

§ 642.23 Size restrictions.

(a) *Spanish mackerel.*—(1) *Minimum size.* The minimum size limit for the harvest or possession of Spanish mackerel in the FCZ is 12 inches (fork length) for both the recreational and commercial fisheries, except for the incidental catch allowance under paragraph (a)(2) of this section.

(2) *Catch Allowance.* A catch of Spanish mackerel under the 12-inch fork length is allowed equal to five percent of the total catch by weight of Spanish mackerel on board.

(b) *Cobia.* The minimum size limit for the possession of cobia in the FCZ is 33 inches (fork length).

§ 642.24 Vessel, gear, equipment limitations.

(a) *Gill nets.* —(1) *Minimum size.* The minimum mesh size for gill nets used to fish for king mackerel is 4¾ inches (stretched mesh).

(2) *Catch allowance.* A catch of king mackerel is allowed equal to ten percent of the total catch by number of Spanish mackerel on board a vessel with gill nets with a minimum mesh size smaller than that specified in paragraph (a)(1) of this section.

(b) *Purse seines.* Owners or operators of purse seine vessels fishing for king or Spanish mackerel shall:

(1) Send a letter of intent to fish for king or Spanish mackerel, indicating the number of vessels and area to be fished, to the Regional Director (i) at least three months in advance of beginning fishing each fishing year, or (ii) within a shorter time period deemed reasonable by the Regional Director and publicized in the news media;

(2) Notify the Center Director by telephone, 48 hours in advance of each trip, of departure information (port, dock, date, and time) and of the expected landing information (port, dock, and date);

(3) Report to the Center Director, by telephone, the quantity of landings, by species, for each trip as soon as practical after landing, and not later than 15 hours after unloading;

(4) Accommodate observers for scientific and statistical purposes; and

(5) Provide for embarkment and disembarkment of observers as determined by the Center Director.

§ 642.25 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

§ 642.26 Area, time limitations.

(a) *Field orders.*—Subject to the procedures and restrictions set forth in paragraphs (b) and (c) of this section, the Secretary may take any of the following actions by field order under the circumstances specified:

(1) If the Secretary determines that a conflict exists in the king mackerel fishery between hook-and-line and gillnet fishermen in an area of the FCZ between 27° 0.6′ N. latitude and 27° 50′ N. latitude off the east coast of the State of Florida, the Secretary may:

(i) Prohibit use of gillnet gear to take king mackerel within the areas (depicted in Figure 1 and described in Table 1) encompassed by points 1, 2, 5, and 6; 2, 3, 4, and 5; or 1, 2, 3, 4, 5, and 6;

Table 1

Point 1—Bethel Shoal light at 27° 44.3′ N. latitude, 80° 10.4′ W. longitude;
Point 2—A wreck 15 miles southeast of Fort Pierce Inlet at 27° 23.5′ N. latitude, 80° 03.7′ W. longitude;
Point 3—Marker WR 16, five miles northeast of Jupiter Inlet at 27° 0.6′ N. latitude, 80° 2.6′ W. longitude;
Point 4—27° 0.6′ N. latitude, 79° 55.0′ W. longitude at approximately the 100 fm. depth due east of Point 3;
Point 5—27° 23.5′ N. latitude, 79° 54.0′ W. longitude at approximately the 100 fm. depth due east of Point 2; and
Point 6—27° 44.3′ N. latitude, 79° 53.5′ W. longitude at approximately the 100 fm. depth due east of Point 1.

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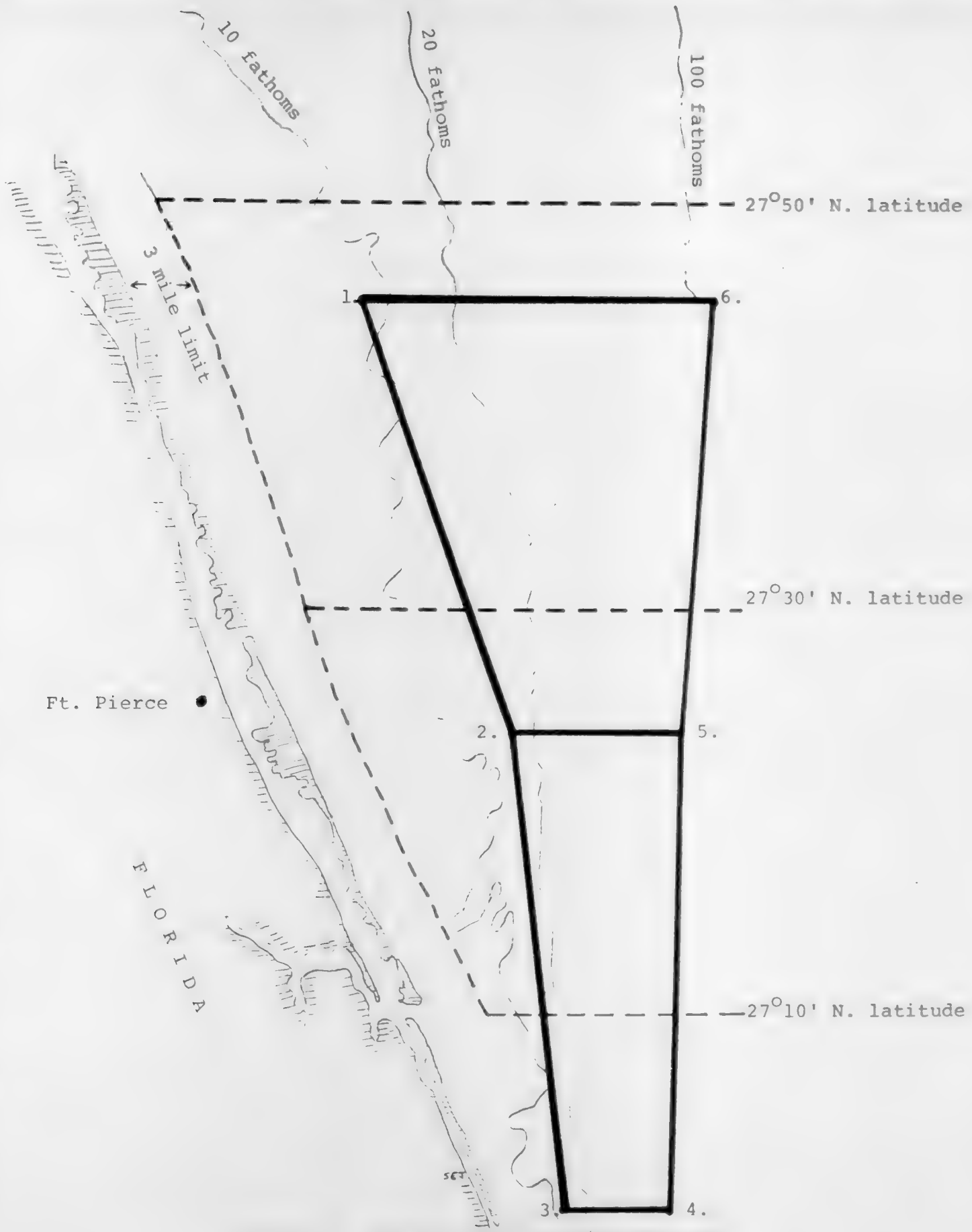

Figure 1. Area divisions under §642.26.

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(ii) Prohibit use of hook-and-line gear to take king mackerel in the FCZ landward of line between points 1 and 2, 2 and 3, or 1, 2, and 3;

(iii) In the first year a conflict arises, close the FCZ between 27° 30′ N. latitude and 27° 10′ N. latitude to the use of gill nets for taking king mackerel, and close the FCZ between 27° 30′ N. latitude and 27° 50′ N. latitude to the use of hook-and-line gear for taking king mackerel (in any succeeding year that a conflict develops, the Secretary may change the zone that is closed to each gear); or

(iv) Alternate daily the use of each gear within the area between 27° 10′ N. latitude and 27° 50′ N. latitude as follows:

(A) On even days of the month, close the area to the use of gillnet gear to take king mackerel.

(B) On odd days of the month, close the area to the use of hook-and-line gear to take king mackerel.

(2) If a conflict described in paragraph (a)(1) of this section results in death or serious bodily injury or significant gear loss, the Secretary may close the fishery for king mackerel to all users in the FCZ between 27° 10′ N. latitude and 27° 50′ N. latitude.

(b) *Procedures.* The Secretary shall use the following procedures in determining whether a conflict exists for which a field order is appropriate:

(1) When the Secretary is advised by any person that a conflict exists, he will confirm the existence of such a conflict through information supplied him by NMFS, the U.S. Coast Guard, other appropriate law enforcement agencies, or personnel of the State of Florida agency with marine fishery management responsibility.

(2) The Secretary shall also confer with the Chairmen of the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils), the State of Florida agency with marine fishery management responsibility, and such other persons as the Secretary deems appropriate.

(c) *Restrictions on field orders.*—(1) No field order may be implemented which results in exclusive access of any user group or gear type to the fishery during the time the field order is in effect.

(2) No field order may be effective for more than five days, except under the conditions set forth in paragraph (c)(4) of this section.

(3) When the Secretary submits to the **Federal Register** a field order for implementation under this section, he will immediately arrange for a fact-finding meeting in the area of the conflict, to be convened no later than 72 hours from the time of implementation of the field order.

(i) The following persons will be advised of such a meeting:

(A) The Chairmen of the Councils;

(B) The State of Florida agency with fishery management responsibility;

(C) Local media;

(D) Such user-group representatives or organizations as may be appropriate and practicable; and

(E) Other persons as deemed appropriate by the Secretary or as requested by the Chairmen of the Councils or the State of Florida agency.

(ii) The fact-finding meeting will be held for the purpose of evaluating the following:

(A) The existence of a conflict needing resolution by field order;

(B) The appropriate term of the field order, i.e., either greater or less than five days;

(C) Other possible solutions to the conflict besides Federal intervention; and

(D) Other relevant matters.

(4) If the Secretary determines, as a result of the fact-finding meeting, that the term of the field order should exceed five days, he may, after consultation with the Chairman of the Councils and the State of Florida agency, extend such field order for a period not to exceed 30 days from the date of initial implementation. If the Secretary determines that it is necessary or appropriate for the term of such field order to extend beyond 30 days, he may extend it a second time, after consulting with the Chairman of the Council, for such period of time as necessary to resolve the conflict.

(5) The Secretary may rescind a field order if he finds, through application of the same procedures set forth in paragraph (b) of this section, that the conflict no longer exists.

[FR Doc. 83-3021 Filed 2-1-83; 2:06 pm]
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50 CFR Part 671

[Docket No. 30121-15]

Tanner Crab Off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule and request for comments.

SUMMARY: NOAA issues emergency regulations to eliminate a regulatory provision allowing Tanner crab pots to be stored on fishing grounds in a non-fishing condition for 72 hours prior to the opening of the fishing season. NOAA also requests comments on the emergency rule.

This action is necessary to bring Federal regulations in the fishery conservation zone into conformity with State regulations in State waters, and to make Federal regulations more easily enforceable. This action will provide for an orderly fishery, eliminate anticipated illegal fishing in Federal waters prior to the opening of the fishing season, and give all vessels an equal start in the fishery. The comments will be considered prior to any future action to promulgate a final rule.

DATES: Section 671.26(b)(3)(ii) is suspended from 12:00 noon, Alaska Standard Time (AST) February 7, 1983, until 12:00 noon Alaska Daylight Time (ADT) May 8, 1983; § 671.26(b)(3)(iv) is added as a temporary regulation effective 12:00 noon AST February 7, 1983, until 12:00 noon ADT May 8, 1983. Comments must be received on or before March 7, 1983.

ADDRESS: Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907–586–7221.

SUPPLEMENTARY INFORMATION: When the Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP) was implemented by final regulations on December 1, 1978 (43 FR 57149), State of Alaska regulations governing the domestic Tanner crab fishery were adopted and implemented as Federal regulations to govern the domestic fishery in the fishery conservation zone. The implementing regulations at § 671.26(b)(3)(ii) included a provision that Tanner crab pots with all doors fully open and with all bait containers removed may be stored in water deeper than the maximum permissible storage depth (less than 25 fathoms) for 72 hours prior to the opening of the Tanner crab seasons. This provision means, therefore, that Tanner crab pots in such nonfishing condition may be stored on the fishing grounds for 72 hours before the season starts. The purpose of this provision was to give boats with limited pot carrying capacity sufficient time to move their pots from onshore or legal inshore storage waters to the fishing grounds prior to the opening of the Tanner crab seasons in order to have the same number of actual fishing days as the boats with greater pot carrying capacity.

The State of Alaska subsequently eliminated its provision for storing pots

for 72 hours on the fishing grounds prior to a season opening. That action was taken in response to testimony that some fishermen were violating the regulations either by conducting exploratory fishing to determine areas of Tanner crab abundance or by fishing with baited pots in earnest for 3 days before the season started. Compliance with the 72-hour provision can only be ascertained by physically lifting each crab pot to the surface, as only the floating marker buoy is otherwise visible. Effective enforcement of the 72-hour provision would require the use of several patrol boats at great expense to adequately sample thousands of crab pots (more than 50,000 in the Kodiak area alone) that could be placed on several thousand square miles of fishing grounds. The State recognized that the 72-hour provision was largely unenforceable and fishermen who fished illegally were gaining up to 3 days of fishing time over those who complied with the 72-hour provision.

The king crab catch has declined drastically from 192.6 million pounds landed in 1980 to only 15 million pounds projected as the 1983 harvest. The *C. bairdi* Tanner crab catch is expected to drop from 81.6 million pounds in 1980 to 43.15 million pounds in 1983. The decline of these lucrative fisheries (shown in Table 1) has necessitated extra fishing effort in shorter seasons, with fishermen exploiting every means available to meet expenses. The bleak outlook for the 1983 crab fisheries will further intensify competition between fishermen, and will cause them to seek every possible advantage. Continuance of the 72-hour provision in the fishery conservation zone with no such provision in State waters will create a chaotic fishery with baited pots placed on the fishing grounds 72 hours prior to the season opening, giving offshore fishermen an unfair advantage over inshore fishermen. The 72-hour provision would also create a safety hazard during the storm-ridden winter Tanner crab season by enticing the smaller vessels, which traditionally fish the protected inshore waters, to more dangerous offshore areas.

TABLE 1.—RECENT HARVESTS (MILLIONS OF POUNDS) OF KING CRAB AND *C. bairdi* TANNER CRAB FROM THE WESTERN REGION OFF ALASKA

	1980	1981	1982	1983 [1]
King crab	192.6	87.0	30.0	15.0
Tanner crab (*C. bairdi*)	81.6	57.9	38.6	43.15

[1] Projected harvest based on 1982 surveys.

Federal enforcement agencies do not have the capability to enforce effectively the 72-hour provision. Coast Guard vessels used for fisheries enforcement are not equipped with specialized pot hauling gear and cannot inspect more than a minimal number of pots. The National Marine Fisheries Service does not have enforcement vessels capable of operating in the Tanner crab fishery. Therefore, illegal fishing during the 72-hour period is to be expected and we are lifting the pot storage provision in all districts.

Section 305(e)(1) of the Magnuson Fishery Conservation and Management Act authorizes the Secretary of Commerce (Secretary) to promulgate emergency regulations to address an emergency in a fishery. The Secretary finds that an emergency exists for the reasons discussed above and therefore promulgates this emergency regulation. This emergency rule remains in effect for 90 days. A thirty-day period for comments on this regulation is also provided. These comments will be considered before a final rule is promulgated to remove the 72-hour provision.

Classification

The Assistant Administrator has determined that these emergency regulations are necessary and appropriate for the welfare of the Tanner crab fishery off the Coast of Alaska, and that it is consistent with the Magnuson Act, including the national standards, and other applicable law.

The Assistant Administrator has determined that the rules are not "major" under E.O. 12291 requiring a regulatory impact analysis.

The NOAA Administrator has determined that the emergency which justifies the promulgation of emergency regulations under Section 305(e) of the Magnuson Act also constitutes an emergency situation under Section 8(a)(1) of E.O. 12291. Because it is imperative to implement these rules immediately, it is impracticable to comply with Section 3(c)(3), which requires that NOAA transmit to the Director of the Office of Management and Budget (OMB) a copy of every nonmajor rule, at least 10 days prior to publication. However, a copy of these emergency regulations has been transmitted to the Director of OMB.

These emergency regulations which amend regulations pertaining to the Commercial Tanner Crab Fisheries off the Coast of Alaska, do not entail any Federal collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3507.

The Regulatory Flexibility Act (RFA) is inapplicable as no proposed rule was published.

An environmental assessment on this rule was filed with the Environmental Protection Agency on January 28, 1983. Based on this assessment, the Assistant Administrator for Fisheries, NOAA, has determined that this rule does not involve a major Federal action significantly affecting the quality of the environment and requiring an environmental impact statement under Section 102(2)(c) of the National Environmental Policy Act.

The Assistant Administrator has also determined that implementation of this regulation will be carried out in a manner that is consistent, to the maximum extent practicable, with the Alaska Coastal Management Program, as required by Section 307(c) of the Coastal Zone Management Act of 1972 and its implementing regulations, 15 CFR Part 930, Subpart C.

The North Pacific Fishery Management Council has proposed an amendment to the FMP which, upon approval and implementation, would eliminate the 72-hour pot storage provision. This amendment, however, would not be implemented before the February 1983 openings of the commercial Tanner crab season. Neither could this emergency rule be implemented before the season openings if an opportunity were provided for prior public comment.

The early pot deployment provision, should it remain in effect, would encourage a disorderly fishery and would pose a serious threat to the survival of a significant portion of the crab fleet. For these reasons the Assistant Administrator has found that it would be contrary to the public interest to afford a prior opportunity for public comment before taking this action, or to delay its effective date. A public comment period is provided to obtain comments which may be used to develop a final rule.

List of Subjects in 50 CFR Part 671

Fish, Fisheries, Reporting and recordkeeping requirement.

Dated: February 1, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 671 is amended as follows:

PART 671—TANNER CRAB OFF ALASKA

1. The authority citation for Part 671 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

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2. Section 671.26 is amended by suspending paragraph (b)(3)(ii) from 12:00 noon Alaska Standard Time (a.s.t.) February 7, 1983, until 12:00 noon Alaska Daylight Time (a.d.t.) May 8, 1983, and § 671.26(b)(3)(iv) is added as a temporary regulation which is effective 12:00 noon a.s.t. February 7, 1983, and expires at 12:00 noon a.d.t. May 8, 1983, to read as follows:

§ 671.26 Season and gear restrictions.

* * * * *

(b) * * *

(3) * * *

(iv) Tanner crab pots with all doors secured fully open and with all bait and bait containers removed may be stored in water depth greater than the maximum permissible storage depth for 72-hours after the season closure where the pots are fished.

* * * * *

[FR Doc. 83-3020 Filed 2-1-83; 3:26 pm]

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Proposed Rules

Federal Register
Vol. 48, No. 25
Friday, February 4, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 79N-0141]

Corn Sugar, Corn Syrup, and Invert Sugar (Syrup); Proposed Affirmation of GRAS Status as Direct Human Food Ingredients; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is extending the period for submitting comments on its proposal to affirm that corn sugar, corn syrup, and invert sugar are generally recognized as safe (GRAS) as direct human food ingredients. The National Soft Drink Association asked for the extension, and FDA is granting it.

DATE: Comments by March 2, 1983.

ADDRESS: Written comments, data, and information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin Miles, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: FDA issued in the **Federal Register** of Tuesday, November 30, 1982 (47 FR 53917) a proposal to affirm corn sugar, corn syrup, and invert sugar as GRAS. FDA asked for comments by January 31, 1983.

On January 31, 1983, the National Soft Drink Association asked FDA to extend the comment period by 30 days. It said that circumstances beyond its control prevented it from making the January 31, 1983 cutoff.

After carefully evaluating the request, FDA has concluded that an extension is appropriate to provide adequate time to prepare responses to the proposed regulations. FDA recognizes the significance of the issues involved in this matter and wishes to ensure that all interested parties have a fair amount of time for comment. Therefore, FDA has concluded that the comment period should be extended an additional 30 days.

Interested persons may, on or before March 2, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 1, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3127 Filed 2-3-83; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Parts 182 and 184

[Docket No. 79N-0142]

Sucrose; Proposed Affirmation of GRAS Status as Direct Human Food Ingredient; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is extending the period for submitting comments on its proposal to affirm that sucrose is generally recognized as safe (GRAS) as a direct human food ingredient. The National Soft Drink Association asked for the extension, and FDA is granting it.

DATE: Comments by March 2, 1983.

ADDRESS: Written comments, data, and information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin Miles, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: FDA issued in the **Federal Register** of Tuesday, November 30, 1982 (47 FR 53923) a proposal to affirm sucrose as GRAS. FDA asked for comments by January 31, 1983.

On January 31, 1983, the National Soft Drink Association asked FDA to extend the comment period by 30 days. It said that circumstances beyond its control prevented it from making the January 31, 1983 cutoff.

After carefully evaluating the request, FDA has concluded that an extension is appropriate to provide adequate time to prepare responses to the proposed regulations. FDA recognizes the significance of the issues involved in this matter and wishes to ensure that all interested parties have a fair amount of time for comment. Therefore, FDA has concluded that the comment period should be extended an additional 30 days.

Interested persons may, on or before March 2, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 1, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3128 Filed 2-3-83; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Parts 182 and 184

[Docket No. 80N-0218]

Citric Acid and Certain Citrates; Affirmation of GRAS Status

Correction

In FR Doc. 83-202 beginning on page 834 in the issue of Friday, January 7, 1983, make the following corrections:

1. On page 834, middle column, in the 13th line from the bottom of the page (not counting the footnote), "and natural constituents" should have read "are natural constituents".

2. On page 836, middle column, in the 25th line from the bottom of the page,

"supplements in GRAS" should have read "supplements is GRAS".

3. On page 837, in the table, the second entry now reading "Citric acid (scientific literature" should have read "Citric acid (scientific literature review)".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-224-81]

Definition of Newly Discovered Oil; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations concerning the definition of the term "newly discovered oil" for purposes of the windfall profit tax.

DATES: The public hearing will be held on April 12, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by March 29, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-224-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 4996 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Friday, November 5, 1982 (47 FR 50306).

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by March 29, 1983.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-3114 Filed 2-3-83; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 450]

Establishment of Russian River Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms; Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in Sonoma County, California, approximately one mile northwest of Santa Rosa, to be known as the "Russian River Valley." Included in the proposal are those areas through which flow the Russian River or some of its tributaries and where there is a significant climate effect from coastal fogs. This proposal is based upon a petition submitted by the Russian River Valley Appellation Committee consisting of twenty industry members in the area. The establishment of viticultural areas and their subsequent use as appellations of origin in wine labeling and advertising will allow wineries to better designate the specific grape growing areas where their wines come from and will enable consumer to better identify the wines they purchase.

DATE: Written comments must be received by March 21, 1983.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 [Notice No. 450].

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at the ATF Reading Room, Room 4405, Federal Building, 12th and Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations provide for the establishment of definite American viticultural areas and allow for their use as appellations of origin on wine labels and in wine advertisements. The American viticultural areas are listed in 27 CFR Part 9.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

ATF has received a petition from "The Appellation Committee" proposing a large area of approximately 150 square miles located in Sonoma County, California, one mile northwest of Santa

Rosa as a viticultural area to be known as "Russian River Valley." The proposed viticultural area includes those areas through which flow the Russian River or some of its tributaries and which there is a significant climate effect from coastal fogs. There are more than 8,000 acres of producing vineyards and twenty-seven wineries in the proposed area.

The petitioner states that the proposed viticultural area is distinguished from surrounding areas by historical reference, climate, and geographical and physical features.

a. *Historical reference.* Viticulture in the Russian River Valley area of Sonoma County was established in the 1860's. By 1876, wine production in the area was in excess of 500,000 gallons and planted acreage totalled approximately 7,000 acres. In a "History of Sonoma County, California," published in 1880, mention is made of the four "great valleys" comprising Sonoma, Petaluma, Santa Rosa, and the Russian River. The use of the name "Russian River Valley" on wine labels began in 1970 and is now used by four wineries in the proposed viticultural area.

B. *Climate.* The specific growing climate is the principle distinctive characteristic of the proposed Russian River Valley viticultural area. The area designated is a cool growing coastal area because of fog intruding up the Russian River and its tributaries during the early morning hours. The result of these coastal fog intrusions give growing temperatures that are normally Region I or cooler. This area therefore is distinguished from the warmer neighboring valleys such as Dry Creek Valley, Alexander Valley and Sonoma Valley.

The petitioner submitted detailed information on how the climate in the proposed Russian River Valley viticultural area is different from surrounding areas. The data was mostly compiled by the Office of the Sonoma County Farm Adviser. The neighboring Alexander Valley is termed "coastal warm" with a range of accumulated heat units better 2800 and 3500 as calculated according to the Winkler and Amerine formula for degree days. The proposed Russian River Valley viticultural area is termed "coastal cool" with a range of 2000 and 2800 accumulated heat units.

c. *Geographical and physical features.* The boundaries of the proposed Russian River Valley viticultural area may be found on ten U.S.G.S. 7.5 minute quadrangle maps. The boundary and the names of the maps, are described in proposed § 9.66.

Executive Order 12291

It has been determined that this notice of proposed rulemaking is not classified as a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million dollars or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not expected to apply to this proposed rule because the proposal, if promulgated as a final rule, is not expected to have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed Russian River Valley viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

Public Participation—Written Comments

ATF requests interested persons to submit comments regarding this proposed viticultural area. Although this notice proposes boundaries for the Russian River Valley viticultural area, comments concerning alternative boundaries for this viticultural area will be considered as well. ATF is also particularly interested in comments regarding the viticultural area name. Petitions have also been received for the Chalk Hill and the Green Valley viticultural areas which have boundaries totally within the proposed Russian River Valley viticultural area. ATF is interested in receiving historical or current evidence that would substantiate having Chalk Hill and Green Valley viticultural areas within the proposed Russian River Valley viticultural area or allowing the proposed Russian River Valley viticultural area to overlap both the Chalk Hill and Green Valley proposed viticultural areas. Should the proposed Chalk Hill viticultural area be allowed both the Chalk Hill and Russian River Valley names? Should the proposed Green Valley viticultural area be allowed both the Green Valley and Russian River Valley names? Should the boundaries of the proposed Russian River Valley viticultural area be modified to eliminiate overlapping in the absence of historical or current evidence? Comments regarding overlapping viticultural boundaries in general are also desired.

All pertinent comments will be considered prior to the proposal of final regulations. Comments are not considered confidential. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should make a request, in writing, to the Director within the 45 day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine whether a public hearing will be held.

Drafting Information

The principal author of this document is James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Viticultural areas, Consumer protection, Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205 (49 Stat. 981, as amended), ATF proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.66 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.66 Russian River Valley.

Par. 2. Subpart C is amended by adding § 9.66 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.66 Russian River Valley.

(a) *Name.* The name of the viticultural area described in this section is "Russian River Valley."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Russian River Valley viticultural area are the 1954 U.S.G.S. 7.5 minute series maps titled:

"Healdsburg Quadrangle, California"
"Guerneville Quadrangle, California"
"Cazadero Quadrangle, California"
"Duncans Mills Quadrangle, California"
"Camp Meeker Quadrangle, California"
"Valley Ford Quadrangle, California"
"Sebastopol Quadrangle, California"
"Santa Rosa Quadrangle, California"
"Mark West Springs Quadrangle, California"
"Jimtown Quadrangle, California"

(c) *Boundaries.* The Russian River Valley viticultural area is located in Sonoma County, California.

(1) *Starting point Healdsburg map*—Healdsburg Avenue Bridge over the Russian River at Healdsburg. Proceed south along Russian River to where Foreman Lane meets the river at mouth of Dry Creek.

(2) Proceed west along Foreman Lane to where it crosses Westside Road and becomes Felta School Road.

(3) Proceed west on Felta School Road to the point where it crosses Felta Creek.

(4) Proceed 18000′ up Felta Creek to its headwaters as shown on the *Guerneville map*, as "Springs."

(5) Proceed southwest in a straight line 58 degrees W 15000′ more or less to the section corner common to Sections 8, 9, 16, and 7 just north of Sonoma Quicksilver Mine.

(6) Proceed due north along section line to the point where it intersects Sweetwater Springs Road.

(7) Proceed southwest and south along Sweetwater Springs Road to where it becomes Armstrong Woods Road then into the town of Guerneville, where it intersects California Hwy 116.

(8) Proceed west along California Hwy 116 through the *Cazadero map* and onto the *Duncans Mills map* to Monte Rio where it intersects the Bohemian Hwy.

(9) Proceed south along the Bohemian Hwy onto the *Camp Meeker map* and then the *Valley Ford map* to the town of Freestone where it intersects the Bodega Road.

(10) Proceed east along the Bodega Road onto the *Sebastopol map* to the city of Sebastopol where it becomes California Hwy 12 then along California Hwy 12 to its intersection with Wright Road.

(11) Proceed north along Wright Road to where it becomes Fulton Road and into the town Fulton to where it intersects River Road.

(12) Proceed east along River Road to its intersection with Mark West Springs Road.

(13) Proceed north east along Mark West Springs Road through the *Santa Rosa map* and onto the *Mark West map* to where it becomes Porter Creek Road and onto its intersection with Franz Valley Road.

(14) Proceed north along Franz Valley Road to the northerly most crossing of Franz Creek.

(15) Proceed west along Franz Creek until it intersects the line separating Section 21 and Section 22.

(16) Proceed South on this line separating Sections 21 and 22 to the corner common to Sections 21 and 22 and Sections 27 and 28.

(17) Proceed west from the common corner of Sections 21 and 22 and 27 and 28 and in a straight line to the peak of Chalk Hill on the *Healdsburg map*.

(18) Proceed west from the peak of Chalk Hill in a straight line to the point where Brooks Creek joins the Russian River.

(19) Proceed north west in a straight line 8000′ to a peak marked 772′ elv. on the *Jimtown map*.

(20) Proceed north west in a straight line from hill top 772′ elv. to hill top 596′ elv.

(21) Proceed north west in a straight line from hill top 596′ elv. to hill top 516′ elv.

(22) Proceed north west in a straight line from hill top 516′ elv. to hill top 530′ elv.

(23) Proceed west in a straight line from hill top 530′ elv. to hill top 447′ elv.

(24) Proceed west in a straight line from hill top 447′ elv. to the point where Alexander Valley road meets Healdsburg Avenue.

(25) Proceed south along Healdsburg Avenue through the city of Healdsburg on the *Healdsburg map* to the point where it crosses the Russian River at the point of beginning.

Approved: January 28, 1983.

W. T. Drake,
Acting Director.

[FR Doc. 83-3109 Filed 2-3-83; 8:45 am]
BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2269-2]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On March 12, 1982 (47 FR 10813), EPA conditionally approved the Marion County, Indiana State Implementation Plan (SIP) for sulfur dioxide (SO_2), including stack height increases for three emissions sources: Indianapolis Power and Light Company's (IPL) Stout Generating Station, National Starch and Chemicals Company and Detrioit Diesel Allison's Plant #8. Subsequently, IPL filed a Petition for Review of this rulemaking action in the U.S. Court of Appeals for the Seventh Circuit (Case No. 82-1738). As a result of IPL's Petition, EPA has reviewed the rulemaking record and determined that the stack height increases were not formally adopted by the State of Indiana, as part of its SO_2 contorl strategy for Marion County. EPA, therefore, is proposing to rescind its approval of the stack height increases for IPL's Stout Generating Station, the National Starch and Chemicals Plant and Detroit Diesel Allison Plant #8.

DATE: Comments on this proposed action must be received by Apirl 5, 1983.

ADDRESSES: Copies of the materials relating to this rulemaking are available for inspection at the following addresses:

Air Programs Branch (5AP-11), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch (5AP-11), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air Programs Branch, Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: Under Section 107 of the Clean Air Act (CAA), EPA has designated certain areas in

Indiana as not attaining National Ambient Air Quality Standards (NAAQS) for SO_2. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). Indiana's Marion County is designated as not attaining the primary SO_2 NAAQS. For these areas, Part D of the CAA requires that the State revise its SIP to provide for attaining the primary SO_2 NAAQS by December 31, 1982. These SIP revisions must also provide for attaining the secondary NAAQS as soon as practicable. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

On June 26, 1979, Indiana submitted to EPA a revision to the Indiana SIP pursuant to Part D of the CAA. This submittal included a revised SO_2 control strategy for attaining the NAAQS in Marion County. The strategy was developed by the Marion County Task Force (consisting of local Agency and industry representatives), based on computer dispersion modeling. It consisted of site-specific SO_2 emission limits for a number of point sources in Marion County. In addition to these emission limits, the strategy included stack height increases for the three plants mentioned above. The Task Force submitted the strategy (as a document entitle "Marion County Control Concept," dated February 22, 1979) to the Indiana Air Pollution Control Board (IAPCB) for inclusion in the SIP.

On May 23, 1979, the IAPCB acted to adopt as part of its SIP a revised SO_2 regulation, entitled APC–13. This regulation included a generally applicable, state-wide SO_2 limit of 6.0 lb per million Btu heat input. In addition to the general limit, an Appendix to the regulation incorporated the site specific SO_2 emission limits for the Marion County sources specified in the Task Force's control strategy document. Regulation APC–13 was adopted in final form, including the Appendix, on May 23, 1979. On June 26, 1979, Indiana submitted Regulation APC–13, and the "Marion County Control Concept" to EPA as a revision to the Indiana SIP.

EPA proposed to conditionally approve the revision on March 27, 1980 (45 FR 20432). In response to this proposal, on August 27, 1980 and July 16, 1981, Indiana committed itself to submit additional data and regulations, if necessary, to fulfill EPA's conditions. At a later date, Indiana agreed to meet its commitments by November 1982. EPA reviewed Indiana's commitments and the comments received in response to EPA's notice of proposed rulemaking, and on March 12, 1982, EPA conditionally approved the Marion County SO_2 plan as meeting the requirements of Part D of the CAA (47 FR 10813).[1] Additionally, EPA proposed on March 12, 1982 to approve the November 1982 date by which Indiana committed itself to fulfill the conditions (47 FR 10860).

Subsequent to EPA's March 12, 1982 conditional approval of the Marion County SO_2 plan, pursuant to Section 307(b) of the CAA, IPL filed a Petition for Review of this relemaking in the U.S. Court of Appeals for the Seventh Circuit (Cause No. 82–1738). As a result of IPL's Petition, EPA re-examined the rulemaking record pertaining to the Marion County Plan. This review indicates that although the IAPCB formally adopted the site specific emission limits from the Marion County Task Force control strategy document as part of Regulation 325 IAC 7–1 (formerly APC–13), the Board did not formally adopt the stack height increases for those sources. Because of this the stack height provisions do not meet the requirements of Section 110(a) of the CAA, 42 U.S.C. 7410(a) and the implementing regulations at 40 CFR Part 51, Subpart B.

Therefore, EPA is proposing to rescind its approval of the stack height increases at: IPL's Stout Plant, the National Starch and Chemicals Plant and the Detroit Diesel Allision's #8 Plant. EPA's action on these stack heights will not affect its conditional approval of the emission limitations for these plants contained in Indiana's SO_2 regulation 325 IAC 7–1.

EPA's March 12, 1982 conditional approval of the Marion County strategy was based on the requirement that the State submit additional data to rectify deficiencies in its modeling analysis, including a determination that the strategy for the 24-hour standard is constraining, a justification of the background SO_2 levels used, a revised emissions inventory, and an adequate meteorological base and receptor network. In response to EPA's conditional approval, Indiana informed EPA that the modeling analysis would be revised to meet the above conditions.

The modeling that was submitted in 1979 assumed the stack height increases contained in the Task Force control strategy document. Therefore, EPA's continued conditional approval of the Marion County SO_2 plan is with the understanding that the State must adopt and submit as a SIP revision enforceable requirements for stack height increases if the reanalysis continues to assume stack height increases at these or other sources.

The State committed to complete its reanalysis and if necessary, to submit revised regulations to EPA as a revision to its SIP by the end of November 1982. The State had not met this date; however, the State and the Marion County Task Force have kept EPA informed on their progress in completing the reanalysis for Marion County.

EPA will publish in a future **Federal Register** notice its action concerning the State's failure to fulfill the conditions for approval cited in the March 12, 1982 Notice of Final Rulemaking. For a discussion of conditional approvals and their practical effect, see 44 FR 38583 (July 2, 1979) and 43 FR 67182 (November 23, 1979).

All interested persons are invited to submit written comments on EPA's proposed SIP action. Written comments received by the date specified above will be considered in determining whether EPA will take action as proposed. After review of all comments submitted, EPA will publish in the **Federal Register** the Agency's final action.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110, 172 and 301(a) Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)))

Dated: December 7, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 83–3058 Filed 2–3–83; 8:45 am]

BILLING CODE 6560–50–M

[1] Indiana has recodified Regulation APC–13 as 325 IAC 7–1. EPA approved the codification change on July 16, 1982 (47 FR 30978).

40 CFR Part 123

[SW-4-FRL 2299-1]

Hazardous Waste Management Program Mississippi; Application for Interim Authorization, Phase II, Component C

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the Mississippi application for Phase II, Component C, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for March 24, 1983 at 7:00 p.m. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by March 14, 1983. EPA will determine by March 16, 1983, whether there is significant interest to hold the public hearing. All written comments on the Mississippi interim authorization application must be received by the close of business on March 14, 1983.

ADDRESSES: If significant public interest is expressed, EPA will hold a public hearing on Mississippi's application for interim authorization on March 24, 1983, at 7:00 p.m. at the Metro Center—Ramada Inn, Ellis Avenue and I-20 West, Jackson, Mississippi.

Written comments on the application and written or telephoned communication of interest in EPA's holding a public hearing on the Mississippi application must be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S. EPA, 345 Courtland St., N.E., Atlanta, Georgia 30365, 404/881-3016.

If you wish to find out whether or not EPA will hold a public hearing on the Mississippi application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after March 18, 1983, the EPA contact person listed below or telephone Mr. Jack McMillan, Director, Division of Solid/Hazardous Waste Management, Mississippi Department of Natural Resources, Post Office Box 10385, Jackson, Mississippi 39209, 601/961-5062.

Copies of the Mississippi interim authorization application for Phase II Component C, are available during normal business hours at the following addresses for inspection and copying:

Division of Solid/Hazardous Waste Management, Mississippi Department of Natural Resources, Post Office Box 10385, Jackson, Mississippi 39209, Telephone: 601/961-5171

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone: 404/881-4216

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, N.E. Telephone: 404/881-3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Dispoal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The State of Mississippi received interim authorization for Phase I on January 7, 1981.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interm authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7866), contains standards for permitting hazardous waste incinerators.

The State of Mississippi received interim authorization for Phase II, Components A and B, on August 31, 1982.

In the July 26, 1982 **Federal Register** (47 FR 32378) the Environmental Protection Agency announced that states with qualified programs can be authorized for Phase II Interim Authorization, Component C. Component C published in the **Federal Register** includes standards for permitting of land disposal facilities.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123, Subpart F (45 FR 33479).

As noted in the May 19, 1980 **Federal Register**, copies of complete state submittals for Phase II interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—land, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business formation.

(Solid Waste Disposal Act, amended by Resource Conservation and Recovery Act of 1976 and Solid Waste Disposal Act Amendments of 1980, 42 U.S.C. 6901 et seq.)

Dated: January 26, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-3059 Filed 2-3-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Review of Special Rules on Sea Turtles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule related notice; extension of comment period.

SUMMARY: The comment period on the Service's Notice of Intent to review special rules on threatened sea turtles (48 FR 42) is extended to February 17, 1983, in response to requests for extension by several interested parties.

ADDRESS: Comments may be sent to: Robert Batky, Staff Biologist, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Batky, Staff Biologist, U.S. Fish and Wildlife Service.

Robert J. Batky,

Acting Chief, Federal Wildlife Permit Office.

[FR Doc. 83-2827 Filed 2-3-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

Review of Special Rules on Sea Turtles

AGENCY: National Oceanic and Atmospheric Administration, Commerce

ACTION: Extension of comment period.

SUMMARY: A notice was published (48 FR 42–43, January 3, 1983) stating that special rules concering sea turtles (50 CFR 227 Subpart D) were being reviewed. The comment period for that notice is hereby extended by 15 days.

DATE: Comments must be received by February 22, 1983.

ADDRESS: Please address correspondence to the U.S. Fish and Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203. Information on this notice is available for review during the hours of 7:45 a.m.to 4:15 p.m. Monday through Friday except holidays in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Batky, Staff Biologist, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203; (703/235–1903), or Mr. Charles Karnella, National Marine Fisheries Service, Office of Protected Species and Habitat Conservation, U.S. Department of Commerce, Wahington, D.C. 20235; (202/634–7471).

List of Subjects in 50 CFR Part 227

Endangered and threatened wildlife.

Dated: February 1, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83–3022 Filed 2–3–83; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 48, No. 25
Friday, February 4, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Hop Marketing Advisory Board; Renewal

Notice is hereby given that the Hop Marketing Advisory Board is being renewed for an additional period of 2 years under provisions of the Federal Advisory Committee Act (86 Stat. 770).

The purpose of the Board is to advise the Hop Administrative Committee under Federal Marketing Order No. 991 concerning marketing policy and other operational matters as the Committee requests.

This Board represents handlers of hops. Representation for most is based on the quantities of hops handled; and one representative is for extractors.

Information about this Board may be obtained from Joseph C. Perrin, Northwest Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, 1600 S.W. Fourth Avenue, Suite 805, Portland, Oregon 97201–5577. Telephone: 503–221–2724.

Authority for this Board will expire January 27, 1985 unless it is determined that continuance is in the public interest.

Dated: February 1, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83–3103 Filed 2–3–83; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

Committee of State Foresters; Meeting

The Committee of State Foresters will meet in Phoenix, Arizona, on March 10, 1983. The meeting will convene at 8:30 a.m. on March 10 in the Navajo D Room of the Phoenix Hilton Hotel, Phoenix, Arizona.

The Committee, comprised of seven members who are the Executive Committee of the National Association of State Foresters, consults with the Secretary of Agriculture and various agencies of the Department on the implementation of the Cooperative Forestry Assistance Act of 1978 (Pub. L. 95–313). The Assistant Secretary for Natural Resources and Environment or his designee will chair the meeting. He and representatives of the Forest Service and other interested agencies will attend from the Department of Agriculture.

The meeting will be open to the public. Persons who wish to attend should notify the Committee's Executive Secretary, John H. Ohman, Deputy Chief for State and Private Forestry, USDA—Forest Service, P.O. Box 2417, Washington, DC 20013, telephone (202) 447–6657. Written statements may be filed with the Committee before or after the meeting.

Dated: January 31, 1983.

F. Dale Robertson,

Associate Chief, Forest Service.

[FR Doc. 83–3104 Filed 2–3–83; 8:45 am]

BILLING CODE 3410–11–M

Office of the Secretary

Renewal of Agricultural Advisory Committees for Trade

Notice is hereby given that the Secretary of Agriculture, after consultation with the United States Trade Representative, has renewed the following advisory committees: Agricultural Policy Advisory Committee for Trade, and nine separate Agricultural Technical Advisory Committees for Trade in: Cotton, Dairy Products, Fruits and Vegetables, Grain and Feed, Livestock and Livestock Products, Oilseeds and Products, Poultry and Eggs, Sweeteners and Tropical Products, and Tobacco.

The purpose of these committees is to provide advice to the Secretary and the U.S. Trade Representative with respect to the trade policy of the United States pursuant to section 135(c) of the Trade Act of 1974 (Pub. L. 93–618), as amended by the Trade Agreements Act of 1979 (Pub. L. 96–39). Meetings of these committees will be open only to members of the committees in accordance with section 135(f)(2) of the Act unless otherwise determined.

The renewal of such committees is in the public interest in connection with the duties of the Department imposed by the Trade Act of 1974, as amended by the Trade Agreements Act of 1979.

Dated: January 31, 1983.

John J. Franke, Jr.,

Deputy Assistant Secretary for Administration, Office of the Secretary.

[FR Doc. 83–3049 Filed 2–3–83; 8:45 am]

BILLING CODE 3410–10–M

Soil Conservation Service

Pohick Creek Watershed, Virginia; Environmental Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, give notice that an environmental impact statement is not being prepared for the Pohick Creek Watershed Site No. 1, Fairfax County, Virginia.

FOR FURTHER INFORMATION CONTACT: Manly S. Wilder, State Conservatonist, Soil Conservaton Service, 400 North Eighth Street, P.O. Box 10026, Richmond, Virginia 23240, telephone 804–771–2457.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns Pohick Creek Site No. 1 structure for flood control and watershed protection located on South Run. The structure will be about 54 feet high, inundate 43 acres in the sediment pool, contain 190,000 cubic yards of compacted earth fill, and control runoff from 3,960 acres. A 401 water quality certificate and a 404 permit have been issued.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Gerald P. Bowie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: January 21, 1983.

Manly S. Wilder,

State Conservationist.

[FR Doc. 83–2774 Filed 2–1–83; 8:45 am]

BILLING CODE 3410–16–M

Wolf and Loosahatchie River Basins, Tennessee; Environmental Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent To Prepare an Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Wolf and Loosahatchie River Basins, Shelby, Tipton, Fayette, Haywood, and Hardeman Counties, Tennessee, and Marshall, Benton and Tippah Counties, Mississippi.

FOR FURTHER INFORMATION CONTACT: Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 U.S. Courthouse, Nashville, Tennessee 37203, Telephone: 615/251–5471.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will have minimal impacts on the environment. In keeping with agency policy (7 CFR 650.7(A)(2)), Donald C. Bivens, State Conservationist, has determined that the preparation and review of a combined plan and environmental impact statement are needed for this project.

The project concerns erosion control, water quality improvement, and environmental enhancement. Alternatives being considered to reach these objectives include various systems for conservation land treatment, with associated measures for on-farm water conservation and management.

A Draft Plan—Environmental Impact Statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the Draft Plan—Environmental Impact Statement. Meetings were held throughout the project area in 1981 to determine the scope of the evaluation of the proposed action. Further information on the proposed action, and future meetings may be obtained from Donald C. Bivens, State Conservationist, at the above address or telephone 615/251–5471.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.

Dated: January 17, 1983.

Donald C. Bivens,

State Conservationist.

[FR Doc. 83–3050 Filed 2–3–83; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended January 28, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket No	Description
Jan. 24, 1983	41237	American Airlines, Inc., P.O. Box 61616, DFW Airport, Texas 75261. Application of American Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests the Board to issue it a back-up certificate, to become effective if Western Airlines, Inc., withdraws its service from the market, as follows: "Between the coterminal points Houston and Dallas/Ft. Worth, Texas, the intermediate points Calgary and Edmonton, Alberta, Canada, and the coterminal points Anchorage and Fairbanks, Alaska." Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 22, 1983.
Jan. 27, 1983	41245	Frontier Airlines, Inc., 8250 Smith Road, Denver Colorado 80207. Application of Frontier Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for an amendment of its Certificate of Public Convenience and Necessity for Route 73F in order to provide scheduled round-trip foreign air transportation of persons, property and mail as follows: Between (1) San Francisco, California, on the one hand, and the coterminal points of Toronto, Ontario and Montreal, Quebec, Canada, on the other hand, via the intermediate point of Denver, Colorado; and (2) Los Angeles, California, on the one hand, and the coterminal points of Toronto, Ontario and Montreal, Quebec, Canada, on the other hand, via the intermediate point of Denver, Colorado. Answers may be filed by February 10, 1983.
Jan. 28, 1983	41246	Pan American World Airways, Inc., c/o Richard D. Mathias, Suite 901, 1660 L Street, N.W., Washington, D.C. 20036. Pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests that the Board amend its certificate for Route 132 so as to enable Pan Am to provide scheduled air transportation between various U.S. coterminal points (identified in Segment 4 of its certificate for Route 132) and Milan, Italy and Switzerland. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 25, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–3106 Filed 2–3–83; 8:45 am]

BILLING CODE 6320–01–M

[Docket 41244]

First American Bank of Virginia, Violations of Public Charter Regulations, Enforcement Proceeding; Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated at Washington, D.C., February 1, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-3107 Filed 2-3-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41242]

Northeast Airlines, Inc., Enforcement Proceeding; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., February 1, 1983.

Elias C. Rodriquez,

Chief Administrative Law Judge.

[FR Doc. 83-3108 Filed 2-3-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

[Docket No. 21129-238]

Approval of Federal Information Processing Standard 97, Operational Specifications for Fixed Block Rotating Mass Storage Subsystems

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759 (f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards. On June 18, 1981, notice was published in the **Federal Register** (46 FR 31911-31912) that a standard for Operational Specifications for Fixed Block Rotating Mass Storage Substems was being proposed for Federal use. As a result of comments received, a major revision was undertaken and published in the **Federal Register** on April 9, 1982 (47 FR 15396-15397). Interested parties were invited to submit written comments concerning the revised proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standard as a FIPS, and that the standard shall be published as FIPS Publication 97. The provisons of this standard are effective on the date of publication of this notice in the **Federal Register**.

This standard is a companion to the existing I/O Channel Interface Standard, FIPS 60-1, and an alternative to FIPS 63, Operational Specifications for Rotating Mass Storage Subsystems, which gives operational specifications for variable block disks. If either FIPS PUB 63 or FIPS PUB 97 is used, the other is not required.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6622, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice. This FIPS incorporates by reference the technical specifications of NBS document "Operational Specifications for Fixed Block Rotating Mass Storage Subsystems" dated 11 July 1982, Revision 6.

Interested parties may purchase either paper or microfiche copies of this standard, including the technical specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the Announcement portion of the standard.

Persons desiring further information about this standard may contact Mr. William Burr, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3723.

Dated: January 31, 1983.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 97

(Date)

Announcing the Standard for Operational Specifications for Fixed Block Rotating Mass Storage Subsystems

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Operational Specifications for Fixed Block Rotating Mass Storage Subsystems (FIPS PUB 97).

Category of Standard. Hardware Standard, Interface.

Explanation. This standard defines the peripheral device dependent operational interface specifications for connecting fixed block rotating mass storage equipment as a part of automatic data processing (ADP) systems. It is to be used together with FIPS PUB 60-1, I/O Channel Interface, and FIPS PUB 61, Channel Level Power Control Interface. This standard, together with these two referenced standards, provides for full plug-to-plug interchangeability of fixed block rotating mass storage equipment as a part of ADP systems. FIPS PUB 63, Operational Specifications for Rotating Mass Storage Subsystems, provides, together with FIPS PUB 60-1 and FIPS PUB 61, for plug-to-plug interchangeability of variable block rotating mass storage equipment as a part of ADP systems. This standard serves the same purpose as FIPS PUB 63; it specifies the operational characteristics of a particular type of rotating mass storage subsystem. The two standards are alternatives to each other. If either standard is used, the other is not required.

The Government's intent in employing this standard for Fixed Block Operational Specifications for Rotating Mass Storage Subsystems is to reduce the cost of satisfying its data processing requirements through increasing its available alternative sources of supply for computer systems components at the time of initial system acquisition, as well as in system augmentation and in system component replacement. This standard is also expected to lead to improved reutilization of system components.

When acquiring ADP systems and system components, Federal agencies shall cite this standard in specifying the interface for connecting fixed block rotating mass storage peripheral equipment as a part of ADP systems.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. Not applicable.

Applicability. In the acquisition or operation of rotating mass storage equipment under circumstances where the use of Federal Information Processing Standard I/O Channel Interface (NBS FIPS PUB 60–1) is required, each item of rotating mass storage equipment must conform to either this standard or FIPS PUB 63.

Verification of the correct operation of all interfaces that are required to conform to this standard shall be provided in accordance with the verification procedures established for FIPS 60 through 63 prior to the acceptance of all applicable ADP equipment.

Specifications. This standard incorporates by reference the technical specifications of the following NBS document: Operational Specifications for Fixed Block Rotating Mass Storage Subsystems. The version as of the initial issuance is Revision 6. Subsequently, the current version, as maintained by NBS, shall apply.

Implementation. The provisions of this standard become effective on the date of the announcement in the **Federal Register** of its approval by the Secretary of Commerce.

All applicable equipment ordered on or after the effective date may conform to the provisions of this standard rather than the provisions of FIPS PUB 63. (The provisions of FIPS PUB 63 have been in effect since June 23, 1980). Such equipment or actions must conform to the provisions of this standard, or FIPS PUB 63, unless a waiver has been granted in accordance with the procedures described elsewhere in this publication.

This standard shall be reviewed by NBS within three years after its effective date, taking into account technological trends and other factors, to determine whether the standard should be affirmed, revised, or withdrawn.

Waivers. Heads of agencies desiring a waiver from the requirements stated in this publication, so as to acquire ADP equipment that does not conform to this standard, shall submit a request for such a waiver to the Secretary of Commerce for review and approval. Approval will be granted if, in the judgment of the Secretary based on all available information, including that provided in the waiver request, a major adverse economic or operational impact would occur through conformance with this standard.

A request for waiver shall include: (1) a description of the existing or planned ADP system for which the waiver is being requested, (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

The request for waiver shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for Waiver to a Federal Information Processing Standard. Waiver requests will normally be processed within 45 days of receipt by the Secretary. No action shall be taken to issue solicitation documents or to order equipment for which this standard is applicable and which does not conform to this standard prior to receipt of a waiver approval response from the Secretary.

Where to Obtain Copies. Either paper or microfiche copies of this Federal Information Processing Standard, including the technical specifications, may be purchased from the National Technical Information Service (NTIS) by ordering Federal Information Processing Standard Publication 97 (FIPS PUB 97), Operational Specifications for Fixed Block Rotating Mass Storage Subsystems. Ordering information, including prices and delivery alternatives, may be obtained by contacting the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161, telephone: (703) 487–4650.

[FR Doc. 83–3039 Filed 2–3–83; 8:45 am]

BILLING CODE 3510–CH–M

Office of the Secretary

Advisory Committee on East-West Trade; Notice of Re-establishment

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of re-establishment of the Advisory Committee on East-West Trade.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A–63 (Revised), Advisory Committee Management, and after consultation with the General Services Administration, the delegate of the Secretary of Commerce has determined that the re-establishment of the Advisory Committee on East-West Trade is in the public interest in connection with the performance of duties imposed on the Department of Commerce by law.

SUPPLEMENTARY INFORMATION: The Committee was first established in 1974. Its purpose is to advise Department of Commerce officials on ways to promote, facilitate and coordinate the expansion of two-way trade with the Soviet Union, Poland, Hungary, the German Democratic Republic, Czechoslovakia, Romania, Bulgaria, the People's Republic of China and certain other areas of the world with similar economic/political structures, so as to contribute materially to a more positive balance of trade and payments situation; to provide the Assistant Secretary for International Economic Policy with a back-up link with the cumulative expertise of the business and academic communities which would advise in the determination of future directions and policies for East-West Trade, and to provide an evaluation of the efficiency of current East-West trade techniques.

The Committee will consist of not more than 25 members to be appointed by the Secretary to ensure balanced representation of interests, such as academia, business, industry, and public interest groups. The Committee will continue to function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's charter will be filed with appropriate committees of the Congress and with the Library of Congress.

FOR FURTHER INFORMATION CONTACT: Committee Control Officer, JeNelle Matheson, Office of the People's Republic of China and Hong Kong, International Trade Administration, Room 2317, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377–2462, or Mrs. Yvonne Barnes, Committee Management Analyst, U.S. Department of Commerce (202) 377–4217.

Dated: January 28, 1983.

Dennis C. Boyd,

Executive Director, Information Resources Management.

[FR Doc. 83–3077 Filed 2–3–83; 8:45 am]

BILLING CODE 3510–CW–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1983 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 9, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT:
C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 2540

Kit, Deep Water Fording, Vertical Exhaust System
2540–00–473–0111

Class 5340

Strap
5340–00–235–4433

Class 5660

Fastener, Fence Post
5660–00–148–7251

Class 6530

Urinary Drainage Set
6530–01–074–6600

Class 7910

Pad, Floor Polishing Machine
7910–00–820–7989
7910–00–820–7991
7910–00–820–9925
7910–00–820–9898
7910–00–820–7996
7910–00–820–7990
7910–00–820–9926
7910–00–820–9924
7910–00–820–7997
(For GSA Regions 1, 2, 3, 4, 5, and W only)

Class 7930

Dishwashing, Compound, Hand
7930–00–880–4454
7930–00–899–9534
7930–01–055–6136
(For GSA Regions 4, 6, 7, 8, and 9)

SIC 7331

Mailing Service
National Science Foundation
1800 G Street, N.W.
Washington, D.C.

SIC 7349

Janitorial/Custodial Service
Federal Building and U.S. Courthouse
101 First Street, S.E.
Cedar Rapids, Iowa

C. W. Fletcher,
Executive Director.

[FR Doc. 83–3064 Filed 2–3–83; 8:45 am]
BILLING CODE 6820–33–M

Procurement List 1983; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1983 services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: February 4, 1983.

ADDRESS: committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT:
C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On October 15, 1982 and November 26, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 46126 and 47 FR 53447) of proposed additions to Procurement List 1983, November 18, 1982 (47 FR 52101).

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on contractors for the services listed.

c. The actions will result in authorizing small entities to provide services procured by the Government.

Accordingly, the following services are hereby added to Procurement List 1983:

SIC 0782

Grounds Maintenance
USAR Facility—Portland (South)
Sears Hall, 2731 SW Multnomah Boulevard
Portland, Oregon

USAR Facility—Portland (West)
Sharff Hall, 8801 N. Chautauqua Boulevard
Portland, Oregon

SIC 7349

Custodial Service
Social Security Administration
Computer Center Building
6201 Security Boulevard
Baltimore, Maryland

C. W. Fletcher,
Executive Director.

[FR Doc. 83–3063 Filed 2–3–83; 8:45 am]
BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Draft Environmental Impact Statement (DEIS) for Proposed Hydropower Development at Locks and Dams 5, 7, and 8, Upper Mississippi River (Minnesota and Wisconsin)

AGENCY: St. Paul District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

1. *Proposed Action.* The general proposed actions are the addition of hydroelectric generating units to the existing structures at locks and dams 5, 7, and 8 on the Upper Mississippi River in Minnesota and Wisconsin.

2. *Alternatives.* Detailed alternatives for hydropower at the three sites have not been developed. Besides no action, the reasonable alternatives for each site would include alternatives relating to powerhouse location and to the size and number of generating units. Planning constraints already identified for each of the three sites will limit the alternatives considered.

3. *Scoping Process.* The St. Paul District invites the participation of affected Federal, State, and local agencies, affected Indian tribes, interested organizations, and private citizens in the scoping process for the programmatic DEIS and draft supplements on hydropower development at locks and dams 5, 7, and 8.

Public Involvement—A series of three public meetings will be held in the vicinities of the proposed hydropower sites to present the results of preliminary studies and to obtain public comment on the scope of the programmatic DEIS. These meetings will be held in March 1983 at times and locations to be announced by public notice. Three additional public meetings will be held after detailed studies and before feasibility report completion.

An agency scoping meeting will also be held, at a time and place to be announced, to obtain comments from interested Federal and State agencies on the scope of the programmatic DEIS. Additional agency scoping meetings will be held for each of the three proposed sites to address site-specific concerns.

Significant Issues—Significant issues identified in the reconnaissance studies will be addressed in the programmatic DEIS and the site-specific DEIS supplements, including:

- The effects of construction on currently unknown cultural resources.
- The effects of construction on social conditions.
- The effects of hydroplant operation on flow patterns, erosion, and sedimentation in the Mississippi River.
- The effects of construction and hydroplant operation on tailwater fish habitat, the tailwater sport fishery, and associated recreation.
- The potential for entrainment and impingement of adult fish, eggs, larvae, and young in the turbines and the impact of increased mortaility on fish populations.
- The potential for increased barriers to fish movements through the dams and the impacts of further restrictions of movements on fish populations.
- The impacts of construction and hydroplant operation on endangered species, especially the Higgins' eye pearly mussel and the bald eagle.
- The impacts of transmission lines on migratory birds.
- Cumulative effects of hydroplant construction and operation of multiple sites on Mississippi River animal and plant life.

Additional significant issues will probably be identified in the scoping process. These will be considered in detail in the programmatic DEIS or in the site-specific supplements, as appropriate.

Cooperating Agencies—The St. Paul district will request information for the programmatic DEIS and site-specific supplements from the U.S. Fish and Wildlife Service, the Wisconsin Department of Natural Resources, the Iowa Conservation Commission, and the Minnesota Department of Natural Resources.

4. *Schedule:*

Programmatic DEIS—The programmatic DEIS covering general and cumulative aspects of hydropower development on the Upper Mississippi River should be available for public review by January 1985.

Site-Specific Supplements—The St. Paul District will prepare a feasibility report for each of the three sites, according to the following schedule: lock and dam 8—September 1985, lock and dam 7—September 1986, and lock and dam 5—September 1986. Separate draft supplements to the environmental impact statement will be prepared for the three sites as part of each feasibility report. These supplements will discuss site-specific impacts of hydropower development. This notice of intent covers these site-specific draft supplements as well as the programmatic DEIS for hydropower development.

5. *Agency Contacts:*

Questions about the proposed actions and DEIS can be answered by Mr. Carl Stephan (612–725–7472) or Mr. Daniel Wilcox (612–725–5936) of the Planning Division, St. Paul District, Corps of Engineers, 1135 U.S. Post Office and Custom House, St. Paul, Minnesota 55101.

Dated: January 26, 1983.

Edward G. Rapp,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83–3082 Filed 2–3–83; 8:45 am]

BILLING CODE 3710–CY–M

Department of the Navy

Privacy Act of 1974; System of Records; Correction

AGENCY: Department of the Navy, DOD.

ACTION: Correction of a Notice for a System of Records.

SUMMARY: The Department of the Navy corrects the notice for a system of records subject to the Privacy Act of 1974 by deleting the exemption for the system. The corrected notice is set forth below.

DATE: The correction will be effective February 4, 1983.

ADDRESS: Send any comments to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op–09BIP), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone 202/694–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records subject to the Privacy Act of 1974, Title 5, United States Code Section 552 (Pub. L. 93–579; 44 Stat. 1896 *et seq.*), has been published in the **Federal Register** at:

FR Doc. 82–674 (47 FR 2574) January 18, 1982
FR Doc. 82–9204 (47 FR 14944) April 7, 1982
FR Doc. 82–9844 (47 FR 15636) April 12, 1982
FR Doc. 82–12593 (47 FR 20018) May 10, 1982
FR Doc. 82–15596 (47 FR 25041) June 9, 1982
FR Doc. 82–23533 (47 FR 37948) August 22, 1982
FR Doc. 82–27420 (47 FR 44314) October 6, 1982
FR Doc. 82–27692 (47 FR 44361) October 7, 1982
FR Doc. 82–28879 (47 FR 48879) October 21, 1982
FR Doc. 82–29834 (47 FR 49067) October 29, 1982
FR Doc. 82–30255 (47 FR 50069) November 4, 1982
FR Doc. 82–32787 (47 FR 54139) December 1, 1982
FR Doc. 83–805 (48 FR 1338) January 12, 1983
FR Doc. 83–1207 (48 FR 2584) January 20, 1983

This correction does not require an altered system report in accordance with 35 U.S.C. 522a(o).

M.S. Healy,

OSD Federal Register Liaison, Department of Defense.

January 31, 1983.

NO5300–4

System name:

Personnel Management and Training Research Statistical Data System (47 FR 2680) January 18, 1982.

Change:

System exempted from certain provisions of the Act:

Delete the entire entry and substitute with the word: "None."

NO5300–4

SYSTEM NAME:

Personnel Management and Training Research Statistical Data System

* * * * *

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83–3098 Filed 2–3–83; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Education Appeal Board; Illinois Proceeding

AGENCY: Department of Education.

ACTION: Notice of Education Appeal Board Proceeding.

INFORMATION: This notice advises readers that the Education Appeal Board has rescheduled the prehearing conference in the following case: *Appeal of the State of Illinois*, Docket Nos. 7–(62)–80 and 9–(64)–80, February 18, 1983, to start at 10:30 a.m. in Room 3000, 400 Maryland Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, SW. (Room 2141, FOB–6), Washington, D.C. 20202. Telephone (202) 245–7835.

SUPPLEMENTARY INFORMATION: Under the Education Amendments of 1978 (20 U.S.C. 1234), the Education Appeal Board has authority to conduct (1) Audit appeal proceedings, (2) withholding, termination, and cease and desist proceedings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board. For information concerning the Board and its procedures, see the Board's final regulations as published in the **Federasl Register** on May 18, 1981 (46 FR 27304).

(Catalog of Federal Domestic Assistance Number not applicable)

Dated: January 31, 1983.

Wendy Borcherdt,

Acting Deputy Under Secretary.

[FR Doc. 83–3110 Filed 2–3–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. PP–77]

New England Electric Transmission Corp.; Withdrawal of Application

AGENCY: Economic Regulatory Administration (ERA), DOE.

ACTION: Notice of withdrawal of application in ERA Docket No. PP–77.

SUMMARY: On January 3, 1983, the New England Electric Transmission Corporation (NEET) notified DOE of its decision to withdraw its application for a Presidential Permit (Docket No. PP–77). This request leaves intact the application filed concurrently by the Vermont Electric Power Company (VELCO) in ERA Docket No. PP–76.

FOR FURTHER INFORMATION CONTACT:

Lise Courtney M. Howe, Office of General Counsel (GC–11), Department of Energy, Forrestal Building, Mail Stop 6F–094, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–2900

Garet Bornstein, Division of Petroleum and Electricity (RG–44), Office of Fuels Programs, Department of Energy, Forrestal Building, Room GA–017, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–5935

SUPPLEMENTARY INFORMATION: On December 11, 1981, NEET applied for a Presidential Permit authorizing construction of a transmission facility crossing the international border at Pittsburg, New Hampshire (47 FR 5454), as part of a planned interconnection between the New England Power Pool (NEPOOL) and Hydro-Quebec. VELCO filed a substantially identical application on the same day, but with a crossing point in Norton, Vermont (47 FR 5455). On March 1, 1982, DOE consolidated the applications for the preparation of a single Environmental Impact Statement (47 FR 8619).

Both NEET and VELCO filed applications because at that time it had not been determined whether the border crossing and route would be in New Hampshire or Vermont. According to NEET, the potential for oil displacement and the resulting cost savings were too great to justify deferring a Presidential Permit application until the State authorities had acted and a final route chosen.

The certification hearings in New Hampshire and Vermont now have proceeded to a point where it is clear that the crossing point at Pittsburg, New Hampshire, will not be used. NEET therefore has requested that DOE terminate Docket PP–77. This request does not affect VELCO's application for a border crossing in Norton, Vermont.

As originally proposed in VELCO's application, NEET still will construct and operate the converter terminal proposed in the VELCO application and any transmission facilities located in New Hampshire.

Issued in Washington, D.C. on February 1, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–3066 Filed 2–3–83; 8:45]

BILLING CODE 6450–01–M

[ERA Docket No. 82–CERT–025]

American Cyanamid Co.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On December 15, 1982, American Cyanamid Company (American Cyanamid), One Cyanamid Plaza, Wayne, New Jersey 07470, filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for certification of an eligible use of up to 3,000 Mcf of natural gas per day to displace approximately 20,000 gallons (476 barrels) of No. 6 fuel oil (2.5 percent sulfur) per day at its acrylic fiber plant located in Pensacola, Florida. The eligible seller of the natural gas is Conecuh-Monroe Counties Gas District (Conecuh-Monroe), and the gas will be transported by United Gas Pipe Line Company. Notice of that application was published in the **Federal Register** (48 FR 2823, January 21, 1983), and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On February 3, 1982, American Cyanamid received a recertification (ERA Docket No. 81–Cert–028, effective February 5, 1982) of an eligible use of natural gas at the Pensacola Plant purchased from Conecuh-Monroe for a period of one year, which expires February 4, 1983.

The ERA has carefully reviewed American Cyanamid's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that American Cyanamid's application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification, is available for public inspection at the ERA Natural Gas Division Docket Room, Room GA–007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., February 1, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–3065 Filed 2–3–83; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 82–CERT–024]

Energy Systems Co., Division of Internorth, Inc.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On December 6, 1982, Energy Systems Company, Division of InterNorth, Inc. (Energy Systems), 2223 Dodge Street, Omaha, Nebraska 68102, filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for recertification of an eligible use of 550,000 Mcf of natural gas per year, which is estimated to displace the use of approximately 4 million gallons (95,238 barrels) of No. 2 fuel oil (0.2 to 0.3 per

cent sulfur) per year at Energy Systems' Howard Street Plant facility located in Omaha, Nebraska. The eligible seller of the natural gas is Peoples Natural Gas Company, Division of InterNorth, Inc.

The gas will be transported by the Northern Natural Gas Company (Northern), an interstate pipeline company, and by Metropolitan Utilities District, a local distribution company. Incidental transportation of the natural gas to Northern will be provided by Panhandle Eastern Pipeline Company, an interstate pipeline.

On February 3, 1982, Energy Systems received a certification (ERA Docket No. 82–CERT–001) of an eligible use of natural gas purchased from Peoples Natural Gas Company for a period of one year expiring on February 2, 1983, for use at its Howard Street Plant facility.

The ERA has carefully reviewed Energy Systems' application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Energy Systems' application satisfies the criteria enumerated in 10 CFR Part 595. We are, therefore, granting the certification and transmitting that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA Natural Gas Division Docket Room, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

This recertification is being issued prior to the 10-day public comment period and being made effective February 3, 1983 to provide continuity with the current certificate's February 2, 1983 expiration date.

The recertification involves the displacement of imported fuel oil and it is in the public interest to maximize the displacement of imported fuel. Energy Systems indicates that the gas volumes are presently flowing and disruption of the gas would cause a loss of oil displacement. Energy System's customers consist primarily of schools, hospitals, and local and county government agencies. It is therefore, not in the public interest to delay or disrupt unnecessarily the displacement of this imported fuel oil, especially since the same purchase and use of gas at this facility has qualified as an "eligible use" for the past three years.

Given the circumstances related to time-sensitive nature of this case and the authority of the Administrator to terminate a certification for good cause (10 CFR 595.08), it is not in the public interest to permanently lose this opportunity to displace large volumes of fuel oil while public comments are being solicited.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG–43, Room GA–007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C 20585, Attention: Paula Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register**.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Energy Systems and any persons filing comments and will be published in the **Federal Register**.

Issued in Washington, DC., January 28, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–3030 Filed 2–3–83; 8:45 am]
BILLING CODE 6450–01–M

Distribution of $200,000,000 in Escrowed Funds to States, District, Territories and Possessions

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Distribution of $200,000,000 pursuant to The Further Continuing Appropriations Act, 1983, Pub. L. No. 97–377, Section 155.

SUMMARY: The Economic Regulatory Administration (ERA) hereby gives notice, on behalf of the Secretary of Energy, of the distribution of a total of $200,000,000 of petroleum violation escrow funds to the states, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States pursuant to the Further Continuing Appropriations Act, 1983, Pub. L. No. 97–377, section 155, ("the statute"). The statute authorized the Secretary of Energy to disburse, as soon as practicable, up to $200,000,000 derived from settlements of alleged petroleum pricing and allocation violations and held in trust accounts administered by the Department of Energy ("Department") on December 17, 1982. Subsection (a) of the statute authorized a one time distribution of funds to effectuate restitution by a means reasonably designed to benefit the class of persons who were injured by the violations, but whose members cannot be reasonably identified, or where the amount of each purchaser's overcharge is too small for reasonable determination.

Table A lists the amounts distributed to each state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. territories and possessions. (Hereafter referred to as "jurisdictions.") Each jurisdiction's share of the funds was calculated pursuant to subsection (d) of the statute: the ratio of the volume of refined petroleum products consumed within that jurisdiction during the period September 1, 1973 through January 28, 1981 to the volume of refined petroleum products consumed within all jurisdictions during that period.

The amounts disbursed by the Secretary to the jurisdictions are to be used "as if the funds were received under one or more [of five] energy conservation programs" identified in the provision. In general, these programs for which the funds may be used include the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside; primary and supplemental state energy conservation plans; programs to reduce energy consumption or allow the use of an alternative energy source in school and hospital facilities; programs to promote energy conservation by small businesses and individual energy consumers; and programs to assist low-income households to pay residential heating or cooling costs.

FOR FURTHER INFORMATION CONTACT: Carl A. Corrallo, Department of Energy, RG–30, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633–9012.

SUPPLEMENTARY INFORMATION:

The Statute

The statute authorized the Secretary of Energy to disburse, as soon as practicable, up to $200,000,000 derived from settlements of alleged petroleum pricing and allocation violations which were held in trust accounts administered by the Department on December 17, 1982.

Subsection (a) of the statute authorized a one time distribution of funds to effectuate restitution by a means reasonably designed to benefit the class of persons who were injured by the violations, but whose members cannot be reasonably identified, or where the amount of each purchaser's overcharge is too small for reasonable determination. The statute *excluded* from disbursement those funds: (1) Which were subject to special refund proceedings, 10 CFR Part 205, Subpart V, which had been initiated prior to December 17, 1982 at the Office of Hearings and Appeals (OHA); (2) which were likely to be required to satisfy claimants identified in judicial proceedings initiated prior to that date; and (3) which were received pursuant to Consent Orders or Remedial Orders which contained remedial provisions which were inconsistent with this statutory disposition. The Statute, section 155(e)(1).

Table A lists the amounts distributed to each State, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. territories and possessions. Each jurisdiction's share of the funds was calculated pursuant to subsection (d) of the Statute: the ratio of the volume of refined petroleum products consumed within that jurisdiction during the period September 1, 1973 through January 28, 1981 to the volume of refined petroleum products consumed within all jurisdictions during that period. Refined petroleum products are defined in subsection (e)(5) as gasoline, kerosene, distillates, (including Number 2 fuel oil), LPG (other than ethane), refined lubricating oils, diesel fuel, and residual fuel oil, excluding refinery feedstocks. The data used for these calculations were provided by the Energy Information Administration.

The Statute specifies the following energy conservation programs for which the funds may be used:

(1) The program under part A of the Energy Conservation in Existing Buildings Act of 1976, 42 U.S.C. 6861 *et seq.;*

(2) The programs under part D of Title III of the Energy Policy and Conservation Act (relating to primary and supplemental state energy conservation programs), 42 U.S.C. 6321 *et seq.;*

(3) The program under part G of Title III of the Energy Policy and Conservation Act (relating to energy conservation for schools and hospitals), 42 U.S.C.6371 *et seq.*;

(4) Programs under the National Energy Extension Service Act, 42 U.S.C. 7001 *et seq.;* and

(5) The program under the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C. 8621 *et seq.*

In general, funds may be used under these programs for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside; for primary and supplemental state energy conservation plans; for programs to reduce energy consumption or allow the use of an alternative energy source in school and hospital facilities; for programs to promote energy conservation by small businesses and individual energy consumers; and for programs to assist low-income households to pay residential heating or cooling costs.

The funds disbursed by the Department may not supplant funds otherwise available for such programs, nor be used by the Department or any jurisdiction for administrative expenses. Each chief executive officer is required, within one year of the disbursement of the funds, to specify to the Secretary the energy conservation program(s) to which the funds are or will be applied. This information should be provided to the Department at the address above.

Distribution Procedures

The $200 million is being disbursed to the states from monies in the escrow account as of December 17, 1982. The Department had established a separate account for each case under which monies had been received. This has been necessary to account for receipts in individual cases where terms and amounts of payment vary considerably. The funds disbursed to the states do not include sums: (1) Subject to OHA Subpart V proceedings; (2) which were likely to be required to satisfy claimants identified in judicial proceedings; and (3) which were received pursuant to Consent Orders or Remedial Orders which contained remedial provisions which were inconsistent with statutory disbursement.

Prior to disbursement, each governor or chief executive was contacted and notified of the pending disbursement. A written assurance was received from each that the terms of the statute regarding use of the funds would be observed. The Department will publish a ruling shortly to clarify the application of Departmental regulations to the use of these monies.

Conclusion

The disbursement to the jurisdictions outlined above complies with the statute in that:

1. Disbursements were made as soon as practicable to the states, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

2. The amount paid to each was calculated by determining the ratio of the volume of refined petroleum products consumed within that jurisdiction during the period September 1, 1973 through January 28, 1981 to the volume of refined petroleum products consumed within all jurisdictions during this period.

3. A total disbursement of $200 million was made from petroleum violation escrow funds held in trust by the Department on December 17, 1982, excluding sums: (1) Subject to OHA Subpart V proceedings; (2) which were likely to be required to satisfy claimants identified in judicial proceedings; and (3) which were received pursuant to Consent Orders or Remedial Orders which contained remedial provisions which were inconsistent with the statutory disbursement.

Issued in Washington, D.C., January 31, 1983.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

TABLE A

Jurisdiction	Amount
Alabama	$2,963,400
Alaska	795,600
American Samoa	33,000
Arizona	1,980,600
Arkansas	2,152,200
California	18,914,400
Colorado	2,063,200
Connecticut	3,292,400
District of Columbia	466,000
Delaware	912,800
Florida	9,105,800
Georgia	4,298,400
Guam	256,600
Hawaii	1,380,400
Idaho	917,400
Illinois	9,016,200
Indiana	4,717,400
Iowa	2,462,200
Kansas	2,103,600
Kentucky	2,570,200
Louisiana	5,902,800
Maine	1,450,000
Maryland	3,575,800
Massachusetts	6,645,800
Michigan	6,558,000
Minnesota	3,283,000
Mississippi	2,379,200
Missouri	3,731,800
Montana	[illegible]
Nebraska	1,377,400
Nevada	773,400
New Hampshire	890,400
New Jersey	7,490,600
New Mexico	1,191,400
New York	15,363,400

TABLE A—Continued

Jurisdiction	Amount
North Carolina	4,310,600
North Dakota	696,200
Northern Mariana Islands	17,000
Ohio	7,117,000
Oklahoma	2,365,200
Oregon	1,962,200
Pennsylvania	9,166,000
Puerto Rico	2,038,200
Rhode Island	766,400
South Carolina	2,336,800
South Dakota	668,200
Tennessee	3,171,400
Texas	17,073,600
Utah	1,123,000
Vermont	457,600
Virginia	5,075,400
Virgin Islands	1,363,800
Washington	3,115,800
West Virginia	1,168,800
Wisconsin	3,341,000
Wyoming	783,200

[FR Doc. 83-3029 Filed 2-3-83; 8:45 am]
BILLING CODE 6450-01-M

Energy Information Administration

Proposal for "Refiners' Monthly Crude Oil Cost Report," Form EIA-14

AGENCY: Energy Information Administration, DOE.

ACTION: Request for comments on proposed Form EIA-14, "Refiners' Monthly Crude Oil Cost Report."

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) is proposing a revision to Form EIA-14, "Refiners' Monthly Crude Oil Cost Report," (formerly "Refiners' Monthly Cost Report"). If approved by the Office of Management and Budget, EIA would implement the revised form for the April 1983 filing which will be due on May 1, 1983.

DATE: Written comments must be received by EIA within 30 days following the publication of this notice.

ADDRESS: Comments should be sent to Mr. Lamar Gowland at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT: Mr. Lamar Gowland, Office of Oil and Gas, Energy Information Administration, Department of Energy, Room 2G-056, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6608.

SUPPLEMENTARY INFORMATION:

I. Current Action
II. Changes in the new Form EIA-14
III. Request for Comments

I. Current Action

EIA proposes implementation of Form EIA-14, "Refiners' Monthly Crude Oil Cost Report," a revised version of Form EIA-14, "Refiners' Monthly Cost Report," which expires March 1983. Form EIA-14 will enable EIA to continue the data series which were collected on the predecessor form. The data will be collected and processed by EIA. EIA will publish the aggregate refiners' acquisition cost of crude oil from Form EIA-14 in the "Monthly Energy Review," the "Weekly Petroleum Status Report," and the "Annual Report to Congress." The aggregate data are now and will continue to be used by EIA in its Short Term Integrated Forecasting System and other emergency preparedness and forecasting models. Aggregate data are now widely used by other Federal agencies for modeling and analysis.

II. Changes in the new Form EIA-14

A number of changes have been made in the form which will lower respondent burden, improve the value of the information submitted, and increase the compatibility of the definitions with other EIA forms. Among these changes are:

- Part IV, which collected data on purchases and equity production of refined products, has been deleted.
- Respondents are required to report thirty, rather than forty-five, days after the close of the month.
- Definitions have been changed to be more consistent with the EIA forms which collect petroleum supply data.
- The instructions have been rewritten to emphasize the purpose of Form EIA-14, that is, to collect net refinery gate prices for crude oil paid by domestic refiners.
- The provision which allowed respondents on the Form ERA-51, "Transfer Pricing Report," to use Form ERA-51 numbers for the Form EIA-14 has been eliminated.

III. Request for Comments

Form EIA-14 is reproduced following this notice. Prospective respondents and other interested parties should comment on the planned revisions within 30 days following the publication of this notice. The following general guidelines are provided to assist in the preparation of responses:

(As a potential data provider.)

A. Are the instructions and definitions clear and sufficient?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for preparation and administrative review, will your company require to complete and submit the form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collections? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

(As a potential user.)

A. Can your company analysts use data at the levels of detail indicated on the form?

B. For what purposes would you use these data? Be specific.

C. How could the form be improved to better meet your specific data needs?

D. Are there alternative sources of data and do you use them? What are their deficiencies?

EIA is also interested in receiving comments from persons as to their views on the need for the collection of this information at all.

Comments submitted in response to this Notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C. January 31, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

BILLING CODE 6450-01-M

U.S. Department of Energy
Energy Information Administration
Washington, D.C. 20586

Form Approved
OMB No.
Expires

REFINERS' MONTHLY CRUDE OIL COST REPORT

This report is mandatory under the Federal Energy Administration Act of 1974, P.L.93-275. Late filing, failure to keep records, or failure to otherwise comply with these instructions may result in criminal fines, civil penalties, and other sanctions as provided by law. See the instructions for provisions concerning confidentiality of data.

PART I: IDENTIFICATION DATA

1. Legal Name of Refiner:	2. DOE Identification Number:
3. Address of Executive Office: (1) Street: (2) City: (3) State: (4) Zip Code:	
4. Report Month: MM YY ☐☐☐☐	5. This Report Is: (1) An Original (2) A Resubmission
6. Contact Person for Information Concerning This Report: (1) Name: (2) Telephone Number (Including Area Code) ☐☐☐ ☐☐☐ ☐☐☐☐	
7. Address of Contact Person: (1) Street: (2) City: (3) State: (4) Zip Code:	

PART II: CERTIFICATION

I, the authorized executive officer, certify that the information submitted on and with this form is factually correct, complete, and in accordance with Federal Energy Regulations (Title 10 Code of Federal Regulations) and instructions to EIA-14.

8. Name:	9. Title:	10. Signature:	11. Date Signed:

The U.S. Code, Title 18 (Crimes and Criminal Procedures), Section 1001 makes it a criminal offense to make a willfully false statement or presentation to any Department or Agency of the United States as to any matter within its jurisdiction.

PART III: SUMMARY OF CRUDE OIL COSTS AND VOLUMES

Item No. (a)	Category Description (b)	Monthly Acquisitions: Total Cost (In thousands of dollars) (c)	Monthly Acquisitions: Total Volume (In thousands of barrels) (d)
12	Domestic Crude Oil		
13	Imported Crude Oil		
14	Unfinished Oils		

EIA-14 (483)

BILLING CODE 6450-01-C

EIA–14
Form Approved
OMB No.
Expires:

INSTRUCTIONS FOR FILING REFINERS' MONTHLY COST REPORT, EIA–14

General Information

I. Purpose

Form EIA–14 is designed to collect summary data that permit the Energy Information Administration (EIA) to provide to the government and the public certain cost and price statistics on the United States petroleum industry. The statistics are published in the "Monthly Energy Review," and "Weekly Petroleum Status Report," and are widely disseminated, to government and petroleum analysts.

II. Who Must Submit

Each refiner must submit Form EIA–14, except firms (referred to as independent natural gas processors) that neither refine crude oil nor have crude oil refined by others and solely process natural gas for liquids and related products.

III. When To Submit

1. Submit Form EIA–14 within 30 days after the last day of the report month. For example, if the report month is March 1983, this report is due on or before April 30, 1983.

2. DOE will routinely accept resubmissions of Form EIA–14 within 1 year after the required submission date of the original filing.

IV. What and Where To Submit

Mail one original of Form EIA–14 each month to: U.S. Department of Energy, Energy Information Administration (EI–421), Mail Station BE–079, Forrestal Bldg., Washington, D.C. 20585.

V. Sanctions

The timely submission of Form EIA–14 by a company required to report is mandatory under Public Law 93–275, Federal Energy Administration Act of 1974. Late filing, failure to keep records, or failure to otherwise comply with these instructions may result in criminal fines, civil penalties, and other sanctions as provided by law.

VI. Provisions Regarding Confidentiality

The information contained on these forms may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act, 5 U.S.C. 552(b)(4) (FOIA), or (ii) prohibited from public release by 18 U.S.C. 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, respondents should state briefly and specifically (on an element-by-element basis if possible), in a letter accompanying submission of the form why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should not be released to the public, DOE may assume that the respondent does not object to disclosure to the public of any information submitted on the form.

A new written justification need not be submitted each time the Form EIA–14 is submitted if:

a. Views concerning information items identified as privileged or confidential have not changed; and

b. A written justification setting forth respondent's views in this regard was previously submitted.

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any committee of Congress, to the General Accounting Office, and other Congressional agencies authorized by law to receive such information.

General Instructions

I. For the purpose of this report, the reporting firm is the parent company and the consolidated entities (if any) which the parent directly or indirectly controls, taken altogether. If the respondent is a consolidated entity of a foreign parent, it is to report for its domestic operations as if it were the parent.

II. Report for all refineries located in the U.S. which are controlled by the firm.

III. Report volumes and their corresponding costs for each item on a net refinery gate booking basis.

IV. Report all data on an ownership basis. Report quantities according to the customary accounting procedures used by your firm. See definition of Crude Oil Purchases.

V. Use parentheses ( ) to indicate negative entries.

VI. Report all quantities in thousands. Quantities ending in 499 or less are to be rounded down; quantities ending 500 or more are to be rounded up to the next highest number. For example 106,489 is rounded to 106, and 106,589 is rounded to 107.

VII. Resubmissions are only required for changes that exceed five percent of the reported line item. Resubmissions are only required to correct previously reported data. On resubmission forms, report only data which is changed, not all items.

VIII. The United States (U.S.) is defined as the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and the American territories in the Pacific. Report the figures for Puerto Rico and the Virgin Islands only if your firm operates a refinery(ies) in these areas.

IX. Computer generated reports will be accepted if they follow the format of the printed form and are certified.

Definitions

For purposes of filing this form, the following definitions apply:

1. Crude Oil (Including Lease Condensate)

A mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Included are lease condensate and liquid hydrocarbons produced from tar sand, gilsonite and oil shale. Drip gas is also included, but topped crude oil (residual) oil and other unfinished oils are excluded. Liquids produced at natural gas processing plants and mixed with crude oil are likewise excluded where identifiable. Crude oil is considered as either domestic or imported according to the following:

Domestic Crude Oil—Crude oil produced in the United States or from its "outer continental shelf" as defined in 43 U.S.C. 1331.

Imported Crude Oil—Crude oil produced outside the United States.

2. Crude Oil Purchases (Unfinished Oil Purchases)

The volume of crude oil (a) acquired by the respondent for processing for his own account and booked into its refineries in accordance with accounting procedures generally accepted and consistently and historically applied by the refiner concerned, or (b) in the case of a processing agreement, delivered to another refinery for processing for the respondent's own account

Crude oil which has been added by a refiner to inventory and which is thereafter sold or otherwise disposed of without processing for the account of that refiner shall be deducted from its crude oil purchases at the time when the related cost is deducted from refinery inventory in accordance with accounting procedures generally applied by the refiner concerned.

Exchanges or sales which occurred before the oil was booked into refineries is not included.

Crude oil processed by the respondent for the account of another is not included.

3. Exchange

Any transaction in which quantities of crude oil or any other petroleum product(s) are received or given up in return for other crude oil or petroleum product(s). Exchanges include reciprocal purchases and sales.

A "Quota or Ticket Exchange," also referred to as "ticket trade," is a type of transaction through which one refiner is able to use another refiner's fee-paid import licenses. Exchanges of this type are not to be considered as purchases or sales in completing the EIA–14 Form, and, therefore, should not be included.

4. Lease Condensate

A natural gas liquid recovered from gas well gas (associated and nonassociated) in lease separators or natural gas field facilities. Lease condensate consists primarily of pentanes and heavier hydrocarbons.

5. Petroleum Refinery

An installation that manufactures finished petroleum products from crude oil, unfinished oils, natural gas liquids, other hydrocarbons, and alcohol.

6. Refiner

A firm or the part of a firm that refines products or blends and substantially changes products, or refines liquid hydrocarbons from oil and gas field gases, or recovers liquefied petroleum gases incident to petroleum refining and sells those products to resellers, retailers, reseller/retailers or ultimate consumers. "Refiner" includes any owner of products which contracts to have these products refined and then sells the refined products to resellers, retailers, or ultimate consumers.

7. Unfinished Oils

All oils, both domestic and imported, requiring further refining, except those requiring only mechanical blending.

SPECIFIC INSTRUCTIONS

Item	Instruction
	Part I.—Identification Data
1	Refer to the form. This item is self-explanatory.
2	Enter the six-digit code which the DOE has assigned you. If you do not presently have a number, leave item number 2 blank and DOE will assign you one.
3–7	Refer to the form. These items are self-explanatory.
	Part II.—Certification
8–11	All filings of Form EIA–14 must be certified in order to constitute filing. Refer to the form for specific item numbers; these are self-explanatory.
	Part III.—Summary of Crude Oil Costs and Volumes
12–14	Refer to the form and/or appropriate definitions. *Total Cost* Report the total net refinery gate cost in thousands of U.S. dollars of each item. Include all costs associated with the acquisition of the oil e.g., cost of oil, shipping, insurance, taxes, storage fees etc. For exchange receipts use the market value of the oil as determined by the firm's customary accounting practices. *Total Volume* Report the total net refinery gate volume in thousands of barrels.

[FR Doc. 83-3086 Filed 2-3-83; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83-268-000]

American Electric Power Service Corp.; Filing

February 1, 1983.

Take notice that American Electric Power Service Corporation (AEP) tendered for filing on January 20, 1983, on behalf of its affiliate Ohio Power Company (OPCO) which is an AEP operating subsidiary, Modification No. 21 dated January 1, 1983 to the Operating Agreement dated June 14, 1962, between OPCO and the Cleveland Electric Illuminating Company. AEP states that the Commission has previously designated the 1962 Agreement as OPCO's Rate Schedule FERC No. 31 and Cleveland Company's Rate Schedule FERC No. 1.

AEP further states that Section 1 of Modification No. 21 provides for an increase in the transmission demand charge for Short Term Power to $0.35 per kilowatt per week and to $0.07 per kilowatt per day. Section 2 increases the Limited Term Power transmission demand charge to $1.50 per kilowatt per month. These transmission demand charges are utilized just for multiparty transactions and apply only to OPCO.

AEP requests an effective date of January 17, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3085 Filed 2-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-267-000]

Baltimore Refuse Energy Systems Company, Limited Partnership; Filing

February 1, 1983.

Take notice that on January 19, 1983, the Baltimore Refuse Energy Systems Company, Limited Partnership (Bresco), tendered for filing proposed Baltimore Refuse Energy Systems Company, Limited Partnership Rate Schedule No. 1 (Bresco Rate Schedule No. 1), applicable to sales of energy and capacity by Bresco to Baltimore Gas and Electric Company (BG&E) from a solid waste resource recovery and electric generating facility to be located at Baltimore, Maryland (the Facility).

The proposed initial rate is set forth in the Electric Power Purchase Contract (the "Electric Power Purchase Contract"), dated June 3, 1982, among WESI Baltimore, Northeast Maryland Waste Disposal Authority (the "Authority") and BG&E. Under the Electric Power Purchase Contract, the rate for sales of electric energy by Bresco to BG&E shall be the highest incremental operating cost of generation dispatched economically on the Pennsylvania-New Jersey-Maryland Interconnection (PJM) signal to BG&E from time to time (integrated over each clock-hour and expressed in mills per kilowatt hour). In addition, BG&E shall make payments to Bresco for Installed Capacity based on the PJM Installed Capacity Transaction Accounting System.

Bresco requests waiver of the Commission's notice requirements.

Copies of the instant filing have been served upon BG&E, the Authority and the PSC.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3084 Filed 2-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-273-000]

Arizona Public Service Co.; Filing

February 1, 1983

Take notice that on January 24, 1983, Arizona Public Service Company (APS) tendered for filing proposed Supplement to APS–FPC Rate Schedule No. 33 for sale of non-firm energy to United States—Western Area Power Administration.

APS requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3066 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-279-000]

Centel Corp.; Filing

February 1, 1983.

Take notice that on January 24, 1983, Centel Corporation (Centel) tendered for filing on behalf of its Southern Colorado Power Division a Power Purchase Agreement, dated September 2, 1980, between Centel and the City of Las Animas, Colorado. The agreement provides for sales of power and energy by the Southern Colorado Power Division to the City of Las Animas for resale.

Centel requests an effective date of September 2, 1980, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the City of Las Animas and the Colorado Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3067 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-271-000]

Empire District Electric Co.; Filing

February 1, 1983.

Take notice that on January 21, 1983, Empire District Electric Company (Empire) tendered for filing a proposed Amendment to Schedule L, Peaking Power Service, a part of that agreement for interchange of power and interconnected operation between Empire and Kansas Gas and Electric Company (KG&E) designated rate schedule FERC 69.

Empire states that the amendment will change the maximum contract demand of 60,000 kW to 90,000 kW and add a $15 per day scheduling and accounting charge.

Empire requests an effective date of May 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3068 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-282-000]

Empire District Electric Co.; Filing

February 1, 1983.

Take notice that the Empire District Electric Company (EDE) on January 24, 1983, tendered for filing a proposed Agreement for Interchange of Power and Interconnected Operation between EDE and the Grand River Dam Authority (GRDA).

EDE states that the proposed contract provided for interconnected operation between EDE and GRDA which will be of mutual advantage to the parties by allowing them to purchase and sell or exchange electric power and energy from one system to the other.

EDE requests an effective date of February 1, 1983.

A copy of the filing was served upon the Corporation Commission of the State of Oklahoma.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3069 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77-175-003]

Florida Power & Light Co.; Compliance Filing

February 1, 1983.

Take notice that on January 24, 1983, Florida Power & Light Company submitted for filing revised rate schedules pursuant to the Commission's Opinion No. 152, issued on November 10, 1982 and the Commission's order issued June 17, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 16, 1983. Comments will be conisdered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3070 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-440-000]

J-W Gathering Co., Proceeding

February 1, 1983.

Pursuant to § 284.123(b)(2) of the Commission's Regulations, the Commission has appointed a Staff panel to hear an oral presentation of data, views and arguments in the above-captioned proceeding.

The Staff panel will be convened at 10:00 a.m., on February 24, 1983 in a room to be designated at the Commission's offices at 825 North Capitol Street, N.E., Washington D.C. Participants are requested to limit their remarks to approximately 30 minutes.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3091 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL81-11-000]

Kansas City Power & Light Co.; Refund Report

February 1, 1983.

Take notice that on December 13, 1982, Kansas City Power & Light Company submitted for filing a refund report pursuant to the Commission's order of November 18, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 16, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3092 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-272-000]

Pacific Power & Light Co.; Filing

February 1, 1983.

Take notice that on January 21, 1983, Pacific Power & Light Company (PP&L) tendered for filing the First Revision to Original Sheet No. 5 (Index of Purchasers) of the Tariff, and Service Agreement identified as a Letter Agreement between the Department of Water Resources, State of California and Pacific dated October 29, 1982, which Agreement provides for the sale of power at rates specified in Service Schedule PPL-3 under PP&L's Tariff, effective November 21, 1982.

PP&L requests an effective date of April 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3093 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP79-28]

Public Service Commission of New York (Offshore Construction Costs of Natural Gas Pipelines), Informal Settlement Conference

Issued: January 28, 1983.

Take notice that on Tuesday, February 15, 1983 at 10:00 a.m., there will be an informal settlement conference in the above captioned proceeding. The conference will be held in the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Parties, participants, and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter, attendance will not be deemed to authorize intervention as a party in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3083 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-276-000]

Public Service Company of New Mexico; Filing

February 1, 1983.

Take notice that Public Service Company of New Mexico (PNM) on January 24, 1983, tendered for filing an economy energy agreement between PNM and Arizona Electric Power Cooperative, Inc., (AEPCO), which filing has been done as an initial rate schedule.

PNM states that the service to be provided hereunder is interruptible economy energy and is identical to PNM Rate Schedules FERC Sections 47 and 48. Rates for the service provided are detailed in Section 7 and are based on either (1) split savings, or (2) 115% return of energy, or (3) 115% of seller's cost.

PNM requests an effective date of December 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Arizona Electric Power Cooperative, Inc. and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3094 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-274-000]

Public Service Company of New Mexico; Filing

February 1, 1983.

Take notice that Public Service Company of New Mexico (PNM) on January 24, 1983, tendered for filing an interconnection agreement between PNM and the City of Farmington, New Mexico, along with Service Schedules A through G which provide related services. The interconnection agreement would supersede FPC Rate Schedule No. 35, Supplement No. 11. These service schedules include emergency assistance and schedule outage assistance, economy energy interchange, electric service, transmission service, hazard sharing and installed reserve criteria, a power cell from the City to PNM and switchyard facility service.

PNM states that all services provided in the existing FPC Rate Schedule No. 35, Supplement No. 11, have been incorporated into the interconnection agreement with only minor changes. The interconnection agreement contains additional services listed above. The interconnection agreement and related service schedules were entered into to reflect the City's acquisition of an undivided 8.475 percent ownership interest in Unit 4 of the San Juan Generation Station. Because of the City's participation in Unit 4, it was determined that other services would

provide mutual benefit to both the City and PNM and, therefore, were addressed in an interconnection agreement and the service schedules.

PNM requests an effective date of April 27, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3095 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-277-000]

Public Service Company of New Mexico; Filing

February 1, 1983.

Take notice that on January 24, 1983, Public Service Company of New Mexico (PNM) tendered for filing an agreement for transmission service between Raton Public Service Company and PNM.

PNM states that the service to be provided hereunder is transmission wheeling service to be provided by PNM to the Raton Public Service Company, which is a corporation organized to provide electric service to the municipality of the City of Raton, New Mexico. PNM is providing transmission facilities from either PNM Shiprock 230 kV switchyard or the Four Corners Generation Station 230 kV or 345 kV switchyard to Plains Generation Substation at Ojo or PNM's West Mesa Substation. This will enable the Raton Public Service Company to obtain delivery of power and energy it has purchased for the City of Raton from third parties. This agreement was executed the 16th day of November, 1982, by and between the Raton Public Service Company and PNM.

PNM requests an effective date of December 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been mailed to the City of Raton and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3096 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-269-000]

Public Service Company of Oklahoma; Filing

February 1, 1983.

Take notice that Public Service Company of Oklahoma (PSO) tendered for filing on January 21, 1983 a Second Amendment to Interconnection Agreement between PSO and Northeast Oklahoma Electric Cooperative, Inc. (Interconnection Amendment) and the First Amendment to Accounting Agreement between Northeast Oklahoma Electric Cooperative, Inc. and Grand River Dam Authority and PSO (Accounting amendment). .

PSO states that the Interconnection Agreement provides for the continuance of existing interconnections and for the establishment of new interconnection points to be constructed in the future. The Accounting Amendment provides for the accounting of electric power and energy flow resulting from the interconnections provided in the Interconnection Amendment.

PSO requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been sent to Northeast Oklahoma Electric Cooperative, Inc., the Grand River Dam Authority and to the Oklahoma Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3097 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-270-000]

Public Service Company of Oklahoma; Filing

February 1, 1983.

Take notice that Public Service Company of Oklahoma (PSO) tendered for filing on January 21, 1983, a First Amendment to an Agreement for Interchange of Electric Power and Energy between Grand River Dam Authority (GRDA) and PSO (Amendment). The Amendment provides for additional interconnection of electric lines between GRDA and PSO.

PSO requests an effective date of July 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been sent to GRDA and the Oklahoma Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3078 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-280-000]

San Diego Gas & Electric Co.; Filing

February 1, 1983.

Take notice that on January 20, 1983, San Diego Gas & Electric Company (SDG&E) tendered for filing a correction to its transmittal dated September 14, 1982 (an Interconnection Agreement between SDG&E and Plains Electric Generation and Transmission Cooperative (Plains), which has been designated Rate Schedule FERC No. 48) in Docket No. ER82-806-000.

The third paragraph on Page 2 of SDG&E's September 14, 1982 transmittal should read as follows:

"Service Schedule B provides for Scheduled Outage Assistance mutually agreed to by the receiving and supplying parties for capacity and associated energy during Facility Outage. If Plains has an outage, SDG&E would sell Plains' capacity and associated energy from San Juan through SDG&E's Purchase Agreement with PNM (FERC Rate Schedule 39), since Plains has firm transmission service to San Juan. When SDG&E agrees to deliver capacity for scheduled outage assistance to Plains, the demand charge will be up to but not exceeding 100% of the demand cost as stated in FERC Rate Schedule 39. SDG&E will consider delivering capacity at less than full demand cost because SDG&E does not have firm transmission service to San Juan."

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 18, 1983. Protests will be considered by the Commission in determining the appropriat e action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3079 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-281-000]

San Diego Gas & Electric Co.; Cancellation

February 1, 1983.

Take notice that on January 24, 1983, San Diego Gas & Electric Company (SDG&E) tendered for filing a Notice of Cancellation of FPC Rate Schedule No. 23 between SDG&E and the California Department of Water Resources.

SDG&E requests an effective date of March 31, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 an 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3080 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-275-000]

Southern California Edison Co.; Filing

February 1, 1983.

Take notice that on January 24, 1983, Southern California Edison Company (SCE) tendered for filing an agreement entitled "Agreement for Delivery of Energy from the Solar Power Pilot Plant" which has been executed by SCE and Department of Water and Power of the City of Los Angeles (Los Angeles).

SCE states that under the terms and conditions of the agreement, SCE will make available to Los Angeles interruptible transmission service from the Point of Receipt to the Point of Delivery as specified in the Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Deparment of Water and Power of the City of Los Angeles.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3081 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-278-000]

Southern California Edison Co.; Filing

February 1, 1983.

Take notice that on January 24, 1983, Southern California Edison Company (Edison) tendered for filing a change of rates for interruptible transmission service as embodied in the Edison-Pasadena Interruptible Transmission Service Agreement No. 9987 with the City of Pasadena (Rate Schedule FERC No. 88).

Edison requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Pasadena.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3082 Filed 2-3-83; 8:45 am]

BILLING CODE 6717-01-M

Office of the Secretary

International Atomic Energy Agreement; Proposed Subsequent Arrangement; U.S. and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "Subsequent arrangement" under the Additional Agreement for Cooperation Between the Government

of the United States of America and the European Atomic Energy Community (EURATOM) Concering Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer: RTD/IAEA(EU)–16, from the Federal Republic of Germany to Yugoslavia through the IAEA, 107 partially irradiated fuel elements, containing 20.2 kilograms of uranium, enriched to approximately 14% in U–235, for use as fuel in the Josef Stefan research reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: February 1, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83–3007 Filed 2–3–83; 8:45 am]

BILLING CODE 6450–01–M

Western Area Power Administration

Salt Lake City Area; Post-1989 Marketing Plan

AGENCY: Western Area Power Administration, DOE.

ACTION: Request for applicant profile data.

SUMMARY: The Western Area Power Administration (Western) has been developing a post-1989 marketing plan for the Colorado River Storage Project (CRSP), Collbran, Provo River, and Rio Grande Projects since the intitial public information forum was held on May 22, 1980, in Salt Lake City, Utah. Western's Salt Lake City Area Office requires applicant profile data to evaluate alternate allocation methods and to complete the development of a post-1989 marketing plan for these resources. Those parties that may be interested in applying for an allocation of these resources must provide the applicant profile data requested herein.

DATES: Applicant profile data necessary to assist Western in completing the post-1989 marketing plan must be submitted to Western on or before March 15, 1983, by those interested in obtaining an allocation of capacity and energy from CRSP, Collbran, Provo River, and Rio Grande Projects. Western expects to publish a proposed marketing plan by mid-summer 1983 to be followed by public forums at which Western will explain the marketing proposals, answer questions, and receive comments on the proposed marketing plan.

ADDRESSES: Applicant profile data should be sent to: M. Albert M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 11606, Salt Lake City, UT 84147. Telephone: (801) 524–6372.

Further information concerning the request for applicant profile data may be obtained from Mr. Gabiola.

SUPPLEMENTARY INFORMATION: All entities which are interested in an allocation of capacity and energy from the CRSP, Collbran, Provo River, and Rio Grande Projects under the post-1989 marketing plan should furnish applicant profile data to the Salt Lake City Area Manager on or before March 15, 1983. This data also will be utilized for such other purposes as area load and resource studies. The content and format of the requested data is as follows:

Applicant Profile Data

1. Eligibility—a statement of eligibility as a preference customer under Reclamation Law and pertinent statutes, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)).

2. Organization—a brief description of the organization that will interact with Western on contract and billing matters.

3. Loads—a. Number and type of customers served: residential, commercial, industrial, military base, agricultural, or other.

b. Monthly maximum demand and energy use for 1980, 1981, and 1982 versus contract rates of delivery for Federal power.

c. Weekly load duration curves for the peak weeks in the summer and winter seasons for 1980, 1981, and 1982 for the total system load or hourly load data for producing such load druation curves.

d. Average annual seasonal and monthly load factors for the total system for 1980–1982.

e. Projected load factors and monthly capacity and energy demand 1983–2010 period. Indicate forecasting method and basic assumptions.

4. Resources—a. List of operating generating resources, if any, including capacity, location, and 1982 availability factor.

b. Estimated percent of total supply received from Western, 1983–1989.

c. Status of power supply contracts with parties other than Western.

5. Transmission—

a. Voltage of service required and location of possible delivery points.

b. A brief description of the type of transmission service being requested of Western, direct or wheeled.

6. Renewable Resources and Congeneration Projects—a. List of future firm and planned resources, if any, including capacity, location, scheduled operation date, and expected average annual lifetime capacity factor.

b. Estimated busbar cost (cent/kWH) of each project in 1983 dollars.

c. As appropriate, proposed plans for wheeling to Western's system.

7. The name, address, and telephone number of a contact person from the cousulting firm used, if any.

8 Any other information the applicant desires to include. Although not required, Western would appreciate receiving load duration curves for recent summer and winter seasons or hourly load data for a year.

9. The signature and title of an appropriate official who is able to attest to the validity of the data submitted and who is authorized to submit an application for power.

The proposed post-1989 power marketing plan which had been scheduled tentatively for publishing in the **Federal Register** in January 1983 has been delayed in view of the need for applicant profile data to better evaluate alternate allocation methods. Western expects to publish a proposal by mid-summer 1983. The public information and comment forums which were tentatively scheduled for February and March 1983 will be rescheduled later. Western expects to complete the post-1989 power marketing plan and allocation prior to October 1, 1984.

Issued at Golden, Colorado, January 28, 1983.

Robert L. McPhail,

Administrator.

[FR Doc. 83–3031 Filed 2–3–83; 8:45 am]

BILLING CODE 6450–01–M

VOL 48 ISS 25 FE 4 1983 UMI

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51451TSH; FRL 2295-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of thirty PMN's and provides a summary of each.

DATES: Close of Review Period:

PMN 83-393, 83-394, 83-395, 83-396, and 83-397—April 16, 1983

PMN 83-398, 83-399, 83-400, 83-401, 83-402 and 83-403—April 17, 1983

PMN 83-404, 83-405, 83-406, 83-407, 83-408, 83-409, 83-410, 83-411, 83-412 and 83-413—April 18, 1983

PMN 83-414, 83-415, 83-416, 83-417, 83-418, 83-419, 83-420, 83-421 and 83-422—April 19, 1983

Written comments by:

PMN 83-393, 83-394, 83-395, 83-396 and 83-397—March 17, 1983

PMN 83-398, 83-399, 83-400, 83-401, 83-402 and 83-403—March 18, 1983

PMN 83-404, 83-405, 83-406, 83-407, 83-408, 83-409, 83-410, 83-411, 83-412 and 83-413—March 19, 1983

PMN 83-414, 83-415, 83-416, 83-417, 83-418, 83-419, 83-420, 83-421 and 83-422—March 20, 1983

ADDRESS: Written comments, identified by the document control number "[OPTS-51451]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMN's received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-393

Manufacturer. Celanese Corporation.

Chemical. (G) Aromatic amine-epoxy resin adduct.

Use/Production. (G) Controlled release. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 24 workers, up to 8 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 100-1,000 kg/yr released to land. Disposal by approved landfill.

PMN 83-394

Manufacturer. Celanese Corporation.

Chemical. (G) Poly glycidyl amine.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 20 workers, up to 8 hrs/da, up to 15 da/yr.

Environmental Release/Disposal. 100-1,000 kg/yr released to land. Disposal by approved landfill.

PMN 83-395

Manufacturer. Confidential.

Chemical. (G) Modified alkyd polymer from a vegetable oil, carbomonocyclic anhydride, carbomonocyclic acid, a substituted alkane triol and a substituted alkanoic ester.

Use/Production. (G) Open use. Prod. range: 0-450,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal, inhalation, and eye, a total of 128 workers, up to 8 hrs/da, up to 230 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with more than 10,000 kg/yr to land. Disposal by incineration, landfill, or sold as fuel.

PMN 83-396

Manufacturer. Chem-Fleur, Inc.

Chemical. (G) Methoxy dicyclopentadiene carboxaldehyde.

Use/Production. (S) Industrial and consumer fragrance base. Prod. range: 1,000-15,000 kg/yr.

Toxicity Data. Irritation: Skin—Non-irritant, Eye—Irritant; LD^{50}: 2.8 g/kg.

Exposure. Confidential.

Environmental Release/Disposal. Less than 10 kg/yr released to air, 3½ hrs/da, 9 da/yr. Disposal by incineration.

PMN 83-397

Manufacturer. Confidential.

Chemical. (G) Amine salt of a phosphonic acid.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Minimal.

Environmental Release/Disposal. No release. Disposal in accordance with Resource Conservation Recovery Act (RCRA).

PMN 83-398

Manufacturer. R. T. Vanderbilt Company, Inc.

Chemical. (G) Substituted 1,3,4-thiadiazole.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal and inhalation, minimal.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land. Disposal by approved landfill.

PMN 83-399

Manufacturer. Confidential.

Chemical. (S) Polymer of dimethyl ester of 4,4•-(hydroxymethylene) bis-1,2-benzenedicarboxylic acid with 4,4•-oxydianiline.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Minimal.

Environmental Release/Disposal. Minimal. Disposal by approved landfill.

PMN 83-400

Manufacturer. Confidential.

Chemical. (G) Copolymer of acrylic and methacrylic monomers.

Use/Production. (G) Open use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture processing and use: dermal and eye, a total of 29 workers, up to 8 hrs/da, up to 25 da/yr.

Environmental Release/Disposal. 100-10,000 kg/yr released to land. Disposal by approved landfill.

PMN 83-401

Importer. Confidential.

Chemical. (G) Naphthalenetrisulfonic acid, chlorotriazinylamino-methoxymethylphenylazo.

Use/Import. (S) Industrial dye for fibers and fabrics. Import range: 200-1,500 kg/yr.

Toxicity Data. Acute oral: 6 g/kg; Irritation: Skin—Slight, Eye—Slight.

Exposure. Processing: dermal and inhalation, a total of 1-3 workers, up to 2-3 hrs/da, up to 70-100 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air with

100–1,000 kg/yr to water, 2–3 hrs/da, 75–100 da/yr. Disposal by incineration and approved landfill.

PMN 83–402

Manufacturer. W. R. Grace & Company.

Chemical. (G) Poly alkylene oxide-aromatic diisocyanate prepolymer.

Use/Production. (S) Unknown industrial uses. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: dermal, a total of 6 workers, up to 16 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. No release. Disposal by state and federal regulations.

PMN 83–403

Importer. Sandoz Colors & Chemicals.

Chemical. (G) Disazo aromatic compound.

Use/Production. (S) Site limited intermediate. Import range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Processing: dermal, a total of 1 worker, up to 1½ hr/da, up to 3 da/yr.

Environmental Release/Disposal. No Release.

PMN 83–404

Manufacturer. Confidential.

Chemical. (G) Unsaturated amide quaternary ammonium polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. 96 hr LC_{50} (fathead minnow): 2.0 mg/1; 48 hr LC_{50} (Daphnia magna): 81mg/1.

Exposure. Manufacture and use: Minimal.

Environmental Release/Disposal. No release.

PMN 83–405

Manufacture. Confidential.

Chemical. (G) Polymer of a methacrylate ester, an unsaturated alcohol ester and a maleate diester.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Minimal.

Environmental Release/Disposal. Release is negligible. Disposal by RCRA.

PMN 83–406

Importer. Confidential.

Chemical. (G) Benzenesulfonic acid, aminochlorotriazinylamino-carboxychlorophenylpyrazolonylazo-.

Use/Import. (S) Industrial dye for fibers and fabrics. Import range: 400–5,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin-Moderate.

Exposure. Processing, use and disposal: dermal and inhalation, a total of 80 workers, up to 4 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr to air with 100–1,000 kg/yr to water. Disposal by publicly owned treatment works (POTW) and incineration.

PMN 83–407

Manufacture. Celanese Corporation.

Chemical. (G) Unsaturated ester of a substituted aryl ether polymer.

Use/Production. (G) Open use. Prod. range: 1,000–10,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal, a total of 12 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–100 kg/yr to land. Disposal by incineration and approved landfill.

PMN 83–408

Importer. Rhone-Poulenc, Inc.

Chemical. (G) Triazine trisisocyanate.

Use/Import. (S) Paint formulation. Import range: 100,000–200,000 lbs/yr.

Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin-Slight, Eye-Very irritating.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83–409

Manufacturer. Confidential.

Chemical. (G) N,N'-alkylene bis(di-2-ethylhexyl phosphorodithioyl) alkanamide.

Use/Production. (S) Site limited lubricant additive. Prod. range: 15,900–450,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and disposal: dermal, inhalation and eye, a total of 3 workers, up to 1 hr/da, up to 25 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by approved landfill.

PMN 83–410

Manufacturer. Confidential.

Chemical. (G) N,N'-dimethyl alkyl amine salts of mono-and-di-2-ethylhexyl hydrogen phosphates.

Use/Production. (S) Site limited lubricant additive. Prod. range: 10,500–140,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture, processing and disposal: dermal, inhalation and eye, a total of 5 workers, up to 3 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. 100–1,000 kg/yr released to air and less than 10 kg/yr to water and land. Disposal by POTW and approved landfill.

PMN 83–411

Manufacturer. Confidential.

Chemical. (G) $C_{18-14}t$-alkylamine salts of alkyl acid phosphates.

Use/Production. (S) Site limited lubricant additive. Prod. range: 225,000–320,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture, processing and disposal: dermal, inhalation and eye, a total of 5 workers, up to 3 hrs/da, up to 46 da/yr.

Environmental Release/Disposal. 100–1,000 kg/yr released to air and less than 10 kg/yr to water and land. Disposal by POTW and approved landfill.

PMN 83–412

Importer. Confidential.

Chemical. (G) Substituted pyridinium, chloride.

Use/Import. (S) Colorant for paper. Import range: Confidential.

Toxicity Data. Acute oral: 1.56 ml/kg; Irritation: Skin—Slight, Eye—Severe; LC_{50}>1 mg/1; LC_{50}, 48 hrs. 10 mg/1.

Exposure. Processing.

Environmental Release/Disposal. No release. Disposal by POTW and biological treatment system.

PMN 83–413

Manufacturer. Confidential.

Chemical. (G) Modified epoxy polymethacrylate resin.

Use/Production. Confidential. Prod. range: 100,000–500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and inhalation, a total of 7 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. No release. Disposal by POTW and approved landfill.

PMN 83–414

Importer. Sandoz Colors & Chemicals.

Chemical. (G) Disazo, substituted aromatic compound.

Use/Import. (S) Site-limited intermediate. Import range: Confidential.

Toxicity Data. No data on the PMN submitted.

Exposure. Processing: dermal, a total of 2 workers, up to 1 hr/da, up to 9 da/yr.

Environmental Release/Disposal. No release. Disposal by biological treatment system.

PMN 83–415

Importer. Sandoz Colors & Chemicals.
Chemical. (G) Aromatic disazo compound.
Use/Import. (S) Colorant for writing paper. Import range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Processing: dermal.
Environmental Release/Disposal. Less than 10 kg/yr released to air with 10–100 kg/yr to water. Disposal by biological treatment system.

PMN 83–416

Importer. Sandoz Colors & Chemicals.
Chemical. (G) Disazo, substituted aromatic compound.
Use/Import. (S) Site-limited intermediate. Import range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Processing.
Environmental Release/Disposal. No release. Disposal by biological treatment system.

PMN 83–417

Manufacturer. Confidential.
Chemical. (G) Alkyl diamine.
Use/Production. (G) Open use. Prod. range: Confidential.
Toxicity Data. No date submitted.
Exposure. Minimal.
Environmental Release/Disposal. Less than 10 kg/yr released to water with 10–100 kg/yr to land.

PMN 83–418

Importer. Confidential.
Chemical. (G) Benzenedisulfonic acid, chlorotriazinylamino-dimethylphenylazo-sulfonaphthaleneazo-.
Use/Import. (S) Industrial dye for fibers and fabrics. Import range: 200–1,500 kg/yr.
Toxicity Data. Acute oral: 5 g/kg; Irritation: Skin—Slight, Eye—Slight.
Exposure. Processing: dermal and inhalation, a total of 4–6 workers, up to 2–3 hrs/da, up to 70–100 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air, 2–3 hrs/da, 70–100 da/yr. Disposal by POTW, incineration, approved landfill and waste treatment plant.

PMN 83–419

Importer. Confidential.
Chemical. (G) Nbaphtholdisulfonic Acid, chlorotriazinylamino-sulfophenylazo-.
Use/Import. (S) Industrial dye for fibers and fabrics. Import range: 200–1,500 kg/yr.
Toxicity Data. Acute oral: 5 g/kg: Irritation: Skin—Slight, Eye—Moderate.
Exposure. Processing: dermal and inhalation, a total of 4–6 workers, up to 2–3 hrs/da, up to 70–100 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air 2–3 hrs/da, 70–100 da/yr. Disposal by POTW, incineration, approved landfill and waste treatment plant.

PMN 83–420

Manufacturer. King Industries, Inc.
Chemical. (G) Acrylic—styrene oligomer.
Use/Production. (S) High solids coating component. Prod. Range: Confidential.
Toxicity Data. Acute oral: >5 ml/kg; Acute dermal: >2 ml/kg; Irritation: Skin—Mild, Eye—Minimal; LC_{50}, 4 hr; >11.7 mg/1/hr.
Exposure. Manufacture: dermal, a total of 3 workers, up to 21 hrs/da, up to 173 da/yr.
Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 83–421

Manufacturer. King Industries, Inc.
Chemical. (G) Acrylic—styrene oligomer.
Use/Production. (S) High solids coating component. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 ml/kg: Acute dermal: >2 ml/kg; Irritation: Skin—Moderate, Eye—minimal; LC_{50}, 4 hr; >21.9 mg/1/hr.
Exposure. Manufacture: dermal, a total of 3 workers, up to 21 hrs/da. up to 173 da/yr.
Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 83–422

Manufacturer. Celanese Corporation.
Chemical. (G) Aromatic polyamic acid.
Use/Production. (G) Open use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and processing: dermal, a total of 26 workers, up to 24 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and land.

Dated: January 21, 1983.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 83–2872 Filed 2–3–83; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–59114; FRC 2295–4]

Unsaturated Amide Quaternary Ammonium Polymer; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting of the exemption.

DATE: Written comments by February 22, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–59114]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

TME 83–19

Close of Review Period. March 4, 1983.
Manufacturer. Confidential.
Chemical. (G) Unsaturated amide quaternary ammonium polymer.
Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. 96 hrs. LC_{50} (Fathead minnow)—2.0 mg/l; 48 hrs. LC_{50} (Daphnia magna)—81 mg/l.

Exposure. Manufacture, processing and use: during material transfer, drumming or disposal.

Environmental Release/Disposal. No release.

Dated: January 21, 1983.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 83-2873 Filed 2-3-83; 8:45 am]

BILLING CODE 6560-50-M

[A-3-FRL 2299-3]

Determinations—EPA, Region III, Prevention of Significant Air Quality

I. PSD Permits Issued

A. Consolidation Coal Company, Greene County, Pennsylvania

Notice is hereby given that on May 3, 1982, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Consolidation Coal Company for approval to construct and operate a thermal dryer at its Bailey Mine in Greene County, Pennsylvania.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations applicable to the thermal dryer, subject to certain conditions, including:

1. Total emissions from the thermal dryer at the Bailey Mine shall not exceed the limitations specified below:

Particulate Matter, 0.031 gr/DSCF;
Sulfur Oxides, 1.9 lb/MMBTU;
Oxides of Nitrogen, 0.6 lb/MMBTU;

2. Emissions from the thermal dryer shall not exhibit opacity greater than 20 percent.

3. The operator shall comply with all the applicable requirements of 40 CFR Part 60, Subpart Y—Standards of Performance for Coal Preparation Plants.

4. Within the time limits specified in General Condition 4 of this permit, stack emission tests for particulate matter, sulfur oxides, and oxides of nitrogen shall be conducted at the Bailey Mine thermal dryer in accordance with approved EPA methods as described in 40 CFR Part 60, Appendix A, Methods 5, 7, and 8.

5. The operator shall install, calibrate, maintain, and continously operate the monitoring devices specified in 40 CFR Part 60, Subpart Y (§ 60.253).

B. A. E. Staley Manufacturing Company, Morrisville, Pennsylvania

Notice is hereby given that on May 27, 1982, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the A. E. Staley Manufacturing Company for approval to construct and operate a 249 MMBTU coal-fired boiler located at East Post Road, Morrisville, Pennsylvania.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations applicable to the coal-fired boiler, subject to certain conditions, including:

1. The emissions from the proposed boiler shall not exceed the limitations specified below:

Particulates, 0.10 lb/MMBTU;
Sulfur Dioxides, 0.90 lb/MMBTU;
Nitrogen Oxides, 0.70 lb/MMBTU.

2. Within the time limits specified in General Condition 4 of this permit, stack emission tests for particulates, sulfur dioxide and nitrogen oxides shall be conducted on the proposed boiler in accordance with approved EPA test methods as described in 40 CFR Part 60, Appendix A.

3. Emission compliance testing shall be conducted while the boiler is operating at a minimum of 90% of design load capacity.

C. Texas Eastern Transmission Corporation, Greensburg, Pennsylvania

Notice is hereby given that on July 7, 1982, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Texas Eastern Transmission Corporation for approval to construct and operate a natural gas-fired turbine at Delmont Station, Greensburg, Pennsylvania.

This permit has been issued under EPA's Prevention of significant Air Quality Deterioration (40 CFR 52.21) regulations applicable to the natural gas turbine, subject to certain conditions, including:

1. Emissions from the natural gas turbine shall not exceed the limitations specified below:

Oxides of Nitrogen—150 PPMV Corrected to 15% O_2 and 40 CFR 60.332(a)(2).

2. Within the time limits specified in General Condition 3 of this permit, stack emission tests for oxides of nitrogen shall be conducted at the gas turbine in accordance with approved EPA methods as described in 40 CFR Part 60, Appendix A, Method 20.

3. Emissions date and operating parameters shall be monitored in accordance with 40 CFR Part 60, Subpart GG.

II. PSD Nonapplicability Determination

Gulf Energy Processing Corporation, Weston, West Virginia

Notice is hereby given that on August 18, 1982, the Environmental Protection Agency issued a PSD nonapplicability determination to the Gulf Energy Processing Corporation for its proposed gas processing plant near Weston, West Virginia. It was determined that emissions from the plant will be less than 250 tons per year and therefore, the PSD requirements would not be applicable to the plant.

This nonapplicability determination does not relieve the reviewed source of the responsibility for complying with all local, State, and Federal regulations which are part of the State Implementation Plan. A determination will be void if the information submitted and used as a basis for the PSD nonapplicability decision proves to be incorrect or is modified.

III. Permit Extension

Adolph Coors Company, Elkton, Virginia

Notice is hereby given that on January 7, 1983, the Environmental Protection Agency approved a three year extension of the Adolph Coors Company's PSD permit. On November 16, 1982, EPA published a Notice of Proposed Approval and Public Comment Period (47 FR 51609) relative to the extension request. No comments were received.

Therefore, EPA has now approved the requested extension. All conditions contained in the March 19, 1981 PSD permit remain the same. The extension approval, however, contains the following additional conditions:

1. The PSD permit for the Coors' Elkton, Virginia facility is extended until September 19, 1985.

2. All emission limitations, reporting requirements and permit conditions contained in the March 19, 1981 permit remain in effect unless and until revised by the Environmental Protection Agency.

3. By March 19, 1984, the Company must submit an updated status report on this project including the corporate financial data, consumer market conditions, and construction status.

4. By June 30, 1984, EPA will complete its review of this material and perform a re-evaluation and update, if necessary, of the BACT determination and air quality modeling analyses. At this time, if construction has not yet commenced, permit conditions and emission

limitations will be revised if appropriate.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the above listed final actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 5, 1983.

Copies of these PSD determinations are available for public inspection upon request at the following location: Air Programs & Energy Branch (3AW10), Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106. Attention: Ms. Eileen Glenn (215/597–8187).

Dated: January 21 1983.

Peter N. Bibko,

Regional Administrator, EPA—Region III.

[FR Doc. 83–83 Filed 3067–2–83; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2293–7]

Availability of Environmental Impact Statements Filed January 17 Through January 21, 1983, Pursuant to 40 CFR 1506.9

Correction

In FR Doc. 83–2376 on page 4046 in the issue of Friday, January 28, 1983, make the following corrections in the second column:

1. Under "Environmental Protection Agency", in EIS 830029, "LI" should read "IL" and "NM" should read "MN".

2. Under "Amended Notices", the Due date in all three EIS's listed should read "April 8, 1983".

BILLING CODE 1505–01–M

[ER–FRL–2299–4]

Availability of Environmental Impact Statements Filed January 24 Through January 28, 1983 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities General Information (202) 382–5075 or 382–5076.

Corps of Engineers:
- EIS No. 830043 Report, COE, SEV, AR, LA, Red River Emergency Bank Protection and Stabilization
- EIS No. 830041 Final, COE, NY, Lower East Entrance Channel, Ogdenburg Harbor, St. Lawrence County, Due: 03–07–83

Department of Commerce:
- EIS No. 830053 DSuppl, NOA, REG, PAC, CA, OR, WA, 1983 Salmon Fisheries, Fishery Management Plan, Due: 03–12–83

Department of Defense:
- EIS No. 830044 Final, DOD, CA, Terminal Island Complex, Fuel Pier Relocation, Los Angeles County, Due: 03–07–83

Department of the Interior:
- EIS No. 830045 Final, NPS, SEV, WY, MT, ID, Yellowstone National Park, Grizzly Bear Management Plan, Due: 03–07–83
- EIS No. 830046 FSuppl, BLM, PRO, CO, Prototype Oil Shale, Leasing Plan, Piceanse Basin, Rio Blanco Co., Due: 03–07–83

Department of Transportation:
- EIS No. 830039 Draft, FHW, MA, Third Harbor Tunnel/I–90 Extension, I–93 to East Boston, Suffolk Co., Due: 03–21–83
- EIS No. 830037 Draft, FHW, MN, West River Parkway Extension and Development, Hennepin County, Due: 03–21–83
- EIS No. 830050 Draft, FHW, MN, CSAH–18 Completion, I–494 to TH–13 and TH–101, Hennepin and Scott Cos., Due: 03–31–83
- EIS No. 830051 Draft, FHN, MN, CSAH–62 Extension, CSAH–4 to CSAH–61, Hennepin County, Due: 03–29–83
- EIS No. 830040 Final, FHW, CA, CA–49/CA–108/Sonora Bypass Construction, Tuolumne County, Due: 03–07–83
- EIS No. 830048 Final, FHW, VA, Jefferson Davis Highway/US 1 Improvement, Arlington County, Due: 03–07–83

Environmental Protection Agency:
- EIS No. 830038 Draft, EPA, REG, Petroleum Refining Industry, Emission, Performance Standards, Due: 03–21–83
- EIS No. 830047 Final, EPA, PR, ATL, San Juan Harbor Dredged Disposal Site, Designation, Due: 03–07–83
- EIS No. 830049 Final, EPA, MD, Patuxent Wastewater Treatment Facilities, Grant, Anne Arundel County, Due: 03–07–83
- EIS No. 830052 DSuppl, EPA, LA, Dolet Hill Power Plant, NPDES Permit, De Soto Parish, Due: 03–21–83

Department of Housing and Urban Development:
- EIS No. 830055 Draft, HUD, MD, Riverside Development, Mortgage Insurance, Harford County, Due: 03–21–83

Department of Agriculture:
- EIS No. 830036 Draft, AFS, AZ, Tonto National Forest Land and Resource Management Plan, Due: 04–22–83
- EIS No. 830042 Final, AFS, AK, Greens Creek Mining Project, Tongass National Forest, Approval, Due: 03–07–83
- EIS No. 830054 DSuppl, AFS, CA, Devers-Serrano-Villa Park Transmission Lines, Orange & Riverside Cos., Due: 03–21–83

Amended Notices:
- EIS No. 820770 LDraft, UAF, LEG, Peacekeeper, M–X Missile Closely Spaced Basing, Published FR 12–06–82—Announcement of closing date for comments, Due: 03–08–83
- EIS No. 830023 Draft, EPA, AK, City of Anchorage Wastewater Treatment Facilities Expansion, Grant, Published FR 01–21–83—Incorrect due date. Due: 03–07–83

Dated: February 1, 1983.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 83–3062 Filed 2–3–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

[Agreement No. 7680–46]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 7680–46 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required.

This agreement allows members of the American West African Freight Conference to serve ports and points between Canadian Atlantic and St. Lawrence River Ports and U.S. Atlantic and Gulf ports and African ports. The Conference includes Barber West Africa Line, Black Star Line, Ltd., Compagnie Maritime Zairoise, S.A.R.I., Companhia Nacional de Navegacao, Delta Steamship Line, Inc., Elder Dempster Lines, Ltd., Farrell Lines Incorporated, Jeco Shipping Line Int'l. N.V., Medafrica Line, Nigeria America Line, Ltd., Societe Ivorienne de Transport Maritime, Sitram, Torm West Africa Line, Uiterwyk Lines (West Africa) Ltd., and Westwind Africa Line, Ltd.

This finding of No Significant Impact (FONSI) will become final within 20 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83–3069 Filed 2–3–83; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies; FNB Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *FNB Bancorp, Inc.*, Newtown, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank and Trust Company of Newtown, Newtown, Pennsylvania. Comments on this application must be received not later than February 28, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Bancshares of Hayti, Inc.*, Hayti, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Hayti, Hayti, Missouri. Comments on this application must be received not later than February 28, 1983.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *TwinCo, Inc.*, Twin Bridges, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of PaRu, Inc., Twin Bridges, Montana, which owns 83.71 percent of First National Bank of Twin Bridges, Twin Bridges, Montana. Comments on this application must be received not later than February 28, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Metro Bancorp., Inc.*, Phoenix, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of Metropolitan Bank (In Organization), Phoenix, Arizona. Comments on this application must be received not later than February 28, 1983.

E. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Banco de Vizcaya S.A.*, Bilbao, Spain; to become a bank holding company by acquiring at least 68 percent of the voting shares of Banco Comercial de Mayaguez, Mayaguez, Puerto Rico. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Comments on this application must be received not later than February 25, 1983.

Board of Governors of the Federal Reserve System, January 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3027 Filed 2-3-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; First Colonial Group, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First Colonial Group, Inc.*, Nazareth, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Nazareth National Bank and Trust Company, Nazareth, Pennsylvania. Comments on this application must be received not later than March 2, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Watseka Banc Corporation*, Watseka, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The First Trust and Savings Bank of Watseka, Illinois, Watseka, Illinois. Comments on this application must be received not later than March 2, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Unicorp Bancshares-Houston, Inc.*, Houston, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Unitedbank-Metro, Houston, Texas. Comments on this application must be received not later than March 2, 1983.

Board of Governors of the Federal Reserve System, January 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3017 Filed 2-3-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; Northern Trust Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Northern Trust Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares or assets of First Security Bank of Oak Brook, Oak Brook, Illinois. Comments on this application must be received not later than February 28, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *South Dakota Bancshares, Inc.*, Pierre, South Dakota; to acquire 57.8 percent of the voting shares or assets of

Farmers State Bank, Faith, South Dakota. Comments on this application must be received not later than February 28, 1983.

Board of Governors of the Federal Reserve System, January 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3028 Filed 2-3-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Company; Proposed de Novo Nonbank Activities; Citizens Bancorporation

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Bancorporation,* Sheboygan, Wisconsin (management consulting, data processing; Wisconsin): To engage, through its subsidiary, Citizens Management Services Corporation in providing management consulting advice to nonaffiliated banks and nonbank depository institutions; and, providing data processing and data transmission services, data bases or facilities for the internal operations of the holding company or its subsidiaries and for others. These activities would be conducted from an office in Sheboygan, Wisconsin, serving the entire State of Wisconsin. Comments on this application must be received not later than February 22, 1983.

Board of Governors of the Federal Reserve System, January 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3016 Filed 2-3-83; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee, Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on December 20, 1982, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $3 billion to $4 billion the limit on changes between Committee meetings in System Account holdings of U.S. government and federal agency securities, effective immediately, for the period ending with the close of business on February 9, 1983.

On January 25-26, 1983, the Committee voted to approve an additional increase to $5.5 billion in the intermeeting limit on changes in holdings of U.S. government and federal agency securities, effective immediately, for the period ending with the close of business on February 9, 1983.

Note.—For paragraph 1(a) of the authorization, see 36 FR 22697. By order of the Federal Open Market Committee, January 28, 1983.

Murray Altmann,

Secretary.

[FR Doc. 83-3018 Filed 2-3-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) Northeast Texas Electric Cooperative, Inc.'s proposed acquisition of certain assets of Southwestern Electric Power Company.	Jan. 13, 1983.
(2) PSA, Inc.'s proposed acquisition of certain assets of Braniff Airways, Incorporated.	Jan. 11, 1983.
(3) Transaction Number 83-004, Thorofare Corporation's proposed acquisition of all assets of Casa Blanca Fan Company, Inc.	Jan. 14, 1983.
(4) Transaction Numbers 83-009 & 83-0011, the Plessey Company, plc's proposed acquisition of certain voting securities of Scientific Atlanta, Inc.	Jan. 20, 1983.
(5) Transaction Number 83-1104, Archer-Daniels-Midland Company's proposed acquisition of certain voting securities of Valmac Industries, Inc.	Jan. 17, 1983.
(6) Transaction Number 83-0013, Lear Petroleum Corporation's proposed acquisition of certain assets of Lathrop Field.	Do.
(7) Transaction Number 83-0010, Cliff & Dorothy Lane's proposed acquisition of certain voting securities of Archer-Daniels-Midland.	Do.
(8) Transaction Number 83-0024, National Distillers & Chemical Corp., proposed acquisition of certain voting securities of Suburban Propane Gas Corporation.	Do.
(9) Transaction Number 83-0999, Redland PLC's proposed acquisition of certain voting securities of Boston Industries, Inc.	Nov. 18, 1982.
(10) Transaction Number 83-0014, Anderson Strathclyde PLC's proposed acquisition of certain voting securities of National Mine Service Company.	Jan. 21, 1983.
(11) Transaction Number 83-0021, Selmi K. Zilkha's proposed acquisition of certain voting securities of McDonough Company.	Do.
(12) Transaction Number 83-0025, Lenox, Incorporated's proposed acquisition of all voting securities of Hartmann Luggage Company.	Jan. 20, 1983.
(13) Transaction Number 83-0031, KKR Associates' proposed acquisition of all voting securities of Dillingham Corporation.	Jan. 21, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 83-3070 Filed 2-3-83; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Assessment of Emerging Technologies for Future Office Building Structural and Enclosure Systems (Questionnaire)

AGENCY: General Services Administration.

ACTION: Notice of Information Collection; New.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget to review and approve the use of a information collection request for the collection of data.

DATES: Comments on the information request must be submitted on or before February 25, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: George Turner on (202-921-2140).

SUPPLEMENTARY INFORMATION: The information is necessary to provide data regarding the design, rehabilitation, and construction of future buildings. The results will be used for technological forecast and program planning regarding future needs of Federal office facilities. It is estimated that a total of 120 architects, engineers, and university professors will be contacted to provide data for the proposed questionnaire. The total estimated burden per response is 1 hour. A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone (202-566-1164).

Dated: January 27, 1983.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 83-3033 Filed 2-3-83; 8:45 am]

BILLING CODE 6820-34-M

GOVERNMENT PRINTING OFFICE

Information Industry Council of the U.S. Government Printing Office; Agenda and Notice of Meeting

Notice is hereby given that a meeting of the Information Industry Council of the U.S. Government Printing Office will convene at 9:30 a.m. and will adjourn at 4 p.m. on March 4, 1983, in the Carl Hayden Room of the Government Printing Office, North Capitol and H Streets NW., Washingon, D.C. 20401. The purpose of the meeting will be to advise the Public Printer on the potential impact of technological advances in the information industry on the operations of the Government Printing Office. The agenda will include discussions and presentations on GPO strategic planning, procurement, and documents dissemination programs.

Persons desiring additional information should contact Joseph E. Jenifer, Assistant Public Printer (Planning), U.S. Government Printing Office, Stop SP, North Capitol and H Streets NW., Washingon, D.C. 20401, (202) 275-2664.

Dated at Washington, D.C., February 2, 1983.

Joseph E. Jenifer,

Assistant Public Printer (Planning).

[FR Doc. 83-3249 Filed 2-3-83; 8:45 am]

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Los Angeles District Office, chaired by Abraham I. Kleks, District Director.

DATE: Tuesday, February 15, 1983, 10 a.m.

ADDRESS: Cooperative Extension Service, 4341 East Broadway, Phoenix, Arizona 85040.

FOR FURTHER INFORMATION CONTACT: Irene Gomez Caro, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213-688-4395.

Chicago District Office, chaired by Mary K. Ellis, District Director.

DATE: Friday, February 18, 1983, 10 a.m. to 11:30 a.m.

ADDRESS: Buffalo Grove High School, 1100 W. Dundee Rd., Buffalo Grove, IL 60090.

FOR FURTHER INFORMATION CONTACT: Marie A. Ekvall, Consumer Affairs Officer, Food and Drug Administration, Main Post Office Bldg., 433 West Van Buren St., Rm. 1222, Chicago, IL 60607, 312-353-7126.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 31, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3032 Filed 2-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0377]

Medtronic Inc.; Premarket Approval of Versantrax ™ Model 7000 Pulse Generator and Cenys ™ Model 9701A Programmer

Correction

In FR Doc. 83-269 beginning on page 871 in the issue of Friday, January 7, 1983, make the following correction:

On page 872, first column, under supplementary information, in the eighth line, "Panel, and" should have read "Panel, an".

BILLING CODE 1505-01-M

J. B. Hunt Co.; Breeder Mix-42 HB; Withdrawal of Approval of NADA

Correction

In FR Doc. 82-29296, originally appearing on page 47486, on Tuesday, October 26, 1982, and corrected on page 3415, in the issue of Tuesday, January 25, 1983, the heading should read as printed above.

BILLING CODE 1505-01-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of

Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was last published on January 28.

Public Health Service

Health Resources and Services Administration

Subject: Health Resources and Services Administration Interim Abortion Reporting Procedures (0915–0008)—Reinstatement
Respondents: Federally-funded ambulatory health care centers and National Health Service Corps sites
OMB Desk Officer: Richard Eisinger

Food and Drug Administration

Subject: Food Canning Establishment Registration and Process Filing (0910–0037)—Revision
Respondents: Food canning establishments
Subject: Importers Entry Notice (0910–0046)—Extension/No Change
Respondents: Food and drug importers and brokers
Subject: Registration of Cosmetic Product Establishment (0910–0027)—Extension/No Change
Respondents: Cosmetic product manufacturers and repackers
Subject: Food Additive Petitions (0910–0016)—Extension/No Change
Respondents: Manufacturers, suppliers or processors of food additives
OMB Desk Officer: Fay S. Iudicello

Centers for Disease Control

Subject: Congenital Syphilis Followup Report—New
Respondents: State and local health departments
OMB Desk Officer: Richard Eisinger

National Institutes of Health

Subject: Country of Birth, Immigration and Immigrant Fertility Supplement to the April 1983 Current Population Survey—New
Respondents: Individuals or households
OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: Winter and Summer State Survey of Low-Income Home Energy Assistance Program (SSA–283/SSA–284 (1–83))—New
Respondents: State and local governments
Subject: Application for Supplemental Security Income (SSA–8000–BK)—Revision
Respondents: Individuals or households
OMB Desk Officer: Milo Sunderhauf

Office of Human Development Services

Subject: Impact Measures for the Resource Access Projects Evaluation (0980–0103)—Reinstatement
Respondents: Head Start grantees and state education agency representatives
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503
ATTN: (name of OMB Desk Officer).

Dated: January 31, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83–3112 Filed 2–3–83; 8:45 am]
BILLING CODE 4150–04–M

Order of Succession

AGENCY: Department of Health and Human Services, Secretary.

ACTION: Notice.

SUMMARY: This notice sets forth the order of succession in the event of the absence or disability of the Secretary and the Under Secretary or in the event of a vacancy in the Office of the Secretary and Under Secretary.

EFFECTIVE DATE: January 31, 1983.

ORDER OF SUCCESSION: 1. The Under Secretary acts as Secretary during the absence or disability of the Secretary.

2. During the absence or disability of the Secretary and Under Secretary or in the event of a simultaneous vacancy in the offices of the Secretary and the Under Secretary, the Assistant Secretary for Legislation acts as the Secretary.

3. This order of succession shall be effective immediately and shall cease to be effective on the confirmation by the Senate and assumption of office by my successor.

Authority: Section 2 of Reorganization Plan No. 1 of 1953 (5 U.S.C. App.).

Dated: January 31, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83–3111 Filed 2–3–83; 8:45 am]
BILLING CODE 4150–04–M

Advisory Council on Social Security; Public Hearing

AGENCY: Department of Health and Human Services.

ACTION: Notice of Public Hearing.

SUMMARY: The Secretary of Health and Human Services announced on September 16, 1982 the establishment of the Advisory Council on Social Security. The Council is charged to place particular emphasis on a review of the Medicare program, and to prepare and submit reports on its findings and recommendations.

In an effort to obtain the views of interested organizations and individuals, within the constraints of available time, the Council decided to conduct public hearings in designated locations around the country. Notice is hereby given that a 1-day hearing will be held in St. Petersburg, Florida on March 1, 1983. Similar 1-day hearings were previously announced in 47 FR 56723, December 20, 1982, for San Francisco on February 24, and in 48 FR 1549, January 13, 1983, for the Chicago area on March 9. All hearings will run from 9:00 a.m.

ADDRESS: The St. Peterburg hearing will be held in the St. Petersburg Public Library, 3745 9th Avenue North, St. Petersburg, Florida 33713.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burke, Executive Director, Advisory council on Social Security, 200 Independence Avenue, SW., Washington, D.C. 20201; telephone (202) 755–8670 or 755–8671.

SUPPLEMENTARY INFORMATION: The hearings are open to the public. Attendance will be limited to the space available. Interested parties are invited to present testimony on Medicare issues; however, only those requesting in advance, preferably in writing, to appear will be permitted to present oral statements. Presenters should submit, 5 days in advance, 20 copies of their presentation, and should bring an additional 50 copies to the hearing to be made available to the public. Oral presentation should summarize the written statement, and will limited to a maximum of 5 minutes. Other written material can be submitted for the record. Submit written requests to present testimony to the Advisory Council on Social Security, ATTN:

Public Hearing, 200 Independence Avenue, SW., Washington, D.C. 20201, or telephone (202) 755–8670 or 755–8671.

The designated Chairperson or the Executive Director reserves the right to determine order of presentation, but will make every effort, within available time, to hear all who wish to be heard.

Sign language interpreting services will be provided if requested in advance.

Records will be kept of all public hearings and will be available for public inspection at the Office of the Administrative Officer, Advisory Council on Social Security, Room 317–H, HHH Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Thomas R. Burke,

Executive Director.

[FR Doc. 83–2316 Filed 2–3–83; 8:45 am]

BILLING CODE 4120–03–M

Public Health Service

Request for Exclusive License Extension

Pursuant to 45 CFR Parts 6 and 8, the Assistant Secretary for Health of the Department of Health and Human Services hereby gives notice of intent to determine whether the Government should aprove a seven year extension of an exclusive license issued to Bristol-Myers Company, to make, use, and sell an invention of Dr. Barnett Rosenberg, Ms. Loretta VanCamp, and Mr. Thomas Krigas, entitled "Anti-Animal Tumor Method," for which United States Patent No. 4,177,263 issued December 4, 1979. The invention involves the use of cis-platinum anti-tumor compounds, and was made at Michigan State University under National Institutes of Health research grant number GM–10890.

Narrative

Bristol-Myers Company (Bristol) currently holds an exclusive license to develop and market cis-platinum as a treatment of tumor cells. The exclusive license was originally issued in 1977 by Research Corporation, a patent management corporation assigned the patent rights in the invention by Michigan State University. Under its Institutional Patent Agreement (IPA) with the Department of Health and Human Services, the University and Research Corporation granted an exclusive license for a period of time not to exceed three years from the date of the first commercial sale in the United States of a product or process embodying the invention, or eight years from the date of the exclusive license, whichever occurred first.

In May 1978, Bristol and Research Corporation petitioned the Department for an extension of the period of exclusivity to five years from the date of commercial sale, instead of the three-year period originally granted. The Department granted this request and extended the exclusive license to December 26, 1983. Bristol and Research Corporation have now requested the Department to approve an extension of the exclusive license for an additional seven years. They base this request on their need for a continued period of exclusivity in order to warrant their further investment in research and development for this invention.

The Department has received requests from other manufacturers that the exclusive license not be extended, and that they be granted nonexclusive licenses to market the product. The requesters are submitting to the Department, and to the patent management agent, Research Corporation, development plans for the product should they be granted nonexclusive licenses to market cis-platinum.

Cis-platinum is a significant anti-cancer agent. The Government's principal concern is the expeditious development and marketing of the product for the benefit of the public.

Questions on which the Department is inviting public comment includ:

(1) Would the public best be served by extending the existing exclusive license to Bristol to further develop the product?

(2) Would it be in the best interest of the public to permit marketing of cis-platinum on a nonexclusive basis and invite as many pharmaceutical companies to apply as possible?

(3) How should the Government exercise its rights with respect to this invention in a manner that would best promote the public health?

The Department of Health and Human Services will make its determination of whether to approve an extension of the exclusive license on the basis of information already submitted to the Department and any other information submitted by interested parties. Any such submittals may include license applications and development plans indicating how the submitter proposes to develop and market the product should it be granted a nonexclusive license. License applications will be made available for review by the patent management agent, Research Corporation.

Date

Any such information should be submited not later than 60 days after the date of this notice.

Address for Comments and Additional Information

Comments and requests for additional information should be addressed to Leroy B. Randall, Chief, Patent Branch, Westwood Building, Room 5A03, c/o National Institutes of Health, Bethesda, Maryland 20205, (301 496–7056).

Authority: 45 CFR Parts 6 and 8.

Dated: January 28, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83–3028 Filed 2–3–83; 8:45 am]

BILLING CODE 4110–12–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–83–1206]

Mortgage and Loan Insurance Programs Under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner (HUD).

ACTION: Notice of Change in Debenture Interest Rates.

SUMMARY: This Notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Commissioner under the provisions of the National Housing Act (the "Act"). The interest rate for debentures issued under Section 221(g)(4) of the Act during the six-month period beginning January 1, 1983, is 9¾ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was initially endorsed for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the six-month period beginning January 1, 1983, is 10¼ percent.

EFFECTIVE DATE: February 4, 1983.

FOR FURTHER INFORMATION CONTACT: Arnold H. Diamond, Director, Office of Financial Management, Room 6186 Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 426–4325 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (24 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4) of the Act) shall bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was initially endorsed for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6) and 220.830. Each of these regulatory provisions states that the applicable rates of interest will be published twice each year as a notice in the **Federal Register**.

Section 224 further provides that the interest rate on these debentures shall be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the interest rate determined by the Secretary of the Treasury pursuant to a formula set out in the statute.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of Section 224, that the statutory maximum interest rate for the period beginning January 1, 1983, is 10¼ percent and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 10¼ percent for the six-month period beginning January 1, 1983. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4)) with an insurance commitment or endorsement date (as applicable) within the first six months of 1983.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since July 1, 1974:

Effective rate (percent)	On or after	Prior to
8½	July 1, 1974	July 1, 1975.
7	July 1, 1975	Jan. 1, 1976.
7½	Jan. 1, 1976	July 1, 1976.
7	July 1, 1976	Jan. 1, 1977.
6½	Jan. 1, 1977	July 1, 1977
7½	July 1, 1977	Jan. 1, 1978.
7½	Jan. 1, 1978	July 1, 1978.
7½	July 1, 1978	Jan. 1, 1979.
8	Jan. 1, 1979	July 1, 1979.
8½	July 1, 1979	Jan. 1, 1980.
9½	Jan. 1, 1980	July 1, 1980.
9½	July 1, 1980	Jan. 1, 1981.
11½	Jan. 1, 1981	July 1, 1981.
12½	July 1, 1981	Jan. 1, 1982.
12½	Jan. 1, 1982	Jan. 1, 1983.
10½	Jan. 1, 1983	

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) shall bear interest at the "going Federal rate" in effect at the time the debentures are issued. The term "going Federal rate", as used in that paragraph, is defined to mean the interest rate which the Secretary of the Treasury shall determine, pursuant to a formula set out in the statute, for the six-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to Section 221(g)(4) during the six-month period beginning January 1, 1983, is 9¾ percent.

HUD expects to publish its next notice of change in debenture interest rates in July 1983.

The subject matter of this notice falls within the categorical exclusion from HUD's environmental clearance procedures set forth in 24 CFR 50.21(a)(15). For that reason, no environmental finding has been prepared for this notice.

(Secs. 211, 221, 224, National Housing Act, 12 U.S.C. 1715B, 17151, 1715o; sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: January 28, 1983.

Philip Abrams,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 83-3015 Filed 2-3-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Gulf of Mexico; Leasing Systems, Sale No. 69 (Part II)

Section 8(a)(8) (43 U.S.C. 1337(a)(8)) of the Outer Continental Shelf Lands Act (OCSLA), as amended, requires that at least 30 days before any lease sale, a notice be submitted to the Congress and published in the **Federal Register**:

(A) Identifying the bidding systems to be used and the reasons for such use, and

(B) Designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

(A) Bidding systems to be used. In OCS Sale No. 69 (Part II), tracts will be offered under the following two bidding systems as authorized by section 8(a)(1) (43 U.S.C. 1337(a)(1)): (1) bonus bidding with a fixed 16⅔ percent royalty on 121 tracts, and (2) bonus bidding with a fixed 12½ percent royalty on 4 tracts.

(1) *Bonus Bidding with a 16⅔ Percent Royalty.* This system is authorized by section (8)(a)(1)(A) of the OCSLA, as amended. This system has been used extensively since the passage of the OCSLA in 1953 and imposes greater risk on the lessee than systems with higher contingency payments but may yield more rewards to firms if a commercial field is discovered. The relatively high front-end payments required may encourage rapid exploration.

(2) *Bonus Bidding with a 12½ Percent Royalty.* This system is authorized by section (8)(a)(1)(A) of the OCSLA, as amended. This system has been chosen for certain deep water tracts proposed for Sale No. 69 (Part II) because these tracts are expected to incur substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to more shallow water tracts. Department of the Interior analyses indicate that the minimum economically developable discovery on a tract in such high cost areas under a fixed 12½ percent royalty system would be less than for the same tracts under a 16⅔ percent royalty system. As a result, more tracts may be explored and developed. In addition, the lower royalty rate system is expected to yield more rapid production rates and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition since the higher costs for exploration and development are the primary restraints to competition.

(B) Designation of Tracts. The selection of tracts to be offered under the two systems was based on the following factors:

(1) Lease terms on adjacent tracts were considered in order to reduce administrative costs and barriers to unitization and to enhance orderly development of each field.

(2) Generally, tracts in deep water were selected for a 12½ percent royalty based on the favorable performance of this system in high cost areas.

The specific tracts to be offered under each system are as follows:

(a) Bonus Bidding with a 12½ Percent Royalty—Tracts 69–266 thru 69–269, and

(b) Bonus Bidding with a 16⅔ Percent Royalty—All remaining tracts.

Dated: January 31, 1983.

Harold E. Doley, Jr.,

Director, Minerals Management Service.

[FR Doc. 83-3025 Filed 2-3-83; 8:45 am]

BILLING CODE 4310-MR-M

Insignificant Revision in July 1982 5-Year Outer Continental Shelf Leasing Schedule; Sale No. 57

AGENCY: Department of the Interior, Minerals Management Service.

ACTION: Notice.

SUMMARY: The 5-Year Outer Continental Shelf (OCS) Leasing Schedule issued on July 21, 1982, provided for OCS Sale No. 57 (Norton Basin) to be held in November 1982. However, on August 12, 1982, the U.S. Court of Appeals for the Ninth Circuit in *California* v. *Watt*, No. 81-5699, ruled that the Coastal Zone Management Act (CZMA), in that specific instance, required the Department of the Interior to prepare a consistency determination prior to offering certain tracts in OCS Sale No. 53. Applying the decision broadly, the Department decided to review the consistency of Sale No. 57 with Alaska's CZM program. While the Department of the Interior does not believe that in every instance its activities leading to a sale and the issuance of leases after a sale directly affect a State's coastal zone, consistency determinations have been made in light of the court's opinion and in accordance with the CZMA and its implementing regulations. After considering the relative merits of delaying the sale to March 1983, it has been concluded that delaying the sale to complete the consistency determination serves the national interest.

After analyzing whether holding the sale 4 months later is a significant revision under section 18 of the OCS Lands Act, we have concluded that it would not be a significant revision of the 5-year program. Copies of this analysis are available from the address below.

FOR FURTHER INFORMATION CONTACT: Chris Oynes, Minerals Management Service (645), 12203 Sunrise Valley Drive, Reston, Virginia 22092, 202/343-3116.

Dated: January 27, 1983.

Harold E. Doley, Jr.,

Director, Minerals Management Service.

James G. Watt,

Secretary of the Interior.

[FR Doc. 83-3024 Filed 2-3-83; 8:45 am]

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UNITED STATES
DEPARTMENT OF THE INTERIOR
Minerals Management Service
Outer Continental Shelf
Gulf of Mexico

Oil and Gas Lease Sale No. 69 - Part II

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended, (92 Stat. 629), and the regulations issued thereunder (30 CFR Part 256, formerly 43 CFR Part 3300; see the Federal Register at 47 FR 47006, October 22, 1982). A revision of these regulations appeared in the Federal Register of June 16, 1982, at 47 FR 26031 and 25967.

2. Filing of Bids. Sealed bids will be received by the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, by mail, at P. O. Box 7944, Metairie, Louisiana 70010; or, if delivered in person, at the Imperial Office Building, 3301 North Causeway Boulevard, Metairie, Louisiana. Bids may be delivered to the above addresses until 4:15 p.m., March 7, 1983, or by personal delivery to the Louisiana Superdome, Gate "A," Level 200, Rooms 3, 4, and 5, 1500 Poydras St., New Orleans, Louisiana, between the hours of 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t., March 8, 1983. Bids received by the Regional Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Regional Manager prior to 9:30 a.m., c.s.t., March 8, 1983. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale was published in the Federal Register on October 6, 1982, at 47 FR 44166.

3. Method of Bidding. A separate bid must be submitted for each tract. Each bid must be placed in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10:00 a.m., c.s.t., March 8, 1983." A suggested bid form appears in 30 CFR Part 256, Appendix A, for bonus bid tracts. Bidders are advised that tract numbers are assigned solely for administrative purposes and that tract numbers are not the same as block numbers found on leasing maps or official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the Minerals Management Service. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point, e.g., 50.12345 percent. Other documents may be required of bidders under 30 CFR 256.46. Partnerships also need to submit a list of signatories authorized to bind the partnership. All documents must be executed in conformance with signatory authorizations on file. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment of $3 per acre or fraction thereof. The following systems will be utilized:

(a) Bonus Bidding with a 12½ Percent Royalty: Bids on tracts 69-266 through 69-269, must be submitted on a cash bonus basis with a fixed royalty of 12½ percent. All leases awarded under this system will provide for a minimum annual royalty payment of $3 per acre or fraction thereof.

(b) Bonus Bidding with a 16 2/3 Percent Royalty: Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus bid basis with a fixed royalty of 16 2/3 percent. All leases awarded under this system will provide for a minimum royalty payment of $3 per acre or fraction thereof.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., c.s.t., March 8, 1983, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982) and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See Item 14, "Information to Lessees."

6. Bid Opening. Bids will be opened on March 8, 1983, beginning at 10:00 a.m., c.s.t., at the last address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, March 8, 1983, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for the tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) the bidder has complied with all requirements of this notice and applicable regulations;
(b) the bid is the highest valid bid; and
(c) the amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $150 or more per acre or fraction thereof. Any bid submitted which does not conform to the requirements of this

TRACT LIST
OCS SALE 69
Part II

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $150 or more per acre or fraction thereof. Any bid submitted which does not conform to the requirements of this notice of sale, the OCS Lands Act, as amended, or applicable regulations may be returned to the person submitting that bid by the Regional Manager and not considered for acceptance.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's rental, and satisfy the bonding requirements of 30 CFR Part 256 Subpart I within the time provided in 30 CFR 256.47. A modification of the payments procedure for successful bidders appears in the revision of regulations discussed in paragraph 1, above. These changes do not apply to the submission of the one-fifth bonus with bids, described in paragraph 3, above.

11. Leasing Maps/Official Protraction Diagrams. Tracts offered for lease may be located on the following leasing maps/official protraction diagrams which are available from the Regional Manager, Gulf of Mexico OCS Region at the first address stated in paragraph 2.

(a) Outer Continental Shelf Leasing Maps - Louisiana Nos. 1 through 12. This is a set of 27 maps which sells for $17.

(b) Outer Continental Shelf Official Protraction Diagram Nos.:

NH 16-4 Mobile
NH 16-5 Pensacola
NH 16-7 Viosca Knoll
NH 16-8 Destin Dome
NG 16-6 (no name)
NH 17-4 Charlotte Harbor

These sell for $2 each.

12. Tract Descriptions. The tracts offered for bids are as follows:

Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental impact statement may not be included in this notice for various reasons, including the prior offering of specific tracts in OCS Sale No. 69 (Partial Offering) on November 17, 1982. Some of the blocks are included in prior environmental impact statements rather than the environmental impact statement for this sale.

TRACT LIST
OCS SALE 69
Part II

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69-103	86	All	4994.55
69-104	87	All	4994.55
69-105	88	All	4994.55
69-106	89	All	4994.55
69-107	90	All	4994.55
69-108	94	All	4994.55
69-109	95	All	4994.55
69-110	96	All	4994.55
69-111	97	All	4994.55
69-112	101	All	4994.55
69-113	146	All	4560.81
69-114	149	All	4999.96

OCS LEASING MAP, MAIN PASS AREA, SOUTH AND EAST ADDITION, LOUISIANA MAP NO. 10A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69-115	158	All	4994.55
69-116	160	All	4994.55
69-117	161	All	4994.55
69-118	162	All	4994.55
69-119	163	All	4994.55

OCS LEASING MAP, MAIN PASS AREA, SOUTH AND EAST ADDITION, LOUISIANA MAP NO. 10A
(Approved September 8, 1959)
OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69-120	(308 Main Pass (813 Viosca Knoll (814 Viosca Knoll	All	5585.30

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OCS OFFICIAL PROTRACTION DIAGRAM, PENSACOLA NH 16-5
(Approved October 10, 1972; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–121	926	All	5760
69–122	927	All	5760
69–123	929	All	5760
69–124	970	All	5760
69–125	972	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–127	815	All	5278.75

OCS OFFICIAL PROTRACTION DIAGRAM, DESTIN DOME NH 16-8
(Approved October 10, 1972, Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–128	2	All	5760
69–129	3	All	5760
69–130	4	All	5760
69–131	5	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, NG 16-6
(Approved June 5, 1974; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–159	479	All	5760
69–160	480	All	5122.89
69–161	522	All	5760
69–162	523	All	5760
69–163	524	All	5392.11
69–164	566	All	5760
69–165	657	All	437.27
69–166	696	All	5760
69–167	698	All	5760
69–168	699	All	5760
69–169	700	All	5760
69–170	701	All	704.83
69–171	740	All	5760
69–172	741	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, NG 16-6
(Approved June 5, 1974, Revised December 2, 1976)
(Continued)

Tract	Block	Description	Acreage
69-173	742	All	5760
69-174	743	All	5760
69-175	744	All	5760
69-176	745	All	971.98
69-177	785	All	5760
69-178	786	All	5760
69-179	787	All	5760
69-180	788	All	5760
69-181	789	All	1238.72
69-182	829	All	5760
69-183	830	All	5760
69-184	831	All	5760
69-185	832	All	5760
69-186	833	All	1505.05
69-187	875	All	5760
69-188	876	All	5760
69-189	877	All	1770.97
69-190	921	All	2036.47

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR, NG 17-4
(Approved October 10, 1972, Revised December 2, 1976)

Tract	Block	Description	Acreage
69-191	311	All	5760
69-192	312	All	5760
69-193	313	All	5760
69-194	354	All	5760
69-195	355	All	5760
69-196	356	All	5760
69-197	357	All	5760
69-198	441	All	5760
69-199	442	All	5760
69–200	443	All	5760
69–201	485	All	5760
69–202	486	All	5760
69–203	487	All	5760
69–204	529	All	5760
69–205	530	All	5760
69–206	531	All	5760
69–207	532	All	5760
69–208	573	All	5760
69–209	574	All	5760
69–210	575	All	5760
69–211	576	All	5760
69–212	617	All	5760
69–213	618	All	5760
69–214	619	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR, NG 17-4
(Approved October 10, 1972; Revised December 2, 1976)
(Continued)

OCS OFFICIAL PROTRACTION DIAGRAM, MOBILE NH 16-4
(Approved October 10, 1972; Revised December 21, 1977)
(See below on this page for additional tracts in this Diagram)

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR, NG 17-4
(Approved October 10, 1972; Revised December 2, 1976)
(Continued)

Tract	Block	Description	Acreage
69–215	620	All	5760
69–216	661	All	5760
69–217	662	All	5760
69–218	663	All	5760
69–219	664	All	5760
69–220	705	All	5760
69–221	706	All	5760
69–222	707	All	5760
69–223	708	All	5760
69–224	749	All	5760
69–225	750	All	5760
69–226	751	All	5760
69–227	752	All	5760
69–228	793	All	5760
69–229	794	All	5760
69–230	795	All	5760
69–231	796	All	5760
69–232	837	All	5760
69–233	838	All	5760
69–234	839	All	5760
69–235	840	All	5760
69–236	881	All	5760
69–237	882	All	5760
69–238	883	All	5760
69–239	884	All	5760
69–240	925	All	5760
69–241	926	All	5760
69–242	927	All	5760
69–243	928	All	5760
69–244	969	All	5760
69–245	970	All	5760
69–246	971	All	5760
69–247	972	All	5760

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–262	13[illegible]	All	4994.55

OCS OFFICIAL PROTRACTION DIAGRAM, MOBILE NH 16-4
(Approved October 10, 1972; Revised December 21, 1977)
(See below on this page for additional tracts in this Diagram)

Tract	Block	Description	Acreage
69–263	826	1/	1429.64
69–264	828	1/	3089.81
69–265	905	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–266	825	All	5760
69–267	826	All	5760
69–268	869	All	5760
69–269	870	All	5760

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Representation of Configuration of Tracts Indicated
(Not to Scale)

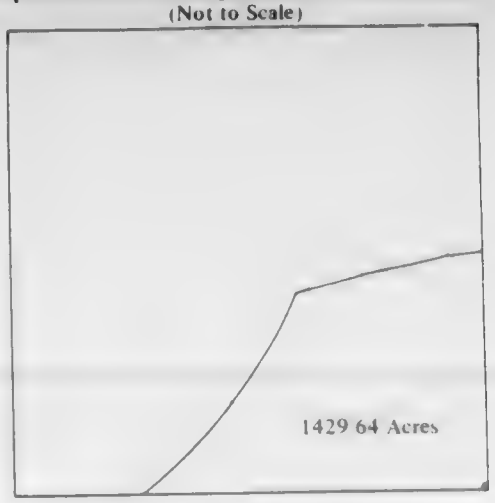

Mobile Block 826 (Tract 69-263)

Mobile Block 828 (Tract 69-264)

FOOTNOTES

1/ That portion of the lease block which is more than three geographical miles seaward from the low water line off the coast of Alabama.

13. Lease Terms and Stipulations.

(a) All leases resulting from this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form MMS-2005 (August 1982), available from the Regional Manager, at the first address stated in paragraph 2.

(b) The following stipulations will be included in each lease resulting from this sale, as indicated. In the following stipulations, the term RM refers to Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service (MMS).

Stipulation 1

The lessee agrees that if any site, structure, or object of possible historical or archeological significance, hereinafter referred to as a "cultural resource," should be discovered during the conduct of any drilling activity or the construction or placement of any structure for exploration or development on the lease, including, but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," he shall report immediately such findings to the RM and make every reasonable effort to protect the cultural resource from damage until the RM has given directions as to its protection.

If the RM has reason to believe that a cultural resource may exist in the leased area and gives the lessee written notice that the lessor is enforcing the provisions of this stipulation, the lessee shall, upon receipt of such notice, comply with the following requirements:

(1) Prior to any operation, the lessee shall conduct remote sensing surveys and/or prepare a report, as specified by the RM, to determine the potential existence of any cultural resource that may be affected by such operation. All data produced as well as other pertinent natural and cultural environmental data shall be examined by an archeologist and geophysicist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of such surveys and assessments prepared by an archeologist and geophysicist shall be submitted by the lessee to the RM.

(2) If such cultural resource indicators are present, the lessee shall: (a) locate the site of such operation so as not to adversely affect the identified location; or (b) establish to the satisfaction of the RM, on the basis of further archeological investigation conducted by an archeologist and geophysicist using such survey equipment and techniques as deemed necessary by the RM, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

(3) A report of this investigation prepared by the archeologist and geophysicist shall be submitted to the RM for review. Should the RM determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the RM has given directions as to its protection.

Stipulation 2

(To be included only in leases resulting from this sale for tracts

Necessary monitoring, control, and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors, will be effected by the Commander of the appropriate onshore military

Stipulation 2

(To be included only in leases resulting from this sale for tracts listed below.)

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any person or persons, or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the appropriate military installation, listed below.

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual, designated defense warning areas in accordance with requirements specified by the Commander of the appropriate military installation to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing or operational activities conducted within individual, designated warning areas.

Necessary monitoring, control, and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors, will be effected by the Commander of the appropriate onshore military installation conducting operations in the particular warning area: provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

The lessee, when operating or causing to be operated on its behalf, boat or aircraft traffic into the individual, designated warning areas, shall enter into an agreement with the Commander of the appropriate military installation on utilizing an individual, designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating in the warning areas at all times.

The appropriate military installations and affected tracts are:

(1) Training Wing Six
Naval Air Station
Pensacola, Florida 32508
(Tracts 69-121 through 69-125; 69-128 through 69-131; 69-263; and 69-264.)

(2) Armament Division
Eglin Air Force Base, Florida 32542
(Tracts 69-159 through 69-247; and 69-265.)

Stipulation 3

(To be included only in leases resulting from this sale for tracts 69-159 through 69-247.)

Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technologically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas.

In selecting the means of transportation, consideration will be given to any recommendation of the Regional Technical Working Group or other similar group with the participation of Federal and State governments, industry, and private interests. Where feasible, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other uses as determined on a case-by-case basis.

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Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the RM. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1972 (46 U.S.C. 391a), as amended.

Stipulation 4

(To be included only in leases resulting from this sale for tracts 69-121 through 69-125, 69-128 through 69-131, 69-159 through 69-247, and 69-263 through 69-265. It will apply to leases or blocks in 100 m of water and less for activities conducted under Plans of Exploration; for activities conducted under Plans of Development and Production, this stipulation shall apply to leases on blocks in 200 m of water and less.)

Prior to any drilling activity or the construction or placement of any structure for exploration or development on this lease, including, but not limited to, well drilling and pipeline and platform placement, the lessee will submit to the RM a bathymetry map prepared utilizing remote sensing and/or survey techniques. This map will include interpretations for the presence of live bottom areas within a minimum of 1,820 m radius of a proposed exploration or production activity site.

For the purpose of this stipulation, "live bottom areas" are defined as those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, seagrasses or corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or whose lithotope favors the accumulation of turtles, fishes, and other fauna.

If it is determined that the remote sensing data indicate the presence of hard or live bottom areas, the lessee will also submit to the RM photo-documentation of the sea bottom near proposed exploratory drilling sites or proposed platform locations. For activities in water depths greater than 70 m this photo-documentation will be required regardless of the remote sensing data interpretation.

If it is determined that the live bottom areas might be adversely impacted by the proposed activities, then the RM will require the lessee to undertake any measure deemed economically, environmentally, and technically feasible to protect live bottom areas. These measures may include, but are not limited to, the following:

(a) the relocation of operations to avoid live bottom areas;
(b) the shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas;
(c) the transportation of drilling fluids and cuttings to approved disposal sites; and
(d) the monitoring of live bottom areas to assess the adequacy of any mitigation measures taken and the impact of lessee initiated activities.

Stipulation 5

(To be included only in leases resulting from this sale for tracts 69-159 through 69-247.)

When the activities of the Armament Development and Test Center at Eglin Air Force Base, Florida, may endanger personnel or property, the lessee agrees, upon receipt of a directive from the Secretary, to evacuate all personnel from all structures on the lease and to shut-in and secure all wells and other equipment, including pipelines on the lease, within forty-eight (48) hours or within such longer period as may be specified by the directive. Such directive shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than seventy-two (72) hours; however, such period of time may be extended by a subsequent directive from the Secretary. Equipment and structures may remain in place on the lease during such time as the directive remains in effect.

14. Information to Lessees. The Department of the Interior will seek the advice of the States of Louisiana, Mississippi, Alabama, and Florida, and other Federal agencies, to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources.

If it is determined that live bottom areas might be adversely affected by the proposed activities, then the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, after appropriate consultation with the Regional Director, U. S. Fish & Wildlife Service; the States; the Environmental Protection Agency (EPA); and other Federal agencies with jurisdiction and expertise to protect the environment, will require the lessee, pursuant to section 5(a) of the OCS Lands Act of 1953, as amended, to undertake any measures to protect live bottom areas.

Operations on some of the tracts offered for lease may be restricted by designation of fairways, precautionary zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.). Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act of 1953, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are advised that in accordance with section 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

Bidders are advised that in accordance with section 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a net profit share payment.

Bidders are advised that the West Indian manatee is a marine mammal which is officially listed as an endangered species by the Department of the Interior. It is protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361-1407), and various other State and Federal laws and regulations. On October 22, 1979 (44 FR 60963), Interior promulgated regulations (50 CFR 17.100-17.108) providing a means for establishing manatee protection areas. Also, there is the Florida Manatee Sanctuary Act of 1978 declaring the entire State of Florida as "refuge and sanctuary for the manatee." A Cooperative Agreement between Interior and Florida on endangered species became effective on June 23, 1976.

Bidders on tracts 69-123 and 69-128 are advised that these tracts contain artificial fishing reefs permitted by the U. S. Army, Corps of Engineers. Permitted areas comprise less than one percent of each tract. Oil and gas lessees should exercise due diligence while operating near these reef structures.

Revisions of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form, MMS-2005 (August 1982), would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1).

Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing affirmative action forms.

Bidders are advised that the tracts listed below will not be assigned a geological hazards stipulation, but the bidders are alerted to the possibility that these tracts may be subject to mass movement of sediments, unstable slopes, active faulting or gaseous sediments. These tracts are 69-114, 69-120, 69-127 and 69-226 through 69-269.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

Director, Minerals Management Service
Harold E. Doley, Jr.

Date: 1/31/83

Approved:

Secretary of the Interior
James G. Watt

1/31/83

Certified to be a true copy of the original

Certifying Officer

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SUGGESTED BID FORM
Oil and Gas Bid

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.	Total Amount Bid	Amount per Acre	Amount of Cash Bonus Submitted with Bid
_____	_____	_____	_____

Proportionate Interest of
Company(s) Submitting Bid

Qualification No. _____ _____
Company

Percent Interest _____ _____
Address

_____
Signature
(Please type signer's name under signature)

[FR Doc. 83-3023 Filed 2-3-83; 8:45 am]
BILLING CODE 4310-MR-C

National Park Service

Cape Cod National Seashore; Dune Revegetation/Stabilization

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of Analysis of Management Alternatives (including Environmental Assessment) for Dune Revegetation/Stabilization

SUMMARY: The National Park Service has prepared an Analysis of Management Alternatives (including Environmental Assessment) for Dune Revegetation/Stabilization, Cape Cod National Seashore, Massachusetts. This analysis includes a description of past practices that destroyed the vegetational cover, several alternatives for revegetation/stabilization of the moving parabolic dune system, and an assessment of the environmental impacts of each alternative.

With this Notice of Availability, the National Park Service is seeking comments on the analysis of Management Alternatives and the selection of a preferred alternative. These comments will assist the National Park Service in the preparation of a dune revegetation/stabilization plan for the Province Land area of Cape Cod National Seashore.

DATES: Written comments will be accepted until April 1, 1983.

ADDRESSES: Comments should be directed to: Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663.

Copies of the Analysis of Management Alternatives may be obtained from the North Atlantic Regional Office, 15 State Street, Boston, Massachusetts 02109 or the Superintendent's office, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663.

SUPPLEMENTARY INFORMATION: The Cape Cod National Seashore Advisory Commission will hold a regular meeting on February 25, 1983, starting at 1:30 p.m. at Seashore Headquarters, South Wellfleet, Massachusetts. The Action of this Notice will be discussed and the meeting is open to public input.

FOR FURTHER INFORMATION CONTACT: James C. Killian, Chief, Environmental Planning Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663 (617-349-3785).

Dated: January 25, 1983.

L. J. Hovig,

Acting Regional Director, North Atlantic Region.

[FR Doc. 83-2832 Filed 2-3-83; 8:45 am]

BILLING CODE 4310-70-M

Cape Cod National Seashore South, Wellfleet, Massachusetts; Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App. 1 § 10)), that a meeting of the Cape Cod National Seashore Advisory Commission will be held at 1:30 pm on Friday, February 25, 1983 at the Headquarters Building, Cape Cod National Seashore.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

At the meeting at 1:30 pm the Commission will consider the following:

1. Nauset Knoll and Salt Pond Motel Concessions Contracts.
2. Analysis of Alternatives for Dune Revegetation/Stabilization.

The meeting is open to the public. It is expected that 30 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663, Telephone (617) 349-3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Dated: January 24, 1983.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

[FR Doc. 83-2909 Filed 2-3-83; 8:45 am]

BILLING CODE 4310-70-M

Statue of Liberty-Ellis Island Centennial Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), as amended, that a meeting of the Statue of Liberty-Ellis Island Centennial Commission will be held at 9:30 A.M. on Friday, February 4, 1983, at the Waldorf Astoria Hotel, New York, New York. The meeting is for the purpose of reviewing plans for rehabilitation of the Statue of Liberty and Ellis Island.

Further information concerning this meeting may be obtained from Garnet Chapin, National Park Service, Department of the Interior, 18th and C Sts. NW., Washington, D.C. 20240 (202-343-6781).

Dated: January 31, 1983.

Rose Holland,

Associate Director, Cultural Resources Management, National Park Service.

[FR Doc. 83-2908 Filed 2-3-83; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Departmental Form Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget interior desk officer at 202-395-7340.

Title: Claim for Payment of Moving Costs and Related Expenses.

Department Form Number: DI-380.

Frequency: Occasionally.

Description of Respondents: Persons and Businesses Forced to Relocate as a Result of Federal Land Purchases.

Annual Responses: 4,000.

Annual Burden Hours: 1,800.

Bureau Clearance Officer: James Rodden, 343-6528.

Vivian A. Keedo,

Chief, Division of Directives and Regulatory Management.

January 31, 1983.

[FR Doc. 83-3062 Filed 2-3-83; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1FC–42

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81113. By decision of January 26, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to ARNOLD MANNING AND MILLER E. PAGE, doing business as A & M TRANSPORTATION CO., Susquehanna, PA, of Certificate No. MC–117970 and Sub Nos. 1 and 3, issued February 21, 1961, February 13, 1962, and September 8, 1967, respectively, to A. D. STUCKER, Susquehanna, PA, authorizing in No. MC–117970, the transportation of (A)(1) *coal,* from Swoyersville, PA, to Constableville, NY, (2) *limestone and lime,* in bags, from Newton, NJ, and points within 20 miles thereof, to points in Broome and Chenango Counties, NY, (3) *fertilizer,* in bags, from Carteret, NJ, to points in Broome and Chenango Counties, NY, (4) *lumber,* (a) from New Milford, PA, to New York, NY, and (b) from Malone, Potsdam, Herkimer, Little Falls, and Cherry River, NY, and points within 20 miles of each, to Scranton, PA. (B), (1) *limestone and lime,* in bags, from Limecrest, NJ, to points in Tioga, Chemung, Schuyler, Steuben, Madison, Cortland, and Onondaga Counties, NY, and Susquehanna County, PA, and (2) *flagstone,* from points in Susquehanna County, PA, to New York, NY, and points in MD, MA, and NJ, and (C) *stone,* from points in Susquehanna County, PA, to points in CT and NY. Representative: Raymond Talipski, 121 South Main St., Taylor, PA 18517 (717) 344–8030.

Please direct status inquiries to Team 3, (202) 275–5223.

Volume No. OP3–MCFC–45

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier.

MC–FC–81139. By decision issued January 28, 1983 under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 1 approved the transfer to ATLAS TOURS (YUKON) LTD., Vancouver, B.C., Canada, of Certificate No. MC–145245 (Sub-No. 1), issued May 5, 1981, to FRASER VALLEY BUS SERVICE, LTD., Delta, B.C., Canada, authorizing the transportation of *passengers and their baggage,* in special or charter operations, in round-trip tours beginning and ending at ports of entry on the international boundary line between the U.S. and Canada in WA, and extending to points in WA, OR, ID, CA, and NV. No temporary authority has been filed. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton WA 98055, (206) 228–3807.

MC–FC–81149. By decision of January 28, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number—— approved the transfer to SUNSHINE TRUCKING COMPANY, INC., Springfield, GA, of Certificate No. MC–136384 Subs 10, 14, 15, 24, and 25, issued May 26, 1981, August 18, 1980, December 9, 1980, June 12, 1981, and March 9, 1981, respectively to PALMER MOTOR EXPRESS, INC., Savannah, GA, authorizing (1) *roofing, building, and insulating materials,* and *materials, equipment, and supplies* used in the manufacture, installation, and distribution of roofing and building materials, between (a) the plant sites and facilities of Johns-Manville Corporation and Certainteed Corporation Sheltered Materials Group, Savannah, Chatham County, GA, on the one hand, and, on the other, points in AL, FL, NC, SC, and TN, restricted against the transportation of commodities in bulk, and (b) between the plant site and facility of GAF Corporation, Savannah, Chatham County, GA, on the one hand, and, on the other, points in AL, FL, NC, SC, (except points on and east of U.S. Hwy 1) and TN, restricted against the transportation of commodities in bulk; (2) (a) *building materials, and insulating materials,* and (b) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of building materials, between the facilities of Johns-Manville Corporation at Savannah, GA, on the one hand, and, on the other, points in TN and VA; (3) paper and paper products (except commodities in bulk), between the facilities of Union Camp Corp., at Savannah and Tifton, GA, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NY, NJ, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, and (4) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in AL, AR, CO, CT, DE, FL, GA, IA, KS, KY, LA, ME, MA, MI, MN, MS, MO, NH, NY, NJ, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC to the facilities named in (3) above, restricted in (3) and (4) to the transportation of traffic originating at or destined to the named facilities; (5) *fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products and materials, rovings, yarn and strand, glass fiber mats and matting, and flexible air duct,* between point in Clark and Dekalb Counties, GA, Shelby, TN, and points in AR, LA, KY, TN, MS, AL, FL, NC, SC, VA, and GA; and (6)(a) *paper and paper products,* from the facilities of Union-Camp Corp., at or near Savannah and Tifton, GA, to points in IN and IL, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (6) (a) and (b) above from points in IN and IL, to the facilities of Union-Camp Corp., at or near Savannah and Tifton, GA. Representative: J. Michael Levengood, 101 Marietta Tower, Atlanta, GA 30335.

Note.—An application for temporary authority has been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3048 Filed 2-3-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP3-36]

Motor Carriers; Permanent Authority Decisions, Restriction Removals

Decided: January 27, 1983.

The following restriction removal applications, are governed by 49 CFR 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminary, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, at (202) 275–5223.

Volume No. OP3–36

Decided: January 27, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 152494 (Sub-3)X, filed 1–21–83. Applicant: CHESSIE MOTOR EXPRESS, INC., 1060 Kings Highway, North, Cherry Hill, NJ 08002. Representative: John J. Paylor, 3200 Terminal Tower, P.O. Box 6419, Cleveland, OH 44101, (216) 623–2484. Sub 2 certificate: remove the restrictions "(1) which is auxiliary to or supplemental of a railroad; or (2) which has a prior or subsequent movement by rail; or (3) where the origin or destination is a point served by The Chessie System and its affiliated lines and The Family Lines Rail System and its affiliated lines."

Please direct status inquiries to Team 4, at (202) 275–7669.

Volume No. OP4–053

Decided: January 31, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 117257 (Sub-4)X, filed January 24, 1983. Applicant: D–S TRANSPORT, INC., 201 17th St., N., Moorhead, MN 56560. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Sub-No. 3F permit: broaden to (1) "food and related products," from malt beverages; and (2) points in the U.S. (except AK and HI)," under continuing contract(s) with named shippers.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3047 Filed 2-3-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 436]

Railroad Cost of Capital—1982

AGENCY: Interstate Commerce Commission.

ACTION. Extension of time to file rebuttal statements to notice of institution of limited revenue adequacy proceeding.

SUMMARY. Notice of this proceeding was published at 47 FR 33344, August 2, 1982. Time schedules in this proceeding were extended at 47 FR 38733, September 2, 1982 and 45 FR 53804, November 29, 1982.

The Association of American Railroads has requested that the due date for the submission of rebuttal statements by railroads be extended 15 days to February 22, 1983. The petition is granted.

DATES. Rebuttal statements by railroads are due February 22, 1983.

ADDRESSES. Send an original and 10 copies of comments to: Office of Proceedings, Room 5355, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 275–7489.

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: Jan. 27, 1983.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3044 Filed 2-3-83; 8:45 am]

BILLING CODE 7035-10-M

[No. MC–F–15080]

Air Meridian, Inc. Control Exemption; McBride Express, Inc., and F.M.S. Transportation, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), Air Meridian, Inc. (Meridian) and, in turn, G. Leonard Rochon who controls Meridian seeks an exemption from the requirements under section 11343 of prior regulatory approval for the common control of McBride Express, Inc., (No. MC–112049) and F.M.S. Transportation, Inc., (No. MC–139206), both of which are motor carriers.

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES:

Send comments to: (1) Team 1, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative, Richard H. Streeter, Esq., 1729 H. Street, Northwest, Washington, D.C. 20006

Comments should refer to No. MC–F–15080.

FOR FURTHER INFORMATION CONTACT: Joyce D. Lannon (202) 275–7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 31, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3045 Filed 2-3-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC–F–15076]

Anderson & Webb Trucking Co., Inc.; Purchase Exemption Cal-Tex, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures For Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), Anderson & Webb Trucking Co., Inc., (No. MC–144715), and, in turn William L. Anderson and Dennis W. Moody, Jr., who jointly control Anderson & Webb, seek an exemption from the requirement under section 11343 of prior regulatory approval for the purchase of the operation rights of Cal-Tex, Inc. (Nos. MC–141097 and MC–146041), both of which are motor carriers.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES:

Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and

(2) Petitioner's representative; Eric Meierhoefer, Sims, Meierhoefer, Walker, & Steinfeld, 915 Pennsylvania Building, 425 13th Street, NW., Washington, D.C. 20004

Comments should refer to No. MC–F–15076.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202), 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 31, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3045 Filed 2–3–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–1; Sub-148]

Chicago and North Western Railroad Co.; Abandonment in Kane and McHenry Counties, IL; Findings

The Commission has found that the public convenience and necessity permit the Chicago and North Western Railroad Company to abandon a 12.2-mile line of railroad between milepost 43.8 near Elgin and milepost 56.0 near Crystal Lake, in Kane and McHenry Counties, IL. A Certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3043 Filed 2–3–83; 8:45 am]

BILLING CODE 7035–01–M

[I.C.C. Order No. P–48]

Rail Carriers; Passenger; Atchison, Topeka and Santa Fe Railway Company

February 2, 1983.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Oakland, California and Chicago, Illinois. The operation of these trains requires the use of tracks and other facilities of Burlington Northern Railroad (BN). A portion of the BN tracks between Burlington, Iowa and Chicago, Illinois, are temporarily out of service because of a derailment. An alternative route is available via The Atchison, Topeka and Santa Fe Railway Company between Fort Madison, Iowa and Chicago, Illinois.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1982, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 USC 562(c)), The Atchison, Topeka and Santa Fe Railway Company (ATSF) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Burlington Northern Railroad (BN) at Fort Madison, Iowa, and Chicago, Illinois.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 8:30 a.m., January 14, 1983.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 17, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon The Atchison, Topeka and Santa Fe Railway Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 14, 1983.

Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc. 83–3042 Filed 2–3–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 1–83]

Privacy Act of 1974; 1982 Annual Publication

AGENCY: Justice Department.

ACTION: Annual publication of Privacy Act issuances.

SUMMARY: Federal agencies are required by the Privacy Act of 1974 to give annual notice of records they maintain from which information is retrieved by name or other personal identifier. Accordingly, the Department of Justice published on September 30, 1977, in **Federal Register** Volume 42 a notice of all Department systems of records. Subsequently, the Department published the following annual updates:

1. September 28, 1978, **Federal Register** Volume 43, page 44676;
2. January 10, 1980, **Federal Register** Volume 45, page 2194; and
3. November 17, 1980, **Federal Register** Volume 45, page 75898.

Later, for the convenience of the public, the Office of the Federal Register issued a publication which combined the 1977 notice and all subsequent updates into a single document entitled "Privact Act Issuances—1980 Compilation, Volume II." This document reflected all systems of records issued through December 31, 1980 and may be examined at Regional Depository Libraries and Federal Information Centers throughout the country.

On December 9, 1981 in **Federal Register** Volume 46, page 60289, the Department published its 1981 annual update. (A correction was published December 18, 1981 in **Federal Register** Volume 46, page 61749.)

With the exception of the Criminal Division and the Drug Enforcement Administration whose systems of records will be published at a future date, the Department is now publishing its 1982 annual update. The systems of records reprinted below are those which have been amended during 1982 and/or those we propose to amend at this time.

DATES: This document is published to comply with the annual notice requirements of the Privacy Act for 1982.

FOR FURTHER INFORMATION CONTACT: William J. Snider (202) 633–3452.

Dated: January 19, 1983.

Kevin D. Rooney,

Assistant Attorney General for Administration.

Systems of records which the Department now proposes to amend or clarify are listed below, along with two systems of records which the Department amended during the year but does not propose to amend at this time. Systems of records being republished here without change are identified with an asterisk. Following the list, the systems are republished in full text. Dates on which the systems were last published in full text are given in the introduction to an organization's system(s) of records. All changes, additions, and clarifications have been italicized for the convenience of the reader. Further, the more significant changes, additions, clarifications, or deletions, are briefly discussed in these introductions. In addition, the Justice Management Division (JMD) has deleted a system of records entitled "Occupational Health Physical Fitness Files, JUSTICE/JMD–018." This deletion has been noticed in the introduction to JMD systems.

Interested persons are invited to comment on any change to the routine uses of information in a record system to the Administrative Counsel, Justice Management Division, Room 6239, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. All comments must be received within 30 days from the date of publication of this notice.

JUSTICE/ATR–001, Antitrust Division Expert Witness File
JUSTICE/ATR–006, Antitrust Caseload Evaluation System (ACES)—Monthly Report
JUSTICE/BIA–001, Decisions of the Board of Immigration Appeals
JUSTICE/BOP–005, Inmate Central Records System
JUSTICE/BOP–999, Appendix of Field Locations for the Bureau of Prisons Regional Offices
JUSTICE/CRT–004, Registry of Names of Interested Persons Desiring Notification of Submissions under Section 5 of the Voting Rights Act
JUSTICE/CRT–010, Freedom of Information/ Privacy Act Records
JUSTICE/DAG–012, Executive Secretariat Correspondence Control System
JUSTICE/FBI–002, The FBI Central Records System
*JUSTICE/FCSC–0, Czechoslovakia, Claims Against (1st and 2nd Programs)—FCSC
JUSTICE/INS–999, INS Appendix: List of principal offices of the Immigration and Naturalization Service
JUSTICE/INTERPOL–001, The INTERPOL—United States National Central Bureau (INTERPOL—USNCB)(Department of Justice) INTERPOL–USNCB (Department of Justice) INTERPOL-USNCB Records System
JUSTICE/JMD–001, Background Investigation Check-off Card
JUSTICE/JMD–003, Department of Justice Payroll System
JUSTICE/JMD–005, Grievance Records
JUSTICE/JMD–008, Security Clearance Information System (SCIS)
JUSTICE/JMD–009, Justice Computer Service Utilization Report
JUSTICE/JMD–011, Justice Computer Service Tape Library System
JUSTICE/JMD–013, Employee Locator File
JUSTICE/JMD–019, Freedom of Information Act/Privacy Act (FOIA/PA Records System
JUSTICE/JMD–020, Freedom of Information Act/Privacy Act (FOIA/PA) Request Letters
JUSTICE/LDN–005, Freedom of Information Act and Privacy Act Records System
JUSTICE/OJARS–008, Civil Rights Investigative System
JUSTICE/OJARS–009, Federal Advisory Committee Membership Files
JUSTICE/OJARS–010, Technical Assistance Resource Files
JUSTICE/OJARS–012, Public Safety Officers Benefits System
JUSTICE/OLA–001, Congressional Committee Chairman Correspondence File
JUSTICE/OLA–002, Congressional Correspondence File
JUSTICE/OLA–003, Citizen Correspondence File
*JUSTICE/FCSC–0, Czechoslovakia, Claims Against (1st and 2nd Programs)—FCSC
JUSTICE/INS–999, INS Appendix: List of principal offices of the Immigration and Naturalization Service
JUSTICE/INTERPOL–001, The INTERPOL—United States National Central Bureau (INTERPOL-USNCB) (Department of Justice) INTERPOL-USNCB Records System
JUSTICE/JMD–001, Background Investigation Check-off Card
JUSTICE/JMD–003, Department of Justice Payroll System
JUSTICE/JMD–005, Grievance Records
JUSTICE/JMD–008, Security Clearance Information System SCIS)
JUSTICE/JMD–009, Justice Computer Service Utilization Report
Justice-JMD–011, Justice Computer Service Tape Library System
JUSTICE/JMD–013, Employee Locator File
JUSTICE/JMD–019, Freedom of Information Act/Privacy Act (FOIA/PA) Records System
JUSTICE/JMD–020, Freedom of Information Act/Privacy Act (FOIA/PA) Request Letters
JUSTICE/LDN–005, Freedom of Information Act and Privacy Act Records System
JUSTICE/OJARS–008, Civil Rights Investigative System
JUSTICE/OJARS–009, Federal Advisory Committee Membership Files
JUSTICE/OJARS–010, Technical Assistance Resource Files
JUSTICE/OJARS–012, Public Safety Officers Benefits System
JUSTICE/OLA–001, Congressional Committee Chairman Correspondence File
JUSTICE/OLA–002, Congressional Correspondence File
JUSTICE/OLA–003, Citizen Correspondence File
JUSTICE/OLP–001, Freedom of Information and Privacy Appeals Index
JUSTICE/PRC–001, Docket, Scheduling and Control
JUSTICE/PRC–002, Freedom of Information Act Record System
*JUSTICE/PRC–003, Inmate and Supervision Files

*See introduction to this listing.

JUSTICE/PRC–004, Labor and Pension Case, Legal File and General Correspondence System
JUSTICE/PRC–005, Office Operation and Personnel System
JUSTICE/PRC–006, Statistical, Educational and Developmental System
JUSTICE/PRC–007, Workload Record, Decision Result, and Annual Report System
JUSTICE/TAX–004, Freedom of Information—Privacy Act Request Files
JUSTICE/USA–001, Administrative Files
JUSTICE/USA–005, Civil Case Files
JUSTICE/USA–007, Criminal Case Files
JUSTICE/USA–008, Freedom of Information Act/Privacy Act Files
JUSTICE/USA–012, Security Clearance Forms for Grand Jury Reporters
JUSTICE/USA–014, Pre-Trial Diversion Program Files
JUSTICE/USA–999, Appendix of United States Attorney Office Locations
JUSTICE/USM–007, Warrant—Information System
JUSTICE/USM–999, Appendix to U.S. Marshals System of Records, Official Addresses of United States Marshals
JUSTICE/UST–001, Bankruptcy Case Files and Associated Records
JUSTICE/UST–002, Panel Trustee Application File
JUSTICE/UST–999, U.S. Trustee Appendix 1—List of Record Retention Addresses

Antitrust Division (ATR)

ATR systems of records identified as JUSTICE/ATR–001 and JUSTICE/ATR–006 are reprinted below. The Antitrust Division is making an editorial change to the "System manager(s) and address" section of JUSTICE/ATR–001 and to the "Storage" section of JUSTICE/ATR–006. In addition, the system manager for JUSTICE/ATR–006 has been reidentified in the section entitled "System manager(s) and address." (These systems were last published on September 30, 1977 in **Federal Register** Volume 42, pages 53392 and 53395.)

JUSTICE/ATR–001

SYSTEM NAME:

Antitrust Division Expert Witness File.

SYSTEM LOCATION:

U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have served in the capacity of an "expert" for the Department of Justice in connection with civil or criminal antitrust litigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the names of persons used by the Antitrust Division in an expert capacity and also indicates the area of their specialty, the type of service rendered, the fees paid, and the dates on or during which such services were performed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for the establishment and maintenance of this system exists under 44 U.S.C. 3101 and 28 U.S.C. 522.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system is routinely used by trial attorneys of the Antitrust Division when considering the selection of experts as consultants or expert witnesses for the development or presentation of specific antitrust cases. The system also serves as a reference resource for Division personnel in compiling statistical information or reports regarding the actual or anticipated costs of litigation.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in this system is contained in documents organized in individual file folders.

RETRIEVABILITY:

Information is retrieved primarily by using the name of the individual retained as a consultant or called as an expert witness for the Government in antitrust cases brought by the Department.

SAFEGUARDS:

Information contained in the system is unclassified. During working hours access to the system is controlled and monitored by Antitrust Division personnel in the area where the system is maintained; during non-duty hours all doors to that area are locked.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Officer; Antitrust Division; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the Assistant Attorney General; Antitrust Division; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

RECORD ACCESS PROCEDURES:

Requests for access to a record from this system shall be in writing and be clearly identified as a 'Privacy Access Request'. Included in the requests should be the name of the person retained as a consultant or presented as an expert witness for the Government and the name of the case in which such services were rendered. The requester should indicate a return address. Requests will be directed to the System Manager shown above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their requests to the System Manager and state clearly and concisely whan information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information maintained in this system are those records reflecting the commitment between the individual and the Department of Justice (including matters of compensation etc.) and staff attorneys or other employees directly involved with the individual in the preparation or conduct of the litigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/ATR-006

SYSTEM NAME:

Antitrust Caseload Evaluation System (ACES) Monthly Report.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Professional employees (lawyers and economists) of the Antitrust Division of the U.S. Department of Jusice and individual defendants and investigation targets involved in past and present Antitrust investigations and cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the names of Division employees and their case/investigation assignments and the names of individual defendants/investigation targets as they relate to a specific case/investigation. In addition, information reflecting the current status and handling of Antitrust cases/investigations is included within this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The file is established and maintained pursuant to 28 CFR 40(f), 28 U.S.C. 552, and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The file is used by Antitrust Division personnel as a basis for determining Antitrust Division allocation of resources to particular products and industries (e.g., oil, autos, chemicals), to broad categories of resource use such as civil cases, criminal cases, regulatory agency cases, and Freedom of Information Act requests. It is employed by the section chiefs, the Director and Deputy Director of Operations, and other Division personnel to ascertain the progress and current status of cases and investigations within the Division. In addition, the files will be employed in the preparation of reports for the Division's budget requests and to the Attorney General and Congress.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically in the *Information systems support group's* ACES Computerized information system.

RETRIEVABILITY:

Information is retrieved by a variety of key words.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Department rules and procedures governing the handling of computerized information. Access to the file is limited to those persons whose official duties require such access and employees of the Antitrust Division.

RETENTION AND DISPOSAL:

Information contained in the file is retained for 14 months or the life of the specific case/investigation, whichever is longer.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Information Systems Support Group; Antitrust Division; U.S. Department of Justice; Safeway Building, 521 12th Street, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the Assistant Attorney General, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue, Washington, D.C. 20530.

RECORD SOURCE CATEGORIES:

Information for the monthly reports is provided by the Antitrust Division section and field office chiefs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3), (d), (e)(4)(G)–(H), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the **Federal Register**.

Board of Immigration Appeals (BIA)

The following BIA system of records is reprinted below to correct type errors in the legal citations under the caption "Systems exempted from certain provisions of the act." (This system was last published on November 17, 1980 in **Federal Register** Volume 45, page 75907.)

JUSTCE/BIA–001

SYSTEM NAME:

Decisions of the Board of Immigration Appeals.

SYSTEM LOCATION:

5203 Leesburg Pike, Falls Church, Virginia 22041.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Aliens, including those previously admitted for lawful permanent residence, in deportation proceedings; (b) Aliens and alleged aliens in exclusion proceedings; (c) Aliens seeking waivers of inadmissibility; (d) Aliens in bond determination proceedings; (e) Aliens in whose behalf a preference classification is sought.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records consists of the formal orders and decisions of the Board of Immigration Appeals, including the indices and logs pertaining thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained under the authority granted the Attorney General by sections 103 and 292 of the Immigration and Nationality Act, 8 U.S.C. 1103 and 1362. Such authority has been delegated to the Board of Immigration Appeals by 8 CFR Part 3.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Decisions of the Board of Immigration Appeals are disseminated

to the following categories of users for the purposes indicated:

(a) Parties appearing before the Board, (including the Immigration and Naturalization Service), their attorneys or other representatives. Purpose: Parties are entitled to the decision as a matter of due process; and in accordance with the requirements of 8 CFR 3.1(g).

(b) Other lawyers, organizations recognized to appear before the Immigration and Naturalization Service and their representatives. Purpose: To permit these users to be informed of current case law and general maintenance of open system of jurisprudence.

(c) Members of Congress. Purpose: Constituent inquires.

(d) General public. Purpose: Selected decisions, designated as precedent decisions pursuant to 8 CFR are published in bound volumes of Administrative Decisions Under Immigration and Nationality Laws of the United States. These are published to provide the public with guidance on the administrative interpretation of the immigration laws and to facilitate open and uniform adjudication of cases.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is kept in typed form and stored in loose leaf binders.

RETRIEVABILITY:

Each decision is indexed by name and a numerical identifier.

SAFEGUARDS:

Information contained in the records is unclassified and intended for wide dissemination. No specific safeguards to prevent unauthorized disclosure are employed since no type of disclosure is presently regarded as "unauthorized". Access to buildings in which records are stored is controlled by guards provided by GSA.

RETENTION AND DISPOSAL:

Records are retained indefinitely and are not disposed of.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Assistant, Board of Immigration Appeals, Department of Justice, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

Decisions of the Board of Immigration Appeals are available to anyone upon request pursuant to 5 U.S.C. 552a(b)(2).

CONTESTING RECORD PROCEDURES:

Decisions of the Board of Immigration Appeals constitute official opinions and are not subject to correction or amendment except in accordance with accepted standards of due process. Decisions have been exempted from the correction provisions of 5 U.S.C. 552a(d).

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are provided primarily by the record of proceedings forwarded by the Immigration and Naturalization Service. Additionally, the person concerned and his representative provide information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (d)(2), (3) and (4) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C.553 (b), (c) and (e) and have been published in the **Federal Register.**

Bureau of Prisons (BOP)

BOP system of records identified as JUSTICE/BOP–005 and the appendix of official addresses identified as JUSTICE/BOP–999 are reprinted below. JUSTICE/BOP–005 is revised to add a new routine use allowing release of information in the system to the Veterans Administration. JUSTICE/BOP–005 has been revised to make address changes. Any comments on the proposed routine use may be submitted to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received, within 30 days from the date of publication of this notice, the new routine use will be adopted without further notice in the **Federal Register.** (This system and the apppendix were last published on December 9, 1981, at pages 60291 and 60301 respectively.)

JUSTICE/BOP–005

SYSTEM NAME:

Inmate Central Records System.

SYSTEM LOCATION:

Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U.S. Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20534.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former inmates under the custody of the Attorney General.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Computation of sentence and supportive documentation; (2) Correspondence concerning pending charges, and wanted status, including warrants; (3) Requests from other federal and Non-federal law enforcement agencies for notification prior to release; (4) Records of the allowance, forfeiture, witholding and restoration of good time; (5) Information concerning present offense, prior criminal background, sentence and parole from the U.S. Attorneys, the Federal courts, and federal prosecuting agencies; (6) Identification data, physical description, photograph and fingerprints; (7) Order of designation of institution of original commitment; (8) Records and reports of work and housing assignments; (9) Program selection, assignment and performance adjustment/progress reports; (10) Conduct Records; (11) Social background; (12) Educational data; (13) Physical and mental health data; (14) Parole Board orders actions and related forms; (15) Correspondence regarding release planning, adjustment and violations; (16) Transfer orders; (17) Mail and visit records; (18) Personal property records; (19) Safety reports and rules; (20) Release processing forms and certificates; (21) Interview request forms from inmates; (22) General correspondence; (23) Copies of inmate court petitions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained under authority of 18 U.S.C. 4003, 4042, 4082.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses of this system are (a) to provide documented records of the classification, care, subsistence, protection, discipline and programs, etc., of persons committed to the custody of the Attorney General; (b) to provide information source to officers and employees of the Department of Justice who have a need for the information in the performance of their duties; (c) to provide information source to state and federal law enforcement officials for investigations, possible criminal prosecutions, civil court actions, or regulatory proceedings; (d) to provide information source for disclosure of information that are matters solely of general public record, such as name, offense, sentence data, release date, and etc.; (e) to provide information source for disclosure to contracting or consulting correctional agencies that provide correctional services for federal inmates; (f) to provide informational source for responding to inquiries from federal inmates involved or Congressional inquiries; (g) Internal Users— Employees of the Department of Justice who have a need to know information in the performance of their duties; (h) External Users—State and Federal law enforcement officials for the purpose of investigation, possible criminal prosecution, civil court actions, and regulatory proceedings; state correctional agencies providing services to federal inmates; (i) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Release of information to the Social Security Administration:

Identifying data of inmates of the Bureau of Prisons (BOP) may be disclosed to the Social Security Administration (SSA), pursuant to Pub. L. 98–473, for the purpose of matching the data against SSA records. This matching process will enable SSA to determine eligibility of BOP inmates to receive disability benefits under the Social Security Act. SSA will destroy the BOP data after the match has been accomplished.

Identifying date of BOP inmates may be disclosed to the Veterans Administration (VA), pursuant to Pub. L. 96–365, for purposes of allowing the VA to determine the eligibility of BOP inmates to receive veterans benefits. The VA will destroy the BOP date after the determinations have been made.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored on documents, magnetic tape, magnetic disk, tab cards, and microfilm.

RETRIEVABILITY:

(1) Documents, Tab Cards and Microfilm—Information is indexed by name and/or register number. (2) Magnetic Tape and Disk—Information is indexed by Name, Register Number, Social Security Number, and FBI Number.

SAFEGUARDS:

Information is safeguarded in accordance with Bureau of Prisons rule governing access and release.

RETENTION AND DISPOSAL:

Records *of a sentenced inmate* are retained for a period of thirty (30) years after expiration of sentence, then destroyed by shredding. *Records of an unsentenced inmate are retained for a period of ten (10) years after the inmate's release from confinement, then destroyed by shredding.*

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Management and Information Systems Group; U.S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

NOTIFICATION PROCEDURE:

Address inquiries to: Director, Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a(j). Inquiries concerning this system should be directed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

The major part of this system is exempt from this requirement under 5 U.S.C. 552a(j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

(1) Individual inmate; (2) Federal law enforcement agencies and personnel; (3) State and federal probation services; (4) Non-federal law enforcement agencies; (5) Educational institutions; (6) Hospital or medical sources; (7) Relative, friends and other interested individuals or groups in the community; (8) Former or future employers; (9) Evaluations, observations, reports, and findings of institution supervisors, counselors, boards and committees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP—999

SYSTEM NAME:

Appendix of Field Locations for the Bureau of Prisons Regional Offices.

Northeast Region

Scott Plaza II. Industrial Highway, Philadelphia, Pennsylvania 19113

Southeast Region

523 McDonough Boulevard, S.E., Atlanta, Georgia 30315

North Central Region

Airworld Center, 10920 Ambassador Drive, Kansas City, Missouri 84153

South Central Region

1607 Main St., Ste. 700 Proetarian Bldg., Dallas, Texas 75219

Western Region

330 Primrose Road, Fith Floor, Burlingame, California 94010

United States Penitentiaries

Atlanta, Georgia 30315
Leavenworth, Kansas 66048
Lewisburg, Pennsylvania 17837
Marion, Illinois 62959
Terre Haute, Indiana 47808

Federal Correctional Institutions

Alderson, West Virginia 24910,
Ashland, Kentucky 41101
Bastrop, Texas 78602
Butner, North Carolina 27509
Danbury, Connecticut 06801
El Reno, Oklahoma 73036
Englewood, Colorado 80110
Ft. Worth, Texas 76119
La Tuna, Texas 88021
Lexington, Kentucky 40507
Lompoc, California 93436
Memphis, Tennessee 38134
Milan, Michigan 48160
Morgantown, West Virginia 26505
Otisville, New York 10963
Oxford, Wisconsin 53952
Petersburg, Virginia 23803
Pleasanton, California 94568
Ray Brook, New York 12977
Sandstone, Minnesota 55072
Seagoville, Texas 75159
Talladega, Alabama 35362
Tallahassee, Florida 32304
Terminal Island, California 90731
Texarkana, Texas 75501

Federal Prison Camps

Allenwood-Montgomery, Pennsylvania 17752
Big Spring, Texas 79720
Boron, California 93516
Eglin Air Force Base, Florida 32542
Maxwell Air Force Base, Montgomery, Alabama 36112
Safford, Arizona 85546

Medical Center for Federal Prisoners

Springfield, Missouri 65802

Federal Detention Center

Florence, Arizona 85232

Metropolitan Correctional Centers

71 W. Van Buren Street, Chicago, Illinois 60605
15801 S.W. 137th Avenue, Miami, Florida 33177
150 Park Row, New York, New York 10007
808 Union Street, San Diego, California 92101
P.O. Box 22080, Tucson, Arizona 85734

Civil Rights Division (CRT)

CRT systems of records identified as JUSTICE/CRT-004 and JUSTICE/CRT-010 are reprinted below. The proposed amendment to JUSTICE/CRT-004 includes an additional system location and shows that an automated addresser is used to promote the efficiency of mailings. The addresser does not create the potential for greater access to the mailing list. The Proposed amendment to JUSTICE/CRT-010 includes an additional system location, makes minor clarifications, and includes subsection (g) among those exemptions cited for the system. The Attorney General exempted the system from subsection (g) of the Privacy Act at 42 FR. 10000 on February 18, 1977. An error occurred, however, in the printing of the system notice text. This reprinting corrects that error and reflects the language and substance of 28 CFR 16.90 (e). (JUSTICE/CRT-004 was last published on December 9, 1981 in **Federal Register** Volume 46, page 60301. JUSTICE/CRT-010 was last published on September 30, 1977 in **Federal Register** Volume 42, page 5331.)

JUSTICE/CRT-004

SYSTEM NAME:

Registry of Names of Interested Persons Desiring Notification of Submissions under Section 5 of the Voting Rights Act.

SYSTEM LOCATION:

U.S. Department of Justice, Civil Rights Division, *320 First Street,* NW., Washington, D.C. 20530 *and U.S. Department of Justice, 10th & Constitution, NW., Washington, D.C. 20530.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have requested that the Attorney General send them notice of submissions under Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Registry contains the name, address and the telephone numbers of interested persons and, where appropriate, the area or areas with respect to which notification was requested by such persons.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

46 FR 877 (1981) to be codified in 28 CFR 51.30, 42 U.S.C. 1973c, 5 U.S.C. 301 and 28 U.S.C. 509.510.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Registry is used to identify persons interested in receiving notice of Section 5 submissions and to comply with their requests. The Registry may be used to notify the persons listed therein of any proposed changes in the "Procedures for the Administration of Section 5 of the voting rights Act of 1965," *46 FR 870 (1981) to be codified in 28 CFR Part 1,* and to solicit their comments with respect to any such proposed changes.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the contest of a particular case would constitute and unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member of staff request the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Names are stored in a card file system, *and an automated addresser.*

RETRIEVABILITY:

Records in this system are retrievable by the names of interested persons or organizations.

SAFEGUARDS:

Information in the system is safeguarded in accordance with Departmental rules and procedures governing access, production and disclosure of any materials contained in its official files.

RETENTION AND DISPOSAL:

An individual or organizational name is retained in the Registry until such time as that person or organization request that the name be deleted.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Voting Section, Civil Rights Division, U.S. Department of Justice, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to: Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, Washington, D.C. 20530.

RECORD ACCESS PROCEDURES:

This system contains no information about any individual other than as described in Category of Record above. Persons whose names appear on the Registry may have access thereto or have their names and other information pertaining to them deleted or modified upon a request of the same nature as indicated in *46 FR 877 (1981) codified in 28 CFR 51.30.*

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Sources of information in the Registry are those persons or organizations whose names appear therein by virtue of their having requested inclusion in the Registry pursuant to *46 FR 877 (1981) to be codified in 28 CFR 51.30.*

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/CRT-010

SYSTEM NAME:

Freedom of Information; Privacy Act Records.

SYSTEM LOCATION:

U.S. Department of Justice. Civil Rights Division, 10th & Constitution Avenue, N.W., Washington DC. 20530 *and Federal Record Center Suitland, Maryland 20409.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who request disclosure of records pursuant to the Freedom of Information Act; persons who request access to or correction of records pertaining to themselves contained in Civil Rights Division systems of records pursuant to the Privacy Act; and, where applicable, persons about whom records have been requested or about whom information is contained in requested records.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains copies of all correspondence and internal memoranda relation to Freedom of Information and Privacy Act requests, and related records necessary to the processing of such requests received on or after January 1, 1975.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101 and is maintained to implement the provisions of 5 U.S.C. 552 and 552a and the provisions of 28 CFR 16.1 et seq. and 28 CFR 16.40 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system may be disseminated as a routine use of such record as follows: (1) A record may be disseminated to a Federal agency which furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate Federal, State, local, or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in systems of records maintained by the *Civil Rights* Division

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management in spections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually in alphabetical order in file cabinets *and is also stored manually in chronological, cumulative notebooks.*

RETRIEVABILITY:

A record is retrived by the name of the individual or person making a request for access or correction of records.

SAFEGUARDS:

Access to physical records is limited to personnel of the Freedon of Information Privacy Act Unit of the Civil Rights Division and known Department of Justice personnel who have a need for the record in the performance of their duties. The records are safeguarded and protected in accordance with applicable Departmental rules.

RETENTION AND DISPOSAL:

Currently there are no provisions for disposal of records contained in this system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General, Civil Rights Division, U.S. Depatrtment of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Parts of this system are exempted from this requirement under 5 U.S.C. 552a(j)(2) or (k)(2). Address inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURES:

Parts of this system are exempted from this requirement under 5 U.S.C. 552a(j)(2), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other information which is known and may be of assistance in locating the record. The requester shall also provide a return address for transmitting the information. Access requests should be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend non-exempt information

maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are the individuals and persons making requests, the systems of records searched in the process of responding to requests, and other agencies referring requests for access to or correction of records originating in the Civil Rights Division.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Records secured from other *Civil Rights Division* systems of records have been exempted from the provisions of the Privacy Act to the same extent as the systems of records from which they were obtained. The Attorney General has also exempted certain categories of records in this system *pursuant to the provisions of 5 U.S.C. 552a (j)(2) from subsections (c)(3), (d), and (g) of 5 U.S.C. 552a; in addition, this system of records is exempted pursuant to the provisions of 5 U.S.C. 552a (k)(2) from subsections (c)(3), and (d) of 5 U.S.C. 552a.* Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(c), and (e) and have been published in the Federal Register.

Office of the Deputy Attorney General (DAG)

The Executive Correspondence Control System identified as JUSTICE/DAG–001 is reprinted below and redesignated as JUSTICE/DAG–012 for administrative and practical reasons. (This system was last published under the designation of JUSTICE/DAG–001 on June 28, 1982 in Federal Register Volume 47, Page 27994.)

JUSTICE/DAG–012

SYSTEM NAME:

Executive Secretariat Correspondence Control System

SYSTEM LOCATION:

Office of the Deputy Attorney General, Department of Justice, Room 4408, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have written to the Attorney General; Deputy Attorney General; Associate Attorney General; Assistant Attorney General, Office of Legislative Affairs; or Director, Office of Public Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Control information from incoming and outgoing correspondence to include a subject narrative, names of individual correspondents and organizations preparing a response to mail or intitiating correspondence, and type of action and due date of such action required from the Department. This information is contained on hard-copy printouts and mini-computer disc units.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 301

PURPOSE(S):

To provide the capability to control and track correspondence to ensure a timely response thereto and/or any other required action.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Primary use of the system is limited to the Executive Secretariat staff and to officials who need access to perform official duties.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to Title 28 of the Code of Federal Regulations, § 50.2 may be made Available unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Disclosure may be made to a congressional office or to the Executive Office of the President from a record of an individual in response to an inquiry from either of these offices made at the request of that individual.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service in records management inspections conducted under the authority of 44 U.S.C 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained as follows: hard-copy printouts are stored in standard file cabinets in a locked area; computer records are stored on on-line mini-computer disc units at the mini-computer/word processing site.

RETRIEVABILITY:

Control records are retrieved by name of sender, addressee, date of receipt, due date and organization responsible for preparing the response. Records are used for the tracking/control of correspondence of concern to the Attorney General, Deputy Attorney General, Associate Attorney General and their staffs; the Assistant Attorney General, Office of Legislative Affairs and the Director, Office of Public Affairs and their staffs.

SAFEGUARDS:

During working hours, direct access is limited to the staff of the Executive Secretariat, and to officials with a need to know, to both hard-copy and mini-computer resident records. During nonworking hours, access to hard-copy records is limited to staff/officials with keys to both the file cabinets and rooms where the records are stored. Computer terminal locations are protected at all times with user identification numbers and passwords to the computer system.

RETENTION AND DISPOSAL:

A request for records disposition authority is being prepared for approval by the National Archives and Records Service.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Deputy Attorney General, Department of Justice, Executive Secretariat, Room 4408, 10th and Constitution Avenue, N.W., Washington D.C. 20530.

NOTIFICATION PROCEDURES:

Inquiries should be addressed to the system manager. To locate a specific record, the system manager must be provided with the name of the individual who corresponded with the Attorney General; Deputy Attorney General; Associate Attorney General; Assistant Attorney General, Office of Legislative Affairs; or Director, Office of Public Affairs and with the date and subject matter of the correspondence. The address is the same as above.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (Access procedures are found in Title 28 of the Code of Federal Regulations, Part 16.)

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (Access and contesting

procedures are found in Title 28 of the Code of Federal Regulations. Part 16.)

RECORD SOURCE CATEGORIES:

Control records are derived from the incoming and outgoing correspondence of the Attorney General; Deputy Attorney General; Associate Attorney General; Assistant Attorney General, Office of Legislative Affairs; and Director, Office of Public Affairs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Federal Bureau of Investigation (FBI)

The following FBA system of records is reprinted below to describe minor modifications, e.g., changes to record classifications used in its filing system, and editorial changes. (The system was last published on December 9, 1981 in Federal Register Volume 46, page 60311.)

JUSTICE/FBI–002

SYSTEM NAME:

The FBI Central Records System.

SYSTEM LOCATION:

a. Federal Bureau of Investigation, J. Edgar Hoover FBI Building, 10th and Pennsylvania Avenue, NW., Washington, D.C. 20535; b. 59 field divisions (see Appendix); c. *13* Legal Attaches (see Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals who relate in any manner to official FBI investigations including, but not limited to suspects, victims, witnesses, and close relatives and associates that are relevant to an investigation.

b. Applicants for and current and former personnel of the FBI and persons related thereto that are considered relevant to an applicant investigation, personnel inquiry, or persons related to personnel matters.

c. Applicants for and appointees to sensitive positions in the United States Government and persons related thereto that are considered relevant to the investigation.

d. Individuals who are the subject of unsolicited information, who offer unsolicited information, request assistance, and make inquiries concerning record material, including general correspondence, contacts with other agencies, businesses, institutions, clubs, the public and the news media.

e. Individuals, associated with administrative operations or services including pertinent functions, contractors and pertinent persons related thereto.

(All manner of information concerning individuals may be acquired in connection with and relating to the varied investigative responsibilities of the FBI which are further described in "Categories of Records in the System." Depending on the nature and scope of the investigation this information may include, among other things, personal habits and conduct, financial information, travel and organizational affiliation of individuals. The information collected is made a matter of record and placed in FBI files.)

CATEGORIES OF RECORDS IN THE SYSTEM:

The FBI Central Records System—The FBI utilizes a central records system of maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in file. *This abstract system is both a textual and an automated capability for locating mail.* Files kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

The FBI has *229* classifications used in its basic filing system which pertain primarily to Federal violations over which the FBI has investigative jurisdiction. However, included in the *229* classifications are personnel, applicant, and administrative matters to facilitate the overall filing scheme. These classifications are as follows (the word "obsolete" following the name of the classification indicates the FBI is no longer initiating investigative cases in these matters, although the material is retained for reference purposes):

1. Training Schools; National Academy Matters; FBI National Academy Applicants. Covers general information concerning the FBI National Academy, including background investigations of individual candidates.

2. Neutrality Matters. Title 18, United States Code, Sections 956 and 958–962; Title 22, United States Code, Sections 1934 and 401.

3. Overthrow or Destruction of the Government, Title 18; United States Code, Section 2385.

4. National Firearms Act; Federal Firearms Act; State Firearms Control Assistance Act; Unlawful Possession or Receipt of Firearms. Title 26, United States Code, Sections 5801–5812; Title 18, United States Code, Sections 921–928; Title 18, United States Code, Sections 1201–1203.

5. Income Tax. Covers violations of Federal income tax laws reported to the FBI. Complaints are forwarded to the Commissioner of the Internal Revenue Service.

6. Interstate Transportation of Strikebreakers. Title 18, United States Code, Section 1231.

7. Kidnaping. Title 18, United States Code, Sections 1201 and 1202.

8. Migratory Bird Act. Title 18, United States Code, Section 43; Title 16, United States Code, Sections 703 through 718.

9. Extortion. Title 18, United States Code, Sections 876, 877, 875, and 873.

10. Red Cross Act. Title 18, United States Code, Sections 706 and 917.

11. Tax (Other than Income). This classification covers complaints concerning violations of Internal Revenue laws as they apply to other than alcohol, social security and income and profits taxes, which are forwarded to the Internal Revenue Service.

12. Narcotics. This classification covers complaints received by the FBI concerning alleged violations of Federal drug laws. Complaints are forwarded to the Administration (DEA), or the nearest district office of DEA *(obsolete).*

13. Miscellaneous. Section 125, National Defense Act; Prostitution; Selling Whiskey Within Five Miles Of An Army Camp. 1920 only. Subjects were alleged violators of abuse of U.S. flag, fraudulent enlistment, selling liquor and operating houses of prostitution within restricted bounds of military reservations. Violations of Section 13 of the Selective Service Act (Conscription Act) were enforced by the Department of Justice as a war emergency measure with the Bureau exercising jurisdiction in the detection and prosecution of cases within the purview of that Section.

14. Sedition. Title 18, United States Code, Sections 2387, 2388, and 2391.

15. Theft from Interstate Shipment. Title 18, United States Code, Section 659; Title 18, United States Code, Section 660; Title 18, United States Code, Section 2117.

16. Violation Federal injunction (obsolete). *Consolidated into Classification 69, "Contempt of Court".*

17. *Fraud Against the Government—Veterans Administration;* Veterans Administration Matters. Title 18, United States Code, Sections 287, 289, 290, 371, or 1001; and Title 38, United States Code, Sections 787(a), 787(b), 3405, 3501, and 3502.

18. May Act. Title 18, United States Code, Section 1384.

19. Censorship Matter (obsolete). Pub. L. 354, 77th Congress.

20. Federal Grain Standards Act. *(obsolete)* 1920 only. Subject were alleged violators of contracts for sale, shipment of interstate commerce, Section 5, U.S. Grain Standards Act.

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21. Food and Drugs. This classification covers complaints received concerning alleged violations of the Food, Drug and Cosmetic Act; Tea Act; Import Milk Act Caustic Poison Act; and Filled Milk Act. These complaints are referred to the Commissioner of the Food and Drug Administration or the field component of that Agency.

22. National Motor Vehicle Traffic Act. 1922–27 *(obsolete)*. Subjects possible violators of the National Motor Vehicle Theft Act; Automobiles seized by Prohibition Agents.

23. Prohibition. This classification covers complaints received concerning bootlegging activities and other violations of the alcohol tax laws. Such complaints are referred to the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, or field representatives of that Agency.

24. Profiteering. 1920–42. *(obsolete)* Subjects are possible violators of the Lever Act—Profiteering in food and clothing or accused company was subject of file. Bureau conducted investigations to ascertain profits.

25. Selective Service Act; Selective Training and Service Act. Title 50, United States Code, Section 462; Title 50, United States Code, Section 459.

26. Interstate Transportation of Stolen Motor Vehicle; Interstate Transportation of Stolen Aircraft. Title 18, United States Code, Sections 2311 (in part), 2312, and 2313.

27. Patent Matter. Title 35, United States Code.

28. Copyright Matter. Title 17, United States Code, Sections 104 and 105.

29. Bank Fraud and Embezzlement. Title 18, United States Code, Sections 212, 213, 215, 334, 655–657, 1004–1006, 1008, 1009, 1014, and 1306; Title 12, United States Code, Section 1725(g)

30. Interstate Quarantine Law. 1922–25 *(obsolete)*. Subjects alleged violators of Act of February 15, 1893, as amended, regarding interstate travel of persons afflicted with infectious diseases. Cases also involved unlawful transportation of animals, Act of February 2, 1903. Referrals were made to Public Health Service and the Department of Agriculture.

31. White Slave Traffic Act. Title 18, United States Code, Sections 2421–2424.

32. Identification (Fingerprint Matters). This classification covers general information concerning Identification (fingerprint) matters.

33. Uniform Crime Reporting. This classification covers general information concerning the Uniform Crime Reports, a periodic compilation of statistics of criminal violations throughout the United States.

34. Violation of Lacy Act. 1922–43. *(obsolete)* Unlawful transportation and shipment of black bass and fur seal skins.

35. Civil Service. This classification covers complaints received by the FBI concerning Civil Service matters which are referred to the *Office of Personnel Management* in Washington or regional offices of that Agency.

36. Mail Fraud. Title 18, United States Code, Section 1341.

37. False Claims Against the Government. 1921–22. *(obsolete)* Subjects submitted claims for allotment, vocational training, compensation as veterans under the Sweet Bill. Letters were generally referred elsewhere (Veterans Bureau). Violators apprehended for violation of Article No. 1, War Risk Insurance Act.

38. Application for Pardon to Restore Civil Rights. 1921–35. *(obsolete)* Subjects allegedly obtained their naturalization papers by fraudulent means. Cases later referred to Immigration and Naturalization Service.

39. Falsely Claiming Citizenship. *(obsolete)* Title 18, United States Code, Sections 911 and 1015(a)(b).

40. Passport and Visa Matter. Title 18, United States Code, Sections 1541–1546.

41. Explosives (obsolete). Title 50, United States Code, Sections 121 through 144.

42. Deserter; Deserter, Harboring. Title 10, United States Code, Sections 808 and 885.

43. Illegal Wearing of Uniforms; False Advertising or Misuse of Names, Words, Emblems or Insignia; Illegal Manufacture, Use, Possession, or Sale of Emblems and Insignia; Illegal Manufacture Possession, or Wearing of Civil Defense Insignia; Miscellaneous, Forging or Using Forged Certificate of Discharge from Military or Naval Service; Miscellaneous, Falsely Making or Forging Naval, Military, or Official Pass; Miscellaneous, Forging or Counterfeiting Seal of Department or Agency of the United States; Misuse of the Great Seal of the United States or of the Seals of the President or the Vice President of the United States; Unauthorized Use of "Johnny Horizon" Symbol; Unauthorized Use of Smokey Bear Symbol. Title 18, United States Code, Sections 702, 703, and 704; Title 18, United States Code, Sections 701, 705, 707, and 710; Title 36, United States Code, Section 182; Title 50, Appendix, United States Code, Section 2284; Title 46, United States Code, Section 249; Title 18, United States Code, Sections 498, 499, 506, 709, 711, 711a, 712, 713, and 714; Title 12, United States Code, Sections 1457 and 1723a; Title 22, United States Code, Section 2518.

44. Civil Rights; Civil Rights, Election Laws, Voting Rights Act, 1965, Title 18, United States Code, Sections 241, 242, and 245; Title 42, United States Code, Section 1973; Title 18, United States Code, Section 243; Title 18, United States Code, Section 244, Civil Rights Act—Federally Protected Activities; Civil Rights Act—Overseas Citizens Voting Rights Act of 1975.

45. Crime on the High Seas (Includes stowaways on boats and aircraft). Title 18, United States Code, Sections 7, 13, 1243, and 2199.

46. Fraud Against the Government; *(Includes Department of Health, Education and Welfare; Department of Labor (CETA), and Miscellaneous Government Agencies)* Anti-Kickback Statute; Dependent Assistance Act of 1950; False Claims, Civil; Federal-Aid Road Act; Lead and Zinc Act; Public Works and Economic Development Act of 1965; Renegotiation Act, Criminal; Renegotiation Act, Civil; Trade Expansion Act of 1962; Unemployment Compensation Statutes; Economic Opportunity Act. Title 50, United States Code, Section 1211 et seq.; Title 31, United States Code, Section 231; Title 41, United States Code, Section 119; Title 40, United States Code, Section 489.

47. Impersonation. Title 18, United States Code, Sections 912, 913, 915, and 916.

48. Postal. Violation (Except Mail Fraud). This classification covers inquiries concerning the Postal Service and complaints pertaining to the theft of mail. Such complaints are either forwarded to the Postmaster General or the nearest Postal Inspector.

49. National Bankruptcy Act. Title 18, United States Code, Sections 151–155.

50. Involuntary Servitude and Slavery. U.S. Constitution, 13th Amendment; Title 18, United States Code, Sections 1581–1588, 241, and 242.

51. Jury Panel Investigations. This classification covers jury panel investigations which are requested by the appropriate Assistant Attorney General as authorized by 28 U.S.C. 533 and AG memorandum #781, dated 11/9/72. These investigations can be conducted only upon such a request and consist of an indices and arrest check, and only in limited important trials where defendant could have influence over a juror.

52. Theft, Robbery, Embezzlement, Illegal Possession or Destruction of Government Property. Title 18, United States Code, Sections 641, 1024, 1660,

2112, and 2114. Interference With Government Communications, Title 18, U.S.C., Section 1632.

53. Excess Profits On Wool. 1918 (obsolete). Subjects possible violator of Government Control of Wool Clip of 1918.

54. Customs Laws and Smuggling. This classification covers complaints received concerning smuggling and other matters involving importation and entry of merchandise into and the exportation of merchandise from the United States. Complaints are referred to the nearest district office of the U.S. Customs Service or the Commissioner of Customs, Washington, D.C.

55. Counterfeiting. This classification covers complaints received concerning alleged violations of counterfeiting of U.S. coins, notes, and other obligations and securities of the Government. These complaints are referred to either the Director, U.S. Secret Service, or the nearest office of that Agency.

56. Election Laws. Title 18, United States Code, Sections 241, 242, 245, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, and 607; Title 42, United States Code, Section 1973; Title 26, United States Code, Sections 9012 and 9042; Title 2, United States Code, Sections 431, 432, 433, 434, 435, 436, 437, 439, and 441.

57. War Labor Dispute Act (obsolete). Pub. L. 89—77th Congress.

58. Bribery; Conflict of Interest. Title 18, United States Code, Sections 201–203, 205–211; Pub. L. 89–4 and 89–136.

59. World War Adjusted Compensation Act 1924–44. (obsolete) Bureau of Investigation was charged with the duty of investigating alleged violations of all sections of the World War Adjusted Compensation Act (Pub. L. 472, 69th Congress (H.R. 10277)) with the exception of Section 704.

60. Anti-Trust. Title 15, United States Code, Sections 1–7, 12–27, and 13.

61. Treason or Misprison of Treason. Title 18, United States Code, Sections 2381, 2382, 2389, 2390, 756, and 757.

62. Administrative Inquiries. Misconduct Investigations of Officers and Employees of the Department of Justice and Federal Judiciary; Census Matters (Title 13, United States Code, Sections 211–214, 221–224, 304, and 305) Domestic Police Cooperation; Eight-Hour-Day Law (Title 40, United States Code, Sections 321, 322, 325a, 326); Fair Credit Reporting Act (Title 15, United States Code, Sections 1681q and 1681r); Federal Cigarette Labeling and Advertising Act (Title 15, United States Code, Section 1333); Federal Judiciary Investigations; Kickback Racket Act (Title 18, United States Code, Section 874); Lands Division Matter; Other Violations and/or Matters; Civil Suits—Miscellaneous; Soldiers' and Sailors' Civil Relief Act of 1940 (Title 50, Appendix, United States Code, Sections 510–590); Tariff Act of 1930 (Title 19, United States Code, Section 1304); Unreported Interstate Shipment of Cigarettes (Title 15, United States Code, Sections 375 and 376); Fair Labor Standards Act of 1938 (Wage and Hours Law) (Title 29, United States Code, Sections 201–219); Conspiracy (Title 18, United States Code, Section 371 (formerly Section 88, Title 18, United States Code); effective September 1, 1948).

63. Miscellaneous—Nonsubversive. This classification concerns correspondence from the public which does not relate to matters within FBI jurisdiction.

64. Foreign Miscellaneous. This classification is a control file utilized as a repository for intelligence information of value identified by country. More specific categories are placed in classification 108–113.

65. Espionage. Attorney General Guidelines on Foreign Counterintelligence; Internal Security Act of 1950; Executive Order 11905.

66. Administrative Matters. This classification covers such items as supplies, automobiles, salary matters and vouchers.

67. Personnel Matters. This classification concerns background investigations of applicants for employment with the FBI.

68. Alaskan Matters (obsolete). This classification concerns FBI investigations in the Territory of Alaska prior to its becoming a State.

69. Contempt of Court. Title 18, United States Code, Sections 401, 402, 3285, 3691, 3692; Title 10, United States Code, Section 847; and Rule 42, Federal Rules of Criminal Procedure.

70. Crime on Government Reservation. Title 18, United States Code, Sections 7 and 13.

71. Bills of Lading Act. Title 49, United States Code, Section 121.

72. Obstruction of Criminal Investigations; *Obstruction of Justice, Obstruction of Court Orders.* Title 18, United States Code, Sections 1503 through 1510.

73. Application for Pardon After Completion of Sentence and Application for Executive Clemency. This classification concerns the FBI's background investigation in connection with pardon applications and requests for executive clemency.

74. Perjury. Title 18, United States Code, Sections 1621, 1622, and 1623.

75. Bondsmen and Sureties. Title 18, United States Code, Section 1506.

76. Escaped Federal Prisoner, Escape and Rescue; Probation Violator; Parole Violator; Mandatory Release Violator. Title 18, United States Code, Sections 751–757, 1072; Title 18, United States Code, Sections 3651–3656; and Title 18, United States Code, Sections 4202–4207, 5037, and 4161–4166.

77. Applicants (Special Inquiry, Departmental and Other Government Agencies, except those having special classifications). This classification covers the background investigations conducted by the FBI in connection with the aforementioned positions.

78. Illegal Use of Government Transportation Requests. Title 18, United States Code, Sections 287, 495, 508, 641, 1001 and 1002.

79. Missing Persons. This classification covers the FBI's Identification Division's assistance in the locating of missing persons.

80. Laboratory Research Matters. At FBI Headquarters this classification is used for Laboratory research matters. In field office files this classification covers the FBI's public affairs matters and involves contact by the FBI with the general public, Federal and State agencies, the Armed Forces, corporations, the news media and other outside organizations.

81. Gold Hoarding. 1933–45. *(obsolete)* Gold Hoarding investigations conducted in accordance with an Act of March 9, 1933 and Executive Order issued August 28, 1933. Bureau instructed by Department to conduct no further investigations in 1935 under the Gold Reserve Act of 1934. Thereafter, all correspondence referred to Secret Service.

82. War Risk Insurance (National Life Insurance (obsolete)). This classification covers investigations conducted by the FBI in connection with civil suits filed under this statute.

83. Court of Claims. This classification covers requests for investigation of cases pending in the Court of Claims from the Assistant Attorney General in charge of the Civil Division of the Department of Justice.

84. Reconstruction Finance Corporation Act (obsolete). Title 15, United States Code, Chapter 14.

85. Home Owner Loan Corporation (obsolete). This classification concerned complaints received by the FBI about alleged violations of the Home Owners Loan Act, which were referred to the Home Owners Loan Corporation. Title 12, United States Code, Section 1464.

86. *Fraud Against the Government*—Small Business Administration. Title 15, United States Code, Section 645; Title 18, United States Code, Sections 212,

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213, 215, 216, 217, 657, 658, 1006, 1011, 1013, 1014, 1907, 1908 and 1909.

87. Interstate Transportation of Stolen Property *(Heavy Equipment—Commercialized Theft)*. Title 18, United States Code, Sections 2311, 2314, 2315, and 2318.

88. Unlawful Flight to Avoid Prosecution, Custody, or Confinement; Unlawful Flight to Avoid Giving Testimony. Title 18, United States Code, Sections 1073 and 1074.

89. Assaulting or Killing a Federal Officer, Congressional Assassination Statute. Title 18, United States Code, Sections 1111, 1114, 2232.

90. Irregularities in Federal Penal Institutions. Title 18, United States Code, Sections 1791 and 1792.

91. Bank Burglary; Bank Larceny; Bank Robbery. Title 18, United States Code, Section 2113.

92. *Racketeering Enterprise Investigations*. Title 18, United States Code, Section 3237.

93. Ascertaining Financial Ability. This classification concerns requests by the Department of Justice for the FBI to ascertain a person's ability to pay a claim, fine or judgment obtained against him by the United States Government.

94. Research Matters. This classification concerns all general correspondence of the FBI with private individuals which does not involve any substantive violation of Federal law.

95. Laboratory Cases (Examination of Evidence in Other Than Bureau's Cases). This classification concerns non-FBI cases where a duly constituted State, county or a municipal law enforcement agency in a criminal matter has requested an examination of evidence by the FBI Laboratory.

96. Alien Applicant (obsolete). Title 10, United States Code, Section 310.

97. Foreign Agents Registration Act. Title 18, United States Code, Section 951; Title 22, United States Code, Sections 611–621; Title 50, United States Code, Sections 851–857.

98. Sabotage. Title 18, United States Code, Sections 2151–2156; Title 50, United States Code, Section 797.

99. Plant Survey (obsolete). This classification covers a program where in the FBI inspected industrial plants for the purpose of making suggestions to the operators of those plants to prevent espionage and sabotage.

100. Domestic Security. This classification covers investigations by the FBI in the domestic security field, e.g., Smith Act violations.

101. Hatch Act (obsolete). Pub. L. 252, 76th Congress.

102. Voorhis Act, Title 18, United States Code, Section 1386.

103. Interstate Transportation of Stolen Cattle. Title 18, United States Code, Sections 2311, 2316 and 2317.

104. Servicemen's Dependents Allowance Act of 1942 (obsolete). Pub. L. 625, 77th Congress, Sections 116–119.

105. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

106. Alien Enemy Control; Escaped Prisoners of War and Internees. 1944–55 *(obsolete)*. Suspects were generally suspected escaped prisoners of war, members of foreign organizations, failed to register under the Alien Registration Act. Cases ordered closed by Attorney General after alien enemies returned to their respective countries upon termination of hostilities.

107. Denaturalization Proceedings (obsolete). This classification covers investigations concerning allegations that an individual fraudulently swore allegiance to the United States or in some other manner illegally obtained citizenship to the U.S., Title 8, United States Code, Section 738.

108. Foreign Travel Control (obsolete). This classification concerns security-type investigations wherein the subject is involved in foreign travel.

109. Foreign Political Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign political matters broken down by country.

110. Foreign Economic Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign economic matters broken down by country.

111. Foreign Social Conditions. This classification is a control file utilized as a repository for intelligence information concerning foreign social conditions broken down by country.

112. Foreign Funds. This classification is a control file utilized as a repository for intelligence information concerning foreign funds broken down by country.

113. Foreign Military and Naval Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign military and naval matters broken down by country.

114. Alien Property Custodian Matter (obsolete). Title 50, United States Code, Sections 1 through 38. This classification covers investigations concerning ownership and control of property subject to claims and litigation under this statute.

115. Bond Default; Bail Jumper. Title 18, United States Code, Sections 3146–3152.

116. Department of Energy Applicant; Department of Energy, Employee. This classification concerns background investigations conducted in connection with employment with the Department of Energy.

117. Department of Energy, Criminal. Title 42, United States Code, Sections 2011–2281; Pub. L. 93–438.

118. Applicant, Intelligence Agency (obsolete). This classification covers applicant background investigations conducted of persons under consideration for employment by the Central Intelligence Group.

119. Federal Regulations of Lobbying Act, Title 2, United States Code, Sections 261–270.

120. Federal Tort Claims Act. Title 28, United States Code, Sections 2671 to 2680. Investigations are conducted pursuant to specific request from the Department of Justice in connection with cases in which the Department of Justice represents agencies sued under the Act.

121. Loyalty of Government Employees (obsolete). Executive Order 9835.

122. Labor Management Relations Act, 1947. Title 29, United States Code, Sections 161, 162, 176–178 and 186.

123. Special Inquiry, State Department, Voice of America (U.S. Information Center) (Pub. L. 402, 80th Congress) (obsolete). This classification covers loyalty and security investigations on personnel employed by or under consideration for employment for Voice of America.

124. European Recovery Program (International Cooperation Administration), formerly Foreign Operations Administration, Economic Cooperation Administration or E.R.P., European Recovery Programs; A.I.D., Agency for International Development (obsolete). This classification covers security and loyalty investigations of personnel employed by or under consideration for employment with the European Recovery Program, Pub. L. 472, 80th Congress.

125. Railway Labor Act; Railway Labor Act—Employer's Liability Act, Title 45, United States Code, Sections 151–163 and 181–188.

126. National Security Resources Board, Special Inquiry (obsolete). This classification covers loyalty investigations on employees and applicants of the National Security Resources Board.

127. Sensitive Positions in the United States Government, Pub. L. 266 (obsolete). Pub. L. 266, 81st Congress.

128. International Development Program (Foreign Operations Administration) (obsolete). This classification covers background investigations conducted on individuals

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who are to be assigned to duties under the International Development Program.

129. Evacuation Claims (obsolete). Pub. L. 886, 80th Congress.

130. Special Inquiry, Armed Forces Security Act (obsolete). This classification covers applicant-type investigations conducted for the Armed Forces security agencies.

131. Admiralty Matter. Title 46, United States Code, Sections 741 to 752 and 781 to 799.

132. Special Inquiry, Office of Defense Mobilization (obsolete). This classification covers applicant-type investigations of individuals associated with the Office of Defense Mobilization.

133. National Science Foundation Act. Applicant (obsolete). Pub. L. 507, 81st Congress.

134. Foreign Counterintelligence Assets. This classification concerns individuals who provide information to the FBI concerning Foreign Counterintelligence matters.

135. PROSAB (Protection of Strategic Air Command Bases of the U.S. Air Force) (obsolete). This classification covered contacts with individuals with the aim to develop information useful to protect bases of the Strategic Air Command.

136. American Legion Contact (obsolete). This classification covered liaison contacts with American Legion officers.

137. Informants, Other Than Foreign Counterintelligence Assets. This classification concerns individuals who furnish information to the FBI concerning criminal violations on a continuing and confidential basis.

138. Loyalty of Employees of the United Nations and Other Public International Organizations. This classification concerns FBI investigations based on referrals from the Civil Service Commission wherein a question or allegation has been received regarding the applicant's loyalty to the U.S. Government as described in Executive Order 10422.

139. Interception of Communications (Formerly, Unauthorized Publication or Use of Communications). Title 47, United States Code, Section 605; Title 47, United States Code, Section 501; Title 18, United States Code, Sections 2510–2513.

140. Security of Government Employees; S.G.E.; Fraud Against the Government, Executive Order 10450.

141. False Entries in Records of Interstate Carriers. Title 47, United States Code, Section 220; Title 49, United States Code, Section 20.

142. Illegal Use of Railroad Pass. Title 49, United States Code, Section 1.

143. Interstate Transportation of Gambling Devices. Title 15, United States Code, Sections 1171 through 1180.

144. Interstate Transportation of Lottery Tickets. Title 18, United States Code, Section 1301.

145. Interstate Transportation of Obscene Matter; Broadcasting Obscene Language. Title 18, United States Code, Sections 1462, 1464 and 1465.

140. Interstate Transportation of Prison-Made Goods. Title 18, United States Code, Sections 1761 and 1762.

147. *Fraud Against the Government*—Department of Housing and Urban Development, Matters. Title 18, United States Code, Sections 1010, 709, 657 and 1006; Title 12, United States Code, Sections 1715 and 1709.

148. Interstate Transportation of Fireworks. Title 18, United States Code, Section 836.

149. Destruction of Aircraft or Motor Vehicles. Title 18, United States Code, Sections 31 through 35.

150. Harboring of Federal Fugitives, Statistics (*obsolete*).

151. (Referral cases received from the Office of Personnel Management under Pub. L. 298). Agency for International Development; Department of Energy; National Aeronautics and Space Administration; National Science Foundation; Peace Corps.; Action; U.S. Arms Control and Disarmament Agency; World Health Organization; International Labor Organization; International Communications Agency. This classification covers referrals from the Civil Service Commission where an allegation has been received regarding an applicant's loyalty to the U.S. Government. These referrals refer to applicants from Peace Corps., Department of Energy, National Aeronautics and Space Administration, Nuclear Regulatory Commission, United States Arms Control and Disarmament Agency and the International Communications Agency.

152. Switchblade Knife Act. Title 15, United States Code, Sections 1241 through 1244.

153. Automobile Information Disclosure Act. Title 15, United States Code, Section 1231, 1232 and 1233.

154. Interstate Transportation of Unsafe Refrigerators. Title 15, United States Code. Section 1211 through 1214.

155. National Aeronautics and Space Act of *1958*. Title 18, United States Code, Section 799.

156. Employee Retirement Income Security Act. Title 29, United States Code, Sections 1021–1029, 1111, 1131, and 1141; Title 18, United States Code, Sections 644, 1027, and 1954.

157. Civil Unrest. This classification concerns FBI responsibility for reporting information on civil disturbances or demonstrations. The FBI's investigative responsibility is based on the Attorney General's Guidelines for Reporting on Civil Disorders and Demonstrations Involving a Federal Interest which became effective April 5, 1976.

158. Labor-Management Reporting and Disclosure Act of 1959 (Security Matter (obsolete). Pub. L. 86–257, Section 504.

159. Labor-Management reporting and Disclosure Act of 1959 (Investigative Matter). Title 29, United States Code, Sections 501, 503, 504, 522, and 530.

160. Federal Train Wreck Statute. Title 18, United States Code, Section 1992.

161. Special Inquiries for White House, Congressional Committee and Other Government Agencies. This classification covers investigations requested by the White House, Congressional committees or other Government agencies.

162. Interstate Gambling Activities. This classification covers information acquired concerning the nature and scope of illegal gambling activities in each field office.

163. Foreign Police Cooperation. This classification covers requests by foreign police for the FBI to render investigative assistance to such agencies.

164. Crime Aboard Aircraft. Title 49, United States Code, Sections 1472 and 1473.

165. Interstate Transmission of Wagering Information. Title 18, United States Code, Section 1084.

166. Interstate Transportation in Aid of Racketeering. Title 18, United States Code, Section 1952.

167. Destruction of Interstate Property. Title 15, United States Code, Sections 1281 and 1282.

168. Interstate Transportation of Wagering Paraphernaila. Title 18, United States Code, Section 1953.

169. Hydraulic Brake Fluid Act (obsolete); 76 Stat. 437, Pub. L. 87–637.

170. Extremist Informants (obsolete). This classification concerns individuals who provided information on a continuing basis on various extremist elements.

171. Motor Vehicle Seat Belt Act (obsolete). Pub. L. 88–201, 80th Congress.

172. Sports Bribery. Title *18, U.S. Code, Section 224*.

173. Public Accommodations, Civil Rights Act of 1964 Public Facilities, Civil Rights Act of 1964 Public Education, Civil Rights Act of 1964 Employment, Civil Rights Act of 1964. Title 42, United States Code, Section 2000; Title 18, United States Code, Section 245.

174. Explosives and Incendiary Devices; Bomb Threats (Formerly, Bombing Matters; Bombing Matters, Threats). Title 18, United States Code, Section 844.

175. Assaulting, *Kidnapping or Killing* the President (or Vice President) of the United States. Title 18, United States Code, Section 1751.

176. Anti-riot Laws. Title 18, United States Code, Section 245.

177. Discrimination in Housing. Title 42, United States Code, Sections 3601–3619 and 3631.

178. Interstate Obscene or Harrassing Telephone Calls. Title 47, United States Code, Section 223.

179. Extortionate Credit Transactions. Title 18, United States Code, Sections 891–896.

180. Desecration of the Flag. Title 18, United States Code, Section 700.

181. Consumer Credit Protection Act. Title 15, United States Code, Section 1611.

182. Illegal Gambling Business; Illegal Gambling Business, Obstruction; Illegal Gambling Business, Forfeiture. Title 18, United States Code, Section 1955; Title 18, United States Code, Section 1511.

183. Racketeer, Influence and Corrupt Organizations. Title 18, United States Code, Sections 1961–1968.

184. Police Killings. This classification concerns investigations conducted by the FBI upon written request from local Chief of Police or duly constituted head of the local agency to actively participate in the investigation of the killing of a police officer. These investigations are based on a Presidential Directive dated June 3, 1971.

185. Protection of Foreign Officials and Officials Guests of the United States. Title 18, United States Code, Sections 112, 970, 1116, 1117 and 1201.

186. Real Estate Settlement Procedures Act of 1974. Title 12, United States Code, Section 2602; Title 12, United States Code, Section 2606, and Title 12, United States Code, Section 2607.

187. Privacy Act of 1974, Criminal. Title 5, United States Code, Section 552a.

188. Crime Resistance. This classification covers FBI efforts to develop new or improved approaches, techniques, systems, equipment and devices to improve and strengthen law enforcement as mandated by the Omnibus Crime Control and Safe Streets Act of 1968.

189. Equal Credit Opportunity Act. Title 15, United States Code, Section 1691.

190. Freedom of Information/Privacy Acts. This classification covers the creation of a correspondence file to preserve and maintain accurate records concerning the handling of requests for records submitted pursuant to the Freedom of Information—Privacy Acts.

191. False Identity Matters. *(obsolete)* This classification covers the FBI's study and examination of criminal elements efforts to create false identities.

192. Hobbs Act—Financial Institutions; *Commercial Institutions.* Title 18, United States Code, Section 1951.

193. Hobbs Act—Commerical Institutions *(obsolete).* Title 18, United States Code, Setion 1951; and Title 47, United States Code, Section 508

194. Hobbs Act—Corruption of Public Officials. Title 18, United States Code, Section 1951.

195. Hobbs Act—Labor Related. Title 18, United States Code, Section 1951.

196. Fraud by Wire. Title 18, United States Code, Section 1343.

197. Civil Actions or Claims Against the Government. This classification covers all civil suits involving FBI matters and most administrative claims filed under the Federal Tort Claims Act arising from FBI activities.

198. Crime on Indian Reservations. Title 18, United States Code, Sections 1151, 1152, and 1153.

199. Foreign Counterintelligence—Terrorism. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

200. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

201. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence Executive Order 11905.

202. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

203. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

204. Federal Revenue Sharing. This classification covers FBI investigations conducted where the Attorney General has been authorized to bring civil action whenever he has reason to believe that a pattern or practice of discrimination in disbursement of funds under the Federal Revenue Sharing status exists.

205. Foreign *Corrupt* Practices Act of 1977. Title 15, United States Code, Section 78.

206. Fraud Against the Government—Department of Defense, *Department of Agriculture, Department of Commerce, Community Services Organization, Department of Transportation.* (See classification 46 (supra) for statutory authority for this and the four following classifications).

207. Fraud Against the Government—Environmental Protection Agency, *National Aeronautics and Space Administration, Department of Energy, Department of Transportation.*

208. Fraud Against the Government—General Services Administration.

209. Fraud Against the Government—Department of Health, and *Human Services (Formerly, Department of Health, Education, and Welfare).*

210. Fraud Against the Government—Department of Labor.

211. *Ethics in Government Act of 1978, Title VI (Title 28, Sections 591–598).*

212. Foreign Counterintelligency—*Intelligence Community Support. This is an administrative classification for the FBI's operational and technical support to other Intelligence Community agencies.*

213. *Fraud Against the Government—Department of Education.*

214. Civil Rights of Institutionalized *Persons Act (Title 42, United States Code, section 1997).*

215. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

216. Foreign Counterintelligence Matters. (Same authority as 215)

217. Foreign Counterintelligence Matters. (Same authority as 215)

218. Foreign Counterintelligence Matters. (Same authority as 215)

219. Foreign Counterintelligence Matters. (Same authority as 215)

220. Foreign Counterintelligence Matters. (Same authority as 215)

221. Foreign Counterintelligence Matters. (Same authority as 215)

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226. Foreign Counterintelligence Matters. (Same authority as 215)

227. Foreign Counterintelligence Matters. (Same authority as 215)

228. Foreign Counterintelligence Matters. (Same authority as 215)

229. Foreign Counterintelligence Matters. (Same authority as 215)

Records Maintained in FBI Field Divisions—FBI field divisions maintain for limited periods of time investigative, administrative and correspondence records, including files, index cards and related material, some of which are duplicated copies of reports and similar

documents *forwarded* to FBI Headquarters. Most investigative activities conducted by FBI field divisions are reported to FBI Headquarters at one or more stages of the investigation. There are, however, investigative activities wherein no reporting was made to FBI Headquarters, e.g., pending cases not as yet reported and cases which were closed in the field division for any of a number of reasons without reporting to FBI Headquarters.

Duplicate records and records which extract information reported in the main files are also kept in the various divisions of the FBI to assist them in their day-to-day operation. These records are lists of individuals which contain certain biographic data, including physical description and photograph. They may also contain information concerning activities of the individual as reported to FBIHQ by the various field offices. The establishment of these lists is necessitated by the needs of the Divisions to have immediate access to pertinent information duplicative of data found in the Central Records without the delay caused by a time-consuming manual search of central indices. The manner of segregating these individuals varies depending on the particular needs of the FBI Division. The information pertaining to individuals who are a part of the list is derivative of information contained in the Central Records System. These duplicative records fall into the following categories:

(1) Listings of individuals used to assist in the location and apprehension of individuals for whom legal process is outstanding (fugitives);

(2) Listings of individuals used in the identification of particular offenders in cases where the FBI has jurisdiction. These listings include various photograph albums and background data concerning persons who have been formerly charged with a particular crime and who may be suspect in similar criminal activities; and photographs of individuals who are unknown but suspected of involvement in a particular criminal activity, for example, bank surveillance photographs;

(3) Listings of individuals as part of an overall criminal intelligence effort by the FBI. This would include photograph albums, lists of individuals known to be involved in criminal activity, including theft from interstate shipment, interstate transportation of stolen property, and individuals in the upper echelon of organized crime;

(4) Listings of individuals in connection with the FBI's mandate to carry out Presidential directives on January 8, 1943, July 24, 1950, December 15, 1953, and February 18, 1976, which designated the FBI to carry out investigative work in matters relating to espionage, sabotage, and foreign counterintelligence. These listings may include photograph albums and other listings containing biographic data regarding individuals. This would include lists of identified and suspected foreign intelligence agents and informants;

(5) Special indices duplicative of the central indices used to access the Central Records System have been created from time to time in conjunction with the administration and investigation of major cases. This duplication and segregation facilities access to documents prepared in connection with major cases.

In recent years, as the emphasis on the investigation of white collar crime, organized crime, and hostile foreign intelligence operations has increased, the FBI has been confronted with increasingly complicated cases, which require more intricate information processing capabilities. Since these complicated investigations frequently involve massive volumes of evidence and other investigative information, the FBI uses its computers, when necessary, to collate, analyze, and retrieve investigative information in the most accurate and expeditious manner possible. It should be noted that all investigative information, which is placed in computerized form, is actually extracted from the main files and that the duplicative computerized information is only maintained as necessary to support the FBI's investigative activities. Information from these internal computerized subsystems of the "Central Records System" is not accessed by any other agency. All disclosures of computerized information are made in printed form in accordance with the routine uses which are set forth below.

Records also are maintained on a temporary basis relevant to the FBI's domestic police cooperation program, where assistance in obtaining information is provided to state and local police agencies.

Also, personnel type information dealing with such matters as attendance and production and accuracy requirements is maintained by some divisions.

(The following chart identifies various listings or indexes maintained by the FBI which have been or are being used by various divisions of the FBI in their day-to-day operations. The chart identifies the list by name, description, and use, and where maintained, i.e., FBI Headquarters and/or Field Office. The number in parenthesis in the field office column indicates, the number of field offices which maintain these. The chart indicates, under "status of index," those indexes which are in current use (designated by the word "active") and those which are no longer being used, although maintained (designated by the word "inactive"). There are 27 separate indices which are classified in accordance with existing regulations and are not included in this chart. The following indices are no longer being used by the FBI and are being maintained at FBIHQ pending receipt of authority to destroy: Black Panther Party Photo Index; Black United Front Index; Security Index; and Wounded Knee Album.

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Administrative Index (ADEX)	Consists of cards with descriptive data on individuals who were subject to investigation in a national emergency because they believed to constitute a potential or active threat to the internal security of the United States. When ADEX was started in 1971, it was made up of people who were formerly on the Security Index, Reserve Index, and Agitator Index. The index is maintained in two separate locations in FBI Headquarters. ADEX was discontinued in January 1976.	Inactive	Yes	Yes (29).
Anonymous Letter File	*Consists of photographs of anonymous communications and extortionate credit transactions; kidnaping, extortion and threatening letters.*	*Active*	*Yes*	*No.*
Associates of DEA Class I Narcotics Violators Listing.	Consists of a computer listing of individuals whom DEA has identified as associates of Class I Narcotics Violators.	Active	Yes	Yes (59).

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Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Background Investigation Index—Department of Justice.	Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration for employment in sensitive positions with Department of Justice, such as U.S. Attorney, Federal judge, or a high level Departmental position.	Active	Yes	No
Background Investigation Index—White House, Other Executive Agencies, and Congress.	Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration for employment in sensitive positions with the White House, Executive agencies (other than the Department of Justice) and the Congress	Active	Yes	No
Bank Fraud and Embezzlement Index	Consists of individuals who have been the subject of "Bank Fraud and Embezzlement" investigation. This file is used as an investigative aid	Active	No	Yes (1)
Bank Robbery Album	Consists of photos of bank robbers, burglars, and larceny subjects. In some field offices it will also contain pictures obtained from local police departments of known armed robbers and thus potential bank robbers. This index is used to develop investigative leads in bank robbery cases and may also be used to show to witnesses of bank robberies. It is usually filed by race, height, and age. This index is also maintained in one resident agency (a suboffice of a field office)	Active	No	Yes (47)
Bank Robbery Nickname Index	Consists of nicknames used by known bank robbers. The index card on each would contain the real name and method of operation and are filed in alphabetical order	Active	No	Yes (1)
Bank Robbery Note File	Consists of photographs of notes used in bank robberies in which the suspect has been identified. This index is used to help solve robberies in which the suspect has not been identified but a note was left. The note is compared with the index to try to match the sentence structure and handwriting for the purpose of identifying possible suspects.	Active	Yes	No
Bank Robbery Suspect Index	Consists of a control file or index cards with photos, if available, of bank robbers or burglars. In some field offices these people may be part of the bank robbery album. This index is generally maintained and used in the same manner as the bank robbery album	Active	No	Yes (33)
Car Ring Case Photo Album	Consists of photos of subjects and suspects involved in a large car theft ring investigation. It is used as an investigative aid.	Active	No	Yes (3)
Car Ring Case Photo Album and Index.	Consists of photos of subjects and suspects involved in a large car theft ring investigation. The card index maintained in addition to the photo album contains the names and addresses appearing on fraudulent title histories for stolen vehicles. Most of these names appearing on these titles are fictitious. Both the photo album and card indexes are used as an investigative aid.	Active	No	Yes (1)
Car Ring Case Toll Call Index	Consists of cards with information on persons who subscribe to telephone numbers to which toll calls have been placed by the major subjects of a large car theft ring investigation. It is maintained numerically by telephone number. It is used to facilitate the development of probable cause for a court-approved wiretap	Active	No	Yes (2)
Car Ring Theft Working Index	Contains cards on individuals involved in car ring theft cases on which the FBI laboratory is doing examination work	Active	Yes	No
Cartage Album	Consists of photos with descriptive data of individuals who have been convicted of theft from interstate shipment or interstate transportation of stolen property where there is a reason to believe they may repeat the offense. It is used in investigating the above violations	Active	No	Yes (3)
Channelizing Index	Consists of cards with the names and case file numbers of people who are frequently mentioned in informant reports. The index is used to facilitate the distributing or channeling of informant reports to appropriate files.	Active	No	Yes (9)
Check Circular File	Consists of fliers filed numerically in a control file on fugitives who are notorious fraudulent check passers and who are engaged in a continuing operation of passing checks. The fliers which include the subject's name, photo, a summary of the subject's method of operation and other identifying data is used to alert other FBI field offices and business establishments which may be the victims of bad checks.	Active	Yes	Yes (43)
Computerized Telephone Number File (CTNF) Intelligence.	Consists of a computer listing of telephone numbers (and subscribers' names and addresses) *utilized by subjects and/or certain individuals which come to the FBI's attention during major investigations. During subsequent investigations, telephone numbers, obtained through subpoenas, are matched with the telephone numbers on file to determine connections or associations*	Active	Yes	No
Con Man Index	*Consists of computerized names of individuals, along with company affiliation, who travel nationally and internationally while participating in large-dollar-value financial swindles*	*Active*	*Yes*	*No*
Confidence Game (Flim Flam) Album	Consists of photos with descriptive information on individuals who have been arrested for confidence games and related activities. It is used as an investigative aid	Active	No	Yes (4)
Copyright Matters Index	Consists of cards of individuals who are film collectors and film titles. It is used as a reference in the investigation of copyright matters.	Active	No	Yes (1)
Criminal Intelligence Index	Consists of cards with name and file number of individuals who have become the subject of an antiracketeering investigation. The index is used as a quick way to ascertain file numbers and the correct spelling of names. This index is also maintained in one resident agency	Active	No	Yes (2)
Criminal Informant Index	Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area	Active	Yes	No
DEA Class I Narcotics Violators Listing	Consists of a computer listing of narcotic violators—persons known to manufacture, supply, or distribute large quantities of illicit drugs—with background data. It is used by the FBI in their role of assisting DEA in disseminating intelligence data concerning illicit drug trafficking. This index is also maintained in two resident agencies	Active	Yes	Yes (59)
Deserter Index	Contains cards with the names of individuals who are known military deserters. It is used as an investigative aid	Active	No	Yes (4)
False Identities Index	Contains cards with the names of deceased individuals whose birth certificates have been obtained by other persons for possible false identification uses and in connection with which the FBI laboratory has been requested to perform examinations.	Inactive	Yes	No

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Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
False Identities Program List	Consists of a listing of names of deceased individuals whose birth certificates have been obtained after the person's death, and thus whose names are possibly being used for false identification purposes. The listing is maintained as part of the FBI's program to find persons using false identities for illegal purposes.	Inactive	No	Yes (31).
False Identity Photo Album	Consists of names and photos of people who have been positively identified as using a false identification. This is used as an investigative aid in the FBI's investigation of false identities.	Inactive	No	Yes (2).
FBI Wanted Persons Index	Consists of cards on persons being sought on the basis of Federal warrants covering violations which fall under the jurisdiction of the FBI. It is used as a ready reference to identify those fugitives.	Active	Yes	No.
Foreign Counterintelligence (FCI) Asset Index.	Consists of cards with identity background data on all active and inactive operational and informational assets in the foreign counterintelligence field. It is used as a reference aid of the FCI Asset program.	Active	Yes	No.
Fraud Against the Government Index	Consists of individuals who have been the subject of a "fraud against the Government" investigation. It is used as investigative aid.	Active	No	Yes (1).
Fugitive Bank Robbers File	Consists of fliers on bank robbery fugitives filed sequentially in a control file. FBI Headquarters distributes to the field offices fliers on bank robbers in a fugitive status for 15 or more days to facilitate their location.	Active	Yes	Yes (43).
General Security Index	Contains cards on all persons that have been the subject of a security classification investigation by the FBI field office. These cards are used for general reference purposes.	Active	No	Yes (1).
Hoodlum License Plate Index	Consists of cards with the license plates numbers and descriptive data on known hoodlums and cars observed in the vicinity of hoodlum homes. It is used for quick identification of such persons in the course of investigation. The one index which is not fully retrievable is maintained by a resident agency.	Active	No	Yes (3).
Identification Order Fugitive Flier File	Consists of fliers filed numerically in a control file. When immediate leads have been exhausted in fugitive investigations and a crime of considerable public interest has been committed, the fliers are given wide circulation among law enforcement agencies throughout the United States and are posted in post offices. The fliers contain the fugitive's photograph, fingerprints, and description.	Active	Yes	Yes (49).
Informant Index	Consists of cards with the name, symbol numbers, and brief background information on the following categories of active and inactive informants, top echelon criminal informants, security informants, criminal informants, operational and informational assets, extremist informants (discontinued), plant informant—informants on and about certain military bases (discontinued), and potential criminal informants.	Active	No	Yes (59).
Informants in Other Field Offices, Index of.	Consists of cards with names and/or symbol numbers of informants in other FBI field offices that are in a position to furnish information that may be of value to other field offices. Basic background information would also be included on the index card	Active	No	Yes (15).
Interstate Transportation of Stolen Aircraft Photo Album.	Consists of photos and descriptive data on individuals who are suspects known to have been involved in interstate transportation of stolen aircraft. It is used as an investigative aid.	Active	No	Yes (1).
IRS Wanted List	Consists of one-page fliers from IRS on individuals with background information who are wanted by IRS for tax purposes. It is used in the identification of persons wanted by IRS.	Active	No	Yes (11).
Kidnapping Book	Consists of data, filed chronologically, on kidnappings that have occurred since the early fifties. The victims names and the suspects, if known, would be listed with a brief description of the circumstances surrounding the kidnapping. The file is used as a reference aid in matching up prior methods of operation in unsolved kidnapping cases.	Active	Yes	No.
Known Check Passers Album	Consists of photos with descriptive data of persons known to pass stolen, forged, or counterfeit checks. It is used as an investigative aid.	Active	No	Yes (4).
Known Gambler Index	Consists of cards with names, descriptive data, and sometimes photos of individuals who are known bookmakers and gamblers. The index is used in organized crime and gambling investigations. Subsequent to GAO's review, and at the recommendation of the inspection team at one of the two field offices where the index was not fully retrievable, the index was destroyed and thus is not included in the total.	Active	No	Yes (5).
La Cosa Nostra (LCN) Membership Index.	Contains cards on individuals having been identified as members of the LCN index. The cards contains personal data and pictures. The index is used solely by FBI agents for assistance in investigating organized crime matters.	Active	Yes	Yes (55).
Leased Line Letter Request Index	Contains cards on individuals and organizations who are or have been the subject of a national security electronic surveillance where a leased line letter was necessary. It is used as an administrative and statistical aid	Active	Yes	No.
Mail Cover Index	Consists of cards containing a record of all mail covers conducted on individuals and groups since about January 1973. It is used for reference in preparing mail cover requests.	Active	Yes	No.
Military Deserter Index	Consists of cards containing the names of all military deserters where the various military branches have requested FBI assistance in locating. It is used as an administrative aid.	Active	Yes	No.
National Bank Robbery Album	Consists of fliers on bank robbery suspects held sequentially in a control file. When an identifiable bank camera photograph is available and the case has been under investigation for 30 days without identifying the subject. FBIHQ sends a flier to the field offices to help identify the subject.	Active	Yes	Yes (42)
National Fraudulent Check File	Contains photographs of the signatures on stolen and counterfeit checks. It is filed alphabetically but there is no way of knowing if the names are real or fictitious. The index is used to help solve stolen check cases by matching checks obtained in such cases against the index to identify a possible suspect.	Active	Yes	No

—Continued

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
National Security Electronic Surveillance Card File.	Contains cards recording electronic surveillances previously authorized by the Attorney General and previously and currently authorized by the FISC; current and previous assets in the foreign counterintelligence field; and a historical, inactive section which contains cards believed to record non-consented physical entries in national security cases, previous toll billings, mail covers and leased lines. The inactive section also contains cards reflecting previous Attorney General approvals and denials for warrantless electronic surveillance in the national security cases	Active	Yes	No.
Night Depository Trap Index	Contains cards with the names of persons who have been involved in the theft of deposits made in bank night depository boxes. Since these thefts have involved various methods, the FBI uses the index to solve such cases by matching up similar methods to identify possible suspects	Active	Yes	No.
Norjack Index	Contains cards with information regarding possible suspects and individuals who furnish information relative to the investigation of the 1972 hijacking of a Northwest Orient Airlines flight by an unknown subject with alias of "D. B. Cooper".	Active	No	Yes (1).
Organized Crime Photo Album	Consists of photos and background information on individuals involved in organized crime activities. The index is used as a ready reference in identifying organized crime figures within the field offices' jurisdiction.	Active	No	Yes (13).
Photospread Identification Elimination File.	Consists of photos of individuals who have been subjects and suspects in FBI investigations. It also includes photos received from other law enforcement agencies. These pictures can be used to show witnesses of certain crimes.	Active	No	Yes (14).
Prostitute Photo Album	Consists of photos with background data on prostitutes who have prior local or Federal arrests for prostitution. It is used to identify prostitutes in connection with investigations under the White Slave Traffic Act.	Active	No	Yes (4).
Royal Canadian Mounted Police (RCMP) Wanted Circular File.	Consists of a control file of individuals with background information of persons wanted by the RCMP. It is used to notify the RCMP if an individual is located.	Active	No	Yes (17).
Security Informant Index	Consists of cards containing identify and brief background information on all active and inactive informants furnishing information in the criminal area.	Active	Yes	No.
Security Subjects Control Index	Consists of cards containing the names and case file numbers of individuals who have been subject to security investigations check. It is used as a reference source.	Active	No	Yes (1).
Security Telephone Number Index	Contains cards with telephone subscriber information subpenaed from the telephone company in any security investigation. It is maintained numerically by the last three digits in the telephone number. It is used for general reference purposes in security investigations.	Active	No	Yes (1).
Selective Service Violators Index	Contains cards on individuals being sought on the basis of Federal warrants for violation of the Selective Service Act.	Active	Yes	No.
Sources of Information Index	Consists of cards on individuals and organizations such as banks, motels, local governments that are willing to furnish information to the FBI with sufficient frequency to justify listing for the benefit of all agents. It is maintained to facilitate the use of such sources.	Active	No	Yes (10)
Special Services Index	Contains cards of prominent individuals who are in a position to furnish assistance in connection with FBI investigative responsibility	Active	No	Yes (28)
Stolen Checks and Fraud by Wire Index.	Consists of cards on individuals involved in check and fraud by wire violations. It is used as an investigative aid.	Active	No	Yes (1).
Stop Notices Index	Consists of cards on names of subjects or property where the field office has placed a stop at another law enforcement agency or private business such as pawn shops in the event information comes to the attention of that agency concerning the subject or property. This is filed numerically by investigative classification. It is used to insure that the agency where the stop is placed is notified when the subject is apprehended or the property is located or recovered.	Active	No	Yes (43)
Surveillance Locator Index	Consists of cards with basic data on individuals and businesses which have come under physical surveillance in the city in which the field office is located. It is used for general reference purposes in antiracketeering investigations.	Active	No	Yes (2).
Telephone Number Index—Gamblers	Contains information on persons identified usually as a result of a subpena for the names of subscribers to particular telephone numbers or toll records for a particular phone number of area gamblers and bookmakers. The index cards are filed by the last three digits of the telephone number. The index is used in gambling investigations.	Active	No	Yes (2)
Telephone Subscriber and Toll Records Check Index.	Contains cards with information on person identified as the result of a formal request or subpena to the phone company for the identity of subscribers to particular telephone numbers. The index cards are filed by telephone number and would also include identity of the subscriber, billing parties identity, subscribers address, date of request from the telephone company, and file number.	Active	No	Yes (1).
Thieves, Couners, and Fences Photo Index	Consists of photos and background information on individuals who are or are suspected of being thieves, couriers, or fences based on their past activity in the area of interstate transportation of stolen property. It is used as an investigative aid.	Active	No	Yes (4)
Toll Record Request Index	Contains cards on individuals and organizations on whom toll records have been obtained in national security related cases and with respect to which FBIHQ had to prepare a request letter. It is used primarily to facilitate the handling of repeat requests on individuals listed.	Active	Yes	No
Top Burglar Album	Consists of photos and background data of known and suspect top burglars involved in the area of interstate transportation of stolen property. It is used as an investigative aid.	Active	No	Yes (4).
Top Echelon Criminal Informant Program (TECIP) Index.	Consists of cards containing identity and brief background information on individuals who are either furnishing high level information in the organized crime area or are under development to furnish such information. The index is used primarily to evaluate, corroborate, and coordinate informant information and to develop prosecutive data against racket figures under Federal, State, and local statutes	Active	Yes	No

—Continued

Title of index	Description and use	Status of index	Maintained at—	
			[illegible]	[illegible]
Top Ten Program File	Consists of fliers, filed numerically in a control file, on fugitives considered by the FBI to be 1 of the 10 most wanted including a fugitive on the top 10 usually assures a greater national news coverage as well as nation-wide circulation of the flier.	Active	Yes	Yes (44).
Top Thief Program Index	Consists of cards of individuals who are professional burglars, robbers, or fences dealing in items likely to be passed in interstate commerce or who travel interstate to commit the crime. Usually photographs and background information would also be obtained on the index card. The index is used as an investigative aid.	[illegible]	No	Yes (27).
Truck Hijack Photo Album	Contains photos and descriptive data of individuals who are suspected truck hijackers. It is used as an investigative aid and for displaying photos to witnesses and/or victims to identify unknown subjects in hijacking cases.	Active	No	Yes (4).
Truck Thief Suspect Photo Album	Consists of photos and background data on individuals previously arrested or are currently suspects regarding vehicle theft. The index is used as an investigative aid.	Active	No	Yes (1).
Traveling Criminal Photo Album	Consists of photos with identifying data of individuals convicted of various criminal offenses and may be suspects in other offenses. It is used as an investigative aid.	Active	[illegible]	Yes (1).
Veterans Administration (VA)/Federal Housing Administration Matters (FHA) Index.	Consists of cards of individuals who have been subject of an investigation relative to VA and FHA matters. It is used as an investigative aid.	Active	No	Yes (1).
Wanted Fliers File	Consists of fliers, filed numerically in a control file, on badly wanted fugitives whose apprehension may be facilitated by a flier. The flier contains the names, photographs, aliases, previous convictions, and a caution notice.	Active	Yes	Yes (46).
Wheeldex	Contains the nicknames and the case file numbers of organized crime members. It is used in organized crime investigations.	Active	No	Yes (1).
White House Special Index	Contains cards on all potential White House appointees, staff members, guests, and visitors that have been referred to the FBI by the White House security office for a records check to identify any adverse or derogatory information. This index is used to expedite such checks in view of the tight time frame usually required.	Active	Yes	No.
Witness Protection Program Index	Contains cards on individuals who have been furnished a new identity by the U.S. Justice Department because of their testimony in organized crime trials. It is used primarily to notify the U.S. Marshals Service when information related to the safety of a protected witness comes to the FBI's attention.	Active	Yes	No.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM.

Federal Records Act of 1950, Title 44, United States Code, Chapter 31, Section 3101; and Title 41, Code of Federal Regulations Subpart 101–11.202, requires Federal agencies to insure that adequate and proper records are made and preserved to document the organization, functions, policies, decisions, procedures and transactions and to protect the legal and financial rights of the Federal Government. Title 28, United States Code, Section 534, delegates authority to the Attorney General to acquire, collect, classify, and preserve identification, criminal identification, crime and other records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

Records, both investigative and administrative, are maintained in this system in order to permit the FBI to function efficiently as an authorized, responsive component of the Department of Justice. Therefore, information in this system is disclosed to officials and employees of the Department of Justice, and/or all components thereof, who have need of the information in the performance of their official duties.

Personal information from this system may be disclosed as a routine use to any Federal agency where the purpose in making the disclosure is compatible with the law enforcement purpose for which it was collected, e.g., to assist the recipient agency in conducting a lawful criminal or intelligence investigation, to assist the recipient agency in making a determination concerning an individual's suitability for employment and/or trustworthiness for access clearance purposes, or to assist the recipient agency in the performance of any authorized function where access to records in this system is declared by the recipient agency to be relevant to that function.

In addition, personal information may be disclosed from this system to members of the Judicial Branch of the Federal Government in response to a specific request, or at the initiation of the FBI, where disclosure appears relevant to the authorized function of the recipient judicial office or court system. An example would be where an individual is being considered for employment by a Federal judge.

Information in this system may be disclosed as a routine use to any state or local government agency directly engaged in the criminal justice process, e.g., police, prosecution, penal, probation and parole, and the judiciary, where access is directly related to a law enforcement function of the recipient agency, e.g., in connection with a lawful criminal or intelligence investigation, or making a determination concerning an individual's suitability for employment as a state or local law enforcement officer. Disclosure to a state or local government agency, (a) not directly engaged in the criminal justice process or, (b) for a licensing or regulatory function, is considered on an individual basis only under exceptional circumstances, as determined by the FBI.

Information in this system may be disclosed as a routine use to an organization or individual in both the public or private sector pursuant to an appropriate legal proceeding, or if deemed necessary to elicit information or cooperation from the recipient for use by the FBI in the performance of an authorized activity. An example would be where the activities of an individual are disclosed to a member of the public in order to elicit his/her assistance in our apprehension or detection efforts.

Information in this system may be disclosed as a routine use to an organization or individual in the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy, to the extent the information is relevant to the protection of life or property.

Information in this system may be disclosed to legitimate agency of a foreign government where the FBI determines that the information is relevant to that agency's responsibilities, and dissemination serves the best interests of the U.S. Government, and where the purpose in making the disclosure is compatible with the purpose for which the information was collected.

Relevant information may be disclosed from this system to the news media and general public where there exists a legitimate public interest, e.g., to assist in the location of Federal fugitives, to provide notification of arrests, and where necessary for protection from imminent threat of life or property.

A record relating to an actual or potential civil or criminal violation of the copyright statute, Title 17, United States Code, may be disseminated to a person injured by such violation to assist him/her in the institution or maintenance of a suit brought under such title.

The FBI has received inquiries from private citizens and Congressional offices on behalf of constituents seeking assistance in locating individuals such as missing children and heirs to estates. Where the need is acute, and where it appears FBI files may be the only lead in locating the individual, consideration will be given to furnishing relevant information to the requester. Information will be provided only in those instances where there are reasonable grounds to conclude from available information the individual being sought would want the information to be furnished, e.g., an heir to a large estate. Information with regard to missing children will not be provided where they have reached their majority.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in this system, the release of which is required by the Freedom of Information-Privacy Acts, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information in behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

The active main files are maintained in hard copy form and some inactive records are maintained on microfilm. Investigative information which is maintained in computerized form may be stored in memory, on disk storage, on computer tape, or on a computer printed listing.

RETRIEVABILITY:

The FBI General Index must be searched to determine what information, if any, the FBI may have in its files. The index cards are on all manner of subject matters, but primarily a name index of individuals. It should be noted the FBI does not index all individuals that furnish information or names developed in an investigation. Only that information that is considered pertinent and relevant and essential for future retrieval, is indexed. In certain major cases most persons contacted ar indexed in order to facilitate the proper administrative handling of a large volume of material. The FBI is in the process of automating the General Index and, therefore, the retrieval of certain information from the main files will be accomplished through the use of peripheral computer equipment, that is, Cathode Ray Tubes (CRTs) and printers. Automation will not change the "Central Records System"; it will only facilitate more economic and expeditious access to the main files. The automated General Index will not cause the "Central Records System" to be interfaced with any other system of records, nor will it allow any outside agency to access FBI information. Since the General Index of all of the field offices will not be automated for quite some time, certain complicated investigative matters are presently supported with special computerized indices which allow retrieval of information from the main files. These special indices are either maintained on printed listings or on disk storage and then accessed through the use of CRTs.

SAFEGUARDS:

Records are maintained in a restricted area and are accessed only by FBI employees. All FBI employees receive a complete background investigation prior to being hired. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a ten thousand-dollar fine or 10 years' imprisonment or both. Employees *who* resign or retire are also cautioned about divulging information acquired in the job. Registered mail is used to transmit routine hard copy records between field offices. Highly classified records are hand carried by Special Agents or personnel of the Armed Forces Courier Service. Highly classified or sensitive privacy information, which is electronically transmitted between field offices, is transmitted in encrypted *form to* prevent interception and interpretation. Information transmitted in teletype form is placed in the main files of both the receiving and transmitting field offices. Field offices involved in certain complicated investigative matters may be provided with on-line access to the duplicative computerized information which is maintained for them on disk storage in the FBI Computer Center in Washington, D.C., and this computerized data is also transmitted in encrypted form.

RETENTION AND DISPOSAL:

All FBI records destruction programs relevant to this system were suspended as a result of a court order, issued January 10, 1980, in the U.S. District Court for the District of Columbia, enjoining the FBI from destroying or otherwise disposing of any FBI records until such time as detailed records retention plans and schedules are developed by NARS and the FBI, and are submitted to and approved by the Court. With the exception of certain limited record categories, this court order prohibits records destruction at both FBI Headquarters and FBI field offices.

SYSTEM MANAGER(S) AND ADDRESS:

Director; Federal Bureau of Investigation; Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

A request for access to a record from the system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request". Include in the request your full name, complete address, date of birth, place of birth, notarized signature, and other identifying data you may wish to furnish to assist in making a proper search of our records. Also include the general subject matter of the document or its file number. The requester will also provide a return address for transmitting the information. Access requests can be addressed to the Director, Federal Bureau of Investigation, Washington,

D.C. 20535, *and* individually to one or more of the FBI field divisions or Legal Attachés listed in the appendix to this system notice.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should also direct their request to the Director, Federal Bureau of Investigation, Washington, D.C. 20535, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The FBI, by the very nature and requirement to investigate violations of law within its investigative jurisdiction and its responsibility for the internal security of the United States, collects information from a wide variety of sources. Basically it is the result of investigative efforts and information furnished by other Government agencies, law enforcement agencies, and the general public, informants, witnesses, and public source material.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3)(d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e)(8), (f), (g), of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and are being published in the proposed rules section of today's **Federal Register.**

Appendix of Field Divisions for the Federal Bureau of Investigation Field Office—

502 U.S. Post Office and Court House, Albany, N.Y. 12207.
301 Grand Ave., N.E., Albuquerque, N. Mex. *87102.*
Room 500, 300 North Lee Street, Alexandria, Va. 22314.
Federal Building, Room E–222, 701 C Street, Anchorage, Alaska 99513.
275 Peachtree Street, N.E., Atlanta, Ga. 30303.
7142 Ambassador Road, Baltimore, Md. 21207.
Room 1400–2121 Building, Birmingham, Ala. 35203.
John F. Kennedy Federal Office Building, Boston, Mass. 02203
Room 1400–111 West Huron Street, Buffalo, N.Y. 14202.
115 U.S. Court House and Federal Building, Butte, Mont. 59701.
1120 Jefferson Standard Life Building, Charlotte, N.C. 28202.
Room 905, Everett McKinley Dirksen Building, Chicago, Ill. 60604.
400 U.S. Post Office and Court House Building, Cincinnati, Ohio 45202.
3005 Federal Office Building, Cleveland, Ohio 44199.
1529 Hampton Street, Columbia, S.C. 29201.
1801 North Lamar, Suite 300, Dallas, Tex. 75202.
Room 18218, Federal Office Building, Denver, Colo. 80202.
Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Mich. 48226.
202 U.S. Court House Building, El Paso, Tex. 79901.
Kalanianaole Federal Building, Room 4307, 300 Ala. Moana Boulevard, Honolulu, Hawaii 96850.
6015 Federal Building and U.S. Court House, Houston, Tex. 77002.
575 No. Pennsylvania St., Room 679, Indianapolis, Ind. 46204
Federal Building, Room 1553, 100 W. Capitol St., Jackson, Miss. 39201.
Oaks V, Fourth Floor, 7820 Arlington Expressway, Jacksonville, Fla. 32211.
Room 300—U.S. Courthouse, Kansas City, Mo. 64106.
Room 800, 1111 Northshore Drive, Knoxville, Tenn. 37919.
Room *219,* Federal Office Building, Las Vegas, Nev. 89101.
215 U.S. Post Office Building, Little Rock, Ark. 72201.
11000 Wilshire Boulevard, Los Angeles, Calif. 90024.
Room 502, Federal Building, Louisville, Ky. 40202.
841 Clifford Davis Federal Building, Memphis, Tenn. 38103.
3801 Biscayne Boulevard, Miami, Fla. 33137.
Room 700, Federal Building and U.S. Court House, Milwaukee, Wis. 53202.
392 Federal Building, Minneapolis, Minn. 55401.
520 Federal Building, Mobile, Ala. 36602.
Gateway I, Market Street, Newark, N.J. 07101.
Federal Building, *150 Court* Street, New Haven, Conn. 06510.
701 Loyola Avenue, New Orleans, La. 70113.
26 Federal Plaza, New York, N.Y. 10007.
Room 839, 200 Granby Mall, Norfolk, Va. 23510.
50 Penn Place, N.W., 50th at Pennsylvania, Oklahoma City, Okla. 73118.
Room 7401, Federal Building, 215 North 17th Street, Omaha, Nebr. 68102.
8th Floor, Federal Office Building, 600 Arch Street, Philadelphia, Pa. 19106.
2721 North Central Avenue, Phoenix, Ariz. 85004.
1300 Federal Office Building, Pittsburgh, Pa. 15222.
Crown Plaza Building, Portland, Oreg. 97201.
200 West Grace Street, Richmond, Va. 23220.
Federal Building, 2800 Cottage Way, Sacramento, Calif. 95825.
2704 Federal Building, St. Louis, Mo. 63103.
3203 Federal Building, Salt Lake City, Utah 84138.
433 Federal Building, Box 1630, San Antonio, Tex. 78296.
Federal Office Building, Room 6S31, 880 Front Street, San Diego, Calif. 92188.
450 Golden Gate Avenue, San Francisco, Calif. 94102.
U.S. Courthouse and Federal Building, Room 526, Hato Rey, P.R. 00918.
5401 Paulson Street, Savannah, Ga. 31405.
915 Second Avenue, Seattle, Wash. 98174.
535 West Jefferson Street, Springfield, Ill. 62702.
Room 610, Federal Office Building, Tampa, Fla. 33602.
Washington Field Office, Washington, D.C. 20535.
Federal Bureau of Investigation Academy, Quantico, Va. 22135.

Legal Attaché (AH c/o the American Embassy for the Cities Indicated):

Bern, Switzerland.
Bogota, Colombia
Bonn, Germany (Box 310, APO, New York 09080).
Canberra, Australia (APO, San Francisco 96404)
Hong Kong, B.C.C. (FPO, San Francisco 96659).
London, England (Box 40, FPO, New York 09510).
Mexico City, Mexico.
Montevideo, Uruguay (APO, Miami 34035)
Ottawa, Canada.
Panama City, Panama
Paris, France (APO, New York 09777).
Rome, Italy (APO, New York 09794).
Tokyo, Japan (APO, San Francisco 96503).

Foreign Claims Settlement Commission (FCSC)

The following changes were made on March 24, 1982 in 47 FR 12682 to an FCSC system of records. The system entitled Czechoslovakia, Claims Against (1st and 2nd Programs), Justice/ FCSC–9 was most recently published in full text on September 22, 1977 in 42 FR 48155.

1. System Name

The system name is hereby amended by inserting ("1st and 2nd Programs)" between * * * AGAINST and—FCSC, so that it reads as follows:

* * * * *

SYSTEM NAME:

CZECHOSLOVAKIA, CLAIMS AGAINST (1st and 2nd Programs)—FCSC

2. System Location

The system location description is hereby amended by adding "and the Foreign Claims Settlement Commission, 1111–20th Street N.W., Washington, DC 20579" after DC 20409 * * *, so that the description reads as follows:

* * * * *

SYSTEM LOCATION:

Washington National Records Center, GSA, 4205 Suitland Road, Washington, DC 20409 and the Foreign Claims Settlement Commission, 1111–20th Street, N.W., Washington, DC 20579.

3. Categories of Individuals Covered by the System

The categories of individuals covered by the system is hereby amended by deleting "after January 1, 1945" following * * * Czechoslovakia and adding in its place "from January 1, 1945 to August 8, 1958 (1st Program) and from August 9, 1958 to February 2, 1982 (2nd Program)", so that it reads as follows:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. nationals who suffered property losses in Czechoslovakia from January 1, 1945 to August 8, 1958 (1st Program) and from August 9, 1958 to February 2, 1982, (2nd Program).

4. Authority for Maintenance of the System

This section is hereby amended by inserting after * * * as amended, "(1st Program) and the Czechoslovakian Claims Settlement Act of 1981 (2nd Program)", so that this section reads as follows:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV, International Claims Settlement Act of 1949, as amended, (1st Program) and the Czechoslovakian Claims Settlement Act of 1981 (2nd Program).

5. Safeguards

The section on safeguards is hereby amended by adding after * * * Washington National Records Center "(1st Program) and the Foreign Claims Settlement Commission, 1111–20th Street, N.W., Washington, DC 20579 (2nd Program)" so that this section reads as follows:

* * * * *

SAFEGUARDS:

Records at Washington National Records Center are under GSA safeguards. Records at the Foreign Claims Settlement Commission are maintained in a locked room accessible only to authorize personnel and the building has a security guard.

Immigration and Naturalization Service (INS)

The INS Appendix: List of principal offices of the Immigration and Naturalization Service was last published on December 1, 1981 in Federal Register Volume 46, page 60325.

JUSTICE/INS–999

SYSTEM NAME:

INS Appendix: List of principal offices of the Immigration and Naturalization Service.

Central Office: Immigration and Naturalization Service: 425 "I" Street NW. Washington, DC. 20536.

Regional Offices: Eastern Regional Office, Federal Building, Burlington VT 05401.

Northern Regional Office, Fort Snelling, Twin Cities, St Paul, MN 55111.

Southern Regional Office, Skyline Center Building, 311 North Stemmons Freeway, Dallas, TX 75207.

Western Regional Office, Terminal Island, San Pedro, CA 90731.

District Offices in the United States: Anchorage District Office, Federal Building, U.S. Courthouse, Room D-229, 701 "C" Street, Anchorage, AK 99512.

Atlanta District Office, Richard B. Russell Federal Building, GA 30303.

Baltimore District Office, E.A. Garmatz Federal Building, 100 South Hanover Street, Baltimore, MD 21201.

Boston District Office, John Fitzgerald Kennedy Federal Building, Government Center, Boston, MA 02203.

Buffalo District Office, 68 Court Street, Buffalo, NY 14202.

Chicago District Office, Dirksen Federal Office Building, 219 south Dearborn Street, Chicago, IL 60604.

Cleveland District Office, Anthony J. Celebrezze Federal Building, Room 1917, 1240 East Ninth Street, Cleveland, OH 44199.

Dallas District Office Federal Building, Room 6A21, 1100 Commerce Street, Dallas, TX 75242.

Denver District Office, Federal Building, Room 1787, 1961 Stout Street, Denver, CO 80202.

Detroit District Office, Federal Building, 333 Mt. Elliott Street, Detroit, MI 48207.

El Paso District Office, U.S. Courthouse, Room 343,El Paso, TX 79984.

Harlingen District Office, 719 Grimes Avenue, Harlingeen, TX 78550.

Hartford District Office, 900 Asylum, Avenue, Hartford CT 06105.

Helena District Office, Federal Building, Room 512, 301 South Park, Helena, MT 59601.

Honolulu District Office, 595 Ala Moana Boulevard, Honolulu, HI 96809.

Houston District Office, 2627 Caroline Street, Houston, TX 77004.

Kansas City District Office, 324 East Eleventh Street, Suite 1100, Kansas City, MO 64106.

Los Angeles District Office, 300 North Los Angeles Street, Los Angeles, CA 90012

Miami District Office, 155 South Miami Avenue, Miami, FL 33130.

Newark District Office, Federal Building, 970 Broad Street, Newark, NJ 07102.

New Orleans District Office, Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

New York District Office, 26 Federal Plaza, New York, NY 10007.

Omaha District Office, 106 South 15th Street, Omaha. NE 68102.

Philadelphia District Office, U.S. Courthouse, Room 1321, 601 Market Street, Philadelphia, PA 19106.

Phoenix District Office, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

Portland, Maine, District Office, 76 Pearl Street, Portland, ME 04112.

Portland,Oregon, District Office, Federal Office Building, 511 NW Broadway, Portland, OR 97209.

St. Albans District Office, Federal Building, St. Albans, VT. 95478.

St. Paul District Office, Maine Post Office Building, Room 927,180 East Kellogg Boulevard, St. Paul, MN 55101.

San Antonio District Office, U.S. Federal Building, Suite A301, 727 East Durango, San Antonio, TX 78206.

San Diego District Office, 880 Front Street, San Diego CA 92188.

San Francisco District Office, 630 Sansome Street, San Francisco, CA 94111.

San Juan District Office, GPO Box 5068. San Juan, PR 00936.

Seattle District Office, 815 Airport Way, South, Seattle, WA 98134.

Washington, DC. District Office, *25 "E" Street NW., Washington, DC 20538.*

District Offices in Foreign Countries:

Hong Kong District Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Box 30, FPO San Francisco, CA 96659.

Mexico District Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Aparato Postal 88 BIS, Mexico City 5, D.F., Mexico.

Rome District Office, Immigration and Naturalization Service, c/o American Embassy, APO New York, NY 09794.

Suboffices (Files Control Offices) in the United States:

Agana Office, 801 Pacific News Building, 238 *O'Hara* Street, Agana, GU 98910.

Albany Office, U.S. Postoffice and Courthouse, Room 220, Albany, NY 12207.

Charlotte Office, *1111 Hawthorne Lane, Charlotte, NC 28205.*

Cincinnati Office, U.S. Postoffice and Courthouse, 5th and Walnut Streets, Cincinnati, OH 45201.

Hammond Office, Federal Building, Room 104, 507 State Street, Hammond, IN 46320.

Las Vegas Office, Federal Building, U.S. Courthouse, 300 Las Vegas Boulevard, South, Las Vegas, NV 89101.

Memphis Office, Federal Building, Room 814, 167 North Main Street, Memphis, TN 38103.

Milwaukee Office, 186 Federal Building, Room 186, 517 East Wisconsin Avenue, Milwaukee, WI 53202.

Norfolk Office, Norfolk Federal Building, Room 439, 200 Granby Mall, Norfolk, VA 23510.

Pittsburg Office, Federal Building, Room 2130, 1000 Liberty Avenue, Pittsburgh, PA 15222.

Providence Office, Federal Building, U.S. Post Office, Exchange Terrace, Providence, RI 02903.

Reno Office, 350 South Center Street, Suite 150, Reno, NV 89502.

St. Louis Office, U.S. Courthouse and Customhouse, Room 423, 1114 Market Street, St. Louis, MO 63101.

Salt Lake City Office, *230 W. 400 South Street, Salt Lake City, UT 84101.*

Spokane Office, U.S. Courthouse Building, Room 691, Spokane, WA 99201.

Border Patrol Sector Headquarters:

Blaine Sector Headquarters, 1590 H Street, Blaine, WA 98230.

Buffalo Sector Headquarters, 231 *Grand* Island Boulevard, Tonawanda, NY 14150.

Chula Vista Sector Headquarters, 3752 Beyer Boulevard, San Ysidro, CA 92073.

Del Rio Sector Headquarters, *Hudson Drive, Del Rio, TX 78840.*

Detroit Sector Headquarters, P.O. Box 32639, Detroit, MI 48232.

El Centro Sector Headquarters, 1111 North Imperial Avenue, El Centro, CA 92243.

El Paso Sector Headquarters, 8901, Montana Avenue, El Paso TX 79986.

Grand Forks Sector Headquarters, 2320 South Washington Street, Grand Forks, ND 58201.

Havre Sector Headquarters, Beaver Creek Road, Havre, MT 59501.

Houlton Sector Headquarters, Route 1, *P.O. Box 706,* Houlton, ME 04730.

Laredo Sector Headquarters, *207 W. Del Mar Boulevard, Laredo, TX 78041.*

Livermore Sector Headquarters, Building 312 Camp Parks, Pleasanton, CA 94566.

Marfa Sector Headquarters, Madrid, Street, Marfa, TX 79843.

McAllen Sector Headquarters, 2301 South Main Street, McAllen, TX 78501.

Miami Sector Headquarters, 161 NE 183rd Street, Miami FL 33169.

New Orleans Sector Headquarters, 3819 Patterson Drive, New Orleans, LA 70174.

Ogdensburg Sector Headquarters, 127 North Water Street, *Ogdensburg,* NY 13669.

Spokane Sector Headquarters, 10710 North State Highway No. 6, Spokane, WA 99208.

Swanton Sector Headquarters, Grand Avenue, Swanton, VT 05488.

Tucson Sector Headquarters, 1970 West Ajo Way, Tucson, AZ 85726.

Yuma Sector Headquarters, 350 First Street, Yuma, AZ 85364.

Border Patrol Academy: Officer Development and Training Facility, c/o Federal Law Enforcement Training Center (FLETC), Glynco, GA 31520.

Charlotte Amalie, St. Thomas, Virgin Islands, New Federal Building, Room 117, Chalotte Amalie, St. Thomas, VI 00801.

Suboffices (Files Control Offices) in Foreign Countries:

Athens Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO New York 09253.

Bangkok Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO San Francisco, CA 96346.

Manila Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO San Francisco, CA 96528.

Naples Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Box 18, FPO New York 09521.

Palermo Office, U.S. Immigration and Naturalization Service, c/o American Embassy (P), APO New York 09794.

Seoul, Korea, Office, U.S. Immigration and Naturalization Service, c/o . American Embassy, APO San Francisco, CA 96301.

Vienna Office, U.S. Immigration and Naturalization Service, c/o American Embassy, 1010 Vienna, Austria.

El Paso Intelligence Center (EPIC), 2211 East Missouri Street, El Paso, TX 79903.

INTERPOL—United States National Central Bureau (INTERPOL—USNCB)

The INTERPOL—USNCB Records System identified as JUSTICE/INTERPOL–001 is reprinted below to make the following changes: (1) Because the system contains noncriminal case files in addition to criminal case files, a more appropriate name has been given to the system; (2) The "Categories of records in the system" section has been clarified to include the kinds of records kept which contain the information already described in the December 9, 1982 **Federal Register** notice; (3) The "Storage" section has been modified to reflect that beginning April 5, 1982, cases will be stored on microfilm; (4) The "Retention and disposal" section has been revised to reflect the changed disposal schedule of cases which have been microfilmed; and (5) Other minor changes of a clarifying and/or editional nature have been made throughout the notice. (This system was last published on December 9, 1981 in the **Federal Register** Volume 46, page 60326.)

JUSTICE/INTERPOL–001

SYSTEM NAME:

The INTERPOL-United States National Central Bureau (INTERPOL-USNCB) (Department of Justice) *INTERPOL-USNCB Records System.*

SYSTEM LOCATION:

INTERPOL-U.S. National Central Bureau, Department of Justice, Room 6649, 9th and Pennsylvania Avenue, N.W. Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been convicted or are subjects of a criminal investigation with international aspects; specific wanted/missing persons; specific deceased persons in connection with death notices; individuals who may be associated with certain weapons, motor vehicles, artifacts, etc., stolen and/or involved in a crime; victims of criminal violations in the United States or abroad; and *INTERPOL-USNCB* personnel involved in litigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The program records of the INTERPOL-USNCB consists of criminal and non-criminal case files. The files contain fingerprint records,

photographs, criminal investigative reports, radio messages (international), teletype messages (internal U.S.), log sheets, computer printouts, letters, memoranda, and statements of witnesses and parties to litigation.

These records relate to fugitives, wanted persons, lookouts (temporary and permanent), specific missing persons, deceased persons in connection with death notices. Information about individuals includes names, alias, date of birth, address, physical description, various identification numbers, reason for the record or lookout, and details and circumstances surrounding the actual or suspected violation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 263a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event a record(s) in this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use to the appropriate law enforcement and criminal justice agencies whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulations or order issued pursuant thereto. A record may be disclosed to federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; to federal agencies in response to their request in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. A record may be disclosed to appropriate parties engaged in litigation or in preparation of possible litigation, e.g., to potential witnesses for the purpose of securing their testimony when necessary before courts, magistrates or administrative tribunals; to parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes; to individuals seeking information by using established discovery procedures, whether in connection with civil, criminal, or regulatory proceedings; to foreign governments in accordance with formal or informal international agreements; to local, state, federal and foreign agents; to the Treasury Enforcement Communications System (TECS) (Treasury/CS 00.244); to the International Criminal Police Organization (INTERPOL) General Secretariat and National Central Bureaus in member countries; to employees and officials of financial and commercial business firms and private individuals where such release is considered reasonably necessary to obtain information to further investigative efforts or to apprehend criminal offenders; to other third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; and to translators of foreign languages as necessary. In addition, information from this system is accessed by *INTERPOL-USNCB* employees who have a need for the records in the performance of their duties.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service [NARS] in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored in file folders *in the INTERPOL—United States National Central Bureau, and in file folders, in microfilm records* and on magnetic disks *in the INTERPOL Case Tracking System (ICTS) at the INTERPOL—* United States National Central Bureau, and certain limited data, *e.g.*, that which concerns fugitives and wanted persons, is stored in the Treasury Enforcement Communications System (TECS) TREASURY/CS 00.244, a system published by the U.S. Department of the Treasury.

RETRIEVABILITY:

Information is retrieved primarily by name, file name, system identification number, personal identification number, and by weapon or motor vehicle number or by other identifying data. *Prior to 1975, case files were arranged by name of subject. Since 1975, files have been arranged by year, month and sequential number.*

SAFEGUARDS:

Information maintained on magnetic disks is safeguarded and protected in accordance with Department rules and procedures governing the handling of computerized information. Only those individuals specifically authorized and assigned an identification code by the system manager will have access to the computer. Identification codes will be assigned only to those *INTERPOL-USNCB* employees who require access to the information to perform their official duties. In addition, access to the information must be accomplished through a terminal which is located in the *INTERPOL-USNCB* office that is occupied during the day and locked at night. Information in file folders *and in microfilm records* is stored in file cabinets in the same secured area.

RETENTION AND DISPOSAL:

Case files opened after April 5, 1982 have been stored on microfilm (41 CFR Sec. 101–11.506). In addition, records that were closed prior to April 5, 1982 but are recalled from the Federal Archives and Records Center (FARC) are also microfilmed.

Case files that were closed prior to April 5, 1982 are transferred to the FARC five years from the date the case is closed and are destroyed ten years

thereafter, if there has been no recall from the FARC and no case activity.

Case files closed as of April 5, 1982 and thereafter are disposed of as follows: The hard copy (paper record) of the case file may be destroyed when the microfilm records have been verified for clearness, completeness and accuracy. The microfilm record of the case file is destroyed ten years after closing of the case, if there has been no case activity.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, INTERPOL-United States National Central Bureau, Department of Justice, Room 6649, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiries regarding whether the system contains a record pertaining to an individual may be addressed to the Chief, INTERPOL-United States National Central Bureau, Department of Justice, Room 6649, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530. To enable INTERPOL-USNCB personnel to determine whether the system contains a record relating to him or her, the requester must submit a written request identifying the record system, identifying the category and type of records, sought, and providing the individual's full name and at least two items of secondary information (data of birth, social security number, employee identification number, or similar identifying information).

RECORD ACCESS PROCEDURES:

Although the Attorney General has exempted the system from the access, contest and amendment provisions of the Privacy Act, some records may be available under the Freedom of Information Act. Inquiries should be addressed to the official designated under "Notification procedure" above. The letter and envelope should be clearly marked "Freedom of Information Request" and a return address provided for transmitting any information to the requester.

CONTESTING RECORD PROCEDURES:

See "Access procedures" above.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include investigative reports of federal, state, local, and foreign law enforcement agencies (including investigative reports from a system of records published by Department of the Treasury entitled Treasury Enforcement Communications System (TECS) TREASURY/CS 00.244); other non-Department of Justice investigative agencies; client agencies of the Department of Justice; statements of witnesses and parties; and the work product of the staff of the United States National Central Bureau working on particular cases. Although the organization uses the name INTERPOL–USNCB for purposes of public recognition, the INTERPOL–USNCB is not synonymous with the International Criminal Police Organization (ICPO–INTERPOL), which is a private, intergovernmental organization headquartered in St. Cloud, France. The Department of Justice INTERPOL–USNCB serves as the United States liaison with the INTERPOL General Secretariat and works in cooperation with the National Central Bureaus of other member countries, but is not an agent, legal representative, nor organizational subunit of the International Criminal Police Organization. The records maintained by the INTERPOL–USNCB are separate and distinct from records maintained by the International Criminal Police Organization, and INTERPOL–USNCB does not have custody of, access to, nor control over the records of the International Criminal Police Organization.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has *exempted* this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e) (5) and *(8)*, (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2) and (k)(5). *Rules have been* promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and *have been* published in the **Federal Register.**

Justice Management Division (JMD)

JMD systems of records identified as JUSTICE/JMD–001, 003, 005, 008, 009, 011, 013, 019, and 020 are reprinted below. Changes consist primarily of nomenclature, editorial, or clarifying changes, except that a new routine use is added to JUSTICE/JMD–020, and the limited use of exemptions pursuant to 5 U.S.C 552a(k)(2) is clarified in JUSTICE/JMD–019. Any comments on proposed routine uses may be submitted to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received within 30 days of the date of publication of this notice, the new routine uses will be adopted without further notice in the **Federal Register.** (JUSTICE/JMD–001, 003, 008, 009, 011, and 013 were last published on January 10, 1980 in **Federal Register** Volume 45, beginning on page 2224; JUSTICE/JMD–005 was last published on December 9, 1981 in **Federal Register** Volume 46, page 60299; JUSTICE/JMD–019 was last published on May 21, 1982 in **Federal Register** Volume 47, page 22239; and JUSTICE/JMD–020 was last published on February 1, 1982 in **Federal Register** Volume 47, page 4621.)

JMD has also deleted a system of records entitled "'Occupational Health Physical Fitness Files, JUSTICE/JMD–018." Where practical, records were returned to affected individuals. Where personnel declined the offer, could not be contacted, or were no longer employed, the records were destroyed as authorized by the National Archives and Records Service. (This system of records was most recently published on January 10, 1980 in **Federal Register** Volume 45, page 2231.)

JUSTICE/JMD–001

SYSTEM NAME:

Background Investigation Check-off Card.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Offices, Boards, and Divisions except attorneys and employees in the Offices of the Attorney General and Deputy Attorney General.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains an index card for each employee of the Offices, Boards, and Divisions, except those excluded in Categories of Individuals above, on whom a name and fingerprint or background investigation has been initiated.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in order to fulfill the requirements of Executive Order 10450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The index cards are used to annotate and monitor the progress of the name and fingerprint checks and the full field character investigations of the employes. The completed cards are used to develop a variety of workload and timeframe data concerning the initiation and completion of these investigations to ensure that the requirements of Executive Order 10450 and Department

of Justice Order 17321 are being effectively and efficiently met.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 502 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress of staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is subject to the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is manually stored in the boxes.

RETRIEVABILITY:

Information is retrieved manually by reference to the name of the employee on whom the investigation is being conducted.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Personnel Section policies and procedures.

RETENTION AND DISPOSAL:

The index cards are retained by the Personnel Section Teams for a period of one year after completion of the background investigation. The cards are then forwarded to the Personnel Programs Unit where they are retained for one additional year and are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Staff, Justice Management Division, U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the System Manager.

RECORD ACCESS PROCEDURES:

Same as the System Manager.

CONTESTING RECORD PROCEDURES:

Same as the System Manager.

RECORD SOURCE CATEGORIES:

The sources of information contained in this system are those Personnel Section employees authorized to annotate these cards. Information reported in extracted from personnel documents initiating the various investigations and the resulting reports of completion.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD–003

SYSTEM NAME:

Department of Justice Payroll System.

SYSTEM LOCATION:

Categories of records within the Payroll System of Records are kept at the following locations: (1) Justice Employee Data Service; *633 Indiana Ave. N.W., Washington, DC 20004;* (2) Justice *Computer* Service; 425 I Street, N.W.; Washington, D.C. 20530; (3) at various time and attendance recording and processing stations around the world; (4) at computerized record off-site backup facilities; and (5) at various Federal Records Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Current DOJ employees with the exception of those employed within the FBI and; (2) Many past DOJ employees with the exception of those that served within the FBI.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Payroll Master Employee Records: These are machine-readable *and microfiche* records containing information on current pay and leave status for individuals serviced by the automated payroll accounting system.

B. Bond, Allotment and Check Mailing Records: These are machine-readable *and micro fisch* records containing information on Savings Bond deductions, savings account allotments, and net check mailing requested by the employee.

C. History of Earning Records: These are machine-readable *and microfiche* records containing information on earnings, leave and other pay related activities.

D. Automated Retirement Records: These are machine-readable records containing information relevant to the Civil Service Retirement System. These records will be used to automatically generate Individual Retirement Records (SF–2806) upon an employee's separation.

E. Revised Social Security Numbers Records: These are machine-readable records containing the new and old social security number for employees whose current social security number is different from that previously entered into the automated system.

F. Employee Pay Records: These are manila folders containing source documents, correspondence and other papers in support of an active employee's pay, leave and allowances.

G. Active Retirement Records: These are manual records maintained on active employees to facilitate timely compliance with the requirements of the Civil Service Retirement System. Upon separation, the original SF–2806 is forwarded to the Civil Service Commission and a copy is filed in the Employee Pay Record (F above). This category of records will eventually be replaced by the automated retirement records (D above).

H. Former Employee Pay Records: These records are the Employee Pay Records (F above) for employees that have been separated, transferred or retired. In addition to information contained in the Employee Pay Records, these records include information related to the retirement, separation or transfer. *These records are destroyed two years after separation of employee.*

I. Employee Death Records: These records are the Employee Pay Records (F above) for employees that died while on active duty with Department of Justice. In addition to information contained in the Employee Pay Records, these records include information related to the employee's death and the settlement of pending pay and allowances.

J. Returned Check Records: These records are a manual log for recording and controlling checks issued to employees that were returned to the Justice Employee Data Service because they were undelivered, erroneous or cancelled prior to conversion to cash.

K. Time and Attendance Report: These *microfilm records of standard form number DOJ–296* contain information on an employee's attendance and use of leave in a particular pay period. They are also

used to indicate leave adjustments and balances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The head of each executive agency is responsible for establishing and maintaining an adequate payroll system, covering pay, leave, and allowances, as a part of the system of accounting and internal control of the Budget and Accounting Procedures Act of 1950, as amended, 31 U.S.C. 66, 66a and 200(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose(s): The purpose of each use of categories of records within the DOJ Payroll System of Records is to enable the administration of the payroll function and related financial matters in accordance with applicable laws and regulations and to comply with the requirements of the Comptroller General.

SYSTEM USES:

A. Authorize, prepare and document payment to all Department employees covered by the DOJ Payroll System entitled to be paid, with consideration given to all authorized deductions from gross pay.

B. Specify and document proper disposition of all authorized deductions from gross pay.

C. Prepare adequate and reliable payroll reports needed for (1) management, (2) budget, (3) support of payments, (4) the conduct and accounting of payroll related employee services, (5) control and documentation of payroll system operation, and (6) to meet external reporting requirements.

D. Support effective communications and payroll matters between the Department of Justice and its present and former employees.

E. Support proper coordination of pay, leave and allowance operations with personal functions and other related activities.

F. Support adequate control over all phases and segments of the payroll system including leave accounting.

G. Support appropriate integration of the payroll system with the Departmental accounting systems.

H. Records maintained in this system shall include providing a copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement of the State, City, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, City, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520 or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the System Manager listed below. The request must include a copy of the applicable statute authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employement, or both. However, the social security numbers will only be provided to state or local taxing authorities which meet the criteria of the Privacy Act.

I. Provide permanent record of actions taken pertinent to the administration of pay leave and allowances.

J. Support legal investigations of suspected fraud.

CATEGORIES OF USERS:

Records are accessed by users on a need or right to know basis. A category of users may have potential access under more than one use above.

A. Present or former employees serviced by the DOJ Payroll System.

B. Justice Employees data Service Staff.

C. Department of the Treasury disbursing offices.

D. Department of Justice budget and accounting offices.

E. Department of Justice personnel offices.

F. Employee supervisors.

G. Employee administrative offices.

H. Federal, state and local taxing authorities.

I. Federal Employees Health Benefits carriers.

J. Employee organization offices participating in dues allotment program.

K. Financial organizations participating in savings account allotment program.

L. Financial organizations participating in net pay to checking account program.

M. State human resource offices administering unemployment compensation programs.

N. General Accounting Office and internal audit staffs.

O. Federal, state or local law enforcement agencies (in support of legal investigations of suspected fraud).

P. Other Federal agencies requiring information as specified in applicable laws or regulations, e.g., Civil Service Commission).

Q. Heirs, executors and legal representatives of beneficiaries.

R. State and local courts of competent jurisdiction for the enforcement of child support and/or alimony pursuant to 42 U.S.C. 659.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Various categories of records are stored on different mediums. Categories A, B, and E are on magnetic discs. *Category C is* on magnetic tape *and microfiche. Category D is on magnetic tape.* All other records are maintained in paper form.

RETRIEVABILITY:

Categories of records on magnetic media are retrievable by employee social security number which is maintained to comply with Internal Revenue requirements. Records in paper form *and microfiche* are retrievable by employee name and social security number.

SAFEGUARDS:

The principal current safeguard for payroll records is guard force screening of individuals entering buildings within which records are kept. More stringent security practices and procedures are under developement.

RETENTION AND DISPOSAL:

Payroll records retention and disposal are in accordance with General

Schedule 2 promulgated by the General Services Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director; *Finance Staff, Justice Management Division;* U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

A request for notification of the existence of records upon an individual shall be made in writing by the individual or legal designate, with the envelope and the letter clearly marked 'Privacy Notification Request'. Include in the request the name of the system of records, the individual's full name and social security number while employed with the Department of Justice, the organization within which employed (if available), and whether the individual is a current or former employee. The requestor shall include a return address for the notification response. If the request is submitted by other than the subject individual, indicate the authority under which the information is sought. The request must be signed by the subject individual and, if applicable, by the legal designee. Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

A request for access to records from this system shall be made in writing by the subject individual or legal designee, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the system of records, the legal name and social security number of the data subject, the organization within which the individual is a current or former employee. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system of records should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought. If the request is submitted by other than the subject individual, indicate the authority under which the information is sought. The request must be signed by the subject individual and, if applicable, by the legal designee.

RECORD SOURCE CATEGORIES:

Information contained within the DOJ Payroll System of Records is obtained from the following sources:

A. Subject Individual: Information collected from the subject individual generally consists of that necessary to administer allotments, deductions or other services requested by the individual.

B. Personnel Office: Information collected from the personnel office generally consists of employment status information which provides the legal basis upon which valid payments are computed.

C. Time and Attendance Clerk: Information collected from this clerk generally consists of an accounting of the individual's presence or absence from the duty station and the usage of leave.

D. Supervisor or Administrative Officer: Information collected from these officers generally consists of leave authorizations and information concerning the individual's duty station.

E. Financial Institutions or Employee Organizations: Information collected from institutions or organizations generally consists of that necessary to insure the timely and accurate forwarding to the institution or organization of monies allotted to an account at the institution or organization by the subject individual.

F. Previous Federal Employer: Information collected from the previous employer within the Federal government generally consists of leave status information at the time of separation.

G. Other Federal Agencies: Information collected from other Federal agencies generally consists of program information necessary to properly administer pay, leave, and allowances.

H. Other Officials: Information collected from other officials consists of that necessary to administer the payroll function. This may include authorization for special payments, death certificate or other documents as necessary.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD–005

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

Records relating to grievances originating in an office, board or division (defined in 28 CFR 0.1) are located in the office of the *Assistant Director for Personnel Services, Personnel Staff (PS).* Records relating to grievances originating in a particular bureau (defined in 28 CFR 0.1) are located in the central personnel office of the bureau where the grievance originated, except for the Federal Bureau of Investigation (FBI) which is excluded from coverage of the Agency Administrative Grievance System by 5 CFR 771.206(a). (See caption "System managers and addresses.")

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Department of Justice employees, except for employees of the FBI, who have submitted grievances in accordance with 5 CFR Part 771 (Office of Personnel Management (OPM) regulations) and the Department's grievance procedures, or in accordance with a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by agency employees under 5 CFR Part 771 and the Department's grievance procedures, or under a negotiated grievance procedure. These case files contain all documents related to the grievance, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, and a copy of any original and final decision and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that *PS* and the bureaus may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a(f); 5 CFR Part 771; 5 U.S.C. 1032, 3301, 3302; E.O. 10577; 3 CFR 1954–1958 Comp., p. 218.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to another appropriate Federal, State, or local agency, responsible for investigating, prosecuting, enforcing, or implementing a statute rule, regulation, or order, where the Department becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

c. To disclose information to another Federal agency (in response to its request) for its use in the hiring or

retention of an employee, the issuance of a security clearance, the conducting of a security and/or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit to the extent that the information is relevant and necessary to its decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2908.

g. By the Department or OPM in the production of summary descriptive statistics, if available, and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of data elements included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel; the Federal Labor Relations Authority and its General Counsel; the Equal Employment Opportunity Commission; or, the OPM when requested to perform their authorized duties.

i. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. To provide information to labor organization officials recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of three years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

a. *Offices, Boards and Divisions. Assistant Director for Personnel Services, Personnel Staff,* U.S. Department of Justice, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530.

b. *Bureau of Prisons.* Personnel Officer, Bureau of Prisons, HOLC Building, 320 First Street, NW., Washington, D.C. 20534.

c. *Drug Enforcement Administration.* Personnel Officer, Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537.

d. *Immigration and Naturalization Service.* Assistant Commissioner for Personnel, Immigration and Naturalization Service, CAB Building, 425 I Street, NW., Washington, D.C. 20530.

e. *Office of Justice Assistance, Research and Statistics.* Personnel Officer, Office of Justice Assistance, Research and Statistics, 633 Indiana Avenue, NW., Washington, D.C. 20531.

f. *United States Marshals Service.* Personnel Officer, U.S. Marshals Service, 1 Tysons Corner Center, McLean, Virginia 22102.

g. *Executive Office for U.S. Attorneys.* Personnel Officer, Executive Office for U.S. Attorneys, U.S. Department of Justice, 10th Street and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, contact the appropriate personnel office (named under the caption "System managers and addresses" above) where the action was processed regarding the existence of such records on them. They must furnish the following information for the records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

RECORD ACCESS PROCEDURES:

It is required that the individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the appropriate personnel office (named under the caption "System managers and addresses" above) where the action was processed. Individuals must provide the information listed under the caption "Notification procedures" for their records to be located and identified. Individuals requesting access must also follow the Department's Privacy Act regulations (28 CFR 16.41) regarding access to records and verification of identify.

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to the records to correct factual errors should contact the personnel office (named under the caption "System managers and addresses" above) where the grievance was processed. Individuals must furnish the information listed under the caption "Notification procedures" for their records to be located and identified.

Individuals requesting amendment must also follow the office's Privacy Act regulations (28 CFR 16.41) regarding amendment to records and verifications of identity.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By Department officials.

d. From related correspondence from organizations or persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD–008

SYSTEM NAME:

Security Clearance Information System (SCIS).

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Current employees of the Department of Justice (excluding FBI) who have been investigated and cleared for employment, and for access to data classified for National Security reasons; B. Former employees of the Department of Justice (excluding FBI) who had been investigated and cleared for employment and for access to data classified for National Security reasons (maintained for a maximum of one year from date of termination).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains two subsystems: (a) a Clearance Index Reference Record which is an automated system for identifying the individuals in Categories of Individuals above listing the status and types of investigations, the dates of clearances, level of clearances and level of Special Intelligence access approvals, and (b) a Character File (excluding FBI; *DEA* and Department attorneys) containing (1) Standard form 86 (Office of Personnel Management), Security Investigation Data for Sensitive Position; (2) Copies of investigative reports from the Office of Personnel Management and/or Federal Bureau of Investigation; (3) Correspondence related to the request for the investigation, results of the investigation, and clearance approvals for access to classified national security information and waivers; and (4) other information relating to the trustworthiness of the employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with Presidential Executive Orders 10450 (clearance for Federal employment) and 12356 (access to data classified for National Security reasons).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) The investigative material compiled in this system is used for the purpose of determining the suitability, eligibility and/or qualifications of applicants for employment in the Department of Justice (except the FBI) and for sensitive positions involving access to classified information. In the event of employee transfers to other Government Agencies, this information could be reviewed by investigators of the gaining agency to expedite the employee transfer if necessary.

(b) The clearance status of the employees is certified to security officials and investigators of other U.S. Government Agencies or Departments for liaison purposes involving access to classified material during meetings, conferences or training courses.

(c) The personal data in the system may be reviewed by Central Intelligence Agency for the purposes of granting Special Intelligence access approvals to Department employees. These access approvals are within the purview of the Director, Central Intelligence Agency.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute and unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552 may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system or records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained on the Clearance Index Reference Record has been added to the automated Department of Justice personnel data base which has been reported by the *Office of Personnel Management* under the designation of CSC/GOVT–3 at 42 FR 48738 on September 23, 1977. In conjunction with the manual Character File, the automated data is used to certify clearances on DOJ employees.

RETRIEVABILITY:

All data is retrieved by searching under the employee's name/social security account number/organization/type of clearance.

SAFEGUARDS:

Information contained in the system includes some classified National Security Information. It is safeguarded and protected in accordance with Departmental rules and procedures governing the protection of this material.

RETENTION AND DISPOSAL:

Clearance Index Reference Record is maintained for the tenure of employment and for a maximum of one pay period after termination. An employee's Character File is maintained for the tenure of employment and for a maximum of one year after termination at which time the investigation reports are returned to the investigating agency or destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Security Staff, Justice Management Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURES:

Same as the System Manager.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing to the System Manager with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name, title and organization of the employee and the general subject matter of the inquiry. The requestor will also provide a return address for transmitting a reply. Requests for copies of investigative reports must be directed to the Office of Personnel Management of the Federal Bureau of Investigation, as appropriate.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are (a) applicants for employment and employees in the Department of Justice (except FBI) and (b) those individuals (informants) contacted by the Investigators for the Office of Personnel Management and Special Agents of the Federal Bureau of Investigation who furnished information in the background investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from sections (*d*) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 533 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/JMD–009

SYSTEM NAME:

Justice *Computer Service* Utilization Report.

SYSTEM LOCATION:

Justice *Computer Service*, 425 I Street NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel submitting computer jobs to run at the Justice *Computer Service*.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data describes the recource utilization of the individual jobs submitted. Certain information is also recorded which pertains to the entire computer system rather than individual jobs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are kept for administrative convenience pursuant to 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used to recover costs associated with running computer jobs, to analyze the utilization of the Justice *Computer* Service computer systems, detect inefficiencies and areas having high potential benefit from optimization.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member or staff requesting the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Utilization reports are provided to a designated manager for each organization which uses the Justice *Computer* Service.

RETRIEVABILITY:

Information may be retrieved by name of the individual submitting computer runs.

SAFEGUARDS:

The machine readable (magnetic tape) data is kept in the Justice *Computer* Service tape library. Utilization reports are controlled by the designated individual of each using agency.

RETENTION AND DISPOSAL:

The machine readable data is kept indefinitely. Utilization reports are controlled by the designated individual of each using agency.

SYSTEM MANAGER(S) AND ADDRESS:

Director: *Computer Technology and Telecommunications Staff, Office of Information Technology*, Justice Management Division U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system may be made in person or in writing, specifying the name of the individual submitting a computer run and the date and name of the computer run.

CONTESTING RECORD PROCEDURES:

Requests for correction should be addressed to the System Manager.

RECORD SOURCE CATEGORIES:

Information is collected by the IBM *370* Operating System and program modules developed by personnel of the Department of Justice.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD–011

SYSTEM NAME:

Justice *Computer Service* Tape Library System.

SYSTEM LOCATION:

Justice *Computer Service* 425 I Street, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel submitting computer jobs which create magnetic tape data sets.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data describes the contents of the magnetic tape volumes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are kept for administrative convenience pursuant to 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used to control and protect the data recorded on magnetic tapes.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Reports can be obtained by any Justice *Computer* Service user by submitting a computer job requesting the report.

RETRIEVABILITY:

Information can be obtained by name of the individual who submitted the job which created the tape resident data sets.

SAFEGUARDS:

The machine readable data is kept within the Justice *Computer* Service. Reports are controlled by the tape librarian and by the individuals receiving the reports.

RETENTION AND DISPOSAL:

Reports are controlled by the tape librarian and by the individuals receiving the reports.

SYSTEM MANAGER(S) AND ADDRESS:

Director, *Computer Technology and Telecommunications Staff, Office of Information Technology* Justice Management Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the System Manager.

RECORD ACCESS PROCEDURE:

A request for access/correction to a record from this system may be made in person or in writing specifying the serial number of the tape in question. Request should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Information is collected by the IBM *370* Operating System and other program modules.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD–013

SYSTEM NAME:

Employee Locator File.

SYSTEM LOCATION:

U.S. Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the U.S. Department of Justice, with the exception of individuals employed by the Federal Bureau of Investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information relating to each employee's home and business address, home and business telephone number, information as to next of kin, and personal physician preferred in case of medical emergency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained pursuant to 5 U.S.C. 301, 5 U.S.C. 7901, 26 U.S.C. 6011, 26 U.S.C. 6109, 5 U.S.C. 5516, 5 U.S.C. 5517 and 5 U.S.C. 5520.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The locator system is used to provide address data to federal, state and local tax authorities in accordance with the reporting requirements of their income tax withholding programs. The locator system is also used to contact employees of the Department at their official place of business or their residence regarding matters of an official nature relating to their employment with the Department of Justice. It is also used in medical emergencies to contact an employee's personal physician if he or she has an indicated preference, and to notify next of kin. Use of the file for these purposes is limited to supervisors of the employees concerned or individuals having the permission of a supervisor of the employee concerned.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape and magnetic disc.

RETRIEVABILITY:

Records are retrieved by name or any other date item by means of cathode-ray tubes.

SAFEGUARDS:

Access to terminals is limited to persons with terminal identification numbers. These numbers are issued only to employees who have a need to know in order to perform job functions relating to income tax reporting or personnel matters.

RETENTION AND DISPOSAL:

Records are retained for the duration of an individual's employment with the Department. They are destroyed upon his or her separation.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Staff; Justice Management Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURE:

Same as Notification.

CONTESTING RECORD PROCEDURES:

Same as Notification.

RECORD SOURCE CATEGORIES:

Information is supplied by the individual to whom the record pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD-019

SYSTEM NAME:

Freedom of Information Act/Privacy Act (FOLA/PA) Records *System*

SYSTEM LOCATION:

U.S. Department of Justice, Justice Management Division, 10th and Constitution Avenue, N.W. Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have made a request to access any Justice Management Division (JMD) record relating to JMD functional responsibilities and activities; individuals who have made a request to access or correct records pertaining to themselves which they believed to be in JMD systems of records; and persons who, on behalf of another individual, have made a request to access or correct that individual's records which they believed to be in JMD systems of records. Such requests were made pursuant to the Freedom of Information Act, the Privacy Act, or both.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual records contain Freedom of Information Act and Privacy Act requests for JMD records, responses thereto, and where applicable, a copy of the records requested and any other correspondence or internal memoranda related to the processing of these requests. Automated records (stored on disks) contain summary data such as the date of request, name of requester, addressee, subject of request, date request was received, JMD staff to which request was assigned, date request was assigned, date response was due, control number, and date of response.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101 and is maintained to implement the provisions of 5 U.S.C. 552 and 552a and the provisions of 28 CFR 16.1 et. seq. and 28 CFR 16.40 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system may be disseminated as a routine use of such record as follows: (1) A record may be disseminated to a Federal agency which furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate federal, state, local, or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in a system of records maintained by the Justice Management Division.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, nor otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual requests records are stored in locked safes. Automated requests records are stored on disks.

RETRIEVABILITY:

Requests records are filed and retrieved under the names of those persons and individuals identified under the caption "Categories of individuals covered by the system. These records are retrieved by Department personnel to perform their duties, e.g., when subsequent requests are made by the public for copies of their previous requests and responses thereto, or when the requester submits a supplemental request to information clarifying a previous request.

SAFEGUARDS:

Access to requests records is limited to Department of Justice personnel who have need for the records to perform their duties. Request files (manual records) are stored in locked safes. All records are stored in an office which is occupied during the day and locked at night.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with items 16 through 18 and 25 through 28 of General Records Schedule 14.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General for Administration, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the System Manager.

RECORD ACCESS PROCEDURES:

A request to access a record in this system shall be made in writing to the system manager named above with the envelope and letter clearly marked "Freedon of Information Act request" or "Privacy Act request." The requester shall include the full name of the person who made a request, date of that request, name of official to whom the request was addressed, and subject of the request. Where applicable (Title 28 of the Code of Federal Regulations, § 16.41(b) (2) and (3), the requester shall also include the current address, date and place of birth, and notarized signature of the individual requesting a copy of his/her previous request and response thereto. Where applicable [Title 5 of the United States Code, section 552a(b)], the requester shall also include a written statement authorizing the Department to release these records to a third party. In addition, the requester shall provide his return address.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The sources of information contained in this system are the individuals and persons making requests, the systems of records searched in the process of responding to requests, and other agencies referring requests for access to, or correction of records originating in the Justice Management Division.

Systems exempted from certain provisions of the act: Records secured from other systems of records have been exempted from the Privacy Act provisions to the same extent as the systems of records from which they were obtained. The Attorney General has also exempted certain categories of records in this system from subsections

(c) (3) and (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). That is, the exemptions apply only to the extent that other correspondence or internal memoranda retained with the request file contain investigatory material for law enforcement purposes. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

Justice/JMD–020

SYSTEM NAME:

Freedom of Information *Act*/Privacy Act (FOIA/PA) Request letters.

SYSTEM LOCATION:

FOIA/PA referral unit, Office of administrative Counsel, Justice Management Division, Department of Justice (DOJ). Washington, D.C. 20530

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons making *FOIA/PA* requests to the Department. (The names of persons making requests directly to the Board of Immigration Appeals (BIA), individual United States Attorneys' Offices, or a Department bureau, i.e. the Bureau of Prisons, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Office of Justice Assistance, Research and Statistics, and the Immigration and Naturalization Service, will not usually be in this system, except in those rare instances where these organizations may forward a request to the Department for appropriate referral.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Paper documents consist of written *FOIA/PA* requests for Department records not addressed to a specific DOJ component and therefore forwarded to the unit for assignment and referral; forms indicating the DOJ components to which requests have been referred; acknowledgement/referral advisory letters to requesters; and other related correspondence, e.g., letters to requesters seeking additional information and the responses thereto (This system contains no replies which grant or deny access to records, nor any other records relating to the individual other than as stated here.) Computer records consist of an automated index to these requests, as well as to requests specifically addressed to and received directly by an Office, Board or Division of the Department. The Offices, Boards and Divisions will advise the unit of the direct receipt of requests by sending the unit a completed form which provides certain information, i.e., the name of the first and/or third party requester, date of request, and the component receiving it. This information will be stored on discs as part of the index. The automated index will not usually include requests specifically addressed to and received directly by the BIA, the United States Attorneys' Offices, or a Department bureau. (See caption entitled "Category of individuals covered by the System."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C 3101; 5 U.S.C. 552 and 552a; 28 CFR 16.1–.10; and 28 CFR 16.40–.57.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are not disseminated outside the Department *except as indicated below.* They are accessed only by Department personnel with a need to know, i.e., requests are referred by the *FOIA/PA* referral unit to the appropriate Department component(s) to respond or the Civil Division and/or United States Attorney to prepare the Department's defense in *FOIA/PA* litigation.

Release of information to the news media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records Service:

A record may be disclosed as a routine use to the National Archieve and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The following information will be stored on discs as a hard copy index to requests stored in file folders in locked cabinets: name of the requester, date of the request, Department component to whom the request was feferred by the *FOIA/PA* referral unit, or to whom it was specifically addressed (in which case no copy of the request is maintained in file folders), and any other nonpersonal information which at a future date may be considered useful in locating requests.

RETRIEVABILITY:

A record is retrieved by name of the individual making the request, as well as by date of the request.

SAFEGUARDS:

Paper documents are stored in file cabinets. The hard copy index is stored on word processor discs. Both the word processor and file cabinets are in an office which is occupied during the day and locked at night.

RETENTION AND DISPOSAL:

Paper records are retained in the *FOIA/PA* referral unit for approximately one year. Paper records are then transferred to the Federal Records Center for storage in accordance with the General Services Administration's General Records Schedule 14, item 18 (a), which provides for a disposal date of five years from the date of the most recent request being stored. The hard copy index to requests will be retained by the *FOIA/PA* referral unit for up to five years. All records over five years old will be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W. Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiries as to whether the system contains a record of a request from an individual should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. To enable the Administrative Counsel to identify whether the system contains a request from the individual, the individual must provide the name of the person who made the request, the date of the request, and, if appropriate, the date of the Administrative Counsel's letter to the requester acknowledging receipt and referral of the request.

RECORD ACCESS PROCEDURES:

Persons desiring to access a record shall submit a request in writing to the Administrative Counsel at the address

indicated under "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Request from individuals for DOJ records under the Freedom of Information and Privacy Acts.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Land and Natural Resources Division (LDN)

The following system of records maintained by the Land and Natural Resources Division is reprinted below to make a clarification change to the section entitled "Systems exempted from certain provisions of the act." (This system was last published on September 30, 1977 Federal Register Volume 42, page 53353.)

JUSTICE/LDN–005

SYSTEM NAME:

Freedom of Information Act and Privacy Act Records System.

SYSTEM LOCATION:

U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who request, under the Freedom of Information and Privacy Acts, access to or copies of records maintained by the Land and Natural Resources Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains, in alphabetical order, requests, under the Freedom of Information and Privacy Acts, for access to Division records, responses thereto and related materials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system is used: (a) To maintain records concerning the processing and determination of requests for information made pursuant to the Freedom of Information Act and the Privacy Act; (b) to provide documentation of receipt and processing of requests for information made pursuant to the Freedom of Information Act and the Privacy act if needed for processing contested denials of release of data; (c) to furnish information to employees of the Department of Justice who have a need for information from the system in performance of their duties; (d) to maintain a count of requests and method of compliance as required by the Freedom of Information Act and the Privacy Act.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in form received.

RETRIEVABILITY:

Information is retrieved by alphabetized name of the subject.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded in accordance with Departmental rule, and procedures governing Justice records.

RETENTION AND DISPOSAL:

Records are retained during their useful life and are subject to destruction 15 years after the pertinent subject has ceased to be in an active status.

SYSTEM MANAGER(S) AND ADDRESS:

Division Control Officer; Land and Natural Resources Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the: Assistant Attorney General; Land and Natural Resources Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request" and the system and record sufficiently described in the letter for identification.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Source of information contained in this system is the applicant for information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Records secured from other *Land and Natural Resources Division* systems of records have been exempted from the provisions of the Privacy Act to the same extent as the systems of records from which they were obtained. The Attorney General has also exempted certain categories of records in this system from subsection (c) (3) and (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

Office of Justice, Research, and Statistics (OJARS)

OJARS systems of records identified as JUSTICE/OJARS–008, 009, 010, and 012 are reprinted below to incorporate nomenclature changes required as a result of a reorganization which accomplished the transfer of the functions of the former Law Enforcement Assistance Administration to OJARS. Notification of this reorganization was published in the Federal Register Volume 47 on pages 16694 and 16695. (Systems identified as JUSTICE-OJARS–008 and JUSTICE/

OJARS–012 were last published on November 17, 1980 in **Federal Register** Volume 45 on pages 75936 and 75939 respectively. Systems identified as JUSTICE/OJARS–009 and JUSTICE/OJARS–010 were last published on December 9, 1981 in **Federal Register** Volume 46, page 60331.)

SYSTEM NAME:

Civil Rights Investigative System.

SYSTEM LOCATION:

Office of Justice Assistance, Research, and Statistics.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Complaints of discrimination by individuals affected by the agency program for which the agency has compliance responsibility, grantees, subrantees, contractors, subcontractors, employees, and applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Civil Rights Complaint Control Files; Civil Rights Litigation Reference Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 3789d (c) E.O. 11246 (3 CFR Part 173) as amended by E.O. 11375.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Investigation of complaints and to obtain compliance with Civil Rights laws. Users of the data are State Planning Agencies, State Governors and Attorneys General, Criminal Justice Agencies, Office of Federal Contract Compliance, Equal Employent Opportunity Commission, Office of Federal Revenue Sharing, and a United States Commission on Civil Rights; Department of Health, Education, and Welfare; States Civil Rights Offices; and *Office of Justice, Assistance, Research, and Statistics* researchers for purposes of evaluation technical assistance and training.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

STORAGE:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is stored in file folders and on index cards.

RETRIEVABILITY:

Information is retrieved by name of respondent and complainants.

SAFEGUARDS:

Information is kept in locked file cabinets and combination safe. Access is limited to investigative personnel.

RETENTION AND DISPOSAL:

Complaint control logs *are no longer maintained.* Complaint case files thereafter are not retrievable by name, number, or other information identifiable to the individual. Other investigative information is destroyed four years after the investigation is completed.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Civil Rights Compliance: Office of Justice Assistance, Research, and Statistics; 633 Indiana Avenue NW; Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record containing civil rights investigatory material shall be made in writing with the envelope and letter clearly marked "Privacy Access Request" to the Civil Rights System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The information contained in this system was received from individual complainants, witnesses, grant files, respondents, official State and Federal records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a (K) (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/OJARS–009

SYSTEM NAME:

Federal Advisory Committee Membership Files.

SYSTEM LOCATION:

Office of Justice Assistance, Research, and Statistics; 633 Indiana Avenue, N.W., Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been or are presently members of or are being considered for membership on advisory committees within the jurisdiction of the OJARS, NIJ, BJS, and OJJDP.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence with the documents relating to committee members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Advisory Committee Act, 5 U.S.C. App. I et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Annual Report to the President; administrative reports to OMB and other federal agencies.

Release of information to the news media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to members of Congress:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information in system is stored in file folders.

RETRIEVABILITY:

Information is retrieved by name of individual.

SAFEGUARDS:

Data is maintained in file cabinets. The entrance to the building requires building pass or security sign-in.

RETENTION AND DISPOSAL:

The data is placed in an inactive file upon discontinuance of membership, held for two years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Federal Advisory Committee Officer; Office of General Counsel; Office of Justice Assistance, Research, and Statistics; 633 Indiana Avenue, N.W., Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURE:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information are supplied directly by individuals about whom the record pertains, references, recommendations, program personnel, and biographical reference books.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/OJARS-010

SYSTEM NAME:

Technical Assistance Resource Files.

SYSTEM LOCATION:

Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants with expertise in criminal justice systems.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of resumes and other documents related to technical assistance requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained under authority of 42 U.S.C. 3755(b) and 42 U.S.C. 5614(b)(6).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system is used to determine the qualifications and availability of individuals for technical assistance assignments. Users are State Criminal Justice Councils, and the Office of Juvenile Justice and Delinquency Prevention.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS.

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information contained in the system is on hard copy and stored in file cabinets.

RETRIEVABILITY:

Information is manually retrieved by the name of the individual.

SAFEGUARDS:

Records are stored in file cabinets. Admittance to the building in which they are stored requires a building pass or an individual signature at the main entrance to the building.

RETENTION AND DISPOSAL:

Records are placed in an inactive file at the end of the fiscal year in which final use was made. They are held two years in the inactive file; then transferred to the Federal Records Center. Records are destroyed after six years.

SYSTEM MANAGER(S) AND ADDRESS:

Technical Assistance Coordinator; Division Director of Program area in which records are sought in the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Assistance, Research and Statistics, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager(s) at the above address.

RECORD ACCESS PROCEDURES:

A request for access to a record contained in this system shall be made in writing with the envelope and letter clearly marked "PRIVACY ACCESS REQUEST." Include in the request the name and grant/contract number for the record desired. Access requests will be directed to the system manager(s) listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their requests to the system manager(s) listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are those individuals to whom the information pertains.

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SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/OJARS–012

SYSTEM NAME:

Public Safety Officers Benefits System.

SYSTEM LOCATION:

Office of Justice Assistance, Research, and Statistics, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Public Safety Officers who died while in the line of duty and their surviving beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains an index by claimant and deceased Public Safety Officers; case files of eligibility documentation; and benefit payment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintaining this system exists under 42 U.S.C. 3701, et seq., Pub. L. No. 94–430 (Sept. 29, 1976) and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) State and local agencies to verify and certify eligibility for benefits; (2) *researchers for the purpose of researching the cause and prevention of public safety officer line of duty deaths;* (3) appropriate Federal agencies to coordinate benefits paid under similar programs; and (4) Members of Congress or staff acting upon the member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is a party in interest.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is maintained on a master index, in folders and on computer magnetic tape.

RETRIEVABILITY:

Information is retrievable by name of claimant, name of deceased Public Safety Officer, and case file number.

SAFEGUARDS:

Computerized information is safeguarded and protected by computer password key and limited access. Noncomputerized data is safeguarded in locked cabinets. All files are maintained in a guarded building.

RETENTION AND DISPOSAL:

Files are retained, retired to Federal records centers and disposed of in accordance with General Services Administration disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

PSOB Program Officer, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

Request for access to a record from this system should be made in writing with the envelope and the letter clearly marked 'Privacy Access Request' Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above and state clearly and concisely what information is being contested, the reason for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Public agencies including employing agency, beneficiaries, educational institutions, physicians, hospitals, official state and Federal documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Office of Legislative Affairs (OLA)

OLA systems of records identified as JUSTICE/OLA–001, 002, and 003 are reprinted below to reflect minor editorial changes. (These systems were last published on September 30, 1977 in **Federal Register** Volume 42 on pages 53362 and 53363.)

JUSTICE/OLA–001

SYSTEM NAME:

Congressional Committee Chairman Correspondence file.

SYSTEM LOCATION:

U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and past Chairmen of Congressional Committees who correspond with the Department on legislative and other related matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains letters and attachments transmitted by Congressional Committee Chairmen together with copies of the Departmental responses to these letters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use of the information is entirely within the Department on a need to know basis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored in file cabinets.

RETRIEVABILITY:

Information is retrieved by using the name of the particular Congressional Committee Chairman who initiated the correspondence in a particular matter.

SAFEGUARDS:

Information contained in the system is unclassified. Routine protection is provided.

RETENTION AND DISPOSAL:

Information maintained in this system contains correspondence generated during the 96th and 97th Congresses. This system was not maintained prior to the 93rd Congress.

SYSTEM MANAGER(S) AND ADDRESS:

Legislative Assistant; Office of Legislative Affairs; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the: Assistant Attorney General; Office of Legislative Affairs; U.S. Department of Justice; 10th and Constitution Avenue, N.W. Washington, D.C. 20530.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the nature of the letter or document as well as the general subject matter of the document. The requestor will also provide a certification of identity and a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The source of the information contained in this system comes directly from the individual initiating the correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/OLA–002

SYSTEM NAME:

Congressional Correspondence File.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and past members of Congress who correspond with the Department on legislative and other related matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains letters and attachments transmitted by the individual members of Congress together with copies of the Departmental responses to these letters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use of the information is entirely within the Department on a need to know basis.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored in file cabinets.

RETRIEVABILITY:

Information is retrieved by using the name of the individual member of Congress who initiated the correspondence in a particular matter.

SAFEGUARDS:

Information contained in the system is unclassified. Routine protection is provided.

RETENTION AND DISPOSAL:

Information maintained in this system contains correspondence generated during the 97th Congress.

SYSTEM MANAGER(S) AND ADDRESS:

Legislative Assistant; Office of Legislative Affairs; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the: Assistant Attorney General; Office of Legislative Affairs; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and letter clearly marked 'Privacy Access Request'. Include in the request the nature of the letter or document as well as the general subject matter of the document. The requestor will also provide a certification of identity and a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The source of the information contained in this system comes directly from the individual initiating the correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/OLA–003

SYSTEM NAME:

Citizen Correspondence File.

SYSTEM LOCATION:

U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons corresponding with the Department on legislative and other related matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains letters and attachments transmitted by individuals together with copies of the Departmental responses to these letters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintenance in accordance with 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use of the information is entirely within the Department on a need to know basis:

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available form systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored in file cabinets.

RETRIEVABILITY:

Information is retrieved by using the name of the individual who initiated the correspondence in a particular matter.

SAFEGUARDS:

Information contained in the system is unclassified. Routine protection is provided.

RETENTION AND DISPOSAL:

Information maintained in this system contains correspondence from individuals during 1974 to the present. This system was not maintained prior to 1974.

SYSTEM MANAGER(S) AND ADDRESS:

Legislative *Assistant;* Office of Legislative Affairs; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquires to the: Assistant Attorney General; Office of Legislative Affairs; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the nature of the letter or document as well as the general subject matter of the document. The requestor will also provide a *certification of identity and a* return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The source of the information contained in this system comes directly from the individual initiating the correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Office of Legal Policy (OLP)

The following system of records is reprinted below to reflect exemption of the system from certain provisions of the Privacy Act. The records contained in this system originated in or are derived directly from records of other divisions of the Department of Justice entrusted with investigative duties. The exemption is needed to protect ongoing investigations, the privacy of third parties, and the identities of confidential sources involved in such investigations. The exemption rule will be published in the "Proposed Rules" section of the Federal Register.

JUSTICE/OLP–001

SYSTEM NAME:

Freedom of Information and Privacy Appeals Index.

SYSTEM LOCATION:

Office of Legal Policy; United States Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system encompasses all individuals who submit administrative appeals under the Freedom of Information or Privacy Acts and initial requests for access to records located in the Office of the Attorney General, Deputy Attorney General or Associate Attorney General.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains copies of administrative requests, appeals and other related correspondence filed under the Freedom of Information and Privacy Acts and copies are filed sequentially by date of receipt based on a numerical identifier assigned to each appeal. Also included are index cards which list the name of the appellant and the numerical identifier assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system was established and is maintained to enable the Officer of Legal Policy to comply with the reporting requirements set forth in 5 U.S.C. 552 and 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are maintained for the purpose of processing administrative requests and appeals under the Freedom of Information and Privacy Acts and to comply with the reporting requirements of those Acts.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records

maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored in file folders in cabinets.

RETRIEVABILITY:

These folders are filed by the number assigned to each.

SAFEGUARDS:

These records are stored in cabinets in a lockable room.

RETENTION AND DISPOSAL:

These folders are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Privacy and Information Appeals, Office of Legal Policy; United States Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the System Manager.

RECORD ACCESS PROCEDURES:

Same as the System Manager.

CONTESTING RECORD PROCEDURES:

Same as the System Manager.

RECORD SOURCE CATEGORIES:

Those individuals who submit certain requests and all appeals under the Freedom of Information and Privacy Acts.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (d)(1), (2), (3), and (4); (e)(1), (2), and (5); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(2) and (k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

United States Parole Commission (PRC)

PRC systems of records identified as Justice/PRC–001, 002, 004, 005, 006, and 007 are reprinted below to reflect address changes and to correct type errors particularly in legal citations. (These systems were last published on December 9, 1981 in **Federal Register** Volume 46, beginning on page 60335.) JUSTICE/PRC–003 is reprinted below without change. (This system was last published on April 22, 1982 in **Federal Register** Volume 47, page 17348.)

JUSTICE/PRC–001

SYSTEM NAME:

Docket, Scheduling and Control.

SYSTEM LOCATION:

Records are maintained at each of the Regional Offices for inmates incarcerated in and persons under supervision in each region, except for the National Appeals Board docket maintained in Washington. Duplicates of regional materials are maintained in Washington. All requests for records should be made to the appropriate regional office or Headquarters at the following addresses: United States Parole Commission, Scott Plaza II, Industrial Highway, 6th Floor, Philadelphia, Pa. 19113; United States Parole Commission, *715 McDonough Blvd., S.E., Atlanta,* Ga. 30315; United States Parole Commission, 5550 Friendship Blvd., *Chevy Chase Md. 20815,* ATTN: National Appeals Board, United States Parole Commission, *Air World Center Suite 220, 10920 Ambassador Dr.,* Kansas City, Mo. 64153. United States Parole Commission, *555 Griffin Square, Suite 820* Dallas, Tex. *75202.* United States Parole Commission, 330 Primrose Drive, 5th Floor Burlingame, Calif. 94010.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former inmates under the custody of the Attorney General who are to be scheduled for hearings under Commission procedures. Former inmates includes those presently under supervision as parolees or mandatory *releasees* and those against *whom* a revocation *warrant* has been issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Docket sheets—Each region and the National Appeals Board in Washington maintains a cumulative series of docket sheets in time sequence showing Commission action. Principal data elements are name and register number of inmate, offense, sentence, and previous and present Action. The appeal docket includes the date and type of appeal in addition to much of the above data. These provide a continual running record of the basic data elements per inmate and former inmate. Docket sheets are used to input this information into a computer program which produces printouts of identical information and certain statistical reports. (b) Hearing schedules—*Shortly after inmates are incarcerated,* their names appear on an eligibility list prepared by the Bureau of Prisons, for initial parole hearings. Inmates denied *immediate* parole are "continued" by the Commission to future dates for review hearings or records reviews. Other types of hearings and reviews are provided for in the Code of Federal Regulations as part of parole, rescission or revocation procedures. All of the different types of hearings and reviews are placed on schedules for examiners to process when they visit the various institutions or hold "local" hearings. The data elements are similar to those on the docket but indicate the number and type of hearing or review to be held instead of the result.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, and 28 CFR Part 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) The dockets provide the basis of answering basic inquiries, mostly from within the Parole Commission, as to when a hearing came up for an individual and what action was taken. The schedules indicate to examiners and prison staff the specific hearings and reviews to be prepared for and held.

(b) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule,

regulation or order issued pursuant thereto.

(c) A record from this system of records may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision concerning parole matters.

(d) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(e) Internal users—Employees of the Department of Justice who have a need to know the information in the performance of their duties.

(f) External users—As noted above, on occasion employees of Federal, State and local enforecment, correctional, prosecutive, or other agencies, and courts may have access to this information.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute and unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS.

Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information stored in the system is on sheets of paper, one item per line, stored in folders or binders. An experimental program to store such data on tape disk, or microfiche using ADP technology, and to prepare certain computer printouts is in effect in all regions. Data also may be stored on paper printouts through file retention.

RETRIEVABILITY:

Name, register number, date, institution Commission action, and statistical data as to such actions.

SAFEGUARDS:

Copies of dockets, printouts and schedules are not disseminated outside of Commission offices and Bureau of Prisons installations. They are available only to Commission and bureau employees on a "need to know" basis. Information therefrom may be given outside the Department as indicated in the "Routine Uses." If so, a letter will be written covering the item disclosed, date and identity of the recipient. If information must be given over the phone due to urgency, the caller will be identified beforehand and details of the call recorded.

RETENTION AND DISPOSAL:

Records in this system are kept for five (5) years after the effective date of the schedule or date of the last item recorded on the docket. They are then shredded and electronically stored records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Herman Levy, Attorney-Management Analyst, United States Parole Commission, 5550 Friendship Blvd., *Chevy Chase, Md. 20815.*

NOTIFICATION PROCEDURE:

Address inquiries to Regional Commissioner at appropriate location. For general inquiries, address system manager. The Attorney General has exempted this system from compliance with the provisions of subsection (d), under the provisions of subsection (j).

RECORD SOURCE CATEGORIES:

(1) Bureau of Prisons files; (2) Parole Commission and Bureau of Prison's employees; (3) Court Records; (4) Parole Commission inmate files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/PRC–002

SYSTEM NAME:

Freedom of Information Act Record System.

SYSTEM LOCATION:

Records may be retained at any of the Regional Offices as indicated in the Inmate and Supervision Files System and the Headquarter's Office. All requests for records may be made to the Central Office, United States Parole Commission, 5550 Friendship Blvd., *Chevy Chase, Md. 20815,* ATTN: *Program Management Officer,* or to the appropriate Regional Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former inmates under the custody of the Attorney General, including former inmates on supervision.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Administrative requests and responses to requests for information and records under 5 U.S.C. 552, and 552a and appeals from denials of data; (2) Final orders of Commission following all parole, rescission, and revocation hearings, record reviews, and appeals are maintained in the Freedom of Information Act reading room at Commission headquarters with names removed to protect individual privacy of inmates and persons on supervision. Final decisions in labor and pension cases are maintained in said reading room.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system is used: (a) to maintain records concerning the processing and determination or requests for information made pursuant to the Freedom of Information Act, 5 U.S.C. 552 and Privacy Act, 5 U.S.C. 552a; and make final orders available in a reading room pursuant to 5 U.S.C. 552; (b) to provide documentation of receipt and processing requests for information made pursuant to the Freedom of Information and Privacy Acts if needed for processing contested denials of release of data; (c) to furnish information to employees of the

Department of Justice who have a need for information from the system in performance of their duties; (d) to maintain a count of requests and method of compliance as required by Freedom of Information and Privacy Acts.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS.

Information contained in systems of records maintained by the U.S. Parole Commission not otherwise required to be released pursuant to 5 U.S.C. 552 and 552a may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information maintained in the system is stored on documents.

RETRIEVABILITY:

Documents are indexed by name and/or register number. Final orders in the reading room are indexed by register number, type and source.

SAFEGUARDS:

Information is stored in file cabinets in rooms supervised by day and locked at night and are made available to Commission personnel and other Department of Justice employees on a "need to know" basis. Each requestor may see his own file. The public may use the reading room.

RETENTION AND DISPOSAL:

Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, United States Parole Commission, 5550 Friendship Blvd., *Chevy Chase, Md. 20815.*

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

Same as the above.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

(1) Inmates and persons on supervision; (2) Department of Justice employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/PRC-003

SYSTEM NAME:

Inmate and Supervision Files.

SYSTEM LOCATION:

Records are maintained at each of the Commission's Regional Offices for inmates incarcerated in and persons under supervision in each region. Records are housed temporarily at the Commission's Headquarters Office located at 5550 Friendship Blvd., Chevy Chase, Md. 20815 when used by the National Appeals Board or other Headquarters personnel. A duplicate record of certain data elements from files is maintained on microfiche for Headquarters use. Prior to the first parole hearing, the inmate's file is maintained at the institution at which he is incarcerated. Certain records on parolees and mandatory releasees are maintained at probation offices. All requests for records should be made to the appropriate regional office at the following addresses: U.S. Parole Commission, Scott Plaza II, Industrial Highway, Sixth Foor, Philadelphia, Pa. 19113. U.S. Parole Commission, 715 McDonough Blvd. S.E., Atlanta, GA. 30315. U.S. Parole Commission, Air World Center, Suite 220, 10920 Ambassador Drive, Kansas City, Mo. 64153. U.S. Parole Commission, 555 Griffin Square, Suite 820, Dallas, Tex. 75202. U.S. Parole Commission, 330 Primrose Drive, Fifth Floor, Burlingame, Calif. 94010.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former inmates under the custody of the Attorney General. Former inmates include those presently under supervision as parolees or mandatory releasees.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Computation of sentence and supportive documentation.
2. Correspondence concerning pending charges, and wanted status, including warrants.
3. Requests from other Federal and non-Federal law enforcement agencies for notification prior to release.
4. Records of the allowance, forfeiture, withholding and restoration of good time.
5. Information concerning present offense, prior criminal background sentence, and parole from the U.S. Attorneys, the Federal Courts, and Federal prosecuting agencies.
6. Identification Data.
7. Order of designation of institution or originial commitment.
8. Records and reports of work and housing assignments.
9. Program selection, assignments and performance adjustments/progress reports.
10. Conduct records.
11. Social background.
12. Educational data.
13. Physical and mental health data.
14. Parole Commission applications, appeal documentation, orders, actions, examiner's summaries, transcripts or tapes of hearings, guideline evaluation documents, parole or mandatory release certificates, statements or third parties for or against parole, special reports on youthful offenders and adults required by statute and related documents.
15. Correspondence regarding release planning, adjustment and violations.
16. Transfer orders.
17. Mail and visit records.
18. Personal property records.
19. Safety reports and rules.
20. Release processing forms and certificates.
21. Interviews request forms from inmates.
22. General correspondence.
23. Copies of inmate court petitions and other court documents.
24. Reports of probation officers, Commission correspondence with former inmates and others, and Commission order and memoranda dealing with supervision and conditions of parole or mandatory release.
25. If an alleged parole violation exists, correspondence requesting a revocation warrant, warrant application, warrant, instructions as to service, detainers and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 4291–4218, 5005–5041, 28 CFR Part O, Subpart V, and 28 CFR Part 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

(a) The file is the "working tool" used by Parole Commission examiners to frame the questions at the inmates initial hearing. After that hearing, it is placed in the appropriate regional office where it provides the principal information source for decisions necessary during the pre-release stage (before parole), the review hearing or record review, and the post release stage (when supervision takes place). It is sent temporarily to Commission Headquarters when appeals come before the National Appeals Board or when needed by counsel and others on the Headquarters Staff. It is used by employees at all levels including Commission members to provide the information for decision making in every area of Commission responsibility. Files of release inmates are used to make statistical studies of subjects related to parole and revocation.

(b) The system is used to provide an information source to officers and employees of the Department of Justice who have a need for the information in the performance of their duties.

(c) The system is used as a source for disclosure of information which is solely of general public record, such as offense, sentence data, release date, etc. Names are not disclosed when information is so provided.

(d) The system is used to provide informational source for responding to inquiries from Federal inmates, their families or representatives, or Congressional inquiries.

(e) Internal Users—Employees of the Department of Justice who have a need to know information in the performance of their duties.

(f) External Users—U.S. Probation Officers, who supervise parolees and mandatory releases and U.S. District Court judges when Commission action is attacked in litigation. Very rarely, to enforcement authorities outside of the Department of Justice.

(g) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order, issued pursuant thereto.

(h) A record from this system may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information relevant to an agency decision relating to current or former inmates under supervision.

(i) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(j) A record from this system may be disclosed to a person or to persons who may be exposed to harm through contact with a particular parolee or mandatory release if it is deemed to be reasonably necessary to give notice that such danger exists.

(k) Lists of names of parolees and mandatory releasees entering a jurisdiction and related information items may be disclosed to law enforcement agencies upon request as required for the protection of the public or the enforcement of parole conditions.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information maintained in the system is stored on papers fastened into file jackets and a minimal amount is on cards stored in card file drawers. A duplicate record of certain data elements is stored on microfiche at Headquarters. Active files and card indices are located in each region; inactive files are at the Washington Federal Records Center and the card index to inactive files is at the Bureau of Prisons in Washington. An experimental program to store such data on tape, disk or microfiche using ADP technology has been partially implemented.

RETRIEVABILITY:

All data is indexed by name and/or register number. When ADP technology is used in the future, such data may be available by FBI identification number, or other indices.

SAFEGUARDS:

Within the Department of Justice, routine use is made available to employees only on a "need to know" basis. Files are stored in rooms which are supervised by day and locked at night. Data from files for recipients outside of the Parole Commission and Bureau of Prisons is conveyed by a letter so that a record exists. When files are sent they are covered by a letter with a follow-up on return of the file. Such disclosure is infrequent, and is within the Federal enforcement-prosecution-judicial area only.

RETENTION AND DISPOSAL:

Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by electronic means of shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Herman Levy, Attorney-Management Analyst, United States Parole Commission, 5550 Friendship Blvd., Chevy Chase, Md. 20815.

NOTIFICATION PROCEDURE:

Address inquiries to Regional Commissioner at appropriate location. For general inquiries, address System Manager. The Attorney General has exempted this system from compliance with the provisions of Subsection (d) under the provisions of Subsection (j).

RECORD SOURCE CATEGORIES:

1. Individual inmate; 2. Federal law enforcement agencies and personnel; 3. State and Federal probation services; 4. Non-Federal law enforcement agencies; 5. Educational institutions; 6. Hospital or medical sources; 7. Relatives, friends and other interested individuals or groups in the community; 8. Former or future employers; 9. Evaluations, observations, reports and findings of institution supervisors, counselors, boards and committees, Parole Commission examiners, Parole Commission Members; 10. Federal Court records; 11. U.S. Bureau of Prisons personnel and records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (c) (3) and (4), (d)(e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 55a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/PRC-004

SYSTEM NAME:

Labor and Pension Case, Legal File and General Correspondence System.

SYSTEM LOCATION:

All Labor and Pension cases, *most Legal files* and some general correspondence material is located at: Commission Headquarters, 5550 Friendship Blvd., *Chevy Chase, Md. 20815.* The balance of the general correspondence material is located at the Commission's Regional Offices, the addresses of which are specified in the Inmate and Supervisions System. Some legal files are maintained at the Northeast Regional Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants for exemptions under 29 U.S.C. 504 and 29 U.S.C. 1111, all persons litigating with the U.S. Parole Commission, all persons corresponding with the Commission on subjects not amenable to being filed in an inmate or supervision file identified by an individual, and all Congressmen inquiring about constituents.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Commission processes applications of persons convicted of certain crimes for exemptions to allow their employment in the Labor field under 29 U.S.C. 504 of by Employee Benefit Plan under 29 U.S.C. 1111. The files contain memoranda, correspondence, and legal documents with information of a personal nature, i.e., family history, employment history, income and wealth, etc., and of a criminal history nature, i.e., record of arrests and convictions, and details as to the crime which barred employment. The final decision of the Commission in each case is a public document under the Freedom of Information Act. The Counsel's Office of the Parole Commission maintains work files for each inmate or person on supervision who is litigating with the Commission. These files contain personnel and criminal history type data regarding inmates, and internal communications among attorneys, Commissioners and others developing the Commission's legal position in these cases. Files of the Commission's correspondence with Congressmen who inquire about groups of constituents who have paroles or revocations pending or other subjects are maintained in the Chairman's Office and in the regions. Files of correspondence, notes, and memoranda concerning parole revocation rescission and related problems are also maintained in those locations. Some of this material duplicates material in the inmate files and contains personnel-criminal history type information about individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These files are maintained pursuant to 18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, 28 CFR Parts 2 and 4, 29 U.S.C. 504, 1111, and all statutory sections and procedural rules allowing inmates, persons under supervision, or others to litigate with the Parole Commission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Within the Parole Commission material in this system is used respectively by Counsel's Office staff and Commission Members in processing exemption applications. The legal file material is used by Counsel's Office staff in asserting the litigative position of the Commission. The general correspondence is used by the Commission personnel in responding to Congressmen, and by Commission Members and others in transacting the day-to-day business of the Commission. Final pension and labor case decisions are used by the Commission, the Justice, and Labor Departments, and the public to establish precedents in this field of litigation.

In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. A record from this system of records may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision relating to pension or labor matters. A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

All data is on documents or other papers in bound files. Labor and pension case material is in Counsel's Office or the Chairman's Office at Headquarters, except for final decisions which are in the Freedom of Information Act reading room. Legal files are in Counsel's Office at Headquarters, or in the Northeast Regional Attorney's office, general correspondence is in the Chairman's Office, the office of his staff at Headquarters, and the offices of each regional Commissioner. Files are in file cabinets.

RETRIEVABILITY:

Labor, pension, and legal file material is indexed or filed by name of applicant or litigant, respectively. General correspondence is indexed or filed by subject, time sequence or individuals to whom the items refer.

SAFEGUARDS:

Material is available only to Commission employees on a "need to know" basis. Storage locations are supervised by day and locked at night. Only disclosure made therefrom is to other agencies of the Department of Justice, the U.S. Probation Office, Federal enforcement agencies or the Congress. Disclosure to Congressmen in response to inquiries concerning constituents is subject to the exemptions of the Freedom of Information Act. The Commission Decisions in labor and pension cases are public information under the Freedom of Information Act.

RETENTION AND DISPOSAL:

Records are maintained for 10 years and are shredded or destroyed electronically thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

Herman Levy; Attorney/Management Analyst, United States Parole Commission, 5550 Friendship Blvd., *Chevy Chase, Md. 20815.*

RECORD SOURCE CATEGORIES:

a. Applicants for exemptions under 29 U.S.C. 504 and 29 U.S.C. 1111; b. U.S. Department of Labor; c. Administrative Law Judges and others connected with labor or pension cases; d. Litigants proceeding against Parole Commission; e. The Commission's legal staff and other Commission personnel; f. Congressmen and others making inquiries of Commission; g. Commission Members and employees responding to inquiries, corresponding with others, preparing speeches, policy statements and other means of contact with other branches of the Federal Government, State, and local governments, and the public.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections *(c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g)* of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/PRC–005

SYSTEM NAME:

Office Operation and Personnel System.

SYSTEM LOCATION:

At each regional office as indicated in the "Inmate and Supervision File System Report" and at the U.S. Parole Commission. 5550 Friendship Blvd., *Chevy Chase, Md. 20815.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Commission Members and employees of the U.S. Parole Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel records, leave records, property schedules, budgets and actual expense figures, obligation schedules, expense and travel vouchers, and the balance of the usual paperwork to run a Government office efficiently.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

All statutory sections, CFR sections, and OPM, MSPB, GSA, and OMB directives establishing procedures for government personnel, financial, and operational functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Day-to-day activity involving personnel, financial, procurement, maintenance, recordkeeping, mail delivery, and management functions.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are in paper files or on computer printouts. They are stored in operations areas of offices.

RETRIEVABILITY:

Data of a personal nature is in employee personnel files, used by Commission personnel on a "need to know" basis. Each employee has a right to see his own file on request. Other files are used by Commission personnel on a "need to know" basis.

SAFEGUARDS:

Files are supervised by appropriate personnel during the working day and are in locked rooms at night.

RETENTION AND DISPOSAL:

Subject to applicable OPM, MSPB, OMB, DOJ, and GSA regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer U.S. Parole Commission, 5550 Friendship Blvd., *Chevy Chase, Md. 20815.*

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

Same as the above.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Parole Commission employees, Office of Management and Finance. All other contributing Government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/PRC–006

SYSTEM NAME:

Statistical, Educational and Developmental System.

SYSTEM LOCATION:

Parole Commission Headquarters, 5550 Friendship Blvd., *Chevy Chase, Md. 20815.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any inmate or former inmate under custody of the Attorney General including former inmates supervised as parolees or mandatory releasees.

CATEGORIES OF RECORDS IN THE SYSTEM:

All records as described in the Workload Record, Decision Result, and Annual Report System Plus data on additional input forms and certain follow-up forms and the Salient Factor Worksheet Form. These forms include criminal history-type data elements regarding specific individuals selected from the above category of individuals. This data is either organized and processed by hand or is input into a computer and has been used to provide the following one-time reports in pamphlet-text form: (a) Administrative Review of Parole Selection and Revocation decisions; (b) Parole Decisionmaking, a Salient Factor Score; (c) Effect of Representation at Parole Hearings; (d) Parole Decisionmaking—Structuring *Discretion* (e) Time Served and Release Performance—A Federal Sample and certain additional reports, all available in the public reading room. The data base collected as described in this and in JUSTICE/PRC 007 system will be used to prepare studies on similar or related subjects in the future. It has been used to develop revocation guidelines similar to parole guidelines, rescission guidelines and other operational improvements. Items collected for this data base may change depending on the subject matter of new studies to be undertaken by the Commission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, 28 CFR Part 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Internal—Develop methodology for a more scientific determination of parolability and revocability, methodology to comply with changing concepts of due process, and methodology to select persons to be released from prison who will be less likely to recidivate.

b. External—Add to the general body of knowledge in the parole area of criminology, and provide educational material for other parole boards, and members of the criminal justice and academic communities interested in this subject. Published pamphlets in text form are prepared on subjects of interest in this area of criminology and are circulated freely. They contain no references to individuals, either by name, address, register number or other means of identification. They do not contain recognizable fact situations, descriptions, or other writings through which identification of any individual within the present or former jurisdiction of the Parole Commission can be made.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the U.S. Parole Commission not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is in input forms, IBM card decks and on printouts or other computer produced storage media. It is stored as described in the JUSTICE/PRC–007 system description. Pamphlet text reports are public documents stored in offices, libraries, and in bookshelves, and in the public reading room.

RETRIEVABILITY:

Information by name, register number or FBI identification number may be retrieved from the input forms, card decks, or storage media. This material is used only by authorized Parole Commission personnel on a "need to know" basis and is data processed only by authorized Bureau of Prisons or Justice Department personnel. Material is not retrieved in identifiable form except that computer produced "hard copy" may be used to prepare a report or internal work papers. The final pamphlet text reports and material resulting from studies are used by Commission personnel for internal purposes and the public externally. None of this material contains any references to an individual. Documents which contains information concerning one individual are made available to that individual if requested under the Privacy Act.

SAFEGUARDS:

See "Safeguards" section of JUSTICE/PRC–007 regarding input forms, IBM cards or printouts, discs, or tape. Reports in pamphlet form are not safeguarded.

RETENTION AND DISPOSAL:

See "Retention and Disposal" of preceding system. The studies in pamphlet form are not disposed of on schedule. Some will be maintained perpetually in archives.

SYSTEM MANAGER(S) AND ADDRESS:

Research Director. U.S. Parole Commission, 5550 Friendship Blvd., *Chevy Chase, Md. 20815.*

RECORD SOURCE CATEGORIES:

a. Commission inmate files; b. Docket Sheets; c. Commission Notices of Action, orders and documentation following hearings; d. Commission warrant applications and warrants; e. General Commission records and data; f. Enforcement agency records regarding former inmates.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the Federal Register.

JUSTICE/PRC–007

SYSTEM NAME:

Workload Record, Decision Result, and Annual Report System.

SYSTEM LOCATION:

U.S. Parole Commission Headquarters, 5550 Friendship Blvd., *Chevy Chase, Md. 20815.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any inmate and parolee or mandatory releasee who has been the subject of a decision for the period covered in the report for which the data is used (prior month, prior quarter, prior year or other period).

CATEGORIES OF RECORDS IN THE SYSTEM:

Certain original input forms indicate the inmate or person under supervision by name and register number and give the date and specific statistical detail as to the decision made. They include criminal history type of information regarding the persons in question. The principal types of decisions covered are after initial or review hearings, after record review, after Regional Appeal, after National Appeal, and after a decision reopening and modifying. The data is input into a computer and is used to provide the following: (a) A monthly report of workload containing number and type of hearings per region further broken out by institutions within regions and type of sentence; (b) Bimonthly report on decision results indicating, among other statistics, number and type of decisions within above, and below guidelines broken out by examiners making the decisions; (c) Other or substitute reports as needed; and (d) Together with land posted data on other items of statistical value, this data is being used to create the Annual Report of the Commission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, 28 CFR Part 2

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) These records are used internally to analyze work product, the performance of evaluators, and various types of procedures and hearings and to evaluate the guidelines and other Commission procedures.

(b) These records are used to prepare an annual report to the Attorney General, and Congress and the public indicating in quantitative and qualitative terms Commission activity and accomplishment.

(c) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local, or foreign charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

(d) A record from this system of records may be disclosed to a Federal, State, or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to Parole Commission matters.

(e) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that information is relevant and necessary to the requesting agency's decision on the matter.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the U.S. Parole Commission not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Paper input forms are stored in folders only until information from them is entered into machine readable media. Monthly and other reports in the form of computer printouts are filed in folders. Annual report is in book form and stored in library shelves.

RETRIEVABILITY:

Data in this system can be retrieved by inmate's name and register number from the original input forms, IBM card decks, and computer-produced storage media. It is usually only retrieved by region, by examiner, by type of decision made or hearing held, by relation to the guidelines and other similar means except for individual case retrievability when infrequently required.

SAFEGUARDS:

Data on forms, IBM cards and/or tape or other computer produced storage media retrievable by individual is stored in the Commission's Office in cabinets. Commission employees supervise this data by day and use it on a "need to know" basis. The rooms where it is stored are locked outside of office hours and the entire Headquarters building is locked at certain times with card key access. Monthly and other reports are for use of the Chairman, his Executive Assistant and Commission Members and professional personnel. No information thereon is retrievable as pertaining to any individual except certain breakouts by Parole Commission employee examiners and by inmate in the guideline section of reports. These printouts are stored in the Commission Headquarters offices, all of which are supervised by day, and locked at night. The Annual Report contains no information identifiable by individual and is a public document.

RETENTION AND DISPOSAL:

Completed input forms—1. Until data is keypunched—usually 1 month after forms are completed. They are then destroyed; 2. IBM cards decks or other tape substitute—10 years after preparation, cards will be destroyed—tape or discs degaussed; 3. Printouts of annual and other reports—10 years; 4. Annual Reports—Some copies retained perpetually in Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer, 5550 Friendship Blvd., Chevy Chase, Md. 20815.

RECORD SOURCE CATEGORIES:

(a) Commission inmates files; (b) Docket sheets; (c) Commission notices of action, orders, and documentation following hearings; (d) Commission warrant applications and warrants; (e) General Commission records and data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections *(c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g)* of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

Tax Division (TAX)

The following Tax Division system notice was first published on October 30, 1975 in the "Notices" section of the **Federal Register** (40 FR 50656) as JUSTICE/TAX–003. The system notice was republished on March 18, 1977 (42 FR 15149) and redesignated as JUSTICE/TAX–004. On August 12, 1977 (42 FR 40907), a final rule was published in the "Rules and Regulations" section exempting the system from certain provisions of the Privacy Act. When the system notice was republished on September 30, 1977 (42 FR 53391), the Department inadvertently failed to correct the notice to show that the system had been exempted. Therefore, the system notice has been reprinted below to incorporate this correction. In addition, minor changes have been made to the text to accomplish consistency with the formal title of the system.

JUSTICE/TAX–004

SYSTEM NAME:

Freedom of Information—Privacy Act Request Files.

SYSTEM LOCATION:

U.S. Department of Justice; Tax Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have requested information under the Freedom of Information Act *and Privacy Act.*

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Correspondence relating to requests for information; (b) documents relevant to appeals and lawsuits under the Freedom of Information Act *and Privacy Act.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained to enable the Tax Division to process requests under the Freedom of Information Act (5 U.S.C. 552) *and Privacy Act (5 U.S.C. 552a).*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system is maintained to insure the efficient processing of requests made pursuant to the Freedom of Information Act (5 U.S.C. 552) *and Privacy Act (5 U.S.C. 552a).*

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in this system is stored manually in standard file folders, alphabetically by name of the person making the request.

RETRIEVABILITY:

Information is retrieved manually by name of the persons making the request.

SAFEGUARDS:

The system of records is stored in a file cabinet in a locked closet. Access is restricted to the *Information and Privacy* Unit staff on a need-to-know basis.

RETENTION AND DISPOSAL:

Destruction schedules will be developed as the needs of the system requirements become known. Presently, records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Tax Division; U.S. Department of Justice, 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiry concerning this system should be directed to the System Manager listed above. Inquiries should contain the inquirer's name, date and place of birth.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

(a) Persons requesting information; (b) Department of Justice employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of 5 U.S.C. 552a; in addition, this system, is exempted pursuant to the provisions of 5 U.S.C. 552a(k)(2) from subsections (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of 5 U.S.C. 552a. These exemptions apply only to the extent that the records in this system have been obtained from other systems of records maintained by the Tax Division for which exemptions from one or more of the foregoing provisions of the Privacy Act have been promulgated and only to the same extent as the records contained in such other systems have been exempted. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the **Federal Register.**

United States Marshals Service (USMS)

The USMS system of records identified as JUSTICE-USM–007, along with the appendix of official addresses identified as JUSTICE /USM–999, are reprinted below. JUSTICE/USM–007 has been amended to provide additional specificity as to the authority for

maintenance of the system. Address corrections have been made to the appendix. (This system and the appendix were last published on December 9, 1981 in **Federal Register** Volume 46, beginning on page 60343.)

JUSTICE/USM–007

SYSTEM NAME:

Warrant-Information System.

SYSTEM LOCATION:

Each district office of the U.S. Marshals Service maintains their own files. See Appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals for whom Federal warrants have been issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

All pertinent information, correspondence, etc., vis-a-vis the warrant, as well as NCIC copy.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system is established by 28 CFR Subpart T. 0.111(a) and 28 U.S.C. 569(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

U.S. Attorneys, Federal Courts, and other Federal law enforcement agencies have access to this information.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on Roladex Cards.

RETRIEVABILITY:

Records are retrieved by individual name.

SAFEGUARDS:

Access is restricted to personnel in each district's U.S. Marshals office.

RETENTION AND DISPOSAL:

Records are kept in operating file until warrant is executed and then transferred to closed files, where they are indefinitely kept.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Enforcement Operations Division; U.S. Marshals Service; U.S. Department of Justice; One Tysons Corner Center, McLean, Virginia 22102.

RECORD SOURCE CATEGORIES:

Information is obtained from the Bureau of Prisons, Department of Justice and arresting agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j). *(2)* Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/USM—999

SYSTEM NAME:

Appendix to U.S. Marshals Systems of Records, Official Addresses of United States Marshals.

Northern Alabama
128 Federal Courthouse
Birmingham, Alabama 35203

Middle Alabama
P.O. Drawer 4249
Montgomery, Alabama 36101

Southern Alabama
P.O. Box 343
Mobile, Alabama 36601

District of Alaska
P.O. Box 28
Anchorage, Alaska 99513

District of Arizona
6016 U.S. Courthouse
Phoenix, Arizona 85025

Eastern Arkansas
P.O. Box 8
Little Rock, Arkansas 72203

Western Arkansas
P.O. Box 1572
Fort Smith, Arkansas 72902

Northern California
450 Golden Gate Avenue, Room 20–005
San Francisco, California 94102

Eastern California
1020 U.S. Courthouse
Sacramento, California 95814

Central California
G–23 U.S. Courthouse
Los Angeles, California 90012

Southern California
LLB–71 U.S. Courthouse
San Diego, California 92189

District of Colorado
Drawer 3599
Denver, Colorado 80294

District of Connecticut
P.O. Box 904
New Haven, Connecticut 06504

District of Delaware
4311 Federal Bldg. & U.S. Courthouse
Wilmington, Delaware 19801

District of Columbia
U.S. Courthouse
3rd & Constitution Avenue, N.W.
Washington, D.C. 20001

Northern Florida
P.O. Box 1150
Pensacola, Florida 32595

Middle Florida
P.O. Box 4189
Jacksonville, Florida 32201

Southern Florida
P.O. Box 010391
Miami, Florida 33101

Northern Georgia
1669 Federal Bldg.
Atlanta, Georgia 30303

Middle Georgia
P.O. Box 7
Macon, Georgia 31202

Southern Georgia
P.O. Box 9765
Savannah, Georgia 31412

District of Guam
506 Pacific Daily News Bldg.
Agana, Guam 96910

District of Hawaii
P.O. Box 50184
Honolulu, Hawaii 96850

District of Idaho
692 Federal Bldg. & Cthse.
Boise, Idaho 83724

Northern Illinois
219 S. Dearborn Street
Chicago, Illinois 60604
Southern Illinois
P.O. Drawer 309
East St. Louis, Illinois 62201
Central Illinois
P.O. Box 156
Springfield, Illinois 62705
Northern Indiana
P.O. Box 477
South Bend, Indiana 46624
Southern Indiana
P.O. Box 44803
Indianapolis, Indiana 46244
Northern Iowa
P.O. Box 4740
Cedar Rapids, Iowa 52407
Southern Iowa
208 U.S. Courthouse
Des Moines, Iowa 50309
District of Kansas
444 Southeast Quincy
Topeka, Kansas 66683
Eastern Kentucky
P.O. Box 30
Lexington, Kentucky 40501
Western Kentucky
204 P.O. & Courthouse Bldg.
Louisville, Kentucky 40202
Eastern Louisiana
500 Camp Street, Room 600
New Orleans, Louisiana 70130
Middle Louisiana
P.O. Box 3653
Baton Rouge, Louisiana 70821
Western Louisiana
P.O. Box 53
Shreveport, Louisiana 71161
District of Maine
P.O. Box 349
Portland, Maine 04112
District of the Northern Mariana Islands
3rd Floor Nauru Building (Open Only During Court Sessions)
Susupe, Saipan 96950
District of Maryland
605 U.S. Courthouse
Baltimore, Maryland 21201
District of Massachusetts
P.O. Box 352
Boston, Massachusetts 02101
Eastern Michigan
120 Federal Bldg.
Detroit, Michigan 48226
Western Michigan
514 Federal Bldg.
Grand Rapids, Michigan 49503
District of Minnesota
523 U.S. Courthouse
Minneapolis, Minnesota 55401
Northern Mississippi
P.O. Box 887
Oxford, Mississippi 38655
Southern Mississippi
P.O. Box 959
Jackson, Mississippi 39205
Eastern Missouri
108 U.S. Courthouse
St. Louis, Missouri 63101
Western Missouri
509 U.S. Cthse.
Kansas City, Missouri 64106
District of Montana
5110 Federal Bldg.
Billings, Montana 59101
District of Nebraska
P.O. Box 1477
Omaha, Nebraska 68101
District of Nevada
P.O. Box 16039
Las Vegas, Nevada 89101
District of New Hampshire
P.O. Box 1435
Concord, New Hampshire 03301
District of New Jersey
P.O. Box 186
Newark, New Jersey 07101
District of New Mexico
P.O. Box 444
Albuquerque, New Mexico 87103
Northern New York
313 Federal Building
Utica, New York 13501
Eastern New York
172 U.S. Courthouse
Brooklyn, New York 11201
Southern New York
114 U.S. Courthouse Annex
New York, New York 10007
Western New York
129 U.S. Courthouse
Buffalo, New York 14202
Eastern North Carolina
P.O. Box 25640
Raleigh, North Carolina 27611
Middle North Carolina
P.O. Box 1528
Greensboro, North Carolina 27402
Western North Carolina
P.O. Box 59
Asheville, North Carolina 28802
North Dakota
P.O. Box 2425
Fargo, North Dakota 58108
Northern Ohio
B–1 U.S. Courthouse
Cleveland, Ohio 44114
Southern Ohio
P.O. Box 688
Cincinnati, Ohio 45201
Northern Oklahoma
P.O. Box 1097
Tulsa, Oklahoma 74101
Eastern Oklahoma
P.O. Box 738
Muskogee, Oklahoma 74401
Western Oklahoma
P.O. Box 886
Oklahoma City, Oklahoma 73101
District of Oregon
420 U.S. Courthouse
Portland, Oregon 97205
Eastern Pennsylvania
2110 U.S. Courthouse
Philadelphia, Pennsylvania 19106
Middle Pennsylvania
P.O. Box 310
Scranton, Pennsylvania 18501
Western Pennsylvania
810 *U.S.* Post Office & Cthse.
Pittsburgh, Pennsylvania 15219
District of Puerto Rico
P.O. Box 3748
San Juan, Puerto Rico 00904
Rhode Island
P.O. Box 1524
Providence, Rhode Island 02901
District of South Carolina
P.O. Box 1774
Columbia, South Carolina 29202
District of South Dakota
P.O. Box 1193
Sioux Falls, South Dakota 57101
Eastern Tennessee
P.O. Box 551
Knoxville, Tennessee 37901
Middle Tennessee
866 U.S. Courthouse
Nashville, Tennessee 37203
Western Tennessee
1007 Federal Bldg.
Memphis, Tennessee 38103
Northern Texas
1100 Commerce Street, Room 16F47
Dallas, Texas 75242
Eastern Texas
P.O. Box 111
Beaumont, Texas 77704
Southern Texas
P.O. Box 61608
Houston, Texas 77208
Western Texas
655 East Durango St., Room 235
San Antonio, Texas 78206
District of Utah
P.O. Box 1234
Salt Lake City, Utah 84110
District of Vermont
621 Federal Bldg.
Burlington, Vermont 05401
Eastern Virginia
P.O. Box 1181
Norfolk, Virginia 23501
Western Virginia
P.O. Box 2280
Roanoke, Virginia 24009
District of the Virgin Islands
P.O. Box 720
St. Thomas, Virgin Islands 00801
Eastern Washington
P.O. Box 1463
Spokane, Washington 99210

Western Washington
300 U.S. Courthouse
Seattle, Washington 98104
Northern West Virginia
P.O. Box 832
Fairmont, West Virginia 26554
Southern West Virginia
P.O. Box 2667
Charleston, West Virginia 25330
Eastern Wisconsin
310 Federal Bldg.
Milwaukee, Wisconsin 53202
Western Wisconsin
P.O. Box 1706
Madison, Wisconsin 53701
District of Wyoming
P.O. Box 768
Cheyenne, Wyoming 82001

Executive Office for United States Attorneys (USA)

The following USA systems of records are republished below to reflect address changes, changes to system locations (and corresponding changes to the "Retrievability" and/or "Safeguards"

Executive Office for United States Attorneys (USA)

USA systems of records identified as JUSTICE/USA–001, 005, 007, 008, 012, and 014, along with the appendix of official addresses identified as JUSTICE/USA–999, are reprinted below. The systems have been reprinted to reflect that there are now ninety-four United States Attorney offices rather than ninety-five. The appendix has been revised to reflect correct addresses. (JUSTICE/USA–001, 005, 008, and 012 were last published on December 9, 1981 in **Federal Register** Volume 46, beginning on page 60350. JUSTICE/USA–014 was last published on December 9, 1981 in **Federal Register** Volume 46, page 60358, but was then identified as JUSTICE/USA–015. The system has been renumbered for practical, administrative reasons. JUSTICE/USA–007 was last published on May 13, 1982 in **Federal Register** Volume 47, page 20687. The appendix was last published on December 9, 1981 in **Federal Register** Volume 46, page 60359.)

JUSTICE/USA–001

SYSTEM NAME:

Administrative Files.

SYSTEM LOCATION:

Ninety-*four* United States Attorneys' Offices (See attached Appendix); Executive Office for United States Attorneys, U.S. Department of Justice, 10th & Constitution Avenue NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Office Personnel (present and past); (b) Expert professionals whose services are used by the office; (c) Applicants for office positions; (d) Witnesses in Court proceedings; (e) Prisoners-In-Custody; (f) Defendants; (g) Debtors; (h) Vendors; (i) Citizens making inquiries; (j) Members of local and State Bar Associations.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Personnel Files (official/unofficial); (b) Applicant Files; (c) Employee Record cards (SF–7B); (d) Office Rosters; (e) Tickler File System for Promotions; (f) Personnel Address and Telephone Number Lists; (g) Sign In/Out Sheets; (h) Time and Attendance Records (OMF–44); (i) Wage Earnings Statement (DOJ–296); (j) Travel Authorizations and Vouchers (OBD–1 and SF–1012); (k) Advice of Obligations incurred (DJ–60); (l) Telephone Records and Logs; (m) Fiscal Vouchers; (n) Witness Records (LAA–3); (o) Lists of Records at Federal Records Centers; (p) In-House Statistical Reports; (q) Internal Meetings Records; (r) Equal Employment Opportunity (EEO) Records; (s) Employees: Organizations and Unions Records; (t) Federal Woman's Program Records; (u) Address and Telephone Indexes; (v) Lists of State and Local Bar Members; (w) Lists of Expert Professionals; (x) Requests for Expert Witnesses; (y) Teletype Files; (z) Correspondence Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law or legal obligation, criminal, civil, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law or civil remedy;

(b) In the course of investigating the potential or actual violation of any law, criminal, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, or to an individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) A record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive or procedural law or practice;

(d) A record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) A record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) A record may be disseminated to a federal agency, in response to its

request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

(k) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(l) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policymaking provisions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBER OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

RETRIEVABILITY:

Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorney's offices and the Executive Office for United States Attorneys by means of catho-ray tube terminals (CRT's).

SAFEGUARDS:

Information in the system is stored in file cabinets in the United States Attorney's offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within various U.S. Attorneys' offices and the Executive Office for United States Attorneys requires user identification numbers which are issued to authorized employees of the Department of Justice.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

System manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district (See attached Appendix).

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager for the judicial district in which the case or matter is pending (See attached Appendix).

RECORD ACCESS PROCEDURE:

A request for access to a record from this system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager (See attached Appendix).

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (See attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are limited to, investigative reports of federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; data, memoranda and reports from the Courts and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and administrative staff of the divisions, offices and bureaus, work product of secretarial and administrative staff within the U.S. Attorneys office and the Executive Office for U.S. Attorneys, from general public referral sources or as provided by members of the public who participate, assist or observe in pending cases or matters, or commercial establishments which provide goods or services, publications and reports from the Department's other offices, divisions and bureaus and internal U.S. Attorney work product.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/USA-005

SYSTEM NAME:

Civil Case Files.

SYSTEM LOCATION:

Ninety-*four* United States Attorneys' Offices (See attached Appendix), Executive Office for United States Attorneys, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals *being* investigated in anticipation of Civil suits; (b) Individuals involved in Civil suits; (c) Defense Counsel(s); (d) Information sources; (e) Individuals relevant to the development of Civil suits.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) All Civil *Case* Files (USA–34); (b) Docket Cards (USA–116); (c) Civil Debtor Cards—(USA–117b); (d) Civil Case Activity Card (USA–164); (e) Civil Debtor Activity Card (USA–166); (f) 3 x 5 Index Cards; (g) Caseload Printouts; (h) General Correspondence re: Civil Cases; (i) Reading Files re: Civil Cases; (j) Information Source File; (k) Attorney Assignment sheets; (l) Telephone records; (m) Miscellaneous Investigative files; (n) Lands condemnation files (Appraisal and Negotiator Reports); (o) Tax Case Resource File; (p) Material in Civil File related to Criminal cases arising out of Civil Proceedings; (q) Search Warrants; (r) Files *unique* to District; (s) Civil Miscellaneous Correspondence File.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law, civil, or regulatory in nature, the record in question may be disseminated to the appropriate Federal, State, local or foreign agency charged with the responsibility of investigating, defending or pursuing such violation, civil claim or remedy, or charged with enforcing, defending or implementing such law;

(b) In the course of investigating the potential or actual violation or civil liability of any government action or law, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such civil action, a record may be disseminated to a Federal, State, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation or civil action trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an agency;

(c) A record relating to a case or matter may be disseminated in an appropriate Federal, State, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) A record relating to a case or matter may be disseminated to a Federal, State, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation, civil action, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a case or matter may be disseminating to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(h) A record may be disseminated to a Federal, State, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency or to assist in general civil matters or cases;

(i) A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of security clearance as is required, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(j) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of types or courses of action or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(k) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in general crime prevention, the pursuit of general civil, regulatory or administrative civil actions or to provide investigative leads to such country, or assist in the location and/or returning of witnesses and other evidence;

(l) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60.

(m) A record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintenance of a suit brought under such title.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of this record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

RETRIEVABILITY:

Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorneys' offices, and the Executive Office for United States Attorneys by means of cathode-ray tube terminals (CRT's).

SAFEGUARDS:

Information in the system is both confidential and nonconfidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during nonworking hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within various U.S. Attorney's offices and the Executive Office for United States Attorneys requires user identification numbers which are issued to authorized employees of the Department of Justice.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district. (See attached appendix.)

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager for the judicial district in which the case or matter is pending. (See attached appendix.)

RECORD ACCESS PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to examination shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager. (See attached appendix.)

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552(a) (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (see attached appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are not limited to investigative reports of Federal, State, and local law enforcement, civil litigation, regulatory and administrative agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of deposition and court proceedings; data, memoranda and reports from the court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e)(1), (2) and (3), (e)(4) (G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k) (1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the **Federal Register.**

JUSTICE/USA-007

SYSTEM NAME:

Criminal Case Files.

SYSTEM LOCATION:

Ninety-*four* United States Attorneys' Offices (See attached Appendix); Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals charged with violations; (b) Individuals being investigated for violations; (c) Defense Counsel(s); (d) Information Sources; (e) Individuals relevant to development of Criminal Cases; (f) Individuals investigated, but prosecution declined; (g) Individuals referred to in potential or actual cases and matters of concern to a U.S. Attorney's Office; (h) Individuals placed into the Department's Pretrial Diversion program.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) All case files (USA-33); (b) Docket Cards (USA-115); (c) Criminal Debtor Cards (USA-117a); (d) Criminal Case Activity Card (USA-163); (e) Criminal Debtor Activity Card (USA-164); (f) 3' x 5' Index Cards; (g) Caseload Printouts; (h) Attorney Assignment Sheets; (i) General Correspondence re: Criminal Cases; (j) Reading Files re: Criminal Cases; (k) Grand Jury Proceedings; (l) Miscellaneous Investigative Reports; (m) Information Source Files; (n) Parole Recommendations; (o) Immunity Requests; (p) Witness Protection Files; (q) Wiretap Authorizations; (r) Search Warrants; (s) Telephone records; (t) Criminal Complaints; (u) Sealed Indictment Records; (v) Files unique to a District; (w) Criminal Miscellaneous Correspondence File; (x) Prosecution Declined Reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) in any case in which there is an indication of a violation or potential violation of law, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate Federal, state, local, or foreign agency charged

with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

(b) in the course of investigating the potential or actual violation of any law, criminal, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a Federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) a record relating to a case or matter may be disseminated in an appropriate Federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) A record relating to a case or matter may be disseminated to a Federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a Federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) A record may be disseminated to a Federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(k) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(l) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 C.F.R. 17.60.

(n) A record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintenance of a suit brought under such title.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

RETRIEVABILITY:

Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorneys' offices and the Executive Office for United States Attorneys by means of catho-ray tube terminals (CRT's).

SAFEGUARDS:

Information in the system is both confidential and non-confidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within various U.S. Attorneys' offices and the Executive Office for United States Attorneys requires user identification numbers which are issued to authorized employees of the Department of Justice.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

System manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district (See attached Appendix).

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager for the judicial district in which the case or matter is pending (See attached Appendix).

RECORD ACCESS PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager (See attached Appendix).

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (See attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are not limited to investigative reports of federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of Grand Jury and court procedings; data, memoranda and reports from the Court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e) (5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k) (1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA–008

SYSTEM NAME:

Freedom of Information Act/Privacy Act Files.

SYSTEM LOCATION:

Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, NW., Washington, D.C. 20530; Ninety-*four* United States Attorney's Offices (See attached Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who write to the Executive Office for United States Attorneys, its Director or a member of his staff, or a U.S. Attorney's office.

(b) Individuals who write to the Attorney General or the Department of Justice or the FOI/PA Unit and whose letter is referred to the Executive Office *for* United States Attorneys.

(c) Individuals whose letter has been referred to the Executive Office *for* United States Attorneys for a response by the FOI/PA Unit or Appeals Unit.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes the original correspondence received as well as any response, referral letters or notes concerning the subject of the request and copies of any enclosures. The system is arranged alphabetically by the last name of the original requestor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are kept for administrative convenience pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101 and the provisions of the Freedom of Information Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from the responses may be provided to the referrer or the original request or the requestor. All other uses are internal within the Department.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The material is stored within manila file folders, within metal file cabinets.

RETRIEVABILITY:

The system is indexed by name, arranged alphabetically.

SAFEGUARDS:

The correspondence is maintained in a room which is occupied by office personnel during the day and locked at night.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Executive Office *for* United States Attorneys; U.S. Department of

Justice; 10th & Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Freedom of Information" or "Privacy Access Request." Include in the request the name and address as included in the original letter, together with the current address if different, the date of the letter and to whom it was addressed. Requests should be directed to the system manager listed above.

CONTESTING RECORD PROCEDURES:

Any requests for correction should also be directed to the System Manager and should indicate the exact correction required.

RECORD SOURCE CATEGORIES:

Sources of information in this system are the actual letter received, the response and any transmitted information and enclosures.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Records secured from other systems of records have been exempted from the provisions of the Privacy Act to the same extent as the systems of records from which they were obtained. The Attorney General has also exempted certain categories of records in this system from subsection (c)(3), (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the Federal Register.

JUSTICE/USA-012

SYSTEM NAME:

Security Clearance Forms for Grand Jury Reporters.

SYSTEM LOCATION:

Ninety-*four* United States Attorneys' Offices (See attached Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Proposed Grand Jury Reporters.

CATEGORIES OF RECORDS IN THE SYSTEM:

Request for security clearance of grand jury reporter(s) employed by the reporting firm under contract with the Justice Department; carbon copy of "PERSONNEL INFORMATION SHEET—Grand Jury Reporting" on which is listed name of proposed grand jury reporter, home address, date and place of birth, and present business affiliation; and clearance or denial of clearance for the proposed reporter from the Department of Justice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

All uses of this information are internal within the Department of Justice.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Security clearance forms are kept alphabetically in file cabinets in the Administrative Office.

RETRIEVABILITY:

Security clearance forms on grand jury reports are retrievable from an alphabetical filing system.

SAFEGUARDS:

Security clearance forms are maintained in the Administrative Division in the District Court Building which is manned at all times during working hours and at other times is locked.

RETENTION AND DISPOSAL:

Security clearance forms are maintained for five years, at which time they must be renewed. Upon receipt of renewed security clearance, old forms are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Ninety-four United States Attorneys' Offices (See attached Appendix).

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the general subject matter of the document. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The source of the information contained in these files are the reporter's request for security clearance, personnel information sheet and the clearance or denial of clearance.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/USA-014

SYSTEM NAME:

Pre-Trial Diversion Program Files.

SYSTEM LOCATION:

Ninety-four United States Attorneys' Offices (See attached Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals referred to in potential or actual pre-trial diversion cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) USA Form 184—Referral letter to Probation Service; (b) USA Form 185—Letter to defendant; (c) USA Form 186—

Agreement for Pre-Trial Diversion; (d) USA Form 187—Pre-Trial Diversion Report Form; (e) USA Form 188—Certification of Completion of Program; (f) USA Form 189—Defendant Application Form; (g) Telephone Records; (h) Miscellaneous Correspondence; and (i) Files Unique to a District.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) In any case in which there is an indication of a violation or potential violation of law, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate Federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

(b) In the course of investigating the potential or actual violation of any law, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a Federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization posseses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) A record relating to a case or matter may be disseminated in an appropriate Federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) a record relating to a case or matter may be disseminated to a Federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) A record relating to a case or matter that has been referred by an agency for investigation prosecution or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a Federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) A record may be disseminated to a Federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(k) A record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual;

(l) A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) A record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila filed folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

RETRIEVABILITY:

Information is retrieved by the name of the person, case number or complaint number.

SAFEGUARDS:

Information in the system is both confidential and nonconfidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during nonworking hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Department of Justice retention plans.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district. (See attached Appendix.)

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager for the judicial district in which the diversion application or

approval was made. (See attached appendix.)

RECORD ACCESS PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a(j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the enevelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager. (See attached Appendix.)

CONTESTING RECORD PROCEDURES:

The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (see attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include, but are not limited to investigative reports of Federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of Grand Jury and court proceedings; data; memoranda and reports from the Court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4) (G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA-999

SYSTEM NAME:

Appendix of United States Attorney Office locations:

Alabama, N
200 Federal Building
1800 Fifth Avenue North
Birmingham, Alabama 35203
Alabama, M
P.O. Box 197
Montgomery, Alabama 36101
Alabama, S
P.O. Drawer E
Mobile, Alabama 36601
Alaska
Fed. Bldg. & U.S. Courthouse
Rm. C–252, Mail Box 9
701 C Street
Anchorage, Alaska 99513
Arizona
4000 U.S. Courthouse
230 North First Avenue
Phoenix, Arizona 85025
Arkansas, E
P.O. Box 1229
Little Rock, Arkansas 72203
Arkansas, W
P.O. Box 1524
Fort Smith, Arkansas 72901
California, N
450 Golden Gate Avenue
San Francisco, Calif. 94102
California, E
3305 Federal Bldg.
650 Capitol Mall
Sacramento, Calif. 95814
California, C
312 N. Spring St.
Los Angeles, Calif. 90012
California, S
940 Front Street
Rm. 5–N–19
U.S. Courthouse
San Diego, Calif. 92189
Colorado
Suite 1200—Drawer 3615
Federal Office Bldg.
Denver, Colorado 80294
Connecticut
P.O. Box 1824
New Haven, Conn. 06508
Delaware
J. Caleb Boggs Fed. Bldg.
844 King Street
Wilmington, Del. 19801
D.C.
Room 2800, U.S. Court House
3rd & Constitution Ave., NW.
Washington, D.C. 20001
Florida, N
P.O. Box 12313
Pensacola, Florida 32501
Florida, M
501 Fed. Bldg.
80 N. Hughey Avenue
Orlando, Fla. 32801
Florida, S
155 South Miami Ave.
Miami, Florida 33130
Georgia, N
Ste. 1800, Richard Russell Building
75 Spring St., S.W.
Atlanta, GA 30335
Georgia, M
P.O. Box U
Macon, Georgia 31202
Georgia, S
P.O. Box 8999
Augusta, GA 30903
Guam
Suite 502–A, PDN Bldg.
238 O'Hara Street
Agana, Guam 96910
Hawaii
Rm. C–242 PJKK Fed. Bldg.
Box 50183
300 Ala Moana Blvd.
Honolulu, Hawaii 96850
Idaho
Rm. 693 Federal Bldg.
Box 037, 550 W. Fort St.
Boise, Idaho 83702
Illinois, N
Everett McKinley Dirksen Bldg.
219 S. Dearborn St.
Room 1500 South
Chicago, Illinois 60604
Illinois, S
Rm. 330
750 Missouri Avenue
East St. Louis, Ill. 62202
Illinois, C
Post Office Box 375
Springfield, Ill. 62705
Indiana, N
Rm. 332, U.S.P.O. & Cthse.
204 S. Main Street
South Bend, Ind. 46601
Indiana, S
274 U.S. Cthse.
46 E. Ohio St.
Indianapolis, Ind. 46204
Iowa, N
P.O. Box 4710
Cedar Rapids, Iowa 52407
Iowa, S
122 U.S. Cthse.
E. 1st & Walnut Streets
Des Moines, Iowa 50309
Kansas
P.O. Box 2098
444 Quincy Street
Topeka, Kansas 66683
Kentucky, E
P.O. Box 1490
Lexington, Kentucky 40501
Kentucky, W
Rm. 211, U.S.P.O. & Cthse.
601 West Broadway
Louisville, Kentucky 40202
Louisiana, E
Hale Boggs Fed. Bldg.
500 Camp Street
New Orleans, LA 70130
Louisiana, M
352 Florida Street
Baton Rouge, LA. 70801
Louisiana, W
Rm. 3B12, Fed. Bldg.
Shreveport, LA. 71161

Maine
P.O. Box 1588
Portland, Maine 04104
Maryland
8th Floor, U.S. Cthse.
101 W. Lombard Street
Baltimore, MD 21201
Massachusetts
1107 John W. McCormack
P.O. & Court House
Boston, Mass. 02109
Michigan, E
817 Federal Building
231 Lafayette
Detroit, Michigan 48226
Michigan, W
399 Federal Bldg. & U.S. Court House
110 Michigan Ave., N.W.
Grand Rapids, Michigan 49502
Minnesota
596 U.S. Court House
110 S. 4th Street
Minneapolis, Minn. 55401
Mississippi, N
P.O. Drawer 886
Oxford, Miss. 38655
Mississippi, S
P.O. Box 2091
Jackson, Miss. 39205
Missouri, E
Rm. 414, U.S. Court & Custom House
1114 Market Street
St. Louis, Mo. 63101
Missouri, W
549 U.S. Court House
811 Grand Avenue
Kansas City, Missouri 64106
Montana
173 Fed. Bldg.
400 N. Main
Butte, Montana 59701
Nebraska
P.O. Box 1228
Omaha, Nebraska 68101
Nevada
Box 16030
Las Vegas, Nevada 89101
New Hampshire
Federal Building
Concord, New Hampshire 03301
New Jersey
Federal Building
970 Broad Street, Rm. 502
Newark, NJ 07102
New Mexico
P.O. Box 607
Albuquerque, N. Mex. 87105
New York, N
P.O. Box 1258
Federal Bldg.
Syracuse, N.Y. 13201
New York, S
One St. Andrew's Plaza
New York, N.Y. 10007
New York, E
U.S. Court House
225 Cadman Plaza East
Brooklyn, N.Y. 11201
New York, W
502 U.S. Court House
Buffalo, N.Y. 14202
N. Carolina, E
P.O. Box 26897
Raleigh, N.C. 27611
N. Carolina, M
P.O. Box 1858
Greensboro, N.C. 27402
N. Carolina, W
P.O. Box 132
Asheville, N.C. 28802
N. Dakota
P.O. Box 2505
Fargo, N.D. 58102
Ohio, N
Suite 500
1404 East Ninth Street
Cleveland, Ohio 44114
Ohio, S
220 U.S.P.O. & Cthse.
Cincinnati, Ohio 45202
Oklahoma, N
Rm. 460, U.S. Court House
333 West Fourth Street
Tulsa, Okla 74103
Oklahoma, E
P.O. Box 1009
Muskogee, Okla. 74401
Oklahoma, W
Room 4434
U.S. Court House & Federal Office Bldg.
Oklahoma City, Okla. 73102
Oregon
312 U.S. Courthouse
620 SW Main Street
Portland, Oregon 97205
Penn., E
3310 U.S. Cthse.
Independence Mall West
601 Market St.
Philadelphia, PA 19106
Penn., M
P.O. Box 309
Scranton, PA 18501
Penn., W
633 U.S.P.O. & Court House
7th Ave. & Grant St.
Pittsburgh, Penn. 15219
Puerto Rico
Rm. 101, Fed. Office Bldg.
Carlos E. Chardon St.
Hato Rey, PR 00918
Rhode Island
P.O. Box 1401
Providence, R.I. 02901
S. Carolina
P.O. Box 2266
Columbia, SC 29202
S. Dakota
P.O. Box 1073, Federal Bldg. & U.S. Court House
400 S. Phillips Avenue
Sioux Falls, S.D. 57102
Tennessee, E
P.O. Box 372
Knoxville, TN 37901
Tennessee, M
879 U.S. Cthse.
Nashville, TN 37203
Tennessee, W
1026 Fed. Office Bldg.
167 North Main St.
Memphis, TN 38103
Texas, N
310 U.S. Court House
10th at Lamar
Ft. Worth, Texas 76102
Texas, S
P.O. Box 61129
Houston, Texas *77208*
Texas, E
P.O. Box *1510*
Beaumont, Texas 77704
Texas, W
John H. Wood, Jr.
Fed. Bldg.
655 E. Durango Blvd.
San Antonio, Texas 78206
Utah
200 P.O. and Court House
350 South Main Street
Salt Lake City, Utah 84101
Vermont
P.O. Box 570
Federal Bldg.
Burlington, VT 05402
Rutland, Vermont 05701
Virgin Islands
P.O. Box 1441
St. Thomas, V.I. 00801
Virginia, E
701 Prince Street
Alexandria, VA 22313
Virginia, W
P.O. Box 1709
Roanoke, Va. 24008
Washington, E
Box 1494
Spokane, Wash. 99210
Washington, W
3600 Seafirst 5th Ave. Plaza
800 Fifth Ave.
Seattle, Wash. 98104
W. Virginia, N
P.O. Box 591
Wheeling, W. Va. 26003
W. Virginia, S
P.O. Box 3234
Charleston, WV 25332
Wisconsin, E
330 Federal Building
517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
Wisconsin, W
P.O. Box 112
Madison, Wisc. 53701
Wyoming
P.O. Box 668
Cheyenne, Wyoming 82001
North Mariana Islands
c/o U.S. Attorney's Office
Suite 502-A, PDN Bldg.
238 O'Hara Street
Agana, Guam 96910

Executive Office for United States Trustees (UST)

UST systems of records identified as JUSTICE/UST-001 and JUSTICE/UST-002, along with the appendix of official addresses identified as JUSTICE/UST-999, are reprinted below. Changes to JUSTICE/UST-001 and JUSTICE/UST-002 consist primarily of editorial changes. However, JUSTICE/UST-001 has been modified to show a revised retention and disposal schedule. JUSTICE/UST-999 has been revised to show address changes. (JUSTICE/UST-001 was last published on May 11, 1982 in **Federal Register** Volume 47, page 20221; JUSTICE /UST-002 was last published on November 17, 1980 in **Federal Register** Volume 45, page 75953; and JUSTICE/UST-999 was last published on December 18, 1981 in **Federal Register** Volume 46, page 61749.)

JUSTICE/UST-001

SYSTEM NAME:

Bankruptcy Case Files and Associated Records.

SYSTEM LOCATION:

Ten offices of the United States Trustees, and three *suboffices.* In addition, the Executive Office for United States Trustees maintains duplicate copies of certain pleadings and materials relating to specific cases or entities. (See appendix identified as JUSTICE/UST-999.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in bankruptcy proceedings (under Chapters 7, 11 and 13 of 11 U.S.C.) subsequent to September 30, 1979, including but not limited to debtors, creditors, bankruptcy trustees, *attorneys,* representing debtors, creditors, and trustees.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Petitions/orders for relief, (b) schedules of assets and liabilities of bankrupts, (c) lists of creditors, (d) statements of debtors' financial affairs, (e) dockets cards (UST-001, 002, 003, and any alterations thereof), (f) alphabetical cross-reference index cards, (g) general correspondence regarding cases, (h) miscellaneous investigative records, (i) copies of certain petitions, pleadings or other papers filed with the court, including UST recommendations to court for appointment of trustee or examiner in Chapter 11, recommendations for dismissal or conversion, recommendations as to dischargeability, (j) appraisal reports, (k) names of depositories and amounts of funds deposited therein, (l) names of sureties and amounts of trustees' bonds, (m) tape or other recordings of creditors' meeting called pursuant to Section 341 of Title 11, U.S.C., *and of Rule 205 examinations,* for the purpose of examination of debtors by creditors, trustee and others, (n) plans filed under Chapters 11 or 13, (o) lists of persons serving as counsel, trustee, or other functionaries in bankruptcy cases, including compensation earned or sought by each, (p) lists of attorneys representing creditors in bankruptcy cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 28 U.S.C. 586 and 11 U.S.C., especially Chapter 15 thereof.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by personnel of the Executive office or the U.S. Trustee office where maintained, to determine the existence in the office of a case, to ascertain the status of actions with respect to that case, and to ensure that timely action is taken as appropriate, and to ascertain the involvement by agents or other representatives of parties in such cases. As provided by 11 U.S.C. 107, a paper filed in a case and the dockets of the bankruptcy court are public records and open to examination except when the court moves to protect an entity with respect to a trade secret, confidential research, development, or commercial information, or to protect a person with respect to a scandalous or defamatory matter contained in a paper filed in a case. *If a protective order is entered,* that portion of the record is only available upon the consent of the *entity protected.* In addition, except when the Court has moved to protect an entity, the records will be released as follows.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552 et seq., may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of the at the request of the individual who is the subject of the record

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from the system of records may be disclosed to the National Archives and Records Service (NARS) for records management inspections conducted under the authority of 44 U.S.C. Secs. 2904 and 2906.

RELEASE OF INFORMATION TO LAW ENFORCEMENT OR REGULATORY AGENCIES:

Information obtained by the U.S. Trustees will be tranmitted to appropriate state, local, Federal or other law enforement or regulatory agencies whenever a U.S. Trustee or the Director, Executive Office for U.S. Trustees or his designee believes that such transmittal in public interest, except to the extent that such transmittal would conflict with any immunity granted by a court of competent jurisdiction in accordance with the provisions of Title 11, U.S.C.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information, except that specified below in this paragraph is recorded on basic paper/cardboard material and maintained within metal file boxes, file cabinets, electric file/card retrievers or safes. Certain information from the documents, forms, lists and reports described under "Categories of records in the system" will be entered into an automated information system and stored on magnetic disks for reproduction in report form at various times. This includes the case number, debtor's name, case status, type of case, assets of estate, dates of reports filed, trustee bonds, debtor's attorney's name and fees, calendar of meetings and hearings, creditor's committee status, plan and schedule due dates, and trustee/examiner names and dates appointed.

RETRIEVABILITY:

Printed information in field office case files is retrieved by bankruptcy court docket number, and is cross-referenced aphabetically by names of debtors. Information with respect to agents representing debtors, creditors and trustees, and with respect to depository banks, is maintained alphabetically. (Case files maintained in the Executive Office are assigned sequential file numbers and are cross referenced aphabetically by name of the debtor.) Automated information is retrieved by case number or report number.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing the handling of office records and computerized information. During duty hours access to this system is monitored and controlled by U.S. Trustee office personnel. During nonduty hours offices are locked.

RETENTION AND DISPOSAL:

Maintenance and disposition schedules for case files and tape recordings of creditors' meetings have

been developed by the Executive Office for U.S. Trustees.

The U.S.Trustees offices retain Chapter 7 no asset and Chapter 13 case files for up to two years after dismissal, discharge, or plan approval. Chapter 7 asset and Chapter 11 case files are kept by the U.S. Trustees offices for six months after the date of dismissal, discharge, or conversion. These files are then transferred to the Federal Archives and Records Center (FARC) where they are kept for five years. Ninety days before that five year period ends, FARC will give notice to the forwarding office. At this time, the office may review the file contents prior to their destruction.

Meetings of creditors and equity security holders, pursuant to 11 U.S.C. 341, are recorded on cassette tapes. These tapes are erased or destroyed after a period of sixty or ninety days, depending upon U.S. Trustee policy.

Tapes of a meeting in a Chapter 11 case (converted to Chapter 7 or 13) may be retained longer than that period at the discretion of the U.S.Trustee. Tapes may be held for a shorter period if a qualified reporter has taken verbatim records of the proceedings or if a certified transcript has been filed with the U.S.Trustee or the Bankruptcy Court.

SYSTEM MANAGER(S) AND ADDRESS:

System manager for the system in each office is the U.S.Trustee and in the Executive Office, the Chief, Management and Budget Section. (See appendix of addresses identified as JUSTICE/UST–999.)

NOTIFICATION PROCEDURE:

Address inquires to the System Manager for the judicial district in which the case is pending, or was administered. (See appendix of addresses identified as JUSTICE/UST–999.)

RECORD ACCESS PROCEDURES:

A resquest for access to a record from this system shall ordinarily be made in person at the U.S. Trustee office in which the case is filed.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (see appendix of addresses identified as JUSTICE/UST–999), stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Sources of information contained in this record are generally limited to debtors, creditors, trustees, examiners, attorneys, and other agents participating in the administration of a case, judges of the bankruptcy courts and employees of the U.S. Trustee offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/UST–002

SYSTEM NAME:

Panel Trustee Application File.

SYSTEM LOCATION:

The Executive Office for United States Trustees, ten offices of the United States Trustees, and three suboffices of Assistant United States Trustees. (See appendix identified as Justice/UST–999.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants for membership on the private panels of trustees eligible to serve as trustees in Chapter 7 bankruptcy cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

Panel Trustee Application File (UST–002), may also include resumes, letters of recommendation, notes reflecting oral checking of references, school transcripts, and other supporting information provided by applicants or developed by the U.S. Trustee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 28 U.S.C. 588(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USER AND THE PURPOSES OF SUCH USES:

These records are used by the individual U.S. Trustee office in which they are maintained. Their sole purpose is for the determining the qualifications and eligibility of persons applying to serve as trustees in Chapter 7 bankruptcy cases. The records are reviewed by the Executive Office for U.S. Trustees.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from the system of records may be disclosed to the National Archives and Records Service (NARS) for records management inspections conducted under the authority of 44 U.S.C 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are filed in paper folders in metal filing cabinets.

RETRIEVABILITY:

Folders are filed alphabetically by the applicant's name.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing the handling of official records. During duty hours access to this system is monitored and controlled by U.S. Trustee office personnel. During nonduty hours offices are locked.

RETENTION AND DISPOSAL:

Maintenance and disposition schedules are being developed within the Executive Office for U.S. Trustees. There is presently no authority to destroy any information within this system.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager for the System in each office, is the U.S. Trustee and in the Executive Office, the Deputy Director. (See appendix of addresses identified as JUSTICE/UST–999.)

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked "Privacy Access Request".

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

RECORD SOURCE CATEGORIES:

Information contained in the system is provided by the applicant, the

applicant's references, and interested third parties.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/UST-999

SYSTEM NAME:

U.S. Trustee Appendix 1—List of Record Retention Addresses:

Executive Office for U.S. Trustees Room, *Room 812, HOLC Bldg., 320 First Street, N.W., Washington, D.C. 20530*

Districts of Maine, Massachusetts, New Hampshire, and Rhode Island: *87 Kilby Street*, Boston, Massachusetts 02109; *66 Pearl Street, Portland, Maine 04101*

Southern District of New York, Federal Building, Room 306, 26 Federal Plaza, New York, New York 10017

Districts of Delaware and New Jersey, 1180 Raymond Boulevard, Room 2549, Newark, New Jersey 07102

Eastern District of Virginia and District of Columbia, *Room 410, 421 King Street, Alexandria, Virginia 22314; 200 Granby Mall & City Hall Avenue, Room 742, Norfolk, Virginia 23510*

Northern District of Alabama: Suite 316, 500 South 22nd Street, Birmingham, Alabama 35233.

Northern District of Texas: U.S. Courthouse—Room 9C60, 1100 Commerce Street, Dallas, Texas 75242.

Northern District of Illinois: Insurance Exchange Building—Room A 1303, 175 West Jackson Street, Chicago, IL 60601.

Districts of Minnesota, North Dakota and South Dakota: U.S. Courthouse—Room 454, 110 South Fourth Street, Minneapolis, Minnesota 55401.

Central District of California: *Room 3101, Federal Bldg., 300 N. Los Angeles, Los Angeles, California 90012.*

Districts of Colorado and Kansas: Columbine Building—Room 202, 1845 Sherman Street, Denver, Colorado 80203.

U.S. Courthouse—Room 501, 401 North Market, Wichita, Kansas 67202.

BILLING CODE: 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; New Extended Benefit Periods in the States of California, Montana, Nevada, Utah, and Vermont

This notice announces the beginning of new New Extended Benefit Periods in the States of California, Montana, Nevada, Utah, and Vermont, effective on January 23, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benfits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of each State named above has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on January 8, 1983, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in the State.

Therefore, new Extended Benefit Periods commenced in those States with the week beginning on January 23, 1983.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency of each State will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency of each State also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in a State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on January 25, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-3071 Filed 2-3-83; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Period in the State of Indiana

This notice announces the beginning of a new Extended Benefit Period in the State of Indiana, effective on January 16, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines

that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on January 1, 1983, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on January 16, 1983.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on January 25, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-3072 Filed 2-3-83; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Periods in the States of Alaska and Louisiana

This notice announces the beginning of new Extended Benefit Periods in the States of Alaska and Louisiana, effective on January 23, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of each State named above has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on January 8, 1983, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in the State.

Therefore, new Extended Benefit Periods commenced in those States with the week beginning on January 23, 1983.

Information for Claimants

The duration of extended benefits payable in the New Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency of each State will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency of each State also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in a State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on January 27, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-3073 Filed 2-3-83; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-82-112-C]

Imperial Colliery Co.; Petition for Modification of Application of Mandatory Safety Standard

Imperial Colliery Company, P.O. Box 8, Burnwell, Virginia 25034 has filed a petition to modify the application of 30 CFR 75.1714-2 (self-rescue devices; use and location requirements) to its No. 20 Mine (I.D. No. 46-04460) located in Kanawha County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that self-contained self-rescue (SCSR) devices be carried by miners on all mantrips into and out of the mine.

2. Neither methane nor areas of oxygen deficiency have been encountered since it was opened; no record of any mine fires exists. Miners are transported to the working sections by track-mounted vehicles. These trips usually take less than 15 minutes.

3. Petitioner states that requiring miners to carry SCSRs on mantrips would result in a diminution of safety because:

a. The SCSRs are big, bulky and awkward, creating additional hazards for the miners who will have to carry and/or move them to and from mantrips. The use of the SCSRs would expose these workers to additional work around moving vehicles and force them to perform additional pulling, pushing, lifting, and handling;

b. The increased physical stress caused by carrying and moving SCSRs will increase employee fatigue and increase the chances of an accident;

c. Due to the design of the mine, with track or roadway and belt in the same entry, the SCSRs will be carried in low seam and narrow clearance areas. This could cause injury if the SCSRs get caught in moving machinery or if employees carrying them are forced against various pieces of moving machinery; and

d. There is little or no room on the mantrips for carrying or securing the SCSRs, increasing the potential for overcrowded mantrips and the hazard of flying objects should the mantrip come to a sudden stop.

4. As an alternative method, petitioner proposes to store the SCSRs on each section in accordance with a specified storage plan while miners are on mantrips. Filter-type rescuers will be worn by miners at all times.

5. Petitioner states that the alternative method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 7, 1983. Copies of the petition are available for inspection at that address.

Dated: January 26, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-3078 Filed 2-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-126-C]

Snowmass Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Snowmass Coal Company, P.O. Box 980, Carbondale, Colordo 81623 has filed a petition to modify the application of 30 CFR 75.1100-2(b) (installation of waterlines) to its No. 1 Thompson Creek Mine (I.D. No. 05-02658) located in Pitkin County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that waterlines be installed parallel to the entire length of belt conveyors and be equipped with firehose outlets with valves at 300-foot intervals along each belt conveyor and at tailpieces.

2. The waterline at this mine would continuously be subject to freezing and bursting because of the proximity of the conveyor belt and waterline to the surface, where freezing temperatures are encountered 7 months of the year.

3. As an alternative method, petitioner proposes to:

a. Store at least 500 feet of firehose with fittings suitable for connection with each belt conveyor waterline system at strategic locations along the slope belt conveyors;

b. Install a point type heat sensor actuated dry chemical system at all conveyor belt drives. These sensors will activate the fire control system at 135 degrees F, sound an alarm and stop the conveyor belt-drive motors;

c. Install an automatic fire sensor and warning device system which provides identification of fire within each conveyor belt flight and provides both audible and visual signals that permit rapid location of the fire. The warning signal will be audible in the warehouse and/or mine office, where mine personnel will be on duty whenever employees are underground. A mine telephone or equivalent system will be installed so that the person hearing any warning signal can communicate with those employees working underground.

4. In addition, petitioner states that:

a. The conveyor belt would be of approved flame resistant belting and protected by slippage control and sequence switches;

b. A systematic program for cleanup along the slope belt conveyors will be in effect;

c. A four-inch waterline equipped with firehose outlets and valves at less than 300-foot intervals is installed paralled to the slope conveyor belts;

d. An electric valve arrangement, connected to the point type fire sensors installed in the slope will be activated in the event the temperature goes above 135 degrees F, and charge the four-inch pipeline with water. The valve can also be operated manually. The electric valve will be installed at the intersection of 2 South 1 entry and the belt slope;

e. All personnel who are assigned to work in the slope section will be trained in the location, function and use of the electric valve and manual operation of the valve to charge the dry pipeline system;

f. The automatic fire sensor and warning device system will be inspected weekly; a functional test of the complete system will be made at least once annually. This test will consist of charging the waterline by activating the electric valve with the point type fire sensor.

g. A record of the weekly inspection and annual functional test will be maintained; and

h. The slope belt entry will continue to be isolated from other intake and return entries with the use of continuous permanent-type stoppings, except at both ends of the slope, where temporary stoppings will be installed to control air flow through the slope entry, and continue to provide an escapeway ventilated with intake air and effectively separated from the conveyor belt entry. The construction of such permanent-type stoppings will be of concrete blocks or sheet metal "Kennedy" type. If the concrete blocks are merely stacked to form a stopping, they will be plastered on one side with a material having the same strength as that of mortared joints.

5. Petitioner states that the proposed alternative method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health

Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 7, 1983. Copies of the petition are available for inspection at that address.

Dated: January 28, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-3075 Filed 2-3-83; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

- Employment Standards Administration
- Report of Changes That May Affect Your Department of Labor
- Black Lung Payment
- CM-929
- Annually
- Individuals or households
- 93,000 Responses; 12,090 Hours; one form

To determine whether or not certain changes have occurred that may affect the primary beneficiary's monthly benefit amount. The form serves as an annual update of certain pertinent information.

Revision

- Employment Standards Administration
- Overpayment Recovery questionnaire
- OWCP-20 (formerly CM-1167)
- On Occasion
- Individuals or households
- Federal Employees' Compensation Act and Black Lung Compensation
- Act recipients
- 2,800 Responses; 933 Hours; one form

To determine whether or not an overpaid individual is able or not able to pay a claim for recovery of overpayment, consideration must be given to the individual's present and potential income, possible concealment or improper transfer of assets, and assets of the individual which may be available in enforced collection proceedings. This form is to be used to accomplish the above.

Signed at Washington, D.C., this 31st day of January, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-3074 Filed 2-3-83; 8:45 am]

BILLING CODE 4510-27-M

Office of Pension and Welfare Benefit Programs

[Application No. D-3049]

Proposed Exemption for Certain Transactions Involving the All Tools Company Employee Profit Sharing Plan Located in Oklahoma City, Okla.

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) the proposed loan (the Proposed Loan) of money by the All Tools Company Employee Profit Sharing Plan (the Plan) to Robert M. Henry and Gladys F. Henry (the Henrys), parties in interest with respect to the Plan; and (2) the guarantee of repayment of the Proposed Loan by the All Tools Company (the Employer). The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department on or before March 17, 1983.

ADDRESS: all written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3049. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Horace C. Green of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) 406(b)(1), and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the code.

The proposed exemption was requested in an application filed by the Plan trustees (the Trustees), pursuant to section 408(a) of the Act and section 4975(c)(2) of the code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan that had total assets of $61,420 and approximately 7 participants as of February 19, 1982. Investment decisions for the Plan are made by the Trustees, who are Robert M. Henry, president and 70% stockholder of the Employer and Gladys F. Henry, secretary-treasurer and 10% stockholder of the Employer.

2. The Plan is requesting an exemption which would permit it to make the Proposed Loan to the Henrys. the Proposed Loan will be in an amount up to 30 percent of the value of the Plan's assets as of the date the Proposed Loan is made. The proceeds of the Proposed Loan would be used by the Henrys to partially retire an existing loan of approximately $32,334 (the Existing Loan) entered into by the Henrys on September 10, 1980 with the Will Rodgers Bank of Oklahoma City, Oklahoma. The Henrys used the proceeds of the Existing Loan to purchase an EDM wire machine and Hewlett Packard computer system (the Machine), which cost $95,000.

3. The Proposed Loan will have: (a) A floating interest rate of 2% over the prime rate of Liberty National Bank and Trust Company of Oklahoma City, Oklahoma adjusted semi-annually with a floor of 15%; and (b) a term of five years. Repayments will be made in monthly installments to cover principal and interest.

4. The Proposed Loan will be secured by the Machine. Robert F. Foster, national marketing manager of Agrietion Corporation (the Company), stated on January 29, 1982 that the current market value of the Machine as of that date was between $80,000 and $95,000. It is represented the Company is independent of the Henrys and is qualified to make the valuation of the Machine. A security agreement (the Security Agreement) and UCC financing statements (collectively, the Documents) will be executed by the Henrys and the Plan recording the Plan's secured interest in the Machine. The Documents will be duly filed in the State of Oklahoma. The Security Agreement provides that the Henrys shall keep the Machine free of any liens, in good operating condition and repair and shall keep the Machine fully insured against fire, theft and other casualty loss throughout the term of the Proposed Loan. It is represented that the Henrys will also provide a loss payable clause in the insurance policy insuring the Machine for the benefit of the Plan in an amount at least equal to the Proposed Loan.

5. An unrelated party, Frederick O. Plater (Plater), an attorney and certified public accountant, will be appointed as an independent fiduciary. Plater has several years experience in managing and auditing of profit sharing plans and has acted as an independent fiduciary with respect to certain profit sharing plans. It is represented that after reviewing the proposed transaction and accompanying security arrangements, Plater believes that the Proposed Loan is in the best interests of the Plan, its participants and beneficiaries and is protective of their rights.

Plater will monitor all terms and conditions of the Proposed Loan, enforce collection of the Proposed Loan in event of a default and require annual appraisals of the Machine, the cost of which will be borne by the Henrys. Plater will also require the Henrys to provide additional collateral when the market value of the Machine is less than 200% of the remaining unpaid balance of the Proposed Loan. In such an Instance, Plater will be provided with appraisals of the additional collateral, the cost of which will be borne by the Henrys. Additionally, it is represented that if the Henrys's default on the Proposed Loan, the Employer will guarantee repayment within 30 days of the default by the Henrys. As of April 30, 1981, the Employer had a net worth of $220,401.

6. In summary, the applicant represents that the Proposed Loan satisfies the statutory criteria of section 408(a) of the Act because: (a) Plater has determined that the proposed transaction is appropriate for the Plan and is in the best interests of the Plan participants and beneficiaries; (b) the Proposed Loan will at all times be secured by the Machine and if necessary, additional collateral with a value of at least 200% of the remaining unpaid balance of the Proposed Loan; (c) the Plan will have a perfected first security interest in the Machine and other collateral securing the Proposed Loan; (d) the Henrys will provide a loss payable clause in the insurance policy, insuring the Machine for the benefit of the Plan in an amount at least equal to the Proposed Loan; and (e) in event of default, the Employer will guarantee repayment of the Proposed Loan.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all Plan participants and beneficiaries. Such notice will either be personally delivered to such interested persons or will be mailed to such interested persons at their last known personal residence by first class mail. Such notice will contain a copy of the notice of pendency of such exemption published in the **Federal Register** and will timely inform such interested persons within 10 days of the time of the notice of pendency of an exemption is published in the **Federal Register** of their right to comment and their right to request a hearing within the period set forth in the notice of pendency of exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible,

in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state that reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requesed exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) the Proposed Loan as described herein, provided that the terms and conditions of the Proposed Loan will be and remain at least as favorable as an arm's length transaction would be with an unrelated party; and (2) the guarantee of repayment of the Proposed Loan by the Employer should the Henrys default on the Proposed Loan.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 31st day of January, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-3100 Filed 2-3-83; 8:45 am]

BILLING CODE 4510-29-M

International Reserve Equipment Corp. Employees Profit Sharing Plan et al.; Proposed Exemptions

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

International Reserve Equipment Corporation Employees' Profit Sharing Plan (the Plan) Located in Clarendon Hills, Illinois

[Application No. D–3275]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, effective January 1, 1982, to the lease (including renewals thereof) by the Plan of space in an improved parcel of real property to International Reserve Equipment Corporation (the Employer), a party in interest with respect to the Plan, provided that the terms and conditions of the lease are not less favorable to the Plan than those obtainable in similar transactions with an unrelated party.

Effective Date: If granted, the exemption will be effective January 1, 1982.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 5 participants. As of April 30, 1982, the Plan had total assets having a fair market value of $397,656. Messrs. Robert O. Mertz, George A. Mertz, William A. Mertz, and Thomas J. Mertz (the

Mertzes) are the trustees of the Plan and are responsible for Plan investment decisions. The Mertzes are officers and employees of the Employer and own all the issued and outstanding stock of the Employer. The Employer is a corporation engaged in the business of purchasing and selling used food processing machinery.

2. The Plan presently holds an improved parcel of real property located at 2–4 South Prospect Avenue, Clarendon Hills, Illinois (the Property) which it acquired on May 1, 1977, from the Employer.[1] The Propery consists of 5,500 square feet, is zoned for commercial use, and is improved with a two story commercial type building containing approximately 8,100 square feet of area. The Property's current use is for commercial stores, offices and apartments. The Plan leases an office area on the second floor of the Property to the Employer totaling 1,029 net square feet of space. Messrs. Robert D. Miller, Jr. and Donald T. Sutte, MAI, of Real Property Analysts, Inc., appraised the Property and determined, that as of June 12, 1979, the Property had a fair market value of $240,000. The applicant represents that the Property's value has increased since the date of that appraisal.

3. The portion of the Property leased to the Employer is presently subject to a lease beginning May 1, 1981, and ending April 30, 1983. The lease has a monthly rental of $450 for the first 12 months and $480 for the second 12 months. The Plans pays certain operating expenses of the Property such as real estate taxes.

4. The applicant requests an exemption, effective January 1, 1982, to allow the Plan to lease a portion of the Property to the Employer. The Employer has amended the Plan to provide, effective January 1, 1982, for the appointment of two independent fiduciaries to maintain investment discretion and control over the Property and the lease.

5. Mr. Donald D. McLean of Donald D. McLean & Co., Chtd., CPAs, was appointed on December 29, 1981, to maintain investment discretion, effective January 1, 1982, with regard to the holding of the Property by the Plan. Mr. McLean does not maintain any business or commercial relationship with the Employer, and has had extensive experience with employee benefit plan investments and management. Mr. McLean acknowledges that he is a fiduciary to the Plan with respect to the holding of the Property, and understands his duties, liabilities, and responsibilities involved as a fiduciary of the Plan. Mr. McLean has completely reviewed the elements surrounding the Plan's holding of the Property, and has determined that such continued holding is appropriate, suitable, and in the best interests of the Plan. Among the factors Mr. McLean reviewed were the Property's rental income structure, operating expenses, cash flow generated from the investment, and cash equity enhancement which has resulted in a return on initial equity of approximately 16%. Mr. McLean specifically considered the high percentage of Plan assets the Propety represents and has determined that because the Property is leased to a number of different tenants constituting various uses, including commercial, residential, and office, and because the Property is fully rented and located in a desirable location, that the continued holding of the Property by the Plan is in the best interests of the Plan. Mr. McLean has authority to sell the Property if he believes that the investment does not remain appropriate for the Plan.

6. Investco, Inc. (Investco), a corporation engaged in the business of financial consulting and investments, primarily in the Clarendon Hills area, was appointed on December 28, 1981, to serve as the fiduciary of the Plan with respect to the lease. Investco is independent of an has had no prior dealings with the Employer. Investco acknowledges its fiduciary relationship to the Plan, and understands its duties, liabilities and responsibilities involved in acting in such a capacity. Investco has reviewed all of the terms of the lease between the Employer and the Plan, and has determined that such terms are appropriate, suitable and in the best interests of the Plan. Investco represents that the fair market rental value of the space leased to the Employer, as of January 5, 1982, was $400 per month, an amount less than the current rental being received by the Plan under the lease. Investco represents that the Plan's payment of real estate taxes is indirectly reflected in the rental payments, and is customary in commercial buildings where there are many tenants and several different uses of the property. Investco will review the payments of rent due under the lease and will enforce the rights of the Plan under the lease. Investco will further review the terms of any extension of the lease beyond April 30, 1983, and ensure that the terms and conditions of such renewal continue to be appropriate, suitable and in the best interests of the Plan. Investco represents that it would not anticipate approving a renewal term of the lease in excess of two years.

7. The Plan is currently under examination by the Internal Revenue Service. The applicant recognizes that certain past transactions effected and continuing until January 1, 1982, constitute prohibited transactions as described in the Act, and represents that the Employer will pay all applicable excise taxes under section 4975(a) of the Code finally determined to be due.

8. In summary, the applicant represents that the transactions satisfy the statutory criteria of section 408(a) of the Act because (a) an independent qualified party, Mr. McLean, will serve as the fiduciary of the Plan with regard to the continued holding of the Property, and has determined that such holding is appropriate, suitable, and in the best interests of the Plan; (b) an independent, qualified party, Investco, will serve as the fiduciary of the Plan with regard to the lease, and has determined that the terms and conditions of the lease are appropriate, suitable, and in the best interests of the Plan; and (c) Investco will ensure that the terms and conditions of any renewal of the lease will remain appropriate, suitable, and in best interests of the Plan, and will monitor the Employer's obligations under the lease.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Merchants National Bank of Cedar Rapids Profit Sharing Plan and Trust (the Plan) Located in Cedar Rapids, Iowa

[Application No. D–3619]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 184781, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of certain fixed income obligations by the Plan to the Merchants National Bank of Cedar Rapids (the Plan Sponsor), provided the price paid is no less than the fair market value of the obligations on the date of the sale.

[1] In this proposed exemption the Department is not proposing exemptive relief for any prohibited transactions which occurred prior to January 1, 1982.

Summary of Facts and Representations

1. The Plan Sponsor is a national banking corporation. Effective December 31, 1959, the Plan Sponsor adopted the Plan. Effective January 1, 1974, the Plan Sponsor discontinued contributions to the Plan because it, as a wholly-owned subsidiary of Banks of Iowa, Inc., had adopted the Banks of Iowa, Inc. Retirement Plan (the Retirement Plan) and the Banks of Iowa, Inc. Thrift Plan (the Thrift Plan). Contributions to the Plan would have been a financial burden to the Plan Sponsor in addition to the funding requirements of the Retirement Plan and the Thrift Plan. A favorable letter of determination on the termination of the Plan was issued by the Internal Revenue Service on May 23, 1975.

2. The Plan Sponsor has elected to distribute the funds presently held by the Plan to all the participants and beneficiaries of the Plan. At the present time, the assets of the Plan include certain fixed income obligations. These obligations (the Obligations) include: U.S. Treasury Notes (the Notes); and Federal Farm Credit Bank Notes (the Bank Notes).

3. The Plan Sponsor proposes to purchase the Obligations at the greater of their original cost to the Plan or their fair market value, prior to the distribution of the Plan assets to the participants and beneficiaries of the Plan. The fair market value of the Notes as of September 1, 1982, as determined from the *Wall Street Journal,* was $190,740. The fair market value of the Bank Notes as of September 1, 1982, as determined from the *Wall Street Journal,* was $183,280. Thus, the total fair market value of the Obligations was $374,020 as of September 1, 1982.

4. The Plan Sponsor proposes to purchase the Obligations for $398,147 plus accrued interest. The Plan's cost of the Obligations was $398,147. Thus, the applicant represents that there will be no loss to the Plan as a result of the transaction.

5. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because:

(1) This will be a one-time cash transaction;

(2) The Plan will receive no less than fair market value for its assets;

(3) The distribution of the assets of the Plan to its participants and beneficiaries will be facilitated; and

(4) The Plan trustee has determined that the transaction is appropriate for the Plan.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Restated Employee Benefit Plan for Employees of Gas N- Sav, Inc. (the Plan) Located in New Port Richey, Florida

[Application No. D–3698]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale of a parcel of real property (the Property) by the Plan to Gas N- Sav, Inc. (the Employer), the sponsor of the Plan, provided that the sales price is at least the fair market value of the Property at the time of the sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 34 participants and total assets, as of March 31, 1982, of $341,367. The Property is a gasoline station located in Hudson, Florida and has been leased by the Plan to the Employer since December of 1977. The Employer is engaged in the retail distribution of gasoline and diesel fuel together with the miscellaneous sale of groceries. The Employer maintains 15 locations at which it conducts its business. The Property is one such location.

2. In December of 1977, the Plan leased an additional parcel of real property (the Additional Property) to the Employer. The applicant asserts that the Property and Additional Property constituted qualifying employer real property as defined under section 407(d)(4) of the Act and therefore the lease of the Property and the Additional Property by the Plan to the Employer was statutorily exempt from the prohibitions of 406 of the Act and 4975 of the Code by virtue of section 408(e) of the Act.[2] However, on October 31, 1980, the Additional Property was sold by the Plan to an unrelated third party. The applicant concedes that, as a result, as of October 31, 1980, the lease by the Plan to the Employer of the Property constituted a prohibited transaction under section 406 of the Act and 4975 of the Code. Accordingly, the applicant represents that it will pay all excise taxes which are applicable under section 4975(a) of the Code by reason of the lease of the Property as of October 31, 1980 by the Plan to the Employer within 90 days of the date of the publication in the **Federal Register** of the grant of the exemption proposed herein.

3. The applicant proposes that the Property be sold by the Plan to the Employer for the cash sum of $75,200. This price was determined to be the fair market value of the Property, as of March 3, 1982, by F. I. Grey & Son Inc., an independent appraiser, located in New Port Richey, Florida. No real estate commissions or exchange fees will be charged the Plan with respect to the sale of the Property. The applicant represents that numerous unsuccessful attempts have been made to sell the Property to unrelated parties. The applicant represents that potential purchasers are not generally interested in the purchase of one gasoline station.

4. In summary, the applicant represents that the proposed sale of the Property by the Plan to the Employer satisfies the statutory criteria of section 408(a) of the Act because: (1) it is a one time sale for cash; (2) the sales price was determined by an independent appraiser; (3) no real estate commissions or exchange fees will be charged the Plan; (4) all applicable excise taxes as a result of the past lease of the Property by the Plan to the Employer as of October 31, 1980 will be paid by the Employer; and (5) numerous unsuccessful attempts have been made to sell the Property to unrelated third parties.

For Further Information Contact: Lous Campagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Richard K. Archer, M.D., P.A. defined Benefit Plan and Trust (the Plan) Located in Amarillo, Texas

[Application No. D–3702]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions

[2] The Department expresses no opinion as to whether the Property and the Additional Property constituted qualifying employer real property as defined under section 407(d)(4) of the Act or whether the lease of the Property and the Additional Property by the Plan to the Employer was statutorily exempt from the prohibitions of section 406 of the Act and 4975 of the Code by virtue of section 408(e) of the Act.

resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) the proposed contribution to the Plan of certain improved real property (the Property) by Richard K. Archer, M.D., P.A. (the Employer), the sponsor of the Plan; (2) the proposed lease of the Property to the Employer; (3) the personal guaranty of Richard K. Archer (the Trustee), the Trustee of the Plan, of the rent under the proposed lease; and (4) the guarantees of the Employer and the Trustee, that the Plan will receive the appraised fair market value of the Property in any sale of the Property by the Plan, provided that the terms and conditions of such transactions are at least as favorable to the Plan as those which the Plan could receive in similar transactions with an unrelated party.[3]

Summary of Facts and Representations

1. The Plan is a defined benefit plan which, as of February 28, 1982, had assets of $415,646.82. The Employer is engaged in the practice of internal medicine.

2. The Employer is requesting an exemption that will permit it to contribute (the Contribution) the Property to the Plan at its appraised fair market value of $120,000 and subsequently lease back (the Lease) the Property from the Plan. The Property is the Employer's principal place of business located in Amarillo, Texas. The Property was appraised by an independent appraiser, Dan MacNaughton, M.A.I., S.R.P.A., (MacNaughton) whose office is located in Plainview, Texas. MacNaughton represents that the fair market value of the Property as of June 2, 1982 was $120,000. The Employer represents that the Property is subject to no liens, mortgages, or encumbrances. The Employer represents that the amount it will claim as a federal income tax deduction with respect to the Property used in the Contribution will be no greater than the appraised fair market value of the Property. The Lease will be a triple net lease for an initial term of 15 years at an annual rental rate of $21,240, such rental to be paid at the beginning of each annual rental period. The Lease will be renewable for two additional five year periods. The amount of annual rental under the Lease will be subject to review and adjustment every 5 years to provide for any increases in rent commensurate with increases in the fair market rental value of the Property, but in no event will the annual rent be less than $21,240. The applicant represents that the rental rate established by MacNaughton's appraisal is not greater than $21,240. The payment of rent due under the Lease will be personally guranteed by the Trustee. The Employer represents that the proposed transactions will enable the Plan to obtain a high yield, low risk, and relatively liquid investment on extremely favorable terms.

3. Palo Duro Savings and Loan (the Sub-Trustee), located in Amarillo, Texas, which is independent of the Employer and the Plan, will serve as an independent fiduciary with respect to the transactions for which the exemption is requested. The Sub-Trustee represents that the terms and conditions of the proposed transactions are at arm's length and that the transactions are in the best interests of participants and beneficiaries of the Plan. The Sub-Trustee will monitor the Lease and will represent the Plan in the enforcement of the terms and conditions of the Lease. Any renewal of the Lease will require the mutual consent of the Sub-Trustee and the Employer. The Sub-Trustee, at its discretion, will have unrestricted authority to sell the Property at any time if it believes such sale would be in the best interests of the Plan. The Employer guarantees that in the event the Sub-Trustee sells the Property at a price which is less than fair market value, as determined by an appraisal, the Employer will pay to the Plan an amount equal to the difference between the sales price and the appraised value. Additionally, the Trustee personally guarantees for the duration of the Lease that if the Plan makes a claim against the Employer for such difference and the Employer lacks sufficient assets to pay such difference, the Trustee will pay the Plan an amount equal to such difference. It is the Trustee's intention that this personal guaranty will be enforceable against his estate in the event of his death. The Trustee represents that he has net assets in excess of $1,500,000.

4. In summary, the applicant represents that the proposed transactions will satisfy the criteria of section 4975(c)(2) of the Code because: (1) the Trustee has determined that the proposed transactions are in the best interests of the participants and beneficiaries of the Plan; (2) an independent fiduciary will approve and monitor the transactions; (3) the Employer and the Trustee will guarantee that the Plan will receive at least the fair market value of the Property in any sale of the Property; (4) the Trustee will personally guarantee the payment of rent under the Lease; and (5) the Trustee has determined that the proposed transactions will constitute a desirable investment for the Plan, providing a high rate of return.

For Further Information Contact: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

C&S Profit Sharing Plan of Citizens and Southern Georgia Corporation and its Affiliates (the C&S Plan); The Riverside Manufacturing Company Profit Sharing Plan (the Riverside Plan); The Augusta Iron and Steel Works Profit Sharing Plan (the Augusta Plan); and the Bank of Canton Retirement Plan (the Canton Plan; collectively, the Plans) located in Atlanta, Georgia

[Application Nos. D-3820, D-3821, D-3822 and D-3823]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, effective November 4, 1982, to the sale of stock by the Plans to the Citizens and Southern Georgia Corporation (C&S Georgia) for cash and/or other consideration, under the terms of the mergers as described in this notice, provided the terms of each transaction are not less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party.

Effective date: If the proposed exemption is granted, it will be effective November 4, 1982.

Summary of Facts and Representations

1. The C&S Plan had approximately 4,500 participants and had assets of $43.6 million as of June 30, 1982. The Riverside Plan had 1,150 participants and assets of $4.4 million as of June 30, 1982. The Augusta Plan had 97 participants and assets of $1.5 million as of June 30, 1982. As of December 31, 1981, the Canton Plan had 39 participants and approximately $360,000 in total assets.

[3] Since the Trustee is the sole stockholder of the Employer and the only participants in the Plan are the Trustee and his wife, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(c)(1). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

2. C&S Georgia is a bank holding company organized and existing under the laws of the State of Georgia. C&S Georgia owns the controlling interest in the Citizens and Southern National Bank (C&S National) and in numerous banking related corporations and Georgia state banks. C&S National is a national bank, organized and existing under the laws of the United States, which is engaged in the banking business in numerous banking offices throughout Georgia. C&S National is the trustee for the Riverside Plan, the Augusta Plan and the Canton Plan. The assets of the C&S Plan are held by certain individual trustees under the C&S Profit Sharing Trust of C&S Georgia. The assets of this trust are in turn held as part of a pooled trust, known as the C&S Profit Sharing Trust, under the qualified profit sharing plans of 17 separate employers, in addition to C&S Georgia.

3. C&S Georgia is presently in the course of a long range program of acquiring several banks within Georgia. The target banks in the acquisition program are known as "Correspondent Associate" banks within the C&S system. Although C&S Georgia has historically owned no more than 5% of the stock in any of these banks, C&S Georgia and the Correspondent Associates have developed close relationships through sharing of banking, personnel and administrative services, as well as the use of a common logo and name.

In the initial phase of the acquisition program, C&S Georgia on December 31, 1981 acquired the Citizens and Southern Banks of Cobb, Clayton, Gwinnett and Henry Counties. In the spring of 1982, C&S Georgia acquired the Citizens and Southern Bank of Houston County. On August 31, 1982, C&S Georgia acquired the Citizens and Southern Bank of Colquitt County. On October 31, 1982, C&S Georgia acquired the Citizens and Southern Banks of Hart, Jackson and Thomas Counties and the Citizens and Southern National Bank of Dalton. Finally, C&S Georgia has announced its intention to acquire the Bank of Canton, Georgia. Shareholder action on this proposed merger will not take place until the spring of 1983. It is anticipated that C&S Georgia may acquire up to 14 additional banks in the acquisition program.

4. The C&S Plan currently holds 6,000 shares of the Citizens and Southern Bank of Colquitt County (C&S Colquitt). Although the vote of the C&S Colquitt shareholders on the merger was taken on July 27, 1982 and the merger was completed on August 31, 1982, the C&S Plan did not vote its shares of C&S Colquitt in the merger, nor has it surrendered its shares to C&S Georgia. The C&S Plan originally acquired 100 shares of C&S Colquitt stock (formerly Moultrie Banking Company) on July 29, 1954. Through a series of transactions, the present position has now grown to 6,000 shares. There have been no purchases or sales of C&S Colquitt stock by the C&S Plan since 1974. The C&S Colquitt stock held by the C&S Plan represents 5% of the 120,000 shares of C&S Colquitt stock outstanding prior to the merger. Valuing the C&S Colquitt stock at the merger price of $95 per share, this amounts to $570,000, or about 1.3% of the C&S Plan's assets. On November 2, 1982, Johnson, Lane, Space, Smith & Co., Inc, (JLSSC), an independent fiduciary retained by the Plans to make all decisions regarding the subject mergers (see 15 and 16, below) directed the trustees of the C&S Plan to tender the 6,000 shares of C&S Colquitt to C&S Georgia, but the stock will not be tendered until the exemption proposed herein is granted.

5. The C&S Plan held 4,500 shares of the Citizens and Southern Bank of Jackson County (C&S Jackson), which were delivered to C&S Georgia in return for notes of C&S Georgia on November 4, 1982. The transfer of stock was made pursuant to the written direction of JLSSC. The C&S Plan originally acquired 500 shares of C&S Jackson on October 20, 1965. Through a series of transactions, the position had grown to 4,500 shares. There had been no purchases or sales of C&S Jackson by the C&S Plan since 1974. The C&S Jackson stock held by the C&S Plan represented 5% of the 90,000 shares outstanding of C&S Jackson. Valuing the C&S Jackson stock at the merger price of $56 per share, this would amount to $252,000, or about .58% of the C&S Plan's assets.

6. The C&S Plan currently holds 10,563 shares of Bank of Canton, Georgia (Canton) which will be delivered to C&S Georgia in return for a set dollar amount of stock in C&S Georgia if the proposed merger receives shareholder approval. The C&S Plan originally acquired 3,521 share of Canton stock on November 4, 1974. The balance of Canton stock in this account has resulted from stock dividends. The Canton stock held by the C&S Plan represents 4.4% of the 240,000 outstanding shares of Canton. Valuing the Canton stock at the proposed merger price of $63 per share, this would amount to $665,469, or about 1.5% of the C&S Plan's assets.

7. C&S National as trustee of the Riverside Plan currently holds 2,400 shares of C&S Colquitt. C&S National as trustee of the Riverside Plan did not vote its shares of C&S Colquitt in the merger (see 4, above), nor has it surrendered its shares of C&S Colquitt to C&S Georgia. The Riverside Plan originally acquired 100 shares of C&S Colquitt stock on December 27, 1957. An additional 900 shares were purchased on December 17, 1969. The balance of the shares of C&S Colquitt held in this account result from stock splits and dividends. The C&S Colquitt stock held by the Riverside Plan represents 2% of the 120,000 shares of C&S Colquitt outstanding prior to the merger. Valuing the C&S Colquitt stock at the merger price of $95 per share, this amounts to $228,000, or about 5.2% of the Riverside Plan's assets. On November 2, 1982, JLSSC directed C&S National as trustee of the Riverside Plan to tender the 2,400 shares of C&S Colquitt to C&S Georgia, but the stock will not be tendered until the exemption proposed herein is granted.

8. C&S National as trustee of the Augusta Plan held 400 shares of C&S Thomas, which were delivered to C&S Georgia in return for cash and notes on November 4, 1982, pursuant to the written direction of JLSSC. The Augusta Plan originally acquired 100 shares of C&S Thomas on August 27, 1970, and the position in this account had increased to 400 shares through subsequent splits and dividends. The C&S Thomas stock held by the Augusta Plan represented about .28% of the 144,000 shares of outstanding C&S Thomas stock. Valuing the C&S Thomas stock at the merger price of $62 per share, this would amount to $24,800 or about 1.6% of the Augusta Plan's assets.

9. C&S National as trustee of the Canton Plan currently holds 2,100 shares of Canton, which will be delivered to C&S Georgia in return for a set dollar amount of stock in C&S Georgia if the proposed merger receives shareholder approval. The Canton Plan originally acquired 200 shares of Canton stock on October 29, 1968, and made additional purchases of 200 shares in 1969 and 500 shares in 1972. The Canton Plan sold 600 shares of Canton stock in 1979. The excess of the Canton Plan's current holdings of Canton stock over the net purchases and sales described above result from stock dividends. The Canton stock held by the Canton Plan represents about .88% of the 240,000 shares of outstanding Canton stock. Valuing the Canton stock at the proposed merger price of $63 per share, this would amount to $132,300 or about 36% of the Canton Plan's assets.

10. The C&S Plan currently holds stock in only four additional banks which may be acquired by C&S Georgia in the course of the acquisition program. These include 2,952 shares of Citizens and Southern Bank of Tifton, Georgia, valued at $132,840; 600 shares of Citizens Bank, Hogansville, Georgia, valued at $33,000; 5,400 shares of Farmers and Merchants Bank of Fayetteville, Georgia, valued at $216,000; and 500 shares of Farmers and Merchants Bank, Senoia, Georgia, valued at $42,500. Because it is not yet known which, if any, of the banks may be targeted for acquisition by C&S Georgia, the number of cases where a prohibited transaction under the Act may arise in respect of the C&S Plan cannot yet be fully determined.

11. A typical C&S Bank acquisition usually begins when C&S Georgia reaches a preliminary agreement with the target bank regarding the merger. The effectiveness of the merger is conditioned upon at least two-thirds shareholder approval of both the target bank and C&S Georgia, as well as approval by administrative agencies such as the United States Comptroller of the Currency, the Georgia Department of Banking and Finance, and the United States Securities and Exchange Commission. Following the signing of the preliminary agreement, a Proxy Statement-Prospectus (the Proxy Statement) is sent to the shareholders of the target bank which describes the terms of the proposed merger in detail and which announces a shareholder meeting to vote on the proposed merger.

12. The financial terms of the typical bank acquisition may be illustrated by reference to the terms in the C&S Colquitt transaction. In the C&S Colquitt acquisition, each C&S Colquitt shareholder received from C&S Georgia for each share of C&S Colquitt stock $20 in cash plus a 5 year limited transfer installment note in the face amount of $75, accruing interest at 16% with annual payments of principal and quarterly payments of interest. (In some of the other acquisitions, shareholders of the target bank will have the option of taking all cash or notes of different maturities. In addition, some acquisitions may be structured as stock-for-stock transactions, in which the shareholders of the target bank surrender their stock for a set dollar amount of stock in C&S Georgia.) The installment notes are unsecured obligations of C&S Georgia issued under an indenture (the Indenture) between C&S Georgia and Columbus Bank and Trust Company as Trustee (Columbus). Under the Indenture, Columbus' duties include authenticating each note, cancelling each note upon transfer, exchange or payment, monitoring the payment of principal and interest under the notes, demanding accelerated payment of notes in the event of default and pursuance of any remedies against C&S Georgia in the event of default. The holders of the notes also have certain rights under the Indenture, including acceleration in the event of default (holders of at least 25% in principal amount of the notes must consent), waiver of past defaults (holders of a majority in principal amount of notes must consent), and pursuance of any remedy against C&S Georgia (holders of at least 25% in principal amount of notes must consent).

13. The terms of the C&S Colquitt merger also provided that a stockholder could elect to receive a cash payment of $95 per share for up to 50 of his shares in lieu of the combination of cash and installment notes previously described. The Proxy Statement also notified shareholders of C&S Colquitt that they could exercise dissenter's rights under the applicable provisions of 12 United States Code § 215a.

14. The Proxy Statement in the C&S Colquitt merger also contains the following information, which again is represented to be typical of the C&S bank acquisitions in general:

(a) Only a small percentage of the target bank stock is owned by persons related to C&S Georgia, i.e., present and former officers, directors and employees of C&S Georgia, C&S National and their subsidiaries. As of December 31, 1981, persons related to C&S Georgia owned 9,529, or 7.94% of the 120,000 shares of C&S Colquitt outstanding prior to the merger.

(b) The operation of the target bank after the merger remains substantially the same, with the officers and employees of the target bank (including officers who may hold a significant amount of the target bank stock) retaining substantially the same positions in the target bank which they held prior to the merger. In the case of C&S Colquitt, this included O. Mitchell Smith, President of C&S Colquitt, who as of February 15, 1982, owned 10,506, or 8.75% of the 120,000 shares of C&S Collquitt stock outstanding.

(c) Typically, there is no public market for the shares of the target bank stock. The most recent sale of C&S Colquitt known to the management of C&S Colquitt occurred on December 18, 1981, when 208 shares were sold for $75 per share.

(d) The target bank stock usually has a fairly low yield in terms of cash dividends declared. Cash dividends declared per share of C&S Colquitt were $2.40 per share during 1980 and $2.60 per share during 1981.

(e) In each merger, the target bank engages a valuation expert to provide its opinion to the target bank concerning the fairness to the target bank shareholders of the forms of consideration and exchange rates in the proposed merger. In the C&S Colquitt merger, the Robinson-Humphrey Company, Inc., an investment banking firm, advised C&S Colquitt that, in its opinion, the consideration and exchange rates in the merger were fair to the shareholders of C&S Colquitt.

15. On September 17, 1982, C&S National and the trustees of the C&S Plan engaged JLSSC to exercise fiduciary responsibility regarding any of the target bank stock held by the C&S Plan or by C&S National as trustee of the Riverside Plan, the Augusta Plan and the Canton Plan. JLSSC is to serve as a fiduciary under the Act, with responsibility to make any and all discretionary decisions which the trustees or C&S National normally would make with respect to any stock held by the C&S Plan or a C&S National-trusteed Plan which may be involved in one of the C&S Georgia bank acquisitions. JLSSC's responsibilities include:

(a) The decision to accept or reject a tender offer by C&S Georgia;

(b) The decision to vote in favor of, or against, or to abstain from any decision regarding a merger;

(c) The decision to exercise any dissenter's rights in a merger;

(d) The decision of which form of payment should be elected by the plan with respect to the target bank stock; and

(e) the decision whether to exercise any rights or options available to the plan as holder of notes of C&S Georgia.

JLSSC will exercise its powers for the exclusive benefit of Plan participants. Although title to any of the target bank stock shall remain with the Plans, the Plan' trustees shall be bound by the written directions of JLSSC. JLSSC has consulted with counsel familiar with the Act, and understands and accepts its duties, responsibilities and liabilities as a fiduciary under the Act.

16. JLSSC is an investment banking firm whose principal office is located in Savannah, Georgia. The revenue earned from services which JLSSC performs for C&S National on a competitive basis constitutes a negligible portion of the total revenues of JLSSC. Although one employee of JLSSC serves as an Advisory Director of a branch of C&S

National in Savannah, there are no persons who play important overlapping roles, such as that of officers or directors, between these two parties. There are, in summary, no relationships between any of the applicants and JLSSC which would affect the independence of JLSSC vis-a-vis any of the applicants.

17. In summary, the applicants represent that the subject transactions meet the statutory criteria of section 408(a) of the Act because: (1) No merger will take place unless it is approved by two-thirds of the target bank shareholders, and in the typical instance the percentage of stock in the target bank held by persons related to C&S Georgia will not be even remotely enough to control the outcome of the merger; (2) the overall fairness of each merger to the target bank shareholders will in each case be passed upon by an independent investment banker; (3) the Plans will be able to receive a combination of cash and short-term notes or maketable securities in exchange for a low-yield asset with limited marketability; and (4) all decisions regarding the subject transactions and continued monitoring of the transactions will be undertaken by a fiduciary who is qualified and is independent of C&S Georgia and its affiliates.

Notice to Interested Persons

Notice will be provided to interested persons in the manner agreed upon by the Department and the applicants within 30 days of the date of publication of this proposed exemption. Comments and requests for a hearing must be received by the Department within 60 days of the date of publication of this proposed exemption.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Equitable Life Assurance Society of the United States (Equitable) Located in New York City, New York

[Application No. D-3895]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to (1) the past and proposed acquisition by Equitable of shares of the common stock of Equitable Life Mortgage and Realty Investors (Telmari) from certain employee benefit plans (the Plans), with respect to which Equitable is a party in interest, provided that the price received by the Plans is at least equal to the price received by other shareholders of the Telmari common stock; and (2) the assumption by Equitable of the obligations of Telmari notes (the Notes) resulting in an extension of credit between Equitable and certain of the Plans.

Effective Date

If the proposed exemption is granted, it will be effective October 8, 1982.

Summary of Facts and Representations

1. Equitable is a mutual life insurance company organized under the laws of the State of New York and subject to supervision and examination by the Superintendent of Insurance of the State of New York. It is the third largest life insurance company in the United States, having total assets of approximately $37 billion. Equitable provides funding, asset management and other services for a large number of employee benefit plans subject to the provisions of Title I of the Act.

2. Telmari is a diversified real estate investment trust organized as a Massachusetts business trust, and has 13 trustees (the Trustees). Ten of the Trustees are not employees or executive officers or Equitable (the Unaffiliated Trustees). Telmari currently has 5,633,678 shares of common stock (the Stock) outstanding which are held by more than 4,000 Stockholders. The Stock is publicly traded on the New York Stock Exchange. Telmari had total invested assets on July 31, 1982 of approximately $288,000,000. Its investments consist of short-term mortgage loans, long-term mortgage loans and equity investments in real property. Telmari also has outstanding the Notes which consist of a $50 million principal amount of floating rate notes issued publicly by Telmari in 1979 and registered pursuant to the Securities Act of 1933. The Notes mature on September 1, 1987 and are not redeemable by Telmari before September 1, 1986. They bear interest at a floating rate tied to the market discount rate for six-month U.S. Treasury bills. The Notes are traded on the New York Bond Exchange. There are at present approximately 200 holders of the Notes. Equitable sponsored the organization of Telmari in 1970 and serves as investment adviser for Telmari. Telmari relies on Equitable to provide investment opportunities to Telamri. In addition, Equitable participates in its general account, to the extent of at least 10%, in most of the investments made by Telmari. Equitable also owns (in its general account) 8,000 shares (approximately 0.14 percent) of the Stock and all of the 750,000 outstanding shares of Telmari's preferred stock.

3. The appplicant is requesting an exemption which will permit the past and proposed acquisition by Equitable of the Stock from the Plans and the assumption of the obligations of the Notes. Equitable has not been able to accurately identify which Plans will be the subject of the proposed exemption primarily because ownership of the Stock and the Notes changes daily as a result of New York Stock Exchange and New York Bond Exchange trading and because the Stock or the Notes may be held on behalf of the Plans in the name of a financial institution or other nominee with no public identification of the beneficial owner. However, employee benefit plans maintained by Equitable for its own employees are not among the Telmari Stockholders or Noteholders, nor are any separate accounts or investment advisory accounts managed by Equitable for employee benefit plans.

4. The terms of the subject acquisitions are as follows. On October 4, 1982, Equitable and Telmari entered into an Agreement and Plan of Reorganization (the Agreement) pursuant to which a wholly-owned subsidiary of Equitable would acquire all of the Stock. Pursuant to the Agreement, Equitable formed a wholly-owned subsidiary called Equitable Acquisition Corporation (the Purchaser). On October 8, 1982, the Purchaser, pursuant to the Agreement, made an Offer to Purchase (the Offer) for cash all of the Stock. Pursuant to the Offer approximately 4,950,000 shares of the Stock (approximately 88 percent) were tendered by November 22, 1982. Subsequent to November 22, 1982 and pursuant to the Agreement, Telmari will be merged into a wholly-owned corporate subsidiary of Equitable (the Trust Corp.) with all of the outstanding shares of the Stock to be converted into like shares of the Trust Corp. Thereafter, the Purchaser will be merged (together, the Mergers) into the Trust Corp., with each outstanding share of common stock of the Trust Corp. (other than those held by the Purchaser) to be converted into the right to receive $15.15 in cash and with the outstanding shares of the Purchaser to be converted into the only outstanding shares of the common stock of the Trust Corp. As a result of the

Mergers, the shares of the Stock not tendered pursuant to the Offer will be converted into the right to receive the same amount of cash per share as was paid to the Stockholders who tendered their shares pursuant to the Offer. As an incident of the Mergers the Trust Corp. will become liable for the obligations represented by the Notes.

5. Equitable represents that the Unaffiliated Trustees negotiated the terms of the Offer and made the decision for Telmari to enter into the Agreement and that the principal factors that were considered by the Unaffiliated Trustees are summarized as follows:

(a) The opinion of Salomon Brothers Inc., the financial advisor retained by Telmari in connection with the acquisition, that the consideration to be received by Stockholders is fair to such Stockholders from a financial point of view;

(b) The fact that the $15.15 net in cash per share to be received by the Stockholders is in excess of the Stock's closing price of $8.50 per share on the New York Stock Exchange on June 30, 1982, the last trading day preceding the announcement of Equitable's proposal to enter into discussions regarding possible acquisition and in excess of the anticipated market value of the Stock in the absence of the proposed acquisition;

(c) The determination of the Unaffiliated Trustees that the price of $15.15 per share is fair in relation to Telmari's historical earnings performance, cash flow and ability to pay dividends and its near-term expectations as to earnings, cash flow and ability to pay dividends as elements of Telmari's going concern value;

(d) The view of the Unaffiliated Trustees that the net book value per share of Telmari (which was $21.33 on July 31, 1982) is not determinative of the fairness of the offer because a major portion of Telmari's assets consist of long-term mortgages which are producing yields below those currently available for similar investments and other assets are or have been subject to foreclosure or renegotiation proceeding, and thus that the anticipated liquidation value of such assets is below book value.

In addition, Equitable represents that it does not act as a fiduciary with respect to any Plans which were or are holders of the Stock. The decision, for any Plan on whose behalf shares of the Stock may be held, to tender such shares pursuant to the Offer or to have such shares converted into cash in the Mergers or to exercise such other options as may be available, was or will be made in each case by a fiduciary or the Plan who is unaffiliated with and acting completely independently of Equitable, and who is bound by the Act to act prudently and solely in the interests of the Plan. Equitable represents that it has no discretionary authority, responsibility, control or influence with respect to such decisions by these fiduciaries.

6. In summary, the applicant represents that the transactions did and will satisfy the requirements of section 408(a) of the Act as follows: (1) The Unaffiliated Trustees negotiated the terms of the Offer and made the decision for Telmari to enter into the Agreement; (2) the decisions on behalf of the Plans were or will be made by fiduciaries of the Plans who are independent of Equitable; and (3) the Plans did or will receive the same price for the Stock as all other Stockholders.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional ruled. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 1st day of February 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Service Administration, U.S. Department of Labor.

[FR Doc. 83–3102 Filed 2–3–83; 8:45 am]

BILLING CODE 4510–29–M

Wyman, Green & Blalock, Inc. Profit Sharing Plan and Trust et al.; Grant of Individual Exemptions

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because,

effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1987) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Wyman, Green & Blalock, Inc. Profit Sharing Plan and Trust (the Plan) Located in Bradenton, Florida

[Prohibited Transaction Exemption 83–14; Exemption Application No. D-3422]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply, effective April 8, 1982, to the lease of real property by the Plan to Wyman, Green & Blalock, Inc., under the terms and conditions set forth in the notice of proposed exemption, provided the terms of the lease are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 30, 1982 at 47 FR 53962.

Effective Date: This exemption is effective April 8, 1982.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Profit Sharing Plan for Employees of Fox Electric Co., Inc. and Participating Employers (the Plan) Located in Arlington, Texas

[Prohibited Transaction Exemption 83–15; Exemption Application No. D–3540]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the loan of $220,000 by the Plan to Messrs. Frank M. Gilstrap, Frank Hill and Terrance D. Hill, under the terms set forth in the notice of proposed exemption, provided the terms of the loan are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 14, 1982 at 47 FR 56083.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Goodyear Tire and Rubber Company and Subsidiaries Employee Stock Ownership Plan (the SESOP) Located in Akron, Ohio

[Prohibited Transaction Exemption 83–16; Exemption Application No. D–3257]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the quarterly purchases by the SESOP trustee of common stock issued by the Goodyear Tire and Rubber Company under the Goodyear Dividend Reinvestment and Stock Purchase plan, as described in the notice of proposed exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 5, 1982 at 47 FR 50383.

Written comments and Hearing Requests

The Department received one comment in favor of the proposed exemption. The comment included a hearing request which was subsequently withdrawn.

The applicant notified the Department that pursuant to discussions with the Department, the applicant had on December 29, 1982 notified interested persons that the comment period had been extended to January 18, 1983, since interested persons had not previously been given sufficient time in which to comment on the proposed exemption.

For Futher Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Summit National Bank Employees' Pension Trust (the Plan) Located in Fort Worth, Texas

[Prohibited Transaction Exemption 83–17; Exemption Application No. D–3552]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the past loan (the Loan) of $100,081 to the Plan by Summit National Bank, the sponsor of the Plan, provided that the terms and conditions of the Loan were at least as favorable to the Plan as those which the Plan could have received in a similar transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 14, 1982 at 47 FR 56085.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

Alta Industries, Ltd. Employees Profit Sharing Plan (the Plan) Located in Salt Lake City, Utah

[Prohibited Transaction Exemption 83–18; Exemption Application No. D–3144]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective February 2, 1982, to the sale by the Plan of 355 limited partnership interests in Alta Industries Ltd. to Mr. Leon Hansen, a party in interest with respect to the Plan, for $2,928, provided that this amount was not less than the fair market value of the interests on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 30, 1982, at 47 FR 53966.

Effective Date: This exemption is effective February 2, 1982.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 1st day of February, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-3101 Filed 2-3-83; 8:45 am]
BILLING CODE 4510-29-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Revision of Forms for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed revision of forms submitted to OMB for clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed revision of forms which collect information from the public. OPM Forms 1200, 1201, 1201A, 1202, 1203, and 1280 constitute a Federal Employment Application Package suitable for processing under an automated examining system. OPM is responsible for open competitive examinations for admission to the competitive service in accordance with section 3302, 5 U.S.C. For copies of this proposal, call John P. Weld, Agency Clearance Officer, on (202) 632-7720.

DATES: Comments on this proposal should be received within 10 working days from date of this publication.

ADDRESSES: Send or deliver comments to: John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, N.W., Room 6669, Washington, D.C. 20415, and Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: John P. Weld, (202) 632-7720.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-3040 Filed 2-3-83; 8:45 am]
BILLING CODE 4325-01-M

Proposed Extension of Form for OMB Review

Correction

In FR Doc. 83-2368 beginning on page 4080 in the issue of Friday, January 28, 1983 make the following correction:

On page 4080, column three, SUMMARY:, line four, "OMB Form which" should have read "OMB Form 192 which".

BILLING CODE 1505-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Regional Conservation and Electric Power Plan; Hearing and Inquiry

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council.

ACTION: Notice of Hearings and Opportunity to Comment on Draft Energy Plan.

SUMMARY: On January 26, 1983, the Pacific Northwest Electric Power and Conservation Planning Council ("the Council") adopted a draft regional conservation and electric power plan. That draft is being released for public review and comment. Public hearings will also be held on the draft plan. This notice describes the proposed plan, provides information on how to obtain copies, and outlines the process for submitting written comments and participating in the hearings.

DATES AND ADDRESSES: Copies of the draft plan may be obtained at the Council central office, Suite 200, 700 SW. Taylor, Portland, Oregon 97205 or by calling Ms. Beata Teberg at 1-800-222-3355 (toll free in Montana, Idaho, Washington and California), 1-800-452-2324 (toll free in Oregon) or 503-222-5161. Hearings are scheduled as follows:

1. March 9, 1983—Missoula, Montana, Montana Rooms, University Center, University of Montana, 9 a.m. to 5 p.m. and 7 p.m. to 9:30 p.m.;

2. March 11, 1983—Boise, Idaho, Holiday Inn, Interstate 80 and Vista Avenue (close to airport) 9 a.m. to 5 p.m. and 7 p.m. to 9:30 p.m.;

3. March 14, 1983—Coeur d'Alene, Idaho, North Shore Hotel, North Star Plaza, 9 a.m. to 5 p.m. and 7 p.m. to 9:30 p.m.;

4. March 16, 1983—Salem, Oregon, Employment Building Auditorium, 875 Union Street, N.E. (in Capitol Mall area), 9 a.m. to 5 p.m. and 7 p.m. to 9:30 p.m.;

5. March 18, 1983—Seattle, Washington, South Auditorium—Federal Building, 915 Second Avenue, 9 a.m. to 5 p.m. and 7 p.m. to 9:30 p.m.

Requests for time slots at a hearing should be made to Ms. Janie Pearcy, by telephone at the telephone numbers listed above, or in writing to the central office at the address given above, at least five (5) weekdays prior to the day of the hearing at which a time slot is requested. Written comments must be received in the Council's central office, 700 S.W. Taylor Street, Suite 200, Portland, Oregon 97205, by 5 p.m. Friday, March 21, 1983. They should be addressed to the attention of Director of Public Involvement.

FOR FURTHER INFORMATION CONTACT: Ms. Torian Donohoe, Director of Public Involvement, 700 S.W. Taylor, Suite 200, Portland, Oregon 97205 (toll free 1-800-222-3355 in Montana, Idaho, Washington and California) (1-800-452-2324 toll free in Oregon); or 503-222-5161.

SUPPLEMENTARY INFORMATION: By passage of the Pacific Northwest Electric Power Planning and Conservation Act, Public Law 96-501, 94 Stat. 2697, 16 U.S.C. 839 *et seq.* ("the Act"), Congress provided for the establishment of the Pacific Northwest Electric Power and Conservation Planning Council ("the Council"), a regional agency composed of two gubernatorial appointments each from the states of Idaho, Montana, Oregon and Washington. Congress charged the

Council with two major responsibilities: (1) Preparation of a program to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development, operation and management of hydroelectric facilities on the Columbia River and its tributaries; and (2) development of a conservation and electric power plan for the Pacific Northwest. The Council adopted its fish and wildlife program on November 15, 1982. The fish and wildlife program will be incorporated into the final conservation and electric power plan.

The Council established a Scientific and Statistical Advisory Committee to assist in the development of the plan. The Committee was organized in August 1981 and has members from thoughout the Northwest representing federal and various regional, state, local and Indian tribal governments, consumer and environmental groups and customers of the Bonneville Power Administration. The Committee works through five subcommittees, each covering a major study area of the Council: forecasting, conservation, resource assessment, reserves and reliability, and fish and wildlife.

The Council also contracted with various persons and entities to have studies made of some of the major issues raised by the plan. The Council commissioned six major study modules to be prepared for publication in the fall of 1982: Module I—Electricity Demand Model, with separate reports prepared by Charles River Associates, Boston, Massachusetts, Cambridge Systematics, Berkeley, California, and Jerry Jackson and Associates, Marietta, Georgia; Module II—Conservation and Power Supply Resource Assessment, prepared by Battelle Northwest Laboratories, Richland, Washington; Module III—Policy Options and Programs, prepared by Applied Management Sciences, Silver Spring, Maryland; Module IV—Rate Design and Analysis, prepared by ICF, Inc., Washington, D.C.; Module V—Reserves and System Reliability Analysis, prepared by ICF, Inc., Washington, D.C.; Module VI—Quantification of Environmental Costs and Benefits, prepared by Nero and Associates, Portland, Oregon. Copies of these and other contract reports commissioned by the Council may be obtained from Ms. Ruth Curtin, Librarian, at the central office.

In the preparation of this draft plan Council staff also prepared a series of issue papers discussing the major issues of the plan, which were presented at Council meetings for discussion and public comment. Thereafter, memoranda describing the decisions recommended by Council staff, including alternatives, were presented at Council meetings and subject to public comment. The series of decisions the Council made at these meetings formed the framework of the plan.

In addition, the Council has held numerous formal and informal consultation meetings with Bonneville Power Administration, BPA customers, consumer and environmental groups, state and local agencies, and interested members of the public in order to obtain the views of these groups on the major issues raised by the plan.

Plan

The Council's plan will guide Bonneville Power Administration in its acquisition of resources to meet the region's future electrical energy needs. As required by the Act, the proposed plan includes a twenty-year demand forecast, an estimate of resources needed to meet forecasted demand, an energy conservation program (including model conservation standards), recommendations for research and development, a methodology for determining quantifiable environmental costs and benefits, a discussion of reserve and reliability requirements, and a methodology for calculating model conservation standard surcharges. The plan also includes, in a separate document, the fish and wildlife program adopted by the Council on November 15, 1982.

Copies of the proposed plan are now available at the Council central office at 700 SW. Taylor Street, Suite 200, Portland, Oregon 97205. They may be ordered by writing to Ms. Beata Teberg at that address or by calling her at 1–800–222–3355 (toll free in Montana, Idaho, Washington and California), 1–800–452–2324 (toll free in Oregon) or (503) 222–5161.

Hearings

The dates, times and locations for the public hearings and the process for reserving a time slot at the hearings are set out above under "Dates and Addresses". Persons who have not reserved time slots will be permitted to speak only as time permits. The Council encourages speakers to use their hearing time to summarize written comments. Each interested agency, organization, or individual will be permitted to speak at only one of the five hearings. The Council reserves the right to limit or consolidate testimony in order to expedite the hearings.

The hearings will be chaired by the Chairman or Vice Chairman of the Council. No cross-examination of speakers will be permitted. However, Council members may ask clarifying questions.

Transcripts of the hearings will be made and will become part of the Council's administrative record. Copies of the transcript will be available for review and copying between 9 a.m. and 4:30 p.m. at the Council's central office, 700 SW. Taylor Street, Suite 200, Portland, Oregon 97205.

Written Comments

All written comments on the proposed plan must be received in the Council central office, at the address given above, by 5 p.m. Pacific time, March 21, 1983. Comments received after that time will not be considered. The Act requires that the Council adopt its final conservation and electric power plan on or before April 28, 1983.

Because of the large number of comments expected, special attention should be given to written comments. Written comments should be specific and concise, refer to plan sections, and provide alternative language to aid redrafting. The Council requests 10 copies of each set of comments. All comments submitted during the comment period wil be considered by the Council. The Council requests that commenters submit a "marked up" copy of the draft plan indicating suggested revisions. Where deletions are suggested, the language being deleted should be lined out and placed in parentheses. Suggested new language should be inserted and underlined. Lengthy insertions should be set out on an accompanying page. Reasons for suggested changes should be stated separately. All comments should be double-spaced. Avoid grouping on one page comments concerning different sections of the plan.

The Council proposes to amend section 1404(b)(1) of its fish and wildlife program. That section now states that the Council will accept recommendations for program amendments on November 15, 1983 and November 15 every two years thereafter. To coordinate fish and wildlife program amendments with revisions of its energy plan, the Council proposes to amend section 1404(b)(1) of the program to accept recommendations for program amendments on November 15, 1983, November 15, 1984, and on November 15 every two years thereafter. The Council solicits comments on this proposal.

A copy of the administrative record of plan development, including written comments on the proposed plan, may be inspected and copied at the Council's public reading room in Suite 200, 700

SW. Taylor Street, Portland, Oregon between the hours of 9 a.m. and 4:30 p.m., weekdays.

(Sec. 4 Pub. L. 96–501, 16 U.S.C. 839b)

Edward Sheets,

Executive Director.

[FR Doc. 83–3001 Filed 2–3–83; 8:45 am]

BILLING CODE 6000–03–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22838; 70–6836]

Allegheny Power System, Inc.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper to Dealer

January 27, 1983.

Allegheny Power System, Inc. ("Allegheny"), 320 Park Avenue, New York, New York 10022, a registered holding company, has filed an application with this Commission pursuant to Section 6(h) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

Allegheny proposes to issue and sell notes to banks and a dealer in commercial paper in an amount not to exceed $145,000,000 outstanding at any one time, including such short-term debt as may still be outstanding under the Commission's order in File No. 70–6632. It is proposed that such notes and commercial paper will be issued from time to time prior to September 30, 1984, provided that no such notes or commercial paper shall mature after March 31, 1985.

Each note payable to a bank will be dated as of the date of the borrowing which it evidences, will mature not more than two hundred-seventy (270) days after the date of issuance or renewal thereof, and will bear interest at no greater than the then current prime or equivalent interest rate of the bank at which the borrowing is made. Allegheny and its subsidiaries have agreed to pay for lines of credit with a group of banks by maintaining compensating cash balances (no greater than 5% of all or a portion of the line of credit) and/or by paying an annual cash fee (no greater than ½% of all or the balance of the line of credit). Such compensating cash balances are maintained in many cases for the purpose of meeting the regular operating requirements of Allegheny as well as satisfying the obligations of Allegheny under the lines of credit. Based on compensating cash balance of 5%, and/or fees equivalent thereto, the effective cost of bank borrowing under such lines of credit would be approximately 12.1% based on a prime rate of 11.5%.

The commercial paper notes will have varying maturities, with no maturity more than 270 days after the date of issue. None will be prepayable prior to maturity. The notes will be sold directly to the dealer at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and of the particular maturity. The dealer may reoffer the commercial paper at a discount rate of ⅛ of 1% per annum less than the discount rate to Allegheny. The dealer will reoffer the commercial paper to not more than 200 of its customers.

Allegheny will use the proceeds of the proposed short-term borrowings to make capital contributions to its direct and advances to its indirect subsidiaries, to acquire notes or stock of such subsidiaries, and to finance other corporate needs.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 28, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall indentify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3037 Filed 2–3–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22839; 70–6839]

National Fuel Gas Co. et al.; Proposed Issuance and Sale of Short-Term Notes to Banks by Subsidiary and Guarantee by Holding Company

January 27, 1983.

In the matter of National Fuel Gas Company, 30 Rockefeller Plaza, Suite 4545, New York, New York 10112; Seneca Resources Corporation, 10 Lafayette Square, Buffalo, New York 14203.

National Fuel Gas Company ("National"), a registered holding company and its wholly owned subsidiary, Seneca Resources Corporation ("Seneca"), have filed a declaration with this Commission pursuant to Sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder.

Pursuant to prior orders of this Commission in Files Nos. 70–6547 and 70–6589, Seneca has the authority to issue and sell short-term notes to RepublicBank Houston, N.A. ("RepublicBank") and Citibank, N.A., up to an aggregate of $65,000,000 at any one time outstanding. As of January 15, 1983, Seneca had outstanding borrowings of $48,350,000 under existing credit arrangements with RepublicBank and Citibank. All borrowings become due on March 1, 1983. Repayment of the outstanding amounts is guaranteed by National. In addition, the notes evidencing Seneca's borrowings are secured by a portion of Seneca's oil and gas properties in the states of Texas and Louisiana and a portion of Seneca's hardwood timber acreage located in the State of Pennsylvania.

Seneca and National now intend to establish lines of credit of $65,000,000 each with RepublicBank and Citibank and enter into a new credit agreement with each bank upon substantially the same terms and conditions as at present. Seneca proposes to issue and sell its notes pursuant thereto, and National proposes to guarantee the notes. In no event will the aggregate amount of such notes outstanding at any one time exceed $65,000,000. The credit agreements will extend for one year until February 29, 1984. The notes will be secured under the terms of first mortgages on the oil and gas properties and related reserves mentioned above. It is stated that the effective cost of borrowing will be the prime rate at RepublicBank or the base rate at Citibank, both of which were 11% as of January 15, 1983. Seneca, at its option, may also borrow at an alternate rate of interest set by each bank. Recently, Seneca elected an alternate rate from each bank below the prime or base rate. The proceeds will be used by Seneca to provide working capital for its operations.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in

writing by February 25, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall indentify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3034 Filed 2-3-83: 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19383; SR-NASD-82-27]

National Association of Securities Dealers, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

December 29, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 10, 1982, the National Association of Securities Dealers, Inc.; ("NASD"), 1735 K Street, N.W. Washington, D.C. 20006, filed with the Securities and Exchange Commmission the proposed rule change as described herein. The NASD has requested that the proposed rule change be approved on an accelerated basis. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change amends Part VII of Schedule C of the NASD's By-Laws to provide, for a temporary period ending June 30, 1983, liberalized alternate standards for SECO broker-dealers [1] and their associated persons who choose to become registered with the NASD. Under the proposed rule change, all associated persons of SECO broker-dealers who qualified as such by January 1, 1983, and who have been working in a capacity comparable to NASD limited principals or limited representatives will qualify for the comparable NASD limited principal or representative category in which they have been working. All currently qualified SECO associated persons who have been acting as General Securities Principal, Registered Options Principal, Financial and Operations Principal or General Securities Representatives for at least three years as of January 1, 1983, also will qualify for the comparable NASD principal or representative category in which they have been working. All other SECO associated persons will have to take the appropriate NASD examinations in order to be qualified as an NASD representative or principal. In addition, during this temporary period, SECO firms applying for NASD membership will not have to pay NASD fees when filing an application for membership, registering associated persons, or registering branch offices.

The NASD states that the membership application must be made with the NASD prior to July 1, 1983, in order to qualify under the temporary membership standards. Persons who disagree with the determination of the class of NASD registration for which they are eligible without examination may seek a waiver through the procedures currently in place for persons seeking a waiver of any qualification examination requirement; they can request an internal NASD staff review of their situation and have a right to appeal the matter to the NASD Qualifications Committee.

The liberalized membership standards were proposed by the NASD because of the Commission's transmission of proposed legislation to Congress which would abolish the SECO program and require all broker-dealers conducting an over-the-counter securities business to join a national securities association; at present the NASD is the only such association. In order to facilitate the voluntary conversion of SECO firms to NASD membership in anticipation of the proposed legislation, the Commission requested that the NASD waive those qualifications and fee requirements which might act as impediments to such voluntary conversion. The waiver of examinations for General Securities Principal, Registered Options Principal, and Financial and Operations Principal, however, has been conditioned on the acquisition of at least three working years experience in these areas because of the NASD's belief that, in the absence of a demonstrated ability to perform these functions, qualification by examination is an essential prerequisite for such persons. Similarly, the NASD believes that persons without three years experience as a General Securities Representative would not have gained sufficient experience with the full range of products sold by this category of representative to justify an exemption from the usual requirement of qualification by examination.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NASD-82-27.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commisison and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C.

Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the NASD.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered national securities association, and, in particular, the requirements of Sections 15A(g)(3) and 15A(b)(5) of the Act and the rules and regulations thereunder.

The Commisison finds good cause for approving the proposed rule change immediately in order to provide SECO firms and their associated persons with the maximum time in which to transfer to NASD membership under the liberalized membership requirements. In addition, the Commission believes that the opportunity to convert voluntarily to the NASD under liberalized standards will minimize the potential problems which SECO broker-dealers will confront if the proposed legislation is passed.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change references above be, and it hereby is, approved.

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[1] Pursuant to Sections 15(b)(8) and 15(b)(9) of the Act, those broker-dealers who conduct an over-the-counter securities business and do not become members of the NASD are subject to regulation under the Commission's SECO program.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[3]

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3036 Filed 2-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19451; File No. SR-PHILADEP 83-1]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Depository Trust Company; Relating to PHILADEP Fee Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 11, 1983, Philadelphia Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Philadelphia Depository Trust Company (PHILADEP) proposes to amend its fee schedule as follows:

1. *Dividends:* the charge for each cash or stock dividend or interest payment will be increased from $.25 to $.50.

2. *Legal Deposits:* a legal processing fee of $8.50 will continue to be charged. In addition, the regular deposit charge of $.50 will be applicable.

3. *PHILADEP Institutional Delivery System (PIDS):* a new PIDS automated settlement fee of $.26 is being instituted. (A revised PIDS fee schedule which includes the DTC pass-through charges, is attached as Exhibit A.)

The changes in the fee schedule are proposed to take effect January 1, 1983, which will be billed in February. A SCCP/PHILADEP Member Bulletin announcing these fee changes is included as Exhibit B in File No. SR-PHILADEP-83-1.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements:

A. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

The dividend fee is being increased from $.25 to $.50 because of the financing costs and other collection costs associated with paying dividends on payable date while PHILADEP is not able to collect payment from 100% of the paying agents by payable date. PHILADEP's management has made the decision to continue to pay dividends on payable date, as participants have indicated that this is very important to them, while at the same time employing various methods to improve the percentage of dividend payments received on time from paying agents.

The change in the legal deposit fee represents a clarification and correction of an administrative error in failing to charge the separate deposit fee in addition to the legal processing fee. The legal processing fee will remain the same at $8.50 for each legal item plus the normal deposit fee of $.50.

PHILADEP is creating a new PIDS automated settlement fee for institutional trades. All interdepository receives and delivers and all intra-PHILADEP movements generated from the PIDS system will be charged a $.26 settlement charge. This $.26 fee is the only PHILADEP-originated charge for institutional trades: the remainder of the fees is a pass-through of DTC's charges, which are shown as Exhibit A.

The proposed fee changes are consistent with Section 17A(b)(3)(D) of the Securities Exchange Act of 1934 ("the Act") in providing for the equitable allocation of reasonable dues, fees, and other charges among its participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHILADEP does not perceive any burden on competition as a result of the proposed rule change. In the instance of the new automated settlement fee for institutional deliveries, the rule change will promote fair competition among depositories by offering institutional delivery system services at comparable fees for participants of Philadelphia Depository Trust Company.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change

Comments on the proposed rule change have been neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth St. NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 24, 1983.

George A. Fitzsimmons,

Secretary.

EXHIBIT A.—PHILADEP INSTITUTIONAL DELIVERY SYSTEM FEE SCHEDULE AMENDED JAN. 1, 1983

Service	
1. For each confirm/affirm (paper).	$.25 to broker (plus $.25 for each interested party). $.25 per confirm to bank, if requested. $.25 per affirm to investment manager (for each confirm received, whether or not affirmed). (1)

[3] 17 CFR 200.30-3(a)(12).

EXHIBIT A.—PHILADEP INSTITUTIONAL DELIVERY SYSTEM FEE SCHEDULE AMENDED JAN. 1, 1983—Continued

Service	
2. For each confirm/affirm transmitted in magnetic tape form.	$.40 per confirm.
3. For each confirm/affirm transmitted by facsimile device.	$.45 per confirm plus telephone costs.
4. Each Unaffirmed Report line item.	$.09 to broker.
5. Each Eligible Trade Report line item (affirmed trade in PHILADEP and DTC-eligible securities).	$.09 to broker and bank.
6. Delivery/Receive tickets (affirmed trade in PHILADEP and/or DTC-ineligible securities).	$.09 to broker and bank.
7. PIDS Automated settlement fee.	$.26 per receive and per delivery to broker and bank.

(1) This fee will be split equally between the clearing bank and the broker in those transactions where the client selected an investment manager to manage the assets and a clearing bank affiliated with the investment manager to act as custodian of such assets.

[FR Doc. 83-3035 Filed 2-3-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-19457; File No. SR-SCCP 83-1]

Self-Regulatory Organizations; Proposed Rule Change by Stock Clearing Corporation of Philadelphia; Relating to SCCP Fee Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C 78s(b)(1), notice is hereby given that on January 17, 1983, Stock Clearing Corporation of Philadelphia filed with the Securities and Exchange Commission the proposed rule change as described in items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Stock Clearing Corporation of Philadelphia (SCCP) is eliminating a System Participation Fee of $.05 per 100 shares traded (up to a maximum of 10,000 shares) which is changed to floor brokers on the Philadelphia Stock Exchange. The elimination of this fee will take place for January bills, which participants will receive in February.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements:

A. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to eliminate a long-standing fee which is no longer applicable to current SCCP services. The fee was an assessment against Philadelphia Stock Exchange (PHLX) floor personnel to support the data proceeding system which provided floor brokers with trade execution information, billing, and other services. SCCP no longer provides these data processing services to the PHLX floor: another Philadelphia Stock Exchange subsidiary, Financial Automation Corporation (FAC), has assumed this function. The fee is not considered duplicative of a fee the PHLX charges to the floor brokers.

The proposed rule change is consistent with the requirements of Section 17A(b)(3)(D) of the Securities Exchange Act of 1934 ("the Act") in providing for the equitable allocation of reasonable dues, fees, and other charges among SCCP's participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not perceive any burden on competition as a result of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change

Comments on the proposed rule change have been neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exhenge Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exhange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communciations relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DS.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 27, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3038 Filed 2-3-83; 8:45 am]
BILLING CODE 8010-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 25
Friday, February 4, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Civil Aeronautics Board	1, 2
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Federal Reserve System	7
National Credit Union Administration	8, 9

1

CIVIL AERONAUTICS BOARD

[M-372 amdt 3, 1/27/83]

Notice of deletion from the January 27, 1983 meeting.

TIME AND DATE: 10 a.m., January 27, 1983.

PLACE: Room 1027 (open), Room 1012 (Closed), 1825 Connecticut Avenue, NW. Washington, D.C. 20428.

SUBJECT:

23. Docket 40734, Final rule to require all U.S. and foreign air carriers to adhere to the Montreal Agreement increasing passenger liability limits under the Warsaw Convention to $75,000. (Memo 1309-A, 1309-B, OGC, BDA, BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[S-163-83 Filed 2-1-83; 4:48 pm]

BILLING CODE 6320-01-M

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CIVIL AERONAUTICS BOARD

[M-372 Amdt. 2, 1/26/83]

Notice of addition to the January 27, 1983 meeting.

TIME AND DATE: 10 a.m., January 27, 1983.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

30a. Dockets 41112 and 41096, Petition of United Air Lines, Inc., for reconsideration of Order 82-12-87. (Memo 1619-A, BIA, OGC)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[S-164-83 Filed 2-1-83; 4:48 pm]

BILLING CODE 6320-01-M

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, February 8, 1983, 9:30 AM (Eastern Time).

PLACE: Commission Conference Room No. 5240 on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 82-12-FOIA-54-NY, concerning a request for documents from a closed age discrimination charge file.
4. Freedom of Information Act Appeal No. 82-12-FOIA-065-CT, concerning a request for records in a closed ADEA and Title VII file.
5. Freedom of Information Act Appeal No. 82-12-FOIA-31-BA, concerning a request for records in an open investigative file.
6. Proposed Notice N-915, Interpretative Memorandum: Carlos Chardon v. Rafael Rivera Fernandez.

CLOSED:

1. Litigation Authorization; General Counsel Recommendations (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This Notice Issued February 1, 1983.

[S-162-83 Filed 2-1-83; 4:46 pm]

BILLING CODE 6570-06-M

4

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: After recess of open meeting, approximately 12:00 noon, February 8, 1983.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9310.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Docket No. CI75-201-002, Atlantic Richfield Company, *et al.*
(2) Docket Nos. IN80-8 and CI83-94-000, Caddo Pine Island Corporation
(3) Docket No. IN81-2
(4) Docket No. IN83-1, Forest Oil Corporation
(5) Docket No. IN83-1, Cities Service Corporation
(6) Docket Nos. G-17363 and AR64-2, *et al.*, Roy R. Gardner, *et al.*
(7) Settlement of Informal Investigations
(8) Docket No. ST82-267-001, Louisiana Resources Company
(9) Docket Nos. CP78-523, CP82-416-000, CP82-129-001, and CP78-532-008, Ozark Gas Transmission System

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

Kenneth F. Plumb,

Secretary.

[S-166-83 Filed 2-1-83; 11:35 am]

BILLING CODE 6717-01-M

5

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: 10 a.m., February 8, 1983.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda, 764th Meeting, February 8, 1983, Regular Meeting (10 a.m.)

CAP-1. Project No. 6611-000, Boulder River Power Co.
CAP-2. Project No. 6348-000, Rainsong Co.
CAP-3. Project No. 6277-001, William L. Alcorn
CAP-4. Project No. 5315-001, The Phoenix Hydro Corp.
CAP-5. Project No. 6156-001, Milton S. Zack and Morris M. Zack; Project No. 6885-001, Richard Moss

CAP–6. Project No. 5293–000, Hydro Resource Co.; Project No. 5324–000, Capital Development Co.; Project No. 5950–001, Public Utility District No. I of Lewis County, Washington; Project No. 6194–000, Western Hydro Electric
CAP–7. Project Nos. 176–012 and 004, Escondido Mutual Water Co.
CAP–8. Project No. 3319–002, Myron Jones, Nola Jones and John Hansen, Jr.
CAP–9. Project Nos. 5959–000, 5961–002, 5962–000 and 5963–000, New York State Office of Parks, Recreation and Historic Preservation
CAP–10. Project No. 3421–000, Eastern States Energy Resources, Inc. and the County of Bath, Kentucky; Project No. 3538–000, Saranac Energy Corp.; Project No. 3645–000, East Kentucky Power Cooperative, Inc.; Project No. 4245–002, City of Bedford, et al.
CAP–11. Project No. 5677–000, Swanson Mining Corp., and Walter M. Gleason
CAP–12. Project No. 3151–000, Chain Dam Hydroelectric Corp., Chain Dam Hydroelectric Associates, and Palmer Township, Pennsylvania; Project No. 3547–000, Commonwealth of Pennsylvania, Department of Environmental Resources, and city of Easton, Pennsylvania
CAP–13. Project No. 3417–000, Southeastern Renewable Resources, Inc. and the town of Grafton, West Virginia; Project No. 3476–000, Noah Corp.; Project No. 4067–000, City of Bedford, et al., Project No. 4239–000, City of Philippi, West Virginia, Project No. 4255–000, Taylor County Commission and the town of Flemington, West Virginia
CAP–14. Project No. 3415–000, County of Mingo, West Virginia; Project No. 3972–000, Energenics Systems, Inc., Project No. 4151–001, City of Bedford, et al.
CAP–15. Project Nos. 4461–000, 4463–000 and 4464–000, County of Armstrong, Pennsylvania and A. Richard Marcus and Associates
CAP–16. Project No. 2811–000, Public Utility District No. 1 of Klickitat County, Washington; Project No. 3533–000, Public Utility District No. 1 of Clallam County, Washington
CAP–17. Project No. 4167–001, Energenics Systems, Inc.; Project No. 6730–000, Northern Colorado Water Conservancy District
CAP–18. Project Nos. 5312–000 and 001, J. R. Ferguson & Associates, Inc.; Project Nos. 5337–000 and 001, Westfir Energy Co., Inc.
CAP–19. Project No. 5838–000, Pickett Hydro Associates, Project No. 6517–000, Blackstone, Virginia
CAP–20. Project No. 5963–001, New York State Office of Parks, Recreation and Historic Preservation
CAP–21. Project No. 5962–001, New York State Office of Parks, Recreation and Historic Preservation
CAP–22. Project No. 5959–001, New York State Office of Parks, Recreation and Historic Preservation
CAP–23. Project No. 5961–001, New York State Office of Parks, Recreation and Historic Preservation
CAP–24. Project Nos. 2157–001 and 010, Public Utility District No. 1 of Snohomish County and City of Everett, Washington
CAP–25. Docket Nos. ER77–277–005 and 006, EL82–24–001 and 002 (Phase II), Pennsylvania Power Co.
CAP–26. Docket No. ER83–63–001, Appalachian Power Co.
CAP–27. Docket Nos. ER83–196–001, ER81–450–000 and ER81–461–000, Missouri Edison Co.
CAP–28. Docket No. ER82–763–001, Safe Harbor Water Power Corp.
CAP–29. Docket No. ER82–729–001, Pacific Gas & Electric Co.
CAP–30. Docket No. ER81–612–002, Cleveland Electric Illuminating Co.
CAP–31. Docket Nos. ER83–200–000 and ER83–206–000, Allegheny Power System; Docket No. EL82–1–000, Town of Easton, Maryland
CAP–32. Docket Nos. ER82–774–000, ER83–209–000 and ER83–227–000, Tapco, Inc.; Docket Nos. ER82–829–000 and ER83–219–000, Nantahala Power and Light Co.
CAP–33. Docket No. ER83–194–000, Mississippi Power Co.
CAP–34. Docket Nos. ER83–192–000 and ER81–736–000, Central Illinois Public Service Co.
CAP–35. Docket No. ER83–197–000, Missouri Power & Light Co.
CAP–36. Docket No. ER80–5–004, Minnesota Power & Light Co.
CAP–37. Docket No. ER82–404–001, Upper Peninsula Power Co.
CAP–38. Docket Nos. EF79–4011–000 and EF82–4011–000, Southwestern Power Administration
CAP–39. Docket Nos. EF81–2021–002 and E–9563–004, United States Department of Energy—Bonneville Power Administration
CAP–40. Docket No. EF82–5051–000 United States Department of Energy—Western Area Power Administration (Rio Grande Project)
CAP–41. Docket Nos. EF81–5021–001 and 002, Western Area Power Administration
CAP–42. Docket No. ID–1414–000, Robert F. Gilkeson
CAP–43. Docket No. ER82–468–000, Kansas City Power & Light Co.
CAP–44. Docket No. ER82–256–000, Oklahoma Gas and Electric Co.
CAP–45. Docket Nos. ER80–592–000, et al., and ER80–678–004, Missouri Public Service Co.
CAP–46. Omitted
CAP–47. Docket No. EL82–22–000, Kansas Power and Light Co.

Consent Miscellaneous Agenda

CAM–1. Docket No. RM79–76–139 (New Mexico–18), High-Cost Gas Produced From Tight Formations
CAM–2. Docket No. RM79–76–074 (UTAH–3), High-Cost Gas Produced From Tight Formations
CAM–3. Docket No. R81–60–000, Western Refining Company

Consent Gas Agenda

CAG–1. Docket No. TA83–1–32–002 (PGA83–1), Colorado Interstate Gas Co.
CAG–2. Docket Nos. TA83–1–59–002 and RP82–71–000, Northern Natural Gas Co., Division of Internorth, Inc.
CAG–3. Docket Nos. TA83–1–33–007, TA82–2–33–001, et al., and RP82–33–000, El Paso Natural Gas Co.
CAG–4. Docket No. RP82–51–000, Mid-Louisiana Gas Co.
CAG–5. Docket Nos. Rp83–6–000 and RP82–33–000, El Paso Natural Gas Co.
CAG–6. Docket No. RP83–13–000, El Paso Natural Gas Co.
CAG–7. Docket No. TA82–2–33–015, El Paso Natural Gas Co.
CAG–8. Docket Nos. TA83–1–43–005 (PGA83–1) and RP82–114–003 (Not Consolidated), Cities Service Gas Co.
CAG–9. Docket Nos. RP79–8–008 and RP80–8–001, Kansas-Nebraska Natural Gas Co., Inc.
CAG–10. Docket No. TA83–1–28 (PGA83–1), Panhandle Eastern Pipe Line Co.; Docket No. TA83–1–30–000 (PGA83–1), Trunkline Gas Co.
CAG–11. Docket No. RP82–75–000, et al., Arkansas-Louisiana Gas Co.
CAG–12. Omitted.
CAG–13. Docket No. IS80–14–000, American Petrofina Pipe Line Co.
CAG–14. Docket No. IS82–54–001, Kuparuk Pipeline Co.
CAG–15. Docket No. OR82–3–000, Kerr-McGee Refining Corp., a Delaware Corporation and Oklahoma Refining Co., Oklahoma General Partnership, Complainants/Protestants v. Sun Pipe Line Co., Defendant/Respondent
CAG–16. Docket No. CI83–65–001, Odeco Oil & Gas Co. et al.; Docket No. CI80–802–002, Columbia Gas Development Corp. et al.; Docket No. CS82–99–001, Sooner Resources, Inc.; Docket No. CS83–4–001, Heritage Energy Corp.; Docket No. CS83–5–001, Doran Energy Corp.
CAG–17. Docket No. CI76–701–001, et al., Texaco Inc., et al.
CAG–18. Docket No RI74–188–012 and RI75–21–007, Independent Oil and Gas Association of West Virginia
CAG–19. Docket NO. CP83–102–000, United Gas Pipe Line Co.; Docket No. RP83–37–000, Natural Gas Pipeline Co. of America
CAG–20. Docket No. ST82–458–000, Consumers Power Co.
CAG–21. Docket No. ST81–113–001, Tejas Gas Corp.
CAG–22. Docket Nos. ST82–424–000 and ST82–476–000, Sun Gas Transmission Co., Inc.
CAG–23. Docket No. CP82–384–001, Arkansas Louisiana Gas Co., a Division of Arkla, Inc.
CAG–24. Docket No. CP82–499–000, Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Columbia Gulf Transmission Co. and United Gas Pipe Line Co.
CAG–25. Docket Nos. CP83–59–000 and 001, Lone Star Gas Co., a Division of Enserch Corp.
CAG–26. Docket No. CP81–168–012, Valero Interstate Transmission Co.

I. Licensed Project Matters

P–1. Project No. 2545, the Washington Water Power Co.
P–2. Project No. 289, Louisville Gas and Electric Co.
P–3. Project No. 3025–001, Hydro Resources Corp.; Project No. 3039–001, New Hampshire Water Resources Board
P–4. Project No. 4881–000, Arthur L. Bloom and Ada County, Idaho; Project No. 3598–000, Cook Electric Co.

P–5. Project No. 3365–000, Continental Hydro Corp.; Project No. 3579–000, Town of Converse, Indiana; Project No. 4197–000, Indiana Municipal Power Agency
P–6. Project No. 4634–000, the City of Billings, Montana; Project No. 4816–000, Montana Department of Natural Resources & Conservation
P–7. Project No. 2100–019, State of California Department of Water Resources
P–8. Project No. 2837–001, Niagara Mohawk Power Corp. and Granby Hydro Corp.

II. Electric Rate Matters

ER–2. Docket No. ER82–616–001, Middle South Energy, Inc.
ER–3. Docket No. ER80–573–000, Southwestern Public Service Co.
ER–4. Docket No. ER78–417–000, Kentucky Utilities Co.

Miscellaneous Agenda

M–1. Docket No. RM80–39–000, Regulations Governing Applications for License for Major Unconstructed Projects and Major Modified Projects; Applications for License for Transmission Line Only; and Applications for Amendment to License
M–2. Docket No. RM81–15–000, Revisions to Certain Regulations Governing Applications for Preliminary Permit and License for Water Power Projects
M–3. Reserved
M–4. Reserved
M–5. Omitted
M–6. Docket No. GP82–47–000, Review of Off-System Sales Program

Gas Agenda

I. Pipeline Rate Matters

RP–1. Docket No. RP80–72–000 and 008, Algonquin Gas Transmission Co.
RP–2. Docket No. RP79–10–002 and RP80–134–007, Great Lakes Gas Transmission Co.
RP–3. (A) Docket No. RP75–19–000 (Remand), Texas Gas Transmission Corp.; (B) Docket No. RP74–41–000 (Remand), Texas Eastern Transmission Corp.; (C) Docket No. RP74–4–000 (Remand), Cities Service Gas Co.
RP–4. Docket Nos. RP77–62–019, RP80–97–017, RP80–97–017, RP81–54–006, RP81–56–005 and RP82–12–006, Tennessee Gas Pipeline Co.; Docket Nos. RP81–61–000 and RP82–80–000, Michigan Wisconsin Pipe Line Co.; Docket No. RP82–55–000, Transcontinental Gas Pipe Line Corp.; Docket No. RP81–78–000, Cities Service Gas Co.
RP–5. Docket No. CP78–124–000, Northern Border Pipeline Co.
RP–6. Docket Nos. RP79–23–003 and RP79–24–002, Distrigas of Massachusetts Corp. & Distrigas Corp.

II. Producer Matters

CI–1. Reserved

III. Pipeline Certificate Matters

CP–1. Docket Nos. CP83–14–002 and 003, Northern Natural Gas Co., Division of Internorth, Inc.
CP–2. Docket No. CP82–485–001, Columbia Gas Transmission Corp..
CP–3. Docket No. CP82–542–005, Michigan Wisconsin Pipe Line Co.
CP–4. Docket Nos. CP82–107–000 and 001, Tennessee Gas Pipeline Co.
CP–5. Docket Nos. CP79–424–000 and 001, Rocky Mountain Pipeline Co.
CP–6. Docket No. CP82–366–000, Kansas-Nebraska Natural Gas Company, Inc.
CP–7. Omitted.
CP–8. Docket No. CP80–435–000, Alaskan Northwest Natural Gas Transportation Co.; Docket No. CP78–123–000, et al., Northwest Alaskan Pipeline Co.

Kenneth F. Plumb,

Secretary.

[S–170–83 Filed 2–2–83; 3:33 pm]
BILLING CODE 6717–01–M

6

FEDERAL HOME LOAN BANK BOARD

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 48, Page No. 4596, Date Published—Tuesday, February 1, 1983.

PLACE: Board Room, 6th Floor, 1700 G St. NW., Washington D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The Meeting scheduled for 10:30 a.m. February 2, 1983 has been cancelled.

No. 7, February 2, 1983.

[S–165–83 Filed 2–2–83; 10:31 am]
BILLING CODE 6720–01–M

7

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Thursday, February 10, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Issues relating to cost of Federal Reserve notes.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 2, 1983.

William W. Wiles,

Secretary of the Board.

[S–167–83 Filed 2–2–83; 3:14 pm]
BILLING CODE 6210–01–M

8

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Previously Held Emergency Meeting

TIME AND DATE: 1 p.m., Monday, January 17, 1983.

PLACE: 1776 G Street, N.W., Washington, D.C., 6th Floor.

STATUS: Closed.

MATTER CONSIDERED: 1. Personnel Action.

BACKGROUND:

The Board voted that the agency business required that a meeting be held with less than seven days advance notice.

The Board unanimously voted to close the meeting under exemptions (2) and (6). The General Counsel certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–169–83 Filed 2–2–83; 3:33 pm]
BILLING CODE 7535–01–M

9

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 2 p.m., Wednesday, February 9, 1983.

PLACE: Cash Room, Department of the Treasury, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Review of Central Liquidity Facility Lending Rate.
3. Revision of Pass-through Correspondent Qualification Guidelines for Corporate Credit Unions.
4. Revision of Truth In Lending Enforcement Guidelines and Restitution Review Procedures.
5. Chartering Policy regarding College Student Credit Unions.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, Telephone (202) 357–1100.

[S–168–83 Filed 2–2–83; 3:33 pm]
BILLING CODE 7535–01–M

federal register

Friday
February 4, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California:	
CA82-5112	July 16, 1982
CA82-5120	Aug. 27, 1982
CA82-5118	Aug. 20, 1982
Iowa	
IA82-4030	June 18, 1982
IA82-4049	Oct. 8, 1982
New York:	
NY81-3062	Sept. 11, 1981
NY82-3025	Sept. 3, 1982
Oregon: OR82-5100	Mar. 12, 1982
Washington: WA82-5117	Aug. 13, 1982
Louisiana:	
LA82-4053	Nov. 5, 1982
LA83-4001	Jan. 7, 1983
Massachusetts: MA81-3054	Sept. 4, 1981
Michigan: MI82-2042	July 9, 1982
Ohio: OH82-2036	May 7, 1982
Montana: MT81-5138	Aug. 7, 1981
[redacted]	
NV82-5113	Aug. 6, 1982
NV82-5114	Aug. 6, 1982
NV82-5116	Aug. 6, 1982
New Jersey:	
NJ81-3063	Dec. 28, 1981
NJ82-3006	Feb 26, 1982
NJ81-3053	Oct. 9, 1981
Oklahoma:	
OK83-4011	Jan. 14, 1983
OK83-4012	Jan. 14, 1983
Wisconsin: WI82-2004	Feb. 26, 1982

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL80-1120 (AL83-1005)	Nov. 14, 1980
Kansas:	
KS79-4067 (KS83-4018)	June 25, 1979.
KS82-4013 (KS83-4009)	Apr. 16, 1982
KS82-4014 (KS83-4014)	Apr. 16, 1982
KS82-4015 (KS83-4015)	Apr. 16, 1982
KS82-4016 (KS83-4013)	Apr. 16, 1982.
KS82-4017 (KS83-4013)	Apr. 16, 1982.
Louisiana: LA82-4022 (LA83-4019)	May 7, 1982.

Cancellation of General Wage Determination Decisions

The general wage decision listed below is cancelled. Agencies with construction projects pending to which the cancelled decision would have been applicable should utilize the project determination procedure by submitting Form SF–308. See Regulations Part 1 (29 CFR), § 1.5. Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR, 1.7(b)(2), the incorporation of the cancelled decision in contract specifications, the opening of bids is within ten (10) days of this notice, need not be affected.

NJ79–3054—Camden County, New Jersey dated November 9, 1979 in 44 FR 65291—Residential Construction

This is to advise all interested parties that the Department of Labor intends to withdraw 14 days from the date of this notice, Pima County, Arizona, from the building construction schedule of General Wage Determination Number AZ82–5109 dated April 23, 1982, in 47 FR 17723.

Signed at Washington, D.C., this 28th day of January 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510–27–M

Modification Page 1

DECISION NO. CA82-5112 - Mod. 49
(47 FR 31154 - July 16, 1982)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

Change:	Basic Hourly Rates	Fringe Benefits
Electricians - Area 1:		
Electricians	$17.08	$1.11+ 25%
Cable Splicers	18.45	1.10+ 25%
Area 12:		
Electricians	22.00	4.49+ 3%
Cable Splicers	22.88	4.49+ 3%
Line Construction:		
Area 2: (Zone 1):		
Group 1:	19.30	2.55+ 3%%
Group 2	17.44	2.55+ 3%%
Group 3	15.74	2.55+ 3%%
Group 4	15.02	1.95+ 3%%
Group 5	13.13	1.85+ 3%%
Group 6	13.13	1.85+ 3%%
Group 7	12.34	1.85+ 3%%
Zone Differential (Add to Zone 1 Rate):		
Zone 1	$2.00	
Zone 3	3.75	
Zone 4	4.50	
Zone 5	6.75	
Area 12:		
Groundmen	13.66	1.10+ 25%
Heavy Equipment Operator	15.37	1.10+ 25%
Linemen	17.08	1.10+ 25%
Cable Splicers	18.45	1.10+ 25%
Painters:		
Area 6:		
Brush	$21.23	$4.18
Spray; Sandblasting Steam Cleaning	21.73	4.18
Drywall Finishers	21.63	4.18
Brush (exterior Stage) 5, 6, and 7 story buildings; Erected steel over 50 feet	22.48	4.18
Paperhangers	21.98	4.18
Roofers:		
Area 8:		
Roofers	16.40	5.89
Mastic Workers:		
Kettlemen (2 kettles w/o pumps)	16.65	5.89
Bituminastic; Foamglas: Pipewrapers; Coal Tar	18.40	5.89
Area 10:		
Kettleman (1 kettle)	15.38	5.72
Kettleman (2 kettles)	16.28	5.72
Bituminastic, Foamglas, Coal Tar, Pitch, and Mastic	17.28	5.72

Modification Page 2

DECISION NO. CA82-5112 (Cont'd)

Line Construction: AREA 2 - ONLY
Group Descriptions:

Group 1: Cable Splicer, Leadman Pole Sprayer

Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder

Group 3: Tree Trimmer

Group 4: Line Equipment Man

Group 5: Head Groundman, Powderman, Jackhammer Man

Group 6: Head Groundman (Chipper)

Group 7: Groundman

Groups 3 and 6 receive BASE RATE (ZONE 1) RATE ONLY (no Zone Differential)

Zone Definitions:
ZONE 1: 0 to 3 miles radius from the geographical center of Alturos and Yreka, California
ZONE 2: 3 to 20 miles radius
ZONE 3: 20 to 35 miles radius
ZONE 4: 35 to 50 miles radius
ZONE 5: Over 50 miles radius

BASE RATE (ZONE 1) is paid when working out employer's permanent shop

Modification Page 3

DECISION NO. CA82-5120 - Mod. 16
(47 FR 38023 - August 27, 1982)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

Change:	Basic Hourly Rates	Fringe Benefits
Electricians - Area 1:		
Electricians	$17.08	$1.11+ 25%
Cable Splicers	18.45	1.10+ 25%
Area 12:		
Electricians	22.00	4.49+ 3%
Cable Splicers	22.88	4.49+ 3%
Line Construction:		
Area 2: (Zone 1):		
Group 1:	19.30	2.55+ 3%%
Group 2	17.44	2.55+ 3%%
Group 3	15.74	2.55+ 3%%
Group 4	15.02	1.95+ 3%%
Group 5	13.13	1.85+ 3%%
Group 6	13.13	1.85+ 3%%
Group 7	12.34	1.85+ 3%%
Zone Differential (Add to Zone 1 Rate):		
Zone 1	$2.00	
Zone 3	3.75	
Zone 4	4.50	
Zone 5	6.75	
Area 12:		
Groundmen	13.66	1.10+ 25%
Heavy Equipment Operator	15.37	1.10+ 25%
Linemen	17.08	1.10+ 25%
Cable Splicers	18.45	1.10+ 25%
Painters:		
Area 6:		
Brush	$21.23	$4.18
Spray; Sandblasting Steam Cleaning	21.73	4.18
Drywall Finishers	21.63	4.18
Brush (exterior Stage) 5, 6, and 7 story buildings; Erected steel over 50 feet	22.48	4.18
Paperhangers	21.98	4.18
Roofers:		
Area 8:		
Roofers	16.40	5.89
Mastic Workers:		
Kettlemen (2 kettles w/o pumps)	16.65	5.89
Bituminastic; Foamglas: Pipewrapers; Coal Tar	18.40	5.89
Area 10:		
Kettleman (1 kettle)	15.38	5.72
Kettleman (2 kettles)	16.28	5.72
Bituminastic, Foamglas, Coal Tar, Pitch, and Mastic	17.28	5.72

Modification Page 4

DECISION NO. IA82-4030
Mod. 12

	Basic Hourly	Fringe Benefits
Boilermakers:		
Area 1:		
Boilermakers	$16.00	$4.50
Area 2:		
Boilermakers	16.00	4.50
Area 3:		
Boilermakers	16.00	4.50
Area 4:		
Boilermakers	16.00	4.50
Area

DECISION NO. CA82-5120 - Mod. #6
(47 FR 38022 - August 27, 1982)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 6:		
Electricians	$17.08	$1.14+ 25%
Cable Splicers	18.45	1.10+ 25%
Area 10:		
Electricians	22.0■	4.49+ 3%
Cable Splicers	■2.0■	4.49+ 3%
Painters:		
Area 5:		
Brush	■1.23	4.18
Spray; Sandblasting; Steam Cleaning	21.73	4.18
Drywall Finisher	21.53	4.18
Paperhanger	21.98	4.18
Roofers:		
Area 7:		
Roofers	16.4■	5.8■
Mastic Workers:		
Kettleman (2 kettles w/o bumps)	16.65	5.■9■
Bitumastic; Enamelers; Pipewrappers; Coal Tar	1■.■0	5.89
Area 9:		
Kettleman (1 kettle)	15.28	5.72
Kettleman (2 kettles)	16.28	5.72
Bitumastic, Enameler, Coal Tar, Pitch, and Mastic	17.28	5.72

DECISION NO. CA82-5118 - Mod. #5
(47 FR 36513-August 20, 1942)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 1:		
Electricians	$2■.15	$3.78+ 3%
Cable Splicers	2■.60	3.78+ 3%
Area 3:		
Electricians	22.97	4.62+ 3%
Cable Splicers	23.57	4.62+ 3%
Area 7:		
Electricians	21.23	3.36+ 3%
Cable Splicers	23.35	3.36+ 3%
Residential Electricians	10.40	3.36+ 3%
Lathers:		
Area 1	15.59	4.30
Area 4	18.06	5.58
Line Construction:		
Area 1:		
Linemen	■0.6■	3.86+ 3%
Cable Splicers	20.■6	3.86+ 3%
Area 7:		
Groundman	15.■2	3.33+ 3%
Lineman; Equipment Operators	2■.■3	3.33+ 3%
Cable Splicers	23.35	3.33+ 3%
Tile Finishers:		
Area 1	■3.73	3.71

DECISION NO. IA82-4030 Mod. 12 (47 FR 26537-6/18/82)	Basic Hourly Rates	Fringe Benefits
Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Counties Iowa		
Omit all wage rates and classifications for line construction and Power Equipment Operators Zones 1, 2, 5, 6, 7 & 8		
Add		
Line Construction		
Group 1-Lineman;all rigs setting assembled "H" fixtures, steel transmission structures & transmission concrete structures	$15.65	.65+ 7-1/2% +c
Group 2-Blaster	12.52	"
Group 3-Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures	12.99	"

DECISION NO. IA82-4030 Mod. 12 (CONT'D)	Basic Hourly Rates	Fringe Benefits
Group 4-Groundman	$10.17	.65+ 7-1/2% +■
Group 5-Groundman-truck driver	10.■3	"
Group 6-Pole treating truck driver	1■.02	"
Group 7-Pole treating specialist	12.05	"
Power Equipment Ops.: Zones 1,2,5,6,7 & 8		
Group 1	13.47	2.20
Group 2	13.215	2.20
Group 3	11.52	2.20
Group 4	10.695	2.20

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS - ZONES 1,2,5,6,7 & 8

GROUP 1 - Cranes, incl. those being used as backhoe,dragline,clamshell,etc.; tower cranes; electric overhead cranes;truck cranes & cherry pickers 12-1/2 ton & over rated capacity;derricks;piledrivers & extractors;caisson rigs; sideboom & winch truck used for erection of structural steel & moving & setting of heavy machinery;3 drum hoist;welders;mechanics;locomotive;dredge (levermen);mechanic

GROUP 2 - 1 & 2 drum hoists;air & electric tuggers(on power plants or setting steel or grating);economobiles;plant mixers;farm type tractors(with loaders,backhoes,attachments,etc.);scrapers(tournapull,etc.);endloaders; dredge(engineer);sideboom & winch truck other than Group No.1;motor patrol; bulldozers;push cat;truck cranes & cherry pickers(under 12-1/2 ton);concrete mixers(1 yd. & over);ditching machines (8" & over);fork lifts(on steel erection & machinery moving or hoisting above one complete story);concrete pump;temporary hoist cage operated;second man on locomotive;vibrating concrete spreader(Gomaco, C-450 or equal);working boat(tug,tow,etc.); Group greaser

GROUP 3 - Tractors(under 35 HP)with or without attachments;endloaders(under 35 HP) with or without attachments;fork lifts (other than above Group No.2); gunnite machine;self-propelled rollers; stump chippers;self-propelled tampers; air & electric tuggers(other than above);ditching machine under 8";Pile threader;Firemen(boiler)

GROUP 4 - Mechanical heaters;truck crane drivers;permanent elevators;air compressors (one or a combination of 400 cfm or more);pumps 3" or over; welding machines 600 amps or combination thereof;conveyors;generator(75 KW & over);dewatering pumps;boat used for personnel transport or as a safety boat

Modification page 5

DECISION NO. IA82-4049-Mod. #5 (47 FR 44667-10/8/82) Scott Co., Iowa	Basic Hourly Rates	Fringe Benefits
Add:		
Sound Installers-installation, operation inspection, maintenance, repair & service of radio, television recording, voice, sound & vision production & reproduction apparatus, equipment & appliances:	$11.75	3%+b

Footnote
b - each employee with 12 mos. continued employment shall receive a vacation of 1 week with full pay & each employee with 24 mos. shall receive an annual vacation of 2 weeks with full pay & after 5 years of employment 3 weeks vacation with full pay.

DECISION NO. NY81-3012 - MOD. #3 (46 FR 45530 - Sept. 11, 1981) WESTCHESTER CO., NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS:		
Building	15.35	4.735

DECISION NO. NY82-3025 - MOD. #4 (47 FR 39079 - Sept. 3, 1982) ORANGE COUNTY, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS, SOFT FLOOR LAYERS, BRIDGE, DOCK AND WHARF:		
Twps. of Tuxedo, Woodbury, Part of Cornwall, Monroe, Chester, Blooming Grove and Highlands	13.40	4.60+a

DECISION NO. OR82-5100 - Mod #12 (47 FR 10954 - March 12, 1982) Statewide Oregon	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	$21.52	3.54
ELECTRICIANS:		
Area 5:		
Electricians	20.80	3%+3.63
Cable Splicers	21.60	3%+3.63
PLUMBERS:		
Area 3	15.50	6.22

DECISION NO. WA82-5117 - Mod #1 (47 FR 35443 - Aug. 13, 1982) Statewide Washington	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS:		
Area 2	$21.52	3.54
ELECTRICIANS:		
Area 5		
Electricians	20.80	3%+3.3
Cable Splicers	21.60	3%+3.3
PAINTERS:		
Area 3:		
General Painters	16.74	2.32
Drywall Tapers	17.44	2.32
Industrial Painter	17.14	2.32

Modification Page 6

DECISION NO. LA82-4053-Mod. #7 (47 FR 50421 - 11/5/82) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
Change:		
Line Construction:		
Zone 7:		
Linemen, operators	$14.80	2.40+ 3-3/4%
Cable splicers	15.30	"
Groundmen	12.20	"
Omit all wage rates & classifications for Power Equipment ops. zone 5 & truck drivers zone 1		
Add:		
Power equipment ops.:		
zone 5-Group 1	15.42	2.20
Group 2	10.86	"
Group 3	15.67	"
Group 4	15.92	"
Group 5	16.17	"
Group 6	16.42	"
Group 7	16.92	"

DECISION NO. LA82-4053-Mod. #7 (Cont'd)	Basic Hourly Rates	Fringe Benefits
Truck drivers:		
Zone 1:		
Pickup drivers	$12.19	.70
Stake bodies, dumps, trailer trucks, winch truck & Mississippi wagon	13.01	.70

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS - ZONE 5
GROUP 1 - Asphalt plant operator; Asphalt spreader; Backhoes (all types); Boom trucks; Bulldozers; Bull Floats; Bush Hog; Cableways; Cherry Pickers (all types); Concrete Mixers (over one sack); Concrete Pump; Concrete Saw; Concrete Spreader; Cranes; Deck Winches; Derricks; Distributors; Ditching or Trenching Machines (riding type); Dowel Bar Machine; Draglines; Dredges; Elevator Operator; Finishing Machines (roadway, riding type); Fork Lifts (other than farm-type outside warehouse); Foundation Drill; Front End Loaders; Grease Service Man; Hoists; Locomotives (all types); Mechanic; Mixer Plant Op. (central Mix); Motor Patrols; Motorized Street Sweepers (self-propelled); Piledrivers; Pull Cat; Pump (3" & over); Push Cat; Road Pavers; Rollers; Scrapers; Shovels; Sideboom; Test Pump-Internal Combustion Engine Powered; Tower Cranes; Welder Journeyman; Well Point System; Whirleys; Winch Cats; Winch Truck with A-Frame; Work Boats
GROUP 2 - Batch Plant; Compressor; Ditching or Trenching Machine (non-riding type); Fireman; Generator or Light Plant over 5 h.p.; Mixers (one sack & under); Oiler, Oiler-Compressor op.; Oiler-Driver on Motor Crane; Oiler-Fireman; Pump (under 3" suction); Scale op.; Water Blast Pump; Welding Machine
GROUP 3 - Crane 60 tons & over; Crane Boom 100' & over but less than 150'
GROUP 4 - Crane 100 tons & up to 125 tons; Crane Boom 150' & over but less than 225'
GROUP 5 - Crane over 125 tons up to 200 tons
GROUP 6 - Crane over 200 tons up to 300 tons; Crane Boom [illegible]' & over but less than 300'
GROUP 7 - Crane over 300 tons; Crane Boom 300' & over

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DECISION NO. LA83-4001-Mod. #1 (48 FR 928 - 1/7/83) Jefferson, Orleans, Bossier, Caddo, Calcasieu, Beauregard, Cameron, Jefferson Davis, Allen, Plaquemines, St. Bernard, St. Charles Pars, Louisiana	Basic Hourly Rates	Fringe Benefits
Change		
Line Construction		
Zone 2		
Group 1	$14.[illegible]	2.40+ 3-3/4%
Group 2	15.30	"
Group 3	12.20	"

DECISION NO. MA81-3054 - Mod. #8 (46 FR 44631 - Sept. 4, 1981) BARNSTABLE, BRISTOL, DUKES, ESSEX, MIDDLESEX, NANTUCKET, NORFOLK, PLYMOUTH & SUFFOLK COS. MASS.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BARNSTABLE CO.; PLYMOUTH (Mattapoisett, Rochester, Wareham); BRISTOL (Acushnet, Dartmouth, Fairhaven, New Bedford, N.&S. Dartmouth); DUKES: NANTUCKET	14.45	3.60+3[illegible] +e
BRISTOL (Fall River, Freetown, Seekonk, Somerset, Swansea, Westport)	14.90	1.00+ 16½
SUFFOLK CO.: MIDDLESEX (Remainder of county; NORFOLK (all except Avon, Holbrook, Randolph, Stoughton and Plainville); ESSEX (Lynn, Lynnfield, Nahant, Saugus, Swampscott); PLYMOUTH (Hingham, Hull)	18.35	3.78+3%

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DECISION #WI[illegible]043 - Mod. #1 (47 FR 29[illegible] - July 9, 1982) Statewide, Michigan	Basic Hourly Rates	Fringe Benefits
CHANGE		
Ironworkers - Structural & Reinforcing:		
Zone 1	$13.45	$ 4.9[illegible]
Zone 2	15.12	2.91
Zone 5		
Structural	15.26	47[illegible] + 9[illegible]
Laborers - Open Cut Construction:		
Zone 1		
Class 1	11.56	4.44
Class 2	11.64	4.44
Class 3	11.69	4.44
Class 4	11.74	4.44
Class 5	11.79	4.44
Zone 2		
Class 1	11.86	2.29
Class 2	11.94	2.29
Class 3	11.99	2.29
Class 4	12.04	2.29
Class 5	12.09	2.29
Zone 3		
Class 1	11.89	2.29
Class 2	11.99	2.29
Class 3	12.09	2.29
Class 4	12.14	2.29
Class 5	12.24	2.29
Zone 4		
Class 1	11.50	2.29
Class 2	11.60	2.29
Class 3	11.70	2.29
Class 4	11.75	2.29
Class 5	11.85	2.29
Zone 5		
Class 1	11.89	2.29
Class 2	11.99	2.29
Class 3	12.09	2.29
Class 4	12.14	2.29
Class 5	12.24	2.29
Zone 6		
Class 1	11.44	2.74
Class 2	11.54	2.74
Class 3	11.64	2.74
Class 4	11.69	2.74
Class 5	11.79	2.74

Laborers - Open Cut Construction (Cont'd.):	Basic Hourly Rates	Fringe Benefits
Zone 7		
Class 1	[illegible]11.81	$ 2.29
Class 2	11.91	2.29
Class 3	12.01	2.29
Class 4	12.06	2.29
Class 5	12.16	2.29
Zone 8		
Class 1	10.61	2.29
Class 2	10.71	2.29
Class 3	10.81	2.29
Class 4	10.86	2.29
Class 5	10.96	2.29
Zone 9		
Class 1	9.80	2.29
Class 2	9.90	2.29
Class 3	10.00	2.29
Class 4	10.05	2.29
Class 5	10.15	2.29
Zone 10		
Class 1	9.45	2.29
Class 2	9.55	2.29
Class 3	9.65	2.29
Class 4	9.70	2.29
Class 5	9.80	2.29
Zone 11		
Class 1	10.74	2.29
Class 2	10.84	2.29
Class 3	10.94	2.29
Class 4	10.99	2.29
Class 5	11.04	2.29
Laborers - Tunnel, Shaft, & Caisson Construction:		
Zone 1		
Class 1	11.68	4.44
Class 2	11.76	4.44
Class 3	11.81	4.44
Class 4	11.96	4.44
Class 5	12.16	4.44
Class 6	12.41	[illegible].44
Zone 2		
Class 1	12.36	2.73
Class 2	12.44	2.73
Class 3	12.49	2.73
Class 4	12.64	2.73
Class 5	12.84	2.73
Class 6	13.[illegible]	2.7[illegible]

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DECISION #MT82 2042 - Mod. #1 (Cont'd.) Page 2	Basic Hourly Rates	Fringe Benefits
Laborers - Tunnel, Shaft, & Caisson Construction (Cont'd.)		
Zone 3		
Class 1	$12.81	2.29
Class 2	12.89	2.29
Class 3	12.94	2.29
Class 4	13.09	2.29
Class 5	13.29	2.29
Class 6	13.54	2.29
Landscape Laborers - Highway Construction (Planting trees & shrubs only)		
Line Construction:		
Zone 2		
Lineman - technician	15.00	.65+8½% +a
Cable splicer	15.61	"
Combination digger operator-tractor operator	11.68	"
Eight equipment operator - groundman, distribution line truck driver - operator groundman	10.25	"
Combination winch truck driver - groundman	9.77	"
Combination truck driver - groundman	8.27	"
Power Equipment Operators - Underground Construction:		
Zone 1		
Class 1	14.80	3.65+13%
Class II	14.42	3.65+13%
Class III	13.77	3.65+13%
Class IV	13.27	3.65+13%
Zone 2		
Class I	13.28	3.65+13%
Class II	12.76	3.65+13%
Class III	12.32	3.65+13%
Class IV	12.07	3.65+13%
Truck Drivers - Underground Construction:		
Zone 1		
Class 1	13.37	d
Class 2	13.50	d
Class 3	13.70	d

Truck Drivers - Underground Construction (Cont'd.):	Basic Hourly Rates	Fringe Benefits
Zone 2		
Class 1	$13.27	d
Class 2	13.40	d
Class 3	13.60	d
Zone 3 & 5	11.73	d
Zone 6		
Footnote 'f': $89.50 per week per employee		
Zone 9		
Class 1	13.54	.50 + c
Class 2	13.64	.50 + c
Class 3	13.79	.50 + c
Painters:		
Kent, Montcalm, Mecosta Cos., Ionia Co. (Western ½ of Co.)		
Brush	12.00	1.07
Bridges over highways & railroads	12.25	1.07
Bridge work over rivers & lakes	12.50	1.07
Spray, pressure roller, steam cleaning, sand or water blasting	12.75	1.07

DECISION NO. OH82-2036 - MOD. #4
(47 FR 19903 - May 7, 1982)

	Basic Hourly Rates	Fringe Benefits
Adams, Allen ... Wood & Wyandot Counties, Ohio		
Change:		
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons:		
Delaware, Franklin, Madison, Pickaway, & Union Cos.	$15.79	$2.44

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DECISION NO. MT81-5138 - MOD. #5 (46 FR 40439 - August 7, 1981) STATEWIDE, MONTANA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS		
Group 1	10.60	2.20
Group 2	19.71	2.20
Group 3	10.85	2.20
Group 4	11.55	2.20
POWER EQUIPMENT OPERATORS:		
A-Frame Truck Crane, Winch Truck and similar	12.85	2.44
Air Compressor, single	12.54	2.44
Air compressor, two or more	12.71	2.44
Air Doctor	13.01	2.44
Asphalt Paving Machine Operator	13.21	2.44
Asphalt Paving Machine Screed Operator	13.21	2.44
Automatic Finegrader, Gurries and other simila similar types	13.34	2.44
Belt Finish Machine Operator	12.71	2.44
Bite Grinder	13.01	2.44
Bituminous Mixer Paving, Travel Plant	13.01	2.44
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	12.60	2.44
Boring Machine (large)	13.21	2.44
Broom, self-propelled	12.68	2.44
Cableway Highline Operator	13.72	2.44
Cement Silo Operator	12.80	2.44
Central Mixing Plants, Concrete dam and stationary	13.46	2.44
Chain Bucket Loader	12.73	2.44
Chip or Gravel Spreader, self-propelled	12.83	2.44
Concrete Batch Plant, one and two Mixers	13.21	2.44
Concrete Batch Plant, three and four Mixers	13.41	2.44
Concrete Batch Plant, five Mixers and over	13.61	2.44
Concrete Batch Plant, Oiler, up to and including two Mixers	12.53	2.44
Concrete Batch Plant Oiler, three Mixers and over	12.84	2.44
Concrete Bucket Dispatcher	13.01	2.44
Concrete Curing Machine	13.01	2.44
Concrete Finish Machine Paving	13.21	2.44
Concrete Float-Spreader	13.11	2.44
Concrete Mixer, three bags and under	12.60	2.44
Concrete Mixer, four bags and over	12.77	2.44
Concrete Power Saw, self-propelled	13.01	2.44
Concrete Travel Batcher	13.01	2.44
Concrete Conveyor under 40 feet	12.59	2.44
Concrete Conveyor over 40 feet	13.34	2.44
Concrete Pump	13.54	2.44
Conveyor Loader Operator, up to and including 42' belt	12.59	2.44
Conveyor Loader Operator over 42" belt	12.71	2.44
Crane, to and including 80' boom	13.37	2.44
Crane, 81' to 130' boom	13.52	2.44
Crane, 131' to 150' boom	13.57	2.44
Crane, 151' boom and over	13.62	2.44
Crane Oiler	12.58	2.44
Crane with jibs and additional $.15 per hour		
Crusher Operator	13.21	2.44
Crusher Oiler	12.50	2.44
Crusher Conveyor, when required	12.47	2.44
Distributor Operator	13.11	2.44
DW 10, 15, or 20 tractor or pulling Roller	12.68	2.44
Electric Overhead Cranes	13.29	2.44
Elevating Grader	13.01	2.44
Farm type tractor up to and including 50 HP engine	12.47	2.44
Farm Type tractor, over 50 HP engine	12.55	2.44
Field Equipment Servicemen	13.13	2.44
Fireman	12.60	2.44
Forklift, on construction job site	12.82	2.44

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DECISION NO. MT81-3138 - (Cont'd)	Basic Hourly Rates	Fringe Benefits
Power Equipment Operators - Underground Construction:		
Zone 1		
Class 1	14.80	3.65+13%
Class II	14.42	3.65+13%
Class III	13.77	3.65+13%
Class IV	13.27	3.65+13%
Zone 2		
Class I	13.28	3.65+13%
Class II	12.76	3.65+13%
Class III	12.32	3.65+13%
Class IV	12.07	3.65+13%
Truck Drivers - Underground Construction:		
Zone 1		
Class 1	13.37	d
Class 2	13.50	d
Class 3	13.70	d

Truck Drivers - Underground Construction (Cont'd.):	Basic Hourly Rates	Fringe Benefits
Zone 2		
Class 1	$13.27	d
Class 2	13.40	d
Class 3	13.60	d
Zone 3 & 5	11.73	d
Zone 6		
Footnote 'f': $89.50 per week per employee		
Zone 9		
Class 1	13.54	.50 + c
Class 2	13.64	.50 + c
Class 3	13.79	.50 + c
Painters:		
Kent, Montcalm, Mecosta Cos., Ionia Co. (Western ½ of Co.)		
Brush	12.00	1.07
Bridges over highways & railroads	12.25	1.07
Bridge work over rivers & lakes	12.50	1.07
Spray, pressure roller, steam cleaning, sand or water blasting	12.75	1.07

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DECISION NO. CA82-5138 - MOD. #5 (47 FR 19903 - May 7, 1982) STATEWIDE, MONTANA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS		
Group 1	10.60	2.20
Group 2	19.71	2.20
Group 3	10.85	2.20
Group 4	11.55	2.20
POWER EQUIPMENT OPERATORS:		
A-Frame Truck Crane, Winch Truck and similar	12.85	2.44
Air Compressor, single	12.54	2.44
Air compressor, two or more	12.71	2.44
Air Doctor	13.01	2.44
Asphalt Paving Machine Operator	13.21	2.44
Asphalt Paving Machine Screed Operator	13.21	2.44
Automatic Finegrader, Gurries and other simila similar types	13.34	2.44
Belt Finish Machine Operator	12.71	2.44
Bite Grinder	13.01	2.44
Bituminous Mixer Paving, Travel Plant	13.01	2.44
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	12.60	2.44
Boring Machine (large)	13.21	2.44
Broom, self-propelled	12.68	2.44
Cableway Highline Operator	13.72	2.44
Cement Silo Operator	12.80	2.44
Central Mixing Plants, Concrete dam and stationary	13.46	2.44
Chain Bucket Loader	12.73	2.44
Chip or Gravel Spreader, self-propelled	12.83	2.44
Concrete Batch Plant, one and two Mixers	13.21	2.44
Concrete Batch Plant, three and four Mixers	13.41	2.44
Concrete Batch Plant, five Mixers and over	13.61	2.44
Concrete Batch Plant, Oiler, up to and including two Mixers	12.53	2.44
Concrete Batch Plant Oiler, three Mixers and over	12.84	2.44
Concrete Bucket Dispatcher	13.01	2.44
Concrete Curing Machine	13.01	2.44
Concrete Finish Machine Paving	13.21	2.44
Concrete Float-Spreader	13.11	2.44
Concrete Mixer, three bags and under	12.60	2.44
Concrete Mixer, four bags and over	12.77	2.44
Concrete Power Saw, self-propelled	13.01	2.44
Concrete Travel Batcher	13.01	2.44
Concrete Conveyor under 40 feet	12.59	2.44
Concrete Conveyor over 40 feet	13.34	2.44
Concrete Pump	13.54	2.44
Conveyor Loader Operator, up to and including 42' belt	12.59	2.44
Conveyor Loader Operator over 42" belt	12.71	2.44
Crane, to and including 80' boom	13.37	2.44
Crane, 81' to 130' boom	13.52	2.44
Crane, 131' to 150' boom	13.57	2.44
Crane, 151' boom and over	13.62	2.44
Crane Oiler	12.58	2.44
Crane with jibs and additional $.15 per hour		
Crusher Operator	13.21	2.44
Crusher Oiler	12.50	2.44
Crusher Conveyor, when required	12.47	2.44
Distributor Operator	13.11	2.44
DW 10, 15, or 20 tractor or pulling Roller	12.68	2.44
Electric Overhead Cranes	13.29	2.44
Elevating Grader	13.01	2.44
Farm type tractor up to and including 50 HP engine	12.47	2.44
Farm Type tractor, over 50 HP engine	12.55	2.44
Field Equipment Servicemen	13.13	2.44
Fireman	12.60	2.44
Forklift, on construction job site	12.82	2.44

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DECISION NO. MT81-3138 - (Cont'd)	Basic Hourly Rates	Fringe Benefits
Form Grader Operator	$12.78	$2.44
Gradall Operator	13.21	2.44
Grade Setter	12.47	2.44
Heavy Duty Drills, all types	13.11	2.44
Herman-Nelson Heaters and similar types	12.55	2.44
Hoist Operator, single drum	12.78	2.44
Hoist, two or more drums	13.01	2.44
Helicopter Hoist Operator	13.51	2.44
Hot Plant Operator	13.21	2.44
Hot Plant Fireman, when in operation	13.11	2.44
Hot Plant Oiler, 100 tons per hour or over	13.51	2.44
Hydra Lift and similar types	13.91	2.44
Industrial Locomotive all classes	13.21	2.44
Mechanic and/or Welder on job	13.31	2.44
Mechanic Shop (Dec. 1 to April 1)	12.91	2.44
Mixermobile	13.09	2.44
Motor Patrol Operator	13.34	2.44
Mountain Logger or similar type	13.01	2.44
Mucking Machine Operator	13.21	2.44
Oiler-driver, Rubber tired cranes	12.58	2.44
Oilers, other than Shovels and Cranes	12.50	2.44
Oiler, Hoist House, dams	12.91	2.44
Pavement Breakers, Emsco and similar	13.01	2.44
Paving and Mixing Machine	13.34	2.44
Power Auger, large turck or tractor mounted and Punch	13.41	2.44
Power Mixer, single or double drum	13.01	2.44
Power Saw, mutliple cut, self-propelled	13.01	2.44
Pumocrete or Grout Machine	13.21	2.44
Pumpman	12.54	2.44
Push Tractor	13.21	2.44
Quad Cat	13.51	2.44
Quad Loader and similar type	13.79	2.44
Radiator Repairman	$12.82	$2.44
Raygo Gaint	13.79	2.44
Refrigeration Plant Operator	13.01	2.44
Retort Operator	12.60	2.44
Roller, on blade or hot mix oil paving	13.11	2.44
Roller, on other than hot mix paving	12.71	2.44
Roller, 25 ton or over	13.01	2.44
Ross and similar type Carriers, on construction site	13.11	2.44
Rubber-tired Dozer	13.21	2.44
Rubber-tired Front End Loader, 1 cu. yd. and under	12.92	2.44
Rubber-tired Front End Loader, over 1 cu. yd. to and including 3 cu. yds	13.21	13.2 2.44
Rubber-tired Front End Loader, over 3 cu. yds. to and including 5 cu. yds.	13.33	2.44
Rubber-tired Front End Loader, over 5 cu. yds. to and including 10 cu. yds.	13.43	2.44
Rubber-tired Front End Loader, over 10 yards to and including 15 yds.	13.53	2.44
Rubber-tired Front End Loader, over 15 yards	13.63	2.44
Scraper, DW 15, 20, 21 and similar type if power unit is not used	13.11	2.44
Scraper, single or twin engine pulling Belly Dump Trailer	13.59	2.44
Scraper, twin engine	13.44	2.44
Scraper, tandem engine or 3 engine	13.74	2.44
Self-propelled Sheepfoot and similar type	13.11	2.44
Shovels, including all attachments, under 1 cu. yd.	13.21	2.44
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	13.34	2.44

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DECISION NO. CA82-5138 - (Cont'd)	Basic Hourly Rates	Fringe Benefits
Over 7 cu. yds. to and including 10 cu. yds.	$12.58	$2.51
Over 10 cu. yds. to and including 15 cu. yds.	12.74	2.51
Over 15 cu. yds. to and including 20 cu. yds.	12.88	2.51
Over 20 cu. yds. and including 25 cu. yds.	12.94	2.51
Over 25 cu. yds. to and including 30 cu. yds.	13.00	2.51
Over 30 cu. yds. to and including 35 cu. yds.	13.06	2.51
Over 35 cu. yds. to and including 40 cu. yds.	13.12	2.51
Over 40 cu. yds. to and including 45 cu. yds.	13.18	2.51
Over 45 cu. yds. additional $.10 per hour each additional 5 cu. yds. increment		
Dumpsters	12.58	2.51
Power Truck Driver (bulk unloader type)	12.63	2.51
Flat Trucks:		
to and including 3 tons	12.61	2.51
Over 3 tons factory rating	12.81	2.51
Fuel Truck Drivers:		
Tirmmen	12.04	2.51
Lowboys, Four-wheel trailer, Float semi-trailer	12.41	2.51
Lumber Carriers, Lift Truck and Fork Lifts	12.70	2.51
Power Broom	12.54	2.51
Water Tank Drivers, Petroleum Porducts Drivers:		
2,500 gallons and under	12.45	2.51
Over 2,500 gallons to and including 4,500 gallons	12.74	2.51
Over 4,500 gallons to and including 6,000 gallons	12.94	2.51
Over 6,000 gallons to and including 8,000 gallons	13.01	2.51
Over 8,000 gallons to and including 10,000 gallons	$11.08	$2.51
Over 10,000 gallons - additional $.10 per hour each additional 2,000 gallons increment		
Truck Mechanic	11.41	2.51
Line Construction: Flathead, Lake and Lincoln Counties:		
All work for power utilities, all highway lighting, street lighting and motor traffic controlling.		
Lineman	17.15	3%+.95
Cable Splicers	19.09	3%+.95
Pole Sprayer	15.24	3%+.95
Line Equipment Operators	14.61	3%+.95
Powderman	12.67	3%+.95
Jackhammer, Compressorman	11.89	3%+.95
Groundman "A"	10.81	3%+.95
Tree Trimmer	15.81	3%+.95

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DECISION NO. MT81-5138 - (Cont'd)	Basic Hourly Rates	Fringe Benefits
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	$13.66	$2.44
Shovels, including all attachments over 5 cu. yds.	13.79	2.44
Shovel Oiler, 3 yds. and under	12.50	2.44
Shovel Oiler, over 3 cu. yds.	12.91	2.44
Slip Form Paver Operator	13.34	2.44
Stiff Leg Derrick and Guy Derrick	13.66	2.44
Track-type Front End Loaders, up to and including 5 cu. yds.	13.21	2.44
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	13.[illegible]	[illegible]
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	13.5[illegible]	2.[illegible]
Track-type Front End Loaders, over 15 cu. yds.	13.64	2.44
Track-type Tractor w/wo attachments	13.21	2.44
Track-type Tractor, on Euclid Loader	13.39	2.[illegible]
Trenching Machine	13.21	2.[illegible]
Tramhead Conveyor, or Head Tower on Batch Plant	13.01	2.4[illegible]
Wagner Roller and similar type	13.21	2.44
Whirley Crane Operator	13.74	2.44
Whirley Crane Oiler	12.91	2.44
Water Pull when used for compaction	13.01	2.44
Washing and Screening Plant Operator	13.21	2.44
Washington and Screening Plant Oiler	12.50	[illegible].4[illegible]
Yo-Ym Cat, both ends	13.41	2.44

	Basic Hourly Rates	Fringe Benefits
Truck Drivers Statewide		
Combination Truck; Concrete Mixer and Transit Mixer:		
To and including 4 cu. yds.	$12.70	$2.51
Over 4 cu. yds. to and including 6 cu. yds.	12.78	2.51
Over 6 cu. yds. to and including 8 cu. yds.	12.86	2.51
Over 8 cu. yds. to and including 10 cu. yds.	12.94	2.51
Over 10 cu. yds. additional $.08 per hour each additional 2 cu.yds. increment		
Distributor Driver	12.68	2.44
Dry Batch Trucks:		
3 batch or under	12.45	2.51
Over 3 batch to and including 5 batch	12.58	2.51
Over 5 batch to and including 10 batch	12.74	2.51
Over 10 batch to and including 15 batch	12.90	2.51
Over 15 batch additional $.15 per hour each additional 5 batch increment		
Pickup driver, hauling materials	12.55	2.51
Dumpman, Gravel Spreader Box Operator; Pilot Car	12.45	2.51
Dump Trucks and similar equipment, DW 20, 21, or Euclid Tractors, pulling P.R. 21 or similar Dump Wagons:		
Water level capacity, including Sideboards: 7 cu.yds. or less	12.45	2.51

Modification Page 14

DECISION NO. NV82-5113 - Mod. #6 (47 FR 34300 - August 6, 1982) Clark County (does not include the Nevada Test Site), Nevada	Basic Hourly Rates	Fringe Benefits
Change:		
Boilermakers	$21.39	$3.86
Roofers	22.40	1.00
Omit:		
Carpenters:		
Carpenters	16.76	4.05
Drywall Installers	16.93	4.05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	16.91	4.05
Lathers	16.93	4.05
Millwrights	16.76	5.05
Piledrivermen	16.96	4.05
Add:		
Carpenters:		
Carpenters: Drywall; Floor Layer: Lathers; Patent Scaffold Erectors; Power Saw Operator	16.91	4.05
Millwrights	16.91	5.05
Piledrivermen	17.11	4.05

DECISION NO. NV82-5114 - (Cont'd)	Basic Hourly Rates	Fringe Benefits
Painters:		
Brush; Rollers	$15.66	$3.46
Paperhangers; Spray; Steel; Sandblasters; Swing Stage; Tapers	16.01	3.46
Buffing Steel; Sandblasters, steel	16.27	3.46
Roofers	22.40	1.00
Truck Drivers:		
Group 1	15.46	2.585
Group 2	15.57	2.585
Group 3	15.62	2.585
Group 4	15.78	2.585
Group 5	15.96	2.585
Omit:		
Cement Masons:		
Cement Masons	13.30	5.88
Floor Finishing Machine	13.65	5.88
Add:		
Cement Masons	12.73	6.45

DECISION NO. [illegible] - Mod. #4 (47 FR 34312 - August 6, 1982) Nevada Test Site including Tonopah Test Range in Clark, Lincoln, [illegible] Nye Counties, Nevada	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$19.87	$2.30
Electricians:		
Electricians: Equipment Operators; Lingman	18.99	4.54+ 3%
Cable Splicers	19.32	4.54+ 3%
Groundman	15.19	4.54+ 3%

DECISION NO. NV82-5116 - Mod. #6 (47 FR 34303 August 6, 1982) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway Construction in Douglas County), Nevada	Basic Hourly Rates	Fringe Benefits
Change:		
Roofers - Area 1	$22.40	$1.00
Omit:		
Carpenters - Area 1:		
Carpenters	16.76	4.05
Drywall Installer	16.93	4.05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	16.91	4.05
Lathers	16.93	4.05
Millwrights	16.76	5.05
Pilerdrivermen	16.96	4.05
Add:		
Carpenters - Area 1:		
Carpenters: Drywall; Floor Layer: Lathers; Patent Scaffold Erector:		
Power Saw Operators	16.91	4.05
Millwrights	16.91	5.05
Piledrivermen	17.11	4.05

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Modification Page 16

DECISION NO. OR83-4011 - Mod. #2

DECISION NO. NJ81-3063 - MOD. #13
(46 FR 62746 - Dec. 28, 1981)
ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ROOFERS ZONES:		
Zone 2		
Burlington, Camden, Gloucester, Mercer, Monmouth (Remainder of Co.) Ocean (Remainder of Co.) and Salem Cos.		
SHEET METAL WORKERS:		
Zone 1	17.6[illegible]	3%+2.6

DECISION NO. NJ82-3006 - MOD. #5
(47 FR 8523 - February 26 1982)
BERGEN, ESSEX, HUDSON AND PASSAIC COUNTIES, NEW JERSEY

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
MOD. #4 DATED 1-21-83 TO READ MOD. #5		
PLUMBERS:		
Zone Definitions:		
Bergen County, Hudson (Bayonne, Guttenberg, Hoboken, Jersey City, N. Bergen, Secaucus, Union City, Weehawken, W. New York) and Passaic County		

DECISION NO. NJ81-3053 - MOD. #18
(46 FR 50243 - October 9, 1981)
BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET, SUSSEX, UNION AND WARREN COUNTIES, NEW JERSEY

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS & CABLE SPLICERS:		
Zone 6		
Wiremen	18.06	17+ 101.0
Cable Splicers	19.32	17+ 101.0
IRONWORKERS-STRUCTURAL, REINFORCING & ORNAMENTAL:		
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex & Union Counties	16.35	6.66
LINE CONSTRUCTION:		
Zone 2		
Linemen & Equipment Ops.	18.06	17 + 101.0
Cable Splicers	19.32	17+ 101.0
Groundmen	70% JR	
PLUMBERS:		
Zone Definitions		
Zone 1 (Hudson County) Bayonne, Guttenberg, Hoboken, Jersey City, North Bergen, Secaucus, Union City, Weehawken, West New York, (Bergen County) (Passaic Co.) (Sussex County), Northern Half of Warren Co. and Morris County from Mt. Olive Straight across Randolph, down to the Essex Border.		

DECISION NO. OK81-4011 - Mod. #2
48 FR 1913 - January 14, 1983
Adair, Atoka, Bryan, Coal, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Leflore, Latimer, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Tulsa, Sequoyah, Wagoner and Washington Counties, Oklahoma.

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLUMBERS-PIPEFITTERS		
AREA I	$16.62	2.[illegible]3
ADD:		
LATHERS (AREA I)	10.10	.01
LATHERS (AREA II)	13.85	1.64
[illegible]LASTERERS	15.45	.01

ADD:
CLASSIFICATION AREAS, GROUPS AND DEFINITIONS:

LATHERS (AREA I)
Tulsa, Delaware, Creek, Craig, Mayes and Rogers Counties, Oklahoma

LATHERS (AREA II)
Atoka, Coal and Hughes Counties, Oklahoma

PLASTERERS
Adair, Cherokee, Craig, Creek, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Rogers, Tulsa, Wagoner, Washington and Sequoyah Counties, Oklahoma

PLUMBERS-PIPEFITTERS (AREA II)
Okmulgee County

Modification Page 16

DECISION NO. WI82-2004 - MOD. #1
(47 FR 8541 - February 26, 1982)
ASHLAND, BAYFIELD & DOUGLAS COS., WISCONSIN

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	15.45	3.16
BOILERMAKERS	16.12	2.825
BRICKLAYERS	15.93	1.55
CARPENTERS:		
Ashland Co.	12.95	2.35
Bayfield & Douglas Cos.	14.00	2.80
CEMENT MASONS:		
Douglas County	15.85	.70
Ashland & Bayfield Co.	14.71	1.56
ELECTRICIANS	15.75	28%
ELEVATOR CONSTRUCTORS	15.03	2.69
ELEVATORS CONSTRUCTORS HELPERS	10.52	2.69
ELEVATOR CONSTRUCTORS PROBATIONARY HELPERS	7.515	
IRONWORKERS	15.82	2.60
LINE CONSTRUCTION:		
Linemen	15.47	.65+9%
Heavy Equipment Operators	13.92	.65+9%
Light Equipment Operators	12.38	.65+9%
Heavy Groundman-Truck Driver	10.83	.65+9%
Light Groundman Truck Driver	10.06	.65+9%
Groundman	8.51	.65+9%
MILLWRIGHTS & PILEDRIVERMEN:		
Ashland County	13.15	3.35
Bayfield & Douglas Cos.:		
Millwrights	14.22	2.80
Piledrivermen	14.00	2.80
PAINTERS:		
Brush	14.61	1.53
Spray	15.21	1.53
PLASTERERS	15.50	1.25
PLUMBERS	15.51	3.50
ROOFERS	13.83	3.05
SHEETMETAL WORKERS	15.15	3.41
SOFT FLOOR LAYERS	12.95	2.35
SPRINKLER FITTERS	16.67	2.83
TERRAZZO WORKERS & TILE SETTERS	15.53	1.86
LABORERS:		
Ashland Co. only General Laborer	12.47	1.93
Plasterer Laborer, Air spade & Jackhammer	12.72	1.93
POWER EQUIPMENT OPERATORS		
Group I	15.22	2.90
Group II	14.92	2.90
Group III	14.56	2.90
Group IV	14.44	2.90
Group V	13.88	2.90
Group VI	13.41	2.90

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DECISION NO. WI83-4012 - Mod. #1
48 FR 1916 - January 14, 1983
Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Pottawatomie, Seminole, Stephens, Tillman, Washita, Woods and Woodward Counties, Oklahoma.

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS (AREA VIII)		
Carpenters	$12.45	$1.37
Millwrights	13.05	1.37
Piledrivermen	13.05	1.37
Power Saw Operator	12.80	1.37
ELECTRICIANS (AREA I):		
Zone I	15.60	9%+1.05
Zone II	15.85	9%+1.05
Zone III	16.10	9%+1.05
CHANGE:		
CABLE SPLICERS (AREA I):		
Zone I	$15.85	9%+1.05
Zone II	16.10	9%+1.05
Zone III	16.35	9%+1.05
OMIT:		
PLASTERERS	15.60	.01
ADD:		
PLASTERERS - AREA I	15.60	.01
PLASTERERS - AREA II	14.20	

OMIT:
CLASSIFICATION AREAS, GROUPS AND DEFINITIONS:
CEMENT MASON - TOWER POOL OPERATORS - AREA III
Pawnee County

PLASTERERS
Ellis, Roger Mills, Beckham, Greer, Harmon, Jackson, Dewey, Custer, Washita, Kiowa, Tillman, Blaine, Caddo, Comanche, Cotton, Kingfisher, Canadian, Grady, Stephens, Jefferson, Logan, Oklahoma, Cleveland, McClain, Garvin, Murray, Carter, Love, Payne, Lincoln, Pottawatomie, Seminole, Pontotoc, Johnston and Marshall Counties.

ADD:
CLASSIFICATION AREAS, GROUPS AND DEFINITIONS:
PLASTERERS (AREA I)
Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Custer, Cotton, Comanche, Dewey, Ellis, Garvin, Grady, Greer, Harmon, Jackson, Jefferson, Johnston, Kingfisher, Kiowa, Logan, Love, Lincoln, Marshall, McClain, Oklahoma, Payne, Roger Mills, Stephens, Tillman and Washita Counties

PLASTERERS (AREA II)
Pottawatomie, Pontotoc and Seminole Counties

TRUCK DRIVERS (AREA I)
Payne and Wood Counties

CHANGE:
CLASSIFICATION AREAS, GROUPS AND DEFINITIONS:
LATHERS (AREA I)
Oklahoma, Logan, Canadian, Kingfisher, Custer, Washita, Blaine, Dewey, Pottawatomie, Beckham, Caddo, Cleveland, Ellis, Ellis, Garvin, Grady, Johnston, McClain, Major, Murray, Noble, Pontotoc, Roger Mills, Seminole and Woodward Counties; also that part of Lincoln County that spans south of the Turner Turnpike and that part of Payne County up to and including the city of Cushing.

LATHERS (AREA II)
Alfalfa, Grant, Major and Garfield Counties

SUPERSEDEAS DECISION

STATE: ALABAMA
COUNTIES: COLBERT, FRANKLIN, LAUDERDALE, LAWRENCE, MARION, & WINSTON

SUPERSEDEAS DECISION

STATE: Kansas
DECISION NO.: KS83-4018
COUNTY: Sedgwick
DATE: Date of Publication

SUPERSEDEAS DECISION

STATE: ALABAMA

COUNTIES: COLBERT, FRANKLIN, LAUDERDALE, LAWRENCE, MARION, & WINSTON

DECISION NUMBER: AL83-1065

DATE: DATE OF PUBLICATION

Supersedes Decision No.: AL80-1120 dated November 14, 1980 in 45 FR 75562.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - consisting of single family homes and apartments up to and including 4 (four) stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING & HEATING MECHANIC	$ 7.33	
BRICKLAYERS	8.30	
CARPENTERS	6.54	
CEMENT MASONS	7.73	
DRYWALL FINISHERS	6.00	
DRYWALL HANGERS	6.00	
ELECTRICIANS	7.89	
IRONWORKERS	5.00	
LABORERS:		
Mason Tenders	4.81	
Unskilled	4.72	
PAINTERS	6.00	
PLUMBERS & PIPEFITTERS	6.00	
ROOFERS	6.15	
SHEET METAL WORKERS	$ 7.28	
SOFT FLOOR LAYERS	12.03	
TILE SETTERS	6.30	
TRUCK DRIVERS	5.00	
WELDERS-Rate for Craft		
POWER EQUIPMENT OPERATORS:		
Asphalt Paver	5.50	
Asphalt Roller	6.20	
Backhoe	5.50	
Bulldozer	8.58	
Forklift	9.00	
Front End Loader	6.00	
Mechanic	5.88	
Scraper	6.00	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Kansas

COUNTY: Sedgwick

DECISION NO.: KS83-4018

DATE: Date of Publication

Supersedes Decision No. KS79-4067 dated June 25, 1979 in 44 FR 34750

DESCRIPTION OF WORK: Residential projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H E W	Pensions	Vacation	Education and or Appr. Tr.
Airconditioning Mechanic	$8.00				
Bricklayers	11.03				
Carpenters	10.00				
Cement Masons	9.00				
Electricians	8.65				
Laborers:					
Unskilled	5.00				
Semi-skilled	6.00				
Skilled	8.79				
Painters:					
Brush	6.93				
Spray	7.21				
Plumbers	9.00				
Roofers	7.14				
Sheet Metal Workers	8.00				
Soft Floor Layers:					
Carpet	11.50				
Resilient	8.67				
Tile Setters	7.00				
Truck Drivers	6.00				
Power Equipment Operators:					
Backhoe	8.58				
Blade	8.50				
Bulldozer	7.67				
Graders	7.76				
Loader	8.14				
Mechanic	7.75				
Rollers	7.03				
Scrapers	7.45				
Trenching Machines	8.36				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Leavenworth
DECISION NUMBER: KS83-4009 DATE: Date of Publication
Supersedes Decision No. KS82-4013 dated April 16, 1982, in 47 FR 16519
DESCRIPTION OF WORK: Building Construction Project (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.29	5% + 2.26
BOILERMAKERS	16.12	3.825
BRICKLAYERS, STONEMASONS	14.94	1.45
CARPENTERS		
Carpenters	14.075	1.47
Piledrivermen & Millwrights	15.05	1.47
CEMENT MASONS	15.05	1.95
ELECTRICIANS		
Zone 1: Delaware, Kickapoo, High Prairie & Leavenworth Townships	16.18	10% + 2.31
Zone 2 Remainder of County	15.55	3% + 2.13
ELEVATOR CONSTRUCTORS	14.135	3% + 2.18
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	3% +
GLAZIERS	14.72	12.14% +2.44
IRONWORKERS	15.15	3.75
LATHERS	14.075	1.47
LINE CONSTRUCTION:		
Zone 1: Southwest 2/3 of Leavenworth County		
Linemen	15.50	15% + .65
Cable Splicers	16.28	15% + .65
Groundmen	9.56	3% + .65
Powdermen	12.81	3% + .65
Line Truck & Equipment Operators	12.81	3% + .65
LINE CONSTRUCTION (Continued)		
Zone 2 Remainder of Leavenworth County		
Linemen	$17.33	3% + .70
Linemen Operators	16.13	3% + .70
Groundmen Powdermen	12.02	4.9% + .70
Groundmen	11.24	3.9% + .70
MARBLE & TILE SETTERS	16.55	10%
PAINTERS:		
Brush, Roller, Tapers	15.31	1.45
Spray	16.81	1.45
PLASTERERS	17.25	
PIPEFITTERS	17.44	3.[illegible]
PLUMBERS	17.96	2.[illegible]
ROOFERS	15.23	2.[illegible]
SHEET METAL WORKERS	15.40	2.[illegible]
SOFT FLOOR LAYERS	11.26	1.[illegible] + 2.60
SPRINKLER FITTERS	16.47	2.83
TERRAZZO WORKERS	15.31	10%
WELDERS - Receive rate prescribed for craft performing operation to which the welding is incidental		

FOOTNOTE
a - Emp. Cntr. contributes 2% of basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Also 7 paid holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, & Christmas Day

DECISION NO. KS83-4009 PAGE 2

	Basic Hourly Rates	Fringe Benefits
LABORERS (Building Construction):		
General Laborers	$ 8.85	$1.90
Power Tool Operators; Compactors; Concrete Breakers; Chipping Tools; Drilling Tools; Concrete Saws; Mechanically Operated		
Georgia Buggy	9.05	1.90
Mason Tenders; Plaster Tenders; Mortar Mixers for Plasterers, Masons and Cement Finishers; All Stocking Scaffold; Clean up for Masons (Building & Wrecking)	9.15	1.90
Sand and Concrete Gun Nozzlemen Powdermen	9.25	1.90
LABORERS (Site Preparation and Grading)		
Group 1	8.20	2.10
Group 2	8.35	2.10
Group 3	8.45	2.10
Group 4	8.60	2.10
POWER EQUIPMENT OPERATORS (Building Construction)		
Group 1	15.21	4.15
Group 2	14.86	4.15
Group 3		
a.	12.46	4.15
b.	12.96	4.15
c.	12.96	4.15
d.	13.21	4.15
Group 4	15.46	4.15
Group 5	15.11	4.15
Group 6	15.71	4.15
Group 7		
a.	14.96	4.15
b.	14.71	4.15
c.	12.71	4.15
Group 8	16.21	4.15
Group 9	15.71	4.15
Site Preparation & Grading		
Group 1	13.75	4.02
Group 2	13.50	4.02
Group 3	12.80	4.02
Group 4		
a.	8.78	4.02
b.	11.80	4.02
TRUCK DRIVERS: BUILDING CONSTRUCTION		
Group 1	$10.925	$1.75
Group 2	10.97[illegible]	1.75
Group 3	11.05	1.75
Group 4	11.17[illegible]	1.75
Group 5	11.07[illegible]	1.75
Group 6	11.27[illegible]	1.75
Group 7	11.125	1.75
Group 8	11,025	1.75
Site Preparation & Grading		
Group 1	12.66	3.50
Group 2	12.86	3.50
Group 3	13.17	3.50
Group 4	13.32	3.50
Group 5	12.44	3.50

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DECISION NO. KS83-4009

LABORERS (Site Preparation & Grading) - Classifications:

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POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (Cont'd)

DECISION NO. KS83-4009

LABORERS (Site Preparation & Grading) - Classifications:

Group 1: Board Mat Weavers and Cable Tiers; Georgia Buggy, Manually Operated; Mixermen - No Skip Lift; Salamander Tenders; Track Men; Tractor Swampers; Truck Dumpers; Wire Mesh Setters; Water Pump up to 4 inches; and all other General Laborers.

Group 2: Air Tool Operators, Cement Handlers (Bulk); Chain Saw; Georgia Buggy (Mechanically Operated); Grade Men; Hot Mastic Kettlemen, Crusher Feeders; Joint Men; Jute Men, Mason Tenders; Material Batch Hopper and Scale Men, Mixer Men; Mucker Hole Men Working 10 ft. deep; Pipelayer - Maintenance (Concrete and/or Corrugated Metal), Signal Men (Crane); Truck Dumper--Dry Batch Vibrator Operator, Wagon & Churn Drill Operator

Group 3: Asphalt Raker; Barco Tamper; Concrete Saw, Creosote Material--Handling and Applying, Nozzle Burner (Cutting Torch and Burning Bar)

Group 4: Conduit Pipe; Tile and Duct Line Setter; Form Setter and Liner on Concrete Paving; Powderman; Sand-blasting and Gunnite Nozzleman; Sanitary Sewer Pipe Layer; Steel Plate Structure Erectors; Water and Gas Distribution Lines.

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION

Group 1: Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-greene loader; blade-power; boats-power; boilers (2); boring machines; bulldozers; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derrick cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man

Group 2: Boilers (1); Brooms - power operated; chip spreader (front man); skid plant operator; compressors (1 125' or over; concrete saws, self-propelled; crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine, form grader; gunite; hoist, endless chain - power operated; hoppers - power operated; hydra hammer; jack-a-vator - similar type; rollers; sighting, jets, and jetting, sub-grader; tractors over 50 h.p.; compressors (2) 125" ft. or over not more than 80' apart; compressors-tandem; compressors sigle, truck mounted; elevator; finishing machine

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (Cont'd)

Group 3
(a) Oilers
(b) Fork lift masonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material) less than 50 h.p.

Group 4
Clamshells, 80 ft. of boom or over (incl. jib); cranes or rigs, 80 ft. of boom or over (incl. jib); draglines, 80 ft. of boom or over (incl. jib); pile drivers, 80 ft., of boom or over (incl. jib)

Group 5
Hoists-each additional drum over 1 drum

Group 6
Crane or rigs, over 200 ft. of boom

Group 7
Ready Mixed Concrete Plants;
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor Operator

Group 8
Master Mechanic

Group 9
Crane-tower or climbing

POWER EQUIPMENT OPERATORS - SITE PREPARATION & GRADING

Group 1 - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sidebroom cats; skimmer scoop operator; slip - form paver (CMI, HEB, or equal); throttle man; truck cranes; welding machine maintenance operator - 2

Group 2 - A-frame truck, asphalt hot mix silo; asphalt plant firemen, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator;

POWER EQUIPMENT OPERATORS - SITE PREPARATION & GRADING (Cont'd)

Group 2 (Cont'd)

chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; chusher operator, elevating grader; greaser; hoisting engine - 1 drum; latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydrahammer or similar type; power shield, pug mill operator; stump cutting machine, towboat operator tractor operator over 50 h.p.

Group 3 - Boilers - 1; chip spreader (front man); churn drill operator, compressor maintenance operator - 1, concrete saws, self-propelled; conveyor operator; distributor operator, finishing machine operator, fireman, rig, float operator, form grader operator, pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt, screening and washing plant operator; self-propelled street broom or sweeper, siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hard; welding machine maintenance operator - 1

Group 4 -
(a) Oilers
(b) Oiler driver, all types

TRUCK DRIVERS - BUILDING CONSTRUCTION

Group 1 - Warehousemen and stock man

Group 2 - Flat beds; pick-ups; drum trucks, under 10 yds.

Group 3 - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers

Group 4 -Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated aerial lifts; heavy hauling, a-frame winch and fork lifts; heavy excavating (dumpter, euclid, etc.); double bottom units (25 tons capacity and over)

Group 5 - Distributor truck drivers and operators; oilers, greasers and mechanics' helpers

Group 6 - Mechanics

Group 7 - Transit mix, 5 yds. and over

Group 8 - Transit mix, under 5 yds.

TRUCK DRIVERS - Site Preparation & Grading

Group 1 - One Team, Station Wagons; Pickup Trucks; Material trucks, single axle, Tank Wagon Drivers, single axle

Group 2 - Material trucks, tandem; Two teams; Semi-trailer; Winch Truck, Fork Trucks; Distributor Drivers and Operators, Agitator and Transit Mix; Tank Wagon Drivers; single axle, Tank Wagon Drivers, Tandem or Semi-Trailers; Insley Wagon; Dump Trucks; excavating, 5 cu. yds. and over, Dumpster, Half-trucks, Speedace, Euclids and other similar excavating equipment

TRUCK DRIVERS - Site Preparation & Grading (Cont'd)
Group 3 - A-Frame, Low Boy, and Boom Truck Drivers
Group 4 - Mechanics and Welders
Group 5 - Oilers and Greasers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses, (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Kansas COUNTY:
DECISION NO. KS83-4014 DATE: Date of Bid

	Basic	Fringe

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SUPERSEDEAS DECISION

STATE: Kansas COUNTY:
DECISION NO. KS83-4014 DATE:
Supersedes Decision No. KS82-4014, dated April 16, 1982, in 47 FR 16522
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.28	$2.10
BOILERMAKERS	16.47	2.83
BRICKLAYERS, STONEMASONS	13.00	1.63
CARPENTERS:		
Carpenters	12.50	.93
Millwrights, Piledrivermen	12.80	.93
CEMENT MASONS	11.10	
ELECTRICIANS	15.00	4%+ 1.85
Cable Splicer	15.25	4%+ 1.85
ELEVATOR CONSTRUCTORS	12.21	a+.33
ELEVATOR CONSTRUCTOR HELPERS	.55	a+2.33
GLAZIERS	12.87	.56
IRONWORKERS	10.29	1.14
LABORERS (BUILDING CONSTRUCTION)		
Group 1 - Common laborers	8.60	1.90
Group 2 - Power tool operator, compactors, concrete breaker chipping tools, drilling tools, concrete saws, mechanically operated georgia buggy, mason tenders, plaster tenders, mortar mixers for plasterers, mason and cement finishers, all stocking scaffold, clean up for masons (building & wrecking), mason and concrete gun nozzleman, powderman	8.80	1.90
LABORERS (SITE PREPARATION AND GRADING):		
Group 1	6.00	1.90
Group 2	6.15	1.90
Group 3	6.25	1.90
Group 4	6.40	1.90
[illegible]	Basic Hourly Rate	Fringe Benefits
[illegible] Linemen	$15.56	[illegible]
Cable Splicers	14.28	[illegible]
Groundman	9.56	[illegible]
Powderman	12.81	[illegible]
Line truck & equipment operator	12.81	[illegible]
PAINTERS:		
Brush	12.14	.7
Spray	12.84	.7
PLASTERER	11.00	
PIPEFITTERS, PLUMBERS	15.32	[illegible]
POWER EQUIPMENT OPERATOR (BUILDING CONSTRUCTION):		
Cranes with lifting rig	14.45	[illegible]
Cranes with shovels - 100 ft. of boom or over including jib or 30 tons or over or 2 yard capacity, three (3) drum hoist	12.70	[illegible]
Cranes & shovels - boom 200 ft. & over four (4) drum hoist, frankie-type pile driving machines, & tower cranes & derricks	12.95	[illegible]
GROUP 1	12.45	[illegible]
GROUP 2	12.05	[illegible]
GROUP 3:		
CLASS A	10.40	[illegible]
CLASS B	10.65	[illegible]
GROUP 4:		
CLASS A	9.85	3.55
CLASS B	10.10	[illegible]

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (Site Preparation & Grading)		
GROUP 1	$10.80	$3.75
GROUP 2	10.55	3.75
GROUP 3	10.30	3.75
GROUP 4	9.95	3.75
GROUP 4A	10.05	3.75
ROOFERS:		
Roofers	11.35	.94
Pitch	12.10	.94
SHEET METAL WORKERS	12.56	3%+ 1.98
SPRINKLER FITTERS	16.47	2.83
TILE, MARBLE & TERRAZZO SETTERS	12.40	
TRUCK DRIVERS (BUILDING CONSTRUCTION):		
Group 1 - Pickups, station wagons, flat beds 12,000 and under GVW license capacity	8.90	.85
Group 2 - Flat beds - 16,000 GVW license capacity	8.975	.85
Group 3 - Flat beds - 20,000 over GVW license capacity, dump, batch & water truck, single axle	9.05	.85
Group 4 - Lowboys, semitrailers dumpstors, A-frame tandems winch truck when used as such & transit mix	9.15	.85
TRUCK DRIVERS (SITE PREPARATION & GRADING):		
Group 1	9.40	1.20
Group 2	9.50	1.20
Group 3	9.65	1.20

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CLASSIFICATION DEFINITIONS - LABORERS (SITE PREPARATION & GRADING)

Group 1 - Board mat weavers & cable tiers, georgia buggy (manually operated) mixerman-no skip, lift, salamander tenders, track men, tractor swamper, truck dumper, wire mesh setter, water pump up to 4 inches, & all other general laborers.
Group 2 - Air tool operators, cement handlers (bulk), chain saw, georgia buggy (mechanically operated), grade man, hot mastic kettlemen, crusher feeder, joint man, jute man, mason tenders, material batch hopper & scale man, mixer man, pier hole man working 10 ft. deep, pipelayer-drainage (concrete and/or corrugated metal), signal man (crane), truck dumper-dry batch, vibrator operator, wagon and column drill operator.
Group 3 - Asphalt raker, barco tamper, concrete saw, preformate material--handling & applying, nozzle burner (cutting torch and burning bar).
Group 4 - Conduit pipe, tile & duct line setter, form setter & liner on concrete paving, powderman, sand-blasting & gunnite nozzleman, sanitary sewer layer, steel plate structure erectors, water and gas distribution lines.

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)
Group 1 - Boiler (2), boom cat, boring machine, ditching machine, concrete ready mix plant, crane, truck crane, clamshell dragline, dozer, scraper, all types, patrol, firemen (when operating steam or air valve), gradall, hi-loaders (over 1 yard), hoist two drum, mechanic or welder, mixermobile, paver, or any other machine with power swing, piledriver operator, power shovel, pump, concerte or other material, locomotive.
Group 2 -A-frame truck, bob cat/hi-loaders (1 yard or under), barber-greene loader or similar type, boiler (1), ditching machine - small, elevator operator, fireman, forklift, hoist, one active drum, hydra hammer jeep ditcher, mixer, other than paver, power broom, pump 4" or larger, small machine engineer, welding machine (1), greaser equipment.
Group 3:
CLASS A - Farm tractor (without attachments).
CLASS B - Farm tractor (with attachments).
Group 4:
CLASS A - Oiler
CLASS B - Motor crane oiler.

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS (SITE PREPARATION & GRADING)

Group 1 - Asphalt paver and spreader; backhoe, boring machine; blades, all types; clamshell; concrete mixer paver operator; concrete central plant operator (automatic); crane, truck crane, pitman crane, hydro crane, or any machine with power swing; derrick or derrick trucks; dragline operator; dredge operator; dozer; ditching machine; euclid loader; hoist - 2 active drums; loader; all types; mechanic or welder; mixer-mobile; multi-unit scrapper; pile driver operator; power shovel operator scoop operator, all types; side boom-cherry picker; skimmer scoop operator; pushcat operator; quad track.
Group 2 - Asphalt plant operator; elevating grader operator.
Group 3 - A-frame truck, asphalt roller operator; asphalt plant boiler fireman; backfiller operator; barber-greene loader; boiler other than asphalt bull float operator; churn drill operator; compressor operator (1); concrete central plant operator; concrete mixer operator skip; concrete pump operator; crusher operator, distributor operator; finish machine operator - conmate; fireman other than asphalt; flex plane operator, fork lift; form grader operator; greaser; hoist-1 drum; jeep ditching machine; pavement breakers, self-propelled (of the hydra hammer or similar type); pump operator, 4" or over, two; pump operator, other than dredge; screening and gas plant operator; small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt; siphons and jets; subgrading machine operator; tank car heater operator, combination booster and boiler; towboat operator; vibrator machine operator, not hand.
Group 4 - Concrete gang saw, self-propelled (con-cut); conveyor operator; harrow, disc, seeder; oiler; tractor operator, 50 h.p. or less without attachments.
Group 4A - Oiler, motor crane
TRUCK DRIVER (SITE PREPARATION & GRADING)
Group 1 - Pickups; panel trucks; station wagons; flat beds; dump and batch trucks (single axle)
Group 2 - Tandem trucks, warehousemen or partsmen; mechanic helpers and servicemen.
Group 3 - Lowboys; semi-trailers, all transit mixer trucks (single or tandem axle); A-frame and winch trucks when used as such; euclid, end and bottom dump; tournarockers; atheys; dumptors and similar off-road equipment and mechanics on such equipment.

SUPERSEDIAS DECISION

STATE: KANSAS

DECISION NUMBER KS83-4015

COUNTIES; Douglas, Jefferson, Leavenworth, Miami and Shawnee
DATE: Date of Publication

FOOTNOTE:
a - Employer contributes 8% of basic hourly rate for over 5 years service, and 6% of basic hourly rate for under 5 years as Vacation Pay Credit. Also 7 paid holidays.

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: KANSAS

COUNTIES: Douglas, Jefferson, Leavenworth, Miami and Shawnee

DECISION NUMBER KS83-4015
DATE: Date of Publication
Supersedes Decision No. KS82-4015 dated April 16, 1982 in 47 FR 16525
DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits
CARPENTERS & PILEDRIVERMEN:		
Zone 1	11.40	3% + 2.37
Zone 2	15.05	2.37
Zone 3	13.40	1.75
CEMENT MASONS:		
Zone 1	14.97	1.95
Zone 2	11.40	1.75
Zone 3	11.10	1.25
ELECTRICIANS:		
Zone 1	16.18	10%+ 2.31
Zone 2	15.55	3%+ 3.13
IRONWORKERS	15.15	3.75
LINE CONSTRUCTION:		
Zone 1:		
Lineman	18.28	3%%+ 1.06
Lineman operator	17.02	3%%+ 1.06
Groundman powderman	12.68	3%%+ 1.06
Groundman	12.05	3%%+ 1.06
Zone 2:		
Lineman	15.50	3%%+ .65
Cable splicers	16.28	3%%+ .65
Groundman	9.56	3%%+ .65
Powderman	12.81	3%%+ .65
Line truck & equipment operator	12.81	3%%+ .65
LABORERS:		
Zone 1		
Group 1	7.60	1.90
Group 2	7.75	1.90
Group 3	7.85	1.90
Group 4	8.00	1.90
LABORERS: (Cont'd)		
Zone 2		
Group 1	$ 8.40	$1.90
Group 2	8.55	1.90
Group 3	8.65	1.90
Group 4	8.80	1.90
Zone 3		
Group 1	8.40	1.90
Group 2	8.55	1.90
Group 3	8.65	1.90
Group 4	8.80	1.90
Zone 4		
Group 1	7.60	1.90
Group 2	7.75	1.90
Group 3	7.85	1.90
Group 4	8.00	1.90
POWER EQUIPMENT OPERATORS		
Zone 1: Leavenworth County		
Group 1	13.75	4.02
Group 2	13.50	4.02
Group 3	12.80	4.02
Group 4		
A	8.78	4.02
B	11.80	4.02
Zone 2: Jefferson & Miami Counties:		
Group 1	8.35	2.35
Group 2	8.10	2.35
Group 3	7.85	2.35
Group 4	7.50	2.35
Group 4A	7.60	2.35
Zone 3: Douglas & Shawnee Counties		
Group 1	10.80	3.75
Group 2	10.55	3.75
Group 3	10.30	3.75
Group 4	9.95	3.75
Group 4A	10.05	3.75

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS		
Zone 1: Leavenworth & Miami Counties:		
Group 1	$8.89	$2.50
Group 2	9.09	2.50
Group 3	9.40	2.50
Group 4	9.55	2.50
Group 5	8.665	2.50
Zone 2: Douglas, Shawnee and Jefferson Counties		
Group 1	9.10	1.20
Group 2	9.50	1.20
Group 3	9.65	1.20

ZONE DESCRIPTIONS

CARPENTERS AND MILLWRIGHTMEN:
Zone 1: Douglas, Shawnee and Jefferson Counties
Zone 2: Leavenworth County
Zone 3: Miami County

CEMENT MASONS:
Zone 1: Leavenworth and Miami Counties
Zone 2: Douglas and Shawnee Counties
Zone 3: Jefferson County

ELECTRICIANS:
Zone 1: Leavenworth County (Delaware, High Prairie & Kickapoo Townships) City of Leavenworth & Fort Leavenworth Military Reservation
Zone 2: Douglas, Jefferson, Miami, Shawnee and the remainder of Leavenworth County

LINE CONSTRUCTION:
Zone 1: Leavenworth County, north of Fairmont Stranger, and Tanganoxie Townships
Zone 2: Douglas, Jefferson, Miami, Shawnee Counties, and remainder of Leavenworth County

LABORERS:
Zone 1: Jefferson County
Zone 2: Douglas and Shawnee Counties
Zone 3: Leavenworth County
Zone 4: Miami County

ZONE DESCRIPTIONS - (Cont'd)

TRUCK DRIVERS
Zone 1:

Group 1 - One Team; Station Wagons; Pickup Trucks; Material trucks, single axle; Tank Wagon Drivers, single axle
Group 2 - Material Trucks; Tandem; Two Teams; Semi-trailers; Winch Trucks-Fork Trucks; Distributor Drivers and Operators; Agitator and Transit Mix Tank Wagon Drivers, single axle; Tank Wagon Drivers; Tandem or Semi-trailer; Insley Wagons; Dump Trucks; Excavator, 5 cu. yds. and over; Dumpsters; Half-tracks; Speedace; Euclids and other similar excavating equipment
Group 3 - A-frame; Lowboy; Boom Truck Drivers
Group 4 - Mechanics and Welders
Group 5 - Oilers and Greasers

Zone 2:

Group 1 - Pickups; Panel Trucks; Station Wagons; Flat Beds; Dump and Batch Trucks, single axle
Group 2 - Tandem Trucks; Warehousemen or Partsmen; Mechanic Helpers and Servicemen
Group 3 - Lowboys; Semi-trailers; all Transit Mixer Trucks (single or tandem axle); A-frame and Winch Trucks when used as such; Euclid, End and Bottom Dump; Tournarockers, Atheys, Dumpsters and similar off-road equipment and mechanics on such equipment

CLASSIFICATION DEFINITIONS

LABORERS
Group 1: Board Mat Weavers and Cable Tiers; Georgia Buggy (manually operated); Mixerman-on skip lift; Salamander Tenders; Track Men; Tractor Swamper; Truck Dumper; Wire Mesh Setter; Water Pump, up to 4 inches and all other General Laborers
Group 2: Air Tool Operators; Cement Handlers (bulk); Chain Saw; Georgia Buggy (mechanically operated); Grademen; Hot Mastic Kettlemen; Crusher Feeder; Joint Man; Jute Man; Mason Tender; Material Batch Hopper and Scale Man; Mixer Man; Pier Hole Man working 10 feet deep; Pipelayer-drainage (concrete and/or corrugated metal); Signal Man (crane); Truck Dumper-Dry Batch; Vibrator Operator; Wagon and Churn Drill Operator
Group 3 - Asphalt Raker; Barco Tamper; Concrete Saw; Creosote Material, handling and applying; Nozzle Burner (cutting torch and burning bar)
Group 4 - Conduit Pipe; Water and Gas Distribution Lines; Tile and Duct Line Setter; Form Setter and Liner on concrete paving; Powderman; Sandblasting and Gunite Nozzleman; Sanitary Sewer pipe Layer; Steel Plate Structure Erectors

CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS
Group 1: Asphalt Plant Operator; Backfiller; Boom Truck; Bulldozer; Concrete Pump; Crane; Dragline; Elevating Grader; Forklift; Gradall; Grader; Hoist; Loader; Mechanic; Mixer; Motor Patrol; Oiler; Pavement Breaker; Pipelayer; Roller; Scraper; Shovel; Side Boom; Tractor; Trenching Machine; Welder
Group 2: Assistant Mechanic; Boiler Operator; Compressor; Conveyor; Generator; Heater; Pump; Welding Machine

CLASSIFICATION DEFINITIONS (Cont'd)

TRUCK DRIVERS
Group 1: Dump Trucks, Single Axle; Pickup Trucks; Station Wagons; Tank Wagon Drivers, Single Axle; Two Teams
Group 2: Dump Trucks, Tandem; Semi-trailers; Tank Wagon Drivers, Tandem or Semi-trailer; Transit Mix Trucks
Group 3: Lowboys; Semi-trailers; Transit Mix Trucks; Winch Trucks

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CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS
Zone 1: Leavenworth County:

Group 1 - Asphalt Paver and Spreader; Asphalt Plant Console Operator; Auto Grader; Back Hoe; Blade Operator, all types; Boiler, 2; Booster Pump on Dredge; Boring Machine (truck or crane mounted); Bulldozer Operator; Clamshell Operator; Compressor Maintenance Operator, 2; Concrete Plant Operator, Central Mix; Concrete Mixer Paver; Crane Operator; Derrick or Derrick Trucks; Ditching Machine; Dragline Operator; Dredge Engineman; Dredge Operator; Drillcat with compressor mounted on cat; Drilling or Boring Machine; Rotary, self-propelled; High Loader-Fork Lift; Locomotive Operator, standard guage; Mechanics and Welders; Maintenance Operator; Mucking Machine; Pile Driver Operator; Pitman Crane Operator; Pump, 2; Quad-trac; Scoop Operator, all types; Scoops in Tandem; Self-propelled Rotary Drill (Leroy or equal-not Air Trac); Shovel Operator; Side Discharge Spreader; Sideboom Cats; Skimmer Scoop Operator; Slip-form Paver (CMI, REX, or equal); Throttle Man; Truck Crane; Welding Machine Maintenance Operator, 2; Hoisting Engine, 2; Active Drums

Group 2: "A" Frame Truck; Asphalt Hot Mix Silo; Asphalt Plant Fireman, drum or boiler; Asphalt Plant Mixer Operator; Asphalt Plant Man; Asphalt Roller Backfiller Operator; Chip Spreader; Concrete Batch Plant, dry power operated; Concrete Mixer Operator; Skip Loader; Concrete Pump Operator; Crusher Operator; Elevating Grader Operator; Greaser, hoisting engine, 1 drum; Latourneau Rooter; Multiple Compactor; Pavement Breaker, self-propelled of the Hydra-hammer or similar type; Power Shield; Pug Mill Operator; Stump Cutting Machine; Towboat Operator; Tractor Operator, over 50 H.P.

Group 3: Boilers, 1; Chip Spreader (Front Man); Churn Drill Operator; Compressor Maintenance Operator, 1; Concrete Saws, self-propelled; Conveyor Operator; Distributor Operator; Finishing Machine Operator; Fireman, Rig; Float Operator; Form Grader Operator; Pump; Pump Maintenance Operator, other than Dredge; Roller Operator, other than high type asphalt; Screening and Washing Plant Operator; Self-propelled Street Broom or Sweeper; Siphons and Jets; Sub-grading Machine Operator; Tank Car Heater Operator, combination boiler and booster; Tractor, 50 H.P. or less without attachments; Vibrating Machine Operator, not hand; Welding Machine Maintenance Operator, 1

Group 4:
a - Oilers
b - Oiler driver, all types

CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS
Zone 2: Jefferson & Miami Counties:

Group 1 - Asphalt Paver & Spreader; Backhoe; Boring Machine; Blades, all types; Clamshell; Concrete Mixer Paver Operator; Concrete Plant Operator (automatic); Crane; Truck Crane; Pitman Crane; Hydro Crane or any machine with power swing; Derrick or Derrick Trucks; Dragline Operator; Dredge Operator; Dozer; Ditching Machine; Euclid Loader; Hoist, 2 active drums; Loader, all types; Mechanic or Welder; Mixermobile; Multi-unit Scraper; Piledriver Operator; Power Shovel Operator; Quad Track; Scoop Operator, all types; Sideboom Cat, Cherry Picker; Skimmer Scoop Operator; Pushcat Operators

Group 2 - Asphalt Plant Operator; Elevating Grader Operator

Group 3 - A-frame Truck; Asphalt Roller Operator; Asphalt Plant Boiler Fireman; Backfiller Operator; Barber Green Loader; Bmiler, other than asphalt; Bull Float Operator; Churn Drill Operator; Compressor Operator (1); Concrete Central Plant Operator; Concrete Mixer Operator, Skip; Concrete Pump Operator; Crusher Operator; Distributor Operator; Finish Machine Operator, concrete; Fireman, other than asphalt; Flux Plane Operator; Fork Lift; Form Grader Operator; Greaser; Hoist, 1 drum; Jeep Ditching Machine; Pavement Breaker, self-propelled (of the Hydra Hammer or similar type); Pump Operator, 4" or over, two; Pump Operator, other than Dredge Screening and Wash Plant Operator; Small Machine Operator; Spreader Box Operator, self-propelled; Tractor Operator, over 50 H.P.; Self-propelled Roller Operator, other than Asphalt Siphons and Jets; Subgrading Machine Operator; Tank Car Heater Operator; Combination Booster and Boilers; Towboat Operator; Vibrating Mashine Operator, not hand

Group 4 - Concrete Gang Saw, Self-propelled (con-cut); Conveyor Operator; Harrow, disc. Seeder; Oiler; Tractor Operator, 50 H.P. or less without attachments

Group 4A - Oiler; Motor Crane

POWER EQUIPMENT OPERATORS
Zone 3: Douglas & Shawnee Counties:

Group 1 - Asphalt Paver and Spreader; Backhoe, Boring Machine; Blades, all types; Clamshell; Concrete Mixer Paver Operator; Concrete Plant Operator (automatic); Crane; Truck Crane; Pitman Crane; Hydro Crane or any machine with power swing; Derrick or Derrick Trucks; Dragline Operator; Dredge Operator; Dozer; Ditching Machine; Euclid Loader; Hoist, 2 active drums; Loaders, all types; Mechanic or Welder; Mixer-Mobile; Multi-unit Scraper; Piledriver Operator; Power Shovel Operator; Quad Track; Scoop Operators, all types; Sideboom Cat, Cherry Picker; Skimmer Scoop Operator; Pushcat Operators

Group 2 - Asphalt Plant Operator; Elevating Grader Operator

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CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS
Zone 3: Douglas & Shawnee Counties (Cont'd):

Group 3 - A-frame Truck; Asphalt Roller Operator; Asphalt Plant Boiler Fireman; Backfiller Operator, Barber Green Loader; Boiler, other than asphalt; Bull Float Operator; Churn Drill Operator; Compressor Operator (1); Concrete Central Plant Operator, Concrete Mixer Operator, skip; Concrete Pump Operator; Crusher Operator; Distributor Operator; Finish Machine Operator, concrete, Fireman, other than asphalt; Flex Plane Operator; Fork Lift, Form Grader Operator; Greaser; Hoist, 1 drum; Jeep Ditching Machine; Pavement Breaker, self-propelled (of the Hydra Hammer or similar type); Pump Operator, 4" or over, two; Pump Operator, other than Dredge Screening and Wash Plant Operator; Small Machine Operator; Spreader Box Operator, self-propelled; Tractor Operator over 50 H.P.; Self-propelled Operator, other than asphalt siphons and jets; Subgrading Machine Operator; Tank Car Heater Operator; Combination Booster and Boilers; Towboat Operator; Vibrating Machine Operator, not hand

Group 4 - Concrete Gang Saw, self-propelled (con-cut); Conveyor Operator; Harrow, Disc, Seeder, Oiler; Tractor Operator, 50 H.P. or less withmut attachments

Group 5 - Oiler; Motor Crane

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only, as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Shawnee
DECISION NO. KS83-4013 DATE: Date of Publication
Supersedes Decision No. KS82-4016 dated April 16, 1982 in 47 FR 16528 and Decision No. KS82-4017 dated April 16, 1982 in 47 FR 16530
DESCRIPTION OF WORK: Building Construction Projects (including Residential)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.29	3.21
Bricklayers	16.12	2.86
BRICKLAYERS, STONEMASONS	14.41	.97
CARPENTERS (Building):		
Carpenters	12.30	1.50
Millwrights	11.80	1.50
Pile driverman	12.80	1.50
Carpenters - Residential	10.00	1.50
CEMENT MASONS	11.70	1.05
FENCE ERECTORS (Building):		
Electricians	15.55	3%+ 2.13
Cable Splicers	17.11	3%+ 2.13
Electricians - Residential	11.55	3%+ 1.35
ELEVATOR CONSTRUCTORS	12.21	a+2.33
GLAZIERS (Building)	12.80	2.98
IRONWORKERS	15.15	3.35
LABORERS (Building & Residential):		
Group 1 General laborers	9.26	1.90
Group 2 Air tool operators, compactor, concrete breakers, chipping tools, drilling tools, concrete saws, mechanically operated georgia buggy	9.45	1.90
Group 3 Mixer tenders, plaster tenders, mortar mixers for masons and cement finishers all stocking scaffold, clean up for masons (building & wrecking)	9.55	1.90
Group 4 Jack & concrete jackhammer & powderman	9.85	1.90
Group 5 Asphalt raker, asphalt shoveler, asphalt spreader, asphalt tamper,

	Basic Hourly Rates:	Fringe Benefits:
POWER EQUIPMENT [illegible] BUILDIN[illegible] (Cont'd).		
Cranes and shovels-booms 200 ft. & over four (4) drum hoist, Frankie - type pile driving machines, & tower cranes & derricks	$13.10	$3.75
Group I	12.60	3.75
Group II	12.20	3.75
Group III		
Class A	10.40	3.75
Class B	10.65	3.75
Group IV:		
Class A	9.85	3.75
Class B	10.10	3.75
POWER EQUIPMENT OPERATORS Site Preparation & Grading (Building & Residential Construction)		
Group 1	10.80	3.75
Group 2	10.55	3.75
Group 3	10.30	3.75
Group 4	9.95	3.75
Group 4A	10.05	3.75
TRUCK DRIVERS - BUILDING & RESIDENTIAL CONSTRUCTION:		
TRUCK DRIVERS Class 1 - Light Station Wagons, Pickups	10.46	1.20
TRUCK DRIVERS Class 2 - Medium Flatbeds and dump five tons or less, Warehousemen & Partsmen	10.56	1.20
TRUCK DRIVERS Class 3 - Heavy - Over 5 ton, Semi-Trailers, Fork Lifts, Industrial Tractors as used in Teamsters jurisdiction, Straddle Trucks, A-frame & Winch Trucks when used as such	10.81	1.20
TRUCK DRIVERS - BUILDING & RESIDENTIAL CONSTRUCTION (Cont'd) Class 4		
Mechanics & Dispatchers	11.15	1.20
TRUCK DRIVERS (Site [illegible] Building)		
Building [illegible] Construction		
Group 1	9.45	3.75
Group 2	9.95	3.75
Group 3	9.60	3.75

CLASSIFICATION DEFINITIONS

LABORERS (Site Preparation & Grading) Building & Residential:
Group 1 - Board mat weaver, air cable tiers; Georgia Buggy (manually operated), mixerman - no skip; lift; nailers, salamander tenders; track men, tractor swamper; truck dumper, wire mesh setter, water pump up to 4 inches; all other general laborer
Group 2 - Air tool operators, cement handlers (bulk), chain saw, georgia buggy (mechanically operated); grade man, hot mastic kettlemen, crusher feeder, joint man, jute man; mason tenders; material batch hopper and scale man, mixer man; pier hole man working 10 ft. deep; pipelayer-drainage (concrete and/or corrugated metal), signal man (crane); truck dumper-dry batch; vibrator operator, wagon and churn drill operator
Group 3 - Asphalt raker, Barco tamper; concrete saw; creosote material-handling and applying; nozzle burner (cutting torch and burning bar)
Group 4 - Conduit pipe, tile and duct line setter, form setter and liner on concrete paving; powderman; sandblasting and gunite nozzleman; sanitary sewer pipe layer, steel plate structure erectors; water and gas distribution
POWER EQUIPMENT OPERATORS - Building Construction:
Group 1 - Boiler (2), boom cat, boring machine, ditching machine, concrete ready-mix plant, crane, truck crane, clam-shell dragline, dozer scrapper, all types, patrol, fireman (when operating steam or air valve), gradall, hi-loaders (over one yard), hoist, two drum, mechanic or welder, mixer-mobile, paver, or any other machine with power swing, piledriver operator, power shovel, pump, concrete or other material, locomotive
Group 2 - A-frame truck, bob cat/hi-loaders (1yard or under), barber-greene loader or similar type, boiler (1), ditching machine - small - elevator operator, fireman, forklift, hoist, or active drum, hydra hammer jeep ditcher, mixer, other than paver, power broom, pump 4" or larger, small machine engineer, welding machine (1), greaser equipment
Group 3 - Class A - Farm tractor (without attachments)
Class B - Farm tractor (with attachments)
Group 4 - Class A - Oiler
Class B - Motor crane oiler
POWER EQUIPMENT OPERATORS Site Preparation & Grading - Building & Residential Construction:
Group 1 - Asphalt paver and spreader, backhoe; boring machine, blades, all types; clamshell; concrete mixer paver operator; concrete central plant operator (automatic); crane, truck crane, pitman crane, hydro crane, or any machine with power swing; derrick or derrick trucks; dragline operator; dredge operator; dozer; ditching machine; euclid loader; hoist - 2 active drums; loader, all types, mechanic or welder; mixer-mobile; track; scoop operator, all types; side boom cat-cherry picker; skimmer scoop operator; pushcat operator

POWER EQUIPMENT OPERATORS Site Preparation & Grading - Building & Residential Construction: (Cont'd)
Group 2 - Asphalt plant operator; elevating grader operator
Group 3 - A-frame truck; asphalt roller operator; asphalt plant boiler fireman; backfiller operator; barber greene loader; boiler other than asphalt; bull float operator; churn drill operator; compressor operator (1); concrete central plant operator; concrete mixer operator skip; concrete pump operator; crusher operator; distributor operator; finish machine operator- concrete; fireman other than asphalt; flex plane operator, fork lift; form grader operator; greasor; hoist 1 drum; jeep ditching machine; pavement breakers, self-propelled (of the hydra hammer or similar type); pump operator, 4" or over, two; pump operator, other than dredge; screening and wash plant operator; small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt; siphon and jets; subgrading machine operator; tank car heater operator, combination booster and boiler; towboat operators; vibrating machine operator, not hand
Group 4 - Concrete gang saw, self-propelled (con-cut); conveyor operator; Harrow, disc seeder; oiler; tractor operator, 50 h.p. or less without attachments
Group 4A - Oiler, motor crane
TRUCK DRIVERS (Site Preparation & Grading) Building & Residential Construction:
Group 1 - Pickups, panel trucks; station wagons; flat beds; dumps and batch trucks (single axle)
Group 2 - Tandem trucks, warehousemen or partsmen; mechanic helpers and servicemen
Group 3 - Lowboys; semi-trailers, all transit mixer trucks (single or tandem axle); A-frame and winch trucks when used as such; euclid, end and bottom dump; tournarockers; atheys; dumptors; and similar off-road equipment and mechanics on such equipment

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays.
b. After 6 months of employment $.26; after 5 years $.52

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Louisiana PARISHES: Calcasieu
DECISION NO.: LA83-4019 DATE: Date of Publication
Supersedes Decision No. LA82-4022, dated 5/7/82, in 47 FR 19877.
DESCRIPTION OF WORK: Residential Projects consisting of single family homes & apartments up to & including 4 stories.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.255	2.715
BRICKLAYERS & STONEMASONS	15.65	2.12
CARPENTERS:		
Carpenters, piledrivermen & soft floor layers	14.83	1.60
Millwrights	17.19	.07
CEMENT MASONS	15.91	
ELECTRICIANS:		
New & old single or multiple family residence & apt. complex not to exceed 12 units 2-story walk-ups	15.80	1.50+ 3-3/10%
Other electricians: Electricians	17.70	2.00+ 3-5/10%
Cable splicers	18.20	"
ELEVATOR CONSTRUCTORS:		
Mechanics	15.46	2.69 a
Helpers	70%JR	"
Helpers (Prob.)	50%JR	
GLAZIERS	14.65	.02+b
IRONWORKERS	15.62	1.62
LABORERS:		
GROUP 1 - Building & general laborers; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners	11.11	.94
GROUP 2 - Mechanical tool op. (except jackhammer); interior of closed tanks & vessels power equiped	11.21	.94
GROUP 3 - Mortar mixers	11.26	.94
GROUP 4 - Jackhammer ops	11.36	.94
GROUP 5 - Blasterers	12.07	.94
LABORERS (Cont'd):		
GROUP 6 - Blaster tender; concrete cutters behind paving machines & puddlers; form setters & lines		
Asphalt worker	$11.61	.94
GROUP 7 - Wipe joints, laying pipe & tile from pumpcrete	11.87	.94
GROUP 8 - Interior of closed tanks & vessels manually	11.16	.94
LATHERS	14.83	1.60
MARBLE & TERRAZZO WORKERS	15.65	2.12
PAINTERS:		
GROUP 1 - Brush, roller buffer	15.795	.45
GROUP 2 - Paperhangers, taping & floating	16.01	.45
GROUP 3 - Spray, sandblast	16.17	.45
PLASTERERS	15.78	
PLUMBERS & PIPEFITTERS	17.48	2.00
ROOFERS:		
Roofers	15.06	.20
Roofer helpers remove old roofing, hustle material & cleanup under supervision of journeymen	11.79	.20
SHEET METAL WORKERS	14.75	3%+ 1.74
SPRINKLER FITTERS	14.57	2.83
TILE SETTERS	13.07	1.70
TRUCK DRIVERS:		
Pickup drivers	12.19	.70
Stake bodies, dumps, trailer trucks, winch truck & Mississippi wagon	13.01	.70

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	15.65	2.12
Group 2	15.80	"
Group 3	15.95	"
Group 4	16.10	"
Group 4A	16.25	"
TILE, TERRAZZO & MARBLE FINISHERS	13.07	1.70
TRUCK DRIVERS:		
Group 1	12.19	.70
Group 2	12.34	.70
Group 3	12.49	.70

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays.
b. After 6 months of employment $.26; after 5 years $.52

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
GROUP 1	$15.42	2.20
GROUP 2	10.86	2.20
GROUP 3	15.67	2.20
GROUP 4	15.92	2.20
GROUP 5	$16.17	2.20
GROUP 6	16.42	2.20
GROUP 7	16.92	2.20

WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS: ELEVATOR CONSTRUCTORS & GLAZIERS

A - New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS & GLAZIERS

a - 1st mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate; Sevel Paid Holidays

b - 5 days paid vacation; Paid Holidays A, C, D, E, G & Good Friday

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Asphalt plant operator; Asphalt Spreader; Backhoes (all types); Boom Trucks; Bulldozers; Bull Floats; Bush Hog; Cableways; Cherry Pickers (all types); Concrete Mixers (over one sack); Concrete Pump; Concrete Saw; Concrete Spreader; Cranes; Deck Winches; Derricks; Distributors; Ditching or Trenching Machines (riding type); Dowel Bar Machine; Draglines; Dredges; Elevator Operator; Finishing Machines (roadway, riding type); Fork Lifts (other than farm-type outside warehouse); Foundation Drill; Front End Loaders; Grease Service Man; Hoists; Locomotives (all types); Mechanic; Mixer Plant Op. (central Mix); Motor Patrols; Motorized Street Sweepers (self-propelled); Piledrivers; Pull Cat; Pump (3" & over); Push Cat; Road Pavers; Rollers; Scrapers; Shovels; Sideboom; Test Pump-Internal Combustion Engine Powered; Tower Cranes; Welder Journeyman; Well Point System; Whirleys; Winch Cats; Winch Truck with A-Frame; Work Boats

GROUP 2 - Batch Plant; Compressor; Ditching or Trenching Machine (non-riding type); Fireman; Generator or Light Plant over ½ h.p.; Mixers (one sack & under); Oiler, Oiler-Compressor op.; Oiler-Driver on Motor Crane; Oiler-Fireman; Pump (under 3" suction); Scale op.; Water Blast Pump; Welding Machine

GROUP 3 - Crane 60 tons & over; Crane Boom 100' & over but less than 150'

GROUP 4 - Crane 100 tons & up to 125 tons; Crane Boom 150' & over but less than 225'

GROUP 5 - Crane over 125 tons up to 200 tons

GROUP 6 - Crane over 200 tons up to 300 tons; Crane Boom 225' & over but less than 300'

GROUP 7 - Crane over 300 tons; Crane Boom 300' & over

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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Part III

Environmental Protection Agency

Waivers From New Source Performance Standards; Innovative Technology Waivers for Five Automobile and Light-Duty Truck Surface Coating Operations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2242-4]

Waivers From New Source Performance Standards; Innovative Technology Waivers for Five Automobile and Light-Duty Truck Surface Coating Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: On August 6, 1982 (47 FR 34342), the Environmental Protection Agency proposed to grant innovative technology waivers, pursuant to Section 111(j) of the Clean Air Act, as amended (the Act), 42 U.S.C. 7411(j), for topcoat operations at five automobile and light-duty truck assembly plants. This action grants those waivers. These waivers provide an opportunity to demonstrate the capability of base coat/clear coat (BC/CC) topcoat coating systems to achieve greater VOC (volatile organic chemicals) emission reductions than required by the existing standards at lower costs.

EFFECTIVE DATE: February 4, 1983.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these waivers is available *only* by the filing of petitions for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication. The issuance of these waivers is based on determinations of nationwide scope and effect. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: Under Section 307(d)(2), 42 U.S.C. 7607(d)(2), the Administrator is required to establish two separate rulemaking dockets for each rule that would apply only within the boundaries of one State. One copy of each docket is located in Washington, D.C. at EPA's Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, S.W. A second copy of each docket is located at the EPA Regional Office for the State where the plant is located. The Regional Office locations are listed below:

- For GM's Wentzville, Missouri plant: Environmental Protection Agency, Region VII, Mr. Charles Whitmore, Docket number (See Table 1), 342 East 11th Street, Kansas City, Missouri
- For GM's Detroit, Michigan, plant, GM's Orion Township, Michigan plant, and/or Honda's Marysville, Ohio plant: Environmental Protection Agency, Region V, Mr. Gary Gulezman, Docket Numbers (See Table 1), 230 South Dearborn Street, Chicago, Illinois
- For Nissan's Smyrna, Tennessee, plant: Environmental Protection Agency, Region IV, Mr. Brian Beals, Docket Number (See Table 1), 345 Courtland Street, N.E., Atlanta, Georgia

TABLE 1.—DOCKET NUMBERS

Plant location	Docket No.
1. GM—Wentzville, Missouri	A-82-11
2. GM—Detroit, Michigan	A-82-12
3. GM—Orion Township, Michigan	A-82-13
4. Honda—Marysville, Ohio	A-82-15
5. Nissan—Smyrna, Tennessee	A-82-16

The dockets may be inspected at the listed addresses between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION:

Background

Current Regulations

On October 5, 1979, pursuant to Section 111 of the Clean Air Act, standards of performance were proposed to limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed automobile and light-duty truck surface coating operations (44 FR 57792). Final standards were published in the **Federal Register** on December 24, 1980 (45 FR 85410).

Standards of performance under Section 111 are established at levels that reflect best demonstrated technology (BDT). For automobile and light-duty truck topcoat operations, BDT was determined to be the use of low-VOC content waterborne coatings applied with the best demonstrated air atomized spray techniques. The standard of 1.47 kg VOC per liter of applied coating solids for topcoat operations was based on the use of this coating system at three U.S. plants. The standard does not, however, require use of waterborne coatings. Any coating system capable of reducing VOC emissions to 1.47 kg VOC per liter of applied coating solids may be used. Other methods which could be used independently or in various combinations to achieve the topcoat standard are low-VOC content solvent-borne coatings, add-on control devices such as incinerators and carbon adsorbers, and high efficiency coating application techniques.

Trends in Automobile Topcoats

Since the standard was proposed in 1979, the trend in the domestic automobile industry has been to develop and use low-VOC content solvent-borne topcoats with improved transfer efficiency, rather than more costly waterborne coatings, to reduce VOC emissions and improve finish quality. Low-VOC content topcoats are available for production line use. These coatings have been demonstrated to be of acceptable quality and appearance and, when used in combination with better transfer efficiency and/or bake oven emission control systems (i.e., energy efficient incinerators), will meet the standard.

Recently, however, a new type of topcoat called base coat/clear coat (BC/CC) has been developed for automobiles and light-duty trucks. BC/CC topcoats consist of a relatively thin layer of highly pigmented base coat followed by a thicker layer of clear coat. BC/CC coatings have a more appealing appearance than single coat topcoats and also offer improved chemical resistance and gloss retention. Vehicles coated with BC/CC topcoats are now being imported to the United States in significant quantities by both European and Japanese manufacturers. Because of the general appeal and acceptance by U.S. consumers of vehicles coated with BC/CC topcoats, U.S. automobile and light-duty truck manufacturers must duplicate the performance of this type of topcoat to be competitive.

The BC/CC coatings that are being used in foreign plants contain relatively large quantities of VOC. If U.S. manufacturers used similar coatings, the only possible method of meeting the existing standards of performance for automobile and light-duty truck surface coating operations would be to use an entirely new generation of very expensive add-on controls to minimize emissions. BC/CC topcoats with VOC content low enough to comply without such add-on controls are not yet commercially available. The coatings manufacturing companies are working with automobile manufacturers to develop lower VOC content BC/CC topcoats. The automobile manufacturers and equipment vendors are developing efficient spray coating methods for these coatings. The results of this intensive industry development program will ultimately permit the automobile

companies to meet the topcoat standard and still apply BC/CC coatings to automobiles in sufficient number to meet market demand without having to use expensive add-on controls.

Waiver Requests

General Motors Corporation (GM) submitted a request on October 30, 1981, for innovative technology waivers under Section 111(j) of the Clean Air Act for the topcoat operations at three automobile plants now under construction. GM planned to initiate production in 1983 and 1984 at these plants. GM claimed that they needed to use BC/CC topcoats on all of the cars produced at these plants so that they could compete with imported cars. The application of oven controls, use of the lowest VOC content BC/CC coating, and the use of the best control application system available to GM would have resulted in BC/CC topcoat VOC emissions of 3.2 kg VOC per liter of applied coating solids at each of these plants.

Honda submitted a request on November 19, 1981, for an innovative technology waiver under Section 111(j) of the Clean Air Act for the topcoat operation at an automobile plant that is being built in Marysville, Ohio. The plant was scheduled to begin production by the end of 1982. Honda would like to coat most of their cars with BC/CC coatings so that they can match the quality of their cars produced in Japan and exported to the U.S. The use of the lowest VOC content BC/CC coating and the best coating application system available to Honda would have resulted in BC/CC topcoat emissions of 3.1 kg of VOC per liter of applied coating solids.

Nissan Motor Manufacturing Company (Nissan) submitted a request on March 12, 1982, for an innovative technology waiver under Section 111(j) of the Clean Air Act for the topcoat operation at a light-duty truck plant that is being constructed in Smyrna, Tennessee. The plant was scheduled to begin production in August 1983. Nissan would like to coat their light-duty trucks with BC/CC topcoat coatings so that they can match the quality of their light-duty trucks produced in Japan and exported to the U.S. The use of the lowest VOC content BC/CC coating, the application of oven VOC controls, and the use of the best coating application system available to Nissan would have resulted in BC/CC topcoat VOC emissions of 2.3 kg of VOC per liter of applied coating solids.

Requirements of Section 111(j)

Section 111(j) of the Clean Air Act sets forth provisions for the issuance of waivers for the development of innovative technology. In the 1977 Amendments to the Clean Air Act, Congress added this provision to encourage the use of innovative "technological systems of continuous emission reduction" for the control of air pollutants. Their intent in doing so was to provide a statutory incentive for the improvement of emission control technology and for reducing costs, environmental impacts, and energy usage of such technology.

Under Section 111(j) of the Act, upon request by the owner or operator of a new source and with the consent of the Governor of the State in which the source is located, the Administrator is authorized to grant a waiver from the requirements of Section 111 for a limited time period provided certain statutory prerequisites are satisfied. The Administrator must determine that:

a. The proposed innovative system has not been adequately demonstrated;

b. The proposed innovative system will operate effectively and there is substantial likelihood that the system will achieve greater continuous emission reduction than otherwise required or achieve an equivalent emission reduction at lower cost in terms of energy, economic, or nonair quality environmental impact;

c. The owner or operator of the proposed system has demonstrated to the Administrator's satisfaction that the system will not cause or contribute an unreasonable risk to public health, welfare, or safety; and

d. The proposed waiver for the specific innovative technological system is not in excess of the number of waivers necessary to ascertain whether or not such system will achieve the conditions set forth in "b" and "c" immediately above.

Additionally, Section 111(j)(1)(B) of the Act requires an innovative technology waiver to be granted on such terms and conditions during the waiver period as the Administrator determines necessary:

a. To ensure emissions from the source will not prevent attainment and maintenance of any national ambient air quality standards, and

b. To ensure proper functioning of the innovative technological system.

Proposed Waivers

The Agency reviewed the waiver requests with regard to the requirements under Section 111(j) of the Act and concluded that these requests met the requirements of the Act. Therefore, the Administrator proposed on August 6, 1982, to grant innovative technology waivers to five automobile and light-duty truck plants subject to the concurrence of the Governors of the States where the plants are located.

Public Participation

The waivers were proposed and published in the **Federal Register** on August 6, 1982 (47 FR 34342). The preamble to the proposed waivers discussed in detail information relating to BC/CC systems and the requirements of waivers under Section 111(j) of the Clean Air Act. Public comments were solicited at the time of proposal and interested persons were given the opportunity to request a public hearing on each of the waivers. No public hearings were requested.

Comment letters were received from the automobile industry, State air pollution control agencies, State Governors, and a regional commerce association. The comments in these letters have been carefully considered and where determined to be appropriate by the Administrator, changes have been made to the proposed waivers. This preamble contains a summary of these comments and the Agency's responses which serves as a basis for the revision made to the waivers between proposal and promulgation.

Significant Comments

General

One commenter, Ford Motor Company, argued that the standards should be revised by treating topcoat operations using BC/CC as a separate class of sources subject to a more lenient (or no) emission limit. This comment, in effect, really concerns the validity of the standards rather than the appropriateness of the waivers. The topcoat standards of performance reflect the best demonstrated technology for topcoat operations as required by Section 111(a)(1) of the Act. The standards need not be revised merely because source owners are developing alternative compliance techniques, some of which, like BC/CC, promise to lower the cost of compliance and improve product quality.

Two commenters, GM and Honda, requested that the waivers be extended to allow the use of all BC/CC topcoats and not just metallic BC/CC topcoats. The commenters pointed out that since the initial waiver requests were submitted, the need for developing non-metallic BC/CC topcoat coatings to meet foreign competition has emerged. When these coatings are developed they will be able to meet the existing topcoat standard of performance at a lower cost and result in a coating that has

improved chemical resistance and gloss retention. The commenters pointed out that the advantages of the development of BC/CC topcoats and the level of VOC emissions are identical for both the non-metallic and the metallic BC/CC topcoat coatings. The Agency has evaluated this comment and found that BC/CC for non-metallic coatings meets all of the requirements of Section 111(j) of the Act. Therefore, the waivers have been revised to apply to all BC/CC topcoat coatings.

One commenter pointed out that the clear coat portion of the BC/CC coating may be purposely tinted in some cases and may not be completely clear. The commenter wanted this type of clear coat to also be covered by the waiver provisions. The Agency has reviewed this comment and finds that the innovative features of the technology will not change as a result of the tinting of the clear coat and agrees that tinted clear coats are covered by the waiver provisions. No definition was added nor were changes made to the waivers as a result of this comment.

GM Waivers

In their initial waiver request, GM had planned to start-up their three plants using a topcoat system composed of a 20 volume percent solids base coat and a 42 volume percent solids clear coat (i.e., a 20/42 BC/CC coating). GM submitted a comment during the comment period which stated that they could be able to start-up with a 32/44 BC/CC coating which had been in development testing but which they now feel will be available by the second quarter of 1983, the date that the first plant will be started up. The waivers for these three GM plants, therefore, have been revised to limit VOC emissions from BC/CC topcoat coatings to 1.9 kg VOC/liter of applied coating solids rather than the proposed emission limit of 3.2 kg VOC/liter of applied coating solids. This change will reduce the annual increase in VOC emissions as a result of the waivers from each GM plant by approximately 850 tons per year.

Summary of the Final Waivers

General Motors

Three identical waivers are granted to GM for automobile assembly plants being built in Detroit, Michigan, Orion Township, Michigan, and Wentzville, Missouri. The Orion Township and Wentzville plants are scheduled to start production in mid 1983 with the start-up of the Detroit plant planned in mid 1984. The waivers allow VOC emissions from the portion of the topcoat operations which use BC/CC coatings of 1.9 kg of VOC per liter of applied coating solids. The waivers are effective from plant start-up to December 31, 1986.

Honda

A waiver is granted to Honda for an automobile assembly plant being built in Marysville, Ohio. That plant is scheduled to start production in late 1982. The waiver allows VOC emissions from the portion of the topcoat operations which use BC/CC coatings of 3.1 kg VOC/liter of applied coating solids. The waiver is effective from plant start-up to December 31, 1986.

Nissan

A waiver is granted to Nissan for a light-duty truck assembly plant being built in Smyrna, Tennessee. That plant is now scheduled to begin production in late 1982. The waiver allows VOC emissions from the portion of the topcoat operations which uses BC/CC coatings of 2.3 kg VOC/liter of applied coating solids. The waiver is effective from plant start-up to December 31, 1986.

Governors' Concurrences

Honorable James A. Rhodes, Governor of the State of Ohio, Honorable Lamar Alexander, Governor of the State of Tennessee, Honorable Kit Bond, Governor of the State of Missouri, and Honorable William Milliken, Governor of the State of Michigan, have concurred in the innovative technology waivers as set forth herein under Section 111(j)(1)(A) of the Act, 42 U.S.C. 7411(j)(1)(A). Such concurrences are a prerequisite for the granting of innovative technology waivers by the Administrator under Section 111(j) of the Act. The waivers as set forth herein are hereby granted.

Miscellaneous

In accordance with Section 117 of the Act, publication of these final waivers was preceded by consultation with Federal departments and agencies.

The Paperwork Reduction Act of 1980 (PL 96–511) requires EPA to submit to the Office of Management and Budget (OMB) certain public reporting/recordkeeping requirements before proposal. This rulemaking does not involve a "collection of information" as defined in the Paperwork Reduction Act. Therefore, the provisions of the Paperwork Reduction Act applicable to collection of information do not apply to this rulemaking.

The Administrator certifies that a regulatory flexibility analysis under 5 U.S.C. 601 et seq. is not required for this rulemaking because the rulemaking would not have a significant impact on a substantial number of small entities. The rulemaking would not impose any new requirements and therefore no additional costs would be imposed. It is, therefore, classified as nonmajor under Executive Order 12291.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment, Disposal and Zinc.

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Title 40 Part 60, Subpart MM of the Code of Federal Regulations is amended by adding a new § 60.398 as set forth below:

§ 60.398 Innovative technology waivers

(a) *General Motors Corporation, Wentzville, Missouri, automobile assembly plant.* (1) Pursuant to Section 111(j) of the Clean Air Act, 42 U.S.C. 7411(j), each topcoat operation at General Motors Corporation automobile assembly plant located in Wentzville, Missouri, shall comply with the following conditions:

(i) The General Motors Corporation shall obtain the necessary permits as required by Section 173 of the Clean Air Act, as amended August 1977, to operate the Wentzville assembly plant.

(ii) Commencing on February 4, 1983, and continuing to December 31, 1986, or until the base coat/clear coat topcoat system that can achieve the standard specified in 40 CFR 60.392(c) (December 24, 1980) is demonstrated to the Administrator's satisfaction the General Motors Corporation shall limit the discharge of VOC emissions to the atmosphere from each topcoat operation at the Wentzville, Missouri, assembly plant, to either:

(A) 1.9 kilograms of VOC per liter of applied coating solids from base coat/clear coat topcoats, and 1.47 kilograms of VOC per liter of applied coating solids from all other topcoat coatings; or

(B) 1.47 kilograms of VOC per liter of applied coating solids from all topcoat coatings.

(iii) Commencing on the day after the expiration of the period described in

paragraph (a)(1)(ii) of this section, and continuing thereafter, emissions of VOC from each topcoat operations shall not exceed 1.47 kilograms of VOC per liter of applied coating solids as specified in 40 CFR 60.392(c) (December 24, 1980).

(iv) Each topcoat operation shall comply with the provisions of § 60.393, § 60.394, § 60.395, § 60.396, and § 60.397. Separate calculations shall be made for base coat/clear coat coatings and all other topcoat coatings when necessary to demonstrate compliance with the emission limits in § 60.398(a)(1) (ii)(A).

(v) A technology development report shall be sent to EPA Region VII, 324 East 11th Street, Kansas City, Missouri 64106, postmarked before 60 days after the promulgation of this waiver and annually thereafter while this waiver is in effect. The technology development report shall summarize the base coat/clear coat development work including the results of exposure and endurance tests of the various coatings being evaluated. The report shall include an updated schedule of attainment of 40 CFR 60.392(c) (December 24, 1980) based on the most current information.

(2) This waiver shall be a Federally promulgated standard of performance. As such, it shall be unlawful for General Motors Corporation to operate a topcoat operation in violation of the requirements established in this waiver. Violation of the terms and conditions of this waiver shall subject the General Motors Corporation to enforcement under Section 113 (b) and (c), 42 U.S.C. 7412 (b) and (c), and Section 120, 42 U.S.C. 7420, of the Act as well as possible citizen enforcement under Section 304 of the Act, 42 U.S.C. 7604.

(b) *General Motors Corporation, Detroit, Michigan, Automobile Assembly plant.* (1) Pursuant to Section 111(j) of the Clean Air Act, 42 U.S.C. 7411(j), each topcoat operation at General Motors Corporation's automobile assembly plant located in Detroit, Michigan, shall comply with the following conditions:

(i) The General Motors Corporation shall obtain the necessary permits as required by Section 173 of the Clean Air Act, as amended August 1977, to operate the Detroit assembly plant.

(ii) Commencing on February 4, 1983, and continuing to December 31, 1986, or until the base coat/clear coat topcoat system that can achieve the standard specified in 40 CFR 60.392(c) (December 24, 1980), is demonstrated to the Administrator's satisfaction, the General Motors Corporation shall limit the discharge of VOC emissions to the atmosphere from each topcoat operation at the Detroit, Michigan, assembly plant, to either:

(A) 1.9 kilograms of VOC per liter of applied coating solids from base coat/clear coat topcoats, and 1.47 kilograms of VOC per liter of applied coating solids from all other topcoat coatings; or

(B) 1.47 kilograms of VOC per liter of applied coating solids from all topcoat coatings.

(iii) Commencing on the day after the expiration of the period described in (ii) above, and continuing thereafter, emissions of VOC from each topcoat operation shall not exceed 1.47 kilograms of VOC per liter of applied coating solids as specified in 40 CFR 60.392(c) (December 24, 1980).

(iv) Each topcoat operation shall comply with the provisions of § 60.393, § 60.394, § 60.395, § 60.396, and § 60.397. Separate calculations shall be made for base coat/clear coat coatings and all other topcoat coatings when necessary to demonstrate compliance with the emission limits in § 60.398(b)(1)(ii)(A).

(v) A technology development report shall be sent to EPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604, postmarked before 60 days after the promulgation of this waiver and annually thereafter while this waiver is in effect. The technology development report shall summarize the base coat/clear coat development work including the results of exposure and endurance tests of the various coatings being evaluated. The report shall include an updated schedule of attainment of 40 CFR 60.392(c) (December 24, 1980) based on the most current information.

(2) This waiver shall be a Federally promulgated standard of performance. As such, it shall be unlawful for General Motors Corporation to operate a topcoat operation in violation of the requirements established in this waiver. Violation of the terms and conditions of this waiver shall subject the General Motors Corporation to enforcement under Section 113 (b) and (c), 42 U.S.C. 7412(b) and (c), and Section 120, 42 U.S.C. 7420, of the Act as well as possible citizen enforcement under Section 304 of the Act, 42 U.S.C. 7604.

(c) *General Motors Corporation, Orion Township, Michigan, automobile assembly plant.* (1) Pursuant to Section 111(j) of the Clean Air Act, 42 U.S.C. 7411(j), each topcoat operation at General Motors Corporation automobile assembly plant located in Orion Township, Michigan, shall comply with the following conditions:

(i) The General Motors Corporation shall obtain the necessary permits as required by Section 173 of the Clean Air Act, as amended August 1977, to operate the Orion Township assembly plant.

(ii) Commencing on February 4, 1983, and continuing to December 31, 1986, or until the base coat/clear coat topcoat system that can achieve the standard specified in 40 CFR 60.392(c) (December 24, 1980) is demonstrated to the Administrator's satisfaction, the General Motors Corporation shall limit the discharge of VOC emissions to the atmosphere from each topcoat operation at the Orion Township, Michigan, assembly plant, to either:

(A) 1.9 kilograms of VOC per liter of applied coating solids from base coat/clear coat topcoats, and 1.47 kilograms of VOC per liter of applied coating solids from all other topcoat coatings; or

(B) 1.47 kilograms of VOC per liter of applied coating solids from all topcoat coatings.

(iii) Commencing on the day after the expiration of the period described in paragraph (c)(1)(ii) of this section and continuing thereafter, emissions of VOC from each topcoat operation shall not exceed 1.47 kilograms of VOC per liter of applied coating solids as specified in 40 CFR 60.392(c) (December 24, 1980).

(iv) Each topcoat operation shall comply with the provisions of § 60.393, § 60.394, § 60.395, § 60.396, and § 60.397. Separate calculations shall be made for base coat/clear coat coatings and all other topcoat coatings when necessary to demonstrate compliance with the emission limits in § 60.398(c)(1) (ii)(A).

(v) A technology development report shall be sent to EPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604, postmarked before 60 days after the promulgation of this waiver and annually thereafter while this waiver is in effect. The technology development report shall summarize the base coat/clear coat development work including the results of exposure and endurance tests of the various coatings being evaluated. The report shall include an updated schedule of attainment of 40 CFR 60.392(c) (December 24, 1980) based on the most current information.

(2) This waiver shall be a Federally promulgated standard of performance. As such, it shall be unlawful for General Motors Corporation to operate a topcoat operation in violation of the requirements established in this waiver. Violation of the terms and conditions of this waiver shall subject the General Motors Corporation to enforcement under Section 113 (b) and (c), 42 U.S.C. 7412 (b) and (c), and Section 120, 42 U.S.C. 7420, of the Act as well as possible citizen enforcement under Section 304 of the Act, 42 U.S.C. 7604.

(d) *Honda of America Manufacturing, Incorporated (Honda), Marysville, Ohio, automobile assembly plant.* (1) Pursuant to Section 111(j) of the Clean Air Act, 42 U.S.C. 7411(j), each topcoat operation at

Honda's automobile assembly plant located in Marysville, Ohio, shall comply with the following conditions:

(i) Honda shall obtain the necessary permits as required by Section 173 of the Clean Air Act, as amended August 1977, to operate the Marysville assembly plant.

(ii) Commencing on February 4, 1983, and continuing for 4 years or to December 31, 1986, whichever is sooner, or until the base coat/clear coat topcoat system that can achieve the standard specified in 40 CFR 60.392(c) (December 24, 1980) is demonstrated to the Administrator's satisfaction, Honda shall limit the discharge of VOC emissions to the atmosphere from each topcoat operation at Marysville, Ohio, assembly plant, to either:

(A) 3.1 kilograms of VOC per liter of applied coating solids from base coat/clear coat topcoats, and 1.47 kilograms of VOC per liter of applied coating solids from all other topcoat coatings; or

(B) 1.47 kilograms of VOC per liter of applied coating solids from all topcoat coatings.

(iii) Commencing on the day after the expiration of the period described in paragraph (d)(1)(ii) of this section and continuing thereafter, emissions of VOC from each topcoat operation shall not exceed 1.47 kilograms of VOC per liter of applied coating solids as specified in 40 CFR 60.392(c) (December 24, 1980).

(iv) Each topcoat operation shall comply with the provisions of § 60.393, § 60.394, § 60.395, § 60.396, and § 60.397. Separate calculations shall be made for base coat/clear coat coatings and all other topcoat coatings when necessary to demonstrate compliance with the emission limits in § 60.398(d)(1)(ii)(A).

(v) A technology development report shall be sent to EPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604, postmarked before 60 days after the promulgation of this waiver and annually thereafter while this waiver is in effect. The technology development report shall summarize the base coat/clear coat development work including the results of exposure and endurance tests of the various coatings being evaluated. The report shall include an updated schedule of attainment of 40 CFR 60.392(c) (December 24, 1980) based on the most current information.

(2) This waiver shall be a Federally promulgated standard of performance. As such, it shall be unlawful for Honda to operate a topcoat operation in violation of the requirements established in this waiver. Violation of the terms and conditions of this waiver shall subject Honda to enforcement under Section 113(b) and (c), 42 U.S.C. 7412(b) and (c), and Section 120, 42 U.S.C. 7420, of the Act as well as possible citizen enforcement under Section 304 of the Act, 42 U.S.C. 7604.

(e) *Nissan Motor Manufacturing Corporation, U.S.A. (Nissan), Smyrna, Tennessee, light-duty truck assembly plant.* (1) Pursuant to Section 111(j) of the Clean Air Act, 42 U.S.C. 7411(j), each topcoat operation at Nissan's light-duty truck assembly plant located in Smyrna, Tennessee, shall comply with the following conditions:

(i) Nissan shall obtain the necessary permits as required by Section 173 of the Clean Air Act, as amended August 1977, to operate the Smyrna assembly plant.

(ii) Commencing on February 4, 1983, and continuing for 4 years or to December 31, 1986, whichever is sooner, or until the base coat/clear coat topcoat system that can achieve the standard specified in 40 CFR 60.392(c) (December 24, 1980), is demonstrated to the Administrator's satisfaction, Nissan shall limit the discharge of VOC emissions to the atmosphere from each topcoat operation at the Smyrna, Tennessee, assembly plant, to either:

(A) 2.3 kilograms of VOC per liter of applied coating solids from base coat/clear coat topcoats, and 1.47 kilograms of VOC per liter of applied coating solids from all other topcoat coatings; or

(B) 1.47 kilograms of VOC per liter of applied coating solids from all topcoat coatings.

(iii) Commencing on the day after the expiration of the period described in paragraph (e)(1)(ii) of this section and continuing thereafter, emissions of VOC from each topcoat operation shall not exceed 1.47 kilograms of VOC per liter of applied coating solids as specified in 40 CFR 60.392(c) (December 24, 1980).

Each topcoat operation shall comply with the provisions of § 60.393, § 60.394, § 60.395, § 60.396, and § 60.397. Separate calculations shall be made for base coat/clear coat coatings and all other topcoat coatings when necessary to demonstrate compliance with the emission limits in § 60.398(e)(1)(ii)(A).

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federal register

Friday
February 4, 1983

Part IV

Department of Energy

Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste

DEPARTMENT OF ENERGY

10 CFR Part 961

Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste

AGENCY: Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice publishes for comment a proposed standard contract to be used by the Department of Energy (DOE) in furnishing disposal services to the owners or generators of spent nuclear fuel and/or high-level radioactive waste and DOE's proposed procedures designed to implement section 302 of the Nuclear Waste Policy Act of 1982. Section 302 generally requires DOE and the owners or generators of spent nuclear fuel and/or high-level radioactive waste to execute, by June 30, 1983, a contract under which DOE will accept and dispose of such material. This rulemaking will have the effect of developing the contractual terms and conditions under which DOE will make available nuclear waste disposal services.

DATES: Written comments must be submitted on or before March 7, 1983. A hearing will be held in Washington, D.C. on March 3, 1983 at 9:30 a.m.

ADDRESS: Written comments and requests to appear at the hearing should be addressed to Robert Morgan, Project Director Nuclear Waste Policy Act Project Office, Department of Energy, 1000 Independence Avenue, S.W., Room 7B–084, Washington, DC 20585, (202) 252–6842.

Comments on the information collection requirements contained in the proposed contract should also be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Mr. Jeff Hill.

The hearing will be held in the Forrestal Building, 1000 Independence Avenue, S.W., Room GE–087, the DOE Auditorium.

FOR FURTHER INFORMATION CONTACT:

Robert Rosselli, Office of Terminal Waste Disposal and Remedial Action, Department of Energy, Room 7B–084, Washington, DC 20585, (202) 252–8728.

James Cavanagh, Office of Policy, MA 931.1, Procurement and Assistance, Management Directorate, Department of Energy, Room 8H–057, Washington, DC 20585, (202) 252–6188.

Elliot Winnick, Office of General Counsel, Department of Energy, Room 6B–190, Washington, DC 20585, (202) 252–1526.

SUPPLEMENTARY INFORMATION:

I. Legislative Background
II. Proposed Rule
III. Comment Procedures
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  B. Regulatory Flexibility Act
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I. Legislative Background

The Nuclear Waste Policy Act of 1982 (the "Act", Pub. L. 97–425, 96 Stat. 2201 *et seq.*, to be codified at 42 U.S.C. 10101 *et seq.*, January 7, 1983), provides a comprehensive framework for disposing of spent nuclear fuel (SNF) and high-level radioactive waste (HLW), of domestic origin, generated by civilian nuclear power reactors. In general, the Act establishes procedures for selecting and developing repositories for SNF and HLW, authorizes the establishment of such repositories, provides a mechanism for financing the cost of disposal of such fuel and waste, and sets forth other provisions relating to nuclear waste disposal.

The key concept in the statutory financing mechanism is that owners and generators of SNF and/or HLW are required to bear the full cost of nuclear waste disposal activities by paying fees into the Nuclear Waste Fund established by the act. This fund, which will be administered by the Secretary of the Treasury, will be used to pay for, among other things, selecting, developing, and constructing repositories, transporting the material, and disposing of it.

More specifically, the fees may be used for the following purposes:

(1) The identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any repository, monitored, retreivable storage facility or test and evaluation facility constructed under the Act;

(2) The conduct of nongeneric research, development, and demonstration activities under the Act;

(3) The administrative cost of the radioactive waste disposal program;

(4) Any costs that may be incurred by DOE in connection with the transportation, treatment, or packaging of spent nuclear fuel or high-level radioactive waste to be disposed of in a repository, to be stored in a monitored, retrievable storage site, or to be used in a test and evaluation facility;

(5) The costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at a repository site, a monitored, retrievable storage site or a test and evaluation facility site and necessary or incident to such repository, monitored, retrievable storage facility or test and evaluation facility; and

(6) The provision of assistance of States, units of general local government, and Indian tribes under sections 116, 118 and 219 of the Act.

To implement section 302 of the Act, this **Federal Register** notice proposes a new Part 961 to Title 10 of the Code of Federal Regulations. This new part will consist of the terms and conditions of the contracts which are authorized by the Act and the procedures associated with executing such contracts. The proposed standard contract is more fully described in Section II, Proposed Rule, below.

The proposed standard contract would establish the rights and duties of the U.S. Department of Energy (DOE) and the owners and generators of SNF and HLW. The Act authorizes DOE to enter into contracts with owners or generators of SNF and HLW and strongly encourages these owners and generators to enter into such contracts. The proposed contract terms will cover transfer of title to DOE, transportation, and disposal of civilian SNF and HLW of domestic origin and procedures for collection and payment of fees for such services, as provided by the Act. Revenues derived from such activities will be deposited into the Nuclear Waste Fund as provided in the Act. The Act directs DOE to begin repository operations no later than January 31, 1998.

Section 302 of the Act contains two provisions which demonstrate the importance which the Act places on this contract. Section 302(b)(1)(A) provides that the Nuclear Regulatory Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless (1) such person has entered into a contract for DOE's disposal services, or (2) the Secretary of Energy affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract for those services.

Furthermore, section 302(b)(2) of the Act specifies that, "Except as provided in paragraph [302(b)(1)]", no civilian SNF or HLW may be disposed of by DOE in any repository constructed under the Act unless the owner or generator of that material has entered into a contract for disposal with the Secretary by not later than (1) June 30, 1983, or (2) the date on which the owner

or generator takes title to, or begins generation of, such spent fuel or waste, whichever is later. DOE has interpreted the phrase, "except as provided in paragraph 1," to extend to paragraph 2 the provision which allows the Secretary to affirm in writing that an owner or generator is actively negotiating in good faith. Accordingly, while this affirmation is in effect, application of paragraph 2, which precludes disposal of SNF or HLW in the absence of a timely executed contract, is deferred. In other words, DOE is interpreting section 302(b)(2) of the Act to mean that the June 30, 1983 deadline for executing a contract does not apply if the Secretary affirms in writing that the owner or generator is actively and in good faith negotiating a contract for DOE's disposal services.

DOE determined that it would be most appropriate to develop this proposed standard contract through rulemaking because this process presents the best opportunity for interested persons, particularly the affected parties, to participate in developing the standard contract which will be used in DOE's nuclear waste disposal activities. Although DOE recognizes that some situations may require special contractual provisions, DOE intends to develop and use, to the maximum extent practicable, a standard contract to specify the rights and duties of the parties.

II. Proposed Rule

The purpose of this new Part 961, as indicated in § 961.1, is to establish a standard contract that will be used to provide DOE's nuclear waste disposal services to a Purchaser. The term "Purchaser" is defined in § 961.3.

Proposed § 961.2 relates to applicability and describes who is covered by the part. A critical feature of this section is that to have SNF or HLW disposed of in DOE's repository, an owner or generator of such nuclear fuel or waste must execute a contract with DOE by June 30, 1983, or by the date on which an owner or generator begins generating or takes title to such fuel or waste. In DOE's interpretation, section 302(b)(2) of the Act allows these deadlines to be waived if the Secretary of Energy affirms in writing that the owner or generator is actively and in good faith negotiating for a contract covered by this part.

Proposed § 961.3 sets forth pertinent definitions and incorporates the more extensive list of definitions contained in Article II of the contract which is found in § 961.11.

Proposed § 961.4 provides for deviations from the proposed rule as well as from the contract which is found at § 961.11. DOE has included this provision because special circumstances may exist or arise that would warrant a departure from the rule or standard contract. As mentioned above, however, DOE intends to use the rule and standard contract unless special circumstances are found and the proposed deviation procedures are followed.

Proposed § 961.5 specifies that Federal agencies which require DOE's nuclear waste disposal services shall enter into an interagency agreement which commits those agencies to the terms and conditions, including the fee schedules, contained in the proposed standard contract.

Proposed § 961.11 sets forth the standard contract that DOE and owners and generators of SNF and/or HLW will execute for the disposal of such fuel or waste, as follows:

Recitals—Identifies the signatory parties, sets forth the underlying purposes of the contract, and cites the pertinent statutory authorities.

Article I—Definitions—Gives definitions for the terms used in the contract. Wherever possible, definitions contained in Section 2 of the Act are used in the contract.

Article II—Scope—Provides that the contract is for the sale of disposal services by DOE to a Purchaser. DOE will accept SNF and/or HLW from civilian nuclear power reactors and begin disposing of it before January 31, 1998. In exchange for these services, Purchasers will pay fees established in the contract.

Article III—Term—Specifies that the contract will take effect upon execution and will continue until DOE has accepted all SNF and/or HLW from Purchaser.

Article IV—Delivery of SNF and/or HLW—Sets forth the procedures to be followed by Purchaser, including the requirement that the Purchaser describe the waste material to be delivered to DOE, the furnishing of a delivery commitment schedule 63 months prior to the specified delivery date, and a final delivery schedule which Purchaser submits 12 months prior to delivery. In case of an emergency DOE may, subject to prior approval, accept a Purchaser's waste material before the scheduled delivery date.

Article V—Responsibilities of the Parties—Sets forth the Purchaser's obligations, including the furnishing of an annual forecast of delivery, preparation for transportation of the SNF and/or HLW to be delivered; and DOE's obligations including reviewing Purchaser's delivery commitment schedules, providing all necessary transportation of the SNF and/or HLW to the DOE disposal facility, issuing an annual acceptance ranking for receipt of such waste material, and providing pertinent information to Purchaser on DOE's waste disposal program.

Article VI—Criteria for Disposal—Sets forth the requirement for accurate and detailed technical descriptions of the fuel to be provided to DOE by the Purchaser. DOE will verify the Purchaser's information prior to acceptance. If DOE determines, either prior to or subsequent to acceptance, that the Purchaser has improperly described spent fuel and waste, the Purchaser is required to take specified corrective measures.

Article VII—Title—Title to all SNF and/or HLW will pass to DOE when DOE accepts the spent fuel or waste, in accordance with Article VI, for transportation to DOE's repository. After title passes, the Purchaser has no rights to the spent fuel or waste and no claims against the Government related to it.

Article VIII—Fees and Terms of Payment—The fees to be paid by Purchaser are specified, including a fee for electricity generated on or after April 7, 1983 (one mil per kilowatt hour) and a one-time fee for fuel used prior to April 7, 1983. The method of paying fees is described and there are provisions for interest charges on late or unpaid fees.

There are three alternatives for the calculation of the one-time fee for existing spent fuel other than the method provided in Article VIII of the contract. The other three alternatives are as follows:

(1) Determining the average burnup of all discharged fuel prior to April 7, 1983, calculating the dollar per kilogram for that average burnup equivalent to one mil per kilowatt hour, and applying that dollar per kilogram charge to all discharged fuel; or

(2) Using the following formula, calculate the fees to be paid by the Purchaser under this contract:

$$\left(\frac{1\ \text{Mill}}{\text{KW-HR}}\right)\left(\frac{\ldots\$1\ldots}{1000\ \text{Mills}}\right)\left(\frac{1\ \text{MWe}}{3\ \text{MWth}}\right)\left(\frac{1\ \text{MTU}}{1000\ \text{Kg}}\right)\left(\frac{24\ \text{Hrs.}}{1\ \text{Day}}\right)\left(\frac{1000\ \text{KWe}}{1\ \text{MWe}}\right)(X) = \frac{\text{Kg}}{}$$

or $.008\ (X) = \frac{\$}{\text{Kg}}$,

where X = the burnup of each assembly in $\frac{\text{MWth Days}}{\text{MTU}}$

a. Fuel Burnup data is used to determine a dollar per kilogram of heavy metal that is equivalent to one (1) mil per Kilowatt-hour.

b. The calculation shall be done on an individual assembly basis.

(3) Categorizing discharged fuel with less than 10,000 MWD/ton burnup as abnormal fuel and subjecting the cost for disposal of that fuel to the 1 mil/kilowatt-hour equivalent charge and subjecting the residual discharged fuel to an average dollar/KG charge such that the total fees collected are equivalent to 1 mil/kilowatt-hour.

Article IX—Delays—In the event of unavoidable delays by either party, notice is required; if the delays are avoidable, the party not responsible therefor is compensated by an adjustment to applicable charges and schedules.

Article X—Suspension—If the Purchaser fails to fulfill its contractual obligation, DOE may discontinue services, although the fee requirements will continue. If there is a national emergency, the DOE may suspend the waste disposal program, in which event fee payments will be abated or adjusted.

Article XI—Remedies—Expressly states that both parties are not precluded from asserting their rights under the contract or at law.

Article XII—Notices—Specifies the persons to whom and the manner in which notification required under the contract must be given.

Article XIII—General Provisions—Incorporates by reference Appendix H which contains general terms and conditions required in Government contracts.

Article XIV—Representation Concerning Nuclear Hazards Indemnity—Provides for indemnity agreements to be issued under the authority of the Atomic Energy Act of 1954, as amended, which will indemnify covered persons, including the Purchaser, against claims for public liability as defined in that Act in the event of nuclear incidents arising during transportation or at the repository site.

Article XV—Assignment—Provides, in accordance with the Act, that the Purchaser may assign its rights and duties under the contract, including the payment of fees, upon transfer of title to SNF and/or HLW, subject to notice to DOE.

Article XVI—Entire Contract—Identifies the contents of the contract (Articles I through XVI and Appendices "A" through "H"), and specifies that any and all prior contracts and representations with respect to the subject matter covered in the contract are superseded.

III. Comment Procedures

A. *Written Comments.* Interested persons are invited to participate in this proposed rulemaking by submitting information, views, or proposed changes. Comments should be submitted no later than March 7, 1983 to the address indicated in the "ADDRESS" section of this notice and should be identified on the outside envelope and on the document with the designation: "Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste". Ten copies should be submitted.

All comments received will be available for public inspection in the DOE Reading Room, Room 1E–190, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Comments on the information collection requirements contained in the proposed contract should also be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Mr. Jeff Hill.

Any information or data considered confidential by the person furnishing it must be so identified and submitted in writing. DOE reserves the right to determine the confidential status of the information or data and to treat the information or data in accordance with its determination.

B. *Public Hearing.* A public hearing will be held on March 3, 1983 at 9:30 a.m. in the DOE Auditorium, Room GE–087, the Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. Requests to make an oral presentation at the hearing should be addressed to Robert Morgan, Project Director, Waste Policy Act Project Office, Department of Energy, Room 7B–084, Washington, D.C. 20585, (202) 252–6842, and should include a phone number where the requester may be contacted through the day before the hearing.

DOE reserves the right to limit the number of persons to be heard at the hearing, to schedule their presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

Persons scheduled to appear at the hearing will be notified by DOE before 4:30 p.m. on February 23, 1983. You should submit 10 copies of your statement to the address given above for requests to speak before 4:30 p.m. on February 25, 1983.

A DOE official will be designated to preside at the hearing, which will not be adjudicative in nature.

Any further procedural rules required for the proper conduct of the hearing will be announced by the presiding officer.

Transcripts of the hearing will be made and the entire record of the hearing, including the transcripts, will be retained and made available for public inspection at the DOE Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

IV. Procedural Requirements

A. *Executive Order No. 12291.* Under Executive Order 12291 agencies are required to determine whether proposed rules are major rules as defined in the Order. DOE has reviewed this proposed rule and, after consultation with the Office of Management and Budget, has determined that it is not a major rule

because: it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises. While the money to be paid by members of the electric utility industry under the contracts that are the subject of this rule will exceed $100 million annually, and may even be considered a major cost to the industry, these costs would not be the result of this rule. The costs are the result of the need to dispose of spent nuclear fuel and/or high-level radioactive waste, a need recognized in the Nuclear Waste Policy Act of 1982. The particular provisions of this rule have little impact on the actual costs of disposal and certainly less than $100 million annually.

B. *Regulatory Flexibility Act.* In accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, DOE finds that sections 603 and 604 of the said Act do not apply to this rule because, if promulgated, it will not have a significant economic impact on a substantial number of small entities. This finding is based on the fact that the parties to the contract, who will be owners or generators of spent nuclear fuel or high-level radioactive waste, are not small entities.

C. *National Environmental Policy Act.* Execution of the standard contract proposed in this rulemaking will not commit DOE to any specific activities not already prescribed by the Nuclear Waste Policy Act. Activities allowed under the Act will receive appropriate environmental review at the proper time, i.e., when such activities are proposed in accordance with the process established in the Act. Therefore, DOE has concluded that neither the proposed rulemaking nor the execution of the contracts gives rise to any action not already prescribed by the Act and, thus, is not a proposal for a major Federal action significantly affecting the quality of the human environment. Accordingly, preparation of either an environmental assessment or an environmental impact statement is not required.

D. *Paperwork Reduction Act.* In accordance with Section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), this proposed rule has been submitted to the Office of Management and Budget (OMB). Comments on the information collection requirements of this proposal should be submitted to both DOE and OMB as indicated in Section III.

List of Subjects in 10 CFR Part 961

Government contracts, Nuclear materials, Nuclear power plants and reactors, Radiation protection, Waste treatment and disposal.

For the reasons set out above, a new Part 961 of Chapter III of Title 10, Code of Federal Regulations, is proposed to be established as set forth below.

Issued in Washington, DC, January 31, 1983.

Hilary J. Rauch,

Director, Procurement & Assistance Management Directorate.

Title 10, Chapter III of the Code of Federal Regulations is proposed to be amended by adding a new Part 961, to read as follows:

PART 961—STANDARD CONTRACT FOR DISPOSAL OF SPENT NUCLEAR FUEL AND/OR HIGH-LEVEL RADIOACTIVE WASTE

Subpart A—General

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961.10 [Reserved]

Subpart B—Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste

961.11 Text of the contract.

Authority: Section 644, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254) and Sec. 302, Pub. L. 97–425, 96 Stat. 2257 (to be codified at 42 U.S.C. 10222).

Subpart A—General

§ 961.1 Purpose.

This part establishes the contractual terms and conditions under which the Department of Energy (DOE) will make available nuclear waste disposal services to the owners and generators of spent nuclear fuel (SNF) and high-level radioactive waste (HLW) as provided in Section 302 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425). Under the contract set forth in § 961.11 of this Part, DOE will take title to, transport, and dispose of spent nuclear fuel and/or high-level radioactive waste delivered to DOE by those owners or generators of such fuel or waste who execute the contract. In addition, the contract will specify the fees owners and generators of SNF and/or HLW will pay for these services. All receipts, proceeds, and revenues realized by DOE under the contract will be deposited in the Nuclear Waste Fund, an account established by the Act in the U.S. Treasury. This fund will pay for DOE's radioactive waste disposal activities, the full costs of which will be borne by the owners and generators under contract with DOE for disposal services.

§ 961.2 Applicability.

This part applies to the Secretary of Energy or his designee and any person who owns or generates spent nuclear fuel or high-level radioactive waste, of domestic origin, generated in a civilian nuclear power reactor. If executed in a timely manner, the contract contained in this part will commit DOE to accept title to, transport, and dispose of such spent fuel and waste. In exchange for these services, the owners or generators of such fuel or waste shall pay fees specified in the contract which are intended to recover fully the costs of the disposal services to be furnished by DOE. The contract must be signed by June 30, 1983, or by the date on which such owner or generator commences generation of, or takes title to, such spent fuel or waste, whichever occurs later. These deadlines may be waived if the Secretary of energy affirms in writing, in accordance with section 302(b)(1)(A)(ii) of the Act, before the applicable deadline, that the owner or generator is actively and in good faith negotiating with the Secretary for a contract covered by this part.

§ 961.3 Definitions.

For purposes of this part—

"Act" means the Nuclear Waste Policy Act of 1982, Pub. L. 97–425, 96 Stat. 2201 *et seq.* (to be codified at 42 U.S.C. 10101 *et seq.*).

"Contract" means the agreement set forth in § 961.11 of this part and any duly executed amendment or modification thereto.

"Generator" means any person who is licensed by the Nuclear Regulatory Commission to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134).

"Owner" means any person who has title to spent nuclear fuel or high-level radioactive waste.

"Purchaser" means any person, other than a Federal agency, who is licensed by the Nuclear Regulatory Commission to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42

U.S.C. 2133, 2134) or who has title to spent nuclear fuel or high level radioactive waste and who has executed a contract with DOE.

"Secretary" means the Secretary of Energy or his designee.

Other definitions relating to the subject matter of this rule are set forth in Article II of the contract which is contained in § 961.11, Text of the contract, below.

§ 961.4 Deviations

Requests for authority to deviate from this part shall be submitted in writing to the Contracting Officer, who shall forward the request for approval to the Senior Procurement Official, Headquarters. Each request for deviation shall contain the following information:

(a) A statement of the deviation desired, including identification of the specific paragraph number(s) of the contract;

(b) A description of the intended effect of the deviation;

(c) The reason why the deviation is considered necessary or would be in the best interests of the Government;

(d) The name of the owner or generator seeking the deviation and nuclear power reactor(s) affected;

(e) A statement as to whether the deviation has been requested previously and, if so, circumstances of the previous request;

(f) A statement of the period of time for which the deviation is needed; and

(g) Any pertinent background information will contribute to a full understanding of the desired deviation.

§ 961.5 Federal Agencies

Federal agencies or departments requiring DOE's disposal services for SNF and/or HLW will be accommodated by a suitable interagency agreement reflecting, as appropriate, the terms and conditions set forth in the contract in § 961.11; *provided, however,* that the fees to be paid by Federal agencies will be equivalent to the fees that would be paid under the contract.

§ 961.6 [Reserved]

§ 961.7 [Reserved]

§ 961.8 [Reserved]

§ 961.9 [Reserved]

§ 961.10 [Reserved]

Subpart B—Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste

§ 961.11 Text of the contract.

The text of the standard contract for disposal of spent nuclear fuel and/or high-level radioactive waste follows:

U.S. Department of Energy Contract No. _____

Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste

THIS CONTRACT, entered into this _____ day of _____ 19 ——, by and between the UNITED STATES OF AMERICA (hereinafter referred to as the "Government"), represented by the UNITED STATES DEPARTMENT OF ENERGY (hereafter referred to as "DOE") and _____, a corporation organized and existing under the laws of the State of _____ (hereinafter referred to as the "Purchaser").

Witnesseth that:

Whereas, the DOE has the responsibility for the disposal of high-level radioactive waste and spent nuclear fuel of domestic origin from civilian nuclear power reactors in order to protect the public health and safety, and the environment; and

Whereas, all costs associated with the preparation, transportation, and the disposal of spent nuclear fuel and high-level radioactive waste from civilian nuclear power reactors shall be borne by the owners and generators of such fuel and waste; and

Whereas, the DOE is required to collect a full cost recovery fee from any Purchaser delivering to the DOE any such spent nuclear fuel and/or high level radioactive waste; and

Whereas, the DOE is authorized to enter into contracts for the permanent disposal of spent nuclear fuel and/or high level radioactive waste of domestic origin in DOE facilities; and

Whereas, the Purchaser desires to obtain disposal services from DOE; and

Whereas, DOE is obligated and willing to provide such disposal services, under the terms and conditions hereinafter set forth; and

Whereas, this contract is made and entered into under the authority of the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*) and the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425);

Now, Therefore, the parties hereto do hereby agree as follows:

Article I—Definitions

As used throughout this contract, the following terms shall have the meanings set forth below:

1. The term "Assigned Three-Month Period" means the period that each Purchaser will be assigned by DOE for purposes of reporting kilowatt hours generated and sold by the Purchaser's nuclear power reactor and for establishing fees due and payable to DOE.

2. The term "Cask" means a container for shipping spent nuclear fuel and/or high-level radioactive waste which meets all applicable regulatory requirements.

3. The term "Civilian Nuclear Power Reactor" means a civilian nuclear powerplant required to be licensed under Sections 103 or 104(b) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133, 2134(b)).

4. The term "Commission" means the United States Nuclear Regulatory Commission.

5. The term "Contract" means this agreement and any duly executed amendment or modification thereto.

6. The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

7. The term "Delivery Commitment" means a promise by the Purchaser to deliver spent nuclear fuel and/or high-level radioactive waste to the DOE within a specified year.

8. The term "Delivery" means the transfer of custody of spent nuclear fuel or high-level radioactive waste from Purchaser to DOE at the Purchaser's civilian nuclear power reactor or such other domestic site as may be designated by the Purchaser and approved by DOE.

9. The term "Disposal" means the emplacement in a repository of high-level radioactive waste, spent nuclear fuel, or other highly radioactive waste with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such waste.

10. The term "DOE" means the United States Department of Energy or any duly authorized representative thereof, including the Contracting Officer.

11. The term "DOE Facility" means a facility operated by or on behalf of DOE for the purpose of disposing of spent nuclear fuel and/or high level radioactive waste.

12. The term "Full Cost Recovery," means the recoupment by DOE, through Purchaser fees, of all direct costs, indirect costs, and all allocable overhead, consistent with generally accepted accounting principles, of providing disposal services and conducting related activities authorized by the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425). As used herein, the term "Cost" includes the application of fees for those uses expressly set forth in section 302(d) of the said Act and all other uses specified in the Act, such as, but not limited to, interest on funds borrowed from the U.S. Treasury and interest on funds appropriated by the Congress.

13. The term "High-Level Radioactive Waste" (HLW) means—(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

(B) other highly radioactive material that the Commission, consistent with existing law,

determines by rule requires permanent isolation.

14. The term "Kilowatt Hours Generated and Sold" means electricity generated at a civilian nuclear power reactor as measured at the station busbar, net of all station uses, including an equivalent amount of electricity for any process heat generated by the reactor and used other than at the reactor.

15. The term "Purchaser's Site" means the location of Purchaser's civilian nuclear power reactor or such other location as the Purchaser may designate.

16. The term "Quarterly Treasury Rate" means the current value of funds rate as specified by the Treasury Fiscal Requirements Manual, Volume 1, Part 6, section 8020.20. This rate is published quarterly in the **Federal Register** prior to the beginning of the affected quarter.

17. The term "Shipping Lot" means a specified quantity of spent nuclear fuel or high level waste designated by Purchaser for transportation by DOE on a specified date.

18. The term "Spent Nuclear Fuel" (SNF) means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

19. The term "Spent Nuclear Fuel of Domestic Origin" means irradiated fuel material used in nuclear power reactors located only in the United States.

20. The term "Year" means the period which begins on October 1 and ends on September 30.

Article II—Scope

This Contract applies to the acceptance by DOE of spent nuclear fuel (SNF) and/or high-level radioactive waste (HLW) from civilian nuclear power reactors and, with respect to such material, establishes the fees to be paid by the Purchaser for the services rendered hereunder by DOE. The services provided to the Purchaser by DOE under this contract are related to disposal of SNF and/or HLW of domestic origin from civilian nuclear power reactors. The SNF and/or HLW shall be specified in a delivery commitment schedule as provided in Article IV below. The disposal services to be provided by DOE under this contract shall commence not later than January 31, 1998 and shall continue until such time as all SNF and/or HLW from the civilian nuclear power reactors specified in Appendix "A", annexed hereto and made a part hereof, has been disposed of as provided for in this contract.

Article III—Term

The term of this contract shall be from the date of execution until such time as DOE has accepted SNF and/or HLW from the civilian nuclear power reactors specified in Appendix "A."

Article IV—Delivery of SNF and/or HLW

A. Description of SNF and/or HLW

The Purchaser shall deliver to DOE and DOE shall, as provided for in this contract, receive the SNF and/or HLW which is described in accordance with Article VI.A of this contract, for disposal thereof.

B. Delivery Commitment Schedule

Delivery commitment schedule(s), in the form set forth in Appendix *B*, annexed hereto and made a part hereof, for delivery of SNF and/or HLW shall be furnished to DOE by Purchaser. After DOE has issued its proposed acceptance ranking, described in paragraph B.6 of Article V of this contract, the Purchaser shall submit delivery commitment schedule(s)) at least sixty-three (63) months prior to the delivery date specified therein. DOE shall approve or disapprove such schedules within three (3) months after receipt. In the event of disapproval, DOE shall advise the Purchaser in writing of the reasons for such disapproval and request a revised schedule from the Purchaser, to be submitted to DOE within thirty (30) days after receipt of DOE's notice of disapproval. Purchaser shall have the right to adjust the quantities of SNF and/or HLW + or − 20%, and the delivery schedule +2 months, up to the submission of the final delivery schedule.

In addition, the Purchaser may change the specific assemblies to be delivered so long as the SNF meets the acceptance criteria of the contract. These adjustments shall be subject to DOE's prior written approval, which approval shall not be unreasonably withheld.

C. Final Delivery Schedule

Final delivery schedule(s), in the form set forth in Appendix *C*, annexed hereto and made a part hereof, for delivery of SNF and/or HLW covered by an approved delivery commitment schedule(s) shall be furnished to DOE by Purchaser. The Purchaser shall submit to DOE final delivery schedules not less than 12 months prior to the delivery date specified therein. DOE shall approve or disapprove a final delivery schedule within forty-five (45) days after receipt. In the event of disapproval, DOE shall advise the Purchaser in writing of the reasons for such disapproval and shall request a revised schedule from the Purchaser, to be submitted to DOE within thirty (30) days after receipt of DOE's notice of disapproval.

D. Emergency Deliveries

Emergency deliveries of SNF and/or HLW may be accepted by DOE before the date provided in the Delivery Commitment upon written approval by DOE.

Article V—Responsibilities of the Parties

A. Purchaser's Responsibilities

1. *Annual Forecast of Shipments.* (a) On an annual basis, commencing October 1, 1983, the Purchaser shall provide DOE with information on actual discharges to date and projected discharges for the next ten (10) years in the form and content set forth in Appendix *D*, annexed hereto and made a part hereof.

(b) In the event that the Purchaser fails to provide the annual forecast in the form and content required by DOE, DOE may, in its sole discretion, require a rescheduling of delivery.

2. *Preparation for Transportation.* (a) The Purchaser shall arrange for all preparation, packaging, required inspections, and loading activities necessary for the transportation of SNF and/or HLW to the DOE facility. The Purchaser shall notify DOE of such activities sixty (60) days prior to the commencement of such activities. The preparatory activities by the Purchaser shall be made in accordance with all applicable laws and regulations relating to the Purchaser's responsibilities hereunder. DOE may designate a representative to observe the preparatory activities conducted by the Purchaser at the Purchaser's site, and the Purchaser shall afford access to such representative.

(b) Except as otherwise agreed to by DOE, the Purchaser shall advise DOE, in writing as specified in Appendix "F", annexed hereto and made a part hereof, as to the description of the material in each shipping lot sixty (60) days prior to scheduled transportation of that shipping lot by DOE.

(c) The Purchaser shall be responsible for maintenance, protection and preservation of any and all shipping casks furnished to the Purchaser by DOE for the performance of this contract. The Purchaser shall be liable for any loss of or damage to such DOE-furnished property, and for expenses incidental to such loss or damage while such casks are in the possession and control of the Purchaser except as otherwise provided for hereunder.

B. DOE Responsibilities

1. DOE shall review and approve or disapprove Purchaser's proposed delivery commitment schedule(s), and final delivery schedules within approximately ninety (90) days after receipt thereof;

2. DOE shall arrange for, and provide, all necessary transportation of the SNF and/or HLW to the DOE facility. Unless otherwise agreed to in advance by DOE, DOE shall arrange for a shipping cask to be furnished to the Purchaser sufficiently in advance to accommodate scheduled deliveries. Such casks shall be suitable for use at the Purchaser's site.

3. DOE shall accept at the Purchaser's site SNF and/or HLW. Prior to such acceptance all SNF and/or HLW shall meet the acceptance criteria contained in Article *VI* of this contract.

4. DOE may fulfill any of its obligations, or take any action, under this contract either directly or through contractors.

5. DOE shall annually provide to the Purchaser pertinent information to support waste disposal program cost projections, project plans and progress reports.

6. Beginning on April 1, 1991, DOE shall issue an annual acceptance ranking for receipt of SNF and/or HLW at the DOE repository. This priority ranking shall be based on the age of SNF and/or HLW as calculated from the date of discharge of such material from the civilian nuclear power reactor. The oldest fuel or waste will have the highest priority for acceptance, except as provided in paragraph B.3 of Article *VI* of this contract.

Article VI—Criteria for Disposal

A. General Requirements

1. Except as otherwise provided in this contract, DOE shall accept hereunder only such SNF and/or HLW which has been approved for delivery in advance by DOE

and which meets the General Specifications for such fuel and waste as set forth in Appendix "*E*", annexed hereto and made a part hereof.

2. Purchaser shall provide to DOE a detailed description of the SNF and/or HLW to be delivered hereunder in such form and content as DOE may require as set forth in Appendix "*F*", annexed hereto and made a part hereof. Purchaser shall promptly advise DOE of any changes in said SNF and/or HLW as soon as they are known to the Purchaser.

3. Purchaser shall accurately classify SNF and/or HLW prior to delivery in accordance with paragraphs "*B*" and "*C*" of Appendix "*E*".

4. DOE's obligation for disposing of SNF under this contract also extends to other than Standard Fuel; however, for any SNF which has been designated by the Purchaser as other than Standard Fuel, as that term is defined in Appendix "*E*", the Purchaser shall obtain delivery and procedure confirmation from DOE prior to delivery to DOE by Purchaser. DOE shall advise Purchaser within approximately sixty (60) days after receipt of such confirmation request as to the technical feasibility of disposing of such fuel on the currently agreed to schedule and any schedule adjustment for such services.

B. Acceptance Criteria

1. *Verification of SNF and/or HLW.* During cask loading and prior to acceptance by DOE for transportation to the DOE facility, the SNF and/or HLW description of the shipping lot will be verified by DOE. To the extent the SNF and/or HLW is consistent with the description submitted and approved, in accordance with Appendices *"E"* and *"F,"* DOE agrees to accept such SNF and/or HLW for disposal when DOE has verified the SNF and/or HLW description, determined the material is properly loaded, packaged, marked, labeled and ready for transportation, and has taken custody, as evidenced in writing, of the material at the Purchaser's site, f.o.b. carrier. A properly executed off-site radioactive shipment record describing cask contents must be prepared by the Purchaser along with a signed certification which states: "This is to certify that the above named materials are properly described, classified, packaged, marked and labeled and are in proper condition for transfer according to the applicable regulations of the U.S. Department of Transportation."

2. *Improperly Described SNF and/or HLW.* (a) *Prior to Acceptance*—If SNF and/or HLW is determined by DOE to be improperly described prior to acceptance by DOE at the Purchaser's site, DOE shall promptly notify the Purchaser in writing of such determination. DOE reserves the right, in its sole discretion, to refuse to accept such SNF and/or HLW until the SNF and/or HLW has been properly described. The Purchaser shall not transfer such SNF and/or HLW to DOE unless DOE agrees to accept such SNF and/or HLW under such other arrangements as may be agreed to, in writing, by the parties.

(b) *After Acceptance*—If subsequent to its acceptance DOE finds that such SNF and/or HLW is improperly described, DOE shall promptly notify the Purchaser, in writing, of such findings. In the event of such notification, Purchaser shall provide DOE with a proper designation within thirty (30) days.

3. *Acceptance Priority Ranking.* Delivery commitment schedules for SNF and/or HLW may require the disposal of more material than the annual capacity of the DOE disposal facility (or facilities) can accommodate. The following acceptance priority ranking will be utilized:

(a) Except as may be provided for in paragraph (2) below, acceptance priority shall be based upon the age of the SNF and/or HLW as calculated from the date of discharge of such materials from the civilian nuclear power reactor to the date specified for transportation by DOE in the delivery commitment schedule. DOE will first accept from Purchaser the oldest SNF and/or HLW for disposal in the DOE facility;

(b) Notwithstanding the age of the SNF and/or HLW, priority may be accorded any SNF and/or HLW removed from a civilian nuclear power reactor that has reached the end of its useful life or has been shut down permanently for whatever reason.

Article VII—Title

Title to all SNF and/or HLW accepted by DOE for disposal shall pass to DOE upon acceptance by DOE at the Purchaser's site as provided for in Article VI hereof. DOE shall be solely responsible for control of all material upon assuming title. DOE shall have the right to dispose as it sees fit of any SNF and/or HLW to which it has taken title. The Purchaser shall have no claim against DOE or the Government with respect to such SNF or HLW nor shall DOE or the Government be obligated to compensate the Purchaser for such material.

Article VIII—Fees and Terms of Payment

A. Fees

1. Effective April 7, 1983 Purchaser shall be charged a fee in the amount of 1.0 mil per kilowatt-hour (MKWH) on electricity generated and sold by Purchaser's nuclear power reactors. The said fee shall be paid as specified in Paragraph B of this Article VIII.

2. For SNF, or solidified high-level radioactive waste derived from SNF, which fuel was used to generate electricity in a civilian nuclear power reactor prior to April 7, 1983, a one-time fee will be assessed by applying average dollar per kilogram charges to three (3) distinct ranges of fuel burnup reflecting actual disposal costs for those ranges so that the integrated cost across all discharged fuel is equivalent to 1.0 mill per kilowatt hour. The payment of this fee by the Purchaser shall be made to DOE as specified in paragraph B of Article VIII below.

3. DOE will annually review the adequacy of the fees and adjust them, if necessary, in order to assure that all costs to be incurred by the Government shall be recovered. The proposed fee adjustment will be transmitted to Congress and shall be effective after a period of ninety (90) days of continuous session have elapsed following receipt of such transmittal unless either House of Congress adopts a resolution disapproving the proposed adjustment. The adjustment to the fee will not be retroactive to previously generated electricity.

4. For in-core fuel as of April 7, 1983, that portion of the fuel burned through April 6, 1983 shall be subject to the one-time fee as calculated in accordance with paragraph A.2. of this Article VIII. That portion of such fuel unburned as of April 7, 1983 shall be subject to the 1.0 mill per kilowatt hour charge. Adjustment in the calculation for the unburned portion of such fuel can be made until April 7, 1984 without penalty. After April 7, 1984, the provision for late payment of fee shall apply as specified in paragraph C of this Article VIII.

B. Payment

1. For electricity generated and sold on or after April 7, 1983, fees shall be paid quarterly by the Purchaser and must be received by DOE not later than the close of business on the last business day of the month following the end of each assigned three month period. The first payment shall be due on July 7, 1983. A one-time adjustment period payment shall be due ———. The assigned three month period, for purposes of payment and reporting of kilowatt hours, shall begin ———.

2. For SNF discharged prior to April 7, 1983, the Purchaser shall, at the time of contract execution, select one of the following fee payment options:

(a) *Option 1*—The Purchaser's fee shall be prorated evenly over forty (40) quarters at the fee schedule rate in effect at the date of the first payment and will consist of the SNF fee and interest on the outstanding fee balance at the date of the first payment. The interest is to be calculated at the ten year Treasury note rate in effect on the date of the first payment. In no event shall the end of the forty (40) quarters extend beyond the first scheduled delivery date as reflected in the DOE Delivery Commitment Schedule. Payment shall be made concurrently with the assigned three month period payments.

(b) *Option 2*—The Purchaser's fee shall be paid in the form of a single payment, at the fee schedule rate in effect at the time of payment, at any time prior to the first delivery as reflected in the DOE approved Delivery Commitment Schedule.

3. *Method of Payment.* (a) Payments shall be made by wire transfer, in accordance with instructions specified by DOE in Appendix *"G"*, annexed hereto and made a part hereof and must be received within the time periods specified in paragraph B.1 of this Article VIII.

(b) The Purchaser will complete a Standard Remittance Advice, as set forth in Appendix *G*, for each assigned three month period payment, and mail the remittance advice postmarked no later than the last business day of the month following each assigned three month period to "Department of Energy, Office of CONTROLLER, Cash Management

Division, Box 500, Room D–206, Germantown, Maryland 20874."

4. Any fees not paid on a timely basis or underpaid because of miscalculation will be subject to interest as specified in paragraph C of this Article VIII.

C. Interest on Late Fees

1. DOE will notify the Purchaser of amounts due only when unpaid or underpaid by the dates specified in paragraph B above. Interest will be levied according to the following formula:

$$\text{Interest} = \text{Amount due to DOE for assigned three month period.} \times \frac{\text{Quarterly Treasury rate plus six percent (6\%).} \times \text{\#Months late including month of payment (fractions rounded up to whole months)}}{12}$$

2. Interest is payable at anytime prior to the due date for the subsequent assigned three month period fee payment. Nonpayment by the end of the subsequent assigned three month period will result in compounding of interest due. Purchaser shall complete a Standard Remittance Advice for interest payments.

3. Collection, following the assessment of a late fee by DOE, will be applied against accured interest first and the principal thereafter.

D. Effect of Payment

Upon payment of all applicable fees and any applicable interest due thereon, the Purchaser shall have no financial obligation to DOE for the disposal of the accepted SNF and/or HLW.

E. Audit

1. The DOE or its representative shall have the right to perform any audits or inspections necessary to determine whether Purchaser is paying the correct amount under the fee schedule set forth in Paragraph A, above.

2. Nothing in this contract shall be deemed to preclude an audit by the General Accounting Office of any transaction under this contract.

3. The Purchaser shall furnish DOE with such records, reports and data as may be necessary for the determination of quantities delivered hereunder and for final settlement of amounts due under this contract and shall retain and make available to DOE and its authorized representative for examination at all reasonable times such records, reports and data for a period of three (3) years from the completion of delivery of all material under this contract.

Article IX—Delays

A. Unavoidable Delays by Purchaser or DOE

Neither the Government nor the Purchaser shall be liable under this contract for damages caused by failure to perform its obligations hereunder, if such failure arises out of causes beyond the control and without the fault or negligence of the party failing to perform. In the event circumstances beyond the reasonable control of the Purchaser or DOE—such as acts of God, fire, flood—cause delay in scheduled delivery, acceptance or transport of SNF and/or HLW, the party experiencing the delay will notify the other party as soon as possible after such delay is ascertained and the parties will readjust their schedules, as appropriate, to accommodate such delay.

B. Avoidable Delays by Purchaser or DOE

In the event of any delay in the delivery, acceptance or transport of SNF and/or HLW to DOE caused by circumstances within the reasonable control of either the Purchaser or DOE or their respective contractors or suppliers, the charges and schedules specified by this contract will be equitably adjusted to reflect any estimated additional costs incurred by the party not responsible for or contributing to the delay.

Article X—Suspension

1. In addition to any other rights DOE may have hereunder, DOE reserves the right, at no cost to the Government, to suspend this contract upon written notice to the Purchaser within ninety (90) days of the Purchaser's failure to perform its obligations hereunder, and the Purchaser's failure to take corrective action within thirty (30) days after written notice of such failure to perform as provided above, unless such failure shall arise from causes beyond the control and without the fault or negligence of the Purchaser, its contractors or agents. However, the Purchaser's obligation to pay fees required hereunder shall continue unaffected by any suspension hereunder.

2. The DOE reserves the right to suspend any scheduled deliveries in the event that a national emergency requires that priority be given to Government programs to the exclusion of the work under this contract. In the event of such a suspension by the Government, the DOE shall refund that portion of payments representing services not delivered as determined by the Contracting Officer to be an equitable adjustment. Any disagreement arising from the refund payment, if any, shall be resolved as provided in the clause of this contract, entitled "Disputes."

Article XI—Remedies

Nothing in this contrct shall be construed to preclude either party from asserting its rights and remedies under the contract or at law.

Article XII—Notices

All notices and communications between the parties under this contract (except notices published in the **Federal Register**) shall be in writing and shall be sent to the following addressees:

To DOE: _____

_____

_____

To the Purchaser: _____

_____

_____

However, the parties may change the addresses or addressees for such notices or communications without formal modification to this contract; *provided, however,* that notice of such changes shall be given by registered mail.

Article XIII—General Provisions

The General Terms and Conditions of this contract are set forth in full in Appendix "*H*", annexed hereto and made a part hereof.

Article XIV—Representation Concerning Nuclear Hazards Indemnity

DOE represents that it will include in its contract(s) for the transportation of SNF and/or HLW to the DOE facility, and in its contract(s) for the operation of any such facility an indemnity agreement based upon Section 170(d) of the Atomic Energy Act of 1954, as amended, a copy of which agreement shall be furnished to the Purchaser; that under said agreement, DOE shall have agreed to indemnify the contractor and other persons indemnified against claims for public liability (as defined in said Act) arising out of or in connection with contractual activities; that the indemnity shall apply to covered nuclear incidents which (1) take place at a contract location; or (2) arise out of or in the course of transportation of source, special nuclear or by-product material to or from a contract location. The obligation of DOE to indemnify shall be subject to the conditions stated in the indemnity agreement.

Article XV—Assignment

The rights and duties of a party to this contract may be assignable with transfer of title to the SNF and/or HLW involved; *provided, however,* that notice of any such transfer shall be made to DOE within ninety (90) days of transfer.

Article XVI—Entire Contract

This contract, which consists of Articles I through XVI and Appendixes "A" through "*H*", annexed hereto and made a part hereof, contains the entire agreement between the parties with respect to the subject matter hereof. All previous and collateral contracts, representations, warranties, promises and conditions of sale are superseded by this contract. Any representation, promise, or condition not incorporated in this contract shall not be binding on either party. No course of dealing or usage of trade or course of performance shall be relevant to explain or supplement any provision contained in this contract.

In witness whereof, the parties hereto have executed this contract as of the day and year first above written.

Appendices

A. Nuclear Power Reactors or Other Facilities Covered
B. Delivery Commitment Schedule
C. Final Delivery Schedule
D. Annual Forecast
E. Acceptance Criteria and General Specifications
F. Description of Purchaser's Fuel
G. Standard Remittance Advice

H. General Terms and Conditions

United States of America, United States Department of Energy

By: (Contracting Officer) _____
Witnesses as to execution on behalf of contractor:
(Name) _____
(Address) _____
(Name) _____
(Address) _____
(Purchaser's company name)
By: _____
Title: _____

I, (name), certify that I am the (title) of the corporation named as Purchaser herein; that (Name) who signed this document on behalf of the Purchaser was then (Title) of said corporation; that said document was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

In witness whereof, I have hereunto affixed my hand and the seal of said corporation this ——— day of ———, 1983.

(Corporate Seal)
(Signature) _____

Appendix "A"

Nuclear Power Reactor(s) or Other Facilities Covered

Reactor/Facility Name: _____
Location: _____
Type: _____
Capacity: _____
Date of Commencement of Operation: ———
NRC License No.: _____

Appendix "B"

Delivery Commitment Schedule

In accordance with the contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste between _____ (Purchaser) and DOE under Contract No. ——— dated ———, the following Delivery Commitment schedule is submitted by Purchaser to DOE. This Delivery Commitment Schedule shall be submitted by Purchaser and approved sixty-three (63 months) prior to delivery.

Reactor Name: _____
Type Reactor—PWR/BWR _____
Location _____
Shipping Lot No. _____
Discharge Date _____
Metric Tons Uranium _____
Number of Assemblies _____
Commitment Year for Delivery _____
Proposed Shipping Mode (Rail/Truck) ———

A detailed description of the Purchaser fuel will be submitted as set forth in Appendix E of this contract.

Unless otherwise agreed to in writing by DOE, the Purchaser shall furnish to DOE suitable proof of ownership of the SNF and/or HLW to be delivered hereunder. The Purchaser shall notify DOE in writing at the earliest practicable date of any change in said ownership.

By Purchaser: _____
Title _____
Date _____
Approved for DOE: _____
(Contracting Officer) _____
Date _____

Appendix "C"

Final Delivery Schedule

(To be submitted by Purchaser not later than twelve (12) months prior to estimated date of first delivery).

In accordance with the contract for Disposal of Spent Nuclear fuel and/or High-Level Radioactive Waste between _____ (Purchaser) and DOE under Contract No. ——— dated ———, the following Final Delivery schedule is submitted for DOE approval.

Reactor Name: _____
Type Reactor—PWR/BWR _____
Location _____
Shipping Lot No. _____
Discharge Date _____
Metric Tons Uranium _____
Number of Assemblies _____
Estimated Date First Delivery _____
Estimated Date Last Delivery _____
Proposed Shipping Mode (Rail/Truck) ———
Type of Shipping Casks Required _____
Number of Assemblies per Cask _____
Delivery to be made to DOE from Purchaser's site _____

The above data must correspond to the Delivery Commitment Schedule (Appendix B) regrouped for shipping purposes.

Purchaser confirms that no change has taken place in the status of ownership of the SNF and/or HLW schedule hereunder.

NOTE: Contact _____
Title _____
Phone _____
for DOE confirmation on an acceptable delivery date.

By purchaser: _____
Title _____
Date _____
Approved for DOE: _____
(Contracting Officer) _____
Date _____

Appendix "D"

Annual Forecast

In accordance with the contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste between _____ (Purchaser) and DOE under Contract No. ——— dated ———, the following Annual Forecast is submitted. This information is to be used for DOE planning purposes and does not represent a firm commitment by Purchaser.

Reactor Name: _____
Type Reactor—PWR/BWR _____
Location _____
Shipping Lot No. _____
Discharge Date _____
Metric Tons Uranium _____
Number of Assemblies _____
Commitment Year for Delivery _____
Proposed Shipping Mode (Rail/Truck) ———
By Purchaser: _____
Title _____
Date _____

(Enclosure 1)

Actual Discharges

In accordance with the contract for Disposal of Spent Nuclear Fuel and/or High-level Radioactive Waste between ——— (Purchaser) and DOE under Contract No. ——— dated ———, the following Actual Discharge information is submitted.

Reactor Name: _____
Type of Reactor—PWR/BWR _____
Location _____
Shipping Lot No. _____
Discharge Date _____
Metric Tons Uranium _____
Number of Assemblies _____
Commitment Year for Delivery _____
Proposed Shipping Mode (Rail/Truck) ———
By Purchaser: _____
Title _____

Appendix "E"

Acceptance Criteria and General Specifications

A. *Fuel category identification.* a. Categories—Purchaser shall use reasonable efforts, utilizing technology equivalent to and consistent with the commercial practice, to properly classify Spent Nuclear Fuel (SNF) prior to delivery to DOE as follows:

a. "Standard Fuel" means SNF that meets all the General Specifications therefor set forth in Paragraph B below;

b. "Nonstandard Fuel" means SNF that does not meet one or more of the General Specifications set forth in Subparagraphs 1 through 4 of Paragraph B below, and which is classified as Nonstandard Fuel Classes NS–1 through NS–4, pursuant to Paragraph B below.

c. *"Failed Fuel"* means SNF that meets the specifications set forth in Subparagraphs 1 through 3 of Paragraph B below and which is classified as Failed Fuel Class F–1 through F–3 pursuant to Subparagraph 5 of Paragraph B below.

d. Fuel may have "Failed Fuel" and/or several "Nonstandard Fuel" classifications.

B. *Fuel description and subclassification—general specifications.* 1. *Maximum nominal physical dimensions.*

	Boiling water reactor (BWR)	Pressurized waste reactor (PWR)
Overall Length	14 feet, 11 inches	14 feet, 10 inches.
Active Fuel Length	12 feet, 6 inches	12 feet, 0 inches
Cross Section*	6 inches x 6 inches.	9 inches x 9 inches.

*The cross section of the fuel assembly shall not include the channel

NOTE.—Fuel that does not meet these specifications shall be classified as Nonstandard Fuel—Class NS–1.

2. *Mechanical components.* (a) Cladding shall be Zircaloy 2, Zircaloy 4, stainless steel or such other material as may be approved in writing by DOE.

(b) Any nonfuel components such as control spiders, burnable poison rod assemblies, and control rod elements that are integral with the fuel assembly and do not require special handling may be stored and/or disposed of at no extra charge.

Note.—Fuel that does not meet these specifications shall be classified as Nonstandard Fuel—Class NS–2

3. *Cooling.* The minimum cooling time for fuel is five (5) years.

Note.—Fuel that does not meet these specifications shall be classified as Nonstandard Fuel—Class NS–3.

4. NON-LWR Fuel—Fuel from other than LWR power facilities shall be classified as Nonstandard Fuel—Class NS–4. Such fuel

may be unique and require special handling, storage and disposal facilities.

5. *Failed fuel.* a. *Visual inspection.* Assemblies shall be visually inspected for evidence of structural deformity of damage to classing or spacers which may require special handling. Assemblies which (i) are structurally deformed or have damaged cladding to the extent that special handling may be required or (ii) for any reason cannot be handled with normal fuel handling equipment shall be classified as FAILED FUEL—F–1.

b. *Radioactivity release test.* Assemblies determined to be structurally sound by meeting the criteria of item a above, shall be tested in water by DOE approved means to determine the radioactive release resulting from (i) cladding leakage and/or (ii) surface deposits. Assemblies found to have such radioactivity release that the radioactivity level in the cask coolant on delivery to DOE would exceed by 15 percent the regulatory limits permitted during transport of Spent Fuel Assemblies shall be classified as Failed Fuel—Class F–2.

For the initial loading of any shipping lot under this contract, the specified percentage shall be as measured by the Purchaser in the cask water at the reactor site prior to delivery to DOE. Such percentage may be subsequently modified based upon operating experience. For any water-cooled shipping lots, such limits shall be based on 10 CFR 71.36 (a) 2; for any gas-cooled shipping lots such limits shall be based on 10 CFR 71.35 (a) 4.

c. *Previously Encapsulated Assemblies.* Assemblies encapsulated by Purchaser prior to calssification hereunder shall be classified as FAILED FUEL—CLASS F–3. Purchaser shall advise DOE of the reason for the prior encapsulation of assemblies, in sufficient detail so that DOE may plan for appropriate subsequent handling.

2. *Summary of fuel classifications.* (a) Standard Fuel: (1) Class S–1; PWR. (2) Class S–2; BWR.

(b) Nonstandard Fuel: (1) Class NS–1; physical dimensions. (2) Class NS–2; mechanical components. (3) Class NS–3; short cooled. (4) Class NS–4; non-LWR.

(c) Failed Fuel: Class F–1; visual failure or damage. (2) Class F–2; radioactive "leakage". (3) Class F–3; encapsulated.

C. *High-Level radioactive waste.* The DOE shall accept high level radioactive waste. Detailed acceptance criteria and general specifications for such waste will be issued by the DOE no later than the date on which DOE submits its license appication to the Nuclear Regulatory Commission for the first disposal facility.

Appendix "F"

Detailed Description of Purchaser's Fuel

Reactor Name ———————————
Shipping Lot No. ———————————
Number of Assemblies Herein Described ——

This information shall be provided by Purchaser for each distinct fuel type within a shipping lot. It will accompany the Delivery Commitment Schedule.

The following definitions shall apply to the Spent Nuclear Fuel described in this Exhibit:

"*Fuel Element*" means the smallest integral unit of clad fuel (or blanket) containing Special Nuclear Material (SNM); i.e., a plate, tube, rod, disc, etc.

"*Subassembly*" means a group of elements, combined in a structural unit, which is grouped with other subassemblies to form the larger unit called the assembly.

"*Assembly*" means a group of fuel elements or subassemblies combined in a structural unit. The assembly is usually that fuel structure which is removed from the reactor as an individual unit.

All dimensions must be given in feet and inches and all weights in grams or kilograms.

A. *Form and composition of spent nuclear fuel.* 1. *Drawings Attached.* The following drawing(s) constitute(s) a comprehensive illustration of the fuel elements, subassemblies, and assemblies to be delivered under the Contract:

1.1 Assembly, Dwg. ———, Rev. ———
1.2 Fuel Rod Details, Dwg. ———, Rev. ———
1.3 Upper and Lower End Fittings, Dwg. ———, Rev. ———
1.4 Grid Spacer, Detail, Dwg. ———, Rev. ———,
1.5 Poison Members, Dwg. ———, Rev. ———

(May be proprietary information)

2. *Material Description.* The following summarizes the description of fuel elements, subassemblies, assemblies modified after discharge. Where dimensions are required, the nominal dimensions, as they relate to the said reactor, must be used and the best estimates of the maximum change of these dimensions because of irradation must be given. Weights must be dry, unirradiated weights with the expected range of weights also to be included.

(a) *Fuel Element Description.*
(1) Type (plate, disc, rod, tube, etc.) ——
(2) Nominal Dimensions:
Fuel Element Length ——
Active Fuel Element Length ——
(3) Nominal Weight ——
(4) Weight of Special Nuclear Material (SNM) before Irradiation:
Total U ——
235 U ——
(5) Chemical form of SNM (UO_2, UC, etc.) —— Weight ——
(6) Fabricated form of SNM (pellets, slugs, ribbons) and loading pattern in element ——
(7) Alloy or dispersing material (Al, SS, etc.) —— Weight ——
(8) Cladding Material (Zr, SSs, etc.) ——
(9) Bonding Material, if any (Na, Al–Si, etc.) ——
(10) Other materials contained in fuel element:

Any material not covered by the above shall be added to describe the element completely.

(b) *Subassembly description*
(1) Number of elements ——
(2) Overall dimensions ——
(3) Total weight ——

(c) *Assembly description.*
(1) Number of elements ——
(2) Overall dimensions: Length ——; Envelope ——
(3) Overall weight ——
(4) Casing Material (Zr, SS, etc.) ——

3. *Identification:* Each separately removable unit in a Shipping Lot must be identified by a durable metal tag or label, or by embossing.

Identification of the units to be delivered under this Delivery Commitment are as follows:

B. *Fuel classification.* 1. In accordance with provisions of Article VI, "Criteria for Disposal", of this contract, the fuel in the shipping lot is hereby classified as ——.

2. If this fuel has been designated as other than Standard Fuel—"Class S–1" or "Class S–2", the basis for the classification must be listed below.

C. *Specifications for fuel units that contain breeched cladding or exposed SNM or that are warped.* 1. A fuel element with breeched cladding or exposed SNM shall be canned in a container whose material and design shall be approved by DOE unless DOE determines that such canning is unnecessary.

2. Units distorted beyond specified dimensional limits must be considered on an individual basis. The Purchaser should provide dimensional information for each warped unit below.

D. *Irradiation history.* Report the irradiation history for each assembly as indicated in the table below:

Assembly No.	[illegible]				
	I	II	3	4	[illegible]
1. Reactor position					
2. Startup date					
3. Average reactor power, MWTh					
4. Average fuel exposure, MW/MTU					
5. Cumulative fuel exposure, MWD/MTU					
6. Shutdown date					
7. Heat output assembly, watts as of date					

Appendix "G"

Standard Remittance of Advice (RA) for Payment of Fees

Three Month Assigned Period Covered:
From ——— to ———

I. Purchaser (Utility name and address)
A. Contract I.D. ———

II. Charge based upon Spent Nuclear Fuel Fee Schedule/One-Time Fee Payment Agreement $——
A. Fee Schedule Rate ———
B. Date of First/Single Payment ———
C. Unpaid Balance to Date ———
D. Date of Current Fee Payment ———
E. Ten Year Treasury Note Rate ———

III. MKWH Fee (Identify power plant(s) covered by this RA showing on a spearate schedule the beginning meter reading, ending meter reading, difference for each) $——

A. Total Nuclear KWH Generated During Assigned Three Month Period Covered ———
B. Date of Current Fee Payment ———
C. Fee Schedule Rate ———
IV. Underpayment (as notified by DOE), $———
A. Date of Notification ———
B. DOE Invoice Number———
C. Interest Paid ———
V. Late Payments (as notified by DOE), $———
A. Date of Notification ———
B. DOE Invoice Number———
VI. Other Credits Claimed (Explain), $———
VII. Total Remittance, $———
Prepared by: ———
Phone Number: ———
Date: ———

For DOE use only below this line

1. Deposit to Account 89–5227 ——
2. Receipt of Payment Verification:
a. Date Payment Received———
b. Verification Performed by———
3. Posted to Cumulative Remitter Ledger:
a. Date Posted ———
b. Posted by ———
4. Late Payments:
a. Calculation of late charge (attach schedule)

b. Billing date ———
5. After processing RA furnish a copy to OCRWM.

Instructions for Completing DOE Remittance Advice

Section I

Name and address self-explanatory
Contract number will be the identification number assigned by DOE upon execution.

Section II

Based upon inventory of spent fuel and HLW amassed prior to April 7, 1983, times the kilogram fee. If the 10-year option is selected, purchaser's liability is fixed at the fee schedule rate and the Ten Year Treasury Note Rate in effect as of the date of the first payment. Payment will be made in quarterly installments concurrently with the normal three month assigned period. If the single payment option is selected, the purchaser will submit payment for the entire unpaid liability at the rate in effect at the date of payment.

a. Fee schedule rate in effect at first/single payment. Complete this section only with first spent fuel fee payment.
b. Self explanatory.
c. Self explanatory.
d. Self explanatory.
e. Ten Year Treasury Note Rate in effect at first/single payment. Complete this section only with first spent fuel fee payment.
$———. Amount paid.

Section III

Based upon electricity generated on or after April 7, 1983, times the current fee of 1M/KWH. Schedules should be attached specifying the gross amount of power meter through each plant during the assigned period.

a. Total power generated from attached schedules.
b. Self explanatory.
c. Fee schedule rate in effect at time of payment.
$———. Amount paid.

Sections IV & V

(Same instructions) DOE will invoice purchasers, when underpayments or late payments occur, reference a particular payment, and state the reason for the invoice.

A. The date the purchaser received DOE invoice.
B. DOE's invoice #.
C. Interest paid.
D. Self explanatory.
$———. Consists of interest if late payment or fees plus interest if under payment.

Section VI

Explanation on an attached sheet of paper if necessary why DOE has been overpaid and the proposed disposition of the payment, e.g., apply credit against this payment or sent refund.

$———. If applied against this payment this number is negative. If refund desired, leave blank and pay gross amount due from sections II through V.

Section VIII

The sum of Section II through VI.

Instruction Guide for Remittance of Nuclear Waste Disposal Fees to Department of Energy Via Wire Transfer

Payments made to the Department of Energy (DOE) for Nuclear Waste Disposal Fees will be affected by the Purchaser's commerical bank via the Federal Reserve Communications System (also known as Fedwire) to the Department of Treasury. If the Purchaser's commercial bank is not a Federal Reserve member, then the Purchaser's bank will use a correspondent member bank to effect the transfer of funds.

Purchaser must provide specific information to its bank so that the transfer of funds can take place. Failure to correctly provide the information could result in delay crediting of the remittance to DOE and could subject the purchaser to late charges.

A wire transfer of funds message with descriptions of specific date elements is provided in Enclosure A. Enclosure B contains instructions and a sample form of a transfer of funds that shows the specific information to be supplied by the Purchaser when requesting its commercial bank to initiate a transfer of funds.

Enclosure C shows a transfer message form that may be photocopied and used each time a transfer of funds must be made. Constant information has been preprinted on the form. Only that information applicable to that particular monthly remittance (i.e., amount, date, company name) must be filled in prior to submitting the form to your bank.

If additional information is required, contact DOE representatives *Mark Loop of Joe Startari* on ((301) 353–4899 or 353–5857).

Enclosure A—Guide for Funds Transfer Messages to Treasury

The following instructions provide specific information which is required so that a funds (wire) transfer message can be transmitted to the Departmrent of the Treasury. The funds transfer message format is shown in Exhibit 1. A narrative description of each item on the funds transfer message follows:

Line 1. Item 1—Priority Code—The priority code will be provided by the sending bank. (Note: Some Federal Reserve district banks may not require this item.)

Line 2. Item 2—Treasury Department Code—The nine-digit identifier "021030004" is the routing symbol of the Treasury. This item is a constant and is required for all funds transfer messages sent to Treasury.

Item 3. *Type Code*—The type code, 10, identifies funds transfer messages. This item is a constant and is required for all funds transfer messages sent to Treasury.

Line 3. Item 4—*Sending Bank Code*—This nine-digit identifier will be provided by the sending bank.

Item 5. *Class*—The class field may be used at the option of the sending bank. (Note: Some Federal Reserve Districts prohibit use of this class/field.)

Item 6. *Reference Number*—The reference number will be inserted by the sending bank to identify the transaction.

Item 7. *Amount*—The amount must include the dollar sign and the appropriate punctuation including cents digits. This item will be provided by the Purchaser.

Line 4. Item 8—*Sending Bank Name*—The telegraphic abbreviation which corresponds to item 4 will be provided by the sending bank.

Line 5. Item 9—*Treasury Department Name*—This item is of critical importance. It must appear on the funds transfer message in the precise manner as stated to allow for the automated processing and classification of the funds transfer message to Treasury for credit to the Department of Energy. This item is comprised of a rigidly formatted, nonvariable sequence of 28 characters as follows: TREAS NYC/(89000003) DOE NWF

EXHIBIT 1

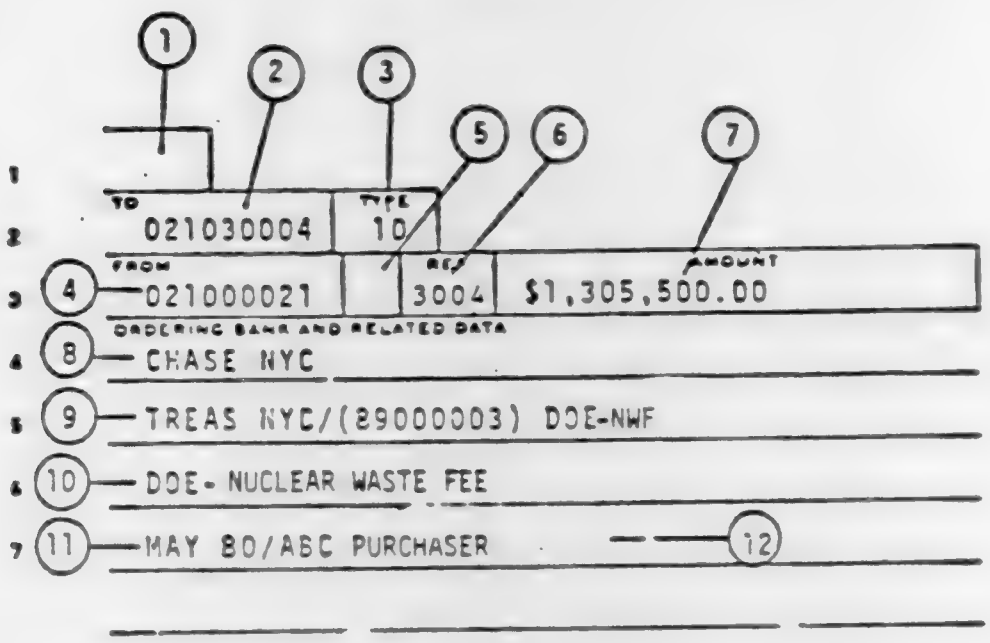

Line 6, 7, and 8. Payment Identification—The payment identification should be furnished by the remitter in the following manner:

Item 10—The constant "DOE NUCWASTE FEE" will be inserted.

Item 11—The month and year the fees were incurred (i.e.; May 80) followed by a slash (/).

Item 12—The company name is inserted following the slash.

BILLING CODE 6450-01-M

ENCLOSURE B

TRANSFER OF FUNDS MESSAGE FORM
(COMPLETED SAMPLE)

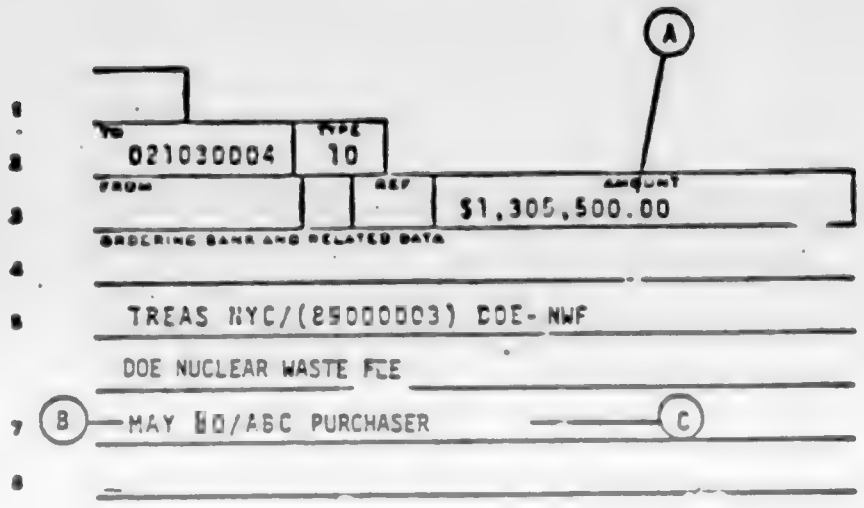

The above example is a completed transfer of funds message form detailing those items (A thru C) filled in by the remitting company.

Item	DESCRIPTION
A	Amount-must be properly punctuated to include cents digits.
B	Date - month and year followed by a slash(/)
C	Company Name.

BILLING CODE 6450-01-C

ENCLOSURE C

TRANSFER OF FUNDS MESSAGE FORM

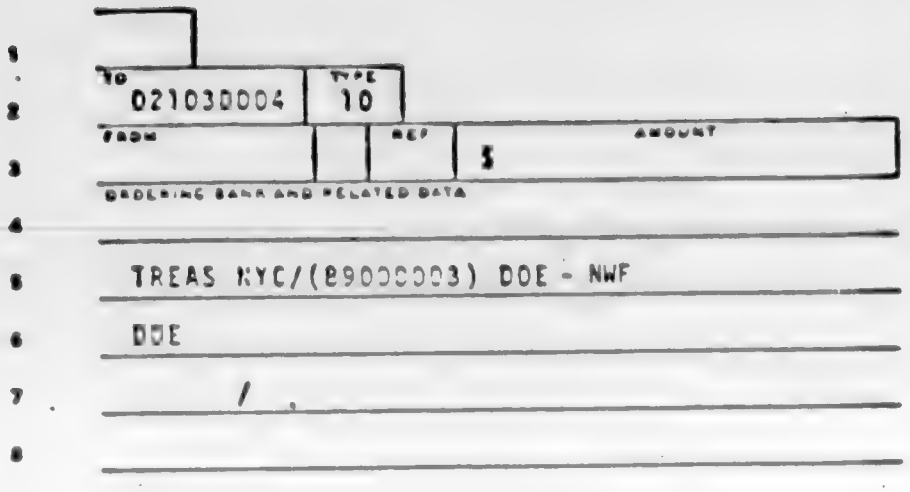

Appendix A to Part 961—Standard Clauses

-General Provisions

1. *Disputes.* Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Purchaser. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Purchaser mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary.

Appeals from the decision of the Contracting Officer shall be decided by the Secretary or his duly authorized representative for the determination of such appeals. In connection with any appeal proceeding under this clause, the Purchaser shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Purchaser shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

B. For disputes involving amounts in excess of $50,000, the Purchaser may request that its claim be considered under the Act. Upon such request, the Contracting Officer shall act in good faith and shall, within 60 days after receipt of such request, either grant or deny the request in writing and shall set forth therein the reasons for his decision. In the event the request is granted, the Contracting Officer shall forward the claim to the Secretary or his duly authorized representative for determination pursuant to the Act. In the event the Contracting Officer has not rendered a decision within 60 days after receipt of the request, the Purchaser may request the Secretary or his duly authorized representative to determine the claim or to cause the Contracting Officer to render a decision thereon.

For purposes of the Act, the Purchaser and Contracting Officer mutually agree that within 60 days after receipt of the Purchaser's claim, the Purchaser may submit to the Contracting Officer a request that any claim in excess of $100,000 be certified. The certification must declare that the claim is made in good faith, that the supporting data are accurate and complete to the best of the Purchaser's knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the Purchaser believes the Government is liable. The certification shall be executed by a senior official of the Purchaser having overall responsibility for the conduct of the Purchaser's affairs or by a senior official having overall responsibility for the conduct of the Purchaser's operations involved in the contract, or by an individual or individuals duly authorized by a power of attorney to execute certifications on the Purchaser's behalf.

C. This clause does not preclude consideration of questions of law in connection with decisions provided for in paragraph A above. Nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

2. *Officials not to benefit.* No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

3. *Covenant against contingent fees.* The Purchaser warrants that no person or selling agency has been employed or retained

Appendix "H"

General Terms and Conditions

1. *Disputes.* A. Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Purchaser. The decision of the Contracting Officer shall be final and conclusive unless within thirty (30) days from the date of receipt of such copy, the Purchaser mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the DOE Board of Contract Appeals (Board). The decision of the Board shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Purchaser shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

B. For Purchaser claims of more than $50,000, the Purchaser shall submit with the claim a certification that the claim is made in good faith; the supporting data are accurate and complete to the best of the Purchaser's knowledge and belief; and the amount requested accurately reflects the contract adjustment for which the Purchaser believes the Government is liable. The certification shall be executed by the Purchaser if an individual. When the Purchaser is not an individual, the certification shall be executed by a senior company official in charge at the Purchaser's plant or location involved, or by an officer or general partner of the Purchaser having overall responsibility for the conduct of the Purchaser's affairs.

For Purchaser claims of $50,000 or less, the Contracting Officer must render a decision within 60 days. For Purchaser claims in excess of $50,000, the Contracting Officer must decide the claim within 60 days or notify the Purchaser of the date when the decision will be made.

C. This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph A above; *provided, however,* that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

2. *Officials not to benefit.* No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

3. *Covenant against contingent fees.* The Purchaser warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Purchaser for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or in its discretion to increase the contract price or consideration, or otherwise recover, the full amount of such commission, brokerage, or contingent fee.

4. *Examination of records.* The Purchaser agrees that the Comptroller General of the United States or any of his duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Purchaser involving transactions related to this contract until the expiration of three years after final payment under this contract unless DOE authorizes their prior disposition.

5. *Permits.* The Government and the Purchaser shall procure all necessary permits or licenses (including any special nuclear material licenses) and comply with all applicable laws and regulations of the United States, States and municipalities necessary to execute their respective responsibilities and obligations under this contract.

6. *Rights in technical data.* (a) Definitions. (1) "Technical data" means recorded information regardless of form or characteristic, of a specific or technical nature. It may, for example, document research, experimental, developmental, or demonstration, or engineering work, or be usable or used to define a design or process, or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design-type documents or computer software (including computer programs, computer software data bases, and computer software documentation). Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identification, and related information. Technical data as used herein do not include financial reports, cost anslyses, and other information incidental to contract administration.

(2) "Proprietary data" means technical data which embody trade secrets developed at private expense, such as design procedures or techniques, chemical composition of materials, or manufacturing methods, processes, or treatments, including minor modifications thereof, provided that such data:

(i) Are not generally known or available from other sources without obligation concerning their confidentiality;

(ii) Have not been made available by the owner to others without obligation concerning its confidentiality; and

(iii) Are not already available to the Government without obligation concerning their confidentiality.

(3) "Contract data" means technical data first produced in the performance of the contract, technical data which are specified to be delivered under the contract, or technical data actually delivered in connection with the contract.

(4) "Unlimited rights" means rights to use, duplicate, or disclose technical data, in whole or in part, in any manner and for any purpose whatsoever, and to permit others to do so.

(b) Allocation of rights.

(1) The Government shall have:

(i) Unlimited rights in contract data except as otherwise provided below with respect to proprietary data properly marked as authorized by this clause;

(ii) The right to remove, cancel, correct or ignore any marking not authorized by the terms of this contract on any technical data furnished hereunder, if in response to a written inquiry by DOE concerning the proprietary nature of the markings, the Purchaser fails to respond thereto within 60 days or fails to substantiate the proprietary nature of the markings. In either case, DOE will notify the Purchaser of the action taken;

(iii) No rights under this contract in any technical data which are not contract data.

(2) The Purchaser shall have the right to mark proprietary data it furnishes under the contract with the following legend, the terms of which shall be binding on the Government:

Limited Rights Legend

This "Proprietary data," furnished under "Contract No. " with the U.S. Department of Energy may be duplicated and used by the Government with the express limitations that the "proprietary data" may not be disclosed outside the Government or be used for purposes of manufacture without prior permission of the Purchaser, except that further disclosure or use may be made solely for the following purposes:

(a) This "proprietary data" may be disclosed for evaluation purposes under the restriction that the "proprietary data" be retained in confidence and not be further disclosed;

(b) This "proprietary data" may be disclosed to contractors participating in the Government's program of which this contract is a part, for information or use in connection with the work performed under their contracts and under the restriction that the "proprietary data" be retained in confidence and not be further disclosed; or

(c) This "proprietary data" may be used by the Government or others on its behalf for emergency work under the restriction that the "proprietary data" be retained in confidence and not be further disclosed. This legend shall be marked on any reproduction of this data in whole or in part.

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Part V

Office of Management and Budget

Budget Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report nineteen rescission proposals of fiscal year 1983 funds totaling $1,552.0 million.

In addition, I am reporting revisions to nine existing deferrals increasing the amount deferred by $3,155.7 million, as well as thirty new deferrals of funds totaling $6,795.9 million.

The rescission proposals affect Appalachian Regional Development programs, programs in the Department of Agriculture, Education Activities, the Departments of Housing and Urban Development, Interior, and Transportation, as well as the Corporation for Public Broadcasting and an off-budget entity in the Department of Agriculture.

The deferrals affect Appalachian Regional Development programs, International Security Assistance programs, and programs in the Departments of Agriculture, Commerce, Defense, Energy Activities, and the Departments of Health and Human Services, Housing and Urban Development, Interior, Justice, State, and Transportation, as well as the Railroad Retirement Board, Small Business Administration, Motor Carrier Ratemaking Study Commission, Tennessee Valley Authority, the United States Information Agency, and the United States Railway Association.

The details of each rescission proposal and deferral are contained in the attached reports.

Ronald Reagan.

The White House,
February 1, 1983.

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OFF-BUDGET FEDERAL ENTITIES:

CONTENTS OF SPECIAL MESSAGE

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Funds Appropriated to the President	
	Appalachian Regional Development Programs	
R83-2	Appalachian regional development programs...	15,133
	Department of Agriculture	
	Agricultural Research Service	
R83-3	Buildings and facilities.....	1,927
	Soil Conservation Service	
R83-4	Watershed and flood prevention operations...	68,995
R83-5	Resource conservation and development.....	5,600
	Agricultural Cooperative Service	
R83-6	Salaries and expenses.....	779
	Education Activities	
	Office of Elementary and Secondary Education	
R83-7	Compensatory education for the disadvantaged	133,925
R83-8	School assistance in Federally affected areas	5,000
R83-9	Special programs and populations.....	56,639
R83-10	Indian education.....	16,128
	Office of Bilingual Education and Minority Languages Affairs	
R83-11	Bilingual education.....	43,523
	Office of Postsecondary Education	
R83-12	Guaranteed student loans.....	900,000
R83-13	Higher and continuing education.....	68,941
	Office of Educational Research and Improvement	
R83-14	Educational research and statistics.....	6,225
	Department of Housing and Urban Development	
	Housing Programs	
R83-15	Payments for operation of low income housing projects.....	69,000
	Department of the Interior	
	National Park Service	
R83-16	Construction.....	63,600
	Department of Transportation	
	Federal Highway Administration	
R83-17	Federal-aid highways (Liquidation of Contract Authorization) (Trust fund).....	23,200
	Coast Guard	
R83-18	National recreational boating safety and facilities improvement fund.....	5,000
	Other Independent Agencies	
	Corporation for Public Broadcasting	
R83-19	Public Broadcasting Fund.....	45,000
	OFF-BUDGET FEDERAL ENTITIES:	
	Department of Agriculture	
	Rural Electrification Administration	
R83-20	Rural telephone bank.....	23,400
	Subtotal, rescission proposals.....	1,552,015

Deferral #	Item	Budget Authority
	Funds Appropriated to the President	
	Appalachian Regional Development Programs	
D83-40	Appalachian regional development programs.....	10,000
	International Security Assistance	
D83-21A	Foreign military sales credit.....1,175,000	
D83-22A	Economic support fund.....1,901,850	
D83-29A	Military assistance.....	233,000
	Department of Agriculture	
	Soil Conservation Service	
D83-41	Watershed and flood prevention operations.....	10,329
	Animal and Plant Health Inspection Service	
D83-34A	Salaries and expenses.....	6,200
	Forest Service	
D83-42	National forest system.....	108,035
D83-2A	Forest Service permanent appropriations: Timber salvage sales.....	13,107
	Department of Commerce	
	Economic Development Administration	
D83-43	Economic development and assistance programs..	181,900
	International Trade Administration	
D83-44	Operations and administration.....	20,100
	National Oceanic and Atmospheric Administration	
D83-45	Construction.....	3,000
	Department of Defense--Military	
	Procurement	
D83-46	Shipbuilding and conversion, Navy.....2,400,000	
	Department of Defense--Civil	
	Corps of Engineers--Civil	
D83-47	Construction, general.....	180,000
	Energy Activities	
	Energy Programs	
D83-48	Energy supply, research and development activities, plant and capital equipment.....	91,107
D83-8A	Fossil energy research and development.....	5,000
D83-49	Fossil energy construction.....	20,000
D83-50	Strategic petroleum reserve.....	57,400
	Departmental Administration	
D83-51	Departmental administration, operating expenses.....	21,767
D83-52	Departmental administration, plant and capital equipment.....	12,693

Deferral #	Item	Budget Authority
	Department of Health and Human Services	
	Social Security Administration	
D83-53	Limitation on administrative expenses.....	9,633
	Department of Housing and Urban Development	
	Housing Programs	
D83-54	Subsidized housing programs.....3,081,153	
	Department of the Interior	
	National Park Service	
D83-11A	Land acquisition and state assistance.....	33,000
	Office of Territorial Affairs	
D83-55	Administration of Territories.....	3,188
	Department of Justice	
	Interagency Law Enforcement	
D83-56	Organized crime drug enforcement.....	13,656
	Department of State	
	International Organizations and Conferences	
D83-57	Contributions to international organizations..	8,111
	Other	
D83-58	U.S. bilateral science and technology agreements.....	2,000
	Department of Transportation	
	Urban Mass Transportation Administration	
D83-59	Mass transportation capital fund.....	229,000
	Federal Aviation Administration	
D83-60	Construction, Metropolitan Washington Airports	500
D83-14A	Facilities and equipment (Airport and airway trust fund).....	725,236
	Coast Guard	
D83-61	National recreational boating safety and facilities improvement fund.....	40,000
	Other Independent Agencies	
	Railroad Retirement Board	
D83-10A	Milwaukee railroad restructuring, administration.....	490
	Small Business Administration	
D83-62	Business loan and investment fund.....	143,000
D83-63	Surety bond guarantees revolving fund.....	3,000
D83-64	Pollution control equipment contract guarantee revolving fund.....	1,000
	Motor Carrier Ratemaking Study Commission	
D83-65	Salaries and expenses.....	282
	Tennessee Valley Authority	
D83-66	Tennessee Valley Authority fund.....	47,271
	United States Information Agency	
	Salaries and expenses (special foreign	
D83-67	currency program).....	1,344
D83-68	Acquisition and construction of radio facilities	12,437
	United States Railway Association	
D83-69	Payments for purchase of Conrail securities...	84,000
	Subtotal, deferrals.....10,888,789	
	Total, rescission proposals and deferrals.....12,440,804	

SUMMARY OF SPECIAL MESSAGES
FOR FY 1983
(in thousands of dollars)

	Rescissions	Deferrals
Fifth special message		
New items.....	1,552,015 1/	6,795,906
Change to amounts previously submitted.....	---	3,155,652
Effects of Fifth special message....	1,552,015	9,951,558
Amounts previously submitted that were changed by this message.....	---	932,231
Total, rescissions and deferrals....	1,552,015	10,888,789 2/
Amounts previously submitted that were not changed by this message..	2,000	2,481,447
Total amount proposed to date in all special messages.....	1,554,015 1/	13,365,236 3/ 4/

1/ This amount includes $23,400,000 in current budget authority for the rural telephone bank that is offset by a corresponding increase in permanent budget authority (R83-20).

2/ This amount is the sum of the individual deferrals reported and ties to the table of contents. It exceeds the above detail by $5,080,000 because this table only counts increases to amounts previously submitted. Decreases are reported in the monthly cumulative report as releases. The $5,000,000 is the downward adjusted amount remaining in a revised Energy deferral that is being reported for other reasons.

3/ All amounts listed represent budget authority except for $11,846,000 in one general revenue sharing deferral of outlays only.

4/ This amount excludes the $5,000,000 discussed in 2/ above to avoid a double count.

Rescission Proposal No: R83-2

R83-2

Rescission Proposal No: R83-2

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. 97-377) $ 165,132,646
Bureau: Appalachian Regional Development Programs	Other budgetary resources 31,461,153
Appropriation title & symbol: Appalachian Regional Development Programs 1/ 11X0090	Total budgetary resources 196,493,799
	Amount proposed for rescission $ 15,132,646
OMB identification code: 1-0090-0-1-452	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This program provides funds for construction of the Appalachian Development Highway System (ADHS) to improve access to and within Appalachia, and for grants for basic community services, job creation, and planning.

Last year, the Administration proposed termination of the Appalachian Regional Commission and Appalachian Regional Development Programs, and transfer of the ADHS to the Department of Transportation. This was part of the Administration's effort to redirect responsibility for economic development programs to State and local governments, where the responsibility for them lies. For 1983, appropriations of $145 million, slightly below the 1982 level of $150 million, were recommended by both the House and the Senate Appropriations Committees, but $165 million was provided by the second Continuing Resolution (P.L. 97-377 . This proposal would rescind the amount of budget authority provided in the Continuing Resolution in excess of above $150 million.

Estimated Effects: Highway projects will be reduced by the amount of the rescission.

Outlay Effect: (In millions of dollars)

1983 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
253.0	253.0	---	4.0	5.0	2.6

1/ This account is also the subject of a FY 1983 deferral (D83-40).

R83-2

FUNDS APPROPRIATED TO THE PRESIDENT
Appalachian Regional Development Programs

Of the funds appropriated for the Appalachian Regional Development Programs under Section 101(f) of P.L. 97-377, $15,132,646 are rescinded.

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Rescission Proposal No: R83-3

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 97-370): $ 1,927,000
Bureau: Agricultural Research Service	Other budgetary resources: 926,173
Appropriation title & symbol: Buildings and Facilities 12X1401	Total budgetary resources: 2,853,173
	Amount proposed for rescission: $ 1,927,000
OMB identification code: 12-1401-0-1-352	Legal authority (in addition to sec 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Congress provided a FY 1983 appropriation of $1,927,000 to initiate/plan three construction items whose total cost is expected to require at least $30 million. The FY 1983 appropriation is being proposed for rescission for the following reasons:

- o Two of the construction items--the Small Farm Experiment and Demonstration Station and the Forage Seed Production and Research Center--would add at least 15 scientist-years of research facility capacity to the Agricultural Research Service system, even though the research facility system has been operating at 82-83% capacity since 1978. It has been recommended in recent studies, including GAO reports, that the Department take strong action to make more effective use of existing research facilities and resist efforts to construct new research facilities.

- o The third item, for the Old West Veterinary School, is intended to assure that adequate numbers of food-animal veterinarians are trained and available in the Old West Region. Data show that there is an adequate national supply of veterinarians. However, the distribution of graduate veterinarians is predominately influenced by income level and work location. Constructing this facility, therefore, cannot be expected to remedy any shortage in the region and would be highly cost-inefficient.

Estimated Effects: The proposed rescission will eliminate planning, design and construction at three separate locations as follows:

Nebraska - $827,000 was to be used to assist with engineering and design costs at the Old West Veterinary School.

Oklahoma - $350,000 was to be used for the establishment of initial facilities for the Small Farm Experiment and Demonstration Station in Oklahoma.

Oregon - $750,000 was to be used for planning, engineering, preconstruction, and site preparation for the Forage Seed Production and Research Center.

Outlay Effect: (In Million of Dollars)

1983 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
11.4	9.5	1.9	--	--	--

Rescission Proposal No: R83-4

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

DEPARTMENT OF AGRICULTURE

R83-3

DEPARTMENT OF AGRICULTURE
Agricultural Research Service
Buildings and Facilities

Of the funds appropriated under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1983, $1,927,000 are rescinded.

Rescission Proposal No: R83-4

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: U.S. Department of Agriculture	New budget authority (P.L. 97-370) $ 194,925,000
Bureau: Soil Conservation Service	Other budgetary resources 21,790,354
Appropriation title & symbol: Watershed and Flood Prevention Operations 1/ 12X1072	Total budgetary resources 216,715,354
	Amount proposed for rescission $ 68,000,000
OMB identification code: 12-1072-0-1-301	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Watershed and Flood Prevention Operation Program provides technical and financial assistance to local organizations to install watershed protection, flood prevention, agricultural water management, recreation and fish and wildlife development, and other authorized features as specified in approved watershed projects and emergency measures necessary to safeguard lives and property as a result of natural occurrence.

The proposed rescission of $69 million in excess of the President's Budget request (which provided adequate program levels) results from the need to curb Federal spending.

— Investments in small watershed projects are delayable and their benefits are local in nature.

— A substantial proportion of these projects provide recreation enhancement or offer the potential for increased crop production resulting from decreased flooding of agricultural lands. Neither one is a Federal budget priority of this administration.

In view of both the across-the-board reductions in Federal spending and selected tax increases that have been proposed, restraint in these types of construction programs is consistent with treatment being given to other Federal programs.

Estimated Effects: This rescission proposal will lengthen the construction time to complete ongoing work in existing projects.

Outlay Effect: (in millions of dollars)

1983 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
175.7	141.2	34.5	34.5	—	—

1/ This account is also the subject of a FY 1983 deferral (D83-41).

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R83-4

DEPARTMENT OF AGRICULTURE
Soil Conservation Service
Watershed and Flood Prevention Operations

Of the funds appropriated under this head in the Department of Agriculture, Rural Development, and Related Agencies Appropriations Act, 1983, $68,995,000 are rescinded.

Rescission Proposal No: R83-5

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 97-370): $ 25,744,000
Bureau: Soil Conservation Service	Other budgetary resources: 2,692,583
Appropriation title & symbol: Resource Conservation and Development 12X1010	Total budgetary resources: 28,436,523
	Amount proposed for rescission: $ 5,600,000
OMB identification code: 12-1010-0-1-302	Legal authority (in addition to sec 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This program assists eligible units of government in authorized multicounty rural areas to improve economic opportunities, enhance the quality of the environment and improve the standard of living through the conservation and development of natural resources.

This program was implemented in FY 1962 to accelerate the installation of conservation measures, and to alleviate unemployment in rural areas through the accelerated conservation work. Reviews of the program conducted in previous years have not been able to demonstrate satisfactorily that statistically significant economic progress toward meeting program objectives has been made. After twenty years of being unable to demonstrate rigorously program effectiveness, this Administration believes that it is time to free up these resources for higher priority needs.

Estimated Effects: If approved, this rescission will start the phase-out of this program in FY 1983.

Outlay Effect: (In Millions of Dollars)

1983 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
26.9	25.7	1.2	4.4	--	--

R83-5

Rescission Proposal No: R-83-6

R83-5

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Resource Conservation and Development

Of the funds appropriated under this head in the Department of Agriculture, Rural Development and Related Agencies Appropriations Act, 1983, $5,600,000 are rescinded.

General Provisions

Section 617

Section 617 of Public Law 97-370 is repealed.

Rescission Proposal No: R-83-6

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Agriculture Bureau: Agricultural Cooperative Service	New budget authority (P.L. 97-370): $ 4,639,000 Other budgetary resources: -- Total budgetary resources: 4,639,000
Appropriation title & symbol: Salaries and Expenses 1233000	Amount proposed for rescission: $ 779,000
OMB identification code: 12-3000-0-1-352	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year _____ (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Agricultural Cooperative Service conducts research on cooperative problems and issues, provides technical assistance and advice to existing and newly-emerging cooperative associations, collects and disseminates cooperative statistics, and prepares and distributes educational material on cooperatives.

Recent assessments of ACS indicate a need for less Federal support than in the past. Cooperatives had total revenues of $57.88 in FY 1981. Based on a weighted index of prices paid and received by farmers, cooperatives experienced a 21.2% real growth over 1980. In addition, organizations such as the Farm Credit System's Bank for Cooperatives and the National Council of Farmer Cooperatives provide important technical, financial, and marketing assistance to cooperatives as well as represent cooperative interests in Washington and elsewhere.

The funds proposed for rescission were designated for projects to be initiated in FY 1983. No provision has been made to contin : the projects during FY 1984. The rescission is being proposed because they are projects of low priority that should not be paid for with public funds, especially at a time of fiscal stringency and when alternative sources of assistance are available.

Estimated effects: This rescission proposal will restrain FY 1983 obligations to approximately the FY 1984 level proposed by the President and will eliminate the following programs: (a) $500,000 provided for increased efforts to assist and encourage agricultural cooperatives in international marketing; (b) $140,000 provided for development of criteria that cooperative managers can utilize in evaluating the financial performance of their cooperatives; and (c) $139,000 for establishment of a Hawaiian cooperative development field office. Because these projects would be accomplished mostly by entering into cooperative agreements, the effect on the Agency's program is nominal.

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Outlay Effect (in millions of dollars):

Outlays would be reduced to approximately the proposed 1984 level.

1983 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
$4.8	$4.1	.7	.1	--	--

DEPARTMENT OF AGRICULTURE
Agricultural Cooperative Service
Salaries and Expenses

Of the funds appropriated under this head in the Department of Agriculture, Rural Development, and Related Agencies Appropriation Act of 1983, $779,000 are rescinded.

Rescission Proposal No: R83-7

Rescission Proposal No: R83-7

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Education Activities	New budget authority (P.L. 97-377 ___) $3,167,894,000
Bureau Office of Elementary and Secondary Ed	Other budgetary resources 5,226,470
Appropriation title & symbol Compensatory Education for the Disadvantaged 913/40900 9130900 912/30900**	Total budgetary resources 3,173,120,470
	Amount proposed for rescission $ 133,005,000
OMB identification code: 91-0900-0-1-501	Legal authority (in addition to sec. 1012) ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☒ Multiple-year September 30, 1983 / September 30, 1984 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Grants for the Disadvantaged: Authorized under Chapter 1 of the Education Consolidation and Improvement Act of 1981, programs under this activity make financial assistance available to local educational agencies and to State agencies which provide supplementary compensatory education assistance to disadvantaged students. In addition, funds are also provided for State administration and program evaluation.

A rescission totaling $126,425,000 is requested for programs under this activity. Even with this reduction, programs will be maintained at the 1982 appropriation level. A higher amount is not justifiable in view of the current need for fiscal stringency.

Migrant's Education: Authorized under section 418 of the Higher Education Act, programs unde this activity award grants to colleges and universities to: (1) provide education services to low-income migrant and seasonal farmworkers to help them gain a high school diploma or equivalency certificate and (2) offer special services such as tutoring and counseling as well as stipends to migrant students in their first year of college.

A rescission totalling $7,500,000 is requested for this activity as part of the President's budget reduction plan.

Estimated Effect: Funds for Chapter 1 Grants to LEAs would be reduced from $2,687,754,000 to $2,562,753,000. Chapter 1 State administration would be reduced from $33,014,000 to $30,576,000. At the reduced level each State would receive an amount that is proportionate to its total Chapter 1 allocation but not less than $225,000. At the same time funds within the Chapter 1 activity remaining after the rescission would be reprogrammed to increase the resources available for evaluation and studies from $4,746,000 to $5,760,000. Program activity would be approximately the same as the 1982 appropriation level.

R83-7

Outlay Effect: (in millions of dollars)

1983 Outlay Estimate Without Rescission	1983 Outlay Estimate With Rescission	Outlay Savings 1983	1984	1985	1986	1987
$3,031.4	$3,023.6	$7.9	$105.8	$19.0	$1.3	---

R83-7

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Compensatory Education For The Disadvantaged

Notwithstanding the provisions of section 514(a)(2) of the Omnibus Education Reconciliation Act of 1981, $126,425,000 of the amount provided for chapter 1 of the Education Consolidation and Improvement Act of 1981 and $7,500,000 provided for section 418 of the Higher Education Act under "Compensatory Education for the Disadvantaged" for fiscal year 1983 in Public Law 97-377 making further continuing appropriations for fiscal year 1983 through September 30, 1983 are rescinded: Provided, That of the amounts remaining for chapter 1 of the Education Consolidation and Improvement Act, no funds shall be used for purposes of section 554(a)(1)(B), $5,760,000 shall be available for purposes of section 555(d) to provide technical assistance and evaluate programs, $255,744,000 shall be available for purposes of section 554(a)(2)(A), $146,520,000 shall be available for purposes of section 554(a)(2)(B), $32,616,000 shall be available for purposes of section 554(a)(2)(C), and $30,576,000 shall be available for purposes of section 554(b)(1)(D): Provided further, That the criteria for poverty utilized by the Bureau of the Census in the 1980 Census shall be used as the basis for allocating funds under chapter 1 where applicable: Provided further, That notwithstanding the provisions of section 111(a) of the Elementary and Secondary Education Act as amended, no funds appropriated under chapter 1 shall be allocated on the basis of data taken from the 1975 Survey of Income and Education conducted by the Bureau of the Census.

Rescission Proposal No: R83-8

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Education Activities	New budget authority (P.L. 97-377 ___) $ 480,000,000
Bureau Office of Elementary and Secondary Education	Other budgetary resources 12,771,015
Appropriation title & symbol School Assistance in Federally Affected Areas 91 30102 91X0102* 912/30102*	Total budgetary resources 492,771,015
	Amount proposed for rescission $ 5,000,000
OMB identification code: 91-0102-0-1-501	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☒ Multiple-year September 30, 1983 (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Section 2, the Special Provisions activity of the Maintenance and Operations program, authorizes assistance to school districts having a partial loss of tax base as a result of Federal acquisition of real property (since 1938).

As part of the President's budget reduction plan, funds are proposed for rescission under this program. This degree of restraint is essential because of the general need for fiscal stringency.

Estimated Effects: Payments under Section 2 would be reduced from 74.5 percent of entitlement to 49 percent of entitlement. The appropriation for P. L. 81-874 (Sections 2, 3 and 7) would be reduced to the ceiling authorized by the Omnibus Budget Reconciliation Act of 1981.

Outlay Effects: (in millions of dollars)

1983 Outlay Estimate		Outlay Savings				
Without Rescission	With Rescission	1983	1984	1985	1986	1987
$576.2	$572.4	$3.8	$1.1	$0.1	---	---

*None of these funds is proposed for rescission.

R83-8

Rescission Proposal No: R83-9

R83-8

DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

School Assistance in Federally Affected Areas

Of the funds provided for "School Assistance in Federally Affected Areas" for fiscal year 1983 in Public Law 97-377, $5,000,000 are rescinded from the amount available for section 2 of Public Law 81-874.

Rescission Proposal No: R83-9

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Education Activities	New budget authority (P.L. 97-377): $534,500,000
Bureau: Office of Elementary and Secondary Education	Other budgetary resources: 11,756,289
Appropriation title & symbol: Special Programs and Populations 912/31000* 913/41000 ($1,500,000) 9131000 ($55,139,000)	Total budgetary resources: 546,256,289
	Amount proposed for rescission: $56,639,000
OMB identification code: 91-1000-0-1-501	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☒ Multiple-year September 30, 1983 September 30, 1984 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Within the Special Programs account, funds were appropriated for the State block grant (Chapter 2 of the Education Consolidation and Improvement Act), the Secretary's discretionary funds, and six categorical programs. States, territories and local school districts can use their block grant funds to support most of the activities authorized by the six separate categorical programs.

As part of the President's program to eliminate unnecessary government spending and direct Federal support to effective and priority programs, the following funds are proposed for rescission: funding for the Follow through program, Training and advisory services, General aid to the Virgin Islands, Territorial teacher training, and part of the funding for Women's educational equity, Ellender fellowships, and the Secretary's discretionary funds.

Estimated Effects: The Secretary's discretionary funds would be reduced by $2,541,000 and the categorical programs would be reduced by $54,098,000, resulting in a decrease of approximately 250 project grants.

Outlay Effect: (in millions of dollars)

1983 Outlay Estimate		Outlay Savings				
Without Rescission	With Rescission	1983	1984	1985	1986	1987
$514.1	$507.9	$6.2	$39.1	$10.7	$0.6	---

* None of these funds is proposed for rescission.

R83-9

DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Special Programs

Of the funds provided for "Special Programs" for fiscal year 1983 in P. L. 97-377, $56,639,000 are rescinded: Appropriations rescinded are as follows: $2,541,000 from Chapter 2, subchapter D of the Education Consolidation and Improvement Act; $5,738,000 from title IX, part C of the Elementary and Secondary Education Act; $19,440,000 from the Follow Through Act; $24,000,000 from title IV of the Civil Rights Act of 1964; $1,920,000 from section 1524 and $960,000 from section 1525 of the Education Amendments of 1978; and $2,040,000 from Public Law 92-506.

Rescission Proposal No: R83-10

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Education Activities	New budget authority (P.L. 97-394 ___): $ 67,247,000
Bureau: Office of Elementary and Secondary Education	Other budgetary resources: ___
Appropriation title & symbol: Indian Education 9130101	Total budgetary resources: 67,247,000
	Amount proposed for rescission: $ 16,128,000
OMB identification code: 91-0101-0-1-501	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other ___
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year ___ (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ___ ☐ Other ___

Justification: This appropriation includes all activities funded under the Indian Education Act, P. L. 92-318. These programs address the special educational and culturally-related academic needs of Indian children and adults. A total of $16,128,000 is proposed for rescission under this account.

This low-priority program, which serves persons who are eligible for other compensatory education programs, is proposed for termination in 1984. The proposed rescission would begin the phase-out of program activities.

Estimated Effects: Under Part A, grants to local schools, the per pupil expenditure would decrease from $143 to $104. Under Part B, special programs for Indian students, about 2,300 fewer students would be served and 59 fewer fellowships would be awarded. Under Part C, special programs for Indian adults, 320 fewer adults will participate. As is noted above, these individuals are all eligible for other compensatory education programs.

Outlay Effect: (in millions of dollars)

1983 Outlay Estimate Without Rescission	1983 Outlay Estimate With Rescission	Outlay Savings 1983	1984	1985	1986
$81.1	$73.8	$7.3	$8.1	$0.8	---

R83-10

Rescission Proposal No: R83-11

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

R83-10

DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Indian Education

Of the funds provided for "Indian Education" in Public Law 97-394, $13,800,000 are rescinded for Part A, $3,800,000 are rescinded for Part B, and $128,000 are rescinded for Part C of the Indian Education Act.

Rescission Proposal No: R83-11

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Education Activities Bureau: Office of Bilingual Education and Minority Languages Affairs	New budget authority (P.L. 97-377) $138,057,000 Other budgetary resources 3,666,116 Total budgetary resources 141,723,116
Appropriation title & symbol Bilingual Education 91/31300 912/31300* 913/41300	Amount proposed for rescission $43,523,000
OMB identification code: 91-1300-0-1-501 Grant program: ☒ Yes ☐ No	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Type of account or fund: ☒ Annual ☒ Multiple-year September 30, 1983 / September 30, 1984 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The basic bilingual education program provides aid to local educational agencies for carrying out programs addressing the needs of children of limited English proficiency. Bilingual vocational training supports projects that serve out-of-school youth and adults. A rescission of $42,361,000 is proposed from bilingual education, and $1,162,000 from bilingual vocational training.

As part of the President's goal of eliminating unnecessary government spending, funds for this program are proposed for rescission. Reductions will be targeted on duplicative and less effective activities.

Estimated Effects: This rescission proposal would result in reductions in the numbers of new awards and in the numbers of teachers and students participating in most of the programs and activities supported. Two programs would not be funded -- bilingual desegregation grants, which are similar in operation to basic grants, and materials development, which will be consolidated into new comprehensive resource centers.

Outlay Effect: (in millions of dollars)

1983 Outlays Estimate		Outlay Savings				
Without Rescission	With Rescission	1983	1984	1985	1986	1987
$141.0	$139.3	$1.7	$31.8	$10.0	---	---

* None of these funds is proposed for rescission.

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R83-11

DEPARTMENT OF EDUCATION
OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

Bilingual Education

Of the funds provided for "Bilingual Education" for fiscal year 1983 in P. L. 97-377, $43,523,000 are rescinded: Provided that no funds appropriated in Title III of P. L. 97-377 shall be used for section 751 of title VII of the Elementary and Secondary Education Act.

Rescission Proposal No: R83-12

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Education Activities	New budget authority (P.L. 97-377) $ 3,100,500,000
Bureau Office of Postsecondary Education	Other budgetary resources 217,172,000
Appropriation title & symbol: Guaranteed Student Loans 91X0230	Total budgetary resources 3,317,672,000
	Amount proposed for rescission $ 900,000,000
OMB identification code: 91-0230-0-1-502	Legal authority (in addition to sec. 1012): ☒ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Guaranteed student loan program assists students and their parents in financing the costs of postsecondary education by encouraging the availability of low-interest loans through private lenders by providing loan guarantees and interest subsidies.

This rescission is proposed pursuant to the Antideficiency Act (31 U.S.C. 1512), as the funds provided by P. L. 97-377 are in excess of those needed to operate the program in 1983. The program cost estimate used in P. L. 97-377 is no longer valid because of the decline in interest rates and the smaller than expected guaranteed student loan volume in 1982.

Estimated Effect: The rescission will have no effect on program activities. The rescission will reduce the expected carryover of unused program funds from 1983 to 1984.

Outlay Effect: (in millions of dollars)

1983 Outlay Estimate		Outlay Savings				
Without Rescission	With Rescission	1983	1984	1985	1986	1987
$2,284	$2,284	---	---	---	---	---

R83-12

DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

Rescission Proposal No: R83-13

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

(Second Morrill Act) $ 2,800,000

R83-12

DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

Guaranteed Student Loans

Of the funds provided for fiscal year 1981 in Public Law 97-377, for expenses under title IV, Part B of the Higher Education Act $900,000,000 are rescinded.

Recission Proposal No: R83-13

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Education Activities	(Second Morrill Act) (P.L. 97-276) $ 2,800,000 9,000,000
Bureau: Office of Postsecondary Education	New budget authority (P.L. 97-377 ___) $ 385,859,983
Appropriation title & symbol Higher and continuing education 9130201 ($66,941,000) 91X0201 ($2,000,000) 912/30201* 913/50201* 913/80201*	Other budgetary resources (unobligated balances) 19,618,566 Total budgetary resources 417,278,549 Amount proposed for rescission $ 68,941,000
OMB identification code: 91-0201-0-1-502	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No**	
Type of account or fund: ☒ Annual September 30, 1983 September 30, 1985 ☒ Multiple-year September 30, 1988 (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation includes a wide variety of postsecondary educational programs primarily providing aid to institutions. A total of $68,941,000 is proposed for rescission under this account: $29,556,000 for Special Programs for the Disadvantaged, $3,000,000 for Veterans' Cost of Instruction, $5,710,000 for the Fund for the Improvement of Postsecondary Education, $14,400,000 for Cooperative Education, $10,000,000 for Fellowships for Graduate and Professional Study, $1,920,000 for Public Service Fellowships, $2,000,000 for the Carl Albert Congressional Research and Studies Center, $750,000 for the Robert A. Taft Institute of Government, $1,000,000 for Legal Training for the Disadvantaged, and $605,000 for Law School Clinical Experience.

These funds are proposed for recisiison under the Higher and continuing education account to eliminate unnecessary government spending by reducing or eliminating funding for low priority programs. The activities financed by these funds either duplicate other services, have a low priority, or are not necessary.

Estimated Effects: This rescission proposal would reduce the number of grant awards made to institutions of higher education, community colleges, and other organizations under Special Programs for the Disadvantaged and the Fund for the Improvement of Postsecondary Education. In addition, the rescission would eliminate the following programs: Veterans' Cost of Instruction, Cooperative Education, Fellowships for Graduate and Professional Study, Public Service Fellowships, Carl Albert Congressional Research and Studies Center, Robert A. Taft Institute of Government, Legal Training for the Disadvantaged, and Law School Clinical Experience. As is noted above, all of these activities duplicate other services, have a low priority, or are not necessary.

* None of the funds in these accounts is proposed for rescission.
** A small amount of funds in this account provides grants to State and local governments; however, none of these funds is proposed for rescission.

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Outlay Effect: (in millions of dollars)

1983 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
$429.7	$424.2	$5.5	$48.3	$13.8	$1.4

R83-13

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
Higher and Continuing Education

Of the funds provided for "Higher and Continuing Education" in Public Law 97-377, $68,941,000 are rescinded for title VIII; title IX, parts B, D, and E; title X; and sections 417 and 420 of the Higher Education Act; title XIII, part H, subpart I of the Education Amendments of 1980; and H. R. 3598 as passed the House on November 4, 1981.

Recission Proposal No: R83-14

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

R83-14

Recission Proposal No: R83-14

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Education Activities	New budget authority (P.L. 97-377) $ 64,203,000
Bureau Office of Educational Research and Improvement	Other budgetary resources ---
Appropriation title & symbol: Educational Research and Statistics 9131100	Total budgetary resources 64,203,000
	Amount proposed for rescission $ 6,225,000
OMB identification code: 91-1100-0-1-503	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This account consists of the National Institute of Education and the National Center for Education Statistics, which are the chief research and statistical agencies in the Department of Education. The purpose of these programs is to identify and understand factors contributing to major educational problems, national trends, and policy issues.

As part of the President's budget reduction plan, $6,225,000 of the funds for this account are proposed for rescission. These are lower priority activities that cannot be financed in a period of extreme fiscal stringency.

Estimated Effect: Within this account, a portion of the funds available for the National Institute of Education are proposed for rescission, resulting in a decrease in funds available for new activities. The revised estimate for the Institute's fiscal year 1983 budget authority is $49,389,000.

Outlay Effect: (in millions of dollars)

1983 Outlay Estimate		Outlay Savings				
Without Rescission	With Rescission	1983	1984	1985	1986	1987
$101.3	$97.9	$3.5	$2.5	$0.2	---	---

R83-14

DEPARTMENT OF EDUCATION
OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

Educational Research and Statistics

Of the funds provided "Educational Research and Statistics" for fiscal year 1983 in Public Law 97-377, $6,225,000 are rescinded from the amounts available for the National Institute of Education.

Rescission Proposal No: R83-15

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Housing and Urban Development	New budget authority (P.L. 97-272): $ 1,350,000,000
Bureau: Housing Programs	Other budgetary resources: 597,489
Appropriation title & symbol: Payments for Operation of Low Income Housing Projects 8630163	Total budgetary resources: 1,350,597,489
	Amount proposed for rescission: $ 69,000,000
OMB identification code: 86-0163-0-1-604	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation is used by the Department of Housing and Urban Development (HUD) to make operating subsidy payments to public housing agencies (PHA's). Operating subsidies are necessary because rental income and other revenues are insufficient to cover the costs of operating low rent public housing projects. Subsidies are calculated and distributed on the basis of a formula which projects the costs of operating a PHA's housing units. Subsidies for a fiscal year are largely distributed during the corresponding calendar year.

On October 29, 1982, the FY 1983 appropriation was apportioned to make $1.2 billion available for obligation and to defer $150 million. Apportionment action has now been taken to release this deferral and to withhold $69 million as a proposed rescission.

Total program requirements for the FY 1983 are estimated at $1,281.6 million. This estimate is below the full $1,350 million level appropriated by Congress primarily for 3 reasons:

1) Public housing agencies are expected to be able to generate increased revenues from implementation of the rent increases enacted in the Omnibus Budget Reconciliation Act of 1981 and from interest income.

2) A recent regulatory change will switch the basis for estimating projected utility consumption levels to lower levels actually experienced in recent years as a result of improved energy conservation efforts.

3) The rate of inflation in non-utility expenses is now expected to be lower than that used in earlier program estimates.

Estimated Effects: This rescission is expected to have no effect upon the operations of public housing agencies as Federal subsidies are expected to be reduced only to the extent that operating costs are lower than earlier estimated and other revenue sources are available.

Outlay Effect: (in millions of dollars)

1983 Outlay Estimates		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
1,582	1,551	31	38	--	--

Rescission Proposal No: R83-16

PROPOSED RESCISSION OF BUDGET AUTHORITY

R83-15

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Housing Programs
Payments for Operation of Low-Income Housing Projects

Of the amount appropriated under this head in the Department of Housing and Urban Development -- Independent Agencies Appropriation Act, 1983, $69,000,000 are rescinded.

Rescission Proposal No: R83-16

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 97-394, 97-257): $ 161,096,000 / 91,664,081
Bureau: National Park Service	Other budgetary resources:
Appropriation title & symbol: Construction 14X1039	Total budgetary resources: 252,760,081
	Amount proposed for rescission: $ 63,600,000
OMB identification code: 14-1039-0-1-303	Legal authority (in addition to sec 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation account funds, among other items, construction and major improvement of the approximately 10,000 miles of roads within the 333 units of the national park system. The $63.6 million proposed for rescission would otherwise fund road projects included in the 1983 National Park Service construction appropriation. This proposal results from a change in the principal funding source for these projects. The Highway Improvement Act of 1982 (P.L. 97-424) appropriated funds from the Highway Trust Fund for Park Service public road projects in 1983-1986, thereby making the funding from the National Park Service account duplicative.

Estimated Effects: The effects on the Park Service road construction program will be negligible, since the 1982 Highway Improvement Act provides $75 million in contract authority to the Department of Transportation's newly authorized Federal Lands Highway Program for Park Service public road projects in 1983.

Outlay Effect: (In millions of dollars)

1983 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
182.0	166.1	15.9	47.7	—	—

R83-16

DEPARTMENT OF THE INTERIOR

National Park Service

Construction

Of the amounts appropriated under Public Law 97-257 and 97-394 for Construction, $63,600,000 is rescinded.

Rescission Proposal No: R83-17

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. 97-424) $ 12,660,402,905
Bureau Federal Highway Administration	Other budgetary resources 398,151,912
Appropriation title & symbol: Federal-Aid Highways (Trust Fund) 20X8102	Total budgetary resources 13,058,554,817
	Amount proposed for rescission $ 63,600,000
OMB identification code: 20-8102-0-7-401	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☒ Contract authority ☐ Other

Justification. The Federal-aid highways program provides financial and technical assistance to States for planning, designing, and constructing highway and highway safety projects.

This rescission proposal would delete contract authority for a highway project that was duplicatively funded by authority contained in both the second Continuing Resolution (P.L. 97-377) and the Highway Improvement Act of 1982 (P.L. 97-424). The Dodge Island Bridge demonstration project, a project to show how downtown congestion can be relieved by the construction of a high level bridge over an intercoastal waterway, was authorized by both the second Continuing Resolution and the recent Highway Bill. The Administration is proposing to rescind the amount provided under the Continuing Resolution.

Estimated Effects: This rescission has no practical effect on the program because the project will be carried out with the authority in the recent Highway Act. This rescission would only eliminate duplicative authority.

Outlay Effect (in millions of dollars):

1983 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
$8,412	$8,412	...	...	...	...

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Rescission Proposal No: R83-18

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency	

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Federal-Aid Highways
Liquidation of Contract Authorization
Trust Fund

$23,200,000 in additional authority to execute contracts as provided in section 142(b) of P.L. 97-377 is hereby rescinded.

Rescission Proposal No: R83-18

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 97-369): $ 5,000,000
Bureau: Coast Guard	Other budgetary resources (P.L. 97-424): XX,000,XXX
Appropriation title & symbol: National Recreational Boating Safety and Facilities Improvement Fund 1/ 69x5171	Total budgetary resources: 5X,00X,000
	Amount proposed for rescission: $ 5,000,000
OMB identification code: 69-X171-0-2-403	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☒ Contract authority ☐ Other

Justification: This fund provides grants to States to help facilitate their boating safety-related activities. The Surface Transportation Assistance Act of 1982 (P.L. 97-424, 1/6/83) provided contract authority for this program in 1983 that effectively replaced the $5,000,000 appropriated for this account by the Department of Transportation Appropriations Act for FY 1983 (P.L. 97-369, 12/17/82). Accordingly, a supplemental budget request has been made for $5,000,000 of liquidating cash under the contract authority. This rescission of the appropriations is proposed to avoid duplicative funding. These actions are consistent with agreements between the Administration and Congress made during the FY 1983 Congressional appropriations process on the appropriate level of funding for this program.

Estimated effects: This action is a technical adjustment that will have no programmatic impact, but is necessary to avoid duplicative spending.

Outlay effects: The offsetting nature of this recission proposal and the related supplemental request for liquidating cash will result in no net changes to 1983 outlays.

1983 Outlay Estimate Without Rescission	1983 Outlay Estimate With Rescission	Outlay Savings 1983	1984	1985	1986
5.0	5.0	--	--	--	--

1/ This account is also the subject of a FY-1983 deferral (D83-61).

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DEPARTMENT OF TRANSPORTATION

Coast Guard

National Recreational Boating Safety and Facilities Improvement Fund

The $5,000,000 provided by P.L. 97-369 under this heading is hereby rescinded.

Rescission Proposal No: R83-19

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency	New budget authority (P.L. 97-377) $ 130,000,000
Bureau: Corporation for Public Broadcasting	Other budgetary resources ---
Appropriation title & symbol: Public Broadcasting Fund 2030151	Total budgetary resources 130,000,000
	Amount proposed for rescission $ 45,000,000
OMB identification code: 20-0151-0-1-503	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☒ Annual (1983 advanced appropriation) ☐ Multiple-year ____ (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Corporation for Public Broadcasting (CPB) provides Federal assistance to the 230 radio and 170 television stations which comprise the non-commercial broadcasting system. It is the Administration's policy to encourage user and private support whenever possible. The Administration believes that public broadcasting can and should be supported by its audience and through private donations, allowing for the continued reduction of Federal support. The 2-year advance notice provided by this rescission proposal should permit time to plan for the ensuing reductions in Federal Funding.

Estimated Effects: The allocation of the CPB's appropriation among its programs is mandated by the Omnibus Reconciliation Act of 1981. Therefore, the $45 million proposed rescission would be similarly distributed. This distribution would allow approximately $60 million for Community Service Grants, $15 million for direct program production and $10 million for the remaining costs and expenses of the Corporation.

Outlay Effect: ($ in millions)

1985 Outlay Estimates		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
$130	$85	--	--	$45	--

R83-19

Corporation for Public Broadcasting

Rescission Proposal No: R 33-20

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Agriculture	New budget authority $ 30,000,000
Bureau	Other budgetary resources ---
Appropriation title & symbol: Public Broadcasting Fund 2030151	Total budgetary resources 30,000,000
	Amount proposed for rescission $ 30,000,000
OMB identification code: 20-0151-0-1-503	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☒ Annual (1983 advanced appropriation) ☐ Multiple-year ____ (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

M83-19

Corporation for Public Broadcasting

Of the funds provided for "The Corporation for Public Broadcasting" for fiscal year 1985 in Public Law 97-377, $45,000,000 are rescinded.

Rescission Proposal No: R 33-20

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Agriculture	New budget authority (P.L. 97-276) $ 30,000,000
Bureau Rural Electrification Administration	Other budgetary resources --
Appropriation title & symbol: Rural Telephone Bank 12X4231	Total budgetary resources 30,000,000
	Amount proposed for rescission $ 23,400,000
OMB Identification code: 12-4231-0-3-452	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: A rescission of $23.4 million in Federal investment of Class A stock of the Rural Telephone Bank is proposed for fiscal year 1983, because the Bank already has sufficient resources to carry out its FY 1983 program.

-- The Federal Government has already satisfied the $300 million capitalization requirement authorized in the original statute establishing the Bank.

-- The Bank has the authority to raise funds in private credit markets on the $300 million capital base provided by the Federal Government.

-- The Bank can also borrow from the Treasury at the Treasury's cost-of-money interest rate.

-- These Federal funds are provided to the Bank at a 2% interest rate. Rural telephone systems do not need access to funds at 2% interest.

-- Even with this rescission, rural telephone borrowers will continue to enjoy low-cost money. The Bank will be reducing its 1983 interest rate from 11.5% to 11% -- well below the current market rate of interest.

Estimated Effects: This proposal will have no effect on the Bank's programs because the funds proposed for rescission are in excess of FY 1983 program needs.

Outlay Effect: (In Millions of Dollars)

1983 Outlay Estimates		Outlay Savings			
Without Rescission	With Rescission	1983	1984	1985	1986
144.9	144.9	--	--	--	--

R83-20

DEPARTMENT OF AGRICULTURE
Rural Electrification Administration
Rural Telephone Bank

Of the funds appropriated under this head in the Department of Agriculture, Rural Development, and Related Agencies Appropriations Act, 1983, $23,400,000 are rescinded.

Deferral No: D83-40

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Funds Appropriated to the President	New budget authority (P.L. 97-377) $165,132,646
Bureau Appalachian Regional Development Programs	Other budgetary resources 31,361,153
Appropriation title & symbol	Total budgetary resources 196,493,799
Appalachian Regional Development Programs	Amount to be deferred: Part of year 10,000,000
11x0090 1/	Entire year
OMB identification code: 11-0090-0-1-452	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☐ No ☒ Yes	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation provides funds for the Appalachian Regional Commission's highway, area development, and research and local development district support activities. The President has proposed that the Commission be terminated on September 30, 1983. Funds associated with non-highway activities will be deferred to pay the termination costs for this account.

Estimated Effect: This deferral action will provide for costs associated with closing down the Appalachian Regional Commission.

Outlay Effect: This deferral has no effect on FY 1983 outlays.

1/ This account was the subject of a similar deferral in FY 1982 (D82-1A) and is also the subject of an FY 1983 rescission (R83-2).

D83-21A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

Deferral No: D83-21A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

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D83-21A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D83-21 transmitted to Congress on December 7, 1982.

This revision to a deferral of Funds Appropriated to the President for Foreign Military Sales Credit increases the amount previously deferred from $165,000,000 to $1,175,000,000. This net increase of $1,010,000,000 results from an increase in budgetary resources made available by the act making further continuing appropriations for 1983 (Public Law 97-377).

Deferral No: D83-21A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Funds Appropriated to the President	New budget authority (P.L. 97-377) $1,175,000,000*
Bureau International Security Assistance	Other budgetary resources
Appropriation title & symbol Foreign Military Sales Credit 1/ 1131082	Total budgetary resources 1,175,000,000* Amount to be deferred: Part of year 1,175,000,000* Entire year
OMB identification code: 11-1082-0-1-152	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

JUSTIFICATION: "Pursuant to the Arms Export Control Act, the President is authorized to sell or finance by credit or guarantees defense articles and defense services for friendly countries. Public Law 97-377 makes continuing appropriations of $1,175,000,000 for fiscal year 1983 to enable the President to carry out those authorities. Under section 2 of the Arms Export Control Act, the Secretary of State, under the direction of the President, is responsible for continuous supervision and general direction of sales made under the Act, including determining whether there shall be a sale to a country and the amount thereof. Executive Order 11958 of January 18, 1977, delegated certain of the President's functions under the Arms Export Control Act to the Secretary of State and concurrence of the Secretaries of Defense and Treasury, respectively, regarding standards and criteria for credit and guaranty transactions that are based upon national security and financial policies.

These funds have been deferred pending approval of specific loans to eligible countries by the Departments of State, Defense and the Treasury. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limits of available funds.

ESTIMATED EFFECTS: - This deferral will have no programmatic or budgetary impact.

OUTLAY EFFECT: - There is no outlay effect from this deferral because funds will be released as loans are approved.

*Revised from previous report
1/ This account was the subject of a similar deferral in FY 1982 (D82-222).

D83-22A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D83-22, transmitted to the Congress on December 7, 1982.

This revision to a deferral of Agency for International Development economic support funds increases the amount previously deferred from $554,720,000 to $1,901,850,000. This net increase of $1,347,130,000 in amounts deferred reflects new budget authority provided in the Act making further continuing appropriations for 1983 (Public Law 97-377).

Deferral No: D83-22A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Funds Appropriated to the President (AID)	New budget authority (P.L. 97-377) $2,661,000,000
Bureau International Security Assistance	Other budgetary resources ———
Appropriation title & symbol	Total budgetary resources 2,661,000,000*
Economic Support Fund 1/ 1131037	Amount to be deferred: Part of year 1,901,850,000*
	Entire year ———
CFDA identification code: 11-1037-0-1-152	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☒ Yes ☐ No	☐ Other ———
Type of account or fund: ☒ Annual ☐ Multiple-year ——— (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ———

Justification: * Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish assistance to promote economic or political stability in foreign countries on such terms and conditions as he may determine. P.L. 97-377 provides continuing appropriations of $2,661,000,000 of grant and loan Economic Support Funds to enable the President to carry out those authorities. Under Part II, Chapter 4, of the Foreign Assistance Act, the Secretary of State is responsible for policy decisions and justifications for such economic support programs, including the countries and amounts to be provided. Executive Order No. 12163 of September 29, 1979 further delegates the President's responsibilities under Chapter 4 to the Secretary of State insofar as they relate to policy decisions and justifications for economic support programs. These functions will be exercised in cooperation with the Administrator of the Agency for International Development.

The funds are deferred pending approval of specific loans and grants to eligible countries by the Secretary of State. This will insure that each approved program is consistent with the foreign, national security and financial policies of the U.S. and will not exceed the limits of available funds.

Estimated Effects: This deferral will have no programmatic or budgetary impact.

Outlay Effect: There is no outlay effect from this deferral because funds will be released as loans and grants are approved.

* Revised from previous report.
1/ This account was the subject of a similar deferral in FY 1982 (D82-219).

D-83-29A

SUPPLEMENTARY REPORT

Deferral No: D83-29A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

D-83-29A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D83-29 transmitted to Congress on December 7, 1982.

The amount deferred for Military Assistance under Funds Appropriated to the President is $233,000,000. Funds totaling $11,650,000 from the previous deferral were made available for obligation prior to enactment of P.L. 97-377, making further continuing appropriations for FY 1983. The amount deferred, a net increase of $221,350,000 over the amount originally reported as deferred, results from an increase in budgetary resources made available by P.L. 97-377.

Deferral No: D83-29A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. 97-377): $290,000,000*
Bureau: International Security Assistance	Other budgetary resources: 4,200,000*
Appropriation title & symbol: Military Assistance 1/ 113/41080	Total budgetary resources: 294,200,000*
	Amount to be deferred: Part of year: 233,000,000* Entire year:
OMB identification code: 11-1080-0-1-152	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1984 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:- *Pursuant to the Foreign Assistance Act (FAA) of 1961, as amended, the President is authorized to furnish grant military assistance to any friendly country or international organization if he finds that it will strengthen the security of the United States or promote world peace. Public Law 97-377 makes continuing appropriations of $290,000,000 of grant Military Assistance (MAP) funds for fiscal year 1983 to enable the President to carry out this authority. Executive Order No. 12163 of September 29, 1979, as amended, delegates certain of the President's functions under the FAA to the Secretaries of State and Defense. Of the total available, $233,000,000 is being deferred pending approval of specific country programs by the Departments of State, Treasury, and Defense. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limit of available funds.

Estimated Effects: - This deferral will have no programmatic or budgetary impact.

Outlay Effect:- There is no outlay effect from this deferral because the funds will be released as country programs are approved.

* Revised from previous report

1/ This account was the subject of a similar deferral in FY 1982 (D82-223).

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Deferral No: D83-41

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 97-370): $ 194,925,000
Bureau: Soil Conservation Service	Other budgetary resources: 21,790,354
Appropriation title & symbol: Watershed and Flood Prevention Operations 1/ 12X1072	Total budgetary resources: 216,715,354
	Amount to be deferred: Part of year: 10,329,000
	Entire year:
OMB identification code: 12-1072-0-1-301	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This program provides technical and financial assistance to sponsors of projects authorized under P.L. 566 and P.L. 534 in carrying out planned works of improvement to protect, develop and utilize the land and water resources in small watersheds (under 250,000 acres) and in the sub-watersheds of the eleven authorized river basins.

The deferral is made to withhold these funds pending Congressional action on the proposal to transfer them to other accounts of the Soil Conservation Service to be used to help defray increased pay costs.

Estimated Effects: This deferral will not reduce the level of technical and financial assistance for new construction starts that Congress directed the Soil Conservation Service to initiate in the FY 1983 Appropriation Act. It will affect the technical and financial assistance to projects already under construction in FY 1983.

Outlay Effect: This deferral action will have no net effect on FY 1983 outlays since all funds proposed for transfer will be used to help defray Department of Agriculture pay costs.

1/ This account was the subject of a deferral in FY 1982 (D82-244) and a rescission in FY 1983 (R83-4).

D83-34A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of
Public Law 93-344

This report updates Deferral Report No. D83-34, transmitted to the Congress on December 16, 1982.

This revision to a deferral of Animal and Plant Health Inspection Service funds in the Department of Agriculture increases the amount deferred from $2,134,000 to $6,200,000. The increase of $4,066,300 is due to increased resources provided by P.L. 97-370, the Agriculture, Rural Development and Related Agencies Appropriations Act, 1983.

Deferral No: D83-34A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Deferral No: D83-42

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Deferral No: D 83-34A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 or P.L. 93-344

Agency: Department of Agriculture
Bureau: Animal and Plant Health Inspection Service
Appropriation title & symbol: Animal and Plant Health Inspection Service, Salaries and Expenses, 1231600
OMB identification code: 12-1600-0-1-352
Grant program: ☐ Yes ☒ No
Type of account or fund: ☒ Annual ☐ Multiple-year _____ (expiration date) ☐ No-year

New budget authority (P.L. 97-370): $267,915,000
Other budgetary resources: [illegible],71[illegible],00[illegible]
Total budgetary resources: 27[illegible],63[illegible],0[illegible]
Amount to be deferred: Part of year: [illegible],200,000; Entire year: _____
Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other _____
Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: The Animal and Plant Health Inspection Service protects the animal and plant resources of the nation from destructive pests and diseases. The purpose of the deferral of these funds is to establish a contingency reserve for unappropriated emergency activities should additional funding be needed. This action will eliminate the need to transfer funds from the Commodity Credit Corporation unless funds needed for emergencies exceed $6.2 million. This deferral is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: This deferral action will restrain obligations for the brucellosis program and set aside funding to meet unforeseen and unappropriated commitments associated with mandates for the Animal and Plant Health Inspection Service.

Outlay Effect: This deferral action has no outlay effect on the Animal and Plant Health Inspection Service account since funds will be obligated as contingencies arise.

Deferral No: D83-42

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: [illegible]partment of Agriculture
Bureau: Forest Service
Appropriation title & symbol: National Forest System, 1/ 123/41106
OMB identification code: 12-1106-0-1-302
Grant program: ☐ Yes ☒ No
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1984 (expiration date) ☐ No-year

New budget authority (P.L. 97-394): $[illegible]08,[illegible]00
Other budgetary resources: 108,685,000
Total budgetary resources: 291,185,000
Amount to be deferred: Part of year: _____; Entire year: [illegible]08,[illegible]35,[illegible]0
Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other _____
Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: Funds appropriated for Reforestation and Timber Stand Improvement, $108,035,000 for FY 1983, are being deferred due to the activation of the Reforestation Trust Fund established pursuant to Public Law 96-451 (16 U.S.C. 1606a), 94 Stat. 1991 (The Act) dated October 14, 1980.

Funds totaling $108,035,000 will be transferred from the Reforestation Trust Fund to finance this activity. Accordingly, a corresponding amount from this account is being deferred as excess to program needs in FY 1983. The deferred funds will be obligated in FY 1984 for purposes specified by Interior Appropriations Act, 1983 (P.L. 97-394). This deferral action is taken pursuant to the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: There are no programmatic or budgetary effects resulting from this deferral action.

Outlay Effect: This deferral action will have no effect on FY 1983 outlays.

1/ This account was the subject of a FY 1982 deferral (D82-180).

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D83-2A

SUPPLEMENTARY REPORT
Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D83-2 transmitted to the Congress on October 1, 1982.

This revision to a deferral in the Timber Salvage Sales account in the Department of Agriculture's Forest Service increases the amount deferred from $10,002,000 to $13,107,416. This increase of $3,105,416 is attributable to a corresponding increase in the amount of unobligated balances brought forward into FY 1983.

Deferral No: D83-2A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Agriculture	New budget authority (P.L. 94-588) $ 7,900,000
Bureau Forest Service	Other budgetary resources 13,107,416
Appropriation title & symbol: Forest Service Permanent Appropriations 1/ 12X5204 - Timber Salvage Sales	Total budgetary resources 21,007,416
	Amount to be deferred: Part of year — Entire year 13,107,416
OMB identification code: 12-9922-0-2-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

JUSTIFICATION: The National Forest Management Act of 1976 authorized the Secretary of Agriculture to require purchasers of sales involving dead, damaged, insect infested, or down timber to make monetary deposits into a designated fund to cover the costs associated with such sales.

This deferral is necessary because of the time lag between the deposit of receipts from salvage sales and the expenditures of funds to cover costs associated with making additional sales on that National Forest.

The collections becoming available in the current year are estimated and the related salvage sale operations may not necessarily be planned in the same year. Efficient program planning and accomplishment is facilitated by administering a stable program well within the funds available in any one year for this purpose.

An apportionment of $7,900,000 has been made for this program in the current fiscal year compared with $12,389,000 in fiscal year 1982, which was the fifth full year of operation of this program.

The amount deferred is in excess of planned program requirements and is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

1/ This account was the subject of a deferral in FY 1982 (D82-2A).

D83-2A

Estimated Effects: There are no programmatic or budgetary effects that result from this deferral action. Rather, the reserve reflects the resources that are not currently required for obligational authority in meeting current year's program

Deferral No: D83-43

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

D83-2A

Estimated Effects: There are no programmatic or budgetary effects that result from this deferral action. Rather, the reserve reflects the resources that are not currently required for obligational authority in meeting current year's program requirements.

Any emergency funding needed to meet the necessary obligations to sell material as a result of a catastrophe must come from the available funds with the present reserve.

Outlay Effect: There will be no outlay effect from this deferral action since the remaining funds are adequate to carry out the planned program.

Deferral No: 083-43

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 97-377): $ 168,500,000
Bureau: Economic Development Administration	Other budgetary resources: 30,400,000
Appropriation title & symbol: Economic Development Assistance Programs 1332050	Total budgetary resources: 198,900,000
	Amount to be deferred: Part of year: 181,900,000
	Entire year:
CFDA identification code: 13-2050-0-1-452	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The objectives of the Economic Development Administration (EDA) are to assist economically distressed areas and to deal with problems of economic adjustment. Aid provided includes grants, loans and loan guarantees.

Consistent with the Administration's objective to restrain Federal expenditures, this deferral action is being taken pending Congressional action on a proposed supplemental to transfer $158,500,000 to the Small Business Administration to honor commitments to purchase defaulted guaranteed loans made in previous years and to transfer $23,400,000 to the Economic Development Revolving Fund for defaults, interest payments to the Treasury and care and protection of collateral.

EDA's programs have not been effective in creating net new development and jobs, and consequently EDA funds are being recommended for transfer to meet higher priority needs.

Estimated Effects: EDA activities would be phased out as soon as possible in 1983 and there would be sufficient resources available to fund the few projects currently in its pipeline if Congress approved the proposed transfer.

Outlay Effect: This deferral action will have no effect on FY 1983 outlays. The subsequent transfer of funds out of this account will reduce FY 1983 and FY 1984 outlays by $26.9 million and $57.6 million respectively, and will reduce outlays in the outyears by $87.4 million.

Deferral No: D83- 44

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 97-377): $166,426,000
Bureau: International Trade Administration	Other budgetary resources: 11,5[illegible],92[illegible]
Appropriation title & symbol: Operations and Administration 13X1250	Total budgetary resources: 177,9[illegible]4,929
	Amount to be deferred: Part of year: [illegible],100,000
	Entire year:
OMB identification code: 13-1250-0-1-376	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The 1983 appropriation included $27,500,000 for Trade Adjustment Assistance (TAA) to firms. This program provides technical assistance grants, direct loans, and loan guarantees to firms that have been injured by imports. The Administration has determined that this program should be terminated because it has for the most part failed to achieve its objective of facilitating adjustment. The TAA program has consistently suffered from a high default rate because many of the beneficiary firms go bankrupt shortly after receiving assistance.

The President's Budget proposes that $20,100,000 (the uncommitted balance of the 1983 appropriation for TAA) be transferred from this account to the Small Business Administration via supplemental appropriation. The transfer would enable SBA to honor commitments made in previous years to purchase defaulted guaranteed loans. This deferral would preserve these funds pending Congressional action on the proposed transfer.

Estimated Effects: This deferral will suspend new TAA commitments pending Congressional action on the proposed transfer. If Congress approves the transfer, TAA to firms will be terminated.

Outlay Effect: This deferral is not expected to affect 1983 outlays, although some outlay slippage could result from delayed Congressional action on the proposed transfer. If Congress approves the transfer, outlays in this account will be reduced by $7,640,000 in 1983, $9,260,000 in 1984, and $3,200,000 in 1985.

Deferral No: D83- 45

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L.): $
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: 18,810,910
Appropriation title & symbol: Construction 13x1452 1/	Total budgetary resources: 18,810,910
	Amount to be deferred: Part of year: 2,000,000
	Entire year: 1,000,000
OMB identification code: 13-1452-0-1-306	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ($1,000,000) ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This account provides for the planning and construction of administrative and research facilities (Western Regional Center (WRC)) at Sand Point, Seattle, Washington. A total of $3,000,000 is being deferred because contruction costs for the WRC have been less than anticipated. NOAA proposes to transfer $2,000,000 to the Operations, Research and Facilities appropriation to offset pay costs during FY 1983. These funds are being deferred to preserve them until Congress acts on the request to transfer them. In addition, construction of the WRC will not be completed in FY 1983 and an additional $1,000,000 is being deferred until FY 1984. This deferral is consistent with Congressional intent to provide no-year funding for this project and is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects:

This deferral action will not affect the construction of the WRC during FY 1983.

Outlay Effect: This deferral action will have no effect on FY 1983 outlays.

1/ This account was the subject of a similar deferral in FY 1982 (D82-5B), and is the subject of a proposed rescission in FY 1983 (R83-1).

Deferral No: D83-46

Deferral No: D83-47

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Deferral No: D83-46

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. 97-377): $16,076,700,00
Bureau: Procurement	Other budgetary resources: 37,000,00
Appropriation title & symbol: Shipbuilding and Conversion, Navy 1/ 17 3/7 1611	Total budgetary resources: 16,113,700,000
	Amount to be deferred: Part of year: $ ____
	Entire year: 2,400,000,00
OMB identification code: 17-1611-0-1-051	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [ ] No	[ ] Other ____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[X] Multiple-year September 30, 1987 (expiration date)	[ ] Contract authority
[ ] No-year	[ ] Other ____

Justification: This appropriation provides for construction, acquisition or conversion of naval vessels. Due to the long period of tire required to build ships, the Congress makes appropriations available for five-year periods. Since these funds are, by law, made available beyond the current year, they are not fully apportioned in the current year until program plans have fully developed. The unapportioned amount is withheld and released as the program develops and additional funds are required.

Prudent financial management requires the deferral of those funds that could not be used effectively even if made available for obligation.

The above multi-year funds are currently being deferred under provisions of the Antideficiency Act (31 U.S.C. 1512) that authorize the establishment of reserves for contingencies.

Estimated Effects: Deferral of $2,400,000,000 will have no programmatic or budgetary effect since the funds could not be obligated at this time if made available.

Outlay Effects: This deferral action has no effect on outlays.

1/ This account was the subject of a similar deferral in fiscal year 1982 (D82-227).

Deferral No: D83-47

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Civil	New budget authority (P.L. 97-377): $ 1,421,405,000
Bureau: Corps of Engineers - Civil	Other budgetary resources: 372,455,395
Appropriation title & symbol: Construction, General 1/ 96X3122	Total budgetary resources: 1,793,860,395
	Amount to be deferred: Part of year: 180,000,000
	Entire year: ____
identification code: 96-3122-0-1-301	Legal authority (in addition to sec 1013): [ ] Antideficiency Act
Grant program: [ ] Yes [ ] No	[ ] Other ____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other ____

Justification: This account funds the continuing construction of water resource development projects. Funds totaling $140M are deferred pending Congressional action on proposals to transfer $110,000,000 to the Operation and Maintenance, General Account and $30,000,000 to the Flood Control, Mississippi River and Tributaries Account. The remaining $40M is deferred to finance part of the FY 1984 construction program. The transfer proposals are intended to remedy the problems of appropriations far in excess of requirements to continue project construction on schedule and insufficient funds to conduct a normal maintenance program.

Estimated Effect: This deferral will have no programmatic effect as construction projects will be maintained on schedule.

Outlay Effect: This deferral has no effect on FY 1983 since funds would not be obligated in this account if made available.

1/ This account was the subject of a deferral in FY 1982 (D82-39).

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Deferral No: D83- 49

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Energy Activities	New budget authority (P.L. 97-377): $361,722,000
Bureau: Energy Programs	Other budgetary resources: 35,034,058
Appropriation title & symbol: Energy Supply Research and Development Activities, Plant and Capital Equipment, 89X0225 1/	Total budgetary resources: 396,756,058
	Amount to be deferred: Part of year: ____ Entire year: 91,107,000
OMB identification code: 89-0225-0-1-271	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This appropriation provides plant and capital equipment support for research and development of energy technologies.

The FY 1983 level of appropriations for this account in the Act Making Further Continuing Appropriations FY 1983 (P.L. 97-377) is based upon the FY 1982 current rate of operations. The Conference Report directed the Department of Energy to follow the program recommendations of the Appropriation Committees contained in the House and Senate Reports accompanying the 1983 appropriations bills. The Department of Energy has, therefore, prepared a program plan for Energy Supply R&D activities in accordance with this expression of Congressional intent. As a result, use of the entire amount provided under the Continuing Resolution is not expected to be needed in FY 1983. Accordingly, the excess is being deferred. This deferral is being taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: This deferral will not have any identifiable programmatic effects since the funds deferred are in excess of the amount required to satisfy Congressional directives.

Outlay Effects: This deferral will have no effect on FY 1983 outlays.

1/ This account was the subject of a deferral in FY 1982 (D82-104).

D83-8A

SUPPLEMENTARY REPORT
Report Pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D83-8, transmitted to the Congress on October 1, 1982.

This revision to a deferral of Energy Activities Fossil Energy Research and Development decreases the amount previously reported as deferred from $20,136,000 to $5,000,000. The decrease of $15,136,000 reflects a change from a part of year deferral to an entire year deferral of funds.

Deferral No: D83-8A

Deferral No: D83- 49

Deferral No: D83-49

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Energy Activities	New budget authority (P.L. _____): $ _____
Bureau: Energy Programs	Other budgetary resources: 51,041,891
Appropriation title & symbol: Fossil Energy Construction 1/ 89X0214	Total budgetary resources: 51,041,891
	Amount to be deferred: Part of year: $ _____ Entire year: 20,000,000
OMB identification code: 89-0214-0-1-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other _____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: The Fossil Energy Program conducts research and development in the areas of coal, petroleum, and gas. Development and demonstration of near term technologies supported in the past by this program are no longer funded by the Federal government. This reorientation permits the deferral of excess funds for the entire year resulting in a reduction in the FY 1984 appropriation request. This deferral action is taken under provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: This deferral has no programmatic impact.

Outlay Effects: This deferral action will shift $20,000,000 in outlays from FY 1983 into FY 1984.

1/ This account was the subject of a deferral in FY 1982 (D82-9).

Deferral No: D83-88

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Energy Activities	New budget authority (P.L. 97-377) 2,000,000* (P.L. 97-394) $ 215,514,000*
Bureau: Energy Programs	Other budgetary resources: 136,637,249 *
Appropriation title & symbol: Fossil Energy Research and Development 1/ 89X0213	Total budgetary resources: 354,151,249 *
	Amount to be deferred: Part of year: _____ * Entire year: 5,000,000*
OMB identification code: 89-0213-0-1-271*	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act [ ] Other _____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: *The Fossil energy research and development program conducts research and development in the areas of coal, petroleum and gas. The development and demonstration of near term technologies, supported in the past by this program, are no longer being funded by the Federal government. This reorientation permits the deferral of excess funds for the entire year resulting in a reduction in the FY 1984 appropriation request.

Estimated Effects: This deferral has no programmatic impact.

Outlay Effect: *This deferral action will shift $5,000,000 in outlays from FY 1983 to FY 1984.

* Revised from previous report.

1/ This account was the subject of a deferral in FY 1982 (D82-236).

Deferral No: D83-50

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Energy Activities	New budget authority (P.L. 97-276): $242,118,000
Bureau: Energy Programs	Other budgetary resources: 77,999,118
Appropriation title & symbol: Strategic Petroleum Reserve 89X0218 1/	Total budgetary resources: 320,117,118
	Amount to be deferred: Part of year: $; Entire year: 57,400,000
OMB identification code: 89-0218-0-1-274	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	

Justification: Funds appropriated to this account are used for storage facility development, planning and administration of a 750 million barrel (MB) Strategic Petroleum Reserve (SPR).

Phase III of the Reserve, which will provide a storage increment of 201 MB (to 750 MB), is currently under development. The Department currently plans to complete detailed design and site acquisition activities for Phase III, but initiate construction for only a portion of Phase III at this time. Specifically, construction of 140 MB of storage capacity at the Big Hill, Texas site and 10 MB of capacity at West Hackberry, Louisiana will not be initiated this year. FY 1983 and prior year funds for Phase III construction activities not being initiated are being deferred. These funds will be used to offset funding requests for FY 1984 Phase III development at the Bryan Mound, Texas and West Hackberry sites.

Estimated Effects: This deferral action delays construction-related activities associated with a portion of Phase III of the Reserve. The remaining portion of Phase III construction will be unaffected. The overall development schedule for Phase III will be reanalyzed and a new schedule developed next year. This deferral will result in some delay in the completion of the 750 MB Reserve. However, this delay will have no effect on U.S. emergency preparedness capabilities in the near term, and in particular, the level of storage capacity and oil fill in 1983 and 1984 will be unchanged.

Outlay Effects: This deferral shifts $50.5 million of FY 1983 outlays into FY 1984.

1/ This account was the subject of a deferral in FY 1982 (D82-10A)

Deferral No: D83-51

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Energy Activities	New budget authority (P.L. 97-377): $209,468,000
Bureau: Departmental Administration	Other budgetary resources: 184,003,892
Appropriation title & symbol: Departmental Administration, Operating Expenses, 89X0228	Total budgetary resources: 384,471,892
	Amount to be deferred: Part of year: $; Entire year: 21,767,000
OMB identification code: 89-0228-0-1-276	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	

Justification: This account includes funds for an array of policy development and analysis activities, institutional and public liaison functions, and other program support requirements necessary to ensure effective departmental operation and management. The FY 1983 level of appropriations for this account under the Act making further continuing appropriations, FY 1983 (P.L. 97-377) is based upon the FY 1982 current rate of operations. The Conference Report directed the Department of Energy to follow the program recommendations of the Appropriation Committees contained in the House and Senate Reports accompanying the 1983 appropriations bills. The Department of Energy has, therefore, prepared a program plan for Departmental Administration, Operating Expenses activities in accordance with this expression of Congressional intent. As a result, use of the entire amount provided under the Continuing Resolution is not expected to be needed in FY 1983. Accordingly, the excess is being deferred. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: This deferral will not have any identifiable programmatic effects since the funds deferred are in excess of the amount required to satisfy Congressional directives.

Outlay Effects: This deferral will have no effect on FY 1983 outlays.

Deferral No: D83-52

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Deferral No: D83-53

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Deferral No: D83-52

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Energy Activities	New budget authority (P.L. 97-377): $ 32,593,000
Bureau: Departmental Administration	Other budgetary resources: 3,748,167
Appropriation title & symbol: Departmental Administration, Plant and Capital Equipment, 89X0229	Total budgetary resources: 36,341,167
	Amount to be deferred: Part of year: $ ____ Entire year: 12,693,000
OMB identification code: 89-0229-0-1-276	Legal authority (in addition to sec 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This account includes funds for program support and agency conservation requirements that support effective departmental operation and management. The FY 1983 level of appropriations for this account under the Act making further appropriations, FY 1983 (P.L. 97-377) is based upon the FY 1982 current rate of operations. The Conference Report directed the Department of Energy to follow the program recommendations of the Appropriations Committees contained in the House and Senate Reports accompanying the 1983 appropriations bills. The Department of Energy has, therefore, prepared a program plan for Departmental Administration, Plant and Capital Equipment activities in accordance with this expression of Congressional intent. As a result, use of the entire amount provided under the Continuing Resolution is not expected to be needed in FY 1983. Accordingly, the excess is being deferred. This deferral is being taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: This deferral will not have any identifiable programmatic effects since the funds deferred are in excess of the amount required to satisfy Congressional directives.

Outlay Effects: This deferral will have no effect on FY 1983 outlays.

Deferral No: D83- 53

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health and Human Services	New budget authority (P.L. 97-377): $ 47,026,000
Bureau: Social Security Administration	Other budgetary resources: 20,489,367
Appropriation title & symbol: Limitation on Administrative Expenses 1/ 75X8704	Total budgetary resources: 67,515,367
	Amount to be deferred: Part of year: ____ Entire year: 9,633,000
OMB identification code: 75-8704-0-7-601	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This account provides funding for construction and renovation of the Social Security Administration's headquarters and field office buildings. During FY 1983, the Social Security Administration (SSA) expects to continue construction of several new district office buildings and to expand offices that have become overcrowded. In reviewing plans for FY 1983, SSA identified $9,633,000 in funds available from prior years that cannot be obligated in FY 1983 because of the time-consuming nature of the construction process. Consequently, these funds are being deferred. This deferral action of the no-year funds is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: There is no programmatic or budgetary effect from this deferral.

Outlay Effect: This deferral has no effect on FY 1983 outlays because these funds could not be obligated if made available.

1/ This account was the subject of a deferral in FY 1982 (D82-237A).

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Deferral No: D83-54

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Housing & Urban Development	New budget authority (P.L. 97-377) $ 8,651,475,689
Bureau Housing Programs	Other budgetary resources 7,297,016,198
Appropriation title & symbol: Subsidized Housing Programs 1/ 86X0139	Total budgetary resources 15,948,491,887
	Amount to be deferred: Part of year $ ____ Entire year 3,081,152,196
OMB identification code: 86-0139-0-1-604	Legal authority (in addition to sec 1013): ☐ Antideficiency Act ☐ Other ____
Grant program ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☒ Contract authority ☐ Other ____

Justification: This account provides budget authority to enter into long-term subsidy contracts for the Lower Income Housing Assistance Payments program (Section 8), the Public Housing Production program, and the Public Housing Modernization program. These programs are carried out, in part, through grants to State and local authorities.

Budget authority made available in FY 1983 from the recovery of prior year reservations, is proposed for deferral for the entire year. This money is being deferred in order to ensure that sufficient budget authority is available to complete the conversion of long-term subsidy commitments from the Rent Supplement and Rental Housing Assistance programs to the Section 8 program.

Currently, neither the Rent Supplement nor the Rental Housing Assistance programs have a mechanism for providing increases in the Federal subsidy to offset increases in the cost of operating units in these programs. The policy of conversion of 171,101 insured Rent Supplement and 13,000 Rental Housing Assistance units to Section 8, which has been in effect for the last two years, provides a long-term solution to the problem of annual adjustments to fund cost increases in these projects. The Section 8 contracts include a built-in reserve which can be used to provide these units with needed subsidy increases.

1/ This account was the subject of a deferral in FY 1982 (D82-182).

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The conference reports accompanying P.L. 97-216 and P.L. 97-377 set-aside budget authority for the conversion of a total of 120,000 Rent Supplement and Rental Housing Assistance units. However, there remain 64,101 units which are to be converted but for which budget authority has not yet been set-aside. In order to assure the orderly completion of the entire 184,101 unit inventory of insured Rent Supplement and Rental Housing Assistance units, the Administration is deferring sufficient amounts of budget authority.

Estimated Program Effects: By providing the Rent Supplement and Rental Housing Assistance units a mechanism by which the increased costs can be defrayed without imposing intolerable burdens on existing tenants or raising vacancy rates, the probability of defaults and subsequent claims against the FHA Fund will be reduced.

Outlay Effects: This deferral action will delay the obligation of Section 8 budget authority by one year. This will reduce 1983 outlays by $76 million and 1984 outlays by $79 million.

D83-11A

SUPPLEMENTARY REPORT

Deferral No: D83-11A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

D83-11A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1013 of Public Law 93-344

This report updates Deferral No. D83-11, transmitted to the Congress on October 1, 1982.

This revision to a deferral of National Park Service funds in the Department of Interior increases the amount deferred from $30,000,000 to $33,000,000. The increase of $3,000,000 is attributable to the need to set aside part of the additional budgetary resources provided in P.L. 97-394, the Department of Interior and Related Agencies Appropriations Act, 1983, and prior-year appropriations acts to finance the cost of administering outdoor recreation grants to the States in FY 1984. In addition, this report reflects the merger of the Land and Water Conservation Fund and the Land Acquisition account within the National Park Service.

Deferral No: D83-11A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 97-394): $142,508,000 *
Bureau: National Park Service	Other budgetary resources: 136,231,228 *
Appropriation title & symbol: 14X5035 Land Acquisition and State Assistance 1/ *	Total budgetary resources: 278,736,228 *
	Amount to be deferred: Part of year: —
	Entire year: 33,000,000 *
OMB identification code: 14-5035-0-2-303 *.	Legal authority (in addition to sec. 1013): [X] Antideficiency Act ($30,000,000)
Grant program: [X] Yes [ ] No	[ ] Other: —
Type of account or fund: [ ] Annual [ ] Multiple-year — (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [X] Contract authority ($30,000,000) [ ] Other: —

Justification: The Land and Water Conservation Fund (LWCF) finances grants to the States for outdoor recreation purposes (as authorized by 16 U.S.C. 4601-4). Funding for these grants is now contained in the National Park Service's land acquisition and state assistance appropriation account.

Under existing law, $30 million of contract authority becomes available each fiscal year to the LWCF in addition to regular appropriations. This authority is made available for use specifically as an anti-escalation measure in purchasing authorized Federal recreation land. The authority was last used in 1969 and 1970, lapsing in fiscal years 1971-1981 and rescinded by Congressional action for fiscal 1982. Deferral of these funds is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

The Administration proposes in the FY 1984 Budget to pay administrative expenses for prior-year grants to States from prior-year balances carried forward into 1984. Accordingly, $2,300,000 of the Secretary's grant contingency fund for 1982 and prior-year balances and $700,000 of Federal administrative expense funding appropriated in 1983 are being deferred for the entire year. Appropriation language is proposed to make contingency grant funds available for administrative expenses in FY 1984.

Estimated Effects: Funds available for outdoor recreation grants from the Secretary's contingency fund will be reduced by $2,300,000. The exact impact

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on services to the public will depend on the availability of other resources at the State level to offset this reduction. The $700,000 for administrative expenses are deferred without reducing the 1983 operating program level by using other available resources. Deferral of the contract authority will have no programmatic or budgetary effect, as it is expected to be made available for obligation only in unforeseeable circumstances.

Outlay Effect: This deferral action will shift $700,000 in Federal administrative outlays and $2,300,00 in FY 1983-1986 grant outlays into 1984.

1/ This account was the subject of a deferral in FY 1982 (D82-14A).

* Revised from previous report.

Deferral No: D83-55

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 97-394): $72,011,000
Bureau: Office of Territorial Affairs	Other budgetary resources: 6,364,028
Appropriation title & symbol: Administration of Territories 1/ 14X0412	Total budgetary resources: 78,375,028
	Amount to be deferred: Part of year: 3,188,000
	Entire year:
MB identification code: 14-0412-0-1-806	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: The program affected by this deferral is the construction of a hospital in the Northern Mariana Islands. $10 million was appropriated for FY 1983. The anticipated U.S. contribution will total $15 million. All new budget authority will not be required in the current year. The funds deferred will be made available during the fourth quarter of FY 1983 for the annual guaranteed inflation adjustment of the Northern Marianas Covenant grant, as required in P.L. 94-241. This deferral action is taken under provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effect: This deferral action will restrict the obligation of Federal funds prior to the need for the cash draw down of such funds. Additionally, deferring the money until later in the year for the annual inflation payment will eliminate the need for supplemental appropriations.

Outlay Effect: The effect of this deferral and realignment of funds will be to increase outlays in the current year by approximately $2 million. Funds would not be drawn down for hospital construction during the current year, but payment of the inflation adjustment in the fourth quarter will result in outlays of approximately $2 million.

1/ This account was the subject of a deferral in FY 1982 (D82-55).

Deferral No: D83-56

DEFERRAL OF BUDGET AUTHORITY

Deferral No: D83-57

DEFERRAL OF BUDGET AUTHORITY

Deferral No: D83-56

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice
Bureau: Interagency Law Enforcement
Appropriation title & symbol: Organized Crime Drug Enforcement 15X0323
OMB identification code: 15-0323-0-1-751
Grant program: ☐ Yes ☒ No
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year

New budget authority (P.L. 97-377): $ 10,000,000
Other budgetary resources: _____
Total budgetary resources: 10,000,000
Amount to be deferred: Part of year: $ _____ Entire year: 10,650,000
Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other _____
Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: This appropriation reimburses the Federal Prison System for constructing, remodeling and equipping necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding and provide a safe and humane environment for staff and inmates. Due to the time required for planning, design efforts and selecting contractors, it is not possible to complete these projects during FY 1983. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effect: There are no programmatic or budgetary effects from this deferral because the amount deferred for the entire year could not be economically used if made available in FY 1983.

Outlay Effect: This deferral has no effect on FY 1983 outlays.

Deferral No: D83-57

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State
Bureau: International Organizations and Conferences
Appropriation title & symbol: Contributions to International Organizations 1931126
OMB identification code: 19-1126-0-1-153
Grant program: ☐ Yes ☒ No
Type of account or fund: ☒ Annual ☐ Multiple-year _____ (expiration date) ☐ No-year

New budget authority (P.L. 97-377): $ 444,315,000
Other budgetary resources: _____
Total budgetary resources: 444,315,000
Amount to be deferred: Part of year: 8,111,000 Entire year: _____
Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other _____
Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: This appropriation provides the United States' share of the costs of the United Nations and specialized agencies, Inter-American Organizations, Regional Organizations and other international organizations. The United States' membership in these organizations, which has been authorized by conventions, treaties or specific acts of Congress, constitutes an obligation for payment of its share of the assessed budgets.

Savings have been realized from new credits made available to the United States from prior year surpluses, lower tax reimbursement estimates, and exchange rate savings for several organizations. These funds are deferred pending transfer to the Salaries and expenses appropriation to partially offset pay act supplemental requirements. If the transfer is not approved by the Congress, these funds will be proposed for rescission. This deferral action is taken under provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: This deferral will preserve these funds pending Congressional action on the transfer request.

Outlays Effect: This deferral action will have no effect on outlays. The transfer request, if approved by the Congress, will reduce FY 1983 outlays in this account by $8,111,000. The reduction will be offset by an outlay increase in the account receiving the funds if the Congress approves the transfer request.

Deferral No: D83-58

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State	New budget authority (P.L. 97-377): $ 1,700,000
Bureau:	Other budgetary resources: 2,000,000
Appropriation title & symbol: United States Bilateral Science and Technology Agreements 1/ 19X1151	Total budgetary resources: 3,700,000
	Amount to be deferred: Part of year: $ 2,000,000
	Entire year:
OMB identification code: 19-1151-0-1-153	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation finances the United States share of expenses associated with funding selected science and technology projects through joint funds established with Yugoslavia and Poland. Projects selected by the managing United States-Yugoslavia Joint Board and the United States-Poland Joint Board are usually in the areas of agriculture, energy, ecology, technology, health and transportation. In this appropriation, $2,000,000 was planned for the first year funding of a five year S&T agreement with Poland. Negotiations on the agreement have been suspended since the Polish Government imposed martial law on December 13, 1981. These funds are deferred until such time as the President authorizes the lifting of sanctions against the Government of Poland. When satisfactory internal conditions exist in Poland, agreement negotiations can be speedily resumed in a manner which would signal U.S. support for the improved environment. The deferral was not reported earlier due to an administrative oversight.

Estimated Effect: This deferral action will continue to delay obligations for the agreement with Poland.

Outlay Effect: This deferral action will shift FY 1983 outlays to a later year when conditions improve in Poland.

1/ This account was the subject of a similar deferral during FY 1982. (D82-230A)

Deferral No: D83-59

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 97-424): $ 779,000,000
Bureau: Urban Mass Transportation Administration	Other budgetary resources:
Appropriation title & symbol: Mass Transportation Capital Fund 69X8013	Total budgetary resources: 779,000,000
	Amount to be deferred: Part of year: $
	Entire year: 229,000,000
OMB identification code: 69-8013-0-7-401	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☒ Contract authority ☐ Other

Justification: The Federal Public Transportation Act of 1982 provides contract authority of $779 million for Fiscal Year 1983 to be funded from the newly established Mass Transit Account of the Highway Trust Fund. This funding is to be distributed to both urban and non-urban areas in accordance with various legislatively determined formulas for eligible capital projects.

This deferral action withholds from obligation $229 million of the $779 million authorization pending Congressional action on the proposed $550 million limitation on obligations in the President's Fiscal Year 1984 Budget.

A program level of $550 million would be more consistent with revenue of $536 million that is estimated to be deposited in the Mass Transit Account during Fiscal Year 1983. Further, the $550 million in trust fund authority, together with general fund appropriations contained in Department of Transportation Appropriations Act for 1983, will still provide a program level of almost $4,200 million, an increase of more than $330 million over Fiscal Year 1982 obligations. This program level will more than meet estimated transit needs in Fiscal Year 1983.

Estimated Effects: Since funding for this program is distributed on a formula basis, urban and non-urban areas will receive 29 percent less obligational authority under the deferral than under the full $779 million authorization. However, total mass transportation financial assistance in Fiscal Year 1983 for all programs will still be higher than in Fiscal Year 1982.

Outlay Effect: This deferral of $229 million in fiscal year 1983 will shift $23 million of Fiscal Year 1983 outlays into Fiscal Year 1984 and $46 million of Fiscal Year 1984 outlays into Fiscal Year 1985.

Deferral No: D83-60

D83-14A

SUPPLEMENTARY REPORT

Deferral No: D83-60

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 97-369): $11,080,000
Bureau: Federal Aviation Administration	Other budgetary resources: 13,988,705
Appropriation title & symbol: Construction, Metropolitan Washington Airports 692/41333 1/ 691/31333 693/51333	Total budgetary resources: 25,068,705
	Amount to be deferred: Part of year: 500,000
	Entire year:
MB identification code: 69-1333-0-1-402	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual (September 30, 1983) ☒ Multiple-year (September 30, 1984 / September 30, 1985) (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification. This appropriation finances construction of major improvements and expansion of facilities at Washington National and Dulles International Airports. Projects are undertaken to insure the capability of these airports to adequately, safely, and efficiently meet air travel needs of the public and to promote development of aviation.

Estimated Effect: Construction of Section Five of the Access Highway was begun in the fall of 1981 and is scheduled for completion in the fall of 1983. Based on the contracts awarded to date and anticipated additional costs to be incurred, the amount deferred is surplus to the needs of this project and is being withheld pending congressional action on a proposed transfer of the deferred amount from this appropriation to the FY 1983 Operation and Maintenance, Metropolitan Washington Airports appropriations.

Outlay Effects: This deferral will have no effect on FY 1983 outlays.

1/ The deferral affects this appropriation.

D83-14A

SUPPLEMENTARY REPORT
Report Pursuant to Section 1014 (c) of Public Law 93-344

This report updates Deferral No. D83-14 transmitted to Congress on October 1, 1982.

This revision to a deferral of the Federal Aviation Administration, Facilities and Equipment (airport and airway trust fund) increases the amount previously deferred from $158,484,611 to $725,236,426. This increase of $566,751,815 results from an increase in budgetary resources made available by the Department of Transportation Appropriation Act for 1983.

Deferral No: D83-14A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. 97-369) $617,550,000*
Bureau Federal Aviation Administration	Other budgetary resources 477,377,426*
Appropriation title & symbol Facilities and Equipment (Airport and Airway Trust Fund), FAA 1/ ----- -- 69X8107 691/58107 699/38107** 692/68107 690/48107 693/78107*	Total budgetary resources 1,094,927,426*
	Amount to be deferred: Part of year --- Entire year 225,236,426*
MB identification code: 69-8107-0-7-402	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ----
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual (expiration date) September 30, 1983 [X] Multiple-year September 30, 1984 September 30, 1985 September 30, 1986 [ ] No-year September 30, 1987*	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ----

Justification: Funds from this account are used to procure specific congressionally approved facilities and equipment for the expansion and modernization of the National Airspace System. Projects financed from this account include construction of buildings and purchase of new equipment for new or improved air traffic control towers, automation of the en route airway control system and expansion and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Acts of 1983 and prior years. The estimated total cost for each project is included in the budget submission and appropriation for the year in which it is requested. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therfore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with the Congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 1512).

1/ This account was the subject of a similar deferral in FY 1982 (D82-21B).

* Revised from previous report.
** None of these funds is deferred.

D83-14A

Estimated Effect: This deferral action is consistent with normal operation of this program. The amount deferred could not be economically used if made available in FY 1983 because of the planned multi-year procurement, construction, and installation cycle.

Outlay Effect: This deferred has no outlay effect because the funds could not be used if made available.

Deferral No: D83-61

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

D83-20A

Supplemental Report

Deferral No: D83-61

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 97-369): $ 5,000,000
Bureau: Coast Guard	Other budgetary resources (P.L. 97-424): 45,000,000
Appropriation title & symbol: National Recreational Boating Safety and Facilities Improvement Fund 1/ 69X5171	Total budgetary resources: 50,000,000
	Amount to be deferred: Part of year: ____ Entire year: 00,000,000
CMB identification code: 69-5171-0-2-403	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☒ Contract authority ☐ Other ____

Justification: This fund provides grants to States to help facilitate their boating safety-related activities. Only $5,000,000 is needed in 1983 for this program consistent with agreements between the Administration and Congress made during the FY 1983 Congressional appropriations process on the appropriate level of funding for this program. The balance is either deferred or proposed for rescission to limit 1983 obligations to $5,000,000 solely for boating safety.

Estimated Effects: This action will have no programmatic impact, and is necessary to keep spending at agreed upon levels in 1983.

Outlay Effect: The deferral will permit outlays to remain at the planned level of $5,000,000. Without the deferral, outlays in 1983 would rise to $25,000,000.

1/ This account is also the subject of a FY 1983 rescission (R 83-18).

D83-20A

Supplemental Report
Report Pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D83-00, transmitted to the Congress on October 1, 1982.

This revision to a deferral of the Railroad Retirement Board, Milwaukee Railroad Restructuring Administration increases the amount previously deferred from $240,000 to $490,000. This increase of $250,000 reflects increased budgetary resources provided in P.L. 97-377, the Act Making further Continuing Appropriations for FY 1983, not required for obligation in FY 1983.

Deferral No: D83-20A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Railroad Retirement Board	New budget authority (P.L. 97-377): $ 250,000*
Bureau:	Other budgetary resources: 431,102
Appropriation title & symbol: Milwaukee Railroad Restructuring Administration 60x0108 1/	Total budgetary resources: 681,102*
	Amount to be deferred: Part of year: — Entire year: 490,000*
OMB identification code: 60-0108-0-1-603	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program: [ ] Yes [ ] No	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	

Justification: * This account funds administrative expenses incurred by the Board in disbursing benefit payments under the Milwaukee Railroad Restructuring Act. The Board estimates that only $191,102 in administrative expenses will be charged to this account in fiscal year 1983, and that $490,000 will be carried forward into fiscal year 1984. This deferral represents amounts not required for obligation in fiscal year 1983. The amount deferred is being reserved for contingencies under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: There will be no effect upon the operation of the program, as the funds are not needed in this fiscal year.

Outlay Effects: This deferral has no effect on FY 1983 outlays.

* Revised from previous report.
1/ This account was the subject of a similar deferral in FY 1982 (D82-250).

Deferral No: D83- 62

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Small Business Administration	New budget authority (P.L. 97-377): $ 338,700,000
Bureau:	Other budgetary resources: 596,926,310
Appropriation title & symbol: Business Loan & Investment Fund 73x4154 1/	Total budgetary resources: 935,626,310
	Amount to be deferred: Part of year: $ 143,000,000 Entire year: —
OMB identification code: 73-4154-0-3-376	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act [ ] Other
Grant program: [ ] Yes [X] No	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	

Justification: The Continuing Resolution (P.L. 97-377) provided $338.7 million as a capital appropriation for the Business Loan and Investment Fund for FY 1983. The amount provided for $210 million in direct lending and $3 billion in guaranty lending. A total of $143 million has been deferred ($137 million for direct lending and $6 million for guaranty lending--first year purchases of 1% x $600 million program reduction). This action is being taken to preserve 1983 direct loan funds pending congressional action on a proposed change in the FY 1983 Continuing Resolution language. Such funds would be used for the purchase of defaulted guaranteed loans, without requesting additions to already appropriated levels. It is estimated that the demand for SBA to purchase guaranteed loans will be in the $700 million range, exceeding original projections made last year by $300 million.

Estimated Effects: This deferral will reduce the direct and guaranty lending for each of the credit assistance programs under Section 7(a) of the Small Business Act to $73 million in direct lending and $2.4 billion in guaranty lending, levels consistent with the President's budget. Funds made available through this action will help ensure that SBA is able to meet its commitment to purchase guaranteed loans without adding to the deficit.

Outlay Effect: This deferral has no outlay effect. However, if Congress accepts the proposed language change, FY 1983 outlays will be increased by $68.5 million.

1/ This account was the subject of a similar deferral in FY 1982 (D82-233A).

Deferral No: D83- 63

DEFERRAL OF BUDGET AUTHORITY

Deferral No: D83- 64

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Deferral No: D83-63

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Small Business Administration	New budget authority (P.L. ____): $ ____
Bureau:	Other budgetary resources: 37,719,470
Appropriation title & symbol: Surety Bond Guarantees Revolving Fund 1/ 73X4156	Total budgetary resources: 37,719,470
	Amount to be deferred: Part of year: ____ Entire year: 3,000,000
OMB identification code: 73-4156-0-3-376	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: The Continuing Resolution (P.L. 97-377) provided for a program level of $1.20 billion in surety bond guarantees by the Small Business Administration (SBA). Under this program, SBA will guarantee a portion of the losses sustained by a surety company as a result of the issuance of a bid, payment and/or performance bond to a small business concern. The deferral of $3 million in FY 1983 represents the provision for anticipated losses that is associated with a reduction in surety bond guarantees of $120 million. The remaining resources will still enable the SBA to provide bond guarantees of $1.08 billion in FY 1983. This limitation in guarantees should serve as an additional incentive to SBA to improve upon the operations of this program, so as to preclude the continuation of previously excessive losses.

Estimated Effects: The effect of this deferral is to reduce SBA's surety bond activity by ten percent. By targeting its available resources effectively, the Agency should feel only minimal effects on its ability to assist its most deserving clients.

Outlay Effect: This deferral action has a net effect of reducing outlays by $1.4 million in FY 1983.

1/ This account was the subject of a deferral in FY 1982 (D82-234A).

Deferral No: D83-64

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Small Business Administration	New budget authority (P.L. ____): $ ____
Bureau:	Other budgetary resources: 53,943,838
Appropriation title & symbol: Pollution Control Equipment Contract Guarantees Revolving Fund 73X4147	Total budgetary resources: 53,943,838
	Amount to be deferred: Part of year: ____ Entire year: 1,000,000
OMB identification code: 73-4147-0-3-376	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: The Continuing Resolution (P.L. 97-377) provided for a program level of $250 million in pollution control bond guarantees by the Small Business Administration (SBA). Under this program, the SBA will guarantee the payment of rentals or other amounts due under qualified contracts for small business concerns who are at an operational or financial disadvantage with respect to the planning, design or installation of pollution control facilities. The deferral of $1 million in FY 1983 represents the provision for anticipated losses that is associated with a reduction in pollution control guarantees of $100 million. The remaining resources will still enable the SBA to provide bond guarantees in the amount of $150 million in FY 1983.

Estimated Effects: The effect of this deferral is to reduce SBA's pollution control bond activity by forty percent.

Outlay Effect: This deferral action will result in an increase in FY 1983 outlays of $6.4 million and an increase in FY 1984-88 outlays of $3.5 million.

Deferral No: D83-65

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Motor Carrier Ratemaking Study Commission	New budget authority (P.L. ____) $ ____
Bureau	Other budgetary resources 552,099
Appropriation title & symbol: Salaries and Expenses 48X2700	Total budgetary resources 552,099
	Amount to be deferred: Part of year ____ Entire year 282,129
OMB identification code: 48-2700-0-1-401	Legal authority (in addition to sec. 1013): ☑ Antideficiency Act ☐ Other ____
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☑ Appropriation ☐ Contract authority ☐ Other ____

Justification: The Motor Carrier Ratemaking Study Commission was authorized to study the collective ratemaking process for all rates of motor common carriers. The Department of Transportation Appropriations Act for FY 1983 (P.L 97-369) provided for a $1,000,000 transfer to the Motor Carrier Ratemaking Study Commission from the Office of the Secretary of Transportation for completion of the Commission's activities by its termination date, July 1, 1984. This amount provides necessary funding for FY 1983, thereby permitting these funds to be deferred until needed in FY 1984. This deferral is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: This deferral has no programmatic effects as the funds could not be used if made available. Funds will be available for Commission activities in FY 1984.

Outlay Effect: This deferral has no effect on FY 1983 outlays.

Deferral No: D83-66

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Tennessee Valley Authority	New budget authority (P.L. 97-377) $ 170,433,000
Bureau	Other budgetary resources 155,603,046
Appropriation title & symbol: Tennessee Valley Authority Fund 1/ 64X4110	Total budgetary resources 332,036,046
	Amount to be deferred: Part of year ____ Entire year 47,271,000
OMB identification code: 64-4110-0-3-999	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☑ Appropriation ☐ Contract authority ☐ Other ____

Justification The Tennessee Valley Authority was created in 1933 as a Government-owned corporation for the unified development of the Tennessee River Basin. The agency administers programs for the conservation and development of natural resources, economic and community resources, agricultural resources and experimental fertilizers. The President's budget requests $122,500,000 in funds to be made available to TVA for fiscal year 1984. Of this amount, $75,229,000 reflects appropriations requested for 1984. As stated in the appendix to the President's budget, the remaining $47,271,000 would be made available from funds deferred for the remainder of FY 1983.

This deferral action is taken to avoid the need for higher appropriations

Estimated Effect This deferral action will restrain the level of FY 1983 appropriations that otherwise would be available for obligation to that enacted in FY 1982. There will be no programmatic effects from this deferral because the excess resources are not required to achieve planned FY 1983 objectives.

Outlay Effect: This deferral will have no outlay effect.

1/ This account was the subject of a deferral in FY 1982 (D82-157).

Deferral No: D83-67

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

D83-67

This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C.

Deferral No: D83- 67

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency United States Information Agency	New budget authority (P.L. 97-377) $ 10,327,000
Bureau	Other budgetary resources 2,803,700
Appropriation title & symbol Salaries and Expenses Special Foreign Currency Program 67X0205	Total budgetary resources 13,130,700
	Amount to be deferred: Part of year $ ____ Entire year 1,344,900
OMB identification code: 67-0205-0-1-154	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: The United States Information Agency (USIA) is authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431, et. seq.), the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451, et. seq.), Executive Order 11034 of June 25, 1962, as amended, and Reorganization Plan No. 2 of 1977 to carry out international communication, cultural and education exchange programs.

The Act Making Further Continuing Appropriations for FY 1983 (Public Law 97-377) appropriated $10,327,000 to remain available until expended for the Salaries and Expenses (Special Foreign Currency Program) account. The account is used to pay USIA local program expenses in U.S.-owned foreign currencies in those countries where the Department of Treasury determines that the supply of local currency is in excess of the normal requirement of the United States Government. In fiscal year 1983, the "excess currency" countries are Burma, Guinea, India and Pakistan.

As a result of exchange rate savings and recoveries of prior year obligations realized during fiscal year 1982, available budgetary resources exceed amounts required under current program plans. Accordingly, these funds are reserved for use in succeeding years.

This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: This deferral has no programmatic effects because the amount deferred could not be obligated before fiscal year 1984 if made available.

Outlay Effect: This deferral has no effect on FY 1983 outlays.

Deferral No: D83- 68

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency United States Information Agency	New budget authority (P.L. 97-377) $ 25,000,000
Bureau	Other budgetary resources 33,822,132
Appropriation title & symbol: Acquisition and Construction of Radio Facilities 67X0204	Total budgetary resources 58,822,132
	Amount to be deferred: Part of year ____ Entire year 12,437,000
OMB identification code: 67-0204-0-1-154	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: The United States Information Agency (USIA) is authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431, et. seq.), the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451, et. seq.), Executive Order 11034 of June 25, 1962, as amended, and Reorganization Plan No. 2 of 1977 to carry out international communication, cultural and education exchange programs.

The Act Making Further Continuing Appropriations for FY 1983 (Public Law 97-377) appropriated $25,000,000 to remain available until expended for the Acquisition and Construction of Radio Facilities account primarily to expand the transmitter capacity of the Voice of America's world-wide broadcasting system.

These funds together with funds available from prior year appropriations, will maintain existing VOA facilities and modernize and expand transmitter facilities in East Asia, Africa and the Near East. Delays in these planned projects resulting primarily from the need to conduct further engineering and technical studies, however, permit the deferral of $12,437,000 for the Philippines, Liberia, Botswana and Sri Lanka projects. These funds will be used in succeeding years.

D83-68

This deferral action is taken accordance with the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: This deferral has no programmatic effects because the amount deferred could not be obligated before fiscal year 1984 if made available.

Outlay Effect: This deferral has no effect on FY 1983 outlays.

Deferral No: D83-69

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Deferral No: D83-69

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: United States Railway Association	New budget authority (P.L. ____) $ ____
Bureau	Other budgetary resources $4,000,000
Appropriation title & symbol: Payments for Purchase of Conrail Securities — 98X0111 1/	Total budgetary resources $4,000,000
	Amount to be deferred: Part of year $ ____
	Entire year $4,000,000
OMB identification code: 98-0111-0-1-401	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: This appropriation is used to purchase securities issued by the Consolidated Rail Corporation (Conrail) so that the Corporation will have funds to rehabilitate its plant and equipment and for working capital. Revenues from operations have been sufficient to cover the Corporation's costs for the past 18 months and are expected to meet its anticipated capital needs for fiscal year 1983. The deferral represents amounts which neither Conrail nor its Federally-funded banker, the U.S. Railway Association, believes should be expended in 1983. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512). It was not reported earlier due to an administrative oversight.

Estimated Effects: This deferral will not affect the Corporation's capital investment program.

Outlay Effect: This deferral action has no effect on fiscal 1983 outlays.

1/ This account was the subject of a deferral in FY 1982 (D82-235).

[FR Doc. 83-3099 Filed 2-3-83; 8:45 am]

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(1964 through 1972)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 5018 of February 3, 1983

Year of the Bible, 1983

By the President of the United States of America

A Proclamation

Of the many influences that have shaped the United States of America into a distinctive Nation and people, none may be said to be more fundamental and enduring than the Bible.

Deep religious beliefs stemming from the Old and New Testaments of the Bible inspired many of the early settlers of our country, providing them with the strength, character, convictions, and faith necessary to withstand great hardship and danger in this new and rugged land. These shared beliefs helped forge a sense of common purpose among the widely dispersed colonies—a sense of community which laid the foundation for the spirit of nationhood that was to develop in later decades.

The Bible and its teachings helped form the basis for the Founding Fathers' abiding belief in the inalienable rights of the individual, rights which they found implicit in the Bible's teachings of the inherent worth and dignity of each individual. This same sense of man patterned the convictions of those who framed the English system of law inherited by our own Nation, as well as the ideals set forth in the Declaration of Independence and the Constitution.

For centuries the Bible's emphasis on compassion and love for our neighbor has inspired institutional and governmental expressions of benevolent outreach such as private charity, the establishment of schools and hospitals, and the abolition of slavery.

Many of our greatest national leaders—among them Presidents Washington, Jackson, Lincoln, and Wilson—have recognized the influence of the Bible on our country's development. The plainspoken Andrew Jackson referred to the Bible as no less than "the rock on which our Republic rests." Today our beloved America and, indeed, the world, is facing a decade of enormous challenge. As a people we may well be tested as we have seldom, if ever, been tested before. We will need resources of spirit even more than resources of technology, education, and armaments. There could be no more fitting moment than now to reflect with gratitude, humility, and urgency upon the wisdom revealed to us in the writing that Abraham Lincoln called "the best gift God has ever given to man . . . But for it we could not know right from wrong."

The Congress of the United States, in recognition of the unique contribution of the Bible in shaping the history and character of this Nation, and so many of its citizens, has by Senate Joint Resolution 165 authorized and requested the President to designate the year 1983 as the "Year of the Bible."

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NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in recognition of the contributions and influence of the Bible on our Republic and our people, do hereby proclaim 1983 the Year of the Bible in the United States. I encourage all citizens, each in his or her own way, to reexamine and rediscover its priceless and timeless message.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of February, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-31372
Filed 11-12-82; 11:15 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL SERVICE IMPASSES PANEL

5 CFR Ch. XIV and Part 2471

Relocation of Office

AGENCY: Federal Service Impasses Panel.

ACTION: Final rule.

SUMMARY: The Federal Service Impasses Panel has relocated its office. This amendment to Part 2471, §§ 2471.2 and 2471.4, and Appendix A, paragraph (e) of the rules and regulations of the Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority, and the Federal Service Impasses Panel (Panel), 5 CFR Chapter XIV, sets forth the new office mailing address, zip code, and telephone number for the Panel.

EFFECTIVE DATE: February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Linda A. Lafferty, Deputy Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424, (202) 382–0981.

SUPPLEMENTARY INFORMATION: Part 2471 of Title 5 of the Code of Federal Regulations, §§ 2471.2 and 2471.4, sets forth the address at which copies of the Panel's request form may be obtained and filed. Paragraph (e) of Appendix A to 5 CFR Chapter XIV also sets forth the Panel's address and telephone number. Because of the relocation of the Panel's office it is necessary to revise these provisions.

List of Subjects in 5 CFR Part 2471

Administrative practice and procedure.

Part 2471 is amended as follows:

PART 2471—PROCEDURES OF THE PANEL

1. Section 2471.2 is revised to read as follows:

§ 2471.2 Request form.

A form has been prepared for use by the parties in filing a request with the Panel for consideration of an impasse or approval of a binding arbitration procedure. Copies are available from the Office of the Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424.

2. Section 2471.4 is revised to read as follows:

§ 2471.4 Where to file.

Requests to the Panel provided for in this part, and inquiries or correspondence on the status of impasses or other related matters, should be addressed to the Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424.

3. Paragraph (e) of Appendix A to 5 CFR Chapter XIV is revised to read as follows:

Appendix A to 5 CFR Chapter XIV—Current Addresses and Geographic Jurisdictions

* * * * *

(3) The Office address of the Panel is as follows: 500 C Street, SW., Washington, D.C. 20424. Telephone: FTS—382–0981, Commercial—(202) 382–0981.

* * * * *

Note.—In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Federal Service Impasses Panel has determined that this amendment does not require preparation of a regulatory flexibility analysis.

(5 U.S.C. 7119, 7134)

Dated: February 1, 1983.

Robert G. Howlett,
Chairman, Federal Service Impasses Panel.

[FR Doc. 83-3218 Filed 2-4-83; 8:45 am]
BILLING CODE 6727-01-M

5 CFR Part 2472

Impasses Arising Pursuant to Agency Determinations Not To Establish or To Terminate Flexible or Compressed Work Schedules; Procedures of the Panel

AGENCY: Federal Service Impasses Panel.

ACTION: Interim rules and regulations; request for comments.

SUMMARY: These interim rules and regulations are designed to implement section 6131 of the Federal Employees Flexible and Compressed Work Schedules Act of 1982, 5 U.S.C. 6131. As applied to the Federal Service Impasses Panel, the Act, which became effective on July 23, 1982, provides that the Panel shall resolve impasses between Federal agencies and exclusive representatives of Federal employees arising from agency determinations (1) not to establish a flexible or compressed work schedule, or (2) to terminate such a schedule. These interim rules and regulations describe the procedures by which such impasses shall be presented to and considered by the Panel. The interim rules and regulations shall remain in effect pending publication in the **Federal Register** of final rules and regulations.

DATE: Effective Date: February 7, 1983.

Comment Date: Written comments received by March 10, 1983, will be considered in promulgation of final rules and regulations on this subject.

ADDRESS: Comments should be mailed to Howard W. Solomon, Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424.

FOR FURTHER INFORMATION CONTACT: Linda A. Lafferty, Deputy Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424, (202) 382–0981.

SUPPLEMENTARY INFORMATION: The Federal Employees Flexible and Compressed Work Schedules Act of 1982, 5 U.S.C. 6121 *et seq.*, authorizes the continuation of flexible and compressed work schedules (schedules) established under the Federal Employees Flexible and Compressed Work Schedules Act of 1978, Pub. L. 95–390, and permits the establishment of new programs. The Act provides that notwithstanding the provision of any collective bargaining agreement, the head of an agency may find that a particular schedule has had or would have an adverse agency impact as defined in Section 6131(b). In the event of such a finding, the head of the agency shall determine (1) not to establish such a schedule, or (2) not to continue an already-established schedule.

With respect to schedules covering employees in a bargaining unit

represented by an exclusive representative, Section 6131(c) provides that if an agency and an exclusive representative reach an impasse with respect to an agency determination not to establish a flexible or compressed schedule, the impasse shall be presented to the Federal Service Impasses Panel. The Panel is required to promptly consider such an impasse and to take final action in favor of the agency's determination if the finding on which it is based is supported by evidence that the schedule is likely to cause an adverse agency impact. Similarly, if an agency and an exclusive representative have entered into a collective bargaining agreement providing for the use of a flexible or compressed schedule, the agency may reopen the agreement to seek termination of the schedule if the head of the agency determines that the schedule has caused an adverse agency impact. Impasses arising pursuant to such a determination shall be presented to the Panel which shall: (1) Promptly consider the case and (2) rule on the impasse not later than 60 days after the date the Panel is presented the impasse. The Panel is required to take final action in favor of the agency's determination to terminate a schedule if the finding on which the determination is based is supported by evidence that the schedule has caused an adverse agency impact.

These interim rules and regulations are necessary to implement the Panel's authority under the Act. In addition to a statement of purpose and applicable definitions (Subpart A), the interim rules and regulations contain the procedures by which requests for Panel consideration of impasses arising from agency determinations not to establish or to terminate a flexible or compressed schedule shall be filed with the Panel and the procedures to govern the Panel's consideration of such requests (Subpart B). Included within these procedures are requirements concerning the information to be included in requests for Panel consideration and responses thereto, the address to which requests and other documents should be mailed, and rules relating to the number of copies to be submitted to the Panel as well as service of documents upon parties to the impasse. With respect to impasses arising pursuant to agency determinations to terminate flexible and compressed schedules, § 2472.7(f) of the interim rules and regulations provides that the Panel shall not consider the impasse to have been presented for Panel consideration unless and until the provisions concerning the content of the request, copies of it, and service upon the other party to the impasse have been complied with. The remaining sections of the interim rules and regulations concern the procedures by which requests for Panel consideration shall be investigated; procedures to be utilized by the panel in affording the parties an opportunity to present their positions on the impasse; the conduct of hearings and prehearing conferences, if any; reports issued following informal conferences or hearings; and final action by the Panel.

List of Subjects in 5 CFR Part 2472

Administrative practice and procedure.

Chapter XIV, Subchapter D, of Title 5 of the Code of Federal Regulations is amended to add a new Part 2472 to read as follows:

PART 2472—IMPASSES ARISING PURSUANT TO AGENCY DETERMINATIONS NOT TO ESTABLISH OR TO TERMINATE FLEXIBLE OR COMPRESSED WORK SCHEDULES

Subpart A—Purpose and Definitions

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Subpart B—Procedures of the Panel

2472.3 Request for Panel consideration.
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2472.10 Conduct of hearing and prehearing conference.
2472.11 Reports.
2472.12 Final action by the Panel.

Authority: Sec. 6131, Pub. L. 97–221, 96 Stat. 227 [5 U.S.C. 6131].

Subpart A—Purpose and Definitions

§ 2472.1 Purpose.

The regulations contained in this Part are intended to implement the provisions of Section 6131 of Title 5 of the United States Code. They prescribe procedures and methods which the Federal Service Impasses Panel may utilize in the resolution of negotiation impasses arising from agency determinations not to establish or to terminate flexible and compressed work schedules.

§ 2472.2 Definitions.

(a) The term "the Act" means the Federal Employees Flexible and Compressed Work Schedules Act of 1982, Pub. L. 97–221, 5 U.S.C. 6120 *et seq.*

(b) The term "adverse agency impact" shall have the meaning set forth in 5 U.S.C. 6131(b).

(c) The term "agency" shall have the meaning set forth in 5 U.S.C. 6121(1).

(d) The term "agency determination" means a determination (1) not to establish a flexible or compressed work schedule under 5 U.S.C. 6131(c)(2), or (2) to terminate such a schedule under 5 U.S.C. 6131(c)(3).

(e) The terms "collective bargaining agreement" and "exclusive representative" shall have the meanings set forth in 5 U.S.C. 6121(8).

(f) The term "Executive Director" means the Executive Director of the Panel.

(g) The terms "designated representative" of "designee" of the Panel means a Panel member, staff member, or other individual designated by the Panel to act on its behalf.

(h) The term "flexible and compressed work schedules" shall have the meaning set forth in 5 U.S.C. 6122 *et seq.*

(i) The term "hearing" means a factfinding hearing, arbitration hearing, or any other hearing procedures deemed necessary to accomplish the purpose of 5 U.S.C. 6131.

(j) The term "impasse" means that point in the negotiation of flexible and compressed work schedules at which the parties are unable to reach agreement on whether a schedule has had or would have an adverse agency impact.

(k) The term "Panel" means the Federal Service Impasses Panel described in 5 U.S.C. 7119(c) or a quorum thereof.

(l) The term "party" means the agency or the exclusive representative participating in negotiations concerning flexible and compressed work schedules.

(m) The term "quorum" means a majority of the members of the Panel.

(n) The term "schedule(s)" means flexible and compressed work schedules.

Subpart B—Procedures of the Panel

§ 2472.3 Request for Panel consideration.

Either party, or the parties jointly, may request the Panel to resolve an impasse resulting from an agency determination not to establish or to terminate a flexible or compressed work schedule by filing a request as hereinafter provided.

§ 2472.4 Content of request.

(a) A request from a party or parties to the Panel for consideration of an impasse arising from an agency

determination not to establish or to terminate a flexible or compressed work schedule under Section 1631(c) (2) or (3) of the Act must be in writing and shall include the following information:

(1) Identification of the parties and individuals authorized to act on their behalf;

(2) Description of the bargaining unit involved in the dispute and the date recognition was accorded to the exclusive representative;

(3) Number, length, and dates of negotiation sessions held;

(4) A copy of any collective bargaining agreement between the parties and any other agreements concerning flexible and compressed work schedules;

(5) A copy of the schedule or proposed schedule, if any, which is the subject of the agency's determination;

(6) A copy of the agency's written determination, if any; and

(7) A summary of the position of the initiating party or parties with respect to the agency's determination.

§ 2472.5 Where to file.

Requests to the Panel provided for in these rules, and inquiries or correspondence on the status of impasses or other related matters, should be directed to the Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424.

§ 2472.6 Agency determinations not to establish or to terminate a flexible or compressed work schedule; responses to requests for Panel consideration.

Within 14 calendar days after the date of receipt of a copy of a request for Panel consideration of an impasse arising from an agency determination not to establish or to terminate a flexible or compressed work schedule under section 6131(c) (2) or (3) of the Act, the responding party shall file with the Panel a statement of its position with respect to the request.

§ 2472.7 Copies and service; paper size.

(a) Any party submitting a request or other document in connection with a request for Panel consideration of an impasse filed pursuant to § 2472.3 of these rules shall file an original and one copy with the Panel. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original.

(b) Any party filing a document as provided in these rules is responsible for serving a copy upon all counsel of record or other designated representative(s) of parties, or upon parties not so represented. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) A signed and dated statement of service shall accompany each document submitted to the Panel. The statement of service shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail or is delivered in person.

(e) Unless otherwise provided by the Panel or its designated representatives, any document or paper filed with the Panel under these rules, together with any enclosure filed therewith, shall be submitted on 8½ x 11 inch size paper.

(f) The Panel shall not consider an impasse arising pursuant to section 6131(c) (2) or (3) of the Act to have been presented for consideration unless and until the party filing the request has complied with §§ 2472.4, 2472.5, and 2472.7 of these rules.

§ 2472.8 Investigation of request; Panel assistance.

(a) Upon receipt of a request for consideration of an impasse filed in accordance with these rules, the Panel or its designee shall promptly conduct an investigation, consulting when necessary with the parties. After due consideration, the Panel shall determine the procedures by which the impasse shall be resolved and shall notify the parties of its determination.

(b) The procedures utilized by the Panel shall afford the parties an opportunity to present their positions, including supporting evidence and arguments, orally and/or in writing. They include, but are not limited to, informal conferences with the Panel or its designee(s), hearings, written submissions, and Show Cause Orders.

§ 2472.9 Preliminary hearing procedures.

When the Panel determines that a hearing shall be held, it will:

(a) Appoint one or more of its designees to conduct such a hearing; and

(b) Issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state: (1) The names of the parties to the dispute; (2) the date, time, place, type, and purpose of the hearing; (3) the date, time, place, and purpose of the prehearing conference, if any; (4) the name of the designated representative(s) appointed by the Panel; (5) the issue(s) to be resolved; and (6) the method, if any, by which the hearing shall be transcribed.

§ 2472.10 Conduct of hearing and prehearing conference.

(a) A designated representative of the Panel, when so appointed to conduct a hearing, shall have the authority on behalf of the Panel to:

(1) Administer oaths, take the testimony or deposition of any person under oath, receive other evidence, and issue subpoenas;

(2) Conduct the hearing in open or in closed session at the discretion of the designated representative for good cause shown;

(3) Rule on motions and requests for appearance or witnesses and the production of records;

(4) Designate the date on which posthearing briefs, if any, shall be submitted; and

(5) Determine all procedural matters concerning the hearing, including the length of sessions, conduct of persons in attendance, recesses, continuance, and adjournments; and take any other action which, in the judgment of the designated representative, will promote the purpose and objectives of the hearing.

(b) A prehearing conference may be conducted by the designated representative of the Panel to:

(1) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(2) Explore the possibilities of obtaining stipulations of fact;

(3) Clarify the positions of the parties with respect to the issues to be heard; and

(4) Discuss any other relevant matters which will assist the parties in the resolution of the dispute.

§ 2472.11 Reports.

When a report is issued after an informal conference authorized in accordance with § 2472.8, or a hearing conducted pursuant to §§ 2472.9 and 2472.10, it normally shall be in writing and shall be submitted to the Panel, with a copy to each party, within a period normally not to exceed 30 calendar days after the close of the hearing or informal conference and receipt of briefs, if any.

§ 2472.12 Final action by the Panel.

(a) After due consideration of the parties; positions, evidence, and arguments, including any report submitted in accordance with § 2472.11, the Panel shall take final action in favor of the agency's determination if:

(1) The finding on which a determination under 5 U.S.C. 6131(c)(2)

not to establish a flexible or compressed work schedule is based is supported by evidence that the schedule is likely to cause an adverse agency impact; or

(2) The finding on which a determination under 5 U.S.C. 6131(c)(3) to terminate a flexible or compressed work schedule is based is supported by evidence that the schedule has caused an adverse agency impact.

(b) In preparation for taking such final action, the Panel may hold hearings, administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas, or it may appoint one or more individuals to exercise such authority on its behalf. Such action may be taken without regard to procedures previously authorized by the Panel.

(c) Notice of any final action of the Panel shall be promptly served upon the parties.

Note.—In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Federal Service Impasses Panel has determined that these interim rules and regulations do not require preparation of a regulatory flexibility analysis.

Dated: February 1, 1983.

Robert G. Howlett,

Chairman, Federal Service Impasses Panel.

[FR Doc. 83-3220 Filed 2-4-83; 8:45 am]
BILLING CODE 6727-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Codes and Standards for Nuclear Power Plants; Winter 1981 Addenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to incorporate by reference the Winter 1981 Addenda of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. The sections of the ASME Code being incorporated provide rules for the construction of nuclear power plant components and specify requirements for inservice inspection of those components. Adoption of these amendments will permit the use of improved methods for construction and inservice inspection of nuclear power plants.

DATE: Effective March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. E. T. Baker, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443-5892.

SUPPLEMENTARY INFORMATION: On July 29, 1982, the Nuclear Regulatory Commission published in the **Federal Register** (47 FR 32725) proposed amendments to its regulation, 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities." The proposed amendments revised § 50.55a to incorporate by reference the Winter 1981 Addenda to Section III, Division 1, "Rules for the Construction of Nuclear Power Plant Components," and Section XI, Division 1, "Rules for Inservice Inspection of Nuclear Power Plant Components," of the ASME Boiler and Pressure Vessel Code.

Some of the changes effected in the addenda which are incorporated by this rule are:

1. Article NCA-9000, "Glossary," was added to Section III. This provides standard definitions for terms used in Section III.

2. Paragraph IWB-2413, "Inspection Program for Steam Generator Tubing," of Section XI was revised. The ASME Boiler and Pressure Vessel Code has deferred its requirements for the examination of steam generator tubing to the requirements contained in the NRC plant Technical Specifications.

3. Paragraph IWB-3112 of Section XI was revised to make the acceptance standards of Section III and the preservice acceptance standards of Section XI more compatible. Paragraph IWB-3112 permits flaws that are identified as construction flaws to be evaluated according to Articles NB-2500 and NB-5300, provided that the flaws were detected during the inspections conducted during construction and were recorded. If the preservice examination indicates the flaws exceed the requirements of Articles NB-2500, NB-5300, and Table IWB-3410-1, the component will be considered unacceptable for service.

4. Subsection IWE, "Requirements for Class MC Components of Light-Water Cooled Power Plants," was added to Section XI by these addenda. However, 10 CFR § 50.55a presently only incorporates those portions of Section XI that address the ISI requirements for Class 1, 2, and 3 components and their supports. The regulation does not currently address the ISI of containments. Since this amendment is only intended to update current regulatory requirements to include the latest Code addenda, the requirements of Subsection IWE are not imposed upon Commission licensees by this amendment. The applicability of Subsection IWE will be considered separately.

Interested persons were invited to submit written comments for consideration in connection with the proposed amendment by September 27, 1982. No comments were received. The Commission is adopting the proposed amendment with a minor editorial revision to accommodate the incorporation by reference of the ASME Code.

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the NRC has made a determination that this proposed rule does not impose new or impact existing information collection requirements.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this rule does not fall within the purview of the Act.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Part 50 are published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended Sec. 234, 83 Stat 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246 as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95-601, Sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.78 also issued under sec. 122, 68

Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended; (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955; (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§50.10(a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.55a, paragraph (b)(1), the introductory text of paragraph (b)(2), and footnotes 3 and 7 are revised to read as follows:

§ 50.55a Codes and standards.

* * * * *

(b)* * *

(1) As used in this section, references to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1980 Edition and addenda through the Winter 1981 Addenda.

(2) As used in this section, references to Section XI of the ASME Boiler and Pressure Vessel Code refer to Section XI, Division 1 and include editions through the 1980 Edition and addenda through the Winter 1981 Addenda, subject to the following limitations and modifications:

* * * * *

[3] Copies may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th St., New York, NY 10017. Copies are available for inspection at the Commission's Technical Library, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.

* * * * *

[7] For purposes of this regulation the proposed IEEE 279 became "in effect" on August 30, 1968, and the revised issue IEEE 279–1971 became "in effect" on June 3, 1971. Copies may be obtained from the Institute of Electrical and Electronics Engineers, United Engineering Center, 345 East 47th St., New York, NY 10017. Copies are available for inspection at the Commission's Technical Library, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.

Dated at Bethesda, Maryland this 29, day of December 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83–3282 Filed 2–4–83; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 212

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

[Docket No. 83–7]

Management Official Interlocks

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The Federal Reserve Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board and National Credit Union Administration are amending their respective regulations implementing the Depository Institution Management Interlocks Act, 12 U.S.C. 3201 *et seq.*, to permit a management official of a depository organization who terminated a grandfather interlock because of a change in circumstances, as defined by the agencies, to resume the interlock for the duration of the grandfather period under the Act. The agencies are extending to such management officials the benefit of a statutory amendment to the Act, which permits management officials currently serving in grandfathered interlocks to continue such service until November 10, 1988, despite the occurrence of a change in circumstances.

EFFECTIVE DATE: The amendment is immediately effective upon publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Bronwen Mason (202) 452–3564 or Melanie Fein (202) 452–3594, Board of Governors of the Federal Reserve System; Rosemarie Oda (202) 447–1880, Office of the Comptroller of the Currency; Pamela E. F. LeCren (202) 389–4171, or Barbara I. Gersten (202) 389–4171, Federal Deposit Insurance Corporation; David J. Bristol (202) 377–6461 or Kenneth F. Hall (202) 377–6466, Federal Home Loan Bank Board; or Steven R. Bisker (202) 357–1030, National Credit Union Administration.

SUPPLEMENTARY INFORMATION: On December 26, 1981, Pub. L. 97–110 was signed into law amending the Depository Institution Management Interlocks Act ("Interlocks Act"), 12 U.S.C. 3201 *et seq.*, to provide that mergers, acquisitions, consolidations and the establishment of offices do not constitute changes in circumstances that require termination of grandfathered interlocks. Consequently, in a final regulation published at 47 FR 47369 (October 26, 1982) the agencies rescinded provisions which specified that those events constituted changes in circumstances requiring termination of grandfathered interlocks. This action had the effect of permitting management officials currently serving in grandfathered interlocking positions to continue such service until November 10, 1988, despite the occurrence of a merger, consolidation, acquisition or the establishment of an office.

This related final regulation allows management officials who terminate their interlocking service to resume such service. Under the rulemaking authority granted by section 209 of the Interlocks Act, 12 U.S.C. 3207, the agencies are amending their respective regulations to permit such management officials to resume their interlocking service for the duration of the grandfathered period. A management official who terminated a grandfathered interlock for some reason other than a change in circumstances enumerated in the regulations would not be permitted to resume the interlock. Similarly, any person who resigned from a grandfathered interlock or otherwise terminated such service for reasons other than a change in circumstances after enactment of the amendment would not be permitted to resume the interlocking service.

The agencies believe that this amendment is consistent with the Congressional intent underlying the statutory amendment to afford an uninterrupted grandfather period for interlocks that were in existence when the Interlocks Act was enacted. This intent was expressed in a statement during Congressional consideration of the statutory amendment that management officials would be permitted to resume interlocking service for the duration of the grandfather period. 127 Cong. Rec. S. 15309 (daily ed. Dec. 15, 1981) (remarks of Senator Garn).

Interested persons were invited to comment on the proposed regulation for thirty days from the date of publication on October 26, 1982. 47 FR 47404. Fourteen comments were received. The commenters' reaction was overwhelmingly in favor of the amendment. In response to one comment recommending a change in the language of the amendment, the agencies have clarified the reference to the former definition of change in circumstances by listing the types of transactions that were included in that phrase that no longer apply to grandfathered interlocks.

The amendments are made effective immediately pursuant to 5 U.S.C. 553(d)(1), which authorizes waiver of a delayed effective date in the case of a substantive rule which grants or recognizes an exemption or relieves a restriction.

Regulatory Flexibility Act Analysis. Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 5 U.S.C. 601 *et seq.*), the Board of Governors of the Federal Reserve System, the Secretary of the Treasury, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Board of Directors of the National Credit Union Administration certify that the amendment will not have a significant economic impact on a substantial number of small entities. The amendment would ease the application of the existing regulations. The effect of the amendment is expected to be beneficial rather than adverse and small entities are generally expected to share the benefits of the amendment equally with larger institutions.

Regulatory Impact Analysis. Pursuant to Section 3(g)(1) of Executive Order 12291 of February 17, 1981, it has been determined that the amendment does not constitute a major rule within the meaning of Section 1(b) of the Executive Order. The amendment eases restrictions imposed by regulations implementing the Depository Institution Management Interlocks Act, 12 U.S.C. 3201 *et seq.*, and would have no adverse effect on the operations of the depository institutions subject to it. As such, the amendment would not have an annual effect on the economy of $100 million or more, would not affect cost or prices for consumers, individual industries, government agencies or geographic regions, and would not have adverse effects on competition, employment, investment, productivity, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

List of Subjects

12 CFR Part 26

National banks, Management official interlocks.

12 CFR Part 212

Antitrust, Holding companies.

12 CFR Part 348

Antitrust, Banks, Banking, Federal Deposit Insurance Corporation, Holding companies.

12 CFR Part 563f

Antitrust, Savings and loan associations.

12 CFR Part 711

Antitrust, Credit unions.

Accordingly, pursuant to their respective authority under section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207), the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration amend 12 CFR by amending Parts 212, 26, 348, 563f, and 711, respectively, as follows:

Federal Reserve System

PART 212—[AMENDED]

12 CFR Part 212 is amended as follows:

1. The authority citation for Part 212 reads as follows:

Authority: 12 U.S.C. 3201 *et seq.*

2. Section 212.5 is amended by revising it as follows:

§ 212.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of Section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a merger, acquisition, consolidation, or establishment of an office that formerly was defined as a change in circumstances in 12 CFR 212.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

By order of the Board of Governors of the Federal Reserve System, effective January 19, 1983.

William W. Wiles,

Secretary of Board.

Comptroller of the Currency

PART 26—[AMENDED]

12 CFR Part 26 is amended as follows:

1. The authority citation for Part 26 reads as follows:

Authority: Depository Institution Management Interlocks Act, 92 Stat. 3672 (12 U.S.C. 3201 *et seq.*).

2. Section 26.5 is revised to read as follows:

§ 26.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of Section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a merger, acquisition, consolidation or establishment of offices that was formerly defined as a change in circumstances in 12 CFR 26.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

Dated: January 6, 1983.

C. T. Conover,

Comptroller of the Currency.

Federal Deposit Insurance Corporation

PART 348—[AMENDED]

12 CFR Part 348 is amended as follows:

1. The authority citation for Part 348 reads as follows:

Authority: Sec. 209, Pub. L. No. 95–630, 92 Stat. 3675 (12 U.S.C. 3207).

2. Section 348.5 is amended by revising it to read as follows:

§ 348.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking

positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a merger, acquisition, consolidation or establishment of offices that was formerly defined as a change in circumstances in 12 CFR 348.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

By Order of the Board of Directors of the Federal Deposit Insurance Corporation this 24th day of January 1983.

Hoyle L. Robinson,

Executive Secretary.

Federal Home Loan Bank Board

PART 563f—[AMENDED]

Revise § 563f.5, to read as follows:

§ 563f.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a merger, acquisition, consolidation or establishment of offices that was formerly defined as a change in circumstances in 12 CFR 563f.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

(Pub. L. No. 95–630 (12 U.S.C. 3201 *et seq., as amended by* International Banking Facility Deposit Insurance Act, Pub. L. No. 97–110, section 302 (December 26, 1981)); Reorg. Plan No. 3 of 1947; 3 CFR, 1943–1948 comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

National Credit Union Administration

PART 711—[AMENDED]

12 CFR Part 711 is amended as follows:

1. The authority citation for Part 711 reads as follows:

Authority: Sec. 209, Pub. L. No. 95–630, Stat. 3672 (12 U.S.C. 3207).

2. Section 711.5 is amended by revising it as follows:

§ 711.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of Section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a merger, acquisition, consolidation or establishment of offices that was formerly defined as a change in circumstances in 12 CFR 711.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

Dated: January 25, 1983.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

[FR Doc. 83–3286 Filed 2–4–83; 8:45 am]

BILLING CODES 6210–01–M, 4810–33–M, 6714–01–M, 7535–01–M, 6720–01–M

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12 CFR Part 265

[Docket No. R–0452]

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In order to expedite and facilitate the performance of certain of its functions, the Board of Governors has delegated to the Federal Reserve Banks the authority to grant permission to member banks and certain United States branches and agencies of foreign banks to create bankers' acceptances of the type described in 12 U.S.C. 372 up to 200 per cent of capital stock and surplus. The Board has specified certain factors the Reserve Banks should take into account in considering requests for such permission.

DATE: Effective February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452–3625), or Robert G. Ballen, Attorney (202/452–3265), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 207 of the Bank Export Services Act (Title II of Pub. L. 97–290) ("BESA") provides that a member bank or a Federal or State branch or agency in the United States whose parent foreign bank has, or is controlled by a foreign company or companies that have, more than $1 billion in total worldwide consolidated bank assets, may accept drafts or bills of exchange drawn upon it of the type described in that section in the aggregate up to 150 per cent of its paid up and unimpaired capital stock and surplus and, with the permission of the Board, up to 200 per cent of its paid up and unimpaired capital stock and surplus (12 U.S.C. 372).

The Board has amended its Rules Regarding Delegation of Authority to authorize the Federal Reserve Banks to grant permission to a member bank or a U.S. branch or agency of the type described above to accept drafts or bills of exchange of the type described in 12 U.S.C. 372 in an aggregate amount up to 200 per cent of its capital and surplus. (For purposes of considering applications from U.S. branches and agencies of foreign banks, the identity of the parent foreign bank is the same as for reserve requirement purposes. Accordingly, the parent of the U.S. branch or agency would be the bank entity that owns the branch or agency most directly.) The Reserve Banks may grant such permission after giving consideration to the institution's capitalization in relation to the character and condition of its assets, liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management.

Reserve Banks are not to consider a request for permission to accept such drafts or bills of exchange up to 200 per cent of capital and surplus unless the institution requesting such permission plans to make use of it in the reasonably near future, which generally would be no more than twelve months. The Board reserves the right to withdraw such permission if changes in circumstances warrant. In addition, Reserve Banks should use the occasion of the consideration of requests for permission to accept bankers' acceptances up to 200 per cent of capital to encourage banks to increase their capital.

In this connection, the Board determined that Reserve Banks should consider the following factors in evaluating requests for permission to create bankers' acceptances of the type described in 12 U.S.C. 372 up to 200 per cent of capital and surplus:

(1) The reasons why the expanded authority is being requested, including a quantification of the extent to which the general authority in section 13 of the

Federal Reserve Act has been used to date (including the type, tenor and general quality of acceptances issued by the Applicant and participations purchased by the Applicant that are currently outstanding) and Applicant's plans for implementation of the expanded acceptance authority over time.

(2) An assessment of the financial condition of the Applicant, including an evaluation of the Applicant's capital position in relation to the character and conditions of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets.

(3) Projected growth and sources of capital of the Applicant over the next 12 months.

(4) An assessment of management strengths and weaknesses of the Applicant.

The provisions of sections 553 and 604 of Title 5, United States Code, relating to notice, public participation, deferred effective date, and regulatory flexibility analysis are not followed in connection with these matters because the delegation is procedural in nature.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies), Banks, banking, Federal Reserve System.

PART 265—[AMENDED]

Pursuant to its authority under section 11(k) and the seventh paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 248(k) and 372), the Board of Governors amends its Rules Regarding Delegation of Authority (12 CFR Part 265) effective February 1, 1983, by revising paragraph (f)(6) of § 265.2 to read as follows:

§ 265.2 Specific functions delegated to board employees and to Federal Reserve Banks.

* * * * *

(f) * * *

(6) Under the provisions of the seventh paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 372), to permit a member bank or a Federal or State branch or agency of a foreign bank that is subject to reserve requirements under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) to accept drafts or bills of exchange in an aggregate amount at any one time up to 200 per cent of its paid up and unimpaired capital stock and surplus, if the Reserve Bank is satisfied that such permission is warranted after giving consideration to the institution's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management.

* * * * *

By order of the Board of Governors, February 1, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-3209 Filed 2-4-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-61-AD; Amdt. 39-4561]

Airworthiness Directives: Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adds a new Airworthiness Directive (AD) which requires inspection and repair, if necessary, of the forward entry doorway forward frame on certain Boeing Model 727 series airplanes. The AD is prompted by numerous reports of fatigue cracks originating in the frame web. This action is necessary to ensure the structural integrity of the forward entry doorway.

DATES: Effective March 11, 1983.

ADDRESSES: The applicable service bulletins may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM-120S, at FAA, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2516. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the inspection and repair, as necessary, of the forward entry doorway forward frame on certain Boeing Model 727 series airplanes was published in the **Federal Register** on August 23, 1982 (47 FR 36652). The comment period for the proposal closed on October 22, 1982.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

The Air Transport Association of America (ATA) commenting on behalf of its member operators requested that the comment period be extended to February 22, 1983. ATA stated that this would give industry and the FAA time to review the B727 Supplemental Structural Inspection Document (SSID) presently in development. The FAA does not concur. It has been previously established and is well documented that the structural details covered by the SSID include only those details for which there are no known fatigue cracking histories. The fatigue cracking history of the forward entry doorway forward frame is well established. As such, the inspection of the affected frame will not be included in the SSID.

The manufacturer commented that a revision of Service Bulletin No. 727-53-153 to include repair instructions as terminating action was being prepared for release in the fourth quarter of 1982. It was suggested that the proposed AD be revised to state that repair in accordance with the planned service bulletin revision constitutes terminating action for the required inspections. The FAA concurs that this would not have an adverse impact on safety and would be in the public interest. Therefore, the AD as adopted, includes repair in accordance with Boeing Service Bulletin No. 727-53-153, Revision 2, as terminating action.

The manufacturer also stated that the applicable service bulletin allows for the use of any nondestructive test (NDT) procedure deemed adequate by the operator in lieu of visual inspection and that the AD does not. It was suggested that Paragraph G. of the NPRM be revised to authorize FAA Principal Maintenance Inspectors (PMI) to make approvals for the use of NDT procedures. The FAA does not concur. The evaluation of NDT techniques and reinspection intervals requires the use of engineering technology which may not be available to PMIs.

Paragraph G. of the NPRM allows for the use of an alternate means of compliance when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Two commentors requested that an NDT alternative to the manufacturer's published visual procedure be included

in the AD. Since the manufacturer does not currently recommend a specific NDT procedure or an appropriate reinspection interval, the FAA can only review such proposals on an individual basis in accordance with Paragraph F. of the AD.

Several comments received requested that credit be given for inspections accomplished prior to the effective date of the AD. This is already provided for by the compliance paragraph which states compliance is required as indicated unless already accomplished.

Comments were also received from airline operators that the initial inspection times and the reinspection intervals were either too conservative or were not concurrent with their normal maintenance times. Several of those commentors stated that their findings to date do not indicate that the proposed times are warrented. The FAA does not concur. Service history of the earliest reported cracks supports the initial inspection threshold. Although, in general the initial inspection threshold cannot be changed, the Paragraph F. of the AD provides for the adjustment of the initial threshold and the repeat interval.

Approximately 834 airplanes of U.S. registry are affected by this AD. It is estimated that the required inspections will take approximately 45 manhours and that the average labor cost is $40 per manhour. Based on these figures, the total cost is estimated not to exceed $1,503,000 per inspection cycle. For these reasons the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and public interest require the adoption of the proposed rule with the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Model 727 series airplanes certificated in all categories listed in Boeing Service Bulletin No. 727–53–153, Rev. 1, or later FAA approved revisions.

Compliance required as indicated unless already accomplished.

To ensure the structural integrity of the forward entry doorway forward frame, accomplish the following:

A. Visually inspect the forward entry doorway forward frame for cracks in accordance with Boeing Service Bulletin No. 727–53–153, dated February 1, 1980, or later FAA approved revisions at the following times:

1. Within the next 1850 landings after the effective date of the AD, or prior to accumulating 25,000 landings, whichever occurs later; and

2. Repeat the inspection at intervals not to exceed 3,700 landings.

B. Any cracked structure is to be repaired prior to further flight in accordance with Boeing Service Bulletin No. 727–53–153, dated February 1, 1980, or later FAA approved revisions. Repair in accordance with Revision 2 or latter FAA approved revisions, of the above service bulletin constitutes terminating action for the requirements of this AD.

C. Modification in accordance with Boeing Service Bulletin No. 727–53–153, dated February 1, 1980, or later FAA approved revisions, constitutes terminating action for the requirements of this AD.

D. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

E. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

F. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendement becomes effective March 11, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on January 26, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83–3128 Filed 2–4–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–NM–127–AD; Amdt. 39–4547]

Airworthiness Directives: CASA Model 212 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to CASA 212 series airplanes which requires the replacement of the existing paper fuel ejector filter with a larger metal filter. Several incidents of fuel line blockage have occurred when ice accumulated, blocking the filter. This resulted in the loss of engine power. Loss of engine power during flight could result in the loss of the airplane.

DATE: Effective February 7, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to Constructiones Aeronauticas S.A., Getafe, Madrid, Spain or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. H. N. Wantiez, P.E., Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Instituto Nacional de Techica Aerospacial (INTA) has classified CASA Service Bulletin 212–28–19 dated December 14, 1982 as mandatory. This service bulletin requires the removal of the existing fuel ejector paper filter and the installation of a 70–50 micron metal filter. Several incidents of fuel line blockage have occurred which resulted in the loss of engine power during flight. In order to prevent this from happening, the INTA, which is the civil aviation authority for Spain, is requiring the filter system modification.

This airplane model is manufactured in Spain and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires the previously mentioned modification.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

CASA: Applies to all CASA 212 series airplanes certificated in all categories. Compliance required within the next 300 hours time in service or 60 days after the effective date of this AD, whichever occurs first.

To prevent fuel line blockage accomplish the following unless already accomplished:

1. Modify the ejector fuel filter system in accordance with CASA Service Bulletin 212–28–19 dated December 1982.

2. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective February 7, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc 83-3125 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-123-AD; Amdt. 39-4545]

Airworthiness Directives: McDonnell Douglas Model DC-8-70 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires inspection and replacement, if necessary, of the countersunk washers and bolts which attach the thrust reverser halves to the pylon of DC-8-70 series airplanes. Loose and missing bolts have been discovered in service. This AD is necessary to detect incorrectly installed countersunk washers and damaged, loose, or missing bolts which could result in loss of the thrust reverser from the airplane.

DATE: Effective February 7, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, CI-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Michael E. O'Neil, Aerospace Engineer, Air-frame Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION: During normal maintenance, one operator discovered a missing thrust reverser hinge attach bolt at the forward hinge of the thrust reverser. Examination of the remaining hinges revealed loose attach bolts at all four pylons. Subsequent investigation of another DC-8-71 disclosed a similar situation. It was determined that the loose bolts were caused by incorrect installation of the countersunk washers under the heads of the thrust reverser hinge attach bolts. The manufacturer has issued an alert service bulletin recommending inspection of the countersunk washers and bolts to determine proper installation.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires a one-time inspection of the thrust reverser hinge attach bolts to determine the proper installation of the countersunk washers and to replace incorrectly installed washers and their respective bolts.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-8-70 series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To prevent possible loss of the thrust reverser from the aircraft, accomplish the following:

A. Within 300 hours time in service after the effective date of this AD, gain access to the thrust reverser hinge attach bolts, remove bolts and inspect for proper installation of countersunk washers and re-install or replace, if necessary, in accordance with the Accomplishment Instructions in McDonnell Douglas DC-8-70 Alert Service Bulletin A54-83, Revision 1, dated December 2, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to base for the accomplishment of inspection/modifications required by this AD.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los

Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, Cl–750 (54–60). These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective February 7, 1983.

(Sec. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATON CONTACT.**"

Issued in Seattle, Washington on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83–3124 Filed 2–4–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR 39

[Docket No. 82–NM–124–AD; Amdt. 39–4544]

Airworthiness Directives: McDonnell Douglas Model DC–8–70 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires replacement of all engine exhaust nozzle plug splice attachment screws on McDonnell Douglas Model DC–8–70 series airplanes. One incident has been reported of the separation of the exhaust plug from the airplane in flight. This action is necessary to prevent similar incidents.

DATES: Effective date February 7, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, Cl–750 (54–60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Stephen Kolb, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION: Twelve instances of loose or missing attachment screws of the exhaust nozzle plug splice joint have been reported. In one incident the exhaust nozzle plug separated from an engine in flight. Investigation revealed that a tolerance buildup can result at the splice joint and could cause the shanks of the attachment screws to bottom out prior to clamp up. Installation of shorter grip length screws will minimize the potential for exhaust plug separation. A hazard exists if a plug separation should occur over a populated area.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires replacement of the exhaust plug splice joint attachment screws.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–8–70 series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To prevent separation of the exhaust nozzle plug, accomplish the following within 300 flight hours after the effective date of this AD:

A. Replace all NAS560XK4–5 screws with NAS560XK4–4 screws and check for running torque at the exhaust plug splice in accordance with McDonnell Douglas DC–8–70 Alert Service Bulletin A78–107, dated November 30, 1982, or later revisions approved by the Manager, Los Angeles, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Replace all nut plates not meeting the minimum run down torque of five-inch pounds.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, Cl–750–54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective February 7, 1983.

(Sec. 313(a), 601, and 603 Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note:—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major

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regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, and evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-3123 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-10]

Alteration and Designation of Control Zone and Transition Area, Fort Myers, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This amendment alters the Fort Myers, Florida, control zone and transition area by lowering the base of controlled airspace southeast of Page Field. A new airport, Southwest Florida Regional Airport, has been established approximately eight miles southeast of Page Field and is scheduled to become operational on May 1, 1983. Conduct of aeronautical activities at the new airport necessitates the designation of additional controlled airspace for containment of Instrument Flight Rule (IFR) operations.

EFFECTIVE DATE: 0901 G.M.T., April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646

SUPPLEMENTARY INFORMATION:

History

On Thursday, April 1, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by increasing the size of the Fort Myers control zone and transition area to provide controlled airspace for containment of IFR operations at the new Southwest Florida Regional Airport (47 FR 13834). In order to provide the maximum level of safety, designated airspace protection to the surface is required to contain IFR operations in the vicinity of the new airport.

Subsequent to publication of the proposal, the FAA decided that two separate control zones, one to serve each airport, would provide for a more efficient utilization of airspace. Accordingly, rather than include the new airport within the Page Field control zone as originally proposed, a new control zone will be established around Southwest Florida Regional Airport. This action will not result in the designation of airspace in addition to that proposed in the original notice.

This modification to the original proposal will slightly increase the radio communications burden on pilots operating in the vicinity of Fort Myers. In addition to having to be cognizant of their aircrafts' positions with respect to two control zones, pilots must be aware that there are two air traffic control towers with which they may be required to communicate. This situation is not uncommon in many metropolitan areas throughout the nation and cannot be avoided in most instances where there are two or more controlled airports located near each other.

The slightly increased communications workload imposed on pilots by this modification is not so significant that republication of this airspace action is considered necessary. The opening of the new airport, with the resultant benefits to the aeronautical public, outweighs the minor inconvenience incurred by the establishment of two control zones rather than one.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. All comments received in response to the original publication were favorable.

Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

Rule

This amendment to Part 71 of the Federal Aviation Regulations increases the size of the Fort Myers transition area, designates the Fort Myers Southwest Regional Airport control zone and alters the description of the Fort Myers Page Field control zone to preclude an overlap of the new control zone.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

§71.181 [Amended]

Accordingly, pursuant to the authority delegated to me, §71.171 and §71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) are further amended, effective 0901 G.m.t., April 14, 1983, as follows:

Fort Myers Page Field, FL [Revised]

By amending 71.171 in the description of the Fort Myers, FL control zone by adding the following words to the end of the present text, ". . . Excluding that portion that coincides with Fort Myers Southwest Florida Regional Airport . . .".

Fort Myers Page Field, FL [Revised]

By amending 71.181 in the description of the Fort Myers, FL transition area by deleting the words, ". . . northeast of the VORTAC . . ." and substituting for them the words ". . . northeast of the VORTAC; within an 8.5-mile radius of Southwest Florida Regional Airport (Lat. 26°32'10"N., Long. 81°45'18"W.) . . .".

Fort Myers Southwest Florida Regional Airport, FL [New]

By amending 71.171 by adding the following, ". . . Within a 5-mile radius of Southwest Florida Regional Airport (Lat. 26°32'10"N., Long. 81°45'18"W.); excluding that portion which lies 3.5 miles north of and parallel to the extended centerline of Runway 6/24. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory . . .".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on January 24, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-3122 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-54]

Alteration of Terminal Control Area, Miami, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the Miami, FL, Terminal Control Area (TCA) by raising the floor of the TCA from 1,500 feet mean sea level (MSL) to 2,000 feet MSL in an area west of the Opa Locka Airport. This action reduces the size of the Miami TCA which will allow aircraft conducting the Opa Locka ILS Runway 9L approach to avoid TCA airspace and thus be relieved of Federal aviation regulation (FAR) Part 91.90(a) requirements.

EFFECTIVE DATE: March 17, 1983.

FOR FURTHER INFORMATION CONTACT: Bill Hill, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On November 4, 1982 (47 FR 49979), the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Miami TCA by raising the floor of the TCA from 1,500 feet MSL to 2,000 feet MSL in an area west of the Opa Locka Airport. The original configuration of the Miami TCA required aircraft conducting an ILS approach to the Opa Locka Airport to briefly penetrate the TCA. They were also subject to operating and equipment rules for operation in a Group I TCA specified in § 91.90(a) of Part 91 of the Federal Aviation Regulations. This action will raise the floor of the TCA in the affected area which will allow aircraft executing the Opa Locka ILS approach to avoid the Miami TCA. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.401 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the description of the Miami TCA by redefining the boundaries of Areas A and B and adding a new Area H.

List of Subjects in 14 CFR Part 71

Terminal control areas.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me, § 71.401 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., March 17, 1983, as follows:

By revising the descriptions of Areas A and B and adding Area H to the Miami, FL, TCA as follows:

Miami, FL, TCA [Amended]

Primary Airport

Miami International Airport (lat. 25°47′34″N., Long. 80°17′10″W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 6-mile radius of the Miami International Airport, excluding that airspace that is north of lat. 25°52′02″N., (N.W. 103rd Street/49th Street in the City of Hialeah), and within and underlying Area F described hereinafter.

Area B. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within a 10-mile radius of Miami International Airport, excluding that airspace that is north of lat. 25°52′02″N., that airspace south of Biscayne Bay VORTAC (lat. 25°40′17″N., long. 80°10′40″W.) 090° and 270° radials, Area A previously described, and within and underlying Areas C and F described hereinafter.

Area H. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL bounded on the northeast by the Miami VORTAC 130° radial, on the south by lat. 25°52′02″N., and on the northwest by a 10-mile radius arc of the Miami International Airport

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); and 14 CFR 1169.)

Note.— The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 2, 1983.

L. Lane Speck,

Acting Director, Air Traffic Service.

[FR Doc. 83–3222 Filed 2–4–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 23515; Amdt. No. 1235]

Air Traffic and General Operating Rules; Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATE: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight

Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 522(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at lest 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

§ 97.23 [Amended]

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

. . . Effective April 14, 1983

Hot Springs, AR—Memorial Field, VOR–1, Rwy 5, Amdt. 13

Hot Springs, AR—Memorial Field, VOR–2, Rwy 5, Amdt. 1

. . . Effective March 31, 1983

Macomb, IL—Macomb Muni, VOR/DME–A, Amdt. 3

Ashland, OH—Ashland County, VOR–A, Amdt. 3

Cable, WI—Cable Union, VOR/DME–A, Amdt. 3

Richland Center, WI—Richland, VOR–A, Amdt. 2

. . . Effective March 17, 1983

Burbank, CA—Burbank-Glendale-Pasadena, VOR Rwy 7, Amdt. 6

Lancaster, CA—General Wm. J. Fox Airfield, VOR–B, Amdt. 1

Santa Ana, CA—John Wayne Airport-Orange County, VOR Rwy 19R, Amdt. 21

Lakeland, FL—Lakeland Muni, VOR Rwy 13, Amdt. 2

Lake Wales, FL—Lake Wales Muni, VOR/DME–B, Amdt. 2

Miami, FL—Miami Intl, VOR Rwy 30, Amdt. 5

Rome, GA—Richard B Russell, VOR/DME– Rwy 18, Amdt. 3

Rome, GA—Richard B Russell, VOR/DME– Rwy 36, Amdt. 4

Galesburg, IL—Galesburg Muni, VOR Rwy 2, Amdt. 2

Galesburg, IL—Galesburg Muni, VOR Rwy 20, Amdt. 2

Kankakee, IL—Greater Kankakee, VOR Rwy 22, Amdt. 4

Picayune, MS—Picayune Pearl River County, VOR–A, Amdt. 9

Mexico, MO—Mexico Memorial, VOR/DME–A, Amdt. 4

Butte, MT—Bert Mooney, VOR/DME–A, Amdt. 2

Washington, NC—Warren Field, VOR/DME Rwy 5, Amdt. 1

Urbana, OH—Grimes Field, VOR–A, Amdt. 1

Chambersburg, PA—Chambersburg Muni, VOR/DME–A, Amdt. 1

Pottsville, PA—Schuylkill County (Joe Zerbey), VOR Rwy 4, Amdt. 3

West Chamber, PA—Brandywine, VOR–A, Original

St George, SC—St George Muni, VOR/DME–A, Original

Chattanooga, TN—Lovell Field, VOR Rwy 33, Amdt. 14

Christiansted, St. Croix, VI—Alexander Hamilton, VOR Rwy 27, Amdt. 18

. . . Effective February 17, 1983

Lakeville, MN—Airlake Industrial Park, VOR–A, Original

. . . Effective January 20, 1983

Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, VOR/DME Rwy 12, Amdt. 5

Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, VOR Rwy 30, Amdt. 9

. . . Effective January 13, 1983

Marco Island, FL—Marco Island, VOR/DME Rwy 17, Amdt. 2

Note.—The FAA published an amendment in Docket No. 23501, Amdt. No., 1234 to Part 97 of the Federal Aviation Regulations (Vol 48 FR No. 16 page 2966; dated January 24, 1983) under § 97.23 effective March 17, 1983, which is hereby amended as follows: Elizabethtown, KY, Elizabethtown RNAV Rwy 5 Orig shall be removed from this § 97.23 and added to § 97.33 with same effective date of March 17, 1983.

§ 97.25 [Amended]

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

. . . Effective March 17, 1983

Chicage, IL—Chicago Midway, LOC Rwy 31L, Amdt. 9, cancelled

New Bedford, MA—New Bedford Muni, LOC BC Rwy 23, Amdt. 3

Allentown, PA—Allentown-Bethlehem-Easton, LOC BC Rwy 24, Amdt. 17

Somerset, PA—Somerset County, LOC Rwy 24, Amdt. 1

. . . *Effective February 17, 1983*

Bar Harbor, ME—Hancock County-Bar Harbor, LOC Rwy 22, Amdt. 3, cancelled

§ 97.27 [Amended]

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

. . . *Effective April 14, 1983*

Hot Springs, AR—Memorial Field, NDB Rwy 5, Amdt. 5

. . . *Effective March 31, 1983*

Macomb, IL—Macomb Muni, NDB Rwy 26, Amdt. 8
Houghton Lake, MI—Roscommon County, NDB Rwy 27, Amdt. 7
Ashland, OH—Ashland County, NDB Rwy 18, Amdt. 5
Cable, WI—Cable Union, NDB–B, Amdt. 7
Mineral Point, WI—Iowa County, NDB Rwy 22, Amdt. 1

. . . *Effective March 17, 1983*

Rome, GA—Richard B Russell, NDB–A, Amdt. 2
New Bedford, MA—New Bedford Muni, NDB Rwy 5, Amdt. 8
Alexandria, MN—Chandler Field, NDB Rwy 31, Amdt. 1
Asheville, NC—Asheville Regional, NDB Rwy 16, Amdt. 14
Asheville, NC—Asheville Regional, NDB Rwy 34, Amdt. 15
Wilmington, NC—New Hanover County, NDB Rwy 34, Amdt. 14
Pottsville, PA—Schuylkill County (Joe Zerbey), NDB Rwy 29, Amdt. 2
Somerset, PA—Somerset County, NDB Rwy 24, Amdt. 3
Newberry, SC—Newberry Muni, NDB Rwy 22, Amdt. 1
Chattanooga, TN—Lovell Field, NDB Rwy 20, Amdt. 26
Springfield, TN—Springfield Muni, NDB Rwy 21, Original
Houston, TX—Lakeside, NDB Rwy 15, Original
Houston, TX—Lakeside, NDB Rwy 15, Amdt. 2, cancelled
Houston, TX—Lakeside, NDB Rwy 33, Original
Seminole, TX—Gaines County, NDB Rwy 35, Original
Lyndonville, VT—Caledonia County, NDB Rwy 2, Amdt. 1

. . . *Effective February 17, 1983*

Bar Harbor, ME—Hancock County-Bar Harbor, NDB Rwy 22, Amdt. 1
San Marcos, TX—San Marcos Muni, NDB Rwy 30, Amdt. 1, cancelled

. . . *Effective January 13, 1983*

Middletown, DE—Summit Airpark, NDB–A, Amdt. 5
Marco Island, FL—Marco Island, NDB Rwy 35, Amdt. 2

Note.—The FAA published an amendment in Docket No. 23501, Amdt No. 1234 to part 97 of the federal aviation regulations (vol 48 FR No. 16 page 2967; Dated January 24, 1983) under § 97.27 effective March 3, 1983, which is hereby amended as follows: Providence, RI-Theodore Francis Green State, NDB Rwy 5R, Amdt. 12 is rescinded. Providence, RI-Theodore Francis Green State, NDB Rwy 5R Amdt. 11 remains in effect.

Note.—The FAA published an amendment in Docket No. 23501, Amdt No. 1234 to part 97 of the federal aviation regulations (vol 48 FR No. 16 page 2967; Dated January 24, 1983) under § 97.27 effective March 3, 1983, which is hereby amended as follows: Washington, DC—Dulles Intl. VOR/DME or Tacan Rwy 12 Amdt. 5 shall be removed from this Part 97.27 and added to part 97.23 with same effective date of March 3, 1983. Farmington, NY-Republic, VOR–A Amdt. 6 cancelled shall be removed from this Part 97.27 and added to Part 97.23 with same effective date of cancellation March 3, 1983.

§ 97.29 [Amended]

4. By amending Part 97.29 ILS–MLS SIAPs identified as follows:

. . . *Effective April 14, 1983*

Hot Springs, AR—Memorial Field, ILS Rwy 5, Amdt. 7

. . . *Effective March 17, 1983*

Ontario, CA—Ontario Int'l, ILS Rwy 26L, Amdt. 3
Santa Ana, CA—John Wayne Airport-Orange County, ILS Rwy 19R, Amdt. 10
Van Nuys, CA—Van Nuys, ILS Rwy 16R, Amdt. 2
Chicago, IL—Chicago Midway, ILS Rwy 31L, Original
Galesburg, IL—Galesburg Muni, ILS Rwy 2, Amdt. 5
Indianapolis, IN—Mt. Comfort, ILS Rwy 25, Amdt.
New Bedford, Ma—New Bedford Muni, ILS Rwy 5, Amdt. 20
Asheville, NC—Asheville Regional, ILS Rwy 16, Amdt. 1
Asheville, NC—Asheville Regional, ILS Rwy 34, Amdt. 20
Wilmington, NC—New Hanover County, ILS Rwy 34, Amdt. 18
Allentown, PA—Allentown-Bethlehem-Easton, ILS Rwy 13, Amdt. 4
Philadelphia, PA—Philadelphia Intl, ILS Rwy 17, Original
Chattanooga, TN—Lovell Field, ILS Rwy 2, Amdt. 3
Chattanooga, TN—Lovell Field, ILS Rwy 20, Amdt. 31

. . . *Effective February 17, 1983*

Bar Harbor, ME—Hancock County—Bar Harbor, ILS Rwy 22, Original
San Marcos, TX—San Marcos Muni, ILS Rwy 12, Original

. . . *Effective November 5, 1982*

Trenton, NJ—Mercer County, ILS Rwy 6, Amdt. 6

Note.—The FAA published two amendments in Docket No. 23501, Amdt No. 1234 to part 97 of the Federal Aviation Regulations (Vol 48 FR No. 16 page 2967; Dated January 24, 1983) under § 97.29 effective March 3, 1983, which is hereby amended as follows: Providence, RI—Theodore Francis Green State, ILS Rwy 5R, Amdt 10 and ILS Rwy 23L Amdt 1 are rescinded. Providence, RI—Theodore Francis Green State, ILS Rwy 5R Amdt 9 and ILS Rwy 23Y 23L orig remain in effect.

§ 97.31 [Amended]

5. By amending § 97.31 RADAR SIAPs identified as follows:

. . . *Effective March 17, 1983*

Tampa, FL—Tampa Intl, RADAR–1, Amdt. 9
Asheville, NC—Asheville Regional, RADAR–1, Amdt. 5
Middletown, PA—Harrisburg Intl Arpt-Olmsted Fld, RADAR–1, Amdt. 5
Chattanooga, TN—Lovell Field, RADAR–1, Amdt. 7
Green Bay, WI—Austin-Straubel Field, RADAR–1, Amdt. 5

§ 97.33 [Amended]

6. By amending § 97.33 RNAV SIAPs identified as follows:

. . . *Effective March 31, 1983*

Cable, WI—Cable Union, RNAV Rwy 34, Amdt. 2

. . . *Effective March 17, 1983*

Kankakee, IL—Greater Kankakee, RNAV Rwy 22, Amdt. 1
Pottsville, PA—Schuylkill County (Joe Zerbey), RNAV Rwy 29, Original
Somerset, PA—Somerset County, RNAV Rwy 24, Amdt. 1
West Chester, PA—Brandywine, RNAV Rwy 27, Original

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3)

Note.—The FAA has has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 28, 1983.

John M. Howard,

Manager, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

[FR Doc. 83-3118 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 140 and 145

Commission Headquarters Office and Western and Southwestern Regional Offices; Change and Address

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a telephone number for the Kansas City Regional Office and the Compliance Staff, which was published on January 21, 1983 (48 FR 2734).

FOR FURTHER INFORMATION CONTACT: Donald L. Tendick, Acting Executive Director, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-7556.

The Commodity Futures Trading Commission is correcting the following telephone numbers:

On page 2734, column 3, line 24 in the Supplementary Information Section, the telephone number for general information at the Kansas City Regional Office is (816)/374-2994.

On page 2735, column 1, line 30, § 145.6, the telephone number for the Compliance Staff is (202)/254-3382.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-3208 Filed 2-4-83; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. IC-12999]

Delegation of Authority to Director of Division of Investment Management

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is today adopting amendments to its rules of general organization to correct inaccuracies in those rules relating to the delegation of authority by the Commission to the Director of the Division of Investment Management. References contained in that delegation of authority are now incorrect because of several amendments to the rules of general organization in recent years. The amendments that are being adopted today will revise the delegation of authority to the Director of the Division of Investment Management by conforming the references contained in that rule with the organizational changes that have occurred since 1976.

DATE: Effective February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Jane A. Kanter, Special Counsel, (202) 272-2115 or Larry L. Greene, Attorney, (202) 272-7320, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission announced today the adoption of amendments to Article 30-5 [17 CFR 200.30-5] of its Rules Delegating Functions to Division Directors, Regional Administrators and the Secretary of the Commission ("rules of organization") [17 CFR 200.30-1 *et seq.*] for the purpose of correcting inaccuracies in the delegation of authority to the Division of Investment Management. The amendments to Article 30-5, which are adopted, conform such rule to changes in other delegations of authority which are referenced in that rule. Specifically, paragraph (b) of Article 30-5 is amended in order to delegate to the Director of the Division of Investment Management (the "Division Director") the same functions as those delegated to the Director of the Division of Corporation Finance in Article 30-1, paragraphs (a), (e) and (f); and paragraph (h) of Article 30-5 is amended in order to delegate to the Division Director the same functions as those delegated to each Regional Administrator in Article 30-6, paragraphs (b)(1), (b)(2), (b)(3), (c) and (f).

Background and Discussion

Under Article 30-5 [17 CFR 200.30-5], of the Commission's rules of general organization the Commission has delegated authority to the Division Director with respect to certain specified functions to be performed by him or under his direction by such other persons as may be designated from time to time by the Chairman of the Commission.

In June 1976, in connection with the reorganization of the Division of Investment Management (the "Division") the Commission transferred to the Division certain functions of the Division of Corporation Finance by revoking certain authority delegated to the Director of the Division of Corporation Finance, in Article 30-1 [17 CFR 200.30-1] of the rules of general organization, and by amending Article 30-5 to include that authority among the functions delegated to the Director of the Division of Investment Management.[1] Specifically, paragraph (b) of Article 30-5 was added in order to delegate to the Division Director, with respect to matters pertaining to investment companies registered under the Investment Company Act of 1940 (the "1940 Act") and pooled investment funds or accounts, the same functions under the Securities Act of 1933 (the "1933 Act") [15 U.S.C. 77a, *et seq.*], the Securities Exchange Act of 1934 (the "1934 Act") [15 U.S.C. 78a, *et seq.*], and the Trust Indenture Act of 1939 [15 U.S.C. 77aaa, *et seq.*] as are delegated to the Director of the Division of Corporation Finance with regard to operating companies, in paragraphs (a), (c), and (d) of Article 30-1.[2] Also in connection with the reorganization of the Division, the Commission added paragraph (h) to Article 30-5 thereby delegating to the Division Director the same authority with respect to the 1933 Act, Regulation A [17 CFR 230.251, *et seq.*] and Regulation F [17 CFR 230.651, *et seq.*] as that delegated to each Regional Administrator in paragraphs (a), (b), and (d) of Article 30-6 [17 CFR 200.30-6].

Since 1976, there have been several amendments to the authority delegated to the Director of the Division of Corporation Finance. These amendments have: (1) Caused paragraphs (c) and (d) of Article 30-1 to be redesignated as paragraphs (e) and

[1] Securities Act Release No. 5720 (June 22, 1976) [41 FR 29374 (July 16, 1976)].

[2] Article 30-5(b) was subsequently amended to add the "general assets or separate accounts of insurance companies" to the list of companies as to which the Director of the Division of Investment Management has delegated authority coextensive with that of the Director of the Division of Corporation Finance in paragraphs (a), (c) and (d) of Article 30-1. Securities Act Release No. 6228 (August 22, 1980) [45 FR 57701 (August 29, 1980)].

(f);[3] (ii) resulted in the addition of two subparagraphs (f)(9) and (f)(10);[4] and (iii) effected the revision of subparagraph (f)(2).[5] Similarly, amendments to the delegation to the Regional Administrators have: (i) Caused paragraphs (a), (b) and (d) of Article 30–6 to be redesignated as paragraphs (b), (c) and (f);[6] and (ii) resulted in the addition of subparagraphs (b)(4) to Article 30–6.[7]

In light of these changes in Articles 30–1 and 30–6, the delegation of authority to the Division Director contains references to other delegations that are currently incorrect. The Commission, therefore, is amending Article 30–5 by conforming the references in this Division's delegation of authority with the appropriate paragraphs in the delegations of authority to the Director of the Division of Corporation Finance and the Regional Administrators. Specifically, the Commission is amending paragraph (b) of Article 30–5 to delegate to the Division Director the same functions as are delegated to the Director of the Division of Corporation Finance in paragraphs (a), (e), and (f) of Article 30–1; and is also amending paragraph (h) of Article 30–5 to delegate to the Director the same functions as are delegated to the Regional Administrators in subparagraphs (b)(1), (b)(2) and (b)(3), and paragraphs (c) and (f) of Article 30–6.

Procedural Matters

The Commission finds, in accordance with section 553(d) of the Administrative Procedure Act ("APA") [5 U.S.C. 553(d)], that the foregoing action relates solely to rules of agency organization, procedure, or practice; that section 553(b) [5 U.S.C. 553(b)] of the APA makes it unnecessary to publish general notice of rulemaking as required by that section; and that, in view of the foregoing, good cause exists for dispensing with the normal 30-day delay in effectiveness. Accordingly, the amendments to Article 30–5 described in this release will become effective immediately upon publication in the **Federal Register**.

[3] Securities Act Release No. 6289 (February 13, 1981) [46 FR 13505 (February 23, 1981)].

[4] Securities Exchange Act Release No. 13190 (January 19, 1977) [42 FR 5040 (January 27, 1977)]; Securities Exchange Act Release No. 14210 (November 29, 1977) [42 FR 62127 (December 9, 1977)].

[5] Securities Act Release No. 6260 (November 13, 1980) [45 FR 76974 (November 21, 1980)].

[6] Securities Act Release No. 6049 (April 3, 1979) [44 FR 21562 (April 10, 1979)].

[7] Securities Act Release No. 5871 (September 29, 1977) [42 FR 54630 (October 7, 1977)].

Statutory Authority

The Commission hereby amends Article 30–5 paragraphs (b) and (h) of the rules of the Commission relating to general organization (17 CFR 200.30–5) pursuant to the authority contained in Pub. L. No. 87–592, 76 Stat. 394 [15 U.S.C. 78d–1, 78d–2].

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of information, Privacy, and Securities.

Text of Amendment

Accordingly, 17 CFR Part 200 is amended as follows:

PART 200—ORGANIZATION, CONDUCT AND ETHICS, AND INFORMATION AND REQUESTS

By revising paragraphs (b) and (h)(1) of § 200.30–5 to read as follows:

§ 200.30–5 Delegation of authority to Director of Division of Investment Management.

* * * * *

(b) With respect to matters pertaining to investment companies registered under the Investment Company Act of 1940, pooled investment funds or accounts, and the general assets or separate accounts of insurance companies, all arising under the Securities Act of 1933, the Securities Exchange Act of 1934 and the Trust Indenture Act of 1939, the same functions as are delegated to the Director of the Division of Corporation Finance in regard to companies other than such registered investment companies in paragraphs (a), (e) and (f) of Article 30–1 (§ 200.30–1 of this chapter) of these articles.

* * * * *

(h) * * *

(1) The Director of the Division of Investment Management shall have the same authority with respect to the Securities Act of 1933 [15 U.S.C. 77a, et seq.], Regulation A [17 CFR 230.251, et seq.] and Regulation F [17 CFR 230.651, et seq.] as that delegated to each Regional Administrator in paragraphs (b)(1), (b)(2) and (b)(3), and in paragraphs (c) and (f) of Article 30–6 of the Commission's Statement of Organization, Conduct and Ethics, and Information and Requests [17 CFR 200.30–6].

Dated: January 28, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3223 Filed 2–4–83; 8:45 am]

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National Highway Traffic Safety Administration

23 CFR Part 1209

[Docket No. 82–18; Notice 5]

Incentive Grant Criteria for Alcohol Traffic Safety Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice establishes criteria for effective programs to reduce crashes resulting from persons driving while under the influence of alcohol. This effort is undertaken pursuant to Pub. L. 97–364, which provides for two categories of federal incentive grants, basic grants and supplemental grants, to States that implement effective programs to reduce drunk driving. This final rule also sets forth the procedures a State must use to demonstrate it is eligible for a grant and the procedures NHTSA will use to award the grants.

DATES: These rules become effective by statute, February 7, 1983, except that § 1209.6 becomes effective by statute, on April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. George Reagle, Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–0837).

SUPPLEMENTARY INFORMATION: On November 4, 1982, (47 FR 51152) the National Highway Traffic Safety Administration (NHTSA) issued an advance notice of proposed rulemaking seeking comments on possible ways to implement the alcohol traffic safety incentive grant program established by Public Law 97–364 (23 U.S.C. 408, the Act). Based on the comments to that Notice, NHTSA issued a notice of proposed rulemaking on December 30, 1982 (48 FR 425). NHTSA primarily sought comments on what definitions and criteria the agency should establish for States to be eligible for both basic and supplemental grants, which can total up to 50 percent of the amount apportioned to a State in fiscal year 1983 under Section 402 of the Highway Safety Act of 1966.

To provide an increased opportunity for public comment, NHTSA held public hearings on December 13, 1982, in Washington, D.C. and January 11, 1983, in Atlanta, Georgia on its proposals. Persons representing numerous States, professional organizations, citizen groups, and others testified. In addition,

many interested parties submitted written comments to the docket for this rulemaking.

The final rule being issued today is based on the agency's review of the hearing testimony, comments received on the notice of proposed rulemaking and the Interim Report to the Nation prepared by the Presidential Commission on Drunk Driving. Significant comments to the notice are addressed below.

Basic Grant Criteria

The Act established four criteria that must be met by a State in order to be eligible for a basic grant in the amount of 30 percent of each State's fiscal year 1983 apportionment under section 402 of the Highway Safety Act. The agency notes again that because the four basic criteria are statutorily mandated by Congress, the agency does not have the authority to change, by deletion or addition, the substantive requirements for a basic grant, as was requested by some of the commenters. As was also noted in the agency's prior notices, however, several of the terms used in the statutory language setting forth the basic grant criteria were undefined, and NHTSA sought comments on several possible definitions that the agency believed would be consistent with the legislative purpose of the Act. In addition, NHTSA sought comments on ways by which States might most easily and effectively demonstrate that they have met the basic grant criteria.

Criterion No. 1: Prompt License Suspension

The first criterion established by Congress for basic grant eligibility requires:

> The prompt suspension, for a period not less than ninety days in the case of a first offender and not less than one year in the case of any repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer.

Terms Used: "Prompt"

The agency proposed to define "prompt" as a mandatory suspension of the privileges of a driver's license that occurs no later than 30 days after a person is arrested for drunk driving, in at least 60 percent of the cases. In addition, the agency proposed that the average time to suspend a license could not exceed 45 days.

As in their responses to the agency's advance notice, numerous States voiced their concerns about the effect of the proposed definition of "prompt" on States that have judicially imposed, rather than administratively imposed, license suspension. While agreeing with the need to reduce the amount of time required to judicially impose a license suspension, numerous States, such as Florida, Georgia, Pennsylvania and Tennessee, urged the agency to establish a definition that would allow States to use an improved judicial suspension system.

They said that because of cost and other reasons, it may be difficult to convince their legislatures to adopt an administrative system. Florida, for example, noted that its legislature has twice turned down efforts to create an administrative systems of license suspension. Tennessee said that its prior administrative system had been overturned in court, because it failed to meet due process requirements, and that reinstatement of an administrative system would not be cost beneficial.

States proposed a number of alternative ways to accommodate the use of a judicial system, while still requiring improvements in those systems. New Jersey, which said that it can probably meet a 45 days average requirement, urged the agency to consider establishing an initial requirement of suspension within 120 days and then require improvement in subsequent years to a level of 90, 60 or 30 days. New Jersey said that without such an approach, the "States most in need of assistance to improve systems with serious problems will not qualify for the very funding needed to bring about improvements." Florida suggested that setting a requirement of 30 percent within 30 days, 60 percent within 60 days or less and 90 percent within 90 days or less would encourage States with judicial systems to improve those systems.

Numerous commenters, such as the National Association of Governors' Highway Safety Representatives (NAGHSR), Iowa, Maine, Missouri, New Mexico, and North and South Carolina, supported a requirement that the average time for suspension take no longer than 45 days.

States that currently have administrative systems of license suspension also urged the agency to modify its proposed definition to account for procedural and due process considerations built into their current systems. Delaware noted that each party in its administrative proceedings is allowed at least one continuance, which means that a certain percentage of cases stretch out beyond 40 days after arrest. Delaware suggested that the agency adopt an average of 45 days.

In formulating this final rule, the agency has attempted to fufill the Congress's intention that States substantially reduce the current long delays between arrest and subsequent license sanction. Since one of the principal deterrents to drunk driving is the certainty and swiftness of punishment, it is crucial that States act promptly in imposing license suspensions. At the same time, the agency recognizes that if the time limit set for license suspension is too short, States that currently have long delays of five months or more may not have a realistic opportunity to meet the time limit and thus will be unable to receive the funds necessary to help them improve their program.

The agency has thus decided to define "prompt" as license suspension within an average of 45 days from time of arrest. However, States that have reached an average of 90 days from time of arrest may qualify for a basic grant, if they submit a plan showing how they will reduce that average to 45 days. In addition, the agency has decided to make as a condition to being eligible for each of the supplemental criteria, that a State have a license suspension system in which the average time to suspend a license does not exceed 45 days.

These actions will have a two-fold effect. First, they will serve as an incentive to States with long delays to cut those delays in order to be eligible for a basic grant. Second, with the funds received under the basic grant, those States can then make further improvements in their systems in order to receive a supplemental grant. The system adopted by the agency will also provide a substantial reward to those States that have already, either through an administrative or judicial suspension system, reduced their average time to suspend a license to 45 days from arrest. Those States, if they meet the other criteria for a basic grant, will be eligible for consideration for supplemental grants. Whereas States that do not meet the 45 day average will not be eligible for a supplemental grant until the average of 45 days is achieved.

"Suspension"

The agency proposed two alternative definitions of the term "suspension." The first would have defined suspension as including only a full loss of driving privileges for the statutorily mandated period of 90 days. The second would

have allowed the use of a 30-day full suspension, followed by a 60-day period of restricted driving privileges. The restricted license could only be issued, under State-wide published guidelines, in exceptional circumstances specific to each offender and for the limited purpose of driving between a residence and a place of employment, and/or to and from an alcohol education or treatment program.

The agency also proposed that restricted licenses not be available for repeat offenders or for those who refuse to take a chemical test under implied consent statutes.

Permitting the use of a restricted license for a first offender was widely supported by such commenters, as the American Automobile Association (AAA), Iowa, Maryland, Michigan, Mississippi, National Council on Alcoholism (NCA), New York, and Wisconsin. In urging the use of restricted licenses, many of those commenters referred to the problem of possible loss of employment and difficulty in attending treatment/rehabilitation programs for rural drivers who do not have access to public transportation systems. Several of the commenters that urged the use of restricted licenses, such as AAA, NCA, Illinois and Michigan, indicated that they supported the agency's proposed 30-day full suspension followed by a 60-day restricted license.

New Jersey supported prohibiting the use of any restricted licenses. It argued that such license restrictions are difficult to enforce and are often abused. In addition, New Jersey said that license suspension will be a serious deterrent only if a driver knows that he or she can not obtain a restricted license. Delaware also commented that it does not permit the use of restricted licenses for the first 90 days of a suspension.

The agency has decided to adopt the definition of suspension that would require a full suspension for 30 days and permit the use of a restricted, provisional or conditional license for the remaining 60 days. (Several States commented that they do not have restricted licenses, but use an equivalent type of conditional or provisional license; the agency's definition will permit the use of those other types of licenses as well.) The agency believes that requiring a full suspension for the first 30 days creates a substantial deterrent to drunk driving. Allowing the use of some type of restricted license during the remaining 60 days will reduce the loss of transportation problems for rural drivers. The agency emphasizes that restricted, provisional or conditional licenses must only be used in exceptional circumstances unique to each offender. To promote Statewide uniformity in the use of such licenses, the agency is also adopting the proposed requirement that each State must publish guidelines governing the use of those licenses.

No commenter opposed the proposed requirement that restricted licenses not be available for persons that refuse to take a chemical test and the agency therefore has adopted that requirement in the final rule. The New York Department of Motor Vehicles requested the agency to permit the limited use of restricted licenses for repeat offenders. New Mexico also commented that it permits the use of restricted licenses for repeat offenders. The agency believes that the Act's provision on mandatory sentences or community service for repeat offenders shows that Congress intended stricter punishment for those offenders. NHTSA is therefore adopting the proposed requirement that repeat offenders not be eligible for restricted or other types of limited licenses.

Repeat Offender

The agency's proposal to define a repeat offender as anyone convicted of driving while intoxicated (DWI) or a similar alcohol-related traffic offense more than once in five years was supported by the commenters and is therefore adopted in the final rule. Michigan said that a person who has refused to submit to a chemical test more than once in five years should be considered a repeat offender. The agency considers a refusal to take a chemical test as an alcohol-related offense and thus such a person would be covered by the definition.

Refusal of Second Test

The agency proposed that mandatory license suspension apply to a refusal by a driver to take more than one chemical test, where a second test is authorized by State law. At least one commenter, Idaho, interpreted the agency's proposal to require States to adopt laws mandating a second test in order to be eligible under this criterion for a basic grant. Mandating the use of a second test in order to be eligible for a basic grant was not the agency's intent. The agency only wanted to specify that where a State currently authorizes the use of a second test, a refusal to take that test would be grounds for mandatory suspension. The agency believes that such a requirement is in line with Congress's intent for this criterion and is therefore adopted.

In the notice, the agency also proposed to adopt as a separate criterion for a supplemental, rather than a basic, grant that States adopt laws permitting an officer to require a second test. As explained elsewhere, the agency is adopting that proposal as one of the criteria that can be met to qualify for a supplemental grant.

Demonstrate Compliance

Several commenters, such as Iowa, Michigan, and South Carolina, expressed concern about possible problems in obtaining data on the average number of days between the offense and the sanctioning action and the average length of suspension. To reduce possible data gathering problems, States can provide those data based on statistically valid samples. No commenter opposed the requirement that States provide the agency with a copy of the license suspension law and the regulations or guidelines governing license suspension and thus those requirements are adopted in the final rule.

Criterion No. 2: Mandatory Sentence

The second criterion established by Congress for basic grant eligibility requires:

> A mandatory sentence, which shall not be subject to suspension or probation, of (i) imprisonment for not less than 48 consecutive hours, or (ii) not less than ten days for community service, of any person convicted of driving while intoxicated more than once in any five-year period.

Commenters uniformly supported the agency's proposed definition of "imprisonment" to include confinement not only in jails or prisons but also in such places as minimum security facilities or in-patient rehabilitation/treatment centers. The definition is therefore adopted in the final rule.

Demonstrate Compliance

No commenter opposed the proposed requirement that States demonstrate compliance by providing copies of existing legislation or regulations on mandatory sentences, and therefore it is adopted in the final rule. The agency also proposed that States provide information on the number of people convicted of an alcohol-related traffic offense more than once in a five year period. Wisconsin expressed concern about obtaining the necessary data on the average sentence imposed on repeat offenders. To lessen any possible data gathering problems, States can provide data on average sentences based on statistically valid samples.

Several commenters, such as Michigan and Pennsylvania, requested that States not be required to provide information of the place of confinement

used for each individual. It was not the agency's intention to require place of confinement information for each individual, States merely have to identify what general types of confinement (i.e., jails, treatment centers) they are using.

Criterion No. 3: Illegal Per Se Laws

The third criterion established by Congress for basic grant eligibility requires States to have a law that:

> Provides that any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

The agency's proposal to accept a State's *per se* law as evidence of compliance with this criterion was uniformly supported and is therefore adopted in the final rule.

Tennessee noted that its law establishes a blood alcohol concentration (BAC) of 0.10 percent as a presumptive level, rather than as illegal per se. Tennessee requested that the agency accept such a law as an acceptable equivalent if a State can demonstrate it is being effectively enforced. Kentucky also requested the agency to accept a presumptive statute as qualifying with this criterion. Given the narrow language of the statute that a BAC of 0.10 percent *be deemed* a violation, the agency does not have the authority to accept a presumptive statute as complying with this criterion.

Iowa raised the issue of how this criterion applies in a situation where a State has two separate per se laws with two different BAC levels. Under Iowa's administrative license suspension statute, a BAC of 0.10 percent is in itself grounds for license suspension. However, Iowa's criminal statute makes a BAC of 0.13 percent, rather than 0.10 percent, illegal *per se*. The agency believes that the language of the statute was meant to apply to any State law, whether administrative or criminal. Thus, each law must set a BAC of 0.10 percent as an offense in itself in order for a State to qualify under this criterion.

Demonstrate Compliance

No commenter opposed the proposed requirement that States demonstrate compliance by providing a copy of the applicable laws. The requirement is therefore adopted in the final rule

Criterion No. 4: Increased Enforcement/ Public Information Efforts

The fourth and final criterion established by Congress for basic grant eligibility requires:

> Increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

The commenters uniformly supported the agency's proposal to allow States to determine for themselves which indicators they believe are most appropriate to demonstrate their increased efforts and it is therefore adopted in the final rule. As mentioned in the prior notice, States could use such indicators as: development of supportive administrative policy, increases in arrests and convictions and license suspensions/revocations, increased training for law enforcement officers, prosecutors and judges, increases in rehabilitation referral rates, changes in the public's perception of risk, increases in the number of public service announcements on drunk driving, increased citizen involvement in reporting drunk drivers, and decreases in alcohol-related crashes.

Likewise, the commenters supported the agency's proposal that States demonstrate increases in their levels of effort by comparing fiscal year 1982 (or later years) with the prior preceding year or with the average of the State's enforcement and information efforts over the three years preceding the year in which a State first applies for a grant. That proposal is thus adopted in the final rule.

Supplemental Grant Criteria

Need for Flexibility

The agency's goal in establishing the supplemental grant criteria has been to give full effect to the Congress's intent that States make substantial progress in improving their alcohol safety programs. At the same time, the agency has attempted to provide States with maximum flexibility to design programs that will be effective in their jurisdictions.

In the notice, NHTSA proposed two alternative methods of establishing the criteria that a State must have in place and implement or adopt and implement in order to receive a supplemental grant. States uniformily supported the agency's first alternative that would provide a State with a grant of up to 20 percent of its section 402 apportionment if it implements some, but not all, of the twenty-one proposed criteria. They said that this alternative would give a State the maximum flexibility to choose criteria that are appropriate for and consistent with the goal of improving their alcohol traffic safety program.

The States generally urged the agency not to adopt the second proposed alternative, which would have required them to implement all of those criteria that the Governor of the State has the current authority to implement without requiring the concurrence of another branch of the State government. Several States commented that such a requirement would have widely varying effects because of difference in the authority granted the Governor in different States. The Governor's Highway Safety Representative from Florida, for example, testified that because Florida has a fully elected cabinet, the administrative authority of the Governor is largely limited to issuing executive orders that are not binding on the agencies under cabinet control.

Weighting

Most of the commenters supporting the first alternative, such as Florida, Maryland, Michigan, and New Mexico, also urged that the agency not weigh the alternatives or make some of the criteria mandatory for all States. New Mexico, for example, said that "any weighted scale would not necessarily be reflective of a measure's relative effectiveness from state to state." Georgia and Iowa recommended making all of the criteria of equal weight by making adoption of each criteria qualify a State for one percent of the twenty percent supplemental grant. The NCA recommended a system which would assign a greater weight to the top ranked criteria in the agency's proposed list.

Minimum Number

There were also varying opinions among States favoring the first alternative as to how many of the criteria a State would have to adopt in order to be eligible for a full twenty percent grant. Several States, such as Maine, Maryland and Michigan, recommended requiring a minimum of 8 criteria, while Mississippi and Pennsylvania recommended a minimum of 10. Several States also requested that the agency also set a minimum number for receiving a grant of less than 20 percent. Florida, for example, recommended setting a minimum number of four.

Require Minimum of 8

The agency has decided to adopt the first proposed alternative and require that States adopt a minimum of eight criteria of their choosing in order to be eligible for a full supplemental grant of twenty percent. The agency has also decided that adoption of a minimum of four criteria, of a State's choosing, will qualify a State for a supplemental grant of ten percent. The agency believes that this approach will enable State's to choose those criteria that will most

effectively fit in with its current alcohol traffic safety program.

In order to be eligible for a supplemental grant for a second and third year, States will have to adopt two more criteria each year and demonstrate that they are increasing their performance in the criteria that they adopted in the prior year or years. This will mean that if a State is to be eligible for a full supplemental grant for all three years of the program, it will have had to adopt and implement a total of twelve of the twenty-one criteria by the third year. As a part of its Alcohol Safety Plan, discussed later in this notice, a State will have to explain how the criteria it adopts are related to its current alcohol safety program; this will ensure that States are adopting criteria that will enhance a comprehensive program.

The agency has also decided that States should not be required to adopt more than fifteen of the supplemental criteria. This will mean that a State that has already adopted a comprehensive program that, for example, meets thirteen of the supplemental criteria will not have to spend additional time and funds striving to adopt a total of seventeen criteria (thirteen in place the first year, plus two additional criteria each year for the second and third years) by the end of the three year funding period. States meeting fifteen criteria will have to show that they have increased their performance in the criteria that they have already adopted in order to be eligible for a supplemental grant in subsequent years.

Prior Adoption

In the notice, the agency proposed to recognize prior adoption and implementation of a criteria if it took place either in the legislative session current at the time of enactment of this Act (October 25, 1982) or during the previous legislative session. Since many States have two year legislative sessions, this meant that the agency would recognize actions taken within the past four years.

Many of the commenters such as Delaware, Pennsylvania, Michigan and New Jersey, urged the agency not to set a time limit on when a criteria had to be adopted and implemented. They argued that such a time limit could penalize progressive States that have had alcohol traffic safety programs in effect for a number of years. As the agency has previously noted, it appears to have been the primary intent of the Congress in establishing the incentive grant program to induce future action through new programs. On the other hand, the agency believes that States that have taken a leadership role in establishing new alcohol traffic safety programs should be rewarded for those efforts as long as they have been actively implementing those programs. Therefore, the agency will recognize prior adoption of a criterion as long as a State can demonstrate that it has been actively implementing that criterion during the past four years.

Twenty-One Criteria

The agency has decided to adopt in the final rule the twenty-one criteria proposed in the notice. Each of the criteria is discussed below.

1. Raising the Drinking Age to 21 for All Alcoholic Beverages. All of the commenters addressing this criteria, with one exception, supported increasing the drinking age to 21. That commenter, the Distilled Spirits Council of the United States said that their research has not sufficiently demonstrated the effectiveness of setting the drinking age at 21. The agency strongly disagrees. The research on the effect of increasing the drinking age has been independently reviewed, at different times, by the agency, the Presidential Commission on Drunk Driving and the National Transportation Safety Board. All of those reviews came to the same conclusion, there is statistically valid data to show that increasing the drinking age results in a decrease in alcohol-related crashes among young people. The agency has therefore decided to retain this criterion.

As proposed in the notice, the agency will only recognize adoptions of legislation as qualifying for this criterion if the legislation immediately or over a three year period raises the drinking age to 21. In addition, the 21 age limit must apply to all alcoholic beverages. Thus a law, such as in Oklahoma, that defines 3.2 percent beer as a non-alcoholic beverage would not qualify.

2. Program Coordination. Several commenters, while agreeing with the need for a coordinated effort among the various State agencies involved in alcohol traffic safety programs, urged that the agency not require the designation of a single person as the state coordinator. Michigan, for example, said that a State should have the flexibility to structure the organization of its program without having to establish a specific individual as overall coordinator.

Since a comprehensive program will require the cooperation of numerous State agencies, the agency believes that there should be some mechanism to ensure a coordinated effort. However, to provide States with increased flexibility in designing their own programs, the agency has decided not to require the designation of a single individual as coordinator. Instead, States can meet this criterion by providing an explanation of how they coordinate the work of the different State agencies involved in their alcohol traffic safety programs.

3. Rehabilitation and Treatment. Commenters addressing this criterion supported the agency's proposal on rehabilitation and treatment. Several of the commenters, such as National Association of Alcoholism and Drug Abuse Counselors and NCA, noted the importance of carrying out rehabilitation and treatment programs with qualified professionals in accordance with established guidelines.

The agency is therefore adopting the criterion as proposed, including the requirement that each State set minimum standards for rehabilitation and treatment programs.

Several of the commenters requested the agency to combine the rehabilitation and treatment criterion with the screening criterion. The agency recognizes that the two criteria are complementary and both are needed in a comprehensive program. The agency has decided to retain them as a separate criteria, however, in order to give States flexibility in implementing their programs. For example, a State may want to have its screening program conducted by trained court personnel, or by State or local health agencies or by private sector rehabilitation and treatment groups.

4. State and Local Task Forces. Delaware, while agreeing with the need for task forces, commented that in small States there is no need for local task forces. It said that the concerns of local communities can be adequately represented by involving them in the work of a Statewide task force. The agency agrees and thus, while encouraging States to establish county, city or regional task forces when appropriate, will only require the establishment of a State task force to meet this criterion. However, if local task forces are not used, States must show that the interests of local communities are represented on the State task force.

5. Statewide Driver Record System. Commenters, such as Illinois, Mississippi and New Mexico, supported the proposed requirement that the driver record system be operated so that conviction information is recorded in the system within 30 days of a conviction, license sanction or the completion of the appeals process. The 30 day requirement is therefore adopted.

Several commenters, such as NCA, Michigan and Wisconsin, again raised the issue of possible conflicts between disclosure of portions of a driver's records and State and Federal confidentiality and privacy law requirements. A frequently cited example was the U.S. Department of Health and Human Services confidentiality regulation concerning disclosure that a person has been a participating in an alcoholism treatment program. The commenters agreed, however, that information on drunk driving convictions should be public. The agency is therefore adopting a requirement that the public have access to the portions of a driver's record that are not protected by Federal or State confidentiality or privacy regulations.

Commenters did not object to the agency's proposed requirement that information in the record systems be retained for at least five years and therefore that requirement is adopted as proposed.

6. Locally Coordinated Programs. Several commenters, such as Delaware and Iowa, said that in their experience, effective management of alcohol safety programs can be done on the State or regional level, particularly in States that are geographically small or have their population concentrated in a limited area.

The agency recognizes that the degree of local control will necessarily vary from State of State. However, the need for some level of local coordination remains constant. As stated in the prior notice, the agency believes that the communities themselves should decide on the specific geographic area—city, county or regional—to be involved in a locally coordinated program. Because of the importance of involving the local communities in order to create a long-term successful alcohol traffic safety program, the agency has decided to adopt this criterion. In small States local coordination may be demonstrated by showing that the interests of local communities are recognized and how the overall State and local program is coordinated.

7. Prevention and Education. Commenters, such as AAA, Florida, NCA, and the National Safety Council supported the proposed requirement that States have a prevention and education program designed to change the societal norm relative to drunk driving. The requirement is therefore adopted.

States can demonstrate compliance with this criterion by providing a brief discussion of their prevention and education program and explaining how it relates to changing societal attitudes and norms against drunk driving. As mentioned in the notice, the State program should include a comprehensive kindergarten through twelfth grade education program as well as involvement of private sector groups and parents.

8. Screening. The NAADAC and NCA supported the requirement that courts have the authority to order screening of drunk drivers. They both recommended that the screening be done prior to sentencing. New Mexico and Delaware also supported screening, but urged the agency to allow either pre- or post-sentence screening. Delaware noted the practical problem that a certain percentage of arrested drivers plead guilty at arraignment and thus may not be screened before sentencing. Those drivers would, however, receive postsentence screening.

The agency, while encouraging the use of pre-sentence screening, will permit the use of either pre- or post-sentence screening to comply with this criterion. States can demonstrate compliance by submitting a copy of the law authorizing screening and providing a brief description of the screening process.

Idaho requested the agency to define what level of screening is required to meet this criterion. As discussed in the agency's advance notice, the screening should, at a minimum, be based on BAC level at time of arrest, prior alcohol-related convictions and a self-administered questionnaire.

9. Evaluation Systems. The commenters supported the need for evaluation systems to determine the effectiveness of individual program countermeasures and the effectiveness of the program as a whole. Several States noted that they are currently carrying out such evaluations as a part of their highway safety programs.

The agency has decided, therefore, to adopt this criterion as proposed. States can demonstrate compliance by showing that they have an adequate State-wide data reporting and collection system and that the data is used in an evaluation process.

10. Self-Sufficiency. Several commenters, such as Georgia and Maine, expressed concern about possible abuses arising from the requirement that local programs become self-sufficient. They said that the need to generate revenue from fine monies could create a "bounty system."

The agency recognizes that there is the possibility of limited abuses. However, that problem can be resolved by having a system to identify and correct abuses, if they occur. The agency notes that several States, such as New York and Virginia, have already established programs moving toward self-sufficiency without creating abuses. In addition, fine revenue is only one mechanism of making a program self-sufficient. There are other ways for having the DWI offender pay for the system, such as treatment fees and court costs. The important consideration is that the people who create the DWI problem pay for its solution.

As mentioned in the agency's prior notices, the purpose of the section 408 incentive grant program was to provide States "seed money" to attack the problem of drunk driving. If a mechanism is not created to make such programs self-sufficient, there is a real danger that the programs may be reduced or eliminated when the Federal funds are gone. The agency has, therefore, decided to retain self-sufficiency as a criterion.

States can demonstrate compliance by providing a plan showing how they intend to make their programs self-sufficient. Specific progress toward implementation of the plan must be shown in order to meet this criterion in future years.

11. Use of Roadside Sobriety Checks. As in the responses to the agency's prior notice, there was a sharp difference of opinion among commenters on the use of roadside checks to detect drunk drivers. The California Highway Patrol again questioned its use of constitutional grounds. Other commenters, such as Delaware, Idaho and Maryland, said that roadside checks have been successfully used in their States and are particularly effective in increasing the public's perception of the risk of being caught for drunk driving.

Since States have the flexibility of choosing which of the supplemental criteria they wish to implement, the agency has decided to retain roadside sobriety checks as one of the criteria. Thus, those States which have legal questions about the use of the checks are not compelled to use them, while those States that have successfully used them in the past can continue to do so and receive credit. States can demonstrate compliance by providing information showing that they are systematically using roadside sobriety checks. States must also provide a copy of the regulation, law or policy authorizing the use of roadside sobriety checks.

12. Citizen Reporting. Several commenters, such as Delaware, Maryland, and New Jersey said that they have successfully used citizen reporting program in their States. Pennsylvania, however, raised the issue of whether these programs could be potentially abused by citizens making

false reports. Since the States actually implementing these programs have not reported problems with abuses and have reported strong citizen support, the agency is adopting the criterion as proposed.

Virginia expressed concern about a possible administrative problem in gathering citizen reporting information from each police dispatcher so that States can report the total number of reports and resulting arrests. To reduce possible data collection problems, States can demonstrate compliance with this criterion by providing information on the degree of participation, e.g., number of citizen reports and number of resulting arrests, based on statistically valid samples.

13. Enactment of a BAC of 0.08 Percent as Presumptive Evidence. Because of an inadvertent typographical error in the preamble to the agency's notice, several commenters thought that the agency was proposing to retain the criterion that States enact laws making a BAC of 0.05 percent as presumptive evidence of driving while under the influence. They urged the agency to set the level at 0.08 percent. Their recommendations coincide with the text of the proposed final rule which contained the correct version of the agency's proposal. The agency is therefore adopting the 0.08 percent BAC requirement in the final rule.

States can demonstrate compliance by providing a copy of the applicable law.

14. Uniform Licensing Procedures. Commenters addressing this criterion supported the agency's proposal that States fully participate in the National Driver Register and the Driver's License Compact and use a one-license/one-record policy. The agency is therefore, adopting this criterion in the final rule.

States can demonstrate compliance by providing a copy of the executive order, regulation or law setting up a one-license/one-record system. In addition, States must show that they have signed the Driver's License Compact and are using the National Driver Register.

15. Preliminary Breath Tests. Several commenters, such as Iowa and Michigan, supported adoption of this criterion. The California Highway Patrol again commented that preliminary breath tests (PBT's) are unnecessary and may lessen the importance of other investigative techniques.

As noted in the agency's prior notice, NHTSA believes that the use of PBT's should complement, not supplant, an officer's observations in identifying drunk drivers. Research has shown that PBT's can increase the effectiveness of alcohol safety program by increasing arrests and the agency is therefore adopting this criterion in the final rule. States can demonstrate compliance by providing a copy of the law or regulation authorizing the use of PBT's.

The Illinois State Police requested the agency to substitute use of the Horizontal Gaze Nystagmus test in place of the PBT's. The agency is currently field testing the Horizontal Gaze Nystagmus test along with other psychomotor skill tests to determine their effectiveness. Until that testing is completed, the agency cannot make a determination of whether the Horizontal Gaze Nystagmus test is an acceptable substitute for a preliminary breath test.

16. Plea-bargaining. Commenters, such as Delaware, Idaho, International Association of Chiefs of Police, and New Mexico, addressing this criterion supported its adoption. Oklahoma said that plea-bargaining was necessary to promote judicial efficiency, but agreed that there should be some mechanism to ensure that if there is plea-bargaining, the record system should indicate that an alcohol-related traffic offense was involved. New York State Senator Smith also agreed with need to prevent alcohol-related offenses from being bargained down to non-alcohol-related offenses. He said, however, that the agency's proposal would unnecessarily limit prosecutors in reducing alcohol-related offenses to lesser included alcohol-related offenses.

The agency recognizes that plea-bargaining may promote the efficiency of the judical system, however, it is essential to ensure that the alcohol-related nature of the original offense is retained on the driver's record. The agency has, therefore, decided to adopt a requirement that no alcohol-related charge be reduced to a non-alcohol-related offense or probation without judgment be entered without a written declaration of why the action is in the interest of justice. The law must also provide that if a charge is reduced, that the defendant's driving record must reflect that the reduced charge is alcohol-related. States can demonstrate compliance by providing a copy of the applicable law.

17. Victim Assistance, Compensation and Impact Statements. Commenters addressing this criterion generally supported its adoption. They expressed agreement with the Presidential Commission statement that such programs are needed to help the "forgotten victims of the legal system," those injured by drunk drivers. The agency is therefore adopting this criterion as proposed.

States can demonstrate compliance by providing a description of their victim assistance programs, their use of victim impact statements and victim restitution.

18. Impoundment. There was a sharp difference of opinion on the proposed criterion on impoundment. Texas has supported the use of impoundment at the expense of the owner as a "significant sanction." Other commenters, such as Florida, Maine, New Mexico, and Pennsylvania, questioned its potential effectiveness and urged that it not be adopted as a mandatory criterion.

As with the criterion on roadside checks, the agency believes that States that have found impoundment to be an effective part of their alcohol traffic safety program should be encouraged to continue to use it. Since the States have the flexibility to determine which criteria to adopt, the agency has decided to retain impoundment of the vehicle or confiscation of the vehicle's tags as one of the final criteria.

General Motors Acceptance Corporation (GMAC) urged the agency to modify the impoundment criterion to recognize that rights of secured parties and lessors that had no knowledge of the suspension or revocation. GMAC said that otherwise there could be long delays when those parties attempt to recover possession of the vehicle. The agency has decided to adopt GMAC's suggestion.

States can demonstrate compliance with this criterion by providing the agency with a copy of the law or regulation authorizing impoundment of the vehicle or confiscation of the license plates or registration.

19. *Choice of Test.* Commenters, such as the Maryland State Police and the National Safety Council, supported the agency's proposal that States authorize the arresting officer to specify the type of chemical test to use. Maryland said that allowing the officer the choice of test is "an extremely valuable asset in reducing time required to process violators." The agency is, therefore, adopting this criterion.

The agency also proposed that States enact laws authorizing an officer to require a second chemical test under appropriate conditions. The California Highway Patrol said that a second test may be justified if and only if an officer has a reasonable belief that a suspect is impaired because of the use of drugs or drugs and alcohol. Before administering either the first or second test the officers must have sufficient grounds to show that the suspect was impaired.

The agency has decided to adopt this criterion as proposed. To ensure that a suspect will submit to a second test, the agency is adopting the requirement that

refusal to submit to more than one test results in a license suspension. States can demonstrate compliance by providing a copy of the applicable laws.

20. Dram Shop Laws. Several commenters, such as Florida, the Distilled Spirits Council of the United States and the National Licensed Beverage Association, recommended that the agency not adopt the proposed criterion on dram shop laws. They said that there is no evidence that dram shop laws have reduced alcohol traffic safety problems. The National Safety Council, on the other hand, recommended the adoption of a dram shop criterion. The Presidential Commission on Drunk Driving has also recommended adoption of such laws.

The agency recognizes that the vast majority of licensed beverage retailers carries out their business in a responsible manner. Dram shop laws are only aimed at persons who serve visibly impaired customers and thus increase the risk of alcohol-related crashes. The agency has, therefore, decided to adopt this criterion in the final rule.

Maine asked the agency to specify whether the dram shop law must be civil or criminal to comply with this criterion. The agency believes either a civil or criminal statute would be effective and thus will accept either one. New Mexico recommended that States be allowed to demonstrate compliance by showing that dram shop liability has been established by court decision rather than statutory law. The agency agrees, and will accept a showing that common law dram shop liability has been upheld by a State's highest court.

21. Innovative Programs. No commenter opposed the agency's proposal to encourage States to develop new, unique and innovative alcohol traffic safety programs. The agency recognizes that there are potential countermeasures that have not been developed that may be as effective as any of the other programs contained in the agency's other twenty criteria and thus wants to reward States for experimenting with new programs. The agency, therefore, adopts this criterion as proposed.

States can demonstrate compliance by providing a description of their innovative program and an evaluation showing why the program is as potentially effect as any of the other specified criteria.

General Requirements

The Act requires a State to maintain its aggregate level of funding from non-section 408 funds for existing alcohol traffic safety programs "at or above the average level of such expenditures in its two fiscal years preceding the date of enactment * * *." in order to be eligible for a basic grant. No commenter opposed the proposal to permit States to select either Federal or State fiscal year in determining the level of expenditures that must be maintained. The agency is therefore adopting that requirement in the final rule.

Several commenters, such as Illinois and Oklahoma, recommended that a State should only be required to maintain its aggregate level of section 402 alcohol program expenditures, rather than its expenditures from all possible sources, as proposed by the agency. They said that it would be difficult to determine the precise level of expenditures, particularly at the county and local levels of government. Since section 402 funds may not represent a substantial percentage of a State's alcohol traffic safety expenditures, the agency has decided to retain the requirement that a State consider all non-section 408 funds in determining its prior level of expenditures. The agency recognizes the State does not control, in many instances, the expenditures of funds by the counties, cities, and towns. The agency also recognizes that a full audit of the prior level of expenditures would be time-consuming and expense. Thus States should require from these local agencies that receive section 408 grant funds certification that the existing level of local expenditure will be maintained. The agency will accept a States certification based on existing State budget documents, that the required level of State expenditures will be maintained.

Certification and Award Procedure

The commenters generally supported NHTSA's proposed alternative procedures for awarding grants. Oklahoma suggest another alternative awards procedures which, in essence, would be based on NHTSA regional officials conducting compliance hearings in each State. The agency plans to involve heavily its regional offices in the administration of the 408 program. At least in the first year of the program, the agency believes that the program should be coordinated by the agency's Office of Alcohol Countermeasures to provide consistency in implementing the program. The agency is, therefore, adopting its proposed alternative procedures in the final rule. These procedures establish the following three-step process:

1. The State provides information to document and verify its eligibility for the basic and supplemental grant criteria.

2. Upon review by NHTSA, the State would be notified that it is or is not eligible for the grant award based upon the documentation submitted. If eligible for grant award, the State would also be advised of the amount of the grant to be awarded subject to receipt and NHTSA formal approval of the State's Alcohol Highway Safety Plan. The agency has decided to adopt the recommendation of several commenters to allow the Alcohol Safety Plan to be submitted as a portion of a State's section 402 Highway Safety Plan. The Plan must be submitted within 120 days of notification to retain award eligibility.

3. Upon receipt and subsequent approval of the Plan, the grant will be awarded by execution of a Federal-Aid Agreement.

The commenters also supported the agency's proposal to use a "soft" match in determining which State expenditures are reimbursable under section 408, and thus the agency will use a "soft" match in administering the program.

New Mexico recommended that a non-profit organization be eligible for section 408 grants. Unlike section 402, the statutory language of section 408 does not limit a State to only make grants to political subdivisions of a State. As long as a State can show that a non-profit organization is an integral part of a local alcohol safety program and is working under the control of a State or local agency, the agency believes that a State can make a grant to such an organization.

Paperwork Reduction

Pursuant to the Paperwork Reduction Act, the agency has requested Office of Management and Budget approval for the recordkeeping requirements adopted in the final rule.

Regulatory Evaluation

The agency has determined that this rulemaking should be classified as significant under the Department's regulatory policies and procedures. The agency has prepared a final regulatory evaluation and placed it in the public docket for this rulemaking. The agency has determined that since this rule will not have an annual impact of $100 million on the economy, it is not a major rule within the meaning of Executive Order 12291.

To develop the benefit estimates, the agency determined the degree to which proposals in the notice are presently being implemented. Estimates of safety benefits were then based on satisfying the criteria in those States that presently are not doing so. The impact of the criteria in one or more of four areas was

determined where applicable: (1) drunk drivers on the road, (2) alcohol-related crashes, (3) DWI arrests, and (4) DWI convictions. The agency quantified benefits in terms of reduced number of fatalities, injuries, or accidents where possible. Lack of data, or the nature of the criteria themselves at times, precluded quantifying benefits in every criteria; however, in such cases where quantification of benefits is not possible, the general magnitude of the impact is assessed to the degree possible. In some instances, benefits are estimated for specified levels of safety measure effectiveness in order to gauge the potential of the measure for improving highway safety.

Regulatory Flexibility Act

I hereby certify that the requirements that will be established by this rulemaking action will not have a significant economic impact on a substantial number of small entities because the States will be the recipients of any funds awarded under the regulation and, therefore, preparation of an Initial Flexibility Analysis is not necessary.

List of Subjects in 23 CFR Part 1209

Alcohol, Grant programs—transportation, Highway safety.

In consideration of the foregoing, a new Part 1209 is added to Title 23 of the Code of Federal Regulations to read as follows:

PART 1209—INCENTIVE GRANT CRITERIA FOR ALCOHOL TRAFFIC SAFETY PROGRAMS

Sec.

1209.1 Scope.
1209.2 Purpose.
1209.3 Definitions.
1209.4 General requirements.
1209.5 Requirements for a basic grant.
1209.6 Requirements for a supplemental grant.
1209.7 Award procedures

Authority: 23 U.S.C. 408

§ 1209.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 408, for awarding incentive grants to States that implement effective programs to reduce drunk driving.

§ 1209.2 Purpose.

The purpose of this part is to encourage States who have adopted or do adopt and implement alcohol traffic safety programs by legislation or regulations which will significantly reduce crashes resulting from persons driving while under the influence of alcohol. The criteria established are intended to ensure that the State alcohol traffic safety programs for which incentive grants are awarded meet or exceed minimum levels designed to reduce drunk driving.

§ 1209.3 Definitions.

(a) "Imprisonment" means confinement in a jail, minimum security facility or in-patient rehabilitation or treatment center.

(b) "Prompt" means that the overall average time from arrest to suspension of a driver's license either cannot exceed an average of 45 days or cannot exceed an average of 90 days and a State submits a plan showing how it intends to achieve a 45 day average.

(c) "Repeat offender" means any person convicted of an alcohol-related traffic offense more than once in five years.

(d) "Suspension" means:

(1) for first offenses, the temporary debarring of all driving privileges for a minimum of 30 days and then the use for a minimum 60 days of a restricted, provisional or conditional license permitting a person to drive only for the purposes of going from a residence to or from a place of employment or to and from a mandated alcohol education or treatment program. A restricted, provisional or conditional license can only be issued in accordance with Statewide published guidelines and in exceptional circumstances specific to the offender.

(2) For refusal to take a chemical test, first offense, the temporary debaring of all driving privileges for 90 days.

(3) For second and subsequent offenses, including the refusal to take a chemical test, the temporary debarring of all driving privileges for one year or longer.

§ 1209.4 General requirements.

(a) *Certification Requirements.* To qualify for a grant under 23 U.S.C. 408, a State must, for each year it seeks to qualify:

(1) Meet the requirements of § 1209.5 and, if applicable, the requirements of § 1209.6;

(2) Submit a certification to the Director, Office of Alcohol Countermeasures, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590 that: (i) It has an alcohol traffic safety program that meets those requirements. If the certification is based upon prior adoption of a criterion, a State must provide information showing that it has been actively implementing that criterion during the four years prior to application for a grant, (ii) it will use the funds awarded under 23 U.S.C. 408 only for the implementation and enforcement of alcohol traffic safety programs, and (iii) it will maintain its aggregate expenditures from all other sources for its existing alcohol traffic safety programs at or above the average level of such expenditures in fiscal years 1981 and 1982 (either State or Federal fiscal year 1981 and 1982 can be used); and

(3) After being informed by NHTSA that it is eligible for a grant, submit to the agency an alcohol safety plan for one, two or three years, as applicable, that describes the programs the State is and will be implementing in order to be eligible for the grants and provides the necessary information, identified in §§ 1209.5 and 1209.6, to demonstrate that the programs comply with the applicable criteria. The plan must also describe how the specific supplemental criteria adopted by a State are related to the State's overall alchohol traffic safety program.

(b) *Limitations on Grants.* A State may receive a grant for up to three fiscal years subject to the following limitations:

(1) The amount received as a basic grant shall not exceed 30 percent of a State's 23 U.S.C. 402 apportionment for fiscal year 1983.

(2) The amount received as a supplemental grant shall not exceed 20 percent of a State's 23 U.S.C. 402 apportionment for fiscal year 1983.

(3) In the first fiscal year the State receives a grant, it shall be reimbursed for up to 75 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408;

(4) In the second fiscal year the State receives a grant, it shall be reimbursed for up to 50 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408; and

(5) In the third fiscal year the State receives a grant, it shall be reimbursed for up to 25 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408.

§ 1209.5 Requirements for a basic grant.

To qualify for a basic incentive grant of 30 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must have in place and implement or adopt and implement the following requirements:

(a)(1) The prompt suspension, for a period not less than 90 days in the case of a first offender and not less than one year in the case of a repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related offense, and: (i) To whom is administered one or more chemical tests

to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer.

(2) To demonstrate compliance, a State shall submit a copy of the law or regulation implementing the mandatory license suspension, information on the number of licenses suspended, the length of the suspension for first-time and repeat offenders and for refusals to take chemical tests and the average number of days it took to suspend the licenses from date of arrest. A State can provide the necessary data based on a statistically valid sample.

(b)(1) A mandatory sentence, which is not subject to suspension or probation, of imprisonment for not less than 48 consecutive hours or community service for not less than 10 days, for any person convicted of driving while intoxicated more than once in a five year period.

(2) To demonstrate compliance a State shall submit a copy of its law adopting this requirement and data on the number of people convicted of DWI more than once in any five years, what general types of confinement are being used, and the sentences for those persons. A State can provide the necessary data based on a statistically valid sample.

(c)(1) Establishment of 0.10 percent blood alcohol concentration (BAC) as sufficient evidence for finding that a person driving a motor vehicle is intoxicated.

(2) To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(d)(1) Increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

(2) To demonstrate compliance, a State shall submit data showing that it has increased its enforcement and public information efforts.

§ 1209.6 Requirements for a supplemental grant.

(a) to qualify for a supplemental grant of 20 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must have in place and implement or adopt and implement a license suspension system in which the average time from date of arrest to suspension of a license does not exceed an average of 45 days, and

(b) have in place and implement or adopt and implement eight of the following twenty-one requirements:

(1) Establishment of 21 years of age as the minimum age for drinking any alcoholic beverages. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(2) Coordination of State alcohol highway safety programs. To demonstrate compliance, a State shall submit information explaining how the work of the different State agencies involved in alcohol traffic safety programs is coordinated.

(3) Rehabilitation and treatment programs for persons arrested and convicted of alcohol-related traffic offenses. To demonstrate compliance, a State shall submit a copy of its law or regulation adopting this requirement, and a copy of the minimum standards set for rehabilitation and treatment programs by the State.

(4) Establishment of State Task Forces of governmental and non-governmental leaders to increase awareness of the problem, to apply more effectively drunk driving laws and to involve governmental and private sector leaders in programs attacking the drunk driving problem. To demonstrate compliance a State shall submit a copy of the executive order, regulation, or law setting up the task force and a description of how the interests of local communities are represented on the task force.

(5) A Statewide driver record system readily accessible to the courts and the public which can identify drivers repeatedly convicted of drunk driving. The public shall have access to those portions of a driver's record that are not protected by Federal or State confidentiality or privacy regulations. To demonstrate compliance, a State shall submit a description of its record system discussing its accessibility to prosecutors, the courts and the public and providing data showing the time required to enter alcohol-related convictions into the system is not greater than 30 days.

(6) Establishment in each major political subdivision of a locally coordinated alcohol traffic safety program, which involves enforcement, adjudication, licensing, public information, education, prevention, rehabilitation and treatment and management and program evaluation. In small States, local coordination may be demonstrated by showing that the interests of the local communities are recognized and coordinated by the State program. To demonstrate compliance, a State shall submit a description of the number of programs, type of programs and percentage of the State population covered by such local programs.

(7) Prevention and long-term education programs on drunk driving. To demonstrate compliance, a State shall submit a description of its prevention and education program, discussing how it is related to changing societal attitudes and norms against drunk driving with particular attention to the implementation of a comprehensive youth alcohol traffic safety program, and the involvement of private sector groups and parents.

(8) Authorization for courts to conduct pre- or post-sentence screenings of convicted drunk drivers. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement and a brief description of its screening process.

(9) Development and implementation of State-wide evaluation system to assure program quality and effectiveness. To demonstrate compliance, a State shall provide a copy of the executive order, regulation or law setting up the evaluation program and a copy of the evaluation plan.

(10) Establishment of a plan for achieving self-sufficiency for the State's total alcohol traffic safety program. To demonstrate compliance, a State shall provide a copy of the plan. Specific progress toward achieving financial self-sufficiency must be shown in subsequent years.

(11) Use of roadside sobriety checks as part of a comprehensive alcohol safety enforcement program. To demonstrate compliance, a State shall submit information showing that it is systematically using roadside sobriety checks. In addition, a State shall provide a copy of its regulation or policy authorizing the use of roadside checks.

(12) Establishment of programs to encourage citizen reporting of alcohol-related traffic offenses to the police. To demonstrate compliance, a State shall submit a copy of its citizen reporting guidelines or policy and data on the degree of citizen participation, e.g., number of citizen reports and the number of related arrests. A State can provide the necessary data based on a statistically valid sample.

(13) Establishment of a 0.08 percent blood alcohol concentration as presumptive evidence of driving while under the influence of alcohol. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(14) Adoption of a one-license/one-record policy. In addition, the State shall fully participate in the National Driver Register and the Driver License Compact. To demonstrate compliance, a State shall submit a copy of the order, regulation or law showing the State is a member of the Driver License Compact and has adopted a one-license/one-

record policy, and is participating in the National Driver Register.

(15) Authorization for the use of a preliminary breath test where there is probable cause to suspect a driver is impaired. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(16) Limitations on plea-bargaining in alcohol-related offenses. To demonstrate compliance, a State shall submit a copy of its law or court guidelines requiring that no alcohol-related charge be reduced to a non-alcohol-related charge or probation without judgment be entered without a written declaration of why the action is in the interest of justice. If a charge is reduced, the defendant's driving record must reflect that the reduced charge is alcohol-related.

(17) Provide victim assistance and victim restitution programs and require the use of a victim impact statement prior to sentencing in all cases where death or serious injury results from an alcohol-related traffic offense. To demonstrate compliance, a State shall submit a description of its victim assistance and restitution programs, and its use of victim impact statements.

(18) Mandatory impoundment or confiscation of license plate/tags of any vehicle operated by an individual whose license has been suspended or revoked for an alcohol-related offense. Any such impoundment or confiscation shall be subject to the lien or ownership right of third parties without actual knowledge of the suspension or revocation. To demonstrate compliance a State shall submit a copy of its law adopting this requirement.

(19) Enactment of legislation or regulations authorizing the arresting officer to determine the type of chemical test to be used to measure intoxication and to authorize the arresting officer to require more than one chemical test. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(20) Establishment of liability against any person who serves alcoholic beverages to an individual who is visibly intoxicated. To demonstrate compliance, a State shall submit a copy of the law or court decision of a State's highest court establishing that liability.

(21) Use of innovative programs. To demonstrate compliance a State shall submit a description of its program and an explanation showing that the program will be as effective as any of the programs adopted to comply with the other supplemental criteria.

(c) To qualify for a supplemental grant of 10 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must: (1) Have in place and implement or adopt and implement a license suspension system in which the average time from date of arrest to suspension of a license does not exceed 45 days; and (2) have in place and implement or adopt and implement four of the twenty-one requirements specified in section (b).

(d) To qualify for a supplemental grant for a second and a third year, a State must:

(1) Show that it has increased its performance for each of the requirements it adopted in the prior year, and

(2) Adopt two more requirements from section (b) for each subsequent year, except that a State does not have to implement more than a total of fifteen criteria.

§ 1209.7 Award procedures.

For each Federal fiscal year, grants under 23 U.S.C. 408 shall be made to eligible States upon submission of the alcohol safety plan and certification required by § 1209.4. Such grants shall be made until all eligible States have received a grant or until there are insufficient funds to award a grant to a State. Time of submission shall be determined by the postmark for certifications delivered through the mail and by stamped receipt for certifications delivered in person.

(Sec. 101, Pub. L. 97-364; 96 Stat. 1738 (23 U.S.C. 408); delegation of authority at 49 CFR 1.50)

Issued on January 31, 1983.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 83-3146 Filed 2-2-83; 11:29 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE DEFENSE

Department of the Navy

32 CFR Part 770

Rules Limiting Public Access to Particular Installations; Base Entry Regulations for Naval Submarine Base, New London, Conn.

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is adding Subpart E to 32 CFR Part 770 in order to set forth regulations governing entry upon Naval Submarine Base New London, Groton, Connecticut. It is intended that these regulations will apprise members of the general public of the rules governing access to Naval Submarine Base New London, Groton, Connecticut.

EFFECTIVE DATE: October 4, 1982.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Dale E. Bell, JAGC, U.S. Navy, Box 11, Naval Submarine Base New London, Groton, Connecticut 06340. Telephone: (203) 449-4739.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Commanding Officer, Naval Submarine Base New London, Groton, Connecticut, on October 4, 1982, adopted entry regulations entitled "Entry Regulations for Naval Submarine Base New London" (SUBASENLONINST 5510.13A). It is vital to the national defense that the operation of the submarine base continue without undue interruption. Accordingly, these regulations limit entry upon Naval Submarine Base New London to authorized personnel and those persons who have obtained advance consent pursuant to these regulations. It has been determined, in accordance with the public rulemaking provisions of 32 CFR Parts 295 and 701, that publication of these regulations for public comment prior to adoption would be impracticable, unnecessary, and contrary to the public interest since the nature and national importance of Naval Submarine Base New London mandate the immediate and uninterrupted effectiveness of these regulations.

List of Subjects in 32 CFR Part 770

Federal buildings and facilities, National defense, Restricted access areas, Security measures.

Accordingly, 32 CFR Part 770 is amended by adding a new Subpart E as follows:

PART 770—[AMENDED]

Subpart E—Base Entry Regulations for Naval Submarine Base New London, Groton, Connecticut

Sec.

770.41 Purpose.
770.42 Background.
770.43 Responsibility.
770.44 Entry restrictions.
770.45 Entry procedures.
770.46 Violations.

Authority: 50 U.S.C. 797; DoD Directive 5200.8 of July 29, 1980; SECNAVINST 5511.36 of December 20, 1980; OPNAVINST 5510.45 of April 19, 1971; 5 U.S.C. 301; 10 U.S.C. 6011; 32 CFR 700.702; 32 CFR 700.714.

Subpart E—Base Entry Regulations for Naval Submarine Base New London, Groton, Connecticut

§ 770.41 Purpose.

The purpose of this subpart is to promulgate regulations and procedures governing entry upon Naval Submarine Base New London, and to prevent the interruption of the stated functions and operations of Naval Submarine Base New London, by the presence of any unauthorized person within the boundaries of Naval Submarine Base New London.

§ 770.42 Background.

Naval Submarine Base New London maintains and operates facilities to support training and experimental operations of the submarine force including providing support to submarines, submarine rescue vessels, and assigned service and small craft; within capabilities, to provide support to other activities of the Navy and other governmental activities in the area; and to perform such other functions as may be directed by competent authority.

§ 770.43 Responsibility.

The responsibility for proper identification and control of personnel and vehicle movement on the Naval Submarine Base New London is vested with the Security Officer.

§ 770.44 Entry restrictions.

Except for military personnel, their authorized dependents, or guests, and employees of the United States in the performance of their official duties, entry upon Naval Submarine Base New London, or remaining thereon by any person for any purpose without the advance consent of the Commanding Officer, Naval Submarine Base New London, or his authorized representative is prohibited. *See* 18 U.S.C. 1382, the Internal Security Act of 1950 (50 U.S.C. 797); Chief of Naval Operations Instruction 5510.45B of April 19, 1971; and Secretary of the Navy Instruction 5511.36 of December 20, 1980.

§ 770.45 Entry procedures.

(a) Any individual person or group of persons desiring the advance consent of the Commanding Officer, Naval Submarine Base New London, or his authorized representative shall, in writing, submit a request to the Commanding Officer, Naval Submarine Base New London, at the following address: Commanding Officer (Attn: Security Officer), Box 38, Naval Submarine Base New London, Groton, Connecticut 06349.

(b) Each request for entry will be considered on an individual basis weighing the operational, security, and safety requirements of Naval Submarine Base New London with the purpose, size of party, duration of visit, destination, and military resources which would be required by the granting of the request.

§ 770.46 Violations.

(a) Any person entering or remaining on Naval Submarine Base New London, without the consent of the Commanding Officer, Naval Submarine Base New London or his authorized representative, shall be subject to the penalties prescribed in 18 U.S.C. 1382, which provides in pertinent part: "Whoever, within the jurisdiction of the United States, goes upon any military, naval . . . reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation . . . shall be fined not more than $500 or imprisoned not more than six months or both."

(b) Moreover, any person who willfully violates this subpart is subject to a fine not to exceed $5000 or imprisonment for not more than one (1) year or both as provided in 50 U.S.C. 797.

Dated: February 1, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-3138 Filed 2-4-83; 8:45 am]

BILLING CODE 3810-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[W-4-FRL 2293-4]

Florida Department of Environmental Regulation; Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Florida has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, III, IV, and V injection wells. After careful review of the application, the Agency has determined that the State's injection well program for Classes I, III, IV, and V injection wells meet the requirements of Section 1422 of the Act and, therefore, approves it.

EFFECTIVE DATE: This approval is effective February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Curt Fehn, Ground Water Section, Water Supply Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, Atlanta, Georgia 30365, (404) 881-3866.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove, or approve in part and disapprove in part the State's UIC program.

The State of Florida was listed as needing a UIC program on September 25, 1978 (43 FR 43420). The State of Florida submitted a complete application under Section 1422 on January 15, 1982, for the approval of a UIC program governing Classes I, III, IV, and V injection wells. The program would be administered by the Florida Department of Environmental Regulation (DER). On February 8, 1982, EPA published notice of its receipt of the application, announced the availability of the application for review, requested public comments, and scheduled a public hearing. Neither requests for public hearing nor requests to offer testimony at such hearing were received by EPA. Therefore, pursuant to the provisions of 40 CFR 123.54(c), the public hearing was cancelled on March 17, 1982 because of expressed lack of sufficient public interest. After careful review of the application, I have determined that the Florida UIC program submitted by the DER meets the requirements established by Federal

regulations pursuant to Section 1422 of the SDWA, and hereby approve it.

EPA is publishing this approval effective immediately so that Florida can begin issuing UIC permits for Classes I, III, IV, and V wells under the UIC program.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 123, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Florida Department of Environmental Engineering will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83-3197 Filed 2-4-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 228

[WH-FRC 2297-7]

Ocean Dumping; Extension of Interim Site Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA today amends § 228.12 of the Ocean Dumping Regulations and Criteria to extend the interim designation of some dredged material ocean dumping sites pending completion of Environmental Impact Statements (EIS's) and formal rulemaking procedures. This action is necessary to assure that maintenance dredging of harbors and essential disposal of dredged material into the oceans is continued until the necessary site designation studies are done.

DATE: This action will become effective on February 1, 1983. Comments must be received on or before March 9, 1983.

ADDRESSES: Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, DC 20460.

The record supporting this rulemaking is available for public inspection at the following location: EPA Public Information Reference Unit (PIRU), Room 2404 (rear), 401 M Street Southwest, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION: EPA published revised Ocean Dumping Regulations and Criteria in the **Federal Register** on January 11, 1977 (42 FR 2462 et seq.). Section 228.12 contains a list of approved interim ocean dumping sites and states, in part:

> The following sites are approved for dumping the indicated materials on an interim basis pending completion of baseline or trend assessment surveys and designation for continuing use or termination of use.

The 1977 designations were effective for a maximum of three years. On January 16, 1980, and December 9, 1980, EPA extended the interim designations of these sites according to schedules published in those documents. 45 FR 3053 et seq. and 45 FR 81042 et seq. As EPA explained in January 1980, an extensive program of dumpsite surveys and Environmental Impact Statement preparation has been underway since 1977 pursuant to Contract No. 68-01-4610 ("the Contract"). This program covers most of the significant interim-designated dumpsites, including all of the sites needed after January 1980 for ocean disposal of sewage sludge or industrial wastes and those dredged material disposal sites which service existing navigation projects and which either routinely receive large quantities of dredged material or receive dredged material which may be contaminated.

In the program of site designation as originally planned, those sites were selected for priority study which received large volumes of material or which received municipal wastes, industrial wastes, or dredged material from areas known to receive polluted materials. The sites selected for priority study included all sites at which municipal and industrial wastes were being dumped and dredged material ocean disposal sites which receive over 90 percent of all dredged material ocean dumped from the United States.

In its December 9, 1980, **Federal Register** notice, EPA published a schedule by which it intended to publish EIS's and designate ocean disposal sites. Of the sites listed in the schedule, EPA has completed rulemakings designating the acid waste site and five sites off Hawaii for continuing use. Final EIS's have been completed for seven additional sites and draft EIS's for six other sites. However, because of contractual problems, the need for additional information on certain of the disposal sites, and unanticipated analytical and scientific review requirements, we have not completed many of the permanent site designations on the schedule we adopted, a schedule that would have made interim designations unnecessary beyond February 1, 1983. Therefore, to assure that maintenance dredging of harbors and essential disposal of dredged material at ocean disposal sites can be continued until the site designation studies are completed and final designation actions are taken, it is necessary to extend some of the interim dredged material ocean disposal site designations. Each of the sites whose interim designation is extended is important to the continued maintenance of a major federal navigation project, and continuation of each of these projects is of regional and frequently national economic importance. These interim extensions will ensure that no delay in dredging activities will result from the unavailability of an EPA-designated site, with consequent impediments to interstate and foreign commerce.

The action taken today extends the interim designations of some ocean disposal sites on a schedule commensurate with the time needed to complete the required actions. The sites for which such extension of interim designation is given fall into three broad categories.

1. *Those sites for which all studies have been completed and EIS's have been published, but for which rulemaking has not been completed.* Each site designation is published first as proposed rulemaking for public comment, and then as final rulemaking. Ample time is allowed for public comment and, if necessary, one or more public hearings may be held. The minimum time for the rulemaking process is six months, and 12 months is a realistic length of time for this type of rulemaking. The sites in this category are:

(i) San Francisco Channel Bar, CA.

(ii) New York Mud Dump, NY.
(iii) Jacksonville, FL.
(iv) Galveston, TX.

These sites were all included within the scope of the Contract and are now in various stages of the rulemaking procedure. An extension of one year to complete this process is required to allow for adequate public participation.

2. *Those sites for which all studies have been completed and the EIS's are in the process of being written.* These are sites for which field studies were required under the Contract and which have been delayed because of the need for additional information on the sites, more extensive data evaluation than was originally anticipated, or more extensive review of draft documents than anticipated. Some of these were backlogged by similar problems with other EIS's which preceded them in the Contract schedule. At the present time the data analyses on all of the EIS's are complete and they are in various stages of drafting. The sites in this category are:

(i) Portland, ME.
(ii) San Juan, PR.
(iii) Charleston/Savannah/Wilmington (3 sites). Wilmington Harbor, NC; Charleston Harbor, SC; and Savannah River, GA.
(iv) Sabine-Neches, TX.
(v) Mouth of Columbia River, OR (5 sites).

Considering the length of time necessary for rulemaking after the draft EIS on each site is complete, an extension of the interim designation of each for 18 months is required.

3. *Those sites for which field studies have been planned and initiated, but either the studies or the data analysis is not yet complete, and drafting of the EIS has not yet begun.* These are sites which were included in the scope of work of the Contract but for which additional studies beyond those originally planned have been found to be necessary. In each case detailed study plans have been developed, and studies will be completed in early 1983. After the studies are completed, the data will have to be analyzed, the EIS's prepared and published, and the procedures for rulemaking followed. It is therefore necessary to extend the interim designations on these sites for 24 months. The sites in this category are:

(i) Morehead City, NC.
(ii) Georgetown, SC.
(iii) Pascagoula, MS.
(iv) Humboldt Bay, CA.
(v) Long Beach, CA.
(vi) San Diego, CA (2 sites).
(vii) New Jersey/Long Island Sites (8 sites). Absecon Inlet, NJ; Cold Spring Inlet, NJ; Manasquan Inlet, NJ; East Rockaway, NY; Jones Inlet, NY; Fire Island, NY; Shark River, NJ; and Rockaway Inlet, NY.
(viii) Gulfport/Mobile/Pensacola (4 sites). Mobile, AL; Gulfport, MS (2 sites); and Pensacola, FL.
(ix) Coos Bay, OR.

The interim designation of the Farallon Islands site is not being extended. This site was found to be unsuitable for dredge material disposal because of its close association with a marine sanctuary designated by the National Oceanic and Atmospheric Administration under Title III of the Marine Protection, Research, and Sancturies Act.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the extension will only have the effect of retaining a disposal option for dredged material. Consequently, this action does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this action does not necessitate preparation of a Regulatory Impact Analysis.

Continued designation of the interim dredged material disposal sites is necessary to assure the uninterrupted availability of harbors to interstate and foreign commerce. In the absence of an extension, the site designations at issue would expire February 1, 1983. Accordingly, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), the Agency has determined that notice and public procedure on the interim designations, prior to their extension, is impracticable and contrary to the public interest. However, the Agency solicits public comment on the interim designations and will address any comments received in a final rulemaking. For the same reasons, EPA has determined, pursuant to the Administrative Procedure Act, 5 U.S.C. 8553(d)(3), that there is good cause to make this regulation effective on February 1, 1983.

This interim final rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

List of Subjects in 40 CFR Part 228

Water pollution control.

(33 U.S.C. 1412 and 1418)

Dated: January 28, 1983.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

PART 228—[AMENDED]

§ 228.12 [Amended]

In consideration of the foregoing, Part 228 of Subchapter H of Chapter I of Title 40 is amended by removing that part of the last sentence of the introductory text through the colon § 228.12(a) and removing paragraphs (1) through (3) of § 228.12(a). Paragraphs (4)–(6) of §228.12(a) are redesignated as (1)–(3). Newly redesignated paragraph (a)(1) of §228.12 is revised to read as follows:

* * * * *

(a) * * *

(1) The following sites for disposal of dredged material under Corps of Engineers permits under Section 103 of the Act will remain in force according to the following schedule:

(i) Until such time as formal rulemaking is completed or until January 31, 1984, whichever is sooner:

(A) San Francisco Channel Bar, CA.
(B) New York Mud Dump, NY.
(C) Jacksonville, FL.
(D) Galveston, TX.

(ii) Until such time as formal rulemaking is completed or until July 31, 1984, whichever is sooner:

(A) Portland, ME.
(B) San Juan, PR.
(C) Charleston/Savannah/Wilmington (3 sites): Wilmington Harbor, NC; Charleston Harbor, SC; and Savannah River, GA.
(D) Sabine-Neches, TX.
(E) Mouth of Columbia River, OR (5 sites).

(iii) Until such time as formal rulemaking is completed or until January 31, 1985, whichever is sooner:

(A) Morehead City, NC.
(B) Georgetown, SC.
(C) Pascagoula, MS.
(D) Humboldt Bay, CA.
(E) Long Beach, CA.
(F) San Diego, CA (2 sites).
(G) New Jersey/Long Island Sites (8 sites): Absecon Inlet, NJ; Cold Spring Inlet, NJ; Manasquan Inlet, NJ; East Rockaway, NY; Jones Inlet, NY; Fire Island, NY; Shark River, NJ; and Rockaway Inlet, NY.
(H) Gulfport/Mobile/Pensacola (4 sites): Mobile, AL; Gulfport, MS (2 sites), and Pensacola, FL.
(I) Coos Bay, OR.

[FR Doc. 83-3055 Filed 2-4-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 387

[BMCS Docket No. MC-94-1; Amendment No. 81-8]

Minimum Levels of Financial Responsibility for Motor Carriers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This emergency regulation revises the existing minimum levels of financial responsibility requirements for motor carriers to implement provisions required by section 406 of the Surface Transportation Assistance Act of 1982 (STAA of 1982). Section 406 amends section 30 of the Motor Carrier Act of 1980 by: (1) Expanding the authority of the Secretary of Transportation to require minimum levels of financial responsibility for motor vehicles transporting hazardous materials, hazardous substances, or hazardous wastes by foreign carriers in the United States engaged in foreign commerce, (2) requiring motor carriers domiciled in any contiguous foreign country to carry on board each vehicle it operates in the United States evidence of financial responsibility, and (3) expanding the applicability of the minimum levels of financial responsibility requirements to include motor vehicles having a gross vehicle weight rating (GVWR) of less than 10,000 pounds when transporting certain hazardous materials.

EFFECTIVE DATE: This emergency regulation is effective January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426-9767; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 6, 1983, the President signed into law the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424, 96 Stat. 2097). Section 406 sets forth minimum levels of financial responsibility requirements which supersede the previous requirements contained in section 30 of the Motor Carrier Act of 1980 (Pub. L. 96-296, 94 Stat. 820). Since the former minimum levels of financial responsibility requirements for motor carriers as implemented in 49 CFR Part 387 are in conflict with the provisions of the STAA of 1982, immediate revision of this regulation is required. A summary of the revisions to the existing provisions in 49 CFR, Part 387 follows.

Section 406 of the STAA of 1982 amended section 30 of the Motor Carrier Act of 1980 by expanding the authority of the Secretary to require minimum levels of financial responsibility for motor vehicles transporting hazardous materials, oil, hazardous substances, or hazardous wastes by foreign carriers in the United States while engaged in foreign commerce. Previous provisions applied to motor vehicles transporting hazardous materials, substances or wastes only in interstate or intrastate commerce.

Another change resulting from the enactment of the STAA of 1982 is the requirement that motor carriers domiciled in any contiguous foreign country carry evidence of financial responsibility on board each vehicle operated in the United States. Previous provisions did not include this requirement. A photocopy of the currently required forms MCS-90 or MCS-82 will be accepted as evidence of financial responsibility. Pursuant to section 406, the Secretary of Transportation and the Secretary of Treasury shall deny entry into the United States of any vehicle which does not have the required evidence of financial responsibility in the vehicle.

Section 406 of the STAA of 1982 also requires a limitation to the exemption from section 30's applicability provided for transportation involving motor vehicles with a GVWR of less than 10,000 pounds. Previously, all transportation conducted with vehicles having a GVWR of less than 10,000 pounds was exempt from the provisions of section 30. However, section 406 of the STAA of 1982 requires the transportation of any quantity of Class A or B explosives, any quantity of poison gas, or large quantity radioactive materials in interstate or foreign commerce by vehicles having a GVWR of less than 10,000 pounds to be subject to the requirements of section 30 of the Motor Carrier Act of 1980.

For these reasons, it has been determined that circumstances warrant the issuance of an emergency regulation to immediately implement the new minimum levels of financial responsibility requirements.

In addition, section 406 of the STAA of 1982 amended section 30 of the Motor Carrier Act of 1980 by increasing from 2 years to 3½ years the period during which the Secretary may reduce the minimum levels of financial responsibility. This provision will be addressed in a subsequent rulemaking action.

The Federal Highway Administrator has determined that this document responds to an emergency situation and for the reasons stated, it is impracticable for the agency to follow the procedures of Executive Order 12291, the regulatory policies and procedures of the Department of Transportation, and the Regulatory Flexibility Act. Therefore, good cause exists for publication as a final rule without notice and opportunity for comment and without a 30-day delay in effective date.

The FHWA will prepare, as soon as practical, a regulatory evaluation/regulatory flexibility analysis. When available, copies may be obtained by contacting Mr. Neill L. Thomas at the address provided above under the heading "For Further Information Contact."

List of Subjects in 49 CFR Part 387

Hazardous materials transportation, Insurance, Motor carriers, Surety bonds.

In consideration of the foregoing, the FHWA is amending Part 387 of title 49, Code of Federal Regulations, to read as set forth below.

PART 387—[AMENDED]

1. In § 387.3, paragraphs (b) and (c)(1) are revised to read as follows:

§ 387.3 Applicability.

* * * * *

(b) This part applies to motor carriers operating motor vehicles transporting hazardous materials, hazardous substances, or hazardous wastes in interstate, foreign, or intrastate commerce.

(c) *Exception.* (1) The rules in this part do not apply to a motor vehicle that has a gross vehicle weight rating (GVWR) of less than 10,000 pounds. This exception does not apply if the vehicle is used to transport any quantity of Class A or Class B explosives, any quantity of poison gas, or large quantity of radioactive materials in interstate or foreign commerce.

* * * * *

2. In §387.7, paragraphs (f) and (g) are added to read as follows:

§ 387.7 Financial responsibility required.

* * * * *

(f) All vehicles operated within the United States by motor carriers domiciled in a contiguous foreign country, shall have on board the vehicle a legible copy, in English, of the proof of the required financial responsibility (Forms MCS-90 or MCS-82) used by the motor carrier to comply with paragraph (d) of this section.

(g) Any motor vehicle in which there is no evidence of financial responsibility required by paragraph (f) of this section shall be denied entry into the United States.

* * * * *

3. Section 387.9 is revised to read as follows:

§ 387.9 Financial responsibility minimum levels.

The minimum levels of financial responsibility referred to in § 387.7 of this part are hereby prescribed as follows:

SCHEDULE OF LIMITS

Public Liability

Type of carriage [1]	Commodity transported	July 1, 1981	July 1, 1983
(1) For-hire (In interstate or foreign commerce)	Property (nonhazardous)	$500,000	$750,000
(2) For-hire and Private (In interstate, foreign, or intrastate commerce)	Hazardous substances, as defined in 49 CFR 171.8, liquefied compressed gas, or compressed gas transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons	1,000,000	5,000,000
(3) For-hire and Private (In interstate or foreign commerce in any quantity) or (In intrastate commerce in bulk only)	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below	500,000	1,000,000
(4) For-hire and Private (In interstate or foreign commerce)	Any quantity of Class A or B explosives; any quantity of poison gas; or large quantity radioactive materials as defined in 49 CFR 173.389	1,000,000	5,000,000

[1] NOTE.—The type of carriage listed under numbers (1), (2), and (3) apply to vehicle with a gross vehicle weight rating of 10,000 pounds or more. The type of carriage listed under number (4) applies to all vehicles, regardless of gross vehicle weight rating.

* * * * * * *

4. The definition of "motor vehicle" as it appears in Illustration I of § 387.15 is revised to read as follows:

§ 387.15 Forms.

* * * * * *

Motor Vehicle means a land vehicle, machine, truck, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway for transporting property, or any combination thereof.

* * * * *

5. The Schedule of Limits table in Illustration I of § 387.15 is revised to read as follows:

§ 387.15 Forms.

* * * * *

SCHEDULE OF LIMITS

Public Liability

Type of carriage [1]	Commodity transported	July 1, 1981	July 1, 1983
(1) For-hire (In interstate or foreign commerce).	Property (nonhazardous)	$500,000	$750,000
(2) For-hire and Private (In interstate, foreign, or intrastate commerce).	Hazardous substances, as defined in 49 CFR 171.8, liquefied compressed gas, or compressed gas transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons	1,000,000	5,000,000
(3) For-hire and Private (In interstate or foreign commerce in any quantity) or (In intrastate commerce in bulk only).	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below.	500,000	1,000,000
(4) For-hire and Private (In interstate or foreign commerce).	Any quantity of Class A or B explosives; any quantity of poison gas; or large quantity radioactive materials as defined in 49 CFR 173.389	1,000,000	5,000,000

[1] NOTE.—The type of carriage listed under numbers (1), (2), and (3) apply to vehicles with a gross vehicle weight rating of 10,000 pounds or more. The type of carriage listed under number (4) applies to all vehicles, regardless of gross vehicle weight rating.

NOTE.—The table showing the schedule of limits may appear at the bottom or on the reverse side of Form MCS-90

* * * * * * *

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

(Sec. 406, Pub. L. 97-424, 96 Stat. 2097, and 49 CFR 1.48)

Issued on: January 31, 1983

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

[FR Doc. 83-3191 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 21209-245]

Western Pacific Spiny Lobster Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule implements the Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific Region. There have been no substantial changes from the proposed rule published in the **Federal Register** on June 30, 1982 (47 FR 28433), but minor revisions have been made in response to public comments and for clarification. These regulations provide for the orderly growth of the fishery for spiny lobsters.

DATE: Effective March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Alan W. Ford, Regional Director, Southwest Region, 213-548-2575; Doyle E. Gates, Administrator, Western Pacific Program Office, Southwest Region, 808-955-8831.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific Region (FMP) in the fishery conservation zone (FCZ) off the coasts of American Samoa, Guam, and Hawaii was prepared by the Western Pacific Fishery Management Council (Council). The final rule implements the management measures in the FMP that: (1) Establish two management areas for the spiny lobster fisheries, (2) require a permit to fish for spiny lobster in the FCZ, (3) establish size restrictions for lobsters caught in Permit Area 1 (Northwestern Hawaiian Islands), (4) establish closed areas in Permit Area 1, (5) prohibit retention of berried females in Permit Area 1, and (6) establish certain recordkeeping and reporting requirements.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), approved the FMP on April 12, 1982; proposed regulations and request for comment were published in the **Federal Register** on June 30, 1982 (47 FR 28433). The comment period ended on August 16, 1982. The issues mentioned in the preamble to the

proposed regulations have not changed, nor has the management strategy. The preamble treated problems of potential overfishing, economic instability, vulnerability of the Hawaiian monk seal, and the lack of systematic collection of information. This final rule is essentially identical in its major points to the proposed rule, with some minor revisions for clarity and to respond to public comments. The comments received, and NOAA's responses, are discussed below.

Responses to Public Comments

The University of Hawaii at Manoa, the United States Coast Guard, and the Hawaii Department of Planning and Economic Development submitted written comments.

Comment: The Environmental Center at the University of Hawaii recognized that a precise maximum sustainable yield (MSY) could not be specified and suggested, as a conservative measure, that a moderate harvest level be established. Also mentioned was the possibility that the 7.7.cm minimum carapace length was too small, and the suggestion that "rot-out" panels and escape ports should be required for all lobster traps.

Response: The Council considered quotas; however, a quota for the entire Northwestern Hawaiian Islands would not protect specific areas from local depletion and area-specific quotas would entail extensive monitoring and enforcement costs. Also, it is not possible to establish reasonable quotas for any area from the information now available.

The Council reviewed all available information on the reproductive potential of spiny lobsters at various sizes, including recent information that revealed that small female lobsters make a greater contribution to the reproductive stocks than was formerly thought. Following its review, the Council established the minimum carapace length of 7.7 cm, between the 7.5—8.5 cm range which the Council's Scientific and Statistical Committee determined to be adequate.

The Council questioned the utility of rot-out panels and escape ports because of the expense and because of evidence that lobsters will escape through the entrance of a trap when the bait is exhausted. Based upon this information, the Council decided not to require escape ports at this time.

Any of the above suggestions could eventually be implemented as management measures. The final regulations implement a comprehensive logbook and monitoring system, provide for the placement of scientific observers on fishing vessels, and establish protective measures for the Hawaiian monk seal. Although the Council believes that these regulations provide full protection for the resources affected by the fishery, changes in management measures could occur as information is obtained from the developing fishery.

Comment: The U.S. Coast Guard had the following suggestions: (1) that logbooks be completed within 24 hours after conclusion of the fishing day, (2) that the language in § 681.8(b) on signals be modified and that a new signal be added, (3) that language in § 681.8 (c)(1) and (c)(2) be combined because a ladder will most likely not be necessary, and (4) that the point of contact for required reporting in § 681.25 be changed from "Authorized Officer" to "the Coast Guard at specific locations".

Response: All the above changes were made.

Comments: The U.S. Coast Guard also pointed out that the 15 percent incidental take allowed in § 681.21 can only be enforced when a vessel lands its catch, and that the prohibition against fishing inside the ten-fathom depth curve in § 681.23 cannot be enforced from the air.

Response: The intent of the regulations was to enforce the incidental-take provision on a per-trip basis; therefore, the language of the proposed regulations has been changed to clarify the intent.

The Council recognizes that enforcement by aircraft is essential over the distances involved and that closure of waters within the ten-fathom depth curve cannot be enforced by this method. Nevertheless, the Council decided that the closure was necessary and there are no equivalent alternatives.

Comment: The Hawaii Department of Planning and Economic Development believes that the FMP and proposed regulations are not consistent to the maximum extent practicable with Hawaii's Coastal Zone Management Program, as required by the Coastal Zone Management Act.

Response: Since publication of the proposed regulations, NOAA has conducted a thorough review of the consistency issue. NOAA has concluded that there is no consistency problem in regard to the FMP or proposed regulations. While in some instances the Federal regulations for the FCZ are not exactly identical with State regulations for State waters, they are not inconsistent and do not impair the State's ability to implement its management regime. While some of the State's concerns may still be resolved by working with the Western Pacific Fishery Management Council, it would be imprudent to delay implementation of the FMP and allow the fishery to continue unmanaged.

Clarifications

Section 681.10 of the proposed regulations requires that vessels carry an observer when the Regional Director requests. This requirement is maintained in the final regulations; however, an added requirement in the final regulations is that each vessel must notify the Regional Director 48 hours before leaving port to fish for spiny lobsters. This measure will facilitate the placement of an observer.

Note that the tail-width requirement in § 681.21(b) is 5 cm. The FMP was approved with the 5 cm requirement and the proposed regulations indicated 5 cm; however, the plan mailed to the public indicated 4.9 cm. Reviewers should correct the tail-size requirement in their copy of the plan.

Classification

The Assistant Administrator has determined that the FMP and the implementing regulations comply with the national standards, other provisions of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and other applicable law.

A Regulatory Impact Review was prepared by the National Marine Fisheries Service. The agency determined from that review that these regulations will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act and that they do not constitute a major rule under Executive Order 12291.

The Council prepared a draft environmental impact statement (EIS), which was filed with the Environmental Protection Agency on November 17, 1980 (45 FR 75749). A notice of availability of the final EIS/FMP was published in the **Federal Register** on June 18, 1982 (47 FR 26450).

Permits to fish for spiny lobsters, logbooks, and processor reports are required by these regulations. Because there are fewer than ten respondents anticipated for each type of information requested, clearance provisions of the Paperwork Reduction Act do not apply to any of these requests. Information collection required for the vessel permit application was approved under OMB 0648–0097.

List of Subjects in 50 CFR Part 681

Fish, Fisheries, Reporting requirements.

Dated: February 1, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set out in the preamble, a new Part 681 to Title 50 of the CFR is added as follows:

PART 681—WESTERN PACIFIC SPINY LOBSTER FISHERIES

Subpart A—General Provisions

Sec.

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Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 681.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific (FMP) developed by the Western Pacific Fishery Management Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act).

(b) These regulations govern commercial fishing for spiny lobsters by fishing vessels of the United States within the U.S. fishery conservation zone (FCZ) seaward of American Samoa, Guam, and Hawaii. The management measures specified in Subpart B apply only in the FCZ seaward of the Northwestern Hawaiian Islands (Permit Area 1).

§ 681.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Administrator means the Administrator of the National Oceanic and Atmospheric Administration (NOAA), or a designee.

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the Coast Guard;

(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal, State, or Territorial agency which has entered into an agreement with the Secretary and the Secretary of Transportation to enforce the provisions of the Magnuson Act; and

(d) Any Coast Guard personnel accompanying, and acting under the direction of, any person described in paragraph (a) of this definition.

Carapace length means a measurement in a straight line from the ridge between the two largest spines above the eyes, back to the rear edge of the carapace (see figure 1).

FIGURE 1. METHOD OF MEASURING CARAPACE LENGTH

Closed area means an area of the FCZ, that is closed to the harvest of spiny lobster.

Commercial fishing means fishing with the intent to sell all or part of the catch of spiny lobsters. All spiny lobster fishing in the Northwestern Hawaiian Islands (Permit Area 1) is considered commercial fishing.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line each point of which is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish;

(d) Any operations at sea in support of or in preparation for any activity described in paragraphs (a) through (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for fishing or for assisting or supporting a vessel engaged in fishing.

Interested parties means the State of Hawaii Department of Land and Natural Resources, the Western Pacific Fishery Management Council, holders of permits issued under this Part, and any person who has notified the Regional Director of his or her interest in the procedures and decisions described in §§ 681.27 and 681.28 and who has specifically requested to be considered an "interested party".

Kona crab means a crustacean of the species *Ranina ranina*.

Land or Landing means bringing fish to shore or off-loading fish from a fishing vessel.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

Management Area means the FCZ of the United States seaward of the Territory of American Samoa, the Territory of Guam, and the State of Hawaii.

NMFS means the National Marine Fisheries Service.

Official number means the documentation number issued by the Coast Guard or the number issued by a State or the Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by a person described in paragraph (a), (b), or (c) of this definition.

Permit Area 1 means the FCZ of the Hawaiian Islands Archipelago lying to the west of 161°0′W. longitude, commonly known as the Northwestern Hawaiian Islands.

Permit Area 2 means the FCZ of the Hawaiian Islands Archipelago lying to the east of 161°00′W. longitude, commonly known as the Main Hawaiian Islands; the FCZ of the Territory of Guam; and the FCZ of the Territory of American Samoa.

Person means any indivudual (whether or not a citizen or national of

the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Processing means changing the form of a product through such methods as freezing, cleaning, or removing tails. It does not include the boxing or packaging of a product.

Regional Director means Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, or a designee.

FIGURE 2. TAIL WIDTH

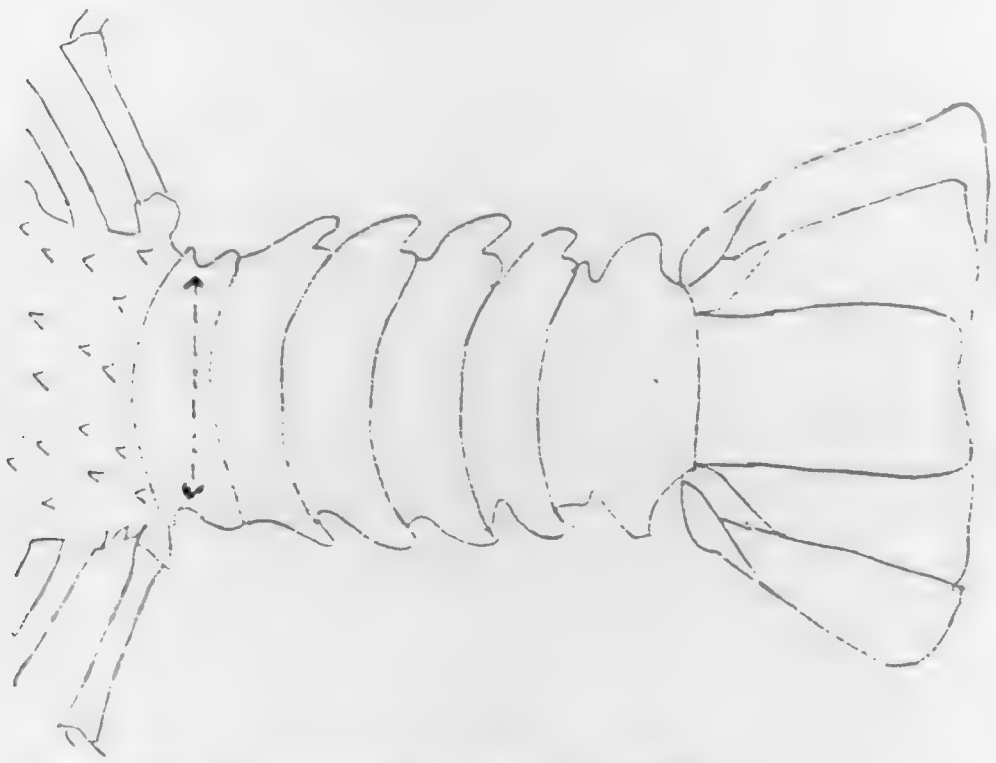

Secretary means the Secretary of Commerce or a designee.

Slipper lobster means any crustacean of the genus *Scyllaridae*.

Spiny lobster means either of the following two species of crustaceans:

Panulirus marginatus or *Panulirus penicillatus*.

State means the State of Hawaii, the Territory of American Samoa, and the Territory of Guam.

Tail width means the straight line distance between the lateral notches on the first tail segment (see Figure 2).

Trap means a box-like device used for catching and holding lobsters.

U.S.-harvested spiny lobster means spiny lobster caught, taken, or harvested by vessels of the United States within the Management Area.

Vessel of the United States, means:

(a) Any vessel documented or numbered by the Coast Guard under U.S. law; or

(b) Any vessel under five net tons registered under the laws of any State.

§ 681.3 Relation to State law.

Any State law which applies to vessels registered under the laws of that State and which is consistent with this part (including any State landing law) continues in effect with respect to fishing activities covered by this part.

§ 681.4 Permits.

(a) *General.* (1) Any vessel of the United States engaged in commercial fishing for spiny lobsters in the Management Area must have a permit issued under this section.

(2) Each permit is valid for fishing only in the area specified in the permit. Permit areas are defined in § 681.3.

(3) Only one permit issued under this part is valid for one vessel at any one time.

(4) The holder of a permit allowing a vessel to fish one area may obtain a permit for that vessel to fish another area upon surrendering to the Regional Director any current permit issued for that vessel under this part.

(b) *Applications.* (1) An application for a permit under this section must be submitted to the Regional Director by the vessel owner or operator at least 15 days before the date on which the applicant desires to have the permit made effective.

(2) Each application must be submitted on an appropriate form which may be obtained from the Regional Director. Each application must be signed by the vessel owner or operator and contain the following information:

(i) The applicant's name;

(ii) The owner's name, mailing address, and telephone number;

(iii) The operator's name, mailing address, and telephone number;

(iv) The name of the vessel;

(v) The vessel's official number;

(vi) The radio call sign of the vessel;

(vii) The home port of the vessel;

(viii) The engine horsepower of the vessel;

(ix) The type and quantity of lobster fishing gear used by the vessel;

(x) The processing capacity of the vessel;

(xi) The type and quantity of lobster fishing gear used by the vessel;

(xii) The permit area in which the applicant proposes to fish;

(xiii) Whether the application is for a new permit or a renewal; and

(xiv) The number and expiration date of any prior permit for the vessel issued under this part.

(c) *Fees.* No fee is required for a permit under this section.

(d) *Change in application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Regional Director ten days before the effective date of the change.

(e) *Issuance.* (1) Within 15 days after receipt of a properly completed application, the Regional Director will determine whether to issue a permit.

(2) If an incomplete or improperly completed permit application is filed, the Regional Director will notify the applicant in writing of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(f) *Expiration.* Permits issued under this section expire on the June 30 following the effective date of the permit.

(g) *Renewal.* An application for renewal of a permit must be submitted to the Regional Director in the same manner as described in paragraph (b) of this section.

(h) *Alteration.* Any permit that has been substantially altered, erased, or mutilated is invalid.

(i) *Replacement.* Permits may be issued to replace lost or mutilated

permits. An application for a replacement permit is not considered a new application.

(j) *Transfer.* Permits issued under this section are not transferable or assignable to other persons. A permit is valid only for the vessel for which it is issued.

(k) *Display.* Any permit issued under this section must be on board the vessel at all times while the vessel is fishing for spiny lobster in the FCZ. Any permit issued under this section must be displayed for inspection upon request of any Authorized Officer.

(l) *Sanctions.* 50 CFR 621.51—621.56 govern the imposition of sanctions against a permit issued under this part. As specified in those regulations, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Magnuson Act or this part; or if a civil penalty or criminal fine imposed under the Magnuson Act, and pertaining to such a vessel, is not paid.

§ 681.5 Recordkeeping and reporting.

(a) *Logbook.* The operator of any vessel engaged in commercial fishing for spiny lobster subject to this part shall:

(1) Maintain on board the fishing vessel, while fishing for spiny lobster, an accurate and complete NMS spiny lobster fishing logbook, recording all information specified in paragraph (b)(1), (2), and (3) of this section within 24 hours after the completion of the fishing day.

(2) Make the fishing logbook available for inspection by an Authorized Officer or any employee of NMFS designated by the Regional Director to make such an inspection; and

(3) Within 72 hours of each landing of spiny lobster, submit to the Regional Director a copy of the log sheet(s) for that fishing trip.

(b) *Fishing information.* Fishing logbooks must contain the following information for all spiny lobster taken under this part:

(1) Vessel information:

(i) Name of vessel;

(ii) Call sign of vessel;

(iii) Permit number of vessel;

(iv) Size of crew; and

(v) Number of traps.

(2) Fishing information:

(i) Location of lobster catch by statistical area as depicted in the NMFS spiny lobster fishing logbook;

(ii) Date and time of trap deployment, and number of traps deployed;

(iii) Date and time of trap retrieval and number of traps retrieved;

(iv) Number and species of legal spiny lobster per trap deployment;

(v) Number and species of sublegal lobsters per trap deployment;

(vi) Number and species of berried female spiny lobsters per trap deployment; and

(vii) Number of slipper lobsters and Kona crabs per trap deployment.

(3) Endangered species information:

(i) Whether monk seals or sea turtles are observed in the fishing area;

(ii) Whether monk seals or sea turtles are observed in the vicinity of the fishing gear;

(iii) Whether monk seals or sea turtles interfere with fishing operations;

(iv) Whether monk seals or sea turtles prey on released lobsters;

(v) Whether monk seals or sea turtles are entangled but released alive; and

(vi) Whether monk seals or sea turtles are entangled but released dead.

(4) Processing information:

(i) Weight of whole lobsters frozen at sea;

(ii) Weight of lobster tails frozen at sea;

(iii) Weight of whole lobsters to be frozen on land; and

(iv) Weight of lobster tails to be frozen on land.

(5) Sale information:

(i) Number, weight, and revenue from sale of live lobsters;

(ii) Number, weight, and revenue from sale of whole, frozen lobsters;

(iii) Number, weight, and revenue from sale of frozen tails;

(iv) Weight and revenue from sale of lobster byproducts.

(c) *Processor information.* Processors of lobster products harvests in the Management Area shall submit an annual report covering the period January 1 to December 31 to the Regional Director on a form which can be obtained from the Regional Director. This report is due by April 1 of the following year and must specify the following:

(1) Source (by FCZ surrounding each State) of lobsters processed;

(2) Poundage of lobsters processed by species;

(3) Number of individual lobsters processed by species;

(4) Method of processing;

(5) Form of final product; and

(6) Current actual lobster-processing capacity.

§ 681.6 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this part must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(b) *Numbers.* The official number must be affixed to each vessel subject to this part in block Arabic numerals at least 18 inches in height for fishing vessels of 65 feet in length or longer, and at least 10 inches in height for all other vessels. Markings must be legible and of a color that contrasts with the background.

(c) *Duties of operator.* The operator of each fishing vessel subject to this part shall:

(1) Keep the displayed official number clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

§ 681.7 Prohibitions.

(a) It is unlawful for any person to:

(1) Use any vessel to fish for spiny lobster in a permit area unless a permit has been issued for that vessel and area as specified in § 681.4, and that permit is aboard the vessel;

(2) Falsify or fail to make, keep, maintain, or submit any logbook or other record or report required by § 681.5;

(3) Fail to affix and maintain vessel markings, as required by § 681.6;

(4) Fail to comply immediately with enforcement and boarding procedures specified in § 681.8;

(5) Refuse to carry an observer when requested to do so by the Regional Director under § 681.10;

(6) Fail to provide the 48-hour notice required by § 681.10(b);

(7) Possess, have custody or control of, ship, transport, offer for sale, sell, import, export, or land any spiny lobster which was taken or retained in violation of the Magnuson Act, this part, or any regulation issued under the Magnuson Act;

(8) Refuse to allow an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(9) Forcibly assault, resist, oppose, impede, intimidate, or interfere with an Authorized Officer in the conduct of any search or inspection described in paragraph (a)(8) of this section;

(10) Resist a lawful arrest for any act prohibited by this part;

(11) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person by an Authorized Officer, knowing that such other person has committed any act prohibited by this part;

(12) Transfer directly or indirectly, or attempt to transfer, any U.S.-harvested spiny lobster to any foreign fishing vessel, while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under Section 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested spiny lobster; or

(13) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act,

(b) In Permit Area 1, in addition to the prohibitions in paragraph (a) of this section, It is unlawful for any person to:

(1) Fish for, take, or retain spiny lobsters:

(i) By methods other than lobster traps or by hand, as specified in § 681.24, or

(ii) From closed areas specified in § 681.23;

(2) Retain or possess on a fishing vessel any spiny lobster or tail which is less than the minimum size specified in § 681.21, except for the tail-width allowance of § 681.21(b);

(3) Possess on a fishing vessel any spiny lobster taken in Permit Area 1 in a condition such that neither its carapace length nor its tail width can be determined;

(4) Retain or possess on a fishing vessel, or remove the eggs from, any egg-bearing spiny lobster, as specified in § 681.22;

(5) Fail to report before landing, as specified in § 681.25; or

(6) Fail to comply with any protective measures promulgated under § 681.26 or § 681.27.

§ 681.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook, permit, and catch, for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The VHF–FM radiotelephone is the normal method of communicating between vessels. However, visual methods or laudhailer may be used if the radio does not work. The following signals, extracted from U.S. Hydrographic Office publication H.O. 102 International Code of Signals, may be communicated by flashing light or signal flags:

(1) "L" means "You should stop your vessel instantly;"

(2) "SQ3" means "You should stop or heave to; I am going to board you;"

(3) "AA AA AA etc." is the call to an unknown station or general call. The operator should respond by identifying his vessel by radio, visual signals, or by lighting his official number; and

(4) "RY–CY" means "You should proceed at slow speed. A boat is coming to you."

(c) *Boarding.* The operator of a vessel signaled to stop or heave to, for boarding shall:

(1) Stop the vessel immediately and lay to or maneuver in such a way as to allow the Authorized Officer and the boarding party to come aboard;

(2) Provide a ladder, illumination, and a safety line when necessary or requested by an Authorized Officer to facilitate boarding and inspection; and

(3) Take such other action as required to ensure the safety of the Authorized Officer and the boarding party and to facilitate the boarding.

§ 681.9 Penalties.

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty provisions, permit sanctions, and forfeiture provisions of the Magnuson Act, and to 50 CFR Parts 620 and 621, 15 CFR Part 904, and other applicable law.

§ 681.10 Observers.

(a) All fishing vessels subject to this part must carry an observer when requested to do so by the Regional Director.

(b) The operator of a fishing vessel subject to this part shall notify the Regional Director of his departure 48 hours before leaving port to fish for spiny lobster in the Management Area. The operator shall provide this notice by contacting NMFS, Western Pacific Program Office, telephone (808) 955–8831, 2570 Dole Street, Honolulu, Hawaii.

Subpart B—Management Measures for Permit Area 1 (the Northwestern Hawaiian Islands)

§ 681.20 General.

The management measures specified in this subpart govern fishing for spiny lobster in the FCZ seaward of the Northwestern Hawaiian Islands (Permit Area 1).

§ 681.21 Size restrictions.

(a) *Whole lobsters.* Only spiny lobsters with a carapace length of 7.7 cm or greater may be retained.

(b) *Lobster tails.* If the carapace length cannot be determined, only lobsters with tails at least 5.0 cm wide may be retained, except for an allowance of up to 15 percent by number of the total catch per trip, which may have tail widths greater than or equal to 4.5 and less than 5.0 cm.

§ 681.22 Reproductive condition restrictions.

A female spiny lobster of any size may not be retained if it is carrying eggs externally. Eggs may not be removed from female spiny lobsters.

§ 681.23 Closed areas (refugia).

(a) Spiny lobster fishing is not allowed within 20 nautical miles of Laysan Island.

(b) Spiny lobster fishing is not allowed within the FCZ landward of the 10 fathom curve as depicted on National Ocean Survey Charts, Numbers 19022, 19019, and 19016.

§ 681.24 Gear restrictions.

(a) Spiny lobsters may be taken only with lobster traps or by hand. Lobsters may not be taken by means of poisons, drugs, other chemicals, spears, nets, hook, or explosives.

(b) An entryway in a spiny lobster trap may measure no greater than 10½ inches in its greatest diagonal or diameter at the larger end, and no greater than 6½ inches in its greatest diagonal or diameter at the smaller end.

§ 681.25 Landing requirements.

The operator of a fishing vessel that has taken spiny lobsters in the FCZ off the Northwestern Hawaiian Islands shall contact the U.S. Coast Guard, by radio or otherwise, at the 14th District, Honolulu, Hawaii (Telex: 392401); Pacific Area, San Francisco, California (Telex: 330427); or 17th District, Juneau, Alaska (Telex: 45305), at least 24 Hours before landings, and report the port, the approximate date, and time at which the lobsters will be landed.

§ 681.26 Experimental fishing.

(a) *General.* The Secretary may authorize experimental fishing for spiny lobster which would otherwise be prohibited by this part. No experimental fishing may be conducted unless an NMFS scientific observer is aboard the vessel.

(b) *Council review.* Before authorizing experimental fishing, the Secretary will submit to the Western Pacific Fishery Management Council a Copy of the Plan under which the experimental fishing will be conducted, and request the Council's comments.

(c) *Implementation.* After authorization by the Secretary, as demonstrated by the placement of an

NMFS scientific observer on a vessel, the vessel may fish in accordance with the plan described in paragraph (b) of this section

§ 681.27 Monk seal protective measures.

(a) *General.* This section establishes a procedure which will be followed if the Regional Director receives a report of a monk seal death that appears to be related to the spiny lobster fishery in Permit Area 1.

(b) *Notification.* Upon receipt of a report of a monk seal death that appears to be related to the spiny lobster fishery, the Regional Director will notify all interested parties of the facts known about the incident. He will also notify them that an investigation is in progress, and that, if the investigation reveals a threat of harm to the monk seal population, protective measures may be implemented.

(c) *Investigation.* The Regional Director will investigate the incident reported and will attempt:

(1) To verify that the incident occurred;

(2) To determine the extent of the harm to the monk seal population;

(3) To determine the probability of a similar incident recurring;

(4) To determine details of the incident such as:

(i) The number of animals involved,

(ii) The cause of the mortality,

(iii) The age and sex of the dead animals,

(iv) The relationship of the incident to the reproductive cycle, for example, breeding season (March-September), non-breeding season (October-February),

(v) The population estimates or counts of animals at the island where the incident occurred, and

(vi) Any other relevant information;

(5) To discover and evaluate any extenuating circumstances; and

(6) To evaluate any other relevant factors.

The Regional Director will make the results of his investigation available to the interested parties and request their advice and comments.

(d) *Determination of relationship.* The Regional Director will review and evaluate the results of the investigation and any comments received from interested parties. If there is substantial evidence that the death of the monk seal was related to the spiny lobster fishery, the Regional Director will:

(1) Advise the interested parties of his conclusion and the facts upon which it is based; and

(2) Request from the interested parties their advice on the necessity of protective measures and suggestions of appropriate protective measures.

(e) *Determination of response.* The Regional Director will consider all relevant information discovered during the investigation or submitted by interested parties in deciding on the appropriate response. Protective measures may include, but are not limited to, changes in trap design, changes in gear, closures of specific areas, or closures for specific periods of time.

(f) *Action by the Regional Director.* If the Regional Director decides that protective measures are necessary and appropriate, the Regional Director will:

(1) Prepare a document which describes the incident, the protective measures proposed, and the reasons for the protective measures;

(2) Provide it to the interested parties; and

(3) Request their comments.

(g) *Implementation.* (1) If, after completing the steps described in paragraph (f) of this section, the Regional Director still thinks that protective measures are necessary and appropriate, he will recommend the protective measures to the Administrator and provide notice of this recommendation to the Chairman of the Western Pacific Fishery Management Council and the Director of the Division of Aquatic Resources, Department of Land and Natural Resources, State of Hawaii.

(2) If the Administrator concurs with the Regional Director's recommendation, a notice will be published in the **Federal Register** which includes:

(i) The protective measures;

(ii) The reasons for the protective measures; and

(iii) A description of the incident that triggered the procedure described in this section.

(h) *Notification of "no action".* If at any point in the process described in this section, the Regional Director or Administrator decides that no further action is required, the interested parties will be notified of this decision.

(i) *Effective dates.* (1) The protective measures will take effect 10 days after the date of publication in the **Federal Register**.

(2) The protective measures will remain in effect for the shortest of the following time periods:

(i) Until the FMP and this section are amended to respond to the problem;

(ii) Until other action that will respond to the problem is taken under the Endangered Species Act;

(iii) Until the Administrator, following the procedures set forth in paragraph (j) of this section, decides that the protective measures are no longer required and repeals the measures; or

(iv) For the period of time set forth in the **Federal Register** notice, not to exceed three months. The measures may be renewed for three months after again following procedures in paragraphs (b) through (g) of this section.

(j) *Repeal.* (1) If the Administrator decides that protective measures may no longer be necessary for the protection of the monk seals, the interested parties will be notified of this preliminary decision and the facts upon which it is based. The Administrator will request advice on the proposed repeal of the protective measures.

(2) The Administrator will consider all relevant information obtained by the Regional Director or submitted by interested parties in deciding whether to repeal the protective measures.

(3) If the Administrator decides to repeal the protective measures:

(i) Interested parties will be notified of the decision, and

(ii) The notice of repeal and the reasons for the repeal will be published in the **Federal Register**.

§ 681.28 Monk seal emergency protective measures.

(a) *Determination of emergency.* If at any time during the process described in § 681.27 the Regional Director determines that an emergency exists involving monk seal mortality related to the spiny lobster fishery and that measures are needed immediately to protect the monk seal population, he will:

(1) Notify the interested parties of this determination and request their immediate advice and comments; and

(2) Forward a recommendation for emergency action and any advice and comments received from interested parties to the Administrator.

(b) *Implementation of emergency provisions.* If the Administrator agrees with the recommendation for emergency action:

(1) He will determine the appropriate emergency protective measures;

(2) A notice of the emergency protective measures will be published in the **Federal Register**; and

(3) He will notify the interested parties of the emergency protective measures. Holders of permits to fish in Permit Area I will be notified by certified mail. Permit holders that the Regional Director knows are on the fishing grounds also will be notified by radio.

(c) *Effective dates.* (1) Emergency protective measures are effective against a fisherman at 12:01 a.m. local

time of the day following the day the fisherman receives actual notice of the measures.

(2) Emergency protective measures are effective for 10 days from the day following the day the first permit holder is notified of the protective measures.

(3) Emergency protective measures may be extended for an additional 10 days if necessary to allow the completion of the procedures set out in § 681.27.

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Proposed Rules

Federal Register
Vol. 48, No. 26
Monday, February 7, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL SERVICE IMPASSES PANEL

5 CFR Parts 2470 and 2471

Procedures of the Panel

AGENCY: Federal Service Impasses Panel.

ACTION: Proposed rule.

SUMMARY: The Federal Service Impasses Panel (Panel) is proposing amendments to Parts 2470 and 2471 of Title 5 of the Code of Federal Regulations, §§ 2470.2, 2471.5, 2471.8, 2471.10, and 2471.11. The proposed amendments are designed to (1) clarify requirements concerning copies of documents to be submitted to the Panel and service of such documents, (2) delete current unnecessary provisions concerning transcripts of hearings and compliance with Panel decisions, and (3) redefine the term "quorum."

DATES: Written comments will be considered if received by March 10, 1983.

ADDRESS: Comments should be mailed to Howard W. Solomon, Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424.

FOR FURTHER INFORMATION CONTACT: Linda A. Lafferty, Deputy Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424, (202) 382–0981

SUPPLEMENTARY INFORMATION: In response to numerous problems which have arisen with respect to both the submission of the requisite number of copies of documents to the Panel and the service of those documents, the Panel is proposing to amend its regulations to require: (1) The submission of an original (or clean copy capable of further reproduction) and one copy of all requests, responses, and other documents filed with the Panel; and (2) service of such documents on all appropriate parties and persons. Moreover, all documents must be accompanied by a signed and dated statement of service which includes: (1) The names of the parties and persons served, (2) the addresses of such parties and persons, (3) the date of service and nature of the document served, and (4) the manner in which such service was made. With respect to the latter point, the proposed amendment specifies that the date of service shall be the day when the document is deposited in the U.S. mail or its delivered in person. Consistent with recommendations made by the Judicial Conference's Court Administration Committee, the proposed amendment specifies that all documents shall be submitted on 8½ x 11 inch paper. The Panel's current regulations concerning copies and service are found in Part 2471 of Title 5 of the Code of Federal Regulations, §§ 2471.5, 2471.8(a)(4), 2471.10(c), and 2471.11(f). The proposed amendment replaces § 2471.5 in its entirety and deletes the other provisions.

Section 2471.8(c) of the Panel's current regulations provides that an official reporter shall make an official transcript of Panel hearings. In view of the Panel's budgetary constraints and the fact that the transcription of Panel hearings is not required by Title VII of the Civil Service Reform Act of 1978, 5 U.S.C. Chapter 71, the Panel proposes to delete the regulatory requirement. In addition, the Panel proposes to amend § 2471.7(b) to include a provision for notifying the parties to a hearing of the method, if any, by which the hearing shall be recorded.

Section 2471.11(e) of the Panel's current regulations requires parties to submit evidence of compliance with Panel decisions. Inasmuch as the Panel lacks enforcement authority with respect to its decisions, this provision may be misleading. Accordingly, it is proposed to delete the requirement.

Finally, the Panel proposes to amend the definition of "quorum" contained in Part 2470, § 2470.2(h) to clarify that a quorum of the Panel consists of a majority of its members.

List of Subjects in 5 CFR Parts 2470 and 2471

Administrative practice and procedure.

It is proposed to amend Parts 2470 and 2471 as follows:

PART 2470—GENERAL

1. It is proposed to amend § 2470.2 by revising paragraph (h) to read as follows:

§ 2470.2 Definitions.

* * * * *

(h) The term "quorum" means a majority of the members of the Panel.

* * * * *

PART 2471—PROCEDURES OF THE PANEL

2. It is proposed to revise § 2471.5 to read as follows:

§ 2471.5 Copies and service.

(a) Any party submitting a request for Panel consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Panel and shall serve a copy of such request upon all counsel of record or other designated representative(s) of parties, upon parties not so represented, and upon any mediation service which may have been utilized. When the Panel acts on a request from the Federal Mediation and Conciliation Service or acts on a request from the Executive Director, it will notify the parties to the dispute, their counsel of record or designated representatives, if any, and any mediation service which may have been utilized. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(b) Any party submitting a response to or other document in connection with a request for Panel consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Panel and shall serve a copy of the document upon all counsel of record or other designated representative(s) of parties, or upon parties not so represented. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original. Service upon such counsel or representative shall constitute service

upon the party, but a copy also shall be transmitted to the party.

(c) A signed and dated statement of service shall accompany each document submitted to the Panel. The statement of service shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail or is delivered in person.

(e) Unless otherwise provided by the Panel or its designated representatives, any document or paper filed with the Panel under these rules, together with any enclosure filed therewith, shall be submitted on 8½x11 inch size paper.

3. It is proposed to amend § 2471.7 by revising paragraph (b) to read as follows:

§ 2471.7 Preliminary hearing procedures.

* * * * *

(b) Issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state (1) the names of the parties to the dispute; (2) the date, time, place, type, and purpose of the hearing; (3) the date, time, place, and purpose of the prehearing conference, if any; (4) the name of the designated representatives appointed by the Panel; (5) the issues to be resolved; and (6) the method, if any, by which the hearing shall be recorded.

* * * * *

4. It is proposed to amend § 2471.8 by revising paragraph (a)(4) to read as follows and removing paragraph (c) in its entirety.

§ 2471.8 Conduct of hearing and prehearing conference.

* * * * *

(a) * * *

(4) Designate the date on which posthearing briefs, if any, shall be submitted.

* * * * *

§ 2471.10 [Amended]

5. It is proposed to amend § 2471.10 by removing paragraph (c) in its entirety.

§ 2471.11 [Amended]

6. It is proposed to amend § 2471.11 by removing paragraphs (e) and (f) in their entirety.

Note.—In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Federal Service Impasses Panel has determined that these proposed amendments do not require preparation of a regulatory flexibility analysis.

(5 U.S.C. 7119, 7134)

Dated: February 1, 1983.

Robert G. Howlett,

Chairman, Federal Service Impasses Panel.

[FR Doc. 83-3219 Filed 2-4-83; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Administrative Rules and Regulations Governing Almond Butter and Crediting for Marketing Promotion

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given of a proposal to change the almond butter and creditable marketing promotion provisions of the administrative rules and regulations established under the Federal marketing order for California almonds. The change would (1) Liberalize the definition of "almond butter" as it applies to the disposition of reserve almonds, and (2) require handlers who wish to receive credit against their assessment obligations for the distribution of sample packages of almonds to obtain approval from the Almond Board of California prior to such distribution.

DATE: Comments must be received by February 22, 1983.

ADDRESS: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 29 handlers.

J. S. Miller has determined that this proposal should be published with less than a 60-day comment period. The proposed change in the definition of "almond butter" would relax restrictions on handlers, and handlers should have the opportunity to utilize that increased flexibility as soon as possible.

The proposed change in the creditable marketing promotion provisions is designed to prevent handlers from inadvertently distributing sample packages to market segments where credit is not allowed under the present regulations. The Almond Board of California should have the opportunity to implement this safeguard as soon as possible.

This proposal would revise §§ 981.466 and 981.441(d)(1)(i)(D) of Subpart—Administrative Rules and Regulations (7 CFR Part 981.401-981.474; 47 FR 25001; 40783). This subpart is issued under the marketing agreement and Order No. 981 (7 CFR Part 981), both as amended, regulating the handling of almonds grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal is based on two unanimous recommendations of the Almond Board of California, hereinafter referred to as the "Board," which works with USDA in administering the order.

Section 981.466 stipulates the specifications for almond butter as used in § 981.66(c) as an outlet for the disposition of reserve almonds. Section 981.466 currently defines "almond butter" as a "comminuted food product prepared by grinding shelled almonds into a homogeneous plastic or semiplastic mass or liquid having very few particles larger than $\frac{1}{16}$ inch in any dimension."

Recently, the Board launched a new program to use reserve almonds to expand the almond butter market. The Board hopes to expand almond butter consumption to absorb a large quantity of almonds in the face of anticipated larger crops. To meet this goal, new almond butter products must be developed which can compete with peanut butter. Thus, the Board recommends two additions to the current definition of "almond butter" to encourage the development of such new products.

First, it is proposed to add the words "or blanched" after the word "shelled" to allow for an almond butter made from blanched almonds. Recent research has shown that unflavored, blanched, roasted almond butter is preferred over almond butter made from other almond forms. While "blanched almonds" may be construed to be a type of "shelled almonds," the industry defines

"blanched almonds" and "shelled almonds" as two distinct products. Thus, the additional language should be added for clarification.

Secondly, it is proposed to provide for a chunky style almond butter containing almond chunks or pieces up to a maximum of 25 percent by weight of the finished product. The size of the individual almond pieces used to make this chunky style almond butter could not exceed 7/16 inch in any dimension. While the current definition allows for a chunky style almond butter "having very few particles larger than 7/16 inch in any dimension," the Board believes that this definition is too strict in light of current standards for chunky style peanut butter. The proposed change would encourage the development of chunky style almond butter products which can compete with chunky style peanut butter.

Section 981.441(d)(1)(i) stipulates the conditions under which handlers may receive credit against their pro rata expense assessment obligations for the distribution of sample packages containing one-half ounce or less of almonds to charitable or educational outlets. Section 981.441(d)(1)(i)(D) specifies that credit shall not be granted for sample packages distributed to market segments where almonds are already being sold, and that "handlers should obtain approval from the Board prior to distribution to ensure that this condition is met."

It is proposed to revise § 98.1441(d)(1)(i)(D) by changing "should" to "shall," thereby making Board approval a mandatory requirement. This change is intended to prevent handlers from knowingly distributing sample packages to market segments where almonds are already being sold and which are, therefore, ineligible for credit.

List of Subjects in 7 CFR Part 981
Marketing agreements and orders, Almonds, California

PART 981—[AMENDED]

Therefore, it is proposed to revise §§ 981.466 and 981.441(d)(1)(i)(D) of Subpart—Administrative Rules and Regulations as follows:

1. As revised, § 981.446 should read as follows:

§ 981.466 Almond butter.

Almond butter as used in § 981.66(c) is hereby defined as a comminuted food product prepared by grinding shelled or blanched almonds into a homogeneous plastic or semiplastic mass or liquid having very few particles larger than 1/16 inch in any dimension. To produce chunky style almond butter, almond chunks or pieces may be added up to a maximum of 25 percent by weight of the finished product. The size of the almond pieces used to make chunky style almond butter may not exceed 7/16 inch in any dimension.

2. As revised, § 981.441(d)(1)(i)(D) should read as follows:

§ 981.441 Crediting for marketing promotion including paid advertising.

* * * * *

(d) * * *
(1) * * *
(i) * * *

(D) No credit shall be granted for sample packages distributed to market segments where almonds are already being sold. Handlers shall obtain approval from the Board prior to distribution to ensure that this condition is met.

* * * * *

Dated: February 2, 1983.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83-3225 Filed 2-4-83; 8:45 am]
BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 250

[Docket No. R-0453]

Miscellaneous Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking.

SUMMARY: The Board is proposing to clarify the meaning of the seventh paragraph of section 13 of the Federal Reserve Act as amended by the Bank Export Services Act (Title II of Pub. L. 97-290).

DATE: Comments must be received by March 18, 1983.

ADDRESS: Interested parties are invited to submit written data, views, or arguments concerning the proposed rule to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or such comments may be delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Robert G. Ballen, Attorney (202/452-3285), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 207 of the Bank Export Services Act (Title II of Pub. L. 97-290) ("BESA") provides that a member bank or a Federal or State branch or agency in the United States whose parent foreign bank has, or is controlled by a foreign company or companies that have, more than $1 billion in total worldwide consolidated bank assets, may accept drafts or bills of exchange drawn upon it of the type described in that section in the aggregate up to 150 per cent of its paid up and unimpaired capital stock and surplus and, with the permission of the Board, up to 200 per cent of its paid up and unimpaired capital stock and surplus (12 U.S.C. 372).

The Board is proposing to clarify the meaning of the seventh paragraph of section 13 of the Federal Reserve Act, as amended by the BESA. This clarification would cover the treatment of (1) participations in BAs that are issued by institutions subject to the limitations of the BESA and sold to institutions not subject to such limitations, (2) participations in BAs that are issued by institutions not subject to the limitations of the BESA and sold to institutions subject to such limitations, (3) the limitation on BAs growing out of domestic transactions, and (4) the dollar equivalent of the paid up capital and surplus of the foreign bank parent of U.S. branches and agencies subject to the limitations of the BESA.

The impact of this proposal on small entities has been considered in accordance with section 603 of the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. § 603). The Board's proposal will assist in assuring that small member banks that are covered by the limitations on the amount of acceptances they may issue will be able to take advantage of the increased limits of the BESA. Further, small nonmember banks should not be affected by the proposal since they typically do not issue bankers' acceptances. No new recordkeeping or reporting requirements will be imposed as a result of this action.

List of Subjects in 12 CFR Part 250

Federal Reserve System.

PART 250—[AMENDED]

Pursuant to its authority under the seventh paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 372), the

Board of Governors proposes to amend 12 CFR Part 250—Miscellaneous Intrepretations, by adding a new § 250.164 to read as follows:

§ 250.164 Bankers' acceptances.

(a) Section 207 of the Bank Export Services Act (Title II of Pub. L. 97–290) ("BESA") raised the limits on the aggregate amount of eligible bankers' acceptances ("BAS") that may be issued by an individual member bank from 50 per cent (or 100 per cent with the permission of the Board) of its paid up and unimpaired capital stock and surplus ("capital") to 150 per cent (or 200 per cent with the permission of the Board) of its capital. This section of the BESA applies the same limits applicable to member banks to U.S. branches and agencies of foreign banks that are subject to reserve requirements under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105). The Board is issuing this rule as to the proper meaning of the seventh paragraph of section 13 of the Federal Reserve Act, as amended by the BESA.

(b)(1) This section of the BESA provides that any portion of an eligible BA that is issued by an institution subject to the BA limitations contained therein ("covered bank") shall not be included in the calculation of the issuer's limits if it is sold through a participation agreement to another covered bank. The participation is to be applied to the limitations applicable to the covered bank purchasing the participation. Although a covered bank that has reached its 150 or 200 per cent limit can continue to create eligible acceptances by selling participations to other covered banks, Congress has in effect imposed an aggregate limit on the eligible acceptances that may be issued by *all* covered banks equal to the sum of 150 or 200 per cent of the capital of all covered banks.

(2) The Board has clarified that under the statute an eligible BA issued by a covered bank that is sold through a participation agreement to an institution that is *not* subject to the limitations of this section of the BESA continues to be included in the limitations applicable to the issuing covered bank. However, given that Edge Corporations, like covered banks, are subject to separate per customer and aggregate BA limits imposed by Federal statute or regulation, a participation in an eligible BA issued by a covered institution that is sold to an Edge Corporation should be included in the limits applicable to the Edge Corporation and not included in the limits applicable to the creating covered bank. This will ensure that the total amount of eligible BAs that may be issued by covered banks does not exceed the 150 or 200 per cent of capital limitations established by Congress. In addition, this ensures that participations in acceptances are not used as a device for the avoidance of reserve requirements.

(3) In addition, a participation purchased by a covered bank from an institution not covered by the limitations of the Act is to be included in the limitations applicable to the purchasing covered bank. Subjecting participations in acceptances issued by institutions not covered by the Act that are purchased by a covered bank to the purchasing covered bank's acceptance limitations is based upon the language of the statute which includes within the institution's limits on eligible bankers' acceptances outstanding, the amount of participations purchased by the institution, This provision reflects Congressional intent that a covered bank not be obligated on eligible bankers' acceptances, and participations therein, for an amount in excess of 150 or 200 per cent of the institution's capital.

(c) The statute also provides that eligible acceptances growing out of domestic transactions are not to exceed 50 per cent of the aggregate of all acceptances authorized for covered banks. The Board has clarified that this 50 per cent limitation is applicable to the maximum permissible amount of eligible BAs (150 or 200 per cent of capital), regardless of the bank's amount of eligible acceptances outstanding. The statutory language prior to the BESA amendment made clear that covered banks could issue eligible acceptances growing out of domestic transactions up to 50 per cent of the amount of the total permissible eligible acceptances the bank could issue. The legislative history of the BESA indicates no intent to change this domestic acceptance limitation.

(d) The statute also provides that for the purpose of the limitations that apply to U.S. branches and agencies of foreign banks, a branch's or agency's capital is to be calculated as the dollar equivalent of the capital stock and surplus of the parent foreign bank as determined by the Board. The Board has clarified that for purposes of calculating the BA limits applicable to U.S. branches and agencies of foreign banks, the identity of the parent foreign bank is the same as for reserve requirement purposes. Accordingly, the parent of a U.S. branch or agency would be the bank entity that owns the branch or agency most directly. The Board has also clarified that the procedures currently used for purposes of reporting to the Board on the Annual Report of Foreign Banking Organizations, Form F.R. Y–7, are also to be used in the calculation of the acceptance limits applicable to U.S. branches and agencies of foreign banks. The F.R. Y–7 generally requires financial statements prepared in accordance with local accounting practices and an explanation of the accounting terminology and the major features of the accounting standard used in the preparation of the finacial statements. Conversions to the dollar equivalent of the worldwide capital of the foreign bank should be made periodically. In this regard, the Board notes the need to be flexible in dealing with the effect of foreign exchange rate fluctuations on the calculation of the worldwide capital of the parent foreign bank. The Board believes that these procedures should minimize reporting and calculation burdens for U.S. branches and agencies of foreign banks that are subject to the limitations of this section of the BESA.

By order of the Board of Governors, February 1, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–3211 Filed 2–4–83; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

(Airspace Docket No. 83–ASW–33)

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Designation of Transition Area and Alteration of Control Zone: Wink, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to designate a transition area and alter the control zone at Wink, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAP's) to the Winkler County Airport. This action is necessary since a review of the designated airspace revealed that no 700-foot transition area existed and the control zone is improperly described and inadequate for the protection of aircraft.

DATE: Comments must be received on or before March 7, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 and F 71.171 as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas and control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the transition area and alteration of the control zone at Wink, TX, will necessitate an amendment to this subpart. This amendment will be required at Wink, TX, since a review of the designated airspace revealed the required 700-foot transition area was not designated and the current control zone is inadequate for departing the Winkler County Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–ASW–3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones Transition areas, Aviation safety.

PART 71—[AMENDED]

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.181 [Amended]

Wink, TX [New]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Winkler County Airport (latitude 31°46′45″N., longitude 103°12′15″W.)

§ 71.171 [Amended]

Wink, TX [Revised]

Within a 5-mile radius or the Winkler County Airport (latitude 31°46′45″N., longitude 103°12′15″W.). This control zone is effective during the specific dated and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c).)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Act.

Issued in Fort Worth, TX, on January 24, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83–3121 Filed 2–4–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–AWA–1]

Proposed Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke certain alternate VOR Federal Airways and renumber other alternate airway segments in the southwest part of the U.S. This action would eliminate the assignment of alternate airway segments for the affected airways and support our commitment to the International Civil Aviation Organization (ICAO) to phase out alternate airway descriptions from the National Airspace System.

DATE: Comments must be received on or before March 24, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Manager, Air Traffic Division, Docket No. 83–AWA–1, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Bill Hill, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AWA–1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to: (1) Revoke V–81W between Amarillo TX, and Dalhart, TX; (2) revoke V–140N between Amarillo, TX, and Sayre, OK; (3) extend V–440 from Sayre, OK, to Amarillo, TX, and (4) revoke V–280S between Amarillo, TX, and Texico, NM. This action will reduce chart clutter by eliminating airway segments that are no longer needed for flight planning or for air traffic control and also support our commitment to ICAO to phase out alternate airway descriptions in the North American Airway System. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Federal airways, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.23 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

§ 71.123 [Amended]

V–81 [Amended]

By deleting the words "including a west alternate via INT Amarillo 301° and Dalhart 157° radials;"

V–140 [Amended]

By deleting the words "via Sayre, OK, including a N alternate via INT Amarillo 072° and Sayre 288° radials;" and substituting for them the words "via Sayre, OK;"

V–440 [Amended]

By deleting the words "From Sayre, OK, via" and substituting for them the words "From Amarillo, TX, via INT Amarillo 072°T(061°M) and Sayre, OK, 288°T(278°M); Sayre;"

V–280 [Amended]

By deleting the words "INT Texico 021° and Amarillo, TX, 252° radials; Amarillo, including a south alternate from Texico to Amarillo via INT Texico 044° and Amarillo 252° radials;" and substituting for them the words "INT Texico 044°T(033°M) and Amarillo, TX, 252°T(241°M) radials; Amarillo;"

(Secs. 307 (a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

NOTE.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 31, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83–3119 Filed 2–4–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–AWA–2]

Proposed Alteration of the Santa Barbara, CA, and Control 1176 Additional Control Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking

SUMMARY: This notice proposes to lower the floor of a portion of the Santa Barbara, CA, and Control 1176 Additional Control Areas to provide additional controlled airspace needed to improve air traffic control services to offshore helicopter operations. This action would also correct an error in the description of the Santa Barbara, CA, Additional Control Area.

DATES: Comments must be recieved on or before March 24, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 83–AWA–2, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket in located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–8777.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis

supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AWA–2." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.163 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to lower the floor of the Santa Barbara, CA, and Control 1176 Additional Control Areas. This action woud designate additional controlled airspace east of the Pacific Coastal Air Defense Identification Zone (ADIZ) from the southern boundary of Control 1155 to the southern Boundary of Control 1176, an area generally west of Vandenburg AFB, CA. Currently, the floor of this airspace is 2,000 feet MSL and this action would designate the floor at 1,200 feet MSL. The floor of a major portion of this airspace was recently lowered from 5,000 feet MSL to 2,000 feet MSL (see Airspace Docket 82–AWP–3 published in the **Federal Register** on December 30, 1982 (47 FR 58234)). Comments received in reference to the previous action indicate a need for the floor of that airspace, plus the additional area described herein, to be established at 1,200 feet MSL to facilitate provision of more efficient and additional air traffic control services to an increasing number of helicopter opertions incidental to offshore oil company activity.

This proposed action would permit the provision of radar air traffic control services at lower altitudes for which the FAA has the capability, but cannot provide under the current airspace configuration. This action would also correct an erroneous geographic position coordinate within the description of the Santa Barbara, CA, Additional Control Area. Section 71.163 of Part 71 of the Federal Aviation regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices. Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and sevices necessary to promoting the safe, orderly, and expeditious flow of civil air traffic, Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdictioin of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Prectices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects 14 CFR Part 71

Additional control areas, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

§ 71.163 [Amended]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Santa Barbara, CA [Amended]

By deleting under the Pending Amendment the words "except, that airspace extending upward from 2,000 feet MSL" and substituting in their place the words "and that airspace extending upward from 1,200 feet MSL" and by deleting the words "lat. 34°19'00"N., long. 120°45'00"W.;" and substituting in their place the words "lat. 34°19'36"N., long. 120°45'34"W.;"

Control 1176 [Amended]

By adding the words "and that airspace extending upward from 1,200 feet MSL bounded by a line beginning at lat. 34°24'00"N., long. 120°30'00"W.; to lat. 34°06'45"N., long. 120°30'00"W.; to lat. 34°03'59"N., long. 120°33'09"W.; to lat. 34°19'36"N., long. 120°45'34"W.; to point of beginning."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); E.O. 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 1, 1983.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-3117 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 467

[OW-FRL 2300-5]

Aluminum Forming Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On November 22, 1982, EPA proposed a regulation under the Clean Water Act to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in aluminum forming operations (47 FR 52626). EPA is extending the period for comment on the proposed regulation from January 18, 1983 to February 8, 1983. The Agency has been asked by several members of the aluminum forming industry to extend the comment period to allow additional time to submit cost data supporting comments on the potential economic impact of the regulation.

DATE: Comments on the proposed regulation for the aluminum forming category (47 FR 52626) must be submitted to EPA by February 8, 1983.

ADDRESSES: Send comments to Ms. Janet K. Goodwin, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: Docket Clerk, Proposed Aluminum Forming. The supporting information and all comments on this proposal are available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213. The comments will be added to the record as they are received. The EPA Information Regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall, (202) 382-7126.

SUPPLEMENTARY INFORMATION: On November 22, 1982, EPA proposed a regulation to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in aluminum forming operations (47 FR 52626). The November 22, 1982 notice stated that all comments on the proposal were to be submitted on or before January 18, 1983.

The Agency has been asked by several members of the aluminum forming industry to extend the comment period to allow additional time to submit cost data supporting comments on the potential economic impact of the regulation. As industry pointed out, some of the data used by the Agency to assess economic impacts were not available to the public until several weeks after proposal, thus delaying their review of the potential impacts. For this reason, and because the Agency specifically requested comment on the potential economic impact of this regulation, the Agency has determined that it is necessary to extend the comment period until February 8, 1983.

The Agency has already received a substantial number of comments on the proposed regulation. During the extended comment period, the Agency will review and consider these comments. However, members of the public may submit additional comments and supporting data on all aspects of the proposed regulation by February 8, 1983. The Agency will give equal consideration to all material submitted by February 8, 1983.

Dated: January 28, 1983.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 83-3056 Filed 2-4-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 157

[CGD 77-084]

Licensing of Pilots; Manning of Vessels—Pilots

Correction

In FR Doc. 83-1876, beginning on page 3912 in the issue of Thursday, January 27, 1983, make the following corrections.

1. On page 3915, first column, twelfth line, "TSCA" should read "TSAC".

2. On page 3917, first column, eleventh line from the top of the page in § 10.07-3(b), "constructions" should read " "constrictions". In the same column, second line from the bottom of § 10.07-5(a)(3), "proceeding" should read "preceding".

3. On page 3917, second column, first line of § 10.07-7(a)(1)(i), "COLREGE" should read "COLREGS".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 656

[Docket No. 30128-19]

Foreign Fishing; Atlantic Mackerel Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed allocation of reserve.

SUMMARY: NOAA proposes to allocate 5,000 metric tons (mt) of Atlantic mackerel to foreign fishermen from the 6,000 mt reserve. The remaining 1,000 mt will be retained in reserve for domestic harvest. This proposal is made according to procedures established in the Fishery Management Plan for the Atlantic Mackerel Fishery. The intended effect of this 5,000 mt allocation is to achieve optimum yield for this fishery through incentives to foreign fishermen to encourage development of joint ventures off the east coast of the United States.

DATE: Comments must be submitted in writing on or before February 22, 1983.

ADDRESS: Comments should be sent to the National Marine Fisheries Service, Management Division, State Fish Pier, Gloucester, Massachusetts, 01930-3097. Mark "Comments on mackerel allocation" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT Salvatore A. Testaverde, 617-281-3600.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Mackerel Fishery, as amended, established a reserve of 6,000 mt (45 FR 45291, July 3, 1980); regulations provide for the allocation of all, part, or none of the reserve to the total allowable level of foreign fishing (TALFF) (45 FR 77446, November 24, 1980). Sections 611.52(a) and 656.22(a) of the regulations direct the Regional Director of the Northeast Region, National Marine Fisheries Service, to project the total domestic harvest for the entire fishing year, April 1 through March 31, and based on this

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projection, to allocate from reserve to TALFF.

The reported domestic commercial catch of Atlantic mackerel from April 1 through September 30, 1982, 1,363 mt, was utilized as specified in § 656.22(a) to project the total catch for the entire fishing year. The reported domestic commercial catch from April 1 through December 31, 1982 was 1,556 mt. The Regional Director has estimated that the U.S. landings for the fishing year (including the 1,556 mt and an estimated recreational mackerel catch of 4,000 mt) would total between 6,000 mt and 7,000 mt, which is less than the 20,000 mt for domestic annual harvest provided in the regulations.

NOAA recently approved a joint venture and presently is considering another joint venture application for domestic harvested Atlantic mackerel. These two joint ventures potentially could raise the U.S. harvest to a total of 21,000 mt. The foreign nation involved in the approved joint venture, in addition to receiving the domestically harvested Atlantic mackerel, would be authorized to engage in a directed fishery of 5,000 mt for this species. Both the Mid-Atlantic and New England Fishery Management Councils recommended approval of the joint venture on these terms. NOAA, therefore, proposes to transfer 5,000 mt from reserve to TALFF; the remaining 1,000 mt of the reserve would be available for domestic annual harvest. The amount of Atlantic mackerel that would be available for harvest by domestic vessels within the joint ventures (i.e., JVP), therefore, would be between 14,000 mt and 15,000 mt.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

50 CFR Part 656

Fish, Fisheries, Fishing, Reporting requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: February 1, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-3162 Filed 2-4-83;8:45 am]

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Notices

Federal Register
Vol. 48, No. 26
Monday, February 7, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Agreement Regarding National Science Foundation Grants for Archeological Research

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of the regulations for the "Protection of Historic and Cultural Properties" (36 CFR Part 800) with the National Science Foundation and the National Conference of State Historic Preservation Officers. This agreement will establish a system for prospective grantees to provide abstracts of their research proposals to the appropriate State Historic Preservation Officer, and will provide for formal coordination and review of proposals likely to be funded which may result in effects on archeological or other properties eligible for or listed in the National Register of Historic Places. A preliminary draft of the agreement is available for comment.

COMMENTS DUE: March 9, 1983.

ADDRESS: Executive Director, Advisory Council on Historic Preservation 1522 K Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Ronald D. Anzalone, Eastern Division of Project Review, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington DC 20005, 202–254–3974.

Dated: February 1, 1983.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 83–3172 Filed 2–4–83; 8:45 am]

BILLING CODE 4310–10–M

COMMISSION ON CIVIL RIGHTS

Vermont Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference conducted by the Vermont Advisory Committee to the Commission will convene at 11:30 a.m and will end at 12:30 p.m., on March 3, 1983, in Room 11, at the State House, State Street, Montpelier, Vermont, 05602. The purpose of this press conference is to release the Vermont Advisory Committee's report *Civil Rights Developments in Vermont, 1982.*

Persons desiring additional information should contact the Chairperson, Philip H. Hoff, 192 College Street, Hoff, Wilson, and PO, Burlington, Vermont, 05401, (802) 476–3218 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 1, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–975 Filed 2–4–83; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Department of Energy; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00210. Applicant: U.S. Department of Energy, P.O. Box 550, Richland, Washington 99352. Instrument: HB501 Scanning Transmission Electron Microscope with Field Emission Source and accessories. Manufacturer: Vacuum Generators, United Kingdom. Intended use of instrument: See Notice on page 27390 in the **Federal Register** of June 24, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 81–00142 which was denied without prejudice to resubmission on February 8, 1982 for informational deficiencies. The foreign instrument has a guaranteed line resolution in the transmission electron microscope mode of 0.2 nanometers in all directions using a large angle, double tilt axis goniometer. The National Bureau of Standards advises in its memorandum dated January 10, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83–3149 Filed 2–4–83; 8:45 am]

BILLING CODE 3510–25–M

Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural

Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83–119. Applicant: Texas Tech University Health Sciences Center, 3601 4th Street, Lubbock, TX 79430. Instrument: Pulsating Bubble Surfactometer and Accessories. Manufacturer: Surfactometer International, Canada. Intended use of instrument: The instrument is intended to be used to characterize the dynamic surface properties (surface tension as a function of surface area changes) of human tears and tear fractions obtained by classical biochemical microtechniques such as gel filtration chromatography, high pressure liquid chromatography, and preparative gel electrophoresis. Application received by Commissioner of Customs: January 19, 1983.

Docket No. 83–120. Applicant: Purdue University, Lilly Hall of Life Sciences, West Lafayette, IN 47907. Instrument: Electron Microscope, Model EM 420 and Accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of instrument: The instrument is intended to be used in various biology courses to teach the basic concepts of cell ultrastructure. In addition, correct operating procedures for the microscope will be taught. Application received by Commissioner of Customs: January 19, 1983.

Docket No. 83–124. Applicant: University of Maryland at Baltimore, Department of Pathology, 10 S. Pine Street, Room 7–00, M.S.T.F., Baltimore, MD 21201. Instrument: Combined Light Electron Microscope, LEM–2000. Manufacturer: International Scientific Instrument, Inc., Japan. Intended use of instrument: The instrument is intended to be used to study the morphology, including histochemical staining reactions, of tissues and cells at both the LM and TEM levels not only from experimental animal material but also from human surgical and autopsy cases. In addition, the article will be used in the course: PATH 712, Practical Electron Microscopy to introduce students to modern electron microscopy principles and techniques so that they may apply these methods in their work and studies. Application received by Commissioner of Customs: January 25, 1983.

Docket No. 83–125. Applicant: The Johns Hopkins Hospital, Department of Anesthesiology, Baltimore, MD 21205. Instrument: TMR 32/200 Superconductive Magnet System. Manufacturer: Oxford Instruments, United Kingdom. Intended use of instrument: The instrument is intended to be used for studies of creatine phosphate and inorganic phosphate content of human arm and leg together with that of animal models. Application received by Commissioner of Customs: January 25, 1983.

Docket No. 83–126. Applicant: Texas A&M University, College of Medicine, College Station, TX 77843. Instrument: Electron Microscope Model EM 420 and Accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use of instrument: The instrument is intended to be used for research in cell and molecular biology, particularly in regards to cell structure, elemental analysis, desease diagnosis and cytochemical characterization. Application received by Commissioner of Customs: January 25, 1983.

Docket No. 83–127. Applicant: University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. Instrument: Electron Microscope, EM 410 with Accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use of instrument: The instrument is intended to be used for studies of ultrastructural features of mammalian organs, tissues, cells, and macromolecules. The experiments to be conducted are designed to address questions in two specific domains: (1) Basic research into the structure and function of individual cellular components and (2) changes in either ultrastructural properties or distribution of cellular constituents induced by exposure to harmful agents or associated with the etiology of human disease. The studies will permit evaluation of the role played by specific metabolic processes in normal cell growth, regulation, and differentiated function and will contribute to the understanding of the basic defects associated with abnormal function in human disease states. Application received by Commissioner of Customs: January 25, 1983.

Docket No. 82–00234R. Applicant: Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, California 91109. Instrument; Carcinotron Power Supply, Model TH20200. Application is a resubmission, notice of which was published in the **Federal Register** of July 14, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Statutory Import Programs Staff:

[FR Doc. 83–3235 Filed 2–4–83; 8:45 am]

BILLING CODE 3510–25–M

University of Maryland; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82–00112R. Applicant: University of Maryland, College Park, Maryland 20742. Instrument: Excimer Laser, Model EMG 200 (Instrument previously published as EMG 102 but should have been EMG 200). Manufacturer: Lambda Physik, GmbH, West Germany. Intended use of article: See Notice on page 13395 in the **Federal Register** of March 30, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (September 22, 1980).

Reasons: This application is a resubmission of Docket Number 82–00112 which was denied without prejudice to resubmission on July 14, 1982 for informational deficiencies. The foreign instrument provides a power

energy pulse of 750 millijoules at 308 nanometers. The National Bureau of Standards advises in its memorandum dated December 20, 1982 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-3236 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

University of Connecticut; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82-00370. Applicant: University of Connecticut, Department of Chemistry, U-60, Storrs, CT 06268. Instrument: Pulsed Fluorometer System, Model 3000 with a Model 1740 Pulse Light Analysis/Multichannel Scaling Conversion Module for Phosphorescence Decay. Manufacturer: Photochemical Research Associates Inc., Canada. Intended use of instrument: See Notice on page 49057 in the **Federal Register** of October 29, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. REASONS: The foreign instrument measures the millisecond lifetimes of two or more fluorescent species. The most closely comparable domestic instrument is the Model 4800S spectrofluorometer manufactured by SLM Instruments Inc./American Instrument Company, 810 West Anthony Drive, Urbana, Illinois 61801. The Model 4800S does not measure either millisecond lifetimes or determine the lifetimes of more than two fluorescent species. The National Bureau of Standards advises in its memorandum dated January 14, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or appraratus of equivalent scientific value to the foreign instrument for the applicant's intended use. For these reasons, we find that the Model 4800S is not of equivalent scientific value to the foreign instrument for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-3155 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

University of Delaware; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82-00366. Applicant: University of Delaware, Department of Chemical Engineering, Newark, DE 19711. Instrument: Potentiostat, CTD 400. Manufacturer: Santron, Sweden. Intended use of instrument: See Notice on page 49056 in the **Federal Register** of October 29, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument automatically raises solution temperature in preset increments and records the results. The National Bureau of Standards advises in its memorandum dated January 14, 1983 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-3152 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

University of South Alabama, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 83-1. Applicant: University of South Alabama, Purchasing Department, Administration Bldg. 285, Mobile, AL 36688. Instrument:

Electron Microscope, EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See Notice on page 52488 in the **Federal Register** of November 22, 1982. Instrument ordered: May 26, 1982.

Docket No. 83–4. Applicant: New York University Medical Center, Department of Cell Biology, 550 First Avenue, New York, NY 10016. Instrument: Electron Microscope, JEM–1200EX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See Notice on page 52489 in the **Federal Register** of November 22, 1982. Instrument ordered: June 28, 1982.

Docket No. 83–11. Applicant: Texas College of Osteopathic Medicine, Camp Bowie at Montgomery, Fort Worth, Texas 76107–2690. Instrument: Electron Microscope Model II–600–3 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of instrument: See Notice on page 53759 in the **Federal Register** of November 29, 1982. Instrument ordered: July 16, 1982.

Docket No. 83–14. Applicant: State of California, Department of Food and Agriculture, 1220 N Street, Veterinary Laboratory Services, Sacramento, CA 958141. Instrument: Electron Microscope, Model EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See Notice on page 53083 in the **Federal Register** of November 24, 1982. Instrument ordered: September 14, 1982.

Docket No. 83–20. Applicant: National Institutes of Health, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709. Instrument: Electron Microscope, EM 10CA. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See Notice on page 52489 in the **Federal Register** of November 22, 1982. Instrument ordered: August 10, 1982.

Docket No. 83–23. Applicant: United States Department of Agriculture, National Animal Disease Center, Agricultural Research Service, North Central Region, RR.2, Dayton Avenue, Building #1 Room #B8, Ames, Iowa 50010. Instrument: Electron Microscope, EM–410 and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use of instrument: See Notice on page 52489 in the **Federal Register** of November 22, 1982. Instrument ordered: September 14, 1982.

Docket No. 82–00322. Applicant: Michigan State University, East Lansing, MI 48824–1116. Instrument: Electron Microscope, HB501. Manufacturer: VG Instruments, Inc., United Kingdom. Intended use of instrument: See Notice on page 52488 in the **Federal Register** of November 22, 1982. Instrument ordered: June 9, 1982.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83–3150 Filed 2–4–83; 8:45 am]

BILLING CODE 3510–25–M

University of Southern California; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82–00368. Applicant: University of Southern California, Department of Electrical Engineering, University Park, Los Angeles, California 90089. Instrument: Excimer Laser, Model 8619. Manufacturer: Lumonics, Ltd., Canada. Intended use of instrument: See Notice on page 49057 in the **Federal Register** of October 29, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purpose as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (February 6, 1981).

Reasons: This application is a resubmission of Docket Number 81–00240 which was denied without prejudice to resubmission on March 26, 1982 for informational deficiencies. The foreign instrument provides a repetition rate of 45 hertz with Argon Fluoride. The National Bureau of Standards advises in its memorandum dated December 22, 1982 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83–3154 Filed 2–4–83; 8:45 am]

BILLING CODE 3510–25–M

North Carolina State University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review

between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00349. Applicant: North Carolina State University, Purchasing Department, P.O. Box 5935, Raleigh, NC 27650. Instrument: Ion Probe Microanalyzer System, IMS–3F. Manufacturer: CAMECA, France. Intended use of instrument: See Notice on page 49055 in the **Federal Register** of October 29, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a mass resolution of 10,000 in its spectrography mode. The National Bureau of Standards advises in its memorandum dated January 10, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83–3153 Filed 2–4–83; 8:45 am]

BILLING CODE 3510–25–M

University of Washington; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82–00296. Applicant: University of Washington, Department of Chemistry, BG–10, Seattle, WA 98195. Instrument: NMR Spectrometer, Model CXP–200. Manufacturer: Bruker Analytishe Messtechnik, GMGH, West Germany. Intended use of instrument: See Notice on page 39547 in the **Federal Register** of September 8, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (December 2, 1980).

Reasons: This application is a resubmission of Docket Number 81–00225 which was denied without prejudice to resubmission on March 26, 1982 for informational deficiencies. The foreign instrument can perform high-power, broadband experiments. The National Bureau of Standards advises in its memorandum dated January 11, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83–3151 Filed 2–4–83; 8:45 am]

BILLING CODE 3510–25–M

Yarns of Polypropylene Fibers From Mexico; Suspension of Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of suspension of investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving yarns of polypropylene fibers from Mexico. The basis for the suspension is an agreement by Industrias Polifil, S.A. de C.V., the only known Mexican manufacturer and exporter of yarns of polypropylene fibers, to renounce all countervailable benefits under the CEPROFI, FORMEX and CEDI programs. Polifil also agrees not to apply for or receive benefits under any other program subsequently determined by the Department in this or any subsequent proceeding to constitute bounties or grants.

EFFECTIVE DATE: February 7, 1983.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377–1273.

SUPPLEMENTARY INFORMATION: On August 26, 1982, we received a petition from Quaker Textile Corporation of Fall River, Massachusetts, on behalf of the U.S. industry producing yarns of polypropylene fibers. The petition alleged that the government of Mexico provides bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), directly or indirectly to the manufacturers, producers, or exporters of yarns of polypropylene fibers in Mexico through the following programs: tax credits under the Certificates of Fiscal Promotion (CEPROFI) program, preferential financing under the Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX), and tax rebates for exports under the Certificado de Devolucion de Impuesto (CEDI) program.

We reviewed the petition, and on September 21, 1982 determined that an investigation should be initiated (47 FR 41609).

We presented a questionnaire concerning the allegations to the government of Mexico at its embassy in Washington, D.C. On November 1, 1982, we received a partial response to the questionnaire. On November 18, 1982, one day prior to the date of the preliminary determination, the government of Mexico provided a supplemental response covering the CEPROFI and pre-export financing FOMEX programs. However, we did not receive this information in sufficient time to allow proper evaluation and analysis of the data for inclusion in the preliminary determination. If the Department receives a request to continue this investigation in accordance with section 704(g) of the Act, we will consider the information from the supplemental response in our final determination.

Between January 4 and January 10, 1983, we verified the response by a

review of government documents and company books and records of Industrias Polifil, S.A., de C.V., the only known manufacturer and exporter in Mexico of yarns of polypropylene fibers.

Counsel for Industrias Polifil in a letter dated December 1, 1982, proposed entering into a suspension agreement pursuant to section 704 of the Act.

On November 19, 1982, we preliminarily determined that the government of Mexico is providing bounties or grants to manufacturers, producers and exporters of yarns of polypropylene fibers. The programs preliminarily found to be countervailable were the FOMEX, CEPROFI and CEDI programs.

Notice of the affirmative preliminary countervailing duty determination was published in the **Federal Register** on November 26, 1982 (47 FR 53443). We directed the U.S. Customs Service to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise on or after November 26, 1982, and to require a cash deposit or bond in the amount of 11.87 percent of the f.o.b. value of the merchandise.

On December 15, 1982, Polifil and the Department of Commerce initialed a proposed suspension agreement, which was based upon Polifil's agreement to eliminate completely all bounties or grants on exports of yarns of polypropylene fibers under the CEPROFI, FOMEX and CEDI programs. We provided copies of the proposed suspension agreement to the petitioner for its consultation and to other parties to the proceeding for their comments. Written comments were received from counsel for Polifil and from the petitioner.

Polifil's Comments

Comment 1

Amend paragraph B(1) to read as follows: (new words italicized) "* * * Industrias Polifil voluntarily agrees not to apply for or receive any countervailable benefits, *for products that are produced in Mexico and exported directly or indirectly to the United States,* from the Mexican government's CEDI, CEPROFI or Fomex programs * * *"

DOC Position

We have inserted the proposed amendment to emphasize that Polifil's renunciation of subsidy benefits applies only with respect to products that are exported, directly or indirectly, to the United States.

Comment 2

Amend the second sentence of paragraph B(1)(c) to read as follows: (new words italicized) "Industrias Polifil will not apply for or receive any countervailable benefits under this program, *with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement,* if the eligibility is reinstated."

DOC Position

We have no objection to the proposed modification and have inserted this proposed amendment.

Comment 3

Amend paragraph B(1)(d) to read as follows: (new words italicized) "Industrias Polifil will not apply for or receive benefits, *with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of a determination,* under any other program subsequently determined by the Department in this or a subsequent proceeding to constitute bounties or grants under the Act to the subject product."

DOC Position

We have inserted the proposed amendment.

Comment 4

Amend paragraph B(1)(f) to read as follows: (new words italicized) "* * * receiving from the government of Mexico *with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement.*"

DOC Position

We have no objection to this amendment and have made the recommended change.

Petitioner's Comments

Comment 1

The suspension agreement should be delayed and conditioned upon satisfactory completion of the verification of the response to the Department's countervailing duty questionnaire.

DOC Position

On-site verification of the information contained in the Mexican government's response with respect to the subject merchandise was completed at Polifil's offices in Mexico City on January 10, 1983.

Comment 2

Unless and until a strict on-going monitoring system can be established and enforced, petitioner objects to the proposed suspension agreement becoming effective.

DOC Position

We believe that the provisions of paragraph C of the suspension agreement ensure that this agreement will be monitored effectively pursuant to section 704(d) of the Act. Additionally, the Department will, at least once during each twelve-month period beginning on the anniversary date of publication of the suspension notice, review the current status of, and compliance with the suspension agreement, and will publish the results of these reviews in the **Federal Register** in accordance with administrative reviews conducted under section 751 of the Act.

Comment 3

The possibility exists that both CEDI and CEPROFI certificates applicable to exports of the subject merchandise to the United States were issued but not utilized prior to the Department's preliminary determination of November 26, 1982. Petitioner requests that the suspension agreement be amended to be conditional upon return to the Mexican government of any such certificates with proper documentation representing that, after return, no further certificates will exist for use in Polifil's behalf based upon direct or indirect shipments to the United States prior to November 26, 1982. If any CEDI or CEPROFI certificates were utilized after November 26, 1982, a prorata countervailing duty should apply equivalent to the benefits received.

DOC Position

We agree with petitioner that any such unused and outstanding CEDI or CEPROFI certificates should be returned to the government of Mexico, and have adjusted the suspension agreement to reflect this amendment. As can be expected in the case of any negotiated suspension agreement, some benefits may continue to be received from the time of the preliminary determination to the date the suspension agreement is effective.

Section 704(b)(1) of the Act provides for the phase out of benefits over a period not exceeding six months following suspension of the investigation. Clearly, then, the law recognizes that the mere existence of

benefits following the preliminary determination does not in itself warrant the issuance of a countervailing duty order where a suspension agreement is in place.

The Department has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the agreement eliminates the bounties or grants completely with respect to the subject merchandise exported directly or indirectly to the United States, can be monitored effectively, and is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement are set forth in Annex 1 to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of entries, or withdrawals from warehouse, for consumption of yarns of polypropylene fibers from Mexico effective November 26, 1982, as directed in the Preliminary Affirmative Countervailing Duty Determination, is hereby terminated.

Any cash deposits on entries of yarn of polypropylene fibers from Mexico pursuant to that suspension of liquidation shall be refunded and any bonds or other security shall be released.

The Department intends to conduct an administrative review within 12 months of the publication of this suspension as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation, if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1983.

Annex I—Suspension Agreement Yarns of Polypropylene Fibers From Mexico

Suspension Agreement—Yarns of Polypropylene Fibers From Mexico

Pursuant to the provisions of section 704 of the Tariff Act of 1930 (the Act) and § 355.31 of the Commerce Regulations, the United States Department of Commerce (the Department) enters into the following suspension agreement with Industrias Polifil, S.A. de C.V, Bosques de Duraznos No. 55, 11100, Mexico, D.F. On the basis of this agreement, the Department shall suspend its countervailing duty investigation initiated on September 21, 1982, with respect to yarns of polypropylene fibers from Mexico in accordance with the terms and provisions set forth below:

A. *Product Coverage.* The suspension agreement is applicable to all yarns of polypropylene fibers manufactured by Industrias Polifil S.A. de C.V. and directly or indirectly exported to the United States (hereinafter referred to as the subject product). Yarns of polypropylene fibers are used primarily in the manufacture of fabrics, particularly those for upholstery. Yarns of polypropylene fibers are currently provided for in item numbers 310.0214, 310.1114, 310.5015, 310.5051, 310.6029, 310.6038 and 310.8000 of the *Tariff Schedules of the United States Annotated.*

B. *Basis of the Agreement.* 1. Industrias Polifil is the only known manufacturer and exporter of the subject product. Industrias Polifil voluntarily agrees not to apply for or receive any countervailable benefits, for products that are produced in Mexico and exported directly or indirectly to the United States, from the Mexican government's CEDI, CEPROFI or FOMEX programs. Specifically:

(a) Industrias Polifil will not apply for or receive any pre-export or export loans or loan guarantees from the Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX) with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement.

(b) Industrias Polifil will not apply for or receive any benefits that the Department has determined or determines to be countervailable from the Certificates of Fiscal Promotion (CEPROFI) program with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement.
Any unused and outstanding countervailable CEPROFI certificates, issued prior to November 26, 1982, and granted in connection with shipments of the subject product to the United States, will be returned to the government of Mexico.

(c) Effective August 25, 1982, the Certificado de Devolucion de Impuesto (CEDI) program discontinued the eligibility of yarns of polypropylene fibers for CEDI tax rebates. Industrias Polifil will not apply for or receive any countervailable benefits under this program, with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement, if the eligibility is reinstated. Any unused and outstanding CEDI tax certificates received by Industrias Polifil prior to November 26, 1982, in connection with direct and indirect shipments of the subject product to the United States, will be returned to the government of Mexico.

(d) Industrias Polifil will not apply for or receive benefits, with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of a determination, under any other program subsequently determined by the Department in this or a subsequent proceeding to constitute bounties or grants under the Act to the subject product.

(e) If any additional program is found countervailable in this or a subsequent proceeding, the Department shall officially notify Industrias Polifil.

(f) Industrias Polifil shall notify the Department, within sixty days before taking any action, of any benefits it intends to apply for or of any present or future benefits it is receiving from the government of Mexico with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement.

(g) Renunciation of the receipt of these benefits does not constitute an admission by Industrias Polifil that such benefits are bounties, grants or subsidies within the meaning of the U.S. countervailing duty law or any other U.S. law.

(h) Industrias Polifil certifies that no new countervailable benefits will be applied for or received for the subject product as a substitute for or supplement to any benefits eliminated by this agreement.

2. In accordance with the provisions of the Act and applicable regulations, this agreement applies to the product described in Paragraph A which is produced in Mexico and exported directly or indirectly to the United States.

3. The effective date of this agreement is the date it is published in the **Federal Register.**

C. Industrias Polifil agrees to supply to the Department such information as the Department deems necessary to demonstrate that it is in full compliance with this agreement. Industrias Polifil will notify the Department if it: (1) Transships the subject product through third countries, (2) alters its position

with respect to any terms of the agreement, (3) applies for or receives directly or indirectly the benefits of the programs described in Paragraph B for the manufacture of the subject products exported to the United States.

Industrias Polifil agrees to permit such verification and data collection as deemed necessary by the Department in order to monitor this agreement. The Department shall request such information and perform such verifications periodically pursuant to administrative reviews conducted under section 751 of the Act.

D. *Violation of the Agreement.* If the Department determines that the agreement is being or has been violated or no longer meets the requirements of section 704 (b) or (d) of the Act, then the provisions of section 704(i) shall apply.

Signed on this 1st day of February 1983.

For Industrias Polifil, S.A. de C.V.

Joseph W. Dorn,

Special Counsel, Industrias Polifil, S.A. de C.V.

I have determined that the provisions of Paragraph B completely eliminate the bounties or grants being provided in Mexico with respect to yarns of polypropylene fibers exported directly or indirectly to the United States and that the provisions of Paragraph C ensure that this agreement can be monitored effectively pursuant to section 704(d) of the Act. Furthermore, I have determined that this agreement meets the requirements of section 704(b) of the Act and is in the public interest as required in section 704(d) of the Act.

Department of Commerce.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1983.

[FR Doc. 83-3147 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Intent To Grant; Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Spectra-Physics, having a place of business at Mountain View, California an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Frequency Stabilization for Two-Mode Laser," U.S. Patent Application No. 6-300,363 (dated September 8, 1981). The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, P.O. Box 1423, Springfield, Virginia 22151. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: February 1, 1983.

George Kudravetz,

Program Manager, Office of Government Inventions, and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 83-3188 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the Republic of the Maldives on Category 445 (Men's and Boys' Wool Sweaters)

February 2, 1983.

On December 26, the United States Government, under Section 204 of the Agricultural Act of 1956, as amended, requested the Government of the Republic of the Maldives to enter into consultations concerning exports to the United States of wool sweaters in Category 445, produced or manufactured in the Maldives.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments within sixty days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption of wool textile products in Category 445, produced or manufactuerd in the Maldives and exported to the United States during the twelve-month period which began on December 26, 1982, may be restricted at a level of 12,756 dozen. The United States reserves the right to invoke the import control mechanism during the consultation period to forestall market disruption.

Anyone wishing to comment or provide data or information regarding the treatment of Category 445 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-3148 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Navy

Government-Owned Inventions; Available for Licensing

The inventions listed below are assigned to the United States Government and are in custody of the Department of the Navy. They are available for domestic and, possibly, foreign licensing.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $1.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. Requests for copies of patent applications must include the patent application serial number. Claims are

deleted from patent application copies sold to avoid premature disclosure.

FOR FURTHER INFORMATION CONTACT:
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Dated: February 1, 1983.

F.N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-3140 Filed 2-4-83; 8:45 am]

BILLING CODE 3810-AE-M

PBI/Gordon Corp.; Limited Exclusive Patent License Granted

Pursuant to the provision of Part 746 of title 32, Code of Federal Regulations (41 FR 55711-55714, December 22, 1976), the Department of the Navy announces that on September 30, 1982, it granted to PBI/Gordon Corporation, a corporation of the State of Missouri, revocable, nonassignable, limited exclusive license for a period of 10 years under Government-owned United States Patent Number 4,012, 321 issued March 15, 1977, entitled "Oxidation of Refractory Organics in Aqueous Waste Streams by Hydrogen Peroxide and Ultraviolet Light," inventor Edward Koubek.

Copies of the patent may be obtained for one dollar ($1.00) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

FOR FURTHER INFORMATION CONCERNING THIS NOTICE CONTACT: Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 305), 800 North Quincy Street, Arlington, Virginia 22217, Telephone No. 202-696-4005.

Dated: February 1, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-3139 Filed 2-4-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF83-145-000]

Applied Energy Services, Inc., Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 2, 1983.

On January 14, 1983, Applied Energy Services, Inc., 1925 N. Lynn Street, Suite 1200, Arlington, Virginia 22209 (Attn: Robert F. Hemphill, Jr.), filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping cycle cogeneration facility will be located in Pasadena, Texas. The facility will consist of a steam turbine generator. The electric power production capacity of the facility will be 144,500 kilowatts. Steam will be sold for use in an adjacent refinery. The primary energy source to the facility will be petroleum coke. Residual oil will be used as a supplementary fuel and refinery gas will be used as backup fuel. Installation of the facility will begin in August 1983. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Wasnington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3129 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-454-000]

Black Hills Power and Light Co.; Refund Report

February 1, 1983.

Take notice that on January 24, 1983, Black Hills Power and Light Company submitted for filing a refund report pursuant to the Commission's order of December 22, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 18, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3130 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-136-000]

Dr. Boyd Addy; Application for Commission Certification of Qualifying Status of a Small Power production Facility

February 2, 1983.

On January 10, 1983, Dr. Boyd Addy, of 3603 Hillside Road, Mandan, North Dakota, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 10 kilowatt wind installation, located in Mandan, North Dakota. Applicant states that no other facility owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3131 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6957-000]

City of Portland, Oregon; Exemption From Licensing

February 1, 1983.

A notice of exemption from licensing of a small hydroelectric project known as Mt. Tabor Power Plant, Project No. 6957, was filed on December 27, 1982, by the City of Portland, Oregon. The proposed hydroelectric project would have an installed capacity of 170 kW and would be located at the Mt. Tabor Reservoir in Multnomah County, Oregon.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of January 27, 1983.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 83-3132 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-234-000]

Duke Power Co.; Filing

February 1, 1983.

Take notice that Duke Power Company (Duke Power) tendered for filing on January 10, 1983 a supplement to the Company's Electric Power Contract with Union Electric Membership Corporation. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 141.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in designated demand: Delivery Point No. 2 from 4,200 KW to 7,000 KW; Delivery Point No. 4 from 1,1700 KW to 2,400 KW; Delivery Point No. 5 from 20,000 KW to 30,000 KW; Delivery Point No. 6 from 5,300 KW to 6,500 KW; Delivery Point No. 7 from 12,000 KW to 17,000 KW and Delivery Point No. 8 from 14,000 KW to 16,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power requests an effective date of March 21, 1983.

Copies of this filing were mailed to Union Electric Membership Corporation and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3133 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-135.000]

Leatherwood, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 2, 1983.

On January 7, 1983, Leatherwood Inc., of R.D. 1, Box 399, Bloomsbury, New Jersey, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 10 kilowatt wind installation located at Myler Road, Bloomsbury, New Jersey. Applicant states that no other facilities owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of

Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to invervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3134 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-117-000]

Midwestern Gas Transmission Co.; Settlement Conference

February 1, 1983.

Take notice that a settlement conference will be convened in the above-captioned docket at 9:00 A.M. on Friday, February 25, 1983, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3135 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-170-000]

New England Power Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, Granting Waiver of Filing Requirements, and Establishing Hearing Procedures

Issued: January 31, 1983.

On December 1, 1982, New England Power Company (NEP) tendered for filing proposed amendments to its existing contract for the sale of system power-unreserved (SPU) service and associated transmission to the Town of Hudson, Massachusetts (Hudson).[1] The proposed amendments would increase the SPU demand charge from $60.40/kW-yr to $93.56/kW-yr and the transmission charge for this service from $6.00/kW-yr to $8.02/kW-yr. Based on a calendar year 1983 test period, the proposed amendments would increase NEP's revenues by approximately $575,000. The company requests an effective date of February 1, 1983.

In the event that the Commission suspends the instant filing, NEP requests that the suspension period be limited to one day. In addition, the company requests waiver of the Commission's regulations to incorporate by reference in this docket the cost support data (Statements AA through BL) which were previously submitted as part of NEP's W-5 rate filing,[2] except insofar as such statements have also been provided in the instant filing.

Notice of NEP's filing was published in the **Federal Register** [3] with comments due on or before December 23, 1982. Hudson filed a timely protest and motion to intervene in which it requests that NEP's rate increase be suspended for one day. Hudson states that it has reached a settlement in principle with NEP but requests a nominal suspension in order to preserve its rights in the event that the settlement is not ultimately filed and approved by the Commission.[4] Hudson further states that NEP does not object to its motion to intervene or to a one day suspension of the rates. No substantive issues are raised in Hudson's pleading.[5]

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motion to intervene filed by Hudson serves to make it a party to this proceeding.

Our preliminary review indicates that NEP's rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

We explained the Commission's suspension policy in *West Texas Utilities Company,* Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982). As noted there, where our preliminary review suggests that proposed rates may be unjust and unreasonable, but may not be substantially excessive as described in *West Texas,* we will ordinarily suspend them for one day. In the instant case, our review indicates that NEP's rates may not produce substantially excessive revenues. Further, we note that the affected customer seeks only a one day suspension and has represented that NEP does not object to this request. Accordingly, we shall suspend NEP's rates for one day, to become effective on February 2, 1983, subject to refund.

Because the affected customer does not object, and because the pertinent data are contained in NEP's rate filings in Docket Nos. ER82-702-000 and ER82-703-000, we find that good cause exists to grant NEP's request to waive the Commission's filing requirements so as to permit the company to incorporate by reference in this docket cost support data previously submitted to the Commission in connection with NEP's W-5 rate filing.

The Commission Orders:

(A) NEP's request for waiver of the outstanding Statement AA through BL filing requirements is hereby granted.

(B) NEP's proposed rates for service to Hudson are hereby accepted for filing and suspended for one day, to become effective on February 2, 1983, subject to refund.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of NEP's rates.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding to be held within approximately fifteen (15) days from the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

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[1] Designated as: *New England Power Company,* Supplement No. 9 to Rate Schedule FERC No. 308.

[2] The company's W-5 rate filing is the subject of proceedings in *New England Power Co.,* Docket Nos. ER82-702-000 and ER82-703-000.

[3] 47 FR 56039 (Dec. 14, 1982).

[4] On January 21, 1983, NEP and Hudson jointly filed the anticipated offer of settlement. Because the period for comment and Commission review will preclude action on the settlement prior to NEP's February 1, 1983 proposed effective date, the Commission must take such action as would otherwise be appropriate with respect to the originally filed rates.

[5] Hudson states that if the settlement in principle is not ultimately approved by the Commission, NEP will support a request by Hudson to file a detailed protest out of time.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3136 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-233-000]

Niagara Mohawk Power Corp.; Filing

February 1, 1983.

Take notice that on January 10, 1983, Niagara Mohawk Power Corporation (Niagara) tendered for filing a letter agreement dated August 31, 1982 between Niagara and Northeast Utilities.

Niagara states that the original October 1, 1981 agreement states that Niagara will provide for the transmission service for the delivery of short term power and associated energy. The short term power is that energy as scheduled by Conolidated Edison Company of New York crossing Niagara's transmission facilities and finally delivered to the interconnection with Western Massachusetts Electric Company.

Niagara further states that the original agreement was between Niagara and the Hartford Electric Light Company, The Connecticut Light and Power Company and the Western Massachusetts Electric Company. The August 31, 1982 agreement recognizes the merger of the Hartford Electric Light Company into the Connecticut Light and Power Company. Article 3.2 of the original agreement states that Niagara's annual fixed charge rate used in the derivation of the transmission rates will be updated September 1 of each year for the succeeding twelve month period. The return of equity component and all other components, in effect as of April 1 of each year, shall be used in determination of payments under the contract. The August 31, 1982 agreement increases the transmission rate of $1.679 per megawatt per hour to $1.787 per megawatt per hour. The annual fixed charge rate increased from 24.6 percent to 26.5 percent.

Niagara requests an effective date of September 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3141 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-243-000]

Tampa Electric Co., Notice of Filing

February 1, 1983.

Take notice that on January 10, 1983, Tampa Electric Company (Tampa) tendered for filing an Agreement for Interchange Service between Tampa and the City of Tallahassee, Florida (Tallahassee), together with Service Schedules A, B, C, and D thereunder.

Tampa Electric states that Service Schedules A, B, C, and D provide for emergency, scheduled, economy, and firm interchange service, respectively, between Tampa and Tallahassee.

Tampa proposes an effective date of December 15, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Tallahassee and the Florida Public Service Commission.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211, and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3142 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM79-34 and Docket No. ST82-446]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and Louisiana Resources Company; Self-Implementing Transactions

January 31, 1983.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to Section 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and § 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

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DOCKET NO.	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EXPIRATION DATE *	TRANSPORTATION RATE (¢/MMBTU)
ST82-446	LOUISIANA RESOURCES CO.	TEXAS EASTERN TRANSMISSION CORP.	9/01/82	C	-	-
ST82-447	NORTHERN NATURAL GAS CO.	EL PASO NATURAL GAS CO.	9/01/82	G	-	-
ST82-448	CABOT CORP.	CAJUN NATURAL GAS CO.	9/02/82	G(HT)	1/30/83	81.60
ST82-449	NATURAL GAS PIPELINE CO. OF AMERICA	TEXAS GAS TRANSMISSION CORP.	9/03/82	G	-	-
ST82-450	NORTHERN NATURAL GAS CO.	PANHANDLE EASTERN PIPE LINE CO.	9/07/82	G	-	-
ST82-451	NATURAL GAS PIPELINE CO. OF AMERICA	TENNESSEE GAS PIPELINE CO.	9/07/82	G	-	-
ST82-452	TENNESSEE GAS PIPELINE CO.	CAJUN NATURAL GAS CO.	9/07/82	B	-	-
ST82-453	MIDWESTERN GAS TRANSMISSION CO.	CAJUN NATURAL GAS CO.	9/07/82	B	-	-
ST82-454	COLUMBIA GAS TRANSMISSION CORP.	EASTERN SHORE NATURAL GAS CO.	9/08/82	G	-	-
ST82-455	FLORIDA GAS TRANSMISSION CO.	LOUISIANA INTRASTATE GAS CORP.	9/09/82	B	-	-
ST82-456	EL PASO NATURAL GAS CO.	UNITED GAS PIPE LINE CO.	9/10/82	G	-	-
ST82-457	TRANSCONTINENTAL GAS PIPE LINE CORP.	BRIDGELINE GAS DISTRIBUTION CORP.	9/13/82	B	-	-
ST82-458	NORTHERN NATURAL GAS CO.	COLORADO INTERSTATE GAS CO.	9/13/82	G	-	-
ST82-459	CONSUMERS POWER CO.	MICHIGAN WISCONSIN PIPE LINE CO.	9/15/82	G(HT)	2/12/83	17.02
ST82-460	TRUNKLINE GAS CO.	NORTHERN NATURAL GAS CO.	9/14/82	G	-	-
ST82-461	MICHIGAN GAS STORAGE CO.	CONSUMERS POWER CO.	9/15/82	B	-	-
ST82-462	NORTHERN NATURAL GAS CO.	MICHIGAN WISCONSIN PIPE LINE CO.	9/20/82	G	-	-
ST82-463	NORTHERN NATURAL GAS CO.	UNITED GAS PIPE LINE CO.	9/15/82	G	-	-
ST82-464	NORTHWEST PIPELINE CORP.	SOUTHWEST GAS CORP.	9/16/82	G	-	-
ST82-465	LOUISIANA RESOURCES CO.	FAUSTINA PIPE LINE CO.	9/16/82	C	2/13/83	22.25
ST82-466	MICHIGAN CONSOLIDATED GAS CO.	MICHIGAN WISCONSIN PIPE LINE CO.	9/17/82	G	-	-
ST82-467	MICHIGAN CONSOLIDATED GAS CO.(ISP)	MICHIGAN CONSOLIDATED GAS CO.(UDP)	9/17/82	B	-	-
ST82-468	VALERO INTERSTATE TRANSMISSION CO.	UNITED GAS PIPE LINE CO.	9/17/82	G	-	-
ST82-469	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	9/17/82	C	-	-
ST82-470	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	9/17/82	G	-	-
ST82-471	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	9/17/82	G	-	-
ST82-472	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	9/17/82	G	-	-
ST82-473	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	9/17/82	G	-	-
ST82-474	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	9/17/82	G	-	-
ST82-475	NORTHERN NATURAL GAS CO.	INTRATEX GAS CO.	9/20/82	B	-	-
ST82-477	TENNESSEE GAS PIPELINE CO.	LOUISIANA INTRASTATE GAS CORP.	9/20/82	B	-	-
ST82-478	CNG RED OAK TRANSMISSION CO.	COLUMBIA GAS TRANSMISSION CORP.	9/21/82	C	-	-
ST82-479	LOUISIANA INTRASTATE GAS CORP.	TENNESSEE GAS PIPELINE CO.	9/21/82	C	2/18/83	20.00
ST82-480	NORTHERN ILLINOIS GAS CO.	EAST TENNESSEE NATURAL GAS CO.	9/22/82	G(HT)	2/19/83	76.30
ST82-481	TRANSCONTINENTAL GAS PIPE LINE CORP.	UNITED GAS PIPE LINE CO.	9/22/82	G	-	-
ST82-482	TENNESSEE GAS PIPELINE CO.	UNITED GAS PIPE LINE CO.	9/23/82	G	-	-
ST82-483	TRANSCONTINENTAL GAS PIPE LINE CORP.	UNITED GAS PIPE LINE CO.	9/23/82	G	-	-
ST82-484	NATURAL GAS PIPELINE CO. OF AMERICA	ENTEX, INC.	9/24/82	B	-	-
ST82-485	TENNESSEE GAS PIPELINE CO.	UNITED GAS PIPE LINE CO.	9/23/82	G	-	-
ST82-486	MIDWESTERN GAS TRANSMISSION CO.	EAST TENNESSEE NATURAL GAS CO.	9/24/82	G	-	-
ST82-487	MISSISSIPPI VALLEY GAS CO.	TEXAS EASTERN TRANSMISSION CORP.	7/02/82	C	11/29/82	21.90
ST82-488	LOUISIANA RESOURCES CO.	UNITED GAS PIPE LINE CO.	9/24/82	C	-	-
ST82-489	SUGAR POWL GAS CORP.	TENNESSEE GAS PIPELINE CO.	9/24/82	C	-	-
ST82-490	NORTHERN NATURAL GAS CO.	PANHANDLE EASTERN PIPE LINE CO.	9/24/82	G	-	-
ST82-491	UNITED GAS PIPE LINE CO.	ENTEX, INC.	9/27/82	B	-	-
ST82-492	PANHANDLE EASTERN PIPE LINE CO.	UNITED GAS PIPE LINE CO.	9/27/82	G	-	-
ST82-493	TENNESSEE GAS PIPELINE CO.	CONSOLIDATED EDISON CO. OF NY, INC.	9/29/82	F	-	-
ST82-494	LOUISIANA INTRASTATE GAS CORP.	ENTEX, INC.	9/30/82	C	2/27/83	20.00
ST82-495	EL PASO NATURAL GAS CO.	PACIFIC INTERSTATE TRANSMISSION CO.	9/30/82	G	-	-
ST82-496	TENNESSEE GAS PIPELINE CO.	TENNGASCO GAS GATHERING CO.	9/30/82	H	-	-

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* THE INTRASTATE PIPELINE HAS SOUGHT COMMISSION APPROVAL OF ITS TRANSPORTATION RATE PURSUANT TO SECTION 284.123(B)(2) OF THE COMMISSION'S REGULATIONS (18 CFR 284.123(B)(2)). SUCH RATES ARE DEEMED FAIR AND EQUITABLE IF THE COMMISSION DOES NOT TAKE ACTION BY THE DATE INDICATED.

[FR Doc. 83-2921 Filed 2-4-83; 8:45 am]
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[Docket No. ST80-118-002]

United Texas Transmission Co.; Extension Reports

January 28, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commisson authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and address of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended uner § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before February 18, 1983 file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commissions's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

BILLING CODE 6717-01-M

RECIPIENT | DATE FILED | PART 284 SUBPART | EFFECTIVE DATE | DOCKET NO. | TRANSPORTER/SELLER

DOCKET NO.	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EFFECTIVE DATE
ST80-118-002	UNITED TEXAS TRANSMISSION CO. P.O. BOX 1478, HOUSTON, TX 77001	TEXAS EASTERN TRANSMISSION CORP.	12/16/82	G	04/01/83
ST80-143-002	UNITED TEXAS TRANSMISSION CO. P.O. BOX 1478, HOUSTON, TX 77001	TRANSWESTERN PIPELINE CO.	12/16/82	G	04/01/83
ST80-185-001	TENNESSEE GAS PIPELINE CO. P.O. BOX 2511, HOUSTON, TX 77001	SOUTHERN NATURAL GAS CO.	12/21/82	G	04/01/83
ST80-197-001	TENNESSEE GAS PIPELINE CO. P.O. BOX 2511, HOUSTON, TX 77001	UNITED GAS PIPE LINE CO.	12/20/82	G	04/01/83
ST81-181-001	TRANSOK PIPE LINE CO. P.O. BOX 3008, TULSA, OK 74101	UNITED GAS PIPE LINE CO.	12/21/82	C	03/15/83
ST81-201-001	TRANSOK PIPE LINE CO. P.O. BOX 3008, TULSA, OK 74101	SOUTHERN NATURAL GAS CO.	12/21/82	C	03/26/83
ST81-207-001	MONTEREY PIPELINE CO. 1701 COMMERCE BUILDING, 821 GRAVIER ST. NEW ORLEANS, LA 70112	SOUTHERN NATURAL GAS CO.	12/16/82	C	03/27/83
ST81-210-001	LOUISIANA INTRASTATE GAS CORP. P.O. BOX 1352, ALEXANDRIA, LA 71301	TEXAS EASTERN TRANSMISSION CORP.	12/23/82	D	03/23/83
ST81-216-001	NATIONAL FUEL GAS SUPPLY CORP. 10 LAFAYETTE SQUARE, BUFFALO, NY 14203	ELIZABETHTOWN GAS CO.	12/17/82	E	03/19/83
ST81-217-001	PANHANDLE EASTERN PIPE LINE CO. P.O. BOX 1642, HOUSTON, TX 77001	PEOPLES NATURAL GAS CO.	12/29/82	E	03/27/83
ST81-230-001	HOUSTON PIPE LINE CO. 1200 TRAVIS, BOX 1188, HOUSTON, TX 77001	TENNESSEE GAS PIPELINE CO.	12/27/82	C	03/31/83
ST81-231-001	OASIS PIPE LINE CO. 1200 TRAVIS, BOX 1188, HOUSTON, TX 77001	TENNESSEE GAS PIPELINE CO.	12/27/82	C	03/31/83
ST81-251-001	MISSISSIPPI RIVER TRANSMISSION CORP. 9900 CLAYTON ROAD, ST. LOUIS, MO 63124	TEXAS EASTERN TRANSMISSION CORP.	12/27/82	C	04/01/83
ST81-375-001	TEXAS EASTERN TRANSMISSION CORP. P.O. BOX 2521, HOUSTON, TX 77001	MISSISSIPPI RIVER TRANSMISSION CORP	12/30/82	G	04/01/83
ST82-522-001	DOW INTRASTATE GAS CO. ROUTE 1, BOX 25, PLAQUEMINE, LA 70764	NATURAL GAS PIPELINE CO. OF AMERICA	12/30/82	C	03/31/83

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* ST80-185-001 AND ST80-197-001 WERE ORIGINALLY REPORTED TO HAVE COMMENCED ON APRIL 17, 1980 AND APRIL 1,1980, RESPECTIVELY.HOWEVER, TENNESSEE NOW ALLEGES THAT THE SECTION 311 TRANSPORTATIONS DID NOT COMMENCE UNTIL APRIL 1, 1981. THE NOTICING OF TENNESSEE'S FILINGS DOES NOT CONSTITUTE A DETERMINATION OF WHETHER THE FILINGS COMPLY WITH THE COMMISSION'S REGULATIONS.

[FR Doc 83-2023 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-C

[Docket No. QF83-102-000]

University of San Francisco; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 2, 1983.

On December 6, 1982, University of San Francisco, of 2299 Golden Gate Avenue, San Francisco, California 94117, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the University of San Francisco. The primary energy source to the facility will be natural gas. The electric power production capacity will be 9390 kilowatts. Steam will be produced in a heat-recovery steam generation operating with exhaust from a gas-turbine generator set. Part of the steam will be extracted from steam turbine stages to satisfy thermal energy demands at USF and nearby St. Mary's Hospital. Installation will begin November, 1983. Applicant states no electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3143 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-283-000]

Wisconsin Power and Light Co.; Filing

February 1, 1983.

Take notice that on January 24, 1983, Wisconsin Power and Light Company (WPL) tendered for filing an amendment dated December 30, 1982 to its existing interconnection agreement dated June 7, 1971 between Wisconsin Electric Power Company and WPL. WPL states that this amendment relates to the addition of a new point of interconnection between the two parties designated as the Stony Brook interconnection.

WPL requests an effective date of December 30, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon the Wisconsin Electric Power Company and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3145 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77-347-000]

Wisconsin Power & Light Co.; Refund Report

February 1, 1983.

Take notice that on January 26, 1983, Wisconsin Power & Light Company submitted for filing a refund report pursuant to the Commission's orders dated June 23, 1982 (Opinion No. 141) and December 30, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 18, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3144 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST79-35-002]

Houston Pipe Line Co.; Extension of Reports

January 28, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before February 18, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining

the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

DOCKET NO.	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EFFECTIVE DATE
ST79-35-002	HOUSTON PIPE LINE CO. P.O. BOX 1188, HOUSTON, TX 77001	TEXAS EASTERN TRANSMISSION CORP.	01/11/83	D	04/11/83
ST81-194-001	NORTHEAST ALABAMA GAS DISTRICT P.O. BOX 1.9, HAMILTON, AL 35570	SOUTHERN NATURAL GAS CO.	01/10/83	C,D	04/10/83
ST81-238-001	TENNESSEE GAS PIPELINE CO. P.O. BOX 2511, HOUSTON, TX 77001	NATURAL GAS PIPELINE CO. OF AMERICA	01/07/83	G	04/10/83
ST81-244-001	TRANSCONTINENTAL GAS PIPE LINE CORP. P.O. BOX 1396, HOUSTON, TX 77251	VALERO TRANSMISSION CO.	01/03/83	-	04/01/83
ST81-251-001	TEXAS GAS PIPELINE CORP. FIDELITY UNION TOWER, DALLAS, TX 75201	NORTHERN NATURAL GAS CO.	01/14/83	C	04/20/83
ST81-277-001	TEXAS GAS PIPE LINE CORP. FIDELITY UNION TOWER, DALLAS, TX 75201	SOUTHERN NATURAL GAS CO.	01/14/83	C	05/09/83
ST81-294-001	MOUNTAIN FUEL SUPPLY CO. P.O. BOX 11368, SALT LAKE CITY, UT 84139	COLORADO INTERSTATE GAS CO.	01/07/83	B	05/26/83
ST81-414-001	MOUNTAIN FUEL SUPPLY CO. P.O. BOX 11368, SALT LAKE CITY, UT 84139	COLORADO INTERSTATE GAS CO.	01/07/83	-	08/13/83

[FR Doc. 83-2914 Filed 2-4-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP83-39]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 1, 1983.

Take notice that Texas Eastern Transmission Corporation ("Texas Eastern") on January 31, 1983 tendered for filing proposed changes in its FERC Gas Tariff, Fourth Revised Volume No. 1, to be effective March 1, 1983, as follows:

Substitute Twenty-Second Revised Sheet No. 14
Substitute Twenty-Second Revised Sheet No. 15
Substitute Twenty-Second Revised Sheet No. 16
Substitute Twenty-Second Revised Sheet No. 17
Substitute Twenty-Second Revised Sheet No. 18
Substitute Twenty-Second Revised Sheet No. 19
Substitute Twenty-Second Revised Sheet No.

[Docket No. TA83-1-17-005]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 2, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on January 24, 1983 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheet:

Substitute Revised Substitute Sixty-third Revised Sheet No. 14

This tariff sheet was filed in substitution for that sheet filed with the Federal Energy Regulatory Commission (Commission) on December 1, 1982 and approved by the Commission on December 29, 1982 reflecting a revision to Texas Eastern's SS–II rate pursuant to Section 4.G., Consolidated GSS Adjustments, of the SS–II Rate Schedule and a revision to Texas Eastern's ISS–II rate pursuant to Section 4.F., Consolidated GSS Adjustments, of the ISS–II Rate Schedule.

Consolidated Gas Supply Corporation (Consolidated) filed a major rate increase in Docket No. RP82–115 including a proposed increase in their Rate Schedule GSS rates effective January 1, 1983 after the Commission-ordered five month suspension period. Texas Eastern's December 1, 1982 filing was based on the GSS rates in Consolidated's original filing in Docket No. RP82–115. On December 30, 1982, Consolidated filed its motion to place the suspended rates in effect on January 1, 1983, as modified pursuant to the Commission's order of July 28, 1982, including a slight reduction to the originally filed GSS rates. Pursuant to Section 4.G. of Texas Eastern's Rate Schedule SS–II and Section 4.F. of Rate Schedule ISS–II, the SS–II rates and ISS–II rates, respectively, are automatically adjusted to flow through any changes in Consolidated's GSS rates. The above substitute tariff sheet reflects Consolidated's Motion rates constituting a downward modification in the SS–II rates and ISS–II rates originally filed by Texas Eastern on December 1, 1982.

Texas Eastern also filed Alternate Substitute Revised Substitute Sixty-third Revised Sheet No. 14 to coincide with Consolidated's filing of an alternate sheet to be placed into effect if the Stipulation and Agreement filed on December 29, 1982 is not approved. Consolidated reserved its right to recover the difference between revenues it would have collected under its compliance filing rates and the settlement rates, with interest, through an appropriate surcharge if Consolidated's alternate sheet is placed into effect. Though Texas Eastern believes it is permitted to track such surcharge pursuant to Sections 4.G. and 4.F. of its Rate Schedules SS–II and ISS–II, respectively, Texas Eastern nevertheless reserved the same right as Consolidated if Consolidated is permitted to collect any such surcharge. Texas Eastern requested that the Commission accept the appropriate tariff sheet filed therein based on its decision with respect to Consolidated's rates.

The proposed effective date of the above-mentioned substitute tariff sheet is January 1, 1983.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2922 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 36163–7, August 19, 1975, as amended by 45 FR 71424, October 28, 1980) is amended to reflect the reorganization of the National Institute of Mental Health, ADAMHA, which was necessitated by the legislated program shift to block grants and accompanying budgetary reductions. The reorganization accomplishes the following: (1) Abolishes the Division of Mental Health Service Programs, the Division of Special Mental Health Research, the Division of Clinical and Behavioral Research, and the Division of Biological and Biochemical Research; (2) retitles the Office of Program Development and analysis to be the Office of Policy Development, Planning, and Evaluation; the Division of Manpower and Training Programs to be the Division of Human Resources; the Division of Special Mental Health Programs to be the Division of Prevention and Special Mental Health Programs; the Division of Scientific and Public Information to be the Division of Communications and Education; and the Mental Health Intramural Research Program to be the Division of Intramural Research Programs; (3) establishes the Office of State and Community Liaison, and (4) modifies the functional statements of the entire Institute, with the exception of Saint Elizabeths Hospital.

Section HM–B, Organization and Functions, is amended as follows:

Under *ADAMHA (HM),* delete all functional statements for the *National Institute of Mental Health (HMM),* with the exception of the *Saint Elizabeths Hospital—Division of Clinical and Community Services (HMMS)* and substitute the following:

National Institute of Mental Health (HMM). Provides a national focus for the Federal effort to increase knowledge and advance effective strategies to deal with health problems and issues in the promotion of mental health and the prevention and treatment of mental illness. In carrying out these responsibilities, the Institute: (1) Conducts and supports research and research training on the biological, psychological, behavioral, epidemiological, and social science aspects of mental health and illness; (2) conducts and supports research on the development and improvement of mental health services and prevention programs and on their administration and financing; (3) collaborates with, and provides technical assistance and data to, State and sub-State authorities to assist them in planning, establishing, maintaining, coordinating, and evaluating more effective mental health programs; (4) collaborates with, provides assistance to, and encourages other Federal agencies and national, foreign, State, and local organizations, hospitals, professional associations, and volunteer groups to facilitate and extend programs to promote mental health and prevent mental illness and to provide for the care, treatment, and rehabilitation of mentally ill persons; (5) collects,

analyzes, and disseminates scientific findings and data on the incidence, prevalence, and resources for the treatment of mental illness; (6) carries out administrative and financial management, policy development, planning and evaluation, and public information functions which are required to implement such programs; and (7) exercises administrative and policy oversight for the operation of Saint Elizabeths Hospitals.

Office of the director (HMM1). (1) Provides leadership in the planning, development, and management of Institute goals, priorities, policies, and programs, including equal employment opportunity, and is the focal point for the Department's efforts in mental health and illness; (2) provides overall coordination and oversight for extramural research, prevention, and programs for special populations; (3) conducts and coordinates Institute interagency, intergovernmental, and international activities; and (4) administers committee management and reports clearance activities and provides correspondence control services for the Institute.

Office of Policy Development, Planning, and Evaluation (HMM13). (1) Leads, coordinates, and carries out policy development and program planning, analysis, and evaluation for the Institute; (2) serves as the Institute focal point for the development and analysis of issues relating to the financing if mental health programs and carries our related activities; (3) plans, develops, and implements data systems for collecting or assembling programmatic and national data on research and human resources to determine overall direction of Institute policies and programs; (4) provides liaison with corresponding components of ADAMHA, PHS, and DHHS; (5) develops the Institute's program ("forward") plans and similar materials, and recommends principles on which to base program budget requests, allocations and apportionments, and corresponding rationale; (6) develops and promotes the Intitute's program evaluation plan and, with other components, develops and implements approved projects; (7) plans and carries out intergovernmental liaison between the Institute and States, sub-state jurisdictions, and related public interest groups with respect to Federal mental health policies; (8) serves as the Institute focal point for the analysis of both existing and proposed Federal and State legislation, regulations, and judicial actions and related matters; and (9) serves as the Institute's congressional liaison.

Office of Extramural Project Review (HMM14). (1) Plans, administers, and coordinates peer and objective review of applications for grants and cooperative agreements and contract proposals; (2) develops Institute review policies and procedures, provides orientation and guidance on such policies and procedures, and monitors the review process to insure quality of review and conformance to policy; (3) recommends nominees for review groups and provides logistical support; (4) collects and analyzes data relating to applications and proposals reviewed, and makes recommendations, as necessary, for changes in Institute committee structure and/or referral guidelines; (5) collaborates with other components within the agency to insure adequate exchange of information and assure optimum effectiveness of the review process; and (6) participates in the review of proposed DHHS, PHS, and ADAMHA policies and procedures affecting peer and objective review.

Office of Program Support (HMM15). (1) Supports the Institute in various areas of administrative management such as: (a) Awarding and administering Institute-sponsored grants, cooperative agreements, contracts, and interagency agreements and interpreting related regulations; (b) developing Institute budget proposals and establishing and maintaining controls of Institute funds, facilities, and staff; and (c) providing general administrative services; (2) maintains liaison with management staff of the Office of the Administrator toward implementing management policies prescribed by ADAMHA and higher authorities, advising the Director on policy implications of proposed changes; (3) conducts management studies of Institute policies, programs, and operations; (4) develops, coordinates, and implements appropriate general management policies, procedures, and guidelines for the Institute; and (5) coordinates Institute Privacy Act activities.

Office of State and Community Liaison (HMM16). (1) Responds to requests from States, communities, other Federal agencies, and national organizations to improve the quality of the mental health services delivery system by: (a) providing professional and technical consultation on service delivery and financing issues, (b) assisting with knowledge transfer among service providers, and (c) developing and operating a nonstatistical information network on State program policies, trends, and systems development; (2) conducts quality assurance activities, including Health Care Financing Administration-sponsored Medicare surveys of inpatient mental health facilities.

Division of Extramural Research Programs (HMMA). (1) Plans and administers programs of support for research and research resources focusing on the prevention, etiology, diagnosis, course, and treatment of mental disorders, and on rehabilitation of the mentally ill, including studies in the basic, clinical, and applied areas utilizing biological, behavioral, genetic, pharmacologic, somatic, psychosocial, and cross-cultural approaches; and (2) coordinates Institute programs in schizophrenia, affective disorders, and adolescent and child psychopathology.

Division of Intramural Research Programs (HMMB). (1) Plans and administers a comprehensive long-term intramural research program dealing with the causes, diagnosis, treatment, and prevention of mental disorders, as well as the biological and psychosocial factors that determine human behavior and development; and (2) provides a focus for national attention in the area of mental health intramural research.

Division of Human Resources (HMM3). (1) Plans, administers, and supports programs in the planning, development, training, and utilization of mental health human resources to meet mental health service delivery system and research needs including: (a) Human resource research and demonstration projects; (b) training in the mental health core disciplines and related fields; and (c) technical and related financial assistance to States, local governments, service agencies, and training institutions; and (2) collects and analyzes data and conducts studies related to nationwide perspectives and needs regarding mental health human resource planning, training, development, and utilization.

Division of Prevention and Special Mental Health Programs (HMM5). (1) Plans and administers integrated programs of support for research, research training, and related activities which meet national mental health goals and established national priorities in prevention and disaster assistance and for special populations and other special mental health areas; (2) reviews and assesses the performance of such programs; and (3) coordinates and integrates these programs within the Institute and in ADAMHA, PHS, DHHS, and the other agencies within the Federal Government.

Division of Communications and Education (HMM7). (1) Plans and

directs the acquisition and communication of scientific and technical information, including the operation of a mental health library; (2) develops and presents conferences, symposia, and lectures, as well as curricula for the continuing professional education of service providers, public officials responsible for these services, and agency staff; and (3) develops prevention education materials and provides public information services for the Institute, including responses to public inquiries.

Division of Biometry and Epidemiology (HMM9). (1) Operates a national statistical reporting program to obtain, analyze, and disseminate statistics on the major characteristics of the Nation's mental health service systems, their resources, staffing, utilization patterns, costs, and financing; (2) conducts, develops, and supports programs of research and research training on the national mental health service system; (3) conducts, develops, and supports programs of clinical services research and research training focused on service delivery system sectors; (4) coordinates Institute activities in mental health epidemiology and conducts, develops, and supports programs of research and training on mental health epidemiology; (5) develops methodology for research and data collection in biometry, epidemiology, services research, and demography, and provides statistical and mathematical consultative services to the Institute; and (6) provides professional and technical consultation to State and local mental health service and statistical agencies on statistical and epidemiologic methodology, development of mental health information systems, and the use of statistical, epidemiologic, and demographic data to improve these services and information services.

Dated: January 28, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-3241 Filed 2-4-83; 8:45 am]

BILLING CODE 4160-20-M

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HM, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 1654, January 11, 1974, as amended most recently in part by 45 FR 78229, November 25, 1980) is amended to reflect the complete reorganization of the National Institute on Drug Abuse, ADAMHA, which was necessitated by the legislated program shift to block grants and accompanying budgetary reductions. The reorganization accomplishes the following: (1) Establishes the Office of Science, the Addiction Research Center, the Division of Epidemiology and Statistical Analysis, the Division of Preclinical Research, the Division of Clinical Research, and the Division of Prevention and Communications; (2) abolishes the Office of Special Populations, the Office of Grants and Contracts, the Office of Communications and Public Affairs, the Office of Extramural Policy and Project Review, the Division of Research, the Division of Training, the Division of Prevention and Treatment Development, the Division of Community Assistance, the Division of Medical and Professional Affairs, and the Division of Data and Information Development; (3) retitles the Office of Program Development and Analysis to be the Office of Policy Development and Implementation, and the Office of Management to be the Office of Administration; and (4) modifies the functional statements for the entire Institute.

Section HM-B, Organization and Functions, is amended as follows:

Under *ADAMHA (HM),* delete all functional statements for the National Institute on Drug Abuse (HMH) and substitute the following:

National Institute on Drug Abuse (HMH). Provides a national focus for the Federal effort to increase knowledge and promote effective strategies to deal with health problems and issues associated with drug abuse. In carrying out these responsibilities, the Institute: (1) Conducts and supports research on the biological, psychological, psychosocial, and epidemiological aspects of narcotic and addiction and drug abuse; (2) supports research training of individuals and institutions who are training individuals in the biological and psychological sciences and epidemiological aspects of narcotic addiction and drug abuse to enable them to pursue careers in research; (3) collaborates with and provides technical assistance to State drug abuse authorities, and encourages State and community efforts in planning, establishing maintaining, coordinating and evaluating more effective narcotic addiction and drug abuse programs; (4) collaborates with and encourages other Federal agencies, national, foreign, State and local organizations, hospitals, and volunteer groups to enable them to facilitate and extend programs for the prevention of narcotic addiction and drug abuse, and for the care, treatment, and rehabilitation of drug abusers; and (5) carries out administrative and financial management, policy and program development, planning and evaluation, and public information functions which are required to implement such programs.

Office of the Director (HMH1). (1) Provides leadership, direction, and policy in the development of Institute goals, priorities, policies, and programs; and serves as the focal point for the Department's efforts on drug abuse; (2) conducts and coordinates Institute interagency and international activities; (3) provides support to the Institute in equal employment opportunity; (4) conducts Institute activities associated with the scheduling of psychoactive drugs, their medical and nonmedical use, and their diversion from legitimate medical channels; and (5) collaborates with other Federal agencies to establish standards for drug prescribing practices.

Office of Science (HMH12). (1) Provides advice and guidance to the Director regarding the Institute's research programs and other scientific activities; (2) provides a continuing assessment of current Institute research activities in relation to broad research goals and objectives, and recommends changes to basic drug abuse research policy where needed; (3) administers the peer and objective review of grant applications and contract proposals; (4) coordinates and assures the development of, and adherence to, program policies and rules relating to Institute extramural activities; (5) administers the committee management function; and (6) coordinates Institute activities under the Privacy Act and for reports clearance.

Office of Policy Development and Implementation (HMH13). (1) Develops and coordinates the implementation of program plans and policies and monitors progress toward established objectives; (2) analyzes program policy and activities and develops recommendations for significant program changes; (3) develops Institute program evaluation policy and plans in conjunction with the development of the Institute's annual budget; (4) develops data requirements pertinent to planning and evaluating program activities; and (5) provides advice and guidance on legislation, statutes, and regulations related to all aspects of drug abuse research and prevention, and provides liaison to the Congress on matters related to those areas.

Office of Administration (HMH15). (1) Provides or coordinates the provision of administrative management support to the Institute in such areas as (a) financial management, including budget and accounting, (b) administrative services, (c) personnel management, and (d) grants and contracts management; (2) develops administrative management policies, procedures and guidelines, and conducts management studies of Institute programs and operations; (3) maintains liaison with the management staff of the Office of the Administrator and implements within the Institute general management policies prescribed by ADAMHA and higher authorities; and (4) provides correspondence control services for the Institute.

Addiction Research Center (HMHA). (1) Plans, develops, and conducts intramural preclinical and clinical research on the causes, hazards, treatment, and prevention of drug abuse and addiction, the nature of the addiction process, and the addiction liability of new drugs drawing on the biomedical, neuroscience, psychological, and behavioral sciences; (2) provides inhouse research scientist training in a variety of disciplines for work in drug abuse-related research; and (3) develops preclinical and clinical research studies and procedures for protection of human subjects from research risks and monitors the provision of medical care to these subjects.

Division of Preclinical Research (HMHB). (1) Plans, develops, and administers an extramural program of biomedical preclinical research which seeks to develop new knowledge concerning the mechanisms underlying drug abuse and its etiology and hazards; (2) supports studies to develop new methodologies for testing the abuse potential of new compounds; (3) supports studies designed to determine the neurological and biochemical effects of a newly developed pharmacological agents; (4) supports research training to increase the skills, quantity, quality, and utilization of research investigators in the biomedical and preclinical disciplines in the drug abuse field; and (5) develops and supports research into the quota levels for new substances, synthesis of new drugs and metabolites, new methods development, and pharmaceutical formulations; and manages the distribution of controlled substances, research drugs, and chemicals.

Division of Clinical Research (HMHC). (1) Plans, stimulates, develops, and supports a broad extramural program of basic and applied research focusing on drug abuse treatment and prevention; (2) supports studies designed to describe and understand drug abusing behavior and to ascertain the effects of drugs on performance; (3) supports clinical and other applied research designed to assess the efficiacy of new and existing prevention and treatment intervention techniques to meet the needs of both active and prospective drug abuse treatment clients; and (4) supports research training to increase the skills, quantity, quality, and utilization of research investigators in the clinical, psychological, and behavioral science disciplines in the field of drug abuse.

Division of Epidemiology and Statistical Analysis (HMHD). (1) Plans, conducts, and supports epidemiological studies and surveys on the nature and extent of drug abuse, and monitors emerging trends in drug abuse; (2) designs, develops, operates, and maintains Institute drug abuse information systems; (3) conducts ongoing surveys and develops analytic methodologies where information gaps exist in undertaking special population drug abuse problems; (4) works cooperatively with States and private organizations to encourage sharing of drug abuse epidemiology and treatment information; and (5) provides consultation and technical assistance, upon request, to States concerned with developing and refining drug abuse information systems.

Division of Prevention and Communications (HMH6). (1) Conducts prevention and public education activities, through drug abuse media campaigns and the dissemination of publications and drug abuse prevention materials, and provides public information services for the Institute; (2) collects, abstracts, stores, and disseminates program and scientific information on drug abuse through the National Clearinghouse for Drug Abuse Information; (3) collects drug abuse research findings supported or conducted by the Institute, and incorporates such findings into the body of drug abuse-related information available for dissemination; (4) collaborates with Government agencies, professional organizations and associations, business and industry and private philanthropy and provides technical assistance in developing alternative funding sources for treatment; (5) provides consultation and technical assistance on prevention projects, training programs, and a variety of medical/clinical activities in States, local communities, professional associations, business and industry, national organizations, schools and universities, and other external groups; (6) coordinates NIDA activities under the Freedom of Information Act; and (7) operates a resource center of books, periodicals, film, and records relating to drug abuse.

Dated: January 28, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-3242 Filed 2-4-83; 8:45 am]

BILLING CODE 4160-20-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-41740]

Alaska Native Claims Selection

On January 6, 1981, Cook Inlet Region, Inc., filed selection application AA-41740, as amended, under the provisions of sections 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151), and I.C. (2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976, for the surface and subsurface estates of certain lands located near Skwentna, Alaska.

Section 12(b)(6) of the act of January 2, 1976, authorizes conveyance of lands to Cook Inlet Region, Inc., from a selection pool established by the Secretary of the Interior and the General Services Administrator.

The lands are located inside the boundaries of Cook Inlet Region. The lands within selection AA-41740 were placed in the pool of properties available for Cook Inlet Region, Inc., subject to valid existing rights, by notice dated July 13, 1979.

The selection application of Cook Inlet Region, Inc., as to the lands described below, is properly filed and meets the requirements of the act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, containing 1,114.03 acres, are considered proper for acquisition by Cook Inlet Region, Inc., and are hereby approved for conveyance pursuant to section 12(b)(6) of the act of January 2, 1976:

Seward Meridian, Alaska (Surveyed)

U.S. Survey No. 3899, exluding the lands described below:

Commencing at U.S. Land Monument, Land Survey No. 2155, proceeed North 516.12' to Cor. 1-U.S. Survey No. 2155; thence N.

6°55'W., 852.0' to a point; thence Northerly 2,680' along the meanders of the Skwentna River to a point; thence N. 64° W., 5,450± to a point; thence S. 26° W., 1,200' to the true point of beginning; thence S. 64° E., 1,320' to a point; thence S. 26° W., 1,000'± to a point; thence Westerly along the meanders of the Skwentna River 400'± to a point; thence N. 64° W., 1,080'± to a point; thence N. 26° E., 1,320' to the true point of beginning.

Containing approximately 1,114.03 acres.

There are not easements to be reserved to the United States pursuant to section 17(b) of the Alaska Native Claims Settlement Act (ANCSA).

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANSCA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

Sec. 12(b)(6) of Public Law (Pub. L.) 94–204 provides that conveyances pursuant to this section shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in section 12(b)(5) of this act and on the basis of values determined by appraisal. The lands described above have been appraised at a value of $400,000. Since the lands are valued at less that $500 per acre, the subject property will be exchanged acre for acre pursuant to section I.C.(2)(e)(ii) of the Terms and Conditions. Upon acceptance of title to these lands, Cook Inlet Region, Inc., will relinquish its selection rights to 1,114.03 acres of its out-of-region entitlement.

Conveyance of the remaining entitlement to Cook Inlet Region, Inc., shall be made at a later date.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Daily News.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, Office of the Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until March 9, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of ANSCA Adjudication.

[FR Doc. 83–3156 Filed 2–4–83; 8:45 am]

BILLING CODE 4310–84–M

Intent To Prepare a Joint Environmental Impact Report/ Environmental Impact Statement (EIR/ EIS) With the County of Tuolumne on the California Gold Project

The Department of Interior, Bureau of Land Management, Bakersfield District, Folsom Resource Area, and the County of Tuolumne will prepare a Joint Environmental Impact Report/ Environmental Impact Statement (EIR/ EIS) for a proposed gold mine, processing facility, and waste disposal site on approximately 700 acres in Tuolumne County, California.

The statement will analyze the anticipated environmental consequences of the project in compliance with the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA). Significant issues identified include: Noise, water quality, rare plants, and proximity to residences. Alternative plans will include variations in the location of components of the project. The draft document is scheduled for completion in April 1983. A Notice of Availability will be published in the **Federal Register** establishing the dates of the comment period following distribution of the draft to the public.

For further information on the California Gold Project EIR/EIS, contact Deane K. Swickard, Folsom Resource Area Manager, Bureau of Land Management, 63 Natoma Street, Folsom, CA 95630, or call (916) 985–4474.

Dated: January 31, 1983.

Ed Hastey,

State Director, Bureau of Land Management.

[FR Doc. 83–3286 Filed 2–4–83; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Fourth Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service publishes summaries of its proposed negotiating positions for the fourth regular meeting of the Conference of the Parties of the

Convention on International Trade in Endangered Species of Wild Fauna and Flora and requests information and comments on them. The Service also announces a public meeting with regard to the proposed negotiating positions and with regard to proposals to amend the lists of species in Appendies I and II of the Convention.

ADDRESSES: Information and comments on proposed negotiating positions should be sent to the Associate Director, Federal Assistance, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Written information and comments received by WPO will be open to public inspection during normal business hours at the Federal Wildlife Permit Office, Room 620, 1000 N. Glebe Road, Arlington, Virginia.

DATES: A public meeting will be held on February 15, 1983, from 9:30 a.m. to 12:30 p.m. in room 7000 A of the Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

The Service will consider information and comments received by February 22, 1983, concerning proposed negotiating positions.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, Telephone: 703/235–2418.

SUPPLEMENTARY INFORMATION:

Background

The United States is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as CITES or the Convention), an international agreement designed to control trade in certain listed animal and plant species which are or may become threatened with extinction. CITES provides for biennial (regular) meetings of the Conference of the Parties to review its implementation. This notice is the third in a series of notices designed to inform the public of preparations being made for the next regular meeting to be held in Gaborone, Botswana, on April 19–30, 1983. In the first notice published on August 5, 1982 (47 FR 34043), the Service published the provisional agenda for the meeting and an explanation of most of the items of the agenda. The Service invited the public to provide information and comments on the provisional agenda and also announced a public meeting to receive information and comments. This meeting was held on August 13, 1982. A second notice, which made a few corrections to the first notice, was published on September 27, 1982 (47 FR 42465).

Proposed Negotiating Positions

In this notice, the Service is publishing in summary form proposed negotiating positions for the Gaborone meeting. The numbers next to each summary correspond to the numbers used to denote provisional agenda items as found in the first notice as corrected. A summary of any information and comments received at the public meeting and submitted in writing to the Service, and a summary of the basis for the proposed position follow each summary negotiating position. In some instances no negotiating position is stated, but an explanation is given for not developing a proposed negotiating position.

Item XV, Consideration of Proposals for Amendment of Appendices I and II will not be treated in this notice. Item XV has been and will be the subject of separate **Federal Register** notices orignating in the Service's Office of the Scientific Authority.

If necessary, one should consult the notices cited above to understand the issues to which these proposed negotiating positions are directed.

I. Opening Ceremony by the Authorities of Botswana

Proposed Negotiating Position: No position necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Normally, no issues are raised under this agenda item.

II. Welcoming Addresses

Proposed Negotiating Position: No position necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Normally, no issues are raised under this agenda item.

III. Establishment of the Credentials Committee and Other Committees

Proposed Negotiating Position: The United States should seek membership on the Credentials Committee and on the Finance, Screening, and Technical Expert Committees.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Although the Credentials Committee's work is usually not controversial, it could be involved in credentials challenges of a political nature. Such questions may have ramifications beyond the CITES system. The other committees will deal with matters of substance involving issues addressed in proposed negotiating positions set forth below.

IV. Adoption of Agenda and Working Programme

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Usually, adoption of the Agenda and Working Programme is pro forma.

V. Report of the Credentials Committee

Proposed Negotiating Position: Support the adoption of the report, provided it does not recommend exclusion of the legitimate representatives of States party to CITES. Representatives whose credentials are not in order should be afforded observer status per Article IX.7(a) of CITES. If credentials have been delayed, representatives should be allowed to participate and vote on a provisional basis.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Adoption of the report is usually pro forma. Exclusion of representatives whose credentials are in order could undermine cooperation among the Parties which is essential to the effective implementation of CITES.

VI. Adoption of Rules of Procedure

Proposed Negotiating Position: Support adoption of the rules, but affirm that proposed changes to Rule 2 and Rule 22 are merely clarifications and in no way change the practice that observers may participate in committee sessions and working groups if such participation is approved.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The seventh meeting of the Standing Committee felt that Rule 2, as currently written, gives the mistaken impression that observers have the right to participate in committee and working group sessions, since it states that they have the "right to participate". Only in Rule 22, as currently written, is it clear that participation by observers in committee and working group sessions is a privilege.

VII. Admission of Observers

Proposed Negotiating Position: The United States supports the admission as observers of all representatives of agencies or bodies technically qualified in protection, conservation or management of wild fauna and flora.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Participation of nongovernmental organizations at meetings of the Conference of the Parties is on the whole beneficial. The Convention makes formal provision for such participation.

VIII. Report and Recommendations of the Standing Committee

1. Report by the Chairman.

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Any issues raised in the report will be addressed under other agenda items.

2. Revision of the Membership of the Standing Committee.

Proposed Negotiating Position: Support expansion of committee membership to include the chairmen of all permanent committees (thus far only the Technical Expert Committee). Where appropriate, chairmen of other committees should be invited to participate as observers.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The Standing Committee has assumed the role of coordinator of other committees. At its seventh meeting, it assumed the role of coordinating the use of funds by other committees. Inclusion of committee chairmen in Standing Committee proceedings should help to avoid conflict and duplication of effort and enrich each committee's information base.

3. Payment of Travel Expenses for Standing Committee Members.

Proposed Negotiating Position: Support payment of travel expenses, provided funding external to the regular CITES budget is used.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Payment of travel expenses would assure attendance of representatives from countries with "reduced" budgets. The United States has opposed payment of travel expenses from the regular budget for persons other than Secretariat employees or consultants.

4. Election of the New Members of the Standing Committee.

Proposed Negotiating Position: None necessary.

Information and comments: None received.

Basis of Proposed Negotiating Position: The North American Region will not be subject to election until 1985. Regions usually nominate their own representatives.

IX. Report of the Secretariat

Proposed Negotiating Position: Support a proposal recommending that Parties unable to submit their annual reports to the Secretariat by the prescribed date, furnish the Secretariat by that time with a target date for submission of the report.

Information and Comments: One commenter has noted that most Parties are still failing to issue timely reports. Commenter also requested that the United States urge the Secretariat to highlight enforcement problems in its annual report.

Basis of Proposed Negotiating Position: The Secretariat's 1981 Annual Report indicates that tardiness is on the increase. It is the Service's understanding that the Secretariat will make a "target date" proposal under this agenda item. The Secretariat highlighted enforcement problems in its 1981 report and it is anticipated it will do the same in 1982. The Parties' concerns about enforcement problems are evidenced by several of the agenda items including: the Report of the Technical Expert Committee on National Reports under Article VII, paragraph 7, of the Convention (item XIII.1); Review and harmonization of annual reports (XIII.2); Effects of reservations (XIII.3); Trade in souvenirs (XIII.7); Time validity of export permits and re-export certificates (XIII.9); Exemptions under Article VII of the Convention (XIII.10); Specimens in transit (XIII.11); Animals stressed during transport (XIII.13); Identification Manual Committee (XII.2); and Nomenclature Committee (XII.3).

X. Financing of the Secretariat and of meetings of the Conference of the Parties

Proposed Negotiating Position: Support adoption of the Secretariat's proposed budget for calendar years 1984 and 1985, provided there is no unjustifiable growth over 1982–83.

Information and Comments: None received.

Basis of Proposed Negotiating Position: While the Secretariat intends to increase its small staff to cope with the increase in Party membership and activity which has occurred since it attained its current five member complement, it will attempt to do so without significant real growth in the 1984–85 budget. The United States has not yet received a copy of the final budget proposal.

2. Transfer of responsibilities (for the administration of the Trust Fund for the Convention).

Proposed Negotiating Position: Support continued administration of the Trust fund for the Convention by UNEP, provided UNEP continues to maintain its substantial reduction of charges for administering the fund (program support costs).

Information and Comments: None received.

Basis of Proposed Negotiating Position: It appears that UNEP will agree to continue its effective 50 percent reduction of such charges announced at the seventh Standing Committee meeting.

3. Headquarters Matters.

Proposed Negotiating Position: Support retention of the Secretariat in Switzerland.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Secretariat offices are located in IUCN offices in Gland, Switzerland, rent free. Benefits are derived from IUCN support services. A decision on tax privileges will be made by the Swiss government probably around the end of 1982 year or the beginning of 1983.

XI. Relationship With Other International Agreements and Organizations

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Normally the Secretariat makes a report on its contacts with other international organizations.

XII. Committee Reports and Recommendations

1. Technical Expert Committee (Recommendations of the Technical Expert Committee will be addressed under item XIII. This proposed negotiating position will address the organization of the Technical Expert Committee which has not met formally since the third regular meeting of the Conference of the Parties, New Delhi, India, February–March 1981. It also addresses the problem of proving foreign law.)

Proposed Negotiating Position: The membership of the Technical Expert Committee should consist of no more than six Parties. On nominating the members of the Committee, the Conference of the Parties should ensure, to the extent possible, that the following major geographic regions are represented: Africa, Asia, Central and South America, North America, Europe, and Oceania. Parties requesting that other Parties take appropriate action

with regard to their domestic laws should furnish copies of such laws and explanatory information to the Secretariat for circulation to the Parties.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Instead of the open membership currently in effect, Parties would have to volunteer for regional membership. It is more likely that volunteers will feel obligated to attend meetings and perform their obligations than under the current structure. Circulation of foreign laws would facilitate legal action in the United States.

2. Identification Manual Committee.

Proposed Negotiating Position: Support continued development of an identification manual useful to port and border enforcement officials and urge all countries and organizations to do likewise.

Information and Comments: One commenter stated that 10 identification sheets for seven Mexican cacti listed on Appendix I and three Appendix I *Sarracenia* species are being prepared by the Smithsonian Institution in cooperation with the U.S. Department of Agriculture, U.S. Department of Justice, and Linda McMahan at TRAFFIC (U.S.A.) for use in the identification manual.

Basis of Proposed Negotiating Position: Species identification material for port and border enforcement officials is limited. Accurate and expeditious identification of species is essential to the successful enforcement of CITES. The Parties should review those portions of the manual already produced in this light. Voluntary contributions to the development of the manual are greatly appreciated. Interested persons should contact Mr. Richard M. Parsons (see "FOR FURTHER INFORMATION CONTACT", above).

3. Nomenclature Committee.

Proposed Negotiating Position: Support continuation of the work of this committee to develop a standardized nomenclature for use in CITES.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Efforts to control trade in wild animals and plants at the species level are often hindered by the use of synonyms for the scientific names of those species. The naming and systematic classification of organisms is a continual process. However, a relatively fixed list of species names, changed at intervals by the Conference of the Parties, is needed for the purposes of regulating trade.

XIII. Interpretation and Implementation of the Convention.

1. Report of the Technical Expert Committee on national reports under Article VIII, paragraph 7, of the Convention.

Proposed Negotiating Position: Support Technical Expert Committee and Secretariat consideration of the possible applicability of Article XIII procedures or other measures to high volumes of trade in certain species, particularly certain reptiles (*Tupinambis teguixin, Varanus exanthematicus, Varanus niloticus,* and *Varanus salvator*).

Information and Comments: None received.

Basis of Proposed Negotiating Position: Resolution Conf. 3.5 requires the Technical Expert Committee to review annual reports and identify problems of enforcement. Commenting on the mandate of the Technical Expert Committee, the Secretary General has stated that it ". . . would provide further opportunity to develop procedures for compliance control . . ." and related this to the Secretariat's role under Article XIII to communicate information to a Party indicating that a species included in Appendix I or II is being adversely affected by trade or that the provisions of the Convention are not being effectively implemented. The Service has submitted a paper to the Technical Expert Committee and the Secretariat regarding high volumes of trade in specimens of certain species, particularly the ones named above.

2. Review and Harmonization of Annual Reports.

Proposed Negotiating Position: Support efforts of the Secretariat to have annual reports compiled in a harmonized format.

Information and Comments: One commenter suggested that the resolution of the Conference of the Parties dealing with ranching (Conf. 3.15) be supplemented to require ranching facilities to produce an annual report to be submitted to the Secretariat, such report to include the number of specimens taken from the wild, returned to the wild, skins exported and stockpiled, and a description of other programs benefiting the species.

Basis of Proposed Negotiating Position: The Secretariat has circulated a standard format for annual reports. The Service supports and uses this format. The U.S. Annual Report also provides additional information in supplemental tables. Some of the terms used in the Secretariat's format may need further refining. The Service believes that the Secretariat already has sufficent authority under resolution Conf. 3.10 and Conf. 3.15 to request details from reporting Parties concerning the status of the population subject to the ranching operation and the performance of the operation in order to satisfy the Parties that the ranching criteria continue to be met. The Service will forward commenter's suggestions to the Secretariat.

3. Effects of Reservations.

Proposed Negotiating Position: A Party reserving to an "uplisting" of a species from Appendix II to Appendix I should continue to treat the species as listed on Appendix II, except that when trading with a nonreserving Party, the reserving Party shall be treated as a nonparty and provide equivalent Appendix I documentation.

A Party reserving to a species listed for the first time on Appendix I ("on-listing") should continue to treat the species as if it had not been listed except that when trading with a nonreserving Party, the reserving Party shall provide appropriate equivalent Appendix I documentation. Generally, the United States will not take a reservation as to species listings, except in those cases where, absent a reservation, the treaty would conflict with United States law, be impossible to implement or would do substantial harm to United States interests. In general, the United States urges those Parties with reservations to consider the underlying reasons for the taking of those reservations and to consider withdrawing them.

Information and Comments: One commenter suggested that reserving Parties importing Appendix I specimens from nonreserving Parties make sure that they were imported with a valid export permit or re-export certificate. The commenter further suggested that if import is from a nonparty, the reserving party make sure that the specimen was legally obtained from the nonparty. Another commenter suggested the use of the "Pelly Amendment" to discourage reservations by other Parties. Another commenter called for the United States to make as much effort as possible to reduce the number of countries that have reservations and not to encourage reservations.

Basis of Proposed Negotiating Position: The Convention provides that reserving Parties shall be treated as nonparties. Article X of the Convention requires that any trade with nonparties be conducted under "equivalent documentation." Thus when attempting to trade a specimen of a species uplisted from Appendix II to Appendix I with a nonreserving Party, the reserving Party

must provide equivalent Appendix I documents. When trading with a nonparty, however, the provision that the reserving Party be treated as a nonparty is not applicable. In this instance, the reserving Party can view itself as still being obligated to enforce the provisions of the Convention as if uplisting had not occurred. Thus when trading with a nonparty the reserving Party should treat specimens of a species uplisted from Appendix II to Appendix I as if the species remained in Appendix II.

With regard to whether a reserving party should make sure that appropriate CITES documents accompanied a shipment from a *nonreserving Party*, if the Party reserved to an uplisting of a species from Appendix II to Appendix I, it would have to issue an appropriate equivalent nonparty import document as a precondition to the issuance of an export or re-export document issued by the nonreserving Party. Upon arrival of the shipment, the reserving Party would view the specimens as included in one of the CITES appendices and thus be obligated in its own view to check at least for the import permit it had issued. However, if the Party had reserved to an on-listing of an Appendix I species, it would view the species as not controlled by the Convention. It would still have to issue the necessary nonparty document, if it wished to trade with the nonreserving Party, and as such would probably feel obligated to check for that document on arrival of the shipment. (See Conference Resolution 3.8, Acceptance of Comparable Documentation Issued by States not Party to the Convention.)

Similarly, when importing an Appendix I specimen from a *nonparty*, the reserving Party, if it had reserved to an uplisting from Appendix II to Appendix I, would view the specimen as a controlled Appendix II specimen and would thus require an appropriate equivalent document from the nonparty. If however, it had reserved to an on-listing to Appendix I it would view the specimen as not controlled by the Convention. To require that the reserving Party make sure that the specimen was legally obtained from the nonparty would be impractical, since both countries would have no CITES obligations toward such specimen.

4. Parts and derivates from nonrecognizing States.

Proposed Negotiating Position: Oppose any moves which allow Parties that consider a specimen to be readily recognizable to accept nonparty documents from Parties that do not consider the specimen to be readily recognizable.

Information and Comments: In opposing any such moves, one commenter pointed out the inconsistency of a nonrecognizing (nonregulating) Party issuing a nonparty document to help regulate trade and stated that if trade were allowed only with proper Party documentation, there would be a strong incentive for the nonrecognizing Party to become a recognizing Party as to the specimens in question.

Basis of Proposed Negotiating Position: Support for acceptance of nonparty documents for nonrecognized specimens would foster continuation of the practice of some Parties to promulgate lists of specimens which they consider to be readily recognizable. The Service believes that such lists may have the effect of discouraging efforts by those Parties to upgrade their administrative and enforcement programs. The United States has opposed the adoption of a uniform list of readily recognizable parts and derivatives and opposes any resolution which fosters national lists. As currently drafted, the TEC resolution supporting such a move would not call for the nonrecognizing Party to issue documents for trade with nonparties nor would it call for the inclusion of trade statistics in the nonrecognizing Party's annual report. Acceptance of nonparty documents from nonrecognizing Parties would require maintenance of multiple lists of recognized parts at each port of entry. This would be very burdensome. It would be much easier if the nonrecognizing Parties eliminated their lists and issued regular convention documents.

5. Parts and derivatives of plants and Appendix III animals.

Proposed Negotiating Position: Support specification of parts and derivatives of Appendix II and III plants and Appendix III animals in those appendices where necessary for conservation of the species concerned as provided in CITES Article I. Support use of broad specifying language (e.g., "all parts and derivatives" or "all parts and derivatives except seeds") where necessary for the conservation of the species concerned. Oppose the addition of a "watch list" of traded parts and derivatives of such plants and animals.

Information and Comments: One commenter supported carrying out the mandate of resolution Conf. 2.18 by advocating a simple amendment to the Appendices stating that all parts and derivatives are regulated unless specified as exempt.

Basis of Proposed Negotiating Position: The United States has opposed unnecessary controls on wildlife and plants by opposing the listing of species that do not meet the criteria found in Article II and in conf. 1.1 [the so-called Berne Criteria]. The Parties should abide by the terms of the Convention which provide that parts and derivatives of Appendices II and III plants and Appendix III animals should only be controlled if "specified" in such Appendices. As a convenience, where most parts and derivatives of a particular species should be controlled, the words "all readily recognizable parts, except . . ." may be used. A watch list added to already extensive lists of species would be confusing and burdensome both to the public and to administrative and enforcement officials.

6. Trade in African elphant ivory.

Proposed Negotiating Position: All ivory regardless of weight or condition should be considered readily recognizable for purposes of determining whether or not CITES documentation is required. Oppose any move to limit coverage of the Convention as it applies to African elephant ivory.

Information and Comments: One commenter opposed setting a weight limit for African elephant ivory under which such ivory would automatically be considered not readily recognizable. The commenter pointed out that such a limit would in effect be treating the African elephant as if it were listed on Appendix III which allows for specifying which parts and derivatives are to be controlled.

Basis of Proposed Negotiating Position: The United States has consistently opposed designation of parts and derivatives controlled by CITES as being not readily recognizable. (See item XIII.4, above.) As applied to African elephant ivory, the proposal, would eliminate statistics showing which countries are "end users" of the ivory, and would eliminate CITES controls at the country of origin.

7. Trade in souvenirs.

Proposed Negotiating Position: The Technical Expert Committee should consider information indicating that trade in specimens of *particular* Appendix I and II species is not in accordance with the provisions of the Convention or that such species are being adversely affected by trade. The Committee should provide guidance to the Secretariat and the Parties on measures that may be taken to remedy these problems. Urge all Parties and national and international transport and travel organizations to inform international travelers of the controls of the Convention and how they affect trade in specimens of animals and

plants listed in Appendices I, II and III used as souvenirs. Support moves to restrict availability of the exemption for personal effects to nonliving specimens.

Information and Comments: One commenter asserted that tourist and commercial trade in sea turtle products was continuing on a large scale and proposed urging adoption of national bans on the sale of these products and the removal of reservations on sea turtle listings by the countries which took them.

Basis of Proposed Negotiating Position: The exemption for personal effects of Appendix I specimens is very limited. Thus, there is no need to eliminate its availability to such specimens. The Parties addressed the problem of high volumes of trade in Appendix II species at the second meeting of the Conference of the Parties. Conf. 2.6 recommended that, where such trade is detrimental to species survival or is in contravention of the laws of any country, consultations occur between the Parties concerned; or if this is not feasible or successful, countries should make use of options provided by Article XIII to call upon assistance of the Secretariat or apply stricter domestic measures provided by Article XIV. The Parties at the third meeting of the Conference of the Parties charged the Technical Expert Committee to identify by continual review of annual reports and other techniques problems with enforcement of the Convention and to guide the Secretariat and the Parties on measures that may be undertaken to remedy these problems (see Conf. 3.5). Commenting on the mandate of TEC, the Secretariat has stated that the mandate would provide further opportunity to develop procedures for compliance control and related this to the Secretariat's role under the terms of Article XIII (see Plen 3.12). At that same meeting, the Parties recommended measures to insure international compliance control.

Thus far, there is little information to indicate that the exemption for personal effects should be totally eliminated with regard to all listed species. The Service is pursuing an examination by TEC of trade in high volumes of particular species. (See proposed negotiating position for item XIII.1, Report of the Technical Expert Committee on national reports under Article VIII, paragraph 7, of the Convention.) Informing the public of the Convention is vital to achieving the goals of the Convention. The background of the Convention supports the view that the exemption for personal effects should not apply to living specimens.

The Service will submit the commenter's information with regard to trade in sea turtle products to the TEC for consideration under item XIII.I of the Agenda.

8. Return of illegally traded specimens.

Proposed Negotiating Position: Support proposal calling for Parties to issue CITES documents to cover trade of confiscated specimens between Management Authorities. Promote discussion on whether confiscated specimens returned to public circulation should be eligible for CITES documents.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Although Articles III and IV do not provide for issuance of re-export certificates for specimens which have been illegally imported, Article VIII provides for return of living confiscated specimens to the country of export under certain circumstances. The use of documents for Management Authority to Management Authority trade would serve to assure smooth passage through all control points and would provide a statistical record of such transactions.

It is not clear whether the drafters of the Convention wanted to prevent purchasers of confiscated items from moving them in international trade.

9. Time validity of export permits and re-export certificates.

Proposed Negotiating Position: Not oppose any move calling for investigation of shipments which take an unreasonably long time to reach their destination. Oppose any attempt to define an unreasonably long time in terms of a specific number of days or months.

Information and Comments: One commenter questioned whether the matter addressed by this item is a problem and if it is found to be a problem perhaps the Parties should agree to a uniform interpretation of the term "used for export" in Article VI.2. Commenter apparently favors a definition which would require importation to occur within the 6-month period during which the export permit is to be "used for export".

Basis of Proposed Negotiating Position: The Service believes that any definition of unreasonably long time between export and import in terms of days or months (including limiting legal import to the expiration date for export) is arbitrary and ignores the wide variety of circumstances associated with international shipments. The Service believes that under normal circumstances, inspecting officials are the best judge of whether or not to initiate an investigation. By not defining what is an unreasonably long period, this discretion would be retained. To define use for export in terms of activities associated with import appears to be difficult to justify given the language of the Convention. Further, some United States export permits have very short expiration dates (much less than 6 months) and would in many instances not arrive at their destination before they expired.

10. Exemptions under Article VII of the Convention.

Proposed Negotiating Position: Support the completion of the Secretariat's study of Article VII implementation.

Submit a resolution concerning the pre-Convention Exemption (Article VII.2) defining "acquired" to mean removal from the wild or production in a controlled environment. The provisions of the Convention should apply to a particular specimen when both of the following events have occurred:

(1) Entry into force of the Convention for the Party making the determination as to whether or not to issue a Pre-Convention Certificate (not applicable to species which spend a substantial part of their life cycle in the marine environment not under the jurisdiction of any state).

(2) Entry into force of the first listing of the species to which the specimen in question belongs (disregarding any subsequent transfer to a different appendix).

The resolution should also limit the availability of the exemption to Party countries.

Information and Comments: One commenter asserted that the applicable date for all species should be the date of entry into force of the first relevant species listing because it would be consistent with the plain language of the Convention.

Basis of Proposed Negotiating Position: If "acquired" were interpreted to mean acquisition of ownership rights in the specimen in question, most standing plants, being subject to the ownership rights of the landowner would qualify for the exemption, a result certainly not intended by the drafters of the Convention. Also use of "ownership rights" test could result in loss of exemption by transfer of ownership after Convention applies to the specimen in question. Such termination would greatly diminish the inducement for nonparties to join CITES associated with this exemption.

Article VII.2 provides this exemption for a specimen if it was acquired before the Convention's provisions "applied to

that specimen." (Emphasis added.) If the question is acquired in a nonparty country, the provisions of the Convention could not be said to apply to it. Thus such specimens would always be eligible for nonparty Pre-Convention certificates, but for the position proposed here that nonparties should not be able to avail themselves of this exemption.

Concerning the exemption for specimens bred in captivity, the TEC Chairman may propose that species with a long period of time between generations not be held to the requirement that parental breeding stock be "capable of reliably producing second-generation offspring." (See Conf. 2.12)

11. Specimens in transit.

Proposed Negotiating Position: Support adoption of any resolution which defines the transit exemption in terms that recognize interruptions of transit for reasons other than those associated with arrangements between consignor and consignee. Not oppose any definition of the word "import" used in the exemption unless it would conflict with relevant United States law.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The problem addressed by the draft TEC resolution (see notice of August 5, 1982) would be better resolved by stricter domestic (national) measures on a case by case basis. Interruptions of transit may occur for such valid reasons (not associated with consignor/consignee arrangements) as transportation delays, health of the specimen in transit, compliance with domestic laws protecting agriculture, human health, etc. Adoption of a uniform definition of import by anything less than a consensus of the Parties could produce disharmony between the Parties. The legal and political implications of a uniform definition apparently prevented its adoption by the Washington Conference.

12. Guidelines for transport.

Proposed Negotiating Position: Support amendments to the Guidelines for Transport which help to clarify them and correct inconsistencies. Support moves to resolve differences between the Guidelines and the International Air Transport Association's (IATA) Live Animal Regulations, provided resolution is compatible with the humane shipment concerns of the Convention.

Information and Comments: One commenter noted that successful guidelines would result in decreased losses of specimens in transit thus eliminating the demand for replacement animals. The commenter noted a conflict between Packer's Guidelines Mm 1 and Mm 6, both of which appear to cover small mammals. The commenter favored compatibility of the Guidelines and the IATA Live Animal Regulations, asserting that the latter's standards were lower than the former. Commenter proposed that the United States should propose an amendment to the Guidelines that would set specific conditions for transporting animals of different species in the same primary enclosure, limit the amount of time prior to departure that a shipment should be accepted, keep crates of animals away from direct exposure to sun, rain, or snow, high or low temperatures or other inclement and unsuitable weather conditions. Commenter favored an amendment that would suggest that animals be observed by shipper or carrier personnel at regular intervals such as every 4 hours, when feasible, to determine their physical condition. Commenter also recommended that consideration be given to developing more specific directions on container ventilation and the adoption of a requirement that animals have sufficient room to make adequate behavioral and postural adjustments, except where restriction of movement is required to prevent harm to the animal or humans.

Basis of Proposed Negotiating Position: At the June 1982 Standing Committee meeting, it was agreed that a dialogue should be established between CITES and IATA to resolve problems between the CITES Guidelines and IATA's Live Animal Regulations. Meetings have recently been held between representatives of both entities, including a meeting between the Chairman of TEC and the Chairman of IATA's Live Animals Board. The meeting produced preliminary agreement that the two entities would seek to work out any substantial differences that exist between the two sets of rules. Such negotiation would subject both sets of rules to substantial review. The review would probably be conducted for CITES under the auspices of TEC. The suggestions of the commenter will be forwarded to the Chairman of TEC for consideration in the context of the negotiation. This negotiation will be discussed at the fourth meeting of the Conference of the Parties. Further action will probably need approval of the Conference.

The Service has submitted to TEC proposals for clarifying amendments to the Guidelines, including resolution of the conflict between Packers Guidelines Mm 1 and Mm 6 noted by the commenter.

13. Animals stressed during transport.

Proposed Negotiating Position: Support the adoption of a suitable short form system for reporting undue stress on live animals shipped under Convention export permits and re-export certificates to the Management Authority of the country of export or re-export. The report should be filled out and signed by a government official concerned with the importation or well-being of the subject specimens. The remaining stub should contain information identifying the reporting official. Other persons should be encouraged to report information of undue stress to such officials. Where appropriate, on receipt of the form, the Management Authority of the country of export or re-export should send a copy of the form to the Management Authority (or competent authority if a nonparty) of any country through which the shipment passed. Under certain circumstances, multiple forms should be attached to the container.

Information and Comments: One commenter felt that even though the system as proposed did not require inspection for undue stress such inspection should be routine. Commenter opposed the filling out and signing of the form by anyone other than an appropriate official.

Another commenter provided a redraft of the TEC draft form published in the August 5 notice and called for a form that is simple, effective and short. The commenter wanted the form to be available for use by both the casual respondent or the person willing and able to provide additional information and for more than one form to be attached to the container to accommodate multiple reports. This commenter suggested that the following elements be added to the draft form: carrier flight information, shipment information, name of consignor and consignee, the number of dead injured or stressed animals, the dimensions of the container, the materials of which the container is constructed, description of damage to container, number and location of ventilation holes, when animals last watered and fed, times of transit, the time and location of the inspection, and printed name of the reporter.

Basis of Proposed Negotiating Position: A reporting system which informs the Management Authority of the country of export or re-export that specimens were subject to undue stress should be sufficient to enable investigation of the causes of such stress, permit remedial action and provide information evaluating the Guidelines and implementation thereof.

Reporting should only be made by officials to enhance the likelihood that the reporter will provide accurate and relevant information on which to base an investigation. Persons not in an official capacity could still bring information concerning undue stress to the attention of such officials. Circulation of the form to the Management Authority of the reporting country would help establish a communication link between that Management Authority and its reporting official and help to protect the integrity of the system. Circulation to all countries through which the shipment passed would alert those countries to the possibility of problems in the shipment of live animals and could serve as an element in a request for information on the particular shipment.

The Service agrees with the comment that the form should be short and simple, yet effective. However, the commenter's redraft adds at least ten requests for information not found in the TEC draft. In addition, it requires more precision on a number of TEC draft elements. For example, the reporter would have to state the number and location of ventilation holes in a container, provide the dimensions of the container, and a description of the materials used in its construction and state when the animal was last watered and fed. Some of the suggested additions to the form may be worthy of adoption. While not ruling out any of the suggestions of the commenter, the Service will be guided by the belief that a short completion time and voluntary use are essential to the acceptance of this form. Commenter's redraft would, if adopted, substantially increase that time. The Service believes that in certain instances several forms should be attached to a container. For example, if a shipment of animals is to be off-loaded in an intermediary country, the chances that the shipment would be subject to official inspection would be increased. Indentification of the reporting official on the remaining stub would indicate to other officials that the form was used for official purposes and not inadvertently or maliciously removed.

14. Control of captive breeding and artificially propagating operations in Appendix I species.

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The Service has been informed by the Secretariat that it is proceeding with the development of a list of persons eligible for the exemption in Article VII, paragraph 4 of the Convention which provides that commercial breeders and propagators of Appendix I specimens shall be treated as if trading in Appendix II specimens (instead of being eligible for an exemption certificate available to noncommercial breeders and propagators). The purpose of the list would be to enable inspecting officials to clear such Appendix I specimens with greater assurance that they were not acquired from the wild. The Service has responded to the Secretariat's request for information related to this matter. Presumably this agenda item will be used for the purpose of enabling the Secretariat to report on this activity.

XIV. Consideration of proposals relating to the Appendices

1. Ten Year Review of Appendices.

Proposed Negotiating Position: Support cooperative efforts among the Parties to assess the proper listing of species in the appendices. This should be an ongoing process, not one that ends in Botswana.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The ever-changing status of wildlife and plant populations requires more frequent evaluation. The regional committees of the Ten Year Review have facilitated exchange of status information among Parties in which any given species occurs. They would likewise be helpful for evaluating new proposals to amend the appendices.

2. Reverse listing concept for appendices.

Proposed Negotiating Position: Oppose any move to reverse list CITES Appendices I and II.

Information and Comments: None received.

Basis of Proposed Negotiating Position: A species which is controlled without sufficient biological information cannot be rationally managed. Without such information, trade under "rubber stamp" permits or a trade ban extended to the thousands of species not currently listed would damage support for this Convention around the world. Reverse listing would substantially increase administrative burdens better directed at species known to need protection.

XV. Consideration of Proposals for Amendment of Appendices I and II

This item is not a substantive subject of this notice. The Service has published separate **Federal Register** notices concerning preparation of United States positions on proposals to amend Appendices I and II. One of the most recent such notices addressing Ten Year Review proposals was published on Wednesday, November 17, 1982 (47 FR 51772). Another, dealing with other United States proposals was published on Monday, December 27, 1982 (47 FR 57524). (See Public Meeting below in which the Service announces a public meeting which will include receipt of information and comments on species proposals.)

XVI. Conclusion of the Meeting

1. Determination of the time and venue of the next regular meeting of the Conference of the Parties.

Proposed Negotiating Position: Support holding the next meeting in the Pacific area or South America (provided no significant incremental charge on the CITES budget is entailed and all Parties will be admitted to the country without political difficulties).

Information and Comments: None received.

Basis of Proposed Negotiating Position: By 1983, these meetings will have been held in Berne (Switzerland 1976), San Jose (Costa Rica 1979), New Delhi (India 1981) and Gaborone (Botswana 1983). Experience has shown that they stimulate regional interest in the goals and work of CITES.

2. Closing remarks.

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Normally, this agenda item consists of expressions of appreciation directed at the host government.

Additional Issues

The Service recently received information from the Secretariat indicating that the meeting will also be considering the following issues:

1. Regulation of trade in Appendix II wildlife. At the third meeting, Australia proposed establishment of an expert committee to identify Appendix II wildlife that is traded extensively, consider the adequacy of management programs and advise on development thereof to enable safe commercial use of such species. Australia offered to coordinate preparation of guidelines for consideration by the Parties at the fourth regular meeting. No such guidelines have been received by the Service.

2. Interpretation of "prepared and shipped," "living specimen" and "cruel treatment." A Gambian proposal seeks to explore the meaning of these terms which are part of the provisions designed to assure safe shipment of living specimens. (See Article III, IV and V.)

3. Regulation of zoos and similar institutions. A revival of a proposal made in the third meeting to have the Secretariat list and rank zoos and public and private animal parks in collaboration with IUCN and international zoological associations.

4. Identification of Mammal hairs. A party will offer information indicating how mammalia species can be identified by microscopic examination of their hair.

5. Procedure for proposal of amendments. A proposal will be made recommending that if a Party wishes to be assured that a species proposal will be considered by the meeting and not withdrawn by the proponent Party, it should submit its own proposal.

6. A call has been made for an extraordinary meeting to consider amending CITES to allow "regional economic integration organizations constituted by foreign states" to accede to CITES. The United States has requested the Secretariat that such a meeting be held without committing itself on the substance of this item. One-third of the Parties must make such a request. This issue was raised by the European Community.

Request for Information and Comments

The Service invites information and comments on the proposed negotiating positions and the additional issues summarized above. Address written information and comments as set forth in "Addresses" above.

Announcement of Public Meeting

The Service announces that it will hold a public meeting on Tuesday, February 15, 1983, from 9:30 a.m. to 12:30 p.m. in Room 7000 A of the Main Interior Building of the Department of the Interior, 18th and C Streets, NW., Washington, D.C. for purposes of receiving information and comments with regard to the proposed negotiating positions summarized above, and with regard to proposals to amend the list of species in Appendices I and II of CITES. Written statements may be submitted to the Service before or at the meeting. Appointments to speak may be made with the Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240 (703/235–2418). Participants without prior appointments will be given an opportunity to speak to the extent time allows following speakers with appointments.

Observers and Draft Provisional Working Program

For information concerning how to become an official observer at the fourth regular meeting of the Conference of the Parties, see the Service's notice published in the **Federal Register** of August 5, 1982 (47 FR 34043). United States' nationals do not require a Botswana visa provided they are in possession of a valid United States passport. Each person who will be an observer must submit a Registration Form to the CITES Secretariat, c/o IUCN, Avenue du Mont-Blanc, CH–1196, Gland, Switzerland. The Secretariat will make arrangements for room accommodations upon receipt of the Registration Form. Observers will be notified of the arrangements made by the Secretariat. The Secretariat has notified the Service that the quantity of accommodations available in Gaborone will probably be extremely limited. Only one room in Gaborone will be available for each nongovernmental organization. Other accommodations outside of Gaborone may be available. We therefore strongly encourage that the number of observers from any such organization be limited to two persons. The number of observers from any one such organization who may attend a plenary session will probably be limited to two. We also urge those wishing to attend the meeting as observers to take the steps necessary to become an observer (as outlined in the August 5 **Federal Register** notice) as soon as possible. It should be noted that all observer organizations other than the United Nations and its specialized agencies will be required to pay a standard participation charge of United States $50.00. (See Conf. 3.2)

So that observers may better schedule their attandance at the meeting, the draft provisional working programme is here reproduced:

Convention on International Trade in Endangered Species of Wild Fauna and Flora

Fourth Meeting of the Conference of the Parties

Gaborone (Botswana), 19 to 30 April 1983

Working Programme (provisional)

18 April 1983

Morning: 10h00–12h00 and afternoon: 14h00–17h00
Registration of the participants at the Holiday Inn Conference Centre

19 April 1983

Morning: 8h00–10h00, 10h00–12h00
Registration (continued)
Opening by the Authorities of Botswana
Welcoming addresses
Appointment of the Credentials Committee
Adoption of the Agenda and Working Programme
Afternoon: 10h00–17h00
Report of the Credentials Committee
Adoption of the Rules of Procedure
Admission of Observers
Matters related to the Standing Committee
1. Report of the Secretariat

20–23 April 1983

Morning: 9h00–12h00 and afternoon: 14h00–17h00
Meetings of the Technical Expert Committee and other committees

24–25 April 1983

Rest and free time

26 April 1983

Morning: 9h00–12h00
Matters related to the Standing Committee (continued)
2. Revision of the membership of the Standing Committee
3. Payment of travel expenses for Standing Committee members
4. Election of new members of the Standing Committee
Financing and budgeting of the Secretariat and of meetings of the Conference of the Parties (continued)
1. Financial report for 1981–82
2. Budget for 1984–85, and Medium Term Plan for 1986–87
Afternoon: 14h00–17h00
Financing and budgeting of the Secretariat and of meetings of the Conference of the Parties (continued)
3. External finding
4. Headquarters matters
Relationship with other international agreements and organizations
Committee reports and recommendations
1. Technical Expert Committee
2. Identification Manual Committee
3. Nomenclature Committee
4. IUCN/SSC Threatened Plants Committee

27 April 1983

Morning: 9h00–12h00 and afternoon: 14h00–17h00
Interpretation and implementation of the Convention
1. Report on national reports under Article VIII, paragraph 7, of the Convention.
2. Effects of reservations
3. Regulation of trade in wildlife listed, on Appendix II
4. Parts and derivatives from non-recognizing states
5. Parts and derivatives of plants and Appendix III animals
6. Trade in African elephant ivory
7. Trade in souvenirs

8. Return of illegally traded specimens
9. Time validity of export permits and re-export certificates
10. Exemptions under Article VII of the Convention
11. Specimens in transit

28 April 1983

Morning: 9h00–12h00
Interpretation and implementation of the Convention (continued)
12. Interpretation of "pre-Convention, acquisition"
13. Guidelines for transpoirt
14. Animals stressed during transport
15. Interpretation of "prepared and shipped", "living specimen" and "cruel treatment"
16. Control of captive breeding and artificially propagating operations in Appendix I species
17. Regulation of zoos and similar institutions
18. Identification of mammal hairs
19. Reverse listing concept for appendices

Afternoon: 14h00–17h00
General matters of principle relating to the appendices
1. Ten-Year Review of the Appendices
2. Procedure for the proposal of amendments

Consideration of proposals for amendment of Appendices I and II
1. Proposals submitted pursuant to Resolution on Ranching

29 April 1983

Morning: 9h00–12h00 and afternoon: 14h00–17h00
Consideration of proposals for amendment of Appendices I and II (continued)
2. Other proposals

30 April 1983

Morning: 9h00–12h00
Consideration of proposals for amendment of Appendices I and II (continued)
2. Other proposals (continued)

Afternoon 14h00–17h00
Conclusion of the meeting
1. Determination of the time and venue of the next regular meeting of the Conference, of the Parties
2. Closing remarks

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: February 1, 1983.

Rolf L. Wallenstrom,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 83-3239 Filed 2-4-83; 8:45 am]
BILLING CODE 4310-55-M

Geological Survey

Advisory Committee on Water Data for Public Use; Renewal

This notice is published in accordance with the provisions of Section 7(a) of the Office of Management and Budget Circular A-63 (Revised). Pursuant to the authority contained in Section 14(a) of the Federal Advisory Committee Act (Pub. L. 94-463), the Secretary has determined that renewal of the Advisory Committee on Water Data for Public Use is necessary and in the public interest.

The Committee, representing the interests of the non-Federal community, advises the Department of the Interior, through the Geological Survey, on (a) plans, policies, and procedures related to water data acquisition programs, on (b) the effectiveness of those programs in meeting the national water data needs, and on (c) activities pursuant to the implementation of Office of Management and Budget Circular A-67.

The General Services Administration has concurred in the renewal of this committee.

Further information regarding this renewal may be obtained from Porter Ward, Chief, Office of Water Data Coordination, Reston, Virginia 22092, (703) 860-6931.

Dated: February 1, 1983.

Dallas L. Peck,

Director.

[FR Doc. 83-3190 Filed 2-4-83; 8:45 am]
BILLING CODE 4310-31-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Amoco Production Company (USA) has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 4234, Block 1, South Pelto Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 31, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-3189 Filed 2-4-83; 8:45 am]
BILLING CODE 4310-31-M

Office of the Secretary

Federal-State Task Force on the Hawaiian Homes Commission Act; Meeting

AGENCY: Federal-State Task Force on the Hawaiian Homes Commission Act.

ACTION: Notice of meetings.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the Federal-State Task Force on the Hawaiian Homes Commission Act. These meetings will be open to the public. Attendance by the public will be limited to space available. Only written comments will be accepted from the public at these meetings, to insure the maximum amount of time for Task Force discussion. Written comments received will be made part of the Task Force record. Written comments may be submitted at any time until the termination of the Task Force. Later, Task Force plans for future months will include public meetings on draft findings and recommendations.

DATES: Wednesday, February 23 and Friday, February 25, 1983, at 9:00 a.m.

ADDRESS: Conference Room 1, Third Floor, Old Federal Building, 335 Merchant Street, Honolulu, Hawaii, 96813.

FOR FURTHER INFORMATION CONTACT: Executive Assistant to the Secretary Stephen P. Shipley, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240; (202) 343–7351.

Dated: February 1, 1983.

Stephen P. Shipley,

Executive Assistant to the Secretary of the Interior.

[FR Doc. 83–3287 Filed 2–4–83; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

[No. MC–F–15096]

Handling Exemptions Filed by Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343*, 363 I.C.C. 113 (1982), Mako Services, Inc., (No. MC–157834) seeks an exemption from the requirement under section 11343 of prior regulatory approval of the purchase of authorities issued to A & A Transport, Inc., in No. MC–145679 (Sub-Nos. 18, 19, and 22).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Arlyn L. Westergren, Westergren, Hauptman & O'Brien, P.C., Suite 201, 9202 W. Dodge Road, Omaha, NE 68114

Comments should refer to No. MC–F–15096.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 28, 1983.

By the Commission, Heber P. Hardy, Director, Office of proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3169 Filed 2–4–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15051]

Motor Carriers; Bob's Transport and Storage Co., Inc.; Purchase Exemption; Haulmark Transfer, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures Handling Exemptions Filed By Motor Carriers* 367 I.C.C. 113 (1982), Haulmark Transfer, Inc., (Haulmark) (MC–127579) and Bob's Transport and Storage Company, Inc., (Bob's Transport) (MC–148624) seek an exemption from the requirement of prior regulatory approval for the purchase by Bob's Transport of a portion of Haulmark's authority. A temporary authority application has been filed.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Michael R. Werner, 241 Ceder Lane, Teaneck, NJ 07666

Comments should refer to No. MC–F–15051.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 28, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3170 Filed 2–4–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15087]

Motor Carriers; Patrick M. Porritt—Continuance in Control Exemption—Kramer Trucking Co., Inc., and Gabor Trucking, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures For Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), Patrick M. Porritt, an individual, seeks an exemption from the requirement under section 11343 of prior regulatory approval for his continuance in control of Kramer Trucking Co., Inc. (No. MC–116923) and Gabor Trucking, Inc. (No. MC–118838), both of which are motor carriers.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Patrick M. Porritt, P.O. Box 687, Detroit Lakes, MN 56501.

Comments should refer to No. MC–15087.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 31, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3168 Filed 2–4–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of pasengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the tansportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants for operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–40

Decided: January 27, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 67751 (Sub-3), filed January 18, 1983. Applicant: FRED HARVEY TRANSPORTATION COMPANY, P.O. Box 709, Grand Canyon, AZ 86023. Representative: Ronald V. Meeks, 2924 North 24th Ave., Phoenix, AZ 85015, (602) 253–2700. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of its Certificate of Registration in MC–67751 (Sub-No. 1), issued June 24, 1970.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 141820 (Sub-3), filed January 14, 1983. Applicant: ROMAN RURAK, 319 Eckford St., Brooklyn, NY 11222. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 144471 (Sub-2), filed January 17, 1983. Applicant: CLAUSEN BUS SERVICE, INC., 123 East Mineola Ave., Valley Stream, NY 11580. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212)–759–3700. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165731, filed January 17, 1983. Applicant: ABLE/SUNSHINE TRUCKING, INC., 711 278th Ave. N.E., Redmond, WA 98052. Representative: Marilyn J. Berthoud (same address as applicant), (206) 222–7710. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except HI).

MC 165780, filed January 17, 1983. Applicant: T & T BROKERAGE, a DIVISION OF TRANSPORTATION CONSULTANTS, INC., P.O. Box 517, Evergreen, AL 36401. Representative: Calvin R. Turner, Jr. (same address as applicant), (205) 578–3212. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165790, filed January 18, 1983. Applicant: EL CAMINO CHARTER LINES, INC., 428½ North Canal St., South San Francisco, CA 94080. Representative: J. E. Jones (same address as applicant) (415)–588–0256. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165820, filed January 20, 1983. Applicant: DON SCOTT FARM TRUCKING, INC., 1703 Pacific Ave., Forest Grove, OR 97116. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave. Portland, OR 97210 (503) 226–3755. Transporting *chemicals and related products,* between points in OR, WA and ID.

Volume No. OPI–44

Decided: January 28, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

Mc 3971 (Sub-9), filed January 17, 1983. Applicant: GARFIELD HEIGHTS COACH LINE, INC. d.b.a. CLEVELAND SOUTHEASTERN TRAILS, 43 Harrison St., Bedford, OH 44146. Representative:

Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036 (202) 466–3892. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 139560 (Sub-1), filed January 7, 1983. Applicant: LEO R. DEE d.b.a. DEE CHARTER BUS SERVICE, 54 Orchard Rd., Concord, MA 01724. Representative: Donald N. Dunham, P.O. Box 281, 1298 Commonwealth Ave., #30, Allston, MA 02134. Transporting *passengers,* in charter and special operations, between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165580, filed January 17, 1983, Applicant: ANTHONY J. MIELLA, 1810 Brownell, Kansas City, MO 64124. Representative: Anthony J. Miella (same address as applicant) (816) 471–7281. Transporting *passengers,* in charter and special operations, beginning and ending at Kansas City, MO, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165821, filed January 21, 1983. Applicant: O.J. TRUCKING CO., INC., 330 S.W. 104th St., Oklahoma City, OK 73170. Representative: Oleta June Paxton (same address as applicant) (405) 799–0045. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to team 2, (202) 275–7030.

Volume No. OP2–050

Decided: January 31, 1983.

By the Commission Review Board No. 1, Members Parker, Chandler and Fortier. Member Parker not participating.

MC 150712 (Sub-2), filed January 10, 1983. Applicant: EXPRESS TOURS UNLIMITED, P.O. Box 77267, 2001 Third St., San Francisco, CA 94107. Representative: Richard Kline (same address as applicant) 415–621–7736. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded, charter and special transportation.

MC 165592, filed January 10, 1983. Applicant: R.D. HAFER, 1540 Billings St. C–69, Aurora, CO 80011. Representative: Herry Holt, 8212 Ithaca #9, Lubbock, TX 79423, 806–797–9743. Transporting *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S (except AK and HI).

MC 165602, filed January 10, 1983. Applicant: SHULTZ TRANSPORTATION CO., R.D. #2, P.O. Box 112, Conestoga, PA 17516. Representative: James D. Campbell, Jr., 130 State St., P.O. Box 1000, Harrisburg, PA 17108, 717–232–1876. Transporting *passengers,* in charter and special operations, beginning and ending at points in Lancaster and York Counties, PA and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165603, filed January 4, 1983. Applicant: ISC TRANSPORT, LTD., 71–08 51st Ave., Woodside, NY 11377. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201–234–0301. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2–052

Decided: January 27, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 102793 (Sub-2), filed January 14, 1983. Applicant: THOMAS MANAGEMENT CORPORATION d.b.a. COLOR COUNTRY TOURS, P.O. Box 1032, 281 South Main, Cedar City, UT 84720. Representative: Steven D. Thomas (same address as applicant) 801–586–9916. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165412, (B) filed January 7, 1983. Applicant: BANNOCK PAVING COMPANY, INC., P.O. Box 4002, Pocatello, ID 83201. Representative: Dennis M. Olsen, 485 "E" St., Idaho Falls, ID 83402 (208) 523–4650. (1)(a) transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with FMC Corporation, of Pocatello, ID, (2)(b) transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons), between points in the U.S., and 3(b) as a *broker of general commodities* (except household goods), between points in the U.S.

Note.—Part (1)(a) is published in the Federal Register, this issue, with "regular applications".

MC 165693, filed January 13, 1983. Applicant: CHRISTIAN TRANSPORTATION, INC., 3535 Brookshire Drive, Pensacola, FL 32503. Representative: J. Nixon Daniel, III, P.O. Box 12950, Pensacola, FL 32576, 904–432–2451. Transporting *passengers,* in charter operations, beginning and ending at points in FL, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

Please direct status inquiries about the following to team 3, (202) 275–5223.

Volume No. OP3–37

Decided: January 27, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 1934 (Sub-53), filed January 14, 1983. Applicant: THE ARROW LINE, INC., 105 Cherry St., P.O. Box 387, East Hartford, CT 06108. Representative: Helen D. Smith (same address as applicant) (203) 289–1531. Transporting *passengers,* in special operations, beginning and ending at points in CT and MA and extending to points in NJ.

Note.—Applicant seeks to provide privately-funded special transportation.

MC 12744 (Sub-2), filed January 17, 1983. Applicant: RIDGEWAY TOURS, INC., 22 West Clay Street, Lancaster, PA 17603. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076 (201) 322–5030. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 85635 (Sub-4), filed January 13, 1983. Applicant: TURNER COACHES, INC., 447 No. 9th St., Terre Haute, IN 47807. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209 (703) 522–0900. Transporting *passengers,* in charter and

special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 139614 (Sub-4), filed January 17, 1983. Applicant: ERIN TOURS, INC., 2957 Avenue U, Brooklyn, NY 11229. Representative: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022 (212) 838–0600. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 153935 (Sub-1), filed January 17, 1983. Applicant: EXECUTIVE MOTOR TOURS, INC., 81 Brookfield Avenue, Staten Island, NY 10328. Representative: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022 (212) 838–0600. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159475 (Sub-1), filed January 18, 1983. Applicant: HOLIDAY TRAVEL INC., 5418 Pernod, St. Louis, MO 63139. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105 (314) 727–0777. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 160925, filed January 18, 1983. Applicant: WEBB TOURS, INC., d.b.a. SPIRIT OF 76 TOURS, 1900 Kendall ST., NE., Washington, D.C. 20002 (202) 529–2575. Representative: Ralph Webb (same address as applicant) (202) 529–2575. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 164854 (Sub-1), filed January 17, 1983. Applicant: MUNDI TOURS, 11520 Menlo Ave. No. 2, Hawthorne, CA 90250. Representative: Carlso F. Garcia (same address as applicant) (213) 978–9586. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165775, filed January 18, 1983. Applicant: S&S SERVICE, INC., 4818 Deanwood Dr., Deanwood Park, MD 20743. Representative: Samuel Sistrunk (same address as applicant) (301) 341–5068. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165784, filed January 17, 1983. Applicant: POCONO LIMOUSINE SERVICE, INC., Box 250, Bartonsville, PA 18321. Representative: W. Boyd Huges, 603 Electric Bldg., Scranton, PA 18503 (717) 344–7171. Transporting *passengers*, in charter and special operations beginning and ending at points in Carbon, Monroe, Pike, Wayne, Northampton, Lehigh, Lackawanna and Luzerne Counties, PA and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Please direct status inquiries about the following to Team 4, (202) 275–7669.

Volume No. OP4–052

Decided: January 31, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 165876, filed January 24, 1983. Applicant: EARL L. NELSON, d.b.a. MAPLE LEAF TOURS, 1294 E. 41st St., Los Angeles, CA 90011. Representative: Donald R. Hedrick, P.O. Box 5334, Santa Ana, CA 92702. Transporting *passengers*, in charter and special operations, beginning and ending at point in CA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP4–056

Decided: January 31, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Erwing.

MC 165466, filed January 3, 1983, noticed in the **Federal Register** issue on January 21, 1983, and republished this issue. Applicant: RICHARD AND ANN GILBERT, d.b.a. GILBERT AND SONS, Route 4, Box 528, Tecumseh, OK 74873. Representative: James P. Whitten, 820 NW 38th St., Oklahoma City, OK 73118 (405) 947–7660. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI.)

Note.—The purpose of this republication is to show the authority in this proceeding as being that of a "fitness-only" application.

Please direct status inquiries about the following to Team 5, (202) 275–7289.

Volume No.OP5–34

Decided: January 27, 1983.

By the Commission, review Board No. 2, Members Carleton, Williams, and Ewing.

MC 96946 (Sub-5), filed January 17, 1983. Applicant: POST ROAD STAGES, INC., 1105 Strong Road, South Windsor, CT 06074. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, D.C. 20036 (202) 466–3892. Transporting *Passengers*, in charter and special operations between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 157729 (Sub-1), filed January 10, 1983. Applicant: RED RIDER, INC., 512 Custer Street, Delphos, KS 67436. Representative: Clyde N. Christey, KS Credit Union Bldg. 1010 Tyler, Suite 110–L, Topeka, KS 66612, 913–233–9629. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note:—Applicant seeks to provide privately-funded charter and special transportation.

MC 161158, filed January 17, 1983. Applicant: FAUST TRAVEL SERVICE, INC., New York Ave. and Milman Lane, P.O. Box 307, Villas, NJ 08251. Representative: James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut St., Philadelphia, PA 19106, 215–925–8300. Transporting *passengers* in charter and special operations, beginning and ending at points in PA and NJ extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 161239 (Sub-1), filed January 10, 1983. Applicant: GREAT AGE CORPORATION, 433 Union Avenue, Providence, RI 02909. Representative: Andrew J. Acciaioli (same address as applicant), (401) 943–2246. Transporting *passengers* in charter and special operations, beginning and ending at points in RI, MA, CT, ME, NH, VT, NY and NJ, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165589, filed January 10, 1983. Applicant: PLEASURE TRAVEL, 400 Mt. Wilson La., Baltimore, MD 21208. Representative: Robert Feuereisen (same address as applicant), (212) 435–6589. Transporting *passengers* in charter and special operations, beginning and ending at New York, NY and points in CT, and extending to points in NJ, PA, DE, MD, and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165699, filed January 14, 1983. Applicant: HEAVENER TRANSPORTATION, INC., 480 School Lane, Harleysville, PA 19438. Representative: Maxwell A. Howell, 2554 Massachusetts Ave., NW., Washington, DC 20008, (202) 483–8633. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165718 filed January 17, 1983. Applicant: TRANSITI CHARTER COACHES, INC., 117 E. Hutchinson St., San Marcos, TX 78666. Representative: Roger W. Jenkins (same address as applicant), 512–392–2522. Transporting *passengers* in charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3167 Filed 2–4–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier; Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3 These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–236

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 165827 (Sub-1–1 TA), filed January 20, 1983. Applicant: ALBANY-BINGHAMTON EXPRESS, INC., 1303 Arterial Highway, Binghamton, NY 13901. Representative: Cheryl Chambers, P.O. Box 251, Chenango Bridge, NY 13745. *General commodities, except classes A & B explosives, household goods, and commodities in bulk,* between points in Broome, Chemung, Tioga, Tompkins, Otsego, Chenango, Delaware, Cortland and Schoharie Counties, NY. Applicant intends to interline at Chenango Bridge, NY. Supporting shipper: Preston Trucking Company, Inc., 151 Easton Boulevard, Preston MD 21655.

MC 165825 (Sub-1–1 TA), filed January 21, 1983. Applicant: CANALTOWN ENTERPRISES, INC., 1078 Canandaigua Road, Palmyra, NY 14522. Representative: Lee L. Tracy (same as applicant). *Electronics, electronic components, and parts and equipment used in the manufacture of electronic equipment,* between the facilities of Elstron Electronics, Inc., in Phelps & Geneva, NY, on the one hand, and, on the other, points in the U.S. Supporting shipper: Elston Electronics Corp., 35 Lehigh street, Geneva, NY 14456.

MC 165203 (Sub-1–1TA), filed January 20, 1983. Applicant: HORIZON AIR SERVICES, INC., General Aviation Building, Logan International Airport, East Boston, MA 02128. Representative: Herbert J. Lynch, Esq., Sullivan & Lynch, P.C., Suite 2810, One Boston Place, Boston, MA 02108. *General commodities (except Class A and B explosives and commodities in bulk),* Between points in MA, ME, NH, CT, RI, VT, NY, NJ, PA, FL and DE. Supporting shipper(s): GTE International Systems Corporation, 140 First Avenue, Waltham, MA; USM Corporation, 181 Elliot Street, Beverly, MA; David J. Cawley & Co., Inc., 239 Prescott Street, East Boston, MA 02128.

MC 160361 (Sub-1–1TA), filed January 24, 1983. Applicant: INDUSTRIAL TRANSPORT, LTD., 1445 South Main Street, Waterbury, CT 06706. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Building materials,* between Waterbury, CT, on the one hand, and, on the other, points in MA, NJ, NY, NC and RI. Supporting shipper: Midway Distributing Corporation, 1150 North Main Street, Waterbury, CT 06704.

MC 142011 (Sub-1–3TA), filed January 24, 1983. Applicant: LEISURE TIME TOURS, INC., 4 Leisure Lane, Mahwah, NJ 07430. Representative: Michael R. Werner, Esq., 241 Cedar Lane, Teaneck, NJ 07666. *Common carrier:* regular routes; *Passengers* between Cockeysville, MD and Atlantic City, NJ: From Cockeysville over Int. Hwy. 83 to junction Int. Hwy. 695, then over Int. Hwy. 695 to junction Int. Hwy. 95, then over Int. Hwy. 95 to junction MD Hwy. 272, then over MD Hwy. 272 to junction MD Hwy. 40, then over MD Hwy. 40 to junction DE Hwy 896, then over DE Hwy 896 to junction Int. Hwy 95, then over Int. Hwy. 95 via the DE Memorial Bridge to junction Int. Hwy. 295, then over Int. Hwy 295 to junction NJ Hwy 42, then over NJ Hwy 42 to junction Atlantic City Expressway, then over the Atlantic City Expressway to Atlantic City, and return over the same route. Applicant intends to tack to existing authority. Supporting shipper(s): Amor Expressions Card & Gift Shoppe, 7927 G Belair Road, Fullerton, MD 21236; Big Elk Liquors, Big Elk Shopping Mall, Route 40, Elkton, MD 21921; Invitation Inn Motel & House of Hess Restaurant, 1709 Emmorton Road, Edgewood, MD 21040; Baltimore County Travel, Inc., 8203 Harford Road, Baltimore, MD 21234; Karen Erwood, 132 Chenny Hill Road, Elkton, MD 21091.

MC 141758 (Sub-1–4TA), filed January 21, 1983. Applicant: LYDALL EXPRESS, INC., 615 Parker Street, Manchester, CT 06040. Representative: Robert J. Dunbar (same as applicant). *Contract carrier:* irregular routes: *Corrugated paper in rolls* between Riverville, VA, on the one hand, and, on the other, points in PA, CT, MA, NY, and NJ, under continuing contract with Virginia Fibre Corporation of New Canaan, CT. Supporting shipper: Virginia Fibre Corporation, 51 Locust Avenue, New Canaan, CT 06840.

MC 165853 (Sub-1–1TA), filed January 24, 1983. Applicant: MARC MOTORS TRANSPORT, 3 Worcester Avenue, Hudson, MA 01749. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* irregular routes: *New, used, and disabled automobiles,* between points in the U.S. (except AK and HI) under continuing contract(s) with Marc Motors Inc., of Beverly, MA. Supporting shipper:

Marc Motors, Inc., 685 North Shore Road, Revere, MA 02151.

MC 165852 (Sub-1–1TA), filed January 24, 1983. Applicant: MATE TRUCKING, INC., 628 Henry Street, Elizabeth, NJ 07201. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities (except household goods, Class A and B explosives, commodities in bulk) having a prior or subsequent movement by water and rail* between New York, NY and Philadelphia, PA Commercial Zones, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA, RI, and VA. Supporting shipper(s): M. Sergeant Pulp and Chemical Co., Inc., 5 Marineview Plaza, Hoboken, NJ, Continental Products Corp., 1200 Wall Street, West, Lyndhurt, NJ., Centurion Shipping Co., P.O. Box 10828, Stamford, CT; Itofca, Inc., 1001 West 31st Street, Sowners Grove, IL.

MC 127610 (Sub-1–4TA), filed January 18, 1983. Applicant: J. P. NOONAN TRANSPORTATION, INC., 436 West Street, Bridgewater, MA 02379. Representative: J. Peter Noonan (same as applicant). *Alcoholic and non-alcoholic beverages, beer and wine,* from points in MA, MD, ME, NH, NJ, NY and PA to points in NH and VT. Supporting shipper(s): B & B Beverage Co., 26 Allen Street, Rutland, VT 05701; Champlain Valley Distributing Co., 47 Maple St., Burlington, VT 05402.

MC 164099 (Sub-1–2TA) (republication), filed December 30, 1982. Applicant: NORTHERN RENTALS, INC., 32 San Remo Drive, P.O. Box 2126, So. Burlington, VT 05401. Representative: James M. Burns, Suite 403, 1365 Main Street, Springfield, MA 01103. *Petroleum and petroleum products,* between points in Cumberland County, ME, on the one hand, and, on the other, points in MA, NH, NY and VT. Supporting shipper(s): A. R. Sandri, Inc., 400 Chapman St., Greenfield, MA 01302; Fred's Plumbing & Heating, Inc., P.O. Box 17, Derby, VT 05829; N. C. McCullock, South St., Bethlehem, NH 03574; Cities Service Co., 38 Washington St., Wellesley Hills, MA 02181; Champlain Oil Co., Inc., P.O. Box 2126, So. Burlington, VT 05401. Sole purpose of this republication is to correct previous publication. Should be: Cumberland County, ME—not MW.

MC 165849 (Sub-1–1TA), filed January 24, 1983. Applicant: PETER D. PIGULA d.b.a. P & L TRANSPORT, 219 F Grenadier Drive, Liverpool, NY 13088. Representative: Peter D. Pigula (same as applicant). *Petroleum products (except in bulk)* between points in NY and PA. Supporting shipper: Wasnel Inc., d.b.a. Wasnik Auto Supply, 909 State Fair Blvd., Syracuse, NY 13209.

MC 151193 (Sub-1–42TA), filed January 20, 1983. Applicant: PAULS TRUCKING CORP., 286 Homestead Avenue, Avenel, NJ 07001. Representative: Michael A. Beam (Same as applicant). *Contract carrier:* irregular routes: *General commodities (except Class A & B expolsives, household goods, as defined by the Commission, bulk commodities and shipments which, because of size and weight, require special equipment),* between Alexandria, VA, Chicago, IL, and points in NJ, on the one hand, and, on the other, points in ME, MA, NJ, NY, OH, CO and MO, under continuing contract(s) with National Piggyback Service, Inc., Indianapolis, IN. Supporting shipper: National Piggyback Services, Inc., 464 National, P.O. Box 27176, Indianapolis, IN 46227.

MC 152108 (Sub-1–7TA), filed January 21, 1983. Applicant: RELCO SYSTEMS, INC., 7310 Chestnut Ridge Road, Lockport, NY 14094. Representative: David H. Baker, 600 Maryland Avenue, S.W., Washington, DC 20024. *Contract carrier:* irregular routes: *Metals, metal products and scrap metals* between Massena, NY, on the one hand, and, on the other Barberton, Bedford Heights and Cleveland, OH, under continuing contract(s) with Aluminum Company of America, Pittsburgh, PA. Supporting shipper: Aluminum Company of America, Alcoa Building, Pittsburgh, PA 15219.

MC 142114 (Sub-1–16TA), filed January 19, 1983. Applicant: RETAIL EXPRESS, INC., 36 South Main Street, Sharon, MA 02067. Representative: Frank M. Cushman, 5 Carbrey Avenue, Sharon, MA 02067. *Contract carrier:* irregular routes: *Such commodities as are dealt in by retail department stores (except commodities in bulk and frozen foodstuffs)* between points in all of the 48 contiguous U.S. (AK and HI excluded) under continuing contract(s) with S. E. Nichols, Inc., New York, NY. Supporting shipper(s): S. E. Nichols, Inc., 500 Eighth Ave., New York, NY 10018.

MC 142114 (Sub-1–17TA), filed January 21, 1983. Applicant: RETAIL EXPRESS, INC., 36 South Main Street, Sharon, MA 02067. Representative: Frank M. Cushman, 5 Carbrey Avenue, Sharon, MA 02067. *Contract carrier:* irregular routes: *Cooking oils (other than in bulk)* between Carnegie, PA and points and places in CT, NJ, and NY that fall within a radius of 60 miles of New York, NY, under continuing contract(s) with Mallet and Company, Carnegie, PA. Supporting shipper: Mallet and Company, Box 474, Carnegie, PA 15106.

MC 165779 (Sub-1–1TA), filed January 19, 1983. Applicant: RICHMOND EXPRESS CO., INC., 1201 Corbin Street, Elizabethport, NJ 07201. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities (except commodities in bulk, household goods and Class A and B explosives) having prior or subsequent movement by water* between New York, NY Commercial Zone, on the one hand, and, on the other, points in NJ and NY. Supporting shipper(s): American Coastal Line, Joint Venture, Inc., c/o Global Terminal, Box 273, Jersey City, NJ 07303; Delta Steamship Lines, Suite 3647, 1 World Trade Center, New York, NY 10048.

MC 165741 (Sub-1–1TA), filed January 18, 1983. Applicant: S & R TRUCKING CO., INC., 39 Franklin Street, Peabody, MA 01960. Representative: Robert Buckley (same as applicant). *General commodities (except hazardous materials, Class A & B explosives, and commodities in bulk)* from MA to points in NH, NJ, NY, DE, PA, MD, OH, KY and RI. Supporting shipper: Larrabee & Hingston Co., 19 Howley Street, Peabody, MA 01960.

MC 159499 (Sub-1–1TA), filed January 18, 1983. Applicant: W & M DELIVERIES, INC., 1024 Lackawanna Avenue, Elmira, NY 14901. Representative: Peter Wolff, 722 Pittston Avenue, Scranton, PA 18505. *Plastic shutters and components* between Elkland, PA, on the one hand, and, on the other, Elmira, NY. Supporting shipper: Mid-America Building Products, 9246 Hubbell Ave., Detroit, MI 48228. Applicant intends to interline at Elmira, NY.

MC 165727 (Sub-1–1TA), filed January 19, 1983. Applicant: WESTERN NEW YORK TRANSPORTATION & RIGGING CO., 189 McGinnis Road, Scottsville, NY 14546. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. *Contract carrier:* irregular routes: *Metals and metal products* between Monroe County, NY, on the one hand, and, on the other, points in the U.S. (except AK & HI), under continuing contract(s) with Sabin Metal, Inc., Scottsville, NY. Supporting shipper: Sabin Metal, Inc., 1647 Wheatland Center Road, Scottsville, NY 14546.

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 154240 (Sub-II–2TA), filed December 20, 1982. Applicant: HEIL WINDERMERE STORAGE AND MOVING CO., 8649 Freeway Drive, Macedonia, OH 44056. Representative: Richard J. Heil (same as applicant). Contract, irregular: *General*

commodities, between pts. in the U.S., under continuing contract with National Transportation Consultants Corp. of Brecksville, OH, for 270 days. Applicant intends to tack this authority with authority held under MC 154240. Supporting shipper: National Transportation Consultants Corp., 7650 Chippeward, Brecksville, OH.

Application was originally published in the **Federal Register** of January 10, 1983. The purpose of the republication is applicant intends to tack the authority.

MC 142723 (Sub-II–8TA), filed January 11, 1983. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: WILLIAM A. GRAY, 2310 Grant Bldg., Pittsburgh, PA 15219. *Such commodities as are dealt in or used by wholesale and retail grocery stores and food business houses* between Sharon, PA, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Golden Dawn Foods, Inc., Div. of Peter J. Schmitt Co., Inc. of Sharon, PA, for 270 days. Supporting shipper: Golden Dawn Foods, Inc., Div. of Peter J. Schmitt Co., Inc., 385 Shenango Ave., Sharon, PA 16146.

MC 165753 (Sub-II–1TA), filed January 18, 1983. Applicant: CHEMICAL TRANSPORTATION MANAGEMENT COMPANY, INC., Mt. Carmel & Roberts Ave., Glenside, PA 19038. Representative: Morton E. Kiel Suite 1832, Two World Trade Center New York, NY 10048. *Contract,* irregular: *Sodium hydroxide and methylene chloride, in bulk in tank vehicles,* from Wilmington, DE, to points in NJ, PA, MD, VA and NY, under contract(s) with Delmarva Incorporated/Chemicals I of Baltimore, MD. An underlying ETA seeks 120 days authority. Supporting shipper(s): Delmarva Incorporated/ Chemicals I, 7902 Belair Road, Baltimore, MD 21236.

MC 163509 (Sub-II–2TA), filed January 19, 1983. Applicant: DELTA FREIGHT INC., Box 4, Lower Valley Rd., Parkesburg, PA 19365. Representative: Lynn Hanaway (same address as applicant). *General commodities (except Classes A & B explosives, commodities in bulk, and commodities which because of size or weight require use of special handling or equipment and household goods as defined by the Commission)* between all points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Dafoe & Dafoe, 155 Great Valley Pkwy, Malvern, PA 19355.

MC 165628 (Sub-II–1TA), filed January 11, 1983. Applicant: EASY RIDER COACH, INC., 1619 Bethlehem Pike, Flourtown, PA 19031. Representative: Alan Kahn 1430 Land Title Bldg., Phila., PA 19110. *Passengers and their baggage in charter and special operations,* between points in NJ and the Philadelphia, PA commercial zone, on the one hand, and, on the other, points in NY, NJ, PA, VT, NH, ME and WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Worldwide Consolidated Travel Service, Inc., Malvern, PA Pottstown Memorial Medical Center, 1600 E. High St, Pottstown, PA Summit Ski Club, 3608 Centre Square West, Phila., PA.

MC 2796 (Sub-II–2TA), filed January 18, 1983. Applicant: FULLINGTON AUTO BUS COMPANY, 316 Cherry St., Clearfield, PA 16830. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Common, regular: *Passengers and their baggage* between DuBois, PA and Cleveland, OH, over the following route: U.S. Hwy 219 to its intersection with U.S. 119; then over U.S. 119 to its intersection with U.S. 322; then over U.S. 322 to its intersection with PA 257 at or near Cranberry; then over PA 257 to Oil City; then over U.S. 62 to Youngstown, OH; then via U.S. 422 to Cleveland, OH and return over the same route in the reverse direction; and over a deviation route beginning at the intersection of U.S. 322 and PA 208; then over PA 208 through Fryburg to its intersection with PA 157, then over PA 157 to its intersection with U.S. 62; then over U.S. 62 to Oil City. An underlying ETA requests 120 days authority. Supporting shipper(s): There are five supporting statements attached to this application which may be examined at the Phila. Regional office.

MC 117036 (Sub-2–2 TA), filed January 11, 1983. Applicant: H. M. KELLY, INC. P. O. Box 87, New Oxford, PA 17350. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P. O. Box 1417, Hagerstown, MD, 21740. Contract: Irregular: *Packaging machinery, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between Hanover, PA and Stockton, CA., including their commercial zones, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with New Way Packaging Machinery, Inc. for 270 days. Supporting Shipper: New Way Packaging Machinery, Inc., Blettner Ave., Hanover, PA 17331.

MC 165629 (Sub-2–1 TA), filed January 11, 1983 Applicant: LYNCHBURG EXPRESS COMPANY; Wye Switches, P.O. Box 279, Duncansville, PA 16635. Representative: Carl E. Munson, 469 Fisher Bldg., P. O. Box 796, Dubuque, IA 52001. *Paper, paper products and printed matter,* from Duncansville, PA, to Danbury, Enfield and W. Hartford, CT; Chicage, Genoa and E. Peoria, IL; Clinton, Dubuque, Elk Horn and Wilton Jct., IA; Boston, E. Longmeadow and Holliston, MA; Camden, E. Rutherford, and Patterson, NJ; Concord, Nashua, and Wilton, NH; Deer Park, Brooklyn, Long Island and Yonkers, NY; Charlotte, Elm City and Raleigh, NC; Memphis, Nashville and Shelbyville, TN; and East Ryegate, VT. An underlying ETA seeks 120 days authority. Supporting shipper: North American Envelope Corp., P. O. Box 39, Duncansville, PA 16635.

MC 118816 (Sub-II–1 TA), filed January 20, 1983 Applicant: MATERIALS TRANSPORT SERVICE, INC., P. O. Box 33 Northampton, PA 18067. Representative: Henry J. Spisszak, Jr. (same address as applicant). *Hydrochloric acid, in bulk or barrels,* between Dover, Tuscarawas County, OH, on the one hand, and, on the other, points in Broward County, FL; Union and Essex Counties, NJ and Baltimore County, MD, for 270 days. Supporting shipper(s): International Marketers Inc., Box 906, 37 N. 3rd St., Easton, PA 18042.

MC 165800 (Sub-II–1TA), filed January 4, 1983. Applicant: NEW CONCEPT TRANSPORTATION, INC., 458 Kleman Road, Gilbertsville, PA 19525. Representative: Alan Kahn, 1430 Land Title Bldg. Philadelphia, PA 19110, (215) 561–1030. *General commodities (except commodities in bulk, Classes A and B explosives, and household goods),* having a prior or subsequent movement by water, between points in MA, CT, RI, NY, NJ, PA, MD, DE, VA, NC, SC and GA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are six supporting statements attached to this application which may be examined at the Philadelphia Regional Office.

MC 107012 (Sub-II–259TA), filed January 24, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 39 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the US under continuing contract(s) with General Electric Company, Bridgeport, CT for 270 days. Supporting shipper: General Electric Company, 1285 Boston Avenue, Bridgeport, CT 06601–2385.

MC 107012 (Sub-II–260TA), filed January 24, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort

Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *general commodities* except Class A & B explosives and commodities in bulk) between points in the US under continuing contract(s) with Scientific Atlanta, Inc., Atlanta, GA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Scientific Atlanta, Inc., One Technology Parkway, Atlanta, GA 30348.

MC 165833 (Sub-II–1TA), filed January 24, 1983. Applicant: NORTHEAST VALLEY TRANSPORTATION, INC., 1258 Route 315, Suite B, Wilkes-Barre, PA 18702. Representative: Edward F. V. Pietrowski, 336 Scranton Life Bldg., Scranton, PA 18503. *Passengers and their baggage,* between Luzerne and Lackawanna Counties, PA, on the one hand, and, on the other, Great Gorge and Atlantic City, NJ and New York, Buffalo and Cortland, NY. An underlying ETA seeks 120 days authority. Supporting shipper(s) Ski Flites, 101 White St, Dupont, PA 18641, Cameo Tours, Route 315, P.O.B. 543, Pittston, PA 18640.

MC 2202 (Sub-II–33TA), filed January 26, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave, Suite 1010, Washington, D.C. 20814. Contract Irregular: *General commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk) between points in the U.S., except AK and HI, under contract or contracts with K mart Corporation, Troy, MI 48084 for 270 days. Supporting shipper(s): K mart Corporation, 3100 W. Big Beaver, Troy, MI 48084.

MC 161923 (Sub-II–2TA), filed January 21, 1983. Applicant: DOYLE H. SHADDUCK, R.D. #1, Cogan Station, PA 17728. Representative: James D. Casale, 329 Market St., Williamsport, PA 17701. *Lumber and lumber products,* between Union City, Williamsport and Erie, PA, on the one hand, and, on the other, points in NY, OH, NJ, MD, DE, VT, CT, VA, WV, NC, SC, and MA, for 270 days. Supporting shipper(s): American Hardwood Industries, Inc., Div. of Hammermill Paper Co., 1540 E. Lake Rd., P.O.B. 1440, Erie, PA 16533.

MC 110683 (Sub-II–18TA), filed January 11, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Robert L. Stover (same address as applicant). Contract, irregular: *General commodities (except household goods as defined by the Commission, commodities in bulk and Classes A and B explosives):* between points in the U.S. (except AK & HI), under continuing contract(s) with Household Merchandising, Inc. Supporting shipper(s): Household Merchandising, Inc., 1700 South Wolf Road, Des Plaines, IL 60018.

MC 165812 (Sub-II–1TA), filed January 20, 1983. Applicant: Michael E. Fisher, d.b.a. T. C. CHARTER COACH CO., 7924 Frankford Ave., Philadelphia, PA 19136. Representative: Michael E. Fisher (same address as applicant). *Passengers and their baggage, in charter operations,* between points in PA, on the one hand, and, on the other, pts in MD, NY, VA and DC, for 270 days. Supporting shipper(s): Fisher's Travel Service, Inc., 7924 Frankford Ave., Philadelphia, PA 19136.

MC 160628 (Sub-II–3TA), filed January 12, 1983. Applicant: TITAN TRANSFER INC., 3617A Silverside Rd., Wilmington, DE 19803. Representative: Gerald K. Burns, 3308 Englewood Rd., Wilmington, DE 19810. Contract, irregular: *umber and wood products and materials, supplies and equipment used in the manufacture and distribution thereof,* between Buckhannon, WV, on the one hand, and, on the other, points in AL, SC, GA, MS, TN, IN, IL, MI, NC, VA, WV, DC, MD, DE, PA, OH, NJ, NY, CT, RI, MA, VT, NH, MN, under continuing contract(s) with J, D. Hinkle and Son Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): J. D. Hinkle & Son, Inc, 99 E. Main St., Buckhannon, WV.

MC 165856 (Sub-II–1TA), filed January 24, 1983. Applicant: TOMMY-JOHN TRUCKING CO., INC., P.O. Box 56, Havre de Grace, MD 21078. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Contract: Irregular: (1) *Plastic bottles, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between Havre de Grace, MD, including its commercial zone, on the one hand, and, on the other, points in NH, CT, MA, NY, NJ, DE, PA, OH, MD, WV, VA, DC, NC, SC, GA and FL, under a continuing contract(s) with Sewell Plastics, Inc.; and (2) *paper and paper products, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between Hatfield, PA, including its commercial zone, on the one hand, and, on the other, Tucker, GA; Chicago, IL; Richardson and Waxahachie, TX, and Los Angeles, CA, including their respective commercial zones, under a continuing contract(s) with Safeguard Business Systems, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Sewell Plastics, Inc., 350 Old Bay Lane, Harve de Grace, MD 21078, and Safeguard Business Systems, Inc., 2356 North Penn Rd., Hatfield, PA 19440.

The following applications were filed in region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, NE., Atlanta, GA 30309.

MC 165910 (Sub-3–1TA), filed January 26, 1983. Applicant: MANUFACTURED HOMES SERVICE CENTER, INC., Industrial Drive, P.O. Box 669, Ashburn, GA 31714. Representative: Norman T. Fowlkes III, 1919 Pennsylvania Avenue NW., Washington, D.C. 20006. *Contract* irregular routes: *General commodities (except Classes A and B explosives, household goods as defined by the Commission and commodities in bulk),* between points in the U.S. (except AK and HI) under continuing contracts(s) with All American of Ashburn, Inc., Ashburn, GA; All American Housing of Alabama, Inc., Bear Creek, AL; Ashburn Supply, inc., Ashburn, GA; Lake Blackshear Door & Supply Corp., Ashburn, GA; All American Credit Corporation, Ashburn, GA; All American Warranty and Insurance Agency, Inc.; Ashburn, GA; Family Homes Sales Center, Inc., Ashburn, GA. Supporting shipper: All American of Ashburn, Inc., P.O. Box 669 Ashburn, GA 31714, all of the supporting shippers are affiliates of All American.

MC 145794 (Sub-3–7TA), filed January 26, 1983. Applicant: ARDS TRUCKING COMPANY, INCORPORATED, P.O. Box 362, Darlington, SC 29532. Representative: C. Allen Ard (same as above). *Thermal and accoustical insulation, plastics, rubber, roofing shingles, roof insulation, asphalt materials, integrated ceiling systems, wood fiber products and plastic products, mechanical insulation, industrial rubber products and all construction and production materials related to the roofing and insulation industry, supplies and equipment used in the manufacture, sale, or distribution of the above commodities,* between points in AL, CT, DE, FL, GA, IL, IN, KY, MA, ME, MD, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WI, WV, LA, TX, AND MI. Supporting Shipper: Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659.

MC 164840 (Sub-3–1TA), filed January 26, 1983. Applicant: BIG D TRANSPORT, INC., P.O. Box 2508, Dalton, GA 30720. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. *Contract* Carrier: Irregular: *Carpets, rugs and padding,* between points in the U.S. (except AK and HI),

under continuing contracts with C & M Carpet Company, Dalyn Corporation and Rosewood Rug, Inc. Supporting shippers: C & M Carpet Company, P.O. Box 3338, Dalton, GA 30721: Dalyn Corporation, P.O. Box 1031, Dalton, GA 30720; Rosewood Rug, Inc., P.O. Box 656, Calhoun, GA 30701.

MC 165732 (Sub-3–1TA), filed January 18, 1983. Applicant: ALL STATES MOVING & STORAGE, INC., 1009 West Hill Avenue, Valdosta, GA 31601. Representative: Donald R. Aldrich (same as above). *Household goods, as defined by the Commission, restricted to transportation for the US Government,* between points in Lowndes County, GA, on the one hand, and, on the other, points in Atkinson, Ben Hill, Berrien, Brooks, Clinch, Cook, Coffee, Colquitt, Echols, Irwin, Lanier, Lowndes, Thomas, Tift, and Ware Counties, GA, and Jefferson, Lafayette, Madison, Hamilton, Suwanee and Taylor Counties, FL. Restriction: Said operations are restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized. Said operations are restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. Supporting shipper (s); United States Air Force, Moody AFB, GA 31699.

MC 165791 (Sub-3–1TA), filed January 26, 1983. Applicant: CFA TRANSPORT, INC., P.O. Box 26007, 2508 Starita Road, Charlotte, NC 28213. Representative: Wyatt E. Smith (address same as applicant). *Contract* Carrier: *Irregular: General Commodities (except classes A and B explosives, household goods and/or commodities in bulk)* between points in the US (except AK and HI), under continuing contract with Charlotte Freight Association, Inc., of Charlotte, NC. Supporting shipper: Charlotte Freight Association, Inc., 2508 Starita Road, Charlotte, NC 28213.

MC 146869 (Sub-3–10TA), filed January 26, 1983. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Contract:* Irregular: *such items as are dealt in by wholesale distributors of grocery store products,* from points in and east of the states of MS, TN, KY, IL, and WI to Hickory, Charlotte, Fayetteville and Rocky Mount, NC and Bluefield, VA, under continuing contract with Thomas & Howard Company of Hickory, Inc.; Thomas & Howard Company of Charlotte, Inc.; Thomas & Howard Company of Fayetteville, Inc.; Thomas & Howard Company of Rocky Mount, Inc. and Virginia Foods of Bluefield, Inc. Supporting Shippers: Thomas & Howard Company of Hickory, Inc.; Thomas & Howard Company of Charlotte, Inc.; Thomas & Howard Company of Fayetteville, Inc.; Thomas & Howard Company of Rocky Mount, Inc. and Virginia Foods of Bluefield, Inc., all at P. O. Box 428, 1200 Burris Road, Newton, NC 28258.

MC 164468 (Sub-3–1TA), filed January 26, 1983. Applicant: ELMER SANDERS d.b.a. SANDERS WRECKER SERVICE, Route 6, Strawplains Pike, Knoxville TN 37914. Representative: Jack W. Bowers, 712 Walnut Street, Knoxville, TN 37902. *Disabled vehicles* between points in the U.S., except AK and HI. Supporting Shippers: Peterbilt of Knoxville, 5218 Rutledge Pike, Knoxville, TN 37914; American Fleet Leasing, Inc., 3521 John Sevier Highway, Knoxville, TN 37914; Silver Fleet Express, 4521 Rutledge Pike, Knoxville, TN 37914; and Thurston Motor Lines, Inc., 3718 E. Governor John Sevier Highway, Knoxville, TN 37914.

MC 142680 (Sub-3–7TA), filed January 26, 1983. Applicant: SUMTER TIMBER COMPANY, P.O. Box 104, Cuba, AL 36907. Representative: Donald B. Sweeney, Jr., Esq., P.O. Box 2366, Birmingham, AL 35201. *Roofing and roofing materials; equipment, material and supplies used in their manufacture* between Tuscaloosa County, AL and Lauderdale County, MS, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, KY, AL, GA, NC, SC, FL, and VA. *Supporting shippers:* Atlas Corporation, P. O. Box 5777, Meridian, MS 39301; Elk Corporation of Alabama, P.O. Box 2450, Tuscaloosa, AL 35403; Tamko Asphalt Products, Inc., 220 West 4th Street, Joplin, MO 64801.

MC 154306 (Sub-3–1TA), filed January 26, 1983. Applicant: COOPER AIR FREIGHT SERVICE, INCORPORATED, 2810 Rudder Road, Memphis, TN 38118. Representative: James F. Flint, 406 World Center Building, 918 16th Street, Washington, DC 20006. *General commodities (except classes A and B explosives, commodities in bulk and household goods)* between points in New Madrid County, MO; Mississippi, Crittenden, Phillips, and Poinsett Counties, AR; Coahoma, Panola, LeFlore, Grenada, Lafayette, Alcorn, Prentiss, Lee and Chickasaw Counties, MS and Shelby, Lauderdale, McNairy, Madison, and Gibson Counties, TN. There are six statements of support attached to this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 157290 (Sub-3–1TA), filed January 26, 1983. Applicant: A–1 TRUCKING & RIGGING, INC., P.O. Box 691, 2121 So. US 1, Rockledge, FL 32955. Representative: Ella M. Beyel (same address as applicant). *Contract* Carrier: Irregular: *Armored vehicles, parts and accessories* between Cocoa, FL and Buffalo, NY; Mt Clemens, MI; Delphos, OH, under continuing contract with Cadillac Gage Company, Division of Excello Corporation of Warren, MI. Supporting Shipper: Cadillac Gage Company, Division of Excello Corporation, 25760 Groesbeck Highway, Warren, MI 48090.

MC 157140 (Sub-3–2TA), filed January 28, 1983. Applicant: TRICO EQUIPMENT INCORPORATED, P.O. Box 669, Ahoskie, NC 27910. Representative: Carroll B. Jackson, 1610 Vincennes Rd., Richmond, VA 23229. *Lumber and wood products, and materials, equipment and supplies used in the manufacture, distribution and sales of lumber and wood products,* between points in NC and VA, on the one hand, and, on the other, points in CT, DE, FL, GA, MA, MD, ME, NC, NH, NY, NJ, OH, PA, RI, SC, VA, VT, WV and DC (includes shipments having a prior or subsequent movement in interstate or foreign commerce). There are 7 statements in support of the application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 2934 (Sub-3–54TA), filed January 27, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry (same as above). *Contract* Carrier: Irregular *Household Goods and Electronic Equipment* between points in the United States (except AK and HI) and Canada, under continuing contracts with Paradyne Corporation, 8550 Ulmerton Road, Largo, Florida, 33541. Supporting shipper: Paradyne Corporation, 8550 Ulmerton Road, Largo, FL, 33541.

MC 141589 (Sub-3–1TA), filed January 27, 1983. Applicant: AMERICAN COACH LINES, INC., d.b.a. AMERICAN TRAILWAYS OF GEORGIA, 486 Fairmont Drive, Norcross, GA 30071. Representative: Gene Bryson (same address as applicant). Part I: *Passengers and baggage* from all points in the United States to all points in the United States. Part II: *Common: Regular: Passengers, baggage, and express,* from Gainesville, GA over US Highway 23 to Atlanta, GA, Thence over Interstate 85 to State Highway 365 to Gainesville, GA; Thence over US Highway 23 to Cornelia, GA Also: *Passengers, baggage, and express* from Carrollton, GA, over State Highway 166 and 61 to US

Highway 78; Thence over US Highway 78 to Interstate 285 to Interstate 20 then East to Atlanta, GA and return. Supporting shipper: Carroll Travel Service d/b/a/ Red Carpet Travel Maple & South Streets, Carrollton, GA 30117 and Osborne Travel 3379 Peachtree Rd. N.E., Atlanta, GA 30326.

Note.—Applicant intends to tack this authority (PART I and PART II) to existing authority in MC 141589 and to interline with other carriers at Atlanta, GA and Ashville, NC.

MC 165916 (Sub-3–1TA), filed January 27, 1983. Applicant: GOLDMAN STEEL FABRICATING & ERECTING CORPORATION, 7886 Barlow Road, Mobile, AL 36608. Representative: Jessie L. Goldman (same address as applicant). *Contract;* Irregular; Concrete pipe and supplies as is dealt with by construction companies under continuing contracts with Faulkner Concrete Pipe Co., from the facilities of Faulkner located at Mobile, AL to New Augusta, MS. Supporting Shipper: Faulkner Concrete Pipe Company, Drawer F., Hattiesburg, MS 39401.

MC 145956 (Sub-3–10TA), filed January 27, 1983. Applicant: TRANSMEDIC CARRIERS, INC., 1340 Indian Rocks Road, Belleair, FL 33516. Representative: Robert H. Kinker, 314 West Main Street, P. O. Box 464, Frankfort, KY 40602. *Blood derivatives of blood, plasma, medical products and materials, equipment and supplies used in connection therewith,* between points in the U.S. (except AK and HI), restricted to shipments originating at or destined to the facilities used by Amex Plasma Ltd. Supporting shipper: Amex Plasma Ltd., 319 William, Corpus Christi, TX 78401.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 165931 (Sub-6–1TA), filed January 26, 1983. Applicant: JAMES L. CARTER, d.b.a. CARTERS, 1046 N. County Road 17, Berthoud, CO 80513. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002. *Contract carrier,* irregular routes: *Building Materials, Lumber and wood products, and metal products,* between Adams County, CO and Berthoud, CO and points in KS, MT, NE, NM, UT and WV under continuing contract with Snavely Forest Products Company and Mountain States Standards, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Snavely Forest Products Company, P.O. Box 16107, Denver, CO 80216 and Mountain States Standards, Inc., P.O. Box 948, Berthoud, CO 80513.

MC 150917 (Sub-6–2TA), filed January 27, 1983. Applicant: FOOD EXPRESS INC., 4325 Fruitland Ave., Los Angeles, CA 90058. Representative: Michael L. Springer (same as applicant). *Contract carrier,* irregular routes, *general commodities* between points in the Continental U.S. under continuing contracts with CPC International, and Terminal Flour Mills Company, for 270 days. Supporting shippers; CPC International, International Plaza, Englewood Cliffs, NJ 07632; and Terminal Flour Mills Company, Terminal No. 4, Portland, OR 97203.

MC 104832 (Sub-6–2TA), filed January 27, 1983. Applicant: HOLMAN TRANSFER CO., 49 S E Clay, Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Avenue, Portland, OR 97210. *Contract carrier,* irregular routes: *food and related products,* between Portland, OR and its commercial zone, on the one hand, and points in CA in and north of Humbolt, Trinity, Tehama, Shasta and Lassen Counties, on the other, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Keebler Co., One Hollow Tree Lane, Elmhurst, IL 60126.

MC 164606 (Sub-6–1TA), filed January 27, 1983. Applicant: ALFREDO LOPEZ, 810 N. Lacy St., Santa Ana, CA 92701. Representative: Alfredo Lopez, (same as applicant). *Contract carrier,* irregular routes *constructions materials* between CA, NY, FL, PA, and VA for 270 days, for the account of GMK Transportation. An underlying ETA seeks 120 days authority. Supporting shipper: GMK Transportation, 606 N. Terminal St., Santa Ana, CA 92701.

MC 165651 (Sub-6–1TA), filed January 27, 1983. Applicant: MSM HAULING, INC., 255 West Laurel Rd., Bellingham, WA 98226. Representative: Bruce A. Wolf, 2120 Pacific Bldg., Seattle, WA 98104. *Building materials, consisting of shakes, shingles and lumber,* between points of entry on U.S.-CD border in WA and points in WA, OR, and ID for 270 days, An underlying ETA seeks 120 days authority. Supporting shipper: There are 7 shippers their statements may be examined in the office listed.

MC 156408 (Sub-6–1TA), filed January 27, 1983. Applicant: SOUTHWEST CANNERS, INC., P.O. Box 862, Portales, NM 88130. Representative: James W. Hightower, Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237–2385. *Alcoholic beverages (except in bulk),* From CA to Aurora and Denver, CO, for 270 days. Supporting shipper: Midwest Liquors, 14200 E. Moncrieff Place, Aurora, CO 80011.

MC 148791 (Sub-6–19TA), filed January 27, 1983. Applicant: TRANSPORT-WEST, INC., 1850 S 1100 W., Woods Cross, UT 84087. Representative: Rick J. Hall, P.O. Box 2465 Salt Lake City, UT 84110. *Contract Carrier,* Irregular routes: *Such commodities as are dealt in or used by department, discount or variety stores,* from Maumelle, AR to points in CO and TX, for the account of Target Stores for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Target Stores, 777 Nicollet Mall, Minneapolis, MN 55440.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–3166 Filed 2–4–83; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Douglas Galloway, (202) 275–7278
or
Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No	Name of railroad, contract No and specifics	Review Board [1]	Decided date
752	Richard B. Ogilvie, Trustee, for Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC–MILW–C–0282, (Flour)	2	1–31–83
753	Soo Line Railroad Co., ICC–SOO–C–0160, (Petroleum residual fuel oil)	3	1–31–83
755	Burlington Northern Railroad Co., ICC–BN–C–0272, (Grain or grain products)	2	1–31–83
756	Burlington Northern Railroad Co., ICC–BN–C–0271, (Grain or grain products)	II	1–31–83
757	Burlington Northern Railroad Co., ICC–BN–C–0041–A, Supplement 2, (Soda ash)	1	1–31–83
758	Burlington Northern Railroad Co., ICC–BN–C–0020–A, Supplement 2, (Soda ash)	2	1–31–83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Parker not participating. Review Board No 2, Members Carleton, Williams, and Ewing. Review Board No 3, Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

49 U.S.C. 10505

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3041 Filed 2–4–83; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83–14]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council.

DATE AND TIME: February 22, 1983, 9 a.m. to 4:30 p.m., and February 23, 1983, 8:30 a.m. to 3 p.m.

ADDRESS: NASA Headquarters, Room 7002, 400 Maryland Avenue SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code LB–4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755–8383).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Mr. Daniel J. Fink and is composed of twenty-six members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, life sciences, space applications, space and earth science, space systems and technology, and history, as they relate to NASA's activities.

Visitors will be admitted to the meeting room up to its capacity, which is approximately 60 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

Type of meeting: Open.

AGENDA:

February 22, 1983

9 a.m.—Introductory Remarks.
9:15 a.m.—FY 1984 President's Budget and Five-Year Plan.
11:15 a.m.—Task Force Reports.
1 p.m.—Committee Reports.
2 p.m.—Report of the NAC Solar System Exploration Committee.
3:30 p.m.—Committee Reports.
4:30 p.m.—Adjourn.

February 23, 1982

8:30 a.m.—Review of International Programs.
1 p.m.—Council Discussion and Planning.
3 p.m.—Adjourn.

Dated: January 31, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83–3159 Filed 2–4–83; 8:45 am]

BILLING CODE 7510–01–M

[Notice 83–15]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of change in Meeting.

SUMMARY: The scheduled meeting on February 23–24, 1983, of the NAC Aeronautics Advisory Committee, Informal Advisory Subcommittee on Materials and Structures, published in the **Federal Register** January 25, 1983, (48 FR 3433), has been changed as follows.

DATE AND TIME: February 23–24, 1983, 8:30 a.m. to 5 p.m. each day.

Agenda:

February 23, 1983

8:30 a.m.—Introduction.
9 a.m.—Overview of Long Range Thrusts.
1:30 p.m.—Turbine Hot Section Durability.
3 p.m.—Ceramics.
4:30—Adjourn.

February 24, 1983

8:30 a.m.—Unsteady Aerodynamics.
1:30 p.m.—Subcommittee Discussions.
4 p.m.—Adjourn.

Dated: January 31, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83–3160 Filed 2–4–83; 8:45 am]

BILLING CODE 7510–01–M

[Notice 83–16]

NASA Wage Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Wage Committee.

DATE AND TIME: March 4, 1983, 1:30 p.m. to 4:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 5092, Federal Building 6, 400 Maryland Avenue SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah C. Green, Code NPC–28, National Aeronautics and Space Administration, Washington, DC 20546 (202/755–3732).

SUPPLEMENTARY INFORMATION: The Committee's primary responsibility is to consider and make recommendations to the NASA Director of Personnel Programs Division on all matters involved in the development and authorization of a Wage Schedule for the Cleveland, Ohio, wage area, pursuant to Pub. L. 92–392. The Committee, Chaired by Mr. William Dey, consists of 6 members. During this meeting the Committee will review the survey specifications for the Cleveland, Ohio, wage area which were recommended by the Local Wage Committee and will determine whether to recommend acceptance or modification of those survey specifications. Discussions of these matters in a public session would constitute release of confidential commercial and financial information obtained from private industry. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(4), it has been determined that this meeting will be entirely closed to the public. However, members of the public who may wish to do so, are invited to submit material in writing to the Chairperson concerning matters felt to be deserving of the Committee's attention.

Type of Meeting

Closed.

Purpose of Meeting

The NASA Wage Committee will recommend to the NASA Wage Fixing Authority the proposed wage schedule to be adopted.

Dated: January 31, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-3161 Filed 2-4-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting; Correction

AGENCY: National Commission for Employment Policy.

ACTION: Correction of meeting date.

SUMMARY: This document corrects the dates of February 24, 25, given in the **Federal Register** notice of January 25, 1983, p. 3433, vol. 48, No. 17.

DATE: The Commission will meet on February 23 and 24, 1983. On February 23 the Commission will meet from 9:00 a.m. to 11:00 a.m. and from 2:30 to 5:00 p.m. They will meet from 9:00 to 5:00 on February 24. For site information call Velada Waller at 202-724-1545.

FOR FURTHER INFORMATION CONTACT: Laura von Behren, 202-724-1553.

Signed in Washington, D.C., this 1st day of February, 1983.

Patricia W. Hogue,

Director.

[FR Doc. 83-3232 Filed 2-4-83; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

Date: February 24-25, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications concerning the history and culture of the United States, submitted for Research Materials Programs, Division of Research Programs, for projects beginning after July 1, 1983.

Date: February 25, 1983
Time: 8:30 a.m. to 5:00 p.m.
Room: 807
Program: This meeting will review applications submitted for the Youth Grants Program, Division of General Programs, for projects beginning after June 1, 1983.

Date: February 28-March 1, 1983
Time: 9:00 a.m.-5:30 p.m.
Room: 1134
Program: This meeting will review applications submitted for Research Resources: United States Newspaper Projects Panel, Division of Research Programs, for projects beginning after July 1, 1983.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistnce under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged of confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agencey action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83-3237 Filed 2-4-83; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-348]

Alabama Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. NPF-2 issued to Alabama Power Company (the licensee), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 1 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment modified the effective date for the mechanical snubber functional test from the fourth refueling outage until the fifth refueling outage. Compensatory tests will be used during the fourth outage.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 5, 1982, (2) Amendment No. 28 to License No. NPF-2, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 31st day of January, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No.1, Division of Licensing.

[FR Doc. 83-3245 Filed 2-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has

issued Amendment No. 75 to Provisional Operating License No. DPR–20, to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Palisades Plant (the facility) located in Van Buren County, Michigan. This amendment is effective as of its date of issuance.

The amendment approves changes to the Appendix A Technical Specification provisions of Section 6, Administrative Controls, that primarily reflect the addition of a Nuclear Activities Plant Organization, and reflect some organizational title changes.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 12, 1982, (2) Amendment No. 75 to License No. DPR–20, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 28 day of January, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83–3247 Filed 2–4–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–423–A]

Northeast Nuclear Energy Company, et al.;[1] Receipt of Antitrust Information

The Northeast Nuclear Energy Company, acting as agent and representative for the fifteen co-owners of the Millstone 3 nuclear unit, has submitted antitrust information in conjunction with the application for an operating license for a pressurized water nuclear plant known as Millstone 3, located in New London County, Connecticut. The data submitted contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of a staff antitrust review, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under Section 105c(2) of the Atomic Energy Act. A copy of this finding will be published in the Federal Register and will be sent to the Washington, D.C. and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, requests for reevaluation may be submitted for a period of 30 days after the date of the Federal Register notice. The results of any reevaluations that are requested will be published in the Federal Register and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for an operating license and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and in the local public document room at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Conn. 06385.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensees' activities since the construction permit antitrust review should submit such information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Economic Analysis Branch, Office of Nuclear Reactor Regulation on or before March 9, 1983.

Dated at Bethesda, Md., this 24th day of January, 1983.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 83–3248 Filed 2–4–83; 8:45 am]

BILLING CODE 7590–01–M

[1] Northeast Nuclear Energy Company (a wholly-owned of Northeast Utilities) has no ownership interest in the Unit. The following fifteen electric utilities own the unit as tenants in common: The Connecticut Light and Power Company and Western Massachusetts Electric Company (also wholly-owned subsidiaries of Northeast Utilities), Burlington Electric Light Department, Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, Connecticut Municipal Electric Energy Cooperative, Fitchburg Gas and Electric Light Company, Village of Lyndonville Electric Department, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, Public Service Company of New Hampshire, The United Illuminating Company and the Vermont Electric Cooperative, Inc.

Transnuclear, Inc., et al.; Applications for Licenses To Import/Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for import/export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the Federal Register. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 28th day of January, at Bethesda, Md.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER (EXPORT AND IMPORT)

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End use	Country of destination
		Total [illegible]	Total isotope		
Transnuclear, Inc., Jan. 18, 1983, Jan. 18, 1983, XSNM02012.	93.3 pct. enriched uranium	25.0	23 3	Fuel for HFR, Grenoble	France.
General Electric Co., Jan. 6, 1983, Jan. 10, 1983, XSNM01645(01).	Natural uranium	1,500		Add ENUSA as Intermediate Consignee and add 1500 KGS of Natural Uranium—Multiple reload (6) fuel for Nuclenor.	Spain.
Mitsui & Co., Jan. 18, 1983, Jan. 24, 1983, XSNM02014.	3.95 pct. enriched uranium	21,294	611	Reload fuel for Hamaoka Unit 2	Japan.
Mitsui & Co., Jan. 18, 1983, Jan. 24, 1983, XSNM02015.	3.95 pct. enriched uranium	6,834	207	Reload fuel for Hamaoka Unit 2	Japan.
Westinghouse Elect., Jan. 17, 1983, Jan. 21, 1983, ISNM80001(02).	3.6 pct. enriched uranium	[1]25,075.0	[1]974.7	Return new fuel rods which are in storage at KO-RI I site—Amended to increase the amount of [illegible].	From Rep. of Korea.
Transnuclear, Inc., Dec. 21, 1982, Dec. 22, 1982, XM.8561.	Natural uranium	1,200,000		As fuel in light water commercial power reactors located within the Euratom Community only.	EURATOM.

[1] Additional.

[FR Doc. 83-3246 Filed 2-4-83; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Systematic Evaluation Program; Meeting

The ACRS Subcommittee on the Systematic Evaluation Program will hold a meeting on February 23, 1983, Room 1167, 1717 H Street, NW, Washington, D.C. The Subcommittee will discuss the Systematic Evaluation Program review of Yankee Rowe. Notice of this meeting was published January 18, 1983.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, February 23, 1983—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Herman Alderman (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: February 2, 1983.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 83-3243 Filed 2-4-83; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Clinch River Breeder Reactor

The ACRS Subcommittee on Clinch River Breeder Reactor (CRBR) will hold a meeting on February 23 and 24, 1983, Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will continue its review of the application from the Department of Energy for a permit to construct the CRBR. Notice of this meeting was published January 18, 1983.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary

information. One or more closed sessions may be necessary to discuss such information (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, February 23, 1983—8:30 a.m. until the conclusion of business
Thursday, February 24, 1983—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Department of Energy, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Decisnated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: February 2, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–3244 Filed 2–4–83; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19466/(SR-Amex-82-21)]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 28, 1983.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, NY 10006, submitted on November 18, 1982,[1] copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend Rules 131 (Types of Orders) and 154 (Orders Left With Specialist). Specifically, the definition of percentage order in Rule 131 would be revised to differentiate between "straight limit," "last sale," and "buy minus-sell plus" percentage orders. A commentary also would be added to Rule 154 describing the procedures followed by specialists when receiving and executing percentage orders.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19304, December 7, 1982) and by publication in the **Federal Register** (47 FR 56091, December 14, 1982). No written comments were filed with the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–3178 Filed 2–4–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19465; (SR–Amex–83–1)]

American Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

January 28, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 86 Trinity Place, New York, NY 10006, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 20, 1983, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would increase the limits on orders eligible for the Amex's Post Execution Reporting ("PER") system from 200 shares to 300 shares for market orders and from 400 shares to 500 shares for all limit orders, including good 'til cancelled orders.[1] In its filing with the Commission, the Amex states that the increase in the size of the orders that are eligible for PER treatment is warranted because in recent years the percentage or orders eligible for PER has been declining due to the significant increase in the average size of equity orders. In addition, the Amex states that the proposed changes would permit the Exchange to respond to member firm requests for greater speed and efficiency in the processing of small, routine orders. According to the Exchange, the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. In addition, the Exchange states that the increase in order limits will result in more efficient and effective market operations, consistent with Section 11A(a)(1)(B) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–Amex–83–1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with

[1] On January 21, 1983, the Amex withdrew from the filing those provisions which would have authorized the conversion of percentage orders on "destabilizing ticks," *i.e.*, buying on a zero plus or selling on a zero minus tick. The exchange further indicated that it plans to modify and refile these provisions at a later date.

[1] The PER system, which the Amex installed in 1977, provides an electronic means for Amex member firms to send market and limit orders in equities directly to the Amex specialists' posts for manual execution, after which the reports are sent back in electronic form to the member firms.

the requirements of the Act and the rules and regulations thereunder applicable to a securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the Amex PER system is presently able to accommodate the proposed increases in order size, and accelerated effectiveness of this proposal will enable the Amex both to facilitate the execution of small orders while helping reduce the potential for error, and to improve its operating efficiency during periods of high trading volume. Accordingly, the Commission finds that notice for 30 days prior to approval of the proposed rule change is unnecessary and that accelerated temporary approval is in the public interest.

It is therefore ordered, pursuant to Section 19(b)92) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3177 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22842; (70-6759)]

Appalachian Power Co.; Proposed Coal Transloading Service To Affiliate at Cost

January 31, 1983.

The Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24022 an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed an application and amendments thereto with this Commission pursuant to Section 13(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 87, 90 and 91 promulgated thereunder.

Appalachian proposes to offer a coal transloading and transfer service to its affiliate, Ohio Power Company ("Ohio"), utilizing a rail-to-river coal transfer facility known as the Putnam Coal Terminal ("terminal"). The terminal was constructed by Appalachian to be utilized primarily in the transfer and delivery of coal to its Mountaineer Plant in West Virginia. At full operation, the terminal is designed to transfer up to four million tons of coal per year from rail cars or storage to river barges. Appalachian's Mountaineer Plant currently consumes an estimated 3,500,000 tons of coal annually, not all of which is delivered through the terminal, resulting in excess transloading capacity at the terminal.

It is proposed that this available transloading capacity (in addition to that required for coal supply to other Appalachian plants) be used from time to time to transfer coal to barges for delivery to a generation facility jointly owned by Appalachian and Ohio. All coal so delivered will be deposited into a single stockpile and jointly consumed by Appalachian and Ohio.

The fee to Ohio for the transfer service would be limited to the cost of providing such service, determined on the basis of the expenses of operation, maintenance of the terminal, depreciation and overhead expenses, taxes, plus a provision for capital fixed charges on Appalachian's associated investment in the terminal. The expenses would be apportioned to Ohio on the basis of the percentage of utilization of the terminal for transferring coal to barges for delivery to the jointly-owned facility, with an appropriate adjustment for the amount of such coal actually consumed by Ohio's units. Appalachian proposes that the provision for capital fixed charges on its investment in the terminal would be at annual rate of 14.45%, calculated by reference to Appalachian's weighted annual cost of capital in the terminal (including the components of long-term debt, preferred stock and common equity). The rate would be subject to adjustment annually based on changes in the average of the rates of return on common equity allowed by the Public Service Commission of West Virginia and the State Corporation Commission of Virginia in the last premanent retail rate proceedings involving Appalachian. The provision for capital fixed charges would be applied to the portion of Appalachian's investment in the terminal related to the estimated percentage of utilization of such facility on behalf of Ohio and adjustments to the billings would be made at least once a year on the basis of actual percentage of utilization, measured in number of tons transferred.

At this time, Appalachian has no plans to offer this service to any affiliates other than Ohio. However, it is possible that the terminal could be utilized from time to time, as capacity permits, to transfer coal for delivery to other plants of Ohio or to plants owned by other affiliates of Appalachian. The transfer fee charged by Appalachian to any affiliate for any such utilization would be limited to cost, including the provision for capital fixed charges, determined in the same manner as outlined herein. The form of agreement that Appalachian proposes to enter into with Ohio and with any other affiliate company utilization of the terminal has been filed with the Commission.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 25, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3182 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22841; (70-6799)]

Connecticut Light & Power Co.; Proposed Debt Financing Through an Interest Rate Swap Agreement and Unsecured Notes; Request for Exception From Competitive Bidding

January 31, 1983.

The Connecticut Light & Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, an electric utility subsidiary of Northeast Utilities, a registered holding company, has filed with this Commission an application-declaration and amendments thereto pursuant to Sections 6(a), 7, 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

CL&P seeks authorization to transact one of the following during the period ending December 31, 1983: (1) To enter into a contractual arrangement (the "interest rate swap") with a bank whereby the bank and CL&P will exchange periodic payments, calculated by reference to a fixed principal amount and to interest rate indices, as herein described or (2) to execute an interest

rate swap as described in conjunction with the issuance and sale of unsecured term notes, in one or more issues and in an aggregate amount not to exceed $75 million for a term of approximately seven years. CL&P intends either to execute an independent swap agreement with respect to existing debt or to issue and sell unsecured notes contemporaneously with an interest rate swap, but it will not transact both. CL&P also seeks authority to negotiate the terms in connection with these transactions, pursuant to a proposed exception from the competitive bidding requirements of Rule 50 under the Act.

By contractual agreement, CL&P would agree to make payments to a bank, payable annually or semi-annually in arrears, calculated by reference to an established, fixed rate of interest and to a specific principal amount not to exceed $75 million. Such payments would be for a specific period set forth in the contract not to exceed approximately seven years. By the same agreement, the bank will contract to make payments to CL&P, under the same terms, for the same length of time, and with reference to the identical principal amount. The bank's payments, however, will be determined in accordance with an agreed-upon rate index, as that index may vary from time to time either upward or downward. The rate index will be selected to correspond with that of CL&P's new or existing floating-rate indebtedness targeted for conversion to a fixed rate of interest, and such rate index is likely to be either the prime rate as quoted by a bank or other financial institution, or the London interbank offered rate ("LIBOR"). The bank's payments will be claculated to match as closely as possible CL&P's obligations under the floating-rate indebtedness.

If the proposed interest rate swap become effective, CL&P will transfer payments received thereunder to its lender in satisfaction of the floating-rate interest obligations. It may also be necessary for CL&P to pay a certain percentage or margin, in addition to the rate received under the interest rate swap, in order to fully meet the floating-rate obligation. For exemple, if pursuant to the interest rate swap a bank has agreed to pay CL&P at LIBOR Minus ⅛%, while CL&P's floating-rate obligation on the existing or new loan is LIBOR plus ¼%, then CL&P would pay to the lender the annual or semi-annual amounts received under the interest rate swap plus ⅛%. Without giving effect to the transaction costs of the interest rate swap, the effective interest cost to CL&P of the existing or new underlying loan will have been converted from the floating LIBOR to a rate equal to the fixed interest rate under the interest rate swap plus ⅜ of 1%.

CL&P indicates that it will be obligated to pay an arrangement fee and various legal fees and other expenses which will increase the effective cost of borrowing through the interest rate swap by 14 basis points. The cost-effectiveness of an interest rate swap, as compared to refinancing through conventional first mortgage bonds or intermediate term loans, may fluctuate greatly from time to time. CL&P represents that based on terms available to it on December 6, 1982, projected savings would not have been significant and, therefore, CL&P would not have elected to enter into such a transaction at that time. CL&P intends to use this method of financing where savings would approximate 50 basis points over the coupon or interest rates of conventional forms of financing.

The proposed interest rate swap would have the effect of converting a new or existing loan, bearing a floating, variable interest rate, into indebtedness at a fixed rate of interest. CL&P asserts that it would be advantageous to accomplish such a conversion, through the vehicle of an interest rate swap, in order to reduce exposure to increases in interest rates, to improve its ability to project and to recover interest costs, and to obtain lower, fixed interest rates than would be available through the conventional refinancing of a loan or the issuance of first mortgage bonds or other debt instruments.

It is anticipated that the interest rate swap would provide, in effect, that CL&P may not terminate the agreement without the bank's consent or that CL&P may terminate the agreement only if it makes substantial early termination payments. Since a bank would typically fund its obligations by issuing its own obligation in the Eurobond market, the purpose of such provisions would be to assure the bank of a continuing flow of fixed rate payments to service its own fixed rate interest obligations. This aspect of the interest rate swap has the effect of eliminating any economical method of terminating the payment obligations under the interest rate swap agreement prior to its expiration.

If an interest rate swap is entered into in conjunction with the proposed term loan financing, the net proceeds would be applied to reduce short-term debt incurred to finance CL&P's construction program and for general corporate purposes. CL&P's construction expenditures for 1982 and 1983 are expected to be approximately $891 million (including allowance for funds used during construction but excluding nuclear fuel), of which approximately $346 million had been expended through November 30, 1982.

CL&P has requested an exception from the competitive bidding requirements of Rule 50 on the grounds that the protections of competitive bidding are not appropriate in the public interest or for the protection of investors and consumers, for the following reasons: (1) An interest rate swap is a complex transaction in which coordination between the parties is essential; a financial institution can enter into an interest rate swap only if it is able to arrange a series of complex, offsetting transactions which require precise timing and the assurance that the swap agreement will be effected without the uncertainties raised by the competitive bidding process; (2) There has been active competition among several financial institutions in the presentation of proposals to CL&P; and (3) If the interest rate swap is effected in connection with new term financing, that financing cannot be made at competitive bidding because of the need to coordinate it with the interest rate swap. In light of the foregoing, CL&P proposes to initiate preliminary negotiations with several financial institutions and is hereby granted permission to do so.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 25, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy of the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified or any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective.

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For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3183 Filed 2-4-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 12998; (812-5402)]

Daily Tax-Exempt Money Fund (Formerly Congress Street Tax-Exempt Money Market Trust); Filing of an Application

January 28, 1983.

Notice is hereby given that Daily Tax-Exempt Money Fund ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 17, 1982, and an amendment thereto on January 28, 1983, pursuant to Section 6(c) of the Act, for an order of the Commission exempting Applicant and any other series it may establish (1) from Section 2(a)(41) of the Act and from Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant's assets to be valued at amortized cost, and to value rights acquired from brokers, dealers, or banks to sell portfolio securities to such persons in the special manner described in the application and (2) from Section 12(d)(3) of the Act to the extent necessary to permit Applicant to acquire rights to sell its portfolio securities to brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the Rules thereunder for the complete text of those provisions thereof from which an exemption is being sought.

Applicant states that it was organized and is presently legally existing as a business trust under the laws of The Commonwealth of Massachusetts. Applicant states that it is a "series" money market fund designed to provide both individual and institutional investors with as high a level of current income exempt from federal income taxes, as is consistent with a portfolio of high quality, short-term municipal obligations selected on the basis of liquidity and stability of principal. Applicant currently has only one series (referred to as "series" or "portfolio") but may include additional series in the future. The application represents that each series will be subject to the conditions specified in the order.

Applicant states that its presently existing series will invest in a diversified portfolio of municipal obligations whose interest payments are exempt from Federal income tax and in commitments to purchase these securities on a "when-issued" basis. In purchasing "when-issued" securities Applicant will comply with the views set forth in Investment Company Act Release No. 10666. These securities, which are issued by states, cities, municipalities and municipal agencies, will include Tax Anticipation Notes, Revenue Anticipation Notes, Bond Anticipation Notes and Construction Loan Notes. Applicant may also invest in Project Notes, which are instruments sold by the Department of Housing and Urban Development but issued by a state or local housing agency. While the issuing agency has the primary obligation on such Project Notes, they are also secured by the full faith and credit of the United States. Applicant states that it may also invest in municipal bonds, including industrial development bonds.

Applicant also states that it may invest in floating or variable rate obligations which provide that their rate of interest is set as a specific percentage of a designated base rate (such as the prime rate of a bank or 90-day United States Treasury Bill rate) and that Applicant can demand payment of the obligation on short notice (not to exceed 7 days) at par plus accrued interest. In purchasing these variable rate demand obligations, including certificates of participation, the Applicant represent that it will comply in all respects with proposed Rule 2a–7 under the Act, and the formal Rule when adopted. Frequently, such obligations are secured by letters of credit or other credit support arrangements provided by banks.

Applicant states that all of its investments will be in securities which at the time of investment have remaining maturities of one year or less. For this purpose, the floating or variable rate obligations which are payable on demand (on not more than seven day's notice), but which may otherwise have a stated maturity in excess of one year, will be deemed to have remaining maturities of one year or less. Applicant also states that the dollar weighted average maturity of Applicant's portfolio will be 120 days or less.

Applicant states that it is authorized to purchase securities together with a right to resell them to the seller at an agreed upon price or yield within a specified period prior to the maturity date of such securities ("stand-by commitments"). Applicant intends to enter into stand-by commitments solely for the purpose of maintaining liquidity, and represents that its acquisition of stand-by commitments will not affect the valuation or assumed maturity of the underlying municipal obligations which would continue to be valued at amortized cost. Applicant states that it does not currently intend to enter into such transactions but reserves the right to do so in the future.

In a May 31, 1977 interpretative release (Investment Company Act Release No. 9786), the Commission stated that (1) Rule 2a–4 requires that portfolio instruments of "money market" funds be valued with reference to market factors and (2) it would prospectively consider the use by a money market fund of the amortized cost basis for valuing its portfolio securities (except those having maturities of 60 days or less) to be inconsistent with Rule 2a–4. Applicant states that it proposes to value its portfolio securities by means of the amortized cost method of valuation, subject to the conditions enumerated below.

Applicant states that it has been management's experience that in order to attract and retain investors Applicant must have a stable net asset value (preferably at $1.00 per share) and a constant and steady flow of investment income. It is believed by Applicant that the valuation of its portfolio securities on the amortized cost basis will benefit shareholders by enabling Applicant to maintain a constant $1.00 per share purchase and redemption price, while at the same time providing shareholders with a steady flow of investment income through daily dividends which reflect Applicant's net income as earned.

Applicant states that its Trustees have determined in good faith that in light of the characteristics of the Applicant as described above and absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects the fair value of such securities. It is the investment adviser's experience that given the nature of Applicant's policies and operations, there will be relatively negligible discrepancy between prices obtained by market value methods and amortized cost. Applicant therefore requests exemptions from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit its use of the amortized cost method to value its portfolio securities.

Section 6(c) of the Act provides, in part, that the Commission upon application may conditionally or

unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant believes that the granting of the requested exemptions by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant expressly consents to the imposition of the following conditions in any order granting the relief it requests:

(1) In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share for each portfolio, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

(2) Included with the procedures to be adopted by the Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share for any portfolio may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity of the relevant portfolio; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share in each of its portfolios; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days in each portfolio.[2]

(4) Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedure (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were recorded required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

(5) In each of the portfolios, Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which the Board of Trustees determines present minimal credit risks and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Trustees.

(6) Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

The Applicant also requests exemption from Section 12(d)(3) of the Act to the extent necessary to permit its acquisition of stand-by commitments from brokers or dealers. These stand-by commitments will have the following features: (1) They will be in writing and will be physically held by the Applicant's custodian; (2) they may be exercisable by the Applicant at any time or during specified periods prior to the maturity of the underlying security; (3) they will be entered into only with dealers, banks and broker-dealers who, in the judgment of the Board of Trustees, present a minimal risk of default; (4) Applicant's right to exercise them will be unconditional and unqualified; (5) although they may not be transferable, municipal obligations purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal obligations which are subject to the commitment (excluding any accrued interest which the Applicant paid on their acquisition), less any amortized market premium or plus any amortized or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by the Applicant. The Applicant intends to enter into stand-by commitments with only those banks, brokers and dealers which in the judgment of the Board of Trustees present minimum credit risks. The Applicant intends to acquired stand-by commitments solely to facilitate portfolio liguidity and does not intend to exercise its rights thereunder for trading purposes. Applicant will not acquire stand-by commitments to promote reciprocal practices, to encourage the sale of its shares, or to obtain research services.

Since the Applicant plans to value its municipal obligations on an amortized cost basis, the amount payable under a stand-by commitment will be substantially the same as the value assigned by Applicant to the underlying security. Applicant submits there is little risk of an event occurring which would make amortized cost valuation of its portfolio securites inappropriate. In such event, however, Applicant expects to refrain from exercising the stand-by

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days for any of its portfolios, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity for that portfolio to 120 days or less as soon as reasonably practicable.

commitments to avoid imposing a loss on a dealer and jeopardizing Applicant's business relationship with that dealer.

If necessary and advisible, the Applicant will pay for stand-by commitments, either separately in cash or by paying a higher price for portfolio securities which are acquired subject to the commitment. As a matter of policy, the total amount "paid" in either manner for outstanding stand-by commitments held in Applicant's portfolio will not exceed ½ of 1% of the value of its total assets of the relevent portfolio calculated immediately after any stand-by commitment is acquired. Applicant claims that the acquisition of stand-by commitments will not affect its net asset value per share and will not pose new investment risks. Applicant will value stand-by commitments at zero, regardless of whether any direct or indirect consideration was paid. Where the Applicant has paid for a stand-by commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held.

The Applicant represents that the relationship between the Applicant and the dealer will be comparable to a fully collateralized broker-dealer repurchase agreement or security loan and that the risk of loss that would result from the failure of a broker or dealer to fulfill its obligation under the stand-by commitment is not qualitatively different from the risk of loss faced by an investment company holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business. Finally, it is contended that Applicant's acquisition of stand-by commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 22, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact of law bthat are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3173 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13003; File No. 812-5433]

Charles O. Daly; Filing of Application

February 1, 1983.

I

Notice is hereby given that Charles O. Daly, 26 Worcester Road, Peabody, Massachusetts 01960, hereinafter referred to as Applicant, had filed an application pursuant to the provisions of Section 9(c) of the Investment Company Act of 1940, 15 U.S.C. 80a-1 *et seq.*, as amended (the "Act"), for an order granting him an exemption from the provisions of Section 9(a) of the Act and a temporary exemption from Section 9(a) pending the Commission's determination of the application for a permanent exemption.

All interested persons may review the application on file with the Commission for a statement of the representations therein, pertinent parts of which are summarized below:

On January 27, 1982 the Commission instituted proceedings against Applicant seeking to enjoin Applicant from aiding and abetting violations of Sections 31(a), 34(a) and 34(b) of the Investment Company Act of 1940 (*Securities and Exchange Commission,* v. *Edward J. Falvey, et al.,* Civil Action No. 82-0197-S, United States District Court for the District of Massachusetts). The action was brought against Applicant, and other defendants, as a result of alleged record-keeping irregularities which occurred for a period of time prior to 1979 while Applicant was employed by the New England Merchants National Bank of Boston (now Bank of New England), (herein the "Bank"). Applicant executed a stipulation and consent neither admitting or denying the allegations of the complaint, but consenting to the entry of an injunction. On December 22, 1982 a Final Judgment and Permanent Injunction was entered by the District Court.

Applicant is presently employed by Merrill Lynch Funds Distributors, Inc. ("MLFD"), a broker-dealer registered with the Commission, and has been so employed as a customer representative since September 1981. Because of the injunction entered against Applicant, MLFD would be prohibited by Section 9(a)(3) from serving in its current capacity as underwriter for registered investment companies retains Applicant as an employee.

Section 9(c) of the Act provides that upon application the Commission shall by order grant an exemption from the provisions of Section 9(a) of the Act either unconditionally or on an appropriate temporary or conditional basis if it is established that the prohibitions of Section 9(a), as applied to the Applicant, are unduly or disproportionately severe or that the conduct of the applicant has been such as not to make it against the public interest or protection of investors to grant such application.

In support of his position applicant represents that: (1) It was the intention in negotiating the stipulation and consent that the injunction would not preclude his continued employment by MLFD; and (2) that his continued employment by MLFD would not be inconsistent with the public interest or the protection of investors.

II

The Commission, having considered the matter, the Applicant's application for an exemption from the prohibitions of Section 9(a) of the Act and the terms of the stipulation and consent and relief granted by the court in the civil action described above, finds that the prohibitions of Section 9(a) of the Act may be unduly or disproportionately severe as applied to Applicant.

III

Accordingly, it is hereby ordered that, pursuant to Section 9(c) of the Act, the Applicant, and his employer, as of the date of this Order, be and hereby are granted a temporary exemption from the prohibitions of Section 9(a) of the Act, to the extent necessary to permit Applicant to continue his current employment, pending final determination by the Commission of the Application for an Order granting an exemption from such prohibitions.

IV

Notice is futher given that any interested person may, not later than February 26, 1983, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such

communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail on James C. Hamilton, Esquire, One Court Street, Boston, Massachusetts 02108. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3176 Filed 2–4–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19470; (File No. SR–DTC–83–1)]

Filing and Immediate Effectiveness of Proposed Rule Change by the Depository Trust Company

January 31, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 14, 1983, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would eliminate the across-the-board surcharge of twelve percent (12%) on each DTC participant's monthly bill. This surcharge was levied by DTC on the services it rendered to its participants during August, September and October of 1982. In its rule filing, DTC stated that it originally imposed the surcharge to supplement declining revenues in prior months. DTC believes, however, that the increased trading volume in August, September and October of 1982 was sufficient to obviate the need for a surcharge on services rendered after October 31, 1982.

DTC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC inasmuch as the proposed rule change eliminates the 12% surcharge for all participants. Furthermore, DTC believes that this proposed rule change is consistent with Section 17A(b)(3)(F) of the Act in that it will not affect DTC's present safeguards for securities and funds in its custody or control or for which it is responsible.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–DTC–83–1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3185 Filed 2–4–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19471; (File No. SR–MSTC–83–1; File No. SR–MSTC–82–25)]

Filing and Immediate Effectiveness of Proposed Rule Change and Order Granting the Withdrawal of Proposed Rule Change by the Midwest Securities Trust Company ("MSTC")

January 31, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 19, 1983, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend MSTC Rule 6, Section 3, which authorizes MSTC, on payable date, to credit participant accounts for cash dividends and bond interest regardless of whether MSTC receives the funds on payable date from the paying corporation (the "automatic payment procedure"). The proposed rule change would permit MSTC to reverse automatic payments and delay disbursements of cash, dividends and bond interest to participants until the day after the disbursing agent has paid MSTC for those issues that meet the following criteria: (1) The anticipated receipts due from the disbursing agent are in excess of an amount determined by management; (2) the disbursing agent and/or issuing corporation has refused MSTC payable date receipt arrangements; and (3) payments received from the disbursing agent for the past two quarters have been received after payable date.

In its filing, MSTC notes that many disbursing agents and/or issuing companies have refused to arrange for efficient payable date disbursements to MSTC. Under the automatic payment procedure, therefore, MSTC has financed dividend and interest payments to participants. On occasion, MSTC notes, the dollar value of these payments has been significant.

According to MSTC, the revised payment procedures should significantly limit MSTC financing as a result of cash dividend and bond interest payments to participants. MSTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act in that it provides for the safeguarding of securities and funds which are in the custody of control of MSTC and for which it is responsible, and is also

designed to protect investors and the public interest.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b/4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–MSTC–83–1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes which are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspecion and copying at the principal office of the above-mentioned self-regulatory organization.

On November 19, 1983, MSTC submitted a proposed rule change (File No. SR–MSTC–82–25) interpreting MSTC Rule 6, Section 3. In accordance with Section 19(b)(3)(A) of the Act, that proposed rule change became effective upon filing. Subsequently, MSTC submitted the proposed rule change discussed above and requested withdrawal of the rule change submitted on November 19, 1982. Accordingly, the Commission has considered MSTC's request for consent to the withdrawal of its November 19, 1982 rule change and, hereby, approves the withdrawal of SR–MSTC–82–25.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3184–Filed 2–4–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19474; (File No. SR–OCC–83–1)]

Filing and Immediate Effectiveness of Proposed Rule Change by the Options Clearing Corporation ("OCC")

February 1, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 17, 1983, OCC filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would permit the completion of expiration exercise processing one day early when the day before an expiration date is an Exchange holiday.

Under OCC's current procedures, exercise instructions for expiring options submitted on expiration Saturday are processed by OCC that night. Delivery advices and updated position and margin reports are made available to clearing members of Sunday morning. Clearing members generally have personnel on duty Sunday to process that data.

In 1983, and twice more during this century, an expiration date will occur on Easter weekend. In those three instances, if OCC were to follow its regular procedures for processing exercises of expiring options, clearing members would need to have staff on duty Easter Sunday.

The proposed rule change is intended to avoid that result by permitting exercise processing to be completed one day early. Since in each of those instances Good Friday is an Exchange holiday, there will be no options trading on Good Friday, and final positions in expiring options will be fixed one day earlier than usual. In addition, under Exchange rules, the cut-off time for acceptance of exercise instructions by Exchange members in those instances will occur on Thursday rather than Friday.[1] There is therefore no reason why exercise processing should not begin on Friday instead of Saturday.

The proposed rule change would not modify OCC's procedures for processing expiration date exercises;[2] it would simply allow OCC, upon reasonable notice to clearing members,[3] to advance the processing time frames by 24 hours. Clearing members would still have the right to submit supplementary exercise instructions up until the expiration time (*i.e.*, the contractually established expiration Saturday) subject to disciplinary action for delays without good cause.[4]

In addition, OCC stated that it believes the proposed rule change is consistent with the requirements of Section 17A(b)(3) of the Act because it fosters cooperation with persons engaged in the clearance settlement of securities transactions by avoiding unnecessary burdens on clearing member personnel.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–OCC–83–1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed by the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room,

[1] Under Exchange rules, the cut-off time occurs on the last "business day" (*i.e.*, trading day) before an expiration date. *See* Amex Rule 980(b), CBOE Rule 11.1(b), PSE Rule VI, Sec. 30(b), and Phlx Rule 1042(b).

[2] OCC's procedures for processing expiration date exercises are contained in OCC Rule 805.

[3] OCC stated that at least seven days' notice of the early expiration processing will be given to clearing members.

[4] OCC stated that in the five years that OCC Rule 805 has been in effect, no Clearing Member has every filed a supplementary exercise instruction. If such an instruction were to be filed, OCC would process it separately through a manual random assignment process replicating OCC's automated system and would distribute additional delivery advices to the exerrising and assigned clearing members.

450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3195 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22840; (70-6833)]

Northeast Utilities Western Massachusetts Electric Co. and Connecticut Light & Power Co.; Proposed Issuance and Sale of Common Stock at Competitive Bidding and Capital Contributions to Subsidiaries

January 31, 1983.

In the matter of Northeast Utilities Western Massachusetts Electric Company, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089 and Connecticut Light & Power Company, Selden Street, Berlin, Connecticut 06037.

Northeast Utilities ("Northeast"), a registered holding company, and Connecticut Light and Power Company ("CL&P") and Western Massachusetts Electric Company ("WMECO"), electric utility subsidiaries of Northeast, have filed an application-declaration and an amendment thereto with this Commission, pursuant to Sections 6(a), 7 and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50 promulgated thereunder.

Northeast proposes to issue and sell at competitive bidding, in one or more sales from time to time not later than December 31, 1983, up to an additional 8,000,000 of its authorized common shares, $5 par value. The timing, number of shares, and the frequency of the issues will be determined by Northeast after consideration of its financial needs, market conditions, trading price of outstanding shares, and other relevant factors. Northeast may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). Northeast also indicates, however, that it may eventually request an exception from all competitive bidding requirements under Rule 50(a)(5) to permit it to negotiate, with one or more underwriters the terms of a public offering of the shares. In such case, if authorized by the Commission, the price per share to Northeast and to the public upon reoffering, and the compensation to underwriters, would be determined by negotiation.

It is also proposed that the proceeds from the sale or sales of the common shares (estimated to be $96 million if all shares are sold at $12 per share) be used to assist Northeast; (i) To make open account advances and capital contributions of up to $70 million to CL&P and up to $40 million to WMECO, (ii) to make payments of principal and interest on a $50,000,000 term loan agreement with an institutional investor, under which an installment of $10,000,000 in principal, and accrued interest, is due on June 1, 1983, and (iii) to reduce short-term borrowings incurred by Northeast from time to time for the principal purpose of making capital contributions and open account advances to its subsidiaries. These funds will be used by the subsidiaries primarily to repay a portion of their short-term borrowings incurred for the purpose of financing, in part, their respective construction programs, and for general working capital purposes. Any short-term borrowings of Northeast remaining after the application of proceeds as set forth above are expected to be repaid through future sales of securities.

If this application-declaration is approved, Northeast intends to make the capital contributions described herein from time to time after the sale of the additional shares, but in any event not later than December 31, 1983. The authorization for these capital contributions would supersede that previously ordered by the Commission (HCAR No. 22559) under which $20 million of capital contributions to WMECO and $30 million of capital contributions to CL&P have been authorized during the period ending June 30, 1983, but have not yet been made.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 25, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3181 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12997; (811-3060)]

Ohio National Variable Interest Account; Filing of Application

January 28, 1983.

Notice is hereby given that Ohio National Variable Interest Account ("Applicant"), 237 William Howard Taft Road, Cincinnati, Ohio 45219, registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, filed an application on Janury 13, 1983, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant registered under the Act on May 12, 1980. On July 11, 1980, it filed a registration statement pursuant to the Securities Act of 1933 on Form S-6, to register variable interest annuity contracts ("contracts") which are not issued in predetermined amounts or units. This registration statement became effective on July 13, 1981, and a public offering of the contracts commenced on that date. The Ohio National Life Insurance Company ("Ohio National") and the O. N. Equity Sales Company were Applicant's depositor and principal underwriter, respectively. As of October 31, 1982, there were 2,047 contracts outstanding and as of November 1, 1982, those contracts represented 1,850,760.229 units which had an aggregate net asset value of $24,310,128.67.

The application states that on November 26, 1982, the Executive Committee of the Board of Directors of Ohio National authorized the realignment of Ohio National's variable accounts. It further states that in conjunction with the merger of O. N. Fund, Inc., into O. N. Market Yield Fund, Inc. ("Market Yield") and the reorganization of Market Yield into a series fund, the separate accounts of

Ohio National were realigned. All of Applicant's assets were transferred to Ohio National Variable Account A and Ohio National Variable Account B, each a separate account of Ohio National, and each is registered under the Act as a unit investment trust. Expenses in the realignment and transfer of Applicant's assets were borne by Ohio National.

Applicant states that no vote of contract owners was required by law. However, the owners of variable interest annuity contracts the assets pertaining to which were invested exclusively in shares of Market Yield were given a right to instruct Ohio National as to the manner in which the Market Yield shares attributable to their variable interest annuity contracts should be voted. The instructions of the owners relating to the merger were deemed to constitute a vote on the transfer of each owner's contract values from the Applicant to the appropriate Money Market Subaccount of Ohio National Variable Accounts A or B. The contract owners instructed Ohio National to approve the transaction by a vote of 2,152,148 of a possible 2,381,749 total vote.

According to the application, Applicant has ceased to exist as a separate account under Ohio law; it has no securityholders; it is not a party to any litigation; it has no assets, debts or liabilities outstanding and it is not engaged, nor does it propose to engage in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order and, upon taking effect of that order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interest person wishing to request a hearing on the application may, not later than February 22, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3179 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12996; (812-5379)]

Paine Webber CASHFUND, Inc.; Filing of Application

January 28, 1983.

Notice is hereby given that Paine Webber CASHFUND, Inc. ("Applicant"), 1120 20th Street, N.W., Washington, D.C. 20036, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on November 19, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit the Applicant to compute its net asset value per share using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of those provisions thereof from which exemption is being sought.

Applicant, organized by Paine, Webber, Jackson & Curtis Incorporated ("Paine, Webber") under Maryland law in 1978, states that its investment objective is to offer current income, stability of principal and high liquidity. Applicant states that it provides the opportunity to invest in a professionally managed, diversified portfolio of high grade money market obligations with maturities generally not exceeding one year. Applicant submits that it invests in U.S. Treasury Bills and other obligations issued or guaranteed as to interest and principal by the U.S. Government, its agencies, and instrumentalities; obligations of U.S. banks, including certificates of deposit and bankers' acceptances; commercial paper, including variable rate master notes; and repurchase agreements involving commercial paper, certificates of deposit, and obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities, with financial institutions believed by Applicant's board of directors to present minimal credit risks. The application also states that Applicant may purchase variable rate securities with maturities in excess of one year, which are issued by U.S. agencies or instrumentalities and guaranteed by the U.S. Government. Applicant states that the yields on such securities are adjusted at least semi-annually, in relation to specific money market rates. Applicant states that it may also enter into reverse repurchase agreements with banks.

Applicant states that its net asset value per share, the price at which shares are issued and redeemed, is computed by dividing the value of Applicant's total assets, less its liabilities, by the total number of shares outstanding. Applicant states that its net asset value is determined each day that the New York Stock Exchange is open for trading, as of 12:00 noon New York City time. Applicant represents that it presently calculates its price per share using the penny rounding method pursuant to an order granted by the Commission on June 4, 1979 (Investment Company Act Release No. 10716). Applicant further represents that in accordance with the conditions therein, Applicant uses its best efforts to maintain a $1.00 net asset value per share.

Applicant asserts that Investment Company Act Release No. 9786 (May 31, 1977) stated, *inter alia,* the Commission's view that it is inconsistent with Rule 2a-4 for a money market fund to value its portfolio securities maturing in more than sixty days on an amortized cost basis and that the valuation of such securities by such a fund should be made with reference to market factors.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that it understands that to attract investors to a money market investment vehicle, it must have a stable capital value and a constant and steady flow of investment income. Applicant states that its management believes that, in order to attract such investors and retain them as

shareholders, Applicant must have a stable net asset value per share and must be able to pay dividends that do not fluctuate as a consequence of changes in the values of its portfolio securities.

Applicant states that currently it seeks to achieve this stability by investing in high grade, money market obligations and valuing such securities by means of the "penny rounding" method of valuation. Applicant states that it believes that by valuing its portfolio securities on the basis of their amortized cost, Applicant will benefit investors more by providing an investment vehicle even less subject to fluctuation than under its current procedures. Applicant states that it believes that, with respect to a portfolio of money market obligations with a dollar-weighted average maturity of less than 120 days, the discrepancy between market value and amortized cost is negligible. Applicant asserts that a large majority of money market funds with which Applicant is in direct competition now effect sales, redemptions and repurchases of their shares at prices calculated using the amortized cost method of valuation. In addition, Applicant states that because Paine Webber utilizes the amortized cost method of valuation with respect to other money market portfolios which it manages, administrative cost reductions are expected if Applicant is also allowed to use the amortized cost method. Applicant states that its board of directors has determined in good faith that in light of the characteristics of Applicant, absent unusual or extraordinary circumstances, the amortized cost method of calculating the net asset value per share of Applicant is appropriate and in the best interests of Applicant's shareholders and reflects fair value of such securities.

Applicant represents that as a condition to the granting of the exemption, it agrees that the following may be made conditions of the order:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this condition, Applicant will use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators or value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; the sale of protfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; reducing or withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity at the date of acquisition of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, if any, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. If any action pursuant to condition 2(c) was taken during the preceding calendar quarter, Applicant will file, as an attachment to Form N–1Q, a statement which describes the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 22, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3160 Filed 2–4–83; 8:45 am]

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[Release No. 13004; (812-5398)]

Tax-Free Cash Reserve, Inc.; Filing of Application

February 1, 1983.

Notice is hereby given that Tax-Free Cash Reserve, Inc. ("Applicant"), 11 Greenway Plaza, Suite 1919, Houston, TX 77046, registered under the Investment Company Act of 1940 ("Act"), as an open-end, diversified, management investment company, filed an application on December 15, 1982, and an amendment thereto on January 12, 1983, pursuant to Section 6(c) of the Act, for an order of the Commission exempting Applicant: (1) From the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant (a) to compute its net asset value per share using the amortized cost method of valuation and (b) to value in the manner described below standby commitments acquired from brokers, dealers, or banks; and (2) from the provisions of Section 12(d)(3) of the Act to permit Applicant to acquire standby commitments from brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicant's investment objective is to maximize current income exempt from federal income taxes to the extent consistent with preservation of capital and maintenance of liquidity. Applicant states that it is designed as an investment vehicle for institutions and individuals who wish to invest short-term funds where direct purchase of tax-exempt securities may be undesirable or impractical.

According to the application, Applicant will offer two series of shares, the Institutional Series and the General Series. Applicant states that both Series will share a common investment objective and advisory fee, but each Series is designed to be a convenient and economic vehicle in which financial institutions, particularly banks, acting for themselves or in a fiduciary, advisory, agency, custodial or other similar capacity can invest. The minimum initial investment in the Institutional Series is $1 million. The General Series is designed to be a convenient and economic vehicle for individuals and for institutions which wish to invest less than $1 million.

Applicant states that it will invest primarily in obligations ("Municipal Securities"), issued by or on behalf of states, territories and possessions of the United States and the District of Columbia, and their political subdivisions, duly constituted authorities and corporations, the interest from which is, at the time of issuance in the opinion of counsel for the issuers, exempt from federal income taxes. Applicant states that it may, from time to time, on a temporary basis or for defensive purposes, also invest in taxable short-term investments consisting of obligations of the United States Government, its agencies or instrumentalities, and repurchase agreements relating thereto; commercial paper rated within the highest rating category by a recognized rating agency; and certificates of deposit of domestic banks with assets of $1.5 billion or more as of their most recently published financial statements. Applicant may invest in these temporary investments, for example, due to market conditions or pending investment of proceeds from sales of shares or proceeds from the sale of portfolio securities or in anticipation of redemptions. Applicant represents that its fundamental policy during normal market conditions is that its assets be invested so that at least eighty percent of its annual income will be exempt from federal income taxes, and that its present intention is to invest its assets so that one hundred percent of its annual income will be tax-exempt.

Applicant states that it may also invest in commitments to purchase Municipal Securities on a "when-issued" basis. Additionally, Applicant states that the tax-exempt obligations it may purchase include both fixed rate and variable rate securities and that Applicant is authorized to purchase standby commitments with respect to municipal obligations held in its portfolio. Standby commitments give Applicant a right to sell the principal amount of the securities it has purchased from a dealer or other financial institution back to the seller, at Applicant's option, at a specified price.

The application represents that investments by the Applicant will be limited to obligations with remaining maturities of one year or less. Applicant asserts that it will maintain a dollar weighted average portfolio maturity of 120 days or less and that it will seek to maintain liquidity and a constant $1.00 per share price for each series. For these purposes, Applicant states that the maturities of variable rate obligations will be determined in accordance with the procedures set forth in proposed Rule 2a-7 or, if the rule should ultimately be adopted, in accordance with the procedures set forth in the rule as adopted.

Applicant requests an order of the Commission pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant's portfolio securities to be valued at amortized cost.

In support of the relief requested, Applicant states that experience indicates that two features are necessary to attract investors to an investment company investing in short-term tax-exempt obligations: (1) Certainty of stability of principal and (2) steady flow of predictable and competitive investment income. Applicant asserts that it can provide these features to investors by maintaining a portfolio of high quality, muncipal obligations valued at amortized cost. According to AIM Advisors, Inc., Applicant's investment advisor, experience in the management of other investment companies has shown that, given the nature of Applicant's policies and operations, there should be a negligible discrepancy between prices obtained by the amortized cost method and those obtained by a market valuation method.

Applicant further represents that (1) its board of directors has determined in good faith that, in light of the characteristics of Applicant, absent unusual or extraordinary circumstances, the amortized cost method of valuation of portfolio instruments is appropriate and preferable to the use of a market-based valuation method; and (2) its board of directors has further determined to monitor continuously valuation indicated by methods other than amortized cost so that any necessary changes in the valuation method may be made to assure that the valuation method being used is a fair approximation of fair value in view of all pertinent factors.

Applicant expressly consents to issuance of the requested order of the Commission upon the following conditions:

1. In supervising the Applicant's operations and delegating special responsibilities involving portfolio management to the Applicant's investment advisor, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize the net asset value per share for each portfolio, as computed for the purposes

of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by Applicant's board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share of each portfolio, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, Applicant's board of directors will promptly consider what action, if any, should be initiated.

(c) Where Applicant's board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share for any portfolio may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio securities prior to maturity to realize capital gains or losses, or to shorten the average portfolio maturity of the relevant portfolio; withholding dividends; or utilizing a net asset value per share for such series as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share in each of its portfolios; provided, however, that Applicant will not, with respect to either portfolio (a) purchase any instrument with a remaining maturity at the date of acquisition of greater than one year, or (b) maintain a dollar-weighted average portfolio in excess of 120 days.[2]

[1] To fulfull this condition, Applicant will use actual quotations or estimates of market value reflecting current market conditions selected by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days for any of its portfolios, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of Applicant's board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, if any, to those United States dollar-denominated instruments which Applicant's board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by Applicant's board of directors.

6. Applicant will include in each quarterly report, in an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Applicant asserts that in addition to maintaining a constant net asset value per share, it needs to be able to provide its shareholders with the ability to obtain same day redemption proceeds in federal funds. Applicant states further that, because the maturity dates of the Municipal Securities to be held in its portfolio will be relatively infrequent and non-negotiable, Applicant will be unable to rely on scheduled maturities to meet net redemptions.

Applicant states that it proposes to improve its portfolio liquidity by assuring same-day settlements on portfolio sales (and thus facilitate the same-day payments of redemption proceeds in federal funds) through the acquisition of "standby commitments" for both its Institutional Series portfolio and its General Series portfolio. Applicant states further that standby commitments are also known as "puts," and that its investment policies permit the acquisition of standby commitments solely to facilitate portfolio liquidity. Applicant represents that the acquisition or exercisability of a standby commitment will not affect the valuation or maturity of its underlying portfolio, which will be valued in accordance with the amortized cost order hereby requested.

Applicant asserts that it undertakes to acquire only standby commitments having the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) they may be exercisable by Applicant at any time prior to the underlying security's maturity; (3) Applicant's rights to exercise them will be unconditional and unqualified; (4) they will be entered into only with dealers, banks and brokers who in the investment adviser's opinion present a minimal risk of default; (5) although they will not be transferable, Municipal Securities purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the Municipal Securities which are subject to the commitment (excluding any accrued interest which Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant.

Applicant further states that since it plans to value its Municipal Securities on an amortized cost basis, the amount payable under a standby commitment will be substantially the same as the value assigned by Applicant to the underlying securities. Moreover, Applicant submits that there is little risk of an event occurring which would make the amortized cost valuation of its portfolio securities inappropriate; however, Applicant represents that in the unlikely event that the market or fair value of securities in its portfolio were not substantially equivalent to their amortized cost value, the securities would be valued on the basis of available market information and held to maturity. Applicant represents that it expects to refrain from exercising the standby commitments in such a situation to avoid imposing a loss on a dealer and jeopardizing Applicant's business relationship with that dealer.

Applicant asserts that it is difficult to evaluate the likelihood of use or the potential benefit of a standby commitment. Therefore, Applicant states that its board of directors will determine that standby commitments

have a "fair value" of zero, regardless of whether any direct or indirect consideration is paid for the standby commitment. Where Applicant has paid for a standby commitment, Applicant states that its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, for purposes of complying with the condition of its amortized cost order that the dollar-weighted average maturity of its portfolio shall not exceed 120 days, Applicant states that the maturity of a portfolio security shall not be considered shortened or otherwise affected by any standby commitment to which such security is subject. Applicant states that it intends to apply to the Internal Revenue Service for a ruling, or seek an opinion from counsel, that interest on Municipal Securities subject to standby commitments will be tax-exempt. In the absence of a favorable tax ruling or opinion of counsel, the Applicant will not engage in the purchase of standby commitments.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit its acquisition of standby commitments from brokers or dealers. Applicant also requests, pursuant to Section 6(c) of the Act, an exemption from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, permitting it to value standby commitments in the manner described above.

Applicant asserts that this relief is appropriate in the public interest, and consistent with the protection of investors. Applicant asserts that the proposed acquisition of standby commitments will not affect its net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve its liquidity and ability to pay redemption proceeds the same day in federal funds.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 25, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3174 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19462; File No. SR-NYSE-83-3]

Self-Regulatory Organizations; Proposed Rule Change; New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1), notice is hereby given that on January 20, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend Rule 312(g) to remove the prohibition against a member organization from soliciting orders in its own publicly held securities, or from recommending its own securities or those of a person controlling, controlled by or under common control with a member organization. Concurrently, language would be added to parallel the requirements currently contained in SEC Rule 15c1–5, which essentially requires that broker/dealers disclose control relationships with the issuer prior to completion of transactions in securities of the issuer.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(a) *Purpose of Proposed Rule Changes.* Rule 312(g) prohibits a member organization from soliciting orders in its own publicly held securities, or from recommending its own securities or those of a person controlling, controlled by or under common control with a member organization.

Since 1970, when this provision was adopted simultaneously with permitting public ownership of Exchange Member organizations, the nature and structure of member corporations and the manner in which they are capitalized has changed significantly. The recent trend towards consolidation of member organizations with non-brokerage related entities whose securities are widely held and publicly traded is one example of these changes.

It is submitted that a thorough analysis of investments in any group of securities upon which an investor could be expected to make an intelligent investment decision must include consideration of *all* securities in a particular category be they publicly traded broker/dealer or any other industry which may or may not be a part of a member organization's control family. Existing Exchange Rules such as Rule 405 (Diligence as to Accounts), Rule 401 (Business Conduct), Rule 342 (Offices—Approval, Supervision and Control), as well as '34 Act Rules 10b–5, 15c1–2 and 5 provide a comprehensive body of antifraud, disclosure and suitability criteria, which provide ample protection to the investing public.

Rule 312(g) is currently broader than SEC or industry requirements addressing disclosure and potential conflicts of interest regarding control relationships.

It is proposed that Rule 312(g) be modified to parallel the disclosure requirements currently contained in SEC

Rule 15c1–5 which essentially requires that broker/dealers disclose control relationships with the issuer prior to completion of transactions in securities of the issuer.

(b) *Statutory Basis for the Proposed Rule Change.* The proposed amendment is consistent with Section 6(b)(8) of the Act in that the amendment will remove a burden on competition by placing NYSE members on an equal footing with members of other self-regulatory organizations vis-a-vis recommending/soliciting orders in publicy held securities if disclosure of control relationships is made.

The elimination of the prohibition against a member organization from soliciting orders in its own publicly held securities, or from recommending its own securities or those or a person controlling, controlled by or under common control with a member organization will not alter the scope of Exchange Rules intended to prevent fraudulent and manipulative acts, and to provide protection to investors and the public interest as required by Section 6(b)(5) of the Act. The adoption of the disclosure requirements contained in SEC Rule 15c1–5 is consistent therewith. Further, the protection of investors and the public interest in this regard is amply covered by the anti-fraud provisions of SEC Rules 10b–5 and 15c1–2.

The concurrent rescission of the general prohibition in 312(g) described above and the adoption of the disclosure language contained in SEC Rule 15c1–5 will not alter the consistency of the Rule with Section 15(c)(1) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition. In fact, it eliminates a competitive disadvantage currently borne by Exchange members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In connection with the proposed Rule change, the Exchange solicited responses from the 14 publicly traded member organizations regarding the possibility of eliminating the prohibition against member organizations recommending/soliciting transactions in their own securities and in securities of entities controlled by, controlling or under common control with member organizations. The consensus of the four firms responding was that Rule 312(g) should be liberalized to allow for the recommendation and solicitation of orders. Copies of the comment letters received by the Exchange may be examined at the places specified in Item IV below.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule changes, or

B. Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization.

All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 28, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3186 Filed 2–4–83; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 2–4 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of separation requirements and procedures for helicopter operations.

DATE: Beginning February 22, 1983, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 9 A/B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, Room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, SW., Washington, D.C. 20591, by February 17, 1983. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on January 27, 1983.

Karl D. Trautmann,

Manager, Special Projects Staff.

[FR Doc. 83–3120 Filed 2–4–83; 8:45 am]

BILLING CODE 4910–13–M

Urban Mass Transportation Administration

Notice of Availability of Grant Application Guidelines and Request for Information

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice and request for information.

SUMMARY: The Urban Mass Transportation Administration (UMTA) announces the availability of a Circular containing guidance on how to apply for grants under the new formula grant program, Section 9A, of the Urban Mass Transportation Act during Fiscal Year 1983. It also explains changes in the law pertaining to other grant programs for FY 1983. In this Notice UMTA is publishing the entire text of Appendix B of the Circular, *Letters of Intent, Letters of Commitment, Full Funding Contracts*, and is requesting information under the Appendix.

DATE: The Circular is effective as of February 2, 1983. Information under Appendix B must be submitted by March 9, 1983.

ADDRESS: Information requested under Appendix B must be submitted to Mr. Brian Cudahy, Office of Capital and Formula Assistance, (202) 472–2440. Copies of the Circular are available from the UMTA Regional Offices or from Mr. David C. Johnston, Office of Administrative Services, (202) 426–4865. Mr. Cudahy and Mr. Johnston are located at 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: UMTA believes that the list provided in Appendix B sets forth all items covered by the three categories of projects for which Federal funds may be granted on an 80–20 Federal-local share basis rather than on the 75–25 basis. If any grantee believes that it has a written statement from UMTA setting forth a commitment to obligate funds that constitutes a letter of commitment as that term is used in the Surface Transportation Assistance Act of 1982, that person must notify UMTA within the time period prescribed in the Notice.

Issued on: February 3, 1983.

Arthur E. Teele, Jr.,

Administrator.

Text: The text of Appendix B of the Circular is reprinted in full below:

Appendix B—Letters of Intent, Letters of Commitment, Full Funding Contracts

The Surface Transportation Assistance Act of 1982 (STAA) "grandfathers" three categories of Projects for which Federal funds may be granted on an 80–20 basis rather than on the 75–25 basis. They are:

(1) *Full Funding Contract:* "Full funding contracts" are written agreements between UMTA and a grantee that are intended to cap the Federal commitment to a project to an amount certain, subject to adjustment of extraordinary costs (a defined term).

(2) *Letters of Intent:* A letter of intent is a formal expression of intention to obligate amounts stipulated therein from future available budget authority. It is not an obligation or administrative commitment as those terms are defined in the U.S. Code. The total estimated amount of future obligations covered by letters of intent cannot exceed total authorizations at any time, less an amount needed for activities not covered by such letters. (This was the essential control established by Congress in placing 3(a)(4) in the 1978 legislation amending the Act.)

(3) *Letters of Commitment:* Prior to 1978 the mechanism for expressing an intent to obligate funds from future available budget authority was a letter of commitment. The letter of intent legislatively authorized in 1978 was designed to supersede the practice of using "letters of commitment." However, UMTA issued one letter after that date which we believe constitutes a sufficiently express commitment of funds by UMTA so as to fall within the category of "letters of commitment" as that term is used in the STAA.

We want to clarify two areas that do *not* constitute letters of intent or letters of commitment. First, letters of no prejudice are not covered by the grandfather provision and therefore the funding of all such letters will be at the new prevailing match (75/25). Second, the fact that an item is "earmarked" in an Appropriation's Committee or Conference Report does not constitute a letter of intent or letter of commitment.

Listed below are projects covered by full funding contracts, letters of intent, and letters of commitment dated prior to January 6, 1983. By the terms of the law, the Federal share of grants made after January 6, 1983, for these projects, from Section 3 budget authority, will continue to be 80 percent.

UMTA believes that the following list sets forth all items covered by the "grandfather" provision. However, if any person believes that he has a written statement from UMTA setting forth a commitment to obligate funds that constitutes a "letter of commitment" as that term is used in the STAA, that person must, within 30 days, notify UMTA of that statement and set forth the reasons for inclusion within the "grandfather" provision. UMTA will resolve each such matter on a case-by-case basis.

BILLING CODE 4910-57-M

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Page B-3 [Unobligated Effective Balances (1/6/83)] UMTA C 9020.1

Page B-2 Unobligated Effective Date Project Description UZA UMTA C 9020.1

UZA	Project Description	Effective Date	Unobligated Balances (1/6/83)
I. Full Funding Contracts			
Pittsburgh, PA	South Hills LRT Reconstruction	2/27/82	$102.1M
Buffalo, NY	Light Rapid Rail Transit System (Includes Extraordinary Costs)	1/22/79	$12.7M
Miami, FL	Metrorail - Stage 1 (Includes Extraordinary Costs)	5/8/80	$20.2M
Baltimore, MD	Section A Rapid Rail Line (Extraordinary Costs)	12/14/78	$33.4M
Pittsburgh, PA	East Busway (Extraordinary Costs)	12/15/77	$ 2.8M
Portland, OR	Banfield Project	3/24/82	TO BE DEVELOPED
	Grand Total (FFC's)-		$171.2M

Note: Any additional eligible extraordinary costs under existing full funding contract would be payable at the 80-20 ratio.

II. Letters of Intent (Excludes Projects also Covered by Full Funding Contracts)			
Detroit, MI	Central Automated Transit System	3/23/82	$80.4M
San Francisco, CA	Cable Car Rehabilitation	7/28/82	$25.1M
Portland, OR	Non-Rail Projects in Portland Metropolitan Region	5/14/82	$64.8M
	Grand Total (LOI's) -		$170.3M

UZA	Project Description	Effective Date	Unobligated Balances (1/6/83)
III. Letters of Commitment			
Detroit, MI	Transit Improvements in the Detroit Metro Area (Current Balance-$555.9M)	10/19/76	TO BE DEVELOPED
Denver, CO	Improved Bus Service (Commitment $100.0M-$200.0M - Approximately $100.0M obligated to date)	7/15/76	Approximately $100.0M
Oxnard, CA	Intermodal Transportation Center	10/18/82	$4.7M

[FR Doc. 83-3382 Filed 2-4-83; 11:49 am]
BILLING CODE 4910-57-C

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83-33]

Classification of Cigar Tobacco

AGENCY: Customs Service, Department of the Treasury.

ACTION: Change of Practice.

SUMMARY: This document advises the public that the Customs Service is changing its practice of classifying cigar tobacco. Customs previous practice involved the segregation of wrapper tobacco from filler tobacco, and the classification of all cigar tobacco in a particular unit with a wrapper content of 35 percent or more as wrapper tobacco. Customs new practice will involve the segregation of wrapper tobacco from filler tobacco and the classification of each under the appropriate provision of the Tariff Schedules of the United States.

DATE: This practice will become effective March 9, 1983. It will apply to all cigar tobacco both: (1) Imported on and after January 1, 1976; and (2) entered, or withdrawn from warehouse for consumption, on and after July 4, 1981.

FOR FURTHER INFORMATION CONTACT: J. G. Hurley, General Classification Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

Title V of the Trade Act of 1974 (19 U.S.C. 2461-2465) (the "Trade Act") authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free entry for eligible articles arriving directly from designated "beneficiary developing countries." Section 503(b) of the Trade Act (19 U.S.C. 2463(b)), relating to the requirements which must be met for eligible articles to receive duty-free treatment, authorizes the Secretary of the Treasury to prescribe such regulations as may be necessary to carry out the provisions of that subsection.

Sections 10.171 through 10.178, Customs Regulations (19 CFR 10.171-10.178), set forth the requirements and procedures for the entry of eligible merchandise from "beneficiary developing countries" under GSP.

Executive Order 12311 of June 29, 1981, published in the **Federal Register** on July 1, 1981 (46 FR 34305), designated two categories of cigar wrapper tobacco (items 170.12 and 170.13, Tariff Schedules of the United States (TSUS; 19 U.S.C. 1202)), as eligible articles for duty-free treatment under the GSP, effective July 4, 1981. GSP eligibility was limited to bales of wrapper tobacco containing no more than five percent of filler tobacco by volume. Bales containing more than five percent by volume of filler tobacco were provided for under items 170.08 and 170.09, TSUS.

Prior to July 4, 1981, Customs had a practice of segregating wrapper tobacco from filler tobacco, and classifying all tobacco with a wrapper content of more than 35 percent as wrapper tobacco. If the percentage of wrapper tobacco was 35 percent or less, the wrapper tobacco was classified as wrapper tobacco and the filler tobacco was classified as filler tobacco. Because of Executive Order 12311, and the incompatibility of the five percent limit therein with Customs classification practice (the 35 percent limit), Customs has not liquidated any entries of cigar tobacco since July 3, 1981.

Executive Order 12354 of March 30, 1982, published in the **Federal Register** on March 31, 1982 (47 FR 13477), reinstated the provisions for wrapper tobacco which were in effect prior to Executive Order 12311 (item 170.10 and 170.15, TSUS). All wrapper tobacco is not eligible for duty-free treatment under the GSP without the five percent limitation of Executive Order 12311.

Executive Order 12389 of October 25, 1982, published in the **Federal Register** on October 27, 1982 (47 FR 47529), provided that the changes made by Executive Order 12354 with respect to wrapper tobacco are effective as to articles both: (1) Imported on and after January 1, 1976; and (2) entered, or withdrawn from warehouse for consumption, on and after July 4, 1981.

The present situation necessitates a change in Customs practice of classifying wrapper tobacco, in order that filler tobacco not be given GSP treatment. Accordingly, following the segregation of wrapper tobacco from filler tobacco, all wrapper tobacco will be classified under item 170.10 or 170.15, TSUS, and will be eligible for duty-free treatment under the GSP. All filler tobacco will be classified under its appropriate TSUS provision, and will not be eligible for duty-free treatment under the GSP.

This new practice will apply to all cigar tobacco both: (1) Imported on and after January 1, 1976; and (2) entered, or withdrawn from warehouse for consumption, on and after July 4, 1981.

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Dated: January 28, 1983.

William von Raab,

Commissioner of Customs.

[FR Doc. 83-3240 Filed 2-4-83; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 26
Monday, February 7, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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National Council on Educational Research	4
National Transportation Safety Board	5
Nuclear Regulatory Commission	6
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1

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10:00 a.m., Thursday, February 10, 1983.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

MATTERS TO BE CONSIDERED:

Trust Department Application—Family Federal Savings and Loan Association, Saginaw, Michigan
Branch Office Application—Home Savings of America, a Federal Savings and Loan Association, Los Angeles, California

[No. 8, February 3, 1983]

[S–172–83 Filed 2–3–83; 3:04 pm]

BILLING CODE 6720–01–M

2

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 3 p.m., Friday, February 11, 1983.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: February 3, 1983.

William W. Wiles,

Secretary of the Board.

[S–176–83 Filed 2–3–83; 3:55 pm]

BILLING CODE 6210–01–M

3

INTERNATIONAL TRADE COMMISSION

[VSITC ERB–83–01B]

This notice cancels ERB–01, previously amended

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 4597.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 12:30 p.m., Monday, February 7, 1983.

CHANGES IN THE MEETING: Notice of change of date and time of the meeting.

By memorandum dated February 1, 1983, Commissioners Stern and Haggart voted to reschedule the ERB meeting previously announced for February 7, 1983, at 12:30 p.m., to February 17, 1983, at 11 a.m. There are no other changes to the notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S–177–83 Filed 2–3–83; 3:15 pm]

BILLING CODE 7020–02–M

4

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH (NIE)

DATE AND TIME:
February 17, 1983—10:30 a.m.–5 p.m.
February 18, 1983—9:00 a.m.–12 Noon.

PLACE: Room 823, National Institute of Education, 1200 19th Street, NW., Washington, D.C.

STATUS: Certification is being sought from the Department of Education Office of General Counsel, that in the opinion of that office, the NCER "would be authorized to close portions of its meeting on February 17, 1983, under U.S.C. 522b(c)(9)(B) and 34 CFR 705.2(a)(9) for the purposes of reviewing and discussing with the Director of NIE options for the NIE fiscal year 1984 budget and procurement planning and budget for fiscal year 1983." Agenda item No. 4 will be closed, the rest of the agenda will be open to the public. The public should call to verify the *closing* of this portion of the meeting.

MATTERS TO BE CONSIDERED:

Thursday, February 17

Prior to the opening of the meeting the Council members will be sworn in by Secretary T. H. Bell at the Department of Education.

1. Opening remarks by the Chairman (10:30 a.m.)
2. Orientation to the Department of Education (10:35 a.m.)
3. Overview of the National Institute of Education (11:00 a.m.)

Lunch (12:00 N–1:00 p.m.)

NIE overview continued (1:00 p.m.–3:00 p.m.)

Break

4. Executive Session—Closed (3:15 p.m.–5:00 p.m.)

Friday, February 18

5. Council Discussion and Business (9:00 a.m.–12:00 Noon)

Adjournment (12:00 Noon)

CONTACT PERSON FOR MORE INFORMATION: Martha H. Catto; telephone (202) 254–7900.

Eileen T. Nicosia,

Acting Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S–174–83 Filed 2–3–83; 12:44 pm]

BILLING CODE 6820–25–M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–4]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 4597, February 1, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, February 8, 1983.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following items were deleted from the agenda:

1. *Letter* to the Federal Aviation Administration regarding the Safety Board's reconsideration of the Pacific Southwest Airlines B–727 accident in San Diego, California, on September 25, 1978, and Safety Board policy regarding reconsiderations of probable cause.
2. *Letter* to Air Line Pilots Association regarding the reopening of the investigation of the Pacific Southwest Airlines B–727 accident in San Diego, California, on September 25, 1978.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

February 2, 1983.

[S–171–83 Filed 2–2–83; 4:54 pm]

BILLING CODE 4910–58–M

6

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 7, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: Monday, February 7:

10:00 a.m.
Discussion of Order in Waste Confidence Proceeding (Closed—Exemption 10)

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemption 2 and 6) (If needed)

Tuesday, February 8:

2:00 p.m.
Discussion of Regionalization (Public meeting)

Wednesday, February 9:

10:00 a.m.
Discussion of Regulatory Reform Task Force—Administrative Proposals—Backfit Rule (Public meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public meeting)
a. Order in NFS–Erwin
b. Regulations to Implement Legislation on: (1) Temporary Operating Licensing Authority and (2) No Significant Hazards Consideration (The "Sholly Amendment") (Tenative)

Thursday, February 10:

2:30 p.m.
Discussion with ACRS on Severe Accident Policy Statement (Public meeting)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Gary Gilbert, (202) 634–1410.

Gary Gilbert,

Office of the Secretary.

January 31, 1983.

[S–173–83 Filed 12–3–83; 12:44 pm]

BILLING CODE 7590–01–M

7

POSTAL SERVICE

(Board of Governors)

Vote To Close Meeting

At its meetings of January 31 and February 1, 1983, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting scheduled for March 7, 1983. The meeting will consist of a discussion of Postal Service strategic planning.

The Board is of the opinion that public access to this discussion would be likely to disclose information that will become involved in future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, this meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and § 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552(b)(f)(1) of title 5, United States Code, and § 7.6 of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), and (10) of title 5 and section 410(c)(4) of title 39, United States Code, and § 7.3(c) and (j) of Title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S–175–83 Filed 2–3–83; 2:48 pm]

BILLING CODE 7710–12–M

8

POSTAL SERVICE

(Board of Governors)

Vote to Close Meeting

At its meeting of January 31, 1983, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting scheduled for February 16, 1983. The meeting will involve a continuation of the discussion of the recommended decision of the Postal Rate Commission on third-class bulk rates in Docket No. R80–1, dated December 23, 1982.

The Board has determined that pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552(b)), in that it is likely to disclose information prepared for use in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and postal services), which is specifically exempted from disclosure by section 410(c)(4) of Title 39. The Board determined further that, pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3 (j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding, and the initiation of a particular case involving a determination on the record after opportunity for a hearing. The Board of Governors has determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c) (3) and (10) of title 5 and section 410(c)(4) of Title 39, United States Code, and § 7.3 (c) and (j) of Title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S–176–83 Filed 2–3–83; 2:48 pm]

BILLING CODE 7710–12–M

Federal Register

Monday
February 7, 1983

Part II

Department of Energy

Nuclear Waste Policy Act of 1982; Proposed General Guidelines for Recommendation of Sites for Nuclear Waste Repositories; Proposed Rule

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DEPARTMENT OF ENERGY

10 CFR Part 960

Nuclear Waste Policy Act of 1982; Proposed General Guidelines for Recommendation of Sites for Nuclear Waste Repositories

AGENCY: Department of Energy.

ACTION: Notice of proposed siting guidelines.

SUMMARY: In accordance with the requirements of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425), hereinafter referred to as the Act, the Department of Energy is proposing general guidelines for the recommendation of sites for repositories for disposal of high-level radioactive waste and spent nuclear fuel in geologic formations. These guidelines are based on the criteria that the Department has used in its National Waste Terminal Storage program, the criteria proposed by the Nuclear Regulatory Commission (NRC), and the environmental standards proposed by the Environmental Protection Agency. These guidelines establish the performance requirements for a geologic repository system, specify how the Department will implement its site-selection program, and define the technical qualifications that candidate sites must meet in the various steps of the site-selection process mandated by the Act. After considering comments from the public; consulting with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors; and obtaining NRC concurrence, the Department will issue these guidelines in final form as a new Part 960 to Title 10 of the Code of Federal Regulations (10 CFR Part 960).

DATES: Comments must be received on or before 4:30 p.m. e.s.t. on March 24, 1983 to ensure their consideration. Dates and locations of hearings will be provided in a subsequent **Federal Register** notice. Hearings will be scheduled no sooner than 15 days after such notice.

ADDRESSES: Comments should be sent to Robert L. Morgan, Project Director, Office of Civilian Radioactive Waste, U.S. Department of Energy, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Critz H. George, Division of Waste Repository Deployment, Office of Terminal Waste Disposal and Remedial Action, U.S. Department of Energy, Washington, D.C. 20545, Telephone: (301) 353–3014

Robert Mussler, Esq., Deputy Assistant General Counsel for Environment, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: (202) 252–6947.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Description of Proposed Action.
III. Comment and Hearing Procedures.
IV. Consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and Interested State Governors.
V. Regulatory Flexibility Analysis.
VI. Compliance with the National Environmental Policy Act.
XII. List of Subjects in 10 CFR Part 960.

I. Background

The Department of Energy (DOE) has the authority and the responsibility to provide for the disposal of highly radioactive waste. The responsibility is derived from the Atomic Energy Act of 1954, the Energy Reorganization Act of 1974, and the Department of Energy Organization Act of 1977; and the authority was specifically assigned to the DOE by the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425, hereinafter referred to as "the Act").

In 1980, after issuing an environmental impact statement on the management of commercially generated radioactive waste (1), the DOE selected mined geologic repositories as the preferred means for the disposal of commercially generated high-level and transuranic wastes (46 FR 26677, May 14, 1981). To carry out this decision, the DOE has been conducting research and development and performing siting studies. Potential sites are being evaluated in several geologic media: basalt, tuff, and salt. Early survey studies of crystalline rock are under way, but potential sites have not yet been determined.

On January 7, 1983, the Act was signed into law. The Act establishes a process and schedule for the development of repositories. The guidelines proposed in this notice are a required part of that process. Section 112(a) of the Act provides that "not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors, and the concurrence of the [Nuclear Regulatory] Commission shall issue general guidelines for the recommendation of sites for repositories."

These siting guidelines will be used to identify and nominate sites for characterization and eventually to determine the suitability of a site for development as a repository. The characterization of a site will include the sinking of a shaft to the depth of the repository in order to allow testing in the host-rock unit. The Act requires that prior to the detailed characterization of a site, the site be formally nominated, recommended to the President, and approved by the President. In support of this process the DOE will issue an environmental assessment, as required by Sections 112 (b) and (f) of the Act, for each site when the site is nominated. Based on an evaluation of each site against these guidelines, these environmental assessments will discuss, among other things, the suitability of the site for characterization and, to the extent possible, for development as a repository. The DOE recognizes that it may not be possible in preparing the environmental assessment to provide a complete evaluation of the site against all siting guidelines. This may be particularly true in the case of guidelines which relate to systems and program issues. In such instances the environmental assessment should contain a discussion of the current status of activities relating to the guidelines (currently available information and a brief summary of planned activities) and present a preliminary conclusion relating to conformance with the guidelines.

The DOE will consult with the Governors of the States in which sites being considered for nomination are located and conduct public hearings in the vicinity of any site before the site is nominated for characterization. The purpose of the hearings will be to obtain comments on the proposed nomination and recommendations on the issues that should be addressed in the environmental assessment and site-characterization plan for the site.

The DOE is required to nominate at least five sites as suitable for site characterization for selection of the first repository site. By no later than January 1, 1985, the Secretary will make a preliminary determination that three of the nominated sites are suitable for development as repositories consistent with these guidelines and recommend those sites to the President for characterization as candidate sites. By March 1987, the Secretary will recommend the site for the first repository to the President. In order to provide sufficient time to characterize and evaluate the three sites under consideration for the first repository, the

DOE expects to begin nominating such sites in 1983 and to have recommended three sites to the President by the end of the Summer of 1983. The President may approve or disapprove the recommendation submitted by the DOE or permit the characterization to proceed by failing to disapprove it within a specified period of time.

The Act also requires that the process of nomination and selection be conducted for a second set of sites, with a recommendation of three sites to the President no later than July 1, 1989.

Before sinking shafts for site characterization, the DOE will submit a site-characterization plan for review by the Nuclear Regulatory Commission (NRC) and by either the State in which the recommended site is located or the governing body of the affected Indian tribe on whose reservation the site is located, as the case may be. The site-characterization plan will be made available to the public for review, and public hearings will be held in the vicinity of each recommended site to obtain comments on the plan.

Section 302(d)(6) of the Act authorizes the Secretary of Energy to construct one repository. Under the provisions of the Energy Reorganization Act of 1974 and the Nuclear Waste Policy Act of 1982, the DOE can construct or operate geologic repositories only after authorization by the NRC. The procedures that the DOE must follow to obtain such authorization from the NRC are prescribed in 10 CFR Part 60, subparts A through D (46 FR 13980). These procedures include requirements for the content of the DOE's site-characterization plan and other submittals to the NRC.

When the characterization of a site has been completed, a public hearing will be held in the vicinity of the site under consideration to inform the residents of the area in which the site is located of the results of the characterization and to obtain their comments concerning possible recommendations concerning the site.

After completing site characterizations and hearings, the DOE will recommend to the President the first site to be devloped as a repository. This recommendation will be supported by a final environmental impact statement. The Act requires that the President then recommend the first site to Congress no later than March 31, 1987, and a site for a second repository no later than March 31, 1990. The Act does permit up to a year's extension in these dates if requested by the DOE.

After a site is recommended to Congress, the State in which the site is located or the Indian tribe on whose reservation the site is located, as the case may be, can submit a notice of disapproval to Congress within 60 days. This disapproval prevents the use of the site for a repository unless the Congress passes a resolution of siting approval within the next 90 days of continuous session.

If the site designation becomes effective because no notice of disapproval is submitted or through a Congressional resolution, the DOE must then submit to the NRC an application for a construction authorization as part of the licensing process. The application must be submitted not later than 90 days after the effective date of the site designation. When a construction authorization has been received from the NRC, the construction of the repository will begin.

II. Description of Proposed Action

A. *Introduction.* The objective of these siting guidelines is to provide a basis for the recommendation, characterization, and selection of sites for the disposal of radioactive waste in deep geologic repositories. These broadly stated guidelines encompass all factors potentially important to the containment and isolation of the waste (e.g., site geometry, geohydrology, geochemistry, tectonic environment, terrain, human intrusion) as well as the factors that determine the environmental and socioeconomic acceptability of a site. The guidelines are directed toward the key objectives in site selection: Protecting the health and safety of the public and protecting the environment.

Before formulating these guidelines, the DOE had earlier developed and adopted criteria for establishing deep geologic repositories (2, 3). Published in draft form in January 1980 and in final form in February 1981, the siting criteria (3) received extensive review both within and outside the DOE. The draft and request for comments were sent to more than 800 persons, including State officials, and comments were received from 24 parties outside the DOE. The criteria were adopted after a careful consideration of criteria defined for geologic repositories by the National Academy of Sciences (4), the International Atomic Energy Agency (5), earlier programs in the United States (6, 7) and advance information from the NRC (8) available at that time.

The guidelines proposed by this notice have incorporated these prior criteria and have been made compatible with the proposed criteria and standards recently issued by the NRC and the Environmental Protection Agency (EPA). Within the past year the NRC has nearly completed the pertinent technical criteria (9), and the EPA has issued for public comment a proposed rule to establish environmental standards for the management and disposal of spent nuclear fuel, high-level, and transuranic radioactive wastes (10). These proposed NCR criteria and the proposed EPA standards have provided the DOE with an improved basis for developing these guidelines. Additional guidance on the content of these guidelines was provided by Section 112 of the Act, which states that the guidelines "shall specify factors that qualify or disqualify any site from development as a repository * * *." Such specifications had not been explicitly included in criteria previously issued by the DOE or by other U.S. and foreign agencies.

The guidelines are presented in three parts: system guidelines, program guidelines, and technical guidelines. The system guidelines address the primary objectives of protecting the health and safety of the public and the environment. They relate the performance of the geologic repository system to standards for allowable releases of radioactive material and provide the basis for developing the technical criteria. The program guidelines define the policy requirements to be followed in implementing the DOE's program for selecting a repository site. The technical guidelines specify factors for the qualification and disqualification of sites and the conditions that would be considered favorable or potentially adverse.

The *qualification* factors in the technical guidelines generally specify performance requirements and conditions related to physical properties, physical phenomena, and potential impacts on people and the environment. Taken together, these are the minimum conditions for site qualification. Certain of these qualification factors are followed by explicit factors that would disqualify a site or area. The significance of each factor must be determined through system analyses and be related to the overall performance of a specific site. In other words, all of the factors identified in the technical guidelines must ultimately be considered together in an integrated analysis of system performance to ascertain whether a site meets the overall system guidelines. For example, the movement of water through an aquifer, though potentially adverse, may be offset by downward hydraulic gradients, which tend to direct ground-water flow to greater depths; by long ground-water travel paths; and by the retardation of radionuclide transport

by chemical reactions. Because of the need to evaluate the effects of individual site parameters on overall performance, it is not appropriate to quantify the siting guidelines without reference to specific sites. The technical guidelines are therefore generally qualitative rather than quantitative. In regard to *disqualifying* factors, the presence of such a factor will result in the elimination of that site.

Several potential sites have been technically disqualified in the past. For example, the Eleana Shale at the Nevada Test Site was disqualified because the available geotechnical information indicated a complexity, due to a number of interacting factors, that could probably not have been characterized with confidence by practicable exploration methods.

This experience has led to the inclusion of *favorable* and *potentially adverse* conditions to supplement the qualification and disqualification factors. A similar approach has been adopted by the NRC in its proposed siting criteria, and indeed many of the conditions in the technical guidelines are based on those identified by the NRC.

The favorable and potentially adverse conditions are primarily directed at factors that, if present, would be significant in the evaluation of a site. For example, although the favorable conditions listed under any given qualification criterion need not exist at a given site in order for that criterion to be met, their existence leads to a presumption that subsequent evaluations will yield positive results. This is especially important in preliminary site-screening activities, where insufficient data exist to establish compliance with certain criteria, and program-resource limitations require judgments to be made about the concentration of program resources.

Similarly, the potentially adverse conditions provide early warning that disqualification could result unless mitigating factors are present. Generally, the potentially adverse conditions reflect situations that must be examined carefully to determine the overall acceptability of a site. Such examinations must consider other conditions present at a site.

The remainder of this notice of proposed guidelines, especially the technical guidelines, contains many references to, and excerpts from (not always verbatim), the most recent version of the NRC criteria (9). The proposed EPA standards (10) are also cited. It should be noted that when the criteria and standards are released in final form, they may not correspond exactly to the citations and excerpts included in this notice. Changes in the NRC criteria or the EPA standards will be reflected in these guidelines, if warranted.

B. *Rationale for System Guidelines.* A radioactive-waste repository must contain and isolate radioactive material in a manner that is safe and environmentally acceptable. The DOE has established system guidelines to achieve these objectives and to provide a basis for the program and technical guidelines discussed in the sections that follow.

The system guidelines combine the safety and environmental objectives with applicable standards and regulations to define general requirements for system performance. The system guidelines address two periods of performance: (1) The period that precedes the permanent closure of the repository and (2) the period that follows closure. This division is consistent with the proposed EPA standards for waste management, 40 CFR 191, which specify different numerical performance requirements for these periods.

The EPA's proposed preclosure-performance requirements in 40 CFR Part 191, Subpart A, are identical with the numerical performance standards previously issued by the EPA (40 CFR Part 190) for all nuclear-fuel-cycle operations except waste management and transportation (11). Thus, the protection provided to the public from repository operations is equivalent to that provided from other activities in the uranium fuel cycle. Another pertinent standard is 10 CFR Part 20 (12), which has provided a basis for the NRC's licensing actions for more than two decades. The DOE's approach in basing the proposed preclosure system guidelines on these two standards is consistent with the approach taken by the NRC in 10 CFR 60.111(a).

Compliance with either proposed 40 CFR 191, Subpart A, or 10 CFR 20 will generally depend both on repository design and on siting. In its evaluation of candidate sites the DOE will comply with those standards and will consider the effect of individual site characteristics on system design.

For the preclosure-performance objectives, the site conditions of primary concern are: (1) The meteorological conditions that would control the atmospheric dispersion of gaseous effluents and (2) the potential for releases from other nearby nuclear factilities governed by 40 CFR Part 190 or the proposed 40 CFR 191. These concerns are reflected in the "favorable" and "potentially adverse conditions" specified in the guidelines. In regard to site condition 1 above, the basic concern is to ensure that the concentrations of any radioactive materials that might be released are acceptably low in areas where people live. In regard to condition 2, the basic concern stems from the proposed EPA limit on the combined annual radiation dose that may be delivered to any member of the general public by the operation of the repository and the operation of any other facilities governed by either 40 CFR Part 190 or the proposed 49 CFR Part 191.

The proposed EPA postclosure standards are set forth in 40 CFR Part 191, Subpart B. Unlike the preclosure standards, which would establish maximum annual doses to individuals, the postclosure standards place limits on the quantity of radionuclides that could reach the accessible environment during the first 10,000 years after the permanent closure of the repository.

Although the numercial standards specified in the proposed 40 CFR 191, Subpart B, are cast in terms of the quantities of radionuclides that might be released rather than radiation doses, there is a correlation between the release limits and the health and safety of the public (47 FR 58196, Supplementary Information): compliance with the release limits specified in the proposed 40 CFR Part 191, Subpart B, should result in postclosure radiation risks no greater than the risks attributable to a quantity of unmined uranium ore equivalent to that required to produce the uranium fuel from which the wastes resulted.

Compliance with these standards is the basis for the performance of the repository and thus the guidelines for site selection. The evaluation of the potential concentrations of radionuclides at the boundary of the accessible environment is determined by performance-assessment modeling. These performance assessments will consider both the specific site characteristics and the effectiveness of engineered barrier systems. Furthermore, in accordance with the proposed 40 CFR 191.15, they will not assume that active institutional controls will reduce releases, and they will consider human intrusion and other unplanned events that may cause a release.

C. *Rationale for Program Guidelines.* In discharging its responsibilities for the safe disposal of radioactive wastes, the DOE must recognize and follow national policies concerning radioactive-waste disposal. Extending beyond the technical considerations of siting a safe permanent repository, they include

environmental, socioeconomic, and political considerations. These policies have been developed over the last 25 years in the course of meetings, discussions, studies, and debates between Federal, state, and local governments and participation by members of the public in meetings and hearings.

The primary national objective of radioactive-waste disposal is to isolate existing and future wastes in a manner that is safe and environmentally acceptable. In order to provide this permanent isloation, the DOE considered a number of different methods that could be used, evaluated their impacts in a programmatic environmental impact statement (1), and selected mined geologic repositories as the preferred strategy [46 FR 26677].

1. *Conduct of Site Investigations.* In beginning a process to identify suitable sites for geologic repositories, various starting points can be used. One can concentrate on specific host-rock types that appear to have the right characteristics for waste isolation, on lands already dedicated to handling nuclear materials, or on particular hydrogeologic provinces.

During the process leading to site nominations, it is important that site studies include a wide range of alternatives to increase the probability that the search will be successful. If detailed work is being performed in several rock types, for example, and one rock type turns out to be fundamentally unsuitable after extensive investigations, the program can readily choose another option.

Program policy therefore requires that multiple sites be investigated to increase the probability of successful siting.

2. *Consultation with States and Affected Indian Tribes.* The DOE recognizes that close consultation and cooperation with affected government units are required for the process of siting a geologic repository to be successful. Consequently, DOE policies and the Act spell out specific provisions to further this consultation and cooperation.

3. *Environmental Impact Considerations.* National policy under the National Environmental Policy Act (NEPA) and other public laws requires the DOE to consider the impact of its actions on the environment. The DOE policy is to adhere rigorously to such requirements, particularly as their application is specified in the Act.

4. *Regional Distribution.* Nuclear plants that generate electricity are located or being built throughout the country. Since the safe disposal of wastes that result from electricity production will likely require the construction of more than one repository, a regional distribution of repositories could provide a more equitable sharing of the impacts of the repository among the people benefitting from the generation of the electricity and from the goods and services produced by that electricity. Furthermore, the transportation of wastes from the location of their production or temporary storage also causes impacts that could be reduced by selecting the routes over which the wastes are transported to minimize risk.

5. *Schedule.* Research and development concerning the disposal of radioactive waste in geologic formations has been under way for about 25 years. During this time a great deal of technical and scientific knowledge about geologic disposal has been gained. The DOE believes that the basic scientific knowledge needed for the safe permanent isolation of radioactive waste is now available, although detailed investigations of specific sites, the design and engineering of facilities and equipment, and careful consideration of socioeconomic and environmental impacts must still be completed. Based upon this understanding, the Act specifies for the development of geologic repositories a time table and deadlines leading to the operation of the first repository in 1998. The DOE has modified its repository siting schedule to conform to the deadlines now prescribed in the Act.

D. *Rationale for the Technical Guidelines.* In selecting a site for a radioactive-waste repository that is safe and environmentally acceptable, it is necessary to consider a variety of geotechnical and environmental factors. The site must provide natural barriers for waste containment and isolation. These barriers should keep radionuclides from reaching people in unacceptable quantities by: (1) Maintaining the waste in its emplaced location for a given period of time (providing waste containment), (2) limiting radionuclide mobility through the geohydrologic environment to the accessible environment (providing isolation), and (3) making human intrusion difficult. The latter is achieved principally by locating the repository deep below the ground surface, well away from people and relatively inaccessible.

The site must contain a host rock suitable for developing the repository and containing the waste, and surrounding rock formations that can provide adequate isolation. Desirable hydrologic features include low rates of ground-water flow, long flow paths to the environment, and long-term stability. The important natural attributes of the host rock include low hydraulic conductivity, chemical characteristics that would impede radionuclide transport, and high thermal conductivity. Many of these attributes cannot be defined, a priori, in terms of acceptable or unacceptable conditions because the overall performance of the repository system depends on the interaction of many factors. It is, however, possible to indicate in many cases which attributes are favorable and which are unfavorable, and that is the objective of the technical guidelines presented in § 960.5–0.

During the course of site exploration and research carried out to date, many have suggested that the most objective guidelines or criteria would assign a priori numerical limits and numerical importance values (weights) to each criterion. This would clearly simplify the application of guidelines, since a numerical measure for each site feature could be tabulated and then an arithmetic total computed for site suitability. The simplicity of such an approach is misleading, however, since it would obscure the real contribution of each of the physical features of a site, acting in concert with others, to site safety or suitability. Different factors that affect different functions are not easily comparable. For example, an exact numerical tradeoff between a site with a relatively short ground-water travel time and a second site with marginally acceptable environmental impacts cannot reasonably be made. Any attempt to make a comparison must assign a relative importance to these two variables. Such importance weighting is of necessity judgmental and specifically dependent on the subjective values held by the person or persons making the comparison. To set numerical weights in these guidelines would be an arbitrary imposition on the values of the Federal and consulting State officials who must make the decisions in the future.

The paragraphs that follow explain the rationale behind the technical guidelines, which are presented in § 960.5–0.

1. *Site Geometry (Section 960.5–1).* The repository must be at a sufficient depth below the surface so that erosion and denudation processes will not uncover the repository within 10,000 years and its probable isolation will last much more than 10,000 years. The depth should also be sufficient to mitigate against the repository's being breached by human activities at the surface. The thickness and lateral extent of the host

rock should be sufficient to contain the underground repository and accommodate the effects that might be exerted on the geologic barrier by heat, radiation, and excavation. The actual extent will depend on the design of the repository and the rock type. The extent of the site should permit compliance with the requirements of the EPA regulations for the accessible environment.

2. *Geohydrology (Section 960.5–2).* If radioactive material is released from a repository, the most likely way for it to reach the accessible environment is through transport in the ground-water system. In order to evaluate this potential for release, it is necessary to characterize ground-water travel times, potentiometric surfaces, and path geometries. Recharge rates and ground-water residence times may also be useful in this regard. Travel times to the accessible environment in excess of 1,000 years are desirable; those longer than 10,000 years are very favorable.

The hydrologic regime must be such that it can be sufficiently characterized for the modeling of both present and future conditions. Future conditions may include those occurring at the surface, such as impoundments and glaciation, as well as subsurface variations due to ground-water withdrawl (or injection) or thermal flow induced by the heat generated by the waste.

Existing aquifer systems must be reasonably well isolated from the repository workings during operation and after closure. To ensure such isolation it is necessary to establish aquifer production rates and to evaluate the consequences for shaft construction and the effectiveness of sealing techniques.

The dissolution by ground water of soluble rocks in or near the repository must also be considered in evaluating the long-term integrity of the site. Local or regional dissolution should not breach the site in 10,000 years, and longer times are desirable.

3. *Geochemistry (Section 960.5–3).* The geochemical conditions at the site will determine the rate at which radioactive material is transported through the ground-water system if containment should fail. Important parameters—which include solubilities, sorption capacities, dissolution rates, the oxidation-reduction environment, and pH—must be quantified to develop realistic models and to estimate the concentration of radionuclides at the accessible environment.

The containment capabilities and lifetimes of the waste package will depend on the geochemical parameters in the repository, particularly in the host-rock environment. An understanding of the above geochemical parameters and the temperature history is necessary to address such issues as the corrosion of waste canisters, the lifetime of the waste package, and the effectiveness of other engineered barriers like backfills and seals.

4. *Rock Characteristics (Section 960.5–4).* The construction and safe operation of a repository may require that the general geology of the host rock and adjacent formations be characterized with regard to their physical and mineralogical nature. The presence of weak zones (stratigraphic or structural) will affect the design of a repository and its eventual sealing. The presence of fluids could present an operational hazard and conceivably an unacceptable site condition if the impact on system performance is too deleterious.

The host rock must also be understood with respect to repository-induced impacts. Phenomena like heat-induced fractures, the hydration and/or dehydration of mineral components, and brine migration will have to be evaluated for the actual host-rock enviroment in order to determine their effect on the performance of the geologic repository.

5. *Tectonic Environment (Section 960.5–5).* Both the operation and the long-term integrity of a geologic repository can be affected by tectonic phenomena at or near the site. Earthquakes can generate ground motions that will require special design specifications but can be accommodated if anticipated. Existing faults or potential new faults could adversely affect the performance of a repository if they short-circuit the geologic barrier between the repository and the accessible environment. Faults, however, are not necessarily detrimental, and a thorough understanding of any existing faults is required before their impact can be evaluated. Some existing faults may actually improve the hydrologic conditions, but they must be characterized well enough to incorporate them into the hydrologic model. Regional tectonics must be understood to evaluate the potential for, and the impacts of, any new faulting that may occur. Impacts on the hydrologic regimes as well as on the integrity of the repository must be considered. Rates of uplift or subsidence must be factored into the modeling of future ground-water systems as well. Past tectonic movement may have produced a very complicated structure. A simple structure is preferred for siting. (If the structure is too complex, it may be difficult to adequately characterize a site.) Igneous and volcanic activity in the recent geologic past (the past million years) must be identified to determine the probability of such phenomena affecting the site in the future. Existing intrusions like dikes or sills could present complications in the hydrologic model and consequently must be evaluated if they occur at the site. In situ stress fields must be considered in the construction and sealing of the repository.

6. *Human Intrusion (Section 960.5–6).* At sites with adequate geologic and hydrologic properties, human intrusion is the most probable way of breaching a repository. It is desirable both to reduce the likelihood of human intrusion and to select a site where the consequences of such intrusion are not unacceptable if they occur. Although human intrusion can never by ruled out over a period as long as 10,000 years, the potential for human intrusion can be reduced by siting in areas where known concentrations of valuable minerals are limited or by avoiding, to the extent practical, locations where prospective uses of underground formations may occur. Since these measures and administrative controls will reduce, but not eliminate, the risk of human intrusion, the site should be evaluated with such breaches in mind.

Besides these long-term safety aspects, consideration must also be given to the value of resources that could not be exploited if they occurred within a site. To ensure that no near-term violation of site intergrity will occur, the use of the site should be controlled through the operational and monitoring periods.

7. *Surface Characteristics (Section 960.5–7).* Various surface conditions at the site may affect the development, operation, and long-term performance of a geologic repository. The surface facilities should not be located where surface flooding could jeopardize repository operations. The current and future use of surface water (i.e., irrigation of reservoirs) should be considered in terms of potential impacts on the hydrologic regime. The terrain must be evaluated with respect to the construction and safe operation of a facility. A rugged terrain would increase the cost of construction and possibly the hazards of transportation.

Weather conditions must also be considered in siting because the construction and operation of a repository will add various pollutants to the atmosphere. The current airquality and weather data for the site must be evaluated to determine whether the

contribution of repository operations would be acceptable. Other attributes that must be taken into consideration are the presence and proximity of other activities and facilities. The presence of roads, railroads, and industrial or military installations may present various potential hazards to a repository, and vice versa.

8. *Population Density and Distribution (Section 960.5–8).* The density and the distribution of population are always important in site selection. A low population density in the area of the site will minimize exposure to hazards associated with potential accidents. It is also necessary to recognize the impacts that might accrue from the use of likely transportation routes.

The possible advantages of reducing waste transportation must be weighed against the safety margins provided by the environmental and geologic conditions of considered sites. It could very well be that acceptable sites may be found close to centers of waste production or storage, but if these sites are considerably more difficult to characterize and develop, then the benefit of shorter transportation routes may be outweighed by these difficulties. Consequently, DOE policy is to consider transportation and current waste locations as two of a large number of factors.

9. *Environmental Protection (Section 960.5–9).* Not only must the site ensure safe operation and long-term waste isolation, it must also be acceptable in terms of environmental impacts both now and in the future. All interactions with the environment must be considered, and the candidate repository site will be evaluated with respect to all applicable laws, regulations, and executive orders. Mitigation measures will be evaluated for the impacts anticipated at the site.

10. *Socioeconomic Impacts (Section 960.5–10).* The construction and operation of a repository could produce a considerable influx of people and money. The consequences may be both beneficial and adverse. The proper and timely recognition of these effects will allow the mitigation of undesirable consequences.

E. *Application of Guidelines.* The guidelines provide a set of standards against which a considered site or a larger geographical area can be judged with regard to its suitability for repository development and operations. These broadly stated guidelines encompass all factors potentially important to the containment and isolation of the waste (e.g., site geometry, geohydrology, geochemistry, tectonic environment, terrain, human intrusion) as well as the environmental and social acceptability of candidate sites. The criteria are directed toward the key objective in site selection: designating a site that will provide protection for the health and safety of the public and the environment.

Before potentially suitable sites can be nominated, such sites must be found through an exploratory screening process. "Site screening" describes a process in which a set of decisions are made sequentially to identify sites favorable for waste disposal.

The site-screening process is designed to ensure that major uncertainties are adequately resolved before proceeding with detailed site charaterization. Each step builds a base of understanding for steps that follow. However, only after detailed site characterization has been completed can a site's characteristics be shown to meet performance criteria and regulatory requirements. The DOE recognizes that "perfect" or "flawless" sites for repositories do not exist in nature and that possibly innumerable sites could be shown to be suitable. Since the study of all potential sites is unnecessary and would be prohibitively expensive, the DOE plans to concentrate its studies on only the more favorable sites. Screeing decisions to focus subsequent exploration on certain areas will be made to allow resources to be expended on places judged most likely, after full site characterization, to be demonstrably safe and acceptable under regulatory review. Thus, the screening process is not designed to identify all acceptable sites in the country; rather, it is intended to first identify at least five nominated sites, then three or more candidate sites recommended for site characterization, and finally the most preferred site for licensing and subsequent development.

Since adequate data may not exist to allow confident modeling of prospective sites until well into site characterization, it is not possible to rigorously apply many of the guidelines early in the site-screening process. Some conditions can be examined and may disqualify a site from consideration because they are clearly inadequate. Such clearly disqualifying conditions are stated where possible. Most conditions will, however, fall into an area where they can be declared as favorable or potentially adverse. The identification of favorable conditions does not guarantee that a site will be acceptable but increases the probability that it will be. On the other hand, the identification of a potentially adverse condition does not rule out a site but focuses attention on a condition which must be carefully examined in combination with other conditions at the site and which unless alleviated by these other conditions could lead to disqualification.

The suitability of a location cannot be established on the basis of only one or two characteristics, such as tectonics or geochemistry; nor can it be expected that perfect locations will be found, where every characteristic is ideal. Geologic systems are found as they are, not engineered, so each candidate location will have advantages and disadvantages that will be compared in narrowing the range of alternatives or, ultimately, in selecting sites. While one land unit might be considered less than favorable on the basis of tectonic factors alone, other characteristics like land use or geohydrology may be so favorable as to provide an adequate counterbalance.

A great many factors must be evaluated before a site can be identified and shown to be suitable through detailed study. Site screening usually begins by considering a limited number of factors over large land units to identify places that exhibit characteristics favorable for waste isolation. Further study of all but the more favorable land units is deferred indefinitely or until such time as intractable uncertainties arise at places undergoing further study. The screening process becomes increasingly rigorous as smaller land units are identified, additional factors are considered, and increasing data are acquired.

The size of the land unit being studied, and therefore the number of steps or surveys performed, is at least partially dictated by the size or expression of geographically discrete features that may affect the safety of the repository. Therefore, national, broadly regional, or fairly specific locations may be either a starting point or one of several steps in the screening. Investigative methods and data used in analyses will likewise depend on the particular factors important at the geographic scale of concern and the physical conditions and institutional concerns in a given area. Decisions to continue or discontinue the study of land units can be made during any of the survey steps.

Once a site is recommended and approved by the President, site characterization is undertaken by collecting and evaluating the necessary information about the physical, chemical, geological, biological, and socioeconomic environment. Detailed surface and subsurface studies will be performed at a small number of candidate sites. At this stage, all of the guidelines are employed as a

comprehensive set of standards against which suitability is measured.

F. *References*

1. U.S. Department of Energy, "Final Environmental Impact Statement—Management of Commercially Generated Radioactive Waste," DOE/EIS–0046F, Ocober 1980.

2. U.S. Department of Energy, "Program Objectives, Functional Requirements, and System Performance Criteria," NWTS–33(1), National Waste Terminal Storage Program, 1982.

3. U.S. Department of Energy, "Site Performance Criteria," NWTS–33(2), National Waste Terminal Storage Program, 1982.

4. National Research Council-National Academy of Sciences, "Geological Criteria for Repositories for High-Level Radioactive Waste," August 1978.

5. International Atomic Energy Agency, "Site Selection Factors for Repositories of Solid High-Level and Alpha-Bearing Wastes in Geological Formations," Technical Report No. 177, October 1977.

6. G. D. Brunton and W. C. McClain, "Geological Criteria for Radioactive Waste Repositories," Y/OWI/TM–47, Office of Waste Isolation, Union Carbide Corporation, November 28, 1977.

7. U.S. Department of Energy, "Final Environmental Impact Statement—Waste Isolation Pilot Plant," DOE/EIS-0026, October 1980.

8. U.S. Nuclear Regulatory Commission, "Advanced Notice of Rulemaking on Technical Criteria for Regulating Geologic Disposal of High-Level Radioactive Waste," 10 CFR Part 60, May 1980.

9. U.S. Nuclear Regulatory Commission, "Disposal of High-Level Radioactive Wastes in Geologic Repositories," 10 CFR Part 60, Subpart E (final draft), November 18, 1982.

10. U.S. Environmental Protection Agency, "Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes," 40 CFR Part 191 **Federal Register**, Vol. 47, pp. 58196–58206, December 29, 1982 (proposed rule).

11. U.S. Environmental Protection Agency, "Environmental Radiation Protection Standards for Nuclear Power Operations, " 40 CFR Part 190.

12. U.S. Nuclear Regulatory Commission, "Standards for Protection Against Radiation," 10 CFR Part 20.

III. Comment and Hearing Procedures

A. *Written Comments.* Interested persons are invited to participate in these proposed guidelines by submitting data, views, or arguments concerning the proposed guidelines. Comments should be submitted, in duplicate if possible, to the address given in the addresses section of this notice and identified on the envelope and document submitted with the designation "Guidelines for Siting Radioactive Waste Repositories." All written comments must be received by March 24, 1983 to ensure consideration.

All written comments received will be available for public inspection in the DOE Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. Any information or data considered by the person furnishing it to be confidential must be so identified. The DOE reserves the right to determine the confidential status of information or data and to treat it accordingly.

B. *Hearing Procedures.* The dates and locations of public hearings on the guidelines will be published in a subsequent **Federal Register** notice. The hearings will be scheduled no sooner than 15 days following such notice. Hearing procedures and requirements for persons wishing to make an oral presentation will be specified in that notice.

IV. Consultation With the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and Interested State Governors

As required by Section 112 of the Act, the DOE has entered into consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors. The consultation period will coincide with the 45-day public review period.

V. Regulatory Flexibility Analysis

The DOE certifies that these guidelines will not have a significant economic impact on a substantial number of small entities, since they merely articulate the proposed considerations for the Secretary of Energy's recommendations to the President of proposed sites for repositories. Accordingly, no regulatory flexibility analysis is required under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

VI. Compliance With the National Environmental Policy Act (NEPA)

The issuance of these guidelines is a preliminary decisionmaking activity pursuant to Section 112(e) of the Nuclear Waste Policy Act of 1982 and therefore does not require the preparation of an environmental impact statement pursuant to Section 102(2)(C) of NEPA or any other environmental review under Section 102(2) (E) or (F) of NEPA.

List of Subjects in 10 CFR Part 960

Environmental protection, Nuclear energy, Radiation protection, Nuclear materials, Waste treatment and disposal.

For the reasons set out in the preamble, and pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), the Department of Energy Organization Act of 1977 (42 U.S.C. 7101 et seq.), and the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425, 96 Stat. 2201), Chapter III of Title 10 of the Code of Federal Regulations is proposed to be amended as follows.

Issued at Washington, D.C., January 28, 1983.

Donald Paul Hodel,

Secretary of Energy.

A new Part 960 is proposed to be added to Title 10, Code of Federal Regulations, reading as follows:

PART 960—GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR NUCLEAR WASTE REPOSITORIES

Sec.

960.1–0 Applicability.
960.2–0 Definitions
960.3–0 System guidelines.
960.3–1 Performance before permanent closure.
960.3–2 Performance after permanent closure.
960.4–0 Program guidelines.
960.4–1 Conduct of site investigations.
960.4–2 Consultation with States and affected Indian tribes.
960.4–3 Environmental impact considerations.
960.4–4 Regional distribution.
960.4–5 Schedule for the first repository.
960.4–6 Schedule for the second repository.
960.5–0 Technical Guidelines.
960.5–1 Site geometry.
960.5–1–1 Depth of underground facilities.
960.5–1–2 Thickness and lateral extent of the host rock.
960.5–2 Geohydrology.
960.5–2–1 Present and future hydrologic conditions.
960.5–2–2 Hydrologic modeling.
960.5–2–3 Shaft construction.
960.5–2–4 Dissolution features.
960.5–3 Geochemistry.
960.5–4 Rock Characteristics.
960.5–4–1 Physical properties.
960.5–4–2 Operational safety.
960.5–5 Tectonic Environment.
960.5–5–1 Faulting and Seismicity.

Sec.
960.5–5–2 Igneous Activity.
960.5–5–3 Uplift, subsidence, and folding.
960.5–6 Human Intrusion.
960.5–6–1 Natural resources.
960.5–6–2 Site ownership and control.
960.5–7 Surface characteristics.
960.5–7–1 Surface-water system.
960.5–7–2 Terrain.
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Authority: Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.); Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); Department of Energy Organization Act of 1977 (42 U.S.C. 7101 et seq.); Nuclear Waste Policy Act of 1982 (Pub. L. 97–425, 96 Stat. 2201).

§ 960.1–0 Applicability.

These guidelines were developed in accordance with the requirements of Section 112 of the Act for use by the Secretary of Energy in evaluating the suitability of sites for radioactive-waste repositories and recommending such sites pursuant to that Act.

§ 960.2–0 Definitions.

As used in this part:

"Accessible environment" means the atmosphere, the land surface, surface waters, oceans, and the parts of the lithosphere that are more than 10 kilometers in any direction from the original location of any of the radioactive waste in a disposal system.

"Aquifer" means a zone of rock below the surface of the earth that readily transmits water and is capable of producing water as from a well.

"Capillary fringe" means a zone in which the pressure is less than atmospheric, overlying the zone of saturation and containing capillary interstices.

"Containment" means confinement of the radioactive wastes within prescribed boundaries (e.g., within a waste package).

"Disqualifying conditions" means a condition that, if present at a candidate site, would eliminate that site from further consideration; a single disqualifying condition is sufficient.

"Disturbed zone" means that portion of the controlled area whose physical or chemical properties have changed as a result of underground facility construction or heat generated by the emplaced radioactive waste such that the resultant change in properties may have a significant effect on the performance of the geologic repository.

"Engineered barrier" means manmade components of a disposal system designed to prevent the release of radionuclides into the geologic medium involved; such term includes the high-level radioactive waste form, high-level radioactive waste canisters, and other materials placed over and around such canisters.

"Fault" means a fracture in the earth's crust along which movement parallel to the fracture plane has displaced one side of the fracture relative to the other side.

"Faulting" means the tectonic process that results in displacement along a fault.

"Favorable condition" means a condition that, if present, will not necessarily qualify a site relative to a specific criterion but will enhance confidence that subsequent analysis will show that the criterion can be met.

"Geologic repository" means any system licensed by the NRC that is intended to be used for, or may be used for, the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel, whether or not such system is designed to permit the recovery, for a limited period during initial operation, of any materials placed in such system. Such term includes both surface and subsurface areas at which high-level radioactive waste and spent nuclear fuel handling activities are conducted.

"Geologic setting" means the tectonic, geologic, hydrologic, and geochemical systems of a region in which a site is or may be located.

"Highly populated area" means the population center associated with a Standard Metropolitan Statistical Area.

"Host rock" means rock within which radioactive waste is emplaced for disposal.

"Hydrologic properties" means those properties of rocks and water, including their chemistry, that influence the flow of ground water.

"Igneous activity" means emplacement (intrusion) of molten rock material into solid rocks in the earth's crust or expulsion (extrusion) of such material onto the earth's surface or into its atmosphere or water bodies.

"Isolation" means inhibiting the transport of radioactive material in the subsurface so that the amounts and concentrations of this material entering the accessible environment will be kept within prescribed limits.

"Models" means conceptual definitions and associated mathematical representations that simulate the response of a repository system under natural or perturbed conditions. An example is a hydrologic model to predict ground-water travel or radionuclide transport from the waste-emplacement area to the accessible environment.

"Permanent closure" means final backfilling of the underground facility and the sealing of shafts and boreholes.

"Potentially adverse condition" means a condition that, if present, will not disqualify a site relative to a specific criterion but will require additional analysis, specific site characterization, or identification of compensating or mitigating factors before qualifying the site.

"Pre-waste-emplacement" means under conditions that exist before repository development.

"Qualifying condition" means a condition that, if met, indicates that a site is acceptable with respect to a specific criterion.

"Radioactive waste" means, for the purposes of these guidelines, high-level radioactive waste and spent nuclear fuel.

"Repository" means "geologic repository."

"Saturated zone" means that part of the earth's crust beneath the deepest water table in which all voids, large and small, are ideally filled with water under pressure greater than atmospheric.

"Site" means a surface location and the underlying rocks, including the underground facility and extending through a control zone from which incompatible activities will be restricted after permanent closure.

"System performance" means the total, integrated result of all acting processes and events caused by or affecting a repository.

"Tectonic" means of, pertaining to, or designating the rock structure and external forms resulting from the deformation of the earth's crust.

"Underground facility" means the underground structure, including mined openings and backfill materials, but excluding shafts, boreholes, and their seals.

"Unsaturated zone" means the zone between the land surface and the deepest water table; it includes the capillary fringe, Generally, water in this zone is under less than atmospheric pressure, and some of the voids may contain air or other gases at atmospheric pressure. Beneath flooded areas or in perched water bodies the water pressure locally may be greater than atmospheric.

§ 960.3–0 System guidelines.

The key objective in the siting and design of the repository system shall be the protection of public health and safety and the quality of the emvironment.

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§ 960.3-1 Performance before permanent closure.

The repository operations area shall be sited and designed to comply with the limits established by the Nuclear Regulatory Commission in 10 CFR Part 20 and by the Environmental Protection Agency in the proposed 40 CFR Part 191, Subpart A, Environmental Standards for Management and Storage. A site shall be *disqualified* if during site investigation it becomes clear that the site, together with state-of-the-art engineered systems and controls, will preclude a repository at that site from complying with 10 CFR Part 20 and the proposed 40 CFR Part 191, Subpart A.

(a) *Favorable conditions.* (1) A combination of meteorological conditions and low population densities such that few, if any, members of the general public would be exposed to radiation due to emissions during repository operation.

(2) Absence of contributing radioactive releases from other nuclear facilities governed by 40 CFR Part 190 or the proposed 40 CFR Part 191 that would require consideration in accordance with 40 CFR Part 191.03.

(b) *Potentially adverse conditions.* (1) Presence of other nuclear facilities governed by the proposed 40 CFR Part 191 with actual or projected releases at or near the maximum value permissible under those standards.

(2) Proximity to populated areas that could be routinely affected by repository effluents considering prevailing meteorological conditions.

§ 960.3-2 Performance after permanent closure.

The site and engineered systems shall provide reasonable assurance that, after the permanent closure of the repository, credible postulated releases of radioactive materials to the accessible environment will not exceed the quantities of radioactive materials that may enter the environment as specified in the proposed 40 CFR Part 191, Subpart B, Environmental Standards for Disposal. A site shall be *disqualified* if the characteristics that influence radionuclide transport are too complex to allow reasonable confidence of compliance with the proposed 40 CFR Part 191.13 when considered in conjunction with state-of-the-art engineered systems, including those required under 10 CFR 60.113.

(a) *Favorable conditions* (1) Groundwater travel times to the accessible environment of more than 10,000 years.

(2) Geochemical conditions or groundwater volumetric flow limits that limit radionuclide releases.

(3) A geologic setting that is easily characterized or modeled with existing performance-assessment techniques.

(b) *Potentially adverse conditions.* Geologic setting, site geometries and characteristics, and radionuclide-transport characteristics that are extremely difficult to characterize and model.

§ 960.4-0 Program guidelines.

Program guidelines specify how the DOE will conduct its program to identify and select potential sites for the development of geologic repositories. The national policy for radioactive-waste disposal is primarily articulated in the Act and has resulted from several years of studies and discussions at the Federal, State, and local government level. Program guidelines are directions for implementing this national policy.

§ 960.4-1 Conduct of site investigations.

Studies to identify potential repository sites will consider several geologic media, different hydrogeologic settings, and lands already dedicated to the nuclear activities of the Federal Government. To the extent practicable, sites recommended for detailed characterization shall be in different geologic media.

§ 960.4-2 Consultation with States and affected Indian tribes.

The DOE shall provide to State officials and to the governing bodies of any affected Indian tribe timely and complete information regarding both plans and results concerning all phases of site evaluation, investigation, and characterization and the development of a geologic repository. Written responses to written requests for information from officials of affected states or Indian tribes will be provided within no more than 30 days. In performing any aspect of the geologic repository program, the DOE shall consult and cooperate with the governor and the legislature of an affected State and the governing body of an affected Indian tribe in an effort to resolve concerns regarding public health and safety, environmental, and economic impacts of any proposed repository. If requested, or after notifying states or Indian tribes that potentially acceptable sites have been identified within a State or tribal land, the DOE shall seek to enter into binding written agreements to specify procedures for consultation and cooperation with the affected State or Indian tribe.

§ 960.4-3 Environmental impact considerations.

Environmental impacts shall be given due consideration throughout the site-characterization and site-selection processes. The environmental assessments that accompany the nomination of sites shall include the following items as specified by Section 112 of the Act:

(a) An evaluation as to whether the site under consideration is suitable for site characterization under these siting guidelines;

(b) A preliminary evaluation as to whether the site under consideration would be suitable for a repository by comparison to those siting guidelines that can be invoked without the results of site characterization;

(c) An evaluation of the effects of site characterization activities on the public health and safety and the environment;

(d) A reasonable comparative evaluation of the site under consideration with other sites and locations that have been considered;

(e) A description of the decision process which led to the site being recommended;

(f) An assessment of the regional and local impacts of locating a geologic repository at the site being recommended.

A final environmental impact statement will be submitted in support of a decision to recommend a site to the President as suitable for the construction of a geologic repository. Written in accordance with Section 114(f) of the Act, this statement will be based on the requirements of the National Environmental Policy Act and will be the vehicle for evaluating the environmental acceptability of the recommended site in comparison to the available alternatives.

§ 960.4-4 Regional distribution.

After the selection of the first repository site, a major consideration in siting additional repositories shall be regional distribution. The DOE shall consider the advantages of regional distribution in the siting of repositories to the extent that technical, policy, and budgetary considerations permit.

§ 960.4-5 Schedule for the first repository.

The DOE shall nominate at least five sites determined suitable for site characterization and subsequently recommend to the President at least three of these nominated sites for detailed characterization as candidate sites. Not later than March 31, 1987, the President shall submit to the Congress a recommendation of one site from the three sites initially characterized that the President considers qualified for application for a construction authorization for a repository.

§ 960.4–6 Schedule for the second repository.

The DOE shall nominate at least five sites determined suitable for site characterization and subsequently recommend to the President at least three of these nominated sites for characterization as candidate sites. Not later than March 31, 1990, the President shall submit to the Congress a recommendation of a second site from any sites already characterized that the President considers qualified for a construction authorization for a second repository.

§ 960.5–0 Technical guidelines.

The technical guidelines provide a set of standards to be used in judging the suitability of a site for repository development and operation. The guidelines specify geotechnical, environmental, and socioeconomic factors for the qualification or disqualification of a potential site for a geologic repository, as well as conditions that would be considered favorable or potentially adverse in site evaluation.

§ 960.5–1 Site geometry.

The geologic repository shall be located in a geologic setting that physically separates the radioactive wastes from the accessible environment and has a volume of rock adequate for placement of the underground facility.

§ 960.5–1–1 Depth of underground facilities.

The site shall allow the underground facility to be placed at a minimum depth such that reasonably foreseeable human activities and natural processes acting at the surface will not lead to a projection of radionuclide releases greater than those discussed in § 960.3–2. The site shall be *disqualified* if site conditions do not allow all portions of the underground facility except the shafts to be at least 200 meters from the directly overlying ground surface.

(a) *Favorable conditions.* (1) Site conditions permitting the emplacement of waste at a minimum depth of 300 meters from the ground surface (10 CFR 60.122(b)(6)).

(2) A geologic setting where the nature and rates of the geomorphic processes that have been operating during the past million years would, if continued in the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste (10 CFR 60.122(b)(1)).

(b) *Potentially adverse conditions.* A geologic setting that shows evidence of extreme erosion during the past million years (10 CFR 60.122(c)(17)).

§ 960.5–1–2 Thickness and lateral extent of the host rock.

The thickness and lateral extent of the host rock shall accommodate the underground facility and ensure that impacts induced by the construction of the repository and by waste emplacement will not lead to a projection of radionuclide releases greater than those discussed in § 960.3–2.

(a) *Favorable conditions.* The host rock is of sufficient extent to allow significant latitude in terms of depth, configuration, or location of the underground facility.

(b) *Potentially adverse conditions.* A volume of rock with physical properties adequate for the underground facility but laterally restricted to a small portion of the site. .

§ 960.5–2 Geohydrology.

The geohydrologic regime in which the site is located shall be compatible with waste containment, isolation, and retrieval.

§ 960.5–2–1 Present and future hydrologic conditions.

The present and probable future geohydrologic regime of the site shall be capable of preventing radionuclide transport for the repository to the accessible environment in amounts greater than those discussed in § 960.3–2. The site shall be *disqualified* if the average prewaste-emplacement ground-water travel time along the path of likely radionuclide travel from the disturbed zone to the accessible environment is less than 1,000 years.

(a) *Favorable conditions.* (1) The nature and rates of hydrologic processes operating within the geologic setting during the past million years would, if continued in the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste (10 CFR 60.122(b)(1)).

(2) For disposal in the saturated zone, hydrologic conditions that provide a host rock with a low horizontal and vertical permeability; a downward or predominantly horizontal hydraulic gradient in the host rock; and a low vertical permeability and low hydraulic potential between the host rock and the surrounding hydrogeologic units; or a pre-waste-emplacement ground-water travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment that substantially exceeds 1,000 years (10 CFR 60.122(b)(2)).

(3) For disposal in the unsaturated zone, hydrogeologic conditions that provide a low and nearly constant moisture content in the host rock and the surrounding hydrogeologic units; or a water table sufficiently below the underground facility such that the capillary fringe does not encounter the host rock; or a laterally extensive low-permeability hydrogeologic unit above the host rock that would divert the downward infiltration of water beyond the limits of the underground facility; or a host rock with a high saturated permeability and an effective porosity that provides for free drainage; or a climatic regime in which precipitation is a small percentage of the potential evapotranspiration (10 CFR 60.122(b)(3)).

(b) *Potentially adverse conditions.* None specified.

§ 960.5–2–2 Hydrologic modeling.

The geohydrologic regime shall be capable of being characterized with sufficient certainty to permit modeling to show that present and probable future conditions would lead to a projection of radionuclide releases less than those discussed in § 960.3–2.

(a) *Favorable conditions.* Sites that have simple stratigraphic and hydrogeologic sequences and a lack of structural, tectonic, or crosscutting igneous features such that the geohydrology can be readily characterized and modeled with reasonable certainty.

(b) *Potentially adverse conditions.* (1) Potential for foreseeable human activites to adversely affect the ground-water flow system, such as ground-water withdrawal, extensive irrigation, the subsurface injection of fluids, underground pumped storage, military activities, or the construction of large-scale surface-water impoundments (10 CFR 60.122(c)(2)).

(2) Potential for natural phenomena like landslides, subsidence, or volcanic activity of such a magnitude that they could create large-scale surface-water impoundments that could change the regional ground-water flow system (10 CFR 60.122(c)(3)).

(3) Potential for the water table to rise sufficiently to cause the saturation of waste-emplacement areas in the unsaturated zone (10 CFR 60.122(c)(4)).

(4) Potential for structural deformation—such as uplift, subsidence, folding, or faulting—that may adversely affect the regional ground-water flow system (10 CFR 60.122(c)(5)).

(5) Potential for changes in hydrogeologic conditions that would increase the transport of radionuclides to the accessible environment, such as changes in the hydraulic gradient, average interstitial velocity, storage coefficient, hydraulic conductivity, natural recharge, potentiometric levels,

and discharge points (10 CFR 60.122(c)(6)).

(6) Potential for adverse changes in hydrologic conditions resulting from reasonably foreseeable climatic changes (10 CFR 60.122(c)(7)).

§ 960.5–2–3 Shaft construction.

The geohydrologic regime of the site shall allow the construction of repository shafts and maintenance of the integrity of shaft liners and seals.

(a) *Favorable conditions.* Absence of large highly transmissive aquifers between the host rock and the land surface.

(b) *Potentially adverse conditions.* Rock or ground-water conditions that would require complex engineering measures in the design and construction of the underground facility or in the sealing of boreholes and shafts (10 CFR 60.122(c)(21)).

§ 960.5–2–4 Dissolution features.

The site shall be such that any subsurface rock dissolution that may be occurring or is likely to occur would not lead to a projection of radionuclide releases greater than those discussed in § 960.3–2. The site shall be *disqualified* if it is shown that active dissolution fronts would cause significant interconnection of the underground facility to the site hydrogeologic system during the first 10,000 years.

(a) *Favorable conditions.* No evidence that the host rock within the operations area was subject to dissolution during the past million years.

(b) *Potentially adverse conditions.* Evidence of dissolution, such as breccia pipes or dissolution cavities (10 CFR 60.122(c)(11)).

§ 960.5–3 Geochemistry.

The site shall have geochemical characteristics compatible with waste containment, isolation, and retrieval. The site shall be such that the chemical interactions among radionuclides, rock, ground water, and engineered components would not lead to a projection of radionuclide releases greater than those discussed in § 960.3–2.

(a) *Favorable conditions.* (1) The nature and rates of the geochemical processes operating within the geologic setting during the past million years would, if continued in the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste (10 CFR 60.122(b)(1)).

(2) Geochemical conditions that promote the precipitation or sorption of radionuclides; inhibit the formation of particulates, colloids, and inorganic and organic complexes that increase the mobility of radionuclides; or inhibit the transport of radionuclides by particulates, colloids, and complexes (10 CFR 60.122(b)(4)).

(3) Mineral assemblages that, when subjected to the expected thermal loading, will remain unaltered or will be altered to mineral assemblages with equal or increased capability to inhibit radionuclide transport (10 CFR 60.122(b)(5)).

(b) *Potentially adverse conditions.* (1) Ground-water conditions in the host rock—including chemical composition, high ionic strength, or oxidizing or reducing conditions and pH—that could increase the solubility or chemical reactivity of the engineered barrier systems (10 CFR 60.122(c)(8)).

(2) Geochemical processes that would reduce the sorption of radionuclides, result in the degradation of the rock strength, or adversely affect the performance of the engineered barrier systems (10 CFR 60.122(c)(9)).

(3) For disposal in the saturated zone, ground-water conditions in the host rock that are not chemically reducing (10 CFR 60.122(c)(10)).

§ 960.5–4 Rock characteristics.

The site shall have geologic characteristics compatible with waste containment, isolation, and retrieval.

§ 960.5–4–1 Physical properties.

The site shall provide a geologic system that is capable of accommodating the geomechanical, chemical, thermal, and radiation-induced stresses that are expected to be caused by interactions between the waste and the host rock.

(a) *Favorable conditions.* None specified.

(b) *Potentially adverse conditions.* Potential for such phenomena as thermally induced fractures, hydration and dehydration of mineral components, brine migration, or other physical, chemical, or radiological phenomena that could lead to projections of radionuclide releases greater than those discussed in § 960.3–2.

§ 960.5–4–2 Operational safety.

The site shall be such that the construction, operation, and closure of underground areas will not cause undue hazard to repository personnel. The site shall be *disqualified* if the applicable safety requirements of the DOE and the NRC could not be met.

(a) *Favorable conditions.* None specified.

(b) *Potentially adverse conditions.* (1) Rock conditions that would require complex engineering measures in the design and construction of the underground facility or in the sealing of boreholes and shafts (10 CFR 60.122(c)(21)).

(2) Geomechanical properties that would not permit underground openings to remain stable until permanent closure (10 CFR 60.122(c)(22)).

§ 960.5–5 Tectonic environment.

The site shall be located in a geologic setting where the effects of current or reasonably foreseeable tectonic phenomena will not lead to a projection of radionuclide releases greater than those discussed in § 960.3–2.

§ 960.5–5–1 Faulting and seismicity.

The site shall be located in a geologic setting where faults that might affect waste isolation, if any, can be identified and shown to have hydrologic properties and seismic potentials that will not lead to a projection of radionuclide releases greater than those discussed in § 960.3–2.

(a) *Favorable conditions.* (1) The nature and rates of faulting, if any, operating within the geologic setting during the past million years would, if continued in the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste (10 CFR 60.122(b)(1)).

(2) The nature and rates of faulting, if any, operating within the geologic setting during the past million years would, if continued into the future, have less than one chance in 10,000 over the next 10,000 years of leading to releases of radioactive waste to the accessible environment (proposed 40 CFR 191.13).

(b) *Potentially adverse conditions.* (1) Faults in the geologic setting that may adversely affect the regional ground-water flow system (10 CFR 60.122(c) (5)).

(2) Evidence of active faulting within the geologic setting during the past million years (10 CFR 60.122(c) (12)).

(3) Historical earthquakes that, if repeated, could affect the site significantly (10 CFR 60.122(c)(13)).

(4) Indications, based on correlations of earthquakes with tectonic processes and features (e.g., faults), that either the frequency of occurrence or the magnitude of earthquakes may increase (10 CFR 60.122(c)(14)).

(5) More frequent occurrences of earthquakes or earthquakes of higher magnitude than are typical of the region in which the geologic setting is located (10 CFR 60.122(4) (15)).

§ 960.5–5–2 Igneous activity.

The site shall be located in a geologic setting where centers of igneous activity during the past million years, in any, can be identified and shown to have no

effects that will lead to a projection of radionuclide releases greater than those discussed in § 960.3–2.

(a) *Favorable conditions.* (1) The nature and rates of igneous processes within the geologic setting during the past million years would, if continued into the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste (10 CFR 60.122(b)(1)).

(2) The nature and rates of igneous activity, if any, in the geologic setting during the past million years would, if continued into the future, have less than one chance in 10,000 over the next 10,000 years of leading to releases of radioactive material to the accessible environment (proposed 40 CFR 191.13).

(b) *Potentially adverse conditions.* (1) The presence in the geologic setting or intrusive dikes, sills, or stocks that may adversely affect the regional ground-water flow system (10 CFR 60.122(c)(5)).

(2) Evidence of igneous activity within the geologic setting during the past million years (10 CFR 60.122(c)(16)).

§ 960.5–5–3 Uplift, subsidence, and folding.

The site shall be located in a geologic setting where significant uplift, subsidence, or folding, if any, that has occurred during the past million years can be identified and shown to have hydrologic, seismic, and erosional implications that will not lead to a projection of radionuclide releases greater than those discussed in § 960.3–2.

(a) *Favorable conditions.* (1) The nature and rates of uplift, subsidence, and folding within the geologic setting during the past million years years would, if continued into the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste (10 CFR 60.122(b)(1)).

(2) The nature and rates of tectonic deformation in the geologic setting during the past million years would, if continued into the future, have less than one chance in 10,000 over the next 10,000 years of leading to releases of radioactive material to the accessible environment (proposed 40 CFR 191.13).

(b) *Potentially adverse conditions.* (1) The occurrence in the geologic setting of folds that may adversely affect the regional ground-water flow system (10 CFR 60.122(c)(5)).

(2) Evidence of active uplift, subsidence, or folding within the geologic setting during the past million years (10 CFR 60.122(c)(12)).

§ 960.5–6 Human intrusion.

The site shall be located to reduce the likelihood that past, present, or future human activities would cause unacceptable impacts on meeting the isolation guidelines discussed in § 960.3–2.

§ 960.5–6–1 Natural resources.

The site shall be such that the exploration history or relevant past use of the site or adjacent areas can be determined and can be shown to have no unacceptable impact on meeting the isolation guidelines discussed in § 960.3–2. The site features shall make human intrusion unlikely or, in combination with engineered systems, mitigate the consequences of intrusion to within the limits discussed in § 960.3–2.

(a) *Favorable conditions.* Natural-resource concentrations that are not significantly greater than the average condition for the region.

(b) *Potentially adverse conditions.* (1) The presence of naturally occurring materials, whether identified or undiscovered, within the site in such form that (i) economic extraction is currently feasible or potentially feasible during the foreseeable future or (ii) such materials have greater gross value or net value than the average for other areas of similar size that are representative of, and located in, the geologic setting (10 CFR 60.122(c)(18)).

(2) Evidence of subsurface mining for resources within the site (within 10 CFR 60.122(c)(19)).

(3) Evidence of drilling within the site for any purpose other than repository-site characterization (10 CFR 60.122(c)(20)).

§ 960.5–6–2 Site ownership and control

The site shall be located on land for which the Federal Government can obtain ownership, control access, and obtain all surface and subsurface rights required under 10 CFR 60.121 to ensure that surface and subsurface activities at the site will not lead to a projection of radionuclide releases greater than those discussed in § 960.3–2.

(a) *Favorable conditions.* Present ownership and control of land and rights as required by 10 CFR 60.121.

(b) *Potentially adverse conditions.* Land-use conflicts involving land dedicated by the Federal Government for potentially incompatible purposes.

§ 960.5–7 Surface characteristics.

The site and its surrounding area shall be such that surface characteristics or conditions can be accommodated by engineering measures and can be shown to have no unacceptable effects on repository operation and waste isolation as discussed in §§ 960.3–1 and 960.3–2.

§ 960.5–7–1 Surface-water systems.

The site shall be such that the surficial hydrologic system, both during expected climatic cycles and during extreme natural phenomena, will not cause unacceptable impacts on repository operation or waste isolation as discussed in §§ 960.3–1 and 960.3–2.

(a) *Favorable conditions.* None specified.

(b) *Potentially adverse conditions.* (1) Potential for foreseeable human activities to adversely affect the ground-water flow system, such as extensive irrigation or the construction of large-scale surface-water impoundments (10 CFR 60.122(c)(1)).

(2) Potential for flooding the underground facility, whether through the occupancy and modification of flood-plains or through the failure of existing or planned man-made surface-water impoundments (10 CFR 60.122(c)(2)).

§ 960.5–7–2 Terrain.

The site shall be located in an area where the surface terrain features do not unacceptably affect repository operation.

(a) *Favorable conditions.* Generally flat terrain.

(b) *Potentially adverse conditions.* Road and rail access routes that encounter steep grades, sharp switchbacks, slope instability, or other potential sources of hazard to incoming waste shipments.

§ 960.5–7–3 Meteorology.

The site shall be located where anticipated meteorological conditions would not result in the projection of unacceptable effects on repository operations.

(a) *Favorable conditions.* None specified.

(b) *Potentially adverse conditions.* None specified.

§ 960.5–7–4 Offsite hazards.

The site shall be such that present and projected effects from nearby industrial, transportation, and military installations and operations, including atomic energy defense activities, can be accommodated by engineering measures and can be shown to have no unacceptable impacts on repository operation.

(a) *Favorable conditions.* Siting on lands already committed for DOE nuclear reservations.

(b) *Potentially adverse conditions.* (1) The presence of nearby potentially hazardous facilities.

(2) Siting close enough to an atomic energy defense facility to compromise or

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interfere with the use of that facility for defense purposes.

§ 960.5–8 Population density and distribution.

The site shall be located to limit the potential risk to the population. The site shall be so located that risk to the population from repository operation does not exceed system-performance guidelines. A site shall be *disqualified* if it would fail to comply with EPA's standard for radiation doses received by members of the public as a result of the management and storage of these wastes (proposed 40 CFR Part 191, Subpart A).

§ 960.5–8–1 Population near the site.

The site shall be located away from population concentrations and urban areas. A site shall be *disqualified* if any surface facility of a repository would need to be located in a highly populated area or adjacent to an area one mile by one mile having a population of not less than 1,000 individuals.

(a) *Favorable conditions.* Remoteness from population centers (10 CFR 60.122(a)(7)).

(b) *Potentially adverse conditions.* A population density and distribution such that projected releases could result in the exposure of many people.

§ 960.5–8–2 Transportation.

The cost and other impacts of transporting radioactive waste to a repository shall be considered in selecting the repository sites. Consideration shall be given to the proximity of locations where radioactive waste is currently generated or temporarily stored and the transportation and safety factors involved in moving such waste to a repository.

(a) *Favorable conditions.* Ability to select transportation routes that minimize risk to the general population.

(b) *Potentially adverse conditions.* Site locations requiring the concentration of transportation routes through highly populated areas.

§ 960.5–9 Environmental protection.

The site shall be such that a repository can be constructed and operated in a manner that provides reasonable assurance that the environment will be adequately protected, for this and future generations. The site shall be located so as to reduce the likelihood and consequences of potential environmental impacts, and these impacts shall be mitigated to the extent reasonably achievable. A site shall be *disqualified* if a repository would result in an unsatisfactory adverse environmental impact that threatens the health or welfare of the public or the quality of the environment and cannot be mitigated. A site shall be *disqualified* if it is located within the boundaries of a significant nationally protected natural resource, such as a National Park, National Wildlife Refuge, or Wilderness Area, and its presence conflicts irreconcilably with the previously designated use of the site.

(a) *Favorable conditions.* (1) Ability to meet all procedural and substantive environmental requirements applicable to the site, at the Federal, State, and local level, with assurance and within time constraints.

(2) Adverse environmental impacts, to present and future generations, can be avoided or reduced to an insignificant level through the application of reasonable mitigating measures.

(b) *Potentially adverse conditions.* (1) Probable conflict with applicable Federal, State, or local environmental requirements.

(2) Significant adverse environmental impacts that cannot be avoided or minimized.

(3) Proximity to, or direct adverse environmental impacts of the repository or its support systems on, a component of the National Park System, the National Wildlife Refuge System, the Wild and Scenic River System, the National Wilderness Preservation System, or National Forest Land.

§ 960.5–10 Socioeconomic impacts.

The location of the site shall be such that any significant adverse social and/or economic impacts on communities and regions resulting from repository construction, operation, and decommissioning or the transportation of radioactive waste to the site can be accommodated by reasonable mitigation or compensation.

(a) *Favorable conditions.* (1) Locally available labor.

(2) Potential for repository-related increases in local employment, increases in business sales, increases in government revenues, or improvements in community services.

(b) *Potentially adverse conditions.* (1) The existence of, or the potential for, a lack of the necessary labor force or a lack of local suppliers.

(2) A projected substantial decrease in community services due to repository development.

(3) Conditions where the development, construction, operation, or decommissioning of a repository may require any purchase or acquisition of water rights that will have a significant adverse effect on the present or future development of the area.

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federal register

Monday
February 7, 1983

Part III

Environmental Protection Agency

State and Local Assistance

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[SWH–FRL 2286–2]

State and Local Assistance

AGENCY: Environmental Protection Agency.

ACTION: Rule-related document.

SUMMARY: This document establishes policies and procedures for financial assistance to States for the purposes of section 3012 of the Resource Conservation and Recovery Act (RCRA). The fiscal year 1983 Appropriations Act for the Environmental Protection Agency provided $10,000,000 from the Fund authorized by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for the purposes of carrying out section 3012 of RCRA. This document identifies activities that may be paid for with these funds and establishes the formula for allocating funds among the States.

DATE: The requirements for this program are effective February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Lucy Sibold, Hazardous Site Control Division, Office of Emergency and Remedial Response, (WH–548–E), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, Phone 202–382–3999.

SUPPLEMENTARY INFORMATION:

State and Local Assistance for Hazardous Waste Site Inventories Under 3012 of RCRA

Background

The purpose of this document is to set forth policies governing financial assistance to States for assessment and inspection of hazardous waste sites under section 3012 of the Resource Conservation and Recovery Act, ("RCRA") 42 U.S.C. 6933. Section 3012 of RCRA provides for State programs to develop inventories of hazardous waste storage and disposal sites. The State inventories are to contain information on the location of the sites; the amount, nature and toxicity of the hazardous waste at the sites; name and address of the owners of the sites; an identification of the types or techniques of waste treatment and disposal used at the site; and information concerning the current status of the sites. States may receive financial assistance to implement this program.

Section 3012 was added by the 1980 amendments to RCRA, but no appropriation was made until September 30, 1982. The Appropriations Act for the Environmental Protection Agency ("EPA" or "the Agency"), Public Law 97–272, provided $10,000,000 from the Hazardous Substance Response Trust Fund (the Fund) for purposes of carrying out section 3012 of RCRA. The Conference report for the Appropriations Act states:

> The committee of conference is aware that in many areas delays have been experienced in the discovery, investigation and evaluation of hazardous waste sites. This $10,000,000 is a one-time, nonrecurring appropriation to assist States in completing the site survey and inspection process. Since this will not be a continuing program, the conferees expect the Agency to allocate these funds to the States as expeditiously as possible, without establishing unduly complex administrative mechanisms or requirements. H. Rep. 97–891, 97th Cong. Sess. 2 (September 29, 1982), p.8.

It is our view that Congress, in considering the issue of hazardous waste site inventories in the context of the CERCLA appropriation and providing support for such inventories from the Fund, intended the section 3012 activities to benefit the purposes of both RCRA and CERCLA. Closely coordinating these activities will ensure such result.

EPA believes that the procedures described here are the most expeditious process for making funds available to the States. Section 3012(c) of RCRA provides that "[g]rants under this section shall be allocated among the several States by the Administrator based upon such regulations as he prescribes to carry out the purposes of this section." EPA has therefore determined that the requirements described in this document implement this section of RCRA. To quickly allocate funds, these policies and procedures are being promulgated in final form without proposal. Because the appropriation is one-time and non-recurring, the requirements will not be included in the Code of Federal Regulations. The following topics will be addressed:

- The role of section 3012 funds in the Superfund Program
- The process for providing financial assistance to States
- Allowable costs and activities under section 3012
- The allotment formula for distribution of money among the States
- The rationale for not requiring a cost share for section 3012 funds
- Certain aspects of the procedures for review and approval of applications
- Regulatory Impact and Paperwork Reduction

I. Role of Section 3012 Funds in the Superfund Program

The Fund established pursuant to section 221 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96–510, ("CERCLA" or "Superfund") is the source of funds for financial assistance under section 3012. CERCLA establishes a program for response to releases or threats of releases of hazardous substances, pollutants or contaminants from vessels or facilities. Several sections of CERCLA provide for discovery, assessment, inspection and investigation of hazardous waste disposal sites:

- Section 105 requires that the National Oil and Hazardous Substances Contingency Plan ("NCP") (40 CFR Part 300 et seq., 47 FR 31180, July 16, 1982) be revised to include procedures and standards for responding to releases of hazardous substances, pollutants and contaminants, and requires specifically that the NCP include "methods for discovering and investigation facilities at which hazardous substances have been disposed of or otherwise come to be located."
- Section 104(b) authorizes investigations, monitoring, surveys, testing and other information gathering to identify the existence and extent of a release or threatened release, the source and nature of the hazardous substances, pollutants or contaminants present, and the extent of danger to public health, welfare or the environment.
- Section 103(c) requires notification of the existence and location of facilities at which hazardous substances have been stored, treated or disposed of, and which are not presently permitted or accorded interim status under section 3005 of RCRA.
- Section 103(a) requires the person in charge of a vessel or facility to notify the National Response Center immediately when there is a release of a hazardous substance in an amount equal to or greater than the reportable quantity for the substance.

The CERCLA process for assessment and inspection of sites involves a sequence of successively more detailed studies of sites, to determine the hazards which they pose, if any. One of the most important products of this process is the National Priorities List ("NPL") proposed December 30, 1982; (47 FR 58476) of at least 400 sites that is required under section 105(8)(B) of CERCLA. This screening process is

described in detail in Subpart F of the NCP, which establishes policies and operating procedures for response to releases of hazardous substances under Superfund (40 CFR 300.61 et seq.). Specific steps include:

(1) *Discovery of releases:* Section 300.63 of the NCP identifies different methods for discovery of releases, including notifications received under section 103(c) of CERCLA, investigations by governmental authorities, notifications by permit holders, and other sources. Currently, approximately 15,000 potential uncontrolled hazardous waste sites have been listed in EPA's CERCLA inventory, which is contained in the Emergency and Remedial Response Information System (ERRIS).

(2) *Preliminary assessment:* Preliminary assessments provide the preliminary data and evaluations necessary to determine what actions should be taken next: additional investigation, emergency action, or no further action (40 CFR 300.64). Preliminary assessments may involve:

- Identification of the source and nature of the release, including the hazardous substances present and the pollutant dispersal pathways,
- Evaluation of the potential hazard posed by the site, including types of receptors and facility management practices, and
- Determination of the existence of responsible parties, and of non-Federal parties ready, willing and able to respond.

All of the sites in ERRIS are receiving or will receive preliminary assessments, to identify sites that may pose a significant threat to public health, welfare or the environment.

(3) *Site inspection:* Site inspections are undertaken to assess the nature and extent of the release and to provide sufficient data to determine priority for Fund-financed response (40 CFR 300.66(b) and (c)).

(4) *National Priorities List:* Sites are evaluated according to the Hazard Ranking System in the NCP. The NPL was proposed on December 30, 1982 (47 FR 58476), and will be updated on a quarterly basis (40 CFR 300.66(e)).

As noted above, the conference report on Pub. L. 97–272 indicates that section 3012 funds are intended to assist States in completing the site assessment and inspection process. To assure that the funds are used most effectively, EPA will not establish separate requirements for inventory of sites under section 3012 of RCRA, but will instead use section 3012 funds to support the ongoing process for discovery, assessment, and inspection of sites under CERCLA.

II. The Process for Providing Financial Assistance to States

The process for providing financial assistance involves the following actions:

(1) EPA has developed an allocation formula, and specific allotments for each State.

(2) EPA has identified activities that are allowable under section 3012 and priorities for use of section 3012 funds.

(3) States will prepare financial assistance applications and work programs that identify the activities they will undertake with section 3012 funds. EPA has prepared guidance to provide additional information to States concerning allowable activities.

(4) EPA will evaluate State applications for funds and work programs to determine that the activities identified by States are allowable under section 3012 and these policies and procedures, and that they are consistent with the outlined priorities. EPA will then complete negotiation of cooperative agreements with the States.

(5) If all funds are not obligated after the first round of awards of financial assistance, then notice will be given to the States and the remaining funds will be distributed based on a second round of applications.

III. Allowable Activities and Priorities

This section briefly identifies the broad categories of allowable activities, describes the priorities for use of section 3012 funds, describes the rationale for identifying these activities and priorities, and discusses how the States and EPA will identify specific tasks to be conducted with these funds.

Allowable activities: The allowable State activities are preliminary assessments, site inspections, responsible party searches, inventory completion, and collection of further information to characterize problems at selected sites. Preliminary assessments and site inspections are the highest priorities for use of section 3012 funds.

Preliminary assessments and site inspections: The highest priority for use of section 3012 funds is to assess and inspect sites currently included in the ERRIS inventory, to determine whether they in fact pose a hazard. States are not restricted to sites currently included in the ERRIS inventory, but the sites must be entered into ERRIS before a State carries out assessments and inspections using section 3102 funds.

Preliminary assessments and site inspections may also be needed for other purposes. They may be necessary to determine whether sites should be included on the NPL. Although the proposed NPL was published for comment on December 30, 1982, the process for listing sites on the NPL is ongoing. The Agency anticipates that the NPL will be updated on a quarterly basis, and results of these assessments and inspections should be reflected in these quarterly updates where applicable. Even after site inspections that are adequate for purposes of scoring sites for the NPL are completed, additional site inspection followup work may be necessary.

There are other, lower priorities for use of 3012 funds in the area of preliminary assessments and site inspections. It may be appropriate in some situations to gather all information necessary to score particular sites for inclusion on the NPL through application of the Hazard Ranking System. (See the NCP, 40 CFR 300.66(d), and the accompanying preamble.) It may also be appropriate in some circumstances to perform site inspection followups, as discussed in the previous paragraph.

Discovery and inventory completion: Inventory completion involves supplementing the ERRIS inventory with additional sites which have not been brought to the attention of EPA. When the States inform EPA of such sites, they will be formally entered into ERRIS. States should bring these sites to the attention of EPA Regional offices, in order to complete the inventory of the sites which need preliminary assessments.

Considerable effort has already been devoted to discovery of sites. EPA believes that it is necessary to place principal emphasis on State and Federal efforts to further assess and investigate sites actually known to exist, in order to determine priority sites for Fund-financed cleanup and enforcement action. Therefore, preliminary assessments, site inspections and inventory completion should be considered higher priority activities Investigations to identify sites not known to exist should generally be given lower priority.

Responsible party searches and other state enforcement costs: Section 3012 authorizes funds to identify the owners of hazardous waste disposal sites, and gather information concerning the amount, nature and toxicity of hazardous waste at these sites. Responsible party searches are encompassed within this language. They are normally conducted as part of preliminary assessments. However, other enforcement-related costs, including costs for litigation, are not allowable.

Reimbursement: Section 3012(c) of RCRA states that "[t]he Administrator may make grants to any State which has conducted an inventory program which effectively carried out the purposes of this section before the date of the enactment of the Solid Waste Disposal Act Amendments of 1980 to reimburse such State for all, or any portion of, the costs incurred by such State in conducting such program." Thus, the statute provides for reimbursement for work performed prior to enactment of section 3012 in October 1980.

Section 3012 funds will not be used for reimbursement. The language of section 3012 authorizes, but does not require, reimbursement. The legislative history of Public Law 97-272 indicates that the purpose of the appropriation is to assist States in completing the site survey and inspection process. It is our view that reimbursement does not further that objective. Rather, the limited funds that are available should be used toward work that remains to be done.

Identification of specific activities for States: States are not required to conduct the full range of allowable activities identified, and EPA does not anticipate that all States will undertake this full range of activities. The priorities for use of funds discussed above are not mandatory, but are included to indicate the activities which EPA believes are most crucial to successful implementation of CERCLA. States may propose other activities, within the scope of the allowable activities identified by section 3012 and this document, and those activities may be funded, if the States provide an adequate justification for different priorities. EPA has prepared guidance which provides more detailed information on allowable activities.

EPA is not prescribing uniform activities for States to conduct with these funds. The resources available to States, the extent of the activities within States, and the actions needed for each State vary considerably, and any attempt at uniformity across the States would be inappropriate. This document simply identifies types of activities appropriate for section 3012 funds, and their priorities. Specific tasks will be identified in the course of negotiating cooperative agreements. EPA is providing additional guidance that describes in some detail the specific actions involved in conducting preliminary assessments and site inspections.

Other sources of funds besides section 3012 are also available for conducting these activities, and related activities are ongoing under other programs. Work programs and cooperative agreement applications should be developed carefully to minimize overlap and duplication. For example, the Remedial/Field Investigation Team (REM/FIT) contracts recently awarded by EPA provide contractor resources to perform preliminary assessments and site inspections, and much site assessment and inspection work will be conducted by these contractors. States and EPA are also undertaking enforcement and inspection activities for certain hazardous waste sites under the RCRA Subtitle C Hazardous Waste Permit program. In developing work programs and negotiating cooperative agreements, States will have the flexibility to tailor the use of section 3012 funds to their specific needs, and to reevaluate the respective roles of the States and REM/FIT contractors in conducting this work. States should meet with EPA regions to identify areas of potential overlap and develop arrangements to minimize such overlap. Other details of the process of applying for financial assistance and negotiating cooperative agreements are discussed in Parts VI and VII.

IV. Allotment Among the States

Section 3012(c) provides that "[g]rants under this section shall be allocated among the several States by the Administrator based upon such regulations as he prescribes to carry out the purposes of this section." The allotments are, for the most part, proportional to the number of sites included for each State in the ERRIS inventory as of January 17, 1983. All States with more than 20 sites in the inventory qualify for the minimum allotment of $25,000. Certain territories have fewer than 20 sites in ERRIS, and are not given an allotment. In such instance, EPA determined that application for and approval of financial assistance would consume an inordinate amount of effort for the amount of money that would be made available. These territories remain eligible for Federal assistance from the REM/FIT contracts. The allotments for each State are set forth in Table I.

The ERRIS inventory of hazardous waste sites contains the name, address, and physical location of nearly 15,000 sites, as well as information on the status of response action at each site. ERRIS was compiled from several less comprehensive data bases in use within EPA, and is being continually updated. Although relatively new, it is the most complete national listing of hazardous waste sites available.

The Agency considered applying the existing formula used for allocations under section 3011 of RCRA. Section 3011 of RCRA provides for allocations among the States which take into account the extent to which hazardous waste is generated, transported, treated, stored and disposed of within such State, the extent of exposure of human beings and the environment within such State to such waste, and other factors that the Administrator deems appropriate. The RCRA formula assigns the following weights: population—40%, amount of hazardous waste—40%, number of generators—15%, land area—5%.

The Agency believes that the RCRA section 3011 allocation formula is not appropriate for the activities contemplated under section 3012. The section 3011 formula is designed to reflect costs associated with operation of a regulatory program, rather than the number of inactive hazardous waste sites. A formula based on the number of sites already included in the ERRIS inventory established under CERCLA will more accurately reflect the need for funds, because the priorities for use of this money are preliminary assessments and site inspections for sites identified in ERRIS. The Agency believes that the addition of other factors, such as waste volume, would complicate the development of actual allotments and possibly lead to delays in providing funds.

EPA also considered an approach for allotment that was not strictly tied to the number of sites in ERRIS. Under this alternative, if a particular State's percentage of sites in the ERRIS inventory would result in an allotment of less than $100,000, then no allotment would be provided for that State. The funds not allocated to a particular State would have been available to any State, depending on the State's and EPA's determination of the State's needs, and other competing needs for funds. EPA rejected this approach because it determined that the $100,000 "threshold" was too high. Many States with a substantial number of sites would not have qualified for an allotment.

V. Cost Share

EPA's General Grant Regulations require that recipients of EPA assistance share project costs by contributing not less than five percent of allowable project costs (40 CFR 30.720). Through a class deviation which will be published in the **Federal Register**, EPA will waive this requirement for section 3012 cooperative agreements. No State cost share will be required.

The Agency considered several cost-sharing alternatives, including the 75/25 split that is required by the RCRA 3011 regulations, and the 90/10 cost share

that is applicable to CERCLA State remedial program costs under the Fund. Preliminary assessments and site inspections that are conducted by EPA are not currently subject to cost sharing requirements under CERCLA. In addition, the Agency believes that any cost share would be difficult for States to obtain, particularly in light of the relatively short time frame in which financial assistance must be made. Activities funded under section 3012 can be undertaken more quickly if a cost share is not required.

These funds may not be used as the State's cost share for any CERCLA actions that require a State cost share.

VI. Procedures for Providing Financial Assistance to States

The procedures governing financial assistance under section 3012 are, for the most part, set forth in 40 CFR Part 30, EPA 's General Grant Regulations. Certain additional requirements are discussed below. The Agency intends to keep the conditions which States must meet to qualify for funding to the minimum necessary for effective program management. Reporting requirements are limited to those in 40 CFR Part 30. EPA has decided to issue these policies and procedures, rather than amend the State and Local Assistance Regulations because the section 3012 program is not a continuing environmental program governed under 40 CFR 35.100.

Section 3012 provides for "grants" to the States. However, under the Federal Grant and Cooperative Agreement Act (Public Law 95–224), EPA is to select the legal instrument that best reflects the relationship between EPA and the States. In this program, EPA will have substantial involvement in the development and implementation of the State's activities. Consequently, cooperative agreements are to be used.

Work Programs

EPA anticipates that work programs will be developed with early and full consultation between States and EPA. EPA is not specifying uniform activities that must be performed by all States. Based on the current status of site assessment work, EPA and the States may specify activities that are not identical to the priorities outlined in Part III. In the course of negotiating cooperative agreements, EPA or a State may identify different high priority activities needed for that particular State. For example, it may be necessary for some States to update or complete site inventories before work on preliminary assessments or site inspections can be undertaken.

Approval Process

Applications should be reviewed by the EPA Regional Administrators, and after this preliminary review is completed, formally submitted to the Administrator. Without such review, an application will not be regarded as complete. In reviewing applications for financial assistance, EPA will consider whether the application complies with EPA regulations including 40 CFR Part 30, whether achievement of the proposed outputs is feasible in light of the applicant's past performance, organization, resources and procedures; and whether the activities may overlap with other ongoing State or Federal activities. If the initial application cannot be approved, EPA will negotiate the necessary changes with the applicant. EPA will not wait for the 90 day time period set out in Part VII for submitting applications to expire before it begins to process applications. EPA intends to process applications as soon as possible after receiving them.

Budget Period

The funds appropriated under section 3012 will be available for obligation by EPA until the end of fiscal year 1984 (September 1984). Although there is no requirement to complete all work with the funds by this date, States should plan to complete preliminary assessments and site inspections by the end of fiscal year 1984.

Reallocation

If any funds are not obligated in the first round of awards, they will be made available for a second round of applications. EPA will provide notice in the **Federal Register** concerning the allotment of these funds.

VII. Regulatory Impact and Paperwork Reduction

Under Executive Order 12291, EPA is required to determine whether a regulation is major, and therefore subject to the Executive Order requirement of a Regulatory Impact Analysis. We have determined that this rule-related document is not major, because it will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in costs or prices for consumers, individuals, industries, or Federal, State or local governments. The document was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. These procedures add no reporting requirements to those already required under EPA's General Grant Regulations. Those regulations are currently being revised and will be submitted shortly to OMB for review under the Paperwork Reduction Act. Therefore, a separate clearance for this document by OMB under the Paperwork Reduction Act is not required.

These policies and procedures are, effective February 7, 1983. This document has been published as a final rule-related document, without notice and comment procedures, because of the need to provide funds expeditiously, and because the Administrative Procedures Act does not require notice and comment rulemaking for policies and proecdures relating to financial assitance.

Dated: January 25, 1983.

Anne M. Gorsuch,

Administrator.

Summary: Financial Assistance to States for Inventory of Hazardous Waste Sites

1. Purpose and Applicability

This document sets forth policies and procedures for financial assistance from the Hazardous Substance Response Trust Fund (the Fund), 42 U.S.C. 9631, to States to develop hazardous waste site inventories under section 3012 of the Resource Conservation and Recovery Act (RCRA). It identifies allowable activities and the allocation of funds among the States. EPA regulations governing financial assistance, including 40 CFR Parts 30, 32 and 33, apply to awards under section 3012.

2. Allowable Activities

The following activities are eligible for financial assistance from the Fund under section 3012 and shall be carried out pursuant to the National Oil and Hazardous Substances Contingency Plan, 40 CFR 300, *et. seq:*

a. Discovery of releases of hazardous substances, pollutants or contaminants ("releases"). The process for conducting discovery of releases is described in 40 CFR 300.63.

b. Preliminary assessments of releases. The process for conducting preliminary assessments is described in 40 CFR 300.64.

c. Inspection and investigation of releases. The process for conducting these inspections and investigations is described in 40 CFR 300.66 (b) and (c).

d. Identification of persons who may be liable under section 107 of CERCLA for costs of response or for damages attributable to releases.

3. State Allotments

State allotments are based on the number of sites which have been identified for each State in the Emergency and Remedial Response Information System (ERRIS) as of January 17, 1983. Allotments for each State are set forth in Table I. No State with less than 20 sites qualifies for an allotment. Any State with more than 20 sites qualifies for at least $25,000. The State allotment does not entitle the State to an award in that specific amount. The allotment is a ceiling for the award which will be based on the State's work program and application.

4. Process for Providing Financial Assistance

a. State application: Any State which seeks financial assistance shall submit a completed application for assistance to the Administrator within 90 calendar days of publication of this document. The application must meet the requirements of 40 CFR Part 30, and include a proposed work program.

b. Work Program: The work program must specify the outputs that the State intends to produce with the funds requested, provide a schedule for accomplishing these outputs, and identify agencies responsible for producing these outputs. The work program should briefly describe any other State activities to assess and investigate hazardous waste sites in ERRIS that are currently underway, and arrangements to assure that activities for which funds are sought under section 3012 will not duplicate ongong activities.

c. EPA action on application: The Administrator will review each completed application and should approve or disapprove it, or provide the State with written notice of the status of the application, within 60 days of receipt.

d. Reallotment: EPA will provide public notice and solicit a second round of applications for the purposes of obligating any section 3012 funds that are not obligated on the basis of the allotment in Table I.

5. Cost Share

No State cost share is required: EPA will provide one-hundred percent of the approved allowable work program costs.

Table I: State Allotments

The first column is a list of States organized by EPA region. The second column identifies the number of sites each State has in ERRIS (the Emergency and Remedial Response Information System, which is EPA's inventory of sites) as of January 17, 1983. The third column indicates the allotment for each State.

State	Number of [illegible]	Allotment
Connecticut	197	$128,000
Maine	67	43,000
Massachusetts	321	208,000
New Hampshire	[illegible]	35,000
Rhode Island	[illegible]	30,000
Vermont	20	25,000
New Jersey	663	430,000
New York	1,028	667,000
Puerto Rico	136	[illegible],000
Delaware	[illegible]	40,000
Maryland	143	93,000
Pennsylvania	748	486,000
Virginia	231	150,000
West Virginia	153	99,000
Alabama	[illegible]	254,000
Florida	[illegible]	169,000
Georgia	534	347,000
Kentucky	244	158,000
Mississippi	233	151,000
North Carolina	[illegible]	408,000
South Carolina	111	72,000
Tennessee	573	372,000
Illinois	543	353,000
Indiana	435	282,000
Michigan	624	405,000
Minnesota	[illegible]	129,000
Ohio	764	496,000
Wisconsin	202	131,000
Arkansas	227	147,000
Louisiana	[illegible]	190,000
New Mexico	144	93,000
Oklahoma	[illegible]	263,000
Texas	1,043	677,000
Iowa	299	194,000
Kansas	[illegible]	169,000
Missouri	[illegible]	277,000
Nebraska	169	110,000
Colorado	239	155,000
Montana	79	51,000
North Dakota	31	25,000
South Dakota	[illegible]	26,000
Utah	101	66,000
Wyoming	[illegible]	42,000
Arizona	140	91,000
California	[illegible]	558,000
Hawaii	72	47,000
Nevada	113	73,000
Alaska	93	60,000
Idaho	107	69,000
Oregon	159	103,000
Washington	402	261,000
Total		9,996,000

[FR Doc. 83-3195 Filed 2-4-83; 8:45 am]
BILLING CODE 6560-50-M

Allotment
35,000
30,000
25,000
430,000
667,000
88,000
40,000
93,000
486,000
150,000
99,000
254,000
169,000
347,000
158,000
151,000
408,000
72,000
372,000
353,000
282,000
405,000
129,000
496,000
131,000
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263,000
677,000
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110,000
155,000
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26,000
66,000
42,000
91,000
558,000
47,000
73,000
60,000
69,000
103,000
261,000
9,996,000

federal register

Monday
February 7, 1983

Part IV

Department of Transportation

National Highway Traffic Safety Administration

Consumer Information Regulations; Uniform Tire Quality Grading; Final Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 25; Notice 52]

Consumer Information Regulations; Uniform Tire Quality Grading

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice suspends, on an interim basis, the treadwear grading requirements of the Uniform Tire Quality Grading Standards (UTQGS). No change is made in the requirements of grading the traction and temperature resistance performance of new tires except for a minor change in the format for molding those grades on tires.

The UTQGS treadwear grading requirements are intended to aid consumers in assessing the value of new tires in terms of relative treadwear performance. This suspension is being adopted because available information and analysis indicate that the treadwear grades are apparently not only failing to aid many consumers, but also are affirmatively misleading them in their selection of new tires. The unreliability of the treadwear grades arises from unacceptable and unreasonable variability in test results and assigned grades.

The agency is also amending Part 575 to change the format for molding grades on the sidewalls of new tires. The new format, which would include traction and temperature resistance grades but not treadwear grades, must be used on new tires produced in molds manufactured after August 8, 1983. The agency expects and directs that manufacturers will cease printing tire labels and consumer information materials which include treadwear grades described or characterized as having been determined by or under the UTQGS procedures of the United States Government.

As a result of the amendments adopted by this notice, consumers will cease to be misled by unreliable treadwear grade information. In addition, the costs of implementing the treadwear grading program will no longer be imposed on the manufacturers and consumers.

DATES: The suspension of the existing requirements relating to treadwear grades, and the new alternative provision specifying the format for the molding of only traction and temperature resistance information on new tires (§ 575.104 (i)(1) and (i)(2)(i)) are effective February 7, 1983. The provision requiring use of the new format (§ 575.104(i)(2)(ii)) is effective for tires produced in molds manufactured on or after August 8, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph Innes, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590; (202–426–0846).

SUPPLEMENTARY INFORMATION: Section 203 of the National Traffic and Motor Vehicle Safety Act requires the Secretary of Transportation to prescribe a "uniform quality grading system for motor vehicle tires." As explained in that section, this system is intended to "assist the consumer to make an informed choice in the purchase of motor vehicle tires." The uniform tire quality grading standards (UTQGS) became effective April 1, 1979, for bias tires; October 1, 1979, for bias belted tires; and April 1, 1980, for radial tires. UTQGS requires manufacturers and brand name owners of passenger car tires to test and grade their tires according to their expected performance in use with respect to the properties of treadwear, traction and temperature resistance, and provide consumers with information regarding those grades.

Treadwear Testing and Grading Process

This notice focuses on the treadwear grades. Unlike grades for the properties of traction and temperature resistance, the treadwear grades have never been intended to promote safety. Their essential value has always been to aid consumers in selecting new tires by informing them of the performance expectations of tread life for each tire offered for sale, so that they can compare on a common basis the relative value of one tire versus another. Although these grades are not intended to be used for predicting the actual mileage that a particular tire will achieve, the relevance and effectiveness of the grades depends directly on the accuracy of the projections of tread life derived from tests and assigned by grades.

The grades are based on a tire's projected mileage (the distance which it is expected to travel before wearing down to its treadwear indicators) as tested on a single, predetermined course laid out on public roads near San Angelo, Texas. Each treadwear test consists of 16 circuits of the approximately 400 mile long course. A tire's tread depth is measured periodically during the test. Based upon these measurements, the tire's projected mileage is calculated. A tire's treadwear grade is expressed as the percentage which its projected mileage represents of a nominal 30,000 miles. For example, a tire with a projected mileage of 24,000 would be graded "80," (i.e., 24,000 is 80 percent of 30,000 miles), while one with a projected mileage of 39,000 would be graded "130," (i.e., 39,000 is 130 percent of 30,000, rounded).

Because the measured treadwear upon which grades are based occurs under outdoor road conditions, any comparison between candidate tire performances must involve a standardization of results by correction for the particular environmental conditions of each test. To do this, the treadwear performance of a candidate tire is measured in all cases in conjunction with that of a so-called "course monitoring tire" (CMT) of the same construction type. The treadwear of the standardized CMT's is measured to reflect and monitor changes in course severity due to factors such as road surface wear and environmental conditions. The actual measured treadwear of the candidate tire is adjusted on the basis of the actual measured treadwear on the CMT's run in the same convoy, and the resulting adjusted candidate tire treadwear is used as the basis for assigning the treadwear grade.

To promote their uniformity, the CMT's are selected from a single production lot manufactured at a single plant, under more stringent quality control measures (set by contract with NHTSA) than would otherwise apply to production tires.

Each test convoy consists of one car equipped with four CMT's and three or fewer other cars equipped with candidate tires of the same construction type. Candidate tires on the same axle are identical, but front tires on a test vehicle may differ from rear tires as long as all four are of the same size designation. After a two-circuit break-in period, the initial tread depth of each tire is determined by averaging the depth measures in each groove at six equally spaced locations around the circumference of the tire. At the end of every two circuits (800 miles), each tire's tread depth is measured again, the tires are rotated on the car, and wheel alignments may be readjusted as needed to fall within the ranges of the vehicle manufacturer's specifications. At the end of the 16-circuit test, each tire's overall wear rate is calculated from the nine measured tread depths and their corresponding mileages after break-in by using a regression line technique.

Part 575 requires that the treadwear grading information be disseminated in three ways. First, the actual grade must be molded onto the sidewall of each tire. Second, the grade and an explanation of the treadwear grading process must appear on a paper label affixed to the tire tread. Third, the grade and the same explanation must be included in materials made available to prospective purchasers and first purchasers of new motor vehicles and tires.

Agency's Recent Actions.

The basis and validity of the UTQGS has been a longstanding source of controversy and uncertainty within the agency and among interested parties. In view of the manifest potential conflict between the clear desirability of a valid, effective program to enable more informed consumer choice in the marketplace and the potential for serious adverse effect on the marketplace of an inadequate or potentially misleading programmatic result, the agency responded to its own enforcement uncertainties, described more fully below, by reviewing the current state of knowledge concerning the UTQGS, and addressing the specific sources of variability already identified.

Variability due to treadwear test procedures. In response to longstanding concerns about the variability and unreliability of the treadwear test results and grades and about the underlying causes of these problems, the agency conducted a review in May 1982 of treadwear test procedures being used by the tire testing companies in San Angelo. That review confirmed the existence of numerous uncontrolled sources of potential variability in treadwear test results. The potential cumulative effect of those sources would produce test result variability approaching the unacceptable magnitude long asserted by many tire manufacturers. The high level of test result variability could result in tires with better actual treadwear performance being graded as inferior to tires with worse actual performance, or vice versa.

The review did not, however, address in detail the relative significance of the various sources of variability. That question and the ultimate question of whether the identified sources of variability can be sufficiently controlled so as to bring the overall amount of variability down to an acceptable level can be answered only after extensive research and testing.

Among the sources of variability discussed in the review were the weight scales intended to assure the proper loading of the cars used in the testing convoys, errors or inconsistencies introduced by variations in the amount of force applied to the probes used to measure tread depth and tendencies of measuring personnel to "search" for tread depth measurements consistent with expected rates of treadwear, discrepancies in the level of the training of technicians, fairly wide tolerances on critical alignment settings, unquantifiable variations in vehicle weights and weight distribution and suspension modification, and variations in driver techniques and in weather conditions on the course.

Each of the specific identified sources of such variability is discussed in detail below.

Variability due to grade assignment practices. Following the initial implementation of UTQGS, the agency sent a special order to the tire manufacturers to obtain information regarding their practices for translating treadwear test results into grades. The response indicated wide variation within the industry regarding those practices. Some manufacturers evaluated data by applying statistical procedures to estimate the percentage of their production which would equal or exceed a particular grade. Other manufacturers did not use such a procedure, relying instead on business and engineering judgment in assigning grades. The agency tentatively concluded that these differing practices created the substantial likelihood that different manufacturers, although faced with similar test results, would assign different grades to their tires. Accordingly, NHTSA issued a notice of proposed rulemaking requesting comment on a standardized process for translating test results into grades (46 FR 10429, February 2, 1981). Commenters generally criticized the proposed process, particularly for its failure to account properly for undergrading. The agency is continuing its efforts aimed at developing a uniform procedure for translating test results into treadwear grades. However, until this problem is resolved, the unreliability of treadwear grades is compounded by the fact that the relationship between test results and assigned grades is not a constant one from manufacturer to manufacturer.

Variability inherent in the nature of tire structure. A potential for an unquantified degree of variability is inherent in the differences between seemingly identical (i.e., in terms of brand, line, size and manufacturing lot) tires. The potential arises from the complex combination of a variety of factors, including the materials, designs and manufacturing procedures, that go into the production of tires. The materials include the rubber composition and various reinforcing materials such as rayon, steel, polyester, etc., which themselves are developed from complicated manufacturing processes. The design of a tire includes such factors as the cross section shape, the orientation and structure of the reinforcing materials, the tread design and the construction (bias, bias-belted or radial). The manufacturing procedures include the processes employed during manufacturing and the conditions such as temperatures and times of vulcanization. Separately and together, these variables can have a significant effect on tread life.

In the production of tires, the manufacturers use a variety of techniques in an attempt to control all of these variables and to achieve a consistent level of quality and performance for their different products. The success of these efforts varies from tire line to tire line, lot to lot, and from manufacturer to manufacturer. The complexity of the entire process will inevitably lead to some variation in performance, including treadwear performance between nominally identical tires.

Notice of Proposed Rulemaking

Based on the assertions and submissions of the tire manufacturers and the agency's review of the test procedures and of its own enforcement data, the agency tentatively concluded in July 1982 that treadwear grading under UTQGS should be suspended pending completion of research regarding the extent to which the sources of variability could be isolated and reduced. Accordingly, it issued a notice of proposed rulemaking to obtain both written comments and oral testimony on suspending treadwear grading (47 FR 30084, July 12, 1982) and to schedule a public meeting August 12, 1982. The agency stated that it was issuing the proposal principally to avoid the dissemination of information potentially misleading to consumers and secondarily to minimize the imposition of unwarranted compliance costs on industry and consumers. The agency noted its concern that the treadwear grading was not only failing to achieve its statutory goal of informing consumers, but also affirmatively misleading them.

In defending UTQGS against earlier judicial challenges, NHTSA had taken the position that the treadwear test procedure was adequately specified to ensure that test result variability was limited to acceptable levels. See *B. F. Goodrich v. Department of*

Transportation, 541 F. 2d 1178 (6th Cir. 1976) (hereinafter referred to as *"Goodrich I"*); and *B. F. Goodrich v. Department of Transportation*, 592 F. 2d 322 (6th Cir. 1979). For example, the agency had stated in the *Goodrich I* litigation that variables in the testing procedure are controlled and taken into account, principally through the selection of a single test course and the use of CMT's. With respect to certain potential sources of variability, the agency stated that their effects on treadwear testing and grading would be minimal. The agency indicated in its suspension proposal that it could no longer make the same representations. These statements have been further undermined by information now available to the agency.

The notice summarized the material relied upon by the agency in making its tentative conclusions, including the information and arguments submitted by the tire manufacturers. Firestone Tire and Rubber Company, for example, found that treadwear test results could vary up to 30 percent even for CMT tires, which are specially manufactured for maximum homogeneity. That company also pointed out several possible causes of the variability, including variability in test vehicles and driver techniques as well as deficiencies in the details of the test procedures themselves. General Tire and Rubber Company reported additional sources of variability, including vehicle wheel alignment, weight distribution and test course environmental factors. B. F. Goodrich Company stated that differences in tire tread composition between candidate tires being tested and the CMT's could be a major source of variability. As a group, the tire manufacturers generally contended that the variability of the test results is too great to permit meaningful treadwear test grading or compliance testing. The agency's own preliminary research confirms this conclusion and supports the need for the suspension.

The proposal also discussed the agency's enforcement data and described at length the review conducted by NHTSA of the treadwear testing companies. The agency emphasized that the list of sources of variability mentioned in the review was not exhaustive, but intended merely to be illustrative of the types of possible sources and of the difficulties which exist in seeking to establish a treadwear test procedure that could produce valid, repeatable results. The agency found that the combination of the examined sources represented a potential for test result variability of serious dimensions. Each potential source of variability was described and the potential effect of them on test results was estimated. For example effects of ±34 or 35 points were estimated for two sources of variability and ±14 points for another.

Summary of Comments on Proposal

Written comments and oral testimony were received from a variety of sources, although the most detailed ones were from tire manufacturers. While there was a division of opinion regarding the merits of the proposal, most commenters favored the suspension. Proponents of the suspension included tire manufacturers, several tire manufacturers' associations, tire dealers, a motor vehicle manufacturer, some consumers, and a public interest group. Proponents agreed with the agency's statement that the treadwear test results and grades were so variable and unreliable as to confuse and mislead consumers. They also listed again the factors that they thought were causing the variability. Some proponents suggested that the problems are so serious that simple suspension was inadequate. They urged that the agency go further and rescind the treadwear provisions altogether.

Opponents of the proposed suspension included one tire manufacturer, a tire dealer, a public interest group, a county consumer protection agency, and a number of consumers. The tire manufacturer argued that the treadwear grade information was sufficiently correlated with actual differences in tire performance to be helpful to those consumers who use that information. It acknowledged that there was variability in the treadwear test results and differences in the grade assignment practices, but contended that these problems could be satisfactorily controlled through further identified changes in UTQGS. The manufacturer argued that even if there were difficulties in enforcing the current treadwear requirements, the overall value of the comparative treadwear information justified retention of the requirements while the enforcement problems were addressed. The public interest group argued that NHTSA was ignoring its statutory mandate, as interpreted by that group, in contemplating a suspension of treadwear grading. That opponent argued further that the agency had artificially narrowed the options under consideration in this rulemaking proceeding.

Two tire testing companies submitted detailed comments regarding their testing practices. They generally argued that the problems discussed in the agency's review of testing companies did not apply to them. One asserted further that the suspension would have a severe economic impact in the San Angelo, Texas area, where treadwear tests are conducted. The San Angelo Chamber of Commerce concurred in that assessment.

Summary of Suspension Decision

NHTSA has decided to suspend the treadwear provisions of UTQGS because available information and analysis indicate that the treadwear grades are apparently not only failing to aid many consumers, but are also affirmatively misleading them in their selection of new tires. The capacity of these grades to mislead consumers arises principally from variability in treadwear test results unrelated to actual differences in measured or projected performance, and secondarily from differences among manufacturers in their translation of test results into grades. In its proposal, the agency identified some of the wide variety of uncontrolled sources of variability in the insufficiently specific treadwear test procedures. The agency has been able to quantify the effect of only some of those sources. Other sources are believed to exist and continue to be discovered. Indeed, the tire manufacturer opposing the suspension reported only last November its discovery of a "major unreported source of variability." (Letter from R. H. Snyder, Uniroyal Tire Company, to Raymond Peck, NHTSA Administrator, November 12, 1982, Docket 25, Notice 47, No. 090.)

In their comments to the agency, the opponents of the suspension did not controvert the premise of the agency that there is substantial variability in test results and that there are specific identified sources of much of that variability. The tire manufacturer opposing suspension conceded that test result variability and differences in grading practices can be so large as to result in changes between the order in which tires are ranked based on test results and the order in which they are ranked based on grades. Indeed, comparisons of the agency's own compliance test data and grades assigned by the tire manufacturers indicate that these ranking changes occur with some frequency and can be substantial. Moreover, the opponents did not deny that there were significant problems with enforcing the treadwear requirements of Part 575 as they are now written.

Where the rank order of measured performances or assigned grades

changes, it is clear that only one of such differing results can in fact be objectively correct and valid. Any such change in ranking thus represents a clear and present danger that grades can be affirmatively misleading. Resulting purchasing decisions based on such incorrect grades are not merely wrong, but represent instances in which the government-created program of consumer assistance through the dissemination of objective comparative information has in fact affirmatively misled the consumers which are intended to be assisted.

Although the sources of variability may ultimately be controllable to the extent that the variability and unreliability derived from treadwear test results and grades are reduced to lower, more acceptable levels, considerable research must be completed before that is even a possibility. Even if such research were now complete, it is not clear at this point how much of the current test-derived variability and unreliability could be eliminated. Much of the necessary research has already been initiated. When the research is completed, the agency will address the question of whether the problems can be reduced to the point that it can begin considering whether to reinstate the UTQGS treadwear system.

Rationale for Suspension Decision

Magnitude of the Overall Variability and Reliability Problem

Available data demonstrate that the treadwear test results can vary substantially and that the treadwear grades assigned by the manufacturers are unreliable for the purposes of comparing tires. Data submitted by the tire manufacturers indicate that subjecting tires of a particular type and line to the same tests on separate occasions produces differences in test results of up to 80 points. The agency's own compliance test data include examples of significant test result variability.[1]

Moreover, in addition to test result variability, the process of assigning grades can and demonstrably has introduced other unacceptable levels of uncertainty as far as the consumer is concerned. Treadwear grades are often not a reliable indicator of the relative tread life of tires because the order in which tires are ranked on the basis of test results can differ significantly from the order in which they are ranked on the basis of grades. The magnitude of these crossovers (i.e., changes in rank) can be substantial, as is shown in a graph which B. F. Goodrich constructed by plotting the agency's enforcement data against the grades assigned by the tire manufacturers for the same tires. (This is the same graph shown on page III–2 of the agency's regulatory evaluation for this rulemaking action and is similar to one prepared by Uniroyal.) Goodrich's graph includes information on radial ply tires primarily, although it also covers tires of other construction types. There are numerous examples in the graph of tires whose test results fell within a 10 point range, but whose assigned grades were spread over an 80 to 100 point range. Some tires had average test results which were 10 points below those of other tries, but were assigned grades as much as 60 or 70 points higher. Some tires assigned the same grade had average test results that were scattered over a 100 point range. These phenomena are not restricted to a particular portion of the graph, but exist throughout, from the left side where bias ply and bias belted tires predominate to the right side where radial ply tires predominate.

The magnitude and pervasiveness of the crossovers and grading quirks means that the treadwear grades have the capacity for more than simply confusing consumers about the relative performance of tires exhibiting nearly the same performance. The possibility exists for confusion even between some tires in the lower third percentile and some tires in the upper third percentile of treadwear performance. Thus, whether a prospective purchaser seeking the particular size (i.e., diameter) of tire appropriate for his or her vehicle is looking at the entire spectrum of construction types, or is focusing on a single construction type only, there is a significant possibility that the person may be mislead about the relative performance of tires. The possiblity is greatest in the latter case, since the smaller the difference in actual performance between tires under consideration, the greater the probability that test variability and crossovers will cause the grades of those tires to be misleading about the relative performance of those tires. The ranges in grades for particular construction types are not very large when compared with the magnitude of the problems created by test variability and crossovers. Treadwear grades typically range from 60–120 (a 60 point range) for bias ply tires of all sizes, 90–150 (a 60 point range) for bias belted tires of all sizes, 120–200 (an 80 point range) for 13 inch diameter radial ply tires, and 160–220 (a 60 point range) for 13 inch diameter radial ply tires, and 160–220 (a 60 point range) for 14 inch radial ply tires, and 170–220 (a 50 point range) for 15 inch radial ply tires. The ranges for radials are particularly relevant since radials account for most original equipment tires on new cars and a substantial majority of replacement tires for used cars.

It is considered especially significant that the occurrence of such rank changes is not uncommon. For examples for each of a majority of the tires in Goodrich's graph, other tires could be found in the graph which had a lower assigned grade but which, based on compliance test results, exhibited superior performance.

Although the agency recognizes that the graphs submitted by Goodrich and Uniroyal reflect, in part, manufacturer-to-manufacturer differences in grade assignment procedures and not just variability in test results, the agency considers the analyses made using the graphs to be significant since they point out the extent to which consumers may in fact be misled by treadwear grades. In its analysis, Uniroyal calculated a correlation coefficient of 0.763 for the two variables (test results and grades),[2] and a similar rank order correlation. The coefficient of 0.763 implies that only about 58 percent (the square of the correlation coefficient) of the variation in tire treadwear grades can be explained by actual differences in treadwear performance. The agency estimates that as many as 10 of the 40 percentage points of unexplained variability may be due to differences in grade assignment practices.[3]

[1] The agency believes that the enforcement data are a particularly significant source of information since the data comprise the most complete set of test results available. They reflect consistent application of test procedures under the direction of a single party, the agency, under circumstances involving the greatest incentive of any interested party to minimize variability in data, the exigencies of the certainty required for enforcement purposes. In fact, to attempt to resolve doubts as to variability, the agency has in fact refined its enforcement test procedures to a greater extent than is required by Part 575. For example, all enforcement tests are conducted by a single contractor, eliminating the influence of differences between test facilities. Highly accurate electronics scales are used to determine wheel loads. Very precise wheel alignment equipment is used. That equipment has been operated by the same skilled technicians for all compliance tests since mid-1981. Thus, NHTSA believes that statements regarding test variability which are based on these enforcement data could tend only to understate the variability experienced by others in testing tires and assigning grades.

[2] Using a slightly different data base, B. F. Goodrich calculated a correlation coefficient of 0.78 between the agency's enforcement test results and assigned grades.

[3] While the argument has been made that this aspect of variability should not be taken into account because it is entirely within the control of

In reaching its decision that currently documented levels of variability are unreasonable and cannot sustain retention of the UTQGS treadwear grading requirements in their present form, the agency has been guided by two principal conclusions: first, the rank order of test results and the rank order of assigned grades can and do change with repeated testing under currently allowable procedures. This result has also taken place when the agency's own, far more carefully controlled compliance efforts are the basis for the test.

Second, the levels of certainty and predictability which the agency expected would be achieved over time and which the agency so represented to the courts which have upheld UTQGS against charges of unacceptable uncertainty, have not been achieved in fact.

At a minimum, the agency concludes that such a level of potential rank order change, under applicable test procedures, is unacceptable. The agency also concludes that unless the level of certainty previously asserted by the government in litigation can be verified to exist, the continued integrity of the process is undermined to a separate and unsupportable degree.

Agency research is thus primarily directed to the determination of the degree to which these effects can be eliminated.

Specific Sources of Variability

The agency's proposal described a variety of potential sources of variability in the treadwear test results based on a review of testing being done in San Angelo. The tire manufacturers supporting the suspension, and the commenting tire testing companies generally agreed that many of such sources contributed to test result variability. While some commenters, especially two testing companies describing in detail their own testing practices, disputed the magnitude of the variability that could be caused by several of the sources, it remains uncontroverted that the sources identified in the proposal are potential contributors to variability.

One such testing company objected to the inference it drew from the proposal that the agency believed that the testing companies as a group were to blame for the variability in the test results. That company also stated its belief that the proposal unfairly criticized the practices of testing companies as though all such companies followed identical practices. The agency recognizes, and reaffirms its conclusions, that the primary source of test variability lies in the shortcomings of the test procedures themselves. Further, it rejects any implication that the testing companies were improperly following such procedures.

The agency emphasizes that the list of sources in the proposal was not exhaustive. The proposal specifically noted that the list was included for illustrative purposes only. It was recognized that additional research would likely reveal other sources, of the indisputable and undisputed levels of variability. Indeed, the record of comments has provided information regarding several previously unmentioned sources of variability, e.g., tire/wheel rim width combinations and the effect of rubber's high coefficient of thermal expansion on tire groove depth measurement.

The following specific sources of variability have been confirmed by the agency as a result of the current rulemaking proceeding.

Problems of instrumentation: Scales. Some testing companies use scales that are designed for weighing objects up to 20,000 pounds. Scales are rarely accurate below 10 percent of their maximum measuring capacity. Since the loads being weighed for UTQGS purposes are less than half that level, the potential for inaccurately loading the tires on the test cars is obvious. This problem is compounded by the inability of many such scales to provide readings more precise than at 5 pound intervals. The combination of these factors could lead to significant potential measurement errors.

Using a ratio of 1:4 between changes in load and changes in treadwear, the agency stated in its proposal that a 20 to 30 pound error in measuring a 700 to 800 pound load could cause test results errors of ±20 to 34 points in a tire with a treadwear grade of 200. The two tire testing companies submitting detailed comments stated that their own scales are regularly calibrated, and that maximum weighing errors of not more than 10 pounds could be expected under such circumstances. One of the companies also argued that the ratio between load changes and treadwear changes is actually closer to 1:1. The agency cannot now determine with certainty the correct ratio between changes in tire load and changes in treadwear. Even assuming such actual ratio may be lower than 1:4, the agency believes that scale miscalibration is a factor that can potentially contribute significantly to variability in treadwear test results.

Tread depth probes. Tire testing companies currently measure tread depth by means of either mechanical gauges with dial indicators or electronic devices which translate probe displacement into a voltage reading in mils or thousandths of an inch. NHTSA's tests of measurement devices produced measurement errors of between 3 and 5 mils for electronic probes and up to 10 mils for mechanical gauges, with the magnitude of error appearing to depend on the amount of pressure placed on the probe. Variations in pressure can be caused by differences in strength or technique among personnel or even by the gradual effect of fatigue on a given technician. The resulting measurement differences on tires graded from 160 to 200 can cause treadwear grading errors of ±2 to 3 points. The two tire testing companies argued that measurement errors of 10 mils were in fact difficult to achieve and would not normally be expected to occur. The agency concurs that the typical such error would be expected to be less than 10 mils, but concludes that variation in the pressure placed on the probes remains one of the potential sources which collectively have produced high levels of test variability.

Electronic probes are subject to other sources of measurement error. The lack of temperature compensation in some of the electronic probes can cause drifts in both the zero reading and the gain. One tire testing company did note that its electronic probes are attached directly to a computer, and asserted that they are capable of measuring accurately over a wide range of temperatures. While such drift can be corrected for in such a process, the agency has determined that such corrections are not in fact routinely sought or made by testing companies in general. Further, any change in probe force at the bottom of the groove for tires with varying hardness will generate different tread depth readings depending on the spring constant, the amount of deflection used in the design, and the shape of the tip on the electronic probe. The use of uncalibrated springs produces additional measurement differences.

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the grading manufacturer, the agency is not able to conclude from the data before it that any actually assigned grade is without basis in test data. In implementing the statute to determine whether the sanctions imposed by the statute and agency regulation should be applied to given manufacturers, the agency has been forced to conclude that all assigned grades so reviewed have been reasonable, based on agency and manufacturer supporting data. Under such circumstances, the agency finds that the overwhelming policy purpose of the UTQGS to inform consumers of comparative tire data, in a meaningful way (i.e., one that is valid, reasonably accurate, and objectively verifiable for enforcement purposes) in order to affect their tire purchase decisions, requires that this uncertainty also be taken into account.

Wheel alignment equipment and procedures. The agency has determined that treadwear is very sensitive to wheel alignment, much more so than had previously been understood by interested parties. One of the two tire testing companies agreed with this proposition. B. F. Goodrich supported this proposition by asserting that 1/32 of an inch increase in toe-in can decrease tread life by 15 to 30 percent. Since Part 575 permits the wheels to be aligned anywhere within the vehicle manufacturers' specified range of acceptable alignments, differences in toe-in are possible. Armstrong Rubber Company cited various vehicle manufacturer specifications which had a minimum-to-maximum range of from 2/32 to 1 1/32 of an inch.

The comments on the proposal reveal that the use of different toe-in settings for a given vehicle can and do occur. Some testing companies align wheels to the minimum toe-in setting within the acceptable range while others align to the mid-point of the range. Indeed, practices of the two commenting tire testing companies vary in precisely this fashion, with one aligning to the minimum point and the other to the mid-point.

Differences in wheel alignment may also occur as a result of differences in the frequency of wheel alignment and in the skill of the technicians who perform the alignments. The two tire testing commenters asserted that they use accurate alignment equipment and well-trained personnel. Assuming this to be true for these particular companies, however, does not remove wheel alignment as a potential source of variability even with respect to their testing. As noted above, the wheel alignment practices of these two companies vary significantly. Further, for these as well as the other tire testing companies, the problem of maintaining the alignment equipment in proper adjustment is a formidable one. Although all testers have suitable alignment equipment, their success in using it to achieve accurate results depends on the skill of the technicians operating it, the calibration of the equipment and the frequency of alignment during a test.

Problems of measurement. The agency believes that several measurement problems contribute to variability as well. Observed but currently unquantifiable measurement errors occur as a result of information feedback during testing, i.e., access by measuring personnel to the previous day's tread depth measurements and resulting conscious or unconscious bias to parallel or duplicate those measurements. The agency also believes error to be caused by the documented practice of some testing companies to establish an absolute level of coefficient of variation, i.e., the degree of variability among the separate measurements of depth in the same groove around the circumference of the tire. Some technicians tend to "hunt" for groove depths as uniform as possible around the circumference of the tire, on the understandable but not factually supportable or recognizable assumption that such variation should be minimized.

One tire testing company indicated in its comments that it took steps to avoid these sources of variability. Even assuming this company is fully successful in that effort, the agency believes that such problems exist for other testing companies, and would compromise the success of the program unless all companies were equally successful.

Problems with vehicle maintenance and use. The agency continues to believe that factors relating to the test cars produce substantial variability. One of these factors is the wide variation found in the approaches of the testing companies to achieving a proper vertical load on a tire. Some testing companies allow the weight to be placed forward of the front wheels, rearward of the rear wheels or even on the vehicle exterior. In addition, some but not all companies place heavy deer guards on the front of their test cars. [4]

The overloading of some test cars also produces unquantifiable effects on treadwear test results. Some testing companies load their cars to whatever weight is required to achieve the appropriate load level for a test tire. As a result, the gross vehicle weight rating for the specific cars themselves may be exceeded, necessitating the use of special springs or shims to reestablish normal ride height. Such heavy loads can cause the cars to bottom out, while the variations in springs create differences in roll stiffness and weight transfer among vehicles of the same type.

Each of the practices introduce changes in the handling characteristics of the cars and in different polar moments of inertia, between and among wheels, vehicles and the entire test fleet. These factors would produce different rates of tire wear as the cars corner, accelerate or decelerate.

[4] Some tire testing companies stated that weight is removed from their cars to compensate for the deer guards. However, the agency did not observe any accurate means of weight compensation.

The two commenting tire testing companies indicated that they attempt to control these sources of variability. However, there is no evidence that those efforts are fully successful, and agency observations indicates that the other companies are not in practice as careful as those two companies.

Problems with drivers and weather conditions. The agency found in its review that drivers of the test cars varied significantly in their skill and driving techniques. These differences are reflected in the frequency and severity of accelerations and decelerations. Further, the agency believes that adverse weather conditions may affect driving techniques and thereby treadwear. One tire testing company indicated that it carefully sought to limit these sources of variability. However, not all testing companies have adopted the same measures. In addition, adverse weather conditions cannot be controlled.

CMT tread composition. Most CMT's do not currently have tread composition similar to that of most candidate tires. As a result, a substantial question has been raised as to whether the use of the CMT measurements in fact validly compensate for environmental effects upon candidate tire wear. The last two lots of radial CMT's contained about 30 percent natural rubber. Most tires produced in the U.S. do not contain any natural rubber, while some Japanese tires contain substantial quantities of it. The presence of a significant percentage of natural rubber in CMT's is important since natural rubber is more sensitive to temperature changes than the current tread compounds used in tires, and in general wears at a faster rate in hot weather than the current materials do. Thus, where the CMT in use contains a large percentage of natural rubber and the candidate tires do not, candidate tires graded in hot weather would be expected to have higher grades than those graded in cool weather.

The significance of CMT tread composition appears to be borne out by a report from B. F. Goodrich. That company stated that candidate tires made of compounds similar to that of the CMT's received more consistent ratings than those whose compounds were less similar. B. F. Goodrich's analysis indicates also that the latter tires can receive different relative rankings.

Wheel rim width. Armstrong asserted in comments that the tolerance permitted on rim widths to be used with a given size of tire is a significant source of variability. The agency lacks any corroborative information with respect

to this previously unrecognized problem, but will address the issue as another potential source of variability as efforts continue to complete research on treadwear testing variability.

Grade assignment practices. There are significant differences among the tire manufacturers in the procedures they use to translate treadwear test results into grades. These differences arise partially from the differing degree of conservation that the various manufacturers exercise in selecting a grade for a group of tires so as to ensure that the performance of all tires in the group exceed that grade as required by Part 575 (See discussion above).

Uniroyal Petition

On January 21, 1983, Uniroyal petitioned the agency to make three significant changes to the treadwear test procedures. These changes involve a new procedure for running CMT's, the rotation of candidate tires through each wheel position in a four-car convoy, and a doubling of the break-in period.

The agency has completed its preliminary review of this petition and, in view of the pendency of the current proceeding, has also taken it into account as if it were a supplementary filing to the docket.[5]

Under the Uniroyal petition, CMT's would no longer be run in the same convoys as candidate tires, but in a separate convoy using CMT's exclusively. The CMT's would be rotated through each position in the CMT convoy. This procedure is claimed to substantially reduce vehicle and driver related sources of variability, while reducing costs. However, its validity depends upon the accuracy of Uniroyal's conclusion that the course environment factors measured by the CMT process do not produce rapidly changing treadwear effects, i.e., that the course environment effect on treadwear changes slowly, if at all.

Similarly, the rotation of candidate tires through each position in the test convoys is claimed by Uniroyal to greatly reduce driver and vehicle related variability for those tires. All vehicles in a convoy would be nominally identical. No front wheel drive vehicles could be used due, according to Uniroyal, to "load distribution problems." Uniroyal does not state how it would deal with the problem of declining number of rear wheel drive models being produced, and the difficulty in matching all tire lines with the limited number of those models.

Finally, Uniroyal found that the break-in effect for new tires occurred beyond the 800 mile period currently specified in the regulations. It stated that establishing a longer period would provide a more accurate estimate of treadwear rates.

NHTSA regards Uniroyal's petition as further evidence of the necessity for suspending the treadwear provisions of UTQGS while the agency conducts research and testing to determine the feasibility of reducing variability to more acceptable levels. Uniroyal has revealed yet another previously unidentified factor, barometric pressure, apparently capable of contributing significantly to the variability of test results. Although Uniroyal has proposed several changes which it believes would substantially reduce certain sources of variability, it does not suggest how other factors identified in its petition are to be addressed.

Those factors are barometric pressure, temperature and wet road surfaces. Uniroyal supplied information indicating that the manner in which temperature differences affect treadwear is more complicated than previously supposed. While some compounds wear more rapidly as temperature increases, Uniroyal reported the example of a tire which wore more rapidly as temperature decreased. Further, the degree of temperature effect was substantial. While Uniroyal's testing showed that one family of tires was only slightly affected by an eight degree average temperature difference, that same difference caused a 20 percent change in wear rate for another family of tires. Further, Uniroyal noted that wet road surfaces could significantly affect the rate of treadwear and admitted that some allowance must be made for this phenomenon, but didn't indicate how that might be accomplished.

Much of the work done by Uniroyal in support of its proposal is similar to the agency's ongoing research, and it may be that the agency's efforts will lead to the development of test procedures similar to those suggested by Uniroyal. However, Uniroyal's work does not obviate the need for NHTSA to complete its own research and testing and make its own judgments about the changes that might be made to the test procedures. The agency cannot now conclude that Uniroyal proposal would reduce test variability to acceptable levels. Much more research and testing would be necessary before the agency could even consider proposing to adopt those or any other significant changes.

Not only would the agency need to address the significance of the failure of Uniroyal's proposals to address certain sources of variability, but it would also need to examine the implications of Uniroyal's proposals which in some cases go well beyond those suggested by Uniroyal in its petition. For example, Uniroyal's proposal for rotating candidate tires through each of 16 wheel positions on test convoys would necessitate a doubling of the mileage driven by treadwear testing convoys from 6,400 miles to 12,800 miles (16 × 800). The additional expense and time necessary to conduct such extended testing would be substantial.

Further, although Uniroyal urges the making of substantial and fundamental changes to the treadwear test procedures and the theory underlying those procedures, it argues, without providing the basis for that argument, that there would not be any necessity for retesting all tires in accordance with the modified procedures. Uniroyal apparently contemplates a marketplace in which some tires that were tested and graded under the existing, inadequate procedures are offered for sale side-by-side with others that are tested under new, revised procedures. Thus, Uniroyal would allow the continued dissemination of misleading treadwear information.

In the agency's judgment, the need to make these types of substantial and fundamental changes would render wholesale retesting and suspension unavoidable. The inescapable conclusion from the necessity of making these changes is that the grades generated under the existing procedures are unreliable and should not be presented to the public as a basis for choosing between alternative tires. Further, since the grades that would be assigned to a particular tire if tested under the current and new procedures would differ, the grades would be inherently incompatible. As a matter of responsibility to the consumer and of fairness, the agency could not contemplate the simultaneous use of two fundamentally different yardsticks to measure the treadwear performance of tires.

To avoid this situation, all tires would have to be retested and regraded. To provide time for the completion of these activities and to ensure that substantial numbers of tires graded under the existing procedures are not still in the marketplace when the tires graded under the new ones are introduced, a

[5] The disposition at this time of the pending notice of rulemaking does not, of course, affect the pendency of this petition before the agency, since only a suspension of the UTQGS is involved. The petition will thus be treated both as a comment to the current proposal and as a petition directed toward the modification of the suspended portion of the UTQGS and a request for their reinstatement as so modified.

suspension of the treadwear testing requirements would be necessary.

Inadequacy of Alternatives

NHTSA considered several alternative courses of action in reaching its decision. In addition to suspending the treadwear grading provisions of Part 575, the agency considered rescinding them. NHTSA also considered retaining the provisions intact while it conducted its research and attempted to determine whether modifications to the test procedures and grade assignment practices could reduce variability to acceptable levels for UTQGS purposes.

Rescission. Several commenters argued that the problems with the treadwear grading program were so substantial and intractable that rescission of the treadwear provisions was the only appropriate step for the agency to take at this time. While the agency believes that the problems now identified with respect to the UTQGS treadwear ratings are extensive and serious, that some of them can be addressed only after substantial research, and that some or all may not be fully solved even then, it is convinced there is a substantial possibility that its planned research could eventually lead to amendments that would reduce identified treadwear test result variability to acceptable levels. For example, if the agency were able to develop an appropriate procedure for rotating all tires among the cars in a test convoy, the contribution of vehicle and driver effects to test result variability might be greatly reduced. Similarly, the agency's development and adoption of statistical procedures that would bring uniformity to the translation of test results into grades might contribute significantly to reliable treadwear grading.

In such a case, any remaining variability could more confidently be able to be considered attributable to the inherent complexity of tires themselves. At that stage, a failure to attain significant improvements in the repeatability or reproducibility of tests might well force the agency to the conclusion that no grading system based on measured and projected treadwear could be possible.

Precisely because of the levels of uncertainty now understood to exist as a result of test result variability, however, the agency is not now able to assess whether or not this will likely be the case. Absent some further evidence on this point, and taking into account the positive benefits to the consumer and the orderly working of the market place which a properly functioning UTQGS treadwear system would produce, the agency is unwilling to rescind the program of treadwear rating entirely at this time.

Continue treadwear grading and make improvements in treadwear grading process as they are developed. While conceding that there are variability problems, several commenters argued that the treadwear grades are still sufficiently useful to warrant their retention. They argued further that the agency should simply proceed to make available changes to the treadwear testing procedures and adopt other changes as they are developed. One commenter argued that if the treadwear grading information were more accurate than the information which previously existed in the marketplace, the agency was obligated to continue treadwear grading.

NHTSA believes that the critical issue is in this case not merely whether the treadwear grading provisions are currently fulfilling their statutory objective, that of assisting consumers to make informed choices in purchasing new tires, but of equal or greater importance whether such provisions may to the contrary be affirmatively frustrating the achievement of that objective. As interpreted by the 6th Circuit Court of Appeals, the UTQGS provisions in section 203 of the Act do not contemplate "theoretical perfection" in providing such assistance. *Goodrich I*, at 1189. It calls only for "reasonably fair and reasonably reliable grading procedures." *Id.* The agency believes that this is an appropriate statement of the principal underlying test of certainty which the procedures should satisfy. Procedures which fail to meet that test will tend inappropriately to increase the sales of some tires and decrease those of other tires through inaccurately representing the relative performance of either or both.

In the agency's view, it appears that the current procedures fail to meet that reasonableness test on several counts. Such procedures are not reasonably reliable because of the excessive magnitude of the overall variability.

Moreover, the grades produced under the treadwear grading procedures are not merely imperfect, they appear to be affirmatively misleading.

These problems are not minor. They do not affect only those tires which differ moderately in performance. As noted above in the discussion of the overall variability and reliability problem, the rank reversals produced by the procedures can be substantial and are not uncommon. Tires which are significantly superior to others in performance may be graded significantly below those tires, and vice versa. Tires whose test results show performance differences of up to 100 points may be assigned the same grade.

Thus, while some consumers might be aided in choosing between some tires, particularly those with very substantial differences (greater than 100 points) in treadwear performance, there appears to be a significant likelihood that consumers choosing among closer performing tires will be misled. The agency believes that most consumers fall into the latter category. As noted above, the threshold considerations of tire size and tire construction type should lead most persons considering the purchase of a new tire to look at a universe of potential candidate tires for purchase whose treadwear grades differ by significantly less than 100 points. Accordingly, it appears that the treadwear grading procedures are neither reasonably fair to the tire manufacturers nor reasonably reliable in guiding those consumers who will in fact be purchasing tires for a given vehicle.

The agency believes that the unreasonableness of the level of reliability of the current treadwear grading procedures is compounded by the possibility that many of the identified sources of variability, and thus the overall level of variability, might eventually be able to be significantly reduced, after a period of research and testing, at costs that are not prohibitive.

The agency regulatory evaluation discusses a wide range of possible changes that the agency believes could ultimately reduce test-induced variability to more acceptable levels. Among these are requirements for calibration of alignment equipment, tighter specifications for alignment, load distribution, tire-rim width matchings and CMT composition, prohibition against information feedback, standardization of equipment calibration and tread measurement procedures, limitations on driver acceleration rates and cornering techniques, limitations on tire temperature during tread depth measurement, standardization or elimination of deer guards, standardized statistical procedure for grade assignment, and rotation of candidate and CMT's tires among test cars. The actions which appear at this point to hold the greatest potential for improving the reliability of the grades are adoption of the grade assignment procedure, rotation of the tires, more precise specification of wheel alignment, and specification of the composition of CMT's.

The relative importance of many of these factors is currently unknown. As a result, it is not possible to determine or assess what actual result in improved repeatability may be achievable, and how or at what level such an improved result might be determined to be acceptable. However, the agency believes that together such factors contribute substantially to the variability of treadwear test results and unreliability of the resulting grades. The agency's research efforts are expected to provide information about the relative importance of individual sources of variability and the degree to which each source can be controlled.

The agency expects that its research and testing will also provide an indication of the cost of implementing controls on these factors. Based on the costs of the current procedures, the agency has no current basis for concluding whether the costs associated with effective controls would be reasonable either separately or collectively. The current cost of treadwear testing is an average of $.09 per tire. Based on indications from Goodyear that the retail markups for manufacturing costs may be 100 percent, that testing cost would have an $.18 retail price effect, against a retail price of $40 to $70 for a new tire. Thus, for example, a doubling of testing expenses would bring the retail price effect of testing costs up to an average of only $.36 per tire, a presumptively reasonable economic impact in and of itself.

As to the suggestion that the agency immediately commence to make changes in the treadwear testing procedures and make other changes as they are developed, the agency emphasizes that its research and testing have not proceeded sufficiently to enable it to determine either precisely how to define and implement the individual changes or which of those changes will make enough of a contribution to reducing overall variability to warrant adoption. The agency does not believe that the few currently acknowledged options would make a significant change in the overall level of variability. Identifying the range of necessary and appropriate changes will require iterative testing, given the interplay of the many sources of variability.

The issue of adopting an appropriate statistical procedure to standardize the assignment of grades bears special mention. Although the agency has already proposed such a procedure (46 FR 10429, February 2, 1981), commenters on that proposal pointed out a variety of shortcomings, particularly with respect to its failure to properly account for undergrading. No commenter in the present rulemaking proceeding has suggested that the procedure as proposed in February 1981 be adopted at this time. The agency is continuing its analysis of the extent and nature of the changes which might be made to the proposal.

The agency does not agree with the suggestion by a public interest group that the mere possibility that the current treadwear grading information may be better than pre-UTQGS information on treadwear would justify continuation of treadwear grading during the period of any further review. In NHTSA's judgment, it is not clear whether and to what extent the UTQGS treadwear information would in fact be superior to any or all information previously available for distinguishing between tires on the basis of expected tread life. To the degree that the UTQGS system is arguably superior in format and direct comparability among tire lines or manufacturers, however, such apparent advantage derives entirely from those aspects of the system which the agency has found to be most flawed: the accuracy and validity of the UTQGS value as expressed in the grade. Stated differently, it is precisely that aspect of the UTQGS which distinguishes it from market claims of manufacturers which also introduces the clear probability that false information is being disseminated by or under the auspices of the government itself. The probable objective falsity of at least some of the information now being disseminated through UTQGS converts the clarity and apparent simplicity of the UTQGS reporting format from an asset to its most damaging liability. Fully cognizant of the view expressed by this commenter that some information, or a less than perfect-functioning system, is better than no information or no system at all, the agency cannot agree. The agency concludes that the government has a superior duty not to participate in such an effort to the probable detriment of consumers, who have every reason to demand, and must necessarily be expected to assume, that such participation implies and connotes, a higher level of certainty that the agency can now find in this well-intentioned effort. Given the shortcomings of the UTQGS system as now understood, price differentials and information voluntarily supplied by the manufacturers as to probable treadwear performance may be as useful to consumers as the current grades.[6]

After weighing the possible benefits of the current grades against the potentially extensive problems created by those grades in their effects on consumers and tire manufacturers NHTSA concludes that the appropriate course of action is suspension pending completion of its research and testing program.

The agency believes that continuing to require the tire manufacturers to comply with the treadwear grading requirements in the interim is not appropriate, because of the above discussed impossibility of enforcing those requirements in an objective way. NHTSA noted in its proposal that the wide variability in its compliance test results prevented the agency from concluding with any certainty whether tires were incapable of achieving the grades assigned to them. Commenters on the proposal did not controvert the agency's statements on this point.

In the agency's opinion, requiring the tire manufacturers and consumers to continue to bear the costs of treadwear testing during the time necessary to complete the research and testing concerning test procedure improvements would be unreasonable and unwarranted since the treadwear grading program is apparently neither reasonably fair to the tire manufacturers nor reasonably reliable as a guide to consumers. Although the cost per tire is not large, those costs total approximately $10 million annually.

Amendments Adopted by This Notice

This notice adopts several amendments relating to the treadwear grading provisions of Part 575. Most important, it adopts a suspension of those provisions effective upon the date that this notice is published in the **Federal Register**. On that date, manufacturers will no longer be required to submit treadwear grading information to this agency or to disseminate it to consumers through moldings on the side of new tires, paper labels on the treads of new tires or consumer information materials. The only information that would be required to be submitted or disseminated on or after that date would

[6] To compound the agency's dilemma on this point, the number of consumers potentially aided by treadwear grading information, and thus the number of consumers potentially misled by an invalid result, is apparently fairly limited. According to information submitted by Uniroyal at the public meeting, only 30 percent of consumers surveyed by them even knew about the UTQGS information, after their promotional efforts, and only 60 percent of those consumers stated they would plan to use that information in making their next tire purchase. Thus, only 18 percent of consumers are potentially benefited, or potentially misled, by the treadwear information.

be traction and temperature resistance grading information.

The agency believes that is ample justification for an immediate effective date. The suspension relieves a restriction and will aid in ending as quickly as is reasonably practicable the possibility that consumers will be misled by the treadwear grading information.

The agency is not requiring that manufacturers immediately cease disseminating treadwear information already printed or embodied on tires or tire molds, through the means formerly required by Part 575. Such a requirement would be impracticable. The greatest problem is associated with the molding of treadwear information on the tires. Discontinuation of that practice would necessitate making changes to the molds being used to produce new tires. Specifically, the manufacturers would have to fill in the indentations used to print the word "TREADWEAR" and the appropriate grade on the sidewall of each new tire. The total cost to the tire industry of making those changes to all molds would be approximately $11 million. Instead of requiring that all molds be changed simultaneously, the agency is requiring that all tires produced in molds manufactured after August 8, 1983, use a format which provides for the molding of only traction and temperature resistance grades on new tires.

Although the manufacturers could cease printing labels and consumer information materials containing treadwear information almost immediately, they are confronted with the problem of existing inventories of labels and materials containing that information. The agency has decided to allow the manufacturers to exhaust those inventories. The agency expects that after the effective date of this suspension, the labels and materials printed and used by the manufacturers to comply with the UTQGS provisions of Part 575 will not contain that information. The continued printing of labels and materials that set forth the treadwear grades without revealing the suspension of the treadwear requirements, or the absence of any participation by the government in procedures to use similar tests or measurement systems as a basis for warranties or other forms of representation as to treadwear expectancy, would be doubly misleading, i.e., it could be misleading as to the relative performance of tires, but also would be misleading as to the current existence of a government sanctioned system for grading treadwear.

The agency believes that the publicity given this notice will minimize the likelihood that consumers will be misled as a result of the continued molding of treadwear information on some new tires and the continued dissemination for a relatively short period of treadwear information by means of labels and other materials. Probable media coverage of the agency's conclusions in taking this action should reduce the extent of any consumer reliance on them. Further, consumers would be even less likely to rely on the grades after the existing inventories of those labels and materials are exhausted. After then, only the grade would appear on the tire. There would not be any explanatory information concerning the development or meaning of the grade. As the molds are replaced, even the treadwear grade would disappear from the tire, during the pendency of this suspension.

Status of Research

As NHTSA noted in its proposal, it has begun several research activities aimed at reducing the variability of treadwear test results. The agency is proceeding diligently to complete these activities. One program discussed above would attempt to establish the relationship between treadwear, tire inflation pressure, and load. The program to develop this relationship is partially completed, with final results expected by the end of February. If such a relationship could be established, it could aid future research to determine the effects of rotating tires through all positions in test car convoys. Rotating tires in this fashion would tend to minimize the variability that is caused by differences in vehicles and in driver techniques. A contract to test the validity of the rotation concept is expected to be awarded by late spring of this year.

Another program is aimed at establishing the effect of reducing tolerances on permitted test vehicle loading configurations, wheel alignment, driver techniques, and tread depth measurement techniques. A contract for this program is expected to be awarded soon.

A third program will attempt to quantify the individual sources of treadwear test variability through a statistical analysis of existing enforcement data. This research program has already begun and should be completed by the end of February.

Research planned for the future includes an attempt to achieve greater accuracy in test equipment, to specify test vehicle maintenance procedures, and to account for differences in the testing and tread depth measurement environment. A contract for this work is expected to be awarded by late summer of this year.

Impact Analyses

NHTSA has determined that this rulemaking proceeding does not involve a major rule within the meaning of Executive Order 12291. However, this action is significant under Department of Transportation regulatory policies and procedures. A regulatory evaluation has been prepared and placed in the rulemaking docket for this action. A free copy of that document can be obtained from the agency's Docket Section at the address stated above.

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact that this rulemaking action will have on small entities. I certify that this action will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required. The agency has concluded that few, if any, manufacturers and brand name owners of passenger car tires are small entities. The agency has concluded further that there will be a small positive impact on these entities in terms of reduced testing costs and elimination of possible market distortion caused by inaccurate grades. Suspension of treadwear grading will result in a cost savings to tire manufacturers and brand name owners of approximately $10 million per year.

This action will lead to employment reductions in San Angelo where the treadwear test course is located. The San Angelo Chamber of Commerce has estimated that roughly 500 jobs with the tire testing companies would be lost. Further, one of the testing companies indicated that:

> A disruption of treadwear testing over a nine to twelve month period while research is in progress will destroy existing test organizations in the San Angelo area and will require an expensive start-up period should testing resume again.

However, those companies are generally small subsidiaries of larger entities. The effects on those larger entities will not be significant. The Chamber estimates further that another 400–500 jobs could be lost in retail and commercial services in the San Angelo area due to reduced spending by the testing companies and the families of their former employees.

The effects of this action on tire prices will not be great enough to significantly affect the tire sales of tire dealers or the

tire purchases of small organizations and governmental units.

The agency has also considered the environmental impacts of this action. While cessation of treadwear testing on the test course may have some beneficial effects on the environment in terms of reduced fuel consumption and reduced air and noise pollution, NHTSA has concluded that the environmental consequences of this action will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 575—CONSUMER INFORMATION REGULATIONS

In consideration of the foregoing, 49 CFR 575.104 is amended as follows:

1. Section 575.104 of Part 575 is amended by adding the following new paragraph (i) as follows:

§ 575.104 [Amended]

* * * * *

(i)(1) *Suspension of treadwear grading.* Effective February 7, 1983, the requirements of this part regarding treadwear grades and information about those grades and the treadwear grading process are suspended. Tires manufactured on or after that date are not required to comply with those requirements.

(2)(i) Effective February 7, 1983, each tire manufacturer or brand name owner shall use one of the methods described in Figure 1 or in Figure 6 for molding grading information on the sidewall of each tire.

(ii) Effective August 8, 1983, each tire manufacturer or brand name owner shall use one of the methods described in Figure 6 for molding grading information on the sidewall of each tire produced in a mold manufactured after that date.

2. Section 575.104 is amended by adding the following new figure at the end of the section.

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(Secs.
Stat. 7
1423);

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OPTION 1

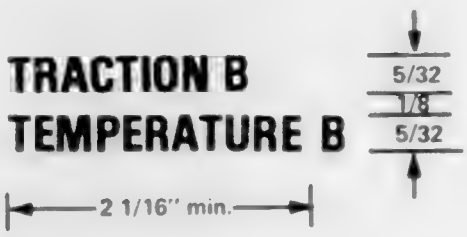

SAMPLE
Quality Grades

OPTION 2

OPTION 3

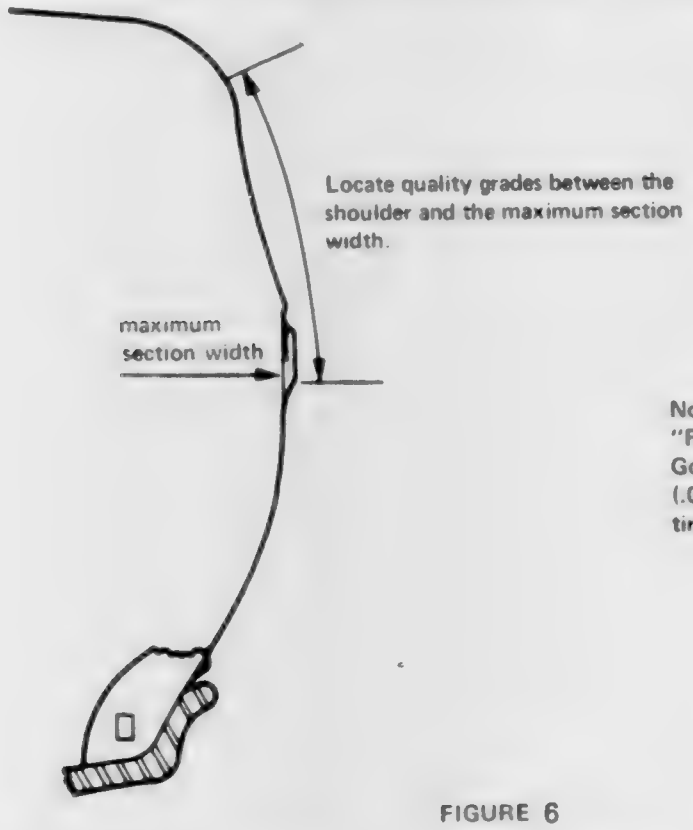

Note: The quality grades shall be in "Futura Bold, Modified, Condensed or Gothic" characters permanently molded (.020 to .040 deep) into or onto the tire as indicated.

FIGURE 6

(Secs. 103, 112, 119, 201, 203, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegation of authority at 49 CFR 1.50)

Issued: February 1, 1983.

Raymond A. Peck, Jr.,
Administrator.

[FR Doc. 83–3289 Filed 2–3–83; 2:39 pm]
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Part V

Office of the Vice President

Federal Regulation of Financial Services; Request for Comments

VOL
48
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OFFICE OF THE VICE PRESIDENT

Federal Regulation of Financial Services

AGENCY: Office of the Vice President.

ACTION: Request for comments.

SUMMARY: The Task Group on Regulation of Financial Services is undertaking a study of the problems of the existing system of Federal regulation of financial institutions and services. Within a period of approximately nine months the Task Group intends to complete its review of the current regulatory system and to make a report to the President concerning any desirable areas for change.

In order to gather the information necessary for this study and to encourage public participation in the process all interested parties are being invited today to present their views on the issues discussed below, or on any other relevant issues they may wish to bring to the attention of the Task Group.

DATE: Comments must be received by March 14, 1983.

ADDRESS: Interested parties are invited to submit two copies of written data, views, or arguments concerning the problems of the existing Federal regulatory structure and suggesting alternatives to the Task Group on Regulation of Financial Services, Room 1060, Department of the Treasury, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Richard C. Breeden, Deputy Counsel to the Vice President (202–456–6445).

SUPPLEMENTARY INFORMATION: On December 13, 1982, Vice President George Bush announced the formation of a Task Group on Regulation of Financial Services, charged with reviewing the Federal government's regulatory structure for finanical institutions and proposing any desirable legislative changes to the existing system.

The Vice President of the United States is Chairman of the Task group. Other members are the Secretary of the Treasury (Vice-chairman); the Attorney General; the Director of the Office of Management and Budget; the Chairman of the Council of Economic Advisers; the Assistant to the President for Policy Development; the Chairman of the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, Securities and Exchange Commission and Commodity Futures Trading Commission; and the Comptroller of the Currency.

Need for Regulatory Relief and Reorganization

The current system of Federal regulation of financial institutions and services is highly complex, and the type and nature of regulatory requirements vary significantly among different types of institutions and the products they may offer. This situation has developed as a result of an historic series of piecemeal changes to the system. As the financial system itself became more complex with the appearance of new types of financial intermediaries, markets and products, the regulatory system became correspondingly more complex with the creation of new agencies or the expansion of historic agency responsibilities.

Although each part of the current system may have been created in response to specific problems or perceived needs, recent trends in the financial system as a whole have highlighted problems with the current regulatory structure. These include:

1. *Differential Treatment.* As many types of institutions and the products which they offer have become more similar and come into increasingly direct competition with one another, differences in regulatory controls are much more likely to influence artificially the behavior of savers, investors of consumers. In some cases, such as interest rate limitations, the effect of differences in regulatory controls may be so great as to induce significant shifts of consumer behavior, and thereby to alter materially the opportunities of the competing institutions. In addition to altering competitive advantages artificially, differences among regulatory agencies which may have common or overlapping jurisdiction can prevent transactions which might overwise occur or sharply increase non-productive overhead in order to comply with conflicting government policies. Finally, to the extent that historic types of institutions become more similar, there may be less justification for continuing to maintain entirely separate regulatory agencies.

2. *Excessive Regulatory Controls.* In some areas particular regulatory requirements, whether created by statute or regulations, may impose costs which far exceed any public benefits derived therefrom. For example, depository institutions are currently required to obtain regulatory approval in advance before conducting certain types of ordinary corporate activities, such as opening or closing offices, forming holding companies or engaging in types of activities which are expressly permitted. Such requirements could be repealed or modified simply to require notice to the appropriate regulatory authority. The current system may also impose inordinately burdensome record-keeping or information collection requirements, excessive or ambiguous disclosure obligations and many other highly detailed controls which result in substantial costs to borrowers, savers or investors. Excessive regulatory controls may exist both with respect to types of transactions as well as basic operations of certain types of institutions.

3. *Overlap and Duplication.* In some areas the jurisdictions of regulatory agencies may in fact overlap so that institutions may be forced to adhere to multiple sets of operating requirements, accounting or record-keeping policies and reporting obligations, as well as being subjected to multiple examinations or supervisory reviews. Such duplication may consume significant employee and officer time, as well as require unnecessarily large expenditures for internal or external professional services.

4. *Agency Responsiveness.* For a variety of reasons significant delays may occur in obtaining regulatory approval for otherwise permissible transactions or activities. For example, delays may be created because of confusion as to whether a given agency has jurisdiction, or in resolving opposing viewpoints of two or more agencies which possess concurrent jurisdiction. Such delays may represent a significant burden for institutions which seek to respond to competitive developments, take advantage of business opportunities or reduce activities in a given area. In addition to raising the costs of individual transactions significantly, general regulatory policies of an agency may also raise the cost of normal operations through unnecessary paperwork or other similar requirements in particular areas. The costs of delays and reporting requirements may have a disproportionately severe impact on smaller institutions.

5. *Difficulties in Management of Shared Responsibilities.* The existing allocation of agency responsibilities frequently requires that several agencies cooperate when addressing certain financial institution issues. Problems of failing institutions, the regulation of bank holding companies and their subsidiaries, mergers and acquisitions, efforts to develop inter-agency uniformity in examinations and the deregulation of interest rate controls are all cases in point. Problems of inter-agency coordination may unnecessarily

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delay favorable resolution of such issues, imposing needless costs on the institutions and their customers and undermining confidence in the financial system.

6. *Overlap and Conflict between State and Federal Requirements.* Because of the dual system for chartering and supervising depository institutions, Federal controls over state-chartered entities may represent an unnecessary layer of regulation and an area where greater deference could be given to state regulatory responsibilities.

Previous Reorganization Proposals

Since the late 1930s numerous proposals have been put forward by both governmental bodies and private groups for reorganization of the Federal agencies regulating commercial banks and other depository institutions. For example, in 1949 the Commission on Organization of the Executive Branch of Government (the Hoover Commission) suggested that: (1) The Office of the Comptroller of the Currency (OCC) more properly belonged under the Federal Reserve Board than in the Treasury Department; (2) the functions of the Federal Deposit Insurance Corporation (FDIC) should be transferred to the Federal Reserve System (FRS); and (3) all Federal bank supervision should be combined, preferably in the FRS. In 1961, the Commission on Money and Credit recommended that the supervisory functions of the OCC and the FDIC be transferred to the FRS. In 1971, the Hunt Commission recommended that: (1) An "Administrator of National Banks" assume the OCC's supervisory responsibilities; (2) an "Administrator of State Banks" assume the supervisory responsibilities of the FRS and the FDIC; and (3) a "Federal Deposit Guarantee Administrator" assume the FDIC's insurance responsibilities. In 1975, the FINE Study recommended combining the supervisory and examination functions of the FDIC, FRS, OCC, the Federal Home Loan Bank Board (FHLBB) and the National Credit Union Administration (NCUA) into a single "Federal Depository Institutions Commission." In 1981, legislation (S. 1721) was proposed which would have consolidated the FDIC, the Federal Savings and Loan Insurance Corporation (FSLIC) and the National Credit Union Share Insurance Fund (NCUSIF) into one Federal deposit insurance fund. Finally, the Futures Trading Act of 1982 (H.R. 5447) largely resolved a jurisdictional dispute over financial futures between the Securities and Exchange Commission and Commodity Futures Trading Commission. The Act codified an agreement reached a year earlier between the two Commissions on a range of issues which, among other things, clarified the statutes administered by the agencies and set forth procedures enhancing cooperation between the agencies.

The reorganization proposals enumerated above, although by no means exhaustive, suggest the scope and nature of the proposals for Federal regulatory reorganization to date. While these proposals have generally centered on depository institutions, ongoing developments in the financial services markets suggest that this restricted focus is no longer appropriate, as depository and non-depository institutions have come to take on similar powers and compete in the same markets.

Traditional Arguments For and Against Reorganization

Arguments For: Proponents of reorganization have based their case on a variety of considerations, among which the following have frequently been cited:

1. Elimination of the duplication of activities among the several agencies will permit cost savings and enhance operating efficiency for the private sector.

2. Having fewer agencies would clearly fix responsibility for regulation of financial institutions and provide a focal point for Administration, Congressional, and public concerns regarding regulatory policy.

3. Agency reorganization would facilitate the handling of problem institution cases, which frequently require extensive coordination among several regulatory agencies.

4. Reorganization would remove inconsistencies in the regulation of bank holding companies and their subsidiary banks. Under the existing system, the FRS regulates all bank holding companies, while one of the other agencies usually has responsibility for the banking subsidiaries. Thus, it is difficult for a single agency to get a complete picture of the relationship between holding company and subsidiary, and the institution as a whole is subjected to at least two different sets of rules and regulators.

5. The existing division of responsibilities among agencies permits differential treatment of different institutions, giving rise to inequities. The several agencies have differed among themselves in their policies toward mergers and in their supervisory practices and requirements. According to some observers, the multi-agency structure tends to foster a "competition in laxity" as one agency or another seeks to maintain or increase it share of regulated institutions by adopting a more permissive regulatory posture.

Arguments Against: Arguments against reorganization have generally centered on the following themes:

1. Creation of fewer agencies would tend to concentrate power within a reduced number of government entities, raising the danger of arbitrary or inflexible behavior. Agency pluralism may be useful, since it subjects the regulators to checks and balances. A related commonly-voiced concern is that concentrating Federal regulation would tend to favor Federally chartered institutions over state-chartered institutions, thus undermining the "dual banking system" and "states rights." The power of a single Federal regulator, chartering and supervising all national institutions and regulating all Federally insured state-chartered institutions, would quickly dwarf that of state regulatory authorities even for state-chartered institutions.

2. Agency diversity increases the chances that innovative approaches to policy problems will emerge. The exchange of ideas resulting from different approaches to similar problems and sometimes even competition among regulators to achieve basic regulatory innovations may be superior to the single agency approach. A sole regulator, not subject to challenge from other agencies, might tend to be entrenched, conservative and shortsighted. In addition, there is a danger that its regulatory policies would tend to favor the type of institution making up the bulk of its regulatees.

3. The existing structure in any case works quite well despite its apparent cumbersomeness. Coordination among the agencies has improved, and little more of consequence could be achieved through consolidation or other extensive reorganization. Potential cost savings through consolidation are minimal.

4. Recent major legislative changes should be absorbed before structural changes in the regulatory system are considered.

The Impact of Deregulation of Financial Institutions

Deregulation of financial institutions is bringing about changes both in the functions of the regulatory agencies and in the structure of the country's financial system. At the same time, significant private sector innovations—such as the development of financial conglomerates which may offer credit, real estate, brokerage and insurance services,

among others—also call into question the appropriateness of the current Federal regulatory structure. While the precise details of the future cannot be known, it is reasonable to expect three broad sets of changes to be particularly relevant to questions of agency structure.

First, most restrictions on prices and products offered by depository institutions will end. As a result, many if not all of the legal distinctions between the traditional categories of these institutions will disappear, although individual institutions may continue to specialize.

Second, the distinctions between depository and other financial services institutions will continue to erode, as depositories increasingly enter activities traditionally limited to investment banking, brokerage and insurance firms and vice-versa.

Third, depository institutions will continue to expand their geographic scope of operations through increased electronic services, expansion of subsidiary activities and expanded inter-state branching as a result of merger and acquisition activity.

The foregoing changes will tend to intensify the problem of inequities arising from the current differential treatment of financial institutions. They will also cause increasingly severe problems of conflicting regulatory policies and duplication as more and more institutions become subject to multiple regulatory agencies. Without modification, however, the current system may be unable to resolve the conflicts and inequities which have already occurred among financial institutions, and such problems can only be expected to worsen over time.

In sum, ongoing and prospective changes in the regulatory and economic environments appear to strengthen the traditional arguments for agency reorganization, transfers of regulatory authority or elimination of regulatory controls on particular activities. In a deregulated environment characterized by more diversified institutions, there may be a much greater need for a system which can flexibly accomodate new products and services and technological developments, while at the same time providing consistency and uniformity in agency treatment of financial institutions. Under these circumstances, greater coherence among regulatory agencies and a more precise definition of agency responsibilities may be much more important to the overall integrity and efficiency of financial markets than has previously been the case.

Comments: In order to gather information pertinent to this study the Task Group on Regulation of Financial Services invites representatives of the financial services industries, the broader business community, governmental and community bodies and interested members of the general public to present their views. Two copies of written comments on the issues discussed above, and other relevant concerns, would be appreciated. The following outline of issues and options may be helpful to respondents, although it should not be considered exhaustive of the possibilities the Task Group or respondents to this notice may consider.

Problems, Issues and Options of Financial Regulatory Agency Structure

I. Goals of Financial Regulation

The goals and purposes underlying the regulation of financial institutions, instruments, and markets in the United States have been identified by various observers to include the following:

1. Assuring safety and soundness of financial institutions, and of the financial system as a whole, both to protect individual depositors and to avoid or limit secondary effects of a failed institution.

2. Avoiding conflicts of interest, fraud, and consumer abuses.

3. Promoting orderly markets to encourage savings and capital formation and to support macro-economic stability.

4. Avoiding excessive concentrations of economic and financial resources.

Should these goals be reappraised in light of emerging realities in the marketplace?

Has the evolution of the financial system changed the weight that public policy should place on these goals? Are there additional goals that should receive new attention in the framing of government regulatory policies and in organizing the financial regulatory agencies? Would other less costly regulatory approaches achieve these or alternative goals?

II. Assessment of the Existing Structure

1. *Differential Treatment.*—Are there differences in policies and procedures among the several regulatory agencies which result in differential treatment of institutions engaged in similar activities or which, absent unnecessary restrictions, would engage in similar activities? Are there overlapping responsibilities which may give rise to significant jurisdictional or policy conflicts among agencies or create dual jurisdictions with actual or potential conflict in operating requirements?

2. *Excessive Regulatory Controls.*—What specific regulatory or legislative controls or other requirements, procedural or substantive, could be eliminated, reduced or modified to reduce overall costs, increase efficiency or promote better services for consumers? What does compliance with current regulatory requirements cost on an annual basis, as a percentage of operating expenses or in absolute dollars? Give as much detail as possible concerning the costs of compliance with particular statutes or regulatory programs.

3. *Overlap and Duplication.*—Are there unnecessary costs and inefficiencies entailed by the performance of similar or identical functions by different regulatory agencies? What specific areas of duplication result in higher costs, excessive paperwork or record-keeping or reduced competitive activity?

4. *Agency Responsiveness.*—Does the complexity of the existing structure cause confusion or undue delay in completing transactions or otherwise impose unnecessary costs or burdens on the institutions and public which must deal with the agencies? In what specific areas do current regulatory controls result in unnecessary delays in completing ordinary transactions?

5. *Management of Shared Responsibilities.*—Do different agencies work together effectively in areas where their statutory responsibilities require such cooperation—as in regulating bank holding companies and their subsidiaries, administering securities margin regulations or handling problem institution cases? Do current inter-agency coordinating groups, such as the Depository Institutions Deregulation Committee (DIDC) and Federal Financial Institutions Examination Council (FFIEC) reduce or increase costs and efficiency? Do inter-agency agreements such as that between the Securities and Exchange Commission and the Commodity Futures Trading Commission offer a means of resolving jurisdictional tensions in other areas?

6. *State and Federal Requirements.*—In which areas do Federal controls over state-chartered entities represent an unnecessary layer of regulation?

7. What aspects of the current regulatory system are most important to preserve?

III. Reform Issues and Options

1. *Reorganization of Depository Regulators.*—If reorganization is called for, what agencies should be included or excluded and what regulatory functions should any such agency or agencies

perform? Should reorganization result in a new regulatory authority lodged in one of the existing agencies or in a newly created one? If the latter, what form should the new agency take, how should it be administered and how should it be integrated, if at all, with other parts of the government? If reorganization results in a reduction of the current number of agencies, which should be the surviving regulatory agencies and what should be the scope of their authorities? Is regulation by function feasible instead of regulation by institutions? Finally, if a substantial reorganization of structure is desirable, should changes be introduced in stages, or in one comprehensive measure?

2. *Organizational Issues Pertaining to Non-Depository Regulators.*—What reorganization, consolidation or coordination would be desirable between the regulatory agencies dealing with securities trading, commodity futures trading and/or depository institutions? Does the current system adequately identify agency responsibilities and priorities in the event of conflicting rules or policies among such agencies?

3. *Deposit Insurance.*—Should any or all of the three Federal deposit insurance funds be consolidated? Please indicate the reasons for or against merging the funds. Is it appropriate to consider the Securities Investor Protection Corporation in this regard? What is the appropriate role for the deposit insurance agencies in the regulation of depository institutions and their holding companies?

4. *Coordinating Mechanism.*—Apart from or in addition to agency reorganizations, could increased regulatory effectiveness be obtained through the creation or elimination of interagency committees? Alternatively, could the current system be improved by transferring particular responsibilities to different agencies or by designating primary agencies in particular areas in the event of conflict? Should enforcement of consumer protection laws continue to be divided among agencies, or centralized in one consumer-oriented agency, e.g., the Federal Trade Commission (FTC)?

5. *Elimination of Regulatory Overlap and Conflict.*—To what extent can the problems of the existing structure be rectified without new organizational arrangements—for example, through statutory changes designed to define more clearly the respective areas of responsibility of the different agencies? Should depository institution regulators have authority over mergers and acquisitions by regulated institutions, and if so to what extent?

6. *Monetary Authority Regulatory Role.*—What involvement in regulation of financial institutions is necessary to execute responsibilities for monetary policy, to act as the lender of last resort and to provide a framework for stability of the overall system? What information and experience with the ongoing activities of institutions is required to fulfill these roles and can this information or experience be obtained other than by direct regulation of banks and holding companies?

7. *Securities Regulation Issues.*—To what extent should the current system for establishing margin requirements and practices be changed? What changes would be desirable in current laws and regulations governing investment companies and investment advisors to reduce costs to consumers or to harmonize such regulation with pooled investment media maintained by insurance companies or depository institutions? In what other ways should current regulatory controls over securities issuers, underwriters or markets be reduced?

8. *Additional Regulatory Relief Possibilities.*—Apart from or in addition to agency reorganization, what current regulatory or statutory restrictions on financial institutions or their holding companies should be eliminated or modified to reduce direct and indirect costs to consumers, to improve the services available to the public or for any other reason? (Please be specific.) What safeguards against conflicts of interest, harmful intra-company transactions or unsafe practices by depository institutions and their holding company affiliates would be preferable to current regulatory controls, reporting requirements and examinations? Could improved public disclosure replace certain agency reporting and regulatory requirements?

IV. Other

Dated: February 3, 1983.

Richard C. Breeden,

Deputy Counsel to the Vice President.

[FR Doc. 83-3292 Filed 2-4-83; 8:45 am]

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Federal Register
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Tuesday, February 8, 1983

Presidential Documents

Title 3—

The President

Proclamation 5019 of February 3, 1983

American Heart Month, 1983

By the President of the United States of America

A Proclamation

Diseases of the heart and blood vessels are our Nation's most pressing health problem. Over sixty million Americans are afflicted by one or another of this family of diseases, which cause nearly a million deaths annually, disable many millions of others, and cost the Nation more than $60 billion each year. The leading killers among the cardiovascular diseases are coronary heart disease and stroke.

In 1948 a newly created Federal agency—now the National Heart, Lung, and Blood Institute—and a private health organization, the American Heart Association, joined hands to combat the cardiovascular diseases. Their combined efforts were directed toward the conquest of these diseases through prevention, diagnosis, and treatment; through the training of new research workers and clinicians in the cardiovascular field; and through support for community service programs.

Until the mid-1960s, mortality from coronary heart disease had continued to increase despite our best efforts; however, in 1965 mortality from heart disease began a steady decline that continues to the present. From 1972 to 1980, mortality rates from coronary heart disease declined by 22.5 percent, and mortality rates from stroke declined by 36.5 percent.

Advances in diagnosis and treatment have been major factors in these reductions. But perhaps equally important, large numbers of Americans have voluntarily modified their habits and lifestyles: many have quit or cut down on cigarette smoking, are watching their weight and blood cholesterol levels, exercising more, and seeking the help of a physician in the control of treatable conditions which increase the risk of premature arteriosclerosis and its consequences.

Though we have made considerable progress in reducing the toll in illness, disability, and death caused by cardiovascular diseases, these diseases continue to be a serious threat to the health and well-being of our citizens. To encourage continued application of what is known about the prevention and relief of cardiovascular diseases and to stimulate the development of new knowledge and techniques that may bring about their ultimate conquest, the Congress has requested that the President annually proclaim February as American Heart Month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of February 1983 as American Heart Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, the officials of other areas subject to the jurisdiction of the United States, and

the American people, to join me in reaffirming our commitment to the resolution of the nationwide problem of cardiovascular disease.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of Feb., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-3428
Filed 2-4-83; 2:50 pm]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 48, No. 27
Tuesday, February 8, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 302

Designation of Areas

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Final rule.

SUMMARY: 13 CFR 302.51 makes reference to the Deputy Assistant Secretary for Economic Development Planning. Under the present EDA Organizational Structure, the position no longer exists. Therefore, the reference to this position is being removed.

DATE: Effective February 8, 1983.

FOR FURTHER INFORMATION CONTACT: Henry C. Kramer, Acting Director Office of Management and Administration, U.S. Department of Commerce, Economic Development Administration, 14th and Constitution Ave., NW., Washington, D.C. 20230, Room 7816, (202) 377–2194.

SUPPLEMENTARY INFORMATION: Since this rule relates to EDA's grant and loan programs, it is exempt from the notice and comment procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. 553.) In accordance with Section 3(c)(3) of Executive Order No. 12291, this rule has been submitted to the Director of the Office of Management and Budget. This rule is not a major rule as defined in that Order. This rule does not fall within the provisions of the Regulatory Flexibility Act, nor will it create any information collection burdens on the public because of its subject matter, so as to be governed by the Paperwork Reduction Act.

List of Subjects in 13 CFR Part 302

Community development, Designation of areas.

PART 302—[AMENDED]

Accordingly, 13 CFR Part 302 is amended by revising § 302.51 to read as follows:

§ 302.51 Lists of redevelopment areas and centers designated under the Act.

The Economic Development Administration will maintain current lists of areas and centers designated under the Act. The lists shall be kept available for public inspection during the regular business hours of the Department of Commerce. Inquiries for such lists shall be made to the Director, Office of Management and Administration, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Room 7816, Washington, D.C. 20230.

(Sec. 701, Pub. L. 89–136, 79 Stat. 570) (42 U.S.C. 3211). Sec. 1–105, E.O. 12185, DOC Organization Order 10–4, as amended (40 FR 56702, as amended)

Dated: November 19, 1982.

Charles W. Warner,

Acting Assistant Secretary for Economic Development.

[FR Doc. 83–3374 Filed 2–7–83; 8:45 am]
BILLING CODE 3510–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

Federal Old-Age, Survivors, and Disability Insurance Benefits; Limitations on Benefit Payments to Prisoners; Restrictions on Disability Determinations for Felony-Related and Prison-Related Impairments

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These regulations, which are based on Pub. L. 96–473, place certain restrictions on the payment of benefits based on disability and student status to persons who have been convicted of a felony and are imprisoned and restrict the use of certain impairments in determining disability. These rules specify the conditions under which benefits will not be paid to these individuals and how a finding of disability may be affected when an impairment, or the aggravation of a preexisting impairment, arises during the commission of a felony or imprisonment. Before the enactment of Pub. L. 96–473, there were no restrictions upon the payment of benefits or the making of disability determinations for these persons. We published a Notice of Proposed Rule Making on June 11, 1982 (47 FR 25376). Comments received are discussed in this preamble.

DATES: These rules are effective February 8, 1983 but the statutory changes which the regulations reflect are already in effect.

FOR FURTHER INFORMATION CONTACT: Dave Smith, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7336.

SUPPLEMENTARY INFORMATION:

General Background

Section 5 of Pub. L. 96–473 amends sections 202, 216, and 223 of the Social Security Act (the Act) by placing limitations upon the conditions under which a prisoner may receive benefits as a full-time student and benefits based upon disability. The amendments also impose restrictions on making title II disability determinations by eliminating from consideration impairments or aggravations of preexisting impairments which occur during the commission of a felony. In addition, impairments or aggravations of preexisting impairments which arise in connection with confinement upon conviction for a felony cannot be considered for payment of disability benefits during the period of confinement. Before the enactment of Pub. L. 96–473 on October 19, 1980, persons confined to penal institutions for convictions of crimes and convicted criminals in mental institutions could become entitled to social security benefits if they met all the conditions required for benefit payments. Conviction of a crime and confinement at public expense generally did not affect benefit payments under the Act. There were only two exceptions. First, by regulation, a person

convicted of the felonious homicide of an insured person could not receive social security benefits based on the earnings record of that person. Second, under the Act, a person convicted of a subversive crime against the United States, such as espionage, sabotage, treason, and sedition, could be denied social security benefits as a part of a sentence by a judge.

The 1970 census disclosed that there were approximately 4,000 prisoners throughout the United States who were receiving social security benefits. More recent data collected by the General Accounting Office (GAO) provided estimates of approximately 6,000 prisoners receiving these benefits. These figures indicated to Congress that the number of prisoners becoming entitled to social security benefits is increasing. The Senate Committee on Finance expressed its concern in its Report accompanying H.R. 5295, the House of Representatives' bill which was later enacted as Pub. L. 96–473. (Senate Report No. 987, 96th Cong. 2nd Sess. (1980) page 8).

> The committee believes that the basic purposes of the social security program are not served by the unrestricted payment of benefits to individuals who are in prison or whose eligibility arises from the commission of a crime. The disability program exists to provide a continuing source of monthly income to those whose earnings are cut off because they have suffered a severe disability. The need for this continuing source of income is clearly absent in the case of an individual who is being maintained at public expense in prison. The basis for his lack of other income in such circumstances must be considered to be marginally related to his impairment at best.

Disability Benefits

Consequently, the Act was amended to require the suspension of benefits to disabled workers and children disabled before age 22 who would otherwise be receiving benefits based on disability while imprisoned by reason of a felony conviction. This suspension applies unless the prisoner is participating in a vocational rehabilitation program which has been specifically approved for that prisoner by a court of law. However, benefit payments will continue only as long as the prisoner continues to participate actively and satisfactorily in an approved vocational rehabilitation program which is expected to result in the prisoner being able to do substantial gainful activity upon release and within a reasonable time. The amendments also provide that a person may not be considered to be a full-time student for payment of social security benefits while imprisoned for conviction of a felony. In addition, the amendments to the Act provide that impairments, to the extent that they arise from or are aggravated during the commission of a felony for which the individual is convicted, may never be considered in determining whether or not the individual qualifies for social security benefits based on disability. An impairment or aggravation not connected with the commission of a felony but occurring while an individual is in prison for conviction of a felony cannot be considered for purposes of benefit payments based on disability as long as the individual remains in prison. However, impairments arising, or aggravations of preexisting impairments occurring, during confinement can be used to establish a period of disability for disabled workers. The Social Security Administration is amending 20 CFR Part 404 to reflect these changes in the law.

Student Benefits

We have amended § 404.367 of Subpart D (Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability), by adding a new paragraph (d) to explain that no one will be considered in full-time school attendance for benefit payments while imprisoned for conviction of a felony committed after October 19, 1980. This change is based on section 5(b) of Pub. L. 96–473.

Nonpayment of Benefits Based on Disability to Prisoners

We have added a new § 404.468 to Subpart E (Deductions; Reductions, and Nonpayments of Benefits) to explain that if a person is imprisoned for conviction of a felony committed at any time and is entitled to social security benefits on the basis of disability, other than as a widow, widower, or surviving divorced spouse, benefits will not be paid for any month after September 1980, during all or part of which the person is imprisoned. The only exception to the nonpayment of a prisoner's benefit will be if the person is actively and satisfactorily participating in a rehabilitation program which is specifically approved by a court of law for that person and which the Secretary of Health and Human Services expects will result in the person's being able to do substantial gainful work upon release and within a reasonable time.

Although disability benefits are not payable to the prisoner during confinement, payment of benefits will be made, as if the prisoner were still receiving benefits, to family members who are otherwise entitled to benefits as the prisoner's dependents.

Benefits will be restored to the prisoner effective with the first full month after release from prison if he or she is still disabled. This rule is based on section 5(c) of Pub. L. 96–473.

Permanent Exclusion of Felony-Related Impairment

We have added a new § 404.1506 to Subpart P (Determining Disability and Blindness) to explain in paragraph (a) that in determining whether a person is under a disability, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, that occurs in connection with the commission of a felony. This rule applies only to felonies committed after October 19, 1980, the date of enactment of Pub. L. 96–473. The person must also have been subsequently convicted of the crime. The impairment, or aggravation, must occur during the commission of the felony in order to be considered to have occurred in connection with the commission of the felony and to be excluded from consideration in determining disability. It is not necessary that there be a causative connection between the commission of the felony and the medical condition, but it must be related to, or associated with, the commission of the offense. Under these circumstances, the impairment or the aggravation of an impairment can never be considered in determining disability, whether or not the person is sentenced to prison. Nor can the impairment, or aggravation, be considered after release from prison after serving a sentence for the crime. This rule is based on section 5(a) of Pub. L. 96–473, and applies in determining disability for workers, children, widows, widowers, and surviving divorced spouses.

Impairments Occurring During Confinement

In the new § 404.1506 of Subpart P (Determining Disability and Blindness), we have added paragraph (b) to explain that in determining whether a person is under a disability for purposes of benefit payments, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, that occurs in connection with confinement in a jail, prison, or other penal institution or correctional facility. However, the confinement must be due to the person having been convicted of a felony committed after October 19, 1980, the date of enactment of Pub. L. 96–473. An impairment is considered to have arisen in connection with confinement when it

first occurs during confinement. An impairment that began prior to confinement and then increases in severity during confinement is considered to be aggravated in connection with confinement. Under this rule, the impairment or aggravation is excluded from consideration in determining disability for benefits payable for any month during which the person is imprisoned. However, in the case of a disabled worker, an impairment or aggravation that occurs during confinement can be used to establish a period of disability (disability freeze) while the worker is confined.

A prisoner who, because of this provision, is determined not to be disabled for benefit purposes, may become entitled to benefits based on disability upon release from prison, provided that the person is under a disability at that time. In order to receive these benefits, the person will have to apply for them again after release from prison. Benefits, including benefits for dependents, could begin effective with the first full month the person is no longer confined. This rule is also based on section 5(a) of Pub. L. 96–473 and applies to all benefits based upon disability, including benefits for disabled workers, disabled children, and disabled widows, widowers, and surviving divorced spouses.

We have cross-referred § 404.1577, which defines disability for widows, widowers, and surviving divorced spouses, and § 404.1581, which defines blindness under the law, to the new § 404.1506 to show that the amendments apply to these cases.

Felonious Offenses and Confinement

Under section 5 of Pub. L. 96–473, a crime is a felony if it is an offense which constitutes a felony under applicable law. However, some legal jurisdictions, such as the State of New Jersey, The U.S. military under the Uniform Code of Military Justice, and some foreign countries, do not classify any crime as a felony. Both § 404.468(b) and § 404.1506(c) explain that in jurisdictions such as these, an offense punishable by death or imprisonment for a term exceeding one year will be considered a felony for purposes of these regulations. This rule is the same as the definition of felony in 18 U.S.C. Sec. 1(1), the U.S. Criminal Code.

Also, § 404.468(c) and § 404.1506(d) explain that a jail, prison, or other penal institution or correctional facility includes any facility which is under the control and jurisdiction of the agency in charge of the penal system or any facility in which convicted criminals can be incarcerated. This includes, for example, a mental hospital for the criminally insane which is used as a place for incarcerating convicted criminals, regardless of whether that institution is operated by the correctional authority. These sections also explain that a person under sentence of confinement to any of these facilities is considered "confined" even though he or she is temporarily hospitalized outside the facility or is temporarily or intermittently outside the facility to work, attend school, or for some other reason. However, a prisoner who is released on parole or because his or her sentence has ended, been suspended or overturned would no longer be considered confined in the penal facility. Paragraph (d) of § 404.367 has been cross-referred to § 404.468 (b) and (c).

Comments Received Following Publication of Proposed Rulemaking

We received comments from 3 sources. The comments and our responses follow.

Comment: There should be a revision of 20 CFR 404.902 to establish that a determination that benefits should be suspended because of the person's confinement for conviction of a felony, constitutes an initial determination from which appeal rights flow.

Response: This suggestion has been adopted. It has been our policy to consider a determination about the withholding of a prisoner's benefits, an initial determination. We have amended 20 CFR 404.902 to make this clear in our regulations.

Comment: It is recommended that the Social Security Administration consider requiring that those prisoners receiving benefits under the exception to the nonpayment provisions, apply those benefits to the payment of restitution to their victims. That exception is the case where a prisoner is actively and satisfactorily participating in a rehabilitation program which is specifically approved by a court of law for that person and which the Secretary of Health and Human Services expects will result in the person's being able to do substantial gainful work upon release and within a reasonable time.

Response: The law does not permit us to impose this type of requirement. Under the law, a prisoner who qualifies for the exception to the nonpayment provision and otherwise satisfies the requirements for benefits is entitled to those benefits. Section 207 of the Social Security Act and 20 CFR 404.1820 prohibit the assignment of benefits. Section 207 specifies that the right of any person to any future payment under Title II of the Act, Federal Old-Age Survivors and Disability Insurance Benefits, "shall not be transferable or assignable, at law or in equity, and none of the monies paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law."

Comment: One commenter asserted that the certification in the Notice of Proposed Rule Making published in the Federal Register incorrectly reflects the concept that only adverse impact on small entities need be considered for purposes of the Regulatory Flexibility Act.

Response: Our certification did not rest on adverse impact, but on the absence of significant impact on a substantial number of small entities.

Executive Order 12291.—These regulations have been reviewed under E.O. 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required. Estimated administrative costs for fiscal years 1982 and 1983 are $300 thousand each year. Estimated program savings for fiscal years 1982 and 1983 are $10 million and $11 million respectively.

Paperwork Reduction Act.—These regulations impose no reporting/recordkeeping requirements.

Regulatory Flexibility Act.—We certify in accordance with the Regulatory Flexibility Act that these regulations will not have a significant economic impact on a substantial number of small entities, because they only place certain restrictions on the payment of benefits based on disability and students benefits to persons who have been convicted of a felony and are imprisoned and restrict the use of certain impairments in determining disability.

The amendments are issued under the authority contained in sections 202, 205, 216, 223, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1362, as amended, 64 Stat. 510, as amended, 70 Stat. 815, as amended, and 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 423 and 1302. These amendments are hereby adopted as set forth below.

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security Disability Insurance; 13.803, Social Security Retirement Insurance; 13.805, Social Security Survivors' Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled,

Old-age, survivors and disability insurance.

Dated: November 29, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: January 19, 1983.

Richard S. Schweiker,

Secretary of Health and Human Services.

Chapter III of Title 20, Code of Federal Regulations, is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

Subpart D—Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability

20 CFR Part 404, Subpart D is amended as follows:

1. The authority citation for Subpart D reads as follows:

Authority: Secs. 202, 205, 216, 223, 228, 1102 of the Social Security Act, 49 Stat. 623, 53 Stat. 1368, 64 Stat. 492, 70 Stat. 815, 80 Stat. 67, 49 Stat. 647; Sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 402, 405, 416, 423, 428, and 1302, and 5 U.S.C. Appendix.

2. Section 404.367 is amended by adding a new paragraph (d), reading as follows:

§ 404.367 When are you a "full-time student."

* * * * *

(d) You are not confined in a jail, prison, or other penal institution or correctional facility for conviction of a felony committed after October 19, 1980. (See § 404.468, paragraphs (b) and (c) for the meaning of "felony" and an explanation of when we consider a person to be confined in a penal or correctional facility.)

Subpart E—Deductions; Reductions; and Nonpayments of Benefits

20 CFR Part 404, Subpart E is amended as follows:

3. The authority citation for Subpart E reads as follows:

Authority: Secs. 205, 207, and 1102, 53 Stat. 1368, as amended, 79 Stat. 379, as amended, 49 Stat. 647, as amended; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18; 42 U.S.C. 405, 427, 1302, unless otherwise noted.

4. A new § 404.468 is added to Subpart E, reading as follows:

§ 404.468 Nonpayment of benefits based on disability to prisoners.

(a) *General.* Except for widows, widowers, and surviving divorced spouses, no benefits based upon disability will be paid to any individual for any month any part of which the individual is confined in a jail, prison, or other penal institution or correctional facility for conviction of a felony. This rule is effective with benefits payable for months beginning on or after October 1, 1980. However, it applies only to the prisoner; benefit payments to any other person who is entitled on the basis of the prisoner's wages and self-employment income are payable as though the prisoner were receiving disability benefits.

(b) *Felonious offenses.* An offense will be considered a felony if—

(1) It is a felony under applicable law; or

(2) In a jurisdiction which does not classify any crime as a felony, it is an offense punishable by death or imprisonment for a term exceeding one year.

(c) *Confinement.* In general, a jail, prison, or other penal institution or correctional facility is a facility which is under the control and jurisdiction of the agency in charge of the penal system or in which convicted criminals can be incarcerated. Confinement in such a facility continues as long as the individual is under a sentence of confinement and has not been released due to parole or pardon. An individual is considered confined even though he or she is temporarily or intermittently outside of that facility (e.g., on work release, attending school, or hospitalized).

(d) *Vocational rehabilitation exception.* The nonpayment provision of paragraph (a) of this section does not apply if the prisoner is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by a court of law. In addition, the Secretary must determine that the program is expected to result in the individual being able to do substantial gainful activity upon release and within a reasonable time. No benefits will be paid to the prisoner for any month prior to the approval of the program.

Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

5. The authority citation for Subpart J of Part 404 reads as follows:

Authority: Secs. 205 and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, 53 Stat. 1368, 49 Stat. 647 (42 U.S.C. 405 and 1302).

6. Section 404.902 is amended by revising paragraphs (q) and (r) and by adding paragraph (s) to read as follows:

§ 404.902 Administrative actions that are initial determinations.

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. In the old age, disability, dependents' and survivors' insurance programs, initial determinations include, but are not limited to, determinations about—

* * * * *

(q) An offset of your benefits under § 404.408b because you previously received supplemental security income payments for the same period;

(r) Whether your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will significantly increase the likelihood that you will not have to return to the disability benefit rolls and thus, whether your benefits may be continued even though you are not disabled; and

(s) Nonpayment of your benefits under § 404.468 because of your confinement in a jail, prison, or other penal institution or correctional facility for conviction of a felony.

Subpart P—Determining Disability and Blindness

20 CFR Part 404, Subpart P is amended as follows:

7. The authority citation for Subpart P reads as follows:

Authority: Issued under Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1366, as amended, 68 Stat. 1080, as amended, 68 Stat. 1081, as amended, 68 Stat. 1082, as amended, 70 Stat. 815, as amended, 70 Stat. 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302.

8. A new § 404.1506 is added to Subpart P, reading as follows:

§ 404.1506 When we will not consider your impairment.

(a) *Permanent exclusion of felony-related impairment.* In determining whether you are under a disability, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, which arises in connection with your commission of a felony after October 19, 1980, if you are subsequently convicted of this crime. Your subsequent conviction will invalidate any prior determination establishing disability if that determination was based upon any impairment, or aggravation, which we must exclude under this rule.

(b) *Limited use of impairment arising in prison.* In determining whether you are under a disability for purposes of benefit payments, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, which arises in connection with your confinement in a jail, prison, or other penal institution or correctional facility for conviction of a felony committed after October 19, 1980. The exclusion of the impairment, or aggravation, applies in determining disability for benefits payable for any month during which you are confined. This rule does not preclude the establishment of a period of disability based upon the impairment or aggravation. You may become entitled to benefits upon release from prison provided that you apply and are under a disability at the time.

(c) *Felonious offenses.* We will consider an offense a felony if—

(1) It is a felony under applicable law; or

(2) In a jurisdiction which does not classify any crime as a felony, it is an offense punishable by death or imprisonment for a term exceeding one year.

(d) *Confinement.* In general, a jail, prison, or other penal institution or correctional facility is a facility which is under the control and jurisdiction of the agency in charge of the penal system or in which convicted criminals can be incarcerated. Confinement in such a facility continues as long as you are under a sentence of confinement and have not been released due to parole or pardon. You are considered confined even though you are temporarily or intermittently outside of the facility (e.g., on work release, attending school, or hospitalized).

§ 404.1577 [Amended]

9. Section 404.1577 of Subpart P is amended by adding to the end a new sentence that reads: "We also do not consider certain felony-related and prison-related impairments, as explained in § 404.1506."

§ 404.1581 [Amended]

10. Section 404.1581 of Subpart P is amended by adding to the end a new sentence that reads: "We do not consider certain felony-related and prison-related impairments, as explained in § 404.1506."

[FR Doc. 83-3224 Filed 2-7-83; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 173

[Docket Nos. 76G-0445, 77G-0099, 81G-0048, and 82G-0148]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Glutaraldehyde and Diethylaminoethylcellulose

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of diethylaminoethylcellulose (DEAE-cellulose) and glutaraldehyde as fixing agents in the immobilization of glucose isomerase enzyme preparations. This action is in response to petitions filed by Standard Brands, Miles Laboratories, Novo Laboratories, and GB Fermentation Industries. Elsewhere in this issue of the **Federal Register**, the agency is affirming that certain insoluble glucose isomerase enzyme preparations are generally recognized as safe (GRAS) for use in the manufacture of high fructose corn syrup and is listing high fructose corn syrup as GRAS for use in food.

DATES: Effective February 8, 1983; objections by March 10, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary C. Custer, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 6, 1974 (39 FR 28310), December 7, 1976 (41 FR 53545), May 27, 1977 (42 FR 27298), and March 10, 1981 (46 FR 15953), FDA announced that GRAS petitions (GRASP) 4G0042 (Docket No. 82G-0148), 7G0080 (Docket No. 76G-0445), 7G0086 (Docket No. 77G-0099), and 1G0271 (Docket No. 81G-0048) had been filed by Standard Brands, Inc., 625 Madison Ave., New York, NY 10022; Miles Laboratories, Inc., Elkhart, IN 46514; Novo Laboratories, Inc., 59 Danbury Rd., Wilton, CT 06897; and GB Fermentation Industries, Inc., One North Broadway, Des Plaines, IL 60016; respectively. Each of the petitions requested affirmation that a specific glucose isomerase enzyme preparation, derived from a specific microorganism and immobilized after fixation with a specific material, is GRAS for use in the production of high fructose corn syrup. The microorganisms named in the petitions are *Streptomyces rubiginosus* (GRASP 4G0042), *Streptomyces olivaceus* (GRASP 7G0080), *Bacillus coagulans* (GRASP 7G0086), and *Actinoplanes missouriensis* (GRASP 1G0271). The materials used to fix the glucose isomerase enzyme preparations are DEAE-cellulose (GRASP 4G0042) and glutaraldehyde (GRASP 7G0080, 7G0086, and 1G0271). In addition, GRAS petitions 7G0086 and 1G0271 requested affirmation that the high fructose corn syrup produced by the specific enzyme preparation named in the petition is GRAS.

The final regulation, § 184.1372 (21 CFR 184.1372), affirming the GRAS status of insoluble glucose isomerase enzyme preparations is published elsewhere in this issue of the **Federal Register.** Glutaraldehyde and DEAE-cellulose are used as fixing agents in the immobilization of these enzyme preparations.

FDA has evaluated the data in the petitions. These data demonstrate that:

1. Glutaraldehyde and DEAE-cellulose were not commonly used in food production in the United States before January 1, 1958.

2. The requested uses of these substances would be expected to result in glutaraldehyde residues of less than 10 parts per billion and DEAE-cellulose residues of less than 0.3 part per million in high fructose corn syrup.

3. These levels of exposure do not pose a hazard to the public.

4. The requested uses are effective.

As a result of its evaluation, the agency has determined that glutaraldehyde and DEAE-cellulose are not GRAS based upon a safe history of use in food, and that the potential toxicity of crosslinking agents such as glutaraldehyde, and resins, such as DEAE-cellulose, requires limited consumer exposure to these substances. Therefore, the agency has concluded that glutaraldehyde and DEAE-cellulose, when used in the immobilization of glucose isomerase enzyme preparations, are secondary direct food additives subject to section 409 of the Federal Food, Drug, and Cosmetic Act.

Consequently, the agency has evaluated those portions of the petitions submitted for GRAS affirmation (GRASP 4G0042, 7G0080, 7G0086, and 1G0271) that relate to glutaraldehyde and DEAE-cellulose as food additive petitions in accordance with §§ 170.38(c) and 171.1 (21 CFR 170.38(c) and 171.1). The data in the petitions establish that the use of glutaraldehyde and DEAE-cellulose as fixing agents in the

immobilization of glucose isomerase enzyme preparations is safe. Therefore, FDA is amending the secondary direct food additive regulations to provide for the use of glutaraldehyde and DEAE-cellulose as set forth below.

In accordance with § 170.35(c)(2) (21 CFR 170.35(c)(2)), the petitions and the documents that FDA considered and relied upon in reaching its decision to approve the use of these secondary direct food additives are on public display and available for inspection at the dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. The petitions and documents may also be inspected at the Bureau of Foods (address above) by appointment with the information contact person listed above.

FDA has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement therefore will not be prepared. The agency's findings of no significant impact and the evidence supporting this finding, contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives, Food processing aids.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 173 is amended by adding new § 173.357, to read as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

§ 173.357 Materials used as fixing agents in the immobilization of enzyme preparations.

Fixing agents may be safely used in the immobilization of enzyme preparations in accordance with the following conditions:

(a) The materials consist of one or more of the following:

(1) Substances generally recognized as safe in food.

(2) Substances identified in this subparagraph and subject to such limitations as are provided:

Substances	Limitations
Diethylaminoethyl-cellulose	May be used as a fixing material in the immobilization of glucose isomerase enzyme preparations for use in the manufacture of high fructose corn syrup, in accordance with § 184.1372 of this chapter.
Glutaraldehyde	

(b) The fixed enzyme preparation is washed to remove residues of the fixing materials.

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 10, 1983 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a descripton and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket numbers found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective February 8, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: January 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3214 Filed 2-7-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket Nos. 76G–0073, 76G–0445, 77G–0049, 77G–0099, 81G–0048, and 82G–0148]

Substances Generally Recognized as Safe; High Fructose Corn Syrup and Insoluble Glucose Isomerase Enzyme Preparations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is listing high fructose corn syrup as generally recognized as safe (GRAS) for use in food in Part 182 (21 CFR Part 182). In addition, the agency is affirming that certain insoluble glucose isomerase enzyme preparations are GRAS for use in the manufacture of high fructose corn syrup. Elsewhere in this issue of the **Federal Register**, the agency is also approving the secondary direct food additive use of diethylaminoethylcellulose (DEAE-cellulose) and glutaraldehyde as fixing agents in the immobilization of glucose isomerase enzyme preparations. FDA is taking these actions in response to GRAS petitions submitted by Standard Brands, Anheuser-Busch, Miles Laboratories, CPC International, Novo Laboratories, and GB Fermentation Industries.

DATES: Effective February 8, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1372 effective February 8, 1983.

FOR FURTHER INFORMATION CONTACT: Mary C. Custer, Bureau of Foods (HFF–335, Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: Under the procedures described in § 170.35 (21 CFR 170.35), Standard Brands, Inc., 625 Madison Ave., New York, NY 10022; Anheuser-Busch, Inc., St. Louis, MO 63118; Miles Laboratories, Inc., Elkhart, IN 46514; CPC International, Inc., International Plaza, Englewood Cliffs, NJ 07632; Novo Laboratories, Inc., 59 Danbury Rd., Wilton, CT 06897; and GB Fermentation Industries, Inc., One North Broadway, Des Plaines, IL 60016, submitted GRAS petitions (GRASP) 4G0042 (Docket No. 82G–0148), 6G0060 (Docket No. 76G–0073), 7G0080 (Docket No. 76G–0445), 7G0084 (Docket No. 77G–0049), 7G0086 (Docket No. 77G–0099), and 1G0271 (Docket No. 81G–0048), respectively. Each of the petitions requested affirmation that a specific glucose isomerase enzyme preparation, derived from a specific microorganism and rendered insoluble (fixed) with specific materials, is GRAS for use in the production of high fructose corn syrup from corn syrup glucose. The microorganisms named in the petitions are *Streptomyces rubiginosus* (GRASP 4G0042), *Actinoplanes missouriensis* (GRASP 6G0060 and 1G0271), *Streptomyces olivaceus* (GRASP 7G0080), *Streptomyces*

olivochromogenes (GRASP 7G0084), and *Bacillus coagulans* (GRASP 7G0086). Materials that are used to render the glucose isomerase enzyme preparations insoluble include DEAE—cellulose (GRASP 7G0042), diatomaceous earth (GRASP 6G0060), glutaraldehyde (GRASP 7G0080 and 7G0086), a porous ceramic carrier (GRASP 7G0084), and a combination of gelatin and glutraldehyde (GRASP) 1G0271). In addition, GRAS petitions 6G0060, 7G0084, 7G0086, and 1G0271 requested affirmation that the high fructose corn syrup produced by the specific enzyme preparation named in the petition is GRAS. FDA published notices of filing for these petitions in the **Federal Register** of August 6, 1974 (39 FR 28310), April 29, 1976 (41 FR 17953), December 7, 1976 (41 FR 53545), June 3, 1977 (42 FR 28601), May 27, 1977 (42 FR 27298), and March 10, 1981 (46 FR 15953), respectively. The agency gave interested persons an opportunity to review the petitions and to submit comments to the Dockets Management Branch. One comment, discussed elsewhere in this preamble, was submitted in response to the notice published on August 6, 1974.

High fructose corn syrup is a mixture of sugars, including approximately 52 percent glucose (dextrose), 43 percent fructose, and 5 percent maltose, isomaltose, and other sugars that are natural components of corn syrup. It is made from high dextrose equivalent corn syrup by the action of a glucose isomerase enzyme preparation.

High fructose corn syrup has been commercially produced in the United States since 1967. The major markets for high fructose corn syrup are, in descending order: beverages, baked goods, processed foods, and dairy products. According to industry reports, 4.3 billion pounds of high fructose corn syrup were produced in 1980. U.S. Department of Agriculture (USDA) production figures show that high fructose corn syrup represented 14.6 percent of the total consumption of nutritive sweeteners in 1980.

In its review of the six subject petitions. FDA has considered three major factors: (1) The source of the glucose isomerase enzyme; (2) the production, fixation, and any additional immobilization of the enzyme preparation; and (3) residual levels of processing materials that may occur in the high fructose corn syrup.

1. *Source of Glucose Isomerase Enzyme.* The subject petitions request GRAS affirmation for specific enzyme preparations derived from *S. rubiginosus, A. missouriensis, S. olivaceus, S. olivochromogenes,* and *B. coagulans.* The petitions provide precise taxonomic classification of the five microbial sources and provide information that these microbial species are well known to the scientific community and are generally available to that community. FDA has reviewed the published scientific literature and found that it contains studies utilizing these organisms, with no reported toxicity or pathogenicity associated with their use.

Extensive scientific literature searches reported by the petitioners disclosed no evidence that the organisms are toxicogenic or pathogenic. Unpublished pathogenicity studies on the particular strains of the organisms covered by the petitions, which show that these organisms are neither pathogenic nor toxicogenic to several species of laboratory animals, corroborate the safety of these organisms. The petitions provide data that show that these microorganisms can be maintained as pure cultures under conditions that minimize genetic changes. The petitions also provide information that demonstrates that appropriate microbiological, chemical, and physical controls can be maintained during the pure culture fermentation of the microorganisms, and that no antibiotics are produced by the microorganisms during the fermentation.

2. *Production, Fixation, and Additional Immobilization of Enzyme Preparation.* Each petition describes the method used to produce and to immobilize the enzyme-containing cellular materials. This information establishes the identity of processing materials and contaminants that could enter the final food product.

In the case of *S. rubiginosus* and *S. olivochromogenes*, the cells are disrupted, and a cell-free extract is prepared. The enzyme-containing extract is then fixed, that is, rendered insoluble, by adsorbing it onto DEAE-cellulose (*S. rubiginosus*) or a porous ceramic carrier (*S. olivochromogenes*). In the case of *S. olivaceus* and *B. coagulans*, intact, nonviable cells that contain glucose isomerase enzyme are simply fixed by reacting them with glutaraldehyde. In the case of *A. missouriensis*, intact, nonviable cells that contain enzyme activity are directly adsorbed onto diatomaceous earth or mixed with gelatin and reacted with glutaraldehyde.

In all the methods presented in the petitions, except those presented in GRASP 6G0060 and 7G0084, the fixed enzyme preparation is further immobilized by mechanical deposition onto a filter that is supported in a cylindrical reactor tank (column). In GRASP 7G0084, a similar result is achieved by directly depositing the enzyme-containing material onto a porous ceramic carrier, which is placed into a reactor column. In GRASP 6G0060, the enzyme material is adsorbed onto diatomaceous earth and is not further immobilized before use.

3. *Residual Levels of Processing Materials.* Each petition contains general manufacturing information that provides a basis upon which to determine the residual levels of processing materials that will occur in high fructose corn syrup. This information indicates that, under the presented methods, only very small amounts of materials from the enzyme conversion process will enter the product. Under normal conditions, the fixed enzyme preparation is extensively washed before use to remove processing materials. Furthermore, relatively small amounts of the washed enzyme preparation are used to catalyze the conversion of large quantities of glucose syrup. For example, in a continuous flow process (GRASP 4G0042, 7G0080, 7G0084, 7G0086, and 1G0271), about 7,000 to 9,000 liters of fixed enzyme preparation typically produce from 32 to 36 million liters of high fructose corn syrup. Thus, if any substances from the washed enzyme preparation do enter the high fructose corn syrup, they are diluted by a factor of at least 4,000. In a batch process (GRASP 6G0060), the ratio of syrup produced to fixed enzyme used is not as large but comparably low residual levels of processing materials are assured because the enzyme preparation is removed from the converted glucose syrup by repeated filtration. In addition, high fructose corn syrup produced by either a continuous flow or batch process is subsequently refined by ion-exchange and carbon filtration to further remove residues of the processing materials.

All of the petitions provide analytical data on the levels of processing materials present in high fructose corn syrup. These data confirm that only very small amounts of materials from the enzyme conversion process enter the high fructose corn syrup. The petitions also contain unpublished animal feeding studies establishing that residue levels of fixing agents and substances from the microbial sources up to the measured level, or the level of detection of the analytical method, are safe for human consumption. Each petition includes at least one subchronic (90-day or 6-month) study in the rat and either a 90-day or 6-month study in the dog. Other studies in the petitions include teratology studies in the rabbit or rat, reproduction/teratology studies in the rat, or

multigeneration reproduction studies in the rat.

The petitions also include specifications with supporting analytical data that indicate that the enzyme preparations, produced and fixed as indicated above, meet the general requirements and specifications for enzyme preparations set forth in the Food Chemicals Codex, 3d Ed.

In response to the notice of filing of GRASP 4G0042, published in the **Federal Register** on August 6, 1974, the agency received a comment from a law firm stating that glucose isomerase enzyme, from whatever source derived, possesses the same basic physical and chemical properties and activity. The comment suggested that GRAS status should not be confined to the use of the enzyme prepared from the particular source named by the petitioner, but rather that the use of glucose isomerase enzyme, as such, in the manufacture of high fructose corn syrup should be affirmed as GRAS.

The agency does not agree with this comment. Although the agency acknowledges that, by definition, a glucose isomerase enzyme from any source will convert glucose to fructose, the agency concludes that this fact alone is inadequate to establish the safety of the use of the final enzyme preparation. As indicated by the data provided in these petitions, an assessment of the safety and suitability of a glucose isomerase enzyme preparation must include consideration of the safety of the organism from which the enzyme preparation is derived, as well as consideration of the safety of the enzyme preparation itself, including such factors as the presence of additional cellular material and residual processing materials in the enzyme preparation and the level of enzyme preparation in the final food product.

After evaluating the petitions, the agency has made the following conclusions:

1. Data from the petitions establish that insoluble glucose isomerase enzyme preparations have no history of common use in food in the United States before January 1, 1958. Consequently, these enzyme preparations are not GRAS based on history of common use in food.

However, after evaluating the petitions, the agency concludes that insoluble glucose isomerase enzyme preparations derived from safe and suitable microorganisms, such as *S. rubiginosus, A. missouriensis, S. olivaceus, S. olivochromogenes,* and *B. coagulans,* and rendered insoluble (fixed) with GRAS ingredients or approved materials, are GRAS for use in the manfacture of high fructose corn syrup based on scientific procedures. The published scientific literature demonstrates that the microbial sources are well known and available to the scientific community and contains no reports of toxicity or pathogenicity problems associated with their use. In addition, the animal feeding studies contained in one of the petitions were presented at annual conferences of the American Association of Cereal Chemists (1971) and the American Chemical Society (1973). In addition, a substantial amount of manufacturing data for glucose isomerase enzyme preparations has been published in several publications and also was presented at the annual meetings mentioned above. The manufacturing data indicate that the use of immobilized enzyme preparations results in virtually nil levels of enzymatic processing materials entering the final food product. The conclusion that these preparations are GRAS is corroborated by analytical data and unpublished animal studies contained in the petitions that confirm the safety of the use of these enzyme preparations and the safety of the organisms from which they are derived.

The agency has further concluded that insoluble glucose isomerase enzyme preparations derived from microorganisms other than those listed above may also be GRAS, provided that the selection of the microorganism adheres to the criteria established during this review and reflected above in the discussion entitled, *"Source of Glucose Isomerase Enzyme."* Under these criteria, GRAS status is limited to enzyme preparations that are derived from microorganisms that are precisely classified, nonpathogenic, nontoxicogenic, and generally available to the scientific community. Furthermore, the published scientific literature should contain studies in which these microorganisms were utilized without any evidence of pathogenicity of toxicogenicity being associated with their use.

2. FDA currently considers the use of food-grade gelatin and diatomaceous earth in the production of high fructose corn syrup to be GRAS. A 1983 FDA advisory opinion letter concluded that diatomaceous earth of a suitable purity is GRAS for use as a filtering aid. The use of diatomaceous earth as a fixing agent for enzymes is very similar to its use as a filtering aid. FDA would classify both of these uses as processing aids as defined in § 170.3(o)(24) (21 CFR 170.3(o)(24)), and both uses would result in the same level of contact with food. Finally, in both of these uses, the diatomaceous earth is removed from the final food product. Therefore, the agency considers the use of diatomaceous earth as a fixing agent for enzymes to be GRAS. The agency intends to publish a proposal addressing the GRAS status of the food use of diatomaceous earth, including its use as a fixing agent for enzymes, in the near future.

The agency has traditionally considered materials such as ceramics, glass, and stainless steel as GRAS for food-contact use, based on their safe history of common use as food-contact materials before 1958. However, because the use of these materials has been so widespread, the agency has never considered it necessary to list these materials as GRAS. Therefore, the agency is noting that the use of these materials in the production of high fructose corn syrup is GRAS but is continuing its traditional practice of not specifically listing them as GRAS.

3. Glutaraldehyde and DEAE-cellulose, when used in the immobilization of glucose isomerase enzyme preparations, although not GRAS, are safe secondary direct food additives under section 409 of the Federal Food, Drug, and Cosmetic Act. There is no evidence that these substances were commonly used in food for these purposes in the United States before 1958. In addition, the agency has determined that the potential toxicity of crosslinking agents, including glutaraldehyde, and resins, including DEAE-cellulose, that could be used to fix glucose isomerase enzyme preparations establishes a basis for assuring limited consumer exposure to these substances. Consequently, the agency has concluded that the most appropriate way of regulating this group of substances and of ensuring their continued safe use in food is to provide for the use of fixing agents in a food additive regulation.

4. High fructose corn syrup as defined below in new § 182.1866 (21 CFR 182.1866) is GRAS for use in food. The agency has concluded that high fructose corn syrup is as safe for use in food as sucrose, corn sugar, corn syrup, and invert sugar. FDA bases this conclusion on the saccharide composition of this product and the safety of the insoluble glucose isomerase enzyme preparations used in its manufacture. High fructose corn syrup contains approximately the same glucose to fructose ratio as honey, invert sugar, and the disaccharide sucrose. In addition, the minor saccharides contained in high fructose corn syrup are the same, and present at similar levels, as the nonglucose saccharides that are present in corn syrup and corn sugar. Sucrose is

currently GRAS for use in food under § 182.1(a) (21 CFR 182.1(a)) and sucrose, corn sugar (sirup), and invert sugar are listed in § 182.90 (21 CFR 182.90) as GRAS substances that migrate from food packaging. In addition, the agency has historically considered sucrose, corn sugar, corn syrup, and invert sugar to be GRAS for direct use in food.

As a result of these conclusions, the agency is taking the following actions:

1. The agency is approving the secondary direct food additive use of DEAE-cellulose and glutaraldehyde as fixing agents in the immobilization of glucose isomerase enzyme preparations. A document amending Part 173 (21 CFR Part 173) to provide for this use of these subtances is published elsewhere in this issue of the **Federal Register**.

2. The agency is affirming under Part 184 (21 CFR Part 184) the GRAS status of certain insoluble (fixed) glucose isomerase enzyme preparations, derived from safe and suitable microorganisms, including *S. rubiginosus*, *A. missouriensis*, *S. olivaceus*, *S. olivochromogenes*, and *B. coagulans*, for use in the manufacture of high fructose corn syrup. These enzyme preparations may be fixed with GRAS ingredients and, if further immobilized, may also be fixed with materials approved under Part 173. The agency has determined that separate GRAS affirmation regulations for specific enzyme preparations are not necessary. As shown in the petitions, insoluble glucose isomerase enzyme preparations, derived from safe and suitable sources and fixed with either GRAS or approved materials, result in a product that is safe and suitable for use in food. Separate regulations for individual enzyme preparations would merely introduce an element of rigidity that is not necessary to ensure the safety of the product, into a relatively new manufacturing process that is undergoing considerable change in response to technological advances.

3. The agency is listing in Part 182 (21 CFR Part 182) high fructose corn syrup as GRAS for use in food. As indicated above, the agency considers that this product is as safe as sucrose, corn sugar, corn syrup, and invert sugar for use in food. The agency currently considers these ingredients as GRAS for use in food under the provisions of Part 182. Therefore, the agency is listing high fructose corn syrup in Part 182.

The agency has undertaken, although it has not yet completed, general GRAS safety reviews of sucrose (47 FR 53923; November 30, 1982) and of corn sugar, corn syrup, and invert sugar (47 FR 53917; November 30, 1982). These safety reviews not only address the safety of glucose and fructose as food ingredients but also evaluate the effects of total sugar consumption in the diet. Because of the similarity of high fructose corn syrup to these ingredients, FDA will consider whether to affirm its GRAS status following the completion of the general safety reviews of sucrose and of corn syrup, corn sugar, and invert sugar.

The agency is not specifying levels of use or food categories in the GRAS regulations for high fructose corn syrup and for insoluble glucose isomerase enzyme preparations. High fructose corn syrup is listed in Part 182 for use as a nutritive sweetener in food. Its use in food and its listing as GRAS are based on its similarity to sucrose, corn sugar, corn syrup, and invert sugar. These ingredients have widespread use in food, and their current GRAS approval contains no specific conditions of use. Therefore, the agency concludes that it is impractical and inappropriate to list food categories and levels of use for this ingredient. Insoluble glucose insomerase enzyme preparations are used in the manufacture of one product—high fructose corn syrup. Consequently, in lieu of food categories, the regulation specifies this use. Furthermore, the insoluble enzyme preparation is present at such small levels in high fructose corn syrup that the agency has concluded that it is neither useful nor practical to list its levels of use in food. Therefore, the agency is affirming the GRAS status of the insoluble glucose insomerase enzyme preparation when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of this substance is based on an evaluation of currently known uses, the regulation sets forth the technical effect that FDA evaluated.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

The format of the final regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1372 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effect listed, this change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule, and the agency has determined that the rule is not a major rule as defined by the Order. A copy of the threshold assessment supporting this determination is on file with the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) good ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended by adding new § 182.1866, to read as follows:

§ 182.1866 High fructose corn syrup.

(a) *Product.* High fructose corn syrup is a sweet, nutritive saccharide mixture containing approximately 52 percent (dry weight) glucose, 43 percent (dry weight) fructose, and 5 percent (dry weight) other saccharides. It is prepared as a clear aqueous solution from high dextrose equivalent corn starch hydrolysate by partial enzymatic conversion of glucose (dextrose) to

fructose utilizing an insoluble glucose isomerase enzyme preparation described in § 184.1372 of this chapter.

(b) *Limitations, restrictions, or explanations.* This substance is generally recognized as safe when used in food as a nutritive carbohydrate sweetener at levels not to exceed current good manufacturing practice.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1372, to read as follows:

§ 184.1372 Insoluble glucose isomerase enzyme preparations.

(a) Insoluble glucose isomerase enzyme preparations are used in the production of high fructose corn syrup described in § 182.1866 of this chapter. They are derived from recognized species of precisely classified, nonpathogenic, and nontoxicogenic microorganisms, including *Streptomyces rubiginosus, Actinoplanes missouriensis, Streptomyces olivaceus, Streptomyces olivochromogenes,* and *Bacillus coagulans,* that have been grown in a pure culture fermentation that produces no antibiotics. They are fixed (rendered insoluble) for batch production with GRAS ingredients or may be fixed for further immobilization with either GRAS ingredients or materials approved under § 173.357 of this chapter.

(b) The ingredient meets the general and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d Ed. (1981), p. 107, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme, as defined in § 170.3(o)(9) of this chapter, to convert glucose to fructose.

(2) The ingredient is used in high fructose corn syrup, at levels not to exceed current good manufacturing practice.

Effective date. This regulation shall become effective February 8, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: January 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3215 Filed 2-7-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. I

National Motor Carrier Advisory Committee

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meetings.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold a series of public meetings in San Francisco, California; Chicago, Illinois; and Washington, D.C., to solicit comments concerning the statement of FHWA interpretation and policy addressing the truck size and weight provisions contained in the Surface Transportation Assistance Act of 1982 (STAA) and the DOT Appropriations Act of 1982. The FHWA statement was issued in February 1, 1983, and published in the **Federal Register** on February 3, 1983 (48 FR 5210).

DATES: The meetings will be held beginning at 9:00 a.m. on February 24, 1983 in Washington, D.C., on March 2, 1983 in Chicago, Ill.; on March 10, 1983 in San Francisco, Calif.

ADDRESSES: The meetings will be held at the following places:

February 24, 1983 in Washington, D.C., at the Department of Transportation's Headquarters Building, 400 Seventh Street, SW., Room 2230.

March 2, 1983 in Chicago, Illinois, at the Federal Building, 230 S. Dearborn Street, Room 349.

March 10, 1983 in San Francisco, California, at the Federal Building, 450 Golden Gate Avenue, Room 200.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Stapleton, Acting Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC–20, Room 4224, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–0834. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: 1. *Agenda.* The agenda of the meetings will be limited to the receipt of comments concerning the statement of FHWA interpretation and policy addressing the truck size and weight provisions contained in the STAA and the DOT Appropriations Act of 1982. The FHWA statement addressed the explicit truck weight, length and width statutory provisions and the following primary issues relating to those provisions:

(a) Effective dates;

(b) Identification of the "qualifying highways" referred to in Sections 411 of the STAA and 321 of the DOT Appropriations Act; and

(c) Definition of "reasonable access" referred to in Sections 133 and 412 of the STAA.

2. *Submission of comments and request to testify.* Interested persons are invited to comment on the subject-matter of the meetings. Written comments may be submitted at the time and place of the meetings. (These comments are in addition to any comments that anyone may wish to submit in response to the request for comments in connection with the FHWA policy statement published in the **Federal Register** on February 3, 1983.

Anyone desiring an opportunity to make an oral presentation at one of the meetings should make a written request to do so at least ten days prior to the date of the meeting in question. The person making the request should describe his or her interest and, if appropriate, state whether he or she is a representative of a group or class of persons that has such an interest. A telephone number should be given where he or she may be contacted up until the day before the meeting. Requests to testify should be addressed to: Mr. James J. Stapleton, Acting Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC–20, Room 4224, 400 Seventh Street, SW., Washington, D.C. 20590.

3. *Conduct of Meetings.* The Advisory Committee reserves the right to limit the number of speakers from any one group or organization to be heard at the meetings, to schedule their respective presentations, and to establish the procedures governing the conduct of the meetings. The length of each presentation may be limited, based on the number of persons or organizations requesting to be heard.

A member of the Advisory Committee will be designated to preside at the meetings, which will not be judicial or evidentiary-type hearings. Questions may be asked only by members of the Advisory Committee or the Acting Executive Director, and there will be no cross examination of persons presenting statements.

Any person attending and who wishes to ask a question may submit the

question in writing to the presiding officer.

Any further procedural rules needed for the proper conduct of the meetings will be announced by the presiding officer.

Issued on: February 4, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83-3471 Filed 2-7-83; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 885

[Docket No. R-83-1058]

Loans for Housing for the Elderly or Handicapped; Fiscal Year 1983 Interest Rate

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: In compliance with the Further Continuing Appropriations Act, 1983 (Pub. L. 97-377), this rule amends 24 CFR Part 885 to establish the interest rate for direct loans for housing for the elderly or handicapped made during Fiscal Year 1983 at 9¾ percent per annum. This interest rate is the same rate as was applicable to loans made during Fiscal Year 1982.

EFFECTIVE DATE: February 8, 1983.

FOR FURTHER INFORMATION CONTACT: Robert W. Wilden, Director, Elderly, Cooperative, Congregate and Health Facilities Division, 451 7th Street, SW., Room 6136, Washington, D.C. 20410, Telephone (202) 426-8730. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 202(a)(3) of the Housing Act of 1959, as amended, provides that a loan for housing for the elderly or handicapped shall bear interest at a rate which is not more than a rate determined by the Secretary of the Treasury, taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year next preceding the date on which the loan is made, adjusted to the nearest one-eighth of one percent, plus an allowance adequate in the judgment of the Secretary of HUD to cover administrative costs and probable losses under the program. The existing regulation provision (24 CFR 885.410(g)) incorporates a determination by the Secretary that the allowance for administrative costs and probable losses should be one-fourth of one percent (.25%) per annum for both the construction and permanent loan periods.

Application of this formula to loans made during Fiscal Year 1983 would have yielded an interest rate of 11⅝ percent per annum. The Further Continuing Appropriations Act, 1983, however, establishes a 9¾ percent per annum interest rate for direct loans made in Fiscal Year 1983.

Since this amendment implements a statutory mandate the Secretary has determined that notice and public procedure on this amendment are unnecessary. In addition the Secretary has determined that it is in the public interest to implement his decision as soon as possible, so that projects previously approved as feasible under the Fiscal Year 1982 interest rate can proceed to construction without delay. Accordingly, good cause exists for publishing this amendment as a final rule, without providing a prior comment period, and for making it effective less than 30 days after such publication.

Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in the effectiveness of HUD regulations for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. The Secretary has requested and received such waivers.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to Section 605(b) the (Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because, under the rule, the current interest rate would remain in effect.

The Catalog of Federal Domestic Assistance Program title and number is Housing for the Elderly or Handicapped, 14.157.

This rule was not listed in the Department's Semiannual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act of October 28, 1982 (47 FR 48422).

List of Subjects in 24 CFR Part 885

Aged, Grant programs—housing and community development, Handicapped, Loan programs—housing and community development, Low and moderate income housing.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

Accordingly, 24 CFR 885.410(g) is revised to read as follows:

§ 885.410 Amount and terms of financing.

* * * * *

(g) Except for loans made during Fiscal Years 1982 and 1983, which shall bear an interest rate of nine and one-fourth percent (9¼) per annum, loans shall bear interest at a rate established by the Secretary by adding:

(1) A rate determined by the Secretary of the Treasury to be the average interest rate on all interest-bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year immediately prior to the date on which the loan is made; plus (2) an allowance to cover administrative costs and probable losses under the program, which allowance has been determined

by the Secretary of HUD to be one-fourth of one percent (.25%) per annum for both the construction and permanent loan periods.

* * * * *

(Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: January 19, 1983.

Philip Abrams,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 83-3378 Filed 2-7-83; 8:45 am]

BILLING CODE 4210-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 2293-2; SC-003]

Approval and Promulgation of Implementation Plans; South Carolina: Opacity Limits for Williams Power Station

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On June 25, 1982, the South Carolina Department of Health and Environmental Control (DHEC) submitted a State Implementation Plan (SIP) revision for South Carolina Electric and Gas Company (SCE&G), Williams Power Station, located in Charleston. The plan revision is a special operating permit which limits the opacity of emissions from the Williams Power Station to 40% in-stack and 60% out-of-stack. South Carolina's current SIP limits visible emissions from fuel-burning operations to 40% opacity out-of-stack. The Environmental Protection Agency is today approving the revision.

EFFECTIVE DATE: This action will be effective on April 11, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Denise W. Pack of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the material submitted by South Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library System Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20005

Bureau of Air Quality Control, S.C. Department of Health & Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201

FOR FURTHER INFORMATION CONTACT: Denise W. Pack, EPA Region IV, Air Management Branch at the above-listed address, phone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On June 25, 1982, the South Carolina Department of Health and Environmental Control (DHEC) sumitted as a State Implementation Plan revision an operating permit for South Carolina Electric and Gas Company (SCE&G), Williams Power Station, located in Charleston. On September 1, 1981, the SCE&G had requested that the DHEC issue a modified permit to the Williams Power Station. DHEC had, by administrative order, required the Williams Power Station to come into compliance with applicable visible emission limiting regulation no later then June 1, 1981. SCE&G could not meet this requirement and on July 29, 1981, performed particulate emission testing showing that the particulate loading is within the allowable emission rate even when the opacity exceeds the allowable 40%. This indicates that the normal relationship between visible emissions and mass emission rate does not apply to the Williams Power Station.

The DHEC reviewed this request and on November 17, 1981, held a public hearing on the special operating permit for SCE&G-Williams Power Station. The operating permit will limit emissions from SCE&G to 40% opacity in-stack, as determined by a transmissometer, and 60% out-of-stack, as determined by visual observation. The State's current regulation (Regulation 62.5 Standard No 1 Section IA) limits opacity from fuel-burning operations to 40% and deals only with out-of-stack opacities. The revision was adopted by the DHEC board on June 24, 1982.

EPA has reviewed the June 25, 1982, submittal and is today approving the special operating permit for Williams Power Station.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirement of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Incorporation by reference of the South Carolina State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: February 1, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart PP—South Carolina

In § 52.2120, is amended by adding paragraph (c)(24) to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.* * *

(24) Special Operating Permit for South Carolina Electric and Gas Company-Williams Power Station, submitted on June 25, 1982, by the South Carolina Department of Health and Environmental Control.

[FR Doc. 83-3203 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-6-FRL 2288-3]

Approval and Promulgation of State Implementation Plans; Arkansas Regulation for Control of VOC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rulemaking.

SUMMARY: The purpose of this notice is to approve a revision to the State Implementation Plan (SIP) for Arkansas. This revision was submitted by the Governor of the State on December 10, 1979.

The State has chosen to amend their control of volatile organic compound (VOC) regulation Section 5.1(a). This

amendment provides that "No person shall cause or permit the loading of gasoline into a storage tank of a gasoline storage or marketing facility with a monthly throughput in excess of 10,000 gallons except through a submerged fill pipe or by bottom loading."

This revision was submitted by the State for the purpose of meeting the requirements of Part D of the Clean Air Act (CAA) and to assist the State in the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) throughout Arkansas. This rule also amends 40 CFR 52.170.

DATES: This rulemaking will be effective on April 11, 1983 unless notice is received by March 10, 1983 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted by Arkansas and EPA's Evaluation Report may be examined during normal business hours at the following locations:

EPA, Region 6, SIP Section, 1201 Elm Street, Dallas, Texas 75270;
EPA, Public Information Reference Unit, Library Systems Branch, 401 "M" Street SW., Washington, D.C. 20460; or
The Office of the Federal Register, Room 8401, 1100 "L" Street, NW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jeannean W. Hayes, State Implementation Plan Section, Air and Waste Management Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270; (214) 767–1518, (FTS) 729–1518.

SUPPLEMENTARY INFORMATION: The Governor of Arkansas submitted a revision to the Arkansas regulation for the control of Volatile Organic Compounds (VOCs), Section 5.1(a) *Gasoline Storage and Marketing* on December 10, 1979.

The State of Arkansas has chosen to amend their present VOC regulation by adding the provision that "No person shall cause or permit the loading of gasoline into a storage tank of a gasoline storage or marketing facility with a monthly throughput in excess of 10,000 gallons except through a submerged fill pipe or by bottom loading." This provision exempts stations having throughputs less than or equal to 10,000 gallons per month from submerged fill pipe or bottom loading requirements.

EPA has reviewed the Arkansas SIP revision and finds that the submission is fully approvable as explained in the Evaluation Report which is available for public review at the locations listed in the Addresses Section of this notice. The submission includes validation that a public hearing was held and adequate time was allowed for public comment.

EPA's policy for control of service stations in general allows an exemption for tanks with a capacity of less than 2,000 gallons. Analysis concludes that gasoline throughput exemption of 120,000 gallons per year (or 10,000 gallons per month) or less is essentially equivalent to a tank size of 2,000 gallons.

Therefore, based on the Agency's review of the Arkansas' submittal, EPA is approving the SIP revision as submitted.

The public should be advised that this action will be effective 60 days from the date of notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice published before the effective date. The subsequent notice will withdraw the final action and will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Clean Air Act judicial review of this final rulemaking notice is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of the date of publication. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I certify that this notice will not have a significant economic impact on a substantial number of small entities since it imposes no new regulatory requirements. This action only approves a State action.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the State Implementation Plan for Arkansas was approved by the Director of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, 42 U.S.C. 7410.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: February 1, 1983.

Anne M. Gorsuch

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52, Subpart E—Arkansas, of the Code of Federal Regulations is amended to add paragraph (c)(21) as follows:

§ 52.170 Identification of Plan.

* * * * *

(c) * * *

(21) On December 10, 1979, the Governor submitted a revision to Section 5.1(a) of the Regulation of the Arkansas Plan of Implementation for Air Pollution Control, which controls VOC emissions. This revision was adopted by the Arkansas Commission on Pollution Control and Ecology on November 16, 1979.

[FR Doc. 83-3202 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-1-FRL 2283-4]

Approval and Promulgation of Implementation Plans; Connecticut Revision—Sulphur-in-Fuel Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut for Dow Chemical USA in Gale's Ferry, Connecticut. The intended effect of this rulemaking is to promulgate a change in the sulfur-in-oil limit for this source so it may burn 1% sulfur oil under specified operating conditions.

DATE: Effective February 8, 1983.

ADDRESSES: Copies of the Connecticut submittals are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2312, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C.; the Office of the Federal Register, 1100 L Street, NW., Room 9401, Washington, D.C.; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Sarah Simon, Air Management Division, Room 2312, JFK Federal Building,

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Boston, Massachusetts 02203, (617) 223-5633.

SUPPLEMENTARY INFORMATION: On September 11, 1981, EPA proposed approval (46 FR 45378) of revisions to the Connecticut State Implementation Plan (SIP) proposed by the Connecticut Department of Environmental Protection (DEP). We approved the 1% sulfur oil revision for most sources on November 18, 1981 (46 FR 56812) and took no action on several others. Our action today supplements our November action by approving the new 1% sulfur-in-oil limit for one source, Dow Chemical in Gale's Ferry, not previously approved. The order, including Dow's new emission limitations, was signed by the DEP Commissioner on May 27, 1982 (Connecticut State Order 7002B). The Commissioner formally submitted the SIP revision to EPA by letter of December 20, 1982.

A thorough discussion of the 1% sulfur oil revision, its technical support, EPA's rulemaking procedures, and EPA's reasons for approval were presented in the September 1981 Notice of Proposed Rulemaking and will not be fully repeated here. Briefly, the original screening analyses did not demonstrate compliance with the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide for 17 sources. Therefore, EPA proposed to approve the revision allowing those sources to use 1.0% sulfur oil *provided that* the revision submittal was expanded to include additional refined modeling demonstrations or operating restrictions that would ensure NAAQS compliance.

Further state review of the Dow facility, using the EPA screening model VALLEY with operating restrictions imposed, has demonstrated compliance with the NAAQS when burning 1% sulfur oil. The final State Order (7002B) approves the use of 1% sulfur oil under operating restrictions that allow one of two available large boilers to operate at any one time unless "a final decision on a definition of ambient air as currently under review render[s] an interpretation such that on-site modeled exceedances of NAAQS are not considered violations of NAAQS." Region I inspected the Dow site and found it both accessible to the public and close to nearby private residences. For this reason, in a letter dated November 8, 1982, to the DEP Air Director, Leonard Bruckman, EPA decided that the Dow site was an ambient air area, and that boiler operation would have to be restricted. The requisite operating restrictions of Order 7002B are incorporated into the SIP as part of this rulemaking.

After evaluation of the State's submittals, the Administrator has determined that this Connecticut revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, it is approved as a revision to the Connecticut SIP.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

The Agency finds that good cause exists for making this action effective immediately since this implementation plan revision is already in effect under state law and EPA approval imposes no additional regulatory burden.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). The Action may *not* be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Hydrocarbons, Carbon monoxide.

(Sec. 110(a) and Section 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7601)

Dated: January 19, 1983.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart H—Connecticut

1. Section 52.370, is amended by adding paragraph (c)(26) as follows:

§ 52.370 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(26) Revision for Dow Chemical U.S.A. in Gale's Ferry submitted by the Commissioner of the Connecticut Department of Environmental Protection on December 20, 1982, including state order 7002B signed on May 27, 1982. This provision supersedes a portion of the revisions identified under (c)(18).

§ 52.380 [Amended]

2. Section 52.380, paragraph (d)(9) is amended by removing and reserving paragraph (v).

[FR Doc. 83-3294 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 80

(AH-FRL 2301-3)

Regulation of Fuels and Fuel Additives

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On October 29, 1982, EPA promulgated regulations governing the allowable lead content of leaded gasoline (47 FR 49322). These regulations were challenged by several refiners, and on January 26, 1983, the U.S. Court of Appeals for the District of Columbia Circuit vacated, effective February 2, 1983, the portion of the regulations establishing an interim standard of 1.90 grams of leaded gasoline (gplg) for small refineries during the period November 1, 1982, to June 30, 1983. In order to fill this regulatory vacuum, EPA is reinstating the lead content standards previously applicable to the affected refineries. Small refineries with an average total gasoline production of 5000 barrels per day or less during a compliance period will be subject to a standard of 2.65 grams of lead per gallon of total (leaded and unleaded) gasoline produced (gptg). Small refineries with an average total production of 5001 to 10,000 barrels per day during a compliance period will be subject to a standard of 2.15 gptg.

DATES: Compliance periods for these standards are November 1, 1982, to January 31, 1983, and February 1, 1983, to June 30, 1983. This rule is effective February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert E. Kenney, Senior Staff Attorney, Field Operations and Support Division (EN-397), EPA, 401 M Street, S.W., Washington, D.C. 20460. Telephone (202) 382-2633.

SUPPLEMENTARY INFORMATION: On October 29, 1982, EPA promulgated revised regulations governing the allowable lead content of leaded gasoline (47 FR 49322). These regulations established new lead content standards for gasoline produced by large refineries and small refineries, as well as for imported gasoline. Effective November 1, 1982, large refineries and importers were made subject to a lead content standard of 1.10 gplg. Small refineries were made subject to the 1.10 gplg

standard starting on July 1, 1983, with an interim standard of 1.90 gplg for the November 1, 1982, to June 30, 1983, period. The eight-month interim period was designed to compensate for the period of uncertainty caused by the Agency's consideration of revisions to the lead content regulations. The small refinery definition was also significantly revised, resulting in a substantial decrease in the number of qualifying facilities. Finally, the regulations were revised to permit all refineries and importers to average their lead usage with each other.

Petitions to review the regulations were filed pursuant to 307 of the Clean Air Act, 42 U.S.C. 7607, by the Small Refiner Lead Phase-Down Task Force (SRTF), Plateau Incorporated, and Simmons Oil Company. These petitioners challenged various portions of the promulgated regulations, including the interim and permanent small refinery standards and the small refinery definition. Oral arguments were presented on the petitions on January 17, 1983, before the U.S. Court of Appeals for the District of Columbia Circuit.

On January 26, 1983, the Court issued an order concerning the challenges to the regulations presented by SRTF and Plateau (a decision on the Simmons challenge was deferred pending receipt of briefs on the issue raised by Simmons). With one exception, the Court upheld the regulations in their entirety as within EPA's statutory authority, not arbitrary, capricious, or an abuse of discretion, and not procedurally flawed. The exception was that the Court found the interim 1.90 gplg standard for small refineries defective because EPA did not give adequate notice that it might immediately require these facilities to significantly reduce lead use. In addition, the Court found that there was inadequate evidence in the record to support EPA's belief that averaging of lead usage among refineries would occur fast enough and extensively enough to materially assist the small refiners in meeting the 1.90 pglg interim standard, and that EPA was not warranted in factoring such a scheme into its decision to impose that standard. As a result, the Court vacated that part of 40 CFR 80.20(b)(1)(i) that required small refineries to limit the lead content of leaded gasoline to 1.90 gplg for gasoline production not exceeding the refinery's historic production level. The Court left in effect the portion of that regulatory provision which required that leaded gasoline produced in excess of a refinery's historic production level may not exceed 1.10 gplg during the interim period.

The Court also addressed the issue of whether the prior lead content regulation should continue in effect for the interim period or whether its action would leave no regulation in effect for small refineries, as defined in the October 29, 1982, final rule. Because the prior standard of 0.50 gptg, which would have become effective on November 1, 1982, for small refineries, would be more stringent than either a 1.90 gplg or 1.10 gplg standard, the Court determined that its action would leave no regulation in effect for the interim period. However, the Court noted, "The unexpected nature of this regulatory vacuum, plus the public health danger posed by unrestricted lead use and the absence of any unfairness to small refiners in such a course of action, would justify EPA in immediately promulgating a temporary lead content regulation which does not require small refiners to reduce lead use to a level significantly below previous lead-use levels * * *. We will delay issuing the mandate in this case until Wednesday, February 2, 1983, to give EPA an opportunity to promulgate such an emergency rule that would become effective as of that date."

In this action, EPA is taking advantage of the opportunity provided by the Court's delay in issuing its mandate to promulgate immediately-effective lead content standards for small refineries to cover the interim eight-month period. As noted by the Court, the public interest in regulating the use of this hazardous substance is compelling even for this relatively short period of time. This rulemaking action generally reinstitutes the lead content standards previously applicable to affected facilities prior to November 1, 1982. Those small refineries with an average daily gasoline production of 5,000 barrels or less during a compliance period will be subject to a standard of 2.65 gptg. Those with an average daily production of 5,001 to 10,000 barrels during a compliance period will be subject to a standard of 2.15 gptg. Since these are the identical standards previously applicable to these facilities, they will not require any reduction in lawful lead usage by small refineries and therefore are fully consistent with the Court's order.

The historic production limit in 40 CFR 80.20(b)(1)(i) will remain in effect. This means that a refinery will be able to include only up to its historic production level of leaded gasoline in calculating compliance with the new 2.15 gptg and 2.65 gptg standards. To determine compliance during a compliance period, the amount of lead used in a refinery's production of leaded gasoline, up to its historic production level, would be divided by the sum of its total unleaded gasoline production and its total leaded gasoline production (up to the historic leaded gasoline production level). Any leaded gasoline production in excess of its historic leaded gasoline production level would be subject to a 1.10 gplg standard. For example, assume that a refinery's historic production level, as defined in § 80.20(b)(1)(i)(D)[1] is 10,000,000 gallons of leaded gasoline, and that its production during a compliance period is 15,000,000 gallons of leaded gasoline and 7,500,000 gallons of unleaded gasoline. Compliance with the applicable "pooled" standard would be measured by dividing the lead used in the production of 10,000,000 gallons of leaded gasoline by 17,500,000 gallons (10,000,000 gallons of leaded plus 7,500,000 gallons of unleaded gasoline). The additional 5,000,000 gallons of leaded gasoline produced in the compliance period would be subject to a 1.10 gplg standard, determined by dividing the lead used in its production by its gallonage.

In order to limit increased lead usage that might occur as a result of the two compliance periods originally promulgated in 40 CFR 80.20(b)(1)(i), the Agency is today establishing somewhat different compliance periods within the eight-month period of the interim standards. The first compliance period is November 1, 1982 to January 31, 1983. Refineries that intended to comply with the 1.90 gplg standard for the initial five-month compliance period under the vacated regulation should be easily able to meet the total gasoline standards for this new first compliance period. The second compliance period is February 1, 1983, to June 30, 1983. Starting on July 1, 1983, the distinction in these regulations between large and small refineries will no longer be applicable, and all refineries will be subject to a 1.10 gplg standard.

Minor changes have also been made to certain other provisions in the regulations as the result of adoption of a "pooled" standard for the interim period. These include provisions related to the calculation of compliance with the interim standards (§ 80.20(b)(2)), reporting requirements (§ 80.20(b)(3)), and averaging (§ 80.20(d) (1) and (2)). Small refiners utilizing averaging during the interim period will be permitted to show compliance through this method with either the applicable pooled

[1] In order to remove an unintended complexity, the definition of "historic production level" has been revised so as to be solely based on gallonage

standard or the 1.10 gplg standard (if leaded gasoline production exceeds the historic production level), or both. See § 80.20(d)(2)(v).

The final actions described in this notice are made under the authority of Sections 211 and 301 of the Clean Air Act and are nationally applicable. Under section 307(b)(1) of the Clean Air Act, judicial review may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for judicial review must be filed on or before April 11, 1983.

EPA finds that there is "good cause" under the Administrative Procedure Act, 5 U.S.C. 553 (b) and (d), to promulgate this rule without prior notice and public comment, and to make this rule effective immediately. "Good cause" exists because it would be contrary to the public interest to have a period in which a large number of refineries are not subject to any restraints on lead usage. The Agency has found that there is a continued need for the control of lead in gasoline and that further action by EPA to reduce lead in gasoline is a prudent and reasonable course of action to take in order to protect public health (47 FR 49330). Failure to establish an immediately-effective standard would be contrary to the public interest in limiting emissions of this hazardous substance. In addition, because this rule is less restrictive for small refineries than the previous regulation and therefore "relieves a restriction," "good cause" exists within the meaning of 5 U.S.C. 553(d).

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires the preparation of a regulatory flexibility analysis for any final rule unless the Administrator certifies that the rule will not have a significant impact on a substantial number of small entities. Since this final rule essentially reinstitutes the lead content standards in effect prior to November 1, 1982, for the affected small refineries, and is actually less burdensome than the interim standard vacated by the Court, I certify that this rule will not have a significant impact on a substantial number of small entities.

EPA has determined that this rule is not a major rule as defined in Executive Order 12291. Therefore, a regulatory impact analysis has not been prepared. Because the order of the Court of Appeals contemplates an emergency rule by February 2, 1983, it is impracticable for the Agency to submit the rule for review by the Office of Management and Budget prior to promulgation under Executive Order 12291, and the rule is thereby exempt from prior review under Section 8(a) of the Executive Order. A copy of the rule has been transmitted to the Office of Management and Budget.

List of Subjects in 40 CFR Part 80

Fuel additives, Gasoline, Motor vehicle pollution, Penalties.

(Secs. 211 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7545 and 7601(a))

Dated: February 1, 1983.

Anne M. Gorsuch,

Administrator.

PART 80—[AMENDED]

For the reason set forth in the preamble, § 80.20 of Title 40 of the Code of Federal Regulations is amended by revising paragraphs (b)(1)(i), (b)(2), (b)(3), (d)(1)(ii) and (d)(2)(iv) and by adding new paragraphs (d)(2)(v) and (d)(2)(vi) to read as follows:

§ 80.20 Controls applicable to gasoline refiners.

* * * * *

(b)* * *

(1)* * *

(i)(A) Produce gasoline whose lead content during a compliance period exceeds 2.65 grams of lead per gallon of gasoline produced, if such refinery produces no more than an average of 5,000 barrels or less of gasoline per day during such period. For purposes of determining compliance with this standard, only that amount of leaded gasoline produced in such period up to the refinery's historic production level shall be included.

(B) Produce gasoline whose lead content during a compliance period exceeds 2.15 grams of lead per gallon of gasoline produced, if such refinery produces an average of 5,001 to 10,000 barrels of gasoline per day during such period. For purposes of determining compliance with this standard, only that amount of leaded gasoline produced in such period up to the refinery's historic production level shall be included.

(C) For purposes of paragraphs (b)(1)(i) (A) and (B), the compliance periods are November 1, 1982, to January 31, 1983, and February 1, 1983, to June 30, 1983.

(D) For purposes of paragraphs (b)(1)(i) (A) and (B), "historic production level" means the average number of gallons of leaded gasoline produced each day during the period July 1, 1981 to June 30, 1982, multiplied by the number of days in the compliance period (and then rounded to the nearest thousand gallons). The average lead content of that amount of leaded gasoline produced during each compliance period in excess of the historic production level may not exceed 1.10 grams per gallon.

* * * * *

(2)(i) Except as provided in paragraph (d)(1) of this section, compliance with the requirements of paragraph (b)(1)(i)(A) or (B) shall be determined by dividing the total grams of lead used in the production of leaded gasoline at a small refinery (up to its historic production level) during a compliance period by the sum of the total gallons of unleaded gasoline plus the total gallons of leaded gasoline (up to the historic production level) produced at the small refinery in the same compliance period.

(ii) In the event that a small refinery produces more leaded gasoline than its historic production level, except as provided in paragraph (d)(1) of this section, compliance with the requirements of paragraph (b)(1)(i)(D) shall be determined by dividing the total grams of lead used in the production of leaded gasoline in excess of a refinery's historic production level during a compliance period by the total gallons of such leaded gasoline produced at the small refinery in the same compliance period.

(iii) Except as provided in paragraph (d)(1) of this section, compliance with the requirements of paragraph (b)(1)(ii) shall be determined by dividing the total grams of lead used in the production of leaded gasoline at a small refinery during a compliance period by the total gallons of leaded gasoline produced at the small refinery in the same compliance period.

(3) A refiner shall submit reports for each small refinery as specified in paragraph (a)(3) of this section. As an additional part of such reports for the compliance periods specified in paragraph (b)(1)(i)(C), a refiner shall submit the following information for each small refinery.

(i) The total gallons of leaded gasoline produced during the period July 1, 1981, to June 30, 1982;

(ii) The average lead content of gasoline produced during the compliance period, as determined pursuant to paragraph (b)(2)(i); and

(iii) The average lead content of leaded gasoline produced in excess of the historic production level (if any), as determined pursuant to paragraph (b)(2)(ii).

* * * * *

(d) * * *

(1) * * *

(ii) The average constructive lead content of gasoline produced in a compliance period by each small refinery prior to July 1, 1983, does not

exceed the level(s) specified in paragraph (b)(1)(i) of this section; and

* * * * *

(2) * * *

(iv) For each refinery that is not a small refinery and for each small refinery after July 1, 1983, the constructive average lead content of leaded gasoline produced by the reporting refinery during the compliance period, as determined by dividing the total grams of lead indicated in paragraph (d)(2)(iii) by the total gallons of leaded gasoline produced by the reporting refinery during the compliance period.

(v) For each small refinery prior to July 1, 1983, the constructive average lead content of gasoline produced by the reporting refinery during the compliance period. In determining such constructive average lead content, the total grams of lead indicated in paragraph (d)(2)(iii) may be allocated in any manner by the refiner to the calculation of the total gasoline average pursuant to paragraph (b)(2)(i) and/or the leaded gasoline average pursuant to paragraph (b)(2)(ii), so long as the number of grams of lead so allocated is equal to the total grams of lead indicated in paragraph (d)(2)(iii).

(vi) When compliance is demonstrated pursuant to paragraph (d)(1) by more than one refiner, each such report shall also include supporting documentation adequate to show the agreement of all such refiners to the constructive allocation of lead usage stated in the report.

* * * * *

[FR Doc. 83-3193 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 80

[AMS FRL 2290-1]

Regulation of Fuels and Fuel Additives; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects minor errors in a final rule regulating the lead content of leaded gasoline, which was published on October 29, 1982 (47 FR 49322-34).

FOR FURTHER INFORMATION CONTACT: Robert E. Kenney, Senior Staff Attorney, Field Operations and Support Division, (202) 382-2659.

SUPPLEMENTARY INFORMATION: The final lead phasedown regulations, published on October 29, 1982, contained typographical errors in 40 CFR 80.20(a)(3)(xi) and (b)(1). 47 FR 49332-3. In addition, the regulations failed to indicate that a legal citation in a portion of the small refinery definition (40 CFR 80.2(p)(4)) referred to a reporting requirement under the previous regulations. The notice also inadvertently omitted a clarifying phrase in 40 CFR 80.20(a)(3)(xi). 47 FR 49333. This correction notice rectifies these errors.

In addition, the preamble to the regulations incorrectly stated that the information collection provisions in the regulations are not effective until approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. 47 FR 49322. This statement is correct for new reporting requirements established by the regulations (40 CFR 80.20(a)(3), (b)(3), (c)(3), and (d)(2)). However, the reporting requirement applicable to certain refineries for the month of October 1982 or the calendar quarter October to December 1982 (40 CFR 80.20(a)(4)) is a continuation of the reporting requirements under the previous lead phasedown regulations, which have already been approved by OMB under the Paperwork Reduction Act and assigned OMB control number 2000-0041. Therefore, the reporting requirement in 40 CFR 80.20(a)(4) was effective November 1, 1982.

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

PART 80—[CORRECTED]

Accordingly, 40 CFR Part 80 is corrected as follows:

§ 80.2 [Corrected]

1. In 40 CFR 80.2(p)(4), a footnote is added after the reference to § 80.20(b)(2) to read as follows: "The citation to § 80.20(b)(2) relates to the former small refinery reporting requirements codified in that paragraph prior to the October 29, 1982 (47 FR 49333), amendments to that paragraph. The reporting requirements for small refineries are now found in 40 CFR 80.20(b)(3).

§ 80.20 [Corrected]

2. In 40 CFR 80.20(a)(3)(xi), the reference to "paragraph (a)(3)(ix)" is changed to "paragraph (a)(3)(x)", and the phrase "the total grams of lead in each product so transferred," is added after the phrase "the total gallons of each product so transferred,".

3. 40 CFR 80.20(b)(1) is revised to read. "In the production of gasoline at a small refinery (as defined in § 80.2(p)), a refiner shall not: * * *."

[FR Doc. 83-2873 Filed 2-3-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[KY-012; A-4-FRL 2290-3]

Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of Muhlenberg County for TSP

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves a request by Kentucky to redesignate Muhlenberg County as attainment for the primary total suspended particulate (TSP) standards. This action responds to the State's request to redesignate the area based upon eight (8) consecutive quarters of ambient data that indicates attainment of the primary standard. The area continues to be designated nonattainment for the secondary TSP standard.

EFFECTIVE DATE: This action will be effective April 11, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESS: Written comments should be addressed to Melvin Russell of EPA Region IV's Air Management (see EPA Region IV address below). Copies of the material submitted by Kentucky in support of the redesignation may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Air Management Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Kentucky Natural Resources and Environmental Protection Cabinet, Division of Air Pollution Control, 18 Reilly Road, Building #2 Ft. Boone Plaza, Frankfort, KY 40601.

FOR FURTHER INFORMATION CONTACT: Melvin Russell, EPA Region IV, Air Management Branch, at the Region IV address above or call 404/881-3286 or (FTS 257-3286).

SUPPLEMENTARY INFORMATION: The primary TSP nonattainment designation for Muhlenberg County, Kentucky was based on monitored violations of the TSP national ambient air quality standards (NAAQS). On November 18, 1982, the Kentucky Natural Resources and Environmental Protection Cabinet submitted a redesignation request to change the TSP attainment status of Muhlenberg County. The submittal included ten consecutive quarters of current ambient data that demonstrated attainment of the primary TSP NAAQS. The data includes the period of January 1980 through June 1982. EPA requires eight consecutive quarters of current data. Muhlenberg County will remain nonattainment for the secondary TSP NAAQS.

EPA has reviewed the Kentucky data for representativeness, quality and quantity, and found it acceptable.

Action: EPA today redesignates Muhlenberg County, Kentucky from nonattainment to attainment for the primary TSP NAAQS. This action is taken without prior proposal because the basis for the redesignation (ambient monitoring data) is straightforward and noncontroversial; moreover, this action will not affect air quality or impose additional requirements on industry. We do not anticipate public comments on this action.

This action will be effective 60 days from the date of this **Federal Register** notice. However, if we receive notice within 30 days that someone wishes to submit critical comments, we will withdraw this action and will publish two subsequent notices before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. 605(b), the Administrator has certified that area redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

§ 81.318 Kentucky.

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Kentucky—TSP				
Muhlenberg County		X		

[FR Doc. 83-3293 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

Subpart C—Section 107 Attainment Status Designations

In § 81.318, the "Kentucky—TSP" table is amended by removing the notation which indicates nonattainment of the primary standards in Muhlenberg County. As amended, the entry for this area reads as follows:

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40 CFR Part 81

[TN-003; A-4-FRL 2292-5]

Designation of Areas for Air Quality Planning Purposes; Tennessee: Redesignation of Particulate Area

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On October 25, 1982 (47 FR 47248), EPA announced that it was granting a request made by Tennessee for the redesignation of a portion of Roane County within the Clymersville section of Rockwood from attainment to unclassifiable for particulates. This action was a result of adoption by the Tennessee Air Pollution Control Board of the indicated designation. EPA subsequently received adverse comments on the redesignation. Accordingly, the Agency is withdrawing the redesignation. Elsewhere in today's **Federal Register**, EPA is proposing the redesignation and providing an opportunity to comment on the proposal.

DATE: This action is effective on February 8, 1983.

ADDRESSES: Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Air Management Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, GA 30365

Tennessee Department of Public Health, 150 9th Avenue North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Raymond S. Gregory, EPA Region IV, Air Management Branch at the Region IV address above or call 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On January 27, 1982, the Tennessee Air Pollution Control Board changed the attainment status of that portion of Roane County within the Clymersville section of Rockwood to unclassifiable for total suspended particulate matter (TSP) in relation to the National Ambient Air Quality Standard (NAAQS). Based on the information submitted, EPA, without prior proposal of its action, changed the attainment status designation of this area from attainment to unclassifiable (47 FR 47248 October 25, 1982).

In the final rule making the redesignation, EPA advised the public that the effective date of the action was deferred for 60 days (until December 25, 1982) to provide an opportunity to submit comments on it. EPA announced that if notice were received within 30 days of the publication of the final rule that someone wanted to submit adverse or critical comments, the final action would be withdrawn and a new rulemaking would be begun by proposing the action and establishing a 30-day comment period. EPA had earlier published a general notice explaining this special procedure (46 FR 44477, September 4, 1981).

EPA has received adverse comments on this redesignation. Accordingly, the Agency is today withdrawing it.

Elsewhere in today's Federal Register, EPA is proposing the redesignation requested by Tennessee and soliciting comment on the proposal.

EPA is withdrawing this action without providing prior notice and opportunity for comment. The Agency finds that it has good cause within the meaning of 5 U.S.C. 553(b) to proceed without notice and comment. Notice and comment would be impracticable in this case because EPA needs to withdraw its redesignation as quickly as possible in order to consider the comments which the public has submitted or may wish to submit. Moreover, further notice is not necessary because EPA has already informed the public that it would follow this procedure if it received a request for an opportunity to comment. For the same reasons, EPA finds that it has good cause under 5 U.S.C. 553(d) to make this withdrawal immediately effective.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 1983.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the present rule will not have significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: February 1, 1983.

Anne M. Gorsuch,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designation

§ 81.343 [Amended]

In the Tennessee-TSP table of § 81.343, the entry for "That portion of Roane County within the Clymersville section of Rockwood" is removed.

[FR Doc. 83-3205 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 761

[OPTS-62024B; BH-FRL No. 2277-8]

Polychlorinated Biphenyls (PCB's) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Incorporations by Reference Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule incorporates by reference in EPA's Polychlorinated Biphenyls (PCBs) regulations certain revised test methods of the American Society for Testing and Materials (ASTM). These revisions are new methodology to be used in meeting the requirements of these PCB regulations.

DATES: This final rule is effective February 8, 1983.

FOR FURTHER INFORMATION CONTACT: Chris Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, DC, 20460. Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In the Federal Register of May 21, 1982 (47 FR 22123), EPA proposed to amend 40 CFR 761.60 and 761.75 to provide that testing methodologies revised by the ASTM be used in meeting certain requirements of regulations affecting Polychlorinated Biphenyls (PCBs).

The designations of the revised methodologies and the equivalent old methodologies are as follows:

Old Designations	*New Designations*
ASTM D93-77	ASTM D93-80
ASTM D482-74	ASTM D482-80
ASTM D524-76	ASTM D524-81
ASTM D808-63	ASTM D808-81
ASTM D923-75	ASTM D923-81
ASTM D1266-70	ASTM D1266-80
ASTM D2158-65	ASTM D2158-80
ASTM D2784-70	ASTM D2784-80
ASTM D3278-73	ASTM D3278-78

The comment period ended June 21, 1982. To insure all interested persons an adequate opportunity to evaluate and comment on the proposed methodologies EPA announced reopening of the comment period in the Federal Register of July 13, 1982 (47 FR 30270). This second comment period ended August 12, 1982.

Neither comment period elicited comments of a substantive nature. The amendments are therefore adopted as proposed.

Executive Order 12291

Under Executive Order 12291, issued February 17, 1981, EPA must judge whether a rule is a "major rule" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this rule is not a major rule as the term is defined in section 1(b) of the Executive Order. Therefore, EPA has not prepared a Regulatory Impact Analysis for this rule.

EPA has concluded that this final rule is not "major" under the criteria or section 1(b) because the annual effect of the rule on the economy will be less than $100 million; it will not cause a major increase in costs or prices for any sector of the economy or for any geographic region; and it will not result in any significant adverse effects in competition, employment, investment, productivity, or innovation, or on the ability of United States enterprises to compete with foreign markets. In fact, this rule simply provides for updating analytical test methodology to the state of the art. This rule was submitted to the Office of Management and Budget for review as required by E.O. 12291.

Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, the Administrator may certify that a rule will not, if promulgated, have a significant impact on a substantial number of small entities, and therefore does not require a regulatory flexibility analysis. This rule merely updates certain American Society for Testing and Materials (ASTM) test methods cited in the PCB regulations to current ASTM standards. In fact, this revision will bring the analytical methods cited in the PCB regulations to the state of the art. Since no negative economic effect is expected upon any business entity from the promulgation of this rule, I certify that this rule will not have a significant economic impact on small entities.

Paperwork Reduction Act

EPA has determined that the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, does not apply to this Final Rule since no information collection or recordkeeping are involved.

(Sec. 6, 90 Stat. 2020, (15 U.S.C. 2065))

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Incorporation by reference.

Dated: December 21, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

PART 761—[AMENDED]

Therefore, Part 761 of Chapter I of Title 40, Subchapter R, is amended as follows:

1. In § 761.19, the entries for ASTM methods D–524, D–808, and D–923 in paragraph (b) are revised to read as follows:

§ 761.19 References.

* * * * *

(b) * * *

	CFR citation
. . . . .	
ASTM D–524–81 Standard Test Method for Ramsbottom Carbon Residue of Petroleum Products.	§ 761.60(a)(3)(iii)(B)(*6*).
ASTM D–808–81 Standard Test Method for Chlorine in New and Used Petroleum Products (Bomb Method).	§ 761.60(a)(3)(iii)(B)(*6*)
ASTM D–923–81 Standard Test Method for Sampling Electrical Insulating Liquids.	§ 762.60(g)(1)(ii); § 761.60(g)(2)(ii)
. . . . .	

2. In § 761.60, paragraph (a)(3)(iii)(B)(*6*) and paragraph (g)(1)(ii) and (2)(ii) are revised as follows:

§ 761.60 Disposal requirements.

(a) * * *

(3) * * *

(iii) * * *

(B) * * *

(*6*) The concentration of PCBs and of any other chlorinated hydrocarbon in the waste and the results of analyses using the American Society of Testing and Materials (ASTM) methods as follows: carbon and hydrogen content using ASTM D–3178–73 (reapproved 1979), nitrogen content using ASTM E–258–67, sulfur content using ASTM D–2784–80, D–1266–80, or D–129–64, chlorine content using ASTM D–808–81, water and sediment content using either ASTM D–2709–68 or D–1796–68, ash content using D–482–80, calorific value using ASTM D–240–76 (reapproved 1980), carbon residue using either ASTM D–2158–80 or D–524–81, and flash point using ASTM D–93–80.

* * * * *

(g) * * *

(1) * * *

(ii) For purposes of complying with the marking and disposal requirements, representative samples may be taken from either the common containers or the individual transformers to determine the PCB concentration, *Except that* if any PCBs at a concentration of 500 ppm or greater have been added to the container the total container contents must be considered as having a PCB concentration of 500 ppm or greater for purposes of complying with the disposal requirements of this subpart. For purposes of this paragraph, representative samples of mineral oil dielectric fluid are either samples taken in accordance with American Society of Testing and Materials method D–923–81 or samples taken from a container that has been thoroughly mixed in a manner such that any PCBs in the container are uniformly distributed throughout the liquid in the container.

(2) * * *

(ii) For purposes of complying with the marking and disposal requirements, representative samples may be taken from either the common container or individual containers to determine the PCB concentration *Except that* if any PCBs at a concentration of 500 ppm or greater have been added to the container then the total container contents must be considered as having a PCB concentration of 500 ppm or greater for purposes of complying with the disposal requirements of this subpart. For purposes of this subparagraph, representative samples of waste oil are either samples taken in accordance with American Society of Testing and Materials D–923–81 method or samples taken from a container that has been thoroughly mixed in a manner such that any PCBs in the container are uniformly distributed throughout the liquid in the container.

3. In § 761.75, paragraph (b)(8)(iii) is revised to read as follows:

§ 761.75 Chemical waste landfills.

* * * * *

(b) * * *

(8) * * *

(iii) Ignitable wastes shall not be disposed of in chemical waste landfills. Liquid ignitable wastes are wastes that have a flash point less than 60 degrees C (140 degrees F) as determined by the following method or an equivalent method: Flash point of liquids shall be determined by a Pensky-Martens Closed Cup Tester, using the protocol specified in ASTM Standard D–93–80, or the Setaflash Closed Tester using the protocol specified in ASTM Standard D–3278–78.

* * * * *

[FR Doc. 83–3291 Filed 2–7–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 431, 435, 436, 440, and 447

Medicaid Program; Imposition of Cost Sharing Charges Under Medicaid

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule revises regulations concerning imposition of cost sharing amounts on Medicaid recipients. Section 131 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) amended the Medicaid cost sharing requirements. This final rule revises the Medicaid regulations to remove the prohibition on States from imposing deductibles, coinsurance or copayments on categorically or medically needy individuals with certain exceptions. Under the law, States are precluded from imposing such charges with respect to services furnished to individuals under 18, services furnished to pregnant women, if the services relate to the pregnancy, or to any condition which may complicate the pregnancy, and services furnished to certain institutionalized patients who are required to spend all of their income for medical care costs except for a personal needs allowance. The law also prohibits imposition of deductions, cost sharing or similar charges on emergency services, and family planning services and supplies to any individual. Finally, services furnished by a health maintenance organization (HMO) to a categorically needy individual who is enrolled in the HMO are also exempt from cost sharing. States may also exempt medically needy HMO enrollees if they desire. The law also establishes a waiver authority under which cost-sharing amounts may be increased for nonemergency services in hospital emergency rooms. This rule reflects these changes in the law.

DATES: The rules are amended as of February 8, 1983. See section II.E. of the preamble for discussion of effective date.

Comment date: Although these regulations are final, comments may be submitted. To assure consideration, comments should be mailed by April 11, 1983.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17076, Baltimore, Maryland 21235.

In commenting, please refer to BPP–509–FC.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Marinos Svolos, (301) 594–9051.

SUPPLEMENTARY INFORMATION:

I. General Background

A. Legislative History

The original Medicaid legislation prohibited the imposition of any cost sharing for inpatient hospital services for all Medicaid eligibles. Cost sharing arrangements that were related to income and resources were permitted on any other service for both the categorically and medically needy. The 1967 amendments to the Social Security Act (section 235 of Pub. L. 90–248) amended the original legislation by permitting cost sharing for any services for the medically needy including inpatient hospital services. However, all cost sharing on services furnished to the categorically needy became prohibited.

The 1972 amendments to the Social Security Act (section 208(a) of Pub. L. 92–603) changed the cost sharing rules. Instead of exempting the categorically needy totally from all cost sharing the law permitted States to impose copayments on all optional services. Copayments on required services and enrollment fees for the categorically needy continued to be prohibited. The 1972 amendments also made imposition of enrollment fees on medically needy mandatory but this requirement was repealed by section 9(a) of Pub. L. 93–368, effective January 1, 1973 without being implemented. Thus, all services to the medically needy could be subject to either type of cost sharing at the State's option. The only direction in the law regarding cost sharing amounts was that they must be in accordance with the Secretary's standards of what is nominal for copayment charges, and, in the case of enrollment fees, must be related to income.

B. Program Experience

In 1973, we published regulations implementing the 1972 amendments on cost sharing. (These regulations are set forth at 42 CFR 447.50–447.59.) These regulations established the basic requirements that apply if a State's medical assistance plan includes cost sharing, and set forth the scope of the State's options. Additionally, the regulations implemented the statutory requirements that copayments be nominal, by setting maximum deductible, coinsurance, and copayment amounts, and that premiums or enrollment fees be income-related, by setting out both minimum and maximum dollar amounts for monthly enrollment fees. These amounts have remained unchanged since 1973. Additionally, the regulations specify that copayment charges imposed may be related to income as long as they do not exceed the maximum amounts set forth in 42 CFR 447.54.

Because these rules prohibited imposition of both types of cost sharing on the majority of Medicaid recipients (approximately 74 percent of Medicaid recipients are categorically needy), States have often identified the cost sharing regulations as one of the most troublesome barriers to efficient program administration. In addition, since a large portion of services furnished were excluded, cost sharing could not be used as an effective means of utilization control.

C. 1982 Legislation

On September 3, 1982, the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) was enacted. Section 131 of the Act amended the Medicaid law by removing the previous restrictions on imposition of copayments on required services for categorically needy eligibles. Instead, section 131 added a new section 1916 to Title XIX entitled "Use of Enrollment Fees, Premiums, Deductions, Cost Sharing, and Similar Charges".

Under section 131 States may now impose deductibles, coinsurance, copayments, or similar cost sharing charges on most services furnished to categorically needy, as well as medically needy individuals. However, the restriction against the use of cost sharing in the form of enrollment fees and premiums was retained for categorically needy individuals.

The legislation prohibits imposition of deductions, cost sharing or similar charges on certain recipients, whether categorically or medically needy, i.e., individuals under 18 and those institutionalized individuals who are required to spend all of their income (except for a minimal personal needs allowance) for medical care costs. Additionally, cost sharing is precluded for certain types of services, such as those related to pregnancy, emergency services, and family planning services. Finally, services provided by a health maintenance organization (HMO) to categorically needy individuals enrolled in the HMO are also excluded from cost sharing. States may further exclude cost copayments for HMO services furnished to medically needy enrollees, if they desire. They may also exclude individuals under 21, 20 or 19 (rather than just 18) from cost sharing, or exclude from cost sharing all services to pregnant women.

The amendment further requires that copayments be nominal, and that no provider participating under Medicaid deny medical care to an individual because of his inability to pay the assessed cost sharing amount. (The right of access to medical care does not extinguish, however, the recipient's liability for the cost sharing payment.)

1. *Nominal Charges.*—Section 1916 provides that any copayment imposed by the State must be nominal in amount. (However, the amendment provides for waiver of this requirement for nonemergency services furnished in hospital emergency rooms, as discussed in item 2. below.) The legislation references the current maximum cost sharing charges that are contained in current regulations, 42 CFR 447.54. Further, the amendment specifies that if the current definition of nominal is changed, the new definition must take into account the level of cash assistance provided by the State.

We are not making any revisions to the current nominal amounts at this time. However, since the current nominal amounts were established in 1973, we plan to consider revisions to the definition of nominal and invite public comment on this issue. We will issue any proposed revisions as a Notice of Proposed Rulemaking for specific public comment if we decide to revise the definition at a later date.

2. *Waiver of Nominal Amounts for Nonemergency Services Furnished in Hospital Emergency Rooms.*—Under section 1916(a)(3) and (b)(3), States may impose a copayment amount up to twice the current maximum for services furnished in hospital emergency rooms that do not meet the definition of emergency services. In imposing higher copayment amounts in this circumstance, States must assure that individuals have actually available and accessible to them alternative sources of nonemergency, outpatient services. For example, alternative sources of outpatient services would include physicians or clinics participating in the

Medicaid program that are located within reasonable travel distance of the recipient.

II. Revised Regulations

A. Deductibles, Coinsurance, Copayment, or Similar Cost-Sharing Charges (Copayments)

As described in section I.C. of this preamble, section 131 of Pub. L. 97–248 made extensive changes in the requirements for copayment charges. Therefore, we are deleting the material currently in 42 CFR 447.53 (a) and (b) and replacing it with the requirements contained in the amended statute as described below.

1. *Services Furnished to Individuals under 18.*—States must not impose a deductible or other copayment on any services furnished to individuals under 18. If a State provides Medicaid to reasonable categories of individuals between 18 and 21 years of age, the State may also exclude copayments for these individuals.

2. *Institutionalized Individuals.*—Medicaid regulations require that State payments to institutions for care furnished to Medicaid eligible individuals be reduced by the recipients' income (42 CFR 435.725, 435.733, 435.832, and 436.832). The regulations permit institutionalized individuals to retain a personal needs allowance for personal and certain other maintenance needs. All other income must be applied to the cost of medical care of the institutionalized individual. Current regulations require that, although the personal needs allowance is protected for use by the recipient, the individual must, if necessary, use it to pay for any cost-sharing charges the State imposes under Medicaid.

Section 1916 provides that States may no longer impose cost-sharing on institutionalized individuals who are required to spend for their health care all (minus certain deductions) of their income, except for a personal needs allowance. Since current regulations state that institutionalized individuals must, if necessary, use their personal needs allowance to pay for any cost-sharing charges the State imposes, we are revising 42 CFR 435.725(c)(1)(iii), 435.733(c)(1)(iii), 435.832(c)(1)(iii), and 436.832(c)(1) to remove this requirement.

3. *Services Related to Pregnancy.*—Section 1916 precludes the imposition of copayments on services furnished to pregnant women, if these services relate to pregnancy or to other medical conditions that may complicate the pregnancy. We are specifying that these services include routine prenatal care, labor and delivery, routine post-partum care, and complications of pregnancy or delivery likely to affect the pregnancy, such as hypertension, diabetes, and urinary tract infection. Moreover, section 1916 permits States to exclude from copayments all services furnished to pregnant women if they desire.

The Senate Finance Committee, in considering this provision, recognized that it may not be operationally feasible for States to ascertain in all cases whether recipients for whom claims are submitted were pregnant. Consequently, the report specifies the committee's intent that copayments not be imposed with respect to pregnancy-related services (or all services, if the State has decided to exclude all services) when it can be determined from the claim submitted that the recipient was pregnant (S. Rept. No. 97–494, vol. 1, 97th Cong., 2nd Sess. (1982), page 36). In keeping with the congressional intent, we are adopting the policy that this copayment exclusion need be applied only where it can be determined from the claim submitted that the recipient was pregnant.

4. *Emergency Services.*—Section 1916 excludes emergency services, as defined by the Secretary, from copayment obligations. Medicaid regulations already contain a definition for emergency services at 42 CFR 440.170(e). Emergency hospital services are defined as services that are necessary to prevent the death or serious impairment of the health of a recipient, and because of the threat to the life or health of the recipient, necessitate the use of the most accessible hospital available that is equipped to furnish the services. Under the definition, the exclusion from copayments for emergency services applies regardless of whether the emergency services are furnished on an inpatient or outpatient basis and whether the hospital otherwise participates in the Medicaid program or not. Since the present definition was developed for coverage purposes, we particularly solicit comments on whether we should revise it in the future in light of the purpose of the new cost sharing provisions.

5. *Family Planning Services.*—Section 1916 prohibits the imposition of copayments on family planning services and supplies as defined in section 1905(a)(4)(C) of the Act. These are services and supplies furnished (directly or under arrangements with others) to individuals of child-bearing age who desire family planning services and supplies.

6. *HMO Enrollees.*—Services furnished by a health maintenance organization (HMO) to categorically needy recipients enrolled in the HMO plan are excluded from both types of cost sharing under section 1916 of the Medicaid law. States may also exclude from cost sharing all HMO services furnished medically needy recipients, if they desire, without violating the comparability requirements of section 1902(a)(10) of the Act.

7. *Comparability.*—Prior to the Tax Equity and Fiscal Responsibility Act of 1982, section 1902(a)(10) of the Social Security Act provided that medical assistance made available to any categorically needy eligible shall not be less in amount, duration, or scope than that made available to any other such individual and shall not be less in amount, scope, or duration than the medical assistance made available to any medically needy recipient. Under this requirement, imposition of a copayment on one category of Medicaid recipients for a particular service necessitated imposition of copayments for an equivalent service for all recipients in that category. However, section 131(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) amends this comparability provision by adding an exception in a new clause (IV) to section 1902(a)(10)(D) of the Act. This provision states that imposition of copayments on an individual who is not exempted by one of the conditions in section 1916 (a)(2) or (b)(2) shall not require the imposition of copayments on an individual who is eligible for such exemption. We are revising 42 CFR 440.250, which sets forth the limitation on comparability of services, to add this new exception. States have the option whether to impose copayments on both the categorically and medically needy. If the State decides to impose copayments, it must exclude those individuals and services outlined above. (The State also may exclude from copayments services to medically needy HMO recipients, services to individuals 18 or older but under 21, and all services furnished to pregnant women.) However, because of comparability requirements, States are precluded from exempting additional groups of individuals or services from a copayment which is imposed by the State.

B. Clarification of Maximum Copayment Charges for Noninstitutional Services

Although we are not implementing the statutory amendment concerning revision of nominality at this time, we are including a minor clarification that is not related to the changes made by section 131 in this rule. This clarification is necessary to eliminate gaps in the

current regulations that have created confusion for the States. We believe it is more convenient for the readers to include this clarification in this revision implementing the statutory changes, even though they are unrelated, than to issue this clarification in a separate rule.

Medicaid regulations at 42 CFR 447.54(a)(3) specify maximum allowable copayment charges for noninstitutional services. The regulations currently permit copayments up to $.50 when the State's payment for the service is $10 or less; up to $1 maximum copayment when the State's payment for the service is $11 to $25, etc. These regulations fail to provide guidance for maximum copayments when the State's payment for services is between whole dollar amounts for each maximum charge such as between $10 and $11, $25 and $26, and $50 and $51.

We are, therefore, revising 42 CFR 447.54(a)(3) to clarify that the maximum copayment for services is $1 where State payment is $10.01 through $25.00, is $2 where the State's payment is $25.01 through $50, and is $3 where the State's payment is $50.01 and more. Since the regulations prescribe maximum copayments, there never has been a rule to prohibit States from charging a $1 copayment as long as the State's payment for the service was over $10, as the current rule specifies a $.50 maximum where States' payment is "$10 or less". Consequently this revision is a clarification of existing policy rather than a change in the maximum nominal amounts. (As such, it does not fall within the purview of section 1916 which requires that changes in the current definition of nominal take into account the level of cash assistance in the State.)

C. Provider Requirements

Section 1916(c) includes a provision that specifies that no provider participating under Medicaid may deny care or services to an individual because of his or her inability to pay the required cost sharing charges. The law provides that this requirement on the provider does not extinguish the liability of the individual receiving the services from payment of the copayment charged. Instead, the intent of this provision is to assure that availability of services is not diminished because of the additional authority allowed in the law to impose copayments on the Medicaid population.

We are, therefore, revising the regulation at 42 CFR 447.15 to specify that providers participating in the Medicaid program must accept State payment and recipient copayment amounts as payment in full for services and that providers may not deny services to recipients because of their inability to pay the copayment charge assessed.

States are required in accordance with CFR 435.905 to notify recipients of changes in their rights and responsibilities with regard to the Medicaid program. Thus, States that impose copayment obligations on recipients must take the appropriate action to notify recipients of the exclusions set forth in this regulation and the prohibition on denial of services on providers.

D. Waiver of Nominal Amounts for Nonemergency Services Furnished in Hospital Emergency Rooms

We are amending the regulations at 42 CFR 431.55 and 447.54 to provide for waiver of nominal copayment amounts for nonemergency outpatient services furnished in a hospital emergency room, as permitted in section 1916 (a)(3) and (b)(3). States may impose a copayment amount up to twice the current maximum for services that do not meet the definition of emergency services, as specified in 42 CFR 440.170(e), which are furnished in hospital emergency rooms. In imposing higher copayment amounts in this circumstance, States must establish, to the satisfaction of HCFA, that individuals have actually available and accessible to them alternative sources of nonemergency, outpatient services. Alternative sources of outpatient services would include physicians or clinics participating in the Medicaid program that are located within reasonable travel distance of the recipient. HCFA may request additional information from the State, such as quantitative estimates of the availability of alternative sources of outpatient services, if it is not clear from the State's waiver request that these alternative sources adequately exist.

Neither section 131 of Pub. L. 97–248 nor the legislative history of this provision provides any direction regarding implementation of this provision, such as duration of the waiver or monitoring of the effects of the waiver. However, section 1915 of the Act provides for similar waivers of other provisions of the Medicaid law. Subsection (d) of section 1915 specifies that all waivers under that section (other than waivers allowing States to provide home and community-based services), are to be granted for a two year period and may be continued at the State's written request if HCFA approves.

Subsection (e)(1) of section 1915 authorizes HCFA to monitor the implementation of waivers granted under section 1915.

In the absence of congressional direction as to the implementation of the waiver authority granted in section 1916 of the law, we believe it is appropriate to apply the same general requirements applicable to other types of program waivers. Therefore, we are limiting the duration of granted waivers to 2 years, unless the State agency requests a continuation. Further, HCFA will monitor the implementation of waivers and where this monitoring shows evidence that the agency is not in compliance with the requirements of the waiver, HCFA may terminate the waiver granted, after a hearing in accordance with 42 CFR 431.55(b)(3).

Although waivers of the requirement that copayments be nominal for nonemergency services furnished in hospital emergency rooms will generally be granted for a two-year period, we are specifying that approved waivers will be re-evaluated if the State increases its current nominal amounts. Since HCFA's approval of a waiver request is based in part on the State's assurance of the accessibility of alternative sources of care and changes in copayment amounts could affect individuals' access to these sources of care, we believe re-evaluation of the waiver approval in the light of these changes is appropriate.

Even though these general procedures were published for public comment on October 1, 1981, and were mandated by statute (section 2175 of Pub. L. 97–35), they were designed specifically to implement waiver provisions of the Medicaid law other than those contained in section 1916. We are applying these procedures to section 1916 waivers and publishing these regulations as final rules with comment period at this time in view of the statutory effective date for implementation. However, we particularly welcome public comment as to the applicability of the already established procedures for other waiver of title XIX requirements to waiver for nonemergency services furnished in hospital emergency rooms.

E. Effective Date

Section 131 of the Pub. L. 97–248 specifies that these provisions are effective October 1, 1982. However, if implementation of these regulations requires State legislation, section 131 also specifies that a State plan will not be out of compliance with these new requirements unless it has not been amended by the first day of the first calendar quarter beginning after the close of the first regular session of the

State legislature that begins after September 3, 1982. However, the State plan must be amended immediately to implement any provisions of this regulation which do not require State legislation.

Regulations governing effective dates of State Medicaid plans at 45 CFR 201.3(g) specify that plans may be effective the first day of the calendar quarter in which an approvable plan is submitted. We have already instructed State Medicaid agencies to amend their plans to bring them into conformity with section 131 of Pub. L. 97-248 effective October 1, 1982.

III. Impact Analysis

A. Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be performed for any "major rule". We do not believe that this final rule will not have an annual effect on the national economy of $100 million, or otherwise meet the threshold criteria to be considered a major rule.

These regulations do not require States to make any changes in their current copayment practices, except where the State is currently imposing cost sharing charges on services or categories of recipients which are prohibited under the new law. However, we expect many States will revise their State plans to add copayment charges as permitted by section 131 of Pub. L. 97-248. Our actuaries have estimated the economic impact will be Federal program savings of $78 million in FY 1983, $90 million for FY 1984, and $103 million in FY 1985.

However, even if we were to determine that there was an impact of $100 million or more, we would not classify this regulation as a major rule for purposes of the Executive Order. This is because we have determined that section 131 of Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, and State actions arising from this legislation have occasioned this impact, and not these regulations which merely implement the statutory provision. Therefore, a regulatory impact analysis is not required.

B. Regulatory Flexibility Analysis

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act of 1980 (Pub. L. 96-345), that these regulations will not have a significant impact on a substantial number of small businesses, nonprofit entities or small local governments. However, even if there were a significant effect on a substantial number of small entities, we have determined that this effect is the result of the statutory provision and State behavior in exercising the options permitted under this legislation, not these regulations, which merely implement the recent amendment.

IV. Waiver of Proposed Rulemaking

The amendments contained in this regulation merely revise existing regulations to the extent that they are in conflict with the statute as amended, or to restate those provisions of the statute that are self-executing. These regulations implement section 131 of Pub. L. 97-248, which became effective on October 1, 1982. Since the statute does not permit the Secretary discretion to change the classes of individuals or categories of services on which cost sharing charges may be imposed, we believe that publication of a notice of proposed rulemaking is unnecessary for implementation of those cost sharing provisions. Since the statute clearly specifies that the amendments made by it will be effective on October 1, 1982, States are required to amend their State plans, where necessary, effective that date. Our failure to have regulations in effect, as close to October 1 as possible, which provide guidance on implementing these statutory changes and reflect the new statutory requirements, might create confusion and unnecessary delay in implementation of those requirements. We are particularly concerned to avoid any confusion with respect to those services for which the statute now prohibits copayments. We, therefore, believe that any delay in permitting the States to introduce the new provisions Congress intended to become effective by October 1, 1982 would be contrary to the public interest. We are, however, not including in this regulation any provisions that are not required by October 1, particularly those dealing with revision of the definition of "nominal" amounts.

Further, the statute authorizes the Secretary to begin to grant waivers of the requirement that copayment charges be nominal for nonemergency services furnished in hospital emergency rooms on October 1, 1982. The Secretary wishes to effectuate the will of Congress by considering waiver requests as soon as possible after October 1. To avoid confusion and promote consistency in waiver determinations, it is important that these regulations be issued as quickly as possible so that States will receive guidance concerning the standards we will apply in approving and disapproving waiver requests. In order to have these regulations in place as close as possible to the effective date in the law, we must publish these regulations in final form. We believe that a prior public comment period is unnecessary, impractical and contrary to public interest. Therefore, we find good cause to waive publication of a notice of proposed rulemaking on this issue. For the same reasons, we also find good cause to waive the usual 30-day delay in effective date. We will, however, consider any comments on this rule that are mailed by the date specified in the "DATES" section and make any further changes that may be necessary.

V. Other Required Information

A. Public Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider all comments and will respond to them in the preamble to a revised final rule, if we find it is necessary.

B. List of Subjects

42 CFR Part 431

Administrative practice and procedure, Contracts (Agreements), Fair hearings, Federal financial participation, Grant-in-Aid program—health, Health facilities, Health maintenance organizations (HMO), Indians, Information (Disclosure), Medicaid, Mental health centers, Prepaid health plans, Privacy, Quality control, Reporting requirement.

42 CFR Part 435

Aid to Families with Dependent Children, Aliens, Categorically needy, Contracts (Agreements—State Plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 436

Aid to Families with Dependent Children, Aliens, Contracts (Agreements), Eligibility, Grant-in-Aid program—health, Guam, Health facilities, Medicaid, Puerto Rico, Supplemental security income (SSI), Virgin Islands.

42 CFR Part 440

Clinics, Dental health, Drugs, Grant-in-Aid program—health, Health care, Health facilities, Health professions, Hearing disorders, Home health services, Inpatients, Laboratories, Language disorders, Lung diseases, Medicaid, Mental health centers, Occupational therapy, Personal care

services, Physical therapy, Prosthetic devices, Outpatients, Ophthalmic goals and services, Rural areas, Speech disorders, X-rays.

42 CFR Part 447

Accounting, Clinics, Contracts (Agreements), Copayments, Drugs, Grant-in-Aid program—health, Health facilities, Health professions, Hospitals, Medicaid, Nursing homes, Payments for services—general, Payments—timely claims, Reimbursement, Rural areas.

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

The authority citation for Part 431 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

42 CFR 431.55 is amended by revising paragraph (a) and adding paragraph (g) as set forth below:

§ 431.55 Waiver of other Medicaid requirements.

(a) *Basis and purpose.* This section implements section 1915(b) of the Act, which authorizes the Secretary to waive the requirements of sections 1902 and 1903(m) of the Act to the extent he or she finds proposed improvements in the provision of services under Medicaid to be cost-effective, efficient, and consistent with the objectives of the Medicaid program. This section also implements sections 1915 (d), (e), and (f) of the Act, which govern how such waivers are to be approved, continued, monitored, and terminated. Additionally, paragraph (g) of this section implements section 1916 (a)(3) and (b)(3) of the Act, which authorizes the Secretary to waive the requirement in those sections that cost-sharing amounts be nominal.

* * * * *

(g) *Cost sharing requirement.* Beginning October 1, 1982, under sections 1916 (a)(3) and (b)(3), the Secretary may permit by waiver, copayments of up to double the nominal amount, as described in section 447.54, to be imposed on nonemergency services furnished in a hospital emergency room.

(1) Nonemergency services are those services that do not meet the definition of emergency services at section 447.53(b)(4).

(2) In order for a waiver to be approved under this provision, the State must establish to the satisfaction of HCFA, that alternative sources of nonemergency, outpatient services are available and accessible to eligible individuals.

(3) Although, in accordance with paragraph (b)(2) of this section, a waiver will generally be granted for a 2 year duration, HCFA will re-evaluate approved waivers if the State increases the nominal copayment amounts in effect when the waiver was approved.

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA AND THE NORTHERN MARIANA ISLANDS

The authority citation for Part 435 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

42 CFR Part 435 is amended as set forth below:

1. Section 435.725(c)(1)(iii) is revised to read as follows:

§ 435.725 Post-eligibility treatment of income and resources of institutionalized individuals: Application of patient income to the cost of care.

* * * * *

(c) * * *

(1) * * *

(iii) For other individuals, a reasonable amount set by the agency, based on a reasonable difference in their personal needs from those of the aged, blind, and disabled.

* * * * *

2. Section 435.733(c)(1)(iii) is revised to read as follows:

§ 435.733 Post-eligibility treatment of income and resources of institutionalized individuals: Application of patient income to the cost of care.

* * * * *

(c) * * *

(1) * * *

(iii) For other individuals, a reasonable amount set by the agency, based on a reasonable difference in their personal needs from those of the aged, blind, and disabled.

* * * * *

3. Section 435.832(c)(1)(iii) is revised to read as follows:

§ 435.832 Post-eligibility treatment of income and resources of institutionalized individuals: Application of patient income to the cost of care.

* * * * *

(c) * * *

(1) * * *

(iii) For other individuals, a reasonable amount set by the agency, based on a reasonable difference in their personal needs from those of the aged, blind, and disabled.

* * * * *

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

The authority citation for Part 436 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

42 CFR Part 436.832(c)(1) is revised as set forth below:

§ 436.832 Post-eligibility treatment of income and resources of institutionalized individuals: Application of patient income to the cost of care.

* * * * *

(c) * * *

(1) A personal needs allowance that is reasonable in amount for clothing and other personal needs of the individual while in the institution.

* * * * *

PART 440—SERVICES: GENERAL PROVISIONS

The authority citation for Part 440 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

42 CFR 440.250 is amended by adding a new paragraph (l) as set forth below:

§ 440.250 Limits on comparability of services.

* * * * *

(l) If the agency imposes cost sharing on recipients in accordance with 447.53, the imposition of cost sharing on an individual who is not exempted by one of the conditions in section 447.53(b) shall not require the State to impose copayments on an individual who is eligible for such exemption.

PART 447—PAYMENT FOR SERVICES

The authority citation for Part 447 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

42 CFR Part 447 is amended as set forth below:

1. Section 447.15 is revised to read as follows:

§ 447.15 Acceptance of State payment as payment in full.

A State plan must provide that the Medicaid agency must limit participation in the Medicaid program to providers who accept, as payment in full, the amounts paid by the agency plus any deductible, coinsurance or copayment required by the plan to be paid by the individual. However, the provider may not deny services to any eligible individual on account of the

individual's inability to pay the cost sharing amount imposed by the plan in accordance with § 447.53.

(Sec. 1916(c) of the Act)

2. Section 447.53 (a), (b) and (c) are revised to read as follows:

Deductible, Coinsurance, Co-payment or Similar Cost-Sharing Charge

§ 447.53 Applicability; specification; multiple charges.

(a) *Basic requirements.* Except as specified in paragraph (b) of this section, the plan may impose a nominal deductible, coinsurance, copayment, or similar charge upon categorically and medically needy individuals for any service under the plan.

(b) *Exclusions from cost sharing.* Effective October 1, 1982, the plan may not provide for imposition of a deductible, coinsurance, copayment, or similar charge upon categorically or medically needy individuals (except as specified in paragraph (b)(6) of this section) for the following:

(1) *Children.* Services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over but under 21) are excluded from cost sharing.

(2) *Pregnant women.* Services furnished to pregnant women (when it can be determined from the claim submitted that the recipient was pregnant), if such services relate to the pregnancy, or to any other medical condition which may complicate the pregnancy are excluded from cost sharing obligations. These services include routine prenatal care, labor and delivery, routine post-partum care, and complications of pregnancy or delivery likely to affect the pregnancy, such as hypertension, diabetes, and urinary tract infection. States may further exclude from cost sharing all services furnished to pregnant woman if they desire.

(3) *Institutionalized individuals.* Services furnished to any individual who is an inpatient in a hospital, long-term care facility, or other medical institution if the individual is required (pursuant to §§ 435.733, 435.832, or 436.832), as a condition of receiving services in the institution, to spend all, but a minimal amount of his income required for personal needs, for medical care costs are excluded from cost sharing.

(4) *Emergency services.* Inpatient or outpatient services are considered emergency services (in accordance with § 440.170 (e)) under this exclusion if:

(i) The services are necessary to prevent the death or serious impairment of the health of the individual; and

(ii) Because of the threat to life or health of the individual, the services are furnished in the most accessible hospital available that is equipped to furnish the required care even if the facility does not meet the conditions for participation under Medicare or meet the definitions of inpatient or outpatient services under §§ 440.10 and 440.20.

(5) *Family planning.* Family planning services and supplies furnished to individuals of child-bearing age are excluded from cost sharing.

(6) *HMO Enrollees.* Services furnished by a health maintenance organization (HMO) to categorically needy individuals enrolled in the HMO are excluded from cost sharing. States may further exclude copayment charges for HMO services furnished to medically needy individuals.

(c) *Prohibition against multiple charges.* For any service, the plan may not impose more than one type of charge referred to in paragraph (a) of this section.

* * * * *

5. Section 447.54(a) is revised, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively, and a new paragraph (b) is added to read as follows:

§ 447.54 Maximum allowable charges.

(a) *Non-institutional services.* Except as specified in paragraph (b), for non-institutional services, the plan must provide that—

(1) Any deductible it imposes does not exceed $2.00 per month per family for each period of Medicaid eligibility. For example, if Medicaid eligibility is certified for a 3-month period, the maximum deductible which may be imposed on a family for that period of eligibility is $6.00;

(2) Any coinsurance rate it imposes does not exceed 5 percent of the payment the agency makes for the services; and

(3) Any co-payments it imposes do not exceed the amounts shown in the following table:

States payment for the service	Maximum copayment charges allowable to recipient
$10 or less	$.50
$10.01 to $25	1.00
$25.01 to $50	2.00
$50.01 or more	3.00

(b) *Waiver of the requirement that cost sharing amounts be nominal.* Upon approval from HCFA, the requirement that cost sharing charges must be nominal may be waived, in accordance with section 431.55(g) for nonemergency services furnished in a hospital emergency room.

(c) *Institutional services.* For institutional services, the plan must provide that the maximum deductible, coinsurance or co-payment charge for each admission does not exceed 50 percent of the payment the agency makes for the first day of care in the institution.

(d) *Cumulative maximum.* The plan may provide for a cumulative maximum amount for all deductible, coinsurance or co-payment charges that it imposes on any family during a specified period of time.

4. Section 447.58 is revised to read as follows:

§ 447.58 Payments to prepaid capitation organizations.

Except for HMO services subject to the co-payment exclusion in § 447.53(b)(6), if the agency contracts with a prepaid capitation organization that does not impose the agency's deductibles, coinsurance, co-payments or similar charges on its recipient members, the plan must provide that the agency calculates its payments to the organization as if those cost sharing charges were collected.

(Catalog of Federal Domestic Assistance Programs, No. 13.714, Medical Assistance Program)

Dated: November 22, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: January 18, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-3250 Filed 2-7-83; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 20

Employee Responsibilities and Conduct

AGENCY: Interior Department.

ACTION: Notice of availability—Appendices C, D, E, F, and G to 43 CFR Part 20.

SUMMARY: This notice announces the availability of Appendices C, D, E, F,

and G to 43 CFR Part 20. The Appendices list all positions within the Department of the Interior for which statements of Employment and Financial Interests are required to be filed. These Appendices have been updated as of December 1, 1982 and have been printed as an agency document. They will not be published in the **Federal Register** but will be available to the public, upon request.

DATE: Effective date of this notice is February 8, 1983.

ADDRESS: Copies of the Appendices may be obtained through the Deputy Ethics Counselor for each bureau or office within the Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Gabriele J. Paone, Deputy Agency Ethics Official, or Mason Tsai, Assistant Agency Ethics Official, U.S. Department of the Interior, Washington, D.C. 20240; Telephone (202) 343–3932 or (202) 343–5916.

SUPPLEMENTARY INFORMATION: The Department of the Interior requested and received approval from the Office of Government Ethics, Office of Personnel Management, to publish Appendix C to 43 CFR Part 20 as an agency document. This document also includes the Department's annual update of Appendices D, E, F and G. The availability of this document is announced in the **Federal Register.** Notice of this arrangement was first provided with the publication of 43 CFR Part 20 as a proposed rule on October 6, 1980 (45 FR 66370). This arrangement meets administrative requirements which affect only Department employees and at the same time defrays cost of publishing in the **Federal Register.** Copies of the Appendices are on file as part of the original document with the Office of the Federal Register and are also available from the above address.

Appendix C lists Department of the Interior positions, in addition to GS (or GM)–15's for which a Confidential Statement of Employment and Financial Interests (Form DI–212) is required to be filed by Executive Order 11222. Positions identified in Appendix C are effective for the February 1, 1983 filing deadline. Appendix C was approved by the Office of Government Ethics, Office of Personnel Management, on January 12, 1983.

Appendices D, E, F and G are published to identify bureaus and offices, or subunits thereof, performing functions or duties under the Federal Land Policy and Management Act (Pub. L. 94–579), the Mining in the Parks Act (Pub. L. 94–429), the Energy Policy and Conservation Act (Pub. L. 94–163), and the Outer Continental Shelf Lands Act (as amended by Pub. L. 95–372), respectively, and positions within those bureaus and offices which the Secretary has determined to be covered by the public financial disclosure requirements. As provided by these Acts, all officers and employees of the Department who are employed in offices or bureaus, or subunits thereof, performing functions or duties under any of the four Acts are required to file appropriate public financial disclosure statements unless specifically exempted by the Secretary.

List of Subjects in 43 CFR Part 20

Conflicts of interest, Government employees.

Authorities: Appendices C, D, E, F and G to Part 20 of Title 43 of the Code of Federal Regulations are published under E.O. 11222, 30 FR 6469, 3 CFR, 1964–65, Comp., as amended (18 U.S.C. 201 note); 5 CFR 735.104; 5 U.S.C. 301; sec. 313, Pub. L. 94–579, 90 Stat. 2769 (43 U.S.C. 1743); sec. 13, Pub. L. 94–429, 90 Stat. 1344 (16 U.S.C.A. 1912 (Supp. 1980)); sec. 522, Pub. L. 94–163, 89 Stat. 962, as amended by sec. 691(b)(2), Pub. L. 95–169, 92 Stat. 3288 (42 U.S.C. 6392 (Supp. II 1978)); and sec. 605, Pub. L. 95–372, 92 Stat. 696 (43 U.S.C. 1864 (Supp. II 1978)).

The Appendices were compiled by Bureau and Office Ethics Counselors and consolidated by Gabriele Paone and Mason Tsai of the Designated Agency Ethics Official's staff.

Dated: February 1, 1983.

James G. Watt,

Secretary of the Interior.

[FR Doc. 83–3268 Filed 2–7–83; 8:45 am]

BILLING CODE 4310–10–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 531, 536 and 540

[G.O. 13, Amdt. 13, G.O. 16, Amdt. 43, G.O. 20, Amdt. 8 and G.O. 38, Amdt. 4; Docket No. 82–33]

Filing and Service Fees

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: New fees are being established for filing complaints, petitions for declaratory orders and general petitions, special dockets, informal adjudication of small claims, conciliation services, tariff special permission applications (domestic and foreign), and applications for passenger vessel certification. It is necessary to establish new fees to transfer the cost burden of providing services from the general taxpayer to the recipient of the services. This action will require that all applicants who request these Commission services will have to pay for them.

DATE: Effective March 10, 1983.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: On July 6, 1982, the Commission published a Notice of Proposed Rulemaking in the **Federal Register** (47 FR 29278) which proposed to establish several new fees for services provided by the Commission. The services selected were those which were readily identifiable and which provided value and utility to a recipient at its request. The Commission assigned to each a fair and equitable assessment based on the cost to the Commission of providing the service.

Comments to the Notice were submitted by: Senator Slade Gorton, Chairman of the Merchant Marine Subcommittee of the Senate Committee on Commerce, Science and Transportation; Annelise Anderson, Associate Director for Economics and Government, Office of Management and Budget; Pacific Coast European Conference (PCEC); Virginia Port Authority and Traffic Board, North Atlantic Ports Association (VPA/NAPA); Latin America/Pacific Coast Steamship Conference and Pacific Coast River Plate Brazil Conference (LAP/PCRPB); North European Conferences (NEC); Puerto Rico Maritime Shipping Authority (PRMSA); Associated Latin American Freight Conferences (ALAF); and International Committee of Passenger Lines (ICPL).

Senator Gorton and Ms. Anderson support the proposed rule without qualification. The other commenting parties oppose the rule for various reasons. The opposition to the rule is discussed below in terms of (1) legal requirements, (2) general comments and (3) comments on specific fee applications.

I. Legal Requirements

Four commentators, LAP/PCRPB, NEC, PRMSA, and ALAF, generally contend that the Commission's proposed charges are not justified under the principles established by the courts in interpreting Title V of the Independent Offices Appropriations Act, (IOAA) 31 U.S.C. 483a, and OMB Circular No. A–25. The Commission disagrees, and believes that its application of Title V

and Circular No. A–25 is consistent with these principles.

In two companion cases, the Supreme Court addressed the IOAA and set forth the following guidelines for its implementation:

1. An agency performing a service at the request of an applicant may exact a fee for such service if it bestows a benefit on the applicant not shared by others in society;

2. The proper measure of such a fee is the "value to the recipient;"

3. A charge for a service should be made only to an identifiable recipient who derives a special benefit therefrom; and

4. No charge should be made for services rendered when the identification of the ultimate beneficiary is obscure and the service can be primarily considered as benefitting broadly the general public. *National Cable Television Association v. United States*, 415 U.S. 336 (1974); *Federal Power Commission v. New England Power Co.*, 415 U.S. 345 (1974).

Subsequently, courts of appeal have refined these guidelines by the addition of the following:

1. The fee assessed may not exceed the cost to the agency in rendering the service;

2. The fee assessed should include only those expenes which are necessary to service the applicant;

3. An agency may recover the full cost of providing a service to an identifiable beneficiary, regardless of the incidental public benefits which may flow from the service; and

4. An agency may charge for services which assist a person in complying with statutory duties. *Electronic Industries Association v. Federal Communications Commission*, 554 F.2d 1109 (D.C. Cir. 1976); *see also, Mississippi Power & Light Co. v. U.S. Nuclear Regulatory Commission*, 601 F.2d 223 (5th Cir. 1979); *National Cable Television Association v. Federal Communications Commission*, 554 F.2d 1094 (D.C. Cir. 1976).

A number of specific requirements have been set to implement the above principles:

1. The agency must justify the assessment of a fee by a clear statement of the particular service or benefit for which it expects to be reimbursed;

2. The agency must calculate the cost basis for each fee by including:

a. An allocation of the specific expenses of the cost basis of the fee to the smallest practical unit;

b. The exclusion of expenses that serve an independent public interest; and

c. A public explanation of the specific expenses included on the cost basis for a particular fee, and an explanation of the criteria used to include or exclude particular items; and

3. The fee must be set to return the cost basis at a rate that reasonably reflects the cost of the service performed and value conferred on the payor.

Electronic Industries Association v. F.C.C., 554 F.2d at 1117.

The Commission used these guidelines in developing its proposed fees in this proceeding, and has likewise used them in adopting the fees contained in this final rule. These fees therefore comport with all relevant statutory and judicial requirements.

Analyses were conducted by the Commission on the direct and indirect costs associated with services performed for which fees are being established. The availability of justification for the fee bases was made known in the Notice of Proposed Rulemaking and summary fee schedules were made available to all parties requesting justification data on how the fees were established.[1] The fees assessed include only those costs necessary to service an applicant and do not exceed the cost to the Commission in providing such services. The Commission has also identified the recipient which receives a benefit from its services which are conferred in exchange for fees collected. The Commission has thus met the requirements set out by Title V, Circular A–25 and Court decisions.

Questions have arisen over the concept of value to the recipient in terms of which party receives the benefit, and over whether costs were fully inclusive on the one hand or overly inclusive on the other. The opponents of the rule asset value to the recipient flows to the shipping public or the public at large rather than the applicant for a specific service, and thus the benefit to the applicant is indirect. The Commission finds that the value to the recipient flows to the applicant, and thus the benefit to the applicant is direct. An applicant who will not benefit from filing an application or requesting a Commission service will not request any action that would require payment of the fee. If an applicant desires to request services on behalf of another party, the applicant has to make a commercial decision regarding the value to be derived from the request. If a filing or service fee is not worthwhile in this circumstance, an application or request for service will not be filed with the Commission. The services for which the Commission is assessing fees are not the types which can be considered as primarily benefitting the general public, although incidental public benefits may flow from the provision of these specifically requested services.

Opponents of the proposed rule have stated that indirect benefits to the public should not be included in the cost bases of the fees and that actual costs should be used in determining fees. The Commission agrees and has taken both of these issues into account in arriving at the proposed fees. The fees were derived from processing costs which are incurred for processing applications or providing services. The costs are related to employee activities which are necessary to perform the specified services and include an appropriate increment for overhead costs without including regulatory activity costs. Moreover, in determining the proposed fees, the Commission did not include the total cost of items because to do so would in some cases make the fees extremely high.

The opponents of the proposed rule also refer to the fees in the rule as "penalties" or "taxes" rather than fees. These opinions notwithstanding, the Commission has not established fees above the costs for services provided nor has it intended that the fees be penalties. The Commission does not influence the number of complaints or petitions filed nor does it control the number of special permission applications which are received annually. The Commission is required to process applications and provide other services when requested and it is proper to charge a fee for those services.

VPA/NAPA, NEC, PRMSA, ALAF and ICPL further dispute the level of fees proposed in the rule. The fees were developed by the Commission from 1982 cost data for providing the services identified in the proposed rule. Reductions in fees would establish arbitrary fees having no basis in fact and which would not provide any basis for future fee changes which may be necessary. The Commission has rejected this approach because it removes the cost basis of the fees from the requirements under Title V and it obscures the value-to-the-recipient requirement which is necessary to establish fees.

The Commission has been careful in selecting services which qualify for fee assessment and it has also been careful in observing the requirements of Title V

[1] Some opponents of this proposed rule erroneously stated in their comments that no analysis was performed by the Commission. Such incorrect assertions tend to confuse the issues, and serve no useful purpose in the establishment of fair and equitable fees.

in considering value to the recipient, direct and indirect cost to the Government, public policy or interest served, and other pertinent facts. The fees in the final rule are established to remedy the disparity between costs incurred for services provided to a user of the service and the lack of revenue to offset these costs. These services and accompanying fees benefit the applicant directly to the extent services would not be requested from the Commission if there was no reason for the applicant to make a request. Indirect benefits to the applicant are subject to interpretations which could never be resolved in a fee schedule nor have they shown to flow to a large segment of public to the extent that no fees should be charged for services rendered.

II. General Comments

PCEC opposes the proposed rule on the general principle that one who is involuntarily subject to regulation for reasons of public policy should not be assessed special charges for complying with such regulation. It also contends that carriers do not obtain licenses to act as carriers and thus do not receive special benefit from the Commission which could properly call for an appropriate fee. In additon, PCEC is also concerned about the suggestion in the preamble to the proposed rule that charges for filing section 15 agreements and section 14(b) dual rate contracts might be added to the filing and service fees list at some later time. PCEC ultimately suggests that this proceeding should be dismissed.

VPA/NAPA objects to the exclusion of assessments or agreements from the proposed rulemaking because of proposed changes in legislation without similar exclusion of complaints and petitions for declaratory orders which could also be affected by proposed changes in the law.

In establishing the specific fees, the Commission has distinguished between services which are justified for reimbursement and those which are not. The Commission has also concluded that carriers, conferences and other persons do benefit from the Commission's regulation in advance of and in addition to Commission regulation benefitting the shipping public. The fees for complaints and petitions for declaratory orders are included within the rule because the processing steps are not likely to change in the near future.

III. Comments on Specific Fee Applications

Exceptions to specific parts of the proposed rule were submitted by VPA/NAPA, LAP/PCRPB, NEC, PRMSA, ALAF and ICPL. These exceptions and comments are set forth below in the order of the Code of Federal Regulations parts and subparts to which they apply.

A. Complaints, Petitions for Declaratory Orders and Special Dockets Complaints (Part 502, § 502.62 and § 502.182) and Petitions for Declaratory Orders (Part 502, § 502.68)

VPA/NAPA asserts that precedential value from Commission decisions in complaint proceedings can extend to the entire shipping industry and the effects from the decisions could further filter down to the consuming public. VPA/NAPA therefore argues that the recipients of benefits of FMC complaint proceedings are not readily identifiable. It further claims that the negative impact of a $25 or $50 filing fee can be a major burden to small shippers in addition to being a disincentive to use the FMC as a forum for resolution of disputes.

The Commission is aware of the precedential values of its decisions. However, the direct value to a complainant or petitioner does not change by virtue of publication of the decision. The proposed rule would establish processing fees for specific services provided and the direct benefit to be gained must be evaluated by the applicant as to whether or not the service is worthwhile. The Commission views the applicant as the readily identifiable recipient of the benefits of the services provided.

Complaint and petition filing fees should not be a major burden to small shippers because of their nominal amount. Moreover, these administrative processing fees do not cover the full cost to the Commission of handling petitions. It is unlikely that a $25 or $50 filing fee for processing complaints or petitions will result in reduced use of the FMC as a forum for resolution of disputes.

Special Docket Applications (Part 502 § 502.92)

VPA/NAPA and LAP/PCRPB both commented on special docket applications. VPA/NAPA points out that this procedure, whereby carriers can refund or waive freight charges where , there is an error in a tariff of a clerical, administrative or technical nature, was instituted as an alternative to costly formal proceedings and should not be burdened with the obstacle of a filing fee. LAP/PCRPB allege that shippers, not carrier applicants, are the beneficiaries of the waivers and refunds granted pursuant to such applications. They contend that a charge against the carrier for this procedure is unfair and improper because the carriers will have been charged for something of "special benefit," not to themselves, but to the shippers.

The Commission does not believe the filing fee for special dockets is so costly that it will force applicants to revert to more costly formal proceedings. Nor does the Commission believe that carriers in no way benefit from making such applications on behalf of their customers. Carriers benefit from the good will shown to their customers and they have the opportunity to retain customer business by utilizing the special docket procedure. Moreover, control over the filing of rates and charges in tariffs rests with carriers and they are able to correct their own errors through this procedure. Strong administrative controls by the carriers could eliminate, or at least reduce, the need to seek special docket refund or waiver authority from the Commission.

New fees under Part 502 remain unchanged from the proposed rule because they are reasonable charges for the services provided.

B. Non-exclusive Transshipment Agreements (Part 524, § 524.4)

Non-exclusive transshipment arrangements will soon be proposed for exemption from filing requirements. The Commission has removed the proposed filing fee from this final rule and has determined this matter will remain open until further notice.

C. Special Permission Applications in Domestic Offshore Commerce (Part 531, § 531.18) and Foreign Tariffs Special Permission Applications (Part 536, § 536.15)

PRMSA, LAP/PCRPB, and NEC protest the proposed $90 special permission application fee.

PRMSA protests the imposition of a $90 fee for filing special permission applications in the domestic offshore trade, and contends that the proposed fee would impose a significant burden on carriers without consideration of economic inefficiencies harmful to the public interest. PRMSA says it filed approximately 50 special permission applications in 1981. It further claims that the direct costs of the proposed charges would represent only part of the potential expense and, in conjunction with special permission applications, the entire cost of reviewing the application, preparing a recommendation, and making a determination is assigned to the applicant without consideration of possible public benefit. PRMSA thus argues that the proposed fees will introduce transaction costs which are contrary to sound economic policy and

the underlying purposes of special permissions. PRMSA takes the position that the fee should be withdrawn.

LAP/PCRPB comments that: (1) The impetus for a special permission application mostly comes from a shipper seeking a new rate, (2) the benefit would seem in such cases to flow equally to the shipper or the shipping public at large, and (3) the legislative history of the applicable portion of section 18(b)(2) of the Shipping Act makes it clear that broad public interests were to be served and not the limited interests of the carriers.

NEC does not object to the establishment of a fee for filing special permission applications. NEC contends, however, that the proposed fee is excessive and does not reflect the value of the service to the recipient. NEC states that the Commission has historically and consistently exercised discretion to grant special permission authority for good cause shown and where real merit is demonstrated on the basis of anticipated public benefits—not where special benefits would be obtained by a few companies or persons rather than the general public. It further claims that the Commission has not distinguished the number of special permission applications granted or denied and there is obviously no value conferred on the applicant whose special permission is denied. NEC does not contend there is no value to the special permission application services; rather, the relationship between the fee and the service is more appropriately reflected by the figure of $25. NEC urges the Commission to amend its proposed rule to reduce the fee from $90 for all applications down to $25 for those special permission applications which are granted.

The Commission has considered the public benefit of instituting a filing fee for processing special permission applications. The purpose of a special permission is to waive tariff filing requirements upon a showing of good cause. The carrier applicant seeks to obtain a benefit for itself or its customer through the special permission procedure. Though the general public might benefit from the procedure, its benefit is speculative and incidental to the benefit conferred on the applicant carrier.

The Commission incurs special permission application processing costs regardless of the determination to grant or deny the permission. The grant or denial of the application is provided to the applicant carrier or conference, not the shipper providing the impetus for the request. During fiscal year 1982, the Bureau of Tariffs received 294 special permission applications. Each individual grant of special permission directly affects the applicant carrier and possibly affects its shipping customer. If there is absolutely no benefit to be gained by the carrier, it will not file an application for special permission.

The Commission believes the proposed fee is reasonable in relation to the costs it incurs for processing special permission applications. Limiting the fee to apply to only those instances where special permission is granted would give the appearance of applicants buying approval from the Commission. When an application for special permission is received, it is immediately processed. Special permission applications require special processing to take into account special services or arrangements which are not normally available in tariffs. The application processing costs are the same regardless of the final determination. The Commission believes it is appropriate to charge the requesting parties for the services provided at a rate near but not higher than that which is experienced in servicing the request. Establishing the filing fee shifts the application processing fee burden from the general taxpayer to the applicant without transferring the regulatory costs of ensuring that the special permission is used for its intended purpose. The Commission is not withdrawing nor reducing the filing fee for special permission applications.

D. Temporary Tariff Filing Fee (Part 536, § 536.10)

Temporary tariff filing fees are removed from this final rule. New electronic tariff filing methods could make temporary tariff filings unnecessary and because suspension of temporary tariff filings is pending in Docket No. 80–56, this matter is being held open until further notice.

E. Passenger Vessel Certification Fees (Part 540, § 540.4 and § 540.23)

The International Committee of Passenger Lines (ICPL) states that applications filed for certification pursuant to 46 CFR Part 540 should not be subject to any fee because the beneficiaries of Pub. L. 89–777 (46 U.S.C. 817) are travellers embarking at United States ports, not the passenger lines filing the applications. ICPL notes that foreign passenger lines are entitled to transport passengers between the United States and foregn ports under general principles of maritime law and treaties of friendship, navigation and commerce. It claims that nothing in Pub. L. 89–777 took away this right of carriage or remotely suggested that charges should be assessed for the Commission performing its duties. ICPL contends that since the statute was enacted to protect passengers against nonperformance of prepaid voyages and to ensure funds are available to meet personal injury and death claims, the only benefits are to provide security for protection of the public; and compliance with statutory requirements of Pub. L. 89–777 is a burden rather than a benefit to the passenger carrier. Moreover, ICPL notes that the Civil Aeronautics Board exempts foreign air carriers from payment of all filing and license fees (14 CFR 389–24).

ICPL further states that the Commission's functions apply to certification and not licensing of passenger vessels. It contends that the detailed cost analyses in support of the proposed rule are far from enlightening and it is unlikely that any more staff effort is involved in verifying casualty certificate P & I Club guarantees and surety bonds than in the case of evidence of financial responsibility required for pollution certificate applications under 46 CFR Part 542. The casualty certificate fee is more than five (5) times that of the pollution certificate. It also appears to ICPL that no extra effort is needed to process performance certificates where the applicant provides the maximum $10 million security specified in 46 CFR 540.9(j). ICPL contends that nothing in the Commission's figures explains the amount of costs or why an application backed by regular guarantees or surety bonds cost approximately $1,691 to process.

The Commission consumes extensive amounts of time and effort in processing passenger vessel certificates. The Office of Vessel Certification receives the application, records and reviews it, discusses it with the applicants, determines the amount of financial responsibility, reviews other pertinent agreements and charters, develops notice of application to be published in the **Federal Register**, reviews evidence of financial responsibility, prepares a recommendation after research is completed, coordinates with other bureaus and offices as appropriate to ensure comments are incorporated in the recommendation, reproduces copies of the recommendation and has the matter placed on the agenda of the Commission for approval. Upon approval, certificates are issued and the notice of approval is published int the **Federal Register**. Audit requirements are then established, and the **Federal Register** is reviewed for publication and to obtain a copy of the published notice of approval. Audit reports and unearned

passenger revenues are reviewed to ensure adequacy of evidence of financial responsibility. The time and efforts required to process these passenger vessel certificates vary greatly from the routine functions associated with certifying financial responsibility for pollution liability.

Moreover, the fees set forth in the proposed rule do not include costs to the Commission of conducting field audits, processing activities carried out by bureaus and offices other than the Office of Vessel Certification, or other costs associated with monitoring the passenger cruise lines to ensure compliance with the statute. The direct beneficiaries of the services provided by the Commission are the passenger carriers which are able to do business in the United States upon obtaining the required certificates. The indirect beneficiaries of the services are the passengers receiving the protection required by the statute. In the normal commercial environment, the carriers determine whether or not the fee is going to prohibit them from carrying passengers. If the filing fee is paid and the fares increase for that reason, the passengers who are being protected are thereby paying for the services they are using. The benefit could then flow from the carrier to the passenger and the cost of providing the service would be removed as a burden on the general public. The Commission is not withdrawing nor reducing the casualty and performance certification application fees, nor is it exempting foreign passenger carriers from the rule's requirements, since to do so would be discriminatory to U.S. flag carriers.

The Commission has reviewed all comments submitted by the parties responding to the Commission's notice of proposed rulemaking. The comments are pertinent in many instances, and irrelevant in others because they make assumptions which cannot be verified or which bear no direct relationship to the actual cost criteria from which the proposed filing fees were developed. The Commission is not taxing users of its services nor is the Commission recovering the costs of regulating the parties subject to Commission authority. The filing and application fees in this rule are based upon direct and indirect costs of providing services which are requested by applicants. The fees are also set to recover the cost of providing services while being careful not to exceed these costs. The fees are being established to recover costs "to the full extent possible" in a manner which is, "fair and equitable taking into consideration direct and indirect cost to the government, value to the recipient, public policy or interest served and other pertinent facts."

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Commission certifies that adoption of the proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 46 CFR Parts 502, 531, 536 and 540

Maritime carriers, Freight forwarders, Practice and procedure, Fees and user charges.

PART 502—[AMENDED]

Therefore, pursuant to 5 U.S.C. 553, section 43 of the Shipping Act, 1916 (46 U.S.C. 841a), and Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C 483a), the Federal Maritime Commission is amending Title 46 of the Code of Federal Regulations as follows:

1. Part 502—*Rules of Practice and Procedure* is amended in the following respects.

a. In § 502.62 the title is amended and a new sentence is added reading as follows:

§ 502.62 Complaints and fee.

* * * The complaint shall be accompanied by remittance of a $50 filing fee.

b. In § 502.68 the title is amended and a new sentence is added to paragraph (a) reading as follows:

§ 502.68 Declaratory orders and fee.

(a) * * * Petitions shall be accompanied by remittance of a $50 filing fee.

* * * * *

c. In § 502.69 the title is amended and a new sentence is added reading as follows:

§ 502.69 Petitions—general and fee.

* * * Petitions shall be accompanied by remittance of a $50 filing fee.

d. In § 502.92 the title is amended and a new sentence is added to paragraph (a)(3) reading as follows:

§ 502.92 Special docket applications and fee.

(a)* * *

(3) * * * The application for refund or waiver must be accompanied by remittance of a $25 filing fee.

* * * * *

e. In § 502.182 the title is amended and a new sentence is added reading as follows:

§ 502.182 Complaint and memorandum of facts and arguments and filing fee.

* * * The complaint shall be accompanied by remittance of a $50 filing fee.

f. In § 502.304 the title is amended and a new sentence is added to paragraph (b) reading as follows:

§ 502.304 Procedure and filing fee.

* * * * *

(b) * * * Such claims shall be accompanied by remittance of a $25 filing fee.

* * * * *

g. In § 502.404 the title is amended and a new sentence is added to paragraph (a) reading as follows:

§ 502.404 Procedure and fee.

(a) * * * The request shall be accompanied by remittance of a $25 service fee.

* * * * *

2. Part 531—*Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce* is amended by adding a new subparagraph (3) to § 531.18(a) as follows:

§ 531.18 Applications for special permission.

(a) * * *

(3) An application for special permission shall be accompanied by a $90 filing fee.

* * * * *

3. Part 536—*Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States* is amended in the following respects.

In § 536.15 a new sentence is added to paragraph (b) reading as follows:

§ 536.15 Applications for special permission.

* * * * *

(b) * * * Such applications shall be accompanied by a filing fee remittance of $90.

* * * * *

4. Part 540—*Security for the Protection of the Public* is amended in the following respects.

a. In § 540.4 a new sentence is added to paragraph (b) reading as follows:

§ 540.4 Procedure for establishing financial responsibility.

* * * * *

(b) * * * An application for a Certificate (Performance) shall be accompanied by a filing fee remittance of $1,600.

* * * * *

b. In § 540.23 a new sentence is added to paragraph (b) reading as follows:

§ 540.23 Procedure for establishing financial responsibility.

* * * * *

(b) * * * An application for a Certificate (Casualty) shall be accompanied by a filing fee remittance of $800.

By the Commission.

* * * * *

Francis C. Hurney,

Secretary.

[FR Doc. 83-3258 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

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46 CFR Parts 503, 542, 543, and 544

[G.O. 22; Amdt. 12, G.O. 37; Amdt 2, G.O. 40; Amdt. 1, G.O. 41; Amdt.1; Docket No. 82-32]

Water and Oil Pollution; Public Information Fees

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: Fees for public information, financial responsibility for water pollution and financial responsibility for oil pollution are amended to reflect current costs incurred by the Commission in providing such services.

DATE: Effective March 10, 1983.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: On July 6, 1982, the Commission published a Notice of Proposed Rulemaking in the **Federal Register** (47 FR 29280) which proposed to update its fees schedule to remedy the disparity between costs incurred and revenues collected for certain special services, even though total costs would not be recovered.

Comments were submitted by Senator Slade Gorton, Chairman of the Merchant Marine Subcommittee of the Senate Committee on Commerce, Science and Transportation; Annelise Anderson, Associate Director for Economics and Government, Office of Management and Budget; and Hollywood Marine Incorporated. Both Senator Gorton and Associate Director Anderson support the proposed rule. Hollywood Marine is opposed to the proposed rule contending that proposed increases would act as another factor working against the barge and towing industry at a time when the industry needs to eliminate as many economic burdens as possible. Hollywood Marine requests reconsideration of the proposed rule wherein, if it cannot be deleted in its entirety, at the least it would be postponed to a time when the economy and the barge and towing industry are in a much more stable economic situation. General comments opposing increased fees in both this docket and Docket No. 82-33 are addressed in 82-33.

The Commission does not deem it appropriate to delay implementation of or eliminate the proposed fee schedule to suit one segment of the maritime industry suffering from economic problems. Postponing the proposed rule or eliminating it entirely will not save the barge and towing industry from idle capacity due to declining shipments, high interest rates, and rising fuel prices. Accordingly, the Commission has decided to adopt a final rule which is unaltered from its proposed rule.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Commission certifies that adoption of this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 46 CFR Parts 503, 542, 543, 544

Maritime carriers, Freight forwarders, Practice and procedure, Fees and user charges.

PART 503—[AMENDED]

Therefore, pursuant to 5 U.S.C. 553, section 43 of the Shipping Act, 1916 (46 U.S.C 841a), and Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a), the Federal Maritime Commission is amending Title 46 of the Code of Federal Regulations as follows:

§ 503.43 [Amended]

1. Part 503—*Public Information* is amended in the following respects.

In § 503.43 *Fees for services*, in paragraph (b), "$3" is amended to read "$5"; in paragraph (c)(1) "$5" is amended to read "$7"; in paragraph (c)(3) "$5" is amended to read "$7"; in paragraph (c)(4) "$1" is amended to read "$2.50"; paragraph (c)(5) is deleted; in paragraph (d)(1) "$175" is amended to read "$195"; in paragraph (d)(2) "$50" is amended to read "$120"; in paragraph (d)(3) "$12.50" and "$2" are amended to read "$16.50" and "$8.25" respectively; in paragraph (g) "$2.50" and "$1.50" are amended to read "$4.25" and "$4" respectively; and in paragraph (h) "$10" is amended to read "$13."

§ 503.69 [Amended]

In § 503.69 (b)(2) "$2" is amended to read "$5."

PART 542—[AMENDED]

§542.13 [Amended]

2. Part 542—*Financial Responsibility for Water Pollution* is amended in the following respects.

In § 542.13 *Fees*, the references in paragraphs (d) and (e) to "$100" and "$20" are amended to read "$75" and "$40" respectively and in paragraph (f) the reference to "$10" is amended to read "$20." Additionally, the first sentence of paragraph (d) is revised to read as follows.

§ 542.13 Fees.

* * * * *

(d) Each applicant who submits Application Form FMC-321 for the first time shall pay an initial, nonrefundable application fee of $75. * * *

PART 543—[AMENDED]

§ 543.9 [Amended]

3. Part 543—*Financial Responsibility for Oil Pollution—Alaska Pipeline* is amended in the following respects.

In § 543.9 *Fees*, the references in paragraphs (d) and (e) to "$100" and "$20" are amended to read "$75" and "$40" respectively and in paragraph (f) the reference to "$10" is amended to read "$20."

PART 544—[AMENDED]

§ 554.12 [Amended]

4. Part 544—*Financial Responsibility for Oil Pollution—Outer Continental Shelf* is amended in the following respects.

In § 544.12 *Fees*, the references in paragraphs (d) and (e) to "$100" and "$20" are amended to read "$75" and "$40" respectively and in paragraph (f) the reference to "$10" is amended to read "$20." By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-3259 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

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46 CFR Parts 522 and 552

[G.O. 24 and 43]

OMB Clearance Information

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: Rules containing OMB clearance information are amended to reflect OMB clearance for the reporting requirements contained therein and to delete reference to the expiration dates. The amendment is necessary to comply

with the Paperwork Reduction Act of 1980.

DATE: Effective February 8, 1983.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, D.C. 20573. Telephone: (202) 523–5725.

SUPPLEMENTARY INFORMATION: 44 U.S.C. 3504 requires the Office of Management and Budget (OMB) to review information collection requests from 10 or more persons undertaken by Federal agencies.

This Commission has received an extension of clearance from OMB for General Orders 24 and 43, which are contained in 46 CFR Parts 522 and 552, respectively. 44 U.S.C. 3504(c)(3)(A) also requires that notice of OMB's clearance appear in the information collection requests.

The clearance information is presently included in General Orders 24 and 43; however, they must be amended to reflect OMB's latest clearance advice that expiration dates need not be shown in the Commission's rules.

Accordingly, Parts 522 and 552 are amended as follows:

PART 522—FILING OF AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916

1. The authority citation for Part 522 reads as follows:

Authority: Secs. 15 and 43 of the Shipping Act, 1916 (46 U.S.C. 814 and 841(a)).

2. Revise the Note following the Authority citation to read as follows: "OMB Control Number 3072–0040."

PART 552—CERTIFICATION OF COMPANY POLICIES AND EFFORTS TO COMBAT REBATING IN THE FOREIGN COMMERCE OF THE UNITED STATES

1. The authority citation for Part 552 reads as follows:

Authority: Secs. 21 and 43 of the Shipping Act, 1916 (46 U.S.C. 820 and 841(a)).

2. Revise the OMB clearance information to read as follows: "OMB Control Number 3072–0028."

Effective Date. Notice, public procedure and delayed effective date are not necessary for the promulgation of this amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective upon publication in the **Federal Register**.

By the Commission, January 28, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-3271 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

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46 CFR Part 524

Exemption of Certain Agreements From the Requirements of Section 15, Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This exempts from the filing and approval requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. 814) agreements concerning the co-loading by non-vessel operating common carriers of used military household goods and personal effects. Such an exemption will reduce the administrative burden which would result from the filing of these agreements, while at the same time preserving effective Commission regulation over these arrangements.

DATE: Effective February 8, 1983.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202) 523–5725.

SUPPLEMENTARY INFORMATION: The Household Goods Forwarders Association of America, Inc. (HGFAA), a rate agreement previously approved by the Commission as Agreement No. 9510, has filed a Petition to exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. 814) the joint loading of used military household goods and personal effects by and between non-vessel operating common carriers (NVOCCs) in the foreign and domestic off-shore commerce of the United States.[1] Notice of the filing of the Petition was published in the **Federal Register** on June 15, 1982. The Department of Defense (DOD) and The "8900" Lines (Rate Agreement No. 8900) filed comments in response to the Petition.

In its Petition, HGFAA claims that: (1) Its members are all NVOCCs of used military household goods and personal effects and that they move the preponderance of such traffic; (2) the Military Traffic Management Command (MTMC) of DOD has approved these carriers to participate in its International Through Government Bill of Lading (ITGBL) program; (3) most shipments of used household goods do not fully occupy a steamship container and, therefore, port agents representing these NVOCCs consolidate such shipments to form a full container and pro-rate the ocean freight charges among them on a cubic measurement basis; (4) the rates filed with MTMC under the ITGBL household goods program are premised on the NVOCCs having the ability to co-load shipments with each other; (5) the co-loading of used military household goods has been a practice since the late 1950's; and (6) the carriage of military household goods involves a sole shipper, DOD, and, therefore, the joint loading of such cargo does not raise any anticompetitive implications and could not be considered unjustly discriminatory. Petitioners thus argue that their co-loading of used military household goods should be exempted from the filing and approval requirements of section 15.

DOD explains in some detail the basis and execution of the ITGBL program. It then contends that economies of scale can only be met for such a large program by the consolidation of shipments into containers, thereby permitting lower, container-load rates to apply. DOD concludes that no anticompetitive impact will result from the granting of the requested exemption. It does request, however, that if the Commission grants the exemption, it expressly indicate that Petitioners would nonetheless remain subject to the antitrust laws and those portions of the Shipping Act prohibiting unlawful discrimination.[2]

Section 35 of the Shipping Act, 1916 permits the Commission to exempt any class of agreements between persons subject to the Act from any requirement of the Act, where it finds that such exemption will not substantially impair its effective regulation, be unjustly discriminatory, or be detrimental to commerce (46 U.S.C. 833a). Based on the materials submitted in this proceeding, the Commission concludes that agreements or understandings concerning the joint loading by NVOCCs of used military household goods merit exemption from the filing and approval requirements of section 15. The Commission will remain able to effectively regulate such arrangements, as they will continue to be subject to all other requirements and strictures of the Shipping Act. Moreover, there is no indication or suggestion that the joint loading practices under review will be

[1] The membership of Agreement No. 9510 is listed in Attachment A.

[2] The "8900" Lines originally filed comments objecting to the requested grant of exemption. Their objection was subsequently withdrawn.

exercised in a discriminatory manner. In addition, the proposed exemption would appear to be beneficial to commerce, especially since it results in substantial savings to the shipper involved—the United States government.

It should be noted, however, that this exemption from the filing and approval requirements of section 15 does not also serve as an antitrust exemption, and the parties to such arrangements shall remain subject to the antitrust laws of the United States.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the Commission has considered the impact which this rule might have on small businesses, organizations, and governmental jurisdictions—"small entities"—and has concluded that it will not impose additional reporting or record-keeping requirements which might result in a significant compliance or reporting burden on small entities. Accordingly, neither a full regulatory evaluation nor a regulatory impact analysis has been conducted or prepared.

List of Subjects in 46 CFR Part 524

Maritime carriers, Reporting and recordkeeping requirements.

PART 524—[AMENDED]

Therefore, it is ordered, That pursuant to sections 35 and 43 of the Shipping Act, 1916 (46 U.S.C. 833a and 841a) and 5 U.S.C. 553, 46 CFR Part 524 is hereby amended by the addition of the following definition to § 524.2:

§ 524.2 Definitions.

* * * * *

(f) A military household goods agreement is an agreement between non-vessel operating common carriers by water in the foreign or domestic offshore commerce of the United States concerning the joint loading of used military household goods and personal effects.

By the Commission.

Francis C. Hurney,

Secretary.

Attachment A

AABCO, Inc.
AFI Worldwide Forwarders
Air Van Lines, Inc.
Allied Freight Forwarding Incorporated
Allied Van Lines International Corp.
American Ensign Van Service, Inc.
American Expediters, Inc.
American Forwarding, Inc.
American Moving Systems, Inc.
American Vanpac Carriers, Inc.
American World Forwarders, Inc.
Apex Forwarding Co., Inc.
Arnold International Movers, Inc.
Astron Forwarding Company
Atlas Van Lines International Corporation
Aurora International Forwarding, Inc.
Bekins International Lines, Inc.
Bekins Wide World Service, Inc.
Burnham World Forwarders, Inc.
Cartwright International Van Lines, Inc.
Container Moving International, Inc.
Crest-Mayflower International, Inc.
Crown Overseas Forwarders
CVL Forwarders
Davidson Forwarding Company
Dean Forwarding Company, Inc.
Delcher Intercontinental Moving Service, Inc.
DeWitt Freight Forwarding
Dyer International, Inc.
Express Forwarding and Storage Co., Inc.
Ford Pak, Inc.
Four Winds Forwarding, Inc.
Global Forwarding, Inc.
H C & D Forwarders International, Inc.
H & S Forwarders, Inc.
Home-Pack Transport, Inc.
Imperial Van Lines International, Inc.
InterIntra Forwarding, Inc.
International Export Packers, Inc.
International Services, Inc.
Interstate World Forwarders, Inc.
Interstate International, Inc.
Ivory Forwarding, Inc.
Jet Forwarding, Inc.
Jeuro-Pak, Division of Jeuro Container Transport (U.S.A.)
Karevan, Inc.
Lyon Worldwide Shipping, Inc.
Mollerup Freight Forwarding Co.
Northwest Consolidators, Inc.
Ocean-Air International, Inc.
Omni Moving & Storage of Virginia, Inc.
Perfect Pak Company
Pyramid International Forwarding, Inc.
Rebel Forwarding, Inc.
Richardson Forwarding Company
Routed Thru-Pac, Inc.
Sam's Vans, Inc.
Security Forwarders, Inc.
Sentry Household Shipping, Inc.
Stevens Forwarders, Inc.
Suddath Van Lines, Inc.
Swift International, Inc.
Towne International Forwarding, Inc.
Tucor Services, Inc.

[FR Doc. 83-3278 Filed 2-7-83; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[Docket No. 30127-18]

Shrimp Fishery off Texas

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule related notice.

SUMMARY: NOAA issues notice that no geographical adjustments to the closure to shrimp fishing off the State of Texas will be made for the 1983 season. This action is taken according to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico. The intended effect of this action is to maintain the closure so shrimp can attain a larger size and a greater economic value.

FOR FURTHER INFORMATION CONTACT: Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone number: 813–893–3141.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) was approved May 29, 1980, under authority of the Magnuson Fishery Conservation and Management Act. Final regulations implementing the FMP were published in the **Federal Register** on May 20, 1981, at 46 FR 27489. Amendment No. 1 to the FMP, prepared by the Gulf of Mexico Fishery Management Council (Council), provides for modification of the boundaries of two closed areas identified in the FMP. This amendment was approved on April 6, 1982 (47 FR 20310). Regulations were not proposed at that time; instead, whenever a closure modification is considered necessary, it will be implemented by regulatory amendment published in the **Federal Register**.

The FMP as amended provides that the Assistant Administrator for Fisheries, NOAA, in January consider geographic modification of the closed area identified at the Texas Closure in 50 CFR 658.24. The amendment requires that an annual analysis of the effect of the closure be prepared by the National Marine Fisheries Service (NMFS) and submitted to the Council. After reviewing this analysis and consulting with the Council, NOAA may modify the geographic scope of the closure through an amendment to the regulations implementing the FMP.

The effects of the 1982 closure of the fishery conservation zone off the State of Texas have been monitored by NMFS. NOAA has reviewed the analysis of these effects, submitted the analysis to the Council, and, after consulting with the Council, determined the monitoring information does not indicate any need to modify the geographic scope of the Texas closure for the 1983 shrimp season.

(16 U.S.C. 1801 *et seq.*)

Dated: January 31, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-3012 Filed 2-7-83; 8:45 am]

BILLING CODE 3510-22-M

VOL
48
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Proposed Rules

Federal Register
Vol. 48, No. 27
Tuesday, February 8, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 20

Export Sales Reporting of Wet Blue Cattle Hides

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the Export Sales Reporting Regulations (7 CFR Part 20) to add "wet blue" cattle hides to the list of the types of cattle hides and skins to be reported. The addition of wet blues would expand the reporting coverage to include all currently significant raw materials used in the manufacture of finished leather. This rule also revises the description of the types of cattle hides and skins to be reported and changes the reporting unit of certain items from number of pieces to hide equivalent number.

DATE: In order to be considered, written comments must be received on or before March 10, 1983.

ADDRESS: Mail all written comments to the Director, Export Sales Reporting Division, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4919-South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the above address during business hours from 8:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Thomas B. McDonald, Acting Director, Export Sales Reporting Division, FAS, Room 4919-South Agricultural Building, Washington, D.C., 20250, telephone (202) 447–5651.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA procedures required by Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "non-major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies or geographic regions; or (3) significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. In accordance with the Regulatory Flexibility Act, a copy of this proposed rule has been submitted to the Chief Counsel, Office of Advocacy, U.S. Small Business Administration.

The Export Sales Reporting program is approved under OMB No. 40 R 3886, effective through April 30, 1983.

The reporting of export sales transactions involving cattle hides and skins has been required since May 12, 1980, (45 FR 24439), under the authority of section 7(g) of the Export Administration Act of 1979 (Pub. L. 96–72). The legislation and implementing regulations require the reporting of "hides and skins." Wet blues are hides and skins which have been tanned with chromium salts but not further processed and are sold in a wet condition. Up to now, the Department has only required the reporting of hides and skins sold and exported in the salt or brine cured stage and have not required wet blues to be reported. No action was taken to require that wet blues be included in the exporter's reports because wet blues had made up only a relatively insignificant portion of the volume of hide and skin exports. It has recently been determined that wet blues are rapidly rising in importance in world trade. For calendar year 1982, wet blues with a total value of $95 million were exported as compared with $56 million in 1981 and $55 million in 1980. Consequently, it is felt that the reporting of wet blues is necessary to accurately reflect the export trade in hides and skins.

Since the Department has not previously required wet blues to be reported, it is appropriate to propose a specific change in the regulations and invite comments thereon prior to a final decision to require the inclusion of wet blues in the reporting program.

This proposed amendment also would change the reporting unit to be utilized when reporting hides and skins cut into croupons, crops, dossets, sides, butts or butt ends. Under the proposal, such items would be reported in terms of the hide equivalent number rather than number of pieces.

If the proposal is adopted, there would be only a nominal additional cost to the industry or government since most sellers of hides and skins are currently filing weekly reports.

Secretary's Memorandum No. 1512–1 generally requires a 60 day comment period for proposed rules unless an emergency exists or the nature of the rule warrants a shorter period. It is felt that the nature of this rule is such that a 30 day comment period would be adequate to obtain meaningful comments from interested persons. This is because hides and skins have been subject to the export sales reporting program for almost three years and most persons affected by the proposal are fully familiar with the obligations and procedures required by the reporting regulations. Also, a shorter comment period is desirable in order to begin, at an earlier date, to collect and publish data more accurately reflecting the impact of foreign demand on the hide and skin market.

In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

List of Subjects in 7 CFR Part 20

Agricultural commodities, Exports, Reporting requirements.

In consideration of the foregoing it is proposed to amend 7 CFR Part 20 as follows:

1. The authority citation for Part 20 reads as folows:

Authority: Sec. 812, Pub. L. 91–524, as added by Pub. L. 93–86, sec. 1(27)(B), 87 Stat. 238 (7 U.S.C. 612c–3); sec. 7(g), Pub. L. 96–72, 93 Stat. 519 (50 U.S.C. App. 2406(g)).

2. Appendix I is amended by revising all items relating to "Cattle hides and skins" to read as follows:

Commodity to be reported	Unit of measure to be used in reporting	Beginning of marketing year	End of marketing year
•	•	•	•
Cattle hides and skins—Whole cattle hides, excluding wet blues.	Pieces	Jan. 1	Dec. 31
Cattle hides and skins—Whole calf skins, excluding wet blues.	do	do	Do
Cattle hides and skins—Whole kip skins, excluding wet blues	do	do	Do.
Cattle hides and skins—Cattle, calf and kip, excluding wet blues, cut into croupons, crops, dossets, sides, butts or butt ends (hide equivalent)	Number	do	Do
Cattle hides and skins—Cattle, calf and kip, excluding wet blues, in cuts not otherwise specified	Pounds	do	Do.
Cattle, calf and kip, wet blues—grain portion only, full thickness or split (hide equivalent)	Number	do	Do.
Cattle, calf and kip, wet blues—splits, excluding grain portion	Pounds	do	Do.
•	•	•	•

Issued at Washington, D.C., this 2d day of February 1983.

Leo V. Mayer,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 83-3288 Filed 2-7-83; 8:45 am]

BILLING CODE 3410-10-M

Agricultural Marketing Service

7 CFR Part 1030

Milk in the Chicago Regional Marketing Area; Proposed Temporary Revision of Shipping Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal that the supply plant shipping requirements under the Chicago Regional milk order be decreased temporarily for the month of March 1983. This action was requested by cooperative associations representing a majority of the producers supplying the market in order to prevent uneconomic movements of milk from supply plants to distributing plants.

DATE: Comments are due not later than February 18, 1983.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7311.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that any need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the completion of the required procedures in time to give interested parties timely notice that the shipping requirement for pool supply plants for March 1983 would be modified. The initial request for this action was received January 25, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1030.7(b)(5) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Chicago Regional marketing area is being considered for the month of March 1983.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 10 days from the date of publication of this notice in the **Federal Register.** The period for filing comments is somewhat limited to enable the timely consideration of this matter since the proposed action would be applicable to milk shipments made during March 1983.

All written comments made pursuant to this matter will be made available for public inspection in the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised is the shipping percentage for supply plants and units of supply plants set forth in § 1030.7(b) that is applicable during the month of March 1983. It has been requested that the shipping requirement be reduced termporarily from 20 percent to 15 percent for March.

Pursuant to the provisions of § 1030.7(b)(5), the supply plant shipping percentages as set forth in § 1030.7(b) may be increased or decreased by up to 10 percentage points during the months of September through March to encourage additional milk shipments to pool distributing plants or to prevent uneconomic shipments to those plants.

The cooperative associations requesting the temporary revision indicate that two situations prompt their request for a reduction in the minimum shipping percentage. During February, it is expected that a Chicago pool distributing plant may stop bottling milk. The distributing plant unit of which it is now a part would then cease to exist. With the loss of fluid milk sales due to the plant's closure, fewer shipments of milk from supply plants may qualify as producer milk under the order. Secondly, the cooperative associations indicate that they plan to begin delivering direct-shipped producer milk to another distributing plant in the Chicago area. These direct-shipped milk deliveries will result in fewer needed shipments from supply plants.

Due to these anticipated changes in supply conditions for the market, it may be appropriate to reduce somewhat the pool supply plant shipping percentage for March 1983. Such action could prevent uneconomic movements to milk. Also, a reduction could assure that producers who have been regularly associated with the fluid market can continue to share in the pool proceeds of the market.

List of Subjects in 7 CFR Part 1030

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: February 3, 1983.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 83-3370 Filed 2-7-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

10 CFR Part 205

[Docket No. EP-40-83-1]

Report of Major Electric Utility System Emergencies

AGENCY: Energy Department.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Environmental Protection, Safety, and Emergency Preparedness (EP) of the Department of Energy (DOE) proposes to amend the regulations set forth at 10 CFR 205.350, *et seq.* which require reports of major electric utility system emergencies. The proposed amendments update the regulations to reflect current DOE organization and responsible officials and delete certain reporting provisions which are now voluntary. In addition, EP requests comments as to what, if any, other amendments might be appropriate.

DATES: Comments by March 10, 1983.

ADDRESSES: Send comments to Office of Energy Emergency Operations, Department of Energy, Forrestal Building, Mail Stop GB-270, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Louis A. Wofsy, Office of Energy Emergency Operations (EP-42), Department of Energy, Forrestal Building, Mail Stop GB-270, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-1048

William Funk, Office of General Counsel for Regulatory Oversight, Department of Energy, Forrestal Building, Mail Stop GC-12, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6736

SUPPLEMENTARY INFORMATION:

I. Background

On January 12, 1981 the Economic Regulatory Administration (ERA) of DOE issued rules to carry out its responsibilities under Sections 202(a) and 311 of the Federal Power Act regarding reporting of major electric utility system emergencies. Those functions were transferred to the Secretary of Energy under Section 301(b) of the DOE Organization Act, and subsequently delegated by the Secretary to the ERA Administrator. Since then responsibility for emergency programs has been transferred to the Office of Environmental Protection, Safety, and Emergency Preparedness (EP).

Generally, Section 202(a) of the Federal Power Act authorizes such action as is necessary to assure an abundant supply of electric energy throughout the country, and Section 311 provides for the collection of data for the purpose of reporting the problems and developments of the electric power industry to Congress. To satisfy these mandates of the FPA, DOE adopted certain reporting requirements on impending major electric utility system emergencies, customer load reductions, and significant service interruptions in bulk electric power supply and actions to minimize their impact. The current regulations (10 CFR 205.350-355) became effective January 1, 1981 (46 FR 2956, January 12, 1981).

II. Proposed Amendments

Generally, the proposed amendments up-date the existing rules to reflect the current organization of DOE and delete certain non-mandatory reporting requirements which appear to be no longer useful. The amendments proposed today, therefore, are merely technical in nature and raise no substantial issues of fact or law.

A. Proposed Technical Amendments

Proposed amendments to reflect current DOE organization are as follows:

1. Section 205.350—"Economic Regulatory Administration (ERA)" is proposed to be "Office of Environmental Protection, Safety, and Emergency Preparedness (EP)";

2. Section 205.351—"DOE/ERA Electric Power Monitoring Center (EPMC)" is proposed to be "EP Alert Coordination Officer (ACO)";

3. Section 205.351 (a) through (f)—"ERA" is proposed to be "ACO";

4. Section 205.352—"EPMC" is proposed to be "ACO" and "ERA" is proposed to be "DOE";

5. Section 205.353—"Utilities shall notify the EPMC by telephone" is proposed to be "The ACO shall be notified", and

6. Section 205.354—"ERA's Director of the Division of Power Supply and Reliability" is proposed to be "Director, Office of Energy Emergency Operations."

B. Proposed Deletions

Pursuant to § 205.351, *Reporting Requirements,* electric utilities or other covered entities are required to report certain events to DOE. DOE proposes to amend this section by deleting one subsection and example in order to clarify the rule and to eliminate the reporting requirements in § 205.355 which DOE no longer needs.

First under § 205.351(d) reports are required when any electric power supply equipment or facility fails and thereby constitutes a hazard to the current or prospective adequacy or reliability of the entity's bulk electric power supply system. The rule sets forth examples of situations which may be reportable under the regulations. DOE proposes to delete example (4):

> A power system frequency decline to 59.7 Hz or lower that results in the loss of any firm customer load.

DOE believes this deletion will clarify the reporting requirement and make clearer DOE's intent of when a report should be filed under the provision.

Second, DOE proposes to delete § 205.351(g) which provides that:

> The ordered shutdown or operating limitation by any Federal, state, or local government agency of any generating unit with a nameplate rating greater than 400 MW which results in a reduction exceeding 25 percent of the nameplate rating. Long-term limitations based on ambient environmental conditions should be reported initially and thereafter only when a change occurs. (ERA shall be notified as soon as practicable after the issuance of such an order, but not later than the next working day.)

DOE's experience with the existing regulations has shown that instances of the type required to be reported under this subsection have not been causing reliability problems for the affected utilities. In instances where situations described in § 205.351(g) do pose a reliability problem, reporting would be appropriately made under the provisions of § 205.351(d). Therefore deletion § 205.351(g) should reduce the reporting burden on the respondents while not impacting upon DOE's ability to gather information concerning significant reliability problems.

Third, pursuant to § 205.355 utilities and other covered entities are requested to prepare and maintain voluntary contingency plans for emergency situations. DOE further requests that a copy of the plans be filed with DOE. DOE proposes to eliminate § 205.355 in its entirety because DOE believes most affected entities have developed and continue to maintain such plans.

In addition to the above proposed amendments, DOE is prepared to make other amendments to the reporting requirements in light of public comments. Where commenters believe the existing regulations impose an unnecessary burden on the industry, they should identify as specifically as possible the nature and extent of the burden actually suffered during the past two years.

III. Comment Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting information, views, or arguments with respect to the proposed amendments of 10 CFR Part 205. Comments should be submitted no later than March 10, 1983 to the address indicated in the "**ADDRESSES**" section of this preamble and should be identified on the outside envelope and on the document with the docket number and the designation: "Report of Major Electric Utility Systems Emergencies, Docket No. EP–40–83–1." Two copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 1E190, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of such information or data and to treat it according to its determination.

B. Public Hearing

DOE believes that the amendments proposed in this Notice present no substantial issues of fact or law and are unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Accordingly, DOE is not scheduling a public hearing as provided by section 501(c) of the Department of Energy Organization Act (DOE Act), Pub. L. 95–91, and the Administrative Procedure Act (5 U.S.C. 553). If a significant number of persons should request an opportunity for oral presentation of views, data and arguments, a public hearing could be held after public notice.

IV. Other Matters

A. Executive Order 12291

Section 3 of Executive Order (E.O.) 12291 (46 FR 13193, February 19, 1981) requires that DOE determine whether a proposed rule is a "major rule," as defined by section 1(b) of E.O. 12291, and prepare a regulatory impact analysis for each major rule. Since the proposed amendments either would eliminate regulatory requirements or update the rules to reflect DOE's current organization, DOE has determined that the proposed amendments do not meet the E.O. 12291 definition of a major rule as one likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 Pub. L. 96–354, (5 U.S.C. 601–612) requires, in part, that an agency prepare an initial regulatory flexibility analysis for any proposed rule, unless it determines that the rule will not have a "significant economic impact" on a substantial number of small entities. The proposed amendments will not impose any additional burdens or impact on small entities, but rather they will reduce an obligation on certain entities. Therefore, DOE does not believe the obligation involved has a significant impact on small entities, and accordingly, as required by section 603(b), DOE certifies that the amendment will not have a significant economic impact on a substantial number of small entities.

C. Environmental Review

DOE has determined that that proposed amendment, which is essentially administrative in nature, clearly is not a major Federal action with significant environmental impact. Consequently, the proposed amendment does not require preparation of an Environmental Assessment or Environmental Impact Statement under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*

D. Paperwork Reduction Act

The existing reporting requirement contained in Section 205.351 has been approved by OMB and assigned the control number, 1903–0045. This notice has been submitted to OMB for its comments under Section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 10 CFR Part 205

Electric power, Electric utilities, Reporting requirements.

(Department of Energy Organization Act, Pub. L. 95–91, (42 U.S.C. Section 7101), Federal Power Act, Pub. L. 66–280, (16 U.S.C. Section 791 *et seq.*)

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, D.C., January 31, 1983.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

PART 205—[AMENDED]

Title 10, Part 205, Subpart W, §§ 205.350, 205.351, 205.352, 205.353, and 205.354 are revised and § 205.355 is removed to read as follows:

Subpart W—Electric Power System Permits and Reports; Applications; Administrative Procedures and Sanctions

Report of Major Electric Utility System Emergencies

§ 205.350 General Purpose.

The purpose of this rule is to establish a procedure for the Office of Environmental Protection, Safety, and Emergency Preparedness (EP) to maintain current information regarding the status of the electric energy supply systems in the United States so that appropriate Federal emergency response measures are implemented in a timely and effective manner. This data also may be utilized in developing legislative recommendations and other reports to the Congress.

§ 205.351 Reporting Requirements.

For the purpose of this section, a report or a part of a report may be made jointly by two or more entities. Every electric utility or other subject entity engaged in the generation, transmission or distribution of electric energy shall report promptly to the EP Alert Coordination Officer (ACO) any events as described in subparagraphs (a) through (f) of this section:

(a) The issuance of any public or private request to any customer or the general public to reduce the use of electricity for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. Requests to a customer(s) served under provisions of an interruptible contract are not a reportable action unless the request is

made for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. (ACO shall be notified as soon as practicable, but no later than 24 hours after the issuance of such a request.)

(b) Any intentional reduction of system voltage by 3 percent or greater for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. (ACO shall be notified as soon as practicable, but no later than 24 hours after the initiation of the action.)

(c) Any load shedding action that results in the reduction of over 100 megawatts (MW) of firm customer load for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. The routine use of load control equipment that reduces firm customer load is not considered to be a reportable action. (ACO shall be notified within three hours after such action is taken if practicable, or as soon thereafter as practicable.)

(d) Any electric power supply equipment or facility failure or other event that, in the judgment of the reporting entity, constitutes a hazard to the current or prospective adequacy and/or reliability of the reporting entity's bulk electric power supply system. (ACO shall be notified as soon as practicable; however reports are expected within one business day after such determination.) Examples of situations which *may* be reportable under this provision *could* be ones which:

(1) Cause the operating area to be dependent upon neighboring utilities for large quantities of unscheduled electricity deliveries to supply the operating area's loads for longer than three consecutive hours;

(2) Cause a significant increase in the use of a fuel for generating equipment, such that replacement of this fuel may be a problem;

(3) Are caused by a suspected act of physical sabotage.

(e) Any outage that extends for greater than 15 minutes and affects firm loads totaling over 100 MW, or more than 50 percent of the total load being supplied by the reporting entity's system immediately prior to the incident, whichever is less. However, utilities with a peak load in the prior year of over 3000 MW are only to report those losses of service to firm loads totaling over 200 MW for greater than 15 minutes. (ACO shall be notified as soon as practicable without unduly interfering with service restoration and, in any event, within three hours after the beginning of the interruption.)

(f) Any significant incident on an electric utility system which results in a continuous outage of three hours or longer to over 50,000 customers (meters, delivery points) or more than one half of the reporting entity's total customers, whichever is less. (ACO shall be notified within 24 hours of the occurrence if practicable, or as soon thereafter as practicable.)

(OMB Control No. 1903–0045)

§ 205.352 Information to be reported.

The power supply data shall be supplied to the ACO in accordance with the current DOE pamphlet on reporting procedures. The initial report should include the utility name; the area affected; the time of occurrence of the initiating event; the duration or an estimate of the likely duration; an estimate of the number of customers and amount of load involved; and whether any known critical services such as hospitals, military installations, pumping stations, or air traffic control systems, were or are interrupted. To the extent known or suspected, the report shall include a description of the events initiating the disturbance. The DOE may require further clarification during or after restoration of service.

§ 205.353 Fuel emergencies.

The ACO shall be notified whenever a utility or other subject entity determines that a fuel supply emergency exists or is projected to occur. A fuel supply emergency exists when supplies of fuels or hydroelectric storage for generation are at a level or projected to be at a level which would threaten the reliability or adequacy of electric service. The following factors should be taken into account to determine whether a fuel emergency exists: (a) fuel stocks or hydro storage levels are 50 percent or less of normal for that particular time of the year and; (b) a continued downward trend in fuel stocks or hydro storage levels is projected. (ACO shall be notified as soon as practicable, but no later than three days after the determination is made.)

§ 205.354 Special investigations and reports.

If directed by the Director, Office of Energy Emergency Operations in writing and noticed in the **Federal Register**, a utility or other subject entity experiencing a condition described in § 205.351 above shall submit a full report of the technical circumstances surrounding the power system disturbance, including the restoration procedures utilized. The report shall be filed at such time as may be directed by the Director, Office of Energy Emergency Operations.

§ 205.355 [Removed]

[FR Doc. 83-3298 Filed 2-7-83; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R-0451]

Regulation D; Reserve Requirements of Depository Institutions; Ineligible Bankers' Acceptances

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking.

SUMMARY: Under the Board's current Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204), a bankers' acceptance ("BA") that does not meet the criteria of section 13 of the Federal Reserve Act ("ineligible BA") is regarded as a reservable deposit only if it is created, discounted, and sold by the *same* depository institution. In order to avoid reserve requirements, some banks have recently entered into arrangements with brokers and other third parties that provide for the issuance of an ineligible BA by the bank and the subsequent discount and/or resale by a third party. To prevent the use of this device as a means of avoiding reserve requirements, the Board proposes to amend Regulation D such that the creation of an ineligible BA results in a reservable liability regardless of whether the depository institution that creates the BA subsequently discounts and/or sells it.

DATE: Comments must be received by March 18, 1983.

ADDRESS: Interested parties are invited to submit written data, views, or arguments concerning the proposed rule to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or such comments may be delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments may be inspected in room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452–3625); Paul S. Pilecki,

Senior Attorney (202/452–3281); or Robert G. Ballen, Attorney (202/452–3265), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 19(a) of the Federal Reserve Act authorizes the Board to determine what types of obligations are reservable deposits (12 U.S.C. 461(a)). In addition, section 19(a) grants the Board authority to prescribe regulations necessary to prevent evasions of reserve requirements.

Regulation D currently regards an ineligible BA as a reservable deposit only if it is created, discounted, and sold by the same depository institution. Some banks have recently entered into agented BA arrangements with brokers and other third parties that provide for the issuance of an ineligible BA by the bank and the subsequent discount and/or resale by the third party. Since the bank issuing the BA did not discount and resell the acceptance, currently it is not required to maintain reserves against the BA. Similarly, the third party depository institution that discounts and/or resells the BA pursuant to such an arrangement would not be subject to reserve requirements on the transaction since it did not issue the BA. The Board believes that these arrangements serve only as a device to avoid reserve requirements under Regulation D. In order to prevent reserve requirement evasion, the Board proposes to amend Regulation D such that the creation of an ineligible BA results in a reservable deposit regardless of whether the depository institution that creates the BA subsequently discounts and/or sells it. The Board notes that where the party discounting or selling the BA is not the same institution that created the BA, it is in many cases difficult, if not impossible, to determine whether the discount and sale of the BA have occurred pursuant to a prearranged agented BA transaction. Commenters may also wish to address whether reserve requirements should be applied *only* to agented BA transactions and how such agented arrangements may be identified—in addition to comments on other aspects of the proposal.

It should be noted that under the proposal reserve requirements would not apply to an ineligible BA that the issuing institution itself discounts and holds since under current practices, such acceptances are not regarded as acceptances outstanding. Further, due to equity considerations, the Board proposes that this amendment not apply to outstanding ineligible BAs that were created prior to the announcement of the proposed amendment. Depository institutions would be on notice that under the proposal all ineligible BAs created after the date of the announcement would be subject to reserve requirements even if the creating institution did not itself discount and sell the acceptance. Comments on this proposed amendment must be received by March 18, 1983.

The impact of this proposal on small entities has been considered in accordance with section 603 of the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 603). Section 411 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320; 96 Stat. 1520) provides for an exemption from reserve requirements for the first $2.1 million in reservable liabilities at all depository institutions. The Board believes that its proposed action would not add any reserve requirement burden to small depository institutions that have zero reserve requirements as a result of section 411 of the Garn-St Germain Act. In addition, small entities typically do not issue ineligible BAs. No new recordkeeping or reporting requirements will be imposed as result of this action.

List of Subjects in 12 CFR Part 204

Banks, banking, Currency, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

PART 204—[AMENDED]

Pursuant to its authority under section 19 (a) of the Federal Reserve Act (12 U.S.C. 461(a)), the Board proposes to amend § 204.2 of Regulation D (12 CFR Part 204) by redesignation existing paragraph (a)(1)(vii) as (a)(1)(viii); and by amending newly redesignated (a)(1)(viii) by removing the words "banker's acceptance,", by adding the word "or" at the end of subparagraph (C), by changing the semi-colon at the end of subparagraph (D) to a period, by removing the word "or" at the end of subparagraph (D), and by removing subparagraph (E) and by adding a new paragraph (a)(1)(vii) to read as follows:

§ 204.2 Definitions.

* * * * *

(a)(1) * * *

(vii) any liability of a depository institution that arises from the creation after January 31, 1983, of a bankers' acceptance that is not of the type describe in paragraph 7 of section 13 of the Federal Reserve Act (12 U.S.C. 372); or

* * * * *

By order of the Board of Governors, Feburary 1, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–3210 Filed 2–7–83; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 172, 182, and 184

[Docket No. 78N–0349]

Certain Glycerides; Proposed Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that mono- and diglycerides, diacetyl tartaric acid esters of nomo- and diglycerides, monosodium phosphate derivatives of mono- and diglycerides, glyceryl monostearate, glyceryl monooleate, triacetin, and tributyrin are generally recognized as safe (GRAS) as direct human food ingredients. The agency is also proposing to remove glyceryl monooleate from the list of food additives. The safety of these ingredients has been evaluated under a comprehensive safety review conducted by the agency. A proposal to affirm glycerin as GRAS appears elsewhere in this issue of the **Federal Register**.

DATE: Comments by April 11, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Susan Thompson, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 28, 1973 (38 FR 20040)) initiating this review, under which the safety of mono- and diglycerides, diacetyl tartaric acid esters of mono- and diglycerides, monosodium phosphate derivatives of mono- and diglycerides, glyceryl monostearate, glyceryl monooleate, triacetin, and tributyrin has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35),

the agency proposes to affirm the GRAS status of these ingredients. The agency is proposing no action on the prior-sanctioned status of sodium sulfoacetate derivatives of mono- and diglycerides, which are currently listed in the standards of identity for margarine.

In its report, the Select Committee on GRAS Substances (the Select Committee) also evaluated the safety of acetooleins, acetostearings, glyceryl lactopalmitate, glyceryl lactooleate, monoglyceride citrate, and oxystearin. However, these substances are food additives regulated under § 172.828 (acetooleins, acetostearins), § 172.852 (glyceryl lactopalmitate, glyceryl lactooleate), § 172.832 (monoglyceride citrate), and § 172.818 (oxystearin) (21 CFR 172.828, 172.852, 172.832, and 172.818). The agency is not addressing the safety of these additives at this time but will consider the information evaluated by the Select Committee in an upcoming review of the safety of food additives.

Mono- and diglycerides were first used in foods in the United States in 1911. They are composed of esters of glycerin in which one or two of the hydroxy groups of glycerin are esterified by fatty acids. The most prevalent fatty acids include lauric, linoleic, myristic, oleic, palmitic, and stearic acid. Mono- and diglycerides do not occur naturally in appreciable quantities, except in fats that have undergone partial hydrolysis. These glycerides are manufactured by the glycerolysis of edible fats and oils or by the esterification of glycerin with edible fatty acids that meet the requirements of § 172.860 (21 CFR 172.860), with or without molecular distillation of the products.

Mono- and diglycerides from glycerolysis of edible fats or oils were listed as GRAS as emulsifying agents in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, this listing was replaced by the listing of mono- and diglycerides of edible fats or oils, or of edible fat-forming fatty acids, as GRAS as emulsifying agents in a regulation published in the **Federal Register** of December 2, 1964 (29 FR 16079). These substances are currently listed as GRAS for this use in § 182.4505 (21 CFR 182.4505). Mono- and diglycerides from glycerolysis of edible fats and oils were listed as GRAS as substances migrating to food from paper and paperboard products in a regulation published in the **Federal Register** of June 17, 1961 (26 FR 5421) and are currently listed as GRAS for this use in § 182.90 (21 CFR 182.90).

Mono- and diglycerides have a U.S. Department of Agriculture (USDA) prior sanction under the Meat Inspection Act for use as emulsifiers in lard, shortening, and oleomargarine. Mono- and diglycerides of fat-forming fatty acids are listed as optional ingredients in the following food standards of identity: *Bread, rolls, and buns* (21 CFR 136.110); *Sweet chocolate* (21 CFR 163.123); and *Milk chocolate* (21 CFR 163.130). Mono- and diglycerides of fatty acids are listed as optional ingredients in the food standard in *Margarine* (21 CFR 166.110).

Glycerides, di- and monoester, are listed as food additives in 21 CFR 175.105 as components of adhesives. Mono- and diglycerides are listed as food additives in 21 CFR 176.210 as components of defoaming agents used in the manufacture of paper and paperboard.

Glyceryl monooleate is the monoester of glycerin and oleic acid. This monoglyceride is prepared by esterification of oleic acid with glycerin. FDA has stated in opinion letters that glyceryl monooleate is GRAS for use as an emulsifier in color mixtures for margarine (1958 letter) and as a vitamin oil emulsifier for use in fluid milk (1962 letter). Glyceryl monooleate is listed, under the name of glycerol monooleate, in § 181.27 (21 CFR 181.27) as a prior-sanctioned food ingredient when used as a plasticizer in food-packaging material. Glyceryl monooleate is listed in § 172.515 (21 CFR 172.515) as a synthetic flavoring substance and adjuvant. It is also listed in 21 CFR 175.300(b)(3)(xxiv) as a plasticizer of resinous and polymeric coatings and in 21 CFR 175.320(b)(3)(ii), under the name of glycerol monooleate, as a plasticizer in resinous and polymeric coatings for polyolefin films.

Glyceryl monostearate or monostearin is the monoester of glycerin and stearic acid. The commercial product is a mixture of variable proportions of glyceryl monostearate and glyceryl monopalmitate. Glyceryl monostearate is prepared by glycerolysis of certain edible fats and oils or by esterification of stearic acid with glycerin. Glycerol monostearate was listed as GRAS as a miscellaneous substance in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, glyceryl monostearate was reclassified as GRAS as a miscellaneous and general purpose food additive in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938), and reclassified and recodified as a multiple purpose GRAS food substance in the **Federal Register** of March 15, 1977 (42 FR 14640). Currently, glyceryl monostearate is listed as GRAS as a multiple purpose GRAS food substance in § 182.1324 (21 CFR 182.1324). Glyceryl monostearate is listed as an optional ingredient in the standard of identity for macaroni products (21 CFR 139.110) and for noodle products (21 CFR 139.150). Glyceryl monostearate is also listed in 21 CFR 175.210 as an indirect food additive for use as a component of acrylate ester copolymer coatings, in 21 CFR 175.300(b)(3)(xxvii) for use as a surface lubricant in resinous and polymeric coatings, and in 21 CFR 176.200 for use as a component of defoaming agents used in coatings.

Diacetyl tartaric acid esters of mono- and diglycerides are composed of mixed esters of glycerin, tartaric acid, and fatty acids. The commercial product is prepared by the reaction of diacetyl tartaric acid anhydride with mono- and diglycerides made from edible fats, oils, and fatty acids. Diacetyl tartaric acid esters of mono- and digylcerides from glycerolysis of edible fats or oils were listed as GRAS as emulsifying agents in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9268). Subsequently, the listing was replaced by the listing of diacetyl tartaric acid esters of mono- and digylcerides of edible fats or oils, or edible fat-forming fatty acids, as GRAS as emulsifying agents in a regulation published in the **Federal Register** of December 2, 1964 (29 FR 16079). These substances are currently listed as GRAS for this use in § 182.4101 (21 CFR 182.4101). These esters also have a USDA prior sanction for emulsifying rendered animal fat or a combination of rendered amimal fat with vegetable fat, in an amount sufficient for the purpose. Diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids are listed as optional ingredients in the standards of identity for bread, rolls, and buns (21 CFR 136.110).

Monosodium phosphate derivatives of mono- and diglycrides are composed of a mixture of glyceride derivatives formed by reacting mono- and diglycerides with phosphorus pentoxide and then neutralizing the product with sodium carbonate. Monosodium phosphate derivatives of mono- and diglycerides from the glycerolysis of edible fats or oils were listed as GRAS as emulsifying agents in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, this listing was replaced by the listing of monosodium phosphate derivatives of mono- and diglycerides of edible fats or oils, or edible fat-forming fatty acids, as GRAS as emulsifying agents in a regulation published in the **Federal Register** of December 2, 1964 (29 FR 16079). These substances are currently listed as GRAS for this use in

§ 182.4521 (21 CFR 182.4521). Monosodium phosphate derivatives of mono- and diglycerides of fat-forming fatty acids are listed as optional emulsifying agents in the standards of identity for sweet chocolate (21 CFR 163.123) and for milk chocolate (21 CFR 163.13)

Triacetin, also referred to as 1, 2, 3,-propanetriol or glyceryl triacetate, is the triester of glycerin and acetic acid. This ester is prepared by acetylation of glycerin or by the reaction of oxygen with the liquid-phase of mixture of allyl acetate and acetic acid, using bromide as a catalyst. Triacetin (glyceryl triacetate) was listed as GRAS as a miscellaneous substance in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, triacetin (glyceryl triacetate) was reclassified as a miscellaneous and general purpose food additive in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). Triacetin was reclassified and recodified as a multiple purpose GRAS food substance in a regulation published in the **Federal Register** of March 15, 1977 (42 FR 14640), and is currently listed a GRAS for this use in § 182.1901 (21 CFR 182.1901). It is also listed in § 181.27 as a prior-sanctioned food ingredient when used as a plasticizer in food-packaging material. Furthermore, triacetin is regulated as a food additive under the name "glyceryl triacetate" in 21 CFR 175.300(b)(3)(xxiv) as a plasticizer in resinous and polymeric coatings and under the name "glycerol triacetate" in 21 CFR 175.320(b)(3)(ii) as a plasticizer in resinous and polymeric coatings for polyolefin films.

Tributyrin, also referred to as glyceryl tributyrate, is the triester of glycerin and butyric acid. It is prepared by esterification of glycerin with excess butyric acid. It was listed as GRAS under the designation "glycerol (glyceryl) tributyrate (tributyrin, butyrin)" for use as a synthetic flavoring substance and adjuvant is a regulation published in the **Federal Register** of May 9, 1961 (26 FR 3991), and currently is listed a GRAS in § 182.60 (21 CFR 182.60) for this use.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which GRAS substances were used and the levels of usage. The survey revealed that mono- and diglycerides are used in most of the food categories listed in 21 CFR 170.3(n) as dough strengtheners, emulsifiers and emulsifier salts, flavoring agents and adjuvants, lubricants and release agents, solvents and vehicles, stabilizers and thickeners, surface-active agents, surface-finishing agents, and texturizers. The survey also reported that glyceryl monostearate, which was listed individually, is used as a firming agent and as processing aid, as well as for most of the technical effects reported for mono- and diglycerides. The survey also reported that glyceryl monooleate is used as a flavoring agent and as a solvent and vehicle in baked goods, nonalcoholic beverages, and meat products.

The survey also reported the use of diacetyl tartaric acid esters of mono- and diglycerides as emulsifiers in baked goods, confections and frostings, and dairy product analogs and as flavoring substances in fats and oils. The survey reported the use of monosodium phosphate derivatives of mono- and diglycerides as emulsifiers and as surface-active agents in dairy product analogs. In addition, correspondence to FDA reported the use of these derivatives as lubricants and as release agents. The survey reported the use of triacetin as a flavoring agent, humectant, solvent or vehicle in alcoholic beverages; baked goods; chewing gums; confections and frostings; frozen dairy desserts and mixes; gelatins, puddings, and fillings; hard candy; nonalcoholic beverages; and soft candy. Finally, the survey reported the use of tributyrin as a flavoring agent in alcoholic beverages; baked goods; fats and oils; frozen dairy desserts and mixes; gelatins, puddings, and fillings; nonalcoholic beverages; and soft candy.

NAS/NRC combined this manufacturing information with information on consumer consumption of food to obtain an estimate of consumer exposure to these ingredients. FDA estimates from the NAS/NRC survey that the total amount of these ingredients used in 1970 was 132 million pounds. FDA further estimates that the total amounts of the various glycerides used in 1970 were as follows: mono- and diglycerides, 121 million pounds, 1.6 times that used in 1960; glyceryl monostearate, 10.3 million pounds, 5.7 times that used in 1960; diacetyl tartaric esters of mono- and diglycerides, 704,000 pounds, 1,007 times that used in 1960; triacetin (glyceryl triacetate), 61,600 pounds, 3.5 times that used in 1960; monosodium phosphate derivatives of mono- and diglycerides, 44,000 pounds; tributyrin, 1,000 pounds; and glyceryl monooleate, 44 pounds.

Glycerin and glycerides have been the subjects of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavorial effects, (12) detection, and (13) processing. A total of 1,817 abstracts on glycerin and glycerides was reviewed, and 103 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review has been summarized in a report to FDA by the Select Committee, which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all available safety information on glycerides.[1] In the Select Committee's opinion:

> Although mono-and diglycerides of edible fat-forming fatty acids are found naturally, those that are used as food additives are usually prepared synthetically. Mono-, di- and triglycerides are metabolized by the same mechanisms. The biological effects of glycerides are either those of the entire molecule or of the metabolic products, fatty acids and glycerin. Triglyceride fats are a major source of calories in the diet of many people. Mono- and diglycerides are minor components of natural fats. They are intermediate metabolic products of ingested triglycerides. There is no evidence that the mono- and diglycerides of edible fat-forming fatty acids behave differently from triglycerides upon ingestion.
>
> There is evidence that ingestion of excesses of saturated fats and cholesterol promotes arteriosclerosis and cardiovascular disease. Continuation of research in this area may refine relationships of the various fatty acids to the point where harmfulness may become an impelling consideration. However, because of a reasonable estimate of the consumption of all added mono- and diglycerides is of the order of 1 to 10 g per person per day, only a fraction of which contains saturated fatty acids, it can hardly be concluded that they make a sufficient contribution to any hazard associated with

[1] "Evaluation of the Health Aspects of Glycerin and Glycerides as Food Ingredients," Life Sciences Research Office, Federation of America Societies for Experimental Biology, 1975, pp. 19–22. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preambles to proposals that affirm GRAS status in accordance with current good manufacturing practice.

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normal ingestion of saturated fatty acids in fatty foods to justify limitation of the level of their current use.

The diacetyl tartaric acid esters of mixed mono- and diglycerides have been found to be without toxic effects in long-term feeding experiments with rats and dogs at levels that were orders of magnitude greater than those to which consumers are exposed.

Triacetin and two types of acetooleins have been found to be without toxic effects in long-term feeding tests in rats at levels that were several orders of magnitude greater than those to which consumers are exposed. [2]

* * *

The Select Committee concludes that:

1. There is no evidence in the available information on mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides, and triacetin that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that may reasonably be expected in the future.

2. There are inadequate data to evaluate the safety of monosodium phosphate derivatives of mono- and diglycerides.

FDA has undertaken its own evaluation of all available information on glycerides, including mutagenic evaluations of glyceryl monostearate and triacetin that were not availbale to the Select Committee.

1. The agency concurs with the Select Committee's conclusion for mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids, and triacetin. Therefore, the agency concludes that no change in their GRAS status is justified and proposes to affirm the GRAS status of uses of these substances in food.

The Select Committee reached a single conclusion regarding the safety of mono- and diglycerides of edible fat-forming fatty acids. However, it is clear from the background information, the biological studies section, and the opinion statement in the report [3] that this one conclusion by the Select Committee covers serveral ingredients that FDA had previously considered as separate GRAS ingredients. These include mono- and diglycerides of edible fats and oils or of edible fat-forming acids, glyceryl monostearate, and glyceryl monooleate. These ingredients are toxicologically equivalent and are all prepared by the same manufacturing methods. The differences in these ingredients reflect differences in the fatty acid content of the starting materials and minor variations in the reaction conditions. However, these ingredients have very different uses in food. Clyceryl monostearate has a separate listing as a general purpose GRAS food ingredient and, as reported in the NAS/NRC survey, has a wide variety of uses in food including use as an emulsifier. Mono- and diglycerides are currently listed as GRAS as emulsifiers and, as reported in the NAS/NRC survey, are used in food primarily for that prupose. Glyceryl monooleate is regulated for flavoring use as a food additive and, as reported in the NAS/NRC survey, its use in food is limited to a flavor or flavor vehicle. Therefore, in response to the Select Committee's conclusion for mono- and diglycerides of edible fat-forming fatty acids, the agency is proposing to affirm as GRAS the use of three ingredients in food, mono- and diglycerides, glyceryl monostearate, and glyceryl monooleate.

2. In proposing these regulations, the agency has tentatively decided to change the way in which it refers to mono- and diglycerides and their derivatives. In the past, for mono- and diglycerides, FDA included in the name of the ingredient the identity of the starting material (mono- and diglycerides from edible fats or oils or edible fat-forming acids). The resulting name "mono- and diglycerides of edible fats or oils or edible fat-forming acids" was cumbersome, but FDA considered such a name necessary to identify adequately the ingredient that the agency considered to be GRAS. However, FDA now believes that information on the identity of the ingredient is more appropriately included in paragraph (a) of the GRAS affirmation regulation than in the name of the ingredient. Therefore, FDA has tentatively decided to refer to these mixtures as "mono- and diglycerides." The agency is also modifying in paragraph (a) of this GRAS affirmation regulation, the description of the source materials used to produce mono- and digylcerides. The restriction on source materials included in the previous listing was intended to exclude the use of improper sources, such as tall oil, castor oil, or fat from animals classified by the U.S. Department of Agriculture as 4–D, i.e., dead, dying, diseased, or down. However, the agency had no intention to exclude the use of unrefined animal and vegetable fats as production starting materials. Therefore, the agency is describing the source materials for production of mono- and digylcerides and their derivatives as fats and oils or fat-forming acids from edible sources.

3. FDA is proposing to remove glyceryl monooleate from the agency's food additive regulations as a food flavor (21 CFR 172.515) and to affirm it as GRAS in Part 184 (21 CFR Part 184). This proposal is consistent with previous FDA actions during the GRAS review of food flavoring ingredients. The basis for this proposal is the Select Committee's conclusion that mono- and diglycerides of edible fat-forming fatty acids are safe for use in food at current or reasonably expected future levels. This finding evidences the general recognition of the safety of this ingredient among food scientists. Therefore, because the Select Committee included glyceryl monooleate in this group of substances, its conclusion for mono- and diglycerides of edible fat-forming fatty acids applies to glyceryl monooleate. Furthermore, in prior opinion letters the agency has stated that certain food uses of glyceryl monooleate are GRAS. Therefore, the agency believes that glyceryl monooleate is properly included among the ingredients listed in Part 184.

The agency is proposing not to affirm the use of glyceryl monooleate as an emulsifier in color mixtures for margarine or as a vitamin oil emulsifier for use in fluid milk. Even though the agency has stated in opinion letters that these uses of glyceryl monooleate were GRAS, they were not reported during the 1971 NAS/NRC survey. The agency will consider including these uses in the final regulation if information confirming the current use of glyceryl monooleate for these purposes is submitted as comments on this proposal.

4. The agency acknowledges the absence of biological data specifically relating to monosodium phosphate derivatives of mono- and diglycerides. However, the agency has undertaken its own review of these substances, including an evaluation of any potential impurities resulting from the manufacturing process and of the safety of the hydrolysis products that are formed following ingestion (mono- and diglycerides and phosphate derivatives). The Select Committee addressed the safety of phosphoric acid, sodium phosphate, and other phosphates in a separate report and concluded that they were safe for use in food at present and future anticipated levels of use. [4] The agency concurs with the conclusions of the Select Committee regarding the safety of phosphates and mono- and diglycerides. The agency further concludes that there are no potential safety hazards resulting from the

[2] *Ibid.*, p. 23.
[3] *Ibid.*, pp. 12, 19, 23.

[4] "Evaluation of the Health Aspects of Phosphates as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1975, p. 26.

manufacturing process, and that the data supporting the safety of mono- and diglycerides and of the phosphates are sufficient to establish the safety of the use of monosodium phosphate derivatives of mono- and diglycerides in food. Thus, FDA believes that no change in the GRAS status of this ingredient is justified. Consequently, the agency is proposing to affirm the use of this ingredient in food as GRAS under conditions of current good manufacturing practice and to take no action on the listings of this substance in the food standards.

5. The safety of tributyrin was not considered in the Select Committee's report on glycerin and glycerides. However, because this substance is listed as GRAS in § 182.60 (21 CFR 182.60), FDA initiated its own review of the available safety data on tributyrin. In the one study in the literature on carcinogenicity (Ref. 1), tributyrin was found not to be a carcinogen in the A/He mouse pulmonary systems. Apparently, no other carcinogenicity studies have been done. In short-term and acute toxicity tests (Ref. 2), ingestion of high levels of tributyrin (15 to 25 percent) for 3 to 35 weeks was associated with gastric lesions in rats. However, the authors felt that these lesions could have been partially the result of the low nutritive value of the test diet. Tributyrin has a relatively high LD_{50} (320 milligrams per kilogram body weight i.v.) in the mouse (Ref. 3). In metabolism and absorption studies, feeding tributyrin to rats was observed to have no effect upon lymphatic transport of endogenous cholesterol from the intestine (Ref. 4). Tributyrin was also observed not to hinder the conversion of linoleic acid to arachidonic acid and was observed to promote growth in rats when fed with minimal levels of linoleic acid (Ref. 5). In one study with premature infants (Ref. 6), tributyrin was readily absorbed and caused no untoward effects. Total United States poundage of tributyrin used by the food industry in 1970 was 1,000 pounds. Given this small exposure, and the toxicology data in the literature, the agency has tentatively concluded that there is little human risk associated with the use of this ingredient as a synthetic flavoring substance and adjuvant in food at levels that are now current or that might reasonably be expected in the future. Therefore, the agency is proposing to affirm as GRAS the use of tributyrin as a flavoring agent in food under conditions of current good manufacturing practice.

Because no food-grade specifications exist for glyceryl monostearate, glyceryl monooleate, and monosodium phosphate derivatives of mono- and diglycerides at the present time, the agency will work with the Committee on Food Chemicals Codex of the National Academy of Sciences to develop acceptable specifications for these ingredients. If acceptable specifications are developed, the agency will incorporate them into the regulations at a later date. Until specifications are developed, FDA has determined that the public health will be adequately protected if glyceryl monostearate, glyceryl monooleate, and monosodium phosphate derivatives of mono- and diglycerides comply with the description in the proposed regulations and are of food-grade purity (21 CFR 170.30(h)(1) and 182.1(b)(3)).

Additionally, FDA is not including in the proposed GRAS affirmation regulations for mono- and diglycerides, diacetyl tartaric acid esters of mono- and diglycerides, monosodium phosphate derivatives of mono- and diglycerides, glyceryl monstearate, glyceryl monooleate, triacetin, and tributyrin the levels of use reported in the 1971 NSA/NRC food survey for these ingredients. Except for tributyrin, both FASEB and the agency have concluded that a large margin of safety exists for the use of these substances, and that a reasonable foreseeable increase in the level of use of these substances will not adversely affect human health. FDA reached the same conclusions for tributyrin after its own evaluation of this substance.

The agency is also not including in the proposed GRAS affirmation regulatons for mono- and diglycerides and glyceryl monostearate the food categories of use reported for the ingredients in the 1971 NAS/NRC survey. The survey reported the use of these ingredients in a large number of food categories, including food categories containing high consumption food products. The agency has concluded that expansion of use of these ingredients into additional food categories would not result in a significant increase in total consumption of these ingredients, and that any such increase in consumption would be covered by available safety information.

Finally, the agency is not including in the proposed GRAS affirmation regulation for glyceryl monstearate the technical effects reported for the ingredient in the 1971 NAS/NRC survey. The ingredient is commonly used for a wide variety of technical effects in food, including such nonspecific technical effects as a processing aid and a stabilizer and a thickener. The agency concludes that an expansion in the use of glyceryl monostearate in food because of use for new technical effects is unlikely because the technical effects for which it is not currently used are highly specific, and, given glyceryl monostearate's physical and chemical properties, unsuitable for this ingredient. Furthermore, the current wide margin of safety for the use of glyceryl monostearate in food assures that any increase in consumption resulting from the use of this ingredient for additional technical effects in food would be safe.

Therefore, the agency is proposing to affirm the GRAS status of these ingredients when used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that affirmation of the GRAS status of these substances is based on the evaluation of currently known uses or limited uses, the proposed regulations set forth technical effects for mono- and diglycerides and technical effects and food categories for diacetyl tartaric acid esters of mono- and diglycerides, monosodium phosphate derivatives of mono- and diglycerides, glyceryl monooleate, triacetin, and tributyrin that FDA evaluated.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend tis regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

In the past, when a substance has been listed in Part 182 (21 CFR Part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food uses in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on

the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of mono- and diglycerides. The indirect uses of mono- and diglycerides would be authorized under §§ 184.1(a) and 184.1505.

In the case of mono- and diglycerides, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of these ingredients. Therefore, the agency has not proposed any specific purity specifications for their indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA published a proposal in the **Federal Register** of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

Copies of the scientific literature review and the reports of the Select Committee on glycerin and glycerides and the mutagenic evaluations of monosodium phosphate derivatives of mono- and diglycerides, glyceryl monostearate, and triacetin are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Glycerin and glycerides (scientific literature review)	PB-221-227	A10	$17.00
Glycerin and glycerides (Select Committee report)	PB-254-536/AS	A03	6.50
Monosodium phosphate derivatives of mono- and diglycerides (mutagenic evaluation).	PB-245-505/AS	A03	6.50
Glyceryl monostearate (mutagenic evaluation)	PB-257-869/AS	A03	6.50
Triacetin (mutagenic evaluation)	PB-257-871/AS	A03	6.50

[1] Price subject to change.

These proposed actions do not affect the current use of these glycerides in pet food or animal feed.

The format of these proposed regulations is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1101, 184.1323, 184.1505, 184.1521, 184.1901, and 184.1903 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including both technical effects and food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

References

The following information has been placed on display in the Dockets Management Branch (address above) and may be reviewed by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Stoner, G. D., M. B. Shimkin, A. J. Kniazeff, J. G. Weisburger, E. K. Weisburger, and B. G. Gori, "Test for Carcinogenicity of Food Additives and Chemotherapeutic Agents by the Pulmonary Tumor Response in Strain A Mice," *Cancer Research*, 33:3069–3085, 1973.

2. Salmon, W. D. and D. H. Copeland, "The Occurrence of Gastric Lesions in the Rat as a Result of Feeding Tributyrin," *Journal of the National Cancer Institute*, 10:361–373, 1949–1959.

3. Wretland, A., "The Toxicity of Low-molecular Triglycerides," *Acta Physiologica Scandinavica*, 40:338–343, 1957.

4. Sylven, C. and B. Borgstrom, "Intestinal Absorption and Lymphatic Transport of Cholesterol in the Rat: Influence of the Fatty Acid Chain Length of the Carrier Triglyceride," *Journal of Lipid Research*, 10:351–355, 1969.

5. Mohrhauer, H. and R. F. Holman, "Metabolism of Linoleic Acid in Relation to Dietary Saturated Fatty Acids in the Rat," *Journal of Nutrition*, 91:528–534, 1967.

6. Snyderman, S. E., S. Morales, and L. E. Holt, Jr., "Fat Absorption in Premature Infants," *Archives of Disease in Childhood*, 30:83–84, 1955.

List of Subjects

21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 172, 182, and 184 be amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

§ 172.515 [Amended]

1. Part 172 is amended in § 172.515 *Synthetic flavoring substances and adjuvants* in paragraph (b) by removing "glyceryl monooleate" from the list of substances.

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

2. Part 182 is amended:

§ 182.60 [Amended]

a. In § 182.60 *Synthetic flavoring substances and adjuvants* by removing the entry for "Glycerol (glyceryl) tributyrate (tributyrin, butyrin)."

§ 182.90 [Amended]

b. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry for "Mono- and diglycerides from glycerolysis of edible fats and oils."

§§ 182.1324, 182.1901, 182.4101, 182.4505, 182.4521 [Removed]

c. By removing § 182.1324 *Gylceryl monostearate*, § 182.1901 *Triacetin*, § 182.4101 *Diacetyl tartaric acid esters of mono- and diglycerides of edible fats and oils, or edible fat-forming acids*, § 182.4505 *Mono- and diglycerides of*

edible fats or oils, or edible fat-forming acids, and § 182.4521 *Monosodium phosphate derivatives of mono- and diglycerides of edible fats or oils, or edible fat-forming fatty acids.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. Part 184 is amended:

a. By adding new § 184.1101, to read as follows:

§ 184.1101 Diacetyl tartaric acid esters of mono- and diglycerides.

(a) Diacetyl tartaric acid esters of mono- and diglycerides are composed of mixed esters of glycerin in which one or more of the hydroxyl groups of glycerin have been esterified by diacetyl tartaric acid and by fatty acids. The ingredient is prepared by the reaction of diacetyl tartaric anhydride with mono- and diglycerides that are derived from edible sources.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 98, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter and a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods as defined in § 170.3(n)(1) of this chapter; confections and frostings as defined in § 170.3(n)(9) of this chapter; dairy product analogs as defined in § 170.3(n)(10) of this chapter; and fats and oils as defined in § 170.3(n)(12) of this chapter.

b. By adding new § 184.1323, to read as follows:

§ 184.1323 Glyceryl monooleate.

(a) Glyceryl monooleate is the monoester of glycerin and oleic acid. It is prepared by esterification of oleic acid that is derived either from edible sources or from tall oil fatty acids meeting the requirements of § 172.862 of this chapter.

(b) FDA is developing food-grade specifications for glyceryl monooleate in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter and a solvent and vehicle as defined in § 170.3(o)(27) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter; and meat products as defined in § 170.3(n)(29) of this chapter.

c. By adding new § 184.1324, to read as follows:

§ 184.1324 Glyceryl monostearate.

(a) Glyceryl monostearate (CAS Reg. No. 31566–31–1), also known as monostearin, is the monoester of glycerin and stearic acid. The commercial product is a mixture of variable proportions of glyceryl monostearate and glyceryl monopalmitate. Glyceryl monostearate is prepared by glycerolysis of certain fats or oils that are derived from edible sources or by esterification, with glycerin, of stearic acid that is derived from edible sources.

(b) FDA is developing food-grade specifications for glyceryl monostearate in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice.

d. By adding § 184.1505, to read as follows:

§ 184.1505 Mono- and diglycerides.

(a) Mono- and diglycerides consist of a mixture of glyceryl mono- and diesters, and minor amounts of triesters, that are prepared from fats or oils or fat-forming acids that are derived from edible sources. The most prevalent fatty acids include lauric, linoleic, myristic, oleic, palmitic, and stearic. Mono- and diglycerides are manufactured by the reaction of glycerin with fatty acids or the reaction of glycerin with triglycerides in the presence of an alkaline catalyst. The products are further purified to obtain a mixture of glycerides, free fatty acids, and free glycerin that contains at least 90-percent-by-weight glycerides.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 201, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as a dough strengthener as defined in § 170.3(o)(6) of this chapter; an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter; a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; a lubricant and release agent as defined in § 170.3(o)(18) of this chapter; a solvent and vehicle as defined in § 170.3(o)(27) of this chapter; a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter; a surface-active agent as defined in § 170.3 (o)(29) of this chapter; a surface-finishing agent as defined in § 170.3(o)(30) of this chapter; and a texturizer as defined in § 170.3(o)(32) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

e. By adding new § 184.1521, to read as follows:

§ 184.1521 Monosodium phosphate derivatives of mono- and diglycerides.

(a) Monosodium phosphate derivatives of mono- and diglycerides are composed of glyceride derivatives formed by reacting mono- and diglycerides that are derived from edible sources with phosphorus pentoxide followed by neutralization with sodium carbonate.

(b) FDA is developing food-grade specifications for monosodium phosphate mono- and diglycerides in cooperation with the National Academy of Sciences. In the interim, this

ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter; a lubricant and release agent as defined in § 170.3(o)(18) of this chapter; and as a surface-active agent as defined in § 170.3(o)(29) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: dairy product analogs as defined in § 170.3(n)(10) of this chapter and soft candy as defined in § 170.3(n)(38) of this chapter.

f. By adding new § 184.1901, to read as follows:

§ 184.1901 Triacetin.

(a) Triacetin ($C_9H_{14}O_6$, CAS Reg. No. 102–76–1), also known as 1,2,3,-propanetriol triacetate or glyceryl triacetate, is the triester of glycerin and acetic acid. Triacetin can be prepared by heating glycerin with acetic anhydride alone or in the presence of finely divided potassium hydrogen sulfate. It can also be prepared by the reaction of oxgen with a liquid-phase mixture of allyl acetate and acetic acid using a bromide as a catalyst.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 337, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; a humectant as defined in § 170.3(o)(16) of this chapter; and a solvent and vehicle as defined in § 170.3(o)(27) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods as defined in § 170.3(n)(1) of this chapter; alcoholic beverages as defined in § 170.3(n)(2) of this chapter; nonalcoholic beverages and beverages bases as defined in § 170.3(n)(3) of this chapter; chewing gum as defined in § 170.3(n)(6) of this chapter; confections and frostings as defined in § 170.3(n)(9) of this chapter; frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter; hard candy as defined in § 170.3(n)(25) of this chapter; gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; and soft candy as defined in § 170.3(n)(38) of this chapter.

g. By adding new § 184.1903, to read as follows:

§ 184.1903 Tributyrin.

(a) Tributyrin ($C_{15}H_{26}O_6$, CAS Reg. No. 60–01–5), also known as butyrin or glyceryl tributyrate, is the triester of glycerin and butyric acid. It is prepared by esterification of glycerin with excess butyric acid.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 416, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St., NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as a flavoring agent as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods as defined in § 170.3(n)(1) of this chapter; alcoholic beverages as defined in § 170.3(n)(2) of this chapter; nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter; fats and oils as defined in § 170.3(n)(12) of this chapter; frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter; gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; and soft candy as defined in § 170.3(n)(38) of this chapter.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document or Part 181 (21 CFR Part 181). Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before April 11, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of all comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 18, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–3212 Filed 2–7–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 182 and 184

[Docket No. 78N–0348]

Glycerin; Affirmation of GRAS Status as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that glycerin is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under a comprehensive safety review conducted by the agency. A proposal to affirm certain glycerides as GRAS appears elsewhere in this issue of the Federal Register.

DATE: Comments by April 11, 1983.

ADDRESS: Comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Susan Thompson, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of glycerin has been evaluated. In accordance with the provision of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of this ingredient.

Glycerin is the polyhydric alcohol 1,2,3-propanetriol, also know as glycerol, glycerine, glycyl alcohol, or 1,2,3-trihydroxypropane. It is a component of both animal and vegetable fats. In the animal, glycerin can be formed from ingested carbohydrate and from glycogen by glycolysis, and from fats and other lipids by hydrolysis. Glycerin may be prepared as a byproduct in the manufacture of soaps, fatty acids, and fatty alcohols from hydrolysis of fats and oils. It may also be produced by microbial fermentation of sugars. Synthetic glycerin is manufactured by chlorination or oxidation of propylene gas, through an allyl chloride, acrolein, or propylene oxide intermediate or, on a smaller scale, by hydrogenolysis of carbohydrates.

Glycerin was listed as GRAS as a miscellaneous substance in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, it was reclassified as a miscellaneous and general purpose food additive in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938), and reclassified and recodified as a multiple purpose GRAS food substance in a regulation published in the **Federal Register** of March 15, 1977 (42 FR 14640). Glycerin was also listed as GRAS as a substance migrating to food from paper and paperboard products used in food packaging in a regulation published in the **Federal Register** of June 17, 1961 (26 FR 5421). Glycerin is currently listed as GRAS in § 182.1320 (21 CFR 182.1320) as a multiple purpose GRAS food substance and in § 182.90 (21 CFR 182.90) as a substance migrating to food from paper and paperboard products. The Meat Inspection Division of the U.S. Department of Agriculture (USDA) permits the use of glycerin to inhibit drying for seasoning and curing mixes and to manufacture mono- and diglycerides in an amount sufficient for the purpose. The standard of identity for vanilla extract (21 CFR 169.175) lists glycerin as an optional ingredient.

Glycerol is listed in the following food additive regulations: In 21 CFR 175.300 (resinous and polymeric coatings) as a component in the preparation of rosin esters, as a polyhydric alcohol for forming polyester resins, and as a plasticizer; in 21 CFR 175.320 (resinous and polymeric coatings for polyolefin films) as a polyhydric alcohol for making polyester resins; in 21 CFR 176.210 (defoaming agents used in the manufacture of paper and paperboard) as a substance to react with fats, oils, and fatty acids to form mono- and diglycerides; in 21 CFR 177.2420 (polyester resins, cross-linked) as a polyol used in the formation of cross-linked polyester resins; and in 21 CFR 177.2800 (textiles and textile fibers) as a substance to react with fats, oils, and fatty acids in the preparation of textiles and textile fibers. Synthetic glycerin, produced by hydrogenolysis of carbohydrates, is listed in 21 CFR 172.866 as a direct food additive and in 21 CFR 178.3500 as a component of articles intended for use in packaging materials for food.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufactuers to determine the specific foods in which glycerin is used, the levels of usage, and the total poundage. The survey revealed that glycerin is used in half of the food categories listed in 21 CFR 170.3. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to this ingredient. FDA estimates from the NAS/NRC survey that the total amount of this ingredient used in food in 1970 was approximately 10.8 million pounds (4.9 million kilograms (kg)) or about 3 times that used in 1960.

Glycerin and glycerides have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 1,817 abstracts on glycerin and glycerides was reviewed, and 103 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available safety information on glycerin.[1] In the Select Committee's opinion:

> Glycerin is a component of dietary fat. It has been subjected to extensive short- and long-term toxicological study. The available information on the acute and chronic effects of glycerin demonstrates that no pathological lesions or other adverse effects occur in experimental animals and man at oral levels of glycerin that are orders of magnitude greater than those now consumed. The available information indicates that the incidence of allergic or hypersensitivity reactions to glycerin is low.[2]

The Select Committee concludes that there is no evidence in the available information on glycerin that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.[3]

FDA has undertaken its own evaluation of all available information on glycerin (including a mutagenic evaluation that was not available when the Select Committee formed its conclusion) and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of this ingredient is justified. Therefore, the agency proposes to affirm the GRAS status of glycerin.

Additionally, FDA is proposing not to include in this GRAS affirmation regulation for glycerin the food categories, technical effects, and levels of use reported in the NAS/NRC 1971 survey for this ingredient. Both FASEB and the agency have concluded that a

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[1] "Evaluation of the Health Aspects of Glycerin and Glycerides as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1975, pp. 5–11. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting that discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

[2] *Ibid.*, p. 11.

[3] *Ibid.*

large margin of safety exists for the use of this substance, and that a reasonably foreseeable increase in the level of consumption of glycerin will not adversely affect human health. This conclusion is based on the fact that glycerin is currently widely used in food and is also a component of dietary fat, and that the Select Committee found that glycerin has a low order of toxicity in experimental animals and man. Therefore, the agency is proposing to affirm the GRAS status of glycerin when it is used under current good manufacturing practice conditions of use in accordance with §184.1(b)(1) (21 CFR 184.1(B)(1)).

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

In the past, when a substance has been listed in Part 182 (21 CFR Part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern its direct and indirect GRAS uses, respectively. Under §184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of glycerin. The indirect uses of glycerin would be authorized under §§ 184.1(a) and 184.1320.

In the case of glycerin, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of this ingredient. Therefore, the agency has not proposed any specific purity specifications for its indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA published a proposal in the **Federal Register** of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

Copies of the scientific literature review, reports of mutagenic and teratogenic tests, and the report of the Select Committee on glycerin are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No	Price code	Price[1]
Glycerin and glycerides (scientific literature review)	PB-221-227	A10	$18.00
Glycerin and glycerides (Select Committee report)	PB-254-536/AS	A03	7.50
Glycerin (mutagenic evaluation)	PB-245-479/AS	A03	7.50
Glycerin (teratogenic evaluation)	PB-234-876/AS	A03	6.50

[1] Price subject to change

This proposed action does not affect the current use of glycerin in pet food or animal feed.

The format of this proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1320 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substance covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by that Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.90 [Amended]

a. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry for "Glycerin."

§ 182.1320 [Removed]

b. By removing § 182.1320 *Glycerin.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1320, to read as follows:

§ 184.1320 Glycerin.

(a) Glycerin ($C_3H_8O_3$, CAS Reg. No. 56–81–5) is the polyhydric alcohol 1,2,3-propanetriol, also known as glycerol, glycerine, glycyl alcohol, 1,2,3-propanetriol, and 1,2,3-trihydroxypropane. Glycerin is prepared by microbial fermentation of sugars; or is prepared by hydrolysis of oils and

fats that are derived from edible sources during the production of soaps, fatty acids, and fatty alcohols; or is synthesized from propylene through one of three intermediates: allyl chloride, acrolein, and propylene oxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 136, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice.

The agency is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before April 11, 1983 submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of all comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 18, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3213 Filed 2-7-83; 8:45 am]

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21 CFR Part 184

[Docket No. 79N-0140]

GRAS Status of Rennet; Tentative Final Rule

Correction

In FR Doc. 82-32727 beginning on page 54454 in the issue of Friday, December 3, 1982, make the following correction:

On page 54456, in § 184.1685(c)(2), the 19th and 20th lines from the top of the third column, now reading "as defined in § 170.3(n)(31) of this chapter." should have read "as defined in § 170.3(n)(22) of this chapter; and milk products as defined in § 170.3(n)(31) of this chapter.".

BILLING CODE 1505-01-M

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21 CFR Part 358

[Docket No. 82N-0214]

OTC Drug Products for the Control of Dandruff, Seborrheic Dermatitis, and Psoriasis; Establishment of a Monograph

Correction

In FR Doc. 82-32846 beginning on page 54646 in the issue of Friday, December 3, 1982, make the following corrections:

1. On page 54659, third column, in the third and fourth lines from the top of the page, "20 percent coal tar zinc oxide paste" should have read "20 percent coal tar in zinc oxide paste".

2. On page 54660, the fourth line from the top of the third column now reading "(39) OTC Volume 160314" should have read "(39) OTC Volume 160134".

3. On page 54662, middle column, in the 15th line from the top of the page, "selenium suspension" should have read "selenium sulfide suspension".

4. On page 54669, third column, in the 11th line, "irritation of" should have read "irritation or".

5. On page 54670, third column, in the 26th line from the top of the page, "(Ref. 1)" should have read "(Ref. 2)".

6. On page 54675, first column, under **References**, item (5), the title of the article cited should have read "Comparative Effects of Hydrocortisone and Hydrocortisone-Coal Tar Extract Creams in Cases of Atopic Dermatitis".

BILLING CODE 1505-01-M

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21 CFR Part 358

[Docket No. 82N-0214]

Drug Products for the Control of Dandruff, Seborrheic Dermatitis, and Psoriasis for Over-the-Counter Human Use; Advance Notice of Proposed Rulemaking; Extension of Time for Comments and Reply Comments

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; extension of comment periods.

SUMMARY: The Food and Drug Administration (FDA) is extending to April 4, 1983, the comment period and to May 4, 1983, the reply comment period for the advance notice of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of over-the-counter (OTC) drug products for the control of dandruff, seborrheic dermatitis, and psoriasis. This action is being taken in response to a request to allow more time for interested persons to address adequately several important issues raised by the Panel and to consult experts so that more informed comments may be submitted to FDA.

DATES: Written comments by April 4, 1983, and reply comments by May 4, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 3, 1982 (47 FR 54646), FDA issued an advance notice of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of OTC drug products for the control of dandruff, seborrheic dermatitis, and psoriasis. This advance notice of proposed rulemaking, which was based on the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products, is part of the ongoing review of OTC drug products conducted by the agency. Interested persons were given until March 3, 1983, to comment on the advance notice of proposed rulemaking and until April 4, 1983, for reply comments.

In response to the proposal, The Proprietary Association requested a 30-day extension of the comment period to

study the issues adequately and to confer with outside consultants. Because of the large number of ingredients the Panel placed in Category II (not generally recognized as safe and effective or misbranded) and Category III (available data insufficient for classification), the association stated its need to coordinate comments from a large number of subgroups of its member companies. The association also stated that it needs time to coordinate its comments on coal tar with those of a joint industry group that has sponsored new research on coal tar products for several years. The association pointed out that industry scientists have been heavily burdened recently with the need to respond to advance notices of proposed rulemaking that were published simultaneously for a number of OTC product categories, and with the tamper-resistant packaging issue, which is still requiring a heavy commitment of time and manpower.

FDA has carefully considered the request. The agency believes that information described by the request may be of assistance in establishing the safety and effectiveness of OTC drug products for the control of dandruff, seborrheic dermatitis, and psoriasis and is in the public interest. Because of the length of the Panel's report, the agency considers a general extension of the comment period for 30 days to be appropriate. Accordingly, the comment period for submissions by any interested person is extended to April 4, 1983, and the reply comment period is extended to May 4, 1983. Comments may be seen in the Dockets Management Branch, Food and Drug Administration, at the address noted above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 1, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3185 Filed 2-2-83; 1:15 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-183-76]

Disallowance of Certain Items as Deductions for Estate and Income Tax Purposes.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the disallowance of certain items as deductions from the gross estate for estate tax purposes and from the gross income for income tax purposes. This document also contains proposed regulations disallowing items such as selling expenses to offset the sales price of property (for income tax purposes) if these items are deducted for estate tax purposes. Changes to the applicable tax law were made by the Act of October 4, 1966, and the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with these acts and would affect executors or administrators of estates of decedents who die after the effective dates of these acts.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 11, 1983. The amendments are generally effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, LR-183-76, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Neil W. Zyskind of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 642(g) of the Internal Revenue Code of 1954 (Code). These amendments are proposed to conform the regulations to section 2 of the Act of October 4, 1966 (Pub. L. 89-621, 80 Stat. 872) and section 2009(d) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1896) and are to be issued under the authority contained in sections 642(g) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Act of October 4, 1966

Generally, under prior law estates were prohibited from claiming an item as an income tax deduction of the estate if that same item was deducted in computing the taxable estate of a decedent for estate tax purposes. The Act of October 4, 1966, extended to trusts and other persons that same prohibition. Thus, if an estate deducts administration expenses in arriving at the estate tax base, a trust cannot also deduct these same expenses in determining its income tax liability.

Sections 2053, 2054, Deductions Not To Be Used as an Offset Against Sales Price of Property

Section 642(g) of the Code was amended by section 2009(d) of the Tax Reform Act of 1976 in order to overturn the result reached in *Estate of V. E. Bray v. Commissioner*, 396 F. 2d 452 (6th Cir. 1968). In *Bray*, the Court of Appeals for the Sixth Circuit upheld a taxpayer's right to have selling expenses reduce the amount realized on the sale of property by an estate or trust even though these same selling expenses were deducted from the gross estate for estate tax purposes. The selling expenses were treated as an "offset" against the sales price of the property for income tax purposes. The provision overturning the *Bray* case is in § 1.642(g)-1(a) of the proposed regulations. An offset expense is defined in § 1.642(g)-1(b).

Requirement That Statement Be Filed

A second problem addressed in the proposed regulations is the situation in which taxpayers have failed to file the waiver required by section 642(g) and have simply deducted the same item from the gross estate for estate tax purposes and from the income of the estate for income tax purposes.

In a similar situation, taxpayers have claimed an administration expense or loss deduction under section 2053 or 2054 on Form 706 and then, a short time before the statutory period for assessment of the estate tax has expired, the estate claims the same deduction under section 642 for income tax purposes and files the required section 642(g) waiver.

In order to eliminate this abuse, the proposed regulations states specifically when the required waiver statement under section 642(g) must be filed and what the statement must say.

Revisions in § 1.642(g)-2

Section 1.642(g)-2 has been revised for stylistic purposes.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and

that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Neil W. Zyskind of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.641–1.692–1

Income taxes, Estates, Trusts and trustees, Beneficiaries.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.642(g)–1 is revised to read as follows:

§ 1.642(g)–1 Disallowance of double deductions.

(a) *In general.* (1) This section provides rules concerning the allowance of certain items as deductions in computing the taxable income of the estate of a decedent or any other person. These are items allowable under section 2053(a)(2) (relating to administration expenses) or under section 2054 (relating to losses during administration) as deductions in computing the taxable estate of a decedent. These items are not allowed as deductions in computing the taxable income of the estate or any other person or as an offset against the sales price of property (as defined in paragraph (b) of this section) in determining gain or loss unless a statement as set forth in paragraph (a)(2) of this section is filed.

(2) The statement must list the items to be claimed as income tax deductions or offset expenses and must state that the items have not been claimed as deductions on the estate tax return and will not be entered as deductions on the estate tax return (if it is yet to be filed). The statement must also state that the estate waives the right to have such items allowed at any time as deductions under section 2053 or 2054. The statement must be signed by the executor of the decedent's estate. The statement should be filed with the income tax return for the year for which the items are claimed as deductions or offset expenses. Alternatively, the statement may be filed with the Internal Revenue office with which the income tax return was filed for association with the return. If the item has been used to reduce the estate tax, the statement should be filed not later than 180 days prior to the expiration of the statutory period of limitations upon assessment and collection of the estate tax. If the estate has claimed the deduction for an item for estate tax purposes under section 2053 or 2054 and the waiver is not filed at least 180 days prior to such expiration, then that same item may not be claimed by any taxpayer as a deduction for income tax purposes unless and until the item is disallowed (or is no longer claimed) as a deduction under section 2053 or 2054, and any resulting deficiency has been timely assessed.

(3) After a statement is filed under section 642(g) with respect to a particular item or portion of an item, the item will not be allowed as a deduction for estate tax purposes because the waiver operates as a relinquishment of the right to have the deduction allowed at any time under section 2053 or 2054.

(b) *Offset expenses.* For purposes of this section, "offset against the sales price of property" includes any expense incurred in the sale of property, such as brokers' commissions, attorneys' fees, or filing fees.

(c) *Effective dates.* (1) Generally, this section applies to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

(2) This section applies to taxpayers, other than estates of decedents, only (i) for taxable years ending after October 4, 1966, and (ii) as to amounts paid or incurred, and losses sustained, after October 4, 1966.

(3) This section applies to offset expenses, described in paragraph (b), for taxable years ending after October 4, 1976.

(4) The provisions of paragraph (a)(2) of this section, relating to the statement being filed not later than 180 days prior to the expiration of the statutory period of limitations, applies with respect to estates of decedents dying after December 31, 1981.

Par. 2. Section 1.642(g)–2 is revised to read as follows:

§ 1.642(g)–2 Deductions included.

(a) It is not required that the total deductions, or the total amount of any deduction, to which section 642(g) relates be treated in the same way. One deduction or portion of a deduction may be allowed for income tax purposes if the appropriate statement is filed, while another deduction or portion is allowed for estate tax purposes.

(b) Section 642(g) has no application to deductions for taxes, interest, business expenses, and other items accrued at the date of a decedent's death. Those items may be deducted under section 2053(a)(3) for estate tax purposes as claims against the estate and under section 691(b) for income tax purposes as deductions from income in respect of a decedent. However, section 642(g) applies to deductions for interest, business expenses, and other items not accrued at the date of the decedent's death.

(c) Although medical, dental, etc. expenses of a decedent that are paid by the estate of the decedent are deductible under section 2053(a)(3) in determining the value of the taxable estate of the decedent, those expenses are not deductible in computing the taxable income of the estate. See section 213(d) and the regulations under that section for rules relating to the deductibility of such expenses in computing the taxable income of the decedent.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–3377 Filed 2–7–83; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 902

Comments Received From Federal Agencies on the Alaska State Permanent Program Submitted Under Pub. L. 95–87

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Announcement of public disclosure of comments on the Alaska Program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA) and other federal agencies.

SUMMARY: Before the Secretary of the Interior may approve permanent state regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies on the Alaska State Permanent Program, and is today announcing their public disclosure.

ADDRESSES: For addresses of locations where copies of comments are available see "**SUPPLEMENTARY INFORMATION**".

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Abbs, Chief, Division of State Program Assistance, Program Operations and Inspection, Office of Surface Mining Reclamation and Enforcement, U.S. Department of Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Phone: (202) 343–5361.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the comments received are available for public inspection and copying during regular business hours at:

Office of Surface Mining, Administrative Record Office, Room 5315, 1100 L Street, NW., Washington, D.C. 20240
Wyoming Field Office, Office of Surface Mining, 935 Pendell Boulevard, Freeden Building, Mills, WY 82644
Division of Minerals and Energy Management, Department of Natural Resources, State of Alaska, 555 Cordova Street, Room 22, Anchorage, AK 99501
Department of Natural Resources, Division of Geological and Geophysical Surveys, 230 South Franklin Street, Room 401, Juneau, Alaska 99801
Department of Natural Resources, Division of Energy and Minerals Management, 4420 Airport Way, Fairbanks, Alaska 99701

Federal Agency Comments

The Secretary of the Interior is evaluating the Alaska permanent regulatory program submitted by Alaska for his review on July 23, 1982. See 47 FR 33520–33522 (August 3, 1982) and 47 FR 57511 (December 27, 1982). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the Alaska program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following federal agencies were invited to comment on the Alaska program:

Department of the Interior:
- National Park Service
- Bureau of Indian Affairs
- Bureau of Land Management
- U.S. Fish and Wildlife Service
- Bureau of Mines
- U.S. Geologic Survey
- Bureau of Reclamation
- Minerals Management Service

Department of Agriculture:
- U.S. Forest Service
- Soil Conservation Service
- Alaska Land Use Council

Department of Energy
National Oceanic and Atmospheric Administration: National Marine Fisheries Service
U.S. Army Corps of Engineers
Advisory Council on Historic Preservation
U.S. Environmental Protection Agency

Of those agencies invited to comment, OSM received comments from the following offices:

Department of Agriculture: U.S. Forest Service
U.S. Environmental Protection Agency
Department of Interior: U.S. Fish and Wildlife Service

Dated: January 31, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 83–3115 Filed 2–7–83; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL 2279–2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The State of California has submitted to EPA volatile organic compound (VOC) rules covered by EPA's Group I and II Control Techniques Guidelines (CTG) documents for ozone nonattainment areas. These rules have been evaluated and found to be in conformance with the requirements of 40 CFR Part 51 and the CTG recommendations. Therefore, this notice proposes to approve the rule revisions and incorporate them into the State Implementation Plan (SIP). The intended effect of these revisions is to control VOC emissions and meet requirements of the Clean Air Act.

DATES: Comments may be submitted up to March 10, 1983.

ADDRESSES: Comments may be sent to: Regional Administrator Attn: Air Management Division, Air Programs Branch, State Implementation Plan, Section (A–2–3), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions and EPA's associated Evaluation Report are available for public inspection during normal business hours at the EPA Region 9 office at the above address, and at the following location: California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9; (415) 974–7641.

SUPPLEMENTARY INFORMATION:

Background

The April 4, 1979, General Preamble (44 FR 20376) describes requirements for agencies to submit Reasonably Available Control Technology (RACT) regulations for certain sources of VOC located in ozone nonattainment areas. The first set of RACT regulations was required for sources covered by the Group I CTG documents published before January 1978. Regulations for sources covered by the Group I documents were to have been submitted by January 1, 1979. A second set of RACT regulations was required for sources covered by the Group II CTG documents, published between January 1978 and January 1979. Regulations for sources covered by the Group II CTG documents were to have been submitted by January 1, 1981.

EPA published the CTGs in order to assist the states in determining RACT. The CTGs contain information on available air pollution control techniques and provide recommendations on what EPA calls the "presumptive norm" for RACT.

The State has submitted to EPA all required rules covered by the Group I CTG documents. EPA has addessed these rules in several final rulemaking actions. This notice addresses recently submitted revisions to Group I CTG rules.

This notice also addresses the remaining new Group II rules and revisions to previously approved Group

II rules. EPA has addressed most of these rules in previous rulemaking actions (See 46 FR 38726 for a summary of the California districts' Group II CTG rules and a partial listing of the rulemaking actions). The State has now submitted to EPA all required rules covered by the Group II CTG documents, with the following exceptions: Kings County (rubber tires), San Diego County (pharmaceuticals), and Yolo-Solano District (graphic arts).

This notice also addresses revisions to previously approved, non-CTG rules submitted by the State to control other regionally significant sources of VOC, as needed to provide for attainment/maintenance of the ozone standard.

Description of Regulations

The State of California submitted revisions to the following regulations, which cover *Group I CTG categories*, on the dates indicated:

Bay Area Air Quality Management District (AQMD)
Regulation 8
Rule 5 Storage of Organic Liquids (8/6/82)
Rule 8 Wastewater Separators (8/6/82)
Rule 10 Process Vessel Depressurization (8/6/82)
San Joaquin County Air Pollution Control District (APCD)
Rule 412 Organic Liquid Loading (5/20/82)
South Coast AQMD
Rule 1128 Paper and Fabric Coating Operations (5/20/82)

In addition, the State submitted the following new and revised rules, which cover *Group II CTG categories*, on the dates indicated.

Bay Area AQMD
Regulation 8
Rule 14 Surface Coating of Large Appliances and Metal Furniture (5/20/82; revision)
Rule 18 Valves and Flanges at Refinery Complexes (5/20/82; revision)
Rule 19 Control of Volatile Organic Compound Emissions from Surface Coating of Miscellaneous Metal Parts and Products (5/20/82; revision)
Monterey Bay Unified APCD
Rule 428 Manufacture of Rubber Tires (5/20/82; new)
South Coast AQMD
Rule 467 Pressure Relief Devices (5/20/82; revision)
Rule 1102.1 Perchloroethylene Dry Cleaning (8/6/82; revision)
Stanislaus County APCD
Rule 409.4 Surface Coating of Manufactured Metal Parts and Products (8/6/82; revision)
Rule 409.8 Perchloroethylene Dry Cleaning Systems (8/6/82; new)

The State submitted revisions to other VOC rules as follows:

Bay Area AQMD
Regulation 8
Rule 2 Miscellaneous Operations (8/6/82)
Rule 4 General Solvent and Surface Coating Operations (8/6/82)
Rule 7 Gasoline Dispensing Facilities and Gasoline Delivery Vehicles (5/20/82)
Fresno County APCD
Rule 409.1 Architectural Coatings (8/6/82)
South Coast AQMD
Rule 442 Usage of Solvents (5/20/82)
Tulare County APCD
Rule 410.1 Architectural Coatings (5/20/82)

Evaluation

The two new rules will result in a significant emissions decrease. The revised rules do not significantly alter the emission limits. These revisions are minor and include new inspection requirements, exemptions added and deleted, specification of test methods, temporary exemptions, new interim limits and a requirement for the posting of Stage II operating instructions at service stations.

EPA has evaluated the revisions to the CTG Group I rules and the new and amended Group II rules listed above and determined that the RACT requirements are satisfied. Further, EPA has determined that the other VOC rules listed above strengthen the District requirements and provide controls necessary for the attainment and maintenance of the National Ambient Air Quality Standards.

Proposed Actions

EPA proposes to approve, under Part D, the rules listed above for the Group I and II categories. In addition, EPA proposes to approve the other rules listed in this notice, since they are consistent with the Clean Air Act, EPA policy and 40 CFR Part 51.

The Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.) The Office of Management and Budget has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a))

Dated: December 22, 1982.

Sonia F. Crow,
Regional Administrator.

[FR Doc. 83-3201 Filed 2-7-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[TN-003; A-4-FRL 2292-6]

Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of Particulate Area

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a request made by Tennessee that the particulate attainment status of a portion of Roane County within the Clymersville section of Rockwood be redesignated from attainment to unclassifiable for particulates. The public is invited to submit comments on this proposal.

DATE: To be considered, comments must be received on or before March 10, 1983.

ADDRESSES: Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Air Management Branch, EPA, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365
Tennessee Department of Public Health, 150 9th Avenue North, Nashville, Tennessee 37203

FOR FURTHER INFORMATION CONTACT: Raymond S. Gregory of the Region IV Air Management Branch at 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On January 27, 1982, the Tennessee Air Pollution Control Board (Board) changed the attainment status of that portion of Roane County within the Clymersville section of Rockwood to unclassifiable for total suspended particulate matter (TSP) in relation to the National Ambient Air Quality Standards. Based on the information submitted, EPA, without prior proposal of its action, changed the attainment status designation of this area from attainment to unclassifiable (47 FR 47248 October 25, 1982).

In the final rule making the redesignation, EPA advised the public that the effective date of the action was deferred for 60 days (until December 25, 1982) to provide an opportunity to submit comments on it. EPA announced

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that if notice were received within 30 days of the publication of the final rule that someone wanted to submit adverse or critical comments, the final action would be withdrawn and a new rulemaking would be begun proposing the action and establishing a 30-day comment period. EPA had earlier published a general notice explaining this special procedure (46 FR 44477, September 4, 1981).

EPA has received adverse comments on this redesignation. Accordingly, EPA is taking final action elsewhere in today's **Federal Register** to withdraw the October 25, 1982, redesignation and is in this notice proposing it for public comment. A more detailed description of the State's submittal and EPA's findings can be found in the October 25, 1982, rulemaking notice (47 FR 47248). The public is invited to submit written comments on this proposal; EPA will consider all comments received within 30 days of this date before taking final action on the redesignation request made by Tennessee.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the present rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action imposes no regulatory requirements; it only changes the attainment status designation of a certain area from unclassifiable to attainment for particulates.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: February 1, 1983.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83-3205 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 86

[AMS-FRL 2302-4]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearing.

SUMMARY: This notice announces the time and place for a public hearing on EPA's proposed revisions to the definition of useful life applicable to 1985 and later model year light-duty trucks (LDTs) and heavy-duty engines (HDEs). This proposal was published in the **Federal Register** on January 12, 1983, (48 FR 1472) and the details of the proposal were published as part of a parallel final rulemaking published on the same day (48 FR 1406). The public hearing will be preceded by a preliminary public meeting to provide an opportunity for commenters to clarify questions they may have on the content of the EPA proposal.

DATES: This hearing is scheduled to take place on March 10, 1983. The hearing will be convened at 9:00 a.m. and will adjourn at 5:00 p.m. or such later time as may be necessary for completion of testimony. The hearing will be extended over to March 11, 1983, if additional time is needed for completion of testimony. The preliminary public meeting is scheduled to take place on February 18, 1983, at 10:30 a.m.

ADDRESSES: The preliminary meeting and the public hearing will be held in the Conference Room of the Environmental Protection Agency, Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105. Materials relevant to the proposed LDT/HDE useful life definitions are available in Public Docket No. A-81-11. This docket is located at the Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street SW., Washington, D.C. 20460. The docket is open for inspection weekdays between 8:00 a.m. and 4:00 p.m. A reasonable fee may be charged for providing copies of material in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Terry P. Newell, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Rd., Ann Arbor, MI 48105, Telephone: (313) 668-4462.

SUPPLEMENTARY INFORMATION:

I. Additional Information

In response to comments from the manufacturers citing implementation difficulties with full-life useful life, EPA proposed a modified (assigned) full-life useful life concept. In addition, EPA proposed as an alternative an extended half-life useful life approach. EPA intends to adopt one of these alternatives in the final rule instead of the current 1985 full-life requirements.

EPA notes that the proposal as published January 12, 1983 did not specifically address the effect of the proposed extended half-life definition on emission standards for LDTs sold at high altitude. To avoid any misunderstanding, EPA wishes to clarify its intent in this area. In the event that the extended half-life option is adopted, the high-altitude LDT gaseous emission standards will be adjusted so as to maintain the proportional relationship that now exists between low- and high-altitude LDT standards. Under this approach, the adjusted standards at high altitude would be 0.83 g/mi HC and 12.3 g/mi CO.

II. Public Participation

A preliminary meeting will be held on February 18, 1983. The purpose of this meeting is to provide an opportunity to clarify the EPA proposals by allowing interested parties to ask questions regarding the proposed useful life concepts and their implications. No advance registration for this preliminary meeting is required. All interested parties are invited to attend.

Any person desiring to make a statement at the public hearing should, if possible, notify the contact person indicated above of such intention, in writing or by telephone, by February 18, 1983. When notifying the contact person of your intent to make a statement at the hearing, be prepared to give an estimate of the time required for your testimony, to specify any need for audio-visual equipment, and to state any preferences for the scheduling of your testimony. Such preferences will be honored to the extent possible. For those not expressing a preference at that time, a sign-up sheet for order of testimony will be available at the registration table the morning of the hearing. It is suggested that approximately 50 copies of the statement or material be brought to the hearing for distribution to the audience.

The record of the hearing will remain open for 30 days following the close of the hearing to allow submission of rebuttal testimony and supplementary information. Any material submitted during this period of time should be sent to the EPA Central Docket Section at the address given above, Attention: Docket No. A-81-11. It is also requested, but not required, that a copy of this submittal be sent directly to the contact person indicated above.

Commenters desiring to submit proprietary information should clearly distinguish such information from other comments to the greatest extent possible, and label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the EPA

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contact person indicated above, and not to the Public Docket, to insure that proprietary information is not inadvertently placed in the docket.

Information covered by such a proprietary claim will be disclosed by EPA only to the Extent, and by means of the procedures, set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the information when it is received by EPA, it may be made available to the public without further notice to the commenter.

Mr. Richard D. Wilson, Director, Office of Mobile Sources, is hereby designated as the Presiding Officer of the hearing. The hearing will be conducted informally and technical rules of evidence will not apply. A written transcript of the hearing will be taken. Anyone desiring to purchase a copy of this transcript should make arrangements individually with the court reporter recording the hearing.

Dated: February 1, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83-3297 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 256

[SW-3-FRL 2298-7]

State of Delaware's Application for Approval of Solid Waste Management Plan

AGENCY: Environmental Protection Agency (EPA), Region III.

ACTION: Notice of availability of Delaware's solid waste management plan for public comment.

SUMMARY: As provided by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, the State of Delaware has received Federal financial assistance for development of a state solid waste management plan. EPA is today soliciting public comments on whether the State of Delaware's solid waste management plan meets EPA's guidelines for the approval of State solid waste management plans under Subtitle D of the Resource Conservation and Recovery Act of 1976, as amended.

DATE: Comments on Delaware's solid waste management plan must be received by March 10, 1982.

ADDRESS: Written comments should be sent to: John A. Armstead, EPA Region III, 6th and Walnut Sts., Philadelphia, Pa. 19106; (215) 597-7259.

Copies of Delaware's solid waste management plan are available at the following addresses for inspection and copying by the public:

William Razor, Supervisor, Solid Waste Management Branch, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901; (302) 736-4781;

Diane McCreary, Librarian, EPA Region III, Regional Library, 6th and Walnut Sts., Philadelphia, Pa. 19106; (215) 597-0580; or

EPA Headquarters Library, Room 2404, 401 M Street, SW., Washington, D.C. 20460; (202) 382-5926.

SUPPLEMENTARY INFORMATION: Under Subtitle D of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"), EPA is authorized to approve State solid waste management plans. The criteria for approving those plans are set forth in EPA's Guidelines for Development and Implementation of State Solid Waste Management Plans ("Guidelines"), codified at 40 CFR Part 256. Among other things, the Guidelines require that plans identify a general strategy for achieving the following objectives:

- Protecting human health and the environment from adverse effects associated with solid waste dispoal;
- Prohibiting the establishment of new open dumps;
- Encouraging resource recovery and resource conservation;
- Providing adequate disposal capacity in the State;
- Establishing priorities for State solid waste activities; and
- Dealing with other issues relevant to solid waste management.

The State plan must also set forth the institutional arrangements that the State will use to implement this strategy.

Under RCRA and the Guidelines, EPA's approval of a State plan has two major implications. First, it permits the State to issue compliance schedules which can shield entities from citizen suits seeking to enforce the Federal prohibition on open dumping in Section 4005(a) of RCRA. Second, it may affect the State's eligibility for Federal funding under Sections 4007 and 4008 of RCRA. Once a plan has been approved, EPA must withhold Subtitle D technical and financial assistance to the State if the Administrator at any time determines that the plan is no longer in compliance with the Guidelines and withdraws approval. *See* Section 4007(b)(3).

On December 21, 1982, the State of Delaware submitted its solid waste management plan to EPA for approval. EPA is soliciting public comment on whether this plan meets the requirements set forth in the Guidelines. In particular, EPA is seeking comment on the following issues:

- Does the plan effectively prohibit the establishment of new open dumps?
- Does the plan provide authority to upgrade or close existing open dumps?
- If the plan does not meet the Guidelines in its entirety, can it be approved in part? *See* 40 CFR 256.04, as amended by 46 FR 47048 (September 23, 1981).

List of Subjects in 40 CFR Part 256

Grants program, Environmental protection, Waste treatment and disposal.

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

Dated: January 25, 1983.

Peter N. Bibko,

Regional Administrator.

[FR Doc. 83-3061 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 455

[WH-FRL 2300-6]

Pesticide Chemicals Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction of proposed rule; extension of comment period.

SUMMARY: On November 30, 1982, EPA proposed guidelines, pretreatment standards and new source performance limitations standards for the Pesticide Chemicals Category under the Clean Water Act (47 FR 53994). In reviewing these effluent limitations guidelines and standards, the Agency has identified a number of typographical and other errors requiring correction. This notice makes these changes and modifies the previous proposal accordingly. Furthermore, EPA is extending the comment period on the proposed regulation from January 31, 1983 to March 2, 1983.

DATES: Comments on this proposal must be submitted by March 2, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. George M. Jett (202) 382-7180, Effluent Guidlines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

ADDRESSES: Send comments to Mr. George M. Jett, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: Pesticide Chemicals Rules. The supporting information and all

comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

SUPPLEMENTARY INFORMATION:

This notice is organized as follows:

I. Summary of Corrections

II. Extension of Comment Period

I. Summary of Corrections

On November 30, 1982 EPA proposed effluent limitations guidelines and standards for the pesticide category, (47 FR 53994). In reviewing this proposal the Agency has identified a number of typographical and other errors requiring correction. Most of the changes made today are corrections to the numerical limitations and standards, the names of pollutants to be regulated, and the subpart identification. The flow and technology basis underlying the effluent limitations guildelines and standards have not been changed from those discussed in the proposed regulations and in the technical development document entitled *Development Document for Effluent Limitations Guidelines and Standards for the Pesticide Category.*

The corrections to the proposed pesticide regulations are discussed as follows:

1. The Impact Summary under PSES in Section XV: Cost, Cost Effectiveness, and economic impacts (47 FR 54007) currently states that "Two plants and two production lines may close." This is a typographical error. The proposed regulation is revised to read "Two plants and *five* production lines may close."

2. 40 CFR Subpart A 455.22 refers to a "BOD" effluent limitation (47 FR 54028). This is a mistake. The "BOD" Effluent Limitation is corrected to read "BOD*5*."

3. There is a typographical error which appears at 40 CFR Subpart D 455.52 (47 FR 54030). The table is incorrectly identified as "BAT effluent limitations" and is corrected to read "BPT effluent limitations"

4. There is a typographical error which appears at 40 CFR Subpart D 455.54 (47 FR 54030). The table is incorrectly identified as "BPT effluent limitations" and is corrected to read "BAT effluent limitations."

5. There are typographical errors in 40 CFR Subpart D at 455.57 (47 FR 54030). This section is incorrectly numbered 455.57 and is renumbered as 455.56. All references to "(PSNS)" in this section are corrected to read "(PSES)".

6. There are typographical errors at 40 CFR Subpart D 455.56 (47 FR 54030). This section is incorrectly numbered 455.56 and is renumbered as 455.57 for new sources. Also, all references to "(PSES)" in this section are corrected to read "(PSNS)".

7. There are typographical errors at 40 CFR Subpart E 455.60 (47 FR 54031). Some of the pesticides in 455.60(a) are misspelled and should be corrected as follows:

Errors	Corrections
Chlorbenzene	Chlorobenzene
Chlorbezilate	Chlorobenzilate
Chlorphacinone	Chlorophacinone
Cyhanatin	Cyhexatin
Dichlorbenzene, ortho	Dichlorobenzene, ortho
Dichlorbenzene, para	Dichlorobenzene, para
Flundone	Fluondone
Methyomyl	Methomyl
Oxyflurorfon	Oxyfluorfen

8. There are typographical errors in 40 CFR Subpart E at 455.62 (47 FR 54031). The table in this section is incorrect. The captions "BPT effluent limitations' " and "Pollutants or pollutant property" should be revised as follows:

SUBPART E

Pollutants or pollutant properties	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days

9. There is a typographical error in 40 CFR Subpart E 455.64 (47 FR 54031). The "BAT effluent limitations" table incorrectly lists the pollutant "chlorform" and is corrected to read "chloroform." Furthermore, footnote 2 incorrectly lists "chlorbenzilate" and "Nale" and are corrected to read "chlorobenzilate" and "Naled."

10. There are typographical errors in 40 CFR Subpart E 455.65 and 455.66 (47 FR 54031, 54032). The products in footnote 2 are incorrectly listed as "chlorbenzilate" and "Nale" and are corrected to read "Chlorobenzilate" and "Naled."

11. Similar typographical errors are in 40 CFR Subpart E 455.67 (47 FR 45032). The products in footnote 2 to this section are incorrectly listed as "Bentzon", "chlorbenzilate", "Nale", and "Trichloronate" and are corrected to read "Bentazon", "Chlorobenzilate", "Naled" and "Trichloronate."

12. A series of typographical errors appear at 40 CFR Subpart H. 455.96 (47 FR 54034). The table is corrected to read:

SUBPART H

Pollutants or pollutant properties	Pretreatment standards for existing sources [1]	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Nonconventional		
Pesticide Pollutant [2]	0.138	0.0255
Priority Pollutants [3]		
Benzene	0.278	0.0870
Toluene	0.278	0.0781
Carbon tetrachloride	0.278	0.111
Chloroform	0.278	0.111
Methyl chloride	0.278	0.111
Methylene chloride	0.278	0.111
Copper	0.0733	0.0238
Zinc	0.0570	0.0247
Hexachlorocyclopentadiene	0.00643	0.00241

13. A typographical error appears in 40 CFR Subpart H 455.97 (47 FR 54034). The maximum for any 1 day standard for the pollutant methylene chloride is incorrectly listed as "0.00278" and is corrected to read "0.278."

14. A typographical error appears in 40 CFR Subpart I 455.105 (47 FR 54035). The maximum for any 1 day limitation for the pollutant TSS is incorrectly listed as "6.400" and is corrected to read "6.100."

15. A pair of typographical errors appear in 40 CFR Subpart I 455.107 (47 FR 54035). The table is incorrectly identified as "Pretreatment standards for existing sources [1]" and is corrected to read "Pretreatment standards for new sources [1]." The maximum for any 1 day for the pollutant cyanide is incorrectly listed as. "0.0488" and is corrected to read "0.00488."

16. A typographical error appears in 40 CFR Subpart K 455.125 (47 FR 54036). The spellings of pollutants "N-nitrosodu-n-propylamine" and "Hexachlorocyclopentadiene" are corrected to read "N-nitrosodi-n-propylamine" and "Hexachlorcyclopenta-diene."

17. A typographical error appears in 40 CFR Subpart K 455.127 (47 FR 54037). The average of daily values for 30 consecutive days for N-nitrosodi-n-propylamine" is incorrectly listed as "0.000485" and is corrected to read "0.0000485."

18. A typographical error appears in 40 CFR Subpart K 455.134 (47 FR 54037). A pollutant is incorrectly identified as "carbon tetrachloride" and is corrected to read "Carbon tetrachloride".

19. Typographical errors appear in 40 CFR Subpart L 455.136 (47 FR 54038). The average of daily values for 30 consecutive days for chlorobenzene and toluene are listed as "0.0781" and "0.111" respectively and are corrected to read "0.0870" and 0.0781" respectively.

20. Typographical errors appear in 40 CFR Subpart M 455.146 and 455.147 (47 FR 54039). The maximum for any 1 day and the average of daily values for 30 consecutive days is reported as "0.00119" and "0.00244" respectively and is corrected to read "0.00238" and "0.00488" respectively.

21. Typographical errors appear in 40 CFR Subpart O 455.160 (47 FR 54040). A priority pollutant regulated for Anilazine is incorrectly listed as "Tetrochloroethylene" and is corrected to read Tetrachloroethylene".

22. Typographical errors appears in 40 CFR Subpart O 455.160 (47 FR 54041). The pollutant regulated for Bolstar is incorrectly identified as "Tetrachlorethylene" and is corrected to read "Tetrachloroethylene".

The Volatile Aromactics listed for Carbophenothion does not list "chlorobenzene" as a pollutant to be regulated for "Carbophenothion". (47 FR 54041) "Chlorobenzene" is now listed in this subpart.

The pesticide "Glyodin" lists "toluene" as a priority pollutant regulated and is corrected to show that Glyodin does not regulate any priority pollutants (47 FR 54044).

23. The effluent limitations guidelines and standards in 40 CFR Part 455 subparts B, C, and N refer to both "no discharge of process wastewaters" and "no discharge of process wastewater pollutants." The Agency feels that these effluent limitations guidelines/standards are interchangeable since process wastewaters are highly contaminated and accordingly, as a practical matter, it would be impossible to discharge process wastewaters without discharging pollutants. Both terms mean no flow of process wastewaters. The Agency requests comment on whether this position is appropriate. In order to alleviate any confusion arising from the existing regulatory language, the following sections of 40 CFR Part 455 are corrected to read "No discharge of process wastewater":

1. Subpart B 455.35 (47 FR 54029)
2. Subpart B 455.36 (47 FR 54029)
3. Subpart B 455.37 (47 FR 54029)
4. Subpart C 455.45 (47 FR 54029)
5. Subpart C 455.46 (47 FR 54029)
6. Subpart C 455.47 (47 FR 54029)
7. Subpart N 455.154 (47 FR 54039)
8. Subpart N 455.155 (47 FR 54040)
9. Subpart N 455.156 (47 FR 54040)
10. Subpart N 455.157 (47 FR 54040)

All other limitations, standards, spellings of pollutants names and titles of subpart sections are unchanged from the November 30, 1982 **Federal Register** Notice (47 FR 53994).

II. Extension of Comment Period

On November 30, 1982, EPA proposed effluent limitations guidelines and standards for the pesticide industry. The November 30, 1982, notice stated that the comments on the proposal were to be submitted by January 31, 1983. The Agency has received numerous requests from the pesticide industry stating that they need additional time to comment fully on the proposed regulation. In addition, the industry has assured us that they will conduct sampling and analysis to generate additional data for the Agency. In order to allow the industry the time needed for them to conduct the additional sampling and analysis, EPA is extending the comment period to March 2, 1983. This extension will give all members of the public adequate time to comment fully on this regulation.

The deadline for all comments pertaining to the material published at 47 FR 53994 on November 30, 1982 and the corrections made today, is March 2, 1983.

Dated: January 28, 1983.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 83-3196 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program, Appendix A; Georgia

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: This Notice identifies the location of a new office for filing applications or complaints under the Voting Rights Act of 1965, as amended.

DATE: Comments must be submitted on or before April 11, 1983.

ADDRESS: Send or deliver comments to Anthony F. Ingrassia, Assistant Director for Agency Compliance and Evaluation, Room 5450, Office of Personnel Management, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Clogston, Coordinator, Voting Rights Program, Office of Personnel Management, Washington, D.C. 20415, 202-5691.

SUPPLEMENTARY INFORMATION: The Attorney General has designated an additional examination point as coming under the provisions of the Voting Rights Act of 1965, as amended. He has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, the U.S. Office of Personnel Management is proposing to appoint Federal examiners to review the qualifications of applicants to be registered to vote.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1 (b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation would not have a significant economic impact on a substantial number of small entities because its purpose is the addition of one county to the list of counties in the regulation concerning OPM's responsibilities under the Voting Rights Act.

List of Subjects in 45 CFR Part 801

Administrative practice and procedures, Voting rights.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

PART 801—[AMENDED]

Accordingly, the Office of Personnel Management proposes to amend 45 CFR Part 801, Appendix A, by adding Burke County, Georgia, to read as follows:

Georgia		
County; Place for filing: Beginning date		
*	*	*
Burke; Waynesboro—U.S. Post Office, 721 Liberty Street, Room 204; November 2, 1982		

(5 U.S.C. 1103,; Secs. 7, 9, 79 Stat. 440, 441 (42 U.S.C. 1973c, 1973g))

[FR Doc. 83-3273 Filed 2-7-83; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

[Docket No. 82-14]

Inquiry Regarding Regulation of the Domestic Offshore Trades

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of Inquiry.

SUMMARY: The Commission instituted this inquiry by Notice published March 5, 1982 (47 FR 10600) to seek public comment on the effectiveness of regulation of the domestic offshore trades under the Intercoastal Shipping Act, 1933 (46 U.S.C. 843) and the

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regulatory and legislative changes necessary to improve the system. The Commission, having reviewed the comments filed in this Inquiry and having transmitted an appraisal of regulation in the domestic offshore trades to appropriate committees of Congress, hereby discontinue this Inquiry. The Commission wishes to express its appreciation to commentators for their assistance in analyzing and developing a revised approach to shipping in these trades.

FOR FURTHER INFORMATION CONTACT:
Francis C. Hurney, Federal Maritime Commission, Room 11101, Washington, D.C. 20573, (202) 523–5725.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82–3263 Filed 2–7–83; 8:45 am]

BILLING CODE 6730–01–M

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Notices

Federal Register
Vol. 48, No. 27
Tuesday, February 8, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Advisory Committee on Instrument Standards for Cotton;

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following meeting.

Name: Advisory Committee on Instrument Standards for Cotton.

Date: March 22, 1983.

Place: Civic Center Auditorium, 1501 Sixth Street, Lubbock, Texas 79401.

Time: 8:30 a.m. to 4:30 p.m.

Purpose: The Agenda will include discussion and disposition of the list of technical issues developed at the first Committee meeting which was held on November 4 and 5, 1982 in Washington, D.C.

The meeting is open to the public. Public participation will be limited to written statements received prior to the meeting. Written statements should be addressed to Jesse F. Moore, Director, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Annex Building, Room 302, Washington, D.C. 20250 (202) 447–3193.

Dated: February 2, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations

[FR Doc. 83–3369 Filed 2–7–83; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

Wheat Flour Exports to Egypt

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation ("CCC") announces that it is accepting bids in connection with the export of wheat flour to the Arab Republic of Egypt ("Egypt").

DATE: Bids for the first increment will be invited by CCC no later than February 11, 1983.

ADDRESS: Copies of the invitation for bids and CCC Announcement KC–EWP–1 may be obtained from the Kansas City Field Office, P.O. Box 8510, Wornall Station, Kansas City, Missouri 64114. Phone (816) 926–6408. Offers may be submitted to the same address. Comments should be submitted to the Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: James Knight, Chief, Bulk Commodities Division (Phone (816) 926–6406) or David G. Bell, Chief, Processed Commodities Division, Kansas City Field Office, P.O. Box 8510 Kansas City, Missouri 64114 (Phone (816) 926–6408).

SUPPLEMENTARY INFORMATION: On January 17, 1983, CCC signed a Memorandum of Understanding on Commercial Wheat Flour Trade Between the Commodity Credit Corporation, USA, and the General Authority for Supply Commodities, Egypt. That Memorandum of Understanding provided, in part, that Egypt would import one million metric tons of U.S. wheat flour from the private trade in the United States by April 30, 1984, at a price of $155 per net metric ton C&F free out Alexandria or Port Said.

In order to allow the private trade to supply this amount at the stated price, CCC will furnish wheat from CCC owned stocks on a competitive bid basis to those who supply whear flour to Egypt. Title to the CCC owned wheat will pass only after CCC receives proof of export of the flour to Egypt.

In general, the system will work as follows. The bidder will indicate the amount of wheat desired from CCC stocks per ton of wheat flour supplied to Egypt. The lowest bids will be accepted until the total of the bids accepted is enough to satisfy the total quantity of wheat flour to be shipped to Egypt. Egypt will then contract with the successful bidders for the delivery of the flour to Egypt. After export has occurred, CCC will transfer title to the CCC-owned wheat to the successful bidders. Details of the bid are contained in CCC Announcement KC–EWP–1.

Egypt has stated that its first purchase under this agreement will be 70,000 metric tons of wheat flour for shipment in March, 1983. After this first purchase, it is expected that there will be monthly invitations for bids for further purchases. Egypt has indicated that it will purchase 130,000 tons in each of the months of April and May and 120,000 tons in June 1983. The invitations for bids for these and subsequent purchases will be announced in trade publications and mailed to interested parties.

CCC invites the public to comment on this system and to propose alternate systems at any time during the course of the Memorandum of Understanding with Egypt.

Signed at Washington, D.C. on February 4, 1983.

Clarence L. Tardy,

Acting Executive Vice President, CCC.

[FR Doc. 83–3416 Filed 2–8–83; 11:41 am]

BILLING CODE 3410–10–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 203]

Approval for Relocation of Foreign-Trade Zone No. 34, Niagara County, New York, Within the Buffalo/Niagara Falls Customs Port or Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the County of Niagara, New York, Grantee of Foreign-Trade Zone No. 34, has applied to the Board for authority to relocate its general-purpose zone within Niagara County from the Township of Porter to the Niagara Falls International Airport in the Town of Wheatfield, within the Buffalo/Niagara Falls Customs port of entry;

Whereas, the application was accepted for filing on January 12, 1982, and notice inviting public comment was given in the **Federal Register** on January 20, 1982 (47 FR 2890);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the relocation is necessary for the development of the project; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to relocate its zone in accordance with the application filed January 12, 1982. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C., this 27th day of January 1983.

Foreign-Trade Zones Board.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-3372 Filed 2-7-83; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 204]

Approval for Expansion of Foreign-Trade Zone No. 19, Omaha, Nebraska, Within the Omaha Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Dock Board of the City of Omaha, Nebraska, Grantee of Foreign-Trade Zone No. 19, has applied to the Board for authority to expand its general-purpose zone located at the Omaha Municipal Dock, to include an industrial park site near Eppley Airfield in Omaha, within the Omaha Customs port of entry;

Whereas, the application was accepted for filing on April 15, 1982, and notice inviting public comment was given in the **Federal Register** on April 22, 1982 (47 FR 17317);

Whereas, as examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to provide zone services to new tenants whose operations cannot be accomodated within existing zone space; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed April 15, 1982. The Grantee shall notify the Executive Secretary of the Board or approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C., this 27th day of January 1983.

Foreign-Trade Zones Board.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 83-3373 Filed 2-7-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

[Modification No. 1 to Permit No. 364]

Mystic Marinelife Aquarium; Permit Applications

Notice is hereby given that pursuant to the provision of Section 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Public Display Permit No. 364 issued to Mystic Marinelife Aquarium, Mystic, Connecticut 06355, on January 22, 1982, (47 FR 4548) is modified to include the taking of pilot whales by directed operations and to correct an error in the number of species authorized to be taken and imported.

Accordingly, Special Condition B.1 is deleted and replaced by:

1. All four species may be taken and imported from animals taken during the course of Canadian commercial fishing operations. The pilot whales may be taken by directed capture operations in Canadian waters as described in the modification request. The harbor porpoises may be taken from animals caught in fish weirs in the waters of Maine.

This modification becomes effective upon publication in the **Federal Register**.

This Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 27, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-3371 Filed 2-7-83; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Survey of Pension and Retirement Plan Coverage.

Form No.: Agency—CPS-684.

Type of request: New.

Burden: 30,000 respondents; 6,000 reporting hours.

Needs and uses: These survey data will measure the extent to which retirement benefits are provided and protected by both public and private pension system. The characteristics of both covered and uncovered workers will also be provided. The data collected will be used as a supplement to the Current Population Survey and will also be used in formulating policies to protect the continued well-being and security of the Nation's work force.

Affected public: Households in one-half of the Current Population Survey sample.

Frequency: On occasion.

Respondent's obligation: Voluntary.

OMB desk officer: Timothy Sprehe, 395-4814.

Agency: International Trade Administration (ITA).

Title: Exhibitor and Mission Member Report.

Form No.: Agency—ITA–4075P; OMB—0625–0034.

Type of request: Extension.

Burden: 3,500 respondents; 583 reporting hours.

Needs and uses: This report is required to provide the necessary data for evaluating the performance of ITA overseas promotional events. The data collected is used to provide feedback for program managers to use in determining the performance of different overseas marketing events and for ITA management by describing the overall performance of overseas promotional programs.

Affected public: Participants or exhibitors in Commerce overseas trade promotional programs.

Frequency: On occasion.

Respondent's obligation: Voluntary.

OMB desk officer: Ken Allen, 395–3785.

Agency: National Oceanic and Atmospheric Administration.

Title: Social and Economic Survey of Fisheries.

Form No.: OMB—0648–0093.

Type of request: Extension.

Burden: 700 respondents; 175 reporting hours.

Needs and uses: Data collected from commercial fishermen are needed to provide the regional Fishery Management councils with information on the financial status of fisheries in the southeastern region. These data are also essential for the economic analyses prescribed by E.O. 12291 requiring regulatory analyses of proposed Federal regulations.

Affected public: Commercial fishermen.

Frequency: Nonrecurring.

Respondent's obligation: Voluntary.

OMB desk officer: Ken Allen, 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 83–3368 Filed 2–7–83; 8:45 am]

BILLING CODE 3510–CW–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Challenge Grant Program; Application Notice for New Awards for Fiscal Year 1983

Applications are invited for new awards under the Challenge Grant Program.

Authority for this program is contained in sections 331–332 and 341–347 of Title III of the Higher Education Act of 1965 as amended.

(20 U.S.C. 1064–1069c)

The Challenge Grant Program assists eligible institutions of higher education to seek alternative sources of funding to become self-sufficient. To this end, the Secretary awards grants to eligible institutions of higher education including, two-year and four-year, public and private institutions, graduate institutions, and institutions providing medical education programs. The institutions must match the grant funds provided by the Secretary.

Closing Date for Transmittal of Applications

An application for a grant must be mailed or hand-delivered by March 28, 1983.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.031C, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to used registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building, 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

Applications for new grants will be accepted from all institutions designated as eligible under the Institutional Aid Programs in Fiscal Year 1983. However, in awarding grants under this part, the Secretary gives preference to applications from institutions that are receiving grants under the Strengthening Program or the Special Needs Program.

In the Second Continuing Resolution for Fiscal Year 1983, Pub. L. 97–377, the Congress appropriated $129.6 million for the Institutional Aid Programs. Of that amount, $9.6 million was appropriated for the Challenge Grant Program.

Of the $9.6 million appropriated for the Challenge Grant Program, the Secretary anticipates that he will use approximately $8.3 million for noncompeting continuation grants. Thus, approximately $1.3 million will be available for new awards. The Secretary does not anticipate limiting the maximum grant award.

Requests for Designation as an Eligible Institution

Potential applicants must submit a request for designation as an eligible institution by the established date published separately in this issue of the **Federal Register.**

Those institutions that do not submit a request by the established date or are not designatd by the Secretary as eligible to apply for a grant in FY 1983 will not be considered for funding.

Application Forms

Application forms and program information packages are expected to be ready for mailing by February 7, 1983. They may be obtained by writing to the Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23868, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms

included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that: (1) The individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

Applicable Regulations

Regulations applicable to this program include the following:

(a) The regulations in 34 CFR Part 624;

(b) The regulations in 34 CFR Parts 625 and 626;

(c) The regulations in 34 CFR Part 627; and

(d) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77 and 78.

Parts 624, 625, 626 and 627 of Title 34 of the Code of Federal Regulations were published in the **Federal Register** of January 5, 1982, 47 FR 540–557.

Further Information

For further information contact Dr. W. A. Butts, Director, Division of Institutional Development, U.S. Department of Education (Room 3060, Regional Office Building 3), 400 Maryland Avenue, SW. Washington, D.C. 20202. Telephone (202) 245–2715.

(Catalog of Federal Domestic Assistance No. 84–031C—Challenge Grant Program)

(20 U.S.C. 1064–1069c)

Dated: February 2, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–3230 Filed 2–7–83; 8:45 am]

BILLING CODE 4000–01–M

Special Needs Program; Application Notice for New Awards in Fiscal Year 1983

Applications are invited for new planning grants or development grants under the Special Needs Program. Because funds available for this competition are expected to come from funds set aside by the Congress for institutions that have historically served substantial numbers of black students, the Secretary will give funding priority to applications from eligible institutions that have historically served substantial numbers of black students (historically black institutions.)

Authority for the Special Needs Program is contained in sections 321–324 and 341–347 of Title III of the Higher Education Act of 1965 as amended (HEA).

(20 U.S.C. 1060–1063, and 1066–1069c)

Authority for the funding priority for historically black institutions is contained in section 347(e) of the HEA, 20 U.S.C. 1069c(e).

The Special Needs Program assists eligible institutions of higher education to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management, and fiscal capabilities. To this end, the Secretary awards planning grants and non-renewable development grants to eligible two-year and four-year, public and private institutions of higher education. The purpose of the planning grants is to assist institutions to develop their long-range plans. The purpose of the development grants is to assist institutions to implement portions of their long-range plans, thereby becoming self-sufficient.

Closing Date for Transmittal of Applications

An application for a planning or development grant must be mailed or hand-delivered by March 28, 1983.

Application Delivered By Mail

An application sent by mail must be addressed to the U.S. Department of Eduction, Application Control Center, Attention: 84.031B, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered By Hand

An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

In the Second Continuing Resolution for Fiscal Year 1983, Pub. L. 97–377, the Congress appropriated $129.6 million for the Institutional Aid Programs. Of that amount, $60 million was appropriated for the Special Needs Program.

Section 347(e) of the HEA requires that $27,035,000 of the $60 million appropriated for the Special Needs Program be made available for eligible historically black institutions of higher education. These institutions include the institutions listed in the 1978 publication of the National Center for Education Statistics entitled "Traditionally Black Institutions of Higher Education: Their Identification and Selected Characteristics."

(34 CFR 626.31(b))

The Secretary anticipates using the $32,965,000 appropriated for the Special Needs Program that is *not* covered by section 347(e) of the HEA for noncompeting continuation grants. The Secretary further anticipates that he will also use approximately $18 million of the $27,035,000 set aside for historically black colleges for non-competing continuation grants to such institutions. Thus, approximately $9 million covered by section 347(e) will be available for funding new awards. Funding priority for new awards will accordingly be given to historically black institutions (34 CFR 626.31(c)(1)).

In accordance with section 347(c)(2) of the HEA, the Secretary intends to award not less than 30 percent of the amount available under the Special Needs Program for both continuation and new grants to eligible junior or community colleges with special needs.

Grants-General. In general, the Secretary will accept an application for a planning or a development grant from any institution designated eligible for

the Special Needs Program in Fiscal Year 1983.

In order to ensure a reasonable number of grants for new projects and in accordance with § 626.31(c)(2) of the Special Needs Program Regulations, the Secretary is limiting the maximum award for planning grants to $25,000 and limiting the maximum award for non-renewable grants to $800,000 per year. Accordingly, applicants should not submit budget requests in excess of these amounts. The Secretary will not accept any application containing a request in excess of these maximums; such applications will be returned by the application control center.

Planning grants

1. The Secretary will not accept an application for a planning grant from institutions applying as a cooperative arrangement unless the purpose of the grant is to develop a separate long-range plan for each participating institution.

2. Approval of a planning grant does not commit the Secretary to fund a subsequent application for a development grant.

Requests for Designation as an Eligible Institution

Potential applicants must submit a request for designation as an eligible institution by the established date published separately in this issue of the **Federal Register**.

Those institutions that do not submit a request by the established date or are not designated by the Secretary as eligible to apply for a grant in FY 1983 will not be considered for funding.

Application Forms

Application forms and program information packages are expected to be ready for mailing by February 7, 1983. They may be obtained by writing to the Institutional Aid Programs. U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23868, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that: (1) The individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

Applicable Regulations

Regulations applicable to this program include the following:

(a) The regulations in 34 CFR Part 624;

(b) The regulations in 34 CFR Part 626; and

(c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78 except that 34 CFR 75.128(a)(2) and 34 CFR 75.129(a) do not apply to cooperative arrangements.

Parts 624 and 626 of Title 34 of the Code of Federal Regulation were published in the **Federal Register** of January 5, 1982, 47 FR 540–557.

Further Information

For further information contact Dr. W. A. Butts, Director, Division of Institutional Development, U.S. Department of Education (Room 3060, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2715.

(Catalog of Federal Domestic Assistance No. 84.031B—Special Needs Program)

(20 U.S.C. 1060–1063 and 1066–1069c)

Dated: February 2, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–3229 Filed 2–7–83; 8:45 am]

BILLING CODE 4000–01–M

Strengthening Program; Application Notice for Planning Grants and Renewable Development Grants

Applications are invited for new planning grants or renewable development grants under the Strengthening Program.

Authority for this program is contained in sections 311–313 and 341–347 of Title III of the Higher Education Act of 1965, as amended (HEA).

(20 U.S.C. 1057–1059, and 1066–1069c)

The strengthening Program assists eligible institutions of higher education to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management, and fiscal capabilities. To this end, the Secretary awards planning grants and renewable development grants to eligible two-year and four-year, public and private institutions of higher education.The purpose of the planning grants is to assist institutions to develop an institutional long-range plan or an application for a development grant. The purpose of the renewable grants is to assist institutions to implement portions of their long-range plans to enable them to move toward self-sufficiency.

Closing Date for Transmittal of Applications

An application for a planning or a renewable development grant must be mailed or hand-delivered by March 28, 1983.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.031A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Eastern Standard time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

In the Second Continuing Resolution for Fiscal Year 1983, Pub. L. 97–377, the Congress appropriated $129.6 million for the Institutional Aid Programs. Of that amount, $60 million was appropriated for the Strengthening Program. In

accordance with section 347(c)(1)(A) of the HEA, the Secretary intends to award not less than 24 percent of the total amount available for both non-competing continuation and new grants under the Strengthening Program to eligible junior or community colleges.

Of the $60 million appropriated for the Strengthening Program, the Secretary is reserving $5 million for new projects in Fiscal Year 1983. The Secretary will set-aside a minimum of $250,000 for planning grants. If the Secretary does not receive enough qualifying applications for these funds, he will use the remainder of the money for renewable development grants.

(34 CFR 625.31(b)(1)).

In order to ensure a reasonable number of grants for new projects and in accordance with § 625.31(b)(2) of the Strengthening Program regulations, the Secretary is limiting the maximum award for planning grants to $25,000 and limiting the maximum award for renewable grants to $200,000 per year. Accordingly, applicants should not submit budget requests in excess of these amounts. The Secretary will not accept any application containing a request in excess of these maximums; such applications will be returned by the application control center.

General. The Secretary will accept an application for a planning grant or a renewable development grant from any institution designated as an eligible institution under the Strengthening Program in Fiscal Year 1983. Because of the limitation on 1983 funds available for new projects, the Secretary will not accept applications for non-renewable grants in Fiscal year 1983.

Planning grants

1. The Secretary will not accept an application for a planning grant solely to develop an application for a development grant unless the applicant submits, as part of its application, its long-range plan containing all the elements required in § 624.22 of the Institutional Aid Programs Regulations (34 CFR 624.22) published in the **Federal Register** of January 5, 1982, 47 FR 540, 543–544.

2. The Secretary will not accept an application for a planning grant to develop a long-range plan from institutions applying as a cooperative arrangement unless the purpose of the grant is to develop a separate longrange plan for each participating institution.

3. Approval of a planning grant does not commit the Secretary to fund a subsequent application for a development grant.

Development grants. The Secretary will only accept applications for renewable development grants for Fiscal Year 1983.

Requests for Designation as an Eligible Institution

Potential applicants must submit a request for designation as an eligible institution by the established date published separately in this issue of the **Federal Register**.

Those institutions that do not submit a request by the established date or are not designated by the Secretary as eligible to apply for a grant in FY 1983 will not be considered for funding.

Application Forms

Application forms and program information packages are expected to be ready for mailing by February 7, 1983. They may be obtained by writing to the Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23868, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that: (1) The individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

Applicable Regulations

Regulations applicable to this program include the following:

(a) The regulations in 34 CFR Part 624;

(b) The regulations in 34 CFR Part 625; and

(c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77 and 78 except that 34 CFR 75.128(a)(2) and 4 CFR 75.129(a) do not apply to cooperative arrangements.

Parts 624 and 625 of Title 34 of the Code of Federal Regulations were published in the **Federal Register** of January 5, 1982, 47 FR 540–557.

Further Information

For further information contact Dr. William A. Butts, Director, Division of Institutional Development, U.S. Department of Education, Room 3060, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2715.

(Catalog of Federal Domestic Assistance No. 84.031A—Strengthening Program)

(20 U.S.C. 1057–1059, and 1066–1069c)

Dated: February 2, 1983.

Edward M. Elemendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-3228 Filed 2-7-83; 8:45 am]

BILLING CODE 4000-01-M

Strengthening Program, Speical Needs Program, and Challenge Grant Program; Application Notice for Non-competing Continuation Awards for Fiscal Year 1983

Applicantions are invited for non-competing continuation awards under the Strengthening, special Needs and Challenge Grant Programs. These programs, collectively known as the Institutional Aid Programs, are authorized by Title III of the Higher Education act of 1965, as amended (HEA). in particular, the Strengthening Ptogram is authorized by sections 311–313 and 341–347 of the HEA, 20 U.S.C. 1057–1059, 1066–1069c; the Speical Needs Program is authorized by section31–324 and 341–347 of the HEA, 20 U.S.C. 1060–1063, 1066–1069c; and the Challenge Grant Program is authorized by sections 331–332 and 341–347 of the HEA, 20 U.S.C. 1064–1069c.

Under the Strengthening, Special Needs and Challenge Grant Programs, the secretary awards development grants to eligible institutions of higher education to assist them in carryig out their long-range development plans, thereby assisting them in becoming self-sufficient. Institutions may use the funds awarded under each program to inprove their academic quality and ti strengthen their planning, management and fiscal capabilities.

Closing Date for Transmittal of Applications

To be assured of consideration for funding, an application for a non-completing continuation award should be miled or hand-delivered by April 4, 1983.

If an application for a non-competing continuation award is late, the department may lack sufficient time to review it with other non-competing continuation applications and may decline to accept it.

Applications Delivered By Mail

An application sent by mail should be addressed to the U.S. Department of

Education, Aplication control Center, Attention: 84.013A (Insitutional Aid Programs-Strengthening); 84.031B (Institutional Aid Programs-Special Needs); 84.031C (Institutional Aid Programs-Challenge), Washington, D.C. 20202.

An applicant should show prooof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a cmmercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered By Hand

An application that is hand-delivered must be taken to the U.S. Department of Eduction, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Eastern time) daily except Saturdays, Sundays, and Federal holidays.

Program Information

In the Second Continuing Resolution for Fiscal Year 1983, Pub. L. 97–377, the Congress appropriated $129.6 million for the Institutional Aid Programs. Of that amount, $60 million was appropriated for the Strengthening Program, $60 million was appropriated for the Special Needs Program and $9.6 million for the Challenge Grant Program. The Secretary anticipates that approximately $55 million will be available to fund noncompeting continuation grants under the Strengthening Program, approximately $51 million will be available to fund non-competing continuation grants under the Special Needs Program and approximately $8.3 million will be available to fund non-competing continuation grants under the Challenge Grant Program.

In accordance with section 347(c) of the HEA, the Secretary intends to award not less than 24 percent of the total amount available under the Strengthening Program, and not less than 30 percent of the total amount available under the Special Needs Program, for both non-competing continuaton and new grants to eligible junior or community colleges. In accordance with Section 347(e) of the HEA, the Secretary also intends to make available $27,035,000 of the $60 million appropriated for the Special Needs Program for both non-competing continuation and new grants to eligible historically black institutions of higher education. These institutions include the institutions listed in the 1978 publication of the National Center for Education Statistics entitled "Traditionally Black Institutions of Higher Education: Their Identification and Selected Characteristics" (34 CFR 626.31(b)).

In order to ensure that there will be enough money to fund all eligible non-competing continuation grants under the Strengthening and Special Needs Programs and in accordance with § 625.31(b)(2) of the Strengthening Program Regulations, and § 626.31(c)(2) of the Special Needs Program Regulations, 34 CFR 625.31(b)(2) and 626.31(c)(2), respectively, the Secretary anticipates limiting the maximum second-year award for non-renewable grants to $800,000 and limiting the maximum second-year award for renewable grants to $200,000. These are the same maximum annual limits that applied to grants made in Fiscal Year 1982. Accordingly, applicants under the Strengthening or Special Needs Programs should not submit budget requests in excess of these amounts. The Secretary will not accept any application containing a request in excess of these maximums. Those applications will be returned. The non-competing continuation grantee may then resubmit a revised application with a budget request that does not exceed the allowable maximum. However, if the revised application is resubmitted later than May 30, 1983, the Department may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

The Secretary does not anticipate limiting the second-year maximum grant award under the Challenge Grant Program.

Although processing of applications will proceed on these estimates, it should be noted that these estimates do not bind the Department of Education to a specific amount of any grant unless that amount is otherwise specified by statute or regulations.

If the total of approved requests for Strengthening Program funds exceeds the amount available, each institution's approved request will be ratably reduced so that the aggregate approved requests equal the amount available—subject to the funding floor for two-year institutions.

If the total of approved requests for Special Needs Program funds exceeds the amount available, each institution's approved request will be ratably reduced so that the aggregate approved requests equal the amount available—subject to the funding floor for two-year institutions and the set-aside for historically black institutions of higher education.

If the total of approved requests for Challenge Grant Program funds exceeds the amount available, each institution's approved request will be ratably reduced so that the aggregate approved requests equal the amount available.

Application forms

Application forms for non-competing continuation awards are expected to be ready for mailing no later than February 11, 1983. They will be mailed routinely to currently funded projects. If a grantee does not receive the forms by February 22, 1983, the grantee should telephone the Division of Institutional Development at (202) 245–9091.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed eight (8) pages in length per activity narrative. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations

Regulations applicable to non-competing continuation awards are:

(a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78; and

(b) Regulations for the Institutional Aid Porgrams in 34 CFR Parts 624–627 as published in the **Federal Register** on January 5, 1982, (47 FR 540 *et seq.*).

Further Information

For further information contact: Dr. William A. Butts, Director, Division of Institutional Development, U.S. Department of Education, Room 3060, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2715, 9091, 2429, or 2384.

(Catalog of Federal Domestic Assistance Number: 84.031A–Strengthening Program, 84.031B Special Needs Program, and 84.031C Challenge Grant Program)

(20 U.S.C. 1051–1069c)

Dated: February 2, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc 83-3231 Filed 2-7-83; 8:45 am]

BILLING CODE 4000-01-M

Strengthening Program, Special Needs Program and Challenge Grant Program; Transmittal of Requests for Designation as an Eligible Institution for Fiscal Year 1983

Institutions of higher education that wish to apply for a grant under the Strengthening Program, the Special Needs Program or the Challenge Grant Program, collectively known as the Institutional Aid Programs, are invited to apply for designation as an "eligible Institution" under one or more of those programs by submitting a "Request for Designation as an Eligible Institution" form (ED Form 1049–6). The Institutional Aid Programs are authorized under Section 301–347 of Title III of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1051–1069c)

The Institutional Aid Programs assist eligible institutions to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management and fiscal capabilities.

To apply for a grant for any of the Institutional Aid Programs, an institution must first be designated as an eligible institution under that program in accordance with the applicable regulations.

Closing Date for Transmittal of Requests

A "Request for Designation as an Eligible Institution" form must be mailed or hand delivered by March 28, 1983.

Requests Delivered by Mail

A request sent by mail must be addressed to the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024.

Proof of mailing must consist of one of the following:

1. A legibly dated U.S. Postal Service postmark.
2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
3. A dated shipping label, invoice, or receipt from a commercial carrier.
4. Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its request will not be considered.

Request Delivered by Hand

A request that is hand-delivered must be taken to the Evaluation Section, Division of Institutional Development, Room 3045, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. Hand-delivered requests must be receipted by the staff of the Evaluation Section.

The staff of the Evaluation Section will accept and receipt hand-delivered requests between 9:00 a.m. and 4:30 p.m. (Eastern Time) daily, except Saturdays, Sundays and Federal holidays.

A request that is hand-delivered will not be accepted after 4:30 p.m. on March 28, 1983.

Request Forms

Eligibility request forms (ED Form 1049–6) are expected to be ready for mailing by January 26, 1983. They may be obtained by writing to the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024 or by calling (202) 245–2338.

Applicable Regulations

Regulations applicable to the eligibility process include §§ 624.2, 624.3 and 624.20 of the Institutional Aid Programs General Provisions Regulations, 34 CFR 624.2, 624.3 and 624.20; §§ 625.2 and 625.3 of the Strengthening Program Regulations, 34 CFR 625.2 and 625.3; §§ 626.2 and 626.3 of the Special Needs Program Regulations, 34 CFR 626.2 and 626.3; and § 627.2 of the Challenge Grant Program Regulations, 34 CFR 627.2. These regulations were published in the **Federal Register** of January 5, 1982, 47 FR 540–557.

Program Information

The Secretary will use award year 1980–81 (July 1, 1980–June 30, 1981) as the base year for calculating an institution's eligibility under § 625.2(a)(2), (3) and (4) of the Strengthening Program, § 626.2(a)(2), (3) and (4) of the Special Needs Program, and § 627.2(d)(2) of the Challenge Grant Program.

Institutions must submit E&G expenditure data for the 12-month period on which they reported in the "Higher Education General Information Survey (HEGIS XVI), Financial Statistics of Institutions of Higher Education for Fiscal Year Ending 1981."

The Department of Education will use Pell Grant data currently on file in the Department in making its determinations under the financial aid eligibility criteria in 34 CFR 625.2 and 626.2. The Department will use the data corrected and updated as of March 29, 1983.

Conversion tables which explain how the Secretary assigns points to institutions applying for eligibility designation are published as an appendix to this Notice.

Under the Challenge Grant Program Regulations, § 627.2(e), the Secretary is authorized to waive requirements set forth in § 624.2(b)(2) of the Institutional Aid Programs—General Provisions. In Fiscal Year 1983, the Secretary chooses not to waive these requirements.

Institutions are urged to submit the form titled "Request for Designation as an Eligible Institution—ED Form 1049–6" (Request Form) well in advance of the March 28, 1983 closing date. The Secretary permits no new information or adjustments to the information submitted on the Request Form after the March 28, 1983 closing date. However, amendments to the Request Form will be accepted if those amendments are submitted before that date.

If an institution submits its Request Form early (before February 25, 1983), the Division of Institutional Development will make every effort to review the submission and notify the institution of its eligibility status before the March 28, 1983 closing date, to give institutions an opportunity to make technical amendments as appropriate. However, because of the expected volume of Request Forms that the Division of Institutional Development may receive, it is unlikely that the Division will be able to process the Request Forms received after February 25, 1983 and inform the institution of its

eligibility status prior to the March 28, 1983 closing date.

In addition, even for Request Forms received before February 25, 1983, there is likely to be some delay in notifying institutions of their eligibility status if they request a waiver of certain eligibility requirements, if they request special designation status under Part II of the Request Form, or if they wish to reconcile the Pell Grant data they submitted with data contained in the Office of Student Financial Assistance files. In all cases, Request Forms will be processed in the order they are received and all institutions will be notified about their eligibility status as soon as possible.

An institution that does not submit a complete eligibility form by March 28, 1983 will not be eligible to apply for an Institutional Aid Program grant under this competition.

Further Information

For further information, contact the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024. Telephone (202) 245–2338.

(Catalog of Federal Domestic Assistance Number: 84.031 Institutional Aid Programs)

(20 U.S.C. 1051–1069c)

Dated: February 2, 1983.

T. H. Bell,

Secretary of Education.

FISCAL YEAR 1983 COMPETITION—NATIONAL STANDARDS FOR DETERMINING INSTITUTIONAL ELIGIBILITY FOR THE TITLE III INSTITUTIONAL AID PROGRAMS

[Threshold chart]

Categories of potentially eligible institutions	Minimum thresholds			
	Strengthening program		Special needs program	
	Overall threshold	Waiver threshold	Overall threshold	Waiver threshold
2-year public institutions	147	98	92	46
2-year non-profit private institutions	144	96	103	52

FISCAL YEAR 1983 COMPETITION—NATIONAL STANDARDS FOR DETERMINING INSTITUTIONAL ELIGIBILITY FOR THE TITLE III INSTITUTIONAL AID PROGRAMS—Continued

[Threshold chart]

Categories of potentially eligible institutions	Minimum thresholds			
	Strengthening program		Special needs program	
	Overall threshold	Waiver threshold	Overall threshold	Waiver threshold
4-year public institutions	187	125	127	64
4-year non-profit private institutions	188	125	130	65
Graduate Public institutions [1]				26
Graduate Non-profit Private institutions [1]				76

[1] Institutions that do not award bachelor's degrees but do award graduate, postgraduate or professional degrees may request designation for the Challenge Grant Program under the eligibility criteria for the Special Needs Program

BILLING CODE 4000-01-M

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POINT TABLES

The Secretary of Education uses the following tables to determine Title III Institutional Eligibility for FY 1983 (based on the 1980 - 1981 data).

PART-A : STRENGTHENING

2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0519	0.01 - 360.70	9991.00+
2	0.0520 - 0.0755	360.71 - 411.21	9990.99 - 7560.27
3	0.0756 - 0.0988	411.22 - 436.16	7560.26 - 6962.13
4	0.0989 - 0.1101	436.17 - 441.50	6962.12 - 6723.95
5	0.1102 - 0.1162	441.51 - 454.25	6723.94 - 6330.68
6	0.1163 - 0.1253	454.26 - 461.55	6330.67 - 6107.29
7	0.1254 - 0.1363	461.36 - 468.59	6107.28 - 5724.97
8	0.1364 - 0.1401	468.60 - 476.13	5724.96 - 5626.63
9	0.1402 - 0.1459	476.14 - 481.55	5626.62 - 5389.52
10	0.1460 - 0.1511	481.56 - 486.89	5389.51 - 5323.37
11	0.1512 - 0.1540	486.90 - 489.92	5323.36 - 5212.04
12	0.1541 - 0.1614	489.93 - 496.62	5212.03 - 5094.02
13	0.1615 - 0.1692	496.63 - 501.52	5094.01 - 5012.22
14	0.1693 - 0.1758	501.53 - 504.47	5012.21 - 4859.79
15	0.1759 - 0.1806	504.48 - 508.88	4859.78 - 4749.26
16	0.1807 - 0.1845	508.89 - 513.03	4748.25 - 4669.32
17	0.1846 - 0.1901	513.04 - 515.05	4669.30 - 4596.97
18	0.1902 - 0.1957	515.06 - 517.03	4596.96 - 4516.63
19	0.1958 - 0.2002	517.04 - 521.25	4516.62 - 4482.98
20	0.2003 - 0.2077	521.26 - 524.25	4482.96 - 4399.75
21	0.2078 - 0.2136	524.26 - 527.38	4399.74 - 4375.73
22	0.2137 - 0.2175	527.39 - 531.41	4375.71 - 4298.10
23	0.2176 - 0.2240	531.62 - 534.41	4298.09 - 4268.54
24	0.2241 - 0.2311	534.42 - 536.92	4268.53 - 4206.19
25	0.2312 - 0.2346	536.93 - 540.74	4206.18 - 4164.66
26	0.2347 - 0.2414	540.75 - 543.66	4164.64 - 4125.46
27	0.2419 - 0.2480	543.67 - 548.58	4125.45 - 4087.63
28	0.2481 - 0.2509	548.59 - 552.15	4087.62 - 4044.32
29	0.2510 - 0.2556	552.16 - 555.52	4044.31 - 3992.08
30	0.2557 - 0.2611	555.53 - 558.51	3992.07 - 3958.04
31	0.2612 - 0.2679	558.52 - 562.29	3958.03 - 3914.14
32	0.2680 - 0.2729	562.30 - 563.99	3914.13 - 3866.34
33	0.2730 - 0.2762	564.00 - 566.25	3866.33 - 3850.44
34	0.2763 - 0.2813	566.26 - 571.83	3850.43 - 3794.41
35	0.2814 - 0.2843	571.84 - 573.47	3794.40 - 3776.72
36	0.2844 - 0.2873	573.48 - 575.96	3776.71 - 3728.03
37	0.2874 - 0.2905	575.97 - 576.87	3728.02 - 3692.77
38	0.2906 - 0.2947	576.88 - 578.84	3692.76 - 3667.59
39	0.2948 - 0.3001	578.85 - 581.55	3667.58 - 3610.56
40	0.3002 - 0.3016	581.56 - 585.99	3610.55 - 3591.95
41	0.3017 - 0.3099	586.00 - 588.34	3591.94 - 3503.03
42	0.3100 - 0.3172	588.35 - 590.80	3503.02 - 3476.25
43	0.3173 - 0.3204	590.81 - 594.59	3476.24 - 3454.00
44	0.3205 - 0.3222	594.60 - 597.11	3453.99 - 3426.19
45	0.3223 - 0.3258	597.12 - 598.14	3426.18 - 3403.80
46	0.3259 - 0.3314	598.15 - 600.80	3403.79 - 3377.33
47	0.3315 - 0.3366	600.81 - 602.29	3377.32 - 3359.26
48	0.3367 - 0.3418	602.30 - 605.63	3359.25 - 3329.16
49	0.3419 - 0.3438	605.64 - 606.77	3329.15 - 3305.42
50	0.3439 - 0.3480	606.78 - 610.19	3305.41 - 3280.45

PART-A : CONTINUE

2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3481 - 0.3507	610.20 - 614.05	3280.44 - 3248.17
52	0.3508 - 0.3549	614.06 - 615.89	3248.16 - 3219.55
53	0.3550 - 0.3584	615.90 - 618.11	3219.54 - 3199.76
54	0.3585 - 0.3607	618.12 - 619.91	3199.75 - 3186.75
55	0.3608 - 0.3631	619.92 - 623.06	3186.74 - 3168.26
56	0.3632 - 0.3669	623.07 - 624.09	3168.25 - 3142.28
57	0.3670 - 0.3745	624.10 - 627.00	3142.27 - 3116.59
58	0.3746 - 0.3809	627.01 - 628.70	3116.58 - 3093.42
59	0.3810 - 0.3848	628.71 - 631.36	3093.41 - 3070.86
60	0.3849 - 0.3956	631.37 - 634.05	3070.85 - 3045.47
61	0.3957 - 0.4002	634.06 - 637.78	3045.46 - 3026.91
62	0.4003 - 0.4111	637.79 - 640.19	3026.90 - 3001.81
63	0.4112 - 0.4177	640.20 - 643.17	3001.80 - 2971.63
64	0.4178 - 0.4225	643.18 - 644.45	2971.62 - 2944.64
65	0.4226 - 0.4249	644.46 - 648.54	2944.63 - 2922.57
66	0.4250 - 0.4298	648.55 - 652.71	2922.56 - 2901.29
67	0.4299 - 0.4368	652.72 - 654.29	2901.28 - 2863.16
68	0.4369 - 0.4418	654.30 - 657.68	2863.15 - 2843.61
69	0.4419 - 0.4477	657.69 - 660.16	2843.60 - 2826.03
70	0.4478 - 0.4504	660.17 - 663.17	2826.02 - 2790.48
71	0.4505 - 0.4553	663.18 - 665.72	2790.47 - 2758.16
72	0.4554 - 0.4607	665.73 - 670.37	2758.15 - 2734.44
73	0.4608 - 0.4687	670.38 - 674.18	2734.43 - 2709.00
74	0.4688 - 0.4742	674.19 - 676.90	2708.99 - 2693.92
75	0.4743 - 0.4823	676.91 - 680.76	2693.91 - 2685.18
76	0.4824 - 0.4887	680.77 - 683.03	2685.17 - 2663.88
77	0.4888 - 0.4984	683.04 - 688.07	2663.87 - 2648.36
78	0.4985 - 0.5065	688.08 - 690.78	2648.35 - 2623.84
79	0.5066 - 0.5111	690.79 - 693.54	2623.83 - 2581.64
80	0.5112 - 0.5154	693.55 - 698.65	2581.63 - 2558.39
81	0.5155 - 0.5233	698.66 - 701.39	2558.38 - 2528.05
82	0.5234 - 0.5288	701.40 - 705.54	2528.04 - 2494.88
83	0.5289 - 0.5355	705.55 - 710.64	2494.87 - 2477.04
84	0.5356 - 0.5462	710.65 - 717.74	2477.03 - 2451.33
85	0.5463 - 0.5620	717.75 - 724.52	2451.32 - 2438.25
86	0.5621 - 0.5865	724.53 - 730.54	2438.24 - 2416.30
87	0.5866 - 0.6007	730.55 - 735.56	2416.29 - 2396.77
88	0.6008 - 0.6154	735.57 - 741.06	2396.76 - 2372.14
89	0.6155 - 0.6231	741.07 - 745.10	2372.13 - 2335.90
90	0.6232 - 0.6462	745.11 - 751.62	2335.89 - 2308.62
91	0.6463 - 0.6615	751.63 - 758.09	2308.61 - 2279.32
92	0.6616 - 0.6797	758.10 - 765.23	2279.31 - 2222.72
93	0.6798 - 0.7013	765.24 - 771.52	2222.71 - 2201.47
94	0.7014 - 0.7296	771.53 - 777.42	2201.46 - 2136.87
95	0.7297 - 0.7833	777.43 - 787.48	2136.86 - 2080.25
96	0.7834 - 0.8332	787.49 - 798.72	2080.24 - 2033.77
97	0.8333 - 0.8902	798.73 - 810.62	2033.76 - 1975.39
98	0.8903 - 0.9748	810.63 - 840.73	1975.38 - 1914.39
99	0.9749 - 1.2684	840.74 - 861.16	1914.38 - 1760.97
100	1.2685+	861.17+	1760.96 - 1.00

PART-B : SPECIAL NEEDS

PART-A : STRENGTHENING

2 YR PRIVATE

PART-B : SPECIAL NEEDS

2 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0,0001 - 0,0489	0,01 - 422,72	7560,27+
2	0,0490 - 0,0695	422,73 - 473,22	7560,26 - 6723,95
3	0,0696 - 0,0775	473,23 - 492,32	6723,94 - 6107,29
4	0,0776 - 0,0894	492,33 - 508,88	6107,28 - 5626,63
5	0,0895 - 0,0967	508,89 - 523,17	5626,62 - 5323,37
6	0,0968 - 0,1041	523,18 - 538,49	5323,36 - 5094,02
7	0,1042 - 0,1099	538,50 - 547,55	5094,01 - 4859,79
8	0,1100 - 0,1170	547,56 - 553,18	4859,78 - 4669,32
9	0,1171 - 0,1227	553,19 - 562,59	4669,30 - 4516,63
10	0,1228 - 0,1317	562,60 - 571,71	4516,62 - 4399,75
11	0,1318 - 0,1380	571,72 - 577,46	4399,74 - 4298,10
12	0,1381 - 0,1445	577,47 - 584,21	4298,09 - 4206,19
13	0,1446 - 0,1530	584,22 - 589,67	4206,18 - 4125,46
14	0,1531 - 0,1582	589,68 - 594,59	4125,45 - 4044,32
15	0,1583 - 0,1654	594,60 - 599,97	4044,31 - 3958,04
16	0,1660 - 0,1704	599,98 - 605,33	3958,03 - 3866,34
17	0,1705 - 0,1782	605,34 - 612,41	3866,33 - 3794,41
18	0,1783 - 0,1851	612,42 - 617,81	3794,40 - 3728,03
19	0,1852 - 0,1911	617,82 - 625,40	3728,02 - 3667,59
20	0,1912 - 0,1948	625,41 - 627,76	3667,58 - 3591,95
21	0,1949 - 0,1988	627,77 - 632,53	3591,94 - 3476,25
22	0,1989 - 0,2036	632,54 - 639,28	3476,24 - 3426,19
23	0,2037 - 0,2092	639,29 - 644,24	3426,18 - 3377,53
24	0,2093 - 0,2124	644,25 - 648,32	3377,32 - 3329,16
25	0,2125 - 0,2164	648,33 - 651,57	3329,15 - 3280,45
26	0,2165 - 0,2220	651,58 - 657,12	3280,44 - 3219,55
27	0,2221 - 0,2262	657,13 - 662,98	3219,54 - 3186,75
28	0,2263 - 0,2310	662,99 - 667,97	3186,74 - 3142,28
29	0,2311 - 0,2379	667,98 - 674,92	3142,27 - 3093,82
30	0,2380 - 0,2443	674,93 - 682,09	3093,81 - 3045,47
31	0,2444 - 0,2542	682,10 - 688,33	3045,46 - 3001,81
32	0,2543 - 0,2589	688,34 - 694,29	3001,80 - 2944,64
33	0,2590 - 0,2698	694,30 - 700,66	2944,63 - 2901,29
34	0,2699 - 0,2795	700,67 - 705,86	2901,28 - 2843,61
35	0,2796 - 0,2866	705,87 - 710,64	2843,60 - 2790,48
36	0,2867 - 0,2959	710,65 - 717,84	2790,47 - 2734,44
37	0,2960 - 0,3052	717,85 - 722,85	2734,43 - 2693,92
38	0,3053 - 0,3149	722,86 - 727,78	2693,91 - 2663,88
39	0,3150 - 0,3268	727,79 - 736,85	2663,87 - 2623,84
40	0,3269 - 0,3394	736,86 - 745,21	2623,83 - 2558,39
41	0,3395 - 0,3509	745,22 - 756,43	2558,38 - 2494,88
42	0,3510 - 0,3614	756,44 - 763,30	2494,87 - 2451,33
43	0,3615 - 0,3838	763,31 - 775,80	2451,32 - 2416,30
44	0,3839 - 0,4020	775,81 - 793,57	2416,29 - 2372,14
45	0,4021 - 0,4220	793,58 - 806,60	2372,13 - 2308,62
46	0,4221 - 0,4491	806,61 - 821,12	2308,61 - 2222,72
47	0,4492 - 0,4891	821,13 - 847,78	2222,71 - 2136,87
48	0,4892 - 0,5344	847,79 - 875,82	2136,86 - 2033,77
49	0,5345 - 0,6421	875,83 - 954,43	2033,76 - 1914,39
50	0,6422+	954,44+	1914,38 - 1,00

PART-A : STRENGTHENING

2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0,0001 - 0,0958	0,01 - 573,22	21390,55+
2	0,0959 - 0,1438	573,23 - 623,51	21390,54 - 13858,04
3	0,1439 - 0,1723	623,52 - 637,94	13858,03 - 11939,92
4	0,1724 - 0,1884	637,95 - 654,84	11939,91 - 9790,20
5	0,1885 - 0,2148	654,85 - 671,35	9790,19 - 8745,05
6	0,2149 - 0,2171	671,36 - 712,45	8745,04 - 8295,82
7	0,2172 - 0,2231	712,46 - 736,99	8295,80 - 7848,13
8	0,2231 - 0,2369	737,00 - 758,99	7848,12 - 7409,05
9	0,2370 - 0,2424	759,00 - 790,61	7409,04 - 7287,55
10	0,2425 - 0,2586	790,62 - 793,38	7287,54 - 6922,82
11	0,2587 - 0,2686	793,39 - 797,01	6922,80 - 6726,90
12	0,2687 - 0,2725	797,02 - 800,13	6726,89 - 6609,96
13	0,2726 - 0,2840	800,14 - 806,79	6609,95 - 6461,76
14	0,2841 - 0,2864	806,80 - 820,59	6461,75 - 5994,91
15	0,2865 - 0,3013	820,60 - 831,81	5994,89 - 5842,63
16	0,3014 - 0,3017	831,82 - 844,37	5842,62 - 5511,01
17	0,3018 - 0,3061	844,38 - 851,51	5511,00 - 5459,23
18	0,3062 - 0,3076	851,52 - 854,46	5459,21 - 5320,80
19	0,3077 - 0,3204	854,47 - 859,87	5320,79 - 5153,57
20	0,3205 - 0,3247	859,88 - 864,37	5153,55 - 5007,82
21	0,3248 - 0,3303	864,38 - 868,64	5007,80 - 4924,01
22	0,3304 - 0,3403	868,65 - 871,24	4924,00 - 4762,98
23	0,3404 - 0,3557	871,25 - 876,68	4762,96 - 4634,39
24	0,3558 - 0,3591	876,69 - 881,60	4634,38 - 4571,25
25	0,3592 - 0,3670	881,61 - 884,05	4571,24 - 4457,05
26	0,3671 - 0,3771	884,06 - 887,45	4457,04 - 4437,55
27	0,3772 - 0,3833	887,46 - 890,51	4437,54 - 4416,07
28	0,3834 - 0,3842	890,52 - 895,38	4416,05 - 4379,30
29	0,3843 - 0,3901	895,39 - 900,82	4379,29 - 4268,89
30	0,3902 - 0,4035	900,83 - 903,44	4268,88 - 4101,16
31	0,4036 - 0,4065	903,45 - 908,18	4101,14 - 4039,93
32	0,4066 - 0,4109	908,19 - 909,23	4039,92 - 4010,24
33	0,4110 - 0,4145	909,24 - 910,35	4010,23 - 3928,18
34	0,4146 - 0,4182	910,36 - 912,57	3928,17 - 3854,20
35	0,4183 - 0,4285	912,58 - 914,36	3854,19 - 3817,67
36	0,4286 - 0,4341	914,37 - 915,81	3817,66 - 3799,09
37	0,4342 - 0,4408	915,82 - 922,29	3799,08 - 3730,94
38	0,4409 - 0,4436	922,30 - 925,47	3730,93 - 3661,49
39	0,4437 - 0,4519	925,48 - 934,22	3661,48 - 3624,82
40	0,4520 - 0,4528	934,23 - 935,88	3624,81 - 3599,08
41	0,4529 - 0,4649	935,89 - 940,58	3599,07 - 3550,41
42	0,4650 - 0,4728	940,59 - 943,62	3550,40 - 3484,64
43	0,4729 - 0,4815	943,63 - 946,70	3484,63 - 3453,75
44	0,4816 - 0,4899	946,71 - 951,02	3453,74 - 3413,86
45	0,4900 - 0,4946	951,03 - 952,55	3413,85 - 3399,30
46	0,4947 - 0,5014	952,56 - 954,43	3399,29 - 3273,57
47	0,5015 - 0,5068	954,44 - 959,16	3273,56 - 3263,96
48	0,5069 - 0,5125	959,17 - 962,61	3263,95 - 3237,58
49	0,5126 - 0,5296	962,62 - 970,12	3237,57 - 3189,24
50	0,5297 - 0,5558	970,13 - 971,07	3189,23 - 3139,22

PART-A : CONTINUE

2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.5359 - 0.5447	971.08 - 975.34	3139.21 - 3125.79
52	0.5448 - 0.5529	975.35 - 976.74	3125.78 - 3105.30
53	0.5530 - 0.5548	976.75 - 978.06	3105.29 - 3074.31
54	0.5549 - 0.5576	976.07 - 980.55	3074.30 - 3069.29
55	0.5577 - 0.5642	980.56 - 984.38	3069.28 - 3027.28
56	0.5643 - 0.5689	984.39 - 989.75	3027.27 - 2983.23
57	0.5690 - 0.5872	989.76 - 990.81	2983.22 - 2951.65
58	0.5873 - 0.5924	990.82 - 995.79	2951.64 - 2928.63
59	0.5925 - 0.6011	995.80 - 999.42	2928.62 - 2788.02
60	0.6012 - 0.6089	999.43 -1000.79	2788.01 - 2746.90
61	0.6090 - 0.6167	1000.80 -1001.76	2746.89 - 2741.12
62	0.6168 - 0.6386	1001.77 -1005.61	2741.11 - 2715.40
63	0.6387 - 0.6516	1003.62 -1005.75	2715.39 - 2645.01
64	0.6517 - 0.6631	1005.76 -1009.93	2645.00 - 2583.80
65	0.6632 - 0.6819	1009.94 -1013.57	2583.79 - 2558.16
66	0.6820 - 0.6870	1013.58 -1018.83	2558.15 - 2525.54
67	0.6871 - 0.7080	1018.84 -1019.80	2525.53 - 2499.16
68	0.7081 - 0.7149	1019.81 -1024.56	2499.15 - 2475.69
69	0.7150 - 0.7205	1024.57 -1026.40	2475.68 - 2441.93
70	0.7206 - 0.7285	1026.41 -1034.12	2441.92 - 2361.71
71	0.7286 - 0.7373	1034.13 -1036.24	2361.70 - 2328.62
72	0.7374 - 0.7609	1036.25 -1036.80	2328.61 - 2300.84
73	0.7610 - 0.7735	1036.81 -1039.74	2300.83 - 2254.70
74	0.7736 - 0.7787	1039.75 -1045.66	2254.69 - 2225.74
75	0.7788 - 0.8021	1045.67 -1049.04	2225.73 - 2186.68
76	0.8022 - 0.8207	1049.05 -1064.94	2186.67 - 2151.69
77	0.8208 - 0.8444	1064.95 -1069.95	2151.68 - 2113.76
78	0.8445 - 0.8659	1069.96 -1073.90	2113.75 - 2044.82
79	0.8660 - 0.8737	1073.91 -1088.26	2044.81 - 2012.70
80	0.8738 - 0.8982	1088.27 -1095.04	2012.69 - 1990.67
81	0.8983 - 0.9143	1095.05 -1103.83	1990.66 - 1969.33
82	0.9144 - 0.9215	1103.84 -1113.79	1969.32 - 1930.48
83	0.9216 - 0.9226	1113.80 -1116.16	1930.47 - 1923.90
84	0.9227 - 0.9374	1116.17 -1121.03	1923.89 - 1888.54
85	0.9375 - 0.9625	1121.04 -1129.47	1888.53 - 1835.97
86	0.9626 - 0.9694	1129.48 -1133.46	1835.96 - 1824.82
87	0.9695 - 0.9972	1133.47 -1136.27	1824.81 - 1721.54
88	0.9973 - 1.0174	1136.28 -1142.04	1721.53 - 1681.23
89	1.0175 - 1.0197	1142.05 -1149.54	1681.22 - 1654.56
90	1.0198 - 1.0787	1149.55 -1154.61	1654.55 - 1563.47
91	1.0788 - 1.1039	1154.62 -1160.00	1563.46 - 1535.22
92	1.1040 - 1.1959	1160.01 -1172.20	1535.21 - 1502.39
93	1.1960 - 1.3003	1172.21 -1181.99	1502.38 - 1424.63
94	1.3004 - 1.4146	1182.00 -1192.82	1424.62 - 1243.14
95	1.4147 - 1.5640	1192.83 -1220.13	1243.13 - 1126.15
96	1.5641 - 1.6405	1220.14 -1230.99	1126.14 - 1024.85
97	1.6406 - 1.6499	1231.00 -1243.23	1024.84 - 978.15
98	1.6500 - 1.6500	1243.24 -1315.87	978.14 - 929.72
99	1.6500 - 1.6500	1315.88 -1328.87	929.71 - 756.78
100	1.6500+	1328.88+	756.77 - 1.00

PART-H : SPECIAL NEEDS

2 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0844	0.01 - 597.44	13858.04+
2	0.0845 - 0.1279	597.45 - 635.26	13858.03 - 9790.20
3	0.1280 - 0.1442	635.27 - 669.36	9790.19 - 8295.82
4	0.1443 - 0.1562	669.37 - 688.23	8295.80 - 7409.05
5	0.1563 - 0.1733	688.24 - 712.98	7409.04 - 6922.82
6	0.1734 - 0.1785	712.99 - 725.94	6922.80 - 6609.96
7	0.1786 - 0.1954	725.95 - 738.72	6609.95 - 5994.91
8	0.1955 - 0.2062	738.73 - 758.04	5994.59 - 5511.01
9	0.2063 - 0.2159	758.05 - 769.18	5511.00 - 5320.80
10	0.2160 - 0.2244	769.19 - 778.64	5320.79 - 5007.82
11	0.2245 - 0.2287	778.65 - 786.84	5007.80 - 4702.98
12	0.2288 - 0.2424	786.85 - 800.13	4702.96 - 4571.25
13	0.2425 - 0.2492	800.14 - 813.87	4571.24 - 4437.55
14	0.2493 - 0.2666	813.88 - 820.84	4437.54 - 4379.30
15	0.2667 - 0.2787	820.85 - 830.16	4379.29 - 4161.16
16	0.2788 - 0.2905	830.17 - 845.04	4161.14 - 4010.24
17	0.2906 - 0.2945	845.05 - 854.06	4010.23 - 3854.20
18	0.2946 - 0.3004	854.07 - 868.12	3854.19 - 3799.09
19	0.3005 - 0.3110	868.13 - 872.43	3799.08 - 3661.49
20	0.3111 - 0.3252	872.44 - 882.89	3661.48 - 3599.08
21	0.3253 - 0.3432	882.90 - 890.63	3599.07 - 3464.64
22	0.3433 - 0.3513	890.64 - 893.76	3464.63 - 3413.86
23	0.3514 - 0.3655	893.77 - 903.07	3413.85 - 3273.57
24	0.3656 - 0.3834	903.08 - 909.63	3273.56 - 3237.58
25	0.3835 - 0.3884	909.64 - 916.42	3237.57 - 3139.22
26	0.3885 - 0.4021	916.43 - 927.63	3139.21 - 3105.30
27	0.4022 - 0.4076	927.64 - 934.22	3105.29 - 3069.29
28	0.4077 - 0.4146	934.23 - 946.21	3069.28 - 2983.23
29	0.4147 - 0.4270	946.22 - 951.43	2983.22 - 2928.63
30	0.4271 - 0.4416	951.44 - 958.94	2928.62 - 2746.90
31	0.4417 - 0.4571	958.95 - 969.00	2746.89 - 2715.40
32	0.4572 - 0.4852	969.01 - 969.21	2715.39 - 2583.80
33	0.4853 - 0.4999	969.22 - 976.89	2583.79 - 2525.54
34	0.5000 - 0.5089	976.90 - 986.03	2525.53 - 2475.69
35	0.5090 - 0.5310	986.04 - 994.90	2475.68 - 2361.71
36	0.5311 - 0.5450	994.91 -1005.75	2361.70 - 2300.84
37	0.5451 - 0.5653	1005.76 -1019.47	2300.83 - 2225.74
38	0.5654 - 0.5934	1019.48 -1026.76	2225.73 - 2151.69
39	0.5935 - 0.6254	1026.77 -1034.67	2151.68 - 2048.82
40	0.6255 - 0.6668	1034.68 -1077.27	2044.81 - 1996.87
41	0.6669 - 0.6766	1077.28 -1096.69	1996.86 - 1930.48
42	0.6767 - 0.7424	1096.70 -1111.98	1930.47 - 1888.54
43	0.7425 - 0.7620	1111.99 -1129.47	1888.53 - 1824.82
44	0.7621 - 0.8408	1129.48 -1148.44	1824.81 - 1681.23
45	0.8409 - 0.8990	1148.45 -1161.14	1681.22 - 1563.47
46	0.8991 - 0.9676	1161.15 -1181.99	1563.46 - 1502.39
47	0.9677 - 1.0146	1182.00 -1230.27	1502.38 - 1243.14
48	1.0147 - 1.2772	1230.28 -1308.46	1243.13 - 1024.85
49	1.2773 - 1.6499	1308.47 -1342.61	1024.84 - 929.72
50	1.6500+	1342.62+	929.71 - 1.00

PART-A : STRENGTHENING

PART-A : CONTINUE

4 YR PUBLIC

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PART-A : STRENGTHENING

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.1139	0.01 - 573.37	22191.88+
2	0.1140 - 0.1332	573.38 - 617.90	22191.87 -18000.83
3	0.1333 - 0.1520	617.91 - 631.12	18000.82 -15070.80
4	0.1521 - 0.1549	631.13 - 641.45	15070.79 -11645.29
5	0.1550 - 0.1670	641.46 - 646.28	11645.28 -10423.44
6	0.1671 - 0.1726	646.29 - 660.94	10423.43 - 9921.37
7	0.1727 - 0.1842	660.95 - 673.51	9921.36 - 8918.65
8	0.1843 - 0.1857	673.52 - 680.58	8918.64 - 8146.41
9	0.1858 - 0.1918	680.59 - 689.24	8146.39 - 7843.06
10	0.1919 - 0.1963	689.25 - 693.89	7843.05 - 7536.63
11	0.1964 - 0.2009	693.90 - 700.64	7536.62 - 7350.50
12	0.2010 - 0.2063	700.65 - 707.57	7350.49 - 7068.48
13	0.2064 - 0.2083	707.58 - 713.20	7068.46 - 6826.30
14	0.2084 - 0.2099	713.21 - 718.33	6826.29 - 6547.97
15	0.2100 - 0.2207	718.34 - 721.80	6547.96 - 6449.02
16	0.2208 - 0.2226	721.81 - 728.84	6449.01 - 6230.55
17	0.2227 - 0.2305	728.85 - 732.68	6230.54 - 6112.41
18	0.2306 - 0.2326	732.69 - 736.96	6112.39 - 6005.05
19	0.2327 - 0.2340	736.97 - 742.62	6005.04 - 5918.33
20	0.2341 - 0.2376	742.63 - 744.66	5918.32 - 5822.16
21	0.2377 - 0.2405	744.67 - 747.36	5822.14 - 5796.03
22	0.2406 - 0.2442	747.37 - 751.64	5796.02 - 5681.08
23	0.2443 - 0.2459	751.65 - 758.25	5681.07 - 5573.34
24	0.2460 - 0.2483	758.26 - 764.79	5573.33 - 5433.63
25	0.2484 - 0.2518	764.80 - 767.43	5433.62 - 5272.98
26	0.2519 - 0.2545	767.44 - 770.18	5272.96 - 5227.31
27	0.2546 - 0.2562	770.19 - 774.27	5227.30 - 5087.67
28	0.2563 - 0.2575	774.28 - 779.63	5087.66 - 4983.79
29	0.2576 - 0.2604	779.64 - 783.15	4983.78 - 4964.76
30	0.2605 - 0.2649	783.16 - 791.16	4964.75 - 4862.78
31	0.2650 - 0.2693	791.17 - 792.69	4862.77 - 4823.04
32	0.2694 - 0.2727	792.70 - 794.32	4823.03 - 4762.16
33	0.2728 - 0.2783	794.33 - 796.89	4762.14 - 4687.65
34	0.2784 - 0.2813	796.90 - 800.26	4687.64 - 4628.16
35	0.2814 - 0.2843	800.27 - 802.12	4628.14 - 4568.04
36	0.2844 - 0.2859	802.13 - 803.68	4568.03 - 4503.25
37	0.2860 - 0.2884	803.69 - 805.66	4503.24 - 4469.99
38	0.2885 - 0.2923	805.67 - 808.49	4469.98 - 4407.46
39	0.2924 - 0.2935	808.50 - 811.60	4407.45 - 4371.86
40	0.2936 - 0.2965	811.61 - 815.29	4371.85 - 4338.75
41	0.2966 - 0.2997	815.30 - 816.15	4338.74 - 4305.27
42	0.2998 - 0.3035	816.16 - 817.23	4305.26 - 4263.28
43	0.3036 - 0.3048	817.24 - 821.36	4263.27 - 4209.54
44	0.3049 - 0.3075	821.37 - 825.06	4209.53 - 4180.99
45	0.3076 - 0.3133	825.07 - 827.10	4180.98 - 4114.75
46	0.3134 - 0.3142	827.11 - 828.34	4114.74 - 4090.86
47	0.3143 - 0.3157	828.35 - 831.43	4090.85 - 4058.36
48	0.3158 - 0.3173	831.44 - 833.99	4058.35 - 4031.66
49	0.3174 - 0.3190	834.00 - 836.61	4031.65 - 4006.60
50	0.3191 - 0.3241	836.62 - 839.13	4006.59 - 3944.34

PART-A : CONTINUE

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3242 - 0.3267	839.14 - 840.53	3944.33 - 3919.94
52	0.3268 - 0.3276	840.54 - 841.81	3919.93 - 3889.87
53	0.3277 - 0.3330	841.82 - 843.83	3889.86 - 3850.68
54	0.3331 - 0.3355	843.84 - 845.03	3850.67 - 3781.81
55	0.3356 - 0.3395	845.04 - 845.77	3781.80 - 3754.78
56	0.3396 - 0.3434	845.78 - 848.36	3754.77 - 3711.80
57	0.3435 - 0.3469	848.37 - 850.13	3711.79 - 3674.77
58	0.3470 - 0.3518	850.14 - 853.62	3674.76 - 3595.21
59	0.3519 - 0.3553	853.63 - 854.97	3595.20 - 3557.17
60	0.3554 - 0.3580	854.98 - 856.84	3557.16 - 3543.72
61	0.3581 - 0.3610	856.85 - 860.91	3543.71 - 3510.03
62	0.3611 - 0.3622	860.92 - 863.89	3510.02 - 3448.13
63	0.3623 - 0.3640	863.90 - 868.90	3448.12 - 3422.20
64	0.3641 - 0.3676	868.91 - 870.78	3422.19 - 3404.81
65	0.3677 - 0.3749	870.79 - 872.66	3404.80 - 3380.18
66	0.3750 - 0.3781	872.67 - 876.24	3380.17 - 3336.48
67	0.3782 - 0.3820	876.25 - 881.47	3336.47 - 3324.10
68	0.3821 - 0.3861	881.48 - 883.25	3324.09 - 3299.56
69	0.3862 - 0.3911	883.26 - 884.28	3299.57 - 3284.63
70	0.3912 - 0.3995	884.29 - 886.39	3284.62 - 3256.53
71	0.3996 - 0.4042	886.40 - 889.65	3256.52 - 3184.56
72	0.4043 - 0.4082	889.66 - 890.75	3184.55 - 3159.90
73	0.4083 - 0.4109	890.76 - 891.79	3159.89 - 3144.01
74	0.4110 - 0.4212	891.80 - 892.64	3144.00 - 3073.79
75	0.4213 - 0.4270	892.65 - 896.92	3073.78 - 3062.16
76	0.4271 - 0.4339	896.93 - 900.47	3062.15 - 3023.42
77	0.4340 - 0.4402	900.48 - 904.24	3023.41 - 3014.78
78	0.4403 - 0.4469	904.25 - 907.21	3014.77 - 2973.08
79	0.4470 - 0.4590	907.22 - 911.65	2973.07 - 2959.62
80	0.4591 - 0.4699	911.66 - 914.84	2959.61 - 2945.90
81	0.4700 - 0.4915	914.85 - 919.80	2945.89 - 2916.42
82	0.4916 - 0.4971	919.81 - 921.67	2916.41 - 2883.20
83	0.4972 - 0.5098	921.68 - 925.77	2883.19 - 2861.51
84	0.5099 - 0.5175	925.78 - 935.23	2861.50 - 2833.69
85	0.5176 - 0.5293	935.24 - 938.14	2833.68 - 2819.27
86	0.5294 - 0.5494	938.15 - 949.89	2819.26 - 2739.04
87	0.5495 - 0.5628	949.90 - 956.67	2739.03 - 2728.95
88	0.5629 - 0.5729	956.68 - 959.35	2728.94 - 2664.43
89	0.5730 - 0.6003	959.36 - 968.39	2664.42 - 2631.48
90	0.6004 - 0.6137	968.40 - 980.04	2631.47 - 2572.99
91	0.6138 - 0.6502	980.05 - 986.91	2572.98 - 2476.21
92	0.6503 - 0.6833	986.92 - 997.56	2476.20 - 2449.73
93	0.6834 - 0.7217	997.57 -1002.00	2449.72 - 2410.79
94	0.7218 - 0.7784	1002.01 -1012.31	2410.78 - 2347.88
95	0.7785 - 0.7911	1012.32 -1035.08	2347.87 - 2314.44
96	0.7912 - 0.8320	1035.09 -1056.01	2314.43 - 2273.26
97	0.8321 - 0.8606	1056.02 -1072.59	2273.25 - 2188.87
98	0.8607 - 0.8780	1072.60 -1098.74	2188.86 - 2134.18
99	0.8781 - 0.9038	1098.75 -1167.41	2134.17 - 1973.19
100	0.9039+	1167.42+	1973.18 - 1.00

PART-A : STRENGTHENING

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0864	0.01 - 695.61	20062.09+
2	0.0865 - 0.1059	695.62 - 789.06	20062.08 -14952.07
3	0.1060 - 0.1205	789.07 - 820.26	14952.05 -12258.44
4	0.1206 - 0.1345	820.27 - 850.81	12258.43 -11136.20
5	0.1346 - 0.1533	850.82 - 865.81	11136.19 -10191.53
6	0.1534 - 0.1612	865.82 - 877.45	10191.52 - 9872.54
7	0.1613 - 0.1704	877.46 - 883.79	9872.53 - 9523.39
8	0.1705 - 0.1774	883.80 - 887.97	9523.38 - 9120.43
9	0.1775 - 0.1851	887.98 - 898.40	9120.42 - 8818.13
10	0.1852 - 0.1901	898.41 - 903.33	8818.12 - 8505.88
11	0.1902 - 0.1941	903.34 - 909.17	8505.87 - 8215.24
12	0.1942 - 0.2003	909.18 - 913.86	8215.23 - 7860.74
13	0.2004 - 0.2064	913.87 - 919.25	7860.73 - 7608.12
14	0.2065 - 0.2102	919.26 - 925.72	7608.11 - 7472.23
15	0.2103 - 0.2162	923.73 - 926.05	7472.21 - 7273.46
16	0.2163 - 0.2206	926.06 - 929.56	7273.45 - 7085.21
17	0.2207 - 0.2308	929.59 - 933.00	7085.20 - 7000.00
18	0.2309 - 0.2347	933.01 - 939.15	6999.99 - 6872.23
19	0.2348 - 0.2387	939.16 - 941.22	6872.21 - 6775.15
20	0.2388 - 0.2436	941.23 - 943.16	6775.14 - 6651.76
21	0.2439 - 0.2467	943.17 - 947.16	6651.75 - 6542.32
22	0.2468 - 0.2559	947.17 - 951.02	6542.30 - 6503.20
23	0.2560 - 0.2618	951.03 - 955.65	6503.19 - 6387.74
24	0.2619 - 0.2654	955.66 - 959.49	6387.73 - 6280.41
25	0.2655 - 0.2690	959.50 - 963.90	6280.39 - 6197.99
26	0.2691 - 0.2726	963.91 - 967.59	6197.98 - 6144.89
27	0.2727 - 0.2769	967.60 - 970.79	6144.88 - 6086.43
28	0.2770 - 0.2812	970.80 - 972.59	6086.42 - 5948.18
29	0.2813 - 0.2862	972.60 - 975.13	5948.17 - 5884.55
30	0.2863 - 0.2908	975.14 - 977.58	5884.54 - 5813.29
31	0.2909 - 0.2954	977.59 - 979.85	5813.28 - 5756.20
32	0.2955 - 0.3002	979.86 - 982.63	5756.19 - 5671.61
33	0.3003 - 0.3035	982.64 - 986.04	5671.60 - 5597.59
34	0.3036 - 0.3092	986.05 - 988.99	5597.58 - 5541.37
35	0.3093 - 0.3111	989.00 - 991.54	5541.36 - 5483.98
36	0.3112 - 0.3158	991.55 - 994.36	5483.96 - 5430.32
37	0.3159 - 0.3196	994.37 - 995.79	5430.30 - 5389.49
38	0.3197 - 0.3223	995.80 - 997.97	5389.48 - 5346.92
39	0.3224 - 0.3266	997.98 -1001.06	5346.91 - 5319.62
40	0.3267 - 0.3290	1001.09 -1002.89	5319.80 - 5281.14
41	0.3291 - 0.3361	1002.90 -1005.28	5281.13 - 5209.20
42	0.3362 - 0.3419	1005.29 -1006.50	5209.19 - 5183.43
43	0.3420 - 0.3470	1006.51 -1010.74	5183.42 - 5104.30
44	0.3471 - 0.3508	1010.75 -1013.30	5104.29 - 5057.97
45	0.3509 - 0.3555	1013.31 -1016.90	5057.96 - 5030.56
46	0.3556 - 0.3582	1016.91 -1019.46	5030.55 - 4990.63
47	0.3583 - 0.3616	1019.47 -1023.81	4990.62 - 4933.89
48	0.3617 - 0.3671	1023.82 -1025.42	4933.88 - 4885.75
49	0.3672 - 0.3724	1025.43 -1027.20	4885.74 - 4829.41
50	0.3725 - 0.3749	1027.27 -1030.63	4829.39 - 4770.40

PART-B : SPECIAL NEEDS

4 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001 - 0.0996	0.01 - 667.95	18000.83+
2	0.0997 - 0.1136	667.96 - 709.21	18000.82 -11645.29
3	0.1137 - 0.1248	709.22 - 723.25	11645.28 - 9921.37
4	0.1249 - 0.1364	723.26 - 735.74	9921.36 - 8146.41
5	0.1365 - 0.1414	735.75 - 751.37	8146.39 - 7536.83
6	0.1415 - 0.1484	751.38 - 767.37	7536.82 - 7068.48
7	0.1485 - 0.1534	767.38 - 776.28	7068.46 - 6547.97
8	0.1535 - 0.1586	776.29 - 787.63	6547.96 - 6230.55
9	0.1587 - 0.1676	787.64 - 794.45	6230.54 - 6005.05
10	0.1677 - 0.1769	794.46 - 804.63	6005.04 - 5822.16
11	0.1770 - 0.1805	804.64 - 811.69	5822.14 - 5681.08
12	0.1806 - 0.1874	811.70 - 814.50	5681.07 - 5433.63
13	0.1875 - 0.1922	814.51 - 825.52	5433.62 - 5227.31
14	0.1923 - 0.1963	825.53 - 828.34	5227.30 - 4983.79
15	0.1964 - 0.2017	828.35 - 837.84	4983.78 - 4862.78
16	0.2018 - 0.2061	837.85 - 846.16	4862.77 - 4762.16
17	0.2062 - 0.2095	846.17 - 851.68	4762.14 - 4628.16
18	0.2096 - 0.2125	851.69 - 857.72	4628.14 - 4503.25
19	0.2126 - 0.2165	857.73 - 861.79	4503.24 - 4407.46
20	0.2166 - 0.2192	861.80 - 865.53	4407.45 - 4338.75
21	0.2193 - 0.2216	865.54 - 869.95	4338.74 - 4263.28
22	0.2217 - 0.2300	869.96 - 874.51	4263.27 - 4180.99
23	0.2301 - 0.2336	874.52 - 879.57	4180.98 - 4090.86
24	0.2337 - 0.2371	879.58 - 885.73	4090.85 - 4031.66
25	0.2372 - 0.2408	885.74 - 892.23	4031.65 - 3944.34
26	0.2409 - 0.2472	892.24 - 900.68	3944.33 - 3889.87
27	0.2473 - 0.2512	900.69 - 906.07	3889.86 - 3781.81
28	0.2513 - 0.2590	906.08 - 913.15	3781.80 - 3711.80
29	0.2591 - 0.2618	913.16 - 917.66	3711.79 - 3595.21
30	0.2619 - 0.2657	917.67 - 922.49	3595.20 - 3543.72
31	0.2658 - 0.2728	922.50 - 934.11	3543.71 - 3448.13
32	0.2729 - 0.2804	934.12 - 939.27	3448.12 - 3404.81
33	0.2805 - 0.2974	939.28 - 948.64	3404.80 - 3336.48
34	0.2975 - 0.3083	948.65 - 959.35	3336.47 - 3299.58
35	0.3084 - 0.3173	959.36 - 968.41	3299.57 - 3256.53
36	0.3174 - 0.3200	968.42 - 975.34	3256.52 - 3159.90
37	0.3201 - 0.3330	975.35 - 981.92	3159.89 - 3073.79
38	0.3331 - 0.3412	981.93 - 988.35	3073.78 - 3023.42
39	0.3413 - 0.3521	988.36 -1003.93	3023.41 - 2973.08
40	0.3522 - 0.3631	1003.94 -1016.59	2973.07 - 2945.90
41	0.3632 - 0.3874	1016.60 -1028.87	2945.89 - 2883.20
42	0.3875 - 0.4039	1028.88 -1045.87	2883.19 - 2833.69
43	0.4040 - 0.4539	1045.88 -1062.23	2833.68 - 2739.04
44	0.4540 - 0.4690	1062.24 -1073.09	2739.03 - 2664.43
45	0.4691 - 0.4881	1073.10 -1089.30	2664.42 - 2572.99
46	0.4882 - 0.5447	1089.31 -1127.26	2572.98 - 2449.73
47	0.5448 - 0.6238	1127.27 -1149.24	2449.72 - 2347.88
48	0.6239 - 0.6917	1149.25 -1186.35	2347.87 - 2273.26
49	0.6918 - 0.7668	1186.36 -1251.87	2273.25 - 2134.18
50	0.7669+	1251.88+	2134.17 - 1.00

PART-A : CONTINUE

4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0996	0.01 - 667.95	18000.83+
2	0.0997 - 0.1136	667.96 - 709.21	18000.82 -11645.29
3	0.1137 - 0.1248	709.22 - 723.25	11645.28 - 9921.37
4	0.1249 - 0.1364	723.26 - 735.74	9921.36 - 8146.41
5	0.1365 - 0.1414	735.75 - 751.37	8146.39 - 7536.83
6	0.1415 - 0.1484	751.38 - 767.37	7536.82 - 7068.48
7	0.1485 - 0.1534	767.38 - 776.28	7068.46 - 6547.97
8	0.1535 - 0.1586	776.29 - 787.63	6547.96 - 6230.55
9	0.1587 - 0.1676	787.64 - 794.45	6230.54 - 6005.05
10	0.1677 - 0.1769	794.46 - 804.63	6005.04 - 5822.16
11	0.1770 - 0.1805	804.64 - 811.69	5822.14 - 5681.08
12	0.1806 - 0.1874	811.70 - 814.50	5681.07 - 5433.63
13	0.1875 - 0.1922	814.51 - 825.52	5433.62 - 5227.31
14	0.1923 - 0.1963	825.53 - 828.34	5227.30 - 4983.79
15	0.1964 - 0.2017	828.35 - 837.84	4983.78 - 4862.78
16	0.2018 - 0.2061	837.85 - 846.16	4862.77 - 4762.16
17	0.2062 - 0.2095	846.17 - 851.68	4762.14 - 4628.16
18	0.2096 - 0.2125	851.69 - 857.72	4628.14 - 4503.25
19	0.2126 - 0.2165	857.73 - 861.79	4503.24 - 4407.46
20	0.2166 - 0.2192	861.80 - 865.53	4407.45 - 4338.75
21	0.2193 - 0.2216	865.54 - 869.95	4338.74 - 4263.28
22	0.2217 - 0.2300	869.96 - 874.51	4263.27 - 4180.99
23	0.2301 - 0.2336	874.52 - 879.57	4180.98 - 4090.86
24	0.2337 - 0.2371	879.58 - 885.73	4090.85 - 4031.66
25	0.2372 - 0.2408	885.74 - 892.23	4031.65 - 3944.34
26	0.2409 - 0.2472	892.24 - 900.68	3944.33 - 3889.87
27	0.2473 - 0.2512	900.69 - 906.07	3889.86 - 3781.81
28	0.2513 - 0.2590	906.08 - 913.15	3781.80 - 3711.80
29	0.2591 - 0.2618	913.16 - 917.66	3711.79 - 3595.21
30	0.2619 - 0.2657	917.67 - 922.49	3595.20 - 3543.72
31	0.2658 - 0.2728	922.50 - 934.11	3543.71 - 3448.13
32	0.2729 - 0.2804	934.12 - 939.27	3448.12 - 3404.81
33	0.2805 - 0.2974	939.28 - 948.64	3404.80 - 3336.48
34	0.2975 - 0.3083	948.65 - 959.35	3336.47 - 3299.58
35	0.3084 - 0.3173	959.36 - 968.41	3299.57 - 3256.53
36	0.3174 - 0.3200	968.42 - 975.34	3256.52 - 3159.90
37	0.3201 - 0.3330	975.35 - 981.92	3159.89 - 3073.79
38	0.3331 - 0.3412	981.93 - 988.35	3073.78 - 3023.42
39	0.3413 - 0.3521	988.36 -1003.93	3023.41 - 2973.08
40	0.3522 - 0.3631	1003.94 -1016.59	2973.07 - 2945.90
41	0.3632 - 0.3874	1016.60 -1028.87	2945.89 - 2883.20
42	0.3875 - 0.4039	1028.88 -1045.87	2883.19 - 2833.69
43	0.4040 - 0.4539	1045.88 -1062.23	2833.68 - 2739.04
44	0.4540 - 0.4690	1062.24 -1073.09	2739.03 - 2664.43
45	0.4691 - 0.4881	1073.10 -1089.30	2664.42 - 2572.99
46	0.4882 - 0.5447	1089.31 -1127.26	2572.98 - 2449.73
47	0.5448 - 0.6238	1127.27 -1149.24	2449.72 - 2347.88
48	0.6239 - 0.6917	1149.25 -1186.35	2347.87 - 2273.26
49	0.6918 - 0.7668	1186.36 -1251.87	2273.25 - 2134.18
50	0.7669+	1251.88+	2134.17 - 1.00

PART-B : SPECIAL NEEDS

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0864	0.01 - 695.61	20062.09+
2	0.0865 - 0.1059	695.62 - 789.06	20062.08 -14952.07
3	0.1060 - 0.1205	789.07 - 820.26	14952.05 -12258.44
4	0.1206 - 0.1345	820.27 - 850.81	12258.43 -11136.20
5	0.1346 - 0.1533	850.82 - 865.81	11136.19 -10191.53
6	0.1534 - 0.1612	865.82 - 877.45	10191.52 - 9872.54
7	0.1613 - 0.1704	877.46 - 883.79	9872.53 - 9523.39
8	0.1705 - 0.1774	883.80 - 887.97	9523.38 - 9120.43
9	0.1775 - 0.1851	887.98 - 898.40	9120.42 - 8818.13
10	0.1852 - 0.1901	898.41 - 903.33	8818.12 - 8505.88
11	0.1902 - 0.1941	903.34 - 909.17	8505.87 - 8215.24
12	0.1942 - 0.2003	909.18 - 913.86	8215.23 - 7860.74
13	0.2004 - 0.2064	913.87 - 919.25	7860.73 - 7608.12
14	0.2065 - 0.2102	919.26 - 925.72	7608.11 - 7472.23
15	0.2103 - 0.2162	923.73 - 926.05	7472.21 - 7273.46
16	0.2163 - 0.2206	926.06 - 929.56	7273.45 - 7085.21
17	0.2207 - 0.2308	929.59 - 933.00	7085.20 - 7000.00
18	0.2309 - 0.2347	933.01 - 939.15	6999.99 - 6872.23
19	0.2348 - 0.2387	939.16 - 941.22	6872.21 - 6775.15
20	0.2388 - 0.2436	941.23 - 943.16	6775.14 - 6651.76
21	0.2439 - 0.2467	943.17 - 947.16	6651.75 - 6542.32
22	0.2468 - 0.2559	947.17 - 951.02	6542.30 - 6503.20
23	0.2560 - 0.2618	951.03 - 955.65	6503.19 - 6387.74
24	0.2619 - 0.2654	955.66 - 959.49	6387.73 - 6280.41
25	0.2655 - 0.2690	959.50 - 963.90	6280.39 - 6197.99
26	0.2691 - 0.2726	963.91 - 967.59	6197.98 - 6144.89
27	0.2727 - 0.2769	967.60 - 970.79	6144.88 - 6086.43
28	0.2770 - 0.2812	970.80 - 972.59	6086.42 - 5948.18
29	0.2813 - 0.2862	972.60 - 975.13	5948.17 - 5884.55
30	0.2863 - 0.2908	975.14 - 977.58	5884.54 - 5813.29
31	0.2909 - 0.2954	977.59 - 979.85	5813.28 - 5756.20
32	0.2955 - 0.3002	979.86 - 982.63	5756.19 - 5671.61
33	0.3003 - 0.3035	982.64 - 986.04	5671.60 - 5597.59
34	0.3036 - 0.3092	986.05 - 988.99	5597.58 - 5541.37
35	0.3093 - 0.3111	989.00 - 991.54	5541.36 - 5483.98
36	0.3112 - 0.3158	991.55 - 994.36	5483.96 - 5430.32
37	0.3159 - 0.3196	994.37 - 995.79	5430.30 - 5389.49
38	0.3197 - 0.3223	995.80 - 997.97	5389.48 - 5346.92
39	0.3224 - 0.3266	997.98 -1001.06	5346.91 - 5319.62
40	0.3267 - 0.3290	1001.09 -1002.89	5319.80 - 5281.14
41	0.3291 - 0.3361	1002.90 -1005.28	5281.13 - 5209.20
42	0.3362 - 0.3419	1005.29 -1006.50	5209.19 - 5183.43
43	0.3420 - 0.3470	1006.51 -1010.74	5183.42 - 5104.30
44	0.3471 - 0.3508	1010.75 -1013.30	5104.29 - 5057.97
45	0.3509 - 0.3555	1013.31 -1016.90	5057.96 - 5030.56
46	0.3556 - 0.3582	1016.91 -1019.46	5030.55 - 4990.63
47	0.3583 - 0.3616	1019.47 -1023.81	4990.62 - 4933.89
48	0.3617 - 0.3671	1023.82 -1025.42	4933.88 - 4885.75
49	0.3672 - 0.3724	1025.43 -1027.20	4885.74 - 4829.41
50	0.3725 - 0.3749	1027.27 -1030.63	4829.39 - 4770.40

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PART-A (CONTINUE

4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0,3750 - 0,3798	1030,64 -1033,52	4770,39 - 4746,50
52	0,3799 - 0,3843	1033,53 -1035,76	4746,49 - 4694,10
53	0,3844 - 0,3894	1035,77 -1038,59	4694,09 - 4634,94
54	0,3895 - 0,3913	1038,60 -1040,71	4634,93 - 4588,70
55	0,3914 - 0,3957	1040,72 -1045,27	4588,69 - 4543,34
56	0,3958 - 0,3995	1045,28 -1048,07	4543,33 - 4502,72
57	0,3996 - 0,4027	1048,08 -1050,02	4502,71 - 4465,56
58	0,4028 - 0,4080	1050,03 -1054,38	4465,55 - 4395,88
59	0,4081 - 0,4117	1054,39 -1055,40	4395,87 - 4334,90
60	0,4118 - 0,4166	1055,41 -1058,17	4334,89 - 4291,84
61	0,4167 - 0,4236	1058,18 -1062,02	4291,83 - 4235,57
62	0,4237 - 0,4281	1062,03 -1065,00	4235,55 - 4198,03
63	0,4282 - 0,4338	1065,01 -1066,45	4198,02 - 4166,52
64	0,4339 - 0,4399	1066,46 -1068,84	4166,51 - 4104,88
65	0,4400 - 0,4442	1068,85 -1071,64	4104,87 - 4020,28
66	0,4443 - 0,4506	1071,65 -1075,90	4020,27 - 3972,58
67	0,4507 - 0,4591	1075,91 -1082,76	3972,57 - 3923,91
68	0,4592 - 0,4643	1082,77 -1087,99	3923,90 - 3896,90
69	0,4644 - 0,4684	1088,00 -1090,51	3896,89 - 3847,66
70	0,4685 - 0,4775	1090,52 -1095,58	3847,65 - 3807,64
71	0,4776 - 0,4827	1095,59 -1100,58	3807,63 - 3766,09
72	0,4828 - 0,4879	1100,59 -1102,51	3766,08 - 3719,26
73	0,4880 - 0,4962	1102,52 -1105,76	3719,25 - 3669,75
74	0,4963 - 0,5006	1105,77 -1110,39	3669,74 - 3616,72
75	0,5007 - 0,5067	1110,40 -1115,64	3616,71 - 3578,17
76	0,5068 - 0,5144	1115,65 -1118,62	3578,16 - 3525,35
77	0,5145 - 0,5196	1118,63 -1122,35	3525,34 - 3494,11
78	0,5197 - 0,5269	1122,36 -1126,87	3494,10 - 3435,14
79	0,5270 - 0,5372	1126,88 -1131,80	3435,13 - 3380,12
80	0,5373 - 0,5465	1131,81 -1137,17	3380,11 - 3305,15
81	0,5466 - 0,5570	1137,18 -1144,48	3305,14 - 3263,71
82	0,5571 - 0,5647	1144,49 -1151,57	3263,70 - 3222,09
83	0,5648 - 0,5741	1151,58 -1159,05	3222,08 - 3167,71
84	0,5742 - 0,5921	1159,06 -1167,57	3167,70 - 3130,36
85	0,5922 - 0,6066	1167,58 -1178,91	3130,35 - 3068,55
86	0,6067 - 0,6162	1178,92 -1186,16	3068,54 - 3012,88
87	0,6163 - 0,6320	1186,17 -1194,99	3012,87 - 2926,52
88	0,6321 - 0,6666	1195,00 -1210,30	2926,51 - 2830,29
89	0,6667 - 0,6808	1210,31 -1234,72	2830,28 - 2768,54
90	0,6809 - 0,7033	1234,73 -1256,80	2768,53 - 2672,37
91	0,7034 - 0,7466	1256,81 -1284,64	2672,36 - 2582,27
92	0,7467 - 0,7765	1284,65 -1305,09	2582,26 - 2506,80
93	0,7766 - 0,8188	1305,10 -1334,16	2506,79 - 2412,02
94	0,8189 - 0,8610	1334,17 -1352,67	2412,01 - 2300,31
95	0,8611 - 0,8810	1352,68 -1372,62	2300,30 - 2158,15
96	0,8811 - 0,9450	1372,63 -1409,40	2158,14 - 1997,69
97	0,9451 - 0,9935	1409,41 -1466,11	1997,68 - 1801,28
98	0,9936 - 1,1036	1466,12 -1556,23	1801,27 - 1600,64
99	1,1037 - 1,3181	1556,24 -1649,46	1600,63 - 1175,37
100	1,3182+	1649,47+	1175,36 - 1,00

PART-B (SPECIAL NEEDS

4 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0,0001 - 0,0817	0,01 - 740,66	14952,07+
2	0,0818 - 0,1233	740,67 - 796,78	14952,05 -11136,20
3	0,1234 - 0,1444	796,79 - 837,76	11136,19 - 9872,54
4	0,1445 - 0,1626	837,77 - 866,53	9872,53 - 9120,43
5	0,1627 - 0,1776	866,54 - 886,80	9120,42 - 8505,88
6	0,1777 - 0,1870	886,81 - 907,04	8505,87 - 7860,74
7	0,1871 - 0,1998	907,05 - 921,68	7860,73 - 7472,23
8	0,1999 - 0,2107	921,69 - 935,11	7472,21 - 7085,21
9	0,2108 - 0,2181	935,12 - 946,51	7085,20 - 6872,23
10	0,2182 - 0,2285	946,52 - 956,32	6872,21 - 6651,76
11	0,2286 - 0,2356	956,33 - 968,28	6651,75 - 6503,20
12	0,2359 - 0,2447	968,29 - 978,43	6503,19 - 6280,41
13	0,2448 - 0,2519	978,44 - 990,02	6280,39 - 6144,89
14	0,2520 - 0,2602	990,03 -1000,85	6144,88 - 5948,18
15	0,2603 - 0,2679	1000,86 -1014,67	5948,17 - 5813,29
16	0,2680 - 0,2745	1014,68 -1025,28	5813,28 - 5671,61
17	0,2746 - 0,2822	1025,29 -1035,34	5671,60 - 5541,37
18	0,2823 - 0,2877	1035,35 -1044,88	5541,36 - 5430,32
19	0,2878 - 0,2933	1044,89 -1055,57	5430,30 - 5346,92
20	0,2934 - 0,3031	1055,58 -1065,69	5346,91 - 5281,14
21	0,3032 - 0,3107	1065,70 -1073,01	5281,13 - 5183,43
22	0,3108 - 0,3179	1073,02 -1078,92	5183,42 - 5057,97
23	0,3180 - 0,3264	1078,93 -1088,27	5057,96 - 4990,63
24	0,3265 - 0,3354	1088,28 -1098,92	4990,62 - 4885,75
25	0,3355 - 0,3401	1098,93 -1107,38	4885,74 - 4770,40
26	0,3402 - 0,3474	1107,39 -1116,93	4770,39 - 4694,10
27	0,3475 - 0,3553	1116,94 -1126,67	4694,09 - 4588,70
28	0,3554 - 0,3647	1126,68 -1136,34	4588,69 - 4502,72
29	0,3648 - 0,3752	1136,35 -1146,94	4502,71 - 4395,88
30	0,3753 - 0,3848	1146,95 -1155,99	4395,87 - 4291,84
31	0,3849 - 0,3913	1156,00 -1165,35	4291,83 - 4198,03
32	0,3914 - 0,3992	1165,36 -1179,67	4198,02 - 4104,88
33	0,3993 - 0,4079	1179,68 -1192,83	4104,87 - 3972,58
34	0,4080 - 0,4194	1192,84 -1203,92	3972,57 - 3896,90
35	0,4195 - 0,4297	1203,93 -1214,16	3896,89 - 3807,64
36	0,4298 - 0,4374	1214,17 -1225,86	3807,63 - 3719,26
37	0,4375 - 0,4456	1225,89 -1235,13	3719,25 - 3616,72
38	0,4457 - 0,4593	1235,14 -1255,62	3616,71 - 3525,35
39	0,4594 - 0,4752	1255,63 -1276,07	3525,34 - 3435,14
40	0,4753 - 0,4886	1276,08 -1293,84	3435,13 - 3305,15
41	0,4887 - 0,5013	1293,85 -1316,11	3305,14 - 3222,09
42	0,5014 - 0,5143	1316,12 -1349,03	3222,08 - 3130,36
43	0,5144 - 0,5356	1349,04 -1374,61	3130,35 - 3012,88
44	0,5357 - 0,5624	1374,62 -1393,54	3012,87 - 2830,29
45	0,5625 - 0,5940	1393,55 -1431,98	2830,28 - 2672,37
46	0,5941 - 0,6450	1431,99 -1478,46	2672,36 - 2506,80
47	0,6451 - 0,7113	1478,47 -1534,20	2506,79 - 2300,31
48	0,7114 - 0,8181	1534,21 -1633,37	2300,30 - 1997,69
49	0,8182 - 0,9418	1633,38 -1755,21	1997,68 - 1600,64
50	0,9419+	1755,22+	1600,63 - 1,00

PART - B: SPECIAL NEEDS

4 YR. PUBLIC GR.

POINT	NEED PERCENT	NEED DOLLARS
1	0.0001 - 0.0117	0.01 - 1212.49
6	0.0118 - 0.1148	1212.50 - 1574.81
16	0.1149 - 0.3133	1574.82 - 1798.75
26	0.3134 - 0.3896	1798.76 - 2125.12
36	0.3897 - 0.4666	2125.13 - 3524.34
50	0.4667+	3524.35+

PART-B : SPECIAL NEEDS

4 YR PRIVATE GR.

POINT	NEED PERCENT	NEED DOLLAR
1	0.0001 - 0.0221	0.01 - 516.16
2	0.0222 - 0.0364	516.17 - 702.82
3	0.0365 - 0.0376	702.83 - 780.62
4	0.0377 - 0.0662	780.63 - 835.11
5	0.0663 - 0.0759	835.12 - 858.81
6	0.0760 - 0.0870	858.82 - 876.52
7	0.0871 - 0.0908	876.53 - 892.37
8	0.0909 - 0.0999	892.38 - 917.56
9	0.1000 - 0.1030	917.57 - 926.44
10	0.1031 - 0.1077	926.45 - 926.56
11	0.1078 - 0.1143	926.57 - 940.22
12	0.1144 - 0.1204	940.23 - 960.08
13	0.1205 - 0.1221	960.09 -1095.77
14	0.1222 - 0.1276	1095.78 -1113.75
15	0.1277 - 0.1326	1113.76 -1133.93
16	0.1327 - 0.1370	1133.94 -1139.93
17	0.1371 - 0.1413	1139.94 -1144.99
18	0.1414 - 0.1484	1145.00 -1156.93
19	0.1485 - 0.1487	1156.94 -1168.60
20	0.1488 - 0.1596	1168.61 -1196.56
21	0.1597 - 0.1603	1196.57 -1232.04
22	0.1604 - 0.1648	1232.05 -1249.57
23	0.1649 - 0.1650	1249.58 -1250.95
24	0.1651 - 0.1757	1250.96 -1270.49
25	0.1758 - 0.1764	1270.50 -1270.84
26	0.1765 - 0.1837	1270.85 -1317.32
27	0.1838 - 0.2010	1317.33 -1337.42
28	0.2011 - 0.2218	1337.43 -1347.99
29	0.2219 - 0.2259	1348.00 -1392.01
30	0.2260 - 0.2264	1392.02 -1432.55
31	0.2265 - 0.2399	1432.56 -1458.75
32	0.2400 - 0.2434	1458.76 -1479.59
33	0.2435 - 0.2602	1479.60 -1546.87
34	0.2603 - 0.2604	1546.88 -1622.46
35	0.2609 - 0.2613	1622.47 -1722.92
36	0.2614 - 0.2656	1722.93 -1787.32
37	0.2657 - 0.2726	1787.33 -1803.44
38	0.2727 - 0.2740	1803.45 -1969.06
39	0.2741 - 0.2871	1969.07 -2015.93
40	0.2872 - 0.3076	2015.94 -2049.99
41	0.3077 - 0.3090	2050.00 -2156.53
42	0.3091 - 0.3389	2156.54 -2235.32
43	0.3390 - 0.3448	2235.33 -2359.42
44	0.3449 - 0.3549	2359.43 -2383.31
45	0.3550 - 0.3688	2383.32 -2499.99
46	0.3689 - 0.4614	2500.00 -3076.63
47	0.4615 - 0.5255	3076.64 -4230.73
48	0.5256 - 0.5454	4230.74 -5743.71
49	0.5455 - 1.6499	5743.73 -9998.00
50	1.6500+	9999.00+

[FR Doc. 83-3227 Filed 2-7-83; 8:45 am]
BILLING CODE 4000-01-C

VOL 48 ISS 27 FE - 8 1983 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM79-34 and ST83-114]

Natural Gas Policy Act; Transportation Certificates for Natural Gas Displacement of Fuel Oil; Seagull Shoreline System; Self-Implementing Transactions

February 2, 1983.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to Section 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

DOCKET NO.	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EXPIRATION DATE *	TRANSPORTATION RATE (¢/MMBTU)
ST83-114	SEAGULL SHORELINE SYSTEM	NORTHERN NATURAL GAS CO.	12/02/82	C	05/01/83	30.00
ST83-115	KANSAS-NEBRASKA NATURAL GAS CO., INC.	NORTHERN GAS CO.	12/02/82	B	-	-
ST83-116	KANSAS-NEBRASKA NATURAL GAS CO., INC.	NORTHERN UTILITIES, INC.	12/02/82	B	-	-
ST83-117	MICHIGAN WISCONSIN PIPE LINE CO.	NORTHERN NATURAL GAS CO.	12/02/82	G	-	-
ST83-118	MICHIGAN WISCONSIN PIPE LINE CO.	NATURAL GAS PIPELINE CO. OF AMERICA	12/02/82	G	-	-
ST83-119	MICHIGAN WISCONSIN PIPE LINE CO.	CAJUN NATURAL GAS CO.	12/02/82	B	-	-
ST83-120	MICHIGAN WISCONSIN PIPE LINE CO.	CONSOLIDATED GAS SUPPLY CORP.	12/02/82	G	-	-
ST83-121	TEXAS EASTERN TRANSMISSION CORP.	TRANSCONTINENTAL GAS PIPE LINE CORP.	12/03/82	G	-	-
ST83-122	TEXAS EASTERN TRANSMISSION CORP.	UNITED GAS PIPE LINE CO.	12/03/82	G	-	-
ST83-123	NORTHERN NATURAL GAS CO.	CAJUN NATURAL GAS CO.	12/06/82	B	-	-
ST83-124	GRANITE STATE GAS TRANSMISSION, INC.	NORTHERN UTILITIES, INC.	12/06/82	B	-	-
ST83-125	UNITED GAS PIPE LINE CO.	TEXAS EASTERN TRANSMISSION CORP.	12/06/82	G	-	-
ST83-126	TRUNKLINE GAS CO.	SOUTH JERSEY GAS CO., ET AL.	12/07/82	B	-	-
ST83-127	TRUNKLINE GAS CO.	HOUSTON PIPE LINE CO.	12/07/82	B	-	-
ST83-128	LOUISIANA INTRASTATE GAS CORP.	SOUTHERN NATURAL GAS CO.	12/07/82	C	05/06/83	0.00
ST83-129	TRANSCONTINENTAL GAS PIPE LINE CORP.	PUBLIC SERVICE ELECTRIC AND GAS CO.	12/09/82	B	-	-
ST83-130	SUN GAS TRANSMISSION CO., INC.	TRANSCONTINENTAL GAS PIPE LINE CORP.	12/09/82	C	05/08/83	15.30
ST83-131	NATURAL GAS PIPELINE CO. OF AMERICA	MISSISSIPPI RIVER TRANSMISSION CORP.	12/09/82	G	-	-
ST83-132	COLUMBIA GAS TRANSMISSION CORP.	EASTERN SHORE NATURAL GAS CO.	12/09/82	G	-	-
ST83-133	LLANO, INC.	NORTHERN NATURAL GAS CO.	12/10/82	C	05/09/83	25.50
ST83-134	LIBERTY NATURAL GAS CO.	TRANSWESTERN PIPELINE CO.	12/10/82	C	-	-
ST83-135	TEXAS EASTERN TRANSMISSION CORP.	TENNESSEE GAS PIPELINE CO.	12/10/82	G	-	-
ST83-136	TEXAS GAS TRANSMISSION CORP.	DOW INTRASTATE GAS CO.	12/10/82	B	-	-
ST83-137	TRANSCONTINENTAL GAS PIPE LINE CORP.	TEXAS EASTERN TRANSMISSION CORP.	12/13/82	G	-	-
ST83-138	TRANSCONTINENTAL GAS PIPE LINE CORP.	EASTERN SHORE NATURAL GAS CO.	12/13/82	G	-	-
ST83-139	TRANSCONTINENTAL GAS PIPE LINE CORP.	TEXAS EASTERN TRANSMISSION CORP.	12/13/82	G	-	-
ST83-140	UNITED GAS PIPE LINE CO.	TENNESSEE GAS PIPELINE CO.	12/13/82	G	-	-
ST83-141	PRODUCER'S GAS CO.	MICHIGAN WISCONSIN PIPE LINE CO.	12/13/82	C	-	-
ST83-142	TENNESSEE GAS PIPELINE CO.	VALLEY GAS CO.	12/13/82	B	-	-
ST83-143	NORTHERN NATURAL GAS CO.	ENDEVCO PIPELINE CO.	12/13/82	B	-	-
ST83-144	FLORIDA GAS TRANSMISSION CO.	DOW INTRASTATE GAS CO.	12/13/82	B	-	-
ST83-145	VALERO TRANSMISSION CO.	NATURAL GAS PIPELINE CO. OF AMERICA	12/15/82	G	-	-
ST83-146	MOUNTAIN FUEL SUPPLY CO.	COLORADO INTERSTATE GAS CO.	12/15/82	G	-	-
ST83-147	TENNGASCO GAS GATHERING CO.	NORTHERN NATURAL GAS CO.	12/16/82	G	-	-
ST83-148	TENNESSEE GAS PIPELINE CO.	PUBLIC SERVICE ELECTRIC AND GAS CO.	12/17/82	B	-	-
ST83-149	TRUNKLINE GAS CO.	TEXAS EASTERN TRANSMISSION CORP.	12/20/82	G	-	-
ST83-150	MIDWESTERN GAS TRANSMISSION CO.	TENNESSEE GAS PIPELINE CO.	12/20/82	G	-	-
ST83-151	SOUTHERN NATURAL GAS CO.	SUGAR BOWL GAS CORP.	12/20/82	B	-	-
ST83-152	NORTHERN NATURAL GAS CO.	RAEL GAS CO.	12/17/82	B	-	-
ST83-153	OASIS PIPE LINE CO.	TRANSWESTERN PIPE LINE CO.	12/20/82	C	-	-
ST83-154	MICHIGAN WISCONSIN PIPE LINE CO.	PRODUCER'S GAS CO.	12/20/82	B	-	-
ST83-155	HOWELL PIPELINE CO.	THE CITY OF MILTON, FL	12/21/82	D	-	-
ST83-156	NATURAL GAS PIPELINE CO. OF AMERICA	COLUMBIA GAS TRANSMISSION CORP., ET AL.	12/22/82	G	-	-
ST83-157	TENNESSEE GAS PIPELINE CO.	CONCORD NATURAL GAS CORP.	12/22/82	B	-	-
ST83-158	TENNESSEE GAS PIPELINE CO.	NATIONAL FUEL GAS DISTRIBUTION CORP.	12/22/82	B	-	-
ST83-159	EL PASO NATURAL GAS CO.	PRODUCER'S GAS CO.	12/22/82	B	-	-
ST83-160	PANHANDLE EASTERN PIPE LINE CO.	PRODUCER'S GAS CO.	12/22/82	B	-	-
ST83-161	TRANSCONTINENTAL GAS PIPE LINE CORP.	PUBLIC SERVICE ELECTRIC AND GAS CO.	12/27/82	B	-	-
ST83-163	TRANSCONTINENTAL GAS PIPE LINE CORP.	HOUSTON PIPE LINE CO.	12/27/82	B	-	-
ST83-164	TRANSCONTINENTAL GAS PIPE LINE CORP.	NORTHERN NATURAL GAS CO.	12/27/82	G	-	-
ST83-165	TANGRAM TRANSMISSION CORP.	EL PASO NATURAL GAS CO.	12/27/82	C	-	-
ST83-166	NORTHERN NATURAL GAS CO.	FLORIDA GAS TRANSMISSION CO.	12/27/82	G	-	-
ST83-167	QUIVIRA GAS CO.	TENNESSEE GAS PIPELINE CO.	12/27/82	C	05/26/83	38.60
ST83-168	FLORIDA GAS TRANSMISSION CO.	DOW INTRASTATE GAS CO.	12/27/82	B	-	-

* THE INTRASTATE PIPELINE HAS SOUGHT COMMISSION APPROVAL OF ITS TRANSPORTATION RATE PURSUANT TO SECTION 284.123(B)(2) OF THE COMMISSION'S REGULATIONS (18 CFR 284.123(B)(2)). SUCH RATES ARE DEEMED FAIR AND EQUITABLE IF THE COMMISSION DOES NOT TAKE ACTION BY THE DATE INDICATED.

[FR Doc. 83-3354 Filed 2-7-83; 8:45 am]

[Docket

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[FR Doc.
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[Docket No. QF82-169-000]

Applied Energy Inc., Naval Training Center; Application for Commission Certification of Qualifying Status of Cogeneration Facility

February 4, 1983.

On July 1, 1982, Applied Energy, Inc. (Applicant), P.O. Box 909, San Diego, California 92112, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. Applicant filed supplementary information on November 24, 1982.

The topping-cycle cogeneration facility is located at the Naval Training Center and the Marine Corps Recruit Depot in San Diego, California. The facility consists of an existing combustion turbine and waste heat recovery boiler to which a new condensing steam turbine generator will be added to utilize excess steam in a combined cycle configuration. The primary energy source to the facility is natural gas or distillate oil. The electric power production capacity of the existing turbine generator is 17.0 megawatts. The new turbine generator will have a capacity of 3.5 megawatts. Installation of the original facility began in December 1969, and the installation of the addition began in August 1982. Applicant, a wholly-owned subsidiary of the San Diego Gas and Electric Company, operates the facility and states that ownership of cogeneration equipment is shared with the United States Navy.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3357 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-171-000]

Applied Energy, Inc., U.S. Naval Air Station; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 4, 1983.

On July 1, 1982, Applied Energy, Inc. (Applicant), P.O. Box 909, San Diego, California 92112, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. Applicant filed supplementary information on November 24, 1982.

The topping cycle cogeneration facility is located at the U.S. Naval Air Station, North Island in Coronado, California. The facility consists of an existing combustion turbine and waste heat recovery boiler to which a new condensing steam turbine generator will be added to utilize excess steam in a combined cycle configuration. The primary energy source to the facility is natural gas or distillate oil. The electric power production capacity of the existing turbine generator is 20.0 megawatts. The new turbine generator will have a capacity of 5.1 megawatts. Installation of the original facility began in July 1976, and the installation of the addition began in August 1982. Applicant, a wholly-owned subsidiary of the San Diego Gas and Electric Company, operates the facility and states that ownership of cogeneration equipment is shared with the United States Navy.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3358 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-150-000]

Alternative Energy Resources, Inc.; Application for Commission Certification of Qualifying Status of Cogeneration Facility

February 2, 1983.

On January 17, 1983, Alternative Energy Resources, Inc. of 9940 Viscount, Suite 220, El Paso, Texas, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at 1477 Lomaland, El Paso, Texas 79935. The primary energy source to the facility will be natural gas. The electric power production capacity will be 75 kilowatts. The facility will be equipped with an Otto cycle engine with 75 KW generator, absorption chilling equipment and heat exchangers for heating and cooling manufacturing and office building. Installation began July 1982. Applicant states no electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3342 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-141-000]

Galaxy Project I; Application for Commission Certification of Qualifying Status of Small Power Production Facility

February 2, 1983.

On January 14, 1983, Galaxy Project I,

PURSUANT TO SECTION 284.123(B)(2) OF THE COMMISSION'S REGULATIONS 18 CFR 284.123(B)(2)). SUCH RATES ARE DEEMED FAIR AND EQUITABLE IF THE COMMISSION DOES NOT TAKE ACTION BY THE DATE INDICATED.

[FR Doc. 83-3354 Filed 2-7-83; 8:45 am]

of 511 Marina Center, Suisun, Solana County, California, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 12 kilowatt wind installation located at Bird's Landing, Solano County, California. Applicant states that no other facilities owned by the applicant is located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petiton to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3346 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-138-000]

Genstar Gas Recovery System Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 2, 1983.

On December 10, 1982, Genstar Gas Recovery System Inc., of 177 Bovet Road, Suite 550, San Mateo, California 94402, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at Guadalupe Landfill in San Jose, California. The generating capacity of the facility will be one megawatt. The primary energy source will be landfill gas. Applicant states that no other facilities owned by the applicant is located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of ihe Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3347 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-147-000]

Scripps Clinic & Research Foundation; Application for Commission Certification of Qualifying Status of Cogeneration Facility

February 2, 1983.

On January 17, 1983, Scripps Clinic and Research Foundation of 10666 North Torrey Pines Road, La Jolla, California 92307, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in La Jolla, California. The primary energy source to the facility will be natural gas. The electric power production capacity will be 500 kilowatts. The steam produced by the heat recovery equipment will be introduced into the building's existing steam system and will offset steam currently produced by existing gas fired boilers used for heating hot water, domestic hot water, kitchen and lab steam supply and sterilizes. Installation will begin June 6, 1983. Applicant states no electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3353 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-96-000]

UOP Energy Recovery Corp. of Pinellas; Petition for Declaratory Order Denying, or Waiving Jurisdiction or, in the Alternative, Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 2, 1983.

On December 10, 1983, UOP Energy Recovery Corp. of Pinellas, 10 UOP Plaza, Des Plaines, Illinois 60016, filed with the Federal Energy Regulatory Commission (Commission) a petition for declaratory order denying jurisdiction pursuant to section 210(f) of the Federal Power Act, or granting a waiver of the exercise of jurisdiction, or granting an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is wholly owned by Pinellas County, and UOP will operate the facility as an independent contractor. The facility will be located in Pinellas County, Florida. The primary energy source to the facility will be biomass in the form of municipal waste. No gas, oil or coal will be used in the facility. The electric power production capacity of the facility will be 50 megawatts. No other biomass fueled small power production facility owned by Pinellas County is located within one

mile of the facility. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of a declaratory order or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3355 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-1-002 (PGA83-1) (IPR83-1)]

Alabama-Tennessee Natural Gas Co.; Revised PGA Rate Adjustment

February 3, 1983.

Take notice that on January 24, 1983, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35631, tendered for filing Second Substitute Thirty-Eighth Revised Sheet No. 3–A as part of its FPC Gas Tariff, Third Revised Volume No. 1. This tariff sheet is proposed to become effective January 1, 1983, and Alabama-Tennessee requests that there be granted any necessary waivers of the Commission's Regulations to accomplish this proposed effective date.

Alabama-Tennessee states that the sole purpose of the revised tariff sheet, Second Substitute Thirty-Eighth Revised Sheet No. 3–A, is to provide a downward adjustment in the rates filed in this matter of December 1, 1982 as required by the Commission's order issued herein on December 30, 1982 and to reflect a reduction in the rates of its principal supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., filed on January 21, 1983, in Docket No. TA83–1–9, also proposed to become effective January 1, 1983.

Second substitute Thirty-Eighth Revised Sheet No. 3–A provides for the following rates:

Rate schedule	Rates after current adjustment
G–1:	
Demand	[illegible]
Commodity	421.04
SG–1:	
Commodity	[illegible]
I–1:	
Commodity	440.91

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further pleading. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3304 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No CP83-138-000]

Columbia Gas Transmission Corp.; Application

February 2, 1983.

Take notice that on December 23 1982, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP83–138–000 an application pursuant to Section 7(c) of the natural Gas Act for a certificate of public convenience and necessity authorizing service to Delta Natural Gas Company, Inc. (Delta) and The Suburban Fuel Gas, Inc. (Suburban), both existing wholesale customers of Columbia, under revised service agreements, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes to serve Delta under a revised service agreement which would effectuate a consolidation of its contract demand under Rates Schedule CDS to Delta (Cubic-land) of 3,800 dt equivalent of gas per day and Delta (Wiser) of 1,600 dt equivalent of gas per day for a total of 5,400 dt equivalent of gas per day to Delta (Cumberland) in Zone 3. Columbia states hat this proposal would not result in the termination of service to any of Delta's existing customers nor result in any charge in Delta's total daily entitlement from Columbia. Columbia proposes to cancel its service agreement with Delta (Wiser) and abandon the delivery point related thereto, but the measuring station associated therewith would be retained by Columbia for other company purposes.

Columbia also requests authorization for a revised service agreement with Suburban that would provide an additional delivery point in Middleton Township, Wood County, Ohio, in Zone 4. Columbia states that the Consumers Natural Gas Company (Consumers) and Suburban received joint authorization from the Public Utilities Commission of Ohio to transfer from Consumers to Suburban the lease agreement covering service to the Village of Haskins, Ohio, which is presently served by Consumers. Columbia states that it would not be required to construct any facilities since Suburban would install a deduct meter necessary to measure volumes delivered at this point to the Village of Haskins. According to Columbia, there would be no increase in Suburban's Rate Schedule G entitlement nor a decrease in Consumers' Rate Schedule SGS entitlement in Zone 4.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in detemining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act

and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3344 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-468-003]

Columbia Gulf Transmission Co. and Texas Eastern Transmission Corp.; Petition To Amend

February 2, 1983.

Take notice that on December 28, 1982, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP79-468-003 a joint petition to amend the order issued November 26, 1979, in Docket No. CP79-468 pursuant to Section 7(c) of the Natural Gas Act so as to include additional supplies of natural gas in an exchange arrangement between them, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that under authorization granted by the order issued November 26, 1979, Texas Eastern transports up to 50,000 Mcf of gas per day received from Columbia Gulf in Angelina County, Texas, and delivers equivalent volumes to Trunkline Gas Company (Trunkline) in either Allen or Beauregard Parishes, Louisiana. It is further stated that Trunkline delivers equivalent quantities to Columbia Gulf near Centerville, Louisiana.

It is asserted that Texas Eastern has purchased gas from Skyline Oil Company from Cameron Parish, Louisiana, which Petitioners desire to include in the exchange arrangements. Petitioners maintain that they do not seek to increase the total volumes of gas to be exchanged.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Feb. 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3343 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA83-1-2-001 and RP82-124-003]

East Tennessee Natural Gas Co.; Revised Rate Filing

February 3, 1983.

Take notice that on January 21, 1983, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Second Substitute Fourth Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff, to be effective January 1, 1983, and Substitute Fifth Revised Sheet No. 4 to Original Volume No. 1 to be effective February 1, 1983.

East Tennessee states that the sole purpose of the revised tariff sheet is to reflect a revision in its gas rates to reflect the reduction in the rates of Tennessee Gas Pipeline Company, a Division of Tenneco Inc., which will become effective January 1, 1983.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commissions's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3305 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC83-3-000]

Eastern Shore Natural Gas Co.; Tariff Filing

February 2, 1983.

Take notice that on January 14, 1983, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing the following revised tariff sheet for inclusion in Eastern Shore's FERC Gas Tariff, Original Volume No. 1:

Fourth Revised Sheet No. 424.

Eastern Shore states that the purpose of the revised tariff sheet, which has a proposed effective date of February 14, 1983, is to reflect charges in Eastern Shore's Priority One requirements that result from the application of Eastern Shore's currently effective curtailment plan to changes in Eastern Shore's gas service approved by the Commission in Docket No. CP82-96-000 on April 23, 1982. That order authorized, *inter alia*, the transfer of firm gas service from customers with reduced contract demant requirements to jurisdictional customers pro rata, on the basis of their existing contract demands. The increased levels of contract demand were requested by Eastern Shore's customers in order to satisfy high priority requirements.

Eastern Shore states that copies of this filing have been mailed to Eastern Shore's jurisdictional customers and interested state regulatory commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commissions's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3306 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-155-012]

El Paso Natural Gas Co.;

Tariff Filing

February 3, 1983.

Take notice that on January 24, 1983, El Paso Natural Gas Company ("El Paso"), pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, tendered for filing Second Revised Sheet Nos. 1314 and 1319, First Revised Sheet No. 1319-A, Original Sheet Nos. 1319-B and 1319-C, and First Revised Sheet No. 1328-A to special Rate Schedule X-52 contained in its FERC Gas Tariff, Third Revised Volume No. 2.

El Paso states that special Rate Schedule X-52 is comprised of a Gas Exchange Agreement ("Exchange Agreement") dated December 29, 1978, as amended, between El Paso and Arkansas Louisiana Gas Company, a Division of Arkla, Inc. ("Arkla") providing for the gathering, delivery and exchange between the parties, on an Mcf for Mcf basis, without charge, of volumes of natural gas produced from existing and future wells located in Hemphill, Roberts and Wheeler Counties, Texas, and Beckham, Caddo, Custer, Ellis, Roger Mills and Washita Counties, Oklahoma, which counties collectively comprise the area of interest covered by the subject Exchange Agreement. By Commission order issued June 25, 1979, at Docket Nos. CP79-155 and CP-243, El Paso and Arkla, respectively, were granted certificate and tariff authorizations for said exchange arrangement. Ordering paragraph (F) of said order requires El Paso and Arkla to file, on or before January 31, of each year, revisions to Exhibits A and/or B of the Exchange Agreement to reflect the addition and deletion of wells and/or balancing points. Accordingly, the tendered tariff sheets, when accepted for filing and permitted to become effective, will (i) revise Exhibit A to the Exchange Agreement by reflecting the addition of two (2) wells and related interest percentage information, in the area of interest, (ii) provide certain operational information with respect to the addition of said wells to Exhibit A, and (iii) update the title page by reflecting the dates of the amendments to the Exchange Agreement.

El Paso has requested that the tariff sheets tendered be accepted for filing and permitted to become effective thirty (30) days following the date of filing.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before February 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rule 214 or Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3307 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-137-000]

El Paso Natural Gas Co.; Application

February 3, 1983.

Take notice that on December 22, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79970, filed in Docket No. CP83-137-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Amoco Production Company (Amoco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it currently purchases approximately 12,754 Mcf of surplus residue gas per day from Amoco at the outlet of Amoco's Levelland gasoline plant in Hockley County, Texas, pursuant to two residue gas purchase agreements, each dated October 1, 1949, as amended. In addition Applicant states that it currently purchases approximately 5,276 Mcf of surplus residue gas per day from Amoco at the outlet of Amoco's Slaughter gasoline plant in Hockley County, Texas, pursuant to three residue gas purchase agreements each dated February 20, 1949, as amended.

Applicant indicates that it has been informed that Amoco plans to improve its ethane recovery operations at the Slaughter gasoline plant by implementing a deeper extraction process which activity would reduce or eliminate volumes of surplus residue gas available for sale to Applicant. Applicant further asserts that Amoco would require up to 5,000 Mcf per day of pipeline quality gas on approximately ten to fifteen days of each winter month in connection with the ethane recovery enhancement project. To meet these fuel gas requirements, Applicant states that Amoco has exercised its right under the Levelland agreements to reserve quantities of residue gas for plant fuel and operational needs at other plants.

It is asserted that in order to make the Levelland residue gas available to Amoco for use at its Slaughter gasoline plant, Applicant and Amoco have entered into a gas transportation agreement dated August 11, 1982. Pursuant to the agreement, Applicant proposes to transport up to 5,000 Mcf of gas per day on a best-efforts basis for Amoco for a period commencing on the date when all necessary regulatory approvals have been obtained and accepted and terminating when the Levelland agreements have terminated.

It is stated that Applicant would receive the subject gas from Amoco at the Levelland receipt point located in Hockley County, Texas, and would redeliver equivalent volumes on a volumetric basis to Amoco at the Slaughter delivery point located in Hockley County, Texas. It is further stated that no new facilities are needed to implement the transportation service.

Applicant proposes to charge Amoco its short haul charge rate in effect from time to time as set forth on Sheet No. 1-D.2 of Applicant's FERC Gas Tariff, Third Revised Volume No. 2 or superseding tariff for all volumes transported.

Any person desiring to be heard or to make any protest with reference to said applicant should on or before February 24, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3359 Filed 2-7-83 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-33-000 and RP83-6-000, et al.]

El Paso Natural Gas Co., Informal Settlement Conference

February 2, 1983.

Take notice that an informal settlement conference in the above-captioned dockets will be convened at 9:30 a.m. on February 15, 1983, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in a Commission meeting room to be announced.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-3360 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP82-394-000 and CP82-394-001]

El Paso Natural Gas Co. and Phillips Petroleum Co.; Amendment

February 2, 1983

Take notice that on January 7, 1983, Phillips Petroleum Company (Phillips), 1258 Adams Building, Bartlesville, Oklahoma 74004, filed in Docket No. CP82-394-001 pursuant to Section 7(c) of the Natural Gas Act an amendment to the pending application filed in Docket No. CP82-394-000 by El Paso Natural Gas Company (El Paso) so as to reflect the addition of Phillips as an applicant in the subject proceeding, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

El Paso has proposed to accept for the account of Phillips pursuant to a gas exchange agreement dated June 18, 1982, up to 95,000 Mcf of gas per day at an existing point of interconnection between the facilities of El Paso and Phillips located at the outlet of Phillips' Dumas Plant in Moore County, Texas. It is asserted that in exchange, El Paso would concurrently deliver an equivalent quantity of gas to Phillips at an existing point of interconnection between the facilities of El Paso and Phillips located in Hutchinson County, Texas, referred to as the Borger delivery point, and at two proposed points of interconnection between the facilities of El Paso and Phillips located in Gray and Wheeler Counties, Texas, referred to as the Pampa and Wheeler delivery points, respectively, an equivalent volume of natural gas.

El Paso also has proposed to construct and operate tap facilities at the Pampa and Wheeler delivery points. El Paso states that it estimates the cost of the proposed facilities to be $15,680. Such facilities, it is asserted, would be financed through the use of internally generated funds.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. An person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3308 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5905-000]

Energenics Systems, Inc.; Surrender of Preliminary Permit

February 2, 1983.

Take notice that Energenics Systems, Inc., Permittee for the Conchas Hydro Project No. 5905 located on the Canadian River in San Miguel County, New Mexico, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 28, 1982, and would have expired on December 31, 1983. The Permittee states that Energenics has made engineering and other investigations and acquired data sufficient to determine that the proposed project is infeasible.

Energenics Systems, Inc.'s request was dated December 28, 1982. The surrender of the permit for Project No. 5905 is in the public interest and is accepted as of the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3361 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2031-000]

John L. Fraley; Application

February 2, 1983.

The filing individual submits the following:

Take notice that on January 26, 1983, John L. Fraley filed an application for order to dismiss for want of jurisdiction or, alternatively authorization under section 305(b) of the Federal Power Act to hold the following positions:

Director, Duke Power Company
Director, First Union Corporation
Director, First Union National Bank

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. Sections 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3349 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-164-000]

Gas Transport, Inc.; Application

February 3, 1983.

Take notice that on January 20, 1983, Gas Transport, Inc. (Applicant), 109 Broad Street, Lancaster, Ohio 43130, filed in Docket No. CP83-164-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3382 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5095-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

February 2, 1983.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Bond Creek Hydroelectric Project No. 5095, has requested that its preliminary permit be terminated. The permit was issued on May 13, 1982, and would have expired October 31, 1983. The project would have been located on the Bond Creek in Lake County, Montana.

The Permittee filed its request on November 26, 1982, and the surrender of the preliminary permit for Project No. 5095 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3383 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP83-134-000, CP83-134-001, CP83-135-000 and CP83-135-001]

Houston Pipe Line Co. and Oasis Pipe Line Co.; Applications

February 2, 1983.

Take notice that on December 16, 1982, Houston Pipe Line Company (Houston), P.O. Box 1188, Houston, Texas 77001, in Docket Nos. CP83-134-000 and CP83-134-001 and Oasis Pipe Line Company (Oasis), P.O. Box 1188, Houston, Texas 77001, in Docket Nos. CP83-135-000 and CP83-135-001, both intrastate pipelines, filed applications, as amended, pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and Section 284.127 of the Commission's Regulations for authority to transport certain quantities of natural gas for Natural Gas Pipeline Company of America (Natural), an interstate pipeline, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Houston and Oasis state that they are currently engaged in the transportation of natural gas on behalf of Natural pursuant to transportation agreements both dated February 15, 1979 (1979 Agreements). It is stated that the service under the 1979 Agreements commenced April 5, 1979, for an initial term of two years under the self-implementing provisions of Section 284.122(a) of the Commission's Regulations and was extended for a period of two years commencing April 5, 1981 pursuant to Section 284.125 of the Commission's Regulations.[1] In order that the transportation service might be continued on an uninterrupted basis, Houston and Oasis have requested that the Commission issue orders pursuant to Section 284.127(b) of its Regulations authorizing a continuation of the transportation arrangements for a period of two years commencing April 5, 1983, and ending April 4, 1985.

Houston and Oasis propose to transport up to 150,000 Mcf of gas per day, or such additional daily volumes as their operating conditions shall reasonably permit, for Natural. Houston would transport Natural's volumes from a point located on Houston's pipeline facilities near Dever, Liberty County, Texas, to a point located on Oasis' pipeline facilities near Katy, Waller County, Texas; Oasis would then transport Natural's volumes to the interconnection of Oasis' and Natural's pipeline facilities in Ward County, Texas, and at the interconnection of Oasis' and El Paso Natural Gas Company's facilities, Pecos County, Texas. It is stated that service would continue to be conducted under the terms and conditions of amendments to the 1979 Agreements, both dated December 10, 1982. Houston states that the other intrastate pipeline companies needed to aid it in effecting the basic transaction between Houston and Natural are Channel Industries Gas Company (Channel) and Dow Pipeline Company (Dow).

Houston states that effective April 5, 1983, Natural would pay Houston 6.0 cents per million Btu for the transportation service it performs. It is further indicated that a portion of the revenues derived from the 6.0-cent per million Btu rate would be paid by Houston to Channel and Dow. Oasis states that effective April 5, 1983, Natural would pay Oasis 12.39 cents per

[1] See Docket No. ST80-88. Houston's initial full report and amended initial full report were filed on May 7, 1979, and December 20, 1979, respectively. Houston's extension report was filed on December 22, 1980.

million Btu for the transportation service Oasis performs.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3348 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP83-140-000 and CP83-140-001]

Kansas-Nebraska Natural Gas Company, Inc.; Application

February 2, 1983.

Take notice that on December 27, 1982, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP 83-140-000 an application as amended January 10, 1983, in Docket No. CP83-140-001 pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission Regulations for a blanket certificate of public convenience and necessity authorizing certain construction, acquisition and operation of facilities and the transportation and sale of natural gas and permission and approval to abandon certain facilities and service, all as more fully set forth in the application, as amended, on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval to abandon are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3350 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1994-002]

Darrow R. McLeod; Application

February 2, 1983.

The filing individual submits the following:

Take notice that on January 24, 1983, Darrow R. McLeod filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Engineering and Division Administration—Central Vermont Public Service Corporation.

Vice President—Central Vermont Public Service Corporation—Bradford Hydroelectric, Inc.

Vice President—Central Vermont Public Service Corporation—East Barnet Hydroelectric, Inc.

Vice President, Engineering and Division Administration—Connecticut Valley Electric Company, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3345 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-173-000]

Metropolitan Edison Co.; Order Accepting for Filing and Suspending Rates, Denying Motion for Summary Disposition, Noting Interventions, and Establishing Hearing and Price Squeeze Procedures

February 2, 1983.

On December 3, 1982, Metropolitan Edison Company (Met-Ed) tendered for filing increased rates for full requirements service to four tariff customers and for partial requirements and wheeling service to Allegheny Electric Cooperative, Inc. (Allegheny).[1] Met-Ed proposes a two-part rate increase consisting of Step I rates which would increase revenues by approximately $1.7 million (27%) during the calendar 1983 test period, and Step II rates which would further increase revenues by approximately $150,000. The company has requested effective dates of February 1 and February 2, 1983, for the Step I and Step II rates, respectively. The company also states that, if the Commission determines that the Step II rates should be suspended for only one day, the Step I rate increase should be deemed withdrawn.

Notice of Met-Ed's filing was published in the Federal Register, with comments due on or before December 30, 1982. The Borough of Kutztown, Pennsylvania (Kutztown) filed a timely motion to intervene, protest, and request for a five month suspension. In support of its position, Kutztown objects to the inclusion of the Three Mile Island nuclear plant in rate base and to the recovery of expenses associated with the nuclear units. Kutztown also raises various cost of service issues[2] and

[1] *See* Attachment A for rate schedule designations.

[2] These issues include: (1) Whether "nuclear fuel in process" should be included in rate base; (2) the appropriate rate of return on equity; (3) stated O&M expenses and spent nuclear fuel expenses; and (4) purportedly excessive wheeling rates.

alleges that the proposed rates are discriminatory and will create a price squeeze.

Allegheny Electric Cooperative, Inc. (Allegheny) also filed a timely protest and motion to intervene. Allegheny cites a number of cost of service issues,[3] requests a five month suspension, and seeks summary disposition on the issue of whether nuclear fuel in process should be included in rate base. On January 14, 1983, Met-Ed filed a response to the protests and motions to intervene filed by Allegheny and Kutztown. Met-Ed opposes the requests for a five month suspension.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene serve to make Kutztown and Allegheny parties to this proceeding absent opposition within 15 days of their pleadings.

With respect to Allegheny's motion for summary disposition, we note that in *Jersey Central Power and Light Company,* Docket No. ER82-426-000, (May 28, 1982), the Commission summarily held that nuclear fuel in process (Account No. 120.1) should not be included in rate base. On rehearing, the Commission changed its ruling because, under Account No. 120.2 of the Uniform System of Accounts (nuclear fuel materials and assemblies), once nuclear fuel assemblies are delivered to the reactor site, the investment is properly includable in rate base. In that case, the amount at issue represented completed fuel assemblies ready for use in the next refueling but being stored at the fabrication plant rather than at the reactor site. But for this technical distinction, the nuclear fuel would be includable in rate base under Account No. 120.2. Therefore, the Commission in its order on rehearing in *Jersey Central* stated that the issue of the proper accounting and ratemaking treatment of fuel assemblies raised issues of law and fact, more appropriately resolved at hearing. Because Jersey Central and Met-Ed are both operating companies of General Public Utilities Corporation and share ownership of nuclear facilities and related fuel assemblies, we find that the issue of inclusion of nuclear fuel in process in rate base raises issues which should be explored at hearing. Therefore, we shall deny summary disposition of this issue.

Our preliminary review of Met-Ed's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company,* Docket No. ER82-23-000, 18 FERC ¶61,189 (1982), the Commission noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas.* However, where it appears that the rates may be substantially excessive, we will suspend for the maximum period. Our preliminary review indicates that Met-Ed's proposed Step I and Step II rates as applied to the full requirements customer class may note yield substantially excessive revenues. Under these circumstances, we shall suspend the Step II rates for the full requirements customers for one day to become effective, subject to refund, on February 3, 1983. Pursuant to Met-Ed's request, its proposed Step I rates for the full requirements customers shall be deemed withdrawn. With respect to Met-Ed's partial requirements and transmission rates for Allegheny preliminary review suggests that, while the Step I rates may not yield substantially excessive revenues, the Step II rates may be substantially excessive. Accordingly, we shall suspend Met-Ed's Step I and II rates for service to Allegheny for one day and five months, respectively, to become effective on February 3, 1983, and July 3, 1983, subject to refund.

In light of Kutztown's price squeeze allegations, we shall institute price squeeze procedures and phase those procedures in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company,* Docket No. ER79-339 (August 6, 1979).

The Commission Orders

(A) Met-Ed's proposed Step I rates for its full-requirements customers are deemed withdrawn and its proposed Step II rates for the full requirements customers are accepted for filing and suspended for one day from sixty days after filing, to become effective on February 3, 1983, subject to refund.

(B) Met Ed's proposed Step I and Step II rates as they apply to Allegheny are accepted for filing and suspended for one day and five months respectively, to become effective, subject to refund, on February 3, 1983, and July 3, 1983.

(C) Allegheny's motion for summary disposition is hereby denied.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Met-Ed's rates.

(E) The Commission Staff shall serve top sheets in this proceeding within (10) days of the date of this order.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission's opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in section 217 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[3] The matters addressed by Allegheny include: (1) Amortization or regulatory expense; (2) allocation of TMI Units 1 and 2; (3) exclusion of taxes associated with AFC from deferred income tax Account 410; (4) exclusion of the demand portion of purchased power used to replace TMI-2 energy; (5) cash working capital; and (6) rate of return.

ATTACHMENT A.—METROPOLITAN EDISON COMPANY TARIFF AND RATE SCHEDULE DESIGNATIONS

[Docket No. ER83-173-000]

Designation	Description
Met-Ed FPC Electric Tariff Original Volume No. 1	
(1) Seventh Revised Sheet No. 13 (Supersedes Sixth Revised Sheet No. 13).	Step II—Rate RP. Effective: Feb. 3, 1983.
(2) Seventh Revised Sheet No. 15 (Supersedes Sixth Revised Sheet No. 15).	Step II—Rate RT. Effective: Feb. 3, 1983
Supplements for Service to Allegheny Electric Cooperative	
(3) Supplement No. 24 to Rate Schedule FPC No. 43 (Supersedes Supplement No. 22).	Step I—Supplemental Power and Energy Rates.
(4) Supplement No. 25 to Rate Schedule FPC No. 43 (Supersedes Supplement No. 23).	Step I—Wheeling Rates.
(5) Supplement No. 26 to Rate Schedule FPC No. 43 (Supersedes (3) above).	Step II—Supplemental Power and Energy Rates.
(6) Supplement No. 27 to Rate Schedule FPC No. 43 (Supersedes (4) above).	Step II—Wheeling Rates.

[FR Doc. 83-3364 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP 74-316-006]

Michigan Wisconsin Pipe Line Co.; Petition To Amend

February 2, 1983.

Take notice that on December 22, 1982, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP74-316-006 a petition to amend the order issued July 7, 1977,[1] as amended, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the maximum allowable operating pressure of an existing 15.3-mile 24-inch pipeline, the South Chester 15 Transmission Line, to be increased from 1,050 psig to 1,150 psig, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Mich Wis proposes herein to uprate the maximum allowable operating pressure in the transmission line which connects the South Chester Field, Otsego County, Michigan, to Great Lakes Gas Transmission Company's (Great Lakes) system, the pipe which Mich Wis had proposed to install for the South Chester transmission line was comprised of 16 miles of 24-inch O.D. x 0.324-inch W.T. pipe with a design pressure of 1,053 psig and a maximum allowable operating pressure of 1,050 psig. It is stated that Mich Wis installed 15.3 miles of a higher grade pipe, 24-inch O.D. x0.384-inch W.T., with a pipe design pressure of 1,152 psig, in compliance with the certificate. Mich Wis now proposes to increase the maximum allowable operating pressure of the South Chester transmission line from 1,050 psig to 1,150 psig.

Mich Wis states that the heavier walled pipe was installed to provide greater operating flexibility in view of the subsequent development of the Central Charlton I Storage Field, which is located approximately 12 miles northeast of the South Chester 15 Field and is connected to the South Chester transmission line at the South Chester 15 Field. Accordingly, the South Chester transmission line is now utilized for handling the injection and withdrawal requirements for both the South Chester 15 and Central Charlton I Gas Fields, it is explained.

The withdrawal rate from Central Charlton I when added to the South Chester 15 rate has the potential to increase the flow rate in the South Chester transmission line from a design level of service of 400,000 Mcf of gas per day to approximately 725,000 Mcf of gas per day, it is asserted. While the existing maximum operating pressure of 1,050 psig is sufficient under normal operating conditions, there is limited operating flexibility at the potential withdrawal rates from the two fields, Mich Wis asserts. It is stated that increasing the maximum operating pressure to 1,150 psig would provide the desirable operating flexibility. The South Chester transmission line, it is submitted, has been constructed, tested and qualified to operate at 1,150 psig and can be uprated at no additional cost.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Feb. 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3351 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. TA83-1-5-001]

Midwestern Gas Transmission Co.; Revised Rate Filing

February 3, 1983.

Take notice that on January 21, 1983, Midwestern Gas Transmission Company (Midwestern) tendered for filing Substitute Fifth Revised Sheet No. 5 to Original Volume No. 1 of its FERC Gas Tariff, to be effective January 1, 1983.

Midwestern states that the sole purpose of the revised tariff sheets is to reflect a revision in its Southern System Current Gas Rate Adjustment to reflect the reduction in the rates of Tennessee Gas Pipeline Company, a Division of Tenneco Inc., which will become effective January 1, 1983.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3309 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5493-001]

Modesto Irrigation District; Surrender of Preliminary Permit

February 2, 1983.

Take notice that Modesto Irrigation District, Permittee for the proposed West Walker River Project No. 5493, has requested that its preliminary permit be terminated. The Preliminary Permit was issued on June 7, 1982, and would have expired on June 30, 1985. The project would have been located on the West Walker River near Bridgeport, in Mono County, California.

The Permittee filed its request on December 13, 1982, and the surrender of its permit for Project No. 5493 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3305 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT83-8-001]

National Fuel Gas Supply Corp., Proposed Changes in FERC Gas Tariff

February 2, 1983.

Take notice that on January 24, 1983, National Fuel Gas Supply Corporation (National Fuel) tendered for filing the following proposed changes in its FERC Gas Tariff, to be effective December 30, 1982:

First Revised Volume No. 2

First Revised Sheet No. 1
Second Revised Sheet No. 1a
Fifth Revised Sheet No. 1b

National Fuel is filing these tariff sheets to reflect the effective date of the Commission's order in Docket No. GT83-8-000, which approved National Fuel's request for cancellation of various rate schedules in Volume No. 2 of its FERC Gas Tariff.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3310 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP80-11-010, et al.]

Natural Gas Pipe Line Co. of America, et al.; Filing of Pipeline Refund Reports and Refund Plans

February 3, 1983

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 17, 1983. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
12/30/82	Natural Gas Pipe Line Co. of America	RP80-11-010	Report
1/19/83	Tennessee Gas Pipeline Co	RP81-44-007	Report
1/20/83	Sea Robin Pipeline Co	RP80-55-005	Report
1/20/83	United Gas Pipe Line Co	TA82-2-11-004	Report
1/21/83	Lawrenceburg Gas Transmission Corp	RP82-29-003	LFUT report
1/24/83	Valero Interstate Transmission Co	RP81-60-006	Report
1/27/83	Florida Gas Transmission Co	RP72-136-010	Report

[FR Doc. 83-3311 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP77-98-013]

Natural Gas Pipeline Company of America; Change in Rates

February 3, 1983.

Take notice that on January 21, 1983, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, revised tariff sheets to set out the revised rate levels for the period December 1, 1977 through November 30, 1978, to reflect the effect of the final Commission order in Opinion No. 108-A issued November 23, 1982, establishing a 12.8% return on equity for the Docket No. RP77-98 settlement rates. The filing was made in compliance with Article IV of the Docket No. RP77-98 settlement.

A copy of this filing has been mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3312 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-26-000]

Natural Gas Pipeline Company of America; Change in Rates

February 2, 1983.

Take notice that on January 20, 1983, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective March 1, 1983:

Forty-ninth Revised Sheet No. 5
Seventh Revised Sheet No. 5C
Seventh Revised Sheet No. 5D

Natural states the purpose of the filing is to reflect rate adjustments under the PGA and incremental pricing sections of its tariff. The overall effect of the filed for adjustments on Natural's DMQ–1 rates is a decrease of $0.07 in the demand component and an increase of 28.79¢ in the commodity component. Appropriate adjustments were also made to Natural's other sales rate schedules. The annualized revenue impact of the filed for adjustments will approximate $226 million. Of this amount $190 million is related to current gas cost increases and $36 million to recover the balance in the deferred gas cost account.

Sheet Nos. 5C and 5D reflect no projected incremental pricing surcharges (MSAC) for the six month period beginning March 1, 1983. None of Natural's offsystem customers have reported MSAC's.

Natural requests any additional waivers of the Commission's regulations to the extent, if any, required to put the proposed tariff sheets into effect on March 1, 1983.

A copy of this filing has been mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3313 Filed 2–7–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP82–114–000]

Northwest Central Pipeline Corp. (Formerly Cities Service Gas Co.); Informal Settlement Conference

February 2, 1983.

Take notice that an informal settlement conference in the above-captioned docket will be convened on Tuesday and Wednesday, February 10 and 11, 1983, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in a Commission meeting room to be announced.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3314 Filed 2–7–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–136–000]

Northwest Pipeline Corp.; Application

February 2, 1983.

Take notice that on December 21, 1982, Northwest Pipeline Corporation (Northwest), P.O. Box 1562, Salt Lake City, Utah 84108, filed in Docket No. CP83–136–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to certain of its existing customers pursuant to a proposed new rate schedule for a limited term of one year, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest proposes to sell and deliver up to 1,500,000 therms of natural gas per day pursuant to a new interruptible rate schedule to be designated Rate Schedule I–2 for a limited term of one year from the effective date of Rate Schedule I–2. Northwest states that the volumes of natural gas proposed for sale pursuant to Rate Schedule I–2 are available to all of Northwest's customers purchasing natural gas for resale pursuant to Northwest's Rate Schedules ODL–1 and DS–1.

It is stated that the Rate Schedule I–2 gas available to Northwest's distributors each day would be dependent upon Northwest's ability to deliver domestic supplies in excess of those necessary to meet existing requirements. It is estimated that the daily deliveries may be up to $1,500,000 therms per day. The daily volumes would be available to each distributor in proportion to each distributor's firm contract demand under Rate Schedules ODL–1 and DS–1. If any Rate Schedule I–2 customer does not require any or all of the available daily volumes, those volumes not required would be offered to the other Rate Schedule I–2 customers, it is explained.

The volumes of gas proposed for sale under Rate Schedule I–2 would, it is asserted, be sold by Northwest's distribution customers to specified industrial and/or institutional buyers. Northwest states that it is intended that the Rate Schedule I–2 rate be competitive with alternate energy costs so that industrial/institutional end-users with alternate fuel capacity would use natural gas as their primary source of energy. It is stated that the sale of natural gas as proposed under the I–2 incentive rate schedule would be made to Northwest's resale customers for sale to their industrial/institutional purchasers at the proposed incentive rate only for those volumes of natural gas purchased by the end-users which exceed the volumes of natural gas purchased by such end-users during the 12-month period ending November 30, 1982.

It is stated that the increased cost of natural gas at the burner tip has resulted in reduced industrial/institutional demands in Northwest's market area with a concomitant increase in Northwest's take-or-pay responsibility under the terms of its domestic gas purchase contracts. Northwest indicates that the 120,000,000 therms proposed for sale herein is based on the volume of domestic natural gas with Northwest has heretofore paid for (6,352,348 Mcf) and not taken plus the volumes of domestic take-or-pay which Northwest estimates that it could accrue during 1982 and 1983 without the proposed incentive rate schedule. Sales of an additional annual quantity of 120,000,000 therms would reduce the aforementioned take-or-pay obligation and result in an annualized cost reduction to Northwest's customers of approximately $13.6 million during the 12-month term of the proposed sale, it is submitted.

This cost reduction would be accomplished by crediting the revenues received from such sale through Northwest's normal purchased gas cost adjustment process and would be reflected in its semiannual PGAC filing as provided in Northwest's proposed Rate Schedule I–2, it is asserted.

Northwest proposes to charge $3.60 per therm for each therm sold pursuant to Rate Schedule I–2. The rate is subject to change each April and October, coincident with Northwest's semiannual purchased gas cost rate adjustment, it is explained. The proposed semiannual rate adjustment is intended to maintain a rate pursuant to Rate Schedule I–2 sufficiently competitive with alternate fuels to encourage the increased sales of natural gas in Northwest's industrial/institutional market sectors.

Any person desiring to be heard or to make any protest with reference to said

application should on or before February 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3352 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-125-005]

Tennessee Gas Pipeline Co.; Revised Rate Filing

February 3, 1983.

Take notice that on January 21, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing certain revised tariff sheets in its FERC Gas Tariff to be effective on February 1, 1983, in lieu of the tariff sheets originally filed in Docket No. RP82-125, as follows:

Original Volume No. 1

Eighth Revised Sheet Nos. 20 and 22
Seventh Revised Sheet No. 21
Substitute Second Revised Sheet No. 75

Sixth Revised Volume No. 2

Substitute First Revised Sheet No. 299C6, 299C7, 299D6, 299D7, 299E6, 299E9, 299F7, 299G6, 299G7, 299H6, 299PP6
Substitute Second Revised Sheet No. 299RR5
Substitute Third Revised Sheet No. 267L, 277B, 286E, 287D, 297E, 299L10, 299V6, 299W5, 299X6, 299Y6, 299EE6, 299FF5, 299GG7, 299MM5, 299NN4, 299QQ5, 299SS6, 299TT5, 299UU4
Substitute Fourth Revised Sheet No. 266H, 267K, 268C, 287E, 288D, 289E, 290E, 291E, 292E, 299L9, 299M6, 299N5, 299Q5, 299R5
Substitute Fifth Revised Sheet No. 274E
Substitute Sixth Revised Sheet No. 248D
Substitute Seventh Revised Sheet No. 141A
Substitute Ninth Revised Sheet No. 245D
Substitute Tenth Revised Sheet No. 76, 215
Substitute Eleventh Revised Sheet No. 53, 54, 77
Substitute Twelfth Revised Sheet No. 141
Substitute Fourteenth Revised Sheet No. 11 and 12
First Revised Sheet No. 299C8, 299C9, 299D8, 299E10, 299F8, 299G8, 299H7, 299S11, 299S12, 299SS7
Second Revised Sheet No. 299VV4, 299WW5, 299WW6.

Tennessee states that the purpose of the revised tariff sheets is to revise the rates suspended until February 1, 1983, in this proceeding to reflect, (1) the elimination of all facilities and related costs which will not have been certificated and placed in service by December 31, 1982; (2) revisions related to advance payments claimed in rate base; (3) the Current Average Cost of Purchased Gas and certain other rate adjustments reflected in Tennessee's filing made effective on January 1, 1983, in Docket Nos. TA83-1-9 (PGA83-1, *et al.*); and (4) the deletion of its Added Volume charge from several rate schedules.

Tennessee further states that copies of the revised filing were served on all customers and affected state commissions as well as all parties to Docket No. RP82-125.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further pleading. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3315 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-9-001]

Tennessee Gas Pipeline Co., Revised Rate Filing

February 3, 1983.

Take notice that on January 21, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing Second Substitute Sixth Revised Sheet No. 21 to Original Volume No. 1 of its FERC Gas Tariff, to be effective January 1, 1983.

Tennessee states that the sole purpose of the revised tariff sheets is to reflect a reduction in its surcharge for amortizing its Unrecovered Purchased Gas Account as required by the Commission's December 28, 1982 orders in *Tennessee Gas Pipeline Company*, Docket No. TA83-1-9, and *Tenneco Inc., et al.*, Docket No. IN79-3.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further pleading. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3333 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-43-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

February 3, 1983.

Take notice that Transwestern Pipeline Company (Transwestern) on January 25, 1983 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheet:

Third Revised Sheet No. 73.

The above listed tariff sheet was issued for the sole purpose of revising Section 19.2 B(3), *Surcharge Adjustment*, of the General Terms and Conditions of Transwestern's FERC Gas Tariff to enable the use of the balance in the PGA account as of three months prior to the Effective Date of Adjustment for determination of the Surcharge Adjustment included in Transwestern's semiannual PGA tracking filings.

On August 31, 1982 Transwestern filed Revised Second Revised Sheet No. 73 to enable Transwestern to use the balance in the PGA account as of two months prior to the Effective Date of Adjustment. By order issued September 30, 1982, in Docket No. TA83-1—42-000 and Docket No. RP82-134-000 (not consolidated), the Commission suspended and conditionally accepted Transwestern's October 1, 1982 PGA filing and Revised Second Revised Sheet No. 73 to be effective October 1, 1982. An informal conference with the Commission Staff and intervenors was held on November 23, 1982. Transwestern agreed at the conference to revise its tariff sheet to reflect the use of the account balance three months prior to the Effective Date of Adjustment for future PGA filings.

The proposed effective date of this tariff sheet is March 1, 1983.

Copies of the filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3334 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-261-003]

Trunkline Gas Co.; Proposed Change in FERC Gas Tariff

February 2, 1983.

Take notice that on January 12, 1983, Trunkline Gas Company (Trunkline) tendered for filing First Revised Sheet No. 3341 and Second Revised Sheet No. 3341 to its FERC Gas Tariff, Original Volume No. 2.

Trunkline states that these changes are made to recognize changes in charges that it incurs in performing a transportation service for Panhandle Eastern Pipe Line Company (Panhandle) pursuant to its Rate Schedule T-77. In performing this service Trunkline utilizes capacity in the pipeline system of Columbia Gulf Transmission Company (Columbia Gulf).

On January 1, 1982, Columbia Gulf placed rates into effect reflecting settlement in its general rate proceeding Docket No. RP81-82. These rates are reflected in Trunkline's First Revised Sheet No. 3341. Trunkline requests an effective date of September 27, 1982 for this sheet.

On December 6, 1982, Columbia Gulf filed revised rates to be effective January 1, 1983, in its general rate filing, Docket No. RP82-119. These rates were filed in compliance with the Commission Order dated July 30, 1982. Trunkline's Second Revised Sheet No. 3341 reflects these rates. Trunkline requests an effective date of January 1, 1983 for this sheet.

A copy of this filing has been served on Panhandle.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3335 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4648-001]

Weaverville Community Services District; Surrender of Preliminary Permit

February 2, 1983.

Take notice that Weaverville Community Services District, Permittee for the proposed East Weaver Creek Project No. 4648, has requested that its preliminary permit be terminated. The permit was issued on September 17, 1981, and would have expired August 31, 1983. The project would have been located on the East Weaver Creek in Trinity County, California.

The Permittee filed its request on January 13, 1983, and the surrender of the preliminary permit for Project No. 4648 is deemed acepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3366 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2030-000]

Wesley W. Von Schack; Application

February 2, 1983.

The filing individual submits the following:

Take notice that on January 24, 1983, Wesley W. Von Schack filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President Finance—Central Vermont Public Service Corporation

Vice President Finance—Connecticut Valley Electric Company, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3356 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL HOME LOAN BANK BOARD

Manning Savings & Loan Association; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in Section 406(c)(1)(B) of the National Housing Act, as added by the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469, 1482, Section 122(d), to be codified at 12 U.S.C. 1729(c)(1)(B), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole Receiver for Manning Savings and Loan Association, Chicago, Illinois, effective February 3, 1983.

Dated: February 3, 1983

J. J. Finn,

Secretary.

[FR Doc. 83-3332 Filed 2-7-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.6 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 9902-15.

Title: Euro-Pacific Joint Service Agreement.

Parties: Hapag-Lloyd A.G., Compagnie Generale Maritime and Intercontinental Transport (ICT) B.V.

Synopsis: The Joint Service would authorize the service to transport intermodal cargo to/from United States ports and inland points in Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming via ports in California, Oregon and Washington, and to/from European ports and inland points and to/from ports and points in Canada, Mexico, Central America, the East Coast of South America and the West Indies.

Filing Agent: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., 1800 Massachusetts Avenue, NW., Washington, D.C. 20036.

By Order of the Federal Maritime Commission.

Dated: February 3, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-3285 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed; Correction

The synopsis for Federal Maritime Commission Agreement No. 10464, which was published on January 26, 1983 (48 Fr 3654) should have read as follows: Synopsis: The joint venture is to operate a service between Canada/U.S. Great Lakes, Atlantic and Gulf Parts, North America to South/East Africa.

Dated: February 3, 1983.

Francis C. Hurney,

Secretary.

[FR Doc 83-3289 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

Trans-Border Customs Service Inc. et al.; Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of Shipping Act, 1916(75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573:

Americargo international, Inc., 830 Supreme Drive, P.O. Box 823, Bensenville, IL 60106, Officers: Robert H. Fates, stockholder, Joseph I. Naso, President/Director/Stockholder, Sheila M. Collings

By the Federal Maritime Commission.

Dated: February 3, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-3270 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

Meyer Line Inc. and Finnlines Ltd.; Cancellation of Agreement No. 9680

Agreement No. 9680, approved January 29, 1968, provides for the interchange of empty cargo containers and/or related equipment by the parties in their operations in the trades between United States North Atlantic ports and ports in Europe.

A review of Commission records discloses that neither Meyer Line Inc. nor Finnlines Ltd. advertise a service or maintain a tariff in the agreement trade, nor is the Commission able to identify an address at which official inquiries and correspondence can be delivered to the parties. Therefore, it appears that Agreement No. 9680 is no longer active and that the agreement should be terminated. Accordingly, notice is hereby given that Agreement No. 9680 will be terminated, effective 15 days following publication of this notice in the **Federal Register.**

Francis C. Hurney,

Secretary.

[FR Doc 83-3331 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

Oceanic Steamship Co., Pacific Far East Line, Inc. and Matson Navigation Co. (Matson); Cancellation of Agreement No. 9903

Agreement No. 9903, approved October 27, 1970, provided for Pacific Far East Line's (PFEL) purchase of four Oceanic Steamship Company (Oceanic) vessels and associated equipment then engaged in the North American Pacific Coast-Australasian trades. The agreement, in the form of a contract of sale, with Matson acting as guarantor of performance for Oceanic, also reflects

Oceanic's and PFEL's understanding as to the utilization and disposition of affected Oceanic employees; transfer of shoreside facilities and stores; transfer and assignment to PFEL Of Oceanic's Maritime Administration construction differential subsidy and contracts for two containerships; and details pertaining to the "close of the contract."

As a review of Commission records discloses that there has been no agreement activity since January 1971 and that Oceanic and PFEL are no longer operating companies, the agreement will be cancelled 15 days following publication of this notice in the Federal Register.

Dated: February 3, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-3380 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

Port Line Ltd. and American & Australian Steamship Line; Cancellation of Agreement No. 9713

Agreement No. 9713, approved June 24, 1968, provided for the interchange of portable tanks and/or related equipment between the parties in the trade from United States Atlantic and Gulf ports to ports in Australia and New Zealand.

As a review of Commission records discloses that neither Port Line Ltd. nor American and Australian Steamship Line advertise a service or maintain a tariff in the agreement trade, nor is the Commission able to identify an address at which official inquiries and correspondence can be delivered to the parties. Therefore, it appears that Agreement No. 9713 is no longer active and that the agreement should be terminated. Accordingly, notice is hereby given that Agreement No. 9713 will be terminated, effective 15 days following publication of this notice in the Federal Register.

Francis C. Hurney,

Secretary.

[FR Doc. 83-3379 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formation of Banking Holding Companies; Center Bancorp; Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 (a) (1) of the Bank Holding Company Act (12 U.S.C. 1842 (a) (1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3 (c) of the Act (12 U.S.C. 1842 (c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Center Bancorp, Inc.*, Union, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of The Union Center National Bank, Union, New Jersey. Comments on this application must be received not later than March 3, 1983.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta Georgia 30303:

1. *Peoples Bancshares of Pointe Coupee Parish, Inc.*, New Roads, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Peoples Bank and Trust Company of Pointe Coupee Parish, New Roads Louisiana. Comments on this application must be received not later than March 3, 1983.

Board of Governors of the Federal Reserve System, February 2, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-3256 Filed 2-7-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Juniata Valley Financial Corp. et al.

The companies listed in this notice have applied for the Board's approval under section 3(b)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Juniata Valley Financial Corporation*, Mifflintown, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Juniata Valley Bank, Mifflintown, Pennsylvania. Comments on this application must be received not later than March 2, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Bankshares, Inc.*, Barboursville, West Virginia; to become a bank holding company by acquiring at least 80 percent of the voting shares of The First State Bank, Barboursville, West Virginia. Comments on this application must be received not later than March 2, 1983.

2. *Sterling Bancorp, Inc.*, Eleanor, West Virginia; to become a bank holding company by acquiring 80 percent of the voting shares to The Buffalo Bank, Eleanor, West Virginia. Comments on this application must be received not later than March 2, 1983.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Merchants & Planters Bancshares, Inc.*, Montevallo, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Merchants & Planters Bank, Montevallo, Alabama. Comments on this application must be received not later than March 1, 1983.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Rushville Bancshares, Inc.*, Rushville, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of Rushville State Bank, Rushville, Illinois. Comments on this application must be received not later than March 2, 1983.

E. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

I. *Germantown Banc Corp.*, Germantown, Illinois; to become a bank holding company by acquiring at least 96 percent of the voting shares of Germantown Trust & Savings Bank, Germantown, Illinois. Comments on this application must be received not later than March 2, 1983.

2. *Peoples Commercial Services Corporation*, Senatobia, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Peoples Bank of Senatobia, Senatobia, Mississippi. Comments on this application must be received not later than March 2, 1983.

F. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Clayco Bancshares, Inc.*, Claycomo, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Clayco State Bank, Claycomo, Missouri. Comments on this application must be received not later than March 2, 1983.

G. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *TransTexas Bancshares, Inc.*, Beaumont, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Canton, Canton, Texas. Comments on this application must be received not later than March 2, 1983.

H. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Placer Bancorporation*, Roseville, California; to become a bank holding company by acquiring 100 percent of the voting shares of Placer Bank of Commerce (In Organization), Roseville, California. Comments on this application must be received not later than March 2, 1983.

Board of Governors of the Federal Reserve System, February 2, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-3254 Filed 2-7-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de novo Nonbank Activities; First Alabama Bancshares; Inc., et al.

The organizations identified in this notice have applied, pursuant to section 4 (c)(8) of the Bank Holding Company Act (12 U.S.C 1843 (c)(8)) and § 225.(b)(1)), of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank no later than the date indicated.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Alabama Bancshares, Inc.*, Montgomery, Alabama (insurance activities; Alabama): To engage through its subsidiary, FAB Agency, Inc., in the activity of acting as an agent or broker for the sale of involuntary unemployment insurance directly related to its extensions of credit. These activites will be conducted from offices at all locations of banking subsidiaries of the applicant, throughout Alabama, serving the State of Alabama. Comments on this application must be received not later than February 23, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120—

1. *Security Pacific Corporation*, Los Angeles, California (finance and credit life and credit accident and health insurance activities; West Virginia): To engage through its subsidiaries, Security Pacific Finance Corp. of Clarksburg, Security Pacific Finance Corp. of Huntington and Security Pacific Finance Corp. of Martinsburg, in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life and accident and health insurance. These activities would be conducted from an office of Security Pacific Finance Corp. of Beckley in Beckley, West Virginia; an office of Security Pacific Finance Corp. of Clarksburg in Clarksburg, West Virginia; and office of Security Pacific Finance Corp. of Huntington in Huntington, West Virginia; and an office of Security Pacific Finance Corp. of Martinsburg in Martinsburg, West Virginia, each serving the State of West Virginia. Comments on this application must be received not later than March 2, 1983.

Board of Governors of the Federal Reserve System, February 2, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-3255 Filed 2-7-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; First National Boston Corp. et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute,

summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First National Boston Corporation,* Boston, Massachusetts (factoring and commercial finance; Colorado, Kansas and New Mexico): To engage, through its indirect subsidiary, FNB Financial Company, in factoring and commercial financing activities. These activities would be conducted from an office in Denver, Colorado, serving the states of Colorado, Kansas, and New Mexico. Comments on this application must be received not later than February 23, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Bank of New York Company, Inc.,* New York, New York (mortgage banking activities; California): To engage, through its wholly-owned subsidiary, Arcs Mortgage, Inc., in the following activities: making loans secured by first and second mortgages on real estate consisting of one- to four-family residential properties. These activities would be conducted from offices in Bakersfield, California, with a primary service area of Kern County, California, and in Santa Maria, California, with a primary service area of Santa Barbara County, California. Comments on this application must be received not later than March 3, 1983.

C. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Philadelphia National Corporation,* Philadelphia, Pennsylvania (mortgage loan activities; Florida): To engage through its subsidiary, Colonial Mortgage Service Company Associates, in the origination of FHA, VA and conventional residential mortgage loans and second mortgage loans in conformance with provisions of § 225.4(a)(1) of Regulation Y. These activities would be conducted from an office in Tampa, Florida, serving the State of Florida. Comments on this application must be received not later than March 3, 1983.

2. *Philadelphia National Corporation,* Philadelphia Pennsylvania (mortgage loans activities; California): To engage through its existing subsidiary, Colonial Associates, Inc., San Diego, California, in the origination of FHA, VA and conventional mortgage loans and second mortgage loans in conformance with the provisions of § 225.4(a)(1) of Regulation Y. These activities would be conducted from offices in Oceanside and Hayward, California, serving the State of California. Comments on this application must be received not later than March 3, 1983.

Board of Governors of the Federal Reserve System, February 2, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-3257 Filed 2-7-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Annual Reports; Availability of Filing

Notice is hereby given that pursuant to Section 13 of Pub. L. 92-463 (5 U.S.C. Appendix I), the fiscal year 1982 annual reports for the following Federal advisory committees utilized by the Centers for Disease Control have been filed with the Library of Congress:

Mine Health Research Advisory Committee, Safety and Occupational Health Study Section

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, D.C. (telephone: 202/287-6310). Additionally, on weekdays between 9:00 a.m. and 4:30 p.m. copies will be available for inspection at the Department of Health and Human Services, Department Library, HHS North Building, Room 1436, 300 Independence Avenue, SW., Washington, D.C. (telephone: 202/245-6791).

Dated: January 31, 1983.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 83-3338 Filed 2-7-83; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 82N-0143]

Assessment of the Economic Impacts of the OTC Drug Review Process; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an assessment of the economic impacts of the over-the-counter (OTC) drug review process.

ADDRESS: Written comments and requests for a copy of the assessment to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: This document announces the availability of an assessment of the economic impacts of the OTC drug review process. The assessment has been prepared to determine whether the economic effects of the OTC drug review process, as a whole, are sufficient to warrant a Regulatory Impact Analysis (as specified in Executive Order 12291) or a Regulatory Flexibility Analysis (as required by the Regulatory Flexibility Act, Pub. L. 96-354).

In 1972, FDA established procedures for the conduct of the OTC drug review (21 CFR Part 330). In accordance with these procedures, as amended, the agency now is issuing proposed and final regulations to establish monographs for numerous individual therapeutic categories of the OTC drug products. These actions by the agency affect the marketability of thousands of OTC drug products. To determine the economic consequences of these actions, FDA has prepared a document entitled "Assessment of the Economic Impacts of the OTC Drug Review Process." This assessment evaluates the economic effects (costs) of any required labeling, reformulation, and/or testing of OTC drug products as a direct result of the OTC drug review process. The assessment examines the economic impact of the establishment of a monograph for any particular therapeutic class of OTC drugs. The assessment demonstrates that the review process in its entirety will not have a "major impact" as defined in

Executive Order 12291, and probably will not have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act. The assessment concludes that any single monograph of the more than 60 planned over the next five years should be presumed to have neither kind of impact except in the event that interested persons present specific evidence to the contrary.

A copy of the assessment is available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the Dockets Management Branch. Requests for single copies of the assessment may be submitted to the Dockets Management Branch and should identify the assessment with the docket number found in brackets in the heading of this document.

Interested persons may, on or before June 8, 1983, submit written comments on the assessment to the Dockets Management Branch (address above). Interested persons will be given further opportunity to comment on the economic impacts of the OTC drug review in the context of each individual rule as it is published. Such comments will be considered in determining whether further amendments to, or revisions of, the assessment are warranted. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The assessment and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Dated: February 1, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-3157 Filed 2-7-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0022]

Pharmacia Inc.; Premarket Approval of Healon®

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of Healon® sponsored by Pharmacia, Inc., Piscataway, NJ. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 10, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Office of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On July 7, 1981, Pharmacia, Inc., Piscataway, NJ, submitted to FDA an application for premarket approval of Healon® (a viscoelastic preparation of a purified high-molecular weight fraction of sodium hyaluronate) for use as a surgical aid in glaucoma filtration, corneal transplant, cataract extraction, intraocular lens implantation, and retinal attachment surgery. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On January 14, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 10, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 1, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3158 Filed 2-7-83; 8:45 am]

BILLING CODE 4160-01-M

Psychopharmacologic Drugs Advisory Committee; Clarification of Meeting Agenda

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is republishing the agenda portion of the notice announcing a meeting of the Psychopharmacologic Drugs Advisory Committee scheduled for February 24 and 25, 1983. The meeting was announced in the Federal Register of January 14, 1983 (48 FR 1825).

FOR FURTHER INFORMATION CONTACT: Frederick J. Abramek, National Center for Drugs and Biologics (HFN-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 301-443-3800.

SUPPLEMENTARY INFORMATION: The revised agenda paragraph should read as follows:

Open committee discussion. The committee will discuss the following: (1)

LSD as an adjunct to psychotherapy: Is further clinical testing reasonable and safe? (2) Description of antidepressant drug effects in drug labeling: An open discussion. (3) Nomifensine Maleate (Merital®) (NDA 18–224).

Dated: February 1, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–3253 Filed 2–7–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–83–691]

Office of the Regional Administrator; Seattle Regional Office, Region X, Washington; Designation

AGENCY: Housing and Urban Development Department.

ACTION: Designation of Order of Succession.

SUMMARY: The Regional Administrator of Region X is designating officials who may serve as Acting Service Office Supervisor during the absence, disability, or vacancy in the position of Service Office Supervisor of the Boise, Idaho Service Office.

EFFECTIVE DATE: February 8, 1983.

FOR FURTHER INFORMATION CONTACT: Terrence R. Duvernay, Deputy Regional Administrator, Seattle Regional Office, Department of Housing and Urban Development, 1321 Second Avenue, Seattle, Washington, 98101, (206) 442–5330. This is not a toll free number.

DESIGNATION: The officers appointed to the following listed positions in Region X (Seattle) are hereby designated to serve as Acting Service Office Supervisor during the absence of the Service Office Supervisor of the Boise, Idaho Service Office, with all the powers, functions, and duties delegated or assigned to the Service Office Supervisor, provided that no officer is authorized to serve as Acting Service Office Supervisor unless all other officers whose title precede his/hers in this designation are unable to act by reason of absence, disability, or vacancy in this position.

1. Chief, Valuation Branch.
2. Chief, Architectural Branch.
3. Chief, Mortgage Credit Branch.
4. Chief, Loan Management/Property Disposition Branch.

(Delegation of Authority, 27 FR 4319 (1962), Section 9(c), Department of Housing and Urban Development Act, 42 U.S.C. 3531 note; and Interim Order II, 31 FR 815 (1966))

Dated: January 21, 1983.

William Y. Nishimura,

Regional Administrator, Seattle Regional Office.

[FR Doc. 83–3330 Filed 2–7–83; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. D–83–692]

Office of the Regional Administrator, Seattle Regional Office, Region X, Washington; Designation

AGENCY: Housing and Urban Development Department.

ACTION: Designation of order of succession.

SUMMARY: The Regional Administrator of Region X (Seattle) is designating officials who may serve as Acting Regional Administrator during the absence, disability, or vacancy in the position of Regional Administrator.

EFFECTIVE DATE: February 8, 1983.

FOR FURTHER INFORMATION CONTACT: Terrence R. Duvernay, Deputy Regional Administrator, Seattle Regional Office, Department of Housing and Urban Development, 1321 Second Avenue, Seattle, Washington 98101, (206) 442–5330. This is not a toll free number.

Designation: Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence of the Regional Administrator of Region X (Seattle), with all the powers, functions, and duties redelegated or assigned to the Regional Administrator; provided that no official is authorized to serve as Acting Regional Administrator unless all officials listed before him/her in this designation are unavailable to act by reason of absence, disability, or vacancy in the position.

1. Deputy Regional Administrator.
2. Director, Office of Regional Housing.
3. Regional Counsel.
4. Director, Office of Regional Community Planning and Development.
5. Director, Office of Regional Fair Housing and Equal Opportunity.
6. Director, Office of Regional Administration.

(Delegation of Authority, 27 FR 4319 (1962); Section 9(c), Department of Housing and Urban Development Act, 42 U.S.C. 3531 note; and Interim Order II, 31 FR 815 (1966))

Dated: January 21, 1983.

William Y. Nishimura,

Regional Administrator, Seattle Regional Office.

[FR Doc. 83–3329 Filed 2–7–83; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C–093687]

Colorado; Order Providing for Opening of Public Lands: Amendment

January 31, 1983.

Order providing for opening of public lands appearing as **Federal Register** Document 65–2647 in the issue for Tuesday, March 16, 1965, is hereby amended to include under land list (b) Surface Estate Only Conveyed—the following land:

Sixth Principal Meridian, Colorado

T. 7 N., R. 101 W.,
Sec. 26, Lot 8;
T. 9 N., R. 102 W.,
Sec. 15, Lot 2.

The areas described aggregate 0.71 acres of public lands in Moffat County.

Robert D. Dinsmore,

Chief, Branch of Land and Minerals Operations.

[FR Doc. 83–3299 Filed 2–7–83; 8:45 am]

BILLING CODE 4310–84–M

Regional Oil Shale Team Meeting for Colorado Prototype Oil Shale Lease

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Regional Oil Shale Team (R.O.S.T.) Meeting March 2, 1983.

SUMMARY: The purpose of the meeting is for the R.O.S.T. to prepare their recommendations to the Secretary of the Interior for the proposed Oil Shale Prototype Lease Sale in Colorado. The meeting will be held at the Sheraton Inn, Lakewood, 360 Union Boulevard, Lakewood, Colorado 80228, phone (303) 987–2000, on March 2, 1983, at 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Leopold, Oil Shale Program Manager, Bureau of Land Management (910), Colorado State Office, 1037 20th Street, Denver, Colorado 80202, Phone: (303) 837–5435 (Com.), 327–5435 (FTS).

Dated: February 2, 1983.

George C. Francis,

State Director, Colorado.

[FR Doc. 83–3275 Filed 2–7–83; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by

the National Park Service before January 28, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 23, 1983.

Carol D. Shull,

Chief of Registration, National Register.

CALIFORNIA

Kern County

Bakersfield, *Bakersfield Californian Building*, 1707 Eye St.

Orange County

Santa Ana, *Rankin Building*, 117 W. 4th St.

San Francisco County

San Francisco, *Moss Flats Building*, 1626 Great Hwy.

San Francisco, *Paige Motor Car Company Building*, 1699 Van Ness Ave.

IOWA

Allamakee County

Lansing, *Old Allamakee County Courthouse (County Courthouses in Iowa TR)*, Second St.

Harrison County

Magnolia, *Old Harrison County Courthouse (Courthouses in Iowa TR)*, 401 Locust

KANSAS

Chautauqua County

Elgin vicinity, *Cedar Creek Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, FAS 96

Cherokee County

Baxter Springs vicinity, *Brush Creek Bridge, (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, N of Baxter Springs

Coffey County

Hartford vicinity, *Neosho River Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, E of Hartford

Geary County

Junction City vicinity, *Canroe Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, E of Junction City

Linn County

Mound City vicinity, *Mine Creek Bridge, (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, E of Mound City

Lyon County

Emporia vicinity, *Soden's Grove Bridge, (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, KS 57/99

Miami County.

Osawatomie vicinity, *Pottawatomie Creek Bridge, (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, FAS 1604

Osawatomie, *Creamery Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, FAS 456

Montgomery County

Independence Vicinity, *Dewlin-Spohnhauer Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, US 160

Shawnee County

Topeka vicinity, *Blacksmith Creek Bridge (Rainbow Arch (Marsh Arch) Bridges of Kansas TR)*, W of Topeka

KENTUCKY

Campbell County

Alexandria vicinity, *Barth, Peter, Farm (German Settlement, Four Mile Creek Area TR)*, Lower Tug Fork Rd.

Alexandria vicinity, *Blenke House (German Settlement, Four Mile Creek Area TR)*, Four and Eight Mile Rd.

Alexandria vicinty, *Faha, John, House (German Settlement, Four Mile Creek Area TR)*, Lower Tug Fork Rd.

Alexandria, vicinity, *Kremer, Frederich, House (German Settlement, Four Mile Creek Area TR)*, 317 Poplar Ridge Rd.

Alexandria vicinity, *Kremer, Nicholas, House (German Settlement, Four Mile Creek Area TR)*, Four and Twelve Mile Pike

Alexandria vicinity, *Ort-Heeb Farm (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike

Alexandria vicinity, *Reitman House (German Settlement, Four Mile Creek Area TR)*, Reitman Rd.

Alexandria vicinity, *Ritter, Andrew, Farm (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike

Alexandria vicinity, *Sauser Farm (German Settlement, Four Mile Creek Area TR)*, Upper Tug Fork Rd.

Alexandria vicinity, *St. John's Lutheran Cemetery (German Settlement, Four Mile Creek Area TR)*, Upper Tug Fork Rd.

Alexandria vicinity, *St. Joseph's Catholic Church and Cemetery (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike

Alexandria vicinity, *Uebel House (German Settlement, Four Mile Creek Area TR)*, Upper Tug Fork Rd.

Camp Springs, *Reitman's St. Joseph House (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike

Camp Springs, vicinity, *Bishoff House (German Settlement, Four Mile Creek Area TR)*, Upper Eight Mile Rd.

Camp Springs vicinity, *Braun, John, House (German Settlement, Four Mile Creek Area TR)*, Eight Mile Rd.

Camp Springs, vicinity, *Camp Spring House (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike

Camp Springs vicinity, *Heiert Farm (German Settlement, Four Mile Creek Area TR)*, Upper Eight Mile Pike

Camp Springs vicinity, *Hilbert Farm (German Settlement, Four Mile Creek Area TR)*, Gunkel Rd.

Camp Springs, vicinity, *Roth farm (German Settlement, Four Mile Creek Area TR)*, Off Lower Eight Mile Rd.

Camp Springs, *Baumann House (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike

Camp Springs, *Blau's Four Mile House (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike

Camp Springs, *Gubser-Schuchter Farm (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike

Camp Springs, *Kort Grocery (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike

Camp Springs, *Kremer, Matthias, House (German Settlement, Four Mile Creek Area TR)*, Four and Twelve Mile Rd.

Camp Springs, *Leick House (German Settlement, Four Mile Creek Area TR)*, Four Mile Pike

Melbourne vicinity, *Tiemeyer House (German Settlement, Four Mile Creek Area TR)*, KY 8

Melbourne vicinity, *Trutschell House (German Settlement, Four Mile Creek Area TR)*, KY 8

LOUISIANA

West Feliciana Parish

St. Francisville, *Afton Villa Gardens*, N of St. Francisville on U.S. 61

MARYLAND

Prince Georges County

Upper Marlboro vicinity, *Compton Bassett*, 16508 Marlboro Pike

MICHIGAN

Kent County

Grand Rapids, *Michigan Trust Company Building*, 40 Pearl St., N.W.

Lenawee County

Adrian, *St. Mary of Good Counsel Catholic Church*, 320 Division St.

MINNESOTA

Lake County

Two Harbors, *Duluth and Iron Range Railroad Company Depot*, 6th St. off South Ave.

Two Harbors, *Lake County Courthouse and Sheriff's Residence*, 3rd Ave. at 6th St.

Ramsey County

St. Paul, *Arlington Hills Library (Carnegie Libraries of St. Paul TR)*, 1105 Greenbrier St.

St. Paul, *Church of St. Bernard*, 197 W. Geranium Ave.

St. Paul, *First Baptist Church of St. Paul*, 499 Wacouta St.

St. Paul, *Krank Building*, 1855 W. University Ave.

St. Paul, *Riverview Branch Library (Carnegie Libraries of St. Paul TR)*, 1 E. George St.

St. Paul, *St. Anthony Park Branch Library (Carnegie Libraries of St. Paul TR)*, 2245 W. Como Ave.

White Bear Lake, *First National Bank of White Bear*, 4744 Washington Ave.

St. Louis County

Gilbert vicinity, *St. Louis County 4–H Club Camp*, 100 Pine Lane

MISSISSIPPI

Marshall County

Byhalia vicinity, *Myers-Hicks Place*, MS 309

NEBRASKA

Gage County

Wymore, *Lake Bridenthal House*, 113 S. 9th St.

NEVADA

Washoe County

Reno, *20th Century Club*, 335 W. First St.
Reno, *Clifford House*, 339 Ralston St.
Reno, *First United Methodist Church*, W. First and West Sts.
Reno, *Francovich House*, 328 Ralston St.
Reno, *Graham, William J., House*, 548 California Ave.
Reno, *Levy House*, 111–121 California Ave.
Reno, *Nortonia Boarding House*, 150 Ridge St.
Reno, *Twaddle Mansion*, 485 W. Fifth St.
Reno, *Tyson House*, 242 W. Liberty St.

NEW JERSEY

Mercer County

Trenton, *Stokely-Van Camp Industrial Complex*, Lalor Street at Stokely Ave.

PENNSYLVANIA

Berks County

Oley Township, *Oley Township Historic District*, PA 73

Chester County

Downingtown vicinity, *Bridge Mill Farm*, Mashall Rd.
Glen Moore, *Pleasant Hill Plantation*, Little Conestoga Rd.
West Chester, *New Century Clubhouse*, High and Lacey Sts.

Cumberland County

Mechanicsburg, *Simpson Street School*, Simpson & High Sts.

Dauphin County

Harrisburg, *Greenawalt Building*, 118–120 Market St.

Delaware County

Glen Mills, *Newlin Mill Complex*, S. Cheyney Rd.

Erie County

Erie, *Cashiers House and Coach House (Boundary Increase)*, 413 State St., 11 E. 4th St.

Philadelphia County

Philadelphia, *St. John's Church*, 220–30 Brown St.

Pike County

Lackawaxen vicinity, *Grey, Zane, House*, Roebling Rd.

PUERTO RICO

Mayaguez County

San German, *Casa De Los Ponce De Leon*, Dr. Santiago Veve Num. 13

VERMONT

Chittenden County

Burlington, *Kelsey, Martin L., House*, 43 Elmwood Ave.

VIRGINIA

Amherst County

Clifford vicinity, *Geddes*, SR 700

Surry County

Bacon's Castle vicinity, *Old Brick Church*, VA 10

The following property is being removed from the National Register of Historic Places because of procedural error.

COLORADO

Denver County

Denver, *Zang Barn and Stable, Rocky Mountain Hotel*, 2263 and 2301 7th St.

[FR Doc. 83-3337 Filed 2-7-83; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[No. MC-F-15088]

East Penn Trucking Co., Purchase (Portion) Exemption Foodtrain, Inc.

AGENCY: Interstate Commerce Commission

ACTION: Notice of proposed exemption

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in *Procedures for Handling Exemptions Filed by Motor Carriers* 367 I.C.C. 113 (1982), East Penn Trucking Company, seeks an exemption from the requirement under section 11343 of prior regulatory approval for acquisition of a portion of the motor carrier operating rights of Foodtrain, Inc., i.e., certificate Nos. MC-141776 (Sub-Nos. 10, 11, 15, 19, 21, 22, 24, 25, 28, 31 and 32), which authorize collectively, the transportation of (1) food and related products and (2) metal articles from and to and between points in 27 States and the District of Columbia.

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESS: (1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: William A. Chesnutt, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108–1166.

Comments should refer to No. MC-F-15088.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 1, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary,

[FR Doc. 83-3277 Filed 2-7-83; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387]

Exemptions for Contract Tariffs; Norfolk & Western Railway Co. et al.

AGENCY: Interstate Commerce Comission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278 or Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No	Name of railroad, contract number, and specifics	Review Board [1]	Decided date
754	Norfolk and Western Railway Co., ICC-NW-C-0036, Supplement 2, (Soybean meal)	1	02-01-83
759	St. Louis Southwestern Railway Co., ICC-SSW-C-0115, Supplement 1, (Forest products)	3	Do

[1] Review Board No. 1, Members Parker, Chandler, and Forber. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3171 Filed 2-7-83; 8:45 am]

BILLING CODE 7035-01-M

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44) U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, Washington, DC 20503, (202) 395-7313.

Type of Clearance—Extension
Bureau/Office—Office of Transportation Analysis
Title of Form—Minority Carrier Survey
OMB Form Number—3120-0050
Agency Form Number—OPA-81-1
Frequency—Semi-annually
Respondents—Minority owned trucking firms with interstate authority
Number of Respondents—36
Total Burden Hours—3

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3280 Filed 2-7-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15079]

Les Mathre Trucking, Inc.; Purchase Exemption; Shoemaker Trucking Co.; Proposed Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982) Les Mathre Trucking, Inc., seeks an exemption from the requirement under section 11343 of prior regulatory approval for acquisition of a portion of the motor carrier operating rights of Shoemaker Trucking Company, i.e., certificate Nos. MC-138875 (Sub-Nos. 309x(k) and 309x(d) which authorize respectively the transportation of (1) such commodities as are dealt in by grocery and food business houses and food and related products, between Chicago, IL, on the one hand, and, on the other, points in Washington, and (2) such commodities as are dealt in by grocery and food business houses and food and related products, between Chicago, IL, on the one hand, and, on the other, points in Idaho and Oregon.

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: (1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309.

Comments should refer to No. MC-F-15079.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 1, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3283 Filed 2-7-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15067]

Peterson Express, Inc. Purchase Exemption; Thermo Transport, Inc.; Proposed Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property* under 49 U.S.C. 11343, 367 I.C.C. 113 (1982), Peterson Express, Inc., (Peterson), a regulated motor carrier (No. MC-162104), and, in turn, Walter R. Key, Richard White, and Douglas A. Peterson, who jointly control Peterson, seek an exemption from the requirement under section 11343 of prior regulatory approval for the acquisition of control of a portion of the operating rights of Thermo Transport, Inc. (Thermo), a regulated motor carrier (No. MC-145359), through purchase of Thermo's Sub-No. 43 permit to transport general commodities (with exceptions), under continuing contract(s) with United Technologies, Inc., Essex Group, of Fort Wayne, IN.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240.

Comments should refer to No. MC-F-15067.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 31, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3285 Filed 2-7-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15100; OP4F-060]

Pick's Pack Hauler, Inc.; Purchase Exemption; Nebraska Carriers, Inc.; Proposed Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982), Pick's Pack Hauler, Inc., (MC-117639), seeks an exemption from the requirement under Section 11343 of prior regulatory approval for acquisition of a portion of the operating rights of Nebraska Carriers, Inc., (MC-153207). The pertinent authority provides for the transportation of machinery, metal products, and building materials, between points in Nebraska, on the one

hand, and, on the other, points in the coterminous United States.

DATE: Comments must be received within 30 days after the date of publication in the Federal Register.

ADDRESSES: Send comments to: (1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: A. J. Swanson, Quaintance, Swanson & Johnson, P.O. Box 1103, Sioux Falls, SD 57101.

Comments should refer to No. MC–F–15100.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 31, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3234 Filed 2–7–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. 30099]

Pocono Northeast Railway, Inc.; Exemption; Issuance of Note

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of a note by the Pocono Northeast Railway, Inc., in the aggregate principal amount of $400,000 to Sogen Lease, New York, NY, a wholle-owned banking subsidiary of Society Generale of France.

DATES: This exemption will be effective on February 8, 1983. Petitions to reopen must be filed by February 28, 1983.

ADDRESSES: Send pleadings to: (1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Peter A. Gilbertson, Suite 350, 1575 Eye Street, NW, Washington, DC 20005.

Pleadings should refer to Finance Docket No. 30099.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC Metropolitan area, (800) 424–5402—Toll free for outside the DC area.

Decided: February 1, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3281 Filed 2–7–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. MC–107]

Motor Carriers; Transportation of Government Traffic

February 1, 1983.

In the matter of Transportation of Government Traffic, No. GT–53–80, et al.; the Andrews Moving & Storage Co., Government Traffic Application (Cleveland, OH), No. GT–393–80, et al.; Academy Van and Storage Co., Inc. (Norfolk, VA), No. GT–558–80, et al.; Nilson Van & Storage (Columbia, SC), No. GT–790–80, et al.; Ideal Way Movers, Inc. (Marlboro, NJ), No. GT–850–80; Y. Higa Enterprises, Ltd. (Emeryville, CA), No. GT–1015–80, et al.; James M. Barnett and Mrs. James M. Barnett, a Government Traffic Application (Kosciusko, MS), No. GT–1031–80; Fidelity Storage Corporation Government Traffic Application (Alexandria, VA).

Notice to the parties.

By its decision in this matter served September 13, 1982, and published September 15, 1982, at 47 FR 40718, the Commission determined that as the result of a decision of the United States Court of Appeals for the District of Columbia Circuit in No. 80–1990, *Aero Mayflower Transit Co., Inc., et al.* v. *I.C.C., et al.*, certain operating authorities, issued pursuant to procedures adopted in *Transportation of Government Traffic*, 129 M.C.C. 623 (1978), 131 M.C.C. 845 (1979), will be void when the mandate of the court issues.

On January 20, 1983, the United States Court of Appeals for the District of Columbia Circuit issued an order in No. 80–1990 granting petitions to stay the issuance of the mandate and directing the clerk not to issue the mandate until thirty (30) days from the date of that order.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3279 Filed 2–7–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Decision-Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Volume No. OP1–FC–46

For status, please call Team 1 at 202–275–7992.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81085. By decision of January 25, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part

1181, Review Board Number 3 approved the transfer to 3C, INC. Oklahoma City, OK, of Certificate No. MC–121801 (Sub-Nos. 1, 2F, 3F, 4 and 5) issued August 9, 1979, February 25, 1982, November 6, 1980, September 24, 1981, and November 24, 1982, respectively, to Hayes Motor Freight, Inc., Oklahoma City, OK, authorizing the transportation of general commodities, with exceptions (A) over specified regular routes, between (1) Oklahoma City and Marietta, OK, (2) Pauls Valley and Alex, OK, (3) junction U.S. Hwy. 77 and OK Hwy 29, and Ardmore, OK, (4) Pauls Valley and Ardmore, OK, (5) Purcell and Maysville, OK, (6) Maysville and Elmore City, OK, (7) Ardmore, OK and Wichita Falls, TX, Gainsville, TX, and Dallas, TX, and (B) over irregular routes, between points in OK, on the one hand, and, on the other, Chicago, IL, Shreveport, LA, Little Rock, AR, Memphis, TN, Topeka and Wichita, KS, Kansas City and St. Louis, MO, Dallas, Houston, San Antonio and Texarkana, TX. Transferee is a carrier holding authority under No. MC–162525. An application for temporary authority has been filed. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036.

Volume No. OP2–048

For status, please call Team 2 at 202–275–7251.

By the Commission, Review Board No. 2, Members Parker, Chandler, and Fortier.

MC–FC–81054. By decision of January 25, 1983, issued under 49 U.S.C. 10926, and the transfer rules at 49 CFR 1181, Review Board Number 2, approved the transfer to Hulme Transportation Co., Inc., Foster, RI, of certificate No. MC–125023, Sub-Nos, 38, 63, and 70, issued February 28, 1978, December 13, 1979, and August 14, 180, respectively, to Sigma-4 Express, Inc. (James McNamara, Trustee in Bankruptcy), Erie, PA, authorizing the transportation of *glass containers,* (1) from the facilities of Midland Glass Co., Inc., at or near Cliffwood, NJ, to (a) South Volney, NY, and (b) points in Oswego and Onandago Counties, NY (except South Volney) and (2) from Washington, PA, to those points in NY, on and west of Interstate Hwy 87. Representative: Richard MacNeil, P.O. Box 101, Foster, RI.

Volume No. OP2–053

For status, please call Team 2 at 202–275–7251.

By the Commission Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81016. By decision of January 28, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to transferee O-Land Container Transport, Inc. Port Newark, NJ, of Certificate No. MC–1403 (Sub No. 8), issued December 22, 1981, to transferor, Central Transfer Company (Jeffrey Rothbard, trustee in bankruptcy), Newark, NJ, authorizing the transportation of general commodities (except classes A and B explosives and household goods), between points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and DC. Representative: Jeffery Rothbard, Esq. 1180 Raymond Blvd., Newark, NJ 07102 for transferor and Ronald I. Shapss, 450 Seventh Ave., New York NY 10123 for transferee.

Note.—All of the certificates under No. MC–1403 except Sub-No. 8 are cancelled as requested by the parties.

Volume No. OP4–FC–057

For status, please call Team 4 at 202–275–7669.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier, (Member Parker not participating.)

MC–FC–81165. By decision of January 31, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to Willingham's Garage, Inc., Newberry, SC, of Certificate No. MC–152457 (Sub-No.1), issued October 21, 1982, to Olin Willingham, d/b/a Willingham's Garage, Newberry, SC, authorizing the transportation of (1) *wrecked or disabled vehicles and replacement vehicles therefor;* and (2) *repossessed vehicles,* (a) between points in GA, NC and SC; and (b) between points in (a) above, on the one hand, and, on the other, points in the U.S. Representative: Frank A. Graham, Jr., P.O. Box 11864, Columbia, SC 29211, (803) 799–9122, for both transferee and transferor.

Volume No. OP5–FC32

For status, please call Team 5 at 202–275–7289.

By the Commission, Review Board No. 2, Members Parker, Chandler, and Fortier.

MC–FC–81082. By decision of January 18, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to Sixway Forwarding, Inc., Karny, NJ., of Certificate No. 14282 issued August 22, 1978, to Six Way Enterprises, Inc., Kearny, NJ, authorizing the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NJ on the one hand, and, on the other, Atlantic Coast ports in NY and NJ. Restriction: The service authorized herein is restricted to traffic having a prior or subsequent movement by water in foreign commerce. Transferee is not a carrier. Representative: Kenneth Smith, 60 John Hay Avenue, Kearny, NJ 07032.

MC–FC–81047. By decision of January 21, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to George R. Murphy, d/b/a Murphy Trucking & Excavation Co., of Reno, OH, of Certificate No. MC–120903 Sub 3 issued August 24, 1978 to Marietta Motor Freight, Inc., of Marietta, OH, authorizing the transportation of (1) *aluminum articles, and equipment and materials used in the manufacture of aluminum articles,* between the facilities of Kaiser Aluminum & Chemical Corporation at or near Ravenswood, WV, on the one hand, and, on the other, points in OH, and (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), (a) between Marietta, OH, and those points in OH within a five-mile radius of Marietta, on the one hand, and, on the other, points on OH, and (b) between points in Washington County, OH (except Belpre and Warner). Transferee is a carrier holding authority under MC–114718. Representative: A. Charles Tell, Suite 1800, 100 E. Board St., Columbus, OH 43215.

Note.—Applicant filed a directly related application in MC–114718 Sub 3 with this transfer which was denied by decision of January 21, 1983.

[FR Doc. 83–3278 Filed 2–7–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR

1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant had demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of propety, freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a common carrier of passengers are duly noted. Please direct status inquiries to Team One at (202) 275–7992.

Volume No. OP1–41

Decided: January 27, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 35831 (Sub-35), filed January 14, 1983. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, TX 76060. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *mercer commodities and metal products,* between points in AL, AR, CO, KS, LA, MO, MS, NM, OK, TN and TX.

MC 117740 (Sub-2), filed January 19, 1983. Applicant: HORTON BROTHERS TRUCKING COMPANY, INC., 11613 Benton Drive, Dallas, TX 75229. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with The Southland Corporation, of Dallas, TX.

MC 146361 (Sub-15), filed January 19, 1983. Applicant: WOLTER TRUCK LINES, INC., R.D. 6, Box 102, Greenwood, DE 19950. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth Street, NW., Washington, DC 20005, (302) 856–9755. Transporting (1) *commodities in bulk,* between point in NY, NJ, PA, WV, DE, MD, VA, NC, and DC, and (2) *chemicals and related products,* between points in NY, NJ, DE, MD, and VA.

MC 147571 (Sub-7), filed January 20, 1983. Applicant: TWIN RIVERS TRANSPORTATION COMPANY, 500 Armory Drive, South Holland, IL 60473. Representative: Edward G. Bazelon, 135 South LaSalle Street, Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148130 (Sub-4), filed January 20, 1983. Applicant: SHARP TRANSPORT, INC. Rte. 1, Box 20, Ethridge, TN 38456. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 347–8862. Transporting *such commodities* as are dealt in by wholesale, retail and institutional food houses, between points in CA, on the one hand, and, on the other, points in TN, GA, AL, MS, AR, and KY.

MC 148151 (Sub-10), filed January 18, 1983. Applicant: RAY BELLEW & SONS, INC., 7810 Almeda Genoa Road, Houston, TX 77075. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 152320 (Sub-5), filed December 27 1982. Applicant: VERSPEETEN CARTAGE LIMITED, 67 Dalton Rd., Delhi, Ontario, Canada N4B 1B4. Representative: Neill T. Riddell, 900 Guardian Bldg., Detroit, MI 48226, (313)–963–3750. Transporting *tobacco products and machinery,* between points in the U.S., under continuing contract(s) with businesses engaged in the manufacture, production and distribution of (a) tobacco products, and (b) materials, equipment and supplies utilized in the manufacture, production and distribution of tobacco products.

MC 152531 (Sub-1), filed January 19, 1983. Applicant: J C & CO, INC., P.O. Box 144, Pearce, AZ 85625. Representative: A. Michael Bernstein, 1441 E. Thomas Rd. Phoenix, AZ 85014, (602) 264–4891. Transporting

commodities in bulk, between points in AZ, NM and UT.

MC 154331 (Sub-3), filed January 18, 1983. Applicant: BOB GALLANT TRUCKING, INC., 1935 Lombardy Drive, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd,. Rapid City, SD 57701, (605)–343–4036. Transporting *general commodities* (except classes A and B expolsives and household goods), between points in SD, WY, and those points in NE and ND on and west of U.S. Hwy 83, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 156580 (Sub-1), filed January 17, 1983. Applicant: TRAN STAR TRANSIT, INC., 510 S. 110th Street, Edwardsville, KS 66113. Representative: Thomas A. Stroud, 109 Madison Ave., Memphis, TN 38103, (901) 526–2900. Transporting (1) *food and related products,* between Chicago, IL, and points in MO and KS, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *pet products,* between points in Dallas County, TX, on the one hand, and on the other, points in the U.S. (excep AK and HI).

MC 156581 (Sub-3), filed January 18, 1983. Applicant: METROPLEX FREIGHT SERVICE, INC., 1804 Vantage St., Carrollton, TX 75006. Representative: William Sherida, P.O. Drawer 5049, Irving, TX 75062, (214)–255–6279. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161551, filed January 17, 1983. Applicant: FRANCIS J. CAITO INC., 5724 E. Tenth St., Indianapolis, IN 46219. Representative: Francis J. Caito (same address as applicant), (317) 545–2387. Transporting *bananas,* between points in LA, MS, AL, TX, FL and SC, on the one hand, and, on the other, points in IN, IL, OH and MI.

MC 162851 (Sub-2), filed January 19, 1983. Applicant: BEL HEAVY HAULERS, INC., 3410 Marquart, Houston, TX 77027. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163790, filed January 14, 1983. Applicant: CLYDE M. ANDERSON, P.O. Box 427, Cleveland, UT 84518. Representative: Clyde M. Anderson (same address as applicant) (801) 653–2365. Transporting *alcoholic beverages,* between points in the U.S. (except AK and HI), under continuing contract(s) with Archer's Distributing, Inc., of Price, UT.

MC 165700, filed January 14, 1983. Applicant: HARVEY SALT COMPANY, 1325 Mohrs Lane, Baltimore, MD 21220. Representative: Steven T. Blomberg, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–6565. Transporting *salt and salt products,* between points in the U.S. (except AK and HI), under continuing contract(s) with International Salt Co., of Clarks Summit, PA.

MC 165781, filed January 19, 1983. Applicant: BES XPRESS, 13061 Vevea Road, Roger, MN 55374. Representative: Beth Specht, (same address as applicant), (612) 428–4505. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Transportation Systems International, Inc., of Minneapolis, MN.

Volume No. OP1–45

Decided: January 28, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 531 (Sub-468), filed January 21, 1983. Applicant: YOUNGER BROTHERS, INC., P.O. Box 14048, Houston, TX 77021. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue NW., Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *general commodities* (except clases A and B explosives between points in the U.S. (except AK and HI), under continuing contract(s) with Union Carbide Corporation, of Danbury, CT.

MC 145651 (Sub-7), filed January 21, 1983. Applicant: DUNCAN & SONS, INC., 20735 County Road "W", Lewis, CO 81327. Representative: Robert W. Wright, Jr., 57111 Ammons Street, Arvada, CO 80002, (303) 424–1761. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, CO, KS, NE, NV, NM, OK, TX, and UT.

MC 156611 (Sub-3), filed January 24, 1983. Applicant: FOOD TRANSPORT, INC., 614 West Sycamore Street, P.O. Box 446, Fayetteville, AR 72701. Representative: Grant M. Davis, 2217 Juneway Terrace, Fayetteville, AR 72701, (501) 443–3257. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Land O'Lakes, Inc., and its subsidiaries, of Arden Hills, MN.

MC 165740, filed January 14, 1983. Applicant: AMERICAN HIGHWAY CARRIERS OF INDIANA, INC., P.O. Box 6, Hammond, IN 46325. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, CO, CT, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, and WI.

MC 165791, filed January 17, 1983. Applicant: CFA TRANSPORT, INC., P.O. Box 28007, 2508 Starita Rd., Charlotte, NC 28213. Representative: Wyatt E. Smith (same address as applicant) (704) 596–0657. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Charlotte Freight Association, Inc., of Charlotte NC.

Volume No. OPI–47

Decided: February 1, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF–651, filed January 14, 1983. Applicant: STAN'S INTERNATIONAL FORWARDING, 1530 W. 12th St., Long Beach, CA 90813. Representative: Curtis D. Gunn (same address as applicant), (213) 436–9915. As a freight forwarder in connection with the transportation of *used household goods, unaccompanied baggage and used automobiles,* between points in the U.S.

W–1281 (Sub-1), filed January 19, 1983. Applicant: PARKER TOWING COMPANY, INC., 100½ 24th Ave., Tuscaloosa, AL 35402. Representative: Michael Joseph, Suite 500, 1776 F St., NW., Washington, D.C. 20006, (202) 467–5900. To operate as a *common carrier,* by water, by non-self propelled vessels with the use of separate towing vessels in the transportation of *general commodities* and by towing vessels in the performance of *general towage* between ports and points along the Gulf of Mexico and tributary waterways (including the Gulf Intracoastal Waterway but excluding the Mississippi River north of Baton Rouge, LA).

Note.—This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy

resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

MC 52680 (Sub-15), filed January 4, 1983. Applicant: D.A. EXPRESS, INC., 11937 S. Page Ave., Calumet Park, IL 60643. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Road, Downers Grove, IL 60515, (312) 953–0330. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 119871 (Sub-2), filed January 7, 1983. Applicant: EDWARD F. MADEIRA, INC., 514 Island St., Hamburg, PA 19526. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312, (703) 750–1112. Transporting (1) *non-metallic minerals*, and (2) *clay, concrete, glass or stone products*, between points in CT, DE, IL, IN, KY, MA, ME, MD, MI, NJ, NY, NC, OH, PA, RI, VA, WV, WI, and DC.

MC 144621 (Sub-55), filed June 24, 1983. Applicant: COLUMBINE CARRIERS, INC., 52275 U.S. Hwy 31 North, P.O. Box 66, South Bend, IN 46624. Representative: Charles J. Kimball, 665 Capitol Life Center, 1600 Sherman St., Denver, CO 80203, (303) 839–5856. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with ITOFCA, Inc., of Downers Grove, IL.

MC 148791 (Sub-39), filed January 17, 1983. Applicant: TRANSPORT-WEST, INC., 1850 South 1100 West, Woods Cross, UT 84087. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT, (801) 531–1777. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

Note.—The purpose of this application is to convert applicant's existing contract carrier authority in No. MC 148791 Sub Nos. 3, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31 and 33, to common carrier authority.

Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of its Permits held in MC–148791 Sub Nos. 3, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31 and 33.

MC 152030 (Sub-1), filed November 17, 1982, previously published in the FR on December 8, 1982. Applicant: WASPI TRUCKING, INC., 9500 Pyott Rd., Algonquin, IL 60102. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Rd., Downers Grove, IL 60515, (312)–953–0330. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Terrazzo & Marble Supply Co. of Illinois, Inc. and Plibrico Company, both of Chicago, IL.

MC 152640 (Sub-11), filed January 21, 1983. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 North Dupont Highway, Dover, DE 19901. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005, (202) 296–3555. Transporting *such commodities* as are dealt in and distributed by retail department stores, discount houses, and chain stores, between points in the U.S. (except AK and HI).

MC 152741 (Sub-3), filed January 17,1983. Applicant: APPALACHIAN FREIGHT CARRIERS, INC., P.O.Box 307, Edinburg, VA 22824. Representative: Lawrence E. Lindeman, 4660 Denmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *printed matter*, between points in VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155920 (Sub-2), filed January 24,1983. Applicant: NORMAN G. MAGA AND LUCILLE A. MAGA, P.O. Box 225, Winnemucca, NV 89445. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *Lumber and wood products, building materials, and such commodities* as are dealt in or used by mines and mills, (a) between points in MT, UT, AZ, NV, ID, CO, NM, CA and KS, (b) between points in MT, in the one hand, and, on the other, points in MO, (c) between points in NV, on the one hand, and, on the other, points in MN, and (d) between points in CA, on the one hand, and, on the other, points in SC and SD.

MC 156361 (Sub-9), filed January 17, 1983. Applicant: BIGBEE TRANSPORTATION COMPANY, P.O. Box 3610, American Lane, Greenwich, CT 06836–3610. Representative: Raymond L. Pucci (same address as applicant), (703) 552–3513. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Reading, PA, and Indianapolis, IN, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Formpac Division, W. R. Grace and Company, of Reading, PA.

MC 156611 (Sub-2), filed January 24, 1983. Applicant: FOOD TRANSPORT, INC., 614 West Sycamore St., P.O. Box 446, Fayetteville, AR 72701 Representative: Grant M. Davis, 2217 Juneway Terrace, Fayetteville, AR 72701, (501) 443–3257. Transporting *feed additives*, between points in the U.S. (except AK and HI), under continuing contract(s) with Wade Jones Company, of Springdale, AR.

MC 152610 (Sub-1), filed January 24, 1983. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 W. 47th St., Lyons, IL 60534. Representative: Thomas M. O'Brien, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 442–1010. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

MC 165320, filed January 20, 1983. Applicant: GEORGE R. SCHALL, d.b.a. GEORGE R. SCHALL TRUCKING, Bulford Rd. R.D. #5, Shavertown, PA 18708. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Lijoma Sales, Inc., of Torrington, CT.

MC 165690, filed January 13, 1983. Applicant: INTERNATIONAL TRUCKING CO., INC., 201 Corpus Christi Street, Laredo, TX 78040. Representative: James R. Boyd, 1000 Perry Brooks Bldg., Austin, TX 78701, (512) 476–8066. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), (a) between points in TX, and (b) between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–049

Decided: January 31, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 107012 (Sub-784), filed January 10, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN

46801. Representative: Gerald A. Burns, (same address as applicant), 219–429–2234. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with Ralston Purina Company, of St. Louis, MO.

MC 107012 (Sub-785), filed January 10, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219–429–2110. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Cable News Network, of Atlanta, GA.

MC 142723 (Sub-13), filed January 6, 1983. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219–2383, 412–471–1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Golden Dawn Foods, Inc., of Sharon, PA, a Division of Peter J. Schmitt Co., Inc.

MC 144023 (Sub-9), filed January 5, 1983. Applicant: KMT, INC., d.b.a. TAYLOR TRANSPORT, INC., 6335 Old Pineville Rd., Charlotte, NC 28210. Representative: Richard H. Peniston (same address as applicant), 704–527–5822. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NC, SC, VA, GA, AL, TX, MS, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147492 (Sub-10), (Correction), filed October 4, 1982, published in the **Federal Register** issue of October 19, 1982, and republished, as corrected, this issue. Applicant: MEL MOTOR EXPRESS, INC., P.O. Box 29–58, New Orleans, LA 70189. Representative: Sandra H. Roberson (same address as applicant), (504) 246–8221. Transporting (1) *steel drums and steel coils*, and (2) *such commodities as are dealt in or used by manufacturers and distributors of water heaters, air conditioners, and heating units*, between points in the U.S. (except AK and HI), under continuing contract(s) with Rheem Manufacturing, Inc., of Houston, TX.

Note.—The purpose of this republication is to clarify the commodity description and to include an omission of part (1) of the commodity description.

MC 156922 (Sub-1), filed January 6, 1983. Applicant: IMMANUEL FREIGHT LINES, INC., 13920 Mica St., Santa Fe Springs, CA 90670. Representative: Joseph Winter, 29 South LaSalle St., Chicago IL 60603, 312–263–2306. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Atlanta, GA, Chicago, IL, Davenport and Fort Madison, IA, and Kansas City, MO, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 164022, filed January 7, 1983. Applicant: JAMES D. ALLEN AND BETTY L. ALLEN d.b.a. ALLEN HOT SHOT SERVICE, 510 Washington St., NE, P.O. Box 666, Camden, AR 71701. Representative: Ralph Goza, Rt. 2, Box 85A, Stephens, AR 71764, (501) 836–9585. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Ouachita and Calhoun Counties, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165433, filed January 4, 1983. Applicant: SANSON, INC., 6161 Perkins, Suite 2–B, Baton Rouge, LA 70808. Representative: Janet Boles Chambers, 8211 Goodwood Blvd., Suite C–1, Baton Rouge, LA 70806, 504–924–2686. Transporting (1) *liquids used in the drilling, bringing in, cleaning out, and working over* of oil and gas wells, (2) *waste materials*, (3) *drilling muds*, and (4) *petroleum and petroleum products*, between points in AL, AR, FL, LA, MS, NM, OK, and TX.

MC 165583, filed January 17, 1983. Applicant: CARE TRANSPORT, INC., 15 Middletown Ave., North Haven, CT 06473. Representative: Raymond Talipski, 121 South Main St., Taylor, PA 18517 717–344–8030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) (a) between points in New Haven County, CT, on the one hand, and, on the other, points in CT, and (b) between points in CT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP2–051

Decided: January 27, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 165412, (A) filed January 7, 1983. Applicant: BANNOCK PAVING COMPANY, INC., P.O. Box 4002, Pocatello, ID 83201. Representative: Dennis M. Olsen, 485 "E" St., Idaho Falls, ID 83402, (208) 523–4650. (1)(a) Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with FMC Corporation, of Pocatello, ID, (2)(b) transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons), between points in the U.S., and (3)(b) as a *broker of general commodities* (except household goods), between points in the U.S.

Note.—Part (2) and (3)(b) published in the **Federal Register**, this issue, with "fitness applications".

MC 165742, filed January 17, 1983. Applicant: ROBERT LAFIN, d.b.a ROBERTS TOWING, 4925 South Morgan, Chicago, IL 60609. Representative: Irwin Rozner, 134 North LaSalle St., Chicago, IL 60602, 312–782–6937. Transporting *disabled and replacement motor vehicles*, in wrecker service, between points in IL, IN, MI, WI, OH, IA, PA, NJ, NY, MN, MA, KY, TN, VA, WV, NC, SC, GA, FL, LA, MS, MO, and AL.

Volume No. OP2–056

Decided: February 1, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

FF 652, filed January 13, 1983. Applicant: COSMOPOLITAN FREIGHT FORWARDERS, INC., 6715 Backlick Rd., Suite 203, Springfield, VA 22150. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036–5391, 202 887–5868. As a *freight forwarder*, in connection with the transportation of *household goods, furniture, fixtures, unaccompanied baggage, and used automobiles*, between points in the U.S.

MC 110683 (Sub-205), filed January 10, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Robert L. Stover (same address as applicant), 202 783–6131. Transporting *general commodities* (except household goods, classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Household Merchandising, Inc., of Des Plaines, IL.

MC 116142 (Sub-33), filed January 17, 1983. Applicant: BEVERAGE TRANSPORTATION, INC., 625 Eberts Lane, York, PA 17405. Representative: Christian V. Graf, David H. Radcliff, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those

points in the U.S. in and east of WI, IL, KY, TN, and MS.

Note.—Issuance of a certificate in this proceeding is subject to coincidental cancellation of carrier's existing certificates in MC–116142 (Sub-Nos. 1, 9, 14, 15, 17, 19, 20–23, 25, 27F, 29F, 30, E1, and all of Sub 8 except the portion which reads "new furniture, uncrated, from York, PA, to New Orleans, LA". Applicant has requested cancellation in this application.

MC 140723 (Sub-2), filed January 19, 1983. Applicant: ARLIN CURTISS, d.b.a. ARLIN CURTISS FEED SERVICE, P.O. Box 26, Montevideo, MN 56265. Representative: James B. Hovland, 525 Lumber Exchange Bldg., 10 South 5th St., Minneapolis, MN 55402, 612 340–0808. Transporting *such commodities*, as are dealt in by farm supply cooperatives, between points in the U.S. (except AK and HI).

MC 145583 (Sub-8), filed January 10, 1983. Applicant: XPRESS TRUCK LINES, INC., 2500 E. Butler St., Philadelphia, PA 19137. Representative: Anthony A. Cerone (same address as applicant), 215–535–5353. Transporting *general commodities* (except household goods, classes A and B explosives, commodities in bulk), between points in the U.S. (except AK and HI).

MC 164482, filed January 4, 1983. Applicant: SPRINGER EXPRESS CORP., 4195 Central Ave., Detroit, MI 48210. Representative: Eugene C. Ewald, 100 West Long Lake Rd.—Suite 102, Bloomfield Hills, MI 48013, 313–645–9600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IN, IL, OH, and the Lower Peninsula of MI.

MC 165563, filed January 6, 1983. Applicant: COLUMBINE NEWS SERVICE, INC., 745 Lipan St., Denver, CO 80204. Representative: Manuel Andrade, 770 Grant St., Suite 228, Denver, CO 80203, 303–861–4273. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Denver, CO, on the one hand, and, on the other, points in CO, ID, KS, MT, NE, NM, UT, and WY. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. 11343(e). In order to expedite issuance of any authority please submit a copy of the petition for exemption, the affidavit, or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 165763, filed January 18, 1983. Applicant: L. MIKOWSKI & SONS, INC., P.O. Box 354, Suttons Bay, MI 49682. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801, (616) 941–5313. Transporting *food and related products*, between points in Scott County, MS, and Brown, County, WI, and points in MI and IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–38

Decided: January 27, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. [Member Parker not participating.]

FF 175 (Sub-6), filed January 13, 1983. Applicant: B. C. FORWARDING CO., LTD., 3600 S. Western Ave., Chicago, IL 60609. Representative: H. Barney Firestone, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. As a *freight forwarder*, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between ports of entry on the International boundary line between the U.S. and Canada at points in WA, ID, MT, ND and MN, on the one hand, and, on the other, points in WA, OR, NV, ID, OK, UT, AZ, NM, CO, WY, MT, ND, SD, AK and HI.

MC 1515 (Sub-325), filed January 11, 1983. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Clemins (same address as applicant), (602) 248–2942. Over regular routes, transporting *passengers*, (1) Between Bristol, VA and Memphis, TN: From Bristol over Interstate Hwy 81 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, serving the off-route points of Kingsport, Rockwood, Crossville, Cookeville, and Lebanon, TN; (2) Between junction Interstate Hwy 40 and Interstate Hwy 75 (west of Knoxville, TN) and Chattanooga, TN: From junction Interstate Hwy 40 and Interstate Hwy 75 (west of Knoxville) over Interstate Hwy 75 to Chattanooga, serving the off-route point of Athens, TN; (3) Between Chattanooga, TN and junction Interstate Hwy 24 and Alternate U.S. Hwy 41 (south of Hopkinsville, KY): From Chattanooga over Interstate Hwy 24 to junction Alternate U.S. Hwy 41 (south of Hopkinsville), serving the off-route points of Monteagle, Manchester, Murfreesboro, and Clarksville, TN; (4) Between Shelbyville, TN and Tullahoma, TN: From Shelbyville over Alternate U.S. Hwy 41; (5) Between Knoxville, TN and Bean Station, TN: From Knoxville over U.S. Hwy 11E to junction TN Hwy 32, then over TN Hwy 32 to Bean Station; (6) Between Bristol, VA and Winchester, VA: From Bristol over Interstate Hwy 81, serving the off-route points of Abingdon, Pulaski, Roanoke, Lexington, Staunton, and Harrisonburg, VA; (7) Between Richmond, VA and junction Interstate Hwy 64 and Interstate Hwy 81 (near Staunton, VA): From Richmond over Interstate Hwy 64 to junction Interstate Hwy 81 (near Staunton); (8) Between Lynchburg, VA and Washington, DC: From Lynchburg over U.S. Hwy 29 to junction Intersate Hwy 66, then over Interstate Hwy 66 to Washington; (9) Between Norfolk, VA and Suffolk, VA: From Norfolk over U.S. Hwy 58; (10) Between Petersburg, VA and Durham, NC: From Petersburg over Interstate Hwy 85, serving the off-route points of South Hill, VA, Henderson and Oxford, NC; and (11) Between junction Interstate Hwy 81 and Interstate Hwy 77 (near Ft. Chiswell, VA) and Charlotte, NC: From junction Interstate Hwy 81 and Interstate Hwy 77 (near Ft. Chiswell) over Interstate Hwy 77 to Charlotte, serving the off-route points of Hillsville, VA, and Mooresville, NC, and serving all intermediate points in (1) through (11) above.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

Note.—This regular route authority may be tacked with carrier's existing authority.

MC 2535 (Sub-2), filed January 13, 1983. Applicant: N L & B TRANSPORTATION CORP., 4 May Ave., Quaker Hill, CT 06375. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, (203) 728–0700. Transporting *food and related products*, between points in New London County, CT, on the one hand, and, on the other, Newark, NJ, points in Hillsboro County, NH and NY.

MC 30045 (Sub-12), filed January 14, 1983. Applicant: KITCHELL TRUCK LINES, INC., Ipswich, SD 57451. Representative: Val M. Higgins, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402. Transporting *cement*, between points in SD, on the one hand, and, on the other, points in ND and MN.

MC 73444 (Sub-5), filed January 11, 1983. Applicant: FRANK L. CASTINE, INC., d.b.a. CASTINE MOTOR SERVICE 1235 Chestnut St., Athol, MA 01331. Representative: Donald R. Castine, (same address as applicant, (617) 249–9105. Transporting *household goods*,

between points in the U.S. (except AK and HI).

MC 110364 (Sub-9), filed January 17, 1983. Applicant: OHIO CARRIER CORPORATION, Rt. 2, Box 429, Dover, OH 44622. Representative: James K. Burtch, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Coshocton, Guernsey, and Richland Counties, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 123074 (Sub-24), filed January 14, 1983. Applicant: M. L. ASBURY, INC., 1100 S. Oakwood, Detroit, MI 48217. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48084, (313) 649–6650. Transporting *commodities in bulk*, between points in the U.S. (except AK and HI), under continuing contract(s) with Ashland Oil, Inc., of Ashland, KY.

MC 128205 (Sub-111), filed January 14, 1983. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 South Doty Avenue, Chicago, IL 60628. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with C-I-L Chemicals, Inc. of River Rouge, MI.

MC 136605 (Sub-169), filed January 17, 1983. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8129, Missoula, MT 59807. Representative: William E. Saliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, (406) 543–8369. Transporting *general commodities* (except classes A and B explosives, household goods) between points in the U.S. (except HI).

MC 149275 (Sub-2), filed January 14, 1983. Applicant: GNAN TRUCKING, INC., RR 8, Box 367, Brainerd, MN 56401. Representative: David Gnan (same address as applicant), (218) 829–8882. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *plastic products* and *metal products*, between points in the U.S. (except AK and HI).

MC 152285 (Sub-4), filed January 14, 1983. Applicant: PACKERLAND TRANSPORT INC., 2580 University Ave., P.O. Box 1184, Green Bay, WI 54305. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 157905 (Sub-1), filed January 14, 1983. Applicant: RAY HARMON & SON, INC., Route 4, Box 280, Savannah, TN 38372. Representative: John Davidson, Box 1456, 111 Hwy 72 West, Corinth, MS 38834, (601) 287–5452. Transporting *such commodities* as are dealt in or used by manufacturers of mobile homes, modular buildings, and modular building sections between points in the U.S.

MC 159355, filed January 17, 1983. Applicant: BASTIN VERHOEVEN DELIVERY, INC., 501 W. 172nd St., South Holland, IL 60473. Representative: Thomas M. O'Brien, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *metal and metal products*, between points in IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, OH, SD, TN and WI.

MC 163654, filed January 14, 1983. Applicant: WILLIAM R. GOWARD, d.b.a. WEPECO, 6114 Peabody St., Ling Beach, CA 90808. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (312) 655–357. Transporting *food and related products* and *furniture*, between Los Angeles, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165694, filed January 13, 1983. Applicant: KOLTRUX, INC., R. D. 3, Box 255A, Clearfield, PA 16830. Representative: Dwight L. Koerber, Jr., 110 No. Second St., P. O. Box 1320, Clearfield, PA 16830, (814) 765–9611. Transporting *coal and coal products*, between points in Clearfield, Jefferson and Elk Counties, PA, on the one hand, and, on the other, points in NY and MD.

MC 165704, filed January 14, 1983. Applicant: JESSE M. RODERICK, d.b.a. SONNY'S MOTOR LINES, P. O. Box 2560, Fall River, MA 02721. Representative: Frederick T. O'Sullivan, P. O. Box 2184, Peabody, MA 01960, (617) 535–5430. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Deep Rock, Inc., of West Barrington, RI, J. Little Mercer Co., Inc., of Rehoboth, MA, and Manhattan Bottling Co., Inc., of New Bedford, MA.

MC 165715, filed January 17, 1983. Applicant: BUCKEYE CONCRETE CO., 2100 W. Third St., Cleveland, OH 44113. Representative: Richard H. Brandon, 220 W. Bridge St., P. O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with The Cleveland Builders Supply Co. of Cleveland, OH.

MC 165785, filed January 17, 1983. Applicant: HAGER CITY EXPRESS COMPANY, 1622 So. Park St., Red Wing, MN 55066. Representative: William E. Schroeder (same address as applicant), (612) 388–4148. Transporting *rubber and plastic products*, between points in the U.S. (Execpt AK and HI).

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–055

Decided: January 31, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 165877, filed January 24, 1983. Applicant: ASHCOAL LIMITED, INC., 2401 Carter Ave., Ashland, KY 41101. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *coal and coal products*, between points in KY, NC, OH, TN, VA, and WV, on the one hand, and, on the other, points in CA, IL, KY, MI, NC, OH, PA, TN, VA, and WV.

MC 165886, filed January 25, 1983. Applicant: MIKE BROOKS, Box 443, Knoxville, IA 50138. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307, (515) 243–4191. Transporting *fertilizer and fertilizer products*, between points in IA and MO, on the one hand, and on the other, points in IA, MO, WI, IL, and MN.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–33

Decided: January 26, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 107229 (Sub-13), filed January 29, 1982. Applicant: AMODIO MOVING, INC., 600 East St., New Britain, CT 06014. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, D.C. 20036, (202) 785–0024. Transporting *general commodities*, (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Chesebrough Pond's Inc., of Greenwich Ct. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why

such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of this filing to Team 5, Room 2414.

MC 145629 (Sub-8), filed January 17, 1983. Applicant: FUCHS, INC., R.R. 1, Box 576, Sauk City, WI 53583. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, 608–256–7444. Transporting *general commodities,* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Cardinal IG Company of Spring Green, WI and Mounds Agricultural Co., Inc. of Middleton, WI.

MC 148679 (Sub-3), filed January 17, 1983. Applicant: SHEL PRODUCTS, INC., d.b.a. SHELTON TRUCKING, 2211 E. DuPont Ave., Belle, WV 25015. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526, 304–562–3460. Transporting *general commodities,* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, OH, PA and WV on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155209 (Sub-2), filed January 17, 1983. Applicant: DOT TRANSPORTATION, INC., 1825 Midland Ave., Fort Smith, AR 72904. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, 501–521–8121. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 155658 (Sub-10), filed January 17, 1983. Applicant: D. F. SYSTEM, INC., 95 Washington St., Foxboro, MA 02035. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, 617–235–5571. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of electrical switches, circuit breakers and switch and circuit boxes, between points in the U.S. under continuing contract(s) with Crouse-Hinds, Arrow Hart Division, of East Hartford, CT.

MC 161279, filed January 13, 1983. Applicant: ROZANNE WAITS, d.b.a. B & R AUTO SALES & TRANSPORT, 2251 Stieber, Westland, MI 48185. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg., 421 South Second, Elkhart, IN 46516, (219) 293–3597. Transporting *transportation equipment,* between points in the U.S. (except AK and HI).

MC 161598 (Sub-2), filed January 10, 1983. Applicant: EASTSIDE DISTRIBUTORS, INC., 1801 East Memorial Blvd., Lakeland, FL 33801. Representative: Raymond Talipski, 121 South Main St., Taylor, PA 18517, (717) 344–8030. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Gold Bond Ice Cream of Florida, Inc., of Ocala, FL.

MC 164058, filed January 17, 1983. Applicant: W. S. DEANE TRUCKING, 32411 124th St., S.E., Sultan, WA 98294. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, 206–228–3807. Transporting (1) *such commodities* as are dealt in or used by food and restaurant supply wholesalers, and (2) *wood products,* between points in WA, OR and CA under continuing contract(s) with Bargreen Restaurant Supply and Crown Distributing Co., Inc. both of Everett, WA and F.A. Koenig & Sons of Sultan, WA.

Volume No. OP5–35

Decided: January 27, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 79658 (Sub-6), filed January 10, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812–424–2222. Transporting *household goods* between points in the U.S., under continuing contract(s) with Holiday Inns, Inc., of Memphis, TN.

MC 140889 (Sub-31), filed January 17, 1983. Applicant: FIVE STAR TRUCKING, INC., 1638 Pioneer Way, El Cajon, CA 92020. Representative: Ignatius B. Trombetta, One Public Square #1001, Cleveland, OH 44113, (216) 589–0448. Transporting *general commodities* (except classes A and B explosives, and household goods) between points in the U.S. (except AK and HI), under continuing contract(s) with Triangle Distributing, Inc., of Columbus, OH.

MC 157479 (Sub-2), filed January 3, 1983. Applicant: COBRA COACH LINES, INC., 3233 Laconia Avenue, Bronx, NY 10469. Representative: Edward F. Bowes, Seven Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Over *regular* routes transporting *passengers,* between Bronx, NY and Atlantic City, NJ, from Bronx over the George Washington Bridge to junction Interstate Hwy. 95, then over Interstate Hwy. 95 to junction NJ Turnpike, then over NJ Turnpike to junction Garden State Parkway in Woobridge, NJ, then over Garden State Parkway to junction Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City, NJ and return over the same routes, serving all intermediate points.

Note.—Applicant seeks to provide regular route service in interstate or foreign commerce.

MC 160789 (Sub-4), filed January 13, 1983. Applicant: RAM EXPRESS COMPANY, 114 Wabash Street, Pittsburgh, PA 15220. Representative: Kevin W. Walsh, Pillar and Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—Applicant seeks to convert contract carrier authority to common carrier authority.

MC 165098, filed January 19, 1983. Applicant: BOWLING GREEN FREIGHT INCORPORATED, Graham St. Route 14, Box 68C, Bowling Green, KY 42101. Representative: Victor Grant (same address as applicant), 502–842–4165. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC filed January 17, 1983. Applicant: TRENTON TRUCK LEASING SERVIE, INC., P.O. Box 7610, Trenton, NJ 08628. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410, Transporting*general commodities* (except classes A and B explosives, household goods, and commodities in blulk), between Philadelphia, PA, and points in NJ, on the one hand, and, on the other, popints in the U.S. (except AK and HI).

Volume. No. OP5–37

Decided: January 28, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell

MC 165168, filed December 13, 1982. Applicant: N & W TRUCKING, INC., Route 1, Box 199–A, Baldqyn, MS 38824. Representative: Betty Massengill, Brickyard St., Baldwyn, MS 38824, (601) 365–3646. Transporting*furniture,* between points in the U.S. (except AK and HI), under continuing contract (s) with Allied Fine Furniture, Inc., of Shannon, MS.

MC 165559, filed January 7, 1983. Applicant: RALSON TRUCK LINES, INC., 10909 Sheldon Rl., Houston, TX 77049. Representative: C.W. Ferebee, 3910 FM 1960 West, Suite 106, Houston, TX 77068, (713) 537–8156. Transporting*mercer commodities* Between points in AL, AR, CA, CO, KS,

LA, MS, MT, NE, NM, ND, OK, SD, UT, TX, and WY.

Volume. No. OP5–40

Decided: January 31, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 119049 (Sub-6), filed January 18, 1983. Applicant: TEK VAN LINES, INC., 150 Manton Avenue, Providence, RI 02909. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *Household goods,* between points in the U.S. (except MT, ND and SD.

MC 138899 (Sub-7), filed January 17, 1983. Applicant: GREEN RIVER TRANSPORTATION CO., INC., P.O. Box 634, Cental City, KY 42330. Representative: Ray S. Stone, (same address as applicant), (502) 754–3249. Transporting *aluminum, aluminum articles, and aluminum dross,* between points in the U.S., under continuing contract(s) with Barmet of Kentucky, Inc., of Livia, KY, Barmet Industries, of Akron, OH and Barmet of Indiana, of Rockport, IN.

MC 151899 (Sub-8), filed January 20, 1983. Applicant: BLACKHAWK EXPRESS INC., 235 Hake St., Fort Atkinson, WI 53538. Representative: Richard D. Armstrong, 925 Hyland Dr., Stoughton, WI 53589, 608–873–8929. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160549 (Sub-1), filed January 20, 1983. Applicant: CARGO EXPRESS CO., INC., 7107 Kennedy Ave., Hammond, IN 46323. Representative: David A. Sutherland, 1150 Connecticut Ave., NW, Suite 400, Washington, DC 20036, (202) 452–6800. Transporting *salt, salt products, and food seasoning compounds,* between points in New Iberia Parish, LA, and Ban Zandt County, TX, on the one dhand, and, on the other, points in AL, AR, BL, GA, KY, LA, MS, NC, SC, TN, TX, and VA.

MC 165808, filed January 19, 1983. Applicant: JDV FREIGHT LINES, INC., 1090 Fairchild Rd., Winston-Salem, NC 27105. Representative: J. D. Vickers (same address as applicant), 919–767–6863. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3282 Filed 2–7–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Act III, Inc., a Division of Jonathan Logan, Inc. Amended Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of:

TA-W-	Plant	Location
13,026	Act III (Dist. Center)	Spartanburg, SC.
13,027	Andrew Knit	Tuscaloosa, AL.
13,031	Debra Knit	Northport, AL.
13,032	Eufaula Fashions	Eufaula, AL.
13,036	Livingston Fashions	Livingston, AL.
13,038	Margaret Fashions	Panama City, FL.
13,039	Oxford Fashions	Oxford, AL.
13,041	Roanoke Fashions	Roanoke, AL.
13,044	Stevens Fashions	Carrollton, AL.

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Notice of Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on December 10, 1982 applicable to all workers engaged in employment related to the production of ladies' jackets or blouses at the above mentioned locations of Act III, Inc., a division of Jonathan Logan, Inc. The Notice of Determinations was published in the **Federal Register** on December 21, 1982, (47 FR 56936).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the determinations for the instant plants of Act III. The additional information revealed that worker separations occurred immediately prior to the October 18, 1981 impact date set in the notice of Determinations for the instant plants.

The Department intended to certify all Act III workers engaged in employment related to the production of ladies' jackets or blouses without an interval between their previous certification. The previous certification for these workers (TA–W–5527, Act III, Distribution Center, Spartanburg, South Carolina; TA–W–5528 Andrew Knit, Tuscaloosa, Alabama; TA–W–5532 Debra Knit, Northport, Alabama; TA–W–5533 Eufaula Fashions, Eufaula, Alabama; TA–W–5537 Livingston Fashion, Livingston, Alabama; TA–W–5543 Oxford Fashions, Oxford, Alabama; TA–W–5545 Roanoke Fashions, Roanoke, Alabama; and TA–W–5548 Stevens Fashions, Carrollton, Alabama) was issued on August 7, 1979 and expired on August 7, 1981. This notice was subsequiently revised and issued on October 18, 1979.

The Notice of Determinations applicable to TA–W–13,026, 13,027, 13,031 13,032, 13,036 13,039 13,041 and 13,044 is hereby amended and issued as follows:

"All workers of the following locations of Act III, Incorporated, a division of Jonathan Logan, Incorporated, engaged in employment related to the production of ladies' jackets or blouses, who became totally or partially separated from employment on or after August 8, 1981, and before the termination dates listed below are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

TA-W-	Plant	Termination date
13,026	Act III Distribution Center, Spartanburg, SC	
13,027	Andrew Knit, Tuscaloosa, AL	
13,031	Debra Knit, Northport, AL	
13,032	Eufaula Fashions, Eufaula, AL	02/28/82
13,036	Livingston Fashions, Livingston, AL	09/15/82
13,039	Oxford Fashions, Oxford, AL	02/28/82
13,041	Roanoke Fashions, Roanoke, AL	
13,044	Stevens Fashions, Carrollton, AL	

I further determine that all workers at Margaret Fashions, Panama City, Florida are denied eligibility to apply for adjustment assistance benefits under Section 223 of the Trade Act of 1974. Signed at Washington, D.C., this 28th day of January, 1983.

Robert O. Deslongchamps,

Acting Deputy Administrator, Unemployment Insurance Service.

[FR Doc. 83–3316 Filed 2–7–83; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–13, 350 etc.]

Puna Sugar Co., Ltd., et al.; Application for Reconsideration

In the matter of: TA–W–13,350, Puna Sugar Company, Ltd., Leaau, HI; TA–W–13,526, Theodavies Hamakua Sugar Company, Paauilo, HI; TA–W–13,534, Hawaiian Commercial & Sugar Company, Puunene, HI; TA–W–13,535, Hilo Coast Processing Company, Pepeeko, HI; TA–W–13,539, Kau Sugar Company, Inc., Pahala, HI; TA–W–13,540, Kekaha Sugar Company, Ltd., Kekaha, HI; TA–W–13,541, Lihue Plantation Company, Lihue, HI; TA–W–13,542, Mauna Kea Sugar Company, Inc., Papaikou, HI; TA–W–13,543, McBryde Sugar Company, Ltd., Eleele, HI; TA–W–

13,545, Oahu Sugar Company, Ltd., Waipahu, HI; TA-W-13,546, Olokele Sugar Company, Ltd., Kaumakani, HI; TA-W-13,547, Pioneer Mill Company, Ltd., Lahaina, HI; TA-W-13,550, Wailuku Sugar Company, Inc., Waialua, HI; TA-W-13,551, Waialua Sugar Company, Ltd., Waialua, HI; arrifmative determination regarding application for reconsideration.

By an application dated January 19, 1983, after being granted a filing extension, Counsel for the International Longshoremen's and Warehousemen's Union requested administrative reconsideration of the Department of Labor's Negative Determinations Regarding Eigibility to Apply for Worker Adjustment Assistance on behalf of the workers and former workers of the above mentioned facilities located in Hawaii. The determinations were published in the **Federal Register** on December 3, 1982 and on December 14, 1982 (47 FR 54573 and 47 FR 56071).

Counsel for the International Longshoremen's and Warehousemen's Union, after being granted a filing extension, claims the high fructose corn sweeteners (HFCS) was not an important contributing factor to the overall decrease in the sale of refined sugar as stated in the decision document. He also claims the HFCS is not an article which is directly competitive with refined sugar as the Department contends.

The union also claims that the decisions issued in 1977 (TA-W-1726, 1744 and 1761) certifying workers and former workers of sugar cane and raw sugar at various Hawaiian companies were strikingly similar to the denied cases and therefore warrant review if denied within this context.

Moreover, the union claims that the data used by the Department on the increased consumption of HFSC is in error since the data used included Glucose and Dextrose rather than HFSC alone.

Finally, the union claims the paramount, leading and substantial cause and singularly important contribution to the demise of Puna Sugar and other Hawaiian producers was the flood of foreign sugar into the country in 1981 which dramatically reduced the price of raw and refined sugar below domestic production costs.

Conclusion

After review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 1st day of February, 1983.

Harold A. Bratt,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 83-3327 Filed 2-7-83; 8:45 am]

BILLING CODE 4510-30-M

Solicitation of Grant Applications

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Solicitation of Grant Applications.

SUMMARY: This notice sets forth the procedure and schedule for the solicitation of applications for grants and the allocation for programs for eligible youth ages 14 through 21 who are members of migrant and other seasonally employed farmworker families for Program Year 1983. These programs are authorized under Title IV, Part A, Subparts 2 and 3 of the Comprehensive Employment and Training Act (CETA) at Sections 433(a)(4) and 423(b) and Section 181 of the Jobs Training Partnership Act (JTPA).

Condition for Funding: Applicants may denied further consideration should they fail to meet minimum standards for responsible grantees including, but not limited to, past unsatisfactory performance. Poor performance, therefore, either in a 303 or a youth program, may serve to disqualify an applicant.

FOR FURTHER INFORMATION CONTACT: Mr. A. E. Berndt, Chief, Division of Farmworker and Rural Employment Programs, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Rm. 7208, Washington, D.C. 20213, Telephone: (202) 376-7124.

SUPPLEMENTARY INFORMATION: The Division of Farmworker and Rural Employment Programs, Employment and Training Administration, U.S. Department of Labor announces the availability of funds under Title IV, Part A, Subparts 2 and 3 of the Comprehensive Employment and Training Act (CETA) at Sections 433(a)(4) and 423(b) and Section 181 of the Jobs Training Partnership Act (JTPA), and the schedule for solicitation of applications for and the award of funds to implement programs for eligible youth who are members of migrant and seasonal farmworker families for Program Year 1983. A total of $3.84 million is available for these programs. Funds will be awarded on a special competitive basis, pursuant to the regulations at 29 CFR 97.900 *et seq.* to grantees operating Section 303 programs for Program Year 1983 in accordance with section 689.104(b)(1).

Because 1983 is also a transition year into operations under JTPA, which stresses training leading to long-term employability, such training will be emphasized in these youth projects.

Grants will be awarded for not less than $150,000 and not more than a million; the Department may, however, award more than $1,000,000 to a single grant under special circumstances.

Grantees operating multi-State Programs may submit applications for all States in which they currently operate Section 303 grants. Solicitation for Grant Application (SGA) packages will be mailed to all eligible applicants on or about February 9, 1983. The SGA will contain the guidelines and specifications to which eligible applicants must adhere in preparing an application. Applications will not exceed thirty (30) pages 8½ x 11) of double-space, unreduced type, excluding budget pages.

This publication constitutes formal notice that applications for funds for this target group must be hand delivered or posted by registered or certified mail no later than March 15, 1983.

Each eligible applicant must submit three copies of the application(s) to the address listed below: U.S. Department of Labor, Employment and Training Administration, 601 D Street, NW., Room 5118, Patrick Henry Building, Washington, D.C. 20213., Attn: Grant Officer.

Eligible applicants are required to notify both the Division of Farmworker and Rural Employment Programs and the appropriate A-95 clearinghouse(s) by Preapplication for Federal Assistance, Standard Form 424, posted by registered or certified mail no later than February 22, 1983, so that appropriate arrangements may be made for the prompt review of the grant application. Copies of the formal grant application(s) must also be sent to the appropriate A-95 clearinghouse(s) for comment at the same time the grant application(s) is mailed to the above address.

All grant applications received bearing postmarks after March 15, 1983, shall be returned without consideration. No deviation in this condition shall be granted. (All hand delivered grant applications will be accepted daily between the hours of 8:15 a.m. and 4:45 p.m. at the address listed above. All eligible applicants will be given a receipt bearing a time and date of delivery.) Applications received after

4:45 p.m. on March 15, 1983, shall be returned without consideration. No exceptions to this rule will be made.

Grant applications will be subject to an objective and fair review.

It is expected that Grant Awards will be made on or about July 1, 1983. Consultation and technical assistance relative to the development of an application is available upon request from the Division of Farmworker and Rural Employment Programs, (202) 376–7124.

Signed at Washington, D.C., this 2nd day of February, 1983.

Janet Sten,

Grant Officer, Employment and Training Administration.

[FR Doc. 83–3328 Filed 2–7–83; 8:45 am]

BILLING CODE 4510–30–M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to Annual List of Lobor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the annual list are effective on February 1, 1983.

SUMMARY: The purpose of this notice is to announce additions ato the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service (Attention: TEEPA) 601 D Street, NW., Washington D.C. 20213. Telephone: 202–376–6890

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Lobor is responsible under that AOrder for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined aby the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modiofied by Executive Order 12260. Federal Procaurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Lobor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part, 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdications as lobor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Lobor published athe annual list of labor surplus areas on June 4, 1982 (47 FR 24474).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a lobor surp–lus area under Subpart A. Thus, labor surplus areas under substantial unemployment under Ececutive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5 (c) and are added to the annual list of labor surplus areas, effective February 1, 1983. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on January 28, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

Additions to the Annual List of Labor Surplus Areas

February 1, 1983.

Labor Surplus Area	*Civil Jurisdiction Included*
Illinois	
Springfield City	Springfield City in Sangamon County
Iowa	
Lee County	Lee County
Maryland	
Baltimore County	Baltimore County
Nebraska	
Lincoln County	Lincoln County
New Hampshire	
Coo County	Coo County
Ohio	
Darke County	Darke County
	Balance of Stark County
	Stark County less Canton City
Oregon	
Balance of Clackamas County	Clackamas County less Portland City
Portland City	Portland City in Clackamas and Multnomah Counties
Umatilla County	Umatilla County
Yamhill County	Yamhill County
Pennsylvania	
Allentown City	Allentown City in Lehigh County
Balance of Erie County	Erie County less Erie City
Franklin County	Franklin County
Mercer County	Mercer County
Union County	Union County
Venango County	Venango County
Washington County	Washington County
Rhode Island	
Warren Town	Warren Town
West Warwick Town	West Warwick Town

[FR Doc. 83–3234 Filed 2–7–83; 8:45 am]

BILLING CODE 4510–30–M

Job Training Partnership Act (Pub. L. 97–300); Allocations Under Title III, Section 301(b); Employment and Training Assistance for Dislocated Workers

AGENCY: Employment and Training Administration, Labor.

SUMMARY: This notice sets forth the Fiscal Year 1983 amounts allotted to States for programs under Title III, Section 301(b) of the Job Training Partnership Act (JTPA). Publication of these allotments is required by Section 162(b) of JTPA.

FOR FURTHER INFORMATION CONTACT: Robert N. Colombo, Acting Director, Office of Employment and Training Programs, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213, (202) 376–6093.

SUPPLEMENTARY INFORMATION: Title III of the Job Training Partnership Act authorizes a program to provide employment and training assistance for dislocated workers. Fiscal Year 1983 funding in the amount of $25 million has been made available for this program through Pub. L. 97–377. Seventy-five percent of these funds are now being allotted to States by formula pursuant to Section 301(b) of the Act. Obligation of funds to the States is contingent on State agreement to operate the displaced worker programs in accordance with the provisions of the Act and applicable regulations including the requirements for State matching of Federal funds pursuant to Section 304 of the Act. The amount to be distributed to each State is as follows.

Signed this third day of February 1983.

Joyce Kaiser,

Associate Assistant Secretary for Employment and Training.

State	Allotment
Alabama	460,786
Alaska	33,967
Arizona	179,685
Arkansas	168,849
California	1,937,839
Colorado	148,254
Connecticut	169,379
Delaware	47,429
District of Columbia	67,863
Florida	569,017
Georgia	303,431
Hawaii	42,071
Idaho	67,776
Illinois	1,204,194
Indiana	646,670
Iowa	215,461
Kansas	93,189
Kentucky	307,270
Louisiana	333,010
Maine	68,625
Maryland	342,275
Massachusetts	361,786
Michigan	1,446,231
Minnesota	231,339
Mississippi	200,123
Missouri	376,949
Montana	57,127
Nebraska	51,991
Nevada	70,994
New Hampshire	48,022
New Jersey	560,493
New Mexico	83,832
New York	1,261,093
North Carolina	406,781
North Dakota	25,801
Ohio	1,288,463
Oklahoma	[illegible]
Oregon	279,206
Pennsylvania	1,118,333
Puerto Rico	433,201
Rhode Island	73,802
South Carolina	284,058
South Dakota	20,125
Tennessee	434,814
Texas	605,854
Utah	79,468
Vermont	27,012
Virginia	282,792
Washington	431,351
West Virginia	210,139
Wisconsin	460,589
Wyoming	13,141
Virgin Islands	16,387
American Samoa	3,219
Guam	13,402
Trust Territories	3,753
Northern Mariana	[illegible]

[FR Doc. 83-3539 Filed 2-7-83; 9:51 am]

BILLING CODE 4510-30-M

Office of the Secretary

Privacy act of 1974; Amendment of Routine Uses

AGENCY: Labor Department.

ACTION: Amendment of routine uses applicable to Privacy Act systems of records, Employment Standards Administration.

SUMMARY: The Department of Labor is adding a new routine use to the routine uses already published for the systems of records maintained under the Black Lung Benefits Act and the Federal Employees' Compensation Act (DOL/ESA 6 through DOL/ESA 13). This routine use will permit the Office of Workers' Compensation Programs to enter into agreements with other Federal, State, and local agencies to allow computerized or other matching and checking of records to assure that compensation payments being made are proper, ascertain continuing eligibility for benefits and to uncover any fraud, waste of abuse.

DATE: Persons wishing to comment may do so by March 10, 1983.

EFFECTIVE DATE: Unless otherwise noticed in the **Federal Register**, this notice shall become final March 10, 1983.

ADDRESS: Seth D. Zinman, Associate Solicitor, Office of Solicitor, Division of Legislation and Legal Counsel, U.S. Department of Labor, Room N-2428, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Sofia P. Petters, Counsel for Administrative Legal Services, Office of the Solicitor, Department of Labor, 200 Constitution Avenue NW., Room N-2428, Washington, D.C. 20210; Telephone (202) 523-8188.

AMENDMENT OF ROUTINE USES APPLICABLE TO DOL/ESA-6 THROUGH DOL/ESA-13: Pursuant to the Privacy Act 1974, 5 U.S.C. 552a, the Department of Labor hereby publishes an amendment to the routine uses applicable to systems of records maintained by the Employment Standards Administration, DOL/ESA-6 through DOL/ESA-13, previously published at 47 FR 30377-83 (July 13, 1982).

DOL/ESA-6

SYSTEM NAME:

Office of Workers' Compensation, Black Lung Benefit Claim File.

* * * * *

ROUTINE USES OF RECORDS MAITAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the employer at any time after report of the injury or report of the onset of the occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness, also to any party providing the employer with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members. Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

A record from this system may also be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

* * * * *

DOL/ESA-7

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Benefit Payments File.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to mine operators who have been determined to be potentially liable for the claim and any party providing the mine operator with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; and labor unions and other voluntary enployee associations of which the claimant is a member which exercise and interest in claims of members as part of their service to the members.

A record from this system may also be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning

the determinaton of initial or continuing eligibility for program benefits.

* * * * *

DOL/ESA-8

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Benefit Claimant Information File.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to mine operators who have been determined to be potentially liable for the claim and any party providing the mine operator with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members.

A record from this system may also be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

* * * * *

DOL/ESA-9

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Medical Treatment Records File.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the employer at any time after report of the injury or report of the onset of the occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness, also to any party providing the employer with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members. Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

A record from this system may also be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

* * * * *

DOL/ESA-10

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Profile Beneficiaries File.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the employer at any time after report of the injury or report of the onset of the occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness, also to any party providing the employer with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members. Records are made available to other Federal agencies and State and locan agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

A record from this system may also be disclosed as a "routine use" to a Federal, State, or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

* * * * *

DOL/ESA-11

SYSTEN NAME:

Office of Workers' Compensation Programs, Black Lung Service Payments File.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to mine operators who have been determined to be potentially liable for the claim and any party providing the mine operators with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members.

A record from this system may also be disclosed as a "routine use" to a Federal, State, or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

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DOL/ESA-12

SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung X-ray Interpretation File.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to mine operators who have been determined to be potentially liable for the claim and any party providing the mine operator with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members.

A record from this system may also be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Department decisions concerning the determination of initial or continuing eligibility for program benefits.

* * * * *

DOL/ESA–13

SYSTEM NAME:

Office of Workers' Compensation Programs, Federal Employees' Compensation Act File.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to any third-party named in a claim or representative acting on his/her behalf until the claim is adjudicated and all appeals are resolved; Federal agencies which employed the claimant at the time of occurrence or recurrence of the injury or occupational illness; Federal, State or private rehabilitation agencies to whom the claimant has been referred for evaluation of the extent and nature of the disability and/or rehabilitation; physicians making an examination for the United States under 5 U.S.C. 8123(a); medical insurance plans or health and welfare plans which the claimant is covered by in instances when there is evidence of payment by OWCP for treatment of a medical condition which is not compensable; and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to members. Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

A record from this system may also be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevent to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

* * * * *

Signed at Washington, D.C., this 31st day of January 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83–3233 Filed 2–7–83; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Centers, Audience Development, Literature Advisory Panel (Literature Residencies, Advancement); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Literature Centers, Audience Development, Residencies, Advancement) to the National Council on the Arts will be held on February 24, 1983, from 9:00 a.m.–6:00 p.m. and on February 25–26, 1983, from 9:00 a.m.–5:00 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 1, 1983.

[FR Doc. 83–3298 Filed 2–7–83; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Chemistry; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Oversight Team of the Advisory Committee for Chemistry.

Date and Time: February 24–25, 1983 8:30 a.m.–5:00 p.m..

Place: Room 340, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Edward F. Hayes, Director, Division of Chemistry, National Science Foundation, Washington, D.C. 20550 telephone (202) 357–7947.

Purpose of Committee: To provide advice and recommendations concerning NSF support for research in Chemistry.

Agenda: Review and comparison of declined proposals (and supporting documentation), with successful awards under the Synthetic Organic and Natural Products Chemistry Program, including review of peer review materials and other privileged materials.

Reason for Closing: The Oversight Review Team will be reviewing grant and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declination proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552B(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such

determinations by the Director, NSF, July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

February 3, 1983.

[FR Doc. 83-3301 Filed 2-7-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Behavioral and Neural Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences—Anthropology (Archaeology and Physical Anthropology)

Date and Time: February 24-25, 1983, 8:30-5:00 p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 1141, Washington, D.C. 20550.

Type Meeting: Closed.

Contact Person: Dr. Charles L. Redman, Assistant Program Director for Anthropology, NSF Room 320, Washington, D.C. 20550.

Summary of Minutes: Available from Contact Person, at above address.

Purpose of Panel: To provide advice and recommendations concerning NSF support for research in anthropology.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial (salary) data, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

February 3, 1983.

[FR Doc. 83-3300 Filed 2-7-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for PCM Subpanel on Postdoctoral Research Fellowship in Plant Biology

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Postdoctoral Research Fellowships in Plant Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date anf Time: February 25, 1983, 9:00 a.m.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Herman W. Lewis, Coordinator, Postdoctoral Fellowships in Plant Biology, Room 325, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-7847.

Purpose of Subpanel: To provide advice and recommendations concerning support for postdoctoral fellowships in plant biology.

Agenda: To review and evaluate postdoctoral fellowship applications as part of the selection process for awards.

Reason for Closing: The applications being reviewed include information of a proprietary or confidential nature, including technical information, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

February 3, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-3303 Filed 2-7-83; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Molecular Biology, Group A, of the Advisory Panel for Physiology, Cellular, and Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Molecular Biology, Group A, of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and Time: February 24 and 25, 1983, 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G St., NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Kin-Ping Wong, Program Director, Biophysics Program, Room 329, National Science Foundation, Washington, DC 20550.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in Molecular Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are with exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. R. Winkler,

Committee Management Coordinator.

February 3, 1983.

[FR Doc. 83-3302 Filed 2-7-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee for Review of Office of Investigation Policy on Rights of Licensee Employees Under Investigation Notice of Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), the Nuclear Regulatory Commission (NRC) announces the establishment of the Advisory Committee for Review of Office of Investigation Policy on Rights of Licensee Employees Under Investigation. The Commission, following consultation with the Committee Management Secretariat, General Services Administration, has determined that establishment of the Committee is necessary and in the public interest.

Name of Committee: Advisory Committee for Review of Office of Investigation Policy on Rights of Licensee Employees Under Investigation.

Purpose: To provide the Commission comments on the subject of rights of licensee employees under investigation by NRC. Included in this task are the following:

- Commenting on what employee rights ought to be, whether such employees should be informed by NRC of their rights, and, if they are to be informed, when and how they should be informed; and
- Identifying and commenting on the considerations that bear upon discretionary NRC actions, including the effectiveness of NRC investigations and fairness to the interviewee and the licensee.

Membership: The membership of this Committee shall be fairly balanced in terms of points of view represented and expertise in the legal issues relative to this assignment. Members will be drawn from university law faculties and from private practice based upon extensive experience in the area of rights of

individuals. The membership will also include the present Acting Director of the Commission's Office of Investigations.

Effective Date and Duration: This establishment is effective upon filing the charter with the standing committees of Congress having legislative jurisidiction for the NRC. The Committee will operate on an ad hoc basis for three to five months.

John C. Hoyle,

Advisory Committee Management Officer.

February 3, 1983.

[FR Doc. 83-3317 Filed 2-7-83; 8:45 am]

BILLING CODE 7590-01-M

Availability of Report for Public Comment: National Governor's Association Study of the Agreement State Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of report on the State Agreements Program.

SUMMARY: The National Governors' Association has completed a study entitled "An Examination of the Agreement State Program." The study was conducted under contract with the Nuclear Regulatory Commission. The Agreement State Program is carried out pursuant to the provisions of Section 274 of the Atomic Energy Act of 1954, as amended. The purpose of the study was to determine how well the program satisfies the purposes of the Act, how well it satisfies the needs of the States and the Federal Government, what the long term goals should be, and what structural, administrative and fiscal changes should be considered.

A copy of the report of the study is available for public inspection in the Commission's public document room, at 1717 H Street, NW., Washington, D.C. Single copies may be obtained by writing to Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

DATES: Comments must be received on or before March 25, 1983 in order to be considered.

ADDRESS: All interested persons desiring to submit comments for the consideration of the Commission staff, should send them to the U.S. Nuclear Regulatory Commission, Office of State Programs, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Joel O. Lubenau, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Phone: (301) 492-9887.

Dated at Bethesda, Maryland, this 31st day of January, 1983.

For The Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 83-3325 Filed 2-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-237 and 50-249]

Commonwealth Edison Co. (Dresden Nuclear Power Station, Units Nos. 2 and 3); Exemption

I

Commonwealth Edison Company (the licensee) is the holder of a Provisional Operating License No. DPR-19 and Facility Operating License No. DPR-25 which authorize operation of the Dresden Nuclear Power Station, Units 2 and 3, respectively (Dresden or the facilities). These licenses provide, among other things, that the facilities are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are boiling water reactors located at the licensee's site in Grundy County, Illinois.

II

Section III.G.3 of Appendix R to 10 CFR 50 requires, among other things, that a fire detection system and a fixed fire suppression system shall be installed in the area, room or zone for which alternative safe shutdown capability has been provided.

The licensee, in a July 1, 1982 submittal, requested exemptions for the following equipment.

1. All panels located in the control room.
2. 4KV SWGR's 23 and 24.
3. 4KV SWGR's 23-1 and 24-1.
4. 480V SFR's 28 and 29.
5. 480V MCC's 28-7 and 29-7.
6. 250V MCC's 2A and 2B.
7. 125V Distribution Panels 2A and 2B.
8. 4KV SWGR's 33 and 34.
9. 4KV SWGR's 33-1 and 34-1.
10. 480V SWGR's 38 and 39.
11. 480V MCC's 38-7 and 39-7.
12. 250V MCC's 3A and 3B.
13. 125V Distribution Panels 3A and 3B.

The licensee in the same submittal indicated the following as a basis for its exemption request:

—All equipment requiring fixed suppression as defined in Section III.G.3 for which an exemption was requested is critical to the power distribution necessary for normal and emergency operation of safety related equipment for Units 2 and 3.

—The inadvertent actuation of any fixed water suppression system located over this power distribution equipment could result in the fault or failure of that equipment. Installation of any type of fixed suppression system other than water, such as cardox, halon or foam, would be ineffective or inappropriate for the areas in which the equipment listed above is located or for the type of fire likely to occur in the area. All such equipment is in high traffic areas which are currently provided with fire detection and manual suppression systems. Furthermore, the existing fire detection and suppression systems currently installed in the areas containing the equipment listed above have been reviewed and approved by the NRC in the Dresden Station, Units 2 and 3 Fire Protection SER. As the probability of inadvertent actuation of a fixed suppression system is of far greater magnitude than the probability of occurrence of a fire severe enough to require the use of the alternate shutdown method independent of the fire area, Commonwealth Edison feels that the installation of such fixed suppression systems would only result in a decrease in plant safety.

The NRC staff has evaluated the licensee's fire hazards analysis for these areas and has made the following determinations. All of the fire zones for which exemptions have been requested represent a similar configuration, i.e., combustible loading is light, there is alternate shutdown capability, smoke detection, and manual fire suppression equipment is available. There is, therefore, reasonable assurance that a fire in any of these areas would be promptly detected and extinguished. The low combustible loading in these areas ensures that safety related equipment in adjacent areas will not be threatened. The installation of a fixed fire suppression system will not significantly increase the level of fire protection in these areas.

Based on our evaluation, described in Enclosure 2 to the letter transmitting this exemption, we find that the existing fire protection in conjunction with alternate shutdown capability in the areas for which an exemption has been requested provides a level of fire protection equivalant to the technical requirements of Section III.G.3 of Appendix R, and therefore, the exemptions should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, these exemptions are authorized by law and will not endanger life or property or the common defense and security, are otherwise in the public interest, and hereby grants exemptions for the areas described in Section II above from that portion of Section III.G.3 of Appendix R which requires that a fixed fire suppression system shall be installed in the area, room or zone for which alternate safe shutdown capabiity has been provided.

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 2nd day of February, 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 83-3319 Filed 2-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-0L (Emergency Planning)]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Confirmation of Conference of Counsel on Emergency Planning

This is to confirm the on the record notice that a conference of counsel will be held Thursday, February 24, 1983 at 9:00 a.m. at the New York State Court of Claims, State Office Building, Third Floor "B" Building, Hearing Room 3B44, Veterans Memorial Highway, Hauppauge, New York 11787.

The purpose of the conference will be to discuss the litigation of Phase II (off-site) Emergency Planning matters. Counsel for all parties are directed to attend.

Specific topics to be reviewed will include:

A. The status of the radiological emergency response plan prepared by Suffolk County's Steering Committee and consultants, including whether, pursuant to the stipulation reached at Special Term, Albany County, New York State Supreme Court, this off-site plan or that proffered by the Long Island Lighting Company will be reviewed by the New York State Disaster Preparedness Commission.

B. Scheduling for the filing of Phase II Emergency Planning Contentions and responses thereto, the completion of related formal and informal discovery and the filing of written direct testimony.

C. The role which the Federal Emergency Management Agency (FEMA) will play in the review of any off-site plan submitted to the State of New York and in the litigation of any related contentions admitted in this proceeding, including the timing of FEMA's review and its submission of interim and/or final findings.

D. Coordination of the participation of FEMA and the NRC Staff in presenting the position of the U.S. Government in this proceeding, including the filing of written direct testimony and the conduct of cross-examination.

E. The role which Suffolk County will take in the litigation of off-site emergency planning issues, including its plans to either sponsor witnesses or conduct cross-examination.

F. Coordination of the participation of the North Shore Committee Against Thermal and Nuclear Pollution and the Shoreham Opponents Coalition in this proceeding, including attendance, the filing of contentions and written direct testimony, and the conduct of cross-examination.

It is so ordered.

For the Atomic Safety and Licensing Board.

Dated: Bethesda, Maryland, February 3, 1983.

Lawrence Brenner,

Chairman, Administrative Judge.

[FR Doc. 83-3320 Filed 2-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289, (Design Issues)]

Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit No. 1); Rescheduling of Oral Argument

February 1, 1983.

Notice is hereby given that the evidentiary hearing in this proceeding previously scheduled for Tuesday, March 1, 1983, has been rescheduled for 9:30 a.m. on Monday, March 7, 1983, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: February 1, 1983.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-3321 Filed 2-7-83; 8:45 am]

BILLING CODE 7590-01-M

Regional Workshops Regarding Supplement No. 1 to NUREG-0737; Requirements for Emergency Response Capability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notices.

SUMMARY: This notice announces regional workshops to be held on Supplement 1 to NUREG-0737, Requirements for Emergency Response Capability. The workshops will be conducted by NRC senior staff members for the purpose of providing guidance to licensees for operating plants, holders of construction permits, and others that may be interested, regarding Commission policy on these issues and on the implementation process to be used by the NRC Project Managers.

FOR FURTHER INFORMATION CONTACT: Walter A. Paulson, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492-7214.

SUPPLEMENTARY INFORMATION: By letter dated December 17, 1982 from the NRC staff to All Licensees of Operating Reactors, Applicants for Operating Reactors, and Holders of Construction Permits, NRC staff issued Supplement 1 to NUREG-0737, Requirements for Emergency Response Capability. The letter indicated that regional workshops would be held. Listed below are the specific locations for the workshops, which will all commence at 10 a.m.

Region	Workshop date	Workshop location
Region I	Feb. 2, 1983	Marriott-Twin Bridges, 333 Jefferson Davis Highway, Arlington, Virginia (US-1 and I-95)
Region II	Feb. 24, 1983	Ramada Renaissance, 4736 Best Road, College Park, Georgia (Take I-75/85 South of Airport to Riverdale Exit)
Region III	Mar. 4, 1983	Arlington Park Hilton, 3400 Euclid Avenue, Arlington Heights, Illinois (Take I-90 North to Route 53 North)
Region IV/V	Mar. 1, 1983	San Francisco Airport Hilton, San Francisco International Airport

Dated at Bethesda, Maryland, this 1st day of February, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 83-3324 Filed 2-7-83; 8:45 am]

BILLING CODE 7590-01-M

[NUREG–0800]

"Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants", Issuance and Availability Revised SRP Section 6.2.1.1.C

The U.S. Nuclear Regulatory Commission (NRC) has published revisions to Section 6.2.1.1C, "Pressure Suppression Type BWR Containments" of NUREG–0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," LWR Edition (SRP).

SRP Section 6.2.1.1.C, Rev. 5; Appendix A, Rev. 2; and Appendix B, Rev. 0 incorporate the resolution of generic issues USI A–8, Mark II Containment Load Acceptance Criteria, which was previously published in NUREG–0800, "Mark II Containment Program Load Evaluation and Acceptance Criteria" dated August 1981 and USI A–39, Determination of Safety Relief Valve (SRV) Pool Dynamics Loads and Temperature Limits for BWR Containment, which was previously published in NUREG–0802, "Safety/Relief Valve Quencher Loads: Evaluation for BWR Mark II and III Containments," dated March 1982. All changes to 6.2.1.1.C resulting from the resolution of these generic topics and a few editorial changes are identified by a line in the margin of the Revised SRP Section.

The revised SRP section is effective immediately. A copy is expected to be available in the Public Document Room within 2 weeks.

Copies of the revised SRP Section or of the complete Standard Review Plan NUREG–0800, Accession No. PD–81–920199, are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; telephone (703) 487–4650.

Dated at Bethesda, Maryland this 12th day of January 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83–3323 Filed 2–7–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–387]

Pennsylvania Power & Light Co.; Allegheny Electric Cooperative, Inc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. NPF–14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc., for Susquehanna Steam Electric Station, Unit 1 (the facility) located in Luzerne County, Pennsylvania. This amendment grants changes to Technical Specifications to modify monitoring intervals and reactor coolant leakage measurements to be consistent with NUREG–0313, Rev. 1 and Standard Technical Specifications and adds a license condition regarding implementation of certain aspects of Pub. L. 97–425, January 7, 1983 (Nuclear Waste Policy Act of 1982). This amendment is effective as of the date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for the amendment dated December 10, 1982; (2) Amendment No. 7 to License NPF–14 dated January 31, 1983; and (3) the Commission's evaluation dated January 31, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 31st day of January 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83–3322 Filed 2–7–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. STN 50–483–OL]

Union Electric Co.; (Callaway Plant, Unit 1); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding.

Alan S. Rosenthal, Chairman
Gary J. Edles
Dr. Reginald L. Gotchy.

Dated: January 31, 1983.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc.83–3318 Filed 2–7–83; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council Panel on Future Military Technologies; Meeting

Notice is hereby given that the panel named above will meet at 0830 a.m. on February 17, 1983, in the Naval Ocean System Center, 251 Catalina Boulevard, San Diego, California.

The panel will discuss research and development of future military programs.

The meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(1): All material under discussion is classified defense information. Authority for closing: Director, Office of Science and Technology Policy.

Contact: Dr. Alf L. Andreassen, Office of Science and Technology Policy, 726 Jackson Place, N.W., Washington, D.C. 20500, Phone: (202) 395–5684.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

February 3, 1983.

[FR Doc. 83–3474 Filed 2–7–83; 8:45 am]

BILLING CODE 3170–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13007; 812–5407]

Forest Creek Associates Limited Partnership and Winthrop Financial Co., Inc.; Filing of Application

February 2, 1983.

In the matter of Forest Creek Associates Limited, Partnership and Winthrop Financial Co., Inc., 225 Franklin Street, Boston, Massachusetts

02110 (812–5407). Notice is hereby given that Forest Creek Associates Limited Partnership (the "Partnership") and its managing general partner, Winthrop Financial Co., Inc. ("Winthrop Financial") (collectively, the "Applicants"), filed an application on December 20, 1982, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting the Partnership from all provisions of the Act and rules thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Partnership was formed under the Maryland Revised Uniform Limited Partnership Act as a vehicle for equity investment in government-assisted, rental housing in accordance with the policies and objectives of Title IX of the Housing and Urban Development Act of 1968. Applicants state that the Partnership will operate as a "two-tier" entity; that is, the Partnership, as a limited partner, will invest in New Keystone Associates Limited Partnership (the "Operating Partnership"), which in turn will engage in the acquisition, development, construction, improvement, maintenance, and operation of government-assisted, low-income housing (the "Project"). Applicants contend that they organized the Partnership as a limited partnership because only that form of organization insulates an investor from personal liability, limits financial risk incurred to the amount invested in the program, and allows the investor to claim on his individual tax return his proportionate share of the tax benefits from the investment as if he were a direct owner of the Project. Applicants maintain that the Partnership's investment objectives are to invest in the Operating Partnership, provide tax benefits on a current basis, obtain reasonable protection for its investment in the Operating Partnership, provide potential for appreciation, and provide potential for future cash distributions from operations (on a limited basis), refinancing, or sale of the Project.

Applicants represent that the Partnership will offer 99 units of limited partnership interests at a price of $99,500 per unit to investors meeting certain suitability standards pursuant to Section 4(2) of the Securities Act of 1933 and Regulation D promulgated thereunder. Applicants estimate that the Partnership will have as net proceeds of the offering an aggregate of $9,062,450 available for investment after deductions from sales commissions, anticipated offering expenses, and certain fees and expenses. Applicants further represent that the Partnership will own a 78.3% interest as a limited partner in the Operating Partnership. Applicants assert that the Operating Partnership will rehabilitate a 20-year old apartment complex of multi-family residential units in Prince George's County, Maryland. Applicants further assert that the investment by the Partnership in the Operating Partnership (other than interim investments in short-term obligations pending payment by the Partnership of its capital contributions to the Operating Partnership) will be the Partnership's only investment.

Applicants assert that, although the Partnership has no control over the Project's management, the Partnership's ownership of an interest in the Operating Partnership will be the economic equivalent of direct ownership of the Project itself and that such interests will have no value independent of the value of the Project. Applicants contend that the Operating Partnership will not generate substantial income or expense other than as directly related to the acquisition, development, rehabilitation, construction, improvement, maintenance, and operation of the Project.

Applicants represent that the Partnership will be controlled by Winthrop Financial, the managing general partner, pursuant to the partnership agreement, and that Winthrop Financial, a Massachusetts corporation, is a wholly-owned subsidiary of First Winthrop Corporation, a Delaware corporation. Applicants assert that the general partner will control the Partnership, and the limited partners, consistent with their limited liability status, cannot participate in the control of the Partnership's business. A majority in interest of the limited partnership, however, may amend the partnership agreement, dissolve the partnership and remove any general partners and elect a replacement therefor, provided that such rights do not adversely affect the tax or limited liability status of the limited partners. The partnership agreement enables each limited partner to review all books and records of the partnership at any and all reasonable times and provides that copies of the list of the names and addresses of the limited partners, including the number of units owned by each of them, will be available to the limited partners.

Applicants state that the general partner of the Operating Partnership is Artery Keystone Associates Limited Partnership ("Artery"), a Maryland limited partnership. Applicants assert that the Artery Organization, Inc., a corporation owned by Artery which will serve as the Project's builder, has substantial experience in the construction and development of real estate projects, including several government-assisted projects. Applicants further assert that Artery will gurantee the Project's completion, will cover certain operating deficits of the Operating Partnership through the period in which the limited partners make their capital contributions (the "Operating Guarantee Period") and, prior to the expiration of the Operating Guarantee Period, will repurchase the interests of the limited partners subject to certain conditions. In consideration of the foregoing, Applicants state that Artery will receive substanial compensation, and Artery and an affiliate will receive interests in the Operating Partnership disproportionate to their capital contributions.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Partnership be exempted from all provisions of the Act pursuant to Section 6(c). Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act and rule thereunder, if, and to the extent that, such exemption is necessary or apporpriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that the exemption of the Partnership from all provisions of the Act is both necessary and appropriate in the public interest. Applicants maintain that the final paragraph of Release No. 8456 contemplates that the exemptive power of the Commission under Section 6(c) may be applied to two-tier partnerships such as the Partnership, a "two-tier partnership that invests in limited partnership engaged in the development and building of housing for low and moderate income persons. . ." Applicants state that Release No. 8456 lists two conditions, designed for the protection of investors, that must be satisfied in order to qualify for such an exemption: (1) "Interests in the issuer should be sold only to persons for whom investments in limited profit, essentially taxshelter, investments would not be unsuitable. . ."; and (2) "requirements for fair dealing by the General Partners of the issuer should be included in the basic organizational documents of the

company." Applicants assert that the Partnership will comply with these conditions and will otherwise operate in a manner designed to insure investor protection.

Applicants assert that the Partnership is not an "investment company" under the Act. They further assert that they will be in the business of investing in and being the beneficial owners of an apartment complex which is not a security, and that the limited partnership interests should not constitute "investment securities" within the meaning of Section 3(a)(3) of the Act. Applicants contend that the limited partnership interests are not readily marketable, and will have no value apart from the value of the Project owned by the Operating Partnership. Applicants further contend that no separate market exists for the limited partnership interests, and their sale could involve severe adverse tax consequences. Although a portion of the limited partners' capital contributions will probably be invested for approximately one month in short-term obligations until such contributions are paid to the Operating Partnership, Applicants represent that at no time will the value of the Partnership's temporary investment exceed 40% of the Partnership's total assets.

Insofar as investor suitability is concerned, Applicants state that Partnership interests will be offered only to "Accredited Investors" as prescribed by Regulation D and to not more than 35 other "qualified investors" who meet certain suitability requirements. Applicants define a "qualified investor" as one with a net worth of at least $250,000 who represents that some portion of his income will be subject to a marginal federal income tax rate of 48% for 1983 and 45% for 1984 and thereafter. Applicants believe their suitability standards to be consistent with those set forth in Release No. 8456 and consistent with the guidelines of those states which prescribe suitability standards.

Insofar as fair dealing by the general partner is concerned, Applicants contend that the partnership agreement and the confidential memorandum relating to the offering of the partnership interests contain numerous provisions designed to insure fair dealing by the general partner with the limited partners. Applicants assert that all compensation to be paid to the general partner and its affiliates is fair and on terms no less favorable to the Partnership than would be the case if such arrangements had been made with independent third parties. Further, Applicants state their belief that such compensation meets all applicable guidelines necessary to permit the partnership interests to be offered and sold in the various states that prescribe such guidelines, including the statement of policy adopted by the North American Securities Administrators Association, Inc. in respect of real estate programs. In order to insure that limited partners receive extensive information about the Partnership, Applicants state that limited partners will receive annual reports concerning the Partnership's business and operations, including audited financial statements.

Notice is hereby given that any interested person wishing to request a hearing on the application may, not later than February 28, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3340 Filed 2-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13006; 812-5409]

Northwestern Mutual Life Insurance Co., et al.; Filing of Application

February 2, 1983.

In the matter of The Northwestern Mutual Life Insurance Company, NML Equity Services, Inc., NML Variable Annuity Account 1 and NML Variable Annuity Account B, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202 (812-5409).

Notice is hereby given that The Northwestern Mutual Life Insurance Company ("NML"), NML Equity Services, Inc. ("Equity"), NML Variable Annuity Account 1 ("Account 1") and NML Variable Annuity Account B ("Account B") (together, "Applicants") filed an application on December 21, 1982, and an amendment thereto on January 25, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") granting exemptions from the above referenced provisions of the Act and Rules thereunder, to the extent necessary to permit the transactions described in the application and for an order pursuant to Section 11 of the Act approving the terms of certain offers of exchange. All interested persons are referred to the application on file with the Commission, as amended, for a statement of the representations contained therein, which are summarized below, and are referred to the Act and Rules thereunder for a statement of the relevant provisions.

NML is a mutual life insurance company organized under the laws of Wisconsin. Equity is a wholly-owned subsidiary of NML registered as a broker-dealer which serves as the underwriter of the variable annuity contracts ("Contracts"), which are issued in connection with Account 1 and Account B, separate investment accounts of NML registered under the Act as unit investment trusts. NML and Equity are the co-depositors of the accounts.

NML established the accounts to fund the Contracts. Purchase payments, less any applicable premium taxes, are credited to the accounts to purchase accumulation units, which are converted to annuity units upon annuitization. Account 1 will invest in a designated mutual fund. A contractowner participating in Account B may allocate payments to one or more of four existing divisions of that account, each of which invests in a different designated mutual fund.

Subject to certain conditions, an Account B contractowner may transfer all or part of his accumulation or annuity units from one division of that account to another. The number of units to be credited will be adjusted to reflect the value of respective units of the divisions involved, and a fee of $5 will be imposed on each transfer. NML also will deduct a fixed contract fee of the lesser of $30 or 1% of the value of aggregate accumulation units upon completion of the first contract year and one each anniversary date thereafter until annuitization. Applicants assert that the transfer and contract fees are intended only to cover actual expenses and are not calculated to include a profit element.

In addition, NML will deduct an annuity rate risk charge which on an annual basis will equal .5% of the assets

of each account, and an expense risk charge which on an annual basis will equal .5% and .75%, respectively, of the assets of Account 1 and Account B. Applicants assert that such charges are reasonable in amount as determined by industry practice of life insurance companies which offer competing variable annuity contracts, and the basis for this assertion is reflected by documents on file with NML.

Any purchase payments which have been deposited under the Contracts for eight years or more may be withdrawn without charge. A contingent deferred sales charge, which will vary depending upon the aggregate amount of purchase payments and the number of years that the sums had been on deposit, will be imposed on amounts withdrawn before annuity payments begin or within five years after annuitization. The charge will also be imposed upon selection of a fixed annuity plan, unless the plan involves a life contingency and becomes effective on or after the tenth contract anniversary. For purposes of determining the charge, payments are aggregated and placed in "categories", eight through zero. The charge for payments withdrawn while considered to be in category eight is 8%, and decreases 1% for each lower category. The first $25,000 of total payments made under the Contract start out in category eight, the next $75,000 start out in category four, and all additional purchase payments start out in category two. As of each contract anniversary, any amount in a category moves to the next lower category until reaching category zero. The amounts upon which the charge is figured will be taken from those categories that produce the lowest charge, and there will be no charge amounts withdrawn which exceed total purchase payments.

Relief Requested

Applicants request the following exemptions: from Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c–1 thereunder to the extent deemed necessary or appropriate to impose the contingent deferred sales charge; and from Sections 26(a)(2)(C) and 27(c)(2) to the extent deemed necessary or appropriate to impose the contract fee, asset risk charge, and the transfer fee, and to deduct premium taxes.

Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants also request an order pursuant to Section 11 of the Act, to the exent necessary, approving the terms of the offer of exchange described above. Section 11(a) generally makes it unlawful for any registered open-end investment company to make an offer to holders of its securities to exchange their securities on any basis other than relative net asset value unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of Section 11(a) apply to any type of exchange offer involving the securities of a registered unit investment trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 25, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3339 Filed 2–7–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19480]

Options Clearing Corporation ("OCC"); Order Approving Proposed Rule Change

February 2, 1983.

On July 6, 1982, OCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b–4 thereunder, a proposed rule change that would amend OCC Rule 306 to require OCC participants to file with OCC specified types of financial information. Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of Securities Exchange Act Release No. 18920 (July 26, 1982), 47 FR 33822 (August 4, 1982). OCC amended the proposal to modify its requirements for certain smaller participants.[1] One letter of comment was received by the Commission.[2]

Currently, OCC Rule 308 provides that "the financial books and records of every [participant] shall be audited at least once annually by a firm of independent public accountants satisfactory to [OCC], and a report thereof shall be filed with [OCC] in such form as [OCC] may prescribe." The proposal would replace this language with provisions requiring that (1) any participant obligated to prepare a financial report in accordance with Rule 17a–5 (17 CFR 240.17a–5) must file a copy of that report with OCC; and (2) any participant who is exempted by Rule 17a–5(d) from filing such a report ("exempt participants") must submit audited financial statements to OCC that are prepared by an independent public accountant satisfactory to OCC in accordance with generally accepted accounting principles ("GAAP") and auditing standards ("GAAS"). The proposal further provides that all participants must file with OCC a copy of any accountant's supplemental report on material inadequacies required by Rule 17a–5(j). Finally, the proposal specifies when such reports and statements must be filed with OCC.

OCC submitted the proposal to specify minimum guidelines for financial reports that must be prepared by participants and to establish definite times for the submission of such reports. OCC believes that, by conforming OCC's financial reporting requirements for most OCC participants to Rule 17a–5 and by requiring exempt participants to file financial reports prepared in accordance with generally accepted standards, the proposal would ensure greater uniformity in the formats, contents, and timing of receipt of the reports to OCC and would increase their regulatory value.

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[1] Letter amendment to the staff dated December 27, 1982, from Marc L. Berman, Executive Vice President and General Counsel of OCC.

[2] Charles H. Ross, of Charles H. Ross, Inc., stated in a September 28, 1982 letter that OCC's original proposal would have included identical financial reporting requirements for both small and large participants, and that those requirements would have imposed an onerous and unnecessary reporting burden on small participants. Following OCC's amendment to the proposal reducing the financial reporting burdens for certain small participants, Mr. Ross indicated informally to the Commission staff that the amendment resolved his concerns.

The Commission believes that the proposal would assist OCC substantially in monitoring the financial condition of its participants without imposing significant additional reporting burdens on participants. In general, OCC's participants already have their independent public accountants prepare either audited financial reports in accordance with Rule 17a–5 or audited financial statements in accordance with GAAP and GAAS, together with a report on material inadequacies when appropriate. The Commission acknowledges that the proposal may impose additional expenses on OCC participants that file financial statements not conforming with GAAP or GAAS; the Commission believes, however, that those expenses are likely to be insubstantial. Moreover, because of the significant benefits accruing to all participants from OCC's enhanced ability to monitor its participants and the proposal's less stringent financial reporting requirements for certain smaller OCC participants, the Commission believes that the proposal does not impose any inappropriate, inequitable, or undue burdens on competition among OCC participants. Thus, the Commission believes that the proposal is consistent with, and in furtherance of, OCC's obligations to safeguard securities and funds in the custody or control of OCC or for which OCC is responsible, pursuant to Section 17A(b)(3)(F) of the Act.

Accordingly, it is therefore ordered, pursuant to Section 19(b) of the Act, that the proposed rule change (SR–OCC–82–16) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3341 Filed 2–7–83; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Performance Review Board

ACTION: Notice of Members of Performance Review Board (PRB)

SUMMARY: This notice announces the appointment of members of the composite PRB for the Bureaus of Engraving and Printing, Mint, Government Financial Operations, and Public Debt.

FOR FURTHER INFORMATION CONTACT: Larry E. Rolufs, Deputy Director, Bureau of the Mint, Room 1108, Warner Building, 501–13th Street, NW., Washington, D.C. 20220, telephone 202–376–0434.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4) and the Civil Service Reform Act of 1978, the members of the Senior Executive Service Performance Review Board for the Bureaus of Engraving and Printing, Mint, Government Financial Operations, and Public Debt, are listed below. This Board reviews the performance of Senior Executives below the level of bureau head and principal deputy in the four bureaus, except for the Assistant Commissioner Comptroller at the Bureau of Government Financial Operations. At least three voting members constitute a quorum.

	Primary	Alternate
E&P	Robert J. Leuver, Assistant Director	Milton J. Seidel, Assistant Director (Research and Engineering)
Mint	Larry E. Rolufs, Deputy Director	Eugene H. Essner, Associate Director (Policy and Management)
GFO	Irvin E. Faunce, Deputy Commissioner	Russell D. Morris, Assistant Commissioner (Banking & Cash Management).
	Bland T. Brockenborough, Assistant Commissioner (Administration)	John Turner, Assistant Commissioner (Disbursement and Claims).
FMS	Richard L. Gregg, Acting Deputy Commissioner	Kenneth W. Rath, Assistant Commissioner (Washington)

This notice does not meet the Department's criteria for significant regulations.

Dated: January 26, 1983.

Larry E. Rolufs,

Deputy Director, Mint PRB Chairman, 1983.

[FR Doc. 83–3238 Filed 2–7–83; 8:45 am]

BILLING CODE 4810–25–M

Office of the Secretary

[Supp. to Dept. Circ. Public Debt Series—No. 2–83]

Series L–1986; Interest Rate

February 2, 1983.

The Secretary announced on February 1, 1983, that the interest rate on the notes designated Series L–1986, described in Department Circular—Public Debt Series—No. 2–83 dated January 27, 1983, will be 9⅞ percent. Interest on the notes will be payable at the rate of 9⅞ percent per annum.

John A. Kilcoyne,

Acting Fiscal Assistant Secretary.

[FR Doc. 83–3367 Filed 2–7–83; 8:45 am]

BILLING CODE 4810–40–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Section 201 Case; Heavyweight Motorcycles, and Engine and Power Train Subassemblies Thereof; Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, the President received, on February 1, 1983, a report from the United States International Trade Commission (USITC) on the case of motorcycles having engines with total piston displacement over 700 cubic centimeters provided for in item 692.50 of the Tariff Schedules of the United States (TSUS). In that case the USITC determined that such motorcycles are being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. The USITC also determined (Commissioner Haggart dissenting) that engines and power train subassemblies for such motorcycles (whether imported separately or in combination), and parts of such engines and subassemblies, all the foregoing provided for in TSUS items 660.56, 660.57, and 692.55, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission found and recommended that to prevent the serious injury to the domestic industry, it would be necessary to impose rates of duty, in addition to the existing rate, with respect to motorcycles having engines with total piston displacement over 700 cubic centimeters, provided for in TSUS item 692.50, for a 5-year period, as follows:

1st Year	45% ad val.
2nd Year	35% ad val.
3rd Year	20% ad val.
4th Year	15% ad val.
5th Year	10% ad val.

The term "motorcyles having engines with total piston displacement over 700 cubic centimeters" is intended to include such motorcycles, whether assembled or not assembled, and

whether finished or not finished, and thus would include, as unfinished motorcycles, wholly or partly assembled motorcycle frames with engines mounted thereon.

Within 60 days of receiving a report from the Commission containing an affirmative determination (by April 2, 1983 in this case), the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States' market is a focal point for exports of such articles by reason of restraints on exports of such articles by reason of restraints on exports of such articles to, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the United States Trade Representative (USTR) chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist in the development of recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the USTR welcomes briefs from interested parties on the above listed subjects.

Briefs should be submitted in twenty (20) copies, in conformity with 15 CFR 2003, to the Secretary, Trade Policy Staff Committee, Room 500, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, D.C. 20506.

For further information contact: J. David Morrissy, telephone 202–395–4510. (Additional information on this case is available in USTIC report TA–201–47).

To be considered by the Office of the USTR, submissions should be received as soon as possible, but in no event later than the close of busines Friday, February 25, 1983.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 83–3475 Filed 2–7–83; 8:45 am]

BILLING CODE 3190–01–M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 24, 1983, at 10:00 a.m., the Veterans Administration Regional Office, St. Petersburg, Florida, Station Committee on Educational Allowances, shall, at the Federal Building, Room 602B, 144 1st Avenue South, St. Petersburg, Florida, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled at Florida A & M University, Tallahassee, Florida, 32307, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: January 25, 1983.

Carlos L. Rainwater,

Director.

[FR Doc. 83–3336 Filed 2–7–83; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 27
Tuesday, February 8, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Civil Aeronautics Board	1, 2
Consumer Product Safety Commission	3-5
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1

CIVIL AERONAUTICS BOARD

The CAB will meet:

Time and date: 10:00 a.m. (Open), 3:00 p.m. (Closed), February 8, 1983

Place: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428

Subject

16a. Docket 37554, Establishment of the Standard Foreign Fare Level. (Memo 048-P, BIA)

22a. Report on the Dominican Republic. (BIA)

Status: 16a Open, 22a Closed

Person to contact: Phyllis T. Kaylor, The Secretary, (202) 673-5068

[S-184-83 Filed 2-4-83; 3:53 pm]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD

The CAB will meet:

Time and date: 10:00 a.m. (Open), 3:00 p.m. (Closed), February 8, 1983

Place: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428

Subject

1. Ratification of Items Adopted by Notation.

2. Consent settlement of public charter regulation violations by Richard J. Davis, Jr. (OGC)

3. Time for filing answers to summary judgment and dismissal motions in enforcement proceedings. (OGC)

4. Dockets 40772, 40336, 38621, ATA's Petition to Repeal Part 254 (Domestic Baggage Liability) prior to its effective date. (OGC, BDA, OCCCA)

5. Docket 39932, Application of Southwest Airlines for an exemption from the standard notice required by 14 CFR 250.9. (OGC, BDA)

6. Docket 40959, Amendment to Part 321 to require dormant authority applicants to file fitness information with their applications. (OGC, BDA)

7. Docket 40734, Final rule to require all U.S. and foreign air carriers to adhere to the Montreal Agreement increasing passenger liability limits under the Warsaw Convention to $75,000. (Memo 1309-A, 1309-B, OGC, BDA, BIA)

8. Dockets 40771, 40613, 40614, *American World Airways Fitness Investigation, Applications of American World Airways, Inc.* (OGC)

9. Docket 17401, Application of Chicago Helicopter Airways, Inc. for renewal of a temporary certificate of public convenience and necessity. (Memo 1677, BDA)

10. Commuter carrier fitness determination of Catalina/Seaboard Airlines Inc., d/b/a Spirit Aire. (BDA)

11. Commuter carrier fitness determination of East Coast Airways, Ltd. (BDA)

12. Commuter carrier fitness determination of Eastman Airways, Inc. (BDA)

13. Commuter carrier fitness determination of Virgin Air, Inc. (Memo 1679, BDA)

14. Dockets 38503 and 38504, Mississippi Valley Airlines, Inc., application for compensation for losses at Clinton and Ottumwa, Iowa. (Memo 473-3, BDA, OCCCA, BCAA, OC)

15. Docket 40774, Western Air Lines, Inc., Application for compensation for losses at Pierre, South Dakota. (Memop 1621-A, BDA, BCAA, OCCCA, OC, OGC)

16. Dockets 38019 and 38961, *Wein Air Alaska Mainline and Bush Mail Rates Investigation;* In the matter of *Intra-Alaska Class Service Mail Rates.* (Memo 1284-B, BIA, BDA, OGC)

17. Docket 35723, In the Matter of the Petition of Kodiak-Western Alaska Airlines, Inc. to Increase Service Mail Pay. (BIA)

18. Docket 40960, Intercarrier agreement on Florida-U.K. fares covering the period April, 1983-March, 1984. (Memo 1511-D, BIA)

19. Docket 36700, Application of Aeral-Aeronoleggi e Lavoro Aereo, S.p.A. d/b/a Aeral for a foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958, as amended. (BIA, OGC, BALJ)

20. Docket 41058, Application of Capitol Air, Inc., for an amendment to its certificate of public convenience and necessity pursuant to section 401 of the Federal Aviation Act of 1958, as amended, to provide scheduled combination air transportation between the United States and Tel Aviv, Israel. (BIA, OGC, BALJ)

21. Report on the Issues Group Meeting of February 2, 1983. (BIA)

22. Report on the Netherland Antilles. (BIA)

23. Discussion of German Negotiations. (BIA)

24. Report on Fiji Negotiations. (BIA)

Status: 1-20 (Open), 21-24 (Closed)

Person to contact: Phyllis T. Kaylor, The Secretary, (202) 673-5068

[S-185-83 Filed 2-4-83; 3:53 pm]

BILLING CODE 6320-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

Time and date: Commission Meeting, Wednesday, February 9, 1983, 11:00 a.m.

Location: Third Floor, Hearing Room, 1111 18th Street, N.W., Washington, DC

Status: *Open to the Public*

1. *Space Heaters: Exemption Applications (1-23).* The Commission will consider petitions SH 82-1 through SH 82-23, from state/local jurisdictions, which request exemption from the preemption effect of the safety standard for unvented gas-fired space heaters.

2. *Toy Chests: Proposed Standard.* The Commission will consider a proposed rule which addresses the risk of strangulation to children from falling toy chest lids.

Contact person for additional information: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207, 301-492-6800

[S-179-83 Filed 2-4-83; 11:38 am]

BILLING CODE 6355-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION

Time and date: Commission Meeting, Wednesday, February 9, 1983, 10:00 a.m.

Location: Third Floor, Hearing Room, 1111 18th Street, N.W., Washington, DC

Status: *Open to the Public*

Phthalates in Consumer Products. The Commission will meet with representatives of the Chemical Manufacturers Association (CMA) to hear CMA's views on phthalates in consumer products.

Contact person for additional information: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207, 301-492-6800

[S-180-83 Filed 2-4-83; 11:38 am]

BILLING CODE 6355-01-M

5

U.S. CONSUMER PRODUCT SAFETY COMMISSION

Time and date: Commission Meeting, Thursday, February 10, 1983, 10:00 a.m.

Location: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland

Status: *Open to the Public*

1. *School Laboratory Chemicals: Status Report.* The staff will brief the Commission on the status of a recommended outreach program, in collaboration with other interested organizations, to inform secondary school instructors of current toxicologic evaluations of laboratory chemicals, educate teachers regarding less hazardous substitute chemicals, and define other measures to reduce chemical exposures in the classrooms.

2. *Aluminum Wire Petition AP 80–2.* The staff will brief the Commission on issues related to petition AP 80–2 from Mr. Jesse Aaronstein, Ph.D., which requests a rule under section 27(e), CPSA, requiring manufacturers of electrical wiring devices to furnish consumers with information about potential overheating hazards when incompatible receptacles and switches are used with aluminum wiring.

Closed to the Public

3. *Enforcement Matter OS# 3347. The staff will brief the Commission on issues related to enforcement matter OS# 3347.*

Contact person for additional information: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland 20207, 301–492–6800.

[S–181–83 Filed 2–4–83; 11:37 am]

BILLING CODE 6355–01–M

6

FEDERAL COMMUNICATIONS COMMISSION

February 2, 1983.

FCC To Hold Open Commission Meeting, Wednesday, February 9, 1983

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, February 9, 1983, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and subject

General—1—Title: Amendment of Part 15 of the Commission's Rules to provide for the operation of a TV Interface Device.

Summary: The Commission considers final rules for TV Interface Devices, which are intended to replace the present rules for Class I TV devices in Subpart H of Part 15. The new rules, if adopted, will permit the operation of a stand-alone RF modulator, which is used as an interface between some video source (e.g., personal computer) and the television receiver.

2 Title: A Re-Examination of Technical Standards.

Summary: The staff has prepared a combined Notice of Inquiry and Proposed Rule Making which examines the basis for the FCC's technical regulations. The item includes a table in which FCC technical standards have been classified according to their purpose.

Private radio—1—Title: Notice of Proposed Rule Making to provide for to use of facsimile by the maritime mobile service.

Summary: The FCC will consider whether to adopt a Notice of Proposed Rule Making to include in its rules provisions permitting use of the facsmile mode of communications between high seas vessels and the shore using frequencies between 2 and 27.5 MHz.

Audio—1—Title: In re application of Ettlinger Broadcasting Corporation, File No. BPH–10,075, for a new FM station in Westmorland, California.

Summary: The Commission considers the above application and a petition by the applicant seeking reconsideration of the Commission's action dismissing the application.

2—Title: License Renewal Applications of Certain Broadcast Stations Located throughout the United States.

Summary: The Commission considers a "Petition to Prevent Continuing Violations of the Commission's Equal Employment Opportunity Rule," filed by the National Black Media Coalition, which seeks Commission action in regard to Stations WGUL and WPSO(FM), New Port Richey, Florida; WTMS, Ocala, Florida; KLCL and KHEZ(FM), Lake Charles, Louisiana; WCRB(FM), Waltham, Massachusetts; WXLK(FM), Roanoke Virginia; WNRS, Saline, Michigan; WIQB(FM), Ann Arbor, Michigan; WPTW and WPTW–FM, Piqua, Ohio; WVNO–FM, Mansfield, Ohio; and WFAH and WDJQ(FM), Alliance, Ohio, because of allegedly deficient employment practices regarding Blacks.

Video—1—Title: "Petition for Reconsideration" (CSR–1678) filed June 4, 1982, by Quincy Cable TV, Inc.

Summary: Quincy Cable TV, Inc., operator of a cable television system serving Quincy, Washington, seeks reconsideration of *Quincy Cable TV, Inc.* (Quincy, Washington), FCC 82–193, 89 FCC 2d 1128 (1982), in which the Commission denied review of staff action denying reconsideration of Quincy's petition for waiver of the mandatory signal carriage rules.

2—Title: "Request for Tax Certificate" (CSR–2075) filed February 4, 1982, by Fetzer Broadcasting Company.

Summary: Fetzer Broadcasting Company, pursuant to Section 1071 of the 1954 Internal Revenue Code, requests issuance of a tax certificate in connection with the sale of Wolverine Cablevision, Inc.

Policy—1—Title: *Report and Order* in the rule making proceeding on the Suburban Community Policy, the *Berwick* Doctrine and the *De Facto* Reallocation Policy.

Summary: The Commission will consider the *Report and Order* in BC Docket 82–320.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico

Secretary, Federal Communications Commission.

[S–182–83 Filed 2–4–83; 3:52 pm]

BILLING CODE 6712–01–M

7

FEDERAL COMMUNICATIONS COMMISSION

February 2, 1983.

FCC To Hold a Closed Commission Meeting Wednesday, February 9, 1983

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Wednesday, February 9, 1983 following the Open Meeting which is scheduled to commence at 9:30 A.M. in Room 856, at 1919 M Street, N.W., Washington D.C.

Agenda, Item No., and Subject

Hearing—1—Applications for Review in the Casey Broadcasting Company, Inc., St. Marys, Georgia FM radio comparative proceeding (BC Docket Nos. 80–381, 80–383).

2—Application for Review in the Bernard J. Winner Amateur and Citizens Band radio station license revocation and Amateur operator license suspension proceeding (Docket Nos. 79–8–10).

3—Application for Review and certified question in the Walter Norman Russell Amateur and Citizens Band station license revocation and Amateur operator license suspension proceeding (Docket Nos. 79–322–324).

4—Applications for Review in the Jerry J. Wells Amateur Radio and Citizens Band license revocation and Amateur operator's suspension proceeding. (Docket Nos. 80–14–16).

Hearing Items 1, 2, 3, and 4 are closed to the public because they concern Adjudicatory Matters (See 47 CFR 0.603 (g)).

The following persons are expected to attend: Commissioners and their Assistants, Managing Director and members of his staff, General Counsel

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and members of his staff, Chief, Office of Public Affairs and members of his staff.

Action by the Commission:

Hearing Items 1, 2, 3, and 4 January 31, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp, voting to consider these items in Closed Session.

This meeting may be continued the following work-day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–183–83 Filed 2–4–83; 3:52 pm]

BILLING CODE 6712–01–M

federal register

Tuesday
February 8, 1983

Part II

Department of Health and Human Services

Food and Drug Administration

External Analgesic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 348

[Docket No. 78N-0301]

External Analgesic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) external analgesic drug products are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products and public comments on an advance notice or proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or request for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by April 11, 1983. New data by February 8, 1984. Comments on the new data by April 9, 1984. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Written comments on the agency's economic impact determination by June 8, 1983.

ADDRESS: Written comments, objections, or request for oral hearing to the Docket Management Branch (HFA-305), Food and Drug Administration , Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. New data and comments on new data should also be addressed to the Dockets Management Branch.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 4, 1979 (44 FR 69768) FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC external analgesic drug products, together with the recommendations of the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by March 6, 1980. Reply comments in response to comments filed in the initial comment period could be submitted by April 3, 1980.

In a notice published in the **Federal Register** of September 26, 1980 (45 FR 63878), the agency advised that it had reopened the administrative record for OTC external analgesic drug products to allow for consideration of recommendations on camphor-containing drug products that had been received from the Advisory Review Panel on OTC Miscellaneous External Drug Products after the date the administrative record previously had officially closed. The agency concluded that the Miscellaneous External Panel's recommendations should be available to the agency in developing a proposed regulation on external analgesic drug products in the form of a tentative final monograph.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information. Data and information received after the administrative record was reopened have also been put on display in the Dockets Management Branch.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on December 4, 1979 (44 FR 69768), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule), FDA states for the first time its position on the establishment of a monograph for OTC external analgesic drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC external analgesic drug products.

In response to the advance notice of proposed rulemaking, 1 trade association, 10 drug manufacturers, 36 health professionals, and 4 consumers submitted comments. In response to the notice of reopening the administrative record to allow for consideration of recommendations on camphor-containing drug products, one trade association, six drug manufacturers, and one drug marketer submitted comments. Copies of the comments received are also on public display in the Dockets Management Branch.

This proposal to establish Part 348 (21 CFR 348) constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC external analgesic drug products as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established.

Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety and effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph (46 FR 47738).

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not

misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application. Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC external analgesic drug products (published in the **Federal Register** of December 4, 1979 (44 FR 69768)), the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and have their products in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the **Federal Register** of July 21, 1972 (37 FR 14633) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

In the **Federal Register** of September 7, 1982 (47 FR 39412), FDA issued a notice of reopening of the administrative record for OTC external analgesic drug products to allow for consideration of the Miscellaneous External Panel's recommendations on external analgesic drug products used for the treatment of diaper rash, for prevention of poison ivy, oak, and sumac, for the treatment of fever blisters, as male genital desensitizers, as astringents, and as insect bite neutralizers. The agency will address the use of external analgesic active ingredients for these uses in this rulemaking in a future issue of the **Federal Register**.

I. The Agency's Tentative Conclusions on the Comments

A. General Comments on External Analgesic Drug Products

1. One comment contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the **Federal Register** of May 11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the **Federal Register** of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated there. Subsequent court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association* v. *Weinberger*, 512 F. 2d 688, 696–98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers* v. *FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F. 2d 887 (2d Cir. 1981).

2. One comment stated that two products, both containing the active ingredients camphor, menthol, eugenol, and eucalyptus oil, had "grandfathered" status under section 201(p)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)(l)). The comment pointed out that, although these products do not comply with the Panel's recommended monograph because of their high level of camphor, they have been continuously marketed since 1923. The comment argued that, because of the grandfather status, the conclusions of the OTC drug review should not be applicable to these products.

The agency points out that after this comment was submitted the two products were reformulated to reduce the concentration of camphor from 25 percent to 11 percent, in conformance with the Panel's recommendations. Consequently, the question of grandfather status for those 25 percent products is moot.

The "grandfather" clause in the act of 1938 is not applicable to any drug relabeled or reformulated after June 25, 1938. Similarly, a drug marketed before the 1962 amendments to the act, which was not then a new drug or covered by a new drug application, is subject to the provisions of these amendments regarding effectiveness if the drug has been reformulated or relabeled. The 1938 and 1962 grandfather clauses apply only to the new drug provisions of the act and not to the adulteration or misbranding provisions. The OTC drug review was designed to implement both the misbranding and the new drug provisions of the act. Therefore, the grandfather clauses do not preclude the agency from reviewing any currently marketed OTC drug, regardless of whether it has grandfather protection from the new drug provisions, in order to ensure that the drug is not misbranded.

B. Comments on External Analgesic Ingredients

3. A number of comments expressed opinions on the Panel's recommended switch of hydrocortisone to OTC marketing status. The comments that favored OTC marketing pointed out the long history of experience with this drug as well as the savings to the consumer from OTC availability. Several comments stated that the recommended OTC indications would permit informed and prudent use of hydrocortisone products by providing consumers with appropriate examples of self-diagnosable conditions for which hydrocortisone products provide appropriate therapy. Opposing comments stated that hydrocortisone is likely to be used inappropriately because the average consumer is unable to distinguish between a simple rash and such skin conditions as herpes simplex, scabies, seborrheic dermatoses, and tinea cruris (jock itch). The comments added that inappropriate treatment and delay in diagnosis might cause the conditions to spread or become worse at considerable cost to the consumer.

The agency agrees with the Panel that the OTC marketing of hydrocortisone is of significant benefit to consumers because it provides them with an effective drug for self-treatment of certain minor skin irritations. The indications for OTC use are for self-limiting, self-diagnosable conditions. The warning proposed in § 348.50(c)(1)(iii) of this tentative final monograph, "If condition worsens, or if symptoms persist for more than 7 days or clear up and occur again within a few days, discontinue use of this product and consult a" (select one of the following: "physician" or "doctor,") is intended to prevent unlimited consumer use of these products for serious conditions that require professional treatment. (See comment 27 below.) The agency tentatively concludes that hydrocortisone is safe and effective for its labeled OTC uses and that the benefits of OTC availability outweigh any potential misuse that may occur.

4. Two comments form the same source requested that the maximum allowable concentration of camphor recommended by the Panel in §348.10 (a)(3) be raised from 11 to 25 percent. The comments cited a study to determine the dermal irritancy and possible toxicity of 25 percent camphor and argued that the results of the study justify this higher concentration (Ref. 1). The comments also cited the long marketing history of a product containing a higher concentration of camphor with no reports of major problems.

The agency disagrees with the comments. The study submitted by one comment to justify raising the camphor limit to 25 percent used traditional Draize procedures in which a product containing 25 percent camphor was applied to rabbits' skin for 21 consecutive days (Ref. 1). This is a standard method of testing topical irritancy. The Panel stated that camphor in concentrations above 11 percent is not harmful when used topically, but the Panel was concerned about poisoning if products containing higher concentrations were accidentally ingested (44 FR 69803). Eleven percent was chosen as a maximum limit by the Panel because higher concentrations are not any more effective as counterirritants, but can cause more serious adverse reactions if accidentally ingested. The agency concurs with the Panel's conclusion.

Furthermore, the product discussed in the comment has been reformulated, lowering the camphor concentration from 25 percent to 11 percent (Ref. 2). The agency is not aware of counterirritant products containing more than 11 percent camphor now on the OTC market; therefore, the agency finds no reason to consider camphor concentrations greater than 11 percent any further in this document.

References

(1) Comment No. C00027, Docket No. 78N–0301, Dockets Management Branch.

(2) Food and Drug Administration, "Drug Product Listing for Tiger Balm Ointment," Haw Par Brothers International Limited, January 15, 1980 and January 9, 1981, included in OTC Volume 06BTFM.

5. A number of comments objected to the recommendations of the Miscellaneous External Panel, included in the rulemaking for external analgesic drug products on September 26, 1980 (45 FR 63878), that the quantity of camphor in OTC drug products be limited to 2.5 percent, that no package contain more than 360 milligrams (mg) of camphor, and that safety packaging be used. One comment argued that it is unacceptable to limit household drug products to 360 mg of camphor per container, which would be the equivalent of a spoonful-size container for many products, on the basis that accidental ingestion of larger amounts may cause toxic effects. Another comment argued that the Miscellaneous External Panel was wrong in basing its calculation of the toxic dose of 30 milligrams/kilogram (mg/kg) on a single report of death following ingestion by a 150-pound man of 2 grams (g) of camphor. The comment argued that other reports place the toxic dose higher than 30 mg/kg and that most of the reported cases of camphor poisoning may not be true poisonings with toxic signs and symptoms. The comment added that of 542 cases of camphor poisoning cited by the Poison Control Center for 1974, only 101 reported any symptoms, and of this number only 77 were hospitalized. Several comments pointed out that there are no reported fatalities associated with products containing 11 percent or less camphor, and that most of the poisonings described by the Miscellaneous External Panel were due to ingestion of camphorated oil, which contains 20 percent camphor in oil. One comment pointed out that limiting the package size to avoid potential misuse would be a proper consideration for the Consumer Product Safety Commission under the provisions of the Poison Prevention Packaging Act, and should not be incorporated into an OTC drug monograph. Another comment argued that there was no justification for applying the recommendations of the Miscellaneous External Panel to nonliquid formulations of camphor because of the lower risk of ingestion of these formulations.

The agency notes that the Topical Analgesic Panel considered various comments, reports, and editorials submitted to it concerning the toxicity and frequency of poisonings from camphor-containing preparations, particularly in children because that population has the highest incidence of such toxicity. The Panel concluded that the cases of accidental ingestion of products containing 11 percent or less camphor by children rarely resulted in severe adverse reactions and that current regulations and labeling requirements are adequate. The agency has reviewed both panels' recommendations and the adverse reaction reports for products containing camphor and concludes that, at this time, there is no need to limit camphor content to 360 mg per package for products covered by this tentative final monograph. The camphor concentration is being limited to 11 percent or lower as recommended by the Topical Analgesic Panel. (See comment number 4 above.) A final rule declaring camphorated oil products to be new drugs and misbranded was published in the **Federal Register** of September 21, 1982 (47 FR 41716).

There are few reports of adverse reactions from ingestion of solid dosage forms containing camphor; however, the agency believes that safety packaging of liquid products would reduce the risk

that children might ingest these products. The agency strongly recommends that manufacturers voluntarily package such products in child-resistant containers. In addition, these products must bear the warning: "For external use only." The agency recommends that manufacturers voluntarily print this warning in a larger size print and/or in a different color from other information on the lable to draw consumers' attention to it. The agency believes that if manufacturers take these additional steps, the number of accidental ingestions can be reduced.

6. One comment requested clarification of the gap between the dosage ranges for menthol as an analgesic, anesthetic, or antipruritic (0.1 to 1.0 percent) and as a counterirritant (1.25 to 16 percent).

The Panel proposed two dosage ranges to emphasize the distinction between the two different OTC uses of menthol and the different labeling associated with each use. The agency concurs with the Panel's recommendations of these dosage ranges.

7. Two comments submitted data on the effectiveness of trolamine salicylate (formerly triethanolamine salicylate) as a topical analgesic. Based on these data, one of the comments suggested that the monograph include a class of external analgesics that "act upon painful structures below the skin by absorption of the active ingredient directly into subcutaneous structures" and that trolamine salicylate be placed in this class. The comment also suggested the following indications for this class: "For the temporary relief of minor aches and pains of muscles and joints. Also as a topical adjunct for pain due to arthritis and rheumatism." Both comments requested that trolamine salicylate be placed in Category I basd on the data submitted.

The agency has reviewed the data submitted and concludes that they are not sufficient to support general recognition of effectiveness for trolamine salicylate as an OTC external analgesic.

The studies by Ehrlich (Ref. 1), Charles (Ref. 2), Brown (Ref. 3), and Roth (Ref. 4) were randomized, double-blind, crossover evaluations of 10 percent trolamine cream versus placebo. None of these studies reported any significant differences between active drug and placebo for any of the measurements recorded.

A double-blind, placebo-controlled, crossover study by Batterman and Sanders (Ref. 5) evaluated the effect of 10 percent trolamine salicylate in relieving the pain of arthritis of the hand in two groups of patients. In one group there was subjective evidence only of superiority of the trolamine cream over placebo, whereas measurable indicators such as hand-grip strength and finger-joint circumference showed no statistically significant improvement. In the other group, trolamine salicylate showed no superiority over the placebo in any of the three measurable criteria. Thus, the results of this study do not indicate any clear superiority of trolamine salicylate over placebo.

Golden (Ref. 6) compared topically applied 10 percent trolamine salicylate cream to oral aspirin in a double-blind parallel study of the relief of rheumatic pain, concluding that the topically applied trolamine salicylate was at least as effective as aspirin in providing pain relief. However, the study design has several deficiencies. History of aspirin use, effective dose, and adverse reactions were not recorded for each subject. Without this information about aspirin response, there is a potential for bias against aspirin in treatment response and adverse reactions.

Altschuler and Golden (Ref. 7) studied 10 percent trolamine salicylate cream in patients with musculoskeletal pain. Of the six results reported, only one was statistically significant. Furthermore, the selective reporting of these six results renders this report uninformative, and no conclusions can be made concerning the effectiveness of trolamine salicylate.

Patel and Chappelle (Ref. 8) reported results observed from unblinded and uncontrolled clinical trials of trolamine salicylate in two French hospitals. The results cannot be assessed because of the lack of a control group.

The comments also included information on the penetrating properties of trolamine salicylate, including in vivo studies in animals, a boiled-egg technique said to demonstrate penetration through protein, and a cup method to demonstrate penetration through muscle and connective tissue. This information is not adequate or suitable to demonstrate effectiveness of trolamine salicylate as a topical analgesic.

Because the submitted information fails to demonstrate that this ingredient would be effective for application at the site of pain or for any use as an external analgesic, the agency does not agree with the comments that trolamine salicylate should be placed in a new class of external analgesic drug products. Trolamine salicylate remains in Category III as an anesthetic, analgesic, and antipruritic in this tentative final monograph. The agency's detailed review and evaluation of the studies submitted are on file in the Dockets Management Branch (Refs. 9 and 10). In response to the agency's review, a comment submitted additional data on trolamine salicylate (Ref. 11). These data were submitted after the administrative record had closed and will be addressed after publication of this tentative final monograph.

References

(1) Ehrlich, G. E., "Myoflex Creme in Patients with Chronic Musculoskeletal Complaints," Comment No. C0006, Docket No. 78N–0301, Dockets Management Branch.

(2) Charles, A. A., "Myoflex Creme in the Treatment of Chronic Musculoskeletal Complaints," Comment No. C0006, Docket No. 78N–0301, Docket Management Branch.

(3) Brown, B., "Myoflex/Chronic Musculoskeletal Complaints," Comment No. C0008, Docket No. 78N–0301, Dockets Management Branch.

(4) Roth, S. H., "Myoflex Arthritis Study," Comment No. C0008, Docket No. 78N–0301, Dockets Management Branch.

(5) Batterman, R. C., and J. F. Sanders, "Myoflex Creme in Patients with Arthritic Involvement of the Hand," Comment No. C00008, Docket No. 78N–0301, Dockets Management Branch.

(6) Golden, E. L., "A Double-Blind Comparison of Orally Ingested Aspirin and a Topically Applied Salicylate Cream in the Relief of Rheumatic Pain," *Current Therapeutic Research*, 24:524–529, 1978.

(7) Altschuler, S., and E. Golden, "Double-Blind Comparison of Triethanolamine Salicylate with a Placebo for Pain Relief from Muscular Skeletal Pain," Comment No. C00007, Docket No. 78N–0301, Dockets Management Branch.

(8) Patel, A., and P. A. Chappelle, "Summary of TEA Clinical Trials in France, 1976–77," Comment No. C0007, Docket No. 78N–0301, Dockets Management Branch.

(9) Letter from W. E. Gilbertson, FDA, to W. L. Myers, Warren-Teed Laboratories, June 19, 1981, coded LET003, Docket No. 78N–0301, Dockets Management Branch.

(10) Letter from W. E. Gilbertson, FDA, to E. L. Steinberg, Thompson Medical Co., June 19, 1981, coded LET 004, Docket No. 78N–0201, Dockets Management Branch.

(11) Comment Nos. CP, SUP002, CR001, AMD, and AMD002, Docket No. 78N–0301, Dockets Management Branch.

Comments on Combination Products

8. One comment argued against the Category III classification of a combination product containing two Category I ingredients and one ingredient classified in Category III for effectiveness. The comment objected to the entire product being placed in Category III, according to the Panel's recommendations, when there has been no question of the product's safety or the effectiveness of the two Category I active ingredients. The comment argued that rather than require reformulation of the product, which would require research, stability testing, and quality

control testing, relabeling to indicate that the Category III ingredient is an inactive ingredient should be permitted.

The agency has published a proposed rule dealing specifically with the use of inactive ingredients in OTC drug products. (See the Federal Register of April 12, 1977 (42 FR 19156).) The proposal identified suitable physical or technical functions (e.g., denaturing agents, emollients, dispersing agents) that an inactive ingredient must perform to be regarded as appropriate for use in OTC drug products. The rule proposed to preclude the retention and redesignation of an active ingredient as an inactive ingredient unless it performs one of these functions. Although this proposal has not yet been published as a final rule, the agency does not sanction arbitrary redesignation to inactive status of ingredients that were submitted as active ingredients and for which data are insufficient to show effectiveness. If such ingredients were retained in a formulation and designated inactive, consumers would be needlessly exposed to them without any corresponding benefit. Many ingredients that are generally recognized as safe are still capable of causing side effects, allergic reactions, etc.

Paragraph 5 of the agency's "General Guidelines for OTC Drug Combination Products" (Ref. 1) provides that "In some cases an ingredient may be appropriate for use only in a specific combination or data may be available only to support the use of the ingredient in combination but not as a single ingredient. In such cases the ingredient will be placed in Category I for use only in permissible combinations and not as a single ingredient." The comment did not mention the specific ingredients contained in its product, nor did it submit any data to support the use of the Category III ingredient in the combination product only. If data are submitted to support the use of the ingredient in the combination, i.e., showing contribution to the claimed effect, as required by 21 CFR 330.10(a)(iv), then it could be classified as Category I for use in the specific combination but not as a single ingredient.

Reference

(1) Food and Drug Administration, "General Guidelines for OTC Drug Combination Products," September, 1978, Docket No. 78D–0322, Dockets Management Branch.

9. One comment, from the author of the Panel's minority report on combination products (44 FR 69787–69790), suggested a number of changes in the minority report, which, the comment stated, would make it consistent with the agency's general guidelines for OTC drug combination products (Ref. 1), which were published after the Panel had adopted its report. The comment requested that this minority report, with suggested revisions, replace the combination policy recommended by the majority of the Panel members in § 348.20, adding that such a replacement would eliminate the provisions of the majority report that have no therapeutic or scientific basis.

The agency accepts the changes in the minority report and has considered these revisions along with the combination policy developed by the majority of the Panel and other comments received (see comment 8 above and comments 10, 11, and 12 below). The agency's proposed regulations for combinations of OTC external analgesic active ingredients, based on the consideration of all these factors, are set forth in § 348.20 of this tentative final monograph. The agency believes these proposed regulations have therapeutic and scientific bases and are consistent with the regulations governing combinations of OTC active ingredients in § 330.10(a)(4)(iv) and the agency's supplementary guidelines (Ref. 1). Therefore, the agency sees no reason for the revised minority report to replace the combination policy recommended by the majority of the Panel.

Reference

(1) Food and Drug Administration, "General Guidelines for OTC Drug Combination Products," September 1978, Docket No. 78D–0322, Dockets Management Branch.

10. One comment supported the combination policy recommended by the majority of the Panel (44 FR 69785), but objected to limiting combination products to no more than one active ingredient from each specified group in § 348.20 (a), (b), and (c). The comment requested that more than one ingredient from each group be permitted provided that the combination conforms with the OTC drug review regulations (§330.10(a)(4)(iv)).

The combination policy in § 330.10(a)(4)(iv), as supplemented by the agency's general guidelines for OTC drug combination products (Ref. 1), specifies the criteria for OTC combination drug products. The agency's guidelines state that ingredients from the same therapeutic category that have different mechanisms of action may be combined to treat the same symptoms or condition if the combination meets the OTC combination policy in 21 CFR 330.10(a)(4)(iv) in all respects and the combination is, on a benefit-to-risk basis, equal to or better than each of the active ingredients used alone at its therapeutic dose. The guidelines also state that Category I active ingredients from the same therapeutic category that have the same mechanism of action should not ordinarily be combined unless there is some advantage over the single ingredient in terms of enhancing effectiveness, safety, patient acceptance, or quality of formulation. Thus, the combination policy in § 330.10(a)(4)(iv) and the agency's supplementary guidelines do not limit the number of ingredients from the same pharmacologic group that may be combined, provided data are presented to show that the combination meets the necessary criteria. The comment, however, did not submit any such data. Combinations containing ingredients from the same pharmacologic group will be permitted if adequate data are presented to the agency, and § 348.20 will be amended accordingly.

Reference

(1) Food and Drug Administration, "General Guidelines for OTC Drug Combination Products," September 1978, Docket No. 78D–0322, Dockets Management Branch.

11. One comment requested that hydrocortisone be allowed in combination with the ingredients in group II A (the "caine" type analgesics) listed at 44 FR 69786. The comment argued that to prohibit such combinations is a departure from the combination policy set forth in 21 CFR 330.10(a)(4)(iv), that the marketing history of these combinations in prescription products dose not show any adverse reactions, and that the effectiveness of such combinations is well documented by the effectiveness of the individual ingredients. Another comment requested that hydrocortisone combinations not be classified in Category II because there are various other pharmacological categories of drugs that can properly be combined with hydrocortisone, such as antifungal agents or skin protectants. The comment requested that consideration be given to including under § 348.20(b) combinations of hydrocortisone with the other ingredients listed under recommended § 348.10(b).

The agency does not agree with the comments that hydrocortisone should be allowed to be marketed OTC in combination with other external analgesic active ingredients at this time. The "caine"-type analgesics have indications similar to hydrocortisone, but have different mechanisms of action.

FDA's General Guidelines for OTC Drug Combination Products allow for such combinations if the combination is on a benefit-to-risk basis equal to or better that each active ingredient used alone at its therapeutic dose (Ref. 1). However, no evidence has been submitted demonstrating that the combination of hydrocortisone with a "caine" analgesic would meet this criterion. If such data are received, the agency will consider an addition to § 348.20.

The agency notes that the Panel's recommended monograph for skin protectant drug products, published in the **Federal Register** of August 4, 1978 (43 FR 34628), provides for certain skin protectants to be labeled for the symptoms of oozing or weeping due to poison oak or poison ivy (§ 347.50(b)(6)), while the recommended monograph for external analgesic drug products includes relief of minor skin irritations, itching, and rashes due to poison oak or poison ivy in the label indication for hydrocortisone (§ 348.50(b)(3)). The agency therefore will consider the combination of a skin protectant with hydrocortisone for treatment of the symptoms of poison oak or poison ivy if data to support such a combination are submitted. Combinations of antifungal agents and hydrocortisone were considered by the Antimicrobial II Panel in its report on antifungal drug products, published in the **Federal Register** of March 23, 1982 (47 FR 12480). Such combinations will be addressed in that rulemaking.

Reference

(1) Food and Drug Administration, "General Guidelines for OTC Drug Combination Products," September 1978, Docket No. 78D–0322, Dockets Management Branch.

12. One comment stated that the Panel's recommendations is § 348.20(a) would not allow a combination of camphor and menthol, but would allow a combination of camphor, menthol, and certain other external analgesic active ingredients. The comment requested that § 348.20(a) be amended to allow combination products containing only camphor and menthol as the active ingredients.

The agency agrees with the comment that the monograph should provide for combination products containing camphor and menthol as the only active ingredients. The omission of this combination appears to have been an oversight. Accordingly, the agency is proposing to amend § 348.20 by adding new paragraph (a)(6) to read as follows:

(6) Camphor identified in § 348.12(b)(1) may be combined with menthol identified in § 348.12(b)(2).

13. One comment stated that the Panel's recommended concentration limits for phenol and camphor are not appropriate for a product containing a complex of the two ingredients and requested that 4.7 percent phenol combined with 10.8 percent camphor in light mineral oil be permitted in analgesic, anesthetic, and antipruritic drug products. The comment argued that the clathrate complex that is formed when camphor is combined with phenol significantly reduces the available phenol and camphor. The comment submitted data to show that the combination is less irritating than the same amout of phenol or camphor alone and added that, based on actual consumer use, a product containing this camphor/phenol combination produces remarkably little irritation or erythema (Ref. 1).

Another comment from a manufacturer of products containing comphorated metacresol, which is composed of camphor and metacresol in a 3-to-1 ratio, objected to the Category III status of 1 to 3 percent camphorated metacresol and the Category II status of camphorated metacresol over 3 percent concentration (Ref. 2). The comment explained that the action of cresol is not associated with protein binding and would not therefore encourage continued release of "free" metacresol. The comment stated that toxic doses of cresol far exceed the quantities released even by products containing 88 percent camphorated metacresol. The comment argued that its products, which contain from 4 to 88 percent camphorated metacresol (composed of 1 to 22 percent metacresol and 3 to 66 percent camphor), should be placed in Category I based on their long history of safe use, and on data showing that metacresol is the least toxic of the cresols, that metacresol is less toxic than phenol, and that the rate of absorption of metacresol depends more on the area covered than on the concentration (Ref. 3).

The Agency agrees with the comment and the Panel that phenol combined with camphor can be safely used at a higher concentration than phenol used alone. Since the Panel adopted its report, the agency has verified that the amount of free phenol is reduced when camphor and phenol are combined (Ref. 4). Although the Panel recommended in its monograph a maximum level of 2 percent phenol and did not provide for a different concentration of phenol in combination with camphor, the Panel stated in its report that "When camphor is added to phenol, a liquid forms. This reduces the severity of the topical reaction and the absorption of phenol * * *" (44 FR 69833). In addition, the summary minutes of the Panel's seventh meeting indicate that the Panel intended to place the combination of 4.7 percent phenol and 10.8 percent camphor into Category I for both safety and effectiveness (Ref. 5). The Panel concluded that both phenol and camphor as single ingredients are Category I. The Panel's Category I recommendation for the complex was inadvertently omitted from its recommended monograph.

Another panel, the Advisory Review Panel on OTC Antimicrobial Drug Products (Antimicrobial I Panel), stated that "when camphor is used with phenol in an oil formulation, the concentration of phenol should be no more than 5 percent" (39 FR 33133). In reviewing data on camphor/phenol combinations, the Antimicrobial I Panel concluded that "the presence of camphor also retards the absorption of phenol after topical application. A 1-hour exposure of the rat tail to a 4.8 percent aqueous phenol solution resulted in the absorption of 71 mg of phenol; whereas, the exposure to 10.9 percent camphor combined with 4.5 percent phenol resulted in the absorption of only 16 mg phenol" (39 FR 33122). The agency concluded in the tentative final monograph for OTC topical antimicrobial drug products "that the total concentration of phenol in powders and in aqueous, alcoholic or oil formulations be restricted to less than 1.5 percent. When camphor is used with phenol in an oil formulation, the concentration of phenol should be no more than 5 percent" (43 FR 1238). To reduce the irritating potential of phenol when concentrations of 4.7 percent are used, camphor must be present in excess of that concentration (Refs. 1 and 4). Accordingly, the agency is proposing that 4.7 percent phenol, when it is combined with 10.8 percent camphor, be included in the tentative final monograph. The agency is proposing to add new paragraph (b)(4) to § 348.20 to read as follows:

(4) Camphor and phenol identified in § 348.10(b)(3) and (8) may be combined in a light mineral oil, USP vehicle.

At this time, the agency is proposing to restrict the vehicle to light mineral oil, USP, because safety and effectiveness have been established in that vehicle only. Different vehicles can change the irritating properties of the combination (Refs. 6 and 7). There is evidence that vehicles containing glycerin or gelling agents such as silicon dioxide can increase the irritating properties of the combination (Ref. 7). Therefore, all other vehicles are classified as Category III at this time. Interested persons may submit data to support the use of other vehicles.

Regarding camphorated metacresol, the Panel stated that it is either a "complex" formed by the interaction of camphor with metacresol or a solution of the cresol in camphor. Since the panel adopted its report, the agency has determined that metacresol behaves similarly to phenol with respect to bonding with camphor and therefore can be considered a "complex" and categorized as camphorated metacresol (Ref. 4).

As a single ingredient, metacresol was not reviewed by the Panel. However, it has been shown to be somewhat less toxic than phenol based on the following LD_{50} data (Ref. 3):

LD_{50} METACRESOL AND PHENOL (IN G/KG)

Species	Route	Meta-cresol	Phenol
Rabbit	Subcutaneous	0.50	0.50
Cat	Subcutaneous	0.18	0.08
Mouse	Subcutaneous	0.45	0.35
Cat	Intravenous	0.28	0.18

The results indicate that the range of acute toxicity of metacresol is similar to phenol.

Based on the available information, which includes recognition of the combination of phenol and camphor as Category I, data showing metacresol is equal to or less toxic than phenol, and the new data showing that metacresol bonds to camphor similarly to phenol, the agency concludes that camphorated metacresol is Category I but only when prepared from camphor and metacresol combined in a 3-to-1 ratio not to exceed a concentration of 10.8 percent camphor. Based on a 3-to-1 ratio of camphor to metacresol with a limit of 10.8 percent camphor, the upper limit for metacresol is 3.6 percent. This 3-to-1 ratio results in reduced irritation (Ref. 2). The agency is proposing a lower limit of 1 percent metacresol based on information on marketed products submitted by the comment (Ref. 2). Accordingly, the agency is proposing to add new paragraph (b) to § 348.3, *Definitions*, in this tentative final monograph to read as follows:

(b) *Camphorated metacresol.* a complex consisting of camphor and metacresol combined in a ratio of 3 parts camphor to 1 part metacresol.

The comment did not provide sufficient data to establish general recognition of safety of a concentration of metacresol greater than 3.6 percent when this ingredient is combined with camphor. The studies reviewed by the Panel and the studies submitted by the comment (Ref. 2) were very limited in scope and are inadequate to demonstrate safety of higher concentrations. Most of the animal toxicity studies tested only one animal, observed the animal only for a short period of time, and did not include a detailed examination of the animal following drug application. The comment's statements about rate of release of metacresol are unproven because the comment submitted no information on the quantity of metacresol released under the conditions of use. The comment also did not submit any data to support the safety of concentrations of camphor above 10.8 percent.

In regard to the comment's claim of "long history of safe use," marketing history alone cannot be regarded as adequate proof of safety. The safety of camphorated metacresol as an external analgesic above the established dosage (not to exceed 3.6 percent metacresol and 10.8 percent camphor) has not been established, and therefore concentrations above this dosage remain in Category III.

References

(1) Comment No. C0013, Docket No. 78N–0301, Dockets Management Branch.

(2) Comment No. C0006, Docket No. 78N–0301, Dockets Management Branch.

(3) Public Health Service, The National Institutes of Health, "Phenol and Its Derivatives: The Relation Between Their Chemical Constitution and Their Effect on the Organism," by W. F. Von Oettingen, National Institutes of Health Bulletin, No. 190, pp. 59–71, 1949.

(4) "OTC Drugs," (Camphor and Phenol), Semiannual Report of Laboratory Activities, Bureau of Drugs, Food and Drug Administration, October 1981 to July 1982, Docket No. 78N–0301, Docket Management Branch.

(5) Summary minutes of Seventh Meeting of the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products, p. 4, January 30 and 31, 1974, included in OTC Volume 06BPA2.

(6) Deichmann, W. B., T. Miller, and J. B. Roberts, "Local and Systemic Effects Following Application of Dilute Solutions of Phenol in Water and in Camphor-Liquid Petrolatum on the Skin of Animals," *Archives of Industrial Hygiene and Occaptional Medicine*, 2:454–461, 1950.

(7) Sterling-Winthrop Research Institute, "Eye and Skin Irritation Study with Campho-Phenique Gel in the Rabbit," Table III, unpublished study, September 26, 1977, Comment No. C0013, Docket No. 78N–0301, Dockets Management Branch.

D. Comment on Testing of External Analgesic Drug Products

14. One comment suggested several methods for testing the actions, effects, and efficacy of external analgesic ingredients. These included a laboratory animal study utilizing trolamine salicylate tagged with Carbon-14 to determined the degree of local penetration and distribution of this ingredient and developing a model to study the effects of topically applied trolamine salicylate on local tissue prostaglandin levels. In addition, the comment suggested a method of testing external analgesic ingredients in humans that is detailed in a published study and involves inducing muscle soreness by a controlled amount of exercise and measuring the bioelectrical activity of the muscle by electromyography before and after external analgesic use to determine muscle soreness and the extent of drug activity (Ref. 1).

In the **Federal Register** of September 29, 1981, (49 FR 47740), the agency published a policy statement that included procedures for the submission and review of proposed testing protocols, for agency meetings with industry or other interested persons, and for agency communications on submitted test data and other information. Under this policy, the agency provides consultation on protocols or testing guidelines, but these communications are not included in the administrative record for the related OTC drug monograph unless they directly influence an agency decision on a particular matter in the monograph or provide the substantiation for the agency's decision on that matter. For example, a protocol or test guideline would not normally become part of the administrative record, but the results of the study would be included in the administrative record. The testing methods suggested by the comment do not influence the agency's decision on the Category III status of trolamine salicylate; therefore, they will not be discussed further in this document.

Reference

(1) White, J. R., and J. N. Sage, "Topical Analgesic on Induced Muscular Pain," *Physical Therapy*, 50:166–172, 1970.

E. Comments on Labeling of External Analgesic Drug Products

15. Several comments objected to the agency's policy of specifying a limited list of terms as the only permissible indications for external analgesic products. One of the comments argued that it is improper and inappropriate to legislate the use of words and phrases through a rulemaking. One comment stated that the agency lacks statutory authority to prescribe exclusive lists of terms. All the comments requested that the final monograph allow the use of alternative or additional labeling terms that are truthful, accurate, not

misleading, and intelligible to the consumer.

During the course of the OTC drug review, the agency has maintained that a monograph describing the conditions under which an OTC drug will be generally recognized as safe and effective and not misbranded must include both specific active ingredients and specific labeling. (This policy has become known as the "exclusivity rule.") The agency's position has been that it is necessary to limit the acceptable labeling language to that developed and approved through the OTC drug review process in order to ensure the proper and safe use of OTC drugs. The agency has never contended, however, that any list of terms developed during the course of the review literally exhausts all the possibilities of terms that appropriately can be used in OTC drug labeling. Suggestions for additional terms or for other labeling changes may be submitted as comments to proposed or tentative final monographs within the specified time periods or through petitions to amend monographs under § 330.10(a)(12). For example, the labeling proposed in this tentative final monograph has been expanded and revised in response to comments received.

During the course of the review, FDA's position on the "exclusivity rule" has been questioned many times in comments and objections filed in response to particular proceedings and in correspondence with the agency. The agency has also been asked by The Proprietary Association to reconsider its position. To assist the agency in resolving this issue, FDA conducted an open public forum on September 29, 1982 at which interested parties presented their views. The forum was a legislative type administrative hearing under 21 CFR Part 15 that was held in response to a request for a hearing on the tentative final monograph for nighttime sleep-aids and stimulants (published in the **Federal Register** of June 13, 1978; 43 FR 25544). The agency's final decision on this issue will be announced in the **Federal Register** following conclusion of its review of the material presented at the hearing.

16. One comment disagreed with the Panel's recommendations that inactive ingredients and the quantity of the ingredient be listed in the labeling of OTC external analgesic drug products. The comment argued that a list of inactive ingredients would be meaningless to all but a few consumers and that such a list might overemphasize the importance of the inactive ingredients, obscure more meaningful information such as warnings or directions for use, and be more confusing than helpful. The comment also stated that if the quantity of the inactive ingredients had to be listed there would be an additional problem of changing the labels whenever the quantity of an inactive ingredient is changed.

The agency agrees with part of the Panel's recommendation. The Federal Food, Drug, and Cosmetic Act does not require the identification of all inactive ingredients in the labeling of OTC drug products. Section 502(e) (21 U.S.C. 352(e)) does require disclosure of active ingredients and of certain ingredients, whether included as active or inactive components in a product. Although the inclusion of all inactive ingredients in OTC drug product labeling is not required, the agency urges manufacturers to list all inactive ingredients voluntarily, as suggested by the Panel. Consumers with known allergies or intolerance to certain ingredients could then select products with increased confidence of safe use.

With regard to listing the quantity of inactive ingredients, section 502(e) (21 U.S.C. 352(e)) limits the requirement for stating the quantity of active ingredients in OTC labeling to those specifically named in that section. The agency cannot require listing of the quantity of any ingredient, whether active or inactive, in OTC drug products, except those designated in the act.

17. One comment questioned the Panel's qualifications and competence to evaluate and judge what message was being communicated to the consumer, expressed in lay terms, in its recommended labeling. The comment stated that in many cases the words and phrases recommended by the Panel were based on the Panel's own perceptions as to what the terms communicate to the consumer and that the Panel did not provide any documentation, surveys, etc., to support its findings.

Since its inception, the OTC drug review has focused on developing labeling of OTC drug products that can be understood by the average consumer. While the agency acknowleges that professional experience in mass communication was not a criterion for participation in the OTC drug advisory review panels, the clinical background of the physicians, pharmacists, and other health professionals on each panel involved direct experience with patients and an awareness of the terms used by them to refer to their symptoms. In addition to members of the scientific and medical communities, each panel included representatives from industry and consumer groups and thus had access to the experience of these groups in mass communication of medical terminology. Finally, any citizen interested in doing so could participate in the OTC drug review by presenting views at panel meetings, and, now that the panels have concluded their reviews, by commenting on advance notices of proposed rulemaking or by commenting or objecting to tentative final monographs proposed by the agency. A number of changes in the Panel's recommended labeling of external analgesic products have been incorporated into the agency's proposed labeling as a result of comments received. The agency urges anyone having suggestions for making the labeling language used in the external analgesic final monograph more understandable to the average consumer to submit these suggestions in comments responding to this document. After a final monograph for external analgesic drug products is issued, such suggestions may be made in the form of a petition to amend the monograph according to the procedures described in 21 CFR 10.30.

18. One comment to the advance notice of proposed rulemaking for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products (published in the **Federal Register** of September 9, 1976; 41 FR 38312) requested that OTC external analgesic drug products be included in the table at 41 FR 38320 that listed specific symptoms and the corresponding pharmacologic groups of drugs for the treatment of these symptoms. The comment suggested that item 8 of the table, "Generalized aching," be expanded to include the Category I labeling indications for topical analgesics, counterirritants, and rubefacients recommended by the Topical Analgesic Panel.

The agency does not agree that external analgesic drug products are suitable for inclusion in item 8 of the Cough/Cold Panel's table because this inclusion would imply that external analgesics should be labeled for relief of symptoms of aching due to common cold. The agency is not aware of any data, nor were any submitted, indicating that these products are effective in relieving symptoms of aching due to the common cold. If such data are submitted in the future, the agency will reconsider this claim.

19. One comment suggested that the claims not reviewed by the Topical Analgesic Panel but considered by other panels (e.g., "antiseptic," "fungistatic for

athlete's foot") and claims deferred to other panels (e.g., "pain due to hemorrhoids," "piles,") should not have been listed under Category II labeling in paragraphs (d) and (e) (44 FR 69845), but should have been left unclassified, pending classification by the appropriate panels.

The agency agrees with the comment that the claims under (d) and (e) at 44 FR 69845 should not be classified in Category II in the rulemaking for external analgesic drug products. These claims have been deferred to other panels and are covered in separate rulemaking proceedings. With the exception of claims relating to diaper rash, these claims will no longer be considered in this rulemaking. Drug products for the treatment of diaper rash were reviewed by the Advisory Review Panel on OTC Miscellaneous External Drug Products, which recommended that some of the ingredients in those drug products be evaluated in the external analgesic rulemaking. As noted above the **Federal Register** of September 7, 1982 (47 FR 39412) included a notice of reopening of the administrative record to include the Miscellaneous External Panel's statement on drug products for the treatment of diaper rash. The agency will address the use of external analgesic active ingredients for the treatment of diaper rash in this rulemaking in a future **Federal Register** publication.

20. One comment stated that there is no evidence that the term "external analgesic," the Panel's recommended statement of identity, is more informative to consumers than other terms such as "topical analgesic" or "pain relieving ointment." The comment suggested that the latter terms be allowed in addition to "external analgesic."

The agency agrees that the terms referred to by the comment would be as informative to consumers as the Panel's recommended statement of identity. Therefore, the agency is proposing the following alternative statements of identity in § 348.50(a)(1): "The labeling identifies the product as an 'external analgesic,' 'topical analgesic,' or 'pain relieving (*insert dosage form, e.g., cream, lotion, or ointment*).' "

21. Several comments requested that the statement of identity for OTC hydrocortisone products be changed from "antipruritic" to "anti-itch." The comments argued that "antipruritic" is a technical term that would not be understood by most consumers and that the term "anti-itch" would be more meaningful.

The agency agrees with the comments that the term "antipruritic" may not be well understood by many consumers and, if used, should be associated with a nontechnical term. Accordingly, the following statements of identity are being proposed for hydrocortisone products in § 348.50(a)(2): "antipruritic (anti-itch)," "anti-itch," and "antipruritic (anti-itch)" or "anti-itch" followed by a description of the dosage form, e.g., "anti-itch cream."

22. One comment stated that hydrocortisone is probably not effective for the relief of itching due to insect bites, or for contact dermatitis due to poison ivy, oak, and sumac and that more potent corticosteroids are usually required for these problems. Another comment questioned "whether consumers can accurately diagnose contact 'dermatitis' due to 'poison oak' or 'poison sumac'" and added that the labeling terminology should be revised.

The agency is aware that severe skin inflammation caused by poison ivy does not respond to topically applied hydrocortisone, and that even the stronger halogenated steroids are not effective when used topically in such instances. Severe poison ivy often requires systemic steroid therapy. Topically applied hydrocortisone is also not effective in relieving severe reactions to insect bites. However, the itching due to mild poison ivy and to normal reactions to insect bites is relieved by topical hydrocortisone at OTC strength (Refs. 1, 2, and 3). The agency believes that the words "temporary" and "minor" in the indications for hydrocortisone are sufficient to alert consumers to the appropriate use of this ingredient. The agency is proposing deletion of the word "dermatitis" from the OTC hydrocortisone label because this word is not apt to be readily understood by consumers. This word is suitable for professional labeling, and a closely related term, "dermatoses," is included under "Indications and Usage" in the agency's class labeling guideline for topical corticosteroids (Ref. 4). Manufacturers should follow this guideline in developing professional labeling for hydrocortisone drug products. The terms "poison oak" and "poison sumac" are retained in the proposed OTC labeling because these plants and the rash and itching they cause are familiar to consumers who live in areas in which the plants are found.

References

(1) Letter from A. M. Kligman to C. C. Evans, FDA, November 3, 1980, Docket No. 78N–0301, Dockets Management Branch.

(2) Fisher, A. A., "Contact Dermatitis," 2d Ed., Lea and Febiger, Philadelphia, pp. 264–265, 1973.

(3) Domonkos, A. N., H. L. Arnold, and R. E. Odom, "Andrews' Diseases of the Skin," 7th Ed., W. B. Saunders Co., Philadelphia, p. 559, 1982.

(4) Food and Drug Administration, "Topical Corticosteroids Class Labeling Guideline," Docket No. 81D–0274, Dockets Management Branch.

23. One comment stated that, because the claim "relief of cuts, scratches, abrasions, wounds, etc.," is similar to indications recommended by the Panel in § 348.50(b)(2), the Panel must have inadvertently included this claim under Category II labeling at 44 FR 69844–69845.

The Panel concluded that the above claim was confusing and meaningless to consumers because external analgesic drug products relieve the pain of cuts, scratches, abrasions, wounds, etc., but do not provide "relief of cuts * * * ". The agency concurs with the Panel's Category II classification of this claim.

24. One comment argued that there is a need for a distinction between the labeling of topical analgesic and topical anesthetic ingredients. The comment stated that the Panel had differentiated between analgesics and anesthetics through distinct definitions in § 348.3(d) and (e), by establishing separate subgroups of external analgesics (44 FR 69786), and in its combination policy. The comment pointed out that topical analgesics depress cutaneous sensory receptors without necessarily abolishing other sensations (i.e., cause a partial blocking of subcutaneous terminal nerve endings), whereas topical anesthetics completely block pain receptors, resulting in a sensation of numbness. The comment concluded that consumers should be informed of these distinctions and suggested the following examples of wording that could be used in the indications for topical anesthetic ingredients: "complete temporary relief * * *," "completely blocks * * *," "temporarily stops * * *," "completely stops * * *."

The agency does not agree that there is a need for a distinction between the labeling of topical analgesic and topical anesthetic products. In use, the effect of topical anesthetics is indistinguishable from the effect of topical analgesics. Topical anesthetics are theoretically capable of completely blocking pain receptors, but factors may affect the penetration of topical anesthetics through the skin and prevent complete blocking of the subcutaneous pain receptor site. Some of the factors affecting penetration of topical

anesthetics through the skin are as follows: (1) Drugs more readily penetrate to the subcutaneous receptor sites through damaged skin than through intact skin. Therefore, the effect of topical anesthetic products may be enhanced when they are applied to abraded, scratched, or burned skin. (2) Drugs penetrate hydrated skin and thin skin (for example, in the groin area) more readily than thick skin (such as on the palms of the hands). (3) Penetration may be affected by certain disease conditions such as eczema, which causes thinning of the skin; by product formulation; or by ionization of the active ingredient.

Because of these factors and because the Panel felt that there is no recognizable difference in effectiveness between anesthetics and analgesics, the Panel recommended that topical analgesics and anesthetics that depress cutaneous sensory receptors bear the same indication: "For the temporary relief of minor aches and pains of * * *". The agency believes that consumers would be misled if an external analgesic product were labeled as providing "complete temporary relief," "completely stops," or "completely blocks" minor aches and pains. The agency concurs with the Panel's recommended wording ("for the temporary relief of") and is proposing this wording in the tentative final monograph.

25. Two comments stated that the following language should be allowed in the labeling of external analgesic drug products, based on language that was not recommended by the Panel but was contained in its report: "for relief of pain in joints, muscles, tendons," "relieves pain without causing numbness," "completely blocks pain receptors," "relieves pain by reducing inflammation," "numbs and abolishes responses to painful stimuli," and "rheumatism."

The Panel allowed the claim "for the temporary relief of minor aches and pains of muscles and joints." The agency concurs with the Panel that the indications for OTC external analgesic drug products should emphasize that these products relieve only minor pain and have an action that is only temporary. The Panel did not review data on the use of external analgesic drug products for relief of pain in tendons, nor did the comment submit any data. Thus the agency is not proposing a claim for relief of pain in tendons until data are submitted to demonstrate the effectiveness of external analgesic drug products at these sites.

Claims regarding numbness or similar claims, such as completely blocking pain receptors or abolishing responses to painful stimuli, may be misleading to consumers because the manner in which external analgesic drug products are used determines whether they cause numbness or not. For example, the application of a product on abraded skin may cause numbness because of increased absorption that occurs, whereas application of the same product on intact skin may not cause numbness. (See comment 24 above.)

The agency believes that the term "reducing inflammation" should not be included as an indication—except when the term "inflammation" is used as a descriptive term related to the relief of itching associated with the nonserious conditions in the recommended indication for hydrocortisone and hydrocortisone acetate. (See comment 29 below for further discussion.) While the terms "arthritis" and "rheumatism" are used interchangeably by some consumers, "arthritis," the more accurate and precise term, is more readily understood by the majority of consumers. Substituting the term "rheumatism" probably would not increase consumers' understanding of the use of counterirritants and might cause confusion. In addition, the agency proposes to delete the terms "lumbago" and "neuralgia" from the Panel's recommended labeling in § 348.50(b)(1) because they are not readily understood by consumers. The revised indication in § 348.50(b)(1) for external analgesic products containing counterirritant active ingredients is as follows: "For the temporary relief of minor aches and pains of muscles and joints" [which may be followed by: "associated with" [select one or more of the following: "simple backache," "arthritis," "strains," "bruises," and "sprains."]]

26. Three comments disagreed with the Panel's placement of claims such as "relief of deep-seated pain," "deep strength," and "penetrating heat relief" in Category III. The comments claimed this classification was inconsistent with various statements made by the Panel about the mechanism of action of counterirritants (44 FR 69779), and the following statement regarding methyl salicylate: "methyl salicylate acts as a counterirritant for the temporary relief of deep-seated pain" (44 FR 69830). The comments maintained that relief of "deep-seated pain" is an established benefit of counterirritant ingredients, and that claims such as "deep strength," "penetrating heat relief," and "relief of deep-seated pain" should be acceptable claims along with claims such as "penetrating relief" that were found acceptable by the Panel.

One comment argued that the following labeling terms that the Panel placed in Category II are not misleading or meaningless to consumers: "fast," "swift," "sudden," "immediate," "prompt," "poignant," and "bright." The comment added that the Panel did not give any reason why the term "fast" was considered misleading. Another comment stated that studies submitted to the Panel show that certain external analgesic ingredients do act within minutes, and their action may be considered "fast" in layman's terms, pointing out that the Panel failed to describe what time period would be acceptable as "fast," i.e., what data it considered sufficient to support this claim.

The OTC drug review program establishes conditions under which OTC drugs are generally recognized as safe and effective and not misbranded. Two principal conditions examined during the review are allowable ingredients and allowable labeling. The FDA has determined that it is not practical—in terms of time, resources, and other considerations—to set standards for all labeling found in OTC drug products. Accordingly, OTC drug monographs regulate only labeling related in a significant way to the safe and effective use of covered products by lay persons. OTC drug monographs establish allowable labeling for the following items: product statement of identity; names of active ingredients; indications for use; directions for use; warnings against unsafe use, side effects, and adverse reactions; and claims concerning mechanism of drug action.

As with all OTC drug products, external analgesics are expected to achieve their intended results within a reasonable preiod of time. However, the specific period of time within which external analgesics achieve these results is not related in a significant way to the safe and effective use of the products. Therefore, terms such as "fast," "prompt," "swift," "sudden," and "immediate" would not signal any property that is important to the safe and effective use of these products, and these terms are outside the scope of the OTC drug review. For other classes of products in the OTC drug review, however, statements relating to time of action may properly fall within the list of terms covered by the mongraph. Likewise, claims concerning nontherapeutic characteristics of drugs such as color, odor, or touch (e.g., "bright," "poignant," "pleasantly scented," or "greaseless"), as discussed

by the Panel at 44 FR 69784–69785, are not dealt with in OTC drug monographs. The agency emphasizes that even though these terms are outside the scope of the OTC drug review, they are subject to the prohibitions in section 502 of the act (21 U.S.C. 352) relating to labeling that is false or misleading. Such terms will be evaluated by the agency in conjunction with normal enforement activities relating to that section of the act. Moreover, any term that is outside the scope of the review, even though it is truthful and not misleading, may not appear in any portion of the labeling required by the monograph and may not detract from such required information.

Claims concerning characteristics of therapeutic performance (e.g., "penetrating heat relief") will be dealt with only in cases where they imply the existence of a characteristic that would be therapeutically significant for the drug in question, if proved. The agency tentatively concludes that the statement "penetrating heat relief" does not describe therapeutically significant performance characteristics and will not be dealt with in this monograph. Accordingly, "penetrating heat relief" has been deleted from the section on Category III labeling (444 FR 69857). For the same reason, statements such as "penetrating relief," "warm comforting relief," and "penetrating cooling action," which were found reasonable and informative to consumers by the Panel (44 FR 69785), will not be dealt with in this tentative final monograph. The claim "penetrating pain relief," however, does describe a therapeutically significant performance characteristic by explaining the effect of counterirritants in language easily understood by consumers. However, the agency agrees with the Panel that this statement and similar ones should not be included as indications (44 FR 69785). Accordingly, the agency is proposing new § 348.50(b)(4) in this tentative final monograph under the heading "Other allowable statements," to include statements describing pain relief, as follows:

(4) *Other allowable statements.* In addition to the required information specified in this paragraph and in paragraphs (a), (b), (c), and (d) of this section, the labeling of the product may contain any of the following statements, provided such statements are neither placed in direct conjunction with information required to appear in the labeling nor occupy labeling space with greater prominence or conspicuousness than the required information.

(i) For products containing any ingredient identified in § 348.12.

(*a*) (optional: "provides") "penetrating pain relief."

(*b*) (optional: "provides") "warming pain relief."

(*c*) (optional: "provides") "cool pain relief."

(ii) [Reserved]

The agency finds that the term "deep strength" is vague and conveys no useful information to consumers. A number of interpretations are possible. The term could refer to the extent of pentration of the drug, the potency or concentration of the drug, or the depth of action of the drug. The "depth" of action is dependent upon the absorption of the drug and not necessarily upon its concentration. Other interpretations are entirely possible. Because this term could be interpreted in various ways, the agency considers the term "deep strength" too confusing and vague and therefore does not propose to include it in this monograph. In addition, the agency has reviewed the references cited by the Panel at 44 FR 69830 (Refs. 1 through 5) in support of its statement that "methyl salicylate acts as a counterirritant for the temporary relief of deep-seated pain" and determined that these references do contain adequate data to establish that counterirritant active ingredients relieve pain distal to the site of application. Despite the Panel's statement, the agency concludes that claims for "relief of deep-seated pain" are not suitable for OTC counterirritants. Deep-seated pain may be caused by a serious condition not amenable to self-diagnosis and treatment. The claim is therefore not included in this monograph.

References

(1) Krantz, J. C., Jr., and C. J. Carr, "Pharmacological Principles of Medical Practice," 6th Ed., The Williams and Wilkins Co., Baltimore, p. 200, 1965.

(2) Swinyard, E. A., "Demulcents, Emollients, Protectives and Adsorbents, Antiperspirants and Deodorants, Absorbable Hemostatics, Astringents, Irritants, Sclerosing Agents, Caustics, Keratolytics, Antiseborrheics, Melanizing and Demelanizing Agents, Mucolytics, and Certain Enzymes," in "The Pharmacological Basis of Therapeutics," 4th Ed., Edited by L. S. Goodman and A. Gilman, The Macmillan Co., New York, p. 993, 1970.

(3) Crossland, J., "Lewis's Pharmacology," 4th Ed., E. and S. Livingstone, London, pp. 562–563, 1970.

(4) Fulton, G. P., E. M. Farber, and A. P. Moreci, "The Mechanism of Action of Rubefacients," *The Journal of Investigative Dermatology*, 33:317–325, 1959.

(5) DiPalma, J. R., "Drill's Pharmacology in Medicine," 4th Ed., McGraw-Hill Book Co., New York, p. 1036, 1971.

27. One comment disagreed with the recommendation that hydrocortisone be used for itchy genital and anal areas. The comment was concerned about the potential for absorption of hydrocortisone when used in the anogenital area and contended that the Panel's recommended warning to discontinue use and consult a physician if symptoms persist for more than 7 days will be ignored by many patients, and that frequent and chronic use of hydrocortisone in the genital areas may cause problems such as progression of an infection, dermal atrophy, and striae.

The Panel reached its conclusion that topical hydrocortisone is safe for OTC use in concentrations up to 0.5 percent for itchy genital and anal areas after a careful study of its use on all areas of the body, at a wide range of concentrations, and for prolonged periods of time (44 FR 69817 to 69822). In addition, the Panel found that dermal atrophy and striae are generally associated with the more potent fluorinated corticosteroids and have been reported only rarely for hydrocortisone, and then only after long-term or excessive use (44 FR 69817). Because these conditions can arise with long-term or excessive use, the agency is concerned about the adequacy of the Panel's recommended warning. Consumers may use hydrocortisone in the anogenital area for itching, which may be alleviated after a few days of treatment. If the hydrocortisone is then stopped, the itching may recur within a few days and the consumer may again use hydrocortisone. Consumers may go through several cycles of starting and stopping treatment with hydrocortisone, and the Panel's 7-day warning would be inadequate to warn against such overuse. The agency believes that the warning should emphasize to consumers the need to consult a doctor not only for conditions that do not respond to self-treatment, but also for those that recur after such treatment with hydrocortisone. For this reason, the agency is proposing to revise the Panel's recommended warning as follows: "If condition worsens, or if symptoms persist for more than 7 days or clear up and occur again within a few days, discontinue use of this product and consult a" (select one of the following: "physician" or "doctor").

The agency further believes that hydrocortisone products that bear the indication for external genital itching need to include a warning to inform women not to use the drug in the presence of vaginal discharge. A vaginal discharge may be a symptom of an infection, for which hydrocortisone is not effective and professional treatment is needed. Accordingly, the agency is

proposing the following warning in § 348.50(c)(7): "Do not use if you have a vaginal discharge. Consult a" (select one of the following: "physician" or "doctor").

The Panel recommended in § 348.50 (c)(1)(i) that all OTC external analgesic drug products bear the warning "for external use only." The agency believes it is necessary to emphasize that OTC drug products containing hydrocortisone are intended only for external use in the genital and anal areas and that this information should be included in the indications for use for these products. The agency is therefore proposing to change the wording of the indication for hydrocortisone to read: for relief of "* * * external (select one or more of the following: 'genial,' 'feminine,' and 'anal' itching." The term "feminine itching" has been added as an optional labeling term because it is a term that is commonly used and understood by consumers.

As will be discussed in the preamble of the advance notice of proposed rulemaking for OTC vaginal drug products, which will be published in a future issue of the **Federal Register**, three OTC advisory review panels have made recommendations to FDA pertaining to the use of various OTC drugs in and around the vagina.

The Antimicrobial II Panel recommended that certain antifungal drugs currently available only by prescription be considered generally recognized as safe and effective for "treatment of external feminine itching associated with vaginal yeast (candidal) infection." However, the agency dissented on the Panel's recommendation because of its concern about consumer's self-treating itching associated with a vaginal infection (47 FR 12480). While the agency disagrees with the use of OTC drug products to treat vaginal infections, the agency tentatively believes that hydrocortisone can be safely and effectively used OTC to relieve external itching around the vagina. The agency recognizes that consumers cannot identify the underlying causes of such itching, but is aware that hydrocortisone will produce symptomatic relief. If relief is not obtained or the itching recurs, the consumer is advised to discontinue use of the drug and to consult a doctor. The agency will further discuss the OTC use of antifungal drug products for this use in the tentative final monograph for that class of drugs.

In light of the different recommendations from the three panels, previous agency actions, and the comments submitted in response to the advance notice of proposed rulemaking for OTC antifungal drug products, there appears to be uncertainty regarding the use of OTC drug products for treating the system of external itching around the vagina. The agency is particularly concerned about (1) the ability of a woman to recognize the nature or cause of the itching in order to determine which kind of drug product to select to treat it, e.g., an antipruritic or antifungal for the external areas, including the vulva, and (2) whether one week of self-medicating with an OTC drug product containing hydrocortisone may pose an unacceptable delay in seeking professional attention if the symptom(s) are due to gonorrhea, trichomonas, candida, or other organisms which will not be eradicated by topical therapy with OTC drug products containing hydrocortisone. The agency is tentatively agreeing with the Topical Analgesic Panel that hydrocortisone can be safety used OTC for relief of itching if accompanied by appropriate warnings but is inviting specific comment on this issue, and particularly invites comment from gynecologists, family practitioners, and other health professionals.

28. One comment requested that the Panel's recommended indication for antipruritic ingredients in § 348.50(b) (2) be expanded to allow the general claim "for the relief of itching." The comment argued that there is no scientific basis for limiting the claim to itching due only to minor burns, sunburn, minor cuts, abrasions, insect bites, and minor skin irritations. The comment concluded that the antipruritic properties of the ingredients included in § 348.10(b) provide relief no matter what stimulates the local itching sensation, and consumers should be informed accordingly.

The agency agrees with the comment that products containing antipruritic ingredients should be allowed to use the indication "For the temporary relief itching" without listing examples of causes of itching. Such labeling would be clearly recognizable and meaningful to a consumer who was experiencing itching without knowing the cause. The agency is therefore proposing that products containing antipruritic ingredients may be labeled for itching only or for itching associated with one or more causes. The agency is also proposing the same type of alternative labeling for hydrocortisone products. In addition, in order to improve clarity and to simplify OTC labeling, the agency is proposing to use the word "scrapes" instead of "abrasions" in the proposed indication for antipruritics in § 348.50(b)(2).

Based upon the above discussion, and the discussion in comment 27 above, the following indications are being proposed in the tentative final monograph as § 348.50(b) (2) and (3):

(2) *For products containing any external analgesic active ingredients identified in § 348.10 (a), (b), and (c).* "For the temporary relief of" (select one of the following: "pain," "itching," or "pain and itching") (which may be followed by: "associated with" (select one or more of the following: "minor burns," "sunburn," "minor cuts," "scrapes," "insect bites," or "minor skin irritations.")]

(3) *For products containing any external analgesic active ingredients identified in § 348.10(d).* "For the temporary relief of itching associated with minor skin irritations and rashes" [which may be followed by: "due to" (select one or more of the following: "eczema," "insect bites," "poison ivy, poison oak, or poison sumac," "soaps," "detergents," "cosmetics," "jewelry,") and/or ("and for external" (select one or more of the following: "genital," "feminine," and "anal") "itching.")]

29. Several comments requested that the term "inflammation" be added to the indications for OTC hydrocortisone drug products or that the term "anti-inflammatory" be used as the statement of identity for these products. The comments stated that it is medically inaccurate and incomplete to categorize hydrocortisone only as an antipruritic or external analgesic, because the relief of itching or pain is secondary to its anti-inflammatory action. The comments pointed out that the principal pharmacologic action of hydrocortisone has long been recognized as anti-inflammatory, and consumers should be informed of this activity to allow proper use of the ingredient.

In its review of hydrocortisone, the Panel acknowledged that numerous studies over a 20–year period have demonstrated the effectiveness of topical hydrocortisone preparations as antipruritic (anti-itch) and anti-inflammatory agents and that hydrocortisone preparations are frequently used as anti-inflammatory agents (44 FR 69813–69824). Nevertheless, the Panel recommended that hydrocortisone for OTC use bear labeling related only to its anti-itch activity and recommended an indication statement that specified use for nonserious conditions that the Panel believed consumers could appropriately self-medicate with hydrocortisone.

The statement of identity is intended to communicate to consumers the principal intended action of a drug in terms that are meaningful to the layman. The agency agrees with the Panel that

the principal intended OTC use of hydrocortisone drug products is to relieve itching. As discussed in comment 21 above, the agency is proposing "anti-itch" as the statement of identity for OTC hydorcortisone drug products. Although hydrocortisone does have an anti-inflammatory action, as the comment and the Panel acknowledged, the agency does not believe that the term "anti-inflammatory" should be included in the OTC statement of identity for products containing hydrocortisone. Inclusion of the term "anti-inflammatory" in the statement of identity may suggest to consumers that the product is intended for self-medicating serious conditions that should be treated by a doctor. The term "anti-inflammatory" may be used in the professional labeling of products containing hydrocortisone, as described in the class labeling guideline for topical corticosteroids (Ref. 1).

As mentioned in comment 28 above, the agency believes that the Panel's recommended indication needs to be revised to emphasize the OTC use of hydrocortisone preparations to relieve itching. The agency further believes that "inflammation" could be included as an optional descriptive term in the indication statement for hydrocortisone, so long as it is related to the relief of itching associated with the nonserious conditions included in the recommended indication. Therefore, the agency is proposing the following optional indication to be added as § 348.50(b)(3)(ii) of the tentative final monograph: "For the temporary relief of itching associated with minor skin irritations, inflammation, and rashes due to" (select one or more of the following: "eczema," "insect bites," "poison ivy, poison oak, or poison sumac," "soaps," "detergents," "cosmetics," "jewelry,") (which may be followed by: "and for external" (select one or more of the following: "genital," "feminine," and "anal") "itching.") The agency believes that the above indication will inform consumers about the anti-inflammatory properties of hydrocortisone while limiting its OTC use to specific nonserious conditions and thus help to prevent misuse of hydorcortisone for inflammation associated with infection. Further, the agency believes that the warning proposed as § 348.50(c)(1)(iii), "If condition worsens, or if symptoms persist for more than 7 days or clear up and occur again within a few days, discontinue use of this product and consult a" (select one of the following: "physician" or "doctor,") provides additional protection to consumers against such misuse.

Reference

(1) Food and Drug Administration, "Topical Corticosteroids Class Labeling Guideline," Docket No. 81D–0274, Dockets Management Branch.

30. Two comments disagreed with the Panel's warning in § 348.50(c)(1)(iii), which states "If condition worsens, or if symptoms persist for more than 7 days, discontinue use of this product and consult a physician." The comments noted that existing FDA warnings for counterirritants and topical salicylates in 21 CFR 369.20 direct consumers to consult a physician if pain persists for more than 10 days. One comment stated that in light of the excellent safety record of external analgesic products and in the absence of any data to the contrary, the 10–day use limitation should be retained.

The agency agrees with the Panel that 7 days is sufficient time for the consumer to self-treat with external analgesic products before consulting a physician. If symptoms persist after 7 days, there may be an underlying disease or condition that requires a physician's diagnosis and treatment, and continuing to self-treat for more than 7 days may delay proper treatment. Furthermore, prolonged duration of use can increase the incidence of sensitivity and decrease effectiveness of external analgesic ingredients. As stated by the Panel at 44 FR 69781, these ingredients can have a direct irritating effect or may produce sensitization from prolonged or repeated contact with the skin. For example, the Panel pointed out that patients may develop tolerance to the effectiveness of tripelennamine hydrochloride and diphenhydramine hydrochloride or become sensitive to these drugs after more than 7 days of use (44 FR 69809 and 69839). When the final monograph for external analgesic drug products is published, those parts of § 369.20 covered by the monograph will be deleted.

31. One comment objected to the Panel's recommended warning in § 348.50(c)(2)(ii) for counterirritants, "Do not bandage." The comment argued that it is common practice in athletic training procedures to cover injuries after applying counterirritants either to protect clothing or to increase the stimulation of cutaneous receptors. The comment suggested that a warning such as "Bandage with caution" be substituted for the Panel's warning.

The agency agrees with the comment that it is desirable to protect clothing from stains by covering the application site, but believes that such covering should not be tightly applied. The agency is not aware of any evidence that the risk of adverse reactions to counterirritants increases when the application site is lightly covered, but is aware that under tight bandaging or occlusive dressing there is an increased risk of irritation, redness, or blistering. The Panel did not provide specific reasons for recommending the warning "Do not bandage" for counterirritants. However, counterirritants are, as the name itself implies, irritating, and occlusion by tight bandaging may increase their absorption through the skin. Therfore, it is proposed in this tentative final monograph that the Panel's recommended warning "Do not bandage" be revised to "Do not bandage tightly." The agency believes that this warning is more helpful to consumers because it provides more specific information and is therefore clearer than the warnings proposed by the comment.

32. One comment requested that the minimum age restriction for use of topical analgesic, anesthetic, and antipruritic ingredients be changed from 2 years to 6 months of age. The comment argued that because the Panel defined adult skin as "skin that is older than 6 months of age" (44 FR 69773), because the effect of occlusion under a diaper can be taken care of by use of an appropriate warning, and because a child under 2 years of age is well able to communicate pain by crying, these ingredients can be used safely on children over 6 months of age. In addition, the comment stated that these products are particularly useful for crawling infants who receive minor scratches, with related discomfort, that do not require a doctor's care.

The agency believes that external analgesic drug products should not be used on children under 2 years of age except as recommended by a physician. Although it is true that by 6 months of age a child's skin is similar to an adult's with regard to drug absorption, there are enough other differences betwen adults and children under 2 years of age to require different standards of practice in the use of drugs. Children 2 years of age above are just beginning to learn to communicate verbally in expressing their symptoms to a parent. At less than 2 years of age, the infant is more passive and less able to express and localize symptoms. Occlusion from a diaper, from lying on a waterproof mattress, or from body folds touching each other can enhance cutaneous absorption that can result in systemic effects in infants who do not have fully developed drug metabolism systems. Analgesic drugs can also be corrosive to infants' skin under occlusion. Parents could be warned against occlusion from a diaper,

but it would be difficult to warn them adequately against less obvious occlusion. Therefore, the agency agrees with the Panel that limiting use of these products to children 2 years of age or older except under the advice and supervision of a physician is necessary to provide an adequate margin of safety.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. *Summary of ingredient categories.* The agency has reviewed all the claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and concurs with the Panel's categorization of ingredients except for camphorated metacresol and methapyrilene hydrochloride. (See paragraphs 11 and 15 under "Summary of the Agency's Changes in the Panel's Recommendations" below.) For the convenience of the reader, the following tables are included as summaries of the categorization of active ingredients recommended by the Panel and proposed by the agency.

Analgesic, anesthetic, and antipruritic active ingredients	Panel	Agency
Aspirin	III	III
Benzocaine	I	I
Benzyl alcohol	I	I
Butamben picrate	I	I
Camphor	I	I
Camphorated metacresol	III	I
Chloral hydrate	II	II
Chlorobutanol	III	III
Cyclomethycaine sulfate	III	III
Dibucaine	I	I
Dibucaine hydrochloride	I	I
Dimethisoquin hydrochloride	I	I
Diphenhydramine hydrochloride	I	I
Dyclonine hydrochloride	I	I
Eugenol	III	III
Glycol salicylate	III	III
Hexylresorcinol	III	III
Hydrocortisone [1]	I	I
Hydrocortisone acetate [1]	I	I
Juniper tar	I	I
Lidocaine	I	I
Lidocaine hydrochloride	I	I
Menthol	I	I
Methapyrilene hydrochloride	I	II
Phenol	I	I
Phenolate sodium	I	I
Pramoxine hydrochloride	I	I
Resorcinol	I	I
Salicylamide	III	III
Tetracaine	I	I
Tetracaine hydrochloride	I	I
Thymol	III	III
Trolamine salicylate [2]	III	III
Tripelennamine hydrochloride	I	I

[1] Hydrocortisone and hydrocortisone acetate are OTC external analgesics only for use as topical antipruritics
[2] Identified by the Panel as triethanolamine salicylate

Counterirritant ingredients	Panel	Agency
Allyl isothiocyanate	I	I
Strong ammonia solution [1]	I	I
Camphor	I	I
Capsaicin	I	I
Capsicum	I	I
Capsicum oleoresin	I	I
Chloral hydrate	I	I
Eucalyptus oil	I	I
Histamine dihydrochloride	I	I
Menthol	I	I
Methyl nicotinate	I	I
Methyl salicylate	I	I
Turpentine oil	I	I

[1] Identified by the Panel as ammonia water, stronger

2. *Testing of Category II and Category III conditions.* The Panel recommended testing guidelines for external analgesic drug products (44 FR 69857). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. (See comment 14 above.)

Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any external analgesic ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made in the Panel's conclusions and recommendations follows.

1. The agency is proposing to include the combination of camphor and menthol in this tentative final monograph in new § 348.20(a)(6). (See comment 12 above.)

2. The agency proposes that 4.7 percent phenol be included in this tentative final monograph when it is combined with 10.8 percent camphor in accordance with § 348.20(a)(4). (See comment 13 above.)

3. The agency proposes changing the term "antipruritic," the Panel's recommended statement of identity for hydrocortisone products, to "antipruritic (anti-itch)," "anti-itch," antipruritic (anti-itch) *(insert dosage form, e.g., cream, lotion, or ointment),"* or "anti-itch *(insert dosage form, e.g., cream, lotion, or ointment).*" (See comment 21 above.)

4. Alternatives to the Panel's recommended statement of identity, "external analgesic," are being proposed in § 348.50(a)(1) as "external analgesic," "topical analgesic," or "pain relieving *(insert dosage form, e.g., cream, lotion, or ointment).*" (See comment 20 above.)

5. The agency proposes that terms such as "fast," "prompt," "swift," "sudden," and "immediate," which were classified by the Panel as Category II, and statements such as "penetrating heat relief" are outside the scope of the OTC drug review because they do not signal any property that is important to the safe and effective use of OTC external analgesic drug products. Claims such as "penetrating pain relief" do describe therapeutically significant performance characteristics of OTC counterirritant active ingredients and are included under a new section, § 348.50(b)(4), "Other allowable statements." (See comment 26 above.)

6. The 7-day warning recommended by the Panel for external analgesic drug products in § 348.50(c)(1)(iii) has been revised and is being proposed as follows in § 348.50(c)(1)(iii): "If condition worsens, or if symptoms persist for more than 7 days or clear up and occur again within a few days, discontinue use of this product and consult a" (select one of the following: "physician" or "doctor"). (See comment 27 above.)

7. The indications for analgesic, anesthetic, and antipruritic ingredients and for counterirritant ingredients are proposed in § 348.50(b) to allow the optional use of terms describing the conditions relieved by these ingredients and to include the general claim "for the relief of itching" for antipruritic ingredients. To improve consumer understanding, the agency proposes deletion of the term "dermatitis" from the indications for hydrocortisone drug products, while it proposes to add "feminine itching." The agency is also proposing an optional indication for hydrocortisone drug products. (See comments 22, 27, 28, and 29 above.)

8. The agency is proposing the following warning in § 348.50(c)(7) for hydrocortisone products that are labeled with the optional indication of external genital or feminine itching: "Do not use if you have a vaginal discharge. Consult a" (select one of the following: "physician" or "doctor"). (See comment 27 above.)

9. To provide clearer and more specific information to consumers, the agency proposes to revise the Panel's recommended warning for counterirritants in § 348.50(c)(2)(ii) to state: "Do not bandage tightly." (See comment 31 above.)

10. The following are agency-initiated changes in the Panel's recommended monograph based on the format and style of recently published monographs:

a. Section 348.10(a) has been redesignated § 348.12, and § 348.10(b) has been redesignated § 348.10.

b. The agency has redesignated proposed Subpart D of the monograph as Subpart C, placing the labeling sections under Subpart C.

c. The definitions sections has been revised to include only those definitions considered necessary for this tentative final monograph. The definitions under age for "infant, child, and adult" and the term "cutaneous sensory receptor" were deleted because they are not used in the labeling proposed in the tentative final monograph. The definitions for "topical analgesic" and "topical anesthetic" were combined under a new definition "analgesic, anesthetic" because the actions of a topical analgesic and a topical anesthetic are similar, and no distinction is made in the proposed indications section . (See comment 24 above.) A definition for camphorated metacresol has been added because the complex has been included in the monograph. (See comment 13 above.)

d. The subgroups of active ingredients listed in §§ 348.10 and 348.12 have been identified with headings that are in accordance with the Panel's recommendations.

e. In an efffort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and other applicable OTC drug regulations will give manufacturers the option of using either the word "physician" or the word "doctor." This tentative final monograph proposes that option.

f. The Panel's recommended warning in § 348.50(c)(1)(iv) has been deleted, and the following statement has been included under the directions in proposed § 348.50(d): "Children under 2 years of age: consult a" (select one of the following: "physician" or "doctor").

11. The agency has reclassified methapyrilene hydrochloride from Category I to Category II as an OTC external analgesic ingredient. A tentative final rule for nighttime sleep-aids, published in the **Federal Register** of June 13, 1978 (43 FR 25544), proposed to place methapyrilene in Category II because of preliminary studies implicating this drug as a carcinogen, or a carcinogen synergist with nitrates, in rats. However, at that time, the studies were too preliminary to support a definitive finding of carcinogenicity for methapyrilene itself that would necessitate its immediate removal from all products in the OTC drug market.

On May 1, 1979, the agency received an interim report from the National Cancer Institute (NCI) regarding carcinogenicity studies performed with methapyrilene at the Frederick Cancer Research Center. The results of these studies have been published by Lijinsky, Reuber, and Blackwell (Ref. 1). The NIC interim report stated that methapyrilene is a potent carcinogen in rats and must be considered a potential carcinogen in man. FDA reviewed this report and concurred with its conclusions. Industry agreed to a request from the agency to recall all methapyrilene-containing products from the market voluntarily. On June 15, 1979, FDA issued a recall letter to all manufacturers holding an approved new drug application (NDA) for products containing methapyrilene. This voluntary recall has virtually eliminated drug products containing methapyrilene from the marketplace. All human drugs containing methapyrilene for systemic or topical use are currently regarded as new drugs within the meaning of section 201(p) of the act (21 U.S.C. 321(p) and are subject to regulatory action under sections 502 and 505 of the act (21 U.S.C. 352 and 355).

Reference

(1) Lijinsky, W., M. D. Reuber, and B. N. Blackwell, "Liver Tumors Induced in Rats by Chronic Oral Administration of the Common Antihistamine Methapyrilene Hydrochloride," *Science*, 209:817–819, 1980.

12. Thymol has been deleted from recommended § 348.20(b)(1)(ii) as an ingredient for inclusion in combinations of external analgesic active ingredients. The Panel classified thymol as Category III. Thymol was inadvertently included in the Panel's recommended nonograph. The agency tentatively concurs with the Panel's Category III classification of thymol and is correcting this error in the monograph.

13. The agency is proposing to lower the upper concentration limit for phenol and phenolate sodium from 2 percent to 1.5 percent in external analgesic drug products. Monographs for other OTC drug products for external use limit the concentration of phenol to 1.5 percent. for example, the tentative final monograph for OTC Antimicrobial I drug products classified concentrations of phenol exceeding 1.5 percent as Category II for safety when used in antimicrobial soaps, patient preoperative skin preparations, health-care personnel handwashes, skin antiseptics, skin wound cleansers, skin wound products, and surgical hand scrubs. The agency stated in this document that the use of phenol in concentrations of 2 percent or more has caused serious hazards, including gangrene, mummification, and even coma (January 6, 1978; 43 FR 1227). The Panel on OTC Dentifrices and Dental Care Drug Products also placed phenol in concentrations above 1.5 percent in Category II as an oral mucosal analgesic (May 25, 1982; 47 FR 22739). The upper concentration limit of phenolate sodium, the sodium salt of phenol, is also being lowered to 1.5 percent so that it has the same limit as phenol.

An exception to this upper limit of 1.5 percent phenol has been made for phenol when combined with camphor. The agency has proposed that 4.7 percent phenol may be safely combined with 10.8 percent camphor. (See comment 13 above.)

14. The agency proposes that the warning recommended by the Panel in § 348.50(c)(5) for products containing phenol pertains also to products containing phenolate sodium and camphorated metacresol, and has amended the tentative final monograph accordingly in § 348.50(c)(5). The agency notes that the Panel used slightly different wording in the warnings it recommended in § 348.50(c)(3), (5), and (6) to convey the same message. To prevent consumer confusion, the agency has proposed the same wording, where applicable, in the warning statements in these sections. The Language in these warnings is taken from a similar warning that the agency proposed for topical antimicrobial drug products in the **Federal Register** of July 9, 1982 (47 FR 29986).

15. The agency is proposing to classify camphorated metacresol as Category I for safety and effectiveness and is including a definition of camphorated metacresol in § 348.3(b)—(See comment 13 above.)

16. For ease of understanding by consumers, the agency proposes to revise the warning recommended by the Panel in § 348.50(c)(3)(ii) as follows: "This product stains skin and clothing yellow."

The agency advises that those parts of §§ 310.201(a) (19) and (23), 369.20 and 369.21 applicable to external analgesic drug products will be revoked at the time that this monograph becomes effective.

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require either a Regulatory

Impact Analysis, as specified in Executive Order 12291, or a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354).

Some external analgesic drug products may have to be reformulated to delete nonmonograph ingredients; however, there are a number of Category I ingredients available for reformulation. The agency believes that minimal testing of nonmonograph ingredients will be done because of the availability of other ingredients for reformulation. Manufacturers will have up to 12 months to revise their product labeling. In most cases, this will be done at the next printing so that minimal costs should be incurred. Thus, the impact of the proposed rule, if implemented, appears to be minimal. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC external analgesic drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC external analgesic drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on external analgesic drug products, a period of 120 days from the date of publication of this proposed rulemaking in the Federal Register will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has carefully considered the potential environmental effects of this proposal and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact, and the evidence supporting this finding, is contained in an environmental assessment (under 21 CFR 25.31, proposed in the Federal Register of December 11, 1979; 44 FR 71742), which may be seen in the Dockets Management Branch, Food and Drug Administration.

List of Subjects in 21 CFR Part 348

OTC drugs: External analgesics.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982)), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 348 to read as follows:

PART 348—EXTERNAL ANALGESIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—General Provisions

Sec
348.1 Scope.
348.3 Definitions.

Subpart B—External Analgesic Active Ingredients

348.10 Analgesic, anesthetic, and antipruritic active ingredients.
348.12 Counterirritant active ingredients.
348.20 Permitted combinations of active ingredients.

Subpart C—Labeling

348.50 Labeling of external analgesic drug products.

Authority: Secs. 201 (p), 501, 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

Subpart A—General Provisions

§ 348.1 Scope.

(a) An over-the-counter external analgesic drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each condition in this part and each general condition established in § 330.1.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 348.3 Definitions.

As used in this part:

(a) *Analgesic, anesthetic.* A topically (externally) applied drug that relieves pain by depressing cutaneous sensory receptors.

(b) *Antipruritic.* A topically (externally) applied drug that relieves itching by depressing cutaneous sensory receptors.

(c) *Camphorated metacresol.* A complex consisting of camphor and metacresol combined in a ratio of 3 parts camphor to 1 part metacresol.

(d) *Counterirritant.* A topically (externally) applied drug that causes irritation or mild inflammation of the skin for the purpose of relieving pain in muscles, joints, or viscera distal to the site of application by stimulating cutaneous sensory receptors.

(e) *External analgesic.* A topically (externally) applied drug that has a topical analgesic, anesthetic, or antipruritic effect by depressing cutaneous sensory receptors, or that has a topical counterirritant effect by stimulating cutaneous sensory receptors.

Subpart B—Active Ingredients

§ 348.10 Analgesic, anesthetic, and antipruritic active ingredients.

The active ingredients of the product consist of any of the following, within the established concentration for each ingredient:

(a) *Amine and "caine"-type local anesthetics.*

(1) Bensocaine 5 to 20 percent.

(2) Butamben picrate 1 percent.

(3) Dibucaine 0.25 to 1 percent.

(4) Dibucaine hydrochloride 0.25 to 1 percent.

(5) Dimethisoquin hydrochloride 0.3 to 0.5 percent.

(6) Dyclonine hydrochloride 0.5 to 1 percent.

(7) Lidocaine 0.5 to 4 percent.

(8) Lidocaine hydrochloride 0.5 to 4 percent.

(9) Pramoxine hydrochloride 0.5 to 1 percent.

(10) Tetracaine 1 to 2 percent.

(11) Tetracaine hydrochloride 1 to 2 percent.

(b) *Alcohols and ketones.*

(1) Benzyl alcohol 10 to 33 percent.

(2) Camphor 0.1 to 3 percent.

(3) Camphor 3 to 10.8 percent when combined with phenol in accordance with § 348.20(a)(4).

(4) Camphorated metacresol (camphor 3 to 10.8 percent and metacresol 1 to 3.6 percent).

(5) Juniper tar 1 to 5 percent.

(6) Menthol 0.1 to 1 percent.

(7) Phenol 0.5 to 1.5 percent.

(8) Phenol 4.7 percent when combined with camphor in accordance with § 348.20(a)(4).

(9) Phenolate sodium 0.5 to 1.5 percent.

(10) Resorcinol 0.5 to 3 percent.

(c) *Antihistamines.*
(1) Diphenhydramine hydrochloride 1 to 2 percent.
(2) Tripelennamine hydrochloride 0.5 to 2 percent.
(d) *Hydrocortisone preparations.*
(1) Hydrocortisone 0.25 to 0.5 percent.
(2) Hydrocortisone acetate 0.25 to 0.5 percent.

§ 348.12 Counterirritant active ingredients.

The active ingredients of the product consist of any of the following within the established concentration for each ingredient:
(a) *Irritants that producer redness*—(1) Allyl isothiocyanate 0.5 to 5 percent.
(2) Strong ammonia solution, diluted to contain 1 to 2.5 percent ammonia.
(3) Methyl salicylate 10 to 60 percent.
(4) Turpentine oil 6 to 50 percent.
(b) *Irritants that produce cooling sensation.*—(1) Camphor exceeding 3 percent to 11 percent.
(2) Menthol 1.25 to 16 percent.
(c) *Irritants that produce vasodilation.*—(1) Histamine dihydrochloride 0.025 to 0.10 percent.
(2) Methyl nicotinate 0.25 to 1 percent.
(d) *Irritants that do not produce redness.*—(1) Capsaicin 0.025 to 0.25 percent.
(2) Capsicum containing 0.025 to 0.25 percent capsaicin.
(3) Capsicum oleoresin containing 0.025 to 0.25 percent capsaicin.

§ 348.20 Premitted combinations of active ingredients.

(a) *Combinations of external analgesic active ingredients.*—(1) Any ingredient identified in § 348.10(a) may be combined with any ingredient identified in § 348.10(b).
(2) Any ingredient identified in § 348.10(b) may be combined with any ingredient in § 348.10(c).
(3) Any ingredient identified in § 348.10(b)(1), (5), (7), (9), and (10) may be combined with camphor and menthol identified in § 348.10(b)(2) and (6).
(4) Camphor and phenol indentified in § 348.10(b)(3) and (8) may be combined in a light mineral oil, USP vehicle.
(5) Any two, three, or four ingredients indentified in § 348.12 may be combined provided that the combination contains no more than one active ingredient from each group identified in § 348.12(a), (b), (c), and (d).
(6) Camphor identified in § 348.12(b)(1) may be combined with menthol identified in § 348.12(b)(2).
(7) Camphor and menthol identified in § 348.20(a)(6) may be combined with any one, two, or three ingredients identified in § 348.12 provided the combination contains no more than one ingredient from each group identified in § 348.12(a), (c), and (d).

(b) *Combinations of external analgesic active ingredients and other active ingredients.*—(1) Any ingredient identified in § 348.10(a), (b), or (c), or any combination identified in paragraph (a)(i), (2), or (3) of this section may be combined with any generally recognized safe and effective skin protectant active ingredient or skin protectant combination identified in Part 347 provided the product is labeled for the concurrent symptoms.
(2) Any ingredient identified in § 348.10(a), (b), or (c) or any combination identified in paragraph (a)(1), (2), or (3) of this section may be combined with any generally recognized safe and effective topical antimicrobial active ingredient or topical antimicrobial combination identified in Part 333, Subpart A, provided the product is labeled for the concurrent symptoms.

Subpart C—Labeling

§ 348.50 Labeling of external analgesic drug products

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as follows:
(1) *For products containing any ingredient identified in § 348.10(a), (b), and (c) and § 348.12.* The labeling identifies the product as an "external analgesic," "topical analgesic," or "pain relieving (*insert dosage form, e.g., cream, lotion, or ointment*)."
(2) *For products containing hydrocortisone or hydrocortisone acetate identified in § 348.10(d).* The labeling identifies the products as "antipruritic (anti-itch)," "anti-itch." "antipruritic (anti-itch) (insert dosage form, e.g., cream, lotion, or ointment)," or "anti-itch (insert dosage form, e.g., cream, lotion, or ointment)."
(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indication(s)" that is limited to the following:
(1) *For products containing any external analgesic active ingredients identified in § 348.12.* "For the temporary relief of minor aches and pains of muscles and joints" [which may be followed by: "associated with" (select one or more of the following: "simple backache," "arthritis," "strains," "bruises," and "sprains.")]
(2) *For products containing any external analgesic active ingredients identified in § 348.10(a), (b), and (c).* "For the temporary relief of" (select one of the following: "pain," "itching," or "pain and itching") (which may be followed by: "associated with" (select one or more of the following: "minor burns," "sunburn," "minor cuts," "scrapes," "insect bites," or "minor skin irritations.")]
(3) *For products containing any external analgesic active ingredients identified in § 348.10(d).* The labeling of the product contains one of the following indications: (i) "For the temporary relief of itching associated with minor skin irritations and rashes" [which may be followed by: "due to" (select one or more of the following: "eczema," "insect bites," "poison ivy, poison oak, or poison sumac," "soaps," "detergents," "cosmetics," "jewelry,") and/or ("and for external" (select one or more of the following: "genital," "feminine," and "anal") "itching.")]
(ii) "For the temporary relief of itching associated with minor skin irritations, inflammation, and rashes due to" (select one or more of the following: "eczema," "insect bites," "poison ivy, poison oak, poison sumac," "soaps," "detergents," "cosmetics," and "jewelry") (which may be followed by: "and for external" (select one or more of the following: "genital," "feminine," and "anal") "itching.")
(4) *Other allowable statments.* In addition to the required information specified in this paragraph and in paragraphs (a), (b), (c), and (d) of this section, the labeling of the product may contain any of the following statements, as appropriate for the product's formulation, provided such statements are neither placed in direct conjuction with information required to appear in the labeling nor occupy labeling space with greater prominence or conspicuousness than the required information.
(i) *For products containing any ingredient identified in § 348.12.*
(*a*) (optional: "provides") "penetrating pain relief."
(*b*) (optional: "provides") "warming pain relief."
(*c*) (optional: "provides") "cooling pain relief."
(ii) [Reserved]
(c) *Warnings.* The labeling of the product contains the following statements under the heading "Warnings."
(1) *For products containing any external analgesic active ingredient identified in §§ 348.10 and 348.12.* (i) "For external use only."
(ii) "Avoid contact with the eyes."
(iii) "If condition worsens, or if symptoms persist for more than 7 days or clear up and occur again within a few days, discontinue use of this product and consult a" (select one of the following: "physician" or "doctor").

(2) *For products containing any external analgesic active ingredient identified in §348.12.* (i) "Do not apply to wounds or damaged skin."

(ii) "Do not bandage tightly."

(3) *For products containing butamben picrate identified in §348.10(a)(2).* (i) "Do not apply over large areas of the body."

(ii) "This product stains skin and clothing yellow."

(4) *For products containing any external analgesic active ingredient identified in §348.10(a)(3), (4), (7), (8), (10), and (11).* "Do not use in large quantities, particularly over raw surfaces or blistered areas."

(5) *For products containing camphorated metacresol identified in §348.10(b)(4), phenol identified in §348.10(b)(7) and (8), and phenolate sodium identified in §348.10(b)(9).* "Do not apply over large areas of the body or bandage."

(6) *For products containing resorcinol identified in §348.10(b)(10).* "Do not apply over large areas of the body."

(7) *For products containing hydrocortisone preparations identified in §348.10(d) (1) and (2) that are labeled with the indications "* * * for external genital itching," or "* * * for external feminine itching."* "Do not use if you have a vaginal discharge. Consult a" (select one of the following: "physician" or "doctor").

(d) *Directions.* The labeling of the product contains the following statement under the heading "Directions": *Adults and children 2 years of age and older:* Apply to affected area not more than 3 to 4 times daily. Children under 2 years of age: consult a (select one of the following: physician or doctor).

Interested persons may, on or before April 11, 1983 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before June 8, 1983. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register**.

Interested persons, on or before February 8, 1984 may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before April 9, 1984. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on April 9, 1984. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register** unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Dated: January 19, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 83–3217 Filed 2–7–83; 8:45 am]

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Part III

Environmental Protection Agency

Hazardous Waste Permit Program; Standards Applicable to Owners and Operators of Hazardous Waste Management Facilities; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 123 and 264

[SW FRL 2039-2]

Hazardous Waste Management System; the Hazardous Waste Permit Program; Standards Applicable to Owners and Operators of Hazardous Waste Management Facilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed ruie.

SUMMARY: On February 26, 1980 and May 19, 1980, the Environmental Protection Agency (EPA) published regulations which established a system to manage hazardous waste. Those regulations provide that permits issued by EPA (and States with authorization to issue permits under the Resource Conservation and Recovery Act (RCRA) for hazardous waste treatment, storage and disposal facilities will be effective for a fixed term not to exceed 10 years. During the fixed term, EPA and authorized States have limited opportunities for reopening a permit to make changes in permit conditions.

EPA is today proposing to amend the regulations to provide that RCRA permits will be effective for the designated operating life of each facility, and the period of post-closure care for land disposal facilities. Under this proposal, EPA and authorized States would have increased opportunities for reopening permits during their terms. EPA is proposing this change in an effort to streamline the RCRA permitting procedure, reduce paperwork, and to respond to settlement negotiations in a lawsuit involving the RCRA regulations.

EPA anticipates that protecton of human health and the environment would not be affected by this section. EPA also estimates that this action would result in a savings to the regulated community of approximately $88.5 million if EPA promulgates this rule and if States with authorization to issue RCRA permits elect to issue those permits effective for the designed operating life of each facility plus the post-closure period.

DATES: EPA will accept public comments on the proposed amendment until April 11, 1983.

ADDRESSES: Comments should be addressed to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should identify the regulatory docket number as "Section 122.9—Duration of Permits".

The public docket for this proposed rule is located in Room S-269C, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C., and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday excluding holidays.

FOR FURTHER INFORMATION CONTACT: Amy Mills, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, Washington, D.C. 20460, or call (202) 382-4755, or the RCRA Hotline at (800) 424-9346 or (202) 382-3000.

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 1980 and May 19, 1980, EPA promulgated regulations pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6901 *et seq.* The regulations establish a system to manage hazardous waste, and include provisions under which EPA issues permits to owners or operators of facilities that treat, store or dispose of hazardous waste (40 CFR Part 122, 45 FR 33418).[1] Section 122.9 of those regulations specifies that permits issued to hazardous waste management facilities will be effective for a fixed term of 10 years or less. At the end of each permit term, the permittee must apply for and receive a new permit if he plans to continue his operation. The purpose of this requirement is to assure changes in regulations or available technology are integrated into permits on a periodic basis.

The May 19 rule also contains a provision which gives EPA the opportunity to revise permit conditions during the term of the permit (§ 122.15). For most of the allowable causes for permit modifications, EPA may initiate a change with or without the consent of the permittee (§ 122.15(a) (1), (2), and (5) and 122.15(b)). However, in an attempt to provide permittees with greater certainty during the terms of their permits, the May 19 regulations limited the cause for permit modifications resulting from changes to EPA regulations to instances when modification is requested by the permittee (§ 122.15(a)(3)).

EPA has re-examined the maximum 10-year permit term and its implications for both the regulated community and the Agency. The subject arose in recent negotiations in a lawsuit involving the consolidated permit regulations. (*NRDC v EPA*, No. 80-1607 and consolidated cases, D.C. Cir., filed June 2, 1980).[2] The petitioners in that case claim that the current regulations unreasonably require EPA to repeatedly review an entire facility's operation every 10 years or less, and reopen and re-evaluate all of the issues which were resolved when the initial permit was issued. Some facilities are designed to operate 30 years or more; thus, under the current regulations an entire facility may be re-evaluated three or more times during its operating life. These extensive re-evaluations would proceed regardless of whether there had been any substantive changes in the facility's design or operation, or in the regulations on which its initial permit had been based.

The petitioners further claim that repeating the permit application process every 10 years or less can lose a significant burden to the regulated community. First, there can be a substantial monetary burden associated with the extensive paperwork involved in applying for a permit. Second, the 10-year permit presents disadvanteges to the facility owner who may plan to operate for more than 10 years but can only obtain approval for his facility for 10 years at a time.

EPA agrees that the curent limit to permit duration can pose certain disadvantages to the regulated community. The Agency also finds that the procedures for issuing permits, i.e., reviewing each permit application, preparing a draft permit, providing an opportunity for public hearing, and preparing a final permit, can be very time-consuming and resource-intensive for the Agency. Under the current regulations, EPA would have to repeat these procedures at least once every 10 years for each facility.

EPA wishes to avoid the unnecessary expiration and reissuance of permits at arbitrary intervals of 10 years or less and the attendant costs and paperwork burdens. At the same time, the Agency believes it must maintain some oversight of the operation of a facility during the term of its permit. Therefore, EPA is today proposing an approach which

[1] The RCRA permitting requirements are contained in EPA's consolidated permit regulations, originally promulgated on May 19, 1980 and codified in 40 CFR Parts 122-124. These regulations have been continuously supplemented and amended. The most important amendments occurred on January 12, 1981, when EPA promulgated permitting regulations for storage and treatment facilities (46 FR 2802); on January 23, 1981, when EPA promulgated permitting regulations for incinerators (46 FR 7666); and July 26, 1982, when EPA promulgated permtting regulations for land disposal facilities (47 FR 32274).

[2] For further explanation of the procedural aspects of the *NRDC v EPA* suit, see the preamble to the technical amendments to 40 CFR Parts 122 and 124 in the April 8, 1982 **Federal Register** (47 FR 15304).

accomplishes both goals and which also would resolve the issue to the satisfaction of the NRDC petitioners.

II. Lifetime Permits

Rather than issuing permits effective for up to 10 years, EPA is today proposing to issue "lifetime" permits, i.e., permits effective for the designed operating life of each facility, and for the post-closure care period and ground-water monitoring compliance period for land disposal facilities. The advantage to this approach is that a permit need only be issued once for a facility. A permit would be issued for less than the designed operating life of a facility only if the permit applicant so requests. When and if this system goes into effect, the initial permit for a facility currently operating with interim status would be written to cover the remainder of the facility's designed operating life, as well as the post-closure care period and ground-water monitoring compliance period for land disposal facilities. For facilities which have already been issued a permit, the next permit would be written to cover the remainder of the facility's designed operating life (and the post-closure care period and ground-water monitoring compliance period), or the owner or operator could request a modification of his current permit.[3]

A. Designed Operating Life

The designed operating life of a facility is the period of time, estimated by the owner or operator and approved by EPA, for which the facility is designed to operate, and during which operation is expected to continue. It is the same estimate used to establish the date of final closure in a facility's closure plan, and to establish a pay-in period for closure and post-closure trust funds.

Designed operating life can be determined by considering several factors. For instance, the manufacturer's warranty or estimated service life of the materials used in the construction of the facility may affect designed operating life. Consideration must also be given to the weakening effect of some hazardous wastes on the materials of construction, particularly in the case of corrosive wastes. The volume of waste to be handled may also contribute to the rate of wear. The age of the construction materials should also be considered, especially when a permit is sought for an existing facility operating with partially worn equipment.

The designed operating life may also vary with the type of processes used at the facility. Landfills and surface impoundments may have predictable fill rates; therefore the designed operating life may simply be determined by estimating when the facility's capacity will be reached. On the other hand, the owner or operator of a storage facility with tanks may plan to replace each tank as its service life expires (e.g., after 20 or 30 years) but continue the general operation of the facility for a total of 60 years.

In some cases, the operating life of the facility may be underestimated when the permit is written, and the permit may therefore expire before the facility is ready for closure. The owner or operator may then seek modification or reissuance of his permit.

Some facilities may contain two or more units which have designed operating lives of differing lengths. For instance, one facility may contain a storage tank which is designed to operate for 20 years, and a container storage area designed to operate for 5 years. In that case, EPA could issue a permit effective for the designed operating life of the unit expected to be in operation the longest (i.e., the tank), but condition the permit so that a second unit (i.e., the container storage area) may be operated only until its designed operating life expires. The Agency invites comments from the public on how to handle situations involving multiple units with different designed operating lives.

Some owners and operators of hazardous waste management facilities may have difficulty estimating the operating life of their facilities. Particularly in the case of a new facility, the owner or operator may plan to continue operation indefinitely. In anticipation of such instances, it may be appropriate for EPA to set an upper limit or cap on the duration of all RCRA permits of, for example, 50 or 70 years. The Agency requests comments and suggestions on whether a cap should be established in this rule for "lifetime" permits, and if so, what length of time would be reasonable.

B. Post-Closure Period and Ground-Water Monitoring Compliance Period

EPA is proposing that the "lifetime" permit cover the period of post-closure care and compliance with ground-water monitoring standards for land disposal facilities. The post-closure care period for a land disposal facility is generally 30 years. (See § 264.117.) The permit for any facility that includes a land disposal unit, e.g., a landfill or disposal surface impoundment, would be issued for the term of the designed operating life of the facility plus the post-closure period. The permit conditions applicable after the end of the designed operating life of the facility would be those relating to post-closure care of the facility.

In the **Federal Register** of July 26, 1982, EPA published permitting Standards for land disposal facilities that impose post-closure responsibilities concerning ground-water protection (47 FR 32349). Compliance with the ground-water protection standards in those regulations will require an owner or operator to conduct ground-water monitoring and, in some cases, take corrective action measures to remedy ground-water contamination after facility closure. Accordingly, the duration of a permit for a land disposal facility would extend as long as would be necessary to assure compliance with the ground-water protection standards in the land disposal regulations.

III. Increased Opportunities for Modifications to Permits

Today's proposal also broadens the set of circumstances under which a permit may be modified during its term. As discussed above, § 122.15 currently provides that a permit can be modified during its term to conform to newly promulgated regulations or judicial decisions only if the permittee requests such a modification. EPA is proposing to amend § 122.15(a)(3) to allow the Agency, as well as the permittee, to initiate a permit modification when the standards or regulations on which the permit is based have been changed due to either promulgation of new regulations or a judicial decision. If EPA promulgated the lifetime permit rule but did not make this corresponding change to § 122.15, EPA would have no mechanism for bringing an existing facility into compliance with regulations promulgated after the issuance of a permit. However, with this change to § 122.15, as the current standards for hazardous waste management facilities are changed in the future, the Agency would be able to incorporate those new standards into existing permits when appropriate.

Under today's proposal, EPA would have the ability to initiate modifications to a permit if new standards are promulgated or a judicial decision is made which affects the basis of the permit. This may raise concerns among the regulated community as to whether existing facilities will be required to undergo extensive retrofitting in the future, as EPA amends its Part 264 regulations. Section 3004 of RCRA

[3] A permit could be modified for this cause under § 122.15(a)(3) because the standards on which the permit was based were changed by promulgation of new standards after the permit was issued.

directs EPA to distinguish, where appropriate, between new and existing facilities when promulgating regulations applicable to hazardous waste management facilities. Accordingly, EPA will specify the applicability of future standards to either new or existing facilities or both in proposed and final regulations. If today's proposed rule is promulgated in final form, EPA will consider initiating modifications to an existing permit when standards for existing facilities are promulgated which affect the basis of that permit.

Today's proposed rule would also amend § 122.15(a)(7) to allow for modification of a permit if the permit fails to include any applicable requirement under RCRA which is in effect prior to the date of permit issuance. This amendment would ensure that if a regulatory requirement is inadvertently overlooked in the preparation of a permit, the permit can be reopened and modified to reflect that requirement. Under the present permitting system, such an error in a permit can only be corrected when the permit is periodically reissued. With lifetime permits, however, there would be no such periodic opportunity for making a correction, and some permits may be effective for periods much longer than 10 years (the current maximum). Therefore, the Agency proposes to allow for corrections to a permit during its effective term. A modification under this provision could be initiated by the permittee or the Agency.[4]

EPA intends to make a second change to § 122.15(a)(7) to correct a typographical error in § 122.15(a)(7)(ii) made in the January 12, 1981 Federal Register (46 FR 2889). As printed on January 12, that section provides that the Director may make certain modifications to permits when he determines that they are "unwarranted". This word obviously should have been "warranted" (46 FR 2841). EPA will correct this error either when today's amendments are published in final form or in a separate technical amendment.

IV. Regulatory Effect of Lifetime Permit Proposal

The proposed change to permit duration would limit EPA's ability to issue permits for less than the designed operating life of a facility, and would reduce the ability of the public to periodically scrutinize aspects of a facility's operation. However, this loss would be counter-balanced by the Agency's increased ability to reopen permits under the proposed changes to § 122.15(a)(3) and § 122.15(a)(7). The Agency also would continue to have authority to initiate permit modifications if there are alterations to a facility (§ 122.15(a)(1)) or if the Director receives information pertinent to the facility which was not available when the permit was issued (§ 122.15(a)(2)). Thus, EPA would have several avenues for effecting necessary changes to the operation of a facility during the duration of its permit.

In addition, EPA would still have the ability to terminate a facility's permit for cause under § 122.16. Also, EPA continues to have authority under Section 7003 of RCRA to bring suit against any owner or operator whose facility "may present an imminent and substantial endangerment to health or the environment." EPA has additional authority under Section 3013 of RCRA to require an owner or operator to conduct monitoring, testing, and analysis when the presence or release of waste "may present a substantial hazard to human health or the environment." With these safeguards, the Agency believes it will have sufficient means to protect human health and the environment while streamlining the permit program.

Financial Requirements

Conforming amendments to the financial requirements in §§ 264.143(a)(3) and 264.145(a)(3) are also being proposed today. These amendments would modify the maximum pay-in period for closure and post-closure trust funds for permitted facilities to reflect the changes in permit duration being proposed today.

Under the current regulations, the maximum pay-in period for trust funds during interim status is 20 years or the remaining operating life as estimated in the closure plan,[5] whichever period is shorter. The maximum pay-in period for permitted facilities is currently the term of the initial permit (i.e., up to 10 years), or the remaining operating life as estimated in the closure plan, whichever period is shorter. Under the proposed amendments, the pay-in period for permitted facilities would be the term of the initial RCRA permit, or the remaining operating life of the facility as estimated in the closure plan, or 20 years, whichever is shorter.

For the reasons set forth in the December 30, 1980 Background Document for the financial requirements, EPA determined that there should be a maximum pay-in period for closure and post-closure trust funds, and selected 20 years as that period. In establishing the current financial requirements, EPA further limited the pay-in period for permitted facilities to the term of the initial permit so that trust funds would be fully funded when the initial permits expire. However, if the proposed amendment to § 122.9 (duration of permits) is promulgated in final form, and thenceforth EPA issues "lifetime" permits, the maximum trust pay-in period for permitted facilities as determined under the present financial requirements (which allow the period to extend for the permit term) would be extended from a maximum of 10 years to 40 or more years in many cases. As noted above, EPA has determined that 20 years is the maximum allowable pay-in period. Therefore, if the proposed amendment regarding duration of permits is adopted, the Agency proposes that an accompanying amendment to the financial requirements in Part 264 limit the pay-in period for trust funds for permitted facilities to the term of the initial RCRA permit operating life, or 20 years, whichever period is shorter.

The amendment to Part 264 would further provide that if a trust were established during interim status, its pay-in period would not be extended by the awarding of a permit, i.e., for no facility would the pay-in period extend beyond 20 years. The proposed language states that the pay-in period will be as established in the interim status standards, or the term of the initial RCRA permit, whichever period is shorter.

State Program Requirements

Conforming amendments to the State Program Requirements in Part 123 are also being proposed as part of today's action. EPA is proposing to provide that States which are authorized to issue RCRA permits may issue those permits effective for the designed operating life of each facility and the post-closure care period.

Part 123 of the May 19, 1980, regulations set forth the criteria under which State governments may obtain authorization to implement the RCRA program in lieu of the Federal government. States may receive "interim" authorization by establishing a regulatory program for hazardous waste management that EPA approves as being "substantially equivalent" to the Federal program.[6] Phase II of interim

[4] The Agency may use information supplied by a third party, such as an interested citizen, to initiate a permit change.

[5] Under the closure plan requirements in §§ 264.112 and 265.112, the expected year of closure must be specified and the plan must be kept current.

[6] For a discussion of State authorization of the RCRA program, see the preamble to 40 CFR Part

authorization includes authorization of States to issue RCRA permits.

EPA established in § 123.129(d) that States applying for Phase II interim authorization must have requirements for permitting that are substantially equivalent to EPA's, including the requirements for the duration of permits in § 122.9 In paragraph (e) of § 123.129, EPA further defines substantial equivalence to the Federal standards for permit duration by requiring that States with Phase II interim authorization not issue RCRA permits that are effective for longer than ten years. The Agency could have adopted a more flexible interpretation of substantial equivalence to the Federal program, but for policy reasons, defined substantial equivalence to the Federal standards for the duration of permits quite narrowly.

As explained earlier in this preamble, EPA is proposing to amend the permitting standards for Federally-issued RCRA permits, including §§ 122.9, 122.15, 264.143 and 265.143. This regulatory action is partially in response to the settlement reached between EPA and the petitioners who raised RCRA-related issues in *NRDC v EPA*, No. 80–1607 and consolidated cases, (D.C. Cir., filed June 2, 1980.) The settlement agreement also stipulates that EPA will propose to revise § 123.129(e) to provide that States with interim authorization may issue permits effective for the designed operating life of each facility. EPA proposes to accomplish this by deleting § 123.129(e) from the regulations. The limit for permit duration would thus be removed.

With the removal of § 123.129(e), States with Phase II interim authorization would not be limited to ten-year permit terms, but under § 123.129(d), they still would be required to establish requirements for permits that are "substantially equivalent" to the provisions listed in § 123.7, including §§ 122.9 and 122.15. For the purpose of State authorization, EPA would consider State requirements similar to either a combination of the current standards under §§ 122.9 and 122.15 or a combination of the proposed standards under those sections to be substantially equivalent to the Federal standards. Currently, § 122.9 limits permit terms to ten years, and 122.15 provides limited opportunities for EPA to reopen permits and make changes to permit conditions. In comparison, the proposed amendment to § 122.9 would provide for "lifetime" permits, and the proposed amendment to § 122.15 would increase EPA's opportunities for reopening those permits. If today's proposal is promulgated, States applying for Phase II interim authorization could use either approach to establish substantial equivalence to the Federal requirements. Further, States authorized to issue RCRA permits could thereby choose which permitting method is most practical to implement in their particular State.

As set forth in § 122.21(d) of EPA's land disposal regulations, land disposal facilities must have RCRA permits during the period of post-closure care (47 FR 32369, July 26, 1982). Accordingly, in today's proposed amendment to § 122.9, EPA is proposing that the "lifetime" permit cover the post-closure period as well as the designed operating life of land disposal facilities. If today's proposal is promulgated, States which elect to adopt lifetime permits would need to demonstrate to EPA that their permit durations for land disposal facilities cover the post-closure period. States which elect to issue permits to land disposal facilities with a term of ten years or less must demonstrate that their programs provide for the issuance of term permits during the post-closure period.

States receiving final authorization under RCRA must, in accordance with § 123.7(a), establish provisions at least as stringent as those in §§ 122.9 and 122.15. The "Note" in § 123.7(a), as promulgated May 19, 1980, requires that the stringency of each provision be considered separately, and prohibits any "tradeoff" of the degree of stringency between one provision and another. Therefore, if the proposed amendments to § 122.9 and 122.15 are promulgated in final form, and the "Note" remains unchanged, States applying for final authorization would not be required to issue lifetime permits (i.e., States could be more stringent than the Federal program by issuing permits for shorter durations), but they would be required to have the permit reopening abilities specified in § 122.15 (i.e., the State regulations would have to contain causes for reopening permits that are at least as stringent as those causes in § 122.15).

However, the purpose of the aforementioned regulatory change to § 123.129 is to allow States with interim authorization to make a trade-off between the duration of RCRA permits and the State's ability to reopen permits during their terms. EPA believes that States with final authorization should have the same option. Consequently, EPA is today proposing to amend the Note in § 123.7(a) to clarify that States with final authorization to implement RCRA may have provisions which, in combination, are at least as stringent as a combination of §§ 122.9 and 122.15. If today's proposal is promulgated, States applying for final authorization could adopt an approach similar either to the current standards under §§ 122.9 and 122.15 or to the proposed standards under those sections in order to establish equivalence with Federal standards.[7]

Request for Comments

The Agency invites comments on all aspects of these proposed regulations, including all issues raised in the preamble. Several of these proposed amendments to the RCRA permitting system are part of the settlement reached between EPA and the petitioners who raised RCRA-related issues in *NRDC v EPA*, No. 80–1607 and consolidated cases (D.C. Cir., filed June 2, 1980). EPA anticipates that finalization of today's proposal will provide part of the basis for the settlement of this litigation. However, EPA will carefully consider all timely public comments on this proposal before making its final decision.

Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. In addition, 5 U.S.C. 553(d) of the Administrative Procedure Act requires that substantive rules not become effective until at least 30 days after promulgation. The purpose of these requirements is to allow persons affected by the rulemaking sufficient lead time to prepare to comply with major new regulatory requirements. However, for the amendments proposed today, the Agency believes that delaying the effective date for any period of time would cause substantial and unnecessary disruption in the implementation of the regulations and would be contrary to the public interest.

These amendments, if promulgated in final form, would allow EPA and authorized States to issue RCRA permits for the designed operating life of each facility, thus relieving owners and operators of hazardous waste management facilities from having to reapply for a RCRA permit every 10

123, in the May 19, 1980, Federal Register (45 FR 33386), and the preamble discussion accompanying the January 26, 1981 amendments to those regulations (46 FR 8298). The State authorization requirements also were amended on July 26, 1982 (47 FR 32373).

[7] It should also be noted that under § 123.37(d) permits issued by States prior to the approval of final authorization may need to be modified after final authorization is granted to ensure that the conditions of the permits comply with RCRA requirements.

years or less. The Agency believes that this is not the type of regulation revision that Congress had in mind when it provided a delay between the promulgation and the effective date of revisions to regulations. Therefore, the Agency plans to make these amendments effective immediately if and when they are promulgated in final form, but requests comments on whether such action would cause hardship for the regulated community or otherwise be inappropriate.

Compliance With Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is not major because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. There would be no adverse impact on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Because this amendment is not a major regulation, no Regulatory Impact Analysis is being conducted.

These amendments were submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any response to those comments are available for viewing at the Office of Solid Waste docket, Room S–269C, U.S. E.P.A., 401 M St. SW, Washington, D.C. 20460.

President's Task Force on Regulatory Relief

The President's Task Force on Regulatory Relief designated the Consolidated Permit Regulations (40 CFR Parts 122–124) for review by EPA. This proposal supports the goals of the Task force by reducing burden on the regulated community. This proposal also fulfills EPA's obligations in the settlement of industry litigation on the Consolidated Permit Regulations. In addition to settling the litigation, the Agency also plans to:

- Propose other substantive changes to further streamline the Agency's permitting process, and
- Deconsolidate the regulations to make them more easily usable by the public.

As a result of deconsolidation, there will be some reorganization of the regulations. Thus, this proposed amendment may be finalized in a different format and location than it appears in the current regulations and the settlement agreement.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, Federal agencies must prepare a regulatory flexibility analysis for all proposed rules to assess their impact on small entities. No regulatory flexibility analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The economic impact of this regulation would be to reduce the costs of complying with EPA's hazardous waste management regulations for owners and operators of hazardous waste management facilities (including those which are small entities). Accordingly, I hereby certify, pursuant to 5 U.S.C. 601(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects

40 CFR Part 122

Administrative practice and procedure, Air pollution control, Confidential business information, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply.

40 CFR Part 123

Confidential business information, Hazardous materials, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply.

40 CFR Part 264

Hazardous materials, Insurance, packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Waste treatment and disposal.

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

It is proposed that Title 40 of the Code of Federal Regulations be amended as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

1. The authority citation for Part 122 reads as follows:

Authority: Resource Conservation and Recovery Act, as amended, (RCRA), 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; Clean Water Act, 33 U.S.C. 1251 *et seq.*; Clean Air Act, 42 U.S.C. 1857 *et seq.*

2. Section 122.9 is amended by revising paragraphs (b) and (e) to read as follows:

§ 122.9 Duration of permits.

* * * * *

(b) RCRA. Except as provided in paragraph (e) of this section and § 122.30, RCRA permits shall be effective for the fixed term of the designed operating life of the facility (in the case of an new facility) or the remainder of the designed operating life of the facility (in the case of an existing facility). For land disposal facilities, the term of RCRA permits shall include the post-closure care period or compliance period, whichever is longer, in addition to the designed operating life of the facility. The designed operating life of the facility is the period of time, estimated by the owner or operator and approved by EPA, for which the facility is designed to operate, and during which operation is expected to continue. The estimate should reflect consideration of the construction materials of the facility, the volume and type of waste the facility expects to handle, and the processes the facility will employ.

* * * * *

(e) The Regional Administrator may issue any NPDES, UIC or 404 permit for a duration that is less than the full allowable term under this section; for RCRA permits only, the Regional Administrator may issue a permit for a duration that is less than the full allowable term under this section only when the permit applicant so requests.

3. Section 122.15 is amended in paragraph (a)(3) by revising the introductory text and paragraph (a)(3)(i)(A) and adding paragraph (a)(7)(ix) to read as follows:

§ 122.15 Modification or revocation and reissuance of permits.

(a) * * *

(3) *New Regulations.* The standards or regulations on which the permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued. Permits for RCRA facilities and UIC Class II or III wells may be modified during their terms for this cause without following the conditions of paragraphs (a)(3)(i) and (ii) of this section. All other permits may be modified for this cause only as follows:

(i) For promulgation of amended standards or regulations, when:

(A) The permit condition requested to be modified was based on a

promulgated Part 146 (UIC) regulation, or a promulgated effluent limitation guideline or EPA approved or promulgated water quality standard (NPDES); and

* * * * *

(7) *For RCRA only,* the Director may modify a permit:

* * * * *

(ix) When the permit fails to include any applicable requirement under RCRA which is in effect prior to the date of permit issuance.

PART 123—STATE PROGRAM REQUIREMENTS

1. The authority citation for Part 123 reads as follows:

Authority: Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq;* Safe Drinking Water Act, 42 U.S.C. 300f *et seq.;* Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 123.7 is amended by revising the note following paragraph (a) to read as follows:

§ 123.7 Requirements for permitting.

(a) * * *

Note.—States need not implement provisions indentical to the above listed provisions or the provisions listed in §§ 123.7(b)-(d). Implemented provisions must, however, establish requirements at least as stringent as the corresponding listed provisions. While States may impose more stringent requirements, they may not make one requirement more lenient as a tradeoff for making another requirement more stringent; for example, by requiring that public hearings be held prior to issuing any permit while reducing the amount of advance notice of such a hearing. However, for provisions (5) and (10), a tradeoff may be made between the duration of RCRA permits and the ability of States to reopen RCRA permits during their terms if the combined regulatory effect of the two provisions is equivalent to that of Federal program.

State programs may, if they have adequate legal authority, implement any of the provisions of Parts 122 and 124. See for example, § 122.5(d) (continuation of permits) and § 124.4 (consolidation of permit processing).

* * * * *

§ 123.129 [Amended]

3. In § 123.129, paragraph (e) is removed.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for Part 264 reads as follows:

Authority: Sec. 1006, 2002, and 3004, of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6905, 6912(a) and 6924.

2. Section 264.143 is amended by revising paragraph (a)(3) to read as follows:

§ 264.143 Financial assurance for closure.

(a) * * *

(3) Payments into the trust fund must be made annually by the owner or operator until the value of the trust fund equals the current closure cost estimate. The period over which annual payments are required is hereafter referred to as the "pay-in period." The payments into the trust fund must be made as follows:

(i) For a new facility, the pay-in period is the term of the initial RCRA permit, or the remaining operating life of the facility as estimated in the closure plan, or 20 years beginning with the effective date of the permit, whichever period is shorter. The first payment must be made before the initial receipt of hazardous waste at the facility for treatment, storage, or disposal. A receipt from the trustee for this payment must be submitted by the owner or operator to the Regional Administrator before this initial receipt of hazardous waste. The first payment must be at least equal to the current closure cost estimate, except as provided in § 264.143(g), divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

Where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(ii) For existing facilities, if an owner or operator establishes a trust fund as specified in § 265.143(a) of this chapter, and the value of that trust fund is less than the current closure cost estimate when a permit is awarded for the facility, the amount of the current closure cost estimate still to be paid into the trust fund must be paid over the time remaining in the pay-in period as established under § 265.143(a)(3), or the term of the initial RCRA permit, whichever period is shorter. Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to Part 265 of this chapter. The amount of each payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

* * * * *

3. Section 264.145 is amended by revising paragraph (a)(3) to read as follows:

§ 264.145 Financial assurance for post-closure care.

(a) * * *

(3) Payments into the trust fund must be made annually by the owner or operator until the value of the trust fund equals the current post-closure cost estimate. The period over which annual payments are required is hereafter referred to as the "pay-in period." the payments into the trust fund must be made as follows:

(i) For a new facility, the pay-period is the term of the initial RCRA permit, or the remaining operating life of the facility as estimated in the closure plan, or 20 years beginning with the effective date of the permit, whichever period is shorter. The first payment must be made before the initial receipt of hazardous waste at the facility for disposal. A receipt from the trustee for this payment must be submitted by the owner or operator to the Regional Administrator before this initial receipt of hazardous waste. The first payment must be at least equal to the current post-closure cost estimate, except as provided in § 264.145(g), divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(ii) For existing facilities, if an owner or operator establishes a trust fund as specified in § 265.145(a) of this chapter, and the value of that trust fund is less than the current post-closure cost estimate when a permit is awarded for the facility, the amount of the current post-closure cost estimate still to be paid into the trust fund must be paid over the time remaining in the pay-in period as established under § 265.145(a)(3), or the term of the initial RCRA permit, whichever period is shorter. Payments must continue to be made no later than 30 days after each

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anniversary date of the first payment made pursuant to Part 265 of this chapter. The amount of each payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

* * * * *

[FR Doc. 83-3204 Filed 2-7-83; 8:45 am]
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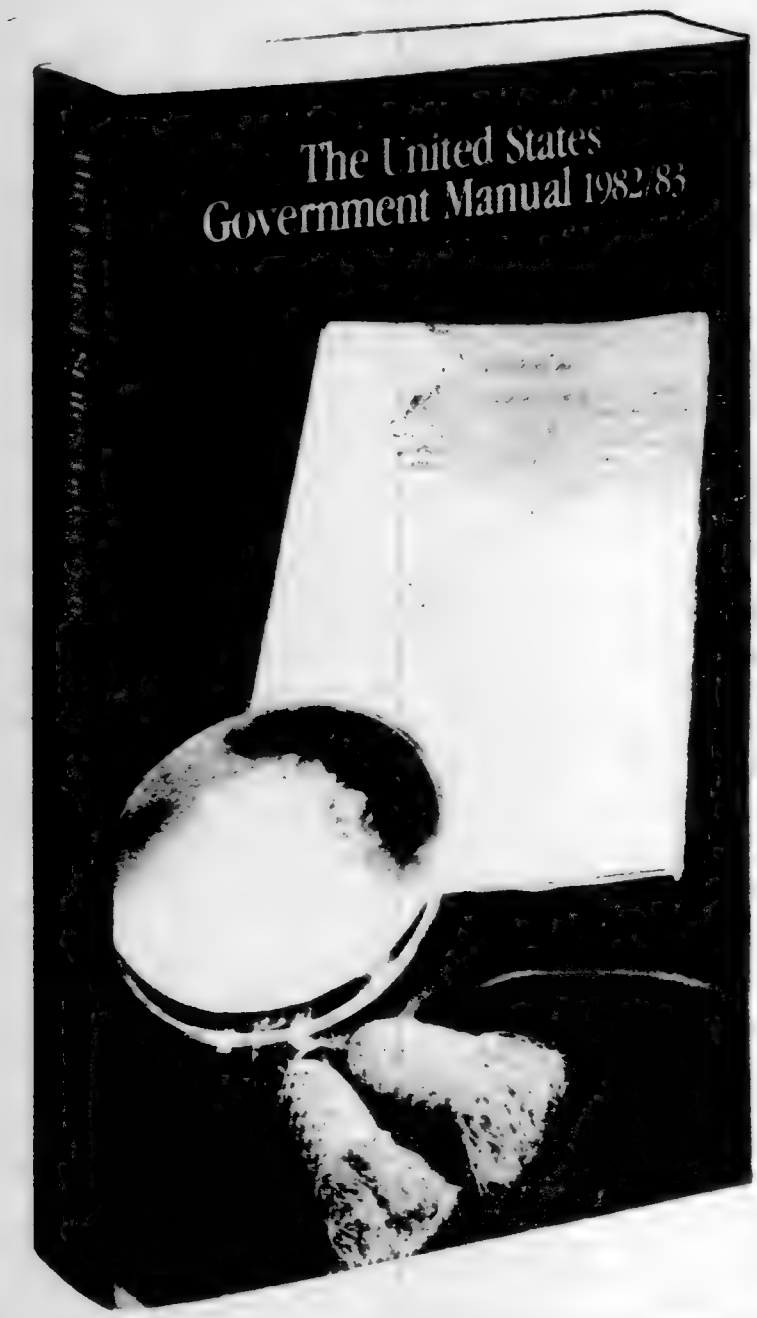

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Presidential Documents

THE PRESIDENT

Panama Canal

35 CFR Part 133

Tolls for Use of Canal; Increase in Rates

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: This rule announces an increase of approximately 9.8% in the rates of tolls for use of the Panama Canal. The increase is necessary to comply with the requirements of law that tolls be set to produce revenues sufficient to cover all costs of maintenance and operation of the Panama Canal, including capital for plant replacement and improvements. The effect of this action is to increase the rates of tolls for: (a) merchant vessels, yachts, army and navy transports, colliers, hospital ships, and supply ships, when carrying passengers or cargo, from $1.67 to $1.83 per net Panama Canal ton, (b) vessels in ballast without passengers or cargo, from $1.33 to $1.46 per net Panama Canal ton and (c) other floating craft including warships, other than transports, colliers, hospital ships, and supply ships, from $0.93 to $1.02 per ton of displacement.

EFFECTIVE DATE: March 12, 1983.

FOR FURTHER INFORMATION CONTACT: Michael Rhode, Jr., Secretary, Panama Canal Commission, Room 312, Pennsylvania Building, 425 13th Street, N.W., Washington, D.C. 20004. Telephone (202) 724–0104.

SUPPLEMENTARY INFORMATION: On April 16, 1982, an advance notice of proposed rulemaking was published in the **Federal Register** (47 FR 16360) recommending a 9.8% increase in the rates of Canal tolls. to become effective at the beginning of Fiscal Year 1983. At that time a written analysis showing the basis and justification for the proposed toll increase was made available to interested parties. The analysis stated that the increase was necessary because the Canal Commission, beginning in November 1982, would experience a significant loss of tolls revenue resulting from the diversion of Alaskan North Slope oil traffic from the Canal route to a trans-Panama oil pipeline. Written comments were solicited and received from interested parties and a public hearing was held in New York on June 2, 1982. The views presented by the interested parties, as well as other relevant information, were considered by the Supervisory Board of the Commission at its quarterly meeting of July 1982. The Board decided to defer the toll increase while awaiting more definite information on the completion and impact of the trans-Panama oil pipeline, as well as information on other matters affecting costs and revenues during 1983. On January 26, 1983, after considering the actual impact of the trans-Panama pipeline on Canal revenues and reviewing other pertinent data, the Board voted to recommend to the President that the proposed 9.8% increase be implemented as soon as practicable after March 1, 1983. The notice of proposed increase in rates of tolls recommended by the Board to the President was published in the **Federal Register** (48 FR 3784) on January 27, 1983. A complete record of the proceedings since initiation of the tolls proposal, including the data, views and arguments submitted by interested parties, was included with the Canal Commission's final recommendation and was forwarded also to the President.

Section 1602(b) of the Panama Canal Act of 1979, Pub. L. 96–70, 93 Stat. 489, requires that Canal tolls be prescribed at rates calculated to produce revenues to cover, as nearly as practicable, all costs of maintaining and operating the Panama Canal and the facilities and appurtenances related thereto, and capital for plant replacement, expansion and improvements. From a review of the information submitted by the Canal Commission, it is evident that for the Canal to remain self-sufficient a toll rate increase of 9.8% is required.

Accordingly, 35 CFR 133.1, which denotes those rates of tolls in effect since October 1, 1979, is amended to read as follows:

§ 133.1 Rates of toll.

The following rates of toll shall be paid by vessels using the Panama Canal:

(a) On merchant vessels, yachts, army and navy transports, colliers, hospital ships, and supply ships, when carrying passengers or cargo, $1.83 per net vessel ton of 100 cubic feet each of actual earning capacity—that is, the net tonnage determined in accordance with Part 135 of this chapter.

(b) On vessels in ballast without passengers or cargo, $1.46 per net vessel ton.

(c) On other floating craft including warships, other than transports, colliers, hospital ships, and supply ships, $1.02 per ton of displacement.

Dated: February 7, 1983.

Ronald Reagan

[FR Doc. 83–3712 Filed 2–8–83; 11:08 am]
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Presidential Documents

Title 3—

The President

Proclamation 5018

Year of the Bible, 1983

Correction

The file line for Proclamation 5018, appearing at page 5528 in the **Federal Register** issue of Monday, February 7, 1983, was incorrect. The correct file line is [FR Doc. 83–3381 Filed 2–4–83; 10:10 am].

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Publications; Establishment of Fees and Charges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS), issued a notice of proposed rulemaking on November 17, 1982, to amend the interim final rule originally published on June 16, 1982, which established the collection of fees for the distribution upon request of copies of tobacco publications to the general public. The Department proposed to require all media, whether trade publication or general news media, to pay for mailed publications thereby eliminating the exemption for news media presently contained in the interim final rule. The Department also proposed to add the publications "Annual Report of Tobacco Statistics" and "Tobacco Stocks" to the list of available tobacco publications and to amend the interim final rule to provide for only one annual application period instead of two. These proposals were made in order to streamline the collection process and to bring the regulations covering user fees on tobacco publications in line with regulations covering user fees for publications on other agricultural commodities. The period for public comment having passed with no responses filed, the Agricultural Marketing Service now issues a final rule adopting the interim final rule and proposed amendments.

EFFECTIVE DATE: February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Larry L. Crabtree, Assistant Chief, Marketing Programs Branch, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250; (202) 447–3489.

SUPPLEMENTARY INFORMATION: Notice was given (47 FR 25933, June 16, 1982) that the Department was implementing, effective July 1, 1982, as an interim final rule, regulations providing for the collection of fees for the printing and mailing of tobacco publications distributed by the Department under the Tobacco Inspection Act of 1935 (7 U.S.C. 511–511(q)) and the Agriculture and Food Act of 1981 (7 U.S.C. 2242a). Such fees and charges were set at a level which would cover as nearly as practicable the costs of printing, postage, and handling of tobacco publications requested by the general public except growers, news media, and certain government agencies who cooperated in the collection of data. The Department then issued a proposal to amend the interim final rule to require all news media, whether trade publications or general news media, to pay for tobacco publications delivered by mail. The Department also proposed to include the statistical publications "Annual Report of Tobacco Statistics" and "Tobacco Stocks" in the list of publications covered by user fees and reduce the application periods from two to one. This proposal was published November 17, 1982 at 47 FR 51762–51764. No comments were received to the proposed rule and the Department is amending the regulations to incorporate the interim final rule and the proposed rulemaking.

The Tobacco Inspection Act authorizes the Secretary to collect and distribute tobacco market data "without cost to growers." Since passage of the Act in 1935, the Department has distributed tobacco publications through the mail, without cost to anyone requesting them. The Agriculture and Food Act of 1981, establishes authority for the Department to promulgate regulations to establish and collect fees and charges to cover the Department's cost for the printing, handling, and mailing of tobacco publications reporting economic research and statistical data.

The Department's decision to collect fees for tobacco publications is consistent with both the Department's goal of reducing its cost of distributing publications and the Congressional policies which placed the tobacco inspection program under user fees. A limited distribution list will be established with other bureaus within USDA for copies of publications under the principle of data exchange to complement the various responsibilities of those organizations.

In the interim final rule, the Department provided that no fee would be charged for the distribution of tobacco publications to wire services, newspapers, news magazines, and broadcast news outlets. The interim final rule did provide for fees for the large number of trade journals and trade association publications aimed at organizational memberships for the reason that the Department had determined that it would not be appropriate to provide publications free of charge to these numerous organizations which service limited audiences. However, based upon written comments received from trade associations and trade publications covering a wide variety of agricultural commodities, the Department acknowledged that many publications in direct competition with each other for subscribers cannot be easily categorized as news media or trade publications. Therefore, it was proposed that the interim final rule be amended to eliminate the exemption for the news media. The Department will, however, continue to provide current information by wire service and automatic telephone answering devices.

The Annual Report on Tobacco Statistics and the Quarterly Tobacco Stocks publications were not included in the interim final rule because their status as to user fees had not been determined at that time. The Department later made a determination that a fee should also be charged for these publications and, therefore, proposed to amend the interim final rule to include them.

The interim final rule divided the publications between two application periods. Based on comments received from applicants and experience gained from processing the initial applications, the Department proposed a single application period and price list as more efficient, less costly, and to reduce confusion.

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Fees for the publications will vary according to the number of pages, frequency of issues, number of subscribers, cost of equipment, personnel, and other factors affecting printing and distribution. With the expected fluctuating costs of printing, handling, and postage, it has been determined that it would be inappropriate for the fees to be specified in the regulations where any changes would require time consuming and expensive rulemaking procedures. Therefore, the fees will be computed and announced annually by the Director of the Tobacco Division. Any modification in the fees will simply reflect changing costs incurred by USDA for the duplication, handling, and distribution of the two additional publications. Based on estimates of current costs and activity level, fees during the initial subscription period for surface mail, for the United States, Canada, and Mexico are as follows:

(1) Annual Report of Tobacco Statistics—first copy $2.00, with additional copies $1.00 each.

(2) Tobacco Stocks Report, published quarterly—annual rate $4.00 with additional copies $0.50 (50¢) each.

(3) Flue-cured type 11—$8.00—consisting of weekly and season issues.

(4) Flue-cured type 12—$8.00—consisting of weekly and season issues.

(5) Flue-cured type 11 and 12—$14.00—combined mailing of these types.

(6) Flue-cured type 13—$8.00—consisting of weekly and seaon issues.

(7) Flue-cured type 14—$6.00—consisting of weekly and season issues.

(8) Flue-cured type 11–14—$25.00—consisting of weekly and season issues for each type.

(9) Annual Flue-cured Market Review—first copy $2.00, with additional copies $1.00 each.

(10) Virginia fire-cured type 21—$6.00—consisting of weekly and season issues.

(11) Virginia sun-cured type 37—$4.00—consisting of weekly and season issues.

(12) Virginia fire and sun-cured types 21 and 37—$8.00—combined mailing of these types.

(13) Kentucky-Tennessee fire-cured types 22 and 23—$6.00—consisting of weekly and season issues.

(14) One-Sucker—type 35—$4.00—consisting of weekly and season issues.

(15) Green River—type 36—$4.00—consisting of weekly and season issues.

(16) Kentucky-Tennessee fire-cured, One-sucker and Green River dark air-cured types 22, 23, 35, and 36—$10.00—combined mailing of these types.

(17) Annual Fire and Dark air-cured Market Review—first copy $2.00, with additional copies $1.00 each.

(18) Burley type 31—$10.00—consisting of weekly and season issues.

(19) Annual Burley Tobacco Market Review—first copy $2.00, with additional copies $1.00 each.

An additional fee of $2.00 will be charged for requests for surface mailing of the two additional publications outside of the United States, Canada, or Mexico. Charges for air mail service outside of the United States, Canada, and Mexico will vary depending on the type of service requested.

Also, special requests for file copies, large volumes of issues, or requests which require special handling, will be assessed fees sufficient to cover the actual cost of the requested service.

Subscription fees will be prorated for requests arriving after the end of the application period, but will be subject to an additional fee to cover the Department's handling costs.

The authority for these regulations is contained in the Tobacco Inspection Act (49 Stat. 7 U.S.C. 511–511(q)) and the Agriculture and Food Act of 1981 (Pub L. 97–98).

This final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been determined to be a "non-major" rule because it does not meet any of the criteria established for major rules under the executive order. Additionally, in conformance with the provisions of the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601) full consideration has been given to the potential economic impact upon small businesses. All tobacco warehousemen and producers and some tobacco buyers fall within the confines of "small business" as defined in the Regulatory Flexibility Act. A substantial number of buyers on auction markets who use the publications do not meet the definition of small businesses either because of their individual size or because of their dominant position in one or more marketing areas. The Department had informally advised all segments of the tobacco industry of the anticipated implementation of charges for publications and that these publications and information would remain available. It has been determined that the economic impact upon all entities, small and large, will not be adverse and will in no way affect normal competition in the market place.

List of Subjects in 7 CFR Part 29

Tobacco publications, Subscription fees, Tobacco.

PART 29—[AMENDED]

Accordingly, the Department adopts the aforesaid proposals to the Interim Final Rule and amends 7 CFR Part 29 by revising § 29.131 to read as follows:

§ 29.131 Tobacco publications.

The regulations in this section are issued to implement a subscription fee system for publications issued by the Tobacco Division, Agricultural Marketing Service. All other means of dissemination of market data currently in use, such as commercial and public wire service, telephone answering devices, radio and television will continue without charge to the recipient. Publications under the Act and this section shall be distributed in whatever manner and form and for whatever purpose the Director may choose, and will be available for distribution as follows:

(a) Publications consisting of timely information on the market supply and demand, location, disposition, quality, condition, and market prices for tobacco shall be available on an annual subscription through the mail upon written application and payment of a fee, except that no fee will be charged to other government agencies who cooperate in the collection of market data for the respective publication and growers. There shall be an annual application period during the months of February, March, and April.

(b) Subscription fees for publications shall be calculated by the Director annually to recover costs of printing (including machinery, paper, ink, and miscellaneous supplies) postage, and handling (including the accounting system, fee collection, and personnel with necessary supervision), and released prior to the application period. In order to keep subscription fees to a minimum level, the Director may choose to combine the data of two or more types of tobacco into a single publication.

(c) Requests involving research of records, file copies, large volumes of issues, or requests which require additional handling, shall be assessed fees sufficient to cover the actual cost of the requested service to the Department.

(d) Subscription fees will be prorated for requests arriving after the end of the application period, but may be subject to an additional handling charge to cover additional costs incurred by the Department.

(e) Information concerning tobacco publications and subscription fees may be obtained from the Director, Tobacco Division, Agricultural Marketing

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Service, Room 502, Annex Building, United States Department of Agriculture, Washington, D.C. 20250.

Dated: February 2, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-3229 Filed 2-8-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 208

Aliens and Nationality; Asylum Procedures

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the Service's interim regulations relating to jurisdiction over applications for asylum which were published in conjunction with other interim and related regulations in the **Federal Register** on June 2, 1980 and effective June 1, 1980. After considering public comments and after evaluating Service experience with implemention of asylum procedures during the interim period, the Service is publishing this final rule which further implements the provisions of the Refugee Act of 1980.

EFFECTIVE DATE: February 8, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3048

For Specific Information: John L. Rebsamen, Director, Refugee and Parole Staff, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536, Telephone: (202) 633-2361

SUPPLEMENTARY INFORMATION:

General

On June 2, 1980, at 45 FR 37393, the Service published interim regulations, effective June 1, 1980, to implement Title II of the Refugee Act of 1980, Pub. L. 96-212, 94 Stat. 102. The Act establishes a permanent and systematic procedure for meeting the humanitarian needs of refugees seeking asylum in the United States.

Section Analysis

The following section analysis is based upon the public comments received during 60 day comment period following publication of the interim regulations on June 2, 1980, and on the Service's experience during this period.

Part 208—Asylum Procedures

A number of commenters suggested that all applications for asylum, whether filed before or after the institution of exclusion or explusion proceedings, should be decided by the district director. Proceedings before the district directors were viewed as less adversarial in nature and were providing the applicants with a freer atmosphere within which to present their claims. It was pointed out that many applicants have fled from countries where the judicial process is suspect and feared by them and, they would not feel free to present their claims with the same candor that they could in a proceeding before a district director.

The comments have been carefully considered. While we consider the commenters' concerns to be understandable, we do not believe that in practice an application for asylum is given less consideration by an immigration judge than by a district director. In practice, it is not any more difficult for an applicant to properly present and support an asylum application during the course of exclusion or deportation proceedings than it is during the course of an interview before a district director.

This position is wholly consistent with recent decisions of the Board of Immigration Appeals. *See, Matter of Dea,* I.D. 2912 (BIA 1982); *Matter of Matelot,* A26 007 558 (Nov. 1, 1982). In addition, the final rule clarifies the intent of the statute and the purpose of the interim rule. Once an order to show cause or a notice of referral to exclusion proceedings is issued, sole authority to consider the individual's asylum application will lie with the immigration judge. An application pending with the district director at that point must be resubmitted to the immigration judge.

This final rule is not a major rule within the definition of subsection 1(b) of E.O. 12291. The order makes technical revisions to interim regulations which have been in effect since June 1, 1980.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization Service certifies that promulgation of this final rule will not have a significant economic impact on a substantial number of small entities because the rule is substantially a technical revision of existing interim regulations and does not add an additional burden upon the public.

List of Subjects in 8 CFR Part 208

Administrative practice and procedure, Aliens, Asylum, Immigration, Jurisdiction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 208—ASYLUM PROCEDURES

1. Section 208.1 is revised to read as follows:

§ 208.1 Jurisdiction.

(a) Jurisdiction over any application for asylum made by an applicant for admission at a port of entry lies with the district director having jurisdiction over that port of entry. Initial jurisdiction over any application for asylum made by an alien in the United States lies with the district director having jurisdiction over the application's place of residence.

(b) Exclusive jurisdiction over an asylum application filed but an alien who has been served a notice of referral to exclusion proceedings under § 236.3 of this chapter, or served an order to show cause under § 242.1 of this chapter, lies with the immigration judge. Except upon the motion of the district director, an immigration judge shall not remand an application or terminate a proceeding on the ground that the district director has failed to adjudicate an asylum application filed, or allegedly filed, prior to the issuance of the order to show cause or the notice to appear for exclusion proceedings. Any previously filed but unadjudicated asylum application must be resubmitted by the alien to the immigration judge.

2. In § 208.3, paragraph (a)(2) is revised to read as follows:

§ 208.3 Filing Application.

(a) * * *

(1) * * *

(2) Is in the United States, regardless of status, and has not been served either with a notice to applicant for admission detained for hearing before an immigration judge or with an order to show cause.

* * * * *

(Secs. 101, 103, 208 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1101, 1103, 1158; 5 U.S.C. 552))

Dated: January 20, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner for Examinations, Immigration and Naturalization Service.

[FR Doc. 83-3393 Filed 2-8-83; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 70

Regional Licensing Reviews

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations to require licensees to submit reports of plan changes which do not decrease safeguards effectiveness to NRC regional offices. This action is being taken as part of the implementation of the NRC regional licensing program under which responsibility for certain categories of action has been delegated to Regional Administrators. The amendments are necessary to inform curent or prospective licensees of current NRC practice and organization.

EFFECTIVE DATE: February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Martin Levy, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC, Telephone: (301) 427–4024.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission is amending its regulations concerning the reviews of reactor security and contingency plan changes, transportation physical protection plan changes, and special nuclear material facility security, contingency and material control and accounting program changes where the plan or program changes do not decrease effectiveness. These amendments are being made to reflect current NRC practices and assigned responsibilities under the NRC regional licensing program. The revised provisions, 10 CFR 50.54(p), and 70.32 (c), (d), (e), and (g), specify that notification as to changes to certain security and contingency plans and material control and accounting programs in Regions I and II be sent to the cognizant regional office commencing February 9, 1983. As of October 1, 1983, notification as to changes in certain security and contingency plans and material control and accounting programs in all regions will be sent to the cognizant regional offices. With respect to the specific actions delegated to the Regional Administrators, the revisions to the regulations are intended to state exactly which functions are now assigned to the Regional Administrators as their total responsibility under the Commission's regionalization program and when these responsibilities will become effective.

The basic delegation of authority for the Regional Administrators is contained in NRC Manual Chapter 0128. The general delegation requires supplementation, however, as specific functions are transferred to the Regional Offices. The amendments contained herein meet the requirement for such supplementation.

The changes to 10 CFR 50.54(p) and 70.32 (c), (d), (e), and (g) are nonsubstantive amendments. They simply change the entity to which certain notices are sent and the dates that the change becomes effective.

Since the amendments relate to minor matters of agency organization and procedure, notice of proposed rulemaking and public procedure thereon are unnecessary under 5 U.S.C. 553. For the same reason good cause exists for making the amendments effective upon publication in the **Federal Register** without the customary thirty day notice.

Paperwork Reduction Act Statement

The information collection requirements contained in this regulation have been approved under OMB clearance numbers 3150–0011, 3150–0009.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 70

Hazardous materials—Transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the following amendments to 10 CFR Parts 50 and 70, are published as a document subject to codification.

The authority for this document is sec. 161, Pub. L 83–703, 68 Stat. 948, as amended, (42 U.S.C. 2201).

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. Section 50.54(p) is revised to read as follows:

§ 50.54 Conditions of licenses.

Whether stated therein or not, the following shall be deemed conditions in every license issued:

* * * * *

(p) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with Appendix C of 10 CFR Part 73 for effecting the actions and decisions contained in the Responsibility Matrix of the safeguards contingency plan. The licensee may make no change which would decrease the effectiveness of a security plan prepared pursuant to § 50.34(c) or Part 73 of this chapter, or of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, Responsibility Matrix) contained in a licensee safeguards contingency plan prepared pursuant to § 50.34(d) or Part 73, as applicable, without prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to his license pursuant to § 50.90. The licensee may make changes to the security plan or to the safeguards contingency plan without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain records of changes to the plans made without prior Commission approval for a period of two years from the date of the change, and shall furnish to the Director of Nuclear Material Safety and Safeguards (f or enrichment and reprocessing facilities) or to the Director of Nuclear Reactor Regulation (for nuclear reactors), U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, a report containing a description of each change within two months after the change is made. Commencing on February 9, 1983, licensees in Regions I and II, and commencing on October 1, 1983 licensees in all regions shall furnish the report required by this paragraph to the Regional Administrator of the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, with a copy to the Director of Nuclear Material Safety and Safeguards (for enrichment and reprocessing facilities) or to the Director of Nuclear Reactor Regulation (for nuclear reactors). Prior to the safeguards contingency plan being put into effect, the licensee shall have:

(1) All safeguards capabilities specified in the safeguards contingency plan available and functional,

(2) Detailed procedures developed according to Appendix C to Part 73 available at the licensee's site, and

(3) All appropriate personnel trained to respond to safeguards incidents as outlined in the plan and specified in the detailed procedures.

The licensee shall provide for the development, revision, implementation, and maintenance of his safeguards contingency plan. To this end, the licensee shall provide for a review at least every 12 months of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review shall include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards system along with commitments established for responses by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements, shall be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of two years.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

2. In § 70.32, paragraphs (c), (d), (e) and (g) are revised to read as follows:

§ 70.32 Conditions of Licenses.

* * * * *

(c)(1) Each license authorizing the possession at any one time and location of special nuclear material in a quantity exceeding one effective kilogram of special nuclear material and the use of such special nuclear material except those uses involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter and those involved in a waste disposal operation and in sealed sources, shall contain and be subject to a condition requiring the licensee to maintain and follow (i) the program for control and accounting for special nuclear material and fundamental material controls described pursuant to § 70.22(b) or 70.58, (ii) the measurement control program for special nuclear materials control and accounting discribed pursuant to § 70.57(c), and (iii) such other material control procedures as the Commission determines to be essential for the safeguarding of special nuclear material and providing that the licensee shall make no change which would decrease the effectiveness of the material control and accounting program prepared pursuant to § 70.22(b), 70.58 or 70.51(g), and the measurement control program prepared pursuant to § 70.57(c) without the prior approval of the Commission. A licensee desiring to make such changes shall submit an application for amendment to his license pursuant to § 70.34.

(2) The licensee shall maintain records of changes to the material control and accounting program made without prior Commission approval, for a period of five years from the date of the change, and shall furnish to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office shown in Appendix A of Part 73 of this chapter, a report containing a description of each change within:

(i) Two months of the change if it pertains to uranium-233, uranium-235 contained in uranium enriched 20 percent or more in the uranium-235 isotope, or plutonium, except plutonium containing 80 percent or more by weight of the isotope Pu-238, and (ii) Six months of the change if it pertains to uranium enriched less than 20 percent in the uranium-235 isotope, or plutonium containing 80 percent or more by weight of the isotope Pu-238.

(3) Commencing February 9, 1983, licensees in Regions I and II, and commencing on October 1, 1983 licensees in all regions shall furnish the report required by this paragraph to the Regional Administrator of the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, with a copy to the Director of Nuclear Material Safety and Safeguards.

(d) The licensee shall make no change which would decrease the effectiveness of the plan for physical protection of special nuclear material in transit prepared pursuant to § 80.22(g) or § 73.20(c) of this chapter without the prior approval of the Commission. A licensee desiring to make such changes shall submit an application for a change in the technical specifications incorporated in his license, if any, or for an amendment to his license pursuant to § 50.90 or 70.34 of this chapter, as appropriate. The licensee may make changes to the plan for physical protection of special nuclear material without prior Commission approval if these changes do not decrease the effectiveness of the plan. A report containing a description of each change shall be furnished the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office shown in Appendix A of Part 73 of this chapter within two months after the change. Commencing on February 9, 1983, licensees in Regions I and II, and commencing on October 1, 1983 licensees in all regions shall furnish the report required by this paragraph to the Regional Administrator of the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, with a copy to the Director of Nuclear Material Safety and Safeguards.

(e) The licensee shall make no change which would decrease the effectiveness of a security plan prepared pursuant to § 70.22(h) or 73.20(c) without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to his license pursuant to § 70.34. The licensee shall maintain records of changes to the plan made without prior Commission approval, for a period of two years from the date of the change, and shall furnish to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to Regional Office shown in Appendix A of Part 73 of this chapter, a report containing a description of each change within two months after the change is made. Commencing February 9, 1983 licensees in Regions I and II, and commencing on October 1, 1983 licensees in all regions shall furnish the report required by this paragraph to the Regional Administrator of the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, with a copy to the Director of Nuclear Material Safety and Safeguards.

* * * * *

(g) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with Appendix C of 10 CFR Part 73 for effecting the actions and decisions contained in the Responsibility Matrix of his safeguards contingency plan. The licensees shall make no change that would decrease the safeguards effectiveness of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix) contained in any licensee safeguards contingency plan prepared pursuant to § 70.22(g), 70.22(j), 70.30(g), or 73.40 of this chapter without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to his license pursuant to § 70.34 of this

chapter. The licensee may make changes to the licensee safeguards contingency plan without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain records of changes to any such plan made without prior approval for a period of 2 years from the date of the change, and shall furnish to the Director of Nuclear Material Safety and Safeguard, U.S. Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, a report containing a description of each change within 2 months after the change is made. Commencing on February 9, 1983 licensees in Regions I and II, and commencing on October 1, 1983 licensees in all regions shall furnish the report required by this paragraph to the Regional Administrator of the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, with a copy to the Director of Nuclear Material Safety and Safeguards.

Dated at Bethesda, Md., this 20th day of January 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-3326 Filed 2-8-83; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0454]

Interest on Deposits (Regulation Q); Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by the severe storms, tornadoes, and flooding in the designated areas of Missouri.

EFFECTIVE DATE: December 10, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452-3711).

SUPPLEMENTARY INFORMATION: On December 10, 1982, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Missouri counties of Bollinger, Cape Girardeau, Carter, Franklin, Iron, Jefferson, Lincoln, Perry, Phelps, Pulaski, Ripley, St. Charles, Ste, Genevieve, St. Louis, and Wayne major disaster areas. The declaration was subsequently amended on January 3, 1983, to add the city of Thayer. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster areas as a result of the severe storms, tornadoes, and flooding beginning on or about December 1, 1982. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to December 10, 1982, and will remain in effect until 12 midnight, June 15, 1983.

List of Subjects in 12 CFR Part 217

Advertising, Banks, banking, Federal Reserve System, Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the disaster area directly affected by the severe storms, tornadoes, and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, February 2, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-3413 Filed 2-8-83; 8:45 am]

BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 115

[Rev. 1, Amdt 1]

Surety Bond Guarantee Regulations

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule provides procedures to protect sureties and SBA in transactions with agents, brokers and other sureties when the conduct of such a person, as identified by the regulation demonstrates a lack of business integrity. The final rule extends existing regulation Sec. 115.13, which provides only for SBA adverse sanctions where a surety's operation under the SBA Surety Bond Guarantee program has demonstrated wrongdoing, improper practices or performance below standards established in that Section.

SBA's proposed rule was published on October 20, 1982, (47 CFR 46706), and provided for a 30 day comment period. The final rule is unchanged from the proposed rule.

EFFECTIVE DATE: February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Howard F. Huegel, Chief, Surety Bond Guarantee Branch, Office of Special Guarantees, Small Business Administration, 4040 N. Fairfax Drive, Suite 500, Arlington, Va. 22203; (703) 235-2900.

SUPPLEMENTARY INFORMATION: SBA received only two comments. One of these was from a trade association and was supportive of the proposal. The other comment was from an interested individual. That commentator suggested that the coverage of the rule should not be limited to persons presenting applications for SBA guarantee of surety bonds but should include persons acting as "claims attorneys." SBA believes no further change is necessary. If an attorney is empowered to act on behalf of a surety, or its agent, the person will be subject to the rule.

For the purposes of Executive Order 12291, SBA hereby determines that this rule will not constitute a major rule. In addition, it hereby is certified pursuant to section 605 of the Regulatory Flexibility Act, 5 U.S.C. 605, that this rule will not have a significant economic impact on a substantial number of small entities. In this regard this rule will not affect any small business except where the small concern's request for surety bond assistance is made to a person determined through operation of the rule to be ineligible, because of a lack of good character, to present a surety's

application for SBA guarantee. In such an instance the effect upon the small concern will be in terms of the time needed for its request to be accepted by a person possessing good character. Therefore, SBA determines that the rule does not have the type of impact upon small entities which is contemplated by the Regulatory Flexibility Act.

Pursuant to authority contained in section 411(d) Title IV, Part B. Small Business Investment Act of 1958, as amended [15 U.S.C. 694(b)(d)], the following provision of Part 115 is adopted:

List of Subjects in 13 CFR Part 115

Surety bond guarantee.

PART 115—[AMENDED]

Present § 115.13 is designated as paragraph (a) and captioned "Improper SBG practices", and a new paragraph (b) is added, as follows:

§ 115.13 Refusal to issue further guarantees.

(a) *Improper SBG practices.* * * *

(b) *Business integrity.*—(1) Any person qualifying as a surety under §§ 115.3(a)(4) and 115.3(b)(2), or any agent, independent agent, underwriter or individual empowered to act on behalf of such person shall be presumed to have good character and reputation for business integrity and shall, until one of the following events occur, be entitled to present applications for guarantees of bonds:

(i) A state or other authority regulating insurance (including the surety business) has denied, revoked, cancelled or suspended the license of such person;

(ii) Such person has been indicted or otherwise formally charged with, or convicted of, a misdemeanor or crime, or suffered an adverse final civil judgment in a case involving a breach of trust or the violation of a law or regulation protecting the integrity of business transactions or relationships;

(iii) Such person has made material misrepresentations or willful false statements in the presentation of oral or written information to SBA in connection with applications for surety bond guarantees or the presentation of claims thereon.

(2) Upon the occurrence of an indictment or formal charge of a misdemeanor or crime against such person, SBA may suspend the privilege of such person to present applications for guarantees of bonds, in a proceeding pursuant to §§ 104.2 through 104.12 of this Chapter. Upon the occurrence of any of the other events specified in subsection (b)(1) hereof, SBA may suspend or revoke the privilege of such person to present applications for guarantees of bonds, in a proceeding pursuant to §§ 104.2 through 104.12 of this Chapter.

(Catalog of Federal Domestic Assistance Program No. 59.016, Bond Guarantee Assistance for Surety Companies).

Dated: January 31, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-3538 Filed 2-8-83; 8:45 am]

BILLING CODE 8025-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1203

Information Security Program

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This amendment is necessary to comply with the provisions of Executive Order 12356, "National Security Information." This amendment sets forth guides and guidelines for classifying, declassifying, and downgrading national security information and material under the NASA Information Security Program. This amendment also assigns responsibilities for the management and direction of the Program.

EFFECTIVE DATE: August 1, 1982.

ADDRESS: Chief, NASA Security Office, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ben B. Pagac, telephone (202) 755-3400.

List of Subjects in 14 CFR Part 1203

Classified information, Foreign relations.

PART 1203—INFORMATION SECURITY PROGRAM

For reasons set out in the Preamble, 14 CFR Part 1203 is amended by revising the authority citation; the Table of Contents for Subparts D and F; § 1203.100(a); § 1203.200 (b), (b)(5), and (c); § 1203.202 (a)(2), (a)(6), (f) and (g); § 1203.203 (a), (b) and (b)(3); § 1203.400 (b) and (j); § 1203.407; § 1203.410 (f) and (g); § 1203.411; § 1203.412(a) (3) and (4) § 1203.500; § 1203.501 (a) and (c); § 1203.600; § 1203.602; § 1203.603; § 1203.604 (a), (b)(1) and (2), (e)(5), (f) and g(3)(ii); § 1203.701(b); § 1203.702; § 1203.703 (a) and (b) to read as follows:

1. The authority citation for 14 CFR Part 1203 is revised to read as follows:

Authority: 42 U.S.C. 2451 et seq. and E.O. 12356.

2. The Table of Contents for Subpart D is revised to read as follows:

Subpart D—Guides for Original Classification

Sec.
1203.400 Specific classifying guidance.
1203.401 Effect of open publication.
1203.402 Classifying material other than documentation.
1203.403 State-of-the-art and intelligence.
1203.404 Handling of unprocessed data.
1203.405 Proprietary information.
1203.406 Additional classification factors.
1203.407 Duration of classification.
1203.408 Assistance by installation security classification officers.
1203.409 Exceptional cases.
1203.410 Limitations.
1203.411 Restrictions.
1203.412 Classification guides.

3. The Table of Contents for Subpart F is revised to read as follows:

Subpart F—Declassification and Downgrading

Sec.
1203.600 Policy.
1203.601 Responsibilities.
1203.602 Authorization.
1203.603 Systematic review for declassification.
1203.604 Mandatory review for declassification.

4. Section 1203.100 is amended by revising paragraph (a) to read as follows:

§ 1203.100 Legal basis.

(a) *Executive Order 12356 (hereinafter referred to as "the Order").* The responsibilities and authority of the Administrator of NASA with respect to the original classification of official information or material requiring protection against unauthorized disclosure in the interest of national defense or foreign relations of the United States (hereinafter collectively termed "national security"), and the standards for such classification, are established by the "the Order" (47 FR 14874) and the Information Security Oversight Office Directive No. 1, June 25, 1982;

* * * * *

Subpart B—NASA Information Security Program

5. Section 1203.200, the introductory text of paragraphs (b), (b)(5), and (c) are revised to read as follows:

§ 1203.200 Background and discussion.

* * * * *

(b) In recognition of the essential requirement for an informed public

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concerning the activities of its Government, as well as the need to protect certain national security information from unauthorized disclosure, "the Order" was promulgated. It designates the National Aeronautics and Space Administration certain responsibility for matters pertaining to national security and confers on the Administrator of NASA, or such responsible officers or employees as the Administrator may designate, the authority for original classification of official information or material which requires protection in the interest of national security. It also provides for:

* * * * *

(5) Classification limitations and restrictions as discussed in § 1203.410 and § 1203.411.

(c) "The Order" requires the timely identification and protection of that NASA information the disclosure of which would be contrary to the best interest of national security. Accordingly, the determination in each case must be based on a judgment as to whether disclosure of information could reasonably be expected to result in damage to the national security.

6. Section 1203.202 is amended by revising paragraphs (a)(2), (a)(6), (f), and (g) to read as follows:

§ 1203.202 Responsibilities.

(a) The Chairperson, NASA Information Security Program Committee (Subpart I of this Part), is responsible for: * * *

(2) Ensuring effective compliance with and implementation of "the Order" and the Information Security Oversight Office Directive No. 1 relating to security classification matters.

* * * * *

(6) Developing, maintaining and recommending to the Administrator guidelines for the systematic review covering 30-year-old classified information under NASA's jurisdiction.

* * * * *

(f) The NASA Security Classification Manager, NASA Security Office, NASA Headquarters, who serves as a member and Executive Secretary of the NASA Information Security Program Committee, is responsible for the NASA-wide coordination of security classification matters.

(g) The Chief, NASA Security Office, is responsible for establishing procedures for the safeguarding of classified information or material (e.g., accountability, control, access, storage, transmission, and marking) and for ensuring that such procedures are systematically reviewed; and those which are duplicative or unnecessary are eliminated.

7. Section 1203.203 is amended by revising paragraphs (a), (b), and (b)(3) to read as follows:

§ 1203.203 Degree of protection.

(a) *General.* Upon determination that information or material must be classsified, the degree of protection commensurate with the sensitivity of the information must be determined. If there is reasonable doubt about the need to classify information, it shall be safeguarded as if it were classified pending a determination by an original classification authority, who shall make this determination within 30 days. If there is reasonable doubt about the appropriate level of classification, it shall be safeguarded at the higher level of classification pending a determination by an original classification authority, who shall make this determination within 30 days.

(b) *Authorized Categories of Classification.* The three categories of classification, as authorized and defined in "the Order," are set out below. No other restrictive markings are authorized to be placed on NASA classified documents or materials except as expressly provided by statute or by NASA Directives.

* * * * *

(3) *Confidential.* Confidential is the designation applied to that information or material for which the unauthorized disclosure could reasonably be expected to cause damage to the national security.

* * * * *

Subpart D—Guides for Original Classification

8. Section 1203.400 is amended by revising the introductory text and paragraphs (b) and (j) to read as follows:

§ 1203.400 Specific classifying guidance.

Technological and operational information and material, and in some exceptional cases scientific information falling within any one or more of the following categories, must be classified if its unauthorized disclosure could reasonably be expected to cause damage to the national security. In cases where it is believed that a contrary course of action would better serve the national interests, the matter should be referred to the Chairperson, NASA Information Security Program Committee, for a determination. It is not intended that this list be exclusive; original classifiers are responsible for initially classifying any other type of information which, in their judgment, requires protection under "the Order."

* * * * *

(b) Information which, if disclosed, would significantly diminish the technological lead of the United States in any military system, subsystem or component, and would result in damage to such a system, subsystem or component.

* * * * *

(j) Operational information pertaining to the command and control of space vehicles, the possession of which would facilitate malicious interference with any U.S. space mission, that might result in damage to the national security.

9. Section 1203.407 is revised to read as follows:

§ 1203.407 Duration of classification.

(a) Information shall be classified as long as required by national security considerations. When it can be determined, a specific date or event for declassification shall be set by the original classification authority at the time the information is originally classified.

(b) Information classified under predecessor orders and marked for declassification review shall remain classified until reviewed for declassification under the provisions of the "the Order."

10. Section 1203.410 is amended by revising the section heading and paragraphs (f) and (g), to read as follows:

§ 1203.410 Limitations.

* * * * *

(f) Information may be classified or reclassified after receipt of a request for it under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory review provisions of "the Order" if such classification meets the requirements of "the Order" and is accomplished personally on a document-by-document basis by an official with original Top Secret classification authority.

(g) The Administrator, the Chairperson, NASA Information Security Program Committee, or an official with original Top Secret classification authority may reclassify information previously declassified and disclosed if it is determined in writing that (1) The information requires protection in the interest of national security; and (2) the information may reasonably be recovered. These reclassification actions shall be reported promptly to the Director of the Information Security Oversight Office, GSA.

11. Subpart D is amended by adding a new § 1203.411, reading as follows:

§ 1203.411 Restrictions.

(a) Except as provided by directives issued by the President through the National Security Council, classified information originating in one agency may not be disseminated outside any other agency to which it has been made available without the consent of the originating agency. For purposes of this section, the Department of Defense shall be considered one agency.

(b) Classified information shall not be disseminated outside the Executive Branch except under conditions that ensure the information will be given protection equivalent to that afforded within the Executive Branch.

12. Section 1203.412 is amended by revising paragraphs (a)(3) and (a)(4) to read as follows:

§ 1203.412 Classification guides.

(a) * * *

(3) State the duration of each specified classification in terms of a period of time or future event. Whenever a specific time or future event for declassification cannot be predetermined, the following notation will be used: DECLASSIFY ON: Originating Agency's Determination Required or "OADR."

(4) Indicate specifically that the designations, time limits, markings and other requirements of "the Order" are to be applied to information classified pursuant to the guide.

* * * * *

Subpart E—Derivative Classification

13. Section 1203.500 is revised to read as follows:

§ 1203.500 Use of derivative classification.

The application of derivative classification markings is a responsibility of those who incorporate, paraphrase, restate, or generate in new form information that is already classified, and of those who apply markings in accordance with instructions from an authorized original classifier or in accordance with an authorized classification guide. If a person who applied derivative classification markings believes that the paraphrasing, restating, or summarizing of classified information has changed the level of or removed the basis for classification, that person must consult for a determination with an appropriate official of the originating agency or office of origin who has the authority to upgrade, downgrade, or declassify the information.

14. Section 1203.501 is amended by revising the introductory text and paragraphs (a) and (c) to read as follows:

§ 1203.501 Applying derivative classification markings.

Persons who apply derivative classification markings shall:

(a) Observe and respect original classification decisions:

* * * * *

(c) Carry forward to newly created documents any assigned authorized markings. The declassification date or event that provides the longest period of classification shall be used for documents classified on the basis of multiple sources.

Subpart F—Declassification and Downgrading

15. Section 1203.600 is revised to read as follows:

§ 1203.600 Policy.

Information shall be declassified or downgraded as soon as national security considerations permit. NASA reviews of classified information shall be coordinated with other agencies that have a direct interest in the subject matter. Information that continues to meet the classification requirements prescribed by § 1203.400 despite the passage of time will continue to be protected in accordance with "the Order."

16. Section 1203.602 is amended by revising the section heading and text to read as follows:

§ 1203.602 Authorization.

Information shall be declassified or downgraded by the official who authorized the original classification, if that official is still serving in the same position, the originator's successor, a supervisory official of either, or officials delegated such authority in writing by the Administrator or the Chairperson, NASA Information Security Program Committee.

17. Section 1203.603 is revised to read as follows:

§ 1203.603 Systematic review for declassification.

(a) *General.* (1) Except for foreign government information as provided in Subpart G of this Part, classified information constituting permanently valuable records of the government as defined by 44 U.S.C. 2103, and information in the possession and control of the Administrator of General Services Administration pursuant to 44 U.S.C. 2107 or 2107 note, shall be reviewed for declassification as it becomes 30 years old.

(2) Systematic review for declassification of classified cryptologic information will be coordinated through the National Security Agency.

(3) Systematic review for declassification of classified information pertaining to intelligence activities (including special activities) or intelligence sources or methods will be coordinated through the Central Intelligence Agency.

(4) The Chairperson, NASA Information Security Program Committee, shall designate experienced personnel to assist the Archivist of the United States in the systematic review of 30-year old U.S. originated information and 30-year old foreign information. Such personnel shall:

(i) Provide guidance and assistance to National Archives and Records Service employees in identifying and separating documents and specific categories of information within documents which are deemed to require continued classification; and

(ii) Develop reports of information or document categories so separated, with recommendations concerning continued classification.

(b) *Systematic Review Guidelines.* The Chairperson, NASA Information Security Program Committee, shall develop, in coordination with NASA organizational elements, guidelines for the systematic review for declassification of 30-year old classified information under NASA's jurisdiction. (See Subpart G of this part, Foreign Government Information.) The guidelines shall state specific limited categories of information which, because of their national security sensitivity, should not be declassified automatically but should be reviewed item-by-item to determine whether continued protection beyond 30 years is needed. These guidelines are authorized for use by the Archivist of the United States and, with the approval of the Administrator, by an agency having custody of the information covered by the guidelines. All information, except foreign government information, cryptologic information, and information pertaining to intelligence sources or methods, not identified in these guidelines as requiring review and for which a prior automatic declassification date has not been established shall be declassified automatically at the end of 30 years from the date of original classification. These guidelines shall be reviewed at least every 5 years and revised as necessary unless an earlier review for revision is requested by the

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Archivist of the United States. Copies of the declassification guidelines promulgated by NASA will be provided to the Information Security Oversight Office, GSA.

(c) *Systematic Review Procedures.* (1) All security classified records 30 years old or older, whether held in storage areas under installation control or in Federal Records Centers, will be surveyed to identify those that require scheduling for future disposition.

(2) All NASA information or material in the custody of the National Archives and Records Service that is permanently valuable and more than 30 years old is to be systematically reviewed for declassification by the Archivist of the United States with the assistance of the personnel designated for the purpose pursuant to paragraph (a)(4)(i) of this section. The Archivist shall refer to NASA that information or material which NASA has indicated requires further review. In the case of 30-year old information or material in the custody of NASA installations, such review will be accomplished by the custodians of the information or material. The installation having primary jurisdication over the information or material received from the Archivist or in its custody, shall proceed as follows:

(i) Classified information or material over which NASA exercises exclusive or final original classification authority and which is to be declassified in accordance with the systematic review guidelines developed under paragraph (b) of this section shall be so marked.

(ii) Classified information or material over which NASA exercises exclusive or final original classification authority and which, in accordance with the systematic review guidelines developed under paragraph (b) of this section, is to be kept protected, shall be listed by category by the responsible custodian and referred to the Chairperson, NASA Information Security Program Committee. This listing shall:

(A) Identify the information or material involved.

(B) Recommend classification beyond 30 years to a specific event scheduled to happen or a specific period of time or, the alternative, recommend: DECLASSIFY ON: Originating Agency's Determination Required or "OADR."

(iii) The Administrator shall consider and determine which category shall be kept classified and the dates or event for declassification. Whenever a specific time or future event for declassification cannot be predetermined, the following notation will be applied: DECLASSIFY ON: Originating Agency's Determination Required or "OADR." The Archivist of the United States will be notified in writing of this decision.

(d) *Declassification by the Director of the Information Security Oversight Office, GSA.* If the Director of the Information Security Oversight Office, GSA, determines that NASA information is classified in violation of "the Order," the Director may require the information to be declassified. Any such decision by the Director may be appealed through the NASA Information Security Program Committee to the National Security Council. The information shall remain classified pending a prompt decision on the appeal.

18. Section 1203.604 is amended by revising paragraph (a), (b) (1), and (2), (e)(5), (f), and (g)(3)(ii) to read as follows:

§ 1203.604 Mandatory review for declassification.

(a) *Information covered.* All information classified under "the Order" or predecessor orders, except as provided at § 1203.604(b) shall be subject to a review for declassification by the originating agency, if:

(1) The request is made by a United States citizen or permanent resident alien, a Federal agency, or a State or local government; and

(2) The request describes the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort. After review, the information or any reasonable segregable portion thereof that no longer requires protection shall be declassified and released unless withholding is otherwise warranted under applicable law.

(b) *Presidential Papers.* (1) Information originated by a President, the White House Staff, by committees, commissions, or boards appointed by the President, or others specifically providing advice and counsel to a President or acting on behalf of a President is exempted from the provisions of § 1203.604(a).

(2) The Archivist of the United States shall have the authority to review, downgrade and declassify information under the control of the Administrator of General Services Administration or the Archivist pursuant to sections 2107, 2107 note, or 2203 of Title 44, United States Code. Review procedures developed by the Archivist shall provide for consultation with NASA in matters of primary subject interest to NASA.

* * * * *

(e) * * *

(5) When a NASA installation receives any request for declassification of information in documents in its custody that was classified by another NASA installation or Government agency, it shall refer copies of the request and the requested documents to the originating installation or agency for processing, and may, after consultation with the originating installation or agency, inform the requester of the referral. In cases in which the originating NASA installation determines in writing that a response under § 1203.604(f) is indicated, such cases will be promptly forwarded to the Chairperson, NASA Information Security Program Committee, for final resolution and appropriate response.

(f) *Neutral Response.* In response to a request for information under the Freedom of Information Act, the Privacy Act of 1974, or the mandatory review provisions of "the Order," NASA shall refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or non-existence is itself classifiable under "the Order."

(g) * * *

(3) * * *

(ii) Classified information transferred to the General Services Administration for accession into the Archives of the United States shall be downgraded or declassified by the Archivist of the United States in accordance with "the Order," the directives of the Information Security Oversight Office, GSA, and NASA guidelines.

* * * * *

Subpart G—Foreign Government Information

19. Section 1203.701 is amended by revising paragraph (b) to read as follows:

§ 1203.701 Classification.

* * * * *

(b) Foreign government information that was not classified by a foreign entity but was provided to NASA with the expressed or implied obligation that it be held in confidence must be classified. "The Order" states that unauthorized disclosure of foreign government information, the identity of a confidential foreign source, or intelligence sources or methods is presumed to cause damage to the national security. Therefore, such foreign government information shall be classified at least Confidential. However, at the time of classification, judicious consideration shall be given to the sensitivity of the subject matter and the impact of its unauthorized disclosure upon both the United States and the originating foreign government or

organization of governments in order to determine the most appropriate level of classification. Levels above Confidential must be assigned by an original classification authority.

20. Section 1203.702 is revised to read as follows:

§ 1203.702 Duration of classification.

Unless the guidelines for the systematic review of 30-year old foreign government information developed pursuant to § 1203.603(b) prescribe dates or events for declassification:

(a) Foreign government information shall not be assigned a date or event for declassification unless such is specified or agreed to by the foreign entity.

(b) Foreign government information classified after December 1, 1978, shall be annotated: DECLASSIFY ON: Originating Agency's Determination Required or "OADR."

21. Section 1203.703 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1203.703 Declassification.

(a) Information classified in accordance with § 1203.400 shall not be declassified automatically as a result of any unofficial publication or inadvertent or unauthorized disclosure in the United States or abroad of identical or similar information.

(b) Following consultation with the Archivist of the United States and where appropriate, with the foreign government or international organization concerned and with the assistance of the Department of State, NASA will issue guidelines for the systematic review of 30-year old foreign government information that will apply to foreign government information of primary concern to NASA. These guidelines are authorized for use by the Archivist of the United States and, with the approval of NASA, by an agency having custody of such information. The Chairperson, NASA Information Security Program Committee, will initiate administrative functions necessary to effect review of these guidelines at least once every 5 years and submit recommendations to the Administrator based on these reviews. If, after applying the guidelines to 30-year old foreign government information, a determination is made by the reviewer that classification is necessary, a date for declassification or DECLASSIFY ON: Originating Agency's Determination Required or "OADR" shall be shown on the face of the document.

* * * * *

James M. Beggs,
Administrator.

[FR Doc. 83-3376 Filed 2-8-83; 8:45 am]
BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 30124-16]

Exports to the People's Republic of China of Certain Graphic Display Systems Implemented With Raster Scan Techniques

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Export Administration Regulations by adding an Advisory Note to entry 1565A of the Commodity Control List (Supplement No. 1 to § 399.1) which controls electronic computers and related equipment. The Advisory Notes indicate which of various specified commodities are likely to be approved for export to certain countries. This rule adds an Advisory Note regarding the export to the People's Republic of China of certain graphic display (non-image processing) systems implemented with raster scan techniques.

DATES: This rule is effective February 9, 1983. Comments must be received by the Department April 11, 1983.

ADDRESS: Written comments (six copies) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-4811).

Rulemaking Requirements and Invitation to Comment

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations. These regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

The period for submission of comments will close April 11, 1983. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001-B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public

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comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

List of Subjects in 15 CFR Part 399

Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

PART 399—[AMENDED]

Entry 1565A of the Commodity Control List (Supplement No. 1 to § 399.1) is amended by adding a NOTE 12 under the Advisory Notes, reading as follows:

§ 399.1 [Amended]

* * * * *

§ 1565A * * *

Controls for ECCN 1565A:

* * * * *

List of electronic computers and related equipment controlled by ECCN 1565A:

* * * * *

Advisory Notes

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12. Licenses are likely to be approved for export to satisfactory end-users in Country Group P (People's Republic of China) of graphic display (non-image processing) systems implemented with raster scan techniques, provided they have the following characteristics:

(a) Display sizes of not greater than 19 inches (measured on a diagonal).

(b) Display database storage (refresh memory) up to 4.2 Mbits (1024 by 1024 by 4 or 512 by 512 by 16).

(c) Shadow mask techniques for color displays.

(d) Pixel fill rate/calculation time of 2 microseconds or greater.

(e) No image processing software.

(f) No parallel processing or pipeline processing function capabilities for image processing.

(g) No more than 1024 resolvable points along any axis.

(h) Maximum bit transfer rate between a host computer and the display of 19,200 bits per second. (This restriction does not apply to television receivers used with graphic display systems covered by this Note.)

(Sections 6, 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980))

Dated: January 20, 1983.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 83-3375 Filed 2-7-83; 8:45 am]

BILLING CODE 3510-25-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 271

[Release No. IC-13005]

Securities Trading Practices of Registered Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Statement of staff position.

SUMMARY: The Securities and Exchange Commission announces a revision of the position of the Division of Investment Management (the "Division") taken in Investment Company Act Release No. 10666 (April 18, 1979) regarding registered investment companies entering into fully collateralized repurchase agreements with a broker or dealer. The announcement states that the Division is imposing an additional condition to its "no-action" position that will require investment company boards of directors to evaluate the creditworthiness of the brokers or dealers with which they propose to enter into repurchase transactions. Further, the Commission hereby announces the view of the Division that the directors of money market funds using the amortized cost or penny rounding method of portfolio valuation, pursuant to a Commission exemptive order or proposed Rule 2a–7 (if adopted), are required to evaluate the creditworthiness of all entities, including banks and broker-dealers, with which they propose to enter into repurchase agreements. The Division believes that this action is appropriate in order to help ensure that investment companies will avoid entering into repurchase transactions with parties that present a serious risk of becoming involved in bankruptcy proceedings.

EFFECTIVE DATE: February 2, 1983.

FOR FURTHER INFORMATION CONTACT: W. Randolph Thompson, Special Counsel (202) 272–3016 or Brion R. Thompson, Esq. (202) 272–3026 Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today announces a revision of the position of the Division of Investment Management ("the Division") taken in Investment Company Act Release No. 10666 (April 18, 1979) ("Release 10666") (44 FR 25128, April 27, 1979). That release stated that the Division would not recommend to the Commission that any enforcement action be taken under Section 12(d)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) ("Act") against an investment company with respect to repurchase agreements entered into with brokers or dealers, provided each agreement was fully collateralized during the entire term of the agreement. The staff's revised no-action position imposes an additional requirement that investment company boards of directors evaluate the creditworthiness of the brokers or dealers with which they propose to engage in repurchase agreements by setting guidelines and standards of review for their investment advisers and monitoring the advisers' actions with regard to repurchase agreements for the funds. In addition, the Commission is publishing the position of the Division that the condition in Commission exemptive orders permitting money market funds to use the amortized cost or penny rounding methods of portfolio valuation, limiting permissible portfolio investments of such funds to "high quality" instruments which present minimal credit risks, requires that the directors of money market funds operating under such exemptive orders evaluate the creditworthiness of all entities, including banks and broker-dealers, with which they propose to engage in repurchase agreements. A similar condition is contained in proposed Rule 2a–7 [Investment Company Act Release No. 12206, February 1, 1982; 47 FR 5428, February 5, 1982], which would codify the exemptive orders, and the Division believes that that condition (if it is contained in any final version of the rule which might be adopted) would similarly require a creditworthiness evaluation.

Background

In a typical mutual fund repurchase transaction ("repo"), the fund purchases securities from a bank or a broker-dealer and agrees to resell those securities to the same party at a stated higher price on an agreed-upon date, often as soon as the next day. If the repo transaction, in economic reality, is considered to be a loan, the securities which the mutual fund "purchases" are considered to be collateral for that loan. Mutual funds, particularly money

market funds, often invest in repos on a short-term basis (in many cases, overnight) to assist in managing their portfolios. Mutual funds also invest in repos in order to maintain a degree of liquidity in their portfolios, which is particularly important to the orderly operation of money market funds using the amortized cost or penny rounding methods of portfolio valuation.[1] The securities most frequently used in connection with repurchase agreements are Treasury bills and other United States Government securities. Upon resale, the investment company receives the principal of the agreement plus an amount which represents interest on the principal.

Broker-Dealers

Section 12(d)(3) of the Act, in part, prohibits an investment company from purchasing or otherwise acquiring "any security issued by or any other interest in the business of any person who is a broker, a dealer, [or] is engaged in the business of underwriting." In Investment Company Act Release No. 10666, the Commission stated that the Division was taking the no-action position summarized above concerning investment company repo transactions. The Division's no-action position was based upon the premise that an investment company, in determining whether to enter into a repo with a particular broker-dealer "would look to the intrinsic value of the collateral * * * rather than the creditworthiness or other risks associated solely with the business operations of the broker-dealer." The Division further believed that, so long as an investor acquired actual or constructive [2] possession of the collateral underlying a repo at the time the repo was executed, the investor would be able to liquidate the collateral securities for its benefit immediately upon any default or insolvency of the repo issuer. Thus, the Division concluded that investment companies were not exposed to the entrepreneurial risks of an investment banking business by engaging in a repo transaction with a broker or dealer, provided the agreement were fully collateralized.[3]

Recent developments have caused the Division to reconsider its prior conclusion that fully collateralized repos involve no more risk to fund investors than would ownership of the collateral securities. Pending bankruptcy proceedings involving Lombard-Wall Inc.,[4] and the recent insolvency of other large issuers of repos have prompted inquiries about the legal status and safety of repos. It now appears to the staff that the uncertain status of repos under the Bankruptcy Code ("Code") [5] creates certain risks for mutual funds that invest in such instruments issued by a party that subsequently initiates bankruptcy proceedings. Specifically, the staff found that an entity that enters into a repo may be exposed, in varying degrees, to the risk that it will be unable to liquidate the collateral securities immediately upon the insolvency of the other party, depending in part on whether a bankruptcy court views the repo as a consummated purchase and sale of the underlying securities with an accompanying executory contract to repurchase the securities, or as a collateralized loan.

In view of the possible adverse effect on a mutual fund repo investor, and, particularly, on the liquidity, or valuation calculations of a money market fund if it were unable to liquidate the collateral securities immediately in the event of insolvency of the issuer of a repo, the Division has determined that the above no-action position under Section 12(d)(3) of the Act should be revised by adding a further condition that investment company boards of directors evaluate the creditworthiness of the brokers or dealers with which they propose to enter into repos. The Division believes this action is appropriate in order to help ensure that an investment company will not be exposed to undue risks of the type against which Section 12(d)(3) is meant to guard when the company engages in a repurchase agreement with a broker or dealer. The Division recognizes that the evaluation of the creditworthiness[6] of repo issuers is a difficult task that may involve subjective judgments as well as consideration of available financial information. Moreover, since repo transactions typically are entered into frequently (as often as daily), the Division recognizes that it would normally not be feasible for fund directors themselves to evaluate the creditworthiness of each issuer. Rather, the Division anticipates that fund directors will discharge their responsibilities for supervising repo purchases primarily by way of setting guidelines and standards of review for the fund's investment adviser, and monitoring the adviser's actions in engaging in repos for the fund.

Modification of Interpretive Position

Accordingly, the no-action position taken in Release 10666 is hereby modified as follows. Henceforth, the staff will not recommend to the Commission that enforcement action be brought under Section 12(d)(3) of the Act against investment companies with respect to repurchase agreements with brokers or dealers, provided (1) the repo is structured in a manner reasonably designed to ensure that it is fully collateralized (including accrued interest earned thereon) and (2) as set forth above, the investment company's board of directors, has evaluated the creditworthiness of the broker or dealer issuing the repo.

Amortized Cost and Penny Rounding

Most money market funds have filed applications requesting, and the Division pursuant to delegated authority

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[1] As of January 5, 1983, money market funds held repos totalling approximately $17.9 billion.

[2] Consecutive possession could include the transfer of United States Government securities by notation in the Federal Book Entry System.

[3] "Fully collateralized" means that the value of the collateral security is, and during the entire term of the agreement remains, at least equal to the amount of the "loan" including accrued interest.

[4] *In re Lombard-Wall, Inc.*, Reorganization Case No. 82 B 11556 (EJR) (Bankr. S.D.N.Y., petition filed August 12, 1982).

[5] 11 U.S.C. 101, et seq. (Supp. V 1981) (amended by Pub. L. No. 97-222, 96 Stat. 235) (July 27, 1982).

[6] "Creditworthiness" is used here broadly to mean financial responsibility. The determination should be that the proposed issuer of a repo presents no serious risk of becoming involved in bankruptcy proceedings within the time frame contemplated by that repo. The Division's position enunciated herein recognizes that an investment company's board of directors and its investment adviser may not be able to make a judgment concerning the creditworthiness of particular issuers based solely on objective financial data, but may have to consider some additional factors such as the issuers' reputation for, and history of, sound management, and past experience in dealing with the particular issuers. Among the more objective data that should be available with regard to registered broker-dealers are their semi-annual customer financial statements, their statements of financial condition (balance sheets) contained in their annual audited reports of financial statements and (for publicly-owned broker-dealers) their reports filed with the Commission under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.]. A broker-dealer is also required to file monthly and/or quarterly reports ("FOCUS reports") with its appropriate self-regulatory organization (stock exchange or National Association of Securities Dealers, Inc.). Although FOCUS reports are not made available to the public, funds may be able to obtain (and should request) useful information (including net capital statements) from those reports on an informal basis from broker-dealers with which they engage in repos. Similarly, information contained in broker-dealers' annual audited reports of financial statements for which confidential treatment has been granted may be available on an informal basis and should be requested. For unregulated government securities dealers, less information is likely to be available, but audited annual financial statements should be obtainable. Those dealers which are on the Federal Reserve Bank of New York's ("Fed") list of primary dealers report certain information regularly to the Fed. Funds may be able to obtain informally (and should request) information from those reports from the reporting dealers, and comparable information should be requested from non-reporting dealers.

has granted, exemptive orders [7] permitting the use of the amortized cost or penny rounding methods of portfolio valuation and pricing of shares subject to conditions stated in the orders.[8] Proposed Rule 2a–7, in general, would codify those previous orders of exemption from the pricing and valuation provisions of the Act by permitting money market funds, subject to the same conditions, to use amortized cost or penny rounding without the necessity of filing an application.[9]

One condition, present both in the Commission's exemptive orders permitting money market funds to value their portfolios and price their shares using amortized cost or penny rounding and in proposed Rule 2a-7, requires the boards of directors of such funds to limit the funds' investments, including repos, to "high quality" debt instruments which present "minimal credit risks." The directors of money market funds using the amortized cost or penny rounding methods pursuant to Commission exemptive orders, thus, are required to consider the creditworthiness of issuers of all money market instruments eligible for inclusion in their funds' portfolios. In view of the uncertainty regarding the rights of repo investors under the Code, the Division believes it is necessary to emphasize in this release that the directors of funds using the amortized cost or penny rounding valuation and pricing methods, whether pursuant to existing Commission exemptive orders, or proposed Rule 2a–7 (when and if that rule is adopted with the condition described), are required to give consideration to the creditworthiness of those entities with which they propose to enter into repos, in addition to that given to the issuers of all other money market instruments in which their funds invest.

Staff Interpretive Position

Accordingly, the Commission announces the Division's position that proposed Rule 2a–7 (when and if adopted), and the Commission exemptive orders permitting money market funds to use the amortized cost or penny rounding methods of portfolio valuation and pricing of shares which the rule would codify, require that the boards of directors of money market funds operating under the rule or exemptive orders evaluate the creditworthiness of all entities, including bands,[10] broker-dealers, and government securities dealers with which they propose to enter into repos, when assessing whether the proposed transaction presents more than "minimal credit risks." [11] The actual role of the directors vis a vis that of the investment adviser would be identical with that discussed, *supra*, in connection with Section 12 (d) (3) and the evaluation of broker-dealer repo issuers.

The Commission is announcing the above administrative measures because it appears they are advisable to help protect the shareholders of mutual funds against the risk that their funds may invest in repos with entities that present a serious risk of becoming insolvent.[12] If subsequent legislative or judicial developments appear to eliminate the need for funds to be concerned about the creditworthiness of repo issuers, then the Commission will consider whether the procedures discussed in this release should be revised.

List of Subjects in 17 CFR Part 271

Investment companies, Securities.

Accordingly, 17 CFR Part 271 is hereby amended to incorporate therein this statement of staff position.

By the Commission.

George A. Fitzsimmons,

Secretary.

February 2, 1983.

[FR Doc. 83–3476 Filed 2–8–83; 8:45 am]

BILLING CODE 8010–01–M

[7] These exemptive applications were necessary because of the Commission's view expressed in Investment Company Act Release No. 9786 (May 31, 1977) [42 FR 28999, June 7, 1977], that it was inconsistent, generally, with the pricing and valuation provisions of the Act for a money market fund to value its portfolio securities using the amortized cost or penny rounding method of valuation.

[8] Those conditions were the result of the settlement of an administrative proceeding at which the issue of the appropriateness of use of the penny rounding and amortized cost valuation and pricing methods by money market funds was considered. *See* Investment Company Act Release No. 10451 (October 16, 1978) [43 FR 51485, November 3, 1978] and 10824 (August 8, 1979).

[9] For a description of the amortized cost and penny rounding valuation methods and the provisions of proposed Rule 2a-7, see Investment Company Act Release No. 12206 (Feb. 1, 1982).

[10] In addition to published financial statements of banks, there may be other sources of information on banks' creditworthiness, including annual and quarterly reports filed with the Commission by bank holding companies and reports filed by bank holding companies with stock exchanges on which they are listed. Moreover, many large banks and bank holding companies are rated and reviewed by a number of services and publications, including credit reporting services. *See* note 6 *supra* for suggestions regarding information that may be available concerning the creditworthiness of broker-dealers and government securities dealers.

[11] The position of the Division announced herein does not alter the requirement that, in all cases, the underlying securities subject to a repo must be of high quality and present minimal credit risks.

[12] The Division also believes that, in fulfilling their fiduciary duties to fund shareholders, the directors of mutual funds not operating either under Commission exemptive orders or the proposed rule should likewise give consideration to the creditworthiness of all entities with which their funds propose to engage in repos before authorizing that type of investment.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

High-Cost Gas Produced From Tight Formations; Correction

February 3, 1983.

AGENCY: Federal Energy Regulatory Commission; DOE.

ACTION: Final rule: correction.

SUMMARY: This document corrects a final rule that concerned high-cost gas produced from tight formations, Docket No. RM79–76–102 (Colorado-24). The final rule appeared in the **Federal Register** on June 10, 1982 (47 FR 25132), and contained an incorrect acreage description.

FOR FURTHER INFORMATION CONTACT: Steven Ross, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20436, (202) 357–8571.

SUPPLEMENTARY INFORMATION:

PART 271—[CORRECTED]

The following restates the acreage description in FR Doc. 82–15757, appearing on page 25132. On page 25132, § 271.703(d)(86)(i) and (d)(87)(i) should read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(86) *Mesaverde Formation in Colorado.* RM79–76–102 (Colorado-24).

(i) *Delineation of formation.* The Mesaverde Formation is found in the southwestern portion of Rio Blanco County, Colorado, about 70 miles northwest of the town of Grand Junction. The Mesaverde Formation is located in Township 1 South, Ranges 98 and 99 West, 6th P.M., all; Township 1 South, Range 100 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36; Township 2 South, Range 98 West, 6th P.M., Sections 4 through 8; Township 2 South, Range 99 West, 6th P.M., Sections 1 through 12, 15 through 22, and 27 through 34; and Township 2 South, Range 100 West, 6th P.M., Section 1 through 3, 10

through 15, 22 through 27, and 34 through 36.

(ii) *Depth.* The Mesaverde Formation varies in thickness from 2,900 to 3,600 feet. The average depth to the top of the Mesaverde Formation is 6,693 feet.

(87) *Mancos Formation in Colorado.* RM79–76–102 (Colorado-24).

(i) *Delineation of formation.* The Mancos Formation is found in the southwestern portion of Rio Blanco County, Colorado, about 70 miles northwest of the town of Grand Junction. The Mancos Formation is located in Township 1 South, Ranges 98 and 99 West, 6th P.M., all; Township 1 South, Range 100 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36; Township 2 South, Range 98 West, 6th P.M., Sections 4 through 8; Township 2 South, Range 99 West, 6th P.M., Sections 1 through 12, 15 through 22, and 27 through 34; and Township 2 South, Range 100 West, 6th P.M., Section 1 through 3, 10 through 15, 22 through 27, and 34 through 36.

(ii) *Depth.* The Mancos Formation is approximately 5,000 feet thick. The average depth to the top of the Mancos Formation is 9,495 feet.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3410 Filed 2–8–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–118 (New York-2); Order No. 280]

High-Cost Gas Produced From Tight Formations; New York-2

Issued: February 3, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas to be designated as tight formations. This final order adopts the recommendation of the State of New York, Department of Environmental Conservation that the Medina Group and Queenston Shale be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: February 3, 1983.

FOR FURTHER INFORMATION CONTACT: Scott E. Koves, (202) 357–8569, or Webster Gray, (202) 357–8731.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (Commission) hereby amends § 271.703(d) of its regulations to include portions of the Medina Group and Queenston Shale, located in Erie, Genesee, Wyoming, Allegany, Livingston, Ontario, Yates, Seneca, Cayuga, and Tompkins Counties, New York, as a tight formation eligible for incentive pricing under § 271.703.

This amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (OPPR), issued June 24, 1982 (47 FR 28425; June 30, 1982), based on a recommendation submitted on May 19, 1982, by the State of New York, Department of Environmental Conservation (New York), in accordance with § 271.703(c)(4), that the Medina Group and Queenston Shale be designated as a tight formation in § 271.703(d). The recommended area does not include any Medina gas storage areas, including buffer zones, or any areas within Medina or Queenston "existing fields." [1] Comments on the proposed rule were invited and none were received. No person requested a public hearing and none was held.

Pursuant to notice issued August 19, 1982, a public technical conference was held at the Commission, attended, *inter alia,* by New York, industry representatives, and the Commission's staff, for the purpose of discussing the sufficiency of evidence submitted by New York in support of its recommendation. Following this conference, and at the request of the Commission's staff, New York submitted additional supporting data including additional well logs.

The Commission finds that the evidence submitted by New York, as supplemented, supports the assertion that the Medina Group and Queenston Shale meet the guidelines contained in § 271.703(c)(2). The Commission hereby adopts the New York recommendation.

This amendment shall become effective immediately. The Commission finds that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

[1] Title 6 of the New York Code of Rules and Regulations, § 550.3(q), defines an "existing field" as an area underlain by one or more existing pools which have been discovered, developed, and operated, or were in the process of being developed and operated on or prior to October 1, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective February 3, 1983.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding new paragraph (d)(118) to read as follows:

§ 271.703 Tight formations

* * * * *

(d) *Designated tight formations.*

* * * * *

(118) *Medina Group and Queenston Shale in New York.* RM79–76–118 (New York-2).

(i) *Delineation of formation.* The Medina Group and Queenston Shale are found in Erie, Genesee, Wyoming, Allegany, Livingston, Ontario, Yates, Seneca, Cayuga, and Tompkins Counties, New York. Excluded from the delineated Medina-Queenston interval are any Medina gas storage areas, including buffer zones, or any areas within Medina or Queenston "existing fields" (as defined in Title 6, New York Code of Rules and Regulations, Section 550.3(q)). The Medina Group (also known as the Albion Group) is of Early Silurian age and overlies the Upper Ordovician Queenston Shale (called the "red shale" by some drillers). The Medina Group is bounded above by the base of the Thorold Formation or the time equivalent Kodak Sandstone. The Medina Group consists of (from base to top) the Whirlpool Sandstone (called "white Medina" by drillers), the Power Glen Shale (also known as the Cabot Head Shale), and the Grimsby Sandstone (called "red Medina" by drillers). The Queenston Shale has a gradational contact with the underlying Oswego Sandstone.

(ii) *Depth.* The depth to the top of the Medina Group varies from less than 1,000 feet in the northwestern portion of the designated area to as much as 5,500 feet in the southeastern portion. The Medina Group ranges in thickness from approximately 60 to 120 feet. The thickness of the Queenston Shale is indefinite due to the transitional nature of its contact with the underlying Oswego Sandstone, but the Queenston-Oswego sequence ranges in a thickness from approximately 1,000 feet in Western New York to more than 1,300 feet in southern and central New York.

[FR Doc. 83-3411 Filed 2-8-83; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-140 Texas-11 Addition III; Order No. 279]

High-Cost Gas Produced From Tight Formations; Texas

Issued February 3, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that an additional area of the Wilcox Formation be designated as a tight formation under § 271.703.

EFFECTIVE DATE: This rule is effective February 3, 1983.

FOR FURTHER INFORMATION CONTACT: Randall S. Rich, (202) 357-8511 or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d)(63) of its regulations to include an additional area of the Wilcox Formation located in Zapata County, Texas, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, on October 6, 1982 (47 FR 44748, October 12, 1982),[1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703(c)(2)(ii) that the additional area of the Wilcox Formation be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the additional area of the Wilcox Formation meets the guidelines contained in § 271.703(c)(2). The Commission hereby adopts the Texas recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below, effective February 3, 1983.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703(d)(63) is revised to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(63) *Wilcox Formation in Texas.* RM79-76 (Texas-11)

* * * * *

(iv) *Taquachie Creek Field.*

(A) *Delineation of formation.* The Wilcox Formation found in the area of the Taquachie Creek (Wilcox 11,162) Field, Zapata County, Texas, is located approximately 7 miles south of Mirando City, Texas, and is within a 2.5 mile radius around the Blocker Exploration Company No. 1-252 L. Amour Hinnant well.

(B) *Depth.* The top of the Wilcox Formation, Taquachie Creek (Wilcox 11,162) Field is log-measured at approximately 11,162 feet and extends to 11,200 feet, resulting in a total thickness of 38 feet.

[FR Doc. 83-3412 Filed 2-8-83; 8:45 am]
BILLING CODE 6717-01-M

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[1] Comments on the proposed rule were invited and one comment supporting the recommendation was received. No party requested a public hearing and no hearing was held.

INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

Amendment to Rules of General Application Concerning National Security Information

AGENCY: International Trade Commission.

ACTION: Final rule.

SUMMARY: Rule §§ 201.42-201.44, which concern Commission handling and treatment of national security information, are being amended to conform with the requirements of Executive Order 12356, National Security Information, April 2, 1982, and to reflect current Commission practice with respect to such information.

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: William W. Gearhart, Jr., Assistant General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0487.

SUPPLEMENTARY INFORMATION: These changes involve no substantive changes in Commission practice or policy in handling national security information. The Commission does not have authority to classify or declassify information. In view of the procedural nature of these rules and their absence of impact on anyone's substantive rights, they are being published in final form without opportunity for public comment.

List of Subjects in 19 CFR Part 201

Classified information.

By order of the Commission.

Issued: January 28, 1983.

Kenneth R. Mason,

Secretary.

In 19 CFR Part 201, Subpart F (§§ 201.42-201.44) is revised to read as follows:

Subpart F—National Security Information

Sec.

201.42 Purpose and scope.
201.43 Program.
201.44 Procedures.

Authority: Sec. 335, 72 Stat. 680, sec. 401, 76 Stat. 902; 19 U.S.C. 1335, 1802; E.O. 12356.

Subpart F—National Security Information

§ 201.42 Purpose and scope.

The following regulation supplements Executive Order No. 12356, National Security Information, April 2, 1982, as it applies to the Commission.

§ 201.43 Program.

The Director of Administration is designated as the official of the Commission who is responsible for implementation and oversight of information security programs and procedures, including ensuring conformity with the provisions of Executive Order No. 12356. He shall chair a committee, composed of himself and representatives of the offices of the Secretary, General Counsel, Executive Liaison and Special Adviser for Trade Agreements, and Operations, that will act on all suggestions and complaints with respect to the Commission's administration of the program. All questions, suggestions, and complaints regarding all elements of the information security program shall be directed to the Director of Administration.

§ 201.44 Procedures.

(a) *Mandatory declassification review.* (1) Requests for declassification and release of national security information in the custody of the Commission shall be directed to the Secretary. Requests must reasonably describe the information that is desired to be declassified. All requests for declassification submitted pursuant to the Freedom of Information Act shall be processed in accordance with the provisions of that act and the applicable regulations of the Commission (19 CFR 201.17 through 201.21).

(2) Because the Commission does not have original classification authority and national security information in its custody has been classified by another Federal agency, the Secretary shall refer all requests for mandatory declassification review of classified information to the originating Federal agency along with his recommendations. Following consultation with the originating agency, the Secretary will notify the requestor of the referral.

(b) *Safeguarding.* All classified materials shall be delivered to the addressee or his designee immediately upon receipt at the Commission. In the event that the addressee or his designee is not available to receive the materials, they shall be delivered to the Secretary and secured, unopened, in a combination safe located in his office until the addressee or his designee is available. Under no circumstances shall classified materials that cannot be delivered to the addressee or his designee be stored other than in a GSA approved safe. Access to classified materials at the Commission shall be limited to officers and employees of the Commission on the basis of a favorable determination of trustworthiness on the basis of appropriate personnel security investigations and a need for access in the performance of official duties.

(c) *Reproduction.* "Top Secret" documents may not be reproduced without the consent of the originating agency unless otherwise marked by that agency. Documents that have been classified "Secret" or "Confidential" with special dissemination orders may not be reproduced without the permission of the Executive Liaison and Special Adviser for Trade Agreements, and are subject to any limitations imposed by the originator. Reproduced copies shall be subject to the same controls as the original document. The Executive Liaison and Special Adviser for Trade Agreements shall establish a system of recording the number and distribution of copies reproduced from the original documents. Reproduction for the purposes of mandatory review shall not be restricted.

(d) *Storage.* All classified material shall be stored in GSA-approved combination safes located at the Commission. The combinations shall be changed as required by § 2001.43(b) of Information Security Oversight Office Directive No. 1. The combinations shall be known only by those employees possessing an appropriate security clearance who have need for access in the performance of official duties.

(e) *Employee education.* The Director of Administration shall establish for all employees who have been granted a security clearance an information security education program that will advise them of the handling, reproduction, and storage procedures for these materials. The education program will also enable employees to familiarize themselves with the Order and applicable directives of the Information Security Oversight Office. New employees will be instructed in these procedures as they enter employment with the Commission.

(f) *Agency terminology.* The use of the terms "Top Secret," "Secret," and "Confidential" shall be limited to material classified for national security purposes.

[FR Doc. 83-3685 Filed 2-8-83; 8:45 am]
BILLING CODE 7020-02-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 2H5360/R133; PH-FRL 2304-5]

Oryzalin; Tolerance for Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation permitting the residues of the herbicide oryzalin in peppermint and spearmint oil. This regulation to establish maximum permissible residues of the herbicide in peppermint and spearmint oil was requested, pursuant to a petition, by the Elanco Products Company.

EFFECTIVE DATE: February 9, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager PM 25, Registration Division, Office of Pesticide Programs, Rm. 245, CM-2, 1921 Jefferson Davis Highway, Arlington, VA 22202; (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of August 18, 1982 (47 FR 36016), that announced that the Elanco Products Company, 740 South Alabama St., Indianapolis, Indiana 46285, had filed food additive petition 2H5360 with the Agency proposing to amend 21 CFR Part 193 by establishing a regulation permitting residues of the herbicide oryzalin (3,5-dinitro-*N*⁴ *N*⁴dipropylsulfanilamide) in peppermint and spearmint oil at 0.1 part per million (ppm).

No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in a related final rule document (PP 2F2717, 2F2718/R520) establishing tolerances on peppermint and spearmint hay appearing elsewhere in this issue of the **Federal Register**.

The pesticide is considered useful for the purpose for which the regulation is sought. It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (86 Stat. 973, 89 Stat. 751,

U.S.C. 135(a) *et seq.*) and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

Dated: February 1, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 193—[AMENDED]

Therefore, 21 CFR Part 193 is amended by adding § 193.462 to read as follows:

§ 193.462 Oryzalin.

A regulation is established permitting residues of the herbicide oryzalin (3,5-dinitro-N^4, N^4 dipropylsulfanilamide) resulting from application of the pesticide to the growing crops in the following food commodities:

Foods	Parts per million
Peppermint (oil)	0.1
Spearmint (oil)	0.1

[FR Doc. 83-3644 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

21 CFR Parts 193 and 561

[FAP 1H5343, 1H5292/R131; PH-FRL 2296-5; FAP 1H5292/R132]

Tolerances for Pesticides in Food and in Animal Feeds Administered by the Environmental Protection Agency; 1-(4-Chlorophenoxy)-3,3-Dimethyl-1-(1H-1,2,4-Triazol-1-yl)-2-Butanone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These rules establish a food and a feed additive regulation to permit the combined residues of the insecticide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-Triazol-1-yl)-2-butanone and its metabolites in or on certain food and feed commodities. These regulations to establish maximum permissible levels for the combined residues of the insecticide in or on the food and feed commodities were requested, pursuant to petitions, by the Mobay Chemical Corporation.

EFFECTIVE DATE: Effective on February 9, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued notices published in the Federal Register cited below that announced that the Mobay Chemical Corporation, P.O. Box 4913, Kansas City, MO 64120, had submitted food and feed additive petitions (FAP) as follows proposing to amend 21 CFR Parts 193 and 561 by establishing regulations permitting the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol in or on certain food and feed commodities as follows:

I. Food Additive Petitions

1. *FAP 1H5343.* Milled wheat fractions (except flour) at 4 parts per million (ppm). May 28, 1982 (47 FR 23021).

The petition was subsequently amended (47 FR 53116, November 24, 1982) by adding the milled fractions of barley (except flour) at 4.0 ppm.

2. *FAP 1H5292.* Grape juice and grape wine at 2.0 ppm. April 22, 1981 (46 FR 22983). Mobay Chemical Corporation subsequently withdrew the petition for the commodities.

II. Feed Additive Petition

FAP 1H5292. Wet apple pomace at 4.0 ppm; dry apple pomace, 2.0 ppm; raisin trash, 7.0 ppm; wet grape pomace, 2.5 ppm; and dry grape pomace 3.0 ppm. April 22, 1981 (46 FR 22983).

The petition was amended (47 FR 53116, November 24, 1982) by increasing the tolerance for dry apple pomace from 2.0 to 4.0 ppm; wet grape pomace from 2.5 to 3.0 ppm, and changed the expression of the tolerance from raisin trash to raisin waste at the same tolerance level, 7.0 ppm.

The toxicological data and other relevant information submitted in the petitions were discussed in a related final rule document [PP 1E2459, 1F2474, 2F2640, 2F2665, 2F2688/R519], establishing tolerances in or on various raw agricultural commodities, appearing elsewhere in this issue of the Federal Register.

The pesticide is considered useful for the purpose for which the regulations are sought. It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*). Therefore, the regulations are established set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a

substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Parts 193 and 561

Food additives, Animal feeds, Pesticides and pests.

Dated: January 24, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

Therefore, 21 CFR, Chapter I, is amended as follows:

PART 193—[AMENDED]

1. In Part 193 by revising § 193.83 to read as follows:

§ 193.83 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone.

Tolerances are established for the combined residues of the fungicide 1-(4-chlorophencxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol in or on the following food commodities:

Foods	Parts per million
Barley, milled fractions (except flour)	4.0
Wheat, milled fractions (except flour)	4.0

PART 561—[AMENDED]

2. In Part 561 by revising § 561.93 to read as follows:

§ 561.93 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone.

Tolerances are established for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(*1H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol in or on the following feed commodities:

Feeds	Parts per million
Apple pomace (wet and dry)	4.0
Grape pomace (wet and dry)	3.0
Raisin waste	7.0

[FR Doc. 83-2969 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 174

Operation and Maintenance Charges; Salt River Indian Irrigation Project, Arizona

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Interim rule and request for comments.

SUMMARY: The Bureau of Indian Affairs is publishing an interim rule which changes rates for operation and maintenance charges for irrigation water provided by the Salt River Indian Irrigation Project and establishes a charge for a new category entitled "spill water" (flood water not charged against apportionment) to be delivered through the irrigation facilities of the Salt River Indian Irrigation Project. The rate changes reflect the actual cost of labor, materials, equipment, power, energy, and services.

DATES: Interim rule effective February 9, 1983. Written comments from the public and other interested parties must be received on or before March 11, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas W. Newman, Bureau of Indian Affairs, Phoenix Area Office, P.O. Box 7007, Phoenix, Arizona 85011–7007, Telephone number (602) 241–2285.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs published a redesignation table on March 30, 1982 (47 FR 13326). Consequently, 25 CFR Part 221, Operation and Maintenance Charges was renumbered as Part 174. All references in this document are made to Part 174. Sections 174.120, Basic assessment and 174.123, Excess water are revised to include interim rate changes as follows: (1) The basic assessment is to remain at $13.20 per acre per annum; (2) excess water, in addition to the basic apportionment of three acre feet per annum, may be delivered when the water is available, and is changed from $15.50 per acre foot or fraction thereof to $29.08 per acre foot. In addition, a new § 174.124, "spill water" is added to Part 174. Spill water, which is flood water not charged against the apportionment or as excess water, may be delivered when available at the rate of $6.75 per acre foot or fraction thereof. This interim rule is published under authority delegated to the Assistant Secretary of Indian Affairs by the Secretary of the Interior in 209 DM 8.

The rate increases provided for in this rule must be implemented immediately if the Project is to continue to operate on a sound financial basis. In the five year period since the last rate increase for this project operational costs have risen 87% from $15.50 per acre foot of water delivered to $29.08 per acre foot today. Nearly all of the increase can be attributed to the rapid rise in the cost of electrical energy required for the project. Therefore the $15.50 per acre foot operation and maintenance charges in effect until now are inadequate to meet current and anticipated project expenses. To avoid severe financial losses to the project in the 1983 irrigation season this rule must be implemented without delay. Therefore, the 30 day waiting period usually provided before a rule becomes effective has been waived, and this interim rule will become effective immediately upon publication in the **Federal Register**. However, the policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process.

Accordingly, interested persons may submit written comments, suggestions or objections regarding the interim rule to the location identified in CONTACT section of this preamble. Comments must be received on or before March 11, 1983.

The primary author of this document is Thomas W. Neuman, Bureau of Indian Affairs, Phoenix Area Office, P.O. Box 7007, Phoenix, Arizona 85011–7007, telephone number (602) 241–2285.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. The proposed interim rate change amounts to less than $15,000. The change will have a minimal effect on costs and prices.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under criteria established by the Regulatory Flexibility Act. Indian irrigation project budgets are required to cover operations costs with operation and maintenance collections. Adjustments to rate changes that reflect rising labor, materials, equipment, and power costs must be periodically implemented to keep operational budgets in balance. There is no alternative source of water supply available to Project members. Total operation and maintenance costs currently total some $700,000. The proposed interim rate change amounts to an increase of approximately 2%; and therefore will have slight effect on producers and consumers.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Department determined that this rule does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, no environmental assessment or environmental impact statement was prepared.

List of Subjects in 25 CFR Part 174

Indians—Lands, Irrigation.

Part 174 of Chapter I of Title 25 of the Code of Federal Regulations is amended as follows:

PART 174—OPERATION AND MAINTENANCE CHARGES

1. Section 174.120 is revised to read as follows:

§ 174.120 Basic assessment.

The basic operation and maintenance assessment against the lands under the Salt River Indian Irrigation Project in Arizona, to which water can be delivered through the irrigation project works, is hereby fixed at $13.20 per acre for the year 1983 and subsequent period until further notice. The payment of the per acre assessment shall entitle the land for which payment is made to receive an apportionment of three acre-feet of water per annum, or such lesser amount as represents the proportionate share of the available water.

2. Section 174.123 is revised to read as follows:

§ 174.123 Excess water.

(a) Additional water in excess of the basic apportionment of three acre feet per acre per annum may be delivered when the water is available at the rate of $29.08 per acre foot or fraction thereof, measured at the farm delivery point. Payment shall be made in advance of delivery.

(b) The cost per acre foot of excess water will be adjusted as the electrical energy supplier adjusts the rate at which electrical energy is supplied to the Salt River Irrigation Project. Adjustment, up or down, may be made on the first day of the month following notification of the change in rates.

3. Section 174.124 is added and reads as follows:

§ 174.124 Spill water.

Spill water, which is flood water not charged against the apportionment or as excess water, may be delivered when available at the rate of $6.75 per acre foot or fraction thereof, if the basic assessment has been paid. Payment shall be made in advance of delivery.

Dated: December 13, 1982.

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 83-3427 Filed 2-8-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

30 CFR Part 211

[General Mining Order No. 1]

Reporting Recoverable Coal Reserves From Federal Leaseholds

AGENCY: Bureau of Land Management, Interior.

ACTION: Revocation of general mining order Number 1; rule related notice.

SUMMARY: The Bureau of Land Management is hereby rescinding General Mining Order Number 1 (GMO #1) and thus eliminating the requirements therein. This action is based on review of comments received on the notice of intent to revise or rescind GMO #1, published on January 12, 1982, and on the information requirements now contained in the 30 CFR Part 211 regulations (211's) published in the **Federal Register** on July 30, 1982.

EFFECTIVE DATE: April 11, 1983.

ADDRESS: Any inquiries regarding the decision to revoke should be addressed to: Associate Director, Onshore Minerals Operations, Bureau of Land Management, Attention: Chief, Solid Minerals Division, Mail Stop 651, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas V. Leshendok, Acting Chief, Solid Minerals Division, (703) 860-7506.

SUPPLEMENTARY INFORMATION: On December 3, 1982, Secretary Watt transferred the functions of the Onshore Minerals Operations, Minerals Management Service, to the Bureau of Land Management via Secretarial Order 3087. On September 17, 1979, a final revision of GMO #1 was published in the **Federal Register** (44 FR 53808). GMO #1 established a mandatory format for reporting recoverable coal reserves from each Federal coal lease. Obtaining the information was essential for the enforcement of statutory requirements under the Mineral Leasing Act of 1920, as amended and supplemented, relating to diligent development, continued operation, maximum economic recovery, advance royalty, and minimum production royalty.

On January 12, 1982, a notice of intent to revise or rescind GMO #1 was published in the **Federal Register** (47 FR 1338). The notice requested comments on (1) how to reduce the reporting burden while still providing essential information, and (2) whether to rescind and replace GMO #1. Specific factors governing revocation of GMO #1 follow.

A primary purpose of GMO #1 was to acquire reserve inventory data for the determination of diligent development. The majority of the lessees have submitted the required information. These submittals, in conjunction with data submitted in mining plans, now provide the data needed to determine diligent development requirements.

GMO #1 provided standard criteria for the calculation of reserves. The July 30, 1982, 211's now contain criteria for standardization. Also, the 211's are less burdensome than GMO #1 in that the 211's do not require reserve base maps for each coal bed.

Resource recovery and protection plan (mine plan) reserves for new leases can be verified at the time of plan approval using exploration data acquired from exploration licenses, postlease exploration, and available public information.

The Department of the Interior has determined that GMO #1 has served its intended purpose. Sufficient reserve data are available for each lease from which to fulfill the regulatory responsibilities of the Solid Minerals Division, Bureau of Land Management. As standard reserve calculation criteria are contained in the 211's, continuation of GMO #1 will not contribute to the information needs of the Department of the Interior and would duplicate other existing requirements.

Dated: January 27, 1983.

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 83-3290 Filed 2-8-83; 8:45 am]

BILLING CODE 4310-84-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

Approval of Amendments and Removal of Conditions of the North Dakota Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 934 to approve amendments to the North Dakota permanent regulatory program under the Surface Mining

Control and Reclamation Act of 1977 (SMCRA or the Act) and to remove some of the conditions of the Secretary's approval of the State's program.

On July 30, 1982, North Dakota submitted to OSM an amendment to its approved permanent program containing both statutory and regulatory revisions, some intended to satisfy the Secretary's conditions of approval of the North Dakota program. Following a review of the program amendments in accordance with 30 CFR 732.17, the Secretary has decided to approve certain of the modifications contained in the amendment and to remove some of the conditions of approval.

EFFECTIVE DATE: February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

ADDRESSES: Copies of the amendments to the North Dakota program and all written comments received on the proposed amendment package are available for review at the OSM Headquarters Office, the OSM Wyoming Field Office and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1100 "L" Street, NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Wyoming Field Office, Freden Building, P.O. Box 1420, Mills, Wyoming 82644, Telephone: (307) 328–5830

Public Service Commission, Reclamation Division, Capitol Building, Bismarck, North Dakota 58505, Telephone: (701) 224–2400

SUPPLEMENTARY INFORMATION: The North Dakota program was conditionally approved by the Secretary on December 15, 1980 (45 FR 82241–82248). The approval was conditioned on the State's correction of 13 minor deficiencies in its program by July 1, 1981. That deadline was later extended, upon the State's request, to January 1, 1983 (46 FR 54070–54071). In response to a further request from the North Dakota Public Service Commission, the Secretary extended the deadline for the State to meet condition "e" to July 1, 1983 (47 FR 42347–42348). On September 28, 1982, North Dakota also requested an extension of the deadline for the State to meet condition "m". In accordance with the State's request, OSM issued a notice proposing such an extension on November 2, 1982 (47 FR 49866). The Secretary will make his final determination on the State's request following the close of the public comment period.

Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the North Dakota program can be found in the December 15, 1980 **Federal Register** (45 FR 82214–82248).

Background on the Secretary's Conditional Approval

The Secretary of the Interior determined that the North Dakota program, as submitted for his approval, contained 13 minor deficiencies:

1. North Dakota's program did not include fully enacted regulations at NDAC 69–05.2–17–05 and 06 containing provisions which provide for the use of a standard and formula to limit the amount of explosives used in blasting in a same or similar manner as under 30 CFR 815.65(1) (i) and (ii). (Condition "a")

2. The program did not include provisions at NDAC 69–05.2–13–08(2) which were the same or similar to those in 30 CFR 816.97(b) relating to the reporting of the presence of threatened and endangered species in mine permit areas. (Condition "b")

3. The program did not include provisions at NDAC 69–05.2–22–07(3)(b) requiring measurement of success of prime farmlands based on three years production data in accordance with 30 CFR 823.15(c) (i) and (iii). (Condition "c")

4. The program did not include provisions at NDAC 69–05.2–22–07(1) requiring the approval of the Director of OSM for any changes in guidelines for measuring success of revegetation in a same or similar manner as under 30 CFR 816.11 (a) and (b)(i). (Condition "d")

5. The program did not include fully enacted regulations at NDAC 69–05.2–10–03(i) to prohibit issuance of permits to any person with an outstanding violation or pattern of violations outside of North Dakota in a same or similar manner as Section 510(c) of SMCRA, and 30 CFR 786.17 and 30 CFR 786.19(i). (Condition "e")

6. The program did not include fully enacted regulations extending coverage of North Dakota's exploration program as defined in NDCC 38–12.1–03 to include environmental data gathering operations as specified under the Federal definition of coal exploration in 30 CFR 701.5. (Condition "f")

7. The program included a definition at NDAC 69–02–02–05 which required that a person seeking to intervene in administrative procedures demonstrate a substantial interest. This requirement was inconsistent with 43 CFR 4.1110. (Condition "g")

8. The program at NDCC 38–14.1–36(1) did not provide consideration of award of costs to citizens in administrative proceedings in a same or similar manner as 43 CFR Part 4.1290–1296. (Condition "h")

9. The program did not include fully enacted regulations extending temporary relief under NDCC 38–14.1–30(4) to include persons with an interest which is or may be adversely affected from decisions on notices of violation and cessation orders, in a same or similar manner as Section 525(c) and 43 CFR 4.1261. (Condition "i")

10. The program did not include fully enacted regulations at NDAC 69–05.2–01–03 to provide a 30-day comment period after publication of proposed regulations in accordance with Section 501(a)(A) of SMCRA. (Condition "j")

11. The program did not include provisions in NDCC 38–14.1–38 which are the same or similar to those in Section 517(g) of SMCRA providing civil and criminal penalties against all employees who perform duties under the State Act in violation of conflict of interest provisions. (Condition "k")

12. The program definition of employee at NDAC 60–05.2–01–02(34) did not include consultants who make decisions for the regulatory authority so that they were not subject to State conflict of interest regulations consistent with 30 CFR 705. (Condition "l")

13. The program did not include fully enacted statutes and regulations which provided the date for establishment of valid existing rights under NDCC 38–14.1–07(i) and NDAC 69–05.2–01–02(126) consistent with SMCRA Section 522(e) and 30 CFR 761.5. (Condition "m")

Submission of Revisions

On July 30, 1982, North Dakota submitted for the Secretary's approval an amendment to its approved permanent program containing both statutory and regulatory revisions. On August 12, 1982, the State submitted a minor correction to this amendment package. The amendment includes modifications intended to satisfy conditions "a"–"d" and "f"–"l" as specified in the Secretary's December 15, 1980 notice of conditional approval of North Dakota's program. In addition, the amendment contains numerous State generated revisions not related to conditions. The amendment is contained

in full text in the North Dakota administrative record under numbers ND 182 and ND 183.

On September 10, 1982, OSM announced receipt of the modifications in the **Federal Register** (47 FR 39868–71). In that same notice, OSM scheduled a public hearing and comment period on the proposed modifications to the North Dakota program. The hearing was subsequently cancelled as no one expressed an interest in presenting testimony at the hearing. The comment period closed on October 12, 1982.

On November 3, 1982, OSM sent North Dakota a tentative list of issues raised during OSM's review of the amendment with a request that following the State's review of the issues, it submit to OSM any additional clarifying information that would address OSM's concerns. Copies of OSM's November 3, 1982 letter to North Dakota and the accompanying list of issues are included in the OSM Administrative Record under number ND 207.

On November 22, 1982, North Dakota submitted a response to OSM's letter addressing each of the issues raised by OSM. A copy of the State's response is filed under number ND 208 in the OSM Administrative Record. On December 10, 1982, OSM reopened the comment period on the proposed modifications to the North Dakota program until December 16, 1982, in order to allow the public an opportunity to review and comment on the modifications as clarified by the information submitted to OSM by the State on November 22, 1982 (47 FR 49666).

Secretary's Findings

Set forth below is a summary of the statutory and regulatory provisions contained in the amendment package on July 30, 1982, and the Secretary's findings on each of the program modifications.

North Dakota Century Code Amendments (NDCC) Chapter 38–14.1

1. NDCC 38–14.1–02—Subsection 5—Extended Mining Plan

In subsection 5 of section 38–14.1–02, North Dakota has deleted portions of the definition of "extended mining plan." North Dakota has deleted the term "detailed" which applies to the written statement which constitutes the extended mining plan. The State has also deleted the statement of purpose of the plan, which was to inform the Commission of conditions existing prior to commencement of operations. SMCRA does not use the term "extended mining plan," nor do the Federal regulations. As the requirements of the State program relating to the extended mining plan exceed the requirements of SMCRA and the Federal regulations, the detail of the written statement comprising the plan and its purpose are not established by Federal standards, and, therefore, the Secretary finds he can approve the amendments.

2. NDCC 38–14.1–02—Performance Bonding

North Dakota has eliminated the definition for "performance bonding" from the program regulations and inserted a revised definition for this term in the statute. North Dakota's amendment is similar to the 30 CFR 701.5 definition for performance bond. However, the North Dakota definition includes "self-bond" and "any alternative form of security approved by the Commission" without providing sufficient explanation of these types of performance bonds elsewhere in its program. In its November 22, 1982 letter to OSM North Dakota provided the following clarification. The Commission has opted not to implement these forms of bond at this time. The North Dakota rules, as proposed in this amendment, specify what types of bond the Commission can accept. NDAC 69–05.2–12–02 specifies that the Commission may allow for a surety bond, collateral bond, or combination of the two. Neither a self bond or alternative form of security is acceptable under the regulations as proposed in the amendment. North Dakota indicated that a rule change would be needed in NDAC 69–05.2–12–02 for the Commission to change its position and accept a self bond or an alternative form of security and to specifically detail the form of bond which would be approved and the specific conditions which would be placed on it. Any rulemaking by the State requires that the State submit the proposed rules to OSM in the form of a program amendment and that OSM approve the amendment before the new rules are implemented. Therefore, the Secretary finds the North Dakota definition for performance bonding is in accordance with the Federal Standard provided the Commission does not approve a self bond or any alternative form of bond without first incorporating those as acceptable forms of bond in the State program by amending the program regulations.

In addition, the State definition stipulates that a performance bond is the means "by which a permittee assures faithful performance of all requirements of this Chapter." The Federal definition stipulates that the performance bond assures the permittee's faithful performance of all the requirements of the Act, this Chapter, a State, Federal or Federal lands program, and the requirements of the permit and reclamation plan. However, the Secretary finds that under North Dakota's amended rules, the "requirements of this Chapter" provides the same assurance as the Federal rules that the operator's liability under the bond extends to all reclamation requirements set forth in the State statute, regulations and the operator's permit. NDAC 69-05.2-12-01(3) stipulates that "liability on the performance bond shall cover all surface coal mining and reclamation operations pursuant to NDCC 38–14.1–16 . . ." That section of North Dakota's statute, in turn, specifies that as part of a surface coal mining and reclamation permit, the applicant shall file a bond "conditional upon faithful performance of all the requirements of this Chapter and the requirements of all regulations promulgated pursuant to this Chapter and all permit terms and conditions." Accordingly, the Secretary finds that the State's definition of "performance bond" is no less effective than the Federal definition in establishing that release of the bond is conditional on the operator's performance of *all* requirements of the regulatory program.

3. NDCC 38–14.1–03—New Subsection—Bonding

North Dakota has added a subsection to NDCC 38–14.1–03 to give the Commission the power to "establish a performance bonding system and an alternative to the performance bonding system which achieve the objectives and purposes of this chapter." Establishment of a performance bonding system requires approval of the Secretary of the Interior under section 503 of the Act. Approval of the Secretary is required for an alternative bonding system under section 509(c) of the Act. Hence, the Secretary finds that this amendment is in accordance with the Federal requirements provided that any performance bonding system established under the State's provision is separately approved by the Secretary in accordance with the above cited sections of the Act.

4. NDCC 38–14.1–07—Subsection 3—Historic Sites

The State has amended this section by replacing the term "sites" in the phrase "national register of historic sites" with the term "places." This action simply corrects an error in the designation (title) of the National Register, and makes the North Dakota code consistent

with OSM regulations. The change will not affect the interpretation or enforcement of this section. Thus, the Secretary approves the amendment.

5. NDCC 38–14.1–13—Subsection 3—Permit Application

In subsection 3 of section 38–14.1–13 North Dakota has revised the period for nondisclosure of confidential information contained in the permit application from seven to ten years. In addition, the State has added a provision to provide that the Commission shall extend the period of confidentiality if the permittee demonstrates such an extension is warranted to prevent harm to the permittee, his successors and assigns. Section 507(B) of SMCRA does not limit the period of nondisclosure for confidential information pertaining to the analysis of the chemical and physical properties of the coal submitted as part of the permit application. As noted above, North Dakota's program amendment provides that the period of confidentiality shall be extended when necessary to prevent harm to the permittee. Therefore, the Secretary finds that although North Dakota's program limits the period of confidentiality whereas the Federal Act and regulations do not, the State's provision, as amended, provides adequate protection of the permittee's rights in accordance with the purpose of the Federal standards.

6 and 7. NDCC 38–14.1–14—Subsections 1 and 2

North Dakota has amended its program to delete subdivision "u" of subsection 1 of section 38–14.1–14 and subdivision "n" of subsection 2 of section 38–14.1–14. These provisions provided authority for the Commission to prescribe by regulation "other" permit application and reclamation plan requirements. The Secretary has determined that deletion of these provisions does not conflict with SMCRA and OSM's regulations.

8. NDCC 38–14.1–15—Extended Mine Plan

In section 38–14.1–15, North Dakota has eliminated several of the permit application information requirements pertaining to the extended mining plan. SMCRA does not require inclusion of this information in the permit application and the Secretary has determined that deletion of these provisions from the North Dakota program does not conflict with the Federal requirements.

9. NDCC 38–14.1–20—Subsection 3—Permit Approval

In subsection 3 of section 38–14.1–20, North Dakota has added a provision to provide that a permit shall be issued subject to the right of an adversely affected person to request a formal hearing on final determination of a permit application. The Secretary finds that the added provision is in accordance with section 514(c) of SMCRA.

10. NDCC 38–14.1–24—Subsection 17—Revegetation

The State has revised subsection 17 which specifies that the permittee must restore lands affected by mining which have been designated for postmining agricultural purposes to a level of productivity and cover equal to or greater than similar nonmined lands in the surrounding area. Section 515(b)(19) identifies vegetative community characteristics that must be considered when reestablishing plant communities. Section 17 of NDCC 38–14.1–24 sets forth the same characteristics and goes on to specify soil types and management practices that must be used when determining success of the revegetation effort. The Secretary finds that section 17, as amended, is in accordance with section 515(b)(19) of SMCRA and no less effective than the corresponding provisions of OSM's regulations.

11. NDCC 38–14.1–24—Subsection 18—Revegetation

The State has amended the language of this section to provide that the responsibility period for successful revegetation shall start at the last year of augmented seeding, fertilizing, irrigation or other work rather than after vegetation has been established. The Secretary finds that the amended provision establishes the same requirements as section 515(b)(20) of SMCRA.

Also, the State has amended this section to provide that "augmented seeding, fertilizing, irrigation, or other work" does not include normal conservation practices recommended locally as good management for the post-mining land use. The meaning of conservation practices recommended locally as good management is not clear. However, OSM believes that the State understands that conservation practices are those measures commonly planned and implemented to protect the resource base by keeping soil losses to tolerable limits, maintaining acceptable water quality, and maintaining acceptable ecological and management levels for the selected resource use. Furthermore, OSM believes that the State recognizes that conservation practices frequently entail surface manipulation of the plant growth medium and that rates of seeding, fertilizing and irrigation that exceed the rates normally applied to the native soils, prior to disturbance by mining, would constitute augmentation.

12. NDCC 38–14.1–30—Subsection 4—Hearing Procedures

In subsection 4 of section 38–14.1–30, North Dakota has added a provision to allow temporary relief to be granted from a ruling on a permit application. In addition, the State has inserted language in this subsection to clarify that temporary relief may be sought prior to a decision by the Commission on a request for review of a ruling, notice or order. Finally, North Dakota has amended this section to provide that any person with an interest which is or may be adversely affected may request temporary relief from a notice, or issuance of a permit.

The revised provision which allows affected or interested persons to request temporary relief is in compliance with section 514(c) of SMCRA and adoption of this provision by the State satisfies condition "i" of the Secretary's approval of North Dakota's permanent program. With respect to the changes in this section clarifying when temporary relief may be sought, the Secretary finds these to be consistent with the Federal provisions at Section 514(c) of the Act. In reviewing the amendments to this section, OSM was initially concerned about North Dakota's amended provision which allows temporary relief from *a* ruling on a permit. 30 CFR 787.11(b)(2)(iv) states that relief may not be sought where a permit has been denied, in whole or in part, by the regulatory authority. Thus, under the Federal standard temporary relief may be sought only when the regulatory authority has made a decision to issue a permit, not when a decision has been made to deny a permit, in whole or in part. OSM initially interpreted North Dakota's amended provision to allow a person to seek temporary relief where a permit has been denied, in whole or part, by the regulatory authority. However, in its November 22, 1982 letter to the Director, North Dakota asserted that subsection 4 of Section 38–14.1–30 of the NDCC only allows a person to request temporary relief on a permit decision when a decision has been made to issue the permit. The State cited the following language contained in that Section to support its contention that temporary relief may be sought only

when a decision has been made to issue a permit.

* * * the permittee or any person with an interest which is or may be adversely affected by * * * *the issuance of a permit* may file with the Commission a written request for temporary relief * * *

In light of the clarifying information provided by the State, the Secretary interprets the State's rule to be consistent with OSM's regulations.

13. NDCC 38–14.1–38—Conflict of Interest

North Dakota has amended this section by deleting the word "decision-making" preceding the phrase "function or duty under this chapter". As amended, this statutory provision prohibits any employee of the Commission performing duties under the State Act from having a direct or indirect financial interest in any underground or surface coal mining operation. This restriction previously applied only to employees performing "decision-making" functions or duties. The State's amended statutory provision is in accordance with Section 517(g) of SMCRA, and adoption of this amendment by North Dakota satisfies condition "k" of the Secretary's approval of North Dakota's program.

Chapter 38–12.1 NDCC Coal Exploration Data

1. NDCC 38–12.1–03—Subsection 2—Definition of Coal Exploration

Subsection 2 of section 38–12.1–03, which defines coal exploration, has been amended by adding "environmental data gathering activities which substantially disturb the land surface" to the list of activities defined as coal exploration. This modification is intended to address condition "f" of the Secretary's approval of the North Dakota Program. Because OSM is contemplating changes to the Federal coal exploration regulations which may have a bearing on the State's satisfaction of this condition, the Secretary has decided to defer his decision on the adequacy of North Dakota's amendment in meeting the condition until OSM finalizes changes to the Federal coal exploration regulations. Accordingly, the Secretary is extending the deadline for North Dakota to satisfy condition "f" until July 1, 1983.

2. NDCC 38–12.1–04—Subsection 1—Jurisdiction

North Dakota has extended the period of nondisclosure of basic data collected during exploration from 7 to 10 years. North Dakota has also added a provision to allow the period of confidentiality to exceed 10 years if it is demonstrated that such period should be further extended in order to prevent possible resulting harm to the person, his successors, and assigns. The Secretary finds that although North Dakota's program limits the period of confidentiality whereas section 512(b) of SMCRA does not, the State's provision as amended, provides adequate protection of the person's rights in accordance with the intent of the Federal standards.

Surface Owner Protection Act; NDCC 38–18

1. NDCC 38–18—Subsections 3, 6, and 10—Definitions

North Dakota has amended the definitions of "Mineral developer," "Mineral owner," and "Surface owner." None of these terms is defined in SMCRA or the Federal regulations. The Secretary finds that the use of these terms, as defined in North Dakota's amendment package, is not inconsistent with the Federal Act or regulations. Hence, the Secretary approves the revisions.

2. NDCC 38–18–06—Subsection 3—Mineral Lease

In section 38–18–06, North Dakota has proposed to add a provision to provide that any previously executed surface or mineral lease in favor of the mineral developer shall bind subsequent surface or mineral owners.

There is no comparable Federal provision in SMCRA, nor any provision which would conflict with this provision. Therefore, the Secretary approves the amendment.

3. NDCC 38–18–07—Surface Damage Payments

Subsection 2 of section 38–18–07 requires the mineral owner to pay a sum of money to the owner of a farm building if he mines within 500 feet of the farm as compensation for moving the building or replacing it. North Dakota has added a section which allows the farm owner to waive his right to compensation. Also, North Dakota has added a provision to clarify that the payment for moving the farm building is to a location 500 feet from the *coal removal area,* as opposed to 500 feet from any point on the permit area. Subsection 3 of section 38–18–07 has been amended to reference the waiver provision added to subsection 2. There are no Federal counterparts to these provisions. The Secretary finds the amended provisions are not inconsistent with the Federal Standards and therefore, he approves these modifications.

NDAC Section 69–05.2–01–02 Definitions

1. *North Dakota has deleted the definitions for the following terms from its regulations:* "acid test ratio", "asset ratio", "capital assets", "current assets", "current liability", "current ratio", "liquidity ratio", "net profit", "net worth", "quick assets", "retained earnings", "working capital", and "self-bond". Deletion of these definitions is consistent with North Dakota's amendment at NDAC 69–05.2–12–05 deleting self-bonding as an acceptable bond form. Under Section 509(c) of the Act and 30 CFR 806.14(a) the regulatory authority has the option to include or exclude self-bonding from the acceptable forms of bond. Hence, North Dakota's deletion of the self-bonding option and of the definitions of terms used in conjunction with self-bonding is not inconsistent with the Federal Act or regulations; thus, the Secretary approves these modifications.

2. *Adjacent Area:* North Dakota has deleted the reference to "extended mining plan area" from the definition of "adjacent area", as the term "adjacent area" is not used in the context of the extended mine plan requirements. The Secretary finds this revision is not inconsistent with any of the Federal requirements.

3. *Collateral bond:* The State definition of "collateral bond" has been revised to include a "perfected lien or security interest in real property". The Federal definition of "collateral bond" at 30 CFR 800.5 contains a comparable provision; thus, the Secretary finds this addition to the State definition as no less effective than the Federal regulations.

4. *Employee:* North Dakota has amended the definition of this term to include consultants, thereby making them subject to the State conflict of interest provisions. The State's definition, as amended, is consistent with OSM's definition of "employee" at 30 CFR 705.5, and adoption of this modification by North Dakota satisfies condition "1" of the Secretary's approval of North Dakota's permanent program.

5. *Flood irrigation:* This definition has been amended by substituting the phrase "supplying water to plants" for the word "irrigation". The State's definition as amended is identical to the Federal definition for "flood irrigation" at 30 CFR 701.5. Hence, the Secretary approves the change.

6. *Ground cover:* A definition for this term has been added to North Dakota's

program. There is no counterpart to this definition in the Federal Act or regulations. The Secretary finds that the State's definition does not conflict with any of the Federal requirements; therefore, he approves the amendment.

7. *Hayland; pastureland; tame pastureland:* North Dakota has deleted the definitions for "hayland" and "pastureland". These deletions are offset by the addition of a definition for "tame pastureland". The State's new definition corresponds to OSM's definition of "pastureland" or land occasionally cut for hay. The Secretary finds these deletions and additions do not make North Dakota's rules less effective than the Federal regulations. Thus, the Secretary approves the changes.

8. *Native grassland, rangeland:* The definition for "rangeland" has been deleted. The change is offset by the addition of a definition for "native grassland". The Secretary finds these revisions do not make the State's provisions less effective than the Federal standards and these modifications are, therefore, approved.

9. *Performance bond:* North Dakota has proposed deletion of the definition for "performance bonding" because the definition has been added to North Dakota's statute at 38–14.1–02. However, the new definition in the statute contains language which is not entirely consistent with the definition of performance bond at 30 CFR 701.5. See the Secretary's finding above related to the proposed amendment to North Dakota's statute at NDCC 38–14.1–02. The Secretary finds that deletion of the definition of "performance bonding" from the regulations is acceptable provided the State corrects the statutory definition as discussed in the above finding, NDCC 38–14.1–02.

10. *Subirrigation:* North Dakota has modified this definition by deleting the phrase "from underneath or". The Secretary has determined that inclusion of this phrase in the definition is superfluous as the phrase "from a semisaturated or saturated subsurface aone" which is contained within the same sentence, sufficiently conveys the meaning intended. The Secretary finds the State definition, as amended, no less effective than the Federal definition at 30 CFR 701.5.

11. *Undeveloped rangeland:* The definition of this term has been amended by the insertion of language which clarifies that "undeveloped rangeland" is generally used for livestock grazing. The Secretary finds the State's definition, as amended, does not conflict with the Federal definition of this term at 30 CFR 701.5; therefore, he approves the change.

12. *Woodland/Woody plant:* North Dakota has modified the definition of woodland to include shrubs and added a definition for woody plants. The Secretary finds these modifications do not conflict with the Federal provisions. The terms are not defined in the Federal Act and regulations. Modification of the definition does not render the provisions less effective than the Federal regulations.

NDAC 05.2–01–03—Promulgation of Rules—Notice—Hearing

The State has amended this section by substituting the term "rules" for "regulations". This revision is merely editorial and the Secretary approves the change.

In addition, the State has amended subsection 5 to require that the notice of hearing shall be published 30, rather than 20 days, before the date set for the hearing. The amended provision is consistent with section 501(a)(A) of SMCRA which requires a 30-day public comment period during which interested persons may submit written comments following publication in the **Federal Register** of proposed regulations. The Secretary finds that adoption of this amendment by North Dakota satisfies condition "j" of his approval of North Dakota's program.

NDAC 05.2–01–06—Intervention

North Dakota has added a new rule under this section consistent with the provisions of 43 CFR 4.1110.

The Secretary has determined that adoption of this rule satisfies condition "g" of the Secretary's approval of North Dakota's program. This rule takes precedent over NDAC 69–02–02–05 which allows only persons with "substantial interests" to intervene in matters before the Public Service Commission (PSC). The Secretary conditioned his approval of North Dakota's program on the revision of the requirement that a person seeking to intervene demonstrate a substantial interest.

NDAC 69–02–01–01 provides that NDAC article 69–02 applies to all practice and procedures before the North Dakota PSC unless rendered inconsistent by a specific statute or rule, in which case the more specific statute or rule applies. Therefore, the more specific rule at NDAC 69–05.2–01–06 will apply to persons seeking to intervene at any stage of a proceeding conducted under North Dakota's surface mining statute (NDCC Chapter 38–14.1) or North Dakota's surface mining regulations at NDAC 69–05.2. The new provision at NDAC 69–05.2–01–06 insures that any person who has an interest which is or may be adversely affected by the outcome of the proceeding may intervene in the proceeding. The Secretary finds that North Dakota has satisfied condition "g".

NDAC 05.2–01–07—Petitions for Award of Costs and Expenses Answer—Awards Judicial Review

North Dakota has adopted a new State rule which implements NDCC 38–14.1–36. The new rule provides for the award of costs and expenses consistent with the provisions of 43 CFR 4.1290–4.1296. Adoption of these provisions by North Dakota satisfies condition "h" of the Secretary's approval of the State's program.

NDAC 69–05.2–05–01—Permit Applications—General

Subsection 1 of Section 69–05.2–05–01 has been amended to require the permit applicant to submit four rather than 10 copies of the application, unless Federal lands are involved, in which case seven copies must be submitted to the Commission and additional copies to OSM.

Under section 771.21(b) OSM requires only one copy of the application to be submitted for non-Federal land and seven copies for Federal land. Hence, the State's provisions, as amended, are more stringent than the Federal requirements and, therefore, the Secretary approves the modifications.

Subsection 3 of Section 69–05.2–05–01 prescribes a 120-day period for review of permit applications. North Dakota has added a provision which provides that the 120-day period shall commence the day the application is submitted. In addition, the State has inserted a provision specifying that when the 120-day period is suspended, the Commission shall advise the permit applicant of its decision to suspend the 120-day review period, the number of days remaining in the review period and the measures to be undertaken by the applicant. These requirements exceed the Federal requirements at 30 CFR 771.21(b)(1) and do not conflict with any of the Federal provisions. Therefore, the Secretary finds the revisions are no less effective than the Federal requirements.

Subsection 4: North Dakota has amended this section by adding a title. The Secretary approves this non-substantive change.

NDAC 69–05.2–05–08. In this section, North Dakota has changed the requirement that the permit area be no larger than the area from which the permit applicant will remove coal during

the permit term to the area which can be considered a logical pit sequence. In addition, the State has added a provision specifying that the *coal removal area* is a permit subarea no larger than the area from which the applicant will remove coal during the permit term. A permit revision would be required to remove coal from additional subareas.

The Secretary has determined that North Dakota's amended rule is no less effective than the Secretary's regulations in meeting the requirements of the Act. Although the State's provisions allow for a permit area to be a larger area than the area to be mined during a five year period, all the information in the permit application must be provided for the entire permit area and the maximum term of a permit is still five years. Hence, the Secretary finds the State's provisions are no less effective than the Federal Requirements.

NDAC 69–05.2–06–01—Permit Applications—Identification of Interests

In addition to minor editorial changes in this section, North Dakota has proposed to delete the requirement at NDAC 69–03.2–06–01(4) that the applicant submit the names under which the applicant, partner, or principal shareholder previously operated a coal mine in any State within the five preceding years.

North Dakota's statute does include a provision under Paragraph 3 of subdivision "e" of subsection 1 of section 38–14.1–14 that requires the applicant to submit a list of the names under which the applicant, partner or principal shareholder previously operated within the State of North Dakota.

However, this statutory provision does not cover an operator's operations in other States. Section 507(b)(4) of SMCRA and 30 CFR 778.13(b)(13) require that the operator include in the permit application a list of names under which he has operated in *any* State. To be consistent with the Federal standards, North Dakota's program must include a comparable provision. North Dakota explained in its letter to the Director dated November 22, 1982, that the Commission does not have statutory authority for this provision. During the 1981 legislative session an amendment to North Dakota's State Act was passed which deleted the following provision from Subsection 1 of Section 38–14.1–14: "Such other requirements as the Commission shall prescribe by regulation." This provision, the State pointed out, was the statutory authority which the State originally relied upon for the permit application requirements pertaining to an applicant's operations in States other than North Dakota set forth under NDAC 69–05.2–06–01(4), NDAC 69–05.2–06–02(1) and NDAC 69–05.2–06–02(3). North Dakota's attorney general has advised the Commission that this statutory provision did not provide adequate authority for the State's regulations at 69–05.2–06–01(4), NDAC 69–05.2–06–02(1) and NDAC 69–05.2–06–02(3). Thus, the State has deleted these regulations in its Amendment I package. The State, however, has drafted amendments to the North Dakota Act to provide the necessary authority. In its November 22, 1982, letter to the Director, North Dakota indicated that the draft amendments would be introduced during the next legislative session. If adopted as proposed, this legislation would also provide authority for the State to adopt a regulation to satisfy condition "e" of the Secretary's approval of the North Dakota program. Condition "e" stipulates that the Secretary's approval of the North Dakota program will terminate on July 1, 1983, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations amending the North Dakota Administrative Code 69–05.2–10–03(i) to prohibit issuance of permits to any person with an outstanding violation or a pattern of violations outside of North Dakota in a same or similar manner as Section 510(c) of SMCRA, and 30 CFR 786.19(i).

In light of the present lack of statutory authority for the permit requirements pertaining to an applicant's operations in States other than North Dakota at NDAC 69–05.2–06–01(4), NDAC 69–05.2–06–02(1) and NDAC 69–05.2–06–02(3), the State does not have the ability to administer and enforce these regulations. Thus, with respect to North Dakota's Amendment I package, the Secretary approves of the deletion of these rules. However, because these requirements must be included in the North Dakota program to be consistent with the Federal Standards, the Secretary is modifying condition "e" by adding the requirement that the State amend its program by July 1, 1981, to include these requirements. This should allow the State sufficient time to enact the essential legislation which is necessary for the State to adopt these regulatory provisions.

NDAC 69–05.2–06–02—Permit Applications—Compliance Information

Subsection 1. In subsection 1 of NDAC 69–05.2–06–02 North Dakota has proposed to delete the requirements that the permit applicant submit a statement of any permits held subsequent to 1970 in States other than North Dakota. Section 507(b)(3) of SMCRA and 30 CFR 778.14 require that the operator include this information in his permit application. *See* the finding above on modifications to NDAC 69–05.2–06–01(4) for the Secretary's determination on this amendment.

Subsection 3. In subsection 3 of section 69–05.2–06–02, North Dakota has deleted the requirement that the applicant submit a list of notices of violations of SMCRA or U.S. and State law pertaining to air or water environmental protection that he has received in any State. In its place, North Dakota has proposed to obtain a statement regarding each violation notice issued to the applicant in North Dakota. Section 510(c) of SMCRA and 30 CFR 778.14(c) require the permit applicant to submit this information. *See* the finding above on modifications to NDAC 69–05.2–06–01(4) for the Secretary's determination on this amendment.

Subsection 5. North Dakota has proposed to delete subsection 5 of NDAC 69–05.2–06–02 which requires the permit applicant to submit a summary of any determinations made by a State or Federal regulatory authority having jurisdiction over surface coal mining and reclamation operations that the permit applicant was found to have engaged in a demonstrated pattern of willful violations. The Federal Act and regulations do not require the permit applicant to submit this information. Therefore, the Secretary finds North Dakota's deletion of this requirement is not inconsistent with the Federal standards.

NDAC 69–05.2–06–03—Permit Applications—Right of Entry

North Dakota rule 69–05.2–06–03 requires the permit applicant to submit copies of the documents upon which he bases his legal right to enter the permit area. The State has amended this provision to eliminate the requirement that the copies be certified. The Secretary has determined that the State's provision, as amended, is still more stringent than 30 CFR 778.15(a) which requires that the applicant submit only a description of the documents.

In addition, the State requires at NDAC 69–05.2–06–03 that the permit applicant submit a narrative and supporting copies of the documents which demonstrate compliance with the Surface Owner Protection Act. The State has amended this provision to require that the copies of supporting documents be certified. This requirement has no counterpart in the Federal Act or

regulations. The Secretary finds the change is not inconsistent with the Federal standards.

NDAC 69–05.2–07–01, 69–05.2–07–02, 69–05.2–07–03, 69–05.2–07–04, 69–05.2–07–05, 69–05.2–07–06, 69–05.2–07–07—Permit Applications—Extended Mining Plan

North Dakota has eliminated from these sections many of the requirements pertaining to the extended mining plan. The Secretary has determined that deletion of these provisions is acceptable as the remaining provisions are no less effective than than the Federal provision at 30 CFR 779.12(a) which provides that the applicant describe the size, sequence and timing of the subareas of the permit area for which it is anticipated that individual permits for mining will be requested over the estimated total life of the mining activities.

NDAC 69–05.2–08–01

In addition to revising this section for clarity, North Dakota has added a provision which requires the permit applicant to identify the size, sequence, and timing for which it is anticipated that individual coal removal subareas will be mined. The Secretary finds this modification is consistent with the changes to section NDAC 69–05.2–05–08 discussed above. Also, the State has deleted subdivision "e" of subsection 3 (renumbered 4). The Secretary finds this revision acceptable as the deleted provision is contained under the extended mine plan provisions at NDAC 69–05.2–07.

NDAC 69–05.2–08–03—Permit Applications—Cultural and Historic Resources

North Dakota has amended this section to develop more explicit regulations concerning the protection of cultural and historic resources. The regulations require the operator to submit an inventory of the permit and adjacent areas, an evaluation of site significance based on National Register criteria, and a map identifying the significant resources.

The Secretary has determined that the State provisions, as amended, are no less effective than 30 CFR 779 and 783 in providing protection for cultural and historic resources.

NDAC 69–05.2–08–05—Permit applications—Geology Description

North Dakota has amended the State regulations outlining the information to be submitted by the permit applicant on the geology of the proposed permit area. The Secretary has determined that the State provisions, as amended, still exceed the minimum Federal requirements for a geologic description in the permit application. Hence, the Secretary approves the amendments.

NDAC 69–05.2–08–07—Permit Applications—Surface Water Information

North Dakota added a requirement that the permit applicant submit a description of the monitoring procedures used to acquire surface water data including: the location of all monitoring sites, frequency of monitoring for each site, and the monitoring techniques and equipment utilized. There is no counterpart to this requirement in the Federal Act or regulations. The Secretary has determined that the additional requirement will make the State's rules more stringent than the Federal standards and, therefore, he approves the modification.

NDAC 69–05.2–08–08—Permit Applications—Vegetation and Land Use Information

North Dakota has amended the vegetation information requirements contained in North Dakota Rule 69–05.2–08–08. The Secretary has determined the revisions (deletions and additiona) result in a more clearly stated rule that is no less effective than the vegetative data requirements of 30 CFR 779.19 and 779.22.

NDAC 69–05.2–08–09—Permit Applications—Prime Farmland

North Dakota has expanded the title of this section to more clearly identify the content of this section. In addition, under Subsection (2)(e), North Dakota's program relative to a negative determination for prime farmland originally contained the language, "* * * areas identified as prime soils * * *". This has been changed to, "* * * soil mapping units identified as prime farmland." The new language makes it more clear that prime farmland soil mapping units are the basis for the identification (and location) of prime farmland soils. The Secretary has determined that the State's rule, as amended, is no less effective than the Federal provision at 30 CFR 779.27.

NDAC 69–05.2–08–10 and NDAC 69–05.2–08–11—Permit Applications—Soil Resources

In subsections 1 and 2 of sections 69–05.2–08–11, the State has removed references to, "soil material" but retained the phrase, *suitable plant growth material.* Additionally, in these subsections North Dakota has deleted the words "first lift" and "second lift", but substituted the words *topsoil* and *subsoil,* respectively. Subsection 3, which requires a soil profile description for all prime farmland to be disturbed by miners, has been deleted. A similar provision, however, has been added to rule 69–05.2–09–15. A minor editorial change has beeen made in section 69–05.2–08–11. The Secretary has determined that these changes will not make the State rules less effective than the Federal standards at 30 CFR 779.21.

NDAC 69–05.2–08–12—Permit Applications—Topographical Data

The State has revised this section by rewording the requirements and eliminating specific details pertaining to cross sections and slope measurements. The rewording of the requirements does not alter the basic requirements for topographic and slope maps. The wording that has been deleted was unnecessary. The rules, as amended are consistent with the Federal regulations in 779.25(k) and, therefore, the Secretary approves the modification.

NDAC 69–05.2–08–15—Permit Applications—Fish and Wildlife Resources

North Dakota has added a requirement in subsection (1) that "(t)he habitats shall be delineated on 1:4800 scale aerial photographs". There is no counterpart to this requirement in the Federal Act or regulations and the Secretary finds the amended regulation is not inconsistent with the Federal standards. Hence, the modification is approved.

NDAC 69–05.2–09–02—Permit Applications—Maps and Plans

The State has added a provision under paragraph (3) which requires that the permit applicant delineate on a map submitted as part of the permit application the sequence of mining and reclamation operations with a description of size and timing of operations for each *coal removal* subarea.

The Secretary finds this change is consistent with the changes in 69–05.2–05–08, discussed above. Therefore, the Secretary approves the revision.

NDAC 69–05.2–09–04

Section 8(b) has been amended to correct a typographical error in a cross reference. The cross reference now correctly reads "subsection 10 of section 69–05.2–17–05" instead of "subsection 8 of section 69–05.2–17–05." the Secretary finds this revision acceptable.

NDAC 69-05.2-09-08—Permit Applications—Significant Cultural Resources

The State has amended section 69-05.2-09-08 to delete the requirement that operators obtain the approval of the Commission and other agencies when mining may adversely affect cultural resources, and added a requirement that each operation plan submitted as part of a permit application shall include a statement that the permittee will inform the State historical society and the Commission of any discovery within the permitted area of previously unrecorded archeological, cultural, or historic materials.

While North Dakota's amended regulation does not clarify that the approval of the permit application by the agency with jurisdiction over the cultural resource is required, the State statute, section 38-14.1-07(3), prohibits mining "within three hundred feet of any publicly owned park or places included in the State historic sites registry or the National Register of Historic Sites unless approved jointly by the Commission and Federal, State, or local agency with jurisdiction over the park or historic site". This statutory provision insures the same level of protection for cultural resources as the Federal Act and regulations provide. Thus, the Secretary approves the amendment.

NDAC 69-05.2-09-11—Permit Applications—General Requirements

North Dakota has modified paragraph 3 of this section to require topographic maps with a specified contour interval instead of contour maps. In addition, slope maps are required. Volumetric calculations and cross sections or other appropriate information must be provided to demonstrate that sufficient material exists to achieve the final surface configuration. The impact of these differences is that all reclamation plan maps will be the same and sufficient data will be presented to the regulatory authority to verify maps and plans.

The North Dakota regulations require the same maps as the Federal regulations and additional information with respect to the cross sections. Thus, the North Dakota regulations are no less effective than the Federal requirements.

NDAC 69-05.2-09-12—Permit Applications—Surface and Ground Water Monitoring

The State has proposed to add a cross-reference to the hydrologic balance performance standards. This modification simply clarifies the association between permit requirements and performance standards. The Secretary approves this modification.

NDAC 69-05.2-09-13—Permit Applications—Postmining Land Use

North Dakota has amended this section by replacing the word "rangeland" with the terms "native grassland" and "tame pastureland." The Secretary has determined that the substitution of these terms (which have been defined in 69-05.2-01-02) does not alter the performance requirements of this section and the State rule, as amended, is no less effective than 30 CFR 780.23.

NDAC 69-05.2-09-15—Permit Applications Operations and Reclamation Plans—Prime Farmlands

Subsection 1: North Dakota has added a permit application requirement that the operation and reclamation plan for prime farmlands include the soil survey that identified the prime farmland including soil mapping unit and representative soil profile descriptions for each prime farmland unit. A similar requirement was deleted from Section 69-05.2-08-10. Hence, the addition of such a provision here does not represent a change in the requirements of North Dakota's program.

Subsections 2 and 3 (formerly subsections 1 and 2: North Dakota has substituted the phrase "plant growth materials" for the phrase "soil materials." The Secretary finds that the State rule, as amended, is consistent with the permit application requirements for prime farmlands at 30 CFR 785.17.

Subsection 4 (previously subsection 3): North Dakota has inserted a phrase to more clearly describe what kind of map is to be submitted which locates areas where prime farmland plant growth material is to be respread. The regulation specifies that a "postmining topographic" map shall be submitted. The Secretary finds the revised provision consistent with the Federal requirements at 30 CFR 785.17.

Subsections 5 and 7 (previously subsections 4 and 6: North Dakota has replaced the word "yield" with "productivity". The term "productivity" as defined at 69-05.2-01-02 (74) means vegetative yield. Although the term "yield" is used in section 510(d)(1) and section 519(c)(2) of the Act and the prime farmland provisions of OSM's regulations, the Secretary has determined that the substitution of the term "productivity" in North Dakota's program does not make the State rule less effective than the Federal provisions.

Subsection 6: North Dakota has deleted the phrase "* * * final graded disturbed land * * * " and substituted new language "* * * area to be reestablished as prime farmland * * *", so that the part now reads, "Plans for seeding or cropping the area to be reestablished as prime farmland and the conservation practices * * *." Final grading is required of all reclaimed land; therefore, it need not be specified here. This Secretary finds the amended rule consistent with the Federal requirements.

Subsection 7: North Dakota has transferred this subsection dealing with the coordination with the USDA, Soil Conservation Service, to Chapter 69-05.2-10-01, subsection 3—"Permit Application—Public Notices of Filing." The Secretary finds this revision does not alter the requirements of North Dakota's program.

NDAC 69-05.2-09-16—Permit Applications—Alluvial Valley Floors

North Dakota has revised this section for clarity only. The Secretary approves the modification.

NDAC 69-05.2-09-17—Permit Applications—Fish and Wildlife Resources

This section sets forth the requirements for a fish and wildlife plan to be included in the permit application. The State has amended this section for clarity. As 30 CFR 780.16 was remanded by the Court in *In re: Permanent Surface Mining Regulations Litigation,* No. 79-1144, Memo. opin. of Feb. 26, 1980, there is no counterpart to this State requirement in the Federal regulations.

NDAC 69-05.2-10-01—Permit Applications—Public Notices of Filing

Subsection 2: North Dakota has amended this regulation to require distribution of appropriate portions of permit applications to the State Advisory Committee as opposed to the complete applications with supporting material. This provision, as amended, is more stringent than Federal requirements which do not require any such distribution. Hence, the Secretary approves the revision.

Subsection 3: North Dakota has added a section which requires the Commission to submit the portions of a permit application pertaining to the prime farmland reclamation plan to the U.S. Soil Conservation Service (SCS). If SCS finds the plan to be inadequate, it will suggest revisions resulting in more complete and adequate reconstruction. This requirement has simply been transferred from 69-05.2-09-15 and,

therefore, the Secretary approves the change.

NDAC 69–05.2–10–03—Permit Applications—Criteria

North Dakota has amended this section for grammatical purposes only. Thus, the Secretary finds the revisions acceptable.

NDAC 69–05.2–10–05—Permit Applications—Approval or Denial

In subsection 5, North Dakota has changed its regulation to allow any party to request temporary relief from the issuance of a permit within 30 days of the publication of the notice. The comparable Federal provision is 30 CFR 787.11(a). The Secretary has determined that the amended State provision is no less effective than the comparable Federal regulation.

NDAC 69–05.2–10–06—Permit Applications—Approval for Surface Disturbances Over Federal Mineral Estates

North Dakota has deleted the reference to the regional director of OSM. The rule, as amended, simply makes a general reference to OSM. The Secretary finds this modification is acceptable as the position of "regional director" has been eliminated under OSM's reorganization.

NDAC 69–05.2–11–02—Permit Revisions

North Dakota has amended this section by adding a provision which specifies that disturbance of a new coal removal subarea within a permit area shall be regarded as a significant alteration. Subsection 5 of 69–05.2–11–02 specifies that if an alteration to a permit is significant, the application shall be subject to the notice, hearing and procedural requirements of NDCC 38–14.1–18, 38–14.1–19 and 38–14.1–20 and chapter 69–05.2–10. The Secretary has determined that this amendment is consistent with 30 CFR 788.12(a)(1) which provides that "Each regulatory authority shall provide parameters in the regulatory program to determine what changes shall constitute significant departures as used herein."

NDAC 69–05.2–11–03—Permit Renewals—Applications

North Dakota has added a clarifying statement to this section to explain that proof of publication of a newspaper notice for permit renewals shall be furnished to the Commission by a permit applicant after the last required publication date. The Secretary has determined that the amended rule is consistent with 30 CFR 788.14(a)(2), which requires that a complete application for a permit renewal shall include a copy of the newspaper notice and proof of publication.

NDAC 69–05.2–12—Performance Bonds—Liability Insurance

Subsection 1: North Dakota has amended NDAC 69–05.2–12–01, General Requirements, to clarify operator requirements for filing a bond, and to clarify requirements for incremental bonding. The Secretary finds the North Dakota amendments are consistent with the requirements at 30 CFR 800.11 for filing a bond.

Subsection 2: North Dakota has amended 69–05.2–11–02 to delete self-bond as an acceptable form of bond and to add a combination of surety and collateral bond as an acceptable form of bond.

These changes are consistent with OSM regulations. Under Section 509(c) of the Act and 30 CFR 806.14(a) the regulatory authority has the option to include or exclude self-bonding from the acceptable forms of bond. 30 CFR 806.11(a)(6) allows a combination of surety and collateral bonds.

Subsection 3: North Dakota has amended this section by deleting the restriction on the amount of surety bonds the Commission may accept as a percentage of the surety company's capital surplus. Deletion of restrictions on the amount of bond acceptable from a surety company is acceptable because this requirement is enforced by the North Dakota Commissioner of Insurance through Section 26–07–03 of the North Dakota Century Code.

Subsection 4: North Dakota has amended NDAC 69–05.2–12–04 to further define collateral bonds and to establish conditions for acceptance of real property as collateral.

The Secretary has determined the amended provision is consistent with the definition of collateral bond in 30 CFR 800.5 and 30 CFR 806.12(h) which establishes conditions for accepting real property as collateral. The North Dakota amendment assures the adequacy of property values of real property used as collateral and the regulatory authority's interest in real property used as collateral.

Subsection 5: North Dakota has amended NDAC 69–05.2–12–05 to delete standards for acceptance of a self-bond. This is consistent with North Dakota's amendment at 69–05.2–12–02 which deletes self-bond from the acceptable forms of performance bond. Section 509(c) of the Act and 30 CFR 806.14(a) provide for regulatory authority discretion in establishing self-bonding. Therefore, the Secretary approves this modification in North Dakota's program.

Subsection 6: North Dakota has amended this Section to delete self-bond as a replacement bond option. This change is consistent with the above-mentioned deletion of self-bonding as an acceptable bond form. Other editorial changes in this section do not alter the effect of the regulations.

Subsections 7, 9, 12: North Dakota has proposed word changes at 69–05.2–12–07 and at 69–05.2–12–09 consistent with language at 30 CFR 800.13 and 805.13, respectively. In addition, North Dakota has amended 69–05.2–12–12(7)(a) to correct a cross-reference and for clarity. The Secretary finds these revisions acceptable.

Subsection 16: North Dakota is deleting 69–05.2–12–16, Subsection 3, to achieve consistency with the amendment at 69–05.2–12–01(3). The effect of these changes is to establish that liability on a performance bond shall cover the legally described area attached to the bond. The requirement that liability on a separate bond increment shall extend to the entire permit area has been deleted. OSM has determined that when limited guarantees are accepted which are intended to cover specific increments, extending the guarantee to the entire permit area is beyond the incremental reclamation guarantee. For this reason, OSM has suspended 30 CFR 808.12(c), the counterpart to NDAC 69–05.2–12–16(3). *See* 46 FR 42063 and 42082 (August 19, 1981). Accordingly, the Secretary approves these modifications.

Subsection 17: North Dakota has deleted NDAC 69–05.2–12–17, "forfeiture of performance bond criteria." North Dakota Century Code at 38–14.1–33 contains provisions which establish conditions under which forfeiture proceedings may or shall be instituted, which achieve the same result as 30 CFR 808.13. Therefore, the Secretary approves this revision.

Subsection 19: North Dakota has deleted NDAC 69–05.2–12–19 which outlines the actions that may be taken by the Commission if a permit is revoked. Section 38–14.1–33 of the State Act contains provisions detailing the action the Commission must take if a permit is revoked. Therefore, the Secretary finds the amendment acceptable.

Subsection 20: North Dakota has amended this section to raise the minimum amount of liability insurance which the permittee must secure. As North Dakota's minimum is higher than that required at 30 CFR 806.16(a), the Secretary approves this change.

NDAC 69-05.2-13-07—Performance Standards—Air Resources Protection

The only change in this section consists of replacing the word "regulations" with "rules." The Secretary finds this non-substantive revision acceptable.

NDAC 69-05.2-13-08(2)—Performance Standards—Protection of Fish, Wildlife and Related Environmental Values

The phrase "any plant or animal listed as threatened or endangered" has been inserted into Subsection 2. The amended regulation is consistent with 30 CFR 816.97 and adoption of this amendment by the State satisfies condition "b" of the Secretary's approval of the North Dakota permanent program.

NDAC 69-05.2-13-02—Performance Standards—General Requirements

This section requires the operator to submit annually information on the mining and reclamation activities that occurred during the year being reported. There is no counterpart to this requirement in the Federal Act or regulations, and the Secretary finds that the State provisions, as amended, are consistent with the Federal requirements.

NDAC 69-05.2-14-01—Performance Standards—Casing and Sealing of Drilled Holes

The State has amended this section to provide that the requirements set forth therein shall be applicable to the permit area and adjacent area instead of the extended mining plan area and adjacent area. As amended, the State's rule is consistent with 30 CFR 815.13 which requires the operator to case and seal well holes on the permit and adjacent areas.

NDAC 69-05.2-15-03,04 05—Performance Standards—Suitable Plant Growth Material

The revisions (deletions and additions) in North Dakota rules 69-05.2-15-02 and 04 are for the purpose of clarity. The Secretary has determined that the amended State rules are no less effective than their counterparts in 30 CFR 816.22 and .24.

North Dakota rule 69-05.2-15-05 has been revised to clarify that soil amendments are to be applied "when necessary" to support the post mining land use and meet the revegetation requirements.

Another change is the deletion of the requirement that soil tests be performed in accordance with standards "approved by the Commission." The State takes the position that requiring Commission approval of the soil testing method is an unnecessary requirement because standard laboratory methods are developed by other agencies. 30 CFR 816.25 requires that all soil tests shall be performed by a qualified laboratory using standard methods approved by the regulatory authority. State regulations require that soil tests shall be performed by a qualified laboratory using standard methods. State approval of a qualified lab is in essence approval of the soil testing method employed by that laboratory. Hence, NDAC 69-05.2-15-05 is no less effective than 30 CFR 815.25 because approval of a qualified laboratory by the State for testing soils is in effect approval of the testing method employed by that laboratory. The Secretary approves these modifications.

NDAC 69-05.2-16-14—Performance Standards—Ground Water Monitoring

North Dakota has amended this section by (1) cross-referencing monitoring requirements to permit requirements; (2) deleting language which specifies that the requirements of this section apply to activities on the "extended mining plan area;" and (3) adding a provision to require the operator to design and maintain ground water monitoring systems that will allow the Commission to substantiate the cumulative impact determination.

The Secretary finds: (1) That the cross-reference modification helps to clarify the relationship between performance standards and permit requirements; (2) the deletion of the reference to "extended mine plan area" is acceptable as all references to "mine plan" have been deleted from the Federal rules; hence the requirements of 30 CFR 816.52 apply only to the permit and adjacent areas; and (3) the additional provision to require operators to design ground water monitoring that will allow the Commission to substantiate the cumulative hydrologic impact determination will result in greater environmental protection.

NDAC 69-05.2-17- 05 and 06—Performance Standards—Surface Blasting Procedures

North Dakota has amended these sections to provide that the maximum peak particle velocity caused by blasting shall not exceed 1 inch per second. In addition the State has amended the formula for calculating the maximum weight of explosives which can be detonated at a specific distance from structures within a specific time frame, as well as the table of values calculated by using the formula. The State regulations now provide for the use of the formula $W=(D/60)^2$. The State table of values is based on use of this formula. The State requirements are now the same as the Federal standards at 30 CFR 816.65. These modifications satisfy condition "a" of the Secretary's approval of North Dakota's program.

NDAC 69-05.2-19-01—Performance Standards—Waste Materials

The State has deleted the requirement that an operator must secure a permit from the State Department of Health for the disposal of any waste subject to the North Dakota solid waste management regulations, and that said waste must be disposed of in accordance with those regulations.

The deletion of this requirement will not weaken the State program as the requirement has been incorporated, in more detail, at sections 69-05.2-19-02 and 04.

NDAC 69-05.2-19-02—Performance Standards—Disposal of Coal Wastes

Subsection 1: The State has added this section which requires operators to secure a permit from the State Department of Health for the disposal of coal mine wastes subject to the regulation of that agency and to require compliance with relevant Department of Health regulations. In addition, the amended regulations require the operator to obtain a permit revision for the disposal of waste. Approval of the permit revision by the Commission is contingent upon the issuance of a permit by the State Department of Health. The Secretary has determined that the amended provisions are more stringent than the provisions deleted from 69-05.2-19-01 and consistent with 30 CFR 816.81.

Subsection 2: The existing section 69-05.2-19-02 has been renumbered as subsection 2 following the insertion of the new material under subsection 1. The State has deleted the words "shall be permanently disposed of" and in their place inserted "that are permanently disposed of within the surface coal mining and reclamation operations permit area shall be placed". Also, the words "mined out pit" have been replaced by "excavated pit."

The Secretary has determined that these changes are non-substantive and the amended section does not conflict with Section 816.81 of OSM's rules.

NDAC 69-05.2-19-03—Performance Standards—Disposal of Coal Processing Wastes

The State has replaced the words "mined out" with the word "excavated" in the opening paragraph. The change is non-substantive and does not conflict

with Section 816.81 of OSM's regulations.

NDAC 69-05.2-19-04—Performance Standards—Disposal of Noncoal Wastes

The State has added a reference to the State Department of Health's solid waste management rules as Subsection 1. There is no counterpart to the new State provision in Section 816.89 of OSM's rules. The Secretary has determined that the additional requirement makes the State's provisions more stringent than OSM's.

NDAC 69-05.2-21-04—Performance Standards—Thin Overburden

The State has restructured this section for the purpose of clarity. The basic requirements for backfilling and grading when there is thin overburden have been retained in the North Dakota regulations and the Secretary has determined that the North Dakota regulations are no less effective than the Federal regulations at 30 CFR 816.104.

NDAC 69-05.2-21-06—Performance Standards—Slope Measurements

The State has amended the provisions of this section which require that a final graded slope contour map be submitted to the Commission prior to topsoiling. This map must be approved or disapproved by the Commission within 30 days of receipt. The intent of these provisions is to verify that actual backfilling and grading has been completed in accordance with the permit plans. There is no counterpart to this requirement in the Federal regulations. As these provisions exceed the requirements of the Federal regulations, the Secretary approves the modifications.

NDAC 69-05.2-22- 01 to 07—Performance Standards—Revegetation

The revegetation performance standards of 816.11-.117 are adequately addressed in North Dakota's rules 69-05.2-22 -01 -07. The revisions (deletions and additions) result in a more clearly stated rule and satisfy conditions "c" and "d" of the Secretary's approval of the North Dakota program.

Condition "c" required that North Dakota amend the provisions under NDAC 69-05.2-22(07)(3)(b) to require measurement of success of prime farmlands based on three years production data in accordance with 30 CFR 823.15(c) (i) and (iii). North Dakota has amended NDAC 69-05.2-22(07)(3)(b) to require that success of revegetation for prime farmlands be based on three, years production data instead of two, as previously required. Thus, the Secretary finds the State has fulfilled condition "c".

Condition "d" required that North Dakota submit fully enacted regulations requiring Director of OSM approval of standards used for measuring success of revegetation. Previously, the State's rule at NDAC 69-05.2-22-07.1 provided for Commission approval of standards after consultation with the Regional Director of OSM.

The State has revised NDAC 69-05.2-22-07.1 to require approval by the Commission *and* the Office of Surface Mining when standards other than reference area data are to be used to determine revegetation success. North Dakota's 69-05.2-22-07.1 is no less effective than 816.116(b)(1); hence, the Secretary's condition "d" has been satisfied.

NDAC 69-05.2-23-01—Performance Standards—Postmining Land Use

North Dakota has amended section 69-05.2-23-01 by merging two paragraphs, and adding and deleting language. The Secretary has determined that North Dakota's provision at 69-05.2-23-01 as amended provides the same standard for judging the postmining land use for previously mined and unreclaimed land as 30 CFR 816.133(b).

NDAC 69-05.2-23-02—Performance Standards—Land Use Categories

This rule has been modified by substituting the term "tame pastureland" for "pastureland" and "hayland". Also, "native grassland" has been substituted for "rangeland."

These revisions are consistent with the modifications made by the State in section 69-05.2-09-13. As previously noted, the Secretary finds these changes consistent with the Federal Act and regulations.

NDAC 69-05.2-16-01—Subsections 1 and 2—Performance Standards—Prime Farmland

North Dakota has deleted these subsections dealing with prime farmland special requirements. These rules merely reiterate the more specific rules of Chapter 69-05.2-26 and, therefore, the Secretary has determined that inclusion of the material in this section is not necessary for the State program to satisfy the minimum Federal requirements.

NDAC 69-05.2-26-02—Performance Standards—Prime Farmland—Soil Removal

The State has amended this rule simply for clarity and to add a cross-reference; hence, the Secretary finds the revisions acceptable.

NDAC 69-05.2-26-03—Performance Standards—Soil Stockpiling

The State has revised this rule for clarity only and, therefore, the Secretary approves the modifications.

NDAC 69-05.2-26-04—Performance Standards—Soil Replacement

The State rule has been revised simply to improve its clarity and to add a cross-reference. Therefore, the Secretary approves the revisions.

NDAC 69-05.2-26-06—Prime Farmland Exemption

The State has added a new rule which is similar to the Federal prime farmland grandfather provision published in the Federal Register September 29, 1981 (46 FR 47720) with the following exceptions:

(i) The State uses a July 1, 1979 date rather than the August 3, 1977 date established at Section 510(d)(2) of SMCRA for the prime farmland exemption. The Secretary has determined that the State provision is consistent with the Federal requirement because the State's initial regulatory program under SMCRA contained provisions which established August 3, 1977, as the grandfather date. See the discussion in the December 15, 1980 Federal Register notice announcing the Secretary's conditional approval of North Dakota's program (45 FR 82242).

(ii) 69-05.2-26.06, (3)(c): This part refers to "* * * a single continuous mining operation * * *" rather than "* * * a single continuous mining *pit* * * *" as in 30 CFR 785.17(a)(3)(iii). However, 69-05.2-26-06(4) clarifies that a "surface coal mining operation" is presumed to consist of a single continuous mining pit under permit prior to July 1, 1979, but may include non-contiguous parcels if the operator can prove by clear and convincing evidence that, prior to July 1, 1979, the non-contiguous parcels were part of a single permitted operation." Thus, the Secretary has determined that the State's provision is no less effective than the Federal regulations.

(iii) 69-05.2-26.06(3): The Federal rule at 30 CFR 716.7(a)(2)(iii) stipulates that the performance standards for mining operations on prime farmlands do not apply to lands included in any existing surface coal mining operations for which a permit was issued for all or any part thereof prior to August 3, 1977, provided that three criteria are set. The three criteria are listed under subparagraphs "A", "B" and "C". The word "and" appears at the end of subparagraphs

"A" and "B" indicating that all three criteria must be met for the exemption to apply. OSM initially questioned whether North Dakota's counterpart provision makes it clear that all three criteria must be met for the exemption to apply.

The criteria are listed in subparagraphs "a", "b" and "c" under 69–05.2–26–06(3); however, the State has omitted the word "and" at the end of subparagraphs "a" and "b". In its letter to the Director dated November 22, 1982, North Dakota indicated that the "and" is understood and that the intention of the rule is to require that all three criteria be met for the exemption to apply. The State asserted that if the intention of the rule were to require that only one of the three criteria be met, then the conjunction "or" would have been used to clearly indicate it. Further, the State noted that this formatting style is used throughout the approved State program. In view of this clarification provided by the State, the Secretary has determined that the State's rule is no less effective than its Federal counterpart.

Public Comment

Following is a summary of the comments received on the North Dakota Amendment I package including the clarifying information submitted November 22, 1982, and OSM's response to those comments.

The Soil Conservation Service (SCS), U.S. Department of Agriculture (USDA), made two recommendations regarding North Dakota's proposed amendments.

With regard to North Dakota's performance requirements for plant growth material to be removed and saved for reclamation, SCS recommended that all suitable plant growth material to a depth of 60 inches be retained and stockpiled for reclamation, especially for prime farmland soils. SCS indicated that no long term research (15 to 20 years) exists which demonstrates that less than 60 inches is sufficient.

As amended, NDAC 69–05.2–15–02 requires the operator to remove and save the topsoil and subsoil, or first and second lift suitable plant growth material, respectively. The topsoil and subsoil layers are identified by the soil survey required under NDAC 69–05.2–08–10. The Secretary finds the State's requirements for soil removal consistent with 30 CFR 816.22 and 817.22 which require the operator to remove and save topsoil. The regulatory authority may also require the operator to remove the other underlying soil if it is determined to be necessary or desirable to ensure soil productivity consistent with the approved postmining land use. With regard to prime farmland soils, North Dakota amended rule 69–05.2–26–04 stipulates that the minimum thickness of suitable plant growth material to be reconstructed for prime farmland shall be 48 inches, or a thickness which is equal to the depth of the original soil profile up to a subsurface horizon which inhibits root penetration, whichever is shallower. This rule establishes the same performance standard as OSM's rule at 30 CFR 823.14(a).

Thus, while the Secretary does not disagree that it may be desirable to retain and stockpile suitable plant growth material to a depth of 60 inches, the Federal regulations do not require this, and, therefore, the Secretary cannot require North Dakota to adopt this standard. This does not prevent the State from adopting the more stringent requirement, if it so chooses.

SCS also recommended that the language of Section 69–05.2–22–07, item 4C, as amended, be revised to read:

"For prime farmlands, * * * of the approved reference area or standard *for prime farmland* with ninety * * * ". (Underlined language recommended for insertion by commenter.)

The Secretary interprets the reference to the "standard" as the prime farmland standard, and, therefore, does not believe it is essential that the State revise this rule as recommended by the commenter.

The Dakota Resource Council (DRC) submitted the following comments pertaining to North Dakota's amendment. DRC indicated it supported the revisions submitted by the State to satisfy conditions "a"–"d" and "f"–"l".

With regard to NDAC 69–05.2–05–08, DRC noted that under the proposed amendments, a mine permit would not be granted for the specific area from which coal would be removed during the five year permit term, but rather for the logical pit sequence. The commenter indicated that Section 506(b) of SMCRA limits a permit area to that area which supports operations conducted during a five year permit term. As noted in the finding above on the amendments to NDAC 69–05.2–05–08, the Secretary has determined that North Dakota's amended rule is no less effective than OSM's regulations in meeting the intent of the Act. Although the State's provisions allow for a permit area to be a larger area than the area to be mined during a five year period, all the information in the permit application must be provided for the entire permit area, not just the coal removal area, and the maximum term of a permit is still five years. Hence, the Secretary believes that the State's program will ensure the same level of environmental protection as the Federal standards.

DRC also stated it objected to deletion of subsection 4 of 69–05.2–06–01 and subsection 3 of 69–05.2–06–02, which require the permit applicant to submit a list of names under which he previously operated in any State and a list of violation notices received in any State, respectively.

As noted above in the findings on the amendments to these sections, the Secretary has determined that deletion of these provisions would make North Dakota's program inconsistent with the Federal standards, and, therefore, he is modifying condition "e" of the approval of the State program to require the State to adopt such provisions.

A further comment by DRC was that the revisions to NDAC 69–05.2–08–01, which are necessitated by the changes to NDAC 69–05.2–05–08, should not be approved. For the reasons stated above, the Secretary approves the changes to NDAC 69–05.2–05–08 and, accordingly, to NDAC 69–05.2–08–01.

DRC objected to the State's use in section NDAC 69–05.2–26, of July 1, 1979, as the grandfather exemption date for prime farmlands. As discussed in the finding above on the amendments to this section, the Secretary has determined that the State provision is consistent with the Federal requirement at Section 510(d)(2) of SMCRA because the State's initial regulatory program under SMCRA contained provisions which established August 3, 1977, as the grandfather date.

Other comments submitted by DRC are not being addressed in this notice because they concern issues outside the scope of this rulemaking.

The Minerals Management Service (MMS) commented that it had reviewed the proposed amendment to North Dakota's program specifically for potential conflicts with the Coal Exploration and Mining Operations rules for Federal Coal (30 CFR Part 211) of the MMS. The Agency indicated it found the material submitted did not impact the Part 211 rules.

The Environmental Protection Agency stated that it considered the proposed changes submitted by North Dakota environmentally acceptable. The Secretary agrees, with the exceptions noted in his findings above.

The National Park Service (NPS) commented that the North Dakota amendments appeared to satisfactorily take into the account its concerns for effects on units of the National Park system. The Secretary agrees with this determination.

The Fish and Wildlife Service (FWS) made the following comments

concerning the amendments to North Dakota's program:

NDAC 69–05.2–01–02, Definitions—FWS concurred with the addition of new definitions for native prairie and tame pastureland, and asserted the new definitions are more appropriate than the old definitions for rangeland and pastureland. As noted above, the Secretary agrees with the commenter's findings.

NDAC 69–05.2–07–08, Permit Applications—Extended Mining Plan—Fish and Wildlife Information—The Commenter stated that the repeal of this section and others in Chapter 69–05.2–07 would reduce the amount of required environmental information in each permit application and the consideration of fish and wildlife resources.

The Secretary acknowledges that the commenter's point is valid. However, as noted in his finding on the amendments to this section, there are no counterparts to the provisions deleted from the State program in the Federal Act and regulations (30 CFR 780.16 which required the inclusion of a fish and wildlife plan in the permit application was remanded by the Federal District Court). Thus, while the Secretary may encourage the State to retain the provisions in question, he cannot require the State to retain these provisions to satisfy the minimum Federal requirements.

Section 69–05.2–08–08, Permit applications—Permit area—Vegetation and Land Use Information. FWS suggested that the word "rare" be changed to read "threatened" to be consistent with the terminology used in the Endangered Species Act (ESA).

The Secretary does not believe the suggested revision is essential to make North Dakota's program no less effective than the Federal regulations. However, the Secretary will bring the suggestion to North Dakota's attention for its consideration.

Section 69–05.2–08–15, Permit applications-Permit area—Fish and Wildlife Resources—The commenter pointed out that this section which includes a requirement for fish and wildlife information on the permit area and adjacent areas, should define the distance limit of an adjacent area. In addition, FWS recommended that North Dakota utilize habitat cover maps provided to the State jointly by FWS and the Bureau of Land Management in 1981 for mine permit reviews.

As acknowledged by the commenter, the State's permit application requirements are more stringent than the Federal requirements as OSM's permit application requirement for a fish and wildlife plan (30 CFR 780.16) was remanded. Therefore, the Secretary cannot require the State to adopt the suggested modification and practice; however, the State is encouraged to do so.

Other comments submitted by FWS do not specifically address modifications to the approved North Dakota program included in the Amendment I package, but rather general concerns of the FWS about North Dakota's program relevant to the coordination of agencies responsible for the protection of fish and wildlife. The Secretary has determined that these concerns are outside the scope of this rulemaking and believes that they can be addressed more appropriately as part of OSM's oversight evaluation of North Dakota's program.

The Mine Safety and Health Administration (MSHA) commented that the proposed modifications to North Dakota's program contained in Amendment I did not conflict with MSHA regulations. However, MSHA further stated that it believes that North Dakota's program as proposed to be amended, does not make it clear that the operator must meet all MSHA regulations and requirements, not only the ones listed in the amendments to the North Dakota program. It was noted that the following MSHA requirements are not listed in the proposed amendments.

1. MSHA requires an abandonment plan prior to removal of any impoundments.

2. MSHA requires an approved design plan for impoundments.

3. MSHA requires an approved plan prior to returning waste to underground.

4. Modification of impoundments must be approved by MSHA prior to construction.

5. Prior to discharging water into an underground mine, MSHA approval must be obtained.

With respect to items 1, 2, and 4, the Secretary has determined that North Dakota's program addresses these MSHA requirements in NDAC sections 69–05.2–16–12.1 and .2, and 69–05.2–09.17.d which require compliance with 30 CFR 77.216.

Items 3 and 5 pertain to underground mines. Permanent program performance standards for underground mining activities are not included in the North Dakota law or regulations because underground mining has been determined to be inapplicable for economical and technical reasons in North Dakota (see 45 FR 82217–18, December 15, 1980). Accordingly, the MSHA requirements pertaining to underground mines are not included in North Dakota's program.

Removal of Conditions/Approval of Amendments

Accordingly, the North Dakota permanent program is hereby amended to indicate partial approval of the July 30, 1982, amendments as set forth herein and removal of the conditions of approval of the North Dakota program set forth at 30 CFR 934.11 (a), (b), (c), (d), (g), (h), (i), (j), (k), and (l). The approval of amendments and removal of conditions are effective upon publication of this notice.

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance with Executive Order No. 12291.* With respect to State actions to approve, or conditionally approve State regulatory programs or amendments, OSM has been granted a categorical exemption from the requirement to prepare a Regulatory Impact Analysis pursuant to Executive Order No. 12291, by a letter from the Office of Management and Budget dated August 28, 1981.

4. *Environmental Protection Agency (EPA) Concurrence.* On September 30, 1982, the EPA transmitted its written concurrence on the North Dakota amendments submitted July 30, 1982.

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: January 31, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 934—[AMENDED]

1. 30 CFR 934.11 is amended by removing and reserving paragraphs (a), (b), (c), (d), (g) (h), (i), (j), (k), and (l), and by amending paragraph (f) by substituting "July 1, 1983" for "January 1, 1983." In addition, paragraph (e) is revised to read as follows:

§ 934.11 Conditions of State program approval.

* * * * *

(e) The approval found in § 934.10 of this part will terminate on July 1, 1983, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations amending:

(1) NDAD 69–05.2–10–03(i) to prohibit issuance of permits to any person with an outstanding violation or pattern of violations outside of North Dakota in a same or similar manner as Section 510 (c) of SMCRA, and 30 CFR 786.17 and 30 CFR 786.19(i) or otherwise amends its program to accomplish the same results;

(2) NDAC 69–05.2–06–01(4) to require a permit applicant to submit the names under which the applicant, partner or principal shareholder previously operated a coal mine in any State within the five preceding years in a same or similar manner as Section 507(b)(4) of SMCRA and 30 CFR 778.13(b)(13) or otherwise amends its program to accomplish the same results;

(3) Subsection 1 of NDAC 69–05.2–06–02 to require the permit applicant to submit a statement of any permits held subsequent to 1970 in states other than North Dakota in a same or similar manner as Section 507(b)(3) of SMCRA and 30 CFR 778.14 or otherwise amends its program to accomplish the same results;

(4) Subsection 3 of 69–05.2–06–02 to require the permit applicant to submit a list of notices of violations of SMCRA or U.S. and State law pertaining to air or water environmental protection that he has received in any State in a same or similar manner as Section 510 of SMCRA and 30 CFR 778.14(c) or otherwise amend its program to accomplish the same results.

2. 30 CFR Part 934 is amended by adding a new § 934.15 to read as follows:

§ 934.15 Approval of amendments to State regulatory program.

(a) Statutory changes adopted in the 1981 Legislative session which modified sections of the North Dakota Century Code (NDCC) as listed below are approved effective February 9, 1983.

(1) *Chapter 38–14.1 North Dakota Century Code (NDCC).—Surface Mining and Reclamation Operations.*

(i) Subsection 5 of section 38–14.1–02 of the NDCC (definition of "extended mining plan"), amended.

(ii) New section to section 38–14.1–02 of the NDCC (definition of "performance bond"), added.

(iii) New subsection to section 38–14.1–03 of the NDCC (powers and duties of the Commission), added.

(iv) Subsection 3 of section 38–14.1–07 of the NDCC (mining is prohibited), amended.

(v) Subsection 3 of section 38–14.1–13 of the NDCC (permit application—general requirements), amended.

(vi) Subdivision "u" of Subsection 1 of Section 38–14.1–14 of the NDCC (permit applications—mining and reclamation plans), repealed.

(vii) Subdivision n of subsection 2 of section 38–14.1–14 of the NDCC (permit applications—mining and reclamation plans), repealed.

(viii) Section 38–14.15 of the NDCC (permit applications—extended mining plan), amended.

(ix) Subsection 3 of section 38–14.1–20 of the NDCC (ruling on permit application—timing and content), amended.

(x) Subsection 17 of section 38–14.1–24 of the NDCC (environmental protection performance standards), amended.

(xi) Subsection 18 of section 38–14.1–24 of the NDCC (environmental protection performance standards), amended.

(xii) Subsection 4 of section 38–14.1–30 of the NDCC (administrative review of commission rulings—formal hearings), amended.

(xiii) Section 38–14.1–38 of the NDCC (conflict of interest), amended.

(2) *Chapter 38–12.1 North Dakota Century Code.—Coal Exploration Data.*

(i) Subdivision b of section 1 of section 38–12.1–04 of the NDCC (jurisdiction of commission), amended.

(3) *Chapter 38–18 North Dakota Century Code.—Surface Owner Protection Act.*

(i) Subsection 3 of section 38–18–05 of the NDCC (definition of "mineral developer"), amended.

(ii) Subsection 6 of section 38–18–05 of the NDCC (definition of "mineral owner"), amended.

(iii) Subsection 10 of section 38–18–05 of the NDCC (definition of "surface owner"), amended.

(iv) Subsection 3 of section 38–18–06 of the NDCC (written notice and consent required before permit to surface mine land may be issued), amended.

(v) Section 38–18–07 of the NDCC (surface damage and disruption payments), amended.

(b) Regulatory changes submitted to OSM July 30, 1982, which added, modified, or deleted the sections or portions of the sections of the North Dakota Administrative Code (NDAC) listed below are approved upon promulgation of the revised rules by the State, provided the rules are adopted in identical form as submitted to OSM:

Article 69–05.2, Surface Coal Mining and Reclamation Operations

Chapter

69–05.2–01 General Provisions.
69–05.2–05 Permit Applications—General Requirements.
69–05.2–06 Permit Applications—Requirements for Legal, Financial, Compliance, and Related Information.
69–05.2–07 Permit Applications—Extended Mining Plan—Requirement for Information on Environmental Resources.
69–05.2–08 Permit Applications—Permit Area—Requirements for Information on Environmental Resources.
69–05.2–09 Permit Applications—Permit Area—Requirements for Operation and Reclamation Plans.
69–05.2–10 Permit Applications—Review, Public Participation, Approval or Disapproval.
69–05.2–11 Permit Reviews, Revisions, and Renewals—Transfer, Sale, or Assignment of Rights Granted Under Permits.
69–05.2–12 Performance Bonds—Liability Insurance.
69–05.2–13 Performance Standards—General Requirements.
69–05.2–14 Performance Standards—Casing and Sealing of Drilled Holes.
69–05.2–15 Performance Standards—Suitable Plant Growth Material.
69–05.2–16 Performance Standards—Hydrologic Balance—General Requirements.
69–05.2–17 Performance Standards—Use of Explosives.
69–05.2–19 Performance Standards—Waste Materials.
69–05.2–21 Performance Standards—Backfilling and Grading.
69–05.2–22 Performance Standards—Revegetation.
69–05.2–23 Performance Standards—Postmining Land Use.
69–05.2–28 Performance Standards—Prime Farmland.

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DEPARTMENT OF DEFENSE

32 CFR Part 199

[DOD 6010.8–R, Amdt. No. 18]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Medical Benefits for Former Spouses of Uniformed Services Members and Former Members

AGENCY: Office of the Secretary, DOD.

ACTION: Amendment of final rule.

SUMMARY: This amends the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Regulation to implement Sections 1004 and 1006 of Pub. L. 97–252, the Department of Defense Authorization Act, 1983. These sections provide CHAMPUS eligibility for former spouses of Uniformed

Services members or former members under certain circumstances.

EFFECTIVE DATE: This amendment is effective February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Stephen E. Isaacson, Policy Branch, OCHAMPUS, telephone (303) 361–8608.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–7834, appearing in the **Federal Register** on April 4, 1977, (42 FR 17972), the Office of the Secretary of Defense published its regulation, DOD 6010.8–R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title.

Currently a spouse of a member or former member of the Uniformed Services loses CHAMPUS eligibility as of 12:01 a.m. of the day following the date of a final decree of divorce, dissolution, or annulment of the marriage.

On September 8, 1982, Pub. L. 97–252 was signed into effect. Sections 1004 and 1006 of that law provide for continuation of CHAMPUS eligibility for former spouses under certain circumstances. In order to be eligible for CHAMPUS under these sections the former spouse must: (1) Remain unremarried; (2) have been married to the member or former member for at least 20 years as of the date of final decree of divorce, dissolution, or annulment of the marriage during which time the member of former member performed at least 20 years of service which is creditable in determining that member's or former member's eligibility for retired or retainer pay, or equivalent pay; and (3) not have medical coverage under an employer-sponsored health plan. Further, the final decree of divorce, dissolution, or annulment of the marrriage of the former spouse and the member or former member must be dated on or after February 1, 1983.

Former spouses must meet the CHAMPUS deductible each fiscal year, and they cannot contribute to, nor benefit from, any family deductible of the member or former member to whom the former spouse was married or of any CHAMPUS-eligible children. Moreover, former spouses, including those of active duty members, are subject to the same cost-sharing requirements applicable to retirees and their dependents.

Former spouses, including those of active duty members, are not eligible for benefits under the Program for the Handicapped under any circumstances.

As authorized under 32 CFR 296.2(d)(4), the final regulation is being published and no previous public comment has been requested. The change is mandated through public law signed into effect on September 8, 1982, and we do not believe it is in the public interest to delay the implementation through the publication of a proposed rule. However, for a period of 30 days following the date of the publication of this amendment in the **Federal Register**, we will accept public comments and, when appropriate, will revise the amendment. A notice advising of any revisions prompted by public comments will be published in the **Federal Register** no later than 90 days following the end of the comment period. Written public comments must be received on or before March 11, 1983.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

Accordingly, 32 CFR, Chapter I, Part 199, is amended to read as follows:

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

1. Section 199.8 is amended by revising paragraph (b)(54) by inserting the phrase "former spouse (in certain circumstances)" in the first sentence after the term "lawful spouse" to read as follows:

§ 199.8 Definitions.

* * * * *

(b) * * *

(54) *Dependent.* "Dependent" means a person who bears any of the following relationships to an active duty member (under a call or order that does not specify a period of 30 days or less), retiree, or deceased active duty member or retiree, of a Uniformed Service, that is, lawful spouse, former spouse (in certain circumstances), unremarried widow or widower, or child; or a spouse and child of an active duty member of the armed forces of foreign NATO nations. (Refer to § 199.9 "Eligibility.")

* * * * *

2. Section 199.9 is amended by adding a new paragraph (b)(2)(ii); by redesignating the existing paragraph (b)(2)(ii) as paragraph (b)(2)(iii); by redesignating the existing paragraph (b)(2)(iii) as paragraph (b)(2)(iv); by revising paragraph (e)(3)(i) by inserting the phrase "Except as provided in paragraph (b)(2)(ii)" at the beginning of the paragraph; and by revising paragraph (e)(3)(ii) by inserting the phrase "Except as provided in paragraph (b)(2)(ii)," at the beginning of the paragraph to read as follows:

§ 199.9 Eligibility.

* * * * *

(b) * * *

(2) * * *

(ii) *Former spouse.* Effective February 1, 1983, a former husband or wife of a member or former member who, on the date of a court order (a final decree of divorce, dissolution, or annulment issued by a court), was married to that member or former member is eligible if all of the following conditions are met.

(*a*) The former spouse has not remarried.

(*b*) The former spouse was married to the member or former member for at least 20 years as of the date of the final decree of divorce, dissolution, or annulment of the marriage during which time the member or former member performed at least 20 years of service which is creditable in determining that member's or former member's eligibility for retired or retainer pay, or equivalent pay.

(*c*) The former spouse does not have medical coverage under an employer-sponsored health plan.

(*d*) The final decree of divorce, dissolution, or annulment of the marriage of the former spouse and the member or former member is dated on or after February 1, 1983.

Note.—A former spouse cannot be a dependent of a NATO member.

* * * * *

(e) * * *

(3) * * *

(i) *Divorce.* Except as provided in subparagraph (b)(2)(ii) of this Section, a spouse separated from an active duty member or retiree by a final divorce decree loses all eligibility based on his or her former marital relationship as of 12:01 a.m. of the day following the day the divorce becomes final. The eligibility of the member's or retiree's own children (including adopted and eligible illegitimate children) is unaffected by the divorce. An unadopted stepchild, however, loses eligibility with the termination of the marriage, also as of 12:01 a.m. of the day following the day the divorce becomes final.

* * * * *

(e) * * *

(3) * * *

(ii) *Annulment.* Except as provided in subparagraph (b)(2)(ii) of this Section, a spouse whose marriage to an active duty member or retiree is dissolved by annulment loses eligibility as of 12:01 a.m. of the day following the date the court grants the annulment order. The fact that the annulment legally declares the entire marriage void from its inception does not affect the termination date of CHAMPUS eligibility. In the unusual situation when there are

children, the eligibility of the member's or retiree's own children (including adopted and eligible illegitimate children) is unaffected by the annulment. An unadopted stepchild, however, loses eligibility with the annulment of the marriage, also as of 12:01 a.m. of the day following the day the court grants the annulment order.

* * * * *

3. Section 199.10 is amended by adding a new paragraph (f)(4); and by redesignating the existing paragraph (f)(4) as paragraph (f)(5) to read as follows:

§ 199.10 Basic program benefits.

* * * * *

(f) * * *

(4) *Former Spouses.* CHAMPUS beneficiary liability set forth for former spouses eligible under the provisions of paragraph (b)(2)(ii) of § 199.9 is as follows:

(i) *Annual Fiscal Year Deductible for Outpatient Services and/or Supplies.* An eligible former spouse is responsible for the payment of the first fifty dollars ($50.00) of the CHAMPUS-determined reasonable costs or charges for otherwise covered outpatient services or supplies or both provided in any one fiscal year. The former spouse cannot contribute to, nor benefit from, any family deductible of the member or former member to whom the former spouse was married or of any CHAMPUS-eligible children.

(ii) *Inpatient Cost-Sharing.* Eligible former spouses are responsible for the payment of twenty-five percent (25%) of the CHAMPUS-determined reasonable costs or charges for otherwise covered services or supplies or both provided on an inpatient basis by an authorized provider.

(iii) *Outpatient Cost-Sharing.* Eligible former spouses are responsible for the payment of twenty-five percent (25%) of the CHAMPUS-determined reasonable costs or charges in excess of the annual fiscal year deductible amount for otherwise covered services or supplies or both provided on an outpatient basis by authorized providers.

* * * * *

4. Section 199.11 is amended by revising paragraph (a)(4)(i)(*a*) by inserting the phrase "but excluding former spouses" after the term "§ 199.9" to read as follows:

§ 199.11 Program for the handicapped.

* * * * *

(a) * * *
(4) * * *
(i) * * *

(*a*) The dependents, as defined in § 199.9 but excluding former spouses, of a member of one of the Uniformed Services who is under call or order to active duty that does not specify a period of 30 days or less who are moderately or severely mentally retarded or who have a serious physical handicap; or

* * * * *

(Pub. L. 97–252)

Dated: February 4, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83-3498 Filed 2-8-83; 8:45 am]

BILLING CODE 3810-01-M

PANAMA CANAL COMMISSION

35 CFR Part 133

Tolls for Use of Canal; Increase in Rates

Cross Reference: For a document relating to the rates of tolls for use of the Panama Canal, see FR Doc. 83–3712 appearing in the Presidential Documents section of this issue. For the page number of the document, see the table of contents under The President.

BILLING CODE 3640-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[OW-FRL 2288-2]

Approval of Ohio's NPDES Program To Regulate Federal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Approval of the State of Ohio's request for authority to administer the National Pollutant Discharge Elimination System (NPDES) program with respect to Federal facilities.

SUMMARY: On Janaury 28, 1983, the Environmental Protection Agency (EPA) approved the State of Ohio's request to include regulation of Federal facilities under its State water pollution permit program responsibility. The approval authorizes Ohio to issue and enforce NPDES permits for Federal facilities. Previously the State had been approved to participate in the NPDES program.

EFFECTIVE DATE: January 14, 1983.

FOR FURTHER INFORMATION CONTACT: Allen J. Danzig, Permits Division (EN–336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202–755–0750.

SUPPLEMENTARY INFORMATION: In 1977 Congress amended section 313 of the Clean Water Act (33 U.S.C. 1251, et seq.) to authorize States to regulate Federally owned or operated facilities under their water pollution control programs. Prior to the amendments, States, including those authorized pursuant to section 402(b) of the Clean Water Act to participate in the NPDES program, were precluded from regulating Federal facilities. Therefore, EPA, in approving State programs under section 402(b), reserved the authority to issue NPDES permits to Federal facilities.

With the passage of the 1977 amendments, EPA has been transferring NPDES authority over Federal facilities to approved States. Today's **Federal Register** notice is to announce the approval of the State of Ohio's request to assume NPDES authority over Federal facilities. EPA did not receive any comments during the public comment period. The proposed rule was published in the **Federal Register** of October 12, 1982 (47 FR 44750).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—Lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. The approval of the Ohio NPDES permit program to administer Federal facilities merely transfers responsibility for administration of these facilities from the Federal to the State government. No new substantive requirements are established by this action. Therefore, this notice does not have a significant impact on a substantial number of small entities. It does not trigger the requirement of a Regulatory Flexibility Analysis.

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83-3431 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2459, 1F2474, 2F2640, 2F2665, 2F2688/R519; PH-FRL 2296-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 1-(4-Chlorophenoxy)-3,3-Dimethyl-1-(1H-1,2,4-Triazol-1-YL)-2-Butanone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for residues of the fungicide in or on the commodities was requested, pursuant to petitions, by the Mobay Chemical Corporation.

EFFECTIVE DATE: Effective on February 9, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued notices published in the **Federal Register** cited below that announced that the Mobay Chemical Corporation, P.O. Box 4913, Kansas City, MO 64120, had submitted pesticide petitions (PP) as follows proposing to amend 40 CFR Part 180 by establishing tolerances for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-trizol-1-yl)-2-butanone and its metabolite beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*, 1,2,4-triazole-1-ethanol in or on certain raw agricultural commodities.

1. *PP 1E2459.* Chick peas at 0.1 part per million (ppm), April 22, 1981 (46 FR 22983).

2. *PP 1F2474.* Apples and grapes at 1.0 ppm; seed grass chaff, 45 ppm; and seed grass straw, 30 ppm. April 22, 1981 (46 FR 22983). In a subsequent amendment to the petition, the proposed tolerances for seed grass chaff and grass straw were deleted.

3. *PP 2F2640.* Pears at 1.0 ppm. March 10, 1982 (47 FR 10290).

4. *PP 2F2665.* Barley and wheat grain at 1.0 ppm; barley and wheat straw, 5.0 ppm; barley and wheat green forage, 15.0 ppm; fat, meat, and meat byproducts of cattle, goats, hogs, horses, and sheep, 0.5 ppm; meat and meat byproducts of poultry, 0.01 ppm; milk, 0.02 ppm; and eggs, 0.002 ppm.

The petition was amended (47 FR 53116, November 24, 1982) by increasing the tolerance levels from 0.5 to 1.0 ppm for the fat, meat, and meat byproducts of cattle, goats, horses, and sheep; from 0.01 to 0.04 ppm for fat, meat, and meat byproducts of poultry; from 0.02 to 0.04 ppm for milk; from 0.002 to 0.04 ppm for eggs and decreasing the proposed tolerances from 0.5 to 0.04 ppm for the fat, meat, and meat byproducts of hogs.

5. *PP 2F2688.* Fresh pineapple at 3.0 ppm. June 30, 1982 (47 FR 28453).

There were no comments received in response to the notices of filing.

The data submitted in these petitions and other relevant material have been evaluated. The toxicological data considered in support of these tolerances included a rat teratology study which indicated that cleft palates are treatment related effects (the no-observed-effects level (NOEL) for fetal development and teratology is considered to be at least 50 mg/kg/day, the NOEL for maternal toxicity is considered to be 10 mg/kg/day); an inhalation study in rats negative for terata and embryotoxicity at a dose level of 113.3 mg/m^3; dominant lethal and micronucleus Ames test (negative at doses from 5 to 1,000/mg/ml); a 2-year feeding (oncogenicity) study in rats with no oncogenic potential observed under these conditions of the study and a systemic NOEL of 50 ppm; a 2-year feeding study in dogs with a NOEL of 100 ppm; a 2-year feeding (oncogenicity) study in mice, with no oncogenic potential observed under the conditions of the study and a systemic NOEL of 50 ppm; and a multigeneration reproduction study in rats with a NOEL of 50 ppm.

Based on a NOEL of 50 ppm in rats, and using a 100-fold safety factor, the allowable daily intake (ADI) is 0.0250 mg/kg/day and the maximum permissible intake (MPI) is 1.50 mg/day for a 60-kg person. Presently established temporary tolerances, toxicologically approved tolerances, and tolerances established by this rule, result in a maximum theoretical exposure of 0.3606 mg/day for a 60-kg person which represents 24.04 percent of the ADI. Temporary tolerances have previously been established for the combined residues of this fungicide and its metabolites in or on wheat grain, apple pomace, grape pomace, raisin waste, and in fresh apples and fresh grapes.

A related document [FAP 1H5343, 1H5292/R131]/[FAP 1H5292/R132] establishing tolerances in certain food/feed items appears elsewhere in this issue of the **Federal Register.**

There are no regulatory actions pending against the continued registration of the fungicide and there are no other considerations involved in establishing these tolerances. The metabolism of this fungicide and its metabolite is adequately understood, and an adequate analytical method, gas chromatography with scintillation spectrophotometry, is available for enforcement purposes.

Based on the above information, the Agency has determined that the establishment of tolerances for residues of this fungicide and its metabolite in or on the raw agricultural commodities will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346 (a), (e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 24, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended by adding a new § 180.410 to read as follows:

§ 180.410 1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1H-1,2-4-triazol-l-y1)-2-butanone; tolerances for residues.

Tolerances are established for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2-4-triazol-1-y1)-2-butanone and its metabolites beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol in or on the following raw agricultural commodities:

Commodities	Parts per million
Apples	1.0
Barley grain	1.0
Barley green forage	15.0
Barley straw	5.0
Chick pea seed (dry)	0.1
Eggs	0.04
Cattle, fat	1.0
Cattle, mbyp	1.0
Cattle, meat	1.0
Grapes	1.0
Goats, fat	1.0
Goats, mbyp	1.0
Goats, meat	1.0
Hogs, fat	0.04
Hogs, mbyp	0.04
Hogs, meat	0.04
Horses, fat	1.0
Horses, mbyp	1.0
Horses, meat	1.0
Milk	0.04
Pears	1.0
Pineapples (fresh)	3.0
Poultry, fat	0.04
Poultry, mbyp	0.04
Poultry, meat	0.04
Sheep, fat	1.0
Sheep, mbyp	1.0
sheep, meat	1.0
Wheat, grain	1.0
Wheat, green forage	15.0
Wheat, straw	5.0

[FR Doc. 83-2968 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP OF2338/R514; PH-FRL 2286-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Alachlor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide alachlor and its metabolites in or on the raw agricultural commodities sorgum grain (milo), sorghum fodder, and sorghum forage. This regulation to establish maximum permissible residues of the herbicide in or on sorghum was requested, pursuant to a petition, by Monsanto Company.

EFFECTIVE DATE: Effective on February 9, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division, Office of Pesticide Programs, Rm 243, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of April 25, 1980 (45 FR 27983) that announced that Monsanto Company, 800 N. Lindbergh Boulevard, St. Louis, MO 63166, had filed pesticide petition OF2338 with the Agency proposing to amend 40 CFR 180.249 by establishing tolerances for the combined residues of the herbicide alachlor (2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide) and its metabolites (calculated as alachlor) in or on the raw agricultural commodities sorghum seed at 0.1 part per million (ppm), and sorghum fodder and forage at 0.5 ppm.

The petitioner subsequently amended the petition to increase the tolerance levels for sorghum fodder and forage to 1.0 ppm and establishing a tolerance for sorghum grain (milo) at 0.1 ppm.

No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicology data considered in support of the tolerances included several acute studies, a teratology study (rat) with no-observed teratogenic effects at 400 milligram (mg) kilogram (kg)/day (highest dose tested) and a no-observed-effect level (NOEL) of 150 mg/kg/day for maternal toxicity and fetotoxic effects; a 3-generation reproduction study (rat) with a NOEL of 10 mg/kg/day (lowest dose tested); and 18-month chronic feeding/oncogenic study (mice) which demonstrated a positive oncogenic response in females (bronchiolar alveolar tumors) at 260 mg/kg/day; and a 2-year chronic feeding/oncogenicity study (rats) with NOEL demonstrated at 14 mg/kg/day (lowest dose tested), and oncogenic at 42 mg/kg/day (both sexes (nasal turbenate tumors)) and 126 mg/kg/day (both sexes (nasal stomach tumors)) and males (thyroid follicular tumors).

The theoretical maximal residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.0342. The current action will increase the TMRC to 0.03425 mg/1.5 kg daily diet.

Data lacking included a 2-year chronic feeding study (rats), a 1-year feeding study (dogs), a teratology study (rabbits), a metabolism study (rats), a skin sensitization study on guinea pigs (technical) and mutagenicity studies. Because the increase in TMRC is less than 1 percent for this use, the available toxicology data are adequate to support the establishment of the tolerances.

There are no regulatory actions pending against the registration of the pesticide. However, the chemical has been determined to be an oncogen in rats and mice. None of the 10 models used to estimate the quantitative risk fits the data adequately. The statistical representation of these data will be assessed further in the reregistration review of this compound; however, for the sorghum use the upper limit of risk is less than 10^{-7} based upon the tolerance level. Because of the very conservative nature of the risk assessment and the utility of the pesticide for the purpose for which this regulation is sought, the Agency has determined the oncogenic risk associated with the use is outweighed by the benefits.

The nature of the residues in plants and animals is adequately understood. Adequate analytical methodology, gas chromatography using a flame ionization detector, is available for enforcement purposes. Residues are likely to occur in meat, milk, poultry, and eggs, but the residues should be adequately covered by tolerances established on these commodities.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.249 would protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication in the **Federal Register,** file written objections with the Hearing Clerk, Environmental Protection Agency, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 95–534, 94 Stat. 1164, 5 U.S.C. 501–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: January 6, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.249 is revised to read as follows: ,

§ 180.249 Alachlor; tolerances for residues.

Tolerances are established for the combined residues of the herbicide alachlor (2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide) and its metabolites (calculated as alachlor) in or on the following raw agricultural commodities:

Commodities	Parts per million
Beans, dry	0.1
Beans, forage	0.2
Beans, lima (green)	0.1
Cattle, fat	0.02
Cattle, mbyp	0.02
Cattle, meat	0.02
Corn, fodder	0.2
Corn, forage	0.2
Corn, fresh (including sweet K + CWHR)	0.05
Corn, grain	0.2
Cotton, forage	0.2
Cottonseed	0.05
Eggs	0.02
Goats, fat	0.02
Goats, mbyp	0.02
Goats, meat	0.02
Hogs, fat	0.02
Hogs, mbyp	0.02
Hogs, meat	0.02
Horses, fat	0.02
Horses, meat	0.02
Milk	0.02
Peanuts	0.05
Peanuts, forage	3.0
Peanut, hay	3.0
Peanut, hulls	1.5
Peas, forage	0.2
Peas, hay	0.2
Peas, pods removed	0.1
Potatoes	0.1
Poultry, fat	0.02
Poultry, mbyp	0.02
Poultry, meat	0.02
Sheep, fat	0.02
Sheep, mbyp	0.02
Sheep, meat	0.02
Sorghum, fodder	1.0
Sorghum, forage	1.0
Sorghum, grain (milo)	0.1
Soybeans	0.2
Soybean, forage	0.75
Soybeans, hay	0.2

[FR Doc. 83–2991 Filed 2–8–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 2F2717, 2F2718/R520; Ph-FRL 2304–6]

Oryzalin; Tolerance for Residue

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide oryzalin in or on the raw agricultural commodities potatoes, peppermint, and spearmint hay. This regulation to establish maximum permissible levels for residues of oryzalin was requested, pursuant to petitions, by the Elanco Product Company.

EFFECTIVE DATE: February 9, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of August 18, 1982 (47 FR 36016), that announced that the Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285, had submitted pesticide petitions (PP) as follows proposing to amend 40 CFR 180.304 by establishing tolerances for residues of the herbicide oryzalin (3,5-dinitro-N^4, N^4-dipropylsulfanilamide:

1. *PP 2F2717.* Potatoes at 0.1 part per million (ppm). The petition was subsequently amended reducing the proposed tolerance to 0.05 ppm.

2. *PP 2F2718.* Peppermint and spearmint hay at 0.05 ppm.

There were no comments received in response to these notices of filing.

The data submitted in the petitions and relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicology data evaluated included a 90-day feeding study (rat) with a no-observed-effect level (NOEL) of 750 ppm (37.5 mg/kg/day); a 90-day feeding study (dog) with a NOEL of 750 ppm (18.75 mg/kg/day); a 3-generation reproduction study (rat) with a NOEL of 250 ppm (12.5 mg/kg/day), a teratology study (rat) with a NOEL of 2,250 ppm (112 mg/kg/day), the highest dose tested; a teratology study (rabbit) with a NOEL of 125 mg/kg/day, (highest dose tested); a chronic feeding/oncogenicity study (mouse) with a NOEL of 500 ppm (71.4 mg/kg/day) and no oncogenic effects observed up to 3,560 ppm (521 mg/kg/day), the highest dose tested; and a chronic feeding/oncogenicity study (rat) with a NOEL of 300 ppm (15 mg/kg/day) and no oncogenic effects observed up to 2,700 ppm (135 mg/kg/day), the highest dose tested.

Desirable data lacking are a dominant lethal study (rat). The company has been notified of the deficiency and has agreed to perform the study and to remove the use from the label should the results of the above study exceed the criteria for chronic toxicity as stated in 40 CFR 162.11.

The acceptable daily intake (ADI) based on the 90-day dog feeding study (NOEL of 750 ppm (18.75 mg/kg/day)) and a 200-fold safety factor, is calculated to be 0.0094 mg/kg/day. The maximum permissible intake (MPI) for a 60-kg human is calculated to be 0.5625 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg diet is calculated to be 0.0091 mg/day. The current action will utilize 0.72 percent of the ADI. Published tolerances utilize 1.61 percent of the ADI. A related document (FAP 2H5360/R133), establishing tolerances for peppermint and spearmint oil at 0.1 ppm which appears in this issue of the **Federal Register**, will contribute 0.0001 mg/day (1.5 kg) to the TMRC and increase the ADI to 2.35 percent.

There are no regulatory actions pending against the continued registration of oryzalin. This product contains a nitrosoamine at levels less than 1 ppm. Based on an Agency policy published in the **Federal Register** of June 15, 1980 (45 FR 42854), this level of nitrosoamine falls below the currently acceptable risk criteria. The metabolism of oryzalin in plants and animals has been adequately delineated for the uses. An adequate analytical method, gas chromatography using an electron capture detector, is available for

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enforcement purposes. There is no reasonable expectation of residues occurring in meat, fat, and meat by-products of cattle, horses, swine, sheep, goats, poultry, milk or eggs from these tolerances.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 1, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.304 is amended by adding and alphabetically inserting the commodities peppermint hay, potatoes, and spearmint hay to read as follows:

§ 180.304 Oryzalin; tolerances for residues.

* * * * *

Commodities	Part per million
* * * * *	
Peppermint hay	0.05
* * * * *	
Potatoes	0.05
* * * * *	
Spearmint hay	0.05
* * * * *	

[FR Doc. 83-3643 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, and 90

[Gen. Docket No. 82-9; RM-3747; FCC 83-34]

Amendment To Provide Recognition for Power Line Carrier Operations of Electric Utilities in the Bands 10-490 kHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission has revised its Rules to provide recognition for power line carrier (PLC) operations of electric utility companies in response to a petition for rulemaking. PLC systems are designed to provide protection and control for the electric transmission systems which supply the nation's electrical power needs and presently operate on an unlicensed basis. This action will not alter the present unlicensed and unallocated status of PLCs. The changes established a new Footnote governing power line carrier use of the 10-490 kHz band and the initiation of a notification procedure and associated data base to interface operations with authorized users of the spectrum. The action should benefit all concerned by helping establish a mechanism to help anticipate and avoid mutual interference problems.

EFFECTIVE DATE: March 7, 1983.

ADDRESS: Federal Communications Commission, 2025 "M" Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Tropea, Office of Science and Technology, 2025 "M" Street, NW., Washington, D.C. 20554 (202) 653-8167.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Parts 2, 15 and 90

Radio.

Adopted: January 24, 1983.

Released: January 27, 1983.

In the matter of Amendment of Parts 2, 15, and 90 of the Commission's Rules to provide recognition for power line carrier operations of electric utilities in the bands 10-490 kHz. Gen. Docket No. 82-9 RM-3747; FCC 83-84, Report and Order.

Summary

1. This action amends the Commission's Rules to implement a new U.S Footnote to provide enhanced recognition of electric power utility Power Line Carrier (PLC) systems in the 10 to 490 kHz frequency band. Rules establishing a notification procedure, an industry-operated entity to oversee the notification process, and a data base are also adopted so that band occupants can cooperate to the extent practicable to minimize or eliminate mutual interference. [1]

Background

2. On January 13, 1982, the Commission adopted a Notice of Proposed Rulemaking (47 FR 3799, January 27, 1982) in the above captioned matter in response to a petition filed by the Utilities Telecommunications Council (hereinafter UTC).[2] The Notice proposed the possible amendment of Part 2 of the Commission's Rules to include a U.S. Footnote governing PLC operations, the inclusion of a new Section in Part 15 to cover PLC operations, and the amendment of Part 90 to provide for the notification and data base characteristics applicable to PLC systems. Two footnote versions, one suggested by UTC and one by the Interdepartment Radio Advisory Committee were released for comment. Also, the Notice requested comments regarding the need and effects of continued use of the 10-14 kHz and 90-110 kHz band segments by PLC users.

3. Power Line Carrier is a telecommunications technique used by the electric power utility entities for protective relaying, general supervision of their power systems and voice communications. The technique uses the power transmission lines as the propagation medium for the radio frequency signals with the PLC transmitters and receivers being coupled to the power transmission lines by means of matching networks. PLC systems operate between 10 and 490 kHz using low power transmitters. Both

[1] The term notification as used herein should not be confused with the "notification" procedure for equipment authorization which is the subject of Docket No. 82-242.

[2] UTC is the national representative on telecommunications matters for the nation's electric, gas, water and steam utilities.

Government and non-Government PLC systems operate in this band and there are more than 2,000 electrical utility entities using approximately 20,000 PLC terminals. Non-Government PLC systems operate on an unlicensed basis as restricted radiation devices under Part 15 of the Rules. Government PLC systems operate under Chapter 7 of the National Telecommunications and Information Administration (NTIA) Manual of Regulations and Procedures for Federal Radio Frequency Management. As a consequence, PLC systems must operate, as they have for 40 years, on an unprotected, noninterference basis to authorized stations and receive no protection from authorized radio stations. This rulemaking merely provides the means to make PLC Systems occupants aware of the presence of radio systems so that interference situations can be anticipated and avoided whenever possible and so that PLCs can continue to fulfill the important function they serve in providing the nation's power utility needs. At the same time, the Commission believes that PLC users should be encouraged to continue to develop and employ alternative means to transmit the necessary control or communications signals.

Summary of Comments and Reply Comments

4. Thirty parties submitted comments in the proceeding, twenty-four of which were filed by utility companies or their representatives. The other six comments were filed by Aeronautical Radio, Inc. (ARINC), The American Telephone & Telegraph Co. (AT&T), The Department of Energy (DOE), The Electronic Industries Assoc. (EIA), The Manufacturers Radio Frequency Advisory Council (MRFAC), and the Tennessee Valley Authority (TVA). Reply Comments were filed by the Utilities Telecommunication Council. All comments were generally favorable to the rulemaking. A list of all commentators in the proceeding is contained in Appendix A.

5. Comments filed by the utility companies reflected three areas of agreement considered important to power line carriers using the 10–490 kHz band. These areas of agreement are summarized as follows:

(a) Adopt a U.S. Footnote in the National Table of Frequency Allocations to set forth the basis for PLC recognition.

(b) Allow continued access to the entire 10–490 kHz for PLC operations.

(c) Provide a notification procedure designed to anticipate and to avoid most interference situations involving PLCs.

6. The comments of the utilities unanimously supported the proposal to adopt a U.S. Footnote in the frequency table. UTC commented that since the major radio and radionavigation users of the 10–490 kHz band are Government administered, a U.S. Footnote would be the most beneficial method to alert the principal users. Florida Power and Light added that a U.S. Footnote would place all users, both Federal Government and non-government, on notice of the existence of PLC systems in the band. DOE and TVA also supported the adoption of a U.S. Footnote. Further, DOE and the National Electrical Manufacturers Association (NEMA) stated that the U.S. Footnote proposed by UTC which would "require cooperation" is considered preferable to the IRAC version which "urges cooperation" in preventing interference situations. ARINC, on the other hand, supported the IRAC suggested wording which, it said, sets forth more clearly, the basis under which PLC systems must operate.

7. Commenting parties also opposed restricting the use of any segment of the 10–490 kHz band by PLCs and denied that PLCs cause harmful interference to OMEGA and LORAN–C radionavigation systems that operate in the 10–14 kHz and 90–110 kHz bands, respectively. UTC argued that there are over 2500 PLC users between 90–110 kHz and that exclusion of PLC operations from the 10–14 kHz band and the 90–110 kHz bands is unwarranted in view of the absence of documented interference from PLCs. General Electric commented that the 90–100 kHz band is an optimum band for PLC use based on the relative cost of installation and its good, low-loss transmission characteristics. Rochester Gas and Electric Corp. stated that excluding PLCs from segments of the band would have a substantial economic and technical impact due to the high cost to relocate and the already congested usage of microwave frequencies. Atlantic City Electric Co. submitted that compatibility of PLC systems with OMEGA and LORAN–C, would be bolstered by implementing the proposed notification procedure. DOE commented that there are no alternate frequencies available or the economic burden of change to other untenable frequencies is prohibitive if PLC operation is excluded from the OMEGA and LORAN–C bands and also referenced a General Accounting Office report which considered terminating the use of LORAN–C in favor of radio positioning by satellite. It should also be noted that NTIA, in forwarding comments from the IRAC AD HOC COMMITTEE 162 studying PLC problems, proposed that new uses of the spectrum by PLC systems in the bands 10–14 kHz and 90–110 kHz shall be discouraged because of the contemplated expanded usage of the OMEGA and LORAN systems in these bands.

8. The proposals for establishing a notification procedure and data base were also widely accepted by the comments filed. UTC supported the two-way notification procedure whereby use of frequencies by PLC systems would be revealed to radio users in advance of such use and FCC and NTIA frequency assignment would be made known to PLC users in advance also. To implement the procedure UTC agreed that it is ready, willing and able to incur the expense and burden of establishing a centralized PLC data base and to serve as, or work with, an approved industry-operated entity. DOE agreed that the notification procedure should be as simple as possible and that the data base include only such information as is necessary to alert the users of potential problems. ARINC suggested that because the FAA coordinates and assigns non-directional beacon frequencies and maintains the data base for aeronautical radionavigation facilities that perhaps the FAA should handle the notification procedure and not the FCC. AT&T's comments on the notification procedure suggest that the data base contain the route and location of the energized power line. It further suggested that access to data base information be made available on request to interested parties. ARINC, AT&T and MRFAC agreed in their comments that the notification action should not afford any change in status to unlicensed PLC operation.

9. Other comments in the proceeding suggested modifications to the proposed Parts 15 and 90 Rules that would govern PLC operation. AT&T and EIA suggest that the definition of PLC be clarified to show its application only to the transmission system, that is, exclusive of those lines which connect the distribution substation to the customer. They stated that using the nomenclature "transmission power line carrier" would clearly distinguish it from distribution power line carrier or building power line carrier systems. DOE suggested that § 15.7(e) be modified to show that the PLCs excepted in the Note concern only those used by electric utilities and not all carrier current systems. ARINC, on the other hand, stated that PLCs should not be excepted from compliance under § 15.7 of the rules which provides objective standards for operation. ARINC argued that the proposed new

§ 15.8 does not propose any technical standards to govern PLCs. GE and NEMA suggested that § 15.8 be modified to state that interference should not be caused to "authorized stations". NEMA added that this modification would help maintain the existing status of PLCs relative to other incidental and restricted radiation devices. Finally, UTC commented that Sections 15.8 and 90.63 should be clarified to show that the data base information should apply to existing, additions to existing, and changes to existing systems. UTC also requested that § 15.8(c) be modified to specify that "harmful" interference should not be caused to an authorized or licensed radio service.

10. The single Reply Comment in the proceeding was filed by UTC. UTC stressed that none of the comments filed opposed the implementation of a U.S. Footnote and that, in fact, most comments vigorously supported this approach and a U.S. Footnote should be adopted. UTC also replied that the North American Electric Reliability Council (NERC) had agreed to undertake the compilation and operation of the PLC data base and that UTC would work with NERC in this effort if the Commission and NTIA approved them to act as the notification activity. It further pointed out that none of the comments filed gave any support for restricting PLC from the use of any portion of the 10–490 kHz band. In addition, UTC opposed ARINC's suggestions that the FAA, and not the FCC, oversee the notification process on the basis that the FAA does not regulate all users of the 100–490 kHz band. UTC also objected to ARINC's recommendation that PLCs remain subject to § 15.7 of the Rules. UTC stated that the proposed language of the new § 15.8 clearly places the burden of noninterference on PLC users without imposing arbitrary radiation levels. Further, UTC's replies supported the comments of AT&T and others regarding clarification of the PLC definition to specify the transmission aspects. However, UTC opposed AT&T's suggestion that § 90.63(h)[3] be modified to require the submission of PLC routing information on the basis that such a requirement would present a monumental task and cost to the utilities to gather and store all the necessary data. In addition, UTC opposed AT&T's suggestion to make the data base information available to other interested parties unless they were bona-fide users of the band. Finally, UTC replied to MRFAC and reiterated that the proposed rules would not elevate PLC operation from unlicensed to licensed status. UTC also suggested that MRFAC members could benefit from the information in the data base since they could check the frequency selected for the operation of their remote control devices against that used by local PLC systems.

[3] Section 90.63(h) is redesignated. Section 90.63(g) hereinafter due to section renumbering.

Discussion

11. The Commission in its NPRM in this proceeding recognized the importance of PLC operation in monitoring and protecting the electrical transmission systems that supply energy to the nation's homes and businesses. The Commission also agreed that because of the nationwide functions performed by PLC systems, enhanced recognition of their importance is desirable and in the public interest. The Commission further stated that because PLCs operate under the unlicensed provisions of Part 15, our first concern is that any recognition of PLC systems not be interpreted as the promotion of PLC at the expense of other users. Based on several comments in the proceeding which incorrectly speak of coordination rather than notification and of maintaining existing status of PLC relative to other Part 15 users, the Commission seeks to dispel any misunderstanding concerning the intent of this proceeding. Accordingly, the Commission wants to reaffirm its position that this proceeding does not elevate the status of PLCs in any way and that their operation in the band must be on an unprotected, noninterference basis to authorized users and at the same time on a coequal basis to other unlicensed users operating under Part 15 provisions. Cooperation between parties to the extent practicable is expected but, in any event, the PLC users must realize that in the event conflicts on spectrum usage cannot be resolved on a cooperative basis, their operation on an unprotected, noninterference basis must adjust to meet the requirements of the authorized radio users.

Footnote Implementation

12. The Commission in its Notice requested comments regarding the following three alternative footnote approaches:

(a) Establish a US Footnote to afford recognition to PLCs.[4]

(b) Establish an NG Footnote[5] to afford recognition to PLCs with similar language in the NTIA manual.

(c) Establish no footnote but incorporate the language and necessary elements of the footnote into Parts 15 and 90 of the Commission's rules and into the NTIA manual.

Strong public support was received from commentors for alternative (a) to establish a U.S. Footnote to afford recognition for PLCs. At the same time, no public support was expressed for alternatives b or c. The Commission agrees with the commentors who stated that, since the major radio users of the 10–490 kHz band are administered by the Federal government, a U.S. Footnote in the FCC and NTIA allocation tables would be most appropriate. A U.S. Footnote provides clear recognition of PLC systems and alerts frequency managers and table users to the presence of PLC systems while clearly setting forth the basis for PLC usage of the band. Further, the U.S. Footnote approach provides the most abbreviated and least cumbersome means of informing government and non-government users of the band of PLCs systems operation. Regarding the selection of the UTC or Interdepartment Radio Advisory Committee (IRAC) model for the U.S. footnote, the Commission favors the IRAC version which is the more concise of the two. In addition, the IRAC version clearly stresses that the notification process will be determined by the FCC and NTIA Rules. Furthermore, the IRAC language which "urges" users to minimize potential interference is believed to be more in keeping with the nature of a notification action. On the other hand, the stricter UTC language could be misinterpreted to convey that Commission or NTIA intervention for enforcement purposes is expected if parties will not cooperate, a situation which would implicity elevate the status of PLC operators in an unintended manner.

Full Usage of the 10–490 kHz Band by PLCs

13. The Commission's request for comments regarding the need and effect of restricting PLC operation from the 10–14 kHz and 90–110 kHz band segments generated considerable negative response. As noted earlier, there were no public comments that favored restricting PLC operation in the 10–14 kHz and the 90–110 kHz band segments. Moreover, the PLC findings of the IRAC

[4] A US footnote denotes a stipulation the application of which is a matter of agreement between the Commission and other appropriate Government agencies.

[5] An NG Footnote denotes a stipulation applicable to non-Government stations.

AD HOC 162 REPORT on PLC [6] affirms the Commission's belief that PLCs can, at least for the time being, continue to operate compatibly in the entire 10–490 kHz band on a noninterference basis. As stated in the AD HOC 162 Report, the Commission notes that the Department of Transportation (DOT) plans an expanded use of OMEGA and LORAN–C and that DOT recommends that further use of these bands by PLC users be discouraged. Meanwhile, compatibility should be further served by implementing the notification procedure designed to anticipate and avoid interference situations before they arise.

Notification Procedures

14. The Commission is pleased by the support expressed for the establishment of a notification procedure for PLC operations. It is also helpful that NERC has agreed to serve as the industry-operated entity to oversee the compilation and operation of the data base. Also, the Commission agrees with the comments that the notification procedure be kept as simple as possible and believes that listing the PLC transmitter and receiver locations and the other parameters set forth in Section 90.63(g) is expected to be adequate information for the data base for PLC operations. To attempt to compile routing information for every PLC line involved as suggested by AT&T would be a monumental task and would be of little more benefit than knowing the transmitter and receiver locations from where the PLC signal originated. Regarding the ARINC request that FAA and not the FCC be responsible for the notification procedure, Commission involvement is considered quite appropriate since it administers the non-Government allocations for the band and is engaged in frequency coordination with NTIA. The FAA will not, however, be excluded from this activity particularly when operation involving radio beacon frequencies is contemplated.

15. The industry-operated group, or NERC, will have a two-fold responsibility keeping the necessary data on PLC users and obtaining data on Government and non-Government users in the 10–490 kHz band from the Government and non-Government Master Frequency Files. The initial Master File data can be obtained by NERC from the FCC and the NTIA. Thereafter notices of new or modified station data will be provided to NERC to update the files. By comparing the data compiled on PLC and authorized radio users, NERC can determine the proximity of operations and anticipate interference situations. If NERC perceives that a potential problem exists between a PLC location and an applicant or authorized user, it can contact the user directly to determine if any adjustments can be made to the operation and if so, whether the user is willing to make such changes. However, it must be remembered that because PLC operation is on an unprotected, noninterference basis, the notification process shall not preempt authorized users from having access to a frequency at a later time. NERC shall also provide the Commission and NTIA with monthly or periodic lists with supplements of PLC operations in suitable form for information purposes. NERC may, of course, make arrangement for the release of its data on PLC operations to parties that have a need for the information.

16. One important requirement for the industry-operated entity to qualify to receive information on Government stations is that necessary security clearance be obtained to handle any classified data involving Government operations and to protect against the unauthorized disclosure of classified information. While the entity may discuss individual frequency problems with users, it shall not release data concerning Government stations to any entity. The Commission and NTIA agree on the selection of the North American Electric Reliability Council to serve as the designated entity subject to the attainment of the proper security clearances. Details concerning the notification procedure will be determinated between the Commission, the NTIA and the industry entity. Changes to the entity serving in this manner or to the details necessary for the functioning of the entity may be approved by the Commission and NTIA by written correspondence. To summarize, the following diagram illustrates the functions of the notification activity and the notification procedure authorized for PLC operations:

[6] AD HOC COMMITTEE 162 REPORT TO IRAC, April 7, 1981. A copy of this report is contained in the Docket file. While some members of the Committee did not Support full usage of the band by PLC's, the Reports findings did not recommend exclusion of PLC's from the 10–14 kHz and 90–110 kHz band segments.

NOTIFICATION PROCEDURE

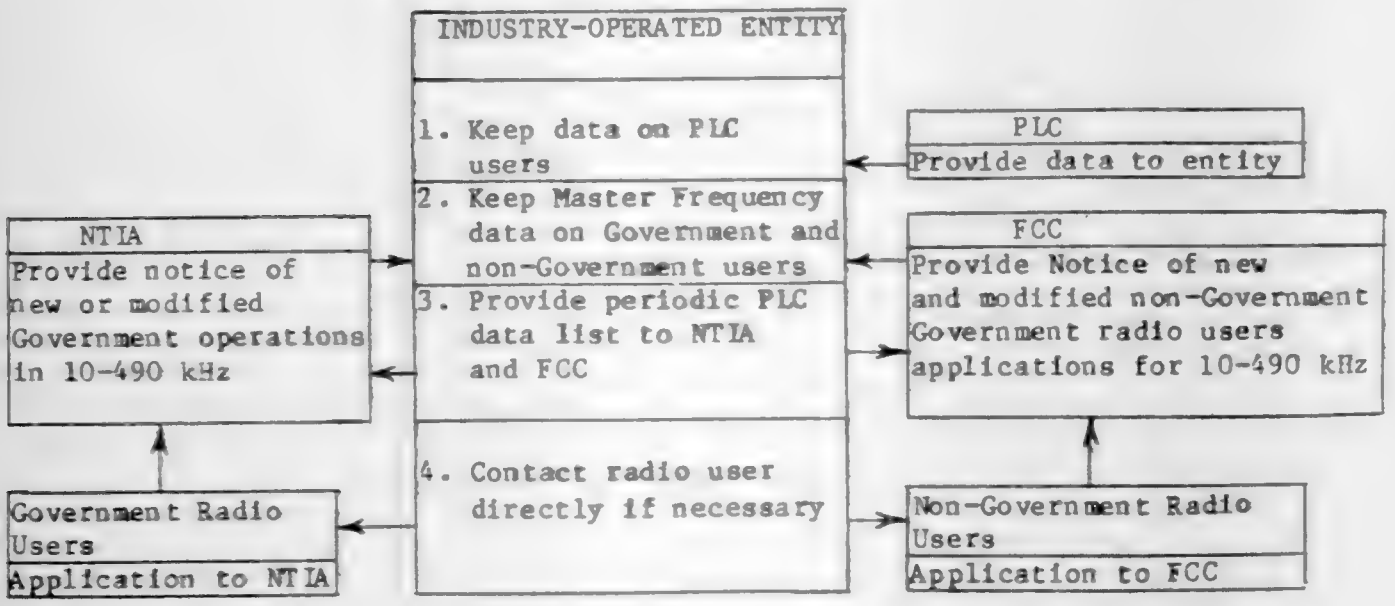

Rule Modifications

17. The Commission agrees to implement some of the changes suggested to the rules governing PLC operation. As stated in the NPRM, the proceeding applies only to those PLC systems performing the transmission function between the power plant and the electrical substation. Accordingly, our rules will be modified so that the definition will clearly exclude those operations between the substation and the customer and will be moved from § 15.8 to 15.4 to set it apart with the other definitions. Also as suggested by UTC, the inclusion of the work "harmful" to describe interference in § 15.8(c), is consistent with other Part 15 language and will be included. We further agree that the note in § 15.7 be modified so that it remain applicable to other carrier current systems. Further, we agree that § 15.8(b) should be modified to apply to all existing PLC users to insure that the initial data base will contain all necessary information. Since the effort is in the best interest of all PLC users, the Commission expects existing users to voluntarily cooperate in the notification procedure. Moreover, we agree with the modification suggested by UTC that § 90.63(g) be amended to include in the notification process, changes to existing systems. Finally, we are amending § 90.63(g) to include the receiver location of PLCs as a parameter to be furnished for the data base rather than requiring extensive routing information.

Action

18. In view of the public comments and considerations discussed herein, we are amending the Commission's Rules in response to the Notice of Proposed Rule Making. Accordingly to provide appropriate recognition for PLCs and to provide for a notification entity and notification procedure to help anticipate and avoid potential interference problems, the following rule changes are adopted:

A. Section 2.106, Footnote U.S. 294 is added to provide recognition of PLC operations between 10–490 kHz.

B. Parts 15 and 90 are amended as proposed in the Notice with certain minor modifications included for clarity.

C. Designation of the North American Electric Reliability Council to serve as the industry-operated entity to oversee the notification process subject to receipt of the required security clearances.

19. For further information regarding matters covered in this document contact Sam Tropea (202) 653–8167.

20. Accordingly, IT IS ORDERED, that, pursuant to the authority contained in Sections 4(i) and 303(c) of the Communications Act of 1934, as amended, the Commission's Rules ARE AMENDED as set forth in the attached Appendix B, effective March 7, 1983.

21. It is further ordered that the proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.
Willam J. Tricarico,
Secretary.
Attachments:
Appendices A and B.

Appendix A

Comments Filed By

Aeronautical Radio Inc.
Alabama Electric Corporation
Alabama Power Company
American Electric Power Service Corporation
American Telephone and Telegraph Company
Atlantic City Electric Company
Carolina Power and Light Company
The Cleveland Electric Illuminating Company
Department of Energy
Duke Power Company
Edison Electric Institute
Electronics Industry Association
Florida Power and Light Company
Florida Power Corporation
General Electric Company
Gulf Power Company
Houston Lighting and Power Company
Manufacturers Radio Frequency Advisory Committee
National Electric Manufacturers Association
North American Electric Reliability Council
Ohio Edison
Pacific Gas and Electric Company
Philadelphia Electric Company
Rochester Gas and Electric Corporation
Southern California Edison Company
Southern Company Services
Tampa Electric Company

Tennessee Valley Authority
Utilities Telecommunications Council
Virginia Electric Power Company

Reply Comments Filed By

Utilities Telecommunications Council

Appendix B

For the reasons set forth in the preamble, Parts 2, 15 and 90 of Chapters I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. In § 2.106 the Table of Frequency Allocations is amended by adding in column 7, the footnote designator US 294 for the band 10–14 kHz, 14–19.95 kHz, 19.95–20.05 kHz, 20.05–59 kHz, 59–61 kHz, 61–70 kHz, 70–90 kHz, 90–110 kHz, 110–130 kHz, 130–160 kHz, 160–190 kHz, 190–200 kHz, 200–275 kHz, 275–285 kHz, 285–325 kHz, 325–335 kHz, 335–405 kHz, 405–415 kHz, 415–490 kHz and the text of footnote US 294 is added in proper numerical sequence to the list of footnotes following the Table as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

US Footnotes

* * * * *

U.S. 294 In the spectrum below 490 kHz electric utilities operate Power Line Carrier (PLC) systems on power transmission lines for communications important to the reliability and security of electric service to the public. These PLC systems operate under the provisions of Part 15 of the Federal Communication Commission's Rules and Regulations or Chapter 7 of the National Telecommunications and Information Administration's Manual of Regulations and Procedures for Federal Radio Frequency Management, on an unprotected and noninterference basis with respect to authorized radio users. Notification of intent to place new or revised radio frequency assignments or PLC frequency uses in the bands below 490 kHz is to be made in accordance with the Rules and Regulations of the FCC and NTIA, and users are urged to minimize potential interference to the degree practicable. This footnote does not provide any allocation status to PLC radio frequency uses.

PART 15—RADIO FREQUENCY DEVICES

1. In § 15.3, the first sentence is revised and the section is revised to read as follows:

§ 15.3 General Conditions of Operation.

Persons operating restricted or incidental radiation devices (including Power Line Carrier systems) shall not be deemed to have any vested or recognizable right to the continued use of any given frequency by virtue of prior registration or certification of equipment, or on the basis of prior notification of use pursuant to § 90.63(g) of this chapter. Operation of these devices is subject to the conditions that no harmful interference is caused and that interference must be accepted that may be caused by other incidental or restricted radiation devices, industrial, scientific or medical equipment, or from any authorized radio user.

2. A new paragraph (t) of § 15.4 is added to define a Power Line Carrier System to read as follows:

§ 15.4 General definitions.

* * * * *

(t) *Power Line Carrier system.* A carrier current system used by an electric power utility entity on transmission lines for protective relaying, telemetering, etc. for general supervision of the power system. The system operates by the transmission of radio frequency signals in the band from 10 kHz to 490 kHz by conduction over the electric power transmission lines of the system. The system does not include those electric lines which connect the distribution substation to the customer or house wiring.

3. In § 15.7, the note is revised to read as follows:

§ 15.7 General Requirement for Restricted Radiation Devices.

(e) * * *

Note.—Radio receivers, cable television systems, Class I TV devices, low power communications devices, and Power Line Carrier systems as used by electric utilities on power transmission lines are regulated elsewhere in this chapter and are not regulated by this section.

4. A new § 15.8 is added to Subpart A as follows:

§ 15.8 Operation of a Power Line Carrier System.

(a) A power utility operating Power Line Carrier systems shall submit the details of all existing systems plus any proposed new systems or changes to existing systems to a industry-operated entity as set forth in § 90.63(g) of this chapter. No notification to the FCC is required.

(b) The operating parameters of a Power Line Carrier System (particularly the frequency) shall be selected to achieve the highest practical degree of compatibility with authorized or licensed users of the radio spectrum. A Power Line Carrier System shall operate on an unprotected, noninterference basis in accordance with § 15.3 of this part. If harmful interference occurs, the electric power utility shall discontinue or adjust its Power Line Carrier operation, as required, to remedy the interference.

(c) Power Line Carrier systems apparatus shall be operated with the minimum power possible to accomplish the desired purpose.

(d) The best engineering principles shall be utilized in the generation of radio frequency currents by Power Line Carrier systems so as to guard against interference to authorized radio users, particularly on the fundamental and harmonic frequencies.

(e) Power Line Carrier system apparatus shall conform to such engineering standards as may from time to time be promulgated by the Commission. In addition, such systems should adhere to industry approved standards designed to enhance the use of Power Line Carrier systems.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. Section 90.63 is amended by the revision of paragraph (g) to set forth the frequencies available for, and the limitations placed on, the use of PLC systems as follows:

§ 90.63 Power Radio Service.

* * * * *

(g) The frequencies 10–490 kHz are used to operate electric utility Power Line Carrier (PLC) systems on power transmission lines for communications essential to the reliability and security of electric service to the public, in accordance with Part 15 of this chapter. Any electric utility fulfilling requirements in paragraph (a)(1) of this section may operate PLC systems and shall supply to a Federal Communications Commission/National Telecommunications and Information Administration recognized industry-operated entity, information on all existing, changes to existing, and proposed systems for inclusion in a data base. Such information shall include the frequency, power, location of transmitter(s), location of receivers and other technical and operational parameters, which would characterize the system's potential both to interfere with authorized radio users, and to receive harmful interference from these users. In an agreed upon format, the industry-operated entity shall inform the National Telecommunications and Information Administration and the Commission of these system characteristics prior to implementation of any proposed PLC system and shall provide monthly or periodic lists with

supplements of PLC systems. The Federal Communications Commission and National Telecommunications and Information Administration will supply appropriate application and licensing information to the notification activity regarding authorized radio stations operating in the band. PLC systems in this band operate on a noninterference basis to radio systems assigned frequencies by the NTIA or licensed by the FCC and are not protected from interference due to these radio operations.

[FR Doc. 83-3432 Filed 2-8-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 15

Petitions Filed by the American Telecommunications Corp. and Electronics Industries Association Concerning Application of 15.7 of the Commission's Rules for Cordless Telephones

AGENCY: Federal Communications Commission.

ACTION: Order Granting Conditional Waiver.

SUMMARY: This document corrects the limits on radio frequency current specified in the Commission's *Order Granting Conditional Waiver* of § 15.7 of the FCC Rules for a cordless telephone marketed by American Telcommunications Corporation.

FOR FURTHER INFORMATION CONTACT: Mr. Julius P. Knapp, Office of Science and Techology, RF Devices Branch, Room 8302, Washington, D.C. 20554, (202) 653-8247.

SUPPLEMENTARY INFORMATION:

Erratum

Released: February 1, 1983.

1. On September 29, 1982 the Commission adopted an *Order Granting Conditional Waiver* of § 15.7 of the FCC Rules for a cordless telephone marketed by American Telecommunications Corp. (ATC). Reference FCC 82-430, released October 4, 1982 (48 FR 4788, February 3, 1983). The waiver is corrected as follows.

2. The waiver set technical conditions based upon the FCC Laboratory Report in Project No. 2247-56 "Investigation of Emission Characteristics of Cordless Telephone Using Carrier Current Techniques". In this project the Lab measured a number of cordless telephones. Specifically, two types of measurements were made: (1) radiated field strength, and (2) radio frequency current placed on the AC power line and telephone wiring.

3. It was recently discovered that the calibration chart for one of the pieces of equipment used to measure current was inaccurate. The values of current listed in the Lab report are 6 dB low. Therefore, the limits on radio frequency current specified in paragraph 25(b) of the ATC waiver are corrected to read as follows:

—180 mA on any single power conductor,

—24 mA on the telephone line,

—24 mA where measuring all power conductors together, including ground conductor.

4. The levels of field strength measured by the Lab are unaffected. Therefore the interference potential of devices meeting the current limitations herein is no higher than envisioned in the Commission's original waiver.

5. Authority was delegated to the Chief Scientist to grant waivers to other manufacturers who could meet the same conditions. The Chief Scientist will accept and grant waiver reuests for cordless phones where the radio frequency currents do not exceed the corrected limits specified above.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-3416 Filed 2-8-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 31 and 43

[CC Docket No. 82-513; FCC 83-26]

Amendment of Annual Report Form M for Telephone Companies To Reflect Changes in the Depreciation Techniques Approved in Docket No. 20188

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends certain schedules in the Form M Annual Reports filed by certain common carriers. The amendments are required to reflect changes in the carriers depreciation practices provided for in Docket No. 20188.

This action will benefit the Commission and the public in their efforts to analyze the carriers' depreciation practices and cost of service information. Also, it will give the carriers more flexibility when preparing the revised Form M schedules and eliminate the burden of reporting unnecessary data.

EFFECTIVE DATE: March 8, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Accounting and Audits Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, Telephone Number (202) 634-1861.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 31

Communications common carriers, Telephone, Uniform System of Accounts.

CFR Part 43

Communications common carriers, Telephone.

Adopted: January 20, 1983.

Released: February 1, 1983.

By the Commission: Commissioner Fogarty absent.

In the Matter of Amendment of Annual Report Form M for telephone companies to reflect changes in the depreciation techniques approved in Docket No. 20188, CC Docket No. 82-513; FCC 83-26, Report and Order.

I. Introduction

1. In a Notice of Proposed Rulemaking (NPRM) released on August 16, 1982, 47 FR 36660, the Commission proposed to amend the telephone carriers' Annual Report Form M to reflect new depreciation practices approved by the Commission in Docket 20188, 83 FCC 2d 267 (1980). We proposed to eliminate one schedule entirely and parts of another because it appeared the information reported would be either unnecessary or unduly burdensome in the future. We also proposed to add three new subschedules to obtain information by depreciation method so that the staff could monitor the impact of the new depreciation practices.

2. Based on the comments received in this proceeding, we have decided to adopt some aspects of our proposal and to modify others. We have decided to eliminate one schedule and a major part of another as we proposed, but we have also decided to retain two columns which we had proposed to eliminate. Finally, we have decided not to adopt the three subschedules that we proposed to obtain information by depreciation method. Instead, we have decided to modify three existing schedules to obtain information for each subaccount for which depreciation rates are calculated.

II. Background

3. The Form M is required to be filed by subject telephone companies that have annual operating revenues in

excess of $1,000,000. It is prepared according to the Commission's Uniform System of Accounts for Class A and Class B Telephone Companies, 47 CFR Part 31, and consists of various schedules showing the carrier's financial and accounting data, plant and operating costs, pension, and other employment information. The companies are required to prepare and submit their annual report to the Commission not later than March 31 of the year following that for which the report is made, 47 CFR 43.21.

4. On December 5, 1980, this Commission released its *Report and Order* in Docket No. 20188, 83 FCC 2d 267 (1980), *reconsideration*, 87 FCC 2d 916 (1981), which amended Part 31 of the Commission's Rules and Regulations for Class A and Class B Telephone Companies to permit new depreciation practices. Docket No. 20188 permitted Class A and Class B telephone companies to use the remaining-life (RL) procedure rather than the whole-life procedure with the straight-line vintage group (SLVG) method for embedded plant, and it permitted them to use the straight-line equal-life group (ELG) method or any other depreciation method approved by the Commission for new plant. These changes in depreciation practices authorized by Docket No. 20188 necessitated a reevaluation of the depreciation information required on certain schedules of the Annual Report Form M and resulted in the proposed revisions being considered in this proceeding.

III. Proposed Revisions

5. The NPRM proposed to add three new subschedules to the Form M to obtain information by depreciation method. The new subschedules were:

12A.1—Analysis of Telephone Plant Accounts by Depreciation Method;

14A.1—Analysis of Entries in Depreciation Reserve (Account 171) by Depreciation Method; and

14C.1—Basis of Charges for Depreciation by Depreciation Method.

6. The current depreciation related schedules in the Form M (Schedules 12A, 14A and 14C) do not provide data by depreciation method. We proposed the new subschedules to provide the information which we believed would be necessary to monitor the telephone plant accounts, the depreciation reserve accounts, and the basis of depreciation charges when more than one depreciation method was used.

7. The NPRM also proposed to eliminate Schedule 14B—Theoretical Depreciation Reserve Study. We believed that schedule would be unnecessary in the future because, in the *Supplemental Opinion and Order* of Docket No. 20188, 87 FCC 2d 1112 (1981), we required all carriers to use the historical debits and credits method rather than theoretical depreciation reserve studies to allocate their depreciation reserve among the depreciable plant accounts.

8. Finally, the NPRM proposed to eliminate column (b), Estimated Service Life in Years, and column (c), Estimated Net Salvage Factor, of Section I of Schedule 14C and to eliminate Section II of this schedule entirely. We proposed to eliminate columns (b) and (c) because, with carriers using more than one depreciation method, the amounts reported in these columns would represent a mix of more than one method, and it appeared the information reported in them would be meaningless. We proposed to eliminate Section II of Schedule 14C because the ELG method would produce new groups with separate service lives and salvage factors each year. Thus, as a result of ELG, the volume of data to be reported in Section II would continue to increase each year as new groups were created and we felt that the burden of filing the additional data that would be required in Section II outweighed the benefit of that data.

IV. Summary of Comments

9. Interested parties were invited to file comments on our proposal on or before September 22, 1982, and reply comments on or before October 7, 1982. Comments were received from American Telephone and Telegraph Company and its associated operating companies (AT&T); GTE Service Corporation and its affiliated domestic telephone companies (GTE); North American Telephone Association (NATA); Continental Telecom, Inc. (Continental); and United States Independent Telephone Association (USITA).[1] Reply comments were received from AT&T and GTE. A brief summary of all comments as they relate to our proposal is set forth below.

Comments on Proposed New Subschedules for Schedules 12A, 14A, and 14C

10. Continental and NATA supported the addition of the proposed subschedules to obtain information by depreciation method. They stated that the subschedules would meet the Commission's objective to monitor the effects of the changes in depreciation procedures without being unduly burdensome to the companies providing the information.

11. AT&T did not object to the addition of subschedules to Schedules 12A and 14C, but did oppose the subschedule for Schedule 14A (Subschedule 14A.1) because it would require the reporting of information which AT&T states is unavailable. Subschedule 14A.1 would require carriers to show charges to the depreciation reserve by depreciation method. AT&T argued that since ELG depreciation is being phased in on a prospective basis, Subschedule 14A.1 would require reporting depreciation charges separately for different vintages of plant. Also, Subschedule 14A.1 would require reporting the selling price, commissions, and other expenses of plant sold with traffic,[2] as well as the cost of removal, salvage and insurance associated with other plant retired by depreciation method. All of these data and the resulting reserve balances would have to be reported separately for the different vintages of plant subject to different depreciation methods; and, according to AT&T, these data are not available. AT&T also suggested that, if required in the final rule, the salvage related data proposed to be reported on Subschedule 14A.1 and Subschedule 14C.1 should be reported in a separate schedule.

12. USITA and GTE objected to all three of the proposed new subschedules. USITA stated that the proposal to add new subschedules to the Form M should not be adopted by the Commission because the Notice did not justify the collection of the additional data. GTE supported the Commission's effort to reexamine its regulatory requirements in light of the new depreciation developments but disagreed with the implicit premise of the Notice that the methodologies required far more extensive Form M data. GTE argued in its comments that there is no increased data requirement associated with implementation of ELG or the remaining-life procedure; therefore, it feels that the new subschedules are unnecessary.

13. GTE also argued that the appropriate next step for the Commission to take in furtherance of its Docket 20188 policies would be to allow, as a carrier's option, the use of composite depreciation rates that reflect more than one depreciation method. GTE stated that composite rates would ensure full capital recovery without the need for vintage accounting and would

[1] Comments from Continental and USITA were filed late by one day; however, they were accepted by the FCC.

[2] Plant sold with traffic is defined as telephone plant in service that is carrying telecommunication messages.

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eliminate the need for information by method that would be reported in the new subschedules.

14. AT&T, in its reply comments, supported the use of the composite depreciation rate methodology proposed by GTE. AT&T stated that, if the Commission adopted the GTE proposal on compositing, the additional subschedules proposed for the Form M would be unnecessary.

Comments on Modification to Schedule 14C

15. Continental, AT&T, and GTE supported the elimination of columns (b) and (c) of Section I and all of Section II of Schedule 14C because the data reported would be meaningless to FCC and burdensome to carriers when more than one depreciation method is used.

16. GTE suggested that Section I of Schedule 14C be modified to provide a listing of each subaccount for which a separate depreciation rate is utilized in order that the schedule be consistent with the prescribed depreciation rates.

17. NATA objected to the elimination of Schedule 14C column (b), Estimated Service Life, and column (c), Estimated Net Salvage, and the elimination of all of Section II of this schedule. NATA asserted that eliminating these data would effectively eliminate any possible replication of column (d), Annual Composite Rate, of Schedule 14C. NATA argued that all three of these pieces of data are required to compute annual composite depreciation rates. NATA further argued that these depreciation rates are critical to many types of regulatory and legal proceedings and the elimination of this basic, reliable data source would put an undue burden on many of the parties involved in these proceedings. NATA argued that the triennial information submitted in support of depreciation represcription may not be adequate for the Commission's regulatory purposes or meaningful public participation in Commission proceedings. It stated that the very trends which led to Docket 20188 and the adoption of ELG and RL would actually intensify the need for the information that the Commission now proposes to eliminate. Also, without the information the Commission proposed to eliminate, NATA contends that it would not be possible to trace the performance of equal-life groups by vintage or to examine changes in ELG accruals by year. Finally, NATA argued that the implementation of ELG necessitates the use of a computer because of the massive amounts of data required and that the data are therefore already in company hands in a format that is easily converted into the necessary reports. NATA claims that as long as the company has the computer capacity necessary to implement ELG, it has the means to generate, with relative ease, the information required under Section II of Schedule 14C for ELG plant.

18. In AT&T's and GTE's reply comments, they disagreed with NATA's numerous reasons why the information reported in columns (b) and (c) of Section I and all of Section II of Schedule 14C should be continued. They argued that NATA does not understand the purpose or the function of the Annual Report Form M. They stated that Form M was never intended to be a means for an in-depth review of the depreciation process. They pointed out that NATA fails to recognize that the elimination of the Form M reporting requirements does not eliminate the submission of depreciation-related data to the Commission, nor does it reduce the Commission's ability to monitor the various factors affecting the proper level of depreciation expense. They argued that all relevant depreciation-related data (depreciation rates, salvage factors, and relevant lives by subaccount) are filed with the Commission and the appropriate state commissions at the time of the triennial depreciation review and that these data are public documents just as much as the Form M. Finally, AT&T and GTE argued that the data filed during the triennial review is more than adequate to permit the Commission and other interested parties to monitor effectively the factors discussed by NATA and the triennial review is the appropriate mechanism for a detailed review of the carriers' depreciation practices.

Comments on Schedule 14B, Theoretical Depreciation Reserve Study

19. All of the respondents concurred with the NPRM in that Form M Schedule 14B, Theoretical Depreciation Reserve Study, is no longer needed to show the allocation of the depreciation reserve by the depreciable plant accounts, since the Commission adopted the historical (debits and credits) method to allocate the depreciation reserve, 87 FCC 2d 1112 (1981).

V. Discussion

20. Based on our analysis of the comments and reply comments and a rview of our proposal, we believe that some modifications to our proposal are warranted. These modifications in large part stem from the comments of GTE that suggest that the Commission should consider allowing carriers the option of using composite equal life group and remaining life depreciation rates. We believe that the GTE proposal has merit and would reduce the Commission's burden of having to approve an increasing number of ELG rates as carriers add new plant. However, there are implementation problems in determinig the proper formula that will yield a realistic composite rate. Therefore, we direct the staff of the Common Carrier Bureau to review the GTE proposal of composite rates and address its merits in an appropriate proceeding.

Proposed Subschedules to Schedules 12A, 14A, and 14C

21. We proposed to require carriers to submit subschedules to Schedules 12A, 14A, and 14C for each depreciation method used by the carriers to provide information with which to monitor the new depreciation practices. However, AT&T stated that the information on one of those subschedules was not available in its records. Moreover, GTE proposed that the Commission consider composite depreciation rate methodology which both GTE and AT&T, in its reply comments, claimed would make the proposed subschedules unnecessary. Since we have found that there may be merit to the composite methodology proposed by GTE, we believe it would be premature to collect data by depreciation method on the proposed new subschedules. Therefore, we have decided not to adopt the proposed Subschedules 12A.1, 14A.1 and 14C.1 to provide data by depreciation method pending our review of composite depreciation rates.

22. Since we are not adopting the proposed subschedules 12A.1, 14A.1 and 14C.1 we agree with the GTE's proposed modification to Section I of Schedule 14C. GTE proposed that this section be modified to provide a listing of each subaccount for which a separate depreciation rate is utilized. However, we do not believe that the GTE proposal went far enough. The date on Schedules 12A and 14A are directly related to the data shown on Section I of Schedule 14C. Therefore, we believe that GTE's proposal should be extended to include Schedule 12A and Schedule 14A.

23. This information will provide the Commission with data that will be more useful in analyzing carrier depreciation practices as well as reviewing the carriers' cost of providing various services. Further, all carriers maintain depreciation data in their records for each subaccount for which depreciation rates are used. Therefore, these data are readily available to the carriers and can be reported by subaccount with no significant burden.

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24. The current Schedules 12A, 14A, and 14C contain lines for each of the primary accounts. This format will have to be revised to allow carriers to show their subaccount data. However, the subaccount structure is not uniform among carriers. To handle this problem, we plan to leave all lines that show depreciable primary account data on Schedules 12A, 14A and 14C blank. Then each carrier can fill in its own primary account data along with the subaccount data related to each primary account. This will allow all carriers maximum flexibility when completing these schedules.

Proposed Revisions to Schedule 14C

25. The Notice proposed two changes to this schedule. It proposed the elimination of columns (b) and (c) of Section I and the elimination of Section II entirely. Based on an analysis of the comments and reply comments and a review of our proposal we believe that some modifications to our proposal are warranted.

26. Since we have revised our proposal of requiring carriers to submit data by depreciation method pending our review of GTE's proposal for composite rates, we believe that we should not eliminate columns (b) and (c) at this time. The proposal to eliminate columns (b) and (c) was based on one principal point, i.e., the information to be reported in columns (b) and (c) would be based on composite depreciation rates reflecting more than one depreciation method which, it appeared, would make the information meaningless. Since we have directed the staff to consider the merits of composite rates, we may in the future find that the information contained in columns (b) and (c) will be useful in monitoring those rates. Unitl we have rendered a ruling on composite rates, we believe that we should retain the data required in columns (b) and (c) of Section I.

27. However, because of the changes in depreciation practice approved in Docket 20188, it is necessary to add a new column in Section I to indicate whether the carrier is using a whole-life or remaining-life procedure for each depreciation rate. The new column has been added as column (b), Whole or Remaining Life, and the other columns have been redesignated accordingly. Carriers will be required to indicate which depreciation procedure is being used for each subaccount by marking a "W" in column (b) for plant depreciated using the whole-life procedure and an "R" in this column for plant being depreciated using the remaining-life procedure.

28. On the revised schedule, column (c), Life (yrs), will show average service life for plant depreciated under the whole-life procedure and average remaining-life for plant depreciated under the remaining-life procedure. Column (d), Net Salvage %, will show average net salvage for plant depreciated under the whole-life procedure and will show future net salvage for plant depreciated under the remaining-life procedure. All changes are shown in the new Schedule 14C that is attached in Appendix A.

29. The second proposed modification of Schedule 14C was the elimination of Section II of this schedule. We proposed to eliminate this section because the volume of data to be reported in Section II would continue to increase each year as new groups are created for carriers that adopt the ELG depreciation method. We felt that the burden of filing the additional data would outweigh the benefits that would be derived from those data.

30. NATA opposed the elimination of this section. It argued that the implementation of ELG required the use of computers and, therefore, that the data are available to the carriers in a format that could be easily converted into the necessary reports. AT&T and GTE disagreed with NATA's comments and argued that the elimination of Form M reporting requirements does not eliminate the submission of these data to the Commission in requests for depreciation rate changes.

31. We agree with the comments of AT&T and GTE that the data required in Section II of Schedule 14C will continue to be available in the carriers' requests for changes in depreciation rates which are available to the public at this Commission and at the state commissions. NATA failed to offer any reason why these data would not serve the same purpose as the data in Section II that we proposed to eliminate. Therefore, we will adopt our proposal and eliminate Section II of Schedule 14C.

Schedule 14B, Theoretical Depreciation Reserve Study

32. We proposed to eliminate this schedule from the Form M because all carriers are not required to maintain depreciation reserve balances by accounts corresponding to their depreciable plant accounts. All of the respondents agreed with our proposal to eliminate Schedule 14B. We continue to believe that the information shown on this schedule is no longer required in the Form M. Therefore, we will eliminate Schedule 14B from our Annual Report Form M.

VI. Ordering Clauses

33. Accordingly, it is ordered, pursuant to Sections 4(i) and 219 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 219, that the Form M Schedules are hereby revised as set forth in this Order and Appendix A.

34. It is further ordered, That Part 31, § 31.171(c) is hereby amended as reflected in Appendix B.

35. It is further ordered, That the revisions adopted herein shall be effective March 8, 1983, and shall be applicable to the annual reports to be filed for the year ended December 31, 1982.[3]

36. It is further ordered, pursuant to Section 220(i) of the Communications Act, 47 U.S.C. 220(i), that the Secretary shall cause a copy of this Report and Order to be served on each state commission.

37. It is further ordered That Docket No. 82–513 is hereby terminated.

(Secs. 4, 219, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.—Appendix A will not appear in the Code of Federal Regulations.

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[3] Carriers should note the Form Ms were scheduled for printing before this proceeding was approved. Therefore, the schedule eliminated will still appear in the 1982 Form M and should not be completed. Those schedules revised will also appear in the 1982 Form M in their existing format. Carriers should use copies of the sample schedules attached to this order to include our revisions.

APPENDIX A

Annual report of ..... Year ended December 31, 19. . .

12A. ANALYSIS OF TELEPHONE PLANT ACCOUNTS

1. Report in column (c) all amounts relating to purchases of plant accounted for in accordance with paragraphs (a) and (b) of Section 31.2-21 of the Commission's Rules.

2. Each transfer or adjustment between accounts listed in this schedule, or between accounts listed in this schedule and other accounts, shall be included in column (g) and explained in a note, except the following which shall be included in columns (c) through (f), as appropriate: (1) transfers and adjustments amounting to less than $5,000; (2) adjustments and corrections of additions and retirements for the current or the preceding year; (3) transfers involving account 100.2, the plant accounts, and account 100.3 made in connection with the closing of the records of construction work orders or authorizations; and (4) routine entries relating to the acquisition, sale, retirement, or change in the use, of plant, such as transfers among accounts 201 to 264, inclusive, 276, 277, 100.3 and 100.4

Line No.	Account (a)	Balance at Beginning of the Year (b)	CHARGES DURING THE YEAR	
			Plant Acquired from Predecessors (see instruction 1) (c)	Other Plant Added (d)
	100.1 Telephone Plant in Service:			
1	201 Organization.....	$	$	$
2	202 Franchises.....			
3	203 Patent rights.....			
4	DEPRECIABLE PLANT:			
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25	Subtotal Depreciable Plant..			
26	276 Telephone plant acquired.....			
27	277 Telephone plant sold.....			
28	Subtotal Account 100.1.....			
29	100.2 Telephone plant under construction.....			
30	100.3 Property held for future telephone use.....			
31	100.4 Telephone plant acquisition adjustment.....			
32	100.5 Satellite Earth Stations.....			
33	Subtotal (lines 28-32,incl).			
34	100.7 Telephone plant adjustment...			
35	TOTAL.....			

( ) denotes credit amount in column (g) and reverse amount in other columns.

12A. ANALYSIS OF TELEPHONE PLANT ACCOUNTS - (continued)

3. Credits to accounts listed in this schedule relating to property retired and charged to account 103, "Miscellaneous physical property," shall be included in column (f).

4. List each of the depreciable plant accounts and all subclasses of plant in column (a) for which a depreciation rate is determined and a subtotal for each primary account.

Line No.	CREDITS DURING THE YEAR		Transfers and Adjustments (Charges and (Credits))	Balance at End of the Year
	Plant Sold with Traffic (e)	Other Plant Retired (f)	(g)	(h)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
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19				
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21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
31				
32				
33				
34				
35				

( ) denotes credit amount in column (g) and reverse amount in other columns.

Annual report of . . . . . Year ended December 31, 19. . .

14A. ANALYSIS OF ENTRIES IN DEPRECIATION RESERVE (Account 171)

1. Report under each of the plant accounts in column (a) all subclasses of plant for which a depreciation rate is determined and a subtotal for each primary account.

2. With respect to each item included in columns (d) and (h), include in a note the contra account charged or credited together with an explanation of the entry.

Line No.	Plant Account (a)	Balance at Beginning of the Year (b)	CREDITS DURING THE YEAR		
			Charged to Accounts 608, 702, and 704 (c)	Other Credits (specified) (d)	Total (e)
1		$	$	$	$
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					
26					
27					
28					
29					
30					
31					
32					
33					
34					
35					
36					
37					
38					
39					
40					
41					
42					
43					
44					
45					
46					
47					
48	Total				

( ) denotes reverse amount

Annual report of . . . . . Year ended December 31, 19 . . .

14A. ANALYSIS OF ENTRIES IN DEPRECIATION RESERVE (Account 171) - (continued)

3. When property, the book cost of which was included in more than one plant account, has been sold for a lump sum the amounts includible in columns (m) and (n) shall reflect the apportionment among the accounts involved.

Line No.	CHARGES DURING THE YEAR				Balance at End of the Year
	For Plant Sold with Traffic (see Col. (o)) (f)	For Other Plant Retired (see Col. (u)) (g)	Other Charges (specified) (h)	Total (i)	(j)
1	$	$	$	$	$
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
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26					
27					
28					
29					
30					
31					
32					
33					
34					
35					
36					
37					
38					
39					
40					
41					
42					
43					
44					
45					
46					
47					
48					

( ) denotes reverse amount

Annual report of . . . . . Year ended December 31, 19. . .

14A. ANALYSIS OF ENTRIES IN DEPRECIATION RESERVE (Account 171)

Line No.	Plant Account (k)	DATA RELATING TO PLANT SOLD WITH TRAFFIC (see Col. (f)) Book Cost (l)	Selling Price (m)	Commissions and Other Expenses (n)	Charge to Reserve (o)	Charge (or Credit) to Extraordinary Income (p)
		$	$	$	$	$
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
31						
32						
33						
34						
35						
36						
37						
38						
39						
40						
41						
42						
43						
44						
45						
46						
47						
48	Total					

( ) denotes reverse amount

Annual report of . . . . . Year ended December 31, 19 . . .

14A. ANALYSIS OF ENTRIES IN DEPRECIATION RESERVE (Account 171) - (continued)

Line No.	DATA RELATING TO OTHER PLANT RETIRED (see Col. (g))				
	Book Cost (q)	Cost of Removal (r)	Salvage and Insurance (s)	Miscellaneous Adjustments (t)	Net Charge to Reserve (u)
	$	$	$	$	$
1		xx			
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					
26					
27					
28					
29					
30					
31					
32					
33					
34					
35					
36					
37					
38					
39					
40					
41					
42					
43					
44					
45					
46					
47					
48					

( ) denotes reverse amount

Annual report of . . . . . Year ended December 31, 19 . . . .

14C. BASES OF CHARGES FOR DEPRECIATION

1. Report under each of the plant accounts in column (a) all subclasses of plant for which a depreciation rate is determined and a subtotal for each primary account.

2. The net salvage factors in column (c) shall be shown as a percentage of original cost.

3. A "W" in column (b) indicates a whole life rate in column (f), an average service life in column (c) and average net salvage in column (d); an "R" indicates a remaining life rate in column (f), an average remaining life in column (c), a future net salvage in column (d).

4. For each plant account, report in column (f) the prescribed depreciation rate or those used by the carrier in accordance with Part 31, Section 31.02-80 of the Commission's Rules.

5. The depreciation rate in column (f) for primary plant accounts for which subclasses or vintages are used, the life in column (b), net salvage percentage in column (c) and the depreciation reserve percentage in column (e) are to be composited so that the resulting calculated composite rate produces the same charge to operating expenses as the sum of the individual rates applied to the individual classes of plant.

6. If more than one sheet is required, the "Composite rates" and the "Ratios" data located at the bottom of this schedule should be recorded on the last lines of this schedule.

Classes and Subclasses of Depreciable Plant

Line No.	Account Number and Title of Plant Accounts and Its Subclasses (a)	Whole or Remaining Life (b)	Life (Yrs) (c)	Net Salvage (%) (d)	Depreciation Reserve (%) (e)	Depreciation Rate (%) (f)	Ratio of Depreciation Charges to Average Monthly Book Cost (%) (g)
1				1/	1/	1/	1/
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
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20							
21							
22							
23							
24							
25							
26							
27							
28							
29							
30							
31							
32	Composite rate for all depreciable accounts				1/		xx
33	Composite rate for all plant accts. incld. in acct. 100.1				1/		xx
34	Ratio to all depreciable accounts.....						
35	Ratio to all plant accounts included in account 100.1						

1/ Two decimal places required. ( ) denotes negative salvage

BILLING CODE 6712-01-C

Appendix B

PART 31—[AMENDED]

In Part 31, § 31.171, (c) is revised to read as follows:

§ 31.171 Depreciation Reserve.

* * * * *

(c) The company shall maintain this account broken down by accounts corresponding to the classes of depreciable telephone plant accounts itemized in Part 31, Section 31.02–82; or, some other format as specified by the Commission. These accounts shall show the current credits and debits to the reserve in complete detail.

[FR Doc. 83–3435 Filed 2–8–83; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 67

Letters Regarding Interpretations of the Separations Manual

AGENCY: Federal Communications Commission.

ACTION: Final rule: letter(s) regarding interpretation of the Separation Manual.

SUMMARY: In response to written requests, the Commission is issuing interpretation of its February 1982 Orders in Docket No. 80–286 and amendments to its Jurisdictional Separations Manual that was published at 47 FR 9170, March 3, 1982, and corrected at 47 FR 15142, April 8, 1982. These interpretations are clarification of the Commission's Orders that will resolve problems and permit carriers to proceed with the implementation of the revisions to FCC–NARUC Separation Manual.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Michael E. Wilson, Accounting and Audits Division, Common Carrier Bureau, (202) 634–1965.

Gary M. Epstein,

Chief, Common Carrier Bureau.

Federal Communications Commission,

Washington, D.C.,

January 27, 1983.

Mr. Bruce Schoonover,
Supervisor, Separations and Settlements, John Staurulakis, Inc., 6315 Seabrook Road, Seabrook, Maryland.

Dear Mr. Schoonover: This letter is in response to your letter of November 12, 1982, in which you requested clarification of the Commission's intent pertaining to the proper accounting treatment of a key system or small PBX charged to account 231, or large PBX purchased and accounted for prior to December 31, 1982, but not installed until 1983. Specifically, you asked four questions concerning this subject. Each of these questions is addressed separately below.

1. *If a Key System or small PBX is charged to account 231 in 1982, but not installed until 1983, is it the intent of the Commission to have the installation cost charged to account 605?*

The Commission, in its decision in Docket No. 79–105 (released March 31, 1981), modified the accounting for the cost of installing terminal equipment accounted for in account 231, Station apparatus. This modification was designed to change the accounting for these costs from a capitalized cost charged to account 232, Station connections, to an expensed item charged to account 605, Installations and repairs of station equipment. The amount actually charged to account 605 will be based on when the carrier implemented the phase in or flash cut approach and when the installation is performed. The Appendix of the Commission's Order in Docket No. 79–105 fully describes all changes to Part 31 as it relates to this change in accounting.

2. *Your second question was a two-part question concerning a large PBX that is purchased in 1982, but not installed until 1983.*

A. *Since "cradle to grave" accounting is not followed for account 234, and therefore the uninstalled large PBX is accounted for in either account 122 or account 100.2 is it the Commission's intent to treat this investment as regulated or deregulated?*

In the Commission's *Further Reconsideration of the Second Computer II* (released October 30, 1981) paragraph 45 states: "* * * under the bifurcation plan Embedded CPE is that equipment or inventory which is tariffed or otherwise subject to the jurisdictional separations process as the bifurcation data * * *"

Furthermore, in footnote 18, this order defines inventory as: "* * * field stock and Class C stock (refurbished equipment) which is not accounted for in the carrier account corresponding to account 231 (Station apparatus) and PBX inventory which is now reflected in carrier accounts corresponding to account 122 (Material and supplies) or account 234 (Large private branch exchanges) * * *"

Therefore, it is clearly the Commission's intention to treat the investment in uninstalled large PBXs purchased in 1982 and accounted for in account 122 or account 100.2 as embedded CPE, which, for the present time, remains regulated.

The second part of your questions concerning a large PBX purchased in 1982 but not installed until 1983 is also a two-part question.

B. *If the answer to A is regulated, then is the intent of the Commission to:*

I. *Treat the investment in a large PBX, accounted for in account 122 or 100.2 as of December 31, 1982, as part of the investment subject to the CPE freeze and five year phase out for separations purposes?*

As discussed above, the embedded investment in large PBX accounted for in either accounts 100.2 or 122 will remain regulated after December 31, 1982. However, no part of large PBX investment that is booked subsequent to this date will be assigned to the interstate jurisdiction or be part of the five year phase out from the separations process. Account 122 was addressed in the Commission's decision in Docket No. 80–286, Appendix B, wherein we noted: "* * * starting with January 1, 1983, any amounts included in account 122 associated with customer premises equipment shall be excluded from the amounts which are allocated to the interstate operations."

Thus, any CPE investment that is in account 122 after December 31, 1982, will not be assigned to the interstate jurisdiction nor be a part of the five year phase out from the separations process.

Account 100.2 was also addressed by the Commission in Docket No. 80–286, paragraph 52, where it was stated: "* * * CPE plant in account 100.2 will be fully deregulated on January 1, 1983, and should not be included in the CPE investment to be phased out of the separations process over a five year period."

Therefore, any CPE investment in account 100.2 subsequent to December 31, 1982, will not be assigned to interstate jurisdiction or be part of the five year phase out from the separations process.

II. *If indeed the PBX is considered regulated, then how is the installation cost incurred in 1983, to be treated? If accounted for in account 234, does it follow that it, too, should be considered in the CPE freeze and five year phase out?*

The installation of a large PBX that remains regulated is addressed in Part 31.234 of the Commission's Rules and Regulations which states in part: "This account shall include the original cost, *including cost of installation,* of multiple manual private branch exchanges and of dial systems private branch exchanges of types designed to accommodate 100 or more lines or which can normally be expanded to 100 or more lines installed either for customers' or the company's use."

A second part of this question concerned the installation of a large PBX installed and charged to account 234 after January 1, 1983, and whether these installation costs should be considered in the CPE freeze and five year phase out from separations. This question was also addressed in the Commission's decision in Docket No. 80–286 in Appendix B, wherein it noted: "The recorded investment of customer premises equipment in accounts 231 and 234 which are on the books as of December 31, 1982, shall be assigned to the five categories set forth under Section 25.2. Equipment assigned to category 2 shall be apportioned as provided in paragraph 25.22. The amount of plant investment so determined in all other categories, reduced at one-sixtieth, shall be apportioned between state and interstate operations in accordance with the procedures prescribed for each category under Section 25.2 for the month of January, 1983 * * *"

Further, it stated: "No portion of any investment in customer premises equipment in accounts 231 and 234 which may be entered on the books of the company after

December 31, 1982, shall be apportioned to interstate operations."

Therefore, in this case the installation cost will not be a part of the five year phase out but will all be assigned to the intrastate jurisdiction.

If you have any further questions concerning this request please contact Michael Wilson of the Audits Branch at 634–1965.

Sincerely yours,

Gerald P. Vaughan,

Chief, Accounting and Audits Division.

[FR Doc. 83–3447 Filed 2–8–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–709; RM–4187]

FM Broadcast Station in Anchorage, Alaska; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns two Class C channels to Anchorage, Alaska. One of the Class C channels is substituted for a Class A channel with the license modified accordingly, in response to a petition filed by the licensee, Northern TV, Inc. The other Class C assignment is made in response to a request from Craig McCaw.

EFFECTIVE DATE: March 30, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 17, 1983.

Released: January 27, 1983.

1. In response to a petition filed by Northern Television, Inc. (NTV),[1] the Commission adopted a *Notice of Proposed Rule Making*, 47 FR 46724, published October 20, 1982, proposing to substitute Class C Channel 287 for Channel 288A at Anchorage, Alaska. The *Notice* also proposed to modify the license of Station KNIK–FM to specify operation on Channel 287. Comments supporting the proposal were filed by Craig McCaw and by the petitioner.

2. In comments, the petitioner incorporated by reference the information in the *Notice* which demonstrated the need to upgrade its Class A facility to a Class C operation. Petitioner also restated its intention to convert from a Class A to Class C facility, if the proposal is adopted. McCaw in comments declared his intention to file an application to construct and operate on Channel 287, if assigned.

3. Since we have two parties expressing interest in operating a Class C channel at Anchorage, we undertook to identify any other such channels available for assignment. There are a large number of channels available and we have selected Channel 247 for consideration in response to McCaw's interest. Generally, it is the Commission's policy to refuse modification where an additional interest is expressed in the proposed new channel, see *Statesboro, Georgia*, 40 R.R. 1021 (1977). However, where other channels are available, we attempt to assign enough channels to respond to the demands for new service. See *Helena, Montana*, 50 R.R. 2d 70 (1981).

4. In view of the above, we shall substitute Channel 287 for Channel 288A and modify the license of Station KNIK–FM (Channel 288A) to specify operation on Channel 287. In addition, we shall assign Channel 247 to Anchorage, Alaska, as a ninth FM allocation in response to the interest expressed by Craig McCaw.

5. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 and 0.204(b) of the Commission's Rules, it is ordered, that effective March 30, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to the following community:

City	Channel No.
Anchorage, Alaska	247, 263, 267, 271, *276A, 281, 287, 293, and 298

6. It is further ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Northern Television, Inc. for Station KNIK–FM, Anchorage, Alaska, is modified, effective March 30, 1983, to specify operation on Channel 287 instead of Channel 288A. Station KNIK–FM may continue to operate on Channel 288A for one year from the effective date of this action or until it is ready to operate on Channel 287, whichever is earlier, unless the Commission sooner directs, subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–3441 Filed 2–8–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–568; RM–4161]

FM Broadcast Station in Fairbanks, Alaska; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 240A to Fairbanks, Alaska, in response to a petition filed by Great Alaska Electric Radio Company, Inc. The assignment will provide a fourth commercial FM service to Fairbanks.

EFFECTIVE DATE: March 22, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 13, 1983.

Released: January 21, 1983.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 FR 38930, published September 3, 1982, proposing to assign Channel 240A to Fairbanks, Alaska, as its fourth FM assignment.[1] The *Notice* was issued in

[1] Northern Television, Inc. is the licensee of Station KNIK–FM, Anchorage, Alaska.

[1] There is also a proposal pending to assign a fifth FM channel (251) to Fairbanks, Alaska (BC Docket No. 82–621, RM–4169).

response to a petition filed by Great Alaska Electric Radio Company, Inc. ("petitioner"). Only the petitioner filed comments in the proceeding, in which it restated its desire to apply for the channel, if assigned.

2. In view of the fact that the proposed assignment could provide a fourth FM station at Fairbanks, Alaska, the Commission believes that the public interest would be served by assigning Channel 240A to that community. The channel can be assigned in compliance with the minimum distance separation requirements.

3. Canadian concurrence has been obtained in the assignment of Channel 240A at Fairbanks, Alaska.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, that effective March 22, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No
Fairbanks, Alaska	240A, 266, 273, and 284.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–3443 Filed 2–8–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–699; RM–4170]

FM Broadcast Station in Port Huron, Michigan; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a second commercial FM channel to Port Huron, Michigan, in response to a petition filed by Midwest Radio Consultants, Inc.

EFFECTIVE DATE: March 30, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 17, 1983.

Released: January 27, 1983.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 FR 45059, published October 13, 1982, proposing the assignment of Channel 272A to Port Huron, Michigan, as that community's second FM assignment, in response to a petition filed by Midwest Radio Consultants, Inc. ("petitioner"). Supporting comments were filed by petitioner reiterating its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. The Commission has determined that the public interest would be served by assigning Channel 272A to Port Huron, Michigan, since it could provide a second local FM service.

3. As explained in the *Notice*, the instant proposal requires a site restriction of 2.7 miles north of Port Huron to avoid short-spacing to Station WLBS (Channel 274), Mt. Clemens, Michigan. Additionally, the proposed allocation requires the substitution of Channel 288A for Channel 272A at Chatham, Ontario, for which the Canadian Government has given its concurrence.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective March 30, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows with respect to the listed community:

City	Channel No
Port Huron, Michigan	272A, 296A

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–3444 Filed 2–8–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–351; RM–4104]

TV Broadcast Stations in La Salle and Pontiac, Illinois; Amendment of Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF-TV Channel 53 to Pontiac, Illinois, in response to a petition filed by Livingston County Broadcasters. The original proposal to reassign UHF-TV Channel 35 from La Salle to Pontiac, Illinois, was denied.

EFFECTIVE DATE: April 1, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: January 17, 1983.

Released: January 31, 1983.

1. On July 1, 1982, the Commission issued a *Notice of Proposed Rule Making*, 47 FR 29854, published July 9, 1982, in the above-entitled proceeding in response to a petition filed by Livingston County Broadcasters ("petitioner"), proposing the deletion of UHF-TV Channel 35 from La Salle, Illinois, and its reassignment to Pontiac, Illinois. Supporting comments were filed by petitioner in which it reaffirmed its intention to apply for the channel, if assigned.[1] Comments in opposition were filed by Thomas J. Mikos ("Mikos") and WORD TV, Inc. ("WORD"), to which the petitioner responded.

2. In his comments, Mikos advises that he has filed an application for Channel 35 at La Salle. Therefore, Mikos asks that we disregard petitioner's previous statement that there is no interest in that channel. In view of the pending application, Mikos asserts that petitioner's proposal is inconsistent with

[1] Petitioner subsequently submitted late-filed comments in which it proposed alternatively to apply for any available channel at Pontiac should the Commission decide to retain Channel 35 at La Salle.

prior Commission precedent. Generally, the policy is to retain an existing assignment for which there is interest in applying unless there is a clear preference for the new community. *Eugene and Salem, Oregon*, 15 R.R. 2d 1571 (1969).

3. WORD opposes the petition because it also wishes to apply for Channel 35 at La Salle. As for the comparative factors, WORD notes that neither Pontiac nor La Salle have other existing local television services. Each is served by co-owned AM and FM stations (WLPO and WAJK(FM), La Salle; WPOK and WPOK-FM, Pontiac). Further, WORD remarks that Pontiac will ultimately receive service from TV Station WBLN in nearby Bloomington, Illinois, for which a construction permit is outstanding, while La Salle is over 50 miles from the closest existing UHF television stations in Joliet and Peoria, Illinois. Under the circumstances, WORD claims that Pontiac cannot be awarded a clear preference to justify the proposed reassignment, citing *Martin and Salyersville, Kentucky*, 50 R.R. 2d 502 (1981).

4. WORD remarks that pursuant to established Commission precedent, the burden of justifying reassignment of a channel for which a party stands ready to apply falls on the petitioning party, citing *Martin and Salyersville, Kentucky, supra*. Under the circumstances recited, WORD claims that petitioner has not met its required burden, and therefore, Section 307(b) of the Communications Act dictates that the television channel allocation be maintained at La Salle in order to provide a fair, efficient and equitable distribution of frequencies.

5. In response to Mikos' opposition, petitioner alleges that when an allocation remains unused for a prolonged period of time, public interest factors require comparing community needs on an equal basis to determine where that allocation could be utilized more effectively. Thus, petitioner argues, the mere filing of an application by Mikos does not address which community is more deserving of the allocation.

6. In response to WORD's opposition, petitioner, in essence, asserts that Pontiac is more deserving of a channel than is La Salle, based upon the larger size of its community and the fact that neither Pontiac nor Livingston County presently has local television service. Petitioner also remarks that La Salle is located 44 miles from a UHF–TV station at De Kalb, for which a construction permit has been issued, and 20 miles from an educational UHF allocation at Streator, Illinois. Given these facts, petitioner maintains that since Pontiac is not served primarily or secondarily by Bloomington or Peoria stations, the Streator allocation must weigh heavily on the application of Section 307(b). If Channel 35 is retained in La Salle, petitioner maintains that La Salle County would be the beneficiary of two Grade A service contours while Pontiac would still have no primary television service.

7. In an attempt to provide each community with a UHF channel, petitioner proposes as an alternative that if Channel 35 is reassigned to Pontiac, either Channels 37, 53 or *64+ (if delected at Streator), could be assigned to La Salle in conformity with the minimum distance separation requirements.

8. Petitioner initially stated that it preferred Channel 35 in lieu of a higher channel since local viewing is presently tuned to lower channels on the dial. Thus, it maintains that assignment of a higher channel would result in a marketplace disadvantage.

9. Petitioner appended to its comments letters from solicited Pontiac citizenry and organizations advocating support of the reassignment of UHF–TV Channel 35 to Pontiac, Illinois.

10. Petitioner's preference for Channel 35 is based on its concern that a higher channel would create a marketplace disadvantage. Such a concern has not been a basis for allocations decisions. Even though local viewing may be currently tuned to lower channels on the dial, the Commission does not recognize differences between lower and higher UHF channels. *Cleveland and Lorain, Ohio*, 9 R.R. 2d 1507 (1967); *Houston, Texas*, 50 R.R. 2d 1420 (1982). As a general rule, we will not assign channels solely because an interested party desires lower placement on the UHF band. See, *New Smyrna Beach, Florida*, 50 R.R. 2d 1714 (1982).

11. Petitioner has argued that the test should be based on which community has a greater need for the channel. However, petitioner does not cite any cases in support of this position. Our policy has been to retain an existing assignment for which there is an interest absent a clear preference for reassigning the channel elsewhere. See, *Martin and Salyersville, Kentucky, supra*. As we view the comparative factors, the assignment would provide a first local television service at either community. The other "catch-all" factors—size of communities, reception services, location—are not significant enough to constitute a clear preference meeting the test for reassignment in this type of case.

12. In making the above determination, we are not unmindful of the fact that the channel has remained vacant at La Salle for many years and that the pending applications were filed after the petition for rule making. However, as a matter of administrative finality, we believe it appropriate to afford due consideration to retention of an existing assignment when to do otherwise would add an element of instability to our assignment proceedings. See, *West Liberty and Flemingsburg, Kentucky*, BC Docket No. 81–616, Mimeo No. 31079; *Martin and Salyersville, Kentucky, supra;* and *Lumberton and Long Beach, Mississippi*, Mimeo No. 1557, released January 13, 1982. We must view the pending applications as valid attempts to provide a first local service to La Salle rather than efforts to defeat a Pontiac assignment as petitioner would have us believe.

13. Moreover, our decision to retain Channel 35 at La Salle is reinforced by the fact that Channels 37 and *64 are unavailable for reassignment to that community. Since 1963, UHF–TV Channel 37 (608–614 MHz) has been reserved for the exclusive use of the radio astronomy service throughout the United States.[2] Channel *64 is reserved for noncommercial educational use at Streator, Illinois. According to Commission precedent, in such instances, we have steadfastly denied dereservation where, as here, it is apparent that an alternate channel exists which could be assigned to accommodate a commercial interest. See, *Vancouver, Washington*, 44 R.R. 2d 1498 (1980).

14. We view the resolution of this proceeding as turning on the availability of another channel at Pontiac. Petitioner's late-filed expression of interest in any such channel is a viable solution that would serve the public interest by providing Pontiac with its first local television service. Accordingly, we have chosen Channel 53 as the next lowest channel available for assignment to Pontiac.

15. In order to accommodate the assignment of Channel 53 to Pontiac, the transmitter site must be located approximately 12.2 miles southwest of the community to avoid short-spacing to Channel 54 (unused) in Kankakee, Illinois, and to Channel 58 (unused) at Danville, Illinois.

16. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as

[2] See, 1 R.R. 2d 1501 (1963).

amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered that effective April 1, 1983, the TV Table of Assignments, § 73.606(b) of the Commission's Rules, it amended as follows:

City	Channel No
Pontiac, Illinois	53

17. It is further ordered, that the petition of Livingston County to reassign UHF-TV Channel 35 from La Salle to Pontiac, Illinois, is denied.

18. It is further ordered, that this proceeding is terminated.

19. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-3442 Filed 2-8-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[FCC 82-523]

Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Policy Statement.

SUMMARY: The Commission's Policy Statement provides that: (1) Tax certificates and distress sales will be available to limited partnerships where the minority general partner owns at least twenty percent of the broadcast entity; (2) tax certificates will extend to shareholders that divest their interest in a minority-owned or controlled entity, when divestiture furthers minority ownership; and (3) distress sale petitions will be processed and granted by the Mass Media Bureau under delegated authority. This action is taken in the interest of facilitating minority ownership.

DATE: Policy Statement effective December 13, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Ava H. Berland, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: December 2, 1982.

Released: December 13, 1982.

By the Commission: Chairman Fowler issuing a separate statement.

In the Matter of Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting, FCC 82-523, Policy Statement.

Introduction

1. The Commission has traditionally considered the under-representation of minority points of view over the airwaves as detrimental to minorities [1] and the general public. Accordingly, we have taken steps to enhance the ownership and participation of minorities in the media, with the intent of thereby increasing diversity in the control of the media and thus diversity in the selection of available programming, benefitting the public and serving the principle of the First Amendment.[2] This *Policy Statement* will deal with our continuing concern with enhancing minority ownership of broadcast properties.

Background

2. To ensure the programming reflects and is responsive to minorities' tastes and viewpoints, the Commission has promulgated equal employment opportunity regulations requiring licensees to institute affirmative action programs,[3] and ascertainment procedures requiring licensees to conduct discussions with significant groups, including minority leaders, in the community.[4] However, it became apparent that in order to broaden minority voices and spheres of influence over the airwaves, additional measures were necessary. In our *Statement of Policy on Minority Ownership of Broadcasting Facilities* (hereinafter cited as the *1978 Policy Statement*),[5] we noted that:

> While the broadcasting industry has on the whole responded positively to its ascertainment obligations and has made significant strides in its employment practices, we are compelled to observe that the views of racial minorities continue to be inadequately represented in the broadcast media. * * * Adequate representation of minority viewpoints in programming serves not only the needs and interests of the minority community but also enriches and educates the nonminority audience.

3. Thus, in 1978, we articulated the important policy goal of encouraging minority ownership of broadcast facilities, and implemented that policy by announcing the availability of tax certificates and distress sales to minority-owned or controlled enterprises.[6] Tax certificates are authorized, under 26 U.S.C. 1071, in sales or exchanges of broadcasting properties where the Commission determines that such sales or exchanges are "necessary or appropriate to effectuate a change in a policy of, or the adoption of a new policy by the Commission with respect to the ownership and control of a broadcasting station. * * *" A tax certificate enables the seller of a broadcast station to defer the gain realized upon a sale, either by: (1) treating it as an involuntary conversion, under 26 U.S.C. § 1033, with the recognition of gain avoided by the acquisition of qualified replacement property; or (2) electing to reduce the basis of certain depreciable property, under 26 U.S.C. § 1071, or both. The distress sale policy allows broadcasting licensees whose licenses have been designated for revocation hearing, prior to the commencement of a hearing, to sell their station to a minority-owned or controlled entity, at a price "substantially" below its fair market value. A licensee whose license has been designated for hearing would ordinarily be prohibited from selling, assigning or otherwise disposing of its interest, until the issues have been resolved in the licensee's favor.[7] Thus,

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[1] For purposes of this statement, the term "minority" includes American Indians or Alaskan Natives, Asians and Pacific Islanders, Blacks and Hispanics. 47 U.S.C. 309(i)(3)(C).

[2] The First Amendment "rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public * * *" *Associated Press* v. *United States*, 326 U.S. 1, 20 (1943).

[3] *See* 47 CFR 73.125, 73.301, 73.599, 73.680, and 73.793; *see also Nondiscrimination in Employment Practices of Broadcast Licensees*, 13 FCC 2d 766, 774 (1968). It should be noted that the Commission recently extended its equal employment opportunity regulations to two newly authorized services, low power television, *Low Power Television*, 47 FR 21488 (May 18, 1982), and direct broadcast satellite systems, *Report and Order*, 47 FR 31553 (July 21, 1982). *See also Nondiscrimination Employment Practices of Broadcast Licensees*, 54 FCC 2d 354, 356 (1975).

[4] *Ascertainment of Community Problems by Broadcast Applicants*, 57 FCC 2d 418, 419 (1976). We should point out that while we eliminated formal ascertainment requirements for commercial radio stations in our radio deregulation proceeding (BC Docket No. 79-219), we nevertheless indicated that broadcasters could not engage in intentional discrimination against minority groups in their selection of issues to be addressed with programming. *Deregulation of Radio*, 84 FCC 2d 968, 978 (1981). We cautioned that such discrimination would be viewed with "utmost gravity." *Id.* at 1089.

[5] 68 FCC 2d 979, 980-981 (1978).

[6] For a more detailed discussion of tax certificates, *see* paragraph 13, *infra*, and of distress sales, *see* paragraph 19, *infra*.

[7] *Bartell Broadcasting of Florida, Inc.*, 45 RR 2d 1329, 1331 (1979).

extension of the tax certificate and distress sale policies foster minority ownership by providing broadcast licensees with an incentive to transfer their interests to minority-owned or controlled entities.[8]

4. Minority participation in broadcasting was also promoted through other means. The Court of Appeals determined that minority ownership of and participation in broadcasting should be encouraged and afforded merit in a comparative hearing context, recognizing the "connection between diversity of ownership of the mass media and diversity of ideas and expression required by the First Amendment."[9] Additionally, the Commission has indicated that waviers of the trafficking rule[10] and the multiple ownership rules[11] would be considered and might be appropriate where minority ownership is thereby increased.[12] Moreover, we have in fact waived our requirements[13] and awarded comparative merit to minority applicants[14] in the interest of promoting minority entrepreneurship.

5. Since 1978, we have approved 27 distress sales and 55 tax certificates, which have contributed significantly to increased minority ownership in broadcasting. However, we consider the ever-present "dearth of minority ownership" in the telecommunications industry to be a serious concern, and we are committed to further encouraging minority entry into the industry. We therefore created the Advisory Committee on Alternative Financing for Minority Opportunities in Telecommunications (Advisory Committee) for the purpose of exploring means to facilitate minority ownership of telecommunications properties.[15]

6. This *Policy Statement* emanates from recommendations pertaining to the acquisition of broadcasting facilities that were proposed by the Advisory Committee. The Advisory Committee's recommendations were primarily directed toward ameliorating existing Commission policies which tend to inhibit minority entrance into the broadcasting market. Specifically, the Committee recommended that the Commission:

(1) Clarify the *1978 Policy Statement* to indicate that (minority) general partners, holding more than a twenty percent interest in limited partnerships, exercise sufficient control and satisfy the test for tax certificates and distress sales;

(2) Adopt a "capitalizing feature" for tax certificates to enable shareholders with less than a controlling interest in a minority-controlled broadcasting entity to sell their interest and become eligible for a tax certificate;

(3) Expedite the handling of distress sale petitions by delegating authority to the Mass Media Bureau to process and grant those petitions that meet Commission standards and are consistent with Commission policies;

(4) Expand the rights of seller-creditors, including the right of reversionary interests in broadcast licenses, in seller financed transactions;

(5) Amend the multiple ownership rules to permit increased equity participation by venture capital companies in the acquisition of telecommuications properties by minority entrepreneurs;[16] and

(6) Amend the multiple ownership rules to permit established broadcasting entrepreneurs to acquire equity interests in minority-controlled entities.[17]

The Advisory Committee noted that "financing has remained the single greatest obstacle" to minority entry into the telecommunications industry. Therefore, the Advisory Committee's recommendations mainly focused upon enhancing minority entrepreneurship by increasing their opportunities to attract investors in their enterprises, and thus secure financing.

We believe it is appropriate to defer immediate consideration of items (5) and (6) above, the Advisory Committee's recommended amendments to our multiple ownership rules. We are in the process of undertaking a comprehensive review of those rules, and we believe it is more productive at this point to consider any minority ownership implications of these rules in the context of our overall review. Additionally, we will not address seller-creditors' rights in this *Policy Statement;* that matter is subject to a separate *Notice of Proposed Rule Making* which we adopted today.

Discussion

Limited Partnerships

7. As previously stated, to foster minority ownership of broadcasting facilities, in 1978 we extended the availability of tax certificates and distress sales to minority entities. At that time, we indicated that the purchasing entity would be deemed qualified for purposes of tax certificates where the minority ownership interest ir the entity exceeded fifty percent or was controlling.[18] The same ownership requirement has since been applied to distress sales.[19] By so establishing the ownership requirement, we did not intend to preclude from consideration other cases where "minority involvement is significant enough to justify" tax certificates or distress sale treatment. However, the requirement has evolved into a rather rigid standard from which we have departed but once.[20] In *William M. Barnard,* we determined that issuance of a tax certificate was justified under the circumstances, because minority group members owned, directly or indirectly,

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[8] We should point out that licensees whose licenses have been designated for hearing may not avail themselves of a tax certificate in addition to a distress sale. *Blue Ribbon Broadcasting, Inc.*, 76 FCC 2d 431 n. 6 (1980).

[9] *TV 9, Inc.* v. *FCC*, 495 F. 2d 929, 937–38 (D.C. Cir. 1973) *cert. den.*, 418 U.S. 986 (1974). Additionally, the Court of Appeals noted that:

> The fact that other [licensee] applicants propose to present the views of such minority groups in their programming, although relevant, does not offset the fact that it is upon ownership that public policy places primary reliance with respect to diversification of content, and that historically has proven to be significantly influential with respect to editorial comment and the presentation of news. *Id.* at 938.

[10] 47 CFR 73.35, 73.240 and 73.636.

[11] 47 CFR 73.3597.

[12] *Minority Ownership of Broadcasting Facilities*, 69 FCC 2d 1581, 1596–1597 (1978). However, given the myriad of potential factual situations and the competing policies underlying those rules, we declined to specify the kind of cases where waivers would be granted.

[13] *E.g.*, in *Atlas Communications, Inc.*, 61 FCC 2d 955, 997 (1967), the allocation requirements were waived and a Black-owned daytime broadcast station was permitted to operate at night.

[14] *E.g.*, in *Rosemor Broadcasting, Co., Inc.*, 54 FCC 2d 394, 418 (1975), merit was awarded to an applicant whose owner principals were minority women who were also to be involved in the management of the proposed station.

[15] The Advisory Committee was created in September of 1981, and was comprised of leaders in the financial, telecommunications, private and public sectors. For a list of Advisory Committee members, *see* Appendix A.

[16] Specifically, the Advisory Committee recommended that the multiple ownership rules (*see* note 11, *supra*) be amended to either exempt or raise the "reportable interest" level of venture capital companies (including private venture capital investment companies and small business investment companies).

[17] As an alternative, the Advisory Committee recommended that "the established multiple owner [be allowed] to acquire the additional prohibited property, provided he assisted a minority in the financing of another comparable venture." Such "joint venturing" was deemed desirable, in that experienced broadcasters afford managerial and technical expertise, and may provide additional financing to minority entrepreneurs just entering the complex field of telecommunications.

[18] *1978 Policy Statement, supra*, at 983 n. 20.

[19] *E.g., Grayson Enterprises, Inc.*, 47 RR 2d 287, 294 (1980).

[20] For instance, in *Long-Pride Broadcasting Co.*, 48 RR 2d 1243 (1980), we denied the issuance of a tax certificate in connection with the sale of a broadcast station, where the minority owned 45 percent of the purchasing entity's stock, and was able to vote an additional 10 percent through a voting trust. We stated that the minority's involvement was not significant enough to justify issuance of a tax certificate, alluding to the "tenuous nature" of voting trusts. *Id.* at 1245.

45.5 percent of the partnership interest in the purchasing entity, and the sole general partner, who had the "exclusive authority to manage and control" its affairs, was a minority individual who owned an 11.4 percent interest individually as well as a 52.4 percent interest in a corporation which held a 25 percent limited partnership interest in the entity. By so issuing the tax certificate, we recognized that where the general partner is a minority individual with a substantial, but not controlling, equity interest in the entity, sufficient minority involvement has been demonstrated to justify issuance of a tax certificate. We cautioned, however, that "serious concern would arise where tax certificates are sought for sales to limited partnerships in which minorities exercise control but have no substantial ownership interests."

8. The Advisory Committee recommended that the Commission explicitly recognize the unique nature of limited partnerships. The Advisory Committee requested the Commission to indicate that in cases where the general partner is a minority individual and owns more than 20 percent interest in the broadcasting entity, there exists sufficient minority involvement to justify favorable application of the Commission's tax certificate and distress sale policies.

9. Limited partnerships are creatures of statute. While the laws vary from jurisdiction to jurisdiction, the general scheme—in terms of constitution, purpose and effect—remains the same.[21] Essentially, a limited partnership is a business enterprise composed of: (1) One or more general partners who exercise complete managerial control over the business' affairs and who are personally liable for the partnership debts; and (2) one or more limited partners who invest capital and share in the profits, but do not exercise any managerial control and do not incur any personal debts beyond their initial capital contribution.[22] Limited partnerships are designed to encourage trade by uniting parties who possess capital to invest with parties who are willing to expend their energies and efforts actively running a business.[23] Since complete control and management rests with the general partner, the limited partner's investment is akin to that of a corporate shareholder who has limited liability and lacks a voice in the operation of the enterprise.[24]

10. In *Anax Broadcasting, Inc.*,[25] we determined that the failure to adequately identify the limited partners in a construction permit application was insignificant and did not require dismissal of the application because, under the limited partnership agreement, the limited partners had only a passive interest in the enterprise (*i.e.*, they would not participate in the station's daily operations).[26] We also stated that the transfer of additional shares to the general partner (which increased his ownership interest from 28 percent to 99 percent) was insignificant, for "regardless of whether the general partner owned a 28 percent interest in the applicant or a 99 percent interest," the general partner would still have "total operating control."[27]

11. Thus, in *Anax Broadcasting, Inc.* and *William M. Barnard*, we already have acknowledged the unique nature of limited partnerships. Accordingly, we are adopting the Advisory Committee's recommendation. We will henceforth consider issuing tax certificates and authorizing distress sales in transfers to limited partnerships where the general partner, or partners, owns more than 20 percent of the broadcasting entity and is a member, or are members, of a minority group.[28] We are, thus, explicitly recognizing the "significant minority involvement" which exists by virtue of a minority general partner's ownership interest and complete control over a station's affairs.[29] Moreover, we are increasing minority opportunities by enabling minority entrepreneurs to capitalize their broadcasting ventures by attracting and utilizing the investments of others to a greater extent. Although we are considering such limited partnerships for tax certificate and distress sale purposes, we should make clear that in order to avoid "sham" arrangements, we will continue to review such agreements to ensure that complete managerial control over the station's operations is reposed in the minority general partner(s).

Tax Certificates as Creative Financing Mechanisms

12. As noted previously, a tax certificate enables the seller to defer taxes on capital gains, and thus provides an incentive to transfer a broadcast station to a minority-owned or controlled entity. Moreover, a "tax certificate effectively subsidizes the bargaining position of minority entrepreneurs seeking to enter the telecommunications marketplace" because a "tax certificate is effective only in those situations where the seller's capital gains savings exceeds the difference in purchase price offered by a non-minority and minority purchaser."[30] While the Advisory Committee recognized that tax certificates have successfully contributed to the acquisition of broadcast properties by minorities,[31] it envisioned a more expansive approach to the administration of tax certificates.

13. In essence, the Advisory Committee recommended that the Commission adopt a policy whereby shareholders in a minority-controlled broadcasting entity would be eligible for a tax certificate upon the sale of their shares, provided their interest was acquired to assist in the financing of the acquisition of a broadcast facility. According to the Advisory Committee:

> This expansion of the tax certificate would enable minority entrepreneurs to attract investors before the transaction is completed, when securing financing is critical, by promising them significant capital gains deferral on the sale of their interest to the controlling shareholders.
>
> [Additionally], this "capitalizing feature" of the tax certificate would enable investors to sell their interest at any time and apply for a tax certificate. Therefore, the capitalizing feature would also serve as a major incentive for investment in minority businesses after the entity has acquired a broadcast property thereby stabilizing the capital base of existing minority-owned or controlled businesses.[32]

By so broadening the tax certificate policy, the pressing dilemma minority entrepreneurs face—the lack of available financing to capitalize their telecommunications ventures—is met and a creative tool of financing is

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[21] 88 Corpus Juris Secundum, Partnership, § 449–450.

[22] *Evans* v. *Galardi*, 546 F. 2d 313, 317 (1976)

[23] *Id.* at 318.

[24] *Hirsch* v. *DuPont*, 396 F. Supp. 1214 (S.D. Calif. 1975), *affirmed*, 553 F. 2d 750 (1975); *Lichtyger* v. *Franchard Corp.*, 223 N.E. 2d 869, 873 (1966). In fact, any active participation in the enterprise's affairs would remove the limited partner's shelter and subject him to personal liability as a general partner. *Lichtyger* v. *Franchard Corp.*, *supra*, *at* 873; *Toor* v. *Westover*, 200 F. 2d 713, 715 (9th Cir. 1953), *cert. den.* 345 U.S. 975 (1953).

[25] 49 RR 2d 1589 (1981).

[26] *Id.* at 1593–1594.

[27] *Id.* at 1593.

[28] The minimal ownership requirement of 20 percent was recommended by the Committee as reflecting the realities of the financial and business world. We accept their recommendation, in this regard, as a realistic threshold.

[29] We have generally found "control" to be in those who have authority to determine the basic policies of a station's operations, including programming, personnel and financial matters. *Southwest Texas Broadcasting Council*, 85 FCC 2d 713, 715 (1981).

[30] *The Final Report of the Advisory Committee on Alternative Financing for Minority Opportunities in Telecommunications*, pp. 8–9 (May 1982) (hereinafter cited as Final Report).

[31] *See* paragraph 5, *supra*.

[32] *Final Report*, *supra* at 8.

created. Additionally, the Advisory Committee states that this would allow "minority entrepreneurs to share more meaningfully in the benefits of section 1071." [33]

14. Section 1071 of the Internal Revenue Code confers broad jurisdictional powers upon the Commission, normally reserved to the Treasury, to issue tax certificates.[34] The Commission's grant of a tax certificate is solely dependent upon its finding that a sale or exchange of property is "necessary or appropriate" to effectuate the adoption of a new policy or a change in an existing policy relating to the ownership and control of broadcasting properties. The Commission establishes policies in the first instance and makes the determination as to whether a particular transaction furthers a specific policy. In the past, the Commission's strict construction of the statutory term "necessary or appropriate" led it to require a showing of the "causal relationship" between the divestiture,[35] and the specific Commission policy, as a condition for the issuance of a tax certificate.[36] The Commission has since abandoned its strict construction of Section 1071 by recognizing that voluntary divestitures that effectuate specific ownership policies are "appropriate," and by eliminating the "causal relationship" requirement.[37] In 1978, we further expanded our tax certificate policy by announcing the availability of such certificates in transactions that further minority ownership.[38]

15. In accordance with the Advisory Committee's basic recommendations, we believe that a further expansion of our tax certificate policy to include the Advisory Committee's recommendation (*see* para. 14, *supra*) will facilitate initial investments in minority-controlled stations; will contribute toward the stabilization and improvement of their operation, once established; and ultimately will serve to increase minority ownership of broadcast properties. The use of tax certificates as creative financing tools will facilitate significantly minority entrepreneurs' access to necessary financing, thus effectuating the important policy of promoting minority ownership. Accordingly, we are expanding our tax certificate policy in this area.

16. Generally, to be eligible for a tax certificate, such transactions must not reduce minority ownership of and control in the entity below 51 percent.[39] However, our expansion of the tax policy differs in some respects from that contemplated by the Committee. First, tax certificates will only be available to initial investors who provide "start-up" financing, which allows for the acquisition of the property, and those investors who purchase shares *within the first year* after license issuance, which allows for the stabilization of the entity's capital base. (The Committee's recommendations did not include any time limitation.) We believe that to extend the availability of tax certificates beyond those shareholders would invite abuse and overprotect minority entrepreneurs against the realities of the marketplace which all licensees must face. Additionally, the identity of the divesting shareholders, as well as the identity of those purchasing the divested shares, is not material, because the goal behind expanding the tax certificate policy is to provide minorities opportunities to procure financing and thereby increase minority ownership of broadcasting stations.[40]

17. Generally, tax certificates have been issued only upon completion of sales transactions. However, upon request we have issued advisory opinions on whether a tax certificate would be forthcoming once the sale or exchange occurred.[41] Given the inherent uncertainties attendant on negotiations and various potential factual circumstances, we still would be reluctant to issue tax certificates *prior* to the *actual* sale or exchange. Thus, we are adopting the Committee's proposal but limiting it to indicate that tax certificates will be available upon the actual divestiture of shares by investors who initially purchase shares in the broadcasting entity or purchase shares within one year after the issuance of a broadcast license, and who show that their capitalization either enabled a minority owned or controlled entity to acquire a broadcast property or provided necessary start-up financing. If parties have uncertainties regarding the tax consequences of prospective transactions, they may request a declaratory ruling from the Commission. Such requests will be handled as expeditiously as possible.

Expedited Processing of Distress Sales

18. The Committee recommended that the Commission delegate authority to the Mass Media Bureau to process and grant distress sale petitions that are consistent with established Commission policy. As we previously noted, our distress sale policy marks a departure from our long established practice of prohibiting a licensee in a renewal or revocation hearing from disposing of its interest prior to the resolution of issues in its favor.[42] In 1978, we stated that "applications by parties seeking relief under our * * * distress sale policies can be expected to receive expeditious processing." However, to safeguard against possible abuse and to ensure that our policy objectives were being

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[33] *Id.* at 9.

[34] Blake and McKenna, *Section 1071: Deferral of Tax on FCC Sanctioned Dispositions of Communications Properties*, 36 Tax L. Rev. 101, 103 (Fall 1980).

[35] *See Public Notice*, No. 36410, FCC 56–919 (September 27, 1956). *But see Jefferson Standard Broadcasting Co.* v. *FCC*, 305 F. Supp. 744, 748–749 (W.D.N.C. 1969), where the Court determined that Congress did not intend to restrict Section 1071 to involuntary divestitures and ordered the Commission to issue a tax certificate. The Court stated that "[e]ntitlement to the tax deferment certificate contemplated in Section 1071 is not dependent on whether the sale was 'involuntary' or was directly ordered by court or by the Commission." *Id.* at 749.

[36] In this regard, the Commission stated that issuance of a tax certificate was dependent upon its finding as to whether there was a causal relationship between the adoption of a new Commission policy and the sale in question, and whether issuance of the certificate was "necessary or appropriate" to effectuate the new policy. Pertinent factors in determining whether a sale was "necessary or appropriate" included: (1) The occurrence of the sale within a reasonable time span of the adoption of a new policy, such as one license period; (2) a showing that the policy was a significant factor in the sale; and (3) a showing that the sale was consistent with our general experience in the broadcast field. *Issuance of Tax Certificates*, 19 RR 2d 1831, 1832 (1970).

[37] *In re Issuance of Tax Certificates*, 59 FCC 2d 91 (1976).

[38] Prior to 1978, the tax certificate policy only applied to divestitures involving multiple ownership. We recently announced our intent to limit the award of tax certificates to those properties whose sale directly effectutates Commission policy. This revised policy was prompted by the difficulties attaching to the application of the 1978 policy to divestitures arising in the context of our cable television cross-ownership rules, 47 CFR 76.501 *et seq.* We do not anticipate that this revised policy will affect the conferring of tax certificates as a creative financing mechanism to facilitate minority ownership.

[39] By so requiring remaining 51 percent minority control, we do not mean to preclude consideration of cases where "minority involvement would have been significant enough" to justify the issuance of a tax certificate in the first instance. (*See* paras. 8 and 12, *supra*.)

[40] For example, assume shareholder A, a Black person, owns 70 percent of Corporation X, while stockholders B and C each own 15 percent. If B and C purchased their shares before or within one year after acquisition of a license, they can later sell their interest and be eligible to receive a tax certificate. Whether B and C and/or subsequent buyers are racial or ethnic minorities would be inconsequential—what is relevant is that B and C provided necessary financing enabling a minority-owned or controlled entity to acquire and start a broadcasting station, thereby increasing minority ownership in the market. So long as the entity is minority controlled, it is immaterial whether minority members own 51 percent or 91 percent.

[41] *William S. Green*, 59 FCC 2d 78, 79 (1979); *J.A.W. Iglehart*, 38 FCC 2d 541, 542, (1972).

[42] *1978 Policy Statement*, *supra* at 983.

met, the Commission stated that it (rather than the staff) would administer the distress sales on a case-by-case basis.[43]

19. The evolving nature of our distress sale policy necessitated such an individualized approach. However, we believe that the subsequent case law has established sufficient safeguards and standards by which prospective distress sale petitions may be reviewed and processed by our staff.[44] Therefore, to further facilitate minority ownership and expedite the handling of distress sale petitions, we are delegating authority to the Mass Media Bureau to process and grant those petitions that are *consistent* with established Commission policy and do *not* involve novel questions of fact, law or policy in the area of distress sales.

Conclusion

20. Except as modified herein, the Commission reaffirms its *1978 Policy Statement* and its ongoing efforts to increase minority ownership. Henceforth we will consider:

(1) Issuing tax certificates and authorizing distress sales in transfers to limited partnerships where a minority general partner (or partners) owns more than 20 percent of the broadcasting entity; and

(2) Issuing tax certificates to shareholders upon divestiture of their interest in minority-controlled broadcasting entities, where divestiture furthers minority ownership.

Moreover, to expedite the handling of distress sale petitions, we are delegating authority to the Mass Media Bureau to process and grant those petitions which are *consistent* with Commission precedent and policy. Finally, we are instituting a separate rule making proceeding, subject to public notice and comment, with a view toward expanding seller-creditors' rights and protections.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Advisory Committee on Alternative Financing for Minority Opportunities in Telecommunications

FCC Commissioner Henry M. Riveria, Chairman

Edmund H. Cardona, Special Assistant

Executive Committee

Anne P. Jones, FCC Commissioner
Joel L. Allbritton, Allbritton Communications, Inc.
Virginia A. Dwyer, American Telephone & Telegraph Co.
Coy Eklund, The Equitable Life Assurance Society of the United States
Joseph Laitin, Private Consultant
Charles W. Walker
Broadcasters, Charles W. Walker Associates, Inc.

Financial Panel

Tenney I. Deane, First Energy Associates
Chris Flor, Heller-Oak Communications Corp.
Lee M. Hague, Hague and Company,
Ragan A. Henry, Broadcast Enterprises National, Inc.
Eugene D. Jackson, National Black Network
Joseph La Bonte, Twentieth Century Fox Corp.
Thomas Marinkovich, Daniels and Associates
Association
Raul Masvidal, Biscayne Bank
C. Douglas Mercer II, First National Bank of Boston
Fernando Oxaca, Coronado Communications Corp.
Marianne Camille Spraggins, Salomon Brothers, Inc.
Howard Stason, Blackburn & Associates
Donald A. Thurston, Berkshire Broadcasting Company
Zelbie Trogden, Security Pacific National Bank
Herbert P. Wilkens, Syndicated Communications, Inc.

Policy Panel

Michael R. Gardner, Bracewell & Patterson
Pluria Marshall, National Black Media Coalition
L. E. Guzman, Chase Manhattan Bank, N.A.
Margita White, Taft Broadcast Co.
William A. Russell, Jr., FCC Public Affairs Office
Erwin Krasnow, National Association of
Robert L. Johnson, Black Entertainment Television

Management and Technical Assistant

Victor M. Riveria, Department of Commerce
Brazil O'Hagan, The WNDU Stations
Fernando Oxaca, Coronado Communications Corp.
Alex P. Mercure, Mercure Telecommunications, Inc.

Associate Members

Eddie Pena, National Cable Television
John Oxendine, Broadcast Capital Fund, Inc.

Statement on Recommendations of Advisory Committee on Minority Ownership

Mark S. Fowler, Chairman, FCC

December 2, 1982

When I became Chairman, one of my most important goals was to create more opportunities for minorities in telecommunications. The more I studied the problem, the more I became convinced that the three major road blocks to more minority ownership are money, money and money. Today's actions aim squarely at the problem of financing minority opportunities. They are the result of hard work by the Advisory Committee, headed ably by my colleague Henry Rivera.

More than anything, today's actions take a big step in the right direction in fulfilling the goal of full and fair entry into telecommunications for all Americans. By focusing on capital formation, they identify the chief problem and provide the start of a solution. No set of actions, I realize, can bring sudden equality of opportunity to the telecommunications marketplace. But by aiding entry for the minority entrepreneur, we aim our efforts in the right direction.

As President Reagan has said, the best hope for a strong economic future rests with a healthy, growing private sector. And the private sector does best when all have opportunities to enter it.

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[43] *Id.* at 983.

[44] We have applied the tax certificate standard (minority ownership which exceeds 50 percent or constitutes a controlling interest—*Policy Statement, supra,* at 983 n. 20) to distress sales. We have also established procedures for determining the adequacy of a distress sale price. *Grayson Enterprises, Inc.*, 77 FCC 2d 156, 163–164 (1980); *Northland Television, Inc.*, 72 FCC 2d 51, 54–56 (1979).

47 CFR Part 73

[BC Docket No. 82-541; RM-4156]

TV Broadcast Stations in Hampton-Norfolk-Portsmouth-Newport News, Virginia; Amendment of Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action consolidates the Hampton and Norfolk-Portsmouth-Newport News television assignments into one hyphenated television market in response to a petition filed by WVEC Television, Inc. Two counterproposals, filed by Television Corporation of Virginia and by Paul, Hastings, Janofsky & Walker to include Virginia Beach, Virginia, into the hyphenated market have been denied.

EFFECTIVE DATE: April 1, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

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SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: January 21, 1983.

Released: January 31, 1983.

1. The Commission has before it the *Notice of Proposed Rule Making* (47 FR 36249, published August 19, 1982). In response to a petition for rule making filed by WVEC Television, Inc. ("WVEC"), licensee of television Station WVEC–TV, Channel 13, Hampton, Virginia, the Commission proposed to amend the Television Table of Assignments, Section 73.606(b) of the Commission's Rules, to consolidate the Hampton and Norfolk-Portsmouth-Newport News, Virginia, television assignments into one hyphenated television assignment market. Previously, Hampton was listed separately. The purpose of this proposal is to permit Station WVEC to change its city of license from Hampton to Norfolk. A hyphenated assignment allows the channel to be used at any of the listed communities. Comments and other pleadings responsive to the *Notice* were filed by WVEC, by Television Corporation of Virginia ("WTVZ"), licensee of television Station WTVZ–TV, Norfolk, Virginia, and by the law firm of Paul, Hastings, Janofsky & Walker ("Paul, Hastings"), on behalf of its "broadcast clients."

2. WVEC requested and the *Notice* proposed to consolidate the Hampton and Norfolk-Portsmouth-Newport News television channel assignments into a single hyphenated television assignment market in order to permit WVEC to apply to change its city of license from Hampton or Norfolk, Virginia.[1] In its comments, WVEC restates its intention to file an application to change its city of license from Hampton to Norfolk. All of its previous comments in this regard are incorporated by reference. WTVZ and Paul, Hastings both support the proposed consolidation, and both further request the deletion of Channel 43 from Virginia Beach, Virginia, and its reassignment to a proposed consolidated, hyphenated television assignment market which includes Virginia Beach.

3. WVEC asserts that, due to close geographical proximity, the cities of Hampton, Norfolk, Portsmouth, and Newport News have become a cohesive metropolitan area with substantial and widespread communities of interest. According to WVEC, these four cities share many government services, common resources, and cultural interests. WVEC states that, as the licensee of Hampton Channel 13, it has always served the entire Tidewater area and that its transmitting antenna is located near those of other television stations licensed to Norfolk and Portsmouth. Further, WVEC notes that Channel 13 was initially assigned to the Norfolk-Portsmouth-Newport News television market and licensed to Hampton under the "15 mile rule."[2] Subsequently, Channel 13 was reassigned to Hampton. According to WVEC, the Commission has never suggested that this reassignment was made because Hampton should be treated as a separate market from Norfolk-Portsmouth-Newport News. In light of this, WVEC concludes that there exists no basis for treating these markets separately.

4. Paul, Hastings filed comments and a counterproposal on September 23, 1982, on behalf of its "broadcast clients." Paul, Hastings states that it supports the proposed consolidation of the Hampton and Norfolk-Portsmouth-Newport News television channel assignments but suggests that the Television Table of Assignments be further amended by combining both Virginia Beach and Hampton with the other Tidewater cities to form a hyphenated television assignment of Virginia Beach-Norfolk-Portsmouth-Newport News-Hampton. In support of its counterproposal, Paul, Hastings avers that Virginia Beach is part of the Tidewater area, whose five component cities are geographically proximate. According to Paul, Hastings, the Tidewater jurisdictions form a cohesive metropolitan area with a substantial community of interest as well as a single television market. Paul, Hastings states that Virginia Beach is the largest and fastest growing of the Tidewater cities, whose growth is related to the others, principally Norfolk. Paul, Hastings suggests, therefore, that it is appropriate to amend the Virginia Beach television market designation to reflect the community of interest with the other Tidewater cities.

5. WTVZ also filed a counterproposal on September 23, 1982, to amend the Television Table of Assignments to consolidate the Hampton, Norfolk-Portsmouth-Newport News, and Virginia Beach assignments into a single Norfolk-Portsmouth-Newport News-Hampton-Virginia Beach assignment. Although supporting the amendment proposed in the *Notice*, WTVZ asserts that it is more logical to include Virginia Beach, the largest and fastest growing Tidewater city. WTVZ points out that Virginia Beach is part of the Norfolk-Virginia Beach-Portsmouth SMSA and that its size and relative importance to the other Tidewater cities dictates its inclusion in the proposed combined, hyphenated television market designation. WTVZ indicates that, as an independent UHF station, it competes with entrenched VHF televison affiliates. According to WTVZ, the adoption of its counterproposal would benefit it economically without economic detriment to other area television stations.

6. Replying to the comments and counterproposal of Paul, Hastings and to the counterproposal of WTVZ, WVEC asserts that neither party has a "legally recognizable interest" in this proceeding. WVEC cites § 1.415(a) of the Commission's Rules as limiting the filing of comments to "interested persons." According to WVEC, WTVZ has not identified the economic benefits which it would receive should its counterproposal be adopted. Further, WVEC argues that the interest of Paul, Hastings "is even more elusive" in that it claims to represent a "number" of "unidentified communications clients, including broadcast clients in the (Tidewater) area" and fails to allege or suggest a legally cognizable interest in this proceeding. Further, WVEC states that both Paul, Hastings and WTVZ fail to state an intention to file license applications should their counterproposals be adopted.

7. Initially, we conclude that Paul, Hastings and WTVZ are interested parties to this proceeding for purposes of § 1.415(a) of our Rules. WVEC presents nothing to support its contention that the reference to "interested parties" in that section is limited to those with an economic stake in the proceeding or to those who state an intention to file a license application should their counterproposal be adopted. Our policy has been to consider all comments and proposals timely received in the course of rule making proceedings. In such proceedings, comments from any persons are accepted in order that we may be able to promulgate rules based upon the greatest number of sources available. This is in contrast to adjudicatory proceedings, where pleadings are accepted from parties in interest—that is, from those who have standing or a "legally cognizable interest" in the proceeding. We believe that, in rule makings, the common definition of "interested person" should be applied—that is, one who is

[1] Channel 13 is presently listed in the Television Table of Assignments at Hampton, Virginia. According to our rules, WVEC cannot change its city of license to Norfolk without first having Channel 13 reassigned to that community.

[2] *See* § 73.607(b) of the Commission's Rules.

interested in the proceeding. Indeed, § 1.400 of the Rules, which contains definitions of terms applicable to rule making proceedings, refers to only one definition, *e.g.*, "party." Thus, by failure to include definitions of other terms, such as "interested person," it appears that the term should not be given a restrictive meaning for purposes of § 1.415.

8. As set forth in the *Notice*, hyphenation of television markets is an assignment tool used by the Commission in three distinct factual situations. First, a channel is assigned to a hyphenated market where it is best to postpone until the application stage any unresolved or close questions as to which community should use the assignment. *Huntsville-Decatur, Alabama*, 44 R.R. 2d 457 (1978). Second, hyphenation is proper upon a showing that a station licensed to a small community is likely to fail unless it is able to apply for authority to operate from a larger community. *Nogales-Tucson, Arizona*, 32 F.C.C. 2d 885 (1972). Third, hyphenation is appropriate where it appears that the communities should be treated as one community by reason of their proximity and common social, cultural, trade and economic interests. *Lancaster-Lebanon, Pennsylvania*, 24 R.R. 1564 (1962).

9. The proposal of WVEC appears to fall within the third factual category noted above. That is, a showing has been made that Hampton and Newport News are contiguous and that both are separated from Norfolk and Portsmouth by a narrow body of water easily traversed. It appears that, except for Norfolk, which is considerably larger, the three other proposed hyphenated cities are similar in population size. It further appears that these four Tidewater jurisdictions share common cultural, economic and political concerns. Also, the Commission has treated all four as a single market for various purposes, including cable television signal carriage, the prime time access rule, and annual television market financial reports. In light of the preceding, it appears that these four jurisdictions share a sufficient community of interest to justify consolidation into a single hyphenated television assignment market.

10. The proposals of Paul, Hastings and of WTVZ to include Virginia Beach in the proposed hyphenated market do not appear to meet any of the three criteria to justify inclusion. As noted, both commentators indicated that Virginia Beach is a part of the Tidewater area. However, although there is some degree of geographical proximity between Virginia Beach and the other Tidewater cities, and although it is asserted that there is some community of interest amongst them, it does not appear that the requisite common social, cultural, trade and economic interests have been evidenced. Although Virginia Beach may be the largest and fastest growing Tidewater city, this would not establish the requisite commonality. Further, the possibility that WTVZ may have to compete with entrenched VHF television affiliates to its economic detriment is not of sufficient public impact to justify the proposed hyphenation. We have not been told what public interest good would be accomplished by including Virginia Beach in the hyphenated market, unlike the Hampton situation where WVEC proposes to change its city of license to Norfolk to enable it to make programming choices directed to the needs of the Norfolk area. No such purpose has been stated by the Virginia Beach proponents. Thus, we shall deny the counterproposals.

11. WVEC's comments incorporated by reference its petition and stated its intention to subsequently apply for authority to change its city of license to Norfolk should the proposed amendment to the Television Table of Assignments be adopted. The *Notice* addressed WVEC's arguments, raised in its petition, that the Commission's policy of permitting other interested parties to apply for newly assigned channels should not be employed in this instance and that assigning Channel 13 to Norfolk-Portsmouth-Newport News would not trigger *Ashbacker* [3] principles. As indicated in the *Notice*, the Commission's policy regarding modification of existing licenses was developed based on principles espoused in *Ashbacker*—that is, whenever a channel becomes available for license to a new community, other interested parties may apply in order that the Commission may determine which is best qualified to serve that community. The *Notice* further indicated that the crucial factor in previous cases cited by WVEC has been where a channel is licensed, not where it appears in the Table of Assignments. Thus, a request to modify WVEC's license to specify Norfolk would be denied. However, WVEC has not attempted to argue that a modification would be proper in the rule making context.

Rather, it is willing to apply for authority to operate its station from Norfolk assuming no other competing applications are to be accepted for filing. The *Notice* also addressed this matter and we wish to reiterate our position. The matter of accepting or dismissing applications is more appropriately treated at the application stage in accordance with the policies and procedures that have been developed in that context. Thus, we shall delay consideraton of WVEC's application until that stage.

12. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective April 1, 1983, the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) is amended as follows for the communities listed:

City	Channel No.
Norfolk-Portsmouth-Newport News-Hampton, Virginia. Hampton, Virginia	3+, 10+, 13–, *15, 27, 33 49– and *55+

13. It is further ordered, that the counterproposal of WTVZ is denied.

14. It is further ordered, that the counterproposal of Paul, Hastings is denied.

15. It is further ordered, that this proceeding is terminated.

16. For further information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082. 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–3433 Filed 2–8–83; 8:45 am]

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[3] 326 U.S. 327 (1945).

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Proposed Rules

Federal Register
Vol. 48, No. 28
Wednesday, February 9, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Docket No. AO–144–A14]

Lemons Grown in California and Arizona; Amendment of Notice of Hearing

Correction

On FR Doc. 83–2074 appearing on page 3624 in the issue of Wednesday, January 26, 1983, make the following correction:

Under **FOR FURTHER INFORMATION CONTACT,** the address for Roland G. Harris, "Suite 504" should have read "Suite 540".

BILLING CODE: 1505–01–M

CIVIL AERONAUTICS BOARD

14 CFR Parts 251 and 287

[EDR–455, Economic Reg. Dockets 40543 and 40544]

Prohibited Interests: Interlocking Relationships; and Exemption and Approval of Certain Interlocking Relationships

Dated: January 27, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB requests comments on a proposal to expand the exemptions from the statutory requirement for prior approval of interlocking relationships. All interlocks would be exempted except those between certificated air carriers or their affiliates, and those between a certificated air carrier and a foreign air carrier or their affiliates. Public comment is also requested on a proposal to remove any restrictive conditions and antitrust immunity still attached to pre-deregulation orders approving interlocks that would be exempted by this amendment. This proposal is in part in response to a petition filed by Delta Air Lines and in part at our own initiative to relieve unnecessary burdens.

DATES: Comments by: March 28, 1983. Reply comments by : Apr il 12, 1983.

Comments and other relative information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: February 24, 1983.

The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40543, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Gwyneth Jones, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428: (202) 673–6011.

SUPPLEMENTARY INFORMATION:

Background

Section 409 of the Federal Aviation Act of 1958 (49 U.S.C. 1379) generally prohibits interlocking relationships involving air carriers, common carriers or other specified persons without prior Board approval. Air carriers intending to enter into an interlocking relationship must first file an application with the Board. Section 409 provides for Board approval of certain described interlocking relationships if the Board finds that the public interest would not be adversely affected. The public interest is defined by reference to the pro-competitive policies of section 102 of the Act.

The purpose of section 409 is to enable prior review of impending interlocking relationships for their potential to harm air transportation. Traditionally, the Board has been concerned that an official confronted with the conflicting interests of two companies might make a business decision detrimental to an air carrier, or that a company controlling an air carrier might squander its resources for its own benefit. In either event, the interlocking relationship could seriously affect the ability of the air carrier to provide service. As a result of deregulation, we have placed greater reliance on market competition and the carriers themselves to protect airline interests. However, we remain concerned about the impact that certain types of interlocks may have on airline competiton.

The board's Economic Regulations in 14 CFR Parts 251, 287, 291, 296, 298 and 380 implement and define the scope of the section 409 requirements. Part 251 imposes requirements relating to the applications for prior approval. 14 CFR Parts 287, 291, 296, 298 and 380 exempt from the requirements of section 409 certain interlocking relationships that the Board has found to be of little concern. Domestic cargo operators are exempted by § 291.31(a)(5) and § 291.32(b). Indirect air carriers are exempted by § 296.10(a)(10). Air taxi operators are exempted by § 298.11(g) and § 298.92, and public charter operators are exempted by § 380.20 and § 380.44.

Part 287 exempts from section 409 and Part 251 various interlocking relationships depending upon whether they involve indirect air carriers (§ 287.2) or direct air carriers (§ 287.3). The exemption extends to interlocks involving air carriers and certain persons engaged in a phase of aeronautics, or surface common carriers engaged only in pipeline, communications, or wholly-intrastate operations, or interestate operations within a 50 mile radius. Both sections deny exemption to relationships involving air carriers and any of the following: foreign air carriers; persons engaged in air transportation for hire, but not subject to Board regulation as a statutory "air carrier"; persons whose principal business is holding stock in, or control of, another person engaged in a phase of aeronautics to whom the exemption does not apply; and persons engaged in a phase of aeronautics or companies that are affiliated with an air carrier, unless the control relationship is approved under section 408 of the Act.

Section 287.2 does not exempt relationships involving indirect air carriers and direct surface common carriers whose certificated interstate routes extend beyond a 50-mile radius or their indirect surface common carrier affiliates. Section 287.3 does not exempt relationships involving direct air carriers and travel or ticket agents;

aircraft manufacturers; surface common carriers engaged in interstate cargo or passenger operations exceeding a 50 mile radius; or persons engaged in a phase of aeronautics if the transaction exceeds $100,000 a year, subject to certain qualifications.

The Petition

On March 18, 1982, Delta Airlines, Inc., filed an application for exemption from the requirements for prior approval of interlocking relationships contained in section 409 of the Act and Parts 251 and 287. At the same time, Delta filed a petition for rulemaking to eliminate those requirements, or alternatively, to expand the existing Part 287 exemptions to eliminate all prior approval requirements except those applicable to interlocking relationships between "air carriers" as defined in section 101(3) of the Act. This rulemaking addresses both the petition and the request for general exemption, because they are essentially similar. Any exemption relief granted will become effective in the final rule.

Delta claimed that the mandatory prior approval requirements in section 409 and related Board regulations are outmoded and unnecessary. It asserted that because carriers must submit relatively inconsequential interlocks to the Board for routine approval, normal carrier business transactions are artificially complicated and delayed. Delta argued that elimination of the special requirements would be consistent with the deregulatory goal to allow market competition and independent management decisions to govern air carrier operations. In support, Delta asserted that the Airline Deregulation Act's application of traditional Clayton Act standards to airline mergers indicates Congressional intent that the airline industry be treated as an unregulated industry in antitrust matters.

Delta recognized that interlocks between two or more certificated air carriers continue to be troublesome. It noted that its alternative request to expand the number of exempted interlocking relationships except those between air carriers would be an interim step toward eliminating an unnecessary regulatory burden. Delta cited the deregulatory amendment of section 409 as evidence of Congress's intent to limit the scope of the Board's authority to those interlocks most likely to have adverse competitive or transportation effects. The amendment narrowed that section's application to persons "engaged in a phase of aeronautics" to persons "substantially engaged in a phase of aeronautics". Delta asserted that Clayton Act restrictions would adequately control any problems raised by the exempted interlocking relationships.

Answers were received from Transamerica, USAir and United Airlines. United filed a motion for leave to file an otherwise unauthorized document, which we grant. The carriers fully supported Delta's rulemaking petition and requested that any exemption relief granted to Delta be extended to them and all other carriers.

Discussion

We agree that exemption relief is warranted for most air carrier interlocking relationships. Under deregulation, we have chiefly been concerned with preserving competition and maintaining oversight of those interlocks which raise problems that competition cannot easily correct. We have found the need for surveillance of these relationships to be minimal. Of the large number of section 409 applications that the Board has processed, the vast majority have been routinely granted under delegated authority. Most involved relationships that do not raise significant transportation or competitive concerns. We believe the regulatory burden imposed by continued mandatory prior approval on the Board's time and resources and that of the applicants is disproportionate to the small number of airline interlocks that may raise serious concerns. Furthermore, the requirement unnecessarily inhibits and delays normal commercial transactions.

Section 416(b) of the Act, 49 U.S.C. 1386(b) permits us to grant exemptions, individually or by class, from various provisions of the Act if we find that the exemption is consistent with the public interest. The Board has previously granted blanket exemptions from section 409 for interlocking relationships involving air taxis, indirect air carriers, and domestic all-cargo air transportation.

We request comments on a proposal to broaden the exemptions from section 409 of the Act. The proposed rule would amend Part 287 to exempt all interlocking relationships except those between two or more certificated air carriers, a certificated air carrier and a foreign air carrier, a certificated air carrier and a person or persons directly or indirectly affiliated with a direct air carrier or a foreign air carrier, and those between two affiliates. The proposed exemption would apply to all companies and individuals participating in the exempted relationship. Any interlocks occurring within control relationships authorized by the Board under section 408 continue to be exempt from section 409 requirements.

We would continue to require applications for approval of the non-exempted relationships under Part 251. These interlocks continue to concern us because they are more likely to present serious transportation or competitive problems. Delta recognized this in its alternative proposal to exempt all interlocks except those between two air carriers. An interlock between two certificated air carriers could facilitate collusion to lessen competition between them, resulting in higher prices and reduced service for consumers in major airline markets. In our view, an interlocking relationship between a certificated air carrier and a surface common carrier or person substantially engaged in the business of aeronautics does not have the same potential to adversely affect airline competition.

Interlocks between a certificated air carrier and an affiliate of an air carrier or a foreign air carrier, or between two affiliates, would not be exempted because they raise the same concerns as an interlock between two certificated carriers. Logically, the activities of an air carrier controlled by another person can be attributed to that person. "Affiliated" is defined in § 287.1(e) as a control relationship between an air carrier and a person substantially engaged in the business of aeronautics or a common carrier. The term "affiliated" would not apply to internal corporate reorganizations. We added foreign air carriers to the definition so that their affiliates would be covered as well.

Finally, the exemption would not apply to interlocks between direct air carriers and foreign air carriers or their affiliates because of the Board's interest in overseeing international route operations and the continued U.S. citizenship of direct air carriers. The existing exemptions from section 409, except the Part 298 exemption for air taxi operators, specifically exclude interlocks involving foreign air carriers or operations. This proposal would not affect exemptions the Board has already granted. As we noted above, air taxi interlocks do not ordinarily raise problems of a magnitude to cause the Board concern.

The proposed exemption would not confer immunity from the applicable provisions of the Clayton Act and other antitrust laws. This is consistent with Board policy to allow the airline industry to operate to the extent possible under the same conditions as unregulated industries. Exposure to the antitrust laws is an integral part of

normal business operations. While the Board has discretion to grant immunity under section 414 of the Act, it consistently has declined to do so unless the person seeking immunity shows that immunity is required by the public interest or is necessary to enable a transaction to proceed. The Board believes that the applicable provisions of the Clayton Act and other antitrust laws in conjunction with the Board's residual authority under section 409 are sufficient to protect the public interest and adequately control any competitive problems that might arise from the exempted relationships.

The proposed exemption is not intended to create a presumption that the type of relationship exempted invariably meets the Clayton Act standards. Clearly, the factual circumstances in each individual instance will be determinative. Airline interlocks involving fuel companies, aircraft manufacturers and fixed base operators may raise potential problems, although in the past virtually all such interlocks have been exempted or approved by the Board. Should any of the exempted relationships in the future present serious transportation or competitive problems adverse to the public interest, the Board can lift this exemption.

The proposal would amend Part 251 to eliminate the requirement to submit information concerning the interlocks that would be exempted by this proposal. It would make conforming amendments to Part 287 and update the text of section 409 in Appendix I of that Part to reflect the changes made by the Airline Deregulation Act.

We seek comment on our proposal to conform existing pre-deregulatory authorizations of interlocks to our present policy. The amended § 287.7 would provide that the provisions of Part 287 supersede these authorizations with respect to any interlocks that would be exempted by Part 287. Prior to deregulation, the Board authorized interlocking relationships subject to conditions requiring annual reports and prior approval of later transactions. Under section 414 of the Act, antitrust immunity automatically attached to an interlock upon Board approval. As a result of changes brought about by the Airline Deregulation Act, we no longer impose conditions or confer antitrust immunity upon approval of interlocks, except in extraordinary circumstances. It is now our policy that immunity should be allowed to continue only on a specific showing of need. Such a showing was not required in pre-deregulation applications under section 409. Since deregulation we have consistently eliminated conditions and immunity when pre-deregulation approvals came before us for further review, such as on a request for modification for removal of conditions (*See*, for example Order 81–3–156, March 27, 1981). We estimate that only four or five pre-deregulation interlocks still in existence remain subject to conditions and immunized from the antitrust laws.

The proposed amendment of § 287.7 would make this policy applicable even to those previously approved interlocks not specifically before us. These approvals would be superceded by the Part 287 exemption if it applies to the interlocks. A previous approval of an interlock between two air carriers, for example, would remain effective since it would not qualify for exemption under Part 287. It will be the obligation of any party seeking a continuation of previously granted antitrust immunity to explain why it is still required in the public interest.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–534, the Board certifies that this rule would not have a significant economic impact on a substantial number of small entities. Relationships involving small carriers operating under 14 CFR Part 298 are already exempt from section 409 requirements. This rule would remove a regulatory burden from a significant number of larger carriers involved in interlocking relationships.

The Proposed Rule

List of Subjects

14 CFR Part 251

Administrative practice and procedure, Air carriers, Antitrust, Reporting requirements.

14 CFR Part 287

Air carriers, Antitrust.

PART 251—[AMENDED]

Accordingly, the Civil Aeronautics Board consolidates Docket 40544 into Docket 40543 and proposes to amend Chapter II of 14 CFR, as follows:

1. In Part 251, *Prohibited interests: Interlocking Relationships*, paragraph (a)(4) of § 251.3 would be revised to read:

§ 251.3 General provisions concerning contents of applications.

(a) * * *

(4) The name of the person or persons, if any, whom the individual applicant represents or will represent on the board of directors of each air carrier applicant, together with a statement as to any financial interest held by such person or persons in any air carrier, foreign air carrier or an affiliate of either.

PART 287—[AMENDED]

2. The Table of Contents of Part 287. *Exemption and Approval of Certain Interlocking Relationships*, would be revised to read:

Sec.
287.1 Definitions.
287.2 Exemptions for certain interlocking relationships.
287.3 Exemptions for previously authorized control relationships.
287.4 Exemptions for other persons.
287.5 Termination of exemptions and approvals.
287.6 Effect of exemption on antitrust laws.
287.7 Effect of exemption on existing interlocking relationships.
Appendix I

3. In § 287.1, paragraphs (b) and (e) would be revised, and paragraphs (a) and (d) would be removed and reserved.

§ 287.1 Definitions.

For purposes of this part:

(a) Reserved.

(b) "Direct air carrier" means any air carrier directly engaged in the operation of aircraft, pursuant to a certificate of public convenience and necessity issued under section 401 of the Act, or pursuant to exemption authority conferred under section 416(b) (other than air carriers under Part 298 of this chapter).

(c) * * *

(d) Reserved.

(e) "Affiliated" means a relationship: (1) Wherein a person substantially engaged in the business of aeronautics or a common carrier, directly or indirectly, (a) is controlled by an air carrier or foreign air carrier; (b) controls an air carrier or foreign air carrier; (c) is under common control with an air carrier or foreign air carrier; or (2) where the power to exercise the type of control noted in (1) exists. It does not mean an internal corporate reorganization.

4. Section 287.2 would be revised to read:

§ 287.2 Exemptions for certain interlocking relationships.

Subject to the provisions of this part, air carriers are exempted from section 409 of the Act and Part 251 of this chapter with respect to any interlocking relationships involving air carriers, except those between:

(a) Two or more direct air carriers.

(b) A direct air carrier and a foreign air carrier.

(c) A direct air carrier and a person or persons affiliated with a direct air carrier or foreign air carrier.

(d) Affiliates of two or more direct air carriers.

5. Section 287.3 would be revised to read:

§ 287.3 Exemptions for previously authorized control relationships.

Any interlocking relationship involving an air carrier and any company which is, directly or indirectly, affiliated with an air carrier is exempted from section 409 of the Act and Part 251 of this chapter, if such affiliation has previously been authorized by the Board by approval under section 408 of the Act, or by exemption therefrom, and is currently so authorized.

6. Section 287.4 would be revised to read:

§ 287.4 Exemptions for other persons.

The exemptions from section 409 of the Act and Part 251 of this chapter that are granted to air carriers under this part are hereby granted to all other parties to the interlocking relationship and to any officer, director or member of an air carrier, or stockholder holding a controlling interest in an air carrier (or the representative or nominee of any such person) who would, without prior approval of the Board, be in violation of any provision of section 409(a) of the Act, by reason of any interlocking relationship directly involving an air carrier which has been exempted under this part.

7. Section 287.7 would be revised to read:

§ 287.7 Effect of exemption on existing interlocking relationships.

The exemption and approval granted by this Part shall supersede any approval (including any conditions thereto) previously granted by the Board to a specific interlocking relationship other than those described in § 287.2.

8. Appendix I is revised to read as follows:

Appendix I

Sec. 409. [72 Stat. 768, as amended by 92 Stat. 1728, 1744, 1745, 1746, 1747, 49 U.S.C. 1379]. It shall be unlawful, unless such relationship shall have been approved by order of the Board upon due showing, in the form and manner prescribed by the Board, that the public interest will not be adversely affected thereby—

(1) For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any other person who is a common carrier or is substantially engaged in the business of aeronautics.

(2) For any air carrier, knowlingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is substantially engaged in the business of aeronautics.

(3) For any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is substantially engaged in the business of aeronautics.

(4) For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person substantially engaged in the business of aeronautics.

(5) For any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or fact, is the holding of stock in, or control of, any other person substantially engaged in the business of aeronautics.

(6) For any person who is an officer, or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person substantially engaged in the business of aeronautics.

(b) [Repealed by Act of October 24, 1982, 92 Stat. 1728]

(Sec. 101(3), 204, 409, 416; 72 Stat. 737, 743, 768, 771; 49 U.S.C. 1301(3), 1324, 1379, 1387, unless otherwise noted)

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-3470 Filed 2-8-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-180 (New Mexico-20)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Abo-Wolfcamp Formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on March 21, 1983. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 21, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued: February 4, 1983.

I. Background

On January 20, 1983, the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Abo-Wolfcamp Formation located in Chaves

and Eddy Counties, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Abo-Wolfcamp Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended area is located in southeast New Mexico and consists of approximately 460,800 acres. The recommended formation underlies the northwest quarter of Eddy County and a portion of Chaves County, New Mexico. The average depth to the top of the Abo-Wolfcamp Formation is 3,615 feet, and the thickness of the formation varies from 750 feet to 1,400 feet.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7586 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Abo-Wolfcamp Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 21, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-180 (New Mexico-20), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than February 21, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(163) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(163) *Abo-Wolfcamp Formation in New Mexico.* RM79-76-180 (New Mexico-20).

(i) *Delineation of formation.* The Abo-Wolfcamp Formation is located in Chaves County, New Mexico, in Township 15 South, Ranges 23, 24, and 25 East, All Sections; Townships 19 and 20 South, Range 20 East, All Sections; in Eddy County, New Mexico in Township 16 South, Ranges 23, 24, and 25 East, All Sections; Township 16 South, Range 26 East, Sections 4 through 9, 16 through 21, and 28 through 33; Township 17 South, Ranges, 21, 23, and 24 East, All Sections: Township 17 South, Range 25 East, Sections 1 through 12, 16 through 21, and 30 and 31; Township 18 South, Ranges 21, 23, and 24 East, All Sections; Township 18 South, Range 25 East, Sections 6 and 7, 18 and 19, and 30 and 31; Township 19 South, Ranges 21 and 23 East, All Sections; Township 19 South, Range 24 East, Sections 1 through 20, and 29 through 32; Township 20 South, Ranges 21 and 23 East, All Sections; and Township 20 South, Range 24 East, Sections 5 through 8, NMPM.

(ii) *Depth.* The Abo-Wolfcamp Formation is defined as that interval including the upper 800 feet of the Abo Formation and 200 feet of the lower Abo and upper Wolfcamp Formations. The average depth to the top of the Abo-Wolfcamp Formation is 3,615 feet. The Abo-Wolfcamp Formation varies in thickness from 750 feet to 1,400 feet.

[FR Doc. 83-3544 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-157; Texas-22 Addition II]

High-Cost Gas Produced From Tight Formations, Texas; Correction

February 3, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects a Notice of Proposed Rulemaking that concerned high-cost gas produced from tight formations, Docket No. RM79-76-157 (Texas-22 Addition II). The Notice of Proposed Rulemaking appeared in the Federal Register on December 29, 1982 (47 FR 57953), and contained an incorrect description of the recommendation, as well as an incorrect acreage description in the delineation of the formation.

FOR FURTHER INFORMATION CONTACT: Steven Ross, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20436, (202) 357-8571.

SUPPLEMENTARY INFORMATION:

The following restates both the description of the recommendation and

the acreage description in the delineation of the formation as it appeared in FR Doc. 82–32506. The description of the recommendation appears on pages 57953 and 57954, and the acreage description in the delineation of the formation appears on page 57954, column 1. These descriptions should read as follows:

1. "II. Description of Recommendation

Texas recommends that the Strawn-Detrital Formation in the area of the University Block 31 and Howards Creek (Penn) Fields in Crockett County, Texas, Railroad Commission District 7C, be designated as a tight formation. The recommended area consists of Sections 19, 20, S½ of 21, 29, 30, 31 and 32, University Lands Survey, Block 30; Sections 1, 2, 3, S½ of 4, 5, 6, 7, 8, S½ of 9, 11, 12, 13 and 14, University Lands Survey, Block 32; Sections 29, 31, 50, 51, north 320 acres of 30, SE¼ of 53, S½ of 32, SW¼ of 12, Block UV, G.C. & S.F.R.R. Co. Survey; and Sections 12, 17, 18, 19 and 20, University Lands Survey, Block 33. The area recommended is west and northwest of the city of Ozona, Texas, and is an extension of the area of the Strawn-Detrital Formation designated as a tight formation by the Commission's Order No. 249."

2. "(A) *Delineation of formation.* The Strawn-Detrital Formation in the area of the University Block 31 and Howards Creek Fields is located in Crockett County, Texas, Railroads Commission District 7C. The designated area consists of Sections 19, 20, S½ of 21, 29, 30, 31 and 32, University Lands Survey, Block 30; Sections 1, 2, 3, S½ of 4, 5, 6, 7, 8, S½, of 9, 11, 12, 13 and 14, University Lands Survey, Block 32; Sections 29, 31, 50, 51, north 320 acres of 30, SE¼ of 53, S½ of 32, SW¼ of 12, Block UV, G.C. & S.F.R.R. Co. Survey; and Sections 12, 17, 18, 19 and 20, University Lands Survey, Block 33."

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3409 Filed 2–8–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 452]

Potter Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in Mendocino County, California, to be known as "Potter Valley." This proposal is in response to a petition from The California Wine Company in Cloverdale, California. The establishment of the "Potter Valley" viticultural area will allow wineries to label and advertise wines as originating in this specific grape-growing area and will aid the public by identifying wines originating in this area.

DATE: Written comments must be received by March 11, 1983.

ADDRESS: Send written comments to—Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385, (Attention: Notice No. 452).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at the ATF Reading Room, Room 4405, Office of Public Affairs and Disclosure, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: James A. Hunt at (202) 566–7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) which allows the establishment of definite viticultural areas under 27 CFR Part 4—Labeling and Advertising of Wine. This final rule also allows the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added 27 CFR Part 9—American Viticultural Areas—to provide for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1) of 27 CFR Part 4 defines a viticultural area as a delimited, grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Furthermore, § 4.25a(e)(2) requires any interested person to petition ATF for the establishment of a grape-growing region as a viticultural area and to provide the following information in support of the petitioned for viticultural area:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

Under the terms of 27 CFR 4.25a, ATF has received a petition from The California Wine Company, proposing an area in Mendocino County, California, as a viticultural area to be known as "Potter Valley." The proposed area is located in the east central part of Mendocino County and consists of approximately 27,500 acres of valley floor surrounded by mountains on all sides. The floor of Potter Valley ranges in elevation from about 920' to 1020' with the surrounding mountains ranging to over 600' above the valley floor. Petitioner stated the boundaries range into the mountainous areas surrounding the valley floor so as not to exclude small areas of tillable land.

The petition was developed after a meeting of a majority of the growers who own or operate vineyards in the proposed area. The petitioner stated that nearly all other 12 growers in or near the proposed area were contacted and no group or individual was found to be in opposition to the proposed boundaries. There are approximately 11,000 acres of vineyards found in all parts of the proposed area.

The petitioner furnished information that (a) the name of the viticultural area is locally known, (b) the proposed boundaries of the viticultural area are correct, and (c) the geographical features of the area have growing conditions which distinguish the proposed area from surrounding areas. The petitioner bases these claims on the following:

(a) That the name "Potter Valley" is well known in the local area and has been used on wine labels distributed on a national basis. The petitioner states that the Pacific Gas and Electric Company has maintained a facility in the area known as the "Potter Valley

Powerhouse." Maps published by the U.S. Department of the Interior identify the Potter Valley region, and a School District and Fire District are named Potter Valley.

(b) That the boundaries of the proposed "Potter Valley" viticultural area may be found on U.S.G.S. 15 minute series quadrangle maps, "Potter Valley Quadrangle" and "Ukiah Quadrangle."

(c) That the area is a valley surrounded by mountains with a transitional climate dominated at times by the coastal influence of the Pacific Ocean or by interior continental air masses. Potter Valley is classified as a Region III grape-growing area. The soils of Potter Valley are primarily of Cole, San Ysidro, Botella and Pinole series while the nearby "Redwood Valley" is predominantly Noyo and Newton soils. The petitioner submitted soil maps and a publication on climate from the University of California Cooperative Extension Service.

(d) That the specific boundaries of the proposed viticultural area are based on U.S.G.S. maps (a copy of the U.S.G.S. maps with the boundaries prominently marked are on file with ATF).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed Potter Valley viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not major since it will not result in—

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local goverment agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Public Participation

ATF requests comments on this proposed viticultural area from all interested persons. Furthermore, while this document proposes certain boundaries for the Potter Valley viticultural area, comments concerning other possible boundaries for this proposed viticultural area will be considered.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments are subject to disclosure to the public. Any material which a person considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is also not exempt from disclosure.

Any person who desires an opportunity to comment orally at a public hearing on the proposed viticultural area should submit his or her request, in writing, to the Director within the 30 day comment period. The request should include reasons why the person feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this document is James A. Hunt, Research and Regulations Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Wine.

Authority

Accordingly, under the authority contained in 27 U.S.C. 205, the Acting Director proposes to amend 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add § 9.82 as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.82 Potter Valley.

2. Subpart C is amended by adding § 9.82 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.82 Potter Valley.

(a) *Name.* The name of the viticultural area described in this section is "Potter Valley."

(b) *Approved map.* The approved maps for the Potter Valley viticultural area are the U.S.G.S. maps entitled "Potter Valley Quadrangle, California". 1960, and "Ukiah Quadrangle, California", 1958, 15 minute series (topographic).

(c) *Boundaries.* The Potter Valley viticultural area is located in Mendocino County, California. The boundaries are as follows:

(1) From the beginning point at the southeast corner of quadrant 36 and southwest corner of quadrant 32 (a point where Mendocino and Lake Counties border on the T.17 N.–T.16 N. Mount Diablo Meridian line), the boundary runs northwest to the northeastern corner of quadrant 4, T. 18N–T.17N;

(2) Then west to the northwest corner of quadrant 1;

(3) Then south to the southwest corner of quadrant 36;

(4) Then east to R12 W R11 W at the southeast corner of quadrant 36;

(5) Then south to Highway 20;

(6) Then southeast on Highway 20 to where Highway 20 passes from quadrant 20 to quadrant 21; and

(7) Thence northeast, returning to the point of beginning.

Signed: January 13, 1983.

Stephen E. Higgins,

Acting Director.

Approved: January 28, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-3060 Filed 2-8-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 451]

York Mountain Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in San Luis Obispo County, California, to be known as "York Mountain." This proposal is in

response to a petition from York Mountain Winery in Templeton, California. The establishment of the "York Mountain" viticultural area will allow wineries to label and advertise wines as originating in this specific grape-growing area and will aid the public by identifying wines originating in this area.

DATE: Written comments must be received by March 11, 1983.

ADDRESS: Send written comments to—Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385 (Attention: Notice No. 451).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at the ATF Reading Room, Room 4405, Office of Public Affairs and Disclosure, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: James A. Hunt at (202) 566–7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) which allows the establishment of definite viticultural areas under 27 CFR Part 4—Labeling and Advertising of Wine. This final rule also allows the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added 27 CFR Part 9—American Viticultural Areas—to provide for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1) of 27 CFR Part 4 defines a viticultural area as a delimited, grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Furthermore, § 4.25a(e)(2) requires any interested person to petition ATF for the establishment of a grape-growing region as a viticultural area and to provide the following information in support of the petitioned for viticultural area:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

Under the terms of 27 CFR 4.25a, ATF has received a petition from York Mountain Winery proposing an area in San Luis Obispo County, California, as a viticultural area to be known as "York Mountain." The proposed area is located in the western part of San Luis Obispo County about seven miles from the Pacific Ocean and consists of approximately 10,000 acres of coastal mountain terrain. The petitioner's winery and 207 acres of land are located in the proposed viticultural area. There are nine wine grape growers with approximately 300 acres of vineyards scattered throughout the proposed area.

The petitioner furnished information that (a) the name of the vitcultural area is locally known, (b) the proposed boundaries of the vitcultural area are correct, and (c) the geographical features of the area have growing conditions which distinguish the proposed area from surrounding areas. The petitioner bases these claims on the following:

(a) That the name "York Mountain" is well known in the area because of the mountain named York. The winery is located at the base of York Mountain. The winery and vineyards were established in 1882 by the York family who owned the property until 1970. The U.S.G.S. map submitted by the petitioner is entitled "York Mountain Quadrangle."

(b) That the boundaries of the proposed "York Mountain" viticultural area may be found on a U.S.G.S. 7.5 minute quadrangle map.

(c) That the proposed area is distinguished from surrounding areas suitable for growing grapes.

(1) Being closest to the Pacific Ocean (7 miles);

(2) The elevation being the highest at 1500 feet on the slopes of the Santa Luria Mountain Range and has received some snowfall each year;

(3) The rainfall averages 45 inches per year which is about double the amount of surrounding areas; and

(4) A classification of Region I as compared to Region III and IV for nearby areas.

(d) That the specific boundaries of the proposed viticultural area are based on features found on a U.S.G.S. map, (a copy of this U.S.G.S map with boundaries prominently marked is on file with ATF).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed York Mountain viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not major since it will not result in—

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Public Participation

ATF requests comments on this proposed viticultural area from all interested persons. Furthermore, while this document proposes certain boundaries for the York Mountain viticultural area, comments concerning other possible boundaries for this proposed viticultural area will be considered.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments are subject to disclosure to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is also not exempt from disclosure.

Any person who desires an opportunity to comment orally at a public hearing on the proposed viticultural area should submit his or her request, in writing, to the Director within the 30 day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this document is James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Viticultural areas, Consumer protection, and Wine.

Authority

Accordingly, under the authority contained in 27 U.S.C. 205, the Director proposes to amend 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add § 9.80 as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.
9.80 York Mountain.

2. Subpart C is amended by adding § 9.80 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.80 York Mountain.

(a) *Name.* The name of the viticultural area described in this section is "York Mountain."

(b) *Approved map.* The approved map for the York Mountain viticultural area is the U.S.G.S. map entitled "York Mountain Quadrangle," 7.5 minute series (topographic), 1979.

(c) *Boundaries.* The York Mountain vitticultural area is located in San Luis Obispo County, California. The boundaries are as follows:

(1) From the beginning point at the northwest corner of the York Mountain Quadrangle map where the Dover Canyon Jeep Trail and Dover Canyon Road intersect, proceed east along Dover Canyon Road 2.3 miles to Vineyard Drive;

(2) Follow Vineyard Drive southeast 3.6 miles to Jack Creek Road;

(3) Turn right on Jack Creek Road for 0.6 miles across State Highway 46 Hidden Valley Road;

(4) Follow Hidden Valley Road south 0.9 miles to Gates Field Road, turn right, and proceed 1.2 miles to Santa Rita Creek;

(5) Turn right at Santa Rita Creek and go 5 miles to where the waters of Dover Canyon and Santa Rita Creek meet; and

(6) Then north along Dover Canyon Creek across State Highway 46 back to the point of beginning.

Approved: February 2, 1983.

Stephen E. Higgins,
Acting Director.

[FR Doc. 83-3284 Filed 2-8-83; 8:45 am]
BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 455]

Establishment of Catoctin Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area encompassing parts of Frederick and Washington Counties in western north-central Maryland, to be known as "Catoctin." This proposal is the result of a petition submitted by W. Bret Byrd, proprietor of a bonded winery in the area known as Byrd Vineyards. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will permit wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wines they purchase.

DATE: Written comments must be received by March 11, 1983.

ADDRESSES: Send written comments or requests for a public hearing to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Attn: Notice No. 455.)

Copies of the petition, the proposed regulations, maps with the boundaries of the proposed viticultural area marked, and any written comments will be available for public inspection during normal business hours at the: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jim Whitley, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. The revised regulations permit the establishment of definite viticultural areas and also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which amended Title 27, CFR, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all approved American viticultural areas which may be used as appellations of origin on wine labels and in wine advertisements.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received a petition proposing an area encompassing parts of Frederick and Washington Counties in western north-central Maryland as a viticultural area. The proposed viticultural area is to be known as "Catoctin." The petition was submitted by W. Bret Byrd, proprietor of a bonded winery in the area known as Byrd Vineyards.

The proposed viticultural area lies west of the town of Frederick. It encompasses an area of approximately 265 square miles or 170,000 acres. The area encompassed consists of a large intermountain valley and the immediately surrounding upland areas. Catoctin Mountain and South Mountain distinguish, respectively, the eastern and western boundaries. The northern and southern boundaries are, respectively, the Maryland-Pennsylvania State line and the Potomac River.

There is an operating winery with a 30 acre vineyard and six (6) major vineyard operations in the proposed viticultural area. In addition, there are numerous small vineyards, generally under an acre, which are used by the owners for private purposes. The acreage devoted to grape-growing is widely dispersed. There are approximately 84.5 acres of wine-grapes. In 1980, this represented approximately 31.5% of the commercial acreage planted to grapes in the State of Maryland. Furthermore, an additional 15 acres of wine-grapes were planned for the spring of 1982 planting.

The boundaries of the proposed viticultural area may be found on 12 U.S.G.S., 7.5 minute series (Topographic), quadrangle maps, scale 1:24,000—Point of Rocks, Buckeystown, Frederick, Catoctin Furnace, Blue Ridge Summit, Emmitsburg, Smithsburg, Myersville, Funkstown, Keedysville, Harpers Ferry, and Charles Town. The specific boundaries proposed for the viticultural area are detailed in the regulation portion of this document at § 9.67(c).

Viticultural/Geographical Features

The petitioner claims the proposed viticultural area is distinguishable from the surrounding area on the basis of climate, soil, geology, and other physiographical features. The petitioner submitted evidence on the following in support of this claim.

(a) *Climate.* The petitioner submitted United States Soil Conservation Service (SCS) maps which depict climatic data for the proposed viticultural area and the surrounding area. The proposed viticultural area has an average annual rainfall of 36–42 inches, temperatures of 50–55 degrees F., and a frostfree season of 160–170 days. The area to the east has an average annual rainfall of 40–42 inches, temperature of 55–60 degrees F., and a frostfree season of 170–180 days. The area to the west has an average annual rainfall of 38–46 inches, temperatures of 45–50 degrees F., and a frostfree season of 150–160 days. The proposed viticultural area is generally dryer, warmer, and has a longer frostfree season than the area to the west; and is dryer, cooler, and has a shorter frostfree season than the area to the east. Moreover, precipitation during any given year is somewhat unevenly distributed with the highest amount occurring in midsummer and midwinter and the least amount in autumn. Furthermore, the frostfree season decreases in length with increasing elevation and from south to north.

In addition, using the same heat summation criteria as used by Amerine and Winkler under their climatic region concept, the proposed viticultural area would be classified as Region 2, while the area to the west would be classified as gradually changing from Region 2 to Region 1 and the area to the east would be classified as Region 3. That is, the sum of the mean daily temperature above 50 degrees F., expressed in temperature-time values of degree days, for each day in the period April-September of any given year is generally 2,501–3,000 for the proposed viticultural area; 2,001–2,500 for the area to the west; and, 3,001–3,500 for the area to the east.

To summarize, the petitioner contends the proposed viticultural area possesses a unique set for growing conditions which distinguish it from the surrounding area. In addition, the petitioner claims these conditions have a marked influence on the amount and distribution of heat and moisture received by grapes during the growing season. This, in turn, affects the development and balance of sugar, acid, and other constituents of grapes grown in the proposed viticultural area.

(b) *Geologic Features.* The general geomorphology of the proposed viticultural area corresponds to distinguishable geologic features which define a valley and an upland area. The valley lies between low mountains that rise to an elevation of about 2,000 feet and belong to the easternmost fringe of the Appalachian Mountains. The mountains surrounding the valley are formed of sedimentary, metamorphic sedimentary, and igneous rocks while the valley is composed almost entirely of green schistose rock, a metamorphosed basalt. The valley area is distinguished by the surrounding uplands. The upland areas are distinguished from surrounding areas by adjacent limestone valleys.

(c) *Soils.* The soils in the proposed viticultural area belong to several different soils series in various associations. These soils are characteristic of those found on mountains, elevated intermountain areas, or in intermountain valleys. The soil in the intermountain valley area, where the majority of wine-grapes are grown, is almost entirely of the Myersville-Fauquier-Catoctin association. The surrounding uplands are primarily composed of the Dekalb, Clymer, Edgemont, Chandler, Talladega, Highfield, and Fauquier soil series in various associations.

The soils in the proposed viticultural area have been developed from sandstone, greenstone (metabasalt), mica schist and quartzite parent materials and are acidic. The soils in adjacent valleys have been developed from limestone based parent materials and are alkaline. The natural pH of the soil in the proposed viticultural area is between 5.5 and 6.5, i.e., strongly acid to slightly acid. The petitioner claims this is ideal for the growing of grapes.

Evidence Relating to Name and Boundaries

Ther petitioner claims the viticultural area proposed in the petition is locally and/or nationally known by the name "Catoctin" and the boundaries are as specified in the petition. The petitioner submitted historical or current evidence consisting of the following to support these claims.

(a) The petitioner states the name "Catoctin" has been applied to the proposed viticultural area since the 1700's and means "speckled rock" in the Algonquin Indian language. This type of rock abounds in the area.

(b) The petitioner states the name "Catoctin" permeates the proposed viticultural area, e.g., Catoctin National Park, Catoctin Creek, Catoctin Mountain, and Catoctin Valley (also known as Middletown Valley).

(c) The boundaries of the proposed viticultural area roughly approximate the boundaries of that portion of Land Resource Area No. 130 which is in Maryland. Land Resource Areas are geographical areas of land determined by the United States Soil Conservation Service (SCS) to be associated on the basis of particular patterns of soil, climate, water resources, land use, elevation, and topography. The petitioner submitted pertinent excerpts

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from Agricultural Handbook 296, Land Resource Regions and Major Land Resource Areas (12/65), and SCS maps that depict the Maryland boundaries of Land Resource Area No. 130.

Discussion

AFT feels that evidence submitted by the petitioner indicates establishment of "Catoctin" as a viticultural area may be warranted. Accordingly, we are proposing in this document the establishment of this grape-growing region as a viticultural area.

However, we are not entirely convinced the boundary proposed is the most appropriate for the viticultural area. We recognize the dispersed nature of the acreage devoted to viticulture may be the primary factor contributing to the petitioner's selection of a boundary. Nevertheless, since a high proportion of the acreage encompassed by the boundary is either viticulturally unsuitable or used for purposes other than viticulture, other possible boundaries may be more appropriate. Accordingly, consideration will be given to other possible boundaries.

Public Participation

All interested persons are invited to participate in this proposed rulemaking by submitting written comments. Comments should be specific, pertain to the issues proposed in this rulemaking, and provide the factual basis supporting the data, views, or recommendations presented. Comments received before the closing date will be carefully considered prior to a final decision by ATF on this proposal. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

We are particularly interested in receiving comments which provide historical or current evidence as to whether the viticultural area boundaries are as specified in the petition. In addition, comments are requested on alternative boundaries. These comments should provide data on the geographical and viticultural characteristics which distinguish the area encompassed from the surrounding area.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. All materials and comments received will be available for public inspection during normal business hours.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Director within the comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in the light of all circumstances, whether a public hearing should be held.

ATF reserves the option to determine, on the basis of written comments, our own research, and in the light of any other circumstances, whether this viticultural area should be established. In addition, ATF may modify, through the rulemaking process, the viticultural area which may be established as a result of this proposed rulemaking when in the judgment of the Director such action is determined to be warranted.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not expected to apply to this proposed rule because the proposal, if promulgated as a final rule, is not expected to have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed Catoctin viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 the Bureau has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal author of this document is Jim Whitley, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.67 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.67 Catoctin.

Par. 2. Subpart C is amended by adding § 9.67 as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.67 Catoctin.

(a) *Name.* The name of the viticultural area described in this section is "Catoctin."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Catoctin viticultural area are 12 U.S.G.S. maps. They are—

(1) "Point of Rocks Quadrangle, Maryland-Virginia," 7.5 minute series, 1970;

(2) "Buckeystown Quadrangle, Maryland," 7.5 minute series, 1952 (Photorevised 1971);

(3) "Frederick Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1980);

(4) "Catoctin Furnace Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1979);

(5) "Blue Ridge Summit Quadrangle, Maryland-Pennsylvania," 7.5 minute series, 1953 (Photorevised 1971);

(6) "Emmitsburg Quadrangle, Maryland-Pennsylvania," 7.5 minute series, 1953 (Photorevised 1971);

(7) "Smithsburg Quadrangle, Maryland-Pennsylvania," 7.5 minute series, 1953 (Photorevised 1971);

(8) "Myersville Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1971);

(9) "Funkstown Quadrangle, Maryland," 7.5 minute series, 1953 (Photorevised 1971);

(10) "Keedysville Quadrangle, Maryland-West Virginia," 7.5 minute series, 1978;

(11) "Harpers Ferry Quadrangle, Virginia-Maryland-West Virginia," 7.5 minute series, 1969; and

(12) "Charles Town Quadrangle, West Virginia-Virginia-Maryland," 7.5 minute series, 1978;

(c) *Boundaries.* The Catoctin viticultural area is located in western north-central Maryland and encompasses parts of Frederick and Washington Counties. From the beginning point at the point where U.S. Highway 15 crosses the Potomac River and enters the land mass of Maryland on the "Point of Rocks Quadrangle" map, the boundary runs—

(1) Northerly 1,100 feet in a straight line to the point of intersection with a 500-foot contour line;

(2) Then northeasterly along the meanders of the 500-foot contour line on the "Point of Rocks Quadrangle," "Buckeystown Quadrangle," "Frederick Quadrangle," "Catoctin Furnace Quadrangle," "Blue Ridge Summit Quadrangle," and "Emmitsburg Quadrangle" maps to the point of intersection with the Maryland-Pennsylvania State line on the "Emmitsburg Quadrangle" map;

(3) Then west along the Maryland-Pennsylvania State line on the "Emmitsburg Quadrangle," "Blue Ridge Summit Quadrangle," and "Smithsburg Quadrangle" maps to the point of intersection with the first 800-foot contour line lying west of South Mountain on the "Smithsburg Quadrangle" map;

(4) Then southwesterly along the meanders of the 800-foot contour line on the "Smithsburg Quadrangle," "Myersville Quadrangle," "Funkstown Quadrangle," and "Keedysville Quadrangle" maps to the point of intersection with an unnamed light duty road (known locally as Clevelandville Road) north of the town of Clevelandville on the "Keedysville Quadrangle" map;

(5) Then southerly along the unnamed light duty road to the point of intersection with Reno Monument Road;

(6) Then southwesterly 13,500 feet in a straight line to the point lying at the intersection of Highway 67 and Millbrook Road;

(7) Then westerly along Millbrook Road to the point of intersection with Mount Briar Road;

(8) Then northerly along Mount Briar Road to the point of intersection with a 500-foot contour line;

(9) Then northerly along the 500-foot contour line to the point of intersection with Red Hill Road;

(10) Then southerly along the 500-foot contour line to the point of intersection with Porterstown Road;

(11) Then south-southwesterly 29,000 feet in a straight line to the most eastern point on the Chesapeake and Ohio Canal National Historical Park boundary line lying north of the town of Dargan;

(12) Then southwesterly 7,500 feet in a straight line to the point lying at the confluence of an unnamed stream and the Potomac River approximately 600 feet northwest of Manidokan Camp on the "Harpers Ferry Quadrangle" map; and

(13) Then easterly along the meanders of the Potomac River on the "Harpers Ferry Quadrangle," "Charles Town Quadrangle," and "Point of Rocks Quadrangle" maps to the point of beginning.

Signed: January 7, 1983.

Stephen E. Higgins,

Acting Director.

Approved: January 26, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-3536 Filed 2-8-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 454]

Establishment of Knights Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in northeastern Sonoma County, California, to be known as "Knights Valley." This proposal is the result of a petition submitted by the Knights Valley Wine-Growers Committee, a local grape/wine industry member group. the establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will permit wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wines they purchase.

DATE: Written comments must be received by March 11, 1983.

ADDRESSES: Send written comments or requests for a public hearing to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, (Attn: Notice No. 454).

Copies of the petition, the proposed regulations, maps with the boundaries of the proposed viticultural area marked, and any written comments will be available for public inspection during normal business hours at the: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jim Whitley, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. The revised regulations permit the establishment of definite viticultural areas and also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which amended Title 27, CFR, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all approved American viticultural areas which may be used as appellations of origin on wine labels and in wine advertisements.

Section 4.25(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey

(U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received a petition proposing an area in northeastern Sonoma County, California, as a viticultural area. The proposed viticultural area is to be known as "Knights Valley." The petition was submitted by the Knights Valley Wine-Growers Committee, a local organization representing the interests of most grape/wine industry members in the area, and was signed by 16 persons.

The proposed viticultural area is located entirely within Sonoma County between Napa Valley and Alexander Valley. It extends to the west of the eastern Sonoma County line from just north of Pine Mountain to just north of the Petrified Forest area. Common boundaries are shared with the proposed "Alexander Valley" and "Chalk Hill (Russian River Valley)" viticultural areas on the west and southwest, respectively, and with the "Napa Valley" viticultural area on the east.

Note.—The "Chalk Hill (Russian River Valley)" designation denotes that the proposed "Chalk Hill" and "Russian River Valley" viticultural areas overlap each other and share a common boundary with the proposed viticultural area.

The area encompassed by the proposed boundaries consists of a valley area and upland areas. The valley area is comprised of a central valley area known as "Knights Valley" and a branch valley or sub-valley area known as "Franz Valley." According to evidence submitted by the petitioner, the branch valley area is generally considered to be a non-valley within the central valley and the name "Franz Valley" a misnomer since no clear separation exists between the areas. The central valley area is approximately 5.3 miles long and 1.8 miles wide at the widest point. The areas immediately surrounding and to the north of the valley area form the upland areas. The proposed viticultural area encompasses approximately 36,240 acres or 56.625 square miles.

There are currently over 1,000 acres devoted to viticulture in the proposed viticultural area. This acreage is situated primarily in the valley area. However, some acreage in the upland areas, which is being developed into producing vineyards, is included in this figure. There are currently no operating wineries in the proposed viticultural area. However, the petitioner anticipates that a winery will open in the near future.

The boundaries of the viticultural area may be found on four (4) U.S.G.S. quadrangle (Topographic) maps, 7.5 minute series, scale 1:24,000—Mount St. Helena, Jimtown, Mark West Springs, and Detert Reservoir. The specific boundaries proposed for the viticultural area are detailed in the regulation portion of this document at § 9.76(c).

Viticultural/Geographical Features

The petitioner claims the proposed viticultural area is distinguishable from the surrounding area on the basis of elevation, soil, climate, and other physiographical features. The petitioner bases this claim on the following.

(a) *Elevation.* The proposed viticultural area ranges in elevation from 360 feet to slightly over 4,300 feet. The valley area encompassed ranges in elevation from 360 feet to 600 feet. The upland areas contain fairly rugged peaks that are over 3,500 feet in elevation, e.g., Pine Mountain—3,614 feet, Red Hill—3,527 feet, Mount St. Helena—4,343 feet The areas currently used for grape production are consistently higher in elevation than the grape-growing areas in the adjacent Alexander Valley, Chalk Hill (Russian River Valley) and Napa Valley areas. This disparity in elevation should significantly increase when the many hill "islands" and peninsulas in the upper elevations capable of quality grape production are fully developed into producing vineyards.

(b) *Geological Features and Soils.* The soils in the valley and mountainous upland areas of the proposed viticultural area are distinct from each other. This is due to the different parent material, i.e., alluvial in the valley and indurated rock in the uplands, from which the soils were formed. The valley soils were derived from parent material of a relatively young geologic age, while the upland soils were derived from older parent material. The upland soils in the areas north and south of the valley area were derived from different types of parent material. The soils in the northern area were derived from "Franciscan Formation" parent material laid down in the Jura-Cretaceous period, while the soils in the southern area were derived from parent material known as "Sonoma Volcanics" laid down in the late Pliocene to early Pleistocene epoch. The contrast in soils derived from these parent materials allows for an easy distinction between the valley area and the northern/southern upland areas.

Adacent areas are also characterized by soils derived from alluvial material and indurated rock. However, there were differences in the parent materials from which the soils were formed. The Napa Valley area to the southeast is primarily surrounded by uplands with soils derived from "Pleistocene Volcanic" formations. Whereas the Alexander and Dry Creek areas to the northwest are surrounded by uplands with soils derived from both "Franciscan Formation" and "Dry Creek Conglomerate" parent materials. These parent material differences are the origins of differences in basic soil complexity between the proposed viticultural area and surrounding areas

The valley soils in the proposed viticultural area are primarily of the Yolo-Cortina-Pleasanton association. The soil in the northern and southern upland areas are primarily of the Yorkville-Suther and Goulding-Toomes-Guenoc associations, respectively. However, the eastern portion of these areas, along the Sonoma county line, are characterized by soils of the Kidd-Forward-Cohasset association. Much of the Dry Creek and Alexander Valley areas are characterized by the same type of soil associations; however, the soils adjacent to the Russian River in the Alexander Valley area are deep, fertile soils not generally represented in the proposed viticultural area. The Sonoma Valley, which lies to the south along the eastern Sonoma County line, and the Napa Valley viticultural areas are also characterized by highly fertile soils. However the soils used for grape production in the proposed viticultural area are generally characterized by low fertility; many are rocky and gravelly; and, others exhibit a low pH.

(c) *Climate.* The climate in the proposed viticultural area is typically Mediterranean, i.e., characterized by warm, dry summers and mild, cool, moist winters. The climate is moderated by the proximity of the viticultural area to the Pacific Ocean, isolation from large valleys and low mountain elevation.

The valley area has an average annual rainfall of 44 inches, temperature of 58–60 degrees F., and a frostfree season of 220–270 days. The upland areas are generally wetter, cooler, and have shorter frostfree seasons than the valley area. Rainfall in the valley area is similar, but slightly higher than the Alexander Valley area. The Sonoma Valley area and portions of the Napa Valley area receive significantly less rainfall.

The proposed viticultural area exemplifies the general temperature trend of Sonoma County, i.e., rising form south to north. Temperatures in the valley area are similar to those in the lower portion of the Alexander Valley area, but average slightly less due to the

higher elevaton. The growing season is usually shorter than the growing season in adjacent viticultural areas.

Under the climatic region concept developed by Amerine and Winkler, the proposed viticultural area is classified as Region 3. That is, the sum of the mean daily temperature above 50 degrees F., expressed in temperature-time values of degree days, for each day in the period April–October of any given year is generally 3,001–3,500 for the proposed viticultural area. The northern portions of the Napa Valley and Alexander Valley areas are also classified as Region 3, while the Chalk Hill (Russia River Valley) area is classified as Region 2, i.e., 2,501–3,000 degree days.

To summarize, the petitioner states the climatic conditions in the proposed viticultural area are unique and distinguishable from those of any other viticultural area in the general vicinity.

Evidence Relating to Name and Boundaries

The petitioner claims the proposed viticultural area is locally/nationally known by the name "Knights Valley" and the boundaries are as specified in the petition. The petitioner submitted historical or current evidence consisting of the following to support these claims.

(a) A detailed study prepared by Mr. William F. Heintz which analyzes the viticultural, wine-making history of the proposed viticultural area. Through the use of quotes from numerous articles which appeared during the 1800's in the St. Helena Star, a local newspaper, the study documents that the name "Knights Valley" has been applied to the area since 1853. These articles refer by name to "Knights Valley" and describe the area. Similarly, viticultural activity in the area is documented. Grapes have been grown and wine produced in "Knights Valley" almost continuously since the 1870's. However, there are currently no operating wineries in the proposed viticultural area.

The study also contains numerous excerpts and quotes from 19th century books, journals, and reports pertaining to the viticultural activity and history of the proposed viticultural area. The propriety of the proposed boundaries is documented by a copy of a map excerpted from the "Historical Atlas of Sonoma County" published in 1877. This map depicts an area designated as "Knights Valley" which closely corresponds to the proposed viticultural area.

(b) Letters from wine authorities and clippings of articles from local and national newspapers, magazines, and other wine oriented publicaitons, that attest to the quality of wine produced from grapes grown in the proposed viticultural area.

(c) Excerpts from various books which describe the proposed viticultural area; extoll the quality of wines produced from grapes grown in the viticultural area; or, recognize and discuss differences between wines produced from grapes grown in the viticultural area and those produced from grapes grown in other locations.

Discussion

ATF feels the evidence submitted by the petitioner indicates establishment of "Knights Valley" as a viticultural area may be warranted. Accordingly, the establishment of this grape-growing region as a viticultural area is proposed in this document.

The petitioner states the primary factor considered in the selection of boundaries to delineate the viticulture area was watershed since "* * * it is not an incongruous definer of a 'valley' and is, in fact, commonly understood." While watershed may be the geographical basis for a viticulture area, we are not entirely convinced the proposed boundaries are the most appropriate. Since a relatively high proportion of the acreage encompassed is either viticulturally unsuitable or currently used for purposes other than viticulture, we feel boundaries based primarily on watershed criteria may be inappropriate for portions of the viticultural area, e.g., the northern upland area. Although this may be partially due to the dispersed nature of the many small areas suitable for viticulture, we feel the proportion of acreage devoted to grape growing may be significantly increased if boundaries in these areas are drawn on the basis of criteria other than watershed. Therefore, any suggestions concerning other possible boundaries for this viticultural area will be given consideration.

Public Participation

All interested persons are invited to participate in this proposed rulemaking by submitting written comments. Comments should be specific, pertain to the issues in this proposed rulemaking, and provide the factual basis supporting the data, views, or recommendations presented. Comments received before the closing date will be carefully considered prior to a final decision by ATF on this proposal. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

We are particularly interested in receiving comments which provide historical or current evidence as to whether the viticultural area boundaries are as specified in the petition. In addition, comments are invited on alternative boundaries. These comments should include data on the geographical and viticultural characteristics which distinguish the area encompassed from the surrounding area.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. All materials and comments received will be available for public inspection during normal business hours.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Director, within the comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in the light of all circumstances, whether a public hearing should be held.

ATF reserves the option to determine, on the basis of written comments, our own research, and in the light of any other circumstances, whether this viticultural area should be established. In addition, ATF may modify, through the rulemaking process, the viticultural area which may be established as a result of this proposed rulemaking when in the judgment of the Director such action is determined to be warranted.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not expected to apply to this proposed rule because the proposal, if promulgated as a final rule, is not expected to have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed Knights Valley viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal author of this document is Jim Whitley, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel of other offices of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections for Subpart C is amended by adding the title of § 9.76 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.76 Knights Valley

Par. 2. Subpart C is amended by adding § 9.76 follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.76 Knights Valley.

(a) *Name.* The name of the viticultural area described in this section is "Knights Valley."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Knights Valley viticultural area are four U.S.G.S. maps. They are—

(1) "Mount St. Helena Quadrangle, California," 7.5 minute series, 1959 (Photoinspected 1973);

(2) "Jimtown Quadrangle, California," 7.5 minute series, 1955 (Photorevised 1975);

(3) "Mark West Springs Quadrangle, California," 7.5 minute series, 1958; and

(4) "Detert Reservoir Quadrangle, California," 7.5 minute series, 1958 (Photorevised 1980).

(c) *Boundaries.* The Knights Valley viticultural area is located in northeastern Sonoma County, California. From the beginning point lying at the intersection of the Sonoma/Lake County line and the north line of Section 11, Township 10 north (T. 10 N.), Range 8 West (R. 8 W.) on the "Mount St. Helena Quadrangle" map, the boundary runs—

(1) Westerly along the north line of Sections 11, 10, and 9, T. 10 N., R. 8 W. to the northwest corner of Section 9 on the "Jimtown Quadrangle" map;

(2) Then southerly along the west line of Sections 9, 16, 21, 28, and 33, T. 10 N., R. 8 W., continuing along the west line of Section 4, T. 9. N., R. 8 W. to the southwest corner thereof;

(3) Then easterly along the south line of Section 4 to the southeast corner thereof on the "Mount St. Helena Quadrangle" map;

(4) Then southerly along the west line of Sections 10, 15, and 22, T. 9 N., R. 8 W. to the point of intersection with Franz Creek in Section 22 on the "Mark West Springs Quadrangle" map;

(5) Then easterly along Franz Creek approximately 14,000 feet to the centerline of Franz Valley Road;

(6) Then southerly along the centerline of Franz Valley Road to the point of intersection with the west line of Section 6, T. 8 N., R. 7 W.;

(7) Then southerly along the west line of Section 6 to the southwest corner thereof;

(8) Then easterly along the south line of Sections 6, 5, and 4, T. 8 N., R. 7 W. to the southeast corner of Section 4;

(9) Then northerly along the east line of Section 4 to the point of intersection with the Sonoma/Napa County line;

(10) Then northerly along the meanders of the Sonoma/Napa County line on the "Mark West Springs Quadrangle," "Detert Reservoir Quadrangle," and "Mount St. Helena Quadrangle" maps to the point of intersection with the Lake County line on the "Mount St. Helena Quadrangle" map;

(11) Then northerly along the meanders of the Sonoma/Lake County line on the "Mount St. Helena Quadrangle" and "Detert Reservoir Quadrangle" maps to the point of beginning.

Signed: January 13, 1983.

Stephen E. Higgins,

Acting Director.

Approved: January 28, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-3537 Filed 2-8-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 927

Surface Mining and Reclamation Operations Under a Federal Program for Nebraska

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Cancellation of promulgation process for a Federal program for Nebraska.

SUMMARY: The Office of Surface Mining (OSM) is announcing the withdrawal of the proposed Federal program to regulate surface coal mining and reclamation operations for Nebraska because there are no known coal reserves on non-Federal and non-Indian lands in that State.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Branch of Regulatory Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343-5866.

SUPPLEMENTARY INFORMATION: On December 22, 1982, the Office of Surface Mining proposed a Federal program for Nebraska in the **Federal Register** to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in that state. 47 FR 57236. During the comment period, OSM was informed by the State Geologist of Nebraska that all known coal deposits in Nebraska are too deep for commercial recovery at this time.

The Surface Mining Control and Reclamation Act in Sections 503 and 504, 30 U.S.C. Sections 1253 and 1254, and OSM's regulations, 30 CFR 736.11, require that there be an approved State of Federal regulatory program in States having coal on non-Federal or non-Indian lands and in which there is a likelihood of either coal exploration or development before June 1985. Since Nebraska has no known coal reserves on either non-Federal or non-Indian lands, a regulatory program is not required. Therefore, promulgation of the

proposed regulatory program for Nebraska is being withdrawn. Should information come to light which indicates the presence of coal reserves on non-Federal and non-Indian lands within the State, promulgation of the required program will be reinitiated by subsequent rulemaking notice.

Dated: February 25, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 83-3542 Filed 2-8-83; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[OSWER-FRC 2302-5]

Hazardous Waste Management System; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of Comment Period for Notice of Regulatory Reform.

SUMMARY: On December 13, 1982, EPA published a **Federal Register** notice explaining its regulatory reform efforts under the Resource Conservation and Recovery Act. The purpose of this notice is to extend the comment period on that notice until March 31, 1983. The comment period was originally due to end on February 11, 1983.

DATE: Comments must be received on or before March 31, 1983.

ADDRESS: Comments should be addressed to Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (202) 382-4487. Comments should identify the regulatory docket as follows: "Docket: Regulatory Reform."

FOR FURTHER INFORMATION CONTACT: The RCRA hazardous waste hotline, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (800) 424-9346 (382-3000 in Washington, D.C.). For specific information on the notice, contact Eileen Claussen, Director, Office of Management, Information, and Analysis, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-4637.

SUPPLEMENTARY INFORMATION: On December 13, 1982, EPA published a Notice of Regulatory Reform explaining the Agency's efforts to review and reassess the hazardous waste regulations developed under the Resource Conservation and Recovery Act (RCRA). Discussed in the Notice was an analytical model designed to assess and compare the costs and risks of different waste management strategies. The Notice further explained that copies of a draft report describing the model could be obtained by contacting the RCRA hazardous waste hotline. Due to the large number of requests for copies of the report, the Agency's existing supply has been exhausted and additional copies are now being printed. The Agency expects to obtain these additional copies within 2-3 weeks.

In order to allow time for the distribution of these copies, and for review and comment by the interested public, the Agency is extending the comment period on the Notice of Regulatory Reform until March 31, 1982.

Dated: January 28, 1983.

Rita M. Lavelle,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 83-3448 Filed 2-8-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2712/P271; PH-FRL 2296-1]

Carbaryl; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for the combined residues of the insecticide carbaryl and its hydrolysis product 1-naphthol in or on the raw agricultural commodities prickly pear cactus fruit and pads. The proposed regulation to establish maximum permissible levels for residues of the insecticde in or on the commodities was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: .Comments must be received on or before March 11, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2712 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) including its hydrolysis product 1-naphthol, calculated as 1-naphthyl *N*-methylcarbamate, in or on the raw agricultural commodity prickly pear cactus at 12 parts per million (ppm). The petition was later amended to propose tolerances at 12 ppm in or on each of the raw agricultural commodities prickly pear cactus fruit and pads.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances were a 2-year rat feeding study with a no-observed-effect level (NOEL) of 200 ppm (10 mg/kg/day); a 1-year dog feeding study with a NOEL of 400 ppm (10 mg/kg/day); a 3-generation rat reproduction study with a NOEL of 200 mg/kg/day, highest level tested; an 18-month mouse oncogenicity study with no observed oncogenic effects at 400 ppm (60 mg/kg/day), highest level tested; and a monkey teratology study showing no effect at 20 mg/kg, highest level tested.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 10 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.1 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 6.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 4.6644 mg/day; the current action will increase the TMRC by 0.0054 mg/day (0.12 percent). Published tolerances utilize 77.74 percent of the ADI; the current action will utilize an additional 0.09 percent.

The nature of the residues is adequately understood and an adequate analytical method, spectrophotometry, is available for enforcement purposes. As the proposed use does not involve any items normally used for livestock feed, there is no expectation of secondary residues in meat, milk, poultry, and eggs. "A Notice of Determination Not to Initiate Rebuttable Presumption Against Registration

(RPAR)" was published in the **Federal Register** of December 12, 1980 (45 FR 81869). Carbaryl was under consideration for the RPAR process primarily because two studies conducted in the late 1960's indicated that carbaryl induced teratogenicity when administered in low doses to pregnant beagle dogs. EPA reviewed the risks associated with the use of carbaryl and determined that the 40 CFR risk criteria warranting an RPAR had not been met or exceeded.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.169(a) would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 2E2712/P271]. All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 25, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.169(a) be amended by adding and alphabetically inserting the commodities prickly pear cactus fruit and pads to read as follows:

§ 180.169 Carbaryl; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Prickly pear cactus, fruit	12.0
Prickly pear cactus, pads	12.0
* * * * *	

[FR Doc. 83-2967 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2759/P282; PH-FRL 2301-5]

N,N-Diethyl-2-(1-Naphthalenyloxy) Propionamide; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy)-propionamide (Napropamide) in or on the raw agricultural commodities marjoram, rosemary, and summer and winter savory. The proposed regulation to establish maximum permissible levels for residues of the herbicide in or on the commodities was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before March 11, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordinaton Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2759 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy) propionamide (Napropamide) in or on the raw agricultural commodities marjoram, rosemary, and summer and winter savory at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances included an acute oral rat study with an LD_{50} greater than 5 g/kg; a 90-day rat feeding study with a no-observed-effect level (NOEL) of 25 mg/kg/day; a 90-day dog feeding study with a NOEL of 40 mg/kg/day; a 2-year rat feeding study with a NOEL of 30 mg/kg/day; a 2-year mouse feeding study with a NOEL of 30 mg/kg/day; a 3-generation rat reproduction study with a NOEL of 30 mg/kg/day; and three mutagenic studies (rec-assay, host mediated, and Ames test), all negative for mutagenic effects. A mammalian teratology study is currently lacking; a new teratology study in rats was expected to be initiated in 1982 and in a second species in 1983. The proposed uses are supported by information on reproductive effects from a 3-generation reproduction study classified as Core-Minimum and a teratology study classified as Supplementary, together with the determination that there is no incremental increase in dietary exposure from these uses.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 30 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.3 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 18.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0182 mg/day; the current action will not result in an increase in the TMRC. Published tolerances utilize 0.10 percent of the ADI; the current action will not increase this percentage.

The nature of the residues is adequately understood and an adequate analytical method, high-pressure liquid chromatography utilizing ultraviolet detection, is available for enforcement purposes. Because no livestock feed items are involved, there will be no

secondary residues in meat, milk, poultry, or eggs. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.328 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 2E2759/P282]. All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 31, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.328 be amended by adding and alphabetically inserting the raw agricultural commodities marjoram, rosemary, and summer and winter savory to read as follows:

§ 180.328 N,N-Diethyl-2-(1-naphthalenyloxy)propionamide; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Marjoram	0.1
* * * * *	
Rosemary	0.1
Savory, summer	0.1
Savory, winter	0.1
* * * * *	

[FR Doc. 83-3455 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2758/P280; PH-FR 2301-6]

O,O-Diethyl O-(2-Isopropyl-6-Methyl-4-Pyrimidinyl) Phosphorothioate; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate (Diazinon) in or on the raw agricultural commodity Chinese cabbage. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before March 11, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2758 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Florida.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate (Diazinon) in or on the raw agricultural commodity Chinese cabbage at 0.75 part per million (ppm). the petition was later amended to propose a tolerance of 0.7 ppm.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance included an NCI bioassay (based on 2-year oncogenicity studies) which was negative for oncogenicity in rats and mice; a multi-generation rat reproduction study with a no-observed-effect level (NOEL) of 0.4 mg/kg/day; a 106-week monkey feeding study with a cholinesterase (ChE) NOEL of 1.0 ppm; a 90-day rat feeding study with a ChE NOEL of 0.025 mg/kg/day; a 90-day dog feeding study with a ChE NOEL of 0.02 mg/kg/day; a 2-year rat feeding study with a ChE NOEL not demonstrated at 10 ppm (lowest dose tested); a 2-year dog feeding study with a ChE NOEL not demonstrated at 160 ppm (lowest dose tested); a rabbit teratology study negative for teratogenic and fetotoxic effects at 100 mg/kg (highest level fed) during days 6 to 18 of gestation; a hen demyelination study which was negative at 100 mg/kg.

The acceptable daily intake (ADI), based on the 90-day dog feeding study (NOEL of 0.020 mg/kg/day, or 0.80 ppm) and using a 10-fold safety factor, is calculated to be 0.0020 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.1200 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.4215 mg/day; the current action will increase the TMRC by 0.0003 mg/day (0.07 percent). The current action will utilize 0.29 percent of the ADI for this chemical.

Tolerances have been established in the past for diazinon at 0.75 ppm in or on most other leafy vegetables, including broccoli, cabbage, cauliflower, Brussels sprouts, celery, collards, endive, kale, lettuce, mustard greens, parsley, spinach, Swiss chard, and watercress. On September 29, 1982 (47 FR 42738), a rule was published which amended 40 CFR 180.153 (among several regulations) by adjusting current U.S. tolerances to conform with tolerances set by the Codex Alimentarius Commission, in those cases where residue data based on U.S. use patterns

would support the adjusted tolerance level. Therefore, the established 0.75 ppm tolerances for most of the leafy vegetables were adjusted downward to 0.7 ppm; this level has also been determined to be appropriate for Chinese cabbage.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography, is available for enforcement purposes. No secondary residues are expected in meat, milk, poultry and eggs since Chinese cabbage is not an animal feed item. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.153 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a peticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 409(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP 2E2758/P280]. All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a subtantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 31, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.153 be amended by adding and alphabetically inserting the raw agricultural commodity Chinese cabbage to read as follows:

§ 180.53 O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; tolerances for residues.

. . . . . .

Commodities	Parts per million
. . . . .	
Cabbage, Chinese	0.7
. . . . .	

[FR Doc. 83-3456 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E1845/6E1853/7E1931/2E2734/P278; PH-FRL 2301-4]

Paraquat; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the desiccant, defoiliant, and herbicide paraquat in or on certain raw agricultural commodities. The proposed regulation to establish maximum permissible levels for residues of the pesticide in or on the commodities were requested, pursuant to petitions submitted, by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before March 11, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192), at the address given above.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted the following pesticide petitions to EPA on behalf of the IR-4 Technical Committee and the named Agricultural Experiment Stations: 6E1845 on behalf of the Agricultural Experiment Stations of California, Illinois, Massachusetts, Maryland, Michigan, New Jersey, and Virginia; 6E1853 on behalf of the Agricultural Experiment Stations of Florida, Louisiana, Connecticut, Indiana, Texas, Maryland, and California; 7E1931 on behalf of the Agricultural Experiment Station of California; and 2E2734 on behalf of the Agricultural Experiment Stations of Arkansas, California, Florida, Georgia, Illinois, Kentucky; Louisiana, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Texas, and Washington.

These pesticide petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide paraquat (1,1'-dimethyl-4,4'-bipyridinium ion), resulting from application of either the bis (methyl sulfate) or the dichloride salt (both calculated as the cation), in or on the following raw agricultural commodities: PP 6E1845—asparagus at 0.5 part per million (ppm); PP 6E1853—strawberries at 0.25 ppm (resulting from application of the herbicide to the shielded growing raw agricultural commodity); PP 7E1931—onions (dry bulb or green) at 0.05 ppm; and PP 2E2734—broccoli at 0.05 ppm.

The data submitted in the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances were several rat acute oral feeding studies with LD_{50} values of 43-127 milligrams (mg) paraquat cation/kilogram kg) of body weight (bw); a 90-day dog feeding study with a no-observed-effect level (NOEL) of 20 ppm of paraquat cation (0.5 mg/kg bw); a 1-generation rat reproduction study with a NOEL of 100 ppm paraquat cation (10 mg/kg bw, highest level tested); two teratology studies; rat and mouse, with no observed teratogenic effects at 1.0 mg paraquat cation/kg bw and 10 mg paraquat cation/kg bw, respectively; mutagenic studies with *Salmonella typhimurium* (paraquat was not mutagenic with the following histidine-requiring strains: TA 1535, TA 1537, TA 1538, TA 98, TA 100); and a mutagenic dominant lethal test (no observed mutagenicity to male CD-1

strain of mice). A 1-year dog feeding study and a rat chronic feeding/oncogenic study are currently lacking and must be submitted in the future to support tolerances uses which might result in significant additional dietary exposure; the rat study is currently in progress. Mouse oncogenic and 2-generation rat reproduction studies have been submitted and are currently under review; a preliminary review indicated no adverse effects.

The theoretical maximum residue contribution (TRMC) from existing and pending tolerances (excluding current actions) for a 1.5 kg daily diet is calculated to be 0.1072 mg/day. The current action for asparagus (6E1845) will increase the TMRC by 0.00107 mg/kg/day, or 0.98 percent; strawberries (6E1853) will add 0.00069 mg/day to the TMRC, or 0.64 percent; onions will add 0.00062 mg/day to the TRMC, or 0.58 percent; and broccoli will add 0.00008 mg/day to the TRMC, or 0.07 percent.

No secondary residues of paraquat are expected in meat, milk, poultry, or eggs from the uses for asparagus, strawberries, or onions since none of these commodities are used as animal feed items. Currently established tolerances for negligible residues of paraquat in meat and milk are adequate to cover any secondary residues resulting from treated broccoli used as animal feed.

Tolerances have previously been established for paraquat on a wide variety of food commodities, including meat, milk, grain, fruits, vegetables, and nuts, at levels ranging from 0.01 ppm to 2 ppm.

The Agency has concluded that the amount of paraquat added to the diet from the proposed uses will not significantly increase dietary exposure in humans. Thus, the tolerances that will be established by this proposed rule are considered to pose a negligible increment in risk.

The nature of the residues in plants is adequately understood and adequate analytical methods, spectrophotometric, is available for enforcement purposes. EPA has reviewed paraquat as a candidate for a rebuttable presumption against registration (RPAR), and determined that potential effects do not merit issuance of an RPAR.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.205 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 6E1845/6E1853/7E1931/2E2734/P278]. All written comments filed in response to these petitions will be available for public inspection in the office of Donald Stubbs at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 31, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.205 be amended by adding and alphabetically inserting the raw agricultural commodities asparagus, broccoli, onions (dry bulb), onions (green), and strawberries to read as follows:

§ 180.205 Paraquat; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Asparagus	0.5
* * * * *	
Broccoli	0.05
Onions, dry bulb	0.05
Onions, green	0.05
Strawberries	0.25

[FR Doc. 83-3454 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

Office of Plans, Programs, and Financial Management

41 CFR Part 101-41

Supporting Documentation for Supplemental Billings (Claims)

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: This regulation amends the policy and procedures concerning required documentation to support supplemental billings (claims) in connection with freight transportation services furnished the U.S. Government. This amendment requires that a copy of the bill of lading and a copy of the line-haul carrier's original voucher be submitted in support of a supplemental billing to Government agency finance offices. This documentation will permit agency finance offices to make payment within 30 days as required by the Prompt Payment Act (Pub. L. 97-177). This new procedure will reduce the potential for improper or duplicate payments as well as decrease the various finance offices' administrative workloads.

DATE: Written comments must be received by April 11, 1983.

ADDRESS: Comments should be sent to the General Services Administration (BWCP), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Claims Branch, Office of Transportation Audits (202-786-3000).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects.

The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

It is proposed to amend 41 CFR Part 101–41 as follows:

Subpart 101–41.3—Freight Transportation Services Furnished for the Account of the United States

1. Section 101–41.309–2(c) is revised to read as follows:

§ 101–41.309–2 Motor carrier or freight forwarder destination storage in transit of household goods or mobile dwellings.

* * * * *

(c) Supplemental billing for accessorial charges. SF 1113, Public Voucher for Transportation Charges, bearing the same bill number as the line-haul carrier's original bill plus a letter suffix; e.g. 12345–A, shall be used to bill any accessorial charges accruing at the point of destination not included in the line-haul carrier's original billing. The voucher shall identify the bill of lading and the tariff or quotation authority for the accessorial charges. The voucher shall be supported by the following:

(1) A statement of services ordered and furnished, signed by or for the person who ordered the accessorial services;

(2) A statement signed by the property owner or his authorized agent, certifying receipt of the property at his residence and listing any loss or damage;

(3) A copy of the bill of lading bearing the fund citation; and,

(4) A copy of the original SF 1113, Public Voucher for Transportation Charges, which was submitted by the line-haul carrier.

The originals of those statements listed in items 1 and 2 shall be used as support for accessorial charges.

* * * * *

Subpart 101–41.6—Claims Against the United States Relating to Transportation Services

2. Section 101–41.603–2(a) is revised to read as follows:

§ 101–41.603–2 Form of claims.

(a) Charges claimed for passenger or freight transportation services shall be billed on SF 1113, Public Voucher for Transportation Charges, in the manner prescribed in §§ 101–41.214 and 101–41.310. Those claims for an amount in addition to that originally paid to the carrier for the same service, or for an amount collected by GSA or by another agency shall be presented on SF 1113 in the form of a supplemental bill (claim) bearing the same number as the original bill but with an alphabetical suffix. An alphabetical sequence of suffixes shall be used for any additional supplemental bills. Each supplemental bill (claim) shall be accompanied by a copy of the GBL ordering the service and a copy of the original voucher which was submitted by the line-haul carrier. Generally only one supplemental bill shall be presented for all supplemental charges relating to the items paid on the original bill.

* * * * *

(31 U.S.C. 244 and Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: January 14, 1983.

Raymond A. Fontaine,

Assistant Administrator.

[FR Doc. 83–3478 Filed 2–8–83; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83–31; RM–4239]

FM Broadcast Station in Santa Rosa Beach, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 257A to Santa Rosa Beach, Florida, in response to a petition filed by Mark Carter. The proposal could provide a first FM service to that community.

DATES: Comments must be filed on or before March 14, 1983, and reply comments must be filed on or before March 29, 1983.

ADDRESS: Federal Communication Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 17, 1983.

Released: January 28, 1983.

1. A petition for rule making was filed October 28, 1982, by Mark Carter ("petitioner") proposing the assignment of Channel 292A to Santa Rosa Beach, Florida, as its first FM assignment. Petitioner filed comments in support of the proposal and expressed an interest in filing an application for the channel, if assigned.

2. The assignment of Channel 292A to Santa Rosa Beach, Florida, would be short spaced to a recent assignment of Channel 292A to Panama City, Florida (BC Docket 82–563), released December 23, 1982. The distance between these two Communities is approximately 37 miles, whereas a distance of 65 miles is required. However, a staff study indicates that Channel 257A is alternately available at Santa Rosa Beach, Florida. The channel can be assigned in compliance with the minimum distance separation requirements.

3. In view of the fact that the proposed assignment could provide a first FM broadcast service to Santa Rosa Beach, Florida, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules with respect to the following community:

City	Channel No.	
	Present	Proposed
Santa Rosa Beach, Florida	...	257A

4. The Commission's authority to institute rule making proceedings showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before March 14, 1983, and reply comments on or before March 29, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to

amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, member of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes and *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes and *ex parte presentation and shall not be considered in the proceeding.*

(Secs. 4, 303, 48 stat., as amended, 1068, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-3436 Filed 2-8-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-33; RM-4224]

FM Broadcaster Station in Lihue, Hawaii; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute Class C Channel 245 for 224A of Lihue, Hawaii, and to modify the Class A permit for Station KJAD (FM) accordingly, in response to a petition filed by KUAI, Inc.

DATES: Comments must be filed on or before March 14, 1983, and reply comments must be filed on or before March 29, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 19, 1983.

Released: January 28, 1983.

1. A petition for rule making was filed October 19, 1982, by KUAI, Inc. ("petitioner")[1] which seeks to substitute Class C Channel 245 for Channel 224A at Lihue, Hawaii, and to modify the permit for Station KJAD (FM) to specify operation on Channel 245.

2. Petitioner submitted information in support of the proposal and stated that if this petition is granted, it will submit the appropriate engineering data to support an application for modification of its construction permit. Petitioner noted that due to a number of difficulties, KUAI was unable to secure a transmitter site until April of 1982 even though its construction permit for Channel 224A was granted on September 9, 1979. Preliminary tests at the site by its consulting engineer revealed the fact that the signal of the proposed Class A station would not cover the entire area because of its large growth since the original grant of the construction permit.

3. We believe that the petitioner's proposal warrants consideration. In accordance with our established policy, we shall propose to modify the permit of Station KJAD (FM) (Channel 224A) to specify operation on Channel 245. However, if another party should

[1] Petitioner is the permittee of Station KJAD (FM) (Channel 224A) in Lihue, Hawaii.

indicate an interest in the Class C assignment, then the modification could not be implemented. Instead, an opportunity for the filing of a competing application must be provided. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

4. In view of the apparent need for a wide coverage area FM assignment, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, as it pertains to Lihue, Hawaii, as follows:

City	Channel No.	
	Present	Proposed
Lihue, Hawaii	224A, 228A	228A, 245

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before March 14, 1983, and reply comments on or before March 29, 1983, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-3437 Filed 2-8-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-34; RM-4227]

FM Broadcast Station in Emmett, Idaho; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Class C Channel 270 for Channel 269A at Emmett, Idaho, and modification of the Class A license, in response to a petition filed by Emmett Valley Broadcasters, licensee of Station KMFE(FM).

DATES: Comments must be filed on or before March 14, 1983, and reply comments must be filed on or before March 29, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 19, 1983.

Released: January 28, 1983.

1. A petition for rule making was filed on October 20, 1982, by Emmett Valley Broadcasters ("petitioner")[1] seeking to substitute Class C Channel 270 for 269A at Emmett, Idaho, and to modify the license for station WMFE(FM) (Channel 269A) to specify operation on Channel 270.

2. Petitioner submitted population and demographic information in support of the proposal. It noted that the proposed assignment would eliminate the current competitive disadvantage inasmuch as the other two stations are operating at much higher power. Petitioner also states that the proposed assignment would eliminate the intermixture of Class A and C channels currently existing in the community. However, the action taken in BC Docket No. 80–130, *Revision of FM Policies and Procedures*, 90 F.C.C. 2d 88 (1982) has made these issues irrelevant to the present proceeding.

3. We believe the petitioner's proposal warrants consideration. In accordance with our established policy, we shall propose to modify the license of Station KMFE(FM) (Channel 269A) to specify operation on Channel 270. However, if another party should indicate an interest in the Class C assignment, then the modification could not be implemented. Instead, an opportunity for the filing of a competing application must be provided. See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

4. In view of the apparent need for a third wide coverage area FM station, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, as it pertains to Emmett, Idaho, as follows:

City	Channel No.	
	Present	Proposed
Emmett, Idaho	226, 231, and 269A	226, 231, and 270

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

[1] Petitioner is the licensee of Station KMFE(FM) Channel 269A, Emmett, Idaho.

6. Interested parties may file comments on or before March 14, 1983, and reply comments on or before March 29, 1983, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested

parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-3439 Filed 2-8-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-38; RM-4237]

FM Broadcast Station in Vimville, Mississippi; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign Channel 296A to Vimville, Mississippi, as that community's first local FM service, in response to a petition filed by Matthew D. Wiggins, Jr.

DATES: Comments must be filed on or before March 14, 1983, and reply comments must be filed on or before March 29, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 19, 1983.

Released: January 28, 1983.

1. Before the Commission is a petition for rule making filed by Matthew D. Wiggins, Jr. ("petitioner") on October 26, 1982, requesting the assignment of FM Channel 296A to Vimville, Mississippi, as that community's first FM assignment. Petitioner indicated that it will apply for the channel, if assigned.

2. Petitioner states that Vimville is an unincorporated rural community which, although listed in the 1982 edition of the Rand-McNally Atlas, does not reflect any population grouping therefor. However, petitioner indicates that Vimville contains several business establishments, residential dwellings and a private school which offers educational opportunities at all levels.

3. In the *Second Report and Order* in BC Docket No. 80-130, *Revisions of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982), the Commission eliminated many of its assignment requirements. Nevertheless, it stressed therein that section 307(b) necessitates that we continue to require assignments to "communities" as a geographically identifiable population grouping. If the community is incorporated or listed in the U.S. Census, that is generally sufficient to satisfy its status. However, in the absence of such reognizable community status, the petitioner is required to supply the Commission with adequate information to demonstrate that such a place is a geographically identifiable population grouping and hence may qualify as a community for section 307(b) purposes. See, *Yorktown, Virginia*, 38 FR 6695, released March 12, 1973 *(Notice)*.

4. Based on the information submitted by petitioner, the Commission does not believe that a final determination can be made as to Vimville's community status. We believe it appropriate to further investigate this matter through the solicitation of comments. Accordingly, petitioner is required to provide further information to demonstrate how Vimville may qualify as a "community" for assignment purposes.

5. In order to accommodate this proposal, the transmitter site must be located at least 4.3 miles southeast of Vimville to avoid shortspacing to Station WLSM (Channel 296A) in Louisville, Mississippi.

6. In view of the above, the Commission believes it is appropriate to solicit comments on the proposal to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to Vimville, Mississippi, as follows:

City	Channel No.	
	Present	Proposed
Vimville, Mississippi		296A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before March 14, 1983, and reply comments on or before March 29, 1983, and are advised to read the Appendix for proper procedures.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634.6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission porceedings, such as this one, which invlove channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set fourth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc 83-3440 Filed 2-8-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-32; RM-4238]

FM Broadcast Station in Carlsbad, New Mexico; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Class C FM Channel 281 to Carlsbad, New Mexico, in response to a petition filed by KOLOB Broadcasting, Inc. The proposal could provide a second FM service to that community.

DATES: Comments must be filed on or before March 14, 1983, and reply comments must be filed on or before March 29, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

Adopted: January 19, 1983.

Released: January 28, 1983.

1. A petition for rule making was filed October 27, 1982, by KOLOB Broadcasting, Inc. ("petitioner") proposing the assignment of Class C FM Channel 254 to Carlsbad, New Mexico, as its second FM assignment. Petitioner filed comments in support of the proposal and expressed an interest in applying for the channel, if assigned.

2. The assignment of Channel 254 to Carlsbad, New Mexico, would be short-spaced due to a proposal to add a Channel 254 to Maljamar, New Mexico (BC Docket No. 82-698). The distance between the two communities is approximately 44 miles, whereas a distance of 180 miles is required. However, a staff study indicates that Class C Channel 281 is available at Carlsbad, New Mexico, as an alternative. The channel can be assigned in compliance with the minimum distance separation requirements.

3. Since Carlsbad is located within 320 kilometers (199 miles) of the U.S.-Mexican border, the proposed assignment requires the concurrence of the Mexican government.

4. In view of the fact that the proposed assignment could provide a second FM broadcast service to Carlsbad, New Mexico, lthe Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules with respect to the following community:

City	Channel No.	
	Present	Proposed
Carlsbad, N. Mex.	221A	221A, 281

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

Interested parties may file comments on or before March 14, 1982, and reply comments on or before March 29, 1982, and are advised to read the Appendix for the proper procedures.

The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §§ 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-3438 Filed 2-8-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[Gen. Docket No. 82-797; FCC 82-523]

Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests public comment concerning possible expansions of the rights and protections available to sellers of broadcast stations in seller-financed transactions. This action is taken in the interest of facilitating minority ownership.

DATES: Comments and reply comments filed in responses to the Notice must be filed on or before March 14, 1983, and March 29, 1983, respectively.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Ava H. Berland, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television and Radio Broadcast.

In the matter of Commission policy regarding the advancement of minority ownership in broadcasting; Gen. Docket No. 82-797.

Notice of Proposed Rule Making

Adopted: December 2, 1982.

Released: December 13, 1982.

By the Commission: Chairman Fowler issuing a separate statement.

Introduction

1. The Commission has traditionally considered the under-representation of minority points of view over the airwaves as detrimental to minorities [1] and the general public. Accordingly, we have taken steps to enhance the ownership and participation of minorities in the media, with the intent of thereby increasing diversity in the control of the media and thus diversity in the selection of available programming, benefitting the public and serving the principle of the First Amendment.[2] This Notice of Proposed Rule Making will deal with our continuing concern with enhancing minority ownership of broadcast properties.

2. Given the current economic conditions of the telecommunications market,[3] the Advisory Committee on Alternative Financing for Opportunities in Telecommunications (Advisory Committee) [4] stated that seller financing in station transfers has become a prevelant practice and should be encouraged, particularly since it is obviously one of the ways that minorities can obtain broadcasting properties.[5] Although a seller-creditor

[1] For purposes of this Notice, the term "minority" includes American Indians or Alaskan Natives, Asians and Pacific Islanders, Blacks and Hispanics. 47 U.S.C. 309(i)(3)(C).

[2] The First Amendment "rests on the assumption that the widest possible dissemination from diverse and antagonistic sources is essential to the welfare of the public * * *" *Associated Press* v. *United States*, 326 U.S. 1, 20 (1943).

[3] The Advisory Committee (*See* n. 4, *infra.*) cited two structural problems in the marketplace that affect "*all* broadcasters, particularly small ones," in obtaining capital as including:

(1) The current high interest rates which reduce the comfort level of lenders in all investments (thereby increasing the level of equity required to attain a given capitalization), and which consume cash flow (reducing immediate return on equity); and

(2) The fact that presently broadcasting is not providing a high enough return on equity invested to attract venture capital participation. *Final Report of the Advisory Committee on Alternative Financing for Minority Opportunities in Telecommunications*, pp. 25-27 (May 1982).

[4] We created the Advisory Committee in September of 1981 for the purpose of exploring means to facilitate minority ownership of telecommunications properties.

[5] According to the Advisory Committee, "[i]n 1981, of the 487 station transfers filed with the FCC, two-thirds involved some form of seller financing." *Final Report of the Advisory Committee on Alternative Financing for Minority Opportunities in Telecommunications, p. 33 (May 1982) (citing Broadcast Investor*, April 22, 1982, Issue No. II, p. 1, Paul Kagan Associates, Inc., Carmel, Calif.).

currently may take a security interest in the station's physical assets or stock in the corporate licensee [6] as protection against the purchaser's possible default, the Advisory Committee believed that seller-financed transfers further would be stimulated if the seller were afforded additional protection. Specifically, the Advisory Committee recommended that in those cases where the seller provides financing, the seller-creditor's rights be expanded to include a right of reversionary interest in the license.

3. There is a longstanding principle, followed by the Commission [7] and affirmed by the United States Supreme Court,[8] that a broadcast license is a valuable, though limited, privilege to utilize the airwaves, rather than a property right. As such, the license has not been subject to a reversionary interest, a mortgage, a lien, a pledge or any other form of security.[9] This principle appears to be dictated by the Communications Act of 1934, as amended. Specifically, 47 U.S.C. 301 states, in pertinent part, that it is the purpose of the Act "to provide for the use of (radio transmissions) channels, *but not the ownership thereof,* by persons for limited periods of time, under licenses granted by Federal authority, and no such license shall be construed to create any right, beyond the terms, conditions and period of the license * * *" (italics added). Additionally, 47 U.S.C. 304 requires an applicant for a license to "waive any claims to the use of any particular frequency * * * because of the previous use of the same, whether by license or otherwise," and 47 U.S.C. 309(h) requires a station license to contain the following statement: "The station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated by the license beyond the term thereof * * *." Finally, 47 U.S.C. 310(d) requires Commission approval prior to the transfer, assignment or disposal of righs in a construction permit or station license. The corollary Commission rule is contained in 47 CFR § 73.1150 which prohibits agreements, express or implied, that allow a licensee to: (1) Retain an interest in the license; (2) claim a right to future assignment of the license; or (3) reserve a privilege to use the broadcast facilities, upon the sale or transfer of its interest in the broadcast station.[10]

4. We recognize that seller financing may facilitate the sale of a broadcast property, but limitations have been imposed on the types of security interests sellers can retain as part of the financing arrangements. We believe it appropriate to inquire as to whether certain limitations could be removed, consistent with the provisions of the Communications Act, so as to further encourage the use of this financing tool, particularly where the transaction would enhance minority ownership of the media of mass communications. Accordingly, interested parties are invited to address themselves to the type of security interest that may be retained by a seller creditor; whether that interest can or should include a reversionary interest in the license itself; and the legal process, if any, that should be required before the creditor could exercise its reversionary interest.

5. *Regulatory Flexibility Act-Initial Analysis.*

I. *Reason for action:* Since seller-financed transactions represent one method by which minorities may acquire broadcast facilities, we are proposing to examine the protections currently available to seller-lenders with a view towards possibly expanding their protection and thereby stimulating such transactions.

II. *The objective:* To encourage seller financed transactions as a means to facilitate the transfer of broadcast properties.

III. *Legal basis:* Authority to consider expanding seller-creditors' protection is premised upon 47 U.S.C. 310(d) which empowers the Commission to approve of transfers.

IV. *Description of potential impact and number of small entities affected:* In general, the impact of licensee-seller additional protections may encourage seller-financing and thus may assist new entrants into the broadcasting industry. Established, as well as potential broadcasters, may be affected.

V. *Record Keeping and other compliance requirements:* The proposals would impose no new record keeping burdens for broadcasters.

VI. *Federal rules which overlap, duplicates or conflict with these rules:* None.

VII. *Any significant alternatives minimizing impact on small entities and consistent with stated objectives:* The expansion of seller-creditor's protections would not impose any burdens upon small entities, rather it may increase small entities' opportunities to enter the broadcasting industry.

Filing Responses To This Notice

6. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressifng matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation; that written summary must be served on the Commission's

[6] The Commission already recognizes and approves of contractual arrangements, whereby 50% or more of the stock is pledged, where the contract: (1) Provides that the licensee-borrower retains the voting rights; and (2) provides for a public or private sale which would ensure that the licensee's equity is protected. Moreover, 49.99% of the stock (representing the absence of positive or negative control) currently may be foreclosed, without prior Commission approval under 47 U.S.C. 310.

[7] *See, eg., Churchill Tabernacle* v. *FCC,* 160 F. 2d 244 (D.C. Cir. 1947); *Radio KDAN, Inc.,* 11 F.C.C. 2d 934 (1968); *Yankee Network, Inc.,* 13 F.C.C. 1014 (1949), *Bonanaza Broadcasting Corp.,* 11 RR 2d 1072 (1967); *Alabama Polytechnic Institute,* 7 F.C.C. 225 (1939); *Associated Broadcasters, Inc.,* 6 F.C.C. 387 (1939).

[8] *Ashbaker Radio Corp.,* v. *FCC,* 326 U.S. 327, 331–32 (1945); *FCC* v. *Sanders Bros. Radio Station,* 309 U.S. 470, 475 (1940).

[9] For instance, in *Radio KOAN, Inc.,* 13 RR 2d 100 (1968), the Commission declared a contractual provision that purported to mortgage and create a reversionary interest in the license as *void ab initio.* The Commission stated, "The extraordinary notion that a station license issued by this Commission is a morgageable chattel in the ordinary commercial sense is untenable." *Id.* at 101. Likewise, the Commission has prohibited the sale or transfer of a bare license. *Bonanza Broadcasting Corp.,* 11 RR 2d 1072, 1073 (1967); *Donald L. Horton,* 11 RR 2d 417, 419–420 (1967).

[10] Specifically, § 73.1150 provides: (a) In transferring a broadcast station, the licensee may retain no right of reversion of the license, no right to reassignment of the license in the future, and may not reserve the right to use the facilities of the station for any period whatsoever; (b) no license, renewal of license, assignement of license or transfer of control of a corporate licensee will be granted or authorized if there is a contract, arrangement or understanding, express or implied pursuant to which, as consideration or partial consideration for the assignment or transfer, such rights, as state in paragraph (a) of this section, are retained.

Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally,* § 1.1231 of the Commission's Rules and Regulations, 47 CFR 1.1231.

7. Pursuant to applicable procedures set out in §§ 1.4, 1.415 and 1.419 of the Commission's Rules and Regulations, 47 CFR 1.4, 1.415 and 1.419, interested parties may file comments on or before ———1983, and reply comments on or before————, 1983. All submissions by parties must be made in written comments, reply comments or other appropriate pleadings. Reply comments shall be served on the person(s) who filed comments to which the reply is directed.

8. In accordance with the provisions of § 1.419 of the Commission's rules and Regulations, 47 CFR 1.419, an original and 5 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished to the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number in the heading. All filings in this proceeding will be available for public inspection by interested persons during regular business hours in the Commission's Public Reference room at its Headquarters, 1919 M Street, N.W., Washington, D.C. 20554.

9. For further information contact Ava H. Berland, Mass Media Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricario,

Secretary.

Statement on Recommendations of Advisory Committee on Minority Ownership; Mark S. Fowler, Chairman, FCC

December 2, 1982.

When I became Chairman, one of my most important goals was to create more opportunities for minorities in telecommunications. The more I studied the problem, the more I became convinced that the three major road blocks to more minority ownership are money, money and money. Today's actions aim squarely at the problem of financing minority opportunities. They are the result of hard work by the Advisory Committee, headed ably by my colleague, Henry Rivera.

More than anything, today's actions take a big step in the right direction in fulfilling the goal of full and fair entry into telecommunications for all Americans. By focusing on capital formation, they identify the chief problem and provide the start of a solution. No set of actions, I realize, can bring sudden equality of opportunity to the telecommunications marketplace. But by aiding entry for the minority entrepreneur, we aim our efforts in the right direction.

As President Reagan has said, the best hope for a strong economic future rests with a healthy, growing private sector. And the private sector does best when all have opportunities to enter it.

[FR Doc. 83-3477 Filed 2-8-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-16; RM-3103; RM-3740; FCC 83-12]

Use of Toroidal Transformers as a Method of Deriving Current Samples in Directional (AM) Antenna Systems; and Use of Radio Frequency Relays in Sampling Element Transmission Lines

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The proposed rules would expand the permissible uses of toroidal current transformers and allow the use of centrally located RF switching relays at directional AM broadcast stations. These rule changes are required if AM broadcasters are to benefit from advances in state-of-the-art broadcasting technology and are intended to facilitate the upgrading of directional AM broadcast station antenna current sampling systems.

DATES: Comments must be received on or before on March 21, 1983. Reply comments must be received on or before April 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr., Mass Media Bureau, Policy and Rules Division, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: January 13, 1983.

Released: January 19, 1983.

In the matter of; amendment of § 73.68 of the Rules to expand the use of toroidal transformers as a method of deriving current samples in directional (AM) antenna systems; and, to provide for the use of radio frequency relays in sampling element transmission lines; MM Docket No. 83–16; RM–3103; RM–3740.

Introduction

1. The Commission requires AM stations operating with directional coverage patterns to continuously monitor the amplitude and phase of the current delivererd to each tower in the array.[1] The values obtained are used to determine the radiation pattern that must be properly maintained if interference to other stations is to be avoided.

2. Monitoring is accomplished using "pick-up" devices that sample the current flowing into each tower, and coaxial transmission lines that connect the "pick-up" devices to an antenna monitor.[2] Two types of "pick-up" devices are allowed: "open loops," mounted on the side of each antenna tower, or, in certain circumstances, a current transformer, located at the base of each tower.[3]

3. If "open loop" sampling antennas are designed, installed and maintained properly, the sample current readings they provide will have a direct relationship to the currents in the various towers and can be used to verify that antenna system directionality is as specified in the station license. If not, an improper radiation pattern may result and cause interference to other stations.

4. Over the last decade, a device known as a toroidal current transformer has gained popularity as a substitute for the traditional "open loop" sampling antenna. These transformers are made by winding a coil of wire around a circular core of ferrite material enclosed in a shielded container. The container minimizes signal pickup from any other nearby antennas. The center conductor of the coaxial cable that feeds the transmitting tower is passed through the center of the toroidal transformer causing a small amount of signal to be transferred to the winding where it is then relayed (by way of still more coaxial cable) to the antenna monitor.

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[1] Directional patterns are created using two or more transmitting towers. Each tower receives the transmitter's signal (current) at different strengths (amplitudes) and times (phase)

[2] Antenna monitors measure the amplitude and phase of the currents in each tower and are type approved by the Commission to meet certain technical standards.

[3] The term "open loop" is used to describe a small antenna mounted on the side of a radiating tower. The amount of radiation absorbed by it is related to the value of the current in the tower. The current transformer derives its sampling signal from the current present at the base of the tower.

Toroidal current transformers require a high antenna base current ("open loops" do not), that may not always be available. They appear to be equal, if not better, in terms of accuracy and reliability than "open loops" because they are installed in the comparatively protected environment of the antenna tuning house at the base of each antenna tower. They are also easier to install and maintain.

Background

5. On January 10, 1973, the Commission adopted rules establishing standards for the type approval of AM directional antenna monitors, and established a schedule by which all directional AM stations were required to install approved monitors.[4] The Report and Order noted that the use of an accurate antenna monitor alone could not guarantee maintenance of the proper radiation pattern because it depended upon the associated antenna sampling system for its indications. If this system were poorly designed, installed or maintained, the sample currents furnished the monitor could be inaccurate. Therefore, in a separate rule making in Docket No. 19692, the Commission proposed standards to govern sampling systems.

6. On February 4, 1976, the Commission adopted a Report and Order in Docket No. 19692 prescribing standards for antenna monitor sampling systems.[5] The standards applied to all stations issued construction permits after March 18, 1976, for either new or modified directional antenna facilities. Stations constructed prior to that date also could be required to meet the new standards if their monitoring systems were of patently marginal construction, or if unsatisfactory operation could be attributed to deficiencies in their existing monitoring system.

7. The improved performance provided by systems meeting the standards allowed stations to be exempted from certain inspection, monitoring, antenna proof and log keeping requirements. To obtain the exemptions, a description of the sampling system had to be submitted to the Commission for review and approval.

8. Based on the information then available, the specifications for antenna sampling systems included different requirements for towers having uniform cross sections or widths from those having tapered towers, or those exceeding 110° in electrical height.[6] Towers having non-uniform cross sections or exceeding 110° in height were required to use side mounted fixed sampling loops, whereas towers with uniform cross sections and lesser heights could use current transformers. Even though the Commission recognized the advantages of using toroidal current transformers, there was some concern expressed that due to the high base impedance or capacitance to ground of non-uniform cross section towers and towers of considerable heights, loops could provide a more accurate representation of the actual antenna radiation. Because of the various opinions expressed in the comments and the limited amount of data in the record to support the various opinions, the adopted rules were based on the most conservative engineering judgments. These rules also limited the use of toroidal current transformers.

Proposals

9. The Commission has before it a petition for rule making filed on April 4, 1978 (RM–3103) by the Association of Federal Communications Consulting Engineers ("AFCCE") to amend the rules to permit wider use of toroidal current transformers. AFCCE filed comments on its petition on August 11, 1978, urging the Commission to proceed with rule making, and suggesting possible procedures for validating the reliability of the sampling systems recommended. No other comments were received.

10. Another petition concerning antenna sampling systems was filed on July 31, 1980, by Charles P. Crossno. It seeks amendment of § 73.68 to permit radio frequency relays in antenna sampling current transmission lines to reduce the amount of coaxial cable normally required. No comments were received on this petition.

Discussion

11. AFCCE indicates that there is a consensus among its members that the use of shielded toroidal current transformers can be expanded, based on performance records obtained over the past several years where such coupling units were installed on larger or tapered towers with stable results. AFCCE now asserts that little, if any, accuracy is lost when toroidal current transformers are installed in lieu of conventional sampling loops.

12. As mentioned previously, a number of factors appear to make the use of toroidal current transformers desirable. Installation is generally simpler and less costly than "open loops." Further, toroidal current sampling transformers have the advantage of being enclosed in the tuning house, protected from the weather, and conveniently located for testing and maintenance.

13. In view of these considerations, AFCCE recommends that the rules be amended to allow the use of toroidal current transformers with antenna towers exceeding 110° in height, provided that the stations can demonstrate stable operation for a one-year period following the installation. Stations would be required to perform an antenna proof of performance, if there was a disturbance in the antenna pattern after changing the sampling system.

14. Although AFCCE originally requested that the Commission amend the rules by a reregulation Order with respect to non-uniform cross section towers under 110° in electrical height, we believe that such changes, together with other changes requested by the petitioner, should be included in this Notice in order that all interested parties may have an opportunity to comment. We recognize that there is still some difference of opinion among experienced radio engineers concerning the reliability of current transformers as sampling devices in some directional antenna systems. We also wish to avoid, if at all possible, a requirement that licensees make a detailed special showing of stability of the sampling system that would have to be reviewed and analyzed by the Commission's staff. We prefer to amend the rules to provide construction specifications which, if followed, would constitute a *prima facie* showing that the sampling system would have the prerequisite stability. Under the present rules, the licensee would be obligated to make any necessary modifications should the sampling system be unsatisfactory or unstable in any manner.

15. The Commission has examined the AFCCE proposal and we are not convinced that unrestricted use of toroidal transformers should be permitted. Information made available in earlier related proceedings indicates that these devices are not suitable for use in towers above approximately 130° in electrical height. Moreover, the showing proposed by the petitioner would unnecessarily burden the Commission's engineering staff.

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[4] See the Report and Order in Docket No. 18471, (38 FCC 2d 1172).

[5] See the Report and Order in Docket No. 19692, (57 FCC 2d 1085).

[6] "Electrical height" is the height of the tower relative to the wavelength of the station's operating frequency expressed in degrees. It may be calculated by multiplying the tower height by 360°, then dividing by the wavelength of the operating frequency, where the height and wavelength are in the same unit of measure.

16. Accordingly, in lieu of the AFCCE proposal, we propose to expand the use of toroidal current transformers, but only for towers up to 130° in electrical height, including folded unipole type antennas and self-supporting towers having a central common feedpoint for all tower legs, where their proper operation may reasonably be expected. We also propose to require a licensee to certify the stability of the sampling system by meeting required tolerances for a continuous thirty day period. This is policy currently applied to stations requesting program test authority subsequent to the filing of a license application. Once this stability is attained, a licensee would simply certify this fact to the Commission in an application for approval of the sampling system. No special or detailed showings would be required. If the required stability cannot be achieved, the Commission will consider granting the licensee special temporary authority for operation at variance with the parameters specified in the instrument of authorization until the problem is remedied. Comment is requested on the suitability of this proposed test period and certification procedure.

17. Toroidal current transformers, like sampling loops, are expected to meet the requirement in § 73.62 that relative amplitude readings be within 5% of the values specified in the instrument of authorization. Licenses also are reminded that in BC Docket No. 78–28, we have proposed to adopt a tolerance of ±3° in the relative phases of the antenna currents in the elements of non-critical directional arrays.[7]

18. Although not addressed in the AFCCE petition, we have received informal requests for waivers to permit the use of toroidal current transformer sampling devices with the "folded unipole" type of tall antenna tower where the design provides a relatively low impedance at the feed point at the base of the tower. The impedance of such antenna towers may be as stable as that of short towers with similar base impedances. Accordingly, we propose that current transformers be permissible as sampling units for a folded unipole antenna tower of any height, provided the base resistance and reactance do not exceed 70 ohms. We therefore seek comments as to whether the rules should be amended to provide for toroidal current transformers as sampling devices on tall folded unipole type antenna towers, the appropriateness of the proposed condition for such use, and whether the 30 day stability test should apply.

19. With regard to petition RM–3740, there appear to be advantages in using an impedance-matched radio frequency relay to switch sampling current signals from different antenna towers, provided the overall installation satisfies the requirements of § 73.68(a)(1). However, a slight variation in cable length may be appropriate to compensate for any effects of the relay itself. Most importantly, the phase readings taken through the relay should be identical with those with the relay system bypassed.

20. The petitioner suggests three safeguards to ensure the accuracy of readings taken through the switching relay. First, the lines extending from the switching point to the antenna monitor should be of identical type and electrical length and exposed to the same environment. (These requirements are derived from the more stringent recommendations contained in § 73.63(a)(1).) Second, the antenna monitor should be capable of being installed at the central switching point with no significant difference in observed ratios or phase indications. Lastly, upon installation, individual line impedance measurements should be made at ±15 kHz of the station's operating frequency at the antenna monitor end of the two sampling lines for each selected element, and these measurements, along with a schematic of the sampling system, should be filed with the application for station license.

21. The latter two proposals are not included in the rules we are proposing because the same readings in sampling current amplitude may not be obtainable due to reduced sampling line attenuation. Also, to provide for the "field" installation of the antenna monitor, flexible (and therefore braided) cable may be required to make the necessary connections. For some time, we have sought to minimize the use of such cable in areas of high field strength. Also, we would expect that any impedance-matched radio frequency relay designed for this purpose would be as electrically and physically stable as the coaxial cable connected to it. Any change in readings is likely to make apparent any failure in the sampling system or switching relay. Further, we expect that even if the relay is removed and the individual sampling lines are consecutively "patched in" to the antenna monitor, the difference in the path length and any impedance change will be so minimal that any change in the readings will be negligible. On the matter of sampling line impedance measurement, comments filed earlier in the Docket No. 19692 proceeding indicated that having a good match between the sampling element and the transmission line was not a factor that contributed significantly to overall system stability.

22. Accordingly, we believe that these recommendations of the petitioner are unnecessarily burdensome and without adequate compensatory benefit. They are therefore excluded from the proposed rules set forth in the Appendix. We also see no need for a special showing when an impedance-matched line relay is used in an antenna sampling system in the manner described. Nevertheless, we solicit comments on these issues and may include these or similar requirements in the final rules if the consensus of the comments is that they are necessary.

23. The Commission was questioned in the Docket No. 19692 proceeding as to why it was proposing new rules and technical standards at a time when it was generally seeking to eliminate rules that were meaningless or of questionable need. The National Association of Broadcasters expressed the opinion that the proposed rules could be so described. Responding to this charge in the Report and Order, the Commission agreed that proposing the new rules in the face of its ongoing deregulatory effort posed an apparent philosophical conflict, but that the general tenor of the comments filed in the proceeding suggested that an extensive need for antenna monitoring system upgrading existed. At that time, the Commission noted that many existing sampling systems evidently were installed without proper attention being given to the use of components and construction techniques that contributed to the stability of the system and minimized short and long term environmental effects. It further stated that the licensee's interest in minimizing immediate costs, rather than the engineer's aim toward maximizing long term performance, appeared to have exerted a predominant influence on the system design in many instances. The Commission also pointed out that the contrast between the heavily built transmission system used to feed power to the antenna, and the light, almost flimsy, construction of the antenna monitoring system was frequently cited in the comments. The questioning of a considerable percentage of stations using directional antennas as to antenna performance and the requirement to take corrective action were attributed,

[7] See Notice of Proposed Rule Making in the Matter of amendment of § 73.52 of the Commission's Rules and Regulations with respect to relative phase tolerance for directional AM stations, BC Docket no. 78–28 (43 FR 4647, February 3, 1978).

in considerable part, to these circumstances. In light of the above, the Commission concluded that a unique case existed for extending its regulatory control into the antenna monitoring system performance area.

24. Six years have now passed since the adoption of the Report and Order in Docket No. 19692. At this time, approximately 65% of all directional AM stations have received Commission approval for the their sampling systems pursuant to the provisions of § 73.68(c). We view this as a significant improvement in overall sampling system quality and we wish to commend those stations that have participated in the program. However, the number of stations with unapproved systems is still significant. Also, while compliance with directional array technical standards is of considerable importance in preventing interference to the operations of other stations, deviation from authorized parameters generally has a less significant effect on a licensee's individual service area. Therefore, we believe that this aspect of broadcast regulation should be retained. Nevertheless, the necessary rules should be flexible and as least burdensome as possible in order to obtain the desired effect. This has been our goal in formulating the instant proposal.

25. Accordingly, it is proposed to amend Part 73 of the Commission's Rules as set forth in the attached Appendix.

26. Authority for the action taken herein is contained in §§ 4(i) and 303(r) of the Communications Act of 1934, as amended.

27. Pursuant to procedure set forth in §§ 1.4, 1.415 and 1.419 of the Commission's Rules and Regulations, interested parties may file comments on or before March 21, 1983, and reply comments on or before April 20, 1983. All formal submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

28. In accordance with § 1.419 of the Commission's Rules and Regulations, an original and five copies of all comments, reply comments, pleadings, briefs or other documents shall be furnished the Commission. Members of the general public who wish to participate informally in this proceedings may submit one copy of their comments, specifying MM Docket Number 83– .

29. All filings in this proceeding will be available for examination by interested parties during regular business hours in the Commission' Public Reference Room at its headquarters at 1919 M St., NW., Washington, D.C.

30. The Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding since this proposal would simply provide for a procedural change allowing greater flexibility in the installation of AM station antenna monitoring systems. The rules herein proposed are completely optional in nature and would not compel licensees to acquire any new equipment, undertake new record-keeping requirements or modify existing practice in any way. Consequently, there would be no adverse economic impact on small business (or broadcast licensees), small organizations or small governmental jurisdictions.

31. It is ordered that the Secretary shall cause a copy of this Notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this Notice to be published in the **Federal Register**.

32. Further information on this proceeding may be obtained by contacting James E. McNally, Jr., Mass Media Bureau (202) 632–9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts presented to the Commission in proceedings such as this one will be disclosed in the public docket file.

33. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission, or oral presentations requested by the Commission. If a member of the public does wish to comment on the merits of this proceeding in this manner, he or she should follow the Commission's procedures governing *ex parte* contacts in informal rule making. A copy of these procedures is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554; (202) 632–7000.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 73—[AMENDED]

It is proposed to revise Part 73 of the Commission's Rules and Regulations as follows:

1. In § 73.68 paragraphs (a) (1) and (2) are revised and (a) (3) and (4) are added to read as follows:

§ 73.68 Sampling systems for antenna monitors.

(a) * * *

(1) All coaxial cable from the sampling elements to the antenna monitor, including cable used in the construction of isolation coils, except short lengths of flexible cable connecting the transmitter house sampling line termination to the monitor, must have a solid outer conductor and have uniform physical and electrical characteristics. The dielectric shall be either predominantly pressurized air or other inert gas, or foamed polyethylene.

(i) All sampling lines for a critical antenna array (i.e., an array for which the station authorization requires the maintenance of phase and current relationships within specified tolerances) must be of the same electrical length, with corresponding lengths of all lines exposed to equivalent environmental conditions.

(ii) For other arrays, lines of differing length may be employed, provided that the difference in length between the longest and the shortest line is not so great that, over the range of temperatures to which the system is exposed, predicted errors in indicated phase difference resulting from such temperature changes will exceed 0.5°.

(iii) A sampling line mounted on a tower must be adequately supported to prevent displacement, and must be protected against physical damage. Where feasible, sampling line sections between each tower base and the transmitter house shall be jacketed and buried: lines run above ground must be firmly supported, and protected against physical damage, with the outer conductor strapped to the station's ground system at such points as found necessary to minimize currents induced by antenna radiation.

(iv) All necessary connections and outdoor cable terminations must be made with waterproof fittings designed for use with the type of cable employed.

(v) For determining the permissible differences in line lengths that may be installed, the total difference between the highest listed normal daily maximum and lowest listed normal daily minimum temperatures as shown for the nearest location shown in the most recent issue of "Local Climatological Data Annual Summaries" shall be used in the calculations. This publication is available from: National Climatic Center, National Oceanic and

Atmospheric Administration, Asheville, North Carolina 28801.

(vi) The provisions of this subparagraph do not preclude the use of a centrally located impedance-matched radio frequency relay selection device to provide relative sampling currents to the antenna monitor over a single transmission line. However, the reference sampling line and the relative sampling line from the switching point to the antenna monitor must be identical in type and electrical length, and must be exposed to the same environment. The sampling line from each sampling element to the relay must conform to all relevant requirements indicated in this subparagraph.

(2) Except as provided below, sampling elements must be single turn, unshielded loops of extremely rigid construction, with ample, firmly positioned gaps at the open loop end, mounted on towers at a fixed orientation. Loops must be installed to operate at tower potential, provided that for towers less than 130° in electrical height, loops operating at ground potential may be used. Each loop must be mounted on the tower near the point of maximum tower current, but in no case less than 3 meters (10 feet) above ground.

(3) Shielded current transformers may be used in lieu of unshielded loops to extract samples from antenna feed lines at the base of each tower having a uniform cross-section more than 110° or less in electrical height.

(4) Shielded current transformers may be used in lieu of unshielded loops to extract samples from antenna feed line at the base of each tower having a uniform cross-section more than 110° but not greater than 130° in electrical height, self-supporting towers not exceeding 130° in electrical height and having a central common feedpoint for all tower legs, and folded unipole antennas of any height having a base resistance and reactance not exceeding 70 ohms, provided the following conditions are met:

(i) Stability of operation during a test period of 30 continuous days using the current transformers must demonstrate that the antenna monitor sample current ratios do not exceed 5% of those specified on the station authorization.

(ii) Failure to meet the stability requirement specified in (i) above will require that the licensee seek special temporary authority to operate at variance with the terms of the station instrument of authorization until the problem can be corrected.

(iii) A certification by the licensee that the sampling system meets the stability requirement specified in this paragraph must be included in the request for approval of the monitor sampling system together with the information specified in paragraph (c) below.

(iv) The FCC may request the licensee to conduct such other tests, or measurements, or submit additional data it deems necessary to determine the stability of the antenna sampling system.

* * * * *

[FR Doc. 83-3479 Filed 2-8-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 95

[PR Docket No. 82-799]

Amendment To Eliminate Individual Station Licenses in the Radio Control (R/C) Radio Service and the Citizens Band (CB) Radio Service; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Correction.

SUMMARY: The Commission is adopting an Erratum to the *Notice of Proposed Rule Making* in PR Docket No. 82-799, 47 FR 56677, correcting a typographical error in paragraph (e) of proposed § 95.206 of the rules. The error, changing a date from 1987 to 1982, would, if uncorrected, appear to indicate that the FCC proposed to withdraw certain frequencies from model aviators five years earlier than previously decided. This was not intended.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Special Services Division, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

Released: February 1, 1983.

1. On December 14, 1982, the Commission released a Notice of Proposed Rule Making (FCC 82-527) in this proceeding. In the Appendix of this Notice of Proposed Rule Making, a typographical error was made in paragraph (e) of proposed § 95.206 of the Rules. By Report and Order in General Docket No. 82-181, 47 FR 51875, the use of the frequencies listed in that paragraph was to be withdrawn effective December 20, 1987. Inadvertently, in the Notice of Proposed Rule Making in this proceeding (PR Docket No. 82-799), we stated that date as being December 20, 1982.

PART 95—[CORRECTED]

2. Accordingly, paragraph (e) of proposed § 95.206 in the Appendix of the Notice of Proposed Rule Making in this proceeding should read as follows:

§ 95.206 (R/C Rule 6) On what channels may I operate?

* * * * *

(e) Authorization for the use of the following frequencies is withdrawn effective December 20, 1987: 72.08, 72.16, 72.24, 72.32, 72.40, 72.96, and 75.64 MHz.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-3434 Filed 2-8-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

Review of Marine Mammals, Sea Turtles, and Marine Fishes Listed as Endangered or Threatened

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Review of certain marine mammals, sea turtles and marine fishes, listed as endangered or threatened.

SUMMARY: Section 4(c)(2) of the Endangered Species Act of 1973, as amended, requires that a review of all species included in the List of Endangered and Threatened Wildlife (50 CFR Part 17) be conducted at least once every five years. The purpose of such reviews is to determine whether any listed species should be removed from the list or changed in status. The Service will review all appropriate information and data for the species given below to determine if the status of those species is accurately reflected in the List of Endangered or Threatened Wildlife. To ensure that such reviews are comprehensive, the service is soliciting information and data concerning the status of those species. Depending upon the results of the reviews, the Service may propose changes to the List of Endangererd or Threatened Wildlife.

DATE: Comments, information, and data must be received by May 31, 1983.

ADDRESS: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Roe, Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, D.C. 20235 (202) 634-7471).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act (ESA) of 1973, as amended, is administered jointly by the Departments of the Interior (Fish and Wildlife Service) and Commerce (National Marine Fisheries Service). The Department of Commerce in general is responsible for listed marine species and the Department of the Interior for terrestrial and aquatic species. The two Departments share jurisdiction of sea turtles with Interior having responsibility for sea turtles in the terrestrial environment and Commerce having responsibility for sea turtles in the marine environment.

The ESA protects species listed as endangered or threatened in several ways, some of which are given here. Federal Agencies are required to insure that their actions are not likely to jeopardize the continued existence of such species. This involves consultations with the Department of the Interior, or the Department of Commerce, or both, depending upon the species involved. The taking of and commercial trade involving endangered species generally are prohibited (certain kinds of these activities may be permittted, see 50 CFR Part 222). Restrictions on takings of and commercial trade involving threatened species can be implemented by regulation. Regulations promulgated by the Department of Commerce for threatened species generally are similar to the protective provisions for endangered species (see 50 CFR Part 227).

Listing Factors and Basis for Determinations

Pursuant to Section (4)(a)(1) of the ESA, a species is determined to be Endangered or Threatened for any of the following factors: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) Overutilization for commercial, recreational, scientific, or educational purposes; (3) Disease or predation; (4) Inadequacy of existing regulatory mechanisms; or (5) Other natural or manmade factors affecting its continued existence.

Recent amendments to the ESA clarify that determinations concerning decisions on listings shall be made solely on the best scientific and commercial data available after conducting a status review of the species and after taking into account those efforts, if any, being made by any State, or foreign Nation, or subdivision thereof, to protect such species. The purpose of these amendments is to ensure that decisions in every phase of the process to list or delist species are made solely on biological criteria and to prevent non-biological considerations from affecting such decisions. H.R. Rep. No. 97–835, 97th Cong., 2d Sess. 19 (1982) (Conference Report).

Purpose of Review

Section 4(c)(2) of the ESA requires the Secretary to conduct, at least once every five years, a review of the species on the List of Endangered and Threatened Wildlife and to determine on the basis of such review whether any species should be (1) removed from the list; (2) changed in status from an endangered species to a threatened species; or (3) changed in status from a threatened species to an endangered species. Each determination pursuant to Section 4(c)(2) must be made in accordance with Sections 4(a) and 4(b) of the ESA.

If the reviews indicate that one of the above actions is warranted for any of the species given below, the Service will propose rules to take the appropriate action(s). If the reviews indicate that none of the above actions is warranted, no rules will be proposed and the next formal review of the species given below will be conducted no later than five years after the completion of these reviews.

Biological Information Solicited

To ensure that the reviews are complete and are based on the best available scientific and commercial data concerning the species given below, the Service is soliciting such data, information and comments concerning the biological status of these species from any interested party. The Service requests such data, information and comments be accompanied by the following: (1) The scientific and common names of the species involved; (2) Supporting documentation, such as maps, bibliographic references, or reprints of pertinent publications; (3) The Party's name, address, and any association, institution, or business that the party represents.This request is designed to obtain only data and information that have become available since the mosr recent rule-making concerning a listing action for each species being considered. Receipt of all comments will be acknowledged in writing by the Service.

List of Subjects in 50 CFR Part 222

Endangered and threatened wildlife, Exports, Fish, Imports, Marine mammals.

The species that are subject to this review are the following:

BILLING CODE 3510-22-M

SPECIES		HISTORIC RANGE	POPULATION	STATUS	DATE LISTED
COMMON NAME	SCIENTIFIC NAME				
FISHES					
Shortnose Sturgeon	Acipenser brevirostrum	U.S.A. and Canada (Atlantic Coast)	Entire	E [1]	March 11, 1967
Totoaba (seatrout or weakfish)	Cynoscion macdonaldi	Mexico (Gulf of California)	Entire	E	April 10, 1979
REPTILES					
Green sea turtle	Chelonia mydas	Circumglobal in tropical and temperate seas and oceans	Wherever found except for populations given below	T [2]	July 28, 1978
Green sea turtle	Chelonia mydas	Circumglobal in tropical and temperate seas and oceans	Breeding colony populations in Fl. and on the Pacific Coast of Mexico	E	July 28, 1978
Hawksbill sea turtle	Eretmochelys imbricata	Tropical seas	Entire	E	June 2, 1970
Kemp's Ridley sea turtle	Lepidochelys kempii	Tropical and temperate seas	Entire	E	December 2, 1970
Leatherback sea turtle	Dermochelys coriacea	Tropical, temperate and subpolar seas	Entire	E	June 2, 1970
Loggerhead sea turtle	Caretta caretta	Circumglobal in tropical and temperate seas and oceans	Entire	T	July 28, 1978
Olive Ridley sea turtle	Lepidochelys olivacea	Circumglobal in tropical and temperate seas and oceans	Wherever found except for populations given below	T	July 28, 1978
Olive Ridley sea turtle	Lepidochelys olivacea	Circumglobal in tropical and temperate seas and oceans	Breeding colony populations on the Pacific Coast of Mexico	E	July 28, 1978
MAMMALS					
Caribbean monk seal	Monachus tropicalis	Caribbean Sea, Gulf of Mexico	Entire	E	April 10, 1979 [3]
Hawaiian monk seal	Monachus schauinslandi	Hawaiian Archipelago	Entire	E	November 23, 1976
Mediterranean monk seal	Monachus monachus	Mediterranean, Northwest African Coast and Black Sea	Entire	E	June 2, 1970
Blue whale	Balaenoptera musculus	Oceanic	Entire	E	June 2, 1970
Bowhead whale	Balaena mysticetus	Oceanic (north latitudes only)	Entire	E	June 2, 1970
Fin whale (finback whale)	Balaenoptera physalus	Oceanic	Entire	E	June 2, 1970
Gray whale	Eschrichtius robustus	North Pacific Ocean; Coastal and Bering Sea	Entire	E	June 2, 1970
Humpback whale	Megaptera novaeangliae	Oceanic	Entire	E	June 2, 1970
Right whale	Balaena glacialis	Oceanic	Entire	E	June 2, 1970
Sei whale	Balaenoptera borealis	Oceanic	Entire	E	June 2, 1970
Sperm whale	Physeter catadon	Oceanic	Entire	E	June 2, 1970

Footnotes

1-E in the status column indicates that the species/population is listed as Endangered

2-T in the status column indicates that the species/population is listed as Threatened

3-The Caribbean monk seal originally was listed on March 11, 1967 and delisted on October 13, 1970

Dated: February 2, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 83-3187 Filed 2-8-83; 8:45 am]

BILLING CODE 3510-22-C

Notices

This section contains notices of proposed actions, public investigations, decisions by the authority, and applications organizations of documents

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Agreement with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation

AGENCY: Advisory Council on Historic Preservation

ACTION: Notice

SUMMARY: The Advisory Council on Historic Preservation has executed an Agreement with the National Conference of State Historic Preservation Officers (NCSHPO) and the National Trust for Historic Preservation (NTHP) to ensure that identification, evaluation, and treatment of archeological and historic resources are carried out in accordance with the Council's regulations (36 CFR Part 800). The Agreement establishes procedures for the Council, NCSHPO, and NTHP to participate in the review of National Register nominations, National Historic Landmark designations, and other actions that will affect historic properties. The Agreement is intended to ensure that the Council, NCSHPO, and NTHP are notified of and regularly participate in the review of actions that affect historic properties, and that the Council, NCSHPO, and NTHP have the opportunity to comment on proposed actions before they are approved.

DATE: Comments must be received by March 11, 1983.

ADDRESSES: Comments should be addressed to Robert R. Garvey, Jr., Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Ronald L. Maldonado, Project Manager, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, DC 20005, (202) 254-3974.

Dated: February 3, 1983.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 83-3188 Filed 2-8-83; 8:45 am]

BILLING CODE 4310-10-M

Notices

Federal Register
Vol. 48, No. 28
Wednesday, February 9, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Agreement Regarding Archeological and Sociocultural Resources in the National Parks

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement, pursuant to Section 800.8 of the Council's regulations (36 CFR Part 800), with the National Park Service (NPS) and the National Conference of State Historic Preservation Officers (NCSHPO) regarding methods for the identification and protection of archeological and sociocultural resources eligible for the National Register of Historic Places in the National Parks. The proposed agreement will embody NPS in-house mechanisms to ensure that such resources are regularly considered and treated during park project planning. A preliminary draft of the agreement is available for comment.

DATE: Comments due March 11, 1983.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Ronald D. Anzalone, Eastern Division of Project Review, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, DC 20005, 202–254–3974.

Dated: February 3, 1983.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 83–3428 Filed 2–8–83; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 4, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commentng on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Charles E. Caudill, Acting Statistical Clearance Officer, (202) 447–6201.

New

- Food and Nutrition Service

7 CFR Part 235—State Administrative Expenses—Recordkeeping. On occasion, semiannually State or local governments: 99,711 responses; 27,647 hours; not applicable under 3504(h)
Chris Lipsey (703) 756–3600

Revised

- Agricultural Stabilization and Conservation Service

7 CFR Part 1423—Processed Commodities Warehouse Standards CCC–29, CCC–29–1, CCC–29–2, CCC–29–3, CCC–29–32, CCC–29–32–1, CCC–29–32–2, CCC–29–55, CCC–29–56, CCC–29–56–1, CCC–29–56–2, CCC–513, CCC–560
On occasion
Business or other institutions: 2,523 responses; 1,769 hours; not applicable under 3504(h)
Barry Klein (202) 447–7911

Extension

Food and Nutrition Service
7 CFR Part 235—State Administrative Expenses—Reporting
FNS–525
Monthly, quarterly, semiannually, annually
State or local governments: 1,928 responses; 3,128 hours; not applicable under 3504(h)
Chris Lipsey (703) 756–3600

- Food and Nutrition Service

Child Care Food Program Regulations (Part 226) FNS–341, 342, 343, 344, 345, 345–1, 430, 431, 432, 43, 433, and 82
Monthly, annually, on occasion
State or local governments and businesses or other institutions: 420,312 responses; 1,204,129 hours; not applicable under 3504(h)
Norma Bell (703) 756–3888.

- Farmers Home Administration

Application of Rural Housing Assistance (Nonfarm tract) FmHA 410–4
On occasion
Individuals or households: 315,000 responses; 315,000 hours; not applicable under 3504(h)
Ruth Smith (202) 382–1488.

Charles E. Caudill,

Acting Statistical Clearance Officer.

[FR Doc. 83–3406 Filed 2–8–83; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Fresh Cut Roses From Israel; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on fresh cut roses from Israel. The review covers the period October 1, 1979 through September 30, 1980. There are no known

Fisheries Resource Management.
[FR Doc. 83–3187 Filed 2–8–83; 8:45 am]
BILLING CODE 3510–22–C
2-T in the status column indicates that the species/population is
, 1967 and delisted on October 13, 1970
3-The Caribbean monk seal originally was listed on March 11, 1967

unliquidated entries of this merchandise for the period. As a result of the review, the Department has preliminiarily determined to require a cash deposit of estimated countervailing duties on future entries equal to 11.46 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Josephine Russo or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 4, 1980, the Department of Commerce ("the Department") published in the **Federal Register** (45 FR 58516) an affirmative final countervailing duty determination and countervailing duty order regarding fresh cut roses from Israel. The Department announced in the notice of March 16, 1981 (46 FR 16921) its intent to conduct administrative reviews of outstanding countervailing duty orders.

On August 5, 1981, the Court of International Trade issued a partial remand order in *AGREXCO v. United States, et al.*, Consol. No. 80–10–01578, instructing the Department to re-investigate and/or re-verify three programs not found countervailable in the final determination. On December 24, 1981, the Department forwarded its final results concerning the remanded issues to the court. The resultant changes in the Department's determination are discussed below under *Analysis of Programs.*

Scope of the Review

Imports covered by the review are frest cut roses imported directly or indirectly from Israel. Such merchandise is currently classifiable under item 192.1800 of the Tariff Schedules of the United States Annotated. The review covers the period October 1, 1979 through September 30, 1980 which is the exporting year for roses. The Department reviewed the programs found countervailable in the original determination and in the court remand results.

Analysis of Programs

1. The Encouragement of Capital Investments Law ("the ECIL")

The purpose of the ECIL is to promote certain national objectives, including exporting, through the use of various financial and fiscal incentives. To become eligible for these benefits, individual enterprises must apply for government approval of each investment project.

Rose growers have not been approved for ECIL benefits. Two rose exporters have been approved through the period of review, that is, AGREXCO (Agricultural Export Company) and Bickel Flowers Limited. The packing houses that have similarly been approved include: Azata, Maboim, Pirchei Haemek, Aviv, Lod, Kochav, Yael and Gat.

For the period of review, the following benefits were provided under the ECIL:

A. Five-year exemption from payment of ⅓ of the property tax on buildings.

This program was repealed with the publication of Amendment 17 to the ECIL in August 1978. For the entire period of review, benefits continue to accrue to those enterprises approved prior to repeal. In April 1981, however, all property taxes on buildings were abolished by the Israeli government. We preliminaily determine, therefore, that the duty deposit rate should not incorporate a subsidy amount for this program since future entries will not benefit from the tax savings.

B. Ten-year exemption from ⅓ of the property tax on stock and machinery/equipment.

This program was repealed by the same Amendment 17 to the ECIL. As with the five-year exemption, enterprises approved prior to repeal were eligible for benefits during the entire review period. This includes AGREXCO, Bickel and certain of the packing houses.

AGREXCO, Azata and Pirchei Haemek paid property taxes on stock and equipment and utilized the reduction. For AGREXCO, we calculated the subsidy rate by multiplying the amount of tax savings by 24 percent (the portion of its total exports through the Ben Gurion facility, the approved site, accounted for by roses). With respect to the two packing houses, we based our preliminary calculations on the aggregated tax savings recorded in their tax returns, multiplied by 34.9 percent (the percentage of rose to flower exports countrywide) to determine the portion of the tax savings attributable to roses.

For the remaining packing houses, we estimated the tax savings based on the best information available. In addition, since Bickel did not answer our questionnaire, we attributed to it the highest tax savings found for the other eligible firms. The amount of the benefits for these enterprises was multiplied by 34.9 percent.

We then summed the tax savings enjoyed by each firm and divided by total rose exports for 1979/80. Based on these calculations, we preliminarily determine and *ad valorem* subsidy rate for this program or 0.01 percent for the period of review.

C. Investment grants based on the cost of property and/or machinery/equipment of an approved project.

Since 1977, seven enterprises involved in exporting roses have received cash grants under these programs. In computing the benefit, we employed the grant methodology set out in Appendix 2 to the notice of "Affirmative Countervailing Duty Determination" on certain steel products from Belgium (47 FR 39304, 39316; August 24, 1982) ("Appendix 2"). In determining the useful lives of the assets (capital plant (25 years) and equipment (8 years)), we relied upon Israeli tax schedules and U.S. Internal Revenue Service Depreciation Guidelines. The benefit for the 1979/80 period of review was multiplied by 34.9 percent to account for the portion attributable to roses, and then divided by total rose exports for 1979/80. Based on this calculation, we preliminarily determine a rate of subsidy of 0.08 percent *ad valorem* for the review period.

D. Accelerated depreciation of buildings and machinery/equipment and,

E. Direct reductions in company tax rates and exemption from income taxes.

Under the first program, machinery and equipment of an approved project may be depreciated at 2 times the ordinary rate set by Israeli Income Tax Rules and buildings may be depreciated at 4 times the normal rate. The second program allows for reductions in the company tax rate and exemption from income taxes.

Because final calculation of income taxes can only be made after the close of an accounting year, the amount of the benefit cannot be realized during the same exporting season. Therefore, for the 1979/80 review period, we calculated the subsidy under these programs based on tax information for the 1978/79 tax year.

In computing the subsidy rate on these programs, we looked first to whether the enterprise benefitted from accelerated depreciation through reduced taxable income and, hence, lower taxes paid. We then looked to the tax savings attributable to the reductions/exemptions.

AGREXCO did not have a taxable income for tax year 1978/79 due to loss carry-forward. After eliminating the effects of accelerated depreciation, we still found no tax liability. Therefore, for the review period, no benefit was

conferred on AGREXCO from these programs.

For the packing houses, only Azata and Pirchei Haemek provided tax declarations for the 1978/79 tax year. Azata's records show that accelerated depreciation was utilized for buildings for financial and tax purposes. Pirchei Haemek did so with regard to both machinery and buildings. In determining the subsidy amount, we recalculated the tax liability of each enterprise using ordinary depreciation. We computed the benefit as the difference between the taxable income using accelerated rates of depreciation and that using ordinary rates, and then by eliminating the effects of the reductions/exemptions.

For Bickel and those packing houses failing to provide sufficient evidence concerning their tax liability for 1978/79, we based our calculations on the best information available.

Finally, we summed the subsidy amounts for each enterprise and multiplied that total by 34.9 percent to find the portion attributable to roses. This figure was divided by rose exports for 1979/80 yielding an *ad valorem* benefit of 0.07 percent for the review period.

F. "Drawback" Grants.

Althouth the stated intention of this program is to rebate customs duties on imported materials used for investment in an approved enterprise, grant awards are based on a fixed percentage of investment. Since 1978, only Bickel has received an award. In determining the benefit conferred during the period of review, we calculated the subsidy using the same methodology as employed under program 1C above. The rate of benefit is preliminarily 0.001 percent *ad valorem* for the 1979/80 review period.

2. Government-Guaranteed Minimum Price Program

In the original investigation, we determined that the minimum price program did not confer a benefit. We compared records of export prices to the United States with the minimum support prices and found that the U.S. market prices were higher. During the court remand, we learned that the program operates on worldwide price comparisons and does not focus on any individual country. Funds provided under this program are awarded as year-end, lump sum payments. We concluded that, since these payments are untied, there is a potential benefit bestowed on all exported roses.

The payments are based on claims by accountants submitted to the Ministry of Agriculture ("the MOA") after the close of the exporting season. Thus, the benefits from the program are enjoyed in a succeeding export year. During the review period, only the major association of flower growers submitted a claim for payment based on the 1978/79 season. We quantified the subsidy rate using the amount actually received during the period of review and divided this figure by the value of total rose exports in 1979/80. We preliminarily conclude that the *ad valorem* benefit is 0.26 percent.

3. Preferential Short-Term Financing

In our original determination, we found that the government-sponsored loans for working capital and accounts receivable did not bestow a countervailable subsidy. As part of the court remand, the Department re-investigated this program and determined that the financing was provided to exporters at preferential terms.

During the period of review, the Bank of Israel ("the Bank") provided short-term financing through three export credit funds: the Export Production Fund (for working capital loans); the Imports-for-Export Fund (to finance imported materials used for export production); and the Export Shipments Fund (for accounts receivable). Financing under the first fund is denominated in shekels while the latter two funds make loans in foreign currency.

For the Export Production and Imports-for-Export Funds, we have calculated the subsidy by multiplying the principal amount repaid during the review period by the difference between the preferential interest rates and commercial rates for comparable borrowings. These amounts were then multiplied by the proportion of total financing attributable to roses and divided by rose exports for the 1979/80 period. We preliminarily determine that the rate of subsidy from the two export credit funds is 9.31 percent *ad valorem*.

In April 1982, the Bank altered financing under the Export Shipments Fund. While we understand that the fund's credit is now provided at free market rates, such financing remains exempt (as are loans from the Imports-for-Export Fund) from an interest surcharge applied generally to foreign currency borrowings. The surcharge is waived for certain loans, based on perceived national objectives which include export promotion. During the period of review the interest surcharge was 12 percent, but the Bank gradually reduced the surcharge during 1981/82 to a current rate of 1 percent. Therefore, we preliminarily conclude for cash deposit purposes that this one percent differential confers a benefit of 0.20 percent *ad valorem*.

4. Government Funding of AGREXCO

During the court remand, the Department re-investigated and re-verified the financing of a 1978/79 expansion of the airport facilities. AGREXCO stated that the expansion was partially funded by the issuance of shares, a significant portion of which were purchased by the MOA. However, AGREXCO failed to provide evidence that would establish the rights and entitlements accruing to the shareholders and also failed to produce the issued share certificates for the period. Further, information submitted after verification indicated that no dividends were associated with the shares.

Since AGREXCO was unable to establish that the MOA received rights normally arising from a shareholder's investment, we were unable to determine if the infusion was in fact an equity purchase. In the absence of such information, we concluded in our remand results that, based on the best information available, the government purchase of equity in AGREXGO was a grant used for the purchase of equipment. We have received no information to alter our position.

During 1979/80, there was a similar financing which was stated by AGREXCO to be a purchase of equity by the MOA. Again, no information was provided concerning the entitlements to the shareholder. In computing the benefit, we treated the share purchases of 1978/79 and 1979/80 as cash grants to AGREXCO used to acquire machinery/equipment. We calculated the benefit using the grant methodology set out in Appendix 2, based on 8 years as the full useful life of equipment. The amounts for 1978/79 and 1979/80 were then multiplied by 24 percent to account for the portion of exports through the Ben Gurion facilities attributable to roses, and divided by rose exports for 1979/80. Based on this calculation, we preliminary determine a rate of subsidy of 0.07 percent *ad valorem* for the period of review.

5. Cash Payments to Growers for Greenhouses

The MOA awards grants to flower growers for the establishment and/or expansion of greenhouses. In calculating the benefit, we applied the methodology of Appendix 2 for all grants received from 1975/76 through the current review period. We then multiplied the amount attributable to 1979/80 by 34.9 percent, and divided by total rose exports during this period. The *ad valorem* rate of benefit is preliminarily 0.59 percent.

6. Cash Payments to Packing Houses

Under this program, the MOA provides grants to packing houses for investment in buildings and machinery/equipment. We computed the subsidy amount using the methodology of Appendix 2, and relying on the useful lives given under program 1C above. The amount of benefit bestowed during the period of review is preliminarily 0.06 percent *ad valorem*.

7. Cash Payments From the Export Promotion Fund

The MOA provides cash grants to exporters to compensate for export expenses, such as advertising, merchandising and public relations. These payments are based on exports to specific countries of all flowers and not just roses. Although the government states that a minimal portion of these funds benefit roses, we have not found evidence to support this allegation.

During the period of review, AGREXCO was the only recipient of these funds. We calculated the *ad valorem* benefit by multiplying the amount received for all such grants by 26 percent, which is the amount of AGREXCO's flower exports to the United States attributable to roses by value, and dividing by total exports of roses to the U.S. during 1979/80. On this basis, we have preliminarily found an *ad valorem* benefit of 0.81 percent.

8. Export Insurance Premium Rebates

During the period of review, AGREXCO continued to self-insure its exports of roses. We preliminarily conclude that no benefit was conferred on rose exports during this period.

Verification

We verified the information through examination of Israeli government laws and documents, company books and records and consultations with Israeli and U.S. government officials.

Preliminary Results of Review

As a result of our review, we preliminarily determine the potential rate of subsidy to be 11.46 percent *ad valorem*.

Accordingly, as provided for by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department intends to notify the Customs Service to collect a cash deposit of estimated countervailing duties of 11.46 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: February 1, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-3272 Filed 2-8-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Little Calumet River, Illinois, Phase II, Silt Removal; Draft Environmental Impact Statement

AGENCY: Army Corps of Engineers, DOD.

ACTION: Withdrawal of notice of intent to prepare a draft environmental impact statement.

FOR FURTHER INFORMATION CONTACT: Mr. John Staples, U.S. Army Corps of Engineers, Chicago District, Environmental and Social Analysis Section, 219 South Dearborn Street, Chicago, Illinois 60604 (312-353-7795, FTS/353-7795).

SUPPLEMENTARY INFORMATION: 1. A notice of intent to prepare a draft environmental impact statement (DEIS) for proposed Little Calumet River, Illinois, Phase II Silt Removal was published on August 2, 1982 (47 FR 33314). It stated that the project purpose is improvement of environmental quality through enhancement of water quality and aesthetics.

2. Since that time, the Chicago District has determined that environmental benefits would be provided by silt removal, but would be limited to the short-term because of existing combined sewer overflow conditions in the area. The District has concluded that implementation of the project should follow development of the Calumet portion of Phase I of the Chicago Tunnel and Reservoir Plan (TARP) and Indiana Section 208 area-wide water quality management plan in order to achieve long-term benefits. Sponsorship is also contingent on completion of the Calumet system of TARP Phase I. Completion of this system will take several years and there is no firm date for implementation of Indiana 208 plans at this time.

3. In view of the long-term implementation date of Phase II silt removal, the District has concluded, and received North Central Division approval, that an Environmental Impact Statement is not warranted at this time, but that compliance would be made relative to the appropriate statutes, executive orders and memoranda applicable at the time of future project construction. Environmental and social information will be included in our current planning document, but will be in the form of a technical appendix to the main report.

Dated: January 25, 1983.

Christos A. Dovas, P.E.,

LTC, Corps of Engineers, District Engineers.

[FR Doc. 83-3402 Filed 2-8-83; 8:45 am]

BILLING CODE 3710-HN-M

Office of the Secretary

Defense Science Board Task Force on Close Air Support; Advisory Committee Meeting

The Defense Science Board Task Force on Close Air Support will meet in closed session on February 28, and March 1, 1983 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on February 28, and March 1, 1983 the Task Force will consider the potential for improving our capability to achieve sustained effectiveness of close air support in the future air-land battles.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly

these meetings will be closed to the public.

M.S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

February 4, 1983.

[FR Doc. 83-3501 Filed 2-8-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Electronic Warfare (Future Systems Subgroup); Advisory Committee Meeting

The Future Systems Subgroup of the Defense Science Board Task Force on Electronic Warfare will meet in closed session on 30-31 March 1983 in Washington, D.C.

The Mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 30-31 March 1983 the Task Force will discuss the application of technology to future systems designed to improve U.S. Electronic Warfare capabilities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

February 4, 1983.

[FR Doc. 83-3500 Filed 2-8-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Long Endurance Aircraft; Advisory Committee Meeting

The Defense Science Board Task Force on Long Endurance Aircraft (LEA) will meet in closed session on March 13-14, 1983 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on March 13-14, 1983 the Task Force will consider the mission potential for long endurance aircraft.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

February 4, 1983.

[FR Doc. 83-3499 Filed 2-8-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for supply of the following material:

Contract Number WC-EU-240, to the Euratom Transuranium Institute, the Federal Republic of Germany, 31.2 grams of plutonium-242, to be used for fabrication of single crystals of plutonium metal and compounds involving neutron scattering techniques. It is planned to return this material to the United States after completion of this effort.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: February 3, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-3395 Filed 2-8-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community and Indonesia.

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Peaceful Uses of Nuclear Energy, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the following retransfer:

RTD/ID(EU)-2, from the Federal Republic of Germany to Indonesia, 8.5 kilograms of uranium enriched to an average of 2.94% in U-235, for use in research and development in fabrication of nuclear fuels.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: February 3, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-3396 Filed 2-8-83; 8:45 am]

BILLING CODE 6450-01-M

Assistant Secretary for Conservation and Renewable Energy

Interest Rate Formula for Power Marketing Administrations

AGENCY: Assistant Secretary for Conservation and Renewable Energy, DOE.

ACTION: Proposed amendment of formula for determining repayment interest rates.

SUMMARY: Public comment is invited on proposed changes in the formula for determining interest rates to be used, unless otherwise provided by law, by the Alaska Power Administration, Bonneville Power Administration, Southeastern Power Administration, Southwestern Power Administration,

and Western Area Power Administration, referred to as Power Marketing Administrations or PMAs. The interest rate will be used in computing interest during construction and interest expense on the unpaid balance of the costs of new Federal power facilities financed with appropriations. Federal power facilities include additions, betterments, and replacements, constructed by the PMAs, the Corps of Engineers, Bureau of Reclamation, and the United States Section, International Boundary and Water Commission, United States and Mexico. The interest rate is to be used in power repayment studies for rate making purposes.

The proposed amendment would make the applicable interest rate equal to the average yield rate computed by the Treasury Department for the previous fiscal year rather than allow changes of only one-half of one percent from the previous year's applicable rate. The applicable rate would be that for the year in which construction of the facilities is initiated rather than the year in which funds to begin construction are first appropriated. For deferred or unpaid annual expenses, the interest rate shall be that applicable in the year in which the deficit is incurred.

The proposed formula would become effective October 1, 1983.

DATE: Written comments must be received within 60 days of the date this notice is published in the Federal Register.

ADDRESS: All written comments should be submitted to: Daniel M. Ogden, Jr., Director, Office of Power Marketing Coordination, Department of Energy, Room 5304, Federal Building, 12th Street & Pennsylvania Avenue, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: John J. DiNucci, Director, Division of Rates, Contracts & Power Allocation, Office of Power Marketing Coordination, Department of Energy, Room 5312, Federal Building, 12th Street & Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633–8336.

SUPPLEMENTARY INFORMATION: In January 1970 the Department of the Interior adopted a policy for determining interest rates, except as otherwise provided by law, to be used for computing interest during construction and interest on the unpaid balance of the costs of new Federal power facilities properly allocated to commercial power development. This policy was expressed in and supplemented by implementation guidelines which also added the policy of charging interest on unpaid or deferred annual expense.

The Department proposes to revise the formula for determining these rates. The Department anticipates that the interest rate formula will be followed consistently by the Power Marketing Administrations in the preparation of power repayment studies for rate making purposes, and therefore the Department is publishing it for comment at this time.

The present formula requires that the interest rate used be the applicable rate during the fiscal year in which funds are first appropriated to initiate construction of the facilities. The applicable rate is based on the yield rate computed by the Treasury Department as the average yield during the previous fiscal year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more to maturity, adjusted to nearest multiple of ⅛ of one percent. If the yield rate so computed does not differ from the applicable rate used by the PMA's for the previous fiscal year by more than ½ of one percent, then the applicable rate to be used by the PMA's shall be equal to the yield rate. If the yield rate differs from the applicable rate used by the PMA's for the previous fiscal year by more than ½ of one percent, the applicable rate to be used by the PMA's shall be the applicable rate for the previous fiscal year increased or decreased by ½ of one percent toward the yield rate.

The proposed new formula would make the interest rate to be used by the PMA's the applicable rate during the fiscal year in which construction is initiated, in order to have the interest rate more nearly reflect the actual cost to the Treasury of borrowing to finance construction. The applicable rate to be used by the PMA's shall be equal to the yield rate adjusted to the nearest multiple of ⅛ of one percent.

The reason for the proposed change in the interest rate formula is that the Treasury yield rate has increased substantially over the past 3 years while the applicable rate used by the PMA's has not kept pace. This is demonstrated in the following tabulation:

(Percent)

Fiscal year	Treasury yield rate	Applicable rate
1970		4.875
1971	6.375	5.375
1972	6.125	5.875
1973	5.500	5.500
1974	5.625	5.625
1975	6.500	6.125
1976	7.000	6.625
1977	7.000	7.000
1978	7.000	7.000
1979	7.625	7.500
1980	8.250	8.000
1981	10.250	8.500
1982	12.375	9.000
1983	13.000	[illegible]

As noted, the interest rate formula does not apply where the interest rate is otherwise prescribed by law. As an example, it does not apply to transmission facilities constructed by the Bonneville Power Administration which are financed through the issuance and sale of revenue bonds. The Federal Columbia River Transmission System Act of October 18, 1974, 88 Stat. 1376, Pub. L. 93–454, as amended, provides that the Secretary of the Treasury will determine the interest rate on such bonds based on the current average market yield on outstanding marketable obligations of the United States of comparable maturities, plus an amount which in his judgment will provide for a rate comparable to the prevailing market rate for similar bonds issued by Government corporations.

Under the provisions of Executive Order 12291, dated February 17, 1981, a Regulatory Impact Analysis must be made prior to the publication of a major rule. Under Section 1(b) of E.O. 12291, a major rule is defined as any regulation that is likely to result in: (1) An annual effect on the economy of $100 million or more; (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Present schedules for new construction, additions and replacements for Federal power facilities for all five PMA's to which the new formula would apply call for average annual expenditures of about $30 million for the next three years. If we assume that the Treasury yield rate will stabilize over the next three years at 13%, then the difference between the interest expense under the proposed formula and the existing formula would be 3% in 1984, and 2½% in 1985, and 2% in 1986. Thus the effect would be about $900,000 in fiscal year 1984, $750,000 in fiscal year 1985, and $600,000 in fiscal year 1986. These figures are but an inconsequential fraction of the $100 million used in E.O. 12291 to measure

the annual effect of a major rule upon the economy. Therefore, the revision of the formula will not cause a major increase in costs or prices for consumers, individuals or governmental agencies, nor will it cause any adverse effects on competition, employment, investment, productivity, or innovation. The proposed change in the interest rate formula does not constitute a major rule under the definitions in E.O. 12291. Thus, no Regulatory Impact Analysis is required.

Pursuant to Section 601 and 603 of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq*) each agency, when required to publish a general notice of proposed rule making for any proposed rule shall prepare for public comment an initial Regulatory Flexibility Analysis to describe the impact of the proposed rule on small entities. Under 5 U.S.C. 601(2), "rates", "prices", and "practices" relating to "rates and prices" are not considered "rules" for purposes of this Act. In this instance, the proposed change is in the formula for determining reimbursable interest expense from rates which the Power Marketing Administrations charge for power. The proposed change in the interest formula pertains to "rates", "prices", or "practices" relating to "rates and prices", as used in this Act. It follows that it is exempt from the Act. Accordingly, this office believes that no flexibility analysis is required.

Issued in Washington, D.C., January 29, 1983.

Joseph J. Tribble,

Assistant Secretary Conservation and Renewable Energy.

[FR Doc. 83-3487 Filed 2-8-83; 8:45am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83-291-000]

American Electric Power Service Corp.; Filing

February 4, 1983.

The filing Company submits the following:

Take notice that on January 31, 1983, American Electric Power Service Corporation (AEP) tendered for filing on behalf of its affiliate Indiana & Michigan Electric Company (I&ME) which is an AEP affiliated operating subsidiary, Amendment No. 24 dated January 1, 1983 to the Operating Agreement dated March 1, 1966 among Consumers Power Company (Consumers), The Detroit Edison Company (Detroit), collectively the Michigan Companies, and I&ME. The Commission has previously designated the 1966 agreement as I&ME's Rate Schedule FERC No. 68.

AEP states that Section 1 of Amendment No. 24 provides for an increase in the transmission demand charge for Short Term Power to $0.35 per kilowatt per week and to $0.07 per kilowatt per day. Section 2 increases the Limited Term Power transmission demand charge to $1.50 per kilowatt per month. These transmission demand charges are utilized just for multi-party transactions and apply only to I&ME.

AEP requests an effective date of January 31, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Consumers Power Company, The Detroit Edison Company, Public Service Commission of Indiana, and Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3505 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-292-000]

Arizona Public Service Co.; Filing

February 4, 1983.

The filing Company submits the following:

Take notice that on January 31, 1983, Arizona Public Service Company (Arizona) tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 96 between Arizona and Nevada Power Company (Nevada).

Nevada proposes an effective date of February 13, 1983, and therefore waiver is requested of the Commission's notice requirements.

A copy of this filing has been served upon the Nevada Power Company and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3506 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-21-002 (PGA83-2, IPR83-1, AP83-1)]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 4, 1983.

Take notice that Columbia Gas Transmission Corporation (Columbia) on January 28, 1983, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1, as follows: Eighty-sixth Revised Sheet No. 16, First Revised Sheet Nos. 16B through 16D, Twenty-eighth Revised Sheet No. 64, Eighth Revised Sheet Nos. 64E through 64I.

These proposed changes to be effective March 1, 1983 reflect the following:

(1) A PGA rate adjustment applicable to Sales Rate Schedules pursuant to § 20.3(c) of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, to recover an increase in the cost of gas purchased of $95,186,939 based on the six months ending August 31, 1983;

(2) A Commodity Surcharge Adjustment applicable to Sales Rate Schedules pursuant to § 20.6(a) of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, to recover a deferred purchased gas cost amount of $48,365,172, as of December 31, 1982, over the six-month period March 1, 1983 through August 31, 1983;

(3) A Purchased Gas Cost Surcharge Adjustment applicable to Rate Schedule SGES pursuant to § 20.6(b) of Columbia's FERC Gas Tariff, Original Volume No. 1, to recover an increase in the cost of gas purchased of $552,184

over the six-month period March 1, 1983 through August 31, 1983; and

(4) An Advance Payment Adjustment, pursuant to Article IX of the Stipulation and Agreement in Docket Nos. RP76–95, *et al.*, approved by Commission letter order issued March 16, 1978. Such Advance Payment Adjustment provides for an annual increase of $515,102.

Columbia notes that the instant filing reflects a voluntary reduction in the pricing of certain of its pipeline production for the subject PGA period. Specifically, all company production of NGPA Section 107 tight sands and Devonian shale gas has been priced by Columbia at a level of $4.50 per MMBtu, or significantly below the tight sands incentive price (which as of March, 1983, would be $5.492 per MMBtu) previously attributed to such production by Columbia. This pricing treatment is consistent with Columbia's overall gas purchase policy in the Appalachian basin, under which Columbia has notified producers of its willingness to purchase Section 107 gas under existing contracts to the $4.50 level. In addition, Columbia's filing reflects purchases of deregulated Section 107 gas from Columbia Gas Development Corporation at the reduced price of $5.00 per MMBtu. In this regard, Columbia is attempting to renegotiate all of its deregulated Section 107 contracts in the Southwest to the $5.00 level.

In addition, Columbia's filing also contained material related to the affiliated entities test contained in Section 601(b)(1)(E) of the NGPA. Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3507 Filed 2–8–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–287–000]

Connecticut Light and Power Co; Filing

February 4, 1983.

The filing Company submits the following:

Take notice that on January 31, 1983, the Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Exchange Agreement) between CL&P, the Hartford Electric Light Company (HELCO), Western Massachusetts Electric Company [(WMECO), and together with HELCO and CL&P, the NU Companies) and Commonwealth Electric Company (Commonwealth). The Exchange Agreement, dated as of March 24, 1982, provides for an exchange of excess capacity and associated energy from the NU Companies' system (system power) for an equal amount of capacity from certain generating units on Commonwealth's system (the Exchange Units). CL&P states that the timing of the exchanges cannot be accurately estimated but that the NU Companies and Commonwealth would enter into an exchange only when it was economic for both to do so.

Commonwealth will pay an hourly capacity charge to the NU Companies for each hour of each exchange in an amount equal to the capacity exchange amount (expressed in kilowatts) for such exchange, times an amount not to exceed $0.007 per kilowatt.

Commonwealth will pay a fuel charge to the NU Companies for each exchange in an amount equal to the kilowatthours provided by the NU Companies during such exchange times a fuel charge rate.The fule charge rate is based on the heat rate(s) and the New England Power Exchange's replacement fuel price(s) of the generating unit(s) which the NU Companies determine to be available to provide system power at the time of an exchange.

The NU Companies will pay Commonwealth a fuel charge for each exchange in an amount equal to the kilowatthours provided by Commonwealth during such exchange, times a fuel charge rate. The fuel charge rate associated with Commonweath's generating units is based on the heat rate and the New England Power Pool Exchange's replacement fuel price for each such unit.

CL&P requests an effective date of March 24, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to HELCO, WMECO and Commonwealth.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3508 Filed 2–8–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–288–000]

Connecticut Light and Power Co.; Filing

February 4, 1983.

The filing Company submits the following:

Take notice that on January 31, 1983, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Agreement dated October 8, 1982 between (1) CL&P and Western Massachusetts Electric Company (WMECO) and (2) Electric Division of the Town of Wallingford, Department of Public Utilities (Wallingford).

CP&L states that the Transmission Agreement provides for transmission services to Wallingford for the wheeling of 1,273 kilowatts during the period from November 1, 1982 to October 31, 1983.

The transmission charge rate is a monthly rate equal to one-twelfth of the estimated annual average cost of transmission service on the Northeast Utilities system determined in accordance with Schedule A and Exhibits I, II and III thereto, of the Transmission Agreement. The monthly transmission charge is determined by the product of (i) the appropriate transmission charge rate ($/kW-month), and (ii) 1,273 kilowatts.

CL&P requests an effective date of November 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were mailed to WMECO and Wallingford.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3509 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA83-1-22-000 (PGA83-1) (IPR83-1) (RD&D83-1)(AP83-1) and (FIT83-1)]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

February 4, 1983

Take notice that Consolidated Gas Supply Corporation (Consolidated) on January 28, 1983, filed revised tariff sheets pursuant to Sections 12 (PGA Clause), 12A (Incremental Pricing Surcharges), and 13 (Research, Development and Demonstration Cost Adjustment) of the General Terms and Conditions of its tariff, and Article VIII (Advance Payment Tracker) and Article IX (Federal Income Tax Tracker) of the Stipulation and Agreement filed December 29, 1982, in Docket No. RP82-115 (Stipulation and Agreement) which is now before the Commission awaiting approval. The revisions, shown on Thirty-Third Revised Sheet No. 16 and Eighth Revised Sheet No. 72-C provide for Consolidated's semiannual PGA to be effective March 1, 1983. Consolidated also files Alternate Thirty-Third Revised Sheet No. 16 to reflect its PGA adjustment from the base tariff rates filed on December 30, 1982, in compliance with the suspension order in Docket No. RP82-115. The alternate tariff sheet is proposed to become effective only if the Stipulation and Agreement in Docket No. RP82-115 is rejected or the settlement base tariff rates are not accepted by the Commission.

Consolidated has included in its filing: (a) Rate changes from pipeline suppliers in the amount of $22.7 million; (b) A rate decrease from producer suppliers in the amount of $4.3 million; (c) A surcharge of 9.31 cents per dekatherm to recoup amounts accumulated in account 191, Unrecovered Purchased Gas Costs; and, (d) A rate change of 0.04 cents per dekatherm to reflect a reduction in advance payment balances from those reflected in the cost of service attached to the Stipulation and Agreement. (No adjustment to rates is proposed for this item on the alternate tariff sheet.)

Consolidated states that the rates contained on Thirty-Third Revised Sheet No. 16 reflect old pipeline production (production from wells drilled prior to January 1, 1973, on leases acquired prior to October 8, 1969) on a cost-of-service basis and new pipeline production priced pursuant to the Natural Gas Policy Act of 1978. Consolidated states that it priced its old pipeline production on a cost-of-service basis in accordance with Article V of the Stipulation and Agreement. The settlement treatment of old pipeline production is without prejudice to Consolidated's right to receive first sale treatment for such production should the Supreme Court uphold the U.S. Court of Appeals for the Fifth Circuit's decision in *Mid-Louisiana Gas Company* v. *FERC,* 664 F 2d. 530 (1981).

Consolidated states that it has not yet completed collection of its Order Nos. 93 and 93-A surcharge which was permitted in Consolidated's last PGA. Such collections will continue through February 1983. As part of its September 1983 PGA, it will submit a report as required by Ordering Paragraph (A) of the November 24, 1982, order in Docket No. TA82-2-22-000.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3510 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-286-000]

Iowa Electric Light & Power Co.; Filing

February 4, 1983.

The filing Company submits the following:

Take notice that Iowa Electric Light and Power Company (Iowa) tendered for filing on January 31, 1983, proposed changes in its FERC Electric Service Tariff, Original Volume I.

Iowa states that the proposed changes would increase revenues from jurisdictional sales and service by $5,629,610, based on the 12-month period ending March 31, 1984, in two steps. The revised rates for Step 1 would increase revenues by $3,052,908 effective April 4, 1983. The revised rates for Step 2 would increase revenues by $2,576,702 effective April 5, 1983, for a total revenue increase from the two steps of $5,629,910.

Iowa Electric further states that, under rates currently in effect, it expects to realize an overall rate of return during Period II (based upon 12 months ending March 31, 1984) from service to its resale customers of −1.53%. The proposed rates are designed to enable Iowa Electric to recover revenues sufficient to earn a rate of return on rate base of 10.88% overall, including a 15.1% to its common shareholders, if the revised rates had been in effect during calendar year 1981. Iowa indicates that Period II sales and revenue are based upon 1981 data as adjusted for the additional capacity charges due to purchasing power from the City of Muscatine beginning April 1, 1983, which is reflected in the increased rates for Step 2.

Copies of the filing were served upon the public utility's jurisdictional customers and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copes of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3511 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-284-000]

Kentucky Utilities Co.; Filing

February 4, 1983.

The filing Company submits the following:

Take notice that on January 28, 1983, Kentucky Utilities Company (KU) tendered for filing an Agreement, dated January 1, 1983, between KU and Illinois Power Company (IP). The Agreement sets out, among other things, conditions of interconnecting the two systems, future interconnection points, transactions under various type of Service Schedules including the Schedules, etc.

KU states no transactions under any of the Schedules are planned for the next 12 months and therefore no billings were included.

KU proposes an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were sent to IP, the Commonwealth of Kentucky Public Service Commission and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3512 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-46-000]

Kentucky West Virginia Gas Co.; Proposed Changes in FERC Gas Tariff

February 4, 1983.

Take notice that on January 31, 1983, Kentucky West Virginia Company (Kentucky West) tendered for filing proposed changes to the following tariff sheets to its FERC Gas Tariff, First Revised volume No. 1:

Third Revised Sheet No. 24
Twenty-Sixth Revised Sheet No. 27

Kentucky West states that the foregoing tariff sheets effect a general rate increase required to recover base period costs adjusted only to reflect known changes occurring during the base period ended October 31, 1982. Kentucky West further states that the purpose of the proposed rate change is to allow it to prospectively reprice its gas production pursuant to the mandate of *Mid-Louisiana Gas Company* v. *FERC*, 664 F. 2d 530 (5th Cir. 1981) (*Mid-La*).

Kentucky West asks that its rates be allowed to go into effect subject to refund on March 1, 1983. In support of this request Kentucky West states that if: (1) Is not reflecting retroactive application of the *Mid-La* rates except to the limited extent permitted by the Commission's December 2, 1982 order in Docket No. TA82-2-46-001; (2) is restricting the rates in this application to those required by its base period costs without adjustment for changes occurring beyond the base period; and (3) is reflecting a minimum return on equity of 13 percent.

Kentucky West further states that copies of this filing have been served upon its customers and the Public Service Commission of Kentucky, Pennsylvania and West Virginia.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3513 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-60-003]

Locust Ridge Gas Co.; Notice of Change in Rates

February 4, 1983.

Take notice that on January 28, 1983, Locust Ridge Gas Company (Locust Ridge) submitted for filing as part of its FERC Gas Tariff, Original Volume No. 3 and Original Volume No. 1 and the following tariff sheets to be effective March 1, 1983:

Thirteenth Revised Sheet No. 1A
Sixth Revised Sheet No. 1A

Locust Ridge states the purpose of the filing is to submit, for approval by the Commission, a revision in Locust Ridge's rate to reflect proposed changes in the purchase Gas Adjustment (PGA) component of Locust Ridge's rate for the period of March 1, 1983 thru August 31, 1983. The overall effect of the filed for adjustments to Locust Ridge's sales rate is an increase of $0.4949 per MMBTU.

Locust Ridge requests waiver of the Commissions regulations to the extent, if any, required to put the proposed tariff sheets into effect on March 1, 1983.

A copy of this filing has been mailed to Locust Ridge's jurisdictional customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rule of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3514 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-290-000]

Mississippi Power & Light Co.; Filing

February 4, 1983.

The filing Company submits the following:

Take notice that on January 31, 1983, Mississippi Power & Light Company (MP&L) tendered for filing an Assignment and Operating Agreement (Assignment) dated June 1, 1982, among MP&L, Coahoma Electric Power Association (Coahoma), and South Mississippi Electric Power Association (SMEPA). This Assignment served to release MP&L from its obligations under MP&L's Agreements for Purchase of Power at each separate Coahoma delivery point and assigned those certain Agreements for Purchase of Power to SMEPA. With this transfer of power supply responsibility from MP&L to SMEPA, MP&L commenced providing SMEPA with transmission service under MP&L Rate Schedule FERC No. 251 with supplements as accepted for filing by the Commission in Docket No. ER79-259 (now terminated).

Consistent with the rearrangement of rights and obligations agreed to in the Assignment, MP&L proposes that its Agreements for Purchase of Power (designated as MP&L Rate Schedules, FERC Nos. 165, 168, 169, 170, 171, 172, and 210) be cancelled as of June 1, 1982.

MP&L requests an effective date of June 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3515 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-25-004]

Mississippi River Transmission Corp. Rate Change Filing

February 4, 1983

Take notice that on January 28, 1983, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Eighty-Fifth Revised Sheet No. 3A and Seventh Revised Sheet No. 3D to its FERC Gas Tariff, First Revised Volume No. 1. An effective date of March 1, 1983 is proposed.

Eighty-Fifth Revised Sheet No. 3A is being submitted pursuant to Mississippi's gas tariff to track pipeline and producer rate changes and to recover gas costs which have accumulated in Mississippi's Unrecovered Purchased Gas Cost Account, and also reflects base rate adjustments being made in accordance with the Stipulation and Agreement in Mississippi's rate case at Docket No. RP81-48. Seventh Revised Sheet No. 3D indicates that Mississippi projects zero incremental pricing surcharges to its direct market and sale for resale customers.

Mississippi states that the overall effect of the filed for PGA and base rate adjustments is to decrease its CD-1 demand rates by $.292 per Mcf and to increase its CD-1 and PI-1 commodity rates by $.3136 per Mcf. The annualized revenue impact of the filed for adjustments will approximate $51.2 million. Of this amount Mississippi states that $58.2 million relates to current gas cost increases and base rate adjustments, offset by reduced revenues of $7.0 million reflecting a reduction in Mississippi's Surcharge Adjustments.

Mississippi states that copies ofits filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., W;ashington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3516 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-45-000]

Montana-Dakota Utilities Co.; Proposed Change in Rate

Februry 4, 1983.

Take notice that on January 28, 1983, Montana-Dakota Utilities Co. ("MDU") filed herein the following Revised Tariff Sheets to Rate Schedule X-3 of its FERC Gas Tariff, First Revised Volume No. 2:

Seventeenth Revised Sheet No. 10

The proposed effective date is March 1, 1983.

MDU states that, pursuant to a certificate of public convenience and necessity issued in Docket No. CP75-154 on May 11, 1977, as amended, the Commission authorized the exchange and transportation of gas between MDU and Kansas-Nebraska Natural Gas Company (KN) pursuant to the terms of a "Gas Sales Transportation and Gas Exchange Agreement," dated May 19, 1974, as amended. Among other things, the agreement provides for a transportation charge for exchange volume deliveries by MDU to KN at the Riverton Dome Delivery Point.

The instant filing seeks to increase the rate for the transportation of the exchange gas by MDU for KN from the currently effective rate of 16 cents per Mcf to 24.061 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3517 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. ER83-389-000]

Northern Indiana Public Service Co.; Filing

February 4, 1983.

The filing Company submits the following:

Take notice that on January 31, 1983, the Northern Indiana Public Service Company (NIPSCO) tendered for filing Fifth Revised Sheet No. 3 to its FERC Electric Service Tariff—Third Revised Volume No. 1 which has been revised to include an additional delivery point for Wabash Valley Power Association at Steuben County Rural Electric Membership Corporation. NIPSCO also tendered for filing the following:

Exhibit B–7, a supplement to the Service Agreement between NIPSCO and Wabash Valley Power Association, which covers the supply of electric energy for resale at a delivery point located in Salem Township, Steuben, County, Indiana.

NIPSCO requests an effective date of September 9, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon all customers receiving electric service under NIPSCO's FERC Electric Service Tariff—Third Revised Volume No. 1 and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3518 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-27-000]

Pacific Power & Light Co.; Application

February 4, 1983.

Take notice that on February 1, 1983, Pacific Power & Light Company (Pacific) filed its application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to negotiate for not more than $100,000,000 of long-term debt financing, directly or indirectly, in the Euro-dollar market.

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petitions to intervene or a protest in accordance with 18 CFR 385.211 or 385.214, respectively. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3519 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-28-000]

Pacific Power & Light Co.; Application

February 4, 1983.

Take notice that on February 1, 1983, Pacific Power & Light Company (Pacific) filed its application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing it to enter into a loan agreement with certain of its subsidiaries for not more than $200,000,000 in short-term borrowings and to issue promissory notes to evidence the indebtedness. The agreement is expected to be executed during the first quarter of 1983.

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petitions to intervene or a protest in accordance with 18 CFR 385.211 or 385.214, respectively. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3520 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-47-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Filing of Changes in Rates

February 4, 1983.

Take notice that on February 1, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing changes in its FERC Gas Tariff to be effective March 3, 1983, consisting of the following revised tariff sheets:

Original Volume No. 1

Sixth Revised Volume No. 2

The changes would increase revenues from jurisdictional sales and services by $98,961,848 based on a test period consisting of the twelve months ended October 31, 1982, adjusted for known and measurable changes through July 31, 1983. The changes also incorporated a Transportation Cost Rate Adjustment provision in the General Terms and Conditions.

Tennessee states that the increased rates are required to reflect increased plant and related expenses, increases in the cost of materials, supplies, wages, taxes, prepayments to producers and the transportation of gas by others, and a decline in system sales volumes. Any person desiring to be heared or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures. All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3521 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-39-000]

Tennessee Natural Gas Lines, Inc.; Proposed Rate Change

February 4, 1983.

Take notice that on January 28, 1983, Tennessee Natural Gas Lines, Inc. ("TNGL") tendered for filing changes to its F.E.R.C. Gas Tariff, First Revised Volume No. 1, consisting of the following tariff sheets.

Forty-Second Revised Sheet No. PGA–1
Eleventh Revised Sheet No. 4–A
Eighth Revised Sheet No. 4–B
Third Revised Sheet No. 8–I

The proposed general rate increase would increase revenues from jurisdictional sales and service by $1,290,325, or approximately 1.43%, based upon the period of twelve

consecutive months of actual experience ending September 30, 1982, as adjusted for known and measurable changes through June 30, 1983.

TNGL states that its general rate increase is necessary so as to provide it with the minimum return necessary to enable it to maintain its credit and financial integrity and to attract the capital which it will require and to recover increased taxes and increased operating and maintenance expenses. It states that its tariff filing is base on a slightly increased rate based and slightly reduced total annual sales volumes.

TNGL states that its tariff filing was served upon its jurisdictional customer, Nashville Gas Company, and the affected state commission, the Tennessee Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3522 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-17-007]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 4, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on January 28, 1983 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Revised Second Substitute Sixty-fourth Revised Sheet No. 14

Revised Substitute Sixty-fourth Revised Sheet No. 14A

Revised Substitute Sixty-fourth Revised Sheet No. 14B

Revised Substitute Sixty-fourth Revised Sheet No. 14C

Revised Substitute Sixty-fourth Revised Sheet No. 14D

Texas Eastern has reduced its rates pursuant to Article VI, Rate Reductions for Repayments of Advance Payments, of the Stipulation and Agreement in Docket No. RP78-87 as approved by Commission Order issued April 4, 1980. According to the terms and conditions of Aritcle VI of the Stipulation and Agreement, Texas Eastern is required to file any rate reduction pursuant to this article by the end of the month following the month during which repayments requiring a rate reduction are received. The filing reflects that Texas Eastern is obligated to reduce its rates based on the balance of advance payments outstanding as of December 31, 1982.

The proposed effective date of the above tariff sheets is March 1, 1983.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 16, 1983. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3523 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-285-000]

Union Electric Co.; Filing

February 4, 1983.

The filing company submits the following:

Take notice that on January 28, 1983, Union Electric Company (Union) tendered for filing a revision in Appendic C to the Interconnection Agreement dated February 18, 1982 between Central Illinois Public Service Company, Illinois Power company, and UE reflecting the addition of new facilities. In connection with such change, a new Appendix "B" to the Facility Use Agreement dated February 14, 1972 between UE and Illinois Power Company was also filed.

Union requests an effective date of November 13, 1981.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3534 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 3, 1983.

JD NO	DATE	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-PETRO-LEWIS CORPORATION				RECEIVED:	12/28/82	JA: CA			
8317387	82-4-0197	0402960122		103		ELLIS 65E-19	SOUTH BELRIDGE	4.7	MOBIL OIL CORP
KANSAS CORPORATION COMMISSION									
-GRAHAM-MICHAELIS CORP				RECEIVED:	01/10/83	JA: KS			
8317366	K 82-0637	1500700000		108-ER		DAVIS RANCH #1-27		0.0	CITIES SERVICE GA
8317365	K-79-0939	1506100000		108-SA		WEIDNER #1		0.0	COLORADO INTERSTA
-KANSAS PETROLEUM INC				RECEIVED:	01/10/83	JA: KS			
8317364	K-80-0088	1518720013		108-SA		NORDLING #1		0.0	KANSAS NEBRASKA N
-PAN EASTERN EXPLORATION COMPANY				RECEIVED:	01/10/83	JA: KS			
8317369	K-82-0251	1512900000		108		BARKER #1-27	HUGOTON	18.0	PANHANDLE EASTERN
8317373	K-82-0143	1518900000		108		BECKLEY #1-21	HUGOTON	18.0	PANHANDLE EASTERN
8317377	K-82-0140	1512900000		108		FITHIAN #1-9	HUGOTON	18.0	PANHANDLE EASTERN
8317378	K-82-0279	1512900000		108		FOUTS #1-11	HUGOTON	18.0	PANHANDLE EASTERN
8317379	K-82-0280	1517500000		108		GARFY #1-27	HUGOTON	18.0	PANHANDLE EASTERN
8317375	K-82-0141	1512900000		108		HAYWARD #1-25	HUGOTON	18.0	PANHANDLE EASTERN
8317374	K-82-0139	1518900000		108		HOFFMAN #1-29	HUGOTON	18.0	PANHANDLE EASTERN
8317376	K-82-0142	1518900000		108		HOLT #1-17	HUGOTON	18.0	PANHANDLE EASTERN
8317372	K-82-0278	1512900000		108		LOW #1-17	HUGOTON	18.0	PANHANDLE EASTERN
8317380	K-82-0281	1512900000		108		LOW #1-7	HUGOTON	18.0	PANHANDLE EASTERN
8317371	K-82-0277	1518900000		108		MORGAN #2-27	HUGOTON	18.0	PANHANDLE EASTERN
8317386	K-82-0194	1518900000		108		PERRY #1-9	HUGOTON	18.0	PANHANDLE EASTERN
8317384	K-82-0193	1518900000		108		PHILLIPS #1-1	HUGOTON	18.0	PANHANDLE EASTERN
8317385	K-82-0192	1518900000		108		RAMEY #1-11	HUGOTON	18.0	PANHANDLE EASTERN
8317383	K-82-0191	1518900000		108		REED #1-15	HUGOTON	18.0	PANHANDLE EASTERN
8317382	K-82-0190	1518900000		108		SHAFER #1-7	HUGOTON	18.0	PANHANDLE EASTERN
8317381	K-82-0253	1512900000		108		SIMONS #1-23	HUGOTON	18.0	PANHANDLE EASTERN
8317370	K-82-0252	1518900000		108		SPALDING #1-25	HUGOTON	18.0	PANHANDLE EASTERN
8317368	K-82-0250	1512900000		108		STOUT #1-35	HUGOTON	18.0	PANHANDLE EASTERN
8317367	K 82-0249	1512900000		108		WEESE #1-1	HUGOTON	18.0	PANHANDLE EASTERN
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-CARL A SCHELLINGER				RECEIVED:	01/10/83	JA: NM			
8317389		3000560925		102-2		CAMPBELL STATION UNIT #1	UNDESIGNATED - ABO	100.0	
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/10/83	JA: NM			
8317390		3002526679		106		EAST VAC GB/SA UNIT TR 3332 #002	VACUUM GB/SA	4.0	EL PASO NATURAL G
8317391		3002503017		108		EAST VAC GB/SA UNIT TR 3456#002	VACUUM GB/SA	1.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	01/10/83	JA: NM			
8317392		3002527914		103		SWAN "VB" #1	SAUNDERS PERMO PENN	0.0	PHILLIPS PETROLEU

JD NO	DATE	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/10/83	JA: NM			
8317393		3002526679		106		EAST VAC GB/SA UNIT TR 3332 #002	VACUUM GB/SA	4.0	EL PASO NATURAL G
8317394		3002503017		108		EAST VAC GB/SA UNIT TR 3456#002	VACUUM GB/SA	1.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	01/10/83	JA: NM			
8317395		3002527914		103		SWAN "VB" #1	SAUNDERS PERMO PENN	0.0	PHILLIPS PETROLEU

JD NO	JA PKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ACTION PETROLEUM INC				RECEIVED:	01/10/83	JA: OH			
8317226		34007220?2		103	107-TF	WHITELY #2	NEW LYME	25.0	P O I ENERGY INC
-ALTEX INC				RECEIVED:	01/10/83	JA: OH			
8317227		3412725575		103		MCCUNE ETALS #1	PIKE TOWNSHIP	4.5	COLUMBIA GAS TRAN
-ALTHEIRS OIL INC				RECEIVED:	01/10/83	JA: OH			
8317228		3412725541		103		D BARTOW #2	SALT LICK TOWNSHIP	4.0	NICOFIBERS INC
-AMERICAN PETROL INC				RECEIVED:	01/10/83	JA: OH			
8317229		3416726501		103		WAGNER #3	ADAMS	2.0	
-ATLAS ENERGY GROUP INC				RECEIVED:	01/10/83	JA: OH			
8317232		3415522065		102-2	107-TF	BIRRELL UNIT #1	KINSMAN	6.0	COLUMBIA GAS TRAN
8317236		3415022215		102-2	107-TF	D HARNETT #1	VERNON	12.0	COLUMBIA GAS TRAN
8317235		3415522199		102-2	107-TF	FRANTZ TUTTLE UNIT #1	VERNON	12.0	COLUMBIA GAS TRAN
8317233		3415522159		102-2	107-TF	LINEVILLE BOYD UNIT #1	VERNON	11.0	COLUMBIA GAS TRAN
8317230		3415021731		102-2	107-TF	M & R MIZNER #1	VERNON	15.0	COLUMBIA GAS TRAN
8317234		3415522184		102-2	107-TF	PEDEN #1	VERNON	11.0	COLUMBIA GAS TRAN
8317231		3415521968		102-2	107-TF	SCHLABACH #3	KINSMAN	9.0	COLUMBIA GAS TRAN
-B T SIMPSON JR				RECEIVED:	01/10/83	JA: OH			
8317351		3407522882		107-TF		ROBERT E KASNER #1	MILLERSBURG (HARDY TW	75.0	COLUMBIA GAS TRAN
-BAKER OIL CO				RECEIVED:	01/10/83	JA: OH			
8317243		3416726065		103		FRANK WALLER #1	AURELIUS	0.0	COLUMBIA GAS TRAN
-BJVC ENERGY MANAGEMENT CORP				RECEIVED:	01/10/83	JA: ON			
8317237		3410521097		107-TF		CHARLES GOEGLEIN #1	SAILSBURY	3.0	COLUMBIA GAS TRAN
8317239		3410521878		107-TF		CLAIR & THELMA GILES #1	RUTLAND	3.0	COLUMBIA GAS TRAN
8317238		3410521867		107-TF		CLAIR & THELMA GILES #2	RUTLAND	3.0	COLUMBIA GAS TRAN
8317242		3410522011		107-TF		CLAIR & THELMA GILES #3	RUTLAND	3.0	COLUMBIA GAS TRAN
8317240		3410321995		107-TF		FEENEY BENNETT POST 128 #2	SALISBURY	3.0	COLUMBIA GAS TRAN
8317241		3410522007		107-TF		FEENEY BENNETT POST 128 #4	SALISBURY	3.0	COLUMBIA GAS TRAN
-BRIDGE OIL DEVL (W*LD) PTY LTD				RECEIVED:	01/10/83	JA: OH			
8317244		3416723297		103	107-TF	PAUL MOOMAW #2	WAYNE	75.0	COLUMBIA GAS TRAN
-CARL LANG PRODUCTION CO				RECEIVED:	01/10/83	JA: OH			
8317207		3416722585		108		CARL LANG #1		11.1	GAS TRANSPORT INC
8317208		3416722679		108		CLARENCE HUCK #1		11.1	GAS TRANSPORT INC
8317210		3416722827		108		HUCK #1		11.1	GAS TRANSPORT INC
8317209		3416722697		108		LANG #1		11.1	GAS TRANSPORT INC
-CARLTON OIL CORP				RECEIVED:	01/10/83	JA: OH			
8317205		3416726200		103		TIDD #1	NEWPORT	50.0	
-CENTRAL ENERGY CO INC				RECEIVED:	01/10/83	JA: OH			
8317246		3412725700		103		MILLER #1	GRATIOT	10.0	NEW ZANE GAS CO
-CUYAHOGA EXPLORATION & DEVELOPMENT				RECEIVED:	01/10/83	JA: OH			
8317252		3416727052		103		DELMAR HENDERSHOT #5	LIBERTY	19.7	
-DELRAY DRILLING INC				RECEIVED:	01/10/83	JA: OH			
8317253		3412725370		107-TF		DOYLE #1	MADISON	22.0	NEW ZANE GAS CO
-DISCOVERY OIL LTD				RECEIVED:	01/10/83	JA: OH			
8317254		3410322075		107-TF		RUFRECHT #3	WESTFIELD	10.0	
-DONALD CREIGHTON				RECEIVED:	01/10/83	JA: OH			
8317248		3411120037		108		ENOS HAUGHT HEIRS #1	BENTON TOWNSHIP	3.5	RIVER GAS CO
8317247		3411120033		108		GALE BRADFIELD #1	BENTON TOWNSHIP	3.5	RIVER GAS CO
8317249		3411120069		108		JOHN RICE #1	BENTON TOWNSHIP	3.5	RIVER GAS CO
8317250		3416722929		108		SAMUEL MCVEY #1	GRANDVIEW TOWNSHIP NE	0.9	RIVER GAS CO
8317251		3416722946		108		SAMUEL MCVEY #2	GRANDVIEW TOWNSHIP NE	0.9	RIVER GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DUSTY DRILLING COMPANY INC				RECEIVED:	01/10/83	JA: OH			
8317255		3411522593		107-TF		THOMPSON #3	DEERFIELD	0.9	COLUMBIA GAS TRAN
8317256		3411522883		107-TF		THOMPSON #4	DEERFIELD	0.9	COLUMBIA GAS TRAN
-EDWARD H EVERETT CO				RECEIVED:	01/10/83	JA: OH			
8317265		3411923979		103		L DOCKRAY #1	FALLS-MUSKINGUM	27.4	NATIONAL GAS & OI
-ELKHEAD GAS & OIL COMPANY				RECEIVED:	01/10/83	JA: OH			
8317258		3408323069		103		J R LEPLEY #2	KNOX	50.0	COLUMBIA GAS TRAN
8317257		3408322830		103		LEPLEY #3	KNOX	50.0	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED:	01/10/83	JA: OH			
8317264		3405520249		103	107-RT	GINGERICH #1	MIDDLEFIELD	19.0	COLUMBIA GAS TRAN
8317263		3405520235		103	107-RT	MILLER #10	MIDDLEFIELD	19.0	COLUMBIA GAS TRAN
8317262		3405520213		103	107-RT	MILLER #12	MIDDLEFIELD	20.0	COLUMBIA GAS TRAN
8317260		3405520188		103	107-RT	MILLER #14	MIDDLEFIELD	18.0	COLUMBIA GAS TRAN
8317261		3405520190		103	107-RT	MILLER #8	MIDDLEFIELD	19.0	COLUMBIA GAS TRAN
8317259		3405520185		103	107-RT	WALINEVICZE #1	MIDDLEFIELD	20.0	COLUMBIA GAS TRAN
-EVERFLOW EASTERN INC				RECEIVED:	01/10/83	JA: OH			
8317266		3409920705		103	107-RT	DIEHL LAKE-GIBSON #1	ELLSWORTH	0.0	
-FOX OIL CO				RECEIVED:	01/10/83	JA: OH			
8317267		3416120047		103		GORDON THOMAS #1	LIBERTY	60.0	WEST OHIO GAS CO
-FREDERICK PETROLEUM CORP				RECEIVED:	01/10/83	JA: OH			
8317268		3411122731		103		TILTON #1-A FRANKLIN TOWNSHIP	FRANKLIN	36.0	
-FRONTIER PETROLEUM LTD				RECEIVED:	01/10/83	JA: OH			
8317269		3411122859		103		CLYDE WECKBACHER #1	WASHINGTON	12.0	COLUMBIA GAS TRAN
8317270		3411127298		103		H D HELDMAN #2	INDEPENDENCE	10.0	COLUMBIA GAS TRAN
-GEO ENERGY INC				RECEIVED:	01/10/83	JA: OH			
8317271		3403123611		108		LARGE #1		16.0	COLUMBIA GAS TRAN
8317272		3403123814		108		LARGE #2		6.0	COLUMBIA GAS TRAN
-GORSUCH OIL & GAS CORP				RECEIVED:	01/10/83	JA: OH			
8317273		3411926315		107-TF		WILLIAM BARKER #1	ROSEVILLE	50.0	COLUMBIA GAS TRAN
-GREENLAND PARTNERSHIP 82-1				RECEIVED:	01/10/83	JA: OH			
8317274		3412725620		107-TF		REAM #1	GORE	0.0	COLUMBIA GAS TRAN
-GREENWOOD JAMES W				RECEIVED:	01/10/83	JA: OH			
8317277		3416700290		108		HENRY C WEBER #1	GRANDVIEW TWP	0.4	RIVER GAS CO
8317275		3416700000		108		HENRY C WEBER #2	GRANDVIEW TWP	0.4	RIVER GAS CO
8317276		3416700000		108		HENRY C WEBER #3	GRANDVIEW TWP	0.4	RIVER GAS CO
8317278		3416700375		108		HENRY C WEBER #4	GRANDVIEW TWP	0.4	RIVER GAS CO
-GUARDIAN MANAGEMENT INC				RECEIVED:	01/10/83	JA: OH			
8317280		3403124855		103		BURCH DC-1A	COSHOCTON	18.0	
8317279		3403124573		103		MELROSE DC-1A	PERRY	18.0	
-HBJ ASSOCIATES - 80 DRLG PTNSP				RECEIVED:	01/10/83	JA: OH			
8317281		3410521996		107-TF		ELBER JOHNSON #1	SALISBURY	3.0	COLUMBIA GAS TRAN
8317283		3410522030		107-TF		ELBER JOHNSON #2	SALISBURY	3.0	COLUMBIA GAS TRAN
8317282		3410522037		107-TF		ELBER JOHNSON #3	SALISBURY	3.0	COLUMBIA GAS TRAN
-IRVIN PRODUCING COMPANY				RECEIVED:	01/10/83	JA: OH			
8317286		3412724440		108		BROWN #1		4.0	COLUMBIA GAS TRAN
8317288		3412724747		108		BROWN #2		4.0	COLUMBIA GAS TRAN
8317289		3412724995		108		E LECKRONE #5		4.0	COLUMBIA GAS TRAN
8317285		3412723883		108		EING #1		2.0	COLUMBIA GAS TRAN
8317287		3412724737		108		O F LECKRONE #1		5.0	COLUMBIA GAS TRAN
-JAMES R SMAIL				RECEIVED:	01/10/83	JA: OH			
8317353		3416923372		103		WILE UNIT #1	CLINTON	36.0	COLUMBIA GAS TRAN
-KAISER ENERGY INC				RECEIVED:	01/10/83	JA: OH			
8317290		3402929050		107-TF		FRED JOHNSON KEM #202	FRANKLIN	35.0	

UMI FEB 9 1983 ISS 28 VOL 48 4

JOB NO.	DA EFT	API NO	D	SEC(1)	SEC(2)	WELL NAME
						RECEIVED: 01/10/83 JA: OH
-L & M PETROLEUM INC						
8317291		3412725415		107-TF		REED/DIETZEL/ESSINGTON #1
						RECEIVED: 01/10/83 JA: OH
-LAKE REGION OIL INC						
8317292		3407523876		103	107-TF	CHARLES V STRAITS #5
8317293		3408323136		103		LUTHER C & RONALD E HOTHEM #2
						RECEIVED: 01/10/83 JA: OH
-LANDPROVEST INC						
8317294		3405923055		107-TF		NEILLEY #1
8317295		3405923106		107-TF		URBAN #1
8317296		3405923261		107-TF		WESTFALL #1
						RECEIVED: 01/10/83 JA: OH
-LEVENGOOD OIL & GAS INC						
8317301		3407522226		103	107-RT	WAYNE CLOSE #1
						RECEIVED: 01/10/83 JA: OH
-LIBERTY OIL & GAS CORP						
8317303		3410522425		103		GEORGE COLLINS #1
8317302		3400922635		103		J M FERRELL #1
						RECEIVED: 01/10/83 JA: OH
-LOMAK PETROLEUM INC						
8317306		3411926327		107-TF		H E WILSON #1
8317305		3411926287		107-TF		M WHITE #2-L
8317304		3411926284		107-TF		RODGERS & ROSEN #25-L
						RECEIVED: 01/10/83 JA: OH
-MARK RESOURCES CORP						
8317312		3400722118		103		MCQUILLAN-CHILDS UNIT #1
						RECEIVED: 01/10/83 JA: OH
-MID-CON OIL COMPANY						
8317319		3408924503		103		CHARLES SHORT #1
8317322		3408924558		103		GORDON-HUPP #1
8317320		3408924506		103		PAUL BORING #2
8317321		3408924512		103		VELMA COOPERRIDER #2
						RECEIVED: 01/10/83 JA: OH
-MINNESOTA-OHIO OIL CORP						
8317324		3416727197		103		LAWRENCE BOWERSOCK #1
8317323		3416727196		103		U S A #6 WARD CLINE
						RECEIVED: 01/10/83 JA: OH
-NEW FRONTIER EXPLORATION INC						
8317326		3405923398		103	107-TF	CHARLES MOORE #1
8317327		3406720462		103	107-TF	E SHEEHAN #1
8317328		3415123781		103	107-TF	J BRIESKE #2
						RECEIVED: 01/10/83 JA: OH
-OXFORD OIL CO						
8317331		3411925989		103		EMMA MCKENZIE #5
8317330		3411122926		103		STAN CARPENTER #1
8317329		3411122907		107-DV		WALDINE BEARDMORE #1
						RECEIVED: 01/10/83 JA: OH
-PENN-OHIO ENERGY CORP						
8317332		3407522961		107-TF		JONAS SCHROCK W-10-1
8317333		3407522991		107-TF		MOSES MOSTETLER W-6-1
						RECEIVED: 01/10/83 JA: OH
-PETRO EVALUATION SERVICES INC						
8317334		3408520397		103	107-TF	ROOSEVELT UNIT 2-A
						RECEIVED: 01/10/83 JA: OH
-POI ENERGY INC						
8317340		3413321240		108		GRIFFITH #1
8317342		3413321864		108		HIGGINS #1
8317339		3400721076		108		HODGE #2
8317338		3400720553		108		KRAJER #1
8317343		3415320578		108		PARKER #1
8317341		3413321353		108		WESTERN RESERVE FIRELANDS #1
8317336		3400720501		108		ZAEBST #1
8317335		3400720549		108		ZAEBST #2
8317337		3400720550		108		ZAEBST #3
						RECEIVED: 01/10/83 JA: OH
-POMINEX INC						
8317344		3409921504		103	107-TF	MAYO UNIT #3

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FIELD NAME	PROD	PURCHASER
PIKE	10.0	COLUMBIA GAS TRAN
KILLBUCK	9.0	COLUMBIA GAS TRAN
JEFFERSON	5.0	EAST OHIO GAS CO
CAMBRIDGE	20.0	
INDIAN CAMP	12.0	
INDIAN CAMP	10.0	
CLARK	10.0	COLUMBIA GAS TRAN
OLIVE	18.0	COLUMBIA GAS TRAN
TROY	18.0	COLUMBIA GAS TRAN
BLUE ROCK	24.0	ROVI RESOURCE COR
BLUE ROCK	24.0	ROVI RESOURCES CO
MEIGS	24.0	ROVI RESOURCES CO
KINGSVILLE	30.0	
CHARLES SHORT	10.0	NATIONAL GAS & OI
GORDON-HUPP	14.0	NATIONAL GAS & OI
BORRING	12.0	NATIONAL GAS & OI
COOPERRIDER WELL #2	15.0	NATIONAL GAS & OI
LUDLOW	12.0	COLUMBIA GAS TRAN
LUDLOW	12.0	COLUMBIA GAS TRAN
CAMBRIDGE	22.0	YANKEE RESOURCES
MONROE	10.0	TENNECO OIL CO
WASHINGTON	20.0	YANKEE RESOURCES
HOPEWELL	10.0	
FRANKLIN	10.0	
FRANKLIN	12.0	
WALNUT CREEK TOWNSHIP	150.0	COLUMBIA GAS TRAN
WALNUT CREEK TOWNSHIP	130.0	COLUMBIA GAS TRAN
PERRY	30.0	EAST OHIO GAS CO
	19.6	
	14.6	
	19.2	
	10.0	
	14.3	
	2.0	
	2.6	
	10.6	
	4.9	
BOARDMAN	18.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317345		3409921517		103	107-TF	RASHID #1	BOARDMAN	18.0	
8317347		3409921522		103	107-TF	SHORTEN #1	CANFIELD	18.0	
8317346		3409921520		103	107-TF	URSULINE NUNS #1	CANFIELD	18.0	
-PREMIER ENERGY CORP				RECEIVED:	01/10/83	JA: OH			
8317348		3411121986		107-DV		VERNON REISCHMAN #1	MALAGA	3.0	
-RELIANCE ENERGY				RECEIVED:	01/10/83	JA: OH			
8317316		3408322489		108		DAVID MCMILLIAN #1		1.5	COLUMBIA GAS TRAN
8317313		3404520625		108		NEIL BEARD #1		6.0	COLUMBIA GAS TRAN
8317314		3404520635		108		ROY LYNN & RUSSEL FOSTER #1		0.0	COLUMBIA GAS TRAN
8317315		3407522690		108		WILLIE & HELEN WOLFE #1		3.0	COLUMBIA GAS TRAN
-ROCKWELL RESOURCES INC				RECEIVED:	01/10/83	JA: OH			
8317349		3411122747		103		PHENA PIATT #1	WASHINGTON	12.0	COLUMBIA GAS TRAN
-RONALD F MORAN				RECEIVED:	01/10/83	JA: OH			
8317325		34[illegible]3123810		107-TF		BOSSON #1	BEDFORD	0.0	COLUMBIA GAS TRAN
-SOUTHERN TRIANGLE OIL CO INC				RECEIVED:	01/10/83	JA: OH			
8317352		3405[illegible]21[illegible]61		108		HARBOUGH B 1		1.5	COLUMBIA GAS TRAN
-STRATA CORP				RECEIVED:	01/10/83	JA: OH			
8317354		340[illegible]7220[illegible]3		107-TF		DOCIE #2	CANAAN	7.0	
-TORENT OIL & GAS CO INC				RECEIVED:	01/1[illegible]/83	JA: OH			
[illegible]317358		3409921515		107-TF		LOGAN FARMS UNIT #1	CANFIELD	15.0	COLUMBIA GAS OF O
-TOWNER PETROLEUM CO				RECEIVED:	01/10/83	JA: OH			
8317359		3405[illegible]22256		108		R WAHNE #1	GUERNSEY	22.0	EAST OHIO GAS CO
-TRAK GAS & OIL PRO[illegible]ERS 1				RECEIVED:	01/10/83	JA: OH			
8317360		3410521758		107-RT		VERNON WEBER #1B	LOWER MISSISSIPPIAN	5.0	COLUMBIA GAS TRAN
-UNION DRILLING INC				[illegible]ECEIVED:	01/10/[illegible]3	JA: OH			
8317361		340872[illegible]308		103		DAVY & DIXIE TURNER 6001	WINDSOR TOWNSHIP	0.0	COLUMBIA GAS TRAN
-UNIVERSAL EXPLORATION				RECEIVED:	01/10/[illegible]3	JA: OH			
[illegible]317362		3410322318		107-TF		KEIPER #1	WADSWORTH	45.0	YANKEE RESOURCES
-VICTOR MCKENZIE				RECEIVED:	01/10/[illegible]3	JA: OH			
8317318		3412725770		1[illegible]3		GRAPEVINES INC #1	HOPEWELL	5.0	NATIONAL GAS & OI
8317317		3412725375		103	107-TF	JOSEPHINE HEFRIGGLE "C" #1	CLAYTON	5.5	
-VIKING RESOURCES CORP				RECEIVED:	01/10/83	JA: OH			
8317363		3408520355		103	1[illegible]7-TF	KLYN #5	PERRY	30.0	
-W E SHRIDER CO				RECEIVED:	01/10/83	JA: OH			
8317350		3411926398		103		BRADLEY-STOTTS #2	LICKING	3.0	NATIONAL GAS & OI
-W J LYDIC INC				RECEIVED:	01/10/[illegible]3	JA: OH			
8317309		3411122815		103		AKE #1	JACKSON	50.0	RIVER GAS CO
8317311		3411122940		103		HINDERLONG #1	SUMMIT	20.0	
8317308		3411122399		103		J RITCHIE #1	JACKSON	0.0	COLUMBIA GAS TRAN
8317310		3411122937		103		PHILLIP CHRISTMAN #1	SUMMIT	8.0	
8317307		3411122398		103		WANDA BYERS #1	JACKSON	0.0	COLUMBIA GAS TRAN
-WILLIAM F HILL				RECEIVED:	01/10/83	JA: OH			
8317284		340[illegible]7523917		103		JOHN ECKERT #1	KNOX	8.0	
-WILLIAM N TIPKA				RECEIVED:	01/10/83	JA: OH			
8317356		3415723347		107-TF		GEORGE BERKSHIRE #1	WASHINGTON	6.0	COLUMBIA GAS TRAN
8317355		3406725850		107-TF		JOHN HANLON #1	FRANKLIN	1.0	
8317357		3415723355		107-TF		LIGGETY-BERKSHIRE #1	WASHINGTON	20.0	COLUMBIA GAS TRAN
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-DEVON CORP				RECEIVED:	12/2[illegible]/[illegible]2	JA: WV			
8317388		4703501175		108-FR		SUE PROCTOR MILLER #2 #785	RAVEN[illegible]WOOD	3.0	COLUMBIA GAS TRAN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 4[illegible]7-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

Orig. Date

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
82-13222	NY	Arlington Exploration	Valley Vista View #1	586	02-04-82	C:	107-DV Approved; not 107-TF
83-05559	OK	Samson Resources Co	Mosby #1	778	11-26-82	C:	102-4 & 103 Approved
83-05697	LA	Marshall Exploration Inc	Colvin Cranor #2	778	11-26-82	C:	102-4 & 103 Approved
83-05698	LA	Texas Oil & Gas	Robinson H #1	778	11-26-82	C:	Applicant Name
83-05918	TX	Discovery Operating Inc	Hofferkamp #1	779	12-2-82	C:	Well Name
83-06682	TX	Dowco Petroleum Inc	Jack Ray Ford #1	782	12-07-82	C:	Well Name; 102-2 Approved
83-06792	TX	Grace Petroleum	McAshan Gas Ut #2	782	12-07-82	C:	102-4 & 107-TF Approved
83-06869	TX	Shah Exploration Co Inc	Bryan Clayton 18865 #1	782	12-07-82	C:	Well Name
83-07015	TX	Conmco Inc	Round Top Palo Pinto #11	782	12-07-82	C:	Well Name
83-07122	WV	R & B Petroleum	Georgia Pacific #4	783	12-08-82	C:	107-TF Approved; not 107-DV
83-07123	WV	R & B Petroleum	Georgia Pacific #6	783	12-08-82	C:	107-TF Approved; not 107-DV
83-07134	WV	Bow Valley Petroleum Inc	Mullins No. 937	783	12-08-82	C:	107-TF Approved; not 107-DV
83-07135	WV	Bow Valley Petroleum Inc	E Mullins No. 938	783	12-08-82	C:	107-TF Approved; not 107-DV
83-07136	WV	James F Scott	Nicastro Huddleston #2	783	12-08-82	C:	107-TF Approved; not 107-DV
83-07144	WV	James F Scott	Eva B Huddleston SW-400	783	12-08-82	C:	107-TF Approved; not 107-DV
83-07145	WV	James F Scott	Angela Nicastro #2 SW-402	783	12-08-82	C:	107-TF Approved; not 107-DV
83-07493	OH	Austin Development Co	Hawkins JY #1	785	12-08-82	C:	103 Approved; 107-TF Denied
83-07533	OH	Everflow Eastern Inc	Paxson #1	785	12-08-82	C:	108 Denied by JA
83-07579	OH	Monroe & Reusink Inc	Robert Wolf #1	785	12-08-82	C:	108 Denied by JA
83-07636	OH	Schimsher O & G Explora	White #1	785	12-08-82	C:	103 Approved; not Denied
83-07769	PA	Richard Burkland	Santee #1	786	12-08-82	C:	107-PE Approved; not 107-TF
83-08067	PA	Daniel L Hilty	Dolly Smeltzer #1	786	12-08-82	C:	107-PE Approved; not 107-TF
83-08240	OK	Blue Quail Energy Inc	Jenny Lou No. 1	787	12-14-82	C:	Well Name
83-08249	NM	Mesa Petroleum Co	Badger Com No. 3	787	12-14-82	C:	102-2 & 107-TF Approved
83-08500	WV	Consolidated Gas Supply	Guy D Brown WN-9899	788	12-14-82	C:	Well Name
83-08542	PA	William S. Burkland	Work Farm #2	789	12-14-82	C:	107-PE Approved; not 107-TF
83-09100	LA	Bethlan Production Corp	Campbell A No. 1	791	12-14-82	C:	102-4 & 103 Approved
83-09116	LA	Bethlan Production Corp	Gray No. 1	791	12-14-82	C:	102-4 & 103 Approved
83-09147	LA	Noe & Woods	Jordan No 3	791	12-14-82	C:	103 & 108 Approved
83-09219	LA	Glenn Petroleum Corp	E. J. Ramsey #1	791	12-14-82	C:	102-4 & 103 Approved
83-09239	NM	HNG Oil Comapny	Faulk "32" Com #1	792	12-14-82	C:	102-2 & 103 Approved
83-09565	TX	John L Cox	Rocker B "E" No 1-X	794	12-22-82	C:	Well Name
83-09705	TX	Morrow Resources, Inc	Brown #4	794	12-22-82	C:	102-2 & 103 Approved
83-10043	TX	Gulf Oil Corporation	JT McElroy Consoli. #250	795	12-22-82	C:	Well Name
83-10672	OH	Hopco Resources Inc	Balo #3	798	12-29-82	C:	103 Approved; 107-TF Denied
83-11049	TX	Diamond Shamrock Corp	#1'B'61 Clarence B Parker	800	12-29-82	C:	102-4 & 103 Approved
83-13713	OK	Fourth Chiefs Energy	ADA ID #063-38820	810	01-19-83	C:	108 Denied by JA
83-13714	OK	Fourth Chiefs Energy	Ryan ID #063-38822	810	01-19-83	C:	108 Denied by JA
83-13715	OK	Fourth Chiefs Energy	Tribal ID #063-38818	810	01-19-83	C:	108 Denied by JA
83-13716	OK	Fourth Chiefs Energy	Hicks ID #063-38819	810	01-19-83	C:	108 Denied by JA
83-13717	OK	Fourth Chiefs Energy	Meadors ID #063-38821	810	01-19-83	C:	108 Denied by JA
83-13718	OK	Arkoma Gas Company	W J Hilseweck G.U. #1-8	810	01-19-83	C:	108 Denied by JA
83-14535	NM	Mesa Petroleum	Macho Federal #3	813	01-24-83	C:	Well Name

Kenneth F. Plumb,

Secretary.

[FR Doc 83-3525 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 825]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 3, 1983.

JD NO	JA DKT	API NO	? SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION **********								
-BEREA OIL AND GAS CORPORATION			RECEIVED:	01/12/83	JA: NY			
8317408	3196	3101316704	102-2		GROSS UNIT #1	GERRY	12.0	COLUMBIA GAS TRAN
8317474	3161	3101316884	102-2		H OAG #4	WILDCAT	0.0	COLUMBIA GAS TRAN
-BOUNTY OIL & GAS INC			RECEIVED:	01/12/83	JA: NY			
8317469	3201	3101317084	102-2		ENOS/FRANKSON #1	WILDCAT	0.0	NATIONAL FUEL GAS
8317470	3198	3101317086	102-2		POLLOCK UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED:	01/12/83	JA: NY			
8317453	3671	3101111496	108		ANNA RINDFLEISCH WN-1386	SPRINGPORT TOWN - AUB	23.0	GENERAL SYSTEM PU
-DURAN & ASSOCIATES INC			RECEIVED:	01/12/83	JA: NY			
8317465	3504	3101315968	102-0		G SKINNER #1 K-V-27	CARROLL	30.0	COLUMBIA GAS TRAN
8317462	3501	3101315967	102-2		I WALKER #1 K-A-96	CARROLL	30.0	COLUMBIA GAS TRAN
8317471	3271	3101321639	102-2		R HORNER UNIT #1 KV-14	CARROLL	30.0	COLUMBIA GAS TRAN
8317463	3500	3101315947	102-2		R MINOR #1 K-A-97	CARROLL	30.0	COLUMBIA GAS TRAN
8317472	3272	3100921630	102-2		RAYMOND HADLEY #2 KA-115	CONEWANGO	30.0	COLUMBIA GAS TRAN
8317478	3502	3101317064	102-2		SWANSON UNIT #1 K-V-17	CARROLL	30.0	COLUMBIA GAS TRAN
8317464	3503	3101315978	102-2		W FENTON #1 K-A-100	CARROLL	30.0	COLUMBIA GAS TRAN
-ENVIROGAS INC			RECEIVED:	01/12/83	JA: NY			
8317405	3172	3100917043	107-TF		A CAMMILLERI #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8317437	4427	3101313746	108		AKIN #1	WILDCAT	2.0	NATIONAL FUEL GAS
8317431	4433	3101312880	108		BARAN #1	LAKESHORE	5.0	NATIONAL FUEL GAS
8317430	4434	3101313035	108		BARAN #2	LAKESHORE	9.0	NATIONAL FUEL GAS
8317401	2944	3101316795	107-TF		C DAMCOTT #2	CLYMER	18.0	COLUMBIA GAS TRAN
8317402	2943	3101316796	107-TF		C DAMCOTT #3	CLYMER	18.0	COLUMBIA GAS TRAN
8317418	4446	3101312773	108		CONNELLY #1	LAKESHORE	15.0	NATIONAL FUEL GAS
8317421	4443	3101314290	108		DARLING #1	LAKESHORE	9.0	NATIONAL FUEL GAS
8317396	3236	3100916907	107-TF		E PLOETZ #11	WILDCAT	18.0	COLUMBIA GAS TRAN
8317397	3233	3100916961	107-TF		E PLOETZ #3	WILDCAT	18.0	COLUMBIA GAS TRAN
8317394	3231	3100916904	107-TF		E PLOETZ #5	WILDCAT	18.0	COLUMBIA GAS TRAN
8317395	3237	3100917056	107-TF		E RUHLEN #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8317427	4437	3101312774	108		EGGERT #1	LAKESHORE	10.0	NATIONAL FUEL GAS
8317403	2941	3101316824	107-TF		I BECKERINK #1	CLYMER	18.0	COLUMBIA GAS TRAN
8317400	2942	3101316945	107-TF		I BECKERINK #2	CLYMER	18.0	COLUMBIA GAS TRAN
8317434	4430	3101314355	108		I COCHRANE #1	LAKESHORE	1.0	NATIONAL FUEL GAS
8317423	4441	3101314356	108		I COCHRANE #2	LAKESHORE	11.0	NATIONAL FUEL GAS
8317435	4429	3101313862	108		K JAMES #1	WILDCAT	0.9	NATIONAL FUEL GAS
8317436	4428	3101313854	108		K JAMES #2	WILDCAT	2.0	NATIONAL FUEL GAS
8317422	4442	3101314311	108		LOLL #1	LAKESHORE	17.0	NATIONAL FUEL GAS
8317429	4435	3101312915	108		MASON #1	LAKESHORE	7.0	NATIONAL FUEL GAS
8317414	4450	3101313907	108		NIXON #1	LAKESHORE	8.0	NATIONAL FUEL GAS
8317425	4439	3101314300	108		NIXON #2	LAKESHORE	12.0	NATIONAL FUEL GAS
8317426	4438	3101314301	108		NIXON #3	LAKESHORE	10.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	? SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317413	4451	3101314369		108		R BARDEN #1	LAKESHORE	3.0	NATIONAL FUEL GAS
8317398	3232	3100917073		107-TF		R REBESCHER #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8317420	4444	3101314315		108		PENNELL #1	LAKESHORE	13.0	NATIONAL FUEL GAS
8317424	4440	3101312935		108		QUAGLIANO #1	LAKESHORE	10.0	NATIONAL FUEL GAS
8317399	2945	3101316617		107-TF		R BECKERINK #2	CLYMER	18.0	COLUMBIA GAS TRAN
8317428	4436	3101312825		108		ROHMAN #1	LAKESHORE	7.0	NATIONAL FUEL GAS
8317415	4449	3101312766		108		TENHUISEN #1	LAKESHORE	5.0	NATIONAL FUEL GAS
8317416	4448	3101312770		108		TENHUISEN #2	LAKESHORE	7.0	NATIONAL FUEL GAS
8317417	4447	3101312771		108		TENHUISEN #3	LAKESHORE	8.0	NATIONAL FUEL GAS
8317419	4446	3101313893		108		TORNEY #1	WILDCAT	6.0	NATIONAL FUEL GAS
8317404	2946	3101316459		107-TF		V NELSON #1	WILDCAT	18.0	NATIONAL FUEL GAS
8317433	4431	3101312961		108		WRIGHT #1	LAKESHORE	7.0	NATIONAL FUEL GAS
8317432	4432	3101313056		108		WRIGHT #2	LAKESHORE	2.0	NATIONAL FUEL GAS
-J F S INC				RECEIVED:	01/12/83	JA: NY			
8317408	4634	3102906718		108		GANEY #4	LAKEVIEW	0.0	NATIONAL FUEL GAS
8317409	4631	3102906920		108		JFS INC #5	LAKEVIEW	7.3	NATIONAL FUEL GAS
8317411	4632	3102906923		108		JFS INC #6	LAKEVIEW	0.0	NATIONAL FUEL GAS
8317410	4633	3102906924		108		JFS INC #7	LAKEVIEW	0.0	NATIONAL FUEL GAS
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	01/12/83	JA: NY			
8317446	4349	3100916918		107-TF		ARTHUR BUGENHAGEN #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8317443	4340	3100916927		107-TF		CHARLES VAN ETTEN #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8317440	4221	3100916422		107-TF		CLIFFORD GIBBS #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8317441	4334	3100916963		107-TF		CLIFFORD SCHUFLER #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8317439	4223	3100916407		107-TF		DONALD WILLIAMS #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8317438	4198	3100916924		107-TF		DOROTHY BEZELJAK #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8317442	4338	3100917706		107-TF		EUGENE BISSELL #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8317448	4352	3100917050		107-TF		GARY SARGENT #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8317447	4358	3100916413		107-TF		LARIMER/NORTON #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8317444	4336	3100916830		107-TF		MCDONALD #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8317445	4350	3100916831		107-TF		MCDONALD #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-LENAPE RESOURCES CORP				RECEIVED:	01/12/83	JA: NY			
8317457	3154	3105116143		102-2		LRC #70 - CARROLL S DICKFORD #1	CALEDONIA	20.0	ELIZABETHTOWN GAS
8317466	3157	3105116134		102-2		LRC #71 - WILLIAM L DEARCOP #1	CALEDONIA	20.0	ELIZABETHTOWN GAS
8317467	3156	3105116125		102-2		LRC #79 - L D'ANGELO #1	CALEDONIA	20.0	ELIZABETHTOWN GAS
8317458	3153	3105116124		102-2		LRC #80 - J SKELLY #1	CALEDONIA	20.0	ELIZABETHTOWN GAS
8317456	3155	3105116131		102-2		LRC NO # - GERALD F PRINGLE #1	CALEDONIA	20.0	ELIZABETHTOWN GAS
-NRM PETROLEUM CORPORATION				RECEIVED:	01/13/83	JA: NY			
8317473	3240	3100916233		102-2		PIERCE-CHUBB UNIT "A" #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8317476	3242	3100916341		102-2		SHIELDS-BISSELL UNIT #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
8317475	3243	3100916379		102-2		VISKEN #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
-NYS NATURAL GAS COMPANY				RECEIVED:	01/12/83	JA: NY			
8317393	4476	3101317865		107-TF		BEST #3	RIPLEY	20.0	NATIONAL FUEL GAS
8317394	4651	3101317925		107-TF		NORTHROP #3	LAKESHORE	20.0	NATIONAL FUEL GAS
8317412	4652	3101317925		103		NORTHROP #3	LAKESHORE	20.0	NATIONAL FUEL GAS
-TRAHAN PETROLEUM INC				RECEIVED:	01/12/83	JA: NY			
8317477	3511	3101317196		102-2		PEIGHTOL #2 31-013-17196	ELLINGTON	36.0	COLUMBIA GAS TRAN
8317406	4248	3101317170		107-TF		HITCHCOCK #1 31-013-17170	ELLINGTON	36.0	COLUMBIA GAS TRAN
8317461	3513	3101312515		102-2		SCHIMEK NY 44 31-013-12515	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	01/12/83	JA: NY			
8317460	3159	3101316834		102-2		BENEDICT #2	GERRY	20.0	COLUMBIA GAS TRAN
8317455	4630	3101317924		107-TF		F WALZAK #1	GERRY	20.0	COLUMBIA GAS TRAN
8317407	4629	3101317924		103		F WALZAK #1	GERRY	20.0	COLUMBIA GAS TRAN
8317451	4664	3101317734		103		SANFORD #2	GERRY	20.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317449	4665	3101317734		107-TF		SANFORD #2	GERRY	20.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP				RECEIVED:	01/12/83	JA: NY			
8317459	3146	3101316290		102-2		ZAHP #1	GERRY	20.0	COLUMBIA GAS TRAN
-4-R INVESTMENT PARTNERSHIP				RECEIVED:	01/12/83	JA: NY			
8317452	4662	3101317922		103		M J ELDERKIN #2	GERRY	20.0	NATIONAL FUEL GAS
8317450	4663	3101317922		107-TF		M J ELDERKIN #2	GERRY	20.0	NATIONAL FUEL GAS
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ANGERMAN ASSOCIATES INC				RECEIVED:	01/11/83	JA: PA			
8317532	17302	3706325710		108		DALE & DORIS LAKE #2 - IND-25710	W PENNA - UPPER DEVON	17.0	INDUSTRIAL ENERGY
-BEREA OIL AND GAS CORPORATION				RECEIVED:	01/11/83	JA: PA			
8317542	18369	3703921802		107-TF		A BELLINI #1	WILDCAT	10.0	COLUMBIA GAS TRAN
8317541	18368	3703921802		102-2		A BELLINI #1	WILDCAT	10.0	COLUMBIA GAS TRAN
8317535	18269	3703921842		107-TF		J DILEY UNIT #1	WILDCAT	15.0	COLUMBIA GAS TRAN
8317536	18270	3703921842		102-2		J DILEY UNIT #1	WILDCAT	15.0	COLUMBIA GAS TRAN
8317520	15847	3703921568		107-TF		J STEVENS #1	WILDCAT	20.0	COLUMBIA GAS TRAN
8317517	15846	3703921568		102-2		J STEVENS #1	WILDCAT	20.0	COLUMBIA GAS TRAN
8317530	18272	3703921837		103		J WEIKAL #1	WILDCAT	16.0	COLUMBIA GAS TRAN
8317537	18271	3703921837		107-TF		J WEIKAL #1	WILDCAT	16.0	COLUMBIA GAS TRAN
8317540	18354	3703921794		107-TF		M SOUTHALL #1	WILDCAT	15.0	COLUMBIA GAS TRAN
8317539	18353	3703921794		102-2		M SOUTHALL #1	WILDCAT	15.0	COLUMBIA GAS TRAN
8317546	18505	3703921811		107-TF		R BURKE #1	WILDCAT	12.0	COLUMBIA GAS TRAN
8317545	18504	3703921811		102-2		R BURKE #1	WILDCAT	12.0	COLUMBIA GAS TRAN
-CARDINAL OIL CO				RECEIVED:	01/11/83	JA: PA			
8317549	18616	3703921877		107-TF		JOHN TAYLOR #8 82-23 PER CRA-21877	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CASTLE GAS CO INC				RECEIVED:	01/11/83	JA: PA			
8317565	18704	3706324467		108		E BIBLE #1 (C-516) IND-24464	ARMSTRONG TOWNSHIP	5.8	PEOPLES NATURAL G
8317566	18705	3706325517		108		H SHEARER #1 (C-575) IND-25517	WHITE TOWNSHIP	4.0	PEOPLES NATURAL G
8317567	18706	3706325518		108		H SHEARER #2 (C-576) IND-25518	WHITE TOWNSHIP	4.0	PEOPLES NATURAL G
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	01/11/83	JA: PA			
8317551	18620	3702123172		102-4		LORETTA RAWLOWSKI #1 WN-1917	TOWNSHIP	96.0	GENERAL SYSTEM PU
8317552	18621	3703321401		102-4		THELMA STEWART #1 WN-1911	BURNSIDE	408.0	GENERAL SYSTEM PU
8317564	18701	3703321417		102-2		WILLIAM B ROSS #1 WN-1916	BURNSIDE	11.0	GENERAL SYSTEM PU
-COWAN ASSOCIATES LTD				RECEIVED:	01/11/83	JA: PA			
8317509	11955	3703921175		107-TF		GEORGE LAW #1	GEORGE LAW	54.8	NATIONAL FUEL GAS
8317508	11954	3703921175		103		GEORGE LAW #1	GEORGE LAW	54.8	NATIONAL FUEL GAS
8317507	11953	3703921174		107-TF		GEORGE LAW #4	GEORGE LAW	63.9	NATIONAL FUEL GAS
8317506	11952	3703921174		103		GEORGE LAW #4	GEORGE LAW	63.9	NATIONAL FUEL GAS
8317513	14621	3703921422		107-TF		PAUL MEDRICK #2	PAUL MEDRICK	57.9	NATIONAL FUEL GAS
8317514	14622	3703921422		103		PAUL MEDRICK #2	PAUL MEDRICK	57.9	NATIONAL FUEL GAS
-COWAN ASSOCIATES LTD II				RECEIVED:	01/11/83	JA: PA			
8317523	16768	3703921172		103		GEORGE LAW #2	GEORGE LAW	18.3	NATIONAL FUEL GAS
8317522	16767	3703921172		107-TF		GEORGE LAW #2	GEORGE LAW	18.3	NATIONAL FUEL GAS
8317531	17254	3703921685		103		ROBERT B ADAMS #2	ROBERT B ADAMS	18.3	NATIONAL FUEL GAS
8317530	17253	3703921685		107-TF		ROBERT B ADAMS #2	ROBERT B ADAMS	18.3	NATIONAL FUEL GAS
-DEWEY GAS CO				RECEIVED:	01/11/83	JA: PA			
8317550	18618	3700522502		103		(TANK HILL #3) 3-PC	E S DEWEY LANDS	0.0	NATIONAL FUEL GAS
-ENVIROGAS INC				RECEIVED:	01/11/83	JA: PA			
8317521	16741	3704921897		107-TF		R TITUS #1	NORTH EAST DEEP	18.8	NATIONAL FUEL GAS
-FAIRMAN DRILLING CO				RECEIVED:	01/11/83	JA: PA			
8317534	18213	3706300000		103		M LEE MINTER #1 F-3367	ROCHESTER MILLS	60.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:	01/11/83	JA: PA			

8317533	17450	3706307141	103	INDIANA AREA SCHOOL DISTRICT #1 22A	WHITE	0.0	COLUMBIA GAS TRAN	
-KALTSAS OIL CO			RECEIVED: 01/11/83 JA: PA					
8317516	15493	3704921758	103	JOSEPH A WROBLEWSKI #2	NORTH EAST FIELD HORN	75.0	COLUMBIA GAS TRAN	
8317515	14589	3704921759	107-TF	JOSEPH A WROBLEWSKI JR #2	NORTH EAST FIELD HORN	75.0	COLUMBIA GAS TRAN	
-MITCHELL ENERGY CORPORATION			RECEIVED: 01/11/83 JA: PA					
8317529	17103	3703921655	107-TF	G M AGNEW B #1	CONNEAUTVILLE (MEDINA	41.1	TENNESSEE GAS PIP	
8317528	17102	3703921656	103	G M AGNEW B #1	CONNEAUTVILLE (MEDINA	41.1	TENNESSEE GAS PIP	
8317527	16980	3703921569	103	H FARLEY UNIT #1	CONNEAUTVILLE (MEDINA	410.0	COLUMBIA GAS TRAN	
8317524	16977	3703921569	107-TF	H FARLEY UNIT #1	CONNEAUTVILLE (MEDINA	410.0	COLUMBIA GAS TRAN	
8317544	18483	3703921765	107-TF	J R ALLEN TRUST UNIT #1	CONNEAUT LAKE (MEDINA	1095.0	TENNESSEE GAS PIP	
8317543	18482	3703921765	107	J R ALLEN TRUST UNIT #1	CONNEAUT LAKE (MEDINA	1095.0	TENNESSEE GAS PIP	
8317518	15509	3703921401	103	J V PHILSON UNIT #1	CONNEAUTVILLE (MEDINA	410.0	COLUMBIA GAS TRAN	
8317517	15508	3703921401	107-TF	J V PHILSON UNIT #1	CONNEAUTVILLE (MEDINA	410.0	COLUMBIA GAS TRAN	
8317526	16979	3703921617	107-TF	R L THOMPSON UNIT #1	CONNEAUTVILLE (MEDINA	410.0	COLUMBIA GAS TRAN	
8317525	16978	3703921617	103	R L THOMPSON UNIT #1	CONNEAUTVILLE (MEDINA	410.0	COLUMBIA GAS TRAN	
-NEA CROSS CO			RECEIVED: 01/11/83 JA: PA					
8317548	18569	3704922208	107-TF	JOSEPH & ROBERTA KUZMA #2	UN-NAMED	10.0	NATIONAL FUEL GAS	
8317547	18568	3704922208	102-2	* JOSEPH & ROBERTA KUZMA #2	UN-NAMED	10.0	NATIONAL FUEL GAS	
8317568	18712	3704921234	102-2	YOVICH #1	MILL VILLAGE	10.0	COLUMBIA GAS TRAN	
-PETRO EVALUATION SERVICES INC			RECEIVED: 01/11/83 JA: PA					
8317510	13693	3703900000	103	HAMMERMEISTER #1	BEAVER CENTER	36.0	PETRO EVALUATION	
8317512	13695	3703921366	103	HITCHCOCK #1	CROSSINGVILLE	36.0	PETRO EVALUATION	
8317511	13694	3703921366	107-TF	HITCHCOCK #1	CROSSINGVILLE	36.0	PETRO EVALUATION	
-PHILLIPS PRODUCTION CO			RECEIVED: 01/11/83 JA: PA					
8317557	18660	3703321477	102-2	ARTHUR E MOYER #1	WESTOVER	70.0		
-S T JOINT VENTURE 81A			RECEIVED: 01/11/83 JA: PA					
8317555	18658	3703321404	102-2	WALKER - NEVLING #1	JORDAN	25.0	COLUMBIA GAS TRAN	
8317556	18659	3703321405	102-2	WALKER/NEVLING #1	JORDAN	25.0	COLUMBIA GAS TRAN	
-T W PHILLIPS GAS & OIL CO			RECEIVED: 01/11/83 JA: PA					
8317558	18673	3700500000	108	HELVETIA COAL MINING CO #1	COWANSHANNOCK	3.2	T W PHILLIPS GAS	
8317559	18674	3700500000	108	HELVETIA COAL MINING CO #2	COWANSHANNOCK	1.8	T W PHILLIPS GAS	
8317560	18675	3700500000	108	HELVETIA COAL MINING CO #3	COWANSHANNOCK	2.7	T W PHILLIPS GAS	
8317561	18676	3700520161	108	HELVETIA COAL MINING CO #4	COWANSHANNOCK	4.1	T W PHILLIPS GAS	
8317562	18677	3700520258	108	HELVETIA COAL MINING CO #6	COWANSHANNOCK	2.0	T W PHILLIPS GAS	
8317563	18678	3700520342	108	HELVETIA COAL MINING CO #7	COWANSHANNOCK	2.1	T W PHILLIPS GAS	
-VICTORY DEVELOPMENT CO			RECEIVED: 01/11/83 JA: PA					
8317553	18629	3703321386	102-2	KREVEL #7 CLE 21386	BURNSIDE	36.0	COLUMBIA GAS TRAN	
8317554	18631	3703321195	102-2	S BROTHERS #1 CLE 21195	BURNSIDE	36.0	COLUMBIA GAS TRAN	
WEST VIRGINIA DEPARTMENT OF MINES								
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED: 01/12/83 JA: WV					
8317600		4703300922	108	A B POST WN 12056	GRANT DISTRICT	15.0	GENERAL SYSTEM PU	
8317603		4703300757	108	A C THRASH WN 11628	UNION DISTRICT	19.0	GENERAL SYSTEM PU	
8317599		4703300987	108	A O LAWSON WN12167	UNION DISTRICT	20.0	GENERAL SYSTEM PU	
8317612		4703302116	108	ARDIS L HUSTEAD WN 2337	SARDIS	1.0	GENERAL SYSTEM PU	
8317617		4704500953	108	BOONE CO COAL CORP WN 12148	LOGAN DISTRICT	22.0	GENERAL SYSTEM PU	
8317594		4704500305	108	BOONE COUNTY COAL CO WN-9753	LOGAN	2.0	GENERAL SYSTEM PU	
8317609		4706100315	108	CASCADE "B" WN-10995	MORGAN	17.0	GENERAL SYSTEM PU	
8317597		4703301116	108	DENNIS BATES WN 12397	EAGLE DISTRICT	19.0	GENERAL SYSTEM PU	
8317611		4700100324	108	EDITH W SWECKER WN10865	PHILIPPI	19.0	GENERAL SYSTEM PU	
8317593		4704101567	108	ELIZABETH LAWSON WN10940	HACKERS CREEK	15.0	GENERAL SYSTEM PU	
8317598		4703300993	108	ESTHER PHILLIPS WN 12222	SARDIS	19.0	GENERAL SYSTEM PU	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317595		4703301353		108		GEO T SMITH WN-2854	SARDIS	3.0	GENERAL SYSTEM PU
8317610		4700100312		108		HARRISON-RITCHIE O & G CO WN-10840	PHILIPPI	19.0	GENERAL SYSTEM PU
8317604		4709700772		108		HERBERT N SWECKER WN 10495	WARREN	1.0	GENERAL SYSTEM PU
8317591		4700100094		108		INDIAN FORK COAL & COKE CO WN-9868	UNION	3.0	GENERAL SYSTEM PU
8317590		4700100141		108		IRA MCBEE WN-10494	PLEASANT	19.0	GENERAL SYSTEM PU
8317592		4704101657		108		ISRAEL SIMMONS WN-11129	FREEMANS CREEK	23.0	GENERAL SYSTEM PU
8317580		4703300624		108		J M THRASH WN-11468	UNION	9.0	GENERAL SYSTEM PU
8317601		4703300865		108		J STUTTLER WN 11862	UNION DISTRICT	12.0	GENERAL SYSTEM PU
8317584		4703300576		108		JACOB P POST WN-11391	UNION	13.0	GENERAL SYSTEM PU
8317606		4709300012		108		JAMES E WATSON WN-9940	LICKING	13.0	GENERAL SYSTEM PU
8317605		4709700653		108		JAMES LAROSA WN-10229	WARREN	7.0	GENERAL SYSTEM PU
8317619		4706100303		108		JOSEPH R PERRY WN-10894	CLINTON	17.8	GENERAL SYSTEM PU
8317615		4704101760		108		L E GALL WN-11278	FREEMANS CREEK	20.0	GENERAL SYSTEM PU
8317602		4703300811		108		L NUTTER WN 11723	GRANT DISTRICT	10.0	GENERAL SYSTEM PU
8317582		4703300613		108		LEWIS C SWISHER WN-11440	GRANT	12.0	GENERAL SYSTEM PU
8317587		4702101108		108		LOUIS BENNETT WN-10170	CENTER	18.0	GENERAL SYSTEM PU
8317608		4706700261		108		MARTHA L WHITE WN-10864	HAMILTON	13.0	GENERAL SYSTEM PU
8317618		4704700434		108		MCDOWELL POCHONTAS COAL CO WN-11040	SANDY RIVER	20.0	GENERAL SYSTEM PU
8317616		4704102387		108		NOAM LIFE WN-10068	HACKERS CREEK	1.0	GENERAL SYSTEM PU
8317596		4703501063		108		OTIS SHINN WN-10519	RIPLEY	2.0	GENERAL SYSTEM PU
8317614		4704101742		108		PRUDENCE M O'HARA WN-11217	FREEMANS CREEK	18.0	GENERAL SYSTEM PU
8317583		4703300587		108		R B BARTLETT WN-11412	ELK	10.0	GENERAL SYSTEM PU
8317589		4701701695		108		S M CARDER WN-3246	GREENBRIER	1.0	GENERAL SYSTEM PU
8317613		4704101805		108		S L BROWN WN 3437	HACKERS CREEK	3.0	GENERAL SYSTEM PU
8317585		4703300433		108		T H SMITH WN-10860	UNION	12.0	GENERAL SYSTEM PU
8317607		4709300010		108		WILLIAM BLAIR WN-9854	LICKING	9.0	GENERAL SYSTEM PU
8317586		4703300418		108		WILLIAM G BROWN WN-10836	ELK	6.0	GENERAL SYSTEM PU
8317588		4701900250		108		WILLIAM R JOHNSON WN 11801	FALLS DISTRICT	13.0	GENERAL SYSTEM PU
8317581		4703300621		108		YOUNG & SMITH WN-11505	GRANT	14.0	GENERAL SYSTEM PU
-KEITH CRIMFIELD				RECEIVED:	01/12/83	JA: WV			
8317651		4701303343		108		T P MCCUNE #2	ORMA	14.0	CABOT CORP
8317652		4701303351		108		T P MCCUNE #3	ORMA	14.0	CABOT CORP
8317653		4701303353		108		T P MCCUNE #5	ORMA	14.0	CABOT CORP
8317654		4701303354		108		T P MCCUNE #6	ORMA	14.0	CABOT CORP
-STERLING DRILLING & PROD CO INC				RECEIVED:	01/12/83	JA: WV			
8317645		4708703456		103		BIRD #526	WALTON DISTRICT	3.0	
8317647		4701501873		103		BOGGS #375	OTTER DISTRICT	1.0	COLUMBIA GAS TRAN
8317648		4701501874		103		BOGGS #377	OTTER DISTRICT	1.0	COLUMBIA GAS TRAN
8317623		4704102991		103		CREASEY #355	SKIN CREEK DISTRICT	70.0	
8317631		4704102992		103		CREASEY #356	SKIN CREEK DISTRICT	32.0	
8317626		4701501979		103		CUNNINGHAM #522	OTTER DISTRICT	30.0	EQUITABLE GAS CO
8317627		4701501980		103		CUNNINGHAM #523	OTTER DISTRICT	10.0	EQUITABLE GAS CO
8317638		4708703449		103		DOLAN #518	GEARY DISTRICT	6.7	COLUMBIA GAS TRAN
8317635		4701501982		103		GREEN #520	OTTER DISTRICT	1.6	EQUITABLE GAS CO
8317636		4701501983		103		GREEN #521	OTTER DISTRICT	8.8	EQUITABLE GAS CO
8317649		4703903744		103		HAMILTON #479	CABIN CREEK DISTRICT	8.5	COLUMBIA GAS TRAN
8317621		4703302577		103		JACKSON #469	ELK DISTRICT	22.0	
8317622		4703302578		103		JACKSON #470	ELK DISTRICT	23.0	
8317650		4706703304		103		KEEN #216	GEARY DISTRICT	1.0	COLUMBIA GAS TRAN
8317620		4700701628		103		KIDD #462	SALT LICK DISTRICT	53.0	
8317656		4700701622		103		KIDD #464	SALT LICK DISTRICT	29.6	
8317657		4700701629		103		KIDD 463	SALT LICK DISTRICT	28.7	
8317632		4701502013		103		LE DOUX #560	OTTER DISTRICT	36.0	BROOKLYN UNION GA

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317655		4701502019		103		LEDOUX 567	OTTER	0.6	BROOKLYN UNION GA

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JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317655		4701502019	103		LEDOUX 567	OTTER	0.6	BROOKLYN UNION GA
8317624		4701501971	103		MCCRACKEN #513	OTTER DISTRICT	30.0	EQUITABLE GAS CO
8317625		4701501972	103		MCCRACKEN #514	OTTER DISTRICT	29.0	EQUITABLE GAS CO
8317630		4701502006	103		MCCRACKEN #530	OTTER DISTRICT	6.0	EQUITABLE GAS CO
8317640		4704103090	103		MCWHORTER #524	SKIN CREEK DISTRICT	5.0	BROOKLYN UNION GA
8317633		4704103119	103		MCWHORTER #548	SKIN CREEK DISTRICT	7.6	BROOKLYN UNION GA
8317641		4704103120	103		MCWHORTER #549	SKIN CREEK DISTRICT	4.0	BROOKLYN UNION GA
8317634		4704103121	103		MCWHORTER #550	SKIN CREEK DISTRICT	5.1	BROOKLYN UNION GA
8317665		4701502050	103		MIDCAP 656	OTTER DISTRICT	204.0	BROOKLYN UNION GA
8317646		4702103713	103		MILLER #407	CENTER DISTRICT	1.0	
8317628		4701501985	103		MOLLOHAN #527	OTTER DISTRICT	30.0	EQUITABLE GAS CO
8317662		4700701712	103		MOSS #537	SALT LICK DISTRICT	5.2	CONSOLIDATED GAS
8317629		4701501987	103		NOTTINGHAM #517	OTTER DISTRICT	8.0	EQUITABLE GAS CO
8317639		4701501927	103		ROGERS #478	OTTER DISTRICT	1.0	EQUITABLE GAS CO
8317642		4704102925	103		SHEARER #315	FREEMANS CREEK DISTRI	1.0	
8317637		4701502004	103		SPINKS #503	OTTER DISTRICT	85.5	EQUITABLE GAS CO
8317666		4702103823	103		SPONAUGLE #508	CENTER DISTRICT	21.5	
8317667		4702103824	103		SPONAUGLE #509	CENTER DISTRICT	5.7	
8317658		4708703376	103		WILMOTH 337	GEARY DISTRICT	4.5	
8317663		4701502029	103		WISEMAN #611	OTTER DISTRICT	10.1	BROOKLYN UNION GA
8317659		4701502030	103		WISEMAN #612	OTTER DISTRICT	5.6	BROOKLYN UNION GA
8317660		4701502031	103		YATES #613	OTTER DISTRICT	5.7	BROOKLYN UNION GA
8317664		4701502032	103		YATES #614	OTTER DISTRICT	8.3	BROOKLYN UNION GA
8317661		4701502033	103		YATES #615	OTTER DISTRICT	5.7	BROOKLYN UNION GA
8317643		4708703309	103		YOUNG #294	SMITHFIELD DISTRICT	1.4	
8317644		4708703310	103		YOUNG #295	SMITHFIELD DISTRICT	1.0	
-UNION DRILLING INC			RECEIVED: 01/12/83 JA: WV					
8317572		4709702250	103		HARRY MCMULLAN #1C 1699	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
8317573		4708300521	103		HARRY MCMULLAN #11B 1692	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8317571		4709702260	103		HARRY MCMULLAN #2C 1700	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
8317575		4708300511	103		HARRY MCMULLAN #20A 1665	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8317574		4708300512	103		HARRY MCMULLAN #21A 1666	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8317579		4708300490	103		HARRY MCMULLAN #3B 1690	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8317578		4708300501	103		HARRY MCMULLAN #5B 1704	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8317576		4708300506	103		HARRY MCMULLAN #6B 1705	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8317570		4707702261	103		HARRY MCMULLAN #6C 1708	WASHINGTON	0.0	COLUMBIA GAS TRAN
8317577		4708300505	103		HARRY MCMULLAN #8B 1683	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8317569		4709702325	103		UDI-BURNSIDE #1 1701	WASHINGTON	0.0	COLUMBIA GAS TRAN
**********								
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO								
**********								
-AMERICAN RESOURCES MANAGEMENT CORPO			RECEIVED: 01/12/83 JA: CO 1					
8317497	CD050482	0510307028	108		T E #15-24 C-0395	TRAIL CANYON	0.4	NORTHWEST PIPELIN
-ARCO OIL AND GAS COMPANY			RECEIVED: 01/12/83 JA: CO 1					
8317490	CD 0514-82	0506706478	103	107-TF	SOUTHERN UTE 17-3 32-11 (TF)	IGNACIO BLANCO	40.0	WESTERN SLOPE GAS
8317491	CD 0532-82	0506706486	103	107-TF	SOUTHERN UTE 18-2 32-11 (TF)	IGNACIO BLANCO	88.0	WESTERN SLOPE GAS
8317489	CD 0533-82	0506706462	103	107-TF	SOUTHERN UTE 19-3 33-10 (TF)	IGNACIO BLANCO	84.0	WESTERN SLOPE GAS
-COSEKA RESOURCES (USA) LIMITED			RECEIVED: 01/12/83 JA: CO 1					
8317482	CD 0100-82	0504506281	102-2		FEDERAL #16-2-5-104	WILDCAT	0.0	NATURAL GAS CORP
8317481	CD 0103-82	0510308661	102-2		FEDERAL #7-9-1S-103	WILDCAT	0.0	NATURAL GAS CORP
-EQUITY OIL COMPANY			RECEIVED: 01/12/83 JA: CO 1					
8317494	CD049082	0510308726	103	107-TF	EQUITY #297-30-1	RIO BLANCO UNIT	70.0	COLORADO INTERSTA
-FUEL RESOURCES DEVELOPMENT CO			RECEIVED: 01/12/83 JA: CO 1					

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JD NO	JA DAT	API NO	SEQ(1)	SEQ(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317487	CD 0480-82	0510308816	103		FEDERAL 9-14	THUNDER	128.4	NORTHWEST PIPELIN
8317488	CD 0530-82	0510308754	102-2	107-TF	N-34-3-101-S	CATHEDRAL	28.0	MOUNTAIN FUEL SUP
			RECEIVED: 01/12/83 JA: CO 1					
-GETTY OIL COMPANY								
8317500	CD045482	0508105551	108		H W OBORNE #1	WEST HIAWATHA	3.0	MOUNTAIN FUEL SUP
			RECEIVED: 01/12/83 JA: CO 1					
-KOCH INDUSTRIES INC								
8317502	CD052882	0507708512	107-TF		WINTER FLATS 1-11-100	WINTER FLATS	88.0	NORTHWEST PIPELIN
			RECEIVED: 01/12/83 JA: CO 1					
-LADD PETROLEUM CORPORATION								
8317492	CD 0586-82PP	0506705572	108-PP		LONG MOUNTAIN #1-27	MESAVERDE	0.0	NORTHWEST PIPELIN
			RECEIVED: 01/12/83 JA: CO 1					
-NORTHWEST EXPLORATION COMPANY								
8317485	CD 0564-82PP	0510308224	108-PP		PHILADELPHIA CREEK #12X	MANCOS "B"	0.0	NORTHWEST PIPELIN
8317486	CD 0563-82PP	0510308364	108-PP		PHILADELPHIA CREEK #17	MANCOS "B"	0.0	NORTHWEST PIPELIN
			RECEIVED: 01/12/83 JA: CO 1					
-NORTHWEST PIPELINE CORPORATION								
8317484	CD 0566-82	0506705111	108-PP		NORTHEAST CEDAR HILLS 32-1013	MESAVERDE	0.0	NORTHWEST PIPELIN
8317483	CD 0565-82PP	0510308066	108-PP		PHILADELPHIA CREEK #18	MANCOS "B"	0.0	NORTHWEST PIPELIN
			RECEIVED: 01/12/83 JA: CO 1					
-RAYMOND T DUNCAN								
8317498	CD047082	0503306065	102-4		SANTA FE CANYON-FED 44-7	UNDESIGNATED	0.0	MOUNTAIN FUEL SUP
			RECEIVED: 01/12/83 JA: CO 1					
-TENNECO OIL COMPANY								
8317480	CD 0515-82	0510308897	102-2	107-TF	EVACUATION CREEK UNIT USA 30-12	EVACUATION CREEK	30.0	NORTHWEST PIPELIN
8317479	CD 0135-82	0507708138	103		FEES USA #29-8	DOUGLAS CREEK	0.0	ROCKY MOUNTAIN NA
8317503	CD051382	0504506414	103		FULLER USA 13-16	SOUTH CANYON	79.0	NORTHWEST PIPELIN
8317505	CD050282	0504506411	103		FULLER USA 18-12	SOUTH CANYON	84.0	
8317504	CD003582	0510308733	103		GOVERNMENT 4-26-4-102	EVACUATION CREEK	320.0	NORTHWEST PIPELIN
			RECEIVED: 01/12/83 JA: CO 1					
-TEXAS GAS EXPLORATION CORP								
8317495	CD051182	0507708405	102-4		FEDERAL SINCLAIR WHICH #1-24	S CANYON	0.0	TEXAS GAS TRANSMI
			RECEIVED: 01/12/83 JA: UT 1					
-COASTAL OIL & GAS CORP								
8317496	UD051082	4304731251	103	107-TF	NATURAL BUTTES UNIT #86J (3-18-22)	NATURAL BUTTES	401.0	COLORADO INTERSTA
			RECEIVED: 01/12/83 JA: UT 1					
-DAVIS OIL COMPANY								
8317499	UD050982	4304330186	102-4		LOGAN FEDERAL #1	WILDCAT	1600.0	
			RECEIVED: 01/12/83 JA: UT 1					
-DUGAN PRODUCTION CORP								
8317493	UD 051682	4303730533	103		BLUFF #14	PARADOX DESERT CREEK	18.0	EL PASO NATURAL G
			RECEIVED: 01/12/83 JA: UT 1					
-NP ENERGY CORPORATION								
8317501	UD036882	4301930487	108		FEDERAL 1A-2	CISCO DOME	18.3	NORTHWEST PIPELIN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3526 Filed 2-8-83, 8:45 am]

BILLING CODE 6717-01-C

[Volume 826]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 3, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	01/13/83	JA: TX			
8317835	F-03-060607	4205131575		102-2		LAUDERDALE #3	BIG "A" TAYLOR	226.0	PHILLIPS PETROLEU
8317751	F-03-060944	4205132334		102-2		LOCKHART UNIT #1	BIG "A" TAYLOR	0.0	PHILLIPS PETROLEU
8317678	F-03-45237	4247730427		102-2		NEINAST "B" #3	GIDDINGS (AUSTIN CHAL	163.0	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	01/13/83	JA: TX			
8317619	F-08-062169	4213533903		103		FRANK COWDEN R/A "E" #22	COWDEN N (STRAWN)	3.0	WESTAR TRANSMISSI
8317747	F-08-060828	4213533975		103		NORTH COWDEN UNIT #33-A	COWDEN NORTH	0.0	WESTAR TRANSMISSI
-BAR-MAC & HOLLUB DRILLING CO				RECEIVED:	01/13/83	JA: TX			
8317826	F-03-062199	4205132322		102-4		MORRIS "A" UNIT #1 LEASE #16054	HOOKER CREEK (NAVARO	58.0	FERGUSON CROSSING
-BROCK PETROLEUM CORP				RECEIVED:	01/13/83	JA: TX			
8317760	F-01-061106	4217731325		102-2		G A D C #1	PEACH CREEK (BUDA)	11.0	VALERO TRANSMISSI
-BUCK WHEAT RESOURCES INC				RECEIVED:	01/13/83	JA: TX			
8317696	F-78-56311	4209330004		102-4		DYSON #2	SKAGGS (2700)	22.0	SOUTHWESTERN GAS
-CASS OIL CO				RECEIVED:	01/13/83	JA: TX			
8317741	F-7C-59987	4243500000		103	107-TF	ALLISON-MIERS 7401	SAWYER (CANYON)	82.0	EL PASO NATURAL G
8317730	F-7C-58985	4238332218		103		HUGHES "SF 15874" #1	SPRADBERRY (TREND AREA	7.2	EL PASO NATURAL G
8317740	F-7C-59986	4243532710		103	107-TF	ZAPATA 6,501	SAWYER (CANYON)	110.0	EL PASO NATURAL G
-CHALMERS OPERATING CO INC				RECEIVED:	01/13/83	JA: TX			
8317798	F-78-062106	4244132073		102-4		BETTES "150" 18420	SUDDUTH (FLIPPEN SAN	8.0	LONE STAR GAS CO
-CHEVRON U S A INC				RECEIVED:	01/13/83	JA: TX			
8317758	F-08-061116	4222732645		103		G M DODGE #65	TATAN-EAST HOWARD	22.0	GETTY OIL CO
-CITIES SERVICE COMPANY				RECEIVED:	01/13/83	JA: TX			
8317797	F-8A-062101	4216532404		103		WEST SEMINOLE SAN ANDRES UNIT #322	SEMINOLE WEST	704.0	CITIES SERVICE CO
-CONOCO INC				RECEIVED:	01/13/83	JA: TX			
8317799	F-08-062113	4210931661		103		G E RAMSEY "44" #8 ID #27636	GERALDINE/DELAWARE 34	12.8	EL PASO NATURAL G
-DALLAS SUNBELT OIL & GAS INC				RECEIVED:	01/13/83	JA: TX			
8317744	F-78-60337	4242933142		102-4		GLASS-GOLFORTH #1	RANGER NW (MARBLE FAL	26.0	LONE STAR GAS CO
-DESANA CORP				RECEIVED:	01/13/83	JA: TX			
8317829	F-7P-060526	4243331450		102-4		FLAT TOP (133) #4 133	FLAT TOP 133	1.0	TUFCO
8317830	F-7P-060527	4243331247		102-4		FLAT TOP (133) 3-133	FLAT TOP (133)	1.0	TUFCO
8317828	F-7P-060525	4220731090		102-4		FLAT TOP (24) #2- 24	M O C	62.0	TUFCO
-DONALD W JACKSON				RECEIVED:	01/13/83	JA: TX			
8317720	F-10-57296	4206500000		108		BURNETT 107 #1 (051385)	PANHANDLE WEST	21.2	PHILLIPS PETROLEU
-DORAN ENERGY CORP				RECEIVED:	01/13/83	JA: TX			
8317732	F-04-59150	4224900000		103		SEILER #1	TOM GRAHAM (SILER ###	62.0	TENNESSEE GAS PIP
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/13/83	JA: TX			
8317680	F-10-50847	4221131246		108		WEEK #2	BUFFALO WALLOW SE WA	64.0	EL PASO NATURAL G
-ENERGY-AGRI PRODUCTS INC				RECEIVED:	01/13/83	JA: TX			
8317777	F-10-061863	4206500000		103		GORES #1 (ID# 05201)	PANHANDLE CARBON	25.0	GETTY OIL CO
-ENSERCH EXPLORATION INC				RECEIVED:	01/13/83	JA: TX			
8317896	F-7C-062291	4243500000		108		E E SAWYER 169 #2	SAWYER	10.0	LONE STAR GAS CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317897	F-7C-062292	4243500000		108		JONES 122 #1	SAWYER	5.0	INTER NORTH INC
8317695	F-09-56306	4223734559		103		L H YATES #5	BOONSVILLE	192.0	LONE STAR GAS CO
-EXXCEL PRODUCTION CO				RECEIVED: 01/13/83 JA: TX					
8317843	F-10-062214	4217931275		103		FELIX #16 (ID# 05118)	PANHANDLE GRAY	60.0	CABOT PIPELINE CO
8317802	F-10-062123	4217931257		103		HUDSON #1 (ID #05227)	PANHANDLE GRAY	50.0	CABOT PIPELINE CO
8317801	F-10-062122	4217931258		103		HUDSON #5 (ID #05227)	PANHANDLE GRAY	50.0	CABOT PIPELINE CO
-EXXON CORPORATION				RECEIVED: 01/13/83 JA: TX					
8317808	F-03-062132	4205132194		102-2		COOKS POINT UNIT #3 #1R	GIDDINGS (AUSTIN CHAL	18.0	FERGUSON CROSSING
8317788	F-04-062075	4227331687		102-4		K R BORREGOS 578 (ID 101874)	BORREGOS (P-9 W)	342.0	ARMCO STEEL CORP
8317774	F-08-061805	4222732793		102-4		S WALDRON #5L	MOORE (DEEP FSLM)	44.0	
8317731	F-7C-58999	4238332040		103		ZULETTE HUGHES "G" #4	SPRABERRY (TREND AREA	17.0	EL PASO NATURAL G
-FAIR ENERGY				RECEIVED: 01/13/83 JA: TX					
8317790	F-01-062083	4216300000		102-2		FAIRWAY #2	PEARSALL AUSTIN CHALK	0.0	CENTRAL ENERGY TR
-FIRST MATAGORDA CORP				RECEIVED: 01/13/83 JA: TX					
8317749	F-03-060903	4214900000		102-2	103	IDA FRENCH #1	GIDDINGS (AUSTIN CHAL	0.0	
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED: 01/13/83 JA: TX					
8317728	F-7C-58927	4243532807		103	107-TF	FLORENCE 38 #1	PHYLLIS SONORA	0.0	INTRATEX GAS CO
8317726	F-7C-58363	4243532648		103	107-TF	MASTERSON 37 #1	PHYLLIS SONORA	0.0	INTRATEX GAS CO
-GENERAL PRODUCTION CO INC				RECEIVED: 01/13/83 JA: TX					
8317748	F-03-060886	4247730487		102-2		MATSON HARGE UNIT 1 #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GETTY OIL COMPANY				RECEIVED: 01/13/83 JA: TX					
8317807	F-7B-062131	4235300000		108		NORTH NENA LUCIA UNIT #30	NENA LUCIA (STRAWN RE	3.0	EL PASO NATURAL G
8317688	F-03-55344	4204100000		102-2		S COLE #1	BRYAN (WOODBINE)	90.0	FERGUSON CROSSING
8317762	F-08-061208	4230100000		102-4		TOM LINEBERY STRIP #1	BRUNSON RANCH (BONE S	146.0	INTRATEX GAS CO
8317806	F-7C-062129	4241300000		108		W W WEST #1	CODY BELL (CANYON)	10.0	ARCO OIL & GAS CO
-GHR ENERGY CORP				RECEIVED: 01/13/83 JA: TX					
8317743	F-04-60089	4250531228		102-4		ASCHE #1	CHARCO (9200)	750.0	VALERO TRANSMISSI
-GRAND BANKS ENERGY CO				RECEIVED: 01/13/83 JA: TX					
8317723	F-08-57649	4217331190		103	107-TF	EDMONDSON "A" #1	CONGER SW (PENN)	0.0	INTER NORTH INC
8317737	F-08-59503	4213533987		103		PARKER #1	HARPER	0.0	PHILLIPS PETROLEU
8317735	F-08-59496	4213533992		103		PARKER #2	HARPER	0.0	PHILLIPS PETROLEU
8317736	F-08-59501	4213533991		103		PARKER #3	HARPER	0.0	PHILLIPS PETROLEU
8317733	F-08-59390	4213534009		103		PARKER #4	HARPER	0.0	PHILLIPS PETROLEU
8317734	F-08-59490	4213534011		103		PARKER #5	HARPER	0.0	PHILLIPS PETROLEU
-GULF OIL CORPORATION				RECEIVED: 01/13/83 JA: TX					
8317800	F-03-062114	4215731020		103		F I BOOTH ETAL "A" #49	THOMPSON	25.0	UNITED TEXAS TRAN
8317783	F-08-062031	4213533838		103		GOLDSMITH SAN ANDRES UNIT #100-A	GOLDSMITH	18.0	PHILLIPS PETROLEU
8317785	F-08-062033	4247532671		103		HUTCHINGS STOCK ASSN #1082	WARD-ESTES NORTH	180.0	CABOT CORP
8317784	F-08-062032	4247532667		103		HUTCHINGS STOCK ASSN #1201	WARD-ESTES NORTH	5.0	CABOT CORP
8317759	F-09-061121	4249732433		103		I G YATES WELL #13	BOONSVILLE (CADDO CON	60.2	NATURAL GAS PIPEL
8317791	F-08-062089	4210303227		108		J B TUBB "K" #1	CRAWAR (DEVONIAN)	5.6	TRANSWESTERN PIPE
8317676	F-08-48414	4222732492		103		P E LITTLE #2	KNOTT WEST (PENN REEF	238.7	GETTY OIL CO
8317817	F-10-062158	4235700000		108		R H HOLLAND "A" #1	FRANTZ LOWER MORROW (	17.0	PANHANDLE EASTERN
8317792	F-08-062090	4210332864		103		W N WADDELL #1224	SAND HILLS (JUDKINS)	37.5	M & T GATHERING
8317794	F-08-062092	4210310496		108		W N WADDELL #896	BLOCK 27 (MCKEE)	15.5	TRANSWESTERN PIPE
-H-M OIL CO				RECEIVED: 01/13/83 JA: TX					
8317766	F-02-061326	4225530820		102-4	103	WOLTERS #"A"-1	DUNWOLTERS (RECDER 10	0.0	VALERO TRANSMISSI
-HAMCO EXPLORATION & DEVELOPMENT CO				RECEIVED: 01/13/83 JA: TX					
8317693	F-03-56098	4224500000		102-4		PHELAN #2B	PHELAN E (HACKBERRY)	730.0	WINNIE PIPELINE C
-HAMILTON BROTHERS OIL CO				RECEIVED: 01/13/83 JA: TX					
8317719	F-02-57225	4217531603		102-4		PHILIP GUZY ET AL UNIT #1	FIFTEEN MILE CREEK (W	775.0	VALERO TRANSMISSI
-HANSON MINERALS CO				RECEIVED: 01/13/83 JA: TX					
8317724	F-02-57699	4228531667		102-4		NORTH PROVIDENT CITY YEGUA #1-A	PROVIDENT CITY (YEGUA	182.5	TEXAS EASTERN TRA

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CO NO	GA CAT	API #	SEC(1)	SEC(2)	WELL NAME
-HARRIS R FENDER					
8317812	F-06-062141	4242330590	RECEIVED:	01/13/83	JA: TX
8317811	F-06-062140	4242330545	102-4		DENNIS HANDY ESTATE #1
8317813	F-06-062144	4242330613	102-4		FENDER FEE #1
-HELMERICH & PAYNE INC			102-4		FENDER FEE #3
8317750	F-08-060941	4210300000	RECEIVED:	01/13/83	JA: TX
-HEXAGON OIL & GAS INC			102-4		REYNOLDS #3
8317832	F-03-060557	4224531596	RECEIVED:	01/13/83	JA: TX
8317767	F-7B-061411	4236732222	103		JOHN H KLEIN UNIT #1
-HILL INTERNATIONAL PRODUCTION CO			103		THOMAS #1
8317810	F-06-062135	4234730696	RECEIVED:	01/13/83	JA: TX
-HNG OIL COMPANY			102-4		EDDIE LEE #1-U
8317753	F-7C-060964	4243500001	RECEIVED:	01/13/83	JA: TX
8317764	F-7C-061270	4243532757	103	107-TF	SAWYER "168" #5
8317754	F-7C-060986	4243500000	103	107-TF	SHURLEY "110" #5
-HOUSTON OIL & MINERALS CORPORATION			103	107-TF	WARD "127" #5
8317742	F-03-60022	4216730047	RECEIVED:	01/13/83	JA: TX
8317689	F-03-55386	4270330225	103		SHIPWRECK FRIO GAS UNIT #1
-INTERNATIONAL OIL & GAS CORP			102-4		STATE TRACT 481 SE/4 WELL #1
8317690	F-7C-55464	4210533435	RECEIVED:	01/13/83	JA: TX
8317690	F-7C-55464	4210533435	102-4	103	UNIVERSITY 13-33 #1
-INVESTEK INC			107-TF		UNIVERSITY 13-33 #1
8317821	F-09-062175	4207700000	RECEIVED:	01/13/83	JA: TX
8317820	F-09-062174	4207700000	102-4		TALLY A #5
-JAMES K ANDERSON INC			102-4		TALLY A #6
8317691	F-7C-062273	4235932400	RECEIVED:	01/13/83	JA: TX
-JOSEPH T DAWSON			102-4		MIKESKA #2 09452
8317814	F-04-062147	4240931673	RECEIVED:	01/13/83	JA: TX
-JOYCE & HILTY INC			103		BLASCHKE-MAYO #3
8317674	F-03-47094	4205131800	RECEIVED:	01/13/83	JA: TX
-KAARI OIL CO			102-4		R HECHT #1 API NO 42 051 31900
8317842	F-10-062213	4217931206	RECEIVED:	01/13/83	JA: TX
-KEY PRODUCTION COMPANY			103		FUTURE #2-6 (ID# 05164)
8317752	F-06-060952	4236531502	RECEIVED:	01/13/83	JA: TX
-KYTEX PETROLEUM			102-4		J T TWOMEY #1
8317763	F-7B-061239	4206333151	RECEIVED:	01/13/83	JA: TX
-L & B OIL CO INC			102-4		C D ALLEN "C" #1-C
8317789	F-08-062076	4217331267	RECEIVED:	01/13/83	JA: TX
-LADD PETROLEUM CORPORATION			102-4		BRUNSON #1-18
8317755	F-7C-061019	4210534058	RECEIVED:	01/13/83	JA: TX
8317756	F-7C-061020	4210534056	103	107-TF	J S PIERCE #10-2
-LAEL INC			103	107-TF	J S PIERCE #15-4
8317840	F-10-062211	4248300000	RECEIVED:	01/13/83	JA: TX
8317841	F-10-062212	4248300000	103		CHARLES #1
-LARIO OIL & GAS COMPANY			103		CHARLES #2
8317837	F-PA-062203	4241531337	RECEIVED:	01/13/83	JA: TX
8317836	F-8A-062202	4241531673	103		BIRDWELL #1
-MADDUX OIL & GAS			103		BIRDWELL #2
8317834	F-7B-060581	4236732285	RECEIVED:	01/13/83	JA: TX
-MAGNET OIL INC			102-4		NELL JACKSON #1
8317838	F-10-062205	4206500000	RECEIVED:	01/13/83	JA: TX
-MAJOR EXPLORATION INC			103		LEE #2
8317715	F-01-56802	4216332147	RECEIVED:	01/13/83	JA: TX
			103		ALLERKAMP #3

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FIELD NAME	PROD	PURCHASER
DRISKELL LAKE (RODESS	38.0	LONE STAR GAS CO
DRISKELL LAKE (RODESS	38.0	LONE STAR GAS CO
DRISKELL LAKE (RODESS	38.0	LONE STAR GAS CO
COSTA (CLEARFORK UPPE	183.0	PGP GAS PRODUCTS
LABELLE (MARGINULINA	73.0	WINNIE PIPELINE C
MOBY DICK (CONGL) & (	72.0	SOUTHWESTERN GAS
TOOLAN (PETTIT LO) FI	250.0	LIBERTY NATURAL G
SAWYER (CANYON)	140.0	INTRATEX GAS CO
SAWYER (CANYON)	449.0	INTRATEX GAS CO
SAWYER (CANYON)	220.0	INTRATEX GAS CO
SHIPWRECK (FRIO A)	0.0	UNITED TEXAS TRAN
NORTH COVE (G-5) SAND	0.0	VALERO TRANSMISSI
PERNER RANCH (CANYON)	25.0	INTRASTATE GATHER
PERNER RANCH (CANYON)	25.0	INTRASTATE GATHER
TALLY CONGLOMERATE	73.0	TUFCO
TALLY CONGLOMERATE	365.0	TUFCO
WINGATE NW (GRAY)	360.0	LONE STAR GAS CO
MIDWAY (6600)	500.0	UNITED PIPE LINE
GIDDINGS (AUSTIN CHAL	350.0	CLAJON GAS CO
PANHANDLE GRAY	50.0	GETTY OIL CO
PAXTON (RODESSA)	100.0	WESTERN GAS CORP
HEMPHILL (JENNINGS)	992.0	EL PASO HYDROCARB
DEWEY LAKE E (DEVONIA	500.0	EL PASO NATURAL G
OZONA (CANYON SAND)	175.2	INTER NORTH INC
OZONA (CANYON SAND)	588.6	VALERO TRANSMISSI
PANHANDLE	29.9	WARREN PETROLEUM
PANHANDLE	29.2	WARREN PETROLEUM
KELLY SNYDER	1.0	
DIAMOND -M- (CANYON L	19.1	
DENNIS WEST (STRAWN)	109.0	PARKER GAS INC
PANHANDLE	115.2	GETTY OIL CO
PEARSALL	0.0	TIPPERARY CORP

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JD NO	JA CRT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MARATHON OIL COMPANY				RECEIVED:	01/13/83	JA: TX			
8317708	F-7C-56648	4246100000		108		BENEDUM SPRABERRY UNIT #1502	BENEDUM SPRABERRY UNI	3.0	UNION TEXAS PETRO
8317709	F-7C-56649	4246100000		108		BENEDUM SPRABERRY UNIT #1703	BENEDUM SPRABERRY UNI	8.1	UNION TEXAS PETRO
8317707	F-7C-56647	4246100000		108		BENEDUM SPRABERRY UNIT #1804	BENEDUM SPRABERRY UNI	0.3	UNION TEXAS PETRO
8317712	F-7C-56660	4246100000		108		BENEDUM SPRABERRY UNIT #1901	BENEDUM SPRABERRY UNI	1.1	UNION TEXAS PETRO
8317711	F-7C-56659	4246100000		108		BENEDUM SPRABERRY UNIT #4009	BENEDUM SPRABERRY UNI	1.0	UNION TEXAS PETRO
8317710	F-7C-56650	4246100000		108		BENEDUM SPRABERRY UNIT #4301	BENEDUM SPRABERRY UNI	0.7	EL PASO NATURAL G
8317713	F-7C-56662	4246100000		108		BENEDUM SPRABERRY UNIT #7804	BENEDUM SPRABERRY UNI	6.1	UNION TEXAS PETRO
8317700	F-7C-56626	4245100000		108		J WILEY GREEN -B- WELL #46	SUSAN PEAK	15.5	LONE STAR GAS CO
8317701	F-7C-56627	4245100000		108		J WILEY GREEN -B- WELL #9	SUSAN PEAK	2.5	LONE STAR GAS CO
8317703	F-08-56629	4229900000		108		NORTH MASON DELAWARE SAND UNIT #301	NORTH MASON (DELAWARE	3.7	PHILLIPS PETROLEU
8317702	F-08-56628	4229900000		108		NORTH MASON DELAWARE SAND UNIT #807	NORTH MASON (DELAWARE	4.8	PHILLIPS PETROLEU
8317705	F-7C-56632	4238300000		108		UNIVERSITY -3955- #123	BIG LAKE	6.1	DORCHESTER GAS PR
8317706	F-7C-56633	4238300000		108		UNIVERSITY -3955- #147	BIG LAKE	6.1	DORCHESTER GAS PR
8317704	F-7C-56630	4238300000		108		UNIVERSITY -3955- #72	BIG LAKE	9.1	DORCHESTER GAS PR
-MERCURY EXPLORATION CO				RECEIVED:	01/13/83	JA: TX			
8317823	F-7B-062188	4205933388		102-4		COOPER-LAVELLE #A-1	PREMATURELY (GREY SAN	20.0	LONE STAR GAS CO
8317824	F-7B-062196	4244131437		102-4		FRANK ANTILLEY #3	JACKIE GRIMM (GARDNER	10.0	VALERO TRANSMISSI
-MGF OIL CORP				RECEIVED:	01/13/83	JA: TX			
8317670	F-7C-41832	4238300000		103		UNIVERSITY "18-C" #1	SPRABERRY (TREND AREA	0.0	J L DAVIS
-MILLS BENNETT ESTATE				RECEIVED:	01/13/83	JA: TX			
8317775	F-04-061833	4204700000		102-4		BENNETT MILLS ESTATE FEE #7	MILLS BENNETT (F SAND	0.0	TEXAS EASTERN TRA
-MITCHELL ENERGY CORPORATION				RECEIVED:	01/13/83	JA: TX			
8317679	F-03-50453	4204100000		102-2	103	M H SIEGERT #1 #15633	BRYAN NORTH (GEORGETO	82.0	FERGUSON CROSSING
8317727	F-7B-5[illegible]29	4236332910		103		HEATH-JONES GAS UNIT #1	PALO PINTO S W (STRAW	623.0	
-MONTERO OPERATING INC				RECEIVED:	01/13/83	JA: TX			
8317765	F-0[illegible]-061300	4233532312		103		TOBB #1	JAMESON NORTH (STRAWN	0.0	SUN EXPLORATION &
-MONTERREY PETROLEUM CORP				RECEIVED:	01/13/83	JA: TX			
8317671	F-04-43132	4247932596		107-TF		BLOCKER RANCH (SEC 1646) 1 (93200)	GULD RIVER NORTH (OLM	0.0	DELHI GAS PIPELIN
-MORAN EXPLORATION INC				RECEIVED:	01/13/83	JA: TX			
8317718	F-7C-56678	4235332227		103		UNIVERSITY "26A" #1	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-MORRISON DRILLING & PRODUCING CO				RECEIVED:	01/13/83	JA: TX			
8317627	F-7C-060519	4235932560		102-4		O D REED #2 (097#1)	MORRISON (FRY)	37.0	LONE STAR GAS CO
-NEWTON OIL & GAS CORP				RECEIVED:	01/13/83	JA: TX			
8317721	F-04-57306	4247900000		102-4		CHILTON #1	SOUTH ENCINAL	182.5	HOUSTON PIPE LINE
8317688	F-04-53845	4247900000		103	107-TF	DAILY FULLER #1	LAS TIENDAS (OLMOS)	30.0	HOUSTON PIPE LINE
-NIMROD OPERATING CO				RECEIVED:	01/13/83	JA: TX			
8317699	F-7B-56486	4213333977		102-4		MCCALL #1	HAWK-EYE (ADAMS BRANC	1.0	ODESSA NATURAL CO
8317698	F-7B-56485	4213333990		102-4		MCCALL #2	HAWK-EYE (ADAMS BRANC	2.0	ODESSA NATURAL CO
-NUGGET OIL CORP				RECEIVED:	01/13/83	JA: TX			
8317603	F-04-062125	4240931630		102-4		MIKE MORRIS #1	OLD INGLESIDE (E-3)	274.0	ESPERANZA TRANSMI
-PARMA PETROLEUM CORP				RECEIVED:	01/13/83	JA: TX			
8317677	F-7C-48946	4246131744		103		ELKINS 30A-2	CALVIN (DEAN)	72.0	EL PASO NATURAL G
-PENNZOIL PRODUCING COMPANY				RECEIVED:	01/13/83	JA: TX			
8317739	F-04-59970	4250531561		102-4		ALBERT TREVINO #B-1	ESCOBAS (QUEEN CITY 4	58.0	TENNESSEE GAS PIP
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	01/13/83	JA: TX			
8317782	F-02-062002	4217531585		102-3		WALTER DIETZEL #3	COLLETOVILLE CREEK (V	53.7	DELHI GAS PIPELIN
-PHILCON DEVELOPMENT CO				RECEIVED:	01/13/83	JA: TX			
8317769	F-10-061517	4229530073		108		PEERY RRC#052713	BRADFORD WEST (TONKAW	17.5	INTER NORTH INC
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/13/83	JA: TX			
8317669	F-08-040871	4249503437		108-FR		ERNEST-5 (20321)	KERMIT SOUTH (DEVONIA	15.5	SID RICHARDSON GA
-PUGO PRODUCING COMPANY				RECEIVED:	01/13/83	JA: TX			
8317757	F-03-061103	4208900000		102-4		GRACEY #1	GRACEY (YEGUA)	110.0	HOUSTON PIPELINE

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JD NO	JA CRT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-RAMCO OIL & GAS INC				RECEIVED:	01/13/83	JA: TX			
8317744	F-7C-56744	4246100000		108		BENEDUM SPRABERRY UNIT #1105	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
8317745	F-7C-56745	4246100000		108		BENEDUM SPRABERRY UNIT #1106	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
8317746	F-7C-56746	4246100000		108		BENEDUM SPRABERRY UNIT #1107	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
8317747	F-7C-56747	4246100000		108		BENEDUM SPRABERRY UNIT #1108	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
8317748	F-7C-56748	4246100000		108		BENEDUM SPRABERRY UNIT #1109	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
8317749	F-7C-56749	4246100000		108		BENEDUM SPRABERRY UNIT #1110	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
8317750	F-7C-56750	4246100000		108		BENEDUM SPRABERRY UNIT #1111	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
8317751	F-7C-56751	4246100000		108		BENEDUM SPRABERRY UNIT #1112	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
8317752	F-7C-56752	4246100000		108		BENEDUM SPRABERRY UNIT #1113	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
8317753	F-7C-56753	4246100000		108		BENEDUM SPRABERRY UNIT #1114	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
8317754	F-7C-56754	4246100000		108		BENEDUM SPRABERRY UNIT #1115	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
8317755	F-7C-56755	4246100000		108		BENEDUM SPRABERRY UNIT #1116	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
8317756	F-7C-56756	4246100000		108		BENEDUM SPRABERRY UNIT #1117	BENEDUM SPRABERRY UNI	0.0	UNION TEXAS PETRO
-RANGER OIL CO				RECEIVED:	01/13/83	JA: TX			
8317758	F-7C-56758	4238300000		103		UNIVERSITY "18-C" #2	SPRABERRY (TREND AREA	0.0	J L DAVIS
-RAYDEN EXPLORATION INC				RECEIVED:	01/13/83	JA: TX			
8317759	F-7C-56759	4235332228		103		UNIVERSITY "26A" #2	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317760	F-7C-56760	4235332229		103		UNIVERSITY "26A" #3	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317761	F-7C-56761	4235332230		103		UNIVERSITY "26A" #4	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317762	F-7C-56762	4235332231		103		UNIVERSITY "26A" #5	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317763	F-7C-56763	4235332232		103		UNIVERSITY "26A" #6	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317764	F-7C-56764	4235332233		103		UNIVERSITY "26A" #7	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317765	F-7C-56765	4235332234		103		UNIVERSITY "26A" #8	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317766	F-7C-56766	4235332235		103		UNIVERSITY "26A" #9	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317767	F-7C-56767	4235332236		103		UNIVERSITY "26A" #10	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317768	F-7C-56768	4235332237		103		UNIVERSITY "26A" #11	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317769	F-7C-56769	4235332238		103		UNIVERSITY "26A" #12	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317770	F-7C-56770	4235332239		103		UNIVERSITY "26A" #13	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317771	F-7C-56771	4235332240		103		UNIVERSITY "26A" #14	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317772	F-7C-56772	4235332241		103		UNIVERSITY "26A" #15	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317773	F-7C-56773	4235332242		103		UNIVERSITY "26A" #16	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317774	F-7C-56774	4235332243		103		UNIVERSITY "26A" #17	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317775	F-7C-56775	4235332244		103		UNIVERSITY "26A" #18	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317776	F-7C-56776	4235332245		103		UNIVERSITY "26A" #19	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317777	F-7C-56777	4235332246		103		UNIVERSITY "26A" #20	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317778	F-7C-56778	4235332247		103		UNIVERSITY "26A" #21	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317779	F-7C-56779	4235332248		103		UNIVERSITY "26A" #22	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317780	F-7C-56780	4235332249		103		UNIVERSITY "26A" #23	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317781	F-7C-56781	4235332250		103		UNIVERSITY "26A" #24	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317782	F-7C-56782	4235332251		103		UNIVERSITY "26A" #25	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317783	F-7C-56783	4235332252		103		UNIVERSITY "26A" #26	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317784	F-7C-56784	4235332253		103		UNIVERSITY "26A" #27	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317785	F-7C-56785	4235332254		103		UNIVERSITY "26A" #28	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317786	F-7C-56786	4235332255		103		UNIVERSITY "26A" #29	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317787	F-7C-56787	4235332256		103		UNIVERSITY "26A" #30	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317788	F-7C-56788	4235332257		103		UNIVERSITY "26A" #31	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317789	F-7C-56789	4235332258		103		UNIVERSITY "26A" #32	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317790	F-7C-56790	4235332259		103		UNIVERSITY "26A" #33	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317791	F-7C-56791	4235332260		103		UNIVERSITY "26A" #34	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317792	F-7C-56792	4235332261		103		UNIVERSITY "26A" #35	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317793	F-7C-56793	4235332262		103		UNIVERSITY "26A" #36	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317794	F-7C-56794	4235332263		103		UNIVERSITY "26A" #37	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317795	F-7C-56795	4235332264		103		UNIVERSITY "26A" #38	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317796	F-7C-56796	4235332265		103		UNIVERSITY "26A" #39	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317797	F-7C-56797	4235332266		103		UNIVERSITY "26A" #40	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317798	F-7C-56798	4235332267		103		UNIVERSITY "26A" #41	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317799	F-7C-56799	4235332268		103		UNIVERSITY "26A" #42	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317800	F-7C-56800	4235332269		103		UNIVERSITY "26A" #43	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317801	F-7C-56801	4235332270		103		UNIVERSITY "26A" #44	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317802	F-7C-56802	4235332271		103		UNIVERSITY "26A" #45	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317803	F-7C-56803	4235332272		103		UNIVERSITY "26A" #46	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317804	F-7C-56804	4235332273		103		UNIVERSITY "26A" #47	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317805	F-7C-56805	4235332274		103		UNIVERSITY "26A" #48	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317806	F-7C-56806	4235332275		103		UNIVERSITY "26A" #49	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317807	F-7C-56807	4235332276		103		UNIVERSITY "26A" #50	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317808	F-7C-56808	4235332277		103		UNIVERSITY "26A" #51	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317809	F-7C-56809	4235332278		103		UNIVERSITY "26A" #52	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317810	F-7C-56810	4235332279		103		UNIVERSITY "26A" #53	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317811	F-7C-56811	4235332280		103		UNIVERSITY "26A" #54	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317812	F-7C-56812	4235332281		103		UNIVERSITY "26A" #55	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317813	F-7C-56813	4235332282		103		UNIVERSITY "26A" #56	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317814	F-7C-56814	4235332283		103		UNIVERSITY "26A" #57	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317815	F-7C-56815	4235332284		103		UNIVERSITY "26A" #58	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317816	F-7C-56816	4235332285		103		UNIVERSITY "26A" #59	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317817	F-7C-56817	4235332286		103		UNIVERSITY "26A" #60	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317818	F-7C-56818	4235332287		103		UNIVERSITY "26A" #61	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317819	F-7C-56819	4235332288		103		UNIVERSITY "26A" #62	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317820	F-7C-56820	4235332289		103		UNIVERSITY "26A" #63	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317821	F-7C-56821	4235332290		103		UNIVERSITY "26A" #64	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317822	F-7C-56822	4235332291		103		UNIVERSITY "26A" #65	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317823	F-7C-56823	4235332292		103		UNIVERSITY "26A" #66	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317824	F-7C-56824	4235332293		103		UNIVERSITY "26A" #67	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317825	F-7C-56825	4235332294		103		UNIVERSITY "26A" #68	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317826	F-7C-56826	4235332295		103		UNIVERSITY "26A" #69	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317827	F-7C-56827	4235332296		103		UNIVERSITY "26A" #70	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317828	F-7C-56828	4235332297		103		UNIVERSITY "26A" #71	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317829	F-7C-56829	4235332298		103		UNIVERSITY "26A" #72	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317830	F-7C-56830	4235332299		103		UNIVERSITY "26A" #73	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317831	F-7C-56831	4235332300		103		UNIVERSITY "26A" #74	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317832	F-7C-56832	4235332301		103		UNIVERSITY "26A" #75	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317833	F-7C-56833	4235332302		103		UNIVERSITY "26A" #76	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317834	F-7C-56834	4235332303		103		UNIVERSITY "26A" #77	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317835	F-7C-56835	4235332304		103		UNIVERSITY "26A" #78	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317836	F-7C-56836	4235332305		103		UNIVERSITY "26A" #79	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317837	F-7C-56837	4235332306		103		UNIVERSITY "26A" #80	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317838	F-7C-56838	4235332307		103		UNIVERSITY "26A" #81	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317839	F-7C-56839	4235332308		103		UNIVERSITY "26A" #82	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317840	F-7C-56840	4235332309		103		UNIVERSITY "26A" #83	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317841	F-7C-56841	4235332310		103		UNIVERSITY "26A" #84	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMOND OIL & GAS CO				RECEIVED:	01/13/83	JA: TX			
8317842	F-7C-56842	4235332311		103		UNIVERSITY "26A" #85	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-RAYMO

JD NO	JN CRT	RRC NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-RALPH L WAY INC				RECEIVED:	01/13/83	JA: TX			
8317816	F-7C-062152	4210534140		103		UNIVERSITY-MYCO "A" #13	FARMER (SAN ANDRES)	33.1	INTER NORTH INC
-RAY HERRING				RECEIVED:	01/13/83	JA: TX			
8317776	F-09-061859	4250336355		102-4		LOFTIN #3	SENKEL (CADDO 4600)	39.0	SOUTHWESTERN GAS
-REATA OIL & GAS CORP				RECEIVED:	01/13/83	JA: TX			
8317746	F-03-060814	4231330357		103		LENA WINBORN #1	FT TRINIDAD-BARRETT E	0.0	LONE STAR GAS CO
-REO INDUSTRIES INC				RECEIVED:	01/13/83	JA: TX			
8317773	F-8A-061781	4207900000		103		F O MASTEN "B" #1	LEVELLAND (SAN ANDRES	365.0	CITIES SERVICE CO
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	01/13/83	JA: TX			
8317725	F-03-57855	4228700000		103		FREIDA #1	GIDDINGS (AUSTIN CHAL	36.5	P G P GAS PRODUCT
8317745	F-03-60501	4228731252		102-2	103	LANETTA #2	GIDDINGS (AUSTIN CHAL	109.5	PGP GAS PRODUCTS
8317714	F-03-58701	4228731268		103		LOUIS #1	GIDDINGS (AUSTIN CHAL	36.5	PGP GAS PRODUCTS
8317722	F-03-57392	4228700000		103		SMITH #2	GIDDINGS (AUSTIN CHAL	36.5	PGP GAS PRODUCTS
-SCANDRILL CO				RECEIVED:	01/13/83	JA: TX			
8317697	F-09-56870	4250335942		103		MCCLOUD #2	YOUNG COUNTY REGULAR	29.2	LONE STAR GAS CO
8317688	F-7B-36070	4244732529		102-2	103	PUTNAM #3	THROCKMORTON COUNTY R	1572.4	CLEAR FORK GAS CO
-SCANDRILL INC				RECEIVED:	01/13/83	JA: TX			
8317686	F-7B-055881?	4244732435		103		CARLSON #1	THROCKMORTON CO REGUL	46.7	THROCKMORTON GAS
-SEABO OIL INC				RECEIVED:	01/13/83	JA: TX			
8317818	F-7B-062164	4244133736		103		BISHOP #1	CAL-HAM (ELLENBURGER)	18.0	
-SHANE OIL CORP				RECEIVED:	01/13/83	JA: TX			
8317729	F-7B-58932	4242933348		102-8		COOK HEIRS #1-8 I D NO APPLIED FOR	FRANKEL S (STRAWN)	83.0	WARREN PETROLEUM
-SIDCO				RECEIVED:	01/13/83	JA: TX			
8317691	F-7C-55675	4239932345		102-4	103	BRAGG #2	WILDCAT	0.0	LONE STAR GAS CO
-SOUTHEASTERN RESOURCES CORP				RECEIVED:	01/13/83	JA: TX			
8317825	F-7B-062197	4213300000		102-4		CLAUDE HEARN #3 (19639)	JMJ (MARBLE FALLS)	0.0	EL PASO HYDROCARB
8317771	F-7B-061708	4213300000		102-4		NASH #1 (1102344)	JMJ (MARBLE FALLS)	521.0	EL PASO HYDROCARB
-SOUTHERN ROYALTY INC				RECEIVED:	01/13/83	JA: TX			
8317738	F-08-59759	4240900080		102-8		CONTINENTAL BANK TRUST #3	BULLHEAD CREEK (MOST	240.0	TRUNKLINE GAS CO
-SOUTHLAND ROYALTY CO				RECEIVED:	01/13/83	JA: TX			
8317809	F-08-062133	4209531586		10*		GARTEX "B" #10	KERMIT	25.0	CABOT CORP
8317815	F-08-062149	4247532687		103		UNIVERSITY 16-12 C #4	SOUTH WICKETT	22.0	CABOT CORP
-STRINGER OIL & GAS				RECEIVED:	01/13/83	JA: TX			
8317785	F-7C-061867	4238332317		103		KILE #1	SPRABERRY (TREND AREA	350.0	PHILLIPS PETROLEU
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:	01/13/83	JA: TX			
8317687	F-06-54883	4236531365		103	107-TF	S J NEAL #4	CARTHAGE	213.0	GULHI GAS PIPELIN
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	01/13/83	JA: TX			
8317893	F-7C-062283	4208130947		103		CENTRAL NATIONAL BANK #18	LYGAY	122.0	LONE STAR GAS CO
8317895	F-02-062267	4239100000		108		J M ROBIEN #3-L	GRETA (L-3)	18.0	UNITED TEXAS TRAN
8317894	F-10-062286	4235700000		108		BERRY UNIT I #1	PERRYTON (NOVI LOWER)	20.0	INTER NORTH INC
8317892	F-08-062281	4233532369		103		V T MCCABE #14	JAMESON N (CISCO)	177.0	LONE STAR GAS CO
-SUPERIOR OIL CO				RECEIVED:	01/13/83	JA: TX			
8317761	F-PB-061200	4211531692		103		ACKERLY DEAN FIELD UNIT NO 702	ACKERLY (DEAN SAND)	0.0	GETTY OIL CO
-TAUBERT & STEED				RECEIVED:	01/13/83	JA: TX			
8317778	F-06-061658	4249931080		102-4		HOWARD #1 BUDA	NEUHOFF (BUDA)	62.4	UNITED GAS PIPELI
-TENNECO OIL COMPANY				RECEIVED:	01/13/83	JA: TX			
8317872	F-02-44223	4212330991		103		O H KRUEGER #1	SO COTTONWOOD CREEK	0.0	LONE STAR GAS CO
8317694	F-08-58186	4231732486		103		HALE #2	SPRABERRY (TREND AREA	0.0	NOT CONTRACTED
8317833	F-7C-060561	4245100000		103		DOBLIT-JACOBS #8	ALLEN HILL (STRAWN A)	0.0	LONE STAR GAS CO
8317670	F-04-50339	4242731582		103		STATE SLICK "D" #15	SOUTH BORGER	750.0	TENNESSEE GAS PIP
8317685	F-06-54099	4236931112		102-2		TENNECO VP 67-1	WILDCAT	0.0	TENNESSEE GAS PIP
-TENROC CORP				RECEIVED:	01/13/83	JA: TX			
8317682	F-03-52833	4247730043		102-2		NEINAST "B" #5	WINDINGS (AUSTIN CHAL	325.0	PHILLIPS PETROLEU

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JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TEXACO CITIES SERVICE P/L CO (TX)			RECEIVED: 01/13/83		JA: TX			
8317718	F-04-57184	4242731685	103		GUERRA SHARE 189 #23	ROMA (QUEEN CITY A)	252.0	INTRASTATE GAS GA
-TEXACO INC			RECEIVED: 01/13/83		JA: TX			
8317681	F-03-51562	4236130423	102-4		DONNER PROPERTIES "B" #1	VIDOR N E	730.0	HOUSTON PIPE LINE
8317880	F-10-062253	4206500000	10R		E COOPER UNIT # 201	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317864	F-10-062235	4206500000	10R		E COOPER UNIT # 203	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317863	F-10-062234	4206500000	10R		E COOPER UNIT # 204	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317862	F-10-062233	4206500000	10R		E COOPER UNIT # 205	PANHANDLE CARSON COUN	0.6	GETTY OIL CO
8317861	F-10-062232	4206500000	10R		E COOPER UNIT # 207	PANHANDLE CARSON COUN	0.6	GETTY OIL CO
8317857	F-10-062228	4206500000	10R		E COOPER UNIT # 208	PANHANDLE CARSON COUN	0.6	GETTY OIL CO
8317856	F-10-062227	4206500000	10R		E COOPER UNIT # 209	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317883	F-10-062256	4206500000	10R		E COOPER UNIT # 3010	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317882	F-10-062255	4206500000	10R		E COOPER UNIT # 3011	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317881	F-10-062254	4206500000	10R		E COOPER UNIT # 3014	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317886	F-10-062259	4206500000	10R		E COOPER UNIT # 3023	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317858	F-10-062229	4206500000	10R		E COOPER UNIT # 3025	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317851	F-10-062222	4206500000	10R		E COOPER UNIT # 3027	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317859	F-10-062230	4206500000	10R		E COOPER UNIT # 3029	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317850	F-10-062221	4206500000	10R		E COOPER UNIT # 3030	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317849	F-10-062220	4206500000	10R		E COOPER UNIT # 3031	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317848	F-10-062219	4206500000	10R		E COOPER UNIT # 3032	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317855	F-10-062226	4206500000	10R		E COOPER UNIT # 305	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317853	F-10-062224	4206500000	10R		E COOPER UNIT # 307	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317879	F-10-062252	4206500000	10R		E COOPER UNIT #202	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317860	F-10-062231	4206500000	10R		E COOPER UNIT #3015	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317846	F-10-062217	4206500000	10R		E COOPER UNIT #3016	PANHANDLE CARSON COUN	0.7	GETTY OIL CO
8317884	F-10-062257	4206500000	10R		E COOPER UNIT #302	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317845	F-10-062216	4206500000	10R		E COOPER UNIT #3021	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317844	F-10-062215	4206500000	10R		E COOPER UNIT #3022	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317885	F-10-062256	4206500000	10R		E COOPER UNIT #3026	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317852	F-10-062223	4206500000	10R		E COOPER UNIT #3028	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317847	F-10-062218	4206500000	10R		E COOPER UNIT #3033	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317854	F-10-062225	4206500000	10R		E COOPER UNIT #306	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317683	F-03-53318	4236130426	102-4		E W BROWN JR O/A #1	VIDOR NE	472.0	HOUSTON PIPE LINE
8317675	F-06-04777b	4240131327	102-4	103	FIRST STATE BANK OVERTON - DEEP #1	OVERTON N E	36.5	
8317878	F-10-062251	4206500000	10R		H SCHAFER NCT-2 # 2	PANHANDLE CARSON COUN	3.6	GETTY OIL CO
8317877	F-10-062250	4206500000	10R		H SCHAFER NCT-2 #3	PANHANDLE CARSON COUN	4.6	GETTY OIL CO
8317868	F-10-062261	4206500000	10R		H SCHAFER NCT-2 #5	PANHANDLE CARSON COUN	2.6	GETTY OIL CO
8317866	F-10-062237	4206500000	10R		J C MCCONNELL "A" # 6	PANHANDLE CARSON COUN	1.0	GETTY OIL CO
8317867	F-10-062238	4206500000	10R		J C MCCONNELL "A" # 7	PANHANDLE CARSON COUN	1.2	GETTY OIL CO
8317890	F-10-062263	4206500000	10R		J C MCCONNELL "A" #3	PANHANDLE CARSON COUN	1.7	GETTY OIL CO
8317889	F-10-062262	4206500000	10R		J C MCCONNELL "A" #5	PANHANDLE CARSON COUN	1.0	GETTY OIL CO
8317871	F-10-062242	4206500000	10R		J K QUINN # 13	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317870	F-10-062241	4206500000	10R		J K QUINN # 18	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317875	F-10-062246	4206500000	10R		J K QUINN # 2	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317873	F-10-062244	4206500000	10R		J K QUINN # 22	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317876	F-10-062247	4206500000	10R		J K QUINN # 5	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317874	F-10-062245	4206500000	10R		J K QUINN # 7	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317872	F-10-062243	4206500000	10R		J K QUINN # P	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317869	F-10-062240	4206500000	10R		J K QUINN #19	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317868	F-10-062239	4206500000	10R		J K QUINN #3	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317887	F-10-062260	4206500000	10R		J M MCCONNELL "A" #4	PANHANDLE CARSON COUN	1.0	GETTY OIL CO
8317865	F-10-062236	4217900000	10R		J M PATTON # 6	PANHANDLE GRAY COUNTY	1.3	PHILLIPS PETROLEU

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JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317882	F-10-062255	4206500000	10R		E COOPER UNIT # 3011	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317881	F-10-062254	4206500000	10R		E COOPER UNIT # 3014	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317886	F-10-062259	4206500000	10R		E COOPER UNIT # 3023	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317858	F-10-062229	4206500000	10R		E COOPER UNIT # 3025	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317851	F-10-062222	4206500000	10R		E COOPER UNIT # 3027	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317859	F-10-062230	4206500000	10R		E COOPER UNIT # 3029	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317850	F-10-062221	4206500000	10R		E COOPER UNIT # 3030	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317849	F-10-062220	4206500000	10R		E COOPER UNIT # 3031	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317848	F-10-062219	4206500000	10R		E COOPER UNIT # 3032	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317855	F-10-062226	4206500000	10R		E COOPER UNIT # 305	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317853	F-10-062224	4206500000	10R		E COOPER UNIT # 307	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317879	F-10-062252	4206500000	10R		E COOPER UNIT #202	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317860	F-10-062231	4206500000	10R		E COOPER UNIT #3015	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317846	F-10-062217	4206500000	10R		E COOPER UNIT #3016	PANHANDLE CARSON COUN	0.7	GETTY OIL CO
8317884	F-10-062257	4206500000	10R		E COOPER UNIT #302	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317845	F-10-062216	4206500000	10R		E COOPER UNIT #3021	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317844	F-10-062215	4206500000	10R		E COOPER UNIT #3022	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317885	F-10-062256	4206500000	10R		E COOPER UNIT #3026	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317852	F-10-062223	4206500000	10R		E COOPER UNIT #3028	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317847	F-10-062218	4206500000	10R		E COOPER UNIT #3033	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317854	F-10-062225	4206500000	10R		E COOPER UNIT #306	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317683	F-03-53318	4236130426	102-4		E W BROWN JR O/A #1	VIDOR NE	472.0	HOUSTON PIPE LINE
8317675	F-06-04777b	4240131327	102-4	103	FIRST STATE BANK OVERTON - DEEP #1	OVERTON N E	36.5	
8317878	F-10-062251	4206500000	10R		H SCHAFER NCT-2 # 2	PANHANDLE CARSON COUN	3.6	GETTY OIL CO
8317877	F-10-062250	4206500000	10R		H SCHAFER NCT-2 #3	PANHANDLE CARSON COUN	4.6	GETTY OIL CO
8317868	F-10-062261	4206500000	10R		H SCHAFER NCT-2 #5	PANHANDLE CARSON COUN	2.6	GETTY OIL CO
8317866	F-10-062237	4206500000	10R		J C MCCONNELL "A" # 6	PANHANDLE CARSON COUN	1.0	GETTY OIL CO
8317867	F-10-062238	4206500000	10R		J C MCCONNELL "A" # 7	PANHANDLE CARSON COUN	1.2	GETTY OIL CO
8317890	F-10-062263	4206500000	10R		J C MCCONNELL "A" #3	PANHANDLE CARSON COUN	1.7	GETTY OIL CO
8317889	F-10-062262	4206500000	10R		J C MCCONNELL "A" #5	PANHANDLE CARSON COUN	1.0	GETTY OIL CO
8317871	F-10-062242	4206500000	10R		J K QUINN # 13	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317870	F-10-062241	4206500000	10R		J K QUINN # 18	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317875	F-10-062246	4206500000	10R		J K QUINN # 2	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317873	F-10-062244	4206500000	10R		J K QUINN # 22	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317876	F-10-062247	4206500000	10R		J K QUINN # 5	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317874	F-10-062245	4206500000	10R		J K QUINN # 7	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317872	F-10-062243	4206500000	10R		J K QUINN # P	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317869	F-10-062240	4206500000	10R		J K QUINN #19	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
8317868	F-10-062239	4206500000	10R		J K QUINN #3	PANHANDLE CARSON COUN	0.4	GETTY OIL CO
8317887	F-10-062260	4206500000	10R		J M MCCONNELL "A" #4	PANHANDLE CARSON COUN	1.0	GETTY OIL CO
8317865	F-10-062236	4217900000	10R		J M PATTON # 6	PANHANDLE GRAY COUNTY	1.3	PHILLIPS PETROLEU

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JD NO	JA PKT	API NO	E	SEC(1)	SEC(2)	WELL NAME
-TEXCAN RESOURCES CORP				RECEIVED:	01/13/83	JA: TX
8317786	F-7B-062052	4239900000		103		MCCORD B-4
8317787	F-7B-062056	4206300000		103		MCCORD 2
-TOM BROWN INC				RECEIVED:	01/13/83	JA: TX
8317779	F-7C-061866	4238332284		103		O W LANE #1
-TOM F MARSH INC				RECEIVED:	01/13/83	JA: TX
8317796	F-10-062097	4248330729		108		C ZYBACH #1-14
-TRIPLE-S VENTURES INC				RECEIVED:	01/13/83	JA: TX
8317717	F-02-57030	4246900000		102-4		PATTERSON A-1
-TUMBLEWEED PRODUCTION CO				RECEIVED:	01/13/83	JA: TX
8317839	F-10-062206	4206500000		103		HAIDUK #2
-TXO PRODUCTION CORP				RECEIVED:	01/13/83	JA: TX
8317772	F-8A-061733	4203330789		103		MILLER "U" #2
-U S OPERATING INC				RECEIVED:	01/13/83	JA: TX
8317768	F-03-061416	4228731052		102-2		FRANCIS #1 RRC ID# N/A
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	01/13/83	JA: TX
8317795	F-08-062093	4210332995		103		H E ADAMS #9
8317793	F-08-062091	4210301879		108		W N WADDELL #420
-WES-MOR DRILLING INC				RECEIVED:	01/13/83	JA: TX
8317822	F-09-062176	4250336385		103		COOPER & NEHLS RRC ID #102461
-WESTERN CHIEF OIL & GAS CO				RECEIVED:	01/13/83	JA: TX
8317692	F-09-55837	4223734433		102-4		DUNLAP #1-B P #157266
-WESTWOOD ENERGY INC				RECEIVED:	01/13/83	JA: TX
8317781	F-7B-061951	4225331413		103		KENNETH DUNCAN "A" #1 (ID #15969)
-WHEELER OIL COMPANY				RECEIVED:	01/13/83	JA: TX
8317804	F-10-062126	4208730172		108		L POWELL (91906) #1
8317805	F-10-062127	4248330797		108		SIMPSON (90743) #1
-WILSON ENERGY INC				RECEIVED:	01/13/83	JA: TX
8317778	F-7C-061864	4210533379		103		UNIVERSITY 18 "A" #1
-ZENITH PETROLEUM CORP				RECEIVED:	01/13/83	JA: TX
8317831	F-01-060534	4217731343		102-4		VICTOR WINKENWERDER #2

FIELD NAME	PROD	PURCHASER
COUNTY REGULAR (COLEM	110.0	LONE STAR GAS CO
COUNTY REGULAR (COLEM	120.0	LONE STAR GAS CO
CALVIN (DEAN)	29.2	UNION TEXAS PETRO
ZYBACH 1-14 (15000)	0.0	COLORADO INTERSTA
WEBER (2720)	80.0	C B GAS GATHERING
PANHANDLE	98.4	GETTY OIL CO
LUCY N E (STRAWN - B)	150.0	SUN OIL CO
GIDDINGS (AUSTIN CHAL	0.0	MGP GAS PRODUCTS
DUNE	3.1	EL PASO NATURAL G
SAND HILLS (JUDKINS)	14.8	EL PASO NATURAL G
YOUNG COUNTY REGULAR/	58.0	SUN GAS TRANSMISS
TJN-STRAWN SAND	0.0	SOUTHWESTERN GAS
NOODLE N W (CANYON SA	4.7	PALO DURO PIPELIN
EAST PANHANDLE	3.0	HIGH PLAINS NATUR
EAST PANHANDLE	3.0	EL PASO NATURAL G
BLOCK 47 (SILURIAN)	73.0	J L DAVIS
PEACH CREEK (AUSTIN C	101.0	VALERO GAS TRANSM

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3527 Filed 2-8-83; 8:45 am]

BILLING CODE 6717-01-C

ENVIRONMENTAL PROTECTION AGENCY

[PF-309; PH-FRL 2296-2]

American Cyanamid Co. et al.; Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment and/or amendments of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments to the product manager (PM) cited in each petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, Va. 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number [PF-309] and the petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide and feed additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filing

1. *FAP 3H5381.* American Cyanamid Company, P.O. Box 400, Princeton, NJ, 08540. Proposes to amend 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide flucythrinate ((±cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(methylethyl) benzeneacetate) in or on the commodity apple pomace (dry) at 10.0 parts per million (ppm). (PM-17, Franklin D. R. Gee, 703-557-2690).

2. *PP 3F2806.* American Cyanamid Co. Proposes to amend 40 CFR 180.400 by establishing tolerances for the residues of the insecticide flucythrinate in or on the commodities apples at 1.0 ppm; cattle meat and meat by-products at 0.1 ppm; cattle fat at 1.0 ppm; milk at 0.3 ppm; and milk fat at 6.0 ppm. The proposed analytical method for determining residues is gas chromatography. (PM-17, Franklin D. R. Gee, 703-557-2690).

3. *PP 3F2810.* Rhone-Polenc Inc., Monmouth Junction, N], 08852. Proposes to amend 40 CFR 180.399 by establishing tolerances for the combined residues of the fungicide iprodione [3-(3,5-dicloropheenyl)-*N*-(1-methyl ethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methyl ethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)2,4-dioso-1-imidazolidine-carboxamide] in or on stone fruits at 20.0 ppm. The proposed analytical method for determining residues is gas-liquid chromatography. (PM-21, Henry Jacoby, 703-557-1900).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: January 25, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-2958 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP -50590; PH-FRL 2295-8]

Dow Chemical U.S.A. et al.; Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

464-EUP-77. Issuance. Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 9,800 pounds of the herbicide 2-(3,5-dichlorophenyl)-2- (2, 2, 2-trichloroethyl) oxirane on field corn to evaluate the control of annual grasses and broadleaf weeds. A total of 19,600 acres are involved; the program is authorized in the States of Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Carolina, Ohio, Pennsylvania, South Dakota, and Wisconsin. The experimental use permit is effective from January 31, 1983 to January 30, 1984. A temporary tolerance for residues of the active ingredient in or on field corn grain has been established. (Robert Taylor, PM 25, Rm. 245, CM #2, (703-557-1800))

279-EUP-78. Extension. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 4,599 pounds of the insecticide carbosulfan on alfafa to evaluate the control of various alfalfa insects. A total of 1,533 acres are involved; the program is authorized in the States of Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The experimental use permit is effective from February 5, 1983 to February 5, 1984. (Jay Ellenberger, PM 12, Rm. 202, CM #2, (703-557-2386))

279-EUP-79. Extension. FMC Corporation. 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 491.25 pounds of insecticide carbosulfan on citrus to evaluate the control of various citrus insects. A total of 65 acres are involved; the program is authorized only in the States of Arizona, California, Florida, and Texas. The experimental use permit is effective from February 13, 1983 to February 13, 1984. (Jay Ellenberger, PM 25, Rm. 202, CM#2, (703-557-2386))

279-EUP-87. Extension. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 1,624 pounds of insecticide carbosulfan on sorghum to evaluate the control of various sorghum insects. A total of 464 acres are involved; the program is authorized only in the States of Arizona, California, Colorado, Iowa, Kansas, Missouri, Nebraska, New

Mexico, Oklahoma, South Dakota, and Texas. The experimental use permit is effective from February 23, 1983 to February 23, 1984. This permit and the two above are issued with the limitation that all crops are destroyed or used for research purposes only. (Jay Ellenberger, PM 25, Rm. 202, CM#2, (703–557–2386))

3125–EUP–182. Issuance. Mobay Chemical Corporation, P.O. Box 4913, Kansas City, MO 64120. This experimental use permit allows the use of 100,000 pounds of the insecticide methanidophos on soybeans to evaluate the control of various soybean insect pests. A total of 50,000 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from January 5, 1983 to June 1, 1984. A temporary tolerance for residues of the active ingredient in or on soybeans and soybean forage has been established. (William Miller, PM 16, Rm. 211, CM#2, (703–557–2600))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is sugested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: January 25, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–2959 Filed 2–8–83; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180618]; PH–FRL 2297–5

Pesticides; Emergency Exemptions Granted

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the States listed below. Also listed are five crisis exemptions initiated by three States.

DATES: See each specific and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific and crisis exemption for the name of the contact person. The following information applies to all contact people: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of fenvalerate on artichokes to control artichoke plume moths; December 27, 1982 to December 1, 1983. (Libby Welch)

2. California Department of Food and Agriculture for the use of formetanate hydrochloride on strawberries to control two-spotted spider mites; January 1, 1983 to January 1, 1984. (Jim Tompkins)

3. California Department of Food and Agriculture for the use of metalaxyl on onions grown for seed to control downy mildew; February 26, 1983 to January 21, 1984. (Gene Asbury)

4. California Department of Food and Agriculture for the use of triadimefon on fresh market tomatoes to control powdery mildew; December 14, 1982 to October 21, 1983. California had initiated a crisis exemption for this use. (Jack E. Housenger)

5. U.S. Department of Agriculture for the use of chlorpyrifos on ornamental sod to control imported fire ants in Alabama, Arkansas, Georgia, Louisana, Mississippi, North Carolina, South Carolina, and Texas; January 6, 1983 to December 31, 1983. (Jim Tompkins)

6. Florida Department of Agriculture and Consumer Services for the use of fenvalerate on bell peppers to control pepper weevils; December 22, 1982 to August 31, 1983. (Libby Welch)

7. Hawaii Department of Agriculture for the use of methamidophos on celery to control leafminers; January 6, 1983 to December 2, 1983. Hawaii had initiated a crisis exemption for this use. (Jim Tompkins)

8. Louisiana Department of Agriculture for the use of methiocarb on rice (seed) to control depredating birds; December 16, 1982 to July 15, 1983. (Gene Asbury)

9. Louisiana Department of Agriculture for the use of triadimefon on wheat to control leaf rust; December 14, 1982 to April 30, 1983. (Gene Asbury)

10. New Mexico Department of Agriculture for the use of oxyfluoren on dry bulb onions to control various winter weeds; December 16, 1982 to March 31, 1983. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; the final determination was published in the **Federal Register** of June 23, 1982 (47 FR 27118). (Gene Asbury)

11. Oklahoma Department of Agriculture for the use of diethatyl-ethyl on spinach to control various weeds; December 27, 1982 to April 30, 1938. Oklahoma had initiated a crisis exemption for this use. (Libby Welch)

12. Oregon Department of Agriculture for the use of carbofuran on caneberries to control root weevils; December 22, 1982 to February 15, 1983. (Libby Welch)

13. South Carolina Division of Regulatory and Public Services Programs, Clemson University, for the use of fenamiphos in established peach orchards to control ring and root-knot nematodes; December 20, 1982 to December 15, 1983. (Jim Tompkins)

14. Washington Department of Agriculture for the use of carbofuran on raspberries to control root weevils; December 22, 1982 to February 15, 1983. (Libby Welch)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on December 10, 1982, for the use of oxyfluorfen on dry bulb onions to control weeds. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until December 9, 1983. (Jim Tompkins)

2. California Department of Food and Agriculture on December 23, 1982, for the use of metalaxyl on broccoli and cauliflower (fresh market) and crucifers (grown for seed) to control downy mildew. Since it was anticipated that this program would be needed for more than 15 days, California is expected to request a specific exemption to continue it. (Libby Welch)

3. California Department of Food and Agriculture on December 31, 1982, for the use of metalaxyl on green onions to control downy mildew. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until December 30, 1983. (Libby Welch)

4. Oregon Department of Agriculture on November 18, 1982, for the use of methiocarb on barley, clover, grass grown for seed, oats, and wheat to control slugs and snails. Since it was anticipated that this program would be needed for more than 15 days, Oregon has requested a specific exemption to

continue it. The need for this program is expected to last unitl May 1, 1983. (Jim Tompkins)

5. Texas Department of Agriculture on December 10, 1982, for the use of metalaxyl on sorghum seed to control sorghum downy mildew. Since it was anticipated that this program would be needed for more than 15 days, Texas is expected to request a specific exemption to continue it. (Libby Welch)

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: January 25, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83-2960 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66098; PH FRL 2297-4]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: March 11, 1983.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 706, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2126).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
134-41	Warfarat Crumbles	Hess and Clark, Inc., 7th and Orange Sts., Ashland, OH 44805-1799	Dec. 21, 1964
148-791	Thram-Sulfur 7½-10 Dust	Thompson Hayward Chemical Co., P.O. Box 2383, Kansas City, KS 66110	Mar. 5, 1968
148-792	Thram 7½ Dust	do	Mar. 6, 1968
148-829	Ammate Weed and Brush Killer Solution	TH Agriculture and Nutrition Company, P.O. Box 2700, Kansas City, KS 66110	May 27,1968
200-31	Glidden Code RGL-304298	Glidden Coatings and Resins, Division SLM Corp., 16551 Sprague Road, Strongsville, OH 44136	Jan. 16, 1968
240-153	Patrol Poultry Dust	Daly Herring Company, P.O. Box 428, Kinston, NC 28501	July 8, 1968
271-37	Soban Ammonium Sulfamate	International Minerals and Chemical Corp., P.O. Box 207, Terre Haute, IN 47808	July 22, 1971
279-538	Chlordane 8.0 Miscible	FMC Corporation, 2000 Market St., Philadelphia, PA 19103	Feb. 16, 1961
279-1770	CYPREX Dodine 3 Dust	do	May 31, 1961
279-2677	Nirgara DuPont Ammate Weed and Brush Killer Solution	do	Apr. 12, 1968
334-283	Ram Kills Rats and Mice Contains Warfarin	Hysan Corp., 919 W. 38th St., Chicago, IL 60609	June 25, 1968.
335-216	BK LFI 2	Pennwalt Corp., Three Parkway, Philadelphia, PA 19102	Apr. 7, 1977
359-513	Methoxone-Chlorax No. 2 GN	Rhone-Poulenc Chemical Company, P.O. Box 125, Monmouth Junction, NJ 08852	Oct. 23, 1962
359-514	Methoxone-Chlorax No. 4 GN	do	Oct. 23, 1962
359-604	Methoxone-Chlorax 33H (GN)	do	June 27, 1967
359-637	Methoxone-Chlorax 23.5 H (GN)	do	Jan. 14, 1971
373-81	Resdex Prolin	Resdex Corp., 225 Terminal Ave., Clark, NJ 07066	Jan. 8, 1963
419-62	Cenol Warfarin With Bait	Acme Burgess, Inc., Chemical Division; Route 83, Grayslake, IL 60030	Oct. 27, 1950
419-82	Cenol Water Soluble Warfarin	do	May 11, 1954
419-138	Cenol Prolin Bait Station	do	Apr. 1, 1963
419-142	Cenol Prolin Ready To Use Mice Station	do	Mar. 3, 1964
419-158	Cenol Warfarin Concentrate	do	Apr. 17, 1968
445-19	Rosex Contains Prolin Ready-to-Use Kills Rats and Mice	Rose Exterminator Company, NE Corner Ct. and Walnut St., Cincinnati, OH 45202	Aug. 15, 1963
464-103	Profume—A Space Fumigant	Dow Chemical U.S.A.; P.O. Box 1706; Midland, MI 48640	Jan. 13, 1949
464-190	Dow Pictume Chloropicrin	do	May 16, 1956
464-223	Brozone	do	Mar. 20, 1959
464-392	Vidden DC-15 Soil Fungicide and Nematicide	do	Dec. 17, 1971.
485-31	Wimru Zinc Phosphide Rodent Bait	The Industrial Fumigant Co., P.O. Box 1200, Olathe, KS 66061	June 3, 1975.
554-91	Agsco M-X Herbicide	Agsco Chemical, Inc., Box 458, Grand Forks, ND 58201	May 31, 1963
557-1716	Vigoro Rose, Flower and Shrub Spray	Swift Agricultural Chemical Corp., 30 North LaSalle St., Chicago, IL 60602	Apri. 15, 1968
557-1828	Vigoro Rose Spray	do	July 2, 1971.
602-234	Purina Rat Kill Pellets	Ralston Purina Company, Checkerboard Square, St. Louis, MO 63164	Jan. 29, 1974
602-253	Purina Mouse and Rat Kill Meal	do	Aug. 7, 1975.
602-259	Purina Rat and Mouse Control Pellets	do	Apr. 28, 1975
655-281	Prentox Methyl Parathion Technical	Prentiss Drug and Chemical Co., Inc., 363 7th Ave., New York, NY 10001	May 12, 1966
655-300	Prentox Ethyl Parathion Technical	do	May 6, 1967
677-264	New Improved Vacate	Diamond Shamrock Corp., 1100 Superior Ave., Cleveland, OH 44114	Sept. 19, 1968
802-193	Miller's Karaspra	The Chas. H. Lilly Company, 77 N.E. Killingsworth, Portland, OR 97218	Nov. 27, 1956
802-365	Miller's Karathane 2D	do	Apr. 22, 1964
802-414	CYPREX-KARATHANE 42D	do	June 16, 1967
802-432	Miller's Thiodan Sevin 31D	do	Aug. 26, 1968
802-528	Miller's Rose and Floral Spray	do	June 11, 1975.
829-56	SA-50 Brand Heading Cabbage Dust	Southern Agricultural Insecticides, Inc., P.O. Box 218, Palmetto, FL 33561	July 20, 1953.
829-173	SA-50 Brand 1½% Parathion Dust with 6% Sevin	do	Nov. 11,1966
829-205	SA-5. Brand 1½% Parathion 6% Sevin 50% Sulfur	do	June 22, 1972.
992-24	Pioneer Brush and Weed Killer Concentrate	Pioneer Manufacturing Company, 3053 East 87th St., Cleveland, OH 44104	June 3, 1968
961-247	Lebanon Amsod Weed and Grass Killer	Lebanon Chemical Corporation, P.O. Box 180, Lebanon, PA 17042	May 27, 1968
961-254	Lebanon Rose Dust	do	Oct. 24, 1970
961-286	New Rose Dust	do	May 15, 1974.
1022-411	Dupont Ammate Weed and Brush Killer Solution	Chapman Chemical Company, P.O. Box 9158, Memphis, TN 38109	Oct. 16, 1967
1145-127	Amoco MCPA Weed Killer	Amoco Oil Company, 55 West 22nd St., Lombard, IL 60148	Feb. 8, 1971.
1157-39	Na-Mo-Cide Kills Rats	Moorman Mfg., Company, 1000 North 30th St., Quincy, IL 62301	July 1, 1972.
1159-66	Twin Light Rat-Away	Seacoast Laboratories, P.O. Box 257, East Brunswick, NJ 08816	Sept. 18, 1951
1159-144	Twin Light Prolin Rat-Mouse Concentrate	do	Apr. 24, 1963
1258-158	Terraclor 20% Dust	Olin, P.O. Box 991, Little Rock, AK 72203	July 29, 1953.
1258-286	Terraclor 40% Dust Soil Fungicide	do	Jan. 23,1956
1258-287	Terraclor 10% Dust Soil Fungicide	do	Jan. 23, 1956.
1269-99	DeWitt WITT-O-TRIM	Zep Manufacturing Company, P.O. Box 2015, Atlanta, GA 30301	Nov. 29, 1968.
1348-202	DuPont Ammate X (Weed and Brush Killer)	Selco Supply Company, 650 "O" St., Greeley, CO 80631	Feb. 27, 1967
1431-19	Milfred Prolin Ready-To-Use Rat and Mouse Bait	The Milfred Company, 1516 Fifth Ave., Pittsburgh, PA 15219	May 16, 1963.
1685-76	Formula 190-A Non Selective Weed and Brush Killer	The State Chemical Manufacturing Co., 3100 Hamilton Ave., Cleveland, OH 44114	May 16, 1974.
1706-82	Nalkil Weed Killer 251 Concentrate	Nalco Chemical Co., 2901 Butterfield Road, Oak Brook, IL 60521	Aug. 26, 1966

Registration No.	Product name	Registrant	Date registered
1706-86	Naikil Weed Killer 401 Concentrate	....do	May 6, 1967
1706-120	Naikil 251 Concentrate with Endnft Weed Killer	....do	Oct. 19, 1972
1706-121	Naikil 401 Concentrate with Endnft Weed	....do	Oct. 19, 1972
1706-132	Naikil 251 Liquid with Endrift Weed Killer	....do	May 23, 1974
1706-133	Naikil 601 Liquid with Endrift Weed Killer	....do	Jan. 11, 1974.
1706-135	Naikil 401 Liquid Endrift Weed Killer	....do	June 28, 1974.
1719-20	BLP Jack Tar Marine Finishes Vinyl Anti-Fouling MIL-P-15931A Formula No. 121.	Mobile Paint Manufacturing Co., Inc., P.O. Box 717, Theodore, AL 36590	Oct. 20, 1965
1719-30	BLP Jack Tar Marine Finishes Vinyl Anti-Fouling Black MIL-P-16189A Formula No. 129.	....do	Feb. 7, 1974.
2393-216	Hopkins Heptachlor Seed Protectant	Hopkins Agricultural Chemical Co., P.O. Box 7532, Madison, WI 53707	Feb. 7, 1972
2393-233	Hopkins Heptachlor-Captan 25-25 Seed Protectant	....do	Jan. 30, 1973.
2460-55	Gowan's 6-1½ Emulsifiable Insecticide Concentrate	Howerton Gowen Chemicals, Inc., P.O. Box 247, Roanoke Rapids, NC 27870	Nov. 18, 1974.
3051-59	AGCO Thiodan 2 CO. EC Insecticide	Agricultural Products Co., Inc., P.O. Drawer A, Mesquite, New Mexico 88048	Sept. 11, 1967
3640-38	Rack Rat with Prolin Rat and Mouse Killer	Stearns Chemical Corp., P.O. Box 3216, Madison, WI 53704	Apr. 7, 1965.
4110-41	EL Blanco Brand Thiodan 2 EC Insecticide	Western Farm Service, Inc., 3076 Citrus Circle, Suite 195, Walnut Creek, CA 94598	May 17, 1968
4185-113	Smith-Douglass 4 lbs Aldrin Oil Solution	Smith-Douglass, Inc., P.O. Box 419, Norfolk, VA 23501	Jan 28, 1963
4904-335	Royster Brozone Soil Fumigant	Royster Company, P.O. Drawer 1940, Norfolk, VA 23501	Sept. 3, 1974.
4931-136	Clean Sweep	Good Life Chemicals, Inc., P.O. Box 687, Effingham, IL 62401	May 28, 1975
5905-310	Helena 10% Terraclor Dust	Helena Chemical Company, 5100 Poplar Ave., Suite 2900, Memphis, TN 38137	Jan. 21, 1974
5927-9	R-10 Rat and Mouse Killer	Dacus, Inc., P.O Drawer 528, Tupelo, MS 38802	Feb. 4, 1971
6919-1	Radar Rat and Mouse Killer	Ashworth Chemical Co., Inc., P.O. Box 67, Memphis, TN 38101	Oct. 17, 1960
7234-47	Fortrin Weed and Brush Killer Solution	Forshaw Chemicals, Inc., P.O. Box 6055, Charlotte, NC 28207	Dec. 8, 1970
8203-18	NCPA Acid	ICI United States, Inc., P.O. Box 751, Wilmington, DE 19899	Aug 20, 1973
8340-3	AMS Ammonium Sulfamate Weed and Brush Killer	American Hoechst Corporation, Route 202-206 North, Somerville, NJ 08876	Sept. 18, 1968
8590-219	Ammate X Non Selective Weed and Brush Killer	Agway, Inc., Box 4933, Syracuse, NY 13221	July 25, 1966
8590-280	Agway Liquid Glyodex	....do	Oct 3, 1967
9033-1	Blitz Prolin	Blitz Products Company, 122 S. Main St., Mitchell, SD 57301	Aug. 26, 1965
9159-6	Thiodan Miscible Insecticide	Kaiser Agricultural Chemicals, P.O. Box 246, Savannah, GA 31402	Apr. 16, 1966
9159-53	Bronze Soil Fumigant	....do	Nov. 14, 1967
9250-22	UL-285 Weed Killer	United Laboratories Inc., 155 S. Rt. 53, Addison, IL 60101	Nov. 4, 1975.
9284-3	Waterlox Wood-Stain Preserver for All Wood Surfaces—Teakwood Gray.	Waterlox Chemical and Coatings Corp., 9808 Meech Ave., Cleveland, OH 44105	July 21, 1971
9284-4	Waterlox Wood-Stain Preserver for All Wood Surfaces—Persimmon Brown	....do	July 21, 1971
9284-5	Waterlox Wood-Stain Preserver for All Wood Surfaces—Willow Green.	....do	July 21, 1971
9779-173	Riverside Double-X	Riverside Chemical Company, P.O. Box 1828, Sioux City, IA 51102	Mar 9, 1972
9782-35	Parathion-Toxaphene-Sulfur 2-5-70 Dust	Woodbury Chemical Co., of Homestead, P.O. Box 4319, Princeton, NJ 33030	Aug. 19, 1975
9855-4	Socopol Vinyl Anti-Fouling 69-D-1	Mobil Chemical Company, P.O. Box M-1, Short Hills, NJ 07078	Jan. 10, 1969
9855-5	Shipbottom Paint Tropical Service Anti-Fouling 59-D-90	....do	Jan. 10, 1969
9855-6	Shipbottom Paint Anti-Fouling 59-R-90	....do	Jan. 10, 1969
9855-14	Gas and Oil Industries Heavy-Duty Coatings 5536 Coastal Red Anti-fouling Paint.	....do	Nov 11, 1971
9855-16	59-R-2 Copper Paint Anti-Fouling for Wooden Bottoms	....do	Apr 16, 1971.
9855-17	2162 Vinyl Anti-fouling	....do	July 15, 1971.
9855-18	5537 Tropical Super Service Anti-fouling Paint	....do	Dec 16, 1974
9855-32	Mobil Marine Coating Sovaklor Anti-fouling 59-R-20	....do	Mar 3, 1975
10199-2	It Kills Rat and Mouse Killer	Best Way Exterminating Co., 3081 Cropsey Ave., Brooklyn, NY 11224	May 20, 1969
10226-41	Rockwood Brand THILOX 3-3 Dust	Rockwood Chemical Company, P.O. Box 34, Brawley, CA 92217	Aug. 19, 1975.
10226-48	Rockwood Brand Malathion Thio Sulfur 5-4-20	....do	Aug. 19, 1975.
10226-52	Rockwood Brand Thio Sulfur Dust No. 3-50	....do	Aug. 19, 1975.
11636-1	Mixed Technical MCP Esters	Kemisk Vaerk Koge A/B,. 2 Lyngvej, DK-4600 Koge, Denmark	July 24, 1972
11649-9	Avitrol Corn Chops—Peanut Buttar	Avitrol Corporation, 320 South Boston Ave., Suite 526, Tulsa, OK 74103	Jan 21, 1972
12355-3	VAN-SH	Pioneer Chemical, Inc., 521 State St., Augusta, KS 67010	July 29, 1974
45639-35	Technical Material Ethyl Parathion Insect Toxicant for Manufacturing Use Only.	FBC Chemicals, Inc., Box 2867, Wilmington, DE 19805	Feb. 25, 1970.

The Agency has agreed that such cancellation shall be effective March 11, 1983, unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for 1 year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66098]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E-107, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. (751, 7 U.S.C. 136))

Dated: January 26, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

(FR Doc. 83-2961 Filed 2-8-83; 8:45 am)

BILLING CODE 6560-50-M

[OPP 00163; PH-FRL 2301-1]

State FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a one-day meeting of the State FIFRA issues Research and Evaluation Group (SFIREG). The meeting will be open to the public.

DATE: Thursday, March 3, 1983, beginning at 8:30 a.m. and ending prior to 12:00 noon.

ADDRESS: The meeting will be held at the: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: P. H. Gray, Jr., Office of Pesticide Programs (TS–766C), Environmental Protection Agency, Rm. 1115B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–7096).

SUPPLEMENTARY INFORMATION: This will be the fourteenth meeting of the full Group. The tentative agenda thus far includes the following topics:

1. Action items from the December meeting of the full Group.
2. Regional reports.
3. Working Committee reports.
4. Other topics which may have arisen during the February 28 through March 2, 1983, meeting of the Association of American Pesticide Control Officials.

Dated: January 27, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83–3198 Filed 2–8–83; 8:45 am]

BILLING CODE 6560–50–M

[PP 2G2697/T401; PH-FRL 2301–7]

Dow Chemical Co.; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: EPA has established a temporary tolerance for residues of the herbicide 2-(3,5-dichlorophenyl)-2-(2,2,2-trichlorethyl) oxirane and its metabolite 3,5-dichlorobenzoic acid in or on the raw agricultural commodity field corn grain. This temporary tolerance was requested by Dow Chemical Co.

DATE: This temporary tolerance expires January 30, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM 2, 1921 Jefferson Davis Highway, Arlington, Va. 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: Dow Chemical Co., Agricultural Products Department, P.O. Box 1706, Midland, Mich. 48640, has requested, in pesticide petition PP 2G2697 the establishment of a temporary tolerance for residues of the herbicide 2-(3,5-dichlorophenyl)-2-(2,2,2-trichloroethyl) oxirane and its metabolite 3,5-dichlorobenzoic acid in or the raw agricultural commodity field corn grain at 0.05 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 464-EUP-77 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment that of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quatity authorized by the experimental use permit.

2. Dow Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the record available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires January 30, 1984. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: January 28, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–3457 Filed 2–8–83; 8:45 am]

BILLING CODE 6560–50–M

[SA–FRL 2302–3]

Science Advisory Board; Environmental Effects, Transport and Fate Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a one-day meeting of the Environmental Effects, Transport and Fate Committee of the Science Advisory Board will be held on February 25, 1983 in Conference Room 3906–3908, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 9:00 a.m. on February 25, and will adjourn not later than 4:30 p.m.

A principal purpose of the meeting is to allow the Committee to continue reviewing and providing its scientific advice to EPA on the scientific adequacy of the Water Quality Standards Handbook, Chapter 3, "Guidelines for Deriving Site-Specific Water Quality Criteria for the Protection of Aquatic Life and its Uses." Included in the Committee's review will be the following topics: the scientific rationale for the development of site specific criteria; the definition of site; assumptions associated with the site-specific criteria; and four procedures utilized for developing site-specific criteria.

These procedures include: (1) The *recalculation procedure* to account for differences in resident species sensitivity to a chemical; (2) the *indicator species procedure* to account for differences in bioavailability, and therefore toxicity, of a chemical due to water quality variability; (3) the *resident species procedure* to account for differences in resident species sensitivity and differences in the bioavailability, and therefore toxicity, of a chemical due to water quality variability; and (4) the *heavy metal speciation procedure* to allow for the comparison of ambient soluble or biologically available metal concentrations to criteria in State water quality standards. It is expected that public comments of a scientific nature that were presented to the Agency during the recent public meetings (See FR Vol. 47, No. 210, p. 49251) will be available for examination by the Committee. It may also be that some of the draft reports for field validation of

the site specific protocols will be available for an initial examination at the time of the meeting.

The meeting will be open to the public. Any member of the public wishing to attend, participate, submit a paper, or wishing further information should contact Dr. Douglas Seba, Executive Secretary, Environmental Effects, Transport and Fate Committee, Science Advisory Board (202) 382–2552 or Dr. Terry F. Yosie, Acting Director, Science Advisory Board (202) 382–4126 by c.o.b. February 21, 1983.

Dated: February 19, 1983.

Terry F. Yosie,

Acting Director, Science Advisory Board.

[FR Doc. 83–3453 Filed 2–8–83; 8:45 am]

BILLING CODE 6560–50–M

[PF–312; PH–FRL 2301–8]

Union Carbide Agricultural Products Co., Inc.; Request for Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Union Carbide Agricultural Products Company, Inc. has submitted a request for an exemption from the requirement of a tolerance for phenolic resins when used as an inert ingredient binding agent in pesticide formulations applied to growing crops only.

ADDRESS: Written comments to: Process Coordination Branch (T–767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716 D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while this request is pending before the Agency. The comments are to be identified by the document control number [PF–312]. All written comments filed in response to this notice will be available for public inspection in the Process Coordination Branch from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Roland D. Blood, (703–557–77000 at the address given above.

SUPPLEMENTARY INFORMATION: EPA has received a request from the Union Carbide Agricultural Products Company, Inc., P.O. Box 12014, T.W. Alexander Drive, Research Triangle Park, N.C. 27709 that residues of phenolic resins, as defined by 21 CFR 175.300(b)(vi)(a), be exempted from the requirement of a tolerance when used as an inert ingredient binding agent in pesticide formulations applied to growing crops only. This exemption would be granted under 40 CFR 180.1001(d) and would be limited to soil applications.

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136))

Dated: January 28, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–3456 Filed 2–7–83; 10:42 am]

BILLING CODE 6560–50–M

[A–6–FRL 2299–7]

Delegation of Additional Authority to the State of Texas for Prevention of Significant Deterioration (PSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: EPA, Region 6, has delegated to the State of Texas, the additional PSD authority for source inspections and review of compliance reports. Except as specifically limited, all of the authority and responsibilities of the Administrator or the Regional Administrator which are found in 40 CFR Part 52.21 are delegated to the Texas Air Control Board (TACB). Any such authority and responsibilities may be redelegated by the Board to its staff.

EFFECTIVE DATE: December 28, 1982.

ADDRESS: Copies of the State request and State-EPA agreement for this delegation of authority are available for public inspection at the Air Branch, Environmental Protection Agency (EPA), Region 6, Interfirst Two Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Air Branch, EPA, address above.

SUPPLEMENTARY INFORMATION: On November 10, 1980, the TACB requested EPA to delegate to it the authority for the technical and administrative review portions of the PSD program. On April 23, 1981, EPA delegated this authority to the TACB.

On December 15, 1982, the State of Texas requested a revision of the delegation of responsibility for the PSD program. After a thorough review of the request and information submitted, the Regional Administrator determined that the State's pertinent laws and the rules and regulations of the TACB were found to provide an adequate and effective procedure for source inspections and review of compliance reports. Therefore, on December 28, 1982, EPA delegated to the State of Texas the additional authority to inspect sources located in Texas for compliance under 40 CFR 52.21 and to review all compliance reports for sources permitted under the PSD regulations. If the State of Texas finds an instance of noncompliance which it is unable to resolve within the terms of the PSD permit, it will notify EPA, Region 6, within thirty (30) days and provide all relevant information. EPA will exercise its enforcement authority to resolve the noncompliance.

Since the TACB did not request full delegation of authority in either of the above requests, EPA, Region 6, will continue to have responsibility to issue or deny the PSD permits and to initiate formal enforcement actions referred by the State.

This notice will have no effect on the National Ambient Air Quality Standards.

The Office of Management and Budget has exempted this information notice from the requirements of Section 3 of Executive Order 12291.

Sources in the State of Texas should submit all information pursuant to 40 CFR 52.21 directly to the State agency at the following address: Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

(Part C of the Clean Air Act, as amended (42 U.S.C. 7411))

Dated: January 25, 1983.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 83–3450 Filed 2–8–83; 8:45 am]

BILLING CODE 6560–50–M

[W–10–FRL 2302–6]

Petition Requesting Sole Source Aquifer Designation and Request for Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Public comments requested.

SUMMARY: The Environmental Protection Agency invites public comment on a petition requesting that EPA designate the aquifer underlying the Snake Plain in the State of Idaho as the sole drinking water source for the area. The petition was submitted on September 25, 1982, by the Hagerman Valley Citizens' Alert, Inc., under Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h–3(e)). Additional information was submitted on October 27, 1982. If the aquifer is so designated, no commitment for Federal financial assistance may be entered into for any project which EPA determines may contaminate the aquifer through a recharge zone so as to create a significant hazard to public health. EPA will hold informal public meetings

at locations and dates to be announced later.

DATES: Comments must be submitted on or before April 11, 1983.

ADDRESSES: Comments should be addressed to: Wendy A. Marshall, Drinking Water Programs Branch, M/S 409, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

The petition can be examined during normal business hours at the following locations:

South Central District Health Department, 324 Second Street East, Twin Falls, Idaho 83301;
Southeastern District Health Department, 465 Memorial Drive, Pocatello, Idaho 83201;
District Seven Health Department, 254 "E" Street, Idaho Falls, Idaho 83401;
Environmental Protection Agency, Idaho Operations Office, 422 W. Washington Street, Boise, Idaho 83702; or
Environmental Protection Agency, Region 10 Library, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Wendy A. Marshall at (206) 442–1890 or FTS 399–1890.

SUPPLEMENTARY INFORMATION: On September 25, 1982, the Hagerman Valley Citizens' Alert, Inc. submitted a petition requesting that the Administrator of the EPA designate the aquifer underlying the Snake Plain as the sole drinking water source for the area. Additional information, including the petitioners' interest in the Administrator's determination and the petitioners' views as to why contamination of the aquifer would result in a significant hazard to public health, was provided to EPA on October 27, 1982. Significant portions of the petition are quoted below in Sections a–c:

(a) *Identification of Petitioners.* This petition, seeking designation of the Snake Plain Aquifer in its entirety as a "Sole Source Aquifer," is submitted by Hagerman Valley Citizens' Alert, Inc., a non-profit corporation whose purpose is to secure and enhance the civic and social welfare of the residents and visitors to Hagerman Valley and Gooding County, Idaho.

(b) *Petitioners' Interest.* We are deeply interested in the Administrator's determination because we believe that determination will be tantamount to the ultimate preservation, or destruction, of the quality of our water at a level sufficient to sustain the health and economy of communities dependent on our sole source aquifer.

(c) *Petitioners' Concerns About Aquifer Contamination.* There is *no* adequate alternate source of portable water to support the existing human, animal, vegetable, or aquatic life in this part of Idaho. Contamination of our aquifer is, ultimately, contamination of every spring, well, or artesian flow. The Snake Plain Aquifer is our only source of water to sustain our health as well as our economy.

The potential contaminants (through seepage and injection) are biological, chemical, and nuclear. Some of these potential contaminants have breakdown lifespans well over 100 years. We consider this a significant hazard to the health and welfare of the people.

"Public Health" is not an entity unto itself; it is part of an integrated but complex web that is indispensable in the formation and maintenance of a viable community. Excessive industrial and agricultural chemical run-off injection into our aquifer could, for example, irreversibly destroy the vegetation, thereby removing or diminishing both plant and animal life and thus reducing both our physical and economic health.

Contamination of the aquifer would have a severe impact on commercial fish production in this area which would affect the "Public Health" of many communities.

Perhaps most important are the unknowns in this hazardous pollution potential. A recent report by the Idaho Department of Water Resources found a number of toxic pollutants entering irrigation wastewater disposal wells, including DDT. How much is too much? How are all these contaminants "interacting and reacting?" Have we just been "lucking out" or is our aquifer a catastrophe waiting to happen? Should we continue hoping to "luck out" or should we exercise a level of intelligence that will embrace strategic planning and restrictions that will minimize these hazards?

(d) *Hydrologic and Demographic Information.* The Snake Plain Aquifer is composed of a series of basalt flows with associated sedimentary and pyroclastic interbeds and serves as the sole source of drinking water for approximately 200,000 people. The 8,000 square-mile aquifer is located in southern Idaho, extending from Idaho Falls through Twin Falls and terminating in springs flowing into the Snake River at Hagerman.

Hydrologic and demographic information that pertain to the availability, condition, and uses of the water resources in the area of the aquifer must be examined before a determination can be made as to the appropriateness of "sole source" aquifer designation. The U.S. Geological Survey is presently preparing a background report on the Snake Plain Aquifer that will include maps of the drainage area and aquifer boundaries; water-table contours; depth-to-water; recharge and discharge areas; soils; land-use; water-use; and population distribution. Water-chemistry data from ground-water and surface-water sources and changes in water quality, with time, will also be provided.

(e) *Consequences of Designation.* Section 1424(e) of the Safe Drinking Water Act states:

> (e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment may, if authorized under another provision of law, be entered into, to plan or design the project to assure that it will not so contaminate the aquifer.

(f) *Public Meetings.* EPA will hold meetings to explain the "sole source" aquifer program and provide the opportunity for public comment. The Regional Administrator will give widespread notice of such meetings.

Dated: January 14, 1983.

John R. Spencer,

Regional Administrator.

[FR Doc. 83-3449 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240024; PH-FRL 2302-1]

State Registration of Pesticides; Alabama et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from 47 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register**.

DATE: The last entry for each item is the date the State registration of the product became effective.

FOR FURTHER INFORMATION CONTACT: Sandra English, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1122, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2126).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by EPA in June, 1982. A few were received earlier, but notice of their receipt was not previously published. Receipts by EPA of State registrations will be published periodically. Except as indicated by (CUP) in nine of the registrations listed below, there is no changed use pattern involved in any of these registrations.

Alabama

EPA SLN No. AL 82 0007. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on young southern pine plantations and pines planted for Christmas trees to control Nantucket pine tip moths. April 2, 1982.

EPA SLN No. AL 82 0027. Stauffer Chemical Co. Registration is for Vernam 7–E Selective Herbicide, to be used on soybeans to control ballonvine. June 4, 1982.

Arizona

EPA SLN No. AZ 82 0008. Chemical Distributors. Registration is for Prowl Herbicide, to be used on jojoba (*Simmondsia chinensis*) to control certain weeds. June 1, 1982.

EPA SLN No. AZ 82 0010. Uniroyal, Inc. Registration is for Comite, to be used on cotton to control two-spotted spider mites, carmine spider mites, desert spider mites, Pacific spider mites, and strawberry spider mites. June 25, 1982.

EPA SLN No. AZ 82 0011. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used as a preplant or pre-emergent treatment of cotton for desiccation of broadleaf weeds and grasses. June 22, 1982.

EPA SLN No. AZ 82 0012. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on established plantings of alfalfa for desiccation of London rocket, sow-thistle, rescue brome, and wild oats. June 22, 1982.

EPA SLN No. AZ 82 0013. Mobay Chemical Corp. Registration is for Monitor, to be used on potatoes to control insects. June 22, 1982.

Arkansas

EPA SLN No. AR 82 0026. Vertac Chemical Corp. Registration is for Vertac Premerge 3 Dinitroamine Herbicide, to be used on soybeans to control certain broadleaf weeds and grasses. June 16, 1982.

EPA SLN No. AR 82 0027. Mobay Chemical Corp. Registration is for Bolstar 6, to be used on cotton to control insects. June 16, 1982.

California

EPA SLN No. CA 82 0036. E.I. du Pont de Nemours and Co. Registration is for du Pont Lannate Insecticide, to be used on eggplants to control beet armyworms. June 14, 1982.

EPA SLN No. CA 82 0037. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L Insecticide, to be used on eggplants to control beet armyworms. June 14, 1982.

EPA SLN No. CA 82 0039. FMC Corp. Registration is for Malathion 5 Dust, to be used on dates to control nitidulid beetles. June 21, 1982.

EPA SLN No. CA 82 0040 FMC Corp. Registration is for Ferbam 5 Malathion 5 Dust, to be used on dates to control nitidulid beetles and *Alternaria*. June 21, 1982.

EPA SLN No. CA 82 0041. FMC Corp. Registrations is for Sulphur 50 Ferbam 5 Malathion 5 Dust, to be used on dates to control nitidulid beetles, Banks grass mites, and *Alternaria*. June 21, 1982.

EPA SLN No. CA 82 0042. E.I. du Pont de Nemours and Co. Registration in for Lorox, to be used on carrots to control shepherd's-purse, hairy nightshade, sow thistle, mustard, chickweed, and annual grasses. June 1, 1982.

EPA SLN No. CA 82 0049. Amador County Agricultural Commissioner. Registration is for Rodent Bait Zinc Phosphide Treated Grain (1.00%), to be used in California to control ground squirrels, Norway rats, meadow mice, and wood rats. June 21, 1982.

EPA SLN No. CA 82 0050. Gowan Co. Registration is for Prokil Cryolite 96, to be used on grapes grown for raisins, wine, and/or table (fresh market) to control grape leaf folders, omnivorous leaf rollers, and grape leaf skeletonizers. June 21, 1982.

EPA SLN No. CA 82 0051. E.I. du Pont de Nemours and Co. Registration is for du Pont Vydate L Insecticide/ Nematicide, to be used on cotton to control leaf perforator. June 21, 1982.

EPA SLN No. CA 82 0052. Rohm and Haas Co. Registration is for Goal 2E Herbicide, to be used on non-crop areas including fence rows, storage yards, farmsteads, and other similar locations for postemergence and pre-emergence control of many weeds. June 28, 1982.

EPA SLN No. CA 82 0053. E.I. du Pont de Nemours and Co. Registration is for du Pont Vydate L Insecticide/ Nematicide, to be used on cucurbits to control leafminers. June 28, 1982.

Connecticut

EPA SLN No. CT 82 0007. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control second generation European corn borers. June 16, 1982.

EPA SLN No. CT 82 0008. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sweet corn at planting to control flea beetles, northern corn rootworms, and nematodes. June 16, 1982.

Delaware

EPA SLN No. DE 82 0010. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans at planting to control nematodes. June 1, 1982.

Florida

EPA SLN No. CA FL 0031. Dow Chemical USA. Registration is for Dowfume W–85, Dowfume W–90, and Dowfume W–100, to be used on peanuts at planting to control nematodes including root-knot. June 9, 1982.

EPA SLN No. FL 82 0032. Great Lakes Chemical Corp. Registration is for Soilbrom-90 and Soilbrom-90EC, to be used on Bermuda grass to control sting, lance, and ring nematodies. June 18, 1982.

EPA SLN No. FL 82 0033. Chevron Chemical Co. Registration is for Ortho Difolatan 4 FL, to be used on citrus to control greasy spot (CUP). June 18, 1982.

EPA SLN No. FL 82 0034. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on avocados to control balsam apple vines and annual weeds. June 21, 1982.

EPA SLN No. FL 82 0035. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on lettuce to control emerged annual broadleaf weeds and grasses. June 21, 1982.

EPA SLN No. FL 82 0036. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on melons to control annual broadlef weeds and grasses. June 21, 1982.

EPA SLN No. FL 82 0037. ICI Americas Inc. Registration is for Gromoxone Paraquat Herbicide, to be used on Bahia grass pastures to control emerged little barley. June 21, 1982.

EPA SLN No. FL 82 0038. FMC Corp. Registration is for Furadan 10, to be used on peanuts to control nematodes

(root-knot, lesion, and ring). June 28, 1982.

Georgia

EPA SLN No. GA 82 0013. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15GR Aldicarb Pesticide, to be used on pecans to control aphids and mites, and for suppression of pecan leaf *Phylloxera*. May 25, 1982.

EPA SLN No. GA 82 0014. Dow Chemical USA. Registration is for Lorsban 15GR Insecticide, to be used on sorghum to control larvae of the lesser cornstalk borer. June 29, 1982.

Idaho

EPA SLN No. ID 82 0013. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on onions (dry bulb) to control maggots. June 10, 1982.

EPA SLN No. ID 82 0014. Dow Chemical USA. Registration is for Lorsban 15 GR Insecticide, to be used on onions (dry bulb) to control maggots. June 10, 1982.

EPA SLN No. ID 82 0015. FMC Corp. Registration is for Dimethoate 267, to be used on cherries to control cherry fruit flies. June 16, 1982.

EPA SLN No. ID 82 0016. Dow Chemical USA. Registration is for Plictran 50W, to be used on carrots grown for seed to control two-spotted spider mites. June 17, 1982.

EPA SLN No. ID 82 0017. T H Agriculture and Nutrition Co., Inc. Registration is for De-Fend E–267 Insecticide, to be used on grass seed crops to control aphids, thrips, and plant bugs. June 21, 1982.

EPA SLN No. ID 82 0019. Van Waters and Rogers. Registration is for Namco Chloropicrin, to be used on structural wood products to control wood-decaying fungi and wood-burning insects. June 30, 1982.

Illinois

EPA SLN No. IL 82 0008. Basf Wyandotte Corp. Registration is for Basagran Herbicide, to be used on soybeans to control weeds. June 11, 1982.

EPA SLN No. IL 82 0009. Chevron Chemical Co. Registration is for Orthene Insect Spray, to be used on honeysuckle to control aphids. June 14, 1982.

EPA SLN No. IL 82 0010. Chevron Chemical Co. Registration is for Orthene Systemic Insect Control, to be used on honeysuckle to control aphids. June 14, 1982.

EPA SLN No. IL 82 0011. Chevron Chemical Co. Registration is for Orho Paraquat CL, to be used on no-till sunflowers to control emerged annual broadleaf weeds and grasses. June 30, 1982.

Indiana

EPA SLN No. IN 82 0012. Ciba-Geigy Corp. Registration is for Ridomil 2E Fungicide, to be used on nonbearing apples to control collar rot. June 1, 1982.

Kansas

EPA SLN No. KS 82 0010. Pennwalt Corp. Registration is for Penncap-E Insecticide, to be used on sorghum to control greenbugs. June 1, 1982.

Louisiana

EPA SLN No. LA 82 0018. T H Agriculture and Nutrition Co., Inc. Registration is for Dimilin ODC Cotton Insecticide, to be used on cotton to control boll weevils. June 9, 1982.

EPA SLN No. LA 82 0019. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on soybeans at planting time to control nematodes. June 15, 1982.

EPA SLN No. LA 82 0020. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on soybeans at planting time to control nematodes. June 15, 1982.

EPA SLN No. LA 82 0021. Thompson-Hayward Chemical Co. Registration is for Freestyle Calcium Hypochlorite GR 65%, to be used on fish hatchery ponds to control scavenger fish. June 15, 1982.

EPA SLN No. LA 82 0022. Helena Chemical Co. Registration is for Helena Metham, to be used on cotton to control Lygus bugs, cabbage loopers, armyworms, bollworms, tobacco budworms, boll weevils, and pink bollworms. June 28, 1982.

EPA SLN No. LA 82 0023. Helena Chemical Co. Registration is for Helena Permet 5–2, to be used on cotton to control Lygus bugs, cabbage loopers, armyworms, bollworms, tobacco budworms, boll weevils, and pink bollworms. June 26, 1982.

EPA SLN No. LA 82 0024. Micro Chemical Co., Inc. Registration is for Triple-Kill B6, to be used on cotton to control thrips, spider mites, cotton fleahoppers, boll weevils, bollworms, yellow striped armyworms, garden webworms, and Mexican bean beetles. June 30, 1982.

EPA SLN No. LA 82 0025. Micro Chemical Co., Inc. Registration is for Triple Kill 5 "L", to be used on cotton to control thrips, spider mites, cotton fleahoppers, boll weevils, bollworms, yellow striped armyworms, garden webworms, and Mexican bean beetles. June 30, 1982.

EPA SLN No. LA 82 0026. FMC Corp. Registration is for Pounce 3.2 EC, to be used on cotton to control bollworms, tobacco budworms, cabbage loopers, cotton leaf perforators, boll weevils, cotton fleahoppers, Lygus bugs, and tarnished plant bugs. June 30, 1982.

Maryland

EPA SLN No. MD 82 0010. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control nematodes and Mexican bean beetles. June 9, 1982.

EPA SLN No. MD 82 0011. Philips Roxane, Inc. Registration is for Bio-ceutic Overtime 25% WP Long Acting Livestock Premise Insecticide, to be used in livestock, pet, and poultry premises to control house flies, face flies, stable flies, and false stable flies. June 9, 1982.

EPA SLN No. MD 82 0012. Philips Roxane, Inc. Registration is for Anchor Permectrin 25% WP Long Lasting Barn and Premise Fly Spray, to be used in livestock and poultry premises to control house flies, face flies, stable flies and false stable flies. June 9, 1982.

Michigan

EPA SLN No. MI 82 0016. Pfizer Inc. Registration is for Mycoshield Brand of Agricultural Terramycin, to be used on Toronto Creeping bentgrass to control bacterial wilt (CUP). June 4, 1982.

EPA SLN No. MI 82 0017. E. I. du Pont de Nemours and Co. Registration is for du Pont Velpar L Weed Killer, to be used on reforestation areas for control of undesirable woody and herbaceous plants. June 4, 1982.

EPA SLN No. MI 82 0018. Platte Chemical Co. Registration is for clean Crop Dimethoate 267 EC, to be used on cherries to control cherry fruit flies. June 14, 1982.

Minnesota

EPA SLN No. MN 82 0008. Burroughs Wellcome Co. Registration is for Atroban Insecticide Ear Tag, to be used on dairy and beef cattle and calves to control horn flies, face flies, spinose ear ticks, and as an aid in controlling stable flies and house flies. May 18, 1982.

EPA SLN No. MN 82 0009. Y-Tex Corp. Registration is for Gardstar Insecticide Tag, to be used on beef cattle including calves, and dairy cattle including lactating dairy cattle to control horn flies, face flies, Gulf Coast ticks, and spinose ear ticks, and as an aid in controlling stable flies and house flies. June 8, 1982.

EPA SLN No. MN 82 0010. E. I. du Pont de Nemours and Co. Registration is for du Pont Velpar L Weed Killer, to be used in reforestation areas to control undesirable woody and herbaceous plants. June 8, 1982.

EPA SLN No. MN 82 0011. Union Carbide Agricultural Products Co. Registration is for Amizine, to be used on black walnut nursery plantations (non-bearing) for grass and weed control. June 8, 1982.

EPA SLN No. MN 82 0012. Union Carbide Agricultural Products Co., Inc. Registration is for Amiben Chloramben Herbicide to be used on soybeans for control of wild proso millet and other weed species listed on the registered label. June 18, 1982.

Mississippi

EPA SLN No. MS 82 0023. Chevron Chemical Co. Registration is for Orthene 75S Soluble Powder, to be used as a soybean seed treatment to control thrips and black (greasy) cutworms. June 21, 1982.

EPA SLN No. MS 82 0024. American Cyanamid Co. Registration is for Cythion Insecticide and Malathion ULV Concentrate, to be used on cotton to control boll weevils. June 25, 1982.

EPA SLN No. MS 82 0025. Valley Chemical Co. Registration is for Tox-A-Me 4–2, to be used on cotton to control weevils and plant bugs. June 29, 1982.

EPA SLN No. MS 82 0026. Diamond Shamrock Corp. Registration is for Ectrin Insecticide 10 Water Dispersible Liquid, to be used as a livestock and premise spray to control flies, lice, and ticks. June 29, 1982.

Missouri

EPA SLN No. MO 82 0018. Philips Roxane, Inc. Registration is for Anchor Permectrin 25% WP Long Lasting Barn and Premise Fly Spray, to be used on livestock, and pet and poultry premises to control house flies, face flies, stable flies, and false stable fliex. June 2, 1982.

EPA SLN No. MO 82 0019. Philips Roxane, Inc. Registration is for Bio-ceutic Overtime 25% WP Long Acting Livestock Premise Insecticide, to be used on livestock, and pet and poultry premises to control house flies, face flies, stable flies, and false stable flies. June 2, 1982.

EPA SLN No. MO 82 0020. FMC Corp. Registration is for Furadan 4 FL, to be used on small grains (wheat, oats, and barley) to control greenbugs. June 2, 1982.

Nebraska

EPA SLN No. NE 82 0018. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on no-till sunflowers to control emerged annual broadleaf weeds and grasses. June 29, 1982.

EPA SLN No. NE 82 0019. Diamond Shamrock Corp. Registration is for Ectrin Insecticide 10 water Dispersible Liquid, to be used as a livestock and premise spray to control horn, face, house, and stable flies, and lice and ticks. June 29, 1982.

Nevada

EPA SLN No. NV 82 0009. V.R.E. Inc. Registration is for CPF, to be added to latex paint for use on exterior surfaces to control flying and crawling insects. June 1, 1982.

EPA SLN No. NV 82 0011. Nevada Department of Agricuture. Registration is for Furadan 4 FL, to be used on soil planted to potatoes to control nematodes and soil pests. June 17, 1982.

EPA SLN No. NV 82 0012. Pure Gro Co. Registration is for Puregro Parathion 8E, to be used on onions to control thrips. June 29, 1982.

New Jersey

EPA SLN No. NJ 82 0010. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sweet corn at planting to control fea beetles, northern corn rootworms, and nematodes. June 24, 1982.

New Mexico

EPA SLN No. NM 82 0015. Shell Chemical Co. Registration is for Bladex 80W Herbicide, to be used on winter wheat and cotton to control weeds. June 29, 1982.

EPA SLN No. NM 82 0017. Motomco Ltd. Registration is for Contrax-P, to be used on orchards and groves to control meadow and pine mice, and voles (*Microtus* spp.). June 24, 1982.

EPA SLN No. NM 82 0018. O.M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on golf course fairways, tees, greens, and roughs to control white grubs, sod webworms, chinch bugs, and mole crickets. June 30, 1982.

North Carolina

EPA SLN No. NC 82 0019. Rohm and Haas Co. Registration is for Blazer 2S Herbicide, to be used on soybeans to control sicklepods. June 8, 1982.

EPA SLN No. NC 82 0020. Rohm and Haas Co. Registration is for Blazer 2S to Herbicide be used on soybeans to control postemergence weeds. June 8, 1982.

EPA SLN No. NC 82 0021. Philips Roxane, Inc. Registration is for Bio-ceutic Overtime Long Acting Livestock Premise Insecticide, to be used on livestock and poultry premises to control house flies. June 11, 1982.

EPA SLN No. NC 82 0022. Philips Roxane, Inc. Registration is for Anchor Permectrin 10% EC Long Lasting Barn and Premise Fly Spray, to be used in livestock and poultry premises to control house flies, stable flies, and false stable flies. June 11, 1982.

EPA SLN No. NC 82 0023. Basf Wyandotte Corp. Registration is for Basagran Herbicide, to be used on soybeans to control sicklepod. June 22, 1982.

North Dakota

EPA SLN No. ND 82 0011. Monsanto Co. Registration is for Roundup Herbicide, to be used in North Dakota for control of quack grass. June 11, 1982.

EPA SLN No. ND 82 0012. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on sunflowers to control cutworms, grasshoppers, stem weevils, and sunflower moths. June 16, 1982.

EPA SLN No. ND 82 0013. PBI/Gordon Corp. Registration is for Ultra-Sulv Amine, to be used on pastures, rangeland, non-crop land, and fallow land to control the field bindweed, Canada thistle, and musk thistle. June 29, 1982.

Ohio

EPA SLN No. OH 82 0014. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control corn rootworms, flea beetles, and nematodes (lesion). June 1, 1982.

EPA SLN No. OH 82 0015. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on sweet corn (machine harvested only) to control European corn borers and corn earworms. June 1, 1982.

EPA SLN No. OH 83 0016. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on cucurbits (cucumbers, melons, squash, pumpkins) to control nematodes (root-knot, sting, lance) and striped and spotted cucumber beetles. June 1, 1982.

EPA SLN No. OH 82 0017. Mobay Chemical Corp. Registration is for Mesurol 50% Hopper-Box Treater, to be used on corn to control snails and slugs. June 2, 1982.

Oklahoma

EPA SLN No. OK 0017. Elanco Products Co. Registration is for Treflan EC, to be used on cotton to control annual grasses and broadleaf weeds. June 7, 1982.

EPA SLN No. OK 82 0018. Elanco Products Co. Registration is for Treflan Pro-5, to be used on cotton to control weeds. June 7, 1982.

EPA SLN No. OK 82 0019. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on soybeans at planting time to control nematodes. June 18, 1982.

EPA SLN No. OK 82 0020. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on soybeans at planting time to control nematodes. June 18, 1982.

Oregon

EPA SLN No. OR 82 0042. FMC Corp. Registration is for Polyram 80 WP, to be used on potatoes to control early blight (CUP). June 15, 1982.

EPA SLN No. OR 82 0050. FMC Corp. Registration is for Carbamate, to be used on conifer seedling crops in nurseries and greenhouses to control *Botrytis* (CUP). June 10, 1982.

EPA SLN No. OR 82 0051. Diamond Shamrock Corp. Registration is for Bravo 500, to be used on dry bulbs of sweet Spanish onions and onions grown for seed to control *Botrytis* leaf blight and purple blotch (CUP). June 6, 1982.

EPA SLN No. OR 82 0052. Velsicol Chemical Corp. Registration is for Banvel 10G GR Herbicide, to be used on croplands rotated to wheat to control perennial broadleaf weeds. June 17, 1982.

Pennsylvania

EPA SLN No. PA 82 0017. Mobay Chemical Corp. Registration is for or Furadan 10 GR, to be used on sweet corn at planting to control flea beetles, northern corn rootworms, and nematodes. June 15, 1982.

EPA SLN No. PA 82 0018. Mobay Chemical Corp. Registration is for Furandan 4 FL, to be used on sweet corn to control second generation European corn borers. June 15, 1982.

EPA SLN No. PA 82 0019. Chevron Chemical Co. Registration is for Ortho Paraquat CL to be used between cuttings of alfalfa to control weeds. June 18, 1982.

EPA SLN No. PA 82 0020. Diamond Shamrock Corp. Registration is for Ectrin Insecticide 10 Water Dispersible Liquid, to be used as a livestock and premise spray to control flies, lice, and ticks. June 21, 1982.

Puerto Rico

EPA SLN No. PR 82 0001. Chevron Chemical Co. Registration is for Monitor 4 Spray, to be used on melons to control rindworm complex (cabbage loopers, tobacco budworms, granulate cutworms), melonworms, pickleworms, and leafminers. March 4, 1982.

South Carolina

EPA SLN No. SC 82 0017. Chevron Chemical Co. Registration is for Orthocide 50 Wettable, to be used on pine seedlings as a treatment for damping off and root rot (CUP). June 14, 1982.

EPA SLN No. SC 82 0018. PPG Industries, Inc. Registration for Bud Nip, to be used on flue-cured tobacco to prevent sucker development. June 15, 1982.

EPA SLN No. SC 82 0019. Penick Corp. Registration is for Pramex 13.3 EC, to be used on chrysanthemums to control vegetable leafminers. June 22, 1982.

South Dakota

EPA SLN No. SD 82 0005. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on sunflowers to control cutworms. June 8, 1982.

EPA SLN No. SD 82 0006. PBI/Gordon Corp. Registration is for Aero-Spray 4D, to be used on wheat, barley and rye to control broadleaf weeds. June 8, 1982.

Tennessee

EPA SLN No. TN 82 0017. Philips Roxane, Inc. Registration is for Anchor Permectrin II Long Lasting Livestock and Premise Spray, to be used on livestock, cats, dogs, and poultry and their premises to control flies, cockroaches, mites, mosquitoes, and ticks. June 24, 1982.

EPA SLN No. TN 82 0018. Philips Roxane, Inc. Registration is for Bio-ceutic Overtime L/P Long Acting Livestock and Premise Insecticide, to be used on livestock, cats, dogs, and poultry and their premises to control flies, cockroaches, mites, mosquitoes, and ticks. June 24, 1982.

Texas

EPA SLN No. TX 82 0028. Dow Chemical USA. Registration is for Dowfume W–85, Dowfume W–90, and Dowfume W–100, to be used on peanuts at planting to control nematodes including root-knot. June 17, 1982.

EPA SLN No. TX 82 0029. Kocide Chemical Corp. Registration is for Koplex Aquatic Herbicide, to be used on golf courses, ornamentals, fish and fire ponds, potable water reservoirs, fresh water lakes, and fish hatcheries to control *Hydrilla verticillata*. June 17, 1982.

Utah

EPA SLN No. UT 82 0006. Van Waters and Rogers. Registration is for Namco Chloropicrin, to be used on the interiors of structural wood products such as utility poles, piles, and timber in bridges to control wood-decaying fungi and woodboring insects. June 10, 1982.

EPA SLN No. UT 82 0007. Motomco Ltd. Registration is for Contrax-P, to be used on orchards and groves to control meadow and pine mice, and voles (*Microtus* spp.) June 12, 1982.

Virginia

EPA SLN No. VA 82 0024. Diamond Shamrock Corp. Registration is for Ectrin Insecticide 10 Water Dispersible Liquid, to be used on livestock and premises to control flies, lice, and ticks. June 3, 1982.

EPA SLN No. VA 82 0025. Union Camp Corp. Registration is for Devrinol 50 WP Ornamental Selective Herbicide, to be used on forestry nursery seedbeds to control weeds. June 4, 1982.

EPA SLN No. VA 82 0026. Vertac Chemical Corp. Registration is for Vertac Premerge 3 Dinitroamine Herbicide, to be used on soybeans to control emerged broadleaf weeds. June 15, 1982.

EPA SLN No. VA 82 0027. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sweet corn at planting to control flea beetles and northern corn rootworms. June 18, 1982.

EPA SLN No. VA 82 0028. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on sweet corn (machine harvested only) to control the second generation European corn borer. June 18, 1982.

Washington

EPA SLN No. WA 82 0002. E. I. du Pont de Nemours and Co. Registration is for Du Pont Benlate Fungicide, to be used on grapes to control *Eutypa* dieback (CUP). February 19, 1982.

EPA SLN No. WA 82 0003. Axis Oil Corp. Registration is for Dormantol, to be used on fruit trees to control scale insects and mites. February 25, 1982.

EPA SLN No. WA 82 0042. Platte Chemical Co., Inc. Registration is for Clean Crop Dinitro 5 Herbicide, to be used for preharvest desiccation of alfalfa, trefoil, and clover seed crops. June 1, 1982.

EPA SLN No. WA 82 0043. V.R.E. Inc. Registration is for CPF, to be added to latex paint (exterior use) to control flying and crawling insects. June 8, 1982.

EPA SLN No. WA 82 0044. Pennwalt Corp. Registration is for Ziram F–4, to be used on ornamental crops, alder, American hornbeam, apricots, birch, California buckeye, cherry laurel, choke cherries, elm, European laurel, flowering plum (non-edible only), maple, nectarine, oak, peaches, poplar, sweet cherries, and wild cherries to control catkin hpertrophy of alder, cherry witches broom, leaf blister, leaf curl, plum pockets, shoot blight, shot-hole fungus, and twig blight; and on apples, flowering crab apples (non-edible only), mountain ash, Oregon crab, pears, quince, and service berry to control

anthracnose; and on apples, pears, peaches, poplars, and willows to control European canker. (CUP) June 7, 1982.

EPA SLN No. WA 82 0045. Platte Chemical Co. Registration is for Clean Crop Dimethoate 267 EC, to be used on cherries to control cherry fruit flies. June 10, 1982.

EPA SLN No. WA 82 0046. Platte Chemical Co. Registration is for Clean Crop Sulfur 6 FL, to be used on spearmint to control powdery mildew (CUP). June 11, 1982.

West Virginia

EPA SLN No. WV 82 0007. Ciba-Geigy Corp. Registration is for Ridomil 2E Fungicide, to be used on nonbearing apples to control collar rot (CUP). June 24, 1982.

Wyoming

EPA SLN No. WY 82 0005. Dow Chemical USA. Registration is for Formula 40 Herbicide to be used on rangeland and permanent grass pastures to control broadleaf weeds. June 10, 1982.

EPA SLN No. WY 82 0006. O.M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on golf course fairways, tees, greens, and roughs to control white grubs, sod webworms, chinch bugs, mole crickets, and hyperode weevils. June 18, 1982.

(Sec. 24, as amended 02 Stat. 835 (7 U.S.C. 136)

Dated: January 28, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-3459 Filed 2-8-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Travel Reimbursement Experiment; Quarterly Report

AGENCY: Federal Communications Commission.

ACTION: Quarterly report on travel reimbursement experiment.

SUMMARY: In Pub. L. 97-259, the Congress authorized the Federal Communications Commission to accept reimbursement from non-government organizations for travel of employees of the Commission. The Federal Communications Commission must keep records of such travel by each event and prepare a report each quarter of all reimbursements allowed and provide copies of each quarterly report to the Senate Committee on Apprpriations, House Committee on Appropriations, Senate Committee on Commerce, Science and Transportation, and the House Committee on Energy and Commerce. This must be done each quarter until September 30, 1985. In addition the Federal Communications Commission must publish each quarterly report in the **Federal Register** until September 30, 1985.

DATE: This report is for the period from October 1, 1982 through December 31, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Geoffrey Sherman, Office of the Managing Director, (202) 632-6900.

SUPPLEMENTARY INFORMATION:

Federal Communications Commission Quarterly Report on Travel Reimbursement Experiment for Quarter Ending December 31, 1982, in Accordance With Pub. L. 97-259

TRAVEL REIMBURSEMENT EXPERIMENT
SUMMARY REPORT

Total number of sponsored events	15
Total number of sponsoring organizations	14
Total number of Commissioners/employees attending	17
Total amount of reimbursement:	
Transportation	$3 629 80
Room	$1,484.48
Board	$317.12
Other expenses	$385 84
Total	$5,817.24

TRAVEL REIMBURSEMENT EXPERIMENT
INDIVIDUAL EVENT REPORT

Sponsoring organization (name and address): Association of American Railroads, Communications and Signal Division, 1920 L St. NW., Washington, DC 20036

Date of the event: 11/15/82-11/17/82.

Description of the event: Inspect and observe operations of railroad radio service and associated communication systems.

Number of Commissioners attending	0
Number and title of employees attending	
Chief, Private Radio Bureau	1
Supv. Attorney Advisor (Private Radio Bureau)	1
Amount of reimbursement:	
Transportation	$616 00
Room	$216 00
Board	$5.00
Other expenses	$15.20
Total [1]	$825.20

Sponsoring organization (name and address): Association of American Railroads, Communications and Signal Division; 1920 L St. NW., Washington, DC 20036

Date of the event 10/25/82

Description of the event: Participate in a telecommunications panel discussion at the Annual Meeting of the Association of American Railroads, Communications and Signal Division

Number and title of employees attending	
Attorney Advisor (Common Carrier Bureau)	1
Amount of reimbursement:	
Transportation	$256.00
Room	
Board	$3 85
Other expenses	$49.40
Total [1]	$309.25

TRAVEL REIMBURSEMENT EXPERIMENT
INDIVIDUAL EVENT REPORT—Continued

Sponsoring organization (name and address): Law and Business, Inc., 757 Third Avenue, New York, NY 10017

Date of the event: 11/3/82-11/4/82.

Description of the event: Participate in a seminar, "The Breakup of AT&T: Opportunities—Prospects Challenges."

Number of Commissioners attending	0
Number and title of employees attending:	
Deputy Bureau Chief (Policy) (Common Carrier Bureau)	1
Amount of reimbursement:	
Transportation	[illegible]
Room	[illegible]
Board	[illegible]
Other expenses	$26.00
Total [1]	$359.00

Sponsoring organization (name and address): Arizona Broadcasters Association, Post Office Box 654, Scottsdale, Arizona 85252

Date of the event: 11/18/82-11/20/82

Description of the event: Speak at the Arizona Broadcasters Convention

Number of Commissioners attending	1
Number and title of employees attending	
Chairman (Office of The Chairman)	1
Amount of reimbursement:	
Transportation	
Room	$130 00
Board	
Other expenses	$18 51
Total [1]	$148.51

Sponsoring organization (name and address): Telestrategies, Inc., 6842 Elm Street, Box 874, McLean, VA 22101

Date of the event: 10/19/82-10/20/82

Description of the event: Participate as a panelist speaker in the Intelematics 1982 Conference

Number of Commissioners attending:	0
Number and title of employees attending	
Attorney Advisor (Office of the Chairman)	1
Chief, Policy and Program (Common Carrier Bureau)	1
Amount of reimbursement:	
Transportation	$516 00
Room	$218.00
Board	$107 95
Other expenses	[illegible]
Total [1]	$904.34

Sponsoring organization (name and address): Special Industrial and Service Association, Inc., 1700 N. Moore Street, Suite 910, Rosslyn, VA 22209

Date of the event: 11/4/82-11/5/82

Description of the event: Participate at special Industrial Radio Service Association, Inc., 1982 Annual Membership Meeting

Number of Commissioners attending:	1
Number and title of employees attending.	
Commissioner (Office of Commissioner Dawson)	1
Amount of reimbursement.	
Transportation	$274 00
Room	$73.58
Board	
Other expenses	$8 20
Total [1]	$355.78

Sponsoring organization (name and address): Ohio Association of Broadcasters, 100 East Broad Street, Suite 1206, Columbus, Ohio 43215.

Date of the event: 10/7/82-10/10/82

Description of the event: Speak at the Ohio State Broadcasters Convention and visit radio station facilities

Number of Commissioners attending	1
Number and title of employees attending	
Commissioner (office of Commissioner Sharp)	1
Amount of reimbursement	
Transportation	$152 80
Room	$73 07
Board	$33 90
Other expenses	$4.20
Total [1]	$263 97

TRAVEL REIMBURSEMENT EXPERIMENT
INDIVIDUAL EVENT REPORT—Continued

Sponsoring organization (name and address): National Association of Broadcasters, 1771 N. St. NW., Washington, DC 20036.
Date of the event: 10/6/82-10/8/82.
Description of the event: Participation in Engineering Seminar on Directional Antenna Systems.

Number of Commissioners attending	0
Number and title of employees attending:	
Communications Industry Spec (Mass Media Bureau)	1
Amount of reimbursement:	
Transportation	$114.00
Room	$131.40
Board	$22.60
Other expenses	$28.00
Total	$296.00

Sponsoring organization (name and address): Society of Broadcast Engineer, Inc., WCET, 1223 Central Parkway, Cincinnati, Ohio 45214.
Date of the event: 10/5/82-10/6/82.
Description of the event: To represent the FCC Broadcast Bureau at the Tri State Convention of the Society of Broadcast Engineers.

Number of Commissioners attending	0
Number and title of employees attending:	
Electronics Engineer (Mass Media Bureau)	1
Amount of reimbursement:	
Transportation	$272.00
Room	
Board	
Other expenses	
Total [1]	$272.00

Sponsoring organization (name and address): Texas Association of Broadcasters, 6201 Middle Fiskville Rd., P.O. Box 14787, Austin, TX 78761
Date of the event: 10/9/82-10/12/82.
Description of the event: Participate in meeting of Texas Association of Broadcasters.

Number of Commissioners attending	0
Number and title of employees attending:	
Chief, Policy and Rules Div (Mass Media Bureau)	1
Amount of reimbursement:	
Transportation	$450.00
Room	$171.60
Board	$40.87
Other expenses	$19.50
Total [1]	$681.97

Sponsoring organization (name and address): Quebec—U.S.A. Center, Universite Du Quebec a Trois-Riviere C.p. 500, Trois-Rivieres, Quebec, G9A 5H7
Date of the event: 10/21/82-10/23/82.
Description of the event: Attend a seminar sponsored by Universite Du Quebec at Trois-Rivieres

Number of Commissioners attending	1
Number and title of employees attending:	
Attorney Advisor (Mass Media Bureau)	1
Amount of reimbursement:	
Transportation	
Room	$73.94
Board	$24.28
Other expenses	$52.51
Total [1]	$150.73

Sponsoring organization (name and address): National Broadcast Editorial Assoc., 905 East Jackson, Box 1410, Tampa, Florida 33601
Date of the event: 11/11/82-11/13/82.
Description of the event: Participate in program at Convention of Southeast National Broadcast Editorial Association.

Number of Commissioners attending	0
Number and title of employees attending:	
Supv. Attorney Advisor (Mass Media Bureau)	1
Amount of reimbursement:	
Transportation	$244.00
Room	$117.70
Board	$12.45
Other expenses	$40.00
Total [1]	$414.15

TRAVEL REIMBURSEMENT EXPERIMENT
INDIVIDUAL EVENT REPORT—Continued

Sponsoring organization (name and address): Loyola University of Chicago, 820 N. Michigan Avenue, Chicago, Illinois 60611.
Date of the event: 11/12/82-11/14/82.
Description of the event: Participate in the 13th Annual Loyola Radio Conference in Chicago as the Keynote Speaker

Number of Commissioners attending	0
Number and title of employees attending:	
Communications Industry Specialist (Mass Media Bureau)	1
Amount of reimbursement:	
Transportation	$211.00
Room	$38.19
Board	
Other expenses	
Total [1]	$249.19

Sponsoring organization (name and address): Central Station Electrical Protection Association, 1133 Fifteenth Street, N.W., Washington, DC 20005.
Date of the event: 10/31/82-11/2/82
Description of the event: Speaker at the CSEPA Annual Meeting

Number of Commissioners attending	0
Number and title of employees attending:	
Spv. Electronics Engineer (Office of Science/Technology)	1
Amount of reimbursement:	
Transportation	$178.00
Room	$100.00
Board	$50.00
Other expenses	$39.15
Total [1]	$367.15

Sponsoring organization (name and address): Knowledge Industry Publications, Inc., 701 Westchester Avenue, White Plains, NY 10604.
Date of the event: 10/17/82-10/18/82.
Description of the event: Participate in a panel on Direct Broadcast Satellites

Number of Commissioners attending	0
Number and title of employees attending.	
Industry Economist (Office of Plans and Policy)	1
Amount of reimbursement:	
Transportation	$88.00
Room	$75.00
Board	$7.22
Other expenses	$22.78
Total [1]	$193.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 83-3423 Filed 2-8-83; 8:45 am]
BILLING CODE 6712-01-M

[File No. 26026-CL-P-(9)-82, etc.]

Advanced Mobile Phone Service, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re application of Advanced Mobile Phone Service, Inc., File No. 26026-CL-P-(9)-82; For a Construction Permit to establish a cellular system operating on frequency Block B in the Domestic Public Cellular Radio Telecommunications Service to serve the Phoenix, Arizona, Standard Metropolitan Statistical Area. In re applications of; GENCOM Inc.; Metro Mobile CTS; Cellular Mobile Systems of Arizona, Inc.; CC Docket No. 83-50; File No. 26031-CL-P-(5)-82; File No. 26067-CL-P-(9)-82; File No. 26175-CL-P-(10)-82; For a Construction Permit to establish a cellular system operating on frequency Block A in the Domestic Public Cellular Radio Telecommunications Service to serve the Phoenix, Arizona, Standard Metropolitan Statistical Area; Memoradum opinion and order granting application and designating applications for hearing.

Adopted: January 26, 1983.

Released: January 31, 1983.

1. Presently before the Chief, Common Carrier Bureau, acting under delegated authority, are: (a) the captioned applications of Advanced Mobile Phone Service, Inc. (AMPS), Gencom Incorporated (Gencom) Metro Mobile CTS (Metro Mobile) and Cellular Mobile Systems of Arizona, Inc. (CMS) to construct cellular radio systems to serve the Phoenix, Arizona, Standard Metropolitan Statistical Area (SMSA); and (b) various motions, petitions, pleadings and amendments related to the applications.[1]

2. Because we find that the public interest would be served thereby, we are granting the AMPS application.[2] As discussed below, we find that the pleadings fail to raise any substantial and material issues requiring designation for hearing. The CMS, Gencom and Metro Mobile applications are electrically mutually exclusive, and accordingly, we are designating those applications for a comparative hearing in accordance with the Commission's *Report and Order* in CC Docket No. 79-318, 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), *further modified*, 90 FCC 2d 571 (1982).

Metro Mobile Application

3. CMS argues that Metro Mobile is not financially qualified. In the application, Metro Mobile estimates its costs and first year operating expenses

[1] As noted in the captions, AMPS, a wholly-owned subsidiary of the American Telephone and Telegraph Company (AT&T), is requesting the wireline allocation (frequency block B) and Gencom, Metro Mobile and CMS are requesting the non-wireline allocation (frequency block A) in the Phoenix market.

[2] Section 22.901 of our Rules requires that cellular service be provided by an AT&T affiliate only through a separate subsidiary. AMPS has demonstrated in its application that it has met this requirement. Our Rules also require that AMPS submit a cellular capitalization plan for Commission approval. AMPS did submit its plan on May 25, 1982. Our decision here is subject to, and conditioned on, action on the capitalization plan. *See* para. 12, *infra*. We recognize that further approval may be required when ownership in AMPS in Phoenix is changed pursuant to the AT&T reorganization.

for Phoenix to be $9,754,815. The aggregate estimated capital costs and operating expenses for Metro Mobile's proposed nine cellular systems in $99,264,429.[3] To demonstrate its financial qualifications, Metro Mobile relies upon a bank letter from First National Bank of Chicago (First Chicago) which states that it will lead a "bank syndicate" to provide a $115 million line of credit. CMS argues that this letter is inadequate because the participating banks are not indentified. CMS also argues that the letter is conditioned on the customary guarantees of Metro Mobile's general partners and that Metro Mobile has not furnished evidence of such guarantees.

4. We are not persuaded by CMS' arguments. The bank letter contains the essential details of the credit arrangement such as the terms of repayment, the interest rate (corporate base rate), and the necessary collateral. First Chicago has explained that it has the capacity to provide the entire credit package if other banks do not participate and, in any event, the Commission has long acknowledged that it is common practice for banks to structure loan commitments in this manner. *See, e.g., Adirondack Television Corp.*, 8 RR 2d 1052, 1054 (Rev. Bd. 1966). With regard to the "guarantee" argument, Metro Mobile has explained that each general partner is willing to execute any guarantees as may be necessary to secure the credit line. The Bureau examined this financing arrangement in the *Minneapolis Order* [4] and found that Metro Mobile had provided reasonable assurance that it will have sufficient funds available to construct and operate its proposed nine cellular systems in the top-30 SMSAs. Because no new issues peculiar to the Phoenix application are raised here, we conclude that no financial issue should be designated for hearing against Metro Mobile.[5]

CMS Application

5. Metro Mobile argues that CMS is not financially qualified. In the application CMS estimates its construction costs and first year operating expenses for Phoenix to be $7,299,000. To cover these costs, CMS relies upon a commitment from its parent, Graphic Scanning Corporation (Graphic), for $8,100,000. In the *Chicago Order*,[6] the Commission examined, *inter alia*, the financial qualifications of Graphic with respect to all top-30 markets and found that Graphic and its cellular subsidiaries to be financially qualified to construct and operate its proposed 30 cellular systems, including the Phoenix system. Metro Mobile has not raised any arguments with respect to the CMS Phoenix application that were not thoroughly considered in the *Chicago Order*. Accordingly, those findings control the disposition of the arguments raised here.[7]

Gencom Application

6. Metro Mobile argues that Gencom is not financially qualified. In the application, Gencom estimates that the cost of construction and first year operating expenses for the Phoenix system will be $5,995,000. The capital requirement for Gencom's six top-30 cellular proposals is $32.3 million.[8] To demonstrate its financial qualifications, Gencom relies upon a $30 million line of credit from First National Bank in Dallas, $20 million in internal funds of its parent, Communications Industries, Inc. (CI), and letters from four investment brokers indicating that CI will be able to arrange equity financing of $40 million.[9] In the *Alanta Order*,[10] the Bureau examined this financing arrangement and found that Gencom provided reasonable assurance that it will have approximately $37 million available to meet approximately $32 million in anticipated costs and expenses.

7. In addition to arguments already considered in the *Atlanta Order*, Metro Mobile argues that Gencom's marketable securities cannot be considered net liquid assets, and that Gencom has underestimated its operating expenses. We are not persuaded by Metro Mobile's arguments. In its opposition, Gencom explains its projections of operating expenses in more detail and this explanation is not unreasonable on its face. Therefore, there is no basis for further inquiry into Gencom's expense estimates. *Chicago Order*, at para. 13. In addition, the liquidity of Gencom's marketable securities is not important in determining its basic financial ability to construct and operate its Phoenix facility because Gencom has a cushion of $4.5 million to cover any minor omissions of shortfalls of funds. Accordingly, we find Gencom financially qualified to construct and operate its proposed Phoenix facility.

8. CMS also argues that Gencom's application is defective because Gencom did not file engineering data concerning point-to-point microwave links interconnecting its cells, and because it included equipment charges in its proposed schedule of charges, despite the Commission's policy that charges for mobile equipment were to be detariffed. These same arguments were considered by the Bureau in the *Atlanta Order* and were rejected. *See Atlanta Order*, at para. 15. Accordingly, no further consideration of these issues is necessary.

9. Finally, Metro Mobile requests that Gencom's application be conditioned on the outcome of the antitrust suit which was filed against D/FW Signal, Inc., a corporation which Gencom's parent is a shareholder.[11] In addition to this lawsuit, we note that Gencom is a defendant in a civil antitrust suit in which it is alleged that Gencom attempted to monopolize the radio common carrier market in Florida.[12]

The Bureau considered these matters in its *Atlanta Order* and concluded that Gencom's cellular licenses should be conditioned on the outcome of this litigation. This conclusion is controlling here. Accordingly, we will condition any

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[3] Metro Mobile filed cellular applications in Miami, Minneapolis, San Diego, Phoenix, Tampa, Cincinnati, Denver, Kansas City and Houston.

[4] Cellcom, Inc., *et al. (Minneapolis Order)*, CC Mimeo 1573, released December 30, 1982, at para 16.

[5] CMS also questions the adequacy of Metro Mobile's showing of site availability and its maintenance proposals. We reject these arguments. Metro Mobile's application contains reasonable assurance of site availability. *See* Alabama Citizens for Responsive Public Television, Inc., 59 FCC 2d 1 (1976). In addition, Metro Mobile's maintenance proposal meets our basic requirements; this issue, however, may be relevant in the comparative portion of this proceeding.

[6] Advanced Mobile Phone Service, Inc., *et al. (Chicago Order)*, FCC 82-452, released November 1, 1982.

[7] Metro Mobile also requests that we take official notice of another proceeding, A.S.D. Answer Service, Inc., *et al.* (ASD), CC Docket Nos. 82-587 to 590, FCC 82-391, released August 24, 1982, in which the qualifications of Graphic, CMS' parent, may be in issue. See note 14, *infra*, for our disposition of this issue.

[8] Gencom proposes cellular systems in Phoenix, Atlanta, San Diego and Tampa. Gencom is also a participant in joint ventures in Dallas-Ft. Worth and St. Louis. The $32.3 million figure is derived by adding the construction and operating costs for the six top-30 proposals (Ex. 9, Tables 9-1-1 and 9-1-2 in each application).

[9] On September 13, 1982, Gencom submitted an amendment to its application concerning its financial qualifications. Because this amendment modifies the financial plan contained in the original application in a major material respect, this amendment will be returned as unacceptable. Other portions of the amendment that clearly correct clerical errors or are required by Section 1.65 of the Rules may be submitted to the Administrative Law Judge within fifteen days of publication of this designation order in the **Federal Register**.

[10] Celcom communication Corp. of Georgia, *et al (Atlanta Order)*, CC Mimeo No. 1988, released January 26, 1983.

[11] Radio Relay Corporation—Texas v. D/FW Signal, Inc., *et al.*, No. CA3 82-0677 G (N.D. Tex., filed June 7, 1982)

[12] Westside Communications of Tampa, Inc. v. Gencom Incorporated, Fla Circuit Court (Hillsborough County), filed September 16, 1981.

authorization to Gencom in Phoenix on the outcome of this antitrust litigation.

AMPS Application

10. Petitions to defer Commission action on the AMPS construction permit application have been filed by CMS and Gencom. For the reasons stated in the Commission's decision in the *Chicago Order,* at para. 16, we find that it is premature to rule on these petitions at this time. Gencom has also filed a "Motion to Address and Rule Upon Headstart Petitions Prior to Action Upon the AMPS Construction Permit Authorization." This motion requests that a formal pleading cycle for deferral petitions be initiated before the grant of the AMPS construction permit. We find that the Commission's decision in its *Chicago Order,* which concluded that deferral petitions will not be considered until the covering license stage, is controlling here. *See Chicago Order,* at para. 16. Accordingly, we deny this motion.

11. Based on our analysis of the applications and our resolution of the contested issues in this order, we find the applicants to be legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems. We further find that the grant of the AMPS application, as conditioned below, will serve the public interest, convenience and necessity.

12. Accordingly, it is ordered that the application of Advanced Mobile Phone Service, Inc. is granted, conditioned upon the Commission's action on the AT&T Cellular Capitalization Plan submitted on May 25, 1982, as provided by § 22.901(d)(3) of the Commission's Rules.[13]

13. It is further ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Gencom, Incorporated, Metro Mobile CTS, and Cellular Mobile Systems of Arizona, Inc. are designated for hearing in a consolidated proceeding upon the following issues:[14]

(a) To determine on a comparative basis the geographic area and population that each applicant proposes to serve:[15] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accomodate the anticipated demand for both local and roamer service;

(b) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;[16]

(c) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities);[17] and

(d) To determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

14. It is further ordered that the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[18]

15. It is further ordered that the applicants shall file written notices of appearances under § 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the **Federal Register.**

16. It is further ordered that the hearing shall be held according to the procedures specified in § 22.916 of the Rules, except as otherwise noted herein, at a time and place and before an Administrative Law Judge to be specified in a later order.

17. It is further ordered that exceptions to the initial decision of the Administrative Law Judge under § 1.276 of the Commission's Rules shall be taken directly to the Commission.

18. It is further ordered that all applicants are directed to file rebuttal cases under § 22.916(b)(4) of the Rules within 45 rather than 30 days after publication of this order in the **Federal Register.**

19. It is further ordered that the Petitions to Deny filed by CMS are denied, and the Petitions to deny filed by Metro Mobile are granted in part to the extent indicated above, and denied in all other respects.

20. It is further ordered that the Motion to address and Rule Upon Headstart Petitions Prior to Action Upon the AMPS Construction Permit authorization filed by Gencom Incorporated is denied.

21. It is further ordered that the amendment filed September 13, 1982, by Gencom Incorporated, is returned as unacceptable.

22. It is further ordered, That any authorization granted to Gencom shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following final disposition of the antitrust litigation cited in para. 9, *supra,*

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[13] The authorization will also be conditioned upon AMPS obtaining of the appropriate antenna structure clearance and Mexican Government coordination. AMPS will not be authorized to render service to the public during service tests even after it files FCC Form 403 for a license to cover. Service to the public cannot commence until the covering license becomes effective. Equipment tests, however, may be conducted. AMPS' authorization (FCC Form 463) will reflect these conditions.

[14] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). We have found all of the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Arizona, Inc. or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing. A.S.D. Answer Service, Inc., *et al.* (ASD), FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 23, *infra,* the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Arizona, Inc. to hold a cellular license should *ASD* be resolved adversely to any of CMS's affiliate or parent companies or to any of their principals.

[15] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Consideration should be given to the presence of densely populated regions as well as highways and areas likely to have high mobile usage characteristics indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[16] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502–03.

[17] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[18] Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. *See* Communications Act of 1934 as amended section 409(c) (47 U.S.C. 409(c)); Administrative Procedure Act section 554(d) (5 U.S.C. 554(d)); Section 1.1221 of the Commission's Rules.

and shall be specifically conditioned on the outcome of those proceedings.

23. It is further ordered that any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to reexamination and reconsideration of that company's basic qualifications to hold a cellular license following a final decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82–391 released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

24. It is further ordered that any authorization granted as a result of this proceeding shall be conditioned upon the obtaining of the appropriate antenna structure clearances and Mexican government coordination where needed.

25. This Order is issued under § 0.291 of the Commission's Rules and *Order Delegating Authority*, FCC 82–435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under § 1.106 or applications for review under Section 1.115 of the Rules may be filed within the time limits specified in those Sections. See also Rule § 1.4(b)(2).

26. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Federal Communication Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83–3422 Filed 2–8–83; 8:45 am]

BILLING CODE 6712–01–M

[CC Docket No. 83–3; File No. 26105–CL–(11)–82, etc.]

American Mobile Communications of Washington and Oregon et al.; Construction Permit; Erratum

In re Applications of; American Mobile Communications of Washington and Oregon; CC Docket No. 83–3; File No. 26105–CL–P–(11)–82; Interstate Mobilephone Company; File No. 26148–CL–P.(9)–82; Cellular Mobile Systems of Washington, Inc. File No. 26182–CL–P–(13)–82; For a Construction Permit to establish a cellular system operating on frequency block A in the Domestic Public Cellular Radio Telecommunications Service to serve the Seattle, Washington, Standard Metropolitan Statistical Area; erratum.

Released: February 1, 1983.

The Memorandum Opinion and Order in the above-entitled matter, CC Docket No. 83–3, released January 12, 1983, published in the **Federal Register** January 19, 1983, 48 FR 2429, is corrected so that the file number which appears in the title for American Mobile Communications of Washington and Oregon is corrected to read File No. 26105–CL–P–(11)–82 instead of File No. 26105–CL–P–(8)–82.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83–3420 Filed 2–8–83; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 83–54; File No. BPCT–820312KE, etc.]

Carlos Ortiz et al.; Hearing Designation Order

Adopted: January 28, 1983

Released: February 2, 1983

In re applications of: Carlos Ortiz, Carolina, Puerto Rico, MM Docket No. 83–54, File No. BPCT–820312KE; Radio Vida, Incorporado, Carolina, Puerto Rico, MM Docket No. 83–55, File No. BPCT–820510KH; For Construction Permit; Designating applications for consolidated hearing on stated issues.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Carlos Ortiz (Ortiz) and Radio Vida, Incorporado (Radio Vida) for authority to construct a new commercial television station on Channel 52, Carolina, Puerto Rico; petitions to deny Radio Vida's application filed by Ortiz [1] and Arzuaga and Arroyo Associates; and related pleadings.

Carlos Ortiz

2. Section 73.1125 of the Commission's Rules requires the main studio of a television station to be located in the prinicipal community to be served or that good cause be shown for locating the studio outside it community of license. Ortiz proposes to locate his studio approximately three miles outside of Carloina at his proposed trasmitter site. However, Ortiz has not submitted the required showing for locating his studio outside of Carolina. Accordingly, an issue will be specified to determine wheither good cause exists for locating the main studio outside the principal community to be served and whether to do so would be consistent with operation of the station in the public interest.

3. The Ortiz application was filed on March 12, 1982. In support of his financial qualifications, Ortiz submitted, as party of his application, a copy of a letter, dated December 29, 1980, from Amvest Leasing and Capital Corporation (Amvest). The letter provided for the financing of broadcasting equipment.

4. During the course of the processing of other Ortiz applications, it was discovered that copies of the same letter had been used in at least three other Ortiz applications,[3] apparently without the knowledge or consent of Amvest. Amvest, by Wayne C. Coates, its credit analyst, has submitted an affidavit, as requested by the Commission, stating that Amvest issued the letter only in connection with Ortiz's McAllen application.[3] By using the credit letter in a least three other applications, Ortiz has represented to the Commission that he has at least $396,000 available to him from Amvest, whereas in fact, only $99,000 is available. This conduct by Ortiz raises a question as to whether he has attempted to deceive or mislead the Commission and whether he has the requisite character qualifications to be a Commission licensee.[4] An appropriate issue will be specified as to Ortiz's basic qualifications.

5. Mr. Ortiz estimates that he will require $74,185 to construct the proposed facility and operate it for three months. To meet these expenses, Mr. Ortiz will rely on Amvest to finance $99,000 of broadcasting equipment; a bank loan from First National Bank of San Benito in the amount of $25,000; and funding assistance from Broadcast Capital Fund, Inc. (BCF). The Amvest letter was not issued in connection with the proposed facility; the bank loan is earmarked for a low power television station and assistance from BCF has not been confirmed.

6. Although financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. However, in the light of the fact that Mr. Ortiz cannot rely on the Amvest letter (see paragraph 4, above) and the he has not shown the availability of any other funds, Mr. Ortiz will be required to show that he is financially qualified to construct and

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[1] Ortiz's petition is, in essence, a pre-designation petition to specify issues. Such petitions are no longer permitted; therefore, they will be dismissed. *Processing of Contested Broadcasting Applications*, 72 FCC 2d 202 (1979).

[3] BPCT–820319KH, Channel 27, Laredo, Texas; BPCT–820415KF, Channel 16, Myaguez, Puerto Rico, D 82–651; BPCT–811229KF, Channel 48, Mc Allen, Texas.

[3] It appears that Oriz used the original Amvest letter in connection with his McAllen application, as he was entitled to do, and that he apparently used unauthorized copies in this application (Carolina) and in his Laredo and Mayaguez applications.

[4] Ortiz's application for Mayaguez, Puerto Rico (BPCT–820415KF) was designated for hearing in Docket No. 82–651 prior to the discovery of this problem. Therfore, no character qualifications issue was raised in that designation order.

operate as proposed. Accordingly, an issue will be specified to determine whether Mr. Ortiz has any funds available.

Radio Vida, Incorporado

7. Arzuaga and Arroyo Associates (Arzuaga) filed a pleading entitled "Petition to Deny" against Radio Vida. The petition is not supported by an affidavit as required by Section 309(d) of the Communications Act of 1934, as amended, and therefore, the petition will be dismissed, and will be considered as an informal objection filed pursuant to Section 73.3587 of the Commission's Rules. The informal objection raised a question as to whether the site proposed by Radio Vida would be available to it, but, on December 13, 1982, the applicant amended its application to specify a different site. Arzuaga has not questioned the availability of the new site. The informal objection will, therefore, be dismissed as moot.[5]

8. Section 73.636(a)(1) of the Commission's Rules states that no license for a television broadcast station shall be granted to any party if such party directly or indirectly controls one or more AM broadcast stations and the grant of such license will result in the Grade A contour of the proposed television station encompassing the entire community of license of the AM broadcast station. Radio Vida is the licensee of Station WIDA(AM), Carolina, Puerto Rico. Note 8 to this rule provides, *inter alia,* that applications for UHF television facilities "* * * will be handled on a case-by-case basis in order to determine whether common ownership, operation or control of the stations in question would be in the public interest." Accordingly, an appropriate issue will be specified to determine whether common ownership of Radio Vida's AM station and its proposed television station would be consistent with the public interest.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

10. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Carlos Ortiz:

(a) Whether good cause exists for locating the main studio outside the principal community to be served, and, if so, whether it would be consistent with operation of the station in the public interest;

(b) All of the facts and circumstances surrounding the filing of the letter of credit from Amvest Leasing and Capital Corporation;

(c) Whether the applicant attempted to deceive or mislead the Commission or was lacking in candor or made misrepresentations to the Commission;

(d) Whether, in light of the evidence adduced pursuant to issues (b) and (c), the applicant has the requisite qualifications to be a Commission licensee;

(e) Whether applicant has any funds available to construct and operate as proposed;

(f) Whether, in light of the evidence adduced pursuant to issue (e), applicant is financially qualified.

2. To determine with respect to Radio Vida, Incorporado whether common ownership, operation and control of station WIDA(AM), Carolina, Puerto Rico and the proposed television station would be consistent with the public interest.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

11. It is further ordered, That the petition to deny filed by Arzuaga and Arroyo Associates is dismissed, and, considered as an informal objection filed pursuant to Section 73.3587 of the Commission's Rules, IS DISMISSED, as moot.

12. It is further ordered, That the petition for leave to amend filed by Radio Vida, Incorporado is granted and the amendment is accepted.

13. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 30 days of the release of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 37.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-3419 Filed 2-8-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 82-851; File No. BPH-810630AL, etc.]

Carson Valley Broadcasters, Inc., et al; Hearing Designation Order

Adopted: December 29, 1982.

Released: January 13, 1983.

In re applications of; Carson Valley Broadcasters, Inc., Carson City, Nevada, MM Docket No. 82-851, File No. BPH-810630AL; Req: 98.1 MHz, Channel No. 251C, 97 kW, (H&V), 498 feet; Carson City Broadcasting, Inc., Carson City, Nevada, MM Docket No. 82-852; File No. BPH-811125AI; Req: 98.1 MHz, Channel No. 251C, 42. 7 kW (H&V), 2923 feet; John P. Martin & C. Lucille Martin, Tenants in Common, Carson City, Nevada, MM Docket No. 82-853; File No. BPH-811127AA; Req: 98.1 MHz, Channel No. 251C, 62 kW (H&V), 2485 feet; William H. Hernstadt & Mrs. Socorro Colton, a General Partnership, Dayton Township, Nevada, MM Docket No. 82-854, File No. BPH-811130AA; Req: 98.1 MHz, Channel No. 251C, 58. 9 kW (H&V), 2440 feet; Sonrisa, Inc., Carson City, Nevada, MM Docket No. 82-855, File No. BPH-811130AW; Req: 98.1 MHz, Channel No. 251C, 100 kW (H&V), 507 feet; Paul Michael Posen & David Weinstein d/b/a Posen Communications Company, Virginia City, Nevada, MM Docket No. 82-856; File No. BPH-811130AY; Req: 98.1 MHz, Channel No. 251C, 100 kW (H&V), 1037 feet; Capital City Broadcasting Co., Carson City, Nevada, MM Docket No. 82-857; File No BPH-811130BB; Req: 98.1 MHz, Channel No. 251C, 100 kW (H&V), 508 feet; Eagle Valley Broadcasting Co., Carson City, Nevada, MM Docket No. 82-858; File No. BPH-811130BG; Req: 98.1 MHz, Channel No. 251C, 100 kW (H&V), 431 feet; For Construction Permit for a New FM Station; designating applications for consolidated hearing on stated issues.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to

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[5] Because Radio Vida's amendment eliminates the need for an issue, its "Petition for Leave to Amend" will be granted and its amendment will be accepted.

delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Carson Valley Broadcasters, Inc. (CVB); Carson City Broadcasting, Inc. (CCB); John P. Martin & C. Lucille Martin, tenants in common (Martin); William H. Hernstadt & Mrs. Socorro Colton, a general partnership (H&C); Sonrisa, Inc. (Sonrisa); Paul Michael Posen & David Weinstein d/b/a Posen Communications Company (PCC); Capital City Broadcasting Co. (Capital) and Eagle Valley Broadcasting Co. (EVB). Also under consideration is an informal objection filed by the Nevada State Communications Board (State) regarding the location of the transmitter site proposed in the H&C application.

2. *H&C.* State alleges that the location of the proposed transmitter site of H&C will be within 100 feet of its communications facility, thereby causing interference to its equipment.[1] To alleviate the interference, State requests that grant of the H&C application be conditioned so as to require H&C to eliminate any harmful interference which might occur. H&C has failed to oppose State's allegation of interference. Accordingly, a grant of the H&C application will contain an appropriate condition.

3. *Other matters.* Captial and EVB have both motioned for leave to amend their respective applications. The accompanying amendments were filed September 27, 1982 and October 12, 1982 respectively; the last day for filing amendments as a matter of right was June 21, 1982. We find good cause has been shown for the filing of both amendments under §1.65 of the Commission's Rules and, accordingly, the amendments will be accepted for filing. However, since an applicant cannot improve its comparative position after the time for amendments as a matter of right has passed, *Cypress Communications, Inc.*, 47 RR 2d 132 (1980), any comparative advantage resulting from Capital's and EVB's amendments will be disallowed.

4. The respective proposals, although for different communities, would serve sustantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

5. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary aural service (1 mV/m or greater) from the proposals and the availability of other primary service to such areas and populations.

2. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing, which of the applications, if any, should be granted.

7. It is further ordered, That that informal objection filed by the Nevada State Communications Board IS GRANTED to the extent indicated and IS DENIED in all other respects.

8. It is further ordered, That in the event of a grant of the H&C application, the construction permit shall contain the following condition:

Permittee shall have responsibility for eliminating any harmful interference which it causes the operations of the Nevada State Communications Board in the vicinity of its B. L. M. site N–34973.

9. It is further ordered, That the motions for leave to amend filed by Capital and EVB are granted, and the corresponding amendments are accepted, but no improvement in Capital's and EVB's comparative standing will be allowed.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(b)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commissions Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83–3417 Filed 2–8–83; 8:45 am]

BILLING CODE 6712–01–M

[1] State's communication facility houses a microwave repeater and several VHF mobile relays in the public safety range.

FEDERAL MARITIME COMMISSION

[Agreement No. 9973–9]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 9973–9 will not constitute a major Federal action significantly affecting the quality of human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and that the preparation of an environmental impact statement is not required. Agreement No. 9973–9 modifies the Johnson Scanstar Service Agreement to: (1) Add service to inland points in the United States; (2) add service *via* intermodal or connecting carrier service to ports and points in foreign countries served; (3) add service between the U.S. West Coast and the West Coast of Canada; (4) eliminate the limitation of 400 TEU's imposed on single space charters by Johnson Scanstar to meet peak seasonal demand; and (5) eliminate the restriction of such *ad hoc* charters to carriers not regularly serving the same trades.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this Notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the

Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83–3462 Filed 2–8–83; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) established pursuant to 42 U.S.C. 242(k), section 306(k)(2) of the Public Health Service Act, as amended, will convene on Thursday, February 24, 1983, at 9:00 a.m. and Friday, February 25, 1983, at 9:00 a.m., in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Agenda items for discussion will include review of charter and legislation for the Committee; history and past accomplishments of the Committee; DHHS statistical systems; review of OMB guidance and clearances; status of legislation in health statistics; and establishment of tentative subcommittees. In addition, the newly appointed members of the Committee will be sworn in. Agenda items are subject to change as priorities dictate.

Further information regarding the Committee may be obtained by contacting Gail F. Fisher, Ph. D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone 301–436–7051.

Dated: January 25, 1983.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 83–3821 Filed 2–8–83; 8:45 am]

BILLING CODE 4160–17–M

Social Security Administration

Redelegation of Authority To Conduct the SSA Representative Project and Carry Out Implementing Regulations

Final regulations establishing the Social Security Administration (SSA) representative project were published in the **Federal Register** on August 19, 1982 (47 FR 36117–125). The purpose of this project is to determine whether the participation of SSA representatives in disability cases at the administrative hearing level will sharpen factual issues, improve case record development and contribute to improved quality, consistency and timeliness of case dispositions. This project will be undertaken in selected hearing offices throughout the United States. Those selected as SSA representatives will be assigned to these offices for administrative purposes but will not be supervised or otherwise controlled by the administrative law judges (ALJ's) in the offices. SSA representatives will have the full rights of a party to a hearing, except the right to request a review by the Appeals Council of the ALJ's decision or dismissal. These rights and the specific functions to be performed by the SSA representatives are specified in the regulations.

The Secretary of Health and Human Services has placed overall responsibility for implementation and administration of the SSA representative project with the Commissioner of Social Security (the Commissioner).

Notice is given that the Commissioner has redelegated to SSA's Associate Commissioner for Hearings and Appeals authority to conduct this project and carry out implementing provisions contained in the regulations establishing the project. The Associate Commissioner may further redelegate this authority.

This redelegation is effective as of the date shown below. Any actions prior to this date which amount the exercise of this authority by the Associate Commissioner, or other officials with his permission, are affirmed and ratified.

Dated: December 27, 1982.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 83–3543 Filed 2–8–83; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

New Mexico; Public Hearings on Three Environmental Impact Statements and an Overview and Correction of Notice Appearing January 13, 1983

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of additional public hearings on three draft environmental impact statements and on a draft cumulative overview document.

SUMMARY: On Jnauary 13, 1983, a **Federal Register** notice (page 1551) announced the extension of the public comment period for three draft environmental impact statements (DEIS) and on the draft Cumulative Overview (CO). As announced, the closing date for public comments is extended until April 8, 1983. The documents are: (1) Draft Bisti, De-Na-Zin, Ah-Shi-Sle-Pah Proposed Wilderness Area Environmental Impact Statement; New Mexico, (2) Draft San Juan River Regional Coal Environmental Impact Statement; New Mexico, and (3) Draft Environmental Impact Statement (EIS) on Public Service Company of New Mexico's Proposed New Mexico Generating Station and Possible New Town (NMGS), Draft Cumulative Overview.

Three public hearings were held during the week of January 10, 1983. During those hearings, the Bureau received requests for additional hearings during the extended public comment period. In response to these requests, the following hearings are scheduled:

March 14, 1983—Santa Fe, New Mexico, Sweeney Convention Center Sessions beginning at 1:00 p.m. and 7:00 p.m.

March 17, 1983—Pueblo Pintado, New Mexico, Chapter House Session beginning at 10:00 a.m.

Persons wishing to present testimony at one or both of these hearings are asked to contact the Bureau of Land Management as shown below for scheduling. Persons who are scheduled to be heard will be given priority. All comments are limited to a 10 minute summation of the key points to be made. Complete written comments will be accepted at the hearings and will be made a part of the official record. Persons who do not arrange a specific time for presentation will be added to the schedule on the day of the hearing as time permits. It is possible that these persons may not be heard because of time limitations.

This notice also serves to correct the **Federal Register** of January 13, 1983, page 1551. At the beginning of the summary on that notice, an incorrect page number was given as part of the reference to a notice which appeared in the December 3, 1982 **Federal Register**. This reference should be page 54558 through page 54561.

DATE: Effective date is the date of this publication.

FOR FURTHER INFORMATION CONTACT:
Sally Wisely, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501, (505) 988–6316, FTS 476–6316.

Charles W. Luscher,

State Director.

[FR Doc. 83–3401 Filed 2–8–83; 8:45 am]

BILLING CODE 4310–84–M

[U–8131]

Utah; Termination of Classification for Multiple Use; Correction

In FR Doc. 82–34125 on Page 56407, Paragraph No. 1, in the issue of Thursday, December 16, 1982 make the following deletions and additions:

1. Under T. 40 S., R. 15 E., Delete: Sec. 11, W½. Add: Secs. 11, 12, 13, 23, 30 (all).
2. Under T. 38 S., R. 16 E., Delete: Sec. 26, SE¼. Add: Sec. 26, NW¼.
3. Under T. 39 S., R. 16 E., Delete: Sec. 2.
4. Under T. 40 S., R. 16 E., Add: Secs. 7, 8, 9 (all).
5. Under T. 34 S., R. 17 E., Delete: Secs. 1, 3 through 36 (all). Add: Secs. 7, 8, 14, 16, 17 (part); Secs. 18, 19, 20 (all); Secs. 21 through 28 (part); Secs. 29, 30, 31 (all); Sec. 33 (part); Secs. 34, 35 (all).

Dated: February 1, 1983.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–3398 Filed 2–8–83; 8:45 am]

BILLING CODE 4310–84–M

[U–12307]

Utah; Termination of Classification for Multiple Use; Correction

In FR Doc. 82–34126 on Page 56408, Paragraph No. 1, in the issue of Thursday, December 16, 1982 make the following deletions and additions:

1. Under T. 33 S., R. 16 E., Delete: Sec. 13, (all). Add: Secs. 11, 13, 25, (part).
2. Under T. 31 S., R. 17 E., Add: Sec. 25, (part).
3. Under T. 33 S., R. 17 E., Delete: Secs. 24, 25, (all). Add: Secs. 3, 12, 24, 25, 34, (part).
4. Under T. 34 S., R. 17 E., Add: Secs. 8 through 12, (part).
5. Under T. 32 S., R. 18 E., Delete: Sec. 21, (part). Add: Sec. 21, (all).
6. Under T. 33 S., R. 18 E., Delete: Sec. 8, (all). Add: Sec. 8, (part).
7. Under T. 34 S., R. 18 E., Delete: Sec. 9, (all). Add: Sec. 10, (part).
8. Under T. 29 S., R. 20 E., Add: Sec. 23, SW¼SE¼.
9. Under T. 27 S., R. 21 E., Add: Sec. 8, W½SE¼.
10. Under line 18 in third column; Add: T. 29½ S., Rgs. 19 through 24 E., (all).

Dated: February 1, 1983.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–3399 Filed 2–8–83; 8:45 am]

BILLING CODE 4310–84–M

[U–32067]

Utah; Order Providing for Opening of Lands

1. By Presidential Proclamation 3132 the following lands were excluded from the Hovenweep National Monument:

Salt Lake Meridian, Utah

T. 39 S., R. 26 E.,
Sec. 20, SW¼NE¼.
Containing 40.00 acres.

2. At 10:00 a.m. on March 15, 1983 the lands will be open to operation of the public land laws generally, including the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. on March 15, 1983 shall be considered as simultaneously filed. Those received thereafter shall be considered in the order of filing.

3. At 10:00 a.m. On March 15, 1983 the lands will also be open to location under the United States Mining Laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: February 1, 1983

Darell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–3397 Filed 2–8–83; 8:45 am]

BILLING CODE 4310–84–M

[W–17781, W–25819]

Wyoming; Partial Termination and Modification of Classification for Multiple-Use Management

February 1, 1983.

1. Pursuant to the authority delegated by Bureau of Land Management Manual, Section 1203, the Bureau of Land Management's Multiple-Use Classifications Orders of April 28, 1970 (Serial Number W–17781), published in the **Federal Register** on Wednesday, May 6, 1970, Vol. 35, No. 88, page 7135 and December 1, 1970 (Serial Number W–25819), published in the **ederal Register** on Wednesday, December 16, 1970, Vol. 35, No. 243, pages 19030 and 19031, are hereby modified and partially terminated at set out in the following paragraphs.

The land involved aggregate 5,792.33 acres in Goshen, Natrona, and Fremont Counties, Wyoming.

2. The lands described in the Notice of May, 1970 (W–17781), were classified for Multiple-Use Management and segregated from all forms of appropriation under the public land laws, including and mining laws, but not the mineral leasing laws. The lands described in paragraph A of that notice will be open to the operation of the public land laws generally, but will continue to be segregated from location under the United States Mining laws. the lands described in paragraph B of that notice, will be open to the operation of the public land laws generally. The classification is hereby terminated on the lands described in paragraph B.

3. The lands described in the Notice of December 16, 1970 (W–25819), were classified for Multiple-Use Management and were segregated from appropriation, "only under the agricultural land laws (43 U.S.C., parts 7 and 9; 25 U.S.C. 334), from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171), and from appropriation under the general Mining laws (30 U.S.C. 21). The lands shall remain open to all other applicable forms of appropriation including he mineral leasing laws." The lands in that notice will be relieved of segregation from the operation of the Agricultural Land laws and sales under section 2455. The lands will remain segregated from location under the United States Mining laws (30 U.S.C. 21), except as to the following described lands which will be opened to location under the United States Mining Laws.

Sixth Principal Meridian, Wyoming

T. 22 N., R. 60 W.,
Sec. 17, NE¼SW¼, E½SE¼SW¼, and SE¼.
T. 42 N., R. 107 W.,

Sec. 31, lots 1 to 3 inclusive, E½NW¼ N½NE¼SW¼, E½SE¼, E½SW¼SE, and SW¼SW¼SE¼;
Sec. 32, NW¼NW¼, N½SW¼, and SW¼SW¼.

The area described contains 701.94 acres in Goshen and Fremont Counties, Wyoming.

4. Pursuant to the regulations set forth in 43 CFR 2450.6(a), and 43 CFR 2461.5(c)(2), the above classifications are hereby modified and terminated as set out in paragraphs two and three of this notice. At 10:00 a.m. on March 15, 1983, the lands described in said notices of May 6, 1970, and December 16, 1970, will be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid application received at or prior to 10:00 a.m. on March 15, 1983, shall be considered as imultaneously filed at that time. Those received, thereafter, will be considered in the order of filing.

5. The lands described in paragraph three of the above notice will be open to location under the United States Mining laws at 10:00 a.m. on March 15, 1983.

Inquiries concerning these lands should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, 2515 Warren Avenue, P. O. Box 1828, Cheyenne, Wyoming 82001.

Gerald L. Jessen,

Acting State Director.

[FR Doc. 83-3400 Filed 2-8-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Revised Procedures for Oil and Gas Leasing; Information Meeting

Agency: Minerals Management Service.

Action: Notice of Meeting.

Summary: the Minerals Management Service's Gulf of Mexico and Atlantic Regional Outer Continental Shelf (OCS) offices will jointly present an information meeting on the "Revised Procedures for Oil and Gas Leasing."

Date Time: March 1, 1983 beginning at 10:00 a.m. c.s.t.

Location: Louisiana Superdome, meeting rooms 3, 4, and 5, Gate "A" Level 200, 1500 Poydras Street, New Orleans, Louisiana.

Supplemental Information: This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953, as amended, and the regulations issued thereunder (30 CFR Part 256). This meeting is open to the general public. Discussions will cover the "Revised Procedures for Oil and Gas Leasing" through "The reading of the bids" that are referenced in the forthcoming Gulf of Mexico Sale 72 and the Atlantic Sale 76 Proposed Notices of Sale. Time will be made available for questions and comments. We encourage the submittal of questions or points of concern by telephone or in writing in advance of the March 1, 1983 meeting.

For Further Information: Telephone contact should be directed to the Acting Regional Supervisor—Leasing, Environment and Studies (Harold Sieverding) at (504) 837-4720 ext. 336 or Ken Chambers/Chuck Hopson ext. 312. Written comments should be addressed to Mr. John L. Rankin, Acting Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, P.O. Box 7944, Metairie, Louisiana 70010

John L. Rankin,

Acting Regional Manager.

[FR Doc. 83-3404 Filed 2-8-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Availability of Plan of Operations for the Purpose of Oil Drilling Operations: Big Cypress National Preserve

In accordance with § 9.52 of Title 36 of the Code of Federal Regulations, Big Cypress National Preserve has received from Hughes and Hughes Oil Company, a Plan of Operations for the purpose of oil drilling in the 50-mile bend area of the Preserve. The public is invited to review and comment on the Plan of Operations, copies of which are available for review during normal business hours at Everglades National Park, Route 27, 12 miles south of Homestead, Florida; Big Cypress National Preserve, Ochopee, Florida; Miami-Dade Public Library System, Main Library, 1 Biscayne Boulevard, Miami, Florida; Collier County Public Library, 650 Central Avenue, Naples, Florida; and at the National Park Service, Southeast Regional Office, 75 Spring Street, S.W., Atlanta, Georgia. Comments received on or before March 11, 1983, will be entered into the official record. For further information, contact Pat Telle, Management Assistant, Everglades National Park (305) 247-6211.

Dated: January 31, 1983.

Robert M. Baker,

Southeast Region.

[FR Doc. 83-3466 Filed 2-8-83; 8:45 am]

BILLING CODE 4310-70-M

Biscayne National Park, Florida; Availability of General Management Plan/Development Concept Plan Wilderness Study/Environmental Assessment and Wilderness Hearing/ Public Meeting

Notice is hereby given in accordance with Section 3 of an Act of September 3, 1964 (Wilderness Act, Pub. L. 88-577) that a public hearing will be held at the following location and time for the purpose of receiving comments and suggestions as to the suitability of lands within Biscayne National Park for designation as wilderness.

March 10, 1983, at 7:30 p.m., South Miami City Hall, Commission Chambers, 6130 Sunset Drive, South Miami, Florida

Also, as part of the National Park Service's program for public participation in planning, comments and suggestions on an Environmental Assessment for the General Management Plan/Development Concept Plan/Wilderness Study for Biscayne National Park prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the establishing legislation for Biscayne National Park (Sections 104 and 105 of Pub. L. 96-287 dated June 28, 1980) will be received at this public hearing.

The assessment considers resource protection, visitor use as well as wilderness suitability. The proposal for the General Management Plan/ Development Concept Plan provides for public transportation to the park's keys, bay, and reefs, allows traditional recreational activities to continue, increases interpretation and educational programs, improves visitor and park operation facilities, and provides for future protection of the park's natural resources. Four alternatives to the proposal are: (1) Continuation of existing conditions with no public tour boat system (no-action alternative); (2) implementation of the 1978 General Management Plan which provided for expanded development within the old monument boundary and a public tour boat system, but included no provisions for new areas authorized in 1980; (3) preservation and minimum development, with a limited public tour boat system (basic operations alternative); and (4) intensive visitor use and expanded development.

The findings of the Wilderness Study indicate that the park is not suitable for wilderness designation according to the criteria and intent of the Wilderness Act of 1964.

A limited number of copies of the assessment are available upon request to:

Regional Director, Southeast Region, National Park Service, 75 Spring Street SW., Atlanta, Georgia 30303, Commercial (404) 221–5835, FTS 242–5835

Superintendent, Biscayne National Park, (Convoy Point, 9 miles east of Homestead on Canal Drive across from Homestead Bayfront Park, P.O. Box 1369, Homestead, Florida 33090 (247–2044)

Public reading copies will be available for review at the above as well as the following locations:

Office of Public Affairs, National Park Service, U.S. Department of the Interior, 18th & C Streets NW., Washington, DC 20240, (202) 343–6843

Surfside Library, 9301 Collins Avenue, Surfside, Florida 33154, (865–2409)

John F. Kennedy Memorial Library, 190 West 49th Street, NW 103rd Street, Hialeah, Florida 33012, (821–2700)

Coral Gables Public Library, 3443 Seagovia/SW 44th Avenue, Miami, Florida 33134 (442–8706)

Kendall Public Library, 9101 SW 97th Avenue, Miami, Florida 33176 (279–0250)

South Dade Regional Library, 10750 SW 211th Street, S. Dade Government Center, Miami, Florida 33189 (233–8140)

Key Largo Library, Mile Marker 100, 2nd Floor, 1st National Bank, Key Largo, Florida 33037 (451–2396)

Hollywood Branch Library, 2600 Hollywood Boulevard, Hollywood, Florida 33020 (920–3301)

City of North Miami Public Library, 855 NE 132nd Street, North Miami, Florida 33168 (891–5335)

Main Library, 1 Biscayne Boulevard, Miami, Florida 33132 (579–5001)

West Dade Regional Library, 9445 SW Coral Way/SW 24th Street, Miami, Florida 33134 (553–1134)

South Miami Public Library, 6000 Sunset Drive/SW 72nd Street, Miami, Florida 33143 (667–6121)

Coral Reef Public Library, 9211 SW 152nd Street, Miami, Florida 33157 (233–8324)

Homestead Public Library, 700 N Homestead Blvd., Homestead, Florida 33030 (246–0168).

Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearing, provided they notify the Hearing Officer in care of the Superintendent, Biscayne National Park, by March 8, 1983, of their desire to appear. Those not wishing to appear in person may submit written statements on the Wilderness Study and the Environmental Assessment to the Hearing Officer for inclusion in the official record which will be held open for written statements until April 11, 1983.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement that may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials presented at the hearing shall be subject to a determination by the Hearing Officer that they are appropriate for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the preliminary Wilderness Study and the Environmental Assessment by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presenation of oral statements:

(1) Governor of the State or his representative.
(2) Members of Congress.
(3) Members of the State Legislature.
(4) Official representatives of the counties in which the park is located.
(5) Officials of other Federal Agencies or public bodies.
(6) Organizations in alphabetical order.
(7) Individuals in alphabetical order.
(8) Others not giving advance notice, to the extent there is remaining time.

Dated: February 3, 1983.

Neal G. Guse, Jr.,

Regional Director, Southeast Region.

[FR Doc. 83–3485 Filed 2–8–83; 8:45 am]

BILLING CODE 4310–70–M

Upper Delaware Citizens Advisory Council; Meeting

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: February 25, 1983, 7 p.m.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159 (717/729–7135).

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include review of Draft Management Plan.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: January 31, 1983.

Don H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 83–3394 Filed 2–8–83; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–116 and 117 (Preliminary)]

Antidumping Investigations; Carton-Closing Staples and Nonautomatic Carton-Closing Staple Machines From Sweden

Determinations

On the basis of the record [1] developed in the subject investigations, the

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.22(i), 47 FR 6190, Feb. 10, 1982).

Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Sweden of carton-closing staples [2] (investigation No. 731–TA–116 (Preliminary)) and nonautomatic carton-closing staple machines [3] (investigation No. 731–TA–117 (Preliminary)) which are alleged to be sold, or likely to be sold, in the United States at less than fair value (LTFV).[4]

Background

On December 17, 1982, a petition was filed with the Commission and the Department of Commerce by counsel on behalf of International Staple and Machine Co., a domestic producer of carton-closing staples and nonautomatic carton-closing staple machines, alleging that imports of those products from Sweden are being, or are likely to be, sold in the United States at LTFV within the meaning of section 731 of the Tariff Act of 1930, (19 U.S.C. 1673). Accordingly, effective December 17, 1982, the Commission instituted preliminary antidumping investigations under section 733(a) of the Act (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise from Sweden.

Notice of the institution of the Commission's investigations and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on December 29, 1982 (47 FR 58047). The conference was held in Washington, D.C., on January 10, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

[2] For purposes of this investigation, carton-closing staples are provided for in item 646.20 of the Tariff Schedules of the United States (TSUS).

[3] For purpose of this investigation, nonautomatic carton-closing staple machines are provided for in item 662.20 of the TSUS.

[4] Commissioner Stern determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of allegedly LTFV imports of carton-closing staples from Sweden, and also determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of allegedly LTFV imports of nonautomatic carton-closing staple machines from Sweden.

Views of Chairman Alfred E. Eckes and Commissioners Paula Stern and Veronica A. Haggart

Introduction

We determine, pursuant to section 731(a) of the Tariff Act of 1930 (hereinafter the Act),[5] that there is a reasonable indication that industries in the United States are materially injured by reason of imports of carton-closing staples and nonautomatic carton-closing staple machines from Sweden which are allegedly sold at less than fair value (LTFV).[6] [7]

Domestic Industry

Section 771(4)(A) of the Act defines the term "industry" as the "domestic producers as a whole of a like product of those producers whose collective output of the like product constitutes a major portion of the total domestic production of that product." [8] Section 771(10) defines "like product," in turn, as a "product which is like, or in the absence of like, most similar in characteristics and uses with, the articles subject to an investigation." [9]

The imported articles which are the subject of these investigations are carton-closing staples and nonautomatic carton-closing staple machines. Each of these articles is described and considered separately in this opinion.[10]

Carton-closing Staples

The imported carton-closing staples (hereinafter staples) which are the subject of this investigation are a type of fastener used to close corrugated paperboard cartons and boxes. They are recognized generally as an industrial staple and differ from office and desk-type staples in their size and use.

[5] 19 U.S.C. 1673(A).

[6] Retardation of establishment of an industry in the United States is not an issue in these investigations and will not be discussed further.

[7] Commissioner Stern also determines that there is a reasonable indication that industries in the United States are threatened with material injury by reason of LTFV imports of carton-closing staples and nonautomatic carton-closing staple machines.

Commissioner Stern notes also that the nature and extent of the alleged LTFV margins may be significantly distorted by the use for their computation of a comparison of prices for the imported products to distributors with home market prices to end users. A comparison of domestic prices to end users with domestic prices to distributors would similarly generate a figure demonstrating a substantial difference in price between the two systems of distribution.

[8] 19 U.S.C. 1677(4)(A).

[9] 19 U.S.C. 1677(10).

[10] The Commission's definitions of the industry and the appropriate like product are based on the best information now available which is rather limited. The Commission's definitions in these preliminary determinations do not preclude the possibility of redefining the like products or the domestic industries in the event of any final investigations.

Carton-closing staples vary according to the size of the wire, the width of the crown, and the length of the leg. Staples may be either copper-coated or galvanized if corrosion resistance is required. Staples designed by a manufacturer for its own machine are called "dedicated" staples, while those produced by one manufacturer for use in the staple machines of another manufacturer are known as "bootleg" staples. Various sizes of staples are offered by domestic firms and foreign manufacturers to service all segments of the market.

The parties in this investigation have raised the issue of whether the pertinent like product consists of only staples in stick form, or in addition, staples in roll form. Petitioner asserts [11] that roll staples should not be included to delimit the domestic industry because they are used primarily in automatic staple machines, they apparently are not being imported, they have different physical characteristics and are produced on different machines. Respondent, on the other hand, contends [12] that stick staples have only minor differences in characteristics and uses when compared with roll staples, are produced on ordinary machine shop equipment, have similar end uses in packaging applications and are included in the normal course of business in financial data concerning other staple forms.

Stick staples are glued together lightly in a strip or stick form of five to one hundred staples to facilitate handling and loading of staple machines. Roll staples are taped together in rolls of one thousand to five thousand staples and are used primarily in automatic staple machines because the weight and bulk of roll staples do not lend themselves to manual operation. Furthermore, roll staples are not imported from Sweden.[13]

The production process for stick staples involves different machinery than for roll staples. The differences in production of different staples arise from different tooling and equipment adjustments which determine the crown width and the leg length. Changes in tooling and readjustments of equipment are relatively easy and inexpensive to accomplish. Roll staple production differs from stick staple production only in that the legs are bent to an obtuse angle rather than a right angle, the staples are taped together along their crowns only, and a roll of staples may contain more staples than a stick.

[11] Petitioner's Posthearing Brief, at 9–12.

[12] Respondent's Posthearing Brief, at 2–10.

[13] Staples in stick form are currently classified under item 646.20, "staples in strip form" of the Tariff Schedules of the United States (TSUS). Carton-closing staples which are not in stick form, are classified under TSUS item 646.26.

Financial data available to the Commission concerning staples are not maintained in the normal course of business on the basis of individual product lines; however, financial data have been segregated for purposes of the present investigations on the basis of the like product alleged by petitioner. The limited information which has been provided to the Commission has been on the basis of stick staples without a breakdown according to size.

For purposes of this preliminary investigation, we conclude that the like product in this investigation is carton-closing staples in stick form. The domestic industry is comprised accordingly of the domestic producers as a whole of carton-closing staples in stick form.[14]

Carton-closing Staple Machines

The petitioner alleges that the like product in this investigation consists of nonautomatic carton-closing staple machines, and not automatic staple machines.[15] The distinction between nonautomatic and automatic staple machines is not drawn easily. There is a broad range of products available which includes semi-automatic staple machines having both automatic and nonautomatic characteristics. No known imports of automatic staple machines from Sweden, however, are entering the United States.[16]

Generally, nonautomatic staple machines are machines designed to insert a carton-closing staple in a carton of corrugated paper board through mechanical pressure from depressing a foot lever or by pneumatic pressure. Nonautomatic staple machines typically are divided into top staples or bottom staplers. Virtually all nonautomatic staple machines also use staples in stick form. For the most part, nonautomatic staple machines are produced on production lines and by personnel that are separate from those for automatic staple machines.

Automatic staple machines are characterized generally by control circuits and mechanisms for positioning cartons for insertion of staples upon an internal automatic signal. These machines primarily use roll staples and are significantly more expensive than nonautomatic staple machines. The principal uses for automatic staple machines are in large-volume packaging operations.

A remaining issue in the like product analysis in this investigation comes from the range of available staple machines of a semi-automatic nature.[17] Nevertheless, there are domestic machines, principally with monautomtic features, which have the same characteristics and uses as the imported staple machines. As a result, we find, at least at this preliminary stage, a like product in the form of nonautomatic staple machines and a domestic industry consisting of the production of nonautomatic staple machines. This conclusion, while based on the limited information available in this preliminary investigation, is consistent with section 771(4)(D).[18]

Reasonable Indication of Material Injury by Reason of LTFV Imports

In a preliminary investigation, the Commission is directed by title VII of the Act to determine, on the basis of the best information available at the time of the determination,[19] whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of industry in the United States is materially retarded, by reason of imports of the merchandise that is the subject of the investigation.[20] Section 771(7) of the Act directs the Commission to consider, in making its determination, among other factors: (1) Volume of imports; (2) price undercutting; (3) sales; (4) productivity; and (5) utilization of capcity.

Condition of Domestic Industry: Carton-closing Staples

From the best information available to the Commission, it readily appears that the condition of the domestic staple industry has been deteriorating since 1980, with the downward trend increasing in January-September 1982. Production and capacity utilization have decreased by significant amounts since 1980.[21] The domestic industry has experienced a decline in the quantity of commercial shipments for the periods under consideration.[22] Limited data on employment, wages and productivity indicate generally declining trends.[23]

The data on the financial experience of the domestic industry available to the Commission at this time consist exclusively of information provided by the petitioner, and therefore, to preserve confidentiality, can be discussed only in the most general terms. Available profitability data do support the Commission's finding of a reasonable indication of material injury.[24]

Causation—Carton-Closing Staples.[25]

Although no official data on imports of the subject staples are available because of their importation under a basket category of TSUS, substantial responses from U.S. importers indicate that imports from Sweden as a percentage of domestic consumption have increased steadily and significantly during the periods under consideration.[26] Imports from Sweden increased from 808 million in 1979 to 1.3 billion staples in 1981, or by 66 percent. Imports then increased by 21 percent in January through September of 1982 relative to those in the corresponding period of 1981.[27] Information available to the Commission suggests that there is additional capacity for Swedish imports to be directed to the United States market.[28]

With respect to pricing of staples, the U.S. producers' list price compared with the importers' price suggests a margin of underselling of imports.[29] The reliability of the price comparisons, however, is not clear at this preliminary stage. The comparisons have been made between domestic list prices on the one hand and

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[14] The domestic companies producing stick staples are petitioner International Staple and Machine Co.; Bostitch, a Division of Textron Inc.; Container Stapling Corp.; Acme Staple; and Power-Line Fastening Systems.

[15] Petitioner's Posthearing Brief, at 12.

[16] Item 662.20 of the TSUS includes automatic, semi-automatic and nonautomatic staple machines.

[17] Commissioner Stern notes that the Commission in previous investigations has faced circumstances in which the range of available products constitutes a product "continuum." See, e.g., Certain Portable Electric Nibblers from Switzerland, inv. No. 731-TA-35 (Preliminary), USITC Pub. 1108, p. 5 (1980); Certain Steel Wire Nails from the Republic of Korea, inv. No. 701-TA-145 (Preliminary), USITC Pub. 1223, p. 4 (1982); Stainless Clad Steel Plate from Japan, inv. No. 731-TA-50 (Preliminary), USITC Pub. 1196, p. 4 (1981). In the present investigation, there is spectrum of products ranging from machines that are fully automatic to machines which are totally manually operated.

[18] 19 U.S.C. 1677(4)(D).

[19] We note that the responses to the Commission's questionnaires concerning the condition of the industry were limited. In a final investigation, we would anticipate an improved response rate.

[20] 19 U.S.C. 1673b.

[21] Staff Report at A-9, Table 2.

[22] *Id.* at A-10.

[23] *Id.* at A-13.

[24] *Id.* at A-14.

[25] One of the arguments raised by the respondent in the course of this investigation is that injury being suffered by the domestic industry does not arise from sales at LTFV of the subject imports. Rather, the respondent argues that the impact of imports derives from the precipitous decline in the Swedish krona in relation to the United States dollar, with the result that Swedish imports are becoming significantly less expensive in dollar terms. Respondent's Posthearing Brief, at 23-24. While noting that the Department of Commerce indicates that it takes into account exchange rate fluctuations in determining LTFV margins (19 CFR 355.56 (1982)), the Commission may examine this issue in the event of a final Commission investigation.

[26] Staff Report at A-18

[27] *Id.* at A-15.

[28] Conf. Tr. pp. 61, 67, 92 and 93.

[29] Staff Report at A-20.

actual import transaction prices on the other hand. Insofar as the domestic list prices do not account for discounts, the margin of underselling reflected in this price comparison may be inflated. Nevertheless, a review of unit value data supports the Commission's conclusion. The unit value of imports of carton-closing staples from Sweden declined from 88 cents per thousand staples in 1980 to 83 cents per thousand in 1981, or by 6 percent. The unit value declined further, to 76 cents per thousand staples in January-September 1982, representing a 6 percent decline from the value obtained in the corresponding period of 1981.[30]

Condition of the Domestic Industry: Nonautomatic Carton-closing Staples Machines

The condition of the domestic staple machine industry reflects much the same trends indicated by the limited information available concerning the staple industry. There was a decline of capacity utilization and unit production.[31] Commercial shipments of nonautomatic staple machines have declined significantly since 1980.[32] Inventories remained at high levels in relation to unit shipments.[33] The average number of production and related workers and their hours worked has declined steadily while their productivity and compensation have increased in recent periods.[34]

As in the case of staples, financial data for staple machines are available only from the petitioner, and therefore, can be discussed in only the most general terms. General profitability,[35] net sales, and gross income have not increased during the period under examination.[36]

Causation—Nonautomatic Carton-Closing Staple Machines [37]

There has been an increase in the quantity of imports of nonautomatic carton-closing staple machines from Sweden in each period under consideration, with a 38 percent increase occurring in January-September 1982 relative to those in the corresponding period of 1981.[38] As a share of apparent consumption, there is again a consistent increase during the period under consideration. These increases culminate in the most recent period, when the share of consumption accounted for by imports from Sweden nearly doubled in January-September 1982 relative to that in the correspondng period of 1981.[39] Information available to the Commission suggests that there is additional capacity for Swedish imports to be directed to the United States maket.[40]

Price comparisons for U.S. producers of staple machines and importers' prices do not reflect a consistent pattern of underselling. Such comparisons for the most recent peroids in 1982, however, reflect a sharp turn to a margin of underselling.[41] These margins, like the margin for staples, may be inflated because of the comparison of list prices to distributors as opposed to actual transaction prices.

Conclusion

On the basis of the best information available, we find that there is a reasonable indication that industries in the United States are materially injured [42] by reasons of imports of carton-closing staples and nonautomatic carton-closing staple machines from Sweden which allegedly are being sold at less than fair value.

Issued: January 31, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-3493 Filed 2-8-83; 8:45 am]

BILLING CODE 7020-02-M

[30] *Id.* at A-15.
[31] *Id.* at A-14-15.
[32] *Id.* at A-10-11.
[33] *Id.* at A-12-13.
[34] *Id.* at A-13.
[35] Cost of goods sold and export sales have had a significant effect on this profitability data. Staff Report, Table 8.
[36] *Id.* at A-14.
[37] See fotnote 21 *supra.*
[38] Staff Report at A-17.
[39] *Id.* at A-19.
[40] Conf. Tr. pp. 61, 67, 92 and 93.
[41] Staff Report at A-22.
[42] *See* Commissioner Stern's position, footnote 3, *supra.*

[Investigation No. 731-TA-123 (Preliminary)]

Antidumping Investigations; Certain Flat-Rolled Carbon Steel Products From Brazil

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of hot-rolled carbon steel products, whether known as sheets or plates, 0.1875 inch or more in thickness and over 8 inches in width, provided for in items 607.6610, 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated, which are alleged to be sold in the United States at less than fair value.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Zeck, Office of Investigations, U.S. International Trade Commission, 701 E St. NW., Washington, D.C. 20436, telephone 202-523-0339.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on January 31, 1983, on behalf of Bethlehem Steel Corp., Bethlehem, Pa., a domestic producer of the subject merchandise. The Commission must make its determination in the investigation within 45 days after the date of the filing of the petition, or by March 17, 1983 (19 CFR 207.17).

Participation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 F.R. 6189, Feb. 10, 1982), not later than seven (7) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in the investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR § 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting

forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before February 23, 1983, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15, as amended by 47 FR 6190, Feb. 10, 1982). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR § 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on February 17, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Ms. Judith Zeck (202–523–0339), not later than February 14, 1983, to arrange for their appearance. Parties in support of the imposition of antidumpting duties in the investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of this investigation and rules of general applications, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207, as amended by 44 FR 6182, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and Part 201, subparts A through E (19 CFR Part 201, as amended 47 FR 6182, Feb. 10, 1982, 47 FR 13791, Apr. 1, 1982, and 47 FR 33682, Aug. 4, 1982). Further information concerning the conduct of the conference will be provided by Ms. Zeck.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: February 3, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-3945 Filed 2-8-83; 8:45 am]

BILLING CODE 7020-02-M

Investigation No. TA-201-47]

Antidumping Investigation; Heavyweight Motorcycles, and Engines and Power Train Subassemblies Therefor

February 1, 1983.

Determination

On the basis of the information developed in the course of investigation No. TA-201-47, the Commission (Commissioner Stern dissenting) determined that motorcycles having engines with total piston displacement over 700 cubic centimeters provided for in item 692.50 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious inuury to the domestic industry producing articles like or directly competitive with the imported articles. The Commission also determined (Commissioner Haggart dissenting) that engines and power train subassemblies for such motorcycles (whether imported separately or in combination), and parts of such engines and subassemblies, all the foregoing provided for in TSUS item 660.56, 660.67, and 692.55, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Findings and Recommendations

The Commission finds and recommends (commissioner Stern dissenting)[1] that in order to prevent serious injury to the domestic industry, it is necessary to impose rates of duty, in addition to the existing rate, with respect to motorcycles having engines with total piston displacement over 700 cubic centimerers, provided for in TSUS item 692.50, for a 5-year period, as follows:[2]

1st year, 45% ad val.
2nd year, 35% ad val.
3rd year, 20% ad val.
4th year, 15% ad val.
5th year, 10% ad val.

The term "motorcycles having engines with total piston displacement over 700 cubic centimeters" is intended to include such motorcycles, whether assembled or not assembled, and whether finished or not finished, and thus would include, as unfinished motorcycles, wholly or partly assembled motorcycle frames with engines mounted thereon.

Background

The Commission instituted the present inestigation, No. TA-201-47, on September 16, 1982, following the receipt, on September 1, 1982, of a petition for import relief filed by Harley-Davidson Motor Co., Inc., and Harley-Davidson York, Inc., producers of heavyweight motorcycles and engines and power train subassemblies therefor. The investigation was instituted pursuant to section 201(b)(1) of the Trade Act of 1974 (19 U.S.C. 2251(b)(1)) in order to determine whether motorcycles having engines with total piston displacement over 700 cubic centimeters and engines and power train subassemblies therefor (whether imported separately or in combination), and parts of such engines and subassemblies, all the foregoing provided for in TSUS items 692.50, 660.56, 660.67, and 692.55, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Notice of the institution of the Commission's investigation and of a public hearing was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. and by publishing the notice in the **Federal**

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[1] Commissioner Stern recommends no import relief.

[2] There were no significant imports of heavyweight motorcycles from countries whose imports are presently subject to the rates of duty set forth in column 2 of the TSUS. The import relief recommended herein, therefore, is not addressed to imports from such countries. The recommended relief would involve the imposition of rates of duty on imports from countries whose imports are currently subject to rates of duty in column 1 which would be higher than the rates set forth in column 2. Should such recommended, or any other, rates of duty higher than the column 2 rates be proclaimed by the President, it would be necessary for him to conform column 2 by proclaiming rates therefor that are the same as those proclaimed for column 1 in order to avoid being in violation of our international obligations. (See art. I, General Agreement on Tariffs and Trade (*Basic Instruments and Selected Documents*, vol. IV, March 1969).

Register of September 22, 1982 (47 FR 41884).

A public hearing in this investigation was held in the Hearing Room of the U.S. International Trade Commission Building in Washington, D.C., on November 30, 1982. All interested parties were afforded an opportunity to be present, to present evidence, and to be heard.[3]

This report is being furnished to the President in accordance with section 201(d)(1) of the Trade Act. The information in the report was obtained from fieldwork and interviews by members of the Commission's staff and from other Federal agencies, responses to Commission questionnaires, information presented at the public hearing, briefs submitted by interested parties, the Commission's files, and other sources.

The Commission's public report, *Heavyweight Motorcycles, and Engines and Power Train Subassemblies Therefor* (investigation No. TA–201–47, USITC Publication 1342, 1983), contains the views of the Commissioners and information developed during the investigation. Copies may be obtained after February 9, 1983, by calling 202–523–5178, or from the Office of the Secretary, 701 E Street, NW., Washington, DC 20436.

Issued: February 1, 1983.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–3487 Filed 2–8–83; 8:45 am]

BILLING CODE 7020–02–M

[3] A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation were attached to the original report sent to the President. Copies are available for inspection at the U.S. International Trade Commission, except for material submitted in confidence

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[Investigation No. 731–TA–89 (Final)]

Antidumping Investigation; Prestressed Concrete Steel Wire Strand From the United Kingdom

Determination

On the basis of the record [1] developed in its antidumping investigation on prestressed concrete steel wire strand from the United Kingdom, the Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry in the United States materially retarded, by reason of imports of steel wire strand for prestressing concrete (PC strand), provided for in item 642.11 of the Tariff Schedules of the United States, which are being, or are likely to be, sold at less than fair value (LTFV).

Background

On October 6, 1982, the Department of Commerce made a preliminary determination that PC strand from the United Kingdom is being sold, or is likely to be sold, in the United States at LTFV, as provided in section 733 of the Tariff Act of 1930 (19 U.S.C. 1673).

Accordingly, effective October 15, 1982, the Commission instituted an investigation under section 735(b) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of PC strand from the United Kingdom.

Notice of the institution of the Commission's investigation and of a hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on October 27, 1982 (47 FR 47707). The hearing was held in Washington, D.C. on January 4, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

On the basis of the record in this investigation, we determine that an industry in the United States is not being materially injured or threatened with material injury, nor is the establishment of an industry in the United States being materially retarded [2] by reason of imports of steel wire strand for prestressing concrete (PC strand) from the United Kingdom, which are being sold at less than fair value.

Domestic Industry

Under Title VII of the Tariff Act of 1930 (the Act), our analysis of the information gathered in this investigation begins with a definition of the scope of the relevant domestic industry. Section 771(4)(A) of the act defines the domestic industry as consisting of "the domestic producers as a whole of the like product or those producers whose collective output of the like product constitute a major proportion of the total domestic production of that product."[3] "Like product" is defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation * * *"[4]

The imported article that is the subject of this investigation is PC strand from the United Kingdom, a product consisting of one center wire ane six helically placed outer wires that is used in prestressing concrete. This same product was involved in several other recent Commission investigations.[5] In those cases, we found that—

> The U.S. product that is like the imported product is all wire strand of steel for prestressing concrete. The domestic and imported product are made to the same ASTM specification and are devoted to the same end uses.

The Commission found that the domestic industry consisted of the U.S. producers of this like product.[6]

In this investigation, the parties have not suggested, nor does the information that has been developed, support a revision of this industry definition. We, therefore, find that it is appropriate to adopt the same definition of the domestic industry in this investigation.

No Material Injury By Reason of Dumped Imports From the U.K.

The record in this investigation reveals that with respect to many of the important economic factors the condition of the U.S. industry is healthy.[7] Domestic production increased steadily and significantly from 1979 through 1981, althouth the period January-September 1982 showed some decline in production when compared to the same period in 1981.[8][9] U.S.

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[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

[2] Since there is an established domestic industry, material retardation is not an issue in this investigation and will not be discussed further.

[3] 19 U.S.C. 1677(4)(A).

[4] 19 U.S.C. 1677(10).

[5] Prestressed Concrete Steel Wire Strand from Brazil, France, and the United Kingdom, Inv. Nos. 701–TA–152 and –153 (Preliminary) and 731–TA–89 (Preliminary), USITC Pub. 1240 (1982); Prestressed Concrete Steel Wire Strand from Spain, Inv. No. 701–TA–164 (Final), USITC Pub. 1281 (1982); Prestressed Concrete Steel Wire Strand from France, Inv. No. 701–TA–153 (Final), USITC Pub. 1325 (1982).

[6] Two domestic producers—Sumiden and CF&I—were neither petitioners nor interested parties in support of the petitioners in these investigations and in the instant investigation.

[7] Most of the statistical data developed by the Commission in this investigation constitute confidential business information. Therefore, they can be discussed only in general terms.

[8] Report, Table 5, p. A–12.

[9] This industry is characterized by increasing competition between integrated and nonintegrated domestic producers. Currently, production of PC strand is highly concentrated with the four largest producers accounting for the main portion of U.S.

producers' shipments of PC strand followed the same general trend as production.[10] Domestic productive capacity increased markedly from January-September 1981 to the same period in 1982.[11] [12] It is noteworthy that one domestic producer has recently increased its productive capacity significantly and another has stated that it will increase its productive capacity in the near future.[13] Capacity utilization has remained at relatively high levels throughout the entire period under investigation, falling only during the first nine months of 1982.[14] Almost all the recent decline in domestic capacity utilization is accounted for by increased productive capacity. Employment, as measured by the number of production and related workers and by hours worked, showed no significant changes during the period 1979 to September 1982, and hourly wages, total compensation, and worker productivity all increased.[15] The only significant negative trend in this industry is profitability. Although the industry's net sales increased from 1979 to 1981, net profits declined, with net losses occurring during the first nine months of 1982.[16] [17]

The foregoing economic data suggest that the only period of time in which the domestic industry could have suffered material injury is the first three quarters of 1982.[18]

Assuming arguendo that the injury during the first 9 months of 1982 meets the statutory standard of "material injury," our analysis of the effects of imports of PC strand from the United Kingdom demonstrates that any such injury is not by reason of the subject imports. In our analysis, we have considered, among other factors, both the absolute and relative levels of imports, price data, information regarding allegations of price suppression and depression, and lost sales.[19]

Imports from the United Kingdom increased irregularly, from 6.7 million pounds in 1979 to a peak of 9.8 million pounds in 1981. However, they declined from 6.8 million pounds in January–September 1981 to 5.3 million pounds in January–September 1982.[20] [21] As a share of increasing domestic consumption, imports from the U.K. reached their peak in 1981 and decreased significantly during 1982. Thus, during the only period in which there appears to be evidence of deterioration in the condition of the domestic industry, the quantity of PC strand imported from the United Kingdom has decreased significantly, both in absolute terms and as a percentage of increasing domestic consumption.[22] [23] [24]

Data gathered ont the prices of imports from the United Kingdom do not demonstrate any causal connection between such imports and the condition of the domestic industry. As the Commission has stated in earlier investigations, the most appropriate price comparisons for this industry are delivered prices of British and domestic PC stand to producers in those urban areas for which comparable data are available. All parties agree with this position.[25]

Table 22 of the Report shows delivered price comparisons for eight markets. For 1982, the data show four instances of overselling, four instances of insignificant underselling, and one instance of underselling. In the market for which the most comparisons are available, the imported PC strand did not undersell the domestic product during any quarter for which information is available. Recognizing the limitations of other pricing data presented in the Report (Tables 20 and 21), we note that these data generally show overselling.[26]

None of the pricing data developed in this investigation show a pattern of underselling by the imported product, nor do they reflect any aggressive pricing policy on the part of the importer. The declining market share held by U.K. imports in 1982, as compared to 1981, supports this conclusion.

Information gathered in response to the domestic industry's allegations of price suppression/depression and lost sales fails to support these allegations.[27] Of the four allegations of price suppression/depression during 1982, only one was confirmed by the staff. The Commission investigated three of the four alleged lost sales submitted during the final investigation. Each of these instances occurred in 1982. In only one of the three instances, was the sale lost due to price.[28] [29]

Based on the foregoing, we find that imports of PC strand from the United Kingdom are not a cause of material injury to the domestic industry.

Threat of Material Injury by Reason of the Subsidized Imports

With respect to threat of material injury, the Commission examines, among other factors, demonstrable

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producers' shipments in 1981. All four of these producers are nonintegrated producers. Two of the four nonintegrated producers commenced production in 1980 and have become major factors in the market since then. Since 1980, the share of domestic production held by the integrated producers has fallen substantially.

[10] Report, Table 7, p. A–14.

[11] The vigorous expansion of this industry contrasts markedly with the situation in the carbon steel industry.

[12] Report, Table 5, p. A–12.

[13] Prestressed Concrete Steel Wire Strand from France, Inv. No. 701–TA–153 (Final), USITC Pub. 1325, p. A–15 (1982).

[14] Report, Table 5, p. A–12.

[15] Report, Table 9, p. A–15.

[16] Report, Table 11, p. A–16.

[17] As noted in the legislative history to the Trade Agreements Act of 1979—

The significance of the various factors affecting an industry will depend upon the facts of each particular case. Neither the presence nor the absence of any factor listed in the [statute] can necessarily give decisive guidance with respect to an injury determination.

H.R. Rep. 96–317, 96th Cong., 1st sess., 46 (1979). In this investigation, the profitability data alone are not sufficient, when considered with all other factors in this case, to support a finding of material injury.

[18] The petitioners, referring to statements in the Commission's opinions in the prior investigations involving PC strand from France and Spain, have inferred that the Commission has determined that a six-month period of injury, standing alone, is insufficient to support a finding of material injury. Petitioners' Prehearing Brief, pp. 4–5; Transcript, pp 68–69. The Commission has not specified a minimum time period during which injury must exist in order to become "material" within the meaning of the statute. Duration of injury is only one of the factors that the Commission considers in determining material injury.

[19] In our earlier investigations on imports of PC strand from Spain and France, our analysis included an examination of the impact of the imports on the producers in certain markets where those imports were concentrated. Such an analysis is not helpful in this investigation because the imports from the United Kingdom compete in a larger number of markets. Report, Table 2, p.A–8.

[20] Report, Table 18, p. A–19.

[21] Consumption has increased steadily through the period of this investigation and is expected to grow in the near future. Report pp. A–7–8. Again, this contrasts markedly with the situation in the carbon steel industries which we have recently examined.

[22] We also note that at the same time that the market penetration of British PC strand has decreasd, imports from "other countries" have substantially inbcreased their share of domestic consumption. report, Table 18, p. A–19.

[23] Reports, Table A–19.

[24] We did not reach the issue of cumulation of the impact of imports from the United Kingdom with that of imports from other countries because we did not find the imports from the United Kingdom to be a contributing cause of material injury. *See* our discussion on pricing, price suppression/depression, and lost sales, *infra*. Although we did not cumulate imports from the U.K. with imports from other countries, we did consider these imports, to the extent that information was available, as factors in the market which may have contributed to the overall condition of the domestic industry.

[25] Petitioners' Prehearing Brief, p. 33; Transcript, *passim*.

[26] *See* discussion regarding the limitations of data in the Report, pp. A–21, A–23, and A–24.

[27] Report, pp. A–25–29.

[28] Report, pp. A–28–29.

[29] In response to Commission questionnaires, strand purchasers again noted factors other than price which influence their purchasing decision, including availability of service, delivery time, proximity of the vending firm, and quality of the product. Report, p. A–25

trends in the following areas: (1) Rate of increase in importation of the dumped merchandise in the United States market; (2) importer's inventories; (3) capacity in the exporting country to generate exports; and (4) the likelihood that such exports will be directed to the United States market, taking into account the availability of other export markets.[30]

Imports of PC strand from the United Kingdom are relatively small in terms of both apparent domestic consumption and imports.[31] Imports from the United Kingdom have decreased significantly during the period January–September 1982 when compared to the same period in the preceding year.[32] Inventories held by the importer of British PC strand have decreased significantly since 1979 and declined percipitously during 1982.[33] The absolute level of inventories is insignificant. British capacity utilization for PC strand has been increasing.[34] British consumption of PC strand is also increasing. There is no evidence on the record that the British producers plan to increase their exports to the United States, and there is no reason to believe that other export markets for U.K. strand will be restricted significantly. Therefore, we find that imports of PC strand from the United Kingdom pose no threat of material injury to the domestic industry.

Issued: January 2, 1983.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-3488 Filed 2-8-83, 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-136]

Certain Marine Hardware and Accessories; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 30, 1982, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Attwood Corporation, 1016 N. Monroe, Lowell, Michigan 49331. A supplement to the complaint was filed on January 25, 1983. The complaint as supplemented (hereinafter the complaint) alleges unfair methods of competition and unfair acts in the importation of certain marine hardware and accessories into the United States, or in their sale, by reason of alleged: (1) Direct infringement of claims 1, 2, 3, 5, 13, and 14 of U.S. Letters Patent 3,833,800; (2) infringement of the claim of U.S. Patent Des. 221, 105; and violation of section 43(a) of the Lanham Act because of (3) infringement of Attwood's common law trademarks; (4) intentional passing off; and/or (5) false advertising and representation. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after an expedited temporary relief hearing on the non-patent allegations, issue both a temporary exclusion order, prohibiting importation of said articles into the United States except under bond, and a temporary cease and desist order. After a full investigation, complainant requests that the Commission issue both a permanent exclusion order and a permanent cease and desist order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tarfiff Act of 1930 and in 210.12 of the Commission's Rules of Parctice and Procedure (19 CFR 210.12).

SUPPLEMENTARY INFORMATION: Having considered the complaint, the U.S. International Trade Commission (Commissioner Stern dissenting), on January 27, 1983, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain marine hardware and accessories into the United States, or in their sale, by reason of alleged: (1) Direct infringement of claims 1, 2, 3, 5, 13, and 14 of U.S. Letters Patent 3,833,800; (2) infringement of the claim of U.S. Patent Des. 221,105; and violation of section 43(a) of the Lanham Act because of (3) infringement of certain of Attwood's common law trademarks; (4) intentional passing off; and/or (5) false advertising and representation, the effect or tendency of which is to destory or substantially injure an industry, efficiently and economically operated, in the United States;

(2) An investigation be made as to whether there is reason to believe that there is a violation of subsection (a) of Section 337 with regard to the non-patent allegations of (1) above;

(3) For purposes of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Attwood Corporation, 1016 N. Monroe, Lowell, Michigan 49331.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

L. S. Brown Co., 228 Margaret St., S.E., Atlanta, Georgia 30315;

Neil Trading Co., Ltd., 6 Alley 3, Lane 19, Tai Ping Rd., Tai Chung, Taiwan; or

Taiwan Magnetics Co., Ltd., 3d Floor, Sec. No. 3 Palace Bldg., 346 Nanking East Rd., Taipei, Taiwan.

(c) Oreste Russ Pirfo, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 122, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(4) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer. Pursuant to § 210.30(c) of the Commission's Rules of Practice and Procedure (19 CFR 210.30(c)), discovery should be allowed in connection with the temporary relief phase of the investigation only to the extent necessary to weigh the standards that are applicable in determining whether temporary relief should be granted.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR § 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the

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[30] Section 207.26 of the Commission's rules (19 CFR 207.26); H.R. Rep. 96th 317, 96th Cong., 1st sess., 46 (1979); Stainless Steel Sheet and Strip from West Germany, Inv. No. 731-TA-82 (Preliminary), USITC Pub. 1252 p. 14-15 (1982).

[31] Report Tables 18 and 19, pp. A-19 and A-20.

[32] Report, Table 19, p. A-20.

[33] Report, p. A-18.

[34] Report, pp. A-10-11.

complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Oreste Russ Pirfo, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–4693.

By order of the Commission.

Issued: February 2, 1983.

Kenneth R. Mason,

Secretary

[FR Doc. 83–3486 Filed 2–8–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TAS–124]

Certain Textile Spinning Frames and Automatic Doffers Therefore; Termination of Investigation as to Two Respondents Base on a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Termination of two respondents in the above-captioned investigation based on a settlement agreement.

SUMMARY: A joint motion has been filed to terminate the above-captioned investigation with respect to respondents Toyoda Automatic Loom Works, Ltd., and Toyoda Textile Machinery, Inc., (Toyoda respondents), pursuant to section 210.51(c) of the Commission's Rules of Practice and Procedure on the basis of a settlement agreement executed by complaint Platt Saco Lowell Corp. and the aforementioned respondents. On January 28, 1983, the Commission granted the motion.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain textile spinning frames and automatic doffers therefor. Notice of the institution of the investigation was published in the **Federal Register** of August 4, 1982 (47 FR 33816).

On December 8, 1982, the Commission issued a notice of proposed termination based on the settlement agreement and requested public comment thereon. No comments were received. On January 28, 1983, the Commission granted the motion and terminated inv. No. 337–TA–113 as to the Toyoda respondents on the basis of the settlement agreement.

FOR FURTHER INFORMATION CONTACT: Sheila J. Landers, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0359.

Copies of the Commission's Action and Order, the settlement agreement, and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Issued: February 1, 1983.

Kenneth R. Mason.

Secretary.

[FR Doc. 83–3489 Filed 2–8–83; 8:45 am]

BILLING CODE 7020–02–M

Cessation of Publication in the "Federal Register" of the Text of Certain Opinions and Advice

Notice is hereby given that the Commission, in view of rising **Federal Register** printing costs and in order to make its publication policy under its various statutory authorities more consistent, is ceasing publishing the full texts of Commissioner statements, opinions, advice, and the like issued as a result of investigations conducted under the countervailing duty and antidumping provisions of title VII of the Tariff Act of 1930 (19 U.S.C. 1671), sections 201, 203, and 406, of the Trade Act of 1974 (19 U.S.C. 2253), and section 22 of the Agricultural Adjustment Act (7 U.S.C. 624). This change is effective with publication of this notice.

The Commission will continue to publish in the **Federal Register** notice of its determinations or summaries of its advice, as the case may be, under these authorities. The Commission will continue its present practice of making available to parties and interested members of the public the full texts of its opinions, statements, or advice, as the case may be, as part of its reports in these and other investigations. These reports are made available soon after the time the notices are published in the **Federal Register.**

By order of the Commission.

Issued: February 4, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–3492 Filed 2–8–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–67 (Final)]

Hot-Rolled Carbon Steel Plate From Brazil

AGENCY: International Trade Commission.

ACTION: Scheduling of the date for written submissions in connection with the subject investigation.

SUMMARY: On January 20, 1983, the U.S. Department of Commerce published notice of its final determination that subsidies are being provided in Brazil to manufacturers, producers, or exporters of hot-rolled carbon steel plate (48 FR 2568). Accordingly, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), the United States International Trade Commission must determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. The Commission must make its determination by March 7, 1983 (19 CFR 207.25), and will accept written submissions in connection with the investigation until the close of business on February 14, 1983.

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger (202–523–0312), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION: A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform

with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list maintained by the Secretary to the Commission), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

For further information concerning the conduct of the investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

By order of the Commission.

Issued: February 2, 1983

Kenneth R. Mason,

Secretary.

[FR Doc. 83-3490 Filed 2-8-83; 8:45 am]

BILLING CODE 7020-02-M

[332-131]

Notice of Hearing on and Release for Public Comment of Chapters of the Tariff Schedules of the United States Converted Into the Nomenclature Structure of the Harmonized System

AGENCY: International Trade Commission.

ACTION: Setting of public hearing and release for comment from interested parties, pursuant to Commission investigation No. 332-131, under the authority of section 332(g) of the Tariff Act of 1930, as amended, and initiated upon the request of the President of the United States, of the following chapters of the Tariff Schedules of the United States (TSUS) converted into the nomenclature structure of the Harmonized Commodity Description and Coding System (Harmonized System):

Volume 18

Chapter 9: Coffee, tea, maté and spices
Chapter 10: Cereals
Chapter 11: Products of the milling industry; malt and starches; gluten; inulin
Chapter 12: Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial and medical plants; straw and fodder
Chapter 13: Lacs; gums, resins and other vegetable saps and extracts
Chapter 14: Vegetable plaiting materials; vegetable products not elsewhere specified or included
Chapter 15: Animal and vegetable fats and oils and their cleavage products; prepared edible fats; animal and vegetable waxes

Volume 19

Chapter 17: Sugars and sugar confectionery
Chapter 18: Cocoa and cocoa preparations
Chapter 19: Preparations of cereals, flours or starch; pastry cooks products
Chapter 20: Preparations of vegetables, fruit, nuts or other parts of plants
Chapter 21: Miscellaneous edible preparations

Volume 20

Chapter 30: Pharmaceutical products
Chapter 31: Fertilizers
Chapter 32: Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other coloring matter; paints and varnishes; putty and other mastics; inks
Chapter 33: Essential oils and resinoids; perfumery, cosmetics, and toilet preparations
Chapter 34: Soap, organic surface-active agents, washing preparations, lubricating preparations, prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes and "dental waxes"
Chapter 35: Albuminoidal substances; glues; enzymes

Volume 21

Chapter 38: Miscellaneous chemical products
Chapter 39: Plastics and articles thereof
Chapter 40: Rubber and articles thereof

Volume 22

Chapter 41: Raw hides and skins (other than furskins) and leather
Chapter 42: Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk-worm gut)
Chapter 43: Furskins and artifical fur; manufactures thereof

Volume 23

Chapter 56: Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof
Chapter 57: Carpets and other textile floor coverings
Chapter 58: Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery
Chapter 59: Impregnated, coated, covered or laminated textile fabrics; elastic textile fabrics; textile articles of a kind suitable for industrial use
Chapter 60: Knitted or crocheted fabrics

Volume 24

Chapter 64: Footwear, gaiters and the like; parts of such articles
Chapter 65: Headgear and parts thereof
Chapter 66: Umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof
Chapter 67: Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair

Volume 25

Chapter 72: Iron and steel
Chapter 73: Articles of iron and steel

Volume 26

Chapter 82: Tools, implements, cutlery, spoons and forks, of base metal; parts thereof
Chapter 83: Miscellaneous articles of base metal

Volume 27

Chapter 93: Arms and ammunition; parts thereof
Chapter 94: Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like; prefabricated buildings
Chapter 95: Toys, games and sports equipment; parts thereof
Chapter 96: Miscellaneous manufactured articles
Chapter 97: Works of art, collectors' pieces, and antiques

Volume 28

Chapter 98: Special classifications provisions
Chapter 99: Temporary provisions amending the tariff schedule

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SUMMARY: The United States International Trade Commission (hereinafter "the Commission") has completed a draft of the above chapters of the TSUS converted into the nomenclature structure of the Harmonized System, with proposed rates of duty. This notice announces the scheduling of a public hearing on these converted chapters and requests public comment on the draft conversion, including the proposed rates of duty.

Written Submissions: Persons wishing to submit written comments with respect to one or more of the chapters should do so at the earliest possible date, but no later than the close of business (5:15 p.m.) April 22, 1983. The signed original and 19 copies of all written comments must be filed with the Secretary of the Commission at his office in Washington, D.C. and should conform with § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Any person desiring confidential treatment as to commercial or financial information must submit that information on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules (19 CFR 201.6). All nonconfidential written

submissions will be made available to interested persons.

Hearing: Public hearings on the draft converted chapters will begin on March 30, 1983, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street, N.W., Washington, D.C. at 10 a.m. Requests for appearances at the hearing, including the name and address of any witness who will testify and the industry or organization, if any, which the witness represents, should be filed in writing with the Secretary of the Commission no later than the close of business on March 21, 1983. Requests should indicate the chapter or heading upon which the witness will express views and a brief indication of any position to be taken. Parties with a common interest in a chapter are encouraged to consolidate their oral presentations. The original and 14 copies of prepared testimony must be filed with the Secretary of the Commission at his office in Washington, D.C. not later than the close of business (5:15 p.m.) March 23, 1982. For further information on hearing procedures and rules of general application consult the Commission's Rules, Part 201 (19 CFR Part 201).

Copies of Documents: Copies of the chapters which are the subject of this notice are available for public inspection at the office of the Secretary 701 E Street, NW., Washington, DC 20436. The Secretary will also send copies of chapters to interested parties upon request; telephone (202) 523–5178.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene A. Rosengarden, Director, or Mr. Holm Kappler, Deputy Director, Office of Tariff Affairs, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436; telephone (202) 523–0370 or 0362.

SUPPLEMENTARY INFORMATION: In its public notices of February 8, 1980 (45 FR 9828 of February 13, 1980) March 21, 1980 (45 FR 19696 of March 26, 1980), August 15, 1980 (45 FR 55549 of August 20, 1980), June 24, 1981 (46 FR 34439 of July 1, 1981) and July 17, 1981 (46 FR 37824 of July 22, 1981) the Commission identified the 96 chapters of the Harmonized System for which texts had been provisionally adopted by the Harmonized System and the Nomenclature committees of the Customs Cooperation Council. Views and comments of interested parties with respect to the 96 chapters were sought, and the structure and technical development of the Harmonized System were described.

In response to a request dated August 24, 1981, by the President of the United States, the Commission instituted an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) in order to prepare a basic draft converting the Tariff Schedules of the United States into the nomenclature structure of the Harmonized System. The President directed that the Commission's report, including the converted U.S. tariff schedule, be submitted no later than June 30, 1983. Guidelines for the conversion set by the President were set forth in the Commission's notice of the institution of investigation of September 16, 1981 (46 FR 47897 of September 30, 1981). The Commission published the first set of converted chapters for hearing and public comment on January 29, 1982 (47 FR 5369 of February 4, 1982). Hearings were held on those chapters on March 29, and 30, 1982. The second set of converted chapters was published for hearing and public comment on August 16, 1982 (47 FR 37317 of August 25, 1982). A hearing was held on those chapters on November 1, 1982.

This final set of chapters includes changes in two important areas. First, the "Rates of Duty 1" column has been divided into columns containing rates of duty 1 "General" and rates of duty 1 "Preferential." The "General" column contains the most-favored-nation rates now set forth in column 1 of the existing TSUS, while the "Preferential" column sets forth the preferential rates of duty provided for certain articles and countries under several trade agreement programs. An explanation of the rates of duty columns is provided in general legal note 3.

Second, revised texts of the general legal notes and general interpretive rules are included in each of the above-listed volumes. It should be noted that portions of general interpretive rule 6 regarding containers are published in square brackets; the wording of these provisions has not yet been finally determined by the Harmonized System and Nomenclature committees. Comments concerning the legal notes and rules are particularly sought, including specific views and general interpretive rule 6.

In preparing the converted U.S. tariff schedules, the Commission is seeking and taking into consideration the views of any interested person, of any trade or industry organization and of interested government agencies. Submissions should be directed at evaluating the draft conversion in light of the President's guidelines, in particular whether the conversion—

(a) Avoids, to the extent practical and consonant with sound nomenclature principles, changes in rates of duty on individual products;

(b) Simplifies the U.S. tariff structure to the extent possible without rate changes significant for U.S. industry, workers, or trade; and

(c) Alleviates administrative burdens on the Customs Service.

The Commission is utilizing the post-MTN rates of duty on individual products when analyzing impacts of any proposed changes.

Submissions should also address the probable effect of U.S. adoption of the converted tariff schedules on U.S. industries, workers, and trade. Submissions aimed primarily at seeking increases or reductions in existing tariff rates are not relevant and will not be entertained by the Commission.

By order of the Commission.

Issued: February 2, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–3494. Filed 2–8–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–182 (Final)]

Rail Passenger Cars and Parts Thereof From Canada

AGENCY: International Trade Commission.

ACTION: Change of time of public hearing.

SUMMARY: Notice is hereby given that the public hearing to be held in connection with United States International Trade Commission investigation No. 701–TA–182 (Final), Rail Passenger Cars and Parts Thereof from Canada, will begin at 12:00 noon, Tuesday, February 15, 1983, in the Commission's hearing room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. A hearing time of 10:00 a.m. had previously been announced in the Commission's notice of institution of investigation as published in the **Federal Register** of December 15, 1982 (47 FR 56216).

By order of the Commission.

Issued: February 3, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–3491 Filed 2–8–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 113444, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Agatha L. Mergenovich,

Secretary.

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–MC–F–054

Dated: January 28, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–F–15069, filed January 6, 1983. MBTL, INC. (MBTL) (8020 Enterprise St., Burnaby, BC, CD, V5A 1V7)—purchase (portion)—MITCHELL BROS. TRUCK LINES (debtor-in-possession) (MITCHELL) (P.O. Box 413, Clackamas, OR 97015). Representatives: David C. White, 2400 SW Fourth Ave., Portland, OR 97201; and John H. Durkheimer, 1111 Orbanco Bldg., 1001 SW Fifth Ave., Portland, OR 97204. MBTL seeks authority to purchase a portion of the interstate operating rights and property of Mitchell. V. W. Kross, the sole stockholder of MBTL, seeks authority to acquire control of said rights to the transaction. MBTL is seeking to acquire that portion of Mitchell's operating rights in Certificate No. MC–32882 (Sub-No. 156)X, issued April 28, 1981, which authorizes the transportation of *general commodities* (except classes A and B explosives), between ports of entry on the international boundary line in WA, on the one hand, and, on the other, points in CA, ID, MT, NV, OR, UT, and WA, restricted against tacking, joining, or combining with any authority presently held by the carrier. MBTL holds no authority from the Commission. V. W. Kross, a non-carrier, controls through ownership of stock, Pacific Freightways, Ltd. (MC–126461), and Hi-Ball Trucking & Warehousing, Ltd. (MC–148567).

Notes.—(1) An application for temporary authority has been filed. (2) The authority to be transferred in No. MC–32882 (Sub-No. 156)X supersedes authority held by Mitchell in No. MC–23882 (Sub-No. 50), issued October 29, 1974. At the parties request, cancellation of that portion of Mitchell's (Sub-No. 50) certificate which authorizes service "Between ports of entry in WA, on the one hand, and, on the other, points in CA, ID, MT, NV, OR, UT, and WA", has been ordered. (3) The remaining authority of Mitchell is sought to be purchased by Getter Trucking, Inc. in No. MC–F–15068.

MC–F–15068, filed January 6, 1983. GETTER TRUCKING, INC. (GETTER) (P.O. Box 1635, Billings, MT 59103)—purchase (portion)—MITCHELL BROS. TRUCK LINES (debtor-in possession) (Mitchell) (P.O. Box 413, Clackamas, OR 97015), (V. W. KROSS, Assignor). Representatives: John R. Davidson, Suite 805 First Bank Bldg., Billings, MT 59101; David C. White, 2400 S.W. Fourth Ave., Portland, OR 97201; and John H. Durkheimer, 1111 Orbanco Bldg., 1001 S.W. Fifth Ave., Portland, OR 97204. Getter seeks authority to purchase a portion of the interstate operating rights and property of Mitchell. Thomas I. Getter, Bruce E. Getter, and William R. Getter, the majority stockholders of Getter, seek authority to acquire control of said rights through the transaction. Getter is seeking to acquire that portion of Mitchell's operating rights contained in certificates No. MC–32882 and various sub-numbers thereunder, and letter notices E–1 through E–7 authorizing the transportation of general and specified commodities between points in AZ, CA, HI, ID, MT, NV, OR, UT, and WA. Getter is authorized to operate as a motor common carrier in No. MC–114761 and sub-numbers thereunder.

Notes.—(1) An application for temporary authority has been filed. (2) A portion of Mitchell's Sub-No. 156X authority is sought to be purchased by MBTL, Inc. in No. MC–F–15069. The parties have requested that Mitchell's authority in Certificate No. MC–32882 (Sub-No. 50), which has been superseded by Certificate No. MC–32822 (Sub-No. 156)X, be canceled. Accordingly, we will cancel the certificate in No. MC–32882 (Sub-No. 50), except that portion which authorizes the transportation of general commodities, with certain exceptions and restrictions, between ports of entry in WA, on the one hand, and, on the other, points in CA, ID, MT, NV, OR, UT, and WA, which portion has been canceled in No. MC–F–10569, at applicant's request.

Volume No. OP2–057

Dated: February 3, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–F–14974, filed December 31, 1982. OZARK TRANSPORTATION, INC. (OZARK) (P.O. Box 203, Greenville, MO 63944)—purchase (portion)—INTER-FREIGHT TRANSPORTATION, INC. (INTER-FREIGHT) (One West Monroe Street, Third Floor, Chicago, IL 60603) (THOMAS E. RALEIGH, trustee-in-bankruptcy). Representatives: Joseph Winter, 29 S. LaSalle St., Chicago, IL 60603, and Thomas W. Drexler, 105 W. Madison St., Chicago, IL 60603. Ozark seeks authority to purchase a portion of the interstate operating rights of Inter-Freight. David Libla and Douglas Libla seek authority to acquire control of said rights through the transaction. The operating rights which Ozark seeks to purchase are set forth in that portion of Permit No. MC–146643 (Sub-No. 64), authorizing the transportation of general commodities (with exceptions), between points in the United States under continuing contract(s) with Motorola, Inc., of Schamburg, IL, that portion of Permit No. MC–148314 (Sub-No. 9)X which supersedes Sub-Nos. 14, 32 and 46 [the restriction removal authority in Sub-No. 9X supersedes Permit No. MC–146643 (Sub-Nos. 3, 10, 14, 16, 22, 24, 30, 32, 33, 35, 39, 40, 41, 43, 44, 45, 46, 48, 49 and 50] authorizing the transportation as a contract carrier of (a) such commodities as are dealt in by wholesale and retail hardware stores between points in the United States, under continuing contract(s) with Cotter and Company, of Chicago, IL, (b) chemicals and related products, and rubber and plastic products, between points in the United States under continuing contract(s) with Economics Laboratory, Inc., of St. Paul, MN; and (c) chemicals and related products, between points in the United States under continuing contract(s) with Purex Corporation of St. Louis, MO, and the authority in Permit No. MC–146643 (Sub-Nos. 14, 32, and 46) which has been superseded. Ozark holds motor common carrier authority under Docket No. MC–144844 and various sub-numbers thereunder. Condition: Final approval and authorization of the transaction will be withheld pending receipt by the Commission of an affidavit signed by David Libla, stating that he is a person in control of the transferee through 51% stock ownership and that he joins in the application. Pursuant to the Commission's decision in *Stewart Trucking Company, Inc.—Transferee and Stewart Trucking Company, Inc. Transferor,* ——— M.C.C. ——— (November 29, 1982), the parties have requested that No. MC–146643 (Sub-Nos. 14, 32, and 46) which were superseded by No. MC–148314 (Sub-No. 9)X, be transferred in conjunction with the pertinent portion of the Sub-No. 9X authority.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–F–058

Dated: January 27, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–F–15074, filed January 10, 1983. NELSON TRUCKING OF BOYCEVILLE, INC. (NELSON) (P.O. Box 96, Boyceville, WI 54725)—purchase (portion)—ECKLEY TRUCKING, INC. (ECKLEY) (P.O. Box 156, Mead, NE 68041). Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103, and Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703–1490. Nelson seeks authority to purchase a portion of the interstate operating rights of Eckley. Arthur J. Nelson, Sr., and Arthur J. Nelson, Jr., seek authority to acquire control of said rights through the transaction. Nelson is purchasing that portion of Eckley's certificate No. MC–5227 (Sub-No. 15) paragraphs (1) and (2), authorizing the transportation over irregular routes of (1)(a) *metal and fiberglass containers, industrial blenders and dump station machines, frankfurter processing machines, sand blasters, truck hoists, tractor stilts, stock tank heaters, farm fertilizer applicators, and nurse tank wagons* (except commodities in bulk, in tank vehicles), and (b) *parts* of the commodities named in (a) above, from the plant site and storage facilities of Tote Systems, Division of Hoover Ball and Bearing Co., located at or near Lenox, IA and Beatrice, NE to points in the United States (except points in Hawaii); and (2) *equipment, materials and supplies* used in the manufacture of the commodities named in (1)(a) above (except commodities in bulk and those which, by reason of size or weight, require special handling or special equipment), from points in IL, IN, IA, KS, KY, MN, MO, OH, OK, PA, TX, and WI, to the plant site and storage facilities of Tote Systems, Division of Hoover Ball and Bearing Co., located at or near Lenox, IA, and Beatrice, NE. Nelson is authorized to operate as a motor common carrier in MC–147678 and sub-numbers thereunder.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–MCF–42

Dated: January 31, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–F–15954, filed December 30, 1982. FRONTIER ENTERPRISES, INC. d.b.a. FRONTIER TRAVEL & TOURS (FRONTIER) (1923 North Carson Street, Carson City, NV 89701)—Control—GOLDEN STATE COACHES, INC. (GOLDEN) (920 American Way, Paradise, CA 95969), VACA VALLEY BUS LINES, INC. (VACA) (206 Peabody Road (Box 818), Fairfield, CA 94533), and QUALITY COACH LINES, INC. (Quality) (1923 North Carson Street, Carson City, NV 89701). Representative: Mike Pavlakis, P.O. Box 646, 402 N. Division Street, Carson City, NV. Frontier seeks authority to acquire control of Golden, Vaca, and Quality. David V. Lippincott, Clyde R. Lippincott, and Vance D. Lippincott, persons in control of Frontier, seek to acquire control of Golden, Quality, and Vaca through the transaction. Control is the result of the common interests of the parties as evidenced by their business and management relationships. Frontier operates as a broker of passenger transportation pursuant to its license in No. MC–130151 (Sub-No. 1). Golden is a motor common carrier of passengers, in charter and special operations, pursuant to authority in No. MC–143178 and subs thereunder. Golden is 52 percent owned by Frontier, and its officers and directors are David, Clyde, and Vance Lippincott. Vaca is a motor common carrier of passengers, in charter and special operations, holding authority in No. MC–99581 and subs thereunder. Control of Vaca by Frontier is evidenced by business and management relationships. Although Quality is not presently a motor common carrier, it has pending an application to transport passengers, in charter operations, in proceeding No. MC–153412. Quality is 100 percent owned by Frontier, and its officers and directors are David, Clyde, and Vance Lippincott. Consequently, we shall treat this portion of the application as one for approval of the continuance in control of Quality upon its institution of operations as a common carrier. The certificates of Golden and Vaca, and that sought by Quality, collectively authorize operations beginning and ending at points in California and Nevada and extending to points in the United States (except Hawaii), subject to certain restrictions.

Note.—(1) This application is ddirectly related to the application proceeding of Vaca in No. MC–99581 (Sub-No. 5).

[FR Doc. 83–3300 Filed 2–8–83; 8:45 am]

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Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

For status, please direct calls to Team 3 at 202–275–5223.

Volume No. OP3–MC–FC–49

Decided: February 1, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC 81104. By decision of February 1, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to STX, INC., d.b.a. SPOTSWOOD TRAIL EXPRESS, Chester Springs, PA, of the entire authority in Certificate No. MC 162376, issued August 23, 1982, to SPOT, INC., d.b.a. SPOTSWOOD TRAIL EXPRESS, Hudson, NC, authorizing the transportation of furniture and fixtures, between points in NC. Representative for transferee and transferor: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168.

For status, please direct calls to Team 4 at 202–275–7669.

Volume No. OP4–FC–066

Decided: February 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC–FC 81181. By decision of February 3, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to A & M MOVING AND STORAGE CO., INC., Hopkinsville, KY, of MC–162957, (Sub-No. 3) issued to KENTUCKY MOVING AND STORAGE COMPANY, INCORPORATED, Hopkinsville, KY, authorizing the transportation of household goods, between points in that part of KY on and west of U.S. Hwy 31W, not including Louisville, KY on the one hand, and, on the other, Evansville, IN, Copperhill, TN, and points in that part of TN west of U.S. Hwy 27. Transferee is not a carrier. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101 for applicants.

[FR Doc. 83–3386 Filed 2–8–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Supart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: comon carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the tranportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the

application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirement which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in oposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce overy regular routes as a motor common carrier of passengers are duly noted. Please direct status inquiries to Team 3 at (202) 275–5223.

Volume No. OP3–49

Decided: February 1, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 123065 (Sub-15), filed December 14, 1982. Applicant: STX INC., d.b.a. SPOTSWOOD TRAIL EXPRESS, Redbone Rd., Chester Springs, PA 19425. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting *furniture and fixtures*, between points in NC, on the one hand, and on the other, points in CT, DE, MA, MD, MI, NJ, NY, OH, PA, RI, and D.C.

Note.—This gateway elimination application is directly related to MC–FC 81104, published in this same volume.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–062

Decided: February 2, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 4966 (Sub-29), filed January 21, 1983. Applicant: JONES TRANSFER COMPANY, P.O. Box 717, Monroe, MI 48161. Representative: Thomas M. Hummer (same address as applicant), (313) 241–4120, Ext. 2107. Transporting *general commodities* (except classes A and B explosives, and household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ford Motor Company, of Dearborn, MI.

MC 141396 (Sub-13), filed January 24, 1983. Applicant: DELP, INC., 1000 Schmieding Lane, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, (501) 521–8121. Transporting *general commodities* (except classes A and B explosives, and household goods between points in the U.S. (except AK and HI), under continuing contract(s) with H. C. Schmiedling Produce, Inc., of Springdale, AR.

MC 159027 (Sub-5), filed January 24, 1983. Applicant: EXPRESSWAY, INC., P.O. Box 697, Greer, SC 29651. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, (803) 288–6000. Transporting *general commodities* (except classes A and B explosives, and household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Charlotte Freight Association, Incorporated, of Charlotte, NC, and Greater Atlanta Shippers Association, Inc., of Atlanta, GA.

MC 160767 (Sub-7), filed January 25, 1983. Applicant: LADD TRANSPORTATION, INC., No. 1, Plaza Center, Box HP 3, High Point, NC 27261. Representative: Beverly C. Davis (same address as applicant), (919) 889–0333. Transporting *general commodities* (except classes A and B explosives, and household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Northern Petrochemical Company, of Omaha, NE; West Coast Shippers Association, of Philadelphia, PA; JFG Coffee Company, of Knoxville, TN; Ball Corp., of Muncie, IN; and Consumer Products div. of Borden, Inc., of Columbus, OH.

MC 161686, filed January 24, 1983. Applicant: LEWIS B. FISHER, d.b.a. FISHER TRUCKING AND CARTAGE, 1343 Buford Rd., Richmond, VA 23235. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282–3909. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Ralston Purina Co., of St. Louis, MO.

MC 161847, filed January 24, 1983. Applicant: MEL PEARL, 380 Sutherland Lane, Reno, NV 89511. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Pittsburgh-DesMoines Steel Co., of Sparks, NV.

MC 164426, filed January 25, 1983. Applicant: ALBERT MOVING & STORAGE, 406 4th St., Wichita Falls, TX 76307–1919. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036–5391, (202) 887–5868. Transporting *household goods* and *furniture and fixtures*, between points in the U.S. (except VT).

MC 165896, filed January 25, 1983. Applicant: JAMES W. KING, 422 W. College St., Kenton, TN 38233. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *rubber and plastic products*, between points in TN, AR, IL, MS and MO, on the one hand, and, on the other, points in IN, KS, MO, OH, NE, and PA.

Volume No. OP4–064

Decided: February 2, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

FF 657, filed January 25, 1983. Applicant: ASC FORWARDING, INC., 3233 Pacific Heights Rd., Honolulu, HI 96813. Representative: Portia N. Asato, (same address as applicant), (808) 532–7186. As a freight forwarder in connection with the transportation of *household goods, baggage and automobiles*, between points in the U.S.

MC 155377 (Sub-4), filed January 26, 1983. Applicant: PGT TRUCKING, INC., P.O. Box 197, Rt. 68, Industry, PA 15052. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW Washington, DC 20004, (202) 628–4600. Transporting *lumber and wood products*, between points in the U.S. (except AK and HI), on the one hand, and, on the other, ports of entry on the International Boundary Line between the U.S. and Canada, at points in ME, MI, NH, NY and VT.

MC 158307 (Sub-3), filed January 27, 1983. Applicant: WAYNE BROWN TRANSPORT, INC, 1109 Barlow St., Lafayette, IN 47903. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *food and related products*, between points in Sheboygan County, WI, on the one hand, and, on the other, points in NC, SC, GA, FL, TX, MS, LA, TN, AL, AR, IL, IN, KY, MO, WV and OH.

MC 165956, filed January 28, 1983. Applicant: R & T, INC., Old Delsea Dr., Malaga, NJ 08328. Representative:

Walter James Defrates (same address as applicant), (609) 694–2000. Transporting *general commodities* (except class A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Aircraft Part Corporation, of Farmingdale, NY, Bohem Skylights, Inc., of Burlington, NJ, Continental Polymers, Inc., of Compton, CA, Kar Products, Inc., of Des Plaines, IL, A. Matteo, Inc., of Thorofare, NJ, Merit Machine Co:, Inc., of Pittsburgh, PA, Polish American Machinery Corporation, of Elk Grove Village, IL, and Statewide Hi-Way Safety, Inc., of Hammonton, NJ.

Agatha L. Mergenovich,

Secretary

[FR Doc. 83–3387 Filed 2–8–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP2–058]

Motor Carriers; Permanent Authority Decisions; Decision-Notice; 90-Day Intrastate Motor Common Carriers of Passengers

Decided: February 3, 1983.

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922(c)(2)(E)

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Parker, Chandler, and Fortier (Member Fortier not participating).

Agatha L. Mergenovich,

Secretary.

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 2, (202) 275–7030.

MC 135552 (Sub-6), filed January 17, 1983. Applicant: SCENIC TRAILS, INC., 700 North Third St., LaCrosse, WI 54601. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, 612–927–8855. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on all regular routes in their entirety in No. MC–135552 and (Sub-Nos. 1, 4, and 5) which traverse WI, IA, IL, and MN.

[FR Doc. 83–3386 Filed 2–8–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

For status, please call Team 3 at 202–275–5223.

Volume No. OP3–40

Decided: January 31, 1983.

(Member Ewing not participating.)

MC 148624 (Sub-5)X, filed December 27, 1982. Applicant: BOB'S TRANSPORT & STORAGE CO., INC., 7081 Oakland Mills, Columbia, MD 21046. Representative: Michael R. Werner, Esq., 241 Cedar Lane, Teaneck, NJ 07666. Sub-No. 4: remove those requiring special equipment to authorize "General Commodities" (except classes A and B explosives, household goods and commodities in bulk).

For status, please call Team 4 at 202–275–7669.

Volume No. OP4–059

Decided: February 1, 1983.

MC 153126 (Sub-1)X, filed January 10, 1983. Applicant: D & D TRUCKING, INC., Box 302, Hwy. 100, Linden, TN 37096. Representative: Roland M. Lowell, 501 Union St., Nashville, TN 37219, (615) 255–0540. Applicant seeks to remove restrictions from MC–140123 Sub 2, 5 and 6 certificates obtained in MC–FC–78902: (1) broaden (a) in Subs 2 and 5 ties, timbers, poles, piles, crossarms, etc, to "forest products, lumber and wood products," and (b) in Sub 6 steel tubing, steel coils and steel bars to "metal, metal products and those commodities which because of their size and weight require the use of special handling or equipment," (2) broaden to allow two-way operation, (3) remove restrictions against service at Nashville and Memphis, TN, and (4) broaden facility at Linden, TN to Perry County, TN.

Volume No. OP5–36

Decided: January 28, 1983.

For status, please call Team 5 at 202–275–7289.

MC 2229 (Sub-280)X, filed January 10, 1983. Applicant: SPECTOR RED BALL, INC., 3177 Irving Blvd., P.O. Box 47407, Dallas, TX 75247. Representative: J. Raymond Chesney (same address as applicant), (214) 631–4220. Sub No. 205 Certificate: (1) broaden general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) to "general commodities (except classes A and B explosives, household goods, and commodities in bulk)"; (2) broaden off-route points within 25 miles of regular routes in CA to off-route points of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kern, Kings, Lake, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Trinity, Tulare, Tuolumne, Ventura, Yolo, and Yuba Counties, CA; and (3) remove restrictions against local service between points in Los Angeles Commercial Zone and between San Francisco Commercial Zone and described area.

MC 13028 (Sub-22)X, filed December 22, 1982. Applicant: BONANZA BUS LINES, INC., 27 Sabine St., P.O. Box 1116, Annex Station, Providence, RI 02901. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 737–1030. Applicant seeks (a) in its lead and subs 5, 6, 7, 16, and 17, to remove intermediate point restrictions from the following regular-route authority between: Junction RI Hwys. 114 and 136 south of Bristol, RI, and junction U.S. Hwy. 6 and RI Hwy. 114; Boston, MA, and Suffolk Downs, East Boston, and Revere, MA; Taunton, MA, and Middleboro, MA; junction Douglas Pike and Twin River Road northwest of Providence, RI, and junction Twin River Road and RI Hwy. 146; Falmouth, MA, and Hyannis, MA; West Barnstable, MA, and Marstons Mills, MA; Sagamore, MA, and Plymouth, MA; Boston, MA, and Plymouth, MA; Quincy, MA, and Kingston, MA; junction MA Hwy. 3A and unnumbered hwy. (Rockland Street) at traffic circle in Hingham, MA, and junction unnumbered hwy. and MA Hwy. 3A at Greenbush, MA; junction MA Hwy. 3A and unnumbered hwy. at North Scituate, MA, and junction unnumbered hwy. and old MA Hwy 3A (now known as Country Way); junction MA Hwys. 3A and 139 at Marshfield, MA, and junction MA Hwys. 3A and 139; junction MA Hwys. 28 and 123 in Brockton, MA, and junction MA Hwys. 27 and 3 in Kingston, MA; junction MA Hwys. 105 and 28 in Middleboro, MA, and junction MA Hwys., 18 and 3 in Weymouth, MA; Boston, MA, and South Easton, MA; junction MA Hwys. 1A and 11 at Wampum Corner, MA, and junction unnumbered hwy. (George Washington Hwy.) and RI Hwy. 146; North Scituate, RI, and junction unnumbered hwy. (Douglas Pike) and RI Hwy. 116 in Smithfield, RI; junction RI Hwys. 146 and 5 north of Slatersville, RI, and junction RI Hwy. 146 and unnumbered hwy. (Park Avenue) south of Woonsocket, RI; junction Alternate U.S. Hwy. 1 and RI Hwy. 114 and junction RI Hwy. 114 in Pawtucket, RI, with carrier's route between Providence, RI, and Boston, MA; junction RI Hwys. 114 and 103, and junction RI Hwy. 114 and Federal Road, in the Town of Barrington; junction U.S. Hwys. 44 and 6 (near Hartford, CT), and junction RI Hwy. 101 and U.S. Hwy. 6; junction unnumbered hwy. (Douglas Pike) and RI Hwy. 116 in the Town of Smithfield, RI, and junction MA Hwy. 123 and Alternate U.S. Hwy. 1 and Barrows Street with Alternate U.S. Hwy. 1; Centerdale, Town of North Providence, RI, and Narragansett Park Race Track, Pawtucket, RI; North Woodstock, CT, and Southbridge, MA; Greenville, RI, and Providence, RI, Pawtucket, RI, and the Lincoln Race Track at Lincoln, RI; junction U.S. Hwy. 1 and MA Hwy. 128 and Pawtucket, RI; Boston, MA, and Lincoln Race Track at Lincoln, RI; junction U.S. Hwy. 7 and CT Hwy. 35 north of Ridgefield, CT, and White Plains, NY; White Plains, NY, and New York, NY; Hartford, CT, and Plainville, CT; Danbury, CT, and Bedford Village, NY; Danbury, CT, and intersection Tuckahoe Road and the NY Thruway; White Plains, NY, and junction Tuckahoe Road, and the NY Thruway; Milldale, CT, and Hartford, CT; Pittsfield, MA, and Danbury, CT; junction Interstate 95 and Cross Westchester Expressway at Interchange No. 13, and New York, NY; and Hartford, CT, and Providence, RI; (b) in its lead to remove a restriction prohibiting the transportation of passengers, baggage, express, and newspapers between all points between Fall River, MA, and Newport, RI; and (c) in its Sub 17 to remove a restriction prohibiting the transportation of passengers moving from or to New York.

MC 127219 (Sub-6)X, filed January 13, 1983. Applicant: KEREK AIR FREIGHT CORPORATION, P.O. Box 4621, Lancaster, PA 17604. Representative: Peter A. Greene, 1920 N St., NW., Suite 700, Washington, DC 20036, (202) 331–8800. (1) Subs 1, 3, 4, and 5: (a) broaden general commodities, with exceptions, to "general commodities (except classes A and B explosives)," and (b) remove the ex-air restriction; (2) Subs 1 and 4: remove the restrictions against radial service between points in Berks and Schuylkill Counties, PA, points in part of Northumberland, Montour, and Columbia Counties, PA, and the Philadelphia Airport, and between Lackawanna County, PA, and Kennedy International and Newark Airports; (3) Sub 1: expand (a) Philadelphia International Airport, Philadelphia, PA, to Montgomery, Philadelphia, Bucks, Chester, and Delaware Counties, PA, Salem, Gloucester, Burlington, Camden, Mercer, Hunterdon, and Monmouth Counties, NJ, and New Castle County, DE, and (b) Middletown, PA, to Dauphin County, PA; (4) Sub 3: expand Lancaster, PA, to Lancaster County, PA; and (5) Sub 4: expand (a) Friendship International Airport to Baltimore, MD, and Ann Arundel County, MD, (b) Washington National Airport to Washington, DC, (c) Dulles International Airport to Fairfax and Loudon Counties, VA, (d) John F. Kennedy International Airport and LaGuardia Airport to New York, NJ, and (e) Newark International Airport to Essex County, NJ.

MC 136968 (Sub-2)X, filed January 10, 1983. Applicant: IRMAR TRUCKING, INC., 3701 National Road, Richmond, IN 47374. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Sub No. 1 permit: (1) broaden florists and decorator foam to "such commodities as are dealt in by wholesale and retail florists", and (2) expand the territorial description to between points in the United States, under continuing contract(s) with a named shipper.

[FR Doc. 83–3389 Filed 2–8–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract." Please direct status inquires to Team 1, (202) 275–7992.

Volume No. OP1–48

Decided: February 1, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 58440 (Sub-8), filed January 17, 1983. Applicant: SCENIC HAWKEYE STAGES, INC., 703 Dudley Street, Decorah, IA 52101. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312, (515) 274–4985. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks privately-funded charter and special transportation.

MC 113770, filed January 14, 1983. Applicant: WILLIAM S. CARROLL, INC., 640 Hammond St., Brookline, MA 02167. Representative: James F. Martin, Jr., 8 W. Morse Road, Bellingham, MA 02019, (617) 966–2093. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165850, filed January 21, 1983. Applicant: TREK TOURS OF AMERICA CORP., P.O. Box 9023, Lester, PA 19113. Representative: Larry R. McDowell, 1200 Avenue of the Arts Bldg., Philadelphia, PA 19107, (215) 365–5141. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–055

Decided: February 1, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 13492 (Sub-12), filed January 4, 1983. Applicant: NORTH BOULEVARD TRANSPORTATION CO., 437 Tonnele Ave., Jersey City, NJ 07306. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017, (212) 532–5100. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165503, filed January 4, 1983. Applicant: DELTA TRANSIT, INC., 7323 Chef Menteur Highway, New Orleans, LA 70126. Representative: Kenneth J. Berke (same as applicant), (504) 949–0410.Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165593, filed January 10, 1983. Applicant: SHAW & SONS EXCAVATING & HAULING, INC., 500 Bennington, Kansas City, MO 64125. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251.

Kansas City, MO 64141, 816–842–8600. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165613, filed January 10, 1983. Applicant: NEW ENGLAND COURIER, INC., 480–490 Willow St., P.O. Box 4393, Manchester, NH 03108. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, 617–742–3530. Transporting *shipments weighting 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 165643, filed January 10, 1983. Applicant: RAY EMERICK'S WAREHOUSE CO., INC., 2100 N. 15th St., Melrose Park, IL 60160. Representative: Thomas A. Emerick (same address as applicant), 312–343–6206. As a *broker of general commodities* (except household goods), between points in the U.S.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–063

Decided: February 2, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 141967 (Sub-1), filed January 25, 1983. Applicant: KEITH KRUG, Billings Ave., Medford, WI 54451. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 142007 (Sub-2), filed January 25, 1983. Applicant: OTTE BUS SERVICE, INC., Route 1, Cedar Grove, WI 53013. Representative: Bruce E. Mitchell, Suite 520, 3390 Peachtree Rd., NE., Atlanta, GA 30326, (404) 262–7855. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 145167 (Sub-1),filed January 25, 1983. Applicant: CHECKERLLAC TRANSPORTATION, INC.; trading as TOWN & COUNTRY COACH; 184 Willowbrook Rd.; Staten Island, NY 10302. Representative: Arthur J. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000. Transporting *passengers* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165906, filed January 26, 1983. Applicant: THOMAS H. FAIRCLOGH, d.b.a., TOM FAIRCLOGH TRUCKING, 8301 Stanley Rd., Bloomington, MN 55437. Representative: Tom Fairclogh (same address as applicant), (612) 831–0441. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–065

Decided: February 2, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating).

MC 114416 (Sub-16), filed January 27, 1983. Applicant: WESTERN TRANSPORT CRANE & RIGGING; P.O. Box 3507, 100 Western Way, Missoula, MT 59806. Representative: Henry C. Winters, P.O. Box 5613, Bellevue, WA 98006, (206) 644–2100. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 156486 (Sub-1), filed January 25, 1983. Applicant: ARDIS TRAVEL AGENCY, INC., 256 Park Ave., E. Rutherford, NJ 07073. Representative: Ronald E. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 156766 (Sub-2), filed January 27, 1983. Applicant: G.A.L. & S. TRUCKING, INC., P.O. Box 709, Enumclaw, WA 98022. Representative: Jim Pitzer, 15 S Grady Way, Suite 321, Renton, WA 98055, (206) 235–1111. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–38

Decided: January 28, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 165438, filed December 30, 1983. Applicant: DAVID WEIDERHOLT, 101 E. Elm St., Stanberry, MO 64489. Representative: Carol J. Akins, Route 1, King City, MO 64463, 816–535–4577. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP5–41

Decided: January 31, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 20709, filed January 19, 1983. Applicant: ROBERT W. MERRELL, INC., 26 Academy Terrace, Linden, NJ 07036. Representative: Philip Beviano (same address as applicant), (201) 486–6603. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165649, filed January 11, 1983. Applicant: CARGO MANAGEMENT, INC., 8612 Muller St., Downey, CA 90241. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, 213–945–2745. To operate, in interstate or foreign commerce, as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165678, filed January 14, 1983. Applicant: HAULMART, INC., 840 Hinckley Road, No. 223, Burlingame, CA 94010. Representative: Russel W. Blood (same address as applicant), (415) 697–1722. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165788, filed January 18, 1983. Applicant: COMFORT BUS COMPANY, INC., d.b.a. COMFORT COACHES, P.O. Box 254, Lake Elmo, MN 55042. Representative: Lee Rossow, 8628 Ironwood Trail North, Lake Elmo, MN 55042, (612) 770–5046. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165799, filed January 18, 1983. Applicant: EXTRANSCO, INC., 1524 No. Farwell Ave., Milwaukee, WI 53202. Representative: Steven J. Kalish, 1750 Pennsylvania Ave., NW., Washington, DC 20006, (202) 393–5710. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC–165819, filed January 21, 1983. Applicant: CHARLES J. LOWMAN, d.b.a. COLUMBUS CHARTER SERVICE, 11635 West 700 South, Columbus, IN

47201. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201, (812) 379–2556. Transporting *passengers,* in charter and special operations, beginning and ending at points in IN, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC–165828, filed January 21, 1983. Applicant: SAM C. LOBRUTTO, d.b.a. YATESVILLE BUS COMPANY, 107 Pine Street, Pittston, PA 18640. Representative: Paul J. Kenworthy, P.O. Box 25, Clarks Summit, PA 18411, (717) 587–2533. Transporting *passengers,* in charter and special operations, beginning and ending at points in Lackawanna, Luzerne and Wyoming Counties, PA, and extending to those points in the U.S. in and east of LA, AR, MO, IA and MN.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC–165829, filed January 21, 1983. Applicant: DISTRON TRANSPORTATION SYSTEMS, INC., 7360 North Kendall Dr., Miami, FL. 33156. Representative: Stephen Murphy (same address as applicant), 305–596–7036. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3391 Filed 2–8–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30105]

Iowa Railroad Co.; Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of 76,000 shares of common stock by Iowa Railroad Company to its current shareholders.

DATES: This exemption will be effective on March 11, 1983. Petitions to stay the effectiveness of this decision must be filed by February 21, 1983, and petitions for reconsideration must be filed by March 1, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representatives: Sander M. Bieber, Dechert Prince & Rhoads, 1730 Pennsylvania Avenue, NW., Washington, DC 20006

Pleadings should refer to Finance Docket No. 30105.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC Metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: February 2, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commisioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3384 Filed 2–8–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket 30101]

Norfolk and Western Railway Co.—Abandonment Exemption; Wyoming County, WV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et seq.,* the abandonment by Norfolk and Western Railway Company of 1.7 miles of line in Wyoming County, WV, subject to standard labor protection provisions.

DATES: This exemption shall be effective on February 9, 1983. Petitions to reopen must be filed by March 1, 1983.

ADDRESSES: Send pleadings to:

(1) Rail section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Angelica D. Lloyd, 8 North Jefferson Street Roanoke, VA 24042–0041

Pleadings should refer to Finance Docket No. 30101.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227; 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: February 2, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3384 Filed 2–8–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket 30055]

National Railroad Passenger Corp.—Compensation; Commuter Use of Northeast Corridor

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: This proceeding is discontinued with respect to disputes over compensation for the use of certain facilities between National Railroad Passenger Corporation (Amtrak) and Southeastern Pennsylvania Transportation Authority (SEPTA) and the New Jersey Transit Corporation (NJT).

DATES: Amtrak and/or NJT may seek to reopen this proceeding no later than 60 days after issuance of the final decision in Ex Parte No. 417.

ADDRESSES: Petitions to reopen should be filed with: Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

Pleadings should refer to Finance Docket No. 30055.

FOR FURTHER INFORMATION CONTACT: Stephen Grimm, (202) 275–0839

or

Elaine Kaiser, (202) 275–0907

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: February 2, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3385 Filed 2–8–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 9, 1982, Pharmaceuticals Division, Ciba-Geigy Corporation, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Methylphenidate (1724).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405, I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than March 11, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

February 1, 1983.

[FR Doc. 3503 Filed 2-8-83; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Correction

On January 6, 1983, the Drug Enforcement Administration published a Notice of Application in the **Federal Register** (Vol. 48, No. 4, pgs. 757 and 758) stating that the Pharmaceuticals Division, Ciba-Geigy Corporation, 556 Morris Avenue, Summit, New Jersey 07901, had submitted an application for registration as a bulk manufacturer of Phenylacetone (8501), a basis class of controlled substance in Schedule II.

This Notice advises that the Pharmaceuticals Division, Ciba-Geigy Corporation, 556 Morris Avenue, Summit, New Jersey 07901, did not apply for registration as a bulk manufacturer of Phenylacetone (8501).

The Notice of Application on January 6, 1983, pertaining to Phenylacetone (8501), is hereby withdrawn.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

February 1, 1983.

[FR Doc. 83-3502 Filed 2-8-83; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued the periodic report to Congress on abnormal occurrences (NUREG–0090, Vol. 5, No. 3).

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the **Federal Register** (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

This report to Congress is for the third calendar quarter of 1982. The report identifies the occurences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described. During the report period, there were two abnormal occurrences: one at a licensed nuclear power plant and one at another NRC licensee. The first involved loss of auxiliary electrical power and the second involved rupture of at least one americium-241 well logging source. The Agreement States reported no abnormal occurrences to the NRC.

The report also contains information updating some previously reported abnormal occurrences.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, NW, Washington, D.C., or at any of the nuclear power plant Local Public Document Rooms throughout the country. Single copies of the report, designated NUREG–0090, Vol. 5, No. 3, may be purchased from the National Technal Information Service, Springfield, Virginia 22161.

A year's subscription to the NUREG–0090 series publication, which consists of four issues, is available from the NRC/GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Microfiche of single copies of the publication are also available from this source.

Dated at Washington, D.C., this 4th day of February 1983

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-3534 Filed 2-8-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Clinch River Breeder Reactor; Working Group on Systems Integration and Instrumentation and Control; Meeting

The ACRS Subcommittee on Clinch River Breeder Reactor (CRBR) Working Group on Systems Integration and Instrumentation Control will hold a meeting on February 24, 1983, Room 1167, 1717 H Street, NW., Washington, DC. The Subcommitee will continue its discussions of the design of the plant protection and control systems, the reliability program, actions resulting from the post-TMI-2 accident review, and the use of human factors engineering in the design. Notice of this meeting was published January 18, 1983.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, February 24, 1983—8:30 a.m. until the conclusion of business.

During the initial protion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be

considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with the Department of Energy and their representatives, the NRC Staff and their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., E.S.T.

Dated: February 3, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–3535 Filed 2–8–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–528A, 529A]

Arizona Public Service Co. et.al.; Finding of No Significant Antritrust Changes and Time for Filing of Requests for Reevaluation

The Director of Nuclear Reactor Regulation has made an initial finding in accordance with Section 105c(2) of the Atomic Energy Act of 1954, as amended that no significant (antitrust) changes in the licensees' activities or proposed activities have occurred subsequent to the previous construction permit reviews of Palo Verde Units 1 and 2 by the Attorney General and the Commission. The finding is as follows:

"Section 105c(2) of the Atomic Energy Act of 1954, as amended provides for an antitrust review of an application for an operating license, if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" determination with respect to nuclear reactors to the Director, Office of Nuclear Reactor Regulation.

"Participating in the Palo Verde Nuclear Generating Station, Units 1 and 2, are Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, Public Service Company of New Mexico, El Paso Electric Company, Southern California Edison Company, Los Angeles Department of Water and Power, and Southern California Public Power Authority, collectively referred to as "licensees." Based upon examination of events since issuance of the Palo Verde Nuclear Generating Station construction permit to the licensees, the staffs of the Office of Nuclear Reactor Regulation and the Office of Executive Legal Director, hereafter referred to as the "staff", have jointly concluded, after consulting with the Department of Justice, that the changes that have occurred since the antitrust construction permit reviews are not "significant" in the antitrust context to require a second formal antitrust review at the operating license stage of the application for licenses. Staff has concluded that those changes which have occurred either are not reasonably attributable to the licensees or do not have antitrust implications that would likely warrant some Commission remedy. In reaching this conclusion, the staff considered the structure of the electric utility industry in the south-western United States, the events relevant to the Palo Verde construction permit antitrust reviews and the events that have occurred subsequent to those permit reviews.

"The Conclusion of the staff's analysis is as follows:

'The staff has applied the Commission's "significant change" criteria in examining the antitrust implications of the activities and proposed activities of all of the applicants for the Palo Verde 1 and 2 operating licenses subsequent to the Commission's previous construction permit antitrust reviews.

'Arizona Public Service Company (APS) and Salt River Project Agricultural and Improvement District (SRP), two of the four remaining original applicants for the Palo Verde construction permit, had agreed to the inclusion of a wheeling license condition in the construction permit so as to mitigate potential anticompetitive problems arising from contracts with smaller utilities. In the period since the construction permit review, both APS and SRP have provided, in staff's view, wheeeling services consistent with the intent of the license condition. Further, ASP and SRP have continued to provide other types of bulk power services to smaller utilities not dissimilar to those offered prior to the completion of the construction permit review. Public Service Company of New Mexico (PSNM) and El Paso Electric Company (EPE), the other two remaining original Palo Verde applicants, were not subjected to any license conditions at the construction permit stage. Nonetheless, PSNM and EPE have continued to offer and provide to smaller utilities wholesale power service, wheeling service and various other coordination services on a scale comparable to, and perhaps even larger than, that undertaken prior to the construction permit review.

'Subsequent to the filing of the original CP application, Southern California Edison Company (SCE), Los Angeles Department of Water and Power (LADWP) and Southern California Public Power Authority (SCPPA) become participants and the M-S-R Public Power Agency became a tentative participant in Palo Verde. The construction permit review of SCE, completed in 1976, did not reveal a need to impose license conditions on SCE's participation in Palo Verde. Still later, in 1981, an examination by staff of ACE's activities since the issuance of the San Onofre 2 and 3 construction permits resulted in a staff finding that no "significant changes" in SCE's activities had occurred with respect to the San Onofre 2 and 3 operating license application. In the brief time period since the issuance of the San Onofre 2 and 3 operating license finding, the staff has not obtained any information that woud suggest a contrary finding of "significant change" with respect to the Palo Verde 1 and 2 operating license. LADWP and SCPPA became owners of Palo Verde in 1981. The construction permit review of LADWP and SCPPA which terminated on April 8, 1982, disclosed no antitrust problems and M-S-R recently withdrew its participation as a result of voter decisions. In the extremely brief period of time since the completion of the construction permit reviews of LADWP and SCPPA the staff has not become aware of any actual or potential antitrust problems.

'Based on the foregoing analysis, the staff has concluded that the changes in the applicant's activities since the completion of the Palo Verde construction permit antitrust reviews do not have any antitrust implications and, thus, do not require a further, formal antitrust review at the operating license stage with respect to Palo Verde 1 and 2.'

"Based on the staff's analysis, it is my finding that a formal operating license antitrust review of the licensees with respect to the Palo Verde Nuclear Generating Station, Units 1 and 2, is not required."

Signed on January 28, 1983, by Harold R. Denton, Director, Office of Nuclear Reactor Regulation.

Any person whose interest may be affected pursuant to this initial determination may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 by

(30 days). Requests for a reevaluation of the no significant changes determination shall be accepted after the date when the Director's finding becomes final but before the issuance of the OL only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

For the Nuclear Regulatory Commission.

Argil L. Toalston,

Chief, Antitrust and Economic Analysis Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 83-3528 Filed 2-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-318]

Baltimore Gas & Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-69, issued to Baltimore Gas & Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 2 located in Calvert County, Maryland. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to provide Limiting Conditions for Operation and Surveillance Requirements which reflect the operability of a recently installed, third train of the auxiliary feedwater system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Consideration of Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on December 14, 1982 (47 FR 56086). No request for a hearing or petition for leave to intervene was filed following notice of proposed action.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an envionmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see: (1) The application for amendment dated November 15, 1982, as supplemented November 17, 1982, (2) Amendment No. 62 to License No. DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 18th day of January 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-3529 Filed 2-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 80 and 63 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas & Electric Company, which revised Technical Specifications for operation of the Calvery Cliffs Nuclear Power Plant, Unit Nos. 1 and 2. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to incorporate a revised pressurizer level band into the Pressurizer Limiting Condition for Operation and Surveillance Requirements.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the **Federal Register** on December 8, 1982 (47 FR 55351). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see: (1) The application for amendment dated September 29, 1982, (2) Amendment Nos. 80 and 63 to License Nos. DPR-53 and DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 25th day of January 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-3530 Filed 2-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Granting Relief From ASME Code Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to the Sacramento Municipal Utility District (the licensee), which revised the inservice inspection program for the Rancho Seco Nuclear Generating Station (the facility) located in Sacramento County, California. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR 50. The relief is effective as of the date of issuance.

The requests for relief comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I.

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which are set forth in the letter granting relief and accompanying Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see: (1) The Licensee's letters dated July 18, 1979, December 10, 1979, and April 19, 1982, (2) the Commission's letter to the licensee dated January 28, 1983, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Business and municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 28th day of January 1983.

For the Nuclear Regulatory Commission.

John F. Stoltz,

Chief, Operating Reactors Branch, No. 4, Division of Licensing.

[FR Doc. 83-3531 Filed 2-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-238]

State of South Carolina Patriots Point Development Authority and the U.S. Maritime Administration; Issuance of Amendment to Amended Facility License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility License No. NS-1 issued to the State of South Carolina Patriots Point Development Authority and the U.S. Maritime Administration (the licensees) that authorizes possession, but not operation of the nuclear reactor aboard the *N.S. Savannah.* The amendment is effective as of its date of issuance.

The amendment revises the license and the Technical Specifications to reflect the transfer of the U.S. Maritime Administration from the U.S. Department of Commerce to the U.S. Department of Transportation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any siginificant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated December 31, 1981 and December 23, 1982 and (2) Amendment No. 10 to License No. NS-1. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

A copy of item (2) may be obtained by a request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 2nd day of February 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 83-3532 Filed 2-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co.; Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 45 and 28 to Facility Operating License Nos. NPF-4 and NPF-7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Units No. 1 and No. 2 (the facility) located in Louisa County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications for the North Anna Power Station, Unit Nos. 1 and 2 based upon the licensee's reanalysis for the Loss-of-Coolant Accident-Emergency Core Cooling System performance assuming seven (7) percent steam generator tube plugging. The licensee's reanalysis has been determined to meet the criteria of 10 CFR 50.46 and the reanalysis was performed in accordance with 10 CFR Part 50, Appendix K.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in these license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendment dated August 16, 1982 (Serial No. 490); (2) Amendment Nos. 45 and 28 to Facility Operating License Nos. NPF-4 and NPF-7 and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 27th day of January 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-3533 Filed 2-8-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee (TPSC); Public Hearing

The Trade Policy Staff Committee (TPSC) will conduct public hearings on the renewal of the U.S. Generalized System of Preferences (GSP). Interested parties are invited to submit testimony at one of the hearing locations or written

comments in connection with a proposal for a renewed GSP program appropriately revised.

1. Deadline for Receipt of Requests to Participate in the Public Hearings

The Chairman of the Trade Policy Staff Committee invites public comment on the renewal of the U.S. Generalized System of Preferences (GSP) prior to its scheduled termination on January 3, 1985. Such comment will be considered by the Executive Branch in formulating a proposal to assist Congress with preparation of legislation for renewal of the GSP program. Parties are invited to present their views on this issue through public hearings and/or written comment. Hearings will be held in Washington, D.C. New York City and San Francisco during the month of April 1983.

Parties wishing to appear at the hearings must notify the Executive Director of the U.S. Generalized System of Preferences (GSP), in writing not later than March 21, 1983, of their intention to appear at the hearing giving name, address, telephone number, hearing location, and a brief summary of their presentation. Remarks should be limited to no more than 15 minutes to allow for possible questions from the Chairman and the interagency panel. Participants should provide twenty typed copies of their presentation at the time of the hearings. Participants will be notified not later than April 1, 1983, about the time of their apperance at the hearing.

2. Communications

All communications with respect to this notice should be addressed to the Executive Director, Generalized System of Preferences, Office of the United States Trade Representative, Room 316, 600 17th Street NW., Washington, D.C. 20506. Questions may be directed to any member of the GSP Information Center at (202) 395–6971.

Parties not wishing to participate at the hearings may submit written comments in twenty copies, in English, by April 30.

3. Background

The GSP is authorized under Title V of the Trade Act of 1974 as amended (19 U.S.C. 2155–2462). The GSP is a program of non-reciprocal tariff preferences granted by the United States to developing countries to assist their economic development by encouraging greater diversification and expansion of their production and exports. The United States, along with other developed countries, agreed to share responsibility in assisting developing countries in achieving economic growth through trade by implementing a system of temporary tariff preferences. Nineteen other developed countries maintain similar preferential programs. At present, the U.S. program grants duty-free treatment on approximately 3,000 products imported from 140 developing countries and territories. The value of U.S. imports receiving GSP duty-free treatment has increased from $3.0 billion in 1976, the program's first year in operation, to $8.4 billion in 1981. GSP imports currently account for 3 percent of total U.S. imports. Developing countries, which have become increasingly important to U.S. economic interests, currently account for nearly 40 percent of total U.S. exports.

In March of each year modifications are implemented with respect to GSP product coverage and eligibility. Some of these modifications are required by statute. The Trade Act of 1974, as amended, specifies "competitive need" limits which provide for the automatic exclusion of a beneficiary country from GSP eligibility on a product whenever imports from that country exceed 50 percent of total U.S. imports or a certain annually adjusted dollar value during the preceding calendar year ($50.9 million in 1981). Countries which subsequently fall below these limits may be redesignated for GSP eligibility on the product of concern at the discretion of the President. The Trade Policy Staff Committee conducts an annual GSP product review in which interested parties such as domestic producers, growers, labor unions, importers and foreign governments submit petitions requesting modifications in GSP eligibility. The interagency committee also conducts a case-by-case review of other GSP matters for which a Presidential decision is required.

4. Comments

Comments are specifically invited on the role of graduation in the GSP program and, in particular, views on the mechanics of a product-by-product graduation policy in a renewed program. A graduation policy was implemented in 1981 to address the relatively uneven distribution of benefits among beneficiary countries and the growing competitiveness of certain beneficiary countries. Under this policy, graduation of individual countries on specific products can occur in one of three contexts: By request in the annual product review process; when a country eligible to be redesignated on an item is not redesignated; and, when adding a product to the GSP, a country is excluded from eligibility on the item. Factors considered in graduation include the overall level of economic development in the beneficiary developing country; the country's competitiveness in the product of concern; and the overall economic interests of the United States, including the impact of the graduation action on domestic producers and workers.

Suggestions from parties with respect to ways in which the program can better stimulate the growth of the less advanced beneficiary countries, including special considerations for the least developed countries, will also be welcome. Since many countries do not possess the capacity and economic infrastructure necessary to produce and export many of the products eligible for duty-free treatment under the GSP, graduation of the more advanced beneficiary countries on various products has not always led to significantly improved benefits for less advanced beneficiaries.

Comments are also invited on any other matter pertaining to the U.S. GSP program. Some of the major elements likely to be examined in the renewal process are the provisions of Title V and administrative procedures relating to country and product coverage within the GSP, competitive need and *de minimis* limits, GSP safeguard procedures, their relationship to other import safeguard measures, rules of origin, and the possible conditioning of preferential treatment for imports from advanced beneficiary countries to considerations regarding their trade policies affecting U.S. exports.

5. Schedule of Hearings

Washington, D.C.:
April 5–6—10:00 a.m.
Federal Home Loan Bank Board, Amphitheater, 1700 G Street Northwest, Washington, DC

New York City:
April 11–12—10:00 a.m.
26 Federal Plaza, Conference Room 305 C, New York, New York

San Francisco:
April 14–15—10:00 a.m.
United States District Court, Ceremonial Court Room, 450 Golden Gate Avenue, San Francisco, California

6. Additional Information

Further information is available from the GSP Information Center. Interested parties also may wish to refer to the President's Report to the Congress on the First Five Years' Operation of the

GSP (H. Rep. No. WMCP 96–58 96 Cong., 2md Sess. (April 17, 1980)).

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 83–2829 Filed 2–8–83; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 1, 1983.

In the matter of applications of the; Cincinnati Stock Exchange for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Browning-Ferris Industries, Inc.
Common Stock, $0.16⅔ Par Value (File No. 7–6483)
KLM Royal Airlines
Common Stock, 100 Guilders Par Value (File No. 7–6484)
Unilever NV
20 Florens Par Ordinary (New York Shares) (File No. 7–6485)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 23, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3406 Filed 2–8–83; 8:45 am]

BILLING CODE 8010–01–M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 1, 1983.

In the matter of applications of the; Philadelphia Stock Exchange, Inc.; for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Advanced Micro Devices, Inc.
Common Stock, $.01 Par Value (File No. 7–6486)
Advest Group, Inc.
Common Stock, $1 Par Value (File No. 7–6487)
Baldwin-United Corporation
Common Stock, $1 Par Value (File No. 7–6488)
Bally Manufacturing Corporation
Common Stock, Purchase Warrants (File No. 7–6489)
Hospital Corporation of America
Common Stock, $1 Par Value (File No. 7–6490)
Mesa Offshore Trust
Units of Beneficial Interest (File No. 7–6491)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 23, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3407 Filed 2–8–83; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0443]

American Commercial Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On April 6, 1982, a notice was published in the **Federal Register** (47 FR 14821) stating that American Commercial Capital Corporation, 310 Madison Avenue, New York, New York 10017 had filed an Application with the Small Business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), for a license to operate as a small business investment company.

Interested parties were given until the close of business on April 21, 1982, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on December 30, 1982, issued License No. 02/02–0443 to American Commercial Capital Corporation, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 28, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

FR Doc. 83–3480 Filed 2–8–83; 8:45 am]

BILLING CODE 8025–01–M

[License No. 06/06–0188]

Mercantile Dallas Corp.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Mercantile Dallas Corporation, 1704 Main Street, Dallas, Texas 75222, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. 661 *et seq.*), has filed an application with the Small Business Administration pursuant to Section 312 of the Act and covered by § 107.1004(b)(1) of the Regulations governing small business investment companies (13 CFR 107.1004 (1983)), for approval of a conflict of interest transaction falling within the scope of the above Sections of the Act and Regulations.

The Licensee proposes to make a $450,000 loan to Culwell and Son, Inc. (Culwell), in which $200,000 of the loan proceeds will be used to pay an obligation of Culwell due Mercantile National Bank (MNB). MNB is defined

as an Associate of the Licensee under § 107.3(b) of the SBA Regulations, because it owns 10 or more percent of the stock of the Licensee.

Notice is hereby given that any interested party may, not later than fifteen (15) days from the date of publication of this notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Dallas, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 28, 1983.

Robert G. Linebery,

Deputy Associate Administrator for Investment

[FR Doc. 83-3484 Filed 2-8-83; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting

The Small Business Administration Region VII Advisory Council located in the geographical area of St. Louis, and Eastern Missouri, will hold a public meeting at 10:30 a.m. on Tuesday, March 1, 1983, at Schneithorst's Hofamberg Inn, Lindbergh at Clayton, St. Louis, Missouri, to discuss such business as may be presented by members, the staff of the Small Business Administration and others present.

For further information, write or call Robert L. Andrews, District Director, U.S. Small Business Administration, 815 Olive St., Room 242, St. Louis, Missouri, 63101; 314/425-6600.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

February 4, 1983.

[FR Doc. 83-3485 Filed 2-8-83; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Fargo, North Dakota, will hold a public meeting at 9:30 a.m. Tuesday, April 5, 1983, at the Federal Building, Room 319, 657 Second Avenue North, Fargo, North Dakota, to discuss such business as may be presented by members, the staff of the Small Business Administration and others present.

For further information, write or call Robert L. Pinkerton, District Director, U.S. Small Business Administration, 657 Second Avenue North, Fargo, North Dakota 58102; (701) 237-5771, extension 5131.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

January 31, 1983.

[FR Doc. 83-3482 Filed 2-8-83; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council located in the geographical area of Sioux Falls, South Dakota, will hold a public meeting on Thursday, April 7, 1983, from 9:00 a.m. to 3:30 p.m., at the Community Room, First National Bank in Sioux Falls, 100 South Phillips, Sioux Falls, South Dakota 57102, to discuss such business as may be presented by members, the staff of the Small Business Administration and others present.

For further information, write or call Chester B. Leedom, District Director, U.S. Small Business Administration, Suite 101 Security Building, 101 South Main, Sioux Falls, South Dakota 57102; 605/336-2890, Ext. 231.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

January 31, 1983.

[FR Doc. 83-3481 Filed 2-8-83; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirements for OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before March 1, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed forms, the requests for clearance (S.F. 83), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., N.W., Room 200, Washington, D.C. 20416, telephone (202) 653-8538; or

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503; telephone (202) 395-4814.

Forms Submitted for Review

Title: Application for Certificate of Competency
Form Nos.: SBA 74, 74A, 74B, and 183
Frequency: Non-recurring
Description of Respondents: Firms bidding on Federal procurements or the sale of Federal property
Annual Responses: 1,100
Annual Burden Hours: 3,300
Type of Request: Extension (Burden Adjustment)

Title: Survey of Access to Capital by Subcategories of Small Business
Form No.:
Frequency: Non-recurring
Description of Respondents: Business owners, including minority and non-minority males and females
Annual Responses: 1,600
Annual Burden Hours: 800
Type of Request: New

Dated: February 1, 1983.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 83-3483 Filed 2-8-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2077]

Washington; Declaration of Disaster Loan Area

Whatcom, Island and Kitsap Counties and the adjacent Counties of Jefferson, King, Skagit and Snohomish in the State of Washington constitute a disaster area as a result of high winds, heavy wave action, flooding and landslides which occurred on December 3, 1982 through January 15, 1983. Eligible persons, firms and organizations may file applications for physical damage until the close of business on April 1, 1983, and for economic injury until the close of business on October 31, 1983, at the address listed below: U.S. Small

Business Administration, 915 Second Avenue, Federal Building, Room 1744, Seattle, Washington 98174, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	13⅜
Homeowners without credit available elsewhere	6⅜
Businesses with credit available elsewhere	11½
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11⅜

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 13, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-3486 Filed 2-8-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 453]

Winegrape Varietal Names Advisory Committee; Open Meeting

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of advisory committee meeting.

SUMMARY: An open meeting of the Winegrape Varietal Names Advisory Committee will be held at 10:30 am on February 24, 1983, in Room 5041, 1200 Pennsylvania Avenue, NW, Washington, DC.

SUPPLEMENTARY INFORMATION: On March 31, 1982, ATF published Notice No. 409 (47 FR 13623) in the **Federal Register** announcing the establishment of the Winegrape Varietal Names Advisory Committee. The purposes of the Committee are to advise the Director, Bureau of Alcohol, Tobacco and Firearms, of the grape varieties and subvarieties used in the production of American wines, and recommend appropriate designations for these for winelabeling purposes. This will be the Committee's first meeting, and it will be devoted to organizational matters and the development of a plan for achieving the Committee's objectives. Members of the Committee and their affiliations are:

Dr. Maynard A. Amerine, Wine Institute
Mr. Ronald J. Fonte, Les Amis du Vin
Mr. William F. Doering, Department of Agriculture
Mr. Alan B. Graham, Bureau of Alcohol, Tobacco and Firearms
Mr. Douglas J. Knapp, New York State Wine Grape Growers, Inc.
Mr. Richard M. Kunde, California Association of Winegrape Growers
Mr. Louis M. Martini, Wine Institute
Dr. John R. McGrew, Department of Agriculture
Mr. George W. McRory, Jr., American Wine Society
Mr. J. William Moffett, Association of American Vintners
Dr. Harold P. Olmo, University of California, Davis
Prof. Vincent E. Petrucci, California State University-Fresno
Dr. Robert M. Pool, Cornell University
Mr. Bruce L. Weininger, Bureau of Alcohol, Tobacco & Firearms

Public Participation: The meeting will be open to the public. Because this is primarily an organizational meeting no public presentations to the Committee are planned. However, any person who wishes to present written information or data to the Committee for consideration at the meeting should forward it to the Committee Manager at the address shown below no later than February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Melvin T. Bruce, Manager, Winegrape Varietal Names Advisory Committee, Room 6230, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226; (202–566–7568).

Signed: February 2, 1983.

Stephen E. Higgins,

Acting Director.

[FR Doc. 83-3497 Filed 2-8-83; 8:45 am]

BILLING CODE 4810-31-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists new forms. The entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420; (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503; (202) 395–6880.

DATES: Comments on forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: February 1, 1983.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

New Forms

(1) Department of Medicine and Surgery
(2) Substance Abuse Training in Nursing, Psychiatry and Social Work
(3) VA Form 10–954 (578), August 1982. Form Letters 10–954a, b and c (NR)
VA Form 10–955 (578), August 1982
VA Form 10–956 (578), August 1982
(4) One time
(5) Drectors of training in Nursing, Psychiatry and Social Work
(6) 2129 responses
(7) .3 hour
(8) Not applicable under 3504(H)

[FR Doc. 83-3430 Filed 2-8-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 28
Wednesday, February 9, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:05 a.m. on Friday, February 4, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Approve the application of Dollar Savings Bank of New York, New York (Bronx), New York, and Dry Dock Savings Bank, New York (Manhattan), New York, for consent to merge, with assistance from the Federal Deposit Insurance Corporation in the form of income maintenance, under the charter of Dollar Savings Bank of New York and with the title of "Dollar—Dry Dock Savings Bank of New York," and for consent to establish the main office, 16 branches, one public accommodation office, and seven shared remote service facilities of Dry Dock Savings Bank as offices of the resultant bank; and (2) provide such financial assistance, pursuant to section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)), as was necessary to facilitate the merger.

At that same meeting, the Board of Directors considered a recommendation with respect to the initiation and conduct of cease-and-desist proceedings against an insured bank (the name and location of the bank is exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii))).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director, C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the mattters couid be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 4, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–190–83 Filed 2–7–83; 3:33 pm]

BILLING CODE 6714–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, February 14, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for consent to merge and establish branches:

The Sussex Trust Company, Laurel, Delaware, for consent to merge, under its charter and title, with The First National Bank of Frankford, Frankford, Delaware, and for consent to establish the sole office of The First National Bank of Frankford as a branch of the resultant bank.

First American Bank and Trust, North Palm Beach, Florida, for consent to merge, under its charter and title, with United National Bank, Cocoa Beach, Florida, and to establish the two offices of United National Bank as branches of the resultant bank.

Application for consent to acquire assets and assume liabilities and establish one branch:

Union Trust Company, Stamford, Connecticut, an insured State nonmember bank, for consent to acquire certain assets of and assume the liability to pay deposits made in the Darien, Westport, and Wilton branches of The Banking Center, Waterbury, Connecticut, an insured mutual savings bank, and to establish the Westport office as a branch of Union Trust Company.

Request for extension of time to establish a branch:

The Oregon Bank, Portland, Oregon, for an extension of time within which to establish its approved branch to be located at the southwest corner of the intersection of Kruse Way and Carmen Drive, Lake Oswego, Oregon.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,556–L (Addendum)—The Mission State Bank and Trust Company, Mission, Kansas

Case No. 45,558–SR—Bank of Enville, Enville, Tennessee

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Liquidation:

Memorandum re: United States National Bank, San Diego, California, Statute of Limitations

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 7, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-191-83 Filed 2-7-83; 3:33 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, February 14, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 #17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: February 7, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-192-83 Filed 2-7-83; 3:33 pm]

BILLING CODE 6714-01-M

4

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 5412, February 4, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., February 8, 1983.

CHANGE IN THE MEETING: The following item has been added to the regular agenda:

Item No., Docket No. and Company

M-5. RM82-32-000, RM80-8-002 and RM82-8-000, Proposal to Limit Incentive Prices for High Cost Gas to Commodity Values.

Kenneth F. Plumb,

Secretary.

[S-187-83 Filed 2-7-83; 2:21 pm]

BILLING CODE 6717-02-M

5

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 5412, February 4, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: February 8, 1983 (Following the Regular Meeting).

CHANGE IN THE MEETING: The following items have been added to the closed meeting:

Item No., Docket No. and Company

10. *Pike County Light and Power Company* v. *Penn Public Utility Commission* (Pa. Commw. Ct.)

11. *Western Massachusetts Electric Company* v. *Massachusetts* Department of Public Utilities, No. 82-308 (Mass. S.J.C.)

Kenneth F. Plumb,

Secretary.

[S-188-83 Filed 2-7-83; 2:21 pm]

BILLING CODE 6717-02-M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, February 14, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed follow-up report to Congress on the International Banking Act of 1978. (This item was originally announced for a meeting on January 31, 1983.)
2. Proposed acquisition of computers within the Federal Reserve System.
3. Proposed acquisition of check reader/sorters within the Federal Reserve System.
4. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
5. Any items foward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistance to the Board (202) 452-3204.

Dated: February 4, 1983.

James McAfee,

Associate Secretary of the Board.

[S-186-83 Filed 2-4-83; 4:09 pm]

BILLING CODE 6210-01-M

7

UNITED STATES INTERNATIONAL TRADE COMMISSION.

[USITC SE-83-07]

TIME AND DATE: 2:30 p.m., Thursday, February 17, 1983.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
   a. Certain fishing sinkers (Docket No. 905).
   b. Certain automatic turret rewinders (Docket No. 906).
   c. Certain caulking guns (Docket No. 908).
5. Investigation 337-TA-116 (Certain Drill-Point Screws for Drywall Construction)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-189-83 Filed 2-7-83; 3:23 pm]

BILLING CODE 7020-02-M

Federal Register

Wednesday
February 9, 1983

Part II

Department of Energy

Department of Health and Human Services

Social Security Administration

Guidance Concerning Use of the Petroleum Violation Escrow Funds

DEPARTMENT OF ENERGY

10 CFR Ch. II and Part 205

Administrative Procedures and Sanctions; Questions and Answers Relating to the Applicability to the Petroleum Violation Escrow Funds of Regulations of the Energy Conservation Programs Administered by the Department of Energy to Which These Funds May Be Distributed Under Section 155 of the Further Continuing Appropriations Act, Fiscal Year 1983

AGENCY: Department of Energy.

ACTION: Ruling.

SUMMARY: The Department of Energy (DOE) Office of General Counsel issues the appended Ruling to respond to questions relating to the applicability to the petroleum violation escrow funds of the regulations of the energy conservation programs administered by DOE to which these funds can be distributed under Section 155 of the Further Continuing Appropriations Act, Fiscal Year 1983.

ADDRESS: A written comment of objection to the appended Ruling may be filed at any time with the DOE Office of General Counsel pursuant to the provisions of 10 CFR 205.153.

FOR FURTHER INFORMATION CONTACT: Lona L. Feldman or Edward H. Pulliam, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B144, Forrestal Building, Washington, D.C. 20585, (202) 252–9507.

SUPPLEMENTARY INFORMATION: This ruling is published pursuant to the requirements of 10 CFR 205.150.

List of Subjects in 10 CFR Part 205

Administrative practice and procedure.

Issued in Washington, D.C

Dated: February 2, 1983.

Lona L. Feldman,

Assistant General Counsel, Conservation and Renewable Energy.

Title 10 of the Code of Federal Regulations is hereby amended by adding to the Rulings appearing in the Appendix at the end of Subchapter A of Chapter II the following Ruling 1983–1 to read as follows:

Ruling 1983–1—Questions and Answers Relating to the Applicability to the Petroleum Violation Escrow Funds of Regulations of the Energy Conservation Programs Administered by the Department of Energy To Which These Funds May Be Distributed Under Section 155 of the Further Continuing Appropriations Act, Fiscal Year 1983

On December 21, 1982, the President signed into law the Further Continuing Appropriations Act, Fiscal Year 1983, Pub. L. 97–377 (the Act). Section 155 of the Act provides in pertinent part:

* * * * *

(b) As soon as practicable, the Secretary of Energy shall disburse designated petroleum violation escrow funds to the Governors of the States in accordance with the formula set forth in subsection (d).

(c) Amounts disbursed to the Governor of any state shall be used by the Governor as if such funds were received under one or more energy conservation programs. The Governor shall identify to the Secretary within one year after the time of disbursement the energy conservation program or programs to which the funds are or will be applied. Funds disbursed under this section shall be used to supplement, and not supplant, funds otherwise available for such programs under Federal or State law.

* * * * *

(e) For purposes of this section—

* * * * *

(2) The term "energy conservation programs" means—

(A) the program under part A of the Energy Conservation and Existing Buildings Act of 1976 (42 U.S.C. 6861 and following);

(B) the programs under part D of title III of the Energy Policy and Conservation Act (relating to primary and supplemental State energy conservation programs; 42 U.S.C. 6321 and following);

(C) the program under part G of title III of Energy Policy and Conservation Act (relating to energy conservation for schools and hospitals; 42 U.S.C. 6371 and following);

(D) program under the National Energy Extension Service Act (42 U.S.C. 7001 and following); and

(E) the program under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 and following).

(3) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(4) The term "Governor," when used with respect to any State, means the Governor or the chief executive officer of that State.

* * * * *

(f) No funds disbursed under this section may be used for any administrative expenses of the Department of Energy or of any State, whether incurred in connection with any energy conservation program or otherwise."

Pursuant to Section 155 (b) and (d), the Secretary of Energy announced the disbursement of a total of $200,000,000 to the several States, the District of Columbia, the Commonwealth of Puerto Rico and several territories of the United States (the States) on January 31, 1983. As noted above, these funds are to be used by the States as if such funds were received under one or more of the five programs set forth in Section 155 (e)(2) of the Act. Four of these programs, the Weatherization Assistance Program, 42 U.S.C. 6861 *et seq.*, the State Energy Conservation Program, 42 U.S.C. 6321 *et seq.*, the Schools and Hospitals Grant Program, 42 U.S.C. 6371 *et seq.*, and the Energy Extension Service, 42 U.S.C. 7001 *et seq.*, (the DOE programs), are administered by the DOE. The Low-Income Home Energy Assistance Program, (LIHEAP), 42 U.S.C. 8621 *et seq.* is administered by the Department of Health and Human Services (HHS).[1]

The statutory language has raised a number of questions concerning the manner in which the Section 155 funds may be used by States.

In issuing this ruling, DOE hopes to clarify the relationship of Section 155 of the Act to the four DOE conservation programs.

Question #1: Do the regulations of the DOE energy conservation programs to which a Governor disburses Section 155 funds apply to those funds?

Answer #1: The statute and its legislative history indicate that the regulations governing each of the four DOE programs apply to the Section 155 funds, once a Governor disburses some of the funds to that program, as if the funds had been appropriated by the Federal government for that program. In addition, if there is a conflict between the provisions of Section 155 of the Act and a provision of the program regulations, the provisions of Section 155 will apply. Section 155(c) reads, in part: "Amounts disbursed to the Governor of any State shall be used by the Governor as if such funds were received under one or more energy conservation programs." In commenting on this section on the floor of the House of Representatives, Congressman Dingell, Chairman of the Committee on Energy and Commerce, stated that "the rules and regulations applicable to these programs would apply to these funds as well." 128 Cong. Rec. H10,435 (daily ed. Dec. 20, 1982). On the floor of the Senate, Senator Hatfield stated that Section 155 funds should be obligated "under the rules and regulations which govern those activities [energy conservation programs] as though the funds had been received for those

[1] HHS is developing guidelines to assist States in applying the LIHEAP regulations to the Section 155 funds.

programs" and that this procedure "provides fiscal accountability upon the use of money by the States." 128 Cong. Rec. S15, 702–S15, 703 (daily ed. Dec. 20, 1982).[2]

Question #2: May Section 155 funds be used for the administrative expenses of a State in operating one of the four DOE programs, if Federally appropriated funds are permitted to be used for such expenses under the regulations of a particular program?

Answer #2: Under Section 155(f) of the Act, a State may not use Section 155 funds for administrative expenses. This applies even though Federally appropriated funds are permitted to be used for such expenses under the regulations of a particular program to which the Section 155 funds are applied by the State. "Administrative expenses" are those expenses which States have historically considered to be administrative expenses under each program.

Question #3: May a subgrantee use the Section 155 funds for administrative expenses?

Answer #3: A subgrantee may not use Section 155 funds for administrative expenses. Section 155(f) provides that: "No funds disbursed under this section may be used for any administrative expenses of the Department of Energy or of any State, whether incurred in connection with any energy conservation program or otherwise." This statutory language does not appear to exclude any level of grantee from the prohibition of the expenditure of Section 155 funds for administrative expenses. The legislative history of Section confirms this reading of the statutory language by indicating a strong intention that the funds benefit only the type of people injured by the violators who contributed to the fund and that they not be used for administrative expenses by any level of recipient. 128 Cong. Rec. S15, 702–S15, 703 (daily ed. Dec. 20, 1982) (remarks of Sen. Hatfield) and 128 Cong. Rec. H10,434–H10,437 (daily ed. Dec. 20, 1982) (remarks of Rep. Dingell). As Congressman Dingell stated on the floor of the House of Representatives: "* * * our intent here is to benefit people, just as we would do if the money were provided directly to injured persons. Thus, we provided that *none* of the funds should be used for administrative expenses." (emphasis added) 128 Cong. Rec. H10,435 (daily ed. Dec. 20, 1982.) However, both Congressman Dingell and Senator Hatfield indicated that this provision should not limit the use of funds for those direct services, such as labor costs, associated with low-income weatherization and retrofit activities.

Question #4: May a State use funds appropriated by the Federal government for the four DOE energy conservation programs to administer the Section 155 funds?

Answer #4: A State may use Federal funds appropriated for a program to administer the Section 155 funds applied to that program. However, a State may use no more appropriated funds for administrative expenses than an amount that equals the percentage of both appropriated and Section 155 program funds as limited by the relevant DOE regulations or, if no regulatory limit applies, established by the State's historic use of these appropriated funds for administrative expenses. State expenses for administering the DOE conservation programs can be taken only from appropriated funds and not from Section 155 funds.

This result is required if effect is to be given to all the provisions of Section 155, read together. The primary goal of the legislation was the expeditious disbursement of the Section 155 funds by the States. 128 Cong. Rec. S15,114–S15,117 (daily ed. Dec. 16, 1982) (remarks of Senators Warner, Dole, and Percy). Without ready access to adequate administrative funds, States would face substantial difficulty in assuring the proper and rapid disbursement of the Section 155 funds. Nevertheless, Section 155(f) of the Act prohibits the use of Section 155 funds for administrative expenses. However, it does not prohibit the use of other appropriated funds for such expenses. Each of the programs in which Section 155 funds may be used permits appropriated funds to be used for administrative expenses. Section 155(c) provides that Section 155 funds shall be used as if such funds were received under the energy conservation program or programs designated by the respective governors. Thus, it would appear that appropriated funds may be used to administer Section 155 funds.

However, such use is subject to significant limitations also. Section 155(c) states that "funds disbursed under this section shall be used to supplement, and not supplant, funds otherwise available for such programs under Federal or State laws." Federally appropriated funds for these programs are "funds otherwise available for such programs" and are available for both administrative and direct program expenses.[3] Reading this provision of Section 155(c) with Section 155(f) (the prohibition on using Section 155 funds for administrative expenses) would seem to indicate that the legislation intended to supplement those funds being used for actual or direct program expenses, not the funds used for administrative expenses, and not to supplant funds that are available for direct program expenses. This type of supplanting could occur if all non-Section 155 funds not previously allocated for administrative expenses were used for the expenses of administering the Section 155 funds.

However, effect must also be given to the language and intent of that portion of Section 155(c) that requires the Section 155 funds to be used as if received under the chosen conservation program. Thus, after the funds are designated for use in that program, they are to be treated as normal appropriated funds for regulatory purposes. Hence, the effect of combining the Section 155 funds and appropriated funds is to increase the base (the total funds available for the program) against which any program limitation on the use of funds available for the program is measured. Two of the programs have a percentage of the funds available for the program which may be used for administrative expenses set by regulation. In the other two programs there is no regulatory limit; however, the States have reported their administrative expenses to the Department from which the percentage of the available funds historically used for administrative expenses can be calculated. Considering the Congressional concern with administrative expenses, and giving effect to all provisions of Section 155, these percentages should be applied to the total of the Section 155 funds plus the appropriated funds to obtain the total amount available for administrative expenses. However, because of the express prohibition of Section 155(f), funds actually used for administrative expenses must be

[2] The agreement on this point of two members of Congress with particular interest in and knowledge of Section 155 outweighs the general reluctance to use statements of individual legislators made during debates on a bill to ascertain the meaning of the full legislative body. D. Sand, Sutherland Statutory Construction § 48.13 (4th ed. 1973).

[3] If the language in Section 155(c) providing that Section 155 funds supplement and not supplant, funds otherwise available for the authorized programs under Federal *or State law* were interpreted to prohibit use of the "otherwise available" funds for administrative expenses, it would require a State to obtain money entirely outside of the authorized programs to administer Section 155 funds, and could require new State legislative actions before the Section 155 funds could be disbursed. This absurd result would defeat the legislation's purpose of distributing the funds as quickly as practicable.

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derived only from appropriated funds, not Section 155 funds.

Specifically, regulations of the Weatherization Assistance Program and the Schools and Hospitals Grant Program limit the amount of funds available for the program which could be used for administrative expenses. Thus, when the Section 155 funds increase the amount of funds available for the program, the same limitation applies to the new total of funds available for the program. Therefore, the five percent available to the State for administration of the Schools and Hospitals Grant Program under the program regulations, 10 CFR § 455.82, and the five percent made available for administration of the Weatherization Assistance Program under that program's regulation (not more than ten percent for States and subgrantees), 10 CFR § 440.16, would in each case be five percent of the total of the Federal funds allocated to the State plus the Section 155 funds applied by the State to the program.

In addition, there are two programs for which there is no statutory or regulatory limit on administrative costs. These are the State Energy Conservation Program and the Energy Extension Service. In these programs, States may only increase their administrative budget by an amount which equals the percentage of a program's funds used in past years for administrative expenses multiplied by the total funding available for the program. This limitation is required to give effect to the provisions of Section 155(c) mandating that Section 155 funds supplement, not supplant, funds otherwise available for those programs.

Question #5: Must the Section 155 funds be expended by the States during a particular period of time?

Answer #5: Section 155 does not require a State to spend the Section 155 funds during a particular period of time. A State is also permitted to reallocate the funds from one eligible program to another, as long as the funds had not been expended. Thus, the provisions of the regulations and statute of the Schools and Hospitals Grant Program requiring DOE to reallocate among all the States funds not spent or obligated in a particular State during a particular fiscal year do not apply to the Section 155 funds.

Question #6: Do the recordkeeping, reporting, auditing, and monitoring requirements of the DOE program regulations also apply to the Section 155 funds? If so, must these funds be recorded and reported separately?

Answer #6: The monitoring, reporting, auditing, and recordkeeping requirements of the program regulations apply to these funds as if they were Federally appropriated funds. However, there is no requirement that records kept and reports made for the DOE programs have severable data on the disposition of the Section 155 funds, except that the Governor of each State must make the report required in Section 155(c) identifying the programs to which the funds were or will be applied.

Question #7: Do the States need to include provisions regarding the Section 155 funds in their new applications or amend current applications or State plans to cover the use of these funds?

Answer #7: States are required to include provisions in their new applications regarding the use of Section 155 funds or amend their current applications, State plans, or both to include the increase in program budget and production caused by the application of the Section 155 funds. New applications should be submitted in accordance with normal program procedures and OMB Circulars. Amendments to current applications and plans should be submitted at the same time as new applications. A new plan or application or an amendment to an existing plan or application is required when additional appropriated funds are allotted to a particular program. Since Section 155(c) requires the Section 155 funds be used as if such funds were received under the particular program to which they were applied, a new application or amendment is also required for Section 155 funds. However, such new applications or amendments do not need to be submitted before the Section 155 funds are used in a particular program. Congress intended the funds to be disbursed expeditiously and did not make their disbursement conditional upon receipt or amendment of an application or State plan.

A State is also required to amend its application or plan if it intends to use the funds for a purpose not provided for in the application or plan. For example, if a State wanted to apply funds disbursed to the State Energy Conservation Program to a measure not included in its State plan, it would have to amend the plan according to the procedures set forth in the program regulations before it funds the new measure. A State may also amend its current application, State plan, or both for other reasons as long as it follows the normal program procedures for making such amendments.

Question #8: Are the Civil Rights Act (42 U.S.C. 2000d), the Davis-Bacon Act (42 U.S.C. 276a), Office of Management and Budget Circulars, DOE Financial Assistance Rules, and other Federal requirements applicable to the Section 155 funds?

Answer #8: They are applicable to the extent they are applicable to Federally appropriated funds under the program regulations.

Question #9: Since grants under the Schools and Hospitals Grant Program are normally made by the DOE rather than by the States, what procedures should a Governor use if the State wants to apply some of the Section 155 funds to this program?

Answer #9: To apply these funds to the Schools and Hospitals Grant Program the State energy office should act as a coordinating agency under the program regulations and treat the funds as Federally appropriated funds. Thus, the State energy office would have the reporting, monitoring, recordkeeping, and auditing responsibilities it normally has under the program regulations when acting as a coordinating agency. The funds would be disbursed by the States to the institutions on the basis of a ranking of applications from schools and hospitals approved by DOE under the program regulations. The disbursement of the Section 155 funds from the States to the institutions and the approval of the ranking of applications for these funds by DOE would take place at the same time in the FY 1983 or later grant cycle for the program as the disbursal or Federally appropriated funds from DOE to the institutions and the ranking of applications for Federally appropriated funds by DOE.

Question #10: Must an institution provide funds to match a grant of Section 155 funds made under the Schools and Hospitals Grant Program? Must a State provide additional funds to match the Section 155 funds applied to the Energy Extension Service (EES)? May a State under the EES or an institution under the Schools and Hospitals Grant Program use the Section 155 funds to fulfill its obligation to match Federally appropriated funds?

Answer #10: An institution must provide funds to match a grant of Section 155 funds made under the Schools and Hospitals Grant Program; however, a State does not need to provide additional funds to match the Section 155 funds applied to the EES. As indicated in the legislative history of Section 155, the reason for requiring the funds to be applied to five particular programs and their regulations was to control the purpose for which the funds were to be used by the States and to provide fiscal accountability upon their use. 128 Cong. Rec. E5,327–E5,328 (daily ed. Dec. 18, 1982) (remarks of Rep. Dingell); 128 Cong. Rec. H10,434–H10,437

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(daily ed. Dec. 20, 1982) (remarks of Rep. Dingell); and S15,702–S15,703 (daily ed. Dec. 20, 1982) (remarks of Sen. Hatfield). The Schools and Hospitals Grant Program matching requirement is the type of control on the use of Federally appropriated funds Congress intended to be applicable to the Section 155 funds. The language of the statute requiring a match refers to the requirement in terms of a limitation on the use of funds. 42 U.S.C. 6371e(b)(1). Moreover, to ensure that the funds are used most effectively to produce the greatest energy savings, the program emphasizes a competition among a wide variety of projects from a large number of applicants. 10 CFR Part 455. Requiring an applicant to provide half of the funds for its project increases the likelihood that the applicant is proposing the most efficient projects and providing accurate cost figures and the likelihood that the competition will insure the most efficient use of Federally appropriated funds. Accordingly, the matching requirement must apply to the Section 155 funds disbursed under the Schools and Hospitals Grant Program.

The EES matching requirement, however, is not intended to be a control on the use of Federally appropriated funds and is not intended to be applicable to the Section 155 funds. The language of the statute requiring a match for EES does not limit the use of appropriated funds but only requires the funds available to the program to be augmented by the States. Section 1007(b), Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35. Moreover, Congress has no need to control the use of EES funds similar to its need regarding the Schools and Hospitals funds because it knows how the funds will be distributed. Congress itself determined by statute who the recipients will be (the States) and how they will use the funds and determined by the appropriation process the amount of funds each applicant will receive. 42 U.S.C. 7001 *et seq.* In addition, Senator Warner, who introduced the original amendment to the Countinuing Resolution which became Section 155, indicated that the States were unable to provide additional financial assistance to the public for energy purposes and that one purpose of the amendment was to provide the needed financial assistance to the States in order to enable them to provide such energy assistance. 128 Cong. Rec. S15,114–S15,116 (daily ed. Dec. 16, 1982). Nothing in the legislative history of the debates on the amendment indicates that the intention of Congress changed in this regard. A concern with a State's inability to help its citizens and an intention to aid the States in this connection would be inconsistent with requiring States to apply additional funds to match the Section 155 funds.

A State cannot under the EES program, and an institution cannot under the Schools and Hospitals Grant Program, use the Section 155 funds to fulfill its obligation to match Federally appropriated funds. Section 155 funds applied to both programs are required to be used as if they had been received under those programs. Section 155(c). Funds received under both programs cannot be used to meet matching requirements. In addition, Section 155(c) requires a State not to use Section 155 funds to supplant State funds otherwise available for energy conservation programs.

Question #11: In reporting energy savings under the State Energy Conservation Program (SECP), should a State report the savings due to the expenditure of Section 155 funds for that program?

Answer #11: The State should report energy savings due to actions taken under the SECP which were funded by the Section 155 funds in the same manner that it reports savings due to those actions funded by Federally appropriated funds.

Question #12: If a Governor applies some of the Section 155 funds to the Weatherization Assistance Program in a State where Indian tribes receive Federal funds for the program directly from the Federal government rather than from the State, should a portion of those funds designated for the Weatherization Assistance Program be disbursed to the Indian tribes?

Answer #12: In such a State, the Governor is required to do one of two things: either disburse a portion of the escrow funds in the amount calculated according to 10 CFR 440.11(b) to the tribal organization or other entity chosen by DOE under 10 CFR 440.11(d); or insure that the eligible members of Indian tribes in the State receive weatherization assistance in the same manner as other eligible individuals in the State receive such assistance.

Issued in Washington, D.C. on February 2, 1983.

R. Tenney Johnson,

General Counsel.

[FR Doc. 83–3472 Filed 2–4–83; 4:25 pm]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

Use of Petroleum Violation Escrow Funds in the Low Income Home Energy Assistance Program

AGENCY: Social Security Administration, HHS.

ACTION: Notice

SUMMARY: Section 155 of Pub. L. 97–377 provides that the Secretary of Energy distribute certain petroleum violation escrow funds to the Governors of the States to use as if those funds had been received under any of four energy conservation programs administered by the Department of Energy (DOE) or under the Low Income Home Energy Assistance Program (LIHEAP).

This notice provides guidance to LIHEAP grantees on the use of these escrow funds. A separate notice will be issued by DOE regarding use of these funds for the DOE energy conservation programs. In light of the clear Congressional intent that these funds be distributed expeditiously, we are using this notice to communicate out interpretation of the conditions put on the use of these funds for LIHEAP by section 155.

The general statutory requirement imposed by section 155(c) is that the funds are to be used as if they were received under any of the programs to which they may be applied. As with LIHEAP funds, we want to leave to the States maximum policy discretion in use of the escrow funds for LIHEAP purposes.

FOR FURTHER INFORMATION CONTACT: SSA Assistant Regional Commissioners for Family Assistance or Norman L. Thompson, Director, Office of Energy Assistance, Office of Family Assistance, Room B–448, Transpoint Building, 2100 2nd Street, SW., Washington, D.C. 20201, telephone (202) 245–20230.

SUPPLEMENTARY INFORMATION:

1. *Except as provided below, escrow funds should be treated as funds allotted to States for LIHEAP.* Section 155(c) of Pub. L. 97–377 directs Governors to use escrow funds, "* * * as if such funds were received under * * *," one of five specified programs, including LIHEAP. In effect, escrow funds used for LIHEAP should be treated by the States as part of the States' LIHEAP allotment.

2. *No escrow funds may be used for administration.* Under section 2605(b)(9) of Pub. L. 97–35, a State may use up to 10% of its LIHEAP allotment for planning and administration. Under section 155(f) of Pub. L. 97–377, however, no escrow funds may be used for administrative expenses. Although these provisions appear to be inconsistent, we believe that they can be reconciled. If a State uses escrow funds for LIHEAP purposes, the funds may be considered part of the allotment to which the 10% limitation on administrative expenses applies, since the escrow funds are to be used as if they were LIHEAP funds. Funds actually used for administrative expenses, however, must not be escrow funds.

3. *The use of escrow funds will be included in some reporting requirements and not others.*

a. *Estimate of monthly obligations.* Form SSA–35 should not reflect escrow funds. The estimates are used for decisions about apportionment of block grant appropriations. Escrow funds are not part of this process.

b. *Rollover and reallotment report.* Escrow funds are to be treated like funds received under LIHEAP with respect to section 2607(b) of Pub. L. 97–35 and should be reflected in the report required by 45 CFR 96.81.

c. *Number and income levels of households assisted.* 45 CFR 96.82 provides that grantees report on the number and income levels of all households assisted with LIHEAP funds. Households assisted with escrow funds should be included. However, it is not necessary to report in such a way that the number of households assisted by escrow funds is distinguishable from the number of households otherwise assisted.

d. *Audit.* Escrow funds should be audited according to the same audit requirements as other LIHEAP funds. States should be aware of any State audit requirements which would make it necessary to track escrow funds separately to determine that none were used for administrative purposes, or otherwise used in a manner contrary to section 155.

4. *Each State must determine whether its use of escrow funds requires the State to amend its plan, although public hearings are not required.* Section 2605(a)(2) of Pub. L. 97–35 requires that public hearings be held by States before receiving LIHEAP grants for fiscal year 1983. We do not believe that the availability of section 155 funds requires new hearings under that section. A State's plan may have to be amended to cover the expenditure of section 155 funds. States will need to determine whether their intended use of escrow funds is consistent with the use and distribution of LIHEAP funds expressed in their current plan. If it is not, a plan amendment should be prepared. As with other plan amendments, prior Federal approval is not required in order for a state to implement the amendment.

5. *HHS cannot set aside portions from State grants of escrow funds in order to make direct grants to Indian tribes which run their own LIHEAP.* Section 155 provides that the Secretary of Energy distribute funds to the Governors of the States. The funds are to be distributed among States based upon the amount of petroleum products used by the citizens of each State, including members of Indian tribes with direct LIHEAP grants. The Governors of the States then decide upon the distribution of escrow funds among the five eligible programs within the State. The Office of Family Assistance does not have authority to set aside escrow funds for direct grants to tribes. The State should ensure that members of LIHEAP grantee Indian tribes share equitably in the benefits provided with escrow funds expended under LIHEAP. We are not prescribing the manner in which a State accomplishes this. The State may make any appropriate arrangements, including requesting that the Office of Family Assistance withhold from LIHEAP grants to the State an amount proportionate to the State's share of escrow funds, in order to augment the LIHEAP allocations of direct-grant tribes.

(Catalog of Federal Domestic Assistance Program No. 13.818 Low Income Home Energy Assistance)

Dated: February 3, 1983.

Linda S. McMahon,

Associate Commissioner for Family Assistance, U.S. Department of Health and Human Services.

[FR Doc. 83–3473 Filed 2–4–83; 4:24 pm]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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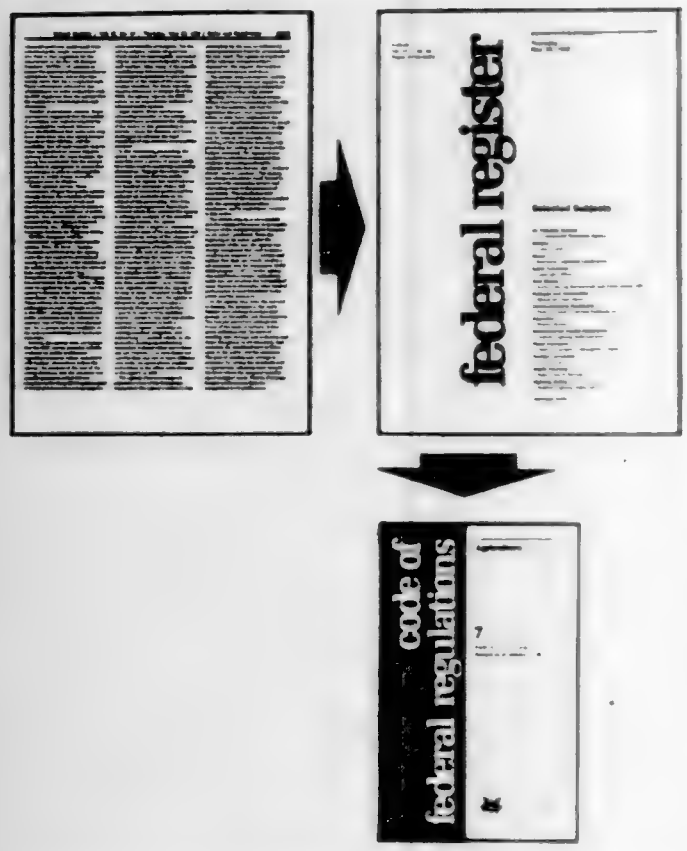

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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The President

Executive Order 12403 of February 8, 1983

African Development Bank

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 1 of the International Organizations Immunities Act (22 U.S.C. 288), Reorganization Plan No. 4 of 1965, and the African Development Bank Act (22 U.S.C. 290i), and in order to facilitate United States participation in the African Development Bank, it is hereby ordered as follows:

Section 1. The African Development Bank, in which the United States participates pursuant to Sections 1332–1342 of Public Law 97–35 and the Agreement Establishing the African Development Bank, is hereby designated as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act. This designation is not intended to abridge in any respect the privileges and immunities which such organization has acquired or may acquire by treaty or Congressional action. This designation shall not affect in any way the applicability of Section 1 of Article 52 of the Agreement, Article 57 of such Agreement or the Declaration made by the United States pursuant to Article 64 of the Agreement.

Sec. 2. Executive Order No. 11269, as amended, is further amended by deleting "and African Development Fund" and adding ", African Development Fund, and African Development Bank" in Sections 2(c), 3(d) and 7, respectively.

Sec. 3. The functions vested in the President by Sections 1333(c), 1334, 1338(a) and 1341(b) of Public Law 97–35 (22 U.S.C. 290i–1(c), 290i–2, 290i–6(a), and 290i–9(b)) are delegated to the Secretary of the Treasury.

Ronald Reagan

THE WHITE HOUSE,
February 8, 1983.

[FR Doc. 83–3864
Filed 2–9–83; 11:00 am]
Billing code 3195–01–M

Editorial Note: The President's remarks on signing EO 12403, and a letter to the President of the African Development Bank on U.S. membership in the Bank, both dated Feb. 8, 1983, are printed in the *Weekly Compilation of Presidential Documents* (vol. 19, no. 6)

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 564, Amdt. 1; Navel Orange Reg. 565]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 11–17, 1983, and increases the quantity of such oranges that may be so shipped during the period February 4–10, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective February 11, 1983, and the amendment is effective for the period February 4–10, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on February 8, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. Section 907.865 is added as follows:

§ 907.865 Navel Orange Regulation 565.

The quantities of navel oranges grown in California and Arizona which may be handled during the period February 11, 1983 through February 17, 1983, are established as follows:

(1) District 1: 1,800,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

2. Section 907.864 Navel Orange Regulation 564 (48 FR 4767), is hereby amended to read:

§ 907.864 Navel Orange Regulation 564.

* * * * *

(1) District 1: 1,900,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 9, 1983.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-3885 Filed 2-9-83, 11:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 166

[Docket No. 83–003]

State Status Regarding Enforcement of the Swine Health Protection Act; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects the list of States that have primary enforcement responsibilities under the Swine Health Protection Act by adding the State of South Dakota. This action is needed to correct a proofreading oversight which resulted in omitting the State of South Dakota.

EFFECTIVE DATE: February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. R. D. Good, Special Diseases Staff, Veterinary Services, APHIS, USDA, 6505 Belcrest Road, Federal Building, Room

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825, Hyattsville, MD 20782, 301–436–8487.

SUPPLEMENTARY INFORMATION: On December 30, 1982, there was published in the **Federal Register** (47 FR 58217–58218) an interim rule listing the States that have primary enforcement responsibility under the Act during any period for which the Secretary of the United States Department of Agriculture determines that the State has and is enforcing laws and regulations which meet the minimum standards of the Act and regulations promulgated thereunder. As a result of a proofreading oversight, the State of South Dakota was omitted from this list of States in § 166.14(c), which appeared at 47 FR 58213. This document corrects this oversight by adding the State of "South Dakota" in 9 CFR 166.14(c).

List of Subjects in 9 CFR Part 166

Animal diseases, Hogs, Garbage, African swine fever, Foot-and-mouth disease, Hog cholera, Swine vesicular disease, Vesicular exanthema of swine.

PART 166—SWINE HEALTH PROTECTION

Accordingly, Part 166, Title 9, Code of Federal Regulations, 9 CFR 166.14(c), *State status*, is corrected by adding the State "South Dakota" after "South Carolina" and before "Tennessee."

(Sec. 511, Pub. L. 96–592, 94 Stat. 3451 (7 U.S.C. 3802); secs. 4, 5, 9, 12, Pub. L. 96–468, 94 Stat. 2229 (7 U.S.C. 3803, 3804, 3808, 3811); 45 FR 85696, 46 FR 7266)

Done at Washington, D.C., this 4th day of February 1983.

K. R. Hook,

Acting Deputy Administrator.

[FR Doc. 83–3545 Filed 2–9–83; 8:45 am]

BILLING CODE 3410–34–M

Food Safety and Inspection Service

9 CFR Parts 301, 318 and 381

[Docket Number 80–034F]

Cooling and Retort Water Treatment Agents

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal meat and poultry products inspection regulations by deleting cooling and retort water treatment agents from the list of substances that are approved for use, directly or indirectly, in the preparation of meat and poultry products. The Food Safety and Inspection Service (FSIS) has determined that these agents are not likely to become components of the regulated products and, therefore, are no longer to be treated as a "class of (food) substance," but rather as nonfood compounds.

EFFECTIVE DATE: March 14, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Donald D. Derr, Deputy Director, Food Ingredient Assessment Division, Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–7680.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made a determination that this final rule is not a "major rule" under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The sole alternative considered during the development of this rule was to maintain the status quo. Under this final rule, meat and poultry processors will have available a wider variety of permissible nonfood compounds. It is anticipated that this added flexibility will result in cost savings for industry and consumers.

Effect on Small Entities

The Administrator has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601). This final rule removes cooling and retort water treatment agents as a "class of substance" used in the preparation of meat and poultry products, classifying them instead as nonfood compounds.

Background

During the process of cooking and cooling containers of meat and poultry products, dissolved minerals and oxygen in the water used for these processes may react with the cans and cause them to become stained. Staining can be avoided by adding chemical agents to the water. These added substances also control corrosion and deposit formation on surfaces of the processing equipment. The substances permitted for addition to cooling and retort water are currently listed in § 318.7 of the Federal meat inspection regulations (9 CFR 318.7) and § 381.147 of the poultry products inspection regulations (9 CFR 381.147). These sections list substances approved for use in the preparation of meat and poultry products.

Cooling and retort water treatment agents were added to the chart of approved substances in § 318.7 (9 CFR 318.7) in August 1966, because of concern that these substances might enter the food during its preparation. In 1972 the Federal poultry products inspection regulations were amended to include cooling and retort water treatment agents in the chart of approved substances in § 381.147 (9 CFR 381.147), in order to standardize the meat and poultry regulations.

Generally, the substances in §§ 318.7 and 381.147 (9 CFR 318.7 and 381.147) are food additives approved for use in food by the Food and Drug Administration (FDA) and listed for specific uses in meat and poultry products by USDA. Each such listing, therefore, requires that petitions, supported by technological data as necessary, be sent to both agencies demonstrating the safety and the technological function of the substance under intended conditions of use. However, cooling and retort water treatment agents are not currently regulated by FDA as "food additives." FDA has stated that substances used in retort and cooling canals are not food additives since there is no reasonable expectation that they become components of food.

As there is no evidence that these agents become food components, and since FDA is not regulating these substances as food additives, FSIS has determined that its regulation of these substances in §§ 318.7 and 381.147 is inappropriate.

Proposal

On August 3, 1982, FSIS published a proposed rule in the **Federal Register** (47 FR 33517) to delete cooling and retort water agents from the list of approved food additives, and all references to these agents as food additives, that appear in the Federal meat and poultry products inspection regulations. Under the proposal, FSIS would continue to evaluate cooling and retort water treatment agents as other nonfood compounds used in official establishments to minimize the possibility that their presence in the establishment would result in the products becoming adulterated within the meaning of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or

the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*).

The proposal also included a new definition of "nonfood compounds" for placement in the Federal meat and poultry products inspection regulations. The current definition in the poultry inspection regulations is inadequate, and the term is not defined in the meat inspection regulations.

In response to the proposal, FSIS received three comments—two from industry associations and one from a canning company. The commenters fully supported the proposal and concurred with FSIS' determination that cooling and retort water treatment agents will unlikely ever become components of meat and poultry products.

Therefore, FSIS hereby adopts the proposal as published. FSIS will monitor the use of cooling and retort water agents, as well as other nonfood compounds used in official establishments, and will determine, at a future date, the need for specific instructions to program employees and for regulations regarding such nonfood compounds. In the the interim, questions regarding specific nonfood substances used in official establishments should be forwarded to the Food Ingredient Assessment Division, Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

List of Subjects

9 CFR Part 301

Meat inspection, Definitions.

9 CFR Part 318

Meat inspection, Preparation of products, Official establishments.

9 CFR Part 381

Meat inspection, Definitions, Preparation of products, Official establishments.

Final Rule

The Federal meat and poultry products inspection regulations are revised as follows:

PART 301—[AMENDED]

PART 318—[AMENDED]

1. The authority citation for Parts 301 and 318 reads as follows

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. Section 301.2 of the Federal meat inspection regulations (9 CFR 301.2) is amended by adding a new paragraph (www) as follows:

§ 301.2 Definitions.

* * * * *

(www) *Nonfood compound.* Any substance proposed for use in official establishments, the intended use of which will not result, directly or indirectly, in the substance becoming a component or otherwise affecting the characteristics of meat and meat food products, excluding labeling and packaging materials as covered in Part 317 of the subchapter.

* * * * *

3. Section 318.1(d) of the Federal meat inspection regulations (9 CFR 318.1(d)) is revised to read as follows:

§ 318.1 Products and other articles entering official establishments.

* * * * *

(d) Containers of preparations which enter any official establishment for use in hog scalding water or in denuding of tripe shall bear labels showing the chemical names of the preparations. In the case of any preparation containing any of the chemicals which are specifically limited by § 318.7(c)(4) as to amount permitted to be used, the labels on the containers must also show the percentage of each such chemical in the preparation and must provide dilution directions which prescribe the maximum allowable use concentration of the preparations.

* * * * *

4. The chart in § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)) is amended by removing the "class of substance" identified as "cooling and retort water treatment agents" and all information listed under this class of substance.

PART 381—[AMENDED]

5. The authority citation for Part 381 reads as follows:

Authority: Sec. 14, Poultry Products Inspection Act, as amended by Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450); and subsection 21 (b), Federal Water Pollution Control Act, as amended by Pub. L. 91–224 and by other laws (33 U.S.C. 1254).

6. Section 381.1(b)(32) of the poultry products inspection regulations (9 CFR 381.1(b)(32)) is revised to read as follows:

§ 381.1 Definitions.

* * * * *

(b) * * *

(32) *Nonfood compounds.* Any substance proposed for use in official establishments, the intended use of which will not result, directly or indirectly, in the substance becoming a component or otherwise affecting the characteristics of poultry or poultry products, excluding labeling and packaging materials as covered in Subpart N of this part.

* * * * *

§ 381.147 [Amended]

7. The chart in § 381.147(f)(3) of the poultry products inspection regulations (9 CFR 381.147(f)(3)) is amended by removing the "class of substance" identified as "cooling and retort water treatment agents" and all information listed under this class of substance.

Done at Washington, DC, on February 1, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83–3695 Filed 2–9–83; 8:45 am]

BILLING CODE 3410–DM–M

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9 CFR Part 327

[Docket No. 82–005F]

Requirements for Imported Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements the provisions of the Agriculture and Food Act of 1981 that amended the Federal Meat Inspection Act. This rule amends the Federal meat inspection regulations to clarify that the inspection, sanitation, quality, species verification and residue standards applied to products (*i.e.*, carcasses, parts of carcasses, and meat and meat food products of cattle, sheep, swine, goats, horses, mules and other species capable of use as human food) offered for importation into the United States must be at least "equal to" the standards applied to such domestic products produced in the United States. This final rule also requires that all countries that wish to establish or maintain eligibility to export products to the United States implement a residue testing program. Residue testing must be conducted on the internal organs and fat, as appropriate, for the detection of residues in the carcasses of meat and meat food products being offered for importation into the United States.

EFFECTIVE DATE: March 14, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Grace Clark, Foreign Programs, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6971.

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SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined in accordance with Executive Order 12291 that this final rule is not a "major rule". It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers, individual industries; Federal, State or local government agencies, or geographic regions, and will not have a significant adverse effect on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The purpose of this regulation is to clarify and conform existing regulations to Public Law 97–98, the Agriculture and Food Act of 1981 which amended section 20 of the Federal Meat Inspection Act. The principal impact of this rule is on foreign countries exporting meat products to the United States and is not expected to be substantial. If any portion of the increased cost was not absorbed by the exporting country and was passed along to the United States, such cost should be quite small and should not have a substantial impact on the domestic economy.

Effect on Small Entities

The Administrator has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354 because to the extent it involves any costs, those costs would be borne primarily by the exporting country. Those foreign countries offering meat and meat food products for exportation to the United States must have an inspection system at least "equal to" that of the United States, and most already have in place the programs necessary to comply with this regulation. Those countries requiring certain modifications to their systems should be able to develop the necessary programs at a minimal cost to them. Domestic businesses should incur little or no additional costs, either directly or indirectly.

Background

Pursuant to the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Secretary of Agriculture is responsible for administering the programs which are designed to assure that products distributed to consumers are wholesome, not adulterated, properly marked, labeled, and packaged. In order to fulfill this obligation, the Secretary has delegated to the Administrator of the Food Safety and Inspection Service (FSIS), the authority to issue regulations and implement appropriate procedures to ensure compliance with the requirements of the FMIA. The regulations addressing imported products are codified at 9 CFR Part 327. In these regulations the Administrator has established procedures by which foreign countries desiring to export meat or meat food products to the United States may become eligible to do so. More extensive background information on foreign programs is found in the "Supplementary Information" section of the proposal.

Proposal

On July 7, 1982, the Agency published a proposed rule, 47 FR 29685–29688, to implement the provisions of Pub. L. 97–98, the Agriculture and Food Act of 1981, concerning imported meat and meat food products. Section 1122 of the Farm Bill (21 U.S.C. 620(f)) amends section 620 of the FMIA (21 U.S.C. 620) by adding a new subparagraph (f) which requires that all imported products be subject to the same standards as domestic products with regard to inspection, sanitation, quality, species verification and residue. The Secretary is directed to enforce the provisions of the new section through the imposition of random inspection for species verification and residues. Additionally, the exporting country must provide for the random sampling and testing of internal organs and fat as appropriate for testing for residues in the carcasses at the point of slaughter. The Agency proposed that Part 327 of the Federal meat inspection regulations (9 CFR Part 327) be amended to include the following provisions:

(1) That the inspection, sanitary, quality, species verification, and residue standards applied to imported meat and meat food products must be at least "equal to" the standards applied to domestic product; and

(2) That foreign countries wishing to establish and/or maintain eligibility to export product to the United States must maintain a program to test for residues in the internal organs and fat of carcasses from which meat and meat food products intended to be offered for importation into the United States are produced.

Comments

The Agency received 22 comments in response to the proposal, 19 in favor and 3 opposed. The comments were submitted by Trade Associations, private citizens, State Universities, meat producers, a meat packer, a State Department of Agriculture, and a United States Representative. The comments discussed 5 general issue areas:

(1) Residue testing by the foreign inspection programs;

(2) Cost of inspection;

(3) Economic advantage imported meat and meat food products maintain over state inspected meat and meat food products;

(4) Labeling as to country of origin; and

(5) Consumer education regarding imported products. The Agency's responses are as follows.

1. *Residue testing by the foreign inspection program.* Two commentators expressed concern about the proposed requirement that each exporting country implement a residue testing program that includes the random sampling of internal organs and fat at the point of slaughter for potential contaminants. The thrust of both comments was that the Agency must participate in the determination of those types of residues for which testing ought to be conducted. One commentator specified that the burden of the residue testing program ought to be on the exporting country, providing there is adequate supervision and monitoring of the program to assure that the resulting product complies with established standards. The other commentator stressed the importance of the random testing, the adequacy of the testing procedures, and the need for documentation of those testing procedures that have not yet been approved in the United States.

The Agency agrees with both commentators and believes that the rule contains adequate safeguards, whereby FSIS will be confident of the adequacy of each exporting countries' residue testing program and the resulting product. Even though the burden of establishing a residue testing program rests with each exporting country, FSIS Foreign Program officials have been working with meat inspection officials in exporting countries to determine if the nature of their residue program is appropriate. Additionally, the Agency is requiring that the testing methods used must be approved by the Administrator. The specific testing procedures are also currently being evaluated by the Agency.

In response to the concern that the testing procedures be conducted on a random basis, the Agency considers this to be a minimum requirement, and does not object to programs designed differently provided this minimum requirement is met. For example, the Agency is permitting programs in some

countries which require testing of every lot of animals from every farm at each plant.

Finally, in response to the suggestion that the exporting country provide specific documentation of the adequacy of testing procedures not yet approved for use in the United States, the Agency notes that it can and will request such documentation as needed. Documentation may be needed whenever an analytical method is not approved for official use in the United States or it is to be used for residues of a compound not approved for use in the United States. This is an inherent part of the review of exporting countries' residue programs; modification of the rule in that regard is not necessary.

2. *Cost of inspection.* Two of the comments discussed the cost to the United States of providing inspection, asserting that the cost ought to be borne by the exporting country.

The greatest cost burden associated with the new inspection requirements will be borne by the exporting country in implementing a residue testing program at the point of slaughter. The suggestion that each exporting country be charged for point-of-entry inspection services goes beyond the scope of this rulemaking.

3. *Economic advantage imported meat and meat food products maintain over state inspected meat and meat food products.* A comment was submitted by the State of Virginia's Department of Agriculture and Consumer Affairs which took issue with a statement in the proposal that the rule "[would] not have a significant adverse effect on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets." It was the commentator's contention that state inspected meat and meat food products suffer a competitive disadvantage in the market place. Even though the state meat inspection programs operate on a system that is at least "equal to" the federal program, the state inspected meat and meat food products are not permitted entry into interstate commerce. Whereas, imported products operating under the same "equal to" standard are allowed entry into interstate commerce.

The statement in the proposal and noted in the comment refers to a particular finding required by Executive Order 12291. The Executive Order requires that the Agency make a determination concerning the impact any proposed or final regulation would have on the national economy. USDA interprets a "significant effect" to be any action that would have an annual effect on the economy in excess of $100 million. Issuance of this regulation is not anticipated to cause a change in the amount of meat and meat food products being imported into the United States that would even approach a resulting $100 million effect on the economy.

Nevertheless, the Agency agrees that imported product has an economic advantage over state inspected product, for the stated reason. The Agency is supporting proposed legislation that would allow state inspected meat and meat food products operating under standards that are at least "equal to" those of the Federal meat inspection program entry into interstate commerce. However, the Agency lacks authority to make such a change absent legislative action by Congress. The House and Senate Agriculture committees are currently considering proposed legislation that would permit the interstate sale of state inspected product.

4. *Labeling as to country of origin.* Two commentators discussed a requirement that all imported meat and meat food products be labeled as to their country of origin. One of the commentators supported such a requirement while the other opposed it.

Imported meat and meat food products must meet the same standards as domestically produced product. Therefore, special labeling as to the place of origin is not justified under the provisions of existing law. Any special labeling would be very costly to U.S. producers who combine domestic and imported product into a single finished product. These producers would be required to keep records that would detail combined product mixtures for all finished lots. It would also require that importers maintain various stockpiles of labels for every country from which product was imported.

5. *Consumer education regarding imported products.* One of the comments suggested that the Agency implement a consumer education program to stress the quality of imported meat and meat food products as a means of restoring any consumer confidence that may have been lost as a result of the Australian meat substitution incident.

The Agency agrees that it is important that consumers be aware that imported products meet all the standards set for domestic products. However, there does not appear to have been any loss in confidence in imported products due to the Australian meat substitution incident that would warrant the expenditures required for a consumer education program. Less costly and equally effective means of providing information on the inspection standards applied to imports can be used to the same end. The Agency's mandate under the legislation was to strengthen the foreign inspection program. Implementation of a consumer education program exceeds the scope of this rulemaking.

Final Rule

Therefore, the Agency is amending Part 327 of the Federal meat inspection regulations (9 CFR Part 327) as proposed. This regulation is intended to make clear that the inspection, sanitary, quality, species verification, and residue standards applied to meat and meat food products being offered for importation into the United States must be at least "equal to" such standards applied to domestic meat and meat food products. Part 327 is further amended so as to require foreign countries desiring to establish and/or maintain eligibility for importation of products into the United States to have and maintain a program to test for residues in the internal organs and fat of carcasses from which meat and meat food products intended to be offered for importation into the United States are produced. Such a program would be required to provide for the sampling of internal organs and/or fat at the point of slaughter on a random basis, and the testing of such internal organs and fat for the detection of residues likely to occur in meat and meat food product from the particular exporting country. Analysis would be performed on the internal organs and/or fat, as appropriate for the detection of the specific residue. In addition, testing would be required only for those substances known to be in use in the production of meat and meat food products in the particular exporting country or otherwise known to be present in the environment of such country. As part of its obligation to assure that imported products meet the same standards applied to such domestic products, FSIS may request testing for residues of additional specific substances. Current programs now include the random sampling for species verification and residue tolerance levels of the imported product at the point of entry. Authority to take samples for laboratory examinations from products offered for importation is provided in 9 CFR 327.10(a). FSIS is not proposing additional regulations under the Farm Bill (21 U.S.C. 620(f)) concerning the provisions of the Act that would: prohibit imported products not meeting U.S. standards entry into the United States; and impose mandatory random

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inspection for species verification on products offered for importation, as any such additional regulations would be a duplication of existing provisions.

List of Subjects in 9 CFR Part 327

Imported products, Meat inspection.

PART 327—[AMENDED]

Accordingly, FSIS is revising the Federal meat inspection regulations as follows:

1. The authority citation for Part 327 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. Section 327.2(a)(2)(i) is amended by redesignating the present paragraph (*f*) as paragraph (*g*) and by adding a new paragraph (*f*) to read as follows:

§ 327.2 Eligibility of foreign countries for importation of products into the United States.

(a) (1) * * *
(2) * * *
(i) * * *

(*f*) The inspection, sanitation, quality, species verification, and residue standards applied to products produced in the United States.

* * * * *

3. Section 327.2(a)(2)(iv) is amended, for the sake of clarity, by designating the present requirements contained in this paragraph as paragraphs (a)(2)(iv) (*a*) and (*b*), and adding a new paragraph (*c*), to read as follows:

(a) * * *
(2) * * *

(iv) The foreign inspection system must maintain a program to assure that the requirements referred to in this section, at least "equal to" those of the Federal system of meat inspection in the United States, are being met. The program as implemented must provide for the following:

(*a*) Periodic supervisory visits by a representative of the foreign inspection system not less frequent than one such visit per month to each establishment certified in accordance with paragraph (a)(3) of this section to assure that requirements referred to in (*a*) through (*h*) of paragraph (a)(2)(ii) of this section are being met: *Provided,* That such visits are not required with respect to any establishment during a period when the establishment is not operating or is not engaged in producing products for exportation to the United States;

(*b*) Written reports prepared by the representative of the foreign inspection system who has conducted a supervisory visit, documenting his or her findings with respect to the requirements referred to in (*a*) through (*h*) of paragraph (a)(2)(ii) of this section, copies of which shall be made available to the representative of the Department at the time of that representative's review upon request by that representative to a responsible foreign meat inspection official: *Provided,* That such reports are not required with respect to any establishment during a period when the establishment is not operating or is not engaged in producing products for exportation to the United States; and

(*c*) Random sampling of internal organs and fat of carcasses at the point of slaughter and the testing of such organs and fat, for such residues having been identified by the exporting country's meat inspection authorities or by this Agency as potential contaminants, in accordance with sampling and analytical techniques approved by the Administrator: *Provided,* That such testing is required only on samples taken from carcasses from which meat or meat food products intended for importation into the United States are produced.

* * * * *

Done at Washington, D.C., on January 31, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-3698 Filed 2-9-83; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221, and 224

Securities Credit Transactions; Regulations G, T, U and X

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The List of OTC Margin Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List effective July 26, 1982, and the First Supplement to that List, effective October 18, 1982, and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of OTC Margin Stocks on file at the Office of the Federal Register as of July 26, 1982. The complete List of OTC Margin Stocks is comprised of the July 26, 1982 List of OCT Margin Stocks (See 47 FR 30719, July 15, 1982), the October 18, 1982 Supplement (See 47 FR 44241, October 7, 1982), and this February 22, 1983 Supplement. The List, as amended, includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant incorporating such stocks on the List of OTC Margin Stocks. Copies of the current List and the Supplements thereto may be obtained from any Federal Reserve Bank, and are on file at the Office of the Federal Register.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion on the List specified in 12 CFR §§ 207.5(d) and (e), 220.8(h) and (i), and 221.4(d) and (e). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects

12 CFR Parts 207 and 221

Banks, banking, Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities.

12 CFR Part 220

Banks, banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, Reporting requirements, Securities.

12 CFR Part 224

Banks, banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78g and 78w) and in accordance with § 207.2(f)(2) of Regulation G, § 220.2(e)(2) of Regulation T, and § 221.3(d)(2) of Regulation U, there is set forth below the Supplement of additions to and deletions from the Board's List:

Board of Governors of the Federal Reserve System Second Supplement to July 26, 1982, List of OTC Margin Stocks,[1] February 22, 1983

Additions to the List

AGS Computers, Inc., $.10 par common
Algorex Corporation, $.01 par common
Altair Corporation (Illinois), $.25 par common
American Aggregates Corporation, No par common
American Federal Savings and Loan Association of Colorado, $.01 par common
American Medical Services, Inc., $.10 par common
American National Holding Company, $5.00 par common
Arnold Industries, Inc., $1.00 par common
BPI Systems, Inc., $.01 par common
Biosearch Medical Products Inc., No par common
CPT Corporation, 10% convertible subordinated debentures
Capitol Bancorporation, $1.25 par common
Castle Entertainment, Inc., No par common
Citizens Growth Properties, $1.00 par shares of beneficial interest
Commercial Decal, Inc., $.20 par common
Computer Input Services, Inc., $.10 par common
Convergent Technologies, Inc., No par common
Crime Control, Inc., No par common
Data Switch Corporation, $.01 par common
Diagnostic Products Corporation, No par common
Elron Electronic Industries Ltd., Ordinary shares, IS 3 par value
Energy Reserve, Inc., No par common
Fidelity of Oklahoma, Inc., $5.00 par common
First Bancorporation of Ohio, $10.00 par common
First Capital Financial Corporation, $.01 par common
First National Corporation (Wisconsin), $5.00 par common
Flower Time, Inc., $.10 par common
General Magnaplate Corp., No par common
Godfather's Pizza, Inc., $.01 par common
Home Health Care of America, Inc., No par common
Idle Wild Foods, Inc., $1.00 par common
Independence Holding Company, $1.00 par common
Independent Bankshares, Inc., $1.25 par common
Indian Head Banks Inc., $5.00 par common
Intermetrics, Inc., $.01 par common
KV Pharmaceutical Company, $.50 par common
Kasler Corporation, No par common
Kimbark Oil & Gas Company, $.10 par common
Laidlaw Industries, Inc., $1.00 par common
Makita Electric Works, Ltd., Common stock, par value ¥ 50 per share
Mayfair Super Markets, Inc., $1.00 par common
Merchants Bancorp, Inc., $3.00 par common
Molecular Genetics Inc., $.01 par common
Muse Air Corporation, $.10 par common
National Bancorp of Alaska, Inc., $10.00 par common
Naugles, Inc., No par common
Nuclear Support Services, Inc., $.0025 par common
Old Stone Corporation, Series C, convertible preferred
Patriot Bancorporation, $3.33⅓ par common
People Express Airlines, Inc., $.01 par common
Pizza Ventures, Inc., No par common
Plaza Commerce Bancorp, No par common
Rexon Business Machines Corporation, No par common
Savings Bank of Puget Sound, $5.00 par common
Sensormatic Electronics Corporation, 10% convertible subordinated debentures
Spex Industries, Inc., $.10 par common
Syntrex Incorporated, $.10 par common
TCA Cable TV, Inc., $.10 par common
Textone, Inc., $.20 par common
United Bankers, Inc., No par common
Unitog Company, $2.00 par common
Victory Markets Inc., $.50 par common
Visual Sciences, Inc., $.01 par common
W. Bell & Co., Inc., $.10 par common
Wespac Investors Trust, $1.00 par shares of beneficial interest
Westbridge Capital Corp., $.10 par common
Zenith Laboratories, Inc., $.09 par common

Deletions From the List

Advest Group, Inc., the, $1.00 par common
Altair Corporation (Puerto Rico),[2] $1.00 par common
American Welding & Manufacturing Company, the, No par common
Ancorp Bancshares, Inc., $3.50. par common
Apeco Corporation,[2] $.50 par common
Automated Marketing Systems, Inc.,[2] $.50 par common
Barton Brands, Ltd.,[2] No par units of limited interest
Beefsteak Charlie's, Inc., $.10 par common
Cado Systems Corporation, $.10 par common
Castle Industries, Inc., $.10 par common
Central Louisiana Electric Company, Inc., $4.00 par common
Chem-Nuclear Systems, Inc., $.05 par common
Computer Data Systems, Inc., $.10 par common
Connecticut National Bank, $5.00 par common
Countrywide Credit Industries, Inc., $.05 par common
Crowley Foods Inc., $5.00 par common
Eaton Vance Corporation, Non-voting, $.50 par common
Equitable Savings & Loan Association, $2.00 par common
Exchange Bancorporation, Inc., $2.50 par common
Federated Investors, Inc., Class B, $.05 par common
First Executive Corporation,[2] 10% convertible subordinated debentures
Flight Transportation Corporation,[2] $.01 par common
Government Services Savings & Loan, Inc., $1.00 par capital
HCA, Inc., $1.00 par common
Hazleton Laboratories Corporation, $.10 par common
Home Depot, the $.05 par common
Interscience Systems, Inc.,[2] $.10 par common
Koger Company, the, $.10 par common
MFY Industries, Inc.,[2] $.25 par common
Midwestern Resources, Inc.,[2] $.001 par common
Mountain Banks, Ltd.,[2] $5.00 par common
National Savings Corporation, $1.00 par common
Oklahoma Energies Corporation,[2] $.001 par common
Pinkerton's Inc., Class B, non-voting, no par common
Pittsburgh National Corporation, $5.00 par common
Putnam Duofund, Inc., $1.00 per capital shares,[2] $1.00 par income shares[2]
Rai Research Corporation, $.01 par common
Radiofone Corporation, $.10 par common
Rehab, C. P. Corp.,[2] Warrants (expire 8/14/85)
Rollings Burdick Hunter Company, $.50 par common
Satellite Television & Associated Resources, Inc.,[2] $.01 par common
Saxon Oil Company,[2] $.10 par common
Sigmor Corporation,[2] Class A, $1.00 par common
Southwest Factories, Inc., $.40 par common
State National Bancorp, Inc., $1.00 par common
Sun Banks of Florida, Inc.,[2] $4.375 cumulative convertible preferred
United Kentucky, Inc., $10.00 par common

NAME CHANGES

From—	To—
Alabama-Tennessee Natural Gas Company, $1.00 per common.	Alatenn Resources, Inc., $1.00 per common.
Arizona Bank, the, $2.50 par common.	Arizona Bancwest Corporation, $2.50 par common.
Caci, Inc., $.10 par common....	Caci, Inc., Paired units.
First American Bank of Palm Beach County, Class A, $1.00 par common.	First American Bank and Trust of Palm Beach County, Class A, $1.00 par common.
First National Bancorporation, Inc., the, $10.00 par common.	Intrawest Financial Corporation, $10.00 par common.
Franklin State Bank, $3.50 par common.	Franklin Bancorp, $3.50 par common.
Hudson United Bank (Union City, N.J.), $8.00 par capital.	Hubco, Inc., $8.00 par capital.
Liberty National Bancorp, Inc., $8.33⅓ par common.	Liberty United Bancorp, Inc., $8.33⅓ par common.
M.D.C. Corporation, $.01 par common.	Bouton Corporation, $.01 par common.
North-West Telephone Company, $5.00 par common.	North-West Telecommunications, Inc., $5.00 par common.

[1] The complete List of OTC Margin Stocks is comprised of the July 26, 1982 List of OTC Margin Stocks, the October 18, 1982 Supplement and this Second Supplement.

[2] Removed for failing continued listing requirement.

NAME CHANGES—Continued

From—	To—
Pacific Coast Holdings, Inc., No par common.	Bell National Corporation, No par common
Provident National Corporation, $1.00 par common.	PNC Financial Corporation, $1.00 par common.
Telecom Equipment Corporation, $.01 par common	Telecom Plus International, Inc., $.01 par common.
Tenneco Offshore Company, Inc., $1.00 par common	Tel Offshore Trust, Units of beneficial interest
Transworld Bank, $2.00 par common	Transworld Bancorp, $2.00 par common
Wiley, John & Sons, Inc., $1.00 par common	Wiley, John & Sons, Inc., Class A, $1.00 par common, Class B, $1.00 par common

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), February 2, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-3564 Filed 2-7-83; 11:04 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ASW-58; Amdt. 39-4562]

Airworthiness Directives; Bell Model 206L and 206L-1 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection of the float inflation valve assembly, on all Bell 206L and 206L-1 series helicopters equipped with an emergency flotation system, to determine if the piston pin is installed correctly. The AD is needed to prevent failure of the emergency flotation system (i.e., failure of the float bags to inflate). Failure of the bags would result in loss of the helicopter in the event of ditching.

DATES:

Effective Date: March 14, 1983.

Within the next 150 hours' time in service but not later than May 15, 1983.

ADDRESSES: The applicable service bulletins may be obtained from Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. Copies of the service bulletin are contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591 and at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: J. R. Bannister, Helicopter Certification Branch, ASW-170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-4911, extension 521.

SUPPLEMENTARY INFORMATION: In a recent report of a flight over water, a Bell Model 206L-1 helicopter developed loss of engine power. The pilot autorotated toward the water, actuating the emergency flotation equipment as the helicopter approached the water. The emergency flotation pneumatic system valve failed to actuate and allow inflation of the float bags. On landing in the water, the helicopter rotated to an inverted position, floating partly submerged, allowing the nitrogen cylinder to be salvaged and returned to Bell Helicopter Textron, Inc., for investigation.

Examination of the valve assembly revealed that the squib charge had fired. Further investigation revealed that the shear head release pin had been incorrectly installed and was wedged in the machined groove of the shear head. The binding of the piston pin in the machined groove prevented release of the shear head and thus prevented release of the nitrogen gas to inflate the float bags. Bell Helicopter Textron, Inc., Alert Service Bulletin No. 206L-81-21 was issued to accomplish the inspection of the shear pin for correct installation in relation to the shear head.

Interested parties were invited to comment on this rulemaking proceeding in an NPRM published Sept. 30, 1982 (47 FR 43070). No comments on the proposal were received.

Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires an inspection for all Bell Model 206L and 206L-1 series helicopters equipped with emergency flotation equipment kits P/N 206-706-067-1, -3, -5, -101 and 206-706-210-101 and -103. Approximately 270 helicopters may have the shear head release piston pin installed incorrectly. The cost impact for the inspection is approximately $185.50 for each helicopter and $50,085 for the fleet.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Bell Helicopter Textron, Inc.: Applies to all Model 206L and 206L-1 helicopters certificated in all categories that are equipped with emergency flotation equipment kits P/N 206-706-067-1, -5, -101 and 206-706-210-101, and -103.

Compliance is required within 150 hours' time in service but not later than 60 days after the effective date of this AD unless already accomplished in accordance with Service Bulletin 206L-81-21 or modified in accordance with Technical Bulletin 206L-82-84.

To determine whether the shear heads in the float inflation valve assembly have been damaged by incorrect installation, accomplish the following:

a. Disconnect the battery. NOTE: DO NOT DISCONNECT ELECTRICAL CONNECTOR TO THE SQUIB VALVE ON THE INFLATION VALVE AT THE CYLINDER ASSEMBLY.

b. Remove the nitrogen gas from inflation cylinder, carefully bleeding off the gas through the Schrader inlet valve.

CAUTION

DO NOT ATTEMPT TO REMOVE THE SHEAR HEAD PISTON PIN PRIOR TO REMOVAL OF THE NITROGEN GAS FROM THE CYLINDER.

c. Carefully remove the shear head release piston pin. Visually inspect the pin, as removed, to determine if the position of the flat machined side of the piston pin faces the inlet end of the shear head machined groove (Ref. Figure 1, Bell Helicopter Textron Service Bulletin 206L-81-21, dated May 7, 1981).

d. If the shear head release piston pin has been installed by rotating the pin 90 to 180 degrees, placing the round side of the pin against the inlet side of the shear head inlet groove, the pin has been incorrectly installed.

e. If the shear head realease piston pin is found installed incorrectly, remove the shear head from the valve body and discard. Install a new shear head and "O" rings. On installation, thread shear head into the valve body and torque to 20 foot-pounds, *prior to installing the shear head release piston pin.* (Reinstall piston as described in paragraph f.

f. If the shear head release piston pin is found correctly installed, place "O" ring in groove of piston pin and install piston pin part way into body with flat side on end of piston pin facing inlet port. Rotate piston pin 90 degrees and lightly push piston pin down into valve body until it bottoms out. While pushing on piston pin, rotate piston pin 90 degrees in the opposite direction. Piston pin should drop deeper into body. Flat side of piston pin must engage groove in shear head, with flat side facing inlet port.

g. Refill cylinder with nitrogen. Check for leaks. Connect battery, and refer to appropriate service instruction.

NOTE

X-ray Inspection (Alternate Method).

Where X-ray equipment is available, inspection of the valve assembly may be accomplished by use of X-ray pictures.

Reference Figure 2, Bell Helicopter Textron Service Bulletin 206L–81–21 dated May 7, 1981, or FAA approved equivalent for examples of correct and incorrect piston pin installation in the valve assembly. This eliminates the need to bleed off the nitrogen and to disassemble the valve assembly.

CAUTION

DISCONNECT AND REMOVE THE SQUIB FROM THE VALVE ASSEMBLY PRIOR TO USE OF X-RAY.

h. Equivalent means of compliance with the AD may be approved by the Manager, Aircraft Certification Division, Southwest Region, Fort Worth, Texas.

This amendment becomes effective March 14, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not major under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves only 270 helicopters at a cost of $185.50 per helicopter. A copy of the final regulatory evaluation prepared for this action has been placed in the Regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, January 27, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-3614 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ASW-54; Amdt. 39-4556]

Airworthiness Directives; Garlick Helicopters, Hawkins & Powers Aviation, Inc., Wilco Aviation (Bell) UH-1 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections and repair or replacement, as necessary, of the tail boom skin and fin spar caps on UH–1 series helicopters. The AD is needed to detect tail boom skin and fin spar cracks which could result in tail boom failure and cause loss of the helicopter.

DATES: Effective March 14, 1983. Compliance required within the next 30 hours' time in service after the effective date of this AD unless already accomplished.

ADDRESSES: The applicable service bulletins for UH–1 helicopters certificated under the provisions of the Type Certificate H1RM may be obtained from Hawkins and Powers Aviation, Inc., P.O. Box 391, Greybull, Wyoming 82426.

A copy of each of the service bulletins is contained in the Rules Docket, Office of the Regional Counsel, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: R. T. Weaver, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. Telephone: (817) 624–4911, extension 504.

SUPPLEMENTARY INFORMATION: The FAA has determined that tail boom skin cracks occurred in a model UH–1B which crashed. A metallurgical examination revealed the cracks to be due to structural fatigue. Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires manual and radiographic inspections for fretting and cracking, and repair or replacement, as necessary, of the tail boom skin and the fin spar cap on Bell Model UH–1 series helicopters.

The NPRM was published in the **Federal Register** on September 13, 1982 (47 FR 40182). Interested persons have been afforded an opportunity to participate in the making of the amendment. One commenter objected to including the UH–1F in the proposed airworthiness directive since it is similar to the Model 204B which has not experienced severe cracking comparable to that of the UH–1B which crashed. Since Model UH–1F helicopters can enter civilian service only as surplus military aircraft through the restricted category type certification process, the initial and repetitive inspections are needed to determine if military related combat damage exists and to assure continued inspections are accomplished. Since the Model UH–1F is closer in configuration to the civil model 204B than to the UH–1B, a paragraph has been added to the amendment to allow adjustment of the repetitive inspection intervals if warranted by substantiating data.

Approximately 34 aircraft could be affected by the requirements of this AD for an estimated impact of $28,560 or $840 per aircraft.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Garlick Helicopters, Hawkins & Powers Aviation, Inc., Wilco Aviation (Bell): Applies to Model UH–1 series helicopters certificated in restricted category.

Compliance is required as indicated, unless already accomplished.

To detect cracks and to prevent possible failure of the tail boom and fin, accomplish the following:

Within the next 30 hours' time in service after the effective date of this AD:

a. Conduct the following inspections:

(1) Visually inspect the tail boom skin joint at tail boom Station 194 for fretting or cracking (inspect 10 inches forward and 10 inches aft of Station 194).

(2) Visually inspect the vertical fin front spar cap at its intersection with the tail rotor gear box support fitting for cracks.

(3) The areas to be inspected are shown in Figure 1.

b. For aircraft found to have fretting or cracks by the inspections of paragraph a. above and for aircraft with more than 1,000 hours' time in service, conduct a radiographic inspection of the tail boom Station 194 splice joint in accordance with Advisory Circulars 43–3 (Chapter 2) and 43–13–1A (paragraph 298) to MIL–STD–453 requirements, or FAA approved equivalent.

c. After the initial inspections—

(1) Visually inspect the tail boom skin and fin spar cap area in accordance with paragraph a. above, at intervals not to exceed 100 hours' time in service from the last radiographic inspection.

(2) Radiographically inspect the tail boom skin in accordance with paragraph b. above at intervals not to exceed 500 hours' time in service from the last radiographic inspection.

d. Replace cracked skin panels with serviceable panels.

e. Replace cracked fin spar caps with serviceable parts.

f. Any equivalent method of compliance with this AD must be approved by the Manager, Aircraft Certification Division, Southwest Region, Federal Aviation Administration.

g. Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Manager, Aircraft

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Certification Division, FAA Southwest Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

h. In accordance with FAR 21.197, flight is permitted to a base where the inspections required by this AD may be accomplished.

This amendment becomes effective March 14, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it applies to approximately 34 helicopters for an estimated annual cost of $28,560. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on January 20, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

BILLING CODE 4910-13-M

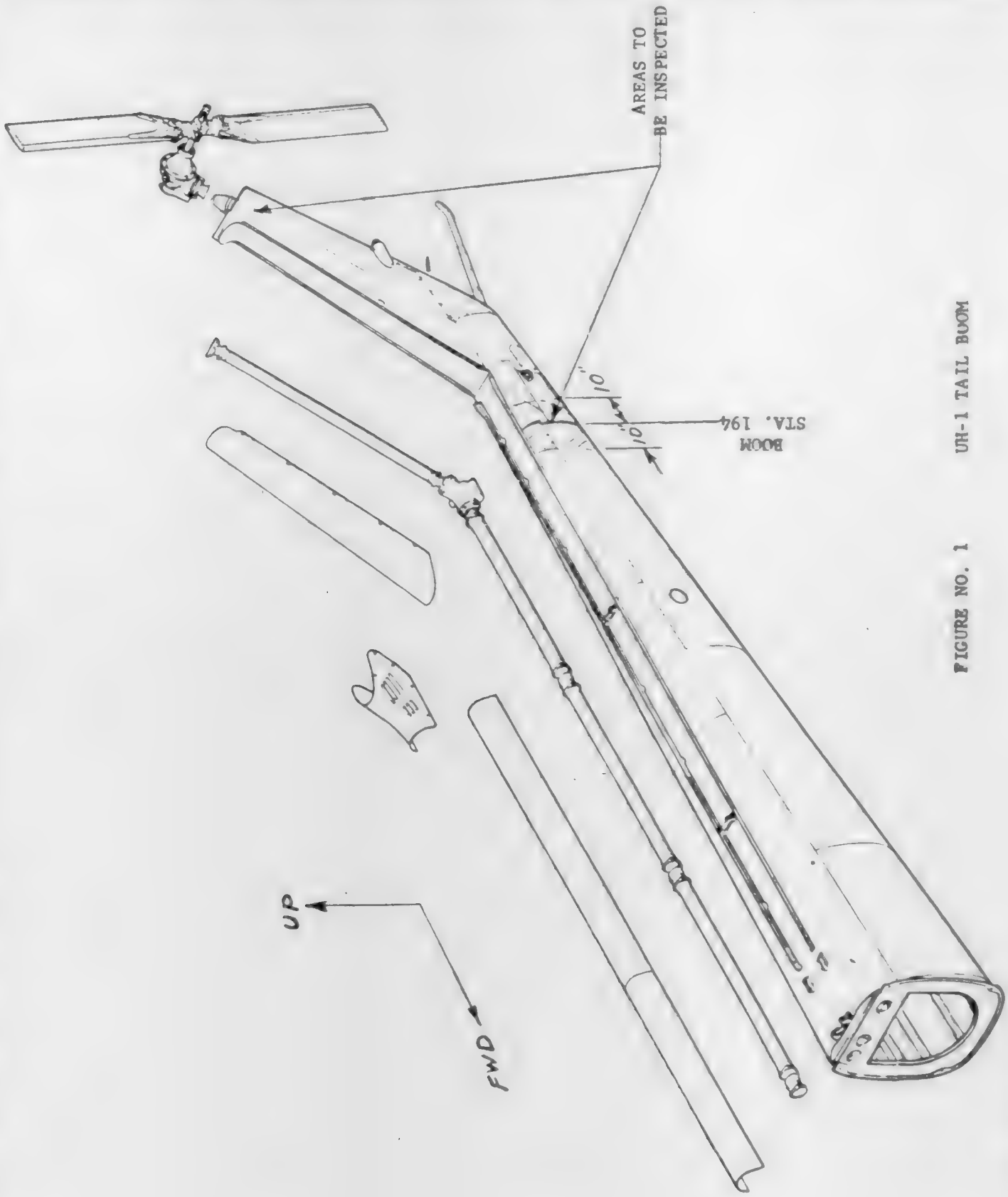

FIGURE NO. 1 UH-1 TAIL BOOM

[FR Doc. 83-3619 Filed 2-9-83; 8:45 am]

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14 CFR Part 71

[Airspace Docket No. 83-ASO-1]

Alteration of Transition Area, Americus, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Americus, Georgia, Transition Area by revoking the extension that is no longer necessary because the instrument approach procedure for which the extension was adopted has been cancelled. This action will raise the base of controlled airspace in an area northeast of Souther Field from 700 to 1,200 feet above the surface.

DATES: Effective Date: 0901 G.m.t., April 14, 1983. Comments must be received on or before March 14, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, ATTN: Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves raising the base of controlled airspace northeast of Souther Field from 700 to 1,200 feet above the surface and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Americus, Georgia, Transition Area by revoking an extension which is no longer required. The Souther radio beacon, which was located on Souther Field, is being relocated to a new site northeast of the airport. The instrument approach procedure, which was predicated on the radio beacon and established the need for the extension, has been cancelled, thus negating the need for the extension. New instrument approach procedures, predicated on the relocated radio beacon, will not require arrival extensions. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983. Under the circumstances presented, the FAA concludes that there is a need for a regulation to alter the Americus Transition Area by revoking an extension which is no longer required. Therefore, I find that notice of public procedure under 5 U.S.C. 553(b) is unnecessary. Effective on April 14, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., April 14, 1983, as follows:

Americus, Souther Field, GA—Revised

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Souther Field (lat. 32°06'42" N., long. 84°11'19" W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Ga., on January 28, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-3616 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-23]

Designation of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates new VOR Federal Airway V-503 between Rochester, MN, and Cedar Rapids, IA. The direct routing between these points reduces controller workload by providing an airway in an area where aircraft are normally vectored. Also, V-503 provides economic benefits to users in the form of fuel savings.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On December 30, 1982 (47 FR 58280), the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate new VOR Federal Airway V-503 between Rochester, MN, and Cedar Rapids, IA, via a direct route. An increasing number of pilots are requesting direct routing between these points. The FAA has determined that users of the air traffic control system would be better served by designating an airway in an area where frequent request by pilots for direct routing between these points have been noted. This action aids flight planning, increases safety, and reduces controller workload. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice.

Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates new VOR Federal Airway V-503 between Rochester, MN, and Cedar Rapids, IA. The direct routing between these points reduces controller workload by providing an airway in an area where aircraft are normally vectored.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.M.T., April 14, 1983, as follows:

V-503 [New]

V-503 From Rochester, MN, to Cedar Rapids, IA.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 3, 1983.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-3618 Filed 2-9-83; 8:45 am]

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14 CFR Part 71

[Airspace Docket No. 82-AWA-5]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Cleveland, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several airways in the vicinity of Cleveland, OH, by deleting alternate airway segments and renumbering other airway segments. This action supports our agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway designations from the National Airspace System.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On December 6, 1982 (47 FR 54831), the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several VOR Federal Airways in the vicinity of Cleveland, OH, by deleting the alternate route segments. Those alternate routes required for air traffic control have been assigned new numbers. This action supports our agreement with ICAO to eliminate all alternate route designations from our National Airspace System. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment is Part 71 of the Federal Aviation Regulation alters the descriptions of several airways in the vicinity of Cleveland, OH, by deleting alternate airway segments and renumbering other airway segments. This action supports our agreement with ICAO to eliminate all alternate airway designations from the National Airspace System.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., April 14, 1983, as follows:

1. *V-26 [Amended]*

By deleting the words "Lansing, MI; Salem, MI; including a north alternate via INT Lansing 103° and Salem 308° radials;" and substituting the words "Lansing, MI; Salem, MI;"

2. *V-103 [Amended]*

By deleting the word "Salem." and substituting the words "Salem; INT Salem 308° and Lansing, MI, 103° radials; to Lansing."

3. *V-6 [Amended]*

By deleting the words "Waterville; DRYER, OH, including a S alternate via INT Waterville 108° and DRYER 252° radials; Youngstown, OH, including a north alternate via INT DRYER 061° and Youngstown 285° radials;" and substitute for them the words "Waterville; DRYER, OH; Youngstown, OH;"

4. *V-526 [New]*

By adding: V-526 From Northbrook, IL; INT Northbrook 095° and South Bend, IN, 310° radials; to South Bend. From Waterville, OH; INT Waterville 106° and DRYER, OH, 252° radials; DRYER; INT DRYER, 061° and Youngstown, OH, 285° radials; Youngstown to Clarion, PA.

5. *V-228 [Revised]*

V-228 is revised to read as follows:

"From Northbrook, IL; INT Northbrook, IL, 111° and South Bend, IN, 290° radials; to South Bend, IN.

6. *V-7 [Amended]*

By deleting the words ", including an east alternate via INT Chicago Heights 013° and Milwaukee, WI, 137° radials; to the INT Milwaukee, 137° and Chicago-O'Hare 019° radials"

7. *V-192 [Amended]*

By deleting the words "to Indianapolis." and substituting the words "; Indianapolis; Muncie, IN; to Dayton, OH."

8. *V-50 [Amended]*

By deleting the words "Dayton, OH, including a N alternate from Indianapolis to Dayton via Muncie, IN." and substitute the words "to Dayton, OH."

9. *V-47 [Amended]*

By deleting the words "Findlay, OH, including a W alternate via INT Rosewood 309° and Findlay, OH, 218° radials;" and substitute the words "Findlay, OH;"

10. *V-43 [Amended]*

By deleting the words "Youngstown, OH; including a west alternate from Tiverton via INT Tiverton 040° and Akron, OH, 233° radials; Akron to Youngstown; including an E alternate from Briggs via INT Briggs 057° and Youngstown 177° radials to Youngstown;" and substitute the words "Youngstown, OH;"

11. *V-523 [New]*

By adding: V-523 From Appleton, OH; Tiverton, OH; INT Tiverton 040° and Akron, OH, 233° radials; Akron; Youngstown, OH; to Erie, PA.

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12. *V–443 [Amended]*

By deleting the words "Tiverton, OH; DRYER, OH, including an E alternate via INT Tiverton 028° and DRYER 138° radials;" and substitute the words "Tiverton, OH; DRYER, OH;"

13. *V–525 [New]*

By adding: V–525 From Appleton, OH; Tiverton, OH; INT Tiverton 028° and DRYER, OH, 138° radials; to DRYER.

14. *V–14 [Amended]*

By deleting the words ", Erie, PA, including a N alternate from DRYER to Erie via INT DRYER 049° and Jefferson 279° radials; Dunkirk, NY;" and substitute the words "; Erie, PA; Dunkirk, NY;"

15. *V–522 [New]*

By adding: V–522 From DRYER, OH; INT DRYER 049° and Erie, PA, 258° radials; Erie; to Dunkirk, NY.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 3, 1983.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83–3617 Filed 2–9–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 91

[Docket No. 22285; Amdt. No. 91–182]

Reduction in Required Advance Notice to Air Traffic Control for Nontransponder Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Federal Aviation Regulations reduces from four hours to one hour the required advance notice that a pilot must give to the appropriate Air Traffic Control (ATC) facility in order to fly a nontransponder-equipped aircraft in Terminal Control Areas (TCA's) and generally in controlled airspace above 12,500 feet MSL. The amendment reduces the advance notice burden on pilots operating aircraft without transponders and permits more efficient functioning of the ATC system.

EFFECTIVE DATE: April 11, 1983.

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Air Traffic Rules Branch, AAT–200, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; telephone (202) 426–3128.

SUPPLEMENTARY INFORMATION: This amendment is based on Notice of Proposed Rulemaking No. 81–13 published in the **Federal Register** on October 22, 1981 (46 FR 51866). All interested persons were given an opportunity to participate in making the amendment and due consideration was given to all matters presented. This amendment and the reasons for its adoption are the same as those stated in Notice No. 81–13.

Background

Section 91–24, as adopted by Amendment 91–116 (36 FR 14676; June 4, 1973), requires the use of airborne radar beacon transponders in certain controlled airspace to enhance the radar image of the aircraft which is presented to the air traffic controller, provide radar target information, and enable the ATC system to handle an increased volume of air traffic safely. The rule also specifies the technical requirements the transponders must meet and authorizes ATC to permit certain deviations from the rule. In accordance with paragraph (3)(c) of § 91.24, requests to operate an aircraft in a TCA or in controlled airspace above 12,500 feet MSL without a transponder must be submitted to the ATC facility having jurisdiction over the airspace concerned at least four hours before the proposed operation.

Notice No. 81–13 proposed to reduce the required advance notice to ATC of a nontransponder operation from four hours to one hour. This proposal was based on a concensus within the FAA that ATC capabilities had improved because of improvements in ATC equipment, better communications, and improved ATC procedures, and that this would permit an increase in ATC service to the users of the system while reducing the advance notice burden on pilots. It was felt that with a shorter notice period, ATC could better discern the short term, near term weather and better assess the air traffic situation expected at the time of the proposed nontransponder operation. Weather, staffing, and related factors are more predictable one hour in advance of a flight than they are under the current four hours advance notice requirement. This increased predictability increases the efficiency and quality of the ATC service. At the same time, nontransponder operations, such as local, VFR training, and transient flights, could be conducted with a minimum of notice burden to the user of the ATC system. It would also benefit pilots in that proposed arrival and departure times could be estimated more accurately. To accomplish this change, Notice No. 81–13 proposed to amend § 91.24(c)(3) by substituting "one hour" advance notice for the present "four hours" notice requirement.

Discussion of Comments

Public comments were received from the National Transportation Safety Board (NTSB), Air Transport Association of America (ATA), National Business Aircraft Association (NBAA), Air Line Pilots Association (ALPA), Aircraft Owners and Pilots Association (AOPA), Appalachian Helicopter Pilots Association (AHPA), the State of Oregon Aeronautics Division, and three private citizens. All supported the amendment.

In addition, AOPA and one of the individual commenters proposed an immediate ATC deviation authority. The FAA does not agree. Immediate deviation authority would create the potential for serious radio frequency congestion in higher density traffic areas where transponders are now required for purposes of effective, continuous identification and separation of traffic. In these environments, the no-notice appearance of aircraft without transponders could result in the consumption and competition for valuable time on control frequencies. In each case, time would be spent on initial unanticipated callups to provide aircraft identification, position, altitude, direction, heading, and other information considered pertinent to ATC. If, on the other hand, some advance notice were given, ATC facility management would have enough time to determine likely traffic loads and ATC's capability to absorb nontransponder traffic. Another disadvantage to immediate ATC deviation authority is that it is likely to act as a disincentive for many pilots/operators to purchase and maintain a transponder. This inducement would be contrary to the public interest since an operable transponder is necessary for the efficient movement of air traffic in airspace areas where it is required. The NTSB shares this concern, stating it opposed any reduction below the one

hour notice. Going a step further, ATA urged the FFA to require all aircraft in the ATC system to have transponders. The ATA suggestion is beyond the scope of the notice in this rulemaking action.

In another comment, AHPA recommended that § 91.24(b) be changed so that helicopter operations in a TCA below 700 feet would be exempt from the transponder requirement without limitation. At present helicopters may be flown in a TCA below 1,000 feet as long as the operator consummates a letter of agreement with the controlling ATC facility. The AHPA comment, submitted in substance during a previous regulatory review on helicopters, is beyond the scope of this notice.

Impact Assessment

This regulatory action is relieving in nature. No formal cost-benefit analysis was completed with respect to the change. However, through a preliminary assessment of costs and economic impact, the FAA has determined that there are no costs associated with this change, and that reducing the advance notice that operators of aircraft without transponders are required to give to ATC in order to operate in certain controlled airspace will result in a minimal/positive economic impact.

List of Subjects in 14 CFR Part 91

Aviation safety, Safety, Aircraft, Pilots.

Adoption of the Amendment

PART 91—GENERAL OPERATING AND FLIGHT RULES

Accordingly, § 91.24(c)(3) of Part 91 of the Federal Aviation Regulations (14 CFR 91.24(c)(3)) is amended to read as follows. The introductory text of paragraph (c) is reprinted without change for the convenience of the reader:

§ 91.24 ATC transponder and altitude reporting equipment and use.

* * * * *

(c) *ATC authorized deviations.* ATC may authorize deviations from paragraph (b) of this section—

* * * * *

(3) On a continuing basis, or for individual flights, for operations of aircraft without a transponder, in which case the request for a deviation must be submitted to the ATC facility having jurisdiction over the airspace concerned at least one hour before the proposed operation.

(Secs. 307(a), 313(a) and 601, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a), 1354(a) and 1421); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—This amendment reduces the burden on pilots operating aircraft without transponders by permitting pilots to fly into certain controlled airspace on less than four hour notice, and permits more efficient functioning of the ATC system. The expected economic impact is minimal, involves no costs, and will have only positive impacts. Therefore, this action does not warrant preparation of a regulatory evaluation, and the FAA has determined that it is not a major rule under Executive Order 12291 or a significant regulation under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, for the reasons discussed above I certify that, under the criteria of the Regulatory Flexibility Act, this regulatory action will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on January 17, 1983.

J. Lynn Helms,

Administrator

[FR Doc. 83-3261 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

23 CFR Ch. I

National Motor Carrier Advisory Committee

Note.—This document originally appeared in the **Federal Register** of Tuesday, February 8, 1983. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Federal Highway Administration.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meetings.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold a series of public meetings in San Francisco, California; Chicago, Illinois; and Washington, D.C., to solicit comments concerning the statement of FHWA interpretation and policy addressing the truck size and weight provisions contained in the Surface Transportation Assistance Act of 1982 (STAA) and the DOT Appropriations Act of 1982. The FHWA statement was issued in February 1, 1983, and published in the **Federal Register** on February 3, 1983 (48 FR 5210).

DATES: The meetings will be held beginning at 9:00 a.m. on February 24, 1983 in Washington, D.C., on March 2, 1983 in Chicago, Ill.; on March 10, 1983 in San Francisco, Calif.

ADDRESSES: The meetings will be held at the following places:

February 24, 1983 in Washington, D.C., at the Department of Transportation's Headquarters Building, 400 Seventh Street, SW., Room 2230.

March 2, 1983 in Chicago, Illinois, at the Federal Building, 230 S. Dearborn Street, Room 349.

March 10, 1983 in San Francisco, California, at the Federal Building, 450 Golden Gate Avenue, Room 200.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Stapleton, Acting Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC–20, Room 4224, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–0834. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: 1. *Agenda.* The agenda of the meetings will be limited to the receipt of comments concerning the statement of FHWA interpretation and policy addressing the truck size and weight provisions contained in the STAA and the DOT Appropriations Act of 1982. The FHWA statement addressed the explicit truck weight, length and width statutory provisions and the following primary issues relating to those provisions:

(a) Effective dates;

(b) Identification of the "qualifying highways" referred to in Sections 411 of the STAA and 321 of the DOT Appropriations Act; and

(c) Definition of "reasonable access" referred to in Sections 133 and 412 of the STAA.

2. *Submission of comments and request to testify.* Interested persons are invited to comment on the subject-matter of the meetings. Written comments may be submitted at the time and place of the meetings. (These comments are in addition to any comments that anyone may wish to submit in response to the request for comments in connection with the FHWA policy statement published in the **Federal Register** on February 3, 1983.

Anyone desiring an opportunity to make an oral presentation at one of the meetings should make a written request to do so at least ten days prior to the date of the meeting in question. The person making the request should describe his or her interest and, if appropriate, state whether he or she is a representative of a group or class of persons that has such an interest. A telephone number should be given where he or she may be contacted up until the day before the meeting. Requests to testify should be addressed to: Mr. James J. Stapleton, Acting Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC–20,

Room 4224, 400 Seventh Street, SW., Washington, D.C. 20590.

3. *Conduct of Meetings.* The Advisory Committee reserves the right to limit the number of speakers from any one group or organization to be heard at the meetings, to schedule their respective presentations, and to establish the procedures governing the conduct of the meetings. The length of each presentation may be limited, based on the number of persons or organizations requesting to be heard.

A member of the Advisory Committee will be designated to preside at the meetings, which will not be judicial or evidentiary-type hearings. Questions may be asked only by members of the Advisory Committee or the Acting Executive Director, and there will be no cross examination of persons presenting statements.

Any person attending and who wishes to ask a question may submit the question in writing to the presiding officer.

Any further procedural rules needed for the proper conduct of the meetings will be announced by the presiding officer.

Issued on: February 4, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83-3471 Filed 2-7-83, 8:45 am]

BILLING CODE 4910-22-M

Coast Guard

33 CFR Part 100

[CGD11 11-01-83]

Establishment of Special Local Regulations for the "Del Rey to Puerto Vallarta Race"

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Del Rey to Puerto Vallarta Race Regatta in Santa Monica Bay. This event will be held on February 19, 1983, outside the Marina Del Rey Breakwater. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on February 19, 1983, and terminate on February 19, 1983.

FOR FURTHER INFORMATION CONTACT: LT. N. M. TURNER, Commander(bpa), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590-2213.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. There was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information. The principal individuals involved in drafting this rule are LT. Noris M. Turner, Chief, Boating and Public Affairs Branch, Eleventh Coast Guard District, and LT. Catherine M. Kelly, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Regulations: The Del Rey Yacht Club's "DEL REY TO PUERTO VALLARTA REGATTA" will be conducted beginning February 19, 1983, in Santa Monica Bay outside the Marina Del Rey Breakwater. This event will have 25–35 sailboats 33- to 79-feet in length that could pose hazards to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Evaluation: These regultions have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area will be open for the passage of commercial vessels and can be opened periodically to recreational vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding the following section:

§ 100.35-11-1101 Del Rey Yacht Club/Del Rey to Puerto Vallarta Race.

(a) *Regulated Area:* The following regulated area will be closed intermittently to all vessel traffic from 12:30 PM to 2:00 PM on February 19, 1983: for start of subject race, bounded by the following coordinates:

33°56'23" N.,	118°28'20" W.,
33°56'23" N.,	118°28'56" W.,
33°56'55" N.,	118°28'55" W.,
33°56'55" N.,	118°28'20" W.

(b) *Special Local Regulations.*

(1) No vessels, other than participants, U.S. Coast Guard operated and employed small craft, public vessels, state and local law enforcement agencies and the sponsor's vessels shall enter the regulated area during the above hours, unless cleared for such entry by or through a patrolling law enforcement vessel, or an event committee boat.

(2) When hailed by Coast Guard or Coast Guard Auxiliary vessels patrolling the event area, a vessel shall come to an immediate stop. Vessels shall comply with all directions of the designated Coast Guard Regatta Patrol.

(3) These regulations are temporary in nature and shall cease to be in effect or further enforced at the end of the period set forth.

(46 U.S.C. 454, 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: February 1, 1983.

A. P. Manning,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 83-3609 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

COTP Hampton Roads, VA, Regulation 83-03; Safety Zone Regulations; Elizabeth River, Norfolk, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone around the USS *John F. Kennedy* in the Elizabeth River, Norfolk, Virginia. The zone is needed to protect watercraft from possible damage during the movement of the USS *John F. Kennedy*. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 8:00 a.m., Eastern Standard Time, February 7, 1983. It terminates at 10:00 a.m., Eastern Standard Time, February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W. K. Six, Chief, Port Operations Department, Coast Guard Marine Safety Office, Hampton Roads, Norfolk, Virginia 23510, (804) 441-3296.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is

being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent possible damage to the vessels involved.

Drafting Information

The drafters of this regulation are Lieutenant Commander W. K. Six, project officer for the Captain of the Port, and Commander D. J. Kantor, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulation

The hazard requiring this regulation will begin at 8:00 a.m., Eastern Standard Time, February 7, 1983. The restricted nature of the Elizabeth River and the reduced amount of maneuverability of the USS *John F. Kennedy* pose a threat to other watercraft in the area. Excluding vessels moored prior to transit and which remain so moored, waterborne traffic will be prohibited from entering or remaining in the safety zone when in effect.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T514 to read as follows:

§ 165.T514 Safety Zone: Elizabeth River, Norfolk, Virginia.

(a) *Location.* The following area is a safety zone: A circle with a radius of 500 yards with the USS *John F. Kennedy* as its center while transiting the Elizabeth River from the Norfolk Naval Shipyard, Portsmouth, Virginia to anchorage area Whiskey, Hampton Roads, Virginia.

(b) *Regulations:*

(1) In accordance with the General regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: January 21, 1983.

J. D. Webb,

Captain, Coast Guard, Captain of the Port, Hampton Roads, Coast Guard.

[FR Doc. 83-3610 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2272-1]

Approval and Promulgation of Implementation Plans; State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The State of Nevada has submitted a revision to their State Implementation Plan (SIP) for Lead. This revision provides a plan for maintenance of the Lead National Ambient Air Quality Standards (NAAQS). EPA has reviewed the submitted revision with respect to Section 110 of the Clean Air Act and determined that it should be approved.

EFFECTIVE DATE: This action is effective April 11, 1983.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, Region 9 Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105. Attn: Douglas Grano (415) 974-7641.

ADDRESS: A copy of the revision to the Nevada State Implementation Plan (SIP) for Lead is located at the Region 9 Office and the following locations:

The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408

Department of Conservation and Natural Resources, Division of Environmental Protection, Capitol Complex, Carson City, NV 89770.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1978, EPA promulgated the primary and secondary NAAQS for Lead. The Standards were set at a level of 1.5 micrograms of lead per cubic meter of air, averaged over a calendar quarter. Section 110 of the Clean Air Act requires states to submit implementation plans to EPA detailing how the NAAQS will be achieved and maintained in their areas.

EPA published requirements for Lead SIPs in 40 CFR Part 51 (43 FR 46264). These provisions require the submission of air quality data, emissions data, a control strategy, air quality modeling, and a demonstration that the Lead NAAQS will be attained within the time frame specified by the Clean Air Act.

The Nevada Division of Environmental Protection (NDEP) began monitoring ambient particulate lead concentrations in 1975. Only three air quality basins out of Nevada's 256 ever violated the ambient air quality standard and only one air basin has a significant stationary source. There have been no violations since the last quarter of 1975.

On June 24, 1980, the State of Nevada submitted a revision to their Lead SIP for Clark County. This revision provided a county-wide plan for attainment/maintenance of the Lead NAAQS. On February 12, 1981 (46 FR 12020) EPA proposed to approve Clark County's revision to the Nevada SIP and on June 30, 1982 (47 FR 28374), the Clark County portion of the Nevada Lead SIP was approved. On November 5, 1981, the Governor of Nevada submitted a revision to the SIP for lead covering all areas except Clark and Washoe Counties.

Discussion

The November 5, 1981 revision to the Nevada SIP was compared with the applicable requirements of 40 CFR Part 51, including emission inventory, control strategy, modeling, and new source review.

Since automobile generated lead emissions are the only notable lead emission sources in all but one air basin (Steptoe Valley), the evaluation contained in the SIP centers on these sources.

The SIP's control strategy for maintenance of the Lead NAAQS is the reduction of the amount of lead in gasoline as mandated by EPA (38 FR 33734). The control strategy for the one significant stationary source, the McGill Copper Smelter, is the production limitation placed on the smelter by the existing permit conditions which are part of the SIP.

The SIP contains a dispersion modeling analysis around the McGill Copper Smelter and a rollback modeling analysis for the Steptoe Valley, which demonstrate attainment.

In addition, Nevada has a permitting program previously approved by EPA for new stationary sources of lead that emit 5 tons/year or more. The above SIP elements satisfy the requirements of 40 CFR Part 51 for the lead.

EPA Actions

As a result of the above evaluation, EPA is taking final action under Section 110 of the Clean Air Act to approve the revision to the Nevada Lead SIP.

EPA's approval is being done without prior proposal because the Lead SIP is non-controversial. The public should be advised that this approval action will be effective 60 days from the date of this notice. However, if notice is received by

EPA within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will indefinitely postpone the effective date, modify the final action to a proposal action, and establish a comment period.

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of Nevada was approved by the Director of the **Federal Register** on July 1, 1982.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

(Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: January 28, 1983.

Anne M. Gorsuch,
Administrator.

Subpart DD of Part 52 Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart DD—Nevada

Section 52.1470 is amended by adding paragraph (c)(24)(v) as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(24) * * *

(v) Nevada State Lead SIP Revision submitted by the State on November 5, 1981.

* * * * *

[FR Doc. 83-3460 Filed 2-9-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[A-4-FRL 2277-4; NC-004]

Approval and Promulgation of Implementation Plans; North Carolina; Revised SO_2 Emission Limit for Eight Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces approval of a revised sulfur dioxide (SO_2) emission limit for eight fuel-burning sources in North Carolina. The original North Carolina State Implementation Plan (SIP) approved in 1972 specified an SO_2 limit of 1.6 pounds per million British thermal units (#/MMBTU) of heat input for all fuel-burning sources. EPA gave final approval of a revised limit of 2.3 #/MMBTU, for all but 24 affected sources, on December 7, 1982 (47 FR 54934). (Refer to this site for additicnal support documentation.) Additional information submitted during the public comment period by the State indicated that 8 of the 24 sources excluded from the rulemaking of December 7, 1982, could emit at the 2.3 #/MMBTU limit and still protect the national ambient air quality standards (NAAQS). Therefore, EPA is today approving the 2.3 #/MMBTU SO_2 limit for these eight sources. This action is being taken without prior proposal.

EFFECTIVE DATE: This action will be effective on April 11, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency 401 M Street, SW., Washington, D.C. 20460

Library Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

Air Management Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365

North Carolina Department of Natural Resources & Community Development, P.O. Box 27687, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond S. Gregory, Air Management Branch, EPA Region IV, at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On January 11, 1982, North Carolina submitted to EPA additional information which was required before EPA could approve a SIP revision removing from regulation 15 NCAC 2D.0516 the requirement that fuel-burning sources of SO_2 reduce their emissions from 2.3 #/MMBTU of heat input to 1.6 #/MMBTU by July 1, 1980. The original submittal of March 22, 1977, lacked adequate air quality dispersion modeling and related analysis of the impact of SO_2 emissions from the affected sources.

In addition the January 11, 1982, submittal identified 24 sources for which the State could not recommend approval of the 2.3 #/MMBTU limit. The modeling and associated analysis showed that the ambient standards would probably not be protected if the 24 sources were allowed to emit at the higher limit. EPA gave final approval of the revision, except for its application to those 24 sources, in the **Federal Register** on December 7, 1982 (47 FR 54934).

During the public comment period, the State submitted on July 27 and August 26, 1982, information which showed that there were errors in the original modeling efforts. These errors included incorrect stack parameters—exit temperatures, velocities, etc. After review of the additional information submitted by the State, EPA finds that the following eight sources can be allowed to emit at the 2.3 #/MMBTU limit while protecting the NAAQS for sulfur dioxide.

Source	*County*
Pfizer	Brunswick
Cranston Print Works	Henderson
Dorothea Dix	Wake
Estach General Chemical	Brunswick
USS Agrichem	Brunswick
Cannon Mills #1	Cabarrus
Seymour Johnson AFB	Wayne
Duke-Allen	Gaston

Action

Accordingly, EPA today approves the revised SO_2 limit of 2.3 #/MMBTU for the eight sources listed above. The effect of this action is to reduce the number of sources that are not being approved to emit at 2.3 #/MMBTU from 24 to 16. The 16 that are not approved will have an emission limit of 1.6 #/MMBTU (current limit), and will consist of the list of 24 appearing in the December 7, 1982, **Federal Register** (47 CFR 54934) minus the 8 listed above. Since the issues involved in this action are straightforward and little or no public concern is anticipated, this action is taken without prior proposal. The public should be advised that this action will be effective 60 days from the date of this

Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Note.—Incorporation by reference of the State Implementation Plan for the State of North Carolina was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: January 19, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart II—North Carolina

Section 52.1770 is amended by adding paragraph (c)(34) as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(34) Revised SO_2 limit for eight fuel-burning sources (See FR of February 10, 1983), submitted on March 22, 1977, and January 11, July 27, and August 26, 1982, by the North Carolina Department of Natural Resources and Community Development.

[FR Doc. 83-3461 Filed 2-9-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-36

[FPMR Amdt. F-57]

ADP Management; Computer Performance Evaluation and ADP Simulation

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation advises agencies that computer performance evaluation is an ADP support service, and as such, agencies do not require GSA authorization to procure this type of service. The Federal Computer Performance Evaluation and Simulation Center (FEDSIM) is to be considered by Federal Agencies as a source of acquisition for computer performance evaluation requirements, services, and products, but agencies may now obtain these services from commercial sources without a Delegation of Procurement Authority from GSA. The intended effect of this regulation is to conform provisions to new Federal Procurement Regulation Subpart 1-4.12 and to reduce interagency paperwork.

EFFECTIVE DATE: February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Policy Branch, Office of Information Resources Managment Policy (202-566-0194).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. The General Services Administration's decisions are based on adequate information concerning the need for and consequences of this rule. This rule has been structured to maximize the benefits to Federal agencies. This is a Government-wide internal management regulation that will have little or no effect on society.

List of Subjects in 41 CFR Part 101-36

ADP, Computer technology, Government procurement, Government property management, Security measures.

PART 101-36—[AMENDED]

1. Section 101-36.1402-1 is revised to read as follows:

§ 101-36.1402-1 Services available.

(a) FEDSIM resources and FEDSIM monitored contractual services are available nationally. These services include simulation languages and packages for computer system simulations, software and hardware monitors for computer system performance evaluation, and special software programs designed to support computer system simulation and performance evaluation efforts, such as accounting systems analysis and workload modeling. The Center can also provide support services such as simulation analysis.

(b) The Center responds to specific questions or problems. The Center does not provide continuous simulation and performance evaluation programs in support of individual agency user operations.

2. Section 101-36.1402-3 is revised to read as follows:

§ 101-36.1402-3 Policy for obtaining ADP simulation and computer performance evaluation and services from the Federal Computer Performance Evaluation and Simulation Center.

(a) Federal agencies shall consider the Center as a source of supply for ADP simulation and computer performance evaluation requirements, services, and products, including but not limited to computer systems simulators and hardware and software monitors. The Center provides these ADP support services at the least possible cost to the Government.

(b) The Center advises agencies whether (i) FEDSIM resources or FEDSIM contracts are available; (ii) an ADP schedule is available as a source of supply; (iii) a new procurement action is necessary.

(c) Any ADP simulation contracts/schedules issued by GSA will include provisions requiring that agencies contact the Center for advice before ordering from these contracts/schedules.

(d) If the Center is unable to fulfill the requirement or if the requirement can be more economically fulfilled through commercial sources, the agency may procure the services.

3. Section 101-36.1403 is amended by revising paragraphs (b) and (c) to read as follows:

§ 101-36.1403 Procedure for obtaining ADP simulation and computer performance evaluation services from the Federal Computer Performance Evaluation and Simulation Center.

* * * * *

(b) The Center, consistent with the lowest cost alternative or combination

of alternatives, will take one of the following four actions:

(1) Provide services from its own resources on a reimbursable basis to the requesting agency.

(2) Procure, on a reimbursable basis, the necessary support from commercial sources for the requesting agency.

(3) Advise the requesting agency's procurement activity how to:

(i) Procure necessary support from the ADP schedule or other existing contractual instruments; or

(ii) Initiate a procurement action for the services.

(4) Recommend to GSA that GSA procure required resources for the requesting agency (where unusual legal or procurement policy issues so dictate).

(c) If the Center does not act within 20 workdays after acknowledging that it has received full information about an agency's request for services, the agency may proceed without further reference to the Center.

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c))

Dated: January 13, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-3429 Filed 2-9-83; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Elimination of Medicare Indirect Subsidy for Private Rooms

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule, which implements section 111 of Pub. L. 97-248 (the Tax Equity and Fiscal Responsibility Act of 1982), precludes Medicare from sharing in the added cost of private rooms in hospitals and skilled nursing facilities (SNFs) unless the rooms are used by Medicare patients, and are medically necessary. In accordance with the statute, regulations implementing this provision were published on an interim final basis on September 28, 1982. This document responds to the public comments we received on the interim final regulations, and sets forth final Medicare regulations with respect to elimination of the private room subsidy.

EFFECTIVE DATE: For cost reporting periods beginning on or after October 1, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Goeller, (301) 597-1802.

SUPPLEMENTARY INFORMATION:

I. Background

A. 1982 Legislation

On September 3, 1982, the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248) was enacted. Section 111(a) of this Act specifies that the Secretary shall not allow as a reasonable cost the estimated amount by which costs for nonmedically necessary private room accommodations used by Medicare beneficiaries exceeds the costs that would have been incurred for semi-private accommodations. Neither section 111 nor the Conference Committee Report accompanying the legislation (H.R. Rep. No. 97-760, pages 422f) states precisely how an estimate of the additional cost of nonmedically necessary private rooms is to be developed. However the Senate Finance Committee Report on H.R. 4961, which was considered by the Conference Committee in recommending enactment of Pub. L. 97-248, does suggest that this be accomplished by subtracting from a provider's allowable cost the estimated differential cost based on the differential charges for private rooms over semi-private rooms (S. Rep. No. 97-494, page 27).

Section 111(b) did specify, however, that final regulations to implement this provision, whether issued on an interim or other basis, were to be published by October 1, 1982. The law further specified that if the regulations were issued on an interim final basis, a final rule must be published by January 31, 1983.

B. Interim Final Regulations

On September 28, 1982, the Department published interim final regulations intended to eliminate the indirect subsidy of private rooms (47 FR 42676). They were issued on an interim final basis and provided a 30-day period for public comment; thus they also provided an opportunity for appropriate revisions to the regulations.

Specifically, the interim rule amended the Medicare regulations on cost apportionment (42 CFR 405.452) to revise the methodology for computing reimbursement for inpatient general routine service costs. Under the amended regulations, Medicare's methodology for computing reimbursement for inpatient routine services provides for including the difference in cost between semi-private and private accommodations in Medicare reimbursement only when private rooms are furnished to Medicare beneficiaries for medically necessary reasons. In this manner, reimbursement for medically unnecessary private room days used by Medicare beneficiaries will not exceed the reasonable cost of services furnished in semi-private rooms, while the higher cost of medically necessary private rooms actually used by Medicare beneficiaries will be specifically recognized. (Under the regulations, providers are still permitted to collect the private room charge differential from Medicare beneficiaries when private rooms are requested and are not medically necessary.) In addition, under this methodology, Medicare no longer shares in the cost of private rooms used by non-Medicare patients.

In general, this rule requires each provider to determine its total cost of private rooms over semi-private room accommodations furnished to all patients, and to exclude this amount from its total inpatient general routine service costs, as suggested by the Senate Finance Committee report. The provider also is required to calculate its per diem inpatient general routine service cost, and the per diem amount of the private room cost differential.

The interim final rule stated that the provider must, to determine its allowable cost of inpatient general routine services furnished to Medicare patients, multiply its per diem inpatient general routine service cost, excluding the private room cost differential, by the number of days of care it furnished to all Medicare beneficiaries without regard to the type of accommodation utilized, and add to this the product of its per diem private room cost differential times the number of days of care it furnished Medicare beneficiaries in medically necessary private rooms. (For purposes of this calculation, "private rooms" and "semi-private rooms" include rooms in sub-intensive or intermediate care units that do not qualify for separate reimbursement as intensive care type units under 42 CFR 405.452(d)(10).)

As we stated in the preamble of the interim final rule, we believe that application of the charge basis methodology for recognizing only the costs of medically necessary private rooms used by Medicare beneficiaries most effectively implements the requirements of the Medicare law regarding payment of inpatient general routine services in private rooms furnished by hospitals and SNFs. As further discussed below, after review of the public comments we received on the interim final rule, we continue to believe that timely implementation of these

regulations can best be accomplished through our published methodology.

II. Response to Public Comments

In response to our request for public comment on the interim final regulations, we received a total of 35 comments from various providers, hospital associations, medical societies, and concerned individuals. The comments primarily dealt with four areas of concern: (1) The use of the charge methodology specified in the interim regulations, (2) those providers having only private rooms, (3) the impact of these regulations on hospitals providing swing-bed services, and (4) the definition of medical necessity. Set forth below is a summary of those comments and our responses.

1. *Use of charges in determining the private room cost differential.*

Comment: Many commenters disagreed with the use of charges in determining the private room cost differential, on the basis that the difference in charges between private rooms and semi-private rooms is not related to the higher cost for the rooms. According to the commenters, charges for private rooms vary widely, with some providers charging the same amount for both types of accommodations, while others charge substantially more for private rooms. Several commenters indicated that private room charges are related to supply and demand and, therefore, fluctuate with the market. The commenters stated that these fluctuations are not related to a specific increase or decrease in the cost of a room. In some cases, commenters stated that the higher charges for private rooms are intended to be revenue-producing, and are often used to subsidize care furnished in other types of accommodations.

Several commenters indicated that, under the methodology set forth in the interim regulations, providers could influence the private room cost differential by altering their existing charge structure. Other commenters expressed concern that the methodology would not be applied uniformly between States with stringent rate review procedures and States with less stringent or no rate review procedures.

Many commenters requested use of an alternative approach under which the higher costs of a private room could be determined through the identification of space-related costs attributable to the additional space per bed in private accommodations. These commenters noted that various space-related costs, such as depreciation, maintenance and repairs, operation of plant, and housekeeping services, primarily contribute to the higher costs of a private room based on the larger space per bed. They added that other costs, such as nursing and dietary services, laundry and linen, and medical records, are not related to the type of accommodation, and therefore, do not contribute to the increased cost of a private room.

Response: Although most commenters opposed the use of a charge-related methodology for identifying the added costs of private rooms, we believe that our approach is equitable to both the providers and the Medicare program, since this methodology is based on a provider's own charges. As such, the approach is consistent with the existing cost apportionment procedure for other similar costs of hospitals and SNFs (42 CFR 504.452(b)(1)). (For example, in apportioning the costs of ancillary services, Medicare applies to the cost of each ancillary department a ratio of beneficiary charges to total patient charges for the services of that department.)

In addition, we do not believe that allowing providers to adopt cost finding procedures to calculate the additional cost attributable to private rooms is feasible at this time. (As defined in 42 CFR 405.453(b)(1), cost finding is a process by which data from a provider's accounts are recast to compute costs of the various types of services furnished.) We are not convinced that space-related costs represent the only cost differences between private and semi-private room accommodations.

Further, we believe that imposing a cost finding procedure on all providers may be unduly burdensome and administratively costly for those providers that do not have adequate accounting capability. While we will continue to study the feasibility and equity of alternative methods of calculating the private room differential, we believe that the timely implementation of these regulations, in accordance with the effective date set forth in the statute, can best be accomplished through use of the charge methodology specified in the interim final regulations.

Comment: With respect to the specific mechanics of the methodology, some commenters stated that such general routine accommodations as ward accommodations and subintensive or intermediate care units should be excluded in the determination of the private room differential.

Response: We believe it would be inappropriate to exclude subintensive or intermediate care units in computing the private room differential, since they are considered a part of general routine care for purposes of program reimbursement. Under the established methodology, if subintensive or intermediate care units were set up as private rooms, Medicare usage of these rooms for medically necessary reasons would appropriately result in increased reimbursement to providers.

While commenters noted that ward accommodations (rooms with five or more beds) should be excluded in calculating the private room differential, we believe that the use of such accommodations is not significant and that the inclusion of these accommodations will have little, if any, cost impact on providers. We continue to believe that the administrative ease by which providers can implement our published methodology justifies the inclusion of such days in the computation.

2. *Providers having only private room accommodations.*

Comment: Some commenters believed that the methodology set forth in our interim final regulations should not apply to hospitals offering only private room accommodations or to services furnished in a separate hospital wing with only private rooms. Other commenters, however, felt that providers having both semi-private and private accommodations will be unfairly disadvantaged if providers with only private rooms are exempted.

Response: Medicare regulations at 42 CFR 405.116(b) and 405.125(c), along with implementing manual instructions (HCFA–Pub. 13–3, §§ 230.2 and 3101.1), in part, provide that a private room would be considered medically necessary when a patient's condition warrants isolation or when the individual is admitted to a hospital or SNF that does not have semi-private or ward accommodations or when such accommodations are fully occupied. The question of the applicability of the Medicare private room differential would not be pertinent to providers having only private rooms since these accommodations in such providers are considered medically necessary. These regulations will apply, however, to those providers offering both semi-private and private rooms, even if the private rooms are located in a separate wing or in some other way are segregated. We do not believe that it is proper to allow providers to adopt optional approaches in computing the private room cost differential. The regulations do not apply to providers that charge the same for semi-private and private rooms since the basis for the methodology is the private room charge differential.

However, we will continue to evaluate these comments in the application of the regulations.

3. *Impact on hospitals providing swing-bed services.*

Comment: One commenter indicated that the "carve out" methodology established for swing-bed services (see 47 FR 31518, July 20, 1982) would allow, contrary to section 111 of Pub. L. 97–248, the additional private room cost for any swing-bed days furnished in such accommodations to remain in general routine cost. As a result, the commenter recommended that we not exempt private room days utilized under the swing-bed provision from the private room differential computation.

Response: Section 1883 of the Act specifically prescribes that the total reimbursement due for long-term care services is to be subtracted from total inpatient general routine costs before computing the average cost per diem for general routine hospital care. The law indicates that this approach, referred to as the carve out method, is to be used to allocate routine costs between hospital and long-term care services. After the reimbursement due for the long-term care services is carved out from total routine service costs, the remaining costs are to be attributable to hospital-level services only and, therefore, can only be related to hospital-level days. Given the specific requirements of the swing-bed provision, we do not agree with the commenter that the costs of private rooms utilized by long-term care patients should remain a part of general routine costs after reimbursement due for the long-term care services is subtracted from total routine service costs. On the contrary, we believe section 1883 prohibits us from adopting the approach suggested by this commenter.

4. *Definition of medical necessity.*

Comment: Several commenters believe that the definition of medical necessity in 42 CFR 405.116(b) (for hospitals) and in 42 CFR 405.125(c) (for SNFs) is not adequate. One commenter stated that it was difficult for a provider to dispute a physician's orders requiring the isolation of a patient. Another commenter indicated that the phrase "in need of immediate care" contained in 42 CFR 405.116(b) should be clarified.

Response: We believe that our existing regulatory provisions, in conjunction with implementing operating instructions, provide an adequate definition of what constitutes medical necessity. Current regulations along with accompanying manual instructions indicate that private accommodations are warranted ordinarily when a patient's condition requires the individual to be isolated or when an individual is admitted to a hospital or SNF that has no semi-private or ward accommodations, or at a time when such accommodations are occupied. Present Medicare manual instructions (HCFA–Pub. 13–3, §§ 3101.1B and A3101.1) also give various examples of instances where medical isolation may be appropriate, and provide additional guidance to providers and intermediaries regarding the determination of medical necessity. For these reasons, we believe our current definitions regarding medical necessity are sufficient and need not be further clarified at this time.

III. Impact Analysis

A. Executive Order 12291

The Secretary has reaffirmed that these regulations do not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, these regulations will not have an annual effect on the economy of $100 million or more; cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or cause significant adverse effects on business or employment.

As indicated in the interim publication, while we do not believe these regulations will meet or exceed the threshold criteria, we cannot set forth at this time a precise estimate of the Medicare program savings resulting from this rulemaking. Savings will vary depending on the relationship of (a) the ratio of Medicare inpatient days to total inpatient days, to (b) the ratio of Medicare medically necessary private room days to total private room days. Where the inpatient day ratio is greater than the private room ratio, we anticipate program savings. In addition, savings will vary with the difference between a provider's charges for semi-private and private rooms.

Therefore, while we are confident that this rule will not meet the criteria set forth in the Executive Order, we are not able to project definitive program savings.

However, as stated in the interim publication, even if we were to determine that our regulations resulted in an impact of $100 million or more, we would not classify this as a major rule for purposes of the Executive Order. This is because we believe that section 111 of the Tax Equity and Fiscal Responsibility Act, and not the regulations which merely implement the statutory provision, has occasioned this impact. Therefore, a regulatory impact analysis is not required.

B. Regulatory Flexibility Analysis

The Secretary recertifies, under 5 U.S.C. 605(b) enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not have a significant economic impact on a substantial number of small entities.

The reason for the Secretary's certification is that, as explained in the impact analysis under the Executive Order section, these rules will not have a major dollar impact. As indicated above, while we do not know exact program savings associated with this revision, we are certain it is less than $100 million. By comparison, the Medicare program will spend approximately $37.5 billion for inpatient services in FY 1983. Thus, even if program savings from this regulation were $100 million, this reduction would still amount to less than a .3 percent reduction in the approximately $37.5 billion Medicare payments nationally for inpatient services in FY 1983.

The actual impact of this rule on an individual provider will vary with the proportion of private rooms used by Medicare beneficiaries compared to semi-private rooms used, and with the provider's charge differential between private and semi-private rooms. As a result, we are not able to predict the precise impact on any individual entity as it is dependent on behavior patterns of providers and beneficiaries. However, nearly all hospitals and SNFs will be affected by this rule since the private room cost differential applicable to all patients will be removed from total general routine service costs before the general routine service costs are apportioned to Medicare. Since the less than .3 percent reduction in Medicare payments would be spread among the thousands of providers affected, we believe the impact on each provider will not be significant.

However, even if there were to be a significant effect on a substantial number of small entities, we have determined that this effect would be the result of the statutory provision, and not these regulations which merely implement these provisions. Therefore, a regulatory flexibility analysis is not required.

IV. Miscellaneous

A. Reporting Requirements

With respect to private room accommodations, 42 CFR 405.452 contains reporting requirements that are subject to section 3507 of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). HCFA has included these reporting requirements in the Hospital, Skilled

Nursing Facility and Healthcare Complex Cost Report (Form HCFA–2552). The Office of Management and Budget (OMB) has approved the requirements of the HCFA–2552 reporting form under OMB approval number 0938–0050.

B. Technical Changes

Among other changes, the final regulations on the coverage and reimbursement of swing-bed services published on July 20, 1982 (47 FR 31518) amended §405.452 by redesignating paragraphs (d)(3) through (d)(10) as paragraphs (d)(5) through (d)(12). As part of the interim final rule published on September 28, 1982 (47 FR 42676), we added a new paragraph, *Average per diem private room cost differential,* to 42 CFR 405.452(d). At that time, we inadvertently designated this new paragraph as paragraph (d)(11), even though § 405.452(d) already contained a paragraph (11) as a result of the redesignation under the swing-bed provisions.

To correct this technical error, we are redesignating the paragraph erroneously designated as (d)(11) in September 28, 1982 document as paragraph (d)(13), reprinting the correct paragraph (d)(11), *Ratio of beneficiary charges for ancillary services to total charges for ancillary services,* and making appropriate changes in cross-references elsewhere in §405.452(b) and (d).

In addition, we are correcting a typographical error appearing in 42 CFR 405.452(b)(1)(ii), line 16 by changing the word "on" to "or".

While these changes are technical and not substantive revisions, we are reprinting the entire regulations text, as amended, for 42 CFR 405.452(b) and (d). We are reprinting these paragraphs for the convenience of the reader, and in order to avoid further misunderstanding.

In addition, under the "DATES" section of the interim rule, the effective date of these regulations should have read "For cost reporting periods beginning on or after October 1, 1982." This omission has been amended in this final rule to indicate the correct effective date.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-stage renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting and recordkeeping requirements, Rural areas, X-rays.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Part 405, Subpart D is amended as set forth below:

1. The authority citation for 42 CFR Part 405, Subpart D, reads as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v), 1871, and 1883, 49 Stat. 647, as amended, 79 Stat. 296, 79 Stat. 302, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v), 1395hh, and 1395tt, unless otherwise noted.

2. 42 CFR 405.452 is amended by revising paragraph (b)(1)(ii) to correct a typographical error, and by revising paragraph (b)(1)(iii)(B) to indicate the correct cross-reference to paragraph (d)(13). In addition to these changes, we are reprinting the entire text of 42 CFR 405.452(b) for the convenience of the reader, as follows:

§ 405.452 Determination of cost of services to beneficiaries.

* * * * *

(b) *Principle for cost reporting periods starting after December 31, 1971.* Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries. For cost reporting periods starting after December 31, 1971, the methods of apportionment are defined as follows:

(1) *Departmental Method.*—(i) *Methodology.* Except as provided in paragraph (b)(1)(ii) of this section with respect to the direct apportionment of malpractice costs, and in paragraph (b)(1)(iii) of this section with respect to the treatment of the private room cost differential for cost reporting periods starting on or after October 1, 1982, the ratio of beneficiary charges to total patient charges for the services of each ancillary department is applied to the cost of the department; to this is added the cost of routine services for program beneficiaries, determined on the basis of a separate average cost per diem for general routine patient care areas as defined in paragraph (d)(7) of this section, taking into account, to the extent pertinent, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential), and in hospitals, a separate average cost per diem for each intensive care unit, coronary care unit, and other intensive care type inpatient hospital units.

(ii) *Exception: Malpractice insurance.* For cost reporting periods beginning on or after July 1, 1979, costs of malpractice insurance premiums and self-insurance fund contributions must be separately accumulated and directly apportioned to Medicare. The apportionment must be based on the dollar ratio of the provider's Medicare paid malpractice losses to its total paid malpractice losses for the current cost reporting period and the preceding 4-year period. If a provider has no malpractice loss experience for the 5-year period, the costs of malpractice insurance premiums or self-insurance fund contributions must be apportioned to Medicare based on the national ratio of malpractice awards paid to Medicare beneficiaries to malpractice awards paid to all patients. The Health Care Financing Administration will calculate this ratio periodically based on the most recent departmental closed claim study. If a provider pays allowable uninsured malpractice losses incurred by Medicare beneficiaries, either through allowable deductible or coinsurance provisions, or as a result of an award in excess of reasonable coverage limits, or as a governmental provider, such losses and related direct costs must be directly assigned to Medicare for reimbursement.

(iii) *Exception: Indirect cost of private rooms.* For cost reporting periods starting on or after October 1, 1982, the additional cost of furnishing services in private room accommodations is apportioned to Medicare only when these accommodations are furnished to program beneficiaries, and are medically necessary. To determine routine service cost applicable to beneficiaries,

(A) Multiply the average cost per diem (as defined in paragraph (d)(7)(ii) of this section) by the total number of Medicare patient days (including private room days whether or not medically necessary).

(B) Add the product of the average per diem private room cost differential (as defined in paragraph (d)(13) of this section) and the number of medically necessary private room days used by beneficiaries.

(C) The days in paragraphs (b)(iii) (A) and (B) of this section do not include private rooms furnished for SNF type and ICF services under the swing bed provision.

* * * * *

3. 42 CFR 405.452(d) is amended by revising paragraph (d)(7)(ii)(A) to indicate the correct cross-reference to paragraph (d)(13), by designating the paragraph *Ratio of beneficiary charges*

for ancillary services to total charges for ancillary services as (d)(11), by redesignating the paragraph *Average per diem private room cost differential* as (d)(13), and by revising the cross-references in paragraph (d)(13)(ii)(C). In addition to these changes, we are reprinting the entire text of 42 CFR 405.452(d) for the convenience of the reader, as follows:

* * * * *

(d) *Definitions*—(1) *Apportionment.* Apportionment means an allocation or distribution of allowable cost between the beneficiaries of the health insurance program and other patients.

(2) *Routine services.* Routine services means the regular room, dietary, and nursing services, minor medical and surgical supplies, and the use of equipment and facilities for which a separate charge is not customarily made.

(3) *SNF-type services.* SNF-type services are routine services furnished by a swing-bed hospital that would constitute extended care services if furnished by a skilled nursing facility. SNF-type services include routine services furnished in the distinct part SNF of a hospital complex that is combined with the hospital general routine service area cost center under § 405.453(d)(5).

(4) *ICF-type services.* ICF-type services are routine services furnished by a swing-bed hospital that would constitute intermediate care facility (ICF) services, as defined in § 440.150 of this chapter, if furnished by an ICF. ICF-type services are not covered under the Medicare program.

(5) *Ancillary services.* Ancillary services or special services are the services for which charges are customarily made in addition to routine services.

(6) *Charges.* Charges refer to the regular rates for various services which are charged to both beneficiaries and other paying patients who receive the services. Implicit in the use of charges as the basis for apportionment is the objective that charges for services be related to the cost of the services.

(7) *Average cost per diem for general routine services*—(i) *Average cost per diem for routine services: for cost reporting periods beginning before October 1, 1982.* The average cost per diem for general routine services for cost reporting periods beginning before October 1, 1982, means the amount computed by dividing the total allowable inpatient cost for routine services (excluding the cost of services provided in intensive care units, coronary care units, and other intensive care type inpatient hospital units as well as nursery costs) by the total number of inpatient days of care (excluding days of care in intensive care units, coronary care units and other intensive care type inpatient hospital units and newborn days) rendered by the provider in the accounting period.

(ii) *Average cost per diem for general routine services: for cost reporting periods beginning on or after October 1, 1982.* The average cost per diem for general routine services for cost reporting periods beginning on or after October 1, 1982, subject to the provisions on swing bed hospitals, means the average cost of general routine services net of the private room cost differential. The average cost per diem is computed by the following methodology:

(A) Determine the total private room cost differential by multiplying the average per diem cost differential determined in paragraph (d)(13) of this section by the total number of private room patient days.

(B) Determine the total inpatient general routine service costs net of the total private room cost differential by subtracting the total private room cost differential determined in paragraph (d)(7)(ii)(A) from total inpatient general routine service costs.

(C) Determine the average cost per diem by dividing the total inpatient general routine service cost net of private room cost differential determined in paragraph (d)(7)(ii)(B) by all inpatient general routine days, including total private room days.

(8) *Ratio of beneficiary charges to total charges on a departmental basis.* Ratio of beneficiary charges to total charges on a departmental basis, as applied to inpatients, means the ratio of inpatient charges to beneficiaries of the health insurance program for services of a revenue-producing department or center to the inpatient charges to all inpatients for that center during an accounting period. After each revenue-producing center's ratio is determined, the cost of services rendered to beneficiaries of the health insurance program is computed by applying the individual ratio for the center to the cost of the related center for the period.

(9) *Average cost per diem for routine services.*

(i) *Average cost per diem for routine services; general principle.* The average cost per diem for general routine services means the amount computed by dividing the total allowable inpatient cost or routine services (excluding the cost of services provided in intensive care units, coronary care units, and other intensive care type inpatient hospital units as well as nursery costs) by the total number of inpatient days of care excluding days of care in intensive care units, coronary care units, and other intensive care type inpatient (hospital units and newborn days) rendered by the provider in the accounting period.

(ii) *Average cost per diem for inpatient general routine hospital services in swing-bed hospitals.* The average cost per diem for inpatient general routine hospital services in swing-bed hospitals means the amount computed by (A) subtracting the costs attributable to SNF-type and ICF-type services from the total allowable inpatient cost for routine services (excluding the cost of services provided in intensive care units, coronary care units, and other intensive care type inpatient hospital units, and nursery costs), and (B) dividing the remainder by the total number of inpatient hospital days of care (excluding SNF-type and ICF-type days of care, days of care in intensive care units, coronary care units, and other intensive care type inpatient hospital units, and newborn days) furnished by the provider in the accounting period.

(10) *Average cost per diem for hospital intensive care type units.* Average cost per diem for intensive care units, coronary care units; and other intensive care type inpatient hospital units as defined in paragraph (d)(12) of this section means the amount computed by dividing the total allowable costs for routine services in each (see paragraph (b)(1) of this section), or the aggregate (see paragraph (b)(2) of this section), of these units by the total number of inpatient days of care rendered in each or the aggregate of these units.

(11) *Ratio of beneficiary charges for ancillary services to total charges for ancillary services.* With respect to cost reporting years starting before January 1, 1972, the ratio of beneficiary charges for ancillary services to total charges for ancillary services, as applied to inpatients, means the ratio of the total inpatient charges for covered ancillary services rendered to beneficiaries of the health insurance program to the total inpatient charges for ancillary services to all patients during an accounting period. This ratio is applied to the allowable inpatient ancillary costs for the period to determine the amount of reimbursement to a provider for the

covered ancillary services rendered to beneficiaries. With respect to cost reporting periods starting after December 31, 1971, the ratio of beneficiary charges for ancillary services to total charges for ancillary services, as applied to inpatients, means the ratio of the total inpatient charges for covered ancillary services rendered to beneficiaries of the health insurance program to the total inpatient charges, excluding delivery room charges, for ancillary services to all patients during an accounting period. This ratio is applied to the allowable inpatient ancillary costs for the period, excluding delivery room costs, to determine the amount of reimbursement to a provider for the covered ancillary services rendered to beneficiaries.

(12) *Intensive care type inpatient hospital unit.* To be considered an intensive care type inpatient hospital unit, the unit must furnish services to critically ill patients. (Examples of intensive care type units include, but are not limited to, intensive care units, trauma units, coronary care units, pulmonary care units, and burn units. Excluded as intensive care type units are postoperative recovery rooms, postanesthesia recovery rooms, maternity labor rooms, and subintensive or intermediate care units.) The unit must also meet the following conditions:

(i) The unit must be in a hospital;

(ii) The unit must be physically and identifiably separate from general routine patient care areas, including subintensive or intermediate care units, and ancillary service areas. There cannot be a concurrent sharing of nursing staff between an intensive care type unit and units or areas furnishing different levels or types of care. However, two or more intensive care type units that concurrently share nursing staff can be reimbursed as one combined intensive care type unit if all other criteria are met. Float nurses (nurses who work in different units on an as-needed basis) can be utilized in the intensive care type unit. If a float nurse works in two different units during the same eight hour shift, then the costs must be allocated to the appropriate units depending upon the time spent in those units. The hospital must maintain adequate records to support the allocation. If such records are not available, then the costs must be allocated to the general routine services costs areas;

(iii) There must be specific written policies that include criteria for admission to, and discharge from, the unit;

(iv) Registered nursing care must be furnished on a continuous 24-hour basis. At least one registered nurse must be present in the unit at all times;

(v) A minimum nurse-patient ratio of one nurse to two patients per patient day must be maintained. Included in the calculation of this nurse/patient ratio are registered nurses, licensed vocational nurses, licensed practical nurses, and nursing assistants who provide patient care. Not included are general support personnel such as ward clerks, custodians and housekeeping personnel; and

(vi) The unit must be equipped, or have available for immediate use, lifesaving equipment necessary to treat the critically ill patients for which it is designed. This equipment may include, but is not limited to, respiratory and cardiac monitoring equipment, respirators, cardiac defibrillators, and wall or canister oxygen and compressed air.

(13) *Average per diem private room cost differential.* (i) Average per diem private room cost differential means the difference in the average per diem cost of furnishing routine services in a private room and in a semi-private room (This differential is not applicable to hospital intensive care type units.)

(ii) To compute the average per diem private room cost differential:

(A) Determine the average per diem private room charge differential by subtracting the average per diem charge for all semi-private room accommodations from the average per diem charge for all private room accommodations. The average per diem charge for private room accommodations is determined by dividing the total charges for private room accommodations by the total number of days of care furnished in private room accommodations. The average per diem charge for semi-private accommodations is determined by dividing the total charges for semi-private room accommodations by the total number of days of care furnished in semi-private accommodations.

(B) Determine the inpatient general routine cost/charge ratio by dividing total inpatient general routine service cost by the total inpatient general routine service charges.

(C) Determine the average per diem private room cost differential by multiplying the average per diem private room charge differential determined in paragraph (d)(13)(ii)(A) by the ratio determined in paragraph (d)(13)(ii)(B).

(Catalog of Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

Dated: December 23, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: January 18, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-3116 Filed 2-7-83; 4:30 pm]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6347

[OR-19147]

Oregon; Public Land Order No. 6006; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the heading of Public Land Order No. 6006 of September 23, 1981, which cites Powersite Restoration No. 726 instead of Powersite Cancellation No. 317.

EFFECTIVE DATE: February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The heading in Public Land Order No. 6006 of September 23, 1981, in FR Doc. 81-28749 in the issue of Friday, October 2, 1981, at page 48676, column two which reads "Oregon; Powersite Restoration No. 726" is hereby corrected to read "Oregon; Powersite Cancellation No. 317."

January 31, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-3632 Filed 2-9-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6348

[OR-19010, OR-19095, OR-19099, OR-19139]

Oregon; Public Land Order No. 6305; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the heading of Public Land Order No. 6305 of July 19, 1982, in which the Powersite Cancellation No. 356 citation was omitted.

EFFECTIVE DATE: February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The heading in Public Land Order No. 6305 of July 19, 1982, in FR Doc. 82–20263 in the issue of Tuesday, July 27, 1982, at page 32425, column two which reads "Oregon; Powersite Restoration No. 771" is hereby corrected to read "Oregon; Powersite Cancellation No. 356; Powersite Restoration No. 771."

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 31, 1983.

[FR Doc. 83–3683 Filed 2–9–83; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Public Land Order 6349

[OR–20407]

Oregon; Public Land Order No. 6286; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the land description of Public Land Order No. 6286 of June 16, 1982.

EFFECTIVE DATE: February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The land description in Public Land Order No. 6286 of June 16, 1982, in FR Doc. 82–17078 published at page 27291, in the issue of Thursday, June 24, 1982, is corrected as follows:

On page 27291, under T. 21 S., R. 10 E., the line reading "sec. 24, W½SE¼NW¼," should read "sec. 24, W½SW¼NW¼."

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 31, 1983.

[FR Doc. 83–3684 Filed 2–9–83; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Public Land Order 6350

[OR–19062]

Oregon; Public Land Order No. 6111; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct errors in the land description and acreage in Public Land Order No. 6111 of January 28, 1982.

EFFECTIVE DATE: February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The Public Land Order No. 6111 of January 28, 1982, in FR Doc. 82–3063 published at pages 5419–5420, in the issue of Friday, February 5, 1982, is corrected as follows: In the second line of the Summary on page 5419, and in the second line following the land description on page 5420, the acreage reading "approximately 42,917.83 acres" should read "approximately 42,957.83 acres."

On page 5419, under T. 9 S., R. 9 E., the line reading "sec. 36, NW¼NE¼," should read "sec. 36, NW¼NW¼". On page 5420, under T. 9 S., R. 11 E., "sec. 14, SW¼NW¼", should read "sec. 14, SE¼NW¼".

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 31, 1983.

[FR Doc. 83–3635 Filed 2–9–83; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

[CGD 82–106]

Great Lakes Pilotage Rates

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule will amend the Great Lakes Pilotage Regulations. These amendments increase the basic pilotage rates by six percent in the U.S. Great Lakes pilotage system. These changes are made in order to increase the revenue received by the pilot organizations so that they may cover their increased operating costs.

EFFECTIVE DATE: March 15, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke (G–MVP–4/14), Room 1400, Department of Transportation, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. (202) 426–2985.

SUPPLEMENTARY INFORMATION: The United States and Canada entered into a Memorandum of Arrangements regarding Great Lakes Pilotage (1977 being the most recent version) which incorporates, among other things, the provisions for the establishment and adjustment of joint or identical pilotage rates. The U.S. Coast Guard and the Canadian Great Lakes Pilotage Authority, Ltd, have agreed to a joint identical six percent rate increase to be implemented prior to the commencement of the 1983 navigation season on the Great Lakes. Under the "foreign affairs" exception of the Administrative Procedures Act (5 U.S.C. 553(a)(1)), a Notice of Proposed Rulemaking is not required. As this rate adjustment involves a foreign affairs function, only a Final Rule will be published setting forth the provisions of the agreed to six percent rate increase in Great Lakes Pilotage Rates.

The Coast Guard has completed a review of revenues earned and expenses incurred by the three U.S. Great Lakes pilot organizations during 1982. Revenue requirements for 1983 have been developed and the number of vessels, their size, and route patterns have been projected for 1983.

U.S. pilots are private entrepreneurs, and as such, they must price their services so as to recover the costs of providing that service. Because of the increases in the cost of doing business to the pilot associations (pilot boat operations, pilot travel, administration, and pilot training), the rates that the pilots charge for their services are increased by six percent.

While traffic has decreased, the costs of providing pilotage services have not because many of the pilot associations' costs are fixed costs. Pilot boats and dispatching facilities must continue to be maintained and staffed regardless of the traffic level. Pilot travel has not decreased as might be expected with less traffic. With reduced traffic levels, turnaround time is longer. Pilots who would normally take another ship from the location of their last assignment must now either remain in hotels longer or be transferred to different locations via commercial transportation. Having a pilot at the proper location at the proper time now becomes relatively more expensive.

In an effort to deal with increasing costs and declining revenues, the pilot associations have taken steps wherever possible, including further reducing the number of pilots on their rolls.

Evaluation

Although Executive Order 12291 does not apply to this regulation under the foreign affairs exception, the Coast Guard has nevertheless reviewed this regulation and has determined it to be non-major. This regulation is considered to be nonsignificant and, although not required, a regulatory evaluation has been prepared under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 dtd 5–22–80). The DOT Order requires that each draft evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State, and local governments, as well as the anticipated benefits and impacts of the regulations. The estimated cost of this rule is $412,000. This figure is the amount of additional revenue the U.S. pilots should receive under this regulation based on the projected 1983 traffic and is the increased amount that shippers would have to pay for pilotage services on the Great Lakes. The benefit of this rule is the value of avoiding or minimizing costly delays and disruptions in shipping attributable to the failure to retain qualified pilots and to attract new qualified pilots. The overall efficiency of the pilotage system is enhanced by having an appropriate number of pilots available to provide the required services. The regulatory evaluation from which this information is taken has been included in the public docket and can be obtained from the Marine Safety Council (G–CMC/44) (CGD 77–084), U.S. Coast Guard, Washington, D.C. 20593.

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164) requires an initial regulatory flexibility analysis for regulations having a significant economic impact on a substantial number of small entities. The pilotage fees in question account for less than five percent of the total shipping cost and will not have a significant impact on the shipping industry. Pursuant to section 605(b) of the Act, it is certified that this regulation will not have a significant economic impact on a substantial number of small entities.

In the development of this rate adjustment, U.S. and Canadian shipping associations and pilots organizations were consulted.

Drafting Information

The principal persons involved in drafting this rule are: John J. Hartke, Project Manager, Office of Merchant Marine Safety, and Lieutenant Commander William B. Short, Project Attorney, Office of the Chief Counsel.

List of Subjects in 46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Reporting and recordkeeping requirements, Seamen.

PART 401—[AMENDED]

In consideration of the foregoing, Part 401 of Title 46 of the Code of Federal Regulations is amended as follows:

1. Section 401.405 is revised to read as follow:

§ 401.405 Basic rates and charges on designated waters.

Except as provided under § 401.420, the following basic rates shall be payable for all services and assignments performed by U.S. Registered Pilots in the areas described in § 401.300.

(a) District 1:

(1) For passage through the District or any part thereof, $8.36 for each statute mile, plus $111 for each lock transited, but with a minimum basic rate of $244 and a maximum basic rate for a through trip of $1071.

(2) For a movage in any harbor, $368.

(b) District 2:

(1) Southeast Shoal to Toledo or any point on Lake Erie west of Southeast Shoal, $570.

(2) Between points on Lake Erie west of Southeast Shoal, $337.

(3) Southeast Shoal to Port Huron Change Point or any point on the St. Clair River when pilots are not changed at Detroit Pilot Boat, $993.

(4) Southeast Shoal to Detroit/Windsor or any point on the Detroit River, $570.

(5) Southeast Shoal to Detroit Pilot Boat, $413.

(6) Toledo or any point on Lake Erie west of Southeast Shoal to Port Huron Change Point, when pilots are not changed at Detroit Pilot Boat, $1151.

(7) Toledo or any point on Lake Erie west of Southeast Shoal to Detroit/Windsor or any point on the Detroit River, $741.

(8) Toledo or any point on Lake Erie west of Southeast Shoal to the Detroit Pilot Boat, $570.

(9) Detroit/Windsor to any point on the Detroit River and between points on the Detroit River, $337.

(10) Detroit/Windsor or any point on the Detroit River to Port Huron Change Point or any point on the St. Clair River, $748.

(11) Detroit Pilot Boat to any point on the St. Clair River, $748.

(12) Detroit Pilot Boat to Port Huron Change Point, $581.

(13) Between points on the St. Clair River, $337.

(14) Port Huron Change Point to any point on the St. Clair River, $413.

(c) District 3:

(1) Between the southerly limit of the District and the northerly limit of the District or the Algoma Steel Corporation Wharf as Sault Ste. Marie, Ontario, $975.

(2) Between the southerly limit of the District and Sault Ste. Marie, Ontario or any point in Sault Ste. Marie, Ontario other than the Algoma Steel Corporation Wharf, $818.

(3) Between the northerly limit of the District and Sault Ste. Marie, Ontario, including the Algoma Steel Corporation Wharf, or Sault Ste. Marie, Michigan, $368.

(4) For movage in any harbor, $368.

2. Section 401.410 is revised to read as follows:

§ 401.410 Basic rates and charges on undesignated waters.

(a) Except as provided under § 401.420 and subject to paragraph (c) of this section the basic rates for each 6 hour period or part thereof that a U.S. pilot is on board in the undesignated waters shall be:

(1) In Lake Ontario, $197.

(2) In Lake Erie, $244.

(3) In Lakes Huron, Michigan and Superior, $197.

Each time a U.S. pilot performs the docking or undocking of a ship in undesignated waters there is an additional charge of $188.

(b) Between Buffalo and any point on the Niagara River below the Black Rock Lock, $479.

(c) When in direct transit of the undesignated waters of Lake Erie between Southeast Shoal and Port Colborne, or between Port Colborne and Southeast Shoal, and the vessel's master plans to use an appropriate certificate in lieu of a pilot, the ship shall pick up or discharge the pilot at the Cleveland pilot boat. No charge is to be made for the transit between Southeast Shoal and the Cleveland pilot boat or between the Cleveland pilot boat and Southeast Shoal unless the services of the pilot are utilized.

3. Section § 401.420 is revised to read as follows:

§ 401.420 Cancellation, delay or interruption in rendition of services.

(a) Except as provided in this paragraph, whenever the passage of a ship is interrupted and the services of a U.S. pilot are retained during the period of the interruption or when a U.S. pilot is detained on board a ship after the end of an assignment for the convenience of the ship, the ship shall pay an additional charge calculated on a basic rate of $31 for each hour or part of an hour during which each interruption lasts with a maximum basic rate of $488 for each continuous 24 hour period during which the interruption continues. There is no charge for an interruption caused by ice, weather, or traffic, except during the period beginning the 1st of December and ending on the 8th of the following April. No charge shall be made for an interruption if the total interruption ends during the 6 hour period for which a charge has been made under § 401.410.

(b) When the departure or movage of a ship for which a U.S. pilot has been ordered is delayed for the convenience of the ship for more than one hour after the U.S. pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, the ship shall pay an additional charge calculated on a basic rate of $31 for each hour or part of an hour including the first hour of the delay, with a maximum basic rate of $488 for each continuous 24 hour period of the delay.

(c) When a U.S. pilot reports for duty as ordered and the order is cancelled, the ship shall pay:

(1) A cancellation charge calculated on a basic rate of $184;

(2) A charge for reasonable travel expenses if the cancellation occurs after the pilot has commenced travel; and

(3) If the cancellation is more than one hour after the pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, a charge calculated on a basic rate of $31 for each hour or part of an hour including the first hour, with a maximum basic rate of $488 for each 24 hour period.

4. Section § 401.428 is revised to read as follows:

§ 401.428 Basic rates and charges for carrying a U.S. pilot beyond normal change point or for boarding at other than the normal boarding point.

If a U.S. pilot is carried beyond the normal change point or is unable to board at the normal boarding point the pilot shall be paid at the rate of $188 per day or part thereof, plus reasonable travel expenses to or from the pilot's base. These charges are not applicable if the ship utilizes the services of the pilot beyond the normal change point and the ship is billed for those services. The change points to which this section applies are designated in § 401.450.

(Sec. 5, 74 Stat. 260 (45 U.S.C. 216c); Sec. 6(a)(4), 80 Stat. 937, as amended (49 U.S.C. 1655(a)(4); 49 CFR 1.46(d); 5 U.S.C. 553(a)(1))

Dated: January 31, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83-3606 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[FCC 82-580]

American Telephone & Telegraph Co; Organization for the Use of the Telephone; Petitions for Waiver of the Commission's Rules so That the Bell Operating Companies and Other Local Telephone Companies May Provide Under Tariff New CPE To Meet the Needs of Disabled Persons

AGENCY: Federal Communications Commission.

ACTION: Order granting petitions for waiver.

SUMMARY: Commission grants waiver of § 64.702 of the Commission's Rules, which requires that new customer premises equipment be detariffed as of January 1, 1983. The Commission grants the Waiver pursuant to a requirement in the Telecommunications for the Disabled Act of 1982. The action permits, but does not require, all telephone companies to provide under tariff specialized equipment needed by disabled persons to communicate. The waiver also permits the Bell Operating Companies to offer such customer premises equipment without the need to form a separate subsidiary. The waiver is granted on an interim basis until final rules are issued pursuant to a future rulemaking proceeding the Act requires the Commission to conduct.

EFFECTIVE DATE: December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Gregory J. Vogt, Enforcement Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C., 20554. Telephone No. (202) 632-4890.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 64

Civil defense, Claims, Communications common carriers, Computer technology, Credit, Foreign relations, Political candidates, Radio, Telegraph, Telephone.

In the matter of American Telephone & Telegraph Company; Organization for the use of the telephone; petitions for Waiver of § 64.702 of the Commission's rules so that the Bell Operating Companies and other local telephone companies may provide under tariff new CPE to meet the needs of disabled persons.

Memorandum Opinion and Order

Adopted December 22, 1982.
Released January 25, 1983.

I. Introduction

A. Background

1. In the Second Computer Inquiry (Computer II) [1] the Commission concluded that, as of January 1, 1983, all common carriers must provide new customer premises equipment (CPE) only on a detariffed basis.[2] "Embedded" CPE, i.e., CPE on a customer's premises or in inventory as of January 1, 1983, may continue to be offered under tariff until the manner of its detariffing is determined in the *Implementation Proceeding*, CC Docket No. 81-893.

2. AT&T and its affiliates may sell new CPE only through a separate subsidiary once the Commission has approved the form of the capitalization requested for the subsidiary. On November 4, 1982, we approved, with modifications, AT&T's capitalization plan for the provision of new CPE by American Bell, Inc. (AmBell). *CPE Capitalization Order*, FCC 82-496, released November 10, 1982. AT&T has designated AmBell as the Bell System provider of new CPE to domestic end users.[3] All common carriers other than

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[1] Second Computer Inquiry (*Final Decision*), 77 FCC 2d 384, *recon.*, 84 FCC 2d 50 (1980) (*Reconsideration*), *recon.*, 88 FCC 2d 512 (1981) (*Further Reconsideration*), *aff'd sub non. Computer and Communications Industry Association* v. *FCC*, No. 80-1471 (D.C. Cir. November 12, 1982).

[2] "New CPE" is customer premises equipment which is neither in inventory nor subject to the jurisdictional separations process, and is offered to customers after January 1, 1983. *Reconsideration*, 84 FCC 2d 50, 66-67 (1980); *Order on Further Reconsideration*, 88 FCC 2d 512, 525-27 (1981). CPE "includes all equipment provided by common carriers and located on customer premises except over voltage protection equipment, inside wiring, coin operated or pay telephone and multiplexing equipment to deliver multiple channels to the customers." *Reconsideration*, at 61 n. 10.

[3] In accord with the Consent Decree entered by Judge Greene in United States v. Western Electric, No. 74-1698 (D.D.C., August 24, 1982), the BOCs will be allowed to market new CPE after their divestiture, although whether they will be required to form separate subsidiaries pursuant to § 64.702 of the Commission's Rules has not yet been determined. *See* Petition for Declaratory Ruling filed

AT&T and its affiliates must keep books of account and records for the provision of new CPE separate from regulated records. Under the Computer II rules, these carriers are not required to form separate subsidiaries for the offering of CPE.

B. Petitions for Waiver

3. Two petitions for waiver have been filed which deal with similar subject matter, one by AT&T and one by the Organization for the Use of the Telephone (OUT). On October 22, 1982, AT&T filed a petition for waiver of the Computer II rules to permit the Bell Operating Companies (BOCs) to provide new CPE, under tariff, to meet the special needs of the disabled. AT&T seeks the waiver only on an interim basis until embedded CPE is detariffed pursuant to the *Implementation Proceeding*. Thereafter, AT&T states, AmBell will assume the BOC's responsibilities with respect to the provision of CPE for the disabled.

4. AT&T contends that a single point of contact within its operating companies is necessary to meet the requirements of the disabled for both communications service and equipment. Without the instant waiver, AT&T argues, a BOC may be unable to respond fully to a request from a disabled person because its embedded inventory is limited. Rather, the customer would have to be referred elsewhere, complicating and delaying the resolution of the disabled person's telecommunications problem. Those complications would be particularly problematic, AT&T contends, where "special assemblies," i.e., reconfigured arrangements of terminal equipment, must be assembled in a customized fashion to meet the needs of a particular customer. Furthermore, AT&T represents that persons presently employed at the BOCs have specialized knowledge necessary to resolve the unique telecommunications problems of the disabled.

5. AT&T states that the instant waiver would not adversely affect the Commission's bifurcation approach to deregulating CPE or adversely affect either ratepayers or AT&T's competitors. AT&T states that only sixty thousand orders are received yearly for equipment to meet the needs of the disabled, whereas several million requests are received annually for all types of CPE. AT&T limits its waiver request to equipment which is required to meet the special needs of the disabled. AT&T proposes to use a "self-certification" method to assure that only the disabled use the BOCs to secure both communications services and equipment. In other words, if customers state that they are disabled, appropriate equipment will be provided. AT&T states that such a self-certification approach works well in the context of other programs, *e.g.*, directory assistance charge plans where persons who are disabled are not charged for assistance if they identify themselves as disabled.

6. OUT filed a petition for waiver on November 5, 1982 on behalf of all independent telephone companies to extend AT&T's petition for waiver of Computer II to permit all independent telephone companies to provide new CPE under tariff to meet the needs of the disabled. OUT sought this waiver on a permanent, rather than on an interim, basis. OUT argued that, because there is ineffective competition in the market for CPE for the disabled, the disabled would be deprived of communications equipment at reasonable prices absent the grant of the waiver. In addition, OUT suggested that, with equipment for the disabled, we are improperly using our authority to preempt state action, contrary to our decisions and in violation of the Communications Act of 1934.

C. Comments of the Interested Parties

7. The issues involved with AT&T's and OUT's waiver petitions are similar. Therefore, all comments received will be deemed to have been filed with respect to both petitions. Generally, the commenting parties support AT&T's and OUT's petitions for waiver. The comments received are from The Michigan Public Service Commission (Michigan), the American Speech-Language-Hearing Association, the Communications Workers of America (CWA), General Telephone & Electric, Co. (GTE), National Association of Regulatory Commissioners (NARUC), California Association of the Deaf, Krown Research, Inc. and a joint comment filed by Crest Industries, Inc., Tone Commander Systems, Inc. and Valcom Corp. (hereinafter Crest Comments). Letters received from the American Deafness and Rehabilitation Assocation and Joseph B. Szczepaniak III supporting AT&T's waiver request will be treated as informal comments.

8. NARUC and Michigan stated that they oppose AT&T's petition only insofar as the petition requests a waiver on an interim basis. They believe that a permanent waiver of Computer II should be granted to permit the continued tariffing of equipment for the disabled.

9. GTE believes that there is no need to permit the BOCs to offer detariffed equipment for the disabled under tariff. GTE would rather the Commission waive Computer II only insofar as it requires the BOCs to offer equipment for the disabled through a separate subsidiary. In comments filed with respect to OUT's petition, GTE saw no reason for a waiver to be filed on behalf of independent telephone companies since they presently are not required to form a separate subsidiary for the offering of any new CPE.

10. United Telephone System, Inc. (UTS) and Centel Corp. (Centel) also argue that the continued tariffing of CPE for the disabled is unnecessary. UTS and Centel state that a competitive market will best serve the needs of the disabled.

11. The Crest Comments, in addition to approving of AT&T's waiver petition, ask the Commission, *sua sponte*, to broaden the waiver request to include "specific product markets and geographical areas and . . . customer classes which the individual BOCs determine would not be adequately served either by American Bell or by competing providers of CPE products and services." Crest Comments at 2. The comments request that the BOCs be permitted to offer such equipment under tariff.[4]

12. In reply comments filed with respect to OUT's petition, AT&T contends that the Commission should not grant the waiver on a permanent basis. AT&T argues that there is no need in this proceeding to consider whether any waiver should be permanent and that any long term needs of disabled persons for CPE can be met by a competitive marketplace.

II. Discussion

13. On January 3, 1983 Pub. L. 97–410, the Telecommunications for the Disabled Act of 1982, was enacted. Among the provisions of that bill, section 610(g) is added to the Communications Act of 1934. Section 610(g) provides:

> Any common carrier or connecting carrier may provide specialized terminal equipment needed by persons whose hearing, speech, vision, or mobility is impaired. The State commission may allow the carrier to recover in its tariffs for regulated service reasonable

on November 30, 1982 by North American Telephone Association seeking a ruling as to whether the BOCs, following their divestiture, will be subject to the Computer II separation requirements.

[4] The expansion of AT&T's waiver which the Crest Comments seek raises different issues from those involved with the provision of CPE to meet the needs of the disabled. Therefore, we decline the request to expand the present proceeding beyond the issues involved in AT&T's and OUT's petitions.

and prudent costs not charged directly to users of such equipment.

That section in effect requires an amendment to Computer II to permit all carriers to provide "specialized equipment needed by persons whose hearing, speech, vision, or mobility is impaired."

14. The Act also provides that, under rules to be adopted by the Commission within one year, state commissions have authority to permit carriers to recover the reasonable costs of providing specialized equipment needed by disabled persons from basic service ratepayers. The act itself does not define the term, "specialized equipment" needed by disabled persons. The legislative history of the Act includes within that term not only equipment specifically designed for use by the disabled, but also some optional features, such as speakerphones, which are also useful to other persons. *See* H. Rep. 97–888, 97th Cong., 2d Sess., at 13 (1982) (H. Rep.). During the course of the debate on this legislation, the sponsor of the bill stated that the Commission has the discretion to define the term "specialized equipment" needed by the disabled. 128 Cong. Rec. H9484 (Daily Ed., December 13, 1982).

15. We will not attempt at this point to define in detail the term "specialized equipment" needed by disabled persons. Rather, we shall address this issue within the context of the rulemaking proceeding we are required to conduct pursuant to the terms of the Act.[5] Nonetheless, prior to reaching a decision in that rulemaking proceeding, some guidance would, we believe, be helpful. The term "specialized equipment" obviously includes equipment which is specially designed for use by a person with a speech, hearing, sight or mobility impairment. Examples of such equipment are amplified hearing handsets and teletypewriters for the deaf. On the other hand, it would appear clear from the legislative history of the Disabled Act that basic equipment such as push button telephones or telephones with lighted dials which may be incidentally useful to disabled persons clearly does not fall within the intended meaning of "specialized equipment." Between these two extremes exists equipment which can be used both by the population at large and by disabled persons. Whether or not particular equipment is within the meaning of the Act can best be decided on a case-by-case basis pursuant to standards defined in the rulemaking proceeding conducted pursuant to the Act. Until a decision is reached in the rulemaking proceeding, the term "specialized equipment" for the disabled shall include CPE which has as at least one of its important purposes specialized application enabling disabled persons to communicate. The House Report uses as an example of equipment within this category speakerphones for those with impaired mobility. We also find that the term "specialized equipment" includes "special assemblies" which comprise special configurations of CPE to meet the telecommunications needs of a disabled customer.

16. Before addressing the changes required by the legislation, we also believe it appropriate to consider whether some accommodations should be made under our Computer II rules to allow any telephone company to provide advice and assistance to disabled or hearing impaired persons with respect to the availability of various CPE configurations that may be used by such persons. In general, the Computer II decisions establish the principle that the vision of CPE is not a common carrier communications service. As such, activities associated with the marketing and vision of such equipment are to be conducted separate from the provision of local exchange service.[6] AT&T must do this through a separate subsidiary. States are precluded from requiring local carriers to undertake any activity which is inconsistent with our Computer II determinations. To the extent that the BOCs provide disabled persons with information concerning new CPE, this could be construed as prohibited by virtue of the structural separation requirement for marketing new CPE. We conclude, however, that a limited exception should be made whereby the BOCs are not precluded from advising or otherwise informing disabled persons as to the availability of specialized CPE, or CPE components, vendors of such equipment, and prices charged in the marketplace for such equipment.

17. Bell System carriers currently have a centralized contact point where disabled persons can obtain information concerning the availability of specialized CPE. We do not believe that Computer II should be construed to preclude any telephone company from disseminating information concerning CPE that may be of utility to disabled persons, or to otherwise preclude states from requiring local telephone companies to maintain this public service. We conclude, therefore, that our Computer II decision does not preclude this activity on the part of any carrier, including the BOCs.

18. The Telecommunications for the Disabled Act of 1982 requires that we alter two aspects of the Computer II decisions until a final decision has been reached in the required rulemaking proceeding. First, Section 610(g) requires that we permit carriers to provide specialized equipment needed by disabled persons. Presently, the BOCs may not offer any new CPE because they have not formed separate subsidiaries as required by the Computer II rules. Because adherence to the structural separations requirements would effectively prohibit the BOCs from providing specialized equipment needed by disabled persons, we will waive the Computer II separation requirement with respect to the provision of specialized CPE needed by disabled persons.

19. The second change required in the interim is to permit carriers to provide specialized equipment needed by disabled persons under tariff. The Act itself is silent on the question of whether or not this CPE may be tariffed. However, the legislative history states that "As a result of this legislation, it will be permissible to offer such equipment under tariff or on a deregulated basis * * *." H. Rep. at 14 (emphasis added). The choice of whether to tariff or not tariff thus appears to rest, at least in the first instance, with the carrier. Accordingly, we are granting a waiver to the extent that we shall not preclude the BOCs or any other telephone company from offering such CPE on a tariffed basis. In taking this action we do not decide whether new CPE for the disabled shall in fact be offered under tariff or be required by states to be offered under tariff.[7] We are merely carving out a limited exception to a federal mandate that requires new CPE to be offered on a nontariffed basis consistent with the terms of legislation.

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[5] The statutorily mandated rulemaking proceeding requires that we address additional issues. These issues will be announced in the Notice of Proposed Rulemaking to be issued in the near future.

[6] This applies to new CPE as of January 1, 1983. We are addressing the manner and timing for the detariffing of embedded CPE in the *Implementation Proceeding*.

[7] The legislative history to the Act is unclear as to whether we must permit state commissions to force carriers to offer under tariff specialized equipment needed by disabled persons. The House Report reads in relevant part:

> In light of the record of voluntary cooperation by the industry, the Committee found it unnecessary specifically to address the possibility of a "recalcitrant carrier" that might decline to participate in a gram of subsidized offerings sanctioned by the State Commission * * *. These matters may be considered, if necessary, in formulating the required modifications to *Computer II*.

20. Finally, as mentioned above, AT&T has proposed to adopt a "self-certification" gram pursuant to which it will provide specialized equipment to persons who say that they are disabled. At this point we take no position as to whether the arrangement is satisfactory or whether additional verification can or should be required. Until we can address this matter further in the rulemaking mandated by the Disabled Act, we leave it to state commissions to decide whether or not AT&T's self-certification approach is satisfactory.

III. Ordering Clause

21. Accordingly, it is ordered that pursuant to sections 4(i), 4(j) and 610 of the Communications Act of 1934 a waiver of Section 64.702 of the Commission's Rules and Regulations, 47 CFR 64.702, is granted as follows:

1. The Bell Operating Companies may offer on an unseparated basis new specialized CPE needed by persons whose speech, hearing, sight or mobility is impaired.

2. All telephone companies may offer under tariff new specialized CPE needed by persons whose speech, hearing, sight or mobility is impaired.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-3415 Filed 2-9-83; 8:45 am]

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47 CFR Parts 81 and 83

[Gen. Docket No. 81-656; FCC 83-5]

Stations on Land in the Maritime Services; Stations on Shipboard in the Maritime Services; Amendment To Redefine Classes of Coast Stations and Clarification of Rules Which Appear To Restrict the Free Use of Communication by Users

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission's rules are inconsistent as to the definition of classes of stations, designated area of service and the frequency bands assigned to the station. These amendments will correct these inconsistencies and bring the rules and station licenses into agreement with the actual operation of the coast station. These amendments also delete certain rules which restrict the use of communications in frequency bands other than VHF. These rules were adopted when the short range communications system on VHF was first implemented to encourage all ship and coast stations to use VHF.

EFFECTIVE DATE: February 18, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast station classification, Radio.

47 CFR Part 83

Telephone, Operational procedures.

Report and Order (Proceeding Terminated)

Adopted: January 13, 1983.

Released: January 19, 1983.

In the matter of Amendment of Parts 22, 81 and 83 to redefine classes of coast stations and clarification of rules which appear to restrict the free use of communication by users; Gen Docket No. 81-656.

1. In this Report and Order we are: (1) Reclassifying coast stations according to the service they provide, in lieu of an alphanumeric label; (2) deleting the requirement to modify coast station licenses when the power of the transmitter is changed; and (3) removing the restrictions in frequency usage in areas with marine VHF coverage.

Coast Station Reclassification

Background

2. Currently, there are inconsistencies in the definitions applied to medium frequency (MF) and high frequency (HF) assignments in Parts 81 and 83 of the rules (Maritime Services), and in Part 2 of the rules and the international Radio Regulations.[1] Further, there have been inconsistencies in the actual frequency assignments for particular coast stations. The practical effect of these inconsistencies has been the assignment of 4000 kHz band frequencies (i.e., HF band frequencies suitable for long range high seas communications) to Class II (MF) coast stations which are licensed to provide regional or medium range service.

3. Additionally, the present method of classifying coast stations is with a Roman numeral indicating the frequency band and operational range of the service authorized, followed by a letter indicating the mode (telegraphy/telephony) of operation. For example, a class II B coast station operates in the MF band, providing regional service of approximately 150 miles range utilizing voice communications. The station will be further classified as public, i.e., open to public correspondence, or limited, i.e., restricted to the operational and business communications of the licensee.

4. In the Notice of Proposed Rule Making (NPRM) in this proceeding [2] the Commission proposed to rectify the inconsistencies and clarify the rules by revising Parts 81 and 83 to define each class of coast station in terms of the frequency bands authorized and the area of coverage provided. With reference to the example above, a class II-B coast station would, under the proposed reclassification, become a "regional telephony coast station" serving ships at distance up to 150 nautical miles on assigned frequencies between 1605 and 3000 kHz.[3] We emphasize, that the proposed rule amendments are administrative in nature and do not change the operational parameters or specific frequency assignment of existing coast station.

Comments

5. Comments in this proceeding were filed by:

—Radiotelephone Communications of Puerto Rico, Inc. (RCPR).
—James G. Prestwood, Jr. d.b.a. Prestwood Communications (Prestwood).
—RadioCall Corporation and Standard Communications Corp. (RadioCall).
—Thomas W. Tittle d.b.a. Burns Harbor Radio (Burns Harbor)
—Verle Bogue d.b.a. Santa Cruz Telephone and Radio Service (SCATR).
—Northwest Instrument (Northwest).
—Marine Telephone Company (Marine Telephone).
—Mobile Marine Radio, Inc. (MMR).
—AMCON, Inc. (AMCOM).
—WJG Telephone Company (WJG).
—Marine Telephone and WJG also filed reply comments.[4]

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[1] The international Radio Regulations and Part 2 of the rules define MF as extending from 300 to 3000 kHz and HF as extending from 3000 kHz to 30 MHz. Parts 81 and 83 apply MF and HF for radiotelephony to the bands between 1605 to 4000 kHz and 4000 to 23000 kHz, respectively.

[2] Gen. Docket No. 81-656, FCC 81-412, released October 1, 1981, 46 FR 49624.

[3] The NPRM incorrectly listed the upper band limit of Regional stations as 4000 kHz. However, there are no maritime mobile assignments for telegraphy or telephony between 3000 and 4000 kHz. Further, as noted above, the upper limit of the MF band is defined at 3000 kHz. This action is intended to remove such inconsistencies.

[4] Comments are listed in order of receipt.

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6. Only MMR, AMCOM and WJG addressed the issue of coast station reclassification. MMR and AMCOM see no advantage to such a reclassification. They suggest retaining the alphanumeric labels and simply specifying the frequency bands assigned to the particular class I (high seas) and class II (regional) stations. Thus, continuing our example, a class II B station would become a class II station defined as having frequency assignments between 1605 and 4000 (5000) kHz. MMR and AMCOM believe that these designations are functional and serve the administrative purposes more efficiently than the proposed descriptive classifications. MMR also states that the descriptive classification could be confusing. For example, serving ships "at sea" might be interpreted as precluding serving ships in the Gulf of Mexico.[5]

7. MMR also notes that the proposal to correlate the classification of coast stations with the ITU frequency band definitions would result in MRR's 4 MHz radiotelephony service being changed from Class II to Class I. Since it concurs in AT&T's tariffs, the result would be a rate increase since class I service is currently more expensive than class II service. MMR asserts that filing its own tariff for 4 MHz would not preserve the status quo but would disturb its interconnect agreements. These interconnect agreements concern business arrangements between MMR and South Central Bell, including matters relating to billing and collection, settlement of accounts and all other carrier-to-carrier business relationships. MMR believes that it would be unlikely that it could maintain the present rate level for 4 MHz service since its costs would be significantly increased.

8. MMR states that historically 4 MHz frequencies have been assigned to both Class I and Class II stations. The 4 MHz frequencies were assigned to Class II stations as complementary, from a coverage viewpoint, to the MF band frequencies. MMR asserts that the Commission should continue to recognize this overlap in services of the 4 MHz frequencies as now assigned.

9. WJG originally supported the reclassification of coast stations as proposed. In its reply comments, however, WJG states that the range of the station should not be determined arbitrarily, but by the propagation range of the assigned frequencies. WJG proposes that the mileage limitation be deleted from the definition.[6]

Discussion

10. Since the three licensees who commented on the proposed reclassification essentially do not favor modifying the definitions of class I (high seas, HF) stations and class II (regional, MF) stations, a brief discussion of the background and rationale for the distinction between the classes of coast stations appears to be appropriate. The definitions of Class I, II and III stations were introduced into the rules by Docket 9797 adopted June 13, 1951. The definitions are based on area served (i.e. worldwide for class I, regional coverage for class II and local coverage for Class III) which was a function of the frequency bands available for assignment. The predecessor of the class II category was "coastal-harbor" classification. Coastal-harbor stations provided regional service in the 2000 to 3000 kHz band. However, due to congestion in the 2000 to 3000 kHz band, Docket 9797 permitted stations providing regional service to vessels off the coast of New England and Southern California to utilize frequencies in the 4000 to 5000 kHz band.

11. Thus, where 4 MHz frequencies have been made available for regional service, they have been supplemental to the coverage provided on assigned 2 MHz freqencies. The 4 MHz frequencies have been and will remain primarily available for high seas service.

12. As we indicated in the NPRM the proposed changes are administrative in nature. No station will be denied authority to operate on any assigned frequency as a result of this proceeding. Existing class II stations which now operate in the 4 MHz band as well as the 2 MHz band will simply be classified, at the time of license renewal, as providing high seas service in addition to regional service. However, where a coast station utilizes a 4 MHz frequency primarily to supplement its regional coverage on 2 MHz, and the coast station desires to include the 4 MHz assignment under its "regional coast station authorization," we will permit it to do so. Therefore, if MMR because of its particular tariff arrangements finds it more appropriate to retain its 4 MHz assignment under a "regional authorization" rather than a "high seas authorization" it may do so.

13. Additionally, we note that the use of an alphanumeric label in the classification of coast stations is unique to the United States. Other administrations use either descriptive terms (such as coastal and long-range) or frequency band) MF, HF, VFG) designations. We believe it would be less confusing to the public and more conducive to international relations to have our classification of coast stations follow the international designation of frequency bands.

14. For the reasons indicated above, we are amending Part 81 as proposed.

License Modification

15. The transmitters installed at coast stations are no longer listed on the station license. The power shown on the license is the maximum power for the given class of station. Therefore, the Notice proposed to delete the obsolete requirement for licensees to submit an application for modification when the transmitter power is changed.

16. All the commenters in the proceeding supported this proposal. Accordingly, we are deleting this obsolete license modification requirement.

Area Coverage Restrictions

17. In order to encourage the introduction of marine VHF communications for local area service, and to relieve frequency congestion in the 2 MHz marine band, the Commission adopted restrictions on the use of other than VHF communications when vessels are within the coverage area of VHF stations. Because VHF communications are now firmly established and congestion is no longer a problem in the 2 MHz band, the Notice proposed to remove these restrictions.

18. WJG supported the proposal as long as the Commission retained the requirement that a ship have VHF in addition to the MF installation. Northwest Marine Telephone, MMR and AMCOM opposed the deletion of the restriction from a frequency management point of view. We agree that communications should be conducted with the shortest range frequency and at the lowest power practicable, in order to minimize the potential for interference. However, we believe that the users will follow these

[5] This concern appears to be overly cautious in view of the accepted definition of "high seas" as "all parts of the sea that are not included in the territorial waters of a State" and the definition of "sea" and "gulf" which appear in Webster's International Dictionary.

[6] WJG, in its reply comments also, discusses interconnect agreements and asserts that the independent coast stations are penalized because of AT&T's reluctance to enter into fair and reasonable interconnect agreements with the independent marine public coast stations. MMR, in a letter to clarify its comments, states WJG misconstrued its comments on interconnect. An interconnect agreement entails both technical and business/operational terms and conditions which reflect a balancing of the interests of both parties. MMR explains that it did not intend to imply any sinister or inappropriate motive on the part of South Central Bell; but rather, that any change in underlying conditions which may warrant reopening of the interconnect agreement may have additional repercussions.

principles to obtain the most effective and efficient communications possible to satisfy their operational requirements. We feel that VHF will be used whenever possible because it is the most efficient and economical means of communications available. Therefore, we are removing the subject restrictions as proposed.

DPLMRS

19. Section 22.509(b) of the Commission's rules permits usage of Domestic Public Land Mobile Radio Service (DPLMRS) stations on board ships, but requires termination of communications on this system when VHF public coast station service becomes available in an area. Such termination is required without regard to user preference. The Notice proposed elimination of this termination requirement in order to allow ships to use the communications system most appropriate to their needs.

20. RCPR, Prestwood and SCTARS, all DPLMRS licensees, supported the proposal. Essentially, they view DPLMRS as an inexpensive additional service for vessels rather than a substitute for the maritime radio service. Radiocall/Standard, Burns Harbor, Marine Telephone, MMR, AMCOM and WJG, all public coast station licensees, opposed the proposal. They indicate that the maritime service is a national and international safety service as well as a means of providing for operational and business communications. The coast station licensees argue that DPLMRS licensees would be given an unfair advantage if allowed to enter the maritime market without reciprocal authority being provided for public coast to provide DPLMRS service. No comments were received from the boating public or the maritime industry.

21. This issue is being addressed in the Rule Making proceeding in CC Docket No. 80–57, initiated September 8, 1982, FCC 82–349, 47 FR 43842, which is reviewing Part 22 in its entirety. We believe it is more appropriate to consider the ramifications of this restriction in Part 22 in the context of this later proceeding.

Summary

22. In view of the foregoing, we are amending the rules as proposed to: (1) Classify coast stations by mode of operation and frequency bands authorized; (2) delete the requirement to modify the station license when the power of the transmitter is changed; and (3) delete certain rules which restrict the use of communications in frequency bands other than VHF when in a VHF station coverage area. We are not amending § 22.509 as had been proposed, but deferring consideration of this question to the Common Carrier Bureau in the context of CC Docket No. 80–57.

23. The adopted rules mainly pertain to the administrative classification of coast stations to align the class of the coast station with the services provided and the frequency bands necessary to provide the service. Therefore, the Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act (Pub. L. 96–354) do not apply to this rulemaking proceeding, because the rules will not, if promulgated, have a significant impact on a substantial number of small entities.

24. Regarding questions on matters covered in this document contact Nicholas G. Bagnato at (202) 632–7175.

25. Accordingly, it is ordered, That pursuant to the authority contained in Sections 4(i) and 303(a), (b), (c) and (r) of the Communications Act of 1934, as amended, Parts 81 and 83 of the Commission's rules are amended, as set forth in the attached Appendix, effective February 18, 1983.

26. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

1. In § 81.3 paragraphs (h), (i), (j), (k) and (s) are revised, new paragraphs (l), (u) and (v) are added as follows:

§ 81.3 Maritime Mobile Service.

* * * * *

(h) *High seas telegraphy coast station.* A radiotelegraph public coast station licensed to provide a maritime service to ships at sea, including such service to several thousand kilometers, whose frequency assignment for this purpose includes appropriate frequencies between 3000 and 23000 kHz.

(i) *High seas telephony coast station.* A radiotelephone coast station (public or limited) licensed to provide a maritime service to ships at sea, including such services to ships at distances of several thousand kilometers, whose frequency assignment for this purpose include frequencies between 3000 and 23000 kHz.

(j) *Regional telegraphy coast station.* A radiotelegraphy public coast station licensed to provide a maritime service, primarily of a regional character, whose frequency complement contains frequencies between 2000 and 3000 kHz.

(k) *Regional telephony coast station.* A radiotelephone coast station (public or limited) licensed to provide a maritime service to ships at sea, including such services to ships at distances up to 275 kilometers (150 nautical miles), whose frequency assignment for this purpose includes frequencies between 1605 and 3000 kHz.

(l) *Local service (VHF) coast station.* A radiotelephone coast station (public or limited) licensed to provide a maritime mobile service, primarily of local nature, whose frequency assignment does not include any frequency below 25,000 kHz.

* * * * *

(s) *Port operations service.* A maritime mobile service in or near a port, between coast stations and ship stations, or between ship stations, in which messages are restricted to those relating to the operational handling, the movement and safety of ships and, in emergency, to the safety of persons. Messages which are of public correspondence nature shall be excluded from this service.

* * * * *

(u) *Ship movement service.* A maritime mobile safety service, other than a port operations service, between coast stations and ship stations, or between ship stations, in which messages are restricted to those relating to the movement of ships. Messages which are of a public correspondence nature shall be excluded from this service.

(v) *Port station.* A coast station in the port operations service.

* * * * *

2. In § 81.22, paragraph (a) is revised as follows:

§ 81.22 Administrative classification of stations.

(a) Stations in the maritime mobile service subject to this part are licensed according to class of station as follows:

(1) Public high seas telegraphy coast station.

(2) Public high seas telephony coast stations.

(3) Public regional telegraphy coast stations.

(4) Public regional telephony coast stations.

(5) Public local service (VHF) coast stations.

(6) Limited high seas telephony coast stations.

(7) Limited regional telephony coast stations.

(8) Limited local service (VHF) coast stations.

(9) Marine utility stations.

* * * * *

§ 81.36 [Amended]

3. In § 81.36 paragraph (c) the proviso and (c)(1) and (2) are removed.

§ 81.72 [Amended]

4. In § 81.72, in paragraph (b), replace the words "Class I coast stations" with the words "high seas coast stations"; and in paragraph (c), replace the words "Class II and Class III coast stations" with the words "regional and local service (VHF) coast stations".

§ 81.103 [Amended]

5. In § 81.103, in paragraph (a) replace the words "Class I public coast station" with the words "high seas public coast station"; in paragraph (b) replace the words "Class II public coast station" with the words "regional public coast station"; and, in paragraph (c), replace the words "class III public coast station" with the words "local services (VHF) public coast station".

§ 81.206 [Amended]

6. In § 81.206, paragraph (a) replace the words "Class I coast stations" with the words "high seas coast stations"; and replace the words "Class II coast station" with the words "regional coast station".

§ 81.303 [Amended]

7. In § 81.303, in paragraphs (a) and (b), replace the words "Class III–B Public coast stations" with the words "local service (VHF) public coast stations".

§ 81.304 [Amended]

8. In § 81.304, paragraph (b)(22), replace the words "class III–B public coast station" with the words "local service (VHF) public coast station".

§ 81.306 [Amended]

9. In § 81.306 the introductory text of paragraphs (a), (b), (c), and (e), replace the words "Class I public coast station" with the words "high seas public coast stations" and in paragraph (f) replace the words "Class II" with the words "public regional".

§ 81.313 [Amended]

10. In § 81.313, in paragraph (a) replace the words "Class I public coast stations", with the words "high seas public coast stations", and in paragraphs (a) and (b), replace the words "Class II public coast stations" with the words "public regional coast stations", and in paragraph (b) replace the words "Class III public coast stations" with "local service (VHF) public coast stations".

§ 81.330 [Amended]

11. In § 81.330, in paragraph (a), replace the words "public coast III–B stations (VHF)" with the words "local service (VHF) public coast stations"; in paragraph (b) introductory text, replace the words "limited coast III–B station" with the words "local service (VHF) limited coast station" and in paragraph (c), replace the words "Class III–B public or limited station" with the words "local service (VHF) public or limited coast station".

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.351, paragraph (c)(3) is revised and (c)(4) is removed and reserved as follows:

§ 83.351 Frequencies available.

* * * * *

(c) * * *

(3) All installations of transmitters employing SSB emissions (2.8A3A, 2.8A3H, and 2.8A3J) on frequencies in the band 2000–2850 kHz will be authorized only when the ship station is equipped for use of F3 emission on frequencies in the band 156–162 MHz.

(4) [Reserved]

* * * * *

2. In § 83.355, the heading and paragraph (b) are revised as follows:

§ 83.355 Frequencies from 4000 kHz to 27.5 MHz for public correspondence.

* * * * *

(b) The use of the working frequencies in paragraph (a) of this section is subject to the applicable conditions and limitations set forth in § 83.351.

3. In § 83.358, the introductory text of paragraph (a) is revised as follows:

§ 83.358 Frequencies below 3000 kHz for safety purposes.

(a) The following carrier frequencies are authorized for intership safety communications in the respective geographic areas. In addition, on a non-interference basis to safety communications, the frequencies, except for 2670 kHz, may be used for operational communications and, in the case of commercial transport vessel and vessels of municipal and state governments for business communications.

* * * * *

[FR Doc. 83-3648 Filed 2-9-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 218

[FRA Docket No. RSOR-3, Notice No. 19]

Blue Signal Protection of Workmen; Recordkeeping Requirements

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the FRA regulations concerning the blue signal protection of railroad employees while they are inspecting, repairing, and servicing rolling equipment. It eliminates unnecessary recordkeeping requirements and corrects several technical inaccuracies. This action is taken by FRA in an effort to improve its safety regulatory program.

EFFECTIVE DATE: This amendment will become effective March 14, 1983.

FOR FURTHER INFORMATION CONTACT: Bruce Fine, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590 (Phone 202–426–4345).

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1981, the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) became effective. One purpose of that statute was to minimize the paperwork burden imposed by the Federal Government.

The FRA, in conjunction with the Office of Management and Budget (OMB), began a review of FRA regulations to identify ways of reducing the regulatory paperwork burden associated with the FRA safety regulatory program. The FRA Railroad Operating Rules (49 CFR Part 218) were selected for detailed analysis. Based on that analysis, the FRA has concluded that the recordkeeping requirements prescribed in Section 218.30(c)(1) should be reduced by eliminating some of the data required to be recorded by operators of remotely controlled switches and by reducing the retention period for the remaining data from 30 days to 15 days.

The FRA issued a notice of proposed rulemaking on September 23, 1982 (47 FR 42001) proposing these changes. Two commenters responded to that proposal; both urged that FRA adopt the proposed changes. No comments objecting to the proposal were received. based on these comments and the FRA estimate that these changes will result in an annual savings to railroads of approximately 60,000 manhours of effort, FRA has

decided to adopt the proposal without change.

In reviewing this rule, FRA noted that the existing regulation has several technical inaccuracies caused by omitted words or incorrect phraseology. This amendment corrects those inaccuracies.

Regulatory Impact

This final rule has been evaluated in accordance with existing regulatory policies. The amendment will have a direct impact only on railroads. It will not have an adverse economic impact on any entity since it reduces regulatory requirements and burdens. It may have a positive economic impact through cost reductions for the approximately 400 railroads to which the regulation is applicable. Even though some of these railroads may constitute small entities, this amendment will not have a significant impact on a substantial number of small entities. The overall economic impact is so minimal that it does not warrant a regulatory evaluation under the terms of Executive Order 12291.

Based on the facts contained in this notice, it is certified that this proposed amendment will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The amendment does not constitute a major Federal action significantly affecting the quality of the human environment; an environmental impact statement is therefore not required. The amendment does not constitute a significant rule under the Department of Transportation regulatory policies and procedures.

List of Subjects in 49 CFR Part 218

Railroad safety.

The Rule

PART 218—[AMENDED]

Based on the foregoing, Part 218 of Title 49, Code of Federal Regulations is amended as follows:

§ 218.5 [Amended]

1. Section 218.5(k) is amended by removing "Interlocking" and inserting in lieu thereof "Interlocking limits".

§ 218.25 [Amended]

2. Section 218.25(c) is amended by removing "railroad employees" and inserting in lieu thereof "workmen".

§ 218.29 [Amended]

3. Section 218.29(a)(2) is amended by removing "the": after "against", and by inserting "and" after "area" the second time it appears and before "locked".

4. Section 218.29(a)(3) is amended by inserting "be" after "must" and before "attached."

5. Section 218.29(a)(4) is amended by removing "within" the third time it appears.

6. Section 218.30 is amended by revising paragraph (c) to read:

§ 218.30 Remotely controlled switches.

* * * * *

(c) The operator must maintain for 15 days a written record of each notification which contains the following information:

(1) The name and craft of the employee in charge who provided the notification;

(2) The number or other designation of the track involved;

(3) The date and time the operator notified the employee in charge that protection had been provided in accordance with paragraph (a) of this section; and

(4) The date and time the operator was informed that the work had been completed, and the name and craft of the employee in charge who provided this information.

(Sec. 202 of the Federal Railroad Safety Act of 1970, as amended, 45 U.S.C. 431; and § 1.49(m) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49(m)))

Issued in Washington, D.C. on January 21, 1983.

Robert W. Blanchette,

Administrator.

[FR Doc. 83-2314 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-06-M

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49 CFR Part 228

[FRA Docket No. HS-4, Notice No. 10]

Hours of Service of Railroad Employees Recordkeeping Requirements

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This document amends FRA regulations concerning the hours of service of railroad employees. It eliminates two unnecessary recordkeeping provisions of the existing regulations.

EFFECTIVE DATE: This amendment will become effective March 14, 1983.

FOR FURTHER INFORMATION CONTACT: Bruce Fine, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590 (Phone 202-426-4345).

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1981, the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) became effective. One purpose of that statute was to minimize the paperwork burden imposed by the Federal Government.

The FRA, in conjunction with the Office of Management and Budget, began a review of FRA regulations to identify ways of reducing the regulatory paperwork burden associated with the FRA safety regulatory program. The FRA regulations in Part 228, issued under the Hours of Service Act (45 U.S.C. 61-64b), were selected for detailed analysis.

The purpose of Part 228 is to assure that rail carriers maintain appropriate records to enable FRA to administer effectively the requirements of the Hours of Service Act. As a result of a detailed analysis, FRA has concluded that the recordkeeping requirements prescribed in sections 228.13 and 228.15 are not necessary to achieve that purpose. Section 228.13 requires rail carriers to keep a record of time delays of 10 minutes or more that are experienced at a single location by train and engine crews. Section 228.15 requires rail carriers to keep at specified locations a record of train movements. Examination of current enforcement practices revealed that these records are seldom utilized. In those rare instances where the information they contain would be useful, it can be obtained from other sources.

The FRA issued a notice of proposed rulemaking on September 23, 1982 (47 FR 42003) proposing these changes. Two commenters responded to the proposal; both urged that FRA adopt the proposed changes. No comments objecting to the proposal were received. Based on these comments and the FRA estimate that the changes will result in an annual savings to railroads of approximately 1,200,000 manhours of effort, FRA has decided to adopt the proposal without changes.

List of Subjects in 49 CFR Part 228

Railroad safety.

Regulatory Impact

This rule has been evaluated in accordance with existing regulatory policies and it is not a "major" rule as defined under Executive Order 12291. The amendment will have a direct impact only on railroads. The rule may have a positive economic impact through cost reductions realized by the approximately 400 rail carriers subject to the regulations. However, it will not have a significant cost economic impact on any entity since it only represents a

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minor reduction in requirements and burdens. Moreover, the economic impact would be so minimal that it does not warrant a regulatory analysis under the terms of Executive Order 12291.

Based on the facts set forth in this notice, it is certified that the rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The amendment does not constitute a significant rule under the DOT regulatory policies and procedures.

The Rule

PART 228—[AMENDED]

Based on the foregoing, Part 228 of Title 49, Code of Federal Regulations, is amended as follows:

§ 228.13 [Removed]

1. Section 228.13 is removed in its entirety.

§ 228.15 [Removed]

2. Section 228.15 is removed in its entirety.

3. The references to §§ 228.13 and 228.15 are to be removed from the list of sections at the beginning of Part 228.

(Sec. 2 Hours of Service Act, as amended, 45 U.S.C. 61–64b; and § 1.49(d) regs. Office of the Secretary of Transportation (49 CFR 1.49(d)))

Issued in Washington, D.C. on January 21, 1983.

Thomas A. Till,

Deputy Administrator.

[FR Doc. 83-3446 Filed 2-9-83; 8:45 am]

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Proposed Rules

Federal Register
Vol. 48, No. 29
Thursday, February 10, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ASO-5]

Proposed Designation of Transition Area; St. Marys, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at St. Marys, Georgia, to accommodate Instrument Flight Rule (IFR) operations at St. Marys Airport. This action will lower the base of controlled airspace from 1,200 to 700 feet above the surface. An instrument approach procedure, based on the Jacksonville Airport Surveillance Radar (ASR) system, has been developed to serve St. Marys Airport and additional controlled airspace is required to protect IFR operations.

DATE: Comments must be received on or before March 15, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASO-5." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for furture NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulation (14 CFR Part 71) to designate the St. Marys, Georgia, 700-foot transition area. This action will provide controlled airspace for aircraft executing instrument approach procedures at St. Marys Airport. It the proposed designation of the transition area is found acceptable, the airport operating status will be changed from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

St. Marys Airport, GA—New

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of St. Marys Airport (Lat. 30°45'16"N., Long. 81°33'27"W.), excluding that portion that coincides with the Fernandina Beach Airport transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" uder DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on February 1, 1983.

J. Stiglin,

Acting Director, Southern Region.

[FR Doc. 83-3622 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASW-5]

Proposed Alteration of Transition Area and Designation of Control Zone; Houma, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area and designate a control zone at Houma, LA. The intended effect of the proposed action is to provide controlled airspace for aircraft executing standard instrument approach procedures (SIAP's) to the Houma-Terrebonne Airport. This action is necessary since the FAA proposes to commission an airport traffic control tower (ATCT) at Houma-Terrebonne and the airport will meet the requirement for the establishment of controlled airspace to the surface. In addition, the RNAV approaches to Runway 17 and 35 require 700-foot transition area extensions to the north and south.

DATE: Comments must be received on or before March 14, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G, § 71.181 and Subpart F, § 71.171 as republished in Advisory Circular AC 70-3A dated January 3, 1983, contains the description of transition areas and control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area and designation of a control zone at Houma, LA, will necessitate an amendment to this subpart. This amendment will be required at Houma, LA, since there is a proposed ATCT at the Houma-Terrebonne Airport and a review of the designated transition area revealed an extension to the north and south is required for the protection of aircraft executing RNAV approaches.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, enviromental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASW-5." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the, FAA proposes to amend §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Subpart F, § 71.171:

Houma, LA New

Within a 5-mile radius of the Houma-Terrebonne Airport (latitude 29°34'03"N., longitude 90°39'37"W.); and within 2 miles each side of the 123° radial of the Tibby VORTAC extending from the 5-mile radius area to the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Subpart G §.71.181:

Houma, LA Revised

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Houma-Terrebonne Airport (latitude 29°34'03"N., longitude 90)39°37"W.); and within 2 miles each side of the 123° radial of the Tibby VORTAC extending from the 6.5-mile radius area to the VORTAC; and within 4.5 miles each side of a 360° bearing from the airport extending from the 6.5-mile radius area to 13 miles north of the airport; and within 4.5 miles each side of a 180° bearing from the airport extending from the 6.5-mile radius area to 9 miles south of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on February 1, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-3621 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-4]

Proposed Designation of Transition Area, Lexington, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Lexington, Mississippi, to accommodate Instrument Flight Rule (IFR) operations at C. A. Moore Airport. This action will lower

the base of controlled airspace from 1,200 to 700 feet above the surface. An instrument approach procedure, based on the Greenwood VORTAC facility, has been developed to serve the airport and additional controlled airspace is required to protect IFR operations.

DATE: Comments must be received on or before March 15, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. ———." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Lexington, Mississippi, 700-foot transition area. This action will provide controlled airspace for aircraft executing instrument approach procedures at C. A. Moore Airport. If the proposed designation of the transition area is found acceptable, the airport operating status will be changed from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Lexington C. A. Moore Airport, MS—New

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of C. A. Moore Airport (Lat. 33°07′31″N., Long. 90°01′33″W.); within 4.5 miles each side of Greenwood VORTAC 148° radial, extending from the 6.5-mile radius area to 8 miles northwest of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that the rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on January 28, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83–3280 Filed 2–9–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–ASW–7]

Proposed Designation of Transition Area; Port O'Connor, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to designate a transition area at Port O'Connor, TX. The intended effect of the proposed action is to provide controlled airspace for helicopters executing a new point-in-space instrument approach procedure to the PHI Heliport. This action is necessary since a new point-in-space helicopter approach procedure is proposed to the PHI Heliport located approximately 3 miles west of Port O'Connor, TX.

DATE: Comments must be received on or before March 14, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of

helicopters conducting instrument flight rules (IFR) activity. Designation of the transition area at Port O'Connor, TX, will necessitate an amendment to this subpart. This amendment will be required at Port O'Connor, TX, since there is a proposed IFR procedure for helicopters to the PHI Heliport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASW-7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposed to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follow:

Port O'Connor, TX New

That airspace extending upward from 700 feet above the surface 2.5 miles each side of the Palacios VORTAC (latitude 28°45'51" N., longitude 96°18'21" W.) 208° radial extending from 18 miles to 25 miles southwest of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on February 1, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-3820 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-69]

Proposed Alteration of Transition Area; San Marcos, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This action is necessary to withdraw a notice of proposed rulemaking (NPRM), Airspace Docket No. 82-ASW-69, FR Doc. 82-27682, published in the **Federal Register** on October 7, 1982 (47 FR 44342). The notice was to alter the transition area at San Marcos, TX, for the protection of aircraft executing standard instrument approach procedures (SIAP's) to the San Marcos Municipal Airport. Subsequent to the notice, the Federal Aviation Administration (FAA) determined that the proposed designated airspace was not sufficient for the protection of aircraft and a new action was initiated to properly describe the necessary controlled airspace. This action was published in the **Federal Register** on December 13, 1982 (47 FR 55659), Airspace Docket 82-ASW-81.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624-4911, extension 302.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Accordingly, pursuant to the authority delegated to me, the notice of proposed rulemaking (NPRM) published in the **Federal Register** on October 7, 1982 (47 FR 44342), FR Doc. 82-27682, is canceled.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this action only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Issued in Fort Worth, TX, on January 24, 1983

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-3823 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 33

Options on Domestic Agricultural Commodities

AGENCY: Commodity Futures Trading Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Recent amendments to the Commodity Exchange Act ("Act"), 7 U.S.C. 1 *et seq.*, have removed a long-standing ban on the trading of options on certain domestic agricultural commodities. Specifically, Section 206 of the Futures Trading Act of 1982 authorizes the Commodity Futures Trading Commission ("Commission") to establish a pilot program, not to exceed three years in length, for the trading, on domestic exchanges, of options on the domestic agricultural commodities specifically enumerated in Section 2(a) of the Act. Options involving the

domestic agricultural commodities will, however, continue to remain unlawful until such time as the Commission establishes such a pilot program and other conditions set forth in the Futures Trading Act of 1982 are met. Although any such pilot program would be comparable to, or included in, the option pilot program already established by the Commission for the trading of options on futures contracts and options on physicals, the Commission is requesting comments on a number of issues prior to proposing specific rules to govern the trading of agricultural options.

DATE: Comments must be received by April 11, 1983.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Rosenzweig, Assistant Chief Counsel, or Lawrence B. Patent, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: Options involving the domestic agricultural commodities specifically enumerated in Section 2(a) of the Commodity Exchange Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974 [1] have been unlawful since 1936. [2] Recent amendments to the Commodity Exchange Act, however, have modified that prohibition to authorize the Commission to establish a pilot program for the trading of options on domestic agricultural commodities.[3] Specifically, that legislation amends Section 4c(c) of the Commodity Exchange Act [4] to provide:

> With respect to any commodity regulated under this Act and specifically set forth in section (2) (a) of this Act prior to the date of enactment of the Commodity Futures Trading Commission Act of 1974, the Commission may, pursuant to the procedures set forth in this subsection, establish a pilot program for a period not to exceed three years to permit such commodity option transactions. The Commission may authorize commodity option transactions during the pilot program in as many commodities as will provide an adequate test of the trading of such option transactions. After completion of the pilot program, the Commission may authorize commodity option transactions without regard to the restrictions in the pilot program after the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the documentation required under * * * this subsection and the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal.

A pilot program for the trading of options on agricultural commodities would supplement the options pilot program already established by the Commission for the trading, on domestic exchanges, of options on futures contracts [5] and options on physical commodities.[6] In lifting the ban on agricultural options, Congress indicated its belief that options on agricultural commodities could become a beneficial marketing tool for farmers and the agricultural industry. Options offer a way to obtain price protection without the need to give up potential profits resulting from favorable price movements.[7]

Congress was well aware, however, that it was the perceived adverse effects of option trading upon prices for domestic agricultural commodities which led to the 1936 ban on option trading. Thus, the Congressional determination to allow a limited, test program for the trading of agricultural options was based, in significant part, upon its judgment that it was "highly unlikely" that the "abuses which clouded the trading of agricultural options in the 1930's could recur in the 1980's.[8] The Commission, therefore, will be sensitive to these concerns as it develops a pilot program for agricultural options and will take such steps as it determines to be necessary to prevent a recurrence of the types of practices which led to the prohibition of agricultural options.

The Commission is further aware of the Congressional judgment that any agricultural option pilot program should be carefully controlled in order to allow the Commission to assess, in an orderly fashion, producer acceptance of these options and, in particular, the level of participation by the agricultural industry in using options for commercial purposes.[9] Thus, the Commission intends to proceed cautiously in the development of such a pilot program in order to allow the public, the Commission, and the Congress an opportunity to evaluate carefully the appropriate scope and structure of this pilot program.

To this end, the Commission is requesting comments on a number of specific issues, set forth below, relating to the trading of options on agricultural commodities. The Commission also wishes to encourage interested persons to offer comments on any other issues which, although not specifically the subject of the questions set forth below, may be of use to the Commission when it proposes regulations to implement this pilot program.

(1) The Commission requests comments from agricultural producers, processors, merchants and other commercial interests regarding the potential uses they foresee for agricultural options and the degree of their support for an exchange-traded agricultural options program.

(2) The Commission's existing option pilot program includes both options on futures contracts and options on actual, "physical" commodities. (In both instances, the options involve commodities which are not specifically enumerated in Section 2(a) of the Act.) Should the Commission limit options on the enumerated domestic agricultural commodities to options on futures contracts involving those commodities or should the Commission permit the trading of options on the physical commodity as well? Persons responding to this question are asked to compare and assess the effects on the deliverable supply for related futures contracts of options on futures contracts and options on physicals. Where possible, commentators should also address the

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[1] Prior to the enactment of the Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93–463, 88 Stat. 1389 (1974), Section 2(a) of the Act defined the term "commodity" to mean:

> Wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, onions, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice

U.S.C. 2 (supp. IV 1974).

[2] Commodity Exchange Act of 1936, ch. 545, § 4c (B), 49 Stat. 1491 (1936) (codified at 7 U.S.C. 6c(b) (Supp V 1981).

[3] Futures Trading Act of 1982, Pub. L. No. 97–444, § 206 (3), 96 Stat. 2294 (January 11, 1983)

[4] U.S.C. 6c(c) (Supp V 1981).

[5] 46 FR 54500 (November 3, 1981).

[6] 47 FR 56996 (December 22, 1982).

[7] *See* S. Rep. No. 97–384, 97th Cong. 2d Sess. 49–50 (1982); H.R. Rep. No. 97–565 (Part 1), 97th Cong., 2d Sess. 47 (1982).

[8] S. Rep. No. 97–384, 97th Cong., 2d Sess. 50 (1982).

The statutory ban on the trading of agricultural options was enacted in 1936, largely as a result of abuses in options trading. Circumstances under which options would be traded today, however, are markedly different from those which existed in the 1930's. Farmers themselves are much more sophisticated and have a much more extensive network of communications available to them. The futures exchanges have developed extensive compliance programs designed to detect and prevent trading abuses. The Commission itself is a viable regulatory force that has shown itself willing and able to oversee and regulate commodity trading.

Id. See also 46 FR 54500, 54502 & n. 7 (November 3, 1981).

[9] H.R. Rep. No. 97–565 (Part 1), 97th Cong., 2d Sess. 47 (1982); *see* Commission regulation 33.6(c) (47 FR 56996, 57018 (December 22, 1982)).

liquidity of existing cash markets and the adequacy of existing agricultural cash price series in view of the requirements previously established by the Commission for contract market designation for the trading of options on physicals.[10] The Commission also requests that the commentators address the extent to which increased surveillance of the deliverable supply underlying these options and related futures contracts will be necessary, especially with respect to options on the physical commodity.

(3) The Commission's existing pilot program regulations allow any domestic board of trade meeting the requirements of the Act and the Commission's regulations to apply for contract market designation for options on physicals. By comparison, a board of trade seeking designation for options on futures contracts must also be designated as a contract market for the futures contract which underlies the option.[11] If the Commission determines to allow options on actual agricultural commodities, should the Commission nonetheless limit participation to those boards of trade which are designated as contract markets for a futures contract which draws on the same deliverable supply as the proposed option on a physical?[12]

(4) Although Commission regulation 33.4(a)(6) limits each domestic exchange participating in the existing option pilot program to one option on a futures contract and one option on a physical,[13] the amendment to Section 4c(c) of the Act authorizing the agricultural option pilot program specifies that the Commission may allow option trading during the pilot program "in as many commodities as will provide an adequate test of the trading of such option transactions." In view of these considerations, how, and in what manner, should the Commission limit the number of option contracts which may be traded under the agricultural option pilot program?

(5) On what basis, if any, should the Commission prohibit option trading in certain domestic agricultural commodities? Should any such prohibition be restricted either to options on futures contracts to options on physicals?

(6) Commentators are asked to consider whether Commission regulation 33.4(d)(1),[14] which requires boards of trade applying for contract market designation for options trading to submit an analysis and justification of the expiration date of the option if that date is less than ten business days before the earlier of the last trading day or the first notice day of any futures contract on the same or a related commodity, provides sufficient safeguards for options based on agricultural commodities.

(7) Commission regulation 33.4(b)(11) requires that each board of trade designated, or seeking designation, as a contract market for the trading of options on futures contracts and options on physicals adopt rules which "establish appropriate criteria which are reasonably designed to secure performance, upon exercise, of the option contracts."[15] The Commission has stated that although the rule applies to both options on futures and options on physicals, it is "particularly concerned that the grantor of a call option on a physical have the ability to perform his obligation to make delivery of the physical underlying the option."[16] The Senate Committee report which accompanies the legislation authorizing agricultural options further indicates, however, that trading in these options should not begin until a study of "grantor eligibility" has been completed.[17] The Commission is therefore requesting comments as to whether, under an agricultural options pilot program, it should adopt minimum standards for option grantors and, if so, what criteria (*e.g.*, limitations on the time and place of delivery on exercised options or commercial use of the option markets by the option grantor) should be applied by the Commission or the contract markets.

(8) The customer protection standards adopted by the Commission for option transactions are virtually identical for options on futures contracts and options on physicals. (By comparison, the criteria for contract market designtion necessarily reflect differences between the two types of instruments.) The Commission requests comments as to whether any additional or different customer protection measures—such as disclosures different than those now required by Commission regulation 33.7[18]—should be required for options on agricultural commodities.

[10] *See* Commission regulation 33.4(a)(5)(iv) (47 FR 56996, 57017 (December 22, 1982)).

[11] *See* 47 FR 56996, 56996–97 (December 22, 1982).

[12] *See* H.R. Rep. No. 97–565 (Part 1), 97th Cong., 2d Sess. 130 (1982).

[13] 47 FR 56996, 57017 (December 22, 1982).

[14] *Id.*

[15] *Id.*

[16] 47 FR 28401, 28404 (June 30, 1982).

[17] S. Rep. No. 97–384, 97th Cong., 2d Sess. 50 (1982).

[18] 17 CFR 33.7 (1982), as amended by 47 FR 56996, 57018–20 (December 22, 1982).

List of Subjects in 17 CFR Part 33

Commodity options.

Issued in Washington, D.C. this 3rd day of February, 1983, by the Commission.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 83-3464 Filed 2-9-83; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-19478; File No. S7-959]

Initial Information Form and Fees for Registered Nonmember Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendment.

SUMMARY: The Commission is proposing for comment amendments to Rule 15b9–1 under the Securities Exchange Act of 1934. The proposed amendments would clarify the requirement that broker-dealers either join a registered national securities association or register as SECO (Securities and Exchange Commission Only) before transacting an over-the-counter securities business. The amendments also would reduce the allowable time period during which a newly registered broker-dealer may register as a SECO firm or apply for association membership, and the time period during which a registered broker-dealer whose association membership is terminated or whose membership application is denied or withdrawn must register as a SECO firm..

DATE: Comments must be received on or before March 14, 1983.

ADDRESSES: All communications regarding the proposed rule amendments should refer to File No. S7–959 and should be sent with six copies to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 6184, 450 Fifth Street, NW., Washington, D.C. 20549. All submissions will be made available for public inspection at the Commission's Public Reference Room, Room 1024, 450 5th Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Howard L. Kramer, Esq., (202) 272–2411, Office of Self-Regulatory Oversight, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Sections 15(b)(8) and 15(b)(9) of the Securities

Exchange Act of 1934 ("Act") are intended to ensure that those registered broker-dealers transacting an over-the-counter ("OTC") securities business who are not regulated by the National Association of Securities Dealers, Inc. ("NASD") will be directly regulated under the Commission's SECO program.[1] Pursuant to these sections, the Commission adopted Rule 15b9–1 ("Rule")[2] to require registered broker-dealers who are not members of the NASD and who transact an OTC securities business to register with the Commission as a SECO firm by filing Form SECO–5, the Initial Assessment and Information Form, and pay the fee prescribed by that form.[3] Form SECO–5 enables the Commission to monitor which broker-dealers enter the SECO program and to collect the initial assessments from those broker-dealers necessary to cover, in part, the cost of administering the SECO program.

As currently drafted, a literal reading of the Rule requires that a broker-dealer, within 45 days after registration with the Commission,[4] either submit in application for membership to the NASD or register as a SECO broker-dealer before transacting an OTC securities business. Thus, the Rule may be read as permitting a broker-dealer, even though its application for NASD membership eventually may be rejected or withdrawn, to conduct an OTC securities business during the time period his application is being reviewed.[5] Although acceptance to NASD membership frequently may be delayed for months because of the need to pass the appropriate qualifications examinations, the Rule appears to allow a broker-dealer to conduct business during this period.[6] In addition, the Rule allows a broker-dealer transacting an OTC securities business whose membership application to the NASD is denied or withdrawn, or whose NASD membership is terminated, to continue to conduct an OTC securities business for up to 45 days before the broker-dealer must register as SECO. Therefore, a broker-dealer could conduct an OTC securities business for a significant period of time in these situations without being regulated by the NASD or filing the Form SECO–5 with the Commission.

To correct this deficiency, the Commission traditionally has interpreted the Rule to require actual membership in a registered national securities association or registration as a SECO broker-dealer before a broker-dealer could transact an OTC securities business. Accordingly, in order to clarify this interpretation the Commission is proposing to amend the Rule.

As part of the amendments to the Rule, the Commission also proposes reducing the time available for filing a Form SECO–5 or a NASD membership application in order to lessen the period of uncertainty regarding whether broker-dealer will apply to become SECO broker-dealers or NASD members. The Rule currently gives new registrants 45 days to file a Form SECO–5 or apply for NASD membership. In light of the planning and preparation necessary to establish a broker-dealer business, the Commission believes that a broker-dealer should know by the time it files a Form BD whether it plans to join the NASD or become a SECO broker-dealer, and that, in any event, the decision should not require more than five days once its registration as a broker-dealer becomes effective. Similarly, once a broker-dealer voluntarily withdraws its application for NASD membership the decision whether to become either a SECO broker-dealer or withdraw its registration as a broker-dealer should not require more than five days.

The proposed amendments also would reduce from 45 to 30 days the period in which a broker-dealer whose membership application to the NASD is denied or whose membership is terminated must submit a Form SECO–5. Although a shorter time period than the current 45 day period seems appropriate because of the prohibition against transacting an OTC securities business until Form SECO–5 is filed, a longer period than the five days proposed for newly registered broker-dealers would be allowed because of a broker-dealer's difficulty in forecasting a denial or termination of its NASD membership and the possible need to make major business decisions about the firm's future.

I. Description of the Revised Rule

A. Newly Registered Broker-Dealers

1. *Requirements Before Transacting an OTC Securities Business.* The Rule would be amended to state that a newly registered broker-dealer must be accepted by the NASD or register as a SECO broker-dealer before conducting an OTC securities business. Under the proposed amendment, a newly registered broker-dealer would have three options regarding its SECO/NASD obligations. First, it can file a Form SECO–5 and pay the applicable fee, and then conduct an OTC business. Second, it can file an application for membership in the NASD, but cannot transact an OTC business until its membership is effective.[7] Third, it can file an application for membership in the NASD and, while the application is pending, it can file a Form SECO–5 with the Commission and pay the prescribed fee, thus allowing it to transact an OTC business.

The proposed amendment reflects the interpretation the Commission historically has applied to the Rule. Because the proposed amendment does not alter the substance of the Rule, but only codifies the Commission's interpretation of its effect, the Commission does not believe that the amendment would pose any new regulatory burdens.

2. *Filing Requirements.* The proposed amendments would reduce from 45 to 5 days the period of time a newly registered broker-dealer has to apply for membership in the NASD or to register as a SECO broker-dealer by filing a Form SECO–5. A registered broker-dealer still would be prohibited from transacting an OTC securities business until it has been accepted from NASD membership or registered as a SECO

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[1] SECO broker-dealers are those registered broker-dealers transacting an OTC securities business, including business on a securities exchange of which they are not members, who choose not to join the NASD.

[2] *See*, Securities Exchange Act Release No. 8306 (May 8, 1968), 38 FR 7076 (May 11, 1968) and the Rule's last amendment in Securities Exchange Act Release No. 12468, 41 FR 22825 (May 20, 1976). The Rule exempts from its requirements a broker-dealer that (1) only effects securities transactions on a national securities exchange of which it is a member or (2) has an annual gross securities income of up to $1,000 derived from purchases and sales of securites otherwise than on a national securities exchange of which it is a member, if it is a member of a national securities exchange and carries no customer accounts.

[3] Under the SECO program the Commission is responsible for such things as ensuring that associated persons meet the necessary professional qualifications, holding introductory conferences with new broker-dealers, and conducting periodic inspections of broker-dealer businesses.

[4] This is accomplished by filing Form BD, the application for registration as a broker-dealer.

[5] Even though a broker-dealer has not filed a Form SECO–5, it is, pursuant to Sections 15(b)(8) and 15(b)(9), subject to all the rules and regulations of the SECO program. In particular, Rule 15b8–1 under the Act, in effect, requires the associated persons of a broker-dealer not a member of the NASD to pass the SECO qualifications examinations before the firm begins an OTC securities business. Nevertheless, unless the Form SECO–5 is filed it is difficult for the Commission to determine whether these firms are in compliance with the SECO rules as well as other applicable provisions of the federal securities laws.

[6] For example, the NASD requires a member to have two registered principals. It is not unusual for a new broker-dealer's principals to take months to pass all the necessary qualifications examinations.

[7] A broker-dealer can submit an application for NASD membership before its Form BD has been declared effective, but that application can not be approved until its broker-dealer registration with the Commission is effective.

broker-dealer, even during the five-day grace period. The change should not impose significant burdens on new broker-dealers because a broker-dealer should know, at least by the time it files its Form BD, whether it will join SECO or the NASD. Nevertheless, because the actual date when a broker-dealer's registration will be declared effective is unknown at the time Form BD is filed,[8] the proposed amendment will provide a broker-dealer with a five day grace period following the effective date of its registration in which to file a Form SECO–5 or apply for NASD membership.

B. Denial, Withdrawal, or Termination of NASD Membership

1. *Requirements Before Transacting Business.* In addition, the Commission proposes to amend the Rule to require that a registered broker-dealer whose application for membership in the NASD is denied or withdrawn, or whose membership has been terminated, to register as a SECO broker-dealer before conducting an OTC securities business. Alternatively, such a broker-dealer could immediately discontinue its securities activities and file a Form BDW (Notice of Withdrawal From Registration). This changes the current wording of the Rule which might appear to permit a broker-dealer to continue conducting a securities business after such denial, withdrawal, or termination, but before registering as a SECO broker-dealer so long as it registers as a SECO broker-dealer within 45 days. Such a broker-dealer, in effect, would be outside effective NASD/SECO oversight for up to 45 days,[9] even though the broker-dealer may not be qualified to conduct a securities business.[10]

As with the amendments concerning newly registered broker-dealers, this amendment reflects the Commission's traditional interpretation of the Rule. Because the amendment will not alter the substance of the Rule, but only codify the Commission's interpretation, it does not impose any new regulatory burdens.[11]

2. *Filing Requirements.* The proposed amendments would reduce from 45 to 30 days the period of time in which a registered broker-dealer whose application for membership to the NASD is denied, or whose membership is terminated, must register as a SECO broker-dealer.[12] A broker-dealer still would be prohibited from transacting an OTC business until it registered as a SECO broker-dealer, even during the 30 day grace period. Although a broker-dealer may need some time to file its Form SECO–5 after a denial or termination, the current 45 day grace period appears unnecessarily long and prevents the Commission from effectively monitoring those SECO broker-dealers for over six weeks. Because of the difficulty of forecasting a denial or termination of membership, however, the filing period will be reduced to 30 days. Nevertheless, in the case of a voluntary withdrawal of a membership application in the NASD, the period in which to file a Form SECO–5 will be reduced from 45 to 5 days due to the ability of a broker-dealer to determine in advance the withdrawal of its application.

II. Conclusion

The Commission believes that these proposed amendments will clarify a broker-dealer's compliance responsibilities regarding the requirement of NASD membership or SECO registration before conducting an OTC securities business and will enhance the Commission's monitoring of such compliance.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

III. Text of Amendments

The Securities and Exchange Commission, pursuant to the Act, and particularly Sections 2, 15, 17, and 23 thereof (15 U.S.C. §§ 78b, 78o, 78q and 78w), hereby proposes to amend Rule 15b9–1. Accordingly, 17 CFR Part 240 is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934.

1. By revising paragraphs (a), (b), and (d) and redesignating and revising paragraph (f) as paragraph (e) of § 240.15b9–1 as follows:

§ 240.15b9–1 Prohibition against transacting any over-the-counter securities business unless registered as SECO or a member of a registered national securities association.

(a) No broker or dealer who becomes registered as a broker or dealer with the Commission shall effect any transaction in, or induce the purchase or sale of, any security, otherwise than on a national securities exchange of which it is a member, unless such broker or dealer is a member of a registered national securities association or files a Form SECO–5 with the Commission and pays the fee prescribed by that form. Every broker or dealer, unless exempt under paragraph (d) of this rule, shall, within five days of registration with the Commission, make a bona fide application for membership to a registered securities association or file a Form SECO–5 and pay the application fee.

(b) Every registered broker or dealer, unless exempt under paragraph (d) of this rule, whose application for membership in a registered national securities association has been denied, or whose membership has been terminated for any reason, and who has not immediately filed a Form BDW (Notice of Withdrawal from Registration) shall, within 30 days of such denial or termination, file a Form SECO–5 with the Commission and pay the fee prescribed by that form. Every registered broker or dealer, unless exempt under paragraph (d) of this rule, whose application for membership in a registered national securities association is withdrawn, and who has not immediately filed a Form BDW, shall, within five days of such withdrawal, file Form SECO–5 with the Commission and pay the fee prescribed by that form. A registered broker or dealer shall not effect any transaction in, or induce the purchase or sale of, any security, otherwise than a national securities exchange of which it is a member, after such denial, termination or withdrawal, until such broker or dealer files a Form SECO–5 with the Commission and pay the fee prescribed by that form.

* * * * *

(d) Any nonmember broker or dealer who is a member of a national securities exchange shall be exempt from this rule if (1) it effects securities transactions solely on a national securities exchange of which it is a member, or (2) it carries no accounts for customers and its annual gross income derived from purchases and sales of securities otherwise than on a national securities exchange of which it is a member is in

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[8] Pursuant to Section 15(b)(1) of the Act, the Commission within 45 days of the filing by a broker-dealer of a registration form must either grant registration or institute proceedings to determine whether registration should be denied.

[9] As with newly registered broker-dealers whose application for NASD membership has not been made effective, these broker-dealers still are subject to the SECO rules and regulations.

[10] If a broker-dealer is expelled or suspended from the NASD for conduct inconsistent with just and equitable principles of trade, then Rule 15b8–2 of the Act disqualifies him from engaging in securities activities.

[11] In this regard, it should be noted that, although the Commission has recommended that Congress adopt legislation which would eliminate the SECO program, the Commission still believes it is appropriate to clarify the requirements of that program pending Congressional action with respect to the proposed legislation.

[12] Alternatively, a broker-dealer could immediately discontinue its securities activities and file a Form BDW.

an amount no greater than $1,000, *Provided, however,* That gross income derived from transactions otherwise than on such national securities exchange which are effected for its own account with or through another registered broker or dealer shall not be subject to such limitation.

(e) For purposes of this rule:

(1) The term "nonmember broker or dealer" shall mean any broker or dealer registered under Sections 15 or 15B of the Act who is not a member of a registered national securities association.

By the Commission.

George A. Fitzsimmons,

Secretary.

February 1, 1983.

Regulatory Flexibility Act Certification

I, John Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendments to Rule 15b9–1 set forth in Securities Exchange Act Release No. 19478, if promulgated, will not have a significant impact on a substantial number of small broker-dealers. Specifically, the amendments merely 1) codify the Commission's interpretation of the rule requiring that a broker-dealer be registered as SECO or a member of the National Association of Securities Dealers, Inc. ("NASD"), before transacting any over-the-counter securities business and 2) revise the time periods for filing the initial SECO form or NASD membership application.

John S.R. Shad,

Chairman.

February 1, 1983.

[FR Doc. 83–3805 Filed 2–9–83; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility

AGENCY: Social Security Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: We plan to amend our regulations that implement section 1611(e)(1)(A) of the Social Security Act which states that individuals who are residents of a public institution throughout a month are not eligible for Supplemental Security Income (SSI) benefits for such month. Section 416.201 of our regulations defines a resident of a public institution and excepts from the status of resident of a public institution individuals living in a public educational institution and enrolled in or registered for the educational or vocational training provided by the institution. We propose to amend this section to make it clear that, in order for an individual who is a resident of a public educational institution to come within the exception, the individual must be in the public educational institution primarily to receive educational or vocational training. Further, educational or vocational training will be defined as a recognized program to acquire knowledge or skills to prepare for gainful employment and the definition will state that the term does not include training limited to acquisition of basic life skills.

DATE: Written comments must be received by April 11, 1983.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Rita Hauth, Legal Assistant, 3–B–4 Operations Bldg. 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7460.

SUPPLEMENTARY INFORMATION: We plan to revise our rules to clarify the conditions under which a resident of a public educational institution may be eligible for Supplemental Security Income (SSI) benefits. Section 1611(e)(1)(A) of the Social Security Act provides that individuals who are residents of public institutions throughout a month are not eligible for SSI benefits for such month. Section 416.201 of our existing regulations defines a resident of a public institution and this section also provides an exception to that status for individuals who are living in a public educational institution and enrolled in or registered for the educational or vocational training provided by the institution. This definition is being revised because it does not clearly state the circumstances under which individuals in public educational institutions meet the exception to status as residents of public institutions. The lack of specificity in existing regulations is resulting in the filing of applications on behalf of severely retarded individuals whose training is not preparation for gainful employment. Payment to such individuals would be contrary to the purpose of the exception to status as a resident of a public institution which is to enable individuals to become self-supporting.

We propose to amend § 416.201 by adding a definition of educational or vocational training and by rewording the definition of a resident of a public institution. We plan to define educational or vocational training as a recognized program for the acquisition of knowledge and skills to prepare individuals for gainful employment. The definition will specifically exclude training limited to the acquisition of basic life skills such as eating, dressing and toilet training. The definition of a resident of a public institution will state that status as a resident of such an institution does not apply to individuals living in public educational institutions for the primary purpose of receiving educational or vocational training as defined in the section. Thus, individuals who live in public educational institutions for the primary purpose of acquiring educational or vocational training that will prepare them for gainful employment and who meet all other requirements for eligibility will be eligible for SSI benefits. The proposed amendments to the regulations are consistent with our interpretation of the existing regulations.

Regulatory Procedures

Executive Order 12291 and *Regulatory Flexibility Act:* These regulations merely clarify existing policy and will result in no change in SSI eligibility. Therefore, the Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in section 1 of the Executive Order. Further, the Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities and do not require a regulatory flexibility analysis as provided for in Public Law 96–345, the Regulatory Flexibility Act of 1980.

Paperwork Reduction Act: These regulations impose no additional reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

Dated: November 16, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: January 24, 1983.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 416—[AMENDED]

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart B is revised to read as follows:

Authority: Secs. 1102, 1602, 1611, 1614, and 1631 of the Social Security Act as amended, Secs. 211 and 212 of Pub. L. 93–66, 49 Stat. 647 as amended, 86 Stat. 1465, 86 Stat. 1466, 86 Stat 1471, 86 Stat. 1475, 87 Stat. 154, and 87 Stat. 155. (42 U.S.C. 1302, 1381a, 1382, 1382c, and 1383).

2. In § 416.201 a definition of "Educational or vocational training" is added and the definition of "Resident of a public institution" is revised to read as follows:

§ 416.201 General definitions and terms used in this subpart.

* * * * *

"Educational or vocational training" means a recognized program for the acquisition of knowledge or skills to prepare individuals for gainful employment. For purposes of these regulations, educational or vocational training does not include programs limited to the acquisition of basic life skills including but not limited to eating and dressing.

* * * * *

"Resident of a public institution" means a person who can receive substantially all of his or her food and shelter while living in a public institution. The person need not be receiving treatment and services available in the institution and is a resident regardless of whether the resident or anyone else pays for all food, shelter, and other services in the institution. A person is excepted from the status of a resident of a public institution if he or she is living in a public educational institution for the primary purpose of receiving educational or vocational training as defined in this section. A "resident" of a public institution means the same thing as an "inmate" of a public institution as used in section 1611(e)(1)(A) of the Social Security Act.

* * * * *

[FR Doc. 83–3697 Filed 2–9–83; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–254–81]

3-Year Averaging for Increases in Inventory Value; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 472 of the Internal Revenue Code of 1954 relating to 3-year averaging for increases in inventory value. Changes in the applicable tax law were made by the Economic Recovery Tax Act of 1981. These regulations would provide the public with guidance needed to comply with the act and would affect taxpayers first adopting the Last-In-First-Out (LIFO) inventory method for taxable years beginning after December 31, 1981.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 11, 1983. The amendments are proposed to be effective with respect to taxable years beginning after December 31, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR–254–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory A. Roth of the Legislation and Regulations Division, Office of Chief Counsel, International Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3238, not a toll-free munber).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 472(d) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 236 of the Economic Recovery Tax Act of 1981 (95 Stat. 172) and are to be issued under the authority contained in sections 472(d) and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 472(d) and 7805).

Inventory Valuation

Section 472(d) requires opening inventory of the taxable year for which the LIFO method is first used to be valued at cost. Restoration shall be made with respect to any writedown to market values resulting from the pricing of former inventories. Such restoration amount shall be taken into account ratably in each of the three taxable years beginning with the first taxable year for which the LIFO method is used.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the notice and public procedure requirements of 5 U.S.C. 553 do not apply because the rules proposed are interpretative. Accordingly, a Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these proposed regulations is Gregory A. Roth of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.441–1–1.483–2

Income taxes, Accounting, Deferred Compensation plans.

Proposed amendments to the regulations.

Accordingly, the Income Tax Regulations (26 CFR Part 1) under section 472 of the Internal Revenue Code of 1954 are amended as follows:

PART 1—[AMENDED]

Income Tax Regulations

Section 1.472–2 is amended as follows:

1. Paragraph (c) is revised to read as set forth below.

2. Paragraph (f) is removed.

§ 1.472–2 Requirements incident to the adoption and use of LIFO inventory method.

* * * * *

(c)(1) Goods of the specified type included in the opening inventory of the taxable year for which the method is first used shall be considered as having been acquired at the same time and at a unit cost equal to the actual cost of the aggregate divided by the number of units on hand. The actual cost of the aggregate shall be determined pursuant to the inventory method employed by the taxpayer under the regulations applicable to the prior taxable year with the exception that restoration to the opening inventory of the taxable year for which the LIFO method is first used shall be made with respect to any writedown to market values resulting from the pricing of former inventories.

(2) In the case of a taxpayer first using the LIFO method before January 1, 1982, goods of the specified type on hand as of the close of the taxable year preceding the taxable year for which this inventory method is first used shall be included in the taxpayer's closing inventory for such preceding taxable year at a cost determined in the manner prescribed in paragraph (c) (1) of this section.

(3) In the case of a taxpayer first using the LIFO method after December 31, 1981—

(i) The amount arising from the restoration referred to in paragraph (c) (1) of this section shall be included in the taxpayer's gross income ratably in each of the three taxable years beginning with the taxable year for which the LIFO method is first used.

(ii) Neither an adjustment to the closing inventory nor an amended return shall be required for the taxable year preceding the taxable year for which the LIFO method is first used.

(iii) The provisions of paragraph (c) (3) of this section may be illustrated by the following example:

Example. X, a calendar year taxpayer, first adopts the LIFO method for 1982 and the closing inventory for 1981 included a writedown to market values of $9,000. Such writedown amount shall be restored to the 1982 opening inventory and $3,000 shall be included in X's gross income in each of the taxable years 1982, 1983, and 1984.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–3699 Filed 2–9–83; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD12–83–01]

Marine Parade; Pacific Inter-Club Yacht Association Opening Day Parade on San Francisco Bay

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal to establish special local regulations for the annual Pacific Inter-Club Yacht Association Opening day Parade on San Francisco Bay. The purpose is to control vessel traffic in designated areas and within the vicinity of the marine parade. This rule is necessary due to the confined areas involved and the anticipated vessel congestion during the event.

DATES: Comments must be received on or before March 14, 1983.

ADDRESSES: Comments should be mailed to Commander (bt), Twelfth Coast Guard District, Government Island, Alameda, CA 94501. The comments will be available for inspection and copying at the Boating Technical Branch, Twelfth Coast Guard District, Government Island, Alameda, CA, Building 50. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Robert A. Byers, c/o Commander (bt), Twelfth Coast Guard District, Government Island, Alameda, CA 94501, (415) 273–6193 of (415) 437–3309.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD12–83–01) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process. The short comment period is necessary to provide sufficient time for publication of the Final Rule before April 24, 1983.

Drafting Information

The drafters of this notice are LCDR Robert A. BYERS, Project Officer, Twelfth Coast Guard District, Boating Technical Branch and LT Charles A. AMEN, Project Attorney, Twelfth Coast Guard District Legal Office.

Discussion of Proposed Regulation

The annual Opening Day Parade on San Francisco Bay sponsored by the Pacific Inter-Club Yacht Association of Northern California is traditionally scheduled for the last Sunday in April. Due to the large number of participating and spectator vessels experienced in past Opening Day Parades, it is anticipated that there will be considerable vessel congestion at the time of the parade. In order to provide for the safety of life and property in the parade area, the Coast Guard proposes regulations to govern specified regulated areas in Raccoon Strait and the San Francisco Bay adjacent to the San Francisco shore west of the tip of Aquatic Park Peninsula, as well as all vessels in transit on the parade route.

By the authority contained in Title 46 U.S.C. 454, as implemented by Title 33, Part 100 U.S. Code of Federal Regulations, a special local regulation controlling navigation on the waters described is promulgated. By the same authority, the waters involved will be patrolled by vessels of the U.S. Coast Guard. Coast Guard Officers and/or Petty Officers will enforce the regulation and cite persons and vessels in violation.

Because of the annual nature of the parade, the Coast Guard proposes to promulgate a permanent amendment to Part 100 of Title 33, U.S. Code of Federal Regulations and thereafter provide the public with full and adequate notice of the annual parade by publication in the Local Notices to Mariners.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis,

and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since it involves negligible cost and will not have significant impact on recreational vessels, commercial vessels or other marine interests. Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and had been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding § 100.35–1201 to read as follows:

§ 100.35–1201 Opening Day Marine Parade, San Francisco Bay.

(a) This section is effective from 0900 to 1400 PST, 24 April 1983 and thereafter annually on the last Sunday in April as published in the Local Notices to Mariners.

(b) The following areas are designated "regulated areas" during the marine parade.

(1) Northern Area in Raccoon Strait. The area between a line drawn from Bluff Points on the southeastern side of Tiburon Peninsula to Point Campbell on the northern edge of Angel Island, and a line drawn from Peninsula Point on the southern edge of Tiburon Peninsula to Point Stuart on the western edge of Angel Island.

(2) Southern Area. The area defined by a line drawn from Fort Point (37°48′40″ N, 122°28′34″ W) 079°T approximately 5,000 yards to a point located at 37°49′09″ N, 122°25′28″ W thence 173°T to the tip of Aquatic Park Peninsula (37°48′39″ N, 122°25′24″ W).

(c) Regulation:

(1) All vessels entering the regulated areas shall he parade route and maintain an approximate speed of six knots.

(2) All vessels in the Raccoon Strait area shall proceed in a generally southwesterly direction except in that area immediately adjacent to the shore of Angel Island where vessels may transit in a northeasterly direction.

(3) Vessels departing the San Francisco Yacht Harbor in the southern area may exit through the area subject to direction of Coast Guard patrol boats.

(4) The parade will be interrupted, as necessary, to permit the passage of commercial vessel traffic.

(5) All vessel in the vicinity of the parade shall comply with the instructions of the U.S. Coast Guard patrol personnel.

(46 U.S.C. 454, 49 U.S.C. 1655(b); 33 CFR 100.35, 49 CFR 1.46(b))

Dated: February 3, 1983.

E. L. Cope,

Captain, Coast Guard, Acting Commander, Twelfth Coast Guard District.

[FR Doc. 83–3611 Filed 2–9–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 110

[CGD8–82–19]

Anchorage Grounds, Mississippi River Below Baton Rouge, LA, Including South and Southwest Passes

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering amending the anchorage regulations on the Lower Mississippi River by permanently establishing two anchorages in the vicinity of Venice, Louisiana, to be called the Lower Venice Anchorage and the Upper Venice Anchorage. This action is necessary to provide needed additional anchorage space for deep draft vessels.

DATE: Comments must be received on or before March 28, 1983.

ADDRESS: Comments should be mailed to Captain of the Port, New Orleans, LA, U.S. Coast Guard, 4640 Urquhart Street, New Orleans, LA 70117. The comments will be available for inspection or copying at the above address. Normal office hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LCDR R. E. Ford Port Safety Officer, Captain of the Port, New Orleans, LA, U.S. Coast Guard, 4640 Urquhart Street, New Orleans, LA 70117, Tel: (504) 589–7118.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD8–82–19), the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

These rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this notice are LT M. W. Brown, Project Officer, c/o Commander, Eighth Coast Guard District (mps) and LT J. C. Helfrich, Project Attorney, c/o Commander, Eighth Coast Guard District (dl), Hale Boggs Federal Bldg., 500 Camp Street, New Orleans, LA 70130.

Discussion of Proposed Rule

In 1978, Congress directed the U.S. Army Corps of Engineers to establish and maintain, subject to available funding, an adequate anchorage in the vicinity of Pilottown, Louisiana. At that time there already existed an anchorage at Pilottown from mile 1.5 AHOP to mile 6.7 AHOP on the right descending bank. Much of this anchorage was and still is unusable to deep draft vessels, however, due to a severe shoaling problem in the area. Because of this, the U.S. Army Corps of Engineers investigated three possible solutions to the problem. The three possible solutions were:

1. Dredging the existing Pilottown Anchorage to a 40-foot depth with a width of from 1400 to 1600 feet.

2. Dredging the existing Pilottown Anchorage to a 40-foot depth with a uniform width of 1000 feet.

3. Creation of a new anchorage area approximately 1.5 miles upriver on the left descending bank with no dredging required as the location already had a 40-foot depth.

The Corps of Engineers determined that the most feasible plan from an economic and environmental point of view was the creation of a new anchorage area from approximately mile 8.0 AHOP to mile 11.2 AHOP, and in July of 1982, requested that the Coast Guard issue the appropriate regulations to establish an anchorage in that location.

The Coast Guard evaluated the request and determined that the establishment of an anchorage area as

proposed by the Corps of Engineers was in the best interest of safety but that a modification was necessary due to a pipeline crossing the Lower Mississippi river at mile 9.8 AHOP. Accordingly, the District Commander established two temporary anchorages, a Lower Venice Temporary Anchorage and an Upper Venice Temporary Anchorage. The Lower Venice Temporary Anchorage is located from mile 8.0 AHOP to mile 9.7 AHOP and has the capacity to handle 5 deep-draft vessels. The Upper Venice Temporary Anchorage is located from mile 9.9 AHOP to mile 11.2 AHOP and has the capacity to handle 4 deep-draft vessels. Both anchorages are along the left descending bank, and have a western or channelward limit of 1200 feet as measured from the right descending bank. Both anchorages have a minimum effective width of 900 feet. The proposed rules will make these temporary anchorages permanent and the location of the permanent anchorages will be the same as the temporary ones. Establishment of these anchorages is desirable in that they will provide needed, sheltered, deep-draft anchorage space on the Mississippi River, for vessels awaiting berths upriver. Without these anchorages those vessels would have to anchor in the Fairway Anchorage in relatively unprotected water. In addition, because vessels will be able to anchor closer to facilities, decreased travel times, and hence lower costs will result. Also, vessels would be in closer proximity to fueling, supply and repair services. The anchorages are located in reasonably straight stretches of the river and no user conflicts are anticipated.

Summary of Draft Evaluation

The proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation of the proposal has not been conducted since its impact is expected to be minimal. It is believed, however, that any economic impacts will be positive as the existence of this anchorage decreases vessel transit times and provides better accessibility to services. The U.S. Army Corps of Engineers has conducted an Environmental Assessment for the Project and has prepared a Finding of No Significant Impact. It is also certified that in accordance with Section 605(b) of the Regulatory Flexibility Act, that these rules, if promulgated, will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations: In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, as follows:

PART 110—ANCHORAGE REGULATIONS

1. By adding new paragraphs (a)(1a) and (a)(1b) to § 110.195 as follows:

§ 110.195 Mississippi River below Baton Rouge, LA, including South and Southwest Passes.

(a) * * *

(1a) Lower Venice Anchorage. An Area 1.7 miles in length along the left descending bank of the river from mile 8.0 to mile 9.7 above Head of Passes with the west limit 1200 feet from the ALWP of the right descending bank.

(1b) Upper Venice Anchorage. An area 1.3 miles in length along the left descending bank of the river from mile 9.9 to mile 11.2 above Head of Passes with the west limit 1200 feet from the ALWP of the right descending bank.

* * * * *

(33 U.S.C. 471; 49 U.S.C. 1655(g)(1); 49 CFR 1.46(c)(1); 33 CFR 1.05–1(g))

Dated: January 21, 1983.

W. H. Stewart,

Rear Admiral, Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 83–2936 Filed 2–9–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD9–83–01]

Drawbridge Operation Regulations; Sheboygan River, Wisconsin

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Sheboygan, Wisconsin, the Coast Guard is considering revising the regulations governing the operation of the 8th Street highway bridge, mile 0.69, over the Sheboygan River in Sheboygan, Wisconsin, by permitting the City of Sheboygan to only open the draw of the 8th Street bridge every 20 minutes (10 minutes before the hour, 10 minutes after the hour and on the half-hour) from 6 a.m. to 10 p.m., Monday through Saturday; on Sundays and legal holidays the bridge will be opened on signal. The existing requirement to open the draw on signal after receipt of a two hour advance notice, between the hours of 10 p.m. and 6 a.m., will be retained. The requirement to open the draw upon receipt of a two hour advance notice at all times from October 31 through April 30 will also be retained. This change is being considered because of an increase in both marine and land traffic.

DATE: Comments must be received on or before March 28, 1983.

ADDRESS: Comments should be submitted to and are available for examination, during normal business hours, at the office of the Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, United States Coast Guard, 1240 East Ninth Street, Cleveland, Ohio 44199. Telephone (216) 522–3993.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in this proposal. Persons desiring acknowledgement that their comment has been received should enclose a stamped self-addressed postcard or envelope.

The Commander, Ninth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in the light of comments received.

Drafting Instructions

The principal persons involved in drafting this proposal are: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, and LCDR J. A. Blocher, Assistant Legal Officer, Ninth Coast Guard District.

Discussion of Proposed Regulations

In 1976 traffic counts taken as part of a request to establish the regulations for the 8th Street bridge, Title 33 of the Code of Federal Regulations, Part 117.652, averaged between 15,196 to 16,555 vehicles passing over the bridge per day. By 1980 the amount of vehicles crossing the bridge rose to an average of from 16,470 to 19,284 per day. Marine traffic requiring openings of the 8th Street bridge showed an increase of approximately 40% from 1976 to 1980. Also, the amount of openings increased from 3,981 in 1980 to 4,096 in 1981.

In order to evaluate the feasibility of this proposed change in operating regulations and determine if further adjustments would be required to better

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serve marine and land traffic, the Commander, Ninth Coast Guard District, issued temporary operating regulations, as written in this proposal, to the City of Sheboygan, Wisconsin. The bridge was operated under the temporary regulations from 1 May 1982 through 30 October 1982. During this period of time the Coast Guard did not receive comments for or against this proposed change.

Under present regulations the draw is required to open on signal from May 1 through October 30 from 6 a.m. to 10 p.m., except that from 6 a.m. to 8 a.m., 9 a.m. to 12 noon, 1 p.m. to 4 p.m. and 6 p.m. to 7 p.m., the draw need open to navigation only on the hour, quarter-hour, half-hour and three-quarter hour. From 8 a.m. to 9 a.m., 12 noon to 1 p.m. and 4 p.m. to 6 p.m. the draw need open to navigation only on the hour and half-hour. At all other times the draw opens on signal if at least two hours advance notice is given.

Economic Assessment and Certification

The proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The effects of this proposal, as described above, are expected to be minimal because the bridge is presently operating with scheduled openings for the passage of vessels. Also, the proposed regulations are expected to better serve both land and marine traffic because the proposed scheduled opening time is before and after the hour instead of on the hour when vehicle traffic is heaviest, thus eliminating delays in openings due to land traffic being cleared so the bridge can open.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.652 to read as follows:

§ 117.652 Sheboygan River, Wis.: Eighth Street Bridge at Sheboygan, Wis.

(a) From May 1 through October 30, from 6 a.m. to 10 p.m., including Sundays and legal holidays, the draw shall open on signal except that:

(1) From 6:10 a.m. to 7:10 p.m., Monday through Saturday, the draw need only open every 20 minutes (10 minutes after the hour, on the half-hour and 10 minutes before the hour).

(b) At all other times the draw shall open on signal if at least two hours notice is given.

(b) Public vessels of the United States, state or local government vessels used for public safety and vessels seeking shelter from rough weather shall be passed through the draws of this bridge as soon as possible even though the closed periods are in effect.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such a manner that they can be easily read, a copy of the regulations in this paragraph together with a notice stating exactly how the representative may be reached in order to give a 2 hour notice during times specified in paragraph (b) of this section.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: February 2, 1983.

Henry H. Bell,

Rear Admiral, Coast Guard Commander, Ninth Coast Guard District.

[FR Doc. 83–3813 Filed 2–9–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD13 83–02]

Drawbridge Operation Regulations; Duwamish Waterway, Washington

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Seattle, the Coast Guard is considering a change to the regulations governing the highway drawbridge across the Duwamish West Waterway at Southwest Spokane Street, and the highway drawbridge across the Duwamish Waterway at First Avenue South, both in Seattle, Washington, by extending the existing two hour morning and afternoon closed periods by one hour each. The change would provide that the draws of these bridges need not open for the passage of vessels between the hours of 6:00 a.m. and 9:00 a.m. and between 3:45 p.m. and 6:45 p.m., Monday through Friday, except for federal holidays. This proposal is being made because of an increase in vehicular traffic during these periods as a result of the damage to and subsequent removal of one of the bridges serving vehicular traffic in the immediate area. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before March 28, 1983.

ADDRESS: Comments should be submitted to and are available for examination from 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, at the office of the Commander (oan), Thirteenth Coast Guard District, Room 3564, 915 Second Avenue, Seattle, Washington 98174. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch (Telephone: (206) 442–5864).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.,

The Commander, Thirteenth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are John E. Mikesell, project officer, and Lieutenant Commander D. Gary Beck, project attorney.

Discussion of Proposed Regulations

Two 4-lane highway drawbridges were constructed across the Duwamish West Waterway, mile 0.3, at Southwest Spokane Street, the north span in 1924 and the south span in 1930. The two bridges provided the main vehicular route between the West Seattle residential community and the Seattle central business area. Also, the bridges provided primary access from the west to the Harbor Island and Duwamish Basin industrial area. The First Avenue South highway drawbridge across the Duwamish River, mile 2.5, was constructed in 1955. The bridge provides north and south access to the Duwamish

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Basin industrial area and the Seattle central business area. Because of the high level of vehicular traffic across these bridges during morning and evening commute hours, closed periods were established to allow for the uninterrupted flow of traffic. Regulations provided that the bridges need not open for the passage of vessels from 6:30 a.m to 8:30 a.m. and from 3:45 p.m. to 5:45 p.m., Monday through Friday, except federal holidays. However, the bridges were required to open at any time for a vessel of 5,000 tons or more.

In June 1978, a vessel collided with the northernmost of the two Southwest Spokane Street bridges severely damaging the structure. The damaged bridge was subsequently removed and vehicular traffic was rerouted over the remaining Southwest Spokane Street bridge and the First Avenue South bridge. In order to accommodate the increased traffic flow over these bridges and prevent excessive delays during peak commuting hours, a temporary departure from the regulations was granted which increased the closed periods by one hour in the morning and one hour in the evening. Under this provision, the bridges need not open for the passage of vessels from 6:00 a.m. to 9:00 a.m. and 3:45 p.m. to 6:45 p.m., Monday through Friday, except federal holidays. The temporary departure also required the bridges to open on the hour at times other than the closed periods for all vessels not subject to the vessel movement reporting rules of the Puget Sound Vessel Traffic Service (VTS), and required openings during closed periods to be authorized by the Coast Guard Captain of the Port only in an emergency. After a brief trial period, the City of Seattle determined that the requirement for openings on the hour for vessels not subject to VTS reporting rules was unmanagable. Therefore, this provision was never implemented.

The City of Seattle is presently engaged in the construction of a six-lane, high level, fixed, bridge across both the Duwamish East And West waterways at Southwest Spokane Street. When completed, this bridge will provide primary access from West Seattle to the Seattle central business area, thus relieving the traffic overflow on the existing Southwest Spokane Street and First Avenue South bridges. As an interim measure, until the new bridge is open to traffic, the City of Seattle has requested that the temporary closed periods be made permanent. Also, the City has requested that no vessels be exempted from the closed period requirement. The City sent letters to potentially affected navigation interests in the area soliciting comments on its proposal. Response to the solicitation was limited, with a few navigation interests objecting to the changes being made permanent. However, with the exception of the provision for openings on the hour for vessels not subject to VTS reporting rules, the bridges have been operated in accordance with the temporary regulations for over four years without adverse reaction from the maritime community. The Coast Guard Captain of the Port has determined, and the City of Seattle concurs, that the portion of the temporary departure which requires bridge openings to be made on the hour is no longer needed, therefore, it is not included in the proposed rule.

The proposed change would allow the City of Seattle to restrict the operation of the bridges between the hours of 6:00 a.m. and 9:00 a.m. and between 3:45 p.m. and 6:45 p.m., Monday through Friday, except for federal holidays. During these two periods of time the draws would remain in the closed position for all vessel traffic, except as authorized by proper Coast Guard authority during an emergency.

There are only minimal economic impacts on navigation and other interests. Therefore, an economic evaluation has not been prepared for this action. Users of the bridges for vehicular transportation and the City of Seattle would benefit because the proposed change eliminates a major cause of vehicular traffic delay and still provides for the reasonable needs of navigation.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising § 117.790(f) to read as follows:

§ 117.790 Duwamish Waterway at Seattle, Wash.; bridges.

* * * * *

(f) The draws of each bridge across the Duwamish Waterway shall open promptly on signal except that the draws of the Southwest Spokane Street bridge and the First Avenue South bridge need not open for the passage of vessels from 6 a.m. to 9 a.m., and 3:45 p.m. to 6:45 p.m., Monday through Friday, except for federal holidays, and except as authorized by proper Coast Guard authority during an emergency.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: January 24, 1983.

C. F. DeWolf,

Rear Admiral, Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 83–3612 Filed 2–9–83; 8:45 am]

BILLING CODE 4910–14–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–61

[GSA Order ADM 7900.2]

Public Use of Archives and FRC Records

AGENCY: National Archives and Records Service, GSA.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises procedures relating to public access to national security information in the legal custody of the National Archives and Records Service. This revision is required by the signing of Executive Order 12356, National Security Information, on April 2, 1982, and the issuance of the Information Security Oversight Office Directive Number 1 of June 22, 1982. This proposed rule affects the process of systematic and mandatory review for the declassification of classified records in the custody of the National Archives and Records Service.

DATE: Comments must be received on or before March 14, 1983.

ADDRESS: Comments should be addressed to National Archives and Records Service (NNA), Attn: Adrienne C. Thomas, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Mr. Edwin A. Thompson (202–523–3165).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the lease net cost to society.

List of Subjects in 41 CFR Part 105–61

Archives and records, Classified information, Freedom of Information.

GSA proposes to amend 41 CFR Part 105–61 as follows:

PART 105–61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

1. The table of contents for Part 105–61 is amended by revising entries for Subpart 105–61.1 as follows:

Subpart 105–61.1 Public Use of Archives and FRC Records

105–61.104 Acess to national security information.
105–61.104–1 Freedom of Information Act requests.
105–61.104–2 Declassification responsibility.
105–61.104–3 Public requests for mandatory review of classified information under Executive Order 12356.
105–61.104–4 Mandatory review of classified U.S. Government originated information or foreign government information provided to the United States in confidence.
105–61.104–5 Mandatory review of information originated by a defunct agency or received by a defunct agency from a foreign government.
105–61.104–6 Mandatory review of classified White House originated information and foreign government information received or classified by the White House less than 30 years old.
105–61.104–7 Mandatory review of classified White House originated information and foreign government information received or classified by the White House more than 30 years old.
105–61.104–8 Access by historical researchers and former Presidential appointees.
105–61.104–9 Fees.

2. Sections 105–61.104, 105–61.104–1, 105–61.104–2, 105–61.104–3, and 105–61.104–4 are revised to read as follows:

§ 105–61.104 Access to national security information.

Declassification of and public access to national security information and material, hereinafter referred to as "classified information" or collectively termed "information," is governed by Executive Order 12356 of April 2, 1982 (47 FR 14874, April 6, 1982), the implementing Information Security Oversight Office Directive Number 1 of June 22, 1982 (47 FR 27836, June 25, 1982), and the Freedom of Information Act (5 U.S.C. 552).

§ 105–61.104–1 Freedom of Information Act requests.

(a) *Requests for access to national security information under the Freedom of Information Act.* Requests for access to national security information under the Freedom of Information Act are processed in accordance with the provisions of § 105–61.103–1(b). Time limits for responses to Freedom of Information Act requests for national security information are those provided in the act rather than the longer time limits provided for responses to mandatory review requests specified by Executive Order 12356.

(b) *Agency action.* Upon receipt of a request forwarded by NARS for a determination regarding declassification, the agency with declassification responsibility shall:

(1) Advise whether the information should be declassified in whole or in part or should continue to be exempt from declassification;

(2) Provide a brief statement of the reason any requested information should not be declassified; and

(3) Return all reproductions referred for determination, including a copy of each document which should be released only in part, marked to indicate the portions which remain classified.

(c) *Denials and Appeals.* Denials under the Freedom of Information Act of access to national security information accessioned into the National Archives are made by designated officials of the originating or responsible agency. NARS notifies the requestor of the agency's determination. Appeals of denials of access to national security information must be made in writing to the appropriate authority in the agency having declassification responsibility for the denied information as indicated in § 105–61.104–2.

§ 105–61.104–2 Declassification responsibility.

(a) *Classified U.S. Government originated information less than 30 years old.* Declassification of U.S. Government originated information less than 30 years old is the responsibility of the agency that originated the information.

(b) *Foreign government information provided to the United States in confidence and less than 30 years old.* Declassification of foreign government information (provided to the U.S. in confidence) less than 30 years old, is the responsibility of the agency that initially received or classified the foreign government information in consultation with concerned agencies. NARS may make a declassification determination on foreign government information less than 30 years old only when the responsible agency has specifically authorized this action.

(c) *Classified U.S. Government originated information and foreign government information provided in confidence more than 30 years old.* Systematic reviews of U.S. Government originated information and foreign government information (provided to the U.S. in confidence) more than 30 years old (except for intelligence file series described in paragraph (d) of this section accessioned into the National Archives or donated to the Government are the responsibility of NARS. NARS shall conduct systematic declassification reviews in accordance with guidelines provided by the head of the originating agency or, with respect to foreign government information, in accordance with guidelines provided by the head of the agency having declassification jurisdiction over the information. If no guidelines for review of foreign government information have been provided by the agency heads, the Director of the Information Security Oversight Office, after coordinating with the agencies having declassification authority over the information, shall issue general guidelines for systematic declassification reviews. With respect to the systematic reviews of Presidential papers or records, guidelines shall be developed by the Archivist of the United States and approved by the National Security Council.

(d) *Classified U.S. Government originated information concerning intelligence and cryptology.* Systematic reviews of accessioned records and presidential papers or records concerning intelligence activities

(including special activities), or intelligence sources or methods, and cryptology created after 1945, shall be conduced as the records become 50 years old. NARS shall conduct systematic declassification reviews in accordance with guidelines provided by the Director of the Central Intelligence Agency concerning information on intelligence activities and intelligence sources and methods, and by the Secretary of Defense concerning cryptologic information.

(e) *White House information.* Declassification of information from a previous administration which was originated by the President; by the White House staff; by committees, commissions, or boards appointed by the President; or by others specifically providing advice and counsel to a President or acting on behalf of the President (hereinafter referred to as "White House information") is the responsibility of the Archivist of the United States. Declassification determinations will be made after consultation with agencies having primary subject matter interest and will be consistent with the provisions of applicable laws or lawful agreements.

(f) *Information originated by a defunct agency.* NARS is responsible for declassification of all information in the custody of NARS originated by an agency that has ceased to exist and whose functions have not been transferred to another agency and of all foreign government information originally received or classified by such an agency. NARS shall make declassification determinations after consultation with all agencies having primary subject matter interest.

§ 105–61.104–3 Public requests for mandatory review of classified information under Executive Order 12356.

United States citizens or permanent resident aliens, Federal agencies, or State or local governments wishing to request mandatory review of classified information that has been accessioned into the National Archives or donated to the Government may do so by describing the document or material containing the information with sufficient specificity to enable NARS to locate it with a reasonable amount of effort. When practicable, a request shall include the name of the originator and recipient of the information, as well as its date, subject, and file designation. If the information sought cannot be identified from the description provided or if the information sought is so voluminous that processing it would interfere with NARS' capacity to serve all requesters on an equitable basis, NARS shall notify the requester that, unless additional information is provided or the scope of the request is narrowed, no further action will be taken. NARS shall review for declassification and release the requested information or those declassified portions of the request that constitute a coherent segment unless withholding is otherwise warranted under applicable law. Requests for mandatory review should be addressed to the appropriate NARS depository listed in § 105–61.5101.

§ 105–61.104–4 Mandatory review of classified U.S. Government originated information and foreign government information provided to the United States in confidence.

(a) *NARS action.*—(1) *Information less than 30 years old.* NARS shall promptly acknowledge receipt of a request for mandatory review of classified U.S. Government originated information, and within 20 calendar days of receipt of the request, shall forward the request, with copies of the documents containing the requested information to the agency that originated the information or to the agency that the Archivist determines has primary subject matter interest. With respect to foreign government information, the request and copies of the documents shall be forwarded to the agency which initially received or classified the information. If unable to identify that agency, NARS shall forward the request to the agency which has primary subject matter interest. NARS shall inform the requester that referrals have been made.

(2) *Information more than 30 years old.* NARS shall acknowledge receipt of a request for mandatory review of classified U.S. Government originated information or foreign government information which NARS may review for declassification using systematic review guidelines, and within 60 days of receipt of the request shall act upon it and notify the requester of the action taken. If additional time is necessary to make a declassification determination, NARS shall notify the requester of the time needed to process the request. NARS will make a final determination within 1 year of the receipt of the request. Information that NARS may not declassify using the systematic review guidelines shall be promptly forwarded, with copies of the documents containing the requested information, to the responsible agency. NARS shall notify the requester that referrals have been made.

(b) *Agency action.* Upon receipt of a request for mandatory review of classified U.S. Government originated information or foreign government information forwarded by NARS, the originating or responsible agency shall:

(1) Either make a prompt declassification determination and notify the requester accordingly, or inform the requester and NARS of the additional time needed to process the request. Except in unusual circumstances, agencies shall make a final determination within 1 year.

(2) Notify NARS of any other agency to which it forwards the request in those cases requiring the declassification determination of another agency.

(3) Forward the declassified reproductions to the requester with their determination and also notify NARS of that determination. When the request cannot be declassified in its entirety the agency must also furnish the requester (with a copy to NARS):

(i) A brief statement of the reasons the requested information cannot be declassified;

(ii) A statement of the right to appeal within 60 calendar days of receipt of the denial; procedures for taking such action, and the name, title, and address of the appeal authority. The agency appellate authority shall make a determination within 30 working days following the receipt of the appeal. If additional time is required to make a determination, the agency appellate authority shall notify the requester and NARS of the additional time needed and provide the requester with the reason for the extension. The agency appellate authority shall notify NARS and the requester in writing of the final denials.

(iii) The agency will also furnish to NARS a copy of each document released only in part, marked to indicate the portions which remain classified.

§§ 105–61.104–6 through 105–61.104–10 [Redesignated as §§ 105–61.104–5 through 105–61.104.9 and revised]

3. Sections 105–61.104–6 through 105–61.104–10 are renumbered § 105–61.104–5 through § 105.61.104–9 and revised as follows:

§ 105–61.104–5 Mandatory review of information originated by a defunct agency or received by a defunct agency from a foreign government.

(a) *NARS action.* NARS is responsible for declassification of all information in the custody of NARS originated by an agency which has ceased to exist and whose functions have not been transferred to another agency and of all foreign government information originally received or classified by such an agency. NARS shall promptly acknowledge receipt of requests for such

information, review the information using systematic review guidelines, and, when necessary, consult with any agency having primary subject matter interest. NARS shall either make a prompt declassification determination and notify the requester accordingly, or inform the requester of the additional time needed to process the request. Except in unusual circumstances NARS shall make a final determination within 1 year. If the request is denied in whole or in part, the Assistant Archivist for the National Archives or the Assistant Archivist for Presidential Libraries shall furnish the requester a brief statement of the reasons for denial and a notice of the right to appeal the determination within 60 calendar days to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, DC 20408). Upon receipt of an appeal, the Deputy Archivist shall, within 30 calendar days:

(1) Review the previous decision made to deny the information and, as necessary,

(2) Consult with the appellate authorities in any agency having primary subject matter interest in the information previously denied; and

(3) Notify the requester of the determination and make available to the requester any additional information that has been declassified as result of the appeal.

(b) *Agency action.* Upon receipt of a request forwarded by NARS for consultation regarding the declassification of information originated by a defunct agency or of foreign government information originally received or classified by a defunct agency, the agency with primary subject matter interest shall:

(1) Advise the Archivist whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(2) Return the request to NARS along with a brief statement of the reasons why any requested information should not be declassified.

§ 105–61.104–6 Mandatory review of classified White House originated information and foreign government information received or classified in the White House less than 30 years old.

(a) *NARS action.* (1) White House information is subject to mandatory review consistent with the provisions of applicable laws or lawful agreements that pertain to the respective Presidential papers or records. Unless precluded by such laws or agreements, White House originated information is subject to mandatory review 10 years after the close of the administration which created the materials or when the materials have been archivally processed, whichever occurs first.

(2) NARS shall promptly acknowledge receipt of a request for mandatory review of White House originated information and foreign government information received or classified by the White House which is requested more than 10 years after the close of the administration or after it has been archivally processed, whichever occurs first.

(2) NARS shall review the requested information, determine which agencies have primary subject matter interest, forward to those agencies copies of material containing the requested information, and request their recommendation regarding declassification.

(3) NARS shall review the recommendations returned by the agencies and make its declassification determination within one year of receipt of the request.

(4) When the request cannot be declassified in its entirety, NARS shall furnish the requester:

(i) A brief statement of the reasons the requested information cannot be declassified;

(ii) Access to the portions of documents releasable in part that constitute a coherent segment; and

(iii) A notice of the right to appeal the determination within 60 days to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, DC 20408).

(5) Upon receipt of an appeal, the Deputy Archivist shall within 30 calendar days:

(i) Review the decision to deny the information;

(ii) Consult with the appellate authorities in agencies having primary subject matter interest in the information previously denied;

(iii) Notify the requester of the determination and make available to the requester any additional information which has been declassified as a result of the appeal; and

(iv) Notify the requester of the right to appeal denials of access to the Director, Information Security Oversight Office (mailing address: General Services Administration (Z), Washington, DC 20405).

(b) *Agency Action.* Upon receipt for a request forwarded to NARS for consultation regarding declassification of White House originated information and foreign government information received or classified by the White House, the agency with primary subject matter interest shall:

(1) Advise the Archivist of the United States whether the information should be declassified in whole or in part or should continue to be exempt from declassification;

(2) Provide a brief statement of the reasons any requested information should not be declassified; and

(3) Return all reproductions referred for consultation including a copy of each document that should be released only in part, marked to indicate the portions which remain classified.

§ 105–61.104–7 Mandatory review of classified White House originated information and foreign government information received or classified by the White House more than 30 years old.

(a) NARS shall promptly acknowledge the receipt of a request for mandatory review of classified White House originated information and foreign government information received by or classified in the White House that is more than 30 years old, and shall act upon the request within 60 days. If additional time is necessary to make a declassification determination, NARS shall notify the requester of the time needed to process the request. NARS shall make a final determination within 1 year of the receipt of the request.

(b) NARS shall review the information using applicable systematic review guidelines and shall make available to the requester information declassified using those guidelines.

(c) Information which cannot be declassified by NARS using systematic review guidelines shall be forwarded to the agencies with primary subject matter interest and further processed in accordance with § 105–61.104–6(a) (2) through (5) and (b).

§ 105–61.104–8 Access by historical researchers and former presidential appointees.

(a) Access to classified information may be granted to U.S. citizens who are engaged in historical research projects or who previously occupied policy making positions to which they were appointed by the President. Persons desiring permission to examine material under this special historical researcher/presidential appointees access program should contact NARS at least 4 months before they desire access to the materials to permit time for the responsible agencies to process the requests for access. NARS shall inform requesters of the agencies to which they will have to apply for permission to examine classified information and shall provide requesters with the information

and forms to apply for permission from the Archivist of the United States to examine classified information originated by the White House or classified information in the custody of the National Archives which was originated by a defunct agency.

(b) Requesters may examine records under this program only after the originating or responsible agency:

(1) Determines in writing that access is consistent with the interest of national security;

(2) Takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is safeguarded in a manner consistent with Executive Order 12356; and

(3) Limits the access granted to former presidential appointees to item that the person originated, reviewed, signed, or received while serving as a presidential appointee.

(c) To guard against the possibility of unauthorized access to restricted records, a director may issue instructions supplementing the research room rules provided in § 105–61.102.

§ 105–61.104–9 Fees.

NARS will charge requesters for copies of declassified documents according to the fees listed in 41 CFR 105–61.5206.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: January 13, 1983.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 83–3631 Filed 2–9–83; 8:45 am]

BILLING CODE 6820–26–M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 630

[Docket No. 83–A]

Uniform System of Accounts and Records and Reporting System

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of proposal to waive a requirement and request for comment.

SUMMARY: In this Notice, the Urban Mass Transportation Administration (UMTA) is proposing to waive a reporting requirement, generally fulfilled by passenger surveys. This requirement is imposed by UMTA's regulation on a Uniform System of Accounts and Records and Reporting System. Under this regulation, certain UMTA grant recipients must report data pertaining to the average time per unlinked trip. The Administrator of UMTA has the authority to waive this requirement under the regulation and is proposing to do so to ease the paperwork burden on recipients.

DATE: Comments are due on or before March 14, 1983.

ADDRESS: Comments on the waiver should be submitted to UMTA Docket No. 83–A, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5:00 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Philip G. Hughes, Office of Information Services, Room 6419, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–1957.

SUPPLEMENTARY INFORMATION:

Background

Section 15 of the Urban Mass Transportation Act of 1964, as amended, (49 U.S.C. 1611) (UMT Act) requires the Secretary of Transportation to, "* * * develop, test, and prescribe a reporting system to accumulate public mass transportation financial and operating information by uniform categories and a uniform system of accounts and records." The purpose of accumulating this data is to assist Federal, State, and local governments, and individual public mass transportation systems in planning public transportation services, in making investment decisions, and in allocating Federal assistance under the Urban Mass Transportation Act of 1964, as amended by the Surface Transportation Assistance Act of 1982. The Secretary has delegated this responsibility to the Urban Mass Transportation Administrator. (49 CFR 1.51).

UMTA published regulations to implement Section 15 on January 19, 1977, (42 FR 3772). These regulations are codified at 49 CFR Part 630 and have been amended several times (43 FR 58928, December 18, 1978; 44 FR 4493, January 22, 1979; and 44 FR 28052, May 3, 1979).

Section 630.12(a)(7) of this regulation requires recipients to provide specific operating data elements as set forth in Table B–8 therein. This Table B–8 includes a data element for average time per unlinked trip. Average time per unlinked trip, as used in this context, means the average (i.e., arithmetic mean) number of minutes that the passenger spends aboard the revenue vehicle for an unlinked passenger trip.

After examining the particular requirements for data relating to average time per unlinked trip, UMTA has concluded that this data might be less useful than originally envisioned, both to UMTA in administering its program and to State and local governments in planning their transportation programs. In addition, recipients have indicated that collection of this data can be unnecessary, costly and burdensome.

Section 630.7 authorizes the UMTA Administrator to waive any of the reporting requirements contained in the regulation, if the Administrator determines that the waiver is clearly necessary and is consistent with the intent of the law. It is UMTA's opinion that waiving the requirement concerning average time per unlinked trip might save recipients administrative expense and ease the paperwork burden placed on them. In addition, waiving this requirement is consistent with the intent of Section 15, since it appears to concern data that is not necessary to plan mass transportation programs or to distribute funds authorized under the UMT Act. Therefore, unless significant comments to the contrary are received, pursuant to § 630.7, UMTA proposes to waive the requirement in § 630.12(a)(7)(i), Table B–8, that requires the reporting of data concerning average time per unlinked passenger trip.

Request for Comments

When UMTA drafted the Section 15 regulation, UMTA sought and utilized the experience and expertise of a representative cross section of individuals active in the urban public transportation field to review, comment on, and make recommendations about the content of that regulation. This was done in order to design a system that would meet the needs of all potential users of the transit data that would be obtained. In view of this commitment to the public at large, UMTA is concerned about the effect of issuing waivers that make reductions in reporting

requirements without obtaining the balanced advice of all data users. For this reason, UMTA is providing all interested parties an opportunity to submit comments about the waiver of the reporting of average time per unlinked trip.

After the comment period closes, UMTA will review and evaluate all comments and suggestions received. UMTA will then determine whether to waive this reporting requirement. A Notice announcing UMTA's decision will be published in the **Federal Register**

Issued on: February 3, 1983.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 83-2843 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-57-M

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Notices

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Thursday, February 10, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Western Spruce Budworm Management Program; Santa Fe National Forest; Revised Notice of Intent To Prepare an Environmental Statement

A Notice of Intent To Prepare an Environmental Statement was previously prepared in September, 1981 for this program. That notice is amended as follows:

The responsible official is Mr. James L. Perry, Forest Supervisor of the Santa Fe National Forest, Southwestern Region, U.S. Forest Service.

The Draft Environmental Impact Statement should be available for public review by March, 1983 and the Final Environmental Impact Statement is scheduled for completion in May 1983.

Comments, concerns, and information pertaining to the Western Spruce Budworm Program should be submitted in writing to: James L. Perry, Forest Supervisor, Santa Fe National Forest, P.O. Box 1689, Santa Fe, New Mexico 87501. Phone: 988–6940.

Dated: January 28, 1983.

James L. Perry,

Forest Supervisor.

[FR Doc. 83–3579 Filed 2–9–83; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 1–83]

Foreign Trade Zone 27, Boston; Application for Subzone at Lawrence Textile Shrinking Company, Lawrence, Massachusetts

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Massachusetts Port Authority, grantee of Foreign-Trade Zone 27 in Boston, for a special-purpose subzone at the textile processing plant of the Lawrence Textile Shrinking Company (Lawrence Textile), Lawrence, Massachusetts, within the Lawrence Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 3, 1983. The applicant is authorized to make this proposal under chapter 771 of the Acts of the Commonwealth of Massachusetts, 1971. There have been preliminary discussions of the proposal with Customs officials and the Commerce Office of Textiles and Apparel.

The subzone would involve Lawrence Textile's 2½-acre plant located at 516 Broadway, Lawrence, Massachusetts. The company performs a variety of services for foreign and domestic textile mills and textile product users, primarily for wool and wool blend materials. Its activities under zone procedures would be limited to the following inspection and processing operations: examination, repair, sponging, "London" shrinking, folding, measuring, tentering, drying, back coating, color evaluation, packaging and labeling. The processes would involve no changes in Customs classification.

Zone procedures would allow the company's customers to avoid duty payment on material that is either reexported or rejected. On their domestic sales, the firms would be able to defer duty payment until after inspection and processing. Because duty rates range from 5 to 38 percent with most of the material subject to a 38 percent duty, savings from zone procedures could be substantial. These procedures could not be fully utilized at the zone in Boston. Their availability at the Lawrence plant would help Lawrence Textile compete with offshore operations.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The committee consists of Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner (Operations), U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, Massachusetts 02110; and Colonel Carl B. Sciple, Division Engineer, U.S. Army Engineer Division New England, 424 Trapelo Road, Waltham, Massachusetts 02154.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before March 11, 1983.

A copy of the application is available for public inspection at each of the following locations:

Office of the Director, U.S. Dept. of Commerce District Office, 441 Stuart Street, 10th Floor, Boston, Massachusetts 02116

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Constitution, NW., Room 1872, Washington, D.C. 20230

Dated: February 7, 1983.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 83–3680 Filed 2–9–83; 8:45 am]

BILLING CODE 3510–25–M

International Trade Administration

Announcing Intent To Prepare an Environmental Impact Statement/ Announcement of Scoping Meeting; 1992 Chicago World's Fair

AGENCY: International Expositions Staff.

ACTION: Department of Commerce, International Trade Administration, International Expositions Staff intent to prepare an Environmental Impact Statement (EIS) for use in decisionmaking regarding the proposed 1992 Chicago World's Fair. A scoping meeting will be held on February 28, 1983.

SUMMARY: The International Trade Administration, U.S. Department of Commerce, will prepare an EIS for use in decisionmaking regarding the proposed 1992 Chicago World's Fair. A scoping meeting will be held on February 28, 1983.

This notice of intent is published pursuant to the regulations of the Council on Environmental Quality in

Title 40, Code of Federal Regulations § 1501.7 on implementation of the National Environmental Policy Act (NEPA).

The Department of Commerce will serve as the lead agency in the supervision and preparation of the EIS. The U.S. Army Corps of Engineers, Department of Defense, will serve as the cooperating agency.

The EIS covered by this notice will describe the proposed project and the nature, range, degree, and extent of impacts which may be associated with it. The draft EIS is scheduled to be completed by November 30, 1983. Upon issuance of the draft statement, a public comment period and a public hearing (scheduled for January 2, 1984) are planned to obtain comments on the draft statement. The final environmental statement is scheduled to be published on or about May 9, 1984.

In connection with the development of this EIS, the Commerce Department will hold a scoping meeting to determine the nature, extent, and scope of the issues and concerns that should be addressed in the EIS related to the proposed action. The purpose of the scoping process, among other things, is to reduce paperwork in the EIS process and focus impact statements on significant environmental issues, while limiting or eliminating the consideration of those that are not significant or beneficial in decisionmaking. This scoping process is planned to include affected Federal, regional, State and local agencies, organizations, interest groups, and the general public in the geographic areas potentially affected by the proposed project. After a brief description of the nature and extent of the proposed action and a presentation of the findings of an environmental assessment prepared for the proposed action, individuals, organizations and governmental agencies will be invited to submit views on issues to be included in the EIS and on the approach for analyzing and evaluating the identified issues.

Oral statements will be received. However, in order that all persons desiring to present statements have an equal opportunity to express their views, it is requested that all persons limit their oral comments to approximately ten (10) minutes. The cooperation and assistance of persons in conforming to this request will be appreciated.

FOR FURTHER INFORMATION CONTACT: Written statements and exhibits will be accepted by the Department of Commerce official conducting the hearing, or they may be mailed to Mr. Ed Wilczynski at the following address by March 28, 1983. Ed Wilczynski, National Oceanic and Atmospheric Administration, Room 6800, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5181).

SUPPLEMENTARY INFORMATION: To assist interested parties in familiarizing themselves with the proposal and its preliminary environmental assessment prior to the scoping meeting, copies of the Environmental Assessment (EA) will be made available for review at the following locations:

1. Chicago Municipal Reference Library, 121 North LaSalle Street, Room 1004, Chicago, Illinois. (312/744–4992)

2. Chicago Public Library, Government Publications Department, 425 North Michigan Avenue, 12th Floor, Chicago, Illinois. (312/269–3002).

3. Branches of the Chicago Public Library:

—Hild Regional Library, 4544 North Lincoln Avenue. (312/728–8652)
—East Side Library, 10542 South Ewing Avenue. (312/721–5500)
—Jefferson Park Library, 5363 West Lawrence Avenue. (312/736–9075)
—Beverly Library, 2121 West 95th Street. (312/445–7715)
—Rogers Park Library, 9525 South Halsted Street. (312/881–6900)
—South Shore Library, 2505 East 73rd Street. (312/734–4780)
—Austin Library, 5615 West Race Avenue. (312/287–0667)
—Garfield Ridge Library, 6322 Archer Avenue. (312/582–6094)
—Eckhart Park Library, 1371 West Chicago Avenue. (312/226–6069)

Individuals interested in obtaining a copy of the assessment for the cost of reproduction may do so by contacting: Bernadette S. Tramm, Executive Assistant, Chicago World's Fair—1992 Corporation, Suite 2590, One First National Plaza, Chicago, Illinios 60603. (312/444–1992)

MEETING DATE: The scoping meeting will be held on February 28, 1983, beginning at 2 p.m. in Simpson Hall, Field Museum of Natural History (West Entrance), Chicago, Illinois. For further information regarding the scoping meeting, the EIS, and associated NEPA activities pertaining to the proposed Fair, please contact Mr. Wilczynski at the above noted location.

Dated: February 3, 1983.

George L. B. Pratt,

Director, International Expositions Staff.

[FR Doc. 83–3660 Filed 2–9–83; 8:45 am]

BILLING CODE 3510–25–M

Preliminary Affirmative Countervailing Duty Determinations; Stainless Steel Sheet, Strip, and Plate From the United Kingdom

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determinations.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in the United Kingdom of stainless steel sheet, strip, and plate as described in the "Scope of Investigations" section of this notice. The estimated net subsidy for each firm is indicated in the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the products subject to these determinations which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in an amount equal to the estimated net subsidy. If these investigations proceed normally, we will make our final determination by April 20, 1983.

EFFECTIVE DATE: February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–5414.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in the United Kingdom of stainless steel sheet, strip, and plate as described in the "Scope of Investigations" section of this notice. For purposes of these investigations, the following programs are preliminarily found to confer subsidies:

- Public dividend capital and new capital.
- National Loans Fund loans and loan conversions.
- Regional development grants.
- Iron and Steel Industry Training Board grants.

We estimate the net subsidy to be the amount indicated for each firm in the

"Suspension of Liquidation" section of this notice.

Case History

On October 7, 1982, we received a petition from Allegheny Ludlum Steel Corporation; Armco, Inc.; Carpenter Technology Corporation; Colt Industries, Inc., of the Crucible Materials Group; Eastern Stainless Steel Company; Electralloy Corporation; Guterl Special Steel Corporation; Jessop Steel Company; Jones and Laughlin Steel Incorporated; Republic Steel Corporation; Universal Cyclops Specialty Steel Division of the Cyclops Corporation; Washington Steel Corporation; and the United Steelworkers of America, filed on behalf of the U.S. industry of manufacturers of stainless steel sheet, strip, and plate. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in the United Kingdom of the stainless steel products listed above.

We found the petition to contain sufficient grounds upon which to initiate countervailing duty investigations, and on November 2, 1982, we initiated countervailing duty investigations (47 FR 49692). We stated that we expected to issue preliminary determinations by December 31, 1982. We subsequently determined that the investigations are "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determinations for 35 days until February 4, 1983 (47 FR 56527). Since the United Kingdom is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiations. On November 22, 1982, the ITC determined that there is a reasonable indication that these imports are materially injuring a U.S. industry.

We presented questionnaires concerning the allegations to the Delegation of the Commission of the European Communities and the government of the United Kingdom on November 9, 1982. Questionnaires were also presented to British Steel Corporation and Arthur Lee and Sons, Ltd. On December 30, 1982, we received the responses to the questionnaires. Supplemental responses were received on January 10, 1983.

Scope of Investigations

The products covered by these investigations are:

- Stainless steel sheet and stainless steel strip.
- Stainless steel plate.

The products are fully described in the appendix to this **Federal Register** notice.

British Steel Corporation (BSC) is the only known producer and/or exporter in the United Kingdom of stainless steel sheet and plate exported to the United States. Arthur Lee and Sons, Ltd., is the only known producer and/or exporter in the United Kingdom of stainless steel strip exported to the United States. The period for which we are measuring subsidization is the most recent fiscal year for which information is available.

Analysis of Programs

In their responses, the government of the United Kingdom and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from BSC and Arthur Lee and Sons, Ltd.

Throughout this notice, some of the general principles and conclusions of law applied by the Department of Commerce to the facts of these investigations concerning stainless steel sheet, strip and plate from the United Kingdom are described in detail in Appendices 2–4 of the "Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Belgium," 47 FR 39304, 39316 (August 24, 1982) (Belgian Final). Unless otherwise noted, we allocated each company's countervailable benefits as follows:

- Where untied benefits were provided to a company, they were allocated over the revenue of that company; and
- Where benefits were provided directly to a specific corporate division producing products under investigation, they were allocated over the revenue of that division.

Based upon our analysis to date of the petitions and responses to our questionnaires, we have preliminarily determined the following:

I. Programs Preliminarily Determined To Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in the United Kingdom of stainless steel sheet, strip, and plate under the programs listed below.

A. Equity Investment in BSC

BSC was established by an Act of Parliament on March 22, 1967, under the provisions of the Iron and Steel Act of 1967. The 1967 Act combined 14 steel companies, creating the nationalized British Steel Company. The British government reimbursed stockholders of record at the time the companies were merged and absorbed the substantial debts of the individual companies. The bulk of the debt was converted to government equity under the provisions of the Iron and Steel Act of 1969, which also authorized government payments to BSC.

Authority for the government to make payments to BSC was renewed in the Iron and Steel Act of 1975. Section 18(1) of this Act provided that "the Secretary of State may, with the approval of the Treasury, pay to the British Steel Corporation such sums as he thinks fit." In nine of the fifteen years of its existence, the corporation has received such payments, known as public dividend capital (PDC) or new capital (NC), from the government. In 1972 and 1981, Parliament directed that portions of its capital investment be credited to accumulated revenue deficit. Neither of these transactions altered the potentially countervailable benefit of the original public dividend capital or new capital infusions. Two additional equity investments were made in 1972 and in 1981 when certain government loans were converted into equity.

As discussed in Appendix 2 of the Belgian Final, *supra*, the treatment of government equity investment in a company hinges essentially on the soundness of the investment. If the government investment was reasonably sound at the time it was made, we do not consider it a subsidy. If, on the contrary, the investment appears to have been unsound, a subsidy may exist.

For the purpose of determining whether BSC represented a sound investment at the time each equity investment was made by the U.K. government, we primarily considered BSC's cash flow from operations, including interest, but excluding government grants. Our analysis also included BSC's operating results and computations of BSC's current ratio (current assets divided by current liabilities). On the basis of these tests, we considered investment in BSC to be inconsistent with commercial considerations from fiscal year 1977/78 through 1981/82.

Since we have determined that BSC was not a sound investment from April 1977 through March 1982, we examined the government's equity infusions during this period to determine whether they bestowed a subsidy. As described in greater detail in Appendix 2 of the Belgian Final, *supra*, we compared the

rate of return the government received on its equity or investment in BSC in a given year with the average rate of return on equity investment in the United Kingdom for that year, as estimated by the average earnings yield on U.K. industrial shares. BSC's return was measured by its net earnings (or losses) divided by owner's equity. During this period, BSC's losses were large, resulting in substantial negative returns on owner's equity.

Comparing the average return with BSC's large negative return yielded an amount exceeding he amount we would have calculated had we treated the public dividend capital or new capital payments as outright grants rather than as equity. Consequently, we have limited the subsidy to the 1981/82 amount that would result if the equity investments were treated as grants.

For reasons described in Appendix 2 of the Belgian Final, *supra*, we allocated that part of the equity infusion used for loss coverage in a given year exclusively to that year rather than over a longer period of time. The remainder of the subsidy was allocated using the grant methodology. (See grants and equity methodologies described in Appendix 2 of the Belgian Final, *supra*.)

For 1981/82, we calculated a subsidy of 6.13 percent *ad valorem* for PDC and NC payments for loss coverage in that year. For PDC and NC payments in excess of loss in each of the fiscal years 1977/78 through 1981/82, we found, using the equity methodology, a subsidy of 9.75 percent *ad valorem* for fiscal year 1981/82. Thus, the total subsidy in fiscal year 1981/82 resulting from PDC and NC payments was 15.88 percent *ad valorem*.

B. The National Loans Fund

The National Loans Fund (NLF) is a depository of money raised through government borrowings. Lending from the NLF is not generally available, but is limited to nationalized British companies. Therefore, British Independent Steel Producer Association members (BISPA producers), including Arthur Lee and Sons, Ltd., do not qualify for NLF loans. BSC was expressly authorized to borrow from NLF's predecessor fund (the Consolidated Fund) by the Iron and Steel Act of 1967, and from the NLF by the Iron and Steel Act of 1975.

BSC received substantial loans from the NLF. If these loans had remained outstanding in fiscal year 1981/82, then we would have applied the methodology for loans described in Appendix 2. However, all outstanding loans from the NLF were converted into equity: L 150 million in 1971/72, and L 509 million in 1981/82. We treated each conversion as an additional equity investment.

Since the first conversion occurred during the period in which we consider equity infusions to be consistent with commercial considerations, it does not confer a subsidy. The second conversion, however, was made during the period in which we consider equity infusions to be inconsistent with commercial considerations, and potentially confers a subsidy. Using the equity methodology described in Appendix 2 of the Belgian Final, *supra*, we determined that a subsidy was in fact conferred.

However, comparing the average return on equity with BSC's large negative return yielded an amount exceeding the amount we would have calculated had we treated the equity infusion as an outright grant.

Consequently, we have limited the subsidy to the 1981/82 amount that would result if the equity investment were treated as a grant. Upon this basis, we calculated a subsidy for BSC of 2.21 percent *ad valorem*.

We note that our loss coverage allocation methodology does not apply to the 1981/82 conversion since there was no infusion of cash at that time.

C. Regional Development Grants

The Industry Act of 1972 established a regional development grant (RDG) incentive program with the goal of eliminating certain social problems in specified regions of the United Kingdom. RDG's are not made generally available in the United Kingdom, but rather are available only to designated manufacturing sectors (e.g., metals manufacture) and to "special development" and "development" regions. Therefore, we preliminarily find the RDG program to be preferential in nature and to confer subsidies within the meaning of section 771(5) of the Act.

The Secretary of State for Industry, with the approval of the Treasury, is authorized to determine the activities that qualify for grants and the conditions of each grant. The grants are made toward the cost of capital expenditures on new buildings or works in development areas, the adaptation of existing buildings on qualifying premises in development areas, and new machinery and plants for use in qualifying premises in development areas. The grants pay for a fixed percentage of the cost for specific capital assets, depending on the type of region for which they are designated. The amount of a grant in a "development" area is 15 percent, and in a "special development" area 22 percent, of the capital asset cost. Grants are provided only after the asset has been purchased or the expenditure on it is incurred. We find these grants to be "tied" to (*i.e.*, bestowed expressly to purchase) specific capital assets.

In each case, the individual grants were for less than $50 million. In accordance with the methodology described in Appendix 2 of the Belgian Final, *supra*, we are therefore allocating them over 15 years, a period of time reflecting the average life of capital assets in integrated steel mills. On this basis we calculated a subsidy of 1.21 percent *ad valorem* for BSC.

Arthur Lee and Sons, Ltd. received regional development grants over the last five years, generally for building in development areas. Because of incomplete information supplied by respondent prior to this preliminary determination, the Department is unable to determine the amount of RDG's received by Arthur Lee over each of the last five corporate fiscal years. Additionally, we are unable to determine which portions of the total grant amount shown in their 1981 annual report are tied specifically to investment in Arthur Lee's stainless steelmaking subsidiary, Lee Steel Strip, Ltd. The only information received on RDG's was the total amount of RDG's given to Arthur Lee from the inception of the program to the end of the 1980/1981 fiscal year, less amounts released to the profit and loss account. RDG's are placed in a separate account and released to the profit and loss account over the estimated life of the relevant fixed assets.

Based on the best information available at the time of these preliminary determinations, we preliminarily determine that the entire amount of RDG's reported in Arthur Lee's fiscal year 1980/81 annual report was received that year. Further we preliminarily determine that all RDG's recorded on the 1981 balance sheet of the parent company, Arthur Lee and Sons, Ltd., were awarded to Lee Steel Strip expressly for buildings and equipment used exlusively for the production of the products under investigation.

Therefore, we have allocated the 1981 benefit over Lee Steel Strip's total 1981 stainless steel strip sales. On this basis, we calculated a subsidy of 0.27 percent *ad valorem* for Lee Steel Strip.

D. The Iron and Steel Industry Training Board

There are 24 industry training boards in the U.K. The Iron and Steel Industry Training Board (ISITB) sponsors various training programs aimed at maintaining the nation's pool of skills required by

the iron and steel industry and increasing employee job versatility in the event that present employment is terminated. The Board receives annual levies of up to 1 percent of payroll from iron and steel producers and makes grants to those companies required by the government to conduct training programs. The grants normally are insufficient to cover the costs incurred by the companies providing the training. BSC received several training grants under this program.

Since the training may benefit BSC's employees in their employment with BSC, we preliminarily find the grants to be countervailable. Because the grants were less than 1 percent of revenue and were expensed in the year of receipt, we considered only the grants received in 1981/82. Using this methodology, we calculated a subsidy of 0.01 percent *ad valorem* for BSC.

E. Investment in BSC Stainless

Petitioners alleged that BSC was receiving subsidies specifically for the production of stainless steel products. In fact, on March 28, 1974, the BSC Board, with the concurrence of the U.K. government, did approve a BSC stainless steel development strategy at a cost of about £ 130 million from fiscal years 1974/1975 through 1980/1981. No formal agreement to the strategy was required from the U.K. government because none of the individual project costs exceeded £ 50 million. The funds were used to expand cold-rolling finishing, stainless melting and continuous casting facilities, and to improve plate finishing facilities, and to develop a new process for the manufacture of stainless strip. Investment in BSC stainless was not a separate investment program but part of BSC's overall 10-year capital development strategy. The stainless steel development was partially financed with loans from the ECSC, regional development grants, and the balance from public dividend capital and new capital payments or National Loans Fund monies. However, investment under this program is included in the amounts as reported by BSC for the above-mentioned programs. Therefore, this investment in BSC stainless is already included in the subsidy calculations for the programs described above.

It would be inappropriate to assess a subsidy rate specifically to investment in BSC stainless, since we would be countervailing twice against the same subsidy benefits.

II. Programs Preliminarily Determined Not To Confer Subsidies

We preliminarily determine that subsidies are not being provided to manufacturers, producers, or exporters in the United Kingdom of stainless steel sheet, strip, and plate under the following programs.

A. Industrial Investment Loans From the European Coal and Steel Community

Article 54 of the Treaty of Paris authorizes the European Coal and Steel Community (ECSC) to provide loans to steel companies in member countries for reducing production costs, increasing production, or facilitating product marketing. Loans provided under this program are funded exclusively from ECSC borrowings on world capital markets. BSC has received three ECSC industrial development loans directly related to plants at which the products under investigation were manufactured.

All three ECSC loans which are tied directly to production of products under investigation were made to BSC during its creditworthy period. For purposes of determining whether these ECSC loans resulted in a subsidy to BSC, we compared the interest rate on ECSC loans (the period of which ranged from 5 to 20 years) to an average rate on 20-year industrial debentures. The debentures were chosen as being the most typical source of long-term debt for private British firms. The interest rates charged to BSC on the ECSC loans exceeded the average rates on 20-year industrial debentures. Therefore, we preliminarily determine that the ECSC loans tied to the production of products under investigation do not result in a subsidy.

B. Transportation Assistance

BSC and Arthur Lee and Sons, Ltd., appear to contract with British Rail on an arm's length basis and to pay commercial rates on stainless steel shipments The government in its response indicates that "British Rail charges BSC what the market will bear, as is the case for a comparable non-steel sector company." Since there appears to be no preferential treatment accorded to BSC or Arthur Lee and Sons, Ltd. on shipments by rail, we preliminarily determine that the rail freight charges on stainless steel shipments are not preferential and do not result in the payment or bestowal of a subsidy.

III. Program Preliminarily Determined Not To Be Used

Loans From the European Investment Bank

The European Investment Bank (EIB) was created by the Treaty of Rome establishing the EEC to fund projects that serve regional needs in Europe. Article 130 of the Treaty of Rome authorizes the EIB to make loans and guarantee financial projects in all sectors of the economy. These projects include the provision of funds to further the development of low income regions. Funds are drawn from debt instruments floated on world capital markets and from investment earnings. Because EIB loans are designed to serve regional needs, we have in past investigations found them to be countervailable when the interest rate was less than the rate which would have been available commercially from a private lender without government intervention.

From October 1973 through December 1977, BSC received 18 EIB loans. However, none of these loans were used by BSC stainless steelmaking facilities. EIB loans were tied exclusively to the production of products other than those currently under investigation. Consequently, EIB loans have not resulted in the payment of a subsidy on production or exportation of BSC's stainless steel sheet, strip, and plate.

Arthur Lee and Sons, Ltd., did not receive EIB loans.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determinations.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of stainless steel sheet, strip, and plate which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of the merchandise in the amounts indicated below:

Manufacturer/producer/exporter	Ad valorem rate
British Steel Corporation:	
Stainless steel sheet	19.31
Stainless steel plate	19.31
Arthur Lee and Sons, Ltd.: Stainless steel strip	0.00
All other producers, not excluded from these determinations of stainless steel sheet, strip and plate	19.31

Since the response of Arthur Lee and Sons, Ltd. concerning regional development grants was unclear, we are not excluding this company from our preliminary determinations. However, since the regional development grants that might benefit products under investigation appear to be *de minimis*, we are setting a zero rate for bonding purposes for Arthur Lee and Sons, Ltd.

This suspension will remain in effect until further notice.

ITC Notifications

In accordance with section 703(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with 19 CFR 355.35, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 AM on February 25, 1983, at the U.S. Department of Commerce, Room B–841, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration, Room 3703, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy (for Policy) to the Deputy Assistant Secretary by February 18, 1983. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Judith Hippler Bello,

Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration.

February 4, 1983.

Appendix

Description of Products

For purposes of these investigations:

(1) The term *"stainless steel sheet, and strip"* covers hot or cold-rolled stainless steel sheet or strip products, excluding hot or cold-rolled stainless steel strip not over 0.01 inch in thickness, as currently provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the *Tariff Schedules of the United States Annotated (TSUSA)*.

Hot-rolled stainless steel sheet covers, hot-rolled stainless steel sheet whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Hot-rolled stainless steel strip is a flat-rolled stainless steel product, whether or not corrugated or crimped, and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and not over 12 inches in width. Hot-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included.

Cold-rolled stainless steel sheet covers cold-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cut, not pressed and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Cold-rolled stainless steel strip is a flat-rolled stainless steel product, whether or not corrugated or crimped, and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and over 0.50 inch but not over 12 inches in width. Cold-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included.

(2) The term *"stainless steel plate"* covers stainless steel plate products as provided for in items 607.7605 and 607.9005 of the TSUSA. Stainless steel plate is a flat-rolled product, whether or not corrugated or crimped, in coils or cut to length, 0.1875 inches or more in thickness and over 8 inches in width or if cold-rolled over 12 inches in width.

[FR Doc. 83–3688 Filed 2–9–83; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF EDUCATION

Innovative Programs for Severely Handicapped Children

AGENCY: Department of Education.

ACTION: Notice of proposed annual funding priorities.

SUMMARY: The Secretary proposes annual funding priorities for grants for Innovative Programs for Severely Handicapped Children. To ensure wide and effective use of program funds, the Secretary proposes eight priorities to direct funds to the areas of greatest need during Fiscal Year 1983. A separate competition will be established for each priority.

DATES: Comments must be received on or before March 11, 1983.

ADDRESSES: Comments should be addressed to: R. Paul Thompson, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., Donohoe Building, Room 4918, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: R. Paul Thompson, (202) 472–7993.

SUPPLEMENTARY INFORMATION:

Priorities

(1) *Approaches to Total Life Planning for Deaf-Blind Children and Youth.* This priority supports projects which implement innovative procedures for the development of total life planning for deaf-blind children and youth. The planning must include: (a) The assessment of cognitive, affective, and psychomotor skills and capacities of project participants; (b) an identification of services which are essential to meet the needs of the participants and which will provide for the maximization of their potential as they approach adulthood; (c) the development of strategies for life planning individualized for each project participant, with provision for modifying the planning on at least an annual basis; and (d) strategies for the application of the individualized planning designed for project participants, to non-project deaf-blind children and youth. Approximately $1,240,000 is expected to be available for this competition.

(2) *Pre-vocational and Vocational Training for Deaf-Blind Children and Youth.* This priority supports projects which design, implement, and disseminate innovative practices in the pre-vocational and vocational education of deaf-blind children and youth. This practices must extend beyond, expand upon, complement, or supplement

existing best practices. Also considered innovative for the purpose of this priority are feasible applications of practices still in the developmental stage in research and other experimental programs. Approximately $480,000 is expected to be available for this competition.

(3) *Identification of At-Risk Deaf-Blind Children and Youth.* This priority supports projects which design and implement innovative strategies for the early identification of children and youth with apparent visual and auditory impairments who are at-risk of being categorized as deaf-blind. The projects should devise strategies for providing relevant information to and gaining the cooperation of educational, medical, and social service providers. Projects must include procedures and planning for identification of handicapped children and youth such as those procedures mandated under Part B of the Education of the Handicapped Act, as amended. Approximately $480,000 is expected to be available for this competition.

(4) *Adaptation/Utilization of Curricula for Deaf-Blind Children and Youth.* This priority supports projects which implement innovative strategies to develop and demonstrate the effectiveness of individualized educational programming for deaf-blind children and youth. The curricula may include (a) new approaches unique to work with deaf-blind children and youth; (b) best practices currently in use with children and youth which have potential for being modified to meet individual differences; or (c) best practices in educational programming for other types of handicapped or non-handicapped age peers adapted to meet the educational needs of the deaf-blind children and youth. Approximately $480,000 is expected to be available for this competition.

(5) *Non-directed Demonstration Projects for Deaf-Blind Children and Youth.* This priority supports projects designed to demonstrate specific, viable procedures for meeting significant educational needs of deaf-blind children and youth. The content of the demonstration projects is limited only by the overall mission of the program—to demonstrate innovative and effective age-appropriate approaches to the education of deaf-blind children and youth in the least restrictive environments. Applicants proposing to conduct the projects must fully describe and justify the selection of the focus and particular approach to be demonstrated. Approximately $500,000 is expected to be available for this competition.

(6) *Independent Living Skills Training for Severely Handicapped Youth.* This priority supports projects which design, implement, evaluate, and disseminate innovative cost effective methods for the provision of independent living skills training for severely handicapped youth, ages 16 through 21 years of age, making the transition from "educational" to home/community environments. These approaches should be longitudinal in nature and build over time the highest possible level of independent, active, and cooperative functioning of these youth in a variety of integrated school and community settings. The projects should also be designed to increase both the quality and frequency of meaningful interactions of severely handicapped youth with handicapped and nonhandicapped peers and adults. Approximately $360,000 is expected to be available for this competition.

(7) *Parent Involvement in Provision of Educational Services and Life-Long Planning for Severely Handicapped Children and Youth.* This priority supports innovative projects designed to increase the involvement of parents or surrogates in the development, establishment, and evaluation of individualized educational programs for severely handicapped children and youth, and in the life-long planning for these persons. Projects should promote the organization and effective operation of parent groups in the identification and utilization of fiscal and personnel resources for ensuring quality educational services to severely handicapped children and youth. Parent groups may not engage in any type of advocacy activity. Approximately $360,000 is expected to be available for this competition.

(8) *Non-directed Demonstration Projects for Severely Handicapped Children and Youth.* This priority supports projects designed to demonstrate specific, viable procedures for meeting significant educational needs of severely handicapped (other than deaf-blind) children and youth. The content of the demonstration projects is limited only by the overall mission of the program—to demonstrate innovative and effective approaches to the education of severely handicapped children in least restrictive environments. Applicants proposing to conduct the projects must fully describe and justify the selection of the focus and particular approach to be demonstrated. Approximately $480,000 is expected to be available for this competition.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priorities. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the 30th day after publication of this document will be considered before the Secretary issues final priorities. All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Room 4918, Donohoe Building, 400 Sixth Street, SW., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(Catalog of Federal Domestic Assistance No. 84.086, Innovative Programs for Severely Handicapped Children)

Dated: February 7, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-3581 Filed 2-9-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Solicitation for a Single, Cost-Shared Grant to Develop and Produce a One Hour Long Television Documentary Film on Fusion Energy

AGENCY: Office of the Director of Public Affairs, DOE.

ACTION: Notice of solicitation.

SUMMARY: The U.S. Department of Energy (DOE) is issuing a solicitation for a single cost-shared grant, number DE-OF01-83ER54017, to develop and produce a one hour long television documentary film on fusion energy. The DOE will provide up to $10,000 for the development of the film and up to 25% for production of the film, for a total DOE share of the project funding not to exceed $50,000. The film will be the property of the grantee and will be subject to the usual limited rights provided to the Federal government. Complete applications are due by March 25, 1983.

ADDRESSES: Single copies of the solicitation can be obtained by writing to: U.S. Department of Energy, Office of Procurement Operations, ATTN: Document Control Specialist, Solicitation Number: DE-OF01-83ER54017, P.O. Box 2500, Washington, D.C. 20013.

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Issued in Washington, D.C., on February 4, 1983.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 83-3561 Filed 2-9-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP83-151-000]

Carnegie Natural Gas Co.; Application

February 7, 1983.

Take notice that on January 12, 1983, Carnegie Natural Gas Company (Applicant), 800 Regis Avenue, Pittsburgh, Pennsylvania 15236, filed in Docket No. CP83-151-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas to New Jersey Natural Gas Company (New Jersey Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas sales agreement dated December 14, 1982, Applicant proposes to sell 40,000 dt equivalent of natural gas per day on a best-efforts basis to New Jersey Natural. Applicant states that it would charge New Jersey Natural a price equal to that which Applicant pays Texas Eastern Transmission Corporation (Texas Eastern) plus $.03 per dt equivalent. The term of this agreement is for a period not greater than one year.

Applicant states that due to the depressed condition of its primary market, the steel manufacturing facilities of United States Steel Corporation in the Pittsburgh, Pennsylvania, area, its ability to sell natural gas has been severely impaired. As a consequence Applicant states that it expects to fall below its take-or-pay obligation with Texas Eastern. Applicant seeks to avoid imminent take-or-pay penalties by this proposed sale to New Jersey Natural.

The application states that New Jersey Natural would take delivery of the gas in Green County, Pennsylvania, at Texas Eastern's Measuring Station 008, 1275, or such other existing interconnection as mutually agreed to by buyer, seller, and Texas Eastern. Contingent on a contract for transportation, Texas Eastern, it is asserted, would transport the volumes to New Jersey Natural also at a mutually agreeable point.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 25, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on it own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3546 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4663-001]

Cookeville, Tennessee; Surrender of Preliminary Permit

February 7, 1983.

Take notice that the City of Cookeville, Tennessee, Permittee for the proposed Burgess Falls Hydroelectric Project No. 4663, has requested that its preliminary permit be terminated. The permit was issued on October 13, 1981, and would have expired on September 30, 1983. The project would have been located on the Falling Water River in Putnam County, Tennessee.

The Permittee filed its request on January 24, 1983, and the surrender of the preliminary permit for Project No. 4663 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3547 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER82-673-003 and ER82-673-004]

Kentucky Utilities Co.; Order Denying Rehearing

Issued: February 4, 1983.

On December 15, 1982, Kentucky Utilities Company (KU) filed a request for rehearing of the Commission's order of December 1, 1982, in which the Commission revised the suspension period for the Step I rates which apply to Jackson Purchase from one day to five months. The order also required KU to refund the difference between rates filed by KU and the charges that would have been collected under the rate previously in effect. On December 30, 1982, the Cities of Barbourville, Bardstown, Benham, Corbin, Falmouth, Madisonville, and Providence, Kentucky, the Electric and Water Plant Board of Frankfort, Kentucky, and Berea College, in Berea, Kentucky ("Municipals") also filed a request for rehearing of the December 1, 1982 order.

KU argues that the December 1, 1982 order is illegal to the extent that it requires KU to refund the entire difference between the charges under the lawfully filed and effective rate and the charges that would have been collected under the rate previously in effect. Additionally, KU argues that the attempt to retroactively alter the original September 22, 1982 order is illegal; that the Commission has departed from its practice of not allowing the suspensión period to become subject to debate; that the Commission original order suspending the rates to Jackson Purchase for one day was correct; and that the December 1 order will adversely affect the settlement process.

The Municipals also argue that the December 1 order was in error. They assert that the suspension policy articulated in *West Texas Utilities Co.*, 18 FERC ¶ 61,189 (1982), does not contemplate the Commission's differentiation among individual wholesale customers in determining the suspension period; that the Commission's disparate treatment of KU's wholesale customers represents a change in policy, which is procedurally invalid; that, in suspending Jackson Purchase's rates for a different length of time than those applicable to other

customers, the Commission has unlawfully discriminated among customers and prejudged the rate design issue in another docket (*i.e.*, whether Jackson Purchase should be in a separate class); and, finally, that KU's Step I rates produce substantially excessive revenues and should have been suspended for five months. Municipals request that the Commission revise the December 1, 1982 order to grant the other full requirements customers the same five month suspension of Step I rates as that granted to Jackson Purchase.

Discussion

Having considered the above arguments, the Commission concludes that the December 1, 1982 order is correct and that the requests for rehearing should be denied. A response to the above arguments is not necessary, except with respect to the Municipals' argument that the December 1, 1982 order unduly discriminates between Jackson Purchase and other customers.

In our view, the December 1, 1982 order does not unduly discriminate between these customers. KU has proposed a Step I rate increase to fourteen wholesale customers, including Jackson Purchase. KU directly assigned to Jackson Purchase certain radial transmission lines rather than "rolling-in" those facilities for cost allocation purposes. Jackson Purchase is the only customer affected by KU's rate increase which had transmission facilities directly assigned to it. The other customers were assigned transmission facilities on a "rolled-in" basis. "Differences in rates are justified where they are predicated upon differences in fact * * *" *St. Michael's Utility Commission* v. *FPC*, 377 F.2d 912, 915 (4th Cir. 1967). The different methods of allocating costs employed by KU result in different cost consequences to the customers and justify different suspension periods for Jackson Purchase and the remaining customers.

Commission orders:

(A) The requests for rehearing filed by KU and Municipals on December 15, 1982, and December 30, 1982, are hereby denied.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3548 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-160-000]

Michigan Wisconsin Pipe Line Co.; Request Under Blanket Authorization

February 7, 1983.

Take notice that on January 18, 1983, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP83-160-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to add a new delivery point to Northern Indiana Public Service Company (NIPSCO) at Monroe, Indiana, under the authorization issued in Docket No. CP82-480-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant proposes the construction and operation of a meter station for delivery of natural gas to NIPSCO at Monroe, Indiana. It is stated that sales of natural gas by Applicant to NIPSCO are made pursuant to the service agreement between the parties dated June 22, 1979, as amended. It is asserted the NIPSCO has requested the new delivery point to establish a new source of supply of natural gas to supply a currently existing distribution system and augment an existing source of supply which is not satisfactorily serving industrial, commercial, and residential natural gas requirements of the community of Monroe, Indiana. It is further stated that the maximum daily deliveries at the Monroe delivery point would not exceed 3,000 Mcf and that the deliveries are within NIPSCO's currently existing peak and annual entitlements.

Any person on the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act 18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 3559 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-154-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Request Under Blanket Authorization

February 7, 1983.

Take notice that on January 12, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-154-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157/205) that Northern proposes to abandon and remove certain measurement and branchline facilities used to provide deliveries of natural gas to Metropolitan Utilities District (MUD) at Omaha, Douglas County, Nebraska, and to reassign volumes of gas delivered at certain town border stations, under the authorization issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern states that by order issued in Docket No. G-14786 it was authorized to construct the subject measurement and branchline facilities, the Millard, Nebraska, Town Border Station No. 1, to provide natural gas service to MUD for resale in the city of Millard, Nebraska, which facility was later annexed and became part of the City of Omaha, Nebraska. However, Northern states that it is currently experiencing problems with the 3-inch branchline serving the Millard facility. Northern further states that the branchline is located in a heavily encroached residential area and crossed Hell Creek, a site of constant erosion.

Consequently, Northern proposes to abandon and remove the Millard, Nebraska, Town Border Station No. 1 and to abandon approximately 3.4 miles of 3-inch branchline. Northern states that MUD has agreed to extend its distribution facilities to serve Omaha prior to the proposed abandonment to assure continuity of service. In accordance with the above proposal, Northern further states that it would make additional deliveries to the existing Omaha, Nebraska, Town Border Station No. 1A for resale in Omaha.

Northern further states that no additional facilities would be required at the Omaha, Nebraska, Town Border Station No. 1A.

Any person or the Commission's Staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3549 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-162-000]

Northwest Central Pipeline Corp.; Request Under Blanket Authorization

February 7, 1983.

Take notice that on January 19, 1983, Northwest Central Pipeline Corporation (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP83-162-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to abandon by reclaim and in place certain lateral line and meter facilities in Butler County, Kansas, and to abandon the gas service through said facilities under the authorization issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that the 4-inch and 3-inch pipeline and metering facilities are no longer required as the pipeline was originally constructed in 1928 to make the sale of gas to Phillips Pipe Line Company at its Ramsey Pump Station. This station is no longer used by Phillips and no other customers are being served from this line, it is asserted. The estimated cost to reclaim these facilities is $5,660, with an estimated salvage value of $2,540, Applicant asserts. Applicant further requests approval to abandon the gas service through these facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the date after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3550 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-150-000]

Texas Eastern Transmission Corp.; Application

February 7, 1983.

Take notice that on January 12, 1983, Texas Eastern Transmission Corporation (Applicant), P.O. Box Box 2521, Houston, Texas 77252, filed in Docket No. CP83-150-000 an application pursuant to Section 7(c)(1) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for New Jersey Natural Gas Company (New Jersey), for a term of 6 months from the date of initial delivery, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that New Jersey has purchased a quantity of natural gas from Carnegie Natural Gas Company (Carnegie). Applicant proposes to receive from Carnegie, by displacement, quantities of natural gas up to a maximum daily transportation quantity of 40,000 dt equivalent per day for the account of New Jersey at the existing point of interconnection between Applicant and Carnegie located at Applicant's meter station 1275 in Green County, Pennsylvania, or at other mutally agreeable existing delivery points in Applicant's Zone C and to transport and redeliver equal quantities, less quantities retained for applicable shrinkage, to New Jersey at the existing point of interconnection between Applicant and New Jersey located at meter station 953 in MIddlesex County, New Jersey. It is stated that Applicant and New Jersey have executed a gas transportation agreement dated January 10, 1983.

New Jersey would pay Applicant under Applicant's presently applicable effective basis Rate Schedule TS-1, a rate of 18.72 cents per dt equivalent delivered by Applicant to New Jersey, it is explained. In addition, New Jersey would pay Applicant under Applicant's presently applicable effective Rate Schedule TS-1 excess rate 21.5 cents per dt equivalent delivered which, when added to quantities delivered by Applicant to New Jersey under Applicant's Rate Schedule TS-1, non-firm SS-II and other transportation agreements, exceed the combined total curtailment of natural gas sales to New Jersey under Applicant's firm sales rate schedules, it is stated. Applicant states that it would retain for applicable shrinkage an amount of gas equal to 5 percent of the quantities transported for the period from April 16 through November 15 of each year and 11 percent for the period from November 16 through April 15 of each year.

It is stated that the proposed service would enable New Jersey to implement its agreement to purchase gas from Carnegie and to help fulfill its need for a greater natural gas supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 25, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the

certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under thc procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3551 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP77-358-004]

Texas Gas Transmission Corp.; Motion To Vacate Order

February 7, 1983.

Take notice that on January 3, 1983, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP77-358-004 a motion pursuant to Section 385.212 of the Commission's Rules of Practice and Procedure (18 CFR 385.212) to vacate the order issued August 19, 1981, in Docket No. CP77-358, all as more fully set forth in the motion to vacate which is on file with the Commission and open to public inspection.

It is stated that by order issued August 19, 1981, the order issued August 5, 1977, as amended, in Docket No. CP77-358 was amended so as to authorize the transportation of up to 400 Mcf of natural gas per day for the account of Kerr Finishing Division of Allied Products Corporation (Kerr) for an additional one-year term commencing with the resumption of deliveries. It is further asserted that Kerr had requested Texas Gas to seek a one-year extension of its original authorization in order for Kerr to receive natural gas at one of its plants for which it has paid its producer and had not received.

Texas Gas asserts that due to difficulties with the well from which Kerr was to receive natural gas production, the resumption of the transportation service authorized herein did not commence. Texas Gas further asserts that Kerr has informed Texas Gas that it desires to cancel its existing transportation arrangement with Texas Gas.

Any person desiring to be heard or to make any protest with reference to said motion should on or before February 25, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3552 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-127-000]

Tidal Transmission Co.; Application

February 7, 1983.

Take notice that on December 13, 1982, Tidal Transmission Company (Applicant), 1200 Milam, Suite 3300, Houston, Texas 77002, filed in Docket No. CP83-127-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the facilities and service authorized in Docket No. CP68-323, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks to abandon pipeline facilities consisting primarily of 28.4 miles of 16-inch pipe, 39.6 miles of 12-inch pipe, 11.7 miles of 10-inch pipe, and 4.0 miles of 6-inch pipe. Applicant states such facilities are used in the transportation of natural gas from the West Cameron area, offshore Louisiana, to a point of interconnection with the facilities of Natural Gas Pipeline Company of America in Cameron Parish, onshore Louisiana. It is explained that the abandonment authorization is sought so that United States Natural Gas Corporation (US Natural) can acquire all the facilities of Applicant and assume the responsibility of delivering natural gas pursuant to all outstanding transportation arrangements currently held by, and being served by, Applicant.

Applicant's proposed abandonment and US Natural's acquisition are part of a planned corporate restructuring by their parent company, Tatham Pipeline Company. It is contended that the proposed arrangement is operationally more efficient.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 25, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3553 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP77-19-004 and RP78-88-012]

Transwestern Pipeline Co.; Acceptance of Withdrawal of Certain Exceptions by Operation of Rule 216

February 7, 1983.

Take notice that Transwestern Pipeline Company (Transwestern) on December 23, 1982, filed a Motion For Approval Of Interim Refund Reports And Conditionally for Withdrawal Of Certain Exceptions. Transwestern proposes to refund $38,562,177.48 on December 29, 1982. Such amount includes all amounts collected and held subject to refund in these dockets relating to Research, Development and Demonstration treatment (RD&D) of costs incurred by Transwestern in

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connection with the WESCO Coal Gasification Project, except for $13,876,167 associated with its alternative claim of amortization of such costs in these dockets. Conditioned upon approval of its interim refund report on or prior to December 29, 1982, Transwestern is proposing to withdraw exceptions filed by it in these dockets addressed to the issue of whether or not it is entitled to rate base treatment of such WESCO costs. It is not proposing to withdraw and continues to assert its exceptions with respect to whether it is entitled to amortize such costs.

On December 29, 1982, the Director of the Office of Pipeline and Producer Regulation, by letter order, accepted for filing and approved the Interim Refund Report. The acceptance, however, in conditioned upon approval by the Commission of Transwestern's motion for withdrawal of certain exceptions.

The subject filing was noticed on December 23, 1982. No filings in opposition were received prior to the expiration of the 15-day period. Accordingly, the motion for withdrawal of certain exceptions is deemed accepted on January 7, 1983, by operation of 216(b) of the Commission's Rules of Practice and Procedure, 18 CFR 385.216(b).

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3554 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-116-000]

United States Natural Gas Corp.; Application

February 7, 1983.

Take notice that on December 6, 1982,[1] the United States Natural Gas Corporation (Applicant), 1200 Milam, Suite 3300, Houston, Texas 77002, filed in Docket No. CP83-116-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of the facilities and the rendition of natural gas services of Tidal Transmission Company (Tidal) and West Lake Arthur Corporation (WLAC), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this application is to obtain the necessary authorization enabling Applicant to assume the rights and obligations of Tidal under a certificate of public convenience and necessity issued September 4, 1968, in Docket No CP68-323, as amended , and to assume the rights and obligations of WLAC under certificates of public convenience and necessity issued in Docket Nos. CP80-225 and CP81-115, on April 15, 1980, and January 26, 1982, respectively. Applicant proposes to succeed to the facilities and services of Tidal and WLAC, wholly-owned subsidiaries of Tatham Pipeline Company (Tatham) pursuant to a proposed corporate reorganization of the divisions and subsidiaries of Tatham. Applicant states that it would perform all authorized obligations of Tidal and WLAC.

The facilities proposed to be acquired from Tidal include 28.4 miles of 16-inch pipe, 39.6 miles of 12-inch pipe, 11.7 miles of 10-inch pipe, 4.0 miles of 6-inch pipe, and several taps. Applicant states that the facilities are used in the transportation of natural gas from the West Cameron area, offshore Louisiana, to a point of interconnection with the facilities of Natural Gas Pipeline Company of America in Cameron Parish, onshore Louisiana.

The facility proposed to be acquired from WLAC is a 1.8-mile length of 8-inch pipeline located in West Lake Arther Field, Jefferson Davis Parish, Louisiana. Authorization granted in Docket No. CP81-115 allowed WLAC to utilize the facility in the sale of gas to its affiliate, WLA-Distribution, it is explained.

Applicant proposes to operate the facilities of Tidal and WLAC as an integrated pipeline system and would adopt the currently effective rate schedules of Tidal and WLAC. It is indicated that the reorganization would be accomplished by a stock for stock exchange and Applicant would assume all of the facilities of Tidal and WLAC and all related financial and service obligations of the two companies.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 25, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3555 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[1] This application was initially tendered for filing on December 8, 1982, however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until December 8, 1982; thus, filing was not completed until the latter date.

[Docket No. EL82-26-000]

West Florida Electric Cooperative Association, Inc. and Alabama Electric Cooperative, Inc. v. Gulf Power Company; Order on Complaint, Electric Rates

Issued: February 4, 1983.

On September 1, 1982, West Florida Electric Cooperative Association, Inc. (West Florida) and its power supply agent, Alabama Electric Cooperative, Inc. (AEC), filed a complaint against Gulf Power Company (Gulf) protesting Gulf's alleged unlawful over-collection of monies for wholesale electric serviced in violation of the tariff [1] and contracts governing wholesale service to West Florida. West Florida requests that the Commission direct Gulf to: (1) Cease calculating its bills in a manner which is inconsistent with Gulf's filed tariff and which results in duplicative charges to West Florida; (2) render an accounting of the alleged overcharges commencing with the June, 1981 billings through July, 1982;[2] and (3) remit to West Florida such

[1] West Florida receives partial requirements service at several delivery points under Wholesale Service Schedule RE, Gulf's FERC Electric Tariff, Second Revised Volume No. 1.

[2] West Florida stated in the September 1, 1982 complaint that AEC's staff computed the overcharges for this period to be $167,366.10. This

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monies unlawfully collected together with appropriate interest. On October 18, 1982, Gulf filed an answer denying the allegations of the complaint and requesting that the Commission summarily reject West Florida's claims.[3] Gulf asserts that there is no factual dispute, that it has properly billed West Florida under the tariff, and that West Florida's complaint merely attempts to shift to Gulf the burden of West Florida's failure to seek timely modification of its service agreements with Gulf.

West Florida, subsequently, moved for waiver of Rule 213 to respond to Gulf's answer.[4] Gulf opposed West Florida's motion.

Tariff Provision

This complaint concerns the interpretation of the parties' rights and obligations under the tariff and service agreements governing Gulf's service to West Florida. The principle tariff provision at issue ("Determination of Billing Capacity") states in pertinent part:

> The kilovolt-ampere billing capacity requirement shall be based on the Customer's maximum integrated fifteen (15) minute capacity requirement to the nearest kilovolt-ampere during each service month, less the capacity allocation (if any) from the Southeastern Power Administration, appropriately adjusted to preclude the duplication of any actual demand that may have been occasioned by switching of load between delivery points, provided such capacity shall not be less than seventy-five percent (75%) of the capacity established during any of the eleven (11) preceding months and in no case shall such capacity be less than seventy-five percent (75%) of the contract capacity nor less than one thousand (1,000) kilovolt-amperes.
>
> When allocations from Southeastern Power Administration are initiated or changed or when a new delivery point is added at a point on the then existing system of the Company, the previous eleven monthly capacity requirements at each delivery point from which load is transferred shall be reduced, for the purpose of future determinations of the billing capacity requirements hereunder, to reflect the capacity requirements that would have been recorded had such new delivery point been in existence during such eleven-month period and the contract capacity at the delivery point from which the load is transferred shall be similarly adjusted.

West Florida asserts that under the terms of the tariff, billing capacity is used to determine the monthly demand charge and transmission voltage discounts. Such billing capacity is the actual monthly peak demand at each delivery point less the customer's capacity allocation (if any) to that delivery point from the Southeastern Power Administration (SEPA), subject to Gulf's ratchet clause and a minimum billing provision. In addition, West Florida states that under two circumstances the tariff provides for relaxation of the ratchet: (1) Addition of a new delivery point and (2) a change in its SEPA allocation which results in an equivalent change in its demand from Gulf. Without this provision, West Florida states that it would be obligated to pay SEPA for a new entitlement and to continue to pay Gulf for the same loan increment through operation of the ratchet. According to West Florida, the purpose of the tariff provision is to prevent such duplicative charges to the Cooperative when SEPA allocations are increased.

The pleadings indicate that on or about June 1, 1981, SEPA increased its allotment to West Florida following notice of such change to Gulf as required by SEPA's contract with Gulf. Despite this increase in the SEPA entitlement, Gulf continued to calculate its bills to West Florida on the basis of the contract demand last specified by West Florida in an executed service agreement. West Florida apparently continued to pay those bills without objection for approximately one year at which time it objected to Gulf's billing practices and asserted that, as a result of the increased SEPA entitlement, West Florida's billing capacity and contract capacity should have been modified by Gulf.[5] Because no such adjustment had been made, West Florida asserted that it had been subject to overcharges since June 1, 1981.

West Florida states in its complaint that Gulf has refused to rectify the alleged overcharge practice and reasons that Gulf's refusal to do so is inconsistent with the tariff provision quoted above. It is West Florida's view that independent notice of a change in SEPA entitlement is neither necessary nor required by the tariff, particularly inasmuch as SEPA itself provides Gulf with notice of increases in West Florida's SEPA allocation.

Gulf supports its request for summary rejection of West Florida's complaint by arguing that: (1) The tariff and service contracts, construed as a whole, require that the contract capacity for a delivery point may be changed only by written supplements; [6] (2) West Florida's conduct prior to June, 1982 demonstrates that West Florida and Gulf had a common understanding of both the nature of the contract capacity provision in the tariff and the requirement of amending the applicable service agreement when capacity needs from Gulf changed due to changes in SEPA capacity allocations; [7] and (3) a revision in contract capacity for billing purposes would require a revision of West Florida's delivery specifications since, for Gulf to apply the billing demand ratchet to other than the stated contract capacities would be a violation of the filed rate schedule. Gulf contends that it properly billed West Florida under the tariff throughout the period in question.

Discussion

Initially, we shall grant West Florida's motion for waiver of Rule 213 of the Commission's Rules of Practice and Procedure. Because no questions of fact are presented for hearing and the Commission is asked to resolve this matter on the basis of the pleadings, we are reluctant to summarily exclude any pertinent information. Furthermore, we believe it appropriate to allow West Florida to advise the Commission that its statement of the amount in controversy had been miscalculated.

Our review of the pertinent tariff provision indicates that West Florida is not required to provide written notification of a change in its SEPA allocation or to request an adjustment in its contract capacity before a reduced contract capacity is reflected in Gulf's

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figure was subsequently modified. *See* footnote 4, *infra*.

[3] The pleadings indicate the parties' agreement that there are no material questions of fact in dispute and that the issues presented should be resolved on the basis of the pleadings rather than on evidentiary hearing.

[4] In its response, West Florida recomputes the overcharges to reflect a credit adjustment for July, 1982, based on Gulf's change in contract capacity for that month. Gulf's change was based on its determination that West Florida had submitted a written request for a service agreement modification. The overcharge is computed to be $147,794.68 for the period commencing June, 1981, through June, 1982.

[5] By letter dated June 8, 1982, West Florida informed Gulf that contract capacities for all delivery points should have changed as of June 1, 1981. Gulf responded on July 23, 1982, stating that changes in SEPA allocations have no effect on the contract capacity at any delivery point for determination of minimum billing capacity requirement and that absent West Florida's express request for a change in contract capacity through the normal contract supplements, there would be no change in contract capacity.

[6] Gulf refers to various tariff sections (including sections 9 and 10) which, according to Gulf, preclude West Florida's interpretation of the "Determination of Billing Capacity" provisions. However, sections 9 and 10 relate to consumer requests for increases in capacity and to the contract term and termination provisions. Neither section addresses changes in SEPA allocations, an issue specifically addressed in the billing section of the tariff.

[7] Gulf has supplied copies of contract capacity supplements submitted by West Florida following prior changes in SEPA capacity allocations in December, 1980, to demonstrate West Florida's earlier compliance with Gulf's tariff interpretation.

billings to West Florida. The portion of the tariff relevant to a change in West Florida's SEPA allocation provides in part as follows:

> When allocations from Southeastern Power Administration are initiated or changed * * * [the billing capacity requirements shall be reduced] and the *contract capacity* at the delivery point from which the load is transferred *shall be similarly adjusted.* (emphasis added).

Despite Gulf's assertions concerning the parties' prior or subsequent conduct, we find that this provision of the billing capacity determination clause provides on its face for an automatic billing adjustment to reflect changes in West Florida's SEPA allocation. The language expressly and unambiguously requires adjustments in the "contract capacity" as well as in the billing capacity.

We do not find it necessary to address each of Gulf's arguments in detail since we believe that the tariff language is clear on its face. Furthermore the remaining tariff provisions cited by Gulf cannot be relied upon to negate this conclusion; sections 9 and 10 of the tariff are silent with respect to changes in West Florida's SEPA allocations and such sections cannot be construed to limit or affect the express language contained in the billing demand provision. With respect to Gulf's suggestion that without written notification from West Florida a change in contract capacity would violate the filed rate schedule, we note our disagreement. As we have explained, the tariff effectively provides that a contract demand adjustment and associated billing reduction will be made automatically at such time as a change in SEPA entitlement becomes effective. The change should be accompanied by a revised service agreement specifying the then-effective contract demand, but the obligation to file an updated service agreement under Part 35 of the regulations rests on Gulf, the jurisdictional utility, rather than on West Florida. Finally, we would add that the Commission is not persuaded by Gulf's argument that West Florida's failure to provide notice of a revised contract capacity or to expressly request implementation of the tariff provision effects an operational burden on Gulf. In view of SEPA's advance notification to Gulf of the change in West Florida's allotment, Gulf should be subjected to no element of surprise.

The Commission finds that Gulf has deviated from the express billing requirements contained in its filed tariff. We shall therefore order relief as provided below.

The Commission orders:

(A) West Florida's motion for waiver of Rule 213 is hereby granted.

(B) Gulf shall cease billing West Florida in a manner inconsistent with Gulf's tariff as construed in this order.

(C) Gulf shall render an accounting of all past overcharges consistent with the Commission's tariff interpretation as expressed in this order within thirty (30) days of the date of this order.

(D) Within fifteen (15) days after such accounting has been made Gulf shall refund all such overcharges together with interest computed in accordance with section 35.19a of the Commission's regulations.

(E) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3557 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-158-000]

West Lake Arthur Corp.; Request Under Blanket Authorization

February 7, 1983.

Take notice that on January 18, 1983, West Lake Arthur Corporation (Applicant), 1200 Milam, Houston, Texas 77002, filed in Docket No. CP83-158-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to add a new delivery point for Cajun Natural Gas Company (Cajun) under the authorization issued in Docket No. CP82-525-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that it has recently contracted with Tenneco Oil Company, a Division of Tenneco Inc., for an additional supply of gas which would enable Applicant to deliver an additional 40,000 Mcf of gas per day to Cajun. To effectuate delivery of such gas, Applicant proposes to deliver gas to Cajun at a new delivery point located at the interconnection of the pipelines of Sugar Bowl Gas Corporation (Sugar Bowl) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc., in Terrebonne Parish, Louisiana. Sugar Bowl, it is asserted, would transport such gas from the proposed point for Cajun. The end-use of the gas delivered to Cajun would not be changed nor would the total volumes delivered to Cajun exceed the authorized amount, it is stated.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3558 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-149-000]

Western Slope Gas Co.; Application

February 7, 1983.

Take notice that on January 12, 1983, Western Slope Gas Company (Applicant), P.O. Box 840, Denver, Colorado 80201, filed in Docket No. CP83-149-000 an application pursuant to § 284.127 of the Commission's Regulations authorizing Applicant to transport natural gas for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), for a term in excess of two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to the terms of a gas transportation agreement dated July 1, 1982, it began transportation service for Northern on November 18, 1982. Applicant states that it is requesting authority to provide service for Northern through November 18, 1997. Applicant asserts that Northern would deliver volumes of natural gas for its account in Boulder County, Colorado, and Applicant would redeliver the gas to Northern in Adams or Weld Counties, Colorado. Applicant further states that the estimated annual quantities of gas to be delivered are 1,971 billion Btu annually with an estimated maximum daily delivery of 27 billion Btu.

Applicant proposes to charge Northern $0.3442 per million Btu which Applicant asserts is the cost of service as calculated under the methodolgy approved in Applicant's Docket No. CP81-345-000 proceeding.

The proposal would allow Northern to receive gas supplies that are either remote from or expected to be remote from Northern's existing pipeline systems, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 25, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3556 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-144-000]

ANR Storage Co.; Application

February 8, 1983.

Take notice that on January 6, 1983, ANR Storage Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP83-144-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity, authorizing a natural gas storage service for Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), development and operation of a gas storage field, drilling and operation of certain wells, and construction and operation of certain metering and other appurtenant facilities and a petition pursuant to § 385.207 of the Commission Rules of Practice and Procedure (18 CFR 1.7(c)) for a declaratory order clarifying the jurisdictional status of certain facilities and service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a gas storage agreement dated December 20, 1982, Michigan Wisconsin would deliver or cause to be delivered to Applicant for storage up to 45,000,000 Mcf of gas, in aggregate, at an existing point of interconnection between the pipeline systems of Applicant and Great Lakes Gas Transmission Company (Great Lakes) in Frederic Township, Crawford County, Michigan. Michigan Wisconsin, it is asserted, would be solely responsible under existing agreements with Great Lakes for all transportation and/or exchange arrangements necessary for delivery and redelivery of the storage gas at such point. It is stated that the agreement provides for injection of the storage gas during the period from April 1 through August 31 in the years 1983 through 1987 at rates up to 190,000 Mcf per day. During the periods November 1 through March 31 of the years 1984-85 through 1992-93, the agreement provides that Applicant would withdraw from storage and redeliver for Michigan Wisconsin's account daily quantities up to 100,000 Mcf per day.

Because Applicant would be unable to redeliver from storage significant daily quantities of gas without installation of additional compression facilities when the volume of gas in storage is less than 10,000,000 Mcf, it is asserted that the agreement provides that Applicant and Michigan Wisconsin would agree upon the maximum daily withdrawal quantities and the required additional compression facilities in advance of such occurrence so that Applicant can seek and obtain appropriate authorization from the Commission to install such additional compression facilities and make any necessary adjustment in charges related thereto.

It is stated that Michigan Wisconsin would supply injection compressor fuel equal to 1.4 percent of the volumes delivered for storage. All volumes withdrawn from storage for Michigan Wisconsin's account would be reduced before redelivery by 0.1 percent which percentage Applicant would retain as compensation for its compressor fuel usage, Applicant submits.

Because Applicant would use certain of its existing storage facilities in the provision of the proposed storage service, it is submitted that the agreement contains provisions permitting Applicant to reschedule the daily quantities of gas to be delivered or redelivered on any day that Applicant determines such rescheduling is necessary to prevent the impairment of Applicant's ability to meet its obligations to its other storage service customers. Applicant states further that the agreement also contains provisions for injection and withdrawal of excess daily quantities during the injection and withdrawal periods stated therein when Applicant is able to do so without jeopardizing its ability to meet its other obligations and for injection and withdrawal of such daily quantities during other periods as would be mutually agreeable.

Applicant states that Michigan Wisconsin would pay monthly a demand charge of $557,700 and a commodity charge of 19.86 cents per Mcf multiplied by the volumes of gas delivered and/or redelivered during the preceding month with provision for a credit against such monthly charges if Applicant fails to accept delivery of volumes, up to the specified maximum daily injection quantity, tendered for storage during an injection period and Applicant cannot make up such deficiency within the time permitted. The agreement, it is asserted, is for a ten year term commencing on April 1, 1983, or such later date when Applicant shall notify Michigan Wisconsin that its storage facilities are completed and ready to accept deliveries.

In order to provide the proposed storage service, Applicant proposes to develop a substantially depleted natural gas fied, the Blue Lake 18A Gas Field in Blue Lake Township, Kalkaska County, Michigan, as a natural gas storage field with a total working storage capacity of 45,000,000 Mcf for the type of storage service being proposed. Applicant expects to acquire all necessary oil and gas leases, property interests, storage and mineral rights and gas production rights necessary for conversion of such field to a natural gas storage field for approximately $49.7 million. Applicant would arrange for the continued production of the remaining recoverable intrastate gas reserves in the Blue Lake 18A Field which are committed under existing gas purchase contracts, it is explained.

To do so, Applicant proposes, upon acquisition, to sell the Blue Lake 18A Field, at its net book value, to ANR Intrastate Storage Company (ANR Intrastate), a wholly-owned subsidiary of Applicant. Concurrently with such sale, ANR Intrastate would, it is explained, lease back to Applicant for a ten year term the property, rights and interests necessary for conversion of the Blue Lake 18A Field to a natural gas storage field. It is stated that such leaseback would exclude the production rights and wells and surface production equipment and facilities which ANR Intrastate would require for continued production of the remaining recoverable intrastate gas reserves in the Blue Lake 18A Field in a manner which would satisfy convenants in the aforementioned existing gas purchase contracts which proscribe the dedication of such gas reserves to interstate commerce by segregating ANR Intrastate's gas production activities in the Blue Lake 18A Field

from Applicant's interstate natural gas storage operations.

Applicant states that it would pay to ANR Intrastate, as rent, an amount equivalent to the difference between (a) ANR Intrastate's costs of producing such remaining recoverable gas reserves, including a return on ANR Intrastate's production and storage properties equivalent to that most recently allowed by the Commission on Applicant's natural gas storage facilities and (b) ANR Intrastate's revenues from the sale of such remaining recoverable gas reserves and any condensate which may be recovered. The rental payments have been structured to assure that ANR Intrastate would earn no more than the return on its property which the Commission allows for Applicant, it is submitted.

To provide the proposed storage service, Applicant asserted that it would use its existing 36-inch pipeline, 24-inch lateral and Cold Springs 12 Compressor Station and would construct at such station certain additional facilities including gas metering, heating and regulating facilities and facilities for the removal of water and liquid hydrocarbons from the gas during withdrawal operations from the Blue Lake 18A Field. The reworking of two existing production wells, the drilling of two new injection/withdrawal wells, and the construction of a storage field gathering system and appurtenances, including 1.2 miles of 12-inch pipeline from such station to the Blue Lake 18A Field would also be required, it is stated.

Applicant estimates that the total cost of the proposed facilities will be $9,600,000 which would be financed with funds generated internally, together with borrowings from banks under short-term lines of credit which would be repaid from funds generated internally and from proceeds of long-term debt securities to be issued after the facilities are placed in service.

Finally, Applicant states that it is necessary to ensure that the existing non-jurisdictional gathering and processing facilities belonging to certain Michigan gas distribution companies, or their intrastate suppliers, which would include ANR Intrastate, remain free of Commission jurisdiction. Applicant states that such non-jurisdictional facilities include the intrastate gas gathering and production facilities which are commonly referred to as the "Wet-Header System" and which are located in the northern part of the Lower Peninsula of Michigan. Applicant indicates that these facilities would continue to be used exclusively for the purpose of gathering and processing gas which would be distributed within the State of Michigan.

Accordingly, Applicant requests that, at such time as the Commission issues an order in this proceeding authorizing the proposals described herein, it also determines that the "Wet-Header System" and associated processing facilities remain free from federal jurisdiction. Applicant further requests that the Commission declare that the aforementioned lease would not subject ANR Intrastate to, and ANR Intrastate's production and gathering facilities which would not be leased to Applicant would not be made subject to, the jurisdiction of the Commission under the Natural Gas Act and that no gas reserves subject to contracts between certain Michigan gas distribution companies and their intrastate suppliers including ANR Intrastate would be made subject to the Natural Gas Act nor have their status under the Natural Gas Policy Act of 1978 affected, in any way, by the proposals herein.

Applicant submits that the proposed storage service is and will be required by the present and future public convenience and necessity in that Michigan Wisconsin requires the additional storage capacity to deal with the temporary excess of gas supply presently being experienced by Michigan Wisconsin due to economic recession in its major service areas.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3661 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-297-000]

Arkansas Power & Light Co.; Filing

February 7, 1983.

Take notice that on February 1, 1983, Arkansas Power & Light Company (AP&L) tendered for filing proposed changes in its rates and charges to 3 municipalities and 2 cooperatives in Arkansas, as reflected in proposed Rate Schedule WA83, and to one public utility delivery point and 2 municipal distribution systems in Missouri as reflected in proposed Rate Schedules MU83, C83 and T83. The proposed changes would increase revenues from jurisdictional sales and services to these customers by $9,796,818, based on billing determinants for the 12 month period ending December 31, 1983.

AP&L also submitted as part of the filing a Settlement Agreement with its Arkansas Customers, containing a proposed Settlement Rate Schedule WA83S. AP&L proposes an effective date of April 2, 1983.

AP&L states that the proposed increase rates are necessitated by the fact that it is realizing an unreasonably low rate of return on sales to its affected jurisdictional customers.

Copies of this filing have been served upon AP&L's jurisdictional customers, Arkansas Public Service Commission, the Louisiana Public Service Commission, the Missouri Public Service Commission and the Tennessee Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24,

1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3662 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-298-000]

Centel Corp., Western Power Division; Filing

February 7, 1983.

Take notice that on February 1, 1983, Centel Corporation (Centel) Western Power Division, tendered for filing the following proposed rate schedules:

Rate Schedule 83-CWH-2, replacing Rate Schedule 82-CWH2, for service to ten rural electric distribution cooperatives (the RECs);

Rate Schedule 83-MWH-5, replacing Rate Schedule 82-MWh-5, for service to 11 distribution municipalities (the Municipals);

Service Schedule 83-A, replacing Service Schedule 82-A, for firm partial requirements service to Midwest Energy, Inc. (Midwest Energy);

Service Schedule 83-A-1, replacing Service Schedule 82-A-1, for firm partial requirements service to the cities of Anthony, Attica, Beloit, Hoisington, Kingman, Osborne, Pratt, Stockton, Russell, and Washington, Kansas (the Firm Municipals);

Transmission Tariff 83-TSv-1, replacing Transmission Tariff 82-TSv-1, for firm transmission service to Kansas Electric Power Cooperative, Inc. (KEPCo).

Centel states that the proposed rate schedules set forth increased rates designed to produce an increase in revenues from jurisdictional sales and service of $2,343,515 based on the twelve month period ending June 30, 1984, and will increase revenue by 8.95% for service to the RECs, 17.08% for service to the Municipals, 27.24% for service to Midwest Energy, 13.45% for service to the Firm Municipals and 28.05% for service to KEPCo. Centel further states that its proposed increases in rates are due to the increasing cost of providing service, including the addition of new coal-fired generating capacity.

Centel proposes an effective date of April 2, 1983.

Copies of this filing were served upon each of the wholesale customers affected by this filing and the Kansas State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3663 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER 83-300-000]

Connecticut Light & Power Co.; Filing

February 7, 1983.

Take notice that on February 2, 1983, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule change with respect to a gas turbine sales agreement dated May 1, 1982 (Amendment) between (1) CL&P, the Hartford Electric Light Company (HELCO), Western Massachusetts Electric Company (WMECO), (together, the NU Companies) and (2) Central Vermont Public Service Company (CVPS).

CL&P states that the Amendment provides for changes to a gas turbine sales agreement between the same parties dated as of August 15, 1977 (the Agreement). The requested changes include (1) extension of the term of the Agreement, (2) modification of the amounts of capacity sold, (3) removal of three gas turbine units from the Agreement, (4) a redetermination of the capacity charges to be paid by CVPS and (5) a redetermination of the transmission charges to be paid by CVPS.

CL&P further states that the capacity charge rate is a monthly rate equal to one-twelfth of the estimated annual costs of each gas turbine generating unit and is determined in accordance with Schedule A of the Amendment. The monthly capacity charge is determined as the product of (i) the appropriate weighted average capacity charge rate ($/kW-month) and (ii) the total kilowatts of capacity which CVPS is entitled to receive in each month pursuant to the Amendment.

CL&P indicates that the transmission charge rate is a monthly rate equal to one-twelfth of the estimated annual average cost of service on the transmission system of the NU Companies. The monthly transmission charge is determined as the product of (i) the appropriate transmission charge rate ($/kW-month), and (ii) the total kilowatts of capacity which CVPS is entitled to receive in each month pursuant to the Amendment.

CL&P requests an effective date of May 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to HELCO, WMECO and CVPS.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3664 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-293-000]

Idaho Power Co.; Filing

February 7, 1983.

Take notice that on January 31, 1983, Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1976, a summary of sales made under the Company's 1st Revised Electric Tariff Volume No. 1 along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company, Supplement 14

Montana Power Company, Supplement 12

Sierra Pacific Power Company, Supplement 11

Portland General Electric Company, Supplement 4

Puget Sound Power & Light Company, Supplement 11
Southern California Edison Company, Supplement 8
San Diego Gas & Electric Company, Supplement 10
Los Angeles Dept of Water & Power, Supplement 10
City of Burbank, Supplement 10
City of Glendale, Supplement 10
City of Pasadena, Supplement 10

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3665 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP83-146-000; CP80-119-005]

Michigan Wisconsin Pipe Line Co. et al.; Application and Petition

February 8, 1983.

Take notice that on January 11, 1983, Michigan Wisconsin Pipe Line Company (Mich Wisc), One Woodward Avenue, Detroit, Michigan 48266, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP83-146-000 a joint application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Mich Wisc to acquire by purchase and operate certain pipeline facilities in Block 250, offshore Louisiana, and for permission and approval of the abandonment of such facilities by Columbia Gulf and Texas Gas. Take notice that on January 11, 1983, Mich Wisc filed in Docket No. CP80-119-005 a petition to amend the order issued June 12, 1980, in Docket No. CP80-119-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize construction as required following the purchase of facilities from Columbia Gulf and Texas Gas. These proposals are all as more fully set forth in the application and petition to amend which is on file with the Commission and open to public inspection.

Columbia Gulf and Texas Gas propose to abandon by sale to Mich Wisc 1,950 feet of 18-inch pipeline, tie-in line and platform piping, which connect Mich Wisc's 24-inch mainline to Columbia Gulf and Texas Gas's Platform "A" in Block 250. Applicants state that the proposed purchase of facilities by Mich Wisc would eliminate the need for Mich Wisc to install a new four-pile manifold platform authorized by the order of June 12, 1980, issued in Docket No. CP80-119-000. Mich Wisc proposes instead to construct a deck between two existing platforms in Block 250.

Applicants propose the foregoing sale and purchase of facilities pursuant to an agreement dated June 1, 1982. Applicants state that the purchase price would be the depreciated book value of the subject facilities as of January 1, 1983. It is stated that the purchase of facilities and modification of construction authorization in Docket No. CP80-119-000 would improve Mich Wisc's pipeline operations and eliminate unneeded construction.

Any person desiring to be heard or to make any protest with reference to said application and petition should on or before February 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on the application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3666 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-163-000]

Montana-Dakota Utilities Co.; Application

February 8, 1983.

Take notice that on January 19, 1983, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP83-163-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Frannie-Deaver Utilities (Frannie) for resale and the construction and operation of facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas to Frannie, a natural gas distribution company, for resale. It is stated that service to Frannie would be under Applicant's FERC Gas Tariff, Original Volume No. 4. Applicant further states that the point of delivery of gas to Frannie would be at Applicant's existing Southeast Polecat Compressor Station, Park County, Wyoming, by means of proposed positive meter and regulator setting to be located in an existing meter building. It is stated that the estimated total cost of construction for the facility is $4,461, which cost would be financed by means of a combination of internally generated funds and external financing.

The proposed service, it is stated, would be primarily peak day so that Frannie would be able to serve its residential and small commercial customers in and around the towns of Frannie and Deaver, Wyoming, and various oil fields, ranches and houses in the same areas.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 1983, file with the Federal Energy Regulatory Commission,

Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commisson or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3667 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-145-000]

Natural Gas Pipeline Co. of America; Request Under Blanket Authorization

February 8, 1983.

Take notice that on January 11, 1983, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP83-145-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Natural proposes to increase natural gas deliveries to Iowa-Illinois Gas and Electric Company (Iowa-Illinois) at a particular delivery point and to construct and operate appurtenant facilities necessary therefor under the authorization issued in Docket No. CP82-402-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural proposes to make certain minor adjustments at the Muscatine/West Liberty delivery point, Muscatine County, Iowa, to effectuate a requested increase in the volumes of gas delivered to Iowa-Illinois at that point. This increase in peak flow deliverability from 4,133 Mcf per day to 9,970 Mcf per day would have no effect on Iowa-Illinois' total entitlements or contract quantity, it is explained. It is stated that the increased deliverability at Muscatine/West Liberty would enable Iowa-Illinois to serve increased gas volume requirements by North Star Steel Company which would use the gas for process purposes. Natural estimates the cost of the facility changes to be $41,000 which would be financed from funds on hand.

Natural states that the proposed action is not prohibited by its existing tariff and that it has sufficient capacity to accomplish the proposed change in deliveries to Iowa-Illinois without detriment or disadvantage to its other customers. Natural states that the proposed increased delivery of the Muscatine/West Liberty delivery point would effectively have no impact on Natural's system wide peak day and annual deliveries.

Any person or the Commission's staff may file, within 45 days after issuance of the instant notice by the Commission, pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214), a motion to intervene or notice of intervention and, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3668 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-299-000]

Public Service Co. of New Mexico; Filing

February 7, 1983.

Take notice that Public Service Company of New Mexico (PNM) tendered for filing on Feburary 1, 1983 proposed changes in rates to five wholesale customers, namely Department of Energy—Los Alamos (DOE), the City of Farmington, New Mexico (Farmington), Plains Electric Generation and Transmission Cooperative, Inc. (Plains) Texas-New Mexico Power company (TNP), and to the City of Gallup, New Mexico (Gallup). The proposed changes would increase revenues from the sales and services to wholesale customers other than Gallup by $10,435,000 and would increase revenues from the sales and services to PNM's wholesale customer Gallup by $1,353,000.

PNM proposes an effective date of April 2, 1983.

Copies of the filing were served upon the public utility's jurisdictional customers being served under these rate schedules and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secetary.

[FR Doc. 83-3670 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-294-000]

Southern California Edison Co.; Filing

February 7, 1983.

Take notice that on January 31, 1983, Southern California Edison Company (SCE) tendered for filing a change of rates for network transmission service as embodied in SCE FPC Electric Tariff Original Volume No. 1, Contract Rate TN.

SCE proposes an effective date of April 1, 1983.

Copies of this filing were served upon the Public Utilities Commission of the State of California, the California cities of Anaheim, Azusa, Banning, Colton, Riverside, and Vernon, and the Southern California Water Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3671 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-295-000]

Southern California Edison Co.; Filing

February 7, 1983.

Take notice that on January 31, 1983, Southern California Edison Company (SCE) tendered for filing a change of rates for Off-Peak Energy sold by SCE to State of California, Department of Water Resources under the terms and conditions of the "Contract Between State of California and California Companies for the Sale, Interchange and Extra High Voltage Transmission of Electric Capacity and Energy" (EHV Contract), SCE Rate Schedule FPC No. 38.

SCE proposes an effective date of April 1, 1983.

Copies of this filing were served upon the Department of Water Resources and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3672 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-296-000]

Southern California Edison Co.; Filing

February 7, 1983.

Take notice that on January 31, 1983, Southern California Edison Company (SCE) tendered for filing a notice of determination of initial rates for interruptible and firm transmission service, scheduling and dispatching and transmission loss accounting charges under the terms and conditions of the Edison-CDWR Power Contract between SCE and State of California Department of Water Resources (Rate Schedule FERC No. 112).

SCE proposes an effective date of April 1, 1983.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the State of California Department of Water Resources.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3673 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-11-000]

Sun Exploration & Production Co.; Petition for Declaratory Order

February 8, 1983.

On January 25, 1983, Sun Exploration and Production Company (Petitioner), P.O. Box 20, Dallas, Texas 75221 filed a petition pursuant to section 385.207 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, and the Administrative Procedure Act, 5 U.S.C. 554(e). Petitioner requests an order of the Commission declaring that the Texas ad valorem tax is a "state severance tax" as described in section 110(c) of the Natural Gas Policy Act (15 U.S.C. 3301-3432 (Supp. V 1982)) (NGPA). More specifically, the Petitioner requests an order declaring that the Texas ad valorem tax when assessed on a mineral estate is a state severance tax in accordance with section 110(c) of the NGPA, and section 271.1101(a)(1) of the Commission's regulations which when borne by the seller may be added to the first sale price without exceeding the maximum lawful price under Title I of the NGPA.

Any person desiring to be heard or to protest Sun's request for a declaratory order should file within 30 days after publication of this notice in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a protest or petition to intervene in accordance with the requirements of the Commission's rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered but will not make the protestants parties to the proceeding. Any party wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3674 Filed 2-9-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-156-000]

Transcontinental Gas Pipe Line Corp., et al.; Application

February 8, 1983.

Take notice that on January 17, 1983, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP83-156-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities in the offshore Texas area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have contracted with Shell Offshore Inc. (Shell Offshore) to purchase 100 percent of the gas reserves underlying Brazos

Area, Block A–23, offshore Texas. To connect these reserves, Applicants propose to construct and operate in the Brazos Area, approximately 8.14 miles of 12-inch pipeline extending from a production platform A in Brazos Block A–23 to existing jointly-owned facilities of Applicants in Brazos Block A–20 which existing facilities are in-turn connected to Transco's Central Texas Gathering System. Applicants also propose to construct and operate within Brazos Block A–23, 0.98 mile of 8-inch pipeline and 0.96 mile of 6-inch pipeline connecting the JA and JB platforms, respectively, to the aforementioned 12-inch pipeline through underwater connections. It is indicated that the subject gas would be transported onshore via Transco's Central Texas Gathering System.

It is stated that the proposed facilities would be owned 50 percent by Transco and 50 percent by Columbia Gulf. Transco would construct such facilities beginning in 1983 and would operate them on behalf of Applicants, it is explained. Applicants aver that the proposed 12-inch pipeline would be designed to provide a daily capacity of up to 190,000 Mcf while the proposed 8-inch and 6-inch pipeline spurs would be designed with capacities of 60,000 Mcf per day and 40,000 Mcf per day, respectively.

Applicants estimate that the proposed facilities would cost $14,945,000. Applicants state that the proposed facilities would be financed initially through revolving credit arrangements, short-term loans or funds on hand, with permanent financing to be undertaken as part of Applicants' respective overall long-term financing program at later dates.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3675 Filed 2–9–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–103–000]

Pacific Cogeneration Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 8, 1983.

On December 21, 1982, Pacific Cogeneration Co., of P.O. Box 1529, Vancouver, Washington 98668, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying Cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will consist of a combustion gas turbine and a waste heat recovery boiler supplying steam to a barley processing plant. The facility will be located in Vancouver, Washington. The primary energy source to the facility will be natural gas. The electric power production capacity of the facility will be 20.1 megawatts. Installation of the facility began in May of 1981. Applicant states no electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3669 Filed 2–9–83; 8:45 am]

BILLING CODE 6717–01–M

[P–4044–002, et al.]

Minnesota Department of Natural Resources, et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. *Type of Application:* Exemption of Small Hydroelectric Power Project.

b. *Project No.:* 4044–002.

c. *Date Filed:* December 23, 1982.

d. *Applicant:* Minnesota Department of Natural Resources.

e. *Name of Project:* Kettle River Dam.

f. *Location:* Pine County, Minnesota.

g. *Filed Pursuant to:* 18 CFR Part 4 Subpart K (1980).

h. *Contact Person:* Mr. Joseph N. Alexander, Commissioner, Department of Natural Resources, 3rd Floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155.

i. *Comment Date:* March 11, 1983.

j. *Description of Project:* The proposed project would consist of: (1) a proposed reservoir with a storage capacity of 380 acre-feet and a surface area of 46 acres at normal pool elevation of 964.5 feet m.s.l.; (2) an existing powerhouse which would contain two generating units rated at 138 kW and 725 kW, respectively, for a total installed capacity of 863 kW; (3) an existing dam whose components consist of an earth embankment; a masonry spillway; a timber crib spillway; and the concrete and masonry powerhouse acting as part of the dam; (4) existing 69 kV and 46 kV transmission lines; and (5) appurtenant facilities. The estimated average annual energy output of the proposed project would be 4,140,000 kWh.

k. *Purpose of Project:* The Minnesota Department of Natural Resources plans to develop and sell hydropower to generate taxes, create jobs, and

maintain the aesthetic values of the project.

l. This notice also consists of the following standard paragraph: A1, B, C, and D3a.

2a. *Type of Application:* License (5MW or Less).

b. *Project No.:* 5227–001.

c. *Date Filed:* December 6, 1982.

d. *Applicant:* Robert Raymond Tift.

e. *Name of Project:* Horse Creek.

f. *Location:* Located on Horse Creek, near Horse Creek, in Siskiyou County, California, within Klamath National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Robert Raymond Tift, P.O. Box 388, Horse Creek, California 96045.

i. *Comment Date:* March 10, 1983.

j. *Description of Project:* The proposed run-of-river project would consist of: (1) a 4-foot-high concrete diversion dam supported by natural boulders, with a 55-foot-long spillway and a steel denil fishway; (2) a concrete intake structure; (3) a 6,600-foot-long, 48-inch diameter steel penstock; (4) a concrete powerhouse with 8 generating units, each rated at 150 kW at a head of 160 feet; (5) a 2.5-mile-long transmission line utilizing existing right-of-way; and appurtenant facilities. The average annual energy generation is estimated to be 5.5 million kWh.

k. *Purpose of Project:* The energy generated by the project would be sold to the Pacific Power and Light Company.

l. This notice also consists of the following standard paragraphs: A2, B, C, D1.

3a. *Type of Application:* Revised Application for Exemption from Licensing (5MW or less).

b. *Project No.:* 6293–001.

c. *Date Filed:* October 25, 1982.

d. *Applicant:* Horseshoe Bar Hydro Associates.

e. *Name of Project:* Horseshoe Bar Hydroelectric.

f. *Location:* On the Middle Fork of the American River in Placer County, California.

g. *Filed Pursuant to:* Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. *Contact Person:* David C. Auslam, Jr., Auslam & Associates, Inc., 3327 Longview Drive, Suite 250, North Highlands, California 95660.

i. *Comment Date:* March 11, 1983.

j. *Description of Project:* The proposed project would consist of: (1) a 6-foot-high overflow spillway structure with crest at elevation 1045 feet; (2) a powerhouse containing a turbine-generating unit rated at 4.0 MW with an average annual energy output of 16.0 GWh; (3) a switchyard adjacent to the powerhouse; and (4) a 1500-foot-long transmission line. The revisions would place the powerhouse at the upstream end of the existing 193-foot-long tunnel, rather than at the downstream end as proposed in the initial application.

k. This notice also consists of the following standard paragraphs: A3, B, C.

l. *Agency Comments:* The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Act, to file within 30 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 30 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

4a. *Type of Application:* License under 5MW.

b. *Project No.:* 6418–000.

c. *Date Filed:* June 7, 1982, and revised on November 30, 1982.

d. *Applicant:* Judith A. Burford.

e. *Name of Project:* A.J. Allen Power Plant.

f. *Location:* East Brush Creek, tributary to Eagle River, in Eagle County, Colorado.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Robert L. Johnson, P.O. Box 361, Eagle, Colorado 81631.

i. *Comment Date:* April 4, 1983.

j. *Description of Project:* The run-of-the-creek project consists of: (1) a wooden collection box intake at approximate elevation 9,551 feet m.s.l.; (2) a 12-inch diameter 30-foot long intake conduit along the right (east) bank; (3) a sluice box/silt trap overflow-type structure; (4) an 8-inch diameter 970-foot long steel pipeline; (5) a powerhouse containing a Pelton Impulse Turbine connected to a generator having a rated capacity of 11kW and connected to an alternator having a rated capacity of 6 kW operated under a 155-foot head and at a flow of 1.2 cfs; (6) a short tailrace; (7) a 112-foot long transmission line; and (8) appurtenant facilities.

k. *Purpose of Project:* Project energy is used by Applicant to serve its mountain summer cabin. Applicant estimates the annual generation averages about 14,700 kWh.

l. This notice also consists of the following standard paragraphs: A2, B, C and D1.

5a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6708–000.

c. *Date Filed:* November 8, 1982.

d. *Applicant:* North Fork Power Company.

e. *Name of Project:* North Fork Project.

f. *Location:* Valley County, Idaho; North Fork Payette River.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Harry S. D. Adams, Manager, Hydro Resources, P.O. Box 50, Boise, Idaho 83728.

i. *Comment Date:* April 4, 1983.

j. *Description of Project:* The proposed project would consist of: (1) a 70-foot-high, 500-foot-long earthen dam with a concrete spillway; (2) a reservoir with a surface area of 309 acres and storage capacity of 10,800 acre-feet; (3) a 10-foot-diameter, 1,000-foot-long penstock; (4) a powerhouse with a total installed capacity of 13 MW; (5) a 200-foot-long tailrace; and (6) a 2.5-mile-long, 69-kV transmission line connecting with an existing 69-kV transmission line owned by Idaho Power Company.

The Applicant is seeking issuance of a preliminary permit for a period of 36 months during which it would conduct engineering, economic and environmental studies and prepare an FERC license application. No new roads would be constructed and the areas disturbed by test borings would be restored to original contours. The project would be partially located on the U.S. lands administered by the U.S. Bureau of Land Management. The cost of conducting the studies is estimated by the Applicant to be $200,000.

k. *Purpose of Project:* The Applicant estimates that annual energy output would be 60 million kWh which would be sold to the Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, and D2.

6a. *Type of Application:* Exemption (5 MW or Less).

b. *Project No.:* 6788–000.

c. *Date Filed:* October 21, 1982.

d. *Applicant:* Dan D. Hudson.

e. *Name of Project:* Deep Creek Hydroelectric Project.

f. *Location:* On Deep Creek, near Buhl, in Twin Falls County, Idaho.

g. *Filed Pursuant to:* Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705, and 2708 as amended.

h. *Contact Person:* Mr. Dan D. Hudson, Route 3, Box 479, Buhl, Idaho 83316.

i. *Comment Date:* March 10, 1983.

j. *Description of Project:* The proposed project would consist of: (1) a 3-foot-high, 40-foot-long concrete diversion structure; (2) a 1,600-foot-long concrete canal; (3) a 50-foot-long, 60-inch-diameter steel penstock; (4) a powerhouse containing three generating untis with a total rated capacity of 280 kW; and (5) a 0.25-mile-long, 12-kV transmission line. The Applicant estimates that average annual energy production would be 1.115 million kWh.

k. *Purpose of Project:* Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

7a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–6796–000.

c. *Date Filed:* October 25, 1982.

d. *Applicant:* Great Northern Hydro Corporation.

e. *Name of Project:* St. Regis Hydro Station.

f. *Location:* St. Regis River, Franklin County, Town of Waverly, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Paul G. Carr, 159 Park St., Gouverneur, New York 13462.

i. *Comment Date:* April 4, 1983.

j. *Description of Project:* The proposed project would consist of: (1) rehabilitation of an existing timber crib dam, 8.0 feet high and 100 feet long; (2) an existing reservoir with a surface area of approximately 29 acres, a normal reservoir elevation of 1235 feet m.s.l., and maximum storage capacity of 235 acre-feet; (3) a proposed powerhouse containing a single generation unit with an estimated installed capacity of 205 kW; (4) a proposed 4.2-kV transmission line 250 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,621 MWh. The dam is owned by the Town of Waverly, New York.

k. *Purpose of Project:* Project power will be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A4a, B, C, and D2.

m. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, state, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $32,000.

8a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–6797–000.

c. *Date Filed:* October 25, 1982.

d. *Applicant:* Madrid Hydro Station.

f. *Location:* Grass River, St. Lawrence County, Town of Madrid, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Paul G. Carr, 159 Park St., Gouverneur, New York 13462.

i. *Comment Date:* April 1, 1983.

j. *Description of Project:* The proposed project would consist of: (1) rehabilitation of an existing concrete and stone masonry dam, 9.0 feet high and 745 feet long; (2) an existing reservoir with a surface area of approximately 102 acres, a normal reservoir elevation of 255 feet m.s.l., and a maximum storage capacity of 886 acre-feet; (3) a proposed powerhouse containing a single generating unit with an estimated installed capacity of 220 kW; (4) a proposed 4.2kV transmission line, 200 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,836 MWh. The dam is owned by the Town of Madrid, New York.

k. *Purpose of Project:* Project power will be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A4a, B, C, D2.

m. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, state, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $32,000.

9a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6907–000.

c. *Date Filed:* December 6, 1982.

d. *Applicant:* Georgia Hydro Associates.

e. *Name of Project:* High Falls Hydropower Project.

f. *Location:* Monroe County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Wayne L. Rogers, President, Synergic, Inc., 1444 Foxwood Court, Annapolis, Maryland 21401.

i. *Comment Date:* April 1, 1983.

j. *Description of Project:* The proposed project will consist of: (1) an existing reservoir with a storage capacity of 8,600 acre-feet and a surface area of 740 acres at power pool elevation of 587 feet m.s.l.; (2) an existing concrete and masonry dam that is 606 feet long and 35 feet high; (3) an existing powerhouse which would contain one generating unit rated at 2,000 kW; (4) proposed transmission lines; and (5) appurtenant facilities. The estimated average energy output would be 8 GWh.

k. *Purpose of Project:* Georgia Hydro Associates proposes to sell the generated power to the Georgia Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

10a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6909–000.

c. *Date Filed:* December 6, 1982.

d. *Applicant:* Mineop Corporation.

e. *Name of Project:* East Carson River.

f. *Location:* Near Gardenville in Douglas County, Nevada on East Fork Carson River.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Dr. Ronald F. Ott, President, Ott Water Engineers, Inc., 2334 Washington Avenue, Redding, California 96001.

i. *Comment Date:* February 25, 1983.

j. *Competing Application:* Project No. 6133 Date Filed: August 11, 1982, date of issuance of notice of initial application is August 27, 1982.

k. *Description of Project:* The proposed project would consist of: (1) an existing 25-foot-high dam owned by the Applicant; (2) two penstocks, each 100 feet long and 72 inches in diameter; (3) a

powerhouse with a total installed capacity of 700 kW; and (4) a 12.5-kV, 0.5-mile-long transmission line connecting with the existing Sierra-Pacific Power Company line.

The Applicant is seeking issuance of a preliminary permit for a period of 18 months during which it would conduct engineering, economic and environmental studies and prepare an FERC license application. No new roads would be required for conducting these studies which are estimated by the Applicant to cost $50,000.

l. *Purpose of Project:* The estimated 4.3 million kWh of energy generated annually by the proposed project would be sold to the Sierra-Pacific Power Company.

m. This notice also consists of the following standard paragraphs: A3, B, C and D2.

11a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6926–000.

c. *Date Filed:* December 13, 1982.

d. *Applicant:* Family Power Partners.

e. *Name of Project:* Little Falls.

f. *Location:* Willow River in St. Croix County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Douglas A. Spaulding, INDECO, Inc., 1500 S. Lilac Drive, 351 Tyrol West Building, Minneapolis, Minnesota 55416.

i. *Comment Date:* April 4, 1983.

j. *Description of Project:* The proposed project will consist of: (1) an existing reinforced concrete dam having a height of approximately 30 feet and a length of 310 feet; (2) an existing reservoir with a surface area of 185 acres and a normal storage capacity of 1,342 acre-feet at normal pool elevation of 741 feet m.s.l.; (3) an existing powerhouse with a proposed installed generating capacity of 600 kW; (4) a proposed 1.5-mile-long, 12.5 kV transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy generation will be 2.7 GWh.

k. *Purpose of Project:* The Applicant anticipates marketing the power generated by this project to Northern States Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

12a. *Type of Application:* Preliminary Permit.

b. *Project No:* 6937–000.

c. *Date Filed:* December 13, 1982.

d. *Applicant:* Family Power Partners.

e. *Name of Project:* Mound Plant Dam.

f. *Location:* Willow River in St. Croix County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Douglas A. Spaulding, INDECO, Inc., 1500 S. Lilac Drive, 351 Tyrol West Building, Minneapolis, Minnesota 55416.

i. *Comment Date:* April 4, 1983.

j. *Description of Project:* The proposed project will consist of: (1) an existing reinforced concrete and earth fill dam having an approximate height of 49 feet and an approximate length of 430 feet; (2) an existing reservoir with a surface area of 57 acres and a storage capacity of 594 acre-feet at normal pond elevation of 893 feet m.s.l.; (3) an existing powerhouse with a proposed installed generating capacity of 400 kW; and (4) appurtenant facilities. The Applicant estimates that the average annual energy generation will be 1.6 GWh.

k. *Purpose of Project:* The Applicant anticipates marketing the power generated by this project to Northern States Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

13a. *Type of Application:* Preliminary Permit.

b. *Project No:* 6947–000.

c. *Date Filed:* December 20, 1982.

d. *Applicant:* F and T Services Corporation.

e. *Name of Project:* Claiborne.

f. *Location:* Lake Claiborne, Bayou D'Arbonne, Claiborne Parish, Louisiana.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Ralph L. Laukhuff, P.O. Box 64844, 9107 Interline Avenue, Baton Rouge, Louisiana 70896.

i. *Comment:* April 4, 1983.

j. *Description of Project:* The proposed project consists of: (1) an existing 5,500-foot long, 118-foot high (maximum) earthen dam with a concrete overflow weir which discharges into three concrete conduits under the dam; (2) an existing 10 square-mile reservoir with a gross storage capacity of 99,500 acre-feet at elevation 185 feet m.s.l.; (3) a new powerhouse located near the overflow weir outlet containing a single 700-kW turbine-generator; (4) a transmission line; and (5) appurtenant facilities. The dam and reservoir are owned by the State of Louisiana. The project would generate up to 2,750,000 kWh annually. The Applicant states that the proposed project will not result in a change to the operation of Lake Claiborne.

k. *Purpose of Project:* Energy produced at the project would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months. The work to be performed under this preliminary permit would consist of gathering necessary data, completing surveys and environmental studies, obtaining necessary Federal, State and local permits, in consultation with the Louisiana Department of Transportation and Development and preparing necessary documentation for the Commission's licensing requirements. Applicant estimates that the cost of works to be performed under the permit would not exceed $5,000.

14a. *Type of Application:* 5MW Exemption.

b. *Project No.:* 6743–000.

c. *Date Filed:* October 4, 1982, and revised on December 10, 1982.

d. *Applicant:* Hudson River—Black River Regulating District.

e. *Name of Project:* Stillwater Reservoir.

f. *Location:* Beaver River in the Town of Webb, Herkimer County, New York.

g. *Filed Pursuant to:* Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended), and Part I of the Federal Power Act.

h. *Contact Person:* Mr. Kenneth Mayhew, Hudson River—Black River Regulating District, 491 Eastern Blvd., Watertown, New York 13601.

i. *Comment Date:* March 21, 1983.

j. *Description of Project:* The project would utilize existing facilities consisting of: (1) a 1250-foot long dam comprising: (a) a 335-foot long 37-foot high concrete gravity-type center section having spillway crest elevation 1677.3 feet m.s.l. datum surmounted by 2-foot high flashboards and containing five flood-control gates and a logway; (b) a 600-foot long 55-foot high earthfill north section having crest elevation 1687.3 feet m.s.l.; and (c) a 315-foot long 20-foot high earthfill south section having crest elevation 1687.3 feet m.s.l.; (2) a separate 200-foot long emergency spillway surmounted by 2.3-foot high flashboards having crest elevation 1679.5 feet m.s.l.; (3) a reservoir with a surface area of 6,490 acres and a storage capacity of 108,000 acre-feet at surface elevation 1679.3 feet m.s.l.; (4) an inlet structure; (5) a sealed 160-foot long tunnel through rock at the left (south) abutment of the dam center section; and (6) miscellaneous appurtenant facilities.

Applicant proposes to: (1) strengthen the dam center section; (2) install new headgates; (3) open the tunnel; (4) construct a powerhouse containing a generating unit having a rated capacity of 1,200 kW operated under a 30-foot head and at a flow of 600 cfs; (5) install

a 4.16/13.2-kV substation; and (6) construct a 400-foot long 13.2-kV transmission line.

k. *Purpose of Project:* Project energy would be sold to Niagara Mohawk Power Corporation. Applicant estimates that the average annual generation would be 6,000,000 kWh.

l. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

m. *Purpose of Exemption:* An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

15a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6876–001.

c. *Date Filed:* January 3, 1983.

d. *Applicant:* Fillmore City Corporation.

e. *Name of Project:* K.P. Water Power Project.

f. *Location:* Chalk Creek in Millard County, Utah.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Doris Rasmussen, Mayor, P.O. Box 686, Fillmore, Utah 84631.

i. *Comment Date:* March 21, 1983.

j. *Competing Application:* Project No. 6678–000. Date Filed: September 7, 1982. Notice: October 7, 1982. Due Date: January 18, 1983.

k. *Description of Project:* The proposed project would consist of: (1) an existing small storage pond; (2) an existing 24-inch diameter pipe 4,150 feet long; (3) a new 18-inch diameter penstock 3,000 feet long; (4) a new powerhouse with an installed capacity of 170 kW; (5) a new 24-inch diameter discharge pipe tailrace 700 feet long; and (6) other appurtenances. Existing facilities are owned by the Chalk Creek Irrigation Company. Applicant estimates an average annual generation of 1,500,000 kWh.

l. *Purpose of Project:* Project energy would be used for distribution to local customers.

m. This notice also consists of the following standard paragraphs: A3, B, C and D2.

n. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $5,000.

16a. *Type of Application:* Amendment of License.

b. *Project No.:* 2640–001.

c. *Date Filed:* December 27, 1982.

d. *Applicant:* Flambeau Paper Corporation.

e. *Name of Project:* Upper Hydro-Electric.

f. *Location:* Price County, Wisconsin.

g. *Filed Pursuant to:* Section 5.1 of Commission Regulations and Section 6 of the Federal Power Act.

h. *Contact Person:* Mr. Steve J. Semenchuk, President, Flambeau Paper Corporation, Park Falls, Wisconsin 54552.

i. *Comment Date:* March 21, 1983.

j. *Description of Proposed Changes:* Under the proposed amendment, Flambeau Paper Corporation would remove the existing needle dam, which is deteriorated. The dam was used to provide water for a swimming pond operated by the City of Park Falls. Prior to issuance of the license on August 5, 1976, the swimming pond was abandoned. A sheet-piling coffer dam was installed during 1980 to dewater the needle dam area, because the dam served no useful purpose. After the needle dam is removed, fill material will be placed behind the coffer dam.

k. This notice also consists of the following standard paragraphs: B, C and D1.

17 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6982–000.

c. *Date Filed:* January 4, 1983.

d. *Applicant:* Capital Development Company.

e. *Name of Project:* Suiattle Mountain Water Power.

f. *Location:* On tributaries of the Suiattle River, partially within Mt. Baker National Forest in Skagit County, Washington.

g. *Filed Pursuant to:* Federal Power Act (16 U.S.C. 791(a)–825(r)).

h. *Contact Person:* Robert L. Blume, President, Capital Development Company, No. 4 South Sound Center, P.O. Box 3487, Lacey, Washington 98503.

i. *Comment Date:* April 11, 1983.

j. *Description of Project:* The proposed project would consist of: (1) ten tributary intake structures distributed along; (2) a 3.5-mile-long pipeline; (3) a one-mile-long penstock; (4) a powerhouse at elevation 600 feet containing a turbine-generating unit with a rated capacity of 6 MW and an average annual output of 51.2 GWh; and (5) a 3-mile-long transmission line connecting to an existing Seattle City Light transmission facility.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. The estimated cost of permit activities is $145,000.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

18 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6823–000.

c. *Date Filed:* November 3, 1982.

d. *Applicant:* Colorado River Storage Project (CRSP) Power Agency.

e. *Name of Project:* Diamond Fork Project.

f. *Location:* Fifth Water Creek and Diamond Fork Creek in Utah and Wasatch Counties, Utah.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Donald R. Allen, Esq., Duncan, Allen and Mitchell, 1575 Eye Street, NW., Suite 300, Washington, D.C. 20005.

i. *Comment Date:* April 11, 1983.

j. *Description of Project:* The proposed project would be located entirely within the Uinta National Forest and would consist of the following project works, in series: (1) the proposed 5.7-mile long, 9-foot diameter Syar Tunnel, leading from the existing Strawberry Reservoir, which is owned by the U.S. Bureau of Reclamation, to; (2) the proposed 22.2-MW capacity Syar Powerplant. Water would be discharged into; (3) the proposed 560-acre, 49,700 acre-foot storage capacity Fifth Water Reservoir created by; (4) the proposed 1,300-foot long, 315-foot high Fifth Water Dam. Water from the Fifth Water Reservoir would be conveyed, via; (5) two proposed 1,800-foot long, 7-foot diameter Fifth Water penstocks to; (6) the proposed 1,000-MW capacity Fifth Water Underground Pumped Storage Powerplant, located 1,800 feet below the base of the Fifth Water Dam. Water from the Fifth Water Powerplant would enter; (7) two proposed 2.5-mile long, 9-foot diameter Fifth Water Tunnels and discharge into; (8) the proposed 360-acre, 31,400 acre-foot storage capacity Monks Hollow Reservoir created by; (9) the proposed 1,100-foot long, 250-foot high Monks Hollow Dam. From Monks Hollow Reservoir, water would pass through; (10) the proposed 9.6-MW

capacity Monks Hollow Powerplant located at the base of the dam and then into either Diamond Fork Creek or; (11) the proposed 7-mile long, 7-foot diameter Diamond Fork Pipeline. A portion of the water in the pipeline would be directed through; (12) the proposed 6-MW capacity Diamond Fork Powerplant, while the remainder of the water would continue into the Wasatch Aqueduct. The estimated average annual energy would be 2,500,000 MWh.

k. *Purpose of Project:* Project power would be sold to CRSP members, anticipated members and anticipated affiliates.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, and D2.

m. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months. A Feasibility Assessment Study will be conducted which consists of office and field studies to determine potential power output, review of site geology, project arrangement, operation and power studies, cost estimates, economic and financial analysis, and identification of any significant environmental or institutional restraints. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. If a decision to pursue the development of the project is made, advanced feasibility studies and environmental investigations will be conducted. These studies will include geotechnical investigations and environmental data collection and analysis. It is anticipated that the studies will require no new roads, nor disturb or alter the lands or waters in the vicinity of the project. Applicant estimates that the cost of the studies under permit would be $500,000.

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6913–000.

c. *Date Filed:* December 7, 1982.

d. *Applicant:* Weber Basin Water Conservancy District.

e. *Name of Project:* West Gateway.

f. *Location:* Weber Aqueduct and Weber River in Davis County, Utah.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Barbara E. Sneider, Esquire, Chapman, Duff and Paul, 1730 Pennsylvania Ave., NW., Washington, D.C. 20006.

i. *Comment Date:* April 11, 1983.

j. *Description of Project:* The proposed project would utilize flows from the existing Gateway Canal and Tunnel which is operated and maintained by the Applicant and owned by the Bureau of Reclamation. The project would include: (1) a proposed intake structure at an existing canal bifurcation structure; (2) a proposed 2,200–foot long, 60-inch diameter steel penstock; (3) a proposed powerhouse containing one turbine/generator unit with a rated capacity of 6,000 kW operating under a head of 374 feet; (4) a proposed 4.16-kV/46-kV step-up transformer; (5) a proposed 100-foot long, 46-kV transmission line; and (6) appurtenant facilities. Applicant estimates that average annual generation would be 10,000 MWh.

k. *Purpose of Project:* Energy would be used by the Applicant to operate their pumping plants, well pumps, and water treatment plants, or exchanged with the Colorado River Storage Project.

l. This notice also consists of the following standard paragraphs: A4a. A4c, B, C, and D2.

m. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued , does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $150,000.

20 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6996–000.

c. *Date Filed:* January 12, 1983.

d. *Applicant:* Power Resources Development Corporation.

e. *Name of Project:* The Talcville Project.

f. *Location:* On the East Branch of Oswegatchie River, in St. Lawrence County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Roger P. Swanson, Power Resources Development Corporation, 49 Onondaga Street, Skaneateles, New York 13152.

i. *Comment Date:* April 15, 1983.

j. *Description of Project:* The proposed project would consist of: (1) the existing 110-foot long, 10-foot high concrete Talcville Dam; (2) an existing 150-foot long intake canal; (3) an existing powerhouse which will house a single generating unit having a rated capacity of 840 kW; (4) proposed transmission lines to interconnect with existing transmission lines owned by the Niagara Mohawk Power Corporation; and (5) appurtenant facilities. All existing project facilities are owned by Gouverneur Talc Company, Inc. of Gouverneur, New York. The Applicant estimates that the average annual energy output would be 4.4 GWh.

k. *Purpose of Project:* The most likely market for the energy derived at the proposed project would be the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $32,000.

21 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6707–000.

c. *Date Filed:* September 24, 1982, and revised December 9, 1982.

d. *Applicant:* Graves, Arkoosh and Arkoosh.

e. *Name of Project:* Sheep Falls.

f. *Location:* On Henry's Fork of Snake River, near the City of Ashton, Freemont County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. John C. Arkoosh, 801 Nevada Street, Gooding, Idaho 83330.

i. *Comment Date:* April 11, 1983.

j. *Description of Project:* The proposed new run-of-river project to be located at River-mile 69.2 would affect lands of the United States within the Targhee National Forest and would consist of: (1) a 6-foot high 120-foot long concrete diversion structure having crest elevation 5,836 m.s.l. datum; (2) a 10-foot high 100-foot long inlet structure along the left (north) bank; (3) a 12-foot diameter 1700-foot long tunnel; (4) a 28-foot wide 9-foot deep 2,000-foot long lined canal; (5) an inlet structure; (6) a 12-foot diameter 150-foot long steel penstock; (7) a powerhouse containing four generating units having a total rated capacity of 4,150 kW operated under a 60-foot head and at a flow of 1,000 cfs; (8) a tailrace; (9) a 11,000-foot long 44-kV

transmission line; and (10) appurtenant facilities.

Project energy would be sold to Utah Power & Light Company or to Fall River Rural Electric Cooperative, Inc. Applicant estimates that the average annual generation would be 18.17 GWh.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, and D2.

l. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform studies and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $60,000.

22a. *Type of Application:* Preliminary Permit.

b. *Project No:* 6874–000.

c. *Date Filed:* November 23, 1982.

d. *Applicant:* Hydro Power Development, Inc.

e. *Name of Project:* South Fork Eagle Creek Project.

f. *Location:* On South Fork Eagle Creek, near Bissell, in Clackamas County, Oregon.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Bill Sundin, Hydro Power Development, Inc., P.O. Box 511, 16840 Hoffman Lane, Sandy, Oregon 97055.

i. *Comment Date:* April 11, 1983.

j. *Description of Project:* The proposed run-of-the-river project would consist of: (1) a 6-foot-high, 30-foot-long concrete diversion structure; (2) a 20,000-foot-long, 48-inch-diameter steel pipeline; (3) a powerhouse containing a single 7,000-kW generating unit with an estimated annual generation of 39.40 GWh; and (4) appurtenant facilities. The project would affect Mt. Hood National Forest lands. Project power would be sold to Pacific Power & Light Company or the Bonneville Power Administration.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $83,000.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

23a. *Type of Application:* Preliminary Permit.

b. *Project No:* 6899–000.

c. *Date Filed:* December 2, 1982, and supplemented on January 13, 1983.

d. *Applicant:* Municipal Electric Authority of Georgia.

e. *Name of Project:* Carter's Lake Hydro Project.

f. *Location:* Jasper, in Murray County, Georgia on the Coosawatte River.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Donald Stokley, General Manager MEAG, 1470 Riveredge Parkway, N.W., Atlanta, Georgia 30328.

i. *Comment Date:* March 21, 1983.

j. *Competing Application:* Project No. 6987–000; Date Filed: December 1, 1982; Notice Due Date: February 28, 1983.

k. *Description of Project:* The proposed project would utilize a U.S. Army Corps of Engineers' dam and reservoir, and would consist of: (1) a proposed intake structure; (2) a proposed new powerhouse with an installed capacity of 4 MW; (3) a proposed return channel; (4) a new transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual generation would be 11.56 GWh. All power generated would be used in the Applicant's distribution system.

l. This notice also consists of the following standard paragraphs: A3, B, C, and D2.

24a. *Type of Application:* Preliminary Permit.

b. *Project No:* 6845–000.

c. *Date Filed:* November 12, 1982.

d. *Applicant:* Hopewell Power Company.

e. *Name of Project:* Hopewell Hydroelectric Power Project.

f. *Location:* Hopewell, York-Cherokee County, South Carolina on the Broad River.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Harry S. D. Adams, Manager, Hydro Resources, P.O. Box 50, One Jefferson Square, Boise, Idaho 83728.

i. *Comment Date:* April 8, 1983.

j. *Description of Project:* The proposed project would consist of: (1) a proposed 40-foot high and 1,100-foot earthen dam; (2) a reservoir with an estimated storage capacity of 45,850 acre-feet; (3) a new powerhouse with an installed capacity of 8,680 kW; (4) a proposed tailrace; (5) a new transmission line approximately 2.5 miles long; and (6) appurtenant facilities. Applicant estimates that average annual generation would be 45.9 GWh. All power generated would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, and D2.

25a. *Type of Application:* Preliminary Permit.

b. *Project No:* 6846–000.

c. *Date Filed:* November 12, 1982.

d. *Applicant:* Rowell Power Company.

e. *Name of Project:* Rowell Hydroelectric Power Project.

f. *Location:* Rowell, Lancaster County, South Carolina on the Catawba River.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Harry S. D. Adams, Manager, Hydro Resources, P.O. Box 50, One Jefferson Square, Boise, Idaho 83728.

i. *Comment Date:* April 8, 1983.

j. *Description of Project:* The proposed project would consist of: (1) a proposed 20-foot high and 1,200-foot earthen dam; (2) a reservoir with an estimated storage capacity of 25,660 acre-feet; (3) a new powerhouse with an installed capacity of 20.2 MW; (4) a proposed tailrace; (5) a new transmission line approximately 1.5 miles long; and (6) appurtenant facilities. Applicant estimates that average annual generation would be 91 GWh. All power generated would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, and D2.

26a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6847–000.

c. *Date Filed:* November 12, 1982.

d. *Applicant:* Lilesville Power Company.

e. *Name of Project:* Lilesville Hydroelectric Power Project.

f. *Location:* Lilesville, Anson County, North Carolina on the Pee Dee River.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Harry S. D. Adams, Manager, Hydro Resources, P.O. Box 50, One Jefferson Square, Boise, Idaho 83728.

i. *Comment Date:* April 7, 1983.

j. *Description of Project:* The proposed project would consist of: (1) a proposed 40-foot-high and 1,700-foot earthen dam; (2) a reservoir with an estimated storage capacity of 44,300 acre-feet; (3) a new powerhouse with an installed capacity of 18.24 MW; (4) a proposed tailrace; (5) a new transmission line approximately two miles long; and (6) appurtenant facilities. Applicant estimates that average annual generation would be 97.33 GWh. All power generated would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, and D2.

27a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6858–000.

c. *Date Filed:* November 17, 1982.

d. *Applicant:* Hy-Tech Company.

e. *Name of Project:* Honeymoon Creek.

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f. *Location:* On Honeymoon Creek in Sanders County, Montana.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(A)–825(r).

h. *Contact Person:* Carl W. Haywood, 2109 Broadview Drive, Lewiston, Idaho 83501.

i. *Comment Date:* April 11, 1983.

j. *Description of Project:* The proposed project will consist of: (1) a proposed 4-foot-high and 50-foot-long diversion structure; (2) a negligible reservoir with a normal maximum pool elevation of 3,720 feet msl; (3) approximately 4 miles of 12.5 kV transmission line to connect the project to an existing Montana Power Company line; (4) a proposed powerhouse to contain 3 generating units with a total installed generating capacity of 950 kW; and (5) appurtenant facilities. The Applicant estimates the average annual generating capacity to be 2,883 MWh. The Applicant also stated that "the project is located entirely on U.S. Forest Service land in the Lolo National Forest."

k. *Purpose of Project:* Hy-Tech plans to market the hydroelectric power to the Montana Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

28a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 6954–000.

c. *Date Filed:* December 23, 1982.

d. *Applicant:* Hydro Power Development, Inc.

e. *Name of Project:* Ladd Creek Hydroelectric Project.

f. *Location:* In Hood River County, Oregon on Ladd Creek within the Mount Hood National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Carl Rounds, President, General Energy Development, Inc., 1885 West Washington Ave., Stayton, Oregon 97383.

i. *Comment Date:* April 11, 1983.

j. *Description of Project:* The proposed project would consist of: (1) a 6-foot-high, 30-foot-long diversion structure; (2) a 48-inch-diameter, 9,290-foot-long penstock; (3) a powerhouse to contain a singler generating unit with a rated capacity of 3,000 kW, operating under a head of 574 feet; and (4) a 100-foot-long transmission line to tie into an existing Portland General Electric transmission line. The average annual energy output is 16, 837,000 kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months to study the feasibility of constructing and operating the project. The estimated cost for conducting these studies is $83,000. No new access roads will be needed to conduct these studies.

k. *Purpose of Project:* Project power will be sold to either Portland General Electric or Bonneville Power Administration.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

Competing Applications

A. 1. Exemptions for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1982). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d).

A2. Applications for License—Anyone desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either the competing appliction itself (see 18 CFR 4.33 (a) and (d), and Part 16, where applicable) or a notice of intent (see 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or §§ 4.101 to 4.104 (1982).

A3. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for license, exemption or preliminary permit, or notices of intent to file competing applications, will be accepted for filing in response to this notice (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate). Any application for license or exemption from licensing, or notice of intent to file a license or an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

Preliminary Permits

A4a. Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30-days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A4b. No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or there are proposed to be major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself or a notice of intent to file such an application (see 18 CFR 4.30 to 4.33 (1982)).

A4c. The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before the specified comment date for the particular application. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

A4d. Submission of a timely notice of intent to file an application for preliminary permit allows an interested person to file an acceptable competing application for preliminary permit no later than 60 days after the specified comment date for the particular application.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS",

"NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments

D1. License applications (5 MW or less capacity)—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. Preliminary permit applications—Federal, State, and local agenices are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Exemption applications (5 MW or less capacity)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Exemption applications (Conduit)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated February 4, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3414 Filed 2–9–83; 8:45 am]

BILLING CODE 6717–01–M

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Representative Average Unit Costs of Energy

Correction

In FR Doc. 83–1907 beginning on page 3409 in the issue of Tuesday, January 25, 1983, make the following correction:

On page 3409, in the table at the bottom of the page, in the entry for "Electricity" in the third column, "As required by test procedure", the entry now reading "$0.0673/kWh...." should have read "$0.0763/kWh....".

BILLING CODE 1505–01–M

ENVIRONMENTAL PROTECTION AGENCY

[A–4–FRL 2303–2]

PSD Permit for Kentucky Utilities Company—Final Decision

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that on December 21, 1982, the Administrator (Anne M. Gorsuch) of the Environmental Protection Agency (EPA) issued an order denying two petitions for review of a Prevention of Significant Deterioration (PSD) permit issued on April 15, 1982, by EPA Region IV to Kentucky Utilities Company. The permit was issued for the construction of two coal-fired utility boilers (650 MW each) to be located in Hancock County, Kentucky.

DATES: The effective date of the Kentucky Utilities PSD permit is January 21, 1983. Construction must begin within 18 months of this date or the permit will become invalid.

ADDRESSES: Copies of the permit and the order denying the petitions for review are available for public inspection or upon request at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Division of Air Pollution Control, Kentucky Natural Resources and

Environmental Protection Cabinet, Fort Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Bill Wagner of the EPA Region IV Air Management Branch at the Atlanta address given above, telephone 404/881-7654 (FTS 257-7654).

SUPPLEMENTARY INFORMATION: On May 14, 1982, Willamette Industries and Hancock County petitioned the EPA Administrator (pursuant to 40 CFR 124.19(a) to review the Final Determination of EPA Region IV's Regional Administrator with respect to Kentucky Utilities Company's application for a PSD permit to build two coal-fired utility boilers in Hancock County, Kentucky. Kentucky Utilities filed a separate petition for review. The petitions raised several questions concerning Region IV's handling of the PSD permit application.

After having reviewed both petitions and all necessary background information, the EPA Administrator determined that the petitioners failed to show that the permit determination was either clearly erroneous or involved issues which should have been reviewed as a matter of discretion. See 40 CFR 124.19(a)(1) and (2).

Accordingly, on December 21, 1982, the EPA Administrator issued two orders denying all petitions for review.

As a result of those orders, the final permit decision as issued April 15, 1982, will not be changed. The effective date of the permit is January 21, 1983. This is also the date of final agency action under 40 CFR 124.19(f)(1) and Section 307 of the Clean Air Act, for purposes of judicial review. If construction does not commence within 18 months after this effective date, or if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time, the permit shall expire and authorization to construct shall become invalid.

Dated: January 28, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-3676 Filed 2-9-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-6]

East Coast Colombia Conference et al. v. Agropecuaria Y Maritima Santa Rosa Ltda. (Agromar Lines); Filing of Complaint and Assignment

Notice is given that a complaint filed by East Coast Colombia Conference, et al. against Agropecuaria y Maritima Santa Rosa Ltda. (Agromar Lines) was served February 3, 1983. Complainant alleges that respondent has operated as a common carrier by water in foreign commerce without a tariff on file in violation of sections 16 Second, 17 and 18 (b)(1) and (3) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-3562 Filed 2-9-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies; First Clyde Banc Corp. et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Clyde Banc Corp.*, Clyde, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Clyde Savings Bank Company, Clyde, Ohio. Comments on this application must be received not later than March 2, 1983.

2. *First Commonwealth Financial Corporation*, Indiana, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of the Commonwealth, Indiana, Pennsylvania. Comments on this application must be received not later than March 4, 1983.

Board of Governors of the Federal Reserve System, February 4, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3566 Filed 2-9-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed, De Novo Nonbank Activities; Citicorp et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Nevada): To establish a *de novo* office of its subsidiary, Citicorp Homeowners, Inc. and Citicorp Person-to-Person Mortgage Corporation, located in Las Vegas, Nevada. The activities in which the *de novo* office of Citicorp Homeowners, Inc. proposes to engage are as follows: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office of Citicorp Homeowners, Inc. shall be comprised of the entire State of Nevada for all the aforementioned proposed activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Homeowners, Inc. Comments on this application must be received not later than March 4, 1983.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Philadephia National Corporation*, Philadelphia, Pennsylvania; (mortgage banking activities; Missouri, Illinois): To engage, through its subsidiary, Colonial Mortgage Service Company Associates, Inc., (doing business as CMSC Mortgage Company) in the origination of FHA, VA and conventional residential mortgage loans and second mortgage loans. These activities would be conducted from a proposed new office of Colonial Mortgage Service Company Associates, Inc. in St. Charles, Missouri, serving the States of Missouri and Illinois. Comments on this application must be received not later than March 2, 1983.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation*, Roanoke, Virginia (mortgage banking, insurance activities; Virginia): To engage *de novo* through its subsidiary, Dominion Bankshares Mortgage Corporation, in mortgage banking activities of originating residential, commercial, industrial, and construction loans for its own account and for sale to other, servicing such loans for others, and in the sale of credit life insurance, credit accident and health insurance, credit disability, mortgage redemption and mortgage accident and health insurance in connection with such mortgage loans, and to engage *de novo* through its subsidiary, Dominion Bankshares Services, Inc., in acting as insurance agent or broker with respect to credit life insurance, credit accident and health insurance, credit disability, mortgage redemption and mortgage accident and health insurance related to or arising out of loans made or credit transactions involving Dominion Bankshares Mortgage Corporation. These activities would be conducted from an office in Richmond, Virginia, and serve the Richmond Standard Metropolitan Statistical Area, the city of Charlottesville and the counties of Albemarle, Fluvanna, Louisa, and Orange. Comments on this application must be received not later than March 4, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *BancOklahoma Corp.*, Tulsa, Oklahoma (lending and loan servicing activities; Oklahoma): To engage, through a subsidiary known as BancOklahoma Mortgage Corp. (formerly BancOklahoma Service Corp.), in the following activities: mortgage banking activities, including the origination, warehousing and selling of first mortgage loans, second mortgage home improvement loans, equity loans, interim construction loans and land acquisition loans for its own account or for the account of others, and in addition, the servicing of such loans also for its own account or for the account of others. Such activities will be conducted at offices in Tulsa, Oklahoma and will serve the Tulsa S.M.S.A. Comments on this application must be received not later than March 4, 1983.

2. *Central Bank Shares, Inc.*, Taos, New Mexico (data processing, New Mexico): To provide data processing and data transmission services, data bases or facilities for the internal operations of the holding company and its subsidiaries, and providing to others data processing and data transmission services, facilities, data bases or access thereto with respect to banking, financial or economic data and in accordance with the further conditions specified in § 225.4(a)(8) of the Board of Governor's Regulation Y. These activities will be performed from an office located on the premises of the bank holding company's subsidiary bank, Central Bank of Taos, Taos, New Mexico, serving the town of Taos, New Mexico and the surrounding rural area. Comments on this application must be received not later than March 4, 1983.

Board of Governors of the Federal Reserve System, February 4, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3567 Filed 2-8-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

The Privacy Act of 1974; Report on New System of Records

AGENCY: General Services Administration.

ACTION: Notification of new system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to establish a new system of records that will be maintained by GSA The system of records, Employment under commercial activities contracts GSA/GOVT-2, is being established to collect information on former Federal employees who are hired by contractors. A new system report was filed with the President of the Senate, the Speaker of the House, and the Office of Management and Budget on January 21, 1983. A waiver of the 60-day advance notice requirements of OMB Circular A-108 was requested from the Office of Management and Budget.

DATES: Any interested party may submit written comments regarding this proposed system. To be considered, comments must be received on or before the 30th day following publication of this notice. The new system of records shall become effective as proposed without further notice on the 30th day following publication of this notice unless comments are received that would result in a contrary determination.

ADDRESS: Address comments to General Services Administration (ORAR), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT:
Mr. William Hiebert, GSA Privacy Act Officer, telephone (202) 566–0673.

Background

Federal employees who, as a result of a transfer of work from in-house to contract, receive comparable employment offers from the contractor, or who go to work for the contractor in any capacity within 90 days of the date of transfer, are ineligible for severance pay. FPR Temporary Regulation 63, Supplement 1, prescribes an exchange of employment information between agencies and commercial contract activities. The purpose is for the effective administration of the A–76 program and to preclude the payment of severance pay to ineligible persons. In order to administer the directive, this proposed system of records will be used to collect the information which will be used to ensure that severance pay is properly distributed by the Government.

The proposed new system of records is as follows:

GSA/GOVT–2

SYSTEM NAME:

Employment under commercial activities contracts.

SYSTEM LOCATION:

Records on former employees are located at the civilian Federal agency from where the employee was involuntarily separated and at the commercial contract activity.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former Federal employees involuntarily separated from Government employment as a result of a commercial activity contract.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system include name and social security number of employees involuntarily separated from Government employment as a result of a contract and who accepted or rejected offers of employment and the monetary value of pay and benefits offered.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 CFR 550.701(b)(6); E.O. 11257, November 17, 1965; and FPR Temporary Regulation 63, Supplement 1.

PURPOSE(S):

The purpose of the system is to provide Government agenies with necessary information on former Federal employees hired by contractors to ensure the proper distributions of severance pay by the Govenment.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

a. In the event that a record indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implement the statute or rule, regulation, or order issued pursuant thereto.

b. A record from this system of records may be disclosed to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

c. A record from this system if records may be disclosed to the commercial activity contractor to provide the contractor with the necessary information on former Federal employees who could receive employment offers from the contractor.

d. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of any employee to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. A record from this system of records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personal management.

f. The information contained in this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation at any stage of the legislative coordination and clearance process.

g. The information contained in this system of records may be disclosed to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in file folders and on lists and forms.

RETRIEVABILITY:

These records are retrieved by name and by Social Security Number.

SAFEGUARDS:

When not in use by an authorized person, the records are stored in lockable file cabinets or in secured rooms. Information is released only to authorized officials on a need-to-know basis.

RETENTION AND DISPOSAL:

Records in this system are to be retained for 4 years similar to the contractor requirements of FPR 1–20.301–2(a).

SYSTEM MANAGER(S) AND ADDRESS:

Personnel officer of the department or agency where a subject individual was last employed.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the contracting officer or personnel officer at the agency where the individual was last employed. Individuals must furnish the following information for their records to be located and identified: Full name and the department of agency and component at which previously employed.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the contracting officer or personnel officer where the individual was last employed. Individuals must furnish their full name and department or agency and component with which employed in order for their records to be located and identified.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the department or agency contracting officer or personnel officer at the activity where they were last employed. Individuals must furnish their full name and the name of their last employing agency, including duty station.

RECORD SOURCE CATEGORIES:

Information in this system is provided by the personnel office, contracting officer, and finance officer of the department or agency where the individual was last employed and from the commercial activites contractor.

Dated: February 2, 1983.

William A. Crinkscales,

Director of Oversight.

[FR Doc. 83-3687 Filed 2-9-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Drug Abuse Epidemiology, Prevention, and Services Research Review Committee; Cancellation

The following meeting announced in the **Federal Register** Volume No. 48, Number 23, published February 2, 1983, page 4736 has been cancelled: Drug Abuse Epidemiology, Prevention, and Services Research Review Committee scheduled to meet February 17–18 at the Parklawn Building, 5600 Fishers lane, Rockville, Maryland 20857.

Dated February 4, 1983.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 83-3563 Filed 2-9-83; 8:45 am]

BILLING CODE 4160-20-M

Health Care Financing Administration

Medicare and Medicaid Programs; Rural Health Clinic Payment Limits and Productivity Screening Guidelines; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final notice.

SUMMARY: This document corrects a technical error that appeared in the final notice, published in the **Federal Register** on December 1, 1982, that established revised productivity screening guidelines and a revised upper limit on Medicare and Medicaid rates of payment for rural health clinic services furnished by independent rural health clinics. That notice contained an incorrect effective date of January 3, 1983. This document corrects that date to January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Truffer, 301–597–1369.

SUPPLEMENTARY INFORMATION: On December 1, 1982, we published in the **Federal Register** (47 FR 54163) a final notice on rural health clinic payment limits and productivity screening guidelines. In that document, we erroneously stated that the new productivity guideline, the elimination of the overhead screening guidelines, and the revised payment limit were effective for cost reporting periods beginning on or after January 3, 1983. This document corrects that error by changing the effective date for the revisions in the rural health clinic productivity screening guidelines and payment limits to cost reporting periods beginning on or after January 1, 1983.

FR Doc. 82–32265, "Medicare and Medicaid Programs; Rural Health Clinic Payment Limits and Productivity Screening Guidelines," appearing at 47 FR 54163, December 1, 1982 is corrected as follows:

1. On page 54164, column 1, line 4, "January 3, 1983" is corrected to read "January 1, 1983".

2. On page 54164, column 2, line 59, "January 3, 1983" is corrected to read "January 1, 1983".

3. On page 54168, column 1, second paragraph of section 7, last line, "January 3, 1983" is corrected to read "January 1, 1983".

(Secs. 1102, 1833, 1861(aa), 1871, 1902(a), and 1905(a) of the Social Security Act (42 U.S.C. 1302, 1395l, 1395x(aa), 1395hh, 1396a(a), and 1396d(a)))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare Supplemental Medical Insurance; No. 13.761, Medical Assistance Program)

Dated: February 4, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 83-3694 Filed 2-9-83; 8:45 am]

BILLING CODE 4120-03-M

Health Resources and Services Administration

National Council on Health Planning and Development; Rechartering

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, (5 U.S.C. Appendix I), the Health Resources and Services Administration announces the rechartering by the Secretary, HHS, on January 28, 1983, of the following advisory Council:

Council and Termination Date

National Council on Health Planning and Development; Continuing.

Authority for this Council is continuing and a Charter will be filed no later than January 4, 1985, in accordance with section 14(b)(2) of Pub. L. 92–463.

Dated: February 4, 1983.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 83-3565 Filed 2-9-83; 8:45 am]

BILLING CODE 4110-83-M

Public Health Service

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 47 FR 46142–46144, October 15, 1982) is amended to reflect the abolishment of the Division of Hepatitis and Viral Enteritis (Phoenix, Arizona) within the Center for Infectious Diseases, Centers for Disease Control. The functions are being transferred from Phoenix, Arizona, to Atlanta, Georgia, and are being consolidated with the following organizational components within the Center for Infectious Diseases: Division of Viral Diseases, Hospital Infectious Program, Office of Administrative Services, and Office of Scientific Services. The functional statements for these organizational components are sufficiently broad to encompass the functions being transferred and therefore are unchanged.

Section HC–B *Organization and Functions*, is hereby amended as follows:

Under the heading *Center for Infectious Diseases (HCR)*, delete the title and statement in its entirety for the *Division of Hepatitis and Viral Enteritis (HCRV).*

Dated: February 3, 1983.

Richard S. Schweiker,

Secretary

[FR Doc. 83-3582 Filed 2-9-83; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination for Federal Acknowledgement of Narragansett Indian Tribe of Rhode Island

February 2, 1983.

This notice is published in the exercise of authority delegated by the

Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(h) notice is hereby given that the Assistant Secretary acknowledges that the Narragansett Indian Tribe, c/o Mr. George Watson, Route 2, Charlestown, Rhode Island 02813, exists as an Indian tribe. This notice is based on a determination that the group satisfies the criteria set forth in 25 CFR 83.7.

The Narragansett Indian Tribe is the modern successor of the Narragansett and Niantic tribes which, in aboriginal times, inhabited the area which is today the state of Rhode Island. Members of the tribe are lineal descendants of the aboriginal Niantic and Narragansett Indians. The Narragansetts, once a large and powerful tribe, and the smaller Niantics, were culturally very similar and generally closely allied in historic times. Political structure was organized around leaders, referred to as sachems, who were drawn from high-ranking families.

Evidence indicates that the Narragansett community and its predecessors have existed autonomously since first contact, despite undergoing many modifications. A series of leaders and then tribal councils represented the tribe or its predecessors in its dealings with outside organizations and governmental bodies. These leaders and councils both responded to and influenced the group in matters of importance.

The tribe has a documented history dating from 1614. It was dealt with as an independent nation after 1622 by England and the Rhode Island colony. The Niantics and Narragansetts came increasingly under the authority of the English Crown in the 17th century, and its size and influence decreased steadily. After the Narragansett nation was essentially destroyed in 1675 in King Philip's War, the Niantics combined with the remnants of the Narragansetts. The tribe was placed under a form of guardianship by the colony of Rhode Island in 1709, a relationship which continued until 1880, when the state legislature of Rhode Island enacted a so-called "detribalization" act. This ended the state's relationship with the tribe except for retention of two acres surrounding the Narragansett Indian church which continued to be held in special status.

After 1880, there continued to be a Narrangansett community on or near the former state reservation in southern Rhode Island. There continued to be both identified leaders who had standing as community leaders and, for some periods, a tribal council. The Narragansett Church organization was an important focus of community organization in this period. In 1934, the group created a new formal organization, which was incorporated under the state of Rhode Island. The state again effectively recognized the group beginning in 1934.

No evidence was found that members of the group are members of any other Indian tribes or that the group or its members have been forbidden the Federal relationship by an Act of Congress.

Essentially all of the current membership are believed to be able to trace to at least one ancestor on the membership lists of the Narrangansett community prepared after the 1880 Rhode Island "detribalization" act. Most members are in fact expected to be able to trace to several ancestors. These lists are source documents currently used to determine eligibility for membership.

Proposed findings that the Narragansett Indian Tribe exists as an Indian tribe were published on page 35347 of the **Federal Register** on August 13, 1982. Interested parties were given 120 days in which to submit factual and legal arguments to rebut the evidence used to support the findings that the Narragansett Indian tribe exists as an Indian tribe. During this period only two comments were received, both opposing the findings and both from the same party. This individual expressed the opinion that the Narragansetts could not meet a blood degree requirement. While eligiblity for benefits under some Federal statutes is limited to tribal members with a certain blood degree, and the right of non-tribal Indians to organize is limited to those with ½ or more degree Indian blood, Federal law imposes no general blood degree requirement for tribal membership. Moreover, under the Federal regulations for determining eligibility as a tribe, a blood quantum requirement is not included in the criteria. While blood degree may be some evidence of social and cultural cohesion and maintenance of tribal relations, it is more definitely not conclusive as to the existence of tribal relations. Accordingly, the opinions submitted were given limited consideration. The findings focused instead on the larger and more important question of maintenance of tribal relations. No factual evidence not already considered was provided in these comments, and they were considered to have no effect on the findings of fact and the decision to recommend the tribe for Federal acknowledgment.

The determination is final and will become effective 60 days from the date of publication, unless the Secretary of the Interior requests the determination to be reconsidered pursuant to 25 CFR 83.10.

John. W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-3560 Filed 2-9-83; 8:45 am]

BILLING CODE 4310-02-M

Information Collection Submitted for Review

January 7, 1983.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Rick Otis, at 202-395-7340.

Title: 25 CFR, Part 27,Vocational Training for Adult Indians.

Bureau Form Numbers: BIA-8205, SF-26, SF-30.

Frequency: On occasion.

Description of Respondents: Indians seeking vocational training.

Annual Responses: 46,945.

Annual Burden Hours: 12,010.

Bureau Clearance Officer: Diana Loper, (202) 343-3574.

John W. Fritz,

Acting Assistant Secretary Indian Affairs.

[FR Doc. 83-3583 Filed 2-9-83; 8:45 am]

BILLING CODE 4310-02-M

Information Collection Submitted for Review

January 7, 1983

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Rick Otis, at 202-395-7340.

Title: 25 CFR, Part 26, Employment Assistance for Adult Indians.

Bureau Form Number: None.

Frequency: On occasion.
Description of Respondents: Indians seeking employment assistance.
Annual Responses: 18,625.
Annual Burden Hours: 11,812.
Bureau Clearance Officer: Diana Loper, (202) 343– 3574.

John W. Fritz,

Assistant Secretary, Indian Affairs.

[FR Doc. 83-3584 Filed 2-9-83; 8:45 am]
BILLING CODE 4310-02-M

Receipt of Designated Tribal Agents for Service

January 28, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8.

The Indian Child Welfare Act of 1978 provides that Indian tribes may designate an agent for service of notice of proceedings under the Indian Child Welfare Act, 25 CFR Part 23 Subpart B, other than the tribal chairman. The Secretary of the Interior shall publish in the **Federal Register** on an annual basis the names and addresses of the designated agents.

This is the third list of Designated Tribal Agents for service of notice, and includes the listing of designated tribal agents received by the Secretary of the Interior prior to the date of this publication. Those groups noted with an asterisk are not federally recognized tribes.

KANA, President, Director of Social Services and Director of Health, Native Village of Akhiok, P.O. Box 172, Kodiak, AK 99615, (907) 486–5725.

Cheyenne—Arapaho Tribes of Oklahoma, P.O. Box 38, Concho, OK 73022, Mr. Winnifred E. White Tail.

Cheyenne River Sioux Tribe, South Dakota, Eagle Butte, SD 57625, Ms. Patty Pearman, (605) 964–6602.

Chilkat Indian Village of Klukwan, Klukwan, AK, James H. Stevens, Sr., Chairman.

Chilkoot Indian Association of Haines, Haines, AK 99827, Mr. Charles R. Paddock, Sr.

Cocopah Tribe of Arizona, P.O. Box G, Somerton, AZ 85350, Gregory D. Yuma, Tribal Court Coordinator, (602) 627–2061/2102.

Confederated Tribes of the Colville Reservation, Washington, P.O. Box 50, Nespelem, WA 99155, Al Aubertin, Chairman.

Confederated Tribes of the Warm Springs Reservation of Oregon, Merritt E. Youngdeer, Superintendent, War Springs, OR 97761.

Crow Creek Sioux Tribe, South Dakota, Fort Thompson, SD 57339, (1) Ms. Winifred Boub (605) 245–2311, (2) Mr. Ambrose McBride (605) 245–2221.

Craig Community Association, Craig, AK 99921, Thomas H. Abel, President.

Delaware Tribe of Western Oklahoma, P.O. Box 825, Anadarko, OK 73005, Edgar L. French, President, (405) 247–2448.

Devils Lake Sioux Tribe, North Dakota, Ft. Totten, ND 58335, Dan Dubois, Chairman, (701) 766–4221.

English Bay Village Council, Homer, Alaska.*

(1) The North Pacific Rim, 903 West Northern Lights Blvd., Suite 203, Anchorage, AK 99503, (907) 276–2121.

(2) English Bay Village Council, English Bay VIA, Homer, AK 99603, Vincent Kvasnifoff, President, (907) 235–8292.

Eyak Village Council, Eyak Native Village, P.O. Box 878, Cordova, AK 99574, Agnes Nichols, Eyak Village President, (907) 424–3619.

Fort Sill Apache Tribe of Oklahoma, Rte. 2, Box 121, Apache, OK 73006, Mildred I. Cleghorn, Chairperson.

Gila River Pima-Maricopa Indian Community of the Gila River Indian Reservation of Arizona, P.O. Box 427, Sacaton, AZ 85247.

Goshute Business Council, Confederated Tribes of the Goshute Reservation, Nevada and Utah, Ibapah, UT 84034, Dan Murphy, Chairman.

Hopi Tribal Court, Hopi Tribe of Arizona, P.O. Box 156, Keams Canyon, AZ 86034, Linda Suetopka, Clerk of the Court.

Hoonah Indian Association, Central Council, Tlingit and Haida Indian Tribes of Alaska, Sealaska Plaza, Suite 200, Juneau, AK 99801.

Chief Tribal Judge, Jicarilla Apache Tribal Court, Jicarilla Apache Tribe, New Mexico, P.O. Box 221, Dulce, NM 87528, (505) 759–3366.

Ketchikan Indian Corporation, Westina Cowan, KIC Social Worker, P.O. Box 6885, 429 Deermount Avenue, Ketchikan, AK 99901.

Klawock Cooperative Association, Klawock, AK 99925, Donald Marvin, President.

Kodiak Alaska—Natives of Kodiak, Inc.,* KANA, President, Director of Social Services and Director of Health, P.O. Box 172, Kodiak, AK 99615, (907) 486–5725.

Lower Brule Sioux Tribe, South Dakota, Lower Brule, SD 57548, Rose McCauley, Juvenile Probation Officer, (605) 473–5528.

Mescalero Apache Tribe of New Mexico, Mescalero Apache Agency, Mescalero, NM 88340, Wendell Chino, President.

Metlakatla Indian Community, P.O. Box 8, Metlakatla, AK 99926, Frieda Haldane, Juvenile Probation Officer, (907) 886–4021.

Mt. Marathon Native Association,* Seward, AK.

(1) North Pacific Rim, 903 West Northern Lights Blvd., Suite 203, Anchorage, AK 99503, (907) 276–2121.

(2) Mt. Marathon Native Association, P.O. Box 1457, Seward, AK 99664, (907) 224–3666.

Pueblo of Nambe, New Mexico, Route 1, Santa Fe, NM 87501, Ms. Karen Quintana, (505) 455–7692.

Navajo Tribal Council, Navajo Tribe of Arizona, Division of Social Welfare, Window Rock, AZ 86515, (602) 871–4595.

Oglala Sioux Tribal Council, Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota, Pine Ridge, SD 57770, Joe American Horse, Chairman.

Omaha Tribal Council, Omaha Tribe of Nebraska, P.O. Box 143, Macy, NE 68039, Elmer Blackbird, Chairman.

Organized Village of Kake, Kake, AK 99830, Henry Smith, President.

Native Village of Ouzinkie, KANA, President, Director of Social Services and Director of Health, P.O. Box 172, Kodiak, AK 99615, (907) 486–5725.

Papago Tribe of Arizona, Papago Children's Court, P.O. Box 813, Sells, AZ 85634, Ned Norris, Jr., Judge.

Pawnee Business Council, Pawnee Indian Tribe of Oklahoma, P.O. Box 470, Pawnee, OK 74058, Delbert Horsechief, President, (918) 762–3624.

Petersburg Indian Association, P.O. Box 1128, Petersburg, AK 99833, Richard Kito, President.

Pueblo of Picuris, New Mexico, P.O. Box 228, Penasco, NM 87553, Mary Louise Keesing, Pueblo Tribal Secretary, (505) 587–2519.

Ponca Tribe of Oklahoma, P.O. Box 2, White Eagle, Ponca City, OK 74601, Stacey E. Buffalohead, Chairman.

Port Graham Village Council, Port Graham Village, Homer, AK.

(1) North Pacific Rim, 903 West Northern Lights Blvd., Suite 203, Anchorage, AK 99503, (907) 276–2121.

(2) Walter Maganack, Sr., Village President, Port Graham VIA, Homer, AK 99603, (907) 433–8001.

Port Lions Tribal Council, Native Village of Port Lions, KANA, President, Director of Social Services and Director of Health, P.O. Box 172, Kodiak, AK 99615, (907) 486–5725.

Pueblo of Acoma, New Mexico, P.O. Box 347, Pueblo of Acoma, NM 87034, Bonnie Martinez, Tribal Court Clerk, (505) 552–6632.

Pueblo of San Felipe, New Mexico, P.O. Box 308, Algodones, NM 87001, Ms. Jeanette Trancosa, (505) 867–2439.
Puyallup Nation Health Authority, Puyallup Tribe of Washington, 2209 East 32nd Street, Tacoma, WA 98404, Rod Smith, Executive Director, (206) 597–6380.
Quechan Tribe of the Fort Yuma Reservation, California, P.O. Box 1352, Yuma, AZ 85364, Isadore Quahlupe, Vice-President, (714) 572–0213.
Ramah Navajo Family Service Center,* Ramah Navajo School Board, Inc., P.O. Box Drawer 1—Pine Hill CPO, Pine Hill, NM 87321, Beverly J. Coho, Director of Social Services, Vivian Hailstorm, MSW, Social Worker, Cecelia S. Ensrude, Child Legal Advocate, (505) 783–5011.
Rosebud Sioux Tribe of South Dakota, Rosebud, SD 57570, Elizabeth Garriott, Tribal Social Services.
Pueblo of San Ildefonso, New Mexico, Rte. 5 Box 315–A, Santa Fe, NM 87501, P. Bert Naranjo, Tribal Judge, (505) 455–2273.
Pueblo of San Juan, New Mexico, P.O. Box 1099, San Juan Pueblo, NM 87566, Mr. Johnny Abeyta, (505) 852–4400.
Pueblo of Santa Clara, New Mexico.
(1) Honorable Frankie V. Gutierrez, Tribal Judge,
(2) Ms. Pasqualita Frenier, Director of Social Services Program,
(3) Mr. Joseph Abeyta, Sr., Social Services,
P.O. Box 580,
Espanola, NM 87532,
(505) 753–7326.
Santee Sioux Tribal Council, Santee Sioux Tribe of Nebraska, Niobrara, NE 68760, Richard Kitto, Chairman.
Sauk-Suiattle Indian Tribe of Washington, 4229 76th Street, N.E., Marysville, WA 98270, Jean Fish, Chairman.
Sault Ste. Marie Tribe of Chippewa Indians of Michigan.
(1) Joseph K. Lumsden, Tribal Chairman, 206 Greenough Street, Sault Ste. Marie, MI 49783.
(2) Martha Snyder, Social Worker, P.O. Box 432, Manistique, MI 49854.
(3) Ms. Kathy Fike, 206 Greenough Street, Sault Ste. Marie, MI 49783.
Siletz Tribal Council, Confederated Tribes of the Siletz Reservation, Oregon, P.O. Box 670, Siletz, OR 97380, Arthur S. Bensell, Tribal Chairman.
Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota, Title II and Tribal Court, Sisseton, SD 57262.
Sitka Community Association, P.O. Box 4360, Mt. Edgecumbe, AK 99835, Andrew Hope III, SCA President, (907) 747–3207.
Skokomish Indian Tribe of Washington, Rte. 5, Box 432, Shelton, WA 98584, James Byrd, Sr., Chairman, (206) 877–5113.
Standing Rock Sioux Tribe of the Standing Rock Reservation, North and South Dakota, Health, Education, and Welfare Committee, Fort Yates, ND 58538.
Tatitlek Village Council, Native Villag of Tatitlek.
(1) North Pacific Rim, 903 West Northern Lights Blvd., Suite 203, Anchorage, AK 99503, (907) 276–2121.
(2) Gary Kompkoff, President, Tatitlek Village Council, General Delivery, Tatitlek, AK 99677, (907) 257–8001.
Western Shoshone Social Services Program, Te-Moak Band of Western Shoshone Indians of Nevada, 1545 Silver Eagle Road, Elko, NV 89801, robert Yablunksy, Program Director, (702) 738–9251.
Pueblo of Tesuque, New Mexico, Rte. 1, Box 1, Santa Fe, NM 87501, Mr. Louis Hena, (505) 983–2667.
Saxman IRA Council, Organized Village of Saxman, P.O. Box 8198, Ketchikan, AK 99901, Richard Shelds, President, (907) 225–4166.
Fort Hall Tribal Court, Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho, P.O. Box 306, Fort Hall, ID 83203, (208) 238–3904.
Child Welfare Worker, Child Welfare Program, Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, New Town, ND 58748, Austin Gillette, Chairman.
Hydaburg Council, Hydaburg Cooperative Association, Hydaburg, AK 99922, Mr. Sylvester Peele, Sr.
Kasaan Council, Organized Village of Kasaan, Kasaan, AK, Louis A. Thompson, President.
Turtle Mountain Band of Chippewa Indians, Belcourt, ND 58316, Richard La Fromboise, Chairman, (707) 477–6121.
Valdez Native Association, Valdez, Alaska.*
(1) North Pacific Rim, 903 West Northern Lights Blvd., Ste. 203, Anchorage, AK 99503, (907) 276–2121.
(2) Helen Dunlap, President, Valdez Native Association, P.O. Box 1108, Valdez, AK 99686, (907) 835–4951.
Administrative Manager, White Mountain Apache Tribe of the Fort Apache Reservation, Arizona, P.O. Box 700, White River, AZ 85941, (602) 338–4346.
Wichita Indian Tribe of Oklahoma, P.O. Box 729, Anadarko, OK 73005, Newton Lamar, President, (405) 247–2425.
Winnebago Children's Court, Winnebago Tribe of Nebraska, Winnebago, NE 68071, Ms. Donna Vandell.
Wrangell Cooperative Association,* P.O. Box 868, Wrangell, AK 99929, Margaret Sturdevant, President.
Yakutat, Inc.,* Yakutat, AK 99689, Henry Porter, President.
Yankton Sioux Tribe of South Dakota, Greenwood, SD 57380, Larry Cournoyer, Chairman, (605) 384–3691.

John W. Fritz,
Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83–3648 Filed 2–9–83; 8:45 am]
BILLING CODE 4310–02–M

Moapa Band of Paiutes, Nevada; Amendment to Ordinance No. VII

October 25, 1982.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Resolution No. 75–M–9(1) amending Ordinance No. VII, relating to the application of the Federal Indian Liquor Laws on the Moapa Indian Reservation, Nevada, was duly adopted on September 17, 1975, by the Moapa Business Council which has jurisdiction over the area of Indian country included in the ordinance, reading as follows:

John W. Fritz,
Acting Assistant Secretary—Indian Affairs.

Amendment to Ordinance No. VII; Moapa Band of Paiutes, Arizona

Whereas, in conjuction with the retail outlet of the Tribally owned Leather Shop, plans have been made to open a fast service grocery store, and

Whereas, the sale of alcoholic beverages would not be inconsistent with such an operation, and, more to the point, would enhance the success of such a store,

Now therefore be it resolved, Ordinance No. VII, adopted on April 22, 1970, be revised and amended to read as follows:

Section 1. The sale of all alcoholic beverages is lawful provided it is by a Tribally operated enterprise or by special temporary permission of the Moapa Business Council to groups or individuals.

Section 2. No person shall sell, give away or otherwise furnish intoxicating beverages to any persons under the age of twenty-one (21) years, or leave or deposit any such intoxicating beverages in any place with the intent that same shall be procured by any person under the age of twenty-one (21) years.

Section 3. Intoxicating beverages will not be consumed by any person in any public building, grounds or roads within the exterior boundaries of the Moapa River Indian Reservation.

Penalty. Any Indian who violates any of the provisions of this ordinance shall be deemed guilty of an offense, and upon conviction thereof shall be punished by a fine and/or sentence to imprisonment to be determined by the discretion of the court.

When any provision of this ordinance is violated by a non-Indian, he shall be referred to the State and/or Federal authorities for prosecution under applicable laws.

Certification

It is hereby certified that the above resolution was passed by a quorum of 4 members of the Moapa Business Council at a meeting held on the *17th* day of September, 1975, by a vote of *4* for and *0* against.

Dalton Tom,
Secretary.
Preston Tom,
Chairman.

[FR Doc. 83-3649 Filed 2-9-83; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

[Serial No. I-18297]

Idaho; Conveyance of Public Lands, Clark County

February 1, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), a patent was issued to Francis H. Cabot and William E. Anderson II, as the Idaho Company, a partnership, for the following-described public land:

Boise Meridian, Idaho

T. 9 N., R. 36 E.,
Sec. 21, NE¼NW¼;
Sec. 32, NW¼SW¼.
Containing 80.00 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Louis B. Bellesi,
Deputy State Director for Operations.

[FR Doc. 83-3585 Filed 2-9-83; 8:45 am]
BILLING CODE 4310-84-M

[NM 55217]

New Mexico; Legal Notice

February 1, 1983.

Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico. Pursuant to coal exploration license application NM 55217, members of the public are invited to participate with Dorado Energy Group, Inc., on a pro rata cost sharing basis, in a program for the exploration of coal deposits owned by the United States of America. The lands covered by this application are located in Catron and Cibola Counties, New Mexico, and lie within the general area described below. This exploration is in the nature of a reconnaissance of the region, and hole sites cannot be determined in advance due to the inadequacy of present exploration data. As specific drill hole sites are determined prior approval will be obtained from the authorized officer of the Bureau of Land Management.

T. 2 N., R. 15 W., N. Mex. Prin. Mer., New Mexico
Sections 6, 7, 18, 19 and 30.
T. 3 N., R. 15 W., N. Mex. Prin. Mer., New Mexico
Sections 18, 19, 30 and 31.
T. 4 N., R. 15 W., N. Mex. Prin. Mer., New Mexico
Sections 7, 18, 19, 30 and 31.
T. 2 N., R. 16 W., N. Mex. Prin. Mer., New Mexico
Sections 1, 3, through 15, 17 through 35.
T. 3 N., R. 16 W., N. Mex. Prin. Mer., New Mexico
Sections 4 through 9, 13 through 15, 17 through 31, 33, 34 and 35.
T. 4 N., R. 16 W., N. Mex. Prin. Mer., New Mexico
Sections 1, 3, 4, 6 through 15, 18, 19, 21 through 27, 31 and 35.
T. 2 N., R. 17 W., N. Mex. Prin. Mer., New Mexico
Sections 1, 3, 4, 10 through 13, 24 and 25.
T. 3 N., R. 17 W., N. Mex. Prin. Mer., New Mexico
Sections 1, 3, 6, 7, 8, 12, 14, 15, 17, 20 through 28, 33 through 35.
T. 4 N., R. 17 W., N. Mex. Prin. Mer., New Mexico
Sections 3 through 11, 13, through 15, 17 through 24, 28 through 31 and 33.
T. 4 N., R. 18 W., N. Mex. Prin. Mer., New Mexico
Sections 1, 3 through 15, 17 through 20, 22 through 31, 33 through 35.

Any party electing to participate in this exploration program shall notify in writing, both the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501 and Dorado Energy Group, Inc., 8757 East Monterosa Street, Scottsdale, Arizona 85251. Such written notice must be received no later than 30 calendar days after publication of this notice in the **Federal Register**.

This proposed exploration program is for the purpose of determining the quality and quantity of the coal in the area and is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. A copy of the exploration plan as submitted by Dorado Energy Group Inc., may be examined at the Bureau of Land Management State Office, Room 3031, Joseph M. Montoya Federal Building and U.S. Post Office, South Federal Place, Santa Fe, New Mexico, and the Minerals Management Service, 411 N. Auburn Avenue, Farmington, New Mexico.

Charles W. Luscher,
State Director.

[FR Doc. 83-3587 Filed 2-9-83; 8:45 am]
BILLING CODE 4310-84-M

[Serial No. A 17000-Z]

Arizona; Classification of Public Lands for State Indemnity Selection

1. The Arizona State Land Department has filed a letter of intent to acquire and a petition for classification and application to acquire the lands described in Paragraph 5 below, under the provisions of the Act of June 20, 1910 (36 Stat. 557), as amended, in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. This application has been assigned the serial number A 17000-Z.

2. The Bureau of Land Management will examine these lands for evidence of prior valid rights or other statutory constraints that would bar transfer. Those lands found suitable for transfer will be held to be classified 60 days from date of publication of this notice in the **Federal Register**. Classification is pursuant to Title 43 Code of Federal Regulations, Subpart 2400 and Section 7 of the Act of June 28, 1934.

3. Information concerning these lands and the proposed transfer to the State of Arizona may be obtained from the District Manager, Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 (602-241-2930).

4. For a period of 60 days from the date of publication of this notice in the **Federal Register**, all persons who wish to submit comments on the above classification may present their views in writing for consideration to the Phoenix District Manager, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona 85017. As provided by Title 43 Code of Federal Regulations, Subpart 2462.1, a public hearing will be scheduled by the District Manager if he determines that sufficient public interest exists to warrant the time and expanse of a hearing.

5. The lands included in this classification are located in Maricopa, Pima, Yuma, and Yavapai Counties, Arizona and are described as follows

(footnotes correspond to numbered authorized users or applicants listed in Paragraph 6):

Gila & Salt River Meridian, Arizona

T. 3 N., R. 6 E.,
Sec. 1: Lots 9, 10, 11.[1, 2, 3, 4]

Approximately 41.80 acres.

T. 4 N., R. 1 E.,
Sec. 12: W1/2W1/2SW1/4NW1/4;
Sec. 23: W1/2NW1/4NW1/4SE1/4, N1/2SW1/4NW1/4SE1/4.[5]

Approximately 20.00 acres.

T. 5 N., R. 2 E.,
Sec. 35: S1/2SW1/4NW1/4NW1/4.[39]

Approximately 5.00 acres.

T. 2 N., R. 3 W.,
Sec. 5: Lots 2, 3, 4, SW1/4NE1/4, S1/2NW1/4, SE1/4, W1/2SE1/4.[40]
Sec. 6: Lots 1, 2, 3, 4, 5, SE1/4NE1/4, E1/2SE1/4.[40]
Sec. 7: Lots 1, 2, 3, 4, E1/2E1/2[40]
Sec. 8: W1/2, W1/2E1/2.[40]
Sec. 27: SW1/4SW1/4.[40]
Sec. 28: SE1/4SE1/4.[40]
Sec. 33: E1/2NE1/4.[40]
Sec. 34: Lot 2, S1/2NE1/4, W1/2NW1/4, SE1/4NW1/4, N1/2SW1/4.[3, 40]
Sec. 35: Lots 3, 4, W1/2NW1/4NE1/4, S1/2NE1/4, NE1/4NW1/4, E1/2NW1/4NW1/4, S1/2NW1/4, NE1/4NE1/4SW1/4, N1/2SE1/4.[6, 40]

Approximately 2,451.04 acres.

T. 2 N., R. 4 W.,
Sec. 1: Lots 1, 2, 3, 4, S1/2N1/2, S1/2[43]
Sec. 3: Lots 1, 2, 3, 4, S1/2N1/2, S1/2.[7, 19, 41]
Sec. 10: NE1/4.[7, 19, 41]
Sec. 11: A11.[7, 19, 41]
Sec. 12: A11.[41]

Approximately 2,722.04 acres.

T. 2 N., R. 1 W.,
Sec. 13: NE¼, NE¼SE¼;[2, 8, 42]
Sec. 25: NW¼NE¼.[2, 8, 42]

Approximately 240.00 acres.

T. 3 N., R. 1 W.,
Sec. 24: W½NE¼NE¼SE¼, W½NE¼SE¼, W½W½SE¼NE¼SE¼.[2, 8, 8]

Approximately 107.50 acres.

T. 3 N., R. 4 W.,
Sec. 2: E½E½;[20]
Sec. 9: E½;[20, 43]
Sec. 10: All;[20, 44]
Sec. 11: W½, W½E½, W½E½E½;[20, 43]
Sec. 14: W½W½E½, W½E½E½, E½E½SE¼, E½SE¼NE¼;[20, 29, 44]
Sec. 15: All;[20, 29, 43]
Sec. 16: E½;[20, 29]
Sec. 21: E½;[19, 20, 43]
Sec. 22: All;[19, 20, 44]
Sec. 23: All;[19, 20, 21, 44]
Sec. 24: S½NW¼, SW¼;[44]
Sec. 25: NW¼, N½SW¼, SW¼SW¼;[44]
Sec. 26: All;[19, 44]
Sec. 27: All;[19, 44]
Sec. 28: E½;[19, 44]
Sec. 33: Lots 3, 4, NE¼, N½SE¼;[7, 19, 43]
Sec. 34: Lots 1, 2, 3, 4, N½, N½S½;[19, 44]
Sec. 35: Lots 1, 2, 3, 4, N½, N½S½;[19, 44]
Sec. 36: W½NW¼, S½.

Approximately 8,938.70 acres.

T. 4 N., R. 1 W.,
Sec. 13: SW¼SE¼;[5, 22, 45]

Approximately 40.00 acres.

T. 1 S., R. 2 W.,
Sec. 4: SE¼SE¼;[22, 40]
Sec. 9: NE¼NE¼, S½NE¼, S½SW¼, SE¼;[5, 22, 40]
Sec. 10: All;[22, 40]
Sec. 11: All;[22, 40]
Sec. 14: All;[2, 5, 8, 8, 10, 11, 22, 40]
Sec. 15: All;[22, 40]
Sec. 22: SW¼;[22, 40]
Sec. 27: W½NE¼, NW¼;[2, 5, 8, 10, 11, 22, 40]
Sec. 28: All;[2, 5, 10, 11, 22, 40]
Sec. 29: All;[22, 40]
Sec. 30: NW¼NW¼NE¼, S½N½NE¼, SW¼NE¼, E½NW¼, SE¼SE¼;[2, 5, 12, 22, 40]
Sec. 33: N½N½;[5, 22, 40]

Approximately 5,170.00 acres.

T. 8 N., R. 2 E
Sec. 9: SE¼NE¼ less P.M.S. 3743, SE¼;[22, 24, 32, 33, 34, 35, 36]
Sec. 10: NE¼ NW¼NW¼ less R&PP lease, S½NW¼NW¼, SW¼NW¼, E½W½, W½E½, E½SE¼;[3, 5, 7, 9, 13, 14, 15, 22, 24, 26]
Sec. 11: S½SW¼;[25]
Sec. 14: W½NW¼;[25]
Sec. 15: NE¼ east of I–17, E½NW¼.[3, 7, 9, 15, 25]

Approximately 1,010.00 acres.

T. 19 S., R. 13 E.,
Sec. 6: E½SW¼, SE¼;[16, 26, 37, 46]
Sec. 7: SE¼NW¼, SE¼SW¼.[26, 37, 46]

Approximately 280.00 acres.

T. 14 N., R. 2 W.,
Sec. 34: Tract C.[3, 16, 17]

Approximately 14.61 acres.

T. 15 N., R. 2 W.,
Sec. 12: SW¼SW¼.[16, 27]

Approximately 40.00 acres.

T. 6 S., R. 14 W.,
Sec. 1: Lots 1, 2, 3, 4, S½N½, S½;[28]
Sec. 12: All.

Approximately 1,283.62 acres.

Application A 17000–Z totals approximately 22,364.31 acres.

6. The following listed corporations, agencies, and individuals are holders of or applicants for leases, withdrawals, permits, and/or rights-of-way on the public lands described in Paragraph 5 above:

Withdrawals

[1] Bureau of Reclamation, Lower Colorado Projects Office, P.O. Box 427, Boulder City, Nevada 89005, Order, 3/17/52.

Rights-of-Way

[2] Salt River Project, P.O. Box 1980, Phoenix, Arizona 85001, AR 032264, A 6635, A 10350.
[3] Mountain States Telephone, R/W Department, room 808–A 3033 North Third Street, Phoenix, Arizona 85012 A 5419, A 7335, A 6273, A 904, A 10150, A 10337.
[4] Maricopa County Highway Dept., 3325 West Durango Street, Phoenix, Arizona 85009, A 17599.
[5] Arizona Public Service, P.O. Box 21666, Sta. 3172, Phoenix, Arizona 85036, AR 018990–A, A 4459, A 6693, A 7731, A 8532, A 8926, A 10350, A 14641, A 16125, A 7220, A 4585, A 6014.
[6] Arizona Water Resources Commission, 222 North Central Avenue, Phoenix, Arizona 85004, AR 03774.
[7] Bureau of Reclamation, Arizona Projects Office, 2200 Valley Bank Center, Phoenix, Arizona 85073, PHX 080582, PHX 085401.
[8] Tucson Electric Power Company, P.O. Box 711, Tucson, Arizona 85702, A7274, A 7731, A 7872.
[9] El Paso Gas Company, P.O. Box 1492, El Paso, Texas 79978, PHX 083799, AR 010913, AR 017553.
[10] Public Service Company of New Mexico, P.O. Box 2267, Albuquerque, New Mexico 87103, A 10350.
[11] El Paso Electric Company, P.O. Box 982, El Paso, Texas 79999, A 10350.
[12] James H. & Georgia K. Mantis, Box 605, Buckeye, Arizona 85326, A 12375.
[13] Jack W. Blanchard, 2140 West Shady Glen, Phoenix, Arizona 85023, A 13119.
[14] Yavapai County Board of Supervisors, Courthouse, Prescott, Arizona 86301, A 543.
[15] Arizona Department of Transportation, 206 South 17th Avenue, Phoenix, Arizona 85007, A 9589, AR 034191, AR 030988, AR 032656, PHX 084389, PHX 084077, PHX 083280.
[16] Trico Electric Company, Box 35970, Tucson Arizona 85740, AR 011059.
[17] Veterans Administration, Office of Construction, Washington, D.C. 20420, A 7818.
[18] Atchison, Topeka & Santa Fe Railroad, One Santa Fe Plaza, 5200 East Sheila Street, Los Angeles, California 90040, PHX 086539.

Grazing Leases

[19] Ted Hazen, Box 54, Star Route, Buckeye, Arizona 85326.
[20] Charles A. Miccia, P.O. Box 768, Gila Bend, Arizona 85337.
[21] Larry & Fern Rose, P.O. Box 293, Peoria, Arizona 85345.
[22] Loren De Rosier, Route 1, Box 106, Buckeye, Arizona 85326.
[23] Jack Harman, Rock Springs Store, Box 2000, Black Canyon Stage, Phoenix, Arizona 85029.
[24] William T. & Alberta P. Booth, P.O. Box 472, Black Canyon City, Arizona 85324.
[25] John Vanderwey, Vanderwey Ranches, 2241 E. Colter Street, Phoenix, Arizona 85016.
[26] Marley Cattle Company, P.O. Box 6632, Phoenix, Arizona 85005.
[27] Douglas and Nancy Bard, Campwood Route, Prescott, Arizona 86301.
[28] Jojoba Plantation Products, Inc., 515 South Figueroa Street, Los Angeles, California 90071.

Range Improvements

[29] 0605; Fence; Charles Miccia.
[30] 0605; Fence; Ted Hazen.
[31] 1343; Fence; Ted Hazen.
[32] 0604; Fence; Jack Harman.
[33] 1286; Fence; Jack Harman.
[34] 0047; Fence; William T. Booth.
[35] 2052; Fence; William T. Booth.
[36] 2060; Fence; Jack Harman.
[37] 1915; Fence; Marley Cattle Company.

Cooperative Agreements

[38] 1286; Fence; William T. Booth.

Oil & Gas Leases

[39] Petro American, Inc., 817 Seventeenth Street, Suite 616, Denver, Colorado 80202, A12937.

[40] Columbia Gas Development Corp., P.O. Box 1350, Houston, Texas 77001, A 12645, A 12646, A 12647, A 12648, A 12649, A 12654, A 12655, A 12657, A 12658.

[41] Emerald Oil Company, 1570 C.S.B. Tower, 50 South Main, Salt Lake City, Utah 84101, A 14232.

[42] Mormac Oil and Gas, Suite 100, Mormac Bldg., 321 Texan Trail, Corpus Christi, Texas 78411 and Tipperary Oil and Gas Corp., P.O. Box 3179, Midland, Texas 79702, A 11194.

[43] AMAREX, Inc., Box 1678, Oklahoma City, Oklahoma 73101, A 14093.

[44] First Mississippi Corp., P.O. Box 1249, Jackson, Mississippi 39205, A 14234, A 14235.

[45] American Quasar Petroleum Co. of New Mexico, Suite 707, 1700 Broadway, Denver, Colorado 80290, A 12800.

[46] Jan L. Aldrich, Box 2541, Lawton, Oklahoma 73502, A 17756.

7. Rights-of-way granted by BLM will transfer with the land. Oil and gas leases will remain in effect under the terms and conditions of the lease. State Law and State Land Department procedures (R 12–5–154 D Administrative Rules and Regulations, Arizona State Land Department) provide for the offering to holders of BLM grazing permits the first right to lease lands that are transferred to the state. This constitutes official notice to grazing leassees that their Bureau of Land Management leases will be terminated in part upon transfer of the land to the State of Arizona.

Dated: February 3, 1983.

William K. Barker,

District Manager.

[FR Doc. 83–3650 Filed 2–9–83; 8:45 am]

BILLING CODE 4310–84–M

[M 55662]

Montana; Conveyance of Public Lands, Garfield County

February 3, 1983.

Notice is hereby given that, pursuant to the Act of October 21, 1976 (90 Stat. 2743, 2756; 43 U.S.C. 1701, 1716), the following public land was conveyed to L. B. Binion and Teddy Jane Binion in exchange for other lands and/or interests in lands:

Principal Meridian, Montana

T. 20 N., R. 38 E.,
Sec. 11, N½ and SE¼; and
Sec. 12, N½ and SW¼.

T. 21 N., R. 38 E.,
Sec. 23, W½NE¼, W½ and SE¼;
Sec. 25, S½NE¼, NW¼SW¼, S½SW¼, and SE¼;
Sec. 28, W½NE¼, W½ and SE¼;
Sec. 32, E½NW¼NW¼ and SW¼SE¼; and
Sec. 35, N½, N½S½, and SW¼SW¼.

T. 18 N., R. 39 E.,
Sec. 1, Lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 3, S½SE¼;
Sec. 4, Lot 3, S½NW¼ and W½SW¼;
Sec. 5, Lots 1, 2, and 3, S½NE¼, SE¼NW¼, and S½;
Sec. 6, SE¼SW¼ and SE¼;
Sec. 7, E½NE¼ and N½NE¼SE¼;
Sec. 8, N½ and N½N½S½;
Sec. 10, NE¼;
Sec. 11, W½NE¼ and NW¼; and
Sec. 12, NW¼NW¼ and N½SW¼NW¼.

T. 19 N., R. 39 E.,
Sec. 27, NW¼SW¼;
Sec. 28, S½;
Sec. 31, NW¼SW¼, SE¼SW¼, and S½SE¼;
Sec. 32, S½NW¼ and SW¼;
Sec. 33, W½NW¼, N½SW¼, and SE¼SW¼; and
Sec. 35, NE¼SE¼.

T. 20 N., R. 39 E.,
Sec. 6, Lots 6 and 7; and
Sec. 7, Lots 1 and 2.

T. 21 N., R. 39 E.,
Sec. 17, SW¼SW¼;
Sec. 18, Lots 3 and 4, E½SE¼;
Sec. 19, NE¼SW¼ and SE¼SE¼;
Sec. 20, S½SW¼;
Sec. 21, SE¼SW¼;
Sec. 29, W½, W½SE¼, and SE¼SE¼;
Sec. 30, Lots 2, 3, and 4, E½, SE¼NW¼, and E½SW¼;
Sec. 31, Lots 1, 2, 3, and 4, E½, and E½W½;
Sec. 32, N½ and NW¼SW¼; and
Sec. 33, N½NW¼ and SW¼NW¼.

T. 19 N., R. 40 E.,
Sec. 1, Lot 1, S½NE¼ and SE¼.

T. 20 N., R. 40 E.,
Sec. 12, SE¼NW¼, E½SW¼, and SE¼;
Sec. 13, W½NE¼, E½NW¼, and SE¼;
Sec. 26, E½;
Sec. 34, All; and
Sec. 35, All.

T. 19 N., R. 41 E.,
Sec. 6, Lots 1, 2, 3, 4, and 5.

T. 20 N., R. 41 E.,
Sec. 7, Lots 3 and 4, E½SW¼ and W½SE¼;
Sec. 18, Lots 1, 2, and 3, E½NW¼ and NE¼SW¼; and
Sec. 31, Lot 4, SE¼SW¼ and S½SE¼.

The areas described aggregate 12,590.27 acres.

The purpose of the Notice is to inform the public and interested state and local governmental officials of the issuance of a conveyance document to the Binions.

Edgar D. Stark,

Chief, Lands Adjudication Section.

[FR Doc. 83–3651 Filed 2–9–83; 8:45 am]

BILLING CODE 4310–84–M

Garfield County, Colo.; Environmental Impact Statement, Scoping Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to hold scoping meetings and prepare an environmental impact statement.

SUMMARY: The U.S. Department of the Interior, Bureau of Land Management, Grand Junction District Office will prepare an environmental impact statement (EIS) which addresses two separate proposed shale oil projects in Garfield County, Colorado.

Purpose of This Announcement

This announcement is to inform the public that both the Mobil and the Pacific shale oil projects will be addressed in an Environmental Impact Statement, and that Public Scoping Meetings will be held to identify issues concerning the projects.

Background to This Annoucement

Mobil Oil Corporation ("Mobil") on November 11, 1981 requested a right-of-way across public lands for the development of a water reservoir on Main Elk Creek. On April 21, 1982, Mobil also requested the purchase or exchange of lands abuting their properties ("Wheeler Gulch") which would be affected by the Parachute Shale Oil Project. The two requests are related in that water from the Main Elk Creek Project is proposed as a possible source of water for the Parachute Shale Oil Project. The requested land actions constitute a major federal action requiring an EIS.

In order to comply with the National Environmental Policy Act (NEPA) in an effective manner, the BLM proposed to combine the Mobil EIS with the NEPA review for other shale oil projects, amenable to site-specific review and needing BLM land authorization.

On Wednesday, July 7, 1982 a notice was published in the **Federal Register**, pages 29606 and 29607 which requested interested parties to contact the Grand Junction District of the Bureau of Land Management. Those companies interested in participating were requested to submit a letter of intent and a project description with a status report.

On September 9, 1982 the Grand Junction District received a letter from the Standard Oil Company (SOHIO) that confirmed the intent of the Pacific Shale Project, a joint venture of Sohio Shale Oil Company, Superior Oil Company and Cliffs Oil Shale Corporation (collectively "Pacific") to proceed with an shale oil project that would involve a right-of-way across and the purchase of, or trade for, public lands administered by BLM. The letter indicated their commitment to becoming a party to a joint EIS review.

Proposed Action

The general project descriptions provided to date are as follows:

Mobil

The Mobil Oil Corporation proposes to develop a 100,000 barrel per day shale

oil facility, known as the Parachute Shale Oil Project, to be located on private land in Garfield County, Colorado.

The Parachute Project will include underground mining; underground and surface crushing; surface shale oil retorting, spent shale disposal and shale oil upgrading facilities. The primary source of water will be a reservoir on Main Elk Creek. Ancillary facilities will include a syncrude pipeline, electric powerline, access roads, a funicular railroad, and a buried utility corridor.

Pacific

The Pacific Shale Project also proposes a 100,000 barrel per day shale oil facility on private land in Garfield County, Colorado. Some of the support systems proposed for the project will extend into Mesa County. The Pacific Shale Project will include underground mining and underground support facilities such as offices, shops, warehousing, electrical substations and a crushing station. The water system will include intake facilities on the Colorado River and water treatment plants and water storage at the project site. Transportation will include a syncrude pipeline, electric powerline and roads. Surface retorting, spent shale disposal and shale oil upgrading will be included in the project.

Alternatives Including the Proposed Action

The EIS will contain an identification of possible alternatives, including Mobil's and Pacific's proposed action and a no-action alternative. Other alternatives will include alternate mining methods, processing methods and locations, alternate pipeline routes, and alternate transportation routes.

Other alternatives may be developed through the scoping process for the three phases (construction, operation, and abandonment). The scoping process will be open and all reasonable alternative proposals will given serious consideration.

All identified alternatives will be considered; however, some alternatives may not be pursued further after scoping. Those alternatives that have minimal potential environmental consequences, have obvious flaws that preclude their availability, or are unreasonably expensive will only be discussed briefly in the EIS. After a short description, including the reason why the alternative is not considered sound, it will not be considered further. Only those alternatives that are practically possible, are reasonably available, and merit further consideration in their own right will be analyzed in depth in the EIS.

Scoping Process

In accordance with the final regulations of the Council on Environmental Quality for Implementation of Procedureal Provisions of the National Environmental Policy Act (40 CFR, Part 1500) the scoping meetings will:

a. Inform affected federal, state and local agencies, and other interested groups or individuals about the proposal.

b. Define the scope and significant issues to be analyzed in the EIS. This includes indentification and elimination from detailed study those issues which are not significant.

c. Identify environmental reports which may be related to the proposal or may contain relevant data.

d. Identify related consultation and review requirements which will be addressed in the EIS, including identification of mandated documentation.

Scoping Meetings

Scoping meetings will be held March 21 to March 25, 1983 at the following times and locations.

March 21—Rifle, Colorado, 7:00 p.m., Rifle High School Cafeteria
March 22—DeBeque, Colorado, 7:00 p.m., DeBeque School Multipurpose Room
March 23—Grand Junction, Colorado, 7:00 p.m., Grand Junction High School Cafeteria
March 24—Denver, Colorado, 7:00 p.m., Ramada Foothills, Winchester Room
March 25—Denver, Colorado, Agency Scoping, 9:00 a.m., Ramada Foothills, Winchester Room

For further information contact: Phillip L. Neal, EIS Team Leader, Mobil-Pacific Oil Shale EIS, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501. Telephone: Commercial—303–243–6552; FTS—323–0011.

Lee Lauritzen,

Acting District Manager.

[FR Doc. 83–3652 Filed 2–9–83; 8:45 am]

BILLING CODE 4310–84–M

Utah; Combined Hydrocarbon; Regional Environmental Impact Statement (EIS)

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement and Notice of Public Scoping Meetings.

SUMMARY: This twofold notice is to first announce the intent of the Bureau of Land Management to prepare an environmental impact statement (EIS) covering potential combined hydrocarbon (tar sand) development in Utah. The EIS will cover (1) potential oil production levels from eleven special tar sand areas (STSAs) in Utah, (2) potential leasing of scattered parcels in STSAs located in Duchesne, Carbon, Energy, Wayne, and Garfield Counties in Utah, (3) oil and gas leasing categories within the eleven STSAs. An initial Notice of Intent appeared in the July 16, 1982, Federal Register.

The second purpose of this notice is to advise the public that issue identification and scoping meetings for the combined hydrocarbon regional EIS will be held at the following dates and locations:

March 8, 1983

Vernal District Office, Bureau of Land Management, 170 South 500 East, Vernal, Utah

March 9, 1983

Price Resource Area Office, Bureau of Land Management, 900 North 7th East, Price, Utah

March 15, 1983

Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, 13th Floor Conference Room, Salt Lake City, Utah

All meetings are scheduled from 4 p.m. to 7 p.m. and will have an open house format. The purpose of the meeting is threefold: (1) to inform the public of the nature of the combined hydrocarbon leasing and conversion program; (2) to gather resource information from the public; and (3) to consider concerns, problems, and or issues important to the public that could realistically be addressed in the EIS.

The general issues appear to include: air quality, scenic and water quality, water use, transportation development and socioeconomics.

The comment period on issues will end April 15, 1983. Written comments will be accepted at, and additional information can be obtained from: Bureau of Land Management, Alan Partridge, Team Leader, 150 East 900 North, Richfield, Utah 84701, (801) 896–8221.

Dated: February 4, 1983.

Roland G. Robison,

Utah State Director.

[FR Doc. 83-3653 Filed 2-9-83; 8:45 am]

BILLING CODE 4310-84-M

[M-56116A]

Montana; Realty Action, Exchange; Correction

In **Federal Register** Document No. 83-1954 appearing on pages 3419 and 3420, dated January 25, 1983, make the following corrections:

1. Page 3419, column one, the last sentence Sec. 1: SE¼NE½, SE¼NW¼ should read Sec. 1: SE¼NE¼, SE¼NW¼.

2. Page 3419, column one, after the last sentence add the following legal descriptions:

T. 12 N., R. 13 E.
Sec. 6: Lot 5
T. 16 N., R. 11 E.
Sec. 19: NW¼SE¼
T. 18 N., R. 11 E.
Sec. 15: NW¼NW¼

3. Page 3419, the last sentence of column two, "Aggregating 4,682.36 acres of public land" should read "Aggregating 4,787.27 acres of public land."

4. Page 3420, column one, third paragraph, "3. All valid existing rights (e.g. rights-of-way, easements, and lease or record)" should read "3. All valid existing rights (e.g. rights-of-way, easements, and leases of record)."

Glenn Freeman,

District Manager.

FR Doc. 83-3654 Filed 2-9-83; 8:45 am]

BILLING CODE 4310-84-M

[A-7154]

Arizona; Realty Action, Competitive Sale of Public Land in Cochise County

The following described land has been identified as suitable for disposal under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value.

GILA AND SALT RIVER MERIDIAN

[T. 13 S., R. 19 E.]

Parcel	Legal description	Acreage	Value
1	Sec. 1, lot 4	40.18	$19,000
2	Sec. 1, SE¼NW¼	40.00	19,000
3	Sec. 1, NW¼SW¼	40.00	17,000
4	Sec. 1, NE¼SE¼, E½SE¼	120.00	45,000
5	Sec. 12, E½NW¼	80.00	32,000

The above land aggregates 320.18 acres. Cochise County has zoned these lands as suitable for Resource Production Lands (life-support activities). The land will be sold at public auction by competitive bidding. The sale will be held Thursday, April 28, 1983 at 2:00 p.m., Mountain Standard Time, at the Justice of the Peace Courtroom. Cochise County Service Center, located at Highway 80 and Seventh Street, Benson, Arizona.

Bidding information and Instructions: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States, 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state of the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent. Agents will be required to submit proof of power of attorney.

Method of Bidding: Each bid must be for all the land in a specified parcel, and for no less than the appraised fair market value. Bids may be made either by submitting sealed bids until three days before the sale date or by bidding orally at the sale. Bids sent by mail will only be considered if received by the Bureau of Land Management, Safford District Office, 425 East Fourth Street, Safford, Arizona 85546, prior to 4:00 p.m., Mountain Standard Time, Monday, April 25, 1983. Sealed bids, accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid must be in a separate sealed envelope, within the transmittal envelope. The sealed envelopes must be marked in the lower lefthand corner, "Sealed Bid, Parcel ———, Public Land Sale A-7154 Sale to be held April 28, 1983." All sealed bids will be opened at 2:00 p.m. on the day of sale.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid will be the base for oral bids. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these. Each oral bid must be in increments not less than fifty dollars.

The successful oral bidder is required to pay one-fifth of the bid immediately at the sale by any of the above forms of payment, or combination of, including a personal check. A successful bidder must submit the remainder of the full bid price at the time of sale or within thirty (30) days after receipt of the Bureau's decision accepting the highest bid. If final payment is not received within the specified 30 days, the high bid is rejected, the deposit is forfeited, and the parcel offered to the second highest bidder, subject ot the same terms and conditions. All unsuccessful sealed bids will be returned within 30 days of the sale.

Patents for the land, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 26 Stat. 391; 43 U.S.C. 945.

2. All minerals shall be reserved to the United States.

It will be the responsibility of the successful bidder to review and/or ascertain:

1. The Federal Emergency Management Agency (FEMA) 100 year floodplain maps that may affect the area, and the Cochise County Planning and Zoning Commission regarding flood hazard potentiai of these lands.

2. The clarification of the rightful owner and the location of the fenceline on or near the north boundary of Section 1 Lot 4 T. 13 S., R. 19 E. GSRM, Arizona.

Publication of the notice will segregate the subject lands from all appropriations under public laws, including the mining laws, but not the mineral leasing laws. This segregration will terminate upon the issuance of a patent or two years from the date of this Notice, or upon publication of a Notice of Termination.

Detailed information concerning the sale can be obtained from the Safford District Office. For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Safford District Office. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action, and issue a final determination. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Department of the Interior.

Dated: February 4, 1983.

Lester K. Rosenkrance,

District Manager.

[FR Doc. 83-3655 Filed 2-9-83; 8:45 am]

BILLING CODE 4310-84-M

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
Minerals Management Service
Outer Continental Shelf--Nurton Basin
Oil and Gas Lease Sale No. 57

1. Authority: This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (30 CFR Part 256, formerly 43 CFR Part 3300; see the Federal Register of October 22, 1982, at 47 FR 47006). A revision of these regulations appeared in the Federal Register of June 16, 1982, at 47 FR 26031 and 25967.

2. Filing of Bids: Sealed bids will be received by the Regional Manager, Alaska Outer Continental Shelf (OCS) Region, 620 East 10th Avenue, P.O. Box 1159, Anchorage, Alaska 99510. Bids may be delivered, either by mail or in person, to the above address until 4:30 p.m., March 14, 1983; or by personal delivery to the Howard Rock Ballroom, Sheraton Anchorage Hotel, 401 East 6th Ave., Anchorage, Alaska, between the hours of 8:30 a.m., a.h.s.t., and 9:30 a.m., a.h.s.t., March 15, 1983. Bids received by the Regional Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Regional Manager prior to 9:30 a.m., a.h.s.t., March 15, 1983. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale was published in the Federal Register on October 6, 1982, at 47 FR 44166.

3. Method of Bidding: A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., a.h.s.t., March 15, 1983," must be submitted for each tract. A suggested bid form appears in 30 CFR Part 256, Appendix A. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check payable to the order of the Minerals Management Service. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to no more than five decimal places after the decimal point, e.g., 50.12345 percent. The previous requirement for a joint bidder's statement has been rescinded by the latest revision of regulations at 30 CFR 256 (see paragraph 1, above). Other documents may be required of bidders under 30 CFR 256.46. Partnerships also need to submit a list of signatories authorized to bind the partnership in matters relating to OCS leasing, consistent with the partnership agreement. All documents must be executed in conformance with signatory authorizations on file. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems: All leases awarded for this sale will provide for a yearly rental payment of $8 per hectare or fraction thereof, and a minimum royalty payment at an annual rate of $8 per hectare or fraction thereof. The following systems will be utilized:

(a) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on tracts 57-33, 57-34, 57-35, 57-36, 57-37, 57-38, 57-40, 57-41, 57-42, 57-43, 57-44, 57-45, 57-46, 57-47, 57-49, 57-50, 57-51, 57-52, 57-53, 57-54, 57-55, 57-56, 57-58, 57-59, 57-60, 57-61, 57-62, 57-63, 57-64, 57-65, 57-66, 57-67, 57-68, 57-69, 57-70, 57-71, 57-72, 57-73, 57-74, 57-75, 57-76, 57-77, 57-78, 57-79, 57-80, 57-81, 57-82, 57-83, 57-84, 57-85, 57-86, 57-87, 57-88, 57-89, 57-90, 57-91, 57-92, 57-93, 57-94, 57-95, 57-96, 57-97, 57-98, 57-99, 57-100,57-101, 57-102, 57-103, 57-104, 57-105, 57-106, 57-107, 57-108, 57-109, 57-110, 57-111, 57-112, 57-113, 57-114, 57-115, 57-116, 57-117, 57-118, 57-119, 57-120, 57-121, 57-122, 57-123, 57-124, 57-125, 57-126, 57-127, 57-128, 57-129, 57-130, 57-131, 57-132, 57-133, 57-134, 57-135, 57-136, 57-137, 57-138, 57-139, 57-140, 57-141, 57-142, 57-143, 57-144, 57-145, 57-146, 57-147, 57-148, 57-149, 57-150, 57-151, 57-152, 57-153, 57-154, 57-155, 57-156, 57-157, and 57-158 must be submitted on a cash bonus basis with the percent royalty due in amount or value of production fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $16.697566 million, a royalty of 12.50000 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $16.697567 million, but less than or equal to $11822.537759 million, the royalty percent due on the unadjusted value or amount of production is given by

$Rj = b[Ln (Vj/S)]$ where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 8.0

ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.50

When the adjusted quarterly value of production is equal to or greater than $11822.537760 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 10.56224 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., the nearest dollar (for example, 35.624831 millions of dollars).

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Figure 1
Form of the Sliding Royalty Schedule

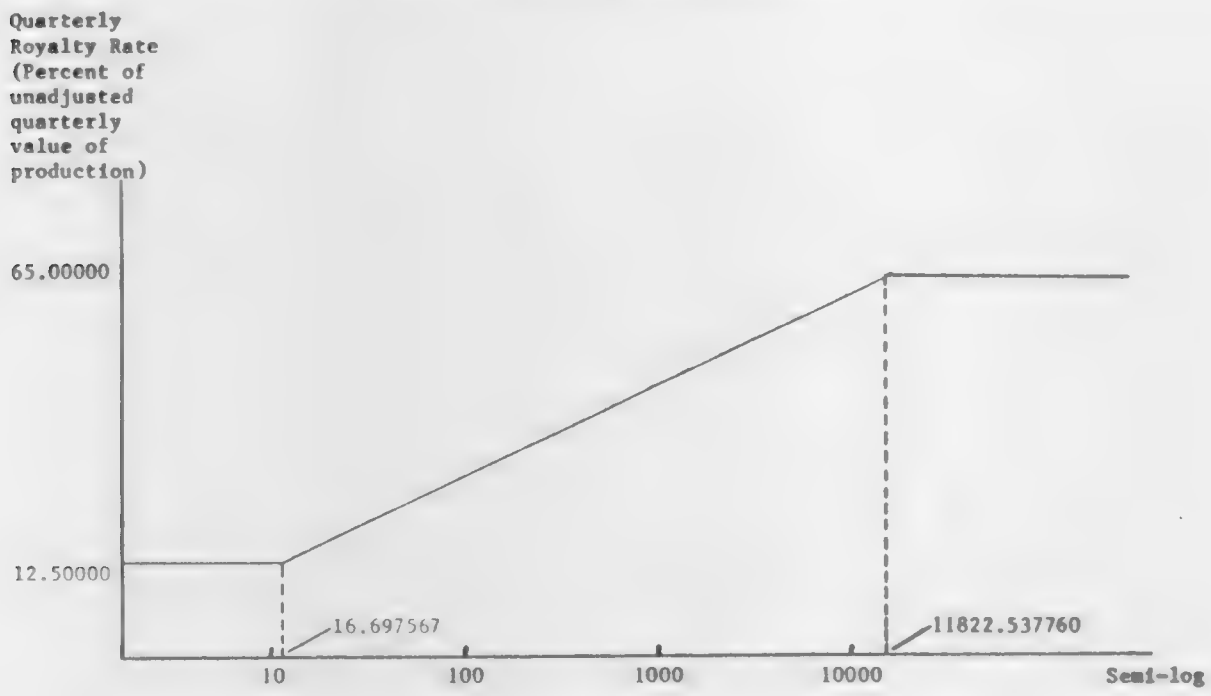

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $)	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	12.50000	1.25000
30.000000	200.0	4/3	22.500000	14.88602	4.46581
90.000000	200.0	4/3	67.500000	23.67492	21.30743
270.000000	200.0	4/3	202.500000	32.46382	87.65231
810.000000	200.0	4/3	607.500000	41.25271	334.14695
10.000000	250.0	5/3	6.000000	12.50000	1.25000
30.000000	250.0	5/3	18.000000	13.10087	3.93026
90.000000	250.0	5/3	54.000000	21.88977	19.70079
270.000000	250.0	5/3	162.000000	30.67867	82.83241
810.000000	250.0	5/3	486.000000	39.46757	319.68732

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

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The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

(b) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

5. Equal Opportunity: Each bidder must have submitted by 9:30 a.m., a.h.s.t., March 15, 1983, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982), and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See item 14, "Information to Lessees."

6. Bid Opening: Bids will be opened on March 15, 1983, beginning at 10 a.m., a.h.s.t., at the second address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, March 15, 1983, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment: Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts: The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids: The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

a. The bidder has complied with all requirements of this notice and applicable regulations;

b. The bid is the highest valid cash bonus bid; and

c. The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it provides for a cash bonus in the amount of $371 or more per hectare or fraction thereof. Any bid submitted which does not conform to the requirements of this notice of sale, the OCS Lands Act, as amended, or applicable regulations may be returned to the person submitting that bid by the Regional Manager and not considered for acceptance.

10. Successful Bidders: Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 30 CFR Subpart I within the time provided in 30 CFR 256.47. A modification of the payments procedure for successful bidders appears in the latest revision of 30 CFR 256 (see paragraph 1, above). These changes do not apply to the submission of the one-fifth bonus with bids, described in paragraph 3, above.

11. Protraction Diagrams: Tracts offered for lease may be located on the following official protraction diagrams which are available from the Regional Manager, Alaska Outer Continental Shelf Region, at the first address stated in paragraph 2, at a cost of $2 each.

a. Outer Continental Shelf Official Protraction Diagram NP 3-1, Norton Sound (approved December 13, 1976).

b. Outer Continental Shelf Official Protraction Diagram NP 3-2, St. Michael (approved December 13, 1976).

c. Outer Continental Shelf Official Protraction Diagram NQ 3-7, Nome (approved December 13, 1976).

d. Outer Continental Shelf Official Protraction Diagram NQ 3-8, Solomon (approved December 13, 1976).

12. Tract Descriptions: Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental impact statement may not be included in this notice.

The tracts offered for bid are as follows:

OCS OFFICIAL PROTRACTION DIAGRAM, NORTON SOUND NP 3-1
(Approved December 13, 1976)

OCS OFFICIAL PROTRACTION DIAGRAM, NORTON SOUND NP 3-1
(Approved December 13, 1976)

OCS OFFICIAL PROTRACTION DIAGRAM, NORTON SOUND NP 3-1
(Approved December 13, 1976)

Tract	Block	Designation	Hectares
57-1	25	All	2304.00
57-2	26	All	2304.00
57-3	27	All	2304.00
57-4	28	All	2304.00
57-5	29	All	2304.00
57-6	30	All	2304.00
57-7	31	All	2304.00
57-8	32	All	2304.00
57-9	71	All	2304.00
57-10	72	All	2304.00
57-11	73	All	2304.00
57-12	74	All	2304.00
57-13	75	All	2304.00
57-14	76	All	2304.00
57-15	115	All	2304.00
57-16	116	All	2304.00
57-17	117	All	2304.00
57-18	118	All	2304.00
57-19	119	All	2304.00
57-20	120	All	2304.00
57-21	159	All	2304.00
57-22	160	All	2304.00
57-23	161	All	2304.00
57-24	162	All	2304.00
57-25	163	All	2304.00
57-26	164	All	2304.00
57-27	203	All	2304.00
57-28	204	All	2304.00
57-29	205	All	2304.00
57-30	206	All	2304.00
57-31	207	All	2304.00
57-32	208	All	2304.00
57-33	245	All	2304.00
57-34	247	All	2304.00
57-35	248	All	2304.00
57-36	249	All	2304.00
57-37	250	All	2304.00
57-38	251	All	2304.00
57-39	252	All	2304.00
57-40	288	All	2304.00
57-41	289	All	2304.00
57-42	290	All	2304.00
57-43	291	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, NORTON SOUND NP 3-1
(Approved December 13, 1976)

Tract	Block	Designation	Hectares
57-44	292	All	2304.00
57-45	293	All	2304.00
57-46	294	All	2304.00
57-47	295	All	2304.00
57-48	296	All	2304.00
57-49	332	All	2304.00
57-50	333	All	2304.00
57-51	334	All	2304.00
57-52	335	All	2304.00
57-53	336	All	2304.00
57-54	337	All	2304.00
57-55	338	All	2304.00
57-56	339	All	2304.00
57-57	340	All	2304.00
57-58	375	All	2304.00
57-59	376	All	2304.00
57-60	377	All	2304.00
57-61	378	All	2304.00
57-62	379	All	2304.00
57-63	380	All	2304.00
57-64	381	All	2304.00
57-65	382	All	2304.00
57-66	383	All	2304.00
57-67	419	All	2304.00
57-68	420	All	2304.00
57-69	421	All	2304.00
57-70	422	All	2304.00
57-71	423	All	2304.00
57-72	424	All	2304.00
57-73	425	All	2304.00
57-74	426	All	2304.00
57-75	427	All	2304.00
57-76	464	All	2304.00
57-77	465	All	2304.00
57-78	466	All	2304.00
57-79	467	All	2304.00
57-80	468	All	2304.00
57-81	469	All	2304.00
57-82	470	All	2304.00
57-83	471	All	2304.00
57-84	499	All	2304.00
57-85	510	All	2304.00
57-86	511	All	2304.00

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Tract	Block	Designation	Hectares
57-87	512	All	2304.00
57-88	513	All	2304.00
57-89	514	All	2304.00
57-90	515	All	2304.00
57-91	543	All	2304.00
57-92	544	All	2304.00
57-93	545	All	2304.00
57-94	554	All	2304.00
57-95	555	All	2304.00
57-96	556	All	2304.00
57-97	557	All	2304.00
57-98	558	All	2304.00
57-99	559	All	2304.00
57-100	587	All	2304.00
57-101	588	All	2304.00
57-102	589	All	2304.00
57-103	597	All	2304.00
57-104	598	All	2304.00
57-105	599	All	2304.00
57-106	600	All	2304.00
57-107	601	All	2304.00
57-108	602	All	2304.00
57-109	603	All	2304.00
57-110	604	All	2304.00
57-111	631	All	2304.00
57-112	632	All	2304.00
57-113	633	All	2304.00
57-114	634	All	2304.00
57-115	635	All	2304.00
57-116	636	All	2304.00
57-117	640	All	2304.00
57-118	641	All	2304.00
57-119	642	All	2304.00
57-120	643	All	2304.00
57-121	644	All	2304.00
57-122	645	All	2304.00
57-123	646	All	2304.00
57-124	647	All	2304.00
57-125	675	All	2304.00
57-126	676	All	2304.00
57-127	678	All	2304.00
57-128	679	All	2304.00
57-129	680	All	2304.00

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Tract	Block	Designation	Hectares
57-130	681	All	2304.00
57-131	682	All	2304.00
57-132	684	All	2304.00
57-133	685	All	2304.00
57-134	686	All	2304.00
57-135	687	All	2304.00
57-136	688	All	2304.00
57-137	689	All	2304.00
57-138	690	All	2304.00
57-139	691	All	2304.00
57-140	722	All	2304.00
57-141	723	All	2304.00
57-142	724	All	2304.00
57-143	728	All	2304.00
57-144	729	All	2304.00
57-145	730	All	2304.00
57-146	731	All	2304.00
57-147	732	All	2304.00
57-148	733	All	2304.00
57-149	734	All	2304.00
57-150	735	All	2304.00
57-151	766	All	2304.00
57-152	767	All	2304.00
57-153	768	All	2304.00
57-154	772	All	2304.00
57-155	773	All	2304.00
57-156	774	All	2304.00
57-157	775	All	2304.00
57-158	776	All	2304.00

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Tract	Block	Designation	Hectares
57-159	1	All	2304.00
57-160	2	All	2304.00
57-161	3	All	2304.00
57-162	4	All	2304.00
57-163	5	All	2304.00
57-164	6	All	2304.00
57-165	7	All	2304.00
57-166	8	All	2304.00
57-167	9	All	2304.00
57-168	10	All	2304.00
57-169	11	All	2304.00
57-170	12	All	2304.00
57-171	13	All	2304.00
57-172	14	All	2304.00
57-173	15	All	2304.00
57-174	16	All	2304.00
57-175	17	All	2304.00
57-176	45	All	2304.00
57-177	46	All	2304.00
57-178	47	All	2304.00
57-179	48	All	2304.00
57-180	49	All	2304.00
57-181	50	All	2304.00
57-182	51	All	2304.00
57-183	52	All	2304.00
57-184	53	All	2304.00
57-185	54	All	2304.00
57-186	55	All	2304.00
57-187	56	All	2304.00
57-188	57	All	2304.00
57-189	58	All	2304.00
57-190	59	All	2304.00
57-191	60	All	2304.00
57-192	61	All	2304.00
57-193	62	All	2304.00
57-194	89	All	2304.00
57-195	90	All	2304.00
57-196	91	All	2304.00
57-197	92	All	2304.00
57-198	93	All	2304.00
57-199	94	All	2304.00
57-200	95	All	2304.00
57-201	96	All	2304.00
57-202	97	All	2304.00

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Tract	Block	Designation	Hectares
57-203	98	All	2304.00
57-204	99	All	2304.00
57-205	100	All	2304.00
57-206	101	All	2304.00
57-207	102	All	2304.00
57-208	103	All	2304.00
57-209	104	All	2304.00
57-210	105	All	2304.00
57-211	106	All	2304.00
57-212	133	All	2304.00
57-213	134	All	2304.00
57-214	135	All	2304.00
57-215	136	All	2304.00
57-216	137	All	2304.00
57-217	138	All	2304.00
57-218	139	All	2304.00
57-219	140	All	2304.00
57-220	141	All	2304.00
57-221	142	All	2304.00
57-222	143	All	2304.00
57-223	144	All	2304.00
57-224	145	All	2304.00
57-225	146	All	2304.00
57-226	147	All	2304.00
57-227	148	All	2304.00
57-228	149	All	2304.00
57-229	150	All	2304.00
57-230	177	All	2304.00
57-231	178	All	2304.00
57-232	179	All	2304.00
57-233	180	All	2304.00
57-234	181	All	2304.00
57-235	182	All	2304.00
57-236	183	All	2304.00
57-237	184	All	2304.00
57-238	185	All	2304.00
57-239	186	All	2304.00
57-240	187	All	2304.00
57-241	188	All	2304.00
57-242	189	All	2304.00
57-243	190	All	2304.00
57-244	191	All	2304.00
57-245	192	All	2304.00
57-246	193	All	2304.00

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Tract	Block	Designation	Hectares
57-247	194	All	2304.00
57-248	221	All	2304.00
57-249	222	All	2304.00
57-250	223	All	2304.00
57-251	224	All	2304.00
57-252	225	All	2304.00
57-253	226	All	2304.00
57-254	227	All	2304.00
57-255	228	All	2304.00
57-256	229	All	2304.00
57-257	230	All	2304.00
57-258	231	All	2304.00
57-259	232	All	2304.00
57-260	233	All	2304.00
57-261	234	All	2304.00
57-262	235	All	2304.00
57-263	236	All	2304.00
57-264	237	All	2304.00
57-265	238	All	2304.00
57-266	265	All	2304.00
57-267	266	All	2304.00
57-268	267	All	2304.00
57-269	268	All	2304.00
57-270	269	All	2304.00
57-271	270	All	2304.00
57-272	271	All	2304.00
57-273	272	All	2304.00
57-274	273	All	2304.00
57-275	274	All	2304.00
57-276	275	All	2304.00
57-277	276	All	2304.00
57-278	277	All	2304.00
57-279	278	All	2304.00
57-280	279	All	2304.00
57-281	280	All	2304.00
57-282	281	All	2304.00
57-283	309	All	2304.00
57-284	310	All	2304.00
57-285	311	All	2304.00
57-286	312	All	2304.00
57-287	313	All	2304.00
57-288	314	All	2304.00
57-289	315	All	2304.00
57-290	316	All	2304.00

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Tract	Block	Designation	Hectares
57-291	317	All	2304.00
57-292	318	All	2304.00
57-293	319	All	2304.00
57-294	320	All	2304.00
57-295	321	All	2304.00
57-296	322	All	2304.00
57-297	323	All	2304.00
57-298	324	All	2304.00
57-299	325	All	2304.00
57-300	353	All	2304.00
57-301	354	All	2304.00
57-302	355	All	2304.00
57-303	356	All	2304.00
57-304	357	All	2304.00
57-305	358	All	2304.00
57-306	359	All	2304.00
57-307	360	All	2304.00
57-308	361	All	2304.00
57-309	362	All	2304.00
57-310	363	All	2304.00
57-311	364	All	2304.00
57-312	365	All	2304.00
57-313	366	All	2304.00
57-314	367	All	2304.00
57-315	368	All	2304.00
57-316	369	All	2304.00
57-317	398	All	2304.00
57-318	399	All	2304.00
57-319	400	All	2304.00
57-320	401	All	2304.00
57-321	402	All	2304.00
57-322	403	All	2304.00
57-323	404	All	2304.00
57-324	405	All	2304.00
57-325	406	All	2304.00
57-326	407	All	2304.00
57-327	408	All	2304.00
57-328	409	All	2304.00
57-329	410	All	2304.00
57-330	411	All	2304.00
57-331	412	All	2304.00
57-332	413	All	2304.00
57-333	442	All	2304.00
57-334	443	All	2304.00

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OCS OFFICIAL PROTRACTION DIAGRAM, NOME NQ 3-7
(Approved December 13, 1976)

OCS OFFICIAL PROTRACTION DIAGRAM, ST. MICHAEL NP 3-2
(Approved December 13, 1976)

Tract	Block	Designation	Hectares
57-335	444	A11	2304.00
57-336	445	A11	2304.00
57-337	446	A11	2304.00
57-338	447	A11	2304.00
57-339	448	A11	2304.00
57-340	449	A11	2304.00
57-341	450	A11	2304.00
57-342	451	A11	2304.00
57-343	452	A11	2304.00
57-344	453	A11	2304.00
57-345	454	A11	2304.00
57-346	455	A11	2304.00
57-347	456	A11	2304.00
57-348	486	A11	2304.00
57-349	487	A11	2304.00
57-350	489	A11	2304.00
57-351	490	A11	2304.00
57-352	491	A11	2304.00
57-353	492	A11	2304.00
57-354	493	A11	2304.00
57-355	494	A11	2304.00
57-356	495	A11	2304.00
57-357	496	A11	2304.00
57-358	497	A11	2304.00
57-359	498	A11	2304.00
57-360	499	A11	2304.00
57-361	500	A11	2304.00
57-362	501	A11	2304.00
57-363	530	A11	2304.00
57-364	531	A11	2304.00
57-365	533	A11	2304.00
57-366	534	A11	2304.00
57-374	542	A11	2304.00
57-375	543	A11	2304.00
57-376	544	A11	2304.00
57-377	545	A11	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, NOME NQ 3-7
(Approved December 13, 1976)

Tract	Block	Designation	Hectares
57-382	859	A11	2304.00
57-383	860	A11	2304.00
57-384	861	A11	2304.00
57-385	948	A11	2304.00
57-386	949	A11	2304.00
57-387	951	A11	2304.00
57-388	952	A11	2304.00
57-389	953	A11	2304.00
57-390	954	A11	2304.00
57-391	992	A11	2304.00
57-392	993	A11	2304.00
57-393	994	A11	2304.00
57-394	995	A11	2304.00
57-395	996	A11	2304.00
57-396	997	A11	2304.00
57-397	998	A11	2304.00
57-398	1036	A11	2304.00
57-399	1037	A11	2304.00
57-400	1038	A11	2304.00
57-401	1039	A11	2304.00
57-402	1040	A11	2304.00
57-403	1041	A11	2304.00
57-404	1042	A11	2304.00

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Tract	Block	Designation	Hectares
57-405	937	All	2304.00
57-406	938	All	2304.00
57-407	939	All	2304.00
57-408	940	All	2304.00
57-409	969	All	2304.00
57-410	970	All	2304.00
57-411	971	All	2304.00
57-412	972	All	2304.00
57-413	981	All	2304.00
57-414	982	All	2304.00
57-415	983	All	2304.00
57-416	984	All	2304.00
57-417	1013	All	2304.00
57-418	1014	All	2304.00
57-419	1015	All	2304.00
57-420	1016	All	2304.00
57-421	1020	All	2304.00
57-422	1021	All	2304.00
57-423	1022	All	2304.00
57-424	1023	All	2304.00
57-425	1024	All	2304.00
57-426	1025	All	2304.00
57-427	1026	All	2304.00
57-428	1027	All	2304.00
57-429	1028	All	2304.00

13. Lease Terms and Stipulations:

a. All leases issued as a result of this sale will be for an initial term of 10 years. Leases issued as a result of this sale will be on Form MMS-2005 (August 1982), available from the Regional Manager, Alaska Outer Continental Shelf Region, at the first address stated in paragraph 2.

b. For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4(a), Form MMS-2005 will be amended as follows:

Sec.6. Royalty on Production. The lessee agrees to pay the lessor a royalty of that percent in amount or value of production from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $16.697566 million, a royalty of 12.50000 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $16.697567 million, but less than or equal to $11822.537759 million, the royalty percent due on the unadjusted value or amount of production is given by

Rj = b[Ln (Vj/S)] where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of production in quarter j

b = 8.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.50

When the adjusted quarterly value of production is equal to or greater than $11822.537760 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.56224 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 35.624831 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

c. Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations and information to lessees in paragraph 14, below, the

Stipulation No. 2:

The lessee shall include in any exploration and development plans submitted

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c. Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations and information to lessees in paragraph 14, below, the term RS refers to the Regional Supervisor, Offshore Field Operations, Minerals Management Service, formerly Deputy Conservation Manager, Field Operations, U.S. Geological Survey.

Stipulation No. 1:

If the RS has reason to believe that a site, structure or object of historical or archeological significance, hereinafter referred to as a "cultural resource," may exist in the leased area and gives the lessee written notice that the lessor is enforcing the provisions of this stipulation, the lessee shall, upon receipt of such notice, comply with the following requirements:

(1) Prior to any dredging or drilling activity or the construction or placement of any structure for exploration or development on the lease, including, but not limited to, well drilling, and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys and/or prepare a report, as specified by the RS, to determine the potential existence of any cultural resource that may be affected by such operation. All data produced as well as other pertinent natural and cultural environmental data shall be examined by an archeologist and geophysicist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely effected by any lease operation. A report of such surveys and assessments prepared by an archeologist and geophysicist shall be submitted by the lessee to the RS.

(2) If they determine such cultural resource indicators are present, the lessee shall: (a) locate the site of the lease operation so as not to adversely affect the identified location; or (b) establish to the satisfaction of the RS, on the basis of further archeological investigation conducted by an archeologist and geophysicist using such survey equipment and techniques as deemed necessary by the RS, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

(3) A report of the latter investigation prepared by the archeologist and geophysicist shall be submitted to the RS for review. Should the RS determine that the existence of a cultural resource which may be adversely affected by such operations is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the RS has given directions as to its protection.

In addition, the lessee agrees that if any cultural resource should be discovered during the conduct of any operations on the lease area, he shall report immediately such findings to the RS and make every reasonable effort to protect the cultural resource until the RS gives directions as to its protection.

Stipulation No. 2:

The lessee shall include in any exploration and development plans submitted under 30 CFR 250.34 a proposed environmental training program for all personnel involved in exploration or development activities (including personnel of the lessee's contractors and subcontractors) for review and approval by the RS. The program shall be designed to inform each person working on the project of specific types of environmental, social, and cultural concerns which relate to the individual's job. The program shall be formulated by qualified instructors experienced in each pertinent field of study, and shall employ effective methods to insure that personnel are informed of archaeological, geological, and biological resources including bird colonies and sea mammal haul-out areas, to insure avoidance and non-harassment of wildlife resources. The program shall also be designed to increase the sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which such personnel will be operating.

The lessee shall also submit for review and approval a continuing technical environmental briefing program for supervisory and managerial personnel of the lessee and its agents, contractors, and subcontractors.

Stipulation No. 3: (To be included only in the leases resulting from this sale for the fixed sliding scale royalty tracts identified in paragraph 4 (a) of this notice.)

(a) The royalty rate on production from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21). The Director, Minerals Management Service, may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been underway for one year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16-2/3 percent of the production from the lease area may be taken as royalty in amount, except as provided in sec. 15(d); the royalty on any portion of the production from the lease in excess of 16-2/3 percent may only be taken in value of the production from the lease area.

Stipulation No. 4:

Exploratory drilling and other downhole activities above a predetermined threshold depth, as determined by the RS, will be allowed year-round areawide (subject to the limitations of other applicable stipulations).

Exploratory drilling and other downhole activities below a predetermined threshold depth, with the exception of testing through casing, are prohibited in broken and pack ice conditions unless the lessee first demonstrates to the satisfaction of the RS, with concurrence of the State of Alaska, the theoretical, experimental and physical capability to detect, contain, clean up and dispose of spilled oil in broken and pack ice conditions.

Stipulation No. 5:

The RS has the authority to suspend oil and gas drilling operations whenever bowhead whales are near enough to be affected by oilspills or other disturbances which would be likely to adversely affect the species. If bowhead whales are east of St. Lawrence Island, the RS may prohibit exploratory drilling and other downhole activities below a predetermined threshold depth (except testing through casing), as determined by the RS. Such prohibition would continue until it is determined that the whales are outside the zone of probable influence or are no longer subject to likely risk from disturbances or oilspills, unless the RS determines that continued operations are necessary to prevent a loss of well control or to ensure human safety. The period when bowhead whales are most likely to migrate through or be present in the area is generally, but not limited to, April 15 through June 15 and November 1 through January 1.

Stipulation No. 6:

Pipelines will be required (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technically and economically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production be placed in certain designated management areas. In selecting the means of transportation, including any loading facilities, consideration will be given to any recommendation of the Regional Technical Working Group or other similar advisory group with participation of Federal, State, and local government and industry.

All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storms and ice gouging, subfreezing conditions, and other hazards as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the RS.

Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for transporting hydrocarbons from the leased area must conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act for 1972 (46 U.S.C. 391a), and the Port and Tanker Safety Act of 1978, as amended (33 U.S.C. 1221).

Stipulation No. 7: (This stipulation will be included in leases only for tracts 57-317 through 57-366 and 57-374 through 57-377.)

In order to protect the wildlife and subsistence resources of the Yukon Delta, offshore loading on this tract of produced oil, except during testing for well producibility or in the case of an emergency, is prohibited if such a prohibition on offshore loading is technically and economically feasible, safe, and environmentally preferable.

Stipulation No. 8:

In the event of production, discharge of produced waters into open or ice-covered water areas of less than 10 meters is prohibited, unless the RS determines, with the concurrence of the State of Alaska, that such produced waters are non-polluting, in the following tracts: 57-350 through 57-358, and 57-365, 57-366, and 57-374 through 57-377.

The following restrictions apply on all tracts: the discharge of oil-based or oil-contaminated drilling muds and/or cuttings into the marine environment is prohibited. The discharge of non oil-contaminated drilling muds and cuttings shall be consistent with National Pollutant Discharge Elimination System (NPDES) permit conditions.

14. Information to Lessees:

a) Bidders are advised that during the conduct of all activities related to leases issued as a result of this lease sale, the lessee and its agents, contractors, and subcontractors will be subject to the provisions of the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, as amended, and International Treaties.

The lessee or its contractors should be aware that disturbance of wildlife could constitute harassment and could thereby be in violation of existing laws. Violations of these Acts and Treaties may be reported to the National Marine Fisheries Service or U.S. Fish and Wildlife Service, as appropriate.

Behavioral disturbance of most birds and mammals found in or near the Sale 57 area would be unlikely if ocean vessels and aircraft maintained at least a 1-mile distance from observed wildlife or known wildlife concentration areas such as bird colonies, marine mammal haul-out areas, and peregrine falcon nests. Therefore, in concurrence with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service, it is recommended that aircraft or vessels operated by lessees maintain at least a 1-mile distance from observed or known wildlife concentration areas. Human safety will take precedence at all times over these provisions. Major wildlife concentration areas are depicted on Graphics Nos. 4A, 4B, and 5A of the final environmental impact statement for this sale and additional maps available from the RS and appropriate resource agencies.

b) Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes which may be established, among other reasons, to protect maritime commerce. Bidders are advised that the United States reserves the right to designate necessary

g) Bidders are advised that drilling or emplacement of bottom-founded structures will not be allowed on tract 57-387 unless or until the lessee has demonstrated to the RS's satisfaction that drilling on bottom-founded structures can be safely designed to control possible high-pressure, thermogenic gas at the proposed location or that the hazard is not present at the

b) Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes which may be established, among other reasons, to protect maritime commerce. Bidders are advised that the United States reserves the right to designate necessary fairways through leased tracts pursuant to the Port and Waterways Safety Act, as amended (33 U.S.C. 1221 et seq.).

c) Bidders are advised that portions of the Iditarod Trail, from Kaltag to Nome, following along Norton Sound and crossing the ice between Shaktoolik and Bald Head and between Ungalik and Bald Head, are managed by the Bureau of Land Management, U.S. Department of Interior. The management and protection of the Historic Trail is subject to the following laws:

(1) the National Trails System Act, as amended (16 U.S.C. 1241 et seq.);

(2) the National Historic Preservation Act, as amended (16 U.S.C. 470 et seq.);

(3) the Historic Sites Act of 1935 (16 U.S.C. 461 et seq.);

(4) the Antiquities Act of 1906 (16 U.S.C. 431-433); and,

(5) other State and Federal laws.

d) Lessees are advised that oil and gas exploration and production operations should be conducted so as to minimize interference with subsistence harvests.

e) Lessees are notified that adequate oilspill contingency plans are required under Alaska OCS Operating Order No. 7, under 30 CFR 250.11 and 250.43, prior to approval of Exploration or Development and Production Plans. In accordance with 30 CFR 250.34-1 the Minerals Management Service is required to review oilspill contingency plans. Lessees are advised that the Yukon Delta is an area of Special Biological Sensitivity under Alaska OCS Operating Order No. 7 and will require protection in oilspill contingency plans. Review of oilspill contingency plans under 30 CFR 250.34-1 for tracts 57-317 through 57-366 and 57-374 through 57-377 may result in the requirement of special measures to protect the biological resources and associated subsistence values of the Yukon Delta. Also, the leads and polynyas close to St. Lawrence Island are areas of Special Biological Sensitivity under Alaska OCS Operating Order No. 7, and will require protection in oilspill contingency plans. Such protection should not include dispersant usage unless such usage has been approved in advance.

f) Lessees are advised that, after identifying potential OCS-related facility sites and activities, they should consult with the local and State planning agencies involved in coastal zone area review in order to provide coordination on coastal zone development and the siting of energy facilities. The State has indicated that State approval of Coastal Management Programs (CMP's) for Nome, Bethel, and the Yukon-Kuskokwim Coastal Resource Service Area (CRSA) is expected in 1983 and that the Bering Straits CRSA Program should be completed and receive State approval sometime in 1984. Federal approval of CMP's may require as much as one additional year after State approval. Early coordination with these planning groups will assist in the identification of suitable facility siting.

g) Bidders are advised that drilling or emplacement of bottom-foundmd structures will not be allowed on tract 57-387 unless or until the lessee has demonstrated to the RS's satisfaction that drilling or bottom-founded structures can be safely designed to control possible high-pressure, thermogenic gas at the proposed location or that the hazard is not present at the site.

h) Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with Section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

i) Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

j) Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a royalty rate based on a sliding scale.

k) Revisions of Department of Labor regulations on affirmative action requirements for government contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 F.R. 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, Section 18 of the lease form, Form MMS-2005 (August 1982), would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in Section 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1. 7(a)(1). Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing affirmative action forms.

l) Easements for the use of sand and gravel on oil and gas leases may be granted by the Secretary. The appropriate vehicle for this is approval of exploration plans and development and production plans requiring these easements. These easements may extend across tract boundaries to any leasehold covered by a plan. Such plans may apply to more than one lease held by a lessee or by a group of lessees acting under a unitization, pooling, or drilling agreement.

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Where sand and gravel sources exist on tracts not leased for oil and gas or not appropriately included in an exploration plan or development and production plan, the right to use sand and gravel from these tracts can only be obtained through competitive leasing under Section 8(k) of the OCS Lands Act, as amended.

On tracts where the oil and gas lessee and the sand and gravel lessee are not the same, the correlative rights of the holder of an easement to use sand and gravel in connection with an oil and gas lease, and a lessee of the sand and gravel itself, have yet to be determined. Either the regulations concerning easements, or the Notice of Sale for a sand and gravel lease sale, or both, could define the rights of those parties.

m) Bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to Minerals Management Service either an exploration plan or a general statement of exploration intentions prior to the end of the ninth lease year.

n) Lessees are advised that the RS has the authority to suspend oil and gas exploratory drilling activities on any lease whenever gray whales are present in the migratory corridor or sale area and are near enough to be subject to probable oilspill risk or probable risk from other disturbances. The Department of the Interior has determined that gray whales migrate through or are in the vicinity of Norton Sound generally from late May through July and from September through October. If gray whales are east of St. Lawrence Island, the RS may order the cessation of exploratory drilling below a threshold predetermined by the RS until it is determined that the whales are outside the zone of likely influence or no longer subject to risk from probable oilspills or other disturbances.

o) In addressing biological concerns the RS will receive recommendations from a Bering Sea Biological Task Force (BTF). The BTF will be composed of designated representatives of the MMS, U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the Environmental Protection Agency. The Bering Sea BTF should consult with representatives of the State of Alaska before making recommendations to the RS.

p) Lessees should design the environmental training program required by Stipulation No. 2 to incorporate the views and concerns of local individuals and communities. Lessees are encouraged to provide opportunities to local individuals, organizations and governments, including local coastal districts to participate in the development of the environmental training programs.

q) Lessees are encouraged to hire Alaska residents to perform work done by and for them within the State of Alaska. Lessees are advised that there is considerable local interest in employment associated with petroleum exploration, development and production activities. Lessees are encouraged through affirmative action programs or otherwise, to provide opportunities to local individuals and organizations to acquire the skills necessary to participate in exploration, development and production activities and are encouraged to provide, through affirmative action program or otherwise, employment opportunities for qualified local individuals and organizations. Lessees are also advised that employment of local individuals and organizations may be one method of mitigating certain local social and economic impacts.

r) Lessees are advised that exploration, development and production activities may directly and indirectly have significant social and economic impacts on local individuals and communities. Lessees are encouraged to consult with local individuals, organizations and governments, including local coastal districts, to identify direct and indirect social and economic impacts of exploration, development and production activities prior to undertaking those activities. Lessees are encouraged to consult with and enter into agreements with local individuals, organizations and governments to compensate for direct and indirect social and economic impacts of exploration, development and production activities. Lessees are advised that this may include, among others, support to or provision of local community recreation facilities, mental health, drug and alcohol treatment services and facilities, or community safety services and capital improvement projects.

s) Lessees are informed that, pursuant to 15 CFR 930.70 et seq., the State has the authority to review for concurrence or objection consistency certifications for all Federal license and permit activities described in detail in OCS plans and which affect the coastal zone. Lessees are reminded that the State has permitting authority for activities in its coastal zone pursuant to the provisions of the approved Alaska Coastal Management Program.

15. OCS Orders: Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Alaska OCS Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

DEPUTY Director, Minerals Management Service
David C. Russell

Date: FEB 4 1983

Approved

Secretary of the Interior
James G. Watt

Certified to be a true
copy of the original

Certifying Officer

[FR Doc. 83-3540 Filed 2-9-83; 8:45 am]
BILLING CODE 4310-MR-C

4310-MR

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Norton Basin

Notice of Leasing Systems, Sale No. 57

Section 8(a)(8) (43 U.S.C. 1337 (a)(8)) of the Outer Continental Shelf Lands Act (OCSLA), as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

(A) identifying the bidding systems to be used and the reasons for such use, and

(B) designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

A. Bidding systems to be used. In OCS Sale No. 57, tracts will be offered under the following two bidding systems as authorized by section 8(a)(1) (43 U.S.C. 1337 (a)(1)): (1) bonus bidding with a fixed sliding scale royalty on 123 tracts, and (2) bonus bidding with a 12 1/2 percent royalty on 295 tracts.

(1) Bonus Bidding with a Fixed Sliding Scale Royalty. This system is authorized by section (8)(a)(1)(C) of the OCSLA, as amended. The sliding scale is designed to establish higher royalty rates for larger reservoirs with higher production rates. As such, the expected bonus is reduced compared to a fixed one-sixth royalty system. This may improve competition for leases, and also tends to reduce the likelihood of production losses that could result if higher royalty rates are set by other means, such as royalty bidding, prior to reservoir delineation and production. The fixed sliding scale formula provided for Sale No. 57 is based on the current assumed range of costs and wellhead prices for this area.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $16.697566 million, a royalty of 12.50000 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $16.697567 million, but less than or equal to $11822.537759 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b\,[\ln(Vj/S)] \text{ where}$$

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 8.0

ln = natural logarithm

Vj = the value production in quarter j, adjusted for inflation, in millions of dollars

S = 3.50

When the adjusted quarterly value of production is equal to or greater than $11822.537760 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the

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quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production as determined pursuant to 30 CFR 250.64.

(2) Bonus Bidding with a 12 1/2 Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA, as amended. This system has been chosen for certain deeper water tracts proposed for Sale No. 57 because these tracts are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to more shallow water tracts. Department of the Interior analyses indicate that the minimum economically developable discovery on a tract in such high cost areas under a 12 1/2 percent royalty system would be less than for the same tracts under a 16 2/3 percent royalty system. As a result, more tracts may be explored and developed. In addition, the lower royalty rate system is expected to yield more rapid production rates and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since the higher costs for exploration and development are the primary restraints to competition.

[FR Doc 83-3541 Filed 2-9-83 8:45 am]
BILLING CODE 4310-MR-C

B. Designation of Tracts. The selection of tracts to be offered under the two systems was based on the following factors:

(1) Every effort was made based on available information so that different bidding systems did not split a single geological structure.

(2) Tracts were selected in those resource and cost areas that were appropriate to the identified sliding scale parameters for this sale.

The specific tracts to be offered under each system are as follows:

(a) Bonus Bidding with a Fixed Sliding Scale Royalty--Tracts 57-33 thru 57-38, 57-40 thru 57-47, 57-49 thru 57-56, and 57-58 thru 57-158.

(b) Bonus Bidding with a 12 1/2 Percent Royalty -- All remaining tracts.

DEPUTY Director, Minerals Management Service
David C. Russell

Approved: FEB 4 1983
James G. Watt
Secretary of the Interior

Certified to be a true copy of the original

Certifying Officer

Office of Surface Mining Reclamation and Enforcement

Wyoming; Receipt of Complete Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations

Correction

In FR Doc. 83-1503 appearing on page 2452 in the issue of Wednesday, January 19, 1983, make the following correction:

On page 2452, third column, in the 9th line from the top, "(92.160 acres)" should have read "(92,160 acres)".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

[No. MC-F-15094]

Cross Country Corp.; Continuance in Control Exemption—Mid Seven Transportation Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions filed by Motor Carriers of Property under 49 U.S.C. 11343*, 47 FR 53303 (November 24, 1982), Cross Country Corp., and, in turn, L. W. Simpson and Joseph Simpson, who jointly control Cross, seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of Mid Seven Transportation Company (No. MC-16831), which is a motor carrier.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:

(1) Motor Section, Team 5, Room 2414, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative, William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309.

Comments should refer to No. MC-F-15094.

FOR FURTHER INFORMATION CONTACT: Lois Thompson, (202) 275-7289.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative.

In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided January 31, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Note.—Cross Country Corp., has filed a directly-related application in No. MC-165818, published in this same issue.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3571 Filed 2-9-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15078]

Motor Carriers; Glenn's Truck Service, Inc.—Purchase (Portion) Exemption—Shoemaker Trucking Company (Loren Wetzel, Trustee in Bankruptcy)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1) *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343*, 47 FR 53303 (November 23, 1982), Glenn's Truck Service, Inc., (Glenn's) (MC-144683) seeks an exemption from the requirement under section 11343 of prior regulatory approval for Glenn's proposed acquisition of the operating authority of Shoemaker Trucking Company (Shoemaker) (MC-138875) contained in MC-138875 (Sub-No. 293) which encompasses the motor common carrier irregular route authority in the transportation of food and related products, between points in Illinois and Louisiana, on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, and Washington, through purchase from Loren Wetzel, Trustee in Bankruptcy of Shoemaker.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESS: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative, Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309, and

(3) Trustee's representative, David E. Wishney, P.O. Box 837, Boise, ID 83701.

Comments should refer to No. MC-F-15078.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTAL INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 4, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3573 Filed 2-9-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment not a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Note.—Please direct status inquiries to Team 4 at (202) 275-7669.

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Volume No. OP4FC-068

By the Commission, Review Board No. 3, Member Krock, Joyce and Dowell.

MC-FC-81137. Previously noticed in the FR issue of January 28, 1983. By decision of January 18, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 3 approved the transfer to GREAT TRACK MOTOR LINES, INC., Memphis, TN, of certificate No. MC-152427, issued October 9, 1981, to NASHVILLE & ASHLAND CITY TRUCK LINE, INC., Nashville, TN, authorizing the transportation of *general commodities* (except classes A and B explosives), between Memphis, TN, on the one hand, and, on the other, those points in MS on and north of U.S. Hwy 80; those in MO on, south and east of a line beginning at the IL-MO State line and extending along MO Hwy 72 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the MO-AR State line, and points in AR, KY, TN, AL and GA. An application for temporary authority has been filed. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, for both transferee and transferor.

Note.—(a) This application is filed to replace a petition for exemption under 49 U.S.C. 11343(e), filed in NO. MC-F-15037, and (b) The purpose of this republication is to show the proper parties in this proceeding.

Please direct status inquires about the following to Team 5, (202) 275-7289.

Volume No. OP5-FC-46

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC-FC-81151. By decision of January 31, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Board Number 2 approved the transfer to C & D REFRIGERATED, LTD., Beaver Dam, WI, of Certificate No. MC-152619 (Sub-No. 1), issued May 20, 1981, to CLARENCE E. SCHMIDT, doing business as C & J TRUCKING, Beaver Dam, WI, authorizing the transportation of foods and related products, between points in Dodge County, WI, on the one hand, and, on the other points in IL, MD, MI, NY, NJ, OH, PA, and DC. Representative: John L. Bruemmer, P.O. Box 927, Madison, WI 53701.

Volume No. OP5-FC-47

By the Commission, Review Board No. 3, Members Parker, Chandler and Fortier.

MC-FC-81132. By decision of January 27, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 1, approved the transfer to TRANSPORTATION SERVICES, INC., North Little Rock, AR, of Certificate No. MC-147348 Sub 2 issued November 6, 1980, to SOUTHWEST FREIGHT DISTRIBUTORS, INC., North Little Rock, AR, authorizing the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Little Rock, AR, and points in Clark, Ashley, Sebastian, Hot Spring, Garland, Saline, Jefferson, Arkansas, Lonoke, Perry, Monroe, White, Jackson, Faulkner, Pope, Johnson, Conway, Crawford, Craighead, Union, Drew, Bradley, Calhoun, St. Francis, Cross, Benton, Washington, Servier, Carroll, Boone, Baxter, Van Buren, Cleburne, Independence, Lawrence, Clay, Greene, Mississippi, Crittenden, Woodruff, Prairie, Desha, Lincoln, Chicot, Quachita, Nevada, Hempstead, Miller, Dallas, Columbia, Franklin, and Phillips Counties, AR, restricted to the transportation of traffic having a prior or subsequent movement by rail in piggyback service, Transferee is not a carrier. An application for temporary authority has been filed. Representative: James M. Duckett, Suite 411, 221 W. 2nd, Little Rock, AR 72201.

Agatha L. Mergenovich,

Secretary.

[FR Doc.83-3572 Filed 2-9-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP5-49]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: January 31, 1983.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1160.40-1160.49. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate and applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

MC 165818, filed January 21, 1983. Applicant: CROSS COUNTRY CORP., 2323 Delaware Ave., Des Moines, IA 50317. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282-3525. Transporting *general commodities*

(except classes A and B explosives, household goods, and commodities in bulk), between points in AR, CO, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, ND, OH, OK, SD, TN, WI, and WY.

Note.—Applicant has filed a directly-related petition for continuance in control exemption in No. MC–F–15094, published in this same issue.

[FR Doc. 83–3574 Filed 2–9–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP3–24]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 4, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common an contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

Note.—Please direct status inquiries to Team 3, at (202) 275–5223.

MC 147714 (Sub-1)X, Filed January 13, 1983. Applicant: TOMCO, INC., P.O. Box 1582, Bakersfield, CA 93302. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Lead permit: Broaden (1) from adhesives, chemicals, cleaning, scouring, or washing compounds, drugs, flotation reagents, plastic materials, plasticizers, soap, starch, foodstuffs, and non-petroleum based oils, to "such commodities as are dealt in by manufacturers of consumer products," and (2) broaden the territorial description to "between points in the U.S.," under continuing contract(s) with a named shipper.

[FR Doc. 83–3575 Filed 2–9–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

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Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly. Please direct status inquiries about the following to Team One at (202) 275–7992.

Volume No. OP1–49

Decided: February 3, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Fortier not participating.

MC 621 (Sub-10), filed December 28, 1982. Applicant: PAUL ARPIN VAN LINES, INC., West Warwick Industrial Park, Box 1302, East Greenwich, RI 02818–0998. Representative: Alan F. Wohlstetter, 1700 K St., N.W. Washington, DC 20006, (202)–833–8884. Transporting *household goods,* between points in AZ, CA, ID and WY, on the one hand, and, on the other, points in the U.S. (except AK, HI and MT).

MC 2900 (Sub-462), filed January 25, 1983. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant), (904) 353–3111. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Best Products Co., Inc., of Ashland, VA.

MC 47171 (Sub-226), filed January 27, 1983. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant), (803) 879–2101. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Ashland Chemical Company, of Columbus, OH.

MC 65941 (Sub-68), filed January 27, 1983. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, WV 26003. Representative: J. Walter Morgan (same address as applicant), (304) 277–1000. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Thatcher Plastic Packaging, Inc., of Wheeling, WV.

MC 94901 (Sub-13), filed January 25, 1983. Applicant: EDDY MESSENGER SERVICE, INC., 31 Merritt Street, Port Chester, NY 10573. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester Counties, NY, and Fairfield County, CT, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

MC 121600 (Sub-18), filed January 17, 1983. Applicant: AVERITT EXPRESS, INC., P.O. Box 3166, Cookeville, TN 38501. Representative: Robert L. Baker, Sixth Floor, United Southern Bank Bldg., Nashville, TN 37219, (615) 244–8100. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Walker County, GA, and points in the U.S. (except AK and HI).

Note.—Applicant seeks to tack the above sought rights with its existing regular-route operations.

MC 125951 (Sub-80), filed January 17, 1983. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 3035 South 72nd Street, Suite 200, Omaha, NE 68124. Representative: Robert M. Cimino (same address as applicant), (402) 393–5005. Transporting *general commodities* (except Classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI).

MC 128541 (Sub-4), filed January 20, 1983. Applicant: WESLEY WAYNE MACOMBER, d.b.a. W. W. MACOMBER TRUCKING, R.F.D. 1A, Pond Road, Gardiner, ME 04345. Representative: Wesley Wayne Macomber (same address as applicant), (207) 582–3543. Transporting *general commodities* (except Classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 129420 (Sub-8), (republication), filed December 8, 1982, previously noticed in the **Federal Register** issue of December 29, 1982. Applicant: LILE INTERNATIONAL COMPANIES, 15605 S.W. 72nd Ave., Tigard, OR 97223. Representative: Wendell B. Lile (same address as applicant), (503) 620–8480. Transporting *household goods, unaccompanied baggage and used automobiles,* between points in the U.S (except VT).

Note.—The purpose of this republication is to include AK and HI in the territorial description.

MC 147981 (Sub-3), filed January 24, 1983. Applicant: JACK CORNWELL TRANSPORTATION, P.O. Box 247, Norco, CA 91760. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502, (712) 323–9124. Transporting *such commodities* as are dealt in or used by manufacturers of plastic foam products, between points in the U.S., under continuing contract(s) with Future Foam, Inc., of Anaheim, CA.

MC 148341 (Sub-7), filed January 27, 1983. Applicant: MASS TRANSIT, INC., 2450 Orange Ave., Signal Hill, CA 90806. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *general commodities* (except Classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148960 (Sub-1), filed January 27, 1983. Applicant: ROBERT C. STOKES, d.b.a. STOKES TRUCKING, 35 W 160 Butterfield Road, Batavia, IL 60510. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 151251 (Sub-3), filed January 24, 1983. Applicant: NATIONWIDE CARTAGE SERVICE, INC., 5434 South Parkside Ave., Chicago, IL 60638. Representative: Anthony E. Young, Ltd., 29 South LaSalle Street, Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Lake, McHenry, Boone, DeKalb, Kane, DuPage, Cook, Will, Kendall, LaSalle, Grundy, and Kankakee Counties, IL, and Lake, Porter and LaPorte Counties, IN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO and NM.

MC 152310 (Sub-4), filed January 24, 1983. Applicant: M & M EQUIPMENT CO., INC., 24400 E. Alameda Ave., Aurora, CO 80011. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, (303) 424–1761. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 152950 (Sub-6), filed January 25, 1983. Applicant: CENTURY TRANSPORTATION CORP., P.O. Box 207, Columbus, MS 39703–0207. Representative: Lloyd R. Pate (same address as applicant), (601) 329–2121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Fine Vines, Inc., of Greenville, MS, Napasco International, Inc., of Thibodaux, LA, Crysta-Pure Water Company, of Abita Springs, LA, Circus World Toy Stores, of Taylor, MI, and Sneed Oil Company, of Tupelo, MS.

MC 156340 (Sub-2), filed January 17, 1983. Applicant: VALLEY GRAIN CO., TRKG., P.O. Box 299, Browns Valley, MN 56219. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 5540, (612) 542–1121. Transporting *chemicals and related products*, between (1) points in Rice County, KS, on the one hand, and, on the other, points in IL, IA, MN, ND, and SD, and (2) points in Tooele County, UT, on the one hand, and, on the other, points in IL, IA, MN, NE, ND, and SD.

MC 160490, filed January 24, 1983. Applicant: HORACE T. HODGES, d.b.a. HODGES TRUCK LINE, P.O. Box 1528, Claremore, OK 74017. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 434–3301. Transporting *metal products, machinery and mercer commodities, between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).*

MC 164741, filed January 13, 1983. Applicant: PRO-TRAN CARRIERS, LTD., P.O. Box 4020, R.R. No. 4, Inisfall, Alberta, Canada TOM 1A0. Representative: Frank Layden (same address as applicant), (403) 227–1560. Transporting *butane*, between points in Morton County, ND and Yellowstone County, MT, on the one hand, and, on the other, ports of entry on the international boundary line between the U.S. and Canada in ND and MT, under continuing contract(s) with Amoco Canada Petroleum Company, Ltd., of Calgary, Alberta, Canada. CONDITION: This certificate authorizes the transportation of a dangerous commodity and shall expire 5 years from its date of issuance.

Please direct status inquiries about the following to Team 3 at (202) 275–5223.

Volume No. OP3–43

Decided: February 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 1515 (Sub-324), filed January 10, 1983. Applicant: GREYHOUND LINE, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant), (602) 248–5000. Over regular routes, transporting *passengers*, (1) between junction port of entry on the International boundary line between the U.S. and Canada, at Interstate Hwy 5, and junction Interstate Hwy 5 and the WA–OR State line, over Interstate Hwy 5; (2) between junction Interstate Hwy 5 and Interstate Hwy 405 north of Seattle, WA, and junction Interstate Hwy 5 and Interstate Hwy 405 south of Seattle, WA, over Interstate Hwy 405; (3) between junction Interstate Hwy 5 and WA Hwy 520, and junction WA Hwy 520 and Interstate Hwy 405, over WA Hwy 520; (4) between Seattle, WA, and junction Interstate Hwy 90 and the WA–ID State line, over Interstate Hwy 90; (5) between Spokane, WA, and junction U.S. Hwy 195 and the WA–ID State line, over U.S. Hwy 195; (6) between junction Interstate Hwy 82 and Interstate Hwy 90, and junction WA Hwy 125 and the WA–OR State line: From junction Interstate Hwy 82 and Interstate Hwy 90 over Interstate Hwy 82 to junction U.S. Hwy 12, then over U.S. Hwy 12 to Walla Walla, WA, then over WA Hwy 125 to the WA–OR State line; (7) between Ritzville, WA, and junction U.S. Hwy 395 and the WA–OR State line, over U.S. Hwy 395; (8) between Pasco, WA, and junction WA Hwy 14 and the WA–OR State line, over WA Hwy 14; (9) between junction U.S. Hwy 101 and WA Hwy 20, and junction WA Hwy 104 and unnumbered WA Hwy: from junction U.S. Hwy 101 and WA Hwy 20 over U.S. Hwy 101 to junction WA Hwy 104, then over WA Hwy 104 to junction unnumbered WA Hwy; (10) between Longview, WA, and junction WA Hwy 433 and the WA–OR State line, over WA Hwy 433; (11) between junction Interstate Hwy 5 and the WA–OR State line, and junction Interstate Hwy 5 and the OR–CA State line, over Interstate Hwy 5; (12) between Portland, OR, and junction Interstate Hwy 84 and the OR–ID State line, over Interstate Hwy 84; (13) between Corvallis, OR and South Albany Junction, OR, over OR Hwy 34; (14) between Florence, OR, and Eugene, OR, over OR Hwy 126; (15) between junction U.S. Hwy 26 and OR Hwy 47, and junction OR Hwys 47 and 8, over OR Hwy 47; (16) between junction unnumbered OR hwy and the WA–OR State line, and Rainier, OR, over unnumbered OR hwy; (17) between junction Interstate Hwy 84 and the OR–ID State line, and junction ID–UT State line and Interstate Hwy 84, over Interstate Hwy 84; (18) between junction U.S. Hwy 20 and the MT–ID State line, and Idaho Falls, ID, over U.S. Hwy 20; (19) between Idaho Falls, ID and junction Interstate Hwy 15 and the ID–UT State line, over Interstate Hwy 15; (20) Between junction Interstate Hwys 84 and 86, and junction Interstate Hwys 86 and 15, over Interstate Hwy 86; (21) between junction U.S. Hwy 30 and Interstate Hwy 25, and junction Interstate Hwy 25 and the WY–Co State line, over Interstate Hwy 25; (22) between junction Interstate Hwy 80 and the UT–WY State line, and junction Interstate Hwy 80 and the WY–NE State line, over Interstate Hwy 80; (23) between junction Interstate Hwy 80 and the WY–NE State line, and junction the NE–IA State line and Interstate Hwy 80, over Interstate Hwy 80; (24) between junction Interstate Hwy 5 and the OR–CA State line, and junction Interstate Hwy 5 at the port of entry on the International boundary line between the U.S. and Mexico, over Interstate Hwy 5; (25) between junction Interstate Hwys 5 and 805, and San Ysidro, CA, over Interstate Hwy 805; (26) between junction U.S. Hwy 101 and the OR–CA State line, and Los Angeles, CA, over U.S. Hwy 101; (27) between junction Interstate Hwys 10 and 15, and junction Interstate Hwys 15 and 15E, over Interstate Hwy 15; (28) between junction Interstate Hwys 505 and 5, and junction Interstate Hwys 505 and 80, over Interstate Hwy 505; (29) between San Franisco, CA and junction Interstate Hwy 80 and the CA–NV State line, over Interstate Hwy 80; (30) between junction Interstate Hwys 80 and 880, west of Sacramento, CA, and junction Interstate Hwys 80 and 880, east of Sacramento, CA, over Interstate Hwy 880; (31) between Oakland, CA, and junction Interstate Hwys 580 and 5, over Interstate Hwy 580; (32) between junction Interstate Hwys 580 and 205, and junction Interstate Hwys 205 and 5, over Interstate Hwy 205; (33) between Santa Monica, CA, and junction Interstate Hwy 10 and the CA–AZ State line, over Interstate Hwy 10; (34) between San Bernardino, CA, and junction Interstate Hwy 15 and the CA–NV State line: From San Bernardino,

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CA, over Interstate Hwy 15E to junction Interstate Hwy 15, then over Interstate Hwy 15 to the CA–NV State line; (35) between Barstow, CA and junction Interstate Hwy 40 and the CA–AZ State line, over Interstate Hwy 40; (36). between San Diego, CA, and junction the CA–AZ State line, and Interstate Hwy 8, over Interstate Hwy 8; (37) between San Bernardino, CA and San Diego, CA: from San Bernardino, CA, over Interstate Hwy 15 E to junction CA Hwy 91, then over CA Hwy 91 to junction Interstate Hwy 15, then over Interstate Hwy 15 to San Diego, CA; (38) between Bonsall, CA and junction CA Hwy 76 and Interstate Hwy 15, over CA Hwy 76; (39) between Vista, CA and junction Interstate Hwy 5, and CA Hwy 78, over CA Hwy 78; (40) between junction Interstate Hwy 80 and the CA–NV State line, and junction Interstate Hwy 80 and the NV–UT State line, over Interstate Hwy 80; (41) between junction Interstate Hwy 15 and the CA–NV State line, and junction Interstate Hwy 15 and the NV–AZ State line, over Interstate Hwy 15; (42) between junction Interstate Hwy 15 and the ID–UT State line, and junction Interstate Hwy 15 and the UT–AZ State line, over Interstate Hwy 15; (43) between junction Interstate Hwy 84 and the ID–UT State line, and junction Interstate Hwys 84 and 15, over Interstate Hwy 84; (44) between junction Interstate Hwys 15 and 84, and junction Interstate Hwys 84 and 80, over Interstate Hwy 84; (45) between junction Interstate Hwy 80 and the NV–UT State line, and junction Interstate Hwy 80 and the UT–WY State line, over Interstate Hwy 80; (46) between junction Interstate Hwy 25 and the WY–CO State line, and junction Interstate Hwy 25 and the CO–NM State line, over Interstate Hwy 25; (47) between Denver, CO, and junction Interstate Hwy 70 and the CO–KS State line, over Interstate Hwy 70; (48) between junction Interstate Hwy 70 and the CO–KS State line, and junction Interstate Hwy 70 and the KS–MO State line, over Interstate Hwy 70; (49) between junction Interstate Hwy 15 and the NV–AZ State line and junction Interstate Hwy 15 and the UT–AZ State line, over Interstate Hwy 15; (50) between junction Interstate Hwy 40 and the CA–AZ State line, and junction Interstate Hwy 40 and the AZ–NM State line, over Interstate Hwy 40; (51) between junction Interstate Hwy 10 and the CA–AZ State line, and junction Interstate Hwy 10 and the AZ–NM State line, over Interstate Hwy 10; (52) between junction Interstate Hwy 8 and the CA–AZ State line, and junction Interstate Hwys 8 and 10, over Interstate Hwy 8; (53) between Flagstaff, AZ, and Phoenix, AZ, over Interstate Hwy 17; (54) between junction Interstate Hwy 25 and the CO–NM State line, and Albuquerque, NM, over Interstate Hwy 25; (55) between junction Interstate Hwy 40 and the AZ–NM State line, and junction Interstate Hwy 40 and the NM–TX State line, over Interstate Hwy 40; (56) between junction Interstate Hwy 10 and the AZ–TX State line, and junction Interstate Hwy 10 and the NM–TX State line, over Interstate Hwy 10; (57) between junction Interstate Hwy 40 and the TX–OK State line, and Oklahoma City, OK, over Interstate Hwy 40; (58) between Oklahoma City, OK, and junction Interstate Hwy 44 and the OK–MO State line, over Interstate Hwy 44; (59) between Henryetta, OK, and junction Indian Nation Turnpike and the U.S. Hwy 270, over the Indian Nation Turnpike; (60) between Oklahoma City, OK, and junction Interstate Hwy 35 and the OK–TX State line, over Interstate Hwy 35; (61) between junction Interstate Hwy 55 and the MO–AR State line, and junction Interstate Hwys 55 and 40, over Interstate Hwy 55; (62) between junction Interstate Hwy 40 and the NM–TX State line, and junction Interstate Hwy 40 and the TX–OK State line, over Interstate Hwy 40; (63) between junction Interstate Hwy 10 and the NM-TX State line, and Ft. Stockton, TX, over Interstate Hwy 10; (64) between junction Interstate Hwys 10 and 20, and Dallas, TX, over Interstate Hwy 20; (65) between Ft. Worth, TX, and junction Interstate Hwy 30 and the TX-AR State line, over Interstate Hwy 30; (66) between San Antonio, TX and junction Interstate Hwy 10 and the TX-LA State line, over Interstate Hwy 10; (67) between junction Interstate Hwy 35 and the OK-TX State line, and Denton, TX, over Interstate Hwy 35; (68) between Denton, TX, and junction Interstate Hwys 35E and 35 north of Hillsboro, TX, over Interstate Hwy 35E; (69) between Ft. Worth, TX, and junction Interstate Hwys 35W and 35 north of Hillsboro, TX, over Interstate Hwy 35W; (70) between junction Interstate Hwys 35, 35E and 35W north of Hillsboro, TX, and Laredo, TX, over Interstate Hwy 35; (71) between San Antonio, TX and Corpus Christi, TX, over Interstate Hwy 37; (72) between Beaumont, TX, and Port Arthur, TX, over U.S. Hwys 69 and 287; (73) between Dayton, TX, and junction TX Hwy 146 and Interstate Hwy 10, over TX Hyw 146; (74) between junction Interstate Hwy 10 and the TX-LA State line, and Lake Charles, LA, over Interstate Hwy 10; (75) between junction Interstate Hwy 95 and the NY-CT State line, and junction Interstate Hwy 95 and the CT-RI State line, over Interstate Hwy 95; (76) between junction Interstate Hwy 84 and the NY-CT State line, and junction the CT-MA State line and Interstate Hwy 86: from junction the NY-CT State line and Interstate Hwy 84 over Interstate Hwy 84 to Hartford, CT, then over Interstate Hwy 86 to the CT–MA State Line; (77) between junction the CT–MA State line and Interstate Hwy 91, and New Haven, CT, over Interstate Hwy 91; (78) between junction Interstate Hwy 84 and CT Hwy 72, and junction Interstate Hwy 91 and CT Hwy 15: from junction Interstate Hwy 84 and CT Hwy 72 over CT Hwy 72 to junction U.S. Hwy 5, then over U.S. Hwy 5 to junction Interstate Hwy 91; (79) between junction the MD–DE State line and Interstate Hwy 95, and junction the DE–PA State line and Interstate Hwy 95, over Interstate Hwy 95; (80) between junction the MD–DE State line and U.S. Hwy 13, and junction the DE–PA State line and U.S. Hwy 13, over U.S. Hwy 13; (81) between junction U.S. Hwy 40 and the MD–DE State line, and junction U.S. Hwy 40 and the DE–NJ State line, over U.S. Hwy 40; (82) between junction Interstate Hwys 95, 295 and 495, and junction Interstate Hwys 495 and 95, over Interstate Hwy 495; (83) between junction the NH–ME State line and Interstate Hwy 95, and Bangor, ME, over Interstate Hwy 95; (84) between Bangor, ME, and Ellsworth, ME, over Alternate U.S. Hwy 1; (85) between Ellsworth, ME, and Calais, ME, over U.S. Hwy 1; (86) between Ellsworth, ME, and Bar Harbor, ME, over ME Hwy 3; (87) between junction the ME–NH State line and U.S. Hwy 1, and Bangor, ME: from junction ME–NH State line and U.S. Hwy 1 over U.S. Hwy 1 to junction Alternate U.S. Hwy 1, then over Alternate U.S. Hwy 1 to Bangor, ME; (88) between Portland, ME, and Augusta, ME, over the ME Turnpike; (89) between Lewiston, ME and Augusta, ME, over U.S. Hwy 202; (90) between junction the RI–MA State line and Interstate Hwy 95, and junction the MA–NH State line and Interstate Hwy 95, over Interstate Hwy 95; (91) between junction the NY–MA State line and Interstate Hwy 90, and Boston, MA, over Interstate Hwy 90; (92) between junction the NY–MA State line and U.S. Hwy 20, and junction U.S. Hwy 20 and Interstate Hwy 90. over U.S. Hwy 20; (93) between junction the CT–MA State line and Interstate Hwy 91, and Springfield, MA, over Interstate Hwy 91; (94) between junction the CT–MA State line and Interstate Hwy 86, and junction Interstate Hwys 86 and 90, over Interstate Hwy 86; (95) between junction Interstate Hwys 90 and 290, and junction Interstate Hwys 495 and 95: from

junction Interstate Hwys 90 and 290 over Interstate Hwy 290 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction Interstate Hwy 95 near the MA–NH State line; (96) between junction Interstate Hwy 95 and MA Hwy 113, and Newburyport, MA, over MA Hwy 113, over MA Hwy 113; (97) between Worcester, MA and junction Interstate Hwy 90 and unnumbered hwy: from Worcester, MA over MA Hwy 122 to junction unnumbered hwy, then over unnumbered hwy to junction Interstate Hwy 90; (98) between junction the MA–NH State line and Interstate Hwy 95, and junction the NH–ME State line and Interstate Hwy 95, over Interstate Hwy 95; (99) between junction the CT–RI State line and Interstate Hwy 95, and junction the RI–MA State line and Interstate Hwy 95, over Interstate Hwy 95; (100) between junction Interstate Hwy 95 and RI Hwy 138, and Newport, RI: from junction Interstate Hwy 95 and RI Hwy 138 over RI Hwy 138 to junction U.S. Hwy 1, then over U.S. Hwy 1 to RI Hwy 138, then over RI Hwy 138 to Newport, RI; (101) between port of entry on the International boundary line between the U.S. and Canada at Interstate Hwy 89, and Burlington, VT, over Interstate Hwy 89; (102) between junction the MD–VA State line and Interstate Hwy 95, and junction the MD–DE State line and Interstate Hwy 95, over Interstate Hwy 95; (103) between junction U.S. Hwy 13 and the MD–DE State line, and junction U.S. Hwy 13 and the MD–VA State line, over U.S. Hwy 13; (104) between junction the MD–PA State line and U.S. Hwy 40, and junction the MD–DE State line and U.S. Hwy 40, over U.S. Hwy 40; (105) between junction U.S. Hwy 48 and the MD–WV State line, and Cumberland, MD, over U.S. Hwy 48, (106) between junction the MD–PA State line and Interstate Hwy 81, and junction Interstate Hwys 70 and 81, over Interstate Hwy 81; (107) between junction the MD–PA State line and Interstate Hwy 70, and Baltimore, MD, over Interstate Hwy 70; (108) between Frederick, MD and junction Interstate Hwys 495 and 95: from Frederick over Interstate Hwy 270 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction Interstate Hwy 95; (109) between junction Interstate Hwy 495 and U.S. Hwy 29, and junction U.S. Hwy 29 and the MD–DC State line, over U.S. Hwy 29; (110) between junction Interstate Hwy 495 and MD Hwy 97, and junction MD Hwy 97 and U.S. Hwy 29, over MD Hwy 97; (111) between junction Interstate Hwy 270 and spur Interstate Hwy 270, and junction MD Hwy 190 and the MD–DC State line: from junction Interstate Hwy 270 and spur Interstate Hwy 270 over spur Interstate Hwy 270 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction MD Hwy 190, then over MD Hwy 190 to the MD–DC State line; (112) between Washington, DC, and Baltimore, MD: from Washington, DC over U.S. Hwy 50 to junction Baltimore-Washington Parkway, then over the Baltimore-Washington Parkway to Baltimore, MD; (113) between Baltimore, MD, and junction Interstate Hwy 83 and the MD–PA State line, over Interstate Hwy 83; and (114) between junction Baltimore-Washington Parkway and MD Hwy 197, and junction MD Hwy 198 and Baltimore-Washington Parkway: from junction Baltimore-Washington Parkway and MD Hwy 197 over MD Hwy 197 to Laurel, MD, then over MD Hwy 198 to junction the Baltimore-Washington Parkway, serving all intermediate points in the above routes.

Note.—Applicant intends to tack this authority with its existing authority. Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

MC 1515 (Sub-326), filed January 11, 1983. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Celmins (same address as applicant) (602) 248–2942. Over regular routes, transporting *passengers*, (1) between Mobile, AL and New Orleans, LA, serving the off-route points of Pascagoula, Biloxi, Gulfport and Bay St. Louis, MS, and Slidell, over Interstate Hwy 10; (2) between Nashville, TN and Mobile, AL, serving the off-route points of Columbia, TN, and Athens, Deca, Hartselle, Cullman, Calera, Clanton, Greenville, Georgiana, Evergreen, Atmore, and Bay Minnette, AL over Interstate Hwy 65; (3) between Birmingham, AL and New Orleans, LA, serving the off-route points of Eutaw, Livingston, and York, AL, Poplarville and Picayune, MS, and Slidell, LA: from Birmingham over Interstate Hwy 59 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans; (4) between New Orleans, LA and Memphis, TN, serving the off-route points of Hammond, Amite, and Kentwood, LA, and McComb, Brookhaven, Hazelhurst, Canton, Winona, and Grenada, MS: from New Orleans over Interstate Hwy 10 to junction Interstate Hwy 55, then over Interstate Hwy 55 to Memphis; (5) between Eutaw, AL and Demopolis, AL, over U.S. Hwy 43; (6) between Jasper, and Haleyville, AL, over AL Hwy 5; (7) between Greenhill, AL and Florence, AL: from Greenhill over new U.S. Hwy 43 to junction U.S. Hwy 72, then over U.S. Hwy 72 to Florence; (8) between Anniston, AL and Athens, AL: from Anniston over U.S. Hwy 431 to junction U.S. Hwy 72, then over U.S. Hwy 72 to Athens; and (9) between Decatur, AL and Murfreesboro, TN: from Decatur over Alternate U.S. Hwy 72 to junction U.S. Hwy 231, then over U.S. Hwy 231 to Murfreesboro, serving all intermediate points in the above routes.

Note.—(1) Applicant intends to tack this authority with its existing authority.

(2) Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same routes.

MC 1515 (Sub-327), filed January 11, 1983. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Celmins (same address as applicant) (602) 248–2942. Over regular routes, transporting *passengers*, (1) between Petersburg, VA and junction Interstate Hwys 95 and 16, over Interstate Hwy 95, serving the off-route points of Rocky Mount, Wilson, Smithfield, Benson, Dunn, Fayetteville and Lumberton, NC, and Florence, Walterboro and Manning, SC; (2) between Rocky Mount, NC and Goldsboro, NC from Rocky Mount over U.S. Hwy 301 to junction U.S. Hwy 117, then over U.S. Hwy 117 to Goldsboro; (3) between Wilson, NC and junction U.S. Hwy 301 and Interstate Hwy 95, over U.S. Hwy 301; (4) between Lillington, NC, and Ft. Bragg, NC, over NC Hwy 210; (5) between Rocky Mount, NC and Asheville, NC, serving the off-route points of Mocksville and Black Mountain, NC: from Rocky Mount over U.S. Hwy 64 to Raleigh, NC, then over Interstate Hwy 40 to Durham, NC, then over Interstate Hwy 85 to Greensboro, NC, then over Interstate Hwy 40 to Asheville; (6) between Asheville, NC and Hendersonville, NC: from Asheville over Interstate Hwy 26 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Hendersonville; (7) between Raleigh, NC, and Dunn, NC: from Raleigh over NC Hwy 50 to junction U.S. Hwy 301, then over U.S. Hwy 301 to Dunn (8) between Greensboro, NC and Charlotte, NC, over Interstate Hwy 85 or U.S. Hwy 29; (9) between Charlotte, NC, and Greenville, SC, serving the off-route points of Gaffney and Spartanburg, SC, over Interstate Hwy 85; (10) between Greenville, SC and Charleston, SC, serving the off-route points of Laurens, Clinton, Newberry, Columbia, Orangeburg, Summerville, and North Charleston, SC: from Greenville over U.S. Hwy 276 to junction Interstate Hwy 26, then over Interstate Hwy 26 to Charleston; (11) between Charlotte, NC

and Columbia, SC, serving the off-route point of Rock Hill, SC, over Interstate Hwy 77; (12) between Florence, SC, and Augusta, GA serving the off-route points of Bishopville, Camden, Columbia, Lexington, and Aiken, SC: from Florence over Interstate Hwy 20 to junction U.S. Hwy 25, then over U.S. Hwy 25 to Augusta; and (13) between Florence, SC, and Conway, SC: from Florence over U.S. Hwy 76 to junction U.S. Hwy 501, then over U.S. Hwy 501 to Conway, serving all intermediate points in the above routes.

Note.—Applicant intends to tack this authority with its existing authority. Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

MC 2934 (Sub-127), filed January 17, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant) (317) 975–1142. Transporting *Household goods* and *electronic equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with Paradyne Corporation, of Largo, FL.

MC 158995, filed January 10, 1983. Applicant: SCHUYLKILL VALLEY COAL LINES, INC., W. Water St., Mahanoy Plane, PA 17949. Representative: John M. Quain, 221 Upper Valley Rd. North Wales, PA 19454 (215) 699–3777. Transporting (1) *Coal,* between points in PA, NY, NJ, NH, RI, MA, CT and VT and (2) *general commodities,* (except classes A and B explosives and household goods), between points in NY, NJ, NH, RI, MA, CT and VT, on the one hand, and, on the other, points in PA.

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4–67

Decided: February 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 141357, (Sub-12), filed January 25, 1983. Applicant: SHANUS, INC., 232 1st St. North, Minneapolis, MN 55401. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440 (612) 542–1121. Transporting *commodities in bulk,* between Minneapolis, MN, on the one hand, and, on the other, points in ND, SD, WI, and LA.

MC 145246, (Sub-4), filed January 25, 1983. Applicant: A. E. SCHULTZ CORPORATION, 901 Lyndale Ave., Neenah, WI 54956. Representative: Frank M. Coyne, 25 West Main St., Madison WI 53703 (608) 255–1388. Transporting *chemicals and related products,* between points in Winnebago County, WI, on the one hand, and, on the other, points in WI, MN, and the Upper Peninsula of MI.

MC 165596, filed January 10, 1983. Applicant: ATLANTIC OVERLAND, INC., 12 Elm St., Rockland, ME 04841. Representative: John M. Kinnealey (same address as applicant) (207) 594–5935. Transporting *meats, meat products and frozen foods,* between Boston, MA, on the one hand, and, on the other, points in NY, ME, NH, VT, RI, and CT.

MC 165927, filed January 27, 1983. Applicant: JAMES MAGEE d.b.a. MAGEE'S AUTOMOTIVE, Route 1, Afton, WY 83110. Representative: James Magee (Same address as applicant) (307) 889–3889. Transporting *transportation equipment,* between points in ID, MT, UT, and WY.

Please direct status inquiries about the Following to team 5, (202) 275–7289.

Volume No. OP5–43

Decided: January 31, 1983.

By the Commission on, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 20968 (Sub-3), filed January 21, 1983. Applicant: IMLACH MOVERS, INC., 28175 Fort St., Trenton, MI 58183. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200 Washington, DC 20036 (202) 785–0024. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with K Mart Corporation, of Troy, MI.

MC 79658 (Sub-50), filed January 24, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (Same address as applicant) (812) 424–2222. Transporting *household goods,* between points in the U.S., under continuing contract(s) with State Farm Mutual Automobile Insurance Companies, of Bloomington, IL.

MC 123329 (Sub-63), filed January 19, 1983. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500 Calgary, Alberta, Canada T2P 2P9. Representative: Edward J. Kiley, 1730 M Street, N.W., Suite 501 Washington, DC 20036 (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between ports of entry on the international boundary line between the United States and Canada, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, IL, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, WI, and WY.

MC 138758 (Sub-7), filed January 21, 1983. Applicant: SHEFFIELD POTATO CO., INC. d.b.a. NORTHERN GAS TRANSPORT CO., Lyndonville, VT 05851. Representative: John P. Monte, P.O. Box 686 Barre, VT 05641 (802) 476–6671. Transporting *propane* between ports of entry on the international boundary line between the United States and Canada in ME, NH, NY, and VT, on the one hand, and, on the other, points in ME.

MC 140149 (Sub-8), filed December 28, 1982. Applicant: M.C. BUNCH, INC., Route 1–Box 52, Lake City, AR 72427. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, 501–521–8121. Transporting *general commodities* (except casses A and B explosives, household goods, and commodities in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with Charles McAlpin Brokerage, Inc., of Decatur, AL.

MC 147579 (Sub-3), filed January 21, 1983. Applicant: MILLER EXPRESS FREIGHT, INC., 205 Lima Ave., P.O. Box 1230, Findlay, OH 45840. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Hancock County, OH, on the one hand, and, on the other, points in IN, IL, KY, MI, PA, TN, and WV.

MC 150909 (Sub-2), filed January 6, 1983. Applicant: HEBERT BROS, Route 1, Madawaska, ME 04756. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, 207–773–5651. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with NAPA New England of Wilmington, MA; Agway, Inc. of Caribou, ME; and Fraser Paper Limited, of Madawaska, ME.

MC 154158 (Sub-3), filed January 21, 1983. Applicant: KINNEY TRUCK LINE, INC., 124 West Willis Avenue, Perry, IA 50220. Representative: Steven C. Schoenebaum, 1100 Carriers Bldg., 601 Locust, Des Moines, IA 50309 (515) 283–2076. Transporting *agricultural implement parts,* between points in Dallas County, IA, on the one hand, and, on the other, points in CO, IL, IN, KY, MI, MO, NY, OH, PA, and WI.

MC 156029 (Sub-3), filed January 21, 1983. Applicant: TRANSPORT ENTERPRISES, INC., P.O. Box 311, Freehold, NJ 07728. Representative: Ronald I. Shapss, 450 Seventh Ave.,

New York, NY 10123. (212) 239–4610. Transporting *food and related products* between points in the U.S. (except AK and HI).

MC 165838, filed January 21, 1983. Applicant: HAYES TRANSPORT, INC., 2746 Spring Rose Circle, Verona, WI 53952. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502 (712) 323–9124. Transporting *food and related products,* between Chicago, IL, and points in Oneida County, NY, Warren County, NJ, Lancaster County, PA and Jefferson County, WI, on the one hand, and, on the other, points in CT, IL, IN, IA, KY, MA, MI, MN, MO, NJ, NY, OH, PA, TX and WI.

Volume No. Op5–50

Decided: February 2, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 134958 (Sub-12), filed January 25, 1983. Applicant: HAMS EXPRESS, INC., 3499 S. Third St., Philadelphia, PA 19148. Representative: David M. Schwartz, 1025 Connecticut Ave., NW., Washington, DC 20036 (202) 775–8190. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 141758 (Sub-21), filed January 24, 1983. Applicant: LYDALL EXPRESS, INC., 615 Parker Ave., Manchester, CT 06040. Representative: Robert J. Dunbar (same address as applicant) 203–646–1233. Transporting *newsprint,* between points in the U.S. (except AK and HI), under continuing contract(s) with Bear Island Paper Company of Greenwich, CT.

MC 144918 (Sub-3), filed January 24, 1983. Applicant: J. P. JENKS, INC., P.O. Box 585, RD 3, Geneva, OH 44041. Representative: Lewis S. Witherspoon, 2455 North Star Rd., Columbus, OH 43221, 614–486–0448. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 150768 (Sub-2), filed January 20, 1983. Applicant: EAGLE FURNITURE CORP, d. b. a. GREENWOOD CARRIERS, INC., Rte. 5, Box 330, Cookeville, TN 38501. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg. , 425 13th St., N.W., Washington, DC 20004, 202–347–8062. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Putnam County, TN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 155079, filed January 24, 1983. Applicant: CURTIS L. DODGINS, INC., Route 1, Box 393, Franklin, NC 28734. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, 704–372–6730. Transporting *furniture and fixtures,* between points in Stephens County, GA, on the one hand, on the other, points in the U.S. (except AK and HI).

MC 165849, filed January 25, 1983. Applicant: PETER D. PIGULA, d.b.a. P&L TRANSPORT, 219 F. Grenadier Dr., Liverpool, NY 13088. Representative: Peter D. Pigula (same address as applicant) (315) 622–2123. Transporting *petroleum products,* between points in NY and PA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3575 Filed 2–9–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub-133)]

Rail Carriers; Burlington Northern Railroad Company—Abandonment—In Spokane and Whitman Counties, WA; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its line of railroad known as the Spring Valley to Fairbanks, WA, line extending from railroad milepost 40.00 near Spring Valley, to railroad milepost 45.68, at the end of the line, near Fairbanks, WA, a distance of 5.68 miles to Spokane and Whitman Counties, WA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27 (formerly 49 CFR 121.38).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3578 Filed 2–9–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30098]

Rail Carriers; Consolidated Rail Corp. and Southern Railway Co.; Exemption From 49 U.S.C. 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 11343 the purchase by Southern Railway Company of a 4.6-mile segment of track from Consolidated Rail Corporation (Conrail) between mileposts 127.4 and 132.0 in Wabash County, IL, and Conrail's acquisition of trackage rights over the same line segment, subject to standard labor protection.

DATES: This exemption will be effective on February 10, 1983. Petitions to reopen must be filed by March 2, 1983.

ADDRESSES: Sending pleadings to: (1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representatives: Charles E. Mechem, Consolidated Rail Corporation, Six Penn Center Plaza, Philadelphia, PA 19104

Nancy S. Fleischman, Southern Railway Company, P.O. Box 1808, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Avenue NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area (800) 424–5403—Toll free for outside the DC area.

Decided: February 1, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3577 Filed 2–9–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 346; Sub-15]

Exemption From Regulation—Rail Transportation Frozen Food

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Union Pacific Railroad Company has petitioned the Commission to exempt from regulation under 49 U.S.C. 10505 the rail transportation of frozen foods. The purpose of this exemption is to provide the railroads full flexibility to compete with motor carriage which controls the predominant share of traffic in frozen foods, and to allow the railroads to respond to shippers' needs by adjusting rates to reflect market fluctuations and changes in competitors' rates.

DATES: Comments are due March 14, 1983.

COMMENTS: Send comments to: Ex Parte No. 346 (Sub-No. 15), Rail Section, Room 5344, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer (202) 275–7245

or

Gerald Proger (202) 275–5957

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423 (202) 289–4357, DC metropolitan area (800) 424–5403, Toll free for outside the DC area.

Decided: February 3, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3646 Filed 2–8–83; 8:45 am]

BILLING CODE 7035–1–M

NATIONAL LABOR RELATIONS BOARD

Discontinuance of Preparation of Subject Matter Classified Index to General Counsel Decisions Having No Precedential Significance

Notice is hereby given under the provisions of Section (a)(2) of the Freedom of Information Act (5 U.S.C. 552(a)(2) that the General Counsel of the National Labor Relations Board has determined that it is unnecessary and impracticable to continue to classify and index those of his decisions not to issue a complaint on unfair labor practice charges where the reason for the decision was that there was insufficient evidence to support the charge.

Since 1975 the General Counsel has been classifying on a subject matter classification outline all of the decisions of his office not to issue a complaint on charges of unfair labor practices filed with the Regional Offices of the Agency. The final decisions of that nature, whether by a regional director, by the Office of Appeals, or by the Division of Advice, which are based upon a determination that "there has been no violation of the National Labor Relations Act" (Section 101.5, NLRB Statements of Procedure, Series 8, as amended, 29 CFR 101.5), are indexed in the publication entitled "Classified Index to Dispositions of ULP Charges by the General Counsel of the National Labor Relations Board." That classified index is published and made available for purchase upon subscription from the Superintendent of Documents, Government Printing Office, in accordance with the requirements of 5 U.S.C. 552(a)(2), and neither its contents, its coverage, nor its continued publication are to be altered or affected by this notice.

Final decisions of the regional directors or the Office of Appeals not to issue a complaint, which are based upon a determination that the evidence established by the investigation "is insufficient to substantiate the charge" (Section 101.5, NLRB Statements of Procedure, Series 8, as amended, 29 CFR 101.5), are classified and the citations are separately assembled in published index format in a prepared "Table of Cases in Which the General Counsel of the National Labor Relations Board Refused To Issue a Complaint on ULP Charges Because of Insufficient Evidence." Although this table of cases has heretofore been fully assembled in page galley ready for publication, it has not been published or offered for sale. By notice published in the **Federal Register** on May 20, 1976 (41 FR 20740–20741), the General Counsel advised the public of his determination that, although the table of cases would be prepared and would be available to the public for inspection and copying, it would not be printed and offered for sale.[1] In explaining that determination the General Counsel stated (41 FR 20740–20741):

> The basis for the conclusion that publication of the above described "Table of Appeals Cases" is unnecessary and impracticable is that the refusal to issue complaint because a charge is not supported by sufficient evidence provides little or no information concerning the action which might be taken by the General Counsel were the allegations of the charges supported by evidence, and provides little guidance to parties and the public concerning the probable disposition of other charges. In these circumstances, the public interest would not be served by expanding public funds to print and distribute that table.

Subsequent events have demonstrated that the doubt and concern of the General Counsel about the value to the public or practitioners of a subject matter index to decisions dismissing charges because of insufficient evidence was completely justified. During the more than 7 years that this table of cases has been publicly available, there has not been a single request from the public to see the index, nor any expression of interest in obtaining access to any subject matter category of the documents indexed on the table. The General Counsel views this lack of interest as wholly persuasive public confirmation of his view that the final decisions dismissing ULP charges because of insufficient evidence lack value as precedent and are of no appreciable value to the public in helping it to understand how the General Counsel's Office operates. Under these circumstances, there is no compelling obligation under the Freedom of Information Act to prepare an index to decisions of that nature. See 5 U.S.C. 552(a)(2): "Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act," U.S. Department of Justice, June 1967, pp. 20–22.

A further consideration supporting the decision to discontinue preparation of the table of cases is the substantial cost to the Agency incurred by its preparation, without any discernible benefit to the public or to the Agency. Under the present volume of final decisions, the classification of decisions for the table of cases index, and the preparation of that index, involve a cost to the Agency of over $70,000 per year. The expenditure of those funds for this purpose cannot readily be justified.

In the absence of a clear statutory obligation to prepare an index to dismissals of charges for insufficient evidence, or the demonstration of a significant public interest is a subject matter index to such decisions, and in consideration of the substantial cost to

[1] The publication at that time did not yet include decisions of the regional directors and was therefore referred to as the "Table of Appeals Cases." The regional directors decisions were subsequently included on a retrospective bases.

the Agency in staff resources and funds without discernible benefit to the public, the General Counsel has determined that the classification of the documents and the preparation of the table of cases in publication format is not of benefit to the public and should be discontinued. Therefore, effective immediately, no further effort or funds will be expended by this Agency in the subject matter classification of final orders dismissing ULP charges because of insufficient evidence, or in the preparation of the "Table of Cases in Which the General Counsel of the National Labor Relations Board Refused To Issue Complaint on ULP Charges Because of Insufficient Evidence."

FOR FURTHER INFORMATION CONTACT: Standau E. Weinbrecht, Assistant General Counsel, 1717 Pennsylvania Avenue, NW., Room 1100, Washington, D.C. 20570, Telephone: (202) 254–9350.

Dated: February 2, 1983.

William L. Lubbers,

General Counsel, National Labor Relations Board.

[FR Doc. 83–3588 Filed 2–9–83; 8:45 am]

BILLING CODE 7545–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Responses; Availability

Recommendation Responses from:

Pipeline—*Arizona Public Service Company: Nov. 12: P–76–17:* Determined the number of similar plastic pipe compression coupling installations and excavated a statistically representative sample of these to determine if they had been installed correctly. *P–76–18:* Based upon a review of existing construction standards and coupled with its decision to discontinue use of the subject couplings, new installation construction standards are not needed.

The Pipelines of Puerto Rico, Inc: Nov. 18: P–80–75, regarding pipeline emergencies, and *P–80–79,* regarding the establishment of an island-wide "one-call" excavation notification system: Requested the Public Service Commission of Puerto Rico to call for a meeting of all parties that may, at some time, perform work that could interfere with pipeline systems. *P–80–76:* Updated the list of parties to be contacted in an emergency and instituted a procedure to insure that the list is updated at least annually. *P–80–77:* Installed additional permanent pipeline markers sufficient to comply with 49 CFR 195.410. *P–80–78:* Installed new pipeline identification labels on permanent markers in accordance with 49 CFR 195.410(a)(2). *P–80–80:* Instructed its pipeline inspectors of the importance of remaining at the construction site and closely monitoring the contractor's work as it approaches the pipeline.

Puerto Rico Telephone Company: Dec. 15: P–80–88: Has not been successful in implementing the recommendation to establish an island-wide "one-call" excavation notification system in Puerto Rico on a voluntary basis among owners or operators. Excavation permits issued by the pertinent government agency, with the condition that the excavator must notify owners or operators of their planned excavations, together with proper legislation is being promoted.

U.S. Department of Labor: Nov. 18: P–73–5: Is developing a proposal to revise completely the OSHA construction standards regarding trenching and excavation operations. The proposal will address the need to determine correctly the location of underground utilities. *P–78–79:* Has started a comprehensive review of OSHA personal protective equipment standards for which additional data and recommended performance criteria for clothing worn by workers in various occupations will be developed.

The Peoples Natural Gas Company: Nov. 19: P–79–35 and –36: Conducted an instrument leak survey of the gas main identified on the company records as P–670, and conducted a complete corrosion survey over the entire 12-inch bare steel gas main. *P–79–37:* Any defects disclosed by these surveys were promptly corrected at the conclusion of the surveys.

The George Hyman Construction Co.: Nov. 23: P–78–18: Employees are required to follow completely the instructions given by one-call notification systems. *P–78–19:* Employees are instructed to ascertain by all possible means the locations of underground facilities before excavating at a construction site. After contacting local or out-of-town utility offices in order to locate all utilities, drawings are made and sent to all interested utility companies for verification.

Mountain Bell (New Mexico): Nov. 23: P–80–48 and –49: Company practices and procedures direct excavation contractors and company crews not to begin excavation operations until underground facilities have been marked properly, and when facilities are damaged as a result of excavation activities, to immediately notify the owner so that inspection, repair, or other emergency actions can be initiated. *P–80–49:* Company practices and procedures require that when gas facilities are disturbed or damaged, necessary precautions such as evacuation of adjacent buildings be taken to ensure the safety of the public.

Cities Service Pipe Line Company: Nov. 23: P–80–3: Is studying the extent of the problem concerning determining the depth of pipe at all crossing where ditch-cleaning and road-grading may result in damage to the line. *P–80–4:* Actively participated in the development, publication, and distribution of informational materials such as an American Petroleum Institute pamphlet and an industry newspaper advertisement designed to educate the general public and construction personnel on how to recognize pipeline rights-of-way and the necessary precautions to be observed when excavating near pipelines. Has an ongoing educational program for city/county engineers, drainage district personnel, and others, on the safety measures that should be observed when excavating near pipelines. Supports the concept of, and is a member of, several one-call systems.

Atlanta Gas Light Company: Nov. 24: P–78–21: Informed employees of the importance of determining, upon notification, the exact location and extent of each proposed excavation project to assure that the location of all gas facilities that may be affected will be identified and marked. *P–78–22:* Has operating policy to review emergency cut-off districts, keeping in mind the need to redistrict congested business areas if necessary.

Dow Chemical U.S.A.: Dec. 1: P–76–39: A network Supervisory Control and Data Acquisition System provides operational control and data to a continuously manned dispatch center in Houston. *P–76–40:* Created the postion of a Dow Pipeline Public Education Specialist to make formal presentations on pipeline safety and emergency procedures to area city and county officials, fire, police and sheriff departments, and other interested parties Each agency is revisited annually to make sure that they know what pipelines and facilities are in their area, that they have a current copy of pipeline location map books for their area, and that they are updated with Dow's pipeline safety program. Also, Dow periodically meets with local contractor associations and presents a slide/tape program aimed at the prevention of pipeline damage due to excavation activity. *P–76–41:* Believes that Dow has been a leader in employing the total system concept in the design, construction, inspection, testing, and operation of pipelines.

American Petroleum Institute: Dec. 15: P–78–12 and –13: The American Gas Association actively has studied stress corrosion cracking and methods to prevent and control it over the past 10 years and currently expends some $200,000 to $300,000 of annual research funds on this subject. *P–79–8:* The committee has studied the effects of dents and gouges on line pipe. *P–78–14:* Much research has been conducted on liquefied petroleum gas detectors. *P–79–7:* Advised its member companies of the importance of careful, thorough inspection during LPG pipeline construction to minimize the incidence of dents and gouges, and of the need to use proper engineering techniques when it is necessary to relocate or lower a section of pipeline. *P–80–70:* Urged member companies to evaluate their leak detection systems and procedures and to provide for periodic examination of the area around fillet-welded sleeves for signs of leakage

American Society of Mechanical Engineers, Gas Piping Standards Committee: Dec. 16: P–82–47: Will consider at its next meeting the revision of the ASME Gas Guide, provided for compliance with 49 CFR 192.751, to advise against cutting gas mains under pressure unless specific conditions can be identifed wherein such a practice can be performed safely.

American Society of Mechanical Engineers: Dec. 20: P–73–25: The recommendation was referred by the American National Standards Institute to ASME for response since ASME is publisher of the B31.4 Code. Several sections of the code were revised in 1974 to emphasize damage avoidance and to refer users to

American Pertoleum Institute Recommended Practice 1109 concerning marking liquid petroleum pipeline facilities.

American Gas Association: Dec. 22: P–79–1: Advised member companies of the circumstances of the natural gas accident on Padre Island, Texas, on January 27, 1978, and urged them to review their remote installation alarm systems and to correct any deficiencies found.

Railroad—*Federal Railroad Administration: Nov. 22: R–73–5; R–74–2, –3, and –4; R–75–2; R–76–20; R–77–4, –6, –7, –8, –29, and –33; R–78–43; R–79–17, –19, and –25; R–80–32; and R–81–35:* Is continuing research and development related to track safety, especially in rail restraint, track panel restraint, rail integrity, and track/vehicle interaction. *Dec. 15: R–82–86:* Conducted a safety review of bolster and center plate interference inspection practices on the Seaboard Coast Line Railroad and the Duluth, Winnipeg and Pacific Railway and found inspection practices to be inadequate on both railroads. Both railroads have repaired the cars and are training employees to improve inspection techniques. *R–82–87:* Informed FRA inspectors of the circumstances of the derailment of the Seaboard Coast Line train on November 13, 1981, near Montgomery, Alabama, and instructed them to inform railroad representatives of the seriousness of inadequate bolster and center plate inspections. *Dec. 30: R–82–101 and –102:* Regulations that would require the provision of additional warnings, such as complementary flag protection, blowing the locomotive whistle periodically, and boardcasting a one-time unaddressed and undirected radio message, when a train has passed a restricted or stop signal indication would not result in a significant increase in safe train operations.

Illinois Central Gulf Railroad: Nov. 15: R–81–32 and –33: Forwarded copies of a curve superelevation table and the ICG's Special Instruction T–10–82 regarding curve worn rail.

The Atchison, Topeka and Santa Fe Railway Company: Nov. 15: R–82–4, which recommended an evaluation of the quality of existing inspection practices and maintenance procedures for track turnouts, track crossings, and special trackwork, and revise those practices and procedures where necessary to prevent derailments: Changed the alignment at a turnout in one location where a train derailed, and eliminated a turnout from a curve at another location. Cited vanadalism as the cause of one accident, and ice crystals in the mechanical switchman as the probable cause of another accident. Instituted a more intensive maintenance program to assure proper operation of mechanical switchman devices.

Federal Emergency Management Agency: Nov. 30: R–82–85: Regional directors have been directed to alert appropriate State and local officials to the possibility of handling undocumented hazardous materials at the scene of transportation accidents, and have been informed of a training course offered by the Department of Transportation entitled "Hazardous Materials Compliance and Inspection."

NJ Transit: Dec. 3: R–82–107: Following an inventory of all hand-operated facing point switches on its rail system, will develop a per unit and total project cost of installing electric locks on the switches to be used in reviewing the recommendation.

Washington Metropolitan Area Transit Authority: Dec. 15: R–82–8: Does not consider necessary this recommendation, which would require the establishment of an absolute block when operating a train in other than fully automatic mode, because current procedures maintain absolute block conditions in Mode 3 and retain use of Automatic Train Protection if Mode 2 is used. *R–82–9:* Changed current operating procedures to indicate that, when a train must be operated through a defective interlocking in the manual mode, the Operations Control Center (OCC) will require an absolute block through interlockings in both directions, one train at a time, until desired routes are verified correct. *R–82–10:* Operating rules did require train operators to report to the OCC whenever they were unable to operate in the fully automatic mode. Modified procedures to exclude notifying the OCC of train adjustments within stations. *R–82–11:* Modified operating rules to prohibit a manually operated train from entering a block containing malfunctioning interlocking without informing the operator of his destination and requiring an acknowledgement. *R–82–12:* Modified operating procedures to specify, in detail, the actions required by the OCC and train operators before moving against established traffic. *R–82–13:* Ring-down circuits have been installed where required and are verified daily for proper operation. *R–82–14:* Will expand radio communicating capability for the OCC by modifying radio control panels to accommodate additional positions and by training OCC controllers in the proper use of the radio. *R–82 –15, –55, and –57:* The Rail Transportation Branch has provided refresher training to all supervisors, a superintendent of Rail Transportation Training has been hired, and a system analysis is being conducted under contract to identify potential training deficiencies. *R–82–16:* Implementation of mandatory periodic instruction and examination on operating rules and procedures, including emergency train evacuation procedures, for all rail supervisors and train operators will await the institution of a comprehensive training program to be developed upon completion of the systems analysis. Is evaluating possible evacuation options to determine the most appropriate means and methods of responding to emergency conditions. *R–82–17:* Procedures are established to remove third-rail power from the affected area before passengers are permitted on the track bed. A qualified power operator determines which segments are to be deenergized consistent with evacuation procedures. *R–82–18:* Is studying the need for a program to educate passengers on the procedures to be followed when it is necessary to evacuate a disabled train. *R–82–56:* Requested a Rail Training Branch in the FY84 budget. *R–82–58:* The overspeed enforcement circuitry is already designed to enforce all 10 Automatic Train Protection speed commands including zero miles per hour. Only after a train has come to a complete stop and its operator has received permission from the OCC can the operator operate the train up to 15 mph (enforced) in the Mode 2 (manual operation). By enforcing the speed of the train to 15 mph or less, it is felt that the operator is attentive and can stop the train short of any dangerous conditions. *R–82–59:* To change the identification numbers of interlockings and interlocking signals to eliminate possible misunderstandings which could result in a train improperly passing a restricting signal would require extensive revisions to as-built drawings and ATC manuals for each train control room, the renumbering of several hundred switch machines and signals, software modifications, and staff and technician retraining. *R–82–60:* Procedures have been established to ensure that OCC and rail transportation personnel refer to all signals by their complete and proper designation. *R–82–61:* Both OCC and transportation personnel thoroughly understood Standard Operating Procedure No. 15 for the establishment of an absolute block when there is a failure in the Automatic Train Control system. WMATA will continue to emphasize compliance with all directives and will verify knowledge requirements during certification examinations. *R–82–62:* The Metrorail operating rules will be revised to include a definition of restricted speed. Special Order No. 82–003 requires the OCC supervisor to assure that certain steps are completed before a train may proceed through an interlocking with inoperative track circuits. *R–82–63:* Discontinued the practice of using oral instructions. *R–82–64:* Is testing a design of the automated alert system which segregates alarms more through the use of color and screen location and which eliminates most train ID alarms. *R–82–65:* Developed additional procedures to require Maintenance Control to reconcile job control numbers and Type 1 alarms daily. *R–82–66:* To include the recommended check of switch machine functions in daily inspections would require additional technicians. *R–82–67:* Will request funds to purchase selfcontained radios that will function if auxiliary and emergency car sources are lost. *R–82–68:* American Public Transit Association reviewed Metrorail safety program and its rules and procedures in September 1982. *R–82–69:* Special Order No. 82–05 requires that, when an emergency occurs which automatically opens third rail breakers, the OCC supervisor must immediately command open all breakers in that area including the ones which were automatically opened. Also, the display of traction power breakers was redesigned at the advent of the color display system. *R–82–70:* Is evaluating the installation of marked emergency escape windows on cars. *R–82–71:* Is evaluating the cost/benefit of equipping cars with selfcontained, battery-operated emergency lights. *R–82–72:* Is evaluating the posting of emergency information inside Metrorail cars regarding operation of the manual emergency door handle. *R–82–73:* Is evaluating the equipping of cars with derailment detector devices that will apply the brakes in emergency when a car wheel

leaves the rail. *R–82–74:* Existing carborne monitors are unreliable and not maintainable, so substitute recording devices are being studied. *R–82–75:* Providing a portable radio, compatible with the Metrorail communication system, at each station kiosk for dedicated use by fire/rescue personnel would superimpose additional radio users on WMATA frequencies during a crisis and would cost about $150,000. Is presently installing the fire/police/emergency medical service radio system scheduled to become operational by October 1983. *R–82–76:* The underground communications system is scheduled for completion in October 1983. *R–82–77:* Conducted a disaster crash simulation in conjunction with area fire departments and hospitals and will continue to conduct similar drills.

National Fire Protection Association: Nov. 15: I–82–6: Believes that the distances specified to separate a hazardous materials storage area from a property line that can be built upon (including railroad rights-of-way) in NFPA Code No. 30 are adequate.

ARCO Petroleum Products Company: Dec. 30: H–82–5: Will present to all its operating facilities the Southern Railway's program "Calamity at the Crossing."

Southeastern Pennsylvania Transportation Authority: Jan. 5: R–82–110: All active automatic crossing protection on the Fox Chase Rapid Transit Line has been modified so that once a train initially shunts the circuit, a timing feature holds the shunt for 3 seconds. *R–82–111:* Modifying the inward opening passenger doors in the existing diesel rail cars to facilitate passenger evacuation is neither economically feasible nor does it facilitate egress during an emergency. *R–82–112:* Is getting involved with the Operation Lifesaver program despite the lack of official sanction from the State and is reemphasizing grade crossing hazards at safety briefings.

Association of American Railroads: Dec. 22: R–81–96: State of Virginia will work with a Federal Highway Administration/Railroad and Truck Industries task force on a pilot project regarding the acquisition of certain data and the implementation of remedial procedures involving truck transportation of hazardous materials traversing grade crossings.

Note.—Single copies of recommendation letters (identified by recommendation number) and response letters are free on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

February 7, 1982.

[FR Doc. 83–3690 Filed 2–9–83; 8:45 am]

BILLING CODE 4910–58–M

POSTAL RATE COMMISSION

Los Angeles (CA) Sectional Center Facility; Visit

February 4, 1983.

Notice is hereby given that Commissioner Crutcher will visit the Los Angeles (CA) Sectional Center Facility of the U.S. Postal Service on Wednesday, February 16, 1983, for the purpose of gaining general knowledge and understanding of mail operations. A report of the visit will be filed in the Commission's Docket Room.

David F. Harris,

Secretary.

[FR Doc. 83–3656 Filed 2–9–83; 8:45 am]

BILLING CODE 7715–01–M

SECURITIES AND EXCHANGE COMMISSION

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 3, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Computervision Corporation—Common Stock, $.05 Par Value (File No. 7–6492)
Datapoint Corporation—Common Stock, $.25 Par Value (File No. 7–6493)
Getty Oil Company—Common Stock, No Par Value (File No. 7–6494)
The E. F. Hutton Group Inc.—Common Stock, $1 Par Value (File No. 7–6495)
Mesa Petroleum Co.—Common Stock, $1 Par Value (File No. 7–6496)
National Medical Care, Inc.—Common Stock, $.20 Par Value (File No. 7–6497)
Oak Industries, Inc.—Common Stock, $1 Par Value (File No. 7–6498)
Phibro-Salomon Inc.—Common Stock, $1 Par Value (File No. 7–6499)
US Air, Inc.—Common Stock, $1 Par Value (File No. 7–6500)
American Broadcasting Companies, Inc.—Common Stock, $1 Par Value (File No. 7–6501)
Coleco Industries, Inc.—Common Stock, $1 Par Value (File No. 7–6502)
M/A-Com, Inc.—Common Stock, $1 Par Value (File No. 7–6503)
Mattel, Inc.—Common Stock, $1 Par Value (File No. 7–6504)
McDermott International, Inc.—Common Stock, $1 Par Value (File No. 7–6505)
The Superior Oil Company—Common Stock, $.10 Par Value (File No. 7–6506)
Texas Gas Corp.—Common Stock, $5 Par Value (File No. 7–6507)
Amdahl Corporation—Common Stock, $.05 Par Value (File No. 7–6508)
International Banknote Co., Inc.—Common Stock, $1 Par Value (File No. 7–6509)
Ranger Oil Limited—Common Stock, No Par Value (File No. 7–6510)
Tubos de Acero de Mexico—Common Stock, 50 Pesos Par Value, ADR (File No. 7–6511)
Wang Laboratories, Inc.—Common Stock, Class B, $.50 Par Value (File No. 7–6512)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 25, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3595 Filed 2–9–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13006; (812–5387)]

DCS Capital Corp.; Filing of Application

February 3, 1983.

Notice is hereby given that DCS Capital Corporation ("Applicant"), 100 West Tenth Street, Wilmington, Delaware, registered under the Investment Company Act of 1940 ("Act") filed an application on December 6, 1982, an order exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that its only securities presently outstanding are shares of its capital stock, all of which are owned, in equal shares, by The Dow Chemical Company ("Dow"), a Delaware corporation, Union Carbide Corporation ("Union Carbide"), a New York corporation, and Shell Canada Limited ("Shell Canada"), a Canadian corporation. Applicant further states that Dow, Union Carbide and Shell Canada (hereinafter referred to as "Participants") intend to form a U.S.

partnership ("Partnership"), the general partners ("Partners") of which will be direct or indirect wholly-owned subsidiaries of Dow, Union Carbide and Shell Canada. It is further stated that upon formation of the Partnership, Dow, Union Carbide and Shell Canada intend to transfer their shares of the capital stock of Applicant to the Partnership for the accounts of their respective subsidiary Partners.

Applicant represents that Dow is engaged in the manufacture and sale of chemicals, metals, plastic materials and products, and pharmaceutical, agricultural and consumer products and in the performance of certain specialized services; that Union Carbide is engaged in the manufacture and sale of chemicals and plastics, industrial gases and related products, metals and carbons, batteries/home and automotive products and certain specialty products; and that Shell Canada is an integrated oil company engaged in the exploration for and development of crude oil, natural gas, oil sands and coal properties and the production, refining, transportation and marketing of crude oil and natural gas liquids, natural gas, petroleum products, petrochemicals, sulphur and coal. It is also stated that Shell Canada is controlled by the Royal Dutch/Shell group of companies.

Applicant states further that the Partnership will make loans to The Alberta Gas Ethylene Company Ltd. ("AGEC") an Alberta corporation, which is a wholly-owned subsidiary of Nova ("Nova") also an Alberta Corporation, in connection with the construction of an ethylene plant and related facilities at Joffre, Alberta ("Project"), to be owned and operated by AGEC. It is represented that the Project is expected to produce 1.5 billion pounds per year of polymer grade ethylene using ethane as feedstock and will be operated in conjunction with a similar facility owned by AGEC at the same site. Approximately 76% of the ethylene to be produced at the Project it is stated, will be sold to Dow Chemical Canada Inc. ("Dow Canada") a wholly-owned subsidiary of Dow, Union Carbide Ethylene Oxide/Clycol Company ("Union Carbide EO/G"), a wholly-owned subsidiary of Union Carbide and Shell Canada (hereinafter, Dow Canada, Union Carbide EO/G and Shell Canada are collectively referred to as "Purchasers") pursuant to take-or-pay purchase contracts providing for the sale of ethylene over a 20-year period (hereinafter collectively referred to as the "Purchase Contracts"). Applicant states that the obligations of Dow Canada and Union Carbide EO/G under their respective Purchase Contracts have been guaranteed by Dow and Union Carbide, respectively. The remaining 24% of the ethylene, Applicant further states, will be sold to Nova pursuant to a similar contract (hereinafter referred to as the "Nova Contract"). Applicant represents that the current projected cost of the Project is approximately $800,000 (Canadian), including interest during construction, start-up costs, certain deferred costs during the first two years of operation, and allowance for contingencies.

Applicant further states that its sole purpose is to assist the Partnership in raising the funds needed to supply the Participants' share of the financing of the Project by issuing debt securities in series in various markets. It is further stated that proceeds of the issuance of such securities will be used by Applicant to purchases notes or other evidences of indebtedness issued by the Partnership ("Partnership Notes"), the principal of and premium, if any, and interest on which will be payable at such times as will coincide with the payment terms of the corresponding series of Applicant's debt securities. Applicant states that all expenses of Applicant will be reimbursed to it by the Partnership. The Partnership, it is stated, will use the proceeds from the sale of Applicant's debt securities to make loans to AGEC from time to time to pay construction costs of the Project and start-up and certain deferred costs in connection with the Project.

Applicant further states that each series of securities issued by Applicant will be secured by a related series of Partnership Notes. The Partnership Notes, it is stated, will in turn be secured by an assignment of the Partnership's rights under "cash deficiency agreements" ("CDA's") and related guarantees, and by the secured indebtedness of AGEC owing to the Partnership and representing the loans made to AGEC by the Partnership. Applicant states further that the Partnership will be the recipient of three CDA's from subsidiaries (hereinafter referred to as the "CDA Obligors") of the Participants. It is stated that if for any reason, whether before or after completion of construction of the Project, the Partnership has a cash deficiency on the date that any payment is due with respect to indebtedness of the Partnership (including the Partnership Notes issued to Applicant), each CDA Obligor will be severally and unconditionally obligated to advance in cash its share of such cash deficiency unless such cash deficiency occurs as a result of a default by a Purchaser under its Purchase Contract, in which case the affiliated CDA Obligor will be solely responsible for making up such deficiency. Applicant further states that the loans by the Partnership to AGEC will be evidenced by secured notes ("AGEC Notes") which will bear interest at a rate equal to the Partnership's cost of money; will provide for equal monthly principal repayments commencing with completion of the Project and ending in 2004; and will be secured by a mortgage on the Project and an assignment of the Purchase Contracts and the Nova Contract. It is anticipated that AGEC will issue other *pari passu* indebtedness for the difference between the funds loaned to it by the Partnership and the aggregate construction costs of the Project, including interest during construction, start-up costs and certain deferred costs. It is further stated that the Purchasers' payment obligations under the Purchase Contracts will be assigned as prior security to secure the AGEC Notes issued to the Partnership (and any notes issued by AGEC to refund the AGEC Notes), with a second security interest for the benefit of other lenders to AGEC. Similar payment obligations under the Nova Contract will be assigned, Applicant states, as prior security to secure such other lenders with a second security interest for the benefit of the Partnership (and any holders of such refunding notes). It is stated, in addition, that AGEC will receive certain credits from time to time with respect to its obligations to pay the principal of and interest on the AGEC Notes equal to a portion of the amounts owing by the Purchasers under the Purchase Contracts and the Purchasers' payment obligations under the Purchase Contracts will be reduced accordingly. Applicant represents that to the extent that advances made under the CDAs by the CDA Obligors exceed the amounts so credited to AGEC, such advances will, at the option of the CDA Obligors, be treated as non-interest-bearing subordinated loans or entitle the CDA Obligors to obtain a corresponding portion of the indebtedness of AGEC owing to the Partnership.

Applicant represents that the initial series of its debt securities will be short-term notes (with a maturity not to exceed 270 days) issued under a trust agreement between the Applicant and a corporate trustee in New York City ("Trustee"). It is further stated that these short-term notes will be issued in denominations of not less than $100,000, with the average denomination expected to be significantly larger; will not be advertised for sale to the general public and will be sold in the commercial paper

market only to institutional investors and other entities who normally purchase commercial paper in large denominations. It is also stated that these notes will contain no provisions for payment on demand or for automatic "roll over", and that it is expected that these notes will be accorded the highest commercial paper rating by two nationally recognized rating agencies.

Applicant states further that the Partnership, with the assistance of Applicant as an external funding source, also intends to issue intermediate and, preferably, long-term debt securities, as market conditions permit or dictate, through a variety of issues corresponding to issues of Applicant in the institutional private placement markets and in the public markets.

Applicant further states that as security for the initial series of its debt securities, a related Partnership Note will be pledged to the Trustee and such Note will be secured by the CDA's guarantees and AGEC notes as described above. Applicant represents that future similar pledges of Partnership Notes issued with respect to other debt securities of Applicant and having the benefit of the same collateral will be made on a *pari passu* basis without restriction.

Applicant states that it may be deemed to be an "investment company" as defined in the Act (i) by reason of its proposed acquisition and holding of the Partnership Notes, which will constitute substantially all its assets, and (ii) because securities (other than short-term notes) it intends to offer may be held by more than 100 persons.

Section 6(c) of the Act provides, in pertinent part, that upon application the Commission may conditionally or unconditionally exempt any person, security of transaction or any class or classes of persons, securities or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that an order pursuant to Section 6(c) of the Act exempting it from all the provisions of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In support of this assertion, Applicant states that the sole purpose and only business of Applicant is to serve as a vehicle to facilitate debt financing for the Partnership on favorable terms. It is further stated that the only significant assets of Applicant will be Partnership Notes; that such Partnership Notes will be pledged as security for the benefit of the holders of the corresponding debt securities of Applicant or their representative; and that Applicant will not sell or trade in the Partnership Notes after they have been pledged as security for the benefit of the holders of Applicant's debt securities. It is further stated that all payments on Partnership Notes will be applied to the payment of principal, premium, if any, and interest on Applicant's corresponding debt securities, and that Applicant will not itself make any investment decisions on behalf of the holders of its debt securities.

Applicant states, in addition, that it will not hold shares of capital stock of any other corporation. The Partnership, it is stated, will be the sole owner of all the shares of Applicant's capital stock. Since Applicant's securities will be secured by the pledge of the related Partnership Notes, which will in turn have the benefit of the Partnership's rights under the CDA's, the related several guarantees thereof of the Participants and the AGEC Notes, purchase of Applicant's debt securities will be substantially the equivalent, Applicant asserts, of a purchase of direct obligations of the CDA Obligors, severally guaranteed by Dow, Union Carbide and Shell Canada as to the respective subsidiaries of each.

Applicant agrees to the following conditions being imposed on any order granting the requested exemption:

(1) Applicant will file with the Commission within 120 days after the close of its first fiscal year (a) information with respect to persons in a control relationship with it (except with respect to persons under common control with it), persons and number of persons owning equity securities of Applicant and directors, officers, employees and legal counsel required by Items 11 and 12 of Form N–2 under the Act, and (b) a statement of financial position as of the close of such fiscal year, including a statement of income, paid-in surplus and retained earnings, and a schedule of investments as of the close of such fiscal year, and will notify the Commission promptly of any material change in such information or statement;

(2) Applicant will file with the Commission within 120 days of the close of its first fiscal year a schedule of the number of holders of its short term or other bearer securities and of its securities in registered form as of the close of such fiscal year and the number of transfers of such registered securities during such fiscal year, and will notify the Commission promptly of any material change in such schedule; and

(3) Applicant will not sell any equity securities other than to the Partnership or sell any debt securities other than debt securities (a) which are to be held by the Partnership, the Partners, the CDA Obligors, Dow, Union Carbide or Shell Canada, or (b) which (i) are secured by a pledge of corresponding debt securities or other obligations of the Partnership which in turn are secured by an assignment of the CDA's, the guarantees hereinabove referred to and the AGEC Notes and (ii) are (A) offered and sold in transactions not involving any public offering to institutions, located in the United States and elsewhere, which are not "underwriters" of the securities within the meaning of the Securities Act of 1933, (B) sold in offerings outside the United States pursuant to agreements and procedures reasonably designed to prevent such debt securities from coming into the hands of a United States national or resident, or (C) notes which arise out of current transactions or the proceeds of which have been or are to be used for current transactions and which have a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, unless Applicant shall have first give written notice to the Commission describing the proposed issuance of such additional debt securities (including notice of a proposed filing of a registration statement under the Securities Act of 1933, as amended, pursuant to Commission Rule 415) not less than 60 days prior to the date of such proposed issuance, subject, however, to the right of the Commission, upon request of Applicant, to decrease such number of days. Applicant further agrees that if the Commission shall, after receipt of said written notice, determine that a substantial question exists as to whether or not the exemption granted by the order hereby requested should continue and the Commission shall, within 30 days after receipt by the Commission of such written notice from Applicant, mail or otherwise give notice to that effect to Applicant, Applicant will not issue such additional debt securities unless, after receipt by Applicant of such notice from the Commission and not less than 30 days prior to the issuance of such additional debt securities, Applicant shall mail or otherwise given written notice to the Commission stating its intention to issue such additional debt securities, and upon the giving of such notice by Applicant the order hereby requested

shall be deemed to have terminated as of the date Applicant shall have mailed or otherwise given such notice to the Commission.

Notice is further given than any interested person wishing to request a hearing on the application may, not later than February 28, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3589 Filed 2-9-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13009 (812-5236)]

Wellington Fund, Inc. et al.; Filing of Application

In the matter of Wellington Fund, Inc., Windsor Fund, Inc., Ivest Fund, Inc., Gemini Fund, Inc., Explorer Fund, Inc., Wellesley Income Fund, Inc., W.L. Morgan Growth Fund, Inc., Vanguard Fixed Income Securities Fund, Inc., Qualified Dividend Portfolio I, Inc., Dividend Portfolio II, Inc., Trustees' Commingled Equity Fund, Inc., Vanguard Money Market Trust, Vanguard Municipal Bond Fund, Inc., Vanguard Index Trust, P.O. Box 1100 1250 Drummers Lane, Valley Forge, Pennsylvania 19482.

Notice is Hereby Given that Wellington Fund, Inc., Windsor Fund, Inc., Ivest Fund, Inc., Gemini Fund, Inc., Explorer Fund, Inc., Wellesley Income Fund, Inc., W.L. Morgan Growth Fund, Inc., Vanguard Fixed Income Securities Fund, Inc., Qualified Dividend Portfolio I, Inc., Qualified Dividend Portfolio II, Inc., Trustees' Commingled Equity Fund, Inc., Vanguard Money Market Trust, Vanguard Municipal Bond Fund, Inc. and Vanguard Index Trust (hereinafter referred to as the "Vanguard Group of Funds", or "Applicants") registered under the Investment Company Act of 1940 ("Act") as open-end, diversified, management companies, filed an application on July 6, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicants and any other investment company which may in the future become a member of the Vanguard Group of Funds, from the provisions of Rule 20a-2(a)(19) under the Act, which in general requires that a registered investment company include a certified balance sheet of its investment adviser in its proxy statement. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants states that as members of the Vanguard Group of Funds, they receive corporate management, administrative and distribution services on an "internalized", at-cost basis from their jointly-owned subsidiary, The Vanguard Group, Inc. ("Vanguard"). It is further stated that Wellington Management Company/Thorndike, Doran, Paine & Lewis ("WMC"), a Massachusetts partnership, serves as investment adviser to Wellington Fund, Inc., Windsor Fund, Inc., Gemini Fund, Inc., Explorer Fund, Inc., Wellesley Income Fund, Inc., W.L. Morgan Growth Fund, Inc., Vanguard Fixed Income Securities Fund, Inc., Qualified Dividend Portfolio I, Qualified Dividend Portfolio II, Inc., and the Domestic Portfolio of Ivest Fund, Inc. Applicants state, in addition, that Batterymarch Financial Management ("Batterymarch"), a sole proprietorship, serves as investment adviser to Trustees' Commingled Equity Fund, Inc., and that Schroder Capital Management, Inc. ("Schroder"), a New York corporation, serves as investment adviser to the International Portfolio of Ivest Fund, Inc. (WMC, Batterymarch and Schroder may be hereinafter referred to collectively as "Advisers"). Vanguard Money Market Trust, Vanguard Municipal Bond Fund, Inc. and Vanguard Index Trust, it is represented, have no investment adviser but receive investment advisory services on an at-cost basis from an internalized investment staff employed by Vanguard. Applicant states further that Vanguard Money Market Trust, Vanguard Municipal Bond Fund, Inc. and Vanguard Index Trust have joined in the application summarized herein because, although no such action is presently contemplated, these Applicants may, in the future, enter into a management agreement with an external investment adviser, thereby causing the provisions of Rule 20a-2(a)(19) to become applicable to proxy solicitations relative to the latter three funds.

Rule 20a-2(a)(19) under the Act provides that if action is to be taken by shareholders with respect to the election of directors of a registered investment company, and the solicitation of their proxies in connection with such election is made by or on behalf of the management of the investment company, or by or on behalf of an investment adviser, the proxy statement furnished to the shareholders must include a balance sheet of the investment adviser (unless the adviser is a bank), and such balance sheet must be certified by an independent public accountant or a certified public accountant. Rule 20a-2(a)(19) further provides, as here pertinent, that the Commission may, upon a showing of good cause, permit the omission of the adviser's balance sheet if the adviser is primarily engaged in a business or business other than the underwriting or distribution of investment company securities or the performance of advisory services for registered investment companies.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order, upon application, may conditionally or unconditionally exempt any person or transaction from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the exemptions requested, Applicants assert that inclusion of the Advisers' balance sheets in Applicants' proxy statements is unnecessary in view of the internalization and centralization of administration and distribution services for the Vanguard Group of Funds through Vanguard. Under this arrangement, it is stated, Applicants' affairs are not controlled by their investment advisers in the manner in which, Applicant believes, an investment manager typically serves the fund to which it is under contract. Under the conventional externalized management structure, it is stated, the conduct of the investment company's business affairs is heavily dependent upon the adviser's financial stability, such that the financial failure of the investment manager would make it extremely difficult, if not impossible, for the investment company to conduct its affairs until another investment manager had been appointed to take over the day-to-day operations of the investment

company. In contrast, Applicants state, by reason of the functions performed by Vanguard, Applicants are not dependent upon the Advisers for any of their ongoing corporate management, administrative, or marketing requirements. Therefore, it is stated, if an Adviser were to fail, a fund being managed by such Adviser could continue its operations without interruption, and could immediately select another investment manager to provide advisory services to the fund.

As an additional basis for granting the application, Applicants state that the board of directors (trustees) of each Applicant is comprised of the same nine individuals (including eight independent directors and the chairman of the board of directors (trustees) and president of each Applicant). It is asserted that because these persons have no affiliations with any of the Advisers, such persons are in a position to evaluate the Advisers at arms-length. Moreover, Applicants maintain, the directors (trustees) of Applicants are in a position to make an independent review, and do in fact review, not only the Advisers' balance sheets, but other equally relevant information, generally including, the Advisers' profit and loss statements, the quality of the Advisers' personnel, the investment performance of Applicants, and the level of advisory fees being paid in comparison with alternative sources of investment management.

Applicants state further that each of the Advisers is "primarily engaged", within the meaning of Rule 10a–2(a)(19), in a business other than the businesses of underwriting of distributing investment company securities, or the performance of advisory services for registered investment companies. Neither WMC, Batterymarch, nor Schroder, Applicant states, derives any revenue from underwriting or distributing the securities of investment companies. It is further stated that each Adviser derives a substantial portion of its revenues from non-investment company clients, as set out in the following table:

Adviser	Investment company assets [1]	Investment company revenues [2]
WMC	35.0	39.0
Batterymarch	1.5	1.5
Schroder	13.7	20.0

[1] As a percentage of total assets under management.
[2] As a percentage of total revenues for year ended Dec. 31, 1981.

Applicants contend, in addition, that inclusion of the balance sheets of the Advisers in Applicants' proxy statements is confusing to shareholders. It is stated that during an annual meeting, shareholders of an Applicant will frequently direct questions pertaining to the balance sheet of an Adviser to management of an Applicant, in the mistaken belief that the balance sheet presented is that of an Applicant rather than that of its Adviser. Applicants also assert that, generally speaking, an investment adviser's balance sheet is of limited value to fund shareholders, and of limited relevance to the conduct of an annual meeting, especially in those years when the shareholders are not being called upon to approve or continue an investment advisory agreement.

In further support of this exemptive request Applicants represent that significant administrative burdens and expenses are imposed upon Applicants by the requirement that the Advisers' balance sheets be included in Applicants proxy statements, since the expense of printing and mailing these financial statements can easily double the cost of printing and mailing proxy statements. It is further stated that there are approximately 315,000 shareholders of those Applicants which employ an external investment adviser, and that it is estimated that during 1982 those Applicants would have reduced their printing and mailing expenses if the Advisers' balance sheets had not been included in Applicants' proxy statements. Applicant asserts, therefore, that, given the nature of Applicants' operations, there is no corresponding benefit to Applicants' shareholders that would justify or offset the additional costs associated with inclusion of the Advisers' balance sheets in Applicants' proxy statements.

Lastly, Applicants' assert that including balance sheets of the Advisers in Applicants' proxy statements also imposes significant administrative burdens and expenses upon the Advisers. It is stated that in most instances, a revised set of updated notes relating solely to the balance sheet of the Adviser must be prepared and certified by the Advisers' accountants in order to be included in the proxy statement.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 28, 1983, and 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3590 Filed 2-9-83; 8:45 am]
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[Release No. 19482; File No. SR-MCC-82-18]

Midwest Clearing Corp. ("MCC"); Order Approving Proposed Rule Change

February 3, 1983.

On November 15, 1982, MCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b–4 thereunder, a proposed rule change, which amends MCC Rule 14, section 2 to provide that a broker-dealer applicant for membership or participant must have a minimum of $50,000 in excess net capital over the requirement imposed by the broker-dealer's designated examining authority.[1] The proposal further requires that non-broker-dealer applicants or participants meet and maintain compliance with the financial stability standards applicable to the industry with which those applicants and participants are asociated. Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of Securities Exchange Act Release No. 19358 (December 21, 1982), 47 FR 58075 (December 29, 1982). MCC amended the proposal to specify that non-broker-dealer participants must continue to meet the financial stability standards applicable to the industry with which they are associated.[2] No letters of

[1] *See generally*, 17 CFR 240.15c3–1. *See also*, Securities Exchanges Act Release No. 18744 (May 17, 1982), 47 FR 22285 (May 21, 1982), approving SR-NSCC–82–5 submitted by National Securities Clearing Corporation ("NSCC"). That proposal included, among other things, a requirement that broker-dealer applicants to NSCC have $50,000 of excess net capital.

[2] Letter amendment to the staff dated December 13, 1982, from J. Craig Long, Associate Counsel and Assistant Secretary of MCC.

comment were received by the Commission.

In its filing, MCC states that the proposal is needed because of the proliferation of new investment products and investment strategies and the increased volatility of the securities markets. MCC believes that the proposal should promote increased financial strength of MCC's participants, thereby reducing the likelihood of participant default. Accordingly, MCC believes that the proposal would reduce MCC's and its participants' potential financial exposure. Although MCC acknowledges that the proposal's net capital requirement may cause some financial difficulties for some broker-dealer participants, MCC hopes to ease those difficulties by allowing broker-dealer participants up to six additional months ("six month period") after the effective date of the proposal to comply with the new requirement.

The Commission believes that the proposed rule change would enhance the financial soundness of MCC participants, thereby reducing the risk of participant default due to insufficiently liquid assets. Accordingly, the Commission believes that the proposal should reduce MCC's and its participants' potential financial exposure consistent with Section 17A(b)(3)(F) of the Act.

The Commission recognizes that some MCC participants may have difficulty in meeting, or may be unable to meet, the increased net capital requirement. The Commission, however, is of the view that those participants should be able to increase their excess net capital or arrange correspondent relations with other participants during the six month period. Accordingly, the Commission has concluded that the proposal would not hinder unduly participants' access to MCC's clearance and settlement services and that any burden on competition caused by the proposal is necessary and appropriate to further the development of a national system for the prompt and accurate clearance and settlement of securities transactions, in accordance with Sections 17A(a)(2) and 17A(b)(2)(I) of the Act.

Accordingly, it is therefore ordered, pursuant to Section 19(b) of the Act, that the proposed rule change (SR–MCC–82–18) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3591 Filed 2–9–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19481; File No. SR–MSTC–82–24]

Midwest Securities Trust Company ("MSTC"); Order Approving Proposed Rule Change

February 3, 1983.

On November 15, 1982, MSTC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. § 78s(b)(1), (the "Act") and Rule 19b–4 thereunder, a proposed rule change, which amends MSTC Rule 8, § 2 to provide that a broker-dealer applicant for membership or participant must have a minimum of $50,000 in excess net capital over the requirement imposed by the broker-dealer's designated examining authority.[1] The proposal further requires that non-broker-dealer applicants or participants meet and maintain compliance with the financial stability standards applicable to the industry with which those applicants and participants are associated. Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of Securities Exchange Act Release No. 19360 (December 21, 1982), 47 FR 58076 (December 29, 1982). MSTC amended the proposal to specify that non-broker-dealer participants must continue to meet the financial stability standards applicable to the industry with which they are associated.[2] No letters of comment were received by the Commission.

In its filing, MSTC states that the proposal is needed because of the proliferation of new investment products and investment strategies and the increased volatility of the securities markets. MSTC believes that the proposal should promote increased financial strength of MSTC's participants, thereby reducing the likelihood of participant default. Accordingly, MSTC believes that the proposal would reduce MSTC's and its participants' potential financial exposure. Although MSTC acknowledges that the proposal's net capital requirement may cause some financial difficulties for some broker-dealer participants, MSTC hopes to ease those difficulties by allowing broker-dealer participants up to six additional months ("six month period") after the effective date of the proposal to comply with the new requirement.

The Commission believes that the proposed rule change would enhance the financial soundness of MSTC participants, thereby reducing the risk of participant default due to insufficiently liquid assets. Accordingly, the Commission believes that the proposal should reduce MSTC's and its participants' potential financial exposure consistent with Section 17A(b)(3)(F) of the Act.

The Commission recognizes that some MSTC participants may have difficulty in meeting, or may be unable to meet, the increased net capital requirement. The Commission, however, is of the view that those participants should be able to increase their excess net capital or arrange correspondent relations with other participants during the six month period. Accordingly, the Commission has concluded that the proposal would not hinder unduly participants' access to MSTC's clearance and settlement services and that any burden on competition caused by the proposal is necessary and appropriate to further the development of a national system for the prompt and accurate clearance and settlement of securities transactions, in accordance with Sections 17A(a)(2) and 17A(b)(2)(I) of the Act.

Accordingly, it is therefore ordered, pursuant to Section 19(b) of the Act, that the proposed rule change (SR–MSTC–82–24) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3590 Filed 2–9–83; 8:45 am]

BILLING CODE 8010–01–M

[1] *See generally*, 17 CFR § 240.15c3–1. *See also*, Securities Exchange Act Release No. 18744 (May 17, 1982), 47 FR 22265 (May 21, 1982), approving SR–NSCC–82–5 submitted by National Securities Clearing Corporation ("NSCC"). That proposal included, among other things, a requirement that broker-dealer applicants to NSCC have $50,000 of excess net capital.

[2] Leter amendment to the staff dated December 13, 1982, from J. Craig Long, Associate Counsel and Assistant Secretary of MSTC.

Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

February 3, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities and Exchange Act of 1934 (the "Act") and Rule 12f–1 thereunder, for unlisted trading privileges in the following stock:[1]

[1] The Midwest Stock Exchange applied for unlisted trading privileges on November 13, 1979. Since July 26, 1979, the security has been trading on the exchange pursuant to a temporary exemption from the registration requirements of Section 12 of the Act contained in Rule 12a–5. The exemption will continue until the Commission grants or denies the unlisted trading privileges application.

Bally's Park Place, Inc., Common Stock, $.10 Par Value

The security is currently traded over-the-counter and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 25, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc 83-3596 Filed 2-9-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19486; File No. SR-OCC-82-19]

Self-Regulatory Organizations; Proposed Rule Change Submitted; Options Clearing Corp. ("OCC"); Order Approving Proposed Rule Change

February 4, 1983.

Introduction

On October 4, 1982, OCC submitted a proposed rule change (SR-OCC-82-19) under Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act") which would allow OCC to: (i) Issue options on certain stock indices as specified by an Exchange ("index options"), (ii) clear and settle index option transactions, and (iii) process and settle index options exercises. The Commission published notice of the proposal in the **Federal Register** on October 12, 1982 and invited interested persons to comment.[1] No letters of comment were received. In addition, on December 15, 1982, OCC submitted a technical amendment to the proposed rule change.

Pursuant to Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, the American Stock Exchange, Inc. ("Amex"), the Chicago Board Options Exchange ("CBOE"), and the New York Stock Exchange, Inc. ("NYSE") filed with the Commission proposed rule changes modifying their rules to accommodate the listing and trading of standardized options on stock indices. The Commission approved the Amex, CBOE and NYSE proposals related to index options on November 22, 1982.[2] Before trading can begin on index options, however, among other things OCC's proposed rules respecting issuance, clearance and settlement of index options must be approved.

Description of the Proposed Rule Change

In proposing rules that would provide for the issuance, clearance and settlement of index options transactions, and for the processing and settlement of index option exercises, OCC has, as appropriate, paralleled its existing rules and procedures with respect to equity and debt options.[3] The instant proposal, however, is unique among existing options products because index option exercises will be settled in cash, rather than through the delivery of securities. Therefore, OCC has proposed exercise settlement procedures that are substantially similar to the procedures currently used for premium settlement of options purchases and sales transactions.

1. *Index Option Contracts*

The proposed rule change would empower OCC to issue uncertificated put and call options on several stock indices.[4] The underlying index option product will be a stock index computed and published by an Exchange.[5] The holder of an index option contract will have the right, upon exercise, to purchase from OCC (in the case of a call) or to sell to OCC (in case of a put) the "current index value." Thus, because excercises will be settled in cash, an assigned writer of an option receiving an excercise notice must pay OCC the diference between the exercise price of the option and the current index value at the close of trading on the day of exercise.[6]

2. *Index Option Clearing Members*

As a prerequisite to clearing transactions in index options, OCC will require clearing members to obtain special authorization. OCC believes that special membership standards are necessary because the processing of non-equity options differs in key respects from the system used for equity options. Accordingly, in addition to meeting the financial and other requirements associated with membership in OCC, index option clearing members must, in OCC's judgment, have the operational and financial capacity to successfully clear and process transactions in index options.

3. *Processing of Index Options*

OCC will process index option purchase and sale transactions in accordance with procedures that are identical to OCC's well-established system for processing equity option purchase and sale transactions. Similar procedures have recently been implemented with respect to Treasury and GNMA options and have been approved by the Commission for processing transactions in CD and foreign currency options.[7]

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[1] Securities Exchange Act Release No. 19119 (October 14, 1982), 47 FR 46940 (October 12, 1982).

[2] Securities Exchange Act Release No. 19264, 47 FR 53981 (November 30, 1982).

[3] The term "debt options" includes options on Government National Mortgage Association Securities ("GNMA options"), Treasury bills, bonds and notes (collectively "Treasury options"), and certificates of deposit ("CD options"). On October 14, 1982, the Commission approved OCC's rules respecting GNMA and Treasury options. (*See* Securities Exchange Act Release No. 46934). On December 14, 1982, the Commission approved OCC's rules respecting CD options (*See* Securities Exchange Act Release No. 19333).

[4] In its rule filing, OCC did not specify the particular indices on which it plans to issue options. The Exchange rule filings, however, contemplate the trading of options based on market and sector indices. Specifically, the NYSE has proposed options on the NYSE Composite Index and the four NYSE sector indices (the "NYSE Energy Index," "NYSE Transportation Index" and the "NYSE Utility Index"). The CBOE has proposed options on a market index of its own composition, referred to as the "CBOE-100 Stock Index." The Amex will trade an option on the "Amex Market Value Index". In addition, the Amex has recently submitted an additional rule filing which it proposes to trade eleven industry sector indices. The proposed rule changes of the various exchanges provide more detail regarding the specific index options proposed for trading at this time. *See* File Nos. SR-Amex-82-8, SR-CBOE-82-11, SR-NYSE-82-2, and SR-Amex-82-22.

[5] A stock index is the sum of the price of one share of each stock in the index multiplied by a pre-established divisor. The divisor reflects the base value of the index, *i.e.*, the market value of the index's component stocks as of a specified date. In addition, some indices are weighted, *i.e.*, the price of the issuer share included is multiplied by the number of outstanding shares of that issuer. The indices are updated every minute to reflect current market values. The current value of the index times the index multiplier, an unvarying dollar amount for each index option, equals the "current index value." The current index value is calculated at the close of each trading day and published by the Exchange

[6] For example, if, on October 21, 1982, when the NYSE Composite Index closed at 79.72, a holder exercised a call option with an exercise price of 75, the writer assigned the exercise would have been obligated to pay the holder $472 [(79.72×$100 (the index multiplier)=$7,972)−(75.00×$ 100 =$7,500)=$472].

[7] The Commission approved OCC's foreign currency rules on November 24, 1982. *See* Securities Exchange Act Release No. 19274.

The processing of index options transactions will entail receiving compared trade data from the various exchanges, issuing, and (in the case of closing transactions) cancelling the appropriate contracts and effecting the correspondent money settlement. OCC will make appropriate book entries to index option clearing members' accounts representing the long and short positions in each account. Cash premium settlement for index option transactions will be effected in the same manner that OCC effects premium settlement for equity options; OCC will draft or make payments to the clearing member's account in the net premium amount, as reflected on a daily report issued to all clearing menbers.

Under the proposed rule change, OCC will also process exercises and effect settlement of index options.[8] OCC's proposed system for processing index option exercises in general parallels the systems approved by the Commission for processing exercises in respect of debt and foreign currency options. Because index options are settled in cash, however, the index options exercise settlement systems are modeled after OCC's cash premium settlement systems. Notably, as is the case with premium settlement, settlement obligations will run between OCC and each clearing member.[9]

Generally, OCC will assign exercise notices submitted by exercising index options holders to clearing members with short positions in the exercised contracts. OCC will calculate the settlement price in respect of each contract [10] and then net the settlement prices of all index contracts due to settle the next day to arrive at a net money settlement obligation for each account of each clearing member.[11] Once the netting cycle is completed, OCC will distribute a netting report to each clearing member which will advise clearing members of their cash delivery and receive obligations which must be met on settlement date.[12] Under the proposed rule change, OCC will be authorized to pay clearing members and draft clearing members' bank accounts, as appropriate, in satisfaction of net settlement amounts due to OCC.

Because index options are settled in cash instead of by delivery of a financial instrument, OCC has not proposed closeout procedures to be used in the event an index options clearing member fails to meet its settlement obligations. Instead, because a failure to meet exercised index option settlement obligations is necessarily a failure to meet a daily money obligation to OCC, OCC's proposed rules provide for the application of its existing suspension rules [13] and the disposition of settlement obligations through the "liquidating settlement account." [14] Generally, under the proposal, OCC willdraw from or credit to the liquidating settlement account any net settlement amount in respect of outstanding exercised or assigned contracts in accordance with existing procedures. As stated, because settlement obligations in respect of index options exercises run between clearing members and OCC, OCC will effect settlement with the *contra* participants, notwithstanding the suspension of the defaulting participant.

4. *Margin*

As the issuer of index option contracts, OCC guarantees the performance of assigned option writers to exercising holders. To collateralize this guarantee in the event a clearing member defaults, OCC requires clearing members to deposit margin with OCC.[15] The margin requirement is adjusted daily for each account to reflect changes in both a clearing member's aggregate positions and relevant changes in the market value of those positions.

In general, OCC's margin rules approved by the Commission for debt and foreign currency options will be applicable to index options.[16] The margin required with respect to unassigned short positions in index options is 100% of the current asked price of the option plus a "minimum margin amount" that functions as a protective cushion. Because settlement of exercised index options will occur on the day after exercise, OCC generally will not require margin to be deposited in respect of exercised and assigned positions.

Under the proposed rule change, however, OCC will have authority to require margin in respect of exercised and assigned contracts whenever settlement is postponed or delayed. In those instances, OCC will require margin, with respect to a net assigned short position, equal to 100% of the difference between the current index value and the exercise price plus a "minimum margin amount." Also, when settlement is postponed or delayed, OCC would require margin on exercised long positions that are out-of-the-money.[17] The margin required on such out-of-the-money long positions will equal 100% of the difference between the current index value and the exercise price plus a "specified dollar amount" determined by OCC.[18]

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[8] In contrast to equity procedures, OCC has not provided for "automatic exercise" of expiring index options that are in-the-money by a specified amount. (Automatic exercise rules are intended to reduce the likelihood that a clearing member could inadvertently fail to exercise a profitable option prior to its expiration.) At this time, OCC has chosen not to develop a system to administer an automatic exercise program. OCC will, however, generate for its members a non-equity options advisory report on in-the-money options immediately prior to expiration date.

[9] As a contractual matter with respect to existing options products, OCC guarantees only the writer's performance (*i.e.*, OCC does not guarantee the performance of exercising holders to assigned writers.) Under the proposed rule change, however, because all rights and obligations incident to exercise settlement run between each clearing member and OCC rather than between exercising and assigned clearing members, OCC will, in addition to its customary guarantee, guarantee the performance of exercising holders of index options to assigned writers of such options.

[10] As stated *supra*, the exercise price is the difference between the aggregate current index value and the aggregate exercise price. For example, in the case of an exercised put index option contract if the aggregate current index value is less than the aggregate exercise price, the exercise settlement amount will be paid by the assigned clearing member to OCC and by OCC to the exercising clearing member.

[11] For example, if a clearing member, as an assigned writer of a NYSE Composite Index option, owes OCC $472 but is due $300 as a result of exercising a NYSE Composite Index option, both due to settle on the same day, OCC would draft that clearing member's account in the amount of $172 (its net payment obligation).

[12] Under the proposed rule change, the exercise settlement date will be the business day following the day on which an exercise notice is properly tendered to OCC.

[13] Pursuant to existing rules, OCC may suspend a clearing member that is unable to meet its obligation to OCC. In the past it has been OCC's practice to suspend any clearing member that failed to timely meet its money settlement obligations notwithstanding OCC's discretion under its suspension rules to maintain such a member.

[14] The "liquidating settlement account" is a special account created upon the suspension of an OCC participant. That account consists of the suspended clearing member's assets on deposit with OCC, including margin deposits, securities held in bulk and that member's clearing fund contributions. OCC closes out a suspended member's outstanding obligations to OCC through transactions in this account.

[15] Margin is merely one protective device designed to protect OCC against losses attributable to the default of a clearing member. In addition, OCC has recourse to both participants' funds, the Stock Clearing Fund and the Non-Equity Securities Clearing Fund. Index option clearing members will be required to make contributions, in accordance with a specified formula, to the Non-Equity Securities Clearing Fund. OCC can liquidate a participant's contribution to these funds when a suspended participant's margin deposit is insufficient to cover its obligations to OCC.

[16] OCC has not identified margin amounts for index options in respect of the CBOE–100 Stock Index because the composition of that index is as yet undetermined.

[17] A contract is out-of-the-money if the exercise price exceeds (in the case of calls) or is less than (in the case of puts) the market price of the underlying security.

[18] The specified dollar amount for out-of-the-money long exercised contracts on the NYSE Industrial Index, on the NYSE Transportation, on the NYSE Financial Index and on the NYSE Composite Index will be $200, on the NYSE Utility

The proposed rule provides that the minimum margin amount would be set contract-by-contract, at a point between $25 and $100 (or whatever higher limit OCC believes is necessary) [19] depending upon the degree to which a contract is out-of-the-money. Because contracts that are out-of-the-money are less likely to be exercised and, therefore, pose a smaller risk to OCC than in-the-money contracts [20] OCC would impose a smaller minimum margin cushion on out-of-the-money options.[21]

Although clearing members may cover a short position in equity options by depositing the underlying securities or treasury bills in lieu of margin, such deposits will not be accepted in respect to index option short positions.[22] OCC has stated, however, that it will consider allowing the deposit of Treasury bills in respect of short put positions in the future if demand warrants.

5. *Adjustment to Index Option Contracts.*

In recognition that from time to time events may occur which may affect the level of the index underlying an index option contract, OCC's proposal provides for adjustments by OCC to the terms of index option contracts.[23] Because such changes ordinarily are made without significantly affecting the level of the index, the proposed rule change provides that generally no adjustments to the terms of index option contracts will be made due to changes in the composition of the group of securities comprising the underlying index or in the relative weight given to particular securities in the index group.[24] However, OCC will maintain the right to adjust, in its discretion, the terms of any outstanding index option contract if OCC believes that the level of the index is significantly disturbed by any change in the underlying index.[25] Adjustments may be made by altering the dollar amount used to determine the current value of the index (*i.e.*, the index multiplier). In addition, OCC may take any other action it deems proper to protect the interests of both holders and writers of affected index options contracts.

6. *Unavailability of Underlying Index Value*

OCC's proposed rules set forth procedures for OCC to follow in the event that the index value is unreported or unavailable. Under the proposed rule change, if the current index value is unreported or otherwise unavailable, OCC may take two courses of action: (i) OCC may suspend settlement obligations until the current index value becomes available; or (ii) OCC may fix the settlement amount based on the best available information.

The proposal also sets forth rules for OCC to follow if the current index value, as initially reported by the designated reporting authority, is determined to be inaccurate. The proposed rule provides that, unless OCC directs otherwise, the initially reported current index value will be conclusively presumed to be accurate and final for the purposes of calculating exercise settlement amounts even if such value is subsequently revised by the reporting authority or is determined to be inaccurate. OCC, however, has proposed to adjust the index value in "extraordinary circumstances" when the reported index value is determined to be "clearly erroneous" and inconsistent with the values reported earlier in the same trading day.[26] Specifically, whenever OCC determines that the reported current index value is clearly erroneous and a corrected value is announced promptly by the reporting authority, OCC may, in its discretion, adjust the current index value. Under the proposed rule, however, OCC will not adjust any index value once settlement has taken place.

In its filing, OCC stated that its proposal to adjust a reported current index value only when that value is determined to be clearly erroneous and inconsistent with earlier reported values is designed to minimize potential disparities in treatment between persons who buy and sell stock index options at premiums based on incorrect index values and persons who exercise such options, or are assigned index exercises, based on incorrect values. OCC believes that, as a general matter, since premiums based on erroneous index values cannot be retroactively adjusted under existing rules of the various Exchanges subsequent to execution of the trade, exercise settlement amounts should not be adjusted either.[27] OCC stated that making such adjustments as a matter of course would allow a holder of an index option to avoid the risk of having to settle an exercise index option which has been adversely adjusted by selling the option instead of exercising it. In its filing, OCC also stated that the extraordinary circumstances exception was designed to temper the operation of its rules respecting inaccurate index values whenever it would be grossly unfair to both exercising and assigned parties to require settlement based on a reported index value that is clearly erroneous.

Determinations Regarding OCC's Proposed Index Options Clearing Rules

Under Section 19(b)(2) of the Act, the Commission must approve OCC's proposed rule change if the Commission

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Index will be $100, and on the Amex Market Value Index will be $500.

[19] Because each index has a unique index multiplier and volatility range, OCC has chosen different minimum margin ranges for each index option contract currently proposed to be traded. As a precaution, with the exception of the NYSE utility index, OCC has determined to set the minimum margin ranges at a higher level than that called for by the proposed rule. The minimum margin amount range for options on NYSE Industrial Index, on the NYSE Transportation, NYSE Financial Index and on the NYSE Composite Index will be between $200–$50 and on the Amex Market Value Index will be between $500–$100.

[20] A contract is in-the-money if the exercise price is less than (in the case of calls) or is greater than (in the case of puts) the market price of the underlying security.

[21] The maximum dollar amount that can be required as a minimum margin cushion is reduced by 25% for each percentage point a contract is out-of-the-money, down to a base of $25 (or whatever other range limit OCC has set).

[22] In order to allow the deposit of underlying securities as cover in lieu of margin on short call positions, OCC would have to require clearing members to deposit the underlying securities in relative proportions to their representation in the index. OCC believes that the administration of such a covered call program, at this time would be excessively cumbersome. However, the Commission understands that the exchanges may propose that the Federal Reserve Board adopt special rules to permit representative deposits for customer margin purposes. In its filing, OCC stated that if such rules are adopted, OCC will consider amending its rule accordingly.

[23] OCC anticipates that such events would include mergers or liquidations of particular securities represented in the underlying index or, in the case of a weighted index, a change in the significance of a particular security which has become relatively less or more important in a group of securities which the index purports to measure.

[24] The exchanges make, or propose to make, daily adjustments in their indices to reflect capitalization changes which occur as a result of delistings, mergers, liquidations or new listings by modifying the pre-established index divisor. In addition, the exchanges plan to make adjustments daily for share capitalization changes as a result of stock splits and stock dividends. Accordingly, it is highly unlikely that OCC would ever need to use its adjustment authority.

[25] In the event an adjustment is required, OCC's Securities Committee will decide the terms of such adjustment. (OCC's Securities Committee is comprised of the Chairman of OCC, plus two designated representatives of each exchange on which option contracts in the underlying index are traded.)

[26] For example, if an index was correctly reported as ranging from 98 to 102 during the trading day, but, due to a mechanical error, the closing index level was erroneously reported as 1,002, OCC would adjust the index value.

[27] With an executed trade both parties have agreed to the terms, albeit based on an inaccurate index value. In contrast, submitting an exercise notice based upon an inaccurate index value is a unilateral act that usually occurs after the close of trading. Therefore, permitting a holder to exercise based on a reported index value that is clearly erroneous after the close of trading would enable the exercising holder to take unfair advantage of an index option writer.

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finds that it is consistent with the requirements of the Act and the rules thereunder applicable to registered clearing agencies. The principal provisions of the Act applicable to clearing agencies are contained in Section 17A. Paragraph (b)(3) of that Section requires that the rules of a clearing agency, among other things, be designed: (i) "To promote the prompt and accurate clearance and settlement of securities transactions," (ii) "to assure the safeguarding of funds and securities which are in the custody or control of the clearing agency," (iii) "to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions," and (iv) "to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest."

The Commission has determined that the proposed rules respecting index options, in general, are consistent with the requirements of the Act. Specifically, OCC's procedures for money settlement of exercised index option transactions are identical to OCC's efficient money settlement procedures used with respect to options purchase and sale transactions. Because OCC's daily money settlement figures will represent a net cash amount with respect to each exercised index option contract in each account, OCC's netting procedures will minimize the number of separate settlements otherwise necessary. The Commission has also determined that OCC's proposed rules provide for the safe and prompt resolution of fails consistent with OCC's existing suspension and liquidation rules. Additionally, the Commission believes that OCC has proposed reasonable solutions in the event a current index value is unreported or unavailable. With respect to an unreported or otherwise unavailable index value, it seems appropriate for OCC to postpone settlement pending the announcement of an accurate index value to be made available or, of that value is not forthcoming within a reasonable period of time, to fix settlement amounts based on the best available information. Accordingly, the Commission believes that OCC's systems for processing and settling index option exercises will promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A of the Act.

In addition, in making the determination that the proposed rule change is consistent with the Act, the Commission has carefully considered three areas of concern raised by the proposed rule change: (1) Adequacy of OCC margin for index option contracts; (2) adjustment by OCC to the terms of index opetions contracts; and (3) inaccuracy of reported index values.

OCC Margin Requirements for Index Options

OCC has selected the "minimum margin approach", approved by the Commission in respect of debt options and foreign currency options, for index options. Accordingly, OCC's margin proposal sets forth only minor changes which reflect differing volatility rates for index options and technical differences between index options and other kinds of options contracts. Generally, this approach requires clearing members (i) to deposit margin on unassigned short positions equal to the current market price of the option plus a minimum margin amount; and (ii) in the event OCC directs,[28] (a) to deposit margin on assigned short positions equal to the difference between the exercise price and the current index value of the underlying index plus a minimum margin amount; and (b) to deposit margin on out-of-the-money net long exercised positions equal to the negative difference between the exercise price and the current index value plus a specified dollar amount.

OCC stated that it believes that the minimum margin approach for index options is preferable to the "specified-percentage-of-market-price margin approach" it uses with respect to equity options [29] for two reasons. First, OCC contends that the adequacy of protection afforded by typing margin to premiums, as OCC does for equity options, depends on the relationship between premium levels and the price of the underlying financial instrument. OCC asserts that when premium levels are high relative to the market value of the underlying financial instrument, as in the case of equity options, the percentage-of-market-price margin approach provides adequate protection against market movement. When the premiums are low relative to the market value of the underlying financial instrument, however, as is expected to be the case with index options, the percentage-of-market-price margin approach may not produce adequate margin for all options series. Second, OCC believes that the minimum margin approach is preferable because, unlike the percentage-of-market value approach, the proposed approach does not require excess margin for deep-in-the-money option positions.

In addition, OCC believes that the minimum margin amounts selected for each of the index option contracts are adequate to protect OCC and its clearing members. OCC stated that the specific minimum margin amounts are based on a three month sample calculation run performed by OCC on market movements in the index value of each of the underlying indices. That run revealed that, on average, OCC would be fully protected against a one-day market movement in the current index value on more than 95% of the days for each of the indices other than the Amex Market Value Index, and for that index would be protected against a one-day market movement on more than 90% of the days.[30] Further, in those instances in which the market moves more than the minimum margin amount, OCC would invoke a same-day variation margin call pursuant to existing rules.[31]

The Commission believes that OCC's proposed margin rules with respect to index options appear adequate to protect OCC. As in the case of equity and all other non-equity options, OCC appropriately will require clearing members to deposit margin with respect to unassigned short positions. In addition, although unique, OCC's decision not to require margin on exercised and assigned positions seems appropriate. Because OCC's liability respecting exercised index options contracts is fixed at the close of trading on the day of exercise, OCC bears only a one-day market risk. Although OCC will not collect margin on assigned positions, it will retain margin it receives on the trading day preceding the assignment in respect of those short positions, and, as OCC's calculations indicate, that margin will be adequate to protect OCC fully against projected market movement that occurs on the

[28] As stated in the text preceding note 17, *supra*, OCC will generally not collect margin on exercised and assigned index options contracts.

[29] The formula for margin on short positions in equity options requires participants to deposit 130% of the market price of an offsetting long contract. That margin deposit requirement provides OCC with a 30% cushion to guard against adverse daily makret movement.

[30] Since trading in index options has not begun, OCC can only project the relationship between market movement in the price of the underlying index value and the volatility of premium levels. Nonetheless, OCC believes that its margin amounts for unassigned short positions are likely to be realistic.

[31] Existing OCC Rule 609 (variation margin) authorizes OCC to require the deposit of additional margin in respect of short positions, whenever OCC believes it is advisable, to accommodate changes in the market price occurring during the course of the day.

day of exercise 95% of the time. Moreover, since money settlement of index options will occur by 10:00 a.m. EST on the day following exercise and assignment, settlement will occur at about the same time OCC would receive additional margin payments attributable to market movement on the day of exercise. Accordingly, OCC will be protected under its proposed index option margin program in ways consistent with its existing margin programs since, as a practical matter, OCC will learn of a fail to settle no later than the time it would otherwise learn of a fail to pay margin. In addition, in those instances in which settlement (and thus OCC's calculation of the settlement amount) is delayed as a result of an inaccurate index value, OCC will be able to require margin on exercised and assigned positions. Finally, OCC is authorized, pursuant to its variation margin rule, to call for margin anytime OCC beleives it is necessary to protect the interest of OCC, including instances in which the index value moves significantly on the day of exercise.

The Commission also believes that OCC's selected minimum margin levels for presently proposed index options appear appropriate to protect the interest of OCC and its members. In addition, margin programs subsequently proposed by OCC respecting options on additional stock indices should be filed separately as proposed rule changes pursuant to Rule 19(b)(4) under the Act before trading in those new options commences. Furthermore, OCC's proposal provides that OCC may prescribe greater amounts of minimum margin as circumstances require, and OCC has authority under this proposal to raise the minimum margin amount whenever OCC deems it necessary. Finally, we note OCC's plan to review the adequacy of its margin levels periodically and to use its authority to adjust them as necessary. Accordingly, the Commission has determined that the proposed margin rules are consistent with the requirements of the Act.

Adjustments by OCC To Index Options

OCC ordinarily will not alter the provisions of outstanding options contracts when changes occur in the underlying index. It is essential, however, that OCC retain the right to adjust the terms of such contracts when extraordinary circumstances make such adjustments necessary to protect the interests of holders and writers of the affected index options. Such circumstances would include unusual changes in the composition of an underlying index that OCC believes are not properly reflected in the daily adjustment of the index value as calculated by the exchange.[32] In addition, because the composition of an underlying index may change in ways OCC cannot anticipate, OCC's procedures must be structured flexibly to give OCC authority to alter the terms of index options contracts as suitable.

The proposed rule change would give OCC authority, in response to material changes in the composition of the underlying index, to make adjustments in the current index value of the affected index option contracts or to take such other actions with respect to such contracts as OCC's Securities Committee determines to be "fair". The Commission believes that the proposed rule change is appropriately designed to afford OCC flexibility to alter the terms of option contracts when necessary without permitting unguided discretion. Notably, OCC's Securities Committee will be composed of the chairman of OCC and two representatives of each Exchange on which the affected index option contract is traded. While the Securities Committee has authority to determine, in its sole discretion, when an adjustment is in order and what that adjustment should be, the Committee will be obligated by OCC's proposed rule to make adjustments that are "fair" to option holders and option writers alike. Although the Commission recognizes that a "fairness" standard is flexible, it is clearly in the interest of OCC and the Exchanges to make adjustments that market participants will perceive to be fair. Moreover, because it would be difficult for OCC to anticipate all the possible kinds of changes that may occur in the composition of the index or to anticipate what effect each change may have on all index option contracts, the Commission believes that the structure of the Securities Committee and the limitations inherent in the Committee's mandate afford sufficient discipline and are consistent with the Act. Nonetheless, because OCC's adjustment authority is unique in its application to index options, the Commission directs OCC to inform it of any action taken pursuant to its adjustment authority, any problems that develop as a result of any such adjustment and any response OCC proposes to address those problems.

The Commission recognizes that not all writers and holders of index option contracts will find a particular adjustment to be "fair". The Commission, however, views this risk as one inherent in trading index options and, accordingly, believes that OCC has chosen properly to address the possibility of adjustments to the terms of index options contracts in its risk disclosure document.

Inaccurate Index Value

The Commission believes that OCC's proposed procedures respecting inaccuracy of a reported index value are appropriate. As discussed, OCC will, in most instances, use the index value initially reported by the official reporting authority as accurate and final for the purposes of calculating exercise settlement amounts. Generally, under the proposed rule, OCC will not adjust the current index value in response to minor inaccuracies in or revisions to the index value as initially reported. OCC's proposed procedures, however, will allow OCC to adjust the reported current index value when the value is clearly erroneous and inconsistent with values reported during the trading day, provided a corrected closing index is promptly announced. OCC will not adjust officially reported current index values once exercised options have settled.

The Commission believes that OCC appropriately will presume that a reported index value is accurate. Such a presumption minimizes the potential disparity in treatment between persons who trade index options based on incorrectly reported index values and persons who exercise based on the erroneous value.[33] Because there should be a strong correlation between the market value of a contract and cash settlement of exercised index options contracts, it seems particularly appropriate in the case of index options to treat options traders, exercising holders and assigned writers similarly in respect of adjustments based on reporting inaccuracies. In addition, because, by definition, OCC will adjust only large errors in the reported index value, the financial interest of both

[32] The Commission believes that OCC would have reason to use its adjustment authority only in extraordinary circumstances. At this time, the Commission anticipates that OCC would need to use its adjustment authority only when a trading halt exists during the option expiration period in a security whose relative weight represents a substantial portion of the index value. In such instances if the value of the affected security was not appropriately represented in the calculation of the index value, option holders exercising during the trading halt would be required, absent appropriate adjustment by OCC, to settle based on the skewed index value. The Commission is concerned that if OCC used its adjustment authority in other situations the effect would be an adjusted exercise settlement price that would be different from an exercise settlement price based on the ongoing index value, resulting in unequal treatment of persons who continue to hold their option contracts rather than exercise them.

[33] See discussion in text accompanying note 27, *supra*.

option holders and option writers should be substantially unaffected by OCC's policy not to adjust small errors in reported values.

While the proposed rule provides OCC with substantial descretion in determining when extraordinary circumstances exist, the Commission believes that it is important for OCC to have the authority to adjust clearly erroneous index values to avoid substantial inequities that could otherwise result. The Commission also recognizes that OCC is granted substantial discretion, under the proposed rule change, to determine when a reported index value is clearly erroneous. However, because it is impossible to determine in advance what kinds of errors may occur in reported index values and what magnitude of error would result in gross inequities, that degree of discretion seems necessary to enable OCC at the outset of trading in index option contracts to protect the interests of writers and holders alike.[34]

In addition, the Commission believes that OCC appropriately limits the operation of the extraordinary circumstances exception for unsettled exercised contracts to instances in which the corrected value is promptly announced. Under existing rules, of course, OCC may suspend settlement whenever suspension is necessary to protect the interest of OCC, its clearing members and the public. Accordingly, even when there is unanticipated delay in the announcement of a corrected value, OCC is unlikely to base settlement amounts on clearly erroneous values.

Finally, the Commission views OCC's authority to adjust inaccurate index values to be an important factor affecting index options and accordingly believes that OCC has appropriately addressed the remote possibility of adjustments to the terms of options contracts in its disclosure document regarding index options. Moreover, the publication of index values is a matter beyond OCC's control. Accordingly, although OCC must have some adjustment authority, OCC has proposed appropriately to remedy problems caused by incorrect reports in ways that appear both practical and equitable. The Commission believes, however, that because OCC's procedures respecting inaccurate index values are both novel and highly discretionary, it is difficult to evaluate prospectively the impact of such procedures. We therefore direct OCC to inform the Commission of any actions taken pursuant to the inaccurate index value procedures, any problems that develop as a result of invoking those procedures and any responses OCC proposes to readdress those problems.

[34] It should also be noted that index option clearing members may revoke exercise notices, prior to the time OCC deems such notices irrevocable, whenever an exercise notice is submitted in reliance on a reported value OCC determines to be clearly erroneous. OCC Rule 801 provides that exercise notices filed by a clearing member attributable to bona fide errors may be modified or revoked prior to 8:00 p.m. e.s.t.

Conclusion

The Commission has carefully reviewed OCC's proposal and believes that the proposed rules appear suitably designed at the outset of trading to provide for the safe and efficient clearance and settlement of index options. In particular, the Commission believes that the proposed margin levels for index options are appropriately based on realistic volatility models of the underlying indices and should help ensure that OCC is reasonably protected in processing and settling index options transactions. In addition, OCC's proposed exercise settlement system is modeled after OCC's premium settlement program and, as such, will be consistent with the orderly processing of index option exercises. Further, OCC's rule respecting adjustments in the terms of index option contracts appears suitably designed to ensure an orderly and equitable response to changes in the composition of the underlying index that may affect the current index value. Finally, the alternative courses of action OCC may pursue if an index value is unavailable or clearly erroneous appear appropriate to protect the interests of writers and holders of affected index options.

In accordance with the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and, in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

By the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3583 Filed 2-9-83; 8:46 am]

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[Release No. 19485; (SR-PSE-83-02)]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Filing of Proposed Rule Change

February 3, 1983.

The Pacific Stock Exchange, Inc. ("PSE") 618 South Spring Street, Los Angeles, California 90014, submitted on January 21, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to impose charges which are applicable to PSE specialists and option market makers in connection with the execution of trades through the Intermarket Trading System ("ITS"). Specifically, these charges would include a fixed charge of $250 per month on each specialist and option market maker and a charge of $.005 per share on the net number of shares executed by each specialist and option market maker, as principal, through ITS in market centers other than the PSE.[1]

The PSE indicates that the purpose of the proposed rule change is to offset, in part, the costs associated with the PSE providing ITS services, including manpower, systems and utilities costs.[2] In addition, the PSE believes that the per share charge is fashioned in a manner so as to encourage PSE specialists and option market makers to disseminate competitive quotations within ITS, thereby attracting order flow from other market centers to the PSE.

The PSE's proposed rule change raises the issue of what, if any, fees are appropriate for an individual self-regulatory organization to impose on its members in connection with the operation of a national market system facility.[3] In this respect, the Commission

[1] The net number of shares executed as principal by each specialist and option market maker would be calculated by computing the number of shares received by a specialist or option market maker as principal from other market centers through ITS and subtracting that number from the number of shares sent to other market centers through ITS by each specialist or option market maker. Any shares sent to other market centers or received from other market centers, in response to a pre-opening administrative message in accordance with the ITS Plan would not be applied in calculating the net monthly share total of each specialist and market maker. Each specialist and option market maker would receive credit for the number of shares in any given month received by such specialist or option market maker as principal in excess of the number of shares sent to other market centers by such specialist or option market maker in that same month. Credits would be carried over for use in following month[s].

[2] The Commission understand that the PSE views these costs as also involving the costs of operating the PSE quotation system.

[3] Although the Commission has approved ITS related charges in the past, those charges are distinguishable from the PSE's proposed rule

must determine whether the proposed rule change is consistent with the development of a national market system.[4] In this connection, the Commission would be concerned if any such fee acts as a disincentive to the use of a national market system facility or otherwise interferes with best and efficient execution of customers' orders. Accordingly, the Commisison specifically requests comment on whether the PSE's proposed charges are an appropriate method of financing a national market system facility. In addition, the Commission requests comment on whether the proposed charges reflect a "fair and equitable allocation of reasonable * * * charges among * * * members" of the PSE pursuant to Section 6(b)(4) of the Act.[5]

Publication of notice of the proposed rule change is expected to be made in the **Federal Register** during the week of February 7, 1983. In order to assist the Commission in determining whether to approve the proposed rule change, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the secretary of the Commisison, Securities and Exchange Commisison, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–PSE–83–02.

Copies of the submission, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public,[6] will be available for inspection and copying at the Commission's Public Reference Room.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

George A. Fitzsimmons,

Secretary

[FR Doc. 83–3594 Filed 2–9–83; 8:45 am]

BILLING CODE 8010–01–M

change. In Securities Exchange Act Release No. 16257 (October 9, 1979), 44 FR 59690, the Commission approved a Boston Stock Exchange ("BSE") Clearing Corporation ("BSECC") proposed rule change which imposed a $.02 per share charge on BSECC members that cleared and settled transactions which resulted from commitments to trade sent from the BSE to another market center through ITS. In approving the rule change, the Commission observed that the charge was "not a direct ITS fee, but rather a clearance and settlement charge which results from unique problems" at the BSECC. In Securities Exchange Act Release No. 18414 (January 12, 1982), the Commission approved a BSE rule change which imposed a usage charge of $.005 per share on all trades resulting from BSE market participants exporting their orders to other market centers via ITS, effective for the period January 4, 1982 through December 31, 1982. The Commission noted that, although this was an ITS usage charge, the charge was appropriate because of its temporary nature and in light of the unique financial situation of the BSE. Moreover, the Commission indicated that the approval of the rule change did not "represent a Commission position regarding the broader question of the propriety of exchange-imposed ITS usage fees, in general." On January 31, 1983, the BSE filed a rule change with the Commission, effective upon filing pursuant to Section 19b(3)(A) of the Act, extending the BSE's ITS fee until December 30, 1983.

[4] *See* Section 11A(a) (1) and (2) of the Act.

[5] The Commission also seeks comment on whether it is appropriate for the incidence of the charges to fall solely on PSE specialists and option market makers, and whether it is suitable to impose a fixed fee and a variable per share fee. In addition, the Commission requests comment on the question of whether the proposed charges would act as a significant disincentive to the use of ITS. If commentators believe that such disincentives will arise, they should indicate whether the disincentives would be caused primarily by: (1) The nature of the charges, (2) the persons subject to the charge or (3) the proposed rate structure for the charges.

[6] 17 CFR 240.24b–2.

[7] 17 CFR 240.200.30–3(a)(12)

DEPARTMENT OF STATE

[CM–8/603]

Subcommittee on Safety of Life at Sea Shipping Coordinating Committee; Meeting

The Subcommittee on Safety of Life at Sea of the Shipping Coordinating Committee will conduct two open meetings in the near future. The first will be on February 25, 1983, at 1:00 P.M., in room 3201 of the Coast Guard Headquarters Building, 2100 2nd Street, SW, Washington, D.C. 20593.

The purpose of this meeting will be to discuss the agenda for the fiftieth session of the IMO Legal Committee which will be held March 7–11, 1983 in London. Major items on the agenda are:

—Revision of the 1969 Civil Liability and 1971 Fund Conventions concerning liability and compensation for pollution damage from incidents involving seagoing tankers, and

—Consideration of the Draft Convention on Liability and Compensation in connection with the Carriage of Noxious and Hazardous Substances by Sea.

For further information contact Captain Frederick F., Burgess, Jr., Chief, Maritime & International Law Division, U.S. Coast Guard (G-LMI), 2100 2nd Street, SW, Washington, D.C. 20593. Telephone: (202) 426–1527.

The National Committee for the Prevention of Marine Pollution (NCPMP) of the Shipping Coordinating Committee will hold a second meeting on March 10, 1983, at 9:30 A.M., in room 3201 of the U.S. Coast Guard Headquarters Building, 2100 2nd Street, SW, Washington, D.C. 20593.

The puropose of this meeting is to finalize preparations for the 18th Session of the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) which is scheduled for March 21–25, 1983 in London. In particular, the MCPMP will discuss development of U.S. positions dealing with, inter alia, the following topics:

—Uniform interpretation and proposed amendments of MARPOL 73/78

—Guideline for surveys under MARPOL 73/78

—Anti-Pollution Manual

—Provision of reception facilities

For further information contact Mr. G. P. Yoest, U.S. Coast Guard Headquarters (G–CPI), 2100 2nd Street, SW, Washington, D.C. 20593. Telephone: (202) 426–2280.

Members of the public may attend both meetings up to the seating capacity of the room.

Dated: January 27, 1983.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 83–3658 Filed 2–9–83; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/602]

Study Group 4 of U.S. Organization for International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on March 16, 1983 at 10:00 a.m. in the first floor Theater, Communications Satellite Corporation, 950 L'Enfant Plaza, SW., Washington, D.C.

Study Group 4 deals with matters relating to systems of radio-communications for the fixed service using satellites. The purpose of the meeting is to outline specific work programs, identifying documentation and authors, in preparation for the international meeting of Study Group 4 in April 1984.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr.

Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: February 1, 1983.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 83–3657 Filed 2–9–83; 8:45 am]

BILLING CODE 4710–07–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Form Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Form Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the form proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395–7313.

Agency Clearance Officer: John O. Catron, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751–2523, FTS 858–2523.

Type of Request: New.

Title of Information Collection: TVA Columbia Project Wildlife Associated User Survey (Forms TVA 20031 through TVA 20035).

Frequency of Use: Monthly/Annually/Nonrecurring.

Type of Affected Public: Hunting and fishing users of TVA Columbia Project lands and water.

Standard Industrial Classification: N/A.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 8,712.

Estimated Total Annual Burden Hours: 2,901.

Estimated Annual Cost to Federal Government: $42,000.

Need For and Uses of Information: Analyses to date have addressed habitat losses or gains resulting from the TVA Columbia Project. Updated and more extensive quantitative data regarding public use is needed to assess demand for hunting, fishing, trapping, and other nonconsumptive uses. Information collected on type and extent of user pressure will be used to develop future wildlife management strategies based upon demand for specific activities and to evaluate the results of habitat improvement actions.

Dated: February 2, 1983.

John W. Thompson,

Assistant General Manager, Senior Agency Official.

[FR Doc. 83–3597 Filed 2–9–83; 8:45 am]

BILLING CODE 8120–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Doors Between Pilot's Compartment and Passenger Cabin in Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft advisory circular availability and request for comments.

SUMMARY: The draft Advisory Circular (AC) sets forth an acceptable means, but ot the only means, of showing compliance with the Federal Aviation Regulations applicable to a door between pilot's compartment and passenger cabin in small airplanes.

DATE: Commenters must identify file AC 23.807–AB, Subject: Doors Between Pilot's Compartment and Passenger Cabin in Small Airplanes, and comments must be received on or before March 28, 1983.

ADDRESS: Send all comments on the draft Advisory Circular to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ervin E. Dvorak, Aerospace Engineer, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. Commercial telephone (816) 374–6941 or FTS 758–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this draft Advisory Circular by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Background

In accordance with airworthiness regulations, if the pilot's compartment is separated from the passenger cabin by a door that is likely to block the pilot's escape in a minor crash landing, there must be an exit in the pilot's compartment. For airplanes that do not have any other exits in the pilot's compartment, questions were raised pertaining to a door that would not be likely to block the pilot's escape. Curtains were used in the past, but recently several small airplanes presented for type certification had frangible doors or rigid doors between the pilot's compartment and cabin. This advisory circular provides two methods of showing compliance with airworthiness regulations that the door(s) would not block the pilot's escape in a minor crash landing.

Comments Invited

Interested parties are invited to submit comments on the draft AC. Comments received on the draft AC may be inspected at the offices of the Regulations and Policy Office (ACE–110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. on weekdays, except Federal holidays.

Issued in Kansas City, Missouri, January 18, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83–3570 Filed 2–9–83; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 136—Installation of Emergency Locator Transmitters (ELT) in Aircraft; Subcommittee on Battery Problems; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of Special Committee 136, Subcommittee on Emergency Locator Transmitter Battery Problems, to be held on March 10–11, 1983 at National Aeronautics & Space Administration, Langley Research Center, Room 246, Building 1202, Hampton, Virginia, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Review of Subcommittee Statement of Work; (3) Discussions to Identify Practical Battery Types for Use in Emergency Locator Transmitter (ELT) Applications; (4) Discuss Advantages

and Disadvantages of Potting cells in Constructing Batteries for ELT use; (5) Discuss Effectiveness of Using Cold Storage to Extend Battery Shelf Life; (6) Discuss Technical Parameters Required of Replacement ELT Batteries; (7) Establish Format and Content of Subcommittee Report; (8) Assignment of Tasks; and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1425 K Street, NW., Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on February 3, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83–3568 Filed 2–9–83; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA); Ad Hoc Technical Review Committee; Meeting

Pursuant to Section 10 (a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App I) notice is hereby given on a meeting of an RTCA Ad Hoc Technical Review Committee to be held on March 8, 1983 in the RTCA Conference Room, Suite 500, 1425 K Street, NW., Washington, D.C. commencing at 9:30 a.m.

The purpose of the meeting is to review technical comments received by the Federal Aviation Administration (FAA) in response to a proposed Technical Standard Order (TSO) C102, Airborne Radar Approach and Beacon Systems for Helicopters as announced in the **Federal Register** on June 21, 1982, (47 FR 26725). The proposed TSO incorporates, by reference, minimum performance standards set forth in RTCA Document DO–172 "Minimum Operational Performance Standards for Airborne Radar Approach and Beacon Systems for Helicopters," Section 2, dated November 1980.

The Ad Hoc Technical Review Committee is to determine whether the affected minimum performance standards should be changed, and to provide any additional information needed prior to FAA action.

The following technical matters will be considered:

(1) Redefine the Beacon Identification Processor requirements to resolve apparent misinterpretation.

(2) Revison to the ground beacon receiver sensivtiy from the specified value of −85 dbw (−55 dbm) to −95 dbw
(−65 dbm) to permit a reduction in airborne transmitter power.

(3) Revision to the maximum allowable Beacon Interrogation Pulse rise time from the specified value of 150 nanoseconds to 300 nanoseconds.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, Suite 500, 1425 K Street, NW., Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on February 3, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83–3569 Filed 2–9–83; 8:45 am]

BILLING CODE 4910–13–M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB, January 16–28, 1983

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between January 16–28, 1983, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT:
John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–1887 or
Gary Waxman or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503, (202) 395–7313.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopoted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Mangement and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between Jan. 16, 1983, and Jan. 28, 1983:

DOT No: 2040
OMB No: None
By: Research and Special Programs Administration
Title: Radioactive Materials Shippers; Record Retention of Type A Package Certification and Safety Analysis
Forms: None
Frequency: Recurring on occasion
Respondents: Shippers of radioactive materials in Type A quantities
Need/Use: To ascertain that shipments of radioactive materials are in Type A packagings which meet performance standards for normal conditions of transportation

DOT No: 2041
OMB No: None
By: Research and Special Programs Administration
Title: Low Specific Activity Radioactive Materials Instructions
Forms: None
Frequency: Recurring on occasion
Respondents: Shippers of packaged low specific activity radioactive materials in truckload and carload quantities
Needs/Use: To assure compliance with particular rules regarding maintenance of external radiation levels and other safety requirements applicable to shipments of packaged low specific activity radioactive materials when being transported by exclusive-use vehicles

DOT No: 2042
OMB No: None
By: Research and Special Programs Administration
Title: Bulk Low Specific Activity Radioactive Material Instructions
Forms: None
Frequency: Recurring on occasion
Respondents: Shippers of low specific activity radioactive materials in truckload and carload quantities
Needs/Use: To assure compliance with particular rules regarding bulk shipments of low specific activity radioactive materials (unrefined ores, etc.) being transported in exclusive-use vehicles

DOT No: 2043
OMB No: None
By: Research and Special Programs Administration
Title: Fissile Class III Radioactive Materials Specific Instructions
Forms: None
Frequency: Recurring on occasion
Respondents: Shippers of certain radioactive materials which are transported in exclusive-use transport vehicles
Needs/Use: To assure compliance with particular rules regarding distance separation required for packages of fissile class III radioactive materials transported in exclusive-use vehicles

DOT No: 2048
OMB No: None
By: Research and Special Programs Administration
Title: Application for Approval of Export Shipment
Forms: None
Frequency: Recurring on occasion
Respondents: Shippers of radioactive materials which are being exported from the United States
Needs/Use: This application alerts National Competent Authorities in countries through which or into which certain "high level" radioactive materials shipments will be transported so they are aware of the nature of the materials and are satisfied that appropriate packaging and transport controls are utilized

DOT No: 2086
OMB No: 2137–0045
By: Research and Special Programs Administration
Title: Petitions for Rulemaking
Forms: None
Frequency: Nonrecurring
Respondents: Shippers, carriers and manufacturers of hazardous materials; manufacturers of containers for hazardous materials, Federal, State and local government agencies
Needs/Use: To provide a means by which shippers, manufacturers and carriers of hazardous materials, as well as other interested parties, may request changes to the hazardous materials regulations

DOT No: 2108
OMB No: 2127–0047
By: National Highway Traffic Safety Administration
Title: Odometer Disclosure Statement, Part 580
Forms: None
Frequency: On occasion
Respondents: Individuals, States and businesses
Needs/Use: To require any transferor of a motor vehicle to give a written disclosure statement to transferees other than United States agencies on new cars

DOT No: 2116
OMB No: None
By: National Highway Traffic Safety Administration
Title: Alcohol Incentive Grant Program
Forms: None
Frequency: Annually
Respondents: States
Needs/Use: This program provides incentive grants to States that adopt and implement stricter laws and more comprehensive programs against drunk driving

Karen S. Lee,
Deputy Assistant Secretary for Administration.

[FR Doc. 83-3463 Filed 2-9-83; 8:45 am]
BILLING CODE 4910-62-M

[Notice No. 83-5]

Frontier Airlines, Inc.; Renewal of Operations Specifications, Jackson Hole Airport, Wyoming

AGENCY: Office of the Secretary, DOT.

ACTION: Final decision on renewal of operations specifications.

SUMMARY: The purpose of this notice is to inform the public that the Department of Transportation has renewed the authority of Frontier Airlines, Inc. to serve Jackson Hole Airport, Wyoming with regularly scheduled Boeing 737 jet operations, subject to certain conditions. This action was the subject of a notice and request for comments published in the Federal Register on November 4, 1982 (47 FR 50155).

FOR FURTHER INFORMATION CONTACT: Joseph Canny, Deputy Director for Environment and Policy Review, Office of Economics, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426–4361.

Background

The Department of Transportation has received a request from Frontier Airlines, Inc. for renewal of its operations specifications to permit the continuation of regularly scheduled Boeing 737 jet aircraft service at Jackson Hole Airport, Wyoming. The Frontier request seeks to make permanent the existing authority to conduct such operations which expired on January 15, 1983. Frontier also requested elimination of a number of conditions imposed by the Department of Transportation at the time the operations specifications were amended in early 1981. Frontier has continued to operate under its existing authority, pending the final determination which is announced in this notice.

In a notice published in the Federal Register on November 4, 1982, (47 FR 50155), which provides further background for this action, the Department of Transportation indicated its tentative intention to grant Frontier's request for permanent authority to operate regularly scheduled B 737 jet service at Jackson Hole and to retain only three of the conditions initially imposed in 1981. These conditions are

the requirement that commercial jet service be restricted to the hours between 6:00 a.m. and 9:30 p.m.; the requirement that the B 737 aircraft used at Jackson Hole be fitted with quiet nacelles to reduce aircraft noise and meet the stage two noise limits set forth in FAR Part 36 (14 CFR Part 36); and the requirement that Frontier ensure the use, to the maximum extent feasible, of established procedures for the abatement of aircraft noise during landings and takeoffs, including an 8.6 percent climb gradient.

In response to that notice, the Department received comments from the following persons or organizations: The United States Department of the Interior, the Honorable Ed Herschler, Governor of Wyoming, the Jackson Hole Airport Board, Frontier Airlines, the Sierra Club Legal Defense Fund, Inc., a group of twenty-five homeowners residing in the immediate vicinity of the Jackson Hole Airport, and one other individual. Also in the record on this matter are letters written in May, 1982 at the time of Frontier's request for an extension of its operations specifications and supporting Frontier's request from the Jackson Hole Area Chamber of Commerce, the town of Jackson, Teton County and a member of the Wyoming state legislature. Of the comments received in response to the November notice, four were in support of the proposed extension of the Frontier authority while three objected in whole or in part to the proposed action.

Frontier, of course, supported the proposal to make permanent the operation specifications and recommended that the hours of operations for its jet aircraft service be described as "scheduled" rather than "permitted." This would recognize that occassional flights might be delayed beyond the normal 9:30 p.m. limit for arrivals. This decision adopts that change, which is consistent with the actual condition under which Frontier has been operating for the past two years. It is the Department's understanding that actual arrivals after 9:30 p.m. have been rare.

The Jackson Hole Airport Board also supports extension of the Frontier's operations specifications. The Board noted that the Department of the Interior has recently indicated its agreement that the Jackson Hole Airport should remain at its current location. The Board also supports Frontier's view that the 9:30 p.m. limit should be for scheduled flights.

Governor Herschler endorsed the proposed action, including the conditions identified in the notice for retention, and the removal of the other conditions that were identified in the notice. The Department of the Interior supports extension of Frontier's authority. Interior has concluded that the airport is necessary for Department of the Interior operations at Jackson Hole and has reversed its prior decision to seek relocation of the airport. Interior concurs strongly in the proposal to limit the hours of jet operations, as provided in the notice, and proposes that this limitation be extended to all commercial aircraft operations. Interior also agrees with the requirement that noise abatement procedures be utilized whenever practicable and that Frontier be required to use 737s with quiet nacelles, as proposed in the notice. Finally, Interior noted a desire to work with the Department of Transportation and the Airport Board to seek additional measures that might assist in controlling noise levels within the National Park.

The Department received three sets of comments opposing the proposed action or suggesting more stringent conditions on Frontier's B 737 operations. Two commentors indicated that the operations specifications either should not be extended or, if extended, should be for a limited period of time during which the effort to locate a new site for the airport should be continued. As noted above, the Department of the Interior no longer is seeking the relocation of the airport outside the National Park. Further, neither the Jackson Hole Airport Board nor any other public agency with authority to construct and operate an airport has given any indication of a desire to relocate the airport. Consequently, this decision recognizes that no further efforts will be made to relocate the airport.

Two commentors also proposed that the renewal of the operations specifications be for a period of two or three years. The Department finds no merit in this proposal. Permanent extension of the operations specifications, subject to the retained conditions, is an adequate and appropriate action to govern continued operations at the airport. The Department does not foresee any conditions that would require changes in the operations specifications after two or three years, and thus sees no reason for refusing to make the specifications permanent. This would not preclude further noise regulation by the Jackson Hole Airport Board in its role as airport operator, if additional regulations are required to protect the tranquility of the area.

Commentors objected to the deletion of the condition that Frontier must use at Jackson Hole any quieter jet aircraft that it may acquire. These comments included claims that quieter non-jet aircraft could adequately serve the airport, and that Frontier should continue to be required to use any quieter technology which may become available for use on B 737 aircraft. The latter approach, it is asserted, would impose no penalty on Frontier but would assure that the quietest feasible equipment would be utilized at Jackson Hole. The Department does not accept these recommendations. First, it is noted that Frontier currently owns and operates a small number of DC 9–80 aircraft. These aircraft are somewhat quieter than the 737s operating at Jackson Hole. However, the DC 9–80s are larger and are substantially less efficient for operation at a small, high altitude airport such as Jackson Hole. At Jackson Hole, DC 9–80 aircraft could carry only 66 passengers on a 40°F day, compared to their designed capacity of 140 passengers. This would make DC 9–80 service economically unfeasible. Further, Frontier is currently using the DC 9–80s in its fleet at other airports where much larger numbers of persons are exposed to aircraft noise. It is the Department's view that Frontier's continued use of the DC 9–80s at those airports better serves the public interest of limiting exposure of people to aircraft noise.

With respect to the use of improved technology on 737 aircraft, the B 737–300 aircraft is a new, quieter, more fuel-efficient version of the 737. However, Frontier does not own any of these planes, does not have them on order, and has no plans to acquire them. Thus, the Department does not believe that any useful purpose would be served by retaining a requirement for their use if purchased by Frontier.

With respect to the proposal that non-jet aircraft be used to serve Jackson Hole, the Department will not question the judgment of Frontier as to what is the most cost-effective and efficient equipment to use at Jackson Hole. Other air carriers are free to provide non-jet service to Jackson Hole, but, with one exception, have not done so. If other airlines wish to commence service to Jackson Hole using quieter aircraft, the Department would have no objection (assuming they meet normal standards), but the Department has no authority to mandate such service.

One commentor recommended that Frontier's hours of jet operations be cut back to the period of 7:00 a.m. to 7:00 p.m. The Department agrees that the limitation can be changed from 6:00 a.m. to 7:00 a.m. Frontier does not have any departures before 7:00 a.m. and there

appears to be some benefit, in terms of promoting quiet conditions in the airport vicinity, in beginning the scheduled operating hours at 7:00 a.m.

With respect to the proposed change in evening operating hours, the adjustment would reduce noise impacts, but it would significantly reduce Frontier's capability of serving Jackson Hole efficiently within the constraints of its overall scheduling and service requirements. A change from a 9:30 p.m. curfew to a 7:00 p.m. curfew could eliminate about 25% of the present commercial service at Jackson Hole. A 9:30 p.m. to 7:00 a.m. exclusion on scheduled jet aircraft operations is comparable to limitations imposed at some other airports and appears to be a reasonable response to the need for nighttime quiet in the vicinity of the airport and in the National Park.

Two commentors questioned whether existing noise abatement procedures specified in the Frontier operations specifications have been followed. One commentor contends that since there is no FAA tower at the airport there is no means for monitoring compliance with the noise abatement procedures. Information provided by the Jackson Hole Airport Authority indicates that Frontier operations were monitored carefully during an 18-month period, in which 1832 jet departures occurred. Some 92 percent of B 737 departures took off to the south—i.e, away from the National Park. Some 81 percent followed the recommended noise abatement procedure of making a 45 degree turn to the left following takeoff (at approximately 500 feet elevation). Of the 11% of departures that did not follow the noise abatement procedures, one-half were due to identifiable conditions such as wind or other traffic in the area. The Airport Board was unable to obtain information as to the reasons for not following noise abatement procedures in the other cases. Aside from seeking explanations from Frontier for deviations from the noise abatement procedures, no effort was made by the Airport Board to take "corrective actions" in instances where the noise abatement procedures were not followed, and indeed, the Board has no authority to enforce conditions in an FAA operations specification. FAA does not have personnel at Jackson Hole to oversee noise abatement procedures because the limited number of operations does not justify a FAA tower. There is no provision in this decision for such oversight.

It is expected that the Airport Board will continue to work closely with Frontier and the surrounding community, as well as with the Department of the Interior, to assure compliance with noise abatement procedures. The Board is in the preliminary stages of developing an airport noise abatement plan under 14 CFR Part 150, Airport Noise Compatibility Planning.

FAA has agreed to fund development of the plan and the Board expects to retain a consultant and commence work by early March. A final plan, including possible enforcement provisions, would be completed in about a year. Under such a plan, the Board, in its role as the airport operator, could impose fines or take other actions against Frontier for violations of the noise abatement procedures.

Another comment proposed that the Department limit the total number of jet operations permitted Frontier. A limit of four daily landings and takeoffs was suggested. As noted in the November, 1982 notice, it is anticipated that Frontier will not schedule more than four daily landings and takeoffs for the foreseeable future, based upon the anticipated demand for service at Jackson Hole. Any increase beyond that level is likely to be gradual and to occur only over a period of at least several years. Further, a limit on the number of jet operations could result in the scheduling of a larger number of non-jet flights to meet passenger demands, with the result that there would be no net noise benefit. Therefore, the Department does not believe it desirable to establish a ceiling on jet operations.

One commentor suggested that the Department delete the previously imposed condition concerning establishment of a restricted airspace zone over the National Park only if there is a written agreement among DOT, Interior and EPA that a restricted zone will be established. The Department does not agree with this recommendation. Establishment of a restricted airspace zone is a matter which is within FAA's sole jurisdiction, and for which there are established procedures. It is not an appropriate item to be included in permanent operations specifications. The Department will work with Interior and will consider establishing a restricted airspace zone over the park, if one is requested by Interior.

Two commentors questioned the steps taken to establish compatible land use patterns in the vicinity of the airport and stated or implied that a condition on this point should be retained in the Frontier operations specifications. The Department does not believe that this is an appropriate condition for premanent operations specification. Responsibility for compatible land use planning lies with the airport operator and the affected local governments, not with the airline. The Department will continue to work with the Airport Board in this area and expects that the FAR Part 150 study will address land use compatibility issues.

One comment stated that the Department's notice had not given adequate recognition to the impact of jet aircraft noise on developed and developable land in the vicinity of the airport. The respondents noted that they had not received replies to previous correspondence with the Department on this matter and requested that the issues from that prior correspondence be addressed prior to a final decision on the Frontier request. The issues raised in the prior correspondence are generally similar to those discussed in this notice and focus particularly on the impacts of jet aircraft noise on the developed and developable land in the vicinity of the airport. The correspondence asks whether FAA was aware that residential development does exist and can continue to take place in close proximity to the runway.

The Department is aware that such development exists. Previous noise studies have reflected the existence of such residential development. The Department notes, however, that cumulative noise levels in the vicinity of the airport are essentially the same as they were prior to introduction of scheduled jet service. Further, these noise levels have not increased significantly during the past several years. Most of the development which has occurred in the vicinity of the airport has presumably been undertaken with full knowledge of these noise levels. The Department must conclude that these noise levels were considered acceptable; otherwise, property owners would not have developed these sites.

The correspondence also requested assurance that the current noise abatement measures pose no hazard to surrounding land uses. The Department can provide such assurance. The noise abatement measures being implemented at Jackson Hole are similar to those in effect in many other locales. As in all such cases, the final decision on whether or not to utilize noise abatement techniques lies with the pilot

of the aircraft and appropriate adjustments can be made and the noise abatement techniques can be avoided in any circumstances in which the pilot determines that the safety of the flight would be affected.

The correspondence also asked for the definition of developed and developable noise sensitive lands. The developable lands are generally identified pursuant to local land use or zoning plans, which are available from the local governments. The Department recognizes the existence of development in the vicinity of the airport and further recognizes that an extensive area to the south and southwest of the runway is currently available for residential development and that a substantial number of residential properties have been developed in this area. The Department believes that the known aircraft operations at Jackson Hole which have existed for more than three decades must be recognized by property owners and potential developers, and that there is a responsibility for those parties to recognize that noise conditions do exist, and to avoid developing lands that are subject to noise impacts unless they are willing to accept those impacts.

The correspondence also requested that the Department make additional noise tests in the vicinity of the airport. As discussed in the environmental assessment, noise tests have been conducted under conditions representative of B 737 operations. The results of those noise tests are included in the assessment. The Department is not aware of any deficiencies in the tests or of any other reason why additional testing is needed. Finally, the correspondence requested information as to whether the problem of weight restrictions on the short runway at a high elevation have been adequately considered by FAA in permitting jets to operate at Jackson Hole. These concerns have been fully taken into account by FAA. The temperatures, elevation, and runway lengths are will within the capability of B 737 aircraft. Under certain weather conditions it may be necessary to operate at less than the full gross weight of the aircraft, but this type of adjustment is routinely made by pilots at many airports.

Two commentors requested that additional environmental documentation be prepared. One suggested that if the operations specifications are to be made permanent, a new environmental impact statement is needed. A second indicated that the respondents had not received a copy of the environmental assessment and suggested that a decision should be deferred until they had reviewed the environmental assessment and had an opportunity to comment on it.

The Department does not agree with either of those comments. With respect to the environmental assessment, the November 4 notice indicated that it was available. A copy of the assessment was sent to one person who requested it and the comments from that person reflected the review of the environmental assessment. Other commentors could have received the environmental assessment upon request, but did not make such a request. With respect to the need for an environmental impact statement, it is the Department's view that the information contained in the environmental assessment is sufficient to demonstrate that the basic environmental impacts outlined in detail in the 1980 final environmental impact statement adequately cover the conditions that exist at the present time and that will continue to exist with operation of B 737 aircraft at Jackson Hole. The Department is not aware, and the commentor did not identify, any factors which would entail environmental impacts significantly different from those covered in the original EIS and reviewed in the environmental assessment. Therefore, there is no legal or policy requirement for a new environmental impact statement at this time.

Conclusion

In consideration of the foregoing, the Federal Aviation Administrator will make permanent the amendment to Frontier's operations specifications permitting regularly scheduled Boeing 737 jet service at Jackson Hole Airport. The amendment will be subject to the conditions that: (a) The service may be scheduled only between the hours of 7:00 a.m. and 9:30 p.m.; (b) Frontier must use 737s which are equipped with quiet nacelles and which meet the stage two noise limits set forth in FAR Part 36 (14 CFR Part 36); and (c) Frontier must use, to the maximum extent feasible, established procedures for abatement of aircraft noise during landings and takeoffs.

(49 U.S.C. 101 et seq. and 1301 et seq.)

Issued in Washington, D.C. on January 31, 1983.

Drew Lewis,

Secretary of Transportation.

[FR Doc. 83-3604 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes February 24, 1983.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transporation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No	Applicant	Renewal of exemption
2805-X	SunOlin Chemical Co., Claymont, DE	2805
3109-X	Raytheon Co., Lowell, MA	3109

Application No.	Applicant	Renewal of exemption
3216-X	Penwalt Corp., Philadelphia, PA	3216
3353-X	Kerr-McGee Chemical Corp., Oklahoma City, OK.	3353
4242-X	U.S. Department of Defense, Washington, DC	4242
4453-X	Wampum Hardware Co., New Galilee, PA.	4453
4726-X	U.S. Department of Energy, Washington, DC.	4726
4884-X	Union Carbide Corp., Danbury, CT	4884
5206-X	Atlas Powder Co., Dallas, TX	5206
5248-X	3M Co., St. Paul, MN	5248
6007-X	Nuclear Products Co., El Monte, CA.	6007
6267-X	Bio-Lab, Inc., Conyers, GA	6267
6296-X	American Cyanamid Co., Wayne, NJ	6296
6296-X	Platte Chemical Co., Fremont, NE	6296
6773-X	E. I. du Pont de Nemours & Co., Inc. Wilmington, DE	6773
6774-X	HR Textron Inc., Pacoima, CA	6774
6800-X	Plasti-Drum Corp., Lockport, IL (see footnote 1)	6800
6883-X	Hedwin Corp., Baltimore, MD (see footnote 2)	6883
6958-X	Great Lakes Chemical Corp., El Dorado, AR.	6958
7010-X	Great Lakes Chemical Corp., El Dorado, AR.	7010
7052-X	Bran-Tronics, Inc., Commack, NY.	7052
7249-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE	7249
7252-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE	7252
7455-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	7455
7495-X	General American Transportation Corp., Chicago, IL	7495
7505-X	Platte Chemical Co., Greeley, CO	7505
7700-X	U.S. Department of Agriculture, Washington, DC	7700
7721-X	Applied Environments Corp., Woodland Hills, CA.	7721
7735-X	Rheem Manufacturing Co., Linden, NJ (see footnote 3).	7735
7769-X	Brunswick Corp., Lincoln, NB	7769
7879-X	Gearhart Industries, Inc., Fort Worth, TX.	7879
7957-X	Process Engineering, Inc., Plaistow, NH	7957
8008-X	Wheaton Aerosols Co., Mays Landing, NJ (see footnote 4)	8008
8080-X	Allied Chemical, Morristown, NJ (see footnote 5)	8080
8086-X	Boeing Aerospace Co., Seattle, WA	8086
8108-X	Allied Chemical, Morristown, NJ	8108
8220-X	Applied Environments Corp., Woodland Hills, CA	8220
8221-X	Applied Environments Corp., Woodland Hills, CA	8221
8225-X	Hoover Universal, Inc., Beatrice, NB (see footnote 6).	8225
8237-X	Sanders Associates, Inc., Nashua NH	8237
8426-X	Martin Tank Manufacturing, Inc., Wilmington, CA.	8426
8445-X	Rohm & Haas Co., Philadelphia, PA	8445
8519-X	Atlantic Container Line, Elizabeth, NJ	8519
8523-X	Fauvet-Girel, Paris, France	8523
8526-X	PPG Industries, Inc., Pittsburgh, PA	8526
8526-X	National Starch and Chemical Corp., Bridgewater, NJ.	8526
8539-X	Aero Taxi-Rockford, Inc., Rockford, IL	8539
8547-X	Natico, Inc., Chicago, IL (see footnote 7)	8547
8550-X	Environmental Sciences Associates, Inc., Bedford, MA.	[redacted]
8551-X	Huber Manufacturing, Inc., Gulfport, MS	8551
8558-X	Trojan Corp., Spanish Fork, UT	8558
8563-X	Ashland Oil, Inc., Columbus, OH.	8563
8565-X	Pennwalt Corp., Philadelphia, PA.	8565
8565-X	PPG Industries, Inc., Pittsburgh, PA.	8565
8569-X	General Dynamics Corp., Fort Worth, TX.	8569
8571-X	EM Science, Cincinnati, OH	8571
8592-X	Beech Aircraft Corp., Boulder, CO	8592
8620-X	Polar Tank Trailer, Inc., Holdingford, MN.	8620
8691-X	Aluminum Company of America, Palestine, TX (see footnote 8).	8691
8692-X	Mitsubishi International Corp., New York, NY (see footnote 9).	8692
8969-X	McDonnell Douglas Corp., St. Louis, MO (see footnote 10)	8969
3549-P	Thiokol Corp., Huntsville, AL	3549
4453-P	Pacific Powder Co., Tenino, WA	4453
4453-P	Pacific Motor Transport, Inc., Tenino, WA	4453
6007-P	The Boeing Co., Seattle, WA	6007
6113-P	Commonwealth Gas Co., Southborough, MA	6113
6464-P	Commonwealth Gas Co., Southborough, MA	6464
6762-P	Oxford Chemicals, Inc., Atlanta, GA.	6762
6762-P	The Keeler Co., Inc. Shillington PA	6762
6874-P	Mitsui & Company (USA), Inc., New York, NY	6874
7052-P	A/S Hellesens, Soborg, Denmark	7052
7052-P	Leigh Instruments Limited, Carleton Place, Ontario	7052
7060-P	Sports Air Travel, Inc., Troutdale, OR	7060
7076-P	Oxford Chemicals, Inc., Atlanta, GA.	7076
7876-P	Micro Image Inc. Orange, CT	7876
8129-P	ARCO Chemical Co., Newtown Square, PA	8129
8129-P	Midwest Research Institute, Kansas City, MO	8129
8156-P	Scientific Gas Products, Inc. South Plainfield, NJ	8156
8451-P	Ethyl Corp., Ferndale, MI	8451
8627-P	Champion Chemicals, Inc., Houston, TX.	8627
8732-P	ICI Americas Inc., Wilmington DE	8732
8878-P	Preussag AG Metall, Bosiar, West Germany	8878

[1] To authorize tertiary butyl hydroperoxide, liquid organic peroxide, n.o.s., as an additional commodity.
[2] To authorize a 60 gallon polyethylene container, comparable to DOT Specification 34, under the terms of the exemption.
[3] To authorize flammable liquids which also meet the definition of poison B liquids, chloropicrin and mixture (no gas), parathion and mixtures and methyl parathion and mixtures as additional commodities.
[4] Request an increase in the limited quantities of compressed gas from 15% to 25% and modify exemption to qualify shipment as a consumer commodity, ORM-D instead of compressed gas, n.o.s.
[5] To authorize use of DOT Specification 103AW tank cars which have been converted to a DOT Specification 103W, for shipment of chloromic acid.
[6] To authorize cleaning compounds containing hydrofluoric acid not over 52% strength as an additional commodity.
[7] To authorize flammable liquids with flash points below 20 degrees Fahrenheit and flammable liquids which are also organic peroxides, oxidizers or poison B liquids as additional commodities.
[8] To provide for shipments by common or contract carrier rather than private.
[9] To authorize an additional bag having a capacity of approximately 600 pounds.
[10] To renew exemption issued on an emergency basis authorizing shipment of certain rocket motors with igniter installed.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 1, 1983.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Regulation Materials Transportation Bureau.

[FR Doc. 83-3681 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATE: Comment period closes March 15, 1983.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation (s) affected	Nature of exemption thereof
8970-N	Williams Strategic Metals, Inc., Wheat Ridge, CO.	49 CFR 173.366	To authorize bulk shipment of waste arsenical dust, Class B poison, in cylindrical steel containers lined with 22 gauge 304 stainless steel mounted on a pallet. (Mode 2.)
8971-N	NL McCullough NL Industries, Inc., Houston, TX.	49 CFR 173.246, 175.3	To authorize shipment of bromine trifluoride, classed as an oxidizer in non-DOT Specification steel cylinder of 1.83 pound water capacity. (Modes 1, 2, 3, 4.)
8972-N	Union Carbide Corp. Danbury, CT	49 CFR 173.247	To authorize shipment of thionyl chloride, corrosive material in DOT Specification 3E1800 cylinders. (Modes 1.)
8973-N	Natico, Inc., Chicago, IL	49 CFR 173.119, 173.245, 173.346, 178.116	To manufacture, mark and sell non-DOT Specification 55-gallon steel drums similar to DOT Specification 17E except for 20 gauge top heads and 19 gauge bottom heads to be secured with 7 ply chime for shipment of various flammable, corrosive and poison B liquids and other commodities authorized in 17E. (Mode 1.)
8974-N	Fabricated Metals, Inc., San Leandre, CA	49 CFR 178.251-2(a)(1)	To manufacture, mark and sell a limited number of aluminum portable tanks identical to DOT Specification 56 except that one component part does not comply with required tensile strength, for shipment of a flammable solid and certain oxidizer. (Modes 1, 2.)
8975-N	Baker Broethers Welding, Inc., Norman, OK	49 CFR 173.119, 173.245	To manufacture, mark and sell non-DOT specification portable tanks having 6-60 gallon compartments firmly mounted on a truck chassis, for shipment of various flammable and corrosive liquids (oil well treating compounds). (Mode 1.)
8976-N	Diamond Shamrock, Irving, TX	49 CFR 173.204(a)(4), 173.28(m)	To authorize a one time reuse of 30 gallon polyethylene lined 17H steel drums which deviate from retest requirements, for shipment of sodium hydrosulfite, classed as a flammable solid. (Modes 1, 2, 3.)
8977-N	Bignier, Schmid-Laurent, Inc., S.A., Ivry-sur-Seine, France	49 CFR 173.315, 178.245	To authorize shipment of various nonflammable gases in non-DOT Specification IMO Type V portable tanks. (Modes 1, 2, 3.)
8978-N	A/S Hellesens Soborg, Denmark	49 CFR 172.101, 173.206, 173.247, 175.3	To authorize shipment of lithium battery devices containing up to 50 grams of lithium per cell in specially designed packaging. (Modes 1, 2, 3, 4.)
8979-N	Freeman Industries, Inc., Tuckahoe, NY	49 CFR 173.270(a)(2)	To authorize shipment of phosphorous tribromide, corrosive material in non-DOT specification lead-lined steel drums overpacked with polyethylene bags which are overpacked in removable-head steel drums. (Mode 1.)
8980-N	U.S. Chemical & Plastics, Canton, OH	49 CFR 173.118(b)	To authorize shipment of resin solutions classed as flammable liquids with a flash point of 89 degrees Fahrenheit to 95 degrees Fahrenheit in containers exceeding one gallon capacity without labeling and placarding. (Mode 1.)
8981-N	Rusk Aviation, Inc., Kankakee, IL	49 CFR 172.101, 172.204, 173.27, 175.20(b), 175.30(a)(1), Part 107, Appendix B	To authorize carriage of Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8982-N	Olin Corp. Stamford, CT	49 CFR 173.217	To authorize shipment of calcium hypochlorite, hydrated, classed as an oxidizer in DOT Specification 56 steel portable tanks. (Modes 1, 2.)
8983-N	Universal Propusion Co., Inc. Phoenix, AZ	49 CFR 173.238	To classify and authorize shipment of an aircraft rocket engine (commercial) flammable solid, in a fiberboard box with an electric inirvaton (igniter, Class C) contained in a separate fiberboard box overpacked together in a fiberboard box. (Mode 1.)
8984-N	Wyman Pilot Service, Inc., Warren, MI	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of various Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8985-N	Clover Aero, Inc., Friendswood, TX	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B	To authorize carriage of various Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8986-N	Cook Slurry Co. Salt Lake City, UT	49 CFR 173.114a(b)(3)	To authorize shipment of CO-GEL surry, blasting agent in up to 5,500 gallon capacity non-DOT specification stainless steel cargo tanks. (Mode 1.)
8987-N	Hedwin Corp. Baltimore, MD	49 CFR 178.35a	To manufacture, mark and sell DOT Specification 2SL inside polyethylene containers of Type III polyethylene, for shipment of those chemicals presently allowed in Type III 2SL containers. (Modes 1, 2, 3.)
8988-N	Schlumberger Well Services, Houston, TX	49 CFR 172.101, 173.110	To authorize shipment of charged oil well jet perforating guns, Class C explosive, transported by private motor vehicles in which the total weight of explosive does not exceed 200 pounds per vehicle. (Mode 1.)
8989-N	C-I-L Inc., North York, Ont., Canada	49 CFR 172.101, 173.77(b), 173.77(d)	To authorize shipment of an initiating explosive (pentaerythrite tetranitrate) Class A explosive, in fiberboard boxes wet with not less than 25 percent by weight of water with boxes marked "P.E.T.N." (Mode 1.)
8990-N	Pressure Pak, Inc., East Hampton, CT	49 CFR 178.65-5(a)(4) 175.3	To manufacture, mark and sell steel cylinders whichare comparable to DOT Specification 39 except they are longitudinal or helical welded with a service pnessure exceeding 500 psig, for shipment of those commodities presently authorized in DOT Specification 39 cylinders. (Modes 1, 2, 3, 4, 5.)
8991-N	Lea Ronal, Inc. Freeport, NY	49 CFR 172.25(a), 172.400, 172.402(a)(2), 172.402(a)(3), 172.504(a), 173.126, 173.138, 173.237, 173.246, 175.3.	To authorize shipment of small quantities of Class B poisonous liquids and solids, flammable liquids and solids, corrosive materials and oxidizers, without labeling and flammable solids without placarding. (Modes 1, 2, 4.)
8992-N	General Dynamics, Pomona, CA	49 CFR 172.101, 172.204(c)(3), 173.27, 175.20(b), 175.30(a)(1), Part 107, Appendix B, n.	To authorize shipment of various Class A and B explosives not permitted for air shipment or in quantities greater than those prescribed air shipment. (Mode 4.)
8993-N	John Brown Engineers & Constructors Limited, Hampshire, England.	49 CFR 173.134(a)(5)	To authorize shipment of a pyrofonc liquid, n.o.s., in non-DOT specification IMO Type V portable tanks. (Modes 1, 2, 3)
8994-N	EDI Corp. Anniston, AL	49 CFR 173.304, 178.42-2	To authorize shipment of carbon dioxide, liquefied, classed as a nonflammable gas, in foreign made cylinders similar to DOT Specification 3E except they have a 2.36 inch diameter. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 2, 1983.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-3682 Filed 2-9-83; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83-37]

Customs Approved Public Gauger

Approval of public gauger performing gauging under standards and procedures required by Customs.

Notice is hereby given pursuant to the provisions of § 151.43 of the Customs Regulations (19 CFR 151.43) that the application of Chem Coast, Inc., 1609 First Street, Galena Park, Texas 77547, to gauge imported petroleum and petroleum products in all Customs districts in accordance with the provisions of section 151.43, Subpart C, of the Customs Regulations is approved.

Dated: February 7, 1983.

A. Piazza,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 83-3659 Filed 2-9-83; 8:45 am]

BILLING CODE 4820-02-M

Office of the Secretary

Open Conference on Paperwork Burden Reduction

Notice is given that the Assistant Secretary (Administration) of the Department of the Treasury intends to hold an open conference on paperwork burden reduction on Thursday, March 17, 1983, at 10:00 AM in the Cash Room of the U.S. Treasury Department located at 15th St. and Pennsylvania Ave., NW., Washington, D.C.

The Assistant Secretary (Administration) has been designated by the Secretary of the Treasury to carry out departmental responsibilities under the Paperwork Reduction Act of 1980. The purpose of the conference is to solicit paperwork reduction ideas and suggestions from business, trade, professional and consumer groups, as well as from individuals.

The public is invited to attend the conference. However, so that proper arrangements can be made, requests to speak and written proposals should be submitted by March 9, 1983, to U.S. Treasury Department, Office of Management and Organization, 15th St. and Pennsylvania Ave., NW., Washington, D.C. 20220, Attention: Paperwork Reduction Conference. Persons who wish to speak should submit outlines of their remarks. Additional information may be obtained by writing to the above address or by calling (202) 634-2179.

Cora P. Beebe,

Assistant Secretary (Administration).

[FR Doc. 83-3693 Filed 2-9-83; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

During the period January 28 through February 3, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, P. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: N/A (Reinstatement)
Form Number: 1099R
Title: Statement for Recipients of Total Distributions from Profit-Sharing, Retirement Plans and Individual Retirement Arrangements
OMB Number: 1545-0146
Form Number: 2553
Title: Election by a Small Business Corporation
OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C 20503

Alcohol, Tobacco and Firearms

OMB Number: 1512-0116
Form Number: ATF F 2145
Title: Notice of Release of Cigars, Cigarettes, Cigarette Papers or Cigarette Tubes
OMB Number: 1512-0161
Form Number: ATF F 3039 (5100.13)
Title: Application for Distilled Spirits Stamps (Puerto Rico)
OMB Reviewer: Judy McIntosh (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Bureau of the Public Debt

OMB Number: N/A (new submission)
Form Number: PD 2192
Title: Advice of Nonreceipt of Interest Checks of United States Savings Bonds
OMB Reviewer: Judy McIntosh (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

February 4, 1983.

Joy Tucker

Departmental Reports, Management Officer.

[FR Doc. 83-3691 Filed 2-9-83; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Advisory Committee on Health-Related Effects of Herbicides; Meeting

The Veterans Administration gives notice under the provisions of Pub. L. 92-463 that a meeting of the Advisory Committee on Health-Related Effects of Herbicides will be held in Room 119 of the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC, on February 24, 1983, at 8:30 a.m. The purpose of the meeting will be to assemble and analyze information concerning toxicological issues which the Veterans Administration needs to formulate appropriate medical policy and procedures in the interest of veterans who may have encountered herbicidal chemicals used during the Vietnam Conflict.

The meeting will be open to the public to the seating capacity of the room. Members of the public may direct questions, in writing only, to the Chairman, Barclay M. Shepard, M.D., and submit prepared statements for review by the Committee. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Transcripts of the proceedings and rosters of the Committee members may be obtained from Mr. Donald Rosenblum, Agent Orange Project Office (10A7), Room, 848, Department of Medicine and Surgery, Veterans Administration Central Office, Washington, DC 20420 (Telephone: (202) 389-5411).

The appearance of this notice at least 15 days in advance of the meeting has been hindered due to delays in administrative processing.

Dated: February 1, 1983.

By Direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-3599 Filed 2-9-83; 8:45 am]

BILLING CODE 8320-01-M

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists new, revised, and extended forms. Each entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Ave, NW, Washington, DC, 20420 (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Andy Usher, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-7316.

DATES: Comments on the forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: February 3, 1983.

By Direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Revisions

1. Department of Veterans Benefits
2. Request for Supplies
3. 28-1905m
4. On occasion
5. Training or other rehabilitation service providers
6. 1,000 responses
7. 1,000 hours
8. Not applicable under 3504 (H)
1. Department of Veterans Benefits
2. Veterans Application for Work-Study Allowance
3. 20-8691
4. On Occasion
5. Veteran students
6. 50,000 responses
7. 12,500 hours
8. Not applicable under 3504 (H)

Extensions

1. Department of Veterans Benefits
2. Request for Confidential Verification of Birth
3. 21-4504
4. On occasion
5. Registrar of Vital Statistics
6. 9,000 responses
7. 1,500 hours
8. Not applicable under 3504 (H)
1. Depatment of Veterans Benefits
2. Application for Dependency and Indemnity Compensation by Parent(s)
3. 21-535
4. On Occasion
5. Deceased veterans' dependent parent(s)
6. 21,850 responses
7. 27,312 hours
8. Not applicable under 3504 (H)
1. Department of Veterans Benefits
2. Income Statement for Parent Claiming Dependency and Indemnity Compensation
3. 21-4179c
4. On occasion
5. Veterans' parent(s) claiming dependency and indemnity compensation
6. 10,500 responses
7. 5,250 hours
8. Not applicable under 3504 (H)

New

1. Department of Veterans Benefits
2. Notice for Election to Convey and/or Invoice for Transfer of Property
3. 26-8903
4. On occasion
5. Mortgage lenders/holders
6. 15,000 responses
7. 2,500 hours
8. Not applicable under 3504 (H)

[FR Doc. 83-3598 Filed 2-9-83; 8:45 am]

BILLING CODE 8320-01-M

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1983

Sunshine Act Meetings

Federal Register

Vol. 48, No. 29

Thursday, February 10, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Tennessee Valley Authority	6

1

CIVIL AERONAUTICS BOARD

[M-373, Amdt 2; February 7, 1983]

Addition to the February 8, 1983 Meeting

TIME AND DATE: 10 a.m. (open), 3 p.m. (closed), February 8, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

20a. Docket 40887, *U.S.-People's Republic of China Service proceeding. (Phase II).* (OGC)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary. (202) 673-5068.

[S-198-83 Filed 2-8-83; 3:59 pm]

BILLING CODE 6320-01-M

2

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, February 10, 1983 (following the conclusion of the Open Meeting previously set for this date and set to convene at 10 a.m.)

STATUS: This meeting will be closed to the public.

MATTER TO BE CONSIDERED:

Certification.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer; telephone 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-196-83 Filed 2-8-83; 3:46 pm]

BILLING CODE 6715-01-M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., February 16, 1983.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 134-43: Modification of the Gulf/Mediterranean Ports Conference Agreement to add foreign inland authority and remove jurisdiction over bulk cargoes.

2. Agreement No. 10305-1: Modification of the Far East Trades Self-Policing Discussion Agreement to enlarge the areas of discussion to include self-policing and neutral body contracts.

3. Pending Agreement No. 10066-3: Extension of the U.S. East and West Coast/Columbia Equal Access Agreement.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-195-83 Filed 2-8-83; 2:43 pm]

BILLING CODE 6730-01-M

4

POSTAL SERVICE

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 2 p.m. on February 16, 1983, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

The only agenda item for the meeting is to continue the discussion of the recommended decision of the Postal Rate Commission on third-class bulk rates in Docket No. R80-1, dated December 23, 1982. The meeting will be closed to public observation, the Board having duly determined to close its discussion in accordance with the provisions of the Sunshine Act.

Louis A. Cox,

Secretary.

[S-194-83 Filed 2-8-83; 2:28 pm]

BILLING CODE 7710-12-M

5

SYNTHETIC FUELS CORPORATION

Meeting

DATE AND TIME: February 17, 1983 at 10 a.m. (e.s.t.).

PLACE: Room 403, 2121 K Street, NW., Washington, D.C. 20586.

MATTERS TO BE CONSIDERED: Interested members of the public are advised that a meeting of the Board of Directors of the United States Synthetic Fuels Corporation will be held on the date and at the time and place specified below by telephone conference call. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and section 4 of the Corporation's Statement of Policy on public access to Board Meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II, Section 4 of the Corporation's By-laws, section 116(f) of the said Act and sections 4 and 5 of said policy.

Meeting Agenda

Remarks by Chairman
Approval of Minutes
Report of President
Operations Report of Executive Vice President

Closed Session:

Status of Negotiations Under Second Solicitation
Maturity Review of Third Solicitation Projects
Consideration of Targeted Coal Solicitation

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Office of General Counsel (202) 822-6336.

United States Synthetic Fuels Corporation

Jimmie R. Bowden,

Executive Vice President.

February 8, 1983.

[S-193-83 Filed 2-8-83; 2:01 pm]

BILLING CODE 0000-00-M

6

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1306]

TIME AND DATE: 10:15 a.m. (e.s.t.), Tuesday, February 15, 1983.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

DISCUSSION ITEM:

1. Preliminary Rate Review.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: February 8, 1983.

[S–197–83 Filed 2–8–83; 3:47 pm]

BILLING CODE 8120–01–M

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federal register

Thursday
February 10, 1983

Part II

Environmental Protection Agency

Guidelines Establishing Test Procedures for the Analysis of Nonconventional Pesticide Pollutants in the Pesticide Industry

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 455

[WH-FRL 2289-5]

Guidelines Establishing Test Procedures for the Analysis of Nonconventional Pesticide Pollutants in the Pesticide Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Regulation.

SUMMARY: EPA proposes to establish test procedures for the analysis of 66 of the 137 nonconventional pesticide pollutants for which effluent limitations guidelines and standards were proposed November 30, 1982 in 40 CFR Part 455 (47 FR 53994). The remaining 71 nonconventional pesticide pollutants either have Agency approved methods or do not require methods to analyze the concentrations of these pollutants in wastewaters because EPA has proposed to establish a no discharge of process wastewater standard. The analytical procedures will be used in supporting the effluent guidelines proposed in 40 CFR Part 455 (November 30, 1982, 47 FR 53994) and would also be used for filing applications for the National Pollutant Discharge Elimination System (NPDES) permits, for State certifications, and for compliance monitoring under the Clean Water Act.

DATES: Comments on this proposal must be submitted on or before April 11, 1983.

ADDRESS: Send comments to: Mr. George M. Jett, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: EGD Docket Clerk, Pesticide Chemicals Industry (WH-552). The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (EPA Library Rear) PM-213. Copies of the test methods document may be obtained from the Distribution Officer at the above address or by calling (202) 382-7115.

FOR FURTHER INFORMATION CONTACT: Mr. George M. Jett, at (202) 382-7180.

SUPPLEMENTARY INFORMATION:

Overview: This preamble describes the legal authority, scope, purpose, and background of this proposal, and the methodology used by the Agency to develop these proposed analytical methods. The Agency solicits comments from the industry and other interested parties on specific areas of interest.

Abbreviations, acronyms, and other terms used in the Supplementary Information section are defined in Appendix A of this notice.

Organization of This Preamble

I. Legal Authority
II. Background
  A. The Clean Water Act
  B. Prior EPA Regulations, 40 CFR Part 136
  C. Prior Pesticide Regulations
III. Scope of this Rulemaking and Summary of Methodology
IV. Cost and Economic Impacts
  A. Regulatory Flexability Analysis
  B. Executive Order 12291
V. Solicitation of Comments
VI. OMB Review
VII. Appendix
  A. List of Abbreviations etc.
  B. Nonconventional Pesticides For Which Analytical Methods are Proposed
  C. Nonconventional Pesticides Proposed for Regulation Which Have Promulgated Methods Available or are Regulated to Zero Discharge
  D. Summary of Method Operational Configurations

I. Legal Authority

This regulation is proposed under authority of Sections 304(h) and 501(a) of the Clean Water Act, 33 U.S.C. 1251 et seq. (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"). Section 304(h) of the Act requires the Administrator of EPA to "promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to Section 401 of this Act or permit applications pursuant to Section 402 of this Act." Section 501(a) of the Act authorizes the Administrator to "prescribe such regulations as are necessary to carry out his/her functions under this Act." The Administrator has also made these test methods applicable to monitoring and reporting of issued National Pollution Discharge Elimination System (NPDES) permits (40 CFR 122.60(c) and 122.60(e)) and pretreatment standards (40 CFR 403.7(d)(v)).

II. Background

The Clean Water Act

Under the Clean Water Act, the Agency is required to regulate three broad categories of pollutants. These categories are as follows:

- Toxic pollutants—These are a defined list of 126 pollutants derived from the NRDC Consent Decree in *Natural Resource Defense Council* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified 12 ERC 1833 (D.D.C. 1979).
- Conventional pollutants—These are biochemical oxygen demand (BOD), total suspended solids (TSS), oil and grease, fecal coliform, and pH.
- Nonconventional pollutants—A nonconventional pollutant is any pollutant not identified as a toxic pollutant (Section 307(a)(1) of the Act) or as a conventional pollutant (Section 304(a)(4) of the Act).

Section 304(h) of the Clean Water Act directs the Agency to approve analytical methods for the analysis of pollutants. These methods are used for compliance monitoring and for filing applications for the NPDES program. Without these methods, there would be no universally applicable procedure for determining the presence and concentration of these pollutants in wastewater. To date, EPA has established analytical methods for some but not all of the toxic and nonconventional pollutants regulated by the proposed pesticide effluent limitations guidelines and standards. Agency approved analytical methods exist for all of the conventional pollutants regulated by the November 30, 1982 proposal (47 FR 53994).

Analytical Methods 40 CFR Part 136

On October 16, 1973, EPA promulgated test procedures for the analysis of wastewater pollutants in 40 CFR Part 136 entitled "Guidelines Establishing Test Procedures for the Analysis of Pollutants" (38 FR 28758). These guidelines included methods for both toxic, conventional and nonconventional pollutants, but did not include methods for all the toxic and all the nonconventional pollutants. These guidelines were amended on December 1, 1976 (41 FR 52780) to include test procedures for other well known pollutants and pollutant parameters, including metals and a number of organic compounds.

The amended Test Procedures Guidelines of December 1, 1976 (41 FR 52780) were inadequate to meet the testing requirements for all of the toxic pollutants. Therefore, to fill this gap, the Agency embarked on an intensive program to develop test procedures under Section 304(h) of the Act. On December 3, 1979 the Agency proposed additional methods for toxic pollutants as amendments to 40 CFR Part 136 (44 FR 69464). These methods included test procedures based on gas chromatography (GC), mass spectroscopy (MS), high-pressure liquid chromatography (HPLC) and inductively coupled plasma optical emission spectroscopy (ICP). These guidelines are currently scheduled to be promulgated in early 1983.

Pesticide Analytical Methods

On November 30, 1982 the Agency proposed effluent limitations guidelines and standards for 34 specific toxic pollutants and 137 nonconventional pesticide active ingredients pollutants (47 FR 53994). The acquisition, preservation and analysis of water samples for the nonconventional pesticide pollutants followed either: (1) The relevant methods promulgated in 40 CFR Part 136, (2) methods developed by the Environmental Monitoring and Support Laboratory (EMSL) of the EPA, (3) the relevant industry methods or (4) EPA contractor developed methods which are similar to the methods proposed and/or promulgated under Part 136. Industry developed and contractor developed methods were used for most of the data collection during the development of the pesticide regulations proposed in November 1982. The industry methods were supplied to the Agency in response to information requests made during 1982. In situations where there were no approved methods under Section 304(h) of the Act, contractor methods were developed. Contractor methods were also used to verify the presence and quantity of pollutants present in pesticide wastewaters prior to treatment and after the application of various control and treatment technologies employed in the industry. Concurrently EMSL was developing and testing methods for Agency approval pursuant to Section 304(h) of the Act for these and other nonconventional pesticides as well as expanding and improving prior approved methods. All the respective methods are described in detail in the record to the pesticide regulation proposed in November, 1982.

Nonconventional pesticides are manufactured or are used in manufacturing processes at plants with a narrow pesticide product base, and pesticides are produced only at a limited number of locations. Historically methods proposed and/or promulgated pursuant to Section 304(h) of the Act (304(h) methods) have been developed for pollutants which are more universally generated, and therefore, 304(h) methods were not developed for many of these nonconventional pesticides. Because of this characteristic unique to the pesticide industry, the Agency has relied upon data generated with industry and contractor produced analytical methods in arriving at effluent limitation guidelines and standards.

Since, nonconventional pesticide pollutants are among the controlling wastewater parameters for which the treatment systems are designed in the pesticide industry, it is necessary that methods for these compounds be developed. However, numerous nonconventional pollutants are still lacking Agency approved test procedures. Today the Agency is proposing analytical methods for 66 of the 137 nonconventional pollutant pesticides for which Agency approved procedures do not currently exist (Appendix 1). The remaining 71 nonconventional pollutants regulated in the proposed effluent limitations, guidelines and standards for the pesticides industry either have 304(h) approved methods or do not require any method because EPA proposed to establish "no discharge of process wastwater" [1] as the effluent limitations and standards of performance (Appendix 2). The methods for nonconventional pollutants are included in the record to the pesticide regulation proposed in November 1982 (47 FR 53994).

The analysis of water samples for toxic pollutants classified as pesticides and for conventional pollutants is presented in the record to the regulation proposed in November 1982 (47 FR 53994). The industry supplied analytical methods for toxic pollutants, however, are not being proposed today because the Agency has not yet completed its evaluation of the methods for these toxic pollutants and because the Agency believes that the 304(h) methods are adequate for analysis of toxic pollutants. The Agency is currently reviewing the industry and contractor supplied analytical methods in order to determine their similarity to methods proposed and/or promulgated pursuant to 304(h) of the Act.

III. Scope of This Rulemaking Package

This proposed rulemaking is a compilation of three sets of methods: those developed by industry, those developed by the contractor and those developed/approved by EMSL. The Agency is proposing to publish these methods in a document entitled "Test Methods for Nonconventional Pesticide Chemical Analysis of Industrial and Municipal Wastewaters," (EPA–440/1–83–079c). That document is incorporated by reference into this regulation and is available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (EPA Library Rear) PM–213, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. Persons intending to comment on these test methods may obtain a copy of the document from Mr. George M. Jett, Effluent Guidelines Division (WH/552) Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 or by calling (202) 382–7180. The document will also be for sale from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 in March 1983. The accession number can be obtained from George M. Jett, at the address listed above.

The Agency intends to seek Federal Register approval of this incorporation by reference. We intend to incorporate these methods by reference rather than publish their full text in the Federal Register and the Code of Federal Regulations because the methods are lengthy and complicated, and because they include many tables, charts and graphs that would be difficult to codify.

The Agency is proposing these test procedures for nonconventional pollutants in 40 CFR Part 455. This is pursuant to § 401.13. Section 401.13 provides that the test procedures for measurement which are prescribed at Part 136 apply to effluent limitations guidelines and standards unless otherwise specifically noted in 40 CFR Parts 402 through 699. However, the Agency reserves the option of final promulgation of these approved methods either in 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, or in 40 CFR Part 455. These methods only apply to the analysis of wastewaters pursuant to the Clean Water Act. They are not applicable to analysis under the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) such as residue analyses.

The document which is incorporated by reference is divided into four sections; (A) industry developed methods; (B) contractor developed methods; (C) EMSL developed/approved methods and (D) requirements for sample collection, preservation, handling, quality control, and safety.

Sections A and B contain the methods from which data were generated and subsequently used by the Agency to prepare most of the nonconventional pesticide effluent limitations guidelines and standards proposed on November 30, 1982 (47 FR 53994). The methods developed by the industry are found in Section A and include the following instrumental techniques: gas chromatography, spectrophotometry, high pressure liquid chromatography, thin layer chromatography, gas chromatography/mass spectrometry and titration and are numbered 101 to 145. Any non-confidential information

[1] No discharge of process wastewater means no flow of process wastewater.

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concerning the precision and accuracy of these methods is available for public review in the Administrative Record to those proposed regulations.

The Section B contractor developed methods include gas chromatography, spectrophotometry, high pressure liquid chromatography, and gas chromatography/mass spectrometry and are numbereded 401 to 409. The methods in Section B were developed and used by Agency contractors during the pesticides industry verification program. In the verification program, 16 plants representative of the pesticide industry, were selected and were sampled by Agency contractors. Verification program sampling was conducted in accordance with the Pesticides BAT Review Verification Sampling Protocol. The purpose of the verification program was to verify the presence and quantity of pollutants present in pesticide wastewaters prior to treatment and after the application of various control and treatment technologies employed in the industry. (For more information on the verification program see 47 FR 53997.) Information concerning the precision and accuracy of these methods was furnished by the Agency's contractors and non-confidential portions are also available in the Administrative Record to the regulations proposed in November, 1982.

The methods in Section C were developed/approved and written by the Agency's Environmental Monitoring and Support Laboratory, Cincinnati, Ohio (EMSL). Those methods include gas chromatography, gas chromatography/mass spectrometry, high pressure liquid chromatography, and spectrophotometric and are numbered 604 through 633 and 701. These methods were not used for data generation for the proposed pesticide effluent limitations and standards because they were generated subsequent to the data underlying the regulations proposed in November, 1982. The Agency is evaluating the EMSL methods to determine whether they are equivalent to the methods used to generate the data supporting the proposed effluent limitations and standards. If they are judged equivalent, these methods may be approved by the Agency for compliance monitoring.

In some cases there are methods from three sources (industry, contractor and EMSL) available for one nonconventional pesticide. The Agency is presenting all available methods for each nonconventional pesticide for public comment. The Agency then intends to select the most appropriate method or methods for promulgation. This selection process is based on the results of an evaluation of the proposed or promulgated industry, contractor and EMSL methods available for each pesticide. The evaluation includes a review of all available methods information which pertains to the suitability of methods for both data generation and compliance monitoring. In order to perform this evaluation, the Agency is analyzing the potential of the method to generate reliable data as well as the necessary equipment, the complexity of the methods, the multianalyte capability of each method and the detection limits for each method. The methods discussed in Sections A, B and C of the document entitled "Test Methods for Nonconventional Pesticide Chemical Analysis of Industrial and Municipal Wastewaters" (Test Methods Document) are summarized in Appendix D of this regulation, "Summary of Method Operational Configurations."

The Agency has attempted to obtain all available information on analytical methods from the manufacturers and contractors. A summary of this information obtained is included in Appendix D. Information on the EMSL developed/approved methods is also included in Appendix D. The Agency requests comments on the methods found in Sections A, B, and C of the Test Methods Document and will evaluate this information before promulgation of the analytical methods in final form. During the comment period the Agency will continue to evaluate the methods and relevant supporting data. If after evaluation any methods are deemed unsuitable, the Agency will withdraw these methods from this rulemaking package.

Section D of the Test Methods Document contains quality assurance (QA) requirements for the collection, preservation and handling of samples, and requirements for quality control (QC), and safety. These requirements proposed by the Agency are applicable to all the proposed nonconventional pesticide methods. QA/QC is a program developed to assure the generation of quality data. The QA/QC discussed in Section D has generally not been employed in the industry test methods. The QA/QC used by industry varies from method to method. In order to have a uniformly, acceptable method to assure the quality of the data, the Agency is proposing a uniform standard QA/QC program. It involves a rigorous format that includes a control over performance of the laboratory and method analysis. It also includes calibration of instruments, duplication of sample analyses to determine precision, and spiking with known concentrations of compounds to determine percent recoveries and the suitability of the method for the matrix of concern. The Agency invites comment on the appropriateness of using a uniform QA/QC standard. Details of this program such as laboratory safety procedures involved when using the analytical methods and the collection, preservation and handling of samples are found in Section D. Proposed procedures for collecting grab and composite samples are also discussed in Section D.

IV. Cost and Economic Impact

These proposed methods are not considered a requirement for monitoring and therefore do not directly impose costs or otherwise impact the industry. The costs and economic impacts of monitoring are usually considered as part of the cost of effluent limitations guidelines and standards. The Agency, however, inadvertently omitted those costs from the costs associated with the pesticide effluent limitations guidelines and standards proposed in November, 1982. The Agency estimates that the cost to analyze nonconventional pollutants using available analytical methods including those proposed today would range from $54.00 to $135.00 per method. The average monitoring frequency for the pesticide industry is estimated at once per week. At the average monitoring frequency, the costs for the entire industry to analyze all proposed nonconventional pollutants would range from $140,000 to $351,000 per year in 1979 dollars, or less than 1.0 percent of the total cost of compliance with the effluent limitations guidelines and standards in 40 CFR Part 455.

The Agency also inadvertently omitted the costs associated with analyzing the toxic and conventional pollutants from the costs calculated for the proposed pesticide regulations. The Agency estimates that the costs to analyze toxic and conventional pollutants using the proposed 304(h) methods would range from $110 to $220 per method per year in 1979 dollars. At the estimated average monitoring frequency (once/week), the costs for the entire industry to analyze toxic and conventional pollutants would range from $560,000 to $1,404,000 per year in 1979 dollars.

The annual costs for the industry to analyze conventional, nonconventional, and toxic pollutants would range from approximately 0.7 to 1.75 million dollars per year. These costs will neither noticeably increase the cost of

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production nor result in any additional closures. The total annualized cost of the pesticide effluent limitations, guidelines and standards proposed in November, 1982 including these costs is estimated at $38 million.

Regulatory Flexibility Analysis

Public Law 96–354 requires that a Regulatory Flexibility Analysis (RFA) be prepared for regulations proposed after January 1, 1981 that have a significant impact on a substantial number of small entities. The analysis may be done in conjunction with or as part of any other analysis conducted by the Agency. The Economic Impact Analysis of the proposed pesticide regulations indicates that there will be no impact on any segment of the regulated manufacturing population, large or small. The addition of these analytical methods does not change this result. Accordingly, there are no significant impacts on small firms, and a formal Regulatory Impact Analysis is not required.

Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules impose an annual cost to the economy of $100 million or more or meet other economic impact criteria. EPA does not consider the proposed pesticide regulations including these proposed test procedures to be a major regulation because they do not meet any of the criteria specified in paragraph (b) of the Executive Order. Therefore, the proposed regulation does not require a formal regulatory impact analysis. This rulemaking satisfies the requirements of the Executive Order for a non-major rule.

V. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that any comments be specific and supported by relevant data.

EPA is particularly interested in receiving additional comments and information on the test methods for analysis of pesticides under this rule. Methods proposed are generally specific to a particular pesticide and site. The Agency specifically solicits comments on the suitability of the proposed methods. These comments should address subjects such as: (1) Precision, (2) accuracy or recovery, (3) detection limit (4) selectivity or freedom from interferences and (5) ease-of-use. Suggestions must be specific, understandable by an analytical chemist familiar with analysis of pesticides in waters, and supported by data documenting methods performance improvements. The names, addresses, and phone numbers of persons who can be contacted for additional information must be included. Suggestions must reference the applicable section of the pesticide method as listed in this proposal.

VI. OMB Review

The regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments for OMB to EPA and any EPA response to those comments are available for public inspection at Room M2404, U.S. EPA, 401 M Street, S.W., Washington, D.C. 20460 from 9:00 a.m. to 4:00 p.m. Monday through Friday excluding federal holidays.

List of Subjects in 40 CFR Part 455

Pesticides and pest chemicals, Waste treatment and disposal, Water pollution control, Analytical methods and test procedures.

Dated: January 31, 1983.

Anne M. Gorsuch,

Administrator.

VII. Appendices

Appendix A: Abbreviations, Acronyms and other Terms Used in this Notice

Act—The Clean Water Act

Agency—The U.S. Environmental Protection Agency

AOP—Ambam oxidation product

BBTAC—1,1'-(2-butenylene) bis(3,5,7-triaza-1-azo (niaadiamantane chloride)

Clean Water Act—(CWA) The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.) as amended by the Clean Water Act of 1977 (Pub. L. 95–217)

Conventional Pollutants—These are biochemical oxygen demand (BOD), total suspended solids (TSS), oil and grease, fecal coliform, and pH

Design Effluent Levels—Long-term average final effuent levels demonstrated or judged achievable from maximum raw waste load levels through application of the recommended treatment technologies

Direct Discharge—A facility which discharges or may discharge pollutants into waters of the United States excluding oceans

ECD—Electron Capture Detector

Effluent Limitations—Any restrictions established by a state or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance

FID—Flame ionization detector

FPD—Flame photometric detector

GC—Gas chromatography

GC/MS—Gas chromatography/mass spectrometry

HPLC—High pressure liquid chromatography

Indirect discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works

Long-Term Average—The average (mg/l or lbs/1,000 lbs) effluent for a pollutant at a particular point in the wastewater treatment system, based on available data. Treatment varability factors may be multiplied by the long-term average to derive 30-day maximum and daily maximum effluent limitations

Nonconventional Pollutants—For the pesticide industry nonconventional pollutants are defined as nonpriority pollutant pesticides, COD, ammonia, and manganese

Nonconventional Pesticide Pollutants—A nonconventional pollutant is any pollutant not identified as a toxic pollutant (Section 307(a)(1) of the Act) or as a conventional pollutant (Section 304(a)(4) of the Act)

NPDES permit—A National Pollutant discharge Elimination system permit issued under Section 402 of the Act

NSPS—New source performance standards under section 306 of the Act

Pesticide—Any technical grade ingredient used for controlling, preventing, destroying, repelling, or mitigating any pest

Pesticide Active Ingredient—The ingredient of a pesticide which is intended to prevent, destroy, repel, or mitigate any pest. The Active ingredients may make up only a small percentage of the final product which also consists of binders fillers, diluents, etc.

Pesticide Industry—The combined facilities which manufacture as well as formulate and/or package pesticides

POTWs—Publicly owned treatment works

Pretreatment Standards—Any restrictions established by the states or the Administrator on quantities, rates and concentrations of chemical, physical, biological and other constituents which are discharged to POTW's

Priority Pollutants—See Toxic Pollutants

Process Wastewater—Any aqueous discharge which results from or has had contact with the manufacturing process. For purposes of this study

only wastewater from the final synthesis step in the manufacture of pesticide active ingredients is included, in addition to the following: (1) Wastewater from vessel-floor washing in the immediate manufacturing area; (2) stormwater runoff from the immediate manufacturing area; (3) wastewater from air pollution scrubbers utilized in the manufacturing process or in the immediate manufacturing area.

QA—Quality Assurance. In this notice quality assurance pertains to requirements for sample collection, preservation and handling, quality control, and safety.

QC—Quality Control

308 Survey—A questionnaire drafted by EPA, approved by the National Agricultural Chemicals Association and the Office of Management and Budget (OMB #158–R0169), and subsequently distributed to pesticide manufacturers in July 1978. The primary purpose of the survey was to obtain basic data concerning manufacturing, disposal, and treatment, as well as potential sources of toxic, conventional, and nonconventional pollutants

Technical Development Document—The support document, entitled Development Document for the Pesticide Chemicals Manufacturing Category, which provides a technical data base for the proposal of effluent limitations for expanded BPT, BAT, NSPS, and Pretreatment Standards for the pesticide industry.

TLC—Thin Layer chromatography

Toxic Pollutants—These are a defined list of 126 pollutants derived from the NRDC Consent Decree in *Natural Resource Defense Council* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified 12 ERC 1833 (D.D.C. 1979).

UV—Ultra violet absorbance

Verification Program—A sampling and analysis project conducted by private contractors to the Agency at selected plants in the industry. The purpose of the program was to verify the presence of the toxic, conventional, and nonconventional pollutants identified during the screening program and to determine the levels of these pollutants present in process wastewaters prior to and after application of the various control and treatment technologies employed in the industry.

ZAC—Zinc ammonium carbamate

Appendix B: Nonconventional Pesticides for Which Analytical Methods Are Proposed

1. Alachlor
2. AOP
3. Benfluralin
4. Benomyl
5. Bentazon
6. Bolstar
7. Bromacil
8. Busan 40
9. Busan 85
10. Butachlor
11. Carbam-S
12. Carbendazim
13. Carbofuran
14. Carbophenothion
15. Chlorobenzilate
16. Chloropyrifos
17. Chloropyrifos methyl
18. Coumaphos
19. Cyanazine
20. 2, 4-DB
21. 2, 4-DB isobutyl ester
22. 2, 4-DB isobutyl ester
23. DBCP
24. Deet
25. Dhchlofenthion
26. Dichlorvos
27. Dinoseb
28. Dioxathion
29. Ethalfluralin
30. Ethion
31. Etridiazole
32. Fensulfothion
33. Fenthion
34. Ferbam
35. Fluometuron
36. Glyphosate
37. Hexazinone
38. Isopropalin
39. KN Methyl
40. Mancozeb
41. Maneb
42. Mephosfolan
43. Metham
44. Methomyl
45. Metribuzin
46. Mevinphos
47. Nabam
48. Naled
49. Niacide
50. Oxamyl
51. PCP Salt
52. Phorate
53. Profluralin
54. Propachlor
55. Ronnel
56. Simetryne
57. Stirofos
58. Terbacil
59. Terbufos
60. Terbutryn
61. Triadimefon
62. Trichloronate
63. Tricyclazole
64. ZAC
65. Zineb
66. Ziram

Appendix C: Nonconventional Pesticides Proposed for Regulation Which Have Promulgated Methods Available or are Only Regulated to Zero Discharge

1. Alkylamine hydorchloride*
2. Ametryne†
3. Aminocarb†
4. Amoban*
5. Atrazine†
6. Azinphos methyl†
7. Barban*
8. BBTAC*
9. Biphenyl*
10. Captan†
11. Carbaryl†
12. Chloropicrin*
13. Chloropropham†
14. 2,4-D†
15. 2,4-D isobutyl ester†
16. 2,4-D isooctyl ester**
17. 2,4-D salt*
18. DCNA†
19. D–D*
20. Demeton†
21. Demeton-O†
22. Demeton-S†
23. Diazinon†
24. Dicamba†
25. Dichlorophen salt*
26. Dicofol†
27. Disulfoton†
28. Diuron†
29. Dowicil 75*
30. Ethoprop*
31. Fenuron†
32. Fenuron-TCA†
33. Fluoroacetamide*
34. Glyodin*
35. HPTMS*
36. Linuron†
37. Malathion†
38. Merphos*
39. Metasol J–26*
40. Methiocarb†
41. Methoxychlor†
42. Mexacarbate†
43. Mirex†
44. Monuron†
45. Monuron-TCA†
46. Neburon†
47. Parathion ethyl†
48. Parathion methyl†
49. PCNB†
50. Perthane†
51. Prometon†
52. Prometryn†
53. Propazine†
54. Propham†
55. Propoxur†
56. Pyrethrin†
57. Siduron†
58. Silvex†
59. Silvex isooctyl ester*
60. Silvex salt*
61. Simazine†
62. Sodium monofluoroacetate*

63. SWEP†
64. 2,4,5–T†
65. Terbuthylazine†
66. Tributyltin benzoate*
67. Tributyltin oxide*
68. Trifluralin†
69. Vancide 51Z*
70. Vancide 51Z dispersion*
71. Vancide TH*

*=Only regulated to zero discharge.
†=Promulgated method available.
**=Promulgated method available and regulated to zero discharge.

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APPENDIX B. SUMMARY OF METHOD OPERATIONAL CONFIGURATIONS

Method	Instrument Technique	Column/Sorbent	Experimental Conditions/Program	Detection	QA/QC[1] Average % Recovery[2] / Relative Std. Deviation[3]
101 Alachlor	GC	10% DCSD 710 on	Carrier flow 80-100 mL/min	FID	not available (Ref. 1)
Butachlor		80/100 Gas Chrom Q	60°C to 220°C at 10°/min		not available
Propachlor		2' X 1/4" 316 SS			± 10%
102 Alachlor	GC	10% OV-11 on	He, 25.0 mL/min	NPD or ECD	not available (Ref. 1)
Butachlor		100/120 Chromosorb W-HP	200°C - 2 min.	as necessary to deal	93 - 112%
Propachlor		6' x 2 mm glass	6°/min to 250°C	with interferences	3 - 10%
			hold 10 min		
103 AOP	CS_2 evolution	None	acid decomposition	Visible Absorbance	not available (Ref. 1)
Zineb	Spectrophoto-		N_2 @ 200 mL/min, digest	(435 nm)	not available
Ziram	metric		for 45 min. Color reagent		not available
ZAC			copper acetate monohydrate/ diethanolamine		
104 Benfluralin	GC	"Aue" Carbowax 20M (special)	10% methane/90% argon	ECD	control sample (Ref. 1)
		122 cm x 3 mm ID glass	50 mL/min, 120°C		not available
					± 10%
Ethalfluralin		10% DC 200/2% QF-1	10% methane/90% argon	ECD	
		122 cm x 3 mm glass	50 mL/min, 150°C		
Isopropalin		"Aue" Carbowax 20M (special)	10% methane/90% argon	ECD	
		122 cm x 3 mm glass	50 mL/min, 160°C		
105 Benomyl Carbendazim	HPLC	Partisil SCX-LC column, PXS-1025	60% methanol/40% 0.007M $NH_4H_2PO_4$ buffer	UV 274 nm	not available (Ref. 1)
			isocratic, 3 mL/min		2%
106 Benomyl Carbendazim	HPLC	Zipax SCX strong cation exchanger	0.025M tetramethylammonium nitrate-0.025M HNO_3	UV 254	not available (Ref. 1) 87
		1m x 2.1 mm I.D., S.S.	0.5 mL/min		not available
			60°		
107 Benzason	GC	1) 10% SE-30 on	N_2 80 mL/min, 200°C	FPD	not available (Ref. 1)
		Chromosorb HP or Gas Chrom Q 80/100 4' x 1/4" I.D.			84-116 not available
		2) 3% Carbowax 20M on 60/80 Gas Chrom Q 4' x 1/4" I.D., glass			
108 Bolstar	Off-column injection GC	10% DC-200 on 80/100 Gas Chrom Q 18" x 1/8" OD glass	He, 30 mL/min 230°C	NPD	not available (Ref. 1) not available not available
109 Oxamyl Methomyl Bromacil Bezaimone Terbacil	HPLC	Zorbax ODS reverse phase 25 cm x 4.6 mm I.D.	gradient: water, acetonitrile, step 1: acetonitrile 0-40% 40 min step 2: ACN 40%-100% 8 min step 3: ACN 100%-100% 3 min step 4: ACN 100%-0% 5 min step 5: ACN 0%-0% 5 min flow rate 2.0 mL/min	UV-254 nm	not available (Ref. 1) 76 - 126 not available
110 Busan 40 Busan 85 N-Methyl	spectrophoto- metric	None	Direct absorbance measured	UV absorbance (284 nm)	not available (Ref. 1) not available not available
111 Carbofuran	GC	5% OV-17	He, 25-30 mL/min	FID	not available (Ref. 1)
		on Chromosorb W-HP 3' x 1/8" OD SS	175°C		not available not available

[1] QA/QC is the first entry opposite each method. The percentage of analytical work load which must be performed is indicated. Sample types which must be included for quality control are also indicated.

[2] Average recovery is given as a range in the first set of numbers.

[3] Relative standard deviation is given as a range in the second set of numbers.

Reference 1 is EPA QC protocol as specified in "Methods for Nonconventional Pesticide Chemical Analysis of Industrial and Municipal Wastewater", January 31, 1983, EPA 440/1-83-079-C.

Method	Instrument Technique	Column/Sorbent	Experimental Conditions/Program	Detection	QA/QC[1] Average % Recovery[2] Relative Std. Deviation[3]
112 Chlorobenzilate	TLC	Silica Gel G, neutral (50% Merck Silica Gel G, 50% Bio Rad Sil-A) on 200 x 200 mm glass plates coated at a thickness of 200 u.	eluent: n-hexane/ 3-A alcohol (anhydrous) 95%/5% (V,V)	spray with $AgNO_3$, expose to UV light, max 366 nm. Visual spot detection	not available (Ref. 1) not available 30%
113 Chlorpyrifos Chlorpyrifos methyl	GC	11% OV-17 and QF-1 (mixed phase) on 80/100 Gas Chrom Q 72" x 5/32" ID glass	N_2, 200 mL/min, 205°C	FPD	spikes & replicates (Ref. 1) 85 - 110 5%
114 Coumaphos	Off-column injection EX	10% DC - 200 on 80/100 Gas Chrom Q 18" x 1/8" OD glass	He, 30 mL/min, 230°C	NPD	not available (Ref. 1) not available not available
115 Cyanazine	TLC	Silica Gel G, neutral (50% Merck Silica Gel G 50% Bio Rad Bio Sil-A) on 200 x 200 mm glass plates coated at a thickness of 200 u.	eluent: tetrahydrofuran/ ethyl acetate/n-hexane 4/16/80 (V,V)	spray with 0.02N $AgNO_3$, expose to UV light - 366 nm. Visual spot detection	not available (Ref. 1) not available 30%
116 Cyanazine Stirofos	HPLC	Micropak CN 25 cm x 1/8"	65% chloroform/35% heptane (V,V), 1 mL/min	UV	not available (Ref. 1) not available not available
117 2,4-DB	GC	3% OV-101 on HMDS Chromasorb W 10' x 1/8"	N_2, 60 mL/min, 190°C	FID	not available (Ref. 1) not available not available
118 Deet	DE	1) 4% SE-30/6% OV-210 on 80/100 silanized support 2) 5% or 10% OV-210 on 100/120 silanized support	1) flow 70-90 mL/min, 200°C 2) flow 45-60 mL/min, 180°C	FPD	not available (Ref. 1) not available not available
119 Dichlorvos Naled Mevinphos Stirofos	GC	1) 3% OV-225 on 100/120 Gas Chrom Q, or 2) 3% QF-1 on 80/100 Gas Chrom Q 6' x 1/4" glass	He, 70 mL/min 120° for 3 min, 10° C/min to 230° C, hold 10 min	FPD	spikes & replicates (Ref. 1) 40.5 - 93.7 3.5% - 5.0%
120 Dichlorvos Naled Mevinphos Stiforos	GC	3% QF-1 on Chromosorb W, AW-DMCS treated 4' x 1/4" glass	N_2, 70 mL/min 140-200°C (after elution of Naled)	FPD with phosphorus filter	not available (Ref. 1) not available not available
121 Dinoseb	GC	5% DC 200 in chloroform on Chrom Z, 74" x 3 mm ID glass	N_2 (prepurified), 85 mL/min	Barber-Coleman Sr.^{90} ionization detector Model A-4150	not available (Ref. 1) not available not available
122 Dinoseb	GC	1.95% OV-17/1.5% QF-1 on 80/100 mesh Gas Chrom Q 6' x 1/4" glass	N_2, 90 mL/min, 190°C	FID	spikes (Ref. 1) [illegible] not available
123 Ethion	GC	10% SE-30 or 80/100 mesh Chromasorb W 4' x 1/4" Teflon	235°C for 7.0 min. to 250°C (max) if GC without control crasole, isothermal-235°C	FPD in phosphorus mode	blanks & known samples (Ref 1) not available not available

[1] QA/QC is the first entry opposite each method. The percentage of analytical work load which must be performed is indicated. Sample types which must be included for quality control are also indicated.

[2] Average recovery is given as a range in the first set of numbers.

[3] Relative standard deviation is given as a range in the second set of numbers.

Reference 1 is EPA QC protocol as specified in "Methods for Nonconventional Pesticide Chemical Analysis of Industrial and Municipal Wastewater", January 31, 1983, EPA 440/1-83-079-C.

Method	Instrument Technique	Column/Pretreat	Experimental Conditions/Program	Detection	QA/QC[1] Average % Recovery[2] Relative Std. Deviation[3]
124 Etridiazole	GC	15% SP 2100 on 80/100 mesh Supelcoport 6' x 1/4" OD, 2 mm ID glass	95% Argon/5% methane 45 mL/min	ECD	not available (Ref. 1) > 90 not available
125 Fensulfothion	on-column injection GC	3% OV-225 on 80/100 mesh Gas Chrom Q 3' x 1/8" OD glass	He, 20 mL/min 230°C	NPD	not available (Ref. 1) not available not available
126 Fenthion	on-column injection GC	15% OV-17 on Chromasorb W, DMCS 60/80 mesh 3' x 1/8" ID glass	He, 20 mL/min 235°C	NPD	not available (Ref. 1) not available not available
127 Glyphosate	HPLC	Dupont Zorbax SAX 15 cm x 4.6 mm	phosphate buffer in methanol, pH 2.3 flow rate 0.6 mL/min	Technicon colorimeter 570 nm	spikes (Ref. 1) 70 3.4% - 7.9%
128 Mancozeb	GC GC-MS for confirmation	Tenax GC, 60/80 mesh 6' x 4 mm ID glass	N_2, 30 mL/min, 140°C	FPD (sulfur mode)	not available (Ref. 1) 71-85 not available
129 Maneb	CS_2 evolution Spectrophotometric	None	acid hyrolysis, color reagent of copper acetate and amines	Visible Absorbance (435 nm)	not available (Ref. 1) not available not available
130 Naphosfolan Phorate Terbufos	On-column injection GC	3% OV-25 on 100/120 mesh Gas Chrom Q 122 cm x 1/4 mm ID glass	He, 75 mL/min 130°C - 250°C at 4°C/min	FID	blanks & duplicates (Ref. 1) not available not available
131 Nuban	GC	10% SP-2100 on 100/120 mesh Supelcoport 1.8 cm x 2 mm ID, glass	N_2, 30 mL/min, 60°C	FPD (sulfur mode)	not available (Ref. 1) 81-88 3%
132 Nuarimol	HPLC	Partisil - PAC 10 u 250 mm x 3.2 mm	15% v/v isopropanol/ heptane, 2 mL/min	UV 230 nm	not available (Ref. 1) not available not available
133 Nuarimol	GC	not available	not available	FPD (sulfur mode)	not available (Ref. 1) not available not available
134 Nuviphos	GC	10% EGSS-X on 100/120 mesh Chromasorb W 2' x 2 mm glass	N_2, 50 mL/min	ECD	not available (Ref. 1) > 90 not available
135 Profluralin	TLC	Silica Gel G, neutral (50% Merck Silica Gel G, 50% Bio Rad Bio Sil-A) on 200 x 200 mm glass plates coated at a thickness of 200 u.	eluent: benzene/chloroform/ethyl acetate 2/2/1 (V.V.)	air dry, expose to Cl_2 gas for 30 sec, after 2 min, spray with starch solution. Visual spot detection	not available (Ref. 1) not available 30%
136 Simetryne	TLC	Silica Gel G, neutral (50% Merck Silica Gel G, 50% Bio Rad Bio Sil-A) on 200 x 200 mm glass plates coated at a thick-thickness of 200 u.	eluent: benzene/chloroform/ ethyl acetate 2/2/1 (V.V.)	air dry, expose to Cl_2 gas for 30 sec, after 2mm, spray with a starch solution. Visual spot detection	not available (Ref. 1) not available 30%
137 Trisdimefon	TLC	Silica gel plates, E. Merck F-254	eluent: toluene/ethyl acetate 9/1	air dry, spray with 1N methanolic sodium hydroxide; air dry, spray with p-nitro-benzenediazonium fluoborate (NBDF), 0.2% in methanol-water 1:1. Visual spot detection	not available (Ref. 1) not available not available

[1] QA/QC is the first entry opposite each method. The percentage of analytical work load which must be performed is indicated. Sample types which must be included for quality control are also indicated.

[2] Average recovery is given as a range in the first set of numbers.

[3] Relative standard deviation is given as a range in the second set of numbers.

Reference 1 is EPA QC protocol as specified in "Methods for Nonconventional Pesticide Chemical Analysis of Industrial and Municipal Wastewater", January 31, 1983, EPA 400/1-83-079-C.

Method	Instrument Technique	Column/Sorbent	Experimental Conditions/Programs	Detector	QA/QC[1] Average % Recovery[2] Relative Std. Deviation[3]
138 Trichloromate	off-column injection GC	3% OV-225 on 80/100 mesh Gas Chrom Q 3' x 1/8" OD, glass	He, 20 mL/min 130°C to 240°C at 15°C/min, hold 15 min.	NPD	not available (Ref. 1) not available not available
139 Tricyclazole	HPLC	u Bondapak C_{18} (10 um) 3.9 mm ID x 30 cm, or Lichrosorb RP-18 (10 um) 4.6 mm ID x 25 cm	methanol/water (50:50, v/v) 0.8 - 1.5 mL/min	UV 254 nm	not available (Ref. 1) 94-101 2.5% - 31.4%
140 Glyphosate	HPLC	Dupont Zorbax SAX 15 cm x 4.6 mm	phosphate buffer in methanol, pH 7.3 flow rate 0.6 mL/min	Technicon colori-meter 570 nm	spikes (Ref. 1) 80 - 95 7.8%
141 Bromacil Hexazinone Terbacil	GC/MS	3% OV-101 on 80/100 mesh Chromosorb W 6' x 1/4" OD glass	He, 25 mL/min 230°C (bromacil) 275°C (hexazinone) 220°C (terbacil)	MS	not available (Ref. 1) 82 - 91 3.1% - 6.2%
142 Ziram	CS_2 evolution titration	scrubbed gas collected in methanolic KOH	evolved CS_2 passed through lead acetate solution, and collected in KOH	titration with standardized iodine solution	not available (Ref. 1) not available not available
143 Propachlor	GC	Permabond DEGS on Chromosorb WAW 1.8 m x 2 mm ID glass	N_2, 40 mL/min, 150°C isothermal	FID	blanks & replicates (Ref. 1) > 90 not available
144 Fluometuron	TLC	Silica Gel G (Analtech), 250 u layer, 20 cm x 20 cm	toluene/acetone (85/15, v,v)	air-dry, expose to Cl_2 gas for 45 sec., spray with starch/ KI solution	not available (Ref. 1) not available 30%
145 Metribuzin	HPLC	u Bondapak C_{18}	gradient: 81 water (40% to 0%) acetonitrile (13% to 100%) in 50 min.	UV-313 nm	not available (Ref. 1) not available not available
401 AAP Ferbam Nisicide ZAC Zineb Ziram	CS_2 evolution Spectrophoto-metric	Same	Acid decomposition methanolic KOH reaction	Visible absorbance (380 nm)	5% spikes, 10% duplicates (Ref. 1) 74 8.3%
402 Benomyl Carbendazim	Direct Injection HPLC	Zorbax ODS, 6-8 u 25 cm x 4.6 mm ID Whatman Co: Pell ODS precolumn 5 cm x 2.1 mm ID	50% CH_3OH/50% buffer-10% v.v glacial acetic acid, 0.10 M sodium acetate, 1.0 mL/min	UV-254nm	not available (Ref. 1) 87-103 not available not available
403 Carbofuran	Direct Injection HPLC	Zorbax ODS 25 cm x 4.6 mm ID Whatman Co: Pell ODS guard column, 5 cm x 2.1 mm ID	55% CH_3OH/44.8% H_2O/0.2% acetic acid isocratic, 1.5 mL/min	UV-254nm	spikes & replicates (Ref. 1) 83-99 5.0%
404 Chlorobenzilate Terbutryn Profluralin	GC	3% STAP on 80/100 mesh Chromosorb WHP 1.8 cm x 2 mm ID glass	N_2 45 mL/min isothermal 190°C or program - 90°C for 5 min, 90°C to 225°C at 10°/min hold at 225°C for 14 min.	[illegible] or thermionic	spikes & replicates (Ref. 1) [illegible] 3% - 21%

[1] QA/QC is the first entry opposite each method. The percentage of analytical work load which must be performed is indicated. Sample types which must be included for quality control are also indicated.

[2] Average recovery is given as a range in the first set of numbers.

[3] Relative standard deviation is given as a range in the second set of numbers.

Reference 1 is EPA QC protocol as specified in "Methods for Nonconventional Pesticide Chemical Analysis of Industrial and Municipal Wastewater", January 31, 1983, EPA 440/1-83-079-C.

Method	Instrument Technique	Column/Sorbent	Experimental Conditions/Programs	Detection	QA/QC[1] Average % Recovery[2] Relative Std. Deviation[3]
605 2,4-DB 2,4-DB ISE 2,4-DB ESE	GC	1) 1.5% OV-17/1.95% OV-210 on 100/120 mesh Chromosorb W-HP 1.8 m x 2.0 mm glass 2) or 3% OV-7 on 100/120 mesh Chromosorb W-HP 1.8 m x 2.0 mm glass	(ECD) 95% Ar/5% CH_4, 30 mL/min (FID) H_2, 30 mL/min	ECD or FID	10% dupes, 5% spikes (Ref. 1) 54-89 not available
606 Dinoseb	GC	1% SP-1240 DA on 100/120 mesh Supelcoport 6' x 2 mm ID glass	He, 30 mL/min 190° C	FID	spikes (Ref. 1) 147-150 not available
607 Dinoseb	GC/MS	1% SP-1240 DA on 100/120 mesh Supelcoport 6' x 2.0 mm ID glass	He, 30 mL/min 80°-185°C at 8°C/min hold at 185°C for 15 min	MS	spikes (Ref. 1) 91 1.5%
608 Methomyl	HPLC	u Bondapak C_{18}	40% acetonitrile/60% H_2O at 1.0 mL/min	UV-254 nm	spikes (Ref. 1) 41-70 not available
609 Cyanazine	HPLC	Zorbax ODS C_{18} 4.6 mm ID x 25 cm Co: Pell ODS guard column, 5 cm x 2.1 cm	40% acetonitrile/60% H_2O, isocratic	UV-254 nm	spikes (Ref. 1) 96 not available
604 Pentachlorophenol, sodium salt	GC	1% SP-1240 DA on 80/100 mesh Supelcoport, 1.8 m x 2 mm ID, glass 5% OV-17 on 80/100 mesh Chromosorb W-AW-DMCS	H_2, 30 mL/min, 80°C at injection, 8°C/min to 150°C 5% methane/95% argon, 30 mL/min, 200°C	FID or ECD for derivatized phenols	10% spikes + duplicates 79 8.8
608.1 Chlorobenzilate Etridiazole Propachlor Dibromochloropropane (DBCP)	GC GC-MS for confirmation	1) 1.5% SP-2250/1.95% SP-2401 on 100/120 mesh Supelcoport 180 cm x 2 mm ID glass	H_2, 30 mL/min, 140°C (etridiazole), 150°C (propachlor), 215°C (chlorobenzilate), 100°C (DBCP)	ECD	10% spikes + duplicates 74 - 144 1.7% - 9.9%
		2) Ultrabond 20 M 100/120 mesh 180 cm x 2 mm ID, glass	H_2, 30 mL/min, 200 °C		
614 Ethion	GC	1) 3% OV-1 on 100/120 mesh Gas Chrom Q 180 cm x 4 mm ID, glass	H_2, 60 mL/min, 200°C isothermal	FPD	10% spikes + duplicates 94 - 102 3.2% - 5.2%
	GC-MS for confirmation	2) 1.5% OV-17/1.95% QF-1 on 100/120 mesh Gas Chrom Q 180 cm x 4 mm ID, glass	H_2, 70 mL/min 215°C isothermal		

[1] QA/QC is the first entry opposite each method. The percentage of analytical work load which must be performed is indicated. Sample types which must be included for quality control are also indicated.

[2] Average recovery is given as a range in the first set of numbers.

[3] Relative standard deviation is given as a range in the second set of numbers.

Reference 1 is EPA QC protocol as specified in "Methods for Nonconventional Pesticide Chemical Analysis of Industrial and Municipal Wastewater", January 31, 1980, EPA 440/1-80-079-C.

Method	Instrument Technique	Column/Sorbent	Experimental Conditions/Programs	Detection	QA/QC[1] Average % Recovery[2] Relative Std. Deviation[3]
615 2,4-DB 2,4-DB IBE 2,4-DB IOE Dinoseb	GC	1) 1.5% SP-2250/1.95% SP-2401 on 100/120 mesh Supelcoport 180 cm x 4 mm ID, glass	95% Ar/5% methane, 70 mL/min, isothermal, 185°C, except 140°C for 6 min, then 10°/min to 200°C for dinoseb	ECD	10% spikes + duplicates 81 - 93 3% - 4%
		2) 5% OV-210 on 100/120 mesh Gas Chrom Q 180 cm x 4 mm ID, glass	95% Ar/5% methane, 70 mL/min 185°C, isothermal		
		3) 0.1% SP-1000 on 80/100 mesh Carbopak C	N_2, 25 mL/min 100°C to 150°C at 10°/min		
617 Carbophenothion	GC	1.5% SP-2250/1.95% SP-2401 on 100/120 mesh Supelcoport 1.8 m x 4 mm ID, glass	5% methane/95% argon, 60 mL/min, isothermal at 200°C	ECD	10% spikes + duplicates not available not available
	GC-MS for confirmation	3% OV-1 on 100/120 mesh Supelcoport, 1.8 m x 4 mm ID, glass	5% methane/95% argon 60 mL/min, isothermal at 200°C		
619 Simetryn Terbutryn	GC	1) 5% Carbowax 20M-TPA on 80/100 mesh Supelcoport 180 cm x 2 mm ID, glass	He, 30 mL/min, 200°C	NPD in nitrogen mode	10% spikes + duplicates 83 - 183 10% - 24%
		2) 1.0% Carbowax 20 M or Gas Chrom Q 180 cm x 4 mm ID, glass	He, 80 mL/min isothermal, 155°C		
622 Bolstar Chlorpyrifos Chlorpyrifos methyl Coumaphos Dichlorvos Fensulfothion Fenthion Mevinphos Naled Phorate Ronnel Stirofos Trichloronate	GC	1) 5% SP-2401 or 100/120 mesh Supelcoport 180 cm x 2 mm ID,	1a) He, 30 mL/min, 150°C for 1 min, 25°/min to 220°C, hold 1b) N_2, 30 mL/min, 170°C for 2 min, 20°/min to 220°C, hold	NPD or FPD phosphorus mode	spikes & duplicates 56.5 - 109.0
		2) 3% SP 2401 or 100/120 mesh Supelcoport 180 cm x 2 mm ID, glass	2) He, 25 mL/min, 170°C for 7 min, 10°C/min to 250°C, hold		
		3) 15% SE-54 or 80/100 mesh Gas Chrom Q 50 cm x 1/8" OD, Teflon	3) N_2, 30 mL/min, 100°C and 25°/min to 200°C, hold		
625 Pentachlorophenol, sodium salt	GC-MS	1% SP-1240 DA on 100/120 mesh Supelcoport, 1.8 m x 2 mm ID, glass	He, 30 mL/min, 70°C for 2 min, 8°/min to 200°C	MS	spikes + duplicates NR NR-34%
627 Benfluralin Ethalfluralin Isopropalin Profluralin	GC	1) 1.5% OV-17/1.95% OV-210 on 100/120 mesh Gas Chrom Q 180 cm x 2 mm ID, glass	95% Ar/15% methane, 30 mL/min, 190°C, isothermal	ECD	10% spikes + duplicates 73 - 99 1.1% - 13.2%
		2) Ultrabond 20M 100/120 mesh 1.8 cm x 2 mm ID, glass	N_2, 30 mL/min, 160°C for 2 min, 10°C/min to 200°C		
629 Cyanazine	HPLC	Spherisorb ODS (10 um) 25 cm x 2.6 mm ID stainless steel	mobile phase - gradient from 50% solvent B to 100% solvent B in 2 min. Solvent A = 25% methanol in water, B = 50% methanol in water, flowrate 1.0 mL/min	UV - 254 nm	10% spikes + duplicates 78 - 100 3.9% - 8.9%

[1] QA/QC is the first entry opposite each method. The percentage of analytical work load which must be performed is indicated. Sample types which must be included for quality control are also indicated.

[2] Average recovery is given as a range in the first set of numbers.

[3] Relative standard deviation is given as a range in the second set of numbers.

Reference 1 is EPA QC protocol as specified in "Methods for Nonconventional Pesticide Chemical Analysis of Industrial and Municipal Wastewater", January 31, 1983, EPA 440/1-83-079-C.

Method	Instrument Technique	Column/Sorbent	Experimental Conditions/Program	Detection	QA/QC[1] Average % Recovery[2] Relative Std. Deviation[3]
630 AOP Busan 40 Busan 85 Carbam-S Ferbam KN Methyl Maneozeb Maneb Metham Nabam Niacide ZAC Zineb Ziram	CS_2 evolution Spectrophotometric	None	CS_2 is purged from sample Color reagent = cupric acetate monohydrate/diethanolamine	Absorbance at 380 and 435 nm	10% spikes + duplicates 65.2 - 100 2.8 - 15.5%
631 Benomyl Carbendazim	HPLC	u Bondapak C_{18} (10 um) 30 cm x 4 mm ID, stainless steel	mobile phase: methanol/water (1+1), rate 2.0 mL/min	UV - 254 nm	10% spikes + duplicates 70 - 117 5.5 - 16.5%
632 Carbofuran Fluometuron Methomyl Oxamyl	HPLC	u Bondapak C_{18} (10 um) 30 cm x 4 mm ID, stainless steel, guard column: Whatman CO-PELL ODS (30-38 um), 7 cm x 4 mm ID	mobile phase, methonyl-acetonitrile/water, linear gradient 10% to 100% acetonitrile in 30 min at rate 2.0 mL/min, oxamyl-35% methanol in water, flowrate 2.09 mL/min, carbofuran and fluometuron - 50% acetonitrile in water at flowrate 2.0 mL/min	UV - 254 and 280 nm	10% spikes + duplicates 68.2 - 99 1.4 - 8.4%
633 Bromacil Deet Hexazinone Metribuzin Terbacil Triadimefon Tricyclazole	GC	1) 3% SP-2250 DB on 100/120 mesh Supelcoport 180 cm x 2 mm ID Glass	1a) N_2, 30 mL/min, 210°C for 1 min, 10°/min to 250°C, hold 1b) isothermal, 240°C	NPD in nitrogen mode	spikes & duplicates 69 - 126 0.8 - 18.5%
		2) 3% SP-2401 on 100/120 mesh Supelcoport 180 cm x 2 mm ID, glass	2a) N_2, 30 mL/min, 106°C at injection, 10°/min to 230°C 2b) 130°C for 1 min, 12°/min to 200°C		
P01 Dichlofenthion Dioxathion Carbophenothion	GC	5% DC-200 or 5% QF-1 on 60/80 mesh Gas Chrom Q, 180 cm x 2 mm ID, glass	N_2, 75 mL/min, 185°C	FPD in phosphorus mode	standards (Ref. 1) not available not available

[1] QA/QC is the first entry opposite each method. The percentage of analytical work load which must be performed is indicated. Sample types which must be included for quality control are also indicated.

[2] Average recovery is given as a range in the first set of numbers.

[3] Relative standard deviation is given as a range in the second set of numbers.

Reference 1 is EPA QC protocol as specified in "Methods for Nonconventional Pesticide Chemical Analysis of Industrial and Municipal Wastewater", January 31, 1983, EPA 440/1-83-079-C.

BILLING CODE 6560-50-C

For the foregoing reasons EPA proposes to amend 40 CFR Part 455 as follows:

PART 455—PESTICIDE CHEMICALS

1. The authority citation for Part 455 is revised to read as follows:

Authority: Secs. 301, 304(h) and 501(a), Federal Water Pollution Control Act, as amended (33 U.S.C. 1311, 1314, 1361, 86 Stat. 816 et seq. ("The Act")).

2. EPA proposes to add a new Subpart P to Part 455 to read as follows:

Subpart P—Test Methods for Nonconventional Pesticides

Sec.
455.170 Applicability
455.171 Identification of Test Procedures

Subpart P—Test Methods for Nonconventional Pesticides

§ 455.170 Applicability

The procedures prescribed herein shall supplement the guidelines establishing test procedures for the analysis of pollutants contained in Part 136 of this chapter and, except as provided in part 136, shall be used to perform the measurements indicated whenever the waste constituent specified is required to be measured under the Clean Water Act.

§ 455.171 Identification of test procedures

The 66 nonconventional pesticide pollutants to which this regulation applies and for which effluent limitation guidelines or standards are now specified are named together with CAS number and analytical method designation in Table I. The chemical names for all nonconventional pollutant pesticides are found in Table II to this regulation. The discharge parameter values for which information must be submitted under the Clean Water Act or regulations issued pursuant thereto must be determined by one of the methods designated in Table 1 as described in "Test Methods for Nonconventional Pesticide Chemicals Analysis of Industrial and Municipal Wastewaters" (EPA–440/1–83–079c) which is incorporated by reference or by alternative methods described or approved in accordance with Part 136. The document which is incorporated by reference is available by writing to George M. Jett, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 or by telephoning (202) 382–7180 for parties intending to comment on these test methods. The document also will be for sale from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. The accession number can be obtained from George M. Jett at the address listed above. This incorporation by reference is being submitted for approval by the Director of the Federal Register.

TABLE 1.—LIST OF PROPOSED TEST PROCEDURES [1]

Pesticide	CAS No	Industry "100-series"	Contractor "400-series"	EMSL "600-series" and "700-series"
1. Alachlor	15972-60-8	101,102	None	None
2. AOP	(NA)	103	401	[illegible]
3. Benfluralin	1861-40-1	104	[illegible]	627
4. Benomyl	17804-35-2	105,106	[illegible]	631
5. Bentazon	25057-89-0	107	[illegible]	[illegible]
6. Bolstar	35400-43-2	108	None	[illegible]
7. Bromacil	314-40-9	109,141	None	633
8. Busan 40	51026-28-9	110	[illegible]	[illegible]
9. Busan 85	128-03-0	110	[illegible]	630
10. Butachlor	23184-66-9	101,102	None	[illegible]
11. Carbam-S	128-04-1	None	[illegible]	[illegible]
12. Carbendazim	10605-21-7	105,106	402	631
13. Carbofuran	1563-66-2	111	403	632
14. Carbophenothion	786-19-6	None	[illegible]	617,701
15. Chlorobenzilate	510-15-6	112	[illegible]	608.1
16. Chloropyrifos	2921-88-2	113	[illegible]	622
17. Chloropyrifos methyl	5598-13-0	113	None	622
18. Coumaphos	56-72-4	114	None	622
19. Cyanazine	21725-46-2	115,116	[illegible]	629
20. 2,4-DB	94-82-6	117	405	615
21. 2,4-DB isobutyl ester	533-74-4	None	405	615
22. 2,4-DB isooctyl ester	1320-15-6	None	405	615
23. DBCP	96-12-8	[illegible]	None	608.1
24. Deet	134-62-3	118	None	633
25. Dichlofenthion	97-17-6	None	None	701
26. Dichlorvos	62-73-7	119, 120	[illegible]	622
27. Dinoseb	88-85-7	121, 122	406,407	615
28. Dioxathion	78-34-2	None	[illegible]	701
29. Ethalfluralin	55283-68-6	104	[illegible]	627
30. Ethion	563-12-2	123	[illegible]	614
31. Etridiazole	2593-15-9	124	None	608.1
32. Fensulfothion	115-90-2	125	None	622
33. Fenthion	55-38-9	126	[illegible]	622
34. Ferban	14484-64-1	103	401	[illegible]
35. Fluometuron	2164-17-2	144	[illegible]	632
36. Glyphosate	1071-83-6	127,140	[illegible]	[illegible]
37. Hexazinone	51235-04-2	109,141	None	[illegible]
38. Isopropalin	33820-53-0	104	[illegible]	627
39. KN Methyl	(NA)	110	[illegible]	[illegible]
40. Mancozeb	8018-01-7	128	None	[illegible]
41. Maneb	12427-38-2	129	None	[illegible]
42. Mephosfolan	950-10-7	130	None	[illegible]
43. Metham	137-42-8	131	None	630
44. Methomyl	16752-77-5	109,132,133	[illegible]	632
45. Metribuzin	21087-64-9	145	None	633
46. Mevinphos	7786-34-7	119,120,134	None	622
47. Nabam	142-59-6	None	[illegible]	630
48. Naled	300-76-5	119,120	[illegible]	622
49. Niacide	15339-36-3	103	401	630

TABLE 1.—LIST OF PROPOSED TEST PROCEDURES [1]—Continued

Pesticide	CAS No.	Industry "100-series"	Contractor "400-series"	EMSL "600-series" and "700-series"
50. Oxamyl	23135-22-0	109	None	632
51. PCP Salt	131-52-2	None	None	604,625
52. Phorate	298-02-2	130	None	622
53. Profluralin	26399-36-0	135	404	627
54. Propachlor	1918-16-7	101,102,143	None	608.1
55. Ronnel	299-84-3	None	None	622
56. Simetryne	1014-70-6	136	None	619
57. Sarrotos	961-11-5	116,119,120	None	622
58. Terbacil	5902-51-2	109,141	None	633
59. Terbufos	13073-79-9	130	None	None
60. Terbutryn	886-50-0	None	404	619
61. Tnadimefon	43121-43-3	137	None	633
62. Trichloronate	327-98-0	138	None	622
63. Tricyclazole	41814-78-2	139	None	633
64. ZAC	(NA)	103	401	630
65. Zineb	12122-67-7	103	401	630
66. Ziram	137-30-4	103,142	401	630

NA = Not Available.
[1] Complete test procedures are included in "Test Methods for Nonconventional Pesticide Chemicals Analysis of Municipal and Industrial Wastewaters" (EPA-400/1-83-000)

TABLE 2.—LIST OF COMMON NAMES AND CHEMICAL NAMES OF NONCONVENTIONAL PESTICIDES

Common name	Chemical name
1. Alachlor (Lasso)	2-Chloro-2',6'-diethyl-N-(methoxymethyl) acetanilide
2. Alkylamine hydrochloride	Alkylamine hydrochloride
3. Ametryne (Evik)	2-Ethylamino-4-isopropylamino-6-methylthio,1,3,5-triazine.
4. Aminocarb	4-Dimethylamino-3-methylphenyl-methyl-carbamate.
5. Amobam	Diammonium ethylenebisdithiocarbamate
6. [AOP] (Ambam oxidation product).	Ethylene bis (dithiocarbamic acid) bimolecular and trimolecular cyclic anhydrosulfides and disulfides
7. Atrazine (Aatrex)	2-Chloro-4-ethylamino-6-isopropylamino-1,3,5-triazine
8. Azinphos methyl (Guthion)	O,O-Diethyl S-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate.
9. Barban (Carbyne)	4-Chlorobut-2-butynyl-m-chlorocarbanilate
10. 1,1' - (2 - butenylene)bis (3,5,7-triaza-1-azo (naadamantane chloride) [BBTAC]	1,1'-(2-Butenylene)bis(3,5,7-triaza-1-azo naadamantane chloride).
11. Benfluralin (Benefin)	N-Butyl-N-ethyl-2,6-dinitro-4-trifluoro-methylaniline.
12. Benomyl (Benlate)	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
13. Bentazon (Basagran)	3-Isopropyl-1H-2, 1,3-Benzothiadiazon-(4) 3H-one 2, 2-dioxide.
14. Biphenyl (Diphenyl)	Diphenyl
15. (Bolstar) Sulprofos	O-Ethyl O-[4(methylthio)phenyl]-s-propyl] phosphorodithioate
16. Bromacil (Hyvar)	5-Bromo-3-sec-butyl-6-methyl-uracil
17. (Busan 40)	Potassium N-hydroxymethyl-N-Methyldithio carbamate
18. (Busan 85)	Potassium dimethyldithio carbamate
19. Butachlor (Machete)	N-(Butoxymethyl)-2-chloro-2', 6'-diethylacetanilide
20. Captan (Orthocide 406)	N-[(Trichloromethyl)thio]-4-cyclohexene-1,2-dicarboximide.
21. (Carbam-S) (Sodam)	Sodium dimethyldithiocarbamate
22. Carbaryl (Sevin)	1-Naphthyl N-methylcarbamate
23. Carbendazim	2-(Methoxycarbonylamino)benzimidazol
24. Carbofuran (Furadan)	2,3-Dihydro-2,2—dimethyl-7-benzofuranyl methylcarbamate
25. Carbophenothion (Trithion)	S-[(p-Chlorophenylthio)-methyl] O,O,-diethyl phosphorodithioate
26. Chlorobenzilate (Acaraben)	Ethyl 4,4 -dichlorobenzilate
27. Chloropicrin (Larvacide, Nemax)	Trichloronitromethane
28. Chloropropham	Isopropyl-3-chlorophenyl carbamate.
29. Chlorpyrifos (Dursban)	O,O-Diethyl O-(3,5,6-trichloro-2-pyridyl)phosphorothioate
30. Chlorpyrifos methyl	O,O-Dimethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate
31. Coumaphos (Co-Ral)	O-(3-Chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl) O,O-diethyl phosphorothioate
32. Cyanazine (Bladex)	2-[(4-Chloro-6-(ethylamino)-S-triazine-2-yl)amino]-2-Methylpropionitrile
33. 2,4-D	2,4-Dichlorophenoxyacetic acid
34. 2,4-D isobutyl ester	2,4-Dichlorophenoxyacetic acid, technical mixture: Isobutyl ester, 60%, N-butyl ester, 40%.
35. 2,4-D isooctyl ester	2,4-Dichlorophenoxyacetic acid isooctyl ester, 3,4-Dimethylhexanol, 20%, 3,5-Demethylhexanol, 30%, 4,5-Dimethylhexanol, 30%, 3-Methylheptanol, 15%, 5-Methylheptanol, 5%
36. 2,4-D salt	2,4-Dichlorophenoxyacetic acid dimethylamine salt.
37. 2,4-DB	4-(2,4-Dichlorophenoxy)-butyricacid.
38. 2,4-DB isobutyl ester	4-(2,4-Dichlorophenoxy)-butyricacid isobutyl ester
39. 2,4-DB isooctyl ester	4-(2,4-Dichlorophenoxy)-butyricacid isobutyl ester
40. DBCP (Dibromochloropro- pane, Nemagon)	1,2, Dibromo-3-chloropropane and related halogenated C3 hydrocarbons
41. DCNA (Dichloran, Botran)	(2,6 Dichloro-4, nitroaniline).
42. D-D (Dichloropropane-dichloropropene mixture)	(60–66%) 1,3-dichloropropene and (30–35%) 1,2-Dichloropropane and other constituents
43. Deet	NN-Diethyl-m-toluamide
44. Demeton (Systox)	Mixture of O,O-diethyl-S(and 0)-[2-(ethylthio)ethyl] phosphorothioats

TABLE 2.—LIST OF COMMON NAMES AND CHEMICAL NAMES OF NONCONVENTIONAL PESTICIDES—Continued

Common name	Chemical name
45. Demeton-O	O,O-Diethyl O-[2-(ethylthio)ethyl] phosphorothioates.
46. Demeton-S	O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorothioate.
47. Diazinon (Spectracide)	O,O-Diethyl O-(2-isopropyl-b-methyl-4-pyrimidinyl) phosphorothioate.
48 Dicamba (Banvel D)	2-Methoxy-3,b-dichlorozbenzoic acid.
49. Dichlofenthion (Nemacide).	O-2,4-Dichlorophenyl O,O-diethyl phosphorothioate.
50. Dichlorophen salt	Sodium salt of 2,2'-mehtylene bis(4-chlorophenol).
51. Dichlorvos (DDVP)	2,2-Dichlorovinyl dimethyl phosphate.
52 Dicofol	1,1-Bis(p-chloropheny)-2,2,2-trichloroethanol.
53. Dinoseb (DNBP)	2-(sec-Butyl)-4,6-dinitrophenol.
54. Dioxathion (Delnav)	S,S'-p-Dioxane-2,3-diyl O,O-diethyl phosphorothioate (cis and trans isomers).
55. Disulfoton (Di-Syston)	O,O-Diethyl S-[2-(ethylthio)-ethyl] phosphorothioate.
56. Diuron (DCMU)	3-(3,4-Dichlorophenyl)-1-dimethylurea.
57. (Dowicil 75)	1-(3-Chlorallyl)-3,5,7-triaza-1-azonia-ad mentane.
58. Ethalfluralin (Sonalan)	N-Ethyl-N-(2-methyl-2-propenyl)-2,6-dinitro-4-(trifluoromethyl) aniline.
59 Ethion	O,O,O'O-Tetraethyl S,S'-methylene bisphosphorodithioate.
60. Ethoprop (Mocap)	O-Ethyl S,S'dipropyl phosphorothioate.
61 Etridiazole (Terrozole)	5-Ethoxy-3-trichloromethyl-1,2,4-thiadiazole.
62 Fensulfothion (Danasit)	O,O-Diethyl O-[p(methylsulfinyl) phenyl] phosphorothioate
63. Fenthion (Baytex)	O,O-Dimethyl O-[4-(methyl-thio)-m-tolyl] phosphorothioate.
64. Fenuron	1, 1-Dimethyl-3-phenylurea.
65 Fenuron-TCA	3-Phenyl-1, 1-dimethylurea trichloroacetate.
66. Ferbam (Fermate)	Ferric dimethyldithiocarbamate.
67 Fluometuron (Cotoran)	1, 1-Dimethyl-3-(3-trifluoromethyl-phenyl)urea.
68. Fluoroacetamide	Fluoroacetamide
69. Glyodin	2-Heptadecyl-2-imidazoline acetate.
70. Glyphosate (Roundup)	N-(Phosphonomethyl)glycine.
71. Hexazinone	3-Cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4 (1H,3H)-dione.
72. HPTMS	S-(2-Hydroxy propyl) thiomethane Sulfonate.
73. Isopropalin (Paarlan)	2,6-Dinitro-N, N-dipropylcumidine.
74. (KN methyl)	Potassium N-methyl dithiocarbamate.
75. Linuron (Afolan, Lorox)	3-(3,4-Dichlorophenyl)-1-methoxy-1-methylurea.
76. Malathion (Mercaptothion, Cythion).	Diethyl mercaptosuccinate S-ester with O,O-dimethyl phosphorodithioate.
77. Mancozeb (Dithane M-45)	Coordination product of maneb containing 16 to 20% Mn and 2.0 to 2.5% Zn (zinc) (maneb-manganous ethylene-1,2-bis-dithiocarbamate.
78 Maneb (Manzate)	Manganous ethylene-1,2-bis-dithiocarbamate.
79. Mephosfolan (Cytrolane)	P,P-Diethyl cyclic propylene ester of phosphonodithioimido-carbonic acid.
80 (Merphos) (Folex)	Tributyl phosphorotrithiorte.
81 (Metasol J-26)	N(1 Nitroethyl benzyl) ethylene diamine 25%.
82. Metham (Vapam, SMDC)	Sodium N-methyldithio carbamate.
83 Methiocarb	4-Methylthio-3,5-xylyl methyl-carbamate.
84. Methomyl (Lannate)	S-Methyl N-[(methylcarbomoyl)-oxy]thioacetimidate.
85. Methoxychlor (Marlate)	2,2-Bis(p-methoxyphenyl)-1,1,1-trichloroethane.
86 Metribuzin (Sencor)	4-Amino-6-tert-butyl-3-(methyl-thio)-1,2,4,triazine-5-one.
87 Mevinphos (Phosdrin)	Methyl 3-hydroxy-alpha-crotonate, dimethyl phosphate.
88 Mexacarbate	4-(Dimethylamine)-3,5-xylyl methyl carbamate.
89 Mirex	Dodecachloro-octahydro-1,3,4-metheno-2h-cyclobuta[c,d]pentalene.
90 Monuron	3-(p-chlorophenyl)-1,1-dimethylurea.
91 Monuron-TCA	3-(p-chlorophenyl)-1,1-dimethylurea trichloroacetate.
92. Nabam (Dithane D-14)	Disodium ethylene bis(dithiocarbamate).
93. Naled (Dibrom)	1,2-Dibromo-2,2-dichloro-ethyl dimethyl phosphate.
94 Neburon	1-n-Butyl-3-(3,4-dichlorophenyl)-1-methylurea.
95. (Niacide)	Manganeous dimethyldithio-carbamate.
96. Oxamyl (Vydate)	Methyl n',n'-dimethyl-N-[(methyl-carbomoyl)oxy]-1 thio oxamimidate.
97 Parathion ethyl	O,O-Diethyl-O-p-nitrophenyl phosphorothioate
98 Parathion methyl	O,O-Dimethyl O-p-nitro-phenyl phosphorothioate
99. PCNB (Quintozene)	Pentachloronitrobenzene.
100. PCP sale	2,3,4,5,6-Potassium-pentachlorophenate.
101 Perthane	1,1-Dichloro-2,2-bis(p-ethylphenyl) ethane
102. Phorate (Thimet)	O,O-Diethyl S-[(ethylthio)-methyl]phosphorodithioate
103. Profluralin (Tolban)	N-Cyclopropylmethyl-2,6-dinitro-N-Propyl-4-trifluoromethyl-aniline
104. Prometon (Pramitol)	2,4-Bis(isopropylamino)-6-methoxy-s-triazine
105. Prometryn (Caparol)	2,4-Bis(isopropylamino)-6-(methylthio)-S-triazine
106. Propachlor (Ramrod)	2-Chloro-N-isopropylacentanilide.
107. Propazine (Milogard)	2-Chloro-4,6-bis(isopropylamino)-s-triazine.
108. Propham	Isopropyl carbanilate
109. Propoxur	O-Isopropoxyphenyl methylcarbamate
110. Pyrethrins	Standardized mixture of pyrethrins I and II (mixed esters of pyrethrolone
111. Ronnel (Fenchlorphos)	O,O-Dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate
112. Siduron (Tupersan)	1-(2-Methylcyclohexyl)-3-phenylurea.
113. Silvex (Fenoprop)	2-(2,4,5-Trichlorophenoxy) propionic acid
114. Silvex isooctyl ester	Isooctyl ester of 2-(2,4,5-trichlorophenoxy) propionic acid.
115. Silvex salt	Dimethyl amine salt of 2-(2,4,5-trichlorophenoxy) propionic acid.
116. Simazine (Princep)	2-Chloro-4,5,6-bis(ethyl-amino)-s-triazine.
117. Simetryne (Gybon)	2-Methylthio-4,6-bis-ethylamino-s-triazine.
118. Sodium monofluoroacetate	Sodium monofluoroacetate.
119. Stirofos (Tetrachlorvinphos)	2-Chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate
120 SWEP	Methyl N-(3,4-dichlorophenyl) carbamate.
121 2,4,5-T	2,4,5-Trichlorophenoxyacetic acid

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TABLE 2.—LIST OF COMMON NAMES AND CHEMICAL NAMES OF NONCONVENTIONAL PESTICIDES—Continued

Common name	Chemical name
122. Terbacil (Sinbar)	3(tert-Butyl)-5-chlor-6-methyl uracil.
123. Terbufos (Counter)	5-tert-Butylthiomethyl O,O-dimethyl phosphorodithioate.
124. Terbuthylazine (GS 13529).	2-tert-Butylamino-4-chloro-6-ethylamino-1,3,5-triazine.
125. Terbutryn (Igran)	2-(tert-Butylamino)-4-(ethylamino)-6-(methylthio)-s-triazine.
126. Triadimefon (Bayleton)	1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1,2,4-triazol-1-yl) buton-2-one.
127. Tributyltin benzoate	Tributyltin benzoate.
128. Tributyltin oxide	Bis(tri-n-butyltin) oxide.
129. Trichloronate	O-ethyl O-(2,4,5-trichlorophenyl)ethylphosphorothioate.
130. Tricyclazole	5-Methyl-1,2,4-triazolo [3A-b] Benzothiazole.
131. Trifluralin (Treflan)	a,a,a-Trifluoro-2,6-dinitro-N,N-Dipropyl-p-toluidine.
132. (Vancide TH)	Hexahydro-1,3,5-trethyl-s-triazine.
133. (Vancide 51Z)	Zinc dimethyldithiocarbamate and Zinc 2-mercaptobenzo-thiazole.
134. (Vancide 51Z dispersion).	50% Zinc dimethyldithiocarbamate and Zinc 2-mercaptobenzothiazole 50% water.
135. [ZAC] (zinc ammonium carbonate).	Ammoniates of [ethlenebis (dithiocarbamate)]-zinc.
136. Zineb	Zinc ethylenebisdithiocarbamate.
137. Ziram (Vancide MZ-96)	Zinc dimethyldithiocarbamate.

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Part III

Environmental Protection Agency

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Canmaking Subcategory; Proposed Regulation

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 465

[WH-FRL 2288-8]

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Canmaking Subcategory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA is proposing this regulation to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from plants engaged in the manufacturing of cans. The purpose of this proposal is to provide effluent limitations guidelines and standards based on "best practicable technology," "best available technology," and "best conventional technology," and to establish new source performance standards and pretreatment standards under the Clean Water Act. After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATES: Comments on this proposal must be submitted by April 11, 1983. The Agency is proposing a compliance date for pretreatment standards for existing sources to be three years from the date of promulgation.

ADDRESSES: Send comments to: Mary L. Belefski, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, Attention: EGD Docket Clerk, Proposed Coil Coating Subpart D—Canmaking Rules (WH-552). The supporting information and all comments received on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (EPA Library Rear) PM-213. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying. Copies of technical documents may be obtained from the Distribution Officer at the above address. The economic analysis may be obtained from Ms. Josette Bailey, Economic Analysis Staff (WH-586), Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460, or call (202) 382-5382.

FOR FURTHER INFORMATION CONTACT: Technical information may be obtained from Mr. Ernst P. Hall, at the address listed above, or call (202) 382-7126.

SUPPLEMENTARY INFORMATION: The Supplementary Information section describes the legal authority and background, the technical and economic bases, and other aspects of the proposed regulations. That section also solicits comments on specific areas of interest. The abbreviations, acronyms, and other terms used in the Supplementary Information section are defined in Appendix A to this preamble.

This proposed regulation is supported by three major documents available from EPA. Chemical analysis methods are discussed in "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants." EPA's technical conclusions are detailed in the "Development Document for Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Canmaking Subcategory of the Coil Coating Point Source Category" (development document). The Agency's economic analysis is found in "Economic Impact Analysis of Proposed Effluent Standards and Limitations for the Canmaking Subcategory of the Coil Coating Category "(Economic Impact Analysis) EPA 440/2-83/003.

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I. Legal Authority

The regulation described in this notice is proposed under authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217) (the "Act"). This regulation is also proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979, 12 ERC 1833 (D.D.C. 1979) and modifjed by orders dated August 25, 1982 and October 26, 1982.

II. Background

A. The Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters" Section 101(a). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" (BPT), Section 301(b)(1)(A); and by July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable (BAT) * * * which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants," Section 301(b)(2)(A). New industrial direct dischargers were required to comply with Section 306 new source performance standards (NSPS), based on best available demonstrated technology; and new and existing dischargers to publicly owned treatment works (POTW) were subject to pretreatment standards under Sections 307 (b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination Systems (NPDES) permits issued under Section 402 of the Act, pretreatment standards were made enforceable directly against

dischargers to POTW (indirect dischargers).

Although Section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the EPA Administrator. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, Sections 304(c) and 306 of the Act required promulgation of standards for new sources, and Sections 304(f), 307(b), and 307(c) required promulgation of pretreatment standards. In addition to these limitations and standards for designated industry categories, Section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, Section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by the dates specified in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating regulations for 21 major industries, including BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified 12 ERC 1833 (D.D.C. 1979), modified by orders dated August 25, 1982 and October 26, 1982.

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the Federal water pollution control program, its most significant feature is its incorporation into the Act of several of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984 of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under Section 307(a) of the Act. Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" ("BMP") to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revises the control program for non-toxic pollutants. Instead of BAT for "conventional" pollutants identified under Section 304(a)(4) (including biochemical oxygen demand, suspended solids, oil and grease and pH), the new Section 301(b)(2)(E) requires achievement by July 1, 1984, of "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT). The factors considered in assessing BCT for an industry include the costs of attaining a reduction in effluents and the effluent reduction benefits derived, compared with the costs and effluent reduction benefits from the discharge from POTW. (Section 304(b)(4)(B)). For non-toxic, nonconventional pollutants, Sections 301 (b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within 3 years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of this proposed regulation is to provide effluent limitations guidelines for BPT, BAT, and BCT, and to establish NSPS, pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS), under Sections 301, 304, 306, 307, and 501 of the Clean Water Act.

B. Prior EPA Regulations

EPA has not previously promulgated limitations and standards for the canmaking subcategory of the coil coating category. The final coil coating regulation, applicable to other subcategories, was promulgated on December 1, 1982 (47 FR 54232).

C. Overview of the Industry

The can manufacturing industry is included within the U.S. Department of Commerce Census Standard Industrial Classification (SIC) 3411—Metal Cans and includes over 400 manufacturing plants.

Canmaking covers all of the manufacturing processes and steps involved in the manufacturing of various shaped metal containers which are subsequently used for storing foods, beverages and other products. Two major types of cans are manufactured: seamed cans and seamless cans.

Seamed cans (primarily three-piece cans) are manufactured by forming a flat piece or sheet of metal into a container with a longitudinal or side seam which is clinched, welded, or soldered, and attaching formed ends to one or both ends of the container body. About 300 plants in the United States manufacture seamed cans.

Seamless cans consist of a can body formed from a single piece of metal and usually a top, or two ends, that are formed from sheet metal and attached to the can body. There are several forming methods which may be used to shape the can bodies including simple drawing, drawing and redrawing, drawing and ironing (D&I), extruding, spinning, and others. About 125 plants in the United States manufacture seamless cans.

In the manufacture of seamless cans, oil is used frequently as a lubricant during the forming of the seamless body and must be removed before further processing can be performed. Typically, this is accomplished by washing the can body in a continuous canwasher using water based alkaline cleaners. This step is followed by metal surfacing steps to prepare the can for painting.

In the manufacture of seamed cans, can ends, can tops and seamless cans from coated (e.g., coil coated) stock, no oil is used and the cans do not need to be washed after forming. Because no process wastewater is generated from these canmaking process segments they are excluded from regulation. (See Sections VI and XIV of this preamble.)

Pollutants or pollutant parameters generated in canmaking wastewaters and regulated are: (1) Toxic metals—chromium, and zinc; (2) toxic organics listed as total toxic organics (TTO) (TTO is the sum of all toxic organic compounds detected—See Appendix E of this notice) (3) nonconventional pollutants—aluminum, fluoride, and phosphorous; and (4) conventional pollutants—oil and grease, TSS, and pH. Because of the toxic metals present, the sludges generated during wastewater treatment generally contain toxic metals.

EPA estimates that 88 of the approximately 425 can manufacturing plants in the United States discharge wastewater. Seven of these plants are direct dischargers and 81 are indirect dischargers. These sites are scattered

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geographically throughout the United States

III. Scope of This Rulemaking and Summary of Methodology

This proposed regulation is a part of a new chapter in water pollution control requirements. For most industries, the 1973–1976 round of rulemaking emphasized the achievement of best practicable technology (BPT) by July 1, 1977. In general, that technology level represented the average of the best existing performances of well known technologies for control of familiar (i.e., "classical") pollutants. However, for this category, BPT was not proposed or promulgated; accordingly, EPA is establishing BPT effluent limitations as part of this rulemaking.

In this round of rulemaking EPA is also establishing the best available technology economically achievable (BAT) effluent limitations. These are to result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants and are to be achieved by July 1, 1984. In general, this technology level represents the best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic pollutants.

In its 1977 legislation, Congress recognized that it was dealing with areas of scientific uncertainty when it declared the 65 "priority" pollutants and classes of pollutants "toxic" under Section 307(a) of the Act. Many of the "priority" pollutants were relatively unknown outside of the scientific community, and those engaged in wastewater sampling and control have had little experience in dealing with these pollutants. Additionally, these pollutants often appear (and have toxic effects) at concentrations that tax current analytical techniques. Even though Congress was aware of the state-of-the-art difficulties and expense of "toxics" control and detection, it directed EPA to act quickly and decisively to detect, measure and regulate these substances.

In developing this regulation, EPA studied canmaking to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water use, wastewater constituents, or other factors required the development of separate effluent limitations and standards for different segments of the industry. This study included the identification of raw waste and treated effluent characteristics, including the sources and volume of water used, the processes employed, and the sources of pollutants and wastewaters. Sampling and analysis of specific waste streams enabled EPA to determine the presence and concentration of priority pollutants in wastewater discharges.

EPA also identified both actual and potential control and treatment technologies (including both in-process and end-of-process technologies). The Agency analyzed both historical and newly generated data on the performance, operational limitations, and reliability of these technologies. In addition, EPA considered the impacts of these technologies on air quality, solid waste generation, water scarcity, an energy requirements.

The Agency then estimated the costs of each control and treatment technology using a computer program based on standard engineering cost analysis. EPA derived unit process costs by applying canmaking data and characteristics (production and flow for a "normal" line) to each treatment process (i.e., metals precipitation, sedimentation, mixed-media filtration, etc.). The costs also consider what treatment equipment exists at each plant. These unit process costs were added for each plant to yield total cost at each treatment level. The Agency then evaluated the economic impacts of these costs.

On the basis of these factors, EPA identified and classified various control and treatment technologies as BPT, BAT, BCT NSPS, PSES, and PSNS. The proposed regulation, however, does not require the installation of any particular technology. Rather, it requires achievement of effluent limitations equivalent to those achieved by the proper operation of these or equivalent technologies.

Except for pH requirements, the effluent limitations for BPT, BAT, BCT, and NSPS are expressed as mass limitations—a mass of pollutant per unit of production (number of cans). They were calculated by combining three figures: (1) Treated effluent concentrations determined by analyzing control technology performance data; (2) production-weighted wastewater flow for the subcategory; and (3) any relevant process or treatment variability factor (e.g., mean versus maximum day). This basic calculation was performed for each regulated pollutant or pollutant parameter in the subcategory.

Pretreatment standards—PSES and PSNS—are also expressed as mass limitations rather than concentration limits to ensure that the effluent reduction in the total quantity of pollutant discharges resulting from the model treatment technology, which includes flow reduction, is realized.

IV. Data Gathering Efforts

The technical data gathering program is described briefly in Section III and in substantial detail in Section V of the development document. Data collection for this subcategory focused on wet processes associated with canmaking. Data were originally collected under the aluminum forming point source category in 1978 when data collection portfolios (dcp) were sent to all known aluminum formers under the authority of Section 308 of the Clean Water Act. Information was returned from about 20 companies who primarily manufactured aluminum cans and generated wastewater. Subsequently, in 1982, several of these companies were requested to update their dcp for aluminum canmaking and provide data on steel canmaking. Also, some additional companies (primarily steel can manufacturers and also those not in the 1977 aluminum data base) were requested to complete a dcp on canmaking. Data on the dry manufacturing processes were obtained from several dcp, literature studies, discussions with industry and plant engineering visits.

The technical data based includes information from 21 companies representing about 100 manufacturing sites. In addition to previous studies and the data collection effort for this study, supplemental data were obtained from NPDES permit files and engineering studies on treatment technologies used in this and other cagetories with similar wastewater characteristics. The data gathering effort solicited all known sources of data and all available pertinent data were used in developing this regulation.

V. Sampling and Analytical Program

As Congress recognized in enacting the Clean Water Act of 1977, the state-of-the-art ability to monitor and detect toxic pollutants is limited. Most of the toxic pollutants were relatively unknown until a few years ago, and only on rare occasions had these pollutants been regulated. Also, industry had not monitored or developed methods to monitor most of these pollutants.

Faced with these problems, EPA developed a sampling and analytical protocol. This protocol is set forth in "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants" revised in April 1977. Methods promulgated under Section 304(h) (40 CFR Part 136) were available and were used to analyze most toxic metals, pesticides, cyanides,

and phenols. Analysis methods for toxic organic pollutants are explained in the preamble to proposed regulation for the Leather Tanning Point Source Category, 40 CFR 425, 44 FR 38749, July 2, 1979.

A total of 7 plants were visited for engineering analysis of which five were sampled. An analysis for the full list of toxic pollutants and other pollutants was carried out at three plants. Selected pollutants were analyzed in samples taken from two additional plants. Full details of the engineering analysis, sampling and analysis program, and the water and wastewater data derived from sampling are presented in Section V of the development document.

Analysis for the toxic pollutants is both expensive and time consuming, costing between $650 and $1,000 per sample for a complete analysis. The cost in dollars and time limited the amount of sampling and chemical analysis performed. Although EPA fully believes that the available data support the limitations proposed, the Agency would have preferred a larger data base and continues to seek additional data as part of this rulemaking. In addition, EPA will periodically review these limitations as required by the Act and make any revisions supported by new data.

VI. Industry Subcategorization

In developing this regulation, it was necessary to determine whether different effluent limitations and standards are appropriate for different segments of the canmaking industry. The major factors considered in identifying subcategories included: wastewater characteristics, basis material used, manufacturing processes, products manufactured, water use, water pollution control technology, treatment costs, solid waste generation, size of plant, age of plant, number of employees, total energy requirements, non-water quality characteristics, and unique plant characteristics. Section IV of the development document contains a detailed discussion of the factors considered and the rationale for the development of the canmaking subcategory.

All canmaking manufacturing processes were evaluated for the purpose of subcategorization. As discussed in Sections III and V of the development document, several canmaking process segments generate process wastewater and several do not. The manufacture of seamed cans, can ends, can tops and seamless cans from coil coated stock are inherently dry processes and are therefore excluded from this regulation.

The manufacture of most seamless can bodies generates wastewater from removing excess lubricants and cleaning the metal surface. The manufacture of some seamless can bodies does not generate wastewater because the can bodies are not washed. The distinction of whether or not the can bodies are washed provides the initial basis for establishing subcategorization for developing an effluent regulation for canmaking. Seamless can bodies which are not washed are therefore excluded from this regulation.

The seamless canmaking processes were further examined to determine whether additional segmentation was necessary. Seamless can bodies which are washed are formed by various processes; however 98 percent of the plants washing bodies form cans by the draw and iron (D&I) process used for manufacturing beverage cans. The determination was made that because all bodies were washed to remove lubricants and wastewater pollutants were similar, one D&I segment could be used to characterize all wastewaters in one canmaking subcategory. The Agency believes that the proposed limitations and standards can be met by manufacture of all types of washed seamless can bodies.

D&I can bodies are formed from aluminum or steel. Forming from aluminum is practiced by 77 percent of the D&I plants and wastewater flows and raw wastewater characteristics for the canmaking subcategory were determined from all D&I aluminum data. Several plants can interchange the basis material used for forming D&I bodies and the industry trend is to convert or add aluminum lines in previously steel only plants. Although wastewater flows and pollutant loadings are somewhat less for steel than for aluminum bodies, EPA has not further segmented this subcategory by basis material to avoid unnecessary regulatory complexity. EPA invites comment on this approach as stated in Section XXII of this preamble.

Canmaking subcategory wastewater flows are related to the amount of can bodies produced. For this reason, the production normalizing parameter used for establishing canmaking limitations and standards is the number of cans produced; the production normalized flow is liters per thousand cans.

VII. Available Wastewater Control and Treatment Technology

A. Status of In-Place Technology

Current wastewater treatment systems in the subcategory range from no treatment to a sophisticated physical chemical treatment combined with water conservation practices.

No treatment equipment was reported in-place at 8 canmaking plants. Oil removal equipment for skimming, chemical emulsion breaking or dissolved air flotation is in-place at 50 canmaking plants, 7 plants have chromium reduction systems, 26 canmaking plants have pH adjustment systems without settling, 30 plants indicate they have equipment for chemical precipitation and settling, 8 plants have filtration equipment in-place, 1 plant has ultrafiltration, and 1 plant has reverse osmosis equipment in-place.

The performance of the treatment systems in-place at all canmaking plants is difficult to assess because EPA has received a limited amount of canmaking effluent data. A request is made in Section XXII of this preamble for additional data. Additionally, some plants have equipment in-place which they are not operating because existing requirements can be achieved without operation of treatment equipment. Consequently, treatment performance is transferred from other categories and subcategories which treat similar wastewaters.

For the subcategory, in general, there is no significant difference between the pollutants generated by direct or indirect dischargers or in the degree of treatment employed; several indirect dischargers have the same treatment equipment in-place as the direct dischargers. The degree of treatment equipment operation is primarily dependent upon the existing requirements. Section V of the development document further evaluates the treatment systems in-place and the effluent data received.

B. Control Technologies Considered

The control and treatment technologies available for this subcategory include both in-process and end-of-pipe treatments. These technologies are described in Section VII of the development document. In-process treatment includes water flow reduction in the canwasher by using water reuse or countercurrent cascade rinsing (to reduce the amount of water used to remove unwanted materials from cans). End-of-pipe treatment includes: hexavalent chromium reduction and cyanide precipitation when necessary; emulsion breaking and dissolved air flotation to remove oils; chemical precipitation of metals using hydroxides; removal of precipitated metals and other materials using settling or sedimentation; additional removal of solids using polishing filtration; and membrane filtration to remove additional oil.

Only 4 plants indicated that cyanide is known to be present in their wastewaters. For this small number of plants cyanide removal is only included in the model technology on an as needed basis and no limitation for cyanide is proposed. Similarly, no cost has been included for cyanide treatment. Thirty-eight plants reported chromium as known to be present in their wastewaters. This is the basis for proposing to regulate chromium. Seven plants reported having chromium reduction technology in place. Since the Agency does not know about the valence state of the chromium at the remaining thirty-one plants no cost has been included for installing chromium reduction technology; however it may be necessary to reduce hexavalent chromium if present in order to meet the limitations and standards.

The effectiveness of these treatment technologies has been evaluated and established by examining their performance on other coil coating subcategories and other category wastewaters containing primarily toxic metals which are similar to canmaking wastewaters. A brief description of how the Agency evaluated the performance of key technologies follows. A more complete description appears in Section VII of the development document and other documents in the rulemaking record.

1. *Hydroxide Precipitation and Sedimentation (Lime and Settle).* In considering the performance achievable using hydroxide (generally lime) precipitation and sedimentation of metals, EPA evaluated data on nine pollutants from coil coating and aluminum forming plants and plants in other categories with similar wastewater. The data base the Agency selected for lime and settle technology is called the combined metals data base. This data base is a composite of data for the nine pollutants from wastewaters treated by lime and settle technology obtained from EPA sampling and analysis of coil coating, copper and aluminum forming, battery manufacturing, and porcelain enameling These wastewaters are similar to canmaking wastewaters because they contain dissolved metals that can be removed to the same degree by precipitation and settling.

The Agency regards the combined metals data base as the best available measure for establishing the concentrations attainable with lime and settle technology. This determination is based on the similarity of the raw wastewaters (see Section VII of the development document), and the larger number of plants used (21 plants versus data from 2 canmaking plants available). The larger quantity of data in the combined metals data base, as well as a greater variety of influent concentrations enhances the Agency's ability to estimate long-term levels and variability through statistical analysis. For the same reasons, this data base is the best measure of this treatment system's variability.

For 13 additional pollutants, the Agency used long term data from lime and settle treatment of similar wastewaters from other categories to derive a long term average. One day and monthly average values were developed from the long term average by applying the mean variance of the combined metals data base analysis. The derivation of the treatment effectiveness values for these thirteen additional pollutants is fully explained in Section VII of the developement document.

The treatment effectiveness values for aluminum, fluoride, phosphorous and oil and grease are used as part of the basis for this regulation. The aluminum value is derived from aluminum forming and coil coating data, while fluoride and phosphorous values are from electrical and electronics components manufacturing data. Oil and grease values are achieved by coil coating, aluminum forming and copper forming operations plus other categories throughout industry.

The use of the combined metals data base is appropriate for canmaking plants for the following reasons:

(a) *Process Chemistry.* The Agency believes that properly operated lime and settle treatment systems will result in effluent concentrations that are directly related to pollutant solubilities.

Untreated wastewater data from aluminum and steel canmaking facilities sampled by EPA were compared to data from the combined metals data base. Based on this comparison, the Agency concluded that chromium, zinc and TSS in canmaking wastewaters required treatment. All canmaking facilities sampled had raw TSS levels in the range of the raw values of the five category lime and settle data base. Although not all canmakers had chromium or zinc levels in the range that required treatment, some facilities did have concentrations of these pollutants in their raw waste comparable to levels found in the combined metals data base. The Agency concluded that lime and settle treatment of canmaking wastewater will achieve reductions of these pollutants similar to those demonstrated in the combined metals data base. The Agency does not believe any interfering properties exist in canmaking wastewater that would interfere with treatment performance.

(b) *Canmaking Data Base.* Process similarities exist between canmaking and other categories in the combined metals data base which treat chromium, zinc and TSS. An engineering evaluation of the canmaking process shows a substantial similarity between canmaking and aluminum forming process steps, and canmaking and coil coating processing steps. The processes used for forming are similar to aluminum forming. The processes used for cleaning and preparing the metal surface, the chemicals used, and waste products generated are similar for canmaking and coil coating.

EPA sampled two aluminum canmaking plants with lime and settle treatment for three days each. Effluent data from these plants were compared with the one day maximum value for the combined metals data base.

For toxic metals, chromium and zinc, all effluent values were equal to or lower than the combined metals data base one day maximum values. For TSS, one plant had values lower than the one day maximum and the other exceeded it; however both of these plants were indirect dischargers and were not required to control TSS. The Agency also compared the combined metals data base performance values with available NPDES permits. Where TSS is monitored, the permit limitations are for concentrations less than those in the combined metals data base. Additional long term data on these plants were not available to support lower TSS concentrations for canmaking effluent. The Agency believes that the proposed toxic metal and TSS values are reasonable and can be achieved by canmaking plants.

2. *Oil Removal (Skimming, Dissolved Air Flotation, and Chemical Emulsion Breaking).* In both canmaking and aluminum forming, lubricants are used to form the metal into a specified shape. In both coil coating and canmaking, oil and grease are removed from the metal surface, the metal surface is usually chemically coated to improve adherence of the finish coat, and an organic coating is applied. Oil and grease levels in canmaking wastewaters are substantially higher than other coil coating subcategories because of the forming operations for can bodies. Once oil and grease levels are reduced to comparable levels of other categories treating toxic metals and oil and grease through the application of oil removal technologies such as chemical emulsion breaking and dissolved air flotation,

lime and settle technology can remove oil and grease from canmaking wastewaters to the same extent that the technology can remove these pollutants from the wastewaters of the other categories.

The effectiveness of oil removal technology has been widely demonstrated in many industrial categories, and is detailed in Section VII of the development document. While the concentration levels are usually attainable by the application of quiescent settling and skimming, emulsion breaking and dissolved air flotation are included in the canmaking model treatment train to ensure that the oil removal technology is adequate and to remove the oil found in the subcategory.

Oil removal technology and lime and settle technology are considered as the basis for the proposed regulation. In canmaking a greater number and variety of forming lubricants and cleaning formulations may be used than in coil coating. Many of these formulations are interchangeable, and changes result in differences in the toxic pollutants that may appear in canmaking wastewaters. The Agency believes that by controlling the most prevalent toxic metals, some conventional and nonconventional pollutants, and total toxic organics (TTO) with oil removal and lime and settle technology, pollutants present as a result of these variations will also be controlled.

3. *Filtration.* EPA established the pollutant concentrations achievable with lime precipitation, sedimentation and polishing filtration (lime, settle, and filter) with data from three plants with the technology in-place: one nonferrous metals manufacturing plant and two porcelain enameling plants whose wastewater is similar to wastewater generated by canmaking plants. In generating long-term average standards, EPA applied variability factors from the combined metals data base because the combined data base provided a better statistical basis for computing variability than the data from the three plants sampled. In fact, the use of the lime and settle combined data base variability factors is probably a conservative assumption because filtration is a less variable technology than lime and settle, since it is less operator dependent.

For pollutants for which there were no data, long-term concentrations were developed assuming that filtration would remove 33 percent more pollutants than lime precipitation. This assumption was based upon a comparison of removals of several pollutants by lime, settle, and filter technology with the removals of pollutants from lime and settle technology.

EPA selected this approach because of the extensive long-term data available from these three plants. The Agency believes that the use of polishing filtration data from these plants is justified because the wastewaters are similar. Since the Agency determined that lime and settle technology will produce identical results for canmaking as well as the other categories in the combined metals data base, it is reasonable to assume that polishing filters treating these waste streams will produce a comparable final effluent.

The Agency solicits comments on the use of the combined metals data base for canmaking, and requests submission of additional data from canmaking plants using properly operated oil removal, lime and settle, and lime, settle and filter treatment systems. (See Section XXII of this preamble).

In addition to end-of-pipe treatment technologies, the limitations and standards in this proposed regulation are based on process controls to achieve reductions in wastewater discharge flow. Flow-reduction techniques vary depending on the level of control. The techniques and the bases for the Agency's estimates of what they can achieve are explained in the relevant sections below.

The treatment performance data discussed above are used to obtain maximum daily and monthly average pollutant concentrations. These concentrations (mg/1) along with the canmaking production normalized flows (1/1000 cans) are used to obtain the maximum daily and monthly average values (mg/1000 cans) for effluent limitations and standards. The monthly average values are based on the average of ten consecutive sampling days. The ten day average value was selected as the minimum number of consecutive samples which need to be averaged to arrive at a stable slope on a statistically based curve relating one day and 30 day average values and it approximates the most frequent monitoring requirement of direct discharge permits. The monthly average numbers shown in the regulation are to be used by plants with combined wastestreams that use the "combined wastestream formula" set forth at 40 CFR 403.6(e) and by permit writers in writing direct discharge permits.

VIII. Best Practicable Technology (BPT) Effluent Limitations

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of applying technology in relation to the effluent reduction benefits derived, the age of equipment and facilities involved, the process employed, non-water-quality environmental impacts (including energy requirements), and other factors the Administrator consideres appropriate. In general, the BPT level represents the average of the best existing performances of plants of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category. Limitations based on transfer technology must be supported by a conclusion that the technology is, indeed, transferable and a reasonable prediction that it will be capable of achieving the prescribed effluent limits. (See *Tanners' Council of America* v. *Train*, 540 F.2d 1188, 4th Cir. 1976.) BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where such are common industry practice.

The cost-benefit inquiry for BPT is a limited balancing, conducted at EPA's discretion, which does not require the Agency to quantify benefits in monetary terms. (See, for example, *American Iron and Steel Institute* v. *EPA*, 526 F.2d 1027, 3rd Cir. 1975.) In balancing costs with effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impacts of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water bodies. Therefore, EPA has not considered these factors. (See *Weyerhaeuser Company* v. *Costle*, 590 F.2d 1011, 1026, D.C. Cir. 1978).

In developing the proposed BPT limitations, an evaluation was made of canmaking data for both the 7 direct and 81 indirect discharges. The Agency first considered the amount of water used per canmaking line at each plant which was sampled or which supplied usable dcp data. The Agency noted that more than half (32 of 51) of the D&I aluminum can plants reuse water within the canwasher. (Reuse within the canwasher is defined to mean using the same water in more than one operation before discharging it to wastewater treatment.) This practice reduces the amount of water used to wash cans and

is commonly practiced within the subcategory so that it constitutes BPT. The normalized wastewater flow (liters per 1000 cans) proposed at BPT for canmaking is based on the average of these 32 plants.

The model end-of-pipe treatment technology EPA is using as the basis for proposing for BPT is oil removal by dissolved air flotation and emulsion breaking, chromium reduction and cyanide precipitation when necessary, and lime and settle technology to remove other pollutants. Treatment equipment for BPT technology is reported to be installed at plants in this subcategory. Of the 76 plants that supplied usable dcp data, 50 have oil removal treatment including 17 that have emulsion breaking and 16 that have installed dissolved air flotation. Chromium reduction equipment is reported to be in-place at 7 plants. Thirty plants have lime and settle treatment equipment in-place, and 12 of these plants have all of the model BPT treatment equipment in-place. Clearly the frequent occurrence of these technologies indicates that they form an appropriate model technology on which to base BPT.

The more significant pollutants found in the wastewaters of the canmaking subcategory and regulated under BPT include chromium, zinc, aluminum, fluoride, phosphorous, oil and grease, TSS and pH. Sections VII and IX of the development document explain the derivation of treatment effectiveness data and the calculation of BPT limitations.

Compliance with BPT limitations will result in direct dischargers removing (from raw waste) 4,415 kg/yr of toxic pollutants and 7.31 million kg/yr of other pollutants at a capital cost (1982 dollars) of $1.0 million and a total annual cost of $0.45 million including interest and depreciation. EPA is using raw waste rather than estimated current discharge values because of the difficulty of making a meaningful estimate of current discharge levels when equipment in-place is not being consistently operated.

EPA expects no plant closures, unemployment, or changes in industry production capacity as a result of compliance with the BPT effluent limitations. The Agency has determined the effluent reduction benefits associated with compliance with BPT limitations justify these costs.

IX. Best Available Technology (BAT) Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, nonwater-quality environmental impacts (including energy requirements) and the costs of applying such technology (Section 304(b)(2)(B)). At a minimum, the BAT technology level represents the best economically achievable performance of plants of various ages, sizes, processes, or other shared characteristics. As with BPT, where existing performance is uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may include feasible process changes or internal controls, even when not common industry practice.

The required assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle, supra*). In developing the proposed BAT, however, EPA has carefully considered the cost of the BAT treatment. The Agency has considered the volume and nature of the estimated present discharges, the volume and nature of discharges expected after the application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels on the industry.

Despite this consideration of costs, the primary determinant of BAT is effluent reduction capability. As a result of the Clean Water Act of 1977, the achievement of BAT has become the principal national means of controlling toxic water pollution.

The agency has considered three sets of technology options for the subcategory that might be applied at the BAT level. The options are described in detail in Section X of the development document and are outlined below.

The pollutants regulated in the canmaking subcategory under BAT include chromium, zinc, aluminum, fluoride, and phosphorous. The Agency considered establishing a Total Toxic Organics (TTO) limitation at BAT for the toxic organic pollutants listed in Appendix E. However, data from plants with similar wastewaters and treatment (aluminum forming plants) show a 97 percent reduction in the concentrations of toxic organics with the effective treatment and removal of oil and grease (see Section VII and X of the development document). Thus, the Agency has determined that the oil and grease limitation at BCT will provide adequate control of the toxic organics, and therefore, is not establishing a TTO limit at BAT.

The cost estimates for the various treatment options are detailed in Section VIII of the development document. Control technologies and treatment effectiveness are detailed in Section VII, and effluent reduction benefits are detailed and tabulated in Section X of the development document. The Economic Impact Analysis contains an analysis of potential economic impacts for all regulatory options considered.

As noted below, technology options more stringent than those adopted as a basis for this proposal are available. Proposed BAT limitations are based on BAT Option 1. In order to make a final decision, EPA solicits the submission of all information available on the costs of these technologies and the effluent reductions they will achieve. EPA will decide which technologies to select and which limitation to promulgate after consideration of all information available, including the information received in comments submitted on this proposal, its current information, and the results of any additional studies it sponsors. The final regulation may well be based upon a technology other than that which forms the basis for the current proposal. The BAT limitations based on BAT Option 2 are shown in Section II of the development document.

Option 1. BAT option 1 is based on BPT level treatment (chrome reduction and cyanide removal when required, emulsion breaking, dissolved air flotation, hydroxide precipitation and sedimentation) with the addition of in-process flow reduction to reduce the discharge of toxic pollutants to the environment. The principal in-process water reduction technology is the use of a countercurrent cascade rinse in the canwasher. This technology is expected to reduce the total discharge flow by 67.5 percent. (See Section VII of the development document.)

Option 2. This option includes chrome reduction and cyanide removal when required, emulsion breaking, dissolved air flotation, hydroxide precipitation, sedimentation and polishing filtration. BAT option 2 builds on the end-of-pipe treatment technology for BAT option 1 by adding a polishing filter to improve the removal of toxic metals and nonconventional pollutants. The wastewater discharge of this option flow is the same as option 1.

Option 3. This option includes chrome reduction and cyanide removal when required, emulsion breaking, dissolved air flotation, hydroxide precipitation, sedimentation, polishing filtration, and ultrafiltration. BAT option 3 builds on the reduced wastewater flows and end-of-pipe treatment of option 2, and adds ultrafiltration. This option reduces the amount of toxic organics discharged

which is comparable to the oil and grease removals, as discussed above.

The pollutant removals and costs of the BAT options are summarized below. Removals are for regulated pollutants above raw waste levels and compliance costs are above treatment equipment in-place.

Option	Pollutant removal kilograms per year (pounds per year)		Costs (dollars in thousands)	
	Toxics	Other (millions)	Capital	Annual
BPT	4,415(9,712)	7.31(16.09)	$1,000	$450
BAT-1	4,633(10,192)	7.33(16.13)	680	420
BAT-2	4,651(10,232)	7.34(16.14)	910	450
BAT-3	4,651(10,232)	7.34(16.15)	3,310	1,300

BAT Selection EPA is proposing BAT effluent limitations based on technology option 1 because it substantially reduces the discharge of toxic pollutants and the technology is being practiced in the subcategory Six plants presently meet the flow basis and 12 plants have the BAT treatment equipment in-place. Additionally, the Agency believes that industry will install BAT technology equipment rather than installing BPT and upgrading it to BAT. Implementation of these BAT limitations will remove an estimated 4,633 kg/yr of toxic pollutants and 7.33 million kg/yr of other pollutants (from raw waste) at a capital cost of $0.68 million and a total annual costs of $0.42 million. The incremental effluent reduction benefits of BAT above BPT are the removal annually of 218 kg of toxic pollutants and 20,000 kg of other pullutants. The costs for BAT are lower than for BPT because of the smaller end-of-pipe treatment system needed as a result of flow reduction. Seven direct dischargers may incur costs under the BAT limitations. EPA expects no plant closures, unemployment, or changes in industry production capacity as a result of the proposed BAT effluent limitations.

The BPT option was not selected because it considers only widely practiced end-of-pipe technologies, little in-process change, and is more costly than the selected BAT option. BAT Option 2 is not being proposed because the added removals above option 1 are very small. No plant closures or job losses are projected for this option. Option 3 is not being proposed because of the very substantial costs and extremely low additional pollutant removals (less than one pound per year of toxic pollutants). Nine plants are projected to close at this option. The Agency invites comments on the technology options not selected as the basis for BAT.

X. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology (BDT). New plants can incorporate the best and most efficient canwashing processes and wastewater treatment technologies, and, therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies to reduce pollution to the maximum extent feasible.

EPA considered a number of options for selection of NSPS technology. Options included those discussed under BAT (options 1–3) plus two additional options discussed below. These options were not considered under BAT because most of the existing plants lack sufficient space to add additional stages to the canwasher. Each option is discussed in Sections X and XI of the development document and costs are discussed in Section VIII. As discussed in the Economic Impact Analysis, none of the options would present barriers to entry by new plants.

The pollutants regulated under NSPS include chromium, zinc, aluminum, fluoride, phosphorus, oil and grease, TSS, and pH.

Option 4. NSPS option 4 is based on the flow reduction achieved by the installation of a 9-stage canwasher or its equivalent. This technology includes at least three additional stages for using countercurrent rinses and recirculation of rinses to minimize wastewater generation. The option reduces total discharge flow by over 90 percent when compared to raw waste discharge, and by 75 percent when compared to option 1. End-of-pipe treatment includes chrome reduction and cyanide removal when required, emulsion breaking, dissolved air flotation, hydroxide precipitation and sedimentation, which is the same as option 1. Assuming a new plant installs six production lines, the investment costs would be $0.97 million and annual costs would be $0.55 million. Pollutant removals would be 28,272 kg/yr for toxics and 44.04 million kg/yr for other regulated pollutants above raw waste.

Option 5. NSPS option 5 included flow control to reduce total discharge flow by over 90 percent (same as option 4). End-of-pipe treatment includes chrome reduction and cyanide removal when required, emulsion breaking, dissolved air flotation, hydroxide precipitation, sedimentation, and polishing filtration which is the same as option 2. Assuming a new plant installs six production lines, the investment costs would be $1.02 million and annual costs would be $0.57 million. Pollutant removals would be 28,296 kg/yr for toxics and 44.05 million kg/yr for other regulated pollutants above raw waste.

The Agency also considered an option requiring no discharge of process wastewater pollutants. One plant is achieving this level of pollutant reduction using water use reduction, ultrafiltration, reverse osmosis, and water reuse. This system of pollutant reduction is costly; investment costs greater than $1.7 million and annual costs greater than $0.97 million for a six line production plant. This option is not considered as the basis for NSPS because of the high costs associated with this technology. Specific comment is requested on the cost, and possible inhibition to the construction of new sources that this option might involve.

NSPS Selection. EPA is proposing NSPS based on technology option 4. The flow basis for this option is the achieved performance of 4 plants in the industry. This option was selected because it substantially reduces the discharge of toxic pollutants and has been adequately demonstrated in the industry. Additionally, the new source flow reduction is an appropriate technology for NSPS because the flows are demonstrated in this subcategory and because new plants have the opportunity to design and implement the most efficient processes without retrofit costs and space availability limitations. Moreover, the Agency believes there are significant efficiency benefits associated with this option including reduced water use charges and sewer charges, and decreased treatment system size (and attendant cost savings. Technology options 1, 2 and 3 were rejected because the Agency has determined that these options would not comply with statutory standards for NSPS. Option 5 was rejected because the added removals above option 4 are very small and do not seem to justify the installation of filters. The Agency requests comments on these options (See Section XXII of this preamble).

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XI. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES), which must be achieved within three years of promulgation. PSES are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTW). The legislative history of the 1977 Act indictes that pretreatment standards are to be technology-based and analogous to the best available technology for removal of toxic pollutants. The general pretreatment regulations can be found at 40 CFR Part 403. (46 FR 9404, January 28, 1981; and 47 FR 42688, September 28, 1982).

Before proposing pretreatment standards, the Agency examines whether the pollutants discharged by the industry pass through the POTW or interfere with the POTW operation or its chosen sludge disposal practices. In determining whether pollutants pass through a POTW, the Agency compares the percentage of a pollutant removed by POTW with the percentage removed by the direct dischargers applying BAT. A pollutant is deemed to pass through the POTW when the average percentage removed nationwide by well-operated POTW meeting secondary treatment requirements is less than the percentage removed by direct dischargers complying with BAT effluent limitations guidelines for that pollutant.

This approach to the definition of pass through satisfies two competing objectives set by Congress: That standards for indirect dischargers be equivalent to standards for direct dischargers, while, at the same time, that the treatment capability and performance of the POTW be recognized and taken into account in regulating the discharge of pollutants from indirect dischargers. Rather than compare the mass or concentration of pollutants discharged by the POTW with the mass or concentration discharged by a direct discharger, the Agency compares the percentage of the pollutants removed by the direct discharger. The Agency takes this approach because a comparison of mass or concentration of pollutants in a POTW effluent with pollutants in a direct discharger's effluent would not take into account the mass of pollutants discharged to the POTW from nonindustrial sources nor the dilution of the pollutants in the POTW effluent to lower concentrations from the addition of large amounts of nonindustrial wastewater.

The pollutants regulated in the canmaking subcategory under PSES include chromium, zinc, aluminum, fluoride, phosphorous and Total Toxic Organics (TTO).

As discussed previously different metal cleaning and surface coating formulations can be used in the canmaking process. Aluminum is regulated as an indicator pollutant to assure removal of chromium and zinc and other toxic metals, if chemical formulation were changed to eliminate chromium or zinc by substituting some other toxic metal. Under 403.7(a)1 of the general pretreatment regulation, each categorical pretreatment standard that uses an indicator pollutant specifies whether or not a removal credit may be granted for the pollutant. In this regulation the POTW may give credit for aluminum only to the extent that it is determined that chromium, zinc, and other toxic metals are removed by the POTW. The Agency recognizes that POTW add aluminum to assist in the removal of solids; however this is not a basis for granting a removal credit.

As discussed previously, there are toxic organics associated with lubricants used in the canmaking subcategory. These toxic pollutants are not specifically regulated at BAT, because for direct dischargers, the BCT oil and grease limits should provide adequate removal. As discussed in the development document, the BCT limitation for oil and grease will remove 97 percent of the toxic organics. This is greater than the removal of toxic organics from a well operated POTW achieving secondary treatment which removes about 65 percent. Accordingly, the Agency believes that there is pass through of toxic organic pollutants associated with these oil waste streams. Given the mix of toxic organic pollutants (See Appendix E) found in these wastestreams, and the fact that they may pass through POTW, the Agency proposes to establish a pretreatment standard for TTO to control these pollutants. The proposed TTO standard is based on the application of oil and grease removal technology which achieves the same removal of TTO as the BCT model treatment technology.

In the canmaking subcategory, the Agency has also concluded that the pollutants that would be regulated (chromium, zinc, aluminum, fluoride, and phosphorus) under these proposed standards pass through the POTW. Pollutants removed by POTW from chromium and zinc are 65 percent, for aluminum range from 80 to 90 percent and for phosphorous range from 10 to 20 percent. There is no removal of fluoride by the POTW. The percentage that can be removed by a canmaking direct discharger applying BAT is expected to be over 98 percent. Accordingly, these pollutants pass through POTW. In addition, toxic metals are not degraded in the POTW; they may limit a POTW's chosen sludge disposal method.

The pretreatment standards are expressed as mass standards only. This is because a concentration based regulation would not assure the substantial additional pollutant removals achievable by flow reduction.

EPA proposes to establish a Total Toxic Organics (TTO) limitation based on the data presented in Section VII of the technical development document. Analysis of toxic organics is costly and requires delicate and sensitive equipment. Therefore, the Agency proposes to establish as an alternative to monitoring for total toxic organics an oil and grease limit equivalent to the BCT limit for which the analysis is much less costly and frequently can be done at the plant. Data indicate that the toxic organics are in the oil and grease and by removing the oil and grease the toxic organics should also be removed. See discussion in Section VII of the development document. The Agency requests comment on the TTO limit and the alternate monitoring parameter of oil and grease. Because oil and grease is used as an indicator for TTO, POTW may not give a removal credit for the oil and grease. EPA also requests comments on whether to simply promulgate an oil and grease limitation to effectively control organics.

EPA is proposing that the deadline for compliance with PSES in this regulation be three years after promulgation. EPA believes this time for compliance is reasonable because most of the plants do not now have all of the required equipment in-place and this amount of time generally will be needed for proper engineering, installation and start-up of the treatment facilities. The Agency invites comments with supporting documentation and rationale on the need for this or any shorter compliance time.

PSES Option Selection

The Agency considered PSES options equivalent to BPT (PSES–0) and the BAT options 1, 2 and 3. PSES equivalent to BAT option 1 was selected for proposed standards because it is demonstrated, removes more pollutants than PSES–0 which would pass through POTW, and is economically achievable (annual costs are less than for PSES–0). Options

2 and 3 were not chosen for the reasons discussed under the BAT section above.

The pollutant removals and costs of the PSES options are summarized below. Removals for regulated pollutants are above raw waste and compliance costs are above treatment equipment in place.

Option	Pollutant removals kilograms per year (pounds per year)		Costs (dollars in thousands)	
	Toxics	Other (millions)	Capital	Annual
PSES–0	44,880(98,736)	74.6(164.1)	$34,000	$18,400
PSES–1	47,255(103,900)	74.81(164.6)	27,600	16,700
PSES–2	47,440(104,400)	74.84(164.8)	31,800	17,400
PSES–3	47,440(104,400)	74.84(164.8)	43,500	32,900

Implementation of PSES will remove an estimated 47,255 kg/yr of toxic metals pollutants and 75 million kg/yr of other pollutants (from raw waste) at a capital cost of $27.6 million and a total annual cost of $16.7 million. Section VIII of the development document explains the basis for these costs. PSES affects 81 indirect discharging canmaking plants. EPA predicts no plant closures resulting from this regulation. No changes in industry production capacity are expected as a result of these pretreatment standards. The Economic Impact Analysis explains the economic impacts in detail.

XII. Pretreatment Standards for New Sources (PSNS)

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. New indirect dischargers will produce wastes presenting the same pass-through interference, and sludge disposal problems that existing dischargers have. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant controls, and end-of-pipe treatment technologies, and to use plant site selection to ensure adequate treatment system installation.

The pollutants regulated in the canmaking subcategory under PSNS include chromium, zinc, aluminum, fluoride, phosphorous and TTO. The reason for selecting these pollutants are set forth under PSES above.

The PSNS treatment options considered are identical to the NSPS options. As explained above under PSES, the pollutants considered for regulation under PSNS pass through POTW. For PSNS the Agency is proposing standards based on the same treatment technology options as NSPS. The selected options will not create barriers to entry, as is discussed in the Economic Impact Analysis.

The Agency also considered requiring no discharge of process wastewater pollutants. This option was rejected for the reasons set forth for NSPS.

The mass standards set forth as PSNS are presented here as the only method of designating pretreatment standards. Regulation on the basis of concentration will not assure the substantial pollutant removals that flow reduction will achieve. Flow reduction is a significant part of the model technology for PSNS.

XIII. Best Conventional Technology (BCT) Effluent Limitations

The 1977 amendments added Section 301(b)(2)(E) to the Act, establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(a)(4)—biological oxygen demanding pollutants (BOD_5),total suspended solids (TSS), and pH—and any additional pollutants defined by the Administrator as "conventional." On July 30, 1979, EPA added oil and grease to the conventional pollutant list (44 FR 44501).

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test. (See *American Paper Institute* v. *EPA*, 660 F. 2d 954 4th Cir. 1981.) The first test compares the cost for private industry to reduce the discharge of its conventional pollutants with the costs to POTW for similar levels of reduction in the discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its original methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA had argued that a second cost test was not required.) EPA proposed its new methodology on Ocotober 29, 1982 (47 FR 49176).

For the canmaking subcategory, EPA has determined that the BPT end-of-pipe technology sequence with added flow reduction (BCT technology) is capable of removing significant amounts of conventional pollutants. The Agency compared the cost of removing conventional pollutants using the BCT technology with the costs of achieving comparable treatment in a POTW. Using the newly revised proposed BCT methodology, the result of this comparison indicates the cost for this removal is (−) $1.39 per pound, which is substantially less than the proposed POTW benchmark of $0.27 per pound. Because BCT technology is less costly than BPT technology the second phase of the cost test will also show a negative value. The application of BCT technology above BPT is accepted, and BCT limitations are established based on this technology for oil and grease, TSS, and pH.

The lesser cost of BCT technology is due to the reduced wastewater flow and resultant reduction in treatment equipment size. The Agency specifically requests comment on this aspect of the BCT methodology and, in particular, on the negative cost results shown for BCT technology.

XIV. Pollutants and Subcategories Not Regulated

The Settlement Agreement contains provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry segments.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation specific pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected in this subcategory and therefore, excluded from regulation are listed in Appendix B to this notice.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants detected in amounts too small to be effectively reduced by technologies known to the Administrator. Appendix C to this notice lists the toxic pollutants in this subcategory that were detected in the effluent in amounts that are at or below the nominal limit of analytical quantification which are too small to be effectively reduced by technologies and

that are therefore excluded from regulation.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants present in amounts too small to be effectively reduced by technologies considered applicable to the subcategory. Appendix D lists those toxic pollutants which are not treatable using technologies considered applicable to the category.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation specific pollutants which will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines, standards of performance or pretreatment standards. The toxic pollutants considered for regulation, but excluded from BPT, BAT limitations and NSPS because adequate protection is now provided by this regulation through the control of other pollutants, are listed for this subcategory in Appendix E of this preamble.

Paragraph 8(a)(iv) and 8(b)(ii) of the Revised Settlement Agreement allow the Administrator to exclude from regulation subcategories for which the amount and the toxicity of pollutants in the discharge does not justify developing national regulations. Some segments of the canmaking subcategory meet this provision and are excluded from this regulation because there is no discharge of process wastewater. These segments are listed in Appendix F to this preamble.

XV. Cost and Economic Impact

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules impose an annual cost to the economy of $100 million or more or meet other economic impact criteria. The proposed regulation for the canmaking subcategory of the coil coating category is not a major rule. The costs to be incurred by this industry will be significantly less than $100 million. Therefore, formal regulatory impact analysis is not required. This proposed rulemaking satisfies the requirement of the Executive Order for a non-major rule. The Agency's regulatory strategy considered both the cost and the economic impacts of the proposed rulemaking.

The Economic Impact Analysis report presents the economic effects for the industry as a whole and for typical plants covered by the proposed regulation. Compliance costs are based on engineering estimates of capital requirements for the effluent control systems described earlier in this preamble. The report assesses the impact of price changes, production changes, plant closures, job losses and balance of trade effects.

EPA has identified 89 facilities that manufacture and wash seamless aluminum and steel cans and are covered by this regulation. Seven are direct dischargers, 81 are indirect dischargers, and 1 does not discharge process wastewater. Total investment for BAT and PSES is estimated to be $28.3 million, with annual costs of $17.1 million, including depreciation and interest. These costs are expressed in 1982 dollars and account for existing treatment in place among canmaking facilities. These cost estimates are based on the determination that canmaking facilities will move from their existing treatment to either BAT or PSES for the BAT treatment technology can installed by canmaking facilities at a cost proportionally lower than the BPT treatment technology.

In order to measure the potential economic effects of the proposed regulation, the Agency conducted a plant-by-plant analysis which focused on profitability and capital availability requirements. Both characteristics are examined through standard financial analysis techniques. Plant closure determinations are based primarily on measures of financial performance such as return on assets and compliance investment cost as a percent of annual revenues.

No plant closures or job losses were projected as a result of compliance costs for this regulation. Annual compliance costs for BAT and PSES are relatively small, with annual compliance costs accounting for less than 1 percent of plant revenues. In addition, because the canmaking industry appears to be highly competitive, it is assumed that producers would attempt to absorb their compliance costs and would not raise their prices. This assumption represents a worst case situation and to the extent prices are raised, may overstate the impact of the regulation.

Return on investment (ROI) was chosen to assess the impact of compliance cost on plant profitability. Plants with an after-compliance ROI of less than 7 percent were considered potential closure candidates. The underlying assumption is that plants cannot continue to operate as viable concerns if they are unable to generate a return on investment that is at least equal to the opportunity cost of other low risk investment alternatives. All canmaking facilities analyzed were found to have an after-compliance ROI greater than 7 percent. The Ratio of "compliance capital investment to revenues" (CCI/R) was used to provide a good indication of the relative magnitude of the compliance capital investment requirements. The ratio CCI/R was calculated for all canmaking facilities as compared to a "capital availability threshold value" (CCI/R) of 3 percent. If a plant's CCI/R ratio is less than the threshold value, the capital investment for treatment equipment may be financed out of a single year's internally generated funds without additional debt. None of the canmaking facilities had CCI/R ratios greater than the 3 percent threshold value.

In addition, EPA has conducted an analysis of the incremental removal cost per pound equivalent for each of the proposed technology based options. A pound equivalent is calculated by multiplying the number of pounds of pollutant discharged by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant (copper), divided by the water quality criterion for the pollutant being evaluated. The use of "pound equivalent" gives relatively more weight to removal of more toxic pollutants. Thus, for a given expenditure, the cost per pount equivalent removed would be lower when a highly toxic pollutant is removed than if a less toxic is removed. This analysis, entitled "Cost-Effectiveness Analysis," is included in the record of this rulemaking. EPA invites comments on the methodology used in this analysis.

Presented below are compliance costs for the following regulations: BPT, BAT, PSES, PSNS and NSPS. There are no BCT compliance costs because the effluent limitations are based on BAT technology which is less costly than BPT.

BPT: BPT regulations are proposed for direct discharges for the canmaking industry. This regulation will affect 7 facilities. Investment costs for BPT are $1.0 million; total annual costs are $0.45 million (in 1982 dollars). No plant closures or job losses are anticipated as a result of BPT.

BAT: BAT regulations will also affect the 7 direct discharges within the canmaking industry. To comply directly with BAT, these canmaking facilities will incur investment costs of $0.68 million and annual costs of $0.42. There are no plant closures or job losses projected as a result of BAT.

PSES: Pretreatment standards are proposed for indirect dischargers within the canmaking industry. 81 plants will incur investment costs of $27.6 million and annual costs of $16.7 million. There are no plant closures or job losses projected as a result of PSES.

NSPS/PSNS: The results of the economic analysis for new sources indicate that a new canmaking line will have an annual output volume of 300 million cans per production line. The incremental annual compliance costs of the recommended technology for new sources of the BAT/PSES option for a normal canmaking line is estimated to be approximately $20,000 which is less than 0.1 percent of plant revenues (assuming $90 per 1000 cans manufactured). In addition, the compliance capital investment for new sources is less than the required capital investment for the recommended BAT/PSES technology. These comparisons indicate that new sources would not be at a competitive disadvantage as a result of having to comply with NSPS/PSNS.

Regulatory Flexibility Analysis: Pub. L. 96–354 requires EPA to prepare an Initial Regulatory Flexbility Analysis for all proposed regulations that have a significant impact on substantial number of small entities. The analysis may be conducted in conjunction with or as part of other Agency analyses. A small business analysis for this industry is included in the Economic Impact Analysis. The number of plant lines was the primary variable recommended to distinguish firm size. The small size category includes approximately 20 facilities (46 percent of the industry total). The Agency invites comments on this size definition. Annual BAT and PSES compliance costs for small plants are approximately 38 percent of the estimated BAT/PSES costs for existing sources. Thus, capital costs are estimated to be $10,693,000 with annual costs of $4,074,000 for a canmaking facility with less than 3 production lines. For this proposed rulemaking, there are no significant impacts on small firms; therefore, a formal Regulatory Flexibility Analysis is not required.

XVI. Non-Water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Therefore, Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of this regulation on air pollution, solid waste generation, and energy consumption. This proposal was circulated to and reviewed by EPA personnel responsible for non-water quality environmental programs. While it is always difficult to balance pollution problems against each other and against energy utilization, EPA is proposing regulations that it believes best serve often competing national goals.

The following are the non-water quality environmental impacts associated with the proposed regulations and are discussed in Section VIII of the Development Document:

A. Air Pollution

Compliance with the proposed BPT, BAT, BCT, NSPS, PSES, and PSNS will not create any substantial air pollution problems. Precipitation and clarification, the major portion of the technology basis, should not result in any air pollution problems.

B. Solid Waste

EPA estimates that canmaking plants generate a total of 7,100 kkg of solid waste per year from manufacturing process operations, including sludge from current wastewater treatment.

Wastewater treatment sludges contain toxic metals including chromium, and zinc.

EPA estimates that the proposed BPT limitations will contribute an additional 382 kkg per year of solid wastes. Proposed BAT and PSES will contribute approximately 3,950 kkg per year. Proposed NSPS and PSES will contribute approximately 1500 kkg per year. These sludges will necessarily contain additional quantities of toxic metal pollutants.

None of these wastewater treatment sludges from this subcategory are likely to be hazardous under the regulations implementing subtitle C of the Resource Conservation and Recovery Act (RCRA) when the model treatment technology is used to meet BAT or PSES. Generators of these wastes must meet requirements set forth at 40 CFR Part 260 *et seq.* (See 45 FR 33142–33143 (May 19, 1980).

C. Energy Requirements

The canmaking industry in 1981 used about 3.9 billion kilowatt hours of energy. This regulation does not significantly affect the energy requirements of the industry. EPA estimates that the achievements of proposed BPT effluent limitations will result in a net increase in electrical energy consumption of approximately 1.5 million kilowatt-hours per year. Proposed BAT limitations are projected to add insignificant additional kilowatt-hours to electrical energy consumption.

The Agency estimates that proposed PSES will result in a net increase in electrical energy consumption of approximately 15.1 million kilowatt-hours per year.

The energy requirements for NSPS and PSNS are estimated to be similar to energy requirements for BAT. More accurate estimates are difficult to make because projections for new plant construction are variable.

XVII. Best Management Practices

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" (BMP), described under Authority and Background. EPA is not now considering promulgating BMP specific to the canmaking subcategory.

XVIII. Upset and Bypass Provisions

An issue of recurrent concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations guidelines is necessary because such upsets will inevitably occur due to limitations in even properly operated control equipment. Because technology-based limitations are to require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have been divided on the question of whether an explicit upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costle*, supra and *Corn Refiners Association, et al.* v. *Costle*, No. 78–1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc.*, v. *Train*, 540 F.2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. Bypass provisions have, in the past, been included in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits, and has recently promulgated NPDES regulations that include upset and bypass permit provisions. (See 40 CFR 122.60; 45 FR 33290; May 19, 1980.) The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent

limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Permittees in canmaking will be entitled to the general upset and bypass provisions in NPDES permits. Thus these proposed regulations do not address these issues.

XIX. Variances and Modifications

Upon the promulgation of final regulations, the numerical effluent limitations must be applied in all Federal and State NPDES permits thereafter issued to canmaking direct dischargers. In addition, on promulgation, the pretreatment limitations are directly applicable to indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. duPont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra; EPA* v. *National Crushed Stone Association, et al.* 449 U.S. 64 (1980). This variance recognizes that there may be factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. This variance clause was originally set forth in EPA's 1973–1976 industry regulations. It now will be included in the general NPDES regulations and will not be included in the canmaking or other specific industry regulations. See the NPDES regulation, 40 CFR 125, Subpart D, 44 FR 32854, 32893 (June 7, 1979), 45 FR 33512 (May 19, 1980), 46 FR 9460 (January 28, 1981), and 47 FR 52309 (November 19, 1982) for the text and explanation of the "fundamentally different factors" variance.

Dischargers subject to the BAT limitations are also eligible for EPA's "fundamentally different factors" variance. In addition, BAT limitations for nonconventional pollutants may be modified under Sections 301 (c) and (g) of the Act which are now in 40 CFR 122.53(i)(2). Section 301(1) precludes the Administrator from modifying BAT requirements for any pollutants which are on the toxic pollutant list under Section 307(a)(1) of the Act. The economic modification section (301(c)) gives the Administrator authority to modify BAT requirements for nonconventional pollutants for dischargers who file a permit application after July 1, 1977, upon a showing that such modified requirements will: (1) Represent the maximum use of technology within the economic capability of the owner or operator and (2) result in reasonable further progress toward the elimination of the discharge of pollutants. The environmental modification section (301(g)) allows the Administrator, with the concurrence of the State, to modify Bat limitations for nonconventional pollutants from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that:

(a) Such modified requirements will result at a minimum in compliance with BPT limitations or any more stringent limitations necessary to meet water quality standards;

(b) Such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(c) Such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

Section 301(j)(1)(B) of the Act requires that application for modifications under section 301 (c) of (g) must be filed within 270 days after the promulgation of an applicable effluent guideline. Initial applications must be filed with the Regional Administrator and, in those States that participate in the NPDES Program, a copy must be sent to the Director of the State program. Initial applications to comply with 301(j) must include the name of the permittee, the permit and outfall number, the applicable effluent guideline, and whether the permittee is applying for a 301(c) or 301(g) modification or both. Applicants interested in applying for both must do so in their initial application. For further details, see 43 FR 40859, September 13, 1978.

The nonconventional pollutants limited under BAT in this regulation are aluminum, fluoride, and phosphorus. No regulations establishing criteria for 301(c) and 301(g) determinations have been proposed or promulgated. All dischargers who file an initial application within 270 days will be sent a copy of the substantive requirements for 301(c) and 301(g) determinations once they are promulgated. Modification determinations will be considered at the time the NPDES permit is being reissued.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTWs. (See 40 CFR 403.7, 493.13.) Pretreatment standards for new sources are subject only to the credits provision in 40 CFR 403.7. New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. (See *duPont* v. *Train, supra.*)

XX. Relationship To NPDES Permits

The BPT, BAT, BCT and NSPS limitations in this regulation will be applied to individual canmaking plants through NPDES permits issued by EPA or approved State agencies under Section 402 of the Act. The preceding section of this preamble discussed the binding effect of this regulation on NPDES permits, except to the extent that variances and modifications are expressly authorized. This section describes several other aspects of the interaction of these regulations NPDES permits.

One matter that has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations, guidelines, and standards. Under current EPA regulations, states and EPA regions that issue NPDES permits before regulations are promulgated do so on a case-by-case basis on consideration of the statutory factors. (See *U.S. Steel Corp.* v. *Train*, 556 F.2d 822, 844, 854 7th Cir. 1977.) In these situations, EPA documents and draft documents (including these proposed regulations and supporting documents) are relevant evidence, but not binding, in NPDES permit proceedings. (See 44 FR 32854, June 7, 1979.)

Another noteworthy topic is the effect of this regulation on the powers of NPDES permit-issuing authorities. The promulgation of this regulation does not restrict the power of any permit-issuing authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, the fact that this regulation does not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case basis, when necessary to carry out the purposes of the Act. In addition, to the extent that State water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent

limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing this regulation. The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary (*Sierra Club* v. *Train, 527* F 2nd. *485,* 5th Cir. 1977). EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good faith compliance efforts.

XXI. Summary of Public Participation

The Agency has had contact with individual can manufacturing companies and with the Can Manufacturers Institute during the collection of information and data basic to this proposal. Information they supplied was used in the preparation of this proposal.

XXII. Solicitation of Comments

The Agency invites and encourages comments on any aspect of this proposed regulation but is particularly interested in receiving comments on the issues listed below. In order for the Agency to evaluate views expressed by commenters, the comments should contain specific data and information to support those views.

1. As is explained in Section VI of this preamble and Section IV of the development document for canmaking, the production of steel seamless cans and that of aluminum seamless cans are regulated as one subcategory with a single set of limitations and standards. The Agency seeks comments on whether the judgment to include the production of all seamless cans which are washed in a single subcategory is appropriate. Existing data on steel canmaking has shown that flows and pollutant loadings for steel canmaking are somewhat lower than those for aluminum canmaking. Interested persons are invited to submit information relevant to subcatgorization for this proposal. Additional information about the processes, use of lubricants and other materials, water use, and characterization of steel canmaking raw wastewaters and treated effluents is also requested.

2. The Agency has concluded, preliminarily, that basing BAT limitations and PSES and new source standards upon a technology train that includes polishing filtration would achieve little additional removal of pollutants. The Agency seeks data from canmakers, equipment suppliers, and other interested persons about the cost and pollutant removal benefits of polishing filtration and its ability to remove toxic and nonconventional pollutants from canmaking wastewaters. Wherever possible, persons submitting treatment effectiveness information should present long-term sampling data—especially paired raw wastewater-treated effluent data—from canmaking plants, or plants in other categories with comparable wastewaters, with well-operated polishing filters.

3. The Agency has included dissolved air flotation and chemical emulsion breaking as recommended technologies for existing sources that have high levels of oil and grease in their wastewaters. As is explained in Section VII of this preamble and Section VII of the development document, the Agency is confident that these technologies—in addition to oil skimming—will reduce oil and grease and TTO to concentrations that will allow the proposed limitations and standards to be met. These oil removal technologies perform well on wastewaters generated in other industries and are expected to perform satisfactorily on canmaking wastewaters. Dissolved air flotation is used in the canmaking industry, and the Agency previously has requested canmakers to supply data with respect to the performance of this technology. As of the date of this proposal no data has been received. The Agency would be interested in receiving data on the performance of dissolved air flotation and chemical emulsion breaking in canmaking facilities, however, to confirm the performance of these technologies. Wherever possible, interested persons should submit long-term sampling data—especially paired raw wastewater-treated effluent data—from canmaking plants with well-operated dissolved air flotation and chemical emulsion breaking technologies.

4. The Agency is continuing to seek additional data to support these proposed limitations and standards, and specifically requests long-term sampling data (especially paired raw wastewater treated effluent data) from canmaking plants having well-operated chemical precipitation and sedimentation systems.

5. To determine the economic impact of this regulations, the Agency has calculated the cost of installing BPT, BAT, PSES, NSPS, and PSNS for each facility for which canmaking data were available. The details of the estimated costs and other impacts are presented in Section VIII of the technical development document and in the Economic Impact Analysis. Based on these analyses, the Agency projects no plant closures or employment losses as a result of this regulation. Because the Agency did not have plant specific data on some financial measures, as such data is often proprietary, the Agency used industry-wide ranges or averages. The Agency invites comments on these analyses and projections. The Agency particularly seeks comment on whether incremental costs are achievable by canmakers; especially those that are small or less profitable. Commenters should not focus only on the likelihood of plant closures and employment losses but should also include data on the effects of the regulation on modernization or expansion of production, production costs, the ability to finance nonenvironmental investments, product prices, profitability, availability of less costly technology and international competitiveness.

6. The Agency is seeking comment on the achievability and costs associated with new source flow reduction. Specifically the Agency requests comment with supporting data on the efficiency benefits associated with flow reduction such as reduced water use charges, sewer charges, and decreased treatment system size and cost.

The proposed regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

The reporting or recordkeeping provisions in this rule will be submitted for approval to the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Any final rule will explain how its reporting or recordkeeping provisions respond to any OMB or public comments.

XXIV. List of Subjects in 40 CFR Part 465

Metal cans, Metal coating and allied services, Waste treatment and disposal, Water pollution control.

Dated: January 31, 1983

Anne M. Gorsuch,

Administrator.

Appendix A—Abbreviations, Acronyms and Other Terms Used in This Notice

Act—The Clean Water Act

Agency—The U.S. Environmental Protection Agency
BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act
BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act
BDT—The best available demonstrated control technology processes, operating methods, or other alternatives, including where practicable, a standard permitting no discharge of pollutants under section 306(a)(1) of the Act
BMP—Best management practices under Section 304(e) of the Act
BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act
Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Pub. L. 95–217)
Direct discharger—A plant that discharges pollutants into water of the United States
Indirect discharger—A plant that introduces pollutrants into a publicly owned treatment works
NPDES permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act
NSPS—New source performance standards under Section 306 of the Act
POTW—Publicly owned treatment works
PSES—Pretreatment standards for existing sources of indirect discharges under Section 307(b) of the Act
PSNS—Pretreatment standards for new sources of direct discharges under Section 307 (b) and (c) of the Act
RCRA—Resource Conservation and Recovery Act (Pub. L. 94–580) of 1976, as amended

Appendix B—Toxic Pollutants Not Detected

(a) Subpart D—Canmaking Subcategory
001 Acenaphthene
002 Acrolein
003 Acrylonitrile
005 Benzidine
008 1,2,4-trichlorobenzene
009 Hexachlorobenzene
010 1,2-dichloroethane
012 Hexachloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
016 Chloroethane
017 [Deleted]
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
021 2,4,6-trichlorophenol
022 Parachlorometa cresol
024 2-chlorophenol
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
030 1,2-trans-dichloroethylene
031 2,4-dichlorophenol
032 1,2-dichloropropane
033 1,2-dichloropropylene (1,3-dichloropropene)
034 2,4-dimethyphenol
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene
039 Fluoranthene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 Bis(2-chloroisopropyl) ether
043 Bis(2-chloroethyxy) methane
045 Methyl chloride (dichloromethane)
046 Methyl bromide (bromomethane)
047 Bromoform (tribromomethane)
049 [Deleted]
050 [Deleted]
052 Hexachlorobutadiene
053 Hexachloromyclopentadiene
054 Isophorone
056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
063 N-nitrosodi-n-propylamine
064 Pentachlorophenol
069 Di-N-octyl phthalate
073 Benzo(a)pyrene (3,4-benzopyrene)
074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
075 11,12-benzofluoranthene (benzo(b)fluoranthene)
077 Acenaphthylene
079 1,12-benzoperylene (benzo(ghi)perylene)
082 1,2,5,6-dibenzanthracene dibenzo(,h)anthracene
083 Ideno (1,2,3-cd) pyrene (2,3-o-pheynylene pyrene)
084 Pyrene
088 Vinyl chloride (chloroethylene)
089 Aldrin
090 Dieldrin
094 4,4-DDD (p,p-TDE)
095 Alpha-endosulfan
096 Beta-endosulfan
099 Endrin aldehyde
105 Delta-BHC (PCB-polychlorinated biphenyls)
106 PCB-1242 (Arochlor 1242)
108 PCB-1221 (Arochlor 1221)
109 PCB-1232 (Arochlor 1232)
111 PCB-1260 (Arochlor 1260)
112 PCB-1016 (Arochlor 1016)
113 Toxaphene
114 Antimony
116 Asbestos
117 Beryllium
125 Selenium
126 Silver
127 Thallium
129 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

Appendix C—Toxic Pollutants Detected Below the Nominal Quantification Limit

(a) Subpart D—Canmaking Subcategory.
004 Benzene
006 Carbon tetrachloride (tetrachloromethane)
007 Chlorobenzene
013 1,1-dichloroethane
023 Chloroform (trichloromethane)
037 1,2-diphenylhydrazine
038 Ethylbenzene
048 Dichlorobromomethane
051 Chlorodibromomethane
055 Naphthalene
082 N-nitrosodiphenylamine
085 Phenol
070 Diethyl phthalate
071 Dimethyl phthalate
072 1,2-benzanthracene (benzo(a)anthracene)
076 Chrysene
078 Anthracene
080 Fluorene
081 Phenanthrene
[illegible] Tetrachloroethylene
087 Trichloroethylene
091 Chlordane (technical mixture and metabolites)
092 4,4-DDT
093 4,4-DDE (p,p-DDX)
097 Endosulfan sulfate
[illegible] Endrin
100 Heptachlor
101 Heptachlor epoxide (BHC-hexachlorocyclohexane
102 Alpha-BHC
103 Beta-BHC
104 Gamma-BHC (lindane)
107 PCB–1254 (Arochlor 1254)
110 PCB–1248 (Arochlor 1248)

Appendix D—Toxic Pollutants Not Treatable Using Technologies Considered Applicable to the Subcategory

(a) Subpart D—Canmaking Subcategory.
115 Arsenic
118 Cadmium
120 Copper
121 Cyanide
122 Lead
123 Mercury
124 Nickel

Appendix E—Toxic Pollutants Controlled at BPT, BAT and NSPS But Not Specifically Regulated

(a) Subpart D—Canmaking Subcategory.
011 1,1,1-trichloroethane
018 Bis (2-chloroethyl) ether
029 1,1-dichloroethylene
044 Methylene chloride (dichloromethane)
066 Bis(2-ethylhexyll)phthalate
067 Butyl benzylphthalate
068 Di-N-butyl phthalate
086 Toluene

Appendix F—Segments Not Regulated

(a) The manufacture of seamed cans (clinched, soldered or welded).

(b) The manufacture of seamless cans from coated stock.

(c) The manufacture of can ends and can tops.

(Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217)

PART 465—[AMENDED]

1. EPA proposes to amend the table of contents to 40 CFR Part 465 by adding a new subpart D to read as follows:

* * * * *

Subpart D—Canmaking Subcategory

Sec.
465.40 Applicability; description of the canmaking subcategory.

465.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
465.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
465.53 New source performance standards.
465.54 Pretreatment standards for existing sources.
465.55 Pretreatment standards for new sources.
465.56 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

2. EPA proposes to revise § 465.01 to read as follows:

§ 465.01 Applicability.

This part applies to any coil coating facility or to any canmaking facility that discharges a pollutant to waters of the United States or that introduces pollutants to a publicly owned treatment works.

3. EPA proposes to amend § 465.02 by adding new paragraphs (h) and (i) to read as follows:

§ 465.02 [Amended]

* * * * *

(h) The term "can" means a container formed from sheet metal and consisting of a body and two ends or a body and a top.

(i) the term "canmaking" means the manufacturing process or processes used to manufacture a can from a basis metal.

4. EPA proposes to amend §465.03 by adding paragraphs (c) and (d) to read as follows:

§ 465.03 [Amended]

* * * * *

(c) As an alternative monitoring procedure for pretreatment, the POTW user may measure and limit oil and grease to the levels shown in pretreatment standards in lieu of measuring and regulating total toxic organics (TTO). The optional oil and grease parameter is not eligible for allowance for removal achieved at a POTW under 40 CFR 403.7.

(d) Aluminum is used as an indicator pollutant for toxic pollutants and a POTW may give credit for aluminum removal only to the extent that it is determined that chromium, zinc and other toxic metals are removed by the POTW.

5. EPA proposes to revise § 465.04 to read as follows:

§ 465.04 Compliance date for PSES.

(a) For Subparts A, B, and C the compliance date for Pretreatment Standards for Existing Sources (PSES) is December 1, 1985.[1]

(b) For Subpart D, the compliance date for Pretreatment Standards for Existing Sources will be three years from the date of promulgation of Subpart D.[1]

6. EPA proposes to add a new Subpart D to read as follows:

Subpart D—Canmaking Subcategory

§ 465.40 Applicability; description of the canmaking subcategory.

This subpart applies to discharges to waters of the United States, and introductions of pollutants into publicly owned treatment works from the manufacturing of seamless can bodies, which are washed.

§ 465.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart D

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	g (lbs)/1,000,000 cans manufactured	
Cr	74.21 (0.163)	30.03 (0.066)
Zn	235.01 (0.517)	96.95 (0.217)
Al	803.98 (1.768)	328.66 (0.723)
F	10513.65 (23.130)	4664.88 (10.262)
P	2950.89 (6.491)	1206.86 (2.655)
O&G	3534.00 (7.774)	2120.40 (4.664)
TSS	7244.70 (15.938)	3534.00 (7.774)
pH	(1)	(1)

[1]Within the range of 7.5 to 10 at all times.

§ 465.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

[1]The Consent Decree in *NRDC* v. *Train*, 12 ERC 1833 (D.C.C. 1979) specifies a compliance data for PSES of no later than June 30, 1984. EPA will be moving for modification of that provision of the Decree. Should the Court deny that motion, EPA will be required to modify this compliance date accordingly.

Subpart D

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any one day	Maximum for monthly average
	g (lbs)/1,000,000 cans manufactured	
Cr	24.10 (0.053)	9.75 (0.021)
Zn	76.34 (0.167)	32.14 (0.070)
Al	261.17 (0.574)	106.76 (0.234)
F	3415.30 (7.513)	1515.36 (3.333)
P	958.58 (2.108)	392.04 (0.862)

§ 465.43 New source performance standards.

The following standards of performance establish the quantity of quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Subpart D

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any one day	Maximum for monthly average
	g (lbs)/1,000,000 cans manufactured	
Cr	5.88 (0.013)	2.38 (0.005)
Zn	18.62 (0.041)	4.84 (0.017)
Al	63.7 (0.140)	26.04 (0.57)
F	833.0 (1.833)	369.60 (0.813)
P	233.8 (0.514)	95.62 (0.210)
O&G	280.0 (0.616)	168.0 (0.370)
TSS	574.0 (1.263)	280.0 (0.616)
pH	(1)	(1)

[1]Within the range of 7.5 to 10 at all times.

§ 465.44 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources.

Subpart D

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any one day	Maximum for monthly average
	kg (lbs)/1000.000 cans manufactured	
Cr	24.10 (0.053)	9.75 (0.021)
Zn	76.34 (0.167)	32.14 (0.070)
Al	261.17 (0.574)	106.76 (0.234)
F	3415.30 (7.513)	1515.36 (3.333)
P	[illegible] (2.108)	392.04 (0.862)
TTO	18.36 (0.040)	8.61 (0.009)
O&G (for alternate monitoring)	2353.0 (5.177)	1148.0 (2.526)

§ 465.45 Pretreatment standards for new sources.

Except as provided in § 403.7 any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply

with 40 CFR Part 403 and achieve the following pretreatment standards for new sources.

Subpart D

Pollutant or pollutant property	PSNS	
	Maximum for any one day	Maximum for monthly average
	g (lbs)/1000,000 cans manufactured	
CR	5.88 (0.013)	2.38 (0.005)
Az	18.62 (0.041)	7.84 (0.017)
Al	63.7 (0.140)	26.04 (0.057)
F	833.0 (1.833)	369.60 (0.813)
P	233.8 (0.514)	[illegible] (0.210)
TTO	4.48 (0.010)	2.10 (0.005)
O&G (for alternate monitoring)	280.0 (0.616)	168.0 (0.616)

§ 465.46 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30—.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

Subpart D

Pollutant or pollutant property	BCT effluent limitations	
	Maximum for any one day	Maximum for monthly average
	g (lbs)/1000,000 cans manufactured	
O&G	1148.00 (2.526)	688.80 (1.515)
TSS	2353.4 (5.177)	1148.00 (2.526)
pH	Within the range of 7.5 to 10 at all times.	

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Thursday
February 10, 1983

Part IV

Department of Health and Human Services

Social Security Administration

Social Security Benefits and Supplemental Security Income; Payments for Vocational Rehabilitation Services; Final Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Social Security Benefits and Supplemental Security Income; Payments for Vocational Rehabilitation Services

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These regulations for providing payments for vocational rehabilitation (VR) services implement sections 2209 and 2344 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, which amend sections 222(d) and 1615(d) of the Social Security Act (the Act). The intent of these regulations is to give rehabilitation agencies an incentive to rehabilitate beneficiaries under titles II and XVI; to improve the cost effectiveness of the use of title II Trust Funds and title XVI general funds for rehabilitation of beneficiaries and, to that end, to limit payment for VR services to cases of successful rehabilitation attributable to VR agency involvement. The regulations provide for payment to the State VR agencies or alternate participants, on a case-by-case basis and subject to certain conditions, for each person successfully rehabilitated.

EFFECTIVE DATES: These rules will be effective February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone (301) 594–7337.

SUPPLEMENTARY INFORMATION: Before Pub. L. 97–35 was enacted, the Secretary was authorized to make available each year an amount not to exceed 1½ percent of the title II disability benefits paid from the Trust Funds in the preceding year, and under title XVI an appropriated amount from general funds, to cover the costs incurred by States in attempting to rehabilitate disabled title II beneficiaries and disabled or blind title XVI recipients. These funds were disbursed to the individual States by the Rehabilitation Services Administration (RSA), Department of Education, through its grant system, based on various allocation formulas. That arrangement is no longer appropriate, because Pub. L. 97–35 requires the Secretary of Health and Human Services to pay the States on a case-by-case basis, subject to conditions which require us to deal directly with the States. These regulations will serve as the basis for payment for successful vocational rehabilitation services.

In order to obtain the public's views and comments before proceeding with these amendments, we published proposed rules for making payment for successful vocational rehabilitation services along with a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on October 14, 1981 (46 FR 50756). Interested individuals, organizations, Government agencies, and groups were invited to submit data, views, or arguments pertaining to the proposed amendments within a period of 60 days from the date of publication of the notice. We have carefully considered all the comments we received pertaining to the proposed amendments and our decisions on the issues raised by the commenters are explained later in this preamble.

Beginning October 1, 1981, the rehabilitation of disabled persons under title II and disabled/blind persons under title XVI has not been financed in any major way from funds under title II or title XVI. Financing is primarily through funds appropriated to administer the basic rehabilitation grant program provided by the Rehabilitation Act of 1973. Pub. L. 97–35 authorizes the Secretary to pay the States from titles II and XVI funds only for the successful rehabilitation of title II beneficiaries and title XVI recipients as determined under criteria established by the Commissioner of Social Security. No payments can be made under these provisions for VR services provided prior to October 1, 1981.

Regulatory Provisions

These regulations apply to the payment of the costs for successfully rehabilitating title II disability beneficiaries and title XVI disabled and blind recipients. They reflect and implement sections 2209 and 2344 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981.

The regulations provide for a method of payment to the State VR agencies or alternate participants of the costs (subject to limitations set in these regulations) of services provided to persons who have performed substantial gainful activity (SGA) for a continuous period of not less than 9 months. By alternate participants we mean public or private agencies, organizations, institutions, or individuals, other than the State VR agencies, with whom the Commissioner of Social Security has entered into an agreement or contract to provide VR services.

The regulations require that each State notify us no later than the 60th day following publication of these regulations whether it intends to participate in the titles II and XVI VR programs. If a State is unwilling to participate, the regulations specify that the Commissioner may provide VR services by agreement or contract with other public or private agencies, organizations, institutions or individuals. We will contact each State in advance of the deadline to assure that all States are aware of the deadline. We currently are considering whether States that participate should also be required to achieve specified levels of performance and, if so, what levels of performance should be required.

The law provides that we may pay for the VR services either after they occur or in advance (based on expected payments), in which case we would adjust for overpayments or underpayments. These regulations provide that funds may be advanced based on the estimated costs of successes expected to occur in the FY in which the funds are advanced.

These regulations also provide the criteria SSA will use in determining whether VR significantly "contributed" to an individual's ability to engage in SGA for a continuous period. These criteria differentiate between two types of situations:

1. One in which an individual has completed a "continuous period" of SGA and has not medically recovered;

2. One in which an individual has completed a "continuous period" of SGA and has medically recovered before completion of that period.

In the first situation, if the individual's continuous period began one year or less after VR services ended, we will ordinarily consider that any VR services provided significantly contributed to a continuous period and potential savings. If the continuous period began more than one year after VR ended, our determination to pay for VR services will depend on whether the continuous period evolved from "transitional work" attributable to VR or, if it did not, whether it could have occurred without the VR having been provided.

In the second situation, we will assume that VR contributed to an individual's ability to engage in SGA if the individual's individualized written rehabilitation program (IWRP), or a similar document in the case of an alternate participant, included medical services and these services were initiated, coordinated, or provided by a State VR agency or alternate participant. Where medical recovery is

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the basis for termination and VR services contributed only to the return to work, no payment for any of the VR services can ordinarily be made. This is because medical recovery, and the resulting savings to the Trust Funds or general fund, would have occurred regardless of whether these VR services were provided.

These regulations explain that we will consider an individual to have completed a "continuous period" of SGA if he or she worked at the SGA level for at least 9 consecutive months. There are two exceptions to this rule:

1. The individual performs 9 months of SGA within a 10 consecutive month period and has earnings during that period that meet or exceed our SGA requirements.

2. The individual performs 9 months of SGA within a 12 consecutive month period and the reason for not performing SGA in 2 or 3 of those months was due to circumstances beyond his or her control and unrelated to the impairment.

These regulations also provide the criteria to be used in determining the amount of payment in each case. Among these criteria are:

1. The cost to be paid must have been incurred while the individual was disabled;

2. The cost must not have been paid, or be payable, from a source other than the regular State VR Program.

3. Total payment in each case, including any prior payments related to earlier continuous periods of SGA made under these regulations, must not be so high as to preclude a "net savings". "Net savings" is the difference between the estimated savings to the Trust Funds (general revenues if title XVI), if disability benefits eventually terminate, and the total amount determined to be paid, or payable, to the State VR agency or alternate participant.

The regulations also provide for us to pay the States for administrative costs on a formula basis for the convenience of the States, because they now account for such costs on a formula basis. However, we will reconsider this arrangement after we gain more experience with the program, so as to determine whether it is cost effective.

The regulations stipulate that the States or alternate participants must file a claim for payment before SSA will consider paying them for any services.

The regulations provide procedures the States must follow if they wish to dispute a determination regarding (1) the impact of VR services on an individual's performance of a continuous period of SGA or (2) the amount of costs to be paid. The procedures for alternate participants will be specified in contracts negotiated with them.

The regulations provide for audit of the services and expenditures which were the basis for payment.

Comments Received Following Publication of the Notice of Proposed Rulemaking

We published proposed rules on payment of costs incurred by State VR agencies for successfully rehabilitating title II disability beneficiaries and title XVI disabled and blind recipients along with a Notice of Proposed Rulemaking on October 14, 1981 (46 FR 50756). We invited comments on the proposed rules and gave interested parties 60 days within which to submit comments. The comment period closed December 14, 1981. As part of our outreach effort, we also mailed copies of the proposed rules to State rehabilitation agencies, and various national organizations and advocacy groups active in the fields of disability and rehabilitation, and asked them for comments.

Over 80 letters were received. These included comments from State VR agencies, several other State agencies interested but not directly involved in VR, private VR agencies, and national organizations and special interest organizations active in the field of VR. We also received several letters from private individuals. A number of the letters dealt with operational or administrative issues, such as suggestions on the methods to be used to advance funds after FY 1982, and are not addressed here. We have been working with the Council of State Administrators of Vocational Rehabilitation on these as well as other operational and administrative policy issues raised and expect to resolve them through our joint meetings. For example, one of the operational policy issues we are working on deals with the processing of claims that are filed before the completion of 9 months of SGA. Because of the initial high volume of filings expected, we are considering denying these claims if less than a certain number of months of SGA are completed at the time of filing, or, as an alternative, at the time we examine the claims to determine whether they meet the requirements for payment. These denials will not prejudice later filing of claims in these cases.

For ease of comprehension and perspective, we have grouped the comments according to the issues raised. The comments and our responses are presented in the sequence of the regulations.

General Provisions (Purpose, Scope, and Definitions)

Comments—Two writers stated that this program was intended to accomplish two objectives: (1) To make VR services more readily available to disabled individuals receiving payments under title II and title XVI of the Social Security Act and (2) to ensure that savings accrue to the appropriate title II Trust Funds and title XVI general funds from successful rehabilitations. They indicated that only the second purpose was included in the proposed regulations and that the first purpose should also be included. Three writers questioned the definition of "medical recovery." Two indicated that the definition was silent as to when medical recovery will, or will not, be determined to have occurred. One stated that the definition did not specify whether the Social Security Administration or the State VR agency has the responsibility for determining if and when medical recovery has occurred. One writer suggested that a definition of the terms "waiting period" and "eligible" should be provided.

Response—Since both program objectives cited in Pub. L. 97–35 are important, we have included both in §§ 404.2101 and 416.2201 of the final regulations as recommended. We have expanded the definition of medical recovery in §§ 404.2103 and 416.2203 to specify (1) that medical recovery will be established when an individual is found not disabled in accordance with the applicable sections of the Act and (2) that the Commissioner of Social Security is responsible for making medical recovery decisions (see also §§ 404.2109(b) and 416.2209(b)). Medical recovery decisions will be made as a result of a continuing disability investigation performed by SSA as part of the continuing disability determination process and will also be used in determining payments for VR services.

As suggested, definitions of the terms "eligible" (§ 416.2203) and "waiting period" (§ 404.2103) have been added to the lists of definitions.

Participation by States or Alternate Participants

Comments—Several writers expressed concern that payments by SSA might be diverted to the State treasuries rather than be channeled to the State VR agencies. One basis for this concern was that, in the proposed regulations dealing with participation in the program by the States and also in the payment provisions, reference was

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sometimes made to the term "State" rather than "State VR agency." This gave many writers the impression that our payments would be to the States and would, therefore, go into each State's General Revenue fund, rather than to its VR agency. Another common cause of concern expressed by State VR agencies on this issue was that use of the term "reimbursement" may cause the payment for VR services to be deposited by the State into its General Revenue Fund. This is because the term "reimbursement" can be interpreted to mean "refund" and, in many States, any refund for a prior year's expenditure is deposited into that State's General Revenue Fund, thus depriving the State VR agency of the direct use of that money. To ensure that any payments made for VR services to the VR agencies, recommendations were made that the regulations, when referring to payment, specifically refer to the State VR agency instead of the State and that the term "reimbursement" be changed to "payment", or some other term with a similar meaning. One commenter recommended that language should be included in the regulations to provide State VR agencies with the authority to treat the payment as current-year funds. Two writers recommended that the payments should be issued by the Rehabilitation Services Administration in the form of a grant to the States. Concern that the participating State VR agencies might not receive use of any of the payments by SSA was the most common concern expressed about this section.

The second most common concern was that the States and their VR agencies should have some options as to participation. For example, several States with more than one VR agency felt that they should have the option of restricting their participation to only one VR agency, if they wanted to do that. Other States felt there should be options for delaying the effective date of initial participation, and for participation by a State which has declined initial participation but later wants to change that decision. One writer felt that there should be an option for a State to participate through an agency other than the State VR agency (or agencies).

Four writers questioned the requirement that the State, rather than the VR agency, notify us of its decision to participate in the payment program. They also questioned the requirement that the authority of the person signing the notice of participation to act for the State must be verified by an opinion from the State's Attorney General. Two of the writers felt that notification by a State VR agency, instead of the State, was sufficient, and two felt that the requirement for the accompanying opinion by the State's Attorney General was unnecessary and should be deleted.

The lack of a specific provision for the use of alternate participants in section 1615(d) of the Social Security Act was questioned by four writers. They stated that this section, which contains the provisions for payment for successful VR services to disabled and blind Supplemental Security Income (SSI) recipients, makes no provision for alternate participants as does section 222(d) of the Act, which applies to payment for successful VR services provided to disabled Social Security beneficiaries. Therefore, they suggested that the reference to alternate participants in § 416.2204(d) of the SSI regulations be deleted. One writer stated that the date shown in § 416.2204(c) as "March 31, 1981," is incorrect and that it should be shown as "March 31, 1982." Finally, one writer stated that the parenthetical phrase "or demonstrated its unwillingness to participate" is vague and should be clarified or deleted.

Response—The term "State" was initially defined to include the VR agency and was used interchangeably with VR agency. However, to avoid confusion, we have changed the term to "State VR agency" wherever appropriate. We also have replaced the word "reimbursement" with "payment", wherever appropriate.

There is no authority in the law for us to adopt the writer's suggestion that we specify in these regulations that the State VR agencies may treat the payments for successful VR services as current-year funds, but there is nothing in these regulations which would prevent a State from taking this action on its own initiative. We also did not adopt the suggestion that payments for VR services be issued by the Rehabilitation Services Administration in the form of a grant. This program is not a grant program and specifically provides for us to make payment on a case-by-case basis. It would neither be consistent with program intent to provide a grant nor cost-effective to make payments through an intermediary.

We have adopted the suggestions made that there should be some participation options available to the States. To accomplish this we have revised paragraph (c) of §§ 404.2104 and 416.2204 to provide for several participation options. Under these options, States have the right to initially participate, delay participation to a later date, or limit participation to only one VR agency. Additionally, States may participate through a State agency other than a VR agency approved under the Rehabilitation Act of 1973, but only as an alternate participant. There is also provision for a State to participate that had initially declined participation but later decided to participate. However, in this situation, and in the situation where a State has delayed participation, the State may be prevented from participation if we have already entered into an agreement or contract with an alternate participant. Also, in these two situations, the States will only be paid for successes that occur after they have started participating.

The requirement in the regulations that the State, instead of the VR agency or agencies, must notify us of its intent regarding participation in the program has not been changed. The law gives the State, not an agency of the State, the option of participating or not participating. The State is responsible for its VR program and for making the decision regarding participation through its VR agencies. It can, of course, make this decision through a designee. This is why we retained the provision that the State's Attorney General verify the authority of the official who sent the notice to act for the State. This was done to assure that the State's participation has official sanction. To accommodate the States in this regard we did, however, modify this requirement by adding a provision in §§ 404.2104(b) and 416.2204(b) making the opinion unnecessary if the notice regarding participation is signed by a State Governor.

The suggestion that any references to alternate participants in § 416.2204(d) (redesignated as § 416.2204(f)) of the SSI regulations should be deleted because the law made no reference to alternate participants was not adopted. The Conference Report, House of Representatives Report No. 97–208, 97th Cong., 1st Sess., p. 988 (1981), dealing with this legislation indicates that the provisions of the law were to be applicable to both title II and title XVI of the Social Security Act. While section 1615(d) is silent in this respect, section 1633(a) gives the Secretary the authority to make administrative and other arrangements under title XVI in the same manner as they are made under title II. This is the basis for using alternate participants for title XVI in the same manner as they are used under title II.

The date "March 31, 1981" was incorrect and should have been March 31, 1982. However, because of the very

large number of comments received and the time required to carefully evaluate these comments, it was necessary to extend the notification deadline for the States. This deadline is now the 60th day after the publication date of these regulations. Furthermore, this section was modified to provide for participation options. As concerns the parenthetical phrase "(or demonstrated its unwillingness to participate)", we agree that this may be confusing in that it might imply a standard of performance is involved. We have, therefore, deleted this parenthetical phrase.

Requirements for Payments

Comments—Twelve writers recommended that the term "adequate documentation", as applied to services and cost-expenditures documentation, should be defined in the regulations. Many of these writers also recommended that it should not be required that adequate documentation be submitted with every claim at the time of filing. Instead, some provision should be made for maintaining the necessary documentation in the State VR agencies and making it available to SSA on a post-payment review basis. Concern was also expressed about the increased administrative burden that will occur in providing this documentation. One writer stated that §§ 404.2108(c) and 416.2208(c), which require that VR services must be provided under a plan for VR services approved under title I of the Rehabilitation Act of 1973, seem to only apply to State VR agencies and that a similar provision should be made for alternate participants.

Response—We have purposely avoided providing a detailed, all-inclusive definition of adequate documentation in the regulations because neither we, nor anyone else, have experience operating under the new definition of "successful" rehabilitation. Instead, we provided a conceptual basis for our assessment of the adequacy of documentation. We will propose modifications to these regulations if experience shows that we need to make changes in the documentation requirements. Further, we are working with the Council of State Administrators of Vocational Rehabilitation (CSAVR) in developing these guidelines and hope to establish guidelines which will be satisfactory to both SSA and the State VR agencies and alternate participants. However, to assure that the reporting burden is minimal, we have rewritten §§ 404.2108(f) and 416.2208(f) (previously §§ 404.2108(g) and 416.2208(g)) to minimize the amount of initial reporting and provide for reliance on post-payment review to identify problems in documentation. We agree with the comment that the language in §§ 404.2108(c) and 416.2208(c) seemed to set a standard for State VR agencies without a comparable standard for alternate participants. To correct this situation, we have added the phrase "or in the case of an alternate participant, under a negotiated plan" to the end of each of these sections. We have also made changes throughout the regulations to clearly specify when a particular section is also applicable, or inapplicable, to an alternate participant.

Responsibility for Making Payment Decisions

Comments—One writer recommended that some of the responsibility for decision making should be delegated by the Commissioner of Social Security to the regional representatives.

Response—The definition of Commissioner in these regulations includes his designees. We plan to use the Regional Commissioners, and any others the Commissioner may designate, in administering this program. However, there is no need for specific mention of these officials in the regulations. Based on the comments received on medical recovery as discussed earlier, we have added medical recovery to the list of items in §§ 404.2109 and 416.2209 that the Commissioner will determine. We have also added a provision to §§ 404.2127 and 416.2227 to explain that, because the decision of medical recovery is part of the disability claims process, no appeal of this decision is available under these regulations.

What We Mean By "SGA" and by "A Continuous Period of 9 Months"

Comments—Six writers suggested that provision should be made to pay for VR services even though a continuous period of 9 months of SGA is never completed. Seven writers recommended that the 12 consecutive month period described in §§ 404.2110(b)(2) and 416.2210(b)(2), during which a person must have performed SGA in 9 months should be lengthened. Recommendations for longer periods ranging from 18 to 24 months were received. Two writers suggested that the term "unrelated to the impairment", as used in this section, should be deleted so that impairment—related periods of non-SGA could be considered in establishing the 9 out of 12 requirements. Other writers thought that a provision should be made for seasonal workers who, because of the short growing and harvesting seasons for agricultural crops, might never be employed for more than 6 months out of a year. Two writers stated that, in order to make it easier to establish SGA, impairment-related work expenses should not be deducted, because the deduction of these expenses might keep an individual below the SGA level. Two writers recommended that we use a more liberal definition of "success" for blind SSI recipients than the definition we proposed. That is, instead of adopting the SGA standard that applies to blind title II beneficiaries, we should use the SGA standard that applies to disabled SSI recipients. (A choice exists because blind SSI recipients are not subject to an SGA standard for SSI benefit purposes, and we are required to apply a standard for VR payment purposes.)

Response—We could not adopt the suggestion that a provision be made to pay for VR services even though 9 months of SGA is never completed. The law requires that 9 months of SGA be completed before payment can be made. We did not increase to more than 12 months the time period for completion of 9 months of SGA to accommodate seasonal workers, nor did we eliminate the consideration of work related expenses in computing the SGA for all workers. In preparing the regulations we had considered making provision for a longer period in which to establish 9 months of SGA where circumstances beyond the individual's control prevented timely completion. However, we believe that there is no clear-cut authority for establishing a longer period and that a longer period would lower the potential for savings. Sections 223(d)(4) and 1614(a)(3)(D) of the Social Security Act provide for the deduction of impairment-related work expenses when determining if an individual's work constitutes SGA. We were therefore unable to adopt the suggestion that these expenses not be deducted when determining if an individual is performing SGA. We also did not make provision for including failure to perform SGA during this 12-month period, if such failure was due to a condition related to the individual's impairment. To do so, we believed, would not serve to establish that an individual was successfully rehabilitated.

Because there is no existing provision for SGA applicable to blind SSI recipients, it was necessary to adopt an SGA provision for the purpose of determining if the required 9 months of SGA have been completed by these individuals. In doing this, we considered adopting either the title II blind provision or, as recommended by the

commenter, the SSI disability provision for determining SGA for blind SSI recipients. Presently, under the SSI disability provisions, SGA generally is established based on monthly earnings of $300. Earnings of $500 a month establish SGA under the title II blind provisions. Use of the SSI disability provisions for SGA would make it easier, because of the lower earnings level, to establish months of SGA. However, this would create two different methods of determining month of SGA for blind individuals and would in some instances require the application of two standards to the same individual (some blind individuals receive benefits under both the title II and the SSI programs). Because of these factors and the fact that there is an existing formula designed specifically for determining SGA for blind workers, we believe it is appropriate to adopt the title II SGA standard for all blind individuals.

Criteria for Determining When VR Services Will Be Considered To Have Contributed to a Continuous Period of 9 Months

Comments—Twenty-four writers recommended that the State VR agencies or alternate participants should be paid for the cost of VR services provided to disability beneficiaries who were expected by us to medically recover (i.e., they were scheduled for a medical reexamination). Many of these writers also questioned how the cases in which medical recovery is expected could be identified by the State VR agencies or alternate participants. Most of the writers, in their recommendations, maintained that the presence or absence of a scheduled medical reexamination is irrelevant because only about 50 percent of the individuals for whom a reexamination is scheduled are found to have medically recovered. They further indicated that to deny payment of VR services solely on the basis of expected medical recovery would not be equitable because it does not deal with the real issue, which is whether VR services directly contributed to the medical recovery and return to SGA.

Five writers suggested that a presumption should be made that any VR services provided contributed to the continuous period of SGA. Five writers indicated that the State VR agencies or alternate participants do not have the equipment to track their clients' progress for up to five years after the vocational services ended. Some writers indicated that there should be a provision for payment for VR services when the continuous period began more than five years after the VR services ended. The meaning of the term "transitional work activity" was questioned by two writers. One writer questioned the meaning of the word "clear" as used in the last part of the last sentence in §§ 404.2111(a)(2) and 416.2211(a)(2) which states "if it is clear that the VR services contributed to the transitional work activity." One writer suggested that a provision should be made for interruptions in work activity in §§ 404.2111(a)(2) and 416.2211(a)(2). Several recommended that SSA pay for rehabilitation services which result in termination of the disability benefits without the client ever returning to work. Two writers commented that the language in §§ 404.2111(b)(1) and 416.2211(b)(1) seems to indicate that SSA will only pay the State VR agency or alternate participant for medical services.

One commenter requested that we clarify what we mean by VR services, i.e., indicate whether we would accept only State VR agency classified rehabilitations or also accept their non-rehabilitations.

Response—We have reviewed our position on the issue of expected medical recoveries and have decided that any payment for VR services in this situation should not be determined solely on the basis of whether we expected medical recovery to occur. This is because many expected recoveries might not occur without VR services. We agree that the determining factor should be whether the VR services provided directly contributed to the medical recovery. We have, therefore, deleted the requirement of the proposed §§ 404.2111(b)(1) and 416.2211(b)(1) that medical recovery must not have been expected to occur.

The recommendation that a presumption should be made that any VR services provided contributed to SGA for the continuous period was not adopted. The VR services must result in SGA. The connection between VR services and SGA must be established. We did not adopt this recommendation because we did not want to make any presumptions which might require us to pay for VR services which could not have helped an individual in returning to or continuing in SGA. We believe that the language used in §§ 404.2111(a)(1) and 416.2211(a)(1) will allow us to pay for most VR services provided an individual and, at the same time, prevent payment for any VR services which clearly could not have helped an individual in returning to or continuing in SGA. As we gain experience in administering this program, however, we may reconsider this recommendation.

The anticipated problem of tracking a client's progress for up to five years after VR services ended is an administrative or operational issue and, as such, need not be covered by these regulations. The regulations allow for payment in cases where individuals do not return to work at the time of rehabilitation. Each State and alternate participant will have to decide how long it will track rehabilitants for work activity that might justify payment.

We have adopted the recommendation that there should be a provision made for payment for VR services provided when the continuous period of SGA began more than 5 years after the VR services were provided. To accomplish this, we have deleted the proposed 5 year limitation. However, we believe that the greater the time period between the end of VR services and the completion of 9 months of SGA, the more tenuous the connection between the VR services and the completion of 9 months of SGA becomes. Where that time period exceeds 5 years, we will consider the connection only remotely possible and proven only with the most convincing evidence.

We have included in the definition of transitional work activity in §§ 404.2111(a)(2) and 416.2211(a)(2) a provision for periodic work interruptions as recommended. We have also deleted the phrase "if it is clear that VR services contributed to the transitional work activity" and replaced it with the phrase "if any services provided significantly motivated or assisted the individual in returning to or continuing in SGA."

It is not possible to adopt the recommendation that we pay for rehabilitation services which resulted in termination of the disability benefits without the client ever returning to work. The law requires SGA for the continuous period of 9 months before a claim for payment for VR services can be paid.

We clarified the meaning of VR services, indicating that we will pay the VR agency for any VR services which contributed to 9 months of SGA, regardless of whether the VR agency classified the individual as rehabilitated or not rehabilitated for other purposes.

Services for Which Payment May Be Made

Comments—Two writers suggested that §§ 404.2112 and 416.2212 were too complicated and should be revised. In addition, the applicability of title I of the Rehabilitation Act of 1973 to services provided by alternate participants was again questioned. One writer wanted to know if alternate participants would be

required to provide VR services under an individualized written rehabilitation plan (IWRP), or if a similar document would be used.

Response—While we do not believe that these sections are too complicated, we do agree that the questions raised regarding the applicability of the Rehabilitation Act of 1973 to alternated participants and the use of IWRP's by alternate participants need to be answered. To accomplish this, we have revised §§ 404.2112 and 416.2212 to indicate that services provided by a State VR agency must be in accordance with title I of the Rehabilitation Act of 1973, and services provided by an alternate participant must be provided in accordance with a negotiated plan which will contain service provisions similar to those applicable to the State VR agencies. We have also made changes to specify that the VR services provided under an IWRP refers to VR services provided by a State VR agency. A document comparable to the IWRP may be used for services provided by alternate participants. This will be subject to a negotiated plan.

When Services Must Have Been Provided

Comments—Several writers expressed concern with the SSI provision in § 416.2213(b) of the NPRM which allows payment for VR services provided only during months an individual is eligible for SSI payments. Their main concern was that, in situations where an individual is frequently in and out of eligiblity status (e.g., due to excess income or resources, engaging in SGA, etc.), an unnecessary burden will be imposed on the State VR agencies and alternate participants. They believe it would be very difficult to track on a current basis which months an individual was actually receiving SSI benefits. They also think that it may cause some State VR agencies or alternate participants to delay providing VR services until an individual is again receiving SSI benefits. They recommended that it would be better if months in which no SSI benefits were paid were disregarded in determining payment for any VR services provided.

One writer wanted to know how the period in which services must have been provided would be determined where an individual received both a title II disability benefit and an SSI disability payment.

Another writer questioned how the provisions regarding when services must have been provided (§§ 404.2113 and 416.2213) would apply to §§ 404.2108 and 416.2208 (Requirements for payment). This writer stated that the sections listing requirements for payment only require that services be provided (1) on or after October 1, 1981 (§§ 404.2108(b) and 416.2208(b) of the NPRM), and (2) during months the individual was entitled to benefits (§ 404.2108(d) of the NPRM) or eligible for benefits (§ 416.2208(d) of the NPRM). They do not cover any of the other provisions in §§ 404.2113 or 416.2213 on when services must have been provided, such as before completion of a continuous period of SGA. For example, if a continuous period of SGA were completed before October 1, 1981, and SSA disability entitlement continued, a State VR agency or alternate participant could meet all the requirements for payment specified in §§ 404.2108 or 416.2208 and still not be paid because VR services must also have been provided before the end of a continuous period of SGA in order to be payable. Therefore, if the continuous period ended before October 1, 1981, no payment for VR services could be made.

Response—Section 1615 of the Social Security Act requires that an individual be receiving benefits during the period any VR services are provided in order for the cost of those services to be payable. Therefore, we cannot pay for any VR services provided during a month an individual was not actually receiving benefits. We have also defined the word "eligible" in § 416.2203 to emphasize further this requirement of the law.

We have added a provision to §§ 404.2113 and 416.2213 to allow, where an individual is entitled to a title II disability benefit and is also receiving an SSI disability or blindness payment, for computing the period when services must have been provided under the provisions of either § 404.2113 or 416.2213, whichever is advantageous to the State VR agency or alternate participant. For example, in a situation where an individual filed for both benefits in the same month, it may be advantageous to compute the period when VR services must have been provided by using the provisions in § 404.2113. This is because, under § 404.2113, the period in which services must have been provided can begin with the first month of the waiting period. A waiting period can begin as early as 17 months before an application is filed in title II disability insurance claims. However, because there is no waiting period in an SSI claim, the period in which services must have been provided begins with the first month that the individual is receiving SSI payments. There is no retroactivity to a claim for SSI payments and the earliest possible date that this payment can begin is the day the claim is filed. Therefore, if claims for both benefits were filed in the same month, it would probably be advantageous to compute the period when services must have been provided under the title II disability insurance provisions in § 404.2113, because up to 17 more months of VR services could be considered. It would also be advantageous to use the title II disability insurance provisions in these, or similar, situations because it would not be necessary to determine the months of ineligibility due to income and resources limitations, etc., which would apply to the SSI disability or blindness recipient.

Based on the questions raised about the effect of §§ 404.2113 and 416.2213 on §§ 404.2108 and 416.2208 (Requirements for payment), we have changed §§ 404.2108(b) and 416.2208(b) to require that the VR services must have been provided during the period specified in §§ 404.2113 and 416.2213 instead of "on or after October 1, 1981", as originally indicated. We have also deleted §§ 404.2108(d) and 416.2208(d), which specified that VR services must have been provided during months the disabled individual was entitled to title II disability insurance benefits or receiving SSI payments. [This requirement is still in effect, however, it is now included as part of §§ 404.2108(a) and 416.2208(a).) Because of similar concerns, we have also changed the requirement in §§ 404.2108(g) and 416.2208(g) that a cost be reasonable and necessary, to specify that such a cost must be in compliance with the other cost guidelines in §§ 404.2116 and 416.2216.

What Costs Will Be Paid

Comments—A total of 28 writers stated that compliance with the provisions of this section would greatly add to the administrative burden of the State VR agencies and alternate participants. The primary concern of 12 of these writers was that they did not feel it should be necessary for us to apply cost-containment standards, because existing state internal cost-containment controls are adequate to prevent any unreasonable or unnecessary costs from being incurred. Other writers stated that at the time most VR costs are incurred, it is not known if the VR services being provided will result in a successful rehabilitation of an individual under our criteria. Therefore, there would be no reason for incurring any unreasonable or unnecessary costs which the State VR agency or alternate participant might have to pay out of its own budget.

Another recommendation, made by five writers, for lessening the administrative burden on the State VR agencies and alternate participants, was that we should consider all services provided by a State VR agency under an IWRP, or by an alternate participant under a similar document, to have been necessary.

Three writers commented that the reference to the "similar benefit" provision in 45 CFR 1361.45(b) made in §§ 404.2116(b) and 416.2216(b) is incorrect. They stated that this is now a Department of Education regulation and that the new regulation is in 34 CFR 361.47(b). Also, one writer requested that this section of the regulations be clarified and another suggested that it be deleted. The basis for both the recommendations was that the time and effort involved to comply with the "similar benefits" provision would often offset any savings.

Three writers recommended that §§ 404.2116(d) and 416.2216(d), which cover maintenance payments made to individuals who are required to be away from home in order to receive VR services, should be deleted. The basis for this recommendation was that maintenance payments are made only when, in the judgment of the counselor, an individual needs the payment to pursue other VR services necessary for employment. Two writers suggested that administrative and counseling costs be clearly defined.

Another writer suggested that the section on administrative costs be rescinded because it may lead to abuses (no examples were provided) in the selection process. Four writers recommended that there be some provision for a bonus or special placement fee to cover the inflation and interest losses on money used by the State VR agencies and alternate participants to provide VR services. One writer recommended that any payments made for VR services in any previous 9-month continuous period of SGA should not be considered in determining whether a net savings will accrue from the most recent program of VR services resulting in SGA. Several writers questioned the meaning of the payment condition whereby we will compare potential savings to costs before making payment.

Response—We agree with the recommendations made for easing the administrative burdens anticipated by the implementation of this program. To incorporate the recommendation that the State's internal cost-containment standards be used instead of those proposed, we have revised §§ 404.2116(c) and 416.2216(c). These sections now provide that a cost will be considered reasonable if it is consistent with a State's internal cost-containment guidelines or, in the case of an alternate participant, if it is consistent with a negotiated cost-containment policy. We have also made provision in this section that all services performed by a State VR agency in accordance with an IWRP, or a similar document in the case of an alternate participant, will be considered necessary. In addition, as covered earlier in discussing adequate documentation, we are also working with the Council of State Administrators of Vocational Rehabilitation (CSAVR) in developing operational procedures which we hope will further improve the administrative reporting requirements.

The reference to 45 CFR 1361.45 in §§ 404.2116(b) and 416.2216(b) has been changed to 34 CFR 361.47(b). We did not, however, adopt the recommendation that this section be deleted. Other sources (e.g., Medicare) of funding should be considered if they are available. We did, however, decide to consider the availability of similar benefits as a post-payment review issue subject to necessary adjustments for overpayments in order not to offset savings. We adopted the recommendation and reasoning that §§ 404.2116(d) and 416.2216(d), which deal with maintenance payments, be deleted.

For the reasons discussed previously in responding to the request for a definition of the term "adequate documentation," we did not adopt the suggestion that administrative costs as used in §§ 404.2116(f) and 416.2216(f) should be defined. We also believe that the meaning of these costs is already generally understood. We did not rescind these sections because we believe the post-payment reviews contemplated will provide adequate safeguards. The recommendation that a special fee or bonus should be paid for VR services provided by a State VR agency or alternate participant to offset the loss due to inflation or loss of interest on money spent by them for these services could not legally be adopted. The law does not authorize a bonus. However, the provision for advance funding and the steps taken to expedite payments for VR services should help to prevent some losses.

We clarified the payment condition calling for us to make a pre-payment estimate of savings before paying the State VR agency's or alternate participant's claim. We plan to employ the same formula which the States used under the prior programs.

We did not adopt the recommendation that prior payments, made to a State VR agency or alternate participant for an earlier continuous period of SGA, should not be counted in computing the savings to the Trust Funds for a later continuous period of SGA. We do not have the authority to waive the counting of actual expenditures.

Administrative Provisions

Comments—Forty-seven writers, for various reasons, recommended that there should be some advance funding for FY 1982 and that §§ 404.2118(a) and 416.2218(a), which did not allow advance funding for fiscal year 1982, should be deleted.

Three writers felt that the policies and procedures applicable to alternate participants should be clarified. One writer wanted to know where the statutes and regulations applicable to disputes and appeals of audit determinations will be specified for alternate participants.

Response—The need for advance funding for fiscal year 1982 was the most frequent comment received concerning these regulations. We initially intended not to advance fund the program. Our concern was that without sufficient experience with the new definition of "success"—9 months of SGA—State agencies would risk overpayment if the "successes" did not materialize. However, States have indicated a willingness to accept that risk and recognize that we will make future adjustments to account for any underpayments or overpayments. We are, therefore, prepared to make advances of the funds for which we have obligational authority. An advance to a State VR agency in a given fiscal year will be toward the rehabilitation successes the State VR agency is expected to achieve in that year and will be based on the expected costs of those successes. We have, therefore, deleted paragraph (a) of §§ 404.2118 and 416.2218 of the proposed regulations, which provided that no funds would be advanced for use in FY 1982. Sections 404.2118 and 416.2218, as revised, now provide for advance funding for FY 1982 as well as subsequent fiscal years.

In general, the provisions contained in these regulations are also applicable to the alternate participants. Where the provisions differ, we have explained the alternate participant's responsibilities separately. Sections 404.2117(b) and 416.2217(b) have been changed to show that the statutes and regulations applicable to disputes, and appeals of audits, will be specified in the negotiated agreement or contract with the alternate participant. Generally, we expect that most disputes and appeals of audit determinations will be resolved

in accordance with the Contract Disputes Act of 1978, 41 U.S.C. 601, et seq. and regulations thereunder, unless otherwise specified in the negotiated agreement or contract.

Due to the adoption of the recommendation that a provision should be made for post-payment reviews of VR services provided and costs incurred, it was necessary to add a special provision for this review. Sections 404.2121 and 416.2221 (post-payment reviews and validations) were, therefore, added to these regulations.

Additional Changes

The time limit for requesting reconsideration of a payment or audit determination (§§ 404.2120(c), 404.2127(a), 416.2220(c) and 416.2227(a)) has been extended from 30 days from the date of our determination notice to 60 days after receipt of our determination notice. We made this change in order to provide the State VR agencies and alternate participants with more time for reviewing and documenting any appeals they may need to file.

For accounting purposes and to expedite payments to State VR Agencies and alternate participants, we have added a time limitation for filing a claim for payment to §§ 404.2108(a) and 416.2208(a). A claim for payment must be filed within 12 months after the month the continuous period of SGA is completed or, if later, within 12 months after the month of publication of these regulations.

We amended paragraph (a) of § 416.1710 to remove the reference to an agency administering services under the State plan for crippled children's services and have provided instead for referral of blind and disabled children under age 16 to an agency administering services under the Maternal and Child Health Services Block Grant Act. This is merely a technical change and conforms this regulation section to a change made to title V (now called Maternal and Child Health Services Block Grant) of the Social Security Act by section 2193 of Pub. L. 97–35, 95 Stat. 827 (the Omnibus Budget Reconciliation Act of 1981).

Executive Order 12291 and Regulatory Flexibility Act

We proposed in the spring of last year that Congress terminate the titles II and XVI VR programs effective with FY 1982 and eliminate all VR funding under the Social Security Act. Congress terminated those programs as recommended, but replaced them with two programs requiring funding of VR under the Social Security Act far below the level of the prior programs. These programs are the subject of these regulations. Therefore, cost reductions from the abolition and replacement of the old programs, although major, are due to decisions made in the legislative and budgetary process. Cost impacts directly resulting from the regulations themselves are minor. For this reason, the Secretary has determined that the regulations do not meet any of the criteria for a major rule under Executive Order 12291. Further, the regulations will not have a significant economic impact on a substantial number of small entities, and do not require a regulatory flexibility analysis as provided in Public Law 96–345, the Regulatory Flexibility Act of 1980.

Paperwork Reduction Act

The Department is required to submit to the Office of Management and Budget (OMB) for review and approval §§ 404.2108(a) and 416.2208(a) of the regulations which deal with reporting requirements. These sections require States (or alternate participants) to file a claim to receive payment. The reporting or recordkeeping provisions that are included in this regulation have been approved by OMB (OMB No. 098–0310).

These regulations are hereby adopted as set forth below.

(Catalog of Federal Domestic Assistance Program No. 84.126, Rehabilitation Services and Facilities—Basic Support)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance.

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

Dated: November 18, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: January 19, 1983.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950)

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. A new Subpart V is added to Part 404 to read as follows:

Subpart V—Payments for Successful Vocational Rehabilitation Services

General Provisions

Sec.
404.2101 General.
404.2102 Purpose and scope.
404.2103 Definitions.
404.2104 Participation by State VR agencies or alternate participants.

Payment Provisions

404.2108 Requirements for payment.
404.2109 Responsibility for making payment decisions.
404.2110 What we mean by "SGA" and by "a continuous period of 9 months".
404.2111 Criteria for determining when VR will be considered to have contributed to a continuous period of 9 months.
404.2112 Services for which payment may be made.
404.2113 When services must have been provided.
404.2116 What costs will be paid.

Administrative Provisions

404.2117 Applicability of these provisions to alternate participants.
404.2118 Method of payment.
404.2120 Audits.
404.2121 Post-payment reviews and validations.
404.2122 Confidentiality of information and records.
404.2123 Other Federal laws and regulations.
404.2127 Resolution of disputes.

Authority: Issued under secs. 205, 222, and 1102 of the Social Security Act; 49 Stat. 624, 68 Stat. 1082, 49 Stat. 647; 42 U.S.C. 405, 422, and 1302; Sec. 2209 of Pub. L. 97–35; 95 Stat. 840; 42 U.S.C. 422.

Subpart V—Payments for Successful Vocational Rehabilitation Services

General Provisions

§ 404.2101 General.

Section 222(d) of the Social Security Act authorizes the transfer from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund of such sums as may be necessary to pay for the reasonable and necessary costs of vocational rehabilitation (VR) services which result in disabled individuals entitled under sections 223, 202(d), 202(e) and 202(f) of the Social Security Act performing substantial gainful activity (SGA) for a continuous period of at least 9 months. The purpose is to make VR services more readily available to disabled individuals and ensure that savings accrue to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

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§ 404.2102 Purpose and scope.

This subpart describes the rules under which the Secretary will pay the State VR agencies or alternate participants for VR services which result in an individual's performance of SGA for a continuous period of at least 9 months. It also provides the criteria for determining whether VR services furnished to the individual significantly contributed to his or her successful performance of SGA and the amount of the State VR agency's or alternate participant's costs that will be paid.

(a) Sections 404.2101–404.2103 describe the purpose of these regulations and the meaning of terms we frequently use in them.

(b) Sections 404.2104 describes the requirement that States declare their intent to participate or not participate.

(c) Sections 404.2108–404.2109 describe the requirements and conditions under which we will pay a State VR agency or alternate participant under this subpart.

(d) Sections 404.2110–404.2111 describe when an individual has completed a continuous period of SGA and when VR will be considered to have contributed to that period.

(e) Sections 404.2112–404.2113 describe services for which payment will be made.

(f) Section 404.2116 describes the payment conditions.

(g) Section 404.2117 describes the applicability of these regulations to alternate participants.

(h) Section 404.2118 describes how we will make payment to State VR agencies or alternate participants for successful rehabilitation services.

(i) Sections 404.2120 and 404.2121 describe the audits and post-payment reviews and validations that we will make.

(j) Section 404.2122 discusses confidentiality of information and records.

(k) Section 404.2123 provides for the applicability of other Federal laws and regulations.

(l) Section 404.2127 provides for the resolution of disputes.

§ 404.2103 Definitions.

For purposes of this subpart:

"Act" means the Social Security Act, as amended.

"Alternate participants" means any public or private agencies (except participating State VR agencies (see § 404.2104)), organizations, institutions, or individuals with whom the Commissioner has entered into an agreement or contract to provide VR services.

"Commissioner" means the Commissioner of Social Security or the Commissioner's designee.

"Disability" means "disability" or "blindness" as defined in sections 216(i) and 223 of the Act.

"Disability beneficiary" means a disabled individual who is entitled to benefits under sections 223, 202(d), 202(e), or 202(f) of the Act.

"Medical recovery" for purposes of this subpart is established when a beneficiary's disability entitlement ceases for any medical reason (other than death). The determination of medical recovery is made by the Commissioner in deciding a beneficiary's continuing entitlement to benefits.

"Secretary" means the Secretary of the Department of Health and Human Services or the Secretary's designee.

"SGA" means substantial gainful activity performed by an individual as defined in §§ 404.1571–404.1575 or 404.1584 of this subpart.

"State" means any of the 50 States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Virgin Islands, or Guam. It includes the State VR agency.

"Trust Funds" means the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

"Vocational rehabilitation services" has the meaning assigned to it under title I of the Rehabilitation Act of 1973.

"VR agency" means an agency of the State which has been designated by the State to provide vocational rehabilitation services under title I of the Rehabilitation Act of 1973.

"Waiting period" means a five consecutive calendar month period throughout which an individual must be under a disability and which must be served before disability benefits can be paid (see § 404.315(d)).

"We", "us" and "our" refer to the Social Security Administration (SSA) or the Secretary, as appropriate.

§ 404.2104 Participation by State VR agencies or alternate participants.

(a) In order to participate through its VR agency (or agencies), a State must have a plan which meets the requirements of title I of the Rehabilitation Act of 1973; or in the case of an alternate participant, a similar plan.

(b) *State decision.* The option of participation through their VR agencies in the payment program covered by this regulation will be offered first to the States. Each State must notify the Regional Commissioner (SSA) in writing no later than the 60th day following publication of these regulations whether its VR agency (or agencies) will participate in the program. The notice must be from an official authorized to act for the State for this purpose. A State must provide an opinion from the State's Attorney General verifying the authority of the official who sent the notice to act for the State. This opinion will not be necessary if the notice is signed by a State governor.

(c) *Participation options.* (1) A State that decides not to participate initially may participate later if we have not already made a commitment to an alternate participant, or if we choose to supplement an alternate's participation by also using a State VR agency. In such cases, the State VR agency may participate under the same conditions as described for initial State VR agency participation, except that payments will be limited to successes that occur after we accept the State's offer of participation.

(2) If a State decides to participate by using a State agency other than a VR agency with a plan for VR services approved under the Rehabilitation Act of 1973, that State agency may participate only as an alternate participant.

(3) A State with one or more approved VR agencies may limit participation of those agencies. For example, a State with separate VR agencies for the blind and disabled may choose to limit participation to the agency for the blind. We would seek an alternate participant for non-blind disabled beneficiaries.

(4) Unless otherwise specified by the State, a notice of initial participation will be effective October 1, 1981. A State may specify a later effective date, but in such cases, we may arrange for services to be provided through an alternate participant, either on an interim basis, as a replacement of the State VR agency, or as a supplement to the State VR agency. If a State does not want its participation to be effective October 1, 1981, payments will be limited to successes occurring on or after the effective date for participation it chooses after October 1, 1981.

(d) *Unwillingness of a State to participate.* The Commissioner will declare a State unwilling to participate if—

(1) The State has notified us that it does not intend to participate through its VR agency or agencies (see (c)(3) of this section for limited participation); or

(2) The State fails to notify us by the date specified in paragraph (b) of this section of its intent to participate.

(e) *Termination or limitation of participation after initial participation.*

If a participating State subsequently decides to terminate or limit participation, a notice to that effect must be made in writing to the Regional Commissioner (SSA) at least 90 days prior to effectuation. (Exception: States notifying SSA prior to publication of these regulations that they will participate may terminate participation without advance notice any time up to 30 days following publication of these regulations by a written notice to the Regional Commissioner.) A notice to terminate or limit participation must be submitted by an individual authorized to act for the State as specified in § 404.2104(b).

(f) *Alternate participants.* If a State has decided not to participate in the program through its VR agency, we may arrange for VR services in that State through an alternate participant by agreement or contract.

Payment Provisions

§ 404.2108 Requirements for payment.

(a) The State VR agency or alternate participant must file a claim for payment in each individual case within 12 months after the month in which the continuous period of SGA is completed or, if later, within 12 months after the month of publication of these regulations;

(b) The VR services for which payment is being requested must have been provided during the period specified in § 404.2113;

(c) The services must have been provided under a State plan for VR services approved under title I of the Rehabilitation Act of 1973 or, in the case of an alternate participant, under a negotiated plan;

(d) The individual must have performed SGA for a continuous period of at least 9 months (see §404.2110);

(e) The VR services must have contributed to the individual's return to SGA for a continuous period of at least 9 months (see § 404.2111);

(f) The State VR agency or alternate participant must provide, or maintain for post-payment review, adequate documentation of services and costs; and

(g) The amount to be paid must be reasonable and necessary and be in compliance with the cost guidelines specified in § 404.2116.

§ 404.2109 Responsibility for making payment decisions.

The Commissioner will decide:

(a) Whether a continuous period of 9 months of SGA has been completed;

(b) If and when medical recovery has occurred;

(c) Whether documentation of VR services and expenditures is adequate;

(d) Whether the VR services contributed to the continuous period of SGA; and

(e) What VR costs were reasonable and necessary and will be paid.

§ 404.2110 What we mean by "SGA" and by "a continuous period of 9 months".

(a) *What we mean by "SGA".* In determining whether an individual's work is SGA, we will follow the rules in §§ 404.1572–404.1575. We will follow these same rules for individuals who are statutorily blind, but we will evaluate the earnings in accordance with the rules in § 404.1584(d).

(b) *What we mean by "a continuous period of 9 months".* A continuous period of 9 months ordinarily means a period of 9 consecutive calendar months. Exception: When an individual does not perform SGA in 9 consecutive calendar months, he or she will be considered to have done so if—

(1) The individual performs 9 months of SGA within 10 consecutive months and has monthly earnings that meet or exceed the guidelines in § 404.1574(b)(2), or § 404.1584(d) if the individual is statutorily blind; or

(2) The individual performs at least 9 months of SGA within 12 consecutive months, and the reason for not performing SGA in 2 or 3 of those months was due to circumstances beyond his or her control and unrelated to the impairment (e.g., the employer closed down for 3 months).

(c) *What work we consider.* In determining if a continuous period of SGA has been completed, all of an individual's work activity may be evaluated for purposes of this section, including work performed before October 1981, during the waiting period, during the trial work period and after entitlement to disability benefits terminated. We will ordinarily consider only the first 9 months of SGA that occur. The exception will be if an individual who completed 9 months of SGA later stops performing SGA, receives VR services and then performs SGA for a 9-month period. See § 404.2113 of the use of the continuous period in determining payment for VR services.

§ 404.2111 Criteria for determining when VR services will be considered to have contributed to a continuous period of 9 months.

The following criteria apply to individuals who received more than just evaluation services. If a State VR agency or alternate participant claims payment for services to an individual who received only evaluation services, it must establish that the individual's continuous period or medical recovery (if medical recovery occurred before completion of a continuous period) would not have occurred without the services provided. In applying the criteria below, we will consider all services initiated, coordinated or provided, including services before October 1, 1981.

(a) *Continuous period without medical recovery.* If an individual who has completed a "continuous period" of SGA has not medically recovered as of the date of completion of the period, the determination as to whether VR services contributed will depend on whether the continuous period began one year or less after VR services ended or more than one year after VR services ended.

(1) *One year or less.* Any VR services which might have significantly motivated or assisted the individual in returning to, or continuing in, SGA will be considered to have significantly contributed to the continuous period.

(2) *More than one year.*—(i) If the continuous period was preceded by transitional work activity (employment or self-employment which gradually evolved, with or without periodic interruptions, into SGA), and that work activity began less than a year after VR services ended, VR services will be considered to have contributed to the continuous period if any services provided significantly motivated or assisted the individual in returning to or continuing in SGA.

(ii) If the continuous period was not preceded by transitional work activity that began less than a year after VR services ended, VR services will be considered to have contributed to the continuous period only if it is reasonable to conclude that the work activity which constitutes a continuous period could not have occurred without the VR services (e.g., training) the State VR agency or alternate participant provided.

(b) *Continuous period with medical recovery occurring before completion.* (1) If an individual medically recovers before a continuous period has been completed, the cost of VR services provided will not be payable unless some services contributed to the medical recovery. VR will be considered to have contributed to the medical recovery if—

(i) The individualized written rehabilitation program (IWRP) or, in the case of an alternate participant, a similar document, included medical services; and

(ii) The medical recovery occurred, at least in part, because of these medical services. (For example, the individual's

medical recovery was based on improvement in a back condition which, at least in part, stemmed from surgery initiated, coordinated or provided under an IWRP).

(2) In some instances, the State VR agency or alternate participant will not have provided, initiated, or coordinated medical services. If this happens, payment for VR services may still be possible under paragraph (a) of this section if: (i) the medical recovery was not expected by us; and (ii) the individual's impairment is determined by us to be of such a nature that any medical services provided would not ordinarily have resulted in, or contributed to, the medical cessation.

§ 404.2112 Services for which payment may be made.

Payment may be made for all services provided by a State VR agency in accordance with title I of the Rehabilitation Act of 1973, or by an alternate participant in accordance with a negotiated plan, subject to the conditions and limitations of this subpart. This includes general diagnostic and evaluation services provided to determine eligibility for VR services and all services provided by a State VR agency under an IWRP, or under a similar document by an alternate participant, including extended evaluation, regular case services and post-employment services.

§ 404.2113 When services must have been provided.

(a) To be payable, the services must have been provided:

(1) After September 30, 1981;

(2) No earlier than the beginning of the waiting period or the first month of entitlement, if no waiting period is required; and

(3) Before completion of a continuous period of SGA or termination of benefits, whichever comes earlier.

(b) Where disability or blindness payments are made to an individual based upon the provisions of both this Part and Part 416, the determination as to when services must have been provided may be made under this section or § 416.2213 of this Chapter, whichever is advantageous to the State VR agency or alternate participant that is participating in both VR programs.

§ 404.2116 What costs will be paid.

If VR services provided to an individual contributed to the individual's continuous period of SGA, the Secretary will pay the State VR agency or alternate participant for all VR services performed during the period described in § 404.2113, but subject to the following limitations:

(a) The cost must have been incurred by the State VR agency or alternate participant;

(b) The cost must not have been paid or be payable from some other source (State VR agencies or alternate participants will be expected to seek payment or services from other sources in accordance with the "similar benefit" provisions under 34 CFR 361.47(b)). Alternate participants will not be required to consider State VR services a similar benefit.

(c) The cost must be reasonable and necessary, in that it is consistent with the State's cost-containment guidelines or, in the case of an alternate participant, it is consistent with a negotiated cost-containment policy. All services provided by a State VR agency in accordance with an individualized written rehabilitation program (IWRP); or a similar document in the case of an alternate participant, will be considered necessary;

(d) The total payment in each case, including any prior payments related to earlier continuous periods of SGA made under these regulations, must not be so high as to preclude a "net savings" to the Trust Funds ("net savings" is the difference between the estimated savings to the Trust Funds, if disability benefits eventually terminate, and the total amount we pay to the State VR agency or alternate participant); and

(e) Any payment to the State VR agency for either direct or indirect VR expenses must be consistent with the cost principles described in OMB Circular No. A–87, published at 46 FR 9548 on January 28, 1981. (See § 404.2117(a) for cost principles applicable to alternate participants.)

(f) Payment will be made for administrative costs and for counseling and placement costs. This payment may be on a formula basis, or on an actual cost basis, whichever the State VR agency prefers. The formula will be negotiated. The payment will also be subject to the preceding limitations.

Administrative Provisions

§ 404.2117 Applicability of these provisions to alternate participants.

When an alternate participant provides rehabilitation services under this subpart, the payment procedures stated herein shall apply except that:

(a) Payment must be consistent with the cost principles described in 45 CFR Part 74 or 41 CFR Parts 1–15 as appropriate; and

(b) Any disputes, including appeals of audit determinations, shall be resolved in accordance with applicable statutes and regulations which will be specified in the negotiated agreement or contract.

§ 404.2118 Method of payment.

Payment to the State VR agencies or alternate participants for successful services will be made either by advancement of funds or by payment for services provided (with necessary adjustments for any overpayments and underpayments), as decided by the Commissioner. An advance in a given fiscal year will be toward the rehabilitation successes the State VR agency or alternate participant is expected to achieve in that year and will be based on the expected costs of these successes.

§ 404.2120 Audits.

(a) *General.* The State or alternate participant shall permit us and the Comptroller General of the United States (including duly authorized representatives) access to and the right to examine records relating to the services and costs for which payment was requested or made under these regulations. These records shall be retained by the State or alternate participant for the periods of time specified for retention of records in the Federal Procurement Regulations (41 CFR Parts 1–20).

(b) *Audit basis.* Auditing will be based on cost principles and written guidelines in effect at the time services were provided and costs were incurred. The State VR agency or alternate participant will be informed and given a full explanation of any questioned items. It will be given a reasonable time to explain questioned items. Any explanation furnished by the State VR agency or alternate participant will be given full consideration before a final determination is made on questioned items in the audit report.

(c) *Appeal of audit determinations.* The appropriate SSA Regional Commissioner will notify the State VR agency or alternate participant in writing of his or her final determination on the audit report. If the State VR agency (see § 404.2117(b) for alternate participants) disagrees with that determination, it may request reconsideration in writing within 60 days after receiving the Regional Commissioner's notice of the determination. The Commissioner will make a determination and notify the State VR agency of that decision in writing, usually, no later than 45 days from the date of appeal. The decision by the Commissioner will be final and conclusive unless the State VR agency

appeals that decision in writing in accordance with 45 CFR Part 16 to the Department of Health and Human Services Departmental Grant Appeals Board within 30 days after receiving it.

§ 404.2121 Post-payment reviews and validations.

(a) *General.* The State VR agency or alternate participant shall permit us (including duly authorized representatives) access to, and the right to examine, records relating to the services and costs for which payment was made under these regulations. Any review performed will not be considered an audit for purposes of these regulations.

(b) *Purpose.* The primary purpose of these reviews will be:

(1) To allow us to pay claims based on a minimum of documentation and later validate appropriateness of payment.

(2) To assess the validity of our documentation requirements.

(c) *Appeals.* The State VR agency or alternate participant will be notified of any discrepancies found on an individual claim basis. Disagreement with our findings may be appealed in accordance with § 404.2127. For purposes of this section, an appeal must be filed within 60 days after receiving our notice of the discrepancy.

§ 404.2122 Confidentiality of information and records.

The State or alternate participant shall comply with the provisions for confidentiality of information, including the security of systems, and records requirements described in 20 CFR Part 401 and pertinent written guidelines (see § 404.2123).

§ 404.2123 Other Federal laws and regulations.

Each State VR agency and alternate participant shall comply with the provisions of other Federal laws and regulations that directly affect its responsibilities in carrying out the vocational rehabilitation function.

§ 404.2127 Resolution of disputes.

(a) *Disputes on the amount to be paid.* The appropriate SSA official will notify the State VR agency or alternative participant in writing of his or her determination concerning the amount to be paid. If the State VR agency (see § 404.2117(b) for alternate participants) disagrees with that determination, the State VR agency may request reconsideration in writing within 60 days after receiving the notice of determination. The Commissioner will make a determination and notify the State VR agency of that decision in writing, usually no later than 45 days from the date of the State VR agency's appeal. The decision by the Commissioner will be final and conclusive upon the State VR agency unless the State VR agency appeals that decision in writing in accordance with 45 CFR Part 16 to the Department of Health and Human Services Departmental Grant Appeals Board within 30 days after receiving the Commissioner's decision.

(b) *Disputes on whether there was a continuous period of SGA and whether VR services contributed to a continuous period of SGA.* The rules in paragraph (a) of this section will apply, except that the Commissioner's decision will be final and conclusive. There is no right of appeal to the Grant Appeals Board.

(c) *Disputes on whether medical recovery has occurred.* Because the determination that medical recovery has occurred is an integral part of the disability benefits claims process, it can only be appealed by the individual who was receiving the disability benefit or his authorized representative. If this appeal is successful, however, the new decision that medical recovery has not occurred, or occurred at a different time than initially determined, would also apply for purposes of this subpart. This is also applicable to terminations made for reasons other than medical recovery.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart Q of Part 416 reads as follows:

Authority: Secs. 1102, 1611(e)(3)(A), 1615 and 1631 of the Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1466, 1474, and 1475 (42 U.S.C. 1302, 1382(e)(3)(A), 1382d, and 1383).

2. Section 416.1710 is amended by revising paragraph (a) to read as follows:

§ 416.1710 Whom we refer and when.

(a) *Whom we refer.* If you are 16 years of age or older and under 65 years old, and receiving supplemental security income (SSI) benefits, we will refer you to the State agency providing vocational rehabilitation services. If you are under age 16, we will refer you to an agency administering services under the Maternal and Child Health Services (Title V) Block Grant Act.

* * * * *

3. A new Subpart V is added to Part 416 to read as follows:

Subpart V—Payments for Successful Vocational Rehabilitation Services

General Provisions

Sec.
416.2201 General.
416.2202 Purpose and scope.
416.2203 Definitions.
416.2204 Participation by State VR agencies or alternate participants.

Payment Provisions

416.2208 Requirements for payment.
416.2209 Responsibility for making payment decisions.
416.2210 What we mean by "SGA" and by "a continuous period of 9 months".
416.2211 Criteria for determining when VR services will be considered to have contributed to a continuous period of 9 months.
416.2212 Services for which payment may be made.
416.2213 When services must have been provided.
416.2216 What costs will be paid.

Administrative Provisions

416.2217 Applicability of these provisions to alternate participants
416.2218 Method of payment.
416.2220 Audits.
416.2221 Post-payment reviews and validations.
416.2222 Confidentiality of information and records.
416.2223 Other Federal laws and regulations.
416.2227 Resolution of disputes.

Authority: Secs. 1102 and 1615 of the Social Security Act; 49 Stat. 647, 86 Stat. 1474; 42 U.S.C. 1302, and 1382d; Sec. 2344 of Pub. L. 97–35; 95 Stat. 867.

Subpart V—Payments for Successful Vocational Rehabilitation Services

General Provisions

§ 416.2201 General.

These regulations provide for payment for the reasonable and necessary costs of vocational rehabilitation (VR) services which result in individuals eligible under sections 1614(a)(2) and 1614(a)(3) of the Social Security Act performing substantial gainful activity (SGA) for a continuous period of at least 9 months. The purpose is to make VR services more readily available to disabled and blind individuals and ensure that savings accrue to the general fund.

§ 416.2202 Purpose and scope.

This subpart describes the rules under which the Secretary will pay the State VR agencies or alternate participants for VR services which result in an individual's performance of SGA for a continuous period of at least 9 months. It also provides the criteria for determining whether VR services

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furnished to the individual significantly contributed to his or her successful performance of SGA and the amount of the State VR agency's or alternate participant's costs that will be paid.

(a) Sections 416.2201–416.2203 describe the purpose of these regulations and the meaning of terms we frequently use in them.

(b) Section 416.2204 describes the requirement that States declare their intent to participate or not participate.

(c) Sections 416.2208–416.2209 describe the requirements and conditions under which we will pay a State VR agency or alternate participant under this subpart.

(d) Sections 416.2210–416.2211 describe when an individual has completed a continuous period of SGA and when VR will be considered to have contributed to that period.

(e) Sections 416.2212–416.2213 describe services for which payment will be made.

(f) Section 416.2216 describes the payment conditions.

(g) Section 416.2217 describes the applicability of the regulation to alternate participants.

(h) Section 416.2218 describes how we will make payment to State VR agencies or alternate participants for successful rehabilitation services.

(i) Sections 416.2220 and 416.2221 describe the audits and post-payment reviews and validations that we will make.

(j) Section 416.2222 discusses confidentiality of information and records.

(k) Section 416.2223 provides for the applicability of other Federal laws and regulations.

(l) Section 416.2227 provides for the resolution of disputes.

§ 416.2203 Definitions.

For purposes of this subpart:

"Act" means the Social Security Act, as amended.

"Alternate participants" means any public or private agencies (except participating State VR agencies (see § 416.2204)), organizations, institutions, or individuals with whom the Commissioner has entered into an agreement or contract to provide VR services.

"Blindness" means "blindness" as defined in section 1614(a)(2) of the Act.

"Commissioner" means the Commissioner of Social Security or the Commissioner's designee.

"Disability" means "disability" as defined in section 1614(a)(3) of the Act.

"Eligible" means meets all the requirements for supplemental security income benefits under sections 1614(a)(2), 1614(a)(3) or 1619(a) of the Act and is receiving SSI payments.

"Medical recovery" for purposes of this subpart is established when a disabled or blind recipient's eligibility ceases for any medical reason (other than death). The determination of medical recovery is made by the Commissioner in deciding a recipient's continuing eligibility for benefits.

"Secretary" means the Secretary of Health and Human Services or the Secretary's designee.

"SGA" means substantial gainful activity performed by an individual as defined in §§ 416.971–416.975 of this subpart or 404.1584 of this chapter.

"State" means any of the 50 States of the United States, the District of Columbia, or the Northern Mariana Islands. It includes the State VR agency.

"Vocational rehabilitation services" has the meaning assigned to it under title I of the Rehabilitation Act of 1973.

"VR agency" means an agency of the State which has been designated by the State to provide vocational rehabilitation services under title I of the Rehabilitation Act of 1973.

"We", "us" and "our" refer to the Social Security Administration (SSA) or the Secretary, as appropriate.

§ 416.2204 Participation by State VR agencies or alternate participants.

(a) In order to participate through its VR agency (or agencies), a State must have a plan which meets the requirements of Title I of the Rehabilitation Act of 1973; or in the case of an alternate participant, a similar plan.

(b) *State decision.* The option of participation through their VR agencies in the payment program covered by this regulation will be offered first to the States. Each State must notify the Regional Commissioner (SSA) in writing no later than the 60th day following publication of these regulations whether its VR agency (or agencies) will participate in the program. The notice must be from an official authorized to act for the State for this purpose. A State must provide an opinion from the State's Attorney General verifying the authority of the official who sent the notice to act for the State. This opinion will not be necessary if the notice is signed by a State governor.

(c) *Participation options.* (1) A State that decides not to participate initially may participate later if we have not already made a commitment to an alternate participant, or if we choose to supplement an alternate's participation by also using a State VR agency. In such cases, the State VR agency may participate under the same conditions as described for initial State VR agency participation, except that payments will be limited to successes that occur after we accept the State's offer of participation.

(2) If a State decides to participate by using a State agency other than a VR agency with a plan for VR services approved under the Rehabilitation Act of 1973, that State agency may participate only as an alternate participant.

(3) A State with one or more approved VR agencies may limit participation of those agencies. For example, a State with separate VR agencies for the blind and disabled may choose to limit participation to the agency for the blind. We would seek an alternate participant for the disability recipients.

(4) Unless otherwise specified by the State, a notice of initial participation will be effective October 1, 1981. A State may specify a later effective date, but in such cases, we may arrange for services through an alternate participant, either on an interim basis, or as a replacement of the State VR agency, or as a supplement to the State VR agency. If a State does not want its participation to be effective October 1, 1981, payments will be limited to successes occurring on or after the effective date for participation it chooses after October 1, 1981.

(d) *Unwillingness of a State to participate.* The Commissioner will declare a State unwilling to participate if—

(1) The State has notified us that it does not intend to participate through its VR agency or agencies (see (c)(3) of this section for limited participation); or

(2) The State fails to notify us by the date specified in paragraph (b) of this section of its intent to participate.

(e) *Termination or limitation of participation after initial participation.* If a participating State subsequently decides to terminate or limit participation, a notice to that effect must be made in writing to the Regional Commissioner (SSA) at least 90 days prior to effectuation. (Exception: States notifying SSA prior to publication of these regulations that they will participate may terminate participation without advance notice any time up to 30 days following publication of these regulations by a written notice to the Regional Commissioner.) A notice to terminate or limit participation must be submitted by an individual authorized to act for the State as specified in § 416.2204(b).

(f) *Alternate participants.* If a State has decided not to participate in the program through its VR agency, we may

arrange for VR services in that State through an alternate participant by agreement or contract.

Payment Provisions

§ 416.2208 Requirements for payment.

(a) The State VR agency or alternate participant must file a claim for payment in each individual case within 12 months after the month in which the continuous period of SGA is completed or, if later, within 12 months after the month of publication of these regulations;

(b) The VR services for which payment is being requested must have been provided during the period specified in § 416.2213;

(c) The services must have been provided under a State plan for VR services approved under title I of the Rehabilitation Act of 1973 or, in the case of an alternate participant, under a negotiated plan;

(d) The individual must have performed SGA for a continuous period of at least 9 months (See § 416.2210);

(e) The VR services must have contributed to the individual's performance of SGA for a continuous period of at least 9 months (See § 416.2211);

(f) The State VR agency or alternate participant must provide, or maintain for post-payment review, adequate documentation of services an costs (see § 416.2216); and

(g) The amount to be paid must be reasonable and necessary and be in compliance with the cost guidelines specified in § 416.2216.

§ 416.2209 Responsibility for making payment decisions.

The Commissioner will decide:

(a) Whether a continuous period of 9 months of SGA has been completed;

(b) If and when medical recovery has occurred;

(c) Whether documentation of VR services and expenditures is adequate;

(d) Whether the VR services contributed to the continuous period of SGA; and

(e) What VR costs were reasonable and necessary and will be paid.

§ 416.2210 What we mean by "SGA" and by "a continuous period of 9 months".

(a) *What we mean by "SGA".* In determining whether an individual's work is SGA, we will follow the rules in §§ 416.972–416.975. We will follow these same rules for individuals who are statutorily blind, but we will evaluate the earnings in accordance with the rules in § 404.1584(d) of this chapter.

(b) *What we mean by "a continuous period of 9 months".* A continuous period of 9 months ordinarily means a period of 9 consecutive calendar months. Exception: When an individual does not perform SGA in 9 consecutive calendar months, he or she will be considered to have done so if—

(1) The individual performs 9 months of SGA within 10 consecutive months and has monthly earnings that meet or exceed the guidelines in § 416.974(b)(2), or § 404.1584(d) of this chapter if the individual is statutorily blind, or

(2) The individual performs at least 9 months of SGA within 12 consecutive months, and the reason for not performing SGA in 2 or 3 of those months was due to circumstances beyond his or her control and unrelated to the impairment (e.g., the employer closed down for 3 months).

(c) *What work we consider.* In determining if a continuous period of SGA has been completed, all of an individual's work activity may be evaluated for purposes of this section, including work performed before October 1, 1981, during a trial work period, and after eligibility for disability or blindness payments ended. We will ordinarily consider only the first 9 months of SGA that occurs. The exception will be if an individual who completed 9 months of SGA later stops performing SGA, received VR services and then performs SGA for a 9-month period. See § 416.2213 for the use of the continuous period in determining payment for VR services.

§ 416.2211 Criteria for determining when VR services will be considered to have contributed to a continuous period of 9 months.

The following criteria apply to individuals who received more than just evaluation services. If a State VR agency or alternate participant claims payment for services to an individual who received only evaluation services, it must establish that the individual's continuous period or medical recovery (if medical recovery occurred before completion of a continuous period) would not have occurred without the services provided. In applying the criteria below, we will consider all services initiated, coordinated or provided, including services before eligibility and before October 1, 1981.

(a) *Continuous period without medical recovery.* If an individual who has completed a "continuous period" of SGA has not medically recovered as of the date of completion of the period, the determination as to whether VR services contributed will depend on whether the continuous period began one year or less after VR services ended or more than one year after VR services ended.

(1) *One year or less.* Any VR services which might have significantly motivated or assisted the individual in returning to, or continuing in, SGA will be considered to have significantly contributed to the continuous period.

(2) *More than one year.*—(i) If the continuous period was preceded by transitional work activity (employment or self-employment which gradually evolved, with or without periodic interruptions, into SGA), and that work activity began less than a year after VR services ended, VR services will be considered to have contributed to the continuous period if any services provided significantly motivated or assisted the individual in returning to or continuing in SGA.

(ii) If the continuous period was not preceded by transitional work activity that began less than a year after VR services ended, VR services will be considered to have contributed to the continuous period only if it is reasonable to conclude that the work activity which constitutes a continuous period could not have occurred without the VR services (e.g., training) the State VR agency or alternate participant provided.

(b)(1) *Continuous period with medical recovery occurring before completion.* If an individual medically recovers before a continuous period has been completed, the cost of VR services provided will not be payable unless some services contributed to the medical recovery. VR will be considered to have contributed to the medical recovery if—

(i) The individualized written rehabilitation program (IWRP), or in the case of an alternate participant, a similar document, included medical services; and

(ii) The medical recovery occurred, at least in part, because of these medical services. (For example, the individual's medical recovery was based on improvement in a back condition which, at least in part, stemmed from surgery initiated, coordinated or provided under an IWRP).

(2) In some instances, the State VR agency or alternate participant will not have provided, initiated, or coordinated medical services. If this happens, payment for VR services may still be possible under paragraph (a) of this section if: (i) the medical recovery was not expected by us; and (ii) the individual's impairment is determined by us to be of such a nature that any medical services provided would not ordinarily have resulted in, or contributed to, the medical cessation.

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§ 416.2212 Services for which payment may be made.

Payment may be made for all services provided by a State VR agency in accordance with title I of the Rehabilitation Act of 1973, or by an alternate participant in accordance with a negotiated plan, subject to the conditions and limitations of this subpart. This includes general diagnostic and evaluation services provided to determine eligibility for VR services and all services provided by a State VR agency under an IWRP, or under a similar document by an alternate participant, including extended evaluation, regular case services and post-employment services.

§ 416.2213 When services must have been provided.

(a) To be payable, the services must have been provided:

(1) After September 30, 1981;

(2) During months the individual is eligible for SSI payments; and

(3) Before completion of a continuous period of SGA.

(b) Where disability or blindness payments are made to an individual based upon the provisions of both this Part and Part 404, the determination as to when services must have been provided may be made under this section or § 404.2113 of this Chapter, whichever is advantageous to the State VR agency or alternate participant that is participating in both VR programs.

§ 416.2216 What costs will be paid.

If VR services provided to an individual contributed to the individual's continuous period of SGA, the Secretary will pay the State VR agency or alternate participant for all VR services performed during the period described in § 416.2213, but subject to the following limitations:

(a) The cost must have been incurred by the State VR agency or alternate participant;

(b) The cost must not have been paid or be payable from some other source (State VR agencies and alternate participants will be expected to seek payment or services from other sources in accordance with the "similar benefit" provisions under 34 CFR 361.47(b)). Alternate participants will not be required to consider State VR services a similar benefit.

(c) The cost must be reasonable and necessary in that it is consistent with the State's cost-containment guidelines or, in the case of an alternate participant, it is consistent with a negotiated cost-containment policy. All services provided by a State VR agency in accordance with an individualized written rehabilitation program (IWRP), or a similar document in the case of an alternate participant, will be considered necessary;

(d) The total payment in each case, including any prior payments related to earlier continuous periods of SGA made under these regulations, must not be so high as to preclude a "net savings" to the general fund ("net savings" is the difference between the estimated savings to the general fund, if payments for disability or blindness remain reduced or eventually terminate, and the total amount we pay to the State VR agency or alternate participant); and

(e) Any payment to a State VR agency for either direct or indirect VR expenses must be consistent with the cost principles described in OMB Circular No. A–87, published at 46 FR 9548 on January 28, 1981. (See § 416.2217(a) for cost principles applicable to alternate participants.)

(f) Payment will be made for administrative costs and for counseling and placement costs. This payment may be on a formula basis, or on an actual cost basis, whichever the State VR agency prefers. The formula will be negotiated. The payment will also be subject to the preceding limitations.

Administrative Provisions

§ 416.2217 Applicability of these provisions to alternate participants.

When an alternate participant provides rehabilitation services under this subpart, the payment procedures stated herein shall apply except that:

(a) Payment must be consistent with the cost principles described in 45 CFR Part 74 or 41 CFR Part 1–15 as appropriate; and

(b) Any disputes, including appeals of audit determinations, shall be resolved in accordance with applicable statutes and regulations which will be specified in the negotiated agreement or contract.

§ 416.2218 Method of payment.

Payment to the State VR agencies or alternate participants for successful services will be made either by advancement of funds or by payment for services provided (with necessary adjustments for any overpayments and underpayments), as decided by the Commissioner. An advance in a given fiscal year will be toward the rehabilitation successes the State VR agency or alternate participant is expected to achieve in that year and will be based on the expected costs of those successes.

§ 416.2220 Audits.

(a) *General.* The State or alternate participant shall permit us and the Comptroller General of the United States (including duly authorized representatives) access to and the right to examine records relating to the services and costs for which payment was requested or made under these regulations. These records shall be retained by the State or alternate participant for the periods of time specified for retention of records in the Federal Procurement Regulations (41 CFR Parts 1–20).

(b) *Audit basis.* Auditing will be based on cost principles and written guidelines in effect at the time services were provided and costs were incurred. The State VR agency or alternate participant will be informed and given a full explanation of any questioned items. They will be given a reasonable time to explain questioned items. Any explanation furnished by the State VR agency or alternate participant will be given full consideration before a final determination is made on questioned items in the audit report.

(c) *Appeal of audit determinations.* The appropriate SSA Regional Commissioner will notify the State VR agency or alternate participant in writing of his or her final determination on the audit report. If the State VR agency (see § 416.2217(b) for alternate participants) disagrees with that determination, it may request reconsideration in writing within 60 days after receiving the Regional Commissioner's notice of the determination. The Commissioner will make a determination and notify the State VR agency of that decision in writing, usually, no later than 45 days from the date of the appeal. The decision by the Commissioner will be final and conclusive unless the State VR agency appeals that decision in writing in accordance with 45 CFR Part 16 to the Department of Health and Human Services Departmental Grant Appeals Board within 30 days after receiving it.

§ 416.2221 Post-payment reviews and validations.

(a) *General.* The State VR agency or alternate participant shall permit us (including duly authorized representatives) access to, and the right to examine, records relating to the services and costs for which payment was made under these regulations. Any review performed will not be considered an audit for purposes of these regulations.

(b) *Purpose.* The primary purpose of these reviews will be:

(1) To allow us to pay claims based on a minimum of documentation and later validate appropriateness of payment.

(2) To assess the validity of our documentation requirements.

(c) *Appeals.* The State VR agency or alternate participant will be notified of any discrepancies found on an individual claim basis. Disagreement with our findings may be appealed in accordance with § 416.2227. For purposes of this section, an appeal must be filed within 60 days after receiving our notice of the discrepancy.

§ 416.2222 Confidentiality of information and records.

The State or alternate participant shall comply with the provisions for confidentiality of information, including the security of systems, and records requirements described in 20 CFR Part 401 and pertinent written guidelines (see § 416.2223).

§ 416.2223 Other Federal laws and regulations.

Each State VR agency and alternate participant shall comply with the provisions of other Federal laws and regulations that directly affect its responsibilities in carrying out the vocational rehabilitation function.

§ 416.2227 Resolution of disputes.

(a) *Disputes on the amount to be paid.* The appropriate SSA official will notify the State VR agency or alternate participant in writing of his or her determination concerning the amount to be paid. If the State VR agency (see § 416.2217(b) for alternate participants) disagrees with that determination, the State VR agency may request reconsideration in writing within 60 days after receiving the notice of determination. The Commissioner will make a determination and notify the State VR agency of that decision in writing, usually, no later than 45 days from the date of the State VR agency's appeal. The decision by the Commissioner will be final and conclusive upon the State VR agency unless the State VR agency appeals that decision in writing in accordance with 45 CFR Part 16 to the Department of Health and Human Services Departmental Grant Appeals Board within 30 days after receiving the Commissioner's decision.

(b) *Disputes on whether there was a continuous period of SGA and whether VR services contributed to a continuous period of SGA.* The rules in paragraph (a) of this section will apply, except that the Commissioner's decision will be final and conclusive. There is no right of appeal to the Grant Appeals Board.

(c) *Disputes on whether medical recovery has occurred.* Because the determination that medical recovery has occurred is an integral part of the disabled or blind claims payment process, it can only be appealed by the individual who was receiving the disabled or blind payment or his authorized representative. If this appeal is successful, however, the new decision that medical recovery has not occurred, or occurred at a different time than initially determined, would also apply for purposes of this subpart. This is also applicable to terminations made for reasons other than medical recovery.

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Part V

Department of Health and Human Services

Health Care Financing Administration

Medicare and Medicaid Program; Withholding the Federal Share of Payments to Recover Medicare or Medicaid Overpayments; Proposed Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 447

Medicare and Medicaid Program; Withholding the Federal Share of Payments To Recover Medicare or Medicaid Overpayments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We propose to amend Medicare and Medicaid regulations to implement sections 905 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499) and 2104 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). Section 905 expands HCFA's authority to withhold the Federal share of Medicaid payments in order to recover Medicare overpayments. Section 2104 provides new authority for HCFA to withhold Medicare payments to recover Medicaid overpayments.

The provisions apply with respect to institutions or persons that participate (or have participated) in both programs, and to whom an overpayment under either program may have been made but cannot be recovered under that program. The intent of the statute is to facilitate recovery through offset of payments due the entity under the second program.

Previously, HCFA could suspend Federal Medicaid payments to State agencies to recover Medicare overpayments for an institutional provider of Medicare services when that provider (1) had withdrawn or been terminated from participation in the Medicare program; (2) failed to repay or make satisfactory arrangements to repay the overpayments; or (3) failed to submit appropriate information to determine the amount of overpayment, if any.

No authority existed with respect to individual practitioners or other suppliers, nor was there any provision for recovering Medicaid overpayments through Medicare.

DATE: To assure consideration, comments should be mailed by April 12, 1983.

ADDRESS: Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 17073, Baltimore, Maryland 21235.

Please address a copy of comments on information collection requirements to: Office of Information and Regulatorty Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503, Attention: Desk Officer for HHS.

If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington D.C., or to Room 789, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPO–20–P. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave, SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Guy L. Harriman, Jr., 301–594–8193.

SUPPLEMENTARY INFORMATION:

I. Background

A substantial number of institutions and persons furnish health care services under both the Medicare and Medicaid programs, and are reimbursed according to the specific rules applicable to each program. Overpayments may occur in either program, at times resulting in a situation where an institution or person that provides services owes a repayment to one program while still receiving reimbursement from the other. This is inappropriate since Federal funds support both. (In the Medicaid program, the Federal government shares with the States the cost of services furnished to beneficiaries.)

In the past, the Federal Government has very limited authority under the Social Security Act to attempt collection through the second program (it could do so only with respect to institutions and only through Medicaid for Medicare overpayments). Recent changes in legislation have provided mechanisms to remedy this problem, as described below.

II. Withholding the Federal Share of Medicaid Payments To Recover Medicare Overpayments

A. Withholding Provisions of Pub. L. 96–499

Section 905 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499) amends sections 1902(a)(13), 1903(a)(1), 1903(j), and 1903(n), and adds a new section 1914 to the Social Security Act. This legislation broadens HCFA's authority to withhold the Federal share of Medicaid payments to States to recover Medicare overpayments to institutions or persons participating in both programs, and to withhold Federal payments when we are unable to collect the information necessary to determine the amount of Medicare overpayments made.

Before the passage of this legislation, if an institution's Medicare population was reduced, the institution might not receive enough in Medicare reimbursement to permit offset of the overpayment amount. Moreover, a physician or supplier might elect not to accept assignments for Medicare claims to preclude recoupment of overpayments through offsets against Medicare claims. Previous law provided that Federal financial participation (FFP) under Medicaid could be suspended, under certain circumstances, with respect to State payments to institutions that refused to repay Medicare overpayments or refused to supply information needed to determine whether an overpayment had occurred.

Under new section 1914, FFP in State Medicaid expenditures may be withheld to recover Medicare overpayments to the following entities that participate in Medicaid:

(1) An institution that has a Medicare provider agreement in effect (under section 1866 of the Act), but continues to participate in the Medicare program at such a minimal level as to prevent recovery of the overpayment;

(2) As in previous law, an institution that no longer has a Medicare provider agreement in effect (i.e., the provider has withdrawn or been terminated from participation in the program or which has refused to supply information needed to determine whether an overpayment has occurred); and

(3) A Medicaid provider that has previously accepted assignment under Medicare, but has submitted no claims or has submitted claims less than the overpayment amount.

(Under the Medicaid program, the term "provider" means any individual or entity furnishing Medicaid services under a provider agreement with the Medicaid agency.)

In addition, the Secretary may require the State to reduce its payment to the institution or person by the amount of the Medicare overpayment or by the amount of the Federal share of payments to such institution or person, whichever is less. The new provisions broaden the previous withholding authority by extending it beyond overpayments to institutions and including overpayments to physicians and other suppliers of services, and by allowing the Secretary to require

reduction of the State's payment to the overpaid institution or person.

The statute now also provides that the Secretary must establish procedures to assure restoration to the institution or person of any amounts withheld which are ultimately determined to be in excess of the Medicare overpayment; and that, if the State reduces its payment to the institution or person under an order from HCFA, the institution or person may not recover that amount from the State.

B. Amount of FFP Reduction

Section 1914(b) of the Act provides that, when FFP is adjusted to recover Medicare overpayments, the reduction for any quarter will be the lesser of—(a) The Federal matching share of payments to the overpaid institution or person, or (b) the total Medicare overpayment to the institution or person. Thus, if the total Federal matching share of payments to an institution or person exceeds the Medicare overpayment, only the amount of the overpayment may be withheld from the State. But, if the Medicare overpayment exceeds the quarterly FFP due to a State for expenditures to the institution or person, HCFA may withhold only the FFP amount for that quarter. In the succeeding quarters, FFP would again be compared to the remaining overpayment to the institution or person, and reductions would continue to be taken until the overpayment is entirely recovered.

It was not the intent of the Congress to penalize State Medicaid programs by making them absorb the full cost of Medicaid payments to overpaid Medicare providers. Thus, under the statute, we may also require the State to reduce its payment to the overpaid institution or person by the amount withheld from FFP.

C. Effective Dates of Reduction

Section 1914(c) of the Act requires that no reduction in FFP be made until the State agency and the institution or person are given notice of the action no less than 60 days before it becomes effective. That provision allows the State an opportunity to change its payment procedures to assure that reimbursement to the overpaid institution or person is limited to the State's share. We will notify the affected parties by certified mail, return receipt requested, that the FFP reduction will be effective on or after the 60th day after the day the State agency receives notice.

No FFP will be available in expenditures for services provided by the overpaid institution or person from the effective date of reduction until the reduction order has been terminated. HCFA will terminate the order when one of the following conditions occurs:

(1) The Medicare overpayment is completely recovered.

(2) The institution or person makes an agreement satisfactory to HCFA to repay the overpayment.

(3) HCFA determines that there is no overpayment based on newly acquired evidence or a subsequent audit.

D. Implementing Regulations Required

The statute requires that the Secretary establish procedures to (1) determine the amount of payment to which the institution or person would otherwise be entitled under Medicaid, that will be treated as an offset against Medicare overpayments, and (2) assure restoration of amounts withheld that are ultimately determined to be in excess of Medicare overpayments, and to which the institution or person could otherwise be entitled under Medicaid (section 1914(d) of the Act). HCFA will use the following procedures in addition to those specified in paragraph F.

HCFA has the authority to decide whether or not to withhold FFP from a State. We would attempt to recover overpayments only when we determine that recovery efforts would be cost effective. If the decision is made to withhold FFP, HCFA would notify the State agency of the amount of the Medicare overpayment. The State agency would then identify, on the quarterly expenditure report (Form HCFA–64) the amount of payment due the institution or person under Medicaid. HCFA would adjust the next grant award to the State, and if that grant award is insufficient for total adjustment, HCFA would make the appropriate adjustment to subsequent awards.

In addition to notifying the Medicaid agency of the State in which the institution or person is located, we would also notify the overpaid institution or person itself, and Medicaid agencies in any other States that we believe are using its services. FFP could be withheld in more than one State if more than one State is using the overpaid institution or person's services.

If, as the result of an appeal, submission of new information by the provider, or discovery of an error, HCFA determines that FFP has been withheld in excess of the overpayment, an adjustment would be made to restore State funds. The State agency would be required to establish procedures to assure, should an amount ultimately determined to be in excess of Medicare overpayment be withheld from an institution or person under Medicaid, that the excess withholding is restored. Since the States already have in place methods for handling Medicaid overpayments, including the restoration to providers of amounts withheld that are ultimately determined to be in excess of overpayments under title XIX, HCFA has decided to give States the necessary latitude for handling this aspect of the law. HCFA believes that each State is in the best position to determine appropriate procedures suited to its own payment and recovery methods. We also believe that administratively, it is more efficient to have the State handle this process.

E. Disposition of Recovered Funds

Section 1914(e) of the Act requires the Secretary to restore the recovered amounts to the appropriate Medicare Part A or Part B trust funds.

F. Provisions of the Proposed Regulations

We propose to amend Medicaid regulations at 42 CFR 447.30 (which implemented the previous statutory provision requiring suspension of FFP to former Medicare institutional providers with unresolved overpayments), to reflect the new provisions of section 905 of Pub. L. 96–499. These revisions are discussed in paragraph D, above.

We note that the institution, or the person who accepts assignment, may appeal the initial Medicare intermediary or carrier determination of overpayment through established procedures in case of a beneficiary's coverage or reimbursement dispute, for Part A of Medicare, under section 1869 of the Act (and 42 CFR Part 405, Subpart G), in case of a beneficiary or assignee's coverage or reimbursement dispute, for Part B of Medicare, under section 1842 of the Act (and 42 CFR Part 405, Subpart H), and in case of a provider's reasonable cost dispute, for Part A of Medicare, under section 1878 of the Act (and 42 CFR Part 405, Subpart R). These appeal procedures would not delay the withholding of FFP as specified in these regulations.

III. Withholding Medicare Payments To Recover Medicaid Overpayments

A. Withholding provisions of Pub. L. 97–35

Section 2104 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), adds section 1885 to the Social Security Act. This legislation provides new authority for HCFA to withhold Medicare payments under both Parts A and B to recover overpayments made under Medicaid.

HCFA may withhold Medicare payments to any institution that has in effect a provider agreement under section 1866 of the Act, and to any physician or supplier who has accepted assignment under section 1842(b)(3)(B)(ii) of the Act. (Acceptance of assignment under Medicare means agreement that the reasonable charge determined by the Medicare fiscal agent will be the physician's or other medical supplier's *full* charge for the service. When assignment is accepted, payment is made by Medicare to the physician or supplier rather than to the beneficiary.) Under new section 1885, withholding may occur when—(1) the institution or person described above has or previously had in effect an agreement with a State agency to furnish Medicaid services; and (2) the Medicaid agency has been unable to recover overpayments made to the institution or person under the State plan or to collect the information necessary to enable it to determine the amount (if any) of overpayments made to that institution or person.

The legislation also provides that the Secretary must establish procedures to assure that the withholding authority be used only when a Medicaid agency demonstrates to the Secretary's satisfaction that it has provided adequate notice to the institution or person of a determination or of the need for information, and an opportunity to appeal the determination or to provide the necessary information.

In addition, the Secretary must establish procedures to determine the amount of the payment to which the institution or person would otherwise be entitled under Medicare which will be used to offset the Medicaid overpayment. The statute also provides that the Secretary must establish procedures to assure restoration of any amounts withheld which are ultimately determined to be in excess of the Medicaid overpayment and to which the institution or person would otherwise be entitled under Medicare.

Section 1885(c) of the Act requires the Secretary to pay from the trust funds established under sections 1817 and 1841, to the appropriate Medicaid agency, amounts recovered to offset the Medicaid overpayment.

B. Provisions of the Proposed Regulations

1. *Medicare regulation changes.* To implement section 2104 of Pub. L. 97–35 (which adds section 1885 to the Social Security Act), we propose to add a new § 405.375 to Medicare regulations at 42 CFR Part 405, Subpart C—Exclusions, Recovery of Overpayments, Liability of a Certifying Officer and Suspension of Payments.

a. *Amount due under Medicare.* The procedures that we would use to determine the amount to which the institution or person would otherwise be entitled under Medicare are as follows:

When the required information and documentation detailed in paragraph 2b, below, is received from the Medicaid agency, HCFA would contact the appropriate intermediary or carrier to determine the amount of Medicare payment to which the provider would be entitled.

b. *Duration of withholding.* Withholding of Medicare payments would continue until one of the following occurs:

(i) The Medicaid overpayment is completely recovered.

(ii) The provider makes an agreement satisfactory to the Medicaid agency to repay the overpayment.

(iii) The Medicaid agency determines that there is no overpayment, based on newly acquired evidence or a subsequent audit.

c. *Restoring payments withheld in excess.* The State agency must establish procedures to assure that amounts withheld under this section that are ultimately determined to be in excess of overpayments (for example, if a Medicaid provider refunds the Medicaid overpayment or the Medicaid overpayment is reduced based on newly acquired evidence or a subsequent audit after Medicare funds have been withheld) are returned to the Medicaid provider. Those procedures are subject to HCFA review through the State review process.

2. *Medicaid regulation changes.* We would add a new § 447.31 to Medicaid regulations at 42 CFR Part 447, Subpart A—Payment: General Provisions, to specify the procedures that the Medicaid agency must follow to assure the Secretary that it has given to overpaid providers adequate notice and opportunity to appeal or supply information necessary for the State to determine the amount (if any) of the overpayment.

a. *Procedures that the Medicaid agency must follow.* When a Medicaid agency has determined that withholding of Medicare payments is justified, the agency must give the overpaid Medicaid provider at least 30 days notice by certified mail of the intended action. If the Medicaid provider supplies information to the satisfaction of the Medicaid agency during the period specified in the notice, then no further action would be taken. If the provider fails to supply the information necessary for the agency to determine the amount of the overpayment, or fails to agree to return the overpayment, either in lump sum or according to a payment schedule, then the agency may request that the appropriate HCFA regional office initiate withholding of Medicare payments.

b. *Documentation required by HCFA.* The following information or documentation, as applicable (unless otherwise specified), must be provided to HCFA by the Medicaid agency with its request for Medicare withholding:

(i) A statement of the reason that withholding is requested.

(ii) The amount of overpayment, type of overpayment, date the overpayment was determined, and the closing date of the pertinent cost reporting period (if applicable).

(iii) The quarter in which the overpayment was reported on the quarterly expenditure report (Form HCFA 64).

(iv) As needed, and upon request from HCFA, the names and addresses of the provider's officers and owners for each period that there is an outstanding overpayment.

(v) A statement of assurance that the State agency has met the notice requirements under paragraph a. above.

(vi) As needed, and upon request from HCFA, copies of notices (under paragraph a. above), and reports or contact of attempted contact with the provider concerning the overpayment, including any reduction or suspension of Medicaid payments made with respect to that overpayment.

(vii) A copy of the provider's agreement with the agency under 42 CFR 431.107.

c. *Accounting for a returned overpayment.* The agency must treat as a recovered overpayment the amounts received from HCFA to offset Medicaid overpayments.

d. *Procedures for restoring excess withholding.* The agency must establish procedures satisfactory to the Secretary, subject to HCFA review through the State review process, to assure the return the provider of amounts withheld under this section that are ultimately determined to be in excess of overpayments.

IV. Regulatory Burden Analysis

Executive Order 12991

We have determined that this proposed rule does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this proposed rule will not have an effect on the economy of $100 million per year; or cause a major increase in

costs or prices for consumers, government agencies, industry, or any geographic region; or cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

The proposed rules achieve the objectives set forth in Pub. Laws 96–499 and 97–35 by amending Medicaid and Medicare regulations to provide for offsets against payments in one program to recover amounts due to the other. We estimate that the total annual administrative costs to the Federal and State Governments would be relatively minor. We do not have a basis for estimating the savings to be realized, but the net effect of the proposal would be to reduce Medicaid and Medicare program overpayments by more rapid Federal recovery action.

Regulatory Flexibility Act

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not have a significant impact on a substantial number of small entities.

As explained above, the proposed rule would implement legislation which expands HCFA's authority to withhold the Federal share of Medicaid payments to States for provider services, and to recover Medicare overpayments and provides new authority to recover Medicaid overpayments by withholding Medicare payments. The reduction in payment may have an effect on some small health care providers who have been overpaid. While that effect may be adverse, it is appropriate for the Federal government to recover money to which the overpaid provider is not entitled. Moreover the effect cannot be attributed to these regulations, but to legislative requirements in section 905 or Pub. L. 96–499 and section 2104, Pub. L. 97–35. However, we believe that the effect will not be significant. Accordingly, a regulatory flexibility analysis will not be required.

Collection of Information Requirements

Sections 447.30(e)(4), 447.31(b), (c) and (d) of this proposed rule contain collection of information requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should follow the instructions in the "ADDRESS" section of this preamble.

Respones to Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 447

Accounting, Clinics, Contracts (Agreements), Copayments, Drugs, Grant-in-Aid program—health, Health facilities, Health professions, Hospitals, Medicaid, Nursing homes, Payments, for services— general, Payments—timely claims, Reimbursement, Rural areas.

42 CFR Chapter IV is amended as set forth below.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. Part 405, Subpart C is amended as set forth below:

1. The authority citation is revised to read as follows:

Authority: Secs. 1102, 1842, 1862, 1870, 1871, 1885, 49 Stat. 647, as amended, 79 Stat. 309, 79 Stat. 325, 79 Stat. 331; 42 U.S.C. 1302, 1395u, 1395y, 1395gg, 1395hh, and 1395vv unless otherwise noted.

2. The Table of Contents is amended by adding to Subpart C a new § 405.375 to read as follows:

Subpart C—Exclusions, Recovery of Overpayment, Liability of a Certifying Officer and Suspension of Payment

* * * * *

405.375 Withholding Medicare payments to recover Medicaid overpayments.

3. Section 405.301 is amended by adding two sentences at the end as follows:

§ 405.301 Scope of subpart.

Sections 405.310 to 405.320 describe certain exclusions from coverage applicable to hospital insurance benefits (Part A of title XVIII) and supplementary medical insurance benefits (Part B of title XVIII). The exclusions in this subpart are applicable in addition to any other conditions and limitations in this Part 405 and in title XVIII of the Act. Sections 405.330 to 405.332 relate to payments for expenses for certain items or services otherwise excluded from coverage. Sections 405.350 to 405.359 relate to the adjustment or recovery of an incorrect payment, or a payment made under section 1814(e) of Part A of title XVIII of the Act. Sections 405.370 to 405.373 relate to the suspension of payment to a provider of services or other supplier of services where there is evidence that such provider or supplier has been or may have been overpaid. Section 405.374 relates to the collection and compromise of claims for overpayments. Section 405.375 relates to the withholding of Medicare payments to recover Medicaid overpayments.

4. A new § 405.375 is added to read as follows:

§ 405.375 Withholding Medicare payments to recover Medicaid overpayments.

(a) *Basis and purpose.* This section implements section 1885 of the Act, which provides for withholding Medicare payments to certain Medicaid providers specified in paragraph (b) of this section that have not arranged to repay Medicaid overpayments or have failed to provide information necessary to determine the amount of overpayment.

(b) *When withholding may be used.* HCFA may withhold Medicare payments to recover Medicaid overpayments that a Medicaid agency has been unable to collect, if—

(1) The Medicaid agency has followed the procedure specified in § 447.31 of this chapter; and

(2) The institution or person is one described in paragraphs (c)(1) or (2) of this section.

(c) *Institutions or persons affected.*— (1) HCFA may withhold Medicare payments to recover Medicaid overpayments with respect to any of the following entities that has or had in effect, an agreement with a Medicaid agency to furnish services under an approved Medicaid State plan.

(i) An institutional provider that has in effect an agreement under section 1866 of the act.

(ii) A physician or supplier who has accepted payment on the basis of an

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assignment under section 1842(B)(3)(b)(ii) of the Act.

(2) HCFA may withhold Medicare payment from an institution or person specified in paragraph

(c)(1) of this section that—

(i) Has not made arrangements satisfactory to the Medicaid agency to repay; or

(ii) Has not provided information to the Medicaid agency necessary to enable the agency to determine the existence or amount of Medicaid overpayment.

(d) *Amount to be withheld.*—(1) HCFA will contact the appropriate intermediary or carrier to determine the amount of Medicare payment to which the institution or person is entitled.

(2) HCFA may require the intermediary or carrier to withhold Medicare payments to the institution or person by the lesser of the following amounts:

(i) The amount of the Medicare payments to which the institution or person would otherwise be entitled.

(ii) The total Medicaid overpayment to the institution or person.

(e) *Notice of withholding.*—If HCFA intends to withhold payments under this section, HCFA will notify by certified mail, return receipt requested, the institution or person and the intermediary or carrier responsible for making Medicare payment to the institution or person of the intention to withhold Medicare payments. The notice will include:

(1) Identification of the institution or person; and

(2) The amount of Medicaid overpayment to be withheld from payments to which the institution or person would otherwise be entitled under Medicare.

(f) *Termination of withholding.* HCFA will terminate the withholding if—

(1) The Medicaid overpayment is completely recovered; or

(2) The institution or person makes an agreement satisfactory to the Medicaid agency to repay the overpayment;

(3) The Medicaid agency determines that there is no overpayment, based on newly acquired evidence or a subsequent audit.

(g) *Disposition of funds withheld.* HCFA will return to the Medicaid agency amounts withheld under this section to offset the agency's Medicaid overpayment.

PART 447—[AMENDED]

The authority citation for Part 447 reads as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302), unless otherwise noted.

B. Part 447 is amended as set forth below:

1. The Table of Contents for Subpart A is amended by revising the title of § 447.30 and adding a new § 447.31 as follows:

Subpart A—Payments: General Provisions

* * * * *

447.30 Withholding the Federal share of payments to Medicaid providers to recover Medicare overpayments.

447.31 Withholding Medicare payments to recover Medicaid overpayments.

* * * * *

2. Section 447.30 is retitled and revised to read as follows:

§ 447.30 Withholding the Federal share of payments to Medicaid providers to recover Medicare overpayments.

Withholding the Federal share of payments to Medicaid providers to recover Medicare overpayments.

(a) *Basis and purpose.* This section implements section 1914 of the Act, which provides for the withholding of FFP for Medicaid payments to a provider if the provider has not arranged to repay Medicare overpayments or has failed to provide information to determine the amount of the overpayments. The intent of the statute and regulations is to facilitate the recovery of Medicare overpayments. The provision enables HCFA to recover overpayments when institutions have reduced participation in Medicare or when physicians and suppliers have submitted few or no claims under Medicare, thus not receiving enough in Medicare reimbursement to permit offset of the overpayment.

(b) *When withholding occurs.* HCFA may withhold FFP from any State using the services of any provider specified in paragraph (c) of this section to recover Medicare overpayments that HCFA has been unable to collect if the provider participates in Medicaid and—

(1) The provider has not made arrangements satisfactory to HCFA to repay the Medicare overpayment; or

(2) HCFA has been unable to collect information from the provider to determine the existence or amount of Medicare overpayment.

(c) HCFA may withhold FFP with respect to the followin providers:

(1) An institutional provider that has or previously had in effect a Medicare provider agreement under section 1866 of the Act; and

(2) A Medicaid provider who has previously accepted Medicare payment on the basis of an assignment under section 1842(b)(3)(B)(ii) of the Act; and during the 12 month period preceding the quarter in which HCFA proposes to withhold FFP for a Medicare overpayment, submitted no claims under Medicare or submitted claims which total less than the amount of overpayment.

(d) *Order to reduce State payment.* In addition to withholding FFP, HCFA may, at its discretion, issue an order to the Medicaid agency of any State that is using the provider services, to reduce its payment to the provider by the amount withheld from FFP.

(e) *Notice of withholding.* (1) Before HCFA withholds payments under this section, HCFA will notify the provider and the Medicaid agency of each State that HCFA believes may use the overpaid provider's services under Medicaid and with respect to which it intends to withhold FFP.

(2) If applicable, the notice will also include the instruction to reduce State payments, as provided under paragraph (b) of this section.

(3) HCFA will send the notice referred to in paragraph (e)(1) by certified mail, return receipt requested.

(4) Each Medicaid agency must dientify the amount of payment due the provider under Medicaid and give that information to HCFA in the next quarterly expenditure report.

(f) *Amount to be withheld.* HCFA may withhold FFP in expenditures for services and may require the Medicaid agency to reduce its payment to the provider, by the lesser of the following amounts:

(1) The Federal matching share of payments to the provider; or

(2) The total Medicare Overpayment to the provider.

(g) *Effective date of withholding.* Withholding of payment will become effective no less than 60 days after the day on which the agency receives notice of withholding.

(h) *Duration of FFP withholding.* No FFP is available in expenditures for services that are provided by a provider specified in paragraph (c) of this section from the date on which the withholding becomes effective until the termination of withholding under paragraph (i) of this section.

(i) *Termination of withholding.* HCFA will terminate the withholding if it determines that any of the following has occurred:

(1) The Medicare overpayment is completely recovered;

(2) The institution or person makes an ageeement satisfactory to HCFA to repay the overpayment.

(3) HCFA determines that there is no overpayment based on newly acquired evidence or a subsequent audit.

(j) *Notice of termination.* HCFA will notify each State that previously

received notice of the withholding that the withholding has been terminated.

(k) *Procedures for restoring excess withholding.* (1) If an amount of FFP ultimately determined to be in excess of the Medicare overpayment is withheld, HCFA will adjust FFP to restore the excess funds withheld.

(2) The Medicaid agency must establish procedures, subject to HCFA review, to assure the restoration of any excess payments withheld from a provider by the agency under this section and withheld by HCFA under § 405.375 of this chapter.

(l) *Recovery of funds from Medicaid agency.* A provider is not entitled to recover from the Medicaid agency the amount of payment withheld by the agancy in accordance with a HCFA order issued under paragraph (d) of this section.

3. A new § 447.31 is added to read as follows:

§ 447.31 Withholding Medicare payments to recover Medicaid overpayment.

(a) *Basis and purpose.* Section 1885 of the Act provides authority for HCFA to withhold Medicare payments to a Medicaid provider in order to recover Medicaid overpayments to the provider. Section 405.375 of this chapter sets forth the Medicare rules implementing section 1885. This section establishes the procedures that the Medicaid agency must follow when requesting that HCFA withhold Medicare payments. Section 405.375 specifies under what circumstances withholding will occur and the providers that are subject to withholding.

(b) *Agency notice to providers.*—(1) Before the agency requests recovery of a Medicaid overpayment through Medicare, the agency must send either or both of the following notices, in addition to that required under (b)(2), to the provider.

(i) Notice that—

(A) There has been an overpayment;

(B) Repayment is required; and

(C) The overpayment determination is subject to agency appeal procedures.

(ii) Notice that—

(A) Information is needed to determine the amount of overpayment, if any; and

(B) The provider has at least 30 days in which to supply the information to the agency.

(2) Notice that, 30 days or later from the date of the notice, the agency intends to refer the case to HCFA for withholding of Medicare payments.

(3) The agency must send all notices to providers by certified mail, return receipt requested.

(c) *Documentation to be submitted to HCFA.* The agency must submit the following information or documentation to HCFA (unless otherwise specified) with the request for withholding of Medicare payments.

(1) A statement of the reason that withholding is requested.

(2) The amount of overpayment, type of overpayment, date the overpayment was determined, and the closing date of the pertinent cost reporting period (if applicable).

(3) The quarter in which the overpayment was reported on the quarterly expenditure report (Form HCFA 64).

(4) As needed, and upon request from HCFA, the names and addresses of the provider's officers and owners for each period that there is an outstanding overpayment.

(5) A statement of assurance that the State agency has met the notice requirements under paragraph (b) of this section.

(6) As needed, and upon request for HCFA, copies of notices (under paragraph (b) of this section), and reports of contact or attempted contact with the provider concerning the overpayment, including any reduction or suspension of Medicaid payments made with respect to that overpayment.

(7) A copy of the provider's agreement with the agency under § 431.107 of this chapter.

(d) *Notification to terminate withholding.*—(1) If an agency has requested withholding under this section, it must notify HCFA if any of the following occurs:

(i) The Medicaid provider makes an agreement satisfactory to the agency to repay the overpayment;

(ii) The Medicaid overpayment is completely recovered; or

(iii) The agency determines that there is no overpayment, based on newly acquired evidence or subsequent audit.

(2) Upon receipt of notification from the State agency, HCFA will terminate withholding.

(e) *Accounting for returned overpayment.* The agency must treat as a recovered overpayment the amounts received from HCFA to offset Medicaid overpayments.

(f) *Procedures for restoring excess withholding.* The agency must establish procedures satisfactory to the Secretary to assure the return to the provider of amounts withheld under this section that are ultimately determined to be in excess of overpayments. Those procedures are subject to HCFA review as defined in the State plan.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: October 27, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: December 3, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-3829 Filed 2-10-83; 8:45 am]

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Rules and Regulations

Federal Register
Vol. 48, No. 30
Friday, February 11, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 900

Intergovernmental Personnel Act Grant Program

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Subparts A, B, C, and E, Part 900 of this title, were issued to effectuate the grant provisions of the Intergovernmental Personnel Act (IPA) of 1970 (Pub. L. 91–648). Funding for IPA grants was terminated as of June 5, 1981, and the Administration does not plan to request funding in the future. Thus these subparts are obsolete and require abolition. Subpart D applies to grants and personnel mobility assignments under the IPA and therefore will be amended by deleting references to the IPA grant program. Since funding was terminated in 1981 and the above regulations have no effect at this time, notice of proposed rulemaking and opportunity for comment would serve no purpose. Therefore, in accordance with section 553(b)(B) of 5 U.S.C., these regulations are issued as final regulations.

EFFECTIVE DATE: March 14, 1983.

FOR FURTHER INFORMATION CONTACT: Blair Ewing, Assistant Director for Management, Administration Group, telephone (202) 632–6161.

SUPPLEMENTARY INFORMATION: On June 5, 1981, a second continuing resolution for fiscal year 1981, Pub. L. 97–12, was signed by the President. The resolution did not continue funding authority for OPM to make grants under Pub. L. 91–648.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it entails elimination of regulations which govern a grant program no longer funded by the Federal government.

List of Subjects in 5 CFR Part 900

Equal employment opportunity, Government employees, Intergovernmental relations.

Office of Personnel Management.

Donald J. Devine,
Director.

PART 900—INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS

Accordingly, under the authority of 42 U.S.C. 4763, OPM revokes and reserves Subparts A, B, C, and E of 5 CFR Part 900 and amends Appendix A of Subpart D of Part 900 by removing paragraph 1 and redesignating paragraph 2 as paragraph 1.

Subpart A [Reserved]

Subpart B [Reserved]

Subpart C [Reserved]

Subpart E [Reserved]

Appendix A to Subpart D [Amended]

Authority: (42 U.S.C. 4763)

[FR Doc. 83-3274 Filed 2-10-83; 8:45 am]
BILLING CODE 6325-01-M

MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1204 and 1205

Freedom of Information Act; Privacy Act

AGENCY: Merit Systems Protection Board.

ACTION: Final rules.

SUMMARY: The Merit Systems Protection Board amends its regulations to set forth realistic charges for photocopy and search fees incurred in granting Freedom of Information Act and Privacy Act requests and to reflect changes in titles of "Field Offices" and "Chief Appeals Officers" to "Regional Offices" and "Regional Directors," respectively.

EFFECTIVE DATE: February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Kathy Semone, (202) 653–7200.

SUPPLEMENTARY INFORMATION: Under the Freedom of Information Act and the Privacy Act, the Merit Systems Protection Board may establish fees for photocopying documents to be released. 5 U.S.C. 552(a)(4)(A), 552a(f)(5). Additionally, under the Freedom of Information Act, fees may be charged for the time expended searching for documents. 5 U.S.C. 522(a)(4)(A). On July 2, 1982 (47 FR 28964), the Board published a proposed amendment to the rules to clarify the calculation of fees for photocopying, duplication of audio, video, and automated tapes, and postage costs; to account for partial hours of search time; to differentiate between clerical and professional employees' search time; to establish criteria for the administration of Freedom of Information Act fee waiver and reduction determinations; and to establish a time limit within which an appeal from an initial denial must be filed. No comments were received on the proposed rules.

The rules are hereby adopted as final, except as otherwise noted below. The Board has declined to establish regulatory criteria concerning fee waiver or reduction determinations under the Freedom of Information Act as proposed by § 1204.13(b). Subsequent to the Board's publication of the proposed regulations, the Department of Justice on January 7, 1983, issued government-wide guidance on the administration of fee waivers and reductions. In light of the criteria set forth within this guidance, the Board believes it would be inappropriate to publish further criteria. Accordingly, proposed § 1204.13(b) is adopted only to the extent that it provides for the waiver or reduction of fees by the Secretary or Regional Director when it is determined that furnishing the information will primarily benefit the general public.

The Board also has declined to establish a time limit within which an appeal from an intitial denial of a Freedom of Information Act or Privacy Act request must be filed. This is in accord with the present statutory framework of both laws. Accordingly, proposed §§ 1204.21(c) and 1205.31(c) are not included in the final rule as adopted.

In addition, by a separate notice published today, the Board has adopted interim regulations covering the charges imposed for photocopying performed by commercial duplication firms in conjunction with the Board's processing of requests under FOIA and the Privacy Act.

Regulatory Flexibility Act

The Chairman, Merit Systems Protection Board, certifies that the Board is not required to prepare an initial or final regulatory analysis of this rule change pursuant to section 603 or 604 of the Regulatory Flexibility Act, because of the determination that this rule would not have a significant economic impact on a substantial number of small entities, including small business, small organizational units, and small governmental jurisdictions.

List of Subjects

5 CFR Part 1204

Freedom of Information Act.

5 CFR Part 1205

Privacy Act.

Pursuant to 5 U.S.C. 1205(g), Parts 1204 and 1205 of Subchapter A of Chapter II of Title 5, Code of Federal Regulations, are amended as follows:

PART 1204—FREEDOM OF INFORMATION ACT

1. Paragraphs (a) and (c) of § 1204.11 are revised to read as follows:

§ 1204.11 Submission of request.

(a) *Place.* Requests for copies of records shall be made to the appropriate regional office of the Board, or the Office of the Secretary, Merit Systems Protection Board, Washington, D.C. If the requester has reason to believe the records in question are located in a regional office, it is appropriate to submit the request to that office. Requests to the region shall be addressed to the Regional Director at the appropriate regional office listed in Appendix II of 5 CFR Part 1201. Requests shall be made during normal business hours, or submitted by mail. Requests shall be in writing.

* * * * *

(c) *Payment.* Records usually will not be released until fees have been received, unless the fees are waived according to § 1204.13(a)(4) of this part.

2. Paragraph (d) of § 1204.12 is revised to read as follows:

§ 1204.12 Time limitations and determinations.

* * * * *

(d) *Determining Officials.* Determinations on requests shall be made by the Secretary of the Board or any Director of one of the Board regional offices.

3. Part 1204.13 is revised as follows:

§ 1204.13 Fees.

(a) Requests for records are subject to the following schedule of costs:

(1) *Duplication.* (i) Photocopies of records duplicated by the Board shall be subject to a charge of 10 cents per page.

(ii) Fees for Board duplication of audio, video, and automated tapes shall be charged at the actual cost to the Board.

(2) *Manual Records Search.* $2.50 per quarter-hour if conducted by a clerical employee; $5.00 per quarter-hour if conducted by a professional or managerial employee.

(3) *Postage.* Fees for postage shall be charged at the actual cost to MSPB.

(b) *Waiver or Reduction of Fees.* The Secretary or Regional Director shall waive or reduce a fee when it is determined that furnishing the information will primarily benefit the general public.

PART 1205—PRIVACY ACT

5. Paragraph (a) of § 1205.11 is revised to read as follows:

§ 1205.11 Submission of request.

(a) *Place.* Inquiries or requests for access to records shall be made to the appropriate regional office of the Board, or the Office of the Secretary, Merit Systems Protection Board, Washington, D.C. 20419. If the requester has a reason to believe the records in question are located in a regional office, it is appropriate to submit the request to that office. Requests to the region shall be addressed to the Regional Director at the appropriate regional office listed in Appendix II of 5 CFR Part 1201.

* * * * *

6. Paragraph (d) is added to § 1205.11 to read:

* * * * *

(d) *Payment.* Records usually will not be released until fees have been received.

7. Paragraph (d) of § 1205.12 is revised to read as follows:

§ 1205.12 Time limitations and determinations.

* * * * *

(d) *Determining Officials.* Determinations on requests shall be made by the Secretary of the Board or by any Director of one of the Board regional offices.

8. Paragraph (b) of § 1205.16 is revised to read as follows:

§ 1205.16 Fees.

* * * * *

(b) *Duplication.* (1) Photocopies of records duplicated by the Board shall be subject to a charge of 10 cents per page.

(2) Fees for Board duplication of audio, video, and automated tapes shall be charged at the actual cost to the Board.

Dated: January 19, 1983.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 83-3806 Filed 2-10-83; 8:45 am]

BILLING CODE 7400-01-M

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5 CFR Parts 1204 and 1205

Freedom of Information Act; Privacy Act

AGENCY: Merit Systems Protection Board.

ACTION: Interim regulations; Request for comments.

SUMMARY: Due to a great increase in the number of Freedom of Information Act (FOIA) request for records, the Merit System Protection Board (MSPB) has found it necessary to arrange for the duplication of records made available under FOIA and the Privacy Act with commercial duplication firms. This document establishes the interim regulations which cover duplication fees when the Board had delegated the copying of Board records to commercial duplication firms.

DATES: Effective February 11, 1983 Comment date: Written comments should be submitted on or before March 14, 1983.

ADDRESS: Comments should be addressed to Legal Publication Division, Office of the Secretary, Merit Systems Protection Board, 5205 Leesburg Pike, Suite 1404, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: Kathy Semone, (202) 653-7200.

SUPPLEMENTARY INFORMATION: Under the Freedom of Information Act (FOIA) and the Privacy Act, the Merit Systems Protection Board may establish fees for the duplication of documents to be released. 5 U.S.C. 552(a) (4) (A), 552a(f) (5). On July 2, 1982, the Merit Systems Protection Board published proposed rules to establish, in part, a new schedule of fees with respect to the duplication of records released pursuant to the FOIA and Privacy Act. Since that time the Board has received a greatly increased number of FOIA requests for records, notably Board appeal files and hearing transcripts. As a result, the

Board has found it necessary to arrange with commercial duplication firms for the duplication of records made available under the FOIA and Privacy Act.

By this notice the Board adopts regulations for interim effect covering FOIA and Privacy Act duplication fees when the Board had delegated the copying of the Board records to commercial duplication firms selected by the Board. These duplication firms have been selected on the basis of overall, cost and best service to the public. Their fees for copying may include a reasonable factor for overhead and profit. However, such fees shall not exceed the fees which the Board would be authorized to charge had it processed the request iteself. The Board will continue to rule on all FOIA and Privacy Act requests, but where the Board has delegated the copying of records to commercial duplication firms, payment for such duplication shall be made directly by the requesters to the commercial firm. Likewise, delivery of the requested records shall be made by the commercial firm.

A list of the commercial duplication firms and their respective charges is available upon request from the Office of the Secretary, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419 (202–653–7200) and the Board's Regional Offices, whose addresses are listed in Appendix II of the Board's regulations at 5 CFR Part 1201 (1982).

The Board has found that good cause exists for publication of these regulations for interim effect due to the overwhelming receipt of FOIA and Privacy Act requests for copies of records related to air traffic controller appeals currently being adjudicated by the Board.

In separate final regulations also published today, the Board has adopted the remainder of its schedule of fees for the duplication of records released under the FOIA and Privacy Act.

Regulatory Flexibility Act

The Chairman, Merit Systems Protection Board, certifies that the Board is not required to prepare an initial or final regulatory analysis of this rule pursuant to section 603 or 604 of the Regulatory Flexibility Act because of the determination that this rule would not have a significant economic impact on a substantial number of small entities, including small business, small organizational units, and small governmental jurisdictions.

List of Subjects

5 CFR Part 1204

Freedom of Information Act.

5 CFR Part 1205

Privacy Act.

Pursuant to 5 U.S.C. 1205(g), Parts 1204 and 1205 of Subchapter A of Chapter II of Title 5, Code of Federal Regulations, are amended as follows:

PART 1204—FREEDOM OF INFORMATION ACT

Section 1204.13 is amended by adding paragraph (a)(1)(iii) to read as follows:

§ 1204.13 Fees

(a) * * *

(1)* * *

(iii) The Board, at its option, may delegate the duplication of Board records to commercial firms selected by the Board. These firms have been selected on the basis of overall cost and best service to the public. Duplication shall be subject to fee schedules established by the Board with the firms. Such fees may include a reasonable factor for overhead and profit. Payment for copies shall be made directly by the requester to the commercial firm. However, the fees shall not exceed the fees which the Board would be authorized to charge had it processed the request itself.

* * * * *

PART 1205—PRIVACY ACT

5 CFR 1205.16 is amended by adding paragraph (b)(3) to read as follows:

§ 1205.16 Fees.

* * * * *

(b) * * *

(3) The Board, at its option, may delegate the duplication of Board records to commercial firms selected by the Board. These firms have been selected on the basis of overall cost and best service to the public. Duplication shall be subject to fee schedules established by the Board with the firms. Such fees may include a reasonable factor for overhead and profit. Payment for copies shall be made directly by the requester to the commercial firm. However, the fees shall not exceed the fees which the Board would be authorized to charge had it processed the request itself.

* * * * *

Dated: January 19, 1983.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR DOC. 83–3807 Filed 2–10–83; 8:45 am]

BILLING CODE 7400–01–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 222]

Food Stamp Program; State Plans and Operating Guidelines, Forms and Waivers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rulemaking.

SUMMARY: This final rule amends the Food Stamp Program regulations, published January 21, 1981 at (46 FR 6310), regarding State Plans of Operation (7 CFR 272.2) and Operating Guidelines, Forms and Waivers (7 CFR 272.3). Further, this final rule implements the provisions of Sections 155 and 166 of the 1982 Food Stamp Act Amendments. The changes are as follows: the Budget Projection Statement, Form FNS–366A, shall be submitted annually instead of quarterly; the required prior FNS approval of State agency operating guidelines and forms with the exception of the Application for Food Stamps is eliminated; State agencies shall be required to submit their operating guidelines and forms, and changes to such materials to FNS simultaneously with distribution within the States; and, the Department's authority to grant operational waivers is redefined. These regulatory changes are intended to reduce the administrative complexity of the program and to provide increased State flexibility in administering the program.

EFFECTIVE DATE: These rules are effective on March 14, 1983, except for § 272.3 paragraphs (b)(1), (2), (3), and (c)(2) which are not effective until OMB approval has been obtained.

FOR FURTHER INFORMATION CONTACT: If you have any questions, contact Thomas O'Connor, Acting Branch Chief, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Food and Nutrition Service, Alexandria, Virginia 22302, 703–756–3429.

SUPPLEMENTARY INFORMATION:

Classification

This final action has been reviewed with regard to the requirements of

Executive Order 12291 and it has been determined that the rule is not a major rule as defined by that order. It is not likely to result in an annual effect on the economy of $100 million or more. State agencies, when implementing these regulatory changes, might experience a savings in administrative costs due to a lessening of regulatory requirements. This rule is not likely to result in a major increase in costs or prices for consumers, individual industries, Federal or local government agencies or geographic regions. Because this rule would not affect the business community, it would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

This rule has also been reviewed with regard to the requirements of Pub. L. 96–354, and Robert E. Leard, Acting Administrator of the Food and Nutrition Service (FNS), has determined that the rule does not have a significant economic impact on a substantial number of small entities. The rule has no impact on small businesses or small organizations. The primary impact is on State governments and on county governments to the extent they operate the program within States.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions contained in this final rule have been submitted for approval to the Office of Management and Budget. (OMB approval number: 0584–0083.) The procedures are not effective until OMB approval has been obtained.

Introduction

On August 27, 1982, the Department issued a proposed rulemaking, State Plans and Operating Guidelines, Forms, and Waivers, at 47 FR 37905. These proposed changes were a continuation of the Department's efforts to reduce the administrative complexity of the Food Stamp Program and to provide increased State agency flexibility.

A full explanation of the rationale and purposes for this rule was provided in the preamble to the proposed rulemaking. Therefore, this preamble deals only with significant changes from the proposed rulemaking. The reasons supporting those proposed rules which are unchanged by the final rules were carefully examined in light of the comments to determine the continued applicability of each justification. Unless otherwise stated, or unless inconsistent with the final rules or preamble, the rationale contained in the proposal should be regarded as a basis for the pertinent final rules. Thus, a thorough understanding of the grounds for the final rules may require reference to the proposed rulemaking.

A total of 21 commenters sent in comments and suggestions on the proposed rulemaking. There were 12 comment letters received from State agencies, five from regional Food and Nutrition Service offices, three from public interest groups and one from an individual.

There were numerous general comments on the proposed rulemaking as a whole. The majority of the commenters, State agencies, were generally supportive of the rules. One individual commenter was the only commenter that totally disapproved of the proposed rulemaking.

State Plan of Operation

Eleven commenters supported the proposed State Plan of Operation changes. The Department proposed that the Budget Projection Statement be submitted annually, reducing State agency burden of resubmitting estimates quarterly. Additionally, it was proposed that the Organizational Outline and agreements with other agencies be updated and submitted as changes occur instead of the current requirement of annual submission of unchanged information. The final rules provide, as changes occur in the State agency's organizational outline and agreements with other agencies the State agency shall inform FNS of the changes. There were several commenters that suggested that the Department allow the submission of Budget Projection Statement updates because some State agencies' fiscal year runs from July through June. Thus, the fourth quarter of the Federal fiscal year (July through September) would not be included in the State agency's approved annual budget which would actually be the first quarter of their next fiscal year. Consequently, the State agencies using July through June as their fiscal year, the fourth quarter estimates would not be firm estimates. Over half of the commenters would like the flexibility to submit Budget Projection Statement updates as necessary. Thus, the final rules provide that Budget Projection Statement updates may be submitted as the need arises. Additionally, the first annual Budget Projection Statement, Form FNS–366A, which will be for the 1984 Federal fiscal year beginning October 1, 1983 through September 30, 1984 shall be submitted on August 15, 1983.

Operating Guidelines

There were four commenters that disagreed with the proposal to relinquish prior FNS approval of State operating guidelines and forms. However, Section 166 of the 1982 Food Stamp Act Amendments (Pub. L. 97–253, September 8, 1982) mandates that the Secretary *not* require a State agency to submit for prior approval the State agency instructions to staff, interpretations of existing policy, methods of administration, forms, or any materials, memoranda, documents, bulletins, or other matters. Additionally, Section 155 of the 1982 Food Stamp Act Amendments mandates that the Secretary not require prior FNS approval of the Change Report Form which was one of the two forms required to be approved under the proposed rulemaking. Prior approval of the Application for Food Stamps is still mandated. The final rules thus require that only the application form be FNS-designed or an approved deviation.

Several commenters noted that clarification is necessary relative to the submittal and review of State agency operating guidelines and forms. The primary thrust of the regulatory change in this area is the elimination of the requirement that FNS review and approve State agency operating guidelines prior to distribution within the State. The final rulemaking requires only that State agencies submit such materials to FNS concurrent with the distribution within the States. However, State agencies may, at their option, submit their operating materials to FNS for a regulatory compliance review prior to distribution within the State. Regardless of when State agency operating materials are submitted, FNS shall review the materials and advise the State agency of any problems identified. The State agency may modify the materials as it deems necessary. Therefore, FNS shall, under these final rules, act in an advisory capacity regarding the sufficiency and accuracy of State agencies' operating guidelines and forms. This regulatory change is intended to allow State agencies increased flexibility in their administration of the program and to allow for expeditious implementation of system improvements. FNS shall require changes to operating instructions only when reviews of the State agency indicate noncompliance with the regulations due to deficiencies in its instructions.

Waivers

The Department proposed a new definition for the authority to grant waivers. The new definition would allow approval of any waiver which was not inconsistent with statutory provisions and which would not result in a material impairment of rights granted households by the Act or regulations. A total of ten commenters specifically commented on the proposed waiver provision. Four commenters supported the proposal as a clarification of the provision with added flexibility. Two commenters did not support the proposal commenting that it does not conform to what State agencies want and need, i.e., the waiver mechanism would be less liberal allowing less flexibility. Conversely, two commenters did not support the proposal noting that the waiver mechanism would be liberalized too much which would allow State agencies to decide which regulatory provisions they wish to follow. Clearly, the Department does not have the authority to waive any provisions of the Food Stamp Act (except certain specified provisions pertaining to monthly reporting/retrospective budgeting systems). In regards to the second provision of the waiver proposal: (1) The language provided allows the Department to the fullest extent of its authority to grant waivers; (2) although the Department is committed to affording State agencies flexibility in their administration of the program, likewise, it is committed to ensuring that no participant or potential participant suffers at the expense of administrative expediency; and, (3) while the Department is certain that the State agencies would not intentionally infringe upon the rights of participants, it is the Department's responsibility to ensure that this in fact does not occur. Therefore, the provisions as proposed are retained in the final rules.

Miscellaneous

The Department would like to note that calendar dates have been changed in the final rule as appropriate.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—Social programs, Records, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedures, Aliens, Claims, Food stamps, Fraud, Grant programs—Social programs, Penalties, Records, Reporting and recordkeeping requirements, Social security, Students.

Therefore, Parts 272 and 273 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. A new paragraph (g)(45) is added to § 272.1 as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation* * * *

(45) Amendment 222. This amendment shall be implemented by the first day of the month following the 30th day after publication. As of that date prior approval of forms, manuals, instructions, or any other type of operating guidelines will no longer be required and waivers will be granted or denied based on the new criteria contained herein. Additionally, as of that date State agencies shall inform FNS of changes, as they occur, in their organizational outline and agreements with other agencies. The submission requirement for the Budget Projection Statement, Form FNS–366A, as set forth in § 227.2(e) shall become effective on August 15, 1983, for the 1984 Federal fiscal year beginning October 1, 1983 through September 30, 1984.

* * * * *

2. In § 272.2 paragraph (c)(1)(i) is revised; the introductory language in paragraphs (c)(2) and (c)(3) are revised; and, paragraphs (e)(2)(i) and (e)(3) are revised. The changes read as follows:

§ 272.2 Plan of operation.

* * * * *

(c) *Budget Projection Statement and Program Activity Statement.* (1) * * *

(i) The Budget Projection Statement solicits projections of the total costs for nine areas of program operations (certification, issuance, performance reporting, fair hearings, training, ADP development, ADP operations, fraud control, and other). The Budget Projection Statement shall be submitted annually and updated as necessary through the year. The Budget Projection Statement shall contain projections for each quarter of the next Federal fiscal year. The State agency shall submit with the Budget Projection Statement a narrative justification documenting and explaining the assumptions used to arrive at the projections. The narrative shall cover such subjects as: The number and salary level of employees; other factors affecting personnel costs including anticipated increases in pay rates or benefits, and reallocations of staff among units or functions, insofar as these might result in cost increases or decreases; costs for purchasing, leasing, and maintaining equipment and space, especially as concerns any upcoming, one-time-only purchases of new capital assets such as ADP equipment, renegotiation of leases, changes in depreciation rates or procedures, relocation of offices, maintenance and renovation work, and inflation; issuance system costs, including renegotiation of issuing agent fees and plans to change issuance systems; changes in caseload and factors contributing to increases or decreases in the number of participants; recertifications, including the anticipated impact of economic conditions (and in particular unemployment) and seasonality; cost implications of corrective action plans; anticipated changes in program regulations and operating guidelines and instructions; training needs; travel costs; and adjustments in insurance premiums. The narrative should cover as many of the items listed above, and any other items deemed relevant by the State agency, that will have a significant impact on costs. The State agency is not required to discuss every item in the list in every submission of a Budget Projection Statement. The narrative should concentrate on items that account for increases or decreases in costs from the preceding submissions.

* * * * *

(2) The organizational outline submitted in 1982 as an attachment to the Program Activity Statement shall be considered the basic outline. Henceforth, changes to this outline shall be provided to FNS as they occur. The outline contains the following information:

* * * * *

(3) *Additional Attachments.* The following shall be attachments or addenda to the Program Activity Statement and shall be submitted as required in § 272.2(e)(3):

* * * * *

(e) Submittal Requirements. * * *

(2) * * *

(i) The Budget Projection Statement shall be submitted annually, no later than August 15 of each year.

* * * * *

(3) Changes to the organizational outline required by § 272.2(c)(2) and the agreements with other agencies outlined in § 272.2(c)(3)(ii) shall be provided to FNS as changes occur. The attachments outlined in § 272.2(c)(3)(i) shall be submitted annually with the Program Activity Statement.

* * * * *

3. In § 272.3, paragraphs (b) (1), (2), (3) and (4) are revised; and paragraph (c)(2) is revised. The changes read as follows:

§ 272.3 Operating guidelines and forms.

* * * * *

(b) Submittal of operating guidelines and forms. (1) State agencies shall develop the necessary forms, except the Application for Food Stamps, and other operating guidelines to implement the provisions of the Food Stamp Act and regulations. In accordance with § 273.2(b) and § 273.12(b)(1) State agencies shall use the FNS-designed Application for Food Stamps or an FNS-approved deviation.

(2) State agencies shall submit their operating guidelines and forms and amendments to these materials to FNS for review and audit purposes simultaneous with distribution within the States.

(3) State agencies may request that FNS review and provide comments on their operating guidelines, forms and any amendments to these materials prior to distribution of the materials within the State.

(4) If deficiencies are discovered in a State agency's materials, FNS shall provide the State agency with written notification.

(c) Waiver. * * *

(2) FNS shall not approve requests for waivers when:

(i) The waiver would be inconsistent with the provisions of the Act; or

(ii) The waiver would result in material impairment of any statutory or regulatory rights of participants or potential participants.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

§ 273.10 [Amended]

4. In § 273.10:

(a) Paragraph (g)(3) is removed and paragraph (g)(4) is redesignated as (g)(3).

(b) The introductory text of newly-redesignated paragraph (g)(3) is amended by replacing the references "(g)(4)(i)," appearing in two places, with references to "(g)(3)(i)," and

(c) Newly-designated paragraph (g)(3)(i)(C) is amended by replacing the reference to "§ 273.10(g)(4)(ii)(B)(3)" with a reference to "(g)(3)(ii)(B)(3)."

§ 273.13 [Amended]

5. In § 273.13, paragraph (a)(2) is amended by removing the first and second sentences.

(91 Stat. 956 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: February 7, 1983.

Robert E. Leard,

Acting Administrator.

[FR Doc. 83-3647 Filed 2-10-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 398, Lemon Reg. 397, Amdt. 1]

Lemons Grown in California and Arizona, Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona lemons that may be shipped to the fresh market during the period February 13–19, 1983, and increases the quantity of lemons that may be shipped during the period February 6–12, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective February 13, 1983, and the amendment is effective for the period February 6–12, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on February 8, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons continues very active.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.698 is added as follows:

§ 910.698 Lemon Regulation 398.

The quantity of lemons grown in California and Arizona which may be handled during the period February 13, 1983, through February 19, 1983, is established at 235,000 cartons.

2. Section 910.697 Lemon Regulation 397 (48 FR 5216) is revised to read as follows:

§ 910.697 Lemon Regulation 397.

The quantity of lemons grown in California and Arizona which may be handled during the period February 6, 1983, through February 12, 1983, is established at 240,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 10, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-3993 Filed 2-10-83; 12:17 pm]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

14 CFR Part 253

[Economic Regulation Amdt. No. 2 to Part 253; Docket No. 40772; Reg. ER-1323]

Notice of Terms of Contract of Carriage

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules concerning incorporation of contract terms by airlines in their contracts with passengers. The rule will now apply to all scheduled airlines regardless of the size of aircraft used, and whether or not the flight is part of an interline operation with another airline. This rule was requested by several States and small aircraft operators to provide uniformity for passengers travelling on scheduled flights within the United States, and for carriers in their scheduled operations.

DATES: Effective: February 9, 1983. Adopted: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, or Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The CAB has adopted rules (14 CFR Part 253), applicable to large-aircraft operations and flights connecting with them, specifying disclosures to be made to passengers if terms of the contract of carriage are incorporated by reference. The rules require, among other things, that carriers ensure that information on incorporated terms is available wherever their tickets are sold. Those rules when adopted did not apply to flights by aircraft with 60 seats or less unless these flights were part of trips using large aircraft.

In a notice of proposed rulemaking (EDR-444C, 47 FR 52191, November 19, 1982), the Board proposed to extend the applicability of those rules to all scheduled operations by direct air carriers (other than on-demand (nonscheduled) operations by air taxi operators) regardless of size of aircraft used or whether they are interline flights with other airlines using large aircraft. Comments were received from: the California Department of Transportation, the American Society of Travel Agents, the Association of Retail Travel Agents, Harbor Airlines, Kodiak Western Alaska Airlines, the Regional Airline Association, Southcentral Air, and United Air Lines. All of the comments except those of Harbor Airlines supported the proposed rule. Several commenters made similar suggestions for a modification to the requirement that information be available in some manner wherever tickets are sold. Those suggested changes would limit the locations affected to those directly controlled or authorized by the airline, and in general, exclude interline sales.

The Board has decided to adopt the rule as proposed. Harbor Airlines opposed the extension of applicability of the rule because of the "extreme" financial burden, it claimed, that the notice requirements of the rule would impose on the smallest airlines. The basis of this opposition is the same as that used by other commenters to suggest a modification to those requirements, that is, that information about the incorporated terms should only be required to be available at locations controlled by the carrier or where its ticket stock or plates are available. Other alternative suggestions were to grant antitrust immunity for a standard summary or to place responsibility on the agents to have information available to answer passenger questions.

The Board is of the opinion that the comments suggesting that small carriers only be required to conform to the rule at those ticket-selling locations reflect some misunderstanding of the conditions underlying the rule and the permissive nature of it. Until January 1, 1983, the tariff system was legally presumed to provide complete information on contract terms, including those of small interlining carriers, to purchasers of air transportation everywhere it was sold in the United States. The tariff terms were incorporated by reference into all tickets. On January 1, this system disappeared with respect to domestic travel. Carriers were thus faced with the problem of how to continue to use the familiar short-form airline tickets, while bringing into their contracts with passengers several pages of detailed contract provisions. The problem affects small and large carriers alike.

Two important factors must be borne in mind. The first is that the detailed terms—those that do *not* appear on the ticket and therefore are sought to be incorporated by reference—are not essential to the formation of a basic contract. The tickets themselves name the parties, and state the service to be provided (origin and destination points of air travel, with dates, times, and flight numbers) and the price paid for it. These are sufficient for the formation of a contract.

The second point is that in the absence of general rules on the subject, it is likely that courts acting on passenger claims would either deny altogether the validity of any contract terms of which the passengers did not have direct notice, or lay down differing rules for their incorporation by reference. Such rules would probably require a higher degree of notice than had been provided by the tariff system. The question of notice might also be subject to State legislative attention.

It was against that background that the Board issued its rules providing a uniform system for incorporation by reference of a carrier's contract terms. Those rules are designed to provide a sufficient degree of notice to satisfy both the public's need to know and the legal system's demand for reasonableness. At the same time, they provide a flexible method whereby airlines can continue to incorporate complex terms while still using short-form ticket stock, and without levying a great cost burden.

The upshot for small carriers is that there is no necessity for them to comply with the notice requirements of Part 253 at distant points, or at local points for that matter. If they do not, the terms of their contracts with passengers will be simply those stated on the ticket. For many small regional carriers this would appear to be acceptable. On the other hand, if small carriers still wish to incorporate terms by reference in all their contracts with passengers, including those formed at distant points, the Board is not aware of any method or legal principle by which they can do so without providing those passengers with a reasonable means of access to those terms. Part 253, therefore, merely provides and legitimizes the necessary means of notice if they wish to take that option.

For these reasons, the Board does not believe that the rule as adopted amounts to a burden on small carriers. Each carrier will make a choice whether to incorporate detailed contract terms by reference at distant points. For those that wish to, it provides a way.

The exception that the Board made by Order 82-12-84, December 16, 1982, with respect to ticket sales locations located outside of the United States, is not relevant to this issue. Foreign travel is still governed by tariffs, so that in the first instance no incorporation rules are necessary. For domestic transportation, the Board ensured by that Order that

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passengers would get notice of terms before beginning their trip, and that passengers in fact were not bound to accept the transportation but could demand refunds.

The other suggestions made by the commenters are also found to be without merit. This rulemaking is not the forum to consider antitrust immunity for publication of contract terms. The suggestion that the rule place responsibility on agents to provide information, for reasons discussed above, misses the point of the rule. Only carriers can decide whether and where they want to incorporate terms by reference, and to the extent that they do, they must furnish those terms to the points of sale.

The Board believes that this extension of applicability of its rule for notice of terms of contract will aid in the continuation of a smooth interline system with similar notice being used by all scheduled carriers and expected by most passengers. The rule will also reduce the possible exposure of those small carriers now filing tariffs to different and potentially conflicting State regulations on this subject.

Most of the airlines that may use the benefits of this rule have not been entirely subject to the tariff system and have already developed alternative methods of notifying passengers of the contract of carriage under existing law. This rule will provide all small scheduled carriers with the same benefits available to larger carriers if they choose to accept them.

Effective Date

This rule will affect the rights and liabilities of passengers and carriers on flights occurring after January 1, 1983, when tariff filing was eliminated. So that both carriers and passengers can use the benefits of this rule if they so desire, and because a few carriers are now without any standard Federal rule, the Board finds good cause to make it effective immediately upon publication in the **Federal Register**. It will apply to travel commencing on or after that date.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the notice requirements in this rule have been submitted to the Office of Management and Budget (OMB) for approval.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that none of the proposed changes will have a significant economic impact on a substantial number of small entities. The rule affects small carriers in their noninterline operations. Almost all of these small carriers provide interline service, which is already covered by Board rules. The rule is only permissive, offering carriers a method of incorporating terms by reference if they choose to do so.

List of Subjects in 14 CFR Part 253

Advertising, Air carriers, Air transportation, Claims, Consumer protection, Law, and Travel.

Final Rule

PART 253—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 253, *Notices of Terms of Contract of Carriage*, as follows:

1. The authority for Part 253 is:

Authority: Secs. 204, 404, 411, Pub. L. 85–726, as amended, 72 Stat. 743, 760, 769; 49 U.S.C. 1324, 1374, 1381.

2. Section 253.2 is revised to read:

§ 253.2 Applicability.

This rule applies to all scheduled direct air carrier operations in interstate and overseas air transportation. It applies to all contracts with passengers, for those operations, that incorporate terms by reference.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–3469 Filed 2–10–83; 8:45 am]

BILLING CODE 6320–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1221

NASA Seal and Other Devices, and Congressional Space Medal of Honor

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: 14 CFR Part 1221 is amended by revising Subpart 1221.1, "NASA Seal, Insignia, Logotype Insignia, Program and Astronaut Badges, and Flags." This revision updates the family of NASA emblematic devices and formally establishes the NASA Space Transportation System Program Badge and related Add-on Bar, and sets forth with increased clarity NASA policy about the commercial use of the NASA Logotype Insignia and the procedure for such use. Specifically, it prohibits the manufacture and commercial sale of the NASA Logotype Insignia as a separate and distinct identification device when NASA would have no control over its design or application.

EFFECTIVE DATE: February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Schulman, Public Services Branch, Public Affairs Division, Code LFC–9, National Aeronautics and Space Administration, Washington, D.C. 20546; 202–755–8790.

SUPPLEMENTARY INFORMATION: The NASA Seal was established by Executive Order 10849 (24 FR 9559) November 27, 1959, as amended by Executive Order 10942 (24 FR 4419) May 22, 1961. This revision supersedes Part 1221 published on March 18, 1976 (41 FR 11276). Since this revision involves only agency organization and management procedures, no public comment period is required. The rule establishes civil penalties for violations.

List of Subjects in 14 CFR Part 1221

Decorations, Medals, Awards, Flags, Seals, Insignia.

PART 1221—THE NASA SEAL AND OTHER DEVICES, AND THE CONGRESSIONAL SPACE MEDAL OF HONOR

14 CFR Part 1221 is amended by revising Subpart 1221.1 to read as follows:

Subpart 1221.1—NASA Seal, Insignia, Logotype Insignia, Program and Astronaut Badges, and Flags

Sec

1221.100 Scope.
1221.101 Policy.
1221.102 Establishment of the NASA Seal.
1221.103 Establishment of the NASA Insignia.
1221.104 Establishment of the NASA Logotype Insignia.
1221.105 Establishment of the NASA Program Badges.
1221.106 Establishment of the NASA Space Transportation System Program Badge and Add-on Bar.
1221.107 Establishment of the NASA Flag.
1221.108 Establishment of the NASA Administrator's, Deputy Administrator's and Associate Deputy Administrator's Flags.
1221.109 Establishment of the NASA Astronaut Badges.
1221.110 Use of the NASA Seal.
1221.111 Use of the NASA Logotype.
1221.112 Use of the NASA Program and Astronaut Badges.
1221.113 Use of the NASA Space Transportation System Program Badge and Add-on Bar.
1221.114 Use of the NASA Flags.
1221.115 Approval of new or change proposals.
1221.116 Violations.
1221.117 Compliance and enforcement.

Authority: 42 U.S.C. 2472(a) and 2473(b)(1).

Subpart 1221.1—NASA Seal, Insignia, Logotype Insignia, Program and Astronaut Badges, and Flags

§ 1221.100 Scope.

This subpart sets forth the policy governing the use of the NASA Seal, the NASA Insignia, the NASA Logotype Insignia, NASA Program and Astronaut Badges, and the NASA Flags.

§ 1221.101 Policy.

(a) The NASA Seal, the NASA Insignia, the NASA Logotype Insignia, NASA Program and Astronaut Badges, and the NASA Flags, as prescribed in §§ 1221.102 through 1221.109 of this subpart, shall be used exclusively to represent NASA, its programs, projects, functions, activities, or elements. The use of any devices other than those provided by or subsequently approved in accordance with the provisions of this subpart is prohibited.

(b) The use of the devices prescribed herein shall be governed by the provisions of this subpart. The use of the devices prescribed herein for any purpose other than as authorized by this subpart is prohibited. Their misuse shall be subject to the penalties authorized by statute, as set forth in § 1221.116, and shall be reported as provided in § 1221.117.

(c) Any proposal for a new NASA Insignia, NASA Logotype Insignia, NASA Program Badge and Astronaut Badge, or for modification to those prescribed herein shall be processed in accordance with § 1221.115.

§ 1221.102 Establishment of the NASA Seal.

The NASA Seal was established by Executive Order 10849 (24 FR 9559), November 27, 1959, as amended by Executive Order 10942 (24 FR 4419), May 22, 1961. The NASA Seal, established by the President, is the Seal of the Agency and symbolizes the achievements and goals of NASA and the United States in aeronautical and space activities. The NASA Seal shall be used as set forth in § 1221.110

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FIGURE A

The NASA Seal

Technical Description:

The official seal of the National Aeronautics and Space Administration is a disc of blue sky strewn with white stars, to dexter a large yellow sphere bearing a red flight symbol apex in upper sinister and wings enveloping and casting a brown shadow upon the sphere, all partially encircled with a white horizontal orbit, in sinister a small light blue sphere; circumscribing the disc a white band edged gold inscribed "National Aeronautics and Space Administration U.S.A." in red letters.

§ 1221.103 **Establishment of the NASA Insignia.**

The NASA Insignia was designed by the Army Institute of Heraldry, and approved by the Commission of Fine Arts and the NASA Administrator. It symbolizes NASA's role in aeronautics and space in the early years of the Agency and has been retired. It is used only in an authentic historical context, and only with prior written approval of the NASA Administrator.

FIGURE B

The NASA Insignia

REPRODUCTION

Black-on-white or single color: As shown

Two-color: Dark blue sky background; solid wing configuration; white inner elliptical flight path, stars, and letters NASA.

SIZE:

The Insignia may be reproduced or used in various sizes. Size to be determined on basis of (a) desired effect for visual identification or publicity purposes, (b) relative size of the object on which Insignia is to appear, and (c) consideration of any design, layout, reproduction, or other problems involved.

RESTRICTION:

The NASA Insignia will not be used for any purpose without the written approval of the Administrator.

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§ 1221.104 Establishment of the NASA Logotype Insignia.

The NASA Logotype Insignia, to be referred to as the NASA Logotype, was established by the NASA Administrator as the signature and design element for all visual communications formerly reserved for the NASA Insignia. The NASA Logotype was developed under the Federal Design Improvement Program initiated by the President in 1972 and approved by the Commission of Fine Arts in October 1975. The NASA Logotype shall be used as set forth in § 1221.111, the NASA Graphics Standards Manual, NASA Handbook 1430.2, and any related NASA directive or specification approved by the NASA Administrator and published subsequent hereto.

FIGURE C

NASA

The NASA Logotype Insignia
This logotype is the central element in NASA's visual communications system Through consistent and repetitive use as a signature device and design element in all of NASA's visual communications, the logotype becomes a visual short hand which identifies the Agency and symbolically embodies its activities, achievement and goals.

In the logotype, the letters N-A-S-A are reduced to their most simplified form The strokes are all of one width, evoking the qualities of unity and technical precision. Elimination of cross-strokes in the two "A" letters imparts a vertical thrust to the logotype and lends it a quality of uniqueness and contemporary character.

Technical Description:

The NASA Logotype design is solid stroke letterforms, shown freestanding horizontally against a solid neutral background.

The Logotype sizes are based on (a) desired effect (b) relative size of object on which applied and (c) considerations of any design layout and reproduction. See NASA Graphics Standards Manual NHB 1430.2.

It is reproduced only photographically except that, for larger applications, the Logotype is reproduced using the grid shown in the Manual. Otherwise, the Logotype is never reproduced mechanically or by hand.

The preferred color of the NASA Logotype is NASA red (PMS 179), used only when a second color is available and appropriate. Against a white back ground, the Logotype may be shown in NASA red, black, or NASA warm gray. For background of other values, the Manual is to be consulted and followed.

§ 1221.105 Establishment of NASA Program Badges.

A separate and unique badge may be designed and approved in connection with or in commemoration of a major NASA program. Each approved badge shall be officially identified by its title such as "Apollo," "Skylab," "Viking," "Space Transportation System (Space Shuttle)," or a major NASA anniversary. NASA Program Badges shall be used as set forth in § 1221.112 pursuant to approval as set forth in § 1221.115.

§ 1221.106 Establishment of the NASA Space Transportation System Program Badge and Add-on Bar.

The NASA Space Transportation System Program Badge (Space Shuttle) and Add-on Bar were established by the NASA Administrator on February 18, 1977. The Badge is a triangular stylized drawing of the Space Shuttle in launch configuration designed to provide overall program identity. The Add-on Bar(s) is a rectangular patch, with border, enclosing one or two lines of text positioned at the base of the badge. The Add-on Bar is designed to augment the badge and to provide subordinate Space Shuttle mission related identity such as project, payload, organization, text, experiment, system, or subsystem. The NASA Space Transportation System Program Badge and Add-on Bar(s) shall be used as set forth in § 1221.113, and shall conform to NASA standard design specifications.

FIGURE D

Space Transportation System Program Badge

Add-on Bar (Single line)

Add-on Bar (Double line)

DESCRIPTION:

Space Transportation System Program Badge

The official identification device for the Space Transportation System Program is a triangular badge, pointed upward, with a stylized drawing of the Space Shuttle in launch configuration; white with gray shadow edge; symetrically enclosed against two shades of blue background; gold and white edged; inscribed horizontally at the base "SPACE SHUTTLE" in white letters.

Add-On Bar

The official Add-on Bar augments the NASA Space Transportation System Program Badge to provide mission related identity. Add-on Bars are rectangular; gold and white edged with one or two lines of text on a red band. Add-on Bars are positioned horizontally at the base of the badge.

DESIGN SPECIFICATIONS:

Dimension and color specifications for the Badge and Add-on Bar are available from NASA installation graphics coordinators.

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§ 1221.107 Establishment of the NASA Flag.

The NASA Flags for interior and exterior use were created by the NASA Administrator in January 1960. Complete design, size and color of the NASA interior and exterior flags for manufacturing purposes are detailed in U.S. Army QMG Drawing 5–1–269; Revision September 14, 1960. The NASA Flags shall be used as set forth in § 1221.114.

FIGURE E

The NASA Flag

REFERENCE:

U. S. Army QMG Drawing 5-1-269; Revision 14 September 1960. Note: Recommend use of Military Specification (MIL-F-2692D dated 14 March 1969, as amended) in conjunction with referenced drawing as a guideline for procurement purposes.

Technical Description of Interior Flag:

The color of the National Aeronautics and Space Administration flag will be of blue bemberg taffeta-weave rayon, four (4) feet, four (4) inches on the hoist by five (5) feet, six (6) inches fly. In the center of the color will be the Official Seal of the National Aeronautics and Space Administration thirty inches in diameter. The devices and stars of the Seal will be embroidered by the Bonnaz Process. The color will be trimmed on three edges with a knotted fringe of rayon two and one half (2 1/2) inches wide. Cord and tassels will be of yellow rayon strands. See drawing reference above for complete details.

Technical Description of Exterior Flag:

NASA flags for external use may be procured in two sizes: 5' x 9' 6" (without fringe) or 10'x19' (without fringe). Detailed design, colors and size specifications are as set forth in the drawing referenced above.

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§ 1221.108 Establishment of the NASA Administrator's, Deputy Administrator's and Associate Deputy Administrator's Flags.

(a) Concurrently with the establishment of the NASA Flag in January 1960, the NASA Administrator also established NASA Flags to represent the NASA Administrator, Deputy Administrator and Associate Deputy Administrator. Each of these flags conforms to the basic design of the NASA Flag except that:

(1) The size of the flags is 3 feet x 4 feet;

(2) The Administrator's Flag has four stars;

(3) The Deputy Administrator's Flag has three stars; and

(4) The Associate Deputy Administrator's Flag has two stars.

(b) Flags representing these senior officials shall be used as set forth in § 1221.114.

§ 1221.109 Establishment of the NASA Astronaut Badges.

The NASA Astronaut Badge, commonly referred to as the "crew patch," is a separate and unique badge designed in connection with or in commemoration of a manned space flight mission for the particular astronauts involved. Each approved badge shall be identified by its title, such as "Apollo 17 Badge." Collectively, these badges will comprise the NASA Astronaut Badges. The NASA Astronaut Badges shall be used as set forth in § 1221.112 pursuant to approval as set forth in § 1221.115.

§ 1221.110 Use of the NASA Seal.

(a) The Executive Officer shall be responsible for custody of the NASA impression Seal and custody of NASA replica (plaques) seals. The NASA Seal is restricted to the following:

(1) NASA award certificates and medals.

(2) NASA awards for career service.

(3) Security credentials and employee identification cards.

(4) NASA Administrator's documents; the seal may be used on documents such as interagency or intergovernmental agreements and special reports to the President and Congress, and on other documents, at the discretion of the NASA Administrator.

(5) Plaques; the design of the NASA Seal may be incorporated in plaques for display in Agency auditoriums, presentation rooms, lobbies, offices of senior officials and on the fronts of buildings occupied by NASA.

(6) The NASA Flag, and the NASA Administrator's, Deputy Administrator's and Associate Deputy Administrator's Flags, which incorporate the design of the Seal.

(7) NASA prestige publications which represent the achievements or missions of NASA as a whole.

(8) Publications (or documents) involving participation by another government agency for which the other government agency has authorized the use of its seal.

(b) Use of the NASA Seal for any purpose other than as prescribed herein is prohibited, except that the Executive Officer may authorize, on a case-by-case basis, the use of the NASA Seal for purposes other than those prescribed when the Executive Officer deems such use to be appropriate.

§ 1221.111 Use of the NASA Logotype.

The NASA Logotype is authorized for use on the following:

(a) *NASA articles.* (1) NASA letterhead stationery.

(2) Films produced by or for NASA.

(3) Wearing apparel and personal property items used by NASA employees in performance of their duties.

(4) Required uniforms of contractor employees when performing public affairs duties, guard or fire protection duties and similar duties within NASA installations or at other assigned NASA duty stations, and on any required contractor-owned vehicles used exclusively in the performance of these duties, when authorized by NASA contracting officers.

(5) Spacecraft, aircraft, automobiles, trucks, and similar vehicles owned by, leased to, or contractor-furnished to NASA, or produced for NASA by contractors, but excluding NASA-owned vehicles used and operated by contractors for conduct of contractor business.

(6) Equipment and facilities owned by, leased to, or contractor-furnished to NASA, such as machinery, major tools, ground handling equipment, office and shop furnishings (if appropriate) and similar items of a permanent nature, including those produced for NASA by contractors.

(7) NASA pamphlets, brochures, manuals, handbooks, house organs, bulletins, general reports, posters, signs, charts and items of similar nature for general use, other than those covered in § 1221.110 (7) and (8).

(8) Briefcases or dispatch cases issued by NASA.

(9) Certificates (NASA Form 699A and 699B) covering authority for NASA and contractor security personnel to carry firearms.

(10) NASA occupied buildings when the use of the NASA Logotype is more appropriate than use of the NASA Seal.

(b) *Personal articles—NASA employees.* (1) Business calling cards of NASA employees may carry the imprint of the NASA Logotype.

(2) *Limited usage on automobiles.* If determined appropriate by the cognizant installation official, it is acceptable to place a NASA Logotype sticker on personal automobiles where such identification will facilitate entry or control of such vehicles at NASA installations or parking areas.

(3) Personal items used in connection with NASA employees' recreation association activities.

(4) Items for sale through NASA employees' non-appropriated fund activities subject to paragraph (c) of this section.

(c) *Miscellaneous articles.* (1) The manufacture and commercial sale of the NASA Logotype as a separate and distinct device in the form of an emblem, patch, insignia, badge, decal, vinylcal, cloth, metal or other material which would preclude NASA's control over its use or application is prohibited.

(2) Use of the NASA Uniform Patches, which incorporate the NASA Logotype, is authorized only as prescribed in the NASA Graphics Standards Manual, NASA Handbook 1430.2, for NASA personnel and NASA contractor personnel identification.

(3) No approval for use of the NASA Logotype will be authorized when its use can be construed as an endorsement by NASA of a product or service.

(4) Items bearing the NASA Logotype such as souvenirs, novelties, toys, models, clothing and similar items (including items for sale through the NASA employee's non-appropriated fund activities) may be manufactured and sold only after the NASA Logotype application has been submitted to, and approved by, the Director, Public Affairs Division, or designee, NASA Headquarters, Washington, DC 20546.

(d) Use of the NASA Logotype for any purpose other than as prescribed herein is prohibited, except that the Director, Public Affairs Division, may authorize on a case-by-case basis the use of the NASA Logotype for other purposes when the Director, Public Affairs Division, deems such use to be appropriate.

§ 1221.112 Use of the NASA Program and Astronaut Badges.

(a) Official NASA Program and Astronaut Badges will be restricted to the uses set forth herein and to such

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other uses as the Director, Public Affairs Division, may specifically approve.

(b) Specific approval is given for the following uses:

(1) Use of exact reproductions of a badge in the form of a patch made of cloth or other material, a decal or a gummed sticker, on articles of wearing apparel and personal property items; and

(2) Use of exact renderings of a badge on a coin, medal, plaque or other commemorative souvenirs.

(c) The manufacture and sale or free distribution of badges for the uses approved or that may be approved under paragraphs (a) and (b) of this section are authorized.

(d) Portrayal of an exact reproduction of a badge in conjunction with the advertising of any product or service will be approved on a case-by-case basis by the Director, Public Affairs Division.

(e) The manufacture, sale or use of any colorable imitation of the design of an official NASA Program or Astronaut Badge will not be approved.

§ 1221.113 Use of the NASA Space Transportation System Program Badge and Add-on Bar.

(a) The NASA Space Transportation System Program Badge (Space Shuttle) shall be used in the manner prescribed for NASA Program and Astronaut Badges, § 1221.112. It shall be used exclusively to identify the overall program and represent, identify and commemorate each Space Shuttle operational mission.

(b) The approved Add-on Bar(s) shall be used exclusively to provide subordinate mission related identity for NASA projects and payloads including NASA joint projects. Use of Add-on Bars for non-NASA projects and payloads, including domestic and/or international joint projects is encouraged.

(c) Add-on Bar proposals for both NASA and non-NASA projects and payloads shall be submitted to the Associate Administrator for Space Flight for review and approval and for compliance with NASA design specifications.

(d) Use of any device other than as prescribed herein is prohibited on NASA uniforms, publications, brochures, posters, charts, signs and items of a similar nature, to identify the Space Transportation System Program and related missions.

(e) Use of unique payload Program Badges for non-NASA missions are permitted only when the payload has been bought solely by another country other than the United States and when that country has total responsibility for that payload. (For example, in the case where Germany has bought a dedicated Spacelab mission and has total responsibility for the payload.) Unique payload Program Badge proposals shall be submitted to the Director, International Affairs Division, Director, Public Affairs Division, and the Associate Administrator for Space Flight, NASA Headquarters, for information and comment.

§ 1221.114 Use of the NASA Flags.

(a) The NASA Flag is authorized for use only as follows:

(1) On or in front of NASA installation buildings.

(2) At NASA ceremonies.

(3) At conferences (including display in NASA conference rooms).

(4) At governmental or public appearances of NASA executives.

(5) In private offices of senior officials.

(6) As otherwise authorized by the NASA Administrator or designee.

(7) The NASA Flag must be displayed with the United States Flag. When the United States Flag and the NASA Flag are displayed on a speaker's platform in an auditorium, the United States Flag must occupy the position of honor and be placed at the speaker's right as the speaker faces the audience, with the NASA Flag at the speaker's left.

(b) The NASA Administrator's, Deputy Administrator's and Associate Deputy Administrator's Flags shall be displayed with the United States Flag in the respective offices of these officials but may be temporarily removed for use at the discretion of the officials concerned.

§ 1221.115 Approval of new or change proposals.

(a) Any proposal to change or modify the emblematic devices set forth herein or to introduce a new emblematic device other than as prescribed herein requires the written approval of the NASA Administrator with prior approval and recommendation of the Director, Public Affairs Division.

(b) In addition to the written approval of the NASA Administrator, any proposal for a new or for a modification to the design of the NASA Insignia or NASA Logotype must also be submitted to the Commission of Fine Arts for its advice as to the merit of design. If approved in writing by the NASA Administrator and advice received from the Commission of Fine Arts, the NASA Insignia and the use of such NASA Insignia or NASA Logotype must be prescribed in this Subpart and published in the Federal Register.

§ 1221.116 Violations.

(a) *NASA Seal.* Any person who uses the NASA Seal in a manner other than as authorized in this subpart shall be subject to the provisions of Title 18 U.S.C. 1017.

(b) *NASA Insignia, NASA Logotype and NASA Program and Astronaut Badges.* Any person who uses the NASA Insignia, NASA Logotype, NASA Program Badges or NASA Astronaut Badges in a manner other than as authorized in this Subpart shall be subject to the provisions of Title 18 U.S.C. 701.

§ 1221.117 Compliance and enforcement.

In order to ensure adherence to the authorized uses of the NASA Seal, the NASA Insignia, the NASA Logotype, NASA Program and Astronaut Badges and the NASA Flags as provided herein, a report of each suspected violation of this Subpart (including the use of unauthorized NASA Insignias) or of questionable usages of the NASA Seal, the NASA Insignia, the NASA Logotype, NASA Program and Astronaut Badges or the NASA Flags shall be submitted to the Inspector General, NASA Headquarters, in accordance with NASA Management Instruction 9950.1, "The NASA Investigations Program."

James M. Beggs,

Administrator.

[FR Doc. 83-3252 Filed 2-10-83; 8:45 am]

BILLING CODE 7510-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1205

Walk-Behind Power Lawn Mowers; Change to Drawing of Foot Probe

AGENCY: Consumer Product Safety Commission.

ACTION: Clarification of drawing.

SUMMARY: The Commission amends the drawing of the foot probe device in its consumer product safety standard for walk-behind power lawn mower to eliminate an ambiguity in the drawing and to give dimensions that are more useful in fabricating the device than were the original dimensions.

EFFECTIVE DATE: The changes to the drawing are effective March 14, 1983.

FOR FURTHER INFORMATION CONTACT: Paul Galvydis, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207, phone (301) 492-6400.

SUPPLEMENTARY INFORMATION: On February 15, 1979, the Commission published a final consumer product safety standard to reduce the estimated 77,000 injuries that occur each year from contact with the moving blades of walk-behind power lawn mowers (44 FR 9990; 16 CFR Part 1205).

A detailed explanation of the background and rationale for the standard is given in the **Federal Register** notice that issued the standard. Briefly, the standard reduces the risk of injury from blade contact with rotary power lawn mowers by mandating two main performance requirements. First, in order to reduce injuries to the hand of the operator, § 1205.5(a)(1) of the standard requires that the mower have a blade control that will stop the blade within 3 seconds of the time that the operator releases the handle of the mower. This is intended to ensure that when the operator's hands leave the handle, the blade will stop before the operator can put his or her hands in the vicinity of the blade. This requirement will also reduce foot injuries that occur when the operator is working or moving around the mower and is not holding the handle.

In order to further reduce foot injuries, § 1205.4(a) of the standard requires that areas of the mower that can be reached by the operator's foot when he or she is holding the handle (the rear 120° of the mower) shall be constructed so that a specified probe that approximates the human foot cannot be brought into contact with the blade from these areas.

Section 1205.8 of the standard provides for a warning label on rotary and reel-type walk-behind power lawn mowers to warn of the hazard of contacting the blade.

The requirement that the blade stop within 3 seconds of the release of this handle can be accomplished in two ways. First, the blade can be disconnected from the mower's power source and brought to a stop while the power source continues to operate. The other way of accomplishing this requirement is to turn off the power source, thereby bringing the blade and the power source to a stop together.

If the blade is stopped by stopping the engine ("engine-kill"), the standard requires that the mower be provided with a power restart mechanism, that the starting controls be within 24 inches of the top of the mower's handle, or that the mower have a protective foot shield which extends 360° around the mower housing. If the manual restart with a 360° foot protective shield alternative is chosen, the entire periphery of the mower must be constructed so that the foot probe device cannot be brought into contact with the blade (§ 1205.4(b)(1)(ii)(B) of the standard). See 46 FR 54933; November 5, 1981.

The diagram of the foot probe currently in the standard contains an ambiguity in that the nature of the intersection between the "leg" and the "top of the instep" portions of the probe is not clearly indicated. In the amendment to the drawing which is issued below, a line has been added to the top view to indicate that the top of the instep is a plane whose intersection with the plane on which the "leg" is mounted is a straight line. The Commission believes that this is the way that the drawing has been interpreted by the lawn mower industry and that this change will have no impact on whether any particular mower will pass the foot probe test.

The Commission has also made some changes in the way the dimensions of the foot probe are described in the drawing. In the new drawing, the length of the bottom of the foot is given, whereas this dimension had to be computed in the earlier version. In addition, the previously shown "height of leg" dimension was not useful, and this has been replaced by a dimension for the length of the "shin" portion of the leg. Finally, the new drawing shows the cutoff angle for the cylindrical leg (i.e., the angle between the leg and a horizontal line) rather than the less useful angle between the leg and a vertical line. These changes do not result in any change in the size or shape of the foot probe, but they should be more useful to persons attempting to fabricate a probe as specified in the standard.

Since these changes are simply technical clarifications to an existing rule that will have no adverse impact on the public or the affected industry, the Commission determines, as authorized by 5 U.S.C. 553(b)(B), that general notice of proposed rule making is unnecessary and contrary to the public interest. Accordingly, the changes set forth below will become effective March 14, 1983. The Commission also determines that these amendments are non-material clarifications of the standard that may be made by the procedures in 5 U.S.C. 553, as authorized by 15 U.S.C. 2059(h).

Accordingly, the Commission amends Title 16, Chapter II, Subchapter B, Part 1205 of the Code of Federal Regulations by replacing Figure 2 of Part 1205 with the following figure:

BILLING CODE 6355-01-M

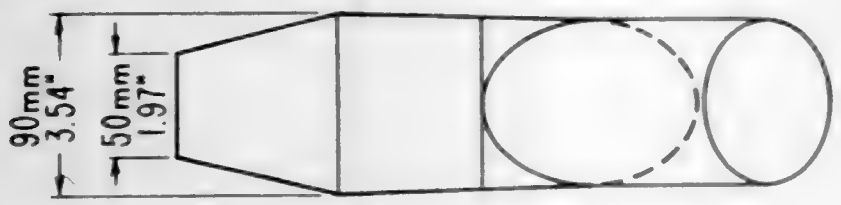

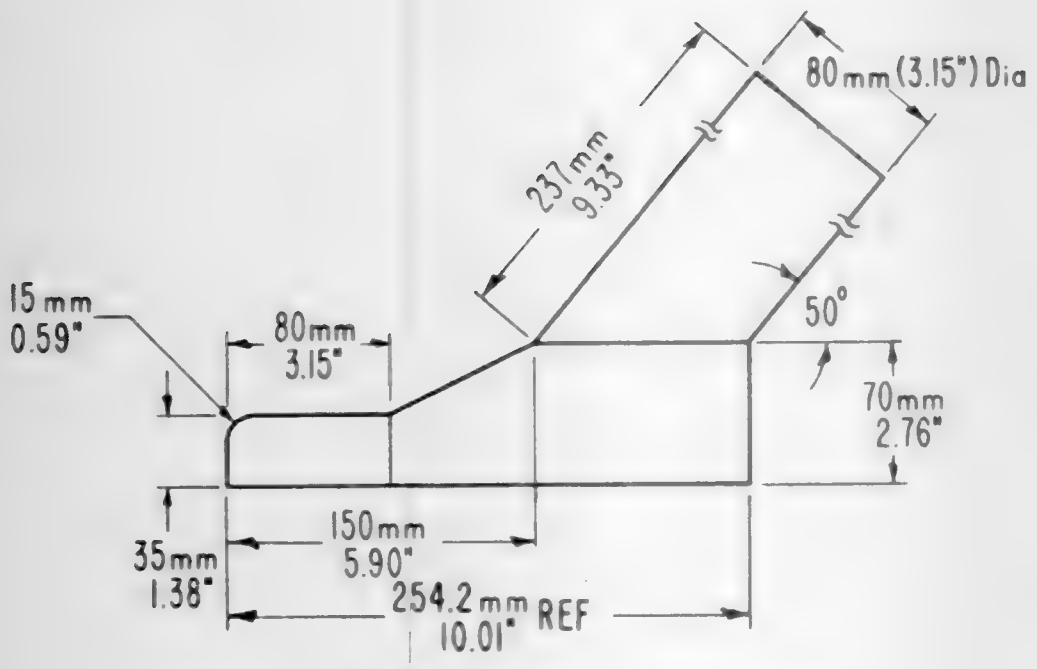

FIG 2—FOOT PROBE

Dated: February 1, 1983.

Sadye Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-3832 Filed 2-10-83: 8:45 am]

BILLING CODE 6355-01-C

16 CFR Parts 1615 and 1616

Flammability Standards for Children's Sleepwear; Revocation of Statements of Enforcement Policy

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission revokes statements of enforcement policy concerning the flammability standards for children's sleepwear. The policy statements set forth factors the Commission would consider when deciding whether the children's sleepwear standards are applicable to certain garments and fabrics. The Commission is revoking these policy statements because they were set aside by a United States Court of Appeals on judicial review.

DATE: The revocation will be effective on February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone (301) 492–6980. Inquiries from the press and broadcast media should be directed to Stephen Lemberg, Assistant General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone (301) 492–6980.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 6, 1980 (45 FR 73884), the Commission issued on a final basis two statements of policy concerning the scope of the Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X (16 CFR Part 1615) and the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (16 CFR Part 1616). The policy statements set forth factors which the Commission would consider when deciding whether the children's sleepwear standards are applicable to certain children's garments and to fabrics used to manufacture those garments. The policy statements were codified in the Code of Federal Regulations at 16 CFR 1615.64 and 1616.65.

Thereafter, a trade association filed a timely petition with a United States Court of Appeals requesting the court to set aside the policy statements. The petition for review alleged that the Commission's action of issuing the policy statements had the effect of amending the two children's sleepwear standards to include certain garments not previously within their coverage, but had been taken without following all procedures required by section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) for amending a flammability standard.

In *National Knitwear Manufacturers Association v. CPSC*, 666 F2d 81 (45th Cir. 1981), the court granted the petition and set aside the policy statements. For this reason, the Commission is revoking the two policy statements issued on November 6, 1980, at 45 FR 73884, and codified at 16 CFR 1615.64 and 1616.65.

In the proposed rules section of this issue of the **Federal Register**, the Commission has published a proposal for statements of enforcement policy to replace the policy statements set aside by the *National Knitwear* decision. This notice explains the Commission's reasons for desiring to publish new statements of enforcement policy, and the provisions of the proposal in detail. The proposal solicits written comments from all interested parties on the provisions of the proposed enforcement policy statements.

Because the policy statements now codified at 16 CFR 1615.64 and 1616.65 have been set aside in their entirety by a final decision of a United States Court of Appeals, the Commission finds for good cause, in accordance with 5 U.S.C. 553(b)(3)(B) that notice of proposed rulemaking and opportunity for public comment are unnecessary in this proceeding for revocation. For the same reason, the Commission finds for good cause in accordance with 5 U.S.C. 553(d) that publication of notice of this revocation at least 30 days before its effective date is unnecessary. Accordingly, the revocation of the policy statements at 16 CFR 1615.64 and 1616.65 shall be effective immediately.

List of Subjects in 16 CFR Parts 1615 and 1616

Clothing, Consumer protection, Flammable materials, Infants and children, Labeling, Records, Textiles, Warranties.

Conclusion

PARTS 1615 AND 1616—[AMENDED]

§ 1616.64 and 1616.65 [Removed and Reserved]

Therefore, pursuant to provisions of the Flammable Fabrics Act (15 U.S.C. 1194), the Consumer Product Safety Act (15 U.S.C. 2079(b)), and the Administrative Procedure Act (5 U.S.C. 553, Title 16, Chapter II, Subchapter D of the Code of Federal Regulations is amended by revoking, removing, and reserving §§ 1615.64 and 1616.65.

Effective date. The revocation shall be effective February 11, 1983.

(Sec. 5 Pub. L. 90–189, 81 Stat. 569, 15 U.S.C. 1194; Sec. 30(b), Pub. L. 92–573, 86 Stat. 1207, 15 U.S.C. 2079(b); 5 U.S.C. 553)

Dated: February 7, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83–3834 Filed 2–10–83; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81 and 82

[Docket No. 82N–0299]

FD&C Green No. 3; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of December 21, 1982, for a regulation that permanently lists FD&C Green No. 3 as a color additive for use in food, drugs, and cosmetics, except for use in the area of the eye.

DATE: Effective date confirmed: December 21, 1982.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: On November 15, 1982, FDA signed and placed on immediate display in the Dockets Management Branch a final rule that amended the color additive regulations by permanently listing FD&C Green No. 3. The final rule was published on November 19, 1982 (47 FR 52140). It added new § 74.203 (21 CFR 74.203) that allows the use of FD&C Green No. 3 in coloring foods except where standards of identity preclude such use. Additionally, the agency amended the color additive regulations by adding new § 74.1203 (21 CFR 74.1203), which lists FD&C Green No. 3 for coloring drugs and new § 74.2203 (21 CFR 74.2203), which lists FD&C Green No. 3 for general use in cosmetics, excluding use in the area of the eye. In both §§ 74.1203 and 74.2203, FDA conformed the identity and the specifications paragraphs to the requirements of § 74.203(a)(1) and (b). The final rule also amended § 81.1(a) (21

CFR 81.1(a)) and § 81.27(d) (21 CFR 81.27(d)) by removing FD&C Green No. 3 from the tables in these regulations. Finally, the final rule revised § 82.203 (21 CFR 82.203) by conforming the identity and the specifications of this section to the requirements of § 74.203(a)(1) and (b).

In the final rule, FDA gave interested persons until December 15, 1982—30 days from date of signature—to file objections. However, to provide interested persons with the opportunity to file objections during the 30 days after publication of the final rule, FDA revised the date for submission of objections as well as the date for the final rule to become effective by publishing a correction in the **Federal Register** of December 3, 1982 (47 FR 54429). This rule corrected the dates to "effective December 21, 1982" and "objections by December 20, 1982."

The agency received no objections or requests for a hearing on any aspect of the final rule. Therefore, FDA has concluded that the final rule published in the **Federal Register** of November 19, 1982, for FD&C Green No. 3 should be confirmed.

List of Subjects

21 CFR Part 74

Color additives, Color additives subject to certification, Cosmetics, Drugs.

21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Color additives lakes, Color additives provisional list, Cosmetics, Drugs.

PART 74—LIST OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403 as amended (21 U.S.C. 376 (b), (c), and (d))) and the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the final rule of November 19, 1982. Accordingly, the final rule permanently listing FD&C Green No. 3 for use in food, drugs, and cosmetics, except for use in the area of the eye, became effective December 21, 1982.

Dated: February 4, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3625 Filed 2-10-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Dinoprost Tromethamine Sterile Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of supplemental new animal drug applications (NADA's) filed by the Upjohn Co. providing for use of dinoprost tromethamine injectable for abortion of nonlactating cattle and for treatment of unobserved estrus in lactating dairy cattle.

EFFECTIVE DATE: February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed supplements to NADA 108–901 providing for intramuscular use of dinoprost tromethamine for inducing abortion in nonlactating cattle and for treatment of unobserved estrus in lactating dairy cows. Upjohn also holds approval for intramuscular use of the drug in beef cattle and nonlactating heifers for synchronization of estrus; in mares to induce estrus; and in feedlot cattle for abortion. The supplement is approved and the regulations are amended to reflect the approval. The directions for use of the drug are also being revised to more clearly indicate how the drug is to be used.

Approval of the supplemental new animal drug application for the treatment of unobserved (silent) estrus required a reevaluation of the human safety data for the drug because of the expansion of use to a production class that will result in human exposure to residues from a new source (milk). Based on data provided by Upjohn, and information available in the published literature, the agency concluded that chronic bioassays for carcinogenicity were not required. Toxicity data provided by the sponsor were also adequate to satisfy the general food and safety requirements for NADA approval.

Based on tissue residue data submitted by the sponsor, the calculated safe dose, and the low potential for misuse, the agency concluded that the establishment of a milk discard time, preslaughter withdrawal time, and tolerance and assay methodology are unnecessary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(iv) and (g)) may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.690 by revising paragraph (d)(2)(iii), (3) (i) and (ii), and by adding new paragraph (d)(4) to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.690 Dinoprost tromethamine sterile solution.

* * * * *

(d) * * *

(2) * * *

(iii) *Limitations.* For use in beef cattle and nonlactating dairy heifers, as follows: Inject a dose of 5 milliliters intramuscularly either once or twice at a 10- to 12-day interval. With the single injection, cattle should be bred at the usual time relative to estrus. With the two injections cattle can be bred after the second injection either at the usual time relative to detected estrus or at about 80 hours after the second injection. Estrus is expected to occur 1 to 5 days after injection if a corpus luteum was present. Cattle that do not become pregnant to breeding at estrus on days 1 to 5 after injection will be expected to return to estrus in about 18 to 24 days. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(3) *Nonlactating cattle*—(i) *Amount.* Five milliliters intramuscularly as a single injection.

(ii) *Indications.* For its abortifacient effect in nonlactating cattle.

* * * * *

(4) *Lactating dairy cattle*—(i) *Amount.* Five milliliters intramuscularly as a single injection.

(ii) *Indications.* For treatment of unobserved (silent) estrus in lactating dairy cattle that have a corpus luteum.

(iii) *Limitations.* Breed cattle as they are detected in estrus. If estrus has not been observed by 80 hours after injection, breed at 80 hours. If cattle return to estrus breed at the usual time relative to estrus. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. February 11, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 7, 1983.

Lester M. Crawford,

Bureau of Veterinary Medicine.

[FR Doc. 83-3714 Filed 2-10-83, 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 555

Chloramphenicol Drugs for Animal Use; Chloramphenicol Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Med-Tech, Inc., providing for safe and effective use of chloramphenicol tablets for dogs for certain bacterial infections.

DATE: Effective February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Med-Tech, Inc., P.O. Box 338, Elwood, KS 66024, filed NADA 65-491 providing for use of tablets containing 100, 250, and 500 milligrams, 1 gram and 2.5 grams of chloramphenicol per tablet, for treating dogs for bacterial pulmonary infections, urinary tract infections, enteritis, and infections associated with canine distemper that are caused by organisms susceptible to chloramphenicol.

This product conforms to the requirements for certification and conditions of marketing of chloramphenicol tablets which are codified in § 555.110a (21 CFR 555.110a). Approval is based on submission of published literature and results of a crossover blood level study demonstrating bioequivalence to the product for which certification was initially approved. Under § 514.1(b)(9) (21 CFR 514.1(b)(9)) an exemption from the submission of the data required by § 514.1(b)(8) has been applied to this NADA. Chloramphenicol was reviewed by the National Academy of Sciences/National Research Council, Drug Efficacy Study Group (DESI). The Academy's findings were published in a notice in the **Federal Register** of February 18, 1971 (36 FR 3144). The Academy evaluated the drug as probably effective and FDA upgraded the product to effective based on label revisions and review of additional information. Products and uses covered in the DESI notice are equivalent to the Med-Tech product and their product is effective based on a bioequivalency study Med-Tech submitted. The NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 555

Animal drugs, Antibiotics, Chloramphenicol.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 555.10a is amended by revising the second sentence in paragraph (a)(1) and by revising paragraph (c)(1)(ii) to read as follows:

PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE

§ 555.110a Chloramphenicol tablets.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* * * * Each tablet contains 100, 250, or 500 milligrams, 1 or 2.5 grams of chloramphenicol.* * *

(c) * * *

(1) * * *

(ii) *Sponsor.* In § 510.600(c) of this chapter, No. 000010 for 100-, 250-, and 500-milligram and 1-gram tablets; No. 000071 for 100-, 250-, and 500-milligrams tablets; No. 017030 for 100-milligram tablets, No. 013983 for 100-, 250-, and 500-milligram and 1-, and 2.5-gram tablets.

* * * * *

Effective date. February 11, 1983.

(Sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n))

Dated: February 3, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-3626 Filed 2-10-83, 8:45 am]

BILLING CODE 4160-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1602

Employer Information Report (EEO-1); Change in the Employer Information Report (EEO-1) Filing Instructions for Multi-Establishment Employers

AGENCY: Equal Employment Opportunity Commission.

ACTION: Rule related notice.

SUMMARY: Starting with the 1983 survey year, multi-establishment employers will be required to file separate reports for

establishments employing 50 or more employees instead of the present requirement of separate reports for establishments of 25 or more employees. This change is in the interest of decreasing the reporting burden as well as the paperwork burden and is implemented under the authority of Title VII of the Civil Rights of 1964, as amended.

DATE: This change will be effective beginning with the 1983 EEO–1 survey.

FOR FURTHER INFORMATION CONTACT: Joachim Neckere, Director, Survey Division, Office of Program Research, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506 (703/756–6020).

SUPPLEMENTARY INFORMATION: The above change does not reduce the number of employers required to file EEO–1 Reports. It only reduces the number of forms which multi-establishment employers who meet the filing criteria must submit. Employers who generate their EEO–1 reports by computer may file establishment reports at the old minimum level, for 1983 only, if conversion of their computer system presents undue hardship.

Signed at Washington, D.C. this 4th day of February 1983.

For the Commission.

Clarence Thomas,

Chairman.

[FR Doc. 83–3776 Filed 2–10–83; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Access to Employee Exposure and Medical Records; Extension of Partial Stay

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Extension of partial stay.

SUMMARY: OSHA is hereby extending the partial administrative stay of the access to employee exposure and medical records regulation, 29 CFR 1910.20, for the flavor and fragrance industries to August 1, 1983. The current partial stay, which expires February 15, 1983, is hereby being extended until August 1, 1983, to allow OSHA to consider the issues presented by the flavor and fragrance industry as part of its rulemaking on the records access rule.

DATE: The flavor and fragrance stay is extended to August 1, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Office of Information and Consumer Affairs, OSHA, Room N–3641, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: (202) 523–8151.

SUPPLEMENTARY INFORMATION: Since August, 1980, the flavor and fragrance industry has been subject to a series of administrative stays of 29 CFR 1910.20, OSHA's access to employee exposure and medical records rule. The current partial stay, which expires February 15, 1983, is hereby being extended until August 1, 1983, to allow OSHA to consider the issues presented by the flavor and fragrance industry as part of its rulemaking on the records access rule. A proposal to modify the records access rule was published July 13, 1982 (47 FR 30420 et seq.), and it is anticipated that a final determination with respect to this proposal will be completed prior to August 1.

The full text of the current administrative stay for the flavor and fragrance industry was published in the August 7, 1981, **Federal Register** (46 FR 40491).

(Secs. 6(b), 8(g), 84 Stat. 1593, 1600 (29 U.S.C. 655, 657); Sec. 4 of the Administrative Procedure Act (5 U.S.C. 553))

Signed at Washington, D.C. this 8th day of February 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83–3830 Filed 2–10–83; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 900

Programs for the Conduct of Surface Mining Operations Within Each State

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: Subchapter T contains the Secretary of the Interior's final decisions regarding State or Federal programs governing surface mining and reclamation operations. This rule adds a new Part 900 to Subchapter T which provides an introduction to the synopsis of the approved State programs, the abandoned mined lands reclamation programs, the cross referencing provisions of Federal programs and the full texts of State and Federal cooperative agreements for regulation of mining on Federal lands. The introduction explains the content and authority of the permanent regulatory programs.

EFFECTIVE DATE: March 14, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Program Operations and Inspection, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; telephone (202) 343–5351.

SUPPLEMENTARY INFORMATION: Title V of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) requires the implementation of permanent programs to regulate coal exploration and surface coal mining and reclamation operations. The Office of Surface Mining Reclamation and Enforcement (OSM) promulgated national permanent program regulations in 30 CFR Chapter VII which establish the minimum standards for the regulatory programs.

Under sections 501–503 of the Act and 30 CFR Part 731, the States were provided the opportunity to submit programs for approval by the Secretary and thus achieve primary responsibility for regulating coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands. Each program includes laws, regulations and systems governing the designating of lands as unsuitable for surface coal mining, permitting and performance standards for surface and underground mining operations, bonding, conflicts of interest, the protection of government employees, blasting and inspection and enforcement. A deadline of August 3, 1979, was established by 30 CFR 731.12 for submittal of State programs. However, on August 22, 1979, the District Court for the District of Columbia issued an opinion extending the deadline for States to file their submissions to March 3, 1980 (see *In re: Permanent Surface Mining Reclamation Litigation*, 13 ERC 1586). By March 3, 1980, 24 of the States with known coal reserves had submitted programs to obtain primary regulatory responsibility. As of this date, all 24 State programs have been approved by the Secretary. The Secretary's decisions on these programs appear in 30 CFR Chapter VII, Subchapter T, in Parts 901–950.

In addition, the State of Alaska submitted its proposed program on July 23, 1982 (47 FR 33520). The Secretary is scheduled to make his decision whether to approve Alaska's program soon.

Under Section 504 of SMCRA and 30 CFR 736.11 (and in conjunction with the August 22, 1979, opinion of the District Court for the District of Columbia), OSM must promulgate and implement a Federal program for each State that did not submit a program by March 3, 1980, and in which the Director, OSM, reasonably expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands at any time before June, 1985. Federal programs have been promulgated for Georgia (47 FR 36396), Michigan (47 FR 47158), and Oregon (47 FR 18267), and have been proposed for the States of California (47 FR 32686), Idaho (47 FR 30214), Nebraska (47 FR 57236), Nevada (47 FR 47792), Rhode Island (47 FR 57246), South Dakota (47 FR 34760), and Washington (47 FR 26794), and are also being considered for other States. Coal exploration programs have been promulgated for Massachusetts (47 FR 18238), and Rhode Island (47 FR 18282).

Once a State's Title V regulatory program has been approved, it becomes eligible to have its Title IV Abandoned Mine Land program approved which then entitles the State to receive funds for reclamation projects.

Also, upon approval of a State's Title V regulatory program, the State may enter into a cooperative agreement with OSM for the regulation of coal mining on Federal lands by the State.

The OSM actions on each State program, Federal program (or coal exploration program), abandoned mine land program, and Federal lands program will be codified under 30 CFR Chapter VII, Subchapter T, Parts 901–950. Rules for each Federal program for a State will be included in Subchapter T under the appropriate Part number assigned to that State. The rules for Federal programs for each State cross reference pertinent program rules in Subchapters F, G, J, K and L.

When OSM proposed 30 CFR Part 900, it specifically requested public comments on the most appropriate means to facilitate Federal enforcement of State program provisions. At that time, OSM indicated that it was considering several options: (1) Publishing the full text of each State program, (2) incorporating by reference the approved State regulatory programs, or (3) publishing a notification of approval for State programs, which would include specific details about the Secretary's approval decision. After considering the several options, OSM has decided to continue publishing notifications of approval for State programs. Additionally, OSM has modified the proposed § 901.12 to make clear that the Secretary may enforce provisions of approved State programs and permits issued pursuant to State programs directly in instances when a State is not adequately enforcing its program. See the sections of this notice entitled "Disposition of Comments" and "Differences Between the Proposed and Final Versions of This Rule" for more information on OSM's decision.

Disposition of Comments

1. The Associated Electric Cooperative, Inc. and the Consolidation Coal Company suggested that OSM codify the full text of each State program. The commentors suggested that full text codification would enhance the availability of State programs to persons and would ensure format uniformity with the codification of other programs such as Federal programs and cooperative agreements.

OSM estimates that it would cost nearly $2,000,000 to publish the complete text of all required State laws and regulations and other provisions in the Code of Federal Regulations. The expense does not appear justified when there are other means to ensure availability of programs to interested persons, such as by making hard copies of approved programs available. Further, full text codification would not enhance format uniformity between State regulatory programs and other programs codified under Subchapter T. OSM has found that each State program is unique, particularly in codification methods for its laws and regulations. OSM does not believe that full text publication would enhance uniformity in format codification.

2. The American Mining Congress and the National Coal Association (Joint NCA-AMC Committee) felt the rule should be amended so that it is clear that a copy of a State program would be available from OSM and the State regulatory authority free of charge.

When OSM codifies a Secretarial decision approving a State's regulatory program, the promulgated rule effecting the Secretary's decision specifies locations where copies of the approved program are available for inspection and copying. OSM believes that it would be beyond the scope of this rulemaking to prohibit both OSM and the States from recovering normal costs associated with the reproduction of lengthy documents. OSM cannot compel the States to provide free copies of their programs. However, as a matter of policy, OSM attempts to provide requestors copies of specific parts of State programs relevant to their interests at no charge and encourages the States to do the same.

Differences Between the Proposed and Final Versions of This Rule

OSM has made changes from the proposed to the final version of this rule.

1. Paragraph (d) of the proposed rule has been redesignated as paragraph (e) and a new paragraph (d) has been added under § 900.4, "Responsibilities," which describes those responsibilities that pertain to Title IV of SMCRA, the abandoned mine land programs.

2. Section 900.11 has been shortened without any substantive change.

3. Section 900.12 has been restructured by labeling the original paragraph as paragraph (a) and by adding a new paragraph (b) which sets forth the legal authority by which the Secretary may enforce provisions of the Act and conditions of permits issued under approved State regulatory programs. The new paragraph provides notice to the public that the Secretary may enforce provisions of the Act or conditions of permits issued pursuant to State programs. Section 504(b) provides that when a State is not enforcing any part of its approved State program, the Secretary may provide for Federal enforcement pursuant to Section 521. Section 521(a) provides for Federal enforcement of the Act in a State with an approved regulatory program and conditions of a permit issued pursuant to a program if after a citizen brings to the Secretary's attention a violation of the Act or permit condition and after notice to the State, the State fails to act within 10 days. New paragraph (b) will allow the Secretary to take direct and immediate enforcement action. This procedure is separate from the State program withdrawal of approval procedure provided for in Section 521(b) of the Act and Part 733 of the regulations, of which substituted Federal enforcement of the State program, or portion thereof, is a part.

4. Section 900.13 has been modified to make clear the distinction between a Federal program and a coal exploration program.

Procedural Matters

Paperwork Reduction Act

There are no information collection requirements in 30 CFR Part 900 requiring approval by the Office of Management and Budget under 44 U.S.C. 3507.

National Environmental Policy Act

The Secretary has determined that this rulemaking is not a major Federal action that would significantly affect the human environment under 43 U.S.C.

4231 *et seq.* Therefore, an environmental impact statement has not been prepared.

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 30 CFR Part 900

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: January 10, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

Accordingly, 30 CFR Chapter VII is amended as follows:

1. Subchapter T is amended by revising the heading to read as follows:

SUBCHAPTER T—PROGRAMS FOR THE CONDUCT OF SURFACE MINING OPERATIONS WITHIN EACH STATE

2. Subchapter C is further amended by adding a new Part 900 to read as follows:

PART 900—INTRODUCTION

Sec.

900.1 Scope.
900.2 Objectives.
900.4 Responsibilities.
900.11 Organization of the Subchapter.
900.12 State regulatory programs.
900.13 Federal programs and Federal coal exploration programs.
900.14 Abandoned mine land programs.
900.15 Federal lands program cooperative agreements.

Authority: Secs. 102, 201, 405, 503, 504, 505 and 523 of Pub. L. 95–87 (30 U.S.C. 1202, 1211, 1235, 1253, 1254, and 1273).

§ 900.1 Scope.

This Part sets forth the purpose and organization of Parts 901–950 of this Subchapter.

§ 900.2 Objectives.

The objective of this Part is to provide an introduction to the synopsis of the approved State programs, the Abandoned Mined Lands Reclamation programs, the cross referencing provisions of Federal programs and the full texts of State and Federal cooperative agreements for regulation of mining on Federal lands. The introduction explains the content and authority of the permanent regulatory programs.

§ 900.4 Responsibilities.

(a) Each State that has surface coal mining and reclamation operations or coal exploration activities on non-Federal, non-Indian lands must have either an approved State program or a promulgated Federal program as required by Title V of the Act and 30 CFR Chapter VII, Subchapter C. Approval of a State program and promulgation of a Federal program are described in the paragraphs below.

(b) Under Section 503 of the Act and 30 CFR Parts 730, 731 and 732 a State in which there are coal exploration activities or surface mining and reclamation operations must submit a State program to the Secretary for approval if it wishes to assume exclusive regulatory jurisdiction on non-Federal and non-Indian lands within its borders. The State programs must meet the requirements of the Act and 30 CFR Chapter VII, Subchapter C.

(c) Pursuant to Section 504 of SMCRA and 30 CFR 736.11, OSM must promulgate and implement a Federal program in each State in which the Director reasonably expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands at any time before June, 1985, and either: (1) The State does not submit a State program, (2) the Secretary of the Interior finally disapproves the program submitted by the State, or (3) the Secretary of the Interior withdraws approval of the State program.

(d) Under Section 405 of SMCRA and 30 CFR Part 884, each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Secretary a State Reclamation Plan, demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Secretary may approve the plan once the State has an approved regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

(e) States with approved programs may enter into cooperative agreements with OSM in order to become the regulatory authority for coal mining on Federal lands, in accordance with 30 CFR Chapter VII, Subchapter D.

§ 900.11 Organization of the Subchapter.

Parts 901–950 are reserved for each State alphabetically. A part is reserved for each State. The programs applicable solely within each State will be codified in the applicable Part for that State under this Subchapter.

§ 900.12 State regulatory programs.

(a) Upon approval of a State regulatory program the Secretary will publish a final rule to be codified under the applicable part number assigned to the State. The full text will not appear below. Notification of the approval of the program and the dates on which any amendments were submitted will appear. Also included below are the addresses of OSM Headquarters, field and State Regulatory Authority offices where copies of the State programs are available for inspection and copying.

(b) Provisions of approved State regulatory programs or permits issued pursuant to an approved State regulatory program may be enforced by the Secretary or his authorized agents pursuant to Sections 504(b) and 521 of the Act and Part 842 of this Chapter.

§ 900.13 Federal programs and Federal coal exploration programs.

The rules for each Federal program or coal exploration program are codified below under the assigned Part for the particular State.

§ 900.14 Abandoned mine land programs.

Programs for reclamation of abandoned mine lands are codified under the applicable Part for the State. The date of submittal and approval and the addresses at which copies of the program are available appear below in the applicable part for each State.

§ 900.15 Federal lands program cooperative agreements.

The full text of any State and Federal cooperative agreement for the regulation of coal exploration and mining on Federal lands is published below under the applicable Part. In addition, those requirements of a State program which are applicable on Federal lands in the State shall be specified.

[FR Doc. 83–3721 Filed 2–10–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 207

All Waterways Tributary to the Atlantic Ocean South of Chesapeake Bay and all Waterways Tributary to the Gulf of Mexico East and South of St. Marks, Florida; Use, Administration and Navigation

AGENCY: Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers is amending the regulations which govern the use, administration and navigation of waterways tributary to the Atlantic Ocean south of Chesapeake Bay and waterways tributary to the Gulf of Mexico east and south of St. Marks, Florida. The revision notifies all users of that segment of the Atlantic Intracoastal Waterway comprising the Albermarle and Chesapeake Canal and the Dismal Swamp Canal that the locks on those waterways will be staffed with contract personnel. There are no changes in locking procedures.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Schmidt, Office of the Chief of Engineers, DAEN–CWO–M, Washington, DC 20314 or call (202) 272–0245.

SUPPLEMENTARY INFORMATION: The rules and regulations governing locking procedures at Great Bridge Lock on the Albermarle and Chesapeake Canal and Deep Creek Lock and South Mills Lock on the Dismal Swamp Canal have not changed. The major impact of the revision will be that, when passing through the locks, waterway users will no longer be in direct contact with a Federal government employee, referred to as the lockmaster, who is responsible for enforcing all rules and regulations for use of the locks. The Corps of Engineers Norfolk District Engineer will notify waterway users and the general public through appropriate notices and media concerning the location and identity of the government employee designated as having those responsibilities. All other duties and responsibilities of the lockmaster referred to in the previous regulations will be performed by the contract lock operator. Significant changes to the regulation are as follows:

Section 207.160(e)(1): This subparagraph is revised so that the provisions of the previous § 207.160(e)(1) are now found in § 207.160(e)(1)(i) and by adding a new § 207.160(e)(1)(ii) to provide for transfer of the duties of the lockmaster, except for enforcement responsibilities, to contract personnel at Great Bridge Lock on the Albermarle and Chesapeake Canal and Deep Creek and South Mills Locks on the Dismal Swamp Canal.

List of Subjects in 33 CFR Part 207

Waterways, Navigation, Transportation, Vessels.

Note.—The Chief of Engineers has determined that this document does not contain a major rule requiring a regulatory impact analysis under Executive Order 12291 because it will not result in an annual effect on the economy of $100 million or more and it will not result in a major increase in costs or prices. The Chief of Engineers has also determined that this proposed rule will not have a significant economic impact on a substantial number of entities and thus does not require the preparation of a regulatory flexibility analysis.

Dated: January 18, 1983.

Approved:

W. R. Gianelli,

Assistant Secretary of the Army (Civil Works).

PART 207—[AMENDED]

For the reasons cited above, 33 CFR 207.160 is amended by revising paragraph (c)(1) to read as follows:

§ 207.160 All waterways tributary to the Atlantic Ocean south of Chesapeake Bay and all waterways tributary to the Gulf of Mexico east and south of St. Marks, FL; use, administration and navigation.

* * * * *

(e) Locks—(1) Authority of Lockmasters

(i) *Locks Staffed with Government Personnel.* The provisions of this subparagraph apply to all waterways in this Section except for the segment of the Atlantic Intracoastal Waterway identified in (e)(1)(ii). The lockmaster shall be charged with the immediate control and management of the lock, and of the area set aside as the lock area, including the lock approach channels. He/she shall see that all laws, rules and regulations for the use of the lock and lock area are duly complied with, to which end he/she is authorized to give all necessary orders and directions in accordance therewith, both to employees of the Government and to any and every person within the limits of the lock and lock area, whether navigating the lock or not. No one shall cause any movement of any vessel, boat, or other floating thing in the lock or approaches except by or under the direction of the lockmaster or his/her assistants.

(ii) *Locks Staffed with Contract Personnel.* The provisions of this subparagraph apply to the segment of the Atlantic Intracoastal Waterway comprising the Albermarle and Chesapeake Canal and the Dismal Swamp Canal including Great Bridge Lock, Chesapeake, Virginia; Deep Creek Lock, Chesapeake, Virginia; and South Mills Lock, North Carolina. Contract personnel shall give all necessary orders and directions for operation of the locks. No one shall cause any movement of any vessel, boat or other floating thing in the locks or approaches except by or under the direction of the contract lock operator. All duties and responsibilities of the lockmaster set forth in this Section shall be performed by the contract lock operator except that the responsibility for enforcing all laws, rules and regulations shall be vested in a government employee designated by the Norfolk District Engineer. The District Engineer will notify waterway users and the general public through appropriate notices and media concerning the location and identity of the designated government employee.

* * * * *

(40 Stat. 266; 33 U.S.C. 1)

[FR Doc. 83–3295 Filed 2–10–83; 8:45 am]

BILLING CODE 3710–08–M

VETERANS ADMINISTRATION

38 CFR Part 1

Demand for Repayment, Offset, Refund and Committee on Waivers and Compromises Authority

AGENCY: Veterans Administration.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that appeared on page 1052 of the **Federal Register** of Monday, January 10, 1983 (48 FR 1052). This action is necessary to correct typographical errors and one reference.

FOR FURTHER INFORMATION CONTACT: Pete Mulhern, Office of Budget and Finance (047C5), Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. 20420, (202) 389–3405.

Dated: February 7, 1983.

Nancy C. McCoy.

Assistant Director for Administrative Issues Review

§ 1.911a [Corrected]

The following corrections are made in FR Doc. 83–461 appearing on page 1052 of the issue of January 10, 1983:

1. In § 1.911a(c)(2), in the third line, after the words "A waiver request" delete the rest of the line and insert "must be filed within the time limit set forth in 38 U.S.C. 3102".

2. In § 1.911a(c)(2), the last word in the paragraph should be changed from "waiver" to "waived".

3. In § 1.911a(d)(3), the words "paragraph (a)" should be changed to read "paragraph (c)".

[FR Doc. 83-3729 Filed 2-10-83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[A-9-FRL-2298-4]

California Division of Oil and Gas; Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State program.

SUMMARY: The State of California has submitted an application under Section 1425 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Class II oil and natural gas related injection wells. After careful review of the application and comments received from the public, the Agency has determined that the State's injection well program for Class II wells meets the requirements of Section 1425 of the Act. Therefore, this application covering Class II injections is approved.

EFFECTIVE DATE: This approval is effective March 14, 1983.

FOR FURTHER INFORMATION CONTACT: Nathan Lau, Water Management Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, (415) 974-8274. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SWDA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Consolidated Permits Regulations (40 CFR Parts 122, 123 and 124) and related Technical Criteria and Standards (40 CFR 146), a State may demonstrate that its program meets the more general statutory requirements of Section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of underground sources of drinking water.

The State of California was listed as needing a UIC program on September 25, 1978 (43 FR 43420). The State submitted an application under Section 1425 on April 20, 1982, for the approval of a UIC program governing Class II injection wells to be administered by the Division of Oil and Gas (CDOG). After some clarification of the application, EPA published notice on May 4, 1982 of its receipt of the application, requested public comments, and scheduled a public hearing on the UIC program submitted by the CDOG (47 FR 19172). Public hearings were held on June 1, 1982 in Bakersfield, California and on June 3, 1982 in San Francisco, California. After careful review of the application and comments received from the public, I have determined that the California UIC program submitted by the CDOG for Class II injection wells meets the requirements of Section 1425 of the SDWA, and hereby approve it.

In this application, California chose not to assert jurisdiction over Indian lands or reservations for purposes of its Class II UIC program. Therefore, the Environmental Protection Agency will, at a future date, prescribe a UIC program governing injection wells on any Indian lands or reservations in California.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 123, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

OMB Review: The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1425 of the Safe Drinking Water Act of the application by the California Division of Oil and Gas will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: February 4, 1983.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83-3636 Filed 2-10-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3200, 3210 and 3240

[Circular No. 2519]

Geothermal Resources Leasing; Noncompetitive Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking establishes new procedures for the Bureau of Land Management to issue geothermal leases for lands included in canceled, relinquished, expired or terminated geothermal leases. This is accomplished by eliminating the regulations for leasing at 43 CFR Subpart 3211 and replacing them with new regulations at 3210. This rulemaking applies only to those lands that are not within a known geothermal resource

area. It is necessary to simplify the procedures for obtaining geothermal leases for lands previously leased, thereby saving costs for both lessees and the Bureau and expediting lease issuances.

EFFECTIVE DATE: March 14, 1983.

ADDRESS: Any suggestions or inquiries should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Karl F. Duscher, (202) 343–7753.

SUPPLEMENTARY INFORMATION: On October 20, 1982, a proposed rulemaking to amend the Geothermal Resources Leasing Regulations, 43 CFR Part 3200, 3210 and 3240, was published in the **Federal Register** (47 FR 46724). Contained in that proposed rulemaking was a proposal to delete 43 CFR 3211 in its entirety and to amend subparts 3205 and 3210 to allow reoffering of land formerly leased for geothermal resources in a simplified, more efficient manner. Three comments were received in response to the proposed rulemaking, one each from an energy corporation, a title service corporation, and a State office of the Bureau of Land Management. All the comments supported the proposed change. One comment suggested that § 3210.1(b) be improved by providing that applications may be considered that are received after the date lands are posted, but before the date on which such lands are made available for lease applications. The Department of the Interior agrees that such a provision would allow a more orderly filing of applications. Therefore, a sentence has been added to § 3210.1(b) stating that such applications shall be considered filed on the first working day of the month in which the lands become available.

Another comment suggested that lease applications for the same lands should be adjudicated, rather than held pending a determination as to whether the lands are in a known geothermal resource area (KGRA) as required by § 3210.2–2. This suggestion was not adopted. The Geothermal Steam Act of 1970 requires that competitive interest serve as a partial basis for designating lands as a KGRA. The receipt of two or more applications for the same lands indicates that competitive interest exists. The Bureau of Land Management, however, must determine whether that competitive interest is sufficient to "engender a belief in men who are experienced in the subject matter that geothermal steam or associated geothermal resources are good enough to warrant expenditures of money for that purpose (section 2 of the Geothermal Steam Act)." If the interest is such that KGRA classification is warranted, the competing lease applications are rejected and the lands are leased through competitive sale, in accordance with the Act.

Editorial changes are also made in this final rulemaking for the purpose of clarifying language in the proposed rulemaking.

The principal author of this rulemaking is Karl F. Duscher, Division of Oil and Gas and Geothermal Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291. Economic effects of the final rulemaking will be negligible. There will be some reduction in the costs of processing applications to lease geothermal resources.

Economic impacts are expected to be slight, being confined largely to the reduction in processing and other administrative costs involved in the leasing process. Consequently, the rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The information collection requirements contained in 43 CFR Part 3210 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0038. No new information collection requirements are contained in this revision.

List of Subjects

43 CFR Part 3200

Environmental protection, Geothermal energy, Mineral royalties, Public lands—Classification, Public lands—mineral resources, Surety bonds.

43 CFR Part 3210

Administrative practice and procedure, Geothermal energy, Public lands—mineral resources.

43 CFR Part 3240

Geothermal energy, Mineral royalties, Public lands—minerals resources, Water resources.

Under the authority of the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025). Parts 3200, 3210 and 3240, Group 3200, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations, are amended as set forth below:

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 18, 1983.

PART 3200—[AMENDED]

§ 3205.3–1 [Amended]

1. Section 3205.3–1 is amended by removing from the first sentence the words "except an application filed pursuant to Subpart 3211 of this chapter, of this part."

PART 3210—[AMENDED]

2. Section 3210.1 is revised to read:

§ 3210.1 Availability of land.

(a) All lands subject to leasing that are not within a KGRA shall be available for lease application under the provisions of this subpart.

(b) For those particular lands included in canceled, relinquished, expired, or terminated leases, the BLM State Office having jurisdiction shall post a description of such lands on the first working day of a calendar month. Such lands shall then be available for lease applications beginning on the first working day of the calendar month following posting. Applications received prior to the first working day of the month following posting shall be considered filed on that date.

Subpart 3211—[Removed]

3. Subpart 3211 is removed in its entirety.

PART 3240—[AMENDED]

§ 3244.2–1 [Amended]

4. Section 3244.2–1 is amended by removing the last sentence.

[FR Doc. 83–3780 Filed 2–10–83; 8:45 am]
BILLING CODE 4310–84–M

FEDERAL MARITIME COMMISSION

46 CFR Part 503

[General Order 22; Amdt. 13]

Information Security Program

AGENCY: Federal Maritime Commission.

ACTION: Final rule; implementing directive.

SUMMARY: The Federal Maritime Commission is revising its regulations

which set forth procedures for classifying, declassifying and safeguarding national security information. These regulations are issued to assist in implementing provisions of Executive Order No. 12356 which prescribes a uniform system for classifying, declassifying and safeguarding national security information, and which also revoked E.O. 12065. Also, these regulations implement 32 CFR 2001.60.

EFFECTIVE DATE: December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Tony P. Kominoth, Chief, Office of Investigations (Security Officer), Federal Maritime Commission, Washington, D.C. 20573; telephone (202) 523–5783.

SUPPLEMENTARY INFORMATION: These regulations are issued pursuant to the provisions of section 5.3(b) of Executive Order 12356, 47 FR 14874, April 6, 1982, and Title 32 CFR Part 2001, Subpart E, § 2001.60, 47 FR 27836, June 25, 1982. Their purpose is to assist in implementing Executive Order 12356 and Information Security Oversight Office Directive No. 1; users of these regulations shall refer concurrently to the Order and the Directive for guidance. These regulations replace current Subpart F, § 503.51 through § 503.59e, Title 46 CFR, which subpart is outdated by Executive Order 12356.

As these regulations are rules of agency organization, procedure or practice, notice and public procedure respecting them are not deemed necessary or appropriate under 5 U.S.C. 553(b)(A).

PART 503—[AMENDED]

Subpart F of 46 CFR, Part 503 is revised to read as follows:

Subpart F—Information Security Program

Sec.
503.51 Definitions.
503.52 Senior agency official.
503.53 Oversight Committee.
503.54 Original classification.
503.55 Derivative classification.
503.56 General declassification policy.
503.57 Mandatory review for declassification.
503.58 Appeals of denials of mandatory declassification review.
503.59 Safeguarding classified information.

Authority: Executive Order 12356; Information Security Oversight Office Directive No. 1 dated June 22, 1982

Subpart F—Information Security Program

§ 503.51 Definitions.

(a) "Original Classification" means an initial determination that information requires protection against unauthorized disclosure in the interest of national security, together with a classification designation signifying the level of protection required.

(b) "Derivative Classification" means a determination that information is in substance the same as information currently classified, and the application of the same classification markings.

(c) "Declassification date or event" means a date or event upon which classified information is automatically declassified.

(d) "Downgrading date or event" means a date or event upon which classified information is automatically downgraded in accordance with appropriate downgrading instructions on the classified material.

(e) "National security" means the national defense or foreign relations of the United States.

(f) "Foreign government information" means either information provided to the United States by a foreign government or governments, an international organization of governments, or any element thereof with the expectation, expressed or implied, that the information, the source of the information, or both, are to be held in confidence; or information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments, an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

§ 503.52 Senior agency official.

The Chief, Office of Investigations, Bureau of Hearings and Field Operations, in his capacity as the Security Officer for the Commission, is designated the senior agency official responsible for directing and administering the Commission's information security program, including an active oversight and security education program to ensure effective implementation of Executive Order 12356.

§ 503.53 Oversight Committee.

(a) An Oversight Committee is established, under the chairmanship of the Chief, Office of Investigations, Bureau of Hearings and Field Operations, with the following responsibilities:

(1) Establish a Commission security education program to familiarize all personnel who have or may have access to classified information with the provisions of Executive Order 12356, and Information Security Oversight Office Directive No. 1. The program shall include initial, refresher, and termination briefings;

(2) Establish controls to ensure that classified information is used, processed, stored, reproduced, and transmitted only under conditions that will provide adequate protection and prevent access by unauthorized persons;

(3) Act on all suggestions and complaints concerning the Commission's information security program;

(4) Recommend to the Managing Director appropriate administrative action to correct abuse or violations of any provision of Executive Order 12356; and

(5) Consider and decide other questions concerning classification and declassification that may be brought before it.

(b) In addition to the Chief, Office of Investigations, the committee shall be composed of the following other officials:

(1) Director, Office of Personnel Management;

(2) Director, Office of Management Services; and

(3) Assistant Chief, Office of Investigations.

§ 503.54 Original classification.

(a) No Commission Member or employee has the authority to classify any Commission originated information.

(b) If a Commission Member or employee develops information that appears to require classification, or receives any foreign government information as defined in § 503.51(f) of this subpart, the Member or employee shall immediately notify the Security Officer and appropriately protect the information.

(c) If the Security Officer believes the information warrants classification, it shall be sent to the appropriate agency with original classification authority over the subject matter, or to the Information Security Oversight Office, for review and a classification determination.

(d) If there is reasonable doubt about the need to classify information, it shall be safeguarded as if it were classified pending a determination by an original classification authority. If there is reasonable doubt about the appropriate level of classification, it shall be safeguarded at the higher level of classification pending a determination by an original classification authority.

§ 503.55 Derivative classification.

(a) Any document that includes paraphrases, restatements, or summaries of, or incorporates in new form, information that is already

classified, shall be assigned the same level of classification as the sources, unless consultation with originators or instructions contained in authorized classification guides indicate that no classification, or a lower classification than originally assigned, should be used.

(b) Persons who apply derivative classification markings shall:

(1) Observe and respect original classification decisions, and

(2) Carry forward to any newly created documents any assigned authorized markings. The declassification date or event that provides the longest period of classification shall be used for documents classified on the basis of multiple sources.

(c) A derivative document that derives its classification from the approved use of the classification guide of another agency shall bear the declassification date required by the provisions of that classification guide.

(d) Documents classified derivatively on the basis of source documents or classification guides shall bear all applicable marking prescribed in Section 2001.5(a) through (e), Information Security Oversight Office Directive No. 1.

(1) Classification authority. The authority for classification shall be shown as follows:

"Classified by (description of source document or classification guide)"

If a document is classified on the basis of more than one source document or classification guide, the authority for classification shall be shown as follows:

"Classified by Multiple Sources"

In these cases the derivative classifier shall maintain the identification of each source with the file or record copy of the derivatively classified document. A document derivatively classified on the basis of a source document that is marked "Classified by Multiple Sources" shall cite the source document in its "Classified by" line rather than the term "Multiple sources."

(2) Declassification and downgrading instructions. Dates or events for automatic declassification or downgrading, or the notation "Originating Agency's Determination Required" to indicate that the document is not to be declassified automatically, shall be carried forward from the source document, or as directed by a classification guide, and shown on "declassify on" line as follows:

"Declassify on: (date; description of event; or "Originating Agency's Determination Required (OADR)."

§ 503.56 General declassification policy.

(a) The Commission exercises declassification and downgrading authority in accordance with Section 3.1 of Executive Order 12356, only over that information originally classified by the Commission under previous Executive Orders. Declassification and downgrading authority may be exercised by the Commission Chairman, the Managing Director, and the Commission Security Officer, and such others as the Chairman may designate. Commission personnel may not declassify information originally classified by other agencies.

(b) The Commission does not now have original classification authority nor does it have in its possession any documents that it originally classified when it had such authority. The Commission has authorized the Archivist of the United States to automatically declassify information originally classified by the Commission and under its exclusive and final declassification jurisdiction at the end of 20 years from the date of original classification.

§ 503.57 Mandatory review for declassification.

(a) Information originally classified by the Commission shall be subject to a review for declassification by the Commision, if:

(1) The request is made by a United States citizen or permanent resident alien, a federal agency, or a state or local government; and

(2) The request describes the document or material containing the information with sufficient specificity to enable the Commission to locate it with a reasonable amount of effort. Requests with insufficient description of the material will be returned to the requester for further information.

(b) Requests for mandatory declassificaton reviews of documents originally classified by the Commission shall be in writing, and shall be sent to the Chief, Office of Investigations, Bureau of Hearings and Field Operations, Federal Maritime Commission, Washington, DC. 20573.

(c) If the request requires the provision of services by the Commission, fair and equitable fees may be charged under Title 5 of the Independent Offices Appropriation Act, 65 Stat. 290, 31 U.S.C. 483a.

(d) Requests for mandatory declassification reviews shall be acknowleged by the Commission within 15 days of the date of receipt of such requests.

(e) If the document was originally classified by the Commission, the Commission Security Officer shall forward the request to the managing Director for a determination of whether the document should be declassified.

(f) If the document was derivatively classified by the Commission or originally classified by another agency, the request, the document, and a recommendation for action shall be forwarded to the agency with the original classification authority. The Commission may, after consultation with the originating agency, inform the requester of the referral.

(g) If a document is declassified in its entirety, it may be released to the requester, unless withholding is otherwise warranted under applicable law. If a document or any part of it is not declassified, the Managing Director shall furnish the declassified portions to the requester unless withholding is otherwise warranted under applicable law, along with a brief statement concerning the reasons for the denial of the remainder, and the right to appeal that decision to the Commission within 60 days.

(h) If a declassification determination cannot be made within 45 days, the requester shall be advised that additional time is needed to process the request. Final determination shall be made within one year from the date of receipt unless there are unusual circumstances.

(i) In response to a request for information under the Freedom of Information Act, the Privacy Act of 1974, or the mandatory review provisions of Executive Order 12356, the Commission shall refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or non-existence is itself classifiable under Executive Order 12356.

§ 503.58 Appeals of denials of mandatory declassification review requests.

(a) Within 60 days after the receipt of denial of a request for mandatory declassification review, the requester may submit an appeal in writing to the Commission through the Secretary, Federal Maritime Commission, Washington, D.C. 20573. The appeal shall:

(1) Identify the document in the same manner in which it was identified in the original request;

(2) Indicate the dates of the request and denial, and the expressed basis for the denial; and

(3) State briefly why the document should be declassified.

(b) The Commission shall rule on the appeal within 30 days of receiving it. If additional time is required to make a determination, the Commission shall notify the requester of the additional time needed and provide the requester with the reason for the extension. The Commission shall notify the requester in writing of the final determination and the reasons for any denial.

(c) A determination by the Commission under § 503.58(b) of this subpart is final and no further administrative appeal will be permitted. However, the requester may be informed that suggestions and complaints concerning the information security program prescribed by Executive Order 12356 may be submitted to the Director, Information Security Oversight Office, GSA(AT), Washington, D.C. 20450.

§ 503.59 Safeguarding classified information.

(a) All classified information shall be afforded a level of protection against unauthorized disclosure commensurate with its level of classification.

(b) Whenever classified material is removed from a storage facility, such material shall not be left unattended and shall be protected by attaching an appropriate classified document cover sheet to each classified document.

(c) Classified information being transmitted from one Commission office to another shall be protected with a classified document cover sheet and hand delivered by an appropriately cleared person to another appropriately cleared person.

(d) Classified information shall be made available to a person only when the possessor of the classified information has determined that the person seeking the classified information has a valid security clearance at least commensurate with the level of classification of the information and has established that access is essential to the accomplishment of authorized and lawful Government purposes.

(e) The requirement in § 503.59(d) of this subpart that access to classified information may be granted only as is essential to the accomplishment of authorized and lawful Government purposes may be waived as provided in § 503.59(f) of this subpart for persons who:

(1) Are engaged in historical research projects, or

(2) Previously have occupied policy-making positions to which they were appointed by the President.

(f) Waivers under § 503.59(e) of this subpart may be granted when the Commission Security Officer:

(1) Determines in writing that access is consistent with the interest of national security;

(2) Takes appropriate steps to protect classified information from

unauthorized disclosure or compromise, and ensures that the information is properly safeguarded; and

(3) Limits the access granted to former presidential appointees to items that the person originated, reviewed, signed, or received while serving as a presidential appointee.

(g) Persons seeking access to classified information in accordance with § 503.59 (e) and (f) of this subpart must agree in writing:

(1) To be subject to a national agency check;

(2) To protect the classified information in accordance with the provisions of Executive Order 12356; and

(3) Not to publish or otherwise reveal to unauthorized persons any classified information.

(h) Except as provided by directives issued by the President through the National Security Council, classified information that originated in another agency may not be disseminated outside the Commission.

(i) Only appropriately cleared personnel may receive, transmit, and maintain current access and accountability records for classified material.

(j) Each office which has custody of classified material shall maintain:

(1) A classified document register or log containing a listing of all classified holdings, and

(2) A classified document destruction register or log containing the title and date of all classified documents that have been destroyed.

(k) An inventory of all documents classified higher than confidental shall be made at least annually and whenever there is a change in classified document custodians. The Commission Security Officer shall be notified, in writing, of the results of each inventory.

(l) Reproduced copies of classified documents are subject to the same accountability and controls as the original documents.

(m) Combinations to dial-type locks shall be changed only by persons having an appropriate security clearance, and shall be changed whenever such equipment is placed in use; whenever a person knowing the combination no longer requires access to the combination; whenever a combination has been subject to possible compromise; whenever the equipment is taken out of service; and at least once each year. Records of combinations shall be classified no lower than the highest level of classified information to be stored in the security equipment concerned. One copy of the record of each combination shall be provided to the Commission Security Officer.

(n) Individuals charged with the custody of classified information shall conduct the necessary inspections within their areas to insure adherence to procedural safeguards prescribed to protect classified information. The Commission Security Officer shall conduct periodic inspections to determine if the procedural safeguards prescribed in this Order are in effect at all times.

(o) Whenever classified material is to be transmitted outside the Commission, the custodian of the classified material shall contact the Commission Security Officer for preparation and receipting instructions. If the material is to be hand carried, the Security Officer shall ensure that the person who will carry the material has the appropriate security clearance, is knowledgeable of safeguarding requirements, and is briefed, if appropriate, concerning restrictions with respect to carrying classified material on commercial carriers.

(p) Any person having access to and possession of classified information is responsible for protecting it from persons not authorized access to it, to include securing it in approved equipment or facilities whenever it is not under the direct supervision of authorized persons.

(q) Employees of the Commission shall be subject to appropriate sanctions, which may include reprimand, suspension without pay, removal, termination of classification authority, loss or denial of access to classified information, or other sanctions in accordance with applicable law and agency regulation, if they:

(1) Knowingly, willfully, or negligently disclose to unauthorized persons information properly classified under Executive Order 12356 or predecessor orders;

(2) Knowingly and willfully classify or continue the classification of information in violation of Executive Order 12356 or any implementing directive; or

(3) Knowingly and willfully violate any other provision of Executive Order 12356 or implementing directive.

(r) Any person who discovers or believes that a classified document is lost or compromised shall immediately report the circumstances to their supervisor and the Commission Security Officer who shall conduct an immediate inquiry into the matter.

(s) Questions with respect to the Commission Information Security Program, particularly those concerning

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the classification, declassification, downgrading, and safeguarding of classified information shall be directed to the Commission Security Officer in the Office of Investigations, Bureau of Hearings and Field Operations.

By the Commission February 1, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-3628 Filed 2-10-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 655

[Docket No. 30203-22]

Foreign Fishing; Atlantic Squid

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA allocates 19,000 metric tons of the reserve of *Loligo* squid to the total allowable level of foreign fishing. This action is required by the regulations implementing the fishery management plan for Atlantic squid. The allocation will encourage achievement of the optimum yield.

EFFECTIVE DATE: February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617-281-3600.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Squid Fishery, as amended, established a reserve of 19,000 metric tons (mt) of *Illex* squid (45 FR 45296, July 3, 1980). Regulations provide a mechanism to allocate the reserve to the total allowable level of foreign fishing (TALFF) in September of each year (45 FR 63863, September 26, 1980). Sections 611.51(b) and 655.22(a) direct the Regional Director of the Northeast Region, National Marine Fisheries Service (NMFS), in September to project the total domestic harvest for the entire fishing year (April 1 through March 31). He does this by multiplying the domestic catch (exclusive of joint venture harvest) from April through August—2,073 mt this year—by a factor of 1.3. The product, 2,695 mt, plus the 1,800 mt authorized for joint ventures through September 15, totals 4,495 mt, which is more than the initial level of domestic annual harvest of 7,000 mt. Therefore, although the entire amount of reserve, 19,000 mt, may not be subsequently allocated to foreign nations, it is allocated to TALFF as required by these regulations. The TALFF, as adjusted, is now 37,000 mt.

This action is taken under the authority of 50 CFR 611.51(b) and 655.22(c), and is taken in compliance with Executive Order 12291.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 655

Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 7, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-3716 Filed 2-10-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 30
Friday, February 11, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1205

Power Lawn Mowers; Proposed Withdrawal of Proposed Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Proposal to withdraw proposed rule.

SUMMARY: The Commission proposes to withdraw the outstanding portions of this proposed standard addressing hazards associated with power lawn mowers, which was published on May 5, 1977. The Commission has previously issued a final standard based on the portion of the proposal that addressed blade contact injuries from walk-behind power lawn mowers. The remaining portions of the proposal address the hazards of objects thrown by the blades of rotary mowers, fuel ignition from liquid fuel powered mowers, electric shock from electrically-powered mowers, and riding mower stability, shields, steering, brakes, and controls.

The proposed withdrawal of the thrown objects requirements is based on information showing that the lawn mower industry is developing, and plans to adopt, a voluntary standard similar to the one proposed by the Commission. Furthermore, the voluntary standards that apply to currently produced mowers appear to have reduced the risk of thrown objects injuries by up to 27 percent compared to mowers produced before the Commission proposed its standard.

The requirements for fuel ignition from liquid fuel powered mowers and electric shock from electrically-powered mowers are proposed to be withdrawn because the Commission cannot now conclude that these risks are unreasonable or that the proposed requirements would adequately reduce the risks that do exist.

The requirements for riding mowers are proposed to be withdrawn because the Commission believes it will be a more efficient use of Commission resources to provide comment and other assistance to the ongoing industry effort to develop a voluntary standard for riding mowers than to continue development of a mandatory standard at this time.

In order to provide time for consideration of public comments on the proposed withdrawal, the Commission extends the date by which it must publish a final standard or withdraw the proposal to August 10, 1983.

DATES: Comments on the proposed withdrawal should be submitted by April 12, 1983.

ADDRESS: Comments should be addressed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Copies of the staff briefing package and related materials concerning these hazards are available at the Reading Room, Office of the Secretary, Consumer Product Safety Commission, 8th floor, 1111 18th Street, N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Carl W. Blechschmidt, Program Manager, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492–6554. Inquiries from the media should be directed to Lou Brott, Office of Media Relations, Consumer Product Safety Commission, Washington, D.C. 20207 (202) 634–7780.

SUPPLEMENTARY INFORMATION:

A. Background

On May 5, 1977, the Commission proposed a standard under section 7 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2506, for power lawn mowers (42 FR 23052). A discussion of the background and provisions of the proposal is given in the preamble to the proposal.

The proposed standard for power lawn mowers also was a comprehensive standard addressing unreasonable risks of injury associated with both walk-behind and riding mowers. (As used in this notice, the term "riding mower" includes garden tractors). The proposal addressed blade contact injures; injuries caused by objects propelled by the mower blade (thrown objects); injuries due to lawn mowers rolling, slipping, or overturning, or to failure of lawn mower brakes or steering mechanisms; injuries from fires caused by ignition of liquids used as fuel for power mowers; and injuries caused by electric shock from electrically-powered lawn mowers or from electrical ignition systems (42 FR 23052).

The Commission received more than 100 comments on the proposed standard, which raised numerous and complex issues. In order to resolve these issues and to issue a safety standard for lawn mowers in a more efficient manner, the Commission decided to first issue requirements for walk-behind mowers and then to issue requirements for riding mowers.

On June 7, 1978, the Commission published a notice in the **Federal Register** (43 FR 24697) announcing that it would issue separately the requirements addressing injuries due to blade contact with walk-behind mowers and requirements addressing injuries associated with thrown objects, fuel and electrical hazards, and riding mowers. The Commission in issuing that notice determined it would be a more effective and efficient method of addressing the unreasonable risks of injury associated with power lawn mowers to first issue requirements that address the most numerous injuries and then to do the additional work that would be required to issue requriements addressing other risks of injury.

A final standard addressing the hazard of blade contact from walk-behind power lawn mowers was published on February 15, 1979, (44 FR 9990) and went into effect on June 30, 1982.

Since the publication of the final blade contact standard for walk-behind power mowers, the Commission has continued to evaluate the issues associated with the hazards of objects thrown by the blades of rotary mowers, fuel ignition, electric shock from electrically-powered powers, and riding mowers. As a result of this further consideration, the Commission has preliminarily decided to withdraw its proposed rule addressing these hazards.

Section 9(a)(1)(B) of the Consumer Product Safety Act ("the CPSA"), 15 U.S.C. 2058(a)(1)(B), requires that this withdrawal be accomplished by rulemaking. Although this aspect of section 9(a)(1)(B) was amended by Pub. L. 97–35, the requirement for proposing withdrawal of proposed consumer

product safety rules still applies for rules proposed before August 13, 1981.

The reasons for proposing to withdraw the proposed rule are given below.

B. Specific Provisions

1. *Thrown objects.* The proposed standard contained a performance test intended to evaluate the manner in which a particular mower would throw objects which contact the blade during mowing operations.

The test apparatus consists of an octagonal target enclosure surrounding an artificial turf surface which supports the mower to be tested. Sixpenny nails are injected from three positions into the blade of the mower while it is operating, and the number and locations of the hits of the nails that are propelled against the walls of the enclosure are recorded and compared to pass/fail criteria.

The criteria for walk-behind mowers allow fewer hits in the rear quadrant of the target (compared to riding mowers and to the other quadrants) in order to protect the operator. More hits are allowed in the area facing the usual location of the discharge chute for both riding and walk-behind mowers.

The Commission's staff estimates that thrown objects injuries resulted in 11,800 hospital emergency room treatments in 1979. About 600 victims were hospitalized. An estimated two deaths occur each year.

Most injuries are not severe, but there is the potential for an occasional severe injury or death. Most victims are mower operators (about 80%). About half the operator injuries are puncture or foreign body injuries as opposed to lacerations, fractures, or abrasions; 10% of the puncture and foreign body injuries require hospitalization. The most serious injuries are usually head and torso injuries. It is estimated that 800 operators were treated in 1979 in hospital emergency rooms for head and torso thrown objects injuries.

An estimated 2,000 bystanders were injured. About 1,000 bystanders suffered head and torso injuries.

With the present population of about 33 million mowers, and an equal number of mower users, 1 operator in 44 is likely to suffer a thrown object injury of any sort in the operator's lifetime.

The most significant development that has occurred since the Commission proposed its thrown objects requirements has been an effort by the lawn mower industry to develop a voluntary standard that, it appears, will be similar in many respects to the one proposed by the Commission. This test is intended to replace the thrown objects requirements that are presently in the voluntary standard.

The present voluntary standard, ANSI B71.1, includes several requirements that could have an effect on the thrown objects performance of mowers. This standard contains design requirements that a complying mower must have a rear trailing shield and that the mower deck must extend downward ½†† below the plane of the blade except at the discharge chute. Thrown objects at the discharge chute are addressed with a performance test. For this test, the underside of the mower is sealed so that test projectiles exit out the discharge chute toward a target. The Commission's staff believes that this performance test has the disadvantages of not simulating actual mowing conditions and not sufficiently discriminating between more and less safe mowers.

However, analysis of injury data collected since the existing voluntary requirements were introduced in 1972 shows that mowers certified as meeting the voluntary requirements and produced since 1972 may have caused up to 27 percent fewer injuries than mowers produced before 1972.

After considering the considerable technical work that would be needed before the Commission could issue thrown objects requirements, the fact that the industry is developing a similar standard, and the nature and extent of the risk of injury from thrown objects, the Commission has decided to propose to withdraw its proposed requirements for thrown objects performance of power mowers.

2. *Fuel ignition.* National Electronic Injury Surveillance System (NEISS) data indicate that fewer than 1000 burn injuries due to ignition of fuel are treated in hospital emergency rooms each year. For the 7 year period of 1974–80, the Commission's files contain 14 death certificates associated with ignition of the fuel of power lawn mowers.

The proposal addressed the hazard of fuel ignition by requirements designed to reduce the amount of spilled or leaked fuel and to control the ignition sources of sparks and exhaust heat.

The proposal included a requirement that high tension cables on mowers be fully insulated. A test was also provided to determine that the spark plug connector will not spark against grounded metal if the operator attempts to start the mower while the connector is disconnected. In addition, grounding switches would not be permitted in the high tension (secondary) part of the ignition system.

The proposal also prohibited leakage from the fuel system during any reasonably foreseeable condition of use. In addition, a test was provided to insure that fuel will not contact certain parts of the mower and that not more than 0.95 gm. (.033 fl. oz.) of fuel will collect in any single pool when the fuel tank is overfilled.

From the standpoint of logic and engineering judgment, it would appear that a mower that met the proposed requirements concerning fuel ignition would certainly be safer than one that did not. However, the Commission is unable at this time to determine the extent to which such requirements would decrease the already relatively low incidence of fuel burn injuries associated with these mowers. Without an estimate of the potential benefits of these requirements, the Commission is unable to determine if the costs that would be involved to comply with the requirements would be justified. Therefore, the Commission proposes to withdraw these requirements. If in the future sufficient data become available to show that mowers being produced at that time are unreasonably dangerous because of a lack of the features insured by these requirements, the Commission can propose to issue the requirements based on the new data.

3. *Electrically-powered mowers.* From NEISS data, it is estimated that approximately 800 injuries of any type associated with electrically-powered mowers are treated in hospital emergency rooms. These injuries include those caused by blade contact and thrown objects. The Commission has no data from which it could determine how many of these injuries may be related to shock. The Commission's death certificate files indicate about one death per year associated with electrically-powered mowers. However, some of these may be associated with damaged extension cords rather than with the mower itself.

In order to reduce the hazard of electric shock associated with electrically-powered mowers, the proposal included a performance test to insure that the parts of the electrically-powered lawn mowers which are normally contacted by the operator are covered with insulation having a resistance of at least 250,000 ohms.

Another requirement was included that folding or pivoting handles on electrically-powered mowers shall not entrap electrical cords used with the mower.

A plug blade shielding test was also provided to insure that the plug blades for electrically-powered lawn mowers

are shielded so that they cannot be contacted by a probe while they are still energized by the extension cord.

A switch that disconnects both sides of the power supply to the mower when it is in the OFF position would also be required.

As with the fuel ignition requirements, the Commission lacks sufficient data to determine how many currently available mowers already comply with these requirements or how many shock injuries could be prevented if such requirements were issued. This is especially true since the effectiveness of these requirements could be reduced over time as insulation and shielding becomes damaged or deteriorates. Therefore, due to the small number of injuries and the lack of data showing that these requirements are reasonably necessary, the Commission proposes to withdraw these proposed requirements.

4. *Riding mowers.* Unlike the hazards discussed above, the injuries associated with riding mowers are numerous and often serious. In 1980, riding mowers and garden tractors were involved in an estimated 38,000 medically attended injuries. About 13,800 of these injuries were treated in hospital emergency rooms, with 9 percent of the victims being hospitalized.

Based on information in a statistical sample of 70 cases selected between May 15 and August 15, 1980, it was determined that over two-thirds of the incidents (an estimated 9,800 emergency room injuries) involved riding mowers or garden tractors during a mowing session, including starting and fueling the mowers.

Since 1976, the Commission has received reports of over 30 deaths a year involving riding mowers and garden tractors, in almost equal numbers. The total number of deaths involving both types of products has been estimated at 100 a year by matching death certificates with reports in other Commission data bases.

In the incidents involving riding mower fatalities, three main hazard patterns accounted for 80 percent of the accidents: The mower tipped over, the victim fell under or was run over by the mower, or the victim fell or was thrown from the mower. These hazards also appeared in the data concerning injuries, as did the hazards of blade contact, body contact with another object, entrapment in moving parts of the mower, thrown objects, contact burns, fuel ignition, and starter-related problems.

In order to deal with the identified hazards concerning riding mowers, the roposal included the following provisions:

Riding mower stability and shield requirements. In order to reduce injuries caused by the turning over of a riding mower, static stability requirements were included which specify that the mower's upper wheels shall not lift when it rests on a slope inclined 30° from the horizontal when the mower is facing uphill or downhill or on a slope inclined 20° from the horizontal when the mower is facing in either direction across the slope.

The proposal would also require shields for riding mowers to prevent a foot probe from entering the blade path or contacting any moving mower part driven by the power source that is within 125 cm. (49.2 in.) of a seat reference point of the mower.

Riding mower steering requirements. The proposal would not permit tiller bar steering to be utilized in riding mowers, since a tiller bar requires the operator's body to be in an unstable position during sharp turns. If a mower is steered by dual hand-lever controls, to turn a forward-traveling vehicle to the right, the left control would have to move in a forward direction relative to the right control or the right control would have to move rearward relative to the left control and vice versa. All other types of steering controls shall move to the right, or in a clockwise direction, to turn a forward traveling mower to the right, and vice versa.

A structural integrity test of the steering system was also included. The system would be required to withstand a force of 222 newtons (50-lb.) applied to the steering mechanism while the steerable wheels are held in each of three positions.

Riding mower brakes. The proposed standard includes requirements for attainable stopping distances for riding mowers in both the forward and backward directions. In order that the operator shall be able to control the mower, a test is provided to ensure that the service brake is capable of holding the mower stationary on a slope that is inclined at an angle of 17° when a 222 newton (50 lb.) force is applied to the brake control. The service braking system would function independently of engine operation or the position of the transmission or clutch controls.

A structural integrity test for braking controls was provided which would require foot brakes to be able to withstand a force of 1,670 newtons (375.5 lb.) and hand brakes to be able to withstand a force of 710 newtons (159.7 lb.).

A test for parking brakes was provided to insure that they will limit the amount of roll when the mower is parked on an inclined surface.

In order to further reduce the potential hazard of a runaway mower, the parking brake requirement would also have to be met when the power source is running.

A leg probe was proposed to determine that the brake pedal is located close enough to the seat that smaller operators can apply the necessary force to the pedal.

In order that brakes be reliable to use, brake pedals would be required to have slip resistant contact surfaces and a barrier would be required to prevent the foot from sliding off a right-side control surface toward the right and from sliding off a left-side control surface toward the left.

A riding mower would be required to have a blade control system which will prevent operation of the blade unless a control is actuated by the operator, and the operator would have to be in continuous contact with the control in order for the blade to continue to be driven. The mower would also have a second control which must be actuated before a stopped blade can be restarted. To prevent inadvertent engagement of the blade control, the second control which must be actuated before the stopped blade can be restarted would require a force of at least 110 newtons (24.8 lb.) in order to be actuated.

In order to reduce injuries connected with backover accidents, the blade of a riding mower would have to come to a stop when the transmission or traction drive is positioned for reverse travel.

Riding mowers would be required to have a control so that the blade may be rendered inoperative while the mower is traveling forward. This enables the operator to reduce the hazard from a moving blade when it is not needed for mowing and also to reduce the hazard of thrown objects when the mower is driven across an area covered with gravel or debris.

Again, based on engineering judgment, riding mowers meeting these requirements should be safer than those that do not. However, many of the proposed requirements address accident modes that can be affected by dynamic factors for which no suitable test has been devised. In addition, the riding mowers currently on the market should be evaluated to see the extent to which they currently fail to comply with the proposed requirements, in order to help determine if the requirements are reasonably necessary. For these reasons, much work would need to be done before the Commission would conclude that the cost of incorporating the features needed to comply with the

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proposed requirements would be justified by any benefits to be obtained.

The industry trade association, the Outdoor Power Equipment Institute (OPEI), is working toward the development of a standard for riding mowers that could be followed on a voluntary basis by the manufacturers of these mowers. In the past, voluntary standards approved by OPEI have been met by a high percentage of the industry. Therefore, in view of the extensive work that would have to be done by the Commission to complete the development of a mandatory standard, the Commission has concluded that it would be a more efficient use of Commission resources to monitor OPEI's development of the voluntary standard. In this way, the Commission staff's views and comments would be taken into account during the development of the voluntary standard.

Therefore, the Commission has decided to instruct its staff to monitor the development of the voluntary standard and is proposing to withdraw its proposal of a mandatory standard. If the effort to develop an adequate voluntary standard proves unsuccessful, the Commission can consider at that time whether to take additional steps that might lead to the development of a mandatory standard.

C. Effect on Small Businesses and Other Small Entities

In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Commission certifies that the proposed rule withdrawing the outstanding portions of the proposed standard for power lawn mowers will not, if issued, have a significant economic impact on a substantial number of small entities (small businesses, small organizations, and small governmental jurisdictions). In contrast to a final regulation having requirements that are being or will be enforced, the proposed standard which is proposed to be withdrawn at this time is not binding, creates no obligations, and has no legal impact. Thus, any action to withdraw the proposed standard will also not have a significant impact on small entities.

D. Environmental Impact

Since the action being proposed is merely to withdraw a previous proposal, it will have little or no potential for affecting the human environment. As a result, the withdrawal does not require either an environmental assessment or an environmental impact statement. See 16 CFR 1021.5(c)(1). (categorical exclusion of safety standards under the National Environmental Policy Act, 15 U.S.C. 4321–4347).

E. Conclusion and Extension of Time

Accordingly, for the given above, and under section 9(a)(1) of the Consumer Product Safety Act, the Commission proposes to withdraw the outstanding portions of the proposed standard for power lawn mowers that was published in the **Federal Register** on May 5, 1977, and solicits public comment on this proposal.

Section 9(a)(1) of the Consumer Product Safety Act, 15 U.S.C. 2058(a)(1), requires that within 60 days after the publication of a proposed consumer product safety rule, the Commission shall either (1) promulgate a rule respecting the risk of injury associated with such product or (2) withdraw the applicable notice of proceeding, unless the Commission extends the 60-day period for good cause shown and publishes its reasons in the **Federal Register.**

In order to receive and evaluate comments on this proposal, the Commission, for good cause as an administrative matter, extends the date by which it must either publish a final standard or withdraw the proposal until April 10, 1983.

(Sec. 1212(b), Pub. L. 97–35; 95 Stat. 357)

Dated: February 1, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-3836 Filed 2-10-83; 8:45 am]

BILLING CODE 6355-01-M

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16 CFR Part 1205

Petition CP 81–6 for Exemption

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition for exemption.

SUMMARY: The Commission denies a petition from Mr. John Wildy to amend the Safety Standard for Walk-Behind Power Lawn Mowers to exempt from the coverage of the standard mowers embodying certain combinations of the following features. (1) A pan covering the bottom of the mower except for a curved slot adjacent to the forward portion of the cutting circle; (2) specified shapes for the blade, pan, discharge ducts, and discharge chutes intended to eliminate any tendency for the mower's discharge chute to clog; and (3) a single wheel height adjusting means, or a lifting handle, intended to reduce the tendency of operators to attempt to lift the mower by the lower edge of the housing while changing wheel heights. The petition was denied because the petitioner did not specify the particular embodiments of his concept sufficiently to enable the Commission's staff to evaluate the extent to which his design would shield against the possibility of blade contact. In addition, there was insufficient information to evaluate the effacy of some of the mower's features in preventing injuries. Therefore, the available information failed to establish that the requirements of the standard were not reasonably necessary to protect consumers against an unreasonable risk of blade contact injuries.

ADDRESSES: Copies of the petition and other materials concerning this issue may be inspected or obtained at the Reading Room, Office of the Secretary, Consumer Product Safety Commission, 8th Floor, 1111 18th Street, N.W., Washington, D.C. 20207, telephone (202)634–7700.

FOR FURTHER INFORMATION CONTACT:

(1) *For general information,* Douglas Noble, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301)492–6554.

(2) *For media inquiries,* Lou Brott, Office of Media Relations, Consumer Product Safety Commission, phone (202)634–7780.

SUPPLEMENTARY INFORMATION: In February of 1979, the Commission issued the Safety Standard for Walk-Behind Power Lawn Mowers, 16 CFR Part 1205 (44 FR 9990; February 15, 1979). The standard contains two main performance requirements designed to reduce blade contact injuries. First, in order to reduce foot injuries to the operator during mowing, the standard requires that a specified probe (simulating a human foot) be unable to contact the blade at any point within the rear 120° of the mower. In addition, in order to reduce hand and foot injuries that occur while the operator is not mowing, the standard requires that the blade of the mower must stop rotating within 3 seconds of the time the operator leaves the operating position; in other words, from the time the operator lets go of the handle. This stopping of the blade can be accomplished either by disconnecting the blade from the engine with a device such as a brake-clutch, so that the blade stops while the engine continues to run, or by stopping the blade and the engine at the same time, which is sometimes referred to as the "engine-kill" method of stopping the blade. If the blade and engine are stopped together, the

Commission originally concluded that if no power restart mechanism were provided, the user would be motivated to disable the blade stop control to avoid the inconvenience of having to manually restart the mower each time he or she let go of the handle. Therefore, the standard originally required that a mower have a power restart mechanism in the event a manufacturer chose to comply with the standard by stopping the blade and engine at the same time.

The standard also includes a requirement that all mowers have a label that warns of the hazard of blade contact. That requirement went into effect on December 31, 1979. The Commission estimates that the standard will address 77 percent of blade contact injuries with walk-behind rotary mowers.

The effective date of the performance requirements of the standard was originally set by the Commission for December 31, 1981. However, in 1980, the Congress extended the effective date of the standard by six months, to June 30, 1982.

In 1981, the Congress took another step in relation to this standard by directing the Commission to amend the standard to permit the engine-kill/manual restart feature that had previously been excluded. Thus, the present situation is that the standard, including the engine-kill/manual restart option, went into effect on June 30, 1982.

On May 27, 1981, the Commission docketed a petition from Mr. A. J. Wildy of Auckland, New Zealand, on behalf of Inredesco Engineering, Ltd., requesting that the Commission amend the standard to allow the use of a mower design that does not incorporate the blade stopping feature required by the standard. This mower design has a plate across the bottom of the mower that completely prevents access to the blade from the bottom of the mower except for a curved slot extending around the forward portion of the blade tip circle. Although Mr. Wildy did not specify a maximum slot angle or slot width that would be allowable for mowers he wished to have exempted, it is apparent that this design would address many of the foot injuries that are addressed by the standard.

The Inredesco design is intended to address hand and foot injuries that might otherwise occur at the curved slot by providing a false nose for the mower housing that would extend forward of the blade for some unspecified distance so that the slot would be removed from the outer front edge of the housing by a sufficient distance that a hand or foot would not contact the blade. The petitioner contends that the remaining hand injuries that could take place by access to the slot from the side of the mower would be most likely to take place during the operation of conventional wheel height adjusters, which the petitioner states are difficult to operate while the weight of the mower is on the wheel. Thus, the mower design for which the exemption is sought would either (a) utilize a single counterbalanced wheel height adjustment that would not require an unweighting of the mower or (b) incorporate a conspicuous lifting handle so that users would not instinctively attempt to lift the mower by its edge when the wheel height adjuster encounters the resistance of the weight of the mower. No data were provided that would enable the Commission to estimate the effectiveness of these features in reducing injuries.

Other than the curved slot, the only access to the blade that could occur with this mower when the bottom plate is in place would be through the discharge chute. A number of the injuries addressed by the blade stop feature of the standard occur when the operator attempts to clear a discharge chute that has become clogged with grass clippings. The petitioner states that this will not occur with the Inredesco mower because of the provision of a paddle feature on the cutting blade that acts in combination with the bottom plate and internal vanes to produce an air flow sufficient to ensure that clogging will not take place. The petitioner did not provide a statement of the outer limits of the parameters that create this effect, which statement could serve to define mowers falling within an exemption, nor did he provide any test data to establish that these features function as claimed.

Despite several attempts by Commission staff to obtain the information, the Commission's evaluation of this petition was severely hampered by the lack of a statement by the petitioner of precisely what features, or ranges of combinations thereof, would serve to define the mowers for which an exemption was sought and of the exact specifications thereof. Furthermore, no data were submitted to show the effectiveness of the central wheel adjustment or handle, the extended front housing, or the nonclogging tendency of the mower in reducing blade contact injuries.

It appears that the features of petitioner's mower would prevent at least a portion of the injuries that are addressed by the standard. However, the lack of a specification of what embodiment or embodiments of the petitioner's principles he wishes to define as an exempted mower, and the lack of data concerning the effectiveness of some of the safety features of such mowers, prevent the Commission from concluding that there is no unreasonable risk of injury associated with petitioner's mower. Therefore, based on the information currently available, the Commission denied the petition to amend the standard to exclude these mowers from the coverage of the standard.

Dated: February 1, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-3837 Filed 2-10-83; 8:45 am]

BILLING CODE 6355-01-M

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16 CFR Part 1205

Petition CP 81-7 for Exemption

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition for exemption.

SUMMARY: The Commission denies a petition from Polynovus Industries, Inc., to amend the Safety Standard for Walk-Behind Power Lawn Mowers to exempt from the coverage of the standard mowers equipped with a blade with cutting elements consisting of the pinlike extension of a torsion spring, mounted on a continuous support ring. The Commission denied the petition because the available information shows that the cutting elements and the spokes for the support ring present a risk of significant injuries in the event of contact of hands or feet with the blade. Therefore, the available information did not establish that the requirements of the standard were not reasonably necessary to protect against an unreasonable risk of blade contact injuries.

ADDRESS: Copies of the petition and other materials concerning this issue may be inspected or obtained at the Reading Room, Office of the Secretary, Consumer Product Safety Commission, 8th Floor, 1111 18th Street, N.W., Washington, D.C. 20207, telephone (202) 634-7700.

FOR FURTHER INFORMATION CONTACT:

(1) *For general information,* Douglas Noble, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6554.

(2) *For media inquiries,* Lou Brott, Office of Media Relations, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (202) 634-7780.

SUPPLEMENTARY INFORMATION: In February of 1979, the Commission issued the Safety Standard for Walk-Behind Power Lawn Mowers, 16 CFR Part 1205 (44 FR 9990; February 15, 1979). The standard contains two main performance requirements designed to reduce blade contact injuries. First, in order to reduce foot injuries to the operator during mowing, the standard requires that a specified probe shaped somewhat like a human foot be unable to contact the blade at any point within the rear 120° of the mower. In addition, in order to reduce hand and foot injuries that occur while the operator is not mowing, the standard requires that the blade of the mower must stop rotating within 3 seconds of the time the operator leaves the operating position; in other words, from the time the operator lets go of the handle. This stopping of the blade can be accomplished either by disconnecting the blade from the engine with a device such as a brake-clutch, so that the blade stops while the engine continues to run, or by stopping the blade and the engine at the same time, which is sometimes referred to as the "engine-kill" method of stopping the blade. If the blade and engine are stopped together, the Commission concluded that if no power restart mechanism were provided, the user would be motivated to disable the blade stop control to avoid the inconvenience of having to manually restart the mower each time he or she let go of the handle. Therefore, the standard originally required that a mower have a power restart mechanism in the event a manufacturer chose to comply with the standard by stopping the blade and engine at the same time.

The standard also includes a requirement that all mowers have a label that warns of the hazard of blade contact. That requirement went into effect on December 31, 1979. The Commission estimates that the standard will address 77 percent of blade contact injuries with walk-behind rotary mowers.

The effective date of the performance requirements of the standard was originally set by the Commission for December 31, 1981. However, in 1980, the Congress extended the effective date of the standard by six months, to June 30, 1982.

In 1981, the Congress took another step in relation to this standard by directing the Commission to amend the standard to permit the engine-kill/manual restart feature that had previously been excluded. This, the present situation is that the standard, including the engine-kill/manual restart option, went into effect on June 30, 1982.

On June 23, 1981, the Commission docketed a petition (No. CP 81–7) from John Rodish, President of Polynovus Industries, Inc., requesting that the commission amend the standard to allow the use of a particular "safety blade" as a substitute for the blade stopping requirements of the standard. The Polynovus blade consists of a continuous support ring with cutting elements spaced at 45 or 90 degree intervals. Each cutting element consists of two torsion springs mounted in a housing so that one end of the spring wire extends a short distance past the outer edge of the support ring. The petitioner claims that when the cutting element contacts a hand or foot, the cutting element will retract when the impact forces exceed the torsion capabilities of the springs. Petitioner stated that it takes 15 to 30 seconds for this blade to cut through a shoe and that in the event of contact with a human hand, any resulting cut would be much less severe than that resulting from contact with a conventional blade. The petitioner submitted test data on the effects of this blade on shoes, dowel rods, and a hand form with a pigskin covering.

The petitioner further contends that due to the continuous support ring and the rounded leading edges of the spokes for the ring, which also act as airfoils, this blade has a lesser tendency to strike objects in its path and throw them by centrifugal force. The petitioner submitted results of tests with alphabet blocks and croquet balls to support these contentions.

The petitioner argues that because of these qualities and the fact that this blade can be provided at a substantially lower cost than the brake-clutch or power restart mowers that comply with the standard, the requirements of the standard are not reasonably necessary with respect to mowers using the Polynovus blade. The petitioner concludes that such mowers should therefore be exempted from the coverage of the standard.

In order to find out more about the potential of this blade to produce injuries to a human hand or foot, the staff at the CPSC Engineering Laboratory impacted a series of objects with a conventional steel blade on an operating power mower. The same types of objects were then impacted by the petitioner's blade mounted on the same power mower. The impacted objects included tennis shoes, a ¾" diameter copper tube, a ½" diameter wooden dowel rod, a ½" inside diameter rubber hose, and two filled latex gloves. To make the gloves, a pine block with four wooden dowels was inserted in each glove; one glove was then filled with gelatin, and the other was filled with silicon rubber adhesive sealant.

After reviewing the laboratory reports provided by the petitioner and the CPSC Engineering Laboratory on the results of the impact of these blades on the objects described above, the Commission's Medical Director concluded that if the torsion springs of the cutter assembly momentarily contacted the fingers at operating speed, they would produce a number of deep lacerations, quite possibly to the bone. If the cutting elements contacted the palm of the hand, the Medical Director predicts multiple lacerations with considerable hemorrhaging and a high probability of irreparable damage to the function and sensation of the hand. Further, if the hand were inserted into the housing area to clean off grass, the spokes of the support ring would appear to be readily accessible. The Medical Director anticipates the injury potential of the spokes to be quite similar to conventional steel blades. He concluded that the injury potential of the Polynovus blade is within a hazardous range that poses an unacceptable risk of blade contact injuries.

With respect to the issue of objects propelled by the mower's blades, the Commission notes that the tests submitted by the petitioner do not address objects such as wires, nails, and small rocks, which cause the most numerous and serious thrown objects injuries. In addition, the standard from which an exemption is sought addresses only blade contact injuries, and the standard does not address what additional steps could be taken to reduce thrown objects injuries. Also, no test known to the Commission has been shown to be capable of determining the extent to which a particular blade would present a risk of thrown objects injuries.

After considering the factors discussed above, the Commission concluded that the available information indicates that the requirements of the Safety Standard for Walk-Behind Power Lawn Mowers, in relation to the blade described by the petitioner, is reasonably necessary to reduce an unreasonable risk of blade contact injuries. Therefore, the Commission denied the petition to amend the standard to exclude mowers using this blade from the coverage of the standard.

Dated: February 1, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-3838 Filed 2-10-83; 8:45 am]

BILLING CODE 6355-01-M

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16 CFR Part 1205

Petition CP 81-8 for Exemption

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition for exemption..

SUMMARY: The Commission denies a petition from Mr. Lewis Ely to amend the Safety Standard for Walk-Behind Power Lawn Mowers to exempt from the coverage of the standard mowers equipped with a particular rubber and fabric blade. The Commission denied the petition because the available information shows that the blade presents a risk of significant injuries in the event of contact of hands or feet with the blade. Therefore, the available information did not establish that the requirements of the standard were not reasonably necessary to protect against an unreasonable risk of blade contact injuries.

ADDRESS: Copies of the petition and other materials concerning this issue may be inspected or obtained at the Reading Room, Office of the Secretary, Consumer Product Safety Commission, 8th Floor, 1111 18th Street, N.W., Washington, D.C. 20207, telephone (202) 634-7700.

FOR FURTHER INFORMATION CONTACT: (1). *For general information,* Douglas Noble, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6554.

(2) *For media inquiries,* Lou Brott, Office of Media Relations, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (202) 634-7780.

SUPPLEMENTARY INFORMATION: In February of 1979, the Commission issued the Safety Standard for Walk-Behind Power Lawn Mowers, 16 CFR Part 1205 (44 FR 9990; February 15, 1979). The standard contains two main performance requirements designed to reduce blade contact injuries. First, in order to reduce foot injuries to the operator during mowing, the standard requires that a specified probe shaped like a human foot be unable to contact the blade at any point within the rear 120° of the mower. In addition, in order to reduce hand and foot injuries that occur while the operator is not mowing, the standard requires that the blade of the mower must stop rotating within 3 seconds of the time the operator leaves the operating position; in other words, from the time the operator lets go of the handle. This stopping of the blade can be accomplished either by disconnecting the blade from the engine with a device such as a brake-clutch, so that the blade stops while the engine continues to run, or by stopping the blade and the engine at the same time, which is sometimes referred to as the "engine-kill" method of stopping the blade. If the blade and engine are stopped together, the Commission originally concluded that if no power restart mechanism were provided, the user would be motivated to disable the blade stop control to avoid the inconvenience of having to manually restart the mower each time he or she let go of the handle. Therefore, the standard originally required that a mower have a power restart mechanism in the event a manufacturer chose to comply with the standard by stopping the blade and engine at the same time.

The standard also includes a requirement that all mowers have a label that warns of the hazard of blade contact. That requirement went into effect on December 31, 1979. The Commission estimates that the standard will address 7 percent of blade contact injuries with walk-behind rotary mowers.

The effective date of the performance requirements of the standard was originally set by the Commission for December 31, 1981. However, in 1980, the Congress extended the effective date of the standard by six months, to June 30, 1982.

In 1981, the Congress took another step in relation to this standard by directing the Commission to amend the standard to permit the engine-kill/manual restart feature that had previously been excluded. Thus, the present situation is that the standard, including the engine-kill/manual restart option, went into effect on June 30, 1982.

On July 20, 1981, the Commission received a petition (No. CP 81-8) from Mr. Lewis Ely of Atlanta, Georgia, requesting that the Commission amend the standard to allow the use of a particular "safety blade" as a substitute for the requirements of the standard. The blade is a molded rubber compound bonded with an internal fabric layer. The petitioner contends that this blade will reduce the incidence of injuries that occur from contact with the blade and will also reduce the tendency of the lawn mower to impact and propel objects from under the mower. The petitioner stated that this blade will cause only slight scuffing of a tennis shoe, and he recited an incident in which an operator accidentally contacted the blade with his hand, under unspecified conditions, with no apparent injury other than "a severe bruise of the fingers."

In order to find out more about the potential of this blade to produce injuries to a human hand or foot, the staff at the CPSC Engineering Laboratory impacted a series of objects with a conventional steel blade on an operating power mower. The same types of objects were then impacted using the petitioner's blade mounted on the same power mower. The impacted objects included tennis shoes, a ¾" diameter copper tube, a ½" diameter wooden dowel rod, a ½" inside diameter rubber hose, and two filled latex gloves. To make the gloves, a pine block with four wooden dowels was inserted in each glove; one glove was then filled with gelatin, and the other was filled with silicon rubber adhesive sealant.

After reviewing the CPSC Engineering Laboratory reports on the impact of these blades on the objects described above, the Commission's Medical Director concluded that accidental contact with the petitioner's blade could result in severe trauma and would produce wounds comparable to those produced from a rapid, forceful blow from a blunt object. The expected trauma would include crushing injuries, severe bruising, avulsions, and fractures. These types of injuries could often include subsequent loss of sensation or function, disfigurement, and the possibility of later amputation for therapeutic purposes.

With respect to the issue of objects propelled by the mower's blades, the Commission notes that no test known to the commission has been shown to be capable of determining the extent to which particular blades would present a risk of thrown objects injuries. In any event, the standard from which the petitioner seeks an exemption address contact injuries and does not address the question of what additional steps might be desirable in order to minimize thrown objects injuries.

After considering the factors discussed above, the Commission concluded that the available information indicates that the requirements of the Safety Standard for Walk-Behind Power Lawn Mowers, in relation to the blade described by the petitioner, are reasonably necessary to reduce an unreasonable risk of blade contact injuries. Therefore, the Commission denied the petition to amend the standard to exclude mowers using this blade from the coverage of the standard.

Dated: February 1, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-3639 Filed 2-10-83; 8:45 am]

BILLING CODE 6355-01-M

16 CFR Parts 1615 and 1616

Flammability Standards for Children's Sleepwear; Proposed Statements of Enforcement Policy

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to issue statements of enforcement policy concerning the flammability standards for children's sleepwear in sizes 0 through 6X and in sizes 7 through 14. The proposed policy statements set forth the factors which the Commission will consider when deciding whether particular fabrics or garments are subject to the children's sleepwear standards. The Commission is proposing these policy statements to replace two earlier policy statements concerning the same subject which were set aside by a United States Court of Appeals on judicial review.

DATES: Interested persons are invited to submit, on or before April 12, 1983, written comments regarding the proposed policy statements.

EFFECTIVE DATE: The Commission proposes that any policy statement based on the proposals published below shall be effective 30 days after issuance on a final basis.

ADDRESS: Comments and any accompanying material should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, and titled "Children's Sleepwear, Proposed Policy Statements."

FOR FURTHER INFORMATION CONTACT: L. James Sharman, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone (301) 492-6554. Inquiries from the press and broadcast media should be addressed to Lou Brott, Office of Public Affairs, Telephone: (202) 634-7780.

SUPPLEMENTARY INFORMATION: The Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (16 CFR Part 1615) was issued by the Department of Commerce under the Flammable Fabrics Act (FFA, 15 U.S.C. 1191 et seq.) on July 29, 1971, to become effective July 29, 1972. The standard applies to any "item" of children's sleepwear in sizes 0 through 6X. The term "item" is defined in section 1615.1(c) to mean "any product of children's sleepwear, or any fabric or related material intended or promoted for use in children's sleepwear." The term "children's sleepwear" is defined by section 1615(a) to mean "any product of wearing apparel up to and including size 6X, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Diapers and underwear are excluded from this definition."

Before the effective date of the standard, certain questions were raised concerning the interpretation of the phrase "intended or promoted" as it is used in the definition of "item" in section 1615.1(c) of the standard, and the phrase "intended to be worn primarily for sleeping or activities related to sleeping," as it is used in the definition of the term "children's sleepwear" in section 1615.1(a) of the standard.

FTC Policy Statement

To respond to these questions, the Federal Trade Commission (FTC), the agency then responsible for the enforcement of the standard, published an enforcement policy statement in the Federal Register of March 23, 1972 (7 FR 5982).[1]

In essence, the FTC policy statement provided that whether a fabric or related material is "intended or promoted" for use in children's sleepwear depends upon several factors including (1) the nature of the fabric and its suitability for use in children's sleepwear; (2) the extent to which the fabric has been sold to manufacturers of children's sleepwear for use in the manufacture of children's sleepwear garments; and (3) the likelihood that the fabric will be used for sleepwear in a substantial number of cases.

With regard to garments, the FTC policy statement provided that whether a garment is "intended to be worn primarily for sleeping or activities related to sleeping" depends upon (1) the nature of the product and its suitability for use by children for sleeping or activities related to sleeping; (2) the manner in which the product is distributed and promoted; and (3) the likelihood that the product will be used by children for sleeping or activities related to sleeping in a substantial number of cases.

The FTC policy statement provided further that if a substantial question arises as to the applicability of these factors to a particular fabric or garment, it would be advisable for the manufacturer to place a prominent warning on labels, invoices, and packages that the product in question does not meet the sleepwear flammability standard and is not intended or suitable for use as children's sleepwear.

On May 14, 1973, all functions under the FFA were transferred to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2079(b)). Section 30(e)(2) of the CPSA (15 U.S.C. 2979 (e)(2)) states in part that all determinations issued in the exercise of functions transferred under section 30 of the CPSA continue in effect until modified, terminated, superseded, or repealed by the Commission, the courts, or by operation of law. Thus, the enforcement policy statement issued by the FTC remained in effect after the Commission assumed responsibility for enforcement of the FFA.

On May 1, 1975, the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (16 CFR Part 1616), issued by the Commission, became effective. This standard defines the term "item" at § 1616.2(c) and the term "children's sleepwear" at § 1616.2(a) using the same language as the standard for sizes 0 through 6X, except for reference to sizes.

Commission Action To Propose Policy Statements

After the sleepwear standard for sizes 7 through 14 became effective, the Commission learned of the existence of certain "borderline" garments in sizes ranging from 0 through 14 that may or may not be intended "primarily for sleeping or activities related to sleeping." Because the policy statement issued by the FTC applied only to garments in sizes 0 through 6X, the Commission proposed to reissue that policy statement with some modifications, and to issue a similar policy statement applicable to garments in sizes 7 through 14 and to fabrics intended for use in those garments.

The proposed statements of policy were published in the Federal Register of October 22, 1979 (44 FR 60755), to solicit written comments from all interested parties. (2) After consideration of all written comments received and all other relevant information, the Commission issued the policy statements on a final basis in the Federal Register of November 6, 1980 (45

[1] Numbers in parentheses identify reference documents listed in the Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's public reading room, 1111 18th Street NW, Eighth Floor, Washington, D.C., or by calling the Office of the Secretary at (301) 492-6800.

FR 73884). (3) The policy statements were codified in the Code of Federal Regulations at 16 CFR 1615.64 and 1616.65.

Final Policy Statements

The policy statements issued by the Commission set forth essentially the same factors to be considered when determining whether a fabric or garment is subject to the children's sleepwear standards as did the FTC policy statement.

As noted above, the FTC policy statement contained language to the effect that whenever a substantial question may arise as to the applicability of those factors to a particular fabric or garment, it would be advisable for the manufacturer to place a prominent warning on labels, invoices, and packages that the product does not meet the children's sleepwear standard, and is not intended or suitable for use as children's sleepwear.

The policy statements issued by the Commission contained similar provisions, which were followed by additional language to the effect that such a disclaimer would not bind the Commission in an enforcement action if, in the opinion of the Commission, a fabric is in fact intended or promoted for use in children's sleepwear, or if a garment is in fact intended or promoted to be worn primarily for sleeping or activities related to sleeping.

The policy statements issued by the Commission also contained language not in the FTC policy statement concerning procedures which the Commission would follow to notify persons or firms that they or their products may be the subject of actions to enforce the sleepwear standards before the initiation of any such enforcement proceeding.

Judicial Review

After the Commission issued its policy statements on a final basis, a trade association petitioned the United States Court of Appeals for the Fourth Circuit to set them aside, alleging that the Commission's action had the effect of amending the chilren's sleepwear standards without following the procedures required by section 4 of the FFA (15 U.S.C. 1193) (4).

National Knitwear Manufacturers Association (NKMA) argued that both sleepwear standards included in their definitions of the term "children's sleepwear" a statement that diapers and underwear are excluded from the definition of chilren's sleepwear. NKMA observed that the Commission proposed the two policy statements at a time when it was considering a petition (FP 79–2) which requested the issuance of a rule to require labeling of decorated children's thermal underwear to state that such garments do not meet the requirements of the children's sleepwear standards and are not intended or suitable for use as children's sleepwear.[2]

NKMA stated that children's thermal underwear garments were cited as an example of one type of "borderline" garments in the Federal Register notice by which the Commission proposed its policy statements.

NKMA argued that as "borderline" garments, children's thermal underwear would be subject to labeling in accordance with the terms of the policy statements.

Further, because the Commission announced in those policy statements that a disclaimer in a label would not preclude the Commission from undertaking an enforcement action against a garment which in the option of the Commission was intended or promoted to be worn primarily for sleeping or activities related to sleeping, NKMA claimed that a thermal underwear garment might be the subject of an action for enforcement of the children's sleepwear standards to bring some underwear garments within the scope of their coverage without following all requirements of the FFA for amending a flammability standard. (4)

The Commission acknowledged that in issuing the sleepwear enforcement policy statements it had not followed the procedures required by the FFA to amend the children's sleepwear standards, but argued that the issuance of November 6, 1980, was clearly and properly designated a policy statement because it did not establish a standard of conduct having the force of law, or have any substantive impact on the duties of persons or firms subject to the Commission's jurisdiction. (5) The Commission observed that the notice by which the Commission issued the policy statements on a final basis stated that in any action to enforce the standards, the Commission could not rely solely on the policy statements to prove that a particular fabric or garment is subject to the children's sleepwear standard applicable to the size in question, but would be required to prove that the fabric or garment is an item of sleepwear as defined in the applicable standard. (3, 5)

In *National Knitwear Manufacturers Association v. CPSC*, 666 F2d 81 (4th Cir. 1981), the Court of Appeals rejected the Commission's assertion that the issuance of November 6, 1980, was an explanation of enforcement policy, and set it aside after concluding that in reality it was an amendment of the two children's sleepwear standards which did not comply with all requirements of the FFA.

Revocation and New Proposal

In the final rules section of this issue of the Federal Register, the Commission has revoked and removed 16 CFR 1615.64 and 1616.65, the two policy statements which were set aside by the *National Knitwear* decision.

The Commission continues to believe that the factors enumerated in the FTC policy statement of 1972 and the Commission's policy statements of 1980 are useful to distinguish those fabrics and garments which are subject to the children's sleepwear standards from those which are not. The Commission proposes to continue to apply those factors in deciding whether the standards are applicable to certain fabrics and garments, and to publish them in the form of a policy statement for the information of persons and firms that manufacture, import, distribute, and sell children's garments and fabrics used to manufacture such garments.

The proposal published below sets forth essentially the same factors to be considered when deciding whether a fabric or garment is subject to the children's sleepwear standards as those in the FTC policy statement of 1972 and the Commission's previous policy statements issued in 1980.

However, the proposal published below differs from the Commission's previous policy statements in the following manner:

1. Sections 1615.64 and 1616.65 of the proposed policy statements incorporate the definitions of the terms "item" and "children's sleepwear" as they appear in the two standards at §§ 1615.1 and 1616.2. As stated above, the definitions of the term "children's sleepwear" contained in both standards specifically exclude diapers and underwear from the coverage of the standards. The Commission believes that inclusion of these definitions in the proposed policy statements will demonstrate clearly that the Commission is not proposing to alter or modify any provision of the two standards.

2. Unlike the previous policy statements, the proposals published below contain no language advising use of a label to warn that fabrics or garments do not comply with the sleepwear standards, and no statement concerning the effect of such a label on any decision by the Commission to initiate an action to enforce the

[2] The Commission has since acted to deny that petition.(6)

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standard with regard to any item bearing a disclaimer on a label. The Commission believes that the elimination of the language concerning the use and effect of negative labels for certain fabrics and garments will remove one aspect of the 1980 policy statements which the reviewing court found objectionable without significantly diminishing the utility of the policy statement to manufacturers, importers, distributors, and retailers of children's garments and fabrics used to manufacture such garments.

3. The proposals published below do not describe procedures which the Commission now uses to notify persons and firms that they or the products which they manufacture or market may be the subject of an action to enforce the standards before initiation of formal proceedings. The procedures are described in "Chapter 2C—Letters of Advice/Notice of Noncompliance," in the *CPSC Enforcement Policy and Procedural Guides, May, 1979.* A copy of this material is available by writing to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Enforcement of the Standards Pending Issuance of Final Policy Statements

As stated above, the *National Knitwear* decision set aside statements of policy listing factors which the Commission stated that it would consider when determining whether certain garments and fabrics fall within the definition of children's sleepwear in §§ 1615.1(a) and 1616.2(a) of the standards. However, that decision does not alter or affect any provision of the two standards, including their definitions of the term "children's sleepwear."

For this reason, the Commission continue to enforce the sleepwear standards in the case of any garment or fabric which falls within the definition of the term "children's sleepwear" in the applicable standard. In any enforcement action, the Commission will be required to prove to the satisfaction of the trier of fact that the garments or fabric fall within the applicable standard's definition of children's sleepwear, and the respondent or defendant will have the opportunity to present evidence to show that the garment or fabric in question is not sleepwear.

Certification of No Significant Economic Impact on Small Entities

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*) requires that whenever an agency of the Federal government publishes a proposal under the Administrative Procedure Act (5 U.S.C. 553), it would endeavor to give particular consideration to small businesses, small non-profit organizations, and small local governments (collectively called "small entities") that may be subject to the agency's requirements.

Specifically, the RFA requires that before publication of the proposal, the agency must either:

(1) Prepare an initial regulatory flexibility analysis of the probable effect on small businesses and other small entities in accordance with section 603 of the RFA (5 U.S.C. 603); or

(2) Determine that the proposal, if issued on a final basis, will not have "a significant economic impact on a substantial number of small entities," and prepare a certification to that effect in accordance with section 605(b) of the RFA (5 U.S.C. 605(b)).

In accordance with section 605(b) of the RFA, the Commission has certified that the proposed policy statements published below, if issued on a final basis, will not have a significant economic impact on a substantial number of small entities.

The proposed policy statements, if issued on a final basis, will be only for the information of the public and industry. They will not have the force of law, and will not impose any substantive obligation or duty on any person or firm, including any small business.

Environmental Considerations

The proposal published below falls within the categories of Commission actions described in 16 CFR 1021.5(c) that have little or no potential for affecting the human environment. For this reason, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 16 CFR Parts 1615 and 1616

Clothing, Consumer protection, Flammable materials, Infants and children, Labeling, Records, Textiles, Warranties.

Conclusion and Proposal

Therefore, in accordance with provisions of the Flammable Fabrics Act (Sec. 5, Pub. L. 90–189; 81 Stat. 569; 15 U.S.C. 1194), the Consumer Product Safety Act (Sec. 30, Pub. L. 92–573; 15 U.S.C. 2079), and the Administrative Procedure Act (5 U.S.C. 553), the Consumer Product Safety Commission proposes to amend the Code of Federal Regulations, Title 16, Chapter II, Subchapter D, as follows:

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 0 THROUGH 6X (FF 3–71)

Part 1615, Subpart C, is proposed to be amended by adding a new § 1615.64 to read as follows:

§ 1615.64 Policy to clarify scope of the standard.

(a) The Standard for Flammability of Children's Sleepwear: Sizes 0 through 6X (16 CFR Part 1615) is applicable to any item of children's sleepwear in sizes 0 through 6X.

(1) The term "item" is defined in the Standard at § 1615.1(c) to mean "any product of children's sleepwear, or any fabric or related material intended or promoted for use in children's sleepwear."

(2) The term "children's sleepwear" is defined in the Standard at § 1615.1(a) to mean "any product of wearing apparel up to and including size 6X, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Diapers and underwear are excluded from this definition."

(b) The Commission makes the following statement of policy regarding (1) the phrase "intended or promoted" as used in the definition of "item" in § 1615.1(c), and (2) the phrase "intended to be worn primarily for sleeping or activities related to sleeping" as used in the definition of "children's sleepwear" in § 1615.1(a).

(c) For enforcement purposes, the meaning of these phrases will be interpreted by the Commission in accordance with the following principles:

(1) *Sleepwear fabrics and related materials.* Whether fabric or related material is "intended or promoted" for use in children's sleepwear depends on the facts and circumstances in each case. Relevant factors include:

(i) The nature of the fabric and its suitability for use in children's sleepwear;

(ii) The extent to which the fabric or a comparable fabric has been sold to manufacturers of children's sleepwear for use in the manufacture of children's sleepwear garments; and

(iii) The likelihood that the fabric will be used primarily for children's sleepwear in a substantial number of cases.

(2) *Sleepwear garments.* Whether a product of wearing apparel is "intended to be worn primarily for sleeping or activities related to sleeping" depends

on the facts and circumstances present in each case. Relevant factors include:

(i) The nature of the product and its suitability for use by children for sleeping or activities related to sleeping;

(ii) The manner in which the product is distributed and promoted; and

(iii) The likelihood that the product will be used by children primarily for sleeping or activities related to sleeping in a substantial number of cases.

(d) Retailers, distributors, and wholesalers, as well as manufacturers, importers, and other persons (such as converters) introducing a fabric or garment into commerce which does not meet the requirements of the flammability standards for children's sleepwear, have an obligation not to promote or sell such fabric or garment for use as an item of children's sleepwear. Also, retailers, distributors, and wholesalers are advised not to advertise, promote, or sell as an item of children's sleepwear any item which a manufacturer, importer, or other person (such as a converter) introducing the item into commerce has indicated by label, invoice, or otherwise, does not meet the requirements of the children's sleepwear flammability standards and is not intended or suitable for use as sleepwear. Additionally, retailers are advised:

(1) To segregate, by placement in different parts of a department or store, fabrics and garments covered by the children's sleepwear standards from all fabrics and garments that are beyond the scope of the children's sleepwear standards but which resemble items of children's sleepwear;

(2) To utilize store display signs indicating the distinction between types of fabrics and garments, for example by indicating which are sleepwear items and which are not; and

(3) To avoid the advertisement or promotion of a fabric or garment that does not comply with the children's sleepwear flammability standards in a manner that may cause the item to be viewed by the consumer as an item of children's sleepwear.

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14 (FF 5-74)

Part 1616, Subpart C, is proposed to be amended by adding a new section, as follows:

§ 1616.65 Policy scope of the standard.

(a) The Standard for the flammability of Children's Sleepwear: Sizes 7 through 14 (16 CFR Part 1616) is applicable to any item of children's sleepwear in sizes 7 through 14.

(1) The term "item" is defined in the Standard at section 1616.2(c) to mean "any product of children's sleepwear or any fabric or related material intended or promoted for use in children's sleepwear."

(2) The term "children's sleepwear" is defined in the Standard at section 1616.2(a) to mean "any product of wearing apparel size 7 through size 14, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Underwear and diapers are excluded from this definition."

(b) The Commission makes the following statement of policy regarding (1) the phrase "intended or promoted" as used in the definition of "item" in § 1616.2(c), and (2) the phrase " intended to be worn primarily for sleeping or activities related to sleeping" as used in the definition of "children's sleepwear" in § 1616.2(a).

(c) For enforcement pruposes, the meaning of these phrases will be interpreted by the Commission in accordance with the following principles:

(1) *Sleepwear fabrics and related materials.* Whether fabric or related material is "intended or promoted" for use in children's sleepwear depends on the facts and circumstances in each case. Relevant factors include:

(i) The nature of the fabric and its suitability for use in children's sleepwear;

(ii) The extent to which the fabric or a comparable fabric has been sold to manufacturers of children's sleepwear for use in the manufacture of children's sleepwear garments; and

(iii) The likelihood that the fabric will be used primarily for children's sleepwear in a substantial number of cases.

(2) *Sleepwear garments.* Whether a product of wearing apparel is "intended to be worn primarily for sleeping or activities related to sleeping" depends on the facts and circumstances present in each case. Relevant factors include:

(i) The nature of the product and its suitability for use by children for sleeping or activities related to sleeping;

(ii) The manner in which the product is distributed and promoted; and

(iii) The likelihood that the product will be used by children primarily for sleeping or activities related to sleeping in a substantial number of cases.

(d) Retailers, distributors, and wholesalers, as well as manufacturers, importers, and other persons (such as converters) introducing a fabric or garment into commerce which does not meet the requirements of the flammability standards for children's sleepwear, have an obligation not to promote or sell such fabric or garment for use as an item of children's sleepwear. Also, retailers, distributors, and wholesalers are advised not to advertise, promote, or sell as an item of children's sleepwear any item which a manufacturer, importer, or other person (such as a concerter) introducing the item into commerce has indicated by label, invoice, or otherwise, does not meet the requirements of the children's sleepwear flammability standards and is not intended or suitable for use as sleepwear. Additionally, retailers are advised:

(1) To segregate, by placement in different parts of a department or store, fabrics and garments covered by the children's sleepwear standards from all fabrics and garments that are beyond the scope of the children's sleepwear standards but which resemble items of children's sleepwear;

(2) To utilize store display signs indicating the distinction between types of fabrics and garments, for example by indicating which are sleepwear items and which are not; and

(3) To avoid the advertisement or promotion of a fabric or garment that does not comply with the children's sleepwear flammability standards in a manner that may cause the item to be viewed by the consumer as an item of children's sleepwear.

Request for Comments

Interested persons are invited to submit written comments by April 12, 1983. Comments may be accompanied by written data, views and arguments, and should be addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Received comments may be seen in the Office of the Secretary, Eighth Floor, 1111 18th Street, NW., Washington, D.C. between 8:30 a.m. and 5:00 p.m., Monday through Friday.

(Sec. 5, Pub. L. 90-189, 81 Stat. 569, 15 U.S.C. 1194; Sec. 30(b), Pub. L. 92-573, 86 Stat. 1231, 15 U.S.C. 2079(b); 5 U.S.C. 553)

Dated: Feburary 7, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. **Federal Register** notice, "Children's Sleepwear; Enforcement Policy Statement Concerning Standard for Flammability," published by Federal Trade Commission; 2 pages; March 23, 1972 (37 FR 5982).

2. **Federal Register** notice, "Flammability Standards for Children's Sleepwear; Statements of Enforcement Policy," published

by Consumer Product Safety Commission; 3 pages; October 22, 1979 (44 FR 60755).

3. **Federal Register** notice, "Flammability Standards for Children's Sleepwear; Statements of Enforcement Policy," published by Consumer Product Safety Commission,; 5 pages; November 6, 1980 (45 FR 73884)

4. Brief for petitioner, *National Knitwear Manufacturers Association v. CPSC;* 36 pages; April 10, 1981.

5. Brief for respondent, *National Knitwear Manufacturers Association v. CPSC;* 29 pages; May 11, 1981.

6. Letter to Jonathan Kahan from Martin Howard Katz, General Counsel, concerning decision in *National Knitwear Manufacturers Association v. CPSC;* 3 pages; June 3, 1982.

[FR Doc. 83-3835 Filed 2-10-83; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270 and 274

[Release Nos. 33-6450; IC-13012; File Nos. S7-955 and S7-957]

Mutual Fund Governance; Registration Form Used by Open-End Management Investment Companies; Proposed Guidelines

AGENCY: Securities and Exchange Commission.

ACTION: Extension of time for comment.

SUMMARY: The Securities and Exchange Commission announced today that it has extended until April 18, 1983 the date by which comments on Investment Company Act Release No. 12888 (December 10, 1982) (47 FR 56509) and on Investment Company Release No. 12927 (December 27, 1982) (48 FR 813) must be submitted. The Commission has received a request that the comment periods be extended and believes that an extension of time until April 18, 1983 will be beneficial since it will result in the receipt of additional useful comments. The release, entitled "Advance Notice and Request for Comment on Mutual Fund Governance," originally has a comment period ending on March 10, 1983. The release, entitled "Registration Form Used by Open-End Management Investment Companies; Proposed Guidelines," originally had a comment period ending on March 25, 1983.

DATE: Comments must be received on or before April 18, 1983.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters relating to Investment Company Act Release No. 12888 should refer to File No. S7-955. Comment letters relating to Investment Company Act Release No. 12927 should refer to File No. S7-957. All comments will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Bruce S. Mendelsohn, Chief (202-272-2048) or Elizabeth K. Norsworthy, Special Counsel (202-272-2048), Office of Regulatory Policy, for matters relating to Investment Company Act Release No. 12888; Jane A. Kanter, Special Counsel (202-272-2115), Larry L. Green Attorney (202-272-7320), Aviva L. Grossman, Attorney (202-272-7321) or with respect to insurance company separate accounts, Mary K. Crook, Attorney (202-272-3010) for matters relating to Investment Company Act Release No. 12927.

SUPPLEMENTARY INFORMATION: In Investment Company Act Release No. 12888, the Commission requested comments on whether or not to propose rules or recommend legislation to enable all or certain types or registered open-end investment companies to be organized and operated without shareholders voting, or without either shareholder voting or boards of directors. The major goal of such action would be to reduce the expense of fund operations without sacrificing investor protection. In addition to seeking guidance generally on the advisability of such action, the Commission also requested commentators to focus on certain specified questions. The comments received will be considered in connection with the development of any rulemaking proposals or legislative recommendations.

In Investment Company Act Release No. 12927, the Commission requested comments on a proposed revision of the registration form used by open-end managment investment companies under the Investment Company Act of 1940 and ther Securities Act of 1933. The Commission proposed for comment: form N-1A a new registration statement form for open-end investment companies other than registered separate accounts of insurance companies; certain related rules; and staff guidelines for the preparation of the proposed form. Proposed form N-1A would establish a two-part format for disclosure to prospective investors consisting of: a relatively short prospectus that could be used to satisfy the prospectus delivery requirements of the Securities Act of 1933; and a statement of additional information that would be available to prospective investors upon request and without charge. The Commission is proposing form N-1A and certain related rules in order to shorten and simplify the prospectus provided to investors, while making available more extensive information to those who desire it.

In order to receive the benefit of comments from the greatest number of interested persons and in view of the request received by the Commission for additional time in which to comment, the Commission has extended the comment period for both releases until April 18, 1983.

Dated: February 7, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3733 Filed 2-10-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404, 410 and 416

Federal Old-Age, Survivors and Disability Insurance; Federal Coal Mine Health and Safety Act of 1969, Black Lung Benefits; and Supplemental Security Income for the Aged, Blind, and Disabled; Overpayment Waiver Provisions

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Social Security Administration proposes to amend its regulations to improve overpayment recovery and waiver policies pursuant to the objectives of the Department of Health and Human Services Debt Collection Action Plan. The revised regulations will:

(1) Establish a time limit for requesting waiver of overpayment recovery;

(2) Standardize criteria for establishing "without fault";

(3) Identify a resource base for all three programs, recovery from which will always be considered to "defeat the purpose" of the particular program even though recovery from resources above that base will not be considered to "defeat the purpose" of the particular program;

(4) Limit the amount of miscellaneous living expenses considered in determining whether recovery will "defeat the purpose"; and

(5) Provide that recovery will be considered "against equity and good

conscience" only if the individual relinquished a valuable right or changed his or her position for the worse because of a notice that the payment would be made or by reason of the incorrect payment.

DATES: Your comments will be considered if we receive them no later than March 14, 1983.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203. They may also be delivered to the Office of Regulations, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Lawrence V. Dudar, Room 3–B–4, Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–6629.

SUPPLEMENTARY INFORMATION:

Background

The Office of Management and Budget's (OMB) debt management policy requires that, to the extent possible under the law, debts be recovered or otherwise resolved quickly and consistently. The Department of Health and Human Services' Debt Collection Action Plan was approved by OMB on September 15, 1981. These proposed regulations are consistent with the debt management guidelines provided by HHS. The revisions should clarify the rules for waiver of overpayment recovery in the three programs administered by the Social Security Administration (SSA): Old-Age, Survivors, and Disability Insurance; Supplemental Security Income; and Black Lung (Part B). By reducing unnecessary subjectivity and incorporating current operating policy in regulations, more uniform waiver decisions should result at all levels of adjudication. The public can be assured that SSA's scarce fiscal resources are being used prudently.

Proposed Changes

Time Limit for Requesting Waiver

These provisions would establish a 60-day time limit for requesting waiver of overpayment recovery. The time limit begins with the date of notice of the last administrative or judicial decision concerning the fact and amount of overpayment and, therefore, corresponds to the time limit for filing an appeal. A late request for waiver will be accepted if the person can show "good cause" for requesting waiver after the 60-day period. In the event that the individual does not request waiver timely or a timely waiver request is denied, the individual will no longer be entitled to relief pursuant to the waiver provisions. If his or her financial situation changes for the worse, relief from repayment may be considered under the general rules regarding collection of Federal debts (Federal Claims Collection Standards), through suspension or termination of collection activity, reduction of the rate of recovery, or by compromise of the amount to be repaid. These provisions are incorporated in proposed §§ 404.502a, 404.506a, 410.561, 410.561b, 416.550(b), and 416.550b.

"Without Fault" Criteria

These proposed regulations provide uniform language defining "without fault" for the title II, Black Lung (Part B), and title XVI regulations. The title II and Black Lung regulations have been revised to correspond to the language of the title XVI regulation but will continue to identify specific "fault" and "without fault" circumstances applicable to overpayments arising under those programs. These provisions are incorporated in proposed §§ 404.507, 404.507a, 404.507b, 410.561c, 410.561d, and 410.561e.

Resource Limit for "Defeat the Purpose"

These provisions reflect current policy by stipulating the resource limit used in determining whether recovery of an overpayment will defeat the purposes of titles II and XVI and the Black Lung (Part B) programs. Under all three programs, recovery defeats the purpose of the program to the extent that recovery reduces the total value of assets below $3,000 for a person without dependents or $5,000 for a person with a spouse or dependent, plus $600 for each additional dependent. Excluded are the values of household furnishings, wearing apparel, family automobile, and a home which the person maintains as a principal domicile. Also excluded is income producing property if the income from such property has been included in comparing income and expenses. Experience has shown that this resource level has provided individuals an adequate buffer against emergencies. While these limits have been contained in operational policy, not all levels of adjudicators are bound by operational policy. These proposed regulations will facilitate consistency in adjudicative decisions at all levels within the agency. They are incorporated in proposed §§ 404.508, 410.562, and 416.553.

Essential Living Expenses

In determining whether recovery defeats the purposes of titles II and XVI and the Black Lung Program by depriving the individual of income and resources needed for ordinary and necessary living expenses, regulations currently state that an individual's ordinary and necessary expenses include miscellaneous expenses which may reasonably be considered part of the individual's standard of living. These provisions eliminate any reference to "standard of living" and propose setting a fixed dollar amount for miscellaneous expenses. We are considering limiting miscellaneous expenses to $25 and are seeking public comments on this dollar amount. To qualify for waiver, each individual must prove that all his income is needed to meet essential living expenses. These provisions are incorporated in proposed §§ 404.508(c) and 410.562(c).

Equity and Good Conscience

Regulations currently provide that recovery is against equity and good conscience if the person, in reliance upon the benefits or upon the notice that benefits would be paid, relinquished a valuable right or changed his or her position for the worse. Under current title II and Black Lung regulations, recovery is deemed to be against equity and good conscience whien the overpayment resulted from an individual's reliance on misinformation from an official source. For certain deduction overpayments for which "without fault" is established, recovery is also deemed to be against equity and good conscience solely because of the circumstances of the overpayment.

These proposed regulations for title II and Black Lung will restrict findings that recovery is against equity and good conscience to situations where the overpaid individual, relying on the expectation of continued payment or on a notice that payment will be made, relinquishes a valuable right or changes his or her position for the worse. It will not be found to be against equity and good conscience to recover an overpayment when the individual has not experienced any loss. These

provisions are incorporated in proposed §§ 404.509, 410.562a, and 416.554.

Executive Order 12291: These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required. The only section of the regulations that is expected to result in increased savings is the 60-day time limit for filing waiver requests. It is estimated that savings will increase by approximately $1.7 million in FY 1983, $3.5 million in FY 1984, and $3.4 million in FY 1985. Administrative costs related to the proposal are negligible because SSA's process for handling requests for waivers will not change.

Paperwork Reduction Act—These regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act—We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-age, Survivors and disability insurance.

20 CFR Part 410

Administrative practice and procedure, Black lung benefits, Death benefits, Disabled, Miners.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI)

(Secs. 204, 205, 227, 1102, 1631(b) and (d) of the Social Security Act; Secs. 413 of the Federal Coal Mine Health and Safety Act of 1969, as amended; 49 Stat. 624 as amended, 53 Stat. 1368 as amended, 79 Stat. 379 as amended, 49 Stat. 647 as amended, 67 Stat. 18,631, 83 Stat. 793, 86 Stat. 1476; 30 U.S.C. 923, 42 U.S.C. 404, 405, 427, 1302, 1383(b) and (d))

(Catalog of Federal domestic Assistance Program Nos. 13.802, Social Security Disability Insurance; 13.803, Social Security Retirement Insurance; 13. 805 Social Security Survivors Insurance; 13.806, Special Benefits for Disabled Coal Miners; 13.807, Supplemental Security income Program)

Dated: October 27, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: January 19, 1983.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 404—[AMENDED]

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 404.502a is amended by adding the following sentence to the end of section to read as follows:

§ 404.502a Notice of right to waiver consideration.

* * * * *

The notice will explain that waiver must be requested within 60 days of the date an individual receives notice of the last administrative or judicial decision concerning the fact and amount of the overpayment. It will be assumed that the notice is received 5 days after the date on the notice, unless there is evidence that the notice was not received in the 5-day period. A request for waiver after the time limit will not be considered unless the overpaid individual establishes good cause (see § 404.506a).

2. Section 404.506 is revised to read as follows:

§ 404.506 When waiver of recovery may be applied.

Section 204(b) of the Act provides that there shall be no recovery of a title II overpayment when:

(a) The person from whom recovery is sought is without fault; and

(b) Recovery would either:

(1) Defeat the purpose of title II of the Act, or

(2) Be against equity and good conscience.

3. A New § 404.506a is added to read as follows:

§ 404.506a When waiver of recovery must be requested.

Waiver of overpayment recovery must be requested within 60 days of the date an individual receives notice of the last administrative or judicial decision concerning the fact and amount of the overpayment. A request for waiver after the time limit will not be considered unless the individual establishes good cause in accordance with § 404.911.

4. Section 404.507 is revised to read as follows:

§ 404.507 Waiver of recovery—"without fault."

The individual seeking relief from overpayment recovery must be "without fault." For purposes of waiver, the "fault" of the overpaid person and the "fault" of the individual seeking relief under the waiver provisions are separate issues. Thus, if the individual who received the overpayment is not the individual requesting waiver, the fault of the former is irrelevant. Also, the overpaid individual, or any other individual from whom the Social Security Administration seeks to recover the overpayment, is not "without fault" solely because the Social Security Administration may have been at fault in making the overpayment.

5. A new § 404.507a is added to read as follows:

§ 404.507a When an individual is "at fault".

(a) *General.* Although the finding depends on all of the circumstances in a particular case, an individual will be found to have been at fault in causing an overpayment when an incorrect payment resulted from one of the following:

(1) Failure to furnish information which the individual knew or should have known was material;

(2) An incorrect statement made by the individual which he or she knew or should have known was incorrect (this includes the individual's furnishing an opinion or conclusion when asked for facts); or

(3) The individual did not return a payment which he or she knew or could have been expected to know was incorrect.

(b) *Degree of care.* An individual will be "at fault" if the Administration has evidence which shows that the individual demonstrated either a lack of good faith or failure to exercise a high degree of care in reporting changes in circumstances which may affect entitlement to or the amount of benefits. As indicated in § 404.507b, the degree of care expected of an individual may vary with the complexity of the circumstances giving rise to the overpayment and the capacity of the particular payee to realize that he or she is being overpaid. Accordingly, variances in the personnel circumstances and situations of individual payees are to be considered in determining whether the individual exercised the degree of care necessary to warrant a finding of "without fault".

(c) *Subsequent deduction overpayments.* An individual will be at fault where, after having once been found not responsible for a deduction overpayment and after having been advised of the correct interpretation of the deduction provision, the individual incurs another deduction overpayment

under the same circumstances as the first overpayment.

6. A new § 404.507b is added to read as follows:

§ 404.507b. When an individual is "without fault".

Whether an individual is "without fault" depends on all the circumstances surrounding the overpayment in the particular case. The Social Security Administration considers the individual's understanding of the reporting requirements, the agreement to report events affecting payments, knowledge of the occurence of events that should have been reported, efforts to comply with the reporting requirements, opportunities to comply with the reporting requirements, understanding of the obligation to return payments which were not due, and ability to comply with the reporting requirements (e.g., age, comprehension, memory, physical and mental condition). Although "without fault" is not limited to the overpayment circumstances described below, an individual is "without fault", except as provided in § 404.507a, if it is established after consideration of all the factors stated above that failure to report or acceptance of an incorrect payment was due to one of the following:

(a) The individual relied on misinformation given to him or her (or his or her representative) by an official source within the Social Security Administration (or other governmental agency which the individual had reason to believe was connected with the administration of benefits under Title II of the Act) as to the interpretation of a pertinent provision of the Social Security Act or regulations pertaining thereto.

(b) Death caused the earning limit for purposes of deduction and the charging of excess earnings to be reduced below the earnings limit for the taxable year.

(c) Reasonable belief that only net cash earnings ("take-home" pay) are included in determining the annual earnings limitation or the monthly earnings limitation under section 203(f) of the Act.

(d) Reasonable belief that earnings from employment or net earnings from self-employment prior to entitlement would be excluded. This provision does not apply if earnings in the taxable year, beginning with the first month of entitlement, exceeded the earnings limitations amount for the year.

(e) Unawareness that earnings were in excess of the earnings limitations or that the excess should have been reported where these earnings were greater than anticipated because of:

(1) Retroactive increases in pay, including back-pay awards;

(2) Work at a higher pay rate than realized;

(3) Failure of the employer of an individual unable to keep accurate records to restrict the amount of earnings or the number of hours worked in accordance with a previous agreement with such individual; or

(4) The occurrence of five Saturdays (or other work days, e.g., five Mondays) in a month and the earnings for the services on the fifth Saturday or other work day caused the deductions.

(f) The continued issuance of benefits after notice to the Administration of the event which caused or should have caused termination or deductions, provided that the continued issuance of benefits led to the belief in good faith that the individual was entitled to the benefits subsequently received.

(g) Lack of knowledge that bonuses, vacation pay, or similar payments constitute earnings for purposes of the annual earnings limitation.

(h) Reasonable belief that earnings in excess of the earnings limitation amount for the taxable year would cause deductions only for months beginning with the first month in which earnings exceeded the earnings limitation amount. This provision is applicable only if earnings are timely reported to the Administration in accord with this belief during the taxable year when the individual's earnings reached the applicable limitation amount for such year.

(i) Lack of knowledge by a wife, husband, or child entitled to wife's, husband's, or child's insurance benefits, as the case may be, that the individual entitled to benefits on the same earnings record has incurred or would incur deductions, provided the wife, husband, or child is not living with such beneficiary.

(j) Reasonable belief that net earnings from self-employment after the attainment of age 72 (age 70 effective January 1983) would not cause deductions for any months in the taxable year in which age 72 (age 70 effective January 1983) was attained (see § 404.430(a)).

(k) Reasonable belief by an individual entitled to child's, wife's, husband's, widow's, widower's, mother's, father's or parent's insurance benefits that earnings from employment and/or net earnings from self-employment after the termination of entitlement (other than termination by reason of entitlement to an old-age insurance benefit) in the taxable year in which the termination event occurred would not cause deduction from benefits payable for months prior to the month of termination in that taxable year.

(l) Failure to understand the deduction provisions of the Act or the occurrence of unusual or unavoidable circumstances the nature of which clearly shows that the individual was unaware of a violation of such deduction provisions. These provisions do not apply unless there was a bona fide attempt to restrict annual earnings or otherwise comply with the deduction provisions of the Act.

7. Section 404.508 is revised to read as follows:

§ 404.508 Waiver of recovery—defeat the purpose of title II.

(a) *General:* Recovery of an overpayment will defeat the purpose of title II if recovery would cause hardship by depriving the individual from whom recovery is sought of income and resources needed for ordinary and necessary living expenses under the criteria set out in this section. Whether recovery would defeat the purpose of this title depends upon whether the individual has income or resources sufficient for more than ordinary and necessary needs. Recovery will defeat the purpose of title II to the extent that:

(1) The individual from whom recovery is sought needs substantially all of his or her current income (including social security monthly benefits) to meet current ordinary and necessary living expenses; and

(2) The individual's assets do not exceed the resource base of $3,000 for an individual or $5,000 for an individual with a spouse or one dependent plus $600 for each additional dependent.

(b) *Income.* The individual's total income includes any funds which may reasonably be considered available for his or her use, regardless of the source. Income to a spouse will not be considered available to the individual unless the spouse was living in the household both at the time the overpayment was incurred and at the time waiver is considered. Types of income include but are not limited to:

(1) Government benefits such as Black Lung, Social Security, Railroad Workers' Compensation, and Unemployment Compensation benefits;

(2) Wages and self-employment income;

(3) Regular payments such as rent or pensions; and

(4) Investment income.

(c) *Ordinary and necessary living expenses.* An individual's ordinary and necessary living expenses include:

(1) Fixed living expenses, such as food and clothing, rent, mortgage payments,

utilities, maintenance, insurance (e.g., life, accident, and health insurance, including premiums for supplementary medical insurance benefits under title XVIII), taxes, installment payments, etc.;

(2) Medical, hospitalization, and other similar expenses;

(3) Expenses for the support of others for whom the individual is responsible; and

(4) Miscellaneous expenses (e.g., newspapers, haircuts) not to exceed $25.00 per month.

(d) *Resources:* An individual's resources include:

(1) Liquid Assets—cash on hand, the value of stocks, bonds, savings accounts, mutual funds, and the like; and

(2) Non-Liquid Assets—the fair market value of property such as a camper, second home, extra automobile, jewelry, or mink coat.

Resources, for purposes of this section, do not include the value of household furnishings, wearing apparel, family automobile, burial plot or prepaid burial contract, a home which the person maintains as the principal family domicile, or income producing property if the income from such property has been included in comparing income and expenses.

8. Section 404.509 is revised to read as follows:

§ 404.509 Waiver of recovery—against equity and good conscience.

Recovery is considered to be inequitable and contrary to good conscience when a person, in reliance on such payments or on notice that such payment would be made, relinquished a valuable right or changed his position for the worse. In making such a decision, the individual's ability to repay the overpayment is not material to the decision.

Example 1. After being awarded old-age insurance benefits, an individual resigned from employment on the assumption he would receive regular monthly benefit payments. It was discovered 3 years later that (due to administration error) his award was erroneous because he did not have the required insured status. Because of his age, the individual was unable to get his job back and could not get any other employment. In this situation, recovery of the overpayment would be against equity and good conscience because the individual gave up a valuable right.

Example2. A widow, relying on her benefits, enrolled her daughter in college. After the widow received payments for almost a year, the deceased worker was found not to have been insured and all payments were incorrect. The widow has no other funds with which to pay the daughter's college expenses. Having enrolled the daughter in college and thus incurred a financial obligation toward which the benefits had been applied, she was in a worse position finacially than if she had never been entitled to benefits. In this situation, recovery of the overpayment would be inequitable.

§ 404.510 [Removed]

9. Section 404.510 is removed.

§ 404.510a [Removed]

10. Section 404.510a is removed.

§ 404.511 [Removed]

11. Section 404.511 is removed.

§ 404.512 [Removed]

12. Section 404.512 is removed.

PART 410—[AMENDED]

Part 410 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

13. Section 410.561 is amended by adding the following sentence to the end of the section to read as follows:

§ 410.561 Notice of right to waiver consideration.

* * * * *

The notice will explain that waiver must be requested within 60 days of the date an individual receives notice of the last administrative or judicial decision concerning the fact and amount of the overpayment. It will be assumed that the notice is received 5 days after the date on the notice, unless there is evidence that the notice was not received in the 5-day period. A request for waiver after the time limit will not be considered unless the overpaid individual establishes good cause (see § 410.561b).

14. Section 410.561a is revised to read as follows:

§ 410.561a When waiver of recovery may be applied.

There shall be no recovery of an overpayment when:

(a) The person from whom recovery is sought is without fault; and

(b) Recovery would either:

(1) Defeat the purpose of title IV of the Act, or

(2) Be against equity and good conscience.

15. Section 410.561b is revised to read as follows:

§ 410.561b When waiver of recovery must be requested.

Waiver of overpayment recovery must be requested within 60 days of the date an individual receives notice of the last administrative or judicial decision concerning the fact and amount of the overpayment. A request for waiver after the time limit will not be considered unless the person establishes good cause in accordance with § 404.911.

16. Section 410.561c is revised to read as follows:

§ 410.561c Waiver of recovery—"without fault."

The individual seeking relief from overpayment recovery must be "without fault". For purposes of waiver, the "fault" of the overpaid person and the "fault" of the individual seeking relief under the waiver provisions are separate issues. Thus, if the individual who initially received the overpayment is not the individual requesting waiver, the fault of the former is irrelevent. Also, the overpaid individual, or any other individual from whom the Social Security Administration seeks to recover the overpayment, is not "without fault" solely because the Social Security Administration may have been at fault in making the overpayment.

17. Section 410.561d is revised to read as follows:

§ 410.561d When an individual is "at fault".

(a) *General.* Although the finding depends on all of the circumstances in a particular case, an individual will be found to have been at fault in causing an overpayment when an incorrect payment resulted from one of the following:

(1) Failure to furnish information which the individual knew or should have known was material;

(2) An incorrect statement made by the individual which he or she knew or should have known was incorrect (this includes the individual's furnishing an opinion or conclusion when asked for facts); or

(3) The individual did not return a payment which he or she knew or could have been expected to know was incorrect.

(b) *Degree of care.* An individual will be "at fault" if the Social Security Administration has evidence which shows that the individual demonstrated either a lack of good faith or failure to exercise a high degree of care in reporting changes in circumstances which may affect entitlement to or the amount of benefits. As indicated in § 410.561d, the degree of care expected of an individual may vary with the complexity of the circumstances giving rise to the overpayment and the capacity of the particular payee to realize that he or she is being overpaid. Accordingly, variances in the personal circumstances and situations of

individual payees are to be considered in determining whether the individual exercised the degree of care necessary to warrant a finding of "without fault".

(c) *Subsequent deduction overpayments.* An individual will be "at fault" where, after having once been found not responsible for a deduction overpayment and after having been advised of the correct interpretation of the deduction provision, the individual incurs another deduction overpayment under the same circumstances as the first overpayment.

18. Section 410.561e is revised to read as follows:

§ 410.561e When an individual is "without fault".

Whether an individual is "without fault" depends on all the circumstances surrounding the overpayment in the particular case. The Social Security Administration considers the individual's understanding of the reporting requirements, the agreement to report events affecting payments, knowledge of the occurrence of events that should have been reported, efforts to comply with the reporting requirements, opportunities to comply with the reporting requirements, understanding of the obligation to return payments which were not due, and ability to comply with the reporting requirements (e.g., age, comprehension, memory, physical and mental condition). Although "without fault" is not limited to the overpayment circumstances described below, an individual is "without fault", except as provided in § 410.561d, if it is established to the satisfaction of the Secretary that failure to report or acceptance of an incorrect payment was due to one of the following:

(a) The individual relied on misinformation given to him or her (or his or her representative) by an official source within the Social Security Administration (or other governmental agency which the individual had reason to believe was connected with the Social Security Administration) as to the interpretation of a pertinent provision of the Social Security Act or regulations pertaining thereto.

(b) Death caused the earnings limit for purposes of deduction and the charging of excess earnings to be reduced below the earnings limit for the taxable year.

(c) Reasonable belief that only net cash earnings ("take-home" pay) are encluded in determining the annual earnings limitation or the monthly earnings limitation under section 203 (f) of the Act.

(d) Reasonable belief that earnings from employment or net earnings from self-employment prior to entitlement would be excluded. This provision does not apply if earnings in the taxable year, beginning with the first month of entitlement, exceeded the earnings limitation amount for the year.

(e) Unawareness that earnings were in excess of the earnings limitation or that the excess should have been reported where these earnings were greater than anticipated because of:

(1) Retroactive increases in pay, including back-pay awards;

(2) Work at a higher pay rate than realized;

(3) Failure of the employer of an individual unable to keep accurate records to restrict the amount of earnings or the number of hours worked in accordance with a previous agreement with such individual; or

(4) The occurrence of five Saturdays (or other work days, e.g., five Mondays) in a month and the earnings for the services on the fifth saturday or other work day caused the deductions.

(f) The continued issuance of benefits after notice to the Administration of the event which caused or should have caused termination or deductions, provided that the continued issuance of benefits led to the belief in good faith that the individual was entitled to the benefits subsequently received.

(g) Lack of knowledge that bonuses, vacation pay, or similar payments constitute earnings for purposes of the annual earning limitation.

(h) Reasonable belief that earnings in excess of the earnings limitation amount for the taxable year would cause deductions only for months beginning with the first month in which earnings exceeded the earnings limitation amount. This provision is applicable only if earnings are timely reported to the Administration in accord with this belief during the taxable year when his or her earnings reached the applicable limitation amount for such year.

(i) Reasonable belief that net earnings from self-employment after the attainment of age 72 (age 70 effective January 1983) would not cause deductions for any months in the taxable year in which age 72 (age 70 effective January 1983) was attained.

(j) Reasonable belief by an individual entitled to benefits that earnings from employment or net earnings from self-employment after the termination of entitlement in the taxable year in which the termination event occurred would not cause deduction from benefits payable for months prior to the month of termination in that taxable year.

(k) Failure to understand the deduction provisions of the Act or the occurrence of unusual or unavoidable circumstances the nature of which clearly shows that the individual was unaware of a violation of such deduction provisions. These provisions do not apply unless there was a bona fide attempt to restrict annual earnings or otherwise comply with the deduction provisions of the Act.

§ 410.561f [Removed]

19. Section 410.561f is removed.

§ 410.561g [Removed]

20. Section 410.561g is removed.

§ 410.461h [Removed]

21. Section 410.561h is removed.

22. A new § 410.562 is added to read as follows:

§ 410.562 Waiver of recovery—defeat the purpose of Title IV.

(a) *General Rule.* Recovery of an overpayment will defeat the purpose of title IV if recovery would cause hardship by depriving the individual from whom recovery is sought of income and resources needed for ordinary and necessary living expenses under the criteria set out in this section. Whether recovery would defeat the purpose of this title depends upon whether the individual has income or resources sufficient for more than ordinary and necessary needs. Recovery will defeat the purpose of title IV to the extent that:

(1) The individual from whom recovery is sought needs substantially all of his or her current income (including social security monthly benefits) to meet current ordinary and necessary living expenses; and

(2) The individual's assets do not exceed the resource base of $3,000 for an individual or $5,000 for an individual with a spouse or one dependent plus $600 in assets for each additional dependent.

(b) *Income.* The individual's total income includes any funds which may reasonably be considered available for his or her use, regardless of the source. Income to a spouse will not be considered available to the individual unless the spouse was living in the household both at the time the overpayment was incurred and at the time waiver is considered. Types of income include but are not limited to:

(1) Government benefits such as Black Lung, Social Security, Railroad Workers' Compensation, and Unemployment Compensation benefits;

(2) Wages and self-employment income;

(3) Regular payments such as rent or pensions; and

(4) Investment income.

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(c) *Ordinary and necessary living expenses.* An individual's ordinary and necessary living expenses include:

(1) Fixed living expenses, such as food and clothing, rent, mortgage payments, utilities, maintenance, insurance (e.g., life, accident, and health insurance, including premiums for supplementary medical insurance benefits under title XVIII), taxes, installment payments, etc.;

(2) Medical, hospitalization, and other similar expenses;

(3) Expenses for the support of others for whom the individual is responsible; and

(4) Miscellaneous expenses (e.g., newspapers, haircuts) not to exceed $25.00 per month.

(d) *Resources:* An individual's resources include:

(1) Liquid Assets—cash on hand, the value of stocks, bonds, savings accounts, mutual funds, and the like; and

(2) Non-Liquid Assets—the fair market value of property such as a camper, second home, extra automobile, jewelry, or mink coat.

Resources, for purposes of this section, do not include the value of household furnishings, wearing apparel, family automobile, burial plot of prepaid burial contract, a home which the person maintains as the principal family domicile, or income producing property if the income from such property has been included in comparing income and expenses.

23. A new § 410.562a is added to read as follows:

§ 410.562a Waiver of recovery—against equity and good conscience.

Recovery is considered to be inequitable and contrary to good conscience when such person, in reliance on such payments or on notice that such payment would be made, relinquished a valuable right or changed his position for the worse. In making such a decision, the individual's ability to repay the overpayment is not material to the decision.

Example 1. After being awarded benefits, an individual resigned from employment on the assumption he would receive regular monthly benefit payments. It was discovered 3 years later that (due to administration error) his award was erroneous because he did not have pneumoconiosis. Because of his age, the individual was unable to get his job back, and could not get any other employment. In this situation, recovery of the overpayment would be against equity and good conscience because the individual gave up a valuable right.

Example 2. A widow, relying on her benefits, enrolled her daughter in college. After the widow received payments for almost a year, the deceased worker was found not to have had pneumoconiosis and all payments were incorrect. The widow has no other funds with which to pay the daughter's college expenses. Having enrolled the daughter in college and thus incurred a financial obligation toward which the benefits had been applied, she was in a worse position financially than if she had never been entitled to benefits. In this situation, recovery of the overpayment would be inequitable.

PART 416—[AMENDED]

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

24. Section 416.550 is revised to read as follows:

§ 416.550 Notice is relating to overpayments and underpayments.

(a) *Notice of overpayment and underpayment determination.* Whenever a determination concerning the amounts paid and payable for any period is made and it is found that, with respect to any month in the period, more or less than the correct amount was paid, written notice of the correct and incorrect amounts for each such month in the period will be sent to the individual against whom adjustment or recovery of the overpayment as defined in § 416.537(a) may be effected or to whom the underpayment as defined in § 416.536 would be payable, notwithstanding the fact that part or all of the underpayment must be withheld in accordance with § 416.543. When notifying an individual of a determination of overpayment, the Social Security Administration will, in the notice, also advise the individual that adjustment or recovery is required except under certain specified conditions and of his right to request waiver of adjustment or recovery of the overpayment under the provisions of § 416.550a.

(b) *Notice of right to waiver consideration.* The notice will explain that waiver must be requested within 60 days of the date an individual receives notice of the last administrative or judicial decision concerning the fact and amount of the overpayment. It will be assumed that the notice is received 5 days after the date on the notice, unless there is evidence that the notice was not received in the 5-day period. A request for waiver after the time limit will not be considered unless the overpaid individual establishes good cause in accordance with § 416.1411 (see § 416.550b).

25. A new § 416.550a is added to read as follows:

§ 416.550a When waiver of recovery may be applied.

Section 1631(b) of the Act provides that there shall be no recovery of a supplemental security income overpayment when:

(a) The person from whom recovery is sought is without fault; and

(b) Recovery would either:

(1) Defeat the purpose of title XVI of the Act, or

(2) Be against equity or good conscience, or

(3) Impede efficient or effective administration of title XVI due to the small amount involved.

26. A new § 416.550b is added to read as follows:

§ 416.550b When waiver of recovery must be requested.

Waiver of overpayment recovery must be requested within 60 days of the date an individual receives notice of the last administrative or judicial decision concerning the fact and amount of the overpayment. A request for waiver after the time limit will not be considered unless the individual establishes good cause in accordance with § 416.1411.

27. Section 416.553 is amended by removing the introductory paragraph and by revising paragraph (a) to read as follows:

§ 416.553 Waiver of recovery—defeat the purpose of Title XVI.

(a) *General Rule:* Recovery of an overpayment will defeat the purpose of the supplemental security income (SSI) program (title XVI) if recovery would cause hardship by depriving the individual from whom recovery is sought of income and resources needed for ordinary and necessary living expenses under the criteria set out in this section. Whether recovery would defeat the purpose of this title depends upon whether the individual has income or resources sufficient for more than ordinary and necessary needs. Recovery will defeat the purpose of title XVI to the extent that:

(1) The individual from whom recovery is sought needs substantially all of his or her current income (including social security monthly benefits) to meet current ordinary and necessary living expenses under the criteria set out in § 404.508 (b), (c), and (d); and

(2) The individual's assets do not exceed the resource base of $3,000 for an individual or $5,000 for an individual with a spouse or one dependent plus $600 in assets for each additional dependent.

* * * * *

28. Section 416.554 is revised to read as follows:

§ 416.554 Waiver of recovery—against equity or good conscience.

Waiver of recovery of an overpayment is proper when the person on whose behalf waiver is being considered is without fault, as defined in § 416.552, and recovery would be against equity or good conscience. Recovery is considered to be inequitable or contrary to good conscience when such person, in reliance on such payments or on notice that such payment would be made, relinquished a valuable right or changed his position for the worse. In making such a decision, the individual's financial circumstances are not material to the decision.

Example 1. Upon being notified that he was eligible for supplemental security income payments, an individual signed a lease on an apartment renting for $15 a month more than the room he had previously occupied. It was subsequently found that eligibility for the payment should not have been established. In such a case recovery would be considered against equity or good conscience.

Example 2. An individual fails to take advantage of private or organizational charity, relying instead on the award of supplemental security income payments to support himself. It was subsequently found that the money was improperly paid. Recovery would be considered against equity or good conscience.

29. Section 416.558 is revised to read as follows:

§ 416.558 Notice of waiver determination.

Written notice of an initial determination of waiver shall be given the individual in accordance with § 416.1404 unless the individual was not given notice of the overpayment in accordance with § 416.550.

[FR Doc. 83-3698 Filed 2-10-83; 8:45 am]
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Food and Drug Administration

21 CFR Part 500

[Docket No. 77N-0026]

Chemical Compounds in Food-Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues

AGENCY: Food and Drug Administration.

ACTION: Amended proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is modifying an existing proposal on the criteria for determining when to apply the sensitivity of method (SOM) procedures to compounds currently being evaluated for approval for use in food-producing animals. This proposed rule would establish criteria for determining when to apply the procedures in the existing proposal describing preapproval data requirements for potentially carcinogenic animal drugs and compounds currently being evaluated for approval for use in food producing animals.

DATE: Comments by April 12, 1983.

ADDRESS: Comments are to be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph Settepani, Bureau of Veterinary Medicine (HFV-300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4500.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 20, 1979 (44 FR 17070), FDA proposed rules, referred to as SOM, that would establish procedures and minimum criteria to prevent the occurrence of unacceptable levels of cancer-causing residues in edible products of food-producing animals to which drugs, food additives, or color additives have been administered. The proposed regulations are being considered by FDA and have not been made final. In the interim, FDA has been utilizing the SOM procedures as a guideline to be applied on a case-by-case basis to evaluate the safety of compounds administered to food-producing animals.

In section XII of the preamble to the proposed regulations ("Implementation"; 44 FR 17104), the agency said that a reasonable implementation of the procedures is necessary to avoid chaos in the marketplace, to permit an efficient application of SOM criteria, and to provide the maximum public health protection. Proposed § 500.98 (21 CFR 500.98) specified that the SOM regulations would apply to all new or pending applications and to already-approved compounds suspected or proven to be carcinogenic. As a result, some drugs understood by the drug sponsor to be approvable pending satisfactory completion of studies agreed upon by the sponsor and FDA were potentially subject to the SOM procedures. FDA has reconsidered the criteria it should use to decide the approvability of certain of those animal drug applications pending (or in the "pipeline") on March 20, 1979, and has concluded that it should not take the position that SOM procedures are necessarily required for those drugs.

The applications for which the agency has applied and will apply this policy involve only sponsored compounds that are neither demonstrated nor suspected carcinogens. Additional data regarding carcinogenicity would normally be required for these compounds if the SOM procedures applied. For "pipeline" drugs, however, the additional areas of SOM testing generally have been addressed by other studies that were agreed to and then accepted by the agency. Given these facts, the agency has concluded that adherence to the implementation provisions of SOM for these specific applications is undesirable because adherence would impose unnecessary additional expense and delay upon sponsors without providing a significantly greater assurance of safety. A critical aspect of this policy is the attempt to honor certain study requirements that have been imposed, followed, and which have produced data that do not call the safety of the product into question. It is the purpose of this modified proposal to promulgate specific criteria under which a limited number of applications will be approved on the basis of standards in effect shortly before March 20, 1979.

To be approvable, applications for new animal drugs must meet the requirements of section 512(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1)). Section 512(d)(1)(A) of the act provides that the safety of the drug (both to animals and to humans who may consume edible parts of treated animals) must be demonstrated by "adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof."

Science and our understanding of science are not static. In the area of human food safety evaluations, for example, 10 to 20 years ago knowledge of metabolites of sponsored compounds was not believed to be of critical importance. However, progress in the development and application of radioisotopic techniques in particular has brought about general acceptance of the value of metabolish studies as part of the safety evaluation of a compound. Similar changes have occurred in regard to toxicity assessments and toxicity testing. Recently, for example, regulatory agencies as well as the scientific community at large have recognized the utility of mutagenicity tests for decisionmaking regarding the acceptability of exposure of man to substances in the environment, the suitability of a chemical for premarketing development or its use as a therapeutic agent, or for priority

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ranking for chronic toxicological investigations. In light of our growing scientific knowledge, FDA now interprets the "adequate tests" language of section 512(d)(1)(A) as requiring the submission of total residue depletion data, information on drug metabolish, and, if appropriate, mutagenicity tests. Accordingly, it is FDA's present position that a drug cannot be said to be shown to be safe by adequate tests by all methods reasonably applicable without such data. The SOM procedures implement this position.

Even though the SOM procedures represent and reflect increased scientific understanding in the area of human safety evaluations, requirements for use of the procedures must be fairly administered. The agency has concluded that it would be inequitable not to approve products (1) for which the agency had shortly before March 20, 1979, established different data requirements necessary for approval; (2) which the agency had formally committed to approve based on these requirements; (3) which the agency had determined, based on data from studies conducted under criteria applied prior to March 20, 1979, raised no safety concern, and (4) with respect to which the agency has also determined that no known safety problems regarding the product have arisen since the time the studies based on the pre-March 20, 1979 criteria were begun. Accordingly, the agency is amending the implementation section of the proposed SOM to provide that FDA will apply the threshold assessment and implement the SOM provisions except where it can be demonstrated that:

(1) Substantial and acceptable work on the human food safety data requirements for an application was begun before March 10, 1979; and

(2) The administrative file reveals an FDA commitment to the sponsors before March 20, 1979, concerning the human food safety data required for approval; and

(3) The sponsor has continued its efforts to obtain a new animal drug application approval after receiving FDA's commitment; and

(4) The drug is shown to be safe under standards being applied shortly before March 20, 1979, and no apparent safety concerns exist regarding the product under the conditions prescribed, recommended, or suggested in the proposed labeling as required under section 512(d)(2) of the Act.

Provision (1) would exclude from eligibility those applications judged inadequate on the basis of unacceptable studies and those applications for which safety requirements had been discussed in preliminary correspondence with FDA but had not yet been substantially implemented by the sponsor.

Provision (2) would provide that sponsors must have written notification from the agency, before March 20, 1979, of new animal drug application data requirements under safety standards in effect at that time. Written documentation (such as review memoranda, memoranda of telephone conversations, minutes of meetings, letters, or formal notices) of these FDA-acknowledged requirements is necessary. Under this provision, sponsors claiming to have undocumented oral understandings would be considered ineligible for "pipeline" status.

In order to satisfy provision (3), the sponsor of a drug must have responded to the agency's requests for studies and the submission of data and the administrative record must demonstrate steady progress toward a new animal drug application approval. This provision would make ineligible all investigational new animal drug applications or new animal drug applications that were initiated well before March 20, 1979, but not pursued.

Provision (4) would require that before an application for a sponsored compound can be approved under the pipeline policy the agency must find that the compound is shown to be safe under the criteria in effect shortly before March 20, 1979, and that no known safety problems that would normally result in the denial of the application currently exist regarding the compound.

FDA, in compliance with the Federal Food, Drug, and Cosmetic Act, can approve a drug only if the drug is shown to be safe for use under the conditions prescribed. The agency would reserve the right not to apply "pipeline" procedures when new evidence not previously evaluated indicates that the proposed use of the drug may not be safe.

Until the SOM regulation is made final, the SOM procedures, including the proposed "pipeline" procedures, will continue to serve as a guideline for case-by-case consideration of applications. A new animal drug sponsor that believes that its products qualify for "pipeline" status should submit a letter to the appropriate division in the Bureau of Veterinary Medicine, 5600 Fishers Lane, Rockville, MD 20857, specifying how each of the four criteria has been met. All claimed supporting documentation should be clearly referenced. The agency requests that drug sponsors seeking access to "pipeline" status do so within 1 year of publication of this proposed revision.

The agency has determined pursuant to 21 CFR 25.24(b)(13) (proposed December 11, 1979; 44 FR 74742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Because this proposed rulemaking imposes no additional regulatory requirements but reduces the regulatory provisions of a previous proposal, and initial regulatory flexibility analysis as required by section 603 of the Regulatory Flexibility Act (94 Stat. 1167) is unnecessary. Accordingly, under section 605(b) of the Regulatory Flexibility Act, the Commissioner of Food and Drugs certifies that this rulemaking, if promulgated, will not have a significant economic impact on a substantial number of small entities.

The agency has determined that this action is not a "major rule" as defined in Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 21 CFR Part 500

Animal drugs, Animal feeds, Labeling, Polychlorinated biphenyls (PCB's).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 402, 403, 409, 512, 701(a), 706, 52 Stat. 1046–1048 as amended, 1055, 72 Stat. 1785–1788 as amended, 74 Stat. 399–403 as amended, 82 Stat. 343–351 (21 U.S.C. 342, 343, 348, 360b, 371(a), 376)) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982) it is proposed that § 500.98, which was proposed in the **Federal Register** of March 20, 1979, be revised to read as follows:

PART 500—GENERAL

§ 500.98 Implementation.

(a) This subpart applies to all new animal drug applications, food additive petitions, and color additive petitions concerning any compound intended for use in food-producing animals (including supplemental applications and amendments to petitions).

(b) This subpart also applies to the following compounds already approved:

(1) Those compounds that the Food and Drug Administration (FDA) determines, on the basis of available information, have been shown to induce cancer when ingested by man or animals.

(2) Those compounds that FDA determines may induce cancer when ingested by man or animals, i.e., suspect carcinogens.

(3) Any compound for which FDA concludes sufficient information has not been provided to determine whether residues of the sponsored compound present a risk of cancer to man.

(c) A sponsor may request an exception from this subpart for an application for which the sponsor can demonstrate that:

(1) Substantial and acceptable work on the human food safety data requirements for an application was begun before March 20, 1979.

(2) The administrative file: (i) Reveals an FDA commitment to the sponsor before March 20, 1979, concerning the human food safety data required for approval, and (ii) shows the sponsor's continued intention and efforts to obtain a new animal drug application approval after receiving FDA's commitment; and

(3) The drug is shown to be safe under standards being applied shortly before March 20, 1979, and no apparent safety concerns currently exist regarding the product under the conditions prescribed, recommended, or suggested in the proposed labeling as required under section 512(d)(2) of the act.

(d) Any compound already approved, to which FDA determines the anticancer provisions of the act apply, or for which additional data are required for such a determination, will be the subject of a notice published in the **Federal Register** or a letter issued under section 512(e) of the act establishing the time within which the requirements of this subpart shall be satisfied.

(1) Notices already published in the **Federal Register** and letters already sent by FDA requiring additional studies or submission of an improved regulatory assay will remain in effect, and this subpart will be used in determining compliance with the requirements of the act identified in those notices and letters.

(2) FDA will proceed to withdraw approval of any compound on the basis of data or information indicating a health hazard or in response to any failure to undertake studies necessary to comply with this subpart.

Interested persons may, on or before April 12, 1983 submit to the Dockets Management Branch (address above), written comments regarding this amended proposed rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Richard S. Schweiker,

Secretary of Health and Human Services.

Dated: January 18, 1983.

[FR Doc. 83-3627 Filed 2-10-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 501

[Docket No. 82P-0030]

Pet Food Institute; Citizen Petition on Class and Collective Names; Advance Notice of Proposed Rulemaking; Opportunity for Public Comment

Correction

In FR Doc. 83-1303 beginning on page 2136 in the issue of Tuesday, January 18, 1983, make the following corrections:

1. On page 2137, first column, 10 lines from the bottom, "liner programming" should have read "linear programming".

2. In § 501.111(b)(17), in the first column of page 2138, "While grain sorghum" should have read "Whole grain sorghum".

3. In § 501.111(b)(22), in the same column of page 2138, "ground rough rice of paddy rice," should have read "ground rough rice or paddy rice."

BILLING CODE: 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 25, and 301

[LR-213-81]

Time for Filing of Gift Tax Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This documents contains proposed regulations relating to the time for filing gift tax returns and the payment of gift taxes. Changes in the applicable tax law were made by the Economic Recovery Tax Act of 1981. The regulations would provide the public with the guidance needed to comply with the Act and would affect all persons who are required to file gift tax returns and pay gift taxes.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 12, 1983. The amendments are proposed to be effective for gifts made after December 31, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-213-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Barry S. Landau of the Interpretative Division Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224. Attention: CC:I (202) 566-3347, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1), Gift Tax Regulations (26 CFR Part 25), and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 1015, 2501 through 2504, 2511, 2513, 2514, 2516, 2517, 2522, 2524, 6075 and 6212 of the Internal Revenue Code of 1954 (Code). These amendments are proposed to conform the regulations to section 442 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 320) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

No amendments have been made herein to the regulations under sections 2523 and 6019, which are being considered separately.

Annual Return

The proposed regulations provide for the filing of gift tax returns and the payment of gift taxes on an annual basis. In addition, proposed regulation § 25.6075-2 sets forth rules regarding the time for filing a gift tax return for a calendar year which includes the date of death of the donor.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not

apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Barry S. Landau of the Interpretative Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR Part 1.1001–1—1.1102–3

Income taxes, Gain and loss, Basis, Nontaxable exchanges.

26 CFR Part 25

Gift taxes.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Disclosure of information, Filing requirements.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1, 25, and 301 are as follows:

PART 1—[AMENDED]

Paragraph 1. Section 1.1015–5 is amended as follows:

(a) Paragraph (b)(1)(i) is revised to read as set forth below.

(b) The first sentence of paragraph (b)(1)(ii) is revised to read as set forth below.

(c) The second sentence of paragraph (b)(2) is revised to read as set forth below.

§ 1.1015–5 Increased basis for gift tax paid.

* * * * *

(b) *Amount of gift tax paid with respect to a gift of property.* (1)(i) If only one gift was made during a certain "calendar period" (as defined in § 25.2502–1(c)(1)), the entire amount of the gift tax paid under chapter 12 or the corresponding provisions of prior revenue laws for that calendar period is the amount of the gift tax paid with respect to the gift.

(ii) If more than one gift was made during a certain calendar period the amount of the gift tax paid under chapter 12 or the corresponding provisions of prior revenue laws with respect to any specified gift made during that calendar period is an amount, A, which bears the same ratio to B (the total gift tax paid for that calendar period as C (the "amount of the gift," computed as described in this paragraph (b)(1)(ii)) bears to D (the total taxable gifts for the calendar period computed without deduction for the gift tax specific exemption under section 2521 (as in effect prior to its repeal by the Tax Reform Act of 1976) or the corresponding provisions of prior revenue laws). * * *

* * * * *

(2) * * * Where more than one gift of a present interest in property is made to the same donee during a "calendar period" (as defined in § 25.2502–1(c)(1)), the annual exclusion shall apply to the earliest of such gifts in point of time.

* * * * *

PART 25—[AMENDED]

Par. 2. Section 25.0–1 is amended by revising paragraph (a)(1) to read as set forth below.

§ 25.0–1 Introduction.

(a) *In general.* (1) The regulations in this part are designated "Gift Tax Regulations." These regulations pertain to (i) the gift tax imposed by chapter 12 of subtitle B of the Internal Revenue Code on the transfer of property by gift by individuals in the calendar year 1955, in subsequent calendar years beginning before the calendar year 1971, in calendar quarters beginning with the first calendar quarter of calendar year 1971 through the last calendar quarter of the calendar year 1981, and in calendar years beginning with the calendar year 1982, and (ii) certain related administrative provisions of subtitle F of the Code. It should be noted that the application of some of the provisions of these regulations may be affected by the provisions of an applicable gift tax convention with a foreign country. Unless otherwise indicated, references in these regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, and references to a section or other provision of law are references to a section or other provision of the Internal Revenue Code of 1954, as amended. The Gift Tax Regulations are applicable to the transfer of property by gift by individuals in calendar years 1955 through 1970, in calendar quarters beginning with the first calendar quarter of calendar year 1971 through the last calendar quarter of the calendar year 1981, and in calendar years beginning with the calendar year 1982, and supersede the regulations contained in Part 86, Subchapter B, Chapter 1, Title 26, Code of Federal Regulations (1939) (Regulations 108, Gift Tax (8 FR 10858), as prescribed and made applicable to the Internal Revenue Code of 1954 by Treasury Decision 6091, signed August 16, 1954 (19 FR 5167, Aug. 17, 1954).

Par. 3. Section 25.2501–1 is amended as follows:

(a) Paragraph (a)(1) is revised to read as set forth below.

(b) Paragraph (a)(3)(ii) is amended by removing "calendar quarter" the first time it appears and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))", removing "calendar quarter" every other time it appears and inserting in lieu thereof "calendar period", and by removing "such quarter" and inserting in lieu thereof "such period".

(c) Paragraph (a)(3)(iii) is removed.

§ 25.2501–1 Imposition of tax.

(a) *In general.* (1) The tax applies to all transfers by gift of property, wherever situated, by an individual who is a citizen or resident of the United States, to the extent the value of the transfers exceeds the amount of the exclusions authorized by section 2503 and the deductions authorized by sections 2521 (as in effect prior to its repeal by the Tax Reform Act of 1976), 2522, and 2523. For each "calendar period" (as defined in § 25.2502–1(c)(1)), the tax described in this paragraph (a) is imposed on the transfer of property by gift during such calendar period.

* * * * *

Par. 4. Section 25.2502–1 is amended as follows:

(a) Paragraph (a) is revised to read as set forth below.

(b) Paragraph (b) is revised to read as set forth below.

(c) Paragraph (c) is revised to read as set forth below.

(d) Example (1) of paragraph (d) is revised to read as set forth below.

(e) Example (2) of paragraph (d) is amended by removing "in accordance with rate schedule in paragraph (b)" and inserting in lieu thereof "in accordance with the rate schedule in effect for the year 1955".

(f) Example (3) of paragraph (d) is amended by removing "using rate schedule in paragraph (b) of this section" each time it appears in Example (3) and inserting in lieu thereof "in accordance with the rate schedule in effect for the year 1955".

(g) Example (5) of paragraph (d), is amended by removing "§ 25.2503–2(a)" and inserting in lieu thereof "§ 25.2503–2(b)", by removing "paragraph (a)(1)" and inserting in lieu thereof "paragraph (a)", by removing "preceding calendar years and calendar quarters" and inserting in lieu thereof "preceding calendar periods", and by removing "in accordance with the rate schedule in paragraph (b)" and inserting in lieu thereof "in accordance with the rate schedule in effect for the year 1971".

(h) Paragraph (d) is amended by adding a new example (6) immediately after example (5) to read as set forth below.

§ 25.2502–1 Rate of tax.

(a) *Computation of tax.* In the case of gifts made after June 6, 1932, the gift tax is imposed on a "calendar period" basis. For such gifts, the rate of tax is determined by the total of all gifts made by the donor during the calendar period and all the preceding calendar periods since June 6, 1932. See § 25.2502–1(c)(1) for the definition of "calendar period" and § 25.2502–1(c)(2) for the definition of "preceding calendar periods." The following six steps are to be followed in computing the tax:

(1) *First step.* Ascertain the amount of the "taxable gifts" (as defined in § 25.2503–1) for the calendar period for which the return is being prepared.

(2) *Second step.* Ascertain "the aggregate sum of the taxable gifts for each of the preceding calendar periods" (as defined in § 25.2504–1), considering only those gifts made after June 6, 1932.

(3) *Third step.* Ascertain the total amount of the taxable gifts, which is the sum of the amounts determined in the first and second steps.

(4) *Fourth step.* Compute the tentative tax on the total amount of taxable gifts (as determined in the third step) using the rate schedule in effect at the time the gift (for which the return is being filed) is made.

(5) *Fifth step.* Compute the tentative tax on the aggregate sum of the taxable gifts for each of the preceding calendar periods (as determined in the second step), using the same rate schedule set forth in the fourth step of this paragraph (a).

(6) *Sixth step.* Subtract the amount determined in the fifth step from the amount determined in the fourth step. The amount remaining is the gift tax for the calendar period for which the return is being prepared.

(b) *Rate of tax.* The tax is computed in accordance with the rate schedule in effect at the time the gift was made as set forth in section 2001(c) or corresponding provisions of law.

(c) *Definitions.* (1) The term "calendar period" means:

(i) Each calendar year for the calendar years 1932 (but only that portion of such year after June 6, 1932) through 1970;

(ii) Each calendar quarter for the first calendar quarter of the calendar year 1971 through the last calendar quarter of calendar year 1981; or

(iii) Each calendar year for the calendar year 1982 and each succeeding calendar year.

(2) The term "preceding calendar periods" means all calendar periods ending prior to the calendar period for which the tax is being computed.

(d) * * *

Example (1). Assume that in 1955 the donor made taxable gifts, as ascertained under the first step (paragraph (a)(2) of this section), of $62,500 and that there were no taxable gifts for prior years, with the result that the amount ascertainable under the third step is $62,500. Under the fourth step a tax is computed on this amount. Reference to the tax rate schedule in effect in the year 1955 discloses that the tax on this amount is $7,650.

* * * * *

Example (6). A makes gifts (other than gifts of future interests in property) during the calendar year 1982 of $160,000 to B and $100,000 to C. Two exclusions of $10,000 each are allowable, in accordance with the provisions of section 2503(b), which results in taxable gifts for 1982 of $240,000. In the first calendar quarter of 1978, A made taxable gifts totaling $100,000 on which gift tax was paid. For the calendar year 1969, A made taxable gifts totaling $50,000. The full amount of A's specific exemption provided under section 2521, which was in effect at the time, was claimed and allowed in 1968. The computation of the gift tax for the calendar period 1982 (following the steps set forth in paragraph (a) of this section) is shown below.

(1) Amount of taxable gifts for the calendar year 1982, $240,000.

(2) Total amount of taxable gifts for preceding calendar periods ($100,000 + $50,000), $150,000.

(3) Total taxable gifts, $390,000.

(4) Tax computed on item 3 (in accordance with rate schedule specified in paragraph (b)), $118,400.

(5) Tax computed on item 2 (using same rate schedule), $38,800.

(6) Tax for year 1982 (Item 4 minus item 5), $79,600.

Par. 5. The fifth sentence of § 25.2502–2 is revised to read as set forth below.

§ 25.2502–2 Donor primarily liable for tax.

* * * If a husband and wife effectively signify consent, under section 2513, to have gifts made to a third party during any "calendar period" (as defined in § 25.2502–1(c)(1)) considered as made one-half by each, the liability with respect to the gift tax of each spouse for that calendar period is joint and several (see § 25.2513–4). * * *

* * * * *

Par 6. Section 25.2503–1 is revised to read as set forth below.

§ 25.2503–1 General definitions of "taxable gifts" and of "total amount of gifts."

The term "taxable gifts" means the "total amount of gifts" made by the donor during the "calendar period" (as defined in § 25.2502–1(c)(1)) less the deductions provided for in sections 2521 (as in effect before its repeal by the Tax Reform Act of 1976), 2522, and 2523 (specific exemption, charitable, etc., gifts and the marital deduction, respectively). The term "total amount of gifts" means the sum of the values of the gifts made during the calendar period less the amounts excludable under section 2503(b). See § 25.2503–2. The entire value of any gift of a future interest in property must be included in the total amount of gifts for the calendar period in which the gift is made. See § 25.2503–3.

Par. 7. Section 25.2503–2 is amended as follows:

(a) Paragraphs (a) and (b) are redesignated as (b) and (c) respectively, and a new paragraph (a) is added immediately prior to redsignated paragraphs (b) and (c) to read as set forth below.

(b) Paragraph (b), as redesignated in this document, is amended by inserting "and before January 1, 1982" after "December 31, 1970".

§ 25.2503–2 Exclusions from gifts.

(a) *Gifts made after December 31, 1981.* The first $10,000 of gifts made to any one donee during calendar year 1982 or any calendar year thereafter except gifts of future interests inproperty as defined in §§ 25.2503–3 and 25.2503–4, is excluded in determining the total amount of gifts for the calendar year. In the case of a gift in trust the beneficiary of the trust is the donee.

* * * * *

Par. 8. Section 25.2503–3 is amended as follows:

(a) The first sentence of paragraph (a) is amended by removing "calendar quarter (calendar year in the case of gifts made before January 1, 1971)" and inserting in lieu thereof "calendar period" (as defined § 25.2502–1(c)(1))".

(b) The second sentence of paragraph (a) is removed.

Par. 9. Paragraph 25.2504–1 is amended as follows:

(a) Paragraph (a) is revised to read as set forth below.

(b) Paragraph (b) is revised to read as set forth below.

(c) Paragraph (c) is revised to read as set forth below.

(d) The first sentence of paragraph (d) is revised to read as set forth below.

§ 25.2504–1 Taxable gifts for preceding calendar periods.

(a) In order to determine the correct gift tax liability for any calendar period it is necessary to ascertain the correct amount, if any, of the aggregate sum of the taxable gifts for each of the preceding calendar periods. See paragraph (a) of § 25.2502–1. The term "aggregate sum of the taxable gifts for each of the preceding calendar periods" means the correct aggregate of such gifts, not necessarily that returned for those calendar periods and in respect of which tax was paid. All transfers that constituted gifts in prior calendar periods under the laws, including the provisions of law relating to exclusions from gifts, in effect at the time the transfers were made are included in determining the amount of taxable gifts for preceding calendar periods. The deductions other than for the specific exemption (see paragraph (b) of this section) allowed by the laws in effect at the time the transfers were made also are taken into account in determining the aggregate sum of the taxable gifts for preceding calendar periods. (The allowable exclusion from a gift is $5,000 for years before 1939, $4,000 for the calendar years 1939 through 1942, $3,000 for the calendar years 1943 through 1981, and $10,000 thereafter.)

(b) In determining the aggregate sum of the taxable gifts for the preceding calendar periods, the total of the amounts allowed as deductions for the specific exemption, under section 2521 (as in effect prior to its repeal by the tax Reform Act of 1976) and the corresponding provisions of prior laws, shall not exceed $30,000. Thus, if the only prior gifts by a donor were made in 1940 and 1941 (at which time the specific exemption allowable was $40,000), and if in the donor's returns for those years the donor claimed deductions totaling $40,000 for the specific exemption and reported taxable gifts totaling $110,000 then in determining the aggregate sum of the taxable gifts for the "preceding calendar periods" (as defined in § 25.2502–1(c)), the deductions for the specific exemption cannot exceed $30,000, and the donor's taxable gifts for such periods will be $120,000 (instead of the $110,000 reported on the donor's returns). (The allowable deduction for the specific exemption was $50,000 for calendar years before 1936, $40,000 for calendar years 1936 through 1942, and $30,000 for 1943 through 1976.)

(c) If the donor and the donor's spouse consented to have gifts made to third parties considered as made one-half by each spouse, pursuant to the provisions of section 2513 or section 1000(f) of the Internal Revenue Code of 1939 (which corresponds to section 2513), these provisions shall be taken into account in determining the aggregate sum of the taxable gifts for the preceding calendar periods (under paragraph (a) of this section).

(d) If interpretations of the gift tax law in preceding calendar periods resulted in the erroneous inclusion of property for gift tax purposes that should have been excluded, or the erroneous exclusion of property that should have been included, adjustments must be made in order to arrive at the correct aggregate of taxable gifts for the preceding calendar periods (under paragraph (a) of this section). * * *

Par. 10. Section 25.2504–2 is revised to read as set forth below.

§ 25.2504–2 Valuation of certain gifts for preceding calendar periods.

Section 2504(c) provides that if the valuation of a transfer for gift tax purposes with respect to a gift made in a "preceding calendar period," as defined in § 25.2502–1(c)(2), is at issue, and if the statutory period within which an assessment may be made with respect to the gift has expired and a tax has been actually assessed or paid for such prior calendar period, then the value of the gift, for purposes of arriving at the correct amount of the taxable gifts for the preceding calendar periods (under § 25.2504–1(a)), is the value that was used in computing the tax for the last preceding calendar period for which a tax was assessed or paid under chapter 12 of the Internal Revenue Code of 1954 or the corresponding provisions of prior laws. However, this rule will not prevent an adjustment in value where no tax was paid or assessed for the prior calendar period. Furthermore, this rule does not apply to adjustments involving issues other than valuation. See paragraph (d) of § 25.2504–1.

§ 25.2511–1 [Amended]

Par. 11. Section 25–2511–1 is amended as follows:

(a) The second sentence of paragraph (d) is amended by removing "calendar quarter (or calendar year)" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The last sentence of paragraph (d) is removed.

§ 25.2511–2 [Amended]

Par. 12. Section 25.2511–2 is amended as follows:

(a) The third from last sentence of paragraph (f) is amended by removing "calendar quarter or calendar year" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The next to last sentence of paragraph (f) is removed.

(c) The first sentence of paragraph (j) is amended by removing "calendar quarter or calendar year" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

(d) The last sentence of paragraph (j) is removed.

Par. 13. Section 25.2513–1 is amended as follows:

(a) The second sentence of paragraph (a) is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The last sentence of paragraph (a) is removed.

(c) The first sentence of paragraph (b) is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1)", and by removing "calendar quarter (or calendar year)" and inserting in lieu thereof "calendar period".

(d) The third sentence of paragraph (b) is amended by removing "calendar quarter (or calendar year)" and inserting in lieu thereof "calendar period" and by removing "calendar quarter or calendar year" and inserting in lieu thereof "calendar period".

(e) Paragraph (b)(1) is amended by removing "calendar quarter or calendar year" each time it appears and inserting in lieu thereof "calendar period".

(f) Paragraph (b)(2) is amended by removing "calendar quarter or calendar year" each time it appears and inserting in lieu thereof "calendar period".

(g) Paragraph (b)(5) is amended by removing "calendar quarter or calendar year" each time it appears and inserting in lieu thereof "calendar period".

(h) Paragraph (c) is revised to read as set forth below.

§ 25.2513–1 Gifts by husband or wife to third party considered as made one-half by each.

* * * * *

(c) If a husband and wife consent to have the gifts made to third party donees considered as made one-half by each spouse, and only one spouse makes gifts during the "calendar period" (as defined in § 25.2502–1(c)(1)), the other spouse is not required to file a gift tax return provided: (1) The total value of the gifts made to each third party donee since the beginning of the calendar year is not in excess of $20,000 ($6,000 for calendar years prior to 1982), and (2) no portion of the property transferred constitutes a gift of a future interest. If a transfer made by either spouse during the calendar period to a third-party represents a gift of a future interest to proerty and the spouses consent to have the gifts considered as made one-half by each, a gift tax return for such calendar period must be filed by each spouse regardless of the value of the transfer. (See § 25.2503–3 for the definition of a future interest.)

* * * * *

§ 25.2513–2 [Amended]

Par 14. Section 25.2513–2 is amended as follows:

(a) The first sentence of paragraph (a)(1) is amended by removing "calendar quarter (a calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof "calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The next to last sentence of paragraph (a)(1) is amended by removing "calendar quarter (or a calendar year)" and inserting in lieu thereof "calendar period".

(c) The last sentence of paragraph (a)(1) is amended by removing "§ 25.6075–1" and inserting in lieu thereof "§§ 25.6075–1 and 25.6075–2".

(d) The first sentence of paragraph (a)(2) is amended by inserting "For gifts made after December 31, 1970, and before January 1, 1982," prior to "Subject to the limitations", and by removing "Subject" and inserting "subject".

(e) The first sentence of paragraph (b)(1) is amended by removing "With respect to gifts made after December 31, 1970" and inserting in lieu thereof "With respect to gifts made after December 31, 1970, and before January 1, 1982".

(f) The first sentence of paragraph (b)(2) is amended by removing "With respect to gifts made before January 1, 1971" and inserting in lieu thereof "With respect to gifts made before January 1, 1971, or after December 31, 1981".

(g) Paragraph (d) is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

§ 25.2513–3 [Amended]

Par. 15. Section 25.2513–3 is amended as follows:

(a) Paragraph (a) is amended by redesignating paragraph (a)(1) as paragraph (a)(2) and paragraph (a)(2) as (a)(1) and by placing redesignated paragraph (a)(2) immediately following redesignated paragraph (a)(1).

(b) The first sentence of paragraph (a)(1), as redesignated by this document, is amended by removing "With respect to gifts made before January 1, 1971" and inserting in lieu thereof "With respect to gifts made after December 31, 1981, or before January 1, 1971".

(c) The first sentence of paragraph (a)(2), as redesignated by this document, is amended by removing "With respect to gifts made after December 31, 1970" and inserting in lieu thereof "With respect to gifts made after December 31, 1970, and before January 1, 1982".

(d) The last sentence of paragraph (a)(2), as redsignated by this document, is removed.

§ 25.2513–4 [Amended]

Par.16. Section 25.2513–4 is amended as follows:

(a) The first sentence is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The last sentence is removed.

§ 25.2514–3 [Amended]

Par. 17. Section 25.2514–3 is amended as follows:

(a) The next to last sentence of paragraph (c)(2) is amended by removing "calendar year or calendar quarter" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The last sentence of paragraph (c)(2) is removed.

§ 25.2516–1 [Amended]

Par. 18. Section 25.2516–1 is amended as follows:

(a) The first sentence of paragraph (b) is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The last sentence of paragraph (b) is removed.

§ 25.2517–1 [Amended]

Par. 19. Section 25.2517–1 is amended as follows:

(a) The next to last sentence of paragraph (a)(1) is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereor " "calendar period" (as defined in § 25.2502–1(c)(1))".

(b) The last sentence of paragraph (a)(1) is removed.

§ 215.2522(a)– [Amended]

Par. 20. The first sentence of paragraph (a) of § 25.2522(a)–1 is amended by removing "in determining the amount of taxable gifts for the calendar quarter as defined in § 25.2502–1(c)(1) (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof "In determining the amount of taxable gifts for the "calendar period" (as defined in § 25.2502–1(c)(1))", and by removing "calendar quarter or calendar year" and inserting in lieu thereof "calendar period".

§ 25.2524–1 [Amended]

Par. 21. Section 25.2524–1 is amended by removing "calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971)" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

§ 25.6075–1 [Amended]

Par. 22. Section 25.6075–1 is amended as follows:

(a) The heading of section 25.6075–1 is amended by removing "after December 31, 1976" and inserting in lieu thereof "after December 31, 1976, and before January 1, 1982".

(b) Paragraph (a)(2)(ii) is amended by removing "For gifts made on or after January 1, 1979" and inserting in lieu thereof "For gifts made after December 31, 1978, and before January 1, 1982".

(c) Paragraph (b)(2)(ii) is amended by removing "For gifts made on or after January 1, 1979" and inserting in lieu thereof "For gifts made after December 31, 1978, and before January 1, 1982".

(d) Paragraph (e) is amended by removing "December 31, 1976" and inserting in lieu thereof "December 31, 1976, and before January 1, 1982".

Par. 23. A new section is added immediately following § 25.6075–1 to read as set forth below.

§ 25.6075–2 Returns, time for filing gift tax returns for gifts made after December 31, 1981.

(a) *In general.* Except as provided in paragraphs (b) (1) and (2) of this section, a return required to be filed under section 6019 for gifts made after December 31, 1981, must be filed on or before the 15th day of April following the close of the calendar year in which the gift was made.

(b) *Special rules*—(1) *Extensions.* Except as provided in paragraph (b)(2) of this section, if a taxpayer files an income tax return on the calendar year basis and the taxpayer is granted an extension of time for filing the return of income tax imposed by Subtitle A of the Internal Revenue Code, then such taxpayer shall aiso be deemed to have been granted an extension of time for filing the gift tax return under section 6019 for such calendar year equal to the extension of time granted for filing the income tax return. See section 6081 and the regulations thereunder for rules relating to extension of time for filing returns.

(2) *Death of donor.* Where a gift is made during the calendar year in which the donor dies, the time for filing the returns made under section 6019 shall not be later than the time (including extensions) for filing the return made under section 6018 (relating to estate tax returns) with respect to such donor. In addition, should the time for filing the estate tax return fall later than the 15th day of April following the close of the calendar year, the time for filing the gift tax return shall be on or before the 15th day of April following the close of the calendar year, unless an extension (not extending beyond the time for filing the estate tax return) was granted for filing the gift tax return.

(c) Paragraphs (a) and (b) may be illustrated by the following examples.

Example (1). Donor makes a taxable gift on April 1, 1982, for which a return must be made under section 6019. Donor files the income tax return on the calendar year basis. The donor was granted a 4-month extension from April 15, 1982 to August 15, 1982, in which to file the 1982 income tax return. Under these circumstances, the donor is not required to file the gift tax return prior to August 15, 1982. See paragraph (b)(1) of this section.

Example (2). Donor makes a taxable gift on April 1, 1982, for which a return must be made under section 6019. The donor dies on May 1, 1982. Under these circumstances, since the due date for filing the estate tax return, February 1, 1983 (assuming an estate tax return under 6018 was required to be filed), falls prior to the due date for the gift tax return (as specified in section 6075(b)(1)), the last day for filing the gift tax return is February 1, 1983. See paragraph (b)(2) of this section.

Example (3). The facts are the same as in example (2), except the donor dies on November 30, 1982. Although, the estate tax return is due on or before August 30, 1983, the last day for filing the gift tax return is April 15, 1983. See paragraph (b) of this section.

Example (4). The facts are the same as in example (3), except that the executor receives a 4-month extension for filing the decedent's income tax return. Under these circumstances, the last day for filing the gift tax return is August 15, 1983. See paragraphs (b)(1) and (2) of this section.

Example (5). The facts are the same as in example (3), except that the donor-decedent receives an extension of 6 months for filing the gift tax return. See section 6081 and § 25.6081. Since section 6075(b)(3) and § 25.6075–2(b) provide that the time for filing the gift tax return made under section 6019 shall not be later than the time (including extensions) for filing the estate tax return made under section 6018, the last day for filing the gift tax return is August 30, 1983.

(d) See section 7503 and § 301.7503–1 concerning the timely filing of a return that falls due on a Saturday, Sunday or legal holiday. As to additions to the tax for failure to file the return within the prescribed time, see section 6651 and § 301.6651–1.

PART 301—[AMENDED]

Par. 24. Paragraph (c) of § 301.6212–1 is amended by removing "calendar quarter (calendar year with respect to gifts made before January 1, 1971)" and inserting in lieu thereof " "calendar period" (as defined in § 25.2502–1(c)(1))".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–3881 Filed 2–10–83; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–700]

Powered Platforms for Exterior Building Maintenance

November 30, 1982.

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Occupational Safety and Health Administration is planning to revise certain safety standards contained in 29 CFR Part 1910.66, which cover safety hazards associated with the use of powered platforms for exterior building maintenance.

The purpose of this notice is to solicit data and views regarding the appropriate content and scope of a revision of § 1910.66(b)(3) to permit the use of certian intermittent stabilization systems for powered platforms. Information is also sought on the need for revisions of other paragraphs in that section.

DATES: The written information requested in this notice should be postmarked on or before March 14, 1983.

ADDRESS: Written comments, data, or information requested in this notice should be submitted in quadruplicate to the Docket Office, Docket No. S–700, Room S6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210. (202) 523–7894.

FOR FURTHER INFORMATION CONTACT: Mr. P. J. Cattafesta, Directorate of Safety Standards Programs, Office of Mechanical Engineering Safety Standards, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3506, 200 Constitution Avenue, N.W., Washington, D.C. 20210. (202) 523–7202.

SUPPLEMENTARY INFORMATION:

Background

The current standards in Subpart F of 29 CFR Part 1910 were promulgated by OSHA in 1971 from national consensus standards, under section 6(a) of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 655(a). Section 1910.66 covers safety hazards associated with the design, construction, installation, operation, maintenance, inspection and use of powered platforms. A powered platform is the equipment that is used to provide access to the exterior of a building for maintenance. It consists of a suspended power-operated working platform, a roof car or other suspension means, and the requisite operating and control devices.

One of the existing standards, § 1910.66(b)(3), references the standard A120.1, 1970 Part III, which requires continuous stabilization of a powered platform. This stabilization is to be accomplished by providing direct attachment of the platform to continuous guide rails in the building face. OSHA believes that it may be desirable to permit intermittent stabilization of a powered platform under certain conditions, if continuous stabilization is not feasible.

Design requirements and cost considerations for new high-rise buildings have resulted in the development of new types of

stabilization systems for powered platforms which involve intermittent stabilization. In one such intermittent stabilization method, stainless steel anchors are secured in the face of the building in vertical rows approximately every third floor, and spaced horizontally to allow a stabilization attachment for each of the two platform suspension wire ropes.

The existing standard does not allow the use of this developing technology and a large number of requests for variances from the standard have been received by OSHA. Three of the variance requests have been granted and were published in the **Federal Register** on May 1, 1981 (46 FR 24752 and 46 FR 24754) and on March 30, 1982 (47 FR 13435).

Also, on November 1, 1982, OSHA issued a program directive to its compliance staff which included guidelines covering the intermittent stabilization systems covered in these variances. OSHA instructed its compliance staff not to cite employers who comply with these specific guidelines as well as other applicable requirements of 29 CFR 1910.66.

However, the variance process can result in delays and increased costs to the building industry, and in uncertainty as to the alternative means of protection to be provided to employees, and the program directive is limited in scope. Revising the current standard to incorporate performance oriented requirements would provide industry with greater latitude in building design, while continuing to ensure the safety of employees. Therefore, OSHA believes that a revision to this standard should be undertaken.

OSHA recognizes that due to more widespread use of these alternative stabilization systems there may also be greater need to revise § 1910.66 to better address employee training and monitoring.

In addition, for various other reasons as discussed below, OSHA intends to review other paragraphs of § 1910.66 for the purpose of considering appropriate timely provisions.

Any rulemaking proceeding to revise § 1910.66 will be conducted in accordance with section 6(b) of the Act (29 U.S.C. 655(b)) and 29 CFR Part 1911, and will provide adequate public notice of the opportunity to comment on proposed changes and to request an informal public hearing.

Comments and Information Requested

Through this advance notice, OSHA invites interested persons and organizations to provide written comments relating to the need for and content of a revision to powered platform stabilization requirements in § 1910.66. In particular, OSHA invites comments regarding any needed changes, additions or deletions to powered platform stabilization provisions.

OSHA also invites comments pertaining to the cost effectiveness of alternative approaches to reducing hazards in the workplace associated with the stabilization of powered platforms, and requests specific estimates of the costs of various methods of reducing risks in this area. In addition, OSHA also requests that any available accident and injury data relating to powered platforms be provided where applicable.

The revision of OSHA's powered platform standards may have an economic impact on small entities, particularly small businesses. In accordance with the provisions of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164 (5 U.S.C. 601 et seq.)), OSHA invites information regarding the economic impact which either the contemplated revisions or the existing provisions of the powered platform standards (§ 1910.66) may have on small entities. In addition, OSHA solicits data on alternative risk reduction measures which may be more appropriate for small entities.

Although the main focus of this notice is whether to allow the use of intermittent stabilization systems, OSHA also requests written comment regarding other requirements in § 1910.66. In particular, OSHA requests information on changes deemed necessary to conform other provisions in § 1910.66 to changes in related provisions in 29 CFR Part 1910, such as Subpart S, and where possible, to accommodate changes in industry practice.

OSHA solicits comments and information regarding the following general and specific issues concerning powered platforms in § 1910.66.

A. General Issues

A number of general issues relate to a revision of all of the requirements of the powered platform standards. OSHA invites comments on the following general issues.

1. To what extent should OSHA use performance standards in addressing the hazards faced by employees operating powered platforms with intermittent stabilization systems? Should the regulatory approach involve the use of nonmandatory appendices which contain compliance guidelines? Such an approach would permit compliance to be effected through the means recommended in the appendices or through other means provided the performance requirements in the standard were attained. Also, the appendices could contain additional relevant sources of information which would be useful in meeting the mandatory performance requirements of the standard. OSHA is seeking comments on the advantages and disadvantages of such a regulatory approach. For an example of a similar format in the OSHA standards, see Subpart L of Part 1910 (Fire Protection).

2. What accident and injury data are available concerning employees operating powered platforms? What information is available on the causative factors related to accidents and injuries in the maintenance, inspection, and operation of powered platforms?

3. Should OSHA establish a basic set of stabilization requirements for intermittent systems used on buildings with straight sides, and set other requirements for buildings whose sides have irregularities, such as overhangs and inclined and splayed surfaces? OSHA invites comments on the advantages and disadvantages of this approach.

4. Are there any intermittent stabilization systems for powered platforms which have been utilized in the past and which have proven to be deficient in providing protection for employees? Intermittent stabilization systems have been used on high rise buildings for a number of years, and OSHA invites all comments which relate to the experience gained with these systems and the workplace hazards which should be addressed by OSHA. In addition, OSHA invites comments on the need to address specific provisions for design, maintenance, and inspection of intermittent stabilization systems in any proposed standard revision.

5. Some owners of older buildings having continuous stabilization systems for their powered platforms have had building sides reconstructed and have converted to intermittent stabilization systems. What are the reasons for such conversions? Are there specific unique workplace hazards for employees operating powered platforms with intermittent stabilization systems on retrofitted buildings? OSHA requests information on conditions which could lead to hazardous exposure for employees operating powered platforms on such retrofitted buildings. If such conditions are identified, how should they be addressed in a standard revision?

6. OSHA seeks current information on whether appropriate changes should be made to § 1910.66 to reflect changes in related OSHA and national consensus standards. For instance, the present OSHA standard references the ANSI standard A120.1–1970, which is now being reviewed by an ANSI committee for updating. Also current references to the 1971 National Electrical Code, NFPA 70–1971, in 1910.66(c)(22) (i) and (vii) may need to be changed to a general reference to corresponding provisions in Part 1910—Subpart S—Electrical, since the 1971 National Electrical Code is no longer referenced by OSHA in Part 1910, Subpart S.

B. Specific Issues

In addition to the general issues, OSHA invites comments on the following specific issues relating to the use of powered platforms.

1. Section 1910.66 does not currently require that employees operating powered platforms be instructed in the safe operation and inspection of such platforms prior to their use. OSHA believes that the use of intermittent stabilization systems for powered platforms will make it more important for employees to know and observe operating and inspection procedures to ensure their safety. OSHA seeks information on the best method for training employees to perform these procedures.

a. Is on-the-job training by the employer sufficiently effective for this purpose?

b. Should written work procedures be provided to insure comprehensive and uniform instruction?

c. What would be the economic impact of this training approach?

d. Should OSHA include reference to training sources in an appendix to the standard?

e. Should one of the employees on the platform be assigned as a safety monitor, who would be primarly responsible for adhering to safe operating and inspection procedures?

2. Limited requirements for fall protection systems on powered platforms are contained in § 1910.66(b)(5)(iii), which references ANSI A120.1–1970 Part III. These requirements specify approved safety belts and attachments to life lines on the roof or to the platform. Non-mandatory recommendations for fall protection components are contained in § 1910.66(d)(8)(i), § 1910.66(d)(8)(ii), § 1910.66(d)(8)(iii) and § 1910.66(d)(8)(iv). The three variances from the standard which have been granted, permitting intermittent stabilization systems, have all required more specific fall protection systems. The common fall protection elements in these variances have included requirements for a full body harness, a three foot lanyard, and an automatic wire rope grab attached to a horizontal life line along the length of the platform.

a. In any proposed revision of the standard, should OSHA require specific components such as those listed in the variances? Would it be more appropriate for employers to select the components and for OSHA to establish appropriate performance criteria? If so, what should be included in these criteria?

b. What economic impact would be placed on employers if OSHA required a fall protection system to meet specific performance criteria?

c. Should these fall protection systems and/or their components be certified by a manufacturer or approved by a qualified engineer?

d. Components of fall protection systems used on powered platforms are subject to abuse, wear and adverse weather conditions. The existing standard does not require that employers instruct employees in the proper use of these systems or require that these systems be inspected and maintained at an established frequency. What has been the experience of employers who have developed such programs for inspection and maintenance? Have programs been developed for employee training? Have these programs been effective in contributing to a safe workplace? What would be the economic impact of an inspection and maintenance requirement in the standard? What would be the increased economic burden on employers, if any, if an employee training requirement were to be imposed?

e. Should a life line be secured to the building structure or the platform which is used on a high rise building? Do the wind forces on a long vertical life line attached to the building create a hazard for employees on the platform? Are there significant hazards to employees if they are secured to the platforms? Do these hazards differ for intermittently-stabilized platforms and continuously-stabilized platforms?

f. The existing standard does not require that a descent control device be used on a powered platform for emergency use. In the event of a platform failure on a high rise building, employees who are attached to a life line must await rescue from ground level or obtain access to the building via a window, if the window is not sealed. Should the standard require a descent control device on the platform to provide safe emergency descent in the event of a platform failure? What types of control descent devices are available, and what has been the experience in their use? Should the device be rigged on the platform or should it be part of the fall protection system utilized by employees? What alternative means of protection are available for such emergency conditions? What would be the relative costs of these alternative approaches?

3. The components of an intermittent stabilization system and their relationship in the system will generally depend on the design and construction of the building that must be serviced by the powered platform. OSHA invites comments on the following questions regarding these components.

a. What is the maximum vertical distance between building anchors that OSHA should permit on a building face? In some installations, three building floors has been the distance between anchors, while some local jurisdictions have permitted five building floors as the maximum distance. How should this distance be determined? Should this distance be based on a set of variables such as platform length, weight, initial angulation and pressure required against the building face? Are there other variables to be considered? Is the material of the building face another factor in determining this distance, since this material may be adversely affected by the pressure of the platform rollers?

b. What type of anchors should not be accepted by OSHA as a component in an intermittent stabilization system, and why not? Do adverse weather conditions and inadequate maintenance limit the utilization of certain types of building anchors? What performance criteria should be required by OSHA for building anchors?

c. What has been the experience in the use of lanyards which attach to the building anchors? What types of lanyards should be acceptable to OSHA? What performance criteria should be required by OSHA for lanyards? Should these lanyards be adjustable to maintain angulation of the platform suspension lines? Are there disadvantages in the use of an adjustable lanyard?

d. What performance criteria should be required by OSHA to insure that tie-in lanyards and snap hooks can withstand exposure to the elements or the environment of the specific installation?

e. It tie-in lanyards are not removed by employees during the ascent of the platform, the lanyards may obstruct the platform's upward movement causing it

to become unstable and create a hazard for employees. Should OSHA require electrical interlocks or similar devices to interrupt power to the platform hoists whenever an interlock contacts a tie-in lanyard during the ascent of the platform?

f. Although not addressed in the existing standard, davits have been used as a suspension means for powered platforms with intermittent stabilization systems. Davits are generally designed of tubular metal in a question mark configuration and mounted at roof level for the purpose of suspending a powered platform. A davit installation may consist of rotatable or non-rotatable davits and can be either of the fixed location or of the transportable type. What are the hazards that have been identified in the use of such davits? Should OSHA address the use and performance of these davits for intermittent stabilization systems?

g. The existing standard, which addresses continuous stabilization systems for powered platforms, does not require a load leveling device. Should OSHA require the use of this device to keep the platform level? If so, what are the unstable conditions that should signal this device to interrupt power to the platform hoists? What types of load leveling devices are available and how effective are they in protecting employees? Are there alternative approaches available which are feasible and cost effective?

4. The operation of powered platforms during severe adverse weather conditions is prohibited in § 1910.66(e)(5). OSHA has received requests to require an anemometer, which measures and records wind velocity, to be installed at the building site. Presumably, employers and employees would use the wind velocity reading as a factor in determining adverse weather conditions. OSHA seeks information on the use of anemometers for powered platform installations.

a. Should OSHA prohibit employees from using a platform when a specific wind velocity is measured on the anemometer? What should the wind velocity limit be?

b. What would be the increased economic burden imposed on businesses, especially small businesses, if such a limit were imposed?

c. Should the anemometer be installed at the highest point of a building? Can measurements at this point be considered indicative of the highest expected wind velocities at lower building levels or at different sides of the same building?

d. What has been the experience in the use of anemometers for this purpose? Has their use been helpful in reducing the exposure of employees to adverse working conditions?

e. What other means are available for addressing the exposure of employees to adverse weather conditions? What would be the economic impact and feasibility of these other means?

5. In § 1910.66(c)(5), there is a provision that a roof car be provided with a safe area for maintenance, repairs and storage. Suggestions have been received by OSHA recommending that a roof car be protected from the elements with an appropriate housing. OSHA wishes to receive information which can used to evaluate the feasibility and necessity for such a requirement.

a. Has the lack of housing for roof cars contributed to a deterioration of this equipment and an increase in employee exposure to the resultant hazards?

b. Do current designs for roof cars provide adequate protection from adverse weather and environmental conditions?

c. What other means are available to protect roof cars from adverse weather and environmental conditions? Are these means feasible and cost effective?

d. Are the existing standard requirements for maintenance of the equipment inadequate? Is a revision of these requirements necessary?

e. What would be the cost impact on building owners to provide roof car housing?

6. Section 1910.66(e)(2) and § 1910.66(3)(3) require that all powered platform installations must undergo a periodic inspection and test every 12 months and maintenance inspection and test every 30 days. These standards do not provide qualification criteria for the employee conducting these inspections and tests. The use of intermittent stabilization systems for powered platforms will place increased emphasis on the need for comprehensive and thorough maintenance of this equipment to insure employee safety. OSHA has received suggestions to revise § 1910.66(e)(2) and § 1910.66(e)(3) to require that any inspection and test be conducted by an employee trained by the platform manufacturer or his delegated representative.

a. Is such a requirement necessary?

b. What would be the economic impact on employers and building owners as a result of this requirement?

c. Are there alternative approaches to insure that proper maintenance inspections and procedures are conducted?

7. The existing standard, which addresses continuous stabilization, does not require a powered platform to be stabilized by direct attachment to a continuous guide rail in the building face, if the platform has a rise of less than 130 feet. For a rise of less than 130 feet, the platform is required to have building face rollers and angulated suspension ropes. OSHA requests comments on the following questions relative to these provisions:

a. Do the existing standard requirements adequately address employee exposures on powered platforms with a rise of less than 130 feet? If not, how should these requirements be changed?

b. If these requirements were changed, what would be the economic impact on building owners and employers?

Public Participation

Written Comments and Information

The written comments and information requested in this notice should be postmarked by March 14, 1983 and submitted in quadruplicate to the Docket Officer, Docket No. S–700, Room S6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210. These submissions will be available for inspection and copying during normal business hours at the OSHA Docket Office.

All information gathered by the Agency will be considered by OSHA in the development of proposed revisions to § 1910.66.

List of Subjects in 29 CFR Part 1910

Chemicals, Diving, Electric power, Electronic products, Fire prevention, Gases, Hazardous materials, Health records, Noise control, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C., this 7th day of February, 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83–3663 Filed 2–10–83; 8:45 am]

BILLING CODE 4510–26–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 83-3]

Compulsory License for Cable Systems Inquiry

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of inquiry.

SUMMARY: On October 20, 1982, the Copyright Royalty Tribunal [Tribunal] adopted its final rule adjusting the royalty rates for cable systems following the repeal by the Federal Communications Commission of its distant signal carriage and syndicated exclusivity restrictions. Since the publication of the Tribunal's final rule in the **Federal Register** (47 FR 52146–52159), the Copyright Office of the Library of Congress has received several letters asking for guidance on specific issues concerning the implementation of the Tribunal's decision. By this Notice of Inquiry the Copyright Office is inviting public comment on the questions that have been raised.

DATES: Comments should be received on or before March 1, 1983.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail, to: Library of Congress, Department D.S., Washington, D.C. 20540.

If delivered by hand, copies should be brought to: Office of General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, S.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (202) 287–8380.

SUPPLEMENTARY INFORMATION: Section 111(c) of the Copyright Act of 1976, title 17 of the United States Code, establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. The compulsory license is subject to various conditons, including the requirement that cable systems deposit statutory royalties with the Copyright Office. Cable systems whose semiannual gross receipts for secondary transmissions total $214,000 or more determine their royalty obligations by applying a specified percentage of such gross receipts (royalty rate) to their number of distant signal equivalents. In Docket No. CRT 81–2, the Copyright Royalty Tribunal considered adjustments in the royalty rates for cable systems in light of the repeal by the Federal Communications Commission [FCC] of certain distant signal and syndicated exclusivity restrictions (*Report and Order in Docket Nos. 20988 and 21284*, 79 FCC 2d 663 (1980)). The FCC's Order was upheld by the U.S. Court of Appeals for the Second Circuit, *Malrite T.V. of N.Y. v. FCC*, 652 F. 2d 1140 (2d Cir. 1981), and entered into force on June 25, 1982, when a stay pending appeal was vacated.

The Tribunal commenced its proceeding in response to a "Petition to Waive Rule 301.63 and To Initiate Cable Television Copyright Royalty Fee Adjustment Proceedings" that was filed by the National Cable Television Association [NCTA] on behalf of cable operators. In the **Federal Register** of Tuesday, August 18, 1981 (46 FR 41840), the Tribunal requested public comments on the issues raised in the NCTA petition. A second petition to commence proceedings was filed with the Tribunal on September 24, 1981, by the American Society of Composers, Authors and Publishers. On October 14, 1981, the Tribunal approved the commencement of a cable television royalty fee adjustment proceeding. The background and chronology of the Tribunal's fee adjustment proceeding is summarized at 47 FR 52146.

After months of detailed consideration of the issues raised by the interested parties, at a public meeting on October 20, 1982, the Tribunal adopted its final rule in CRT Docket No. 81–2, Cable Television Royalty fee Adjustment Proceeding. The text of the Tribunal's amendments to 37 CFR Part 308 were published in the **Federal Register** of Friday, November 19, 1982 (47 FR 52146–52159).

The Tribunal made two types of royalty rate adjustments and set January 1, 1983 as the effective date for both. One adjustment may be identified as a surcharge on certain distant signals to compensate copyright owners for the carriage of syndicated programing formerly prohibited by the FCC's syndicated exclusivity rules in effect on June 24, 1981 (former 47 CFR 76.151 et seq.). The second adjustment would raise the royalty rate to 3.75% of gross receipts per additional distant signal equivalent with respect to carriage of distant signals not generally permitted to be carried under the FCC's distant signal rules prior to June 25, 1981.

Both rate adjustments are presently under appeal in the U.S. Court of Appeals for the District of Columbia Circuit.

By an Order filed December 14, 1982, the Court denied a motion for summary reversal and a motion to stay the Tribunal's determination. *National Cable Television Association v. Copyright Royalty Tribunal*, No. 82–2389 (D.C. Cir. Dec. 14, 1982) (order denying motion). The NCTA and others then petitioned Congress for relief.

In Section 143 of House Joint Resolution 631, Pub. L. 97–377, Congress imposed a bar on the expenditure of funds to implement the distant signal portion of the Tribunal's rate adjustment until final decision by the Court of Appeals for the District of Columbia or until March 15, 1983, whichever occurs first. According to the Report of the Conference Committee, the purpose of this measure is to: "delay the effective date of the Tribunal's October 20, 1982 decision with respect to rates charged cable system operators for certain broadcast signals until the United States Court of Appeals for the District of Columbia renders a final decision or until March 15, 1983, whichever occurs first. The accrual of liability of copyright royalty fees is similarly delayed." 128 Cong. Rec. H10639 (daily ed. Dec. 20, 1982).

In late December 1982, the National Cable Television Association wrote to the Copyright Office, Library of Congress, to inquire "whether an affected television station which is dropped prior to March 15 must be paid for through March 15 or through June 30." Letter from Brenda Lee Fox, General Counsel, National Cable Television Association to David Ladd, Register of Copyrights (Dec. 22, 1982). Since some interested parties may not be aware of the views expressed by the Register concerning this matter, portions of the reply are reproduced below to advise the public of the Office's opinion.

> Our hope is that the Court of Appeals reviewing the decision of the CRT will do so promptly so that all parties and the Copyright Office will have definite answers in advance of March 15, 1983.
>
> With that background, we have concluded, for reasons hereinafter given, that royalty fees must be paid, at least at the current rates, for any affected distant signal carried during any part of the accounting period January-June 1983 as if it were carried for the entire accounting period. Furthermore, subject to any adjudication or other judicial direction or interpretation to the contrary, rates the Copyright Office intends to apply the current rates [1] for any affected signals

[1] By "current rates," the Copyright Office means those cable royalty rates in effect on October 19, 1982 plus the syndicated program rate adjustment which was not impacted by Pub. L. 97–377. Pending a final decision by the Court of Appeals, however, the Copyright Office does not intend to implement any part of the October 20, 1982 Tribunal determination. If cable systems believe that they are now obligated to pay additional royalties based on the Tribunal's October 20, 1982 determination, the

carried during the accounting period but discontinued prior to March 15, 1983.

On December 17, 1979, the Copyright Office published in the **Federal Register** (44 FR 73123) an Advance Notice of Proposed Rulemaking in order to adopt certain technical and clarifying amendments to its revised regulations implementing portions of section 111 of the Copyright Act of 1976. One of the issues addressed in this rulemaking was the appropriate calculation of a distant signal equivalent (DSE) value in cases where a distant signal is either added or deleted during an accounting period. At that time, the Copyright Office received comments from the NCTA and other representatives of the cable television industry which suggested that a cable system should be properly permitted to reduce the ordinary DSE value of a principle is reflected in the interim regulations issued station to reflect the actual carriage of the signal during the accounting period. On July 3, 1980 (45 FR 45270), the Copyright Office rejected this suggestion and issued § 201.17(f)(3) to reflect this decision. The same principle is reflected in the interim regulations issued May 20, 1982 (47 FR 21786), 37 CFR 201.17(f)(3)(1982).

The issue raised in your letter is whether the recent legislation compels a modification of this regulation, at least with respect to post-Malrite signals dropped before March 15, 1983. In light of the meager legislative history concerning the Joint Resolution, the Copyright Office, for several reasons, is unable to conclude that a modification of its regulation was intended or effected* * *.

Letter from David Ladd, Register of Copyrights, to Brenda Lee Fox, NCTA (Dec. 27, 1982).

Subsequent to this decision, the Register of Copyrights denied a request for a waiver of the regulation in question made by both the NCTA and Turner Broadcasting System, Inc.

Following the announcement of the Tribunal's decision, the Copyright Office received numerous inquiries concerning the specific instances in which a signal would be subject to the 3.75% royalty rate. The Tribunal determined that this royalty rate would be applicable in all instances of distant signal carriage *except:*

(1) Any signal which was permitted (or, in the case of cable systems commencing operations after June 24, 1981, which would have been permitted) under the rules and regulations of the Federal Communications Commission in effect on June 24, 1981, or

(2) A signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or

(3) A signal which was carried pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules were in effect on June 24, 1981. [37 CFR 308.2(c); 47 FR 52159].

Copyright Office will accept such payments and examine the Statements of Account when the rate determination becomes final.

Public Comment Invited on the Following Issues

Public comment, views, and information are invited on the following issues to assist the Copyright Office in responding to various letters of inquiry and requests for interpretive rulings.

1. *Specialty stations.* "Specialty stations" are defined in former FCC regulation 47 CFR 76.5(kk). A cable system located in a "smaller television market" had for several years carried two distant independent stations under the relevant FCC regulations. Carriage of one of the stations was permitted as a "specialty station" pursuant to § 76.59(d)(1) of the former FCC regulations. Following the FCC decision to repeal its distant signal carriage restrictions, the cable system added a third distant independent signal. As a result of the CRT royalty rate adjustment, the system intends to drop one of its three distant signals. The system intends to substitute the third independent station (which is *not* a specialty station) for the "specialty station", but is not certain whether this substituted signal would qualify as "[a] signal of the same type (that is, independent, network, or noncommercial educational)" under § 308.2(c)(2) of the Tribunal's regulations. The Copyright Office is interested in comments as to whether such substitution is permissible under 37 CFR 308.2, paragraph (c)(2). The Office also would like comments as to whether a system could avail itself of this provision if it could have carried a specialty station prior to the FCC rule change, but chose not to do so?

2. *Expanded geographic coverage of previously carried signal.* Under the former FCC rules, certain cable systems were permitted to carry certain distant signals only in part of a particular cable system. The reasons for this limited carriage varied. Two examples illustrate the issues.

a. Under paragraph (a) of the FCC's former § 76.65, a community unit was generally not required to delete any television broadcast or translator signals which it was authorized to carry or was lawfully carrying prior to March 31, 1972. However, the system generally was not permitted to expand its area of coverage. If a cable system expands the area of coverage after June 24, 1981, is the signal now subject to the revised royalty rate of 3.75% either for any, all, or part of the system? Furthermore, if the signal is not subject to the 3.75% rate, is the grandfathered signal considered a "permitted" signal under § 308.2(c)(1) of the Tribunal's regulations and hence, subject to the substitution provisions of § 308.2(c)(2) or is it considered a signal carried pursuant to an individual waiver under § 308.2(c)(3) and not substitutable at the old rate?

b. Under the former FCC rules a cable system located outside of all markets was allowed to transmit an unlimited number of signals, but the system would not have been permitted to transmit all of those signals to new subscriber groups located in a smaller television market if the number of signals transmitted exceeded the FCC's carriage restrictions applicable to systems located within a major or smaller television market. If a system originally located outside all television markets now extends these signals into a major or smaller television market, does the 3.75% rate apply for any, all, or part of the cable system? Furthermore, if the signal is not subject to the 3.75% rate, is the signal considered a "permitted" signal under § 308.2(c)(1) of the Tribunal's regulations?

3. *Expanded carriage of previously carried signals.* Prior to June 25, 1981, many cable systems carried particular distant signals exclusively pursuant to FCC rules governing part-time and substitute carriage. If a cable system now decides to carry these formerly part-time and substitute signals on an expanded basis not permitted under the former FCC rules, is such carriage governed by the 3.75% royalty rate or by § 308.2(c)(1) of the Tribunal's regulations?

4. *Ungranted waiver requests.* Several cable systems had requests for waivers from the former FCC distant signal limitations pending at the Commission at the time the FCC eliminated its rules. Because of the general deregulation, the FCC did not act on these pending waiver requests. Are the signals for which waiver requests were pending but neither granted nor denied before June 25, 1981, subject to the 3.75% royalty rate or are they covered by § 308.2(c)(3) of the Tribunal's regulations?

List of Subjects in 37 CFR Part 201

Cable television copyright.

Dated: February 4, 1983.

Michael Pew,

Associate Register of Copyrights.

[FR Doc. 83-3715 Filed 2-10-83; 8:45 am]

BILLING CODE 1410-03-M

VOL 48 ISS 30 FE 11 1983 UMI

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1162, 1306, and 1307

[Ex Parte No. MC-165]

Exemption of Motor Contract Carriers From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Extension of reply period to notice of proposed rulemaking.

SUMMARY: The Commission, in its notice of proposed rulemaking (47 FR 57303, December 23, 1982) stated that comments on its proposal to relieve all motor contract carriers from tariff filing requirements were due on January 24, 1983. Reply comments were due February 7, 1983. Due to the large volume of public interest expressed in this proceeding, it has been impossible to make the entire public record available to interested parties. Consequently, several parties have requested an extension of time to prepare their reply statements. In the circumstances, the requests are granted, and the time for the filing of replies is extended until February 22, 1983.

DATES: Reply comments in this proceeding are due February 22, 1983.

ADDRESS: Send an original and, if possible, 15 copies of replies to: Ex Parte No. MC-165, Room 5344, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Jane Morris, (202) 275-6434

or

Wendy Tillis, (202) 275-6445

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553

Decided: February 4, 1983.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3744 Filed 2-10-83; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 48, No. 30
Friday, February 11, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1983-Crop Honey Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make determinations with respect to the price support program for 1983-crop honey. The program will enable producers to obtain price support on 1983-crop honey. These determinations are to be made pursuant to the Agricultural Act of 1949, as amended. Written comments are invited from interested persons.

DATE: Comments must be received on or before March 14, 1983 in order to be assured of consideration.

ADDRESS: Mail comments to Dr. Howard C. Williams, Director, Analysis Division, USDA–ASCS, 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harry A. Sullivan, Agricultural Economist, Analysis Division, USDA–ASCS, 3752 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6758. The Preliminary Regulatory Impact Analysis describing the options considered in developing these proposed determinations and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: These proposed determinations have been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and have been classified "not major". These determinations will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program to which these proposed determinations apply are: Title—Commodity Loans and Purchases; Number—10–051 as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of proposed determinations since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Comments with respect to this notice of proposed determinations must be received March 14, 1983 in order to be assured of consideration. The comment period is limited to 30 days in order that there may be adequate time to prepare an analysis of all comments received and publish a Notice of Final Determinations by April 1, 1983—the beginning of the 1983 honey marketing year.

Section 201(b) of the Agricultural Act of 1949, as amended (hereinafter referred to as "the Act"), requires the Secretary to make available through loans, purchases, or other operations, price support to producers of honey at a level which is not in excess of 90 percent nor less than 60 percent of the parity price thereof. With respect to a commodity for which price support is mandatory, section 401(b) of the Act requires that consideration must be given to the following factors in determining a level of price support which is in excess of the minimum level otherwise prescribed by statute: (1) The supply of the commodity in relation to the demand therefore, (2) the price levels at which other commodities are being supported, (3) the availability of funds, (4) the perishability of the commodity, (5) the importance of the commodity to agriculture and the national economy, (6) the ability to dispose of stocks acquired through the price support program, (7) the need for offsetting temporary losses of export markets, and (8) the ability and willingness of producers to keep supplies in line with demand.

Also, in accordance with section 403 of the Act, the loan rate and purchase price for the 1983-crop of honey will reflect floral source, color, class and grade, and other market differentials which are applicable to the marketing of honey.

The projection for honey production for the 1983 crop year is 214 million pounds (from 4,275,000 colonies). This is 7 million pounds less than the estimated amount of honey produced in the 1982 crop year. The decline in domestic honey production has been partially offset by an increase in honey imports. Imports of honey in 1982 are expected to reach 85 million pounds, 7.7 million pounds above the quantity imported in 1981. Imports in 1983 are projected to reach 90 million pounds. Based on the amount of domestic production, imports, and CCC stocks, the total supply of honey in the U.S. for 1983 is expected to reach 426 million pounds.

Domestic disappearance of honey for the 1979 through 1981 crop years averaged 250 million pounds per year. Disappearance levels beginning with the 1983 crop year are expected to rise due to the added disposition of CCC inventories through non-commercial outlets. Currently, there are approximately 38.7 million pounds of honey in CCC inventory which have been acquired under the price support program. The market price for honey has risen from 45 cents per pound on a bulk, extracted, wholesale, unprocessed basis in 1976, to 56 cents per pound in 1982.

The level of price support for the 1982 crop of honey was established at 60 percent of parity or 60.4 cents per pound. Establishing a level of support in excess of 60 percent of parity would result in a support price well above the projected market price thus increasing the amount of CCC acquisitions of honey stocks. It is, therefore, proposed that the level of support for the 1983 crop of honey be established at 60 percent of parity.

Accordingly, the following determinations with respect to 1983-crop honey are proposed to be made by the Secretary:

Proposed Determinations

The loan rate and purchase price for 1983-crop honey, which is based on 60 percent of parity, will be approximately

62.0 cents per pound. In addition, the 1983-crop honey loan rate and purchase price will reflect floral source, color, class and grade, and other market differentials under which honey is marketed.

Comments on the appropriate level of price support and the appropriate market differentials for 1983-crop honey are requested.

Consideration will be given to any data, views and recommendations that may be received relating to the above items.

All comments will be made available for public inspection in room 3741 of USDA's South Building during business hours (8:00 a.m. to 4:30 p.m.)

Signed at Washington, D.C. on February 4, 1983.

Clarence L. Tardy,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-3628 Filed 2-10-83; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

Basin Electric Power Cooperative; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: REA has made a Finding of No Significant Impact concerning the proposed 40 percent participation by the Basin Electric Power Cooperative, (Basin) in the 200 MVA Converter Station (Station) to be located near Miles City, Montana. The Station would be owned, constructed and operated by the Western Area Power Administration (WAPA).

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and Basin's Borrower's Environmental Report (BER) may be obtained at the office of the Director, North Central Area—Electric, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382-1400, or the Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, North Dakota 58501, telephone (701) 223-0441.

SUPPLEMENTARY INFORMATION: REA has prepared an EA concerning the project which incorporated the Basin BER and the WAPA Environmental Evaluation Report (EER). REA's independent evaluation of the project leads to the conclusion that approval of the project does not represent a major Federal action that would significantly affect the quality of the human environment.

Alternatives discussed in the EA are no action, alternative sites, and new generation facilities. The nature of the alternative sites is that the alternatives are located near Miles City, Montana, and are of comparable size. REA has determined the proposed project is an acceptable alternative because it would avoid, to the extent practicable, cultural resources, important farmland, endangered species habitat, wetlands and floodplains.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: February 3, 1983.

Jack Van Mark,

Acting Administrator.

[FR Doc. 83-3692 Filed 2-10-83; 8:45 am]

BILLING CODE 3410-15-M

Cajun Electric Power Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and REA Bulletin 20-21:320-21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to proposed financing assistance to Cajun Electric Power Cooperative, Inc., (Cajun) of Baton Rouge, Louisiana, for construction of 345 kV transmission facilities in Red River and DeSoto Parishes, Louisiana.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and Cajun's Borrower's Environmental Report (BER) may be reviewed in the office of the Director, Southwest Area—Electric, Room 3862, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382-1940, or at the office of Cajun Electric Power Cooperative, Inc., (James R. Smith, Manager) 10719 Airline Highway, Baton Rouge, Louisiana 70816, telephone (504) 291-3060, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for financing assistance from Cajun, has reviewed the BER submitted by Cajun and has determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project consists of 15.9 km (9.9 mi) of 345 kV transmission line between the proposed Big Cajun Oxbow Power Plant Unit 1 and the proposed Dolet Hills Power Station. A 345 kV bay will be added at the Big Cajun Oxbow Power Plant Switching Station.

REA has determined that the proposed project will have no effect on cultural resources, threatened and endangered species or wetlands and no significant adverse impact on important farmland and floodplains. Approximately 19 tower structures will be located in a 6.3 km (3.9 mi) section of corridor that is within 100-year floodplain associated with the Red River. This land is also classified as prime farmland. The environmental effects will be minimal.

Alternatives examined include operating of the Big Cajun Oxbow Station with only one transmission radial line (no action) and alternative line routes. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative because it best meets Cajun's needs with a minimum of adverse impacts.

Based upon the BER and support documents, REA prepared an Environmental Assessment concerning the proposed project and its impacts. REA concluded that the proposed financing assistance would not be a major Federal action significantly affecting the quality of the human environment.

In accordance with REA Bulletin 20-21:320-21, dated January 21, 1980, Cajun advertised and requested comments on the environmental aspects of the project in local newspapers in Red River, DeSoto and East Baton Rouge Parishes, Louisiana. No comments were received.

(This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated: February 2, 1983.

Jack Van Mark,

Acting Administrator.

[FR Doc. 83-3405 Filed 2-10-83; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Marshall Township Community Park Critical Area Treatment and Water-Based Recreation Development RC&D Measure, Pennsylvania; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Marshall Township Community Park Critical Area Treatment and Water-Based Recreation Development RC&D Measure, Allegheny County, Allegheny, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: William Hunt, Acting State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone (717) 782–2202.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the measure will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William Hunt, Acting State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a Critical Area Treatment and Water-Based Recreation Development RC&D Measure, Allegheny County, Allegheny, Pennsylvania. The planned works of improvement include rock riprap, grassed waterways, surface water diversions, subsurface drainage, a 3.6 acre lake, parking, utilities, benches, boat deck and dock, multiple-purpose pavilion, footbridges, signs, grills, sanitary facilities, and vegetative cover on seven acres of township park.

The estimated installation cost on seven acres of township park is $428,850. Approximately 20 percent of the cost is for critical area treatment practices to protect the resource base.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting William Hunt.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 11, 1983.

William Hunt,

Acting State Conservationist.

[FR Doc. 83–3425 Filed 2–10–83; 8:45 am]

BILLING CODE 3410–16–M

Boyne City's Old City Park RC&D Measure, Michigan; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Boyne City's Old City Park RC&D Measure, Charlevoix, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of practices for critical area treatment. Critical area treatment measures will include: 800 feet of rock riprap, two timber walkways, 350 feet of wood rail fence and critical area planting. Total construction cost is estimated to be $66,000; $49,500 RC&D funds and $16,500 local funds.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable.)

Dated: January 31, 1983.

Homer R. Hilner,

State Conservationist.

[FR Doc. 83–3600 Filed 2–10–83; 8:45 am]

BILLING CODE 3410–16–M

Crooked Lake Campground RC&D Measure, Michigan; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Crooked Lake Campground

RC&D Measure, Missaukee County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of practices for public water-based recreation and critical area treatment. Recreation measures will include: Signs, parking lots, fencing, vault toilet, recreation trails, boat launch, well and a day use area. critical area treatment measures will include: 6 acres of critical area planting, two walkways with fencing, barriers and 200 feet of rock riprap. Total construction cost is estimated to be $54,000; $31,000 RC&D funds and $23,000 local funds.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: January 31, 1983.

Homer R. Hilner,

State Conservationist.

[FR Doc. 83–3601 Filed 2–10–83; 8:45 am]

BILLING CODE 3410–16–M

Elk Rapids Dam Fishing Site RC&D Measure, Michigan; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Elk Rapids Dam Fishing Site RC&D Measure, Antrim County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of practices for critical area treatment. Critical area treatment measures will include: rock riprap, three timber walkways and one acre of critical area seedings. Total construction cost is estimated to be $62,000; $46.000 RC&D funds and $15,500 local funds.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: January 31, 1983.

Homer R. Hilner,

State Conservationist.

[FR Doc. 83–3602 Filed 2–10–83; 8:45 am]

BILLING CODE 3410–16–M

Lincoln Township Park RC&D Measure, Michigan; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lincoln Township Park RC&D Measure, Berrien County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an

environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of practices for critical area treatment and public water-based recreation. Critical area treatment measures will include: one erosion control structure, fencing, access stairs, and critical area planting. Public water-based recreation measures will include: One picnic area with a parking lot, restrooms, boundary screening, park sign and control booth. Total construction cost is estimated to be $77,200; $46,500 RC&D funds and $30,700 local funds.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: January 31, 1983.

Homer R. Hilner,

State Conservationist.

[FR Doc. 83–3603 Filed 2–10–83; 8:45 am]

BILLING CODE 3410–16–M

Clover Creek Watershed, Pennsyvania; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; and Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Clover Creek Watershed, Blair County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Olson, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone (717) 782–4453.

SUPPLEMENTARY INFORMATION: The environmental evaluation of this federally assisted action indicates that the measure will not cause significant local, regional, or national impacts on the environment. As a result of these fingings, Mr. James H. Olson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include the installation of conservation and management practices for erosion and sediment control on 9,400 acres of cropland and 300 acres of pastureland, installation of 27 animal waste management facilities, and the treatment of 4,400 feet of streambank erosion.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, State and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting James H. Olson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: February 1, 1983.

James H. Olson,

State Conservationist.

[FR Doc. 83–3403 Filed 2–10–83; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Week Ended: February 4, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Jan. 31, 1983	41256	Air Charter International, c/o V. Michael Straus, Suite 401, 1001 Connecticut Avenue, NW., Washington, D.C. 20036. Application of Air Charter International pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests that it be issued an initial foreign charter air carrier permit authorizing it to transport persons, property and mail in foreign air transportation, as follows: A. Between any point or points in the Republic of France and any point or points in the United States, including intermediate and beyond points. B. Between a point or points in the United States and a point or points in neither the Republic of France nor the United States, which charters do not stopover in the Republic of France; and C. Between a point or points in the United States and a point or points in neither the Republic of France nor the United States, which charters stopover in the Republic of France. Answers may be filed by February 28, 1983.
Feb. 4, 1983	41261	Pan American World Airways, Inc., c/o Richard D. Mathias, Suite 901, 1660 L Street, N.W., Washington, D.C. 20036. Application of Pan American World Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests that the Board amend Pan Am's Certificate of Public Convenience and Necessity for Route 136 so as to permit Pan Am to combine authority currently authorized between the United States and the Netherlands Antilles, Grenada, St. Kitts, and St. Lucia with authority currently authorized between the United States and other Caribbean/Latin American points as described in this application Conforming Applications, Motions to Modify Scope and Answers may be filed by March 4, 1983.

Date filed	Docket No	Description
Feb. 4, 1983	41265	Jet Fleet International Airlines, Inc., c/o Stephen D. Potts, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036. Application of Jet Fleet International Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests that its certificate of public convenience and necessity for interstate charter air transportation reissued in Order 81-10-12 be amended to eliminate condition (1) now contained in that certificate and which reads as follows. (1) The holder is not authorized to engage in air transportation between points within the State of Alaska. Conforming Applications, Motions to Modify Scope and Answers may be filed by March 4, 1983
Feb. 4, 1983	41077	American International Airways, Inc., c/o Howard S. Boros, 1120 Connecticut Avenue, N.W., Washington, D.C. 20036. Amendment No. 1 to the Application of American International Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations to engage in scheduled interstate and overseas air transportation. Conforming Applications, Motions to Modify Scope and Answers may be filed by March 4, 1983

Phyllis T. Kaylor,
Secretary.
[FR Doc. 83-3808 Filed 2-10-83; 8:45 am]
BILLING CODE 6320-01-M

Order Establishing Standard Foreign Fare Level

The International Air Transportation Competition Act (IATCA), P.L. 96-192, requires that the Board establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. The SFFL thus computed becomes the benchmark for measuring the statutory nonsuspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in sec. 1002(d) of the Federal Aviation Act of 1958, as amended. Order 80-2-69 established the first interim SFFL and subsequent Order 82-12-5 established the currently effective two-month SFFL applicable through January 31, 1983.

In establishing the SFFL for the two-month period starting February 1, 1983, we have projected nonfuel costs based on the year ended September 30, 1982 and have determined fuel prices on the basis of experienced monthly fuel cost levels and reported weekly fuel cost trends.

By Order 83-2-27 fares may be increased by the following adjustment factors over the October 1, 1979, level:

Atlantic	1.1409
Latin America	1.2714
Pacific	1.2223

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Julien R. Schrenk, (202) 673-5298.

By the Civil Aeronautics Board, February 8, 1983.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 83-3809 Filed 2-10-83; 8:45 am]
BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Oregon Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Oregon Advisory Committee to the Commission will convene at 12:00p and will end at 5:00p, on March 4, 1983, at the Portland Hilton, 921 Southwest Sixth, Portland, Oregon, 97204. The purpose of this meeting will be to discuss program plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Thomas J. Sloan, 215 Northwest Orchard Drive, Portland, Oregon, 97229, (503) 627-8162 or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington, 98174, (206) 442-1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 8, 1983.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 83-3822 Filed 2-10-83; 8:45 am]
BILLING CODE 6335-01-M

Texas Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Texas Advisory Committee to the Commission will convene at 9:00a and will end at 3:00p, on March 2, 1983, in the Malibu Room, at the El Tropicano, 110 Lexington, San Antonio, Texas 78205. The purpose of this meeting is to conduct orientation for the new members of the Committee and discuss program plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Denzer Burke, 1421 Pine Street, Texarkana, Texas 75501, (214) 794-9741 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas, 78204 (512) 229-5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 8, 1983.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 83-3820 Filed 2-10-83; 8:45 am]
BILLING CODE 6335-01-M

Utah Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene at 7:30p and will end at 9:30p, on March 7, 1983, at the Congregation Kol Ami 2425 East Heritage Way, Salt Lake City, Utah 84109. The purpose of this meeting will be to discuss program plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Linda M. Dupont-Johnson, State Office Building, Suite 6270, Salt Lake City, Utah 84114, (801) 533-4061 or the Rocky Mountain Regional Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202, (303) 837-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 8, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-3821 Filed 2-10-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council's Spiny Lobster and Stone Crab Subpanels; Public Meetings

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), has established Spiny Lobster and Stone Crab Subpanels, which will meet jointly to review the National Marine Fisheries Service's proposal for a new statistical reporting system, utilizing logbooks in the spiny lobster fishery.

DATES: The joint public meeting will convene on Tuesday, March 1, 1983, at approximately 8:30 a.m., and will adjourn at approximately 4 p.m., and will take place at the Howard Johnson Motor Lodge, U.S. Marker 54, Overseas Highway, Marathon, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated February 8, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-3884 Filed 2-10-83; 8:45 am]

BILLING CODE 3510-22-M

Modification No. 1 to Permit No. 347

As proposed on October 18, 1982, (47 FR 46351) and pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 347 issued to the Southwest Fisheries Center, National Marine Fisheries Service, on July 25, 1981, is modified in the following manner:

Section A-1 is deleted and replaced by:

"A-1. Up to one thousand six hundred (1600) California sea lions *(Zalophus californianus)* of either sex may be taken as described in the application and documents submitted in modification request."

This modification became effective on February 7, 1983.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: February 7, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-3845 Filed 2-10-83; 8:45 am]

BILLING CODE 3510-22-M

Modification No. 1 to Permit No. 374

Notice is hereby given that pursuant to the provisions of § 222.25 of the Regulations governing Endangered Species Permits (50 CFR Part 222), Scientific Purposes Permit No. 374 issued to Mr. Harold Brundage III, Ichthyological Associates, Inc., 100 South Cass Street, Middletown, Delaware 19709, on March 24, 1982, is modified as follows:

A new Section A-4 is added as follows:

"4. Of the five hundred (500) shortnose sturgeons (*Acipenser brevirostrum*) authorized in Section A-1 twenty (20) adults may be tagged with individually identifiable radio tags as described in the application and modification request."

This modification becomes effective upon publication in the **Federal Register.**

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: February 4, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-3846 Filed 2-10-83; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council, Herring Working Committee; Change in Meeting Dates

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: The public meeting date for the North Pacific Fishery Management Council's Herring Working Committee, as published in the **Federal Register,** January 27, 1983, (48 FR 3798-3799) has been changed as follows:

From Wednesday, February 16, 1983; convening at 9 a.m., adjourning at 5 p.m.

To Wednesday, March 2, 1983; convening at approximately 9:30 a.m.; adjourning at 5 p.m.

All other information remains unchanged.

FURTHER INFORMATION: North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274-4563.

Dated: December 8, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-3843 Filed 2-10-83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Issuance of a General Permit

A general permit was issued on February 4, 1983 to the Embassy of the Republic of Korea, Washington, D.C. to take marine mammals incidental to commercial fishing operations under Category 1: Towed or Dragged Gear, pursuant to 50 CFR 216.24.

The general permit allows the taking of not more than 5 cetaceans, 100 otariid seals, or 50 phocid seals by certificate holders operating under this permit within the U.S. fishery conservation zone.

This general permit is available for public review in the Office of the Assistant Administrator for Fisheries, 3300 Whitehaven Street, N.W., Washington, D.C.

Dated: February 4, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-3719 Filed 2-10-83; 8:45 am]

BILLING CODE 3510-22-M

Availability of Fishery Management Plan Amendment and Request for Comments

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of fishery management plan amendment and request for comments.

SUMMARY: NOAA issues this notice that the North Pacific Fishery Management Council has submitted a fishery management plan amendment (Amendment 3) for the Bering Sea Groundfish Fisheries Management Plan for review and is requesting comments from the public. Copies of the amendment may be obtained from the address below.

DATE: Comments on the plan should be received on or before April 22, 1983.

ADDRESS: All comments should be sent to Robert W. McVey, Director, Alaska Region NMFS, P.O. Box 1668, Juneau, Alaska 99802.

Copies of the amendment are available upon request from the North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Regional Plan Coordinator, Telephone: 907 586–7229.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. This act also requires that the Secretary, upon receiving the plan or amendment, must immediately publish notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether or not to approve the amendment.

This amendment proposes measures for managing the foreign fisheries for groundfish in the Bering Sea. The receipt date for this amendment is February 7, 1983.

Regulations proposed by the Council and based on this amendment are scheduled to be published within 30 days.

Dated: February 8, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–3718 Filed 2–10–83; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1983 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: February 11, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On September 17, 1982 and September 30, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 41154 and 47 FR 43107) of proposed additions to Procurement List 1983, November 18, 1982 (47 FR 52101).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on contractors for the commodities listed.

c. The actions will result in authorizing small entities to produce commodities procured by the Government.

Accordingly, the following commodities are hereby added to Procurement List 1983:

Class 8415

Socks, Extreme Cold Weather, 8415–01–057–3503

Class 8455

Scarf, Branch of Service, 8455–01–078–0745

C. W. Fletcher,

Executive Director.

[FR Doc. 83–3788 Filed 2–10–83; 8:45 am]

BILLING CODE 6820–33–M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a proposed collection of information in the form of a Compliance Program for the Architectural Glazing Standard, with a requested expiration date of September 30, 1983.

The purpose of this program is to determine compliance with the requirements of the Safety Standard for Architectural Glazing Materials (16 CFR Part 1201) by manufacturers of the architectural products which are subject to that standard.

The standard is intended to reduce or eliminate unreasonable risks of injury associated with accidental human-impact breakage of glazing materials used in doors, storm doors, bath tub doors and enclosures, shower doors and enclosures, and sliding glass (patio) doors. The standard prescribes performance requirements for glazing materials used in those products to assure that the glazing materials either will not break if impacted with a specified energy, or will break with characteristics which are less likely to present an unreasonable risk of injury.

The compliance program will be conducted by investigators from the Commission's field staff, who will inspect firms which manufacture the five products subject to the architectural glazing standard. The investigators will inspect manufacturing establishments, examine records, question employees of the firms, and observe manufacturing operations.

Information about the Proposed Collection of Information

Agency address: Consumer Product Safety Commission, 1111 18th Street N.W., Washington, D.C. 20207.

Title of information collection: Compliance Program—Architectural Glazing Materials.

Type of request: Approval of new plan.

Frequency of collection: Once a year.

General description of respondents:

Manufacturers of doors, storm doors, bath tub doors and enclosures, shower doors and enclosures, and sliding glass (patio) doors.

Estimated number of respondents: 60.

Estimated average number of hours per response: 6.

Comments: Comments on this proposed collection of information should be addressed to Gewn Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone (202) 395–7313. Copies of the proposed collection of information are available from Russell Smith, Office of Budget and Program Implementation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: February 7, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83–3833 Filed 2–10–83; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 7, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee on Engineering & Services Role in the Employment of Air Power will meet at Minot AFB, ND on March 1–4, 1983. The purpose of the meeting will be to review the Engineering and Services role in support of operational strategic weapons systems. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 83–3847 Filed 2–10–83; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers, Department of the Army

Draft Environmental Impact Statement Permit Application; San Antonio City Water Board's Applewhite Dam, Reservoir, and Pump Station in Bexar County, Texas

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The primary purpose for this project is to provide municipal and industrial water to customers of the water board. The customers are located in the city of San Antonio and surrounding communities located in Bexar County.

2. Reasonable Alternatives. The alternatives to be evaluated include: the issuing of the permits, not issuing the permits, or issuing the permits with conditions.

3. Scoping Process. a. Public Involvement. A comprehensive public involvement program is to be conducted locally by the Fort Worth Army Engineer District and the water board as a means of disseminating information and soliciting public views. The techniques used will be formal public meetings; informal public information sessions as needed; and continuing dialogue with Federal, State, and local agencies, organizations, and the interested public.

b. Significant Issues Requiring In-Depth Studies. Hydraulic and hydrological impacts on the San Antonio River and its bay system. Quality of water entering the reservoir. Social and economic effects on about 500 landowners and residents. Impacts to cultural resources.

c. Assignments. None.

d. Environmental Review and Consultation Requirements. The draft statement will be circulated for review and all comments will be incorporated into the final environmental impact statement.

4. A scoping meeting will be held in San Antonio, Texas at the Somerset Independent School Cafeteria at 7 p.m. on March 10, 1983.

5. The draft environmental impact statement is expected to be available to the public by October 1983.

Address: Person to contact for additional information is Mr. H. Roger Hamilton, Chief, Environmental Resources Section, U.S. Army Corps of Engineers, Fort Worth District, P.O. Box 17300, Fort Worth, Texas 76102. Telephone (817) 334–2095.

Dated: January 26, 1983.

John O. Roach,

Department of the Army, Liaison Officer With the Federal Register.

[FR Doc. 83–3758 Filed 2–10–83; 8:45 am]

BILLING CODE 3710–FR–M

Department of the Army

Army Medical Research and Development Advisory Committee, Subcommittee on Parasitic Diseases; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Parasitic Diseases.

Date of meeting: March 3 and 4, 1983.

Time and place: 0830 hrs, Room 3092, Walter Reed Army Institute of Research, Washington, D.C.

Proposed agenda: This meeting will be open to the public from 0830 to 1015 hrs on 3 March for the administrative review and discussion of the scientific research program of the Parasitic Diseases Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), U.S. Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1030–1630 hrs on 3 March and 0900–1200 hrs on 4 March for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research Bldg 40, Room 1111, Walter Reed Army Medical Center, Washington, D.C. 20012 (202/576–2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 83–3739 Filed 2–10–83; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will meet on February 28, 1983, and March 1, 1983, at the Los Alamos National Laboratory, Los Alamos, New Mexico. Sessions of the meeting will commence at 8:00 a.m. and terminate at 6:30 p.m. on February 28, and commence at 8:00 a.m. and terminate at 4:40 p.m. on March 1, 1983. All sessions of the meeting will be closed to the public.

The entire agenda for the meeting will consist of discussions relating to nuclear weapons and other related research. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander P. D. Quinton, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, Virginia 22217. Telephone number; (202) 696–4870.

Dated: February 9, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83–3910 Filed 2–10–83; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Pell Grant Program; Establishment of Deadline Dates

AGENCY: Department of Education.

ACTION: Notice of deadline dates for receipt of applications, reports, and other documents under the Pell Grant Program for 1982–83 award year.

SUMMARY: The Assistant Secretary for Postsecondary Education announces the deadline dates for the receipt of documents from persons applying for financial assistance under, and from institutions participating in, the Pell Grant Program during the 1982–83 award year.

SUPPLEMENTARY INFORMATION: The purpose of the Pell Grant Program is to assist students in the continuation of their training and education at the postsecondary level by providing financial aid to help pay for their educational costs. Authority for the Pell Grant Program is contained in section 411 of the Higher Education Act of 1965, as amended (20 U.S.C. 1070a).

Determination of Expected Family Contribution

As a prerequisite to receiving a Pell Grant, each applicant is responsible for submitting to an institution of higher education—or to the Secretary of Education in the case of institutions under the Alternate Disbursement System (ADS)—a valid Student Aid Report (SAR) that states the amount of the student's expected family contribution (referred to on the SAR as a student aid index) and the information used in calculating that amount. Consequently, each applicant must first submit to an agency listed in Table I of this notice his or her application for determining the expected family contribution. That application—referred to in this notice as the original application—must be submitted on one of the forms shown in Table I and received by the designated agency at the agency's address no later than the deadline date, March 15, 1983, shown in Table I.

TABLE I.—DEADLINE DATE FOR RECEIPT OF APPLICATION FORMS FOR DETERMINING EXPECTED FAMILY CONTRIBUTION: MARCH 15, 1983

Type of form	Address for submission
Application for Federal Student Aid (AFSA)	Federal Student Aid Programs, P.O. Box 92496, Los Angeles, CA 90009.
Special Condition Application for Federal Student Aid	Federal Student Aid Programs, P.O. Box 92499, Los Angeles, CA 90009.
Family Financial Statement (FFS)	ACT Student Need Analysis Services, P.O. Box 1000, Iowa City, IA 52243.
Financial Aid Form (FAF)	College Scholarship Service, Box 2700, Princeton, NJ 08541 OR College Scholarship Service, Box 380, Berkeley, CA 94701
Financial Aid Form (FAF)	Pennsylvania Higher Education Assistance Agency, P.O. Box 3157, Harrisburg, PA 17105.
Pennsylvania Higher Education Assistance Agency (PHEAA)	College Scholarship Service, Box 70, Berkeley, CA 94701.
Student Aid Application for California (SAAC)	

Other Documents

Once an applicant has filed his or her original application, additional information may be necessary. In some cases the agency receiving the original application may request the information. In other cases the applicant is responsible for initiating the request.

These other documents are listed in four categories in Table II of this notice. Each category designates an address to which the specified information or request must be sent, and the deadline date by which that information or request must be received at that address.

Category 1—If an original application is incomplete, the Secretary will send a correction application to the applicant. In addition, if an applicant has misreported his or her dependency status on the original application, the applicant has the responsibility for requesting a correction application. The correction application must be returned to the appropriate address listed in Table II and received at that address no later than the deadline date, July 15, 1983, shown in Table II.

Category 2—If an edit check causes the Secretary to return an SAR to an applicant for verification of correct information on the SAR, that SAR, with the verification statement checked—if appropriate—must be returned to the appropriate address listed in Table II and received at that address no later than the deadline date, July 15, 1983, shown in Table II.

Note.—This verification of correct information is different from a request for validation, explained elsewhere in this notice.

Category 3—If an applicant wishes to have his or her student aid index recomputed—because of a clerical or arithmetic error or because of extraordinary circumstances as described in §§ 690.39(c) or 690.48(c) of the regulation for the Pell Grant Program—the applicant may request a recomputation of the index. In addition, if the applicant wishes to correct misreported data on the SAR he or she may do so. These requests must be

made on the SAR, sent to the appropriate address listed in Table II, and received at that address no later than the deadline date, July 15, 1983, shown in Table II.

Category 4—If an applicant wishes to receive a duplicate SAR, the applicant must submit to the appropriate address listed in Table II a written request for that duplicate. The request must be received at that address no later than the deadline date, July 15, 1983, shown in Table II.

TABLE II.—DEADLINE DATE FOR RECEIPT OF OTHER DOCUMENTS: JULY 15, 1983

Type of document	Address of submission
Application for Federal Student Aid correction application (Category 1)	Federal Student Aid Programs, P.O. Box 92496, Los Angeles, CA 90009
Request for verification of correct information (Category 2)	Federal Student Aid Programs, P.O. Box 92440, Los Angeles, CA 90009
Request for (1) recomputation of a student aid index because of clerical or arithmetic errors, or because of extraordinary circumstances as described in §§ 690.39(c) and 690.48(c) of the Pell Grant Program regulations; (2) correction of misreported data (Category 3)	Federal Student Aid Programs, P.O. Box 92440, Los Angeles, CA 90009
Request, in writing, for a duplicate SAR (Category 4)	Federal Student Aid Programs, P.O. Box 92524, Los Angeles, CA 90009

Students Enrolled in Institutions Under the Alternate Disbursement System (ADS)

The regulations for the Pell Grant Program (34 CFR 690) establish the deadline dates for receipt of SARs and ED forms from applicants enrolled in institutions that participate in this program under the Alternate Disbursement System (ADS).

In order to receive payment, the applicant must submit a valid SAR and an ED Form 304, completed by the institution, to the appropriate address listed in Table III of this notice. The required documents must be received at that address no later than the appropriate deadline date specified in this notice.

If a student must submit an additional or corrected request for payment, that request must be made on ED Form 304–1, submitted to the appropriate address listed in Table III, and received at the address no later than the deadline date, August 20, 1983, shown in Table III.

TABLE III.—DEADLINE DATES FOR RECEIPT OF THE SAR AND ED FORMS UNDER THE ALTERNATE DISBURSEMENT SYSTEM

Deadline date	Form	Address for submission
June 10, 1983	Request for payment—SAR and ED Form 304—for a student enrolled before May 1, 1983	Federal Student Aid Programs, P.O. Box 92234, Los Angeles, CA 90009
July 11, 1983	Request for payment—SAR and ED Form 304—for a student enrolled on or after May 1, 1983	Federal Student Aid Programs, P.O. Box 92234, Los Angeles, CA 90009
Aug. 20, 1983	Additional and/or corrected request for payment—ED Form 304–1	Federal Student Aid Programs, P.O. Box 92452, Los Angeles, CA 90009

Note.—Table III does not apply to students enrolled in institutions that participate in the Pell Grant Program under the Regular System (RDS).

Validation Procedures and Deadline Dates

The information submitted on an application and included on an SAR may be subject to verification. In that case, in order to receive a Pell Grant award for the 1982–83 award year, the applicant—and his or her parents, if applicable—must submit the necessary verification documents in accordance with the following validation procedures. The documents must be received no later than the deadline date specified in these procedures.

This part of the notice applies to applicants undergoing validation and does not conflict with nor supersede the deadline dates specified in Tables I, II, and III of this notice.

Regular Disbursement System

Verification of Information on Application. If an applicant is selected to have the information on his or her application verified under the validation procedures, and if the applicant attends an institution that participates in the Pell Grant Program under the Regular Disbursement System (RDS), he or she must submit the requested documents to the institution. The documents must be received within 60 days from his or her last day of enrollment or August 15, 1983, whichever comes first.

Correction of the SAR. If an applicant is required to correct his or her SAR under the validation procedures because it contains inaccurate information, and if the applicant attends an institution that participates in the Pell Grant Program under the RDS, he or she must: (1) Make the correction on the SAR, (2) submit the corrected SAR to the Department of Education's processing center at the address indicated on the insert to the SAR, and (3) resubmit the corrected/reprocessed valid SAR to the institution. This SAR must be received within 60 days from the applicant's last date of enrollment or August 15, 1983, whichever comes first.

Alternate Disbursement System

If an applicant is selected to have the information on his or her application verified under the validation procedures and the applicant attends an institution that participates in the Pell Grant Program under the Alternate Disbursement System (ADS), he or she must submit the requested documents to the Secretary as specified in (1) below. The documents must be received within 60 days from his or her last day of enrollment or August 15, 1983, whichever comes first.

In order to complete the validation process, the applicant must: (1) Submit his or her SAR along with requested documents to: ADS Validation, P.O. Box 23967, Washington, D.C. 20024, (2) correct any inaccurate information reported on the SAR, if requested by the Secretary or the institution, (3) sign and resubmit the SAR with corrections for reprocessing to the Department of Education, Student Validation Branch, P.O. Box 23967, Washington, D.C. 20024, and (4) submit the corrected/reprocessed SAR received from the Department of Education to the institution.

Receipt of Payment

To receive payment, the student whose SAR was selected for validation must submit the corrected/reprocessed SAR, along with ED Form 304 or 304–1, completed by the institution, to: Federal Student Aid Program, P.O. Box 92234, Los Angeles, California 90009. The

documents must be received no later than September 30, 1983.

Progress Reports and Student Validation Rosters

An institution participating in the Pell Grant Program is required to provide to the Secretary progress reports and a student validation roster. These documents must be received at the address specified in Table IV of this notice no later than the appropriate deadline date shown in Table IV. Failure of an institution to comply with these requirements may result in the initiation of a proceeding to fine, suspend, limit, or terminate the institution in accordance with Subpart G of the Student Assistance General Provisions regulations in 34 CFR 668.

TABLE III.—DEADLINE DATES FOR RECEIPT OF PROGRESS REPORTS AND THE STUDENT VALIDATION ROSTER

Deadline date	Type of form	Address for submission
Nov. 15	Oct. 31 Progress Report	Pell Grant Program, P.O. Box 2468, Washington, D.C. 20013.
Mar. 15	Feb. 28 Progress Report	Pell Grant Program, P.O. Box 2468, Washington, D.C. 20013.
July 15	June 30 Progress Report	Pell Grant Program, P.O. Box 2468, Washington, D.C. 20013.
Six weeks after its receipt by an institution.	Student Validation Roster	Pell Grant Program, P.O. Box 2468, Washington, D.C. 20013.

Application Forms and Information. Student aid application forms, correction application forms, and information brochures may be obtained from college and university financial aid administrators, high school counselors, Educational Opportunity Center counselors, or by writing to: Federal Student Aid Programs, P.O. Box 84, Washington, D.C. 20044.

Applicable Regulations. The regulations applicable to this program are the Pell Grant Program regulations in 34 CFR Part 690, the Pell Grant Family Contribution Schedules in Subparts C and D in 34 CFR Part 690, published in the **Federal Register** on January 6, 1982 (47 FR 736), and the Student Assistance General Provisions regulations in 34 CFR Part 668.

FOR FURTHER INFORMATION CONTACT: Mrs. Altia J. Jackson, Program Specialist, Policy Section, Basic Grant Branch, Division of Policy and Program Development, Office of Student Financial Assistance, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (ROB–3, Room 4318), Washington, D.C. 20202. Telephone (202) 472–4300.

(Catalog of Federal Domestic Assistance No. 84.063, Pell Grant Program)

Dated: February 7, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–3786 Filed 2–10–83; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Council on Continuing Education; Meeting

AGENCY: National Advisory Council on Continuing Education, ED.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Continuing Education. It also describes the functions of the Council. Notice of meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: March 2, 3, and 4, 1983.

ADDRESS: The Watergate Hotel, 2650 Virginia Avenue, N.W., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Dr. William G. Shannon, Executive Director, National Advisory Council on Continuing Education, 425 Thirteenth Street, N.W.; Suite 529, Washington, D.C. 20004, Telephone: (202) 376–8888.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Continuing Education is established under Section 117 of the Higher Education Act (20 U.S.C. 1009), as amended. The Council is established to advise the President, the Congress, and the Secretary of the Department of Education on the following subjects:

(a) An examination of all federally supported continuing education and training programs, and recommendations to eliminate duplication and encourage coordination among these programs;

(b) The preparation of general regulations and the development of policies and procedures related to the administration of Title I of the Higher Education Act; and

(c) Activities that will lead to changes in the legislative provisions of this title and other federal laws affecting federal continuing education and training programs.

The meetings of the Council are open to the public. However, because of limited space, those interested in attending are asked to call the Council's office beforehand.

The Council meeting will be held from 2:00 p.m. until 5:00 p.m., and from 7:00 p.m. until 9:00 p.m. on March 2; from 9:00 a.m. until 5:00 p.m. on March 3; and from 9:00 a.m. until 12:00 Noon on March 4, 1983.

The proposed agenda includes:

—Developing national policy in continuing education and training
—Issues in vocational education
—Issues in higher education
—Special concerns in math and science
—Council statement
—Issues analyses
—Council business
Charter
Next meetings

Records are kept of all Council proceedings and are available for public inspection at the office of the National Advisory Council on Continuing Education, 425 Thirteenth Street, N.W., Room 529, Washington, D.C.

Signed at Washington, D.C., on February 7, 1983.

William G. Shannon,

Executive Director.

[FR Doc. 83–3757 Filed 2–10–83; 8:45 am]

BILLING CODE 4000–01–M

Dependents' Education Advisory Council; Meeting

AGENCY: Advisory Council on Dependents' Education, Ed.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Dependents' Education and of two committees concerning education programs and administration. This notice also describes the functions of the council. Notice of these meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: The Advisory Council on Dependents' Education: March 7, 9:00 a.m. to 1:00 p.m.; March 8, 2:00 to 5:00 p.m.; and March 9, 9:00 a.m. to 1:00 p.m. The two committees: March 7, 1:00 to 5:00 p.m.; March 8, 9:00 a.m. to 12 m.; March 9, 1:00 to 5:00 p.m.

ADDRESS: The Capitol Hill, Conference Room, 200 C St., SE., Washington, D.C. 20003.

FOR FURTHER INFORMATION CONTACT: Dr. William F. Keough, Administrator of Education for Overseas Dependents, 400 Maryland Avenue, SW., Washington, D.C. 20202 (202) 245–8011.

SUPPLEMENTARY INFORMATION: The Advisory Council on Dependents' Education is established under section 1411 of the Defense Dependents' Education Act of 1978, as amended (20 U.S.C. 929). The Council is established to:

(1) Recommend to the Director general policies for operation of the defense dependents' education system with respect to curriculum selection, administration, and operation of the system.

(2) Make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under the Dependents' Education Act of 1978 to the Secretary and Department of Education, and

(3) Provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents' education system.

(4) Advise the Director on the design of the study and the selection of the contractor referred to in section 1412(a)(2) of the title, and

(5) Perform such other tasks as may be required by the Secretary of Education.

The meeting of the council is open to the public. The proposed agenda for the meetings of the full council March 7–9 includes: a report of the Administrator on council matters, a report of the Director on the overseas schools, the status of the comprehensive study of DoDDS, a report of the Director on the current status of previously expressed ACDE concerns, a report on extracurricular activities in the schools, and the reports of the Education Program and Administration committees.

The proposed agenda for the Education Program Committee on March 7 and 8 includes development of a formal structure for obtaining information on effective programs and practices in primary and secondary education and discussion of small schools, substance abuse, adult education, and host nation activities in the schools. Its agenda for March 9 will consist of business remaining from the meetings of March 7 and 8 and new business put before it by the full council meeting held March 8 and 9.

The proposed agenda for the Administration Committee for March 7 and 8 includes a report on successful local school advisory committee election and appeals procedures and guidelines, consideration of local school advisory committee appeals to the Director, reports on school bus and lunchroom monitors in overseas and other U.S. schools, and discussion of exchange programs with Section Six schools and military parent membership on the council. Its agenda for March 9 will consist of business remaining from the meetings of March 7 and 8 and new business put before it by the full council meeting held March 8 and 9.

Records are kept of all Council proceedings and are available for inspection at the office of the Advisory Council on Dependents' Education, Room 4155, 400 Maryland Avenue, SW., Washington, D.C. from the hours of 8:30 to 5:30 p.m.

Dated: February 7, 1983.

Wendy Borcherdt,

Acting Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 83–3779 Filed 2–10–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

A. L. Barton; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order (PRO) which was issued to A. L. Barton (Barton) at 1001 Main Street, Big Lake, Texas 76932. This PRO charges Barton with pricing violations in the amount of $661,369.05 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subparts F and L, during the time period November 1973 through December 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767–7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Tex., on the 28th day of January 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83–3795 Filed 2–10–83; 8:45 am]

BILLING CODE 6450–01–M

Automatic Comfort Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel (OSC) of the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Automatic Comfort Corporation of Hartford, Connecticut. This Proposed Remedial Order charges Automatic Comfort with pricing violations in the amount of $363,010.25 plus interest, connected with the sale of motor gasoline from March 1, 1979 through September 30, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA (215) 597–2633. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pa., on the 27th day of January 1983.

Robert J. McKee, Jr.,

Director, Philadelphia Field Office, Economic Regulatory Administration.

[FR Doc. 83–3796 Filed 2–10–83; 8:45 am]

BILLING CODE 6450–01–M

Sherer Oil Co., Inc. and Ringer Tri-State Oil Co., Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Sherer Oil Company, Inc. and Ringer Tri-State Oil Company, Inc. (collectively "Sherer") of Johnstown, Pennsylvania. This Proposed Remedial Order charges Sherer with pricing violations in the amount of $391,780.86 plus interest, connected with the sale of motor gasoline from April 1, 1979 through September 30, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert J.

McKee, Jr., Director, Philadelphia Field Office, ERA (215) 597–4550. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pa., on the 27th day of January 1983.

Robert J. McKee, Jr.

Director, Philadelphia Field Office, Economic Regulatory Administration.

[FR Doc. 83–3794 Filed 2–10–83; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 82–15–NG]

Natural Gas Imports; Inter-City Minnesota Pipelines Ltd.; Application for an Amendment to Its Authority To Import and Export Canadian Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for an amendment to its authority to import and export Canadian natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the application of Inter-City Minnesota Pipelines Ltd. (Minnesota Pipelines) to amend its authority to import and export Canadian natural gas. Minnesota Pipelines seeks to increase transportation volumes, from 3,686 MMcf to 5,502 MMcf annually, that may be imported from Canada and then exported for use in Canada. The purpose of the requested amendment is to permit Minnesota Pipelines necessary operational flexibility required in its transportation service for ICG Transmission Holdings Ltd. (Transmission), a Canadian pipeline company.

The application is filed with ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATES: Protests or petitions to intervene are to be filed no later than 4:30 p.m. March 14, 1983.

FOR FURTHER INFORMATION CONTACT:

Robert Groner (Natural Gas Division), Economic Regulatory Administration, 1000 Independence Avenue, SW., Forrestal Building, Room GA–007, RG–43, Washington, D.C. 20585, (202) 252–9482.

Merrill F. Hathaway (Office of General Counsel, Natural Gas and Mineral Leasing), 1000 Independence Avenue, SW., Forrestal Building, Room 6E–042, Washington, D.C. 20585, (202) 252–4467.

SUPPLEMENTARY INFORMATION: On October 14, 1982, Minnesota Pipelines filed with the ERA an abbreviated application for an amendment to its authority to import and export Canadian natural gas.

Minnesota Pipelines is the owner of the United States portion of an international pipeline that begins in Manitoba, Canada, enters the United States near Sprague, Manitoba, reenters Canada at Baudette, Minnesota, and reenters the United States at International Falls, Minnesota, where it terminates. The owner of the portion of the pipeline that is in Canada is Transmission. Because of the sinuous nature of the pipeline, three import-export licenses have been issued by the National Energy Board (NEB) of Canada to Transmission for its operations.

In 1970, the Federal Power Commission (FPC) granted import-export authority to Minnesota Pipelines that closely tracks the NEB licenses.[1]

In its present application, Minnesota Pipelines requests authorization to transport up to 5,502 MMcf annually for Transmission rather than 3,686 MMcf/year presently authorized for "sales in Ontario." The requested 5,502 MMcf/year is calculated first by subtracting the total deliveries to date for sales in Ontario, 35,640 MMcf, from the total volume permitted under the 25-year license term, 107,170 MMcf. The difference, 71,530 MMcf, divided by the number of years remaining on the license, 13 years, is 5,502 MMcf annually.

In addition, in its application Minnesota Pipelines requests a removal of the daily limits imposed by the FPC authorizations. The company states that since it has no control, on a daily basis, of the volumes consumed by Transmission, removal of this limitation would provide it with necessary operational flexibility. Because of the absence of flow control and telemetering equipment, the company's operating personnel are unaware that overrun has occurred until some time after the fact.

Both Minnesota Pipelines and Transmission are heavily dependent on a single industrial customer, Boise Cascade Corporation, which operates plants at either side of the international border in Ft. Frances, Ontario, and International Falls, Minnesota.

Minnesota Pipelines requests that, in place of the daily limitation, the ERA continue the following condition, already imposed by the FPC in Docket No. CP75–139, Ordering Paragraph F, that:

> The authorizations granted in this order and the actual volume imported in any contract year are limited to those volumes that will assure an adequate and continuing supply of natural gas throughout the entire remaining term of the pertinent NEB licenses for all residential and commercial customers in the United States being served from the system of Inter-City.

The NEB authorizes Transmission to use a rolling average, making available in any year a quantity which, when averaged with all export quantities for previous years, does not exceed total export quantities for all years. The FPC rejected this approach in its order of August 2, 1977 in Docket No. CP77–115.

Other Information

Any person wishing to become a party to the proceeding, and thus to participate in any conference or hearing which might be convened, must file a petition to intervene. Any filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements that were specified by the regulations that were in effect on October 1, 1977 (the establishment of DOE) in 18 CFR 1.8 and 1.10, respectively. They should be filed with the Natural Gas Division, Economic Regulatory Administration, Room GA–007, RG–43, 1000 Independence Avenue,

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[1] The FPC granted import-export authority in Docket No. CP70–289, dated August 10, 1970, and amended September 26, 1973 and on July 16, 1975 in CP75–139. Specifically, CP75–139 authorized importations, exportations, and sales as follows:

	Mcf daily	MMcf annually	MMcf total
Import into the U.S. at Sprague	49,496	12,786	308,074
Sales in Minnesota	2,834	400	8,084
Export to Canada	46,662	12,386	299,990
Sales in Ontario	14,339	3,686	107,170
Reimport at International Falls, Minnesota	32,323	8,700	192,820

Subsequently, in Docket No. CP77–115, August 2, 1977, the FPC amended this authorization, adjusting daily volumes as follows

	Mcf daily
Imports in Sprague	48,296
Sales in western Minnesota	1,643
Export to Canada	46,662
Sales in Ontario	15,139
Sales in International Falls	31,523

SW., Washington D.C. 20585. All protests and petitions to intervene must be filed no later than 4:30 p.m. March 14, 1983.

A hearing will not be held unless a motion for a hearing is made by a party or person seeking intervention and granted by ERA, or if ERA on its own motion believes that a hearing is necessary or required. A person filing a motion for a hearing should demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Minnesota Pipeline's application is available for inspection and copying in the Natural Gas Branch Docket Room, Room GA–007, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on February 4, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–3792 Filed 2–10–83; 8:45 am]

BILLING CODE 6450–01–M

Northville Industries Corp.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Northville Industries Corp. and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by March 14, 1983.

ADDRESS: Send comments to: Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, 1421 Cherry Street, Philadelphia, Pennsylvania 19102.

FOR FURTHER INFORMATION CONTACT: Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, 1421 Cherry Street, Philadelphia, Pennsylvania 19102. (215) 597–3856.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On January 21, 1983, the ERA executed a proposed Consent Order with Northville Industries Corp. ("Northville") of Melville, New York. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the Federal Register requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

Northville, with its home office located in Melville, New York, is a firm engaged in the sale of crude oil and covered petroleum products, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period January 1, 1973 through January 28, 1981 ("the period covered by this Consent Order"). An audit conducted by the ERA included a review of Northville's records relating to compliance with the Federal petroleum price and allocation regulations during the period January 1, 1973 through January 28, 1981 (the audit period). In its audit the ERA reviewed Northville's pricing and allocation policies and procedures and the manner in which Northville applied the Federal petroleum price and allocation regulations. Northville has cooperated with this audit. Northville has made its books and records available to the auditors of the DOE and the auditors have examined and reviewed a substantial volume of such materials. DOE believes that Northville has maintained procedures reasonably adapted to achieve compliance with the federal petroleum price and allocation regulations.

The ERA and Northville disagree in several respects concerning Northville's compliance with the Federal petroleum price and allocation regulations during the audit period. Notwithstanding the ERA's view as to the proper application of the regulations to Northville's activities, Northville maintains that it has correctly construed and applied the regulations. The ERA and Northville each believes that its respective positions on the legal issues underlying their disagreements are meritorious. However, both parties desire to resolve the issues raised by the audit without resort to complex, lengthy and expensive compliance actions and therefore have entered into this Consent Order. The ERA believes that the Consent Order is in public interest because it provides a satisfactory resolution of disputed issues and an appropriate conclusion of the Northville audit.

The Consent Order addresses all aspects of Northville's compliance with the Federal petroleum price and allocation regulations during the audit period and, except for these issues explicitly excluded, resolves all issues concerning Northville's compliance with the Federal petroleum price and allocation regulations during the audit period. In settlement of all disputes with the ERA concerning sales of covered petroleum products during the audit period, Northville has agreed to refund an aggregate amount of $2,300,000. Of that amount $200,000 is to be paid to the United States Treasury; $319,498 is to be paid to identified end-users; and $1,780,502 is to be paid to identified resellers of No. 2 fuel oil. The Consent Order also provides details concerning records retention and procedures concerning enforcement of the provisions of the Consent Order.

The Consent Order does not constitute an admission by Northville nor a finding by the ERA of any violation of the Federal petroleum price and allocation regulations. This notice merely summarizes the Consent Order, and neither limits nor modifies it in any way whatsoever. The provisions of 10 CFR 205.199J, including those regarding the publication of this Notice, are applicable to the Consent Order.

Upon full satisfaction of the terms and conditions of this Consent Order by Northville, the DOE releases Northville from any civil claims that the DOE may have arising out of the Federal petroleum price and allocation regulations.

Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation "Comments on Northville Industries Corp. Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on March 14, 1983. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures at 10 CFR 205.9(f).

Issued in Philadelphia on the 26th day of January, 1982.

Robert J. McKee, Jr.,

Director, ERA Philadelphia Field Office.

[FR Doc. 83–3793 Filed 2–10–83; 8:45 am]

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Riverside Oil & Refining Co., Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Riverside Oil and Refining Company, Inc., K. Wayne Buchner, and James M. Burlingame, 2600 Southwest Freeway, Suite 425, Houston, Texas 77098. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.183, 212.186, 210.62, and 205.202. The principal amount of the alleged violation of 10 CFR 212.186, 210.62, and 205.202 for the period March through December 1980 is $1,293,396.06. The principal amount of the alleged alternative violation of 10 CFR 212.183 for the period March through November 1980 is $641,505.47.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, In accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 28th day of January, 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-3791 Filed 2-10-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-83-002; FC Case No. 67074-9226-01-24]

Petition for Exemption, Acceptance; Sunlaw Energy Corp.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of acceptance of petition for exemption and availability of certification by Sunlaw Energy Corporation.

SUMMARY: On January 6, 1983, the Sunlaw Energy Corporation, hereinafter referred to as petitioner, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in new powerplants and certain new major fuel burning installations. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981) ("final rules"). A revised final rule governing eligibility and evidentiary requirements for the cogeneration exemption was issued on June 25, 1982 (47 FR 29209 (July 6, 1982)).

The proposed powerplant for which the petition was filed is a 25.2 megawatt (MW) (approximate) combined cycle cogeneration facility capable of using natural gas or No. 2 distillate oil, and designed to produce electricity and steam power for process applications at the petitioner's plant located in Vernon, California.

It is expected that more than fifty percent of the net annual electric power generation of the petitioner's turbine generator will be sold to Southern California Edison Company (SCE), making the cogeneration facility an electric powerplant pursuant to 10 CFR 500.2.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination, and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTAL INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33 of the final rules, interested persons are invited to submit written comments in regard to this petition during the public comment period established, below, and, during this period, any interested person may also submit a written request that ERA convene a public hearing. In compliance with 10 CFR 501.14(a), a copy of the petition for exemption has been transmitted to the Administrator of the Environmental Protection Agency for comment, if any, during the public comment period. Additionally, in accordance with 10 CFR 501.63(a)(2), the appropriate State agency exercising primary jurisdiction over the construction and operation of the proposed cogenerator has been notified that an exemption proceeding has been commenced by ERA.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding are available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before March 28, 1983. A request for a public hearing must be made within this same 45-day period.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. "Docket No. ERA-FC-83-002" should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Roland DeVries, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Bldg., Room GA-093, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-6002.

Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Bldg., Room 6B-222, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: The petitioner proposes to install a 25.2 MW (approximate) combined-cycle cogeneration system at its Vernon, California plant. The proposed cogenerator will consist of a baseloaded natural gas-fired combustion turbine with distillate oil backup capacity, which will produce 21.5 MW of electric power, and an unfired waste heat recovery boiler operating on the exhaust gases from the combustion turbine. The waste heat boiler will have both high and low pressure steam production capabilities. The high pressure steam (approximately 65,000 lbs/hr) will be delivered to an extraction turbine where the amounts required for process applications will be removed, and the remainder will be used to produce approximately 3.7 MW of electric power. The low pressure steam will be primarily applied to meet the petitioner's process use requirements. The electric power generated at the

facility will be sold to the Southern California Edison Company.

The cogeneration facility is classified as a powerplant under 10 CFR 500.2 of the final rules (definintion of "electric generating unit") because more than 50 percent of its net annual electric power generation will be sold.

Section 212(c) of the Act provides for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with certification procedures of 10 CFR 503.37(a)(1), the petitioner has certified that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility is not feasible, as required under 10 CFR 503.9.

In accordance with the evidentiary requirements of 10 CFR § 503.37(c), the petitioner has, in addition to the certifications; described above, included as part of its petition:

1. Exhibits containing the bases for the certifications and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's implementing regulations, 40 CFR 1500 *et seq.*; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of: (1) An Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

Pursuant to 10 CFR 501.3, ERA hereby accepts the petitioner's petition for a permanent cogeneration exemption. ERA retains the right, however, to request additional relevant information from the petitioner at any time during the pendency of these proceedings. As provided in 10 CFR 501.3(b)(4), acceptance of this petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested.

That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on February 4, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Program, Economic Regulatory Administration.

[FR Doc. 83-3789 Filed 2-10-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 4503-001]

Central Maine Power Co.; Surrender of Preliminary Permit

February 8, 1983.

Take notice that Central Maine Power Company (CMP) of Augusta, Maine, Permittee for the proposed Cold Stream Project No. 4503 has requested that its preliminary permit be terminated. The preliminary permit was issued on September 3, 1982, and would have expired on August 31, 1984. The proposed project would have been located at a new dam on the Kennebec River, in Somerset County, Maine. CMP concluded that the Cold Stream Project is not economically or environmentally attractive at this time.

CMP's request was dated January 18, 1983, and the surrender of its permit for Project No. 4503 has been deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3781 Filed 2-10-83; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline; Tentative Valuation

February 9, 1983.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative basic valuation is under consideration for the common carrier by pipeline listed below:

1978 Basic Report

Valuation Docket No. PV-1463-000—Western Oil Transportation Company, Inc., P.O. Box 1183, Houston, Texas 77001

On or before March 21, 1983, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intesvene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under Section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in Section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 83-3786 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-148-000]

Mountain Fuel Supply Co.; Application

February 8, 1983.

Take notice that on January 11, 1983, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP83-148-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of one 3,830 brake horsepower compressor on Applicant's transmission Main Line No. 3 and related facilities to be installed at Applicant's Coalville Station, Summit County, Utah, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that deliverability to its northern distribution system is dependent on a single 12-inch distribution feeder line and the J.W. Allen distribution compressor station which is required to operate at maximum design capacity during periods of high winter demand in order to maintain service to the northern distribution system. Applicant explains that since the northern portion of its distribution system is operating at maximum capacity during peak winter demand, and change in operating conditions resulting in increased demand or reduced capacity would result in disruption of service to

Applicant's northern system customers with the potential for serious safety and economic consequences. It is further explained that peak demand conditions are expected to exceed the capacity of these facilities by the 1983–84 heating season.

Applicant proposes to construct and operate one 3,830 brake horsepower compressor and associated yard piping within its existing Coalville Station to increase the daily pipeline capacity of Main Line No. 3 by approximately 43,000 Mcf. Applicant asserts that the proposed facility would reduce the demand on the J.W. Allen station during peak day conditions and provide a more uniform pressure profile in the distribution system. Additionally, Applicant states, increased system pressures would increase line pack by approximately 10,600 Mcf, which would result in an increase in "swing storage" benefiting Applicant in the operation of its transmission and distribution systems west of Coalsville.

Applicant asserts that while this proposal is primary viewed as an interim solution designed to solve an immediate deliverability problem within its distribution network, it offers substantial long-term benefits for the operation of Applicant's transmission lines 2, 14, 16, and 3 downstream of Coalville Station.

It is further stated that the proposed main line compressor would be constructed at a cost of approximately $2,534,975, which would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 1, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, a further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be necessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3782 Filed 2-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5889-001]

Springfield Utility Board; Surrender of Preliminary Permit

February 8, 1983.

Take notice that Springfield Utility Board, Permittee for the proposed Eastern River Hydro Project No. 5889, has requested that its preliminary permit be terminated. The permit was issued on August 25, 1982, and would have expired on July 31, 1984. The project would have been located on the Eastern River in Lane County, Oregon.

The Permittee filed its request on November 26, 1982, and the surrender of the preliminary permit for Project No. 5889 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3783 Filed 2-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6420-001]

Sweetwater Ranch Co.; Surrender of Preliminary Permit

February 8, 1983.

Take notice that Sweetwater Ranch Company, Permittee for the proposed Sweetwater Ranch Power Project No. 6420, has requested that its preliminary permit be terminated. The preliminary permit was issued on October 8, 1982, and would have expired April 30, 1984. The project would have been located on Sweetwater Creek within the Toiyabe National Forest in Lyon County, Nevada. The Permittee filed its request on January 7, 1983, and the surrender of the preliminary permit for Project No. 6420 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-3784 Filed 2-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM79-34 and Docket No. ST83-64]

Natural Gas Policy Act; Transportation Certificates for Natural Gas Displacement of Fuel Oil; Transcontinental Gas Pipe Line Corp.; Self-Implementing Transactions

January 31, 1983.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA, any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to Section 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

DOCKET NO.	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EXPIRATION DATE *	TRANSPORTATION RATE (¢/MMBTU)

DOCKET NO.	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EXPIRATION DATE *	TRANSPORTATION RATE (¢/MMBTU)
ST83-64	TRANSCONTINENTAL GAS PIPE LINE CORP.	CONSOLIDATED GAS SUPPLY CORP.	10/13/82	G	-	-
ST83-65	TRANSCONTINENTAL GAS PIPE LINE CORP.	UNITED GAS PIPE LINE CO.	10/18/82	G	-	-
ST83-66	WESTERN GAS CORP.	UNITED GAS PIPE LINE CO.	11/01/82	C	-	-
ST83-67	MOUNTAIN FUEL SUPPLY CO.	NORTHERN NATURAL GAS CO.	11/01/82	G	-	-
ST83-68	PRODUCER'S GAS CO.	SOUTHERN NATURAL GAS CO.	11/01/82	C	-	-
ST83-69	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	11/02/82	G	-	-
ST83-70	TENNESSEE GAS PIPELINE CO.	BERKSHIRE GAS CO.	11/02/82	B	-	-
ST83-71	CONSOLIDATED GAS SUPPLY CORP.	TRANSCONTINENTAL GAS PIPE LINE CORP.	11/03/82	G	-	-
ST83-72	NATURAL GAS PIPELINE CO. OF AMERICA	ENTEX, INC.	10/13/82	G	-	-
ST83-73	NATURAL GAS PIPELINE CO. OF AMERICA	ENTEX, INC.	11/03/82	B	-	-
ST83-74	COLORADO INTERSTATE GAS CO.	NATURAL GAS PIPELINE CO. OF AMERICA	11/04/82	C	-	-
ST83-75	ROCKY MOUNTAIN NATURAL GAS CO., INC.	NORTHWEST PIPELINE CORP.	11/05/82	C	-	-
ST83-76	PRODUCER'S GAS CO.	FLORIDA GAS TRANSMISSION CO.	10/14/82	C	4/04/83	30.00
ST83-77	TEXAS EASTERN TRANSMISSION CORP.	VALERO TRANSMISSION CO.	11/03/82	B	-	-
ST83-78	TEXAS EASTERN TRANSMISSION CORP.	SOUTHERN NATURAL GAS CO.	10/25/82	C	-	-
ST83-79	SEA ROBIN PIPELINE CO.	UNITED GAS PIPE LINE CO.	11/08/82	G	-	-
ST83-80	TENNESSEE GAS PIPELINE CO.	BROOKLYN UNION GAS CO.	11/09/82	B	-	-
ST83-81	UNITED GAS PIPE LINE CO.	SOUTHERN GAS CO.	11/10/82	B	-	-
ST83-82	HOUSTON PIPE LINE CO.	TENNESSEE GAS PIPELINE CO.	11/12/82	C	-	-
ST83-83	OASIS PIPE LINE CO.	TENNESSEE GAS PIPELINE CO.	11/12/82	C	-	-
ST83-84	NORTHERN NATURAL GAS CO.	UNITED GAS PIPE LINE CO.	11/12/82	G	-	-
ST83-85	COLUMBIA GULF TRANSMISSION CO.	NORTHERN NATURAL GAS CO.	11/12/82	G	-	-
ST83-86	TENNESSEE GAS PIPELINE CO.	MISSISSIPPI RIVER TRANSMISSION CORP.	11/12/82	G	-	-
ST83-87	OKLAHOMA NATURAL GAS CO.	CAJUN NATURAL GAS CO.	11/12/82	D	-	-
ST83-88	GAS GATHERING CORP.	UNITED GAS PIPE LINE CO.	11/15/82	G	-	-
ST83-89	COLORADO INTERSTATE GAS CO.	PEOPLES NATURAL GAS CO.	11/15/82	G	-	-
ST83-90	TENNESSEE GAS PIPELINE CO.	FITCHBURG GAS AND ELECTRIC LIGHT CO.	11/17/82	B	-	-
ST83-91	TENNESSEE GAS PIPELINE CO.	TRANSCONTINENTAL GAS PIPE LINE CORP.	11/18/82	G	-	-
ST83-92	TENNESSEE GAS PIPELINE CO.	TEXAS EASTERN TRANSMISSION CORP.	11/18/82	G	-	-
ST83-93	SOUTH TEXAS GATHERING CO.	TEXAS EASTERN TRANSMISSION CORP.	11/18/82	C	-	-
ST83-94	LOUISIANA GAS INTRASTATE, INC.	TEXAS EASTERN TRANSMISSION CORP.	11/18/82	C	4/17/83	25.75
ST83-95	EL PASO NATURAL GAS CO.	NATURAL GAS PIPELINE CO. OF AMERICA	10/21/82	G	-	-
ST83-96	FLORIDA GAS TRANSMISSION CO.	DOW PIPELINE CO.	11/22/82	G	-	-
ST83-97	TRANSCONTINENTAL GAS PIPE LINE CORP.	ESPERANZA TRANSMISSION CO.	11/22/82	G	-	-
ST83-98	VALERO TRANSMISSION CO.	TEXAS EASTERN TRANSMISSION CORP.	11/22/82	C	-	-
ST83-99	NORTHERN NATURAL GAS CO.	MICHIGAN WISCONSIN PIPE LINE CO.	11/22/82	G	-	-
ST83-100	SOUTHERN NATURAL GAS CO.	SOUTH CAROLINA ELECTRIC AND GAS CO.	11/22/82	G	-	-
ST83-101	TENNESSEE GAS PIPELINE CO.	TEXAS EASTERN TRANSMISSION CORP.	11/23/82	G	-	-
ST83-102	PANHANDLE EASTERN PIPE LINE CO.	TRUNKLINE GAS CO.	11/23/82	C	-	-
ST83-103	NATURAL GAS PIPELINE CO.	MICHIGAN WISCONSIN PIPE LINE CO.	11/24/82	G	-	-
ST83-104	GRANITE STATE GAS TRANSMISSION, INC.	BAY STATE GAS CO.	11/24/82	B	-	-
ST83-105	DELTA NATURAL GAS CO., INC.	COLUMBIA GAS TRANSMISSION CORP.	11/24/82	G(HT)	-	-
ST83-106	NORTHWEST PIPELINE CORP.	MOUNTAIN FUEL SUPPLY CO.	11/26/82	G	-	-
ST83-107	WESTERN SLOPE GAS CO.	NORTHERN NATURAL GAS CO.	11/26/82	G(HT)	-	-
ST83-108	TRANSCONTINENTAL GAS PIPE LINE CORP.	CONSOLIDATED EDISON CO. OF NY, INC.	11/26/82	B	-	-
ST83-109	TRANSCONTINENTAL GAS PIPE LINE CORP.	CONSOLIDATED EDISON CO. OF NY, INC.	11/26/82	B	-	-
ST83-110	SOUTHERN NATURAL GAS CO.	SUGAR BOWL GAS CORP.	11/26/82	B	-	-
ST83-111	TENNESSEE GAS PIPELINE CO.	TEXAS EASTERN TRANSMISSION CORP.	11/29/82	G	-	-
ST83-112	FLORIDA GAS TRANSMISSION CO.	HOUSTON PIPE LINE CO.	11/29/82	B	-	-
ST83-113	TRANSCONTINENTAL GAS PIPE LINE CORP.	CONSOLIDATED EDISON CO. OF NY, INC.	11/30/82	B	-	-

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* THE INTRASTATE PIPELINE HAS SOUGHT COMMISSION APPROVAL OF ITS TRANSPORTATION RATE PURSUANT TO SECTION 284.123(B)(2) OF THE COMMISSION'S REGULATIONS (18 CFR 284.123(B)(2)). SUCH RATES ARE DEEMED FAIR AND EQUITABLE IF THE COMMISSION DOES NOT TAKE ACTION BY THE DATE INDICATED.

[FR Doc 83-3807 Filed 2-10-83, 8:45 am]

BILLING CODE 6717-01-C

Office of Hearings and Appeals

Objection To Proposed Remedial Orders Filed; Period of December 6 Through December 24, 1982

During the period of December 6, 1982 through December 24, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: January 31, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Beta Energy Corporation, Tulsa, Oklahoma, HRO–0103

On December 21, 1982, Beta Energy Corporation & James R. Blakesmore, 320 So. Boston, Suite 1016, Tulsa, Oklahoma, filed a Notice of Objection to a Proposed Remedial Order which the DOE's Office of Special Counsel, Tulsa, Oklahoma Office, issued to the firm on September 17, 1982. In the PRO the Tulsa Office found that during the period February 1979 to December 1980, Beta Energy Corp. engaged in various crude oil pricing violations. According to the PRO the Beta Corporation violations resulted in $1.8 million of overcharges.

Gary Energy Corporation, Englewood, Colorado, HRO–0102

On December 21, 1982, Gary Energy Corporation, 115 Inverness Drive, East Englewood, Colorado 80112 filed a Notice of Objection to a Proposed Remedial Order which the Dallas Field Office of the Economic Regulatory Administration issued to the firm on November 18, 1982. In the PRO the Dallas Field Office found that during the period September 1, 1973 to August 31, 1976, Gary violated the Mandatory Petroleum Pricing Regulations in its sales of natural gas liquids and natrual gas liquids products. According to the PRO, the violation resulted in $703,693 of overcharges.

Grigsby Oil and Gas, Shreveport, Louisiana, HRO–0104

On December 21, 1982, Jack W. Grigsby d/b/a Grigsby Oil & Gas, 1108 Commercial National Bank Building, Shreveport, La. 71101 filed a Notice of Objection to a Proposed Remedial Order which the Houston Field Office of the Economic Regulatory Administration issued to the firm on September 13, 1982. In the PRO, the Houston Field Office found that during the period June 4, 1974 through December 31, 1979, Grigsby violated the price and allocation regulations in its crude oil sales. According to the PRO, the violation resulted in $864,017.37 of overcharges.

T&M Petroleum Corporation, Longview, Texas, HRO–0101

On December 20, 1982, T&M Petroleum Corp., Old Antler Corp., and Ted R. Adkins of P.O. Box 2604, Longview, Texas 75606 filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas Office of Enforcement of the Economic Regulatory Administration issued to the firm on November 15, 1982. In the PRO the Dallas Office found that during the period September 1979 through November 1980 T&M Petroleum Corp., a reseller of crude oil, charged prices in excess of those permitted by 10 C.F.R. Part 212, Subpart L. According to the PRO, the T&M Petroleum Corp. violated resulted in $1,904,046.16 of overcharges.

[FR Doc. 83–3799 Filed 2–10–83; 8:45 am]

BILLING CODE 6450–01–M

Objection To Proposed Remedial Orders Filed; Period of December 27, 1982, Through January 7, 1983

During the period of December 27, 1982, through January 7, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Apeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: February 3, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Amcole Energy Corporation, et al., Dallas, Texas, Crude Oil HRO–0106

On January 4, 1983, the following filed Notices of Objection to a Proposed Remedial Order which the Crude and NGL Audit and Litigation Support Group of the Economic Regulatory Administration of the DOE issued on November 30, 1982 to Amcole Energy Corporation (Amcole) and several working interest owners of a crude oil producing property operated by Amcole:

Amcole Energy Corporation, 4825 LBJ Freeway, Suite 110, Dallas, Texas 75235
Mammel Production Company, 702 Metropolitan Savings Tower, 5944 Luther Lane, Dallas, Texas 75225
A. Dean Mammel, 702 Metropolitan Savings Tower, 5944 Luther Lane, Dallas, Texas 75225
Paul J. Adams, 2233 West Lindsey, Suite 115, Norman, Oklahoma
Kelly Ann Mitchell, 310 A. William Cannon, Austin, Texas 78545
Martha Barton Cole, 6130 Spring Valley Road, Dallas Texas 75240
Velma Henson, Box 155, Tishomingo, Oklahoma 73460

In the PRO the ERA found that during the period March 1, 1975 through January 31, 1976, there were overcharges of $207,221.10 in sales of crude oil from the T.C. Vinson Lease located in Grayson County, Texas. The PRO directs that this overcharge amount plus interest be refunded.

Anschutz Petroleum Marketing Corp., New York, New York, HRO–0109

On January 4, 1983, Anschutz Petroleum Marketing Corp., 666 5th Avenue, New York, New York 10010 filed a Notice of Objection to a Proposed Remedial Order which the Philadelphia Field Office of the Office of Special Counsel issued to the firm on November 10, 1982.

In the PRO the Philadelphia Field Office found that during the period May 1 to July 31, 1979 Anschutz violated DOE price regulations applicable to the sale of motor gasoline. According to the PRO the Anschutz violation resulted in $1,030,174.00 of overcharges.

Consolidated Materials, Inc., et al., New Orleans, Louisiana, HRO–0107

On January 4, 1983, Consolidated Materials, Inc., Stonewalk Corp., CLB Enterprises, Inc. and Jahnke Service, Inc., P.O. Box 13218, New Orleans, Louisiana 70185 filed a Notice of Objection to a Proposed Remedial Order which the DOE Philadelphia Field Office of the Office of Special Counsel issued to the firm on December 7, 1982.

In the PRO the Philadelphia Field Office found that on November 15, 1973 and April 19, 1974, Consolidated Materials, Inc., violated the DOE price regulations in its sales of No. 2 diesel fuel and regular motor gasoline. According to the PRO the Consolidated Materials, Inc., violation resulted in $259,848 of overcharges.

Cumberland Farms Dairy, Inc., et al., Canton, Massachusetts, HRO–0108

On January 4, 1983, Cumberland Farms Dairy, Fireline Petroleum, Inc. and Fireline Petroleum Supply Distribution Co., Inc., 777 Dedham St., Canton, Massachusetts 02021 filed a Notice of Objection to a Proposed Remedial Order which the Philadelphia Field Office of the Office of Special Counsel issued to the firm on October 29, 1982.

In the PRO the Philadelphia Field Office found that from January 1, 1979 to July 14, 1979, Cumberland violated DOE price regulations applicable to the sale of motor gasoline.

According to the PRO the Cumberland violation resulted in $1,319,715.58 of overcharges.

Reinauer Petroleum Company, Hackensack, New Jersey, HRO–0105

On January 3, 1983, Reinauer Petroleum Company (Reinauer), P.O. Box 66, 101 East Broadway, Hackensack, New Jersey, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the Philadelphia Field Office of the Office of Special Counsel issued to the firm on November 19, 1982. In the PRO, the Philadelphia Field Office found that during the period April 1, 1979 through September 30, 1979, Reinauer sold motor gasoline at prices in excess of the maximum lawful selling prices permitted by the DOE Mandatory Petroleum Price Regulations. According to the PRO, the Reinauer violation resulted in $269,891 of overcharges

[FR Doc. 83–3800 Filed 2–10–83; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–2305–6]

Availability of Environmental Impact Statements Filed January 31 Through February 4, 1983 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382–5075 or 382–5076

Corps of Engineers:

EIS No. 830060, Draft, COE, CA, Rancho Mirage/W. Magnesia Canyon Channel Flood Control, Reverside Co., due: Mar. 31, 1983.

EIS No. 830063, Draft, COE, AK, Bristol Bay Small Boat Harbor Improvements, Dillingham, due: Mar. 28, 1983.

EIS No. 830069, Final, COE, MI, Shiawassee Flats Flood Control, Saginaw River, Saginaw County, due: Mar. 14, 1983.

Department of the Interior:

EIS No. 830066, Draft, BLM, WY, Rock Springs District Wilderness Designation, due: Apr. 15, 1983.

EIS No. 830067, Draft, BLM, REG PRO CO UT WY Federal Oil Shale Management Program, Regulations, due: Apr. 11, 1983.

Department of Transportation:

EIS No. 830062, Draft, FHW, VA, I–95/I–85 Connector, Herico and Chesterfield Counties, due: Apr. 1, 1983.

EIS No. 830065, Draft, FHW, CA, I–80 and I–180 Improvements, Alameda and Contra Costa Counties, due: Apr. 15, 1983.

EIS No. 830064, DSuppl, FHW, IN, Washington-Maryland Streets Transit Mall, Construction, Marion County, due: Apr. 4, 1983.

EIS No. 830058, Final, FHW, MT, FH–61 Reconstruction, Canyon Creek to Rt. 8, Flathead NF, Flathead Co, due: Mar. 14, 1983.

EIS No. 830061, Final, FHW, CA, Rt. 36/FH–4 Widening/Realignment, Six Rivers NF, Humboldt/Trinity Cos, due: Mar. 14, 1983.

Environmental Protection Agency:

EIS No. 830056, Draft, EPA, REG, Spent Nuclear Fuel and Radioactive Wastes, Mgmt. & Disposal Standards, due: May 2, 1983.

EIS No. 830057 Draft, EPA, REG, Rubber Tire Manufacturing Industry, Emissions, Performance Standards, due: Apr. 1, 1983.

EIS No. 830068, Final, EPA, REG, Inactive Uranium Processing Sites, Remedial Action Standards, due: Mar. 14, 1983.

Department of Agriculture:

EIS No. 830059, Final, SCS, SD, Turkey-Clay Creek Watershed Flood Control Plan, due: Mar. 14, 1983.

Dated: February 7, 1983.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 83–3742 Filed 2–10–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59115] BH–FRL 2300–8

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) or TSCA, announces receipt of two applications for an exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: February 28, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–59115]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

TME 83–20

Close of Review Period. March 9, 1983.

Importer. Celanese Specialty Resins.

Chemical. (G) Epoxy resin ester.

Use/Import. Confidential. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a maximum of 6 workers up to 8 hrs/da, up to 10 da/yr; Use: a maximum of 25 workers, up to 8 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. 10–100 kg/yr at one site and 100–1000 kg/yr at another. Disposal by landfill.

TME 83–21

Close of Review Period. March 10, 1983.

Manufacturer. Confidential.

Chemical. (G) Acrylate of polybutadiene.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 5 gms/kg; Acute dermal: 2 gms/kg; Irritation: Skin—Slight-irritant, Eye—Slight-irritant; Ames Test: Negative; Sister chronatid exchange: Negative.

Exposure. Dermal, a total of 10 workers daily.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land.

Dated: January 28, 1983.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 83–3199 Filed 2–10–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS-51452; BH-FRL 2300-7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of nineteen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-423 and 83-424—April 20, 1983.

PMN 83-425, 83-426 and 83-427—April 23, 1983.

PMN 83-428, 83-429, 83-430, 83-431, 83-432, 83-433, 83-434, 83-435 and 83-440—April 24, 1983.

PMN 83-436, 83-437 and 83-438—April 25, 1983.

PMN 83-439 and 83-441—April 26, 1983.

Written comments by:

PMN 83-423 and 83-424—March 21, 1983.

PMN 83-425, 83-426 and 83-427—March 24, 1983.

PMN 83-428, 83-429, 83-430, 83-431, 83-432, 83-433, 83-434, 83-435 and 83-440—March 25, 1983.

PMN 83-436, 83-437 and 83-438—March 26, 1983.

PMN 83-439 and 83-441—March 27, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51452]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-423

Importer. Aceto Chemical Company, Inc.

Chemical. (G) Acrylic terpolymer.

Use/Import. (S) Stabilizer in inks, coatings and adhesives. Import range: 500-20,000 kg/yr.

Toxicity Data. Acute oral: >2100 mg/kg; Irritation: Skin—<2.5.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83-424

Manufacturer. Confidential

Chemical. (G) Primary hydrogenated alkyl amine and silicone polymer.

Use/Production. (G) Highly dispersive use. Prod. range: Confidential.

Toxicity Data. LC_{50}, 96 hrs (Fathead minnows and daphnia magna): >0.05 mg/l.

Exposure. Manufacture and use: dermal and inhalation, a total of 5 workers, up to 1 hr/da, up to 365 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration and approved landfill.

PMN 83-425

Manufacturer. Wilmington Chemical Corporation.

Chemical. (S) Polymer of diglycidyl ether cyclohexane, dimethanol, bisphenol A.

Use/Production. (G) Material to be used in epoxy formulated product industry. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and disposal: dermal, a total of 3 workers, up to 24 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air. Disposal by publicly owned treatment works (POTW).

PMN 83-426

Importer. Celanese Specialty Resins.

Chemical. (G) Epoxy resin ester.

Use/Import. (G) Intermediate. Import range: 500-15,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing and use: dermal, a total of 31 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. 10-1,000 kg/yr released to land. Disposal by landfill.

PMN 83-427

Manufacturer. Confidential.

Chemical. (G) Alkyl amino metal carboxylates.

Use/Production. (S) Industrial rubber process aid. Prod. range: 20,000-150,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal and inhalation, a total of 8 workers, up to 2 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, 1-2 hrs/da, 30 da/yr. Disposal by incineration.

PMN 83-428

Manufacturer. CHATTEM CHEMICALS.

Chemical. (G) Bis alkoxy aluminum acetoacetic ester complex.

Use/Production. (S) Industrial printing ink additive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, at least 56 workers, up to 8 hrs/da, up to 10-75 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air with 10-100 kg/yr to land. Disposal by landfill.

PMN 83-429

Manufacturer. Rhone-Poulene Inc.

Chemical. Further clarification needed before information can be released to the public files.

Use/Production. (S) Dye for photographic film and paper. Prod. range: 700-1,000 g/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: a total of 2 workers, up to 8 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. No release. Disposal by recovery.

PMN 83-430

Manufacturer. Confidential

Chemical. (G) Polyester of aliphatic polyols, vegetable oil, and aromatic dibasic acids.

Use/Production. (S) Foam polyol. Prod. range: 1,000,000-6,000,000 lbs/yr.

Toxicity Data. No data submitted

Exposure. Manufacture, processing, use and disposal: inhalation, a total or 8 workers, up to 8 hrs/da, up to 251 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air with 10-100 kg/yr to water. Disposal by POTW.

PMN 83-431

Manufacturer. Confidential

Chemical. (G) Polyester of aliphatic polyols, vegetable oil, and aromatic dibasic acids.

Use/Production. (S) Foam polyol. Prod. range: 1,000,000-6,000,000 lbs/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing, use and disposal: inhalation, a total of 8 workers, up to 8 hrs/da, up to 251 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air with 10–100 kg/yr to water. Disposal by POTW.

PMN 83–432

Importer. Sandoz Colors and Chemicals.
Chemical. (G) Disazo aromatic compound.
Use/Import. (S) Industrial textile fiber colorant. Import range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg, Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Use: dermal and inhalation, a total of 1 worker/plant/shift, up to 1 hr/person.
Environmental Release/Disposal. 10–100 kg/yr released to water, 1 hr/da. Disposal by POTW and on-site biological waste treatment system.

PMN 83–433

Importer. Sandoz Colors and Chemicals.
Chemical. (G) Mono azo aromatic compound.
Use/Import. (S) Industrial textile fiber colorant. Import range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Use: dermal and inhalation, a total of 1 worker/mill/shift, up to 1 hr/person.
Environmental Release/Disposal. 10–100 kg/yr released to water, 1 hr/da. Disposal POTW and on-site biological waste treatment system.

PMN 83–434

Manufacturer. Confidential.
Chemical. (G) Unsaturated aliphatic diether.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. Acute oral: > 3 g/kg; Acute dermal: Non-toxic; Irritation: Skin—Mild, Eye—Transient irritant, Ames Test: Positive; Skin sensitization: Negative; Chromsomal aberration assay: Positive; Sister chromatid exchange assay: Negative.
Exposure. Manufacture, processing, use and disposal: dermal and inhalation, a total of 5 workers, up to 3 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

PMN 83–435

Manufacturer. Confidential.
Chemical. (G) Acrylate of polybutadiene.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Acute dermal: 2 g/kg; Irritation: Skin—Slight, Eye—Slight; Ames Test: Negative; Sister chromatid exchange: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–436

Manufacturer. FMC Corporation.
Chemical. (G) Chloroaromatic compound.
Use/Production. (S) Sits-limited chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No exposure.
Environmental Release/Disposal. No release.

PMN 83–437

Manufacturer. Confidential.
Chemical. (G) Reaction product of a polyhalogenated anhydride, maleic anhydride, alkylene glycol and amino alcohol.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: a total of 50 fabricators, up to 10 min/batch, up to 7 manhrs/yr.
Environmental Release/Disposal. No release.

PMN 83–438

Manufacturer. Confidential.
Chemical. (G) Disubstituted 3-phenylazo-4-amino-5-hydroxy-2,7-naphthalenedisulfonic acid, alkali metal salt.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: a total of 3 workers, up to 8 hrs/batch, up to 96 manhrs/yr.
Environmental Release/Disposal. No release. Disposal by waste water treatment.

PMN 83–439

Manufacturer. Confidential.
Chemical. (S) 2,2-dimethyl-1,3-propanediol, polymer with 2,2'-oxybis (ethanol), 2-ethyl-2-hydroxymethyl-1,3-propanediol and 1,3-isobenzofurandione.
Use/Production. (G) Open use. Prod. range: 10,000–100,000 kg/ry.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal, a total or 14 workers, up to 4 hrs/da, up to 240 da/yr.
Evironmental Release/Disposal. 10–1,000 kg/yr released to land Disposal by landfill.

PMN 83–440

Manufacturer. Confidential.
Chemical. (G) Methacrylate of polybutadiene.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. Acute oral: 5g/kg; Acute dermal: 2 g/kg; Irritation: Skin-Slight, Eye-Slight; Ames Test: Negative, Sister chromatid exchange: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–441

Manufacturer. Confidential.
Chemical. (S) Polymer of methyl acrylate, ethyl acrylate and acrylamide.
Use/Production. (G) Industrial adhesive. Prod. range: Confidential.
Toxicity Data. Acute dermal: >2,000 mg/kg; Irritation: Skin-Mild, Eye-Moderate; Ames Test: Negative.
Exposure. Manufacture and processing: a total of 5 workers, up to 8 hrs/da, up to 900 manhours/yr.
Environmental Release/Disposal. Minimal. Disposal by incineration.

Dated: January 28, 1983.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 83–3200 Filed 2–10–83; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

National Industry Advisory Committee Long Range Planning Committee; Meeting

Pursuant to the provisions of Pub. L. 92–463; announcement is made of a public meeting of the Long Range Planning Committee of the National Industry Advisory Committee (NIAC) to be held on Monday, February 28, 1983. The Committee will meet at the International Club (Conference Room, 3rd floor) located at 1800 K Street, NW., Washington, D.C. at 10:00 A.M.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Those desiring more specific information about the meeting may telephone the Executive Secretary at the Emergency Communications Division, FCC, (202) 634–1600.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83–3704 Filed 2–10–83; 8:45 am]
BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Definitions and Rules Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's Definitions and Rules Subcommittee scheduled to meet on Wednesday, February 23, 1983. The meeting will be held at 9:30 a.m. in the offices of GTE Service Corporation, (Suite 900), at 1120 Connecticut Avenue, NW., Washington, D.C. and will be open to the public. The agenda is as follows:

I. General Administrative Matters.
II. Review of Minutes of Previous Meeting.
III. Discussion of Individual Assignments.
IV. Other Business.
V. Presentation of Oral Statements.
VI. Adjournment.

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encourged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203/965–2830) at least five days prior to the meeting date.

Federal Communications Commission.

William J. Tricarico,

Secretary,

[FR Doc. 83–3705 Filed 2–10–83; 8:45 am]

BILLING CODE 6712–01–M

Radio Advisory Committee; Meeting

The next meeting of the Advisory Committee on Radio Broadcasting has been scheduled at 9:30 a.m., Friday April 29, 1983, in Room 330, 1200 19th Street, NW., Washington, D.C.

The Committee will consider recommendations to the FCC concerning:

—The development of a new bilateral agreement between the United States and Canada on AM broadcasting which will implement the Final Acts of the 1981 Rio de Janeiro Conference on AM broadcasting in Region 2 and supersede the North American Regional Broadcasting Agreement (NARBA).
—The development of similar revisions to the U.S. Mexican AM Radio Broadcasting Agreement; and
—Other Business.

The meetings of the Committee are public, and are open for participation by all interested persons. The meeting scheduled for April 29, 1983 may, if the participants so decide, be recessed for resumption at such other time and place as they may designate.

For further information please contact the Committee Chairman, Louis C. Stephens or in his absence Jonathan David at FCC Headquarters, (202) 632–7792.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–3703 Filed 2–10–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W. Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washingon, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of this document to the person filing the agreement at the address shown below.

Agrement No. 1 T–4086.

Title: Atlantic Container Line-Barber Lines Lease.

Parties: Atlantic Container Line, Ltd. (ACL)/Barber Blue Sea Line/Barber West Africa Line (the Lines)

Synopsis: Agreement No. T–4086 provides that ACL, upon becoming the lessee of Berths 72 and 74 from the Port of Authority of New York and New Jersey, will furnish terminal space and berthing facilities to the Lines. As compensation, ACL will receive a percentage of its rental cost and fixed operating expenses.

Filing Agent: William Karas, Esquire, Short, Klein & Karas, P.C. 1101 30th Street NW., Suite 303, Washington, D.C. 20007.

Dated: February 8, 1983.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83–3732 Filed 2–10–83; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Senior Executive Service; Performance Award

Notice is hereby given pursuant to 5 U.S.C. 5384, of the following Senior Executive Service performance award made by the Federal Mediation and Conciliation Service on February 2, 1983.

Paul Yager, Director, Eastern Region, New York, NY. $10,000.

Dated: February 8, 1983.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 83–3811 Filed 2–10–83; 8:45 am]

BILLING CODE 6732–01–m

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company; Sun Banks of Florida, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on this application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Sun Banks of Florida, Inc.*, Orlando, Florida; to acquire 100 percent of the voting shares or assets of Avon Citrus Bank, Avon Park, Florida. Comments on

this application must be received not later than March 8, 1983.

Board of Governors of the Federal Reserve System, February 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3710 Filed 2-10-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; First Franklin Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Franklin Bancshares, Inc.*, Athens, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank and Trust Company, Athens, Tennessee. Comments on this application must be received not later than March 7, 1983.

2. *First Thomson, Bancorp, Inc.*, Thomson, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Thomson. Thomson, Georgia. Comments on this application must be received not later than March 8, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Fourth First Bancorp*, Huntington, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Huntingburg, Huntingburg, Indiana. Comments on this application must be received not later than March 8, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Craco, Inc.*, Vinita, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank and Trust Company of Vinita, Vinita, Oklahoma. Comments on this application must be received not later than March 8, 1983.

Board of Governors of the Federal Reserve System, February 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3709 Filed 2-10-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Chittenden Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Chittenden Corporation*, Burlington, Vermont (management consulting; New York, New Hampshire, Massachusetts): To engage through its subsidiary, Chittenden Consulting Corporation, in providing management consulting advice to nonaffiliated banks and nonbank depository institutions, including commercial banks, savings and loans associations, mutual savings banks, credit unions, industrial banks, Morris Plan banks, co-operative banks and industrial loan companies, on an explicit fee basis. This activity is currently being conducted from an office in Burlington, Vermont, serving the State of Vermont. This subject notice is for expansion of the service area of the existing office to include the States of New York, New Hampshire and Massachusetts. Comments on this application must be received not later than February 28, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York (lending, servicing, and credit insurance activities; Texas): to engage, through its indirect subsidiary Chase Manhattan Financial Services, Inc., Newark, Delaware, in making and acquiring, for its own account and for the account of others, loans and other extensions of credit, both secured and unsecured, including consumer and business lines of credit, installment loans for personal, household and business purposes, and mortgage loans secured by real property; servicing loans and other extensions of credit; and acting as agent for the sale of credit life insurance and credit accident and health insurance directly related to such lending and servicing activities, from a *de novo* office located in Houston, Texas, serving the State of Texas. Comments on this application must be received not later than March 8, 1983.

C. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Philadelphia National Corporation*, Philadelphia, Pennsylvania (finance and mortgage activities; New York): To engage, through its newly-formed indirected subsidiary, Signal Mortgage Corporation of New York, in mortgage banking activities, including the making and acquiring of loans secured by mortgages on real estate, all as permitted by New York law. These activities would be conducted throughout New York by the newly-

formed entity from offices in the following New York locations: Albany, Batavia, Herkimer, Malone, Newburgh, Rochester, Syracuse, and Webster, New York, serving the State of New York. Comments on this application must be received not later than March 8, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Central Banking System, Inc.*, Pleasant Hill, California (financing, servicing, leasing activities; western United States): To engage, through its subsidiary, Central Banking System Credit Corporation, in making or acquiring loans and other extensions of credit such as would be made by a commercial financial company, including commercial loans secured by a borrower's inventory, accounts receivable, or other assets; originating and selling such loans to others; servicing such loans for others; and making leases of personal property in accordance with the Board's Regulation Y. These activities would be performed in the states of Minnesota, Iowa, Missouri, Arkansas, Louisiana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, California (all west of the Mississippi River), including Alaska and Hawaii. Comments on this application must be received not later than March 8, 1983.

Board of Governors of the Federal Reserve System, February 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3711 Filed 2-10-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Affidavit of Individual Surety (Standard Form 28)

AGENCY: General Services Administration.

ACTION: Notice of information collection; revision.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget to review and approve the revision of an information collection request for the collection of data.

DATES: Comments on the information collection request must be submitted on or before February 25, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Alicia McGuire on (703-696-5180).

SUPPLEMENTARY INFORMATION: The Standard Form 28 is used by the Federal Government to obtain data from individuals wishing to serve as sponsors of Federal bonds. The estimated annual number of respondents is 500, and the estimated average preparation time per response is ½ hour. A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone (202-566-1164).

Dated: February 4, 1983.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 83-3724 Filed 2-10-83; 8:45 am]

BILLING CODE 6820-34-M

Application for Presenting New Articles (GSA Form 1171)

AGENCY: General Services Administration.

ACTION: Notice of information collection; revision.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget to review and approve the reinstatement of an information collection request for the collection of data.

DATES: Comments on the information collection request must be submitted on or before February 28, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Eve M. Groves on (703-557-3983).

SUPPLEMENTARY INFORMATION: The information collection request is necessary to collect data from the public to determine the merits of new products for introduction into the Federal supply system. A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone (202-566-1164).

Dated: Febraury 4, 1983.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 83-3722 Filed 2-10-83; 8:45 am]

BILLING CODE 6820-34-M

Profit and Loss—Operating Statement (GSA Form 2817)

AGENCY: General Services Administration.

ACTION: Notice of information collection; reinstatement.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget to review and approve the reinstatement of an information collection request for the continued collection of data.

DATES: Comments on this information request must be submitted on or before March 4, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: George V. Lampman, (202-566-0542).

SUPPLEMENTARY INFORMATION: The information collection will enable GSA to continue receiving data on food service contractors proposing to do business with the agency. The information is used to project the estimated revenue and expense and profit and loss items of contractors. A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone (202-566-1164).

Dated: February 4, 1983.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 83-3723 Filed 2-10-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Science Advisory Board; Request for Nomination of Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests nominations for membership on the

Science Advisory Board. Six vacancies will occur on June 30, 1983.

DATE: Nominations are requested as soon as possible, but no later than March 15, 1983.

ADDRESS: Nominations should be submitted to the Executive Secretary, Science Advisory Board, National Center for Toxicological Research, Jefferson, AR 72079.

FOR FURTHER INFORMATION CONTACT: Lawrence Fishbein, National Center for Toxicological Research, Jefferson, AR 72079, 501–541–4390.

SUPPLEMENTARY INFORMATION: The function of the Science Advisory Board is to advise the Director, National Center for Toxicological Research, in establishing and implementing a research program that will assist the Commissioner of Food and Drugs and the Administrator of the Environmental Protection Agency in fulfilling their regulatory responsibilities. The Board provides the extra-agency review to ensure that research programs and methodology development at the National Center for Toxicological Research are scientifically sound and pertinent to environmental problems.

Six vacancies will occur on June 30, 1983. Members shall have diversified experience in biomedical research and be a recognized expert in at least one discipline directly related to carcinogenesis, teratogenesis, or mutagenesis. Current needs are in teratology, biostatistics, pharmacology, and computer applications. The term of office is 3 years.

FDA wants to ensure that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, and handicapped candidates.

Any interested person may nominate one or more qualified persons for membership. A complete curriculum vitae of the nominee shall be included. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the committee, and appears to have no conflict of interest. FDA will ask potential candidates to provide detailed information concerning financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

Dated: February 4, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3392 Filed 2-4-83; 12:12 pm]

BILLING CODE 4160-01-M

[FDA 225-83-4000]

Memorandum of Understanding Between the State of Illinois Attorney General and the Chicago District Office

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the State of Illinois Attorney General. The purpose of the understanding is to establish a cooperative work-sharing program between the State of Illinois Attorney General, Consumer Protection Division, and the Chicago District Office of Region V of FDA. The agreement sets forth the working arrangements between each agency for the development and implementation of appropriate sanctions concerning fraud and deception involving foods, drugs, devices, and cosmetics in the State of Illinois in violation of State and/or Federal law.

EFFECTIVE DATE: This agreement became effective December 13, 1982.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1583.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) stating that all agreements between FDA and others shall be published in the **Federal Register**, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding

Between the

State of Illinois Attorney General Consumer Protection Division

and the

Chicago District Office, Region V, Food and Drug Administration

I. Purpose

This memorandum of understanding establishes a cooperative work-sharing program between the State of Illinois Attorney General, Consumer Protection Division, and the Chicago District Office of Region V of the Food and Drug Administration (FDA). This agreement will set forth the working arrangements between each agency for the development and implementation of appropriate sanctions concerning fraud and deception involving foods, drugs, devices, and cosmetics in the State of Illinois in violation of State and/or Federal law.

Through this memorandum of understanding, each agency will enhance overall consumer protection by making more efficient use of its available resources and will eliminate duplication in this area of concurrent jurisdiction.

II. Background

The Chicago District Office of Region V of the Food and Drug Administration, and the State of Illinois Attorney General, Consumer Protection Division, have been cooperating by, among other things, scheduling and effecting investigations and inspections which often arise from consumer complaints involving foods, drugs, cosmetics, and devices as they relate to violations of Federal and/or State law.

The Illinois Attorney General, Consumer Protection Division, is authorized by the Consumer Fraud and Deceptive Business Practices Act ((CFA) Ill. Rev. Stat. 1979, Ch. 121, 1/2, par. 261 et seq.) to inspect foods, drugs, devices, and cosmetics to determine whether unfair or deceptive acts or practices have occurred, are occurring, or may occur. FDA's authority derives from the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.). FDA directs its activities toward the protection of the public health by ensuring that foods, drugs, devices, and cosmetics are safe and wholesome and labeled and otherwise represented in accordance with the Federal law.

Both parties now wish to formalize their working agreement by a written momorandum of understanding.

III. Substance of Agreement

A. Both agencies agree to:

Meet, as appropriate, to determine the most effective procedures for obtaining compliance from firms subject to both Federal and State jurisdiction and to decide which agency will take regulatory action in specific cases.

B. The State of Illinois Attorney General, Consumer Protection Division, will:

1. Promptly inform FDA of all consumer complaints and investigations which involve foods, drugs, devices, and cosmetics.

2. Transmit promptly, within the restrictions provided by existing State statutes and regulations, information pertaining to food, drug, device, and cosmetic investigations and proposed litigation arising out of investigations in which there is a joint responsibility.

C. FDA's Chicago District Office will:

1. Inform the Illinois Attorney General, Consumer Protection Division, of regulatory actions (regulatory letters, seizures, injunctions, prosecutions) that have been filed in their jurisdiction and that involve fraud and economic deception.

2. Provide, when requested, guidance and assistance as to current FDA policy and identify sources of information or experts (within or outside the agency) on such matters.

3. Provide, when requested and resources permit, analytical and investigational assistance.

4. Provide, when requested, copies of official documents, such as establishment inspection reports or analytical worksheets, for use in State regulatory actions. Disclosure will be subject to any relevant restrictions of Federal laws or regulations.

D. Performance evaluation:

During the term of this agreement, both parties will develop and implement a procedure for the evaluation of the quality of program performance under the terms of this agreement.

IV. Name and Address of Participating Agencies

A. State of Illinois Attorney General, Consumer Protection Division, 53 West Jackson Blvd., Suite 335, Chicago, Illinois 60604.

B. Chicago District Office, Food and Drug Administration, 443 W. Van Buren St., Chicago, Illinois 60607.

V. Liaison Officers

A. For the State of Illinois Attorney General:

Director, Consumer Protection Division, (currently: Clifford L. Meachem), Illinois State Attorney General, 53 West Jackson Blvd., Suite 335, Chicago, Illinois 60604, 312–793–3580.

B. For the Food and Drug Administration: Director, Compliance Branch, (currently: Philip Sheeler), Chicago District Office, Food and Drug Administration, 433 W. Van Buren St., Chicago, Illinois 60607, 312–353–9752.

VI. Period of Agreement

This agreement will become effective upon acceptance by both parties and will continue indefinitely. It may be amended by mutual written consent or terminated by either party upon a 30-day written advance notice to the other.

Approved and Accepted for the State of Illinois Attorney General:

By: s/Paul P. Beebe, Jr.,

Assistant Attorney General.

Date: November 26, 1982.

Approved and Accepted for the Food and Drug Administration:

By: s/William R. Clark,

Regional Food and Drug Director.

Date: December 13, 1982.

Effective date. This memorandum of understanding became effective December 13, 1982.

Dated: February 7, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–3713 Filed 2–10–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82D–0359]

Bioequivalence Studies for New Animal Drugs; Availability of Draft Guideline

Correction

In FR Doc. 83–1142 beginning on page 2207 in the issue of Tuesday, January 18, 1983, make the following correction:

In the heading at the beginning of the document, "Availability of Drug Guideline" should have read "Availability of Draft Guideline".

BILLING CODE 1505–01–M

[Docket No. 80N–0276; DESI 7630]

Certain Anabolic Steroids; Drug Efficacy Study Implementation; Revocation of Exemption; Opportunity for Hearing

Correction

In FR Doc. 83–1144 beginning on page 2208 in the issue for Tuesday, January 18, 1983, made the following correction:

In the first column of page 2209, approximately halfway down, in paragraph 4., NDA 11–683, "83 mg/ml" should have read "8.3 mg/ml".

BILLING CODE 1505–01–M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. March 1, 9 a.m., Auditorium, Lister Hill Center, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., open committee discussion, 10 a.m. to 5 p.m.; Joan C. Standaert, National Center for Drugs and Biologics (HFN–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drug products for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss a petition from Sterling Drug to expand the professional labeling section of the Internal Analgesic Monograph to include the following indication: "Aspirin has been shown to be effective in reducing the risk of death or reinfarction in patients who recently have suffered a myocardial infarction." The committee's discussion and conclusions regarding aspirin in cardiovascular disease will be considered by the agency in its preparation of a monograph on over-the-counter (OTC) internal analgesic drugs. Such a monograph is being developed as part of the OTC drug review proceeding on OTC internal analgesic, antipyretic, and antirheumatic drug products. The advance notice of proposed rulemaking for those products was published in the **Federal Register** of July 8, 1977 (42 FR 35346).

They will also discuss NDA 18–257 (Merck and Co.); Tonocard (Tocainide HC1) for use in ventricular arrhythmia.

Board of Tea Experts

Date, time, and place. March 1 and 2, 10 a.m., Rm. 700, 850 Third Ave., Brooklyn, NY.

Type of meeting and contact person. Open public hearing, March 1, 10 a.m. to 11 a.m.; open committee discussion, March 1, 11 a.m. to 4:30 p.m., March 2, 10 a.m. to 4:30 p.m.; Robert H. Dick, New York Import District, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212–965–5739.

General function of the committee. The Board advises on establishment of uniform standards of purity, quality, and fitness for consumption of all teas imported into the United States pursuant to 21 U.S.C. 42.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Board.

Open committee discussion. Discussion and selection of tea standards.

Cardiovascular and Renal Drugs Advisory Committee and the Gastrointestinal Drugs Advisory Committee

Meeting in Joint Session

Date, time, and place. March 2, 9 a.m., Auditorium, Lister Hill Center, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joan C. Standaert, National Center for Drugs and Biologics (HFN–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730.

General function of the committees. The Cardiovascular and Renal Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in cardiovascular and renal disorders.

The Gastrointestinal Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of marketed investigational prescription drug products for use in gastrointestinal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The joint committees will discuss gastrointestinal tolerance of solid oral dose forms of potassium chloride (KC1). In particular: NDA 18–238 (Micro-K) A. H. Robins and Co.; NDA 17–476 (Slow-K) Ciba-Geigy Corp.; NDA 18–075 (Slow-K-Kap) Ciba-Geigy Corp.; NDA 18–279 (K–tab) Abbott Laboratories: NDA 16–287 (Kaon-C1) Adria Laboratories. The Gastrointestinal Drugs Advisory Committee will discuss possible labeling changes for Ethrane NDA 17–087, Ohio Medical, based on available data with respect to effects on the liver.

Endocrinologic and Metabolic Drugs Advisory Committee; Subcommittee on Pediatric Parenteral Multivitamins

Date, time, and place. March 11, 9 a.m., Auditorium, Uniformed Services University of the Health Sciences, 4301 Jones Bridge Rd., Bethesda, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m., A. T. Gregoire, National Center for Drugs and Biologics (HFN–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1869.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in treating endocrine and metabolic disorders.

Agenda—Open public hearing. Interested persons requesting to present data, information or views, orally or in writing, on issues pending before the committee, should communicate with the committee executive secretary.

Open committee discussion. The subcommittee will discuss appropriate dosage of pediatric parenteral multivitamins for low-birth-weight infants.

Oncologic Drugs Advisory Committee

Date, time, and place. March 24, 9 a.m., and March 25, 8:30 a.m., Conference Rm. E., Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion March 24, 9 a.m. to 11:30 a.m., open public hearing, 11:30 a.m. to 12:30 p.m., open committee discussion, 1:30 p.m. to 5 p.m., March 25, 8:30 a.m. to 5 p.m.; Leah Ripper, National Center for Drugs and Biologics (HFN–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5197.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational prescription drugs for use in the field of oncology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss (1) controlled clinical trials of antineoplastic drugs; (2) revisions to the "Guidelines for the Clinical Evaluation of Antineoplastic Drugs;" (3) status of the NCI Preclinical Toxicology Protocol; (4) the approvability of Sandoz, Inc.'s SANDIMMUNE (cyclosporine A) oral solution and intravenous for use as an immunosuppressant agent in organ transplantation, in the prophylaxis of graft vs. host disease (GvHD) in bone marrow transplants, and in the treatment of established GvHD; (5) the approvability of Schering Corp.'s EULEXIN (flutamide) capsules for the palliative treatment of advanced cancer of the prostate; (6) the approvability of Lederle Laboratories' Methotrexate sodium parenteral in high-dose regimens, followed by Leucovorin Calcium rescue, in the treatment of advanced non-Hodgkin's lymphoma with unfavorable histologies, usually in combination with other chemotherapeutic agents; and (7) the approvability of the Upjohn Co.'s MYLOSAR (azacitidine) sterile powder for the induction of remission in acute nonlymphocytic leukemia (granulocytic, myelocytic, myelogenous, myelomonocytic, monocytic, erythroid).

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in the **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations

relating to public advisory committees may be found in 21 CFR Part 14.

Dated: February 8, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3889 Filed 2-9-83; 1:23 pm]

BILLING CODE 4160-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced.

Blood Products Advisory Committee

Date, time, and place. March 1, 8:30 a.m., Rm. 115, Bldg. 29, Office of Biologics, 8800 Rockville Pike, Bethesda, Md.

Type of meeting and contact person. Open public hearing, March 1, 8:30 a.m. 9:30 a.m.; open committee discussion, 9:30 a.m. to 12 m.; closed committee deliberations, 1 p.m. to 5 p.m.; open committee discussion, March 2, 8:30 a.m. to 5 p.m.; Mary Ann Tourault, National Center for Drugs and Biologics (HFN-830), Office of Biologics, Food and Drug Administration, Bldg. 29, 8800 Rockville Pike, Bethesda, MD 20205, 301-496-5241.

General function of the committee. The committee reviews and evaluates data on the safety, effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussions. Safety and efficacy issues related to plasma-derived and genetically engineered biologicals, malignant cell lines, hepatitis B vaccine and therapeutic fibrinolytic agents will be discussed on March 1. Topics on March 2 will include the prevention of infections from blood products, non-A, non-B hepatitis, alanine aminotransferase testing (ALT), and anti-HBc testing. Individuals with experience with ALT testing or with other nonspecific screening tests that may aid in the prevention of post-transfusion hepatitis are invited to present and discuss their data at this session.

Closed committee deliberations. The committee will review trade secret or confidential commercial information relevant to pending notices of claimed investigational exemptions for new drugs and pending biological license applications for genetically engineered products. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. March 17 and 18: 9 a.m., Auditorium, 200 Independence Ave., SW., Washington, DC.

Type of meeting and executive secretary. Open public hearing, March 17, 9 a.m., to 10 a.m.; open committee discussion, 10 a.m., to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, March 18, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 1 p.m. to 3 p.m.; open committee discussion, 3 p.m. to 5 p.m.; Dr. George C. Murray, Office of Medical Devices (HFK-460), National Center for Devices and Radiological Health, Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

General function of committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before March 3, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On March 17, the committee will discuss general issues relating to approvals of premarket approval applications (PMA's) for intraocular lenses (IOL's) and specific PMA's for IOL's. If discussion of all pertinent IOL issues is not completed, discussion will be continued the following day. The Section may also discuss the state of the art and emerging laser technology in the field of ophthalmology. On March 18, the committee may discuss PMA's or general issues relating to contact lenses or other ophthalmic products, including final review of the contact lens and contact lens care product guidelines.

Closed committee deliberations. On March 17 and 18, the committee will conduct reviews of PMA's for IOL applications. On March 18, the committee may also discuss trade secret or confidential commercial information relevant to PMA's for contact lens products. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L., 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: February 9, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83–3890 Filed 2–9–83; 1:23 pm]

BILLING CODE 4160–01–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: Dallas District Office, chaired by James E. Anderson, District Director.

DATE: Wednesday, February 23, 1983, 7:30 p.m.

ADDRESS: First State Bank Bldg., Green Room, Eighth Floor, 101 South Locust St., Denton, TX 76201.

FOR FURTHER INFORMATION CONTACT: Donald W. Aird, Consumer Affairs Officer, Food and Drug Administration, Dallas District Office, 1200 Main Tower, Rm. 1545, Dallas, TX 75201, 214–767–5433.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: February 8, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–3888 Filed 2–9–83; 1:23 pm]

BILLING CODE 4160–01–M

National Institutes of Health

Aging Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on March 24 and 25, 1983, in Building 31, Conference Room 6 (C wing), National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on March 24, for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 24, from 10:00 a.m. to adjournment on March 25, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 2C05, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–5898, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: February 1, 1983.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 83–3760 Filed 2–10–83; 8:45 am]

BILLING CODE 4140–01–M

Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on March 10–13, 1983, in Conference Room 10, Building 31, at the National Institutes of Health, Bethesda, Maryland 20205. The meeting will be open to the public from 8:30 a.m. to approximately 9:30 a.m. for review of policies and procedures and routine business of the committee. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and

552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Allergy and Clinical Immunology Subcommittee will be closed to the public for review, evaluation, and discussion of individual grant applications from 9:30 a.m. on March 10 until adjournment on March 13. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Committee members as requested.

Dr. Nirmal K. Das, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 706, Bethesda, Maryland 20205, telephone (301) 496–7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: February 1, 1983.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 83–3766 Filed 2–10–83; 8:45 am]

BILLING CODE 4140–01–M

Biomedical Library Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on March 15–16, 1983, convening each day at 8:30 a.m. in the NMAC Classroom, Lister Hill Center Building of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on March 16, and the meeting of the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications on March 14 from 2:00 p.m. to 5:00 p.m. in the 5th Floor Conference Room of the Lister Hill Center Building.

The meeting on March 15 will be open to the public from 8:30 to 11:00 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the regular meeting and the subcommittee meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications, as follows: The regular meeting on March 15 from 11:00 a.m. to 5:00 p.m., and on March 16 from 8:30 a.m. to adjournment; and the subcommittee meeting on March 14 from 2:00 p.m. to 5:00 p.m. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, telephone number: 301–496–4191, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: February 1, 1983.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 83–3770 Filed 2–10–83; 8:45 am]

BILLING CODE 4140–01–M

Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, April 7 and 8, 1983, National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7N214, Bethesda, Maryland 20205. This meeting will be open to the public from 9:30 a.m. to 4:00 p.m. April 7 and from 9:30 a.m. to 12 noon on April 8 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 12 noon to adjournment April 8 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Director, Division of Intramural Research, NHLBI, NIH, Building 10, 7N214, phone (301) 496–2116.

Dated: February 11, 1983.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83–3764 Filed 2–10–83; 8:45 am]

BILLING CODE 4140–01–M

Breast Cancer Task Force Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Breast Cancer Task Force Committee, National Cancer Institute, March 14–15, 1983, National Institutes of Health, Building 31, C-Wing, Conference Rooms 6 and 7, Bethesda, Maryland 20205. The entire meeting will be open to the public from 8:30 a.m. to adjournment on March 14 and from 8:30 a.m. to adjournment on March 15. The meeting will be open to the public on March 14 from 8:30 a.m. to 2:00 p.m. for a program on nutrition and breast cancer. From 2:30 p.m. to adjournment on March 14 and from 8:30 a.m. to adjournment on March 15 the committee will divide into two working groups to discuss research projects related to etiology and clinical aspects. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496/5708), will provide summaries of the meetings and rosters of committee members, upon request.

Dr. Mary Sears, Acting Executive Secretary, Breast Cancer Task Force Committee, National Cancer Institute, Blair Building, Room 3A–07, National Institutes of Health, Bethesda, Maryland

20205 (301/427–8818), will furnish substantive program information.

Dated: January 28, 1983.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83–3759 Filed 2–10–83; 8:45 am]

BILLING CODE 4140–01–M

Cancer Preclinical Progam Project Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Preclinical Program Project Review Committee, March 17–18, 1983, National Cancer Institute, Building 31, Conference Room 10, C Wing, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on March 17 from 9:00 a.m. to 10:00 a.m. for reports by the Executive Secretary and Chairman; and review of administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 17, from 10:00 a.m. to adjournment, and on March 18, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. William R. Sanslone, Executive Secretary, Cancer Preclinical Program Project Review Committee, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7565) will furnish substantive program information.

(Catalog of Federal Domestic Assistance No. 13.392, Project Grants in Cancer Construction, National Institutes of Health)

Dated: February 11, 1983.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 83–3769 Filed 2–10–83; 8:45 am]

BILLING CODE 4140–01–M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, April 4–5, 1983, at the Loews Summit Hotel, East 51st. Street at Lexington Avenue, New York, New York 10022.

This meeting will be open to the public on April 4, 1983, from 8:00 p.m. to approximately 9:00 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on April 4 from approximately 9:00 p.m. to adjournment, and from 8:30 a.m. to adjournment on April 5, for the review, discussion and evaluation of an individual grant application. This application and the discussions could reveal personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under Section 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A–21, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 548B, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Date: February 1, 1983.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 83–3763 Filed 2–10–83; 8:45 am]

BILLING CODE 4140–01–M

Maternal and Child Health Research Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Maternal and Child Health Research Committee, National Institute of Child Health and Human Development, on March 15–16, 1983, in the Landow Building, Conference Room A, 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on March 15, from 9:00 a.m. to 10:15 a.m. to discuss items relative to the Committee's activities including announcements by the Director, Associate Director for Scientific Review, and Chiefs of the Human Learning and Behavior and the Clinical Nutrition and Early Development Branches and the Executive Secretary of the Committee. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code, Sections 552b(c)(4) and 552(c)(6) and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 15 from 10:30 a.m. to adjournment on March 16 for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal property.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members. Dr. Jane Showacre, Executive Secretary, Maternal and Child Health Research Committee, NICHD, Landow Building, Room 6C03, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1696, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, Research for Mothers and Children, National Institutes of Health)

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Dated: February 1, 1983.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 83-3762 Filed 2-10-83; 8:45 am]

BILLING CODE 4140-01-M

Mental Retardation Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Mental Retardation Research Committee, National Institute of Child Health and Human Development, on March 17, 1983, in Conference Room A Landow Building, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on March 17 from 8:00 a.m. to 9:00 a.m. to discuss items relative to the Committee's activities including announcements by the Director, National Institute of Child Health and Human Development, and the Executive Secretary, Mental Retardation Research Committee.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 17 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, 6C-08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1485, will provide a summary of the meeting and roster of committee members. Dr. Stanley L. Slater, Executive Secretary, Mental Retardation Research Committee, NICHD, Landow Building, Room 6C-04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1696, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, Research for Mothers and Children, National Institutes of Health)

Dated: February 11, 1983.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 83-3761 Filed 2-10-83; 8:45 am]

BILLING CODE 4140-01-M

NIDR Special Grants Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Institute of Dental Research Special Grants Review Committee, March 23-24, 1983, in Conference Room 7, Building 31-C, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public from 9:00 a.m. to 9:30 a.m. March 23, 1983, for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:30 a.m. March 23 to adjournment March 24 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. H. George Hausch, Executive Secretary, NIDR Special Grants Review Committee, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 504, Bethesda, MD 20205, (telephone 301 496-7658) will provide summaries of meeting, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13.840—Caries Research, 13.841—Periodontal Diseases Research, 13.842—Craniofacial Anomalies Research, 13.843—Restorative Materials Research, 13.844—Pain Control and Behavioral Studies, 13.845—Dental Research Institutes, 13.878—Soft Tissue Stomatology and Nutrition Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: February 1, 1983.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83-3765 Filed 2-10-83; 8:45 am]

BILLING CODE 4140-01-M

Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on March 9, 1983, in Conference Room 4, Building 31, at the National Institutes of Health, Bethesda, Maryland 20205. The meeting will be open to the public from 8:30 a.m. to 9:10 a.m. for review of policies and procedures and routine business of the committee. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting of the Transplantation Biology and Immunology Subcommittee will be closed to the public for review, evaluation, and discussion of individual grant applications from 9:10 a.m. until adjournment. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A-32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meetings and rosters of the Committee members as requested.

Dr. Nirmal K. Das, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 706, Bethesda, Maryland 20205, telephone (301) 496-7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: February 1, 1983.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 83-3767 Filed 2-10-83; 8:45 am]

BILLING CODE 4140-01-M

Vision Research Program Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, March 24 and 25, 1983, Conference Room 8, Building 31,

National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on March 24 from 8:30 a.m. to 9:00 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:00 a.m. on March 24 until adjournment on March 25 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Carter, Committee Management Officer, National Eye Institute, Building 31, Room 6A–03, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–4903, will provide summaries of the meeting and rosters of committee members.

Dr. Catherine Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–06, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–5561, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

Dated: February 1, 1983.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 83–3768 Filed 2–10–83; 8:45 am]

BILLING CODE 4140–01–M

Interagency Technical Committee's Working Group on Blood Resources and Blood Substitutes; Meeting

Notice is hereby given of the Meeting of the Interagency Technical Committee's Working Group on Blood Resources and Blood Substitutes, sponsored by the National Heart, Lung, and Blood Institute, on April 6th, 1983, from 9:00 a.m. to 12:30 p.m., Building 31, C Wing, Conference Room 6 at the National Institutes of Health, 9000 Rockville Pike Bethesda, Maryland 20205.

The entire meeting will be open to the public. The IATC Working Group on Blood Resources and Blood Substitutes is meeting to examine and coordinate federal research activities which concern human blood and its substitutes. Attendance by the public will be limited to space available.

For detailed program information, a list of meeting participants, and a meeting summary contact: Dr. David M. Robinson, Co-Chairman, IATC Working Group on Blood Resources and Blood Substitutes, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 5A03, 9000 Rockville Pike, Bethesda, MD 20205, phone (301) 496–5031.

Dated: February 4, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institute of Health.

[FR Doc. 83–3771 Filed 2–10–83; 8:45 am]

BILLING CODE 4140–01–M

Warren Grant Magnuson Clinical Center; Conference

Notice is hereby given of the NIH Consensus Development Conference on "Critical Care Medicine," sponsored by the Warren Grant Magnuson Clinical Center, with assistance from the NIH Office of Medical Applications of Research. The conference will be held March 7–9, 1983, in the Masur Auditorium of the Clinical Center (Building 10) at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The conference is designed to evaluate the efficacy, safety, function, structure, and future direction of critical care medicine. Critical care medicine is a multidisciplinary specialty concerned with the care of patients who are suffering from acute diseases severe enough to endanger their lives. The hallmark of critical care is early diagnosis and immediate intervention to prevent serious organ system dysfunction. Key questions to be addressed are: Is there empirical evidence that ICUs cause a decrease in patient morbidity or mortality? Which patients are most likely to benefit from intensive care? What skills are essential for personnel in a critical unit? How should this personnel be trained and organized to assure the best care for patients most in need? What special technology and therapeutic interventions should be routinely available for the most effective ICU function? How is a hospital's critical care delivery system best structured: one large multispecialty unit or multiple small subspecialty ICUs? What direction should critical care research follow?

This Consensus Development Conference will convene biomedical investigators, critical care physicians, medical specialists, anesthesiologists, nurses, critical care technologists, consumers, and representatives of public interest groups. Following two days of presentations by medical experts and discussion by the audience, a Consensus Panel will consider the scientific evidence. The panel members will issue a draft statement responding to the key conference questions. On the third day, March 9, Consensus Panel Chairman Stephen M. Ayres, professor and chairman of the Department of Internal Medicine at St. Louis University School of Medicine, will read this preliminary Consensus Statement before the conference audience and invite comments and questions.

Information on the program may be obtained from Dr. Joseph Parrillo, Chief of the Critical Care Department, Clinical Center, Room 10D48, NIH, Bethesda, MD 20205, (301) 496–9565. Administrative information may be obtained from Mr. Peter Murphy, Prospect Associates, 2115 East Jefferson Street, Suite 401, Rockville, Maryland, 20852, (301) 468–6555.

Dated: January 28, 1983.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83–3772 Filed 2–10–83; 8:45 am]

BILLING CODE 4140–01–M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was last published on February 4.

PUBLIC HEALTH SERVICE

Health Resources and Services Administration

Subject: Annual Space Utilization and Enrollment Report for Nursing and Health Professions (0935–0018)—Extension/No Changes
Respondents: Nursing and health professions schools
OMB Desk Officer: Fay S. Iudicello

Centers for Disease Control

Subject: Nontuberculous Mycobacterial Disease Surveillance Case Reports (0920–0100)—Extension/No Changes
Respondents: Directors of tuberculosis control programs and state epidemiologists
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Railroad Employment Questionnaire (SSA–671 (3–83))—Revison
Respondents: Individuals or households applying for Social Security benefits
Subject: Physician's/Medical Officer's Statement Concerning Patient's Capability to Manage Benefits (SSA–787 (4–81))—NEW
Respondents: Physicians and medical officers
Subject: Referral and Treatment Status of Supplemental Security Income Drug Addicts or Alcoholics (SSA–8740)—NEW
Respondents: State or local governments
OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Paperwork Requirements Associated with the Medicaid Management Information System (HCFA R–4)—Extension/No Changes
Respondents: State Medicaid agencies
Subject: Preclearance: Survey of Physician Practice Costs—NEW
Respondents: A statistical sample of physicians
Subject: Preclearance: Evaluation of the Arizona Health Care Cost Containment System—NEW
Respondents: Arizona health care beneficiaries and providers
Subject: Quarterly Validation Surveys of State Programs for Insuring Quality Care of Medicaid Recipients (HCFA R–6)—NEW
Respondents: State Medicaid agencies and Medicaid service providers
OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

Subject: Survey of Child Abuse and Neglect Research and Programs (0980–0012)—REINSTATEMENT
Respondents: Child abuse and neglect research projects and public and private child abuse and neglect programs
OMB Desk Officer: Milo Sunderhauf

Office of the Secretary

Subject: Evaluation of the Cost and Utilization Patterns of Various Physician Practice Arrangements—NEW
Respondents: Sample of prepaid health maintenance organizations, independent practice associations and multi-specialty fee-for-service group practices
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer)

Dated: February 7, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83–3823 Filed 2–10–83; 8:45 am]

BILLING CODE 4150–04–M

Advisory Council on Social Security; Public Hearing

Correction

In FR Doc. 83–2316 beginning on page 5312 in the issue of Friday, February 4, 1983, make the following correction:

On page 5312, third column, in the **"SUMMARY"**, second paragraph, the last sentence of the paragraph should have read: "All hearings will run from 9:00 a.m. to 5:00 p.m.".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Adoption of Regional Leasing Level

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the Federal coal management regulations (43 CFR 3420.2), the Secretary of the Interior has the responsibility for establishing a Federal coal leasing level for each Federal coal production region during lease sale activity planning. This notice is to inform the public that, on January 5, 1983, the Secretary adopted a leasing level of 750 million to 950 million tons of Federal recoverable coal resources for the Green River-Hams Fork Federal coal production region.

This decision was based on all available information pertaining to the factors enumerated in the regulations including extensive consultation with the Governors of Colorado and Wyoming and the Departments of Energy and Justice.

The regional leasing level will serve as the basis for the preferred alternative in the regional lease sale environmental impact statement to be prepared for the scheduled coal sale in 1984.

FOR FURTHER INFORMATION CONTACT: Project Manager, Green River-Hams Fork Region, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202, (303) 327–3008, or Chief, Division of Coal, Tar Sand and Oil Shale, Bureau of Land Management, 18th & C Streets, NW., Washington, D.C. 20240, (202) 343–4636.

Dated: January 21, 1983.

James M. Parker,

Associate Director, Bureau of Land Management.

[FR Doc. 83–3777 Filed 2–10–83; 8:45 am]

BILLING CODE 4310–84–M

Availability of the Draft Environmental Impact Statement for the Federal Oil Shale Management Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the availability of the Draft Environmental Impact Statement (DEIS) for the Federal Oil Shale Management Program. This DEIS analyzes the environmental impacts that could occur if oil shale management regulations are adopted.

FOR FURTHER INFORMATION CONTACT: Jack D. Edwards, Bureau of Land Management, Division of EIS Services, 555 Zang Street, Denver, Colorado 80228.

SUPPLEMENTARY INFORMATION: The proposed action of this DEIS is the adoption of codified regulations for the management of Federal oil shale. The proposed regulations, which are being released simultaneously with the DEIS, contain procedures for the competitive leasing of Federal oil shale. The

adoption and subsequent implementation of leasing actions could result in a range of environmental impacts. The DEIS presents this range of impacts for the United States' major Federal oil shale deposits in Colorado, Utah, and Wyoming.

The DEIS also contains an analysis of various alternative leasing program procedures, energy conservation, use of alternative energy fuels, and no action.

The range of potential impact is presented for 1990 and 2000. Both high and low development possibilities are analyzed for these 2 years.

AVAILABILITY: Copies of the DEIS may be obtained from Jack D. Edwards at the above-indicated location.

Dated: February 7, 1983.

Robert F. Burford,

Director.

[FR Doc. 83-3740 Filed 2-10-83; 8:45 am]

BILLING CODE 4310-84-M

Camping Stay Limit Established; Redding Area, Ukiah District, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of camping stay limit for campgrounds and undeveloped public lands in the Redding Resource Area, Ukiah District, California.

SUMMARY: Persons may camp within designated campgrounds or on public lands not closed to camping within the Redding Resource Area for a total period of not more than fourteen days during any calendar year. The fourteen day limit may be reached either through a number of separate visits or through a period of continuous occupation of the public lands. Under special circumstances and upon request, the authorized officer may give written permission for extensions to the fourteen day limit.

Additionally, no person may leave personal property unattended in designated campgrounds or recreation developments for a period of more than 24 hours, or elsewhere on public lands within the Redding Resource Area for a period of more than 10 days without written permission from the authorized officer.

DATE: This camping stay limit will be effective March 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Bainbridge, Redding Resource Area Manager, Redding Area Office, 355 Hemsted Drive, Redding, California 96002, Telephone: (916) 246-5325.

SUPPLEMENTARY INFORMATION: This camping stay limit is being established in order to assist the Bureau in reducing the incidence of long-term occupancy trespass being conducted under the guise of camping, both within campgrounds and on undeveloped public lands in the Redding Resource Area.

Authority for this stay limit is contained in CFR Title 43, Chapter II, Part 8363, Subparts 8363.1-3(b) and 8363.3.

Robert J. Bainbridge,

Area Manager.

[FR Doc. 83-3731 Filed 2-10-83; 8:45 am]

BILLING CODE 4310-84-M

Regional Oil Shale Team Meeting and Public Hearing for Proposed Federal Oil Shale Regulations and Draft Environmental Impact Statement

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Regional Oil Shale Team (ROST) meeting on proposed Federal oil shale regulations 43 CFR Group 3900 and a public hearing on these regulations and resulting draft Environmental Impact Statement (EIS).

SUMMARY: The purpose of the ROST meeting will be twofold.

1. To explain the proposed regulations and draft EIS for the ROST representatives.

2. To allow the public to identify to the ROST any basic concerns with policies proposed for regulations and the approach to the draft EIS.

The purpose of the public meeting to be held directly after the ROST meeting is to allow the public to comment on specific technical aspects of the regulations and draft EIS.

The Bureau of Land Management (BLM) has scheduled the meeting as follows: The ROST meeting on March 29 (Tuesday) 1983, at 8:30 a.m., followed directly by the public hearing at approximately 2:00 p.m., at Howard Johnson's I-90 and Horizon Drive, Grand Junction, Colorado 81501. Telephone: (303) 243-5150.

Additional public information sessions will be held to explain the content of the proposed regulations and draft EIS. Questions and comments will also be reviewed at these meetings. The public meetings schedule is:

1. Rock Springs, Wyoming, March 14, 1983.

2. Vernal, Utah, March 15, 1983.

3. Meeker, Colorado, March 15, 1983.

4. Grand Junction, Colorado, March 16, 1983.

5. Denver, Colorado, March 17, 1983.

Appropriate newspaper and other media notices, noting times, places, and dates will be forthcoming.

FOR FURTHER INFORMATION CONTACT: Robert Leopold, Oil Shale Program Manager, Bureau of Land Management (910), Colorado State Office, 1037 20th Street, Denver, Colorado 80202, Telephone: (303) 837-5435 (Comm.), FTS: 327-5435.

Both written and oral comments will be taken at the hearing. Comments and testimony will be taken in order, via a signup sheet.

It is suggested that comments should be as specific as possible. They shoud address the adequacy of the scope of the EIS, the impact analysis of the proposed action and alternatives, and specific sections of the proposed regulations.

If the methodology used to predict the impacts is considered inadequate, the reviewers should describe the rationale for and procedures of alternative methodology.

Written comments will be taken on the regulations and draft programmatic EIS until April 11, 1983. Comments on the regulations should be sent to: Director (140), Bureau of Land Management, 18th & C Streets NW., Washington, D.C. 20240.

For further information on the regulations, contact Donald Brabson (202) 343-3258 or Robert C. Bruce (202) 343-8735.

Comments on the draft EIS should be sent to: Environmental Impact Statement Office, Bureau of Land Management, 555 Zang Street, First Floor, Denver, Colorado 80228 (ATTN: Jack Edwards).

Robert F. Burford,

Director.

Dated: February 7, 1983.

[FR Doc. 83-3741 Filed 2-10-83; 8:45 am]

BILLING CODE 4320-84-M

[M-55145]

Exchange of Public and Private Lands; Montana

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of realty action M-55145. exchange of public and private lands in McCone and Richland Counties.

SUMMARY: The following described surface estate of public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Montana Meridian

T27N, R51E
Sec. 31: lots 3, 4, E½SW¼, SE¼
T26N, R51E
Sec. 18: lot 4, SE¼SW¼

Sec. 19: lot 1
T28N, R50E
Sec. 2: lots 3, 4
Sec. 11: SW¼NW¼, N½S½
Sec. 12: NW¼NW¼, NE¼SW¼, SW¼SE¼
Sec. 13: NW¼NE¼, S½NW¼
Sec. 24: SE¼NE¼
Aggregating 993.85 acres of public land.

In exchange for the above described lands and receipt of $4,300.00, the United States will acquire the surface estate of the following described private land:

Principal Montana Meridian
T27N, R50E
Sec. 25: S½SW¼
Sec. 26: lots 1, 2, 3, SE¼
Aggregating 311.54 acres of private land.

DATE: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, BLM, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final decision. In the absence of any action by the State Director, this realty action will become the final decision of the Department.

FOR FURTHER INFORMATION CONTACT: Information concerning this exchange, including the environmental assessment and land report, is available for review at the Miles City District Office, West of Miles City, Montana 59301.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The purpose of the exchange is to acquire public recreation lands adjacent to the Redwater and Missouri Rivers. These lands have physical and legal access.

Only the surface estates will be exchanged and the subsurface estate shall remain with the present owners. The exchange is based on appraised values and Voorhees Farms, the exchangee, will pay the United States $4,300.00 to equalize the values. The exchange is consistent with the Bureau's planning for the lands involved. The public interest will be well served by making this exchange.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945. This reservation applies to the lands being transferred out of Federal ownership.

2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership.

3. All valid existing rights (e.g. rights-of-way, easements and leases of record).

4. The exchange must meet the requirements in 43 CFR 4110.4–2(b).

Dated: January 31, 1983.

Ray Brubaker,
District Manager.

[FR Doc. 83–3725 Filed 2–10–83; 8:45 am]
BILLING CODE 4310–84–M

Off-Road Vehicle Use on Public Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Proposed ORV Plan for the Ellis-Pahsimeroi Resource Area.

SUMMARY: Pursuant to 43 CFR 8340 (Management of Off-Road Vehicle Use on Public Lands), the Salmon, Idaho District of the Bureau of Land Management (BLM) announces that its proposed plan for ORV management in the Ellis-Pahsimeroi Resource Area is now available for public review. Comments on the plan will be solicited until April 11, 1983.

The proposed plan designates areas as either open to ORV use or limited to certain periods of the year. Proposed designations are:

1. Limited Areas:

a. Old Stage Road (Bighorn Sheep critical winter range), 6.5 miles: ORV use prohibited during winter season (December 1 to April 15);

b. Second Spring Basin (Bighorn Sheep critical winter range), 1,440 acres: ORV use prohibited during winter season (December 1 to April 15);

c. Donkey Hills (Elk critical winter range), 14,000 acres: ORV use prohibited during winter season (December 1 to April 15);

d. Burnt Creek Wilderness Study Area (45–12), 24,980 acres: ORV use limited the entire year to existing roads and trails.

2. Open Areas:

a. All other federal lands within the Ellis-Pahsimeroi Resource Area, 336,748 acres, subject to regulations as listed in 43 CFR 8340.

Copies of the proposed plan can be obtained by writing or calling BLM District Manager, P.O. Box 430, Salmon, Idaho 83467, (208) 756–2201.

Dated: February 3, 1983.

Kenneth G. Walker,
District Manager.

[FR Doc. 83–3726 Filed 2–10–83; 8:45 am]
BILLING CODE 4310–84–M

State of California; Applications for Wind Energy Development in the Tehachapi Pass; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice. State of California; Call for Applications for Wind Energy Development in the Tehachapi Pass; Correction.

SUMMARY: The document corrects a notice of proposed wind development on Federal lands in the Tehachapi Pass area that appeared on page 56414 in the **Federal Register** of Thursday, December 16, 1982 (47 FR 56414).

The action is necessary to correct a legal description of the lands open for application.

FOR FURTHER INFORMATION CONTACT: Barbara Jackson, Realty Specialist at (619) 446–4526.

SUPPLEMENTARY INFORMATION: The following corrections are made in **Federal Register** Document 47–242 appearing on page 56414 in the issue of Thursday, December 16, 1982, line 29 under the heading Description of the Area, "MDM; Sections 32 and 34, T. 12 N., R. 13 W." this is corrected to read "MDM: Section 34, T. 12 N., R. 13 W."

Dated: February 7, 1983.

H. W. Riecken,
Associate District Manager.

[FR Doc. 83–3727 Filed 2–10–83; 8:45 am]
BILLING CODE 4310–84–M

[I–6129 et al.]

Idaho; Order Providing for Opening of Public Land

Correction

In FR Doc. 83–1071 beginning on page 1829 in the issue of Friday, January 14, 1983, make the following correction:

On page 1830, middle column, under *I–016583*, in T. 10 S., R. 21 E., in the first line of the description of Sec. 28, "S½S¼" should have read "S½SE¼".

BILLING CODE 1505–01–M

Wyoming; Draft Environmental Impact Statement on the Wilderness Suitability Recommendations for 13 Wilderness Study Areas in Sweetwater, Lincoln, Sublette, and Fremont Counties, Rock Springs District, Wyoming; Availability of Draft Environmental Impact Statement and Public Hearing Schedule

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of draft environmental impact statement (DEIS) and public hearing schedule.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a draft environmental impact statement on the wilderness and nonwilderness recommendatons for public lands in Sweetwater, Lincoln, Sublette, and Fremont counties, Wyoming, and has made copies of the document available for public review and comment. The statement addresses recommendations for 13 wilderness study areas covering 218,181 acres of public land in southwest Wyoming.

In addition, notice is also given that a public hearing will be held to seek public comment on the impacts of the proposed action and three alternatives, as explained in the document.

DATES: Written comments on the analysis and recommendations contained in the DEIS will be accepted up to and including April 15, 1983, at the Rock Springs District Office in Rock Springs, Wyoming. The public hearing will begin at 7 p.m. at Western Wyoming College (Room C–204) in Rock Springs on March 16, 1983.

ADDRESSES: Written comments on the analysis and recommendations in the document are to be addressed to: Don Dutcher, Wilderness EIS Team Leader, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901. A detachable form appropriately addressed is printed in the front of the DEIS that may be used to make comments or to register for the public hearing.

The DEIS is available for inspection at each BLM District Office in Wyoming (Rock Springs, Rawlins, Casper, and Worland); the State Office (Cheyenne); and the Kemmerer and Pinedale Resource Areas. In addition, the statement will be available in BLM State Offices in the surrounding States of Idaho (Boise), Utah (Salt Lake City), Colorado (Denver), and Montana (Billings); city libraries in southwestern Wyoming; the University of Wyoming library in Laramie, the Colorado State University library in Fort Collins; the University of Utah library in Salt Lake City; and the Utah State University library in Logan.

The DEIS can be obtained from the Wilderness EIS Team Leader in the Rock Springs District, at the above address.

SUPPLEMENTARY INFORMATION: The DEIS analyzes environmental impacts that would result from managing two areas (57,900 acres) within the Rock Springs District as wilderness and 11 areas as nonwilderness (160,281 acres). The statement further analyzes the environmental impacts that would result from the implementation of each of three alternatives to that proposal. The alternatives are the no action alternative (no wilderness), a moderate alternative (six wilderness areas totaling 135,760 acres and seven nonwilderness areas), and a maximum wilderness alternative (13 wilderness areas totaling 218,181 acres).

Oral testimony will be accepted from each witness at the public hearing. A 10-minute limitation will be enforced by the hearing officer if necessary. Written texts of prepared speeches may be filed at the hearing whether or not the speaker has been able to complete oral delivery in the allotted 10 minutes.

Speakers will be heard in the order established on the wilderness register. After the last registered witness has been heard, the hearing officer will consider the request of any other person present who desires to testify. Any person present at the hearing may testify; however, only one witness will be allowed to represent the viewpoints of an organization.

Persons wishing to testify may preregister by submitting a written request to the Rock Springs District Office of the Bureau of Land Management at the above address prior to close of business (4:30 p.m.) on March 16, 1983. Requests should identify the organization represented by the individual (if any) and should be signed by the prospective witness. Individuals who do not preregister may register at the hearing location prior to and during the hearing.

The recommendations made in the draft wilderness environmental impact statement are not final decisions. Following the public comment period on the draft statement, a final environmental impact statement and recommendations will be prepared for the signature of the Secretary of the Interior and submitted by the President to Congress for a final decision on which areas will be designated as additions to the National Wilderness Preservation System.

Comments on the DEIS, whether written or oral, will receive equal consideration in the preparation of a final environmental statement. Additionally, the Rock Springs District Office staff will be available by appointment prior to the public hearing to discuss the draft statement with any interested groups or organizations.

Paul D. Leonard,

Associate State Director.

[FR Doc. 83–3424 Filed 1–10–83; 8:45 am]

BILLING CODE 4310–84–M

[AA–13286]

Alaska Native Claims Selection; Chugach Natives, Inc.

On June 17, 1977, Chugach Natives, Inc., filed selection application AA–13286, as amended, under the provisions of section 14(h)(8) of ANCSA for the surface and subsurface estates of certain lands in the Cape Yakataga area.

These lands were not previously withdrawn under sections 11 or 16 of ANCSA and were, therefore, not available for selection. On December 13, 1977, pursuant to Departmental regulation 43 CFR 2650.0–8, the Secretary issued a waiver of the provisions of 43 CFR 2653.3(b) and 2653.9(a) thereby permitting Chugach Natives, Inc., to select and acquire certain lands at Cape Yakataga (ANS 178) not previously withdrawn for selection.

On December 16, 1977, Public Land Order 5628 transferred a portion of the lands which were included in ANS 178 to the Bureau of Land Management and simultaneously withdrew them, pursuant to section 14(h)(8) of ANCSA, for selection by Chugach Natives, Inc.

As to the lands described below, selection application AA–13286, as amended, submitted by Chugach Natives, Inc., is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to section 14(h)(8) of ANCSA, containing approximately 1,001 acres, are considered proper for acquisition by Chugach Natives, Inc., and are hereby approved for conveyance pursuant to section 14(e) of ANCSA:

Copper River Meridian, Alaska (Surveyed)

T. 21 S., R. 17 E.
Sec. 14, S½;
Sec. 15, lots 1, 2, and 3, N½SE¼, SE¼SE¼;
Sec. 22, lots 1, 3, 4, 5, 6, and 7, N½N½NE¼, SE¼NE¼NE¼, SW¼NW¼NE¼, W½SE¼NW¼NE¼, W½E½SE¼NW¼NE¼, SE¼NW¼, W½NE¼NE¼SW¼NE¼, SE¼NE¼NE¼SW¼NE¼, W½NE¼SW¼NE¼, SE¼NE¼SW¼NE¼, W½SW¼NE¼, SE¼SW¼NE¼, N½NE¼SE¼NE¼, N½S½NE¼SE¼NE¼, S½NW¼NW¼SE¼NE¼, SW¼NW¼SE¼NE¼, W½SW¼SE¼NE¼;
Sec. 23, lots 1 and 2, NW¼, N½SW¼ excluding Mineral Survey applications AA–12609 and AA–26945.

Containing approximately 1,001 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded because lands are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

There are no easements to be reserved pursuant to section 17(b) of ANCSA, however, the conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to paragraph 13 of the 1982 CNI Settlement Agreement entered into under the provisions of section 1430 of the Alaska National Interest Lands Conservation Act (94 Stat. 2531), the following easements and interests in land, including improvements and facilities constructed thereon, shall be reserved to the United States. The easements are shown on the attached easement map, copy of which will be found in casefile AA–16123. Use of easements shall be in accordance with the provisions of paragraph 13 of the Agreement. The following general standards unless otherwise specified, shall apply.

Road easements shall be 60 feet in width for local roads and 100 feet in width for regional roads. A trail may be constructed within a road easement.

Avigation easements shall include the right to clear and keep clear the land from any and all obstructions infringing upon or penetrating the Airport Imaginary Surfaces, as such surfaces are defined in Part 77 of the Federal Aviation Regulations, as amended.

(67) *Cape Yakataga Airstrip*, an easement two hundred fifty (250) feet in width and five thousand (5,000) feet in length for an existing airstrip located in Secs. 22 and 23, T. 21 S., R. 17 E., Copper River Meridian. In furtherance of Section 11 of Public Law 94–204, 89 Stat. 1145, 1149, the shipment of fish by Natives who are shareholders of Yak-Tat-Kwaan, Inc., and their children who qualify as "Natives" as that term is defined in ANCSA, and who hold valid set net permits from the State of Alaska is authorized on the existing adjoining apron and parking area at the current level of use.

(68) *Cape Yakataga Avigation Easement*, an avigation and hazard easement for the safe operation of the Cape Yakataga Airstrip in Secs. 22 and 23, T. 21 S., R. 17 E., Copper River Meridian. This easement consists of a strip of land and the airspace above, extending two hundred fifty (250) feet on each side of the centerline and five hundred (500) feet beyond both ends of the existing runway for a total dimension of five hundred (500) feet wide by six thousand (6,000) feet long.

(69) *Cape Yakataga Road #1*, an easement for an existing regional road from the eastern boundary of the area to be conveyed in Sec. 23, T. 21 S., R. 17 E., Copper River Meridian, northwesterly to public land.

(70) *Cape Yakataga Road #2*, an easement for an existing local road from the airstrip easement in Sec. 22, T. 21 S., R. 17 E., Copper River Meridian, northerly to Cape Yakataga Road #1.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, section 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2) (ANCSA)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. The terms and conditions of the 1982 CNI Settlement Agreement entered into pursuant to section 1430 of the Alaska National Interest Lands Conservation Act (94 Stat. 2531). A copy of the Agreement is located in casefile AA–50379. Any person wishing to examine this agreement may do so at the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Chugach Natives, Inc., is entitled to conveyance of approximately 371,832 acres of land selected pursuant to sections 12(c) and 14(h)(8) of ANCSA. To date, approximately 48,750 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 323,082 acres will be conveyed at a later date.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the CORDOVA TIMES.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until March 14, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office,

Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Chugach Natives, Inc., 903 West Northern Lights Blvd., Suite 201, Anchorage, Alaska 99503.

Ann Johnson,

Chief, Branch of ANCSA, Adjudication.

[FR Doc. 83-3773 Filed 2-10-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14873-A]

Alaska Native Claims Selection; Kasigluk, Inc.

On November 19, 1974, Kasigluk, Inc., for the Native village of Kasigluk, filed selection application F-14873-A, under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (ANCSA)), for the surface estate of certain lands in the vicinity of Kasigluk.

As to the lands described below, section application F-14873-A is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a) of ANCSA, aggregating approximately 826 acres, is considered proper for acquisition by Kasigluk, Inc., and is hereby approved for conveyance pursuant to section 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 9 N., R. 75 W.,

Sec. 1, excluding Lot 1 of U.S. Survey No. 4048, Alaska Native Claims Settlement Act Sec. 3(e) application AA-40644, and Lot 2 of U.S. Survey No. 4048 (Public Land Order 2020);

Sec. 13, excluding Native allotments F-17496 Parcel B, F-18894, F-17359, and F-17295.

Containing approximately 826 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability map, the original of which will be found in easement case file F-14873-EE.

All other water bodies not depicted as navigable on the attached map within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: lands are under applications pending further adjudication or lands are pending a determination under section 3(e) of ANCSA. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file F-14873-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, all-terrain vehicles, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 1 C3, D1, D9) An easement for an existing access trail, twenty-five (25) feet in width, from the left bank of the Johnson River in Sec. 2, T. 9N., R. 75 W., Seward Meridian, through the village of Kasigluk easterly to Bethel. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 6 C4) A one (1) acre site easement, upland of the ordinary high water mark, in Sec. 13, T. 9N., R. 75 W., Seward Meridian, on the right bank of the Johnson River. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 6a C4) An easement twenty-six (26) feet in width, for an existing road in Sec. 13 and 14, T. 9N., R. 75 W., Seward Meridian, from the Kasigluk airstrip northeasterly to the Johnson River. The uses allowed are those listed above for a sixty (60) foot wide road easement.

d. (EIN 17 C5) An easement twenty (20) feet in width, for the existing powerline from the village of Kasigluk in Sec. 1, T. 9 N., R. 75 W., Seward Meridian, easterly to the power plant at the village of Nunapitchuk. The uses allowed are those associated with the construction, operation and maintenance of the powerline.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, section 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c) (Supp. IV, 1980)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Kasigluk, Inc., is entitled to conveyance of 115,200 acres of land selected pursuant to section 12(a) of ANCSA. Together with the lands herein

approved, the total acreage conveyed or approved for conveyance is approximately 104,527 acres. The remaining entitlement of approximately 10,673 acres will be conveyed at a later date.

Pursuant to section 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Calista Corporation when the surface estate is conveyed to Kasigluk, Inc., and shall be subject to the same conditions as the surface conveyance, except for those provisions under section 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native Village shall be subject to the consent of Kasigluk, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Divison of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign the return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until March 14, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska, 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kasigluk, Inc., Kasigluk, Alaska 99609
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501.

Ann Johnson,

Chief, Branch of ANCSA, Adjudication.

[FR Doc. 83-3775 Filed 2-10-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14836-A]

Alaska Native Claims Selection; Ukpeagvik Inupiat Corp.

Section 1431(i) of the Alaska National Interest Lands Conservation Act of December 2, 1980 (94 Stat. 2540), (ANILCA), directs the Secretary of the Interior to convey the surface estate of certain lands within T. 23 N., R. 18 W., Umiat Meridian, to Ukpeagvik Inupiat Corporation, for the Native village of Barrow. This conveyance is in accordance with the Terms and Conditions for Land Exchanges and Resolution of Conveyancing Issues in Arctic Slope Region, between the Department of the Interior and Arctic Slope Regional Corporation, dated June 29, 1979. This conveyance is to partially satisfy the land entitlement of the Ukpeagvik Inupiat Corporation as provided in section 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (ANCSA), as amended.

In view of the foregoing, the surface estate of the following described lands, containing approximately 986 acres, will be conveyed, pursuant to Sec. 1431(i) of ANILCA, to Ukpeagvik Inupiat Corporation.

A portion of U.S. Survey No. 5253, Alaska, located in the vicinity of Barrow, Alaska, more particularly described as (protracted):

Umiat Meridian, Alaska (Surveyed)

T. 23 N., R. 18 W.,

Sec. 13 (fractional), excluding Interim Conveyance No. 045 and Elson Lagoon;
Sec. 14 (fractional), NE¼, E½SE¼, excluding Elson Lagoon and North Salt Lagoon;
Sec. 23, E½NE¼, excluding Elson Lagoon and North Salt Lagoon;
Sec. 24, NW¼, excluding Interim Conveyance No. 045 and Elson Lagoon;
Sec. 28 (fractional), W½, excluding Middle Salt Lagoon;
Sec. 29 (fractional);
Sec. 32 (fractional), excluding U.S. Survey No. 4615, U.S. Survey No. 1432, Native allotment F-831 Parcel A, and Interim Conveyance No. 045;
Sec. 33, W½E½NW¼, W½NW¼, SW¼, W½NW¼SE¼, SE¼NW¼SE¼, S½SE¼, excluding Interim Conveyance No. 045 and Middle Salt Lagoon.

Containing approximately 986 acres.

There are no inland water bodies considered to be navigable due to travel, trade and commerce within the above-described lands.

Excluded from the above-described lands herein conveyed are the following water bodies for which a final determination as to tidal influence has been made:

Elson Lagoon and North Salt Lagoon lying in Secs. 13, 14, 22, 23, and 24, T. 23 N., R. 18 W., Umiat Meridian;
Middle Salt Lagoon lying in secs. 27, 28, 33, and 34, T. 23 N., R. 18 W., Umiat Meridian.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: lands are no longer under Federal jurisdiction or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions do not constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file F-14836-EE, are reserved to the United States. All easements are subject to applicable

Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 1a C5, E) An easement sixty (60) feet in width for an existing road beginning in Sec. 32, T. 23 N., R. 18 W., Umiat Meridian, paralleling the Chukchi Sea northeasterly into Sec. 28, T. 23 N., R. 18 W., Umiat Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement; and an easement sixty (60) feet in width for an existing road beginning in Sec. 14, T. 23 N., R. 18 W., Umiat Meridian, paralleling the Chukchi Sea northeasterly into Sec. 13, T. 23 N., R. 18 W., Umiat Meridian, where it joins EIN 1 C5, E. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 4 C5, E) An easement sixty (60) feet in width for an existing road known as the Cakeaters Road from road EIN 1a C5, E in Sec. 28, T. 23 N., R. 18 W., Umiat Meridian, southeasterly to trail EIN 4a C5 E, in Sec. 25, T. 22 N., R. 17 W., Umiat Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 11g, C4, E) An easement thirty (30) feet in width for an existing powerline beginning in Sec. 28, T. 23 N., R. 18 W., Umiat Meridian, and continuing southerly generally paralleling Cakeaters Road (EIN 4 C5 E) through Sec. 33, T. 23 N., R. 18 W., Umiat Meridian, and continuing southeasterly where it branches out to accommodate two groups of gas wells. The uses allowed are those activities associated with the construction, operation, and maintenance of the powerline facility.

d. (EIN 12 C4) An easement fifty (50) feet in width for an existing trail from road EIN 1a C5, E in Sec. 32, T. 23 N., R. 18 W., Umiat Meridian, extending southerly to public lands.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)), (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The terms and conditions of the agreement of May 14, 1974, between the United States Department of the Navy, Arctic Slope Regional Corporation, Ukpeagvik Inupiat Corporation, and three other Native village corporations. A copy of the agreement is located in Bureau of Land Management file F-14836-EE;

4. The following third party interests, if valid, created and identified by the Department of the Navy, as provided by section 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(g)):

a. A right-of-way NF(R)-2382, for a telephone cable (subterranean and submarine) issued September 31, 1970, located in Secs. 28, 32, and 33, T. 23 N., R. 18 W., Umiat Meridian, granted to General Telephone Company of Alaska as provided by 10 U.S.C. 2668;

b. A Utility Pole agreement, N6247480RP00Q75, of April 1, 1980, between the United States of America, Department of the Navy and General Telephone Company of Alaska for certain utility poles and structures in Secs. 28 and 33, T. 23 N., R. 18 W., Umiat Meridian; and

5. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Ukpeagvik Inupiat Corporation is entitled to conveyance of 161,280 acres of land selected pursuant to section 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 154,214 acres. The remaining entitlement of approximately 7,066 acres will be conveyed at a later date.

Section 12(a) of ANCSA provides that when a village corporation selects the surface estate of lands within the National Petroleum Reserve-Alaska (NPR-A) (formerly the Naval Petroleum Reserve No. 4), the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) within the Region. When this decision becomes final, Arctic Slope Regional Corporation will be entitled to a conveyance of approximately 986 acres in-lieu subsurface estate.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limit for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until March 14, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office,

Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal can be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Ukpeagvik Inupiat Corporation, P.O. Box 427, Barrow, Alaska 99723.

Ann Johnson,

Chief, Branch of NACSA, Adjudication.

[FR Doc. 83-3774 Filed 2-10-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0797, Block 105, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 4, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-3730 Filed 2-10-83; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Advisory Board, North Atlantic Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92-463).

Name: North Atlantic Regional Technical Working Group.

Date: March 10, 1983.

Place: Sheraton Regal Inn, Route 132, Hyannis, Massachusetts.

Time: 8:30 a.m. to 5:15 p.m.

Committee membership consists of representatives from federal agencies, the coastal states of Maine through New Jersey, the petroleum industry, and other private interests.

Agenda: Discussion of the results from the OCS Sale No. 82 Call for Information; discussion of scenarios, alternatives, and significant issues to be considered for the OCS Sale No. 82 Draft Environmental Impact Statement; overview of the results of ongoing environmental studies on the North Atlantic OCS.

This meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding items on the agenda should contact Judith Gresham of the New York OCS Office (212-264-1061) by March 3, 1983. Written statements should be submitted by March 17, 1983 to the New York OCS Office, Minerals Management Service, 26 Federal Plaza, Suite 32-120, New York, New York 10278.

Minutes of the meeting will be available for public inspection and copying by May 5, 1983, at the above address.

Donald P. Truesdell,

Acting Regional Manager, Atlantic OCS Region.

[FR Doc. 83-3743 Filed 2-10-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[No. MC-F-15043; OPH F-070]

Motor Carriers; Wendy Roche, David Roche, and Lloyd B. Clark—Continuance in Control Exemption—Pawtuxet Valley Motor Express, Inc., and C-Line, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343,* 47 FR 53303 (November 24, 1982) Wendy Roche, David Roche, and Lloyd B. Clark, seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of Pawtuxet Valley Motor Express, Inc. (No. MC-39507) and C-Line, Inc. (No. MC-138861).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send Comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative Ronald N. Cobert, Joseph Michael Roberts, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036, (202) 296-2900.

Comments should refer to No. MC-F-15043.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 8, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3752 Filed 2-10-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Corson Furniture Industries, Inc., 420 Great Neck Road, Great Neck, New York 11021.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

(i) Hickory Hill Furniture Company, Inc., a North Carolina Corporation;

(ii) CFI Transport, Inc., a North Carolina Corporation.

1. Parent corporation and address of principal office: Emerson Electric Co., 8000 W. Florissant Avenue, St. Louis, MO 63136.

2. Wholly-owned subsidiaries which will participate in the operations:

Name and jurisdiction of incorporation

(a) A. B. Chance Company, Delaware
(b) Appleton Electric Company, Delaware
(c) Atwood & Morrill Company, Inc., New York
(d) Electronic Navigation Industries, Inc., Delaware
(e) Emerson Electric Canada Limited, Canada
(f) Fusite Corporation, Ohio
(g) Morse Industrial Corporation, Delaware
(h) Ridge Tool Company, Ohio
(i) Rosemount, Inc., Minnesota
(j) Skil Corporation, Delaware
(k) Sweco, Inc., California
(l) Therm-O-Disc, Inc., Ohio
(m) Urick Foundry, Pennsylvania
(n) Van Gorp Corporation, Iowa
(o) Western Forge Corporation, Delaware
(p) Xomox Corporation, Ohio

1. Parent corporation and address of principal office: Great Lakes Cheese Co., Inc., 9989 Kinsman Road, Newbury, Ohio 44065.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

a. GLC Transportation, Inc., incorporated under the laws of the State of Ohio.

b. Great Lakes Cheese of Wisconsin, Inc., incorporated under the laws of the State of Wisconsin.

1. Parent corporation: Lunda Construction Co., P.O. Box 153, Black River Falls, WI 54615.

2. Wholly-owned subsidiary: Phoenix Steel, Inc. (incorporated in Wisconsin State) P.O. Box 244, Eau Claire, WI 54702.

1. Parent corporation and address of principal office: MD Management Co. Inc., 2103 17th St. East, Palmetto, FL 33561, a Florida corporation.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

MD Transport Systems, Inc., P.O. Box 1058, Palmetto, FL 33561, a Delaware corporation
Manatee Diesel, Inc., P.O. Box 967, Palmetto, FL 33561, a Florida corporation
Transport Tire Service, Inc., 1511 18th Ave. Dr. E., Palmetto, FL 33561, a Florida corporation
Great Lakes Traffic Consultants, Inc., 1000 Jefferson Rd., Rochester, NY 14623, a NY corporation
Manatee Data Inc., 2103 17th St. E., Palmetto, FL 33561, a Florida corporation

1. Parent corporation and principal address: Super Valu Stores, Inc., P.O. Box 990, Minneapolis, MN 55440.

2. Wholly-owned subsidiaries and State of incorporation:

J. M. Jones Company, Champaign, IL
Lewis Grocer Company, Indianola, MS
Preferred Products, Inc., Chaska, MN
Shopko Stores, Inc., Green Bay, WI
County Seat Stores, Inc., Brooklyn Park, MN
County Seat Stores, Inc., Dallas, TX
SVS Trucking, Inc., Eden Prairie, MN
Western Stores, Inc., Denver, CO
Western Stores, Inc., Albuquerque, N.M.

3. Division of Super Valu Stores, Inc.:

Anniston Division, Anniston, AL
Minneapolis Division, Hopkins, MN
Fargo Division, Fargo, ND
Bismarck Division, Bismarck, ND
Green Bay Division, Green Bay, WI
Des Moines Division, Des Moines, IA
Omaha Division, Omaha, NE
Food Marketing Division, Ft. Wayne, IN
Charley Brothers Division, Greensburg, PA
Ohio Valley Division, Xenia, OH
Ryan's Division, Billings, MT
Ryan's Division, Great Falls, MT
Cub Food Division, Stillwater, MN
Ohio Valley Distribution, Xenia, OH

Agatha L. Mergenovich

Secretary.

[FR Doc. 83-3750 Filed 2-10-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed)

appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–54

Decided: February 4, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 15401 (Sub-5), filed January 26, 1983. Applicant: STORER TRANSPORTATION SERVICE, INC., 3519 McDonald Ave., Modesto, CA 95351. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111 (209) 521–8250. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 69260 (Sub-8), filed January 28, 1983. Applicant: GARDEN STATE TRANSIT LINES, INC., P.O. Box 343, Rockaway, NJ 07866. Representative: Alfred L. Huebner (same address as applicant) (201) 627–6488. Transporting *passengers*, in charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 139440 (Sub-2), filed January 31, 1983. Applicant: HAMMOND YELLOW COACH LINES, DIVISION OF HAMMOND YELLOW & CHECKER CAB, INC., 5850 Calumet Ave., Hammond, IN 46320. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240 (317) 846–6655. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI.)

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 156461 (Sub-2), filed January 21, 1983. Applicant: BURWICK'S, INC., Route 3, Box 159X, Dickinson, ND 58601. Representative: Richard P. Anderson, Federal Square, 112 Roberts St., P.O. Box 2581, Fargo, ND 58108 (701) 235–3300. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 165881, filed January 25, 1983. Applicant: ROBERT J. AND GARY R. AX d.b.a. AX TRUCKING, 696 Bald Rock Rd., Kalispell, MT 59901. Representative: Robert J. Ax (same address as applicant) (406) 755–3668. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165940, filed January 27, 1983. Applicant: DEL SIMPSON, 4615 So. 148th, Seattle, WA 98168. Representative: Jim Pitzer 15 South Grady Way, Suite 321, Renton, WA 98055 (206) 235–1111. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 165950, filed January 28, 1983. Applicant: GEISLER TRUCKING, INC., Route 3 Box 157–G, Rigby, ID 83442. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002 (303) 424–1761. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP1–50

Decided: February 3, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 130580 (Sub-1), filed January 18, 1983. Applicant: FUGAZY TRAVEL & INCENTIVE CORP., d.b.a. FUGAZY INTERNATIONAL TRAVEL, 618 West 49th Street, New York, NY 10019. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173 (212) 755–9500. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI). Condition: The person or person who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165771, filed January 17, 1983. Applicant: VIRGIL PONTES d.b.a. BEST TRANSPORT, P.O. Box 6093, Whittier, CA 90609. Representive: Terry E. Morgan, 2131 Almanor St., Oxnard, CA 93030 (805)–485–2040. (1) As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI), and (2) transporting (a) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (b) *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in CA, AZ, NV, UT, OR, NM, TX, MS, LA, AL, FL, WA, OK and ID.

MC 165861, filed January 24, 1983. Applicant: HUDSON BUS COMPANY. INC., P.O. Box 68 1425 Second Street, Hudson, WI 54016. Representative: Richard A. Rechlicz, N88 W 16414 Main Street, Menomonee Falls, WI 53051 (414) 251–2245. Transporting *passengers*, in charter operations, beginning and ending at points in St. Croix and Pierce Counties, WI and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 165891, filed January 24, 1983. Applicant: A & M TRUCKING SERVICE OF FLORIDA, INC., 1550 West 29th St., Hialeah, FL 33012. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd St., Miami, FL 33166 (305) 592–0036. As a *broker* of *general commodities* (except household goods),

between points in the U.S. (except AK and HI).

MC 165900, filed January 24, 1983. Applicant: CALIFORNIA SPECIALIZED EQUIPMENT SYSTEMS, INC., 4253 State St. Pomona, CA 91766 Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212 (213) 277–2323. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 165901, filed January 24, 1983 Applicant: H.C. SCHMIEDING PRODUCE, INC., P.O. Box 369, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayette, AR 71702 (501) 521–8121. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165920, filed January 24, 1983. Applicant: CALVIN F. MODISETT, d.b.a. TARA BROKERS OF SPOKANE. East 6225 Broadway, Spokane, WA 99206. Representative: Calvin F. Modisett (same address as applicant) (509) 534–1514. As a *borker* of *general commodities* (except household goods), between points in the U.S. (except HI).

MC 165921, filed January 25, 1983. Applicant: R. P. AND D., INC., Route 4 Box 79, Ellensburg, WA 98926. Representative: Richard D. Parker (same address as applicant) (509) 925–6622. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–059

Decided: February 3, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 140542 (Sub-2), filed January 14, 1983. Applicant: C & C AIR FREIGHT, INC., P.O. Box 9157, Yakima, WA 98909. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009 (206) 453–0312. Transporting *shipments weighing 100 pounds or less* if transported in a vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 165562, filed January 7, 1983. Applicant: JELCO WISCONSIN, INC., P.O. Box 1389, Waukesha, WI 53187. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956 (414) 722–2848. Transporting *passengers,* in charter and special operations, beginning and ending at points in WI and extending to points in IL, IA, MI, and MN.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165582, filed January 7, 1983. Applicant: J. J. BROKERS, 2720 E. Yandell, EL Paso, TX 79903. Representative: Jim Johnson (same address as applicant) 915–562–43471. As a *Broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–44

Decided: February 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 2835 (Sub-46), filed January 18, 1983. Applicant: ADIRONDACK TRANSIT LINES, INC., P.O. Box 1758, Kingston, NY 12401. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304 (703) 751–2441. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 148674 (Sub-2), filed January 18, 1983. Applicant: RED DIAMOND LINES, INC., P.O.Box 553, RFD #3 Loop Rd., Bedford, NY 10506. Representative: Deborah K. Schroedel (same address as applicant) (203) 661–6638. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 163094 (Sub-1), filed January 18, 1983. Applicant: ROCHESTER TRANSPORTATION SYSTEMS, INC., 1431 Highway 52 North, Rochester, MN 55901. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440 (612) 542–1121. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165744, filed January 18, 1983. Applicant: SOUTHWEST KANSAS CHARTER, INC., 517 East 6th, Kinsley, KS 67547. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612 (913) 233–9629. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165764, filed January 18, 1983. Applicant: EARL W. SIMNING, d.b.a. PREFERRED CHARTERS, 1038 Fourth St., Santa Rosa, CA 95404. Representative: Guity Deyhimy, 220 Montgomery St., Suite 426 San Francisco, CA 94104 (415) 421–5464. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165804, filed January 19, 1983. Applicant: AIRPORT BAGGAGE CARRIERS, INC., d.b.a. AIRPORT MOTEL COMMUTER, P.O. Box 18317, BWI Airport, MD 21240. Representative: Jere W. Glover, 1001 Connecticut Ave., NW., Suite 1201, Washington, DC 20036 (202) 293–7030. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165805, filed January 20, 1983. Applicant: PACIFICO LIMOUSINE SERVICE, INC., 6715 Essington Ave., Philadelphia, PA 19153. Representative: John H. Moseman, Suite 1025, 1875 Eye St., NW., Washington, DC 20006 (202) 463–6400. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP3–47

Decided: February 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 93475 (Sub-5), filed December 23, 1982, previously notice in the **Federal Register** on January 13, 1983. Applicant: ASHBOURNE TRANSPORTATION, INC., 7827 Old York Rd., Elkins Park, PA 19117. Representative: Anthony C. Vance , 1307 Dolley Madison Blvd., McLean, VA 22101 (703) 821–1305. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation. This republication corrects the address of applicant.

MC 165384, filed January 18, 1983. Applicant: DIANE L. MOODY, d.b.a. MERCURY TRANSFER & WAREHOUSE, 841 N. China Lake Blvd., Ridgecrest, CA 93555. Representative: Diane L. Moody (same address as applicant) (619) 375–5666. Transporting *used household goods,* for the account of

the United States Government, incident to the performance of a pack and crate service on behalf of the Department of Defense, between points in the U.S.

MC 165625, filed January 11, 1983. Applicant: HOLLOWAY TRANSIT, INC., Route 3, Box 253, Mt. Hermon Rd., Salisbury, MD 21801. Representative: Victor H. Laws, Sr., 124 East Main St., P.O. Box 259, Salisbury, MD 21801 (301) 749–2356. Transporting *passengers*, in charter operations, beginning and ending at points in MD, DE, and VA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 165734, filed January 17, 1983. Applicant: SISKIYOU WEST, INC., POB 536, Yreka, CA 96097. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201 (503) 228–6491. As a *broker*, of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165754, filed January 18, 1983. Applicant: PHILLIP OAKENSHIELD, d.b.a. OAKENSHIELD TRUCKING, P.O. Box 616, Sandy, UT 84091. Representative: Phillip Oakenshield (same address as applicant) (801) 943–6558. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), argicultural limestone and fertilizer and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 165835, filed January 24, 1983. Applicant: AZTEC BUS LINES, INC., 4437 Twain Avenue, San Diego, CA 92120. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212 (213) 277–2323. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165845, filed January 24, 1983. Applicant: DENVER COACH, 1719 4th Ave., Scottsbluff, NE 69361. Representative: Coyd Walker (same address as applicant), (308) 632–8400. Transporting *passengers*, in charter and special operations, between points in NE, WY, CO, and SD.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165865, filed January 24, 1983. Applicant: SOMERSET TRANSPORTATION COMPANY, INC., P.O. Box 157, Somerset, WI 54025. Representative: Richard A. Rechlicz, N88 W16414 Main St., Menomonee Falls, WI 53051, (414) 251–2245. Transporting *passengers*, in charter operations, beginning and ending at points in Polk, Pierce, Dunn and St. Croix Counties, WI and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 165884, filed January 25, 1983. Applicant: PAUL BERLIN d.b.a. LEISURE TRIPS, 3805 Pickfair St., Montgomery, AL 36116. Representative: J. Douglas Harris, 200 So. Lawrence St., Montgomery, AL 36104, (205) 265–0251. Transporting *passengers*, in charter and special operations, between points in AL, GA, FL, MS and LA.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165885, filed January 24, 1983. Applicant: TRANSPORTATION SERVICES OF WATERTOWN, INC., 211 Hiawatha, Watertown, WI 53094. Representative: Richard A. Rechlicz, N88 W16414 Main St., Menomonee Falls, WI 53051, (414) 251–2245. Transporting *passengers*, in charter operations, beginning and ending at points in Dodge and Jefferson Counties, WI and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

Volume No. OP3–50

Decided: February 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (member Ewing not participating.)

MC 64775 (Sub-1), filed January 25, 1983. Applicant: MOTORBUS LINES, INC., 558 E. 22nd St., Paterson, NJ 07514. Representative: Stephen Barasch, 467 Sylvan Ave., Englewood Cliffs, NJ 07632, (201) 569–8180. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 89805 (Sub-4), filed January 17, 1983. Applicant: JAMES RIVER BUS LINES, 1017 W. Graham Rd., Richmond, VA 23220. Representative: Calvin F. Major, 200 W. Grace St., P.O. Box 5010, Richmond, VA 23220, (804) 649–7591. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 143364 (Sub-2), filed January 28, 1983. Applicant: ASSOCIATED CAB CO., INC., d.b.a. GRAY LINE OF ATLANTA, 3745 Zip Industrial Blvd., SE, Atlanta, GA 30354. Representative: Bruce E. Mitchell, Suite 520, 3390 Peachtree Rd., NE, Atlanta, GA 30326, (404) 262–7855. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 153964 (Sub-2), filed January 24, 1983. Applicant: OCEAN DRIVE TOURS, INC., 49 N. Arkansas Ave., Atlantic City, NJ 08401. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017, (212) 532–5181. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 163565 (Sub-1), filed January 27, 1983. Applicant: HOLY TEMPLE CHURCH OF CHRIST, INC., 439 12th St., SE, Washington, DC 20003. Representative: Everette K. Hobson (same address as applicant), (202) 547–8365. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165765, filed January 18, 1983. Applicant: ZIPSAN SYSTEMS, INC., 160 Fifth Ave., Room 604, New York, NY 10010. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–44

Decided: January 31, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 115758 (Sub-3), filed January 10, 1983. Applicant: OTTAWA BUS SERVICE, INC., Box 129, Ottawa, KS 66067. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612, 913–233–9629. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 134519 (Sub-5), filed January 21, 1983. Applicant: KNOXVILLE TOURS, INC., 5833 Clinton Hwy., Knoxville, TN

37912. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076, (201) 322–5030. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165839, filed January 21, 1983. Applicant: ADAMS MOTOR TRANSPORTATION, INC., 155 Washington, St. Dorchester, MA 02121. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, 413–781–8205. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP5–45

Decided: January 31, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 153399 (Sub-1), filed January 17, 1983. Applicant: GREEN RIVER LINES, INC., Route 1, Walnut, IL 61376. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, 414–722–2848. Transporting *passengers*, in charter and special operations, beginning and ending at points in Clinton, Scott, Muscatine, Cedar, and Johnson Counties, IA, Newton County, IN, and points in IL, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165709, filed January 17, 1983. Applicant: H.T.L. BROKERAGE, a division of H.T.L., INC., P.O. Box 122, Fairfield, AL 35064. Representative: Calvin R. Turner, Jr., P.O. Box 517, Evergreen, AL 36456, 205–578–3212. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–51

Decided: February 2, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 127079 (Sub-2), filed January 20, 1983. Applicant: G & M COACHES, INC., 0–213 Lake Michigan Drive, NW., Grand Rapids, MI 49504. Representative: Duane A. Geiger (same address as applicant), (616) 791–2244. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165798, filed January 19, 1983. Applicant: WHITWORTH TRUCKING CO., INC., 927 Drexel Ave., N.E., Winterhaven, FL 33881. Representative: Anthony L. Keenan, 1385 Iris Dr., Conyers, GA 30208, 1–800–241–3666. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165919, filed January 25, 1983. Applicant: ROYAL AMERICAN CHARTER LINES, INC., 17030 Torrence Avenue, South Holland, IL 60473. Representative: Bruce E. Mitchell, Suite 520, 3390 Peachtree Road, NE, Atlanta, GA 30326, (404) 262–7855. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 5, Room 2414.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3753 Filed 2–10–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP1–51]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 7, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the Federal Register of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal application are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich

Secretary.

Note.—Please direct status inquiries to Team 1, at (202) 275–7992.

MC 126090 (sub-4)X, filed January 21, 1983. Applicant: TRIPLE L TRUCKING CO., INC., 110 N. Market Street, East Palestine, OH 44413. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. Lead and Sub Nos. 2 and 3 permits: (1) Broaden all permits to authorize service "between points in the U.S.", under continuing contract(s) with named shippers; and (2) remove restrictions against (a) transportation of commodities which because of size, shape, weight or inherent character, require the use of special equipment (lead and Sub 2); and (b) transportation of commodities in bulk (Sub 3).

[FR Doc. 83–3751 Filed 2–10–83; 8:45 am]

BILLING CODE 7035–01–M

[No. 38990 et al.]

Motor Carriers; James S. Batt, d.b.a. Batt Trucking—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.[1]

SUMMARY: Eighteen motor contract carriers have each requested exemption from the requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisional granted in part.

DATES: Comments are due by February 28, 1983. The sought relief will become

[1] This proceeding embraces 18 petitions for exemption filed by motor contract carriers, as set forth in the appendix.

effective on March 15, 1983, unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Robin K. Williams (202) 275–7697

or

Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Section 10702(b) of the Interstate Commerce Act requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff on file with the Commission, and section 10762 sets forth general tariff requirements including contract carrier authority to file only minimum rates. Each of these sections authorizes the Commission to grant exemptions to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101. 49 U.S.C. 10702(b), 10761(b), and 10762(f).

The 18 motor contract carriers identified in the appendix filed individual petitions requesting exemptions under the three exemption provisions metioned above. As the issues presented and the relief sought by these petitioners are substantially similar, we are consolidating them for notice purposes.

The petitioners hold a number of contract carrier permits to serve various shippers transporting a wide variety of commodities. They argue, generally, that the tariff filing requirements represent an undue burden on their ability to compete effectively and to offer their shippers the immediate service often required. Citing lost business opportunites because of the tariff publishing and filing requirements, petitioners request that they be allowed the flexibility to quickly negotiate rates. Petitioners assert that they are interested in avoiding unnecessary expenses which handicap their efforts to provide economical and efficient service. They also argue that the Motor Carrier Act of 1980 encourages the Commission to remove obstacles which keep contract carriers from realizing their full potential.

One petitioner, Batt Trucking, requests that the exemptions sought apply to both existing and future contracts. A number of petitioners offer to provide interested parties with copies of their rates if requested.

We see no reason to deny these carriers the savings to be realized from a tariff filing exemption for existing contracts. It appears that the exemption of these carriers from the requirement that they file tariffs covering their existing contract operations is consistent with the public interest and the transportation policy of 49 U.S.C. 10101. We will not order these carriers to provide copies of their rates upon request by interested parties since we have not imposed that requirement for other recent filings. See No. 38828, *Three Way Corporation, Petition for Exemption from Tariff Filing Requirements* (not printed), decided June 25, 1982.

We are unable to conclude, however, that it would be appropriate to grant an exemption for future contracts and services. Because the scope and terms of possible future contracts are unknown, an exemption as to future contracts could only be based on general findings about the continued need for any contract filing requirements for any motor contract carrier. A proceeding to investigate this issue on an industry-wide basis has been instituted in Ex Parte No. MC–165, *Exemption of Motor Contract Carriers from Tariff Filing Requirements*, 47 FR 57303 (December 23, 1982). Under these circumstances, we do not find that exemption of future contracts is consistent with the public interest or the transportation policies of 49 U.S.C. 10101. See No. 38879, *Aero Mayflower Transit Company, Inc., Petition from Tariff Filing Requirements* (not printed), decided October 12, 1982.

With the exception noted above, we provisionally grant the sought relief. This provisional relief will become effective unless the Commission issues a further decision modifying or withdrawing the relief in response to adverse comments that may be filed.

This decision does not appear to have a significant effect on either the human environment or conservation of energy sources. However, comments may be submitted on these issues.

(49 U.S.C. 10702(b), 10761(b), and 10762(f)

Decided: February 4, 1983.

By the Commission, Division 2, Commissioners Simmons, Taylor, and Gradison. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

Appendix

The dockets embraced by this proceeding are as follows:

No. 38990 James S. Batt, d.b.a. Batt Trucking
No. 38992 W. E. Battles, d.b.a. Jobbers Freight Service
No. 38993 Enterprise Transportation Company
No. 38994 Lykes Transport, Inc.
No. 38995 Romar, Inc.
No. 38996 Service Transportation, Inc.
No. 38997 Associated Transport Service, Inc.
No. 39000 Trans Continental Transport, Inc.
No. 39003 Aladdin, Inc.
No. 39004 Warehouse Freight, Inc.
No. 39005 Illinois Auto Delivery, Inc., d.b.a. Auto Delivery Company
No. 39006 Warehouse Transportation Company, Inc.
No. 39009 Gemini Trucking, Inc.
No. 39011 Catawba Trucking Co., Inc.
No. 39012 Allstate Carriers, Inc.
No. 39013 Winters Trucking Inc.
No. 39014 Jodan Transport, Inc.
No. 39017 Signal Delivery Service, Inc.

[FR Doc. 83–3746 Filed 2–10–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub-No. 94)]

Rail Carriers; Illinois Central Gulf Railroad Co.—Abandonment—In Coahoma County, MS; Notice of Findings

The Commission has found that the public convenience and necessity permit Illinois Central Gulf Railroad Company to abandon its rail line between milepost 7.5 at Lula, MS, and milepost 17.92 at Jonestown, MS, in Coahoma County, MS, a total distance of 10.42 miles, subject to conditions. A certificate will be issued authorizing abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC, 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are set forth at 49 U.S.C. 10905 and 49 CFR 1152.2 [formerly 49 CFR 1121.38].

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3747 Filed 2–10–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30067]

Railroad Car Service Pooling Application; Notice of Filing and Proposed Special Rules of Procedure; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction of dates.

SUMMARY: The notice of filing in this proceeding was originally published at 48 FR 751 (January 6, 1983). The notice set January 26, 1983 as the date for filing verified statements in support of the pooling application, and February 7, 1983, for filing verified statements in opposition. The notice inadvertently set January 26, 1983 as the date on which reply statements by all parties are to be filed. The correct date for filing reply statements should have been February 28, 1983. Additionally, at least one interested party did not receive a copy of the January 6 edition of the Federal Register until January 21. Due to the confusion surrounding the misprinted date and delay in conveying the initial notice the Commission is establishing a new procedural schedule as described below.

DATES: Verified statements in support of the proposed pooling arrangement (including any additional statements by the applicant) must have been filed, as previously announced by January 26, 1983. Verified statements in opposition to the proposed pooling arrangement must be filed on or before March 14, 1983. Reply statements by all parties must be filed on or before April 4, 1983.

ADDRESSES: Send pleadings to:

(1) Interstate Commerce Commission, Rail Section, Room 5349, Washington, DC 20423.

(2) Applicant's representatives: Basil Cole, Esq., 1730 Pennsylvania Avenue NW., Suite 1100, Washington, DC 20006.

Pleadings should refer to Finance Docket No. 30067.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3745 Filed 2–10–83; 8:45 am]

BILLING CODE 7035–01–M

[OP 4F–069; No. MC–F–15085]

Etranco, Inc.—Control Exemption—Ecoff Trucking, Inc., and Liquid Transport Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's Regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982), Etranco, Inc. (Etranco) and Rex V. Ecoff, its controlling shareholder, seek an exemption from the requirement under 49 U.S.C. 11343 of prior regulatory approval for their acquisition of control of Ecoff Trucking, Inc., (ETI) (MC–119934 and MC–126161) and its subsidiary, Liquid Transport Corp. (Liquid) (MC–119226). Under the proposed transaction Extranco, a noncarrier holding company, would directly control Liquid and Ecoff. Rex Ecoff presently controls ETI through a majority stock interest and controls Liquid indirectly through ETI.

DATES: Comments must be received within 30 days after the date of publication in the Federal Register.

ADDRESS: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., Indianapolis, IN 46204

Comments should refer to No. MC–F–15085.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 7, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3755 Filed 2–10–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15093]

Ozella Harrington—Continuance in Control Exemption—E. J. Dickie Trucking Co. and Echo Trucking Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemption Filed by Motor Carriers*, 367 I.C.C. 113 (1982), Ozella Harrington, a sole proprietor (No. MC–109515), seeks an exemption from the requirement under section 11343 of prior regulatory approval for her continuance in control of E. J. Dickie Trucking Company (No. MC–77340) and Echo Trucking Company (No. MC–135513).

DATE: Comments must be received within 30 days after the date of publication in the Federal Register.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representatives: Lex J. Smith and Richard L. Sallquist, Evans, Kitchel & Jenckes, P.C., 2600 North Central Ave., Suite 1900, Phoenix, AZ 85004

Comments should refer to No. MC–F–15093.

FOR FURTHER INFORMATION CONTACT: Joyce D. Lannon, (202) 275–7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representatives. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 7, 1983.

By the Commission, Hebert P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3754 Filed 2–10–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Norac Co., Inc.; Registration

By Notice dated November 17, 1982, and published in the Federal Register on November 24, 1982, (47 FR 53155) Norac Company, Inc., 405 South Motor Avenue, Azusa, California 91702, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Tetrahydrocannabinols (7370), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the

application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: February 2, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-3720 Filed 2-10-83; 8:45 am]

BILLING CODE 4410-09-M

Bureau of Justice Statistics

Advisory Board; Meeting

The Bureau of Justice Statistics Advisory Board will meet on February 25 and 26, 1983 at the Dupont Plaza Hotel in Washington, D.C. Friday's session will be from 9:00 a.m. until 5:00 p.m., with swearing-in ceremonies scheduled at 10:00 a.m. in the Attorney General's Office. Saturday's session will be from 9:00 a.m until 12 Noon.

This will be the Board's initial meeting. During the course of the meeting, the Board will elect a Chairman and Vice-Chairman and will adopt rules and procedures to govern its organization and functions. The agenda will also include a briefing of the Board on the mandate, current programs and program plans of the Bureau and presentation of the major issues which the Bureau faces.

The meeting will be open to the public. The meeting room will be accessible to the handicapped. Approximately 10 seats will be available for the public on a first-come, first-served basis.

Minutes of the proceedings will be available upon request 30 days after the meeting.

Inquiries may be addressed to Paul D. White, Bureau of Justice Statistics, Washington, D.C. 20531. Telephone (202) 724-7770.

Dated: February 2, 1983.

Steven R. Schlesinger,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 83-3801 Filed 2-10-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or imporve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, service, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of application involving the establishment of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, NW., Room 8000—Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C. this 4th day of February 1983.

Robert S. Kenyon,

Director, Office of Program Operations.

Applications received during the week ending February 5, 1983.

Name of Applicant and Location of Enterprise and Principal Product or Activity

Ocala Military Academy, Ltd., Marion County, Florida, Private boarding school.

[FR Doc. 83-3689 Filed 2-10-83; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

Grant of Individual Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted

solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408 (a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

[Prohibited Transaction Exemption 83–19; Exemption Application No. D–3141]

Kemper Investors Life Insurance Company (KILICO), Pooled Separate Accounts (the Funds) Located in Chicago, Illinois

Section I—Basic Exemption

The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to transactions described below if the applicable conditions set forth in section IV are met.

A. *General exemption.* Any transaction between a party in interest with respect to an employee benefit plan (Plan(s)) and the Fund in which the Plan has an interest, or any acquisition or holding by the Fund of employer securities or employer real property, if, at the time of the transaction, acquisition or holding of such interest—

(1) the aggregate interest (calculated on the basis of the ratio of its original purchase price to the original purchase price of all other such interests which have not been withdrawn or redeemed) of such Plan in the Fund shall not exceed 10%, if $100,000,000 or less of such interests have been sold, of 7½%, if between $100,000,000 and $200,000,000 of such interests have been sold, or 5%, if more than $200,000,000 of such interests have been sold; provided, however, that the 10% and 7½% figures shall be deemed to be 5% from and after the fourth anniversary of the sale of the first such interest; and

(2) the party in interest is not KILICO or any affiliate of KILICO, except for the transactions described in section II of this exemption.

B. *Excess holding exemption for Plans.* Any acquisition or holding of qualifying employer securities or qualifying employer real property by a Plan (other than through the Fund) if—

(1) The acquisition or holding contravenes the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407(a) of the Act solely by reason of being aggregated with employer securities or employer real property held by the Fund in which the Plan has an interest, and

(2) The requirements of paragraph (A) of this section are met.

C. *Employer securities and employer real property.*

(1) Except as provided in subsection 2 of this paragraph, any acquisition, sale or holding of employer securities and any acquisition, sale, holding or lease of employer real property by the Fund in which a Plan has an interest and which does not meet the requirements of paragraph A of this section, if no commission is paid to KILICO or an affiliate of KILICO or to the employer or any affiliate of the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real propelrty, and-

(a) In the case of employer real property—

(i) Each parcel of employer real property and the improvements thereon are suitable (or adaptable without excessive cost) for use by different tenants, and

(ii) The property of the Fund, which is leased or held for lease to others, in the aggregate, is dispersed geographically.

(b) In the case of employer securities—

(i) The employer security is (A) stock, or (B) a bond, debenture, note, certificate, or other evidence of indebtedness (the security described in (B) is hereinafter referred to as an "obligation"), and

(ii) Neither KILICO nor any affiliate of KILICO is an affiliate of the issuer of the security and, if the security is an obligation of the issuer, either

(iii) The Fund already owns the obligation at the time the Plan acquires an interest in the Fund and interests in the Fund are offered and redeemed in accordance with valuation procedures of the Fund applied on a uniform or consistent basis, or

(iv) Immediately after acquisition of the obligation: (A) not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such Plan, and (B) in the case of an obligation which is a restricted security within the meaning of Rule 144 under the Securities Act of 1933, at least 50 percent of the aggregate amount referred to in (A) is held by persons independent of the issuer. KILICO, its affiliates and any separate account of KILICO shall be considered persons independent of the issuer if KILICO is not an affiliate of the issuer.

(2) Provided that, in the case of a Plan which is not an eligible individual account plan (as defined in section 407 (d)(3) of the Act,) immediately after such aquisition the aggregate fair market value of employer securities and employer real property owned by the Plan does not exceed 10 percent of the fair market value of the assets of the Plan.

(3) For the purposes of the exemption contained in subsection (1) of this paragraph (C), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party in interest with respect to a Plan (which has an interest in the Fund) by reason of a relationship to the employer described in section 3(14) (E), (G), (H), or (I) of the Act.

Section II—Specific Exemptions

The restrictions of section 406(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the transactions described below provided that the conditions of section IV are met.

A. *Leasing.* The leasing of any property of a Fund to KILICO or an affiliate thereof if: (1) Such lease was in being at the time of the acquisition of such property by the Fund and such lease was not entered into in contemplation of such acquisition; and (2) KILICO permits no transaction to take place that involves any expansion of space, extension, renewal, waiver, exercise of option or other modification of such lease.

B. *Reinsurance.* (1) The facultative reinsurance by an affiliate of KILICO of any property, liability or casualty insurance covering any property of a Fund if the underlying insurance was bound at the time of the acquisition of such property by the Fund and was not bound in contemplation of such acquisition, provided that such reinsurance is not renewed upon the expiration of its term.

(2) The reinsurance by an affiliate of KILICO on a treaty basis of any property, liability or casualty insurance covering any property of a Fund, provided that there are no arrangements

or agreements between the KILICO affiliate and other reinsurers regarding specific properties covered under a reinsurance treaty.

C. *Property, Liability or Casualty Insurance.* The acquisition by the Fund of a property which is covered by any property, liability or casualty insurance written by an affiliate of KILICO, if: (1) Such insurance was bound at the time of the acquisition of such property by the Fund and was not bound in contemplation of such acquisition; and (2) such insurance is not renewed upon the expiration of its term.

D. *Mortgage Loans.* The acquisition of any property by a Fund which is subject to a mortgage loan from KILICO or an affiliate thereof if: (1) Such loan was in effect prior to such acquistion and was not placed on such property in contemplation of such acquisition; and (2) KILICO and its affiliate do not take any action to foreclose such loan or otherwise exercise any discretionary authority granted to them under such mortgage loan.

E. *Option or Acquisition Agreements.* The assignment by KILICO and/or Bedford Properties, Inc. (Bedford) to a Fund of an option agreement and/or an acquisition agreement if the Fund pays KILICO and/or Bedford no more than their direct out-of-pocket costs, expenses and advances with respect to such agreement and such agreement specifically states that it has been entered into for the purpose of ultimately being placed with the Fund and that KILICO and/or Bedford are only parties thereto until such time as placement can be effectuated.

F. *Party in Interest Transactions.* Any transaction between a Fund and a person who is a party in interest with respect to a Plan, which Plan has an interest in the Fund, if—

(1) The person is a party in interest (including a fiduciary) by reason of providing services to the Plan, or by reason of a relationship to a service provider described in section 3(14)(F), (G), (H), or (I) of the Act, and the person exercised no discretionary authority, control, responsibility, or influence with respect to the investment of Plan assets in the Fund and has no discretionary authority, control, responsibility or influence with respect to the management or disposition of the Plan assets held in the Fund; and

(2) The person is not an affiliate of KILICO.

G. *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by a Fund, to a party in interest with respect to a Plan, which Plan has an interest in the Fund, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

Section III—Leasing services

The restrictions of section 406(b) [1] of the Act and the taxes imposed by section 4975 (a) and (b) by reason of section 4975(c)(1) (E) and (F) shall not apply, provided that the conditions of section IV are met, to the provision of real estate leasing services with respect to any property of a Fund by Bedford or any of its affiliates, and the receipt of compensation by Bedford or its affiliates from tenants for such services, if the amount of such compensation is approved in advance by KILICO and if Bedford and KILICO furnish to each Plan in a Fund, within 45 days after the end of each calendar quarter, a statement setting forth the amount of the leasing commissions received from tenants during such calendar quarter by Bedford or its affiliates with respect to property held in the Fund together with a description of the method by which such compensation was calculated. In addition, each contract for the provision of real estate services shall be subject to termination by KILICO upon 60 days notice.

Section IV—General Conditions of Exemption

The exemptions in sections I, II and III above shall be subject to satisfaction of each of the following conditions:

A. At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of KILICO or Bedford, the terms of the transaction are not less favorable to the Fund than the terms available in arm's-length transactions between unrelated parties.

B. The decision by each Plan participating in a Fund to become a participant in such Fund will be made by an independent fiduciary who is not an affiliate (as described below) of KILICO or Bedford.

C. Plans shall invest no more than 25% of their assets in the Funds.

D. KILICO maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (E) of this section to determine whether the conditions of this exemption have been met, except that: (1) A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of KILICO, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by Section 4975(a) and (b) of the Code, if the records are not maintained or are not available for examination as required by paragraph (E) below.

E. (1) Except as provided in subsection (2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (D) of this section are unconditionally available at their customary location for examination during normal business hours by:

(a) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(b) Any fiduciary of a Plan who has authority to acquire or dispose of the interest of the Plan in the Fund, or any duly authorized employee or representative of such fiduciary,

(c) Any contributing employer to any Plan which has an interest in the Fund or any duly authorized employee or representative of that employer,

(d) Any participant or beneficiary of any Plan which has an interest in the Fund or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (b) through (d) of this paragraph shall be authorized to examine KILICO or Bedford trade secrets or commercial or financial information which is privileged or confidential.

Section V—Definitions

For the purposes of this proposed exemption:

A. An "affiliate" of a person includes,

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee (including in the case of an insurance company, an insurance agent thereof, whether or not such agent is a common law employee of the insurance company), or a relative of, or partner in, any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

B. The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual;

[1] The Department is providing no exemption from section 406(a) of the Act beyond that which is provided under section 406(b)(2) of the Act and the regulations promulgated thereunder.

C. The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister; and

D. The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the date of granting of this exemption, or a renewal that requires the consent of the Fund occurs on or after the date of granting of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of section I(A) at such time as the interest of the Plan exceeds the percentage interest limitation of section I(A), unless no portion of such excess results from an increase in the assets allocated to the Fund by the Plan. For this purpose, assets allocated do not include the reinvestment of Fund earnings. Nothing in this paragraph shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–20; Exemption Application No. D–3564]

The A.B. Dick Products Company of Waterloo Profit Sharing Plan and Trust (the Plan), Located in Waterloo, Iowa

Exemption

The restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply for a period of five years from the date of the exemption grant, to the purchase of certain leases of equipment (the Leases) by the Plan from A.B. Dick Products Company of Waterloo (the Employer), the repurchase by the Employer of Leases in default and the indemnification of the Plan against any loss relasting to the Leases, provided that the following conditions are met:

A. Upon request by the Department, the Plan trustee, National Bank of Waterloo or other appropriate fiduciaries of the Plan shall submit to the Department such additional information regarding transactions subject to this exemption as may be requested. All requests for additional information shall be in writing.

B. Any sale of Lease to the Plan will be on terms at least as favorable to the Plan as an arm's-length transaction with an unrelated thired party would be.

C. The acquisition of a Lease from the Employer shall not cause the Plan to hold: (1) More than 50 percent of Plan assets in Leases; and (2) more than 10 percent of Plan assets in Leases of any one lessee.

D. Upon default by the lessee on any payment due under a Lease, the Employer agrees to indemnify the Plan against any loss resulting from such default and also agrees to repurchase such Lease at the Lease purchase option price. A Lease shall be deemed to be in default for the purposes of this section if: (1) A payment due under the terms and conditions of the Lease is past due for a period of 5 days; (2) a lessee defaults in the performance of any other term or condition of the Lease for a period of 5 days; or (3) the lessee ceases doing business or becomes insolvent.

E. The Plan receives adequate security for the property underlying the Lease. For purposes of this exemption, the term adequate security means that the property is secured by a perfected security interest in the property leased, so that if there is a default on the Lease and the security is foreclosed upon or otherwise disposed of, the value and liquidity of the security is such that it may reasonably be anticipated that the Plan will experience no loss.

F. Insurance against loss or damage to the leased property from fire or other hazards will be procured and maintained by the lessee, and the proceeds from such insurance will be assigned to the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 15, 1982 at 47 FR 64165.

FOR FURTHER INFORMATION CONTACT: Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–21; Exemption Application Nos. D–3575 and D–3576]

The Hayes-Albion Salaried Employees Savings Plan (the Savings Plan) and the Hayes-Albion Salaried Employees Pension Plan (the Pension Plan), Located in Jackson, Michigan

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply to the cash sale by the Savings Plan to the Pension Plan of an interest (the Savings Plan Interest) in the Equitable Life Assurance Society of the United States Direct Placement Bond Fund, provided the price paid for the Savings Plan Interest is its fair market value at the time the transaction is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 14, 1982 at 47 FR 56077.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 532–8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–22; Exemption Application No. D–3708]

Profit Sharing Plan for Employees of Gonzalez, Lupo, Walker, Webb & Arthur, M.D.'s, P.A. (the Plan), Located in Tampa, Florida

Exemption

The restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the code, by reason of section 4975(c) (1) (A) through (E) of the Code, shall not apply to the proposed sale of two lots of land located in Tampa, Florida, by the Plan to Buffalo Avenue Associates, a party in interest with respect to the Plan, provided the sales price is no less than the fair market value of the land on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 21, 1982 at 47 FR 56941.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department,

telephone (202) 523–8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–23; Exemption Application No. D–3725]

H.A. Berkheimer, Inc. Profit Sharing Plan (the Plan); Located in Bangor, Pennsylvania

Exemption

The restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c) (1) (A) through (E) of the Code, shall not apply to the loan of $100,000 by the Plan to H.A. Berkheimer, Inc., provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 21, 1982 at 47 FR 56941.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–24; Exemption Application No. D–3731]

The Orloff, Lowenbach, Stifelman and Siegel, P.A. Employees' Profit Sharing Plan (the Plan), Located in Roseland, New Jersey

Exemption

The restrictions of section 406(a), 406(b)(1)and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) A loan of $300,000 (the Loan) by the Plan to Orloff, Lowenbach, Stifelman and Siegel, P.A. (the Employer), provided the terms and conditions of the Loan are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party; and (2) the guarantee of repayment of the Loan by the principals of the Employer.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 21, 1982 at 47 FR 56942.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–25; Exemption Application No. D–3794]

The Robert Corum & Associates, Inc. Money Purchase Pension Plan (the Plan), Located in Louisville, Kentucky

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a building located at 2416 Frankfort Avenue, Louisville, Kentucky (the Building) to the Plan by Robert Corum & Associates, Inc. (the Employer) for $160,000, provided that this amount is not more than the fair market value of the Building on the date of sale, and the lease of a portion of the Building by the Plan to the Employer, under the terms described in the notice of proposed exemption, provided such terms are at least as favorable to the Plan as those available in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 7, 1983 at 48 FR 910.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 8th day of February, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83–3805 Filed 2–10–83; 8:45 am]

BILLING CODE 4510–29–M

Office of the Secretary

All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to Section 112 of the 1976 amendments to the Federal Election Campaign Act (Pub. L. 94–283, 2 U.S.C. 441a), the Secretary of Labor has certified to the Chairman of the Federal Election Commission and publishes this notice in the **Federal Register** that the United States City Average All Items Consumer Price Index for All Urban Consumers (1967=100) increased 95.7 percent from its 1974 annual average of 147.7 to its 1982 annual average of 289.1. Using 1974 as a base (1974=100), I certify that the United States City Average All Items Consumer Price Index for All Urban Consumers thus increased 95.7 percent from its 1974 annual average of 100 to its 1982 annual average of 195.7.

Signed at Washington, D.C., on the 7th day of February 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83–3829 Filed 2–10–83; 8:45 am]

BILLING CODE 4510–24–M

Pension and Welfare Benefit Programs Office

[Application No. D–3359]

Proposed Exemption for Certain Transactions Involving the Dodge & Cox Real Estate Fund I; San Francisco, Calif.

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would allow a collective investment fund (the Fund) that is managed by Dodge & Cox (D&C) and Pacific Realty Advisors (PRA), in which employee benefit plans (the Plans) participate, to engage in certain transactions provided specified conditions are met. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plans, employers of employees covered under the Plans, D&C, PRA, and other persons participating in the described transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before March 29, 1983.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3359. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the certain restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and from the sanctions resulting from the application of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Fund, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Preamble

On July 25, 1980, the Department published a class exemption, Prohibited Transaction Exemption 80–51 (PTE 80–51, 45 FR 49709), which permits collective investment funds that are maintained by banks and in which employee benefit plans participate to engage in certain transactions provided that specified conditions are met. The transactions for which the applicant has requested relief are those which are the subject of PTE 80–51.

The Department stated in PTE 80–51 that a comment had been received to the proposed class exemption requesting that it be amended to apply to collective investment funds that are not maintained by banks. Relief was granted for bank collective investment funds because, among other reasons, such funds are regulated by other governmental agencies and constitute a well-defined class of funds. In the case of collective investment funds that are not maintained by banks, the Department found that the record was insufficient to determine the nature of the funds and the entities managing the funds that would comprise the class covered by such broad relief. As a result, the Department stated that it could not make the required statutory findings for such relief, and that relief for non-bank maintained collective investment funds should be dealt with on an individual rather than a class basis.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Fund is a closed end group trust exempt from federal income tax under Section 401(a) of the Code, created pursuant to a Group Trust Agreement (the Group Trust Agreement), in March of 1982. The trustees (the Trustees) of the Fund are Joseph M. Fee, Harry R. Hagey, James O. Goldsmith, and William T. Phillips. Mr. Fee and Mr. Hagey are employed by D&C, a California corporation. Mr. Goldsmith and Mr. Phillips are employed by PRA, a California corporation. D&C and PRA are the sponsors of the Fund. The Fund was formed in order to provide a vehicle under which a limited number of trusts, constituting all or part of a qualified pension or profit sharing plan exempt from federal income tax pursuant to Section 501(a) of the Code, could combine their assets in order to invest in income-producing real estate or property upon which improvements are being constructed or are expected to be constructed. The Fund was formed in response to a need perceived by pension plan managers to diversify their portfolios with real estate investments without the attendant disadvantages of direct ownership of real estate.

2. The Fund intends to invest primarily in real property used for office or retail purposes, or a combination thereof, or possibly for industrial purposes, emphasizing investments in development projects which are structured to avoid major construction and development and lease-up risks to the Fund. The Fund also contemplates investments in ways other than direct ownership of property. Properties acquired by the Fund will either be held by the fund, or by Dodge & Cox Real Estate Fund I, Inc., a corporation wholly owned by the Fund, which will receive income from the properties and turn over the entire amount thereof, less expenses, to the Fund. Dodge & Cox Real Estate Fund I, has submitted an application to the Internal Revenue Service for tax exempt status pursuant to Section 501(c)(2) of the Code. The Fund is presently in the process of closing its initial funding, and anticipates that two pension plans unrelated to each other will subscribe to the Fund. The Fund anticipates that funding will be in the amount of $15,000,000 in units of $500,000. No Trustees or any of the employees, officers, directors or shareholders of D&C or PRA will serve as fiduciaries of the pension plans which will hold interests in the Fund, or will serve as directors or officers of the sponsors of such pension plans.

3. On behalf of the Fund, the Trustees will retain D&C and PRA as investment managers pursuant to an investment management agreement (the Investment Management Agreement). Both PRA and D&C are registered as investment advisors under the Investment Advisors Act of 1940. D&C and PRA will perform all services involved in selecting investments for the Fund, and will perform day to day management and administrative functions on behalf of the Fund. As compensation for their services as investment managers, D&C and PRA will receive a fee set forth in the Investment Management Agreement. This fee constitutes the only form of compensation which will be paid to D&C and PRA; no other forms of compensation (such as brokerage or leasing commissions or up-front fees)

will be involved. After properties acquired by the Fund become operational, D&C and PRA (pursuant to the Investment Management Agreement) will select a property manager for each property owned or controlled by the Fund, and will enter into agreements with such property managers for the provision of day to day property management services. While the Fund intends to retain unaffiliated third parties as property managers, it is possible that under some circumstances, D&C or PRA may retain an affiliate of PRA which is presently engaged in the business of providing property management services. If so, the Fund intends to reimburse the affiliate for the costs incurred in providing such services.

While the Fund is presently the only pooled real estate fund sponsored by D&C and PRA, it is possible that funds similar to the fund may be sponsored in the future. Accordingly, the applicant has requested that this exemption, if granted, apply to the Fund and to any similar future funds sponsored by D&C and PRA.

4. The decision of whether it is appropriate to invest in the Fund or in subsequent funds will not be made by D&C or PRA for any Plan (except to the extent the Trustees reserve the right to reject any application) but is left to the fiduciaries of the particular Plan to determine whether such an investment is appropriate considering the overall investments, policies, and objectives of a Plan investing in the Fund. The units of beneficial interest in the Fund acquired by a Plan are not assignable or otherwise transferable except for the purpose of the redemption of the units purchased. The fiduciaries of a potential investing Plan in the fund will be provided a confidential private offering memorandum (the Offering Memorandum) which will disclose the investment objectives of the fund, a summary of the Group Trust Agreement, the risk factors associated with the particular assets of the Fund, the expenses of the Fund and the fees for all investment managers associated with the Fund. In addition, within 120 days after the end of each fiscal year of the Fund, D&C and PAR will prepare and distribute to each Plan a report containing a balance sheet, a profit and loss statement, a statement of changes in net assets, and a statement of sources and applications of cash for the Fund for such fiscal year, audited and reported upon by independent certified public accountants selected by D&C and PRA. In addition, the report shall disclose: (a) the fees paid to D&C and PRA and (b) the results of annual appraisals of the assets of the Fund. Also, under the Group Trust Agreement, the beneficiaries of the Fund have the power by a 60% vote to remove the Trustees.

5. In the course of acquiring properties for investment by the Fund, or in the course of leasing or managing properties after completion of development, it is possible that the Fund may enter into a transaction with a party whose relationship as a party in interest or disqualified person with respect to the Fund as described in section 3(14) of the Act and 4975(e)(2) of the Code is caused by the fact that such party constitutes a party in interest or disqualified person with respect to a Plan investing in the Fund.

Accordingly, a transaction between such party and the Fund may be viewed as a prohibited transaction as described in section 406(a) of the Act and/or section 4975(c)(1)(A) through (D) of the Code. The applicant represents that if the Fund is unable to enter into transactions with certain persons because such persons are parties in interest with respect to a Plan, the Fund's ability to prudently make its investments and conduct its operations solely for the benefit of the Plans will be unduly restricted. The applicant represents that such transactions, because of the nature of the Fund, are difficult to identify and control, but if entered into would be in the interests of the Fund, its Plans and their participants and beneficiaries.

6. The applicant requests prospective exemptive relief for those classes of transactions between the Fund and certain parties in interest which were afforded exemptive relief in PTE 80–51. The applicant proposes that such classes of transactions be subject to the identical conditions, limitations, and restrictions as those delineated with respect to the transactions afforded exemptive relief in PTE 80–51.

7. In summary, the applicant represents that the subject transactions meet the criteria of section 408(a) of the Act because: (1) the Fund will provide the participating Plans with the opportunity to invest in real estate without the attendant disadvantages of direct ownership of real estate; (2) each of the protections provided to participating Plans and their participants and beneficiaries by PTE 80–51 will be satisfied for the subject transactions, except that the Fund is privately maintained; (3) independent fiduciaries of the Plans, unrelated to the Fund, D&C or PRA will have discretion with respect to the investment by the Plans in the Fund, and will base their decision of whether or not to invest in the Fund on the facts contained in a detailed Offering Memorandum.

Notice to Interested Persons

Because the Fund is not yet operational and no Plans presently participate in the Fund, publication of this notice in the **Federal Register** will be deemed adequate notice to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Section I Exemption for Certain Transactions Involving the Fund.

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties In Interest and the Fund: General.* Any transactions between a party in interest with respect to a participating Plan and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if the party in interest is not D&C or PRA or one of their affiliates and if, at the time of the transaction, acquisition or holding, the interest of the Plan, together with the interests of any other Plans maintained by the same employer or employee organization in the Fund, does not exceed 5 percent of the total of all assets in the Fund.

(2) *Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiemployer Plan and the Fund.* Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiple employer plan (as defined in section 3(37)(A) of the Act and section 414(f)(1) of the Code) that is a participating Plan and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if at the time of the transaction, acquisition or holding—

(A) The interest of the multiemployer plan in the Fund does not exceed 10 percent of the total assets in the Fund, and the employer is not a substantial employer with respect to the plan, or

(B) The interest of the multiemployer plan in the Fund exceeds 10 percent of the total assets in the Fund, but the employer is not a substantial employer with respect to the plan and would not be a substantial employer if "5 percent" were substituted for "10 percent" in the definition of "substantial employer."

(3) *Acquisitions, Sales, or Holdings of Employer Securities and Employer Real Property.* (A) Except as provided in subsection (B) of this section (3), any acquisition, sale, or holding of employer securities, or employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to D&C or PRA or to the employer, or to any affiliate of D&C or PRA or the employer in connection with the acquisition or sale of employer securities; or the acquisition, sale or lease of employer real property; and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants and

(bb) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) Neither D&C nor PRA nor any of their affiliates is an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either:

1. The Fund owns the obligation at the time the Plan acquires an interest in the Fund, and interests in the Fund are offered and redeemed in accordance with valuation procedures of the Fund applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation: (a) not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such Plan, and (b) in the case of an obligation that is a restricted security within the meaning of Rule 144 under the Securities Act of 1933, at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. D&C or PRA, their affiliates and any collective investment fund maintained by D&C or PRA or their affiliates shall be considered to be persons independent of the issuer if D&C or PRA is not an affiliate of the issuer.

(B) In the case of a participating Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which D&C or PRA or their affiliates has investment discretion does not exceed 10 percent of the fair market value of all the assets of the participating Plan with respect to which D&C or PRA or their affiliates has such investment discretion.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party in interest with respect to a participating Plan by reason of a relationship to the employer described in section 3(14)(E), (G), (H), or (I) of the Act.

(b) The restrictions of section 406(a)(1)(A), (B), (C), and (D) and section 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section III are met.

(1) *Transactions with Persons Who Are Parties in Interest with Respect to a participating Plan Solely by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.* Any transaction between the Fund and a person who is a party in interest with respect to a participating Plan if—

(A) The person is a party-in-interest (including a fiduciary) solely by reason of providing services to the participating Plan, or solely by reason of a relationship to a service provider described in section 3(14)(F), (G), (H) or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility, or influence with respect to the investment of the participating Plan's assets in, or held by, the Fund, and

(B) The person is not an affiliate of D&C or PRA.

(2) *Certain Leases and Goods.* The furnishing of goods to the Fund by a party-in-interest with respect to a participating Plan or the leasing of real property owned by the Fund to such party-in-interest and the incidental

furnishing of goods to such party-in-interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party-in-interest is not D&C or PRA, any affiliate of D&C or PRA, or one of the other Funds; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party-in-interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(3) *Management of Real Property.* Any services provided to the Fund by D&C or PRA or by an affiliate of D&C or PRA in connection with the management of the real property owned by the Fund, if the compensation paid to D&C or PRA or their affiliate does not exceed the cost of the services to D&C or PRA or their affiliates.

(4) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities, by a place of public accommodation owned by the Fund to a party-in-interest with respect to a participating Plan, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

Section II Excess Holdings Exemption for Employee Benefit Plans.

(a) The restrictions of sections 406(a), 406(b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Fund) by a participating Plan if (1) the acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer securities or employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section III of this exemption are met.

Section III General Conditions.

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of D&C or PRA or their affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) D&C or PRA or their affiliate maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that: (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of D&C or PRA or their affiliate the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service.

(B) Any fiduciary of a participating Plan who has authority to acquire or dispose of the interests in the Fund of the participating Plan or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any participating Plan or any duly authorized employee or representative of such employer, or

(D) Any participant or beneficiary of any participating Plan, or any duly authorized employee or representative of such participant or beneficiary,

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of D&C or PRA or their affiliate, or commercial or financial information which is privileged or confidential.

Section IV Definitions and General Rules.

For the purposes of this exemption,

(a) The term "the Fund" shall include any collective investment fund that may hereafter be established, operated, and managed by D&C or PRA or their affiliates in essentially the same manner as the Fund herein described.

(b) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative of, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "relative" means a "relative" as the term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or spouse of a brother, or sister.

(e) The term "substantial employer" means for any plan year an employer (treating employers who are members of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563(a)(4) and (e)(3)(c) of the Code, as one employer) who has made contributions to or under a multiemployer plan for each of—

(1) The two immediately preceding plan years, or

(2) the second and third preceding plan years, equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year.

(f) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated.

If any transaction is entered into, or an acquisition is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to a

holding exempt by virtue of Section I(a)(1) at such time as the interest of the participating Plan exceeds the percentage interest limitation of Section I(a)(1), unless no portion of such excess results from an increase in the assets allocated to the Fund by the participating Plan. For this purpose, assets allocated do not include the reinvestment of Fund earnings. Nothing in this paragraph (f) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(g) Each participating Plan shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

The availability to this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this proposed exemption.

Signed at Washington, D.C., this 1st day of February 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration.

[FR Doc. 83-3806 Filed 2-10-83; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission: New.

2. The title of the information collection: IE Bulletin 83-01: "Stress Corrosion Cracking in Thick-Wall, Large-Diameter, Stainless Steel, Recirculation System Piping at BWR Plants."

3. The form number if applicable: Not applicable.

4. How often the collection is required: One time.

5. Who will be required or asked to report: NRC licensees.

6. An estimate of the number of responses: 15.

7. An estimate of the total number of hours needed to complete the requirement or request: 3,600.

8. Section 3504(h), Pub. L. 96-511 does not apply.

9. Abstract: IE Bulletin 83-01: "Stress Corrosion Cracking in Thick-Wall, Large-Diameter, Stainless Steel, Recirculation System Piping at BWR Plants" requires licensees to inspect recirculation piping by a method which can be demonstrated effective and report the results of the inspection. These reports will confirm the validity of the inspections which verify the integrity of the reactor coolant recirculation system.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Md., this 4th day of February 1983.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 83-3819 Filed 2-10-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-389]

Florida Power & Light Co., et al., St. Lucie Plant, Unit 2; Issuance of Amendment to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to Construction Permit No. CPPR-144, to add Florida Municipal Power Agency as an applicant for the St. Lucie Plant, Unit 2 (the facility), located on Hutchinson Island in St. Lucie County, Florida. The amendment is effective as of the date of issuance. Florida Power and Light Company and Orlando Utilities Commission of the City of Orlando are the present applicants.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amendment. The Commission has also concluded that the amendment involves actions which are insignificant from the standpoint of environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and an environmental impact appraisal need not be prepared in connection with the issuance of the amendment. Prior public notice of the amendments was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see: (1) The application for amendment, dated June 14, 1982; (2) Amendment No. 4 to Construction Permit No. CPPR-144 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Indian River Community Library, 3900 Virginia Avenue, Ft. Pierce, Florida 33450. Items 2 and 3 may be requested by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Technical Information and Document Control.

Dated at Bethesda, Md., this 3d day of February 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-3812 Filed 2-10-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-321 and 50-366]

Georgia Power Co., et al., Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 92 and 30 to Facility Operating Licenses Nos. DPR-57 and NPF-5, issued to Georgia Power Company, Oglethrope Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised Technical Specifications (TSs) for operation of the Edwin I. Hatch Nuclear

Plant, Units Nos. 1 and 2 (the facility) located in Appling County, Georgia. The amendments are effective as of the date of issuance.

The amendments revise the TSs for both Hatch Unit No. 1 and Unit No. 2 to modify the numerical values of the reactor water levels and the setpoints for reactor water levels measured by the shroud water level instruments to make them consistent with a change in the zero reference level. The amendments also revise the TSs for Hatch Unit No. 1 to: (1) Establish an upper limit for the rod block monitor high flux trip setting; (2) increase the pressure setting of the safety relief valve tailpipe pressure switches; and (3) add a newly installed torus access hatch to the list of testable containment penetrations.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) The applications for amendments dated March 10, 1982, April 5, 1982, and January 3, 1983 (two applications), (2) Amendments Nos. 92 and 30 to Licenses Nos. DPR–57 and NPF–5, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 2d day of February 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83–3613 Filed 2–10–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–280, 50–281, 50–338, and 50–339]

Virginia Electric and Power Co.; Granting of Relief From ASME Code Section XI, Inservice Inspection Requirements; Correction

On June 11, 1982, a "Notice of Granting of Relief from ASME Code Section XI Inservice Inspection Requirements" was published on page 47FR25432 which incorrectly stated an expiration date which was not applicable. The Notice should have indicated that, "The relief is effective as of its date of issuance."

The Notice related to the approval of the inservice inspection (ISI) requirements for the Surry Power Station, Unit Nos. 1 and 2 and for the North Anna Power Station, Unit Nos. 1 and 2 located in Surry County and Louisa County, respectively.

Dated at Bethesda, Md., this 4th day of February 1983.

For the Nuclear Regulation Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83–3618 Filed 2–10–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–282 and 50–306]

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 61 and 55 to Facility Operating License Nos. DPR–42 and DPR–60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications (TS) concerned with Steam Generator Tube Surveillance, Steam Exclusion System, Auxiliary Feedwater System reporting requirements, Administrative Controls, and correct typographical errors.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated September 14, 1982, (2) Amendment Nos. 61 and 55 to License Nos. DPR–42 and DPR–60, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 2d day of February 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83–3614 Filed 2–10–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–282 and 50–306]

Northern States Power Co. (Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2; Exemption

I

The Northern States Power Company (the licensee) is the holder of Facility Operating License Nos. DPR–42 and DPR–60 which authorize operation of the Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2. These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises two pressurized water reactors at the

licensee's site located in Goodhue, Minnesota.

II

On November 19, 1980, the Commission published a revised section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III.G., of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.G., is the subject of this exemption request. III.G. specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3).

By letter dated December 6, 1982 the licensee requested an exemption from the requirements of section III.G.3b to the extent that it requires the installation of a fixed fire suppression system in the control room. In support of this request the licensee notes the existing fire protection features, the fact that the control room is continuously manned and the potentially adverse impact on equipment and personnel occupancy of an inadvertent initiation of a fixed suppression system.

III

We have reviewed the licensee's exemption request. The control room is located at the 735' elevation bounded by 3-hour rated fire barriers. Safe shutdown equipment in the room consists of the main control consoles and cabinets, including redundant control cables, indicating instruments and relays.

Existing fire protection consists of an ionization-type smoke detection system located throughout the room, and a manual suppression system within and just outside the control room. The room is continuously manned and access to it is controlled. In the event the control room becomes uninhabitable due to smoke or heat, an alternate system located outside the control room can be used to achieve safe shutdown. In addition, the control room has a 4,000 cfm of ventilation system with 10,000 cfm recirculation capability that is capable of rapidly removing smoke and byproducts. We have judged that the control room area is uncongested, access for manual suppression is considered excellent and the fire loading is light.

The intent of section III.G is to require an acceptable level of fire safety to assure the maintenance of safe shutdown capability. Because the control room is continuously manned and has other fire protection features described above, there is reasonable assurance that a fire would be promptly extinguished. Therefore, the installation of a fixed fire suppression system will not significantly increase the level of fire protection in the control room and the exemption requested by the licensee should be granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or common defense and security and is otherwise in the public interest and hereby grants an exemption from the requirements of Section III.G.3b of Appendix R to 10 CFR Part 50 to the extent that it requires the installation of a fixed fire suppression system in the control room at Prairie Island.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Md., this 2d day of February 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-3815 Filed 2-10-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-387]

Pennsylvania Power & Light Co. and Allegheny Electric Cooperative, Inc.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. NPF-14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc., for Susquehanna Steam Electric Station, Unit 1 (the facility) located in Luzerne County, Pennsylvania. This amendment grants changes to a license condition relating to the number of cycles allowed on Recirculation Discharge valve assemblies prior to replacement of the actuators and clarifies what constitutes a fully qualified Recirculation Discharge valve assembly. This amendment is effective as of the date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for the amendment dated January 26, 1983; (2) Amendment No. 9 to License NPF-14, dated February 7, 1983; and (3) the Commission's evaluation dated February 7, 1983. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. 20555, and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-3816 Filed 2-10-83; 8:45 am]

BILLING CODE 1590-01-M

[Docket Nos. 50-259, 50-260, and 50-296]

Tennessee Valley Authority (Browns Ferry Nuclear Plant, Units 1, 2 and 3); Exemption

I

The Tennessee Valley Authority (the licensee) is the holder of Facility Operating License Nos. DPR-33, DPR-52 and DPR-68 which authorize the operation of the Browns Ferry Nuclear Plant, Units 1, 2 and 3 at steady-state power levels not in excess of 3293

megawatts thermal. The facility consists of three boiling water reactors located at the licensee's site in Limestone County, Alabama. The licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised Section 50.48(c) and Appendix R became effective on Febraury 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these 15 subsections, III.G, is the subject of this Exemption. Subsection III.G. specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3).

By letter dated June 30, 1982, the licensee requested two technical exemptions from Section III.G of Appendix R to 10 CFR Part 50.

Section III.G.2 requires that one train of cables and equipment necessary to achieve and mainitain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equuipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistence equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no invtervening combustible or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cable and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in fire area.

If these conditions are not met, alternative shutdown capability is required and a fixed suppression system installed in the fire area of concern if it contains a large concentration of cables or other combustibles. These alternative requirements are not deemed to be equivalent; however, they provide adequate protection for those configurations in which they are accepted.

Because it is not possible to predict the specific conditions under which fires may occur and propagate, the design basis protective features are specified in the rule rather than the design basis fire. Plant specific features may require protection different from the measures specified in Section III.G. In such a case, the licensee must demonstrate, by means of a detailed fire hazards analysis, that existing protection or existing protection in conjunction with proposed modifications will provide a level of safety equivalent to the technical requirements of Section III.G of Appendix R.

In summary, Section III.G is related to fire protection features for ensuring that systems and associated circuits used to achieve and maintain safe shutdown are free of fire damage. Fire protection configurations must either meet the specific requirements of Section III.G or an alternative fire protection configuration must be justified by a fire hazard analysis.

Our general criteria for accepting an alternative fire protection configuration are the following:

- The alternative assures that one train of equipment necessary to achieve hot shutdown from either the control room or emergency control stations is free of fire damage.
- The alternative assures that fire damage to at least one train of equipment necessary to achieve cold shutdown is limited such that it can be repaired within a reasonable time (minor repairs with components stored on-site).
- Fire retardant coatings are not used as fire barriers.
- Modifications required to meet Section III.G would not exhance fire protection safety above that provided by either existing or proposed alternatives.
- Modifications required to meet Section III.G would be detrimental to overall facility safety.

In Attachment 7 of TVA's letter of June 30, 1982, the licensee requested two technical exemptions to the requirements of 10 CFR 50.48 and Section III.G of Appendix R. One request pertained to the requirement for a 3-hour fire rated barrier in one specific location of the plant—namely, between the three redundant battery and battery board room complexes located on elevation 593 of the control building. The present walls around each complex will meet the requirements for at least a 1½-hour fire barrier but not a full 3 hours.

The three redundant battery and battery board room complexes are located on the 593 foot level of the control building. This elevation of the control building is separated from the remainder of the plant by 3-hour rated fire barriers. The battery rooms and battery board rooms are separate rooms enclosed by 1½-hour rated fire barriers. Each battery room is separated from its redundant counterpart by approximately 90 feet, and several intervening rooms. The combustible loading in the Unit 1 battery room is the highest of the three battery rooms and is approximately 26,000 BTU's/ft.^{2} This amount, if totally consumed, would represent an equivalent fire severity on the ASTM E–119 standard time-temperature curve of roughly 25 minutes.

All of the rooms are provided with smoke detection systems. Manually actuated suppression systems are installed in each battery room and battery board room. Total flooding carbon dioxide systems are installed in the intervening rooms between the battery rooms.

The battery and battery board rooms do not comply with Section III.G requirements because their boundary walls are 1½-hour rated instead of the required 3-hour rated barriers. However, the combustible loading in these rooms is appreciably lower than one-half the fire resistance rating of the boundary walls. In addition, manual suppression is provided in each room and automatic total flooding CO_2 systems are installed in the rooms which are located between the redundant battery rooms. This protection, in conjunction with the separation distance of approximately 90 feet between redundant battery rooms provides reasonable assurance that one train of components needed for safe shutdown will be maintained free of fire damage, and compensates for the lack of a 3-hour rated fire barrier. The level of existing protection provides a level of fire protection equivalent to Section III.G.2 and therefore is acceptable.

Based on the above evaluation, we conclude that the level of protection for the battery rooms and battery board rooms provides a level of fire protection equivalent to the technical requirements of Section III.G.2 of Appendix R to 10 CFR 50, and therefore the licensee's request for an exemption should be granted.

The second exemption requested by TVA pertains to the requirement of Section III.G.3 of Appendix R that

alternative shutdown capability, fire detection and fixed fire suppression be provided for the main control rooms. The control rooms will meet the first two requirements but do not have fixed fire suppression systems. TVA has requested an exemption to the requirement for a fixed suppression system in the control rooms.

The control rooms have a fire detection system, hose station, and fire extinguishers. An alternate safe shutdown system is also available for the control rooms. The rooms are continuously manned and the fire load in the control rooms is low.

Because the fire hazard is light, and the control room continuously manned, there is reasonable assurance that a fire would be promptly extinguished.

Based on our evaluation, we conclude that the installation of a fixed fire suppression system will not significantly increase the level of fire protection in the control rooms. therefore, the exemption should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemptions with respect to the requirements of Sections III.G.2 and Section III.G.3 of Appendix R to 10 CFR Part 50:

The licensee is exempted from the requirement of Section III.G.2 to provide a 3-hour rated fire barrier between the three battery and battery board rooms located on the 593 foot elevation of the Browns Ferry Nuclear Plant, Units 1, 2, and 3.

The licensee is exempted from the requirement of Section III.G.3 to have a fixed fire suppression system in the main control rooms of the Browns Ferry Nuclear Plant.

The NRC staff has determined that the granting of these Exemptions will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Md., this 4th day of February 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-3617 Filed 2-10-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, March 3, 1983
Thursday, March 10, 1983
Thursday, March 17, 1983
Thursday, March 24, 1983
Thursday, March 31, 1983

These meetings will convene at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415 (202-632-9710).

Dated: February 4, 1983.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 83-3728 Filed 2-10-83; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Public Information Collection Requirement Submitted to OMB for Review

The Office of Science and Technology Policy has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of information collection; (3) Abstract statement of the need for and the use to be made of the information collected; (4) Type of respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Small Business Innovation Research Program—Proposal Data Sheet

The Proposal Data Sheet was developed by an interagency group, with input from the small business community to assess impacts of the Small Business Development Act (P.L. 97-219) and to fulfill the reporting requirements of OSTP, GAO, and SBA, as mandated by the Act. The form will gather baseline data on small businesses applying for awards in each of the 10 participating agencies.

Small businesses: 10,000 responses, 2,000 hours.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3225, NEOB, Washington, DC 20503, and Dr. Trudy Solomon, Senior Policy Analyst, Office of Science and Technology Policy, Room 5011, NEOB, Washington, DC 20500.

A copy of the information collection proposal may be obtained from Dr. Trudy Solomon, Office of Science and Technology Policy, Room 5011, NEOB, Washington, DC 20500, telephone (202) 395–4850.

Dated: January 28, 1983.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

[FR Doc. 83–3824 Filed 2–10–83; 8:45 am]

BILLING CODE 3170–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19487; File No. SR–OCC–83–2]

Filing and Immediate Effectiveness of Proposed Rule Change by the Options Clearing Corporation ("OCC")

February 7, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 19, 1983, OCC filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change codifies OCC's existing practice with respect to payment of OCC and Exchange fees and charges by OCC clearing members. The proposed rule change authorizes OCC to draft clearing members' firm bank accounts each month in an amount equal to any fees and charges owing to OCC and any fees due to an Exchange for whom OCC has agreed to collect such fees.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–OCC–83–2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3734 Filed 2–10–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19488; File No. SR–PCC–83–1]

Self-Regulatory Organization; Proposed Rule Change; Pacific Clearing Corp.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 21, 1983, Pacific Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

Pacific Clearing Corporation is instituting revisions in fees for clearing services applicable to its Participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to offset, in part, the increased costs of supplying services provided by Pacific Clearing Corporation. These costs include labor and systems associated with providing clearing services. Certain service fees have remained unchanged since 1977 or 1978. The basis under the Act for the proposed rule change is Section 17A(b)(3)(D) providing for the equitable allocation of reasonable dues, fees and other charges among clearing agency participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th St., N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

February 7, 1983.

[FR Doc. 83-3735 Filed 2-10-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13010; (812-5288)]

Vanguard Index Trust; Filing of Application

February 4, 1983.

Notice is hereby given that Vanguard Index Trust ("Applicant"), P.O. Box 1100,1250 Drummers Lane; Valley Forge, Pennsylvania 19482, registered under the Investment Company Act of 1940 ("Act") as an open-end diversified, management investment company, filed an application on August 23, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 12(d)(3) of the Act to permit Applicant to acquire the securities of any broker, dealer, underwriter, or investment adviser, provided that (1) such securities are included in the Standard & Poor's 500 Composite Stock Price Index ("Index") and (2) the percentage of Applicant's assets to be invested in any such security is approximately the same as the percentage such securities represent in the Index. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is an "index fund", the investment objective of which is to provide investment results which correlate with the price and yield performance of publicly-traded common stocks in the aggregate. Applicant represents that it uses the Index as a standard performance comparison and attempts to duplicate the investment performance of the Index by owning as many of the 500 stocks contained in the Index as is feasible. It is further stated that the weighting of stocks in the Index are based upon each Issue's relative total market value, i.e., its market price per share multiplied by the number of shares outstanding. Applicant selects stocks for its portfolio, it is stated, in the order of their weightings in the Index, beginning with the stocks ascribed the heaviest weightings. Thus, Applicant, represents, the percentage of Applicant's assets to be invested in each stock remains approximately the same as its weighting in the Index. It is also stated that as of August 1, 1982, Applicant owned 498 of the stocks included in the Index.

Applicant states, in addition, that it has no investment adviser and pays no advisory fee, as no attempt is made to "manage" Applicant's portfolio in the traditional sense of using economic, financial and market analysis. It is further stated that adverse financial results experienced by an issuer the shares of which are included in the Index will not directly cause those shares to be removed from the Applicant's portfolio, unless such issuer is removed from the Index. Applicant also states that from time to time administrative adjustments are made in Applicant's portfolio to reflect mergers, changes in the composition of the Index and other similar developments. Applicant also states that it is neither sponsored by, nor affiliated with, Standard & Poor's Corporation, which selects the stocks to be included in the Index solely on a statistical basis.

Section 12(d)(3) of the Act, in relevant part, prohibits any registered investment company from purchasing or otherwise acquiring any security issued by or any other interest in the business of any person who is a broker, a dealer, is engaged in the business of underwriting, or is an investment adviser.

Applicant states that on April 17, 1982, the Standard & Poor's Corporation selected the stock of Merrill Lynch & Co., Inc. ("Merrill Lynch") to be included in the Index. It is further stated that Merrill Lynch, through its subsidiaries, acts as a broker, dealer, underwriter and investment adviser. Accordingly, in the absence of an exemption from Section 12(d)(3) of the Act, Applicant asserts, Applicant is not able to purchase the securities of Merrill Lynch (or the securities of any other broker, dealer, underwriter, or investment adviser which may hereafter be included in the Index). Applicant contends that this prohibition is unreasonable under the circumstances in that it impedes Applicant's ability to attain the result sought to be achieved by its investment objectives. It is stated further that the deviation from Applicant's stated investment objectives caused by the prohibition of Section 12(d)(3) could become material in view of the fact that the Merrill Lynch stock is ranked among the leading 250 securities included in the Index, thus making Merrill Lynch securities a material element of the Index. It is also asserted that the current restructuring of the financial services marketplace, involving the entry into the brokerage and advisory field (by merger, acquisition, or otherwise) of companies not previously engaged in such activities, raises the possibility that Applicant's inability to invest in the securities of Merrill Lynch could exacerbate the alleged divergence from the realization of its stated investment objective.

Applicant further asserts that the basis for the prohibitions set forth in Section 12(d)(3) of the Act is, in part, to be found in Section 1(b)(2) of the Act, which, in pertinent part, provides that the national public interest and the interest of investors are adversely affected when the portfolio securities of investment companies are selected in the interests of brokers, dealers, underwriters, or investment advisers, rather than in the interests of investment company shareholders. Applicant states, in addition, that the Commission has articulated positions through its staff indicating that the dependence by investment companies upon the efforts of broker-dealers for the sale of their shares gives rise to three specific abuses which Section 12(d)(3) may in particular be designed to correct: first, the tendency which fund managers may have to invest fund assets in the securities of a particular broker-dealer in order to secure that firm's efforts in the distribution of the shares of the fund; second, the predisposition upon the part of a broker-dealer to recommend to its customers the shares of investment companies which have invested in the broker-dealer; and third, the inclination on the part of an investment company's managers to direct business to broker-dealers the securities of which the fund holds merely in order to preserve or enhance the fund's investment in that broker-dealer rather than to obtain the superior quality of that firm's services.

Applicant contends that the occurrence of the foregoing abuses is not

possible in Applicant's case. It is stated that no sales load is imposed in connection with the distribution of Applicant's shares which are sold directly to investors without the intervention of a broker-dealer. Consequently, it is asserted, Applicant would have no incentive to purchase the classes of securities enumerated in Section 12(d)(3) to induce a broker-dealer to promote the sale of Applicant's shares. Conversely, Applicant states, there would be no improper incentive arising from the purchase by Applicant of a particular broker-dealer's securities to induce that broker-dealer to recommend Applicant's shares to a customer, since the broker-dealer could not obtain a commission in connection with the sale, and the activities of the broker-dealer in connection with the distribution of Applicant's shares could not possibly affect Applicant's determination to invest, or the extent to which it invests, in the securities of such broker-dealer, as those decisions result entirely from the composition of the Index.

In further support of its position, Applicant states that it has no significant discretion to acquire any security that is not in the Index, or to sell a security which is in the Index, or to alter its relative ownership of any security listed in the Index. Therefore, there would be no special incentive, Applicant maintains, different from that arising from its interest in the worth of a security in the Index not designated in Section 12(d)(3), for Applicant to use its assets to influence the business activities of the issuer of a security enumerated in Section 12(d)(3), and to affect thereby the value of such security.

Applicant contends, in addition, that the degree of representation in Applicant's portfolio of each issuer in the Index, together with the size of the largest companies in the Index, render *de minimis* the possibility that Applicant could utilize its assets to manipulate the value of securities in the Index, including those of Merrill Lynch. In this regard, Applicant notes that at December 31, 1981, when Applicant was invested in 500 companies in the Index, 98.93% of these companies (i.e. 486 issuers) each constituted less than 1% of Applicant's net assets. Therefore, any attempt on the part of Applicant to use its assets to affect the value of its portfolio would, even if such attempt were to have an effect upon the value of a particular security, have a sufficiently immaterial impact upon Applicant's portfolio as to be an inconsequential exercise. It is further represented that, at December 31, 1981, the securities of only the three largest issuers in the Index (representing in the aggregate 12.35% of Applicant's assets) exceeded 2% of Applicant's assets on an individual basis, and that because these companies (American Telephone and Telegraph Co., International Business Machines Corp. and Exxon Corp.) are so large, it would be futile for Applicant to attempt to influence the business affairs of such an issuer through the use of its assets. As to the stock of Merrill Lynch, which as stated hereinabove became part of the Index on April 17, 1982, Applicant represents that as of November 30, 1982, Merrill Lynch ranked as the hundredth largest issuer in the Index, with an Index weighting of .27. Thus, it may be inferred that the extent to which the securities of Merrill Lynch would be represented in Applicant's portfolio would be clearly insufficient to induce Applicant to use its assets to manipulate the value of Merrill Lynch securities in the Index, and thereby to enhance the value of its own portfolio.

Finally, Applicant states that it will not place itself in a position of conflict of interest if it is permitted to purchase the securities of a broker, dealer, an underwriter, or an investment adviser, because the acquisition of any security for Applicant's portfolio is determined by the independent fluctuation of the Index. Therefore, Applicant concludes, the prophylactic provisions of Section 12(d)(3) of the Act are not necessary to the protection of investors under the terms of Applicant's proposed course of action.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order, upon application, may conditionally or unconditionally exempt any person or transaction from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 1, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3736 Filed 2-10-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19489; File No. SR-PSDTC-83-1]

Self-Regulatory Organization; Proposed Rule Change; Pacific Securities Depository Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 21, 1983, Pacific Securities Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pacific Securities Depository Trust Company is instituting revisions in fees for depository services applicable to its Participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

For its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to offset, in part, the increased

costs of supplying services provided by Pacific Securities Depository Trust Company. These costs include labor and systems associated with providing depository services. Certain service fees have remained unchanged since 1977 or 1978. The basis under the Act for the proposed rule change is Section 17A(b)(3)(D) providing for the equitable allocation of reasonable dues, fees and other charges among depository participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection in the Commission's Public Reference Section, 450 5th St., N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

February 7, 1983.

[FR Doc. 83–3840 Filed 2–10–83; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–12228]

Union Oil Company of California; Application and Opportunity for Hearing

February 8, 1983.

Notice is hereby given that Union Oil Company of California ("Union Oil") has filed an application under clause (i) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Continental Illinois National Bank and Trust Company of Chicago ("Continental") under an indenture qualified under the Act, under two indentures not so qualified, and under a third indenture not so qualified are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Continental from acting as trustee under any of those indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (a) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under such qualified indenture and such other indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee under either of such indentures.

In support of its Application, Union Oil alleges that:

(1) Continental is acting as trustee under an indenture in which Union Oil is the obligor (the "1976 Indenture"). This indenture, dated March 1, 1976, involved the issuance of $200,000,000 principal amount 8¾% Debentures due March 1, 2006, and has been qualified under the Act. Section 6.08 of the 1976 Indenture incorporates in substance the conflict of interest provisions of Section 310(b) of the Act into that indenture.

(2) Continental entered into an indenture, dated as of September 1, 1982, with the County of Summit, Ohio ("Summit County") as issuer (the "1982 Summit County Indenture"), involving $3,000,000 principal amount Series 1982 Industrial Development Revenue bonds (the "1982 Summit County Bonds") bearing interest at a rate of 62½% of the interest rate applicable to 13-week United States Treasury bills at the time of the interest calculation and due on demand or not later than August 31, 1992. Union Oil also entered into a loan agreement (the "1982 Summit County Loan Agreement"), dated as of September 1, 1982, with Summit County under which Summit County loaned funds to Union Oil to finance the cost of the acquisition, construction, improvement and equipping of a chemical distribution center, certain land and equipment (the "Project") as described in Exhibit A to the 1982 Summit County Loan Agreement. As of December 1, 1982, $3,000,000 principal amount of the 1982 Summit County Bonds was outstanding.

The 1982 Summit County Bonds are payable solely from revenues derived by Summit County from Union Oil under the terms of the said Loan Agreement. The rights and benefits of Summit County under the said Loan Agreement have, except for certain rights of and amounts payable to Summit County related to expenses incurred and indemnification, been assigned to Continental as Trustee as security for payment of the 1982 Summit County Bonds. The rights to payment assigned are sufficient to enable Summit County to pay the principal of, and interest and redemption payments (including redemption premiums, if any) on, the said Bonds. The 1982 Summit County Bonds were not registered under the Securities Act of 1933 (the "1933 Act") pursuant to the exemption contained in Section 3(a)(2) thereof. The 1982 Summit County Indenture was not qualified under the 1939 Act pursuant to the

exemption contained in Section 304(a)(4) thereof (referring to Section 3(a)92) of the 1933 Act).

(3) Continental entered into an indenture, dated as of September 1, 1982, with the Genesee County (New York) Industrial Development Agency ("Genesee County") as issuer (the "1982 Genesee County Indenture"), involving $2,750,000 principal amount Series 1982 Industrial Development Revenue Bonds (the "1982 Genesee County Bonds") bearing interest at a rate of 62½% of the interest rate applicable to 13-week United States Treasury bills at the time of the interest calculation and due on demand or not later than August 31, 1982. Union Oil entered into an installment sale agreement (the "1982 Genesee County Installment Sale Agreement") with Genesee County under which Genesee County sold, assigned, and conveyed to Union Oil its rights, title and interest in the construction of a certain auto/truckstop facility (the "Project") as described in Exhibit A to the 1982 Genesee County Installment Sale Agreement. As of December 1, 1982, $2,750,000 principal amount of the 1982 Genesee County Bonds was outstanding.

The 1982 Genesee County Bonds are payable solely from revenues derived by Genesee County from Union Oil under the terms of the said Installment Sale Agreement. The rights and benefits of Genesee County under the said Installment Sale Agreement have, except for certain rights of and amounts payable to Genesee County related to expenses incurred, indemnification, and amounts payable in lieu of taxes, been assigned to Continental as Trustee as security for payment of the 1982 Genesee County Bonds. The rights to payment assigned are sufficient to enable Genesee County to pay the principal of, and interest and redemption payments (including redemption premiums, if any) on, the said Bonds. The 1982 Genesee County Bonds were not registered under the 1933 Act pursuant to the exemption contained in Section 3(a)(2) thereof. The 1982 Genesee County Indenture was not qualified under the 1939 Act pursuant to the exemption contained in Section 304(a)(4) thereof (referring to Section 3(a)(2) of the 1933 Act).

(4) Continental has also entered into an indenture, dated as of December 1, 1982, with the City of Middletown, Ohio ("Middletown") as issuer (the "1982 Middletown Indenture"), involving $3,000,000 principal amount Series 1982 Economic Development Revenue Bonds (the "1982 Middletown Bonds") bearing interest at an annual rate computed on a 365 or 366 day basis, as applicable, which is 50% of Continental's prime rate floating and due on demand or not later than December 1, 1992. Union Oil has also entered into a loan agreement (the "1982 Middletown Loan Agreement"), dated as of December 1, 1982, with Middletown under which Middletown has loaned funds to Union Oil to finance the cost of the acquisition of real estate for and the construction and equipping thereon of an office/warehouse building, storage tanks, and certain loading and unloading equipment (the "Project") as described in Exhibit A to the 1982 Middletown Loan Agreement.

The 1982 Middletown Bonds are to be payable solely from revenues derived by Middletown from Union Oil under the terms of the said Loan Agreement. The rights and benefits of Middletown under the said Loan Agreement have, except for certain rights of and amounts payable to Middletown related to expenses incurred and indemnification, been assigned to Continental as Trustee as security for payment of the 1982 Middletown Bonds. The rights to payment assigned are sufficient to enable Middletown to pay the principal of, and interest and redemption payments (including redemption premiums, if any) on, the said Bonds. The 1982 Middletown Bonds will not be registered under the Securities Act of 1933 (the "1933 Act") pursuant to the exemption contained in Section 3(a)(2) thereof. The 1982 Middletown Indenture will not be qualified under the 1939 Act pursuant to the exemption contained in Section 304(a)(4) thereof (referring to Section 3(a)(2) of the 1933 Act).

(5) By order dated December 2, 1982, the Commission granted Union Oil's request for a finding pursuant to Section 310(b)(1)(ii) of the Act that the trusteeships of Continental under the 1976 Indenture, the 1982 Summit County Indenture, and the 1982 Genesee County Indenture were not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Continental from acting as trustee under any of the indentures.

(6) Execution of the 1982 Middletown Indenture may involve Continental in a conflict of interest within the meaning of Section 310(b) of the Act and Section 6.08 of the 1976 Indenture since the Middletown Indenture is not being qualified under the Act and is not the subject of any other proceeding of the Commission.

(7) Union Oil's obligations with respect to the Debentures and all of the said Bonds are wholly unsecured and rank *pari passu inter se*. The only material differences between the 1976 Indenture, the 1982 Summit County Indenture, the 1982 Genesee County Indenture, and the 1982 Middletown Indenture and between the rights of the holders of the Debentures and the holders of the said Bonds relate to the fact that Union Oil is the issuer of the Debentures whereas its payment obligations under the said Bonds are, in the case of Summit County, through the assignment by Summit County to Continental as Trustee of its rights under the 1982 Summit County Loan Agreement, in the case of Genesee County, through the assignment by Genesee County to Continental as Trustee of its rights under the 1982 Genesee County Installment Sale Agreement, and, in the case of Middletown, through the assignment by Middletown in Continental as trustee of its rights under the 1982 Middletown Loan Agreement. Aside from additional differences among these four indentures as to aggregate principal amounts, dates of issue, interest rates, maturity dates, redemption prices, sinking fund, and similar provisions, the other terms of said indentures are substantially similar.

(8) No default has at any time existed under any of the indentures.

(9) Such differences as exist among the four indentures under the trusteeships of Continental are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Continental from acting as trustee under any of said indentures.

Union Oil has waived notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said Application, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than March 4, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said Application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. At any

time after said date, the Commission may issue an order granting the Application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3841 Filed 2-10-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 17]

Surety Companies Acceptable on Federal Bonds; North Star Reinsurance Corp.

A certificate of authority as an acceptable surety on Federal bonds in hereby issued to the following company under Sections 9304 to 9308 of Title 31 of the United States Code. An underwriting limitation of $5,290,000 has been established for the company.

Name of Company: North Star Reinsurance Corporation

Business Address: Ten Stamford Forum, P.O. Box 10009, Stamford, Connecticut 06904

State of Incorporation: Delaware

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28880 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: February 2, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-3737 Filed 2-10-83; 8:45 am]

BILLING CODE 4810-35-M

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 3-83]

Treasury Notes Series A-1993; Interest Rates

February 3, 1983.

The Secretary announced on February 2, 1983, that the interest rate on the notes designated Series A-1993, described in Department Circular—Public Debt Series—No. 3-83 dated January 27, 1983, will be 10⅞ percent. Interest on the notes will be payable at the rate of 10⅞ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-3708 Filed 2-10-83; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 30
Friday, February 11, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, February 15, 1983.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 70506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Report on Commission Operations (Optional).
3. Interpretative bulletin on Employee Benefit Plans under the Age Discrimination in Employment Act of 1967 as amended. 29 CFR 860.170.

Closed:

1. Litigation Authorization; General Counsel Recommendations.

In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

This Notice Issued February 8, 1983.

[S–200–83 Filed 2–9–83; 9:43 am]

BILLING CODE 6750–06–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:35 a.m. on Wednesday, February 9, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation with respect to the initiation and conduct of a cease-and-desist proceeding against an insured bank (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii))).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Mr. William E. Martin, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsection (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: February 9, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–207–83 Filed 2–9–83; 2:50 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, February 7, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. William E. Martin, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,579–L: American Bank & Trust, Orangeburg, South Carolina

Case No. 45,588–L: Franklin National Bank, New York, New York

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: February 8, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–202–83 2–8–83; 11:48 am]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, February 7, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. William E. Martin, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of ComBank/Apopka, Apopka, Florida; ComBank/Fairvilla, Fairvilla, Florida; ComBank/Pine Castle, Pine Castle, Florida; ComBank/Union Park, Union Park, Florida; ComBank/Winter Park, Winter Park, Florida; and ComBank/Seminole County, Casselberry, Florida, insured State nonmember banks, for consent to merge with Freedom Savings and Loan Association, Tampa, Florida, a State chartered stock savings and loan

association, under the charter and title of Freedom Savings and Loan Association.
Application of Peoples Bank & Trust Company, Rocky Mount, North Carolina, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the following branches of North Carolina National Bank, Charlotte, North Carolina: Jacksonville Branch, Jacksonville, North Carolina; Jackonsville Mall Branch, Jacksonville, North Carolina; Cape Fear Shopping Branch, Cape Fear Town, North Carolina; South Wilmington Branch, South Wilmington, North Carolina; Wilmington Branch, Wilmington, North Carolina; Azalea Shopping Center Branch, Wilmington, North Carolina; Wrightsville Beach Branch, Wrightsville Beach, North Carolina; and Market Street Branch, Wilmington, North Carolina, and to establish those eight offices as branches of Peoples Bank & Trust Company.
Recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to section 13(e) of the Federal Deposit Insurance Act.
Memorandum and Resolution re: Selection of Presiding Officer for Hearing Under § 308.61 of the Corporation's Regulations.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: February 8, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-203-83 Filed 2-9-83; 11:48 am]

BILLING CODE 6714-0-M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 5645, Monday, February 7, 1983.

PLACE: Board Room, Sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board meeting scheduled Thursday, February 10, 1983, at 10 a.m.:

Data Processing Activities of Federal Associations; Home Banking Services
Net Worth Certificates; Regulatory Net Worth
Amendments Relating to Conversion From Mutual to Stock Form

[No. 9, February 8, 1983]

[S-199-83 Filed 2-8-83; 4:25 pm]

BILLING CODE 6720-01-M

6

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 5645, Monday, February 7, 1983.

PLACE: Board Room, Sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The Bank Board meeting previously scheduled for Thursday, February 10, 1983, at 10 a.m., has been changed to 10:30 a.m.

[No. 10, February 9, 1983]

[S-206-83 Filed 2-9-83; 4:01 am]

BILLING CODE 6720-01-M

7

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, February 16, 1983.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of their routine nature, no substantive discussion of the following items is anticipated. These matters wil be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed amendment of Board policy statement under Regulation Y (Bank Holding Companies and Change in Bank Control) concerning futures, forward and options contracts on U.S. Government and agency securities and money market instruments.
2. Publication for comment of proposed amendment to Regulation Y (Bank Holding Companies and Change in Bank Control) to permit bank holding companies to engage in securities brokerage and margin lending.
3. Proposal to conduct a one-time survey of retailers on credit card costs.
4. Proposal to extend without revision the report, "Notification of Foreign Branch Status" (FR 2058).

Discussion Agenda:

5. Proposed changes in Federal Reserve Bank procedures to reduce or price float. (Proposed earlier for public comment; Docket No. R–0433)
6. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 8, 1983.

James McAfee,

Associate Secretary of the Board.

[S-204-83 Filed 2-9-83; 12:57 pm]

BILLING CODE 6210-01-M

8

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: Approximately 11:30 a.m., Wednesday, February 16, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 8, 1983.

James McAfee,

Associate Secretary of the Board.

[S-205-83 Filed 2-9-83; 12:58 pm]

BILLING CODE 6210-01-M

9

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH (NIE)

Revised Agenda

DATE AND TIME:

February 17, 1983—10:15 a.m.–5 p.m.
February 18, 1983—9 a.m.–12 Noon

PLACE: Room 823, National Institute of Education, 1200 Nineteenth St., NW., Washington, D.C.

STATUS: Certification is being sought from the Department of Education Office of General Counsel, that in the opinion of that office, the NCER "would be authorized to close portions of its meeting on February 17, 1983, under U.S.C. 522b(c)(9)(B) and 34 CFR 705.2(a)(9) for the purposes of reviewing and discussing with the Director of NIE

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options for the NIE fiscal year 1984 budget and procurement planning and budget for fiscal year 1983." Agenda item #4 will be closed, the rest of the agenda will be open to the public. The public should call to verify the *closing* of this portion of the meeting.

MATTERS TO BE CONSIDERED: (Changes in time, not in content).

Thursday, February 17—Prior to the opening of the meeting the Council members will be sworn in by Secretary T. H. Bell at the Department of Education:

1. Opening remarks by the Chairman (10:15 a.m.)
2. Orientation on the Department of Education (10:30 a.m.)
3. Overview of the National Institute of Education (11 a.m.) Lunch (12:30 p.m.–1:30 p.m.)
4. Executive Session—Closed (1:30 p.m.–3 p.m.) (FY 1984 budget discussion)
   Break
5. Council Discussion and Business (3:15 p.m.–5 p.m.)
   Recess (5 p.m.)

Friday, February 18:
Council Discussion and Business continued (9 a.m.–12 noon)
Adjournment (12 noon)

CONTACT PERSON FOR MORE INFORMATION: Martha H. Catto; telephone (202)254–7900.

Eileen T. Nicosia,
Acting Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S–206–83 Filed 2–9–83: 2:48 pm]
BILLING CODE 4000–05–M

10

NATIONAL SCIENCE BOARD

DATE AND TIME:
February 17, 1983 1 p.m. (open session)
February 18, 1983 9 p.m. (closed session)
February 18, 1983 10 p.m. (open session)

PLACE: National Science Foundation, 1800 G Street, NW., Washington, D.C.

STATUS: Most of this meeting will be open to the public. Parts of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS:
Thursday, February 17, 1 p.m.:

1. Long-Range Planning.

Friday, February 18, 10 a.m.:

2. Minutes—Open Session—January 1983 Meeting.
3. Chairman's Items.
4. Director's Report.
5. Reports of Board Committees.
6. Board Representation at Advisory Committee and Other Meetings.
7. Other Business.
8. Next Meetings.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:
Friday, February 18, 9 a.m.:

A. Minutes—Closed Session—January 1983 Meeting.
B. NSB and NSF Staff Nominees.

CONTACT PERSON FOR MORE INFORMATION: Ms. Margaret L. Windus, Executive Officer, NSB, 202/357–9582.

[S–201–83 Filed 2–9–83 10:06 am]
BILLING CODE 7555–01–M

Friday
February 11, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California:	
CA82-5112	July 16, 1982
CA82-5120	Aug. 27, 1982
Ohio: OH83-2002	Jan. 21, 1983
Idaho: ID82-5128	Nov. 26, 1982
Iowa: IA82-4030	June 18, 1982
Connecticut: CT81-3032	May 15, 1981
New York:	
NY81-3039	June 12, 1981
NY81-3061	Sept. 11, 1981
Massachusetts: MA81-3054	Sept. 4, 1981
Wisconsin	
WI81-2008	March 5, 1981
WI82-2006	do.
WI82-2009	Do

Supersedeas Decisions To General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Michigan	
MI81-2001(MI-2009)	Feb. 13, 1981
MI81-2032(MI83-2007)	July 6, 1981
MI81-2034(MI83-2008)	Do
Mississippi:	
MS82-1008(MS83-1006)	Feb. 26, 1982
MS82-1009(MS83-1006)	Do.
MS82-1010(MS83-1006)	Do
MS82-1011(MS83-1006)	Do
MS82-1012(MS83-1006)	Do.
MS82-1013(MS83-1006)	Do.
Ohio:	
OH82-2035(OH83-2006)	May 7, 1982
OH82-2036(OH83-2010)	Do

Cancellation of General Wage Determination Decision

This is to advise all interested parties that the Department of Labor intends to withdraw 14 days from the date of this notice the following General Wage Determination: AZ82–5109—Statewide Arizona—dated April 23, 1982 in 47 FR 17723—Building Construction.

Signed at Washington, D.C. this 4th day of February 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 3510-27-M

DECISION NO. CA82-5112 - Mod. #10
(47 FR 31194 - July 16, 1982)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
Change:					
Laborers:*			*Laborers: Applies to		
Group 1	$13.56	$5.11	the following Counties		
Group 1(a)	13.785	5.11	ONLY: Alpine, Amador,		
Group 1(b)	14.06	5.11	Butte, Calaveras, Colusa,		
Group 1(c)	13.61	5.11	Del Norte, El Dorado,		
Group 1(d)	13.81	5.11	Fresno, Glenn, Humboldt,		
Group 1(e)	14.11	5.11	Kings, Lake, Lassen,		
Group 1(f)	14.145	5.11	Madera, Mariposa,		
Group 1(g)	13.76	5.11	Mendocino, Merced, Modoc,		
Group 2	13.41	5.11	Monterey, Napa, Nevada,		
Group 3	13.31	5.11	Placer, Plumas, Sacramento,		
Plumbers:			San Benito, San Joaquin,		
Area 8	23.36	6.47	Santa Cruz, Shasta,		
			Sierra, Siskiyou,		
			Sonoma, Solano,		
			Stanislaus, Sutter,		
			Tehama, Trinity, Tulare,		
			Tuolumne, Yolo, and Yuba		

DECISION NO. CA82-5120 - Mod. #7
(47 FR 38022 - August 27, 1982)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
Change:					
Laborers:*			*Laborers: Applies to		
Group 1	$13.56	$5.11	the following Counties		
Group 1(a)	13.785	5.11	ONLY: Amador, Calaveras,		
Group 1(b)	14.06	5.11	Del Norte, El Dorado,		
Group 1(c)	13.61	5.11	Humboldt, Mariposa,		
Group 1(d)	13.81	5.11	Merced, Monterey, Napa,		
Group 1(e)	14.11	5.11	Nevada, Placer,		
Group 1(f)	14.145	5.11	Sacramento, San Benito,		
Group 1(g)	13.76	5.11	San Joaquin, Santa Cruz,		
Group 2	13.41	5.11	Sonoma, Solano, Sutter		
Group 3	13.31	5.11	Tuolumne, Yolo, and		
Plumbers:			Yuba		
Area 5	23.36	6.47			

DECISION NO. OH83-2002 - MOD. #1
(48 FR 2935 - January 21, 1983)
Butler & Warren Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
ADD:		
Cement Masons	$9.00	
Painters	7.00	
Roofers	8.39	
Soft Floor Layers	7.81	
Tile Setters	9.00	

DECISION NO. ID82-5128 - Mod. #3
(47 FR 53612 - Nov. 26, 1982)
Statewide Idaho

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
SPRINKLER FITTERS	$17.42	$2.83
ADD:		
TRUCK DRIVERS:		
Area 2:		
Zone Differential		
Zone 1: Same as rates issued in the Decision for Groups 1 to 14		
Zone 2: Add $1.50		
Zone 3: Add $1.75		

DECISION NO. IA82-4030-MOD. # 13
(47 FR 26537 - 6/18/82)
Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Laborers:		
Zone 8 - Group 2	$11.875	1.61

Basic Hourly Rates	Fringe Benefits

MODIFICATION PAGE 3

DECISION NO. CT81-3032 - MOD. #24
(46 FR 20740 - May 15, 1981)
HARTFORD, MIDDLESEX, NEW HAVEN, NEW LONDON AND TOLLAND COUNTIES

CHANGE:

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS, CEMENT MASONS, FINISHERS, MARBLE MASONS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS AND TILE SETTERS:		
Building Construction Areas 1,3,4,5&6	15.15	2.10
PAINTERS:		
Area 5		
Brush, Sandblasting	12.75	1.42
Tapers	13.10	1.42
Paperhangers	13.25	1.42
Spray	15.40	1.42
Structural Steel	13.00	1.42
PLUMBERS; STEAMFITTERS:		
Area 4	17.40	3.07+a

DECISION NO. NY81-1019 - MOD. #4
(46 FR 31189 - June 12, 1981)
MONROE COUNTY, NEW YORK

CHANGE:
HEADING WHICH READS "MOD. #2 AND APPEARED IN THE FEDERAL REGISTER ON DEC. 10, 1982, TO READ "MOD. #3"

BRICKLAYERS, CEMENT MASONS, PLASTERERS & STONE MASONS	15.18	2.30
ELECTRICIAN	16.20	3.15+3%
MARBLE, TILE & TERRAZZO WORKERS	16.17	1.75

DECISION NO. NY81-3061 - MOD. #4
(46 FR 45525 - Sept. 11, 1981)
CLINTON COUNTY, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Brush	11.33	.61+e
Spray Cup, Paperhangers, Spray and Taping	11.73	.61+e
Structural Steel, Swinging Scaffold, Boatswain chair, Hanging scaffold and sandblasting	11.98	.61+e
Seamless Floor Material	11.23	.61+e

DECISION NO. MA81-3054
MOD. #9 (46 FR 44031 - Sept. 4, 1981)
Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth & Suffolk Counties, Massachusetts

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Electricians:		
BARNSTABLE CO.; PLYMOUTH (Mattapoisett, Rochester, (Wareham); BRISTOL (Acushnet, Dartmouth, Fairhaven, New Bedford, N.&S. Dartmouth); DUKES; NANTUCKET	$14.45	3.60+3% + f
BRISTOL (Fall River, Freetown, Seekonk, Somerset, Swansea, Westport)	14.90	1.00+16⅔%

MODIFICATION PAGE 4

DECISION NO. WI82-2008 - MOD. #1
(47 FR 9689 - March 5, 1982)
Brown, Door, Kewaunee, and Oconto Counties, Wisconsin

Change:

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	$16.71	3.05
Boilermakers	16.12	2.825
Bricklayers, Marble Setters & Stonemasons	12.75	2.09
Carpenters	13.76	1.91
Cement Masons	12.25	2.09
Electricians	15.31	.75+10⅓%
Elevator Constructors:		
Mechanics	16.005	2.465
Helpers	11.20	2.465
Helpers (Prob.)	8.00	
Ironworkers:		
Structural, Ornamental and Reinforcing	14.81	4.49
Millwrights & Pile-drivermen	14.16	1.91
Painters:		
Brush	14.05	1.00
Structural Steel & Spray	14.43	1.00
Plasterers	12.75	2.15
Plumbers	16.82	2.70
Roofers:		
Composition	14.25	.75
Sheet Metal Workers	13.66	4.36
Soft Floor Layers	13.76	1.91
Terrazzo Workers & Tile Setters	12.75	2.15
Building:		
Laborers:		
Class I	11.03	1.43
Class II	11.13	1.43
POWER EQUIPMENT OPS.		
Group I	15.22	2.90
Group II	14.92	2.90
Group III	14.56	2.90
Group IV	14.44	2.90
Group V	13.88	2.90
Group VI	13.41	2.90

DECISION NO. WI82-2006 - MOD. #1
(47 FR 9687 - March 5, 1982)
Barron, Dunn, Polk, and St. Croix Counties, Wisconsin

Change:

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	$17.08	3.00
Boilermakers	16.12	2.825
Bricklayers	14.15	1.80
Carpenters:		
Carpenters	13.76	1.91
Millwrights & Pile-drivermen	14.16	1.91
Cement Masons	14.15	1.80
Electricians	15.66	13⅓%
Elevator Constructors:		
Mechanics	16.43	2.465
Helpers	11.50	2.465
Helpers (Prob.)	8.215	
Ironworkers:		
Structural, Ornamental and Reinforcing	16.05	2.59
Laborers:		
General	11.72	1.43
Mason Tenders	11.97	1.43
Jackhammer Operator	12.02	1.43
Lathers	13.76	1.91
Line Construction:		
Linemen	15.47	.65+10⅓%
Heavy Equipment Operator	13.92	.65+10⅓%
Light Equipment Operator	12.38	.65+.10⅓%
Heavy Groundman Truck-driver	13.83	.65+.10⅓%
Light Groundman Truck-driver	13.06	.65+.10⅓%
Painters:		
Brush & Wing Stage	13.00	.15+5%
Spray	13.50	.15+5%
Structural Steel	14.00	.15+5%
Plasterers	13.76	1.91
Plumbers & Steamfitters	14.17	3.55
Roofers	14.12	3%
Sheet Metal Workers	15.64	1.56
Power Equipment Operators		
Group 1	15.22	2.90
Group 2	14.92	2.90
Group 3	14.56	2.90
Group 4	14.44	2.90
Group 5	13.88	2.90
Group 6	13.41	2.90

MODIFICATION PAGE 5

	Basic Hourly Rates	Fringe Benefits
Electricians:		
BARNSTABLE CO.; PLYMOUTH (Mattapoisett, Rochester, (Wareham); BRISTOL (Acushnet, Dartmouth, Fairhaven, New Bedford, N.&S. Dartmouth); DUKES; NANTUCKET	$14.45	3.60+3% + f
BRISTOL (Fall River, Freetown, Seekonk, Somerset, Swansea, Westport)	14.90	1.00+16⅔%

SUPERSEDEAS DECISION

STATE: MICHIGAN
DECISION NUMBER: MI83-2009
COUNTY: MARQUETTE
DATE: DATE OF PUBLICATION
46 FR 12409,

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MODIFICATION PAGE 5

DECISION NO. WI82-2000 - MOD. #1 (47 FR 9690 - March 5, 19■■) Calumet, Fond Du Lac, Manitowoc, Outagamie, and Sheboygan Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$16.71	3.05
Boilermakers	16.12	2.825
Bricklayers	12.75	2.09
Carpenters	13.76	1.91
Piledrivers & Millwrights	14.16	1.91
Cement Masons	12.25	2.09
Electricians:		
Calumet & Outagamie Cos.	15.59	1.10+ 8%
Manitowoc Co.	15.31	.75+ 10½%
Fond Du Lac & Sheboygan Cos.	1■.91	1.88+ 15■
Elevator Constructors:		
Outagamie Co.		
Constructors	16.005	2.465
Helpers	11.20	2.455
Helpers (Prob.)	50%JR	
Remainder of Counties:		
Constructors	15.975	2.465
Helpers	11.18	2.465
Helpers (Probationary	50%JR	
Glaziers	12.98	3.13
Ironworkers:		
Western part of Fond Du Lac and Omtagamie Cos.	14.08	2.85
Remainder of Area	14.81	4.49
Laborers:		
General Laborers	11.03	1.43
Mason Tender & Plaster Tender	11.13	1.43
Jack Hammer	11.28	1.43
Lathers	13.76	1.91

	Basic Hourly Rates	Fringe Benefits
Painters:		
Fond Du Lac, Outagamie & N.W. Corner of Calumet County:		
Brush & Structural Steel	13.35	1.60
Spray & Seing Stage	13.85	1.60
Manitowoc and Remainder of Calumet Counties:		
Brush	11.90	
Spray	12.40	
Sheboygan county:		
Brush	10.30	1.50
Spray	10.80	1.50
Plasterers	12.75	2.15
Plumbers & Steamfitters:		
Outagamie Co. and the Northwestern Corner of Calumet County	16.60	2.■0
Manitowoc Co. and the Northeastern Part of Calumet County	16.8■	2.70
Fond Du Lac, Sheboygan & the Remainder of Calumet County	13.72	■.■■
Roofers:		
Calumet & Manitowoc Cos.	13.50	1.60
Sheboygan Co.	13.93	1.17
Fond Du Lac County	12.10	2.95
Outagamie County	11.75	2.35
Sheet Metal Workers:		
Outagamie Co.	13.■6	■.36
Remainder of Counties	1■.13	■.■5
Terrazzo Workers & Tile Setters	12.75	2.15
Power Equipment Operators:		
Group I	15.22	2.90
Group II	1■.92	■.90
Group III	1■.56	2.90
Group IV	14.44	■.90
Group V	13.88	2.90
Group VI	13.41	2.90

SUPERSEDEAS DECISION

STATE: MICHIGAN
COUNTY: MARQUETTE
DECISION NUMBER: MI81-2009
DATE: DATE OF PUBLICATION
Supersedes Decision Number MI81-2001, dated February 13, 1981, in 46 FR 12409.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - consisting of single family homes and apartments up to and including four (4) stories.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.71	$ 3.05
BOILERMAKERS	18.54	3.35
BRICKLAYERS, STONE MASONS, PLASTERERS, TERRAZZO WORKERS, & TILE SETTERS	13.61	1.87
CARPENTERS & SOFT FLOOR LAYERS	10.95	2.12
CEMENT MASONS	13.11	1.87
ELECTRICIANS	9.80	1.12 + 3.1%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.00	2.465+a
Helpers	11.20	2.465+a
Probationary helpers	8.00	
IRONWORKERS	13.45	4.92
LABORERS - GENERAL	6.95	1.69
LATHERS	13.51	2.57
MILLWRIGHTS	14.94	2.12
PAINTERS & GLAZIERS	10.50	.65
PILEDRIVERMEN	13.49	2.12
PLUMBERS & PIPEFITTERS	15.98	2.17
ROOFERS	12.95	1.65
SHEET METAL WORKERS	15.19	2.67
SPRINKLER FITTERS	17.17	2.83
TRUCK DRIVERS:		
Euclid type equipment	11.47	b+c
Truck repair & maintenance	11.32	b+c
Heavy duty, double axle, & semi trucks	11.24	b+c
Other trucks not specified above	11.11	b+c

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits
CLASS A - Regular equipment operator, crane, dozer, front end loader, pumpcrete, squeeze crete, job mechanic & welder	$11.82	$3.30+13%
CLASS B - Air trac drill, boom truck (non-swing), concrete mixer, fork truck, material hoist & tugger, pumps 6" & over, belt crete, sweeping machine, trencher, winches, well points & freeze systems	10.76	3.30+13%
CLASS C - Air compressor, conveyor, concrete saw, farm tractor (without attachments), generator, guard post driver, mulching machine, pumps under 6", welding machine, grease man	10.25	3.30+13%
CLASS D - Oiler, fireman, & heater operator	9.50	3.30+13%

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. SEVEN PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day; plus VACATION PAY CREDIT: Employer contributes 8% of the regular hourly rate of employees with 5 years or more service, and 6% for employees with 6 months to 5 years of service.

b. Employer contribution of $71.00 per week per employee.

c. SIX PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: MICHIGAN

AREA: MACOMB, MONROE, OAKLAND, WASHTENAW, & WAYNE COUNTIES

DECISION NUMBER: MI83-2007

DATE: DATE OF PUBLICATION

Supersedes Decision Number MI81-2032, dated July 6, 1981, in 46 FR 34998.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS, RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including four stories), & HEAVY CONSTRUCTION PROJECTS PROJECTS (excluding Bridge, Airport, and Sewer & Water Lines Projects).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS		
Monroe County	$16.85	$ 2.42
Washtenaw County (Twps. of Bridgewater, Dexter, Freedom, Lima, Lyndon, Manchester, Sharon, & Sylvan)	15.93	4.00
Remainder of Area	16.32	5.02
BOILERMAKERS:		
Monroe County	19.15	3.155
Remainder of Area	18.54	3.35
BRICKLAYERS & STONE MASONS:		
Monroe County (West of Hwy. #23)	15.21	1.83
Washtenaw County	18.47	1.52
Remainder of Area	17.28	3.81
CARPENTERS & PILEDRIVERMEN:		
Washtenaw County	15.64	1.90
Remainder of Area	15.50	5.11
CEMENT MASONS:		
Monroe County (South of Hwy. 151)	15.40	2.20
Washtenaw County	18.47	1.52
Remainder of Area	15.46	3.94
ELECTRICIANS:		
Monroe County:		
Building Work	19.50	1.80+3.1%
Residential Work	9.14	1.80+3.1%
Washtenaw County	18.19	2.24+2%
Remainder of Area	17.80	3.71+3%
ELECTRONIC TECHNICIANS:		
Sound & Communication Work in Macomb, Wayne, & Oakland Counties	13.14	
ELEVATOR CONSTRUCTORS:		
Monroe County		
Mechanics	17.37	2.69+a
Helpers	70%JR.	2.69+a
Probationary helpers	50%JR.	
Washtenaw County		
Mechanics	17.01	2.69+a
Helpers	70%JR.	2.69+a
Probationary helpers	50%JR.	
Remainder of Area:		
Mechanics	17.15	2.465+a
Helpers	70%JR.	2.465+a
Probationary helpers	50%JR.	
GLAZIERS:		
Building Work	$14.69	2.70+b
Residential Work	9.00	2.70+b
IRONWORKERS:		
Monroe County	18.02	3.13
Remainder of Area		
Structural & Ornamental	15.26	47%+.09
Reinforcing	13.08	38.4%+1.98
Fence Erectors	14.26	47%+.09
Riggers & Machinery Erectors	14.99	6.23
LABORERS: RESIDENTIAL WORK ONLY	6.95	1.69
LANDSCAPE LABORERS:		
Class A - Landscape Specialist, including air, gas, diesel, electric tools and equipment	8.60	
Class B - Landscape Laborers, Truck drivers, Material Haulers, & Small power equipment	8.56	
LATHERS:		
Oakland (Northern Portion including Twps. of Holly & Oxford) & Washtenaw (West ½) Counties	15.02	2.67
Remainder of Area	16.32	3.81
MILLWRIGHTS	15.19	1.73+3%
MARBLE MASONS	15.93	3.45
MARBLE MASONS' FINISHERS	12.40	2.80
PAINTERS:		
Brush, roller, drywall taper, finisher, & paperhanger	13.25	4.06
Spray & sandblast	13.75	4.70
PLASTERERS:		
Monroe (South of Hwy. 151) County	18.02	.71
Washtenaw County	18.47	1.52
Remainder of Area	16.26	3.10
PLUMBERS & PIPEFITTERS:		
Monroe County:		
Building Work	17.04	3.08
Residential Work	14.56	1.79
Washtenaw County	14.93	4.25

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PLUMBERS & PIPEFITTERS (Cont'd)	Basic Hourly Rates	Fringe Benefits
Remainder of Area:		
Plumbers	$14.54	6.92
Pipefitters	15.00	6.12
Refrigeration mechanics (All types over 7½ H.P.)	15.00	6.12
Refrigeration mechanics (All types 7½ H.P. & under)	14.00	6.12
ROOFERS:		
Monroe County	16.50	3.09
Washtenaw County	15.02	3.30
Remainder of Area:		
Composition	15.78	4.35
Slate	16.78	4.35
SHEET METAL WORKERS:		
Monroe County	16.145	3.315
Remainder of Area:		
Light Commercial Work - Jobs consisting of 10 tons of of air conditioning and/or 200,000 B.T.U.'s of heating, and architectural sheet metal work on such projects	10.11	1.89
All Other Commercial Work	14.85	7.16
Residential Work	10.11	1.89
SOFT FLOOR LAYERS:		
Washtenaw County	15.64	1.90
Remainder of Area	15.07	1.80+8%
SPRINKLER FITTERS:		
Monroe County	17.17	2.83
Remainder of Area	18.435	3.05
TERRAZZO WORKERS	14.77	3.45
TERRAZZO WORKERS' FINISHERS	14.43	2.00
TILE SETTERS	15.32	3.47
TILE SETTERS' FINISHERS	12.40	2.30
TRUCK DRIVERS - BUILDING, HEAVY, & RESIDENTIAL WORK:		
Pole trailer, low boy, straddle carrier, double bottom, fuel trucks, & special load permit vehicles	13.55	*90.50
Semi or tractor trailer	13.45	*90.50
All other trucks	13.30	*90.50
*Per Week, Per Employee.		
TRUCK DRIVERS - UNDERGROUND WORK:		
Trucks under 8 cubic yards	13.37	*94.50
Trucks 8 cubic yards or over, pole trailer, semi, & fuel trucks	13.50	*94.50
Low boy, Euclid, & double-bottom trucks	13.70	*94.50
*Per Week, Per Employee.		

FOOTNOTES:

a. SEVEN PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day; VACATION PAY CREDIT: Employer contribution of 8% of the Regular Hourly Rate of employees with 5 years or more of service, and 6% for those employees with 6 months to 5 years of service.

b. FOUR PAID HOLIDAYS: New Year's Day; Decoration Day; Labor Day; Christmas Day.

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted Classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

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LABORERS - BUILDING & HEAVY	Basic Hourly Rates	Fringe Benefits
Monroe County	$14.00	1.69
Washtenaw County	15.02	2.67
Remainder of Area	15.19	1.73+3%
LABORERS - OPEN CUT WORK (Common or General)		
Monroe County	14.00	1.69
Washtenaw County	15.02	2.67
Remainder of Area	15.19	1.73+3%
LABORERS - TUNNEL, SHAFT, & CAISSON WORK:		
Monroe County	14.00	1.69
Washtenaw County	15.02	2.67
Remainder of Area	15.19	1.73+3%
LINE CONSTRUCTION:		
Groundmen	9.00	2.70+b
Linemen	15.00	2.70+b
Cable Splicers	15.00	2.70+b

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	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Monroe County:		
Building Work		
Group 1	16.50	3.09
Group 2	16.30	3.09
Group 3	16.10	3.09
Group 4	15.90	3.09
Group 5	15.70	3.09
Residential Work	14.56	1.79
Washtenaw County		
Group 1	15.02	3.30
Group 2	14.82	3.30
Group 3	14.62	3.30
Group 4	14.42	3.30
Group 5	14.22	3.30
Remainder of Area:		
Group 1	16.78	4.35
Group 2	16.58	4.35
Group 3	16.38	4.35
Group 4	16.18	4.35
Group 5	15.98	4.35
POWER EQUIPMENT OPERATORS - UNDERGROUND WORK:		
Monroe County		
Group 1	16.50	3.09
Group 2	16.30	3.09
Group 3	16.10	3.09
Group 4	15.90	3.09
Group 5	15.70	3.09
Washtenaw County		
Group 1	15.02	3.30
Group 2	14.82	3.30
Group 3	14.62	3.30
Group 4	14.42	3.30
Group 5	14.22	3.30
Remainder of Area:		
Group 1	16.78	4.35
Group 2	16.58	4.35
Group 3	16.38	4.35
Group 4	16.18	4.35
Group 5	15.98	4.35
POWER EQUIPMENT OPERATORS - RESIDENTIAL WORK:		
Monroe County		
Group 1	14.56	1.79
Group 2	14.36	1.79
Group 3	14.16	1.79
Group 4	13.96	1.79
Group 5	13.76	1.79
Washtenaw County		
Group 1	14.93	4.25
Group 2	14.73	4.25
Group 3	14.53	4.25
Group 4	14.33	4.25
Group 5	14.13	4.25
Remainder of Area:		
Group 1	16.26	3.10
Group 2	16.06	3.10
Group 3	15.86	3.10
Group 4	15.66	3.10
Group 5	15.46	3.10

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LABORERS - BUILDING & HEAVY WORK:	Basic Hourly Rates	Fringe Benefits
WASHTENAW COUNTY:		
GROUP 1 - General laborers	$12.23	2.54
GROUP 2 - Mortar mixer, material mixer, air/gas/electric tool operators, power buggie operator, scaffold builder or dismantler, windless operator, tar & kettle operator	12.43	2.54
GROUP 3 - Crock or pipe layer, & caisson worker	12.55	2.54
MONROE COUNTY:		
GROUP 1 - General laborers	14.28	1.69
GROUP 2 - Mason tender, plasterer tender, mortar mixer, portable mixer operator, air/diesel/electric/gas tool operators, concrete vibrator, acetylene torch, caisson worker, signal man on concrete pour.	14.48	1.69
MACOMB, OAKLAND, & WAYNE COUNTIES:		
GROUP 1 - General laborers	13.44	2.59
GROUP 2 - Mortar mixer, scaffold builder	13.82	2.59
GROUP 3 - Air/gas/electric tool operators, windlass or tugger operator, jackhammer, vibrator operator, & signal man	13.69	2.59
GROUP 4 - Crock grade man	13.67	2.59
GROUP 5 - Windlass & tugger operators on caisson work	13.63	2.59
GROUP 6 - Crock & pipe layer	13.77	2.59
GROUP 7 - Caisson worker	13.82	2.59
GROUP 8 - Lansing burner, blaster, & powderman	14.19	2.59
GROUP 9 - Plasterer tender	15.19	2.44
LABORERS - OPEN CUT WORK:		
WASHTENAW COUNTY:		
GROUP 1	11.86	2.29
GROUP 2	11.94	2.29
GROUP 3	11.99	2.29
GROUP 4	12.04	2.29
GROUP 5	12.09	2.29

LABORERS - OPEN CUT WORK (Cont.):	Basic Hourly Rates	Fringe Benefits
MACOMB, OAKLAND, & WAYNE COS.:		
GROUP 1	$11.56	4.44
GROUP 2	11.64	4.44
GROUP 3	11.69	4.44
GROUP 4	11.74	4.44
GROUP 5	11.79	4.44
MONROE COUNTY:		
GROUP 1	11.89	2.29
GROUP 2	11.99	2.29
GROUP 3	12.09	2.29
GROUP 4	12.14	2.29
GROUP 5	12.24	2.29

CLASSIFICATIONS DEFINITIONS:

GROUP 1 - Construction laborer
GROUP 2 - Mortar & material mixer, concrete form man, signal man, wheel point man, manhole, headwall & catch basin builder, guardrail builder, & fence erector
GROUP 3 - Air/gas/electric tool operators, vibrator operator, driller, pump man, tar & kettle operator, bracer, rodder, reinforced steel or mesh (under 40 H.P.), windlass & tugger man
GROUP 4 - Trench excavating grade man
GROUP 5 - Pipe layer

LABORERS - TUNNEL, SHAFT, & CAISSON WORK:	Basic Hourly Rates	Fringe Benefits
WASHTENAW COUNTY & MONROE COUNTY:		
GROUP 1	12.81	2.29
GROUP 2	12.89	2.29
GROUP 3	12.94	2.29
GROUP 4	13.09	2.29
GROUP 5	13.29	2.29
GROUP 6	13.54	2.29
REMAINDER OF COUNTIES:		
GROUP 1	11.68	4.44
GROUP 2	11.76	4.44
GROUP 3	11.81	4.44
GROUP 4	11.96	4.44
GROUP 5	12.16	4.44
GROUP 6	12.41	4.44

LABORERS - TUNNEL, SHAFT, & CAISSON WORK:	Basic Hourly Rates	Fringe Benefits

CLASSIFICATIONS DEFINITIONS:

GROUP 1 - Tunnel, shaft, & caisson laborer, dump man, shanty man, hog house tender, testing man on gas;
GROUP 2 - Manhole, headwall & catch basin builder, bricklayers' tender, mortar man, material mixer, fence erector, & guardrail builder;
GROUP 3 - Air tool operator, jackhammer, bush hammer, & grinding man, bottom man, cage tender, car pusher, carrier man, concrete man, concrete form man, concrete repair man, cement invert laborer, concrete shoveler, conveyor man, floor man, gasoline & electric tool operators, gunnite man, grout operator, dinky man, inside lock tender, vibrator man, pea gravel operatmr, pump man, outside lock tender, top signal man, switch man, track man, tugger man, utility man, winch operator, concrete saw operator (under 40 H.P.)
GROUP 4 - Tunnel, shaft, & caisson muckers, bracer man, under plate man, long haul dinky driver, & well point man;
GROUP 5 - Tunnel, shaft, & caisson miner, driller runner, key board operator, power knife operator, reinforced steel or mesh man (wire mesh, steel mats, dowell bars, etc.);
GROUP 6 - Dynamite man & powder man

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
Monroe (Twps. of Bedford, Erie, LaSalle & Whiteford), Oakland (Twp. of Holly), & Washtenaw (Twps. of Lyndon, Manchester, Sharon, & Sylvan) Counties:		
Linemen & technicians	$15.00	.65+8½% +c
Cable splicers	15.61	"
Combination digger operator & tractor operator groundmen	11.68	"
Light equipment operator groundmen; distribution line truck driver operator groundmen	10.25	"
Combination winch truck driver groundmen	9.77	"
Combination truck driver & groundmen	8.27	"
Remainder of Area:		
Linemen & technicians	17.38	1.70+11½%
Cable splicers	18.12	"
Combination equipment operators & groundmen	13.94	"
Combination truck driver & groundmen	13.12	"
Groundmen	12.09	"

FOOTNOTE:

c. SEVEN PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving Day, & Christmas Day provided the employee works the scheduled workday preceeding and following the day observed.

SUPERSEDEAS DECISION

STATE: MICHIGAN
COUNTIES: ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC, MARQUETTE, MENOMINEE, ONTONAGON, & SCHOOLCRAFT.
DECISION NUMBER: MI83-2008 DATE: DATE OF PUBLICATION
Supersedes Decision Number MI81-2034, dated July 6, 1981, in 46 FR 34983.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes & apartments up to and including 4 stories) & HEAVY CONSTRUCTION PROJECTS (excluding Bridge, Airport, & Sewer & Water Lines Projects)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Gogebic & Ontonagon Counties	$17.35	$ 1.46
Chippewa, Luce, & Mackinac Counties	15.93	4.00
Remainder of Counties	16.71	3.05
BOILERMAKERS	18.54	3.35
BRICKLAYERS, STONE MASONS, PLASTERERS, TERRAZZO WORKERS, & TILE SETTERS	13.61	1.87
CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN, & SOFT FLOOR LAYERS:		
Menominee County (Southern tip, including Town of Cedar River):		
Carpenters & Soft floor layers	13.76	1.91
Millwrights & Piledrivermen	14.16	1.91
Remainder of Counties:		
Carpenters & Soft floor layers	13.29	2.12
Millwrights	14.94	2.12
Piledrivermen	13.49	2.12
CEMENT MASONS	13.11	1.87
ELECTRICIANS:		
Alger & Marquette Counties:		
Contracts over $50,000.00	15.16	2.12 + 3.75%
Contracts $50,000.00 or less	12.76	2.12 + 3.75%
Dickinson & Iron Counties:		
Contracts $50,000.00 or more	14.23	2.00+4%
Contracts under $50,000.00	12.81	2.00+4%
Delta County:		
Contracts over $35,000.00	14.84	2.00+3½%
Contracts $35,000.00 or less	12.77	2.00+3%
Gogebic County	15.75	2%
Menominee County	15.31	10½%+.75
Chippewa, Luce, Mackinac, & Schoolcraft Counties	13.57	2.00+3½%
Remainder of Counties:		
Contracts $70,000.00 or more	14.39	2.00+3½%
Contracts under $70,000.00	11.15	2.00+3½%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.00	2.46%+a
Helpers	11.20	2.46%+a
Probationary helpers	8.00	
GLAZIERS:		
Alger, Dickinson, Iron, & Marquette Counties	$11.80	.65
Baraga, Houghton, Keweenaw, & Ontonagon (Northern portion including Towns of Rockland & Ontonagon) Counties	10.35	1.50
Chippewa, Luce, Mackinac, & Schoolcraft (excluding South West portion) Counties:		
Zone 1 - 30 Mile Radius of Sault Ste. Marie	10.20	1.50
Zone 2 - 30 to 60 Mile Radius of Sault Ste. Marie	11.20	1.50
Zone 3 - 60 Miles or greater Radius of Sault Ste. Marie	11.70	1.50
IRONWORKERS	13.45	4.92
LATHERS:		
Menominee County (Southern tip including Town of Cedar River)	13.76	1.91
Remainder of Counties	13.51	2.57
LINE CONSTRUCTION:		
Linemen - technicians	13.72	12½%+b+45c
Cable splicers	14.28	"
Combination digger operator-tractoroperator groundman	10.72	"
Light equipment operator groundman; distribution line truck driver operator groundman	9.42	"
Combination winch truck driver groundman	8.99	"
Combination truck driver groundman, & groundman	7.62	"
PAINTERS:		
Delta & Schoolcraft (South West portion including Manistique) Counties:		
Brush & roller	10.00	.50
Spray, swing stage, & sandblast	10.75	.50

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	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS - BUILDING, RESIDENTIAL, & HEAVY WORK:		
CLASS A - Crane with boom & jib or leads 220' or longer	$16.34	3.35+13%
CLASS B - Crane with boom & jib or leads 140' or longer	16.12	3.35+13%
CLASS C - Crane with boom & jib 120' or longer	15.56	3.35+13%
CLASS D - Regular crane operator	15.08	3.35+13%
CLASS E - Regular engineer	14.71	3.35+13%
CLASS F - Engineer when operating compressor or welding machine	12.46	3.35+13%
CLASS G - Firemen or oiler	11.64	3.35+13%
POWER EQUIPMENT OPERATORS - STEEL ERECTION:		
CLASS A - Engineer when operating combination of boom & jib 220' or longer	18.52	3.35+13%
CLASS B - Engineer when operating combination of boom & jib 140' or longer	18.24	3.35+13%
CLASS C - Crane operator, job mechanic	17.25	3.35+13%
CLASS D - Hoisting operator	17.02	3.35+13%
CLASS E - Compressor or welder operator	13.95	3.35+13%
CLASS F - Oiler or fireman	12.65	3.35+13%
POWER EQUIPMENT OPERATORS - UNDERGROUND WORK:		
CLASS A	14.80	3.65+13%
CLASS B	14.42	3.65+13%
CLASS C	13.77	3.65+13%
CLASS D	13.27	3.65+13%

CLASSIFICATIONS DEFINITIONS:

CLASS A - Backfiller tamper, backhoe, batch plant operator (concrete), clamshell, concrete paver (8-drums or larger), conveyor loader (Euclid type), crane (crawler, truck type), piledriver, bulldozer (9' blade & over), dragline, elevating grader, front end loader (over 1½ cubic yards capacity), gradall & similar type equipment, mechanic, power shovel, roller (asphalt), scraper self-propelled or tractor

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS - UNDERGROUND WORK: (Cont'd.):		
drawn), side boom tractor (type D-4 or larger), slip-form paver, slope paver, trencher (over 8' digging capacity), & well drilling rig;		
CLASS B - Boom truck (power swing type boom), crusher, dozer (less than 9' blade), endloader (1½ cu. yds. or smaller), hoist, pump (one or more, 6" discharge or larger, 300 AMPS or more), side boom tractor (smaller than D-4 type or equivalent), sweeper, tractor (Pneu-tired, other than backhoe or front end loader), trencher (8' digging capacity)		
CLASS C - Air compressors (600 CFM), boom truck (non-swinging, non-powered type boom), concrete breaker (self-propelled or truck mounted, includes compressor), concrete pumper (one [illegible], 1½ yds. or larger), elevator, mechanic helper, pump (2 or more, 4" to 6" discharge), pumpcrete machine, wagon drill (multiple), welding machine or generator (2 or more, 300 AMPS, or larger).		
CLASS D - Boiler, concrete saw (40 h.p. or over), curing machine (self-propelled), farm tractor (with attachment), finishing machine (concrete), fireman, hydraulic pipe pushing machine, mulching equipment, oiler, pumps (2 or more up to 4" discharge), roller (other than asphalt), stump remover, trencher (service), vibrating compaction equipment (self-propelled, 6' wide or over).		

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	Basic Hourly Rates	Fringe Benefits
PAINTERS (Cont'd.):		
Delta & Schoolcraft (South West portion including Manistique) Counties:		
Spray, swing stage, & sandblast	10.75	.50
Steel & Bridges	11.00	.50
Tanks	11.25	.50
PILEDRIVERMEN:		
Menominee County (Southern tip including Town of Cedar River)	13.76	1.91
Remainder of Counties	13.51	2.57
PLASTERERS:		
Alger, Dickinson, Iron, & Marquette Counties	$11.80	.65
Baraga, Houghton, Keweenaw, & Ontonagon (Northern portion including Towns of Rockland & Ontonagon) Counties	10.35	1.50
Chippewa, Luce, Mackinac, & Schoolcraft (excluding South West portion) Counties:		
Zone 1 - 30 Mile Radius of Sault Ste. Marie	10.20	1.50
Zone 2 - 30 to 60 Mile Radius of Sault Ste. Marie	11.20	1.50
Zone 3 - 60 Miles or greater Radius of Sault Ste. Marie	11.70	1.50
PLUMBERS & PIPEFITTERS:		
Alger, Dickinson, Iron, & Marquette Counties	13.45	1.75
Baraga, Houghton, Keweenaw, & Ontonagon (Northern portion including Towns of Rockland & Ontonagon) Counties	12.00	1.50
Chippewa, Luce, Mackinac, & Schoolcraft (excluding South West portion) Counties:		
Zone 1 - 30 Mile Radius of Sault Ste. Marie	11.85	1.50
Zone 2 - 30 to 60 Mile Radius of Sault Ste. Marie	12.85	1.50
Zone 3 - 60 Miles or greater Radius of Sault Ste. Marie	13.35	1.50
ROOFERS:		
Alger, Dickinson, Iron, & Marquette Counties	11.80	.65
Baraga, Houghton, Keweenaw, & Ontonagon (Northern portion including Towns of Rockland & Ontonagon) Counties	10.35	1.50
Chippewa, Luce, Mackinac, & Schoolcraft (excluding South West portion) Counties:		
Zone 1 - 30 Mile Radius of Sault Ste. Marie	10.20	1.50
Zone 2 - 30 to 60 Mile Radius of Sault Ste. Marie	11.20	1.50
Zone 3 - 60 Miles or greater Radius of Sault Ste. Marie	11.70	1.50
SHEETMETAL WORKERS:		
Alger, Dickinson, Iron, & Marquette Counties	13.45	1.75
Baraga, Houghton, Keweenaw, & Ontonagon (Northern portion including Towns of Rockland & Ontonagon) Counties	12.00	1.50
Chippewa, Luce, Mackinac, & Schoolcraft (excluding South West portion) Counties:		
Zone 1 - 30 Mile Radius of Sault Ste. Marie	11.85	1.50
Zone 2 - 30 to 60 Mile Radius of Sault Ste. Marie	12.85	1.50
Zone 3 - 60 Miles or greater Radius of Sault Ste. Marie	13.35	1.50
SOFT FLOOR LAYERS:		
Menominee County (Southern tip, including Town of Cedar River):		
Carpenters & Soft floor layers	13.76	1.91
Millwrights & Piledrivermen	14.16	1.91
Remainder of Counties:		
Carpenters & Soft floor layers	13.29	2.12
Millwrights	14.94	2.12
Piledrivermen	13.49	2.12
STEEL ERECTORS	13.11	1.87
TERRAZZO WORKERS	13.61	1.87
TILE SETTERS	13.61	1.87
TRUCK DRIVERS:		
Alger, Dickinson, Iron, & Marquette Counties:		
Contracts over $50,000.00	15.16	2.12 + 3.75%
Contracts $50,000.00 or less	12.76	2.12 + 3.75%
Delta County:		
Contracts over $35,000.00	14.84	2.00+3½%
Contracts $35,000.00 or less	12.77	2.00+3%
Gogebic County	15.75	2%
Menominee County	15.31	10½%+.75
Remainder of Counties:		
Contracts $70,000.00 or more	14.39	2.00+3½%
Contracts under $70,000.00	11.15	2.00+3½%

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	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Alger, Dickinson, Iron, & Marquette Counties	$11.80	.65
Baraga, Houghton, Keweenaw, & Ontonagon (Northern portion including Towns of Rockland & Ontonagon) Counties	10.35	1.50
Chippewa, Luce, Mackinac, & Schoolcraft (excluding South West portion) Counties:		
Zone 1 - 30 Mile Radius of Sault Ste. Marie	10.20	1.50
Zone 2 - 30 to 60 Mile Radius of Sault Ste. Marie	11.20	1.50
Zone 3 - 60 Miles or greater Radius of Sault Ste. Marie	11.70	1.50
LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION:		
Alger, Dickinson, Iron, & Marquette Counties	13.45	1.75
Baraga, Houghton, Keweenaw, & Ontonagon (Northern portion including Towns of Rockland & Ontonagon) Counties	12.00	1.50
Chippewa, Luce, Mackinac, & Schoolcraft (excluding South West portion) Counties:		
Zone 1 - 30 Mile Radius of Sault Ste. Marie	11.85	1.50
Zone 2 - 30 to 60 Mile Radius of Sault Ste. Marie	12.85	1.50
Zone 3 - 60 Miles or greater Radius of Sault Ste. Marie	13.35	1.50

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PAINTERS (Cont'd.):	Basic Hourly Rates	Fringe Benefits
Menominee County (southern tip, including Menominee Township):		
Brush & roller	$1[illegible].50	
Paperhanger & drywall taper (hand)	1[illegible].[illegible]0	
Drywall taper (machine)	11.25	
Spray & sandblast	11.50	
Dickinson, Iron, & Menominee (Remaining area) Counties:		
New Work:		
Brush & Roller		
0 to 30'	10.[illegible]0	.75
30 to 80'	11.[illegible]0	.75
Over 80'	12.[illegible]0	.75
Drywall tapers	1[illegible].35	.75
Paperhangers	1[illegible].6[illegible]	.75
Spray	1[illegible].15	.75
Sandblast	12.00	.75
Repaint Work	7.00	.75
Alger & Marquette Counties:		
Brush & roller	11.00	.65
Paperhangers	11.[illegible]0	.65
Drywall tapers/finishers	11.[illegible]0	.[illegible]
Spray, sandblast, steam & acid cleaning	1[illegible].00	.[illegible]5
Baraga, Houghton, Keweenaw, & Ontonagon (Northern portion, including Rockland & Ontonagon Townships) Counties:		
Brush, roller, drywall taper/finisher, & paperhanger	1[illegible].35	1.50
Spray, sandblast, & water-blast	11.35	1.[illegible]
Steel, swing stage, & bosun chair:		
0 to 50'	11.3[illegible]	1.50
50' & Over	12.3[illegible]	1.50
Chippewa, Luce, Mackinac, & Schoolcraft (Remaining area) Counties:		
Brush & roller:		
Zone 1	1[illegible].60	1.5[illegible]
Zone 2	12.6[illegible]	1.50
Zone 3	13.2[illegible]	1.5[illegible]
Paperhanger:		
Zone 1	1[illegible].8[illegible]	1.50
Zone 2	1[illegible].8[illegible]	1.5[illegible]
Zone 3	13.3[illegible]	1.50

PAINTERS (Cont'd.):	Basic Hourly Rates	Fringe Benefits
Drywall tapers (hand):		
Zone 1	$11.90	1.50
Zone 2	12.90	1.50
Zone 3	13.40	1.50
Spray:		
Zone 1	12.10	1.50
Zone 2	13.10	1.50
Zone 3	13.60	1.50
Drywall tapers (machine):		
Zone 1	12.40	1.50
Zone 2	13.40	1.50
Zone 3	13.90	1.50
Steel work:		
Zone 1	14.10	1.50
Zone 2	15.10	1.50
Zone 3	15.60	1.50
Sandblast, steel & Steeplejack Work (30' & above):		
Zone 1	14.60	1.50
Zone 2	15.60	1.50
Zone 3	16.10	1.50
Zone 1 - 30 Mile Radius of Sault Ste. Marie;		
Zone 2 - 30 to 60 Mile Radius of Sault Ste. Marie;		
Zone 3 - 60 Miles or greater Radius of Sault Ste. Marie.		
PLUMBERS & PIPEFITTERS	15.98	2.17
ROOFERS	12.95	1.65
SHEET METAL WORKERS	15.19	2.67
SPRINKLER FITTERS	17.17	2.83
TRUCK DRIVERS:		
Euclid type equipment	11.47	c+d
Truck repair & Maintenance	11.32	c+d
Heavy duty, double axle, & semi trucks	11.24	c+d
All other trucks	11.11	c+d
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).		

LABORERS:	Basic Hourly Rates	Fringe Benefits
General construction laborers	$10.72	1.44
Mortar mixer, material mixer, vibrator operator, concrete mixer, motor driven buggy, chipping hammer, tamping machine, green cutting (by air, electric, or gas), sand mixer to pour, including pour from trucks	10.82	1.44
Cement gun nozzleman, blaster, miner, driller, buster operator	11.12	1.44
Caisson work	11.27	1.44
LANDSCAPE LABORERS:		
CLASS A - Landscape specialist (including air, gas, diesel, electric tool and/or equipment)	8.18	
CLASS B - Landscape laborers, truck drivers, material haulers, & small powered equipment	6.14	
LABORERS: OPEN CUT CONSTRUCTION:		
CLASS 1 - Construction laborer	10.74	2.29
CLASS 2 - Mortar mixer, material mixer, concrete form man, signal man, well point man, manhole, headwall & catch basin builder, guardrail builder, & fence erector	10.84	2.29
CLASS 3 - Air, gas & electric operator, vibrator operator, driller, pump man, tar kettle operator, bracer, rodder, reinforced steel or mesh man (e.g. wire mesh, steel mats, dowel bars, etc.), cement laborer, pipe jacking & boring man, wagon drill & air track operator, concrete saw operator (under 40 h.p.), windlass & tugger man	10.94	2.29
CLASS 4 - Trenching or excavating man	10.99	2.29
CLASS 5 - Pipe layer (including crock, metal pipe, multiplate or other conduits).	11.04	2.29

LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
CLASS 1 - Tunnel, shaft, & caisson laborer, dump man, shanty man, hog house tender & testing man (gas)	$1[illegible].81	$ [illegible].2[illegible]
CLASS 2 - Manhole, headwall & catch basin builder, bricklayer tender, mortar man, material mixer, fence erector & guardrail builder	[illegible].89	2.29
CLASS 3 - Air tool operator, jackhammer, bush hammer, grinding man, bottom man, cage tender, car pusher, carrier man, concrete man, concrete form man, concrete repair man, cement invert laborer, concrete shoveler, conveyor man, floor man, gas & electric tool operator, gunnite man, grout operator, pump man, outside lock tender, scaffold man, top signal man, switch man, track man, tugger man, utility man, vibrator man, winch operator, pipe jacking, boring man, wagon drill & air track operator, & concrete saw operator (under 40 h.p.)	12.94	2.[illegible]9
CLASS 4 - Tunnel, shaft, & caisson mucker, bracer man, liner plate man, long haul dinky driver, & well point man	13.09	[illegible].29
CLASS 5 - Tunnel, shaft, & caisson miner, drill runner, keyboard operator, power knife operator, reinforced steel or mesh man (e.g. wire mesh, steel mats, dowel bars, etc.)	13.2[illegible]	2.[illegible]9
CLASS 6 - Dynamite man & powder man	13.54	[illegible].2[illegible]

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits
CLASS A - Regular equipment operator, crane, dozer, front end loader, pumpcrete, squeeze crete, job mechanic, & welder	$11.82	3.30+13%
CLASS B - Air track drill, boom truck (non-swing), concrete mixer, fork truck, material hoist & tugger, pumps 6" & over, belt crete, sweeping machine, trencher, winches, well points & freeze systems	10.76	3.30+13%
CLASS C - Air compressor, conveyor, concrete saw, farm tractor (without attachments), generator, guard post driver, mulching machine, pumps under 6", welding machine, & grease man	10.25	3.30+13%
CLASS D - Oiler, fireman, & heater operator.	9.50	3.30+13%
POWER EQUIPMENT OPERATORS - STEEL ERECTION:		
OPERATOR	12.04	3.30+13%
COMPRESSOR & WELDER	10.72	3.30+13%
OILER & FIREMAN	9.61	3.30+13%

FOOTNOTES:

a. SEVEN PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day; VACATION PAY CREDIT: Employer contributes 8% of the regular hourly rate of employees with 5 years or more of service, and 6% for employees with six months to five years of service.

FOOTNOTES (Cont'd.):	Basic Hourly Rates	Fringe Benefits
b. SEVEN PAID HOLIDAYS: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Friday after Thanksgiving Day, & Christmas Day provided the employee works the scheduled workday preceeding and following the day observed.		
c. Employer contributes $71.00 per week per employee.		
d. SIX PAID HOLIDAYS: New Year's Day; Memorial Day; July 4th; Labor Day; Thanksgiving Day; Christmas Day.		

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: *** SEE BELOW
DECISION NUMBER: MS83-1006 DATE: DATE OF PUBLICATION
Supersedes Decision Numbers: MS82-1008 (47 FR 8515 dated February 26, 1982); MS82-1009 (47 FR 8514 dated February 26, 1982); MS82-1010 (47 FR 8517 dated February 26, 1982); MS82-1011 (47 FR 8516 dated February 26, 1982); MS82-1012 (47 FR 8517 dated February 26, 1982); MS82-1013 (47 FR 8518 dated February 26, 1982).
DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION PROJECTS (does not include Building structures in Rest Area Projects and Railroad Construction; Bascule; suspension; & spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
BRICKLAYERS	$ 5.50	$ 7.00	$ 8.75	$ 5.50	$ 5.00	$ 7.00
CARPENTERS	5.50	6.00	6.07	6.50	8.00	6.00
CEMENT FINISHERS/MASONS	5.07	6.50	6.75	5.40	6.00	5.50
ELECTRICIANS	5.50	6.00	10.65	7.00	9.70	6.00
IRONWORKERS:						
Reinforcing	6.00	4.75	5.60	5.50	6.50	8.50
Structural	6.00	4.75	5.60	5.50	6.00	8.50
LABORERS:						
Air Tool Operators	3.80	3.50	4.56	4.25	--	4.10
Asphalt Rakers	4.50	4.25	4.10	4.25	5.00	4.00
Concrete Saw Operators	4.50	4.25	--	4.00	4.25	5.00
Form Setters	--	--	--	--	--	5.75
Grade Checkers	5.32	3.75	4.75	4.10	5.00	4.00
Mason Tenders	4.95	4.00	4.07	4.00	5.35	5.58
Pipelayers	4.50	3.50	4.50	4.00	--	4.00
Unskilled	3.80	3.35	3.35	4.00	4.00	4.00
PAINTERS	4.75	4.50	5.00	6.00	4.00	5.43
PILEDRIVERS	4.25	--	--	--	5.50	5.52
TRUCK DRIVERS	4.25	4.28	4.25	4.35	4.50	4.25
TUG BOAT OPERATORS	--	--	--	--	--	5.50
WELDERS-Rate for Craft						
POWER EQUIPMENT OPERATORS						
A-Frame Truck (winch)	--	--	5.00	4.00	6.50	4.50
Aggregate Spreader	4.81	4.57	4.25	5.13	4.40	4.00
Air Compressor	3.80	3.35	3.35	4.00	4.88	4.00
Asphalt Distributor & Spreader	5.00	4.97	5.00	4.75	4.98	4.71
Asphalt Plant	4.75	3.35	4.00	4.00	4.88	5.50
Backhoe	6.00	5.00	6.25	6.00	5.25	5.28
Bulldozer	6.25	6.00	6.00	6.50	6.33	6.50
Concrete Batch Plant	5.50	6.00	4.25	4.00	4.50	5.30
Concrete Breaker	3.80	3.35	3.35	--	--	--
Concrete Finishing Machine	5.79	5.55	5.54	4.50	--	6.50
Concrete Paving Machine	4.50	6.50	3.80	4.00	4.00	4.00
Concrete Spreader Machine	5.50	3.35	4.25	4.00	--	4.00
Crane/Dragline	6.85	7.00	6.30	6.00	6.75	6.00
Crusher Feeder	--	3.35	4.25	4.00	--	4.00
Curing Machine	3.80	3.35	3.35	4.00	--	4.00
Earth Auger	4.00	3.35	5.00	4.00	--	4.00

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	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6

SUPERSEDEAS DECISION

STATE: Ohio COUNTIES: Statewide
DECISION NUMBER: OH83-2006 DATE: Date of Publication
Supersedes Decision No. OH82-2035, dated May 7, 1982, in 47 FR 19893
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
POWER EQUIPMENT OPERATORS, cont'd:	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Guardrail Post Driver	$ 3.80	$ 3.50	$ 3.50	$ 4.00	--	$ 4.00
Fireman	5.00	3.35	3.60	4.00	--	--
Hydro-Hammer	3.80	3.35	3.35	--	--	--
Joint Setter	3.80	--	3.95	4.00	--	4.00
Joint Filler	3.80	--	3.35	4.00	--	4.00
Loader	5.45	4.83	5.10	5.50	5.03	5.13
Mechanic	6.50	5.15	7.00	6.25	6.50	6.30
Mixer	4.91	4.75	4.25	4.00	--	5.00
Motor Patrol	5.83	6.25	6.25	6.50	6.54	6.40
Mulcher	3.80	3.75	3.75	4.00	4.00	4.00
Oiler-Greaser	6.00	6.00	5.00	5.50	5.77	6.00
Piledriver	6.25	5.50	5.00	4.25	5.75	6.25
Roller (Self-Propelled)	4.65	4.22	4.36	4.75	5.00	4.16
Scales	3.80	4.00	4.00	4.00	--	4.00
Scraper	6.00	5.00	5.75	4.75	6.00	5.25
Shovel	6.00	6.00	5.70	6.00	5.25	5.28
Spreader	--	3.35	3.50	4.19	--	--
Striping Machine	5.08	6.00	4.00	6.00	6.00	4.00
Subgrade Machine	3.80	4.00	--	--	--	4.00
Tractor (Track Type)	4.25	5.02	4.00	4.00	--	5.00
Tractor (Wheel Type)	3.84	3.75	3.88	4.08	5.00	4.00
Trenching Machine	5.00	3.88	3.35	4.35	5.00	4.00

...
COUNTIES:

ZONE 1- ALCORN,BENTON,CALHOUN,CHICKASAW,CHOCTAW,CLAY,ITTAWAMBA,LaFAYETTE,LEE,LOWNDES, MARSHALL,MONROE,OKTIBBEHA,PONTOTOC,PRENTISS,TIPPAH,TISHOMINGO,UNION, & WEBSTER.

ZONE 2 - BOLIVAR,CARROLL,COAHOMA,DeSOTO,GRENADA,LeFLORE,MONTGOMERY,PANOLA,QUITMAN, SUNFLOWER,TALLAHATCHIE,TATE,TUNICA,WASHINGTON, & YALOBUSHA.

ZONE 3 - CLAIBORNE,COPIAH,HINDS,HOLMES,HUMPHREYS,ISSAQUENA,MADISON,RANKIN,SHARKEY,SIMPSON, WARREN, & YAZOO.

ZONE 4 - ATTALA,CLARK,JASPER,KEMPER,LAUDERDALE,LEAKE,NESHOBA,NEWTON,NOXUBEE,SCOTT,SMITH, & WINSTON.

ZONE 5 - ADAMS,AMITE,COVINGTON,FORREST,FRANKLIN,GREENE,JEFFERSON,JEFFERSON DAVIS,JONES, LAMAR,LAWRENCE,LINCOLN,MARION,PERRY,PIKE,WALTHALL,WAYNE, & WILKINSON.

ZONE 6 - GEORGE,HANCOCK,HARRISON,JACKSON,PEARL RIVER & STONE.

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Ohio COUNTIES: Statewide
DECISION NUMBER: OH83-2006 DATE: Date of Publication
Supersedes Decision No. OH83-2035, dated May 7, 1982, in 47 FR 19893
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS and STONE MASONS:		
Area 1	$17.30	$ .55
Area 2	14.69	1.87
Area 3	15.38	2.94
Area 4:		
Bricklayers	16.42	2.45
Sewer Bricklayers	16.67	2.45
Area 5	14.90	2.05
Area 6	14.67	2.34
Area 7	16.575	1.99
Area 8	16.19	2.12
Area 9	14.24	3.23
Area 10	12.50	
Area 11	15.74	2.70
Area 12	15.00	2.00
Area 13	13.80	3.25
Area 14	17.54	3.17
Area 15	14.60	3.23
Area 16	16.22	2.06
Area 17	15.79	2.50
Area 18	15.83	3.03
Area 19	14.96	1.55
Area 20	16.935	2.99
Area 21	16.15	1.00
Area 22	18.12	2.65+a
Area 23	14.60	3.23
Area 24	14.03	1.43
Area 25	14.05	2.55
Area 26	16.51	.55
Area 27	18.05	.81+b
Area 28	16.72	2.67
Area 29	15.05	2.05
Area 30	15.69	2.75
CARPENTERS and PILEDRIVERMEN:		
Area 1:		
Carpenters	14.33	2.05
Piledrivermen	14.62	2.05
Area 2:		
Carpenters	14.42	2.46
Piledrivermen	15.07	2.46
Area 3:		
Carpenters	16.45	2.75+c
Piledrivermen	16.70	4.11
CARPENTERS and PILEDRIVERMEN: (Cont'd)		
Area 4:		
Carpenters	$16.95	$3.86
Piledrivermen	16.70	4.11
Area 5:		
Carpenters	14.42	2.46
Piledrivermen	15.07	2.46
Area 6:		
Carpenters	14.71	3.15
Piledrivermen	15.47	3.15
Area 7:		
Carpenters	15.80	2.075
Piledrivermen	15.80	2.075
Area 8:		
Carpenters	15.68	2.41
Piledrivermen	16.16	2.41
Area 9:		
Carpenters	14.71	3.15
Piledrivermen	15.47	3.15
Area 10:		
Carpenters	15.15	2.47
Piledrivermen	15.15	2.47
Area 11:		
Carpenters	17.26	1.81
Piledrivermen	16.81	2.41
Area 12:		
Carpenters	16.45	2.75+c
Piledrivermen	16.81	2.41
Area 13:		
Carpenters;		
Piledrivermen	16.81	2.41
Area 14:		
Carpenters	14.71	3.15
Piledrivermen	15.47	3.15
Area 15:		
Carpenters	14.76	3.44
Piledrivermen	15.61	3.44
Area 16:		
Carpenters	16.26	2.88
Piledrivermen	16.70	4.11
CEMENT MASONS:		
Area 1	16.23	1.92
Area 2	15.38	1.92
Area 3	15.03	1.92

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
Area 1	$17.03	$3.32
Area 2	16.00	2.75
Area 3	16.98	2.30
Area 4	17.60	3.62
Area 5	18.23	2.77
Area 6:		
Electricians	16.25	4.56
Cable Splicers	16.50	4.57
Area 7:		
Electricians	15.03	4.49
Cable Splicers	15.28	4.50
Area 8:		
Within 18 miles of Hamilton County Court House	17.75	3.17
From 18 to 21 miles	18.05	3.18
From 21 to 25 miles	18.15	3.185
Over 25 miles	18.30	3.19
Area 9:		
Electricians	17.40	2.61
Cable Splicers	17.90	2.63
Area 10:		
Electricians	18.00	7.74
Cable Splicers	18.50	7.955
Area 11	17.10	3.16
Area 12	15.89	2.42
Area 13:		
Within 11 mile radius of 3rd and Main Streets, Dayton, Ohio	16.98	2.34
Beyong 11 mile radius	17.21	2.35
Area 14:		
Electricians	13.30	3.02
Cable Splicers	13.70	3.03
Area 15	17.90	3.06
Area 16	15.95	2.53
Area 17	17.90	3.24
Area 18:		
Electricians	19.50	2.44
Cable Splicers	22.425	2.54

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS: (Cont'd)		
Area 19:		
Electricians	$16.90	$2.59
Cable Splicers	17.50	2.605
Area 20	17.05	1.51
Area 21:		
Electricians	17.30	1.58
Cable Splicers	18.60	1.62
Area 22:		
Electricians	17.82	3.29
Cable Splicers	18.71	3.32
Area 23:		
Electricians	17.93	2.42
Cable Splicers	18.18	2.43
Area 24:		
Electricians	17.32	3.28
Cable Splicers	18.19	3.31
Area 25	18.20	2.96
Area 26:		
Electricians	17.69	2.94
Cable Splicers	18.93	2.975
IRONWORKERS:		
Area 1:		
Up to 10 miles from Union Hall in Ashland, Kentucky	17.[illegible]3	3.11
10 to 60 miles from Union Hall in Ashland, Kentucky	17.5[illegible]	3.11
60 miles and over from Union Hall in Ashland, Kentucky	19.52	3.11
Area 2:		
Reinforcing	16.18	3.12
Ornamental; Structural	16.28	3.18
Fence Erectors	14.65	3.18
Area 3:		
Within 15 miles radius of Local Union Office #290	16.11	2.95
Outside 15 miles radius of Local Union Office #290	16.26	2.95

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS: (Cont'd)		
Area 4	$14.20	$3.89
Area 5	15.46	3.79
Area 6	15.50	3.62
Area 7	17.62	3.12
Area 8	16.01	3.16
Area 9	14.25	2.48
Area 10	13.96	5.59
Area 11	16.10	3.90
Area 12	17.75	3.44
Area 13	16.00	3.90
Area 14	15.85	3.90
PAINTERS:		
Area 1:		
Brush	14.35	1.03
Spray	15.35	1.03
Area 2:		
Brush and Roller	13.[illegible]5	1.59
Sandblasting; Spray; Steam Cleaning	13.55	1.[illegible]9
Area 3:		
Brush	13.70	.95
Structural Steel	14.20	.95
Spray	14.45	.95
Area 4:		
Brush	17.[illegible]	2.62
Bridge and Open Steel; Closed Steel over 55'	17.26	2.[illegible]2
Closed Steel below 55'; Spray	16.9[illegible]	2.62
Area 5:		
Brush	14.60	
Spray	15.25	
Area 6:		
Brush	13.00	1.75
Roller	13.50	1.75
Spray	14.00	1.75
Bridges	14.50	1.75
Area 7:		
Brush	16.40	1.00
Spray	16.90	1.00
Area 8:		
Brush	15.73	d
Spray	16.73	d

	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Area 9:		
Brush	$15.31	$2.10
Spray	15.84	2.10
Structural Steel	16.02	2.10
Area 10:		
Brush	13.75	1.00
Spray	14.45	1.00
Area 11:		
Brush; Roller	16.12	1.00
Structural Steel	16.52	1.00
Spray; Sandblast	16.62	1.00
Area 12:		
Brush	15.24	2.66
Sandblasting; Spray	15.94	2.66
Area 13:		
Brush	14.59	2.52
Structural Steel	14.89	2.52
Spray	15.09	2.52
Area 14:		
Brush	15.30	1.70+e
Structural Steel	15.75	1.70+e
Area 15:		
Brush	14.90	3.36
Spray	15.45	3.36
Bridge Railings	15.15	3.36
Area 16:		
Brush; Roller	14.20	.70+f
Sandblasting; Spray; Waterblasting	14.90	.70+f
Area 17:		
Brush	12.00	
Steel; Bridge	12.50	
Spray	13.00	
Sandblasting	14.00	
Area 18:		
Brush	16.22	2.05+g
Spray; Sandblasting	16.72	2.05+g
Area 19:		
Brush; Paperhanger; and Roller	15.25	2.42
Structural Steel	16.00	2.42
Spray	16.10	2.42

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	Basic Hourly Rates	Fringe Benefits
PLUMBERS; STEAMFITTERS and PIPEFITTERS:		
Area 1:		
Within 10 mile radius of Portsmouth	$17.00	$2.85
Over 10 and within 20 mile radius of Portsmouth	17.2■	■.■5
Over 20 and within 35 mile radius of Portsmouth	17.35	2.■5
Over 35 mile radius of Portsmouth	17.60	2.85
Area 2	17.30	2.20
Area ■	17.85	2.73
Area 4:		
Plumbers	17.43	3.22
Pipefitters and Steamfitters	17.67	3.18
Area 5	13.39	3.34
Area 6:		
Plumbers; Gas Fitters Steamfitters; Pipefitters	16.32	3.42
	17.51	3.86
Area 7	17.50	1.95
Area 8	17.33	2.12
Area 9	15.92	2.31+h
Area 10	17.99	1.81
Area 11	17.40	2.22
Area 12:		
Within 12 mile radius of 3rd and Main Streets, Dayton, Ohio	17.46	2.33
Outside 12 mile radius of 3rd and Main Streets Dayton, Ohio	17.71	2.33
Area 13	16.61	2.72
Area 14	17.57	5.36
Area 15	17.90	3.42
Area 16	17.85	2.54
Area 17	16.25	3.05
Area 18	16.04	1.73
Area 19	15.92	3.83

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
(Excluding Railroad Construction):		
Group 1:		
Zone 1	$14.48	$2.70
Zone 2	13.25	2.70
Zone 3	12.82	2.70
Group 2:		
Zone 1	14.605	2.70
Zone 2	13.375	2.70
Zone 3	12.945	2.70
Group 3:		
Zone 1	14.68	2.70
Zone 2	13.45	2.70
Zone 3	13.02	2.70
Group 4:		
Zone 1	14.83	2.70
Zone 2	13.60	2.70
Zone 3	13.17	2.70
Group 5:		
Zone 1	15.13	2.70
Zone 2	13.90	2.70
Zone 3	13.47	2.70
(Railroad Construction):		
Cuyahoga, Geauga, Lake, Lorain, Lucas, Portage, and Summit Counties	8.75	2.70
Remaining Counties	8.25	2.70
POWER EQUIPMENT OPERATORS		
Zone 1: Columbiana, Mahoning and Trumbull Counties:		
Class 1	15.61	2.21
Class 2	14.92	2.21
Class 3	14.28	2.21
Class 4	13.87	2.21
Class 5	13.77	2.21
Class 6	15.88	2.21

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (Cont'd)		
Zone 2: Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, Medina, Portage and Summit Counties:		
Master Mechanic	$17.38	$3.06
Class A	17.13	3.06
Class B	17.03	3.06
Class C	15.99	3.06
Class D	15.52	3.06
Class E	11.83	3.06
Zone 3: Remainder of Counties:		
Master M■■■anic	16.64	3.06
Class A	16.39	3.06
Class B	16.27	3.06
Class C	15.23	3.06
Class D	14.80	3.06
Class E	10.94	3.06
TRUCK DRIVE■■:		
Zone 1: Cuyahoga, Geauga, and Lake Counties:		
Class 1	13.15	.05+i
Class 2	13.30	.05+i
Class 3	13.65	.05+i
Zone 2: Remainder of State:		
Class 1	13.47	.05+j
Class 2	13.52	.05+j
Class 3	13.57	.05+j
Class 4	13.67	.05+j
Class 5	13.77	.05+j
Class 6	13.94	.05+j
LINE CONST■UCTION:		
Area 1:		
Cable Splicers; Linemen Welders	20.14	2.90
Linemen	18.31	2.84
Operators: All mechanized equipment	14.65	2.71
Groundmen	11.90	2.62

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
Area 2:		
Linemen	$16.67	$1.28
Equipment Operators	15.00	1.23
Groundmen; Truck Drivers	10.96	1.0■
Area 3:		
Equipment Operators; Linemen	16.98	2.36
Line Truck Driver	10.18	2.13
Groundmen	11.03	2.16
Area 4:		
Cable Splicers; Equipment Operators; Line Truck Drivers; and Linemen	17.40	3.81
Groundmen	14.40	3.70
Area 5:		
Cable Splicers; Linemen; Operator - Pole-digging Equipment	18.70	2.29
Groundmen	14.96	1.97
Area 6:		
Equipment Operators; Linemen and Technicians	15.■3	4.4■
Cable Splicers; Welders	15.28	4.46
Groundmen	12.02	4.36
Area 7:		
Zone 1:		
Linemen; Machine Operators	17.75	3.17
Groundmen	13.31	3.015
Zone 2:		
Linemen; Machine Operators	18.05	3.18
Groundmen	13.61	3.03
Zone 3:		
Linemen; Machine Operators	18.15	3.185
Groundmen	13.71	3.03
Zone ■:		
Linemen; Machine Operators	18.30	3.19
Groundmen	13.86	3.035

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
Area 8:		
Linemen	$17.40	$2.61
Cable Splicers	17.90	2.63
Groundmen	12.18	2.43
Area 9:		
Cable Splicers	15.99	3.13
Linemen	17.10	3.16
Line Equipment Operators	14.84	3.09
Groundmen; Truck Drivers	11.24	2.97
Area 10:		
Linemen; Line Equipment Operators; Truck Drivers	18.00	7.65
Cable Splicers	18.50	7.86
Groundmen	11.70	4.97
Area 11:		
Cable Splicers; Equipment Operators; Linemen	19.[illegible]3	1.39
Groundmen	12.[illegible]9	1.15
Area 12:		
Cable Splicers; Lineman	1[illegible].9[illegible]	2.49
Operators: Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	16.98	2.49
Line Truck with Winch or Pole and Steel Handling	12.74	2.345
None-specialized Truck and Misc. Equipment; Groundmen - Truck Driver	10.19	2.26
Area 13:		
Cable Splicers	13.7[illegible]	3.08
Linemen; Heavy Equipment Operators	13.30	2.99
Groundmen and Truck Drivers	11.90	2.68

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
Area 14:		
Cable Splicers; Equipment Operators; Linemen	$17.24	$1.30
Groundmen	10.25	1.06
Area 15:		
Linemen	18.20	2.25+k
Technicians	17.65	2.20+k
Cable Splicers	20.93	2.48+k
Operator, Class 1	14.56	1.94+k
Operator, Class 2	12.74	1.78+k
Groundmen	10.92	1.63+k
Area 16:		
Cable Splicers; Equipment Operators and Linemen	18.32	1.34
Groundmen	10.25	1.06
Area 17:		
Cable Splicers; Equipment Operators and Linemen	17.05	1.58
Truck Drivers (winch); Groundmen; Groundmen	11.08	1.37
Area 18:		
Cable Splicers; Linemen; Operators: All mechanized equipment	16.50	1.28
Groundmen - Truck Drivers	13.08	1.16
Groundmen	10.09	1.05
Area 19:		
Cable Splicers	18.60	1.65
Linemen; Equipment Operator	17.30	1.605
Truck Drivers	10.33	1.36
Groundmen	9.87	1.345
Area 20:		
Cable Splicers; Linemen	15.83	1.25
Equipment Operators	13.84	1.13
Groundmen	10.25	1.06

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
Area 21:		
Cable Splicers; Equipment Operators and Linemen	$17.93	$2.98
Truck Drivers (Winch), Groundman; Groundman	11.65	2.76
Area 22:		
Cable Splicers; Equipment Operators; and Linemen	18.20	3.04
Truck Driver (Winch), Groundman; Groundman	11.83	2.81
Area 23:		
Linemen	17.69	2.99
Cable Splicers	18.93	3.03
Equipment Operators	13.27	2.83
Truck Drivers; Groundman	[illegible].[illegible]5	[illegible].68
Area 24:		
Cable Splicers; Equipment Operators; Linemen	17.24	1.20
Groundmen	10.25	.96

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: Statewide, except Columbiana, Mahoning and Trumbull Counties: Well and Pump Work (including Drilling and Repair of all Water Wells; Test Holes and Wells; and Installation and Repair of Deep Well type and Shallow Well Pumps on Water Wells):		
Well Driller and Pump Installer	$8.1[illegible]	$ .61+ 1 & m

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving

AREA DESCRIPTION[illegible] (Cont'd)

[illegible]ICKLAYERS and [illegible]TON[illegible]MASONS: (Cont'd)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving Day; and G-Christmas Day

FOOTNOTES:
a. $75.00 per year per employee
b. 2 Paid Holidays: C & D
c. 2 Paid Holidays: B and C
d. $35.00 per year per employee
e. $50.00 per year per employee
f. 6 Paid Holidays: A, C, E, G, Decoration Day, and Veterans Day
g. 2 Paid Holidays: C and D
h. 1 Paid Holiday: D providing employee has worked 5 consecutive days before and after the Holiday
i. $68.00 per week per employee; 1 week's paid vacation for 1 year of service, 2 weeks' paid vacation for 5 years, 3 weeks' paid vacation for 10 years and 4 weeks' paid vacation for 17 years' service; 7 Paid Holidays: A through F and National Election Day
j. $68.00 per week per employee
k. 10 Paid Holidays: A through G and Good Friday, Christmas Eve, and New Year's Eve
l. 9 Paid Holidays: A through G, Good Friday and Christmas Eve Day
m. Employees who have been in continuous employment of the company for less than 1 year as of January 1 will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year - 2 weeks' paid vacation; 11th continuous calendar year - 3 weeks' paid vacation

AREA DESCRIPTIONS

BRICKLAYERS and STONEMASONS:
Area 1: Adams and Scioto Counties
Area 2: Allen, Auglaize, Mercer and Van Wert Counties
Area 3: Ashland, Crawford, Hardin, Holmes, Marion, Morrow, Richland, Wayne (except the Townships of Milton and Chippewa), and Wyandot (except the Townships of Crawford, Richland, Ridge and Tymochtee) Counties
Area 4: Ashtabula County
Area 5: Athens County
Area 6: Belmont, Jefferson (Warren, Mt. Pleasant and Dillonvale) and Monroe Counties
Area 7: Brown, Butler, Clermont, Hamilton, Preble (Townships of Dixon, Gratis, Isreal, Lanier, and Somers), and Warren Counties

AREA DESCRIPTIONS (Cont'd)

BRICKLAYERS and STONEMASONS: (Cont'd)
Area 8: Carroll, Columbiana (Townships of Butler, Hanover, Knox and West), Stark and Tuscarawas Counties
Area 9: Champaign, Clark and Logan Counties
Area 10: Clinton and Highland Counties
Area 11: Columbiana County (Townships of Center, Elk Run, Fairfield, Middletown, New Waterford, Perry, Salem and Unity), Mahoning County and the City of Youngstown
Area 12: Columbiana (Townships of East Liverpool, Franklin, Madison, St. Clair, Washington, Wayne and Yellow Creek), and Jefferson (Townships of Bush, Creek and Saline) Counties
Area 13: Coshocton, Fairfield, Guernsey, Hocking, Knox, Licking, Morgan, Muskingum and Perry Counties
Area 14: Cuyahoga County and Medina County (except the Townships of Chatham, Wadsworth, Guilford, Westfield, Sharon, Lafayette, Harrisville, Homer, Litchfield and Spencer)
Area 15: Darke, Miami, and Shelby Counties
Area 16: Defiance, Fulton (except the Townships of Amboy, Fulton, and Swan Creek), Henry (except the Townships of Barlow, Damascus, Liberty, Marion, Monroe, Richfield, Washington and that part of Harrison outside the City limits of Napolean), Paulding, Putnam and Williams Counties
Area 17: Delaware, Franklin, Madison, Pickaway and Union Counties
Area 18: Erie, Hancock, Huron, Ottawa, Sandusky, Seneca, Wood (Perry and Bloom Townships), Wyandot (Tymochtee, Crawford, Ridge, and Richland Townships) Counties and Island of Lake Erie north of Sandusky
Area 19: Fayette, Pike and Ross Counties
Area 20: Fulton (Remainder of County), Henry (Remainder of County), Lucas, and Wood (Remainder of County) Counties
Area 21: Gallia and Meigs Counties
Area 22: Geauga and Lake Counties
area 23: Greene, Montgomery, and Preble (Remainder of County) Counties
Area 24: Harrison and Jefferson (Remainder of County) Counties
Area 25: Jackson and Vinton Counties
Area 26: Lawrence County
Area 27: Lorain and Medina (Chatham, Harrisville, Homer, Litchfield, and Spencer Townships) Counties
Area 28: Medina (Remainder of County), Portage, Summit and Wayne (Townships of Milton and Chippewa) Counties
Area 29: Noble (Remainder of County) and Washington Counties
Area 30: Trumbull County (except the City of Youngstown)

AREA DESCRIPTIONS (Cont'd)

CARPENTERS and PILEDRIVERMEN:
Area 1: Adams, Fayette, Gallia, Highland, Jackson, Lawrence, Meigs, Pike, Ross, and Scioto Counties
Area 2: Allen, Auglaize, Champaign, Clark, Coshocton, Delaware, Fairfield, Franklin, Guernsey, Hardin, Holmes, Knox, Licking, Logan, Madison, Marion, Mercer, Morgan, Morrow, Muskingum, Noble, Perry, Pickaway, Putnam, Union, Van Wert, and Wyandot Counties
Area 3: Ashland, Crawford, Erie (East of B & O Railroad Tracks), Huron, Lorain, and Richland Counties
Area 4: Ashtabula, Cuyahoga, Geauga and Lake Counties
Area 5: Athens, Hocking, Vinton and Washington Counties
Area 6: Belmont and Monroe Counties
Area 7: Brown, Butler, Clermont, Clinton, Hamilton, and Warren Counties
Area 8: Carroll, Stark, Tuscarawas, and Wayne Counties
Area 9: Columbiana and Jefferson Counties
Area 10: Darke, Greene, Miami, Montgomery, Preble and Shelby Counties
Area 11: Defiance, Henry, Paulding and Williams Counties
Area 12: Erie (West of B & O Railroad Tracks), Ottawa, Sandusky and Seneca Counties and the City of Fostoria in Hancock and Wood Counties
Area 13: Fulton, Lucas, Hancock and Wood Counties excluding the City of Fostoria
Area 14: Harrison County
Area 15: Mahoning and Trumbull Counties
Area 16: Medina, Portage, and Summit Counties

CEMENT MASONS:
Area 1: Ashtabula, Cuyahoga, Fulton, Geauga, Hancock, Henry, Lake, Lucas, Putnam, and Wood Counties
Area 2: Brown, Butler, Clermont, Columbiana, Defiance, Erie, Hamilton, Highland, Huron, Lorain, Mahoning, Medina, Ottawa, Paulding, Portage, Sandusky, Seneca, Stark, Summit, Trumbull, Warren, and Williams Counties
Area 3: Remaining Counties

ELECTRICIANS:
Area 1: Adams, Jackson (all but Coal, Jackson, Liberty, Milton and Washington Townships), Pike (Townships of Camp Creek, Marion, Newton, Scioto, Sunfish, and Union), and Scioto Counties
Area 2: Allen, Auglaize, Hardin, Logan, Mercer, Shelby, Van Wert, and Wyandot (west of Crane, Pitt, and Tymochtee Townships) Counties
Area 3: Ashland, Crawford, Huron (Townships of Greenwich, New Haven, Richmond, and Ripley), Knox (North half including Clinton, Howard, Liberty, Monroe, and Union Townships), Marion, Morrow, Richland, and Wyandot (Remainder of County) Counties
Area 4: Ashtabula County (all but Colebrook, Orwell, Wayne, Williamsfield and Windsor Townships)

AREA DESCRIPTIONS (Cont'd)

ELECTRICIANS: (Cont'd)
Area 5: Ashtabula (Remainder of County), Geauga (Townships of Auburn, Middlefield, Parkman, and Troy), Mahoning (Milton Township), Portage (Townships of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris, and Windham), and Trumbull (except Hubbard and Liberty Townships) Counties
Area 6: Athens, Meigs, Monroe, Morgan, Noble, Vinton (East of Clinton, Elk and Swan Townships), and Washington Counties
Area 7: Belmont County
Area 8: Brown, Clermont, and Hamilton Counties
Area 9: Butler and Warren (excluding Clear Creek, Franklin and Wayne Townships) Counties
Area 10: Carroll (South of Fox, Harrison, Rose and Washington Townships), Harrison and Jefferson Counties
Area 11: Carroll (Remainder of County), Columbiana (Knox Township), Holmes, Mahoning (Smith Township), Stark, Tuscarawas (North half excluding Townships of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, and Bucks), and Wayne (South of Baugham, Chester, Green, and Wayne Townships) Counties
Area 12: Champaign, Clark and Madison (Townships of Paint, Pike, Somerford, Stokes and Union) Counties
Area 13: Clinton, Darke, Greene, Miami, Montgomery, Preble, and Warren (Remainder of County) Counties
Area 14: Columbiana County (except Townships of Butler, Fairfield, Knox, Perry, Salem and Unity)
Area 15: Columbiana (Townships of Butler, Fairfield, Perry, Salem and Unity), Mahoning (excluding Milton and Smith Townships), and Trumbull (Townships of Hubbard and Liberty) Counties
Area 16: Coshocton, Guernsey, Knox (Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, and College Townships), Licking, Muskingum, Perry, and Tuscarawas (South half including Townships of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, and Bucks) Counties
Area 17: Cuyahoga, Geauga (Townships of Bainbridge, Chester and Russell), and Lorain (Township of Columbia) Counties
Area 18: Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams and Wood Counties
Area 19: Delaware, Fairfield, Franklin, Madison (Remainder of County), Pickaway (excluding Deer Creek, Perry, Pickaway, Salt Creek and Wayne Townships), and Union Counties
Area 20: Erie and Huron (Remainder of County) Counties
Area 21: Fayette, Highland, Hocking, Jackson (Remainder of County), Pickaway, Pike, Ross, and Vinton Counties
Area 22: Gallia County
Area 23: Geauga (except Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell, and Troy Townships), and Lake Counties
Area 24: Lawrence County

AREA DESCRIPTIONS (Cont'd)

ELECTRICIANS: (Cont'd)
Area 25: Lorain (Remainder of County) and Medina (Townships of

AREA DESCRIPTIONS (Cont'd)

IRONWORKERS: (Cont'd)
Area 9: Athens, Meigs, Morgan, Noble and Washington Counties

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AREA DESCRIPTIONS (Cont'd)

ELECTRICIANS: (Cont'd)
Area 25: Lorain (Remainder of County), and Medina (Townships of Litchfield and Liverpool) Counties
Area 26: Medina (Remainder of County), Portage (excluding Townships of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris, and Windham), Summit, and Wayne (remainder of County) Counties

IRONWORKERS:
Area 1: Adams (East half), Gallia, Jackson (South half), Lawrence, Pike (South half), and Scioto Counties
Area 2: Adams (West half), Brown, Butler (South half), Clermont, Clinton (South of a line drawn from Blanchester to Lynchburg), Hamilton, Highland (excluding Eastern 1/5 and portion of County inside lines drawn from Marshall to Lynchburg and from the North County Line through East Monroe to Marshall), and Warren (South half) Counties
Area 3: Allen (South half), Auglaize, Butler (North half), Champaign (West 2/3), Clark (West 3/4), Clinton (excluding South of a line drawn from Blanchester to Lynchburg), Darke, Greene, Highland (inside lines drawn from Marshall to Lynchburg and from the North County Line through East Monroe to Marshall), Logan (West 2/3), Mercer (South half), Miami, Montgomery, Preble, Shelby, and Warren (North half) Counties
Area 4: Allen (North half), Defiance (except portion South of a line drawn from where Rt. #66 meets the North line through Independence to the East County border), Mercer (North half), Paulding, Putnam (except portion East of a line drawn from the North border down through Miller City to where 696 meets the South border), Van Wert, and Williams (except portion East of a line drawn from Pioneer through Stryker to the South border) Counties
Area 5: Ashland, Carroll, Coshocton (excluding portion West of a line beginning at Northwest County Line going through Walhonding and Tunnel Hill to the South County Line), Holmes, Rishland, Stark, Tuscarawas, and Wayne Counties
Area 6: Ashtabula County (Northeastern 1/4)
Area 7: Ashtabula (Northwestern 1/4), Columbiana (excluding area East of a line from Damascus to Highlandtown), Cuyahoga, Erie (excluding Western 1/3), Geauga (except portion East of a line from Austinburg to Middlefield and South), Huron (excluding portion West of a line drawn from the North border through Monroeville and Willard), Lake, Lorain, Medina, Portage (excluding Ravenna Ordnance Depot), and Summit Counties
Area 8: Ashtabula (South half), Columbiana (East of a line from Damascus to Highlandtown), Geauga (East of a line from Austinburg to Middlefield and South), Mahoning, Portage (east of a line from Middlefield to Shalersville to Deerfield), and Trumbull Counties

AREA DESCRIPTIONS (Cont'd)

IRONWORKERS: (Cont'd)
Area 9: Athens, Meigs, Morgan, Noble and Washington Counties
Area 10: Belmont, Guernsey, Harrison, Jefferson, Monroe, and Muskingum (except portion West of a line starting at Adams Mill going to Adamsville and going from Adamsville through Blue Rock to the South Border) Counties
Area 11: Champaign (Eastern 1/3), Clark (Eastern 1/4), Coshocton (West of a line beginning at Northwestern County line going through Walhonding and Tunnel Hill to the South County line), Crawford (South of Route 30), Fayette, Hardin (except a line drawn from Roundhead to Maysville), Highland (Eastern 1/5), Hocking, Jackson (North half), Knox, Logan (Eastern 1/3), Marion, Morrow, Muskingum (West of a line starting at Adams Mill going to Adamsville and going from Adamsville through Blue Rock to the South border), Perry, Pike (North half), Ross, Vinton, and Wyandot (South of Route 30) Counties
Area 12: Crawford (area between lines drawn from where Highway 598 and 30 meet through North Liberty to the South border and from said Highway junction point due West to the border), Defiance (South of a line drawn from where Route 66 meets the North line through Independence to the East County border), Erie (Western 1/3), Fulton, Hancock, Hardin (North of a line drawn from Maysville to a point 4 miles South of the North line on the East line), Henry, Huron (West of a line drawn from the North border through Monroeville and Willard), Lucas, Ottawa, Putnam (East of a line drawn from the North border down through Miller City to Where 696 meets the South border), Sandusky, Seneca, Williams (East of a line drawn from Pioneer through Stryker to the South border), Wood and Wyandot (Area North of Route #30) Counties
Area 13: Delaware, Fairfield, Licking, Madison, Pickaway, and Union Counties
Area 14: Franklin County

PAINTERS:
Area 1: Adams, Highland, Jackson, Pike and Scioto Counties
Area 2: Allen, Auglaize, Defiance, Hardin, Mercer, Paulding, Putnam, Shelby, Van Wert, and Williams Counties
Area 3: Ashland, Crawford, Marion, Morrow, and Richland Counties
Area 4: Ashtabula, Cuyahoga, Geauga, Lake, Lorain (Northeastern part), Portage (North of the Ohio Turnpike), and Summit (North of the Ohio Turnpike) Counties
Area 5: Athens and Hocking Counties
Area 6: Belmont, Harrison, Jefferson, and Monroe Counties
Area 7: Brown, Clermont and Hamilton Counties
Area 8: Butler and Warren Counties
Area 9: Carroll, Holmes, Stark, Tuscarawas, and Wayne Counties
Area 10: Champaign, Clark, Logan, and Madison Counties

AREA DESCRIPTIONS (Cont'd)

PAINTERS: (Cont'd)
Area 11: Clinton, Darke, Greene, Miami, Montgomery, and Preble Counties
Area 12: Columbiana, Mahoning, Portage (Ravenna Ordnance Depot), and Trumbull Counties
Area 13: Delaware, Fairfield, Fayette, Franklin, Pickaway, Ross, and Union Counties
Area 14: Erie, Hancock, Huron, Sandusky, Seneca, and Wyandot Counties
Area 15: Fulton, Henry, Lucas, Ottawa, and Wood Counties
Area 16: Gallia, Lawrence, Meigs, and Vinton Counties
Area 17: Knox, Licking, Muskingum, and Perry Counties
Area 18: Lorain County (Remainder of County)
Area 19: Medina, Portage (up to and including the Ohio Turnpike), and Summit (up to and including the Ohio Turnpike) Counties

PLUMBERS; STEAMFITTERS; and PIPEFITTERS:
Area 1: Adams, Athens, Gallia, Highland, Jackson, Lawrence, Pike, Scioto, and Vinton Counties
Area 2: Allen, Auglaize, Hardin, Mercer, Shelby, and Van Wert Counties
Area 3: Ashland, Crawford, Erie, Huron, Knox, Lorain, Morrow, Richland, and Wyandot Counties
Area 4: Ashtabula, Cuyahoga, Geauga, Lake, Medina (North of Route 18 excluding City of Medina), Portage (North of #303), Summit (North of Route #303, excluding City of Hudson) Counties
Area 5: Belmont, Monroe (North of Route 78) Counties
Area 6: Brown, Clermont and Hamilton Counties
Area 7: Butler (North half), Warren (North of Route #63 including Lebanon and South Lebanon) Counties
Area 8: Butler (South half), Warren (South of Route #63 including Lebanon and South Lebanon) Counties
Area 9: Carroll (except Townships of Ross, Monroe, Union, Lee, Orange, Perry, and London), Stark and Wayne Counties
Area 10: Carroll (Townships of Ross, Monroe, Union, Lee, Orange, Perry and London), Coshocton, Guernsey, Holmes, Morgan (South of State Route #78 and from McConnelsville West on State Route #37 to the Perry County Line), Muskingum, Noble, and Tuscarawas Counties
Area 11: Champaign, Clark, Greene (Townships of Cedarville, Ceasar Creek, New Jasper, Jefferson, and Ross), Logan, and Madison (West of Route #38 including the City of London) Counties
Area 12: Clinton, Darke, Fayette, Greene (Remainder of County), Miami, Montgomery, and Preble Counties

AREA DESCRIPTIONS (Cont'd)

PLUMBERS; STEAMFITTERS; and PIPEFITTERS: (Cont'd)
Area 13: Columbiana (excluding Washington and Yellow Creek Townships and Liverpool Township, sections 35 and 36 - West of County Road #427), Mahoning, and Trumbull (Hubbard and Liberty Townships, Youngstown Municipal Airport and the Filtration Plant of the Mahoning Valley Sanitary District) Counties
Area 14: Columbiana (Washington and Yellow Creek Townships and Liverpool Township Sections 35 and 36 West of County Road #427), Harrison and Jefferson Counties
Area 15: Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, and Wood Counties
Area 16: Delaware, Fairfield, Franklin, Hocking, Licking, Madison (Remainder of County), Marion, Perry, Pickaway, Ross, and Union Counties
Area 17: Medina (Remainder of County), Portage (South of Route #303), and Summit (South of Route #303) Counties
Area 18: Meigs, Monroe (Remainder of County), Morgan (Remainder of County), and Washington Counties
Area 19: Trumbull County (Remainder of County)

LINE CONSTRUCTION:
Area 1: Adams, Athens, Gallia, Lawrence, Meigs, Scioto, Jackson (except Coal, Jackson, Liberty, Milton, and Washington Townships) Pike (Townships of Camp Creek, Marion, Newton, Scioto, Sunfish, and Union), and Vinton (East of Clinton, Elk and Swan Townships) Counties
Area 2: Allen, Auglaize, Hardin, Logan, Mercer, Shelby, Van Wert, Wyandot (Townships of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge and Salem) Counties
Area 3: Ashland, Crawford, Huron (Townships of Richmond, New Haven, Ripley and Greenwich), Knox (Townships of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown and Jefferson), Marion, Morrow, Richland, and Wyandot (Townships of Sycamore, Crane, Eden, Pitt, Antrim and Tymochtee) Counties
Area 4: Ashtabula County (except Townships of Colebrook, Orville, Wayne, Williamsfield, and Windsor)
Area 5: Ashtabula (Townships of Colebrook, Wayne, Orwell, Williamsfield, and Windsor), Columbiana (Townships of Butler, Fairfield, Perry, Salem, and Unity), Geauga (Townships of Auburn, Middlefield, Parkman, Burton, and Troy), Mahoning (excluding Smith Township), Portage (Charleston, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris, and Windom Townships), and Trumbull Counties
Area 6: Belmont County

AREA DESCRIPTIONS (Cont'd)

AREA DESCRIPTIONS (Cont'd)

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AREA DESCRIPTIONS (Cont'd)

LINE CONSTRUCTION: (Cont'd)
Area 7: Brown, Clermont and Hamilton Counties:
Zone 1: Up to and including 18 mile radius from Hamilton County Court House, Cincinnati
Zone 2: Over 18 mile radius up to and including 21 mile radius from Hamilton County Court House, Cincinnati
Zone 3: Over 21 mile radius up to and including 25 mile radius from Hamilton County Court House, Cincinnati
Zone 4: Over 25 mile radius from Hamilton County Court House, Cincinnati
Area 8: Butler and Warren (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union and Washington Townships) Counties
Area 9: Carroll (Northern half including Fox, Harrison, Rose and Washington Townships), Columbiana (Knox Township), Holmes, Mahoning (Smith Township), Stark, Tuscarawas (North of Auburn, Clay, Rush, and York Townships), and Wayne (South of Baughman, Chester, Green and Wayne Townships) Counties
Area 10: Carroll (South of Fox, Harrison, Rose, and Washington Townships), Harrison and Jefferson Counties
Area 11: Champaign, Clark, Cuyahoga, Geauga (Bainbridge, Russell and Chester Townships), Lorain (Columbia Township), and Madison (except Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, and Pleasant Townships) Counties
Area 12: Clinton, Darke, Greene, Miami, Montgomery, Preble, and Warren (Wayne, Clear Creek, and Franklin Townships) Counties
Area 13: Columbiana County (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West and Yellow Creek Townships)
Area 14: Coshocton, Guernsey, Muskingum, Perry, and Tuscarawas (Remainder of County) Counties
Area 15: Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, and Wood Counties
Area 16: Delaware, Madison (Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range and Pleasant Townships), Pickaway (Townships of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenburg, Scioto, Walnut, and Washington), and Union Counties
Area 17: Erie and Huron (Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, and New London Townships) Counties
Area 18: Fairfield, Knox (Butler, Clay, College, Harrison, Hilliar, Jackson, Morgan, Milford, Miller, and Pleasant Townships), and Licking Counties

AREA DESCRIPTIONS (Cont'd)

LINE CONSTRUCTION: (Cont'd)
Area 19: Fayatte, Highland, Hocking, Jackson (Coal, Jackson, Liberty, Milton and Washington Townships), Pickaway (Deer Creek, Perry, Pickaway, Salt Creek and Wayne Townships), Pike (excluding Camp Creek, Marion, Newton, Scioto, Sunfish, and Union Townships), Ross, and Vinton (Western half of County, including Clinton, Elk and Swan Townships) Counties
Area 20: Franklin County
Area 21: Geauga (excluding Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman and Troy Townships), and Lake Counties
Area 22: Lorain (excluding Columbia Township), and Medina (Litchfield and Liverpool Townships) Counties
Area 23: Medina (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, and York Townships) Portage (Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantus, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro, and Suffield Townships), Summit, and Wayne (Northern half of County) Counties
Area 24: Monroe, Morgan, Noble and Washington Counties

LABORERS
(Including Railroad Construction)

Zone 1: Cuyahoga, Geauga and Lake Counties
Zone 2: Ashtabula, Erie, Huron, Lorain, Lucas, Mahoning, Medina, Ottawa, Portage, Stark, Summit, Trumbull, and Wood Counties
Zone 3: Remainder of Counties

Group 1: Asphalt Laborer; Carpenter Tender; Concrete Curing Applicator; Dump Man (Batch Trucks); Grade Checker; Guardrail and Fence Installers; Joint Setter; Laborers (construction); Landscape Laborer; Mesh Handlers and Placers; Right-of-way Laborers; Riprap Laborer and Grouter; Scaffold Erector; Seal, Coating Surface Treatment or Road Mix Laborer; Sign Installer; Slurry Seal; Utility Man or Handyman; and Waterproofing Laborer

Group 2: Asphalt Raker; Concrete Puddler; Kettle Man (Pipeline); Machine Driven Tools; Mason Tender; Mortar Mixer; Power Buggy or Power Wheelbarrow; Sheeting and Shoring Man; and Surface Grinder Man

Group 3: Air Track and Wagon Drill; Bottom Man; Car Pusher (without air); Cofferdam (below 25 feet deep); Concrete Saw Man; Cutting with Burning Torch; Form Setter; Hand Spiker (Railroad); Pipelayer; Tunnel Laborer (without air) and Caisson; Undergroundman (working in Sewer and Waterline, Cleaning, Repairing and Reconditioning); and Welder Tender (Pipeline)

Group 4: Blaster; Muckers; Powder Man; Top Lander; Wrencher (Mechanical Joints and Utility Pipeline); and Yarner

Group 5: Concrete Crew in Tunnels; Curb Setter and Cutter; Gunite Nozzle Man; Miner without air; Utility Pipeline Tapper; and Waterline Caulker

POWER EQUIPMENT OPERATORS
Zone 1 - Columbiana, Mahoning, and Trumbull Counties

Class 1: Asphalt Planer Heater; Austin Western and similar type; Backhoe; Batch Plant-Central Mix; Batch Plant-Portable Concrete; Beam Builder-Automatic; Backfiller with drag attachments; Boat Derrick; Boat-Tug; Boring Machine attached to Tractor; Bullclam; Bulldozer; C.M.I. Road Builder and similar types; Cable Placer and Layer; Carrier-Straddle; Carryall-Scraper or Scoop; Chicago Boom; Compactor with blade attached; Concrete Spreader Finisher Combination, Crane; Crane-stationary or climbing; Crane-Electric Overhead; Crane-Side Boom; Crane Truck; Crane-Tower; Derrick-Boom; Derrick-Car; Diggers-wheel (not Trencher or Road Widener); Double Nine; Drag Line; Dredge; Drill-Kenny or similar type; Electromatic; Fork Lift; Frankie Pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High Lift; Hoist-Monorail; Hoist-Stationary and Mobile Tractor; Hoist-2 or 3; Jackall; Jumbo Machine; Koeal or Kuhlman; Land-Seagoing vehicle; Loader-Elevating; Loader-Front End; Locomotive; Mechanic as Welder; Metro Clip Harvester with Boom; Mucking Machine; Paver-Asphalt Finishing Machine; Paver-Road Concrete; Paver-Slipform; Place Crete Machine; Post Driver; Power Driven Hydraulic Pumps and Jacks; Pump Crete Machine; Regulator-Ballast; Rigs-Drilling; Shovels; Spikemaster; Stonecrusher; Tie Puller and Loader; Tie Tamper; Tractor-double boom; Tractor with attachments; Trucks-Boom; Truck-tire-assigned to job; Trench Machine; Tunnel Machine (Mark 21 Java or similar); Whirley

Class 2: Asphalt Plant; Bending Machine; Boring Machine; Chip Harvester without boom; Cleaning Machine, Pipeline type; Coating Machine, Pipeline type; Concrete Belt Placer; Concrete Finisher; Concrete Planer or Asphalt; Concrete Spreader; Elevator; Fork Lift Walk Behind; Form Line Machine; Grease Truck Operator; Grout Pump; Gunnite Machine; Huck Bolting Machine; Hydraulic Scaffold; Paving Breaker; Pipe Dream; Pot Fireman; Power Broom; Refrigeration Plant; Sasgon Derrick; Seeding Machine; Self-propelled Mobile Vibrator Compactor or Roller; Hoist, single drum; Soil Stabilizer (Pump type); Spray Cure Machine, self-propelled; Straw Blower Machine; Sub-grader; Tube Finisher or Broom C.M.I. or similar type; Tugger Hoist

Class 3: Batch Plant, job related; Boiler Operator; Compressor (125 CFM or over); Curb Builder (self-propelled); Generator, steam; Jack, hydraulic driven; Mixer, Concrete; Mulching Machine; Pin Puller; Pulverizer; Pump; Road Finishing Machine (Pull type); Roller; Saw, concrete, self-propelled; Spray Cure Machine, motor powered; Spreader (Side Driver Shoulder attachment); Tractor; Trencher, Form; Water Blaster

Class 4: Brake Man; Compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing Bricklayers; Deck Hand; Drill Wagon; Fireman; Generator Sets; Heaters, portable power (2 to 5); Ladavator; Roller (Walk Behind, 1 ton and over); Steam Jenny; Syphons; Tender, Mechanic; Jack Hydaulic (Railroad); Vibrator, gasoline; Welding Machines (2) (fuel burning)

Class 5: Oiler

Class 6: Rigs, Pile Driving or Caisson type

POWER EQUIPMENT OPERATORS (Cont'd)
Zone 2 - Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, Medina, Portage and Summit Counties
Zone 3 - Remaining Counties

Class A: Air Compressor on Steel Erection; Asphalt Plant Engineer (Cleveland District only); Boiler Operator; Compressor or Generator when mounted on Rig; Cableway; Combination Concrete Mixer and Tower; Concrete Plants (over 4 yards capacity); Concrete Pumps; Cranes; Derricks; Draglines; Dredge (Dipper Clam or Suction); Elevation Grader or Euclid Loader; Floating Equipment; Helicopter Crew (Hoist or Winch); Hoes; Hoisting Engines (including Shaft and Tunnel Work); Industrial type Tractor; Jet Engineer Dryer (D8 or D9); Diesel Tractor; Locomotives (standard guage); Maintenance Operator, Class A; Mixer (paving single or double drum); Mucking Machine; Multiple Scraper; Piledriving Machine; Power Shovel; Quad 9 (double Pusher); Refrigerating Machine (freezer operation); Rotary Drill on Caisson work; Slip Form Paver; Tower Derricks; Tree Shredder; Trench Machine (over 24" wide); Truck mounted Concrete Pump; Tug Boat; Tunnel Machine and/or Mining Machine; Wheel Excavator

Class B: Asphalt Paver; Automatic Subgrader Machine, self-propelled, CMI type; Boring Machine Operator (more than 48"); Bulldozers; Endloader; Kolman Loader (production type, dirt); Lead Grease Man; Maintenance Operator, Class B (in Zone 2 - Portage and Summit Counties only); Power Grader; Power Scraper; Push Cat; Trench Machine (24" wide and under)

Class C: Air Compressor on Tunnel Work (low pressure); Asphalt Plant Engineer (in Zone 2 - Portage and Summit Counties only); Locomotive (narrow guage); Concrete Mixers (more than 1 bag capacity); Mixers (1 bag capacity - Side Loader); Power Boiler, over 15 lb. pressure; Pump Operator installing and operating Well Points; Pumps (4" and over discharge); Rollers (Asphalt); Utility Operator (small equipment); Welding Machine and Generators

Class D: Back Fillers; Bar (Joint and Mesh installing Machine); Batch Plant; Boring Machine Operator (48" or less); Bull Floats; Burlap and Curing Machine; Compressor (portable, sewer - Heavy, and Highway); Concrete Plant (4 yards and under capacity); Concrete Saw (multiple); Conveyors (Highway); Crusher, Deckhand; Drill (Highway)(with integral power); Farm type Tractors with attachments (Highway); Finishing Machine; Fireman (floating equipment); Fork Lift (Highway); Form Trenchers; Hydro Hammer; Hydro Seeder; Pavement Breaker; Plant Mixers; Post Driver; Post Hole Digger (power auger); Power Brush Burner; Power Form Handling Equipment; Road Widening Trencher; Rollers (Brick, Grade, Macadam); Self-propelled Power Spreader; Self-propelled Power Subgrader; Steam Fireman; Tractor (pulling Sheepfoot Roller or Grader); Vibratory Compactor with Integral Power

Class E: Drum Fireman (Asphalt Plant); Inboard-Outboard, Motor Boat, launch; Oil Heaters (Asphalt Plant); Oilers; Power driven Heaters; Pumps (under 4" discharge); Tenders; Tire Repairmen

TRUCK DRIVERS

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: OH83-2010

COUNTIES: *SEE BELOW
DATE: Date of Publication

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TRUCK DRIVERS
Zone 1 - Cuyahoga, Geauga, and Lake Counties

Class 1: Straight and Dumps (including Asphalt); Straight Fuel

Class 2: Semi Fuel; Semi Pole Drivers (hauling steel pipe); and Semi Tractor Drivers

Class 3: Ready-mix (Agitator or non Agitator); Bulk Concrete Drivers; Dry Batch Trucks; Carry-all Driver; Darts; Double Hook-up Tractor Trailers including Team Track and Railroad Siding; Euclids; Extra Long Trailers and Semi Pole Trailers, except when hauling steel pipe; Fork Lifts; Hi-lifts; Low Boys; Semi-tractor and Tri-axle Trailer; Tag Along Trailer; Expandable Trailers, load; Tandem Tractor, Tandem Trailer and Tri-axle Trailer; Tank Asphalt Spreaders; Tournarockers

Zone 2 - Remainder of the State

Class 1: Asphalt Distributors; Batch Trucks; 3 Wheel Service Truck; 4 Wheel Dump Trucks; Oil Distributors

Class 2: Tandems

Class 3: Fuel Trucks; Pole Trailers; Ready Mix Trucks; Semi-tractor Trucks; Asphalt Oil Spraybar Man

Class 4: All Trucks, five axle and over

Class 5: Asphalt Oiler Spraybar Man when operated from cab

Class 6: Euclid Wagons; Euclid End Dumps; Heavy Duty Equipment over 12 cu. yd. capacity; Low Boys

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NUMBER: OH83-2010 DATE: Date of Publication
Supersedes Decision No. OH82-2036, dated May 7, 1982 in 47 FR 19909
DESCRIPTION OF WORK: Building Construction Projects (Does not include single family homes and apartments up to and including 4 stories)

*ADAMS, ALLEN, ASHLAND, AUGLAIZE, BELMONT, BROWN, BUTLER, CARROLL, CHAMPAIGN, CLARK, CLERMONT, CLINTON, COLUMBIANA, COSHOCTON, CRAWFORD, DARKE, DEFIANCE, DELAWARE, ERIE, FAIRFIELD, FAYETTE, FRANKLIN, FULTON, GALLIA, GEAUGA, GREENE, GUERNSEY, HAMILTON, HANCOCK, HARDIN, HARRISON, HENRY, HIGHLAND, HOCKING, HOLMES, HURON, JACKSON, JEFFERSON, KNOX, LAWRENCE, LICKING, LOGAN, MADISON, MARION, MEDINA, MEIGS, MERCER, MIAMI, MONROE, MONTGOMERY, MORGAN, MORROW, MUSKINGUM, NOBLE, OTTAWA, PAULDING, PERRY, PICKAWAY, PIKE, PREBLE, PUTNAM, RICHLAND, ROSS, SANDUSKY, SCIOTO, SENECA, SHELBY, TUSCARAWAS, UNION, VAN WERT, VINTON, WARREN, WASHINGTON, WAYNE, WILLIAMS, WOOD, & WYANDOT

ASBESTOS WORKERS	Basic Hourly Rates	Fringe Benefits
ADAMS, BROWN, BUTLER (Twps. of Fairfield, Hanover, Liberty, Milford, Morgan, Oxford, Ripley, Ross, St. Clair, Union & Wayne), CLERMONT, HAMILTON, HIGHLAND, & WARREN (Twps. of Deerfield, Hamilton, Harlan, Salem, Union, & Washington) COS.	16.89	3.64
ALLEN, DEFIANCE, MERCER, PAULDING, VAN WERT, & WILLIAMS COS.	15.80	2.05
ASHLAND, COSHOCTON, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS.	17.75	2.24
AUGLAIZE, BUTLER (Middletown & Vic.), CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, LOGAN, MIAMI, MONTGOMERY, PREBLE, SHELBY, & WARREN (Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) COS.	13.65	3.14
BELMONT, JEFFERSON, & MONROE COS.	18.66	3.37
CARROLL, COLUMBIANA, & HARRISON COS.	17.21	3.43
CRAWFORD, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GUERNSEY, HARDIN, HOCKING, KNOX, LICKING, MADISON, MARION, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, ROSS, UNION, & VINTON COS.	18.11	3.11
ERIE (E½), GEAUGA, & HURON COS.	17.79	2.78
ERIE (W½), FULTON, HANCOCK, HENRY, OTTAWA, PUTNAM, SANDUSKY, SENECA, WOOD & WYANDOT COS.	17.50	2.48
GALLIA, JACKSON, LAWRENCE, MEIGS, PIKE, SCIOTO, & WASHINGTON COS.	15.68	1.73
BOILERMAKERS		
ADAMS, BROWN, BUTLER, CHAMPAIGN, CLARK, CLERMONT, CLINTON, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GREENE, GUERNSEY, HAMILTON, HIGHLAND, HOCKING, JACKSON, LAWRENCE, LICKING, MADISON, MEIGS, MIAMI, MONTGOMERY, MORGAN, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PIKE, PREBLE, ROSS, SCIOTO, VINTON, & WARREN COS.	18.45	4.715
ALLEN, ASHLAND, AUGLAIZE, CRAWFORD, DARKE, DEFIANCE, DELAWARE, ERIE, FULTON, HANCOCK, HARDIN, HENRY, HURON, KNOX, LOGAN, MARION, MERCER, MORROW, OTTAWA, PAULDING, PUTNAM, RICHLAND, SANDUSKY, SENECA, SHELBY, UNION, VAN WERT, WILLIAMS, WOOD, & WYANDOT COS.	19.15	3.155

DECISION NO. OH83-2010

	Basic Hourly Rates	Fringe Benefits
BOILERMAKERS (CONT'D)		
BELMONT, MONROE, & WASHINGTON COS.	18.45	2.715
CARROLL, COSHOCTON, GEAUGA, HARRISON, HOLMES, MEDINA, TUSCARAWAS, & WAYNE COS.	17.255	3.305
COLUMBIANA & JEFFERSON COS.	14.93	2.93
BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS:		
ADAMS, & SCIOTO COS.	17.30	.55
ALLEN, AUGLAIZE, MERCER & VAN WERT COS.	14.69	1.87
ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, WAYNE (Except Milton & Chippewa Twps.) & WYANDOT (Except Crawford, Ridge, Richland & Tymochtee Twps.) COS.	15.38	2.94
BELMONT, JEFFERSON (Warren & Mt. Pleasant Twps. & Village of Dillonvale), & MONROE COS.	14.67	2.34
BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Dixon, Israel, Lanier, Somers & Gratis Twps.) & WARREN COS.	16.575	1.99
CARROLL, COLUMBIANA (Twps. of Knox, Butler, West, & Hanover) & TUSCARAWAS COS.	16.19	2.12
CHAMPAIGN, CLARK, & LOGAN COS.	14.24	3.23
CLINTON & HIGHLAND COS.	12.50	
COLUMBIANA (East Liverpool, Wayne, Franklin, Madison, St. Clair, & Yellow Creek Twps.), & JEFFERSON (Brush Creek & Saline Twps.) COS.	15.00	2.00
COLUMBIANA (Center, Elk Run, Fairfield, Middleton, New Waterford, Perry, Salem & Unity Twps.) CO.	15.74	2.70
COSHOCTON, FAIRFIELD, GUERNSEY, HOCKING, KNOX, LICKING, MORGAN, MUSKINGUM, & PERRY COS.	13.80	3.25
DARKE, MIAMI, & SHELBY COS.	14.60	3.23
DEFIANCE, FULTON (Except Fulton, Amboy & Swan Creek Twps.), HENRY (Except Monroe, Bartlow, Liberty, Washington, Richfield, Marion & Damascus Twps. & that Part of Harrison outside city limits of City of Napolean), PAULDING, PUTNAM, & WILLIAMS COS.	16.22	2.06
DELAWARE, FRANKLIN, MADISON, PICKAWAY, & UNION COS.:		
Bricklayers; Caulkers; Cement Blocklayers; Cleaners; Pointers; & Stonemasons	15.79	2.50
Rubble Work	14.99	2.44
ERIE, HANCOCK, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), & WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) COS. & ISLAND OF LAKE ERIE NORTH OF SANDUSKY	15.83	3.[illegible]3
FAYETTE, PIKE, & ROSS COS.	1[illegible].[illegible]6	1.55
FULTON (Fulton, Amboy, & Swan Creek Twps.), HENRY (Washington, Damascus, Richfield, Bartlow, Liberty, Harrison, Monroe, & Marion Twps.), & WOOD (Ross, Perrysbury Lake, Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson, & Grand Rapids Twps.) COS.	16.935	2.99
GALLIA & MEIGS COS.	16.15	1.00
GEAUGA CO.	18.12	2.65+a
GREENE, MONTGOMERY & PREBLE (except Dixon, Israel, Lanier, Somers, & Gratis Twps.) COS.	14.60	[illegible].23
HARRISON, JEFFERSON (Except Mt. Pleasant Warren, Brush Creek, & Salineville Twps. & village of Dillonvale) COS.	14.02	1.43

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	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS (CONT'D)		
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE CO.	16.51	.55
MEDINA (Hinckley, Granger, Brunswick, Medina, Liverpool, Montville, & York Twps.) CO.	17.5[illegible]	3.17
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	16.72	[illegible].67
MEDINA (Litchfield, Chatham, Harrisville, Homer, & Spencer Twps.) CO.	18.05	.[illegible]1+[illegible]
NOBLE (Brookfield, Noble, Center, Sharon, Olive, Enoch, Stock, Elk, & Jackson Twps.) & WASHINGTON COS.	15.05	2.[illegible]5
[illegible]ENTERS		
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS.	1[illegible].19	2.35
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS.	14.[illegible]2	2.[illegible]6
ASHLAND, CRAWFORD, ERIE, HANCOCK (City of Fostoria), HURON, OTTAWA, RICHLAND, SANDUSKY, SENECA, & WOOD (City of Fostoria) COS.	16.[illegible]5	2.75 +c
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	14.71	3.15
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON & WARREN COS.	[illegible]6.10	2.6[illegible][illegible]
CARROLL, TUSCARAWAS, & WAYNE COS.	15.68	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	15.15	3.32
DEFIANCE, HENRY, PAULDING & WILLIAMS COS.	17.26	1.81
FULTON, HANCOCK (Except city of Fostoria), & WOOD (Except city of Fostoria) COS.	16.81	2.41
GEAUGA COUNTY	16.95	3.86
HOCKING, VINTON, & WASHINGTON COS.	14.60	2.21
MEDINA COUNTY	16.26	2.88
CEMENT MASONS		
ADAMS, LAWRENCE (Except Fayette, Union & Rome Twps.), PIKE & SCIOTO COS.	1[illegible].[illegible][illegible]	.65
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, & VAN WERT COS.	1[illegible].[illegible]5	1.5[illegible]
[illegible]SHLAND, CRAWFORD, MARION, MORROW, RICHLAND, & WYANDOT (Exclu. Tymochtee, Crawford, Ridge, & Richland Twps.) COS.	13.6[illegible]	[illegible].20
BELMONT, HARRISON, & JEFFERSON COS.	1[illegible].[illegible]3	1.1[illegible]
BROWN, BUTLER, CLERMONT, HAMILTON, HIGHLAND, & WARREN COS.	1[illegible].2[illegible]	2.55
CARROLL & TUSCARAWAS COS.	1[illegible].1[illegible]	2.12
CHAMPAI[illegible]N, CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	15.28	1.[illegible]7
COLUMBIANA CO.	16.13	1.[illegible]5+[illegible]
DEFIANCE, PAULDING, & WILLIAMS COS.	1[illegible].[illegible]5	[illegible].3[illegible]
DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HOCKING, KNOX, LICKING, MADISON, MORGAN, MUSKINGUM, PERRY, PICKAWAY, ROSS, & UNION COS.	14.25	2.2[illegible]

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	Basic Hourly Rates	Fringe Benefits
CEMENT MASONS (CONT'D)		
MEDINA (Hinckley, Granger, Brunswick, Medina, Liverpool, Montville, & York Twps.) CO.	16.[illegible]5	2.[illegible]5
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	16.[illegible]5	2.[illegible]5
MEDINA (Litchfield, Chatham, Harrisville, Homer, & Spencer Twps.) CO.	17.[illegible]5	2.[illegible]5
MEIGS & MONROE COS.	14.[illegible]5	2.[illegible]5
MORROW & RICHLAND COS.	15.[illegible]5	2.[illegible]5
MUSKINGUM & PERRY COS.	15.[illegible]5	2.[illegible]5
NOBLE & WASHINGTON COS.	14.[illegible]5	2.[illegible]5
PAULDING & PUTNAM COS.	15.[illegible]5	2.[illegible]5
PIKE & SCIOTO COS.	15.[illegible]5	2.[illegible]5
PREBLE & SHELBY COS.	15.[illegible]5	2.[illegible]5
ROSS & VINTON COS.	15.[illegible]5	2.[illegible]5
SENECA & WYANDOT COS.	15.[illegible]5	2.[illegible]5
STARK & TUSCARAWAS COS.	15.[illegible]5	2.[illegible]5
SUMMIT & WAYNE COS.	15.[illegible]5	2.[illegible]5
TRUMBULL & MAHONING COS.	15.[illegible]5	2.[illegible]5
WARREN & CLINTON COS.	15.[illegible]5	2.[illegible]5
WASHINGTON & MONROE COS.	15.[illegible]5	2.[illegible]5
WOOD & HANCOCK COS.	15.[illegible]5	2.[illegible]5
CERAMIC TILE FINISHERS		
ADAMS, ATHENS, BROWN, CLERMONT, GALLIA, HIGHLAND, HOCKING, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, SCIOTO, & VINTON COS.	1[illegible].[illegible]5	1.[illegible]5
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS.	14.[illegible]2	2.[illegible]6
ASHLAND, CRAWFORD, ERIE, HANCOCK (City of Fostoria), HURON, OTTAWA, RICHLAND, SANDUSKY, SENECA, & WOOD (City of Fostoria) COS.	16.[illegible]5	2.75 +c
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	14.71	3.15
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON & WARREN COS.	[illegible]6.10	2.6[illegible][illegible]
CARROLL, TUSCARAWAS, & WAYNE COS.	15.68	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	15.15	3.32
DEFIANCE, HENRY, PAULDING & WILLIAMS COS.	17.26	1.81
FULTON, HANCOCK (Except city of Fostoria), & WOOD (Except city of Fostoria) COS.	16.81	2.41
GEAUGA COUNTY	16.95	3.86
HOCKING, VINTON, & WASHINGTON COS.	14.60	2.21
MEDINA COUNTY	16.26	2.88

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	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS (CONT'D)		
MEDINA (Litchfield, Chatham, Harrisville, Homer, & Spencer Twps.) CO.	17.[illegible]5	3.[illegible]5
MEIGS & MONROE COS.	14.[illegible]5	3.[illegible]5
MORROW & RICHLAND COS.	15.[illegible]5	3.[illegible]5
MUSKINGUM & PERRY COS.	15.[illegible]5	3.[illegible]5
NOBLE & WASHINGTON COS.	14.[illegible]5	3.[illegible]5
PAULDING & PUTNAM COS.	15.[illegible]5	3.[illegible]5
PIKE & SCIOTO COS.	15.[illegible]5	3.[illegible]5
PREBLE & SHELBY COS.	15.[illegible]5	3.[illegible]5
ROSS & VINTON COS.	15.[illegible]5	3.[illegible]5
SENECA & WYANDOT COS.	15.[illegible]5	3.[illegible]5
STARK & TUSCARAWAS COS.	15.[illegible]5	3.[illegible]5
SUMMIT & WAYNE COS.	15.[illegible]5	3.[illegible]5
TRUMBULL & MAHONING COS.	15.[illegible]5	3.[illegible]5
WARREN & CLINTON COS.	15.[illegible]5	3.[illegible]5
WASHINGTON & MONROE COS.	15.[illegible]5	3.[illegible]5
WOOD & HANCOCK COS.	15.[illegible]5	3.[illegible]5
ELEVATOR CONSTRUCTORS		
ADAMS, ATHENS, BROWN, CLERMONT, GALLIA, HIGHLAND, HOCKING, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, SCIOTO, & VINTON COS.	1[illegible].[illegible]5	1.[illegible]5
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS.	14.[illegible]2	2.[illegible]6
ASHLAND, CRAWFORD, ERIE, HANCOCK (City of Fostoria), HURON, OTTAWA, RICHLAND, SANDUSKY, SENECA, & WOOD (City of Fostoria) COS.	16.[illegible]5	2.75 +c
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	14.71	3.15
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON & WARREN COS.	[illegible]6.10	2.6[illegible][illegible]
CARROLL, TUSCARAWAS, & WAYNE COS.	15.68	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	15.15	3.32
DEFIANCE, HENRY, PAULDING & WILLIAMS COS.	17.26	1.81
FULTON, HANCOCK (Except city of Fostoria), & WOOD (Except city of Fostoria) COS.	16.81	2.41
GEAUGA COUNTY	16.95	3.86
HOCKING, VINTON, & WASHINGTON COS.	14.60	2.21
MEDINA COUNTY	16.26	2.88

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CEMENT MASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits
ERIE, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), WYANDOT (Tymochtee, Crawford, Ridge & Richland Twps.) COS. & THE ISLAND OF LAKE ERIE N. OF SANDUSKY	15.83	3.03
FULTON, HANCOCK, HENRY, PUTNAM, & WOOD (Exclu. Perry & Bloom Twps.) COS.	15.50	2.12
GALLIA & MEIGS COS.	16.15	1.00
GEAUGA CO.	18.12	2.65 +a
HOLMES, & WAYNE (Except Milton & Chippewa Twps.) COS.	16.23	2.04
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE (Fayette, Union, & Rome Twps.) CO.	16.51	.55
MEDINA (Litchfield, Chatham, Homer, Harrisville, & Spencer Twps.) CO.	18.05	.81+b
MEDINA (Except Litchfield, Chatham, Homer, Harrisville & Spencer Twps.) CO.	16.64	1.92
MONROE, NOBLE, & WASHINGTON COS.	12.26	2.08
ELECTRICIANS		
ADAMS, JACKSON (Bloomfield, Franklin, Hamilton, Jefferson, Lick, Madison, & Scioto Twps.), PIKE (Camp Creek, Marion, Newton, Scioto, & Sunfish), & SCIOTO COS.	17.03	3.32
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, WYANDOT (Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem Twps.) COS.	16.00	2.75
ASHLAND, CRAWFORD, HURON (New Haven, Richmond, Ripley & Greenwich Twps.) KNOX (Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson Twps.), MARION, MORROW, RICHLAND, & WYANDOT (Sycamore, Crane, Eden, Pitt, & Antrim Twps.) COS.	16.98	2.30
BELMONT COUNTY:		
Electricians	15.03	4.49
Cable Splicers	15.28	4.50
BROWN, CLERMONT, & HAMILTON COS.:		
Up to & Incl. 18 mi. radius of Hamilton Co. Court House, Cincinnati	17.75	3.17
Over 18 mi. radius up to & Incl. 21. mi. radius of Hamilton Co. Court House, Cincinnati	18.05	3.18
Over 21 mi. radius up to & Incl. 25 mi. radius of Hamilton Co. Court House, Cincinnati	18.10	3.180
Over 25 mi. radius of Hamilton Co. Court House, Cincinnati	18.10	3.19
BUTLER, & WARREN (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union, & Washington Twps.) COS.:		
Electricians	17.40	2.61
Cable Splicers	17.90	2.63
CARROLL (N½ incl. Fox, Harrison, Rose & Washington Twps.), COLUMBIANA (Knox Twp.), HOLMES, TUSCARAWAS (N. of Auburn, Clay, Rush, & York Twps), & WAYNE (S. of Baugman, Chester, Green & Wayne Twps.) COS.	17.10	3.16
CARROLL (S ½ Exclu. Fox, Harrison, Rose & Washington Twps.), HARRISON, & JEFFERSON COS.:		
Electricians	18.00	7.74
Cable Splicers	18.50	7.955
CHAMPAIGN, CLARK, & MADISON (Pike, Paint, Somerford, Union, & Stokes Twps.) COS	15.89	3.42

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & WARREN (Twps. of Wayne, Clear Creek, & Franklin Twps.) COS.:		
Electrical Communications Installers within 11 mi. radius of 3rd & Main Street, Dayton	16.98	2.38
Electrical Communications Installers beyond 11 mi. radius of 3rd & Main Street, Dayton	17.31	2.35
COLUMBIANA (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West & Yellow Creek Twps.) CO.:		
Electricians	13.30	3.08
Cable Splicers	13.70	3.63
COLUMBIANA (Butler, Fairfield, Perry, Salem, & Unity Twps.) CO.	17.90	3.86
COSHOCTON, GUERNSEY, KNOX (Clay, Jackson, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College Twps.), LICKING, MUSKINGUM, PERRY, & TUSCARAWAS (Auburn, York, Jefferson, Clay, Rush, Oxford, Washington, Salem, Perry & Bucks Twps.) COS.	15.95	2.58
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.:		
Electricians	19.50	2.44
Cable Splicers	22.425	2.54
DELAWARE, FAIRFIELD, FRANKLIN, MADISON (Canaan, Darby, Deer Creek, Fairfield, Jefferson, Monroe, Oak Run, Pleasant & Range Twps.), PICKAWAY (Darby, Circleville, Harrison, Jackson, Madison, Monroe, Washington, Muhlenberg, Scioto & Walnut Twps.), & UNION COS.:		
Electricians	18.98	3.58
Cable Splicers	17.50	3.608
ERIE, & HURON (Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarkfield, Norwick, Greenfield, Fairfield, Fitchville, & New London Twps.) COS.	17.05	1.51
FAYETTE, HIGHLAND, HOCKING, JACKSON (Coal, Jackson, Liberty, Milton, & Washington Twps.), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (Except Camp Creek, Marion, Newton, Scioto, Sunfish & Union Twps.), ROSS, & VINTON (Clinton, Eagle, Elk, Harrison, Jackson, Richland, & Swan Twps.) COS.:		
Electricians	17.30	1.58
Cable Splicers	18.60	1.62
GALLIA CO.:		
Electricians	17.88	3.29
Cable Splicers	18.71	3.32
GEAUGA (Russell, Chester, & Bainbridge Twps.) CO.	17.80	3.24
GEAUGA (Auburn, Middlefield, Parkman & Troy Twps.) CO.	18.83	3.77
GEAUGA (Rem. of Co.) CO.:		
Electricians	17.93	2.82
Cable Splicers	18.18	2.83
LAWRENCE CO.:		
Electricians	17.32	3.28
Cable Splicers	18.19	3.31
MEDINA (Litchfield, & Liverpool Twps.) CO.	18.20	3.98
MEDINA (Rem. of Co.) & WAYNE (N½) COS.:		
Electricians	17.49	2.94
Cable Splicers	18.93	2.975
MEIGS, MONROE, MORGAN, NOBLE, VINTON (Brown, Knox, Madison, Vinton, & Wilkesville Twps.), & WASHINGTON COS.:		
Electricians	16.25	4.56
Cable Splicers	16.50	4.57

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ELEVATOR CONSTRUCTORS

	Basic Hourly Rates	Fringe Benefits
ADAMS, BROWN, BUTLER, CLERMONT, CLINTON, DARKE, GREENE, HAMILTON, HIGHLAND, MIAMI, MONTGOMERY, PREBLE, & WARREN COS.:		
Elevator Constructors	15.65	2.33 +e&f
Helpers	70%JR	2.33 +e&f
Helpers (Prob.)	50%JR	
ALLEN, AUGLAIZE, DEFIANCE, MERCER, PAULDING, PUTNAM, VAN WERT, & WILLIAMS COS.:		
Elevator Constructors	14.15	2.154 +e&f
Helpers	70%JR	2.154 +e+f
Helpers (Prob.)	50%JR	
ASHLAND, CRAWFORD, CLARK, COSHOCTON, CRAWFORD, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, HOCKING, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MORGAN, MORROW, MUSKINGUM, PERRY, PICKAWAY, RICHLAND, ROSS, SHELBY, TUSCARAWAS, UNION, & VINTON COS.:		
Elevator Constructors	16.385	2.465 +e&f
Helpers	70%JR	2.466 +e&f
Helpers (Prob.)	50%JR	
BELMONT, CARROLL, GUERNSEY HARRISON, JEFFERSON, MONROE, NOBLE, & WASHINGTON COS.:		
Elevator Constructors	15.07	2.69 +e&f
Helpers	70%JR	2.69 +e&f
Helpers (Prob.)	50%JR	
COLUMBIANA COUNTY:		
Elevator Constructors	16.10	2.465 +e&f
Helpers	70%JR	2.465 +e+f
Helpers (Prob.)	50%JR	
ERIE, GEAUGA, & HURON COS.:		
Elevator Constructors	18.01	2.465 +e&f
Helpers	70%JR	2.465 +e&f
Helpers (Prob.)	50%JR	
FULTON, HANCOCK, HENRY, OTTAWA, SANDUSKY, SENECA, WOOD, & WYANDOT COS.:		
Elevator Constructors	17.37	2.69 +e&f
Helpers	70%JR	2.69 +e&f
Helpers (Prob.)	50%JR	
GALLIA, JACKSON, LAWRENCE, MEIGS, PIKE, & SCIOTO COS.:		
Elevator Constructors	17.095	2.465 +e&f
Helpers	70%JR	2.465 +e&f
Helpers (Prob.)	50%JR	
MEDINA & WAYNE COS.:		
Elevator Constructors	16.76	2.465 +e&f
Helpers	70%JR	2.465 +e+f
Helpers (Prob.)	50%JR	
GLAZIERS		
ADAMS, BROWN, BUTLER (Hamilton & Vic.), CLERMONT, CLINTON (S½), HAMILTON, HIGHLAND (S. Part), & WARREN (Lebanon & South) COS.	16.36	1.51
ALLEN, AUGLAIZE, HANCOCK, HARDIN, LOGAN, MERCER, PAULDING, PUTNAM, SHELBY (N. Part), VAN WERT, & WYANDOT (Western Part) COS.	11.70	1.00
ASHLAND, CRAWFORD, HURON (S½), KNOX, MARION, RICHLAND & WYANDOT (E. Part) COS.:		
Outside Replacement	12.08	.51
Outside All Other Work	12.58	.51

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	Basic Hourly Rates	Fringe Benefits
GLAZIERS (CONT'D)		
BELMONT, GUERNSEY, HARRISON, & JEFFERSON COS.	11.90	2.12
BUTLER (Exclu. Hamilton & Vic.), CHAMPAIGN, CLARK, CLINTON (N½), DARKE, FAYETTE (W½), GREENE, HIGHLAND (N. Part), MIAMI, MONTGOMERY, PREBLE, SHELBY (S. Part), WARREN (N. of Lebanon) COS.	14.53	1.01 +g
CARROLL, COSHOCTON, HOLMES, MEDINA (S½), TUSCARAWAS, & WAYNE COS.	14.43	3.06
COLUMBIANA COUNTY	14.95	2.91
DEFIANCE, ERIE (NW Tip to Rte. #4), FULTON, HENRY, OTTAWA, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.	15.89	2.37
DELAWARE, FAIRFIELD, FAYETTE (E½), FRANKLIN, HOCKING, JACKSON, LICKING, MADISON, MORGAN, MUSKINGUM, PERRY, PICKAWAY, PIKE, ROSS, UNION & VINTON COS.	14.64	1.01
ERIE (Exclu. NW Tip to Rte #4), GEAUGA, HURON (N½), & MEDINA COS.	18.03	2.61
IRONWORKERS		
ADAMS (E½), GALLIA, JACKSON (S½), LAWRENCE, PIKE (S½), & SCIOTO COS..:		
Up to 10 mi. from Union Hall in Ashland, Ky.	17.23	3.11
10 to 60 mi. from Union Hall in Ashland, Ky.	17.56	3.11
Over 60 mi. from Union Hall in Ashland, Ky.	19.52	3.11
ADAMS (W½), BROWN, BUTLER (S½), CLERMONT, CLINTON (S. of a line drawn from Blanchester to Lynchburg) HAMILTON, HIGHLAND (Exclu. E. 1/5 and portion of Co. inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall),& WARREN (S½) COS.:		
Reinforcing	16.18	3.12
Ornamental; Structural	16.28	3.18
Fence Erectors	14.65	3.18
ALLEN (S½), AUGLAIZE, BUTLER (N½), CHAMPAIGN (W 2/3), CLARK (W 3/4), CLINTON (Exclu. S. of a line drawn from Blanchester to Lynchburg), DARKE, GREENE, HIGHLAND (Inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall), LOGAN (W 2/3), MERCER (S½), MIAMI, MONTGOMERY, PREBLE, SHELBY, & WARREN (N½) COS.:		
Within 15 mi. radius of Local Union Office #290	16.11	2.95
Outside 15 mi. radius of Local Union Office #290	16.26	2.95
ALLEN (N½), DEFIANCE (Except Portion S. of a Line drawn from where Rte. 66 meets the N. Line through Independence to the E. Co. border), MERCER (N½), PAULDING, PUTNAM (Except Portion E. of a line drawn from the N. border down thru Miller City to where 696 meets the S. border), VAN WERT & WILLIAMS (Except Portion E. of a line drawn from Pioneer thru Stryker to the S. Border) COS.	14.20	3.89
ASHLAND, CARROLL, COSHOCTON (Exclu. Portion W. of a line beginning at N. W. Co. line going thru Walhonding & Tunnel Hill to the S. Co. line), HOLMES, RICHLAND, TUSCARAWAS, & WAYNE COS.	15.46	3.79
CHAMPAIGN (E 1/3), CLARK (E½), COSHOCTON (W. of a line Beg. at N. W. Co. line going thru Walhonding & Tunnel Hill to the S. Co. line), CRAWFORD (S. of Rte 30),		

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IRONWORKERS (CONT'D)

	Basic Hourly Rates	Fringe Benefits
CLERMONT (N½), CLINTON (N½), GREENE, & WARREN (N. of Lebanon) COS.	16.36	1.51
DARKE (Exclu. SE Corner), MIAMI (Exclu. NE Corner), & SHELBY (N. Part) COS.	11.70	1.00
DEFIANCE, ERIE (NW Tip to Rte. #4), FULTON, HENRY, OTTAWA, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.	15.89	2.37
ERIE (Exclu. NW Tip to Rte #4), GEAUGA, HURON (N½), & MEDINA COS.	18.03	2.61
HOCKING (Exclu. NE Corner), JACKSON (Exclu. NE Corner), & VINTON COS.	14.64	1.01
LATHERS		
ADAMS, BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, HIGHLAND, & WARREN COS.	16.36	1.51
ALLEN, AUGLAIZE, HANCOCK, HARDIN, LOGAN, MERCER, PAULDING, PUTNAM, SHELBY (N. Part), VAN WERT, & WYANDOT (Western Part) COS.	11.70	1.00
ASHLAND, CRAWFORD, HURON (S½), KNOX, MARION, RICHLAND & WYANDOT (E. Part) COS.:		
Outside Replacement	12.08	.51
Outside All Other Work	12.58	.51

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	Basic Hourly Rates	Fringe Benefits
LATHERS (CONT'D)		
ASHLAND, CARROLL, COSHOCTON, CRAWFORD, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, HOCKING, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MORGAN, MORROW, MUSKINGUM, PERRY, PICKAWAY, RICHLAND, ROSS, SHELBY, TUSCARAWAS, UNION, & VINTON COS.:		
Lathers	16.385	2.465 +e&f
Lathers (Prob.)	50%JR	2.466 +e&f
BELMONT, CARROLL, GUERNSEY HARRISON, JEFFERSON, MONROE, NOBLE, & WASHINGTON COS.:		
Lathers	15.07	2.69 +e&f
Lathers (Prob.)	50%JR	2.69 +e&f
COLUMBIANA COUNTY:		
Lathers	16.10	2.465 +e&f
Lathers (Prob.)	50%JR	2.465 +e+f
DEFIANCE, ERIE (NW Tip to Rte. #4), FULTON, HENRY, OTTAWA, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.	15.89	2.37
ERIE (Exclu. NW Tip to Rte #4), GEAUGA, HURON (N½), & MEDINA COS.	18.03	2.61
HOCKING (Exclu. NE Corner), JACKSON (Exclu. NE Corner), & VINTON COS.	14.64	1.01
MARBLEFINISHERS		
ADAMS, BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, HIGHLAND, & WARREN COS.	16.36	1.51
ALLEN, AUGLAIZE, HANCOCK, HARDIN, LOGAN, MERCER, PAULDING, PUTNAM, SHELBY (N. Part), VAN WERT, & WYANDOT (Western Part) COS.	11.70	1.00
ASHLAND, CRAWFORD, HURON (S½), KNOX, MARION, RICHLAND & WYANDOT (E. Part) COS.:		
Outside Replacement	12.08	.51
Outside All Other Work	12.58	.51

DECISION NO. OH83-2010	Basic Hourly Rates	Fringe Benefits
IRONWORKERS (CONT'D)		
FAYETTE, HARDIN (Except a line drawn from Roundhead to Maysville), HIGHLAND (E 1/5), HOCKING, JACKSON (N½), KNOX, LOGAN (E 1/3), MARION, MORROW, MUSKINGUM (W. of a line Starting at Adams Mill going to Adamsville & going from Adamsville thru Blue Rock to the S. Border), PERRY, PIKE (N½), ROSS, VINTON, & WYANDOT (S. of Rte. #30) COS.	16.10	3.90
CRAWFORD (Area bet. lines drawn from where Hwy #598 & #30 meet thru N. Liberty to the N. Border & from said Hwy junction point due w. to the Border), DEFIANCE (S. of a line drawn from where Rte. #66 Meets the N. Line thru Independence to the E. Co. Border), ERIE (W. 1/3), FULTON, HANCOCK, HARDIN (N. of a line drawn from Maysville to a point 4 mi. S. of the N. line on the E. line), HENRY, HURON (W. of a line drawn from the N. Border thru Monroeville & Willard), OTTAWA, PUTNAM (E. of a line drawn from the N. Border thru Monroeville & Willard), OTTAWA, PUTNAM (E. of a line drawn from Pioneer thru Stryker to the S. Border), WOOD, & WYANDOT (Area N. of Rte. #30) COS.	17.75	3.44
DELAWARE, FAIRFIELD, LICKING, MADISON, PICKAWAY, & UNION COS.	16.00	3.90
COLUMBIANA (Exclu. portion E. of a line from Damascus to Highlandtown), ERIE (Exclu. W. 1/3), GEAUGA (Except portion E. of a line from Austinburg to Middlefield & South), HURON (Exclu. portion W. of a line drawn from the N. Border through Monroeville & Willard), & MEDINA COS.	17.62	3.12
COLUMBIANA (E. of a line from Damascus to Highlandtown), & GEAUGA (E. of a line from Austinburg to Middlefield & S.) COS.	16.01	3.16
FRANKLIN CO.	15.85	3.90
MEIGS, MORGAN, NOBLE, & WASHINGTON COS.	14.25	2.48
BELMONT, GUERNSEY, HARRISON, JEFFERSON, MONROE, & MUSKINGUM (Except portion W. of a line starting at Adams Mill going to Adamsville & going from Adamsville through Blue Rock to the S. Border) COS.	13.96	5.59
LATHERS		
AUGLAIZE, BUTLER (N½), CHAMPAIGN (W½), CLARK (W½), CLINTON (N½), FAYETTE (N½), LOGAN W½), MERCER, & WARREN (N½) COS.	13.39	.41
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	14.71	3.15
CLERMONT, HAMILTON, HIGHLAND (Except NE Tip), & WARREN (S½) COS.	15.72	2.625

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LATHERS (CONT'D)		
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	14.65	3.32
DEFIANCE, HENRY, PAULDING, & WILLIAMS COS.	17.26	1.81
ERIE & HURON COS.	16.30	.01
FULTON, HANCOCK, OTTAWA, SANDUSKY, SENECA, & WOOD COS.	15.51	2.41
MARBLE SETTERS; TERRAZZO WORKERS; & TILE SETTERS		
ADAMS & SCIOTO COS.	17.30	.55
ALLEN, AUGLAIZE, MERCER, & VAN WERT COS.:		
Tile Setters	18.69	1.87
ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, WAYNE (Except Milton & Chippewa Twps.), & WYANDOT (Except Crawford, Ridge, Richland, & Tymochtee Twps.) COS.	18.38	2.98
BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Dixon, Israel, Lanier, Somers, & Gratis Twps.), & WARREN COS.:		
Marble Setters	18.285	1.97
Terrazzo Workers; & Tile Setters	16.835	1.87
CARROLL & TUSCARAWAS COS.:		
Marble Setters	14.82	2.55
Terrazzo Workers	14.74	2.55
Tile Setters	18.65	8.55
CHAMPAIGN, CLARK, DARKE, GREENE, LOGAN, MIAMI, MONTGOMERY, PREBLE (Except Dixon, Israel, Lanier, Somers, & Gratis Twps.), & SHELBY COS.	13.67	3.80
CLINTON & HIGHLAND COS.	12.50	
COLUMBIANA (Center, Elk Run, Fairfield, Middleton, New Waterford, Perry, Salem & Unity Twps.) CO.	17.82	
COLUMBIANA (St Clair, Madison, Wayne, Franklin, Washington, Yellow Creek, & Liverpool Twps.), & JEFFERSON (Brush Creek & Saline Twps.) COS.	15.00	2.00
COSHOCTON, FAIRFIELD, GUERNSEY, HOCKING, KNOX, LICKING, MORGAN, MUSKINGUM, & PERRY COS.	13.80	3.25
DEFIANCE, FULTON (Except Fulton, Amboy & Swan Creek Twps.), HENRY (Except Monroe, Bartlow, Liberty, Washington, Richfield, Marion & Damascus Twps. & that part of Harrison outside city limits of City of Napolean), PAULDING, PUTNAM & WILLIAMS COS.:		
Marble Setters	16.88	2.06
DELAWARE, FRANKLIN, MADISON, PICKAWAY, & UNION COS.	16.08	.28
ERIE, HANCOCK, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), & WYANDOT (Ridge, Tymochtee, Crawford, & Richland Twps.) COS. & ISLAND OF LAKE ERIE NORTH OF SANDUSKY	15.83	3.03
FULTON (Fulton, Amboy, & Swan Creek Twps.), HENRY (Washington, Damascus, Richfield, Bartlow, Liberty, Harrison, Monroe, & Marion Twps.), & WOOD (Ross, Perrysburg, Lake, Troy, Freedom, Montgomery, Webster Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson & Grand Rapids Twps.) COS.:		
Marble Setters	16.935	2.99
FULTON (Except Fulton, Amboy, & Swan Creek Twps.), & WOOD (Except Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson & Grand Rapids Twps.) COS.:		
Terrazzo Workers; & Tile Setters	17.48	1.36

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	Basic Hourly Rates	Fringe Benefits
MARBLE SETTERS; TERRAZZO WORKERS & TILE SETTERS (CONT'D)		
GALLIA & MEIGS COS.:		
Terrazzo Workers; Tile Setters	16.15	1.00
GEAUGA CO.	18.12	2.65+a
HARRISON, & JEFFERSON (Except Mt. Pleasant, Warren, Brush Creek, & Salineville Twps. & the Village of Dillonvale) COS.:		
Tile Setters	13.78	1.43
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE CO.	16.51	.55
MEDINA (Hinckley, Granger, Brunswick, Medina, Liverpool, Montville, & York Twps.) CO.:		
Marble Setters; Terrazzo Workers	17.54	3.17
Tile Setters	17.405	2.75
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	15.77	2.57
MEDINA (Litchfield, Chatham, Homer, Harrisville, & Spencer Twps.) CO.	18.05	.81+b
NOBLE (Brookfield, Noble, Creek, Sharon, Olive, Enoch, Stock, Elk, Jackson, & Jefferson Twps.) & WASHINGTON COS.:		
Marble Setters & Tile Setters	15.05	2.05
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS & TILE SETTERS' FINISHERS		
ADAMS, BROWN, BUTLER, CLERMONT, CLINTON, FAYETTE, GALLIA, HAMILTON, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, SCIOTO, VINTON, WARREN, & WASHINGTON COS.:		
Finishers & Grinders	15.98	
Marble Sanders; Polishers; Sawyers; & Waxers	16.145	
Terrazzo Base Grinders (while Operating base grinding machine)	16.40	
ALLEN, DEFIANCE, FULTON, HENRY, PAULDING, PUTNAM, WILLIAMS, & WOOD (Exclu. Perry & Bloom Twps.) COS.	14.42	1.06
ASHLAND, GEAUGA, MEDINA (Exclu. Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & RICHLAND COS.:		
Marble Setters' Finishers	16.54	2.58
Terrazzo Workers' Finishers	16.57	2.50
Tile Setters' Finishers	16.54	2.50
AUGLAIZE, CHAMPAIGN, CLARK, DARKE, GREENE, HARDIN, LOGAN, MERCER, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.89	
CARROLL & TUSCARAWAS COS.:		
Terrazzo workers' Finishers	12.86	2.55
Terrazzo Grinders	14.20	2.55
Tile Setters' Finishers	12.74	2.55
COLUMBIANA, COSHOCTON, HARRISON, HOLMES, JEFFERSON, & WAYNE (Exclu. Milton & Chippewa Twps.) COS.	16.405	
DELAWARE, FAIRFIELD, FRANKLIN, MADISON, PICKAWAY, & UNION COS.	13.25	
HANCOCK, OTTAWA, SANDUSKY, SENECA, WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) COS.	11.08	3.03
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	15.27	2.57
MILLWRIGHTS		
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, Morrow, MUSKINGUM,		

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	Basic Hourly Rates	Fringe Benefits
MILLWRIGHTS (CONT'D)		
NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT & WYANDOT COS.	15.07	2.46
ASHLAND, CRAWFORD, ERIE (E. of B & O RR Tracks), GEAUGA, HURON, MEDINA, & RICHLAND COS.	16.63	4.18
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	15.36	2.59
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS.	16.44	2.65
CARROLL, TUSCARAWAS, & WAYNE COS.	16.16	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.11	2.57
DEFIANCE, ERIE (W of B & O RR Tracks), FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.	16.81	2.41
HOCKING, VINTON & WASHINGTON COS.	15.07	2.46
PAINTERS		
ADAMS, HIGHLAND, JACKSON, PIKE, & SCIOTO COS.:		
Brush; Exterior Bldgs. under 25 ft.; Paper or Wall Covering; Taping & Washing	13.35	1.03
Floor Sanding; Power Tools; Rollers; & Swing Stage	13.85	1.03
Burning; Sandblasting; Spray & Steamcleaning	14.35	1.03
ALLEN, AUGLAIZE, DEFIANCE, HARDIN, MERCER, PAULDING, PUTNAM, SHELBY, VAN WERT, & WILLIAMS COS.:		
Brush; Drywall Taping; & Rollers	13.05	1.59
Wall Covering	13.30	1.59
Sandblasting; Spray; & Steamcleaning	13.55	1.59
ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND COS.:		
Brush; Cleaner; Roller; & Washer	13.70	.95
Drywall; Paperhanger; Pot Tender; Spray & Wall Coverer	14.45	.95
BELMONT, HARRISON, JEFFERSON, & MONROE COS.:		
Brush	11.60	1.75
Roller	12.10	1.75
Spray	12.60	1.75
Taping	13.75	1.75
BROWN, CLERMONT, & HAMILTON COS.:		
Brush; Paperhanging; Roller; Taping; Wall Covering; & Washing	16.25	1.00
Steamcleaning	16.40	1.00
Spray	16.75	1.00
Hopper Tender; Sandblasting; & Waterblasting	17.15	1.00
BUTLER & WARREN COS.:		
Brush; Paperhanging; Roller; Taping; Wallcovering; & Washing	15.58	h
Hopper Tender; Sandblasting & Spray	16.58	h
CARROLL, HOLMES, TUSCARAWAS & WAYNE COS.:		
Brush; Rollers	15.01	2.10
Paperhangers	15.11	2.10
Drywalls	15.41	2.10
Spray	15.51	2.10
CHAMPAIGN, CLARK, LOGAN, & MADISON COS.:		
Brush	13.75	1.00
Drywall Tapers & Finishers	14.10	1.00
Spray	14.45	1.00
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS.:		
Brush; Roller	16.12	1.00
Drywall Taping & Spackling; & Wallcovering	16.47	1.00
Structural Steel Cleaning; Sandblast; & Spray	16.52	1.00
	16.62	1.00
COLUMBIANA CO.:		
Brush; Hydro-jet Cleaning; Paperhanging; Roller; Steam Cleaning; Wallwashing; & Waterproofing	15.04	2.66
Drywall Taping	15.19	2.66
Open Structural Steel	15.25	2.66
Spray	15.54	2.66

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PAINTERS (CONT'D)		
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.:		
Brush; Paperhanging; Roller; Taping; & Wallcovering	15.36	2.59
Spray	15.86	2.59
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS.:		
Brush; Paperhanging; Roller; Taping; & Wallcovering	16.44	2.65
Spray	16.94	2.65
CARROLL, TUSCARAWAS, & WAYNE COS.:		
Brush; Paperhanging; Roller; Taping; & Wallcovering	16.16	2.41
Spray	16.66	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.:		
Brush; Paperhanging; Roller; Taping; & Wallcovering	16.11	2.57
Spray	16.61	2.57
DEFIANCE, ERIE (W of B & O RR Tracks), FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.:		
Brush; Paperhanging; Roller; Taping; & Wallcovering	16.81	2.41
Spray	17.31	2.41
HOCKING, VINTON & WASHINGTON COS.:		
Brush; Paperhanging; Roller; Taping; & Wallcovering	15.07	2.46
Spray	15.57	2.46
PAPERHANGERS		
ADAMS, HIGHLAND, JACKSON, PIKE, & SCIOTO COS.:		
Brush; Exterior Bldgs. under 25 ft.; Paper or Wall Covering; Taping & Washing	13.35	1.03
Floor Sanding; Power Tools; Rollers; & Swing Stage	13.85	1.03
Burning; Sandblasting; Spray & Steamcleaning	14.35	1.03
ALLEN, AUGLAIZE, DEFIANCE, HARDIN, MERCER, PAULDING, PUTNAM, SHELBY, VAN WERT, & WILLIAMS COS.:		
Brush; Drywall Taping; & Rollers	13.05	1.59
Wall Covering	13.30	1.59
Sandblasting; Spray; & Steamcleaning	13.55	1.59
ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND COS.:		
Brush; Cleaner; Roller; & Washer	13.70	.95
Drywall; Paperhanger; Pot Tender; Spray & Wall Coverer	14.45	.95
BELMONT, HARRISON, JEFFERSON, & MONROE COS.:		
Brush	11.60	1.75
Roller	12.10	1.75
Spray	12.60	1.75
Taping	13.75	1.75
BROWN, CLERMONT, & HAMILTON COS.:		
Brush; Paperhanging; Roller; Taping; Wall Covering; & Washing	16.25	1.00
Steamcleaning	16.40	1.00
Spray	16.75	1.00
Hopper Tender; Sandblasting; & Waterblasting	17.15	1.00
BUTLER & WARREN COS.:		
Brush; Paperhanging; Roller; Taping; Wallcovering; & Washing	15.58	h
Hopper Tender; Sandblasting & Spray	16.58	h
CARROLL, HOLMES, TUSCARAWAS & WAYNE COS.:		
Brush; Rollers	15.01	2.10
Paperhangers	15.11	2.10
Drywalls	15.41	2.10
Spray	15.51	2.10
CHAMPAIGN, CLARK, LOGAN, & MADISON COS.:		
Brush	13.75	1.00
Drywall Tapers & Finishers	14.10	1.00
Spray	14.45	1.00
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS.:		
Brush; Roller	16.12	1.00
Drywall Taping & Spackling; & Wallcovering	16.47	1.00
Structural Steel Cleaning; Sandblast; & Spray	16.52	1.00
	16.62	1.00
COLUMBIANA CO.:		
Brush; Hydro-jet Cleaning; Paperhanging; Roller; Steam Cleaning; Wallwashing; & Waterproofing	15.04	2.66
Drywall Taping	15.19	2.66
Open Structural Steel	15.25	2.66
Spray	15.54	2.66

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	Basic Hourly Rates	Fringe Benefits
PAPERHANGERS (CONT'D)		
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.:		
Brush; Paperhanging; Roller; Taping; & Wallcovering	16.11	2.57
Spray	16.61	2.57
DEFIANCE, ERIE (W of B & O RR Tracks), FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.:		
Brush; Paperhanging; Roller; Taping; & Wallcovering	16.81	2.41
Spray	17.31	2.41
HOCKING, VINTON & WASHINGTON COS.:		
Brush; Paperhanging; Roller; Taping; & Wallcovering	15.07	2.46
Spray	15.57	2.46
PIPEFITTERS		
ADAMS, BROWN, BUTLER, CLERMONT, CLINTON, FAYETTE, GALLIA, HAMILTON, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, SCIOTO, VINTON, WARREN, & WASHINGTON COS.:		
Pipefitters	16.15	1.00
Welders	16.15	1.00
GEAUGA CO.	18.12	2.65+a
HARRISON, & JEFFERSON (Except Mt. Pleasant, Warren, Brush Creek, & Salineville Twps. & the Village of Dillonvale) COS.:		
Pipefitters	13.78	1.43
Welders	13.78	1.43
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE CO.	16.51	.55
MEDINA (Hinckley, Granger, Brunswick, Medina, Liverpool, Montville, & York Twps.) CO.:		
Pipefitters	17.54	3.17
Welders	17.405	2.75
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	15.77	2.57
MEDINA (Litchfield, Chatham, Homer, Harrisville, & Spencer Twps.) CO.	18.05	.81+b
NOBLE (Brookfield, Noble, Creek, Sharon, Olive, Enoch, Stock, Elk, Jackson, & Jefferson Twps.) & WASHINGTON COS.:		
Pipefitters	15.05	2.05
Welders	15.05	2.05
ALLEN, DEFIANCE, FULTON, HENRY, PAULDING, PUTNAM, WILLIAMS, & WOOD (Exclu. Perry & Bloom Twps.) COS.	14.42	1.06
ASHLAND, GEAUGA, MEDINA (Exclu. Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & RICHLAND COS.:		
Pipefitters	16.54	2.58
Welders	16.54	2.58
AUGLAIZE, CHAMPAIGN, CLARK, DARKE, GREENE, HARDIN, LOGAN, MERCER, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.89	
CARROLL & TUSCARAWAS COS.:		
Pipefitters	12.86	2.55
Welders	12.86	2.55
COLUMBIANA, COSHOCTON, HARRISON, HOLMES, JEFFERSON, & WAYNE (Exclu. Milton & Chippewa Twps.) COS.	16.405	
DELAWARE, FAIRFIELD, FRANKLIN, MADISON, PICKAWAY, & UNION COS.	13.25	
HANCOCK, OTTAWA, SANDUSKY, SENECA, WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) COS.	11.08	3.03
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	15.27	2.57
PLASTERERS		
ADAMS, BROWN, BUTLER, CLERMONT, CLINTON, FAYETTE, GALLIA, HAMILTON, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, SCIOTO, VINTON, WARREN, & WASHINGTON COS.:		
Plasterers	15.98	
Plaster Finishers	16.145	
Plaster Base Coat Machine Operators	16.40	
ALLEN, DEFIANCE, FULTON, HENRY, PAULDING, PUTNAM, WILLIAMS, & WOOD (Exclu. Perry & Bloom Twps.) COS.	14.42	1.06
ASHLAND, GEAUGA, MEDINA (Exclu. Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & RICHLAND COS.:		
Plasterers	16.54	2.58
Plaster Finishers	16.57	2.50
Plaster Base Coat Machine Operators	16.54	2.50
AUGLAIZE, CHAMPAIGN, CLARK, DARKE, GREENE, HARDIN, LOGAN, MERCER, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.89	
CARROLL & TUSCARAWAS COS.:		
Plasterers	12.86	2.55
Plaster Finishers	14.20	2.55
Plaster Base Coat Machine Operators	12.74	2.55
COLUMBIANA, COSHOCTON, HARRISON, HOLMES, JEFFERSON, & WAYNE (Exclu. Milton & Chippewa Twps.) COS.	16.405	
DELAWARE, FAIRFIELD, FRANKLIN, MADISON, PICKAWAY, & UNION COS.	13.25	
HANCOCK, OTTAWA, SANDUSKY, SENECA, WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) COS.	11.08	3.03
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	15.27	2.57

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PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, PICKAWAY, ROSS & UNION COS.:		
Drywall Sanders	14.34	2.52
Brush; Paperhangers; Rollers; & Wall Washing	14.59	2.52
Structural Steel	14.89	2.52
Drywall Tapers & Finishers	14.99	2.52
Spray	15.09	2.52
Sandblasting; Steam Cleaning	15.29	2.52
ERIE, HANCOCK, HURON, SANDUSKY, SENECA, & WYANDOT COS.:		
Old Commercial:		
Brush; Rollers; & Wash & Clean Surfaces	13.80	1.70 +i
Drywall & Paperhangers	14.05	1.70 +i
Sandblasting; & Spray	14.30	1.70 +i
New Commercial:		
Brush; Rollers; & Wash & Clean Surfaces	15.30	1.70 +i
Drywall & Paperhangers	15.55	1.70 +i
Sandblasting; & Spray	15.80	1.70 +i
FULTON, HENRY, OTTAWA, & WOOD COS.:		
Brush; Drywall Tapers & Finishers; Paperhangers; Spray & Sandblasting Pot Tenders	14.90	3.36
Pressure Cleaning; Sandblasting; & Spray	15.45	3.36
GALLIA, LAWRENCE, MEIGS & VINTON COS.:		
Brush; Roller	13.55	.70 +j
Drywall Tapers & Paperhangers	13.50	.70 +j
Spray; Taping Finishers	13.65	.70 +j
GEAUGA CO.:		
Brush; Paperhangers & Rollers	17.06	2.62
Spray	17.46	2.62
HOCKING CO.:		
Brush; Roller; Washing; Wallcovering; & Paperhanging	13.50	
Open Structural Steel	14.00	
Taping; Beding; Finishing & Sanding	14.25	
Spray; Sandblasting; Hopper Tender; Swing Stage; & Window Jacks	14.58	
KNOX, LICKING, MUSKINGUM, & PERRY COS.:		
Brush	11.00	
Spray	12.00	
MEDINA CO.:		
Brush; Paperhangers; & Rollers	15.25	2.62
Structural Steel; Drywall Finishers & Tapers	16.00	2.42
Spray	16.10	2.42
PILEDRIVERMEN		
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS.	14.55	8.35
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS.	15.07	8.16
ASHLAND, CRAWFORD, ERIE (E. of B & O RR Tracks), GEAUGA, HURON, MEDINA, & RICHLAND COS.	16.78	8.11
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	15.47	3.15

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PILEDRIVERMEN (CONT'D)	Basic Hourly Rates	Fringe Benefits
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS.	16.10	2.625
CARROLL, TUSCARAWAS, & WAYNE COS.	18.18	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	15.15	3.32
DEFIANCE, ERIE (W. of B & O RR Tracks), FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, SANDUSKY, SENECA, WILLIAMS & WOOD COS.	16.81	2.41
HOCKING, VINTON, & WASHINGTON COS.	18.90	2.21
PIPEFITTERS; PLUMBERS; & STEAMFITTERS		
ADAMS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, PIKE, SCIOTO, & VINTON COS.:		
Within 10 mi. radius of Portsmouth	17.88	8.88
Over 10 and within 20 mi. radius of Portsmouth	17.25	8.85
Over 20 and within 35 mi. radius of Portsmouth	17.35	2.85
Over 35 mi. radius of Portsmouth	17.68	8.85
ALLEN, AUGLAIZE, HARDIN, MERCER, SHELBY, & VAN WERT COS.	17.38	8.28
ASHLAND, CRAWFORD, ERIE, HURON, KNOX, MORROW, RICHLAND, & WYANDOT COS.	17.85	2.73
BELMONT, & MONROE (N. of Rte #78) COS.	13.38	3.38
BROWN, CLERMONT, HAMILTON, & WARREN (S 1/3 of Co.) COS.:		
Pipefitters; Steamfitters	17.81	8.86
Plumbers; Gas Fitters	16.32	3.82
BUTLER (N½), & WARREN (N. of Rte. #63, exclu. Lebanon & South Lebanon) COS.	17.88	1.85
BUTLER (S½) & WARREN (S. of Rte. #63 to Hamilton Co. line, W. to Indiana State Line, E. to Rte. #42, incl. Lebanon, S. Lebanon, & Mason) COS.	17.33	2.12
CARROLL (Ross, Monroe, Union, Lee, Orange, Perry, & Loudon Twps.), COSHOCTON, GUERNSEY, HOLMES, MORGAN (S. to State Rte. #78 & from McConnelsville W. on State Rte. #37 to the Perry Co. line), MUSKINGUM, NOBLE, & TUSCARAWAS COS.	17.99	1.81
CARROLL (Exclu. Ross, Monroe, Lee, Union, Orange, Perry, & Loudon Twps.), & WAYNE COS.	15.92	2.31 +k
CHAMPAIGN, CLARK, GREENE (Ross, Cedarville, Jefferson, Ceasar Creek, & New Jasper Twps.), LOGAN, & MADISON (W. of Rte. #38, incl. city of London) COS.	17.40	8.22
CLINTON, DARKE, FAYETTE, GREENE (Exclu. Miami, Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper Twps.), MIAMI, MONTGOMERY, & PREBLE COS.:		
Within 12 mi. radius of 3rd & Main Streets, Dayton, Ohio	17.86	8.33
Outside 12 mi. radius of 3rd & Main Streets, Dayton, Ohio	17.71	2.33
COLUMBIANA CO. (Exclu. Washington & Yellow Creek Twps. & Liverpool Twp. - Secs. 35 & 36 - W. of Co. Rd. #427)	16.61	8.78
COLUMBIANA (Washington & Yellow Creek Twps. & Liverpool Twp. - Secs. 35 & 36 - W. of Co. Rd. #427), HARRISON, & JEFFERSON COS.	17.57	8.36
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.	17.80	3.42

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	Basic Hourly Rates	Fringe Benefits
DELAWARE, FAIRFIELD, FRANKLIN, HOCKING, LICKING, MADISON (E. of Rte. #38 not incl. city of London), MARION, PERRY, PICKAWAY, ROSS, & UNION COS.	17.85	2.54
GEAUGA, & MEDINA (N. of #18, exclu. city of Medina) COS.: Pipefitters; Steamfitters	17.67	3.18
GEAUGA, & MEDINA (N. of #18 & Smith Rd.) COS.: Plumbers	17.43	3.22
MEDINA (S. of #18, exclu. City of Medina) CO.	18.25	3.05
MEIGS, MONROE (S. of Rte. #78), MORGAN (S. of Rte. #76), & WASHINGTON COS.	18.04	1.73
PLASTERERS		
ADAMS, LAWRENCE (Except Fayette, Union & Rome Twps.), PIKE & SCIOTO COS.	15.86	.65
ALLEN, AUGLAIZE, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, HOCKING, KNOX, LICKING, LOGAN, MADISON, MERCER, MORGAN, MUSKINGUM, PERRY, PICKAWAY, ROSS, UNION, & VAN WERT COS.	15.16	1.22
BELMONT, HARRISON, & JEFFERSON COS.	18.28	.55
BROWN, BUTLER, CLERMONT, HAMILTON, HIGHLAND, & WARREN COS.	16.645	1.27
CARROLL & TUSCARAWAS COS.	16.19	2.12
CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.45	.80
COLUMBIANA CO.	15.61	.83
ERIE, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), & WYANDOT (Tymochtee, Crawford, Ridge & Richland Twps.) COS. & THE ISLAND OF LAKE ERIE N. OF SANDUSKY	18.83	3.03
FULTON, HANCOCK, HENRY, PUTNAM & WOOD (Exclu. Perry & Bloom Twps.) COS.	18.02	.71
GALLIA & MEIGS COS.	16.15	1.00
GEAUGA CO.	18.12	2.65 +a
HOLMES & WAYNE (Except Milton & Chippewa Twps.) COS.	16.23	2.04
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE (Fayette, Union & Rome Twps.) CO.	16.51	.55
MEDINA (Litchfield, Chatham, Homer, Harrisville & Spencer Twps.) CO.	18.05	.81 +b
MEDINA (Except Litchfield, Chatham, Homer, Harrisville & Spencer Twps.) CO.	16.36	1.71
ROOFERS		
ADAMS, GALLIA, GUERNSEY, JACKSON, LAWRENCE, MEIGS, MORGAN, MUSKINGUM, NOBLE, PIKE, SCIOTO, & VINTON COS.	13.50	.65
ALLEN, AUGLAIZE, CHAMPAIGN, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, HOCKING, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORROW, PERRY, PICKAWAY, PUTNAM, ROSS, UNION, VAN WERT, & WYANDOT COS.	16.11	1.93
ASHLAND, CARROLL, COLUMBIANA, COSHOCTON, CRAWFORD, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS.	16.44	2.41
BELMONT, HARRISON, JEFFERSON, & MONROE COS.	13.81	1.00
BROWN, BUTLER, CLERMONT, HAMILTON & WARREN COS.	17.52	1.53
CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.:		
Composition, Damp, & Waterproof	15.00	1.89
Slate, Tile & Asbestos	15.22	1.895

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	Basic Hourly Rates	Fringe Benefits
ROOFERS (CONT'D)		
DEFIANCE, FULTON, HANCOCK, HENRY, PAULDING, WILLIAMS & WOOD COS.	16.50	3.09
ERIE, GEAUGA, HURON, OTTAWA, SANDUSKY, & SENECA COS.	18.78	1.80
SHEET METAL WORKERS		
ADAMS, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GUERNSEY, HOCKING, JACKSON, KNOX, LAWRENCE, LICKING, MADISON, MARION, MEIGS, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PIKE, ROSS, SCIOTO, UNION, & VINTON COS.	15.05	— 2.52 +1
ALLEN, AUGLAIZE, BUTLER, CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, HARDIN, LOGAN, MERCER, MIAMI, MONTGOMERY, PREBLE, SHELBY, VAN WERT, WARREN & WYANDOT COS.	16.22	2.94 +1
ASHLAND, CARROLL, COSHOCTON, CRAWFORD, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS.	15.17	2.14 +1
BELMONT, HARRISON, JEFFERSON, & MONROE COS.	14.07	1.98
BROWN, CLERMONT, HAMILTON, & HIGHLAND COS.	16.94	2.12
COLUMBIANA CO.	15.14	1.64
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SENECA, WILLIAMS, & WOOD COS.	16.825	3.64
ERIE, HURON, & SANDUSKY COS.	13.91	2.11
GEAUGA CO.	17.46	3.13
WASHINGTON CO.	12.48	1.33
SOFT FLOOR LAYERS		
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, & SCIOTO COS.	14.19	2.35
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM UNION, VAN WERT, & WYANDOT COS.	14.42	2.46
ASHLAND, CRAWFORD, ERIE, HURON, OTTAWA, RICHLAND SANDUSKY, & SENECA COS. & the portion of the city of Fostoria located in HANCOCK & WOOD COS.	16.45	2.75+ c
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	14.71	3.15
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS.	13.00	2.075
CARROLL, TUSCARAWAS, & WAYNE COS.	15.51	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	13.80	2.67
DEFIANCE, FULTON, HANCOCK (Except city of Fostoria), HENRY, PAULDING, WILLIAMS & WOOD (Except city of Fostoria) COS.	15.14	2.36
GEAUGA	16.95	3.86
HOCKING, VINTON, & WASHINGTON COS.	14.20	2.21
MEDINA CO.	15.61	3.09 +m
SPRINKLER FITTERS		
GEAUGA, & MEDINA (N. of #18, exclu. City of Medina) COS.	17.67	3.18
REMAINING COS.	17.67	2.83

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	Basic Hourly Rates	Fringe Benefits
LABORERS		
ADAMS, ATHENS, GALLIA, HOCKING, JACKSON, LAWRENCE, MEIGS, MORGAN, NOBLE, PERRY, PIKE, ROSS, SCIOTO, VINTON, & WASHINGTON COS.	13.50	.65
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, CLINTON, DARKE, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GREENE, HARDIN, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MIAMI, MONTGOMERY, MORROW, PICKAWAY, PREBLE, SHELBY, UNION, & VAN WERT COS.	15.16	1.22
BELMONT, HARRISON, & JEFFERSON COS.	14.28	.55
BROWN, BUTLER, CLERMONT, HAMILTON, HIGHLAND, & WARREN COS.	16.645	1.27
CARROLL & TUSCARAWAS COS.	16.19	2.12
COLUMBIANA CO.	15.61	.83
CRAWFORD, ERIE, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), & WYANDOT (Tymochtee, Crawford, Ridge & Richland Twps.) COS. & THE ISLAND OF LAKE ERIE N. OF SANDUSKY	18.83	3.03
FULTON, HANCOCK, HENRY, PUTNAM & WOOD (Exclu. Perry & Bloom Twps.) COS.	18.02	.71
GALLIA & MEIGS COS.	16.15	1.00
GEAUGA CO.	18.12	2.65 +a
HOLMES & WAYNE (Except Milton & Chippewa Twps.) COS.	16.23	2.04
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE (Fayette, Union & Rome Twps.) CO.	16.51	.55
MEDINA (Litchfield, Chatham, Homer, Harrisville & Spencer Twps.) CO.	18.05	.81 +b
MEDINA (Except Litchfield, Chatham, Homer, Harrisville & Spencer Twps.) CO.	16.36	1.71
ROOFERS		
ADAMS, GALLIA, GUERNSEY, JACKSON, LAWRENCE, MEIGS, MORGAN, MUSKINGUM, NOBLE, PIKE, SCIOTO, & VINTON COS.	13.50	.65
ALLEN, AUGLAIZE, CHAMPAIGN, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, HOCKING, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORROW, PERRY, PICKAWAY, PUTNAM, ROSS, UNION, VAN WERT, & WYANDOT COS.	16.11	1.93
ASHLAND, CARROLL, COLUMBIANA, COSHOCTON, CRAWFORD, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS.	16.44	2.41
BELMONT, HARRISON, JEFFERSON, & MONROE COS.	13.81	1.00
BROWN, BUTLER, CLERMONT, HAMILTON & WARREN COS.	17.52	1.53
CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.:		
Composition, Damp, & Waterproof	15.00	1.89
Slate, Tile & Asbestos	15.22	1.895

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	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D)		
DEFIANCE, FULTON, HANCOCK, HENRY, PAULDING, WILLIAMS & WOOD COS.	16.50	3.09
ERIE, GEAUGA, HURON, OTTAWA, SANDUSKY, & SENECA COS.	18.78	1.80
SHEET METAL WORKERS		
ADAMS, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GUERNSEY, HOCKING, JACKSON, KNOX, LAWRENCE, LICKING, MADISON, MARION, MEIGS, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PIKE, ROSS, SCIOTO, UNION, & VINTON COS.	15.05	— 2.52 +1
ALLEN, AUGLAIZE, BUTLER, CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, HARDIN, LOGAN, MERCER, MIAMI, MONTGOMERY, PREBLE, SHELBY, VAN WERT, WARREN & WYANDOT COS.	16.22	2.94 +1
ASHLAND, CARROLL, COSHOCTON, CRAWFORD, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS.	15.17	2.14 +1
BELMONT, HARRISON, JEFFERSON, & MONROE COS.	14.07	1.98
BROWN, CLERMONT, HAMILTON, & HIGHLAND COS.	16.94	2.12
COLUMBIANA CO.	15.14	1.64
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SENECA, WILLIAMS, & WOOD COS.	16.825	3.64
ERIE, HURON, & SANDUSKY COS.	13.91	2.11
GEAUGA CO.	17.46	3.13
WASHINGTON CO.	12.48	1.33
SOFT FLOOR LAYERS		
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, & SCIOTO COS.	14.19	2.35
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM UNION, VAN WERT, & WYANDOT COS.	14.42	2.46
ASHLAND, CRAWFORD, ERIE, HURON, OTTAWA, RICHLAND SANDUSKY, & SENECA COS. & the portion of the city of Fostoria located in HANCOCK & WOOD COS.	16.45	2.75+ c
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	14.71	3.15
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS.	13.00	2.075
CARROLL, TUSCARAWAS, & WAYNE COS.	15.51	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	13.80	2.67
DEFIANCE, FULTON, HANCOCK (Except city of Fostoria), HENRY, PAULDING, WILLIAMS & WOOD (Except city of Fostoria) COS.	15.14	2.36
GEAUGA	16.95	3.86
HOCKING, VINTON, & WASHINGTON COS.	14.20	2.21
MEDINA CO.	15.61	3.09 +m
SPRINKLER FITTERS		
GEAUGA, & MEDINA (N. of #18, exclu. City of Medina) COS.	17.67	3.18
REMAINING COS.	17.67	2.83

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LABORERS	Basic Hourly Rates	Fringe Benefits
ADAMS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, & SCIOTO COS.:		
Group 1 - Bottom men; Building & Construction Laborers; Carpenters Tenders; Mason Tenders; Mortar Mixers; Pipelayers; Plasterers' Tenders; Sheeting & Shoring Men	1□.06	2.70
Group 2 - Air & Machine Driven Tool Op.; Asphalt Rakers & Smoothers; Burning & Cutting Torches; Chain Saws; Form Setters (Street & Highway); Hand Spikers & Powered Concrete Buggies	1□.□1	2.7□
Group 3 - Gunnite Men Machine Op.; Gunnite Nozzlemen; Powdermen & Blasters	12.58	2.7□
□LLEN, AUGLAIZE, MERCER, PAULDING, PUTNAM, SHELBY & VAN WERT COS.:		
Group 1 - Building Laborers, Laser Beam; Power Wheelbarrow or Power Buggy	11.□0	2.70
Group 2 - All Machine Driven Tools (Gas, Electric, Air); Asphalt Rakers; Caisson; Cement Finishers' Tenders; Cofferdam; Demolition; Packers; Pot Tenders; Pump Man Under 4" Discharge; Spikers by Hand (Railroad); Tamper; Torch Man; Tunnel Vibrators; & Cement Rakers	11.1□	2.70
Group 3 - Blaster Tender; Cylinder, Shaft; Jackhammer; Manhole Builders; Mason Tenders; Mortar Mixers; Plasterers' Tenders; Sewer Bottom Man; Sewer Pipelayer; Sewer, Water Conduit; Gas, Oil Pipeline, except Mainlines; Wagon Drill Tender; Blaster-Powderman; Gunnite Ops.;	11.30	2.70
Muckers & Miners (Tunnel & Caisson) Free Air; Sandblasters; & Wagon Drill Ops.		
ASHLAND, CRAWFORD, KNOX, MORROW & RICHLAND COS.:		
Group 1 - Building & Construction Laborers; Carpenter Tenders; Concrete Handler; Finisher Tender; Guard Rail Erector; & Tool Cribmen	12.46	1.70
Group 2 - Air & Power Driven Tools; Bottom Men; Burner on Demolition Work; Caisson Worker; Cofferdam worker; Creosote Worker; Form Setter; Hod Carrier; Laser Beam Set-Up Man; Mason Tender; Mortar Mixer; Mucker; Pipe Layer; Plasterer Tender; Powder Men; Scaffold Builder; Stonemason Tender; Swinging Scaffold; & Tunnel Laborers	12.66	1.70
Group 3 - Gunnite Op.	13.06	1.70
CARROLL, COSHOCTON, HOLMES, TUSCARAWAS, & WAYNE COS.:		
Group 1 - Building & Construction Laborers; Carpenter Tender; Concrete Handler; Finisher Tender; Guard Rail Erector; Tool Cribmen & Utility Construction	12.61	2.70
Group 2 - Air & Power Driven Tools; Bottom Men; Burner on Demolition; Caisson Worker; Cofferdam Worker; Creosote Worker; Form Setter; Hod Carrier; Laser Beam Setup Man; Mucker; Pipelayer; Plasterer Tender; Powder Men & Dynamite Blasters; Scaffold Building; Swinging Scaffold; & Tunnel Laborer	1□.81	2.7□
Group 3 - Mason Tender; Mortar Mixer; & Stonemason Tender	13.11	2.70
Group 4 - Gunnite Op.	13.21	2.70
BELMONT CO.:		
Group 1 - Laborers; Carpenter Tender; Demolition Worker; Landscape Laborer	11.72	1.□□
Group 2 - Powderman Tender; Semi-Skilled Laborer; Scaffold Builders; Grade Checker; Brick Masons Tenders; Plasterer Tenders; Cement Finishers Tenders; Stone Masons Tenders; Lathers Tenders; Tile Setters Tenders; Mortar Mixer; Jackhammer Operators; Vibrator Operators; Tamper Operators; Pavement Buster Operator; Chipping and Peening Hammer Operators; Air Siphon and Air Pump Operators; Riprap Finishers; Concrete Saw Operators; Concrete Technician; Power Saw Operators; Chain Saw Operators; Motorized Buggy Operators; Pipe Layers Tenders; Drill Operators Tenders; Sheeters and Shorers; Post Hole Digger Operators; Asphalt Rakers; Lance and/or Water Blaster Operators; Blacksmith Tender; Batch House Scale Operators; Mastic Asphalt; Nozzlemen for Gunnite or Sandblasting; Ride or Walk Roller Tampers	12.02	1.65

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Group 3 - Blacksmith; Powderman; Air Track Operator; Pipe Layer (Including Laser Beam Set Up) Burner	12.37	1.6□
BROWN, CLERMONT, CLINTON & HAMILTON COS.:		
Group 1	14.45	2.25
Group 2	14.55	2.25
Group 3	14.60	2.25
Group 4	14.65	2.25
Group 5	14.80	2.25
Group 6	14.95	2.25
Group 7	15.20	2.25
Group 8	13.92	2.25
Group 9 (See Page 2□)	14.07	2.25
BUTLER & WARREN COS.:		
Common Laborers	12.5□	2.3□
Asphalt Rakers; Hand Air Tamper Chisel; Smoothers Hand Air Pump; Tampers; Vibrator Power Tamper Op.	1□.69	2.3□
Mason Tenders; Mortar Mixers; & □affold□ Builders	1□.92	□.3□
Concrete Pumps □ H□□□ Men; Gunnite Operator; & Sandblasters	1□.94	2.35
CHAMPAIGN, CLARK, & LOGAN COS.:		
Group 1 - Carpenters' Tenders; Laborers	10.95	2.70
Group 2 - Air & Machine Driven Tool Ops.; Asphalt Raker & Tamper; Barko & Chain Saw; Bottom Man; Gunnite Machine Op. & Nozzle Man; Hand Spikers; Jackhammer; Power Concrete & Buggies; Sewer Pipelayers; & Wagon Drill	11.20	2.70
Group 3 - Mason Tenders; Mortar Mixers; & □lasters' Tenders	11.35	□.7□
Group 4 - Miners □ Muckers for Tunnel & Caisson; Powdermen & Blasters	11.□5	2.70

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
COLUMBIANA, HARRISON, & JEFFERSON COS.:		
Group 1 - Carpenters' Tenders; General Laborers	12.30	2.75
Group 2 - Brick Handlers; Men Mixing Cement for Cement Finishers; Mortar Mixer Machine Op.; Mortarmen for Masons & Plasterers; Scaffold Builders; Tenders for Brick Masons, Plasterers, Stonemasons, & Tile Setters	12.47	2.70
Group 3 - Acetylene Burners; Air Blow Pipe; Air Pump; Air Spades; Air Tampers; Power Driven Tools; Chipping Hammers; Concrete Saw; Jackhammers; Laborers Operating Cmncrete Busters; Panel Cleaning Machine Operators; Pipelayer & Tenders Working in Ditches or Tunnels & Hand Spikers on Railroads, & Laborers Handling Concrete for Test or Working with Tar, Acid & Creosote; Power Buggy; Power Saw; Sandblaster; Scuba Divers; Vibrators; & Welders	12.50	2.70
DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS.:		
Group 1 - Laborers	12.[illegible]9	2.7[illegible]
Group 2 - All Machine & Power Driven Tools; Chipping Hammers; Power Buggies; Railroad Spikers by Hand; Swinging Scaffold over 15 ft.; & Vibrators	12.24	2.70
Group 3 - Air Drill; Batter Board Setter & Bottom Men; Jackhammer; Man Hole Builders; Sandblasters; & Sewer Pipelayers	12.29	2.70
Group 4 - Caisson Work; Scaffold W/Power Tools	12.34	2.70
Group 5 - Torch Man on Wrecking	12.39	2.70
Group 6 - Caisson Work W/Jackhammer	12.54	2.70
Group 7 - Gunnite Operator; Wagon Drill Operator, and Blaster - Powder Man	12.59	2.70
Group 8 - Tenders for Bricklayers and Masons	12.69	2.70
Group 9 - Tenders for Lathers and Plasterers	12.76	2.70
DEFIANCE, FULTON, HENRY, & WILLIAMS COS.:		
Group 1 - Carpenter Tenders; Cement Finishers' Tenders; Laborers	12.42	2.35
Group 2 - Gunnite Pot Man; Mason Tenders	12.54	2.35
Group 3 - All Power Driven Tools & Buggies	12.57	2.35
Group 4 - Burners, Torchmen & Nozzlemen for Concrete Pumps	12.565	2.35
Group 5 - Plasterers' Tenders	12.595	2.35
Group 6 - Bellman; Bottom Man; & Brick Expeditor	12.655	2.35
Group 7 - Nozzle Operator Gunnite Work	13.07	2.35
DELAWARE, HANCOCK, HARDIN, MARION, SENECA, & WYANDOT COS.:		
Group 1 - Building & Construction Laborer; Tool Cribman; Carpenter Tender; Finisher Tender; Concrete Handler; Utility Construction Laborer; Guard Rail Erector	13.01	2.70

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Group 2 - Bottom Men; Scaffold Builder; Tunnel Laborer; Pipelayer; Air & Power Driven Tool; Burner on Demolition Work; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blaster; Creosote Worker; Mortar Mixer; Form Setter; Mason Tender; Plasterer Tender; Hod Carrier; Laser Beam Set-up Man; & Stonemason Tender	13.21	2.70
Group 3 - Gunnite Oper.	13.61	2.70
ERIE, HURON, OTTAWA, & SANDUSKY COS.:		
Group 1 - Building & Construction Laborer; Carpenter Tender; Concrete Handler; Finisher Tender; Guard Rail Erector; Tool Cribmen; & Utility Construction Laborer	13.61	2.70
Group 2 - Air & Power Driven Tmol; Bottom Men; Burner on Demolition Work; Caisson Worker; Cofferdam Worker; Creosote Worker; Form Setter Hod Carrier; Laser Beam Set-Up Man; Mason Tender; Mortar Mixer; Mucker; Pipelayer; Plasterer Tender; Powder Men & Dynamite Blaster; Scaffold & Swinging Scaffold & Tunnel Laborer	13.81	2.70
Group 3 - Gunnite Oper.	14.21	2.70
FAIRFIELD, FAYETTE, FRANKLIN, HOCKING, MADISON, PICKAWAY, & UNION COS.:		
Group 1 - Carpenter Tenders; Cleaning, Debris; Cleaning of all Material; Common Laborers; Conveyor Belt; General Clean Up; Handling & Conveying All Material; Landscape; Loading and Unloading All Trucks; Man on Bucket Pouring Concrete; Pouring of all Concrete; Salamander; Sod Layers; Washing of All Windows; & Wire Mesh Handlers or Setters	11.49	2.70
Group 2 - Air or Electrical Pneumatic Tool Operator; All Scaffold Builders (Swinging Scaffold); Asphalt and Blacktop Rakers; Bottom Man; Brick Tenders; Caisson Bottom Man; Cement Mason Tender; Concrete Saw Operator, and Brush Feeders on Pulverizers; Forklift Operator; Gunnite Nozzle Man; Jackhammer Operator; Laser Gun, Burners; Mortar Mixers & Operator; Pipe Layers; Plasterers' Tenders; Power Buggy Operator; Power Driven Tools; Power Wheelbarrow Operator; Sand and Vacuum Cleaning; Sandblasting of Concrete; Stone Mason Tender; Vibrator Man; Wagon and Churn Drill Operators; & Wall Wrecker & Bar Man on Demolition	11.79	2.70

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Group 3 - Air Drill; Batter Board Setter & Bottom Men; Jackhammer; Man Hole Builders; Sandblasters; & Sewer Pipelayers	12.29	2.70
Group 4 - Caisson Work; Scaffold W/Power Tools	12.34	2.70
Group 5 - Torch Man on Wrecking	12.39	2.70
Group 6 - Caisson Work W/Jackhammer	12.54	2.70
Group 7 - Gunnite Operator; Wagon Drill Operator, and Blaster - Powder Man	12.59	2.70
Group 8 - Tenders for Bricklayers and Masons	12.69	2.70
Group 9 - Tenders for Lathers and Plasterers	12.76	2.70
DEFIANCE, FULTON, HENRY, & WILLIAMS COS.:		
Group 1 - Carpenter Tenders; Cement Finishers' Tenders; Laborers	12.42	2.35
Group 2 - Gunnite Pot Man; Mason Tenders	12.54	2.35
Group 3 - All Power Driven Tools & Buggies	12.57	2.35
Group 4 - Burners, Torchmen & Nozzlemen for Concrete Pumps	12.565	2.35
Group 5 - Plasterers' Tenders	12.595	2.35
Group 6 - Bellman; Bottom Man; & Brick Expeditor	12.655	2.35
Group 7 - Nozzle Operator Gunnite Work	13.07	2.35
DELAWARE, HANCOCK, HARDIN, MARION, SENECA, & WYANDOT COS.:		
Group 1 - Building & Construction Laborer; Tool Cribman; Carpenter Tender; Finisher Tender; Concrete Handler; Utility Construction Laborer; Guard Rail Erector	13.01	2.70

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Group 2 - Bottom Men; Scaffold Builder; Tunnel Laborer; Pipelayer; Air & Power Driven Tool; Burner on Demolition Work; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blaster; Creosote Worker; Mortar Mixer; Form Setter; Mason Tender; Plasterer Tender; Hod Carrier; Laser Beam Set-up Man; & Stonemason Tender	13.21	2.70
Group 3 - Gunnite Oper.	13.61	2.70
ERIE, HURON, OTTAWA, & SANDUSKY COS.:		
Group 1 - Building & Construction Laborer; Carpenter Tender; Concrete Handler; Finisher Tender; Guard Rail Erector; Tool Cribmen; & Utility Construction Laborer	13.61	2.70
Group 2 - Air & Power Driven Tmol; Bottom Men; Burner on Demolition Work; Caisson Worker; Cofferdam Worker; Creosote Worker; Form Setter Hod Carrier; Laser Beam Set-Up Man; Mason Tender; Mortar Mixer; Mucker; Pipelayer; Plasterer Tender; Powder Men & Dynamite Blaster; Scaffold & Swinging Scaffold & Tunnel Laborer	13.81	2.70
Group 3 - Gunnite Oper.	14.21	2.70
FAIRFIELD, FAYETTE, FRANKLIN, HOCKING, MADISON, PICKAWAY, & UNION COS.:		
Group 1 - Carpenter Tenders; Cleaning, Debris; Cleaning of all Material; Common Laborers; Conveyor Belt; General Clean Up; Handling & Conveying All Material; Landscape; Loading and Unloading All Trucks; Man on Bucket Pouring Concrete; Pouring of all Concrete; Salamander; Sod Layers; Washing of All Windows; & Wire Mesh Handlers or Setters	11.49	2.70
Group 2 - Air or Electrical Pneumatic Tool Operator; All Scaffold Builders (Swinging Scaffold); Asphalt and Blacktop Rakers; Bottom Man; Brick Tenders; Caisson Bottom Man; Cement Mason Tender; Concrete Saw Operator, and Brush Feeders on Pulverizers; Forklift Operator; Gunnite Nozzle Man; Jackhammer Operator; Laser Gun, Burners; Mortar Mixers & Operator; Pipe Layers; Plasterers' Tenders; Power Buggy Operator; Power Driven Tools; Power Wheelbarrow Operator; Sand and Vacuum Cleaning; Sandblasting of Concrete; Stone Mason Tender; Vibrator Man; Wagon and Churn Drill Operators; & Wall Wrecker & Bar Man on Demolition	11.79	2.70

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GEAUGA CO.:		
Group 1 - Equipment Replacing Wheelbarrow & Concrete Buggy; Laborers & Tenders	1[illegible].[illegible]▼	3.95
Group 2 - Fire Brick Tenders; Power Driven Tools & Vibrators; Sewer & Utilities Laborers	[illegible]5.2[illegible]	3.9[illegible]
Group 3 - Acetylene Burner; Jackhammer; & Mucker	15.2[illegible]	3.95
Group 4 - Air Track and Wagon Drill; & Swinging Scaffold	15.3[illegible]	3.95
Group 5 - Mason Tender Handling Carbon block & Bottom Block Material	15.49	3.9[illegible]
Group 6 - Gunite Operating Machines of all types	[illegible]5.57	3.95
Group 7 - Blasters, Shooters Caisson, Well, Cylinder, Cofferdam & Mine Workers without Air; Acid Brick Tenders	1[illegible].5[illegible]	3.[illegible]5
Group 8 - Top man on Free Standing Radial Stack; Bellman & Bottom Man in Blast Furnace & Stove	[illegible]5.7[illegible]	3.[illegible]5
Group 9 - Lansing Burners	16.5[illegible]	3.95
LICKING CO.:		
Group 1 - All Portable Heaters; Carpenter Tender; Cleaning of All Material; Common Laborers; Conveyor Belt; General Clean-up Incl. Vacuum Cleaning; Handling and Conveying All Material; Landscape; Loading & Unloading All Trucks; Man on Bucket Pouring Concrete; Pouring of all Concrete; Sod Layers; Washing of all Windows; Water Pumps up to & Incl. 4" Intake	11.4▼	2.70
Group 2 - Air or Electrical Pneumatic Tool Operator; All Scaffold Builders; Asphalt & Blacktop Makers; Bottom Man; Brick Tender; Brush feeders on Pulverizers; Burners; Cement Mason Tender; Concrete saw Operators; Fork Lift Operators; Gunnite Nozzleman; Jackhammer Operator; Laser Gun; Mortar Mixer & Operator; Pipelayers; Plasterers' Tenders; Power Buggy Operators; Power Driven Tools; Power Wheelbarrow Operators; Sandblasting; Stonemason Tender; Swinging Scaffold; Vibrator Man; Wagon & Churn Drill Operators; Wall Wrecker & Bar Man on Demolition; Welders on Demolition	11.79	2.70

DECISION NO. OH83-2010	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D)		
MEDINA CO.:		
Group 1 - Carpenter Tenders; Common Laborers; Concrete Bucket Tenders; Landscape Laborers; Mason Tender; & Welder Tenders	13.57	2.7[illegible]
Group 2 - Air Driven Boring Machine; Asphalt Raker; Hook-up Man on Demolition Work; Material Mixer; Paving Bed Maker; Power Tools (Air, Gas or Electric); Scaffold Erector; Structural Precast Erector; Tamper Operator; & Wire Mesh Handler	13.72	2.7[illegible]
Group 3 - Barco Type Tampers; Bob Cat or Similar; Bottom Man; Burners; Form Setters; Hod Carriers; Jackhammer; Muckers - Tunnel; Pipelayers; Power Buggy or Power Wheelbarrow; Power Saws; & Rock Drillers	1[illegible].77	2.7[illegible]
Group 4 - Dynamite Men; Gunnite Nozzlemen; Pump Hose Nozzlemen; Structural Precast & Welder & Layout; Tunnel Miners; & Water Line Caulkers	14.07	2.7[illegible]
MONROE, MORGAN, & WASHINGTON COS.:		
Unskilled	11.95	1.7[illegible]
Semi-Skilled	12.30	1.7[illegible]
GUERNSEY, MUSKINGUM, NOBLE, & PERRY COS.:		
Group 1 - Building & Construction Laborers; Carpenter Tenders; Planters (Landscape); Plumbers Tenders & Tree Trimmers	[illegible]2.[illegible]7	2.7[illegible]
Group 2 - Air & Machine Driven Tool Operators; Asphalt Plant Aggremeter Operator; Asphalt Plant Mixer Men; Brick Slingers; Car Pushers; & Tunnel Laborers; Caulkers; Cement Handlers; Concrete Puddlers (behind mixers); Curb Cutters & Setters; Cutting with Burning Torches; Dumpmen (Batch Trucks); Hand spikers Operators; Jackhammer Operator; Mason Tenders; Mortar Mixers; Muckers; Pipelayers; Plasterers' Tenders; Proportioning Plant Op.; Pump Men (Under 4"); Road Form Setters; Sewer Bottom Men; Sheeting & Shoring Men; Stone Mason Tenders; Vibrator Operator; Yarners & Wrench men	12.67	2.70
Group 3 - Brick Droppers; Lock Tenders; & Powdermen or Blasters	13.[illegible]▼	2.70
ROSS & VINTON COS.:		
All Water Pumps Up to & Incl. 3" Intake; Clean-up incl. Vacuum Cleaning; Cleaning Debris; Common Laborers; Conveyor Belt; Handling & Conveying All Materials; Landscape; Loading & Unloading All Trucks; Man on Bucket Pouring of All Concrete; Sod Layers; & Washing of all Windows	11.[illegible]7	2.70
Air or Electrical Pneumatic Tool Operators; All Scaffold Builders (Swinging Scaffolds); Asphalt		

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	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D)		
& Blacktop Rakers; Bottom Man; Brick Tenders; Brush Feeders on Pulverizers; Burners; Carpenters' Tenders; Cement Masons' Tenders; Concrete Saw Operators; Forklift Operators; Gunnite Nozzle Man; Jackhammer Operator; Laser Gun; Mortar Mixer & Operators; Pipelayers; Plasterers' Tenders; Power Buggy Operators; Power Driven Tools; Power Wheelbarrow Operators; Sandblasting; Stonemasons' Tenders; Vibrator Man; Wagon & Churn Drill Operators; Wall Wreckers & Bar Man on Demolition; Welders on Demolition	18.87	2.70
WOOD CO.:		
Unskilled Laborers	18.63	2.56
Plasterers' Tenders; Mixers	18.65	2.56
Mason Tenders	18.71	2.56
All Power Driven Tools & Buggies	18.78	2.56
Gunnite Pot Men	14.83	2.56
Mortar Mixers	14.78	2.56
Pipelayers	14.88	2.56
LINE CONSTRUCTION		
ADAMS, GALLIA, JACKSON (Bloomfield, Franklin, Hamilton, Lick, Jefferson, Scioto, & Madison Twps.), LAWRENCE, MEIGS, PIKE (Camp Creek, Marion, Newton, Scioto, Suntish, & Union Twps.), SCIOTO, & VINTON (Brown, Knox, Madison, Vinton, & Wilksville Twps.) COS.:		
Cable Splicers	20.14	2.90
Linemen	18.31	2.84
Operators: All Mechanized Equipment	14.85	2.71
Groundmen	11.90	2.62
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, & WYANDOT (Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem Twps.) COS.:		
Linemen	16.67	1.28
Equipment Operators	15.00	1.225
Groundmen; Truck Drivers	10.96	1.08
ASHLAND, CRAWFORD, HURON (New Haven, Richmond, Ripley & Greenwich Twps.), KNOX (Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Brown, & Jefferson Twps.), MARION, MORROW, RICHLAND, & WYANDOT (Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee Twps.) COS.:		
Equipment Operators; Linemen	16.98	2.36
Line Truck Driver	10.18	2.13
Groundmen	11.03	2.16
BELMONT CO.:		
Linemen; Technicians	15.03	4.45
Cable Splicers	15.28	4.46
Groundmen	12.02	4.36
BROWN, CLERMONT, & HAMILTON COS.:		
ZONE I - Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Operators	17.75	3.17
Groundmen	13.31	3.015
ZONE II - Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.05	3.18
Groundmen	13.61	3.03
ZONE III - Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.15	3.185
Groundmen	13.71	3.03

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	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
ZONE IV - Over 25 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.30	3.19
Groundmen	13.86	3.035
BUTLER, WARREN (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Twps.) COS.:		
Linemen	17.40	2.61
Cable Splicers	17.90	2.63
Groundmen	12.18	2.43
CARROLL (N ½ Incl. Fox, Harrison, Rose & Washington Twps.), COLUMBIANA (Knox Twp.), HOLMES, TUSCARAWAS (N. of Auburn, Clay, Rush, & York Twps.), & WAYNE (S. of Baughman, Chester, Greene & Wayne Twps.) COS.:		
Cable Splicers	15.99	3.13
Line Equipment Ops.	14.84	3.09
Groundmen; Truck Drivers	11.24	2.97
Linemen	17.10	3.16
CARROLL (S. of Fox, Harrison, Rose & Washington Twps.), HARRISON & JEFFERSON COS.:		
Linemen; Line Equipment Ops.; Truck Drivers	18.00	7.65
Cable Splicers	18.50	7.86
Groundmen	11.70	4.97
CHAMPAIGN, CLARK, GEAUGA (Bainbridge, Russell & Chester Twps.), & MADISON (except Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant Twps.) COS.:		
Cable Splicers; Equipment Ops.; Linemen	19.83	1.39
Groundmen	12.89	1.15
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & WARREN (Wayne, Clear Creek, & Franklin Twps.), COS.:		
Cable Splicers; Linemen	18.98	2.49
Operators:		
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	18.98	2.49
Line Truck with Winch or Pole & Steel Handling	18.74	2.345
Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	18.19	18.26
COLUMBIANA CO. (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West & Yellow Creek Twps.):		
Cable Splicers	13.78	3.78
Linemen; Heavy Equipment Ops.	13.38	2.99
Groundmen & Truck Drivers	11.98	2.68
COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity), & GEAUGA (Twps. of Auburn, Middlefield, Parkman, Burton, & Troy) COS.:		
Cable Splicers; Linemen; Operator - Poledigging Equipment	18.70	2.29
Groundmen	14.96	1.97
COSHOCTON, GUERNSEY, MUSKINGUM, PERRY, & TUSCARAWAS (Rem. of Co.) COS.:		
Cable Splicers; Equipment Op.; Linemen	17.24	1.30
Groundmen	10.25	1.06
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.:		

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	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
ZONE I - Over 25 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.30	3.19
Groundmen	13.86	3.035
BUTLER, WARREN (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Twps.) COS.:		
Linemen	17.40	2.61
Cable Splicers	17.90	2.63
Groundmen	12.18	2.43
CARROLL (N ½ Incl. Fox, Harrison, Rose & Washington Twps.), COLUMBIANA (Knox Twp.), HOLMES, TUSCARAWAS (N. of Auburn, Clay, Rush, & York Twps.), & WAYNE (S. of Baughman, Chester, Greene & Wayne Twps.) COS.:		
Cable Splicers	15.99	3.13
Line Equipment Ops.	14.84	3.09
Groundmen; Truck Drivers	11.24	2.97
Linemen	17.10	3.16
CARROLL (S. of Fox, Harrison, Rose & Washington Twps.), HARRISON & JEFFERSON COS.:		
Linemen; Line Equipment Ops.; Truck Drivers	18.00	7.65
Cable Splicers	18.50	7.86
Groundmen	11.70	4.97
CHAMPAIGN, CLARK, GEAUGA (Bainbridge, Russell & Chester Twps.), & MADISON (except Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant Twps.) COS.:		
Cable Splicers; Equipment Ops.; Linemen	19.83	1.39
Groundmen	12.89	1.15
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & WARREN (Wayne, Clear Creek, & Franklin Twps.), COS.:		
Cable Splicers; Linemen	18.98	2.49
Operators:		
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	18.98	2.49
Line Truck with Winch or Pole & Steel Handling	18.74	2.345
Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	18.19	18.26
COLUMBIANA CO. (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West & Yellow Creek Twps.):		
Cable Splicers	13.78	3.78
Linemen; Heavy Equipment Ops.	13.38	2.99
Groundmen & Truck Drivers	11.98	2.68
COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity), & GEAUGA (Twps. of Auburn, Middlefield, Parkman, Burton, & Troy) COS.:		
Cable Splicers; Linemen; Operator - Poledigging Equipment	18.70	2.29
Groundmen	14.96	1.97
COSHOCTON, GUERNSEY, MUSKINGUM, PERRY, & TUSCARAWAS (Rem. of Co.) COS.:		
Cable Splicers; Equipment Op.; Linemen	17.24	1.30
Groundmen	10.25	1.06
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.:		

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	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
Cable Splicers	18.98	2.49
Operators:		
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	18.98	2.49
Line Truck with Winch or Pole & Steel Handling	18.74	2.345
Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	18.19	18.26
HANCOCK CO.:		
Cable Splicers	18.98	2.49
Linemen	18.74	2.345
Operators:		
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	18.98	2.49
Line Truck with Winch or Pole & Steel Handling	18.74	2.345
Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	18.19	18.26
HARDIN, MARION, MORROW, & UNION COS.:		
Cable Splicers; Linemen	18.98	2.49
Operators:		
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	18.98	2.49
Line Truck with Winch or Pole & Steel Handling	18.74	2.345
Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	18.19	18.26
HARRISON CO.:		
Cable Splicers	15.99	3.13
Line Equipment Ops.	14.84	3.09
Groundmen; Truck Drivers	11.24	2.97
Linemen	17.10	3.16
HOCKING, JACKSON, PIKE (Rem. of Co.), & ROSS (Paint, Scioto, Twin, & Union Twps.) COS.:		
Cable Splicers; Linemen; Operator - Poledigging Equipment	18.70	2.29
Groundmen	14.96	1.97
HOLMES, TUSCARAWAS (Rem. of Co.), & WAYNE (Rem. of Co.) COS.:		
Cable Splicers; Equipment Op.; Linemen	17.24	1.30
Groundmen	10.25	1.06
HURON CO.:		
Cable Splicers	18.98	2.49
Linemen	18.74	2.345
Operators:		
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	18.98	2.49
Line Truck with Winch or Pole & Steel Handling	18.74	2.345
Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	18.19	18.26
KNOX CO.:		
Cable Splicers	18.98	2.49
Linemen	18.74	2.345
Operators:		
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	18.98	2.49
Line Truck with Winch or Pole & Steel Handling	18.74	2.345
Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	18.19	18.26
LAKE CO.:		
Cable Splicers	18.98	2.49
Linemen	18.74	2.345
Operators:		
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	18.98	2.49
Line Truck with Winch or Pole & Steel Handling	18.74	2.345
Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	18.19	18.26
LAWRENCE CO.:		
Cable Splicers; Linemen; Operator - Poledigging Equipment	18.70	2.29
Groundmen	14.96	1.97

DECISION NO. OH83-2010	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
Linemen	1[illegible].2[illegible]	[illegible].25 +n
Technicians	17.65	2.20 +n
Cable Splicers	20.93	2.48 +n
Operator Class I	1[illegible].56	1.94 +n
Operator Class II	1[illegible].74	1.78 +n
Groundmen	1[illegible].[illegible]2	1.[illegible]3 +n
DELAWARE, MADISON (Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range & Pleasant Twps.), PICKAWAY (Twps. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenburg, Scioto, Walnut, & Washington), & UNION COS.:		
Cable Splicers; Equipment Ops. & Linemen	18.32	1.34
Groundmen	10.25	1.06
ERIE & HURON (Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Pitchville, & New London Twps.) COS.:		
Cable Splicers; Equipment Ops. & Linemen	17.05	1.58
Truck Driver (Winch) Groundman	11.08	1.37
Groundman	11.08	1.37
FAIRFIELD, KNOX (Butler, College, Clay, Harrison, Hilliard, Jackson, Morgan, Milford, Miller, & Pleasant Twps.), & LICKING COS.:		
Cable Splicers; Linemen; Ops.: All Mechanized Equipment	16.50	1.28
Groundmen - Truck Driver	13.08	1 16
Groundmen	10.09	1.05
FAYETTE, HIGHLAND, HOCKING, JACKSON (Coal, Jackson, Liberty, Milton, & Washington Twps.), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (Exclu. Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), ROSS, & VINTON (Clinton, Eagle, Elk, Harrison, Jackson, Richland, & Swan Twps.) COS.:		
Cable Splicers	18.60	1.65
Linemen; Equipment Ops.	17.30	1.60[illegible]
Truck Drivers	10.33	1.36
Groundmen	9.87	1.345
FRANKLIN CO.:		
Cable Splicers; Linemen	15.83	1.25
Operators	13.84	1.18
Groundmen	10.25	1.06
GEAUGA (Exclu. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twps.) CO.:		
Cable Splicers; Equipment Ops. & Linemen	17.93	2.98
Truck Drivers (Winch) Groundman; Groundman	11.65	2.76
MEDINA (Litchfield, & Liverpool Twps.) CO.:		
Cable Splicer; Equipment Op.; & Linemen	18.20	3.04
Truck Drivers (Winch) Groundman; Groundman	11.83	2.81
MEDINA (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, & York Twps.), & WAYNE (Northern ½ of Co.) COS.:		
Linemen	17.69	2.99
Cable Splicers	18.93	3.03
Equipment Operators	13.27	2.83
Truck Drivers; Groundman	8.85	2.68

DECISION NO. OH83-2010	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
MONROE, MORGAN, NOBLE, & WASHINGTON CO.:		
Cable Splicers; Linemen; & Equipment Operators	17.24	1.20
Groundmen	10.25	.96
TRUCK DRIVERS		
ADAMS, BROWN, HIGHLAND, JACKSON, LAWRENCE (W. of Coal Grove & W. of St. Rt. #75), PIKE, ROSS, SCIOTO, & VINTON COS.:		
Group 1 - Autos; Bus (inclu. Equip. used for hauling men, materials, & tools); Dumps up to 2 tons; Flat Bed (single axle vehicles under 2 tons); Fuel; Jeeps; & Pickups	12.82	[illegible]4.00q
Group 2 - Dumps over 2 Tons; Tandems; Forklift (inclu. Mason Tending Work); Truck Mechanic or Tender; Semi-tractor; Lowboy; Euclid; Dumpsters; End Dumps; Hopper-type Waster & Material Trucks; Truck with Hydraulic Attachments	13.93	44.00q
ALLEN, AUGLAIZE, DEFIANCE, HANCOCK, HARDIN, LOGAN, MERCER, PAULDING, PUTNAM, SHELBY, UNION, & VAN WERT COS.:		
Lowboys	[illegible].60	44.00q
Tenders	[illegible].60	44.00q
BELMONT, JEFFERSON (N. to Short Creek), & MONROE COS.:		
Pickups; Tenders	11.30	78.35q
Mechanic Tenders	11.31	78.35q
Flatbed Material Trucks; Dumps & Semi-Dumps	11.35	78.35q
Tank Truck (Straight & Semi)	11.38	78.35q
Semi-Tractor Trailers	11.40	78.35q
Pole Trailer	11.50	78.35q
Agitator & Mixer Trucks (Up to 5 cu. yds.)	11.5[illegible]	78.35q
Euclids; Dumpsters; Turnarockers; Ross Carriers; & Athey Wagons	11.[illegible]3	78.35q
Agitator & Mixer Trucks (Over 5 cu. yds.)	11.66	78.35q
Lowboy Trailer; Winch; Fork & Distributor Trucks (Front & Back End) & Truck Crane	11.[illegible]3	78.35q
A-Frame	1[illegible].00	78.35q
Mechanics	1[illegible].[illegible]3	7[illegible].35q
BUTLER & WARREN COS.:		
Group 1- Jeeps; Pickups; & Single Axle Trucks	13.06	92.[illegible]0q
Group 2 - Fork Lifts; Tandem Axles; Dumps, Tandem Axles; & Winch Trucks	13.21	92.00[illegible]
Group 3 - Semi Combination & Combination of Hauling Units	13.31	[illegible]2.00q
Group 4 - Drag & Low-Boys	1[illegible].[illegible]7	92.00[illegible]
Group 5 - Euclids; Mechanics	13.51	92.00q
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS.:		
Straight Flat & Dumps; Winches	9.[illegible]8	r,[illegible]&t
Ready Mix Dump Crete	[illegible].6[illegible]	r,s&t
Tandems & Tractor Trailer Combination	[illegible].6[illegible]	r,s&t
Euclids to & including 12 yds.	9.7[illegible]	r,[illegible]&t
Euclids over 12 yds.	10.11	r,[illegible]&t
COLUMBIANA CO.:		
Group 1 - Dumps; Stake Body; Batch; Flat Bottom; & Pickups	13.22	1.[illegible]1+ 51.[illegible]0q
Group 2 - Semis; Tandems	13.[illegible]4	1.[illegible]1+ 51.00q
Group 3 - Carry Alls; Euclid Wagon; D.W. 10 Caterpillar (or equivalent)	13.69	1.41+ 51.00[illegible]
Group 4- Tractor Trailer (Low Boy)	13.79	1.41+ 51.00q

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TRUCK DRIVERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
DELAWARE, FAYETTE, FRANKLIN, MADISON, PICKAWAY & ROSS COS.:		
Dumps & Straight	12.90	▮3.00q
Tandem & Semi-Farm Tractor	13.00	▮3.00q
Lowboy	13.10	▮3.00q
GALLIA, LAWRENCE (E. of Ohio State Rte. ▮75) & MEIGS COS.:		
Group 1 - Truck Tenders; Pickups; Station Wagons; Panel Trucks; Flat-body Material Truck; Dump Trucks (Up to 5 cu. yd.)	14.99	1.0▮+▮
Group 2 - Tank Truck (straight); Dump Trucks (5 cubic yds. and over); Agitator or Mixer Trucks (up to 5 cubic yds); and Flat Bed Tandems	15.2▮	1.▮▮+▮
Group 3 - Winch Trucks; Fork Trucks; Distributor Trucks (front end and back end); Truck Crane; Monorail Truck	15.3▮	1.0▮+u
Group 4 - Mechanic's Tender	15.▮▮	1.▮▮+u
Group 5 - Agitator or Mixer Truck (5 cubic yds. and over)	15.▮7	1.00+u
Group 6 - Tri-Axle Dump Trucks; Hydraulic Lift Tailgate Truck & Farm Type Tractors; End Dumpsters; Turnarockers; Ross Carriers; Athey Wagon or Similar Equipment; A-Frame; Hydro-lift; Dual Purpose Trucks; Semi-Dump; Semi-trailer; Semi-Tank and Lowboy Trailers; Mechanics	15.77	1.▮0+u
Group 7 - Master Mechanic	16.▮8	1.▮0+u
HARRISON & JEFFERSON (S. to Short Creek) COS.:		
Group 1 - Truck Tenders	10.76	39.50q
Group 2 - Mechanic Tenders	10.77	39.50q
Group 3 - Flatboy Material Trucks; Dumps & Semi Dumps	10.81	39.50q
Group 4 - Tanks Trucks (Straignt & Semi)	10.84	39.50q
Group 5 - Semi-Trailers & Tractor Trailers	10.86	39.50q
Group 6 - Euclids; Dumpster; Turnarockers; Ross Carrier; Athey Wagon	11.09	39.50q
Group 7 - Lowboy Trailers; Winches; A-frames; Forks; Distributors (Front & Back End); & Truck Cranes	11.39	39.50q
Group 8 - Mechanics	11.49	39.50q
WASHINGTON COUNTY:		
Group 1 - Pickups; Station Wagons; Panel Trucks	13.29	v
Group 2 - Flat Body Material Trucks (Straight Jobs); Dump Truck (up to 5 cu. yds.); Mechanic Tenders; Tank Truck (Straight)	13.39	v
Group 3 - Dump Trucks (5 cu. yds. & over); Semi-Dump Trucks; Semi-Trailers; Agitators or mixed Trucks (up to 5 cu. yds.); Monorails	13.54	v
Group 4 - Low Boy Trailers; Winch Trucks; Fork Truck; Distributor Trucks (Front and Back end); Truck Crane; Agitators or Mixer Trucks (5 cu. yds. & Over); Hydraulic Tail Gate; Farm Type Tractors	13.69	v

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TRUCK DRIVERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Group 5 - Euclids; Dumpsters; Turnarockers; Ross Carriers; Athey Wagons or similar Equipment; A-frame; Hydrolift; Dual Purpose Trucks	13.94	v
Group 6 - Mechanics	14.04	v
Group 7 - Master Mechanics	14.19	▮
POWER EQUIPMENT OPERATORS:		
All Counties, except Columbiana: Well & Pump Work (Incl. Drilling & Repair of all Water Wells; Test Holes & Wells; & Installation & Repair of Deep Well Type of Shallow Well Pumps on Water Wells)		
Well Driller & Pump Installer	▮.▮0	.61 +o+p
COLUMBIANA COUNTY:		
CLASS I	15.46	2.36
CLASS II	14.77	2.36
CLASS III	14.13	2.36
CLASS IV	13.72	2.36
CLASS V	13.62	2.36
CLASS VI	15.73	2.36

Basic Hourly Rates	Fringe Benefits

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CLASSIFICATION DEFINITIONS

LABORERS

BROWN, CLERMONT, CLINTON, & HAMILTON COUNTIES

GROUP 1 - Common Laborers; Cement Masons' Tenders; Hand Operated Mechanical Mule; & Mechanical Sweeper
GROUP 2 - Bottom Man; Pipelayer
GROUP 3 - Burning Torch Operator; Concrete Pump Hose Man; Jackhammer; Mechanical & Air Tamper Operator; Mechanical Concrete Buggies; Power Operated Mechanical Mule; Vibrator Man
GROUP 4 - Bottom Jackhammer Man; Mason Tenders; Plasterers' Tenders; Stonemasons' Tenders
GROUP 5 - Plaster Mixer Pump Operator
GROUP 6 - Tunnel Laborer
GROUP 7 - Gunnite Nozzle Operator
GROUP 8 - Demolition Construction - Wrecking Laborers
GROUP 9 - Demolition Construction - Jackhammer Man; Burner; & Wall Man

POWER EQUIPMENT OPERATORS

COLUMBIANA COUNTY

CLASS I - Asphalt Planer Heater; Austin Western & Similar Type; Backfiller W/Drag Attachment; Backhoe; Batch Plant-Central Mix; Batch Plant-Portable Concrete; Berm Builder-Automatic; Boat Derrick; Boat Tug; Boring Mach. Attached to Tractor; Bullclam; Bulldozer; C. M. I. Road Builder & Similar Types; Cable Placer & Layer; Carrier-Straddle; Carryall - Scraper or Scoop; Chicago Boom; Compactor W/Blade Attached; Concrete Spreader Finisher Comb.; Crane; Crane-Stationary or Climbing; Crane-Electric Overhead Crane-Side Boom; Crane Truck; Crane-Tower; Derrick-Boom; Derrick-Car; Diggers-Wheel (not trencher or road widener); Double Nine; Drag Line; Dredge; Drill-Kenny or Similar Type; Electromatic; Fork Lift; Frankie Pile; Gradall; Grader-Power; Gurry; Gurry-Self-Propelled; High Lift; Hoist-Monorail; Hoist-Stationary & Mobile Tractor; Hoist-2 or 3; Jackall; Jumbo Mach.; Kocal and Kuhlman; Land-Seagoing Vehicle; Loader - Elevating; Loader-Front End; Locomotive; Mechanic as Welder; Metro Clip Harvester W/Boom; Mucking Mach.; Paving-Asphalt Finishing Mach.; Paver Road Concrete; Paver-Slip Form; Place Crete Mach; Post Driver; Power Driven Hydraulic Pumps & Jacks; Pump Crete Machine; Regulator-Ballast; Reigs- Drilling; Shovels; Spikemaster; Stonecrusher; Tie Puller & Loader; Tie Tamper; Tractor-Double Boom; Tractor w/Attachments; Trench Mach.; Trucks-Boom; Truck Tire-Assigned to Job; Tunnel Machine (Mark 21 Java or Similar); Whirley

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (CONT'D)

COLUMBIANA COUNTY (CONT'D)

CLASS II - Asphalt Plant; Bending Machine; Boring Mach.; Chip Harvester W/O-Boom; Cleaning Mach.- Pipeline Type; Coating Mach.- Pipeline Type; Concrete Belt Placer; Concrete Finisher; Concrete Planer or Asphalt; Concrete Spreader; Elevator; Fork Lift Walk Behind; Form Line Mach.; Grease Truck Op.; Grout Pump; Gunnite Mach.; Hoist-Single Drum; Huck Bolting Mach.; Hydraulic Scaffold; Paving Breaker; Pipe Dream; Pot Fireman; Power Broom; Refrigeration Plant; Sasgen Derrick; Seeding Mach.; Self-Propelled Mobile Vibrator Compactor or Roller; Soil Stabilizer (Pump Type); Spray Cure Mach. Self-Propelled; Straw Blower Mach.; Sub-Grader; Tube Finisher or Broom C.M.I or Similar Type; Tugger Hoist
CLASS III - Batch Plant-Jeb Related; Boiler Op.; Compressor (125 CFM or Over); Curb Builder (Self-Propelled); Generator-Steam; Jack-Hydraulic Driven; Mixer-Concrete; Mulching Mach.; Pin Puller; Pulverizer; Pump; Road Finishing Mach. (Pulltype); Roller; Saw-Concrete-Self-Propelled; Spray Cure Mach.-Motor Powered; Spreader (Side Driver Shoulder Attachment); Tractor; Trencher Form; Water Blaster
CLASS IV - Brake Man; Compressor Under 125 CFM; Conveyor; Conveyor 12 Feet or Under Other Than Servicing Bricklayers; Deck Hand; Drill Wagon; Fireman; Generator Sets; Heater-Portable Power (2 to 5); Jacks Hydraulic (Railroad); Ladavator; Roller (Walk Behind 1 Ton or Over); Steam Jenny; Syphons; Tender Mechanic; Vibrator-Gasoline; Welding Machines (2) (Fuel Burning)
CLASS V - Oiler
CLASS VI - Rigs-Pile Driving or Caisson Type

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POWER EQUIPMENT OPERATORS

	ZONE I Basic Hourly Rates	ZONE II Basic Hourly Rates	ZONE III Basic Hourly Rates	Fringe Benefits
GROUP A	$17.24	$16.96	$17.52	3.02
GROUP B	17.08	16.80	17.37	3.02
GROUP C	16.73	16.44	17.02	3.02
GROUP D	15.92	15.66	16.24	3.02
GROUP E	15.59	15.33	15.92	3.02
GROUP F	13.38	13.13	13.74	3.02

ZONE I: Allen, Ashland, Belmont, Carroll, Coshocton, Defiance, Fulton, Guernsey, Hancock, Hardin, Harrison, Henry, Holmes, Jefferson, Monroe, Noble, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Tuscarawas, Van Wert, Washington, Wayne, Williams, & Wood Counties

ZONE II: Adams, Auglaize, Brown, Butler, Champaign, Clark, Clermont, Clinton, Crawford, Darke, Delaware, Fairfield, Fayette, Franklin, Gallia, Greene, Hamilton, Highland, Hocking, Jackson, Knox, Lawrence, Licking, Logan, Madison, Marion, Meigs, Mercer, Miami, Montgomery, Morgan, Morrow, Muskingum, Perry, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union, Vinton, Warren, & Wyandot Counties

ZONE III: Erie, Geauga, Huron, & Medina Counties

DECISION NO. OH83-2010

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP A - A-Frames; Boiler or Compressor Operator mounted on Crane (Piggy-Back Operation); Boom Truck; Cableways; Cherry Pickers; Combination Concrete Mixer and Tower; Concrete Pumps; Cranes; Derricks; Draglines; Dredge (Dipper, Clam or Suction) 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Hammerhead Tower Cranes; Helicopter Operator and Helicopter Winch Operator When Hoisting Builders Materials; Hoes; Hoisting Engines (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple drum); Mobile Concrete Pumps with Boom; Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson work for Foundations and Sub-Structure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); Tug Boat

GROUP B - Asphalt Paver; Bulldozer; C.M.I. Type Equipment; End Loaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; Push Cat

GROUP C - Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Fork Lifts; Hoist (One Drum); House Elevators; Man Lift; Power Boilers (over 15 lbs. Pressure); Pump Operators Installing Well Points or other Type of Dewatering System; Pumps (4" and Over Discharge); Submersible Pumps (4" and Over Discharge); Trenchers 2" and under

GROUP D - Compressors on Building Construction; Conveyors (Building Material); Generators; Gunnite Machines; Mixers (Capacity more than One Bag); Mixers (One Bag Capacity, side Loader); Pavement Breaker (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; Rollers; Welder Operator

GROUP E - Backfiller & Tamper; Bar and Joint Installing Machines; Batch Plant; Bullfloats; Burlap and Curing Machine; Clefplanes; Concrete Spreading Machine; Crushers; Deck Hands; Drum Fireman (asphalt); Farm Type Tractors Pulling Attachments; Finishing Machines; Form Trenchers High Pressure Pumps Over ½" Discharge; Hydro Seeders; Self-Propelled Power Spreader; Self Propelled Sub-Grader; Tire Repairman; Tractors Pulling Sheeps Foot Roller or Grader; Vibratory Compactor (with Integral Power)

GROUP F - Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oiler; Power Driven Heaters (Oil Fired); Power Boiler (Less than 15 lbs. Pressure); Pumps under 4" discharge Boiler (Less than 15 lbs. Pressure); Pumps under 4" Discharge Submersible Pumps under 4" Discharge; Tenders

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:

a. $75.00 per year
b. 2 paid holidays: C & D
c. 2 paid holidays: C & D
d. $25.00 per year
e. 7 paid holidays: A through F and Day after Thanksgiving
f. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for employee who has worked in business less than 5 years.
g. 3 paid holidays: D, E, & F
h. $25.00 per year
i. $50.00 per year
j. 6 paid holidays: A, C, E, F, Decoration Day, & Veterans' Day
k. 1 paid holiday: D, providing the employee has worked 5 consecutive days before and after the holiday.
l. 3% of gross earnings to SASMI
m. $150.00 per year
n. 10 paid holidays; A through F; Good Friday; Day After Thanksgiving Day; Christmas Eve & New Year's Eve
o. 9 paid holidays: Good Friday; Friday after Thanksgiving Day; & Christmas Eve
p. Employees who have been in continuous employment of the company for less than 1 year as of January 1 will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year- 2 wks' paid vacation; 11th continuous calendar year - 3 wks' paid vacation
q. Per employee per week
r. $55.50 per week per employee
s. 1 year's employment - 1 week's paid vacation; 7 years' employment - 2 weeks' paid vacation providing the employee has been on payroll for 8 months during the previous 12 month period
t. An Employee who has been on the payroll 30 days or more & has worked his last scheduled workday within 7 calendar days before his next scheduled workday within 7 calendar days after New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, & Christmas Day shall receive 8 hours' pay for said holidays.
u. $305.50 per employee per month
v. $197.17 per employee per month

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

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federal register

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Part III

Department of Labor

Mine Safety and Health Administration

Safety Standards for Use of Equipment

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56 and 57

Safety Standards for Use of Equipment

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of availability of preproposal draft.

SUMMARY: The Mine Safety and Health Administration (MSHA) has developed a preproposal draft of revisions to current use of equipment standards for the metal and nonmetal mining industry. MSHA seeks comments from all interested parties on the preproposal draft. Copies of the draft may be obtained by contacting the Agency.

DATE: Comments must be received on or before April 15, 1983.

ADDRESS: Send comments to the Office of Standards, Regulations and Variances, MSHA, Room 631, Ballston Towers #3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION: On March 25, 1980, MSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (45 FR 19267) announcing its comprehensive review of existing metal and nonmetal mine safety and health standards in 30 CFR Parts 55, 56, and 57. The Agency is reviewing the standards to eliminate duplicative and unnecessary standards, provide alternative methods of compliance, reduce recordkeeping requirements, and upgrade provisions consistent with advances in mining technology. MSHA believes this review will result in more effective regulations for assuring the safety and health of miners. The review is consistent with the specific goals of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

On November 20, 1981, MSHA published a subsequent ANPRM in the **Federal Register** (45 FR 57253) listing eight sections the Agency had selected for priority review. Standards related to use of equipment were included in the priority group.

On March 9, 1982, MSHA published a notice in the **Federal Register** announcing public conferences to discuss issues related to the standards under priority review. The Section .14 conferences were concluded in April 1982. During the conferences many commenters requested that the Agency make available a preproposal draft of the standards under review before issuing a proposed rule.

MSHA has now completed development of the preproposal draft for Section .14. In addition to revising the substance of the existing standards, the Agency has reorganized Parts 55, 56, and 57 into a single Part 58. This reorganization would eliminate the current repetition of identical standards in the Code of Federal Regulations. The proposed revisions are designated as General—Surface and Underground so that they would apply to all mining operations.

The Agency requests comment on the substance of the preproposal standards, as well as on the reorganization of the standards. In addition, the Agency is interested in any economic data or other regulatory impact information commenters may wish to submit.

A copy of the preproposal draft has been mailed to persons and organizations known to MSHA and others may obtain a copy of the draft by submitting a request to the address provided above. The document contains the Agency's recommended revisions, a comparison with existing provisions, and a summary explanation of the proposed changes.

Dated: February 8, 1983.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 83-3804 Filed 2-10-83; 8:45 am]

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Part IV

Department of Energy

Office of Conservation and Renewable Energy

State Energy Conservation Program

Federal Register

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 420

[Docket No. CAS-RM-79-501]

State Energy Conservation Program

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) proposes to amend the regulations for the State Energy Conservation Program (SECP) by replacing joint State and DOE goal setting in terms of projected energy savings with State goal setting under more flexible terms, by replacing the use of projected energy savings in the funding formula with estimated actual energy savings as validated or calculated by DOE for a prior 12-month period, by using decennial census data instead of July 1976 data for the population component of the funding formula, by making changes to the building lighting and thermal efficiency standards requirements which recognize the different types of constitutional authority States have to adopt such standards, and by making other administrative changes.

The proposed amendments will provide States with greater flexibility to adopt energy efficiency goals and program measures suited to their individual circumstances. They will also reduce the administrative and regulatory burden on States and distribute available funds more effectively. Since many of today's proposed administrative amendments are the same or similar to changes being proposed for the Energy Extension Service (EES), DOE is improving and simplifying State administration of both programs. The proposed amendments, if implemented, are expected to result in increased program effectiveness for the Federal and State dollars spent, expanded State control over the use of funds, and decreased Federal involvement in State-specific decisions.

DATES: Written comments (eight copies) must be received no later than March 14, 1983 to ensure their consideration. A public hearing will be held in Washington, D.C. on March 1, 1983 beginning at 9:00 a.m. in conjunction with a DOE hearing on a proposed rule concerning the Energy Extension Service. Requests to speak at the hearing must be received no later than February 23, 1983. Oral statements (eight copies) must be received no later than February 28, 1983.

ADDRESSES: (1) Public hearing location: U.S. Department of Energy, Room 1E-245, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. (2) Send all written comments, oral statements, and requests to speak at the hearing to: Conservation and Renewable Energy, Office of Hearings and Dockets, Department of Energy, Mail Stop 6B-025, Room 5F-078, Docket Number CAS-RM-79-501, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-9319.

FOR FURTHER INFORMATION CONTACT:

Mary Fowler, Office of Energy Management and Extension, Department of Energy, Mail Stop CE-24, 5B-137, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-8287; or

Edward H. Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6G-094, Room 6B-144, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-9507.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Proposed Regulation Changes
III. Opportunity for Public Comment
IV. Other Matters

I. Introduction

When first enacted, Part C of Title III of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, 89 Stat. 932 (42 U.S.C. 6321 *et seq.*), provided financial assistance to develop, modify or implement State energy conservation plans. Part C was subsequently amended by Part B of Title IV of the Energy Conservation and Production Act (ECPA) Pub. L. 94-385, 90 Stat. 1158 (42 U.S.C. 6326 and 6327), which provided financial assistance to develop, modify or implement supplemental State energy conservation plans. Together, the EPCA and ECPA provisions desoribed the State Energy Conservation Program (SECP).

Regulations for the program, 10 CFR Part 420, were promulgated by the Federal Energy Administration on February 20, 1976 (41 FR 8335, February 26, 1976); October 28, 1976 (41 FR 48325, November 3, 1976); and May 13, 1977 (42 FR 26413, May 24, 1977). The Department of Energy (DOE) amended the guidelines for SECP in order to consolidate and simplify the guidelines on March 29, 1979 (44 FR 20055, April 4, 1979).

The Administration did not request funding for SECP in fiscal years 1982 and 1983 based on evidence that the nation is undertaking conservation efforts in response to higher energy prices. However, since Congress has provided funds for continuation of the program, DOE believes that the program would be conducted more effectively by reducing and simplifying the administrative burden on States and by giving States greater authority to make decisions now made with substantial Federal involvement. Accordingly, DOE proposes to amend the SECP regulations in three categories: (1) Use of energy savings attributed to program efforts, (2) implementation of building lighting and thermal efficiency standards, and (3) administrative requirements. No disruption to State program activity will occur as a result of the regulation amendment process. DOE expects that fiscal year 1983 SECP grants can be made to the States under the amended regulations before the States expend all of the SECP funds made available for fiscal year 1982.

The first major change proposed involves the use of energy saving attributed to program efforts. Today's proposal substitutes estimated actual energy saving as validated or calculated by DOE for a prior 12-month period for projected energy savings in the funding formula and allows each State more freedom to set its own energy efficiency goals.

One of the reasons for these changes is that States have experienced difficulties in developing and maintaining the capability to do reliable energy savings calculations. In SECP's seven year history, procedures have not been fully institutionalized in the States to produce consistently reliable estimates of energy savings. In a 1980 report,[1] the General Accounting Office (GAO) concluded that the State-reported energy savings in 1978 were optimistic, based on critical assumptions which were not adequately supported, and for similar programs in different States, based on different sets of key assumptions. Among the recommendations of the report was that DOE provide technical assistance to the States in the areas of projecting future and estimating actual energy savings. DOE did provide written guidance and extensive training to States in making energy savings calculations, resulting in improved estimates from some States. However, in a 1982 report,[2] GAO noted

[1] U.S. General Accounting Office, *Delays and Uncertain Energy Savings in Program to Promote State Energy Conservation*, Report to the Congress EMD-80-97, September 2, 1980.

[2] U.S. General Accounting Office, *State Energy Conservation Program Needs Reassessing*, Report to the Congress, EMD-82-39, April 21, 1982.

continuing problems with overstated and unsupported energy savings reported in 1980, after giving DOE credit for providing reasonable technical assistance.

DOE believes there may be several reasons for these inaccuracies in State reporting. First, States may have had an incentive to overstate projected energy savings since 35 percent of the funding formula has been based on the projection, and DOE did not have a rigorous system to verify the State-reported data. Second, in order to avoid reporting a large shortfall against projected energy savings, States may have tended to overstate actual savings. Third, States may have experienced turnover and shortages in technical staff capable of doing energy savings calculations because of declining funds available to the program.

To address these problems today's proposal would replace projected energy savings in the funding formula with estimated actual energy savings as validated or calculated by DOE for a prior 12-month period. The use of actual energy savings as verified by DOE is likely to control much of the overstatement of energy savings and more accurately reflect State performance in conserving energy. These verified energy savings will be used as a basis for allocating SECP funds among States. By using validated actual energy savings as 35 percent of the funding formula, DOE is also encouraging States to use their funds for activities which will result in energy savings. The substitution of validated actual energy savings for projected energy savings also would eliminate the need for the State to calculate projected energy savings and reduce the workload of the 57 grantees under the program. An annual energy savings report would continue to be required of States for use in calculating the energy savings share of the State funding formula.

In addition, the proposal will allow each State freedom to set its own energy conservation goals. DOE and the States set the original goals through 1980 based on projected energy savings. Subsequent to 1980 DOE set the State goals, still based on projected energy savings. Under the proposal, a State could set its own goals for its SECP program in quantitative or qualitative terms. At a State's option, goals may be stated in terms of projected energy savings or other quantitative measures. However, qualitative goals may be more appropriate for certain types of activity—for example, when a State deems it useful to work with builders, engineers, or other groups that can influence the use of energy by energy consumers. The proposal would remove DOE from the process of setting goals and provide the flexibility for States to set their own goals based on their individual assessments of their needs and capabilities. Goal statements would be provided by each State as part of its annual application for funds.

The second category of proposed amendments concerns the implementation of building lighting and thermal efficiency standards. In 1980, in response to a recommendation by GAO, DOE conducted an analysis of State compliance with the SECP legislative requirement for building lighting and thermal efficiency standards as detailed in the SECP regulation. The analysis indicated that State compliance with the requirement was hindered in part by the lack of recognition in the regulations of the extent of local government authority with regard to implementation of building standards. The proposed amendment recognizes the different types of constitutional authority vested in the States or in local governments to adopt building standards. Today's proposal does not require States to adopt standards for which they do not have the constitutional authority, thereby providing greater flexibility to States in implementing SECP.

The last category of proposed amendments involves administrative requirements. These include the elimination of the requirement for a uniform budget period for all the States, the use of decennial census data for the population component of the funding formula, and liberalization of the use of SECP funds for equipment needed in program implementation. The list of prohibited expenditures is adjusted by adding the purchase of land, buildings, or structures, and the conduct of research. The proposal continues to allow expenses necessary to accomplish the program's purposes and is consistent with the proposed regulations for EES on prohibited expenditures. When adopted, the proposal will provide for a single set of prohibited expenditures for SECP and EES so that States do not have the burden of complying with two different sets of prohibited expenditures for similar programs. In order to avoid redundancy with the DOE Financial Assistance Rules, DOE proposes to delete those provisions in the existing regulation which are covered in the Financial Assistance Rules, 10 CFR Part 600, published on October 5, 1982 (47 FR 44076).

DOE believes that today's proposed amendments will simplify and improve the SECP program. The proposed amendments to the use of energy savings, such as State goal setting and use of validated actual energy savings in the State funding formula, will reduce the administrative and regulatory burden on States, decrease DOE involvement in State program design, and provide an effective incentive for States to use their SECP funds for activities which will result in energy savings. The amendments to the building lighting and thermal efficiency standards will further expand State flexibility to design and implement activities suited to their needs and circumstances. DOE believes the entire set of proposed amendments will result in increased program impact for the Federal and State dollars spent, an increase in State control over funds, and a decrease in Federal involvement.

The proposed amendments to the SECP regulation are discussed in the next section. The text to the entire program regulation as it is proposed to be amended is published at the end of the preamble.

II. Proposed Regulation Changes

DOE proposes to change the regulation title from "State Energy Conservation Plans" to "State Energy Conservation Program." The regulation addresses more than the plan submitted by a State. It also covers post-award activities and activities related to the conduct of the entire program. The change in title reflects the content of the regulations.

Section 420.2 Definitions. The definition of "Regional Representative" is deleted and that of "Operations Office Manager" added. The position of Regional Representative has been eliminated and the responsibilities of that position have been assumed by the Operations Office Manager. "Operations Office Manager" replaces "Regional Representative" throughout the proposed rule. The phrase "energy conservation" is deleted from the definition of "energy conservation" to avoid defining the term partially in terms of itself.

Section 420.3 Financial Assistance. DOE proposes to delete reference to calendar year budget periods for SECP grants to States. Instead of a uniform budget period for all grantees, DOE proposes to allow States to select a variable budget period within reasonable parameters established by DOE. In a similar amendment to the EES regulations, DOE is also proposing to delete reference to calendar year budget periods for EES grants. The proposed amendments to both programs give States flexibility to select a grant budget

period that is the same as the State fiscal year, which is not necessarily the same as the calendar year, or that otherwise meets their individual needs.

DOE also proposes to change the source of population data for the funding formula calulation for SECP and the supplemental plans to the most recent decennial census data published by the Bureau of the Census. The current rule uses population as of July 1976 as the basis for calculating the population share of the formula. The July 1976 figure was the most current figure available at the time the current rule was written. The proposed amendment would use the same population data that is required by law for EES.

In addition, in the funding formula DOE proposes to substitute estimated actual energy savings as validated or calculated by DOE for a prior 12-month period in place of projected energy savings. This would mean that States would no longer be required to project energy savings, but they would be required to submit some data relating to actual energy savings. Under the existing formula, in which State-reported projected energy savings account for 35 percent of the award, there has been an incentive for States to overstate their projections. The use of actual energy savings in the formula is likely to be a more accurate reflection of State performance in conserving energy than figures which project savings into the future. Moreover, to insure that the 35 percent weight given in the formula to actual energy savings does not serve as an incentive to States to overstate the actual figures, DOE will validate State-reported data before making the funding formula computations.

The validation system would be developed during FY 1983 by DOE in consultation with States. The system is likely to include further DOE guidance and technical assistance to States in methodologies for developing energy savings data, DOE on-site visits to verify the nature and number of State activities conducted, and possible sanctions in cases where DOE finds discrepancies in State-reported data. During the period in which the validation system is being developed, State-reported estimated actual energy savings will be used in computing FY 1983 State funding shares. These State-reported data and supporting documentation will be reviewed for reasonableness by DOE prior to computing the FY 1983 funding shares, but will not be verified by DOE through on-site visits or reassessment of methodologies used by States in calculating energy savings.

This change in the energy savings component of the funding formula, combined with the 35 percent weight given to it, should provide an effective incentive for States to allocate SECP funds to activities that produce energy savings.

Section 420.4 Annual State Applications. DOE proposes to delete reference to the State application due date. The current application due date, December 31, is not feasible because the appropriations outcome is often not known in time to adhere to the schedule in the current rule. The proposal adds flexibility to the program. The date for requesting an extension of filing time for the annual application is adjusted by the proposed amendment to reflect the proposed deletion of the State application due date.

DOE further proposes to amend the sections referring to the contents of State annual applications for SECP funds. References to estimated energy savings are deleted from the annual State application in today's proposal. Through 1980 States were required to state goals in terms of projected energy savings. In view of the workload this represents for States and the difficulties encountered in the calculation of projected energy savings, the proposed amendment requires a goal statement in the annual State application but projecting energy savings will be at the State's option, not a requirement, since qualitative goals may be more appropriate for certain types of State activity. Budget information will be requested for the total program only by object class category. For each program measure, a budget and listing of milestones will be required to create the baseline against which States report in their quarterly reports to DOE. The limitation on the time period for extension of the annual submission date is deleted in today's proposal. The deletion of reference to the time limitation will give DOE greater flexibility to respond to State needs.

Because the DOE Financial Assistance Rules, 10 CFR Part 600, published October 5, 1982 (47 FR 44076) cover all grant applications, it is no longer necessary to repeat in this regulation reference to inclusion of a grantee's name and address on an application as well as information on other sources of funding for the State program. The proposal deletes these specific requirements.

Section 420.5 Review and Approval of Annual State Applications and State Plans. DOE proposes to require that program measures be consistent with a State's achievement of the qualitative or quantitative goals set by the State in the annual State application. This is related to the proposed amendment to § 420.3 and § 420.4 to delete projected energy savings from the annual State plan and to substitute qualitative or quantitative goals.

Section 420.6 Energy Savings Goals. DOE proposes to delete the DOE and State energy savings goal requirement. In § 420.4 DOE proposes an alternative to the continued use of the 1980 DOE and State negotiated goal, i.e., States will be required to include a goal statement in their annual plan but DOE will not be part of the goal setting process. This will provide the States greater flexibility and authority to set energy efficiency goals suited to their needs.

Section 420.7 Minimum Criteria for Required Program Measures for Plans. This section would be renumbered § 420.6 by today's proposal.

DOE proposes to amend the requirements for mandatory building lighting and thermal efficiency standards. The proposed amendments allow States to comply with the requirements if they adopt and implement standards to the degree permitted by their constitutions. In States having the constitutional authority to adopt and implement State laws establishing building standards and in those States having the authority to adopt State laws establishing building standards and to require local governments to adopt and implement equivalent or more restrictive standards, building lighting and thermal efficiency standards must be implemented. Those States lacking authority to adopt building standards for all of their local governments will be required to adopt a model code under the proposed amendments as encouragement for local action.

Section 420.8 Minimum Criteria for Required Program Measures for Supplemental Plans. This section would be renumbered § 420.7 by today's proposal.

Section 420.9 Extensions for Compliance with Required Program Measures. This section would be renumbered § 420.8 by today's proposal.

Under this proposal, "DOE" is added to the second sentence. The word was inadvertently omitted from the current rule.

Section 420.10 Administrative Review. This section would be renumbered § 420.9 by today's proposal.

DOE proposes to revise the language on membership in the review panel. The proposed amendment makes all administrative review provisions

consistent between SECP and EES. This will make administration of both programs easier since the provisions would be the same for both.

Section 420.11 Technical Assistance. This section would be renumbered § 420.10 by today's proposal.

Section 420.12 Recordkeeping. This section would be deleted by today's proposal in order to avoid redundancy with the DOE Financial Assistance Rules, 10 CFR Part 600, published October 5, 1982 (47 FR 44076).

Section 420.13 Reports. This section would be renumbered § 420.11 by today's proposal.

DOE proposes to include a requirement that States submit an annual energy savings report. The data provided is needed as the basis for calculating the 35 percent of the State funding formula which involves energy savings. This will not be an additional burden as the States have been submitting such a report under the policy requirements of the program.

Section 420.14 Prohibited Expenditures. This section would be renumbered § 420.12 by today's proposal.

DOE proposes to liberalize the use of SECP funds for equipment needed in program implementation. Under today's proposal, up to 20 percent of a State's SECP grant may be used to purchase equipment, office supplies, or library materials. This is the same provision as in the EES program. Today's proposal will give flexibility to program content. The purchase of land, buildings, and structures, and conduct of research are added to the list of prohibited expenditures in order to make this section correspond to § 465.11 of the proposed EES rule. The proposed amendments provide for a single set of prohibited expenditures for SECP and EES instead of the current two sets. This will make administration of both programs easier since the same set of spending restrictions apply to both.

Section 420.15 Administration of Financial Assistance. This section would be renumbered § 420.13 by today's proposal.

DOE proposes to delete reference to the circulars pertaining to this program which are published by the Office of Management and Budget and other branches of the Executive Department and which are covered by the DOE Financial Assistance Rules, 10 CFR Part 600.

DOE is interested in receiving comments from the public on these proposed amendments.

III. Opportunity for Public Comment

A. A. Written Comments.—Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposal set forth in this notice. Comments should be submitted to the address given in the addresses section of this preamble. The envelope and documents submitted should be identified with the designation "State Energy Conservation Program," Docket Number CAS–RM–79–501. Eight (8) copies should be submitted.

All comments received on or before March 14, 1983 and all other relevant information will be considered by DOE before taking final action on this rule.

All comments received will be available for public inspection in the DOE Reading Room, Room 1E–090, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday except Federal holidays. Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy, as well as eight copies from which the information claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination. This procedure is set forth in 10 CFR 1004.11 (44 FR 1908, January 8, 1979).

B. Public Hearing.—DOE will hold a public hearing on this proposed rule in Washington, D.C. at 9 a.m. e.s.t., on March 1, 1983.

Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in it may make a written request for an opportunity to make an oral presentation. Such a request to speak at the hearing should be directed to the address given in the addresses section of this preamble and must be received by 4:30 p.m. local time, on the date specified in the dates section.

The person making the request should describe briefly his or her interest in the proceeding and, if appropriate, state whether that person is a proper representative of a group. The person should also give a concise summary of the proposed oral presentation and should provide a phone number where the person may be reached. Each person selected by DOE to be heard at the public hearing will be notified by February 24, 1983. Those persons selected to be heard must submit eight copies of their statement to the address given in the addresses section by February 28, 1983. If a person cannot provide eight copies, he or she should mention this in the letter requesting an opportunity to speak so that alternate arrangements can be made in advance of the hearing.

C. *Conduct of Hearing.*—DOE reserves the right to select persons to speak at the hearing, to schedule their presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation will be limited to 20 minutes.

A DOE official will preside at the hearing. This will not be a judicial or evidentiary type hearing. Questions may be asked of speakers only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all the information available to DOE.

Any participant who wishes to ask a question at the hearing may submit the question in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit a response.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

D. *Transcript of Hearing.*— A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 1E–090, Forrestal Building, 1000 Independence Avenue S.W., Washington, D.C. 20585, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

E. Cancellation of Hearing. —If DOE must cancel a hearing, DOE will make every effort to publish an advance notice of such cancellation in the Federal Register. Notice of cancellation will also be given to all persons scheduled to speak at the hearing.

IV. Other Matters

A. Environmental Review.—An environmental assessment for the original SECP program under the Energy Policy and Conservation Act was prepared. Notice of the availability of this assessment was published with the proposed rulemaking in the Federal Register on June 16, 1976 (41 FR 24410, 24412–13). While certain adverse

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environmental impacts were identified, they were found not to be "significant" within the meaning of the National Environmental Policy Act of 1969. Therefore, an environmental impact statement was not prepared.

A subsequent environmental assessment of the Energy Conservation and Production Act amendments to the program was completed prior to issuance of the guidelines applicable to supplemental plans. Notice of this second assessment was published with the notice of proposed rulemaking in the **Federal Register** on March 25, 1977 (42 FR 16150–51). No significant impacts were identified.

Each plan and supplemental plan was required to include a detailed description of the increase or decrease in environmental residuals expected from the implementation of the subject plan and an indication of how the environmental factors were considered in the selection of program measures. Environmental impact determinations were made and published for each plan prior to funding. Applications for financial assistance submitted in accordance with the regulation have been and will continue to be subject to NEPA review, as appropriate, prior to approval in a manner similar to the treatment of applications filed under existing regulation.

DOE has reviewed the environmental impacts of the program changes proposed today. It is DOE's judgment that no new or additional environmental impacts are associated with DOE's proposed amendments. The proposed program change does not require the addition of any new measures beyond those already contained in the program It is, accordingly, DOE's determination that the proposed amendments clearly will have no significant impacts, and that no additional EA or EIS is required

B. Executive Order 12291.—DOE has concluded that this rule is not a "major rule" under Executive Order 12291 because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The rule was submitted to the Director of the Office of Management and Budget pursuant to Executive Order 12291. The Director has concluded his review under that Executive Order.

C. Regulatory Flexibility Act.—The Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 601), requires, in part, that agencies prepare an initial regulatory flexibility analysis for any proposed rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and explanation of that determination in the **Federal Register**.

The revisions in this rule are changes to energy savings and performance requirements, building lighting and thermal efficiency standards, and administrative requirements. DOE does not feel that the proposed changes will have a significant economic impact on a substantial number of small entities, as defined under the Regulatory Flexibility Act. Therefore, pursuant to section 605(b) of that Act, DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act.—Changes in the program's information collection requirements within the meaning of the Paperwork Reduction Act, Pub. L. 96–511, 94 Stat. 2812 (44 U.S.C. 3501), proposed in this notice will be forwarded to the Office of Management and Budget.

E. The Catalogue of Federal Domestic Assistance.—The Catalogue of Federal Domestic Assistance number for the State Energy Conservation Program is 81.041.

List of Subjects in 10 CFR Part 420

Energy conservation, Grant programs—energy, Reporting and recordkeeping requirements, Technical assistance.

In consideration of the foregoing, DOE proposes to amend Part 420 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., February 4 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

10 CFR Part 420 is revised to read as follows:

PART 420—STATE ENERGY CONSERVATION PROGRAM

Sec.

420.1 Purpose and scope.
420.2 Definitions.
420.3 Financial assistance.
420.4 Annual State applications.
420.5 Review and approval of annual State applications and State plans.
420.6 Minimum criteria for required program measures for plans.
420.7 Minimum criteria for required program measures for supplemental plans.
420.8 Extensions for compliance with required program measures.
420.9 Administrative review.
420.10 Technical assistance.
420.11 Reports.
420.12 Prohibited expenditures.
420.13 Administration of financial assistance.

Authority: Title III, Part C, as amended, of the Energy Policy and Conservation Act (42 U.S.C. 6321 *et seq.*); Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*)

§ 420.1 Purpose and scope.

(a) This part prescribes requirements for program measures included in plans and supplemental plans, and guidelines for the development, modification and funding of plans and supplemental plans. It is the purpose of this part to promote the conservation of energy and to reduce the rate of growth of energy demand through the development and implementation of a comprehensive State energy conservation plans program and the provision of Federal financial and technical assistance to States in support of such program.

(b) DOE has the responsibility to foster and promote comprehensive State energy conservation plans by providing technical and financial assistance for specific State initiatives to conserve and improve efficiency in the use of energy and to encourage the use of renewable resources. Because of the diversity of conditions among the various States and regions of the Nation, a wholly Federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities.

§ 420.2 Definitions.

As used in this part—

"Act" means Title III, Part C, as amended, of the Energy Policy and Conservation Act, 42 U.S.C. 6321 *et seq.*

"ASHRAE 90–75" means those designated standards developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Incorporated, as approved by its Board of Directors on August 11, 1975, to provide design requirements for improvements of energy utilization in new buildings.

"Btu" means British thermal unit.

"British thermal unit" means the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit at 39.2 degrees Fahrenheit and one atmosphere of pressure.

"Building" means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

"Carpool" means the sharing of a ride by two or more people in an automobile.

"Carpool matching and promotion campaign" means a campaign to coordinate riders with drivers to form carpools and/or vanpools.

"Commercial building" means any building other than a residential building, including any building constructed for industrial or public purposes.

"DOE" means the Department of Energy.

"Energy audit" means a survey of a building or buildings that is conducted in accordance with § 420.6(b)(3) of this Part and Subpart B of 10 CFR Part 450 and which—

(a) Identifies the type, size, energy use level and the major energy using systems of such building or buildings;

(b) Determines appropriate energy conservation maintenance and operating procedures; and

(c) Indicates the need, if any, for the acquisition and installation of energy conservation measures.

"Energy conservation" means efficient energy use or the utilization of renewable energy resources which results in energy savings based upon a net reduction in the use of non-renewable energy resources.

"Energy conservation measure" means a measure which is identified as an energy conservation measure in accordance with Subpart D of 10 CFR Part 450.

"Energy measure" means an energy conservation measure or a renewable-resource energy measure as prescribed in Subpart D of 10 CFR Part 450.

"Environmental residual" means any pollutant or pollution causing factor which results from any activity.

"Exempted building" means—

(a) Any building whose peak design rate of energy usage for all purposes is less than one watt (3.4 Btu's per hour) per square foot of floor area for all purposes;

(b) Any building with neither a heating nor cooling system;

(c) Any mobile home; or

(d) Any building owned or leased in whole or in part by the United States.

"Exterior envelope physical characteristics" means the physical nature of those elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.

"Governor" means the chief executive officer of a State and the Mayor of the District of Columbia, or a person duly designated in writing by the Governor to act upon his or her behalf.

"Grantee" means the State or other entity named in the Notice of Grant Award as the recipient.

"HVAC" means heating, ventilating and air conditioning.

"Heating, ventilating and air conditioning" means a system that provides heating, ventilation and/or air conditioning within or associated with a building.

"HUD minimum property standards" means any of the rules and regulations adopted by the Department of Housing and Urban Development establishing minimum acceptable levels of site design, site preparation, exterior and interior appurtenances which standard is applied to single or multifamily housing units which seek assistance under one or more programs administered by the Assistant Secretary for Housing and Mortgage Credit of the Department of Housing and Urban Development.

"Industrial plant" means any fixed equipment or facility which is used in connection with, or as part of, any process of system for industrial production or output.

"Major building type" means a class of buildings within which similar functions occur such as hospitals, restaurants, hotels and supermarkets.

"Metropolitan Planning Organization" means that organization required by the Department of Transportation, and designed by the Governor as being responsible for coordination within the State, to carry out transportation planning provisions in a Standard Metropolitan Statistical Area.

"National energy conservation program" means a program which is authorized by Federal statute and is wholly implemented by the Federal Government, without the active participation of a State or local government, other than for usual coordination or acknowledgement.

"Operations Office Manager" means the manager of a DOE Operations Office or his or her designee.

"Park-and-ride lot" means a parking facility generally located at or near the trip origin of carpools, vanpools, and/or mass transit.

"Plan" means a State energy conservation plan including required program measures in accordance with § 420.6 and otherwise meeting the applicable provisions of this part.

"Political subdivision" means a unit of government within a State, including a county, municipality, city, town, township, parish, village, local public authority, school district, special district, council of governments, or any other regional or intrastate governmental entity or instrumentality of a local government exclusive of institutions of higher learning and hospitals.

"Preferential traffic control" means any one of a variety of traffic control techniques used to give carpools, vanpools and public transportation vehicles priority treatment over single occupant vehicles other than bicycles and other two-wheeled motorized vehicles.

"Program measure" means one or more State actions, in a particular area, designed to effect energy conservation, excluding actions in areas specifically covered by national energy conservation programs.

"Public building" means any building which is open to the public during normal business hours, except exempted buildings, including—

(a) Any building which provides facilities or shelter for public assembly, or which is used for educational, office or institutional purposes;

(b) An inn, hotel, motel, sports area, supermarket, transportation terminal, retail store, restaurant, or other commerical establishment which provides services or retail merchandise;

(c) Any portion of an industrial plant building used primarily as office space; or

(d) Any building owned by a State or political subdivision thereof, including libraries, museums, schools, hospitals, auditoriums, sport arenas, and university buildings.

"Public transportation" means any scheduled or nonscheduled transportation service for public use.

"Renewable-resource energy measure" means a measure which is identified as a renewable resource energy measure in accordance with Subpart D of 10 CFR 450.

"Residential building" means any structure which is constructed for residential occupancy.

"Secretary" means the Secretary of DOE.

"State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

"Supplemental plan" means a supplemental State energy conservation plan including required program measures in accordance with § 420.7 and otherwise meeting the applicable provisions of this part.

"Transit level of service" means characteristics of transit service provided which indicate its quantity, geographic area of coverage, frequency and quality (comfort, travel, time, fare and image).

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"Urban area traffic restriction" means a setting aside of certain portions of an urban area as restricted zones where varying degrees of limitations are placed on general traffic usage and/or parking.

"Vanpool" means a group of riders using a vehicle, with a seating capacity of not less than eight individuals and not more than fifteen individuals, for transportation to and from their residences or other designated locations and their place of employment, provided the vehicle is driven by one of the pool members.

"Variable working schedule" means a flexible working schedule to facilitate carpool, vanpool and/or public transportation usage.

§ 420.3 Financial assistance.

(a) The Operations Office Manager shall provide financial assistance to each State having an appproved annual application from funds available for any fiscal year to develop, modify or implement a plan, a supplemental plan, or both.

(b) Financial assistance to develop, implement or modify plans shall be allocated among the States from funds available for any fiscal year, based on the following formula—

(1) Forty percent of available funds will be divided on the basis of the population of the participating States as reported by the Department of Commerce, Bureau of the Census, in the most recent decennial census;

(2) Twenty-five percent of available funds will be divided among the participating States equally; and

(3) Thirty-five percent of available funds will be divided on the basis of estimated actual energy savings as validated or calculated by DOE for a prior period of 12 consecutive months.

(c) Financial assistance to develop, implement or modify supplemental plans shall be allocated among the States from funds available for any fiscal year, based on the following formula—

(1) Seventy-five percent of available funds will be divided on the basis of the population of the participating States as reported by the Department of Commerce, Bureau of the Census, in the most recent decennial census; and

(2) Twenty-five percent of available funds will be divided among the participating States equally.

(d) The budget period covered by the financial assistance provided to a State according to § 420.3(b) and (c) of this Part will be set by the State within parameters established by DOE.

§ 420.4 Annual State applications.

(a) To be eligible for financial assistance under this part, a State shall submit to the Operations Office Manager an original and two copies of the annual application, executed by the Governor. The date for submission of the annual State application shall be set by DOE.

(b) An application shall include with respect to either a plan or supplemental plan or both—

(1) A description of the energy conservation goals to be achieved by implementation of the State plan, why they were selected, how the attainment of the goals will be measured by the State, and how the program measures included in the State plan represent a strategy to achieve these goals;

(2) For the year for which financial assistance will be provided—

(i) A budget for the total program by object class category;

(ii) A narrative statement detailing the nature of amendments and of new program measures;

(iii) For each program measure, a budget and listing of milestones; and

(iv) An explanation of how the minimum criteria for required program measures prescribed in § 420.6 of this Part for plans, and § 420.7 of this Part for supplemental plans shall be satisfied.

(3) A detailed description of the increase or decrease in environmental residuals expected from implementation of either a plan or supplemental plan, or both, defined insofar as possible through the use of information to be provided by DOE, and an indication of how these environmental factors were considered in the selection of program measures.

(c) The Governor may request an extension of the annual submission date by submitting a written request to the Operations Office Manager not less than 15 days prior to the annual submission date. The extension shall be granted only if, in the Operations Office Manager's judgment, acceptable and substantial justification is shown, and the extension would further objectives of the Act

§ 420.5 Review and approval of annual State applications and State plans.

(a) The Operations Office Manager shall review each timely annual application and provide financial assistance if he or she determines that—

(1) The application conforms to the requirements of this part;

(2) The proposed program measures are consistent with a State's achievement of its energy conservation goals in accordance with § 420.4 of this Part;

(3) The provisions of the application regarding program measures satisfy the minimum program requirements prescribed by § 420.6 of this Part.

(b) If the annual application is not approved according to paragraph (a) of this section, the Operations Office Manager shall return it to the State together with a written statement describing why the annual application fails to meet the requirements of this part. The State will be given a reasonable period of time, as determined by the Operations Office Manager, to amend its annual application and submit it for reconsideration according to paragraph (a) of this section.

§ 420.6 Minimum criteria for required program measures for plans.

A plan shall satisfy all of the following minimum criteria for required program measures.

(a) Mandatory lighting efficiency standards for public buildings shall—

(1) Be implemented throughout the State, except that the standard shall be adopted by the State as a model code for those local governments of the State for which the State's constitution reserves the exclusive authority to adopt and implement building standards within their jurisdictions;

(2) Apply to all public buildings above a certain size, as determined by the State;

(3) For new public buildings, be no less stringent than provisions of Section 9 of ASHRAE 90–75; and

(4) For existing public buildings, contain the elements deemed appropriate by the State.

(b) Program measures to promote the availability and use of carpools, vanpools and public transportation shall—

(1) Have at least one of the following actions under implementation in at least one urbanized area with a population of 50,000 or more within the State or in the largest urbanized area within the State if that State does not have an urbanized area with a population of 50,000 or more—

(i) A carpool/vanpool matching and promotion campaign;

(ii) Park-and-ride lots;

(iii) Preferential traffic control for carpoolers and public transportation patrons;

(iv) Preferential parking for carpools and vanpools;

(v) Variable working schedules;

(vi) Improvement in transit level of service for public transportation;

(vii) Exemption of carpools and vanpools from regulated carrier status;

(viii) Parking taxes, parking fee regulations or surcharge on parking costs;

(ix) Full-cost parking fees for State and/or local government employees;

(x) Urban area traffic restrictions;

(xi) Geographical or time restrictions on automobile use; or

(xxii) Area or facility rolls; and

(2) Be coordinated with the relevant Metropolitan Planning Organization, unless no Metropolitan Planning Organization exists in the urbanized area, and not be inconsistent with any applicable Federal requirements.

(c) Mandatory standards and policies affecting the procurement practices of the State and its political subdivisions to improve energy efficiency shall—

(1) With respect to all State procurement and with respect to procurement of political subdivisions to the extent determined feasible by the State, be under implementation; and

(2) Contain the elements deemed appropriate by the State to improve energy efficiency through the procurement practices of the State and its political subdivisions.

(d) Mandatory thermal efficiency standards for new and renovated buildings shall—

(1) Be implemented throughout the State, with respect to all buildings other than exempted buildings, except that the standards shall be adopted by the State as a model code for those local governments of the State for which the State's constitution reserves the exclusive authority to adopt and implement building standards within their jurisdictions;

(2) Take into account the exterior envelope physical characteristics, HVAC system selection and configuration, HVAC equipment performance and service water heating design and equipment selection;

(3) For all new commercial buildings, be no less stringent than a standard consistent with provisions of Sections 4–9 of ASHRAE 90–75, unless the operation of Section 327 of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6297, renders reliance on such standard to be impracticable;

(4) For all new residential buildings, be no less stringent than either the HUD minimum property standards or a standard consistent with the provisions of Sections 4–9 of ASHRAE 90–75, unless the operation of Section 327 of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6297, renders reliance on such standards to be impracticable; and

(5) For renovated buildings—

(i) Apply to those buildings determined by the State to be renovated buildings; and

(ii) Contain the elements deemed appropriate by the State regarding thermal efficiency standards for renovated buildings.

(e) A traffic law or regulation which permits the operator of a motor vehicle to make a right turn at a red light after stopping shall—

(1) Be in a State's motor vehicle code and under implementation throughout all political subdivisions of the State, except as provided in paragraph (e) (3) of this section;

(2) Permit the operator of a motor vehicle to make a right turn (left turn with respect to the Virgin Islands) at a red traffic light after stopping except where specifically prohibited by a traffic sign for reasons of safety or except where generally prohibited in an urban enclave for reasons of safety; and

(3) For any State without such traffic law or regulation in effect before December 31, 1978, be ready for implementation by June 27, 1979, and fully meet the requirements of paragraphs (e) (1) and (2) of this section thereafter.

§ 420.7 Minimum criteria for required program measures for supplemental plans.

A supplemental plan shall satisfy all of the following minimum criteria for required measures.

(a) Procedures for carrying out a continuing public education effort to increase significantly public awareness of the energy and cost savings which are likely to result from the implementation, including implementation through group efforts, of energy measures shall—

(1) Be under implementation; and

(2) Provide a public awareness program regarding energy audits with respect to buildings and industrial plants which at least includes a campaign publicizing the availability of energy audits in a least one urbanized area with a population greater than 50,000 or in the largest urbanized area within a State if the State does not have an urbanized area with a population of 50,000 or more. The campaign must make clear reference to the range of technical assistance available to the owner or occupant of the building or industrial plant and provide a point of contact with the organization administering the energy audits, including a telephone number;

(b) Procedures for carrying out a continuing public education effort to increase significantly public awareness of information and other assistance, including information as to available technical assistance, which is or may be available with respect to the planning, financing, installing, and monitoring the effectiveness of measures likely to conserve, or to improve efficiency in the use of energy, including energy measures shall—

(1) Be in place and under implementation; and

(2) Contain the elements considered appropriate by a State.

(c) Procedures for ensuring that effective coordination exists among various local, State and Federal energy conservation programs within and affecting such State, including the comprehensive energy extension service program, under 10 CFR Part 465, shall—

(1) Be in place and under implementation; and

(2) Contain provisions for activities considered appropriate by a State such as coordinating local and State agencies to prevent duplication of energy conservation activities or conducting public hearings to ensure that individuals and groups concerned with program measures to be incorporated in a plan or supplemental plan and all other energy conservation programs in the State, shall be afforded the opportunity to participate in their development, implementation, and modification.

(d) Procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants shall—

(1) Be under implementation throughout all political subdivisions of the State;

(2) Be in accordance with Subpart B of the 10 CFR Part 450; and

(3) Provide and make available, to the extent feasible, Class A energy audits in at least one political subdivision for the buildings or industrial plants in at least one of the following categories and as many Class C energy audits as are practicable within the State in the remaining categories—

(i) Apartment buildings;

(ii) Educational institutions;

(iii) Hospitals;

(iv) Hotels and motels;

(v) Industrial plants;

(vi) Office buildings;

(vii) Restaurants;

(viii) Retail stores;

(ix) Transportation terminals; and

(x) Warehouses and storage facilities; and

(4) Make available Class B or C audits to all individuals, as requested by such individuals, who are occupants of residential dwelling units in a State at no direct cost to those persons.

§ 420.8 Extensions for compliance with required program measures.

An extension of time by which a required program measure must be

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ready for implementation may be granted if DOE determines that the extension is justified. A written request for an extension, with accompanying justification and an action plan acceptable to DOE for achieving compliance in the shortest reasonable time, shall be made to the appropriate Operations Office Manager. Any extension shall be only for the shortest reasonable time that DOE determines necessary to achieve compliance. The action plan shall contain a schedule for full compliance and shall identify and make the most reasonable commitment possible to provision of the resources necessary for achieving the scheduled compliance.

§ 420.9 Administrative review.

(a) If the Operations Office Manager intends to deny an annual State application resubmitted by the Governor according to § 420.5(b) of this Part or refuses to accept an annual State application resubmitted by the Governor after the time period referred to in § 420.5(b) of this Part has expired, the Operations Office Manager shall give notice to the Governor.

(b) If the Operation Office Manager determines that implementation of a State plan approved according to § 420.5 of this Part fails to meet the requirements of this part, the Secretary shall give notice to the Governor of his or her intent to terminate or suspend financial assistance to the grantee.

(c) The notice required by paragraphs (a) or (b) of this section shall be issued in writing by registered mail with return receipt requested and include—

(1) A statement of the reasons for the intended denial, termination or suspension of financial assistance, including an explanation of whether any amendments or other actions would result in compliance with this part;

(2) The date, place and time of a public hearing to be held by a review panel concerning the intended denial, termination or suspension of financial assistance, the hearing to be held within 15 working days after the date of receipt by the Governor of the notice; and

(3) The manner in which views may be presented.

(d) The Governor may submit written views with supporting data to the Operations Office Manager on or prior to the date of the public hearing and shall be offered an opportunity to make an oral presentation at the public hearing.

(e) No person who is a member of the SECP office shall be a member of the review panel. The review panel shall be appointed by the Operations Office Manager and shall consist of—

(1) One person generally representative of State interests other than a person who represents the interests of the State whose application is being considered;

(2) One person representative of DOE; and

(3) One person representative of the SECP target audiences in the State affected.

(f) The review panel shall consider all relevant views and data submitted on or prior to the date of the public hearing. The review panel shall submit a written report containing its findings and recommendations to the Operations Office Manager within 10 working days after the date of the public hearing.

(g) The Operations Office Manager shall submit the report, together with his or her recommendations, to the Secretary within 5 working days after receipt of the report.

(h) The Secretary shall issue a final determination, accompanied by a statement of the reasons for the actions taken, within 10 working days after receipt of the submission from the Operations Office Manager.

(i) Upon issuance of the notice referred to in paragraphs (a) and (b) of this section, the Secretary may suspend financial assistance to the grantee pending a final determination. If the Secretary makes a final determination adverse to the grantee, the Operations Office Manager may terminate continued financial assistance to the grantee.

§ 420.10 Technical assistance.

At the request of the Governor of any State to DOE and subject to the availability of personnel and funds, DOE will provide information and technical assistance to the State in connection with effectuating the purposes of this part.

§ 420.11 Reports.

Each State receiving financial assistance under this part shall submit to the Operations Office Manager—

(a) A quarterly program performance report and a quarterly financial status report (OMB #1901–0126). The reports shall contain such information as the Secretary may prescribe in order to monitor effectively the implementation of a plan or supplemental plan. The reports shall be submitted within 30 days following the end of each calendar year quarter.

(b) An annual energy savings report. The report shall contain such information as the Secretary may prescribe in order to calculate the financial assistance to be made available to a State in accordance with § 420.3. The report shall be submitted once a year at a time determined by the Secretary.

§ 420.12 Prohibited expenditures.

(a) No financial assistance provided to a State under this part shall be used—

(1) For construction, such as construction of mass transit systems and exclusive bus lanes or for construction or repair to buildings or structures;

(2) To purchase land, a building or structure or any interest therein;

(3) To subsidize fares for public transportation;

(4) To subsidize utility rate demonstrations or State insulation tax credits;

(5) To conduct or purchase equipment to conduct research and development or demonstration of conservation techniques and technologies not commercially available.

(b) No more than 20 percent of the financial assistance awarded to the State for this program shall be used to purchase equipment, office supplies, or library materials.

§ 420.13 Administration of financial assistance.

Grants provided under this part shall comply with applicable law including, but without limitation, the requirements of—

(a) Office of management and Budget Circular A–97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968;"

(b) DOE Financial Assistance Rules (10 CFR Part 600); and

(c) Other procedures which DOE may from time to time prescribe for the administration of financial assistance under this part.

[FR Doc. 83–3706 Filed 2–10–83; 8:45 am]
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Federal Register

Friday
February 11, 1983

Part V

Department of Energy

Office of Conservation and Renewable Energy

Energy Extension Service

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DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 465

[Docket No. CAS–RM–79–505]

Energy Extension Service

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public meeting.

SUMMARY: The Department of Energy (DOE) proposes to amend the regulations for the Energy Extension Service (EES) by requiring that a State grantee provide funds for EES activities from non-Federal sources in the amount of no less than 20 percent of the amount allocated to the State for those activities, by eliminating the requirement for a uniform budget period for all the States, and by making other administrative changes. The addition of the matching fund requirement is to bring the regulation into compliance with a recent legislative change, and the purpose of the other amendments is to provide greater flexibility to the States in administering the program. Many of the proposed administrative amendments are the same or similar to changes being proposed today to the State Energy Conservation Program (SECP). By making requirements of the SECP and EES programs as similar as possible, DOE is improving and simplifying both programs, reducing the administrative burden for the States, and giving the States greater authority over decisions now made with substantial Federal involvement.

DATES: Written comments (eight copies) must be received no later than March 14, 1983 to ensure their consideration. A public hearing will be held in Washington, D.C. on March 1, 1983 beginning at 9:00 a.m. in conjunction with a DOE hearing on a proposed rule concerning the State Energy Conservation Program. Requests to speak at the hearing must be received no later than February 23, 1983. Oral statements (eight copies) must be received no later than February 28, 1983.

ADDRESSES: (1) Public hearing location—U.S. Department of Energy, Room 1E–245, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

(2) Send all written comments, oral statements, and requests to speak at the hearing to: Conservation and Renewable Energy, Office of Hearings and Dockets, Department of Energy, Mail Stop 6B–025, Room 5F–078, Docket Number CAS–RM–79–505, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–9319.

FOR FURTHER INFORMATION CONTACT:

Mary Fowler, Office of Energy Management and Extension, Department of Energy, Mail Stop CE–24, Room 5B–137, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–8287.

Edward H. Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6G–094, Room 6B–144, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–9507.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Proposed Regulation Changes.
III. Opportunity for Public Comment.
IV. Other Matters.

I. Introduction

The Energy Extension Service (EES) was established by the National Energy Extension Service Act of 1977, Title V, Pub. L. 95–39, 91 Stat. 191 (42 U.S.C. 7001 *et seq.*). Regulations for the program, 10 CFR Part 465, were published by the Department of Energy (DOE) on October 2, 1978 (43 FR 45536). DOE amended the rule on November 21, 1979 (44 FR 66781) to change the date for submitting the first annual State application.

The Administration did not request funding for the EES in fiscal years 1982 and 1983 based on evidence that the nation is undertaking conservation efforts in response to higher energy prices. However, since Congress has provided funds for continuation of the program, DOE believes that the program would be conducted more effectively by reducing and simplifying the administrative burden on the States and by giving States greater authority to make decisions now made with substantial Federal involvement. An amendment is also needed to the regulation to bring it in compliance with a recent legislative change regarding State cost-sharing. Therefore, DOE is today proposing to amend the EES regulation by requiring that a State grantee provide funds for program activities from non-Federal sources in the amount of at least 20 percent of the State grant award in accordance with Section 1007(b) of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, 95 Stat. 611 (42 U.S.C. 7270 Note), by eliminating the requirement for a uniform budget period for all States, and by making other administrative changes. In order to avoid redundancy with the DOE Financial Assistance Rules, DOE proposes to delete those provisions in the existing regulation which are covered in the Financial Assistance Rules 10 CFR Part 600, published on October 5, 1982 (47 FR 44076).

The proposed amendments to the EES regulation are discussed in the next section. The text to the entire program regulation as it is proposed to be amended is published at the end of the preamble.

II. Proposed Regulation Changes

Section 465.2 Definitions.

DOE proposes to delete the definition for "Regional Representative" and replace it with a definition for "Operations Office Manager". The position of Regional Representative has been eliminated and the responsibilities of that position have been assumed by the Operations Office Manager. The proposed change is made not only in this section but also throughout the rule. DOE further proposes to change the definition of "small business" to make it consistent with the definition used in the DOE Financial Assistance Rules. The phrase "energy conservation" is deleted from the definition of "energy conservation" to avoid defining the term partially in terms of itself.

Section 465.3 Comprehensive Energy Extension Service Program.

DOE proposes to eliminate the regulatory restrictions governing how the EES Director is to minimize conflict with existing services in the private sector. This change will give the EES Director greater flexibility in meeting the legislative requirement to coordinate with the private sector.

Section 465.4 Comprehensive Program and Plan for Federal Energy Education, Extension and Information Activities.

DOE proposes to delete this reserved section because there is no need for amplification in the rule on the legislative requirement for the report entitled "Comprehensive Program and Plan for Federal Energy Education, Extension and Information Activities."

Section 465.5 National Advisory Board.

This section would be renumbered § 465.4 under today's proposal.

Section 465.6 Financial Assistance.

This section would be renumbered § 465.5 under today's proposal.

DOE proposes to delete reference to a calendar year budget period for State EES grants. Instead of a uniform budget period for all grantees, DOE proposes to allow States to select a variable budget period within reasonable parameters established by DOE. In a similar amendment to the SECP regulations, DOE is also proposing to delete reference to calendar year budget

periods for SECP grants. The proposed amendments to both programs give States flexibility to select a grant budget period that is the same as the State fiscal year, which is not necessarily the same as the calendar year, or that otherwise meets their individual needs.

DOE proposes to add a 20 percent State cost-sharing requirement. The proposed addition incorporates the requirement of Section 1007(b) of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, 95 Stat. 611 (42 U.S.C. 7270 Note). Each State would be required to provide cash and/or in-kind contributions in an amount totalling not less than 20 percent of its EES Federal grant award. The matching funds could not be used for the prohibited expenditures listed in the revised § 465.11(a) but would not be subject to the 20 percent limitation on equipment and office supplies discussed in the revised § 465.11(b). The exemption from § 465.11(b) will permit States greater flexibility in allocating their matching funds to meet programmatic needs.

Section 465.7 Annual State Applications.

This section would be renumbered § 465.6 under today's proposal.

DOE proposes to delete reference to the State application due date. The date under the current rule is not feasible because the appropriations outcome is often not known in time to adhere to the current schedule. The proposed amendment adds flexibility to the program. In the future, DOE will inform the States of the submission date for applications as soon as the availability of funds is determined.

Amendments to the budget and milestones requirements are also proposed. The proposed amendments delete reference to calendar quarters in keeping with the proposal in the revised § 465.5 to delete reference to a calendar year budget period and to substitute State-established budget periods.

DOE also proposes to delete reference to the submission of the first annual State application because it is no longer relevant.

Reference to inclusion of the grantee's name and address on the State application would be delete from the regulation under today's proposal. This is done in order to avoid redundancy with the DOE Financial Assistance Rules, which cover grant application procedures.

Section 465.8 Submission and Contents of State Plans.

This section would be renumbered § 465.7 under today's proposal.

DOE proposes to delete reference to the requirement that grantees maintain financial records. This will avoid redundancy with the DOE Financial Assistance Rules, which contain such a requirement.

Section 465.9 Approval of Annual State Applications and State Plans.

This section would be renumbered § 465.8 under today's proposal.

Section 465.10 Development and Implementation of a State Plan by the Director.

This section would be renumbered § 465.9 under today's proposal.

Section 465.11 Administrative Review.

This section would be renumbered § 465.10 under today's proposal.

DOE proposes to delete a reference to the calendar year from provisions governing continued implementation of provisions of a State plan by other organizations when financial assistance to the original grantee has been terminated. In such circumstances, the present rule provides for continued implementation of elements of a plan for the remainder of the calendar year. The proposed amendment would change the rule to provide for continued implementation for the remainder of the budget period specified in the annual grant in order to conform to the deletion of the reference to a calendar year budget period in the revised § 465.6.

Section 465.12 Prohibited Expenditures.

This section would be renumbered § 465.11 under today's proposal.

DOE proposes to delete the restriction on State expenditures for conducting evaluations in order to increase State flexibility in controlling funds. This section is further adjusted by adding construction of mass transit systems and bus lanes, subsidies for utility rate demonstrations, and subsidies for fares for public transportation to the list of prohibited expenditures. The proposed change to the list of prohibited expenditures is consistent with § 420.12 in the proposed amendments to the SECP program. Both proposals provide for a single set of prohibited expenditures for EES and SECP instead of the current two sets. Since prohibited expenditures will be the same for both programs, States' administrative burden will be reduced.

Section 465.13 Recordkeeping.

This section would be deleted under today's proposal in order to avoid redundancy with the DOE Financial Assistance Rules, which contain a requirement for recordkeeping.

Section 465.14 Reports.

This section would be renumbered § 465.12 under today's proposal.

Section 465.15 Administration of Financial Assistance.

This section would be renumbered § 465.13 under today's proposal.

DOE proposes to delete reference to circulars published by the Office of Management and Budget and other branches of the Executive Department which pertain to this program and which are covered by the DOE Financial Assistance Rules. There is no longer a need to cite these circulars since they are covered by the DOE Financial Assistance Rules.

DOE is interested in receiving comments form the public on these proposed amendments.

III. Opportunity for Public Comment

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to ghe proposals set forth in this notice. Comments should be submitted to the address given in the addresses section of this preamble. The envelope and documents submitted should be identified with the designation "Energy Extension Service", Docket Number CAS–RM–79–505. Eight (8) copies should be submitted.

All comments received on or before March 14, 1983 and all other relevant information will be considered by DOE before taking final action on this rule.

All comments received will be available for public inspection in the DOE Reading Room, Room 1E–090, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy, as well as eight (8) copies from which the information claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination. This procedure is set forth in 10 CFR 1004.11 (44FR 1908, January 8, 1979).

B. Public Hearing

DOE will hold a public hearing on this proposed rule in Washington, D.C. at 9:00 a.m. e.s.t. on March 1, 1983.

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Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in it may make a written request for an opportunity to make an oral presentation. Such a request to speak at the hearing should be directed to the address given in the addresses section of this preamble and must be received by 4:30 p.m. local time, on the date specified in the dates section.

The person making the request should describe briefly his or her interest in the proceeding and, if appropriate, state whether that person is a proper representative of a group. The person should also give a concise summary of the proposed oral presentation and should provide a phone number where the person may be reached. Each person selected by DOE to be heard at the public hearing will be notified by February 24, 1983. Those persons selected to be heard must submit eight copies of their statement to the address given in the addresses section by February 28, 1983. If a person cannot provide eight copies, he or she should mention this in the letter reqesting an opportunity to speak so that alternate arrangements can be made in advance of the hearing.

C. Conduct of Hearing

DOE reserves the right to select persons to speak at the hearing, to schedule their presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation will be limited to 20 minutes.

A DOE official will preside at the hearing. This will not be a judicial or evidentiary type hearing. Questions may be asked of speakers only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all the information available to DOE.

Any participant who wishes to ask a question at the hearing may submit the question in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit a response.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

D. Transcript of Hearing

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 1E–090, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

E. Cancellation of Hearing

If DOE must cancel a hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Notice of cancellation will also be given to all persons scheduled to speak at the hearing.

IV. Other Matters

A. Environmental Review

An environmental assessment (DOE/EA–0042) was prepared for EES and discussed in the notice of proposed rulemaking for the ESS program published on June 5, 1978 (43 FR 24316) in the **Federal Register**. Based on this assessment, DOE determined that the regulation would not constitute a major Federal action significantly affecting the quality of the human environment, and that, therefore, preparation of an environmental impact statement was not required.

DOE has reviewed the environmental impacts of the program changes proposed today. The amendments are largely administrative in nature and do not require the addition of any new measures beyond those already contained in the program. It is, accordingly, DOE's determination that the proposed amendments will clearly have no significant impacts, and that no additional EA or EIS is required.

B. Executive Order 12291

DOE has concluded that this rule is not a "major rule" under Executive Order 12291 because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The rule was submitted to the Director of the Office of Management and Budget pursuant to Executive Order 12291. The Director has concluded his review under that executive order.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 601), requires, in part, that agencies prepare an initial regulatory flexibility analysis for any proposed rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and explanation of that determination in the **Federal Register**.

The revisions in this rule either are required by law or affect only the administration of the program by the States and the Federal government. DOE does not feel that the proposed changes will have a significant economic impact on a substantial number of small entities, as defined under the Regulatory Flexibility Act. Therefore, pursuant to § 605(b) of that Act, DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

Changes in the program's information collection requirements within the meaning of the Paperwork Reduction Act, Pub. L. 96–511, 94 Stat. 2812 (44 U.S.C. 3501), proposed in this notice will be forwarded to the Office of Management and Budget.

E. Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance number for the Energy Extension Service is 81.050.

List of Subjects in 10 CFR Part 465

Energy conservation, Energy extension service, Grant programs/energy, Reporting and recordkeeping requirements, Small businesses, Technical assistance.

In consideration of the foregoing, DOE proposes to amend Part 465 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., February 4, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

10 CFR Part 465 revised to read as follows:

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PART 465—ENERGY EXTENSION SERVICE

Sec.
465.1 Purpose and scope.
465.2 Definitions.
465.3 Comprehensive Energy Extension Service program.
465.4 National Advisory Board.
465.5 Financial assistance.
465.6 Annual State applications.
465.7 Submission and contents of State plans.
465.8 Approval of annual State applications and State plans.
465.9 Development and implementation of a State plan by the Director.
465.10 Administrative review.
465.11 Prohibited expenditures.
465.12 Reports.
465.13 Administration of financial assistance.

Authority: National, Energy Extension Service Act, enacted as title V of the Energy Research and Development Administration Authorization Act of 1977, title V of Pub. L. 95–39, 91 Stat. 191 *et seq.* (42 U.S.C. 7001 *et seq.*); Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 965 *et seq.* (42 U.S.C. 7101 *et seq.*); Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224, 92 Stat. 3 *et seq.* (41 U.S.C. 501 *et seq.*); Section 1007(b) of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, 95 Stat. 611 (42 U.S.C. 7270 Note); E.O. 12009 (42 FR 46267); E.O. 12291 (46 13193).

§ 465.1 Purpose and scope.

This part contains the regulations adopted by DOE to establish a comprehensive Energy Extension Service program which shall—

(a) Establish a positive energy outreach program directed toward small businesses and individual energy users and the organizations that influence their energy consumption;

(b) Stimulate, provide for and supplement programs for the conduct of evaluation, planning and other technical assistance of energy conservation efforts, including energy outreach activities of States; and

(c) Provide financial and technical assistance to the States for State plans which contribute to the implementation of the comprehensive Energy Extension Service program.

§ 465.2 Definitions.

As used in this part—

"Act" means the National Energy Extension Service Act, title V of the Pub. L. 95–39, 42 U.S.C. 7001 *et seq.*

"Barriers to energy conservation" means problems or obstacles identified by small energy users which prevent or hinder them from adopting conservation techniques and technologies.

"Building" means any structure which includes provisions for a heating, cooling or hot water system, or which is used as a residential dwelling unit.

"Community action agency" means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, Pub. L. 88–452, 42 U.S.C. 2701 *et seq.*, which is authorized to administer funds received from Federal, State, local or private funding entities to assess, design, operate, finance and oversee antipoverty programs.

"Conservation techniques and technologies" means actions likely to result in energy conservation.

"Director" means the Director of the EES office of DOE.

"DOE" means the Department of Energy.

"Energy audit" means a procedure to measure the consumption or cost of energy in order to identify conservation techniques and technologies in a building or industrial process.

"EES" means Energy Extension Service.

"EES office" means the national office of DOE established to develop and carry out the comprehensive EES program in accordance with the provisions of this part.

"Energy conservation" means efficient energy use or the utilization of renewable energy resources.

"Governor" means the chief executive officer of a State and the Mayor of the District of Columbia, or a person duly designated in writing by the Governor to act upon his or her behalf.

"Grantee" means a State or entity of the State named in the notice of grant award as the recipient of financial assistance provided under this part.

"Operations Officer Manager" means the manager of a DOE Operations Office or his or her designee.

"SECP" means the State energy conservation plans developed and implemented pursuant to 10 CFR Part 420.

"Secretary" means the Secretary of the Department of Energy.

"Service" means technical assistance, instruction, information dissemination, energy audit or a practical demonstration concerning one or more conservation techniques and technologies.

"Small business" means a business concern, including its affiliates, which is independently owned and operated, is not dominant in its field of operation, and can qualify under the criteria concerning number of employees, average annual receipts, and other criteria as prescribed by the Small Business Administration.

"Small energy users" means residential consumers, individuals and groups of individuals, small businesses including agricultural and commercial establishments, and units of State and local governments.

"Special State project" means a unique or innovative activity which is likely to bring about energy conservation in furtherance of the objectives of the Act, and which is not part of a State plan.

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"State program" means a set of related services provided to a target audience which is used to implement a portion of a State plan.

"Target audience" means the persons intended to receive services provided under a State program.

"Technical assistance" means assistance, other than direct financial assistance, including instruction, expert advice, information dissemination and practical demonstrations.

"Technical support" means activities provided by a State, such as specilized analyses, preparation of materials, training or other activities, which are necessary to implement a State plan effectively.

§ 465.3 Comprehensive Energy Extension Service program.

(a) DOE has established the EES office, administered by a Director, to develop and carry out the comprehensive EES program established by this part.

(b) The comprehensive EES program shall identify, develop and demonstrate in a practical manner, opportunities for energy conservation. This program shall be developed and implemented with particular regard for increasing the capability of small energy users to make informed energy decisions.

(c) The Director shall implement the comprehensive EES program by—

(1) Carrying out activities, through technical assistance where appropriate, for the identification, development and practical demonstration of opportunities for energy conservation;

(2) Collecting information and undertaking actions to eliminate barriers to energy conservation identified by small energy users;

(3) Carrying out activities that shall encourage the sharing of information, experience and materials among the States regarding the comprehensive EES program;

(4) Providing financial assistance through the Operations Office Manager

for the implementation of a State plan; and

(5) Providing technical assistance for the development, implementation or modification of a State plan.

(d) The Director shall take such steps as he or she may determine to be necessary to minimize conflict between existing services in the private sector that are similar to the services provided under the comprehensive EES program.

§ 465.4 National Advisory Board.

(a) The Secretary shall appoint a National Advisory Board which shall consist of not less than 15 nor more than 20 members. The members shall include persons representative of the interests of State, county and local governments, State universities, community colleges, community action agencies, energy users, small businesses and agriculture.

(b) The Secretary shall designate one member of the Board to serve as Chairman and shall provide the Board with the services and facilities as may be necessary to carry out its functions.

(c) The Board shall carry on a continuing review of the operation of the comprehensive EES program established by § 465.3 and the State plans approved by the Operations Office Manager according to § 465.8, for the purpose of evaluating their effectiveness in achieving the objectives of the Act and determining how their operation might be improved in order to further these objectives.

(d) The Board shall report annually to the Congress, the Secretary, and the Director on the status of the comprehensive EES program, including any recommendations the Board may have for administrative or legislative changes needed to improve operation of the comprehensive EES program.

(e) The Secretary shall reimburse Board members for the full amount of any expenses necessarily incurred by them in the performance of their duties as such.

§ 465.5 Financial assistance.

(a) The Operations Office Manager shall provide financial assistance from funds available for any fiscal year to each State having an approved annual application according to § 465.8 of this Part.

(b) Financial assistance shall be allocated among the States from funds available for any fiscal year based on the following formula

(1) One-half shall be divided equally among all States; and

(2) One-half shall be divided on the basis of the State's population as reported by the Department of Commerce, Bureau of the Census, in the most recent decennial census.

(c) If a State's allocation of financial assistance is not obligated by the Operations Office Manager during the fiscal year, the allocation shall be reallocated among the States according to paragraph (b) of this section for the program's next funding cycle.

(d) Notwithstanding the provisions of paragraph (b) of this section, the Director may reserve from the funds appropriated for any fiscal year an amount to provide financial assistance to States for special State projects. This amount shall be determined by the Director, but in no event shall exceed 10 percent of the appropriated funds.

(e) Each State shall provide cash, in-kind contributions, or both for EES activities in an amount totalling not less than 20 percent of the Federal funds allocated to it for this program. Cash and in-kind contributions used to meet this State cost-sharing requirement are subject to the limitations on expenditures described in § 465.11(a) of this Part. The type and amount of State cost-sharing shall be identified in the annual application.

(f) The budget period covered by the financial assistance provided to a State according to § 465.5(b) of this Part will be set by the State within parameters established by DOE.

§ 465.6 Annual State applications.

(a) To be eligible for financial assistance under this part, a State shall submit to the Operations Office Manager an original and two copies of an annual State application executed by the Governor. The date for submission of annual State applications shall be determined by DOE.

(b) An annual State application shall contain—

(1) The State plan or modifications of it, as required by § 465.7 (a) and (b) of this Part respectively;

(2) A budget and listing of milestones for the activities to be carried out in each of the State programs contained in the State plan for the budget period for which financial assistance will be provided;

(3) A description of policies and procedures employed by the State which assure that financial assistance provided under this part does not supplant the expenditure of State or local funds for the same purposes, but rather supplements Federal, State, or local funds, and increases the expenditure of the State or local funds to the maximum extent practicable;

(4) A written summary and chronology of the procedures which were used to provide organizations and individuals with opportunity to comment on the State plan prior to or during its development. The opportunity to comment shall be provided to representatives of energy users and producers; State, county, and local officals; State universities and community colleges; cooperative extension services; community action agencies; and other public, private, or nonprofit organizations which are involved in active energy outreach activities. The written summary shall include—

(i) The name of the organizations afforded an opportunity to comment; and

(ii) How the comments received affected the contents of the State plan.

(5) A description of anticipated environmental impacts of any services which include the modification of buildings or structures to provide a practical demonstration of conservation techniques and technologies.

(c) The Governor may request an extension of the annual submission date by submitting a written request to the Operations Office Manager not less than 15 days prior to the date referred to in paragraph (a) of this section. The extension shall be granted if, in the Operations Office Manager's judgment, acceptable and substantial justification is shown and the extension would further the objectives of the Act.

§ 465.7 Submission and contents of State plans.

(a) A State shall submit a State plan with—

(1) The first annual State application; and

(2) The annual State application submitted every 3 years thereafter.

(b) A State shall submit, with the annual State application, modifications to the State plan, if appropriate, for the years not referred to in paragraph (a) of this section.

(c) A State plan shall be developed for a 3–year period and contain—

(1) A description of the objectives to be achieved for the 3–year period by implementation of the State plan, which shall include—

(i) Why the objectives were selected, with particular reference to potential energy savings, increased use of renewable resources and the types and numbers of people affected;

(ii) How the State programs included in the State plan, and the emphasis and funding given to each, together represent a strategy to achieve these objectives;

(iii) How implementation of the State plan shall supplement and be coordinated with other energy

conservation programs being carried out in the State with Federal funds or under other Federal laws; with particular reference to university programs providing extension services and the State's SECP; and

(iv) How existing organizations, including State, local, university, or other organizations, will be used to the optimum extent to assist in the implementation of the State plan;

(v) How the State plan provides for information dissemination to small businesses and addresses organizations which influence the energy consumption of small energy users;

(vi) How the State plan makes energy audits available to small energy users, within personnel and funding limitations;

(2) A description for each State program in the State plan, which shall include—

(i) The target audience, why it was selected and the estimated number of persons which the State program expects to reach;

(ii) The services to be provided, including—

(A) How the services will meet the needs of the target audience;

(B) The conservation techniques and technologies to be used in each service;

(C) The type and estimated number of any energy audits if any are included; and

(D) The geographic areas in which the services shall be delivered and why these areas were selected;

(iii) Any technical support which is necessary to provide the services, including the organization that will provide the technical support and why the organization was selected; and

(iv) The organization which shall implement the State program and any other organizations which shall provide a service to the target audience, why the selection was made and the approximate number of any new personnel to be employed to implement the State program;

(3) A description of the organization which shall administer the overall development and implementation of the State plan, which shall include—

(i) Why the administering organization was selected;

(ii) The provisions made for coordination between the administering organization and any other organization assisting in the implementation of the State plan; and

(iii) The relationship between the administering organization and the grantee if the two are not the same;

(4) A description of the methods and procedures which shall be used to—

(i) Identify barriers to energy conservation from responses which shall be obtained from target audiences;

(ii) Communicate information concerning the barriers to energy conservation to organizations within the State that have the capability or authority to remove or influence the barriers; and

(iii) Periodically report the results of such communication to the target audiences identified in subparagraph (c)(4)(i) of this section;

(5) A description of the administrative procedures to be used in the implementation of the State plan which shall include—

(i) The procedures to be used to respond to suggestions and inquiries from the public regarding energy conservation;

(ii) The procedures to be used to publicize and disseminate up-to-date and easily understood information on the services available to small energy users under the State plan and under other Federal programs and activities of the State regarding conservation techniques and technologies; and

(iii) The system to be used to review, for technical accuracy, any publication or other material which the State shall prepare or use in a State program;

(6) A description of the purpose, methods and procedures of the independent evaluation activities, if any, that the State shall undertake regarding the State programs or services;

(7) A description of any additional technical support not described in paragraph (c)(2)(iii) of this section which is required to facilitate implementation of the State plan. If existing organizations are not available to provide this additional technical support or the technical support identified in paragraph (c)(2)(iii), the State may propose to establish a technical support institute, at one or more colleges or universities designated by the Governor The purpose of the technical support institute shall be to assist in the implementation of the State plan by providing analyses and technical support which is required for effective implementation of the State plan. If such an institute is proposed, the State shall provide a detailed justification which shall describe—

(i) Why the institute is needed;

(ii) How the institute specifically relates to the implementation of the State plan; and

(iii) The purpose, location, size, and specific activities of the institute; and

(8) A description of the procedures that the grantee will use to achieve timely implementation of the State plan.

§ 465.8 Approval of annual State applications and State plans.

(a) The Operations Office Manager shall review each timely State annual application and provide financial assistance if he or she determines that—

(1) The State plan meets the objectives of the Act;

(2) The annual State application and the State plan meet the requirements of §§ 465.6 and 465.7 of this Part, respectively; and

(3) Implementation of the State plan by the State conforms to the requirements of this part.

(b) If the annual State application is not approved according to paragraph (a) of this section, the Operations Office Manager shall return it to the State together with a written statement describing why the annual State application fails to meet the requirements of this part. The State shall have a reasonable time period, as determined by the Operation Office Manager, to amend its annual State application and submit it for reconsideration according to paragraph (a) of this section.

§ 465.9 Development and implementation of a State plan by the Director.

(a) The Director shall develop a State plan which meets the requirements of § 465.7 of this Part; if—

(1) A State does not submit an annual State application in accordance with § 465.6 of this Part; or

(2) The Operations Office Manager finally disapproves an annual State application according to § 465.10 of this Part.

(b) Prior to developing a State plan under this section, the Director shall provide written notice and an opportunity for comment to the Governor.

(c) A State plan developed by the Director shall be transmitted to the Governor of the State and shall not be implemented for 90 days after the date of transmittal. Notwithstanding any provisions of this section to the contrary, no State plan developed by the Director according to paragraph (a) of this section shall be implemented if the Governor, within the 90-day period, notifies the Secretary in writing of his or her objection to the implementation of the State plan.

(d) In implementing a State plan developed according to this section to which the Governor has not objected during the 90-day period referred to in paragraph (c) of this section, the Director shall make maximum use of regional, State, or local organizations which deliver services which are

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appropriate for purposes of this part. The Director shall coordinate his or her activities in implementing the State plan with all other regional, or local organizations which deliver services which are related to, but not directly involved in, the implementation of the State plan.

(e) A State plan developed by the Director for a State whose financial assistance has been terminated according to § 465.10, shall provide for the continuation of all activities under the State plan which meet the requirements of this part.

§ 465.10 Administrative review.

(a) If the Operations Office Manager intends to deny an annual State application resubmitted by the Governor according to § 465.8(b) of this Part or refuses to accept an annual State application resubmitted by the Governor after the time period referred to in § 465.8(b) of this Part has expired, the Operations Office Manager shall give notice to the Governor.

(b) If the Operations Office Manager determines that implementation of a State plan approved according to § 465.8 fails to meet the requirements of this part, the Secretary shall give notice to the Governor of his or her intent to terminate or suspend financial assistance to the grantee.

(c) The notice required by paragraphs (a) or (b) of this section shall be issued in writing by registered mail with return receipt requested and include—

(1) A statement of the reasons for the intended denial, termination or suspension of financial assistance including an explanation of whether any amendments or other actions would result in compliance with this part;

(2) The date, place and time of a public hearing to be held by a review panel concerning the intended denial, termination or suspension of financial assistance. The hearing shall be held within 15 working days after the date of receipt by the Governor of the notice; and

(3) The manner in which views may be presented.

(d) The governor may submit written views with supporting data to the Operations Office Manager on or prior to the date of the public hearing and shall be offered an opportunity to make an oral presentation at the public hearing.

(e) No person who is a member of the EES office shall be a member of the review panel. The review panel shall be appointed by the Operations Office Manager and shall consist of—

(1) One person generally representative of State interests other than a person who represents the interests of the State whose application is being considered;

(2) One person representative of DOE; and

(3) One person representative of the EES target audiences in the State affected.

(f) The review panel shall consider all relevant views and data submitted on or prior to the date of the public hearing. The review panel shall submit a written report containing its findings and recommendations to the Operations Office Manager within 10 working days after the date of the public hearing.

(g) The Operations Office Manager shall submit the report, together with his or her recommendations, to the Director and to the Secretary within 5 working days after receipt of the report.

(h) The Secretary shall issue a final determination, accompanied by a statement of the reasons for the actions taken, within 10 working days after receipt of the submission from the Operations Office Manager.

(i) Upon issuance of the notice referred to in paragraphs (a) or (b) of this section, the Secretary may suspend financial assistance to the grantee pending a final determination. If the Secretary makes a final determination adverse to the grantee, the Operations Office Manager may terminate continued financial assistance to the grantee.

(j) If financial assistance to the grantee has been terminated, the Operations Office Manager may continue to provide financial assistance to persons other than the grantee to implement any acceptable provision of the State plan for the remainder of the budget period specified in the annual grant.

§ 465.11 Prohibited expenditures.

(a) No financial assistance provided to a State under this part shall be used—

(1) for construction, such as construction of mass transit systems and exclusive bus lanes or for construction or repair to buildings or structures;

(2) to purchase land, a building or structure or any interest therein;

(3) to subsidize fares for public transportation;

(4) to subsidize utility rate demonstrations or State insulation tax credits; or

(5) to conduct or purchase equipment to conduct research and development or demonstration of conservation techniques and technologies not commercially available.

(b) No more than 20 percent of the financial assistance awarded to the State for this program shall be used to purchase equipment, office supplies, or library materials.

§ 465.12 Reports.

Each State receiving financial assistance under this part shall submit to the Operations Office Manager a quarterly program report and a quarterly financial statement (OMB #1901–0127). The program performance report shall contain such information as the Director may prescribe in order to monitor effectively the implementation of the State plan. The reports shall be submitted to the Operations Office Manager within 30 days following the end of each calendar year quarter.

§ 465.13 Administration of financial assistance.

Grants provided under this part shall comply with applicable law including, but without limitation, the requirements of—

(a) Office of Management and Budget Circular A–97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968;"

(b) DOE Financial Assistance Rules (10 CFR Part 600); and

(c) Other procedures which DOE may from time to time prescribe for the administration of financial assistance under this part.

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Friday
February 11, 1983

Part VI

Department of the Interior

Bureau of Land Management

Procedures for the Management of Federally Owned Oil Shale Resources; Proposed Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3900, 3920 and 3930

Oil Shale Management; Procedures for the Management of Federally Owned Oil Shale Resources

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would establish the policies and procedures that would be used by the Secretary of the Interior for the management of Federally-owned oil shale resources. The procedures would establish a competitive leasing system, with provision for preleasing exploration through issuance of exploration licenses which would allow for the orderly development of an important natural resource. The proposed rulemaking is not expected to apply to additional leases under the prototyped oil shale leasing program.

DATE: Comments should be submitted by April 12, 1983. Comments received or postmarked before the above cited date will be considered in the decisionmaking process on the final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
Donald Brabson (202) 343–3258
or
Robert C. Bruce (202) 343–8735.

SUPPLEMENTARY INFORMATION: The oil shale leasing program set out in this proposed rulemaking will allow commerical development of oil shale and any associated minerals located on Federal lands.

This proposed rulemaking is based on the premise that Federal oil shale management will be conducted in accordance with the principles of multiple use, consistent with the Bureau of Land Management's planning regulations (43 CFR Part 1601) and the Council on Environmental Quality's environmental assessment regulations for implementing the National Environmental Policy Act (40 CFR Parts 1500 through 1508). All oil shale management and leasing decisions would be made in consultation with the general public, industry and Federal, State and local government through a formal mechanism—the Regional Oil Shale Team. This decision process is designed to balance national interest with State and local interests; maximize the economic value of oil shale recovered while providing for a fair economic return to the United States; minimize the adverse social and environmental impacts of oil shale development and promote the efficient production of domestic energy resources. The Bureau of Land Management would arrive at management decisions through its land use planning process.

The purpose of this proposed rulemaking is to provide the procedures for long-term management and development of Federal oil shale. It would also establish a mechanism to determine the need for leasing Federal oil shale and provide for efficient leasing.

A major feature of the proposed rulemaking is a provision for a Regional Oil Shale Team which is designed to ensure Federal/State governmental coordination. The function of the Regional Oil Shale Team would be to serve as a forum for the public to address oil shale issues. This public forum would be provided at public meetings held by the Regional Oil Shale Team to give all segments of the public an opportunity to give their views on the potential tracts for lease and related issues. The Team's analysis of the public's comments and its expert review of potential lease tracts will be the basis of advice to the Bureau of Land Management on land use planning and environmental issues related to the oil shale program. Prior to any Regional Oil Shale Team deliberations and recommendations, the Secretary of the Interior or Director of the Bureau of Land Management may provide the Team with national policy guidance.

Additionally, this proposed rulemaking would provide specific guidance for program implementation through the development of resource management plans. Resource management plans would enable the Bureau of Land Management to identify potential oil shale lease tracts within priority use areas which are acceptable for oil shale development and identify those specific tracts which could be leased.

In order to identify oil shale priority use areas within a land use planning area, the proposed rulemaking would require the Bureau of Land Management to gather as much information as practicable on oil shale resource values. Priority use areas for oil shale development would ultimately be determined in light of other potential land uses, so that compatible and conflicting land uses would be identified.

After oil shale priority use areas are defined, the Bureau of Land Management would call for tract-specific expressions of leasing and non-development interest. The Bureau, with the assistance of the Regional Oil Shale Team, would then delineate potential oil shale lease tracts within alternative oil shale leasing areas. These tracts would then be analyzed within the context of the environmental impact statement normally prepared as part of the resource management plan. The analysis would include site-specific evaluations of environmental and socioeconomic effects of potential lease tract development and cumulative impacts of oil shale development. At the completion of the environmental impact statement for the resource management plan, the Bureau would identify priority use areas for oil shale development. Tracts could be leased from within these priority use areas without further environmental or land use analysis. Where appropriate for specific tracts, opportunities to mitigate negative environmental impacts would also be identified in the resource management plan.

The proposed rulemaking would provide sufficient flexibility in the oil shale program to permit the boundaries of the tracts originally analyzed in a resource management plan to be redelineated, provided that the tracts are still within the oil shale priority areas of the resource management plan. Furthermore, additional lease tracts could be delineated and offered with mininal additional analysis, if the new tracts are within the resource management plan's oil shale leasing areas.

The proposed rulemaking provides that upon completion of the resource management plan, the Regional Oil Shale Team would recommend to the Secretary of the Interior specific tracts to be considered for competitive leasing. The Secretary, after consultation with the involved Governors, would then decide which, if any, tracts to lease based on industry demand for oil shale leasing; a balance among National, State and local interests; and environmental and socioeconomic impacts. If the Secretary decides to lease one or more tracts, the proposed rulemaking would require that sale procedures and leasing terms (including lease stipulations, case-by-case diligence requirements, mine plan submittal and approval timeframes, royalty payments, minimum royalty in

lieu of minimum production schedules and bidding procedures) be announced at least 30 days in advance of the sale by publication of a notice in the Federal Register. The appropriate Bureau State Director(s) would then conduct a competitive lease sale following the procedures set out in the notice of lease sale.

Section 3922 sets up a general mechanism for the evaluation of bids and the award of a lease in response to a competitive lease sale. In order to ensure that any lease awarded would be conveyed for fair market value, the Department of the Interior is considering the evaluation of bids for competitiveness comparability to other recent leases or sales, profitability based on assumed development cost and marketing conditions, national economic and technological benefits and other relevant factors. The Department encourages comments on these evaluation criteria as well as suggestions on other criteria.

The proposed rulemaking would permit subsequent lease sales, provided the sales are consistent with the resource management plan and its environmental statement. If consistent, the only subsequent analysis would be another tract-specific call for expressions of interest, another public Regional Oil Shale Team lease sale evaluation and recommendation and, of course, an additional decision by the Secretary of the Interior to allow the Bureau of Land Management to proceed with a lease sale.

Comments on all phases of this proposed oil shale management program are encouraged. The Department of the Interior is particularly interested in the comments of the public concerning the royalty collection provisions contained in § 3923.5. The Department hopes to gain suggestions on the appropriate royalty level, if any, its effect on production and at what level in the various oil shale extraction processes any royalty should be levied. Comments are also specifically encouraged on the consultation, as opposed to concurrence, provisions for other surface managing agencies set out in § 3900.2.

The primary authors of this proposed rulemaking are Donald Brabson and Elizabeth Owen, Division of Coal, Tar Sands and Oil Shale, Bureau of Land Management, assisted by the staff of the Office of the Solicitor, Department of the Interior and the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking constitutes a major Federal action significantly affecting the quality of the human environment and a draft environmental impact statement has been prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and is available to the public for their review by sending a request to: Environmental Impact Statement Office, Bureau of Land Management, 555 Zang Street, Denver, Colorado 80228 (Attn: Jack Edwards).

A final environmental impact statement will be prepared in connection with the issuance of the final rulemaking and a notice of its availability will be published at that time.

The Department of the Interior has determined that this document is a major rule under Executive Order 12291 but will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The competitive system set out in the proposed rulemaking will provide equal opportunities for all those who participate in each component of the Federal oil shale program. It is recognized that the costs and risks of developing oil shale are extremely high. This fact will limit participation in the program to those companies that can obtain the needed capital. The procedures set out in the proposed rulemaking permit any qualified party to enter the bidding for the opportunity to obtain and develop an oil shale lease. These proposed procedures would permit small companies to participate through a joint venture in the program. The high costs and risks associated with the oil share industry result in a general low level of participation by a substantial number of small entities.

The proposed rulemaking provides the procedure for full and voluntary participation of the private sector in the development of federal oil shale resources. The competitive system provided in the prosposed rulemaking is designed to facilitate development with minimum regulatory burden and interference, consistent with existing law.

A Preliminary Regulatory Impact Analysis was prepared for the proposed rulemaking. There are three economic implications that can be drawn from the analysis. First, it is apparent that even with the lowest capital cost estimates, development of oil shale will require very large funding levels, which only a few companies will be able to obtain. Second, oil shale development, if it does proceed to commercialization on a large scale, would have a substantial impact on the regional and national economies due to the increase in regional population that would be necessary to support the development. Finally, oil shale development is still evolving and unproven on a commercial scale. Such uncertainties justify maintaining flexibility in Federal leasing procedures to ensure that potential developments are not pre-empted at this early stage. The Federal Government manages approximately 80 percent of the U.S. oil shale resource. Its leasing actions can have a major effect on the directions that the industry will take. Closing options at this stage of the industry's development could have unforeseen negative impacts farther downstream.

The resultant Preliminary Regulatory Impact Analysis has been submitted to the Office of Management and Budget and is available to the public for its review by sending a request to: Director (540), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

The Final Regulatory Impact Analysis will be completed and a notice of availability will be published with the final rulemaking on this subject.

The information collection requirements contained in 43 CFR Part 3900 do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq., because there are fewer than 10 respondents annually.

List of Subjects in 43 CFR Parts 3900, 3920 and 3930

Environmental protection, Intergovernmental relations, Mineral resources, Mineral royalties, Mines, Oil and gas reserves, Petroleum, Public lands—mineral resources, Surety bonds.

Under the authority of the Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1967 (43 U.S.C. 1701 et seq.) and the National Environmental Policy Act of 1976 (42 U.S.C. 4321 et seq.), it is proposed to amend Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations by adding a new Group 3900 as set out below:

Group 3900—Oil Shale Management

PART 3900—OIL SHALE MANAGEMENT—GENERAL

Subpart 3900—Oil Shale Management—Introduction

Sec.

3900.0–1 Purpose.
3900.0–2 Objectives.
3900.0–3 Authority.
3900.0–4 Policy.

Sec.
3900.0–5 Definitions.
3900.1 Lands subject to leasing.
3900.2 Consent or conditions of surface managing agency.
3900.3 Federal/State cooperation through the Regional Oil Shale Team.
3900.4 Filing of documents.

Subpart 3901—Qualifications of Lessees

3901.1 Who may hold leases.
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Subpart 3910—Exploration Licenses

3910.1 Exploration licenses—general.
3910.1–1 Lands subject to exploration.
3910.1–2 Lands managed by agencies other than the Bureau.
3910.1–3 Requirements for conducting exploration activities.
3910.2 Application procedures.
3910.2–1 Filing of an application for an exploration license.
3910.2–2 Environmental analysis.
3910.3 Exploration license requirements.
3910.3–1 Issuance, relinquishment and termination.
3910.3–2 Limitations on exploration licenses.
3910.3–3 Operating requirements.
3910.3–4 Bonds.
3910.4 Collection and submission of data.
3910.5 Use of surface.

Authority: Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

Subpart 3900—Introduction—General

§ 3900.0–1 Purpose.

This regulation sets out the policies and procedures of the Department of the Interior for management of Federal oil shale resources. This includes the evaluation of the need for leasing Federally-owned oil shale in order that the resource may be efficiently leased, if and when appropriate.

§ 3900.0–2 Objectives.

The objectives of these regulations are to establish the planning and management procedures to be used in implementing a long-term oil shale management program based on multiple-use management planning; allow for orderly leasing and development of oil shale, when appropriate; minimize any adverse social and environmental impacts of oil shale development; establish competitive oil shale leasing procedures which generate a fair economic return to the public based on market conditions; and balance National interests with State and local interests.

§3900.0–3 Authority.

These regulations are issued under the authority of:

(a) The Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.);

(b) The Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359);

(c) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

§ 3900.0–4 Policy.

Federal oil shale management will facilitate maximum participation by private enterprise in accordance with the principles of multiple-use management and in a manner consistent with existing law and regulations, including the Council on Environmental Quality's regulations (40 CFR Parts 1500 through 1508) for implementing the provisions of the National Environmental Policy Act. All oil shale management and leasing decisions shall be made with the advice of the public; Federal, State and local governments; and industry.

§ 3900.0–5 Definitions.

As used in this group, the term:

(a) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this group.

(b) "Bureau" means the Bureau of Land Management.

(c) "Department" means the Department of the Interior.

(d) "Director" means the Director, Bureau of Land Management.

(e) "Exploration plan" means a plan prepared in sufficient detail to show the location and type of exploration to be conducted; environmental protection procedures to be taken; present and proposed roads, if any; and reclamation and abandonment procedures to be followed upon completion of operations.

(f) "Federal lands" means any lands and interests in lands, including oil shale interests underlying non-Federal surface, owned by the United States, without reference to how the lands were acquired or what Federal agency administers the lands, but excluding lands held by the United States in trust for Indians, Aleuts or Eskimos.

(g) "Interest in a lease, application or bid" means any record title interest, overriding royalty interest, working interest, operating rights or option or any agreement covering such an interest; any claim or any prospective or future claim to an advantage or benefit from a lease; and any participation or any defined or undefined share in any increments, issues or profits that may be derived from or that may accrue in any manner from a lease based on or pursuant to any agreement or understanding existing when an application was filed or entered into while the lease application or bid is pending.

(h) "Lease bond" means the bond or equivalent security given the United States to assure payment of all obligations under a lease or exploration license, and to assure that all aspects of the mining operation on a lease are conducted in conformity with the approved mining or exploration plan.

(i) "Licensee" means the holder of an exploration license.

(j) "Mining plan" means a mining and reclamation plan that fully complies with the requirements of the Mineral Lands Leasing Act of 1920, as amended and supplemented, and all other applicable law and regulation, including 30 CFR Part 231.

(k) "Secretary" means the Secretary of the Interior.

(l) "Service" means the Minerals Management Service.

(m) "Sole party in interest" means a party who alone is or will be vested with all legal and equitable rights under a lease, bid or application for a lease.

(n) "Surface management agency" means the Federal agency with jurisdiction over the surface of Federally-owned lands containing oil shale deposits.

§ 3900.1 Lands subject to leasing.

The Secretary may issue oil shale leases on all Federal lands except those indicated in the Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.).

§ 3900.2 Consent or conditions of surface managing agency.

When the surface of lands containing oil shale deposits is under the jurisdiction of a Federal agency outside the Department, leases shall be issued only after consultation with the surface managing agency having jurisdiction over the surface and shall be subject to such conditions as that agency may prescribe to ensure the use and protection of the lands for the primary purpose(s) for which the lands were acquired or are being administered.

§ 3900.3 Federal/State cooperation through the Regional Oil Shale Team.

(a)(1) In order to implement the Department's policy of Federal/State cooperation in the management of Federal oil shale deposits, a Regional

Oil Shale Team shall be established for Colorado, Utah and Wyoming. This multistate team shall consist of the Bureau State Director for each State or his/her designated representative; the Governor of each State or his/her designated representative and a chairperson appointed by and responsible to the Director.

(2) If any State declines to participate on the team, the team shall proceed and the Bureau or the Department may conduct meetings and make recommendations without such representation.

(3) The chairperson of the Regional Oil Shale Team may request other Federal agencies to appoint ex-officio members to the team. Ex-officio members shall function in an advisory capacity but shall not have a vote in team recommendations. The Governor of each State may also appoint local officials to serve as ex-officio team members.

(b) The Regional Oil Shale Team shall be responsible for presenting recommendations to the Director on Federal oil shale issues, but shall not make leasing decisions.

(c) The Regional Oil Shale Team shall meet at least annually and at other times specified by the Team chairperson. The chairperson shall consider requests for Team meetings by Team members prior to any decision to schedule a meeting. All meetings shall be open to the public and shall be held only after publication of a notice of meeting in the Federal Register at least 15 days prior to said meeting. Team meetings shall be held for the purpose of:

(1) Providing recommendations for the Bureau's land use planning and environmental impact analytical processes, including tract delineation, tract selection criteria, amending existing plans, cumulative impact analyses and alternatives to be analyzed in environmental impact documents;

(2) Annually or as otherwise determined appropriate by the chairperson, reviewing potential lease tracts and oil shale development schedules that are identified in the Bureau's land use plans so that recommendations and advice on the need for offering specific individual tracts for lease can be developed and analyzed; and

(3) Providing recommendations on all pertinent oil shale issues relating to Federal oil shale management, including multimineral leasing, oil shale land exchanges, Federal permitting of facilities and rights-of-way for oil shale projects.

(d) The Regional Oil Shale Team shall submit a written report on the market interest for oil shale leasing to the Director after completion of a public meeting on the subject. The report shall contain, at a minimum, recommendations on which tracts or configuration of tracts should be considered within a long-term leasing schedule. Leasing recommendations shall be developed considering the following criteria:

(1) National guidance, as provided by the Secretary or the Director;

(2) Federal oil shale leasing demand as provided by the public and industry during formal calls for expressions of interest or during Regional Oil Shale Team meetings;

(3) Whether or not leasing would achieve a reasonable balance between National, State and local interests; and

(4) Environmental and socio-economic impacts identified during land use planning and associated environmental impact analyses.

§ 3900.4 Filing of documents.

All necessary documents shall be filed in the proper BLM State office and shall be considered as filed when received in the proper BLM State office during regular business hours (See §1821.2).

Subpart 3901—Qualifications of Lessees

§ 3901.1 Who may hold leases.

Leases or interests therein may be acquired and held only by citizens of the United States; associations (including partnerships) of such citizens; and corporations organized under the laws of the United States or of any State or territory thereof.

§ 3901.2 Aliens.

Leases or interests therein may be acquired and held by aliens only through stock ownership, holding or control; and only if the laws, customs or regulations of their country do not deny similar or like privileges to citizens or corporations of the United States. A list of those countries which do not provide similar or like privileges is available from any Bureau office.

§ 3901.3 Minors.

A person considered a minor under the laws of the State in which the lands are located is not qualified to hold a lease or an interest therein, but leases and interests therein may be acquired and held by legal guardians or trustees of minors in their behalf.

§ 3901.4 Signatures.

All applications, offers and requests for approval of an assignment shall be holographically (manually) signed in ink by the potential lessee or by anyone authorized to sign on behalf of the potential lessee. Documents signed by anyone other than the potential lessee shall be rendered in a manner to reveal the name of the potential lessee, the name of the signatory and their relationship. (Example: John Smith, agent for Mary Jones; or ABC Corporation, agent for Mary Jones by John Smith).

Subpart 3910—Exploration Licenses

§ 3910.1 Exploration licenses—general.

§ 3910.1-1 Lands subject to exploration.

Oil shale exploration licenses may be issued for all Federal lands that are subject to leasing under § 3900.1 of this title, except lands which have been leased for oil shale development.

§ 3910.1-2 Lands managed by agencies other than the Bureau.

(a) The consultation procedures required by § 3900.2 of this title are applicable to exploration license applications.

(b) If exploration activities could affect the nearby lands of a Federal agency other than the Bureau, the Bureau shall consult with that agency prior to the issuance of any exploration license.

§ 3910.1-3 Requirements for conducting exploration activities.

No person shall conduct oil shale exploration activities on Federal lands without an exploration license or oil shale lease.

§ 3910.2 Application procedures.

§ 3910.2-1 Filing of an application for an exploration license.

(a) Any person qualified to hold a lease under the provisions of subpart 3901 of this title and this group may obtain an exploration license to conduct core drilling and other exploration activities to collect geologic, environmental and other data concerning oil shale resources on Federal lands open to such activities. Applications for exploration licenses shall be submitted to the Bureau State office having jurisdiction over the lands covered by the application. No specific form is required.

(b) Applications for exploration licenses shall:

(1) Contain the name and address of the applicant(s);

(2) Be accompanied by a nonrefundable filing fee of $250;

(3) Contain a description of the lands covered by the application according to

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section, township and range in accordance with the official United States survey; and

(4) Be accompanied by 4 copies of an exploration plan which complies with the requirements of 30 CFR 231.10(b).

(c) Applicants for exploration licenses shall provide an opportunity for others to participate in exploration activities under any exploration license on a pro rata cost share basis which shall be accomplished in the following manner:

(1) Simultaneously with the filing of an application for an exploration license under this section, the applicant shall publish a Notice of Invitation, approved by the authorized officer, once a week for 2 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands covered by the license application are situated. The notice shall contain an invitation to participate in the exploration under the license. Copies of the Notice of Invitation shall be filed with the authorized officer at the time of publication and shall be posted in the appropriate Bureau State office at least 30 days prior to the issuance of the exploration license;

(2) Any person seeking to participate in the exploration program described in the Notice of Invitation shall notify the authorized officer and the applicant in writing of such intention within 30 days after posting in the Bureau State office having jurisdiction over the lands. To avoid duplication of exploration activities in an area, the authorized officer may: (i) Require modification of the original exploration plan to accommodate the exploration needs of those seeking to participate, or (ii) notify those seeking to participate that they should file a separate application for an exploration license.

§ 3910.2-2 Environmental analysis.

(a) Before an exploration license may be issued, the authorized officer, in consultation with any affected surface management agency, shall consider the effects of the application on the environment and the resources of the area in accordance with the National Environmental Policy Act.

(b) In each exploration license, the authorized officer shall include terms and conditions needed to protect the environment and resource values of the area and to ensure reclamation of the lands disturbed by the exploration activities.

§ 3910.3 Exploration license requirements.

§ 3910.3-1 Issuance, relinquishment and termination.

(a) The authorized officer has the discretion to issue an exploration license or reject the application based on the need for resource information, the environmental analysis, the qualifications of the applicant and the completeness of the application, including any fees.

(b) An exploration license shall become effective on the date specified by the authorized officer which shall also be the date when exploration activities may begin. An exploration license shall be valid for a period not to exceed 2 years, except that it may be extended for an additional 2 years by the authorized officer upon the written request of the licensee.

(c) The exploration plan approved by the authorized officer shall be attached and made a part of each exploration license.

(d) The licensee shall comply with the terms and conditions of the license, the exploration plan or any approved modification thereof and the regulations in 30 CFR 231 pertaining to mining operations

(e) The authorized officer may, with the consent of the surface managing agency, approve any modification of the exploration license proposed by the licensee in writing if geologic or other conditions warrant. If necessary, the authorized officer may, as part of the modification, adjust the terms and conditions of the license. If the licensee does not concur in the readjusted terms and conditions, the modification of the exploration plan shall not be approved. If the licensee does not concur in the adjustment of the terms and conditions of the exploration license and exploration plan, he/she may appeal the decision modifying the license under 43 CFR Part 4 or he/she may relinquish the exploration license.

(f) Subject to the continued obligation of the licensee and the surety to comply with the terms and conditions of the exploration license, the exploration plan and these regulations a licensee may relinquish an exploration license for all of any portion of the lands covered by it. A relinquishment shall be filed in the Bureau State office in which the original application was filed.

(g) An exploration license may be cancelled by the authorized officer for noncompliance with its terms and conditions after the licensee has been provided with reasonable notice, a hearing and an opportunity to correct the noncompliance.

§ 3910.3-2 Limitations on exploration licenses.

The issuance of an exploration license for an area shall not preclude the issuance of a Federal oil shale lease for that same area. If an oil shale lease is issued for an area covered by an exploration license, the authorized officer shall cancel the exploration license effective on the date of the lease for those lands that are common to both.

§ 3910.3-3 Operating requirements.

The license shall comply with the operating requirements contained in 30 CFR Part 231.

§ 3910.3-4 Bonds.

The licensee shall provide a bond in an amount determined by the authorized officer, but not less than $5,000, in accordance with the requirements of § 3923.8 of this title.

§ 3910.4 Collection and submission of data.

Upon the request of the authorized officer, the licensee shall provide all information obtained under the license. Any information provided shall be treated as confidential and proprietary, if appropriate, at the request of the licensee, but only for 3 years or until the Bureau determines that public access to the data will not damage the competitive position of the licensee, whichever comes first.

§ 3910.5 Use of surface.

(a) Operations conducted under a license shall not unreasonably interfere with or endanger any other lawful activity on the same lands, shall not damage any improvements on the lands and shall not result in unnecessary disturbance of the surface of the lands and their resources.

(b) The licensee shall comply with all applicable Federal, State and local laws and regulations and with the terms and conditions of the license.

PART 3920—COMPETITIVE LEASING

Subpart 3921—Prelease Sale Activities

3921.1 Special requirements for land-use planning.
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Subpart 3924—Multimineral Leasing

3924.1 Identification of tracts for multimineral leasing.
3924.2 New multimineral leases.
3924.3 Existing leases.

Authority: Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

Subpart 3921—Prelease Sale Activities

§ 3921.1 Special requirements for land-use planning.

For areas with oil shale potential, as part of the land use planning accomplished in accordance with Part 1600 of this title, there shall be (a) a call for expressions of interest;

(b) Identification of areas open to future oil shale leasing; and

(c) Identification of potential lease tracts. These activities shall be conducted in accordance with the principles of multiple-use management.

§ 3921.2 Call for expressions of interest from the public.

The call for expressions of interest from the public:

(a) Shall ask for recommendations concerning areas and tracts which should be leased and developed for oil shale or multimineral purposes and of areas which should be leased and developed for oil shale or multimineral purposes and of areas which should not be leased for those purposes;

(b) Shall be made (1) during the preparation of a land use plan that addresses oil shale; (2) during the preparation of any amendment to a land use plan that addresses oil shale, and (3) prior to any lease sale that is scheduled 1 year or more after completion of a land use plan that addresses oil shale;

(c) Shall be published by notice in the **Federal Register**; and

(d) May be issued for an area(s) subject to exploration license(s).

§ 3921.3 Responses to a call for expressions of interest.

Responses to a call for expressions of interest:

(a) Shall be in writing, shall contain a legal description of the tracts and areas nominated and, if more than one tract or area is nominated, shall rank the tracts by priority;

(b) Shall be considered by the Bureau in identifying tracts and areas for potential leasing; and

(c) May be used by the Regional Oil Shale Team in its development of recommendations or by the Secretary in developing National guidance or in making decisions on leasing.

§ 3921.4 Area identification.

Using multiple-use principles, an analysis of the oil shale resource shall be made during land use planning to identify which areas may be considered for future oil shale leasing. This analysis shall identify areas open to consideration for future leasing with standard stipulations, areas open to consideration for future leasing with special stipulations and areas closed to leasing.

§ 3921.5 Tract delineation.

(a) Within areas open to consideration for future leasing, specific tracts shall be delineated in the land use plan from information obtained in response to a call for expressions of interest and other available information. Tract delineation shall be accomplished by the Bureau in consultation with the Regional Oil Shale Team.

(b) As part of tract delineation, the Bureau shall prepare a tract analysis on potential lease tracts that are identified. Each tract analysis shall include, but not be limited to, and estimate of the quantity and quality of the oil shale reserves; probable development methods; the presence and extent of other resource values; and the anticipated social, economic, and environmental impacts that could result from tract leasing and development.

Subpart 3922—Lease Activities

§ 3922.1 National guidance.

The Secretary or the Director shall, in accordance with § 3900.3(d)(1) of this title, provide the Regional Oil Shale Team with national policy guidance concerning the level of leasing or number of major lease tracts that shall be considered appropriate for sale in the upcoming year, as well as the geographic areas where leasing would have the greatest national benefit.

§ 3922.2 Consultation with Governors.

Before offering lands for oil shale leasing, the Secretary shall seek the recommendations of the Governor of the State in which the lands to be leased are located as to whether or not to lease such lands, what alternative actions are available and what special conditions could be added to the proposed lease to mitigate impacts. The Secretary shall accept recommendations of the Governor if he/she determines that they provide for a reasonable balance of National, State and local interests. The Secretary shall communicate in writing with the Governor and publish in the **Federal Register** the reasons for his/her determination to accept or reject a Governor's recommendation.

§ 3922.3 Criteria for decision.

In deciding whether or not to offer oil shale tracts for lease, the Secretary, or his designee, may consider all relevant factors, including, but not limited to:

(a) The Regional Oil Shale Team recommendations;

(b) The recommendations of the Governor(s) where the lands to be leased are situated; and

(c) The leasing criteria of the Regional Oil Shale Team as specified in §3900.3(d) of this title.

§ 3922.4 Leasing Procedure

§ 3922.4–1 Notice of solicitation of bids.

(a) The authorized officer shall, prior to a lease sale, publish a notice of solicitation of bids once in the **Federal Register** and once a week for 3 consecutive weeks, or such other time deemed appropriate by the authorized officer, in 1 or more newspapers of general circulation in the county(ies) in which the oil shale lands are situated.

(b) The notice of solicitation of bids shall:

(1) List the time and place of sale, the bidding method and the legal description of the tracts being offered;

(2) Specify where a detailed statement of lease terms, conditions and stipulations may be obtained;

(3) Specify the royalty rate and the amount of the annual rental;

(4) Specify that the successful bidder shall, prior to issuance of the lease, pay his/her proportionate share of the total cost of publication of the notice; and

(5) Contain such other information as the authorized officer deems appropriate.

(c) The detailed statement on lease terms, conditions and stipulations shall, at a minimum, contain:

(1) A complete copy of the lease(s) and all stipulations to be offered; and

(2) Resource information relevant to the tracts being offered for lease, including an estimate of the reserves being leased and schedule of minimum production.

§ 3922.4–2 Conduct of lease offering and receipt of bids.

(a) The bidding shall be based on a system of sealed bids. At the time and place specified in the solicitation of bids, the authorized officer shall open and announce all sealed bids and shall announce the highest bid. A record of all bids shall be made by the authorized officer. No decision to accept or reject the high bid shall be made at the time of the sale.

(b) The high bidder shall, at the close of the bidding, tender a payment of one-fifth of the amount of the bonus bid in accordance with §3923.1 of this title and a signed statement of qualifications with respect to those items listed in §3901 of this title. The balance of the bonus shall be due and payable in 4 equal annual installments on each of the first 4 anniversary dates of the lease, unless otherwise specified in the lease.

(c) After the sale, the authorized officer shall determine if:

(1) The high bidder has complied with all the terms of the notice of sale; and

(2) Whether the high bidder is qualified to hold the lease.

(d) The Department reserves the right to offer the lease to the next highest bidder if the highest bidder fails to execute the lease or is for any reason disqualified for holding the lease.

(e) The Department reserves the right to reject any and all bids regardless of the amounts offered.

(f) The successful bidder shall be notified in writing of the acceptance of the bid. The authorized officer shall notify any bidder whose bid has been rejected and include in such notice a statement of the reasons for the rejection.

§ 3922.4–3 Lease forms and legal descriptions.

(a) All lands to be included in a lease shall be described in aliquot parts or lots. The lessee shall be required to reimburse the United States for the cost of any pre-lease tract survey.

(b) Oil shale leases shall be issued on a standard form. Prior to any notice to offer to lease, the authorized officer may modify the provisions of the standard form which are not required by law or regulations and may add such additional stipulations and conditions as he/she deems appropriate.

§ 3922.5 Award of lease.

(a) The lease shall be awarded to the qualified bidder submitting the highest bid, except as provided in §3922.4–2 (d) and (e) of this title. The authorized officer shall send the successful bidder 3 copies of the oil shale lease form for execution.

(b) Within 60 days of receipt of the lease forms, the successful bidder shall sign all copies and return then to the Bureau State office having jurisdiction of the lands being leased, together with the necessary lease bond (See § 3923.8), the first year's rental and the bidder's proportionate share of the cost of publication of the notice of sale.

(c) Failure to comply with the provisions of this section shall result in failure of the lease to issue and forfeiture of the one-fifth bonus bid deposit.

§ 3922.6 Diligence.

(a) Each lease shall contain provisions for the purpose of ensuring reasonable diligence. The diligence provisions shall include requirements, as specified below, for submission of a mining plan including minimum production as established in the lease or the payment of minimum royalties in lieu of production.

(b)(1) The lessee shall submit to the authorized officer a mining plan which meets the requirements of 30 CFR 231.10 on or before the third anniversary date of the lease. The plan shall include a schedule showing due diligence in the orderly development of the deposits and, in particular, the attainment of commercial quantities at as early a time as is consistent with the terms of the lease.

(2) If the mining plan is found unacceptable by the authorized officer, the lessee shall revise the plan in accordance with 30 CFR Part 231.

(3) The Bureau may, based on extenuating circumstances or the complexity of the mining plan, grant up to 3 consecutive one-year extensions to the lessee for submission or completion of the operating plan.

(4) Failure to submit a complete and approvable mining plan within 6 years following the issuance of the lease may result in the cancellation of the lease by an appropriate proceeding in a United States District Court for the district in which the lands or some part thereof is located.

(5) The Bureau shall accept or reject the mining plan by the end of the sixth year after the issuance of the lease or within 1 year of the Bureau's determination that the mining plan is complete.

(c) Each lease shall provide for an annual minimum production which shall be set out in the notice of lease offer and in the lease. The annual minimum production requirement shall start at the end of the tenth year, be determined by the Bureau and shall be based on the Bureau's estimate of the extraction technology to be utilized, the recoverable resources on the lease, expected life of the operation and other factors as determined by the authorized officer.

(d) Each lease shall, in accordance with § 3923.6 of this title, provide for the payment of a minimum royalty in lieu of minimum production requirements for any particular year starting at the end of the tenth year.

Subpart 3923—Required Payments

§ 3923.1 Form of remittance.

All remittances shall be by U.S. currency, postal money order or negotiable instrument payable in U.S. currency.

§ 3923.2 Payments to the Bureau.

All bonus payments shall be payable at the appropriate State office of the Bureau. Prior to production or payment of minimum royalties, all rentals, fees, bonuses and remittances shall be paid to the appropriate State office of the Bureau and shall be made payable to the Minerals Management Service.

§ 3923.3 Payments to the Service.

Subsequent to production or at the time of payment of minimum royalties, whichever occurs first, all rentals, royalties and minimum royalties shall be paid to the appropriate office of the Service. All remittances shall be made payable to the Minerals Management Service.

§ 3923.4 Rentals.

(a) Rental shall be $0.50 per acre, or fraction thereof, per year on any lease or readjusted lease.

(b) The rental paid for any 1 year shall be credited against production or minimum royalties required to be paid in that year.

§ 3923.5 Royalties.

(a) The royalty on oil shale shall be equivalent to 12.5 percent of the value of the oil shale after mining or resource extraction and before processing, as determined by the Bureau, except as provided in this part. The derivation methodology for this value shall be announced prior to the solicitation of bids.

(b) Nothing in this section shall preclude the placement of a royalty rate equivalent to 12.5 percent of the value of the oil shale after mining but before processing at any point in the production process.

(c) The royalty rate shall, to the extent practicable, not be levied on any value added by the production process after the point of resource extraction.

(d) After the issuance of a lease, the royalty rate on oil shale may be reduced to a lesser amount if the lessee satisfactorily demonstrates to the Secretary that conditions beyond the lessee's control warrant such a reduction. A request for reduction shall be filed with the appropriate official of the Bureau and shall only be granted if it is determined that such a reduction is in the public interest.

(e) The lessee shall keep and make available those records required by the Service to ensure that royalties are properly paid in full.

(f) All royalty rates for oil shale or other minerals subject to lease shall be specified in the lease.

§ 3923.6 Minimum royalty and production.

(a) At the request of the lessee, the Bureau may authorize the payment of minimum royalty in lieu of minimum production as specified in the lease.

(b) The minimum royalty shall be due in advance for the succeeding year and shall be payable on the anniversary date of the lease.

(c) The schedule of minimum royalties in lieu of production shall be based on minimum production of recoverable resources as specified in each lease.

(d) The amount of any minimum royalty paid in any year shall be credited to production for that year and, as approved by the Bureau, to any year during the initial term of the lease.

(e) Failure to meet minimum production or to pay minimum royalties in lieu of production may result in the cancellation of the lease by an appropriate proceeding in a United States District Court.

(f) Minimum royalties in lieu of production or production requirements established in the lease shall begin no later than the tenth anniversary date of the lease year unless:

(1) Lease production has been interrupted by strikes, the elements or casualties shown to the satisfaction of the Bureau as not attributable to the lessee; or

(2) Lease operations are suspended upon a showing to the satisfaction of the Bureau that market conditions are such that the lease cannot be operated except at a loss; or

(3) Lease operations are suspended by the Secretary for reasons specified in section 39 of the Mineral Lands Leasing Act (30 U.S.C. 209).

(g) Minimum production requirements may be reduced by the authorized officer upon written request of the lessee.

§ 3923.7 Reduction of rental, minimum royalties or royalties.

(a) In order to encourage the greatest ultimate recovery of the leased minerals and in the interest or conservation, the Secretary, upon a determination that it is necessary to promote development or that the lease(s) cannot be successfully operated under the terms provided therein, may waive, suspend or reduce the rental or minimum royalty or reduce the royalty on an entire leasehold or any portion thereof.

(b)(1) An application for any of the benefits permitted by this section shall be filed in the proper BLM State office. The application shall contain: (i) The serial number of the lease; (ii) the name of the Bureau office; (iii) the name of the record title holder and the operator or sublessee; (iv) a description of the lands by legal subdivision; (v) a detailed statement of the expenses and costs of operating the entire lease; (vi) a detailed statement of the income from the sale of any leased products; and (vii) all facts tending to show whether the mine(s) can be successfully operated with the royalty or rental fixed in the lease. Where the application is for a reduction of royalty, full information shall be furnished as to whether overriding royalties or payments out of production are paid to other than the United States, the amounts so paid and efforts to reduce them.

(2) The applicant shall file agreements of the holders of the lease and of the royalty of production payment holders to a reduction of all other royalties from the leasehold to aggregate not in excess of one-half the royalties due the United States.

(c) Any application for waiver, suspension or reduction of rental, minimum royalty or royalties may be submitted and may be authorized at any time after the issuance of the lease.

§ 3923.8 Bonds.

§ 3923.8–1 Bonding requirements.

(a) Before a lease or exploration license may be issued, the lessee shall furnish 1 of the following forms of bond in an amount specified by the authorized officer:

(1) Corporate surety bond;

(2) Cash; or

(3) Personal bond secured by negotiable Treasury bonds by the United States, cash or guaranteed remittance of a value equal to or greater than the amount specified in the bond. Negotiable Treasury bonds shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the terms and conditions of the lease or license.

(b) The applicant or high bidder shall file the bond on a form approved by the Director within 30 days of receiving notice of issuance of an exploration license or notice of bid acceptance.

(c) The bonding requirement for a modified lease or exploration license may be satisfied by an adjustment of an existing bond covering the original lease or license.

(d) A bond for each lease or exploration license, conditioned upon compliance with the terms and conditions of the lease or exploration license shall be furnished in an amount determined by the authorized officer. The authorized officer may increase the amount of the bond to be issued or any outstanding bond when he/she determines additional coverage is appropriate.

(e) When the surety makes payment to the United States of any indebtedness due under a lease or license, the face amount of the surety bond and surety's liability thereunder shall be reduced by the amount of such payment.

(f) The authorized officer shall not consent to termination of the period of liability under the bond unless an acceptable substitute bond has been filed or until all terms and conditions of the lease or exploration license have been fulfilled.

Subpart 3924—Multimineral Leasing

§ 3924.1 Identification of tracts for multimineral leasing.

(a) As part of the land use planning process specified in subpart 3921.1 of this title, the public shall be asked to provide information on the occurrence of commingled or intermingled oil shale and other mineral deposits.

(b) Information received in response to calls for expressions of interest, together with other information available to the Department, shall be utilized to identify tracts for multimineral leasing. Upon identification, those tracts shall be assessed further in the land use planning and associated environmental documents and shall be considered by the Regional Oil Shale team in developing its recommendations for leasing of specific tracts.

§ 3924.2 New multimineral leases.

Using the procedures set out in this part, the Secretary, or his designee, may authorize the issuance of a multimineral lease when it is determined to be in the public interest to lease commingled.

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intermingled or separate deposits other than coal, oil and gas or tar sand.

§ 3924.3 Existing leases.

The secretary may offer a multimineral lease for commingled, intermingled or separate deposits of unleased minerals on an area already under lease for minerals other than coal, oil and gas and tar sand. Prior to the issuance of any multimineral lease, an agreement shall be executed with the United States to provide for the establishment of a joint operating agreement between holder(s) of the other mineral lease and the successful bidder. The agreement shall also provide for the assignment of all right(s) to the existing lease to the successful bidder in the event that mutually acceptable terms for a joint operating agreement cannot be reached. The documentation of the agreement shall be prepared and shall include, but not be limited to, the joint agreement, all terms and conditions and procedures for reimbursement in the event an assignment is necessary.

PART 3930—POST-LEASE ACTIVITIES

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Subpart 3932—Lease Modifications and Readjustments

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Authority: Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351—359), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

Subpart 3931—Mine Plan Review and Approval

§ 3931.1 Requirements for mine plan submission, review and approval.

The requirements for mine plan submission, mine plan review, mine plan approval and lease operations shall be those in 30 CFR Part 231. The Bureau shall have the discretion to accept or reject a mining plan in whole or in part, as it relates to the production or recovery of associated minerals other than coal, oil and gas or tar sand.

Subpart 3932—Lease Modifications and Readjustments

§ 3932.1 Lease size modification.

(a) A lessee may apply for a modification of a lease to include Federal oil shale lands or deposits adjoining those in the lease. The acreage in the application, plus any previously authorized modification, shall not exceed 5 percent of the original lease size, provided that the total area of the lease, if the modification is approved, shall not exceed the maximum lease size authorized by law. Lease size modification shall not be made until after the fifth year of the lease nor within 5 years of the last modification.

(b) An application for modification of the lease size shall:

(1) Be filed with the Bureau State office having jurisdiction over the lands involved;

(2) Contain a legal description of the additional lands involved;

(3) Contain a justification for the requested modification;

(4) Set out the reasons why the modification would be in the best interest of the United States;

(5) Be accompanied by a nonrefundable filing fee of $250; and

(6) Be accompanied by a signed statement of qualifications with respect to the items listed in § 3901.1 of this title.

(c) Reductions in lease acreage shall be accompanied by the filing of a partial relinquishment filed in accordance with § 3934.2 of this title.

§ 3932.2 Availability.

(a) A lease modification shall not be granted by the authorized officer if he/she determines that:

(1) There is competitive interest in the lands covered by the application;

(2) The lands covered by the application could more reasonably be developed as part of another independent operation;

(3) The area covered by the application would be used primarily for purposes other than the actual mining of the leased minerals; and

(4) The modification would not serve the public interest.

(b) The lands covered by the application may be added to the existing lease without competitive bidding, but the United States shall receive a fair return for the added lands. Compensation shall be in the form of a fair market cash payment at the time of the modification. The royalty rate of the original lease shall be assessed on all resource production associated with the modification.

§ 3932.3 Terms and conditions of modified lease.

(a) The terms and conditions of the entire lease as modified under this part shall be made consistent with the law, regulations and lease terms applicable at the time the lands are added by the modification.

(b) Before a lease is modified, the lessee shall submit a written acceptance of the conditions imposed in the modified lease and a written consent of the surety under the original bond.

§ 3932.4 Readjustment of lease terms.

All leases are subject to readjustment of the terms, conditions and stipulations, including royalty rates, at the end of the first 20-year period and at the end of each 20-year period thereafter. The authorized officer shall notify the lessee if any readjustment is to be made prior to the expiration of a 20-year period and of the proposed readjusted lease terms, including any revised royalty rate. Said readjustment shall be by written decision with the right of appeal. In the case of an appeal, the royalty rate shall be paid at the revised rate and the other readjusted lease terms, if any, shall be effective from and after the effective date of the authorized officer's decision, as specified therein, pending the outcome of the appeal.

Subpart 3933—Transfers

§ 3933.1 Transfer and receipt of transfer.

(a) Leases and exploration licenses may be transferred in whole or in part to any person, association or corporation qualified to hold such leases or exploration licenses if they do not exceed the statutory maximum for the number and acreage of leases that may be held by a party.

§ 3933.2 Heirs and devisees.

(a) The rights of a deceased holder of a lease, exploration license, operating agreement or royalty interest in a lease shall be transferred to the heirs, devisees, executor or administrator of the estate, as appropriate, upon the filing of a statement that all such parties are qualified to hold a lease.

(b) If an applicant for an exploration license dies before the license is issued, the application shall be rejected.

§ 3933.3 Requirements for transfer.

§ 3933.3–1 Application.

An application for approval of transfer of a lease, exploration license or any interest in a lease, whether by direct assignment or working agreement, transfer of royalty interest, sublease, or otherwise, shall be filed within 90 days of its execution.

§ 3933.3–2 Forms and information requirements.

Applications for approval of transfers of record title interest shall be filed in triplicate. No specific form is required. A separate instrument of transfer shall be filed when the transfer involves record title. A single signed copy of all other instruments of transfer shall be sufficient, except that collateral assignments and other security or mortgage documents shall not be accepted for filing.

§ 3933.3–3 Filing location and fee.

Instruments of transfer and requests for approval shall be filed in the Bureau State office having jurisdiction of the lands proposed for transfer. Each request for approval of an instrument of transfer shall be accompanied by a nonrefundable filing fee of $50.

§ 3933.3–4 Bonds.

(a) If a bond is required, it shall be furnished before a lease transfer may be approved. The consent of the surety to the substitution of the transferee as principal or a new bond with the transferee as principal shall be submitted if the original lease required the maintenance of a bond. If the transfer is for part of the leased lands only, it shall be for all lands in a legal subdivision and (1) the consent of the surety to the transfer and its agreement to remain bound as to the interest retained by the lessee shall be submitted, as well as (2) a new bond with the transferee as principal covering the portion of the leased lands transferred.

(b) The transferor, including a sublessor, and the surety for the lease shall continue to be responsible for the performance of any obligation under the lease until the effective date of the approval of the transfer. If the transfer is not approved, their obligation to the United States shall continue as though no such transfer has been filed for approval. After the effective date of approval, the transferee's surety shall be responsible for all lease obligations notwithstanding any terms in the transfer to the contrary.

§ 3933.3–5 Description of lands.

The description of the lands covered by the instrument of transfer shall match the description of the lands in the lease. The smallest legal subdivision allowed to be transferred or retained is an aliquot part of a surveyed section or a lot.

§ 3933.3–6 Effect of assignment.

The assignment of record title to a portion of a lease shall segregate the assigned portion and the retained portion into separate leases, with the new lease being assigned a new serial number. Each resulting lease retains the anniversary date and the terms and conditions of the original lease.

§ 3933.4 Approval or disapproval.

§ 3933.4–1 Conditions for approval.

No transfer shall be approved if:

(a) The transferee is not qualified to hold a lease, exploration license or interest therein under subpart 3901 of this title;

(b) The bond, if required, is not sufficient;

(c) The filing fee has not been submitted;

(d) The transferee would hold more than the statutory maximum number of leases;

(e) The lease or exploration license account is not in good standing; or

(f) The transferee would hold the lease in violation of the acreage limitations.

§ 3933.4–2 Disapproval of transfer.

The authorized officer shall disapprove a transfer if any deficiency in the application is not corrected within the time set by written notification.

§ 3933.4–3 Effective date.

The approval of the authorized officer is required before a transfer is effective. The transfer shall take effect as of the first day of the lease month following the date of filing in the Bureau State office having jurisdiction of the lands of all documents and statements required by this subpart and an appropriate bond, if one is required.

§ 3933.4–4 Extensions.

The filing of or approval of any transfer shall not alter any terms or extend any time periods under the lease, including those dealing with diligent development of the lease.

Subpart 3934—Suspension of Lease Operations and Cancellations

§ 3934.1 Suspensions.

(a) An application for relief from any operating or production requirement of a lease or to terminate such suspensions shall be filed in triplicate in the office of the mining supervisor. The application shall include a full statement of the circumstances that render the suspension necessary and proper.

(b) The term of any lease shall be extended by adding thereto any period of suspension of all operations and production during such term in accordance with the direction of the mining supervisor.

(c) A suspension shall take effect as of the time specified by the mining supervisor. Rental and minimum royalty payments shall be suspended during any period of suspension, beginning with the first day of the lease month on which the suspension of operations become effective. If the suspension of operations or production becomes effective on any date other than the first day of the lease month, rental and minimum royalty payments shall be suspended beginning with the first day of the lease month following such effective date. The suspension of rental and minimum royalty payments shall end on the first day of the lease month in which operations or production is resumed. Where rentals are credited against royalties and have been paid in advance, proper credit shall be allowed on the next rental or royalty due under the lease.

(d) A suspension under this title affects only the operating and production requirements of the lease; it does not suspend the lessee's obligation to reclaim.

§ 3934.2 Relinquishments.

(a) A lease or exploration license or any legal subdivision thereof may be surrendered by the record title holder by filing a written relinquishment, in triplicate, in the Bureau State office having jurisdiction of the lands covered by the relinquishment. A relinquishment shall take effect on the date it is approved subject to the continued obligation of the lessee or licensee and surety to make payments of all accrued rentals and royalties and to properly rehabilitate the lands to be relinquished

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to a condition acceptable to the authorized officer in accordance with the regulations in 30 CFR Part 231, the terms of the lease and the approved mining plan.

((b) Prior to relinquishment of an exploration license, the licensee shall give any other parties participating in activities under the license the right of first refusal.

§ 3934.3 Cancellation.

§ 3934.3–1 Notice.

The lessee or licensee shall be given written notice of any default, breach or cause of forfeiture and be afforded 30 days to correct the default, to request an extension of time in which to correct the default, or to submit evidence showing why the lease or exploration license should not be cancelled.

§ 3934.3–2 Cause and procedures for cancellation.

(a) The authorized officer shall take appropriate steps to institute proceedings in a court of competent jurisdiction for the cancellation of the lease if the lessee:

(1) Fails to comply with the provisions of the Mineral Leasing Act, as amended:

(2) Fails to comply with any applicable regulations; or

(3) Defaults in the performance of any of the terms, covenants and stipulations of the lease; and the authorized officer does not formally waive the default, breach or cause of forfeiture.

(b) A waiver of any particular default, breach or cause of forfeiture shall not prevent the cancellation and forfeiture of the lease for any other default, breach or cause of forfeiture, or for the same cause occurring at any other time.

(c) The authorized officer may administratively cancel an exploration license for failure to comply with the terms and conditions of the license.

§ 3934.4 Terminations.

A lease may be canceled by an appropriate proceeding in a United States District Court for the district in which the leased premises or some part thereof is located.

§ 3934.5 Payments due.

Should a lease be canceled or relinquished for any reason, all bonus, rentals, royalties or minimum royalties due, shall be forfeited and any amounts not paid shall be immediately payable to the United States.

Dated: September 7, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83–3758 Filed 2–10–83; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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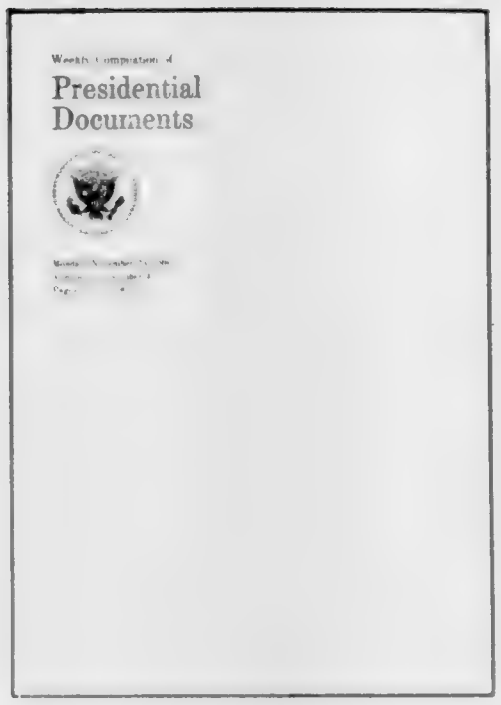

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Federal Register

Monday
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 5020 of February 10, 1983

Save Your Vision Week, 1983

By the President of the United States of America

A Proclamation

Good vision is a priceless gift. Yet each year many Americans needlessly lose vision as a result of diseases and accidents whose sight-destroying effects could have been prevented.

Regular eye examinations by an eyecare professional can often avert the tragedy of visual loss. While a checkup will usually show that our eyes are healthy, we may also receive early warning of a serious eye disease requiring treatment. Diabetic eye disease, for example, is a leading cause of visual impairment. Through examination it can be detected and treated. If all diabetics were aware of the need for routine eye checkups, many more cases of blindness could be avoided.

The elderly and the young have a special need for periodic eye examinations. A number of blinding diseases strike more often in later years. With early warning of eye disease and proper treatment, older people could be spared visual handicaps which threaten their independence and limit their enjoyment of life. For children, a routine checkup may reveal an eye problem that can hamper the child in school or at play. Some disorders must be treated during childhood or permanent visual loss will result.

Accidents are a common cause of vision loss or impairment. Tragically, many accidents could have been avoided by the use of such simple precautions as wearing safety glasses, goggles, or face shields while involved in hazardous work or sporting activities.

We can help others in our community to prevent or overcome visual impairment by supporting organizations committed to sight conservation. These organizations campaign for eye safety and the use of protective eye wear in sports and on the job. They provide aids and professional low vision services to improve the quality of life for those who are vision impaired, and they encourage us to donate our eyes after death for biomedical research and for sight-restoring corneal transplant surgery.

To encourage Americans to safeguard their eyesight and reduce the national toll of visual disability, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 629, 36 U.S.C. 169a), has requested the President to proclaim the first week in March of each year as Save Your Vision Week.

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NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning March 6, 1983, as Save Your Vision Week. I urge all citizens to join in this observance by taking steps to preserve vision and prevent eye injury at home, at work, and at play. I call upon eyecare professionals, the media, educators, and all individuals and public and private organizations concerned with sight conservation to unite in activities that will foster concern for eye care and eye safety among Americans of all ages. I also urge their support of programs to improve and protect the vision of all Americans.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of February, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-4049
Filed 2-10-83; 4:37 pm]
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7 CFR P

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Rules and Regulations

Federal Register
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Monday, February 14, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

[Docket No. 83-006]

Organization, Functions and Delegations of Authority

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of organization, functions and delegations of authority of the Animal and Plant Health Inspection Service to authorize Area Veterinarians in Charge of Veterinary Services programs to issue exemptions to garbage treatment facilities or premises from requirements of Section 4 of the Swine Health Protection Act pursuant to Section 4(b) of the Act (7 U.S.C. 3803).

EFFECTIVE DATE: February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. L. W. Schnurrenberger, Chief Staff Veterinarian, Swine Diseases, Special Diseases Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Room 820, Hyattsville, MD 20782, 301–436–8487.

SUPPLEMENTARY INFORMATION: This document amends the statement of organization, functions and delegations of authority of the Animal and Plant Health Inspection Service (APHIS) to delegate to the Area Veterinarians in Charge of Veterinary Services programs the authority to exempt garbage treatment facilities or premises from requirements of Section 4 of the Swine Health Protection Act pursuant to Section 4(b) of the Act (7 U.S.C. 3803). That section requires that no person shall feed or permit the feeding of garbage to swine unless the garbage has been treated to kill disease organisms, in accordance with regulations issued by the Secretary, at a facility holding a valid permit for the treatment of garbage issued by the Secretary. This permit is to be issued by the Deputy Administrator for Veterinary Services or, in States with primary enforcement responsibility, by the State animal health official in the State in which the person operates or intends to operate. Section 4 of the Act also provides that the Secretary may exempt any facility or premises from the requirements of that section whenever the Secretary determines that there would not be a risk to the swine industry in the United States. In order to facilitate handling of the volume of exemption requests anticipated, authority to issue exemptions to garbage treatment facilities is being delegated to the lowest practicable administrative level within Veterinary Services.

The Secretary has delegated the responsibility for the administration of the Swine Health Protection Act to the Assistant Secretary for Marketing and Inspection Services, who in turn has delegated such authority to the Administrator, Animal and Plant Health Inspection Service (45 FR 85696). The Administrator, APHIS, in turn delegated such authority to the Deputy Administrator, Veterinary Services (46 FR 7266).

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 371

Organization and functions (Government agencies).

PART 371—ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Accordingly, paragraph (e) of 7 CFR 371.6 is revised to read as follows:

§ 371.6 Delegations of authority.

* * * * *

(e) *Area Veterinarians in Charge, Veterinary Services.* Area Veterinarians in Charge of Veterinary Services programs are hereby delegated authority

(1) To issue exemptions to facilities or premises from requirements of Section 4 of the Swine Health Protection Act pursuant to Section 4(b) of the Act (7 U.S.C. 3803), and

(2) To issue permits to operate facilities to treat garbage pursuant to Section (5)(a) of the Swine Health Protection Act (7 U.S.C. 3804).

(5 U.S.C. 301)

Issued at Washington, D.C., this 8th day of February, 1983.

James O. Lee, Jr.,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 83-3886 Filed 2-11-83; 8:45 am]
BILLING CODE 3410-34-M

9 CFR Part 97

[Docket No. 82-098]

Overtime Services Relating to Imports and Exports; Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. J. L. Ellis, Executive Officer,

Veterinary Services, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 857, Hyattsville, MD 20782, 301–436–8511.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final action has been reviewed under Executive Order 12291, and has been determined to be exempted from those requirements. Nicholas E. Bedessem, Special Assistant to the Administrator, made this determination because commuted traveltime allowances are strictly a function of where the APHIS employee lives in relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. This amendment merely reflects such changes and serves to notify the public of the new allowed hours.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would have made additional relevant information available to the Department.

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock and livestock products, Poultry and poultry products, Transportation.

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1982 ed.), as amended May 28, 1982 (47 FR 23429–23431), and November 18, 1982 (47 FR 51855), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding or removing (in appropriate alphabetical sequence) the information as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMPUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan [illegible]	
		Within	Outside
* * * * *			
Delete:			
[illegible]			
Indianapolis		2	
Add:			
* * * * *			
Indiana:			
Indianapolis		1	
Do	Anderson		2
Do	West Lafayette		3
* * * * *			

(64 Stat. 561 (7 U.S.C. 2260))

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Done at Washington, D.C., this 8th day of February, 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83–3887 Filed 2–11–83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR 301

Description of Organization

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Final rule.

SUMMARY: The Economic Development Administration has decided to denominate its Regional Offices by the names of the cities in which the Offices are local. In addition, several Regional Offices are no longer located at the located address contained in this regulation. Moreover, Regional Offices are moved so frequently that local addresses are not useful. The regulation will change the names of the Regional Offices, delete local addresses, but still set forth the various states the Regional Offices will serve.

EFFECTIVE DATE: February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Henry C. Kramer, Acting Director, Office of Management and Administration, Economic Development Administration, 14th and Constitution Ave. NW., Room 7816, (202) 377–2914.

SUPPLEMENTARY INFORMATION: Since this rule relates to EDA's grant and loan programs, it is exempt from the notice and comment procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. 553.) In accordance with Section 3(c)(3) of the Executive Order No. 12291, this rule has been submitted to the Director of the Office of Management and the Budget. This rule is not a major rule as defined in that Order. This rule does not fall within the provisions of the Regulatory Flexibility Act, nor will it create any information collection burdens on the public because of its subject matter, so as to be governed by the Paperwork Reduction Act.

List of Subjects in 13 CFR Part 301

Organization and functions (government agencies), Freedom of Information.

PART 301—[AMENDED]

Accordingly, EDA revises 13 CFR 301.31 as follows:

§ 301.31 Economic Development Administration Regional Offices.

Locations:

(a) *Philadelphia.* Philadelphia, Pennsylvania. Serving: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, Virgin Islands, and West Virginia.

(b) *Atlanta.* Atlanta, Georgia. Serving: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

(c) *Denver.* Denver, Colorado. Serving: Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

(d) *Chicago.* Chicago, Illinois. Serving: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

(e) *Seattle.* Seattle, Washington. Serving: Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Washington, and Northern Mariana Islands.

(f) *Austin.* Austin, Texas. Serving: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

(Sec. 701, Pub. L. 89–138, 79 Stat. 570 (42 U.S.C. 3211), Department of Commerce Organization Order 10–4, as amended (40 FR 56702, as amended))

Dated: February 7, 1983.

Carlos C. Campbell,

Assistant Secretary for Economic Development.

[FR Doc. 83-3913 Filed 2-11-83; 8:45 am]

BILLING CODE 3510-24-M

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13 CFR Part 303

Economic Development Districts

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Final rule.

SUMMARY: This change deletes EDA's regulation regarding the requirement that economic development districts, designated by the Assistant Secretary for Economic Development, provide copies of their Overall Economic Development Programs to the appropriate Regional Commission established under Title V of the Public Works and Economic Development Act of 1965, as amended, (Pub. L. 89-136). The Title V Regional Commissions were neither funded nor were their authorizations continued. Thus, these Commissions have in fact been abolished. Therefore, there is no longer a need for this requirement.

EFFECTIVE DATE: February 14, 1983.

FOR FURTHER INFORMATION CONTACT: James F. Marten, Deputy Chief Counsel for Operations and Administration, U.S. Department of Commerce, Economic Development Administration, 14th and Constitution Ave., NW., Washington, D.C. 20230, Room 7009, (202) 377-5441.

SUPPLEMENTARY INFORMATION: Since this rule relates to EDA's grant and loan programs, it is exempt from the notice and comment procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553.) In accordance with section 3(c)(3) of Executive Order No. 12291, this rule has been submitted to the Director of the Office of Management and Budget. This rule is not a major rule as defined in that Order. This rule does not fall within the provisions of the Regulatory Flexibility Act, nor will it create any information collection burdens on the public because of its subject matter, so as to be governed by the Paperwork Reduction Act.

List of Subjects in 13 CFR Part 303

Economic development districts, Grant programs, Community development, Loan programs.

PART 303—[AMENDED]

§ 303.9 [Removed]

Accordingly, 13 CFR Part 303 is amended by removing § 303.9 from the text of the regulations and also by removing § 303.9 from the index of Part 303—Economic Development Districts, Subpart A.

(Sec. 701, Pub. L. 89-136, 79 Stat. 570) (42 U.S.C. 3211). Sec. 1-105, E.O. 12185, DOC Organization Order 10-4, as amended (40 FR 56702, as amended)

Dated: February 7, 1983.

Carlos C. Campbell,

Assistant Secretary for Economic Development.

[FR Doc. 83-3912 Filed 2-11-83; 8:45 am]

BILLING CODE 3510-24-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-ASW-19 Amdt. 39-4552]

Airworthiness Directive; Brantly Models B-2, B-2A, and B-2B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to Brantly Models B-2, B-2A, and B-2B helicopters certificated in all categories by requiring permanent marking of tail rotor blades to assist in identification of proper blades and prevent confusion during inspections. Also, the AD is being amended to require that the tail rotor blade spar retention area exterior surface be left unpainted. This is to facilitiate daily visual inspections by maintenance personnel and daily checks by pilots.

DATES: Effective February 14, 1983. Compliance schedule—As prescribed in body of AD.

ADDRESSES: A copy of the letters and information concerning this matter may be examined in the docket file of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106, or in the Rules Docket, Room 916, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Tyrone D. Millard or Henry A. Armstrong, Helicopter Certification Branch, ASW-170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-4911, extension 521.

SUPPLEMENTARY INFORMATION: This notice further amends Amendment 39-557 (33 FR 3371), AD 68-04-04, as amended by Amendment 39-3568 (44 FR 55557), which currently requires inspection of the tail rotor blade at the spar retention area to prevent failure on Brantly Models B-2, B-2A, and B-2B helicopters certificated in all categories. After issuing Amendment 39-3568, service experience revealed that there is confusion between tail rotor blade types. It appears that part numbers stenciled on the blades during manufacture are destroyed during service, making it difficult to identify the blade. In addition, paint covering the spar retention area of the tail rotor blades interferes with visual inspections by maintenance personnel and daily checks by pilots.

Since this amendment is intended to provide clarification and imposes no substantial burden on any person, notice and public procedure hereon are unnecessary and the amendment is made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulation (14 CFR 39.13) is amended by further amending Amendment 39-557 (33 FR 3371), AD 68-04-04 as amended by Amendment 39-3568 (44 FR 55557) by adding new paragraphs after paragraph (b) as follows:

* * * * *

(c) To prevent confusion during subsequent inspections of tail rotor blades due to similarity between tail rotor blade assembly, PN 111-11, and assembly, PN 111-11A, use a permanent marking ink or equivalent acceptable for aluminum aircraft components to mark the tail rotor blade assembly with the proper part number identification (See Fig. 1 for dimensions that determine the part configuration).

(d) In order to facilitate inspection of the tail rotor blade spar retention area, do not repaint the spar retention area.

(e) The requirements of paragraphs (c) and (d) above must be implemented no later than the next compliance with paragraph (a) of this AD after February 14, 1983.

This amendment 39-4552 becomes effective February 14, 1983.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

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Note.—The FAA has determined that this document involves a regulation that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas on January 19, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

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[FR Doc. 83-

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BRANTLY MODEL B-2 SERIES

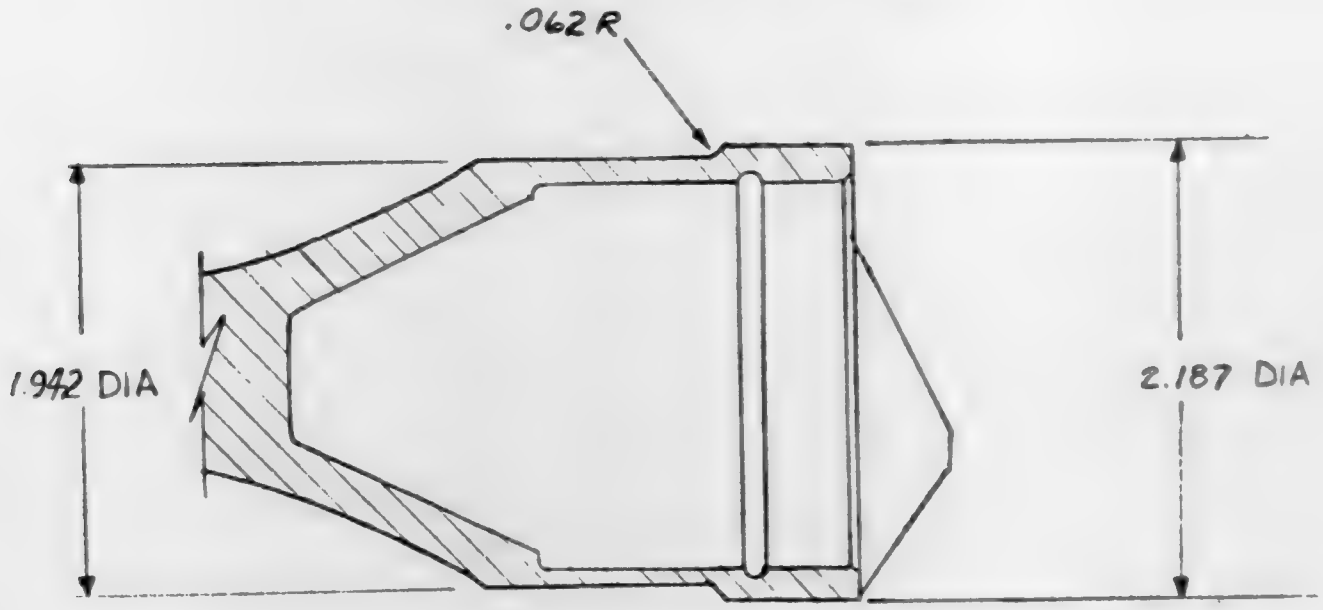

PN 111-11

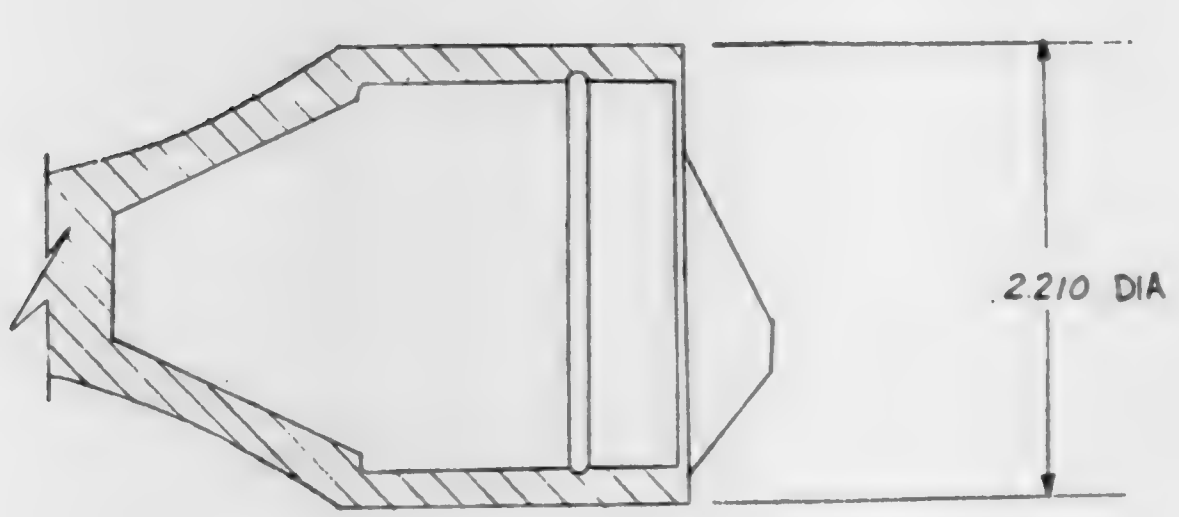

PN 111-11A

SPAR - TAIL ROTOR BLADE

FIG. 1

[FR Doc. 83-3615 Filed 2-11-83; 8:45 am]
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14 CFR Part 39

[Docket No. 83-CE-3-AD; Amendment 39-4565]

Airworthiness Directives; Britten-Norman Model BN-2A MK III Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Britten-Norman Model BN-2A Mark III Series "Trislander" airplanes, which requires initial and repetitive inspections and replacement of the rivets which attach the internal support ring for the main undercarriage shock absorber to the main undercarriage leg extension tube. Breakage of these rivets has occurred, allowing the separation of the support ring from the extension tube and therefore seriously weakening the undercarriage. The inspections and replacement of the rivets will detect and correct potential failures before separation of the internal support ring occurs.

EFFECTIVE DATE: February 22, 1983. Compliance: As prescribed in the body of the AD.

ADDRESSES: Britten-Norman Service Bulletin No. BN-2/SB.139 dated January 29, 1980, applicable to this AD may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, England. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: A. Astorga, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, or P. Cormaci, Manager, Foreign FAR 23 Section, ACE-109, Central Region, FAA, 601 East 12th Street, Kansas City, Missouri 64106.

SUPPLEMENTARY INFORMATION: One failure of the rivets that attach the internal support ring for the main undercarriage shock absorber to the main undercarriage extension tube has been reported on Britten-Norman Model BN-2A Mark III Series "Trislander" airplanes. This allowed the internal support ring to lodge above the bottom attachment flange. This occurrence seriously weakens the main undercarriage unit by removing the stabilization at the top end of the shock absorber, which can cause deformation or fracture of the bottom mounting flanges of the shock absorber and the main undercarriage extension tube. To preclude future failures of this type, Pilatus Britten-Norman Limited has issued Britten-Norman Service Bulletin No. BN-2/SB. 139 dated January 29, 1980, which recommends inspection of the rivets retaining the internal support ring for the main undercarriage shock absorber to the main extension leg to detect loose rivets and repair as necessary. In addition, replacement of these rivets is required at 15,000 landings. The United Kingdom Civil Aviation Authority who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Great Britain has classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under British registration, this action has the same effect as an AD on airplanes certified for operation in the United States.

The FAA relies upon the certification of the United Kingdom Civil Aviation Authority combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Britten-Norman Service Bulletin No. BN-2/SB.139 dated January 29, 1980, and the mandatory classification of this Service Bulletin by the United Kingdom Civil Aviation Authority.

Based on the foregoing, the FAA has determined that the condition addressed by Britten-Norman Service Bulletin No. BN-2/SB.139 dated January 29, 1980, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States.

Accordingly, an AD is being issued requiring inspections and replacement of the rivets which attach the internal support ring for the main undercarriage shock absorber to the main undercarriage leg extension tube on Britten-Norman Model BN-2A MK III airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Britten-Norman Ltd.: Applies to Model BN-2A MK III Trislander (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent the main undercarriage shock absorber support ring from separating from the inside of the undercarriage extension tube, accomplish the following:

(a) Within the next 50 landings on airplanes which have accumulated 3,000 landings or more on the effective date of this AD, or prior to the accumulation of 3,050 landings on airplanes that have less than 3,000 landings on the effective date of this AD, and thereafter at intervals not to exceed 1,000 landings:

(1) Visually inspect the rivets retaining the main undercarriage shock absorber internal support ring to the main undercarriage leg extension tube in accordance with Steps 1 through 4 of the "Inspection" Section of Britten-Norman Service Bulletin BN-2/SB.139, Issue 1, dated January 29, 1980 (hereinafter referred to as the Service Bulletin).

(2) If one or more loose rivets are found during the above inspection, before further flight, replace all three rivets in accordance with Steps 1 through 3 of the "Rectification" Section of the Service Bulletin.

(b) Within the next 50 landings on airplanes which have accumulated 15,000 landings or more on the effective date of this AD or prior to the accumulation of 15,050 landings on airplanes which have less than 15,000 landings on the effective date of this AD, replace all three rivets in accordance with Steps 1 through 3 of the "Rectification" Section of the Service Bulletin.

(c) In the event that landings have not been recorded, 1,000 hours time-in-service may be used in place of 3,000 landings for purposes of complying with this AD.

(d) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An equivalent means of compliance with this AD may be used if approved by the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This amendment becomes effective on February 22, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order

12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

Issued in Kansas City, Missouri, on February 3, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-3868 Filed 2-11-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-48; Amdt. 39-4564]

Airworthiness Directives; McCauley Accessory Division; C200, C300, and C400 Series Constant Speed Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) 82-27-02 [1] applicable to certain McCauley C200, C300, and C400 series propellers. It is needed because the FAA has determined that the applicability statement should be revised to include an additional group of propeller blades, to add new airplane and propeller models, and to correct a blade model callout.

DATES: Effective February 22, 1983.

Compliance required within the next 10 hours time in service after the effective date of the AD unless already accomplished.

Comments on the rule must be received on or before April 22, 1983.

ADDRESSES: The applicable service information may be obtained from McCauley Accessory Division, Cessna Aircraft Company, 3535 McCauley Drive, P.O. Box 430, Vandalia, Ohio 45377.

A copy of the applicable service information and a historical file on this AD are contained in the Rules Docket at the Office of Regional Counsel, FAA, Attn: Rules Docket No. 82-ANE-48, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Henry L. Weiss, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone 312-694-7134.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-4521, (48 FR 633) AD 82-27-02, which requires a one-time dye penetrant inspection of certain propeller blades for cracks or forging "folds" in the shank area. After issuing the AD, the FAA has determined that the applicability statement of the AD should be revised to include an additional group of propeller blades, to add new popeller and airplane models, and to correct a blade model callout.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less that 30 days.

Request for Comments on the Rule

Although this action which involves requirements affecting immediate flight safety is in the form of a final rule and thus was not preceded by notice and public comment, comments are now invited on the rule. When the comment period ends, the FAA will use the comments submitted together with other available information to review the regulation. Public comments are helpful in evaluating the effects of the rule and in determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule. Send comments to Office of Regional Counsel, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803.

List of Subjects in 14 CFR Part 39

Propellers, Aircraft, Aviation safety.

Adoption of Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR § 39.13) is amended by amending Amendment 39-4521 (48 FR 633), AD 82-27-02, as follows:

1. Add the following aircraft and propeller/blade models to the existing applicability list.

Aircraft	Propeller model/blade model
Cessna 172RG	B2D34C220/80VHA-3.5
Cessna 207A	D3A34C404/80VA-0

2. In the list of applicable blade serial numbers, make the following correction and add serial numbers with blade types as shown below.

Applicable Blade Serial Numbers

(a) For BC991 through BC1030 correct blade type to 80VA-0, from 80BA-0.

(b) Add the following serial numbers and blade types:

Serial No.	Blade type
BI001 thru B1200	80VHA-3.5.
BJ081 thru BJ160	80VA-0
BJ181 thru BJ200	80VA-0
BJ253 thru BJ260	80VA-0
BJ262 thru BJ280	80VA-0
BJ282 thru BJ320	80VA-0

Amendment 39-4521 became effective December 30, 1982. This amendment becomes effective February 22, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); Sec. 1189 Federal Aviation Regulation (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule, since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise an evaluation is not required). A copy of it when filed may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Burlington, Massachusetts, on February 3, 1983.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 83-3702 Filed 2-11-83; 8:45 am]

BILLING CODE 4910-13-M

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[1] Filed as a part of original document.

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14 CFR Part 95

[Docket No. 23526; Amdt. No. 95-309]

Air Traffic and General Operating Rules; IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Adoption of Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 GMT February 17, 1983.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on February 4, 1983.

John M. Howard,

Manager, Aircraft Programs Division.

BILLING CODE 4910-13-M

§95.6011 VOR FEDERAL AIRWAY 11—Continued

FROM	TO	MEA

§95.6161 VOR FEDERAL AIRWAY 161

IS AMENDED TO READ IN PART

FROM	TO	MEA

§95.1001 DIRECT ROUTES-U.S.

FROM	TO	MEA

§95.1001 DIRECT ROUTES-U.S.—Continued

FROM	TO	MEA

FROM	TO	MEA
§95.1001 DIRECT ROUTES-U.S.		
IS ADDED TO READ		
ALBUQUERQUE NM VORTAC	GLINA NM FIX	*14000
*12100 MOCA		MAA 24000
BROOKLEY AL VORTAC	SEMMES AL VORTAC	2000
		MAA 17500
CARRA FL FIX	ORMOND BEACH FL VORTAC	2000
		MAA 17500
DYERSBURG TN VORTAC	CUNNINGHAM KY VORTAC	2000
		MAA-17500
GAINESVILLE FL VORTAC	CARRA FL FIX	2000
		MAA 17500
GLINA NM FIX	HOLLOMAN NM VOR	#*14000
*9000 MOCA		MAA 24000
#RADAR REQUIRED WHEN IN HOLLOMAN APCH CTL ARSPC		
INT CNX VORTAC 315 & OTO VOR 167	GLINA NM FIX	*12000
*9000 MOCA		MAA 24000
NEWMAN TX VORTAC	TURQE NM FIX	*8000
*6700 MOCA		MAA-17500
SEMMES AL VORTAC	GREENE COUNTY MS VORTAC	2000
		MAA 17500
TURQE NM FIX	HOLLOMAN NM VOR	#*8000
*6600 MOCA		MAA-17500
#MAA 11000 MSL WHEN R 5103C IN USE		
#ROUTE NOT USUABLE WHEN R 5103A OR R 5103B IN USE		
#RADAR REQUIRED WHEN IN HOLLOMAN APPROACH CONTROL ARSPC.		
*VAN NUYS, CA VOR/DME **PALMDALE CA VORTAC		7800
*6000 MCA VAN NUYS VOR/DME NE BND		MAA 17500
**5800 MCA PALMDALE VORTAC SW BND		
IS AMENDED TO READ IN PART		
LINCOLN NE VORTAC	DES MOINES IA VORTAC	*5000
*2700 MOCA		MAA 45000
SCOTTSBLUFF NE VORTAC	ABERDEEN SD VORTAC	23000
		MAA-45000
IS AMENDED TO DELETE		
ALBUQUERQUE NM VORTAC	CYLOW NM FIX	*14000
*11600 MOCA		MAA 27000
CYLOW NM FIX	HOLLOMAN NM VOR	*12500
*11700 MOCA		MAA 27000
DES MOINES, IA VORTAC	IOWA CITY IA VORTAC	2700
		MAA 35000
SAUFLEY FL VOR VIA NUN VOR 101 & VPS VORTAC 260	EGLIN FL VORTAC	*2000
*1500 MOCA		
SAUFLEY FL VOR VIA NUN VOR 085 & VPS VORTAC 315	EGLIN FL VORTAC	*2000
*1500 MOCA		MAA 6000

FROM	TO	MEA
§95.1001 DIRECT ROUTES-U.S.—Continued		
SAUFLEY FL VOR	ROMEK AL FIX	2000
PUERTO RICO ROUTES		
A036 IS ADDED TO READ		
KATOK PR FIX	BORINQUEN PR VORTAC	2000
		MAA 45000
BAHAMA ROUTES		
7 LIMA IS AMENDED BY ADDING		
NASSAU BF NDB	HIROC BF FIX	*2000
*1400 MOCA		MAA-45000
HIROC BF FIX	FREEPORT BF NDB	*2000
*1400 MOCA		MAA-45000
§95.6003 VOR FEDERAL AIRWAY 3		
IS AMENDED TO READ IN PART		
WAXEN MA FIX	WITCH MA FIX	*5000
*1500 MOCA		
WITCH MA FIX	*PEASE NH VOR	**2000
*5000 MCA PEASE VOR/DME S BND		
**1500 MOCA		
§95.6008 VOR FEDERAL AIRWAY 8		
IS AMENDED TO READ IN PART		
MORMON MESA NV VORTAC	HUNCH UT FIX	
	NE BND	12000
	SW BND	9000
HUNCH UT FIX	BRYCE CANYON UT VORTAC	12000
§95.6011 VOR FEDERAL AIRWAY 11		
IS AMENDED TO READ IN PART		
GREENE COUNTY MS VORTAC	*RAKIN MS FIX	3000
*3400 MRA		
RAKIN MS FIX	JACKSON MS VORTAC	2300
IS AMENDED TO DELETE		
BROOKLEY AL VORTAC VIA W ALTER	SEMMES AL VORTAC VIA W ALTER	2000
SEMMES AL VORTAC	GREENE COUNTY MS VORTAC	
VIA W ALTER	VIA W ALTER	2000
BURIN AL FIX	LAUREL MS VOR	
VIA E ALTER	VIA E ALTER	2000

FROM	TO	MEA
§95.6011 VOR FEDERAL AIRWAY 11—Continued		
LAUREL MS VOR	*RAKIN MS FIX	**2300
*3400 MRA		
**2100 MOCA		
GREENWOOD MS VORTAC VIA W ALTER	HOLLY SPRINGS MS VORTAC VIA W ALTER	*3000
*3100 MOCA		
DYERSBURG TN VORTAC VIA W ALTER	CUNNINGHAM KY VORTAC VIA W ALTER	*3000
DYERSBURG TN VORTAC VIA W ALTER	CUNNINGHAM KY VORTAC VIA W ALTER	*2700
CUNNINGHAM KY VORTAC VIA W ALTER	PADUCAH KY VORTAC VIA E ALTER	*2600
*2600 MOCA		
PADUCAH KY VORTAC VIA E ALTER	AUBURN IN FIX VIA E ALTER	2400
AUBURN IN FIX VIA E ALTER	*WEBER IN FIX VIA E ALTER	**3300
*2600 MRA		
**2400 MOCA		
WEBER IN FIX VIA E ALTER	BLOOMINGTON IN VORTAC VIA E ALTER	2700
BLOOMINGTON IN VORTAC VIA E ALTER	INDIANAPOLIS IN VORTAC VIA E ALTER	2700
§95.6018 VOR FEDERAL AIRWAY 18		
IS AMENDED TO READ IN PART		
NELLO GA FIX VIA N ALTER	AWSON GA FIX VIA N ALTER	5600
§95.6021 VOR FEDERAL AIRWAY 21		
IS AMENDED TO READ IN PART		
DALE LA FIX	PARADISE LA VORTAC	5000
MORMON MESA NV VORTAC VIA E ALTER	HUNCH UT FIX VIA E ALTER	
	NE BND	12000
	SW BND	9000
HUNCH UT FIX VIA E ALTER	*CEDAR CITY UT VOR VIA E ALTER	*12000
*11400 MCA CEDAR CITY VOR SW BND		
CEDAR CITY UT VOR VIA E ALTER	MILFORD UT VORTAC VIA E ALTER	9000
§95.6035 VOR FEDERAL AIRWAY 35		
IS AMENDED TO DELETE		
GRADE SPRING VA VORTAC VIA E ALTER	BLUEFIELD WV VORTAC VIA E ALTER	6000
§95.6097 VOR FEDERAL AIRWAY 97		
IS AMENDED TO READ IN PART		
NELLO GA FIX	MELLS NC	*9000
*6200 MOCA		

FROM	TO	MEA
§95.6161 VOR FEDERAL AIRWAY 161		
IS AMENDED TO READ IN PART		
ROCHESTER MN VOR/DME	GOPHER MN VORTAC	*4800
*2800 MOCA		
§95.6165 VOR FEDERAL AIRWAY 165		
IS AMENDED TO READ IN PART		
COGGS LA FIX	MARRI NV FIX	#*16000
*14000 MOCA		
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE		
§95.6171 VOR FEDERAL AIRWAY 171		
IS AMENDED BY ADDING		
LEXINGTON KY VORTAC	MCAFEE KY FIX	2800
MCAFEE KY FIX	LOUISVILLE KY VORTAC	2600
IS AMENDED TO READ IN PART		
EMILS MN FIX	FARMINGTON MN VORTAC	*3800
*2700 MOCA		
§95.6175 VOR FEDERAL AIRWAY 175		
IS AMENDED TO READ IN PART		
OWENS LA FIX	WORTHINGTON MN VOR/DME	3600
§95.6177 VOR FEDERAL AIRWAY 177		
IS AMENDED TO READ IN PART		
DULUTH MN VORTAC	ELY MN VOR/DME	3600
§95.6208 VOR FEDERAL AIRWAY 208		
IS AMENDED TO READ IN PART		
OCEANSIDE CA VORTAC	*VISTA CA FIX	3000
*3000 MCA VISTA FIX E BND		
§95.6218 VOR FEDERAL AIRWAY 218		
IS AMENDED TO READ IN PART		
GOPHER MN VORTAC	CHATS MN FIX	*4800
*2800 MOCA		

FROM	TO	MEA	MAA
§95.7058 JET ROUTE NO. 58			
IS AMENDED TO READ IN PART			
WILSON CREEK, NV VORTAC	MILFORD, UT VORTAC	18000	45000
MILFORD, UT VORTAC	FARMINGTON, NM VORTAC	33000	45000
§95.7107 JET ROUTE NO. 107			
IS AMENDED TO READ IN PART			
MILFORD, UT VORTAC	ROCK SPRINGS, WY VORTAC	#33000	45000

#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE

FROM	TO	MEA
§95.6253 VOR FEDERAL AIRWAY 253		
IS AMENDED TO READ IN PART		
[illegible] VORTAC	[illegible]	[illegible]
[illegible] FIX	[illegible]	[illegible]
	[illegible]	
	NAVAID	
*6400 MCA LEWISTON VOR, MI [illegible]		
§95.6305 VOR FEDERAL AIRWAY 305		
IS AMENDED BY ADDING		
CUNNINGHAM, KY VORTAC	WEST [illegible], KY FIX	[illegible]
WEST [illegible], KY FIX	POD[illegible], KY VORTAC	[illegible]
PARKIT CITY, IN VORTAC	AU[illegible] FIX	[illegible]
[illegible] IN FIX	[illegible]	[illegible]
[illegible]	[illegible]	
WEGEE, IN FIX	BL[illegible], IN VORTAC	[illegible]
BLOOMINGTON, IN VORTAC	INDIANAPOLIS, IN VORTAC	[illegible]
§95.6410 VOR FEDERAL AIRWAY 410		
IS AMENDED TO READ IN PART		
[illegible] PHER, MN VORTAC	[illegible] FIX	[illegible]
[illegible] FIX	[illegible]	[illegible]
§95.6414 VOR FEDERAL AIRWAY 414		
IS AMENDED TO READ IN PART		
[illegible] MN VORTAC	[illegible] MN	[illegible]
[illegible]	[illegible]	[illegible]
[illegible] MN	[illegible] MN	[illegible]
§95.6416 VOR FEDERAL AIRWAY 416		
IS AMENDED TO READ IN PART		
[illegible] MN VORTAC	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]

FROM	TO	MEA
§95.6416 VOR FEDERAL AIRWAY 416—Continued		
[illegible] MN FIX	GOPHER, MN VORTAC	[illegible]
§95.6418 VOR FEDERAL AIRWAY 418		
IS AMENDED TO READ IN PART		
GOPHER, MN VORTAC	[illegible] WI FIX	[illegible]
[illegible]	[illegible]	[illegible]
[illegible] FIX	[illegible], MN VORTAC	[illegible]
§95.6458 VOR FEDERAL AIRWAY 458		
IS AMENDED TO READ IN PART		
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
§95.6463 VOR FEDERAL AIRWAY 463		
IS AMENDED TO READ IN PART		
[illegible]	[illegible]	[illegible]
§95.6510 VOR FEDERAL AIRWAY 510		
IS AMENDED TO READ IN PART		
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	4000
[illegible]	[illegible]	5000
§95.6535 VOR FEDERAL AIRWAY 535		
IS ADDED TO READ		
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

§95.8005 JET ROUTES CHANGEOVER POINTS

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	V-39		
	IS AMENDED TO READ IN PART		
SOUTH BOSTON, VA VORTAC	GORDONSVILLE, VA VORTAC	42	SOUTH BOSTON
	V-140		
	IS AMENDED BY ADDING		
DYERSBURG, TN VORTAC	NASHVILLE, TN VORTAC	92	DYERSBURG
	V-283		
	IS AMENDED BY ADDING		
DAWNA, CA FIX	HECTOR, CA VORTAC	#44	DAWNA
#COP MEASURED FROM PARADISE VORTAC.			
	[illegible]-527		
	IS AMENDED BY ADDING		
HOT SPRINGS, AR VOR	RAZORBACK, AR VORTAC	42	HOT SPRINGS

[FR Doc 83-3866 Filed 2-11-83; 8:45 am]
BILLING CODE 4910-13-C

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	J-58		
	IS AMENDED BY ADDING		
MILFORD, UT VORTAC	FARMINGTON, NM VORTAC	77	MILFORD
	J-107		
	IS AMENDED BY ADDING		
MILFORD, UT VORTAC	ROCK SPRINGS, WY VORTAC	120	MILFORD

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 290

Extension of Filing Date Under Section 133 of PURPA

[Docket No. RM83-49-000; Order No. 281]

Issued: February 7, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations that implement section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Section 133 of PURPA requires electric utilities to file cost and load data with the Commission and the states, at specified time intervals. This amendment extends from June 30, 1983, until June 30, 1984, the date by which electric utilities with total annual electric energy sales, for purposes other than resale, of less than one billion kilowatt hours must make an initial filing of information under section 133 of PURPA. This extension of time will relieve these small utilities of a data collection and filing burden pending the Commission's reevaluation of its requirements under section 133 of PURPA.

EFFECTIVE DATE: February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph H. Long, Federal Energy Regulatory Commission, Office of General Counsel, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

In the matter of an extension of filing date under section 133 of PURPA, Docket No. RM83-49-000; Order No. 281, final rule.

The Federal Energy Regulatory Commission (Commission) is amending its regulations (18 CFR Part 290) that implement section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA).[1] Section 133 requires electric utilities to file with the Commission and the states, at specified intervals, electric power cost and load data. This amendment extends until June 30, 1984, the date by which electric utilities that have total annual electric energy sales, for purposes other than resale, of less than one billion kilowatt-hours must make an initital filing of information under section 133.

I. Background

Section 133 requires electric utilities [2] to file a variety of electric power cost of service and load data. Section 133 requires that this information be filed every two years according to methods, procedures, and a format prescribed by the Commission.

The Commission's regulations [3] that implement section 133 require electric utilities to gather and submit a wide variety of cost of service and load data. These regulations require most utilities to report this cost of service information to the Commission and the states for the first time on November 1, 1980. Thereafter, these utilities are required to refile biennially.

In promulgating Part 290 to implement section 133, the Commission expressed concern about "the effect of immediately imposing this new reporting requirement on small utilities." [4] The Commission, therefore, delayed the financial impact of the section 133 reporting requirements by postponing until June 30, 1982, the initial filing deadline for small electric utilities "having total sales of electric energy for purposes other than resale of less than 1 billion kilowatt-hours in each of the calendar years 1976, 1977 and 1978."

In a September 14, 1981, report to Congress,[5] the General Accounting Office (GAO) found that the use of section 133 data was generally very limited and that compliance with section 133 had proved to be both expensive and burdensome. The GAO recommended that the Commission "review and, as appropriate, revise its regulations for implementing section 133 in order to reduce the cost and burden on utilities." Subsequently, on January 29, 1982, the Commission issued a Notice of Inquiry (NOI) [6] in an effort to obtain information concerning the usefulness of the data required to be submitted under Part 290.

In response to the recommendations from the GAO and the comments submitted in response to the NOI, the Commission has issued a Notice of Proposed Rulemaking [7] that presents alternative proposals, including a blanket exemption, for amending the regulations implementing section 133 in order to reduce or eliminate the collection of unnecessary information from electric utilities under Part 290.

II. Extension of Filing Date for Small Electric Utilities

Section 133(c) permits the Commission to extend the date by which an electric utility initially must file information under section 133. The Commission may grant such an extension "for a reasonable additional period in the case of any electric utility for good cause shown." Pursuant to this authority, the Commission, after finding good cause, extended the deadline for an initial filing by small electric utilities from June 30, 1982, until June 30, 1983.[8] However, the time is approaching when small electric utilities must start collecting information in order to meet the June 30, 1983, reporting deadline.

Compliance with the existing requirements of Part 290 of the Commission's regulations necessarily requires the expenditure of considerable time and money, particularly for the initial filing under section 133. In light of the pendency of the rulemaking in Docket No. RM83-9-000, that might significantly change Part 290, the Commission believes it to be inadvisable to require that small electric utilities gather and report any data under existing Part 290 by June 30, 1983. Therefore, the Commission finds good cause to extend until June 30, 1984, the initial filing date provided for small electric utilities under § 290.102(d).

III. Comment Procedure and Effective Date

The Commission finds, pursuant to 5 U.S.C. 553(b)(3)(B), that notice and comment procedure is, at this time,

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[1] 16 U.S.C. 2643 (1978).

[2] Section 133 of PURPA is applicable only to electric utilities that have annual electric energy sales, for purposes other than resale, in excess of 500 million kilowatt-hours. Section 102(a) of PURPA.

[3] Final Regulations, "Collection of Cost of Service Information Under Section 133 of the Public Utility Regulatory Policies Act of 1978" (Docket No. RM79-6), issued June 5, 1979, 44 FR 33847 (June 13, 1979), *codified at* 18 CFR Part 290 [Final Regulations]. These rules were revised substantially by the following orders: Order No. 48, (Docket No. RM79-6), issued September 28, 1979, 44 FR 58687 (October 11, 1979); Order No. 48-A (Docket No. RM79-6), issued January 4, 1980, 45 FR 2023 (January 10, 1980); Order No. 48-B (Docket No. RM79-6), issued August 7, 1980, 45 FR 54033 (August 14, 1980).

[4] 44 FR at 33851.

[5] "Burdensome and Unnecessary Reporting Requirements of the Public Utility Regulatory Policies Act Need to be Changed," September 14, 1981, EMD-81-105.

[6] Notice of Inquiry, "Collection of Cost of Service Information Under Section 133 of the Public Utility Regulatory Policies Act of 1978," (Docket No. RM82-13), issued January 29, 1982, 47 FR 5437 (February 5, 1982).

[7] Notice of Proposed Rulemaking, "Exemption From, and Revisions to, Procedures Governing Collection and Reporting of Information Concerning Cost of Providing Retail Electric Service," (Docket No. RM83-9-000), issued January 19, 1983, 48 FR 3770, (January 27, 1983).

[8] Final Rule, "Extension of Filing Date Under Section 133 of PURPA," Order No. 331 (Docket No. RM82-28-000) issued May 19, 1982, 47 FR 22947 (May 28, 1982).

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impracticable and contrary to the public interest. Small electric utilities are required to make initial fillngs under section 133 of PURPA and Part 290 of the Commission's regulations by June 30, 1983. To comply with the Commission's regulations, small electric utilities are now, or shortly will be, expending resources to gather and prepare the data for filing. Since the Commission has proposed in a pending rulemaking to exempt electric utilities from some or all of the reporting requirements of section 133 of PURPA, or, alternatively, to reduce or eliminate various specific requirements, it would unduly burden small electric utilities to require them to collect data under requirements that may later be amended.

The Commission nevertheless invites interested persons to comment on this final rule. An original and 14 copies of all comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM83-49-000. All written submissions will be placed in the public file that will be established in this docket and made available for public inspection during regular business hours in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

The Commission, under 5 U.S.C. 553(d), also waives the 30-day delay in the effective date of this rule since the rule relieves a regulatory obligation by providing a temporary exemption from a filing requirement for a class of utilities. In addition, the Commission finds, for the above mentioned reasons, that good cause exists for making this amendment effective immediately.

(Department of Energy Organization Act, 42 U.S.C. 7101-7352; E. O. 12009, 3 CFR Part 142 (1978); and the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645 (1978))

List of Subjects in 18 CFR Part 290

Electric utilities, Penalties, Reporting and recordkeeping requirements, Uniform System of Accounts.

PART 290—[AMENDED]

In consideration of the foregoing, Part 290 of Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective February 7, 1983.

By the Commission.

Kenneth F. Plumb,

Secretary.

§ 290.102 [Amended]

Section 290.102(d) is amended by removing "June 30, 1983" and inserting in lieu thereof "June 30, 1984."

[FR Doc. 83-3662 Filed 2-11-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 17

[Docket No. R-83-1075]

Claims Under the Military Personnel and Civilian Employees' Claims Act of 1964; Increase in Amount Payable

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule raises the dollar limit on the amount of a claim payable under the Military Personnel and Civilian Employees' Claim Act to $25,000 pursuant to a recent legislative amendment. The rule also changes the place of filing a claim under the Act from the General Counsel to the appropriate Regional Counsel.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Associate General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, Room 10244, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Military Personnel and Civilian Employees' Claim Act of 1964, 31 U.S.C. 241 (hereinafter referred to as "The Act"), authorizes the head of an agency, with certain exceptions, to pay the claim made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency, for damage to, or loss of, personal property incident to his service. Current HUD regulations (24 CFR 17.40) set a limit on the amount payable at $6,500. The Act has been amended several times since its original enactment. The most recent amendment, Public Law 97-226, approved July 28, 1982, raised the dollar limit to $25,000. The rule would implement this statutory change.

This rule also directs that claims by, or on behalf of, field employees should be filed in writing with the appropriate Regional Counsel. Current regulations (24 CFR 17.50(a)) direct that claims should be filed with the General Counsel in the central office. The Regional Counsel has been redelegated authority to dispose of claims up to a specified limit. Therefore, it is more expedient for field claims to be filed with the Regional Counsel. Those claims above the specified limit of his or her authority will then be forwarded to the General Counsel.

The subject matter of this rulemaking action relates to departmental procedure and is therefore exempt from the notice and public comment requirements of Section 553 of the Administrative Procedure Act.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. The rule does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

An environmental assessment, which is made routinely in accordance with HUD regulations in 24 CFR Part 50, pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, is unnecessary because this rule is clearly unrelated to environmental concerns and is considered to have no potential for significantly affecting the quality of the human environment.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because it pertains only to administrative Departmental procedure.

This rule is not listed in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48422) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 17

Administrative claims.

PART 17—[AMENDED]

Accordingly, 24 CFR Part 17 is amended as follows:

§ 17.40 [Amended]

1. By amending paragraph (a) of § 17.40 to remove "$6,500" and to add, in its stead, "$25,000."

§ 17.50 [Amended]

2. By revising paragraph (a) of §17.50 to read as follows: (a) Claims by, or on behalf of, employees of field offices shall be filed in writing with the appropriate Regional Counsel. Claims by, or on behalf of, employees of Department Headquarters shall be filed in writing with the General Counsel, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

(Sec. 3(b)(1), Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. 241, sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: February 7, 1983.

Samuel R. Pierce, Jr.,

Secretary, Housing and Urban Development.

[FR Doc. 83-3873 Filed 2-11-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Approval of the State of Wyoming Abandoned Mine Land Reclamation Plan Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: On April 15, 1982, the State of Wyoming submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On August 16, 1982, the State of Wyoming submitted revisions to its Plan. The purpose of these submissions is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 47 FR 28574–28604, June 30, 1982). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Wyoming Reclamation Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary has approved the Wyoming Plan.

EFFECTIVE DATE: The rule is effective February 14, 1983.

ADDRESSES: Copies of the full text of the Wyoming Plan are available for review during regular business hours at the following locations:

State of Wyoming, Land Quality Division, 401 West 19th Street, Cheyenne, Wyoming 80202

Office of Surface Mining Reclamation and Enforcement, Casper Field Office, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: James Fary, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone (202) 343–7921.

SUPPLEMENTARY INFORMATION:

General Background of the Abandoned Mine Land Program

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or Federal law.

Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Secretary a State reclamation plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Secretary may approve the plan once the State has an approved regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 47 FR 28600–28601, June 30, 1982). Under these regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments of other Federal agencies and the public. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Office on an annual basis an application for funds to be expended in that State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. Such annual requests are reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of parts 900 through 953.

Provisions relating to Wyoming are found in 30 CFR Part 950.

Background on the Wyoming Reclamation Plan Submission

OSM published a notice of proposed rulemaking on the original submission and requested public comment on May 10, 1982 (47 FR 20002). A public hearing was held on May 25, 1982, in Casper, Wyoming. OSM met with Wyoming officials on June 30, 1982, in Cheyenne, Wyoming, at which time Wyoming agreed to submit a revised Plan. OSM published a notice of proposed rulemaking on the revised Wyoming Plan and requested public comment on September 27, 1982 (47 FR 42380). A public hearing was held in Casper, Wyoming on October 15, 1982. On January 11, 1983, and January 26, 1983, Wyoming submitted additional modifications and revisions to the Plan. These modifications and revisions are contained in letters of W. C. Ackerman, Administrator, Wyoming Department of Environmental Quality to Jim Fary, Abandoned Mine Land Reclamation Division, Office of Surface Mining. OSM has determined that these additions and revisions are insignificant in nature and, accordingly, require no further public comment.

All of the documents mentioned above are available for public inspection at the offices of OSM and at the Wyoming Land Quality Division listed above under "Addresses."

On February 2, 1983, OSM's Field Office Director and on February 3, 1983, the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Wyoming Reclamation Plan.

The administrative record on the Wyoming Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement, at the Mills, Wyoming, address listed above under "addresses".

Assistant Secretary's Findings

1. In accordance with Section 405 of SMCRA, the Assistant Secretary finds that Wyoming has submitted a Plan for reclamation of abandoned mine lands and has determined, pursuant to 30 CFR 884.14, that:

(a) The public has been given adequate notice and opportunity to comment and the record does not reflect any unresolved controversies;

(b) The views of other Federal agencies have been solicited and considered;

(c) The State has the legal authority, policies, and administrative structure to implement the Plan;

(d) The Plan meets all requirements of the OSM, AMLR Program Provisions;

(e) The State has an approved Surface Mining Regulatory Program under Title V of the SMCRA; and

(f) The Plan is in compliance with all applicable State and Federal laws and regulations.

2. The Assistant Secretary has solicited and considered the views of other Federal agencies having an interest in the Plan as required by 30 CFR 884.14. These agencies include: the U.S. Forest Service (USFS), U.S. Fish and Wildlife Service (USFWS), the U.S. Bureau of Mines (USBOM), the U.S. Geological Survey (USGS), the U.S. Environmental Protection Agency (EPA), the U.S. Army Corps of Engineers (COE), and the Soil Conservation Service (SCS).

Disposition of Comments

The following comments received on the Wyoming Abandoned Mine Land Reclamation Plan during the public comment period were considered in the Assistant Secretary's evaluation of the Wyoming Plan as indicated.

1. The City of Rock Springs, Wyoming commented that the Wyoming Plan "skims over" coal mine reclamation and goes "directly to assisting noncoal mines (reclamation) and the construction of public facilities." The City contends that Pub. L. 95–87 "states that States shall identify the areas to be reclaimed and the purposes for which reclamation is proposed." Moreover, the City contends that OSM's letter of September 23, 1982, to Wyoming on the deficiencies of the original Wyoming submission of April 15, 1982 supports its position that the State has failed to meet the requirements of 30 CFR Subchapter R for a general description of reclamation activities to be conducted, a description of the problems occurring on eligible lands and water, and how the plan proposes to address each of the problems occurring on eligible lands and waters. OSM disagrees and finds that the description on pp. 44–49 of the revised Wyoming AMLR Plan submission of August 16, 1982, meets the requirements of the June 30, 1982, revision of 30 CFR 884.13(e) concerning general reclamation requirements. Under the Federal and State statutes, all coal reclamation projects must be addressed prior to most noncoal problems.

2. The City of Rock Springs contends (letter of Mayor West dated October 5, 1982, and testimony of Mr. Ray Lovato at the October 15, 1982, Casper public hearing) that Wyoming's reclamation project ranking places "emphasis on a county or community's indebtedness". The City contends that this ranking system "is rewarding communities who are not using the optional one cent sales tax or might have had poor financial management". Moreover, the City contends that Wyoming's ranking system "punishes those who manage their finances well by giving them less points if they are not indebted." OSM's response is that it has raised this issue with Wyoming and Wyoming's position is that its ranking system for public facilities projects is designed to help communities most in need. For Wyoming, communities which have not used the optional one percent sales tax have not helped themselves to the extent that they legally can. Therefore, these communities should receive a lesser rating in the public facilities selection process. Wyoming believes that its selection system is equitable and no changes are needed. OSM accepts Wyoming's position because under Title IV of the Act the State has the primary responsibility for project selection. OSM will, under its oversight responsibility, monitor the implementation of Wyoming's project selection procedure to ensure that the purposes of Title IV of the Act are achieved.

3. The City of Rock Springs contends that the Plan "should list and rank (project) areas which have problems as a result of past coal mining activities". For the City, the State should "by now have an idea what specific projects it is going to pursue". OSM's response is that neither the Act nor 30 CFR Subchapter R requires a State to list or rank areas or projects in its State Reclamation Plan. Project ranking and selection will occur after Plan approval and with public participation. For information on any given project, the public should contact the Wyoming Land Quality Division (see address above).

4. The City of Rock Springs expressed concern on the method of treating an emergency situation. The City notes that the State "expects OSM to use their emergency powers" and that the Federal emergency power is limited to abating the cause of the emergency and does not extend to repairing the damage caused by the emergency. The City gives the example of a house partially collapsing as a result of subsidence and notes that the Federal government will "only stabilize the ground" and "all other costs and problems are in the hands of the homeowner". The City recommended that a homeowner's insurance program administered by the State is "one possible solution". OSM's response is that the City of Rock Spring's description of the Federal emergency power is correct. However, once an emergency project is stabilized, if further reclamation work is needed, the project will come under the State reclamation program. Moreover, OSM notes that it has published a "Notice of Opportunity to Amend State/Tribal Reclamation Plans to Include Provision for Emergency Reclamation Activities" (47 FR 42729–30). This Notice allows the States to undertake their own emergency programs. OSM believes that the City's recommendation of a homeowner's insurance program is within the prerogative of the State of Wyoming. OSM has forwarded to Wyoming descriptions of subsidence insurance programs used in other States. Wyoming has indicated that "legislation has been introduced to establish an insurance program for subsidence." Moreover, Wyoming further indicated that "if the legislation is not passed, we will establish a reserve fund" (letter dated January 26, 1983 of W. C. Ackerman, Administrator, Wyoming Department of Environmental Quality to Jim Fary, Abandoned Mine Land Reclamation Division, Office of Surface Mining).

5. The USFWS commented that p. 25, paragraph 6 of the Wyoming Plan indicates that development of adversely affected public land for recreation, conservation, or similar benefits will not be feasible in most cases because of the abundance of public lands in most coal mining areas in Wyoming. The USFWS

contends that in the Powder River Basin Coal Area public lands are relatively scarce and are heavily used because of the difficulty in obtaining access to other lands. The USFWS recommends that high priority be given to restoration of lands degraded by mining to their former productivity and useful condition for conservation and other values. OSM's response is that it has discussed the USFWS's recommendation with Wyoming. Wyoming's position is that all sites in the Powder River Basin Coal Area requiring reclamation are on private lands and so it is unlikely that there will be an opportunity to acquire such lands for recreation, conservation or similar benefits. If such an opportunity arises, Wyoming has not ruled out acquisition for recreation, conservation or similar benefits.

6. The USFWS commented that it should be consulted not only when endangered species are involved, but also on the adequacy of reclamation for wildlife, especially when it involves riparian, wetlands, or aquatic areas and migratory birds included on the list of "Migratory Birds of High Federal Interest." OSM's response is that it has discussed this issue with Wyoming. Wyoming's position is that it will consult the USFWS whenever such consultation will advance the goals of its reclamation program. OSM agrees that this is appropriate.

7. The USFWS commented that it is especially concerned by the statement (p. 47, paragraph 4 of the Plan) that "wildlife habitat will be returned if requested by the landowner." The USFWS believes that, especially when Federal funds are spent, "maximum value should be returned when lands are reclaimed" to include the restoration of wildlife habitat. The USFWS is doubtful that landowners will specifically request restoration of wildlife habitat. The USFWS recommends that restoration of wildlife habitat be "an integral part of all reclamation plans unless the landowner specifically opposes it." OSM's response is that it has raised this issue with Wyoming. Wyoming's response is as follows:

> Landowner rights take precedence over wishes of others including the Fish and Wildlife Service unless a specific law requires us to follow another procedure. There are specific exclusions for private lands even in our regulatory laws. Most sites requiring reclamation (except private bentonite lands) are so small as to be insignificant for wildlife anyway. Excluding bentonite, 10 sites are over 100 acres with at least 2 of these within a city or town, 12 sites are 50 to 100 acres, 21 sites are 10 to 50 acres, and the remaining 147 sites are less than 10 acres, most of them 1 acre or less (letter of January 26, 1983 from W. C. Ackerman, Administrator, Wyoming Department of Environmental Quality, to Jim Fary, Abandoned Mine Land Reclamation Division, Office of Surface Mining).

OSM accepts Wyoming's position because under Title IV of the Act the State has the primary responsibility for deciding post-reclamation land use. OSM will, under its oversight responsibility, monitor the implementation and progress of Wyoming's Abandoned Mine Land Reclamation Program to ensure that the purposes of Title IV of the Act are achieved.

8. The USFWS commented that, in its discussion on the "economic base" (p. 49) Wyoming does not address the importance of tourism and outdoor recreation. OSM disagrees and finds that the Plan's description of Wyoming's economic base (p. 49) meets the requirements of 30 CFR 884.13.

9. The USFWS commented that, regarding p. 77 of the Wyoming Plan, the Northern Swift Fox is neither on the endangered/threatened list nor is it proposed for listing as Wyoming indicates. OSM's response is that Wyoming agrees and has corrected this oversight.

10. The USGS has submitted technical corrections to Exhibit G of the Plan. These corrections have been brought to Wyoming's attention and can be used whenever Wyoming's Plan is revised.

Additional Findings

The Office of Surface Mining has examined this rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, state, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the Wyoming Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual (DM) 516.2.2(A)(1) the Assistant Secretary's decision on the Wyoming Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment (EA) or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The good cause for making this rule effective February 14, 1983, is: (1) The Office of Surface Mining wants to minimize the time between the approval of Title V regulatory programs and Title IV State reclamation program plans; and (2) grants are pending approval of the Title IV plan and OSM wishes to expedite grant assistance to States to initiate needed reclamation work as required by the Act.

List of Subjects in 30 CFR Part 904

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

PART 950—WYOMING

Therefore, Part 950 is amended by adding § 950.30 to read as follows:

§ 950.30 Approval of Wyoming Abandoned Mine Land Reclamation Plan.

The Wyoming Reclamation Plan, as submitted on August 16, 1982, is approved. Copies of the approved program are available at:

State of Wyoming, Land Quality Division, 401 West 19th Street, Cheyenne, Wyoming [illegible]

Office of Surface Mining Reclamation and Enforcement, Casper field Office, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240

Dated: February 3, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

Dated: February 3, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

[FR Doc. 83-3850 Filed 2-11-83; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 710

[OPTS-60012A; TSH-FRL 2303-5]

Inventory Reporting Regulations; Release of Aggregate Production Statistics

AGENCY: Environmental Protection Agency.

ACTION: Rule related notice.

SUMMARY: The Environmental Protection Agency (EPA) will publicly release aggregate total production statistics for substances reported for the Toxic Substances Control Act (TSCA) Chemical Substances Inventory which have one or more confidentiality claims for production volume associated with them. This notice describes the aggregation method that will be used. The confidentiality of individual production ranges will be protected from disclosure by using broad aggregate ranges to express the total production level for each substance. Aggregate data for a substance will be released only if it would not be possible to use public Inventory information to identify any of the individual confidential reports that comprise the aggregate to closer than three Inventory reporting ranges. This notice also provides companies the opportunity to request that certain aggregate information not be released if it could cause economic harm to the company.

DATES: Requests that aggregate production information for individual substances not be released must be received by EPA by March 31, 1983. Aggregate information will be made available on April 15, 1983.

ADDRESS: See paragraph V. "Requests For Exemption From Release of Data" in Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Chris Tirpak, Acting Director, Industry Assistance Office (TS-799), Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460; toll free: (800-424-9065), in Washington, D.C.: (554-1404), outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 23, 1982 (47 FR 27075), EPA announced proposed procedures for releasing aggregate production statistics for substances listed on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory and requested comments from interested parties. This notice describes the modifications that have been made to the proposed procedures in response to public comments. It also announces the Agency's intent to make the aggregate production data available to the public on April 15, 1983.

EPA's commitment to produce these procedures arises from the Final Inventory Reporting Regulations, published in the **Federal Register** of December 23, 1977 (42 FR 64592), and the Notice of Availability of the TSCA Initial Inventory, published in the **Federal Register** of May 15, 1979 (44 FR 28561), in which the Agency stated that it would develop aggregation rules for releasing Inventory data. EPA has received numerous inquiries about Inventory production information from State governments and different sectors of the public. The Agency believes that it is strongly in the public interest that this aggregate data be released.

II. Characteristics of the Inventory

Companies that reported for the Inventory were required to indicate that their 1977 production for each substance fell into one of the following eleven ranges:

N—None
0—0 to 1000 lbs.
1—1000 to 10,000 lbs.
2—10,000 to 100,000 lbs.
3—100,000 to 1 million lbs.
4—1 million to 10 million lbs.
5—10 million to 50 million lbs.
6—50 million to 100 million lbs.
7—100 million to 500 million lbs.
8—500 million to 1 billion lbs.
9—Over 1 billion lbs.

Reports were received for almost 60,000 substances. One or more of the submitters of about 30 percent of the substances exercised their option to claim production volume as confidential. Inventory production information which was not claimed as confidential has already been made public.

III. Aggregation Methodology

After investigating alternative techniques for aggregating Inventory production information, EPA selected a "roll up" method. The Agency believes that this method provides sufficient protection to individual pieces of confidential information while allowing EPA to release aggregate production data for the vast majority of Inventory substances.

Using the roll up method, the Agency will be able to indicate that the total production level for Inventory substances with one or more confidential production claims falls into one of the following broad aggregate ranges:

Range 1—0 to 1 million lbs.
Range 2—1 million to 100 million lbs.
Range 3—100 million to 1 billion lbs.
Range 4—1 billion lbs. and above.

To determine in which of the four intervals each substance's actual total production range lies, the upper and lower bounds of all production ranges reported (both confidential and non-confidential) were added together for each substance. (The upper bound value for reporting range 9 was presumed to be 4 billion lbs.)

Further protection is afforded to individual pieces of confidential information. Before releasing aggregate information about any substance the Agency requires that the aggregate production range information cannot be combined with whatever nonconfidential production information is available from the public Inventory on the substance to reveal individual pieces of confidential production information to closer than three reporting ranges. In other words, no aggregate information will be released for a substance unless the Agency has determined that each submitter's confidential production volume report is masked to the extent that it cannot be identified to closer than three reporting ranges based on the public Inventory.

IV. Releasing Aggregate Data

The information released will not include data that are withheld under the constraints described above. In addition, it will not include aggregate information for substances that are exempted from release under the provisions of unit V of this notice.

Aggregate reports will be generated in response to requests made on a substance-by-substance basis. A person requesting reports should provide EPA with the CAS number or chemical identity for each substance for which an aggregate report is desired. Other Federal agencies or State governments may request aggregate data for groups of substances.

V. Requests for Exemption From Release of Data

Two of the commenters on the June 23 notice indicated that, in some relatively unique circumstances, the release of

aggregate production data for Inventory substances may reveal information which some submitters may consider sensitive. In response to these concerns, EPA will allow submitters to request that production information for individual Inventory substances be exempted from the data aggregation provisions described in this notice.

Exemption requests will be accepted only if the following requirements are fulfilled. Requests must be for single substances and not for groups of substances (for example, an exemption request for all reports submitted by company *x* will not be accepted). Requests may be made only by one of the original submitters of production information for the substance. A request must include an explanation of why the substance should be exempted from aggregate release. This justification must include a specific description of how competitors might make use of the aggregate information and what kinds of economic detriment the submitter believes it will suffer if such information is released. General assertions of speculative harm will not be accepted. Specific examples must be included of how and why release of aggregate information might injure a company's competitive position for each substance for which an exemption is requested.

Exemption requests will be treated as confidential if so requested. Each page containing confidential material should be marked "Confidential" at the top. Materials which are not so marked will be placed in the public file. Requests should be addressed to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460.

Exemption requests must be postmarked no later than March 31, 1983. Requests postmarked after that date will not be accepted.

If EPA denies an exemption request on substantive grounds, the requester will be contacted and allowed 30 days to respond to the Agency's decision before aggregate data for that substance will be released. If EPA determines that a request is unacceptable or incomplete for one of the reasons cited above, the requester will be contacted and allowed either 10 working days or the remainder of the 30-day request period, whichever is longer, to supplement or correct its request.

(Sec. 8, Pub. L. 94–469, 90 Stat. 2027 (15 U.S.C. 2607))

Dated: January 24, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83–3645 Filed 2–11–83; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Part 105–61

[ADM 7900.2 CHGE 18]

Public Use of Records, Donated Historical Materials, and Facilities in the National Archives and Records Service; Restrictions on the Use of Records

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This rule revises the statement of "general restrictions" on access to records accessioned by the National Archives and Records Service (NARS). This revision is fully consistent with the Freedom of Information Act (FOIA) and the 1974 and 1976 amendments thereto, which establish nine exemption categories as the only valid bases for restricting access to accessioned Federal records of the Executive Branch. Five general restrictions are substituted for seventeen general restrictions currently imposed by the Archivist of the United States. A statement of general restrictions is intended to highlight those general categories of information found among the records of many Federal agencies which NARS is most likely to withhold from public use. NARS also imposes "specific restrictions" on access to designated records of a single Federal agency, provided that the restrictions are consistent with the amended FOIA.

DATE: This regulation is effective February 14, 1983.

FOR FURTHER INFORMATION CONTACT: William H. Leary, (202) 523–3081.

SUPPLEMENTARY INFORMATION: This regulation was published as a proposed rule in the **Federal Register** of August 25, 1982. Two comments were received. One comment recommended amending § 105–61.5302–3 to specify that "efforts will be made to locate the submitting person or firm" before disclosure is made. We agree, but we believe that such instructions should be given in staff training sessions and implementing directives rather than a general policy statement. A second respondent suggested deleting a phrase from § 105–61.5302–5 that might conflict with the FOIA. That amendment has been made. The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 105–61

Archives and records, Classified information, Freedom of information, Government property management, Privacy.

Accordingly, 41 CFR Part 105–61 is amended as follows:

PART 105–61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

1. The table of contents for Part 105–61 is amended by adding and removing entries for Subpart 105–61.53 as follows:

Sec.
105–61.5302–1 National security information.
105–61.5302–2 Information exempted from disclosure by statute.
105–61.5302–3 Trade secrets and commercial or financial information.
105–61.5302–4 Information which would invade the privacy of an individual.
105–61.5302–5 Information related to law enforcement investigations.
105–61.5302–8 Immigration and naturalization certificates and declarations. [Removed]
105–61.5302–18 Individual privacy. [Removed]

Subpart 105–61.53—Restrictions on the Use of Records

2. Section 105–61.5302 is revised to read as follows:

* * * * *

§ 105–61.5302–1 National security information.

(a) Records. Records containing information regarding national defense

or foreign policy and properly classified under an Executive order.

(b) Restrictions. Such records may be disclosed only in accordance with the provisions of such Executive order and its implementing directive.

(c) Imposed by. Archivist of the United States in accordance with 5 U.S.C. 552 and 44 U.S.C. 2104.

§ 105–61.5302–2 Information exempted from disclosure by statute.

(a) Records. Records containing information which is specifically exempted from disclosure by statute.

(b) Restrictions. Such records may be disclosed only in accordance with the provisions of such statute.

(c) Imposed by. Archivist of the United States in accordance with 5 U.S.C. 552 and 44 U.S.C. 2104.

§ 105–61.5302–3 Trade secrets and commercial or financial information.

(a) Records. Records not restricted by statute but which contain trade secrets and commercial or financial information submitted to the government with an expressed or implied understanding of confidentiality.

(b) Restrictions. Such records may be disclosed only if:

(1) The party that provided the information agrees to its release; or

(2) In the judgment of the Archivist of the United States, the passage of time is such that release of the information would not result in substantial competitive harm.

(c) Imposed by. Archivist of the United States in accordance with 5 U.S.C. 552 and 44 U.S.C. 2104.

§ 105–61.5302–4, Information which would invade the privacy of an individual.

(a) Records. Records containing information about a living individual which reveal details of a highly personal nature that the individual could reasonably assert a claim to withhold from the public to avoid a clearly unwarranted invasion of privacy, including but not limited to information about the physical or mental health or the medical or psychiatric care or treatment of the individual, and that—(1) Contain personal information not known to have been previously made public, and (2) relate to events less than 75 years old.

(b) Restrictions. Such records may be disclosed only:

(1) To those officers and employees of the agency that transferred the records to the National Archives who have a need for the record in the performance of their official duties;

(2) To those officers and employees of the agency that originated the information in the records who have a need for the records in the performance of their official duties;

(3) To researchers for the purpose of statistical or quantitative research when such researchers have provided the National Archives with adequate written assurance that the record will be used solely as a statistical research or reporting record and that no individually identifiable information will be disclosed; or

(4) To the subject individual or his duly authorized representative (the individual requesting access will be required to furnish reasonable and appropriate identification). Access will not be granted, however, to records containing the following categories of information: (i) Investigatory material compiled for law enforcement purposes or for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or Federal contracts if the identity of the source who furnished the information to the Government under an expressed or implied promise of confidentiality is reveals; (ii) evaluation material used to determine potential for promotion in the armed services if the identity of the source who furnished the information to the government under an expressed or implied promise of confidentiality is revealed; and (iii) security classified material.

(c) Imposed by. Archivist of the United States in accordance with 5 U.S.C. 552 and 44 U.S.C. 2104.

§ 105–61.5302–5 Information related to law enforcement investigations.

(a) Records. Records containing information related to or compiled during a law enforcement investigation.

(b) Restrictions. Such records may be disclosed only:

(1) If the release of the information does not interfere with enforcement proceedings, and

(2) If confidential sources and/or confidential information are not revealed, and

(3) If the release of the information would not constitute an unwarranted invasion of personal privacy, and

(4) If confidential investigation techniques are not described, and

(5) If the release of the information would not endanger the safety of law enforcement personnel, or

(6) If, in the judgment of the Archivist of the United States the passage of time is such that:

(i) The safety of persons is not endangered, and

(ii) The public interest in disclosure outweighs the continued need for confidentiality.

(iii) Imposed by. Archivist of the United States in accordance with 5 U.S.C. 552 and 44 U.S.C. 2104.

(Sec. 205(c), 63 Stat., 390; 40 U.S.C. 486(c))

Dated: December 28, 1983.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 83–3830 Filed 2–11–83; 8:45 am]

BILLING CODE 6820–26–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6351

[OR–22051 (WASH)]

Washington; Public Land Order No. 6260; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the land description of Public Land Order No. 6260 of June 7, 1982.

EFFECTIVE DATE: February 5, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The land description in Public Land Order No. 6260 of June 7, 1982, in FR Doc. 16343 published at page 26131, in the issue of Thursday, June 17, 1982, is corrected as follows:

On page 26131, under T. 30 N., R. 1 W., the line reading "sec. 28, lots 12, and 13, and those portions" should read "sec. 28, lots 11, 12, and 13, and those portions."

Dated: February 5, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83–3853 Filed 2–11–83; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 534 and 536

[General Orders 10 and 13; Docket No. 82–42]

Green Hide Weighing Practices; and Publishing and Filing Tariffs by Common Carrier in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This removes unnecessary duplicating regulations which were originally promulgated to ensure a uniform method of declaring shipping weights on green salted hides for export in the foreign commerce of the United States. The result of this action will not change the original regulations in any manner, except as to provide a single codification of the regulation which is now published in the Commission's G.O. 13, 46 CFR 536.5(d)(17).

DATE: Effective February 14, 1983.

ADDRESS: Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Frances C. Hurney, Secretary, (202) 523–5725.

SUPPLEMENTARY INFORMATION: On September 15, 1982, 47 FR 40667, the Commission published a notice of proposed rulemaking requesting comments on the proposed removal of Part 534 of Title 46 of the Code of Federal Regulations (29 FR 5887, May 5, 1964), and the amendment of 46 CFR 536.5(d)(17) to delete reference to 46 CFR Part 534 therein.

The proposed rulemaking incorrectly indicated in the preamble, as well as in paragraph 3 on page 2 and the last paragraph on page 3, reference to "46 CFR 536.5(c)(17)." The correct reference should have read "46 CFR 536.5(d)(17)." There is no section "536.5(c)(17)" in § 536.5.

One response was received from the Inter-American Freight Conference. The commentator agreed that there is no need for 46 CFR Part 534. The Conference, however, rationalized that the effect of the proposed modification of section 536.5(d)(17) appeared to increase, not decrease, the regulatory burden upon conferences and carriers. The Conference maintained that the effect of deleting the phrase ". . . in accordance with Part 534 of the Commission's rules. . ." would be to require every tariff to include a rule relating to the weighing of hides even if there were no commodity rates covering green salted hides. This contention represents a misinterpretation of the intent of the Commission's rulemaking, which is simply to provide one single regulation under 46 CFR 536.5(d)(17) relating to the transportation of green salted hides.

The same regulations applicable to the carriage of green salted hides will continue to be effective for all common carriers. Consequently, if a carrier elects not to provide common carriage on green salted hides, the tariff rule 17 shall continue to indicate such fact by a simple notation "not applicable," as is the current practice with any other tariff rule which fails to have any application in a given tariff.

The present duplicating provisions published in 46 CFR Part 534 and § 536.5(d)(17) will be eliminated by the action proposed herein with no resulting regulatory impact whatsoever. This action will simply codify currently effective regulations under the Commission's General Order 13, § 536.5(d)(17).

List of Subjects

46 CFR Part 534

Exports, Maritime carriers, Reporting requirements.

46 CFR Part 536

Maritime carriers, Reporting and recordkeeping requirements.

Therefore, it is ordered, That pursuant to 5 U.S.C. 553 and sections 14(b), 15, 16, 17, 18(b) and 43 of the Shipping Act, 1916 (46 U.S.C. 813(a), 814, 815, 816, 817(b) and 841(a)) the Code of Federal Regulations is amended as follows:

PART 534—[REMOVED]

1. 46 CFR Part 534 is removed; and

§ 536.5 [Amended]

2. The first sentence of 46 CFR 536.5(d)(17) is amended by removing the phrase: ". . . in accordance with Part 534 of the Commission's rules. . . ."

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-3950 Filed 2-11-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 30207-23]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA issues this notice of an increase in the optimum yield for sablefish harvested off the coasts of Washington, Oregon and California in 1982. This action is authorized under the Pacific Coast Groundfish Fishery Management Plan and implementing regulations. This action will establish a more accurate basis for management of the sablefish harvest in 1983.

EFFECTIVE DATE: February 9, 1983.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, (206) 527–6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan was approved on January 4, 1982. Implementing final regulations, published in October 5, 1982 (47 FR 43964), authorize the Secretary to increase the numerical optimum yield (OY) for a species managed under that plan, when so recommended by the Pacific Fishery Management Council. The Secretary may take such action if no biological stress would result and if the increase would promote full utilization of the fishery resource. The Council considered this matter at its September and November, 1982 meetings, obtained data and advice from its Groundfish Management Team, Scientific and Statistical Committee, Advisory Subpanel and the public, and recommended that the Secretary increase the 1982 OY for sablefish to 17,400 mt. The Council's recommended increase in OY was based on social and economic needs and there was no indication that biological stress had occurred or would occur in 1982. A notice of proposed inseason adjustment and request for comments until January 11, 1983, was published by the Secretary on December 22, 1982, at 47 FR 57079.

No comments were received in response to the notice of proposed action.

The Secretary has considered available information and concluded that a 30 percent increase in the 1982 OY for sablefish from 13,400 to 17,400 mt will not cause biological stress to that or any other species managed under the plan and will promote full utilization of the resource. He therefore increases the OY for sablefish to 17,400 mt. The sablefish OY for Monterey Bay remains at 2,500 mt and is not affected by this action.

It has been determined that it is impracticable and contrary to the public interest to delay the effective date of the rule under section 553(d) of the Administrative Procedures Act, 5 U.S.C. 551 *et seq.* This action is taken under authority of 50 CFR 663.22(b) and is taken in compliance with Executive Order 12291. The action is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 663

Fish, Fisheries, Fishing.

Dated: February 9, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-3946 Filed 2-9-83: 4:50 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 31
Monday, February 14, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 983

Pecans Grown in 16 States; Hearing on Proposed Marketing Agreement and Order No. 983

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of additional public hearing session on proposed marketing agreement and order.

SUMMARY: Notice is hereby given of an additional hearing session to consider a proposal to establish a marketing agreement and order for pecans. This session will take place in Washington, D.C., and is in addition to three sessions already announced by a notice published in the December 22, 1982, **Federal Register** (47 FR 57222). The proposed program would authorize marketing research and development projects, including promotion and paid advertising, designed to improve the marketing, distribution, and consumption of pecans. The proposal was submitted by the Federated Pecan Growers' Association and has not received the approval of the Secretary of Agriculture. All interested persons will be given the opportunity to testify at the hearing.

DATES: See Supplementary Information for dates of public hearings.

ADDRESS: See Supplementary Information for location of public hearings.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: The complete schedule of hearing sessions is as follows:

1. February 8–11, Dallas, Texas, LeBaron Hotel, 1055 Regal Row.

2. February 14–16, Atlanta, Georgia, L. D. Strom Auditorium, Lower Plaza Level, Richard B. Russell Federal Building, 75 Spring Street, S.W.

3. February 17–18, Mobile, Alabama, Mobile Gas Service Corporation Auditorium, 2828 Dauphine Street.

4. February 28, Washington, D.C., Room 104–A, USDA Administration Building, 14th and Independence Avenue, S.W. This session may continue beyond one day if necessary.

All hearing sessions are scheduled to begin at 9 a.m., local time. This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900). The public hearing is for the purpose of:

(a) Receiving evidence about the economic and marketing conditions which relate to the proposed marketing agreement and order and to any appropriate modifications thereof,

(b) Determining whether the handling of pecans produced in the area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce.

(c) Determining whether there is a need for a marketing agreement and order for pecans, and

(d) Determining whether the proposed marketing agreement and order or any appropriate modification of it will tend to effectuate the declared policy of the act.

The notice of hearing for the sessions in Dallas, Atlanta, and Mobile was published in the December 22, 1982, **Federal Register** (47 FR 57222). Please refer to that notice for details on the proposed pecan marketing agreement and order.

The Washington, D.C., session is scheduled at the request of several interested persons.

List of Subjects in 7 CFR Part 983

Marketing agreement and order, Pecans.

Signed at Washington, D.C., on February 7, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83–3827 Filed 2–11–83; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1099

Milk in the Paducah, Kentucky, Marketing Area; Proposed Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed termination of rules.

SUMMARY: This notice invites written comments on a proposal to terminate the seasonal producer payment plan (Louisville plan) that was designed to encourage more level milk production by dairy farmers throughout the year under the Paducah, Kentucky, milk order. The action was proposed by Dairymen, Inc., a cooperative association representing a large portion of the producers who supply milk for the Paducah market. The association contends that the plan no longer accomplishes its intended purpose under current marketing conditions.

DATE: Comments are due by March 1, 1983.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5443.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would have no effect on the application of the order to regulated handlers, since the action affects only

the manner in which the proceeds from milk sales are distributed to producers.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the termination of the following provisions relating to the seasonal incentive producer payment plan of the order regulating the handling of milk in the Paducah, Kentucky, marketing area is being considered:

1. In § 1099.61, the provisions in that part of paragraph (e) that read "except for the months specified below, shall be" and the provisions contained in paragraphs (f) through (j) in their entirety.

2. In § 1099.70, the provisions in paragraph (b).

All persons who want to file written data, views, or arguments in connection with the proposed termination should send two copies of them to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this notice in the **Federal Register.**

Any comments that are received will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed termination would delete those provisions of the Paducah, Kentucky, order that provide for a seasonal incentive producer payment plan. The plan provides for payments to producers who deliver milk during the months of August through December in excess of their average deliveries during the preceding months of January through July. The plan is applicable only during the months of August through December of each year.

The plan was proposed by Dairymen, Inc., a cooperative association that represents a majority of the producers who supply the Paducah market. The cooperative's request indicates that the plan was adopted by producers in order to encourage production during the fall months when production normally declines. The cooperative's request indicates that the plan has not been effective in encouraging production during the fall months and that the level of payment under the plan is not sufficient to encourage production

order that provide for deducting 50 cents per hundredweight of producer milk from the pooled value of milk in computing the uniform prices to producers during April through July. The monies so accumulated are added to the pool funds in computing the uniform price to producers for each month of September through December. This plan, which is commonly known as the "Louisville plan," is intended to encourage more level milk production throughout the year.

The termination of the Louisville plan on or before April 1, 1983, was requested by Dairymen, Inc., a cooperative association representing a large portion of the producers supplying the market.

In supporting its request, the cooperative claims that the seasonal payment plan no longer accomplishes its intended purpose under current marketing conditions. In that regard, the cooperative claims that the 50-cent adjustment rate is no longer adequate to gain the desired leveling effect on milk production. When that rate was adopted, the 50-cent rate amounted to about 10 percent of the average pay price for the market before reflecting the Louisville plan adjustments. The same rate now represents less than 4 percent

USDA.

ACTION: Proposed rule.

SUMMARY: This partial decision adopts on an emergency basis a change in the pooling provisions of the Great Basin Federal milk order. The change provides that a distributing plant located in the marketing area that processes and distributes primarily aseptically processed fluid milk products would be fully regulated under the order irrespective of the market or markets in which the products may be distributed.

The change, based on a proprietary handler's proposal, was considered at a public hearing held December 9, 1982, in Salt Lake City, Utah. The change is necessary to reflect current marketing conditions and to insure orderly marketing conditions in the regulated area. Marketing conditions are such that prompt amendatory action is required. For this reason, a recommended decision and the opportunity to file exceptions thereto have been omitted. A separate recommended decision will deal with the remaining issues in this proceeding.

Cooperative associations will be polled to determine whether producers favor the issuance of the proposed amended order.

proposal should be considered on an expedited basis.

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposal on small businesses. However, no participants at the hearing testified about any potentially adverse impacts of the proposal on small businesses.

Further, William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action, which is based on a hearing record, would not have a significant economic impact on a substantial number of small entities. The action will lessen the regulatory impact of the order on certain milk handlers and will promote orderly marketing of milk by producers and regulated handlers.

The material issues on the record relate to:

1. Performance standards for a pool plant that primarily processes and distributes aseptically processed fluid milk products.

2. Whether an emergency exists to warrant the omission of a recommended decision and the opportunity to file written exceptions thereto with respect to issue No. 1.

3. Permit an "exempt plant" to have part of its milk supply aseptically processed and packaged by another plant that primarily processes and distributes aseptically processed fluid milk products.

4. Classify as Class II rather than as Class I formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed paper containers.

This decision deals only with issues 1 and 2. The remaining issues of the hearing will be considered in a later decision on this record.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Performance standards for a pool plant that processes and distributes aseptically processed fluid milk products.* The provisions of the order that relate to the basis for pooling a fluid milk plant should be expanded to include a distributing plant located in the marketing area whose principal activity is the processing and distribution of aseptically processed fluid milk products. Such pool status, however, should not be dependent upon the amount of route disposition in the Great Basin marketing area.

The order now provides that to qualify as a pool plant a fluid milk plant must distribute on routes as Class I milk not less than 40 percent in May–August, 45 percent in March–April and 50 percent in September–February of its receipts of fluid milk products. Also, such plant must have Class I route disposition in the marketing area equal to at least 15 percent of its total receipts of fluid milk products.

Gossner Foods, Inc. (Gossner), a proprietary handler, proposed that the order be amended to accommodate the operations of a new milk plant that it had built at Logan, Utah. The plant is located in the marketing area and is expected to be operational in early 1983. A witness for Gossner testified that the new plant will process, package and distribute fluid milk products that are aseptically packaged in hermetically sealed paper containers. The witness indicated that the aseptic process would include the use of ultra high temperature pasteurization, and that the resulting products, commonly referred to as "UHT" milk, could be distributed and stored unrefrigerated for several months.[1] The proprietary handler proposed that this type of plant be a pool plant if it is located in the marketing area and meets the current performance requirements for a distributing plant except for the 15 percent in-area route disposition requirement. Proponent stated that the intent of the proposal is to assure that its plant be pooled under the Great Basin order even though it may have greater route sales in other Federal order markets.

Spokesmen for the proponent cited several reasons why the proposal should be adopted. One reason cited was the nature of UHT milk products. According to the witnesses, UHT milk products are substantially different than other fluid milk products. They indicated that fluid milk products processed at ultra high temperatures and aseptically packaged in hermetically sealed containers can be held at room temperature for long periods of time, comparable to many other grocery products. Consequently, it is expected that individual UHT products will be processed in large quantities at one time and delivered to individual buyers differently than for regular fresh fluid milk products. According to the witnesses, these latter products are generally processed, refrigerated, and distributed promptly to various sales outlets, including grocery stores, on 4 or 5 days each week. Because of the unique nature of UHT products, proponent's spokesmen testified that it is expected that UHT milk will move in rather large shipments from the UHT processing plant to central warehouses of supermarket and convenience food store chains that are located long distances from the processing plant. In this regard, the handler expects its potential distribution to be as far from the Logan, Utah, UHT plant as Florida, Washington, D.C., New Mexico, and Washington State, which would involve a number of individual Federal order markets. The proponent stated that the use of distribution channels for UHT milk that are substantially different than those used for regular fluid milk products will make it more difficult to determine the magnitude of sales in an individual market in terms of the order under which the plant should be regulated.

According to proponent's spokesmen, this situation is further complicated by the expectation that deliveries to specific marketing areas will vary widely on a monthly basis. This is because of the expected large shipments from the UHT plant to warehouses coupled with a less frequent and more irregular delivery schedule. Proponent's witnesses expressed concern that unless the order is amended to provide for a lock-in provision, the distribution patterns for UHT milk will be such that the plant could shift from order to order even on a monthly basis. Moreover, they indicated that it is possible that the plant might not qualify as a pool plant under any order and thus could be subject to partial regulation under several orders during the same month.

In proponent's view, failure to adopt its lock-in proposal would create many problems. Proponent's witnesses indicated, for example, that because of variations in Class I price levels and utilizations among Federal order markets in which the handler plans to distribute UHT products, any shift from one order to another could affect the pay prices to producers and create problems in attracting a milk supply for the plant. Also, they testified that, administratively, it would be very difficult for the handler to properly report on a monthly basis its sales of UHT milk in the various marketing areas. Furthermore, they contended that the market administrator would be required to spend substantially more time auditing the disposition of this product in order to determine the financial obligation that the plant would incur under the various orders.

At the hearing there was no opposition to the proposal. However, Western Dairymen Cooperative, Inc., (WDCI) [2], in its posthearing brief, requested that no final action be taken on Gossner's pooling proposal until after the UHT plant has been in operation for several months. The cooperative argued that this was necessary in order to determine whether the problems and difficulties envisioned by Gossner actually occur.

The record evidence indicates that the proponent's UHT plant is expected to begin processing UHT fluid milk products in early 1983. The plant will use only Grade A milk, which will be supplied mostly from dairy farms located in Utah and Idaho. The milk from some of these dairy farms already is being delivered to Gossner's cheese

[1] "UHT" milk, however, refers only to the pasteurization process that is used in producing an aseptically processed milk product. For this reason, it is more appropriate for purposes of the order provisions to refer to the products involved as aseptically processed fluid milk products rather than as UHT milk. To simplify the presentation of the findings and conclusions, however, and because of the common usage of the term "UHT", reference is made in the decision to UHT milk or milk products and UHT plant.

[2] Western Dairymen Cooperative, Inc., is a federation of cooperatives consisting of Mountain Empire Dairymen's Association, Western General Dairies, Inc., Dairymen's Cooperative Association, Lake Mead Cooperative Association, Black Hills Milk Producers Association and Ft. Collins Milk Producers Association.

plant which is located on the same premises as the UHT plant. The plant will use an aseptic processing system that will include ultra high temperature pasteurization. The resulting products, which will be "fluid milk products" as defined in the order, can be transported and stored without refrigeration for several months. The proponent testified that a realistic capacity for the initial production of this plant is 600,000 pounds per month.

Although the new plant is built, it is not yet in operation and therefore actual marketing experience is not available to draw upon in considering the issues in this proceeding. However, the proponent's planned distribution channels for UHT fluid milk products are likely to be substantially different from those currently used for the distribution of regular fluid milk products that require refrigeration. These latter products are generally distributed through frequent deliveries by distributing plants to stores.

In contrast, it is anticipated that the fluid milk products disposed of from the UHT plant will be handled in the same manner as dry goods and will be distributed through brokers and distribution warehouses. Shipments from the plant will be irregular and on a less frequent schedule. Because UHT products have a much longer shelf life, inventories may be carried longer and the span of time between when the product leaves the plant and when it is purchased by consumers is much longer. Large central warehouses may be employed to a greater extent than with ordinary fluid milk product distribution. Also, the proponent projects that UHT products will be distributed over a very wide geographical area. Consequently, proponent's plant may or may not have sufficient sales in the Great Basin order market or in any other market to qualify the plant for pooling in a particular market.

Usually, a distributing fluid milk plant that qualifies for pooling under more than one order during the same month is regulated under the order in which such plant's route distribution is the greatest. This assures that all handlers having their principal sales in a market are subject to the same pricing and other regulatory requirements. However, because of its anticipated distribution pattern, it is not likely that the proponent's UHT plant would be regulated under any particular order on a regular basis. The potential problems that could occur from such pooling uncertainties are severe enough to override the traditional basis for pooling a distributing plant.

Such switching of the regulatory status of the proponent's plant between orders would create uncertainty and would not be conducive to maintaining market stability in the Great Basin market and perhaps not in other markets. For example, the UHT plant would face uncertainty about the level of Federal order Class I prices that would be applicable at the Logan location. An exhibit introduced at the hearing demonstrates that the Class I price differential at Logan, which is $1.90 under the Great Basin order, could vary from $1.82 under the Central Arizona order to $.665 under the Puget Sound order, a range of $1.155 per hundredweight. Neither the plant nor the plant's competitors would desire any frequent shifting of the plant's regulatory status with such a varying pattern of prices. Moreover, such price changes would create serious marketing problems to the proponent in determining what price to place on the various UHT products.

Furthermore, producers who will supply such a plant also would experience uncertainty about the level and the basis of returns they would receive for their milk if the regulatory status of the plant is unstable. Prices received by producers under an order are influenced by the amount of the Class I differential, the market utilization of milk, the applicable location adjustments, and method of payment. Since these factors vary from order to order, producer prices at the Logan plant could vary considerably if the plant were to shift regulation from one order to another on the basis of sales shifts. Producers under these circumstances might find it disruptive to their operations and long-range planning to shift from one market to another.

As indicated by the record evidence, it is questionable whether the UHT plant at Logan would be able to procure an adequate milk supply if the plant were to become fully regulated under certain orders other than the Great Basin order where the proponent plans to market UHT fluid milk products. Under such circumstances, consideration must be given to regulating the plant in the market in which there is reasonable assurance that it will have available an adequate supply of producer milk. The record evidence indicates that the Gossner UHT plant can be reasonably assured of an adequate supply if it is regulated by the Great Basin order.

Accordingly, it is concluded that overall market stability will tend to be maintained and the regulatory stability of the proprietary handler's new plant (or any other such plant) will tend to be assured if the order is modified along the lines proposed.

The request made by WDCI in its post-hearing brief, which was referred to previously, to delay any action on the lock-in proposal until the new UHT plant had several months of actual operational experience is denied. WDCI's brief on this point was general in nature and did not indicate with any specificity what purpose would be served if the request was granted. To the contrary, the record clearly indicates the immediate need to provide a stable regulatory environment for new UHT plants as promptly as possible, which this decision provides.

Under the lock-in provision adopted herein, the Great Basin order would regulate the Logan UHT plant (or any other similar plant) even though it had a greater proportion of its route distribution in the marketing area of another order. However, the intent of this pooling arrangement may be in conflict with the pooling requirements of another order since the other order may not have a complementary provision which will permit the plant to be locked-in under the Great Basin order. This is because it is not possible to eliminate pooling conflicts between the provisions of the Great Basin order and other orders by amending only the Great Basin order. Thus, whenever such a pooling conflict arises, an administrative decision as to the order under which the plant shall be pooled may be necessary, depending upon the particular provisions of each order.

As noted earlier, one of the conditions of locking-in the new UHT plant at Logan, Utah, under the Great Basin order is that the principal activity at such a plant must be the processing and distribution of aseptically processed fluid milk products. This condition of pooling is intended to assure that a UHT plant would not be able to be pooled under the particular pooling provision at issue unless at least 40 percent in May–August, 45 percent in March–April and 50 percent in other months of such plant's receipts are processed and distributed as aseptically processed fluid milk products. Such a condition of pooling is reasonable in view of the potential marketing situation surrounding proponent's new UHT plant.

2. *Emergency Action.* The omission of a recommended decision was proposed at the hearing by proponent of the lock-in proposal that was discussed above under Issue No. 1. No testimony was received in opposition to emergency action. The testimony and data in the

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record of this proceeding strongly indicate the need for prompt amendatory action. The evidence shows it is desirable to have an amended order effective when the new UHT plant is expected to become operational in early 1983. The normal procedures of issuing a recommended decision and providing time to file exceptions thereto will not permit the implementation of the amendments in time for them to be effective when the new plant becomes operational.

It is therefore found that due and timely execution of the Secretary's function in this proceeding imperatively and unavoidably requires omission of the recommended decision and the opportunity for filing exceptions thereto.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing Agreement and Order[1]

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Great Basin marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

December 1982 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Great Basin marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1136

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on February 8, 1983

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services

Order [2] Amending the Order, Regulating the Handling of Milk in the Great Basin Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Great Basin marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Great Basin marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

PART 1136—MILK IN THE GREAT BASIN MARKETING AREA

1. Section 1136.7 is revised to read as follows:

[1] Marketing Agreement filed as part of the original.

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 1136.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A fluid milk plant, other than a plant specified in paragraph (b) of this section, from which not less than 50 percent in any month of September through February, not less than 45 percent in any month of March and April, and not less than 40 percent in any month of May through August of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant (excluding milk received at such plant from other order plants or dairy farms which is classified in Class III under this order and which is subject to the pricing and pooling provisions of another order issued pursuant to the Act) or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13 are disposed of as route disposition, and not less than 15 percent of such receipts are disposed of as route disposition in the marketing area.

(1) For the purpose of determining the qualification pursuant to this paragraph of a fluid milk plant pursuant to § 1136.5(a) or (b) operated by a cooperative association, producer milk which such cooperative association causes to be delivered to the pool plant of another handler or diverted therefrom shall be included with receipts of producer milk at such cooperative's plant and the quantity of such milk assigned to Class I pursuant to § 1136.45(d) shall be included as route disposition from such cooperative's plant;

(i) If such a cooperative association operates more than one fluid milk plant as defined in § 1136.5(a), such producer milk and Class I milk shall be included in the computation for whichever plant the cooperative association requests in writing to the market administrator; and

(ii) If no such written request is made, such producer milk and Class I milk shall be prorated among the plants; and

(2) If a handler operates more than one fluid milk plant, the combined receipts and fluid milk products disposition, except filled milk, of any such plants may be used as the basis for qualifying the respective plants pursuant to the proceding computations specified in this paragraph if a handler in writing so requests the market administrator.

(b) A fluid milk plant that meets the following conditions:

(1) The plant is located in the marketing area;

(2) The plant has route disposition, except filled milk, during any month of September through February of not less than 50 percent, during any month of March and April of not less than 45 percent and during any month of May through August of not less than 40 percent, of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant (excluding milk received at such plant from other order plants or dairy farms which is classified in Class III under this order and which is subject to the pricing and pooling provisions of another order issued pursuant to the Act) or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13, and

(3) The principal activity of such plant is the processing and distribution of aseptically processed fluid milk products.

(c) A fluid milk plant from which during the month fluid milk products, except filled milk, equal to not less than 50 percent of the total receipts at the plant from dairy farmers meeting the inspection requirements described in § 1136.12, milk diverted pursuant to § 1136.13 by the handler operating the plant and other fluid milk products, except filled milk, qualified for distribution for fluid consumption received at the plant are shipped to a plant described in paragraph (a) or (b) of this section: *Provided,* That a plant which so qualifies in each of the months of August through January as a pool plant shall be a pool plant in each of the following months of February through July unless the operator requests in written notice to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant; and

(3) Any plant described in paragraph (d)(3) (i) or (ii) of this section shall be exempt from paragraph (a) or (c) of this section, unless the Secretary determines otherwise, if it would be fully regulated subject to the classification and pooling provisions of another order issued pursuant to the Act if not so subject to this part:

(i) Any plant from which there is less route disposition, except filled milk, in the Great Basin marketing areas than in the marketing area regulated pursuant to such other order if not so subject to this part; or

(ii) Any plant during the months of February through July which qualifies as a pool plant only pursuant to the proviso of paragraph (c) of this section.

§ 1136.76 [Amended]

2. In § 1136.76(b)(1)(iii), the reference to "§ 1136.7(b)" is changed to "§ 1136.7(c)."

[FR Doc. 83-3948 Filed 2-11-83; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

10 CFR Part 960

[Docket No. NE-RM-83-2]

Nuclear Waste Policy Act of 1982; Public Hearings on Proposed General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories

AGENCY: Energy Department.

ACTION: Notice of public hearings.

SUMMARY: This notice announces the dates and locations for public hearings to receive oral comments on proposed general guidelines for the recommendation of sites for repositories for the disposal of high-level radioactive waste and spent nuclear fuel which were published in the **Federal Register** on February 7, 1983 (48 FR 5670). After considering both oral and written comments from the public; consulting with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the U.S. Geological Survey, and interested Governors; and obtaining Nuclear Regulatory Commission concurrence, the Department of Energy will issue these guidelines in final form.

DATES: The public hearings are scheduled as follows:

1. March 2, 1983, 9:00 a.m. (local time) to 8:00 p.m., Seattle, Washington.

2. March 4, 1983, 9:00 a.m. to 8:00 p.m., Chicago, Illinois.

3. March 7, 1983, 9:00 a.m. to 8:00 p.m., New Orleans, Louisiana.

4. March 10, 1983, 9:00 a.m. to 5:00 p.m., Washington, D.C.

5. March 14, 1983, 9:00 a.m. to 8:00 p.m., Salt Lake City, Utah.

Hearings at individual locations are scheduled for one day. At DOE's discretion, where warranted by public participation, hearing duration will be extended to a second day.

Request to make an oral presentation at a hearing should be received no later than 4:30 p.m. E.S.T. on:

1. February 23, 1983 for the Seattle hearing;

2. February 24, 1983 for the Chicago hearing;

3. March 1, 1983 for the New Orleans hearing;

4. March 3, 1983 for the Washington, D.C. hearing; and,

5. March 7, 1983 for the Salt Lake City hearing;

ADDRESSES: The hearings will be held at the following locations:

1. March 2, 1983—New Federal Building (North and South Auditorium, fourth floor, Second Avenue level), 915 Second Avenue, Seattle, Washington 98174.

2. March 4, 1983—The Hotel Continental (formerly the Radison Hotel) (Tally Ho Room, ninth floor), 505 North Michigan Avenue, Chicago, Illinois 60611.

3. March 7, 1983—Hyatt Regency (Poydras A and B Meeting Room), 500 Poydras Plaza, New Orleans, Louisiana 70140.

4. March 10, 1983—Department of Energy, Forrestal Building (Auditorium, Room GE–086), 1000 Independence Avenue, SW., Washington, D.C. 20585.

5. March 14, 1983—Salt Lake Hilton Hotel (3 Seasons Room), 150 West, 500 South, Salt Lake City, Utah 84101.

Request to make an oral presentation at a hearing should be addressed to: Department of Energy, Office of Hearings and Dockets, CE–65, Mail Stop 6B–025, Room 5F–078, 1000 Independence Avenue, SW., Washington, D.C., 20585, Attention: NE–RM–83–2, Phone (202) 252–9319. A person making a request should provide a phone number at which he or she may be contacted through the day of the hearing. See Supplementary Information regarding the submission of written comments in lieu or oral statements.

The proposed guidelines (48 FR 5670, February 7, 1983) are available for inspection at the following DOE Public Reading Rooms at the indicated times Monday through Friday, except Federal holidays and where noted below:

1. DOE Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 8:00 a.m. to 4:00 p.m.

2. Albuquerque Operations Office, Kirtland Air Force Base, National Atomic Museum Library, Public Reading Room, Albuquerque, New Mexico 87115, (505) 844–8443, 9:00 a.m. to 5:00 p.m.

3. Chicago Operations Office, 175 West Jackson Blvd., Room A1136, Argonne, Illinois 60439, 8:00 a.m. to 5:00 p.m.

4. Idaho Operations Office, 550 2nd Street, Headquarters 199, Idaho Falls, Idaho 83401, (208) 526–0271, 8:00 a.m. to 5:00 p.m.

5. Nevada Operations Office, Public Docket Room, 2753 S. Highland, Las Vegas, Nevada 89114, (702) 734–3521, 8:00 a.m. to 4:30 p.m.

6. Oak Ridge Operations Office, 200 Administration Road, Room G208, Federal Building, Oak Ridge, Tennessee 37830, (615) 576–1218, 8:00 a.m. to 4:30 p.m.

7. Richland Operations Office, Hanford Science Center—Rockwell Hanford Operations, 825 Jadwin Avenue, Federal Building, Richland, Washington 99352, (509) 376–8273, Sunday 1:00 p.m. to 5:00 p.m., Monday through Saturday 9:00 to 5:00 p.m.

8. San Francisco Operations Office, 1333 Broadway, Wells Fargo Building, Reading Room, Room 240, Oakland, California 94612, (415) 273–4358, 8:30 a.m. to 4:00 p.m.

9. Savannah River Operations Office, 211 York Street, NE., Federal Building, Aiken, South Carolina 29801 (803) 725–3267, 8:30 a.m. to 4:00 p.m.

10. Southeastern Power Administration, Samuel Elbert Building, Public Square, Elberton, Georgia 30635, (404) 283–3261, call for times.

11. Southwestern Power Administration, 333 W. 4th Street, Room 3408, Tulsa, Oklahoma 74101, (918) 581–7426, 8:00 a.m. to 4:30 p.m.

12. Western Area Power Administration, 1627 Cole Blvd., Western Headquarters Reading Room, Golden, Colorado 80401, (303) 231–1557, 8:00 a.m. to 4:00 p.m.

Individual copies of the proposed guidelines are available upon request from the Office of Hearings and Dockets cited above.

FOR FURTHER INFORMATION CONTACT:

Critz H. George, Division of Waste Repository Deployment, Office of Terminal Waste Disposal and Remedial Action, U.S. Department of Energy, Washington, D.C. 20545, Telephone: (301) 353–3014

Robert Mussler, Esq., Deputy Assistant General Counsel for Environment, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: (202) 252–6947

SUPPLEMENTARY INFORMATION:

A. Background

On January 7, 1983, the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425) was signed into law. The Act establishes a process and schedule for the development of nuclear waste repositories. The guidelines which are to be the subject of the hearings announced in this Notice are a required part of that process. Section 112(a) of the Act requires the Secretary of Energy, not later than 180 days after the date of the enactment of the Act, to issue general guidelines for the recommendation of sites for repositories. These guidelines will be used to identify and nominate sites for characterization and eventually to determine the suitability of a site for development as a repository.

DOE proposes, pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), the Energy Reorganization Act of 1974 (42 U.S.C 5801 *et seq.*), the Department of Energy Organization Act of 1977 (42 U.S.C. 7101 *et seq.*), and the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425, 96 Stat. 2201), to amend Chapter III of Title 10 of the Code of Federal Regulations by adding a new Part 960 to contain these guidelines.

B. Hearing Procedures

The time and location of the public hearings are given above. DOE invites any person who has an interest in the proposed guidelines, or who is a representative of a group or class of persons that has an interest in the proposed guidelines, to make a written request to make an oral presentation. Such a request should be directed to the address given in the Addresses section above. At each of the specific hearings, as time permits, persons who have not made prior arrangements will be invited to make oral presentations.

A person scheduled to appear at any of the hearings will be amply notified by DOE of his or her participation. To ensure that as many as possible interested parties be given the opportunity to present oral comments, the length of each presentation will be limited to no more than 15 minutes, and may be further limited for a particular hearing depending upon the number of persons requesting to be heard.

Each person scheduled to appear at a specific hearing should bring, if possible, at least seven copies of his or her statement to the hearing site. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made in advance of the hearing by so indicating in the letter/telephone call requesting to make an oral presentation.

DOE reserves the right to limit the number of persons to be heard at a specific hearing, to schedule their presentations, and to establish the procedures governing the conduct of the hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements during the hearings. Any participant who wishes to ask a question at a hearing may submit the question, in writing, at the registration desk. The presiding

officer will evaluate the question's relevance and will determine whether the time limitations permit it to be presented for response. The presiding officer will announce any further procedural rules needed for the proper conduct of each hearing.

A transcript of each hearing will be made, and the entire record of each hearing, including the transcript, will be retained by DOE and made available for inspection at the Washington, D.C. DOE Public Reading Room. Any person may purchase individual copies of the transcripts from the reporter(s).

C. Written Comments

DOE will be considering both oral and written comments regarding the guidelines. The opportunity to provide written comments pertaining to the proposed guidelines is afforded by a public comment period which ends on March 24, 1983 (48 FR 5670, February 7, 1983). To ensure consideration, all written comments must be received by 4:30 p.m. E.S.T. March 24, 1983. Written comments should be sent to Robert L. Morgan, Project Director, Nuclear Waste Policy Act Project Office, Department of Energy, Room 7B–084, 1000 Independence Avenue, SW., Washington, D.C. 20585.

All written comments received will be available for public inspection in the Washington, D.C. DOE Reading Room. Any information considered by the person furnishing it to be confidential must be so identified. DOE reserves the right to determine the confidential status of information or data and to treat it accordingly.

Issued at Washington, D.C. on Feburary 9, 1983.

Donald Paul Hodel,

Secretary of Energy.

[FR Doc. 83–3962 Filed 2–11–83; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82–ACE–21]

Transition Area; Eagle Grove, Iowa; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Eagle Grove, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Eagle Grove, Iowa, Airport utilizing the Fort Dodge VORTAC as a navigational aid. This proposed action will change the airport status from VFR to IFR.

DATE: Comments must be received on or before March 21, 1983.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine Hiland, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Eagle Grove, Iowa. To enhance airport usage, a new instrument approach procedure is being developed for the Eagle Grove, Iowa, Airport utilizing the Fort Dodge VORTAC as a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Eagle Grove, Iowa, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by designating the following transition area:

Eagle Grove, Iowa

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Eagle Grove, Iowa Airport (Latitude 42°42'35" N, longitude 93°54'49" W), and 2½ miles either side of the Fort Dodge, Iowa VOR 071° radial exending from the 5 mile radius area to 6 miles southwest of the airport excluding that airspace within the Clarion, Iowa, transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is

a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 1, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-3867 Filed 2-11-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. 83-1]

Bridges, Structures, and Hydraulics; Concrete Bridge Decks

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA is requesting comments on proposed revisions to its regulation which prescribes policies and procedures for the construction and reconstruction of concrete bridge decks. The revised regulation would allow States the flexibility to select a protective system and reconstruction method to protect a bridge deck from chemical corrosion based on local conditions and experience. The proposed revisions would also eliminate unnecessary and duplicative requirements as well as reduce the existing regulation in length and detail in order to facilitate project compliance. The existing provision which provides for the inclusion of a protective system as an eligible item for Interstate construction funds is deleted to conform with recently enacted statutory requirements.

DATE: Comments must be received on or before April 15, 1983.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 83-1, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas A. Bernard, Chief, Demonstration Projects Division, Office of Engineering and Operations, (202)426-0438, or Mr. Michael Laska, Office of the Chief Counsel, (202) 426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET Monday through Friday.

SUPPLEMENTARY INFORMATION: A significant factor contributing to the deterioration of the Nation's highway bridges is the corrosion of bridge deck reinforcing steel induced by deicing chemicals and seawater. It was not until the early 1970's that a direct relationship was established between the application of salt and the corrosion of reinforcing steel (rebars) embedded in bridge deck concrete. In order to address this problem and to protect the Federal investment of highway bridges, the Federal Highway Administration (FHWA) issued the current regulations which are set forth in 23 CFR Part 650, Subpart F. The regulations prescribe policies and procedures for the construction and reconstruction of concrete bridge decks with special emphasis on the requirement of installing a protective system designed to protect concrete bridge decks that are likely to be subject to potentially damaging applications of deicing salts.

Since it was not until the early 1970's that the association was made between deicing salts and bridge deck corrosion, the development and testing of protective system techniques and materials has a relatively short history. Particularly in 1976, when the current regulations were issued, protective systems had not been in place long enough to conclusively observe consistent patterns of effective performance. As a result, the current regulations provided restrictive policies and procedures which reflected the uncertainty of available technical information.

The current regulations specify procedures for acceptable permanent reconstruction and for experimental cost-effective reconstruction. Acceptable permanent reconstruction requires the removal and replacement of all contaminated concrete and deteriorated areas while experimental reconstruction does not require the removal of all contaminated concrete if deterioration could be contained. Although current regulations and policies do not exclude any particular protective system or reconstruction procedure from use on a Federal-aid project, it does provide preferential treatment to certain protective systems and reconstruction procedures because of the extensive evaluation and documentation required for experimental installations. Acceptable protective systems are specified in the regulations for new decks and deck replacements, and include epoxy-coated rebars, low water-cement ratio, dense concrete (Iowa System), latex-modified concrete, membranes, and cathodic protection.

The FHWA, is reviewing the current regulations, has taken into account many considerations. First of all, the review considered the state-of-the-art of protective systems as reflected by the increasing amount of research and field performance data available from many sources.

In addition, the comments received in response to an FHWA notice on the galvanizing rebar policy (46 FR 39073, 7/30/81) were analyzed as a representation of interested parties, particularly by State highway agencies who are charged with program compliance. Within this context, the current regulations were also reviewed with the purpose of reducing redtape and eliminating unnecessary requirements whenever appropriate. Particular attention was given to decision making areas which could be delegated to the States if warranted. Although regulation reduction, State flexibility, and construction cost reduction were purposes desired, any proposed revision would also have to ensure the construction or reconstruction of a structurally sound bridge deck in order to protect the Federal investment in the Nation's highway bridges. The following proposed revisions reflect the results of this review.

Summary of Revisions

Although a number of revisions are being proposed, there are three which are considered significant with regard to bridge deck construction and reconstruction.

The first major revision concerns the provisions which require the installation of a protective system for bridge decks which are likely to be subject to a salt environment. The proposed revisions would retain this requirement, but the list of suggested protective systems in Appendix A to Subpart F would be deleted in its entirety. This proposed action along with the rescission of FHWA Notice N5140.21 (1/5/83) (experimental installations of galvanized rebars as a protective system), if implemented would in effect allow the States the flexibility to select a protective system based on local conditions and experience.

The determination to propose this deletion is based on many factors. There is currently a vast quantity of information on the various protective systems available to the States through

technical journals, trade organizations, the FHWA, and other sources. Much of this information has become available since the FHWA issued current policies and procedures in 1976.

An analysis of research performed to date indicates a lack of a consensus regarding the effectiveness of certain protective systems. In determining life cycle costs, factors such as: The relatively short terms protective systems have been in place; the varying applications of deicing salts from State to State; the differing material and installation costs; the lack of a standard procedure for programming bridge deck maintenance and rehabilitation; and the cost to motorists associated with traffic disruption all contribute to the difficulty of recommending on a national level preferred protective systems. While even the most recent research findings are not conclusive, they do offer a broad base of information upon which States can determine which protective system is most cost-effective in specific situations. Furthermore, States have gained a great deal of experience in installing the various approved and experimental systems and many States have adopted their own policies with regard to bridge deck protection. Thus the States have a considerable base of both research and experience upon which to base their decisions.

Since the State interest in bridge decks is compatible with the Federal interest as far as sharing costs, financing maintenance, and contending with traffic disruption caused by deteriorating bridge decks, the FHWA believes that the States are capable of and will in fact make prudent engineering decisions concerning bridge deck protective systems. Not only does the proposed revision allow the Federal interest in cost-effective bridge deck protection to be met with less involvement in the State decision-making process, but also allows competitive markets to function in a manner which could reduce construction costs.

It is important to note that the FHWA will retain some control over the installation of protective systems. If the performance and cost-effectiveness of a chosen protective system cannot be adequately demonstrated to the FHWA reviewing officials, approval can be subject to experimental conditions.

Another major revision concerns the provisions which require specific bridge deck reconstruction procedures as set forth in § 650.607 of the existing regulation. Procedures presently in effect require the removal of all delaminated concrete, highly chloride contaminated concrete, and deteriorated concrete and rebars in areas of active corrosion in order for reconstruction to be considered permanent and non-experimental. On the other hand, any reconstruction method which allows salt contaminated concrete to be left in place has to be considered experimental. The proposed revision would eliminate the strict provision requiring removal of all contaminated bridge deck elements (concrete, rebars, etc.) for permanent reconstruction, as well as delete the provisions detailing experimental reconstruction procedures. Reconstruction procedures would be rewritten to reflect the deletions and would generally require that all contruction, reconstruction, and rehabilitation of bridge decks be performed in accordance with design standards and specifications as approved by the FHWA for application on Federal-aid projects and set forth in 23 CFR Part 625. This requirement exists for initial construction of bridge decks in the current regulation and would be retained and extended to bridge reconstruction and rehabilitation. This proposed revision would allow the States the flexibility to select a protective system and reconstruction method based on local experience and conditions without complying with restrictive and out-dated requirements. Subject to approval by the FHWA, the reconstruction method chosen by the States will be considered acceptable and permanent.

The rationale for proposing this revision parallels the reasons for allowing a State to select a protective system. Due to the limited amount of research data available and the experimental status of many reconstruction materials and methods, restrictive reconstruction procedures were necessary in 1976 to assure the structural integrity of bridge decks as will as to promote the collection of research data on an experimental basis. The restrictive reconstruction procedures are no longer considered necessary. Certain protective systems and the accompanying reconstruction methods can be demonstrated to be effective without the removal of all contaminated concrete and rebars under certain conditions. With access to a vast quantity of reconstruction data and with experience gained from actual bridge reconstruction, the States are in a position to select and justify an appropriate reconstruction method.

The last major revision proposed concerns the eligibility of the cost of the installation of a protective system for Interstate construction funds pursuant to section 108(b) of the Federal-Aid Highway Act of 1956. If the installation of a protection system is required and had not been contemplated during the initial construction phase, then the cost thereof was considered an additional stage of construction and thus eligible for Interstate construction funds pursuant to §§ 650.603(a) and 650.11. However, section 4(b) of the Federal-Aid Highway Act of 1981 redefined eligible items for Interstate construction funds. The installation of a protective system, not contemplated when the bridge was intially constructed, is no longer eligible for Interstate construction funds. For this reason, the provisions relating to the eligibility of an additional stage of construction are deleted in their entirety. The installation costs will be eligible for Federal-aid participation under any other appropriate funding category.

In addition to the proposed major revisions, the FHWA is also proposing to make a number of other changes to Subpart F. The proposed regulation would be reduced in length and detail by deleting unnecessary and duplicative requirements. The proposed language would also be clarified to reflect updated terminology so as to permit an easier understanding of compliance procedures.

The current provision in § 650.613, which requires existing protective systems that are proven effective based on field experience and/or laboratory research to be reported under the National Experimental and Evaluation Program conducted by FHWA would be deleted. As a result of the experience gained and the research data reported, there is no longer a need for this requirement. However, projects which are currently under evaluation should continue to be reported. Those protective systems which cannot be demonstrated to be cost-effective will be approved only under the FHWA Experimental and Evaluation Program.

The current requirements for concrete which are included in § 650.605 would be deleted to eliminate duplicative requirements. The concrete requirements included in this section are also specified in the design standards and specifications for Federal-aid highways and bridges as set forth in 23 CFR Part 625.

The final revision would clarify the terminology used in the existing regulation to reflect current statutory language. The terms "construction," "additional stage of construction," and "reconstruction" would be replaced by the terms "construction," "reconstruction" and "rehabilitation." The new terms would be redefined to conform with current statutory

definitions included in the Highway Bridge Replacement and Rehabilitation Program (23 U.S.C. 144), the Interstate Resurfacing, Restoration, Rehabilitation, and Reconstruction Program (23 U.S.C. 119), as well as the Interstate construction redefinition pursuant to section 4(b) of the Federal-Aid Highway Act of 1981.

Regulatory Impact

It is anticipated that the proposed revisions would have a positive economic impact by eliminating certain requirements, simplifying compliance language and providing increased flexibility to the States. Potential benefits would include: savings in the cost of bridge deck protection due to a more competitive market; savings associated with States not having to install systems on an experimental basis which have been proven effective; and increased business for suppliers of products determined to be most cost-effective in a deregulated market. While such benefits are not expected to be large they would outweigh the costs of allowing greater flexibility which potentially include somewhat higher administrative costs associated with seeking approval for systems that have not been preapproved by regulation. It is also unlikely that States would make significant changes in their selection of protective systems and reconstruction techniques if the proposed revisions are implemented. Federal-aid eligibility requirements would only be changed to the extent that statutory provisions mandate. A more detailed assessment of regulatory impacts are included in a draft regulatory evaluation (initial regulatory flexbility analysis) which has been prepared and is available for inspection in the public docket. A copy may be obtained by contacting Mr. Douglas A. Bernard at the address provided above under the heading "For Further Information Contact."

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. Those desiring to comment on this rulemaking action are requested to submit their comments to the docket at the above address. Comments are specifically requested on whether such action would have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing and under the authority of 23 U.S.C. 109(a), 144, and 315; 49 CFR 1.48(b), the FHWA proposes to revise Part 650, Subpart F of title 23, Code of Federal Regulations as set forth below.

List of Subjects in 23 CFR Part 650

Bridges, Grant programs—transportation, Highways and roads.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: February 8, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

Subpart F—Concrete Bridge Decks

Sec.

650.601 Purpose.
650.603 Definitions.
650.605 Construction, reconstruction and rehabilitation.
650.607 Maintenance.
650.609 Protective System.

Authority: 23 U.S.C. 109(a), 144, 315; 49 CFR 1.48(b).

Subpart F—Concrete Bridge Decks

§ 650.601 Purpose.

The purpose of this subject is to prescribe policies and procedures for the construction, rehabilitation and reconstruction of concrete bridge decks with special emphasis on protective systems within the existing controls on the expenditures of Federal-aid funds.

§ 650.603 Definitions.

(a) *Construction* means the initial construction of any specific bridge deck.

(b) *Maintenance* means routine or incidental work that generally restores the condition of the riding surface and does not significantly increase the structural and/or durability characteristics of the original deck.

(c) *Protective system* means a system used to protect bridge decks from early deterioration due to reinforcing steel corrosion induced by highway deicing chemicals or seawater environment.

(d) *Reconstruction* means the restoration of the structural integrity of a concrete bridge deck by complete removal and replacement of the existing deteriorated bridge deck.

(e) *Rehabilitation* means the major work necessary to restore the structural integrity of portions of the original bridge deck which are deteriorated as well as work necessary to correct major safety defects. Rehabilitation may include, where necessary, complete removal and replacement of deteriorated components of the existing bridge deck.

§ 650.605 Construction, reconstruction and rehabilitation.

The following policies are established for all bridge decks to be constructed, rehabilitated or reconstructed with Federal-aid funds.

(a) *Standard specifications.* States shall adopt design specifications and procedures equal to or better than those specified in Standard Specifications for Highway Bridges.[1]

(b) *Protective system.* When a bridge deck is likely to be subjected to potentially damaging applications of deicing salts or to be exposed to a seawater environment, a protective system is required.

(1) Approval of the type of protective system is made in accordance with the provisions of § 650.609.

(2) The installation of a protective system is eligible for Federal-aid funds from the appropriate category.

(3) The installation of a protective system in an unprotected bridge deck is eligible for Federal-aid funds from the appropriate category, even if rehabilitation of the existing bridge deck is not required.

(c) *Eligible work.* Reconstruction and rehabilitation procedures necessary to assure acceptable performance of existing structures are set forth below and are eligible for Federal-aid participation from the appropriate category. Reconstruction and rehabilitation work shall include all concrete deck restoration work required to assure satisfactory performance of the concrete deck. This may include items such as the removal of existing overlays, removal and placement of all deteriorated reinforcing steel, or the complete removal and replacement of the entire bridge deck if necessary.

(1) This work may also include removal and replacement of deteriorated concrete curbs, sidewalks, parapets, as well as rail, deck joints, bearings, or similar incidental items which are associated with proper functional restoration of the structure.

(2) Consistent with 23 CFR Part 924, safety improvements may be undertaken with the above described work, when such improvements eliminate an established hazardous condition. Such safety improvements may include

[1] This publication establishes standards and specifications for Federal-aid projects. It is incorporated by reference at 23 CFR 625.3.

widening, elimination of hazardous walks and substandard railing systems, removal of hazardous fixed objects or installation of energy absorbing barrier system, and any other features that are consistent with current safety standards.

§ 650.607 Maintenance.

The following policies are established for the use of Federal-aid funds as related to maintenance activities.

(a) Maintenance work is considered an obligation of the State and is not eligible for Federal-aid funding;

(b) Spot patching of a bridge deck is maintenance unless it is done as work incidental to the rehabilitation or reconstruction of the concrete bridge deck;

(c) The resurfacing of a bridge deck is considered maintenance when such work only restores the general condition of the riding surface and does not significantly increase the structural and/or durability characteristics of the original deck.

§ 650.609 Protective system.

In view of the recognized need for protective systems the following policies have been established for Federal-aid participation.

(a) The contract, plans and specifications (PS&E) for the construction, rehabilitation and/or reconstruction of all concrete bridge decks that are likely to be subjected to potentially damaging applications of deicing salts or seawater environment shall provide for a protective system that will effectively prevent chloride induced deterioration.

(b) Federal-aid approval. Approval of the protective system will be required as part of the approval of the Federal-aid construction, reconstruction, or rehabilitation project.

(1) Protective systems which, based on field experience and/or laboratory research, have not been demonstrated to be cost effective must be considered experimental. These systems are to be surveyed and evaluated on an experimental basis under the Federal Highway Administration (FHWA) experimental program.

(2) Proprietary products when used as a bridge deck protective system must be used in accordance with Federal regulations on the use of proprietary products.

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BILLING CODE 4910-22-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2643

Variances for Sale of Assets; Variance of the Statutory Standards

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed regulation prescribes variances from two of the requirements under section 4204 of the Employee Retirement Income Security Act, relating to a sale of assets by an employer that contributes to a multiemployer pension plan. Under section 4204, the sale of its assets by a contributing employer to an unrelated party will not be considered a withdrawal from the plan if certain conditions are met. Among other things, the purchaser must post a bond or place an amount in escrow, and the contract of sale between the seller and purchaser must provide that the seller will be secondarily liable for its withdrawal liability if the purchaser withdraws from the plan and does not pay its withdrawal liability. Section 4204(c) authorizes the Pension Benefit Guaranty Corporation to vary the bond/escrow and sale-contract requirements by regulation.

The effect of this proposed regulation, if adopted, would be to prescribe variances to these statutory requirements.

DATES: Comments should be received on or before April 15, 1983.

ADDRESSES: Comments should be addressed to the Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Suite 7300, 2020 K Street, N.W., Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

The Statute

Section 4204 of Employee Retirement Income Security Act, as amended ("ERISA"), 29 U.S.C. 1384, provides that a cessation of the obligation to contribute or a cessation of covered operations resulting from the bona fide, arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan with respect to the purchased operations for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount into escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of this bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contribution when due to the plan within the first five plan years beginning after the sale. Any amount held in escrow must be refunded (or the bond cancelled) if the purchaser does not withdraw within the five-year period and has made all contributions to the plan on a timely basis.

It is the responsibility of the plan sponsor to determine whether the requirements of section 4204 have been satisfied in a particular case. Typically, when an employer permanently ceases covered operations or permanently ceases to have an obligation to contribute to a multiemployer plan, whether through a sale of assets or otherwise, the plan sponsor will, pursuant to section 4219 of ERISA, assess withdrawal liability against the employer. An employer who ceases covered operations or permanently ceases to have an obligation to contribute because of a sale of assets may assert that the sale met the requirements of section 4204, and therefore that no withdrawal has occurred. Since it is the responsibility of the plan sponsor to determine whether a withdrawal has occurred, the plan sponsor must determine in this situation whether the conditions of section 4204 have been satisfied.

As noted above, section 4204 applies only to a bona fide, arm's-length sale between two "unrelated parties." Therefore, a cessation of contributions resulting from a sale of assets involving related parties may constitute a withdrawal under Title IV. Section 4204(d) of ERISA provides that a purchaser and seller are "unrelated parties" if they do not "bear a relationship * * * described in section 267(b)" of the Internal Revenue Code of 1954, as amended.

Section 4204(b)(1) of ERISA contains a special rule for computing the withdrawal liability of a purchaser involved in a sale of assets covered under section 4204(a). Under this special rule, the purchaser assumes the contribution record of the seller for the plan year in which the sale occurs and for the preceding four plan years. As a result, if the purchaser were subsequently to withdraw, its withdrawal liability may be based in part on the liability that the seller would have incurred had the purchase not come within the purview of section 4204. This assumption occurs as a matter of law if section 4204 applies, whether or not the contract between the purchaser and the seller specifically provides for such an assumption.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to vary the bond/escrow and sale-contract requirements by regulation if the variance would "more effectively or equitably carry out the purposes of [Title IV]." PBGC is also authorized by ERISA section 4204(c) to grant individual or class variances or exemptions from those requirements when warranted. Congress intended to grant broad authority to the PBGC to administer the sales rules in a manner that assures protection of multiemployer plans with the least practicable intrusion into normal business transactions.[1] (It is noted that a variance of or exemption from the sale-contract requirement is not a waiver of the seller's secondary liability under section 4204(a)(2) of ERISA.)

Pursuant to that authority, on August 10, 1982 (at 47 FR 34662), PBGC issued a class exemption from the bone/escrow and sale-contract requirements for all sales of assets consummated prior to January 1, 1981, but on or after the effective date of Part 1, Subtitle E of Title IV of ERISA, where each of the parties provides written notification to the affected plan of the party's intention to have the transaction governed by section 4204. By its action today, PBGC is proposing the establishing of other general exemptions from the bond/escrow and sale-contract requirements under certain conditions. This proposed regulation, if adopted, would amend and supplement 29 CFR Part 2643, which sets forth procedural rules under which interested parties can request the PBGC to grant individual variances or class exemptions pursuant to section 4204(c).

The Proposed Regulation

Section 2643 of the proposed regulation restates the statutory requirements on the purchaser's bond/escrow and the sale-contract provision.[2] Section 2643.12 would provide variances from the bond/escrow and sale-contract requirements if certain conditions and criteria are met. Under § 2643.12(a), the parties to a sale must inform the plan in writing of their intention to be covered by section 4204 of ERISA. In this way, both the seller and purchaser expressly consent to the various responsibilities they assume by operation of law. For example, if section 4204 applies, the seller assumes a secondary liability under section 4204(a)(2), and the purchaser assumes a portion of the seller's withdrawal liability under section 4204(b). One purpose of the sale-contract requirement is to require an affirmative action by the parties in order to trigger section 4204. Therefore, the requirement of a joint notice of intention minimizes the need for the sale-contract provision.

In addition, a sale must meet any one of three criteria described in § 2643.12(b) in order to qualify for a variance. The first criterion, set forth in § 2643.12(b)(1) of the proposed regulation, is that the amount of the bond does not exceed the lesser of $250,000 or 2 percent of the average total annual contributions paid to the plan by all employers in the three plan years preceding the sale. The intent of this criterion is to eliminate the bond requirement for those transactions where the seller's leaving the plan does not have a significant impact on the plan. Because 2 percent of the contributions in a large plan could be a very large amount, PBGC also decided to impose a $250,000 limit on the amount of the bond, as a condition for qualifying for the variance.

There are two additional situations which the PBGC believes justify a variance. The first of these is when the purchaser's net income indicates an ability to pay required contributions to the plan. Therefore, § 2643.12(b)(2) of the proposed regulation provides for a variance when the purchaser's average net income after taxes for its three most recent fiscal years before the sale (reduced by any interest expense incurred with respect to the sale, payable in the fiscal year following the sale) equals or exceeds 150 percent of the amount of the bond/escrow. Secondly, there would be a variance when the purchaser's net tangible assets indicate an ability to pay its potential withdrawal liability. Thus, § 2643.12(b)(3) provides for a variance when the purchaser's net tangible assets, as of the end of the fiscal year preceding the sale, equal or exceed either: (1) If the purchaser was not obligated to contribute to the plan prior to the sale, the amount of unfunded vested benefits allocable to the seller under section 4211 of ERISA, determined as of the date of the sale of assets; or (2) if the purchaser was a contributing employer to the plan prior to the sale, the sum of the purchaser's and the seller's allocable share of unfunded vested benefits under section 4211, each determined as of the date of the sale.

The primary consideration in varying the bond requirement is the purchaser's ability to make annual contributions to the plan. A good indication of that ability is the purchaser's income, which is the subject of the test under paragraph (b)(2). If the purchaser is unable to qualify for the variance under that provision, a variance still may be appropriate if the purchaser appears able to pay the withdrawal liability it would incur should it withdraw from the plan. Thus, paragraph (b)(3) measures that ability by comparing the purchaser's net tangible assets to an approximation of its potential withdrawal liability. In this way, the rule would afford relief to purchasers who may have a low net income, but whose assets are adequate to pay potential withdrawal liability.

The regulation uses the seller's or the purchaser's allocable share of unfunded vested benefits under section 4211 as an approximation for the purchaser's withdrawal liability. In some instances, the purchaser's withdrawal liability may be less than the seller's or its own allocable amount under section 4211. However, the purchaser's withdrawal liability will not be known at the time of the sale, and it could be costly and time-consuming to compute it. Therefore the section 4211 amount is used as an approximation of the purchaser's withdrawal liability. When the

[1] Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Consideration, 16 (Comm. Print, April 1980); 126 Cong. Rec. S10117 (daily ed. July 29, 1980) (Joint Explanation of S. 1076).

[2] ERISA section 4204 does not apply to a plan described in section 404(c) of the Internal Revenue Code, or a continuation thereof, unless the plan is amended to that effect (ERISA section 4211(d)(2)).

purchaser was not a contributing employer under the plan prior to the sale, the seller's section 4211 amount must be used, since a section 4211 amount could not be computed for the purchaser.

The terms, "net income after taxes" and "net tangible assets", are defined in § 2643.12(c). "Net tangible assets" means unencumbered tangible assets (other than licenses, copyrights, trade names, trademarks, goodwill, experimental or organizational expenses, unamortized debt discounts and expenses and all other intangible assets) less liabilities. "Net income after taxes" is revenue minus expenses after taxes, and does not include extraordinary and non-recurring income or expenses, such as income from a sale of operations or expenses resulting from an adverse court judgment. This proposed rule uses net income after taxes because PBGC has tentatively decided that after tax net income is a more appropriate indicator of an employer's ability to make ongoing contributions to a plan than is net income before taxes. However, PBGC specifically requests comments on the issue of whether the net income test should be based on net income before or after taxes.

PBGC is aware that there may be situations other than those described in § 2643.12(b) where a variance of the purchaser's bond/escrow and the sale-contract requirements would more effectively or equitably carry out the purposes of Title IV of ERISA. Accordingly, § 264.13 provides that, when none of the criteria set forth in § 2643.12(b) are met, a party may apply to the PBGC for a variance pursuant to Subpart A. Only those variance requests which are not premised upon satisfaction of any of the criteria established in § 2643.12(b) will be considered by the PBGC. The question of whether a particular transaction satisfies the criteria set forth in § 2643.12 (a) and (b) is to be decided in the first instance by the plan sponsor. Disputes over the plan sponsor's determination are to be resolved by the parties to the sale and the plan sponsor under section 4221 of ERISA.

The regulation also proposes to amend Subpart A of Part 2643 (46 FR 46127 (1981)), which establishes procedures whereby a party involved in a sale of assets can apply to the PBGC for a variance or exemption from the statutory requirements. Under the proposed amendments to §§ 2643.1 and 2643.2(a), a variance request can be made to the PBGC only if it is based on grounds other than satisfaction of any of the criteria described in § 2643.12(b). This change is needed in order to make those sections consistent with proposed § 2643.13.

Thus, if a particular transaction does not meet any of the criteria in § 2643.12(b), but the parties believe they can nevertheless demonstrate that an exemption is warranted because it would more effectively or equitably carry out the purposes of Title IV and would not significantly increase the risk of loss to the plan, they may request an exemption from PBGC. In support of that conclusion, the parties would have to provide specific financial or other information as part of the variance request. PBGC proposes to add this requirement to § 2643.2(d)(6). Because the information would have to be tailored to the specific grounds for the requested exemption, PBGC also proposes to amend §2643.2(d) to delete the present requirement in paragraph (d)(7) for submission of the purchaser's financial statements for the three fiscal years preceding the sale.

The PBGC has determined that this proposed regulation is not a "major rule" under section 3(b) of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; or cause a major increase in costs or prices; or adversely effect competition, employment, investment, productivity or innovation in United States-based enterprises.

Further, the regulation would, if adopted, reduce certain financial and administrative burdens on employers involved in sales that are subject to section 4204 of ERISA without exposing plans to any significant risk of financial loss. Variances under this regulation will eliminate unnecessary burdens on normal business transactions, reduce the costs of doing business, and will free assets that would otherwise be used to post the bond or escrow.

Under section 605(b) of the Regulatory Flexibility Act of 1980, the Pension Benefit Guaranty Corporation hereby certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. This regulation will not have a significant economic impact because, as previously discussed, it will relieve financial and administrative burdens that would otherwise be imposed by force of law on small businesses contributing to multiemployer plans. Therefore, pursuant to the above certification, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

Comments

Interested parties are invited to submit comments on this proposed regulation. Comments should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006. Written comments will be available for public inspection at Room 7100 at the above address between the hours of 9:00 a.m. and 4:00 p.m. Each person submitting comments should include his or her name and address, identify this proposed regulation, and give reasons for any recommendation. This proposal may be changed in light of the comments received.

In developing this proposed regulation, PBGC solicited comments from knowledgeable individuals outside the corporation. Copies of these comments are available for public inspection at the above address.

List of Subjects in 29 CFR Part 2643

Employee benefit plans, pensions.

PART 2643—[AMENDED]

In consideration of the foregoing, it is proposed to amend Part 2643 of Subchapter F of Chapter XXVI of Title 29, Code of Federal Regulations as follows:

1. In § 2643.1, paragraph (a) and (b) are revised to read as follows:

§ 2643.1 Purpose and scope.

(a) *Purpose.* The purpose of this subpart is to establish procedures under which a seller or purchaser may request the PBGC to grant individual or class variances or exemptions from the requirements of section 4204(a)(1) (B) and (C) of the Act for transactions which do not satisfy any of the criteria in § 2643.12(b) of this part.

(b) *Scope.* Except as provided in paragraph (c) of this section, this subpart applies to any sale of assets occuring after April 28, 1980 (May 2, 1979 for certain employers in the seagoing industry), which is a sale described in section 4204(a)(1) of the Act, if the sale does not satisfy any of the criteria in § 2643.12(b) of this part.

* * * * *

2. In § 2643.2, paragraphs (a) and (d)(6) are revised paragraph (d)(7) is removed, and paragraphs (d)(8)–(d)(10) are re-numbered paragraphs (d)(7)–(d)(9), as follows:

§ 2643.2 Requests to PBGC for variances and exemptions.

(a) *General.* If a transaction covered by this part does not satisfy any of the criteria in § 2643.12(b), the purchaser or

seller may request from the PBGC an exemption or variance from the requirements of section 4204(a)(1) (B) and (C) of the Act.

* * * * *

(d)* * *

(6) A statement explaining why the requested variance or exemption would not significantly increase the risk of financial loss to the plan, including evidenced, financial or otherwise, that supports that conclusion.

* * * * *

3. Part 2643 is amended by adding a new Subpart B at the end as follows:

Subpart B—Variance of the Statutory Requirements

Sec.
2643.10 Purpose and scope.
2643.11 General statutory rules
2643.12 Variance of the bond/escrow and sale-contract requirements.
2643.13 Variances based on other criteria.

Subpart B—Variance of the Statutory Requirements

§ 2643.10 Purpose and scope.

(a) *Purpose.* The purpose of this subpart is to provide variances and exemptions from the requirements of section 4204(a)(1) (B) and (C) of the Act for certain sales of assets by employers that contribute to multiemployer plans.

(b) *Scope.* Except as provided in paragraph (c) of this section, this subpart applies to any sale of assets occurring after April 28, 1980 (May 2, 1979 for certain employers in the seagoing industry), which is a sale described in section 4204(a)(1) of the Act.

(c) *Special rule.* Unless the plan is amended to provide otherwise, this subpart does not apply to a sale of assets involving operations for which an employer is obligated to contribute to a plan described in section 404(c) of the Internal Revenue Code of 1954, as amended (a plan established prior to January 1, 1954 as a result of an agreement between employer representatives and the United States during a period of government operation, under seizure of powers, of a major part of the productive facilities of an industry), or a continuation of such a plan.

§ 2643.11 General statutory rules.

Under section 4204(a) of the Act, a seller that ceases covered operations or ceases to have an obligation to contribute for such operations because of a bona fide, arm's-length sale of assets to an unrelated purchaser does not incur withdrawal liability if certain conditions are met. One condition, set forth in section 4204(a)(1)(C), is that the contract of sale between the seller and the purchaser provide that the seller will be secondarily liable for its withdrawal liability if the purchaser withdraws from the plan within five years after the sale and does not pay its withdrawal liability. Another condition, set forth in section 4204(a)(1)(B), is that the purchaser post, for a period of 5 plan years following the sale, a bond or an amount in escrow equal to the greater of—

(A) The average annual contribution that the seller was required to make to the plan with respect to the operations for the three plan years preceding the plan year in which the sale of assets occurs (section 4204(a)(1)(B)(i)); or

(b) The annual contribution that the seller was required to make to the plan with respect to the operations for the last plan year before the plan year in which the sale of assets occurs (section 4204(a)(1)(B)(ii)).

The amount of the bond or escrow required under section 4204(a)(1)(B) is doubled if the plan is in reorganization (section 4204(b)(2)).

§ 2643.12 Variance of the bond/escrow and sale-contract requirements.

(a) *General rule.* A purchaser's bond or escrow under section 4204(a)(1)(B) of the Act and the sale-contract provision under section 4204(a)(1)(C) are not required, if the parties to the sale inform the plan in writing of their intention that the sale be covered by section 4204 of the Act and at least one of the criteria contained in paragraph (b) of this section is satisfied.

(b) *Criteria for variance.* A purchaser's bond or escrow under section 4204(a)(1)(B) of the Act and the sale-contract provision under section 4204(a)(1)(C) are not required, if—

(1) The amount of the bond or escrow does not exceed the lesser of $250,000 or 2 percent of the average total annual contributions made by all employers that had an obligation to contribute to the plan for the 3 plan years preceding the plan year in which the sale occurs;

(2) The purchaser's average net income after taxes, as defined in paragraph (c) of this section, for its three most recent fiscal years ending before the date of sale, reduced by any interest expense incurred with respect to the sale which is payable in the fiscal year following the sale, equals or exceeds 150 percent of the amount of the bond or escrow required under section 4204(a)(1)(B); or

(3) The purchaser's net tangible assets, as defined in paragraph (c) of this section, at the end of the fiscal year preceding the year in which the sale occurs, equal or exceed—

(i) If the purchaser was not obligated to contribute to the plan prior to the sale, the amount of unfunded vested benefits allocable to the seller under section 4211, determined as of the date of the sale; or

(ii) If the purchaser was obligated to contribute to the plan prior to the sale, the sum of the amount of unfunded vested benefits allocable both to the purchaser and the seller under section 4211, each determined as of the date of the sale.

(c) *Definitions.* For the purposes of this section—

(1) "Net income after taxes" means revenue minus expenses after taxes (excluding extraordinary and non-recurring income or expenses), as presented in an audited financial statement or, in the absence of such statement, in an unaudited financial statement, each prepared in conformance with generally accepted accounting principles; and

(2) "Net tangible assets" means tangible unencumbered assets (assets other than licenses, copyrights, trade names, trademarks, goodwill, experimental or organizational expenses, unamortized debt discounts and expenses and all other assets which, under generally accepted accounting principles, are deemed intangible) less liabilities.

§ 2643.13 Variances based on other criteria.

When none of the criteria set forth in § 2643.12(b) are satisfied, a party to a sale may apply to the PBGC for a variance or exemption from the purchaser's bond/escrow and the sale-contract requirements, pursuant to Subpart A of this Part.

(Secs. 4002(b)(3) and 4204(c), Pub. L. 93-406, 88 Stat. 829, (1974), as amended by sections 403(l) and 104 (respectively), Pub. L. 96-364, 94 Stat. 1302, and 1221 (1980) (29 U.S.C. 1302(b)(2) and 1384(c))

Raymond J. Donovan,

Chairman, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this Notice of Proposed Rulemaking.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 83-3848 Filed 2-11-83; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2644

Notice and Collection of Withdrawal Liability

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would establish the interest rate to be charged by multiemployer plans on overdue and defaulted withdrawal liability. Under section 4219(c)(6) of the Employee Retirement Income Security Act, the interest charged on withdrawal liability payments that are overdue or withdrawal liability in default must be at rates based on prevailing market rates for comparable obligations, in accordance with regulations prescribed by the Pension Benefit Guaranty Corporation. The rate set forth in the regulation is based on the average prime rate on short-term commercial loans, as published by the Federal Reserve Board. The effect of this regulation if adopted would be to prescribe a method for determining interest on withdrawal liability payments that are overdue, withdrawal liability in default and overpayments of withdrawal liability. The regulation would also give plans the authority to adopt alternative rules concerning assessment of interest.

DATE: Comments must be received on or before April 15, 1983.

ADDRESSES: Comments should be addressed to the Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Office of the Executive Director, Policy and Planning (140), 2020 K Street, N.W., Washington, D.C. 20006; 202–254–4862.

SUPPLEMENTARY INFORMATION:

Background

The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96–364, 94 Stat. 1208, ("Multiemployer Act"), became law on September 26, 1980 and amended the Employee Retirement Income Security Act of 1974. (As used herein, "ERISA" means the Act as amended.) As a result of the Multiemployer Act amendments, an employer that withdraws from a multiemployer pension plan will generally be liable to the plan for a portion of the plan's unfunded vested benefits. The withdrawal liability rules generally apply to withdrawals after April 28, 1980 (May 2, 1979 for certain employers in the seagoing industry).

Under section 4219(b) of ERISA, a plan sponsor of a multiemployer plan must assess withdrawal liability as soon as practicable after an employer's withdrawal. The plan sponsor assesses withdrawal liability by notifying the employer of the amount of the liability and schedule of payments and demanding payment in accordance with the schedule. Section 4219(c)(1) describes how the annual payment is calculated. The first payment is payable no later than 60 days after the date of the demand, even if the employer requests a review of or appeals the amount of the liability or the schedule of payments (ERISA section 4219(c)(2)). Payments are made quarterly or at other intervals specified by plan rules (ERISA section 4219 (c)(3)).

Overdue and Defaulted Withdrawal Liability

For overdue withdrawal liability payments, section 4219(c)(3) requires that interest be assessed from the due date until the date on which the payment is made. Under § 2644.2(a) of the proposed regulation, a withdrawal liability payment is overdue if not paid on the date specified in the schedule of payments. Plan rules, however, may provide for a reasonable grace period during which payments may be made without interest (§ 2644.4(a)).

In the event of a default, a plan sponsor may require immediate payment of the outstanding balance of the employer's withdrawal liability plus accrued interest on the total outstanding liability from the due date of the first missed payment. (It is emphasized that it is the employer's outstanding withdrawal liability, not the remaining payments on the employer's payment schedule, that may be accelerated. These amounts are different, in that the payments on the payment schedule include interest, reflecting the fact that the employer's withdrawal liability is amortized over a period of time.)

Under section 4219(c)(5)(A) and § 2644.2(b)(1) of the proposed regulation, a default occurs if the employer fails to make a withdrawal liability payment within 60 days after notice from the plan sponsor that the payment is overdue. However, § 2644.2(c)(1) of the proposed regulation provides that the plan may not declare a default for non-payment of withdrawal liability before the expiration of the period during which arbitration may be requested or during arbitration. Specifically, no default for non-payment may be declared until 61 days after the last of: (1) The expiration of the period for requesting plan review; (2) if an employer requests plan review, expiration of the period for requesting arbitration; or (3) when arbitration is timely initiated either by the plan or the employer or both, issuance of the arbitrator's final decision. This reflects the Congressional intent that withdrawal liability should not be accelerated for non-payment of installments before the arbitrator has issued a final decision. Senate Labor and Human Resources Committee and Finance Committee, Joint Explanation of S. 1076: Multiemployer Pension Plan Amendments Act of 1980, 126 Cong. Rec. S10120 (daily ed. July 29, 1980).

However, it should be noted that section 4221(d) of ERISA provides for continued payment of withdrawal liability during arbitration,and thus § 2644.2(c)(2) of this regulation provides that interest accrues on any payment missed before or during arbitration.

Additionally, under section 4219(c)(5)(B) of ERISA and § 2644.4 of the proposed regulation, plan rules may define "default" to include events other than non-payment that indicate a "substantial likelihood that an employer will be unable to pay its withdrawal liability." The limitation on default set forth in § 2644.2(c)(1) of the proposed regulation does not apply to other grounds for default that a plan may adopt under § 2644.4 of the regulation.

Interest Rate

Under section 4219(c)(6), interest on both overdue and defaulted withdrawal liability is at "rates based on prevailing market rates for comparable obligations" in accordance with regulations of the Pension Benefit Guaranty Corporation ("PBGC"). PBGC has selected short-term commercial loans as the "comparable obligations" on which to base the interest rate because withdrawal liability payments that are not timely paid will generally be outstanding for a short time and the interest rate on commercial loans approximates what employers would have to pay to borrow money to pay withdrawal liability or other debts.

Section 2644.3(b) of the proposed regulation provides for an interest rate based on the average prime rate on short-term business loans quoted by large banks, as published by the Federal Reserve Board ("prime rate"). The interest rate for all amounts overdue or in default during each calendar quarter is the prime rate on the fifteenth day of the month preceding the beginning of the quarter (or next business day, if the fifteenth is not a business day). The daily prime rates for a week are

reported by the Federal Reserve Board in Statistical Release H.15 ("Selected Interest Rates"), published the following Monday.

Section 2644.3(b) also provides that the interest rate changes quarterly because, typically, withdrawal liability payments will be made quarterly. (ERISA section 4219(c)(3)). For the sake of administrative convenience, PBGC considered using an interest rate that would remain in effect for one year (*e.g.*, the rate in I.R.C. § 6621). However, PBGC rejected this approach as being contrary to the statutory requirement that the rates reflect "prevailing market rates".

The following chart illustrates what the rates would have been for each quarter of 1981 and the first three quarters of 1982 using the method provided in the regulation (and the date as of which the prime rate was determined):

Quarter in which applicable	Rate	Date of prime
Jan. to Mar. 31, 1981	20.09	Dec. 15, 1980.
Apr. 1 to June 30, 1981	18.00	Mar. 16, 1981.
July 1 to Sept. 30, 1981	20.00	June 15, 1981.
Oct. 1 to Dec. 31, 1981	20.00	Sept. 15, 1981.
Jan. 1 to Mar. 31, 1982	15.75	Dec. 15, 1981.
Apr. 1 to June 30, 1982	16.50	Mar. 15, 1982.
July 1 to Sept. 30, 1982	16.50	June 15, 1982.

The prime rate was selected because it reflects the rate at which loans are made to employers by banks. Although traditionally defined as the most favorable rate at which banks loan money, the prime in recent years has been closer to the average rate at which banks loan money to their commercial customers. Based on the Federal Reserve Board's quarterly Survey of Terms of Bank Lending (Statistical Release E.2(111)) for the past 4 years, the rates which banks actually charge on short-term (less than one year) commercial and industrial loans are only slightly higher than the prime rate for any given period. The prime rate has the advantage that it is published weekly in a form available to the public and is a well-known indicator of current interest rates. In addition, the prime rate (albeit not the current prime rate) is used to establish the interest rate on overpayments or underpayments of taxes, on overdue premiums owed to PBGC and, in the case of a single-employer plan termination, employer liability owed to PBGC. I.R.C. § 6621(b)-(c), *as amended by* section 711 of the Economic Recovery Tax Act of 1981, Pub. L. 97–34, 97th Cong. 1st Sess.; ERISA § 4007(b); 29 CFR Part 2622.

PBGC considered using the data from the Survey of Terms of Bank Lending to establish the rate for overdue and defaulted withdrawal liability. However, the survey is conducted only once a quarter, during the first full business week of the middle month of each quarter. If this rate were used to establish the rate for the next quarter, it would be 6 weeks out of date at the beginning of the quarter. In addition, the survey is not commonly used as an indicator of current interest rates and is not as well known as the prime rate.

In addition to rates on commercial loans, PBGC considered rates on various obligations of the U.S. government. Rates on government securities are consistently lower than rates paid on commercial loans because the government is the most risk-free borrower in the market. Although 6-month Treasury bill rates are now being used for various purposes (*e.g.*, to set maximum rates on loans in Texas and Washington, to adjust the rate on variable rate mortgages insured by the Federal National Mortgage Association, and to establish interest on various savings vehicles), an additional amount would have to be added to reflect rates on obligations "comparable" to withdrawal liability (*i.e.*, debts of corporate borrowers). At best, this "risk premium" would be based on the historic relationship between Treasury obligations and the rate at which commercial loans are made. The prime rate provides that rate directly, without requiring any adjustment by the PBGC.

The yield on other investment vehicles for which rates are frequently published also reflects a high degree of security. Ninety-day certificates of deposit, while responsive to changing interest rates, are issued by regulated financial institutions that offer a high degree of security. Money-market funds are frequently heavily invested in government-backed debt instruments. As with Treasury obligations, a risk premium would have to be added to either of these rates to approximate rates on commercial loans. Therefore, PBGC chose the prime rate on commercial loans as the preferred alternative for interest on overdue and defaulted withdrawal liability.

Under § 2644.2(d), the same interest rate is used to credit interest on any overpayments of withdrawal liability. (An employer need not have paid more than its total withdrawal liability in order for overpayments to have occurred. For example, overpayments may occur when the scheduled payments demanded by the plan exceed the scheduled payments subsequently determined to have been due. A determination that an overpayment has occurred may be made by the plan sponsor in its response to an employer's request for review under section 4219(b)(2) of ERISA, or by the arbitrator in his final decision under section 4221.) If an overpayment has occurred, the overpayment must be refunded with interest, either through a lump sum payment or through a revision in the employer's schedule of payments. When the amount of withdrawal liability paid by the employer, including interest on the overpayment, exceeds the total amount of withdrawal liability owed by the employer, the plan sponsor must immediately refund the excess in a lump sum. When the overpayment is refunded by revising the schedule of payments, the amount of the overpayment (plus interest) shall be credited against future scheduled payments, and no further scheduled payments (or portion thereof) shall become due until the overpayment (plus interest) has been refunded. The regulation does not require that interest be credited on withdrawal liability payments made in excess of the payments required by the schedule.

Plan Rules

Under the proposed regulation, plans may adopt rules which provide for interest on overdue and defaulted withdrawal liability at rates other than that specified in § 2644.3. These rates must reflect "prevailing market rates for comparable obligations." PBGC specifically requests public comment on whether it should, in the final regulation, attempt to list other interest rates that would satisfy the statutory test, and if so, what these other interest rates might be. For example, would the rate a plan uses for delinquent contributions be a rate that reflects "prevailing market rates for comparable obligations"?

In addition, plan rules may provide a reasonable grace period during which no interest accrues or during which payments received will be treated as paid when due. Under § 2644.4(a) of the regulation, all plan rules must be reasonable. In addition, under section 4214(b) of ERISA and § 2644.4(a) of the regulation, the rules must apply uniformly to all employers, although they may take into account the employer's creditworthiness. When plan rules do distinguish among employers based on creditworthiness, the rules must be specific as to the criteria for distinguishing among employers and with respect to the different treatment that will be accorded employers in different categories.

Finally, plans must notify contributing employers and employee representatives of plan rules adopted under § 2644.4(a), as required by section

4214(b) of ERISA. In addition, under § 2644.4(b) of the proposed regulation, employers with outstanding withdrawal liability balances must be notified of any rules relating to overdue or defaulted withdrawal liability.

The Pension Benefit Guaranty Corporation has determined that this regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, ERISA required that interest be assessed on overdue and defaulted withdrawal liability. Moreover, this regulation does not mandate the use of a particular interest rate. This regulation establishes an interest rate that plans may use, but permits plans to vary that rate by plan rule.

Under section 605(b) of the Regulatory Flexibility Act, the Pension Benefit Guaranty Corporation certifies that this rule will not have a significant economic impact on a substantial number of small entities. The proposed regulation affects multiemployer pension plans and employers that withdraw from such plans and fail to pay withdrawal liability when due. Pension plans with fewer than 100 participants have traditionally been treated as small plans. Defining "small plans" as those with under 100 participants, such plans represent only 10% of all multiemployer plans covered by the PBGC (200 out of 2000). Further, small multiemployer plans represent only .3% of all small plans covered by the PBGC (200 out of 61,200) and less than .05% of all small plans (200 out of 427,900). Approximately 500,000 employers contribute to multiemployer plans, most of them small employer (under 100 employees). PBGC estimates that fewer than 25,000 (5%) of these employers will be required to pay withdrawal liability in any year and an even smaller percentage will have overdue or defaulted withdrawal liability. Therefore compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

Interested parties are invited to submit comments on this proposed regulation. Comments should be addressed to: Assistant Executive Director for Policy and Planning, Pension Benefit Guaranty Corporation (140), 2020 K Street, N.W., Washington, D.C. 20006. Written comments will be available for public inspection in Suite 7100 at the above address between the hours of 9:00 a.m. and 4:00 p.m. Each person submitting comments should include his or her name and address, identify this proposed regulation, and give reasons for any recommendation. This proposal may be changed in light of the comments received.

If adopted, the regulation would be effective 30 days after publication of the final regulation in the **Federal Register**.

List of Subjects in 29 CFR Part 2644

Employee benefit plans and pensions.

In consideration of the foregoing, it is proposed to amend Subchapter F of Chapter XXVI of Title 29, Code of Federal Regulations, by adding a new Part 2644 as follows:

PART 2644—NOTICE AND COLLECTION OF WITHDRAWAL LIABILITY

Sec.
2644.1 Purpose and scope.
2644.2 Overdue and defaulted withdrawal liability; overpayment.
2644.3 Interest on overdue and defaulted withdrawal liabiliy.
2644.4 Plan rules concerning overdue and defaulted withdrawal liability.

Authority: Secs. 4002(b)(3), 4214(b) and 4219(c), Pub. L. 93–406, as amended by sections 403(1) and 104 (respectively), Pub. L. 96–364, 94 Stat. 1208, 1302, 1234 and 1236–1238 (1980) (29 U.S.C. 1302(b)(3), 1394(b) and 1399(c)(6)).

§ 2644.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to provide guidance to plan sponsors and employers in complying with the requirements for notice and collection of withdrawal liability under section 4219 of the Act.

(b) *Scope.* This part applies to multiemployer plans covered under section 4021(a) of the Act and not excluded by section 4021(b), and to employers who have withdrawn from such plans after April 28, 1980 (May 2, 1979 for certain employers in the seagoing industry).

§ 2644.2 Overdue and defaulted withdrawal liability; overpayment.

(a) *Overdue withdrawal liability payment.* Except as otherwise provided in rules adopted by the plan in accordance with § 2644.4(a), a withdrawal liability payment is overdue if it is not paid on the date set forth in the schedule of payments established by the plan sponsor.

(b) *Default.*—(1) Except as provided in paragraph (c)(1), "default" means—

(i) The failure of an employer to pay any overdue withdrawal liability payment within 60 days after the employer receives written notification from the plan sponsor that the payment is overdue; and

(ii) Any other event described in rules adopted by the plan which indicates a substantial likelihood that an employer will be unable to pay its withdrawal liability.

(2) In the event of a default, a plan sponsor may require immediate payment of all or a portion of the outstanding amount of an employer's withdrawal liability, plus interest. In the event that the plan sponsor accelerates only a portion of the outstanding amount of an employer's withdrawal liability, the plan sponsor shall establish a new schedule of payments for the outstanding amount of the employer's withdrawal liability.

(c) *Plan review or arbitration of liability determination.* The following rules shall apply with respect to the obligation to make withdrawal liability payments during the period for plan review and arbitration and with respect to the failure to make such payments.

(1) A default as a result of failure to make any payments shall not occur until the 61st day after the last of—

(i) expiration of the period described in section 4219(b)(2)(A) of the Act;

(ii) if the employer requests review under section 4219(b)(2)(A) of the Act of the plan's withdrawal liability determination or the schedule of payments established by the plan, expiration of the period described in section 4221(a)(1) of the Act for initiation of arbitration; or

(iii) if arbitration is timely initiated either by the plan, the employer or both, issuance of the arbitrator's decision.

(2) Any amounts due before the expiration of the period described in paragraph (c)(1) shall be paid in accordance with the schedule established by the plan sponsor. If a payment is not made when due under the schedule, the payment is overdue and interest shall accrue in accordance with the rules and at the same rate set forth in § 2644.3.

(d) *Overpayments.* If the plan sponsor or an arbitrator determines that payments made in accordance with the schedule of payments established by the plan sponsor have resulted in an overpayment of withdrawal liability, the plan sponsor shall credit interest on the overpayment from the date of the overpayment to the date on which the overpayment is refunded to the employer in accordance with this paragraph, at the same rate as the rate

for overdue withdrawal liability payments under § 2644.3. The plan sponsor shall refund the overpayment in a lump sum or through revision of the schedule of payments, subject to the restrictions in paragraphs (d)(1) and (d)(2):

(1) If the amount of withdrawal liability paid by the employer, including interest on the overpayment, exceeds the total amount of withdrawal liability owed by the employer, the plan sponsor shall immediately refund the excess in a lump sum.

(2) If the overpayment is refunded by revising the schedule of payments, the amount of the overpayment (plus interest) shall be credited against future scheduled payments, and no further scheduled payments (or portion of a scheduled payment) shall become due until the overpayment (plus interest) has been refunded.

§ 2644.3 Interest on overdue and defaulted withdrawal liability.

(a) *Interest assessed.* The plan sponsor of a multi-employer plan—

(1) shall assess interest on overdue withdrawal liability payments from the due date, as defined in paragraph (c)(1) of this section, until the date paid, as defined in paragraph (d) of this section; and

(2) in the event of a default, may assess interest on any accelerated portion of the outstanding withdrawal liability from the due date, as defined in paragraph (c)(2) of this section, until the date paid, as defined in paragraph (d) of this section.

(b) *Interest rate.* Except as otherwise provided in rules adopted by the plan consistent with § 2644.4(a), interest under this section shall be charged or credited for each calendar quarter as a rate equal to the average quoted prime rate on short-term commercial loans for the fifteenth day (or next business day if the fifteenth day is not a business day) of the month preceding the beginning of each calendar quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 ("Selected Interest Rates"). Interest shall be compounded at the end of each calendar quarter.

(c) *Due date.* Except as otherwise provided in rules adopted by the plan, the due date from which interest accrues shall be—

(1) for an overdue withdrawal liability payment, the date on which the payment is required to be made under the schedule of payments established by the plan for the employer; and

(2) for an amount of withdrawal liability in default, the date on which the first payment which was not timely made and was not paid before the date of the default, is required to be made under the schedule of payments.

(d) *Date paid.* Any payment of withdrawal liability shall be deemed to have been paid on the date on which it is recieved.

§ 2644.4 Plan rules concerning overdue and defaulted withdrawal liability.

(a) *Plan rules permitted.* Plans may adopt rules relating to overdue and defaulted withdrawal liability, provided that those rules are consistent with the Act. These rules may include, but are not limited to, rules for determining the rate of interest to be charged on overdue and defaulted withdrawal liability (provided that the rate reflects prevailing market rates for comparable obligations); rules providing reasonable grace periods during which late payments may be made without interest; additional definitions of default which indicate a substantial likelihood that an employer will be unable to pay its withdrawal liability; and rules pertaining to acceleration of the outstanding balance on default. Plan rules adopted under this section shall be reasonable. Plan rules shall operate and be applied uniformly with respect to each employer, except that the rules may take into account the creditworthiness of an employer. Rules which take into account the creditworthiness of an employer shall state with particularity the categories of creditworthiness the plan will use, the specific differences in treatment accorded employers in different categories, and the standards and procedures for assigning an employer to a catagory.

(b) *Notice to employers and employee organizations.* The plan sponsor shall mail a notice to each employer and employee organization concerning adoption of plan rules under this part, as required by section 4214(b) of the Act. In addition, the plan sponsor shall mail a notice of any rule relating to overdue or defaulted withdrawal liability to each employer that has withdrawn from a plan and has not paid its total withdrawal liability before the rule is adopted.

Issued at Washington, D.C. on this 8th day of February, 1983.

Raymond Donovan,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this Notice of Proposed Rulemaking.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 83-3249 Filed 2-11-83; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Cancellation of Public Hearing on Modified Portions of the Ohio Regulatory Program and Abandoned Mine Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Cancellation of public hearing.

SUMMARY: OSM is announcing the cancellation of a public hearing on the adequacy of proposed amendments to the Ohio permanent regulatory program and the Abandoned Mine Reclamation Plan (hereinafter referred to as the Ohio regulatory program and the AML plan) under the Surface Mining Control and Reclamation Act of 1977. This notice cancels the public hearing but does not alter the time and location at which the Ohio regulatory program, the AML plan, and proposed amendments are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program amendments.

DATE: The following hearing is cancelled: The public hearing on the proposed amendments to the Ohio program scheduled for February 25, 1983, at 1:00 p.m.

ADDRESS: Written comments should be mailed or hand-delivered to: Ms. Nina Rose Hatfield, Field Office Director, Ohio Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Field Office Director, Ohio Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227. Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION: On January 21, 1983, notice of opportunity for a public hearing on the proposed amendments to the Ohio program was published in the **Federal Register** (48 FR 2800). The notice stated that any person interested in making an oral presentation at the hearing should

contact Ms. Hatfield by February 3, 1983, and that if no person contacted Ms. Hatfield to express an interest in participating in the hearing by the above date, the hearing would be cancelled. Because no one expressed an interest in attending the hearing, the hearing has been cancelled.

While there is no public hearing, interested persons may still submit written comments on the proposed amendments. Written comments must be received on or before 4:30 p.m. on February 25, 1983, to be considered in the Director's decision on whether to approve or disapprove the amendments. Written comments should be mailed or hand-delivered to the address listed above under "**ADDRESS**".

Dated: February 8, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 83-3940 Filed 2-11-83; 8:45 am]

BILLING CODE 4310-05-M

PANAMA CANAL COMMISSION

35 CFR Part 10

Privacy Act of 1974; Access To Information Concerning Individuals; Proposed Exemption From Access of System of Records

AGENCY: Panama Canal Commission.

ACTION: Proposed rule.

SUMMARY: The proposed rule would exempt a system of records called Administrative Reports, PCC/GSCX-1, from certain provisions of the Privacy Act of 1974. The general effect of the exemption would be to make information in the system inaccessible to the subjects of the records and to others whose access to such records is not authorized. The system consists of information maintained by the Support Services Branch of the Panama Canal Commission, and the exemption is needed because the function of the Branch includes receiving and filing copies of investigatory reports from Government of Panama law enforcement authorities on Commission employees, their dependents, and other eligible persons who have been arrested by or have otherwise become involved with Government of Panama authorities. The office acquires such copies and generates additional reports in the process of providing assistance to such individuals in compliance with certain requirements of the Panama Canal Treaty of 1977. The system also contains copies of investigatory reports originated by U.S. military authorities on individuals who have been involved in shoplifting or other misconduct which have been referred to the Support Services Branch for review, clarification, counselling, and administrative action. In addition, the system contains copies of reports of disposition of cases involving abuse of purchase and importation privileges for reference purposes. Divulging the information in the system could impede efforts to assist Panama Canal Commission employees or their dependents when such assistance is required.

Since the purpose of this rule is to exempt a narrow class of records concerning individuals from the access and contest provisions of the Privacy Act, no small entities would be affected by its implementation. Accordingly, the agency has determined that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, sections 603 and 604 of 5 U.S.C. do not apply to the regulation proposed in this document, and the head of the agency so certifies pursuant to 5 U.S.C. 605(b). Further, for the same reasons, this proposed rule is not considered to be a major rule as defined in section 1(b) of Executive Order 12291 of February 17, 1981.

DATES: Comments must be received on or before March 16, 1983. The proposed effective date for this rule is March 17, 1983.

ADDRESS: For comments: Secretary, Panama Canal Commission, Room 312, Pennsylvania Building, 425 13th Street, NW., Washington, D.C. 20004; or Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Fuller, Assistant to the Secretary for Commission Affairs, Panama Canal Commission, Room 312, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004 (telephone 202-724-0104).

List of Subjects in 35 CFR Part 10

Privacy.

PART 10—[AMENDED]

Under the Privacy Act of 1974, 5 U.S.C. 552a, the Panama Canal Commission proposes to amend Part 10 of 35 CFR by adding a new paragraph (a)(2)(xxix) to 35 CFR 10.22 to read as follows:

§ 10.22 Specific exemptions.

(a) * * *

(2) * * *

(xxix) Administrative Reports, PCC/GSCX-1.

Dated: December 17, 1982.

D. P. McAuliffe,

Administrator.

[FR Doc. 83-3911 Filed 2-11-83; 8:45 am]

BILLING CODE 3640-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[W7-FRL 2306-1]

Kansas Corporation Commission Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the Kansas Corporation Commission requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part the application of the Kansas Corporation Control Commission to regulate Class II wells.

DATES: Requests to present oral testimony should be filed by March 11, 1983. A public hearing will be held on March 18, 1983, beginning at 9:00 a.m. Written comments must be received by March 25, 1983. EPA reserves the right to cancel the Public Hearing should there be no significant public interest. Those persons having expressed interest will be notified of the cancellation.

ADDRESSES: Comments and/or requests to testify should be mailed to William Pedicino, Ground Water Section, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the application and pertinent materials are available between 8:00 a.m. and 4:00 p.m. Monday through Friday, at the following locations:

Environmental Protection Agency, Region VII, Room 1320, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374-2576

Kansas Corporation Commission, 200 Colorado Derby Building, 202 West 1st

Street, Wichita, Kansas 67202, (316) 263–3238

Kansas Department of Health and Environment, Forbes Field, Topeka, Kansas 66620, (913) 862–9360 Ext. 221

Kansas Corporation Commission, 4th Floor, State Office Building, Topeka, Kansas 66612, (913) 296–2864

The hearing will be held at the Sedgwick County Health Department, 1900 East 9th Street, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: William Pedicino, Ground Water Section, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374–6514. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: The application from Kansas Corporation Commission is for the regulation of Class II oil and natural gas related injection wells.

The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/l of total dissolved solids. If this application from Kansas is approved, the State would protect underground sources of drinking water from endangerment by the injection practices associated with wells which are used to inject fluids for oil or natural gas production, enhanced recovery of oil or natural gas or for storage of hydrocarbons. At present, Kansas has in excess of fifteen thousand (15,000) Class II wells.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 123 which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part; and may not all apply to this particular notice:

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—Lands, Reporting and recordkeeping, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

This application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and the memorandum of agreement between the Kansas Corporation Commission and the Region VII office of the Environmental Protection Agency.

Dated: February 3, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83–3894 Filed 2–11–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 123

[W–5 FRL 2306–2]

Ohio Department of Natural Resources Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the Ohio Department of Natural Resources requesting approval of its Underground Injection Control program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary either to approve, disapprove, or approve in part and disapprove in part the application from the Ohio Department of Natural Resources to regulate Classes I, II, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by March 14, 1983. A public hearing will be held on March 28, 1983, beginning at 9:00 a.m. Written comments must be received by March 14, 1983. EPA reserves the right to cancel the hearing should there be no significant public interest. Notice of cancellation will be published in the **Federal Register**.

ADDRESSES: Comments and requests to testify may be mailed to Karen Theisen, Ground Water Section (5WD–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the application and pertinent material are available for inspection and copying between 10:00 a.m. and 5:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region V Library, 14th Floor, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 253–2022

Ohio Department of Natural Resources, Division of Oil and Gas, Fountain Square, Columbus, Ohio 43224, (614) 265–6922

The hearing will be held at the Ohio Department of Natural Resources, Division of Oil and Gas, Building E, Assembly Center, Fountain Square, Columbus, Ohio.

FOR FURTHER INFORMATION CONTACT: Karen Theisen, Ground Water Section (5WD–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6194. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: The application from the Ohio Department of Natural Resources is for the regulation of Classes I, II, III, IV, and V injection wells.

The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/1 of total dissolved solids. If this application from Ohio is approved, the State would protect underground sources of drinking water from endangerment by the following kinds of injection practices:

Class I—wells which are used to inject municipal and industrial wastes (including hazardous wastes) below the deepest USDW in the area.

Class II—wells which are used to inject fluids for oil or natural gas production, enhanced recovery of oil or natural gas or for storage of hydrocarbons.

Class III—wells which are used to inject for the extraction of minerals.

Class IV—wells which are used to inject hazardous wastes into or above USDWs.

Class V—all other wells.

At present, Ohio has sixteen (16) Class I wells, three thousand twenty one (3021) Class II wells, thirty (30) Class III wells, ten (10) Class IV wells and two thousand eight hundred and fourteen (2814) Class V wells. Class I, II, and III wells would require a permit to operate. The permit would apply a number of technical requirements designed to assure that the injection did not result in native or injected fluids reaching USDWs. Such requirements include criteria for sitting, construction, testing, operation, monitoring and abandonment. Class IV wells would be prohibited. Class V wells would be studied to assess what further regulatory measures are required. A full

control program for Class V wells would be developed approximately three years from the date of approval of the State application for primacy. In the meantime, existing State requirements would continue to be applied.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 123, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subject in 40 CFR Part 123

Hazardous materials, Indians—Lands, Reporting and recordkeeping requirements, Waste Treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

This application includes a description of the State Underground Injection Control program, copies of all applicable regulations and forms, a statement of legal authority, and the memorandum of agreement between the Ohio Department of Natural Resources and the Region V office of the Environmental Protection Agency.

Dated: February 3, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-3895 Filed 2-11-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[W-5-FRL 2300-3]

Wisconsin Department of Natural Resources Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the Wisconsin Department of Natural Resources requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application of the Wisconsin Department of Natural Resources to regulate Classes I, II, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by March 17, 1983. The pubic hearing will be held on March 31, 1983, beginning at 9:00 a.m. Written comments must be received by March 17, 1983. EPA reserves the right to cancel the hearing should there be no significant public interest. Notice of cancellation will be published in the **Federal Register.**

ADDRESSES: Comments and requests to testify should be mailed to Richard Traub, Ground Water Section (5WD-26), Environmental Protection Agency, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604. Copies of the application and pertinent materials are available for copying between 10:00 a.m. and 5:00 p.m. Monday through Friday, at the following locations:

Environmental Protection Agency, Region V Library, 14th Floor, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2022

Wisconsin Department of Natural Resources, Bureau of Water Supply, G.E.F. 2 Building, 101 South Webster, Madison, Wisconsin 53707

The hearing will be held at the Wisconsin Department of Natural Resources, G.E.F. 3 Building, Room 11, 125 South Webster, Madison, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Richard Traub, Ground Water Protection Section (5WD-26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6193.

SUPPLEMENTARY INFORMATION: The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifiers capable of yielding a significant amount of water containing less tha 10,000 mg/l of total dissolved solids. If this application from Wisconsin is approved, the State would protect underground sources of drinking water from endangerment by banning all Class IV injection wells and prohibiting all Class I, II, and III wells. Also, Class V(b) wells would be prohibited.

Class V wells will be studied to assess whether further regulatory measures are required. In the meantime, existing State requirements will continue to be applied.

At present, Wisconsin has no known Class I, II, III, or IV wells. There are less that fifty (50) Class V wells extant.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 123, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—Lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

This application from the Wisconsin Department of Natural Resources is for the regulation of all injection wells in the State. The application includes a description of the State Underground Injection Control Program, copies of all applicable statutes and rules, a statement of legal authority and a proposed memorandum of agreement between the Wisconsin Department of Natural Resources and Region V office of the Environmental Protection Agency.

Dated: February 3, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-3896 Filed 2-11-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 567

[Docket No. 83-02; Notice 1]

Certification; Grant of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of petition for rulemaking and notice of proposed rulemaking.

SUMMARY: This notice grants a petition submitted by the National Truck Equipment Association asking for simplication of the requirements in the agency's certification regulation regarding the certification label for final-stage manufacturers of trucks manufactured in two or more stages. The notice also proposes to adopt the requested changes. Those changes would permit a more generalized final-stage manufacturer's label that would not include the specific listing of safety standards by their numbers. Manufacturers wishing to continue to use labels identifying the specific standards would be permitted to do so.

DATES: Comments must be submitted no later than April 15, 1983. The proposed effective date is the date of publication of the final rule in the **Federal Register**.

ADDRESSES: Comments should refer to the docket number and be submitted to Docket Section, Room 5109 Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours are 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. Roger Tilton, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–9511).

SUPPLEMENTARY INFORMATION: Part 567, *Certification*, establishes the requirements for all manufacturers of motor vehicles to certify that their vehicles comply with all applicable motor vehicle safety standards. In the case of motor vehicles that are manufactured in two or more stages, chassis-cab manufacturers and intermediate manufacturers who work with chassis cabs are also required to attach labels to their vehicles indicating the extent to which each has assisted in completing the compliance of the vehicles with the safety standards. The requirements for labeling for the chassis-cab and intermediate manufacturers arose from the court decision in *Rex Chainbelt* v. *Brinegar*, 511 F.2d 1215 (7th Cir. 1975), where the court indicated that all manufacturers in the chain of manufacturing should certify compliance to the degree their work affects the vehicle. Prior to that decision, only the final-stage manufacturer certified the compliance of a multi-stage vehicle.

Part 567, which was extensively amended as a result of *Rex Chainbelt*, is quite complex. It requires chassis-cab, intermediate, and final-stage manufacturers of multi-stage vehicles to make several statements on their certification labels relating to the effect of their manufacturing process on the compliance of the vehicle with the safety standards. Use of these multiple statements requires the listing of many standards by their standard number on each label. Final-stage manufacturers can avoid this time-consuming listing of standards by electing to use an abbreviated certification statement that simply indicates that their vehicles comply with all applicable motor vehicle safety standards. However, few final-stage manufacturers make this statement, because they fear potential product liability from making such a broad representation on the certification label. In effect, they believe that this statement, if made by them, would make them responsible for the compliance of all of the safety standards, even those previously certified by another manufacturer. The agency has always disagreed with this argument and has encouraged the use of the abbreviated label. For several years, representatives of the final-stage manufacturers have asked the agency to devise a more general label that would obviate the need to list standards and yet provide limited liability for those manufacturers.

The National Truck Equipment Association (NTEA) has petitioned the agency to amend the labeling requirements for the final-stage manufacturers to simplify the label. Most final-stage manufacturers are very small with limited facilities. Many of these manufacturers add a body onto a prepared chassis or install work performing equipment on a chassis. They are familiar with the operation that they perform and have learned how to it without affecting the compliance with the safety standards or to complete the compliance with the safety standards. However, they are unaware of many of the other standards that they would not normally affect, but which they now list in various sections of their certification label. NTEA asserts that this complexity increases the burden on these small manufacturers without providing any identifiable benefit.

The NTEA recommends that the agency amend the certification requirements for the final-stage manufacturers to allow the label to be more general. In most cases, the final-stage manufacturer does not affect the compliance of the standards that have been previously certified by the chassis-cab or intermediate vehicle manufacturer. Also, in most cases, they complete the vehicle in accordance with the instructions in the incomplete vehicle document. In these cases, the NTEA argues, the label could be generalized in such a manner that reference to specific standards could be completely deleted. This would permit the development of a form label that would not require the time-consuming addition of significant amounts of specialized information by the final-stage manufacturer. This could substantially reduce the burden of certifying for these manufacturers.

The NTEA recommends also that use of the existing, more complex label be retained as an option that can be used by any final-stage manufacturer. Under NTEA recommendations, the detailed label would have to be used by those final-stage manufacturers who do not follow the instructions in the incomplete vehicle documents or who affect the compliance of standards that were previously certified by the chassis-cab or intermediate vehicle manufacturers.

The NTEA proposal would not make any change to existing label requirements for the chassis-cab and intermediate manufacturers. The chassis-cab manufacturers in particular are usually larger manufacturers who are much more familiar with the safety standards and are not in need of this type of relief. Also, the existing label is somewhat beneficial for those manufacturers since it allows them to be very specific in the safety standards for which they are claiming responsibility.

The agency tentatively agrees with the NTEA proposal. For years, NHTSA has sought ways to reduce the burden on final-stage manufacturers that was created by the certification scheme implemented in 1977. The agency believes that this proposal has the potential for achieving that relief. If adopted, the new regulation would allow three optional certification methods for final-stage manufacturers.

First, manufacturers would be permitted to certify in accordance with the long and very specific method that most are using today. Some of the larger final-stage manufacturers may like this, since it is more specific with respect to their responsibility.

Second, manufacturers would be permitted the use of the more generalized label, being proposed today, if they do not alter compliance of previously certified standards and if they follow the instructions of the incomplete vehicle manufacturer. The label would read:

> Conformity of the chassis-cab to Federal Motor Vehicle Safety Standards, which have been previously fully certified by the incomplete vehicle manufacturer or by the intermediate vehicle manufacturer, has not been affected by final-state manufacture. The vehicle has been completed in accordance with prior manufacturer's instructions, where applicable. This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year).

Third, final-stage manufacturers would still be able to use the abbreviated label that simply states: "This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards in effect in (month, year)." The agency continues to encourage this latter approach since it can be used by all final-stage manufacturers in all situations and is much simpler than even the modified label being proposed today. NHTSA views manufacturer reluctance to use this abbreviated label based upon product liability concerns to be unfounded. Although the label

appears to be a broad assertion of responsibility, it is attached to the vehicle near the labels of the chassis-cab or intermediate manufacturer. These other labels specify the responsibility of those manufacturers. Accordingly, it seems unlikely in most foreseeable instances that the final-stage manufacturer will be made to bear the full responsibility for compliance of the vehicle. In any product liability action, it is likely that all manufacturers whose labels are on the vehicle will be included in the suit regardless of the statements on those labels. In such a suit, the findings of fact will determine the responsible party. The existence on the vehicle of the other labels would help to reduce the responsibility of the final-stage manufacturer. The agency requests commenters to identify any case law that would support the proposition that the abbreviated label would increase the final-stage manufacturer's potential liability especially given the existence of the one or two other manufacturer's labels that would remain on the vehicle.

The agency is proposing that this amendment become effective upon publication of the final in the **Federal Register**. Since the proposal is an alternative and since it would relieve compliance burdens, it should be effective as soon as possible. Manufacturers could continue to use their existing labels until such time as they choose to change to the new system. Accordingly, no adverse economic consequences would result from an immediate effective date.

Executive Order 12291

The agency has evaluated the economic and other effects of this proposed amendment and has determined that it is not major as defined by Executive Order 12291 nor significant as defined by the Department of Transportation's regulatory policies and procedures. The proposed amendment simply allows a shortened certification technique for final-stage manufacturers but would permit them to continue to certify in the same manner that they certify at present if they choose. Accordingly, the only economic result might be a slight reduction in the cost of certification for those entities that choose the new certification format. Because the economic and other impacts are minimal, conducting a full regulatory evalution is not necessary.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, the agency has evaluated the effects of this action on small entities. Based upon this evaluation, the Administrator certifies that the proposed amendments to Part 567 will not have a significant economic effect on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared.

While many of the final-stage manufacturers that will be affected by this proposed amendment are considered small as defined by the Regulatory Flexibility Act, the effect of the proposal on them, if any, would only be slight. The amendment would not impose any additional costs and might in fact slightly reduce costs for them. Most important, the proposed amendment will potentially reduce confusion and complexity in the certification of their vehicles. Since the cost effects on manufacturers would be minimal, the effects on vehicle prices, and thus on small organizations and governmental units that might purchase new multi-stage vehicles, would be negligible.

National Environmental Policy Act

The agency has also analyzed this proposal for the purposes of the National Environmental Policy Act. The agency has determined that the proposed amendments to Part 567 will not have any significant effect on the human environment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 567

Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Reporting and recordkeeping requirements.

PART 567—[AMENDED]

In accordance with the foregoing, the following amendments are proposed to Title 49, Chapter V, of the Code of Federal Regulation, Part 567, Certification:

§ 567.5 [Amended]

Paragraph (c)(7) would be revised to read as follows:

* * * * *

(c) * * *

(7) One of the following statements as appropriate. Statements (i), (ii), and (iii) are alternative certification statements. Statement (i) may be used by manufacturers meeting the requirements described in the instruction portion of that paragraph. Statements (ii) and (iii) may be used by any final-stage manufacturer.

(i) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standards, which have been previously fully certified by the incomplete vehicle manufacturer or intermediate vehicle manufacturer, has not been affected by final-stage manufacture. The vehicle has been completed in accordance with the prior manufacturer's instructions, where applicable. This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year)." The preceding statement shall be used only in cases in which the final-stage manufacturer has: (A) Not affected conformity to standards compliance with which has been fully certified by a chassis-cab manufacturer pursuant to paragraph (a)(1) of this section or by an

intermediate manufacturer pursuant to paragraphs (b)(1)(i) or (b)(1)(ii) of this section, and (B) has completed the vehicle in accordance with the prior manufacturer's instructions in regard to standards listed, as appropriate, in a chassis-cab manufacturer's conditional statement under paragraph (a)(2) of this section or in an intermediate manufacturer's conditional statement under paragraph (b)(2) of this section. The date shown in the third sentence of the statement shall be not earlier than the manufacturing date of the incomplete vehicle, and not later than the date of completion of final-stage manufacture.

(ii) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standards Nos.——has not been affected by final stage manufacture. With respect to Standards Nos.——, the vehicle has been completed in accordance with the prior manufacturer's instructions. This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year). The first sentence of the preceding statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was made by a chassis-cab manufacturer pursuant to paragraph (a)(1) of this section or by an intermediate manufacturer pursuant to paragraphs (b)(1)(i) or (b)(1)(ii) of this section. The second sentence of the statement shall be completed by inserting the numbers of all or less than all of the standards and only those standards, respecting which the latest prior certification statement was a chassis-cab manufacturer's conditional statement under paragraph (a)(2) of this section or an intermediate manufacturer's conditional statement under paragraph (b)(2) of this section. The date shown in the third sentence of the statement shall be not earlier than the manufacturing date of the incomplete vehicle, and not later than the date of completion of final-stage manufacture.

(iii) "This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards in effect in (month, year)."

The date shown shall be not earlier than the manufacturing date of the incomplete vehicle and not later than the date of completion of final-stage manufacture.

(Secs. 103, 108, 114, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1403, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 9, 1983.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 83–3899 Filed 2–11–83; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

Atlantic Sea Scallops

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearing.

SUMMARY: The New England Fishery Management Council (Council) will hold a public hearing (concurrently with its February meeting) to allow for input on the current status of the Atlantic sea scallop fishery.

DATES: The hearing will be held on February 23, 1983, at 1:00 p.m.

ADDRESS: The hearing will be held at the Kings Grant Inn, Route 128 N at Trask Lane, Danvers, Massachusetts 01923.

FOR FURTHER INFORMATION CONTACT: Douglas Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, Massachusetts 01906. (617) 231–0422.

SUPPLEMENTARY INFORMATION: The regulations for Atlantic sea scallops (47 FR 35955) require the Regional Director (RD), Northeast Region, to review the status of the Atlantic sea scallop resource on a continuing basis and prepare a report concerning the status of the fishery and possible changes in the resource, fishery, or industry which might require adjustment of the management program. The program's standards can be adjusted within a range from 25 to 40 sea scallop meats per pound, but by no more than 5 meats per pound by any one adjustment. The RD shall solicit and consider any recommendation of the Council regarding adjustment of the standards. He shall provide, with the Council, for public notice and comment, and hold a public hearing on the recommendation, in conjuction with the Council meeting at which the recommendation is discussed.

Dated: February 8, 1983.

Joe P. Clem,

Acting Chief, Operation Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–3717 Filed 2–11–83; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 48, No. 31
Monday, February 14, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Order 83-2-29]

Aeral; Order to Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause; Order 83-2-29.

SUMMARY: The Board proposes to dismiss the application of Aeral-Aeronoleggi e Lavoro Aereo, S.p.A. d.b.a. Aeral for a foreign air carrier permit under section 402 of the Federal Aviation Act of 1958.

Objections

All interested persons having objections to the Board's tentative findings and conclusions, as described in the order cited above, shall, no later than February 22, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 36700, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all affected carriers, the Departments of State and Transportation and the Attorney General.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will make final the Board's tentative findings and conclusions and issue the proposed certificate.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, (202) 673-5203, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 8, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-3944 Filed 2-11-83; 8:45 am]

BILLING CODE 6320-01-M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit, willing and able to provide commuter air carrier service under Section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
83-2-20	Catalina-Seaboard Airlines, Inc. d.b.a. Spirit Aire	February 25, 1983.
83-2-21	East Coast Airways, Ltd	Do.
83-2-22	Eastmen Airways, Inc	February 28, 1983.
83-2-23	Virgin Air, Inc	Do.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Nicholas Lowry for Order 83-2-20 at (202) 673-5088; Mr. Robert Klothe for Order 83-2-21 at (202) 673-5822; Mr. Paul Samuel Smith for Order 83-2-22 at (202) 673-5450; and Ms. Carolyn S. Kramp for Order 83-2-23 at (202) 673-5919; Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428

By the Civil Aeronautics Board: February 8, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-3942 Filed 2-11-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41163]

Newark-London Back-Up Case; Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-titled matter will be held on February 15, 1983, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., February 9, 1983.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 83-3943 Filed 2-11-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Final Affirmative Countervailing Duty Determination; Railcars From Canada

AGENCY: International Trade Administration, Commerce.

ACTION: Final Affirmative Countervailing Duty Determination.

SUMMARY: We have determined that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to Bombardier, Inc., a manufacturer and exporter in Canada of railcars described in the "Scope of Investigation" section of ths notice. The estimated net subsidy is $110,565 per finished or unfinished railcar manufactured, produced, or exported by Bombardier, Inc., and intended for purchase or use by the Metropolitan Transportation Authority of New York. The U.S. International Trade Commission will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the later of 120 days after the Department made its preliminary determination or 45 days after publication of this notice.

EFFECTIVE DATE: February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW.,

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Washington, D.C. 20230, telephone: (202) 377–1785.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to Bombardier, Inc. (Bombardier), a manufacturer and exporter in Canada of railcars as described in the "Scope of Investigation" section of this notice.

The following programs are found to confer subsidies.

- Export credit financing
- Federal and provincial regional grants.

We determined the net subsidy to be $110,565 per railcar produced by Bombardier and intended for purchase or use by the Metropolitan Transportation Authority of New York (MTA).

Case History

On June 24, 1982, we received a petition from the Budd Company (Budd), a U.S. producer of railcars, filed on behalf of the U.S. industry producing railcars. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Canada of railcars.

In addition, on July 14, 1982, the Industrial Union Department, AFL–CIO, the United Automobile and Aerospace Workers, and the United Steelworkers of America, which claimed to represent members in the United States subway car manufacturing industry and supplying industries, requested status as co-petitioners in this proceeding. Budd and the unions were found to be "interested parties" within the meaning of section 771(9) of the Act.

We found the petition to be sufficient and initiated a countervailing duty investigation on July 14, 1982 (47 FR 31415). We stated that we expected to issue a preliminary determination by September 17, 1982. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until November 22, 1982 (47 FR 39225).

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the International Trade Commission (ITC) of our initiation. On August 8, 1982, the ITC determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, U.S. industry (47 FR 36042).

We presented the questionnaire concerning the allegations to the government of Canada in Washington, D.C. We received the response to the questionnaire on September 27, 1982. In addition, on October 8, 1982, we received a response from Bombardier to those questions in the Canadian government questionnaire which were related specifically to the company itself. Bombardier was the only company identified by the Canadian government as a manufacturer, producer, or exporter of the merchandise under investigation. Supplemental questionnaires were presented and responses received from Bombardier and the Canadian government on October 25 and 26, 1982.

A questionnaire was also sent to MTA, the only known purchaser of railcars under investigation. Although MTA is not an interested party under section 771(9) of the Act, it agreed to answer the questionnaire. The MTA response was received on October 26, 1982.

On November 22, 1982, we preliminarily determined that the government of Canada was providing its manufacturers, producers, and exporters of railcars with benefits that are subsidies within the meaning of the countervailing duty law (47 FR 53760).

On December 15–17, 1982, we verified in Canada the questionnaire responses submitted by the government of Canada and Bombardier.

Our notice of preliminary determination gave interested parties an opportunity to submit written and oral views. Subsequently, by memorandum of December 23, 1982, we notified all interested parties and MTA that the Department was considering using in its final determination several valuation methods which differed from those employed in our preliminary determination. We briefly described these proposed methods to encourage the parties to submit factual information which would help us determine whether the proposed methodologies were appropriate for this case and, if appropriate, what factual assumptions were relevant in making the proper calculations.

We held a public hearing on January 6, 1983, at which Budd, Bombardier, and MTA participated.

Scope of Investigation

The merchandise covered by this investigation consists of passenger railcars, assembled or unassembled, finished or unfinished, components, and parts and accessories thereof and/or to be used therewith. This merchandise is currently classifiable under the following *Tariff Schedules of the United States* numbers, *inter alia:* 646.92, 646.95, 647.01–647.10, 653. 39, 680.14–680.28, 680.30–680.33, 682.95–683.16, 685.90, 688.06–688.07, 690.10, 690.30, 690.40, 772.35. The passenger railcars are primarily used as subway cars.

Bombardier is the only known producer and exporter in Canada of the merchandise exported to the United States. Hawker Siddeley Canada, Ltd. (Hawker Siddeley), another possible producer and exporter of this merchandise, requested an exclusion from this determination. Hawker Siddeley does not have any contract to export the subject merchandise to the United States at this time. Furthermore, the allegations of subsidies made by petitioners concerned only the Bombardier/MTA transaction. No allegations have been made that Hawker Siddeley has or will benefit from subsidies like those found to exist in this investigation. Therefore, we need not act on Hawker Siddeley's request for exclusion, because this final determination applies only to the subject merchandise manufactured, produced, or exported by Bombardier and intended for purchase or use by MTA.

Given the nature of this industry where there is a substantial lead time prior to actual imports of merchandise, the Department could easily conduct a separate investigation should it become apparent that future exports to the United States by Hawker Siddeley or any other Canadian railcar manufacturer, producer, or exporter receives countervailable benefits which cause or threaten to cause material injury to a domestic industry.

Analysis of Programs

Based upon our analysis of the petition, responses to our questionnaires, and comments received before, during, and after the public hearing held on January 6, 1983, we determined the following:

Programs Determined To Confer Subsidies

We have determined that subsidies are being provided under the programs listed below to Bombardier, a manufacturer, producer, and exporter in

Canada of passenger railcars included in this investigation.

A. *Export Credit Financing.* Before discussing our analysis of the export financing involved in this investigation, it is first necessary to understand the significant events which led to the Bombardier/MTA transaction. In April and November 1981, MTA issued two invitations for bids for a total of 1150 type R–62 railcars and 226 R–68 cars. MTA specifically requested that bids be supported by financing.

Four parties responded: Budd, Bombardier, Kawasaki (a Japanese railcar manufacturer), and Francorail (a consortium of French manufacturers). Kawasaki successfully bid for 325 R–62 cars, and on March 17, 1982, MTA announced that Kawasaki had been awarded a contract, which became effective on April 12, 1982, when the necessary export financing arrangements were finalized. Kawasaki, however, was not interested in more MTA orders at that time. As a result, only Budd, Bombardier, and Francorail remained to bid on the other 825 R–62 cars.

Bombardier's efforts to secure financing for its bid began soon after MTA's November 1981 invitation was made, when it approached the Export Development Corporation (EDC), a Canadian Crown Corporation wholly owned by the Canadian Government. EDC was created to help develop and facilitate Canada's export trade within the framework of the Canadian Export Development Act by providing insurance, guarantees, and direct export credits to buyers and sellers of Canadian manufacturers and services.

By early 1982 active negotiations had begun between MTA and EDC regarding possible EDC financing to support Bombardier's bid. On May 11, 1982, the EDC issued a "Management Letter" to MTA indicating its willingness to consider providing export credit financing to MTA of up to 85 percent of United States costs incurred by Bombardier, subject to satisfaction of EDC's Canadian content criteria, final approval of EDC's Board of Directors and the Government of Canada, and receipt of satisfactory evidence that the French competitor, Francorail, was supported by an irrevocable financing proposal in U.S. dollars in terms at least equivalent to EDC's. The May 11 EDC offer incorporated by reference terms and conditions contained in previous "indications of willingness to consider financing" issued on March 3 and May 10. These terms were as follows: financing of up to 85% of the sale price of Canadian equipment and services of up to U.S. $646 million, at an interest rate of 9.7%, repayable in 17 equal consecutive semi-annual installments commencing on the earlier of six months following final delivery of the 825 railcars or an outside date to be determined by EDC. The May 11 letter also included provisions for fees and expenses to be borne by MTA and several conditions.

On May 14, 1982, EDC amended the "Management Letters" by extending the repayment term from eight and one-half to ten years and requiring evidence only on the French interest rate.

On May 18, 1982, MTA announced that it had awarded a letter of intent to Bombardier designating Bombardier as the supplier of 825 R–62 passenger railcars to MTA. This MTA award included the express condition and understanding that EDC would make available financing at 9.7% per annum.

The terms of this Bombardier/MTA agreement were embodied in an equipment contract signed on June 10, 1982. This contract, which MTA has characterized as the beginning of a period of "exclusive dealing" between MTA and Bombardier, was expressly conditioned on its approval by the appropriate New York authorities and on a satisfactory financing agreement between MTA and EDC. At that time, EDC issued a "Management Letter" in which it was willing to finance 85% of the entire contract price up to a total credit of US $750 million (provided certain Canadian content requirements were met) at an annual rate of 9.7% per annum. Prepayment would be allowed on notice acceptable to EDC.

The details for the financing aspects of the transactions, however, were not completed by June 10 and neither MTA nor EDC had any legally binding obligation at this time to provide or take financing. The primary differences between MTA and EDC which remained to be negotiated concerned details regarding the control of Canadian content requirements; and adequate "debt service reserve" in the event that MTA was unable to make certain payments; choice of law and sovereign immunity questions; "performance bonds" in the event of Bombardier's default; and the refinement of timing, amounts, and restrictions concerning the MTA bonds to be issued for this transaction.

Negotiations finally resulted in EDC and MTA signing a loan agreement on November 15, 1982, the essence of which had been set forth in an EDC offer of October 5, 1982. The November 15 financing agreement provided that EDC would finance 85% of the Bombardier/MTA contract price up to US $750 million (subject to Canadian content limitations) at 9.7% per annum. Drawdowns would coincide with progress payments due upon the periodic shipment of cars to MTA. In exchange, MTA would provide EDC with bonds whose exercise date corresponded with particular drawdowns. The bonds would mature in equal amounts at six-month intervals commencing six months after the final car delivery and ending in 1997. MTA is to pay EDC a loan commitment fee, in addition to other administrative costs, of 0.5% per annum on the unused portion of the $750 million credit available. EDC's obligation to accept MTA's bonds and issue credit is conditioned on MTA maintaining a specified credit rating.

In this case, on June 10 the EDC export credit financing arrangement included five different and mutually exclusive elements of possible value bestowed by the Government of Canada and of economic benefit to Bombardier, Inc:

1. MTA's opportunity to finance at 9.7% has an *intrinsic value* since interest rates commercially available to MTA on June 10 were higher than the EDC interest rate offer.

2. MTA's ability to use or not use the fixed-rate EDC financing throughout the contract performance period, regardless of future interest rates, adds an *option value.*

3. The *commitment of EDC to make up to $750 million available* for this sale/purchase (regardless of interest rate) has a value which is reflected in the commitment fee charged by EDC.

4. *EDC's assumption of the cost of the interest charges* Bombardier would have incurred to obtain comparable financing also has a value. If the MTA's EDC Class Bonds were considered fully negotiable on June 10 by EDC, the value is the cost of financing the commitment to provide an option; otherwise, if non-negotiable, the value is the higher cost of carrying MTA's non-negotiable 9.7% promissory notes until maturity.

5. The financing arrangement denominated in the U.S. dollars has potential value in that it could expose the financing arrangement to a *foreign exchange risk* which is assumed by EDC on Bombardier's behalf. However, if the MTA EDC Class Bonds denominated in U.S. dollars were considered fully negotiable on June 10 by the EDC, there is no exchange rate risk assumed on Bombardier's behalf since the U.S. dollars required for the financing could be procured through the sale in U.S. dollars of negotiable MTA bonds.

The Department views these elements of export credit financing provided at preferential rates by governments to

foreign producers, manufacturers, or exporters as potentially conferring a countervailable benefit directly or indirectly on the producer or exporter itself. This view is shared by other governments. For example, in Annex IV of a discussion paper on "Proposals on Import Policy" published by the Department of Finance of Canada, a subsidy is defined as including:

> * * * any financial or other commercial benefit that has accrued or will accrue, directly or indirectly, to persons engaged in the production, manufacture, growth, processing, purchase, distribution, sale, export or import of goods in or from a country other than Canada * * *

In our preliminary determination, we treated the financing offered by EDC as though it were a loan which Bombardier could have otherwise provided based on its own credit. Accordingly, we measured the countervailable benefit as the difference between the interest rates Bombardier would have paid for an equivalent amount of credit form commercial lenders and the interest actually charged by EDC.

Based on information presented since our preliminary determination, however, we have changed our analysis somewhat. Although we continue to value the benefit bestowed by EDC in terms of costs Bombardier has not had to incur, the resalability of the bonds MTA will exchange for EDC credits has minimized, but not eliminated, the importance of Bombardier's ability to borrow money.

Since this export credit financing is considered to be at rates below the commercial benchmark for a comparable financing arrangement, we are required by the Act, and permitted by Article 4(3) of the Subsidies Code, to countervail the full amount of the subsidy. Consequently, we determine that this financing arrangement confers an export subsidy within the meaning of the countervailing duty law.

Calculation of Export Credit Financing Benefits

The amount of subsidy conferred by the financing arrangement is calculated by comparing what Bombardier would pay in market rates to a commercial entity on June 10, 1982, in order to make available to MTA a financing arrangement similar in terms and conditions to the EDC financing arrangement.

Calculation of the subsidy conferred by this export credit financing depends on two key determinations. First, we have determined that EDC conferred the benefits of its eventual financing of this project on Bombardier on June 10, 1982. Therefore, all calculations are made from a June 10 perspective. We have chosen this date because it represents the date on which MTA entered into a course of exclusive dealing with Bombardier, based in large part upon the prospect of 9.7 percent EDC financing. Second, based on documents dated June 10 or earlier, it is reasonable to assume that EDC and MTA anticipated that the financing would be based on the transfer of resalable MTA bonds (and therefore was not simply a loan).

Since we consider MTA's bonds to have been completely negotiable by EDC on June 10, MTA's (rather than Bombardier's) commercial borrowing experience is relevant to the Department's valuation of the benefit conferred by MTA's right to finance at 9.7 percent on June 10. With respect to all other elements of possible value of the financing arrangement, however, the Department considers the basis for the benchmark for establishing the amount of the benefit to be the commercial financing terms available to Bombardier on June 10 under terms and conditions comparable to EDC's offer.

In each of our calculations, we considered only that amount of EDC financing which covers the present costs expressed in the equipment contract; that is 85 percent of $659 million, or $560 million. Since Bombardier and MTA have agreed to adjust the price to reflect cost escalation under the contract, the amount loaned by EDC at preferential rates may increase up to $750 million. If this occurs, the amount of the subsidy calculated in this determination will be adjusted accordingly in the course of an annual review under section 751 of the Act if a countervailing duty order is ultimately issued as a result of this investigation.

1. The Intrinsic Value

The Department calculated the intrinsic value conferred by EDC's offer to MTA of an option to borrow at a fixed rate by considering the value of a series of drawdowns at 9.7% interest. Basically, at each of the scheduled deliveries during the period of performance under the June 10 contract (1982–1987), MTA could make 85% of the payment to Bombardier by borrowing from EDC AT 9.7%. Therefore, the Department calculated the intrinsic value of the financing subsidy by calculating the differences between the EDC interest rate of 9.7% and the market value of an issue by MTA of equivalent financing on June 10, 1982, of fully negotiable EDC Class Bonds. The Department considers the interest rate to MTA to be the benchmark for this element of valuation. To represent interest rates commercially available to MTA on June 10, we used interest rates or yields based on a study of interest rates for similar tax-exempt securities for the period one week before to one week after June 10. In this connection, consideration was given to MTA's credit standing and the terms and conditions of the EDC Class Bonds, including the fact that these bonds are callable.

The Department calculated the present value of the difference between the preferential EDC financing rate and the MTA bond yields using the yields of a risk-free security, represented by U.S. treasury bills of equivalent maturities. The Department adjusted the present value of this differential to take account of selling expenses, and obtained an intrinsic value of the underlying security (which is the value to MTA of EDC's agreement to take as repayment negotiable MTA bonds at a rate of 9.7% for the period of performance under the contract). The intrinsic value of the EDC financing on June 10 equalled $65.229 million.

2. Option Value

MTA's right to use or not use at various future dates the available EDC financing at a fixed interest rate, regardless of the interest rates then prevailing commercially, has substantial value since MTA retains considerable flexibility in financing and will use the financing only when advantageous. The Department calculated the value of the benefit related to MTA's right not to put its bonds with EDC by computing the price of the nine options in the financing arrangement that were purchased to coincide with the nine delivery dates. (These are known as "European" type options; i.e., they can only be exercised at a specific time coincident with the dates of the drawdowns under the terms of the railcar purchase contract, as opposed to "American" type options which can be exercised at any time up to a specified date.) Each option price was calculated using the intrinsic value of each underlying security issue and calculating a variability around this intrinsic value over time. The variability of the intrinsic value of each option ranged between three and five percent per month. This methodology follows an analysis known as the Black-Scholes model, which is frequently used in financial markets to calculate the value of options. This option value for this financing is $16.237 million.

3. Administrative Expenses

Because MTA paid more than the commitment fee that would have been charged had this been a commercial

transaction, we subtracted from the total option price the difference between the actual commitment fee paid by MTA (.5%) and its commercial benchmark (.25%). Since all other administrative expenses borne by MTA and Bombardier were determined to be at the commercial level, further adjustments were not required.

4. Interest Charges Bombardier Would Have Incurred To Obtain Comparable Financing

Next, the Department calculated the additional benefit EDC bestowed on Bombardier by essentially financing the amount of the total option price at no cost. Since the EDC did not charge Bombardier any amount for this financing, the value of the subsidy EDC conferred upon Bombardier is increased by the financing costs Bombardier would have paid to borrow the amount necessary to pay the total option price.

As a general rule, when preferential financing is provided to one or several firms on terms that are not generally available to other enterprises in a country, we use the company's actual commercial credit experience (e.g., a contemporaneous loan from a private lender) as the relevant benchmark, as opposed to a national cost of capital which is used as the benchmark when preferential financing is generally available. The preferential financing offered by EDC in this transaction is not generally available because it is tied to an export credit package which is in derogation from the Arrangement on Guidelines for Officially Supported Export Credits of the Organization for Economic Cooperation and Development (OECD Arrangement). Other export credits offered by EDC generally conform with the OECD Arrangement. (The EDC/MTA agreement of 9.7% for up to 15 years derogates from the OECD Arrangement both in terms of interest rates and duration.)

Therefore, in this calculation, the Department used the interest rate commercially available to Bombardier on June 10, 1982, for the amounts of the financing arrangement at-risk during the period of performance under the contract. Since Bombardier had no contemporaneous borrowing experience for June 10, the Department used, as a surrogate, taxable triple-B corporate securities with maturities equal to the time Bombardier would have needed to finance the option price. This results in an additional subsidy of $12.219 million.

5. Exchange Rate Exposure

Since we have assumed that the MTA bonds contemplated when EDC conveyed a subsidy to Bombardier on June 10 were intended to be completely resalable, no exchange risk could have existed. Therefore, no further benefit was conveyed as a result of any assumptions of exchange risks.

As a result, the total present value benefit conferred upon Bombardier on June 10 by EDC's willingness to provide MTA with export credits at below commercial terms equals $90.882 million. When allocated over the entire contract, the subsidy from the EDC financing amounts to $110,160 per rail car.

B. *Federal and Provincial Regional Grants.* The Department of Regional Economic Expansion (DREE), which was created in 1969 by the government of Canada, is responsible for administering several statutes which include the Department of Regional Economic Expansion Act and the Regional Development Incentives Act. Under the DREE, grants are provided to industries to encourage growth in various Canadian regions.

In its response, Bombardier has indicated that its Mass Transit Division has received several grants from the DREE. Since the Department has consistently held that regional development benefits are countervailable, we have determined that a portion of these regional grants are subsidies within the meaning of the countervailing duty law.

Bombardier has also indicated that its Mass Transit Division has received provincial grants from the Quebec Industrial Development Corporation (SDI), a corporation established pursuant to the Quebec Industrial Development Assistance Act. SDI provides various forms of financial assistance within the province of Quebec. Such financial assistance was received by Bombardier in connection with certain contracts to manufacture various types of passenger railcars. Bombardier has indicated that certain equipment bought with these grants is used for the production of railcars within the scope of this investigation. Since these provincial development benefits are not generally available, we have determined that these provincial grants are subsidies within the meaning of the countervailing duty law.

Calculation of Federal and Provincial Regional Grant Benefits

The subsidy rate for these programs is calculated according to the Department's usual methodology for grants. As indicated in several recent determinations, our allocation technique is a present value analysis, based on the concept that a sum of money to be received in the future does not have the same value as that sum received today. The present value of any series of payments under these programs is calculated using a risk-free discount rate. For this rate, we used the average bond yields of Canadian government securities with maturities of over 10 years during the first half of 1982. In the absence of a Canadian railcar industry standard, we have examined the useful life of assets carried on Bombardier's books and find that they are reasonable in light of standard depreciation studies conducted for the railcar industry in the United States. We computed the subsidy to Bomdardier to be $405 per railcar.

Program Determination Not to Confer a Subsidy

We have determined that a subsidy is not being provided to Bombardier under the following guarantee arrangement.

The June 10 railcar purchase contract between MTA and Bombardier provides that Bombardier is to furnish MTA a guarantee agreement for the performance of Bombardier's obligations under the contract and for any damages incurred as a result of Bombardier's breach of the contract. On November 15, Bombardier agreed to pay EDC to guarantee MTA that EDC would pay up to U.S. $200 million if Bombardier was either in material default under the contract or became insolvent. A subsidy arises to the extent that the fee paid to EDC by Bombardier to purchase this guarantee does not at least equal the market value of the same guarantee Bombardier could have obtained from a commercial guarantor.

On the basis of information in the record of this investigation, it appears that this guarantee was purchased by Bombardier at a fee exceeding the amount which it would be reasonable to expect a commercial surety underwriter to charge for a comparable guarantee. Therefore, we determine that this guarantee does not confer a subsidy within the meaning of the countervailing duty law since it is not provided at a preferential rate.

Comments of Budd, Bombardier, and MTA

1. In supporting the Department's preliminary determination, Budd contends that the appropriate interest rate against which to compare the subsidized financing offered by the EDC is the commercial interest rate available to Bombardier in Canada in finance a comparable transaction under terms identical or most similar to those offered by EDC.

Bombardier, on the other hand, contends that established Departmental

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practice measures subsidies resulting from preferential financing exclusively in terms of the commercial, interest rates available to the *recipient* of the preferential loan. Accordingly, since MTA rather than Bombardier is the recipient of the EDC financing, Bombardier asserts that the Department erred in measuring any subsidy resulting from the EDC financing in terms of commercial interest rates available to Bombardier. Rather, MTA's interest rate is the correct benchmark. MTA also contends that Bombardier's ability to borrow is irrelevant to our calculations.

DOC Position

The Department's function is administering the countervailing duty law is to measure what, if any, preferences are provided directly or indirectly with respect to the manufacture, production, or exportation of the investigated merchandise. This is calculated in terms of the non-commercial advantage that the foreign manufacturer, producer, or exporter receives as a result of a preferential treatment. Therefore, any benefit accruing to Bombardier as a result of the EDC financing must be measured in terms of the commercial realities confronting Bombardier.

The administrative practice referenced by Bombardier—that is, where the benefit is measured in terms of the commercial interest rates available to the loan recipient—relates to cases involving only two parties: the lender, and the foreign manufacturer, producer, or exporter. This case, however, involves a third party—the purchaser, MTA—which has contracted with EDC to finance the transaction. Thus, the word "recipient" used in the two-party transactions to describe the beneficiary of the subsidy (who also receives the financing) has a different meaning in this case because the underlying financing arranagements are wholly distinct. Nevertheless, the principle applied in the two-party transactions—of measuring the benefit of the preference in terms of the commercial realities confronting the beneficiary of the foreign subsidy (which in the two-party cases happens to be the loan "recipient")—has equal applicability to this case.

In both the preliminary and the final determinations, the Department has consistently followed the practice of calculating the amount of a subsidy by comparing the value of the terms and conditions of the EDC perferential financing arrangement with MTA to the value of the equivalent financing arrangement Bombardier could have arranged with MTA, absent EDC's intervention. The Department's evaluation of the EDC financing arrangement uses appropriate non-subsidized benchmarks available to Bombardier.

This final determination, however, takes into account the value implicit in MTA's EDC Class Bonds, which are fully negotiable and resalable either by EDC, or by Bombardier had it chosen to take the bonds itself. Therefore, in valuing the element of the financing arrangement which relates to the extension of EDC credits with a take-back of MTA bonds, the Department looks to an appropriate non-subsidized tax-exempt interest rate as the interest rates against which to compare the subsidized financing offered by EDC.

2. Budd urges the Department not to use the options pricing methodology to determine the value of the EDC commitment because it fails to assess properly the value of the commitment to Bombardier, the one entity most vitally concerned with the financing. Rather, petitioner supports the Department's preliminary determination and contends that the value of the subsidy was properly calculated in accordance with the Department's established methodology.

DOC Position

The Department attempts to value countervailable benefits in such a way as to reflect the terms and conditions of the preferential government program which bestows the benefit. The Department found that EDC's export credit financing arrangement associated with the Bombardier sale of railcars to MTA is unique in several respects. On the particular facts of this investigation, we do not believe that use of a simple loan methodology is appropriate. The most important conditions in the EDC financing arrangement are the commitment to offer financing at a fixed interest rate over the period of performance under the contract (which MTA may or may not use depending on the commercially available interest rates on the dates of the drawdown) and the negotiability of the EDC Class Bonds, whether taken back by the EDC or, constructively, Bombardier. Therefore, the Department has taken these conditions of the financing arrangement into consideration, and concluded that use of the options pricing methodology outlined above is preferable in this investigation. The EDC export credit financing terms and conditions specify, in essence, that the MTA has the *option* to use the line of credit offered at 9.7% for the period of performance under the Bombardier contract. The Department concludes that the value of this option to borrow includes the value accruing to the option holder of the right of flexibility to borrow only when interest rates are greater than 9.7%. Therefore, the options pricing methodology offers the Department the most appropriate method for valuing the EDC financing arrangement.

As noted in the discussion of the EDC financing above, the Department has significantly modified the methodology applied in the preliminary determination in calculating the value of any subsidy resulting from the EDC financing. However, the Department's general frame of reference of measuring the benefit in terms of the actual commercial benefit accruing to Bombardier has not changed.

3. Bombardier contends that the Department's option pricing methodology, "rather than evaluating the worth of the financing itself is, in substance, an attempt to measure and quantify alleged injury to the Budd Company, a function reserved exclusively to the International Trade Commission."

DOC Position

As noted above, the EDC financing itself has several basic components including the "intrinsic value" and the "option value." Bombardier's comparison of the option value to some type of injury analysis appears to result from a misunderstanding of the principles underlying the options pricing methodology. Actually, the "option value" simply reflects one component of the benefits which EDC conferred upon Bombardier by agreeing to accept certain risks on Bombardier's behalf; otherwise Bombardier would have had to purchase such a benefit at commercial rates. It in no way reflects any injury Budd may have suffered as a result of either the EDC financing or the entire transaction.

4. Respondent contends that the use of the options pricing methodology deprives it of due process of law becuase such an analysis represents a departure from the settled and long-established method of valuing the subsidy conferred by a preferential loan. Specifically, Bombardier contends that this new methodology will in essence be implemented retroactively, thus denying Bombardier the right to rely upon a settled administrative interpretation of the Act. Moreover, Bombardier claims it and the public have been denied a meaningful hearing after the Department announced its methodolgy, bnecause they lacked sufficient time to challenge the methodology and to present

evidence with respect to it. Finally, Bombardier asserts that the valuation of the EDC financing under the options pricing method would not and could not be measured objectively, but rather requires an impermissible and unfair subjective assessment.

DOC Position

The Department has applied to this case its consistent administrative practice of measuring the value of the subsidy to the foreign producer, manufacturer, or exporter. Since the facts in this case are significantly different from the case of a simple loan, the Department adopted a methodology appropriate to measure the benefit in this case.

Similar arguments that the Department could not apply new modes of analysis retroactively were made in countervailing duty investigations involving certain steel products from various countries. In those cases, several parties contended that new methodologies could not be used in the absence of proper rulemaking procedures. There, the Department responded:

> Decisions as to the use of such methodologies are not matters requiring rulemaking procedures, but are questions of policy left to the judgment and discretion of the Department and decided on a case-by-case basis, applying the law, as we understand its requirements and intent, to the facts of each case. While the Department could prescribe such methodologies in its regulations, we have not chosen to do so. Unless and until that occurs, no rulemaking procedures can be considered necessary before changing prior methodologies. At the outset of these investigations, respondents may have anticipated that certain prior methodologies would be employed in place of ones actually used, but they have no legal right to the maintenance of such prior practices.

Final Affirmative Countervailing Duty Determination: Certain Steel Products from Belgium, 47 FR 39304, 39329 (1982).

Such reasoning applies to this case as well. From the breadth and complexity of the Department's responsibilities under the Act in investigating and quantifying a disparate assortment of subsidy practices, Congress obviously has intended that the Department be given a reasonable opportunity to formulate a methodological approach to deal with a particular case. Otherwise, the Department could not counteract future subsidy practices that present methodologies are inadequate to analyze.

Regarding Bombardier's argument that the announcement of the new methodology after our preliminary determination was published deprived it and the public of a meaningful opportunity for a hearing, it appears that Bombardier has misunderstood the purpose of hearings in countervailing duty investigations, which is to develop a factual record during a proceeding. From the legislative history, it is clear Congress intended that hearings be conducted to allow presentation of information and views and, in particular, to allow participants an opportunity to respond to information submitted by other parties. Furthermore, the hearing need not be held after a preliminary determination. Rather, the statute and legislative history clearly permit the hearing to be held *any time* prior to a final determination.

In this investigation, the Department clearly allowed members of the public to present factual views. MTA is not an interested party in this investigation. Like the interested parties, however, MTA was allowed to participate fully. In fact, it presented exhaustive testimony and affidavits before, during, and after the hearing regarding the options pricing analysis. Its briefs and presentation at the hearing exceptionally long and detailed.

Finally, regarding Bombardier's claim that our methodology is too speculative, our analysis applies generally accepted and practiced financial analysis which is supported by substantial evidence on the record. Furthermore, we believe our interpretation of the Act in these circumstances accords with the law.

5. MTA claims that it should be deemed to be an interested party in this investigation because it is contractually obligated to pay potential countervailing duties attributable to the EDC financing. As authority for this proposition, MTA cites *Pasco Terminals, Inc. v. United States*, 567 F. 2d. 976 (C.C.P.A. 1977), which held that an agent who paid antidumping duties owed by its principal had standing to sue under former section 514 of the Act. MTA claims it is similar to the plaintiff in *Pasco Terminals* because it is contractually obligated to pay any countervailing duty which arises as a result of the EDC financing.

DOC Position

Section 771(9) of the Act limits the term "interested party" to five categories of entities. MTA does not qualify as an interested party under any of the five categories.

Furthermore, *Pasco Terminals* is irrelevant because that case involved a completely different provision of the Act, former section 514(b)(1), under which "the importer, consignee, or any authorized agent of the person paying" certain duties could file a protest. Plaintiff sought to recover antidumping duties it had paid on behalf of another party. Finding plaintiff to be the agent of the person owing the duties, the court reasoned that since an agent would have standing under section 514 to recover duties paid by its principal, plaintiff should also have standing to recover duties paid by the agent on behalf of the principal.

Section 514 has no bearing on this investigation. Indeed, it was amended in 1979 to exclude countervailing and antidumping duties from its coverage. *See* section 514(b) of the Act. Moreover, even if MTA were a "consignee * * * or * * * authorized agent" of a person who might owe duties as a result of this investigation (by virtue of MTA's contractual obligation to pay countervailing duties attributable to the EDC financing), section 771(9) contains no language similar to that found in section 514. Therefore, MTA is simply the purchaser from an interested party and not an interested party in its own right. Had Congress intended for the definition of "interested party" to extend beyond Bombardier to persons like MTA, it certainly would not have defined the term in such a deliberate and specific manner.

6. MTA also submits that it has been denied due process as a result of the Department's failure to accede to several procedural requests. Specifically, MTA requested an opportunity to cross-examine witnesses at the hearing, to question experts employed by the Department, to review information the Department will rely upon in reaching its final determination, and to review and comment upon the Department's final determination before it is issued.

DOC Position

It is clear from the statute and the legislative history of the Trade Agreements Act of 1979 that Congress intended for countervailing duty proceedings to be nonadjudicatory in nature and that hearings held in the course of such proceedings were not subject to the formal procedural requirements of the Administrative Procedure Act. Rather, Congress was concerned that the hearing permit a full presentation of information and views, and that hearing participants be given a reasonable opportunity to respond to information submitted by other parties. We believe that these objectives have been more than satisfied with the opportunities for a hearing and written comments provided in this proceeding. These procedures are consistent with court opinions holding that the right of

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confrontation does not obtain in administrative contexts similar to this.

Regarding the request to review all information upon which the Department may rely in reaching its final determination, MTA—even though it is not an interested party—has been given access to all non-confidential information submitted by parties to the proceeding. Access to confidential information, however, may be obtained only with the express consent of the party submitting that information, since MTA is not an interested party. Of course, access to internal Departmental memoranda of a privileged nature is also denied.

Finally, the significant amount of difficult analysis and calculations the Department must perform in this case and our strict statutory time constraints make it administratively impossible to grant MTA's request to review and comment upon our final determination prior to its issuance. Nothing suggests that Congress ever intended, or indeed could have conceived of, a requirement that the Department make drafts of its determinations available to parties (or, in the case of MTA, a non-party) for review prior to publication.

7. Bombardier states that the date upon which the financing subsidy should be valued is October 5, 1982, when MTA and EDC reached agreement on financing. In support of its position, respondent indicates that the law mandates that a subsidy is regarded as having been bestowed only as of the date its receipt becomes certain. *See Michelin Corp. v. United States*, —CIT—, 3 IRTD 1177, 1184 (CIT 1981).

Moreover, MTA contends that the facts show equally conclusively that the first date on which EDC and MTA reached an agreement on the essential terms of the financing was October 5, 1982; prior to that date, the parties had not agreed on basic terms, and disagreed over fundamental matters such as Canadian content, which could affect the amount of the loan and interest rate and could have aborted the entire transaction.

Bombardier argues that the contingent option, which amounted to no more than an expression of interest by EDC about the possibility of providing financing on June 10, could have no value as a matter of economics, simply because there were no legal rights conveyed at that time.

DOC Position

Contrary to Bombardier's understanding, the Department's focus is not and need not be on the date on which MTA and EDC concluded a legally binding contract concerning financing terms. Rather, we are concerned with the date on which it becomes clear that Bombardier received benefits from EDC as a result of EDC's willingness to finance a transaction between Bombardier and MTA. We have determined that such an event occurred on June 10, 1982, the date on which the Bombardier/MTA equipment contract was signed.

MTA states that June marked the beginning of a period of "exclusive dealing" between itself and Bombardier. (From evidence submitted by MTA and Bombardier, it appears that this exclusively was based on large part, if not solely, on the availability of EDC financing. Without such financing, Bombardier's bid would not have been competitive with other bidders offering comparable merchandise. Our finding that June 10 was the appropriate date for measuring the benefit, however, does not rest on the relative importance that the EDC financing played in winning the contract.) Although we agree it was uncertain on June 10 whether the transaction with MTA would eventually be consummated, it was clear from at least June 10 that EDC financing would be part of any Bombardier "package" of merchandise, terms, conditions, and financing that MTA would ultimately agree to purchase.

With regard to the possibility that the appropriate date could be earlier, the Department has determined that the combination of EDC's willingness to contribute a part of the Bombardier package and the likelihood that the MTA would agree to make a contract is too tenuous prior to June 10. Although there had been an agreement in principle between MTA and Bombardier on or about May 18, 1982, the agreement was not committed to writing until June 10, at which time Bombardier and MTA signed an equipment contract and EDC also made a financing proposal in a "Management Letter" to MTA. Thus, we believe that June 10 is the appropriate benchmark date since EDC conveyed a benefit to Bombardier on that date as a result of Bombardier being able to "oust" its competitors from the negotiations with an offer based largely upon EDC's willingness to finance the transaction.

8. MTA contends that the principal reason for the Department's consideration of the options pricing methodology has no validity in this case due to the fact that the volatility premium is not applicable. In support of this position, MTA contends that given the full call right, the Black-Scholes options pricing methodology has no applicability.

DOC Position

The Department has examined MTA's right to call its EDC Class Bonds and its concomitant right to put the bonds under the terms and conditions of the EDC financing arrangement. The Department finds that EDC has agreed to give two separate and valuable rights to MTA. First, MTA's right to use EDC's line of credit only when future interest rates make it advantageous to MTA has an option value. Second, MTA's right to exercise the par-call feature of the EDC Class bonds when the bonds are issued to EDC has an additional value; because it allows MTA to avoid redeeming the bonds from any investor at any value other than par. Therefore, the Department has concluded that the existence of the par-call feature does not reduce the validity of the options pricing methodology.

9. Bombardier contends that the error of applying an options pricing methodology can easily be seen by examining the French financing offer which, on June 10, 1982, was roughly equivalent to and no less firm than the EDC "offer." According to Bombardier, on that date, both the Canadian and French proposals ousted Budd from further consideration. Bombardier claims that under the options pricing analysis it is irrelevant who wins the contract and whether any money actually changes hands, because only the existence and value of the option at a specific point in time are at issue. Respondent indicates that this demonstrates why this type of methodology has no application in valuing export financing.

DOC Position

As discussed in the DOC position to comment 7, the Department has determined that June 10 is the appropriate date for valuing the subsidy conferred upon Bombardier by EDC. Had Bombardier been unsuccessful in obtaining a contract from MTA, as Francorail was regarding the same 825 R–62 railcars, the amount of benefit conveyed by EDC on that date would not change. All that would change would be that no merchandise would ever be exported to the United States which benefitted from the EDC's actions, and therefore no countervailing duties would be collected.

The eventual success or failure of an enterprise, like Bombardier, in securing an order when its offer is backed by preferential export credits does not impair the application of the options pricing methodology in assessing the value of that preferential financing at a

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point in time. In this case, the preferential benefit was part of an offer that was fruitful and will therefore be countervailed if the ITC makes an affirmative determination of injury; in other situations where no merchandise which benefits from an offered export credit is exported, no countervailing duties will be collected.

10. Bombardier claims that any subsidy attributable to the EDC financing arrangement should be calculated in relation to only 85% of the contract price, which represents that portion of the transaction financed by EDC.

DOC Position

We agree. Our analysis of the EDC aspect of the transaction assumes that 85% of the value of the contract on June 10, 1982 (85% of $659 million, or $560 million) will be financed by EDC. If either the contract price or the percentage financed change, and if this investigation results in the issuance of a countervailing duty order, appropriate adjustments will be made to the estimated duty deposit rate in the course of future administrative reviews under section 751 of the Act.

11. MTA contends that due to conditions agreed to on June 10, 1982, the aggregate amount of benefit cannot be known until Bombardier attempts to produce and deliver railcars between 1982 and 1987. MTA further contends that the amount of the subsidy should be reduced by a "factor for risk of failure" to meet conditions of the transaction specified by the parties.

DOC Position

The Department bases its valuation of the subsidy on the terms and conditions in the car purchase contract and the financing arrangement on June 10, 1982. Since Bombardier and MTA agreed to adjust the price to reflect cost escalation under the contract as deliveries proceed, the Department has valued the subsidy at the pre-escalation contract value of $659 million. If escalation occurs, the amount of the subsidy calculated in this determination will be adjusted accordingly in the course of an annual review under section 751 of the Act if a countervailing duty order is ultimately issued as a result of this investigation. In like fashion, the other conditions noted by MTA as a basis for a factor of reduction could be a basis for adjustment of calculation under section 751.

12. Bombardier and MTA contend that only the value of the Canadian content involved in this transaction (that is, 60 percent of the total contract value) may be countervailed. They claim that of any subsidy Bombardier receives regarding the transaction, 60 percent should be attributed to Canadian content and 40 percent to other content. Consequently, they argue that the Department may countervail against only 60 percent of the total subsidy. Moreover, MTA contends that the law could not properly be constructed to impose a 100 percent duty where foreign content was only 1 percent of the cost of the subsidized product and the United States content was 99 percent.

DOC Position

Our mandate under the countervailing duty laws is to neutralize the entire benefit arising from a subsidy. The subsidy conveyed by EDC through its export credit benefited the entire transaction, not just that portion sourced in Canada. Therefore, we must countervail against the entire value of the preferential export financing and not just that which might be allocable to the Canadian content in this case.

13. Bombardier also contends that the railcar shell will be the only significant component that will be imported into the United States and that only the value of that component should be subject to countervailing duties.

DOC Position

We are aware that the railcar shell may be the only major component that will be imported. We must, however, collect countervailing duties that will neutralize the entire amount of the subsidy. In some cases this can be accomplished by means of an *ad valorem* duty. In this situtation, however, where the exact value of the shell is unknown, but the number of units that will benefit from the subsidy is fixed, a specific rate of duty is a more appropriate means for neutralizing the entire non-commercial benefit resulting from the subsidy. Therefore, the value of the shell, or any other imported component, is irrelevant. Instead, the shell serves as merely a means for collecting appropriate amounts of countervailing duties as the merchandise is delivered.

14. Bombardier claims this case is premature and should be dismissed since it is unclear exactly which components will be imported and which will be sourced domestically. Until these additional facts are known, Bombardier contends that there is no rational basis for making a like product determination. Bombardier also argues that the Department's vague product definition, which includes subway car components, has the unfair result of denying Bombardier the opportunity to prove to the ITC that there has been no material injury as to particular components which Bombardier does not now know will be imported. Bombardier contends that the Department is obligated to define properly and to identify specifically all like products. The Department's alleged failure to do so in this case has required Bombardier to defend a case which, except for railcar shells, is premature.

DOC Position

The question of what is or is not a "like product" is relevant to the definition of the term "industry," which in turn relates only to the question of whether imports of a class or kind of merchandise are materially injuring or threatening to materially injure an industry in the United States. As such, identifying which products are "like products" is a question the Department cannot answer; rather, jurisdiction over such issued lies exclusively with the ITC. We merely note that the ITC has preliminarily determined that railcars from Canada are causing or are likely to cause injury to a U.S. industry (47 FR 36042), and offer no views of our own on this subject.

If insufficient information is available regarding the issues fo material injury, then the ITC could terminate the proceeding at the time of its preliminary or final determination. Clearly, the Department cannot assume the ITC's role in such matters by not pursuing an investigation because some questions exist regarding "like product."

Instead, we believe that the issues addressed in this proceeding are ripe for investigation at this time. Transactions such as this require substantial lead time between the negotiation of a sale, production of the merchandise, and actual delivery. To provide the type of swift and effective relief from unfair international trade practices envisioned by the drafters of the countervailing duty laws, the Department must be able to investigate alleged unfair trade practices once it becomes apparent that a particular import will benefit from subsidies. This approach provides domestic industries with meaningful relief and also lessens uncertainty in the marketplace. Under any other approach, the effectiveness of the countervailing duty law in such transactions could be largely eviscerated.

15. Bombardier and MTA contend that MTA's interest rate is the correct benchmark rate, because there is no factual, legal, or sound policy basis for the Department "arbitrarily" to convert a buyer's credit transaction to an exporter's credit transaction in evaluating the appropriate benchmark.

DOC Position

The Department disagrees that a buyer credit arrangement tied by the government of Canada to the purchase of railcars of a particular Canadian producer, Bombardier, supports the use of MTA's interest rate as the exclusive benchmark rate applicable to valuing the financing arrangement.

The Department has examined the details of the EDC financing arrangement and finds that MTA's borrowing experience is relevant only due to the apparent fact that on June 10 EDC and, constructively, Bombardier, considered MTA's EDC Class Bonds to be fully negotiable and completely resalable and were prepared to accept them as payment for the financing arrangement and the delivery of railcars. In this instance, MTA's interest rate experience on June 10 was relevant and was used by the Department in valuation. The Department looked to the interest rate experience of Bombardier for all other elements of the valuation.

16. Bombardier claims that the DREE and SDI grants are not subsidies, are not countervailable, and, in any event, are *de minimis*. Bombardier asserts that the grants are not countervailable because they are given to encourage capital investment and create jobs in sections of Canada (DREE) or the Province of Quebec (SDI) in which private industry otherwise would not invest because of additional and offsetting costs of doing business in these aras. Further, Bombardier claims that it has not even received a substantial portion of the grants against which the Department is attempting to countervail.

DOC Position

In general, the DREE and SDI grants are functional equivalents, the primary difference being that DREE is offered on a national basis, whereas SDI grants are provincial. DREE grants have long been recognized under the countervailing duty law as being countervailable. *See, e.g., Glass Beads from Canada*, 41 FR 37103 (1976). This practice, along with other administrative interpretations of the term "bounty or grant" under section 303 of the Act, were Congressionally endorsed with the passage of the Trade Agreements Act of 1979. *See* S. Rep. No. 249, 96th Cong., 1st Sess. 84 (1979). Moreover, in enacting section 771(6) of the Act, which defines the term "net subsidy," it is clear that Congress intended that programs such as DREE and SDI be countervailable because Congress specifically stated that offsets for increased costs resulting from government encouraged investments in underdeveloped regions were not permitted. *Id.* at 86. Finally, the Court of International Trade has also concluded that similar Canadian regional development grants are countervailable. *See Michelin Tire Corp. v. United States*, —— *CIT* ——, 3 ITRD 1177 (1981).

Consistent with Departmental practice, we have included in our calculations all benefits bestowed upon Bombardier by the DREE and SDI grants, regardless of whether they have actually been paid. If this investigation results in a countervailing duty order, and it becomes apparent that Bombardier will not receive certain benefits which are presently bestowed, but are as yet unpaid, appropriate adjustments will be made in the course of our annual administrative reviews under section 751 of the Act.

We also disagree with respondent's second claim that these benefits are *de minimis* and are therefore not countervailable. The *de minimis* rule, which provides that subsidies equal to less than 0.5% of the *ad valorem* value of the merchandise are considered *de minimis*, applies to the *aggregate* value of subsidies found to exist in an investigation, not to individual subsidy programs. Since the aggregate value of all countervailable benefits discovered during this investigation clearly exceeds 0.5% of the *ad valorem* value of the merchandise, the DREE and SDI grants are included in the duty deposit rate set in this notice.

17. Bombardier states that the DREE and SDI grants were not given in support of the MTA contract, that the grants date back to projects started in 1974 and involve contracts for the supply of subway cars to such places as Montreal and Mexico City. As a result, therefore, the Department, should not find them to be subsidies.

DOC Position

The subsidy rate of each of these programs is calculated according to the Department's usual methodology for grants. This methodology has been applied in several recent determinations and is explained in detail in Appendix 2 to *Final Affirmative Countervailing Duty Determinations: Certain Steel Products From Belgium*, Fed. Reg. 39316–17 (1982).

18. As a substitute for the Department's preliminary allocations with respect to the DREE and SDI grants, the Bombardier proposes the "length of the station" approach. Under this alternative, a grant is allocated according to the percentage of production capacity devoted to the MTA contract (which Bombardier determined in connection with preparing the bid for the MTA contract). Bombardier claims that such a figure is verifiable and realistically reflects the portion of buildings, equipment, etc. to be used in performance of the MTA contract.

DOC Position

The Department has examined the "length of station" approach. Regardless of whether such approach is verifiable and can reflect the percentage of buildings and equipment which can be used on the MTA contract, we have determined that the revenue distribution method is the more reasonable approach because it more accurately reflects the benefits attributable to particular merchandise than does a statistic reflecting square-footage capacity use.

19. The MTA has suggested that the Department must use as its commercial benchmark the rate specified in the OECD Arrangement, which is above the 9.7 percent interest rate secured by MTA from EDC.

DOC Position

The OECD Arrangement is an "international undertaking" of the type referenced in the second paragraph of item (k) of the Illustrative List of Export Subsidies (the List), annexed to the Agreement on the Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (The Subsidies Code), to which both the United States and Canada are signatories. In discussing export subsidies, item (k) reads as follows:

> The grant by governments (or special institutions controlled by and/or under the authority of governments) of export credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and denominated in the same currency as the export credit), or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, insofar as they are used to secure a material advantage in the field of export credit terms.
>
> Provided, however, that if a signatory is a party to an international undertaking on official export credits to which at least twelve original signatories to this Agreement [i.e. the Subsidies Code] are parties as of 1 January 1979 (or a successor undertaking which has been adopted by those original signatories), or if in practice a signatory applies the interest rates provisions of the relevant undertaking, an export credit practice which is in conformity with those provisions shall not be considered an export subsidy prohibited by this Agreement.

We reject MTA's contention that the benchmark should be the OECD rate. The EDC financing arrangement was in

derogation of the OECD Arrangement on several points. Therefore, item (k) is not relevant in this investigation, and we need not now address item (k)'s applicability to an export credit transaction which is in conformity with the mimimum interest rate provisions of the OECD Arrangement.

20. MTA further contends that the EDC financing is not countervailable at all because it was simply an attempt under Article 6 of the OECD Arrangement to match a "prior commitment" of 9.7 percent financing offered by France in support of Francorail's bid to MTA. It argues that since the OECD Arrangement allows such matching, the EDC terms were in full compliance with the terms of the Arrangement. Therefore, by using the matching rate of 9.7 percent as our benchmark, no countervailable benefit was conveyed.

DOC Position

Regardless of whether EDC was trying to match a prior commitment under Article 6 of the OECD Arrangement, it is clear that item (k) was not intended to condone export credits offered to match other credits which were in derogation from the minimum interest rate provisions of the OECD Arrangement. Item (k) exempts only "an export credit practice which is in conformity with" the minimum interest rate provisions of the OECD Arrangement from the prohibitions of the Subsidies Code. By contrast, the matching provisions of the OECD Arrangement deal exclusively with offers which are *not* in conformity with the Arrangement. A provision which allows one party to follow the derogation of another cannot somehow make the second derogation into "an export credit practice which is in conformity with" the Arrangement when both offers are identical derogations.

21. If the Department concludes that the EDC financing constitutes a subsidy, MTA contends that the maximum value of such subsidy is $7.5 million (before reduction for the uncertainties involved).

According to MTA, this figure represents the maximum benefit to MTA for the cost to EDC on October 5, the first date on which MTA accepted EDC's binding commitment to lend MTA money on the terms agreed to by both parties.

DOC Position

The Department has reviewed each of the many economic or financial assumptions underlying MTA's valuation and the conceptual arguments for its choice of methodologies to produce the $7.5 million value. As indicated in the calculation of the export credit financing benefit section of this notice, the Department accepted some but not all of MTA's assumptions and methodologies. For example, the Department followed MTA's methodology for calculating the intrinsic value of the MTA EDC Class Bonds (using interest rates commercially available to MTA), except that the Department calculated the implied future rate of interest as the basis for the implied future price of the bonds. The Department also accepted MTA's argument that the EDC Class Bonds were known to be or were considered to be resalable on June 10 and therefore there is no carrying cost to EDC for non-negotiable bonds. In addition, the Department accepted the arguments that since the bonds were negotiable and denominated in U.S. dollars, there was no exchange rate exposure; and that no subsidy was bestowed through the MTA/EDC recourse agreement.

On the other hand, the Department rejected the valuation date of October 5 and used June 10 as indicated in other sections of this notice. The Department also rejected MTA's valuation of the par-call premiun implicit in its yield curve at about .25%, and calculated a par call premium of about .75% as being more representative of the value to MTA of the par-call feature in 1982. The Department also disagreed with MTA's conclusion that the par call feature in the EDC Class Bonds eliminates any options value from the EDC financing package.

In short, the Department is not significantly diverging from the concepts underlying MTA's methodologies and assumptions except in regard to the date, the amount of the par-call premium in the yield curve, and the existence of the option value.

22. With regard to the Department's December 23, 1982 memorandum regarding the use of the options pricing methodology, MTA submits that such an approach should be rejected in cases such as this which involve export financing. Application of such a method would result in the finding of a countervailing duty when the interest rate on the offered export loan was no higher than the prevailing commercial interest rate, so long as the U.S. importer had no obligation to borrow the loan money. The "options" aspect of the loan commitment to the borrower would produce a value derived from the volatility premium. MTA submits that the statute does not provide for imposition of a countervailing duty in such a case, and contends that the option pricing method must be rejected in this case for this reason.

DOC Position

The Department has found that EDC's financing arrangement package has five distinct elements of possible value inherent in it: availability of financing for 85% of the contract price, intrinsic value of the preferential interest rate, the option or right of flexibility to use the line of credit, coverage of the exchange rate risk, and Bombardier's cost of financing the arrangement. All five of these elements of value are potentially countervailable bestowals of benefits by the government of Canada inherent in the export credit financing arrangement. The fact that one element of value is zero (for example, EDC charged Bombardier a commercial, nonpreferential commitment fee for making the financing available to MTA) does not relieve the Department of the responsibility of examining, valuing, and countervailing the other existing elements of the financing arrangement.

23. In the event the Department chooses to value the subsidy on June 10 instead of October 5, MTA submits that any such value must be substantially discounted due to the uncertainty that existed on that date as to whether EDC and MTA could consummate a financing agreement and whether the Bombardier/MTA contract would ever become final. MTA contends that the probability on June 10, 1982, that the EDC financing would ever materialize and that the Bombardier car purchase agreement would go into effect on terms and conditions specified therein was less than 50 percent. This high degree of uncertainty was caused by three special circumstances: (a) on June 10, EDC and MTA had not agreed on the major terms of the financing, (b) on June 10, Bombardier did not have in hand the $200 million guarantee which the car purchase agreement required, and (c) various agencies of the U.S. Government and members of Congress were announcing positions and discussing steps which could have prevented the car purchase agreement from becoming effective, precluded EDC and MTA from reaching agreement on the EDC financing, or penalized MTA in a manner which would have made it imprudent for MTA to proceed with the agreements.

DOC Position

The Department agrees that legal uncertainty existed on June 10, 1982, as to whether EDC and MTA would consummate a financing agreement and whether the Bombardier/MTA contract would become final. The Department does not believe this legal uncertainty

supports any discounting of the subsidy determined to have been conferred by the financing arrangement on June 10, 1982.

The Department contends that it is not likely that EDC would have declined to provide the financing. EDC's sole mission in this regard was to enable Bombardier to win the bid award, thus increasing Canadian exports. The most fundamental terms were already agreed upon by May 14, the date on which EDC sent a "Management letter" to MTA which resulted in an award of a letter of intent from MTA to Bombardier to purchase railcars. The issues which were subject to further nogotiation, however intense—such as control of the precise amount of Canadian content of the railcars—were relatively less significant. Moreover, if EDC had subsequently declined to provide financing, there would obviously be no benefit for the Department to value. Moreover, Bombardier had nothing to lose except the contract since it was not itself offering any financing.

24. Assuming that the Department contemplates treatment of the EDC financing offer as a subsidy to Bombardier to be valued on June 10, 1982, MTA contends that there is no commercial manner of placing any dollar value on the EDC arrangements on June 10, 1982, or at any time prior to October 1982. Further, MTA contends that there would be no market price or dollar value for the EDC arrangement prior to October 1982.

DOC Position

The Department has concluded, on the basis of detailed financial analysis, that the financing arrangement had value on June 10, and that the value was preferential and bestowed by the government of Canada. The Department is compelled by law to value the subsidy under these circumstances and accordingly developed a reasonable methodology for valuing the EDC financing arrangements. Moreover, the Department is confident that its methodology—which takes into account the terms and conditions of the financing arrangement on June 10, 1982—is reasonable and supported by substantial evidence on the record.

25. Budd contends that no offset for the excessive commitment fee MTA paid should be allowed because it believes that comparable commitment fees were approximately 0.5%.

DOC Position

Based on the best information available, we determined that the comparable commercial rate for commitment fees on June 10 was 0.25% of the unused portion of available credit. Although Budd has alleged that comparable commitment fees were approximately 0.5%, it has provided no supporting documentation to support this allegation.

Verification

In accordance with section 776(a) of the Act, we verified the data relied upon in our final determination. During verification we followed standard procedures, including inspection of documents, discussions with government officials and on-site inspection of the manufacturer's operations and records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulation (19 CFR 355.35). Also, in accordance with its regulation (19 CFR 355.34(a), a hearing was requested and held and written views have been received and considered.

The Department has decided to continue in effect the suspension of liquidation odered in our preliminary determination only for all entries of finished passenger railcars to be used as subways, and of unfinished passenger railcar shells to be assembled as passenger railcars for use in subways, and not broaden suspension to affect entries of other components.

We are directing Customs to require the posting of a specific estimated duty of $110,565 per finished railcar or unfinished railcar shell in the form of a cash deposit for each entry of the merchandise produced by Bombardier and intended for purchase by MTA. This specific rate of duty represents the sum of the per unit present values of the entire export credit and grant subsidies, to be collected as each finished railcar or unfinished railcar shell enters U.S. Customs territory.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination and make available to it all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

(Sec. 705(d) of the Act and § 355.33 of the Department of Commerce regulations (19 CFR 355.33))

Dated: February 4, 1983.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 83-3778 Filed 2-11-83; 8:45 am]

BILLING CODE 3510-25-M

Kraft Condenser Paper From France; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On December 2, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on kraft condenser paper from France. The review covers the only know exporter of this merchandise to the United States, Papeteries Bollore, S.A., certain previously reviewed but deferred sales of one type of paper during the period February 20, 1979 through December 31, 1979, and all sales during the period September 1, 1980 through August 31, 1981.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Susan M. Crawford or Jonathan Seiger, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On September 21, 1979, the Treasury Department published in the **Federal Register** (44 FR 54696) an antidumping finding with respect to kraft condenser paper from France. On December 2, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 54136–54137) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of kraft condenser paper, meaning capacitor tissue or condenser paper containing 80% or more by weight chemical sulphate or soda wood pulp based on total fiber content. Kraft

condenser paper is currently classifiable under items 252.4000, 252.4200, and 256.3080 of the Tariff Schedules of the United States Annotated. The review covers the only known exporter of French kraft condenser paper to the United States, Papeteries Bollore S.A., certain previously reviewed but deferred sales of one type of paper during the period February 20, 1979 through December 31, 1979, and all sales during the period September 1, 1980 through August 31, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review, and we determine that the following margins exist:

Product type	Time period	Margin (percent)
Dried KCT for metallizing, 1.17 air dry density, 1% or less moisture content, 500mm or more in width, 8–10 microns in thickness	02/20/79–12/31/79	12.8
	09/01/80–08/31/81	0
All other	09/01/80–08/31/81	0

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the first time period. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, because there are no margins for the later review period, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in section 353.48(b) of the Commerce Regulations, on any shipments of French kraft condenser paper entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of September 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

(Sec. 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53))

Dated: February 8, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-3901 Filed 2-11-83; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From the Republic of the Philippines Under a New Bilateral Agreement, Effective on January 1, 1983; Correction

February 9, 1983.

On December 29, 1982 notice was published in the **Federal Register** (47 FR 57986) which announced the import restraint levels for certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Philippines and exported to the United States during the twelve-month period which began on January 1, 1983, under the terms of a new bilateral agreement. The sublimit for Category 631 was inadvertently omitted from the letter to the Commissioner of Customs which followed that notice and should have been indicated as follows:

Category	12-mo level of restraint
631	1,700,267 dozen pairs of which not more than 200,000 dozen pairs shall be in T.S.U.S.A. Numbers 704.8520, 704.8550 and 704.9000

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile and Agreements.

[FR Doc. 83-3945 Filed 2-11-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 7, 1983.

The USAF Scientific Advisory Board Strategic Cross-Matrix Panel will meet at the Pentagon, Washington, DC on March 17, 1983. The purpose of the meeting will be to determine the Cross-Matrix Panel's input and responsibility at the Spring General Meeting on Strategic s. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-699-8845.

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 83-3851 Filed 2-11-83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

February 7, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee on EF-111A Capability upgrade will meet at the Pentagon, Washington, DC on March 8-9, 1983. The purpose of the meeting will be to review the ASD EF-111A studies and the planned Air Force upgrade strategy. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-679-8845.

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 83-3852 Filed 2-11-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Macmillan Oil Co., Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration hereby gives notice of a Proposed Remedial Order which was issued to Macmillan Oil Company, Inc., of Des Moines, Iowa.

The Proposed Remedial Order charged this company with pricing violations in the amount of $383,268.33 plus accrued interest in sales of propane, No. 2 fuel oil and Nos. 5 and 6 residual fuel oil during the period of November 1, 1973 through April 30, 1974.

A copy of the Proposed Remedial Order, with confidential information

deleted, may be obtained from David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objections with the Office of Hearings and Appeals, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Mo., on the 1st day of February 1983.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 83–3915 Filed 2–11–83; 8:45 am]

BILLING CODE 6450–01–M

Sabine Refining & Trading Co., Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Sabine Refining and Trading Company, Inc., Clyde E. Wilson, and Stuart Van Eman, 8401 Westheimer, Suite 273, Houston, Texas 77063. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.183, 212.186, 210.62, and 205.202. The principal amount of the alleged violation of 10 CFR 212.186, 210.62, and 205.202 for the period May through August 1980 is $3,834,341.26. The principal amount of the alleged alternative violation of 10 CFR 212.183 for the period May through August 1980 is $3,593,396.00.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. In accordance with 10 CFR 205.193.

Issued in Houston, Tex., on the 1st day of February 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83–3916 Filed 2–11–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP83–171–000]

Arkansas Louisiana Gas Company, a Division of Arkla, Inc.; Application

February 9, 1983.

Take notice that on January 25, 1983, Arkansas Louisiana Gas Company, a Division of Arkla, Inc., (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP83–171–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of taps on certain jurisdictional gas pipelines and related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate taps on the lines identified below adjacent to the described homes and business establishments:

Line	Home or business establishment
F–30	David Cedric Smith, Bienville Parish, Louisiana
[illegible]	Charles D. Johnston, Union Parish, Louisiana
A–51	Billy Ray Berry, Marion County, Texas
AM–151	Ernest Fred Southerland, Little River County, Arkansas

It is stated that the gas supply for these customers would be from general system supply with impact on Applicant's supply being negligible.

Applicant asserts the cost of the proposed facilities to be $5,180 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless sotherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3921 Filed 2–11–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–165–000]

Columbia Gulf Transmission Co.; Application

February 9, 1983.

Take notice that on January 21, 1983, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP 83–165–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities in St. Landry Parish, Lousiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests permission and approval to abandon in place approximately 13.4 miles of ten-inch pipeline between its West Lateral and and the Big Cane Field in St. Landry Parish, Louisiana. Applicant explains that the ten-inch line to be abandoned extends to a field which has been exhausted and that there are no prospects for renewal of production or other production which could be economically served by this line.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR

157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3922 Filed 2-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-166-000]

Columbia Gulf Transmission Co. and Transcontinental Gas Pipe Line Corp.; Application

February 9, 1983.

Take notice that on January 21, 1983, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP83-166-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation and exchange agreement between Applicants, dated November 10, 1981, Columbia Gulf and Transco have agreed to exchange gas on a thermally equivalent basis, and Columbia Gulf has agreed to transport gas which Transco shall have available, if any, after the exchange has taken place. It is stated that Transco would receive quantities of Columbia Gas Transmission Corporation's (Columbia Gas) natural gas at an existing platform located in West Cameron Block 480, offshore Louisiana, and in exchange, Columbia Gulf would receive Transco's gas at an existing underwater side tap on the Blue Water Pipeline in West Cameron Block 624, offshore Louisiana. After the exchange has taken place, Columbia Gulf, it is asserted would transport Transco's additional volumes of gas, if any, from an underwater side tap in Vermilion Block 46, offshore Louisiana, and redeliver the gas at either of two existing interconnections between the two pipelines, one located in Evangeline Parish, Louisiana, the other in Terrebonne Parish, Louisiana.

It is stated that for the transportation service of excess volumes, Columbia Gulf would initially charge Transco a unit rate of 6.42 cents per Mcf for gas redelivered to the Terrebonne point of receipt and 16.03 cents per Mcf of gas redelivered to the Evangeline point of receipt.

It is submitted that Columbia Gas has acquired the right to purchase a portion of the natural gas reserves underlying West Cameron Blocks 426 and 424, offshore Louisiana, and Transco has acquired the right to purchase natural gas reserves from West Cameron Blocks 624 and 625 and from Vermilion Block 57, offshore Louisiana. Applicants submit that the proposal herein is the most practical, efficient, and economic way of making such gas available to their respective pipeline systems.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3923 Filed 2-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-29-000]

Gulf States Utilities Co.; Application

February 9, 1983.

Take notice that on February 3, 1983, Gulf States Utilities Company (Applicant) filed an application seeking an order under Section 204(a) of the Federal Power Act authorizing the Applicant to issue up to 3,000,000 Shares of New Preference Stock. Such securities may be issued in one or more series over a two-year period pursuant to Commission policy announced in Release FE-1228 dated November 24, 1982.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3924 Filed 2-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-301-000]

Southern California Edison Co.; Filing

February 9, 1983.

Take notice that on February 2, 1983, Southern California Edison Company

(Edison) tendered for filing a modification to Special Condition No. 8 Fuel Cost Adjustment of its Schedule TOU–R, Time-Of-Use Resale Service, applicable to each of Edisons's resale service customers.

Edison states that purpose of the modification is to clarify the treatment accorded test energy produced by new generating facilities prior to commercial operation of such facilities.

Edison requests an effective date of June 2, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California, the California cities of Anaheim, Azusa, Banning, Colton, Riverside and Vernon, Arizona Public Service Company at Cibola and Ehrenberg, and Southern California Water Company at Goldhill and Harnish.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3926 Filed 2–11–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–174–000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

February 9, 1983.

Take notice that on January 31, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. box 2511, Houston, Texas 77001, filed in Docket No. CP83–174–000 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon about 35.6 miles of pipeline and related facilities located in West Virginia, and for a certificate of public convenience and necessity authorizing the construction and operation of 10.6 miles of pipeline and other facilities to be located in West Virginia, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization:

(1) To abandon about 35.6 miles of uncoated 20-inch pipeline, a portion of its Line No. 100–1, extending from a point 0.5 mile downstream of compressor station 114 to a point near Main Line Valve (MLV) 118–1.

(2) To abandon the South Ceredo sales meter station delivery point to Columbia Gas Transmission Corporation (Columbia) located on Line No. 100–1. Applicant states that gas otherwise delivered to Columbia at this point would be delivered to Columbia at other authorized delivery points in Zone CD–3.

(3) To construct and operate facilities to upgrade the North Ceredo sales meter station delivery point to Columbia.

(4) To construct and operate about 10.6 miles of 30-inch pipeline and related facilities as an extension of Line No. 100–2 from MLV 117–2 to MLV 118–1.

Applicant states that the 20-inch pipeline to be abandoned was constructed in 1944 and has deteriorated due to a process known as anerobic bactrial corrosion. Further, construction of the proposed facilities would cost less than rehabilitating the existing facilities.

Applicant states that elimination of the South Ceredo delivery point would not affect its peak day and annual deliveries. Deliveries of the South Ceredo volumes to North Ceredo and other delivery points would not cause detriment or disadvantage to Columbia or other Tennessee customers, it is asserted.

Applicant estimates the cost of the proposed construction to be $10,155,000 which would be financed initially with funds on hand, borrowings under revolving credit agreements, or short-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3927 Filed 2–11–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–159–000]

Texas Eastern Transmission Corp.; Request Under Blanket Authorization

February 9, 1983.

Take notice that on January 18, 1983, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP83–159–000 a request pursuant to Section 15.7205 of the Regulations under the Natural Gas Act (18 CFR 15.7205) that Applicant proposes to modify an existing delivery point to National Gas and Oil Corporation (National) under the authorization issued in Docket No. CP82–535–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that it proposes to modify its existing meter station No. 1841 by means of the modification of an existing meter run. The subject meter station is located in Butler County, Ohio, on Applicant's 24-inch Line No. 1 at mile post 776.05, it is asserted. Applicant states that a superseding service agreement with National is being executed which would increase the maximum daily delivery obligation of the subject meter station from the present maximum daily delivery

obligation of 3,053 dt equivalent of gas to a maximum daily delivery obligation of 8,000 dt equivalent of gas. It is indicated that deliveries at this meter station are for National's general system supply and are performed by delivery to National's customer, Cincinnati Gas and Electric Company, for National's account. Applicant states that National would reimburse Applicant for the cost of modifying the subject meter station.

Applicant states that sales of natural gas to National are performed pursuant to Applicant's Rate Schedules DSQ–C and I–C of its FERC Gas Tariff, Fourth Revised Volume No. 1. Applicant indicates that its existing tariff does not prohibit the modification of the subject meter station. Applicant states that the proposed modifications would have no effect on its peak day or annual deliveries, and that total volumes covered under the current service agreement with National would not be changed. Applicant further indicates that the proposed modification would be accomplished without detriment or disadvantage to Applicant's other customers.

Any person or the Commission's staff may file, within 45 days after issuance of the instant notice by the Commission, pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214), a motion to intervene or notice of intervention and, pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3928 Filed 2–11–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP 82–144–001]

Transcontinental Gas Pipe Line Corp. et al.; Amendment to Application

February 9, 1983.

Take notice that on January 17, 1983, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, and Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82–144–001 a joint amendment to their application filed on January 6, 1982, in Docket No. CP82–144–000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect the addition of a third point where Transco would receive exchange gas from Natural, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In their application, Applicants request authorization to exchange gas pursuant to an agreement dated June 11, 1981, whereunder Transco would exchange supplies available to it in Block 348, Vermilion area, offshore Louisiana, for supplies available to Natural in Block A–17, Brazos area, offshore Texas, and Blocks 107 and 114, South Marsh Island area, offshore Louisiana. The maximum daily exchange quantity is 20,000 Mcf, it is stated.

In the subject amendment, Applicants propose to exchange gas available to Natural from an additional source, Block 75, South Marsh Island area, offshore Louisiana. Applicants also have agreed to eliminate an excess exchange gas handling charge proposed in the original contract. No change in the maximum daily exchange quantity is proposed, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3929 Filed 2–11–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–303–000]

Union Electric Co.; Filing

February 9, 1983.

Take notice that on February 3, 1983, Union Electric Company (UE) tendered for filing a Standby Electric Service Agreement dated December 1, 1982, between the Iowa Electric Light and Power Company and UE. Said Agreement provides for emergency energy in the vicinity of Donnellson, Iowa.

UE proposes an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance the Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–3930 Filed 2–11–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP83–13–000; FERC J. D. No. 82–44102]

State of Oklahoma; Section 108 NGPA Determination; Phillips Petroleum Co.; Tilla No. 1 Well; Petition To Reopen Final Well Category Determination and Request To Withdraw

Issued: February 9, 1983.

On November 17, 1982, Phillips Petroleum Company (Phillips) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen and a request to withdraw its application for a final well category determination, that gas from the Tilla #1 Well, located in section 26–1N–14E, Texas County, Oklahoma, qualifies as a stripper well natural gas pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432 (Supp. V 1982). This determination made by the Oklahoma Corporation Commission (OCC) became final on September 2, 1982, pursuant to NGPA section 503(d) and 18 CFR 275.202(a).

Phillips requests reopening of this final determination so that it can withdraw its application for said determination based upon a review which shows that during the period used to qualify the Tilla #1 Well, the state allowable production rate may not have

represented the maximum efficient rate of flow for this well.

Phillips states that gas production from the Tilla #1 Well was sold to Panhandle Eastern Pipe Line Company (Panhandle) and that a refund report is being prepared to be forwarded to Panhandle and filed with the Commission. The Commission hereby gives notice that the question of whether refunds, plus interest as computed under § 154.102(d), will be required is a matter which is subject to the review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested reopening and withdrawal should file, within 30 days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 214 or 211 of the Rules of Practice and Procedure. All protests filed will be considered in determining the appropriate action to be taken, but will not make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3925 Filed 2-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-09-000]

Argo Industries, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 9, 1983.

On December 14, 1983, Argo Industries, R.R. #1 Box 206, Bourbon, Missouri 65441, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The wind-powered small power production facility is located in Crawford County, Missouri. The electric power production capacity of the facility is 8 kilowatts. There is no other wind-powered small power production facility owned by Argo Industries located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3920 Filed 2-11-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of January 10 Through January 14, 1983

During the week of January 10 through January 14 the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Appalachian Observer, 01/10/83; HFA-0102

The *Appalachian Observer* filed an Appeal from a denial, by the Assistant Manager for Administration at DOE's Oak Ridge Operations Office, of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In its Appeal, the *Observer* challenged the Assistant Manager's determination that there were no documents responsive to its request and asserted that its request had been too narrowly construed. In considering the Appeal, the DOE found that the Assistant Manager's search for responsive materials was adequate given the information provided by the *Observer*. Accordingly, the Apeal was denied.

Robert K. Wilson, 01/14/83; HFA-0101

Robert K. Wilson filed an Appeal from a denial by the Director of the Executive Secretariat of the Department of Energy of a Request for Information which Wilson had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that, contrary to Wilson's claim, the Director's search was thorough and conscientious and that no responsive documents existed. Accordingly, the Appeal was denied.

Remedial Orders

InterNorth, Inc., 01/10/83; BRO-1380, BRD-1380

The Economic Regulatory Administration (ERA) filed a Motion for Leave to Withdraw a Proposed Remedial Order (PRO) that ERA Region VII issued to InterNorth, Inc. on December 31, 1980. In considering ERA's motion, the DOE determined that the PRO should be withdraw, inasmuch as both InterNorth and ERA agreed that withdrawal was appropriate and as the PRO did not properly conform to controlling case law. The DOE additionally denied InterNorth's request that jurisdiction be retained over the proceeding. Accordingly, ERA's Motion for Leave to Withdraw was granted and the InterNorth PRO was dismissed without prejudice.

The Standard Oil Company of Ohio, 01/13/83, HOR-0028

On January 29, 1982, The Standard Oil Company of Ohio (Sohio) filed a Notice of Objection to a December 30, 1981 Proposed Remedial Order (PRO) issued to it by the DOE's Economic Regulatory Administration (ERA). The filing date for Sohio's Statement of Objections was extended a number of times while Sohio and the ERA engaged in settlement negotiations. On November 10, 1982, the ERA filed a "Notice of Withdrawal or, in the Alternative, Motion to Dismiss" the PRO because the ERA and Sohio had entered into a consent order resolving all of the issues in the PRO. *See* 47 FR 34617 (1982). Three state governments filed submissions opposing the dismissal of the Sohio PRO on the ground that the consent order's provision for Sohio's deposit of settlement funds into the United States Treasury was unlawful. The DOE determined that the PRO should be dismissed notwithstanding the states' objections because the states had exhausted their administrative remedies with respect to the Sohio Consent Order by filing comments on the consent order when it was proposed for comment. *State of California*, 9 DOE ¶ 82,557 (1982). Accordingly, the PRO was dismissed.

Requests for Exception

Brassfield's Oil Company, Inc., 01/13/83, HEE-0011

Brassfield's Oil Company, Inc. filed an Application for Exception in which the firm sought to be relieved of the obligation to file Forms EIA-172, Sales Report of Fuel Oil and Kerosene and EIA-9A, No. 2 Distillate Price Monitoring Report. In considering the request, the DOE found that the firm did not establish that it was particularly adversely affected by the reporting requirement. Accordingly, exception relief was denied.

Briggs & Tillman, Inc., 01/13/83, HEE-0037

Briggs & Tillman filed an Application for Exception in which the firm sought to be relieved of the obligation to file Form EIA-764A, Petroleum Product Sales Identification Survey. In considering the request, the DOE found that the firm did not establish that it was particularly adversely affected by the reporting requirement. Accordingly, exception relief was denied.

Siler Oil Company, Inc., 01/14/83, HEE-0049

Siler Oil Company, Inc. filed an Application for Exception in which the firm sought to be relieved of the obligation to file Form EIA–9A, No. 2 Distillate Price Monitoring Report. In considering the request, the DOE found that the firm did not establish that it was particularly adversely affected by the reporting requirement. Accordingly, exception relief was denied.

Interlocutory Orders

Atlantic Richfield Company, 01/11/83, *HRZ–0118*

The Atlantic Richfield Company (Arco) filed a Motion to Strike a December 14, 1982 submission filed by the Office of Special Counsel (OSC) in OHA Case No. HRZ–0110 styled "Economic Regulatory Administration's Reply Memorandum in Support of Its Motion for Sanctions." In considering the Arco Motion, the DOE found that the OSC submission was filed in contravention of a prior order in that case. The DOE therefore determined that its retention in the record would be prejudicial to the orderly conduct of that proceeding. Accordingly, the Arco Motion to Strike was granted.

Department of the Interior, 01/14/83, *HEZ–0116*

Laketon Asphalt Refining, Inc. had refused to furnish information requested by the DOE in connection with the Application for Exception filed by the Department of the Interior, Case No. HEE–0051. In considering Laketon's refusal, the DOE found that the requested information, as well as some additional information, was relevant to an issue raised by DOI in its exception application. Accordingly, on January 14, 1983, the DOE issued an Interlocutory Order requiring Laketon to furnish the information.

Peititons for Special Redress

State of Illinois, 01/14/83, *HEG–0026, HEG–0027*

The State of Illinois filed two Petitions for Special Redress in which it sought to overturn certain remedial provisions in two consent orders which the Economic Regulatory Administration had entered into with Conoco, Inc. and The Standard Oil Company of Ohio (Sohio). In its Petitions, the State contended that provisions in those consent orders which called for the firms to deposit settlement funds into the Miscellaneous Receipts Account of the United States Treasury were unlawful. The DOE found that it had considered and rejected similar contentions in *State of California*, 9 DOE ¶82,585 (1982). In that case, the DOE dismissed Petitions for Special Redress filed by several states based upon its determination that the sole administrative remedy available to third parties seeking to challenge DOE consent orders was the opportunity to file comments on the proposed consent order. In considering the petitions, the DOE found that the State of Illinois did not offer any arguments as to how its case was distinguishable from that of the *State of California*, and that, in fact, its contentions were identical to those raised in that case. Accordingly, the State of Illinois' Petitions were dismissed.

Implementation of Special Refund Procedures

Lyon County Co-Operative Oil Company/ Johnson Leasing, Inc., and Arnold Johnson, 01/10/83, *HEX–0066*

The DOE authorized the disbursement of the remaining funds in the Lyon County Co-operative Oil Company Special Refund Proceeding. The DOE determined that Arnold Johnson should receive a refund and that the residual funds in the Lyon escrow account should be deposited in the United States Treasury.

DISMISSAL

Name and Case No.

Sierra Oil & Gas Co., HEE–0056

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published looseleaf reporter system.

Dated: February 8, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83–3919 Filed 2–11–83; 8:45 am]

BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed; Week of January 10 Through January 14, 1983

During the week of January 10 through January 14, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as nonparticipants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: February 8, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Reco Petroleum, Inc., Reading, Pennsylvania, HRO–0110, Motor Gasoline

On January 13, 1983, Reco Petroleum, Inc., 100 North Fourth, Reading, Pennsylvania 19603, filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of the Economic Regulatory Administration issued to the firm on December 7, 1982. In the PRO the Northeast District found that during the period March 1979 through September 1979, Reco Petroleum, Inc. charged prices in excess of the maximum lawful selling prices for motor gasoline.

According to the PRO the Reco Petroleum, Inc. violation resulted in $172,502 of overcharges.

Vessels Gas Processing Co.; Vessels Processing, Ltd., Denver, Colorado, HRO–0111 NGL; Propane

On January 13, 1983, Vessels Gas Processing Co. and Vessels Processing, Ltd. of Denver, Colorado filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City, Missouri Office of Enforcement issued to the affiliated firms on November 5, 1982. In the PRO, the Kansas City Office found that during the period September 1, 1973 through December 31, 1977, the firms overcharged their customers in sales of propane and natural gas liquids.

According to the PRO, the Vessels violation resulted in $1,883,155.91 of overcharges.

[FR Doc. 83–3917 Filed 2–11–83; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM–FRL 2305–5]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM–223), U.S. Environnmental Protection Agency; 401 M Street, SW., Washington, D.C. 20460; telephone (202) 382–2742 or FTS 382–2742.

SUPPLEMENTARY INFORMATION:

Grants Programs

• Title: General Application for Assistance (EPA ID 0938).

Abstract: EPA collects information on eligibility, progress and property management from recipients of EPA financial assistance both before and after the award. This information enables EPA to assure proper expenditure of Federal funds.

Respondents: State and local governments, institutions of higher education, profit/non-profit organizations, and individuals.

Solid Waste Programs

• Title: Authorization of State Hazardous Waste Management Programs (EPA ID 0969).

Abstract: States may voluntarily submit an application to EPA for final authorization on Phase II interim authorization to administer and enforce their own hazardous waste management programs in lieu of the Federal program. The information submitted must demonstrate that the state program is at least equivalent to the Federal program

Respondents: State governments.

Toxics Programs

• Title: Premanufacture Notification (PMN) Requirements (EPA ID 574).

Abstract: TSCA requires businesses to notify EPA 90 days prior to manufacture or import of a new chemical substance. EPA reviews the information to evaluate the effects of the chemical on human health and the environment. The submitter is free to manufacture or import the new chemical substance if the Agency takes no further regulatory action within 90 days of receipt of the notification.

Respondents: Chemical manufacturers and importers.

Agency Forms Cleared by OMB Between January 20 and February 2, 1983

EPA ID 1012, Applications for PCB Disposal Permits, was cleared on January 20 (OMB #2070–0011).

Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), 401 M Street, SW., Washington, D.C. 20460

and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228, 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: February 3, 1983.

N. Phillip Ross,

Chief Statistical Policy Staff.

[FR Doc. 83–3825 Filed 2–11–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51453; TSH–FRL 2304–8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of fifteen PMNs and provides a summary of each.

DATE: Close of Review Period:

PMN 83–442, 83–443 and 83–444—April 27, 1983.

PMN 83–445—April 30, 1983.

PMN 83–446, 83–447, 83–448, 83–449 and 83–450—May 1, 1983.

PMN 83–451, 83–452 and 83–453—May 2, 1983.

PMN 83–454, 83–455 and 83–456—May 3, 1983.

Written comments by:

PMN 83–442, 83–443 and 83–444—March 28, 1983.

PMN 83–445—March 31, 1983.

PMN 83–446, 83–447, 83–448, 83–449 and 83–450—April 1, 1983.

PMN 83–451, 83–452 and 83–453—April 2, 1983.

PMN 83–454, 83–455 and 83–456—April 3, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–51453]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Therodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M ST., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

PMN 83–442

Manufacturer. Confidential.

Chemical. (G) Vegetable fatty acids; benzene carboxylic acid; hydroxymethyl alkanepolyol polymer.

Use/Production. Confidential. Prod. ranges: Confidential.

Toxicity Data. no data submitted.

Exposure. Confidnetial.

Environmental Release/Disposal. Confinential.

PMN 83–443

Manufacturer. Confidential.

Chemical. (G) Alkanediol; dimethylalkanediol; alkanedioic acid; substituted alkanoic acid; benzenedicarboxylic acid polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Relese/Disposal. Confidential.

PMN 83–444

Manufacturer. Confidential.

Chemical. (G) Alkanediol; dimethylalkanediol; alkanedioic acid; substituted alkanoic acid; benzenedicarboxylic acid polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMW 83–445

Manufacturer. Confidential.

Chemical. (G) Modified sodium polyacrylate.

Use/Production. (G) Dispersant for inorganic particulates. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and inhalation, a total of 3 workers, up to 24 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by publicly owned treatment works (POTW), landfill and well-bore.

PMN 83–446

Manufacturer. Emery Industries, Inc.

Chemical. (S) Iso hexadecyl isostearate.

Use/Production. (S) Industrial lubricant. Prod. range: 0–4,550 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing, use and disposal: dermal, a total of 7 workers, up to 2 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to water and land. Disposal by POTW.

PMN 83–447

Importer. Marubeni America Corporation.

Chemical. (G) Polyvinyl alcohol derivative.

Use/Import. (S) Emulsifier of the PVAc emulsion. Import range: 100–500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Use and disposal: dermal and inhalation.

Environmental Release/Disposal. Release to air. Disposal by pollution control equipment.

PMN 83–448

Manufacturer. Confidential.

Chemical. (S) 2,6-bis(picrylamino)-3,5-dinitropyridine.

Use/Production. (S) Industrial explosive for extreme thermal environments. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Non-irritant, Eye—Mild; Skin sensitization—Not a sensitizer.

Exposure. Confidential

Environmental Release/Disposal. Confidential. Disposal by TOTW, and on-site biological treatment lagoon.

PMN 83–449

Importer. Biddle Sawyer Corporation.

Chemical. (S) 2-ethyl-2-methyl butanoic acid.

Use/Import. Confidential. Import range. Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83–450

Importer. Biddle Sawyer Corporation.

Chemical. (S) 2,2-dimethyl pentanoic acid.

Use/Import. Confidential. Import range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83–451

Manufacturer. Confidential.

Chemical. (G) Disubstituted bis(phenylazo)4-amino-5-hydroxy-2,7-naphthalenedisulfonic acid, alkali metal salt.

Use/Production. (G) Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 3 workers, up to 48 man-hrs/yr.

Environmental Release/Disposal. No release.

PMN 83–452

Manufacturer. Confidential.

Chemical. (G) Substituted 2-phenylazo-l-hydroxy-3-naphthalene-sulfonic acid, metal complex, alkali metal salt.

Use/Production. (G) Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 3 workers, up to 72 man hrs/yr.

Environmental Release/Disposal. No release.

PMN 83–453

Importer. Confidential.

Chemical. (G) Polymer of mixed alkane diols, alkane triol, propylene oxide, alkanoic acid, aliphatic isocyanate, and isophorone diisocyanate.

Use/Import. (S) Crosslinker for industrial coatings. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing, use and disposal: dermal and inhalation, a total of 7 workers, up to 4 hrs/da up to 50 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by incineration.

PMN 83–454

Manufacturer. Confidenital.

Chemical. (G) Acrylamide copolymer.

Use/Production. (G) Close use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 40 workers, up to 350 da/yr.

Environmental Release/Disposal. No release. Disposal by POTW, biological treatment system, inceneration and approved landfill.

PMN 83–455

Manufacturer. Confidential.

Chemical. (G) Alkenoyl disubstituted cycloalkane.

Use/Production. (G) Open use. Prod. range: Confidential

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture, processing, use and disposal: dermal and inhalation, a total of 20 workers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by incineration and on-site effluent treatment plant.

PMN 83–456

Importer. Confidential.

Chemical. (G) Substituted anthraquinone.

Use/Import. (S) Colorant for textile. Import range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Irritation; Skin—Non-irritant, Eye—Non irritant; LC_{50}: >100 mg/l; Fish Toxicity 48 hrs; 200 mg/l.

Exposure. Negligible.

Environmental Release/Disposal. Negligible. Disposal by POTW and biological treatment system.

Dated: February 4, 1983.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 83–3693 Filed 2–11–83; 8:45 am]

BILLING CODE 6560–50–M

AVIS [FRL 2304–7]

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluations for "Baur Condenser", "Brake-EZ", "Dynamix", "Jacona Fuel System", and "POLARION-X"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Fuel Economy Retrofit Device Evaluation.

SUMMARY: This document announces the conclusions of the EPA evaluation of the "Baur Condenser", "Brake-EZ", "Dynamix", "Jacona Fuel System", and POLARION–X" devices under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone: (313) 668–4299.

SUPPLEMENTARY INFORMATION:

I. Background

Section 511(b)(1) and Section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) require that:

(b)(1) Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the

Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate.

(c) The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emissions of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device.

EPA published final regulations establishing procedures for conducting evaluations of fuel economy retrofit devices on March 23, 1979 [44 FR 17946].

II. Origin of Request for Evaluation, Device Descriptions and Report Identification:

A. Baur Condenser

On May 19, 1981, the EPA received a request from B.G.A. Firmenich, Importer & Distributor, Baur Electronic for evaluation of a fuel economy retrofit device termed "Baur Condenser". This device is intended to improve fuel economy and exhaust emission levels of spark ignition engines. The device consists of a set of spark plug adapters. One adapter is installed between each spark plug and its associated secondary lead.

Report: "EPA Evaluation of the Baur Condenser Under Section 511 of the Motor Vehicle Information and Cost Savings Act". Report number EPA–AA–TEB–511–81–18A contains the analyses and conclusions and consists of 9 pages. Report number EPA–AA–TEB–511–18B contains all the attachments and consists of 58 pages.

B. Brake–EZ

On November 10, 1981, the EPA received a request from EZ Line Products Corporation for evaluation of a fuel saving device termed "Brake–EZ". This device is designed to reduce disc brake drag and thereby improve fuel economy and reduce wear of the brake pads and tires. The device replaces certain parts which tend to corrode and thus prevent the brake pads from retracting fully. This situation results in drag and abnormal wear of the brakes. The devices use special materials, coatings and lubricants which are claimed to eliminate this problem.

Report: "EPA Evaluation of the Brake–EZ Device Under Section 511 of the Motor Vehicle Information and Cost Savings Act". Report number EPA–AA–TEB–511–82–10A, contains the analyses and conclusions and consists of 10 pages. Report number EPA–AA–TEB–511–82–10B contains all the attachments and consists of 29 pages.

C. Dynamix

On September 23, 1981, the EPA received a request from Mr. Jose Ma. R. Concepcion for evaluation of a fuel saving device termed "Dynamix". This device is claimed to permit an unmodified conventional engine to operate efficiently on a blend of gasoline and hyrous ethyl alcohol. The ratio of gasoline to alcohol is selected by the vehicle operator. The device consists of an alcohol fuel storage and handling system, an alcohol/gasoline fuel proportioning valve, and an alcohol/heated air induction system. The device meters vaporized alcohol and hot air directly into the intake manifold of a vehicle. The flow of gasoline is controlled by the flow of alcohol.

Report: "EPA Evaluation of the Dynamix Device Under Section 511 of the Motor Vehicle Information Cost Savings Act," report number EPA–AA–TEB–511–82–11 consisting of 35 pages.

D. Jacona Fuel System

On October 13, 1981, Mr. John L. Gray submitted an application for an EPA evaluation of the "Jacona Fuel System". The device is an electrically-powered in-line fuel heater that is installed between the fuel pump and the fuel induction system. This device is claimed to improve fuel economy of a vehicle without adversely affecting emissions.

Report: "EPA Evaluation of the Jacona Fuel System Under Section 511 of the Motor Vehicle Information and Cost Savings Act," report number EPA–AA–TEB–511–82–8, consisting of 29 pages including all attachments.

E. POLARION–X

On October 14, 1981, Mr. LaVern Adam submitted an application for an EPA evaluation of the "POLARION–X". The device is installed in the fuel line between the pump and the carburetor. It incorporates two permanent magnets which subject the fuel to a magnetic field. This device is claimed to reduce emissions, to improve fuel economy and performance, to provide more complete combustion, to eliminate engine carbon buildup and dieseling, and to reduce the octane requirements of the engine.

Report: "EPA Evaluation of the POLARION–X Device Under Section 511 of the Motor Vehicle Information and Cost Savings Act," report number EPA–AA–TEB–511–82–9, consisting of 59 pages including all attachments.

III. Availability of Evaluation Reports

Copies of these reports may be obtained from the National Technical Information Service by using the above report numbers. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone: (703) 487–4650 or FTS 737–4650.

IV. Summary of Evaluation

EPA fully considered all of the information submitted by the applicants. The test data and other information supplied by the applicants were insufficient to substantiate the claims for their devices. The applicants did not adequately respond to repeated requests for additional information and failed to provide substantiating test data. Thus, our evaluations were completed on the basis of the information available and EPA's engineering judgment. In the case of the Baur Condenser, the applicant sought to withdraw his application. Since the regulations require that each bona fide application result in an evaluation, his request was denied.

Our overall conclusion was that for each of these devices—Baur Condenser, Brake-EZ, Dynamix, Jacona Fuel System, and POLARION–X, —there is no reason to expect that the device would improve either the emissions or fuel economy of a typical vehicle in proper operating condition.

Dated: February 2, 1983.

Kathleen M. Bennett,

Acting Assistant Administrator for Air, Noise, and Radiation

[FR Doc. 83–3824 Filed 2–11–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; Panhandle Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to

each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Panhandle Bancshares, Inc.*, Panhandle, Texas; to acquire 81 percent of the voting shares or assets of First State Bank, Tulia, Texas. Comments on this application must be received not later than February 25, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *W.T.B. Financial Corporation*, Spokane, Washington; to acquire 100 percent of the voting shares or assets of Security Bank of Washington, Ephrata, Washington. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco. Comments on this application must be received not later than March 9, 1983.

Board of Governors of the Federal Reserve System, February 8, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3859 Filed 2-11-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies, Proposed de Novo Nonbank Activities; United National Bancorporation

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *United National Bancorporation*, Huntingdon, Pennsylvania (leasing activities; Pennsylvania): To engage, through its subsidiary, Unitas Commercial Leasing Corporation, in making leases of real and personal property in accordance with the Board's Regulation Y. These activities would be conducted from an office in Huntingdon, Pennsylvania, serving all of Pennsylvania. Comments on this application must be received not later than March 8, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *American Fletcher Corporation*, Indianapolis, Indiana (consumer finance and related insurance activities; Indiana): To engage through its subsidiary, American Fletcher Financial Services Inc., in making or acquiring loans or other extensions of credit for personal, family or household purposes, including loans secured by home equities, purchasing consumer installment sales finance contracts and acting as agent with respect to credit life and disability insurance on borrowing customers and insurance on property taken as collateral for loans and contracts made or purchased at this proposed office of such subsidiary. The proposed insurance activities shall be restricted to such purposes and amounts as are authorized by Sections 601 (A), (B), and (D) of the Garn-St Germain Depository Institutions Act of 1982, including those contained in an order of the Board with respect to such subsidiary issued prior to May 1, 1982, on July 20, 1972. The foregoing activities would be conducted from an office in Madison, Indiana, serving Jefferson County, Indiana. Comments on this application must be received not later than March 4, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Farmers & Merchants Bancshares, Inc.*, Crescent, Oklahoma (leasing activities; Oklahoma): To engage in making automobile leases in accordance with the Federal Reserve Board's Regulation Y. These activities would be conducted from an office in Crescent, Oklahoma, serving Oklahoma and Grady Counties in Oklahoma. Comments on this application must be received not later than March 9, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angeles, California (commercial lending and leasing activities; United States): To engage through its subsidiary, SPC Securities Services Corp. in making, acquiring, for its own account or for the account of others, or participating in, commercial loans and other extensions of credit, and leases of personal and real property. These activities would be conducted from an office of SPC Securities Services Corp. in Pasadena, California, serving the United States. Comments on this application must be received not later than March 9, 1983.

Board of Governors of the Federal Reserve System, February 8, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3861 Filed 2-11-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Upper Dauphin Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a

statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Upper Dauphin Bancorp, Inc.*, Millersburg, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Upper Dauphin National Bank, Millersburg, Pennsylvania. Comments on this application must be received not later than March 9, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Baton Rouge Bancshares, Inc.*, Baton Rouge, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Baton Rouge Bank & Trust Co., Baton Rouge, Louisiana. Comments on this application must be received not later than March 9, 1983.

2. *Toombs Bank Shares, Inc.*, Vidalia, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Brice Banking Company, Inc., Vidalia, Georgia. Comments on this application must be received not later than March 7, 1983.

3. *Walthall Capital Group, Ltd.*, Tylertown, Mississippi; to become a bank holding company by acquiring 80 percent of the voting shares of Walthall Citizens Bank, Tylertown, Mississippi. Comments on this application must be received not later than March 9, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Anderson Bancshares, Inc.*, Anderson, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Anderson, Anderson, Texas. Comments on this application must be received not later than March 9, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Washington Bancorporation*, Washington, D.C.; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Washington, Washington, D.C. Also, the United Mine Workers of America, Washington, D.C., a registered bank holding company due to its current ownership and control of 76.08 percent of the voting shares of The National Bank of Washington, has applied to acquire Washington Bancorporation since it will become a majority shareholder of Washington Bancorporation under this proposal. Comments on this application must be received not later than March 8, 1983.

Board of Governors of the Federal Reserve System, February 8, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3860 Filed 2-11-83; 8:45 am]

BILLING CODE 6210-01-M

Banc One Corp.; Merger of Bank Holding Companies

Banc One Corp., Columbus, Ohio, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Winters National Corp., Dayton, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Winters National Corp., Dayton, Ohio, is also engaged in the following nonbank activities: mortgage lending and servicing; leasing personal property; underwriting credit life insurance and credit accident and health insurance. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 8, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 8, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3857 Filed 2-11-83; 8:45 am]

BILLING CODE 6210-01-M

First Bancorp of Tonkawa, Inc.; Proposed Acquisition of Burton Insurance Agency

First Bancorp of Tonkawa, Inc., Tonkawa, Oklahoma, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Burton Insurance Agency, Tonkawa, Oklahoma.

Applicant states that the proposed subsidiary would perform the activities of a general insurance agency. These activities would be performed from offices of Applicant's subsidiary in Tonkawa, Oklahoma, and the geographic area to be served is Tonkawa, Oklahoma. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested presons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 8, 1983.

Board of Governors of the Federal Reserve System, February 8, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3858 Filed 2-11-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Federal Council on the Aging; Meeting

Agency holding the meeting: Federal Council on the Aging.

Time and date: Meeting begins at 10:45 AM on Wednesday, March 9, 1983 and ends at 3:00 PM on Thursday, March 10, 1983.

Place: Conference Rooms 303A–305A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Meeting is open to the public.

Contact person: Rita Lowry, Room 309D, HHH Building, 245–2451.

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–453, 5 U.S.C. App. 1, Sec. 10, 1976) that the Council will hold a meeting March 9–10, 1983 from 10:45 AM to 5:30 PM and from 9:00 AM to 3:00 PM respectively in Rooms 303–305A of the Hubert H. Humphrey (HHH) Building, 200 Independence Avenue, SW., Washington, DC 20201.

The agenda will focus principally on discussions of health and the aged. In addition, some time will be allotted for committee reports.

Dated: February 7, 1983.

Adelaide Attard,

Chairperson, Federal Council on the Aging.

[FR Doc. 83-3906 Filed 2-11-83; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D-83-693]

Redelegation of Authority to Regional Administrators, et al.

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of redelegation of authority related to financing and refinancing of housing assisted under the United States Housing Act of 1937.

SUMMARY: The authority of the Secretary relating to financing and refinancing of housing assisted under the United States Housing Act of 1937, as amended, is currently redelegated from the Assistant Secretary for Housing to Regional Counsel and members of the Regional Counsel's staffs. That redelegation is rescinded and the function is redelegated to the Regional Administrators, Deputy Regional Administrators, and Directors of the Office of Regional Housing. This change reflects a reassignment of responsibility within the Department.

EFFECTIVE DATE: February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Mildred Moore, Management Analyst, Issuances and Clearances Branch, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9124, Washington, D.C. 20410, (202) 755–8694. This is not a toll free number.

Accordingly, the redelegation of authority published at 35 FR 16105 (1970), as amended at 35 FR 17964 (1970) and 40 FR 39921 (1975), is amended by deleting Section B and inserting the following new Section B:

Section B. *Authority Redelegated to Regional Administrators, Deputy Regional Administrators, and Directors of the Office of Regional Housing With Respect to Housing Assisted Under the United States Housing Act of 1937.*

1. Each Regional Administrator, Deputy Regional Administrator, and Director, Office of Regional Housing is authorized to exercise the authority of the Secretary relating to the financing and refinancing of housing assisted under the United States Housing Act of 1937, as amended.

2. This power and authority may be further redelegated.

(41 FR 24755 (1976) and 36 FR 5006 (1971), as amended)

Dated: February 7, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-3868 Filed 2-11-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[1601 (U-060)]

Utah; Resource Management Plan/ Environmental Impact Statement

February 4, 1983.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft resource management plan/ environmental impact statement and public open house.

SUMMARY: Pursuant to Section 202(f) of the Federal Land Policy and Management Act of 1976 and Section 102(c) of the National Environmental Policy Act of 1969, a Draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) has been prepared for the Grand Resource Area. The Grand Resource Area, Moab District, contains approximately 1.8 million acres of public land located in Southeastern Utah, including Grand County and the northern third of San Juan County. The Draft RMP/EIS examines four management plan alternatives: (1) Alternative A (no action); (2) Alternative B (production); (3) Alternative C (limited protection); and (4) Alternative D (protection).

PUBLIC PARTICIPATION: Copies of the Draft RMP/EIS are available from the Grand Resource Area Office, P.O. Box M, Sand Flats Road, Moab, Utah 84532, phone (801) 259–8193. Public reading copies will be available for review at the following locations:

Office of Public Affairs, Location Building, 18th and C Streets NW., Washington, D.C. 20240

Moab District Office, Public Information Office, 125 W. 2nd S., Moab, Utah 84532

BLM Utah State Office, Public Room, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Written comments on the Draft RMP/EIS should be submitted between March 11 and June 10 (90-day comment period) to: Colin P. Christensen, Area Manager, Bureau of Land Management, P.O. Box M, Moab, Utah 84532.

Oral or written comments will be received at an Open House to be held Thursday, April 21, from 2 p.m. to 9 p.m., at the BLM Moab District Office Conference Room, 125 West 2nd South in Moab. Oral or written comments concerning the adequacy of the Draft RMP/EIS will be considered in the preparation of the final RMP/EIS for the Grand Resource Area.

FOR FURTHER INFORMATION CONTACT: Colin P. Christensen, Grand Resource Area Manager, (801) 259–8193.

Kenneth V. Rhea,

Associate District Manager.

[FR Doc. 83-3854 Filed 2-11-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Mines

Advisory Committee on Mining and Mineral Reseach; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. I) and the Office of Management and Budget Circular No. A–63, Revised.

The Advisory Committee on Mining and Mineral Research will meet from 8:00 a.m. to 4:00 p.m. (or completion of business) on March 1, 1983, in room 1042, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20241.

The meeting will deal with the following subjects:

1. Welcome of new committee members.
2. Review of minutes of July 1, 1982 meeting.
3. Current status of programs.
4. Recommendations regarding the making of fiscal year 1983 grants.
5. New business.

The meeting of this committee is open to the public. Approximately 25 visitors can be accommodated on a first come, first served basis. Written statements concerning the subjects are welcome. Visitors who expect to attend should make this known no later than February 28, 1983, to Dr. Ronald Munson, Chief, Office of Mineral Institutes, Bureau of Mines, room 1040, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20241, phone (202) 634–1328.

Dated: February 8, 1983.

Robert C. Horton,

Director.

[FR Doc. 83–3855 Filed 2–11–83; 8:45 am]

BILLING CODE 4310–53–M

National Park Service

Availability and Public Meetings Draft Joint Management Plan; Chaco Archeological Protection Site System; Arizona, Colorado and New Mexico

Pursuant to Section 506 of Pub. L. 96–550, the Chaco Interagency Management Group, represented by the National Park Service, the Bureau of Indian Affairs, the Navajo Tribe, the U.S. Forest Service, and the Governor of New Mexico, has prepared a Draft Joint Management Plan for the Chaco Archeological Protection Site System, located within Apache County, Arizona; La Plata County, Colorado; and San Juan, McKinley and Cibola Counties, New Mexico.

The Draft Joint Management Plan is intended to direct planning, management, and use of the 33 Chacoan Outlier sites as well as any new sites that may be added to the system to provide for the preservation, protection, research, and interpretation of the sites and for continued cooperation among the public and private entities with interests in the area to achieve coordinated preservation, research, and development efforts.

Copies of the Draft Joint Management Plan are available, while supplies last, from the following locations: Bureau of Indian Affairs, P.O. Box M, Window Rock, Arizona 86515; Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107; National Park Service, Southwest Region, P.O. Box 728, Santa Fe, New Mexico 87501; Navajo Nation, P.O. Box 308, Window Rock, Arizona 86515; State of New Mexico, State Historic Preservation Office, 505 Don Gaspar, Santa Fe, New Mexico 87503; San Juan National Forest, U.S. Forest Service, P.O. Box 310, Pagosa Springs, Colorado 81147; and Bureau of Indian Affairs, P.O. Box 8327, Albuquerque, New Mexico 87198.

Reading copies of the document are available at the following locations: In Albuquerque, New Mexico: at the Dean's Office, Zimmerman Library on the University of New Mexico campus; or the City Main Library, 501 Copper, N.W.; in Denver, Colorado: at the Denver Central Library, 1357 Broadway; University Hills Library, East Amherst and South Birch; Bear Valley Library, 517 West Dartmouth; Woodbury Library, West 33rd and Federal Boulevard; and at the Federal Building; in Santa Fe, New Mexico: in the Public Affairs Office, National Park Service, Southwest Regional Office, 1100 Old Santa Fe Trail; and, in Farmington, New Mexico: at the National Park Service Field Office, 1006 Municipal Drive; and at the Farmington Library, 302 North Orchard Avenue.

Public Meetings are scheduled for March 22, 1983, at the Farmington, New Mexico, Civic Center, 212 West Arlington, Rooms C and D. An informal open house is scheduled from 3:00 to 5:00 p.m. and a meeting from 7:00 to 9:00 p.m. On March 23, 1983, the public meeting will be held at the Crownpoint Chapter House, Crownpoint, New Mexico. The meeting will start at 10:00 a.m. And on March 24, 1983, the public meeting will be held at the Sheraton Old Town Hotel, 800 Rio Grande Boulevard, NW., Albuquerque, New Mexico. The meeting will be held in the Potters Room at the hotel with an informal open house from 3:00 to 5:00 p.m., and a meeting from 7:00 to 9:00 p.m.

Anyone wishing to provide comments on the Draft Joint Management Plan for the Chaco Archeological Protection Site System are invited to ask questions at the sessions or submit suggestions or revisions to the plan, or, provide written comments to Robert I. Kerr, Chairman, Interagency Management Group, National Park Service, Southwest Region, P.O. Box 728, Santa Fe, New Mexico 87501, by April 1, 1983.

Dated: January 31, 1983.

Robert I. Kerr,

Chairman, Interagency Management Group.

[FR Doc. 83–3871 Filed 2–11–83; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Volume No. 22]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by 49 CFR Part 1161 of the Commission's Rules of Practice which provide, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

California Docket No. A–83–01–30, filed January 17, 1983. Applicant: SPRINT MESSENGER SERVICES, INC., 10919 Lakewood Blvd., Suite 203, Downey, CA 90241. Representative: Gary W. Wingand, 109919 Lakewood Blvd., Suite 203, Downey, CA 90241. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: (A) Shipments weighing ten (10) pounds or less when transported by carriers which operate no vehicle exceeding the license weight of four thousand (4,000) pounds; (B) From, to within all points and places within the Los Angeles Basin Territory. Interstate, interstate and foreign commerce authority sought.

Hearing: Los Angeles, CA date, and time not yet fixed. Request for procedural information should be addressed to the Public Utilities Commission, State of California, State Bldg. Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–1519, filed January 25, 1983. Applicant: WILLIAM FRANKLIN POTTER d.b.a. POTTER'S EXPRESS, 15 Third Ave., Warrensburg, NY 12885. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities:* Between the Territory comprised of Saratoga, Washington, Warren and Essex Counties. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Ave., State Campus, Bldg. #4, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–3975, filed January 25, 1983. Applicant: CRANTS MOTOR EXPRESS CO., INC., 151 Old Ithaca Rd., Horseheads, NY 14845. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Steel and steel extrusions, welding equipment, and fire truck equipment and replacement parts. From Chemung, Steuben, Onondaga and Tompkins Counties to all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of transportation, 1220 Washington Ave., State Campus, Bldg. #4, albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–10130, filed January 25, 1983. Applicant: DONALD WARREN LAIRD, 25 E. Glenwood Drive, Latham, NY 12110. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General Commodities and household goods:* Between Albany County on the one hand, and, on the other all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of transportation, 1220 Washington Ave., State Campus, Bldg. #4, albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–10137, filed February 1, 1983. Applicant: JAYMAC TRUCKING CO., 11 Willow Place, Albertson, NY 11507. Representative: Schwartz & Sachs, Esqs. One Old Country Road, Carle Place, NY 11514. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *Office Furniture and machines:* Between all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of transportation, 1220 Washington Ave., State Campus, Bldg. #4, albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

[FR Doc. 83–3081 Filed 2–13–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 ICC 740 (1981). These rules provide among other things, that oppostion to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,
Secretary.

Volume No. OPI–56

Dated: February 3, 1983.

For status, please call team 1 at 202–275–7992.

MC–F–15098, filed January 21, 1983. Applicants: EMPIRE BUS LINES, INC. dba LEPRECHAUN LINES (Empire dba Leprechaun), P.O. Box 2628, Newburgh, NY 12550—Purchase (portion)—RESORT BUS LINES, INC. (Resort), P.O. Box 624, Main Station, Yonkers, NY

10702. Representatives: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101; and Vincent P. Nesci, P.O. Box 624, Main Station, Yonkers, NY 10702. Empire dba Leprechaun seeks authority to purchase a portion of the interstate operating rights of Resort. Edward F. X. Gallagher, president and majority stockholder of Gallagher Truck Service, Inc., which controls Empire dba Leprechaun, seeks authority to acquire control of said operating rights through the transaction. Empire dba Leprechaun is purchasing that portion of Resort's authority in certificate No. MC–67340 (Sub-4), which authorizes the transportation of *passengers and their baggage,* over regular routes, between New York, NY and Fishkill, NY. IMPEDIMENT: Approval of this transaction would result in the sale and retention of duplicating operating rights. Applicant states that no duplicating authority is being retained. However, Commission records indicate that transferor holds authority in certificate No. MC–67340 (Sub-16) almost identical to that in Sub-No. 4. Therefore, this proceeding will be held open to enable applicants to submit an affidavit setting forth, in detail, all splits of authority resulting from this transaction and either: (a) A request for cancellation of the duplicating rights being retained by the transferor or (b) acceptable reasons for permitting such a split of authority. NOTE: An application for temporary authority has been filed. Transferee holds permit No. MC 126689, certificated No. MC–114757, and certificate/permit No. MC–112108 and sub-numbers thereunder. Transferee seeks authority in intrastate commerce to conduct operations between New York, NY and Fishkill, NY.

Volume No. OP2–061

Dated: February 4, 1983.

For status, please call Team 2 at 202–275–7030.

MC–F–15075, filed January 12, 1983. VERSINCO, INC. (Versinco) (2100 First National Bank Bldg., Dayton, OH 45402)—Continuance in Control—COMMAND SYSTEMS, INC. (Command) (6810 Fleetwood Road, McLean, VA 22101) and CARL SUBLER TRUCKING, INC. (Subler) (P.O. Box 81, Versailles, OH 45380). Representative: J. G. Dail, Jr., P.O. Box 81, McLean, VA 22101. Versinco seeks to continue in control of Command and Subler through ownership of all their capital stock, upon the institution by Versinco and Command of operations as motor common and contract carriers. Herold M. Richters, Thomas E. Subler, Steven D. Subler, and Denis L. Subler (individuals), who each own 25 percent of the stock of Versinco, seek to continue in control of Command and Subler through the transaction. Subler is a motor carrier pursuant to MC–116763 and sub-numbers thereunder. The above named individuals are also stockholders of Vantage Transport, Inc. (Vantage), a motor common carrier operating under Certificate No. MC–161795. Their control of Vantage and Subler was approved in MC–F–14881.

Note.—(1) Command is not a carrier but has an application pending under MC–164784. (2) Versinco is not a carrier but has an application pending in No. MC–164432, (3) this application is directly related to No. MC–164432 published in the **Federal Register** on November 10, 1982, and No. MC–164784, published in the **Federal Register** on December 10, 1982, and (4) the approval of this application is not to be construed as approval of the continued control by Herold M. Richters, Thomas E. Subler, Steven D. Subler, and Denis L. Subler of Versinco, Inc., upon institution by Versinco of Operations as a carrier, as such approval has not been requested at this time.

[FR Doc. 83–3879 Filed 2–11–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP1–55]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of petitions for intervention must be filed with the Commission within 30 days after the date of this **Federal Register** Notice. Applicant may file a verified statement in rebuttal within 50 days. Such pleadings shall comply with 49 CFR 1160.1–1160.49 addressing specifically the issue(s) indicated as the purpose for this republication.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1, (202) 275–7992.

MC 160091 (Sub-1), (Republication), filed August 2, 1982, published in the **Federal Register** August 23, 1982, and republished this issue. Applicant: BLUE AND WHITE TRANSPORT, INC., 914 Royal Blvd., Boise, ID 83706. Representative: Keven M. Clark, 2417 Bank Dr., Ste. 8, Boise, ID 83705. A decision by the Commission, Entire Commission, decided January 28, 1983, served February 3, 1983, finds that applicant is authorized to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products,* between points in Idaho, Oregon, Washington, Montana, Utah and Wyoming. The purpose of this republication is to broaden the scope of authority.

Note.—The existing certificates in MC–160091 and MC–160091 Sub 1 will be cancelled upon issuance of the new Sub 1 certificate as set forth above.

MC 164100, (Republication), filed October 15, 1982, published in the **Federal Register** November 3, 1982, and republished this issue. Applicant: HANNAFORD TRUCKING COMPANY, 54 Hannaford St., South Portland, ME 04106. Representative: Beth Dobson, Two Canal Plaza, P.O. Box 586, Portland, ME 04112. A decision by the Commission, Review Board Number 1, decided January 11, 1983, served January 25, 1983, finds that applicant is authorized to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *food and related products,* between points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island, on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to include Wisconsin in the territorial description. Condition: Applicant shall conduct its for-hire carrier activities and its other activities independently and shall maintain separate records and accounts for its for-hire transportation activities.

[FR Doc. 83–3882 Filed 2–11–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP2–060]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 7, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980,

at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings: We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing. (Member Ewing, not participating).

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 2, at (202) 275–7030.

MC 129702 (Sub-12)X, filed January 21, 1983. Applicant: CARPET TRANSPORT, INC., Route 5, Lovers Lane Rd., Calhoun, GA 30701. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345. Sub-No. 6F: (1) To broaden the commodity description from foodstuffs (except in bulk, in tank vehicles), to "food and related products; (2) eliminate facility limitations; (3) change one-way to radial authority; and (4) expand Lakeland, FL to Polk County, FL.

[FR Doc. 83–3880 Filed 2–11–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly. Please direct status inquiries to Team One at (202) 275–7992.

Volume No. OP1–53

Decided: February 4, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

W–390 (Sub-11) (Republication), filed August 6, 1982, previously noticed in the **Federal Register** issue of August 27, 1982. Applicant: WARRIOR & GULF NAVIGATION COMPANY, P.O. Box 11397, Chickasaw, AL 36611. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219–2383; (412) 471–1800. To operate as a *contract carrier*, by water, in the transportation of: (1) *General commodities*, in LASH and Seabee barges, and (2) *empty LASH and Seabee Barges*, by towing vessels, in the performance of general towage, between the ports and points on the Gulf of Mexico, including the Gulf Intracoastal Waterway, by way of the

Gulf of Mexico, the Gulf Intracoastal Waterway and connecting and tributary waterways.

Note.—This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy. The purpose of this republication is to remove the shipper designations, and to correct the commodity description.

MC 52861 (Sub-93), filed January 25, 1983. Applicant: WILLS TRUCKING, INC., 3185 Columbia Rd., Richfield, OH 44286. Representative: James W. Moore (same address as applicant) (216) 659–9381. Transporting *bulk commodities and metal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Luria Brothers & Co., Inc., of Cleveland, OH.

MC 109431 (Sub-16), filed January 28, 1983. Applicant: FRANK C. KLEIN & CO., INC., 3600 East 46th Ave., Denver, CO 80216. Representative: Manuel Andrade, 770 Grant St., Suite 228, Denver, CO 80203; (303) 861–4273. Transporting *petroleum and petroleum products:* (a) Between points in Natarona County and Carbon County, WY, on the one hand, and, on the other points in CO, ID, NE, NM, SD, UT and WY, (b) between points in CO, (c) between points in CO, on the one hand, and, on the other points in NE, NM, OK, TX, UT and WY, and (d) between those points in TX on and north of U.S. Hwy. 66, on the one hand, and, on the other points in CO, KS and NM.

MC 115180 (Sub-107), filed January 28, 1983. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 265 West 14th Street, New York, NY 10011. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934; (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 115841 (Sub-786), filed January 31, 1983. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Rudolph L. Ennis, 2021 United American Plaza, P.O. Box 550, Knoxville, TN 37901; (615) 647–1440. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with The Pillsbury Company, of Minneapolis, MN.

MC 120851 (Sub-4), filed January 28, 1983. Applicant: BLASCHKE TRUCKING COMPANY, 7831 Fairview St., Houston, TX 77041. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024; (713) 827–1407. Transporting: (1) *Mercer commodities,* (2) *metal products,* and (3) *pipe,* between points in AR, KS, LA, OK, MN, and TX.

MC 121300 (Sub-8), filed January 17, 1983. Applicant: HARRIS TRANSPORTATION CO., 14880 Love's Lane, Victorville, CA 92392. Representative: Marsha N. Honda, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017; (213) 483–4700. Transporting: (1) *Ores and minerals, metal products, building materials, machinery,* and *commodities* which because of size and weight require the use of special handling or equipment, between points in CA, on the one hand, and, on the other, points in AZ, ID, NV, OR, UT, and WA, and (2) *general commodities* (except classes A and B explosives, and household goods), between points in Los Angeles, Orange, Riverside, and San Bernardino Counties, CA. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its certificate of Registration in MC–121300 Sub-1.

Note.—Applicant seeks to convert its certificate of registration in MC–121300 Sub-1, to a certificate of public convenience and necessity in part (2) above.

MC 134780 (Sub-4), filed January 28, 1983. Applicant: UNITED TRUCK SERVICE, INC., P.O. Box 1276, Seminole, OK 74868. Representative: Dean Williamson, Suite 107, 50 Classen Center, 5101 North Classen Blvd., Oklahoma City, OK 73118; (405) 848–7946. Transporting *drilling mud and drilling mud additives,* between points in OK, on the one hand, and, on the other, points in MT, ND, SD, and WY.

MC 140330, filed January 26, 1983. Applicant: DEPENDABLE TANK LINES, INC. d.b.a. DEPENDABLE TRUCK LINES, Route 1, Box 94, Red Level, AL 36474. Representative: Calvin R. Turner, Jr., P.O. Box 517, Evergreen, AL 36401; (205) 578–3212. Transporting *chemicals and related products,* between points in Covington and Mobile Counties, AL, Winn County, LA, and Chatham County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143280 (Sub-35), filed January 31, 1983. Applicant: SAFE TRANSPORTATION COMPANY, 9955 W. 69th St., Eden Prairie, MN 55344. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121; (612) 452–8770. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146440 (Sub-12), filed January 26, 1983. Applicant: BOSTON CONTRACT CARRIER, INC., 34 Market St., Everett, MA 02149. Representative: Alan Bernson, Suite #30, 34 Market St., Everett, MA 02149; (617) 389–5207. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, NH, NJ, NY, and VT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147850 (Sub-4), filed January 24, 1983. Applicant: BURGESS TRUCKING COMPANY, INC., P.O. Box 96, Sedley, VA 23878. Representative: Kim D. Mann, 1600 Wilson Blvd., Suite 1301, Arlington, VA 22209; (703)522–0900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, St. Louis, MO, Providence, RI, and points in Montgomery, Morgan, Limestone, Bulter, Chilton, Lee, and Jefferson Counties, AL, Fairfield County, CT, Polk and Duval Counties, FL, Chatham, Tift, Clayton, DeKalb, Fulton, Charlton, Lowndes, and Brooks Counties, GA, McLean County, IL, Shelby County, KY, Lafayette and St. Martin Parishes, LA, Androscoggin County, ME, Suffolk and North Counties, MA, Kalamazoo and Monroe Counties, MI, Chickasaw County, MS, Mercer, Hunterdon, Bergen, Hudson, and Essex Counties, NJ, Guilford, Randolph, Davidson, Johnston, and Northampton Counties, NC, Tusarawas, Montgomery, Warren, and Cuahoga Counties, OH, Washington, Lancaster, and Bucks Counties, PA, Spartanburg County, SC, Hamblen County, TN, and Brunswick, Mecklenburg, Henrico, Chesterfield, Sussex, Southampton, and Isle of Wight Counties, VA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 156751 (Sub-2), filed January 18, 1983. Applicant: GREEN ARROW MOTOR EXPRESS COMPANY, P.O. Box 1645, Tacoma, WA 98401. Representative: Robert A. Dowdy C/O Weyerhaeuser Company, Tacoma, WA 98477; (206) 924–2142. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Beatrice Foods Company and its subsidiaries, of

Chicago, IL, and The Sherwin-Williams Co., of Cleveland, OH.

MC 157950 (Sub-1), filed January 25, 1983. Applicant: HEISLER TRANSPORTS, INC., 128 SW 10, Oklahoma City, OK 73126. Representative: Don Cox (same address as applicant) (405) 235–3666. Transporting *general commodities* (except classes A and B explosives and household goods), between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164591, filed January 28, 1983. Applicant: SIGMA ENTERPRISES, INC., #1600 101 SW. Main St., Portland, OR 97204. Representative: John G. McLaughlin, 1600 One Main Pl., Portland, OR 97204; (503) 224–5525. Transporting *malt beverages*, between points in the U.S. (except AK and HI), under continuing contract(s) with Olympia Brewing Company, of Olympia, WA.

MC 165840, filed January 28, 1983. Applicant: LLOYD PETERSON d.b.a. PETERSON TRUCKING, Rt. 2, Box 71–H, Moses Lake, WA 98837. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009; (206) 453–0312. Transporting *titanium, titanium aggregate, sponges and fines*, between points in Grant County, WA, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with International Titanium, Inc., of Moses Lake, WA.

MC 165960, filed January 31, 1983. Applicant: RONALD A. PEASE d.b.a. LE-TRUCK DISTRIBUTION LTD., 759 Wright Ave., Elgin, IL 60120. Representative: Ronald A. Pease, (same address as applicant) (312) 888–0093. Transporting *food and related products*, between Chicago, IL, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–46

Decided: February 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 1515 (Sub-328), filed January 18, 1983. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J.. Celmins (same address as applicant) (602) 248–2942. Over *regular routes*, transporting *passengers:* (1) Between Tekonsha, MI and Coldwater, MI: From Tekonsha, over MI Hwy 60 to junction Interstate Hwy 69, then over Interstate Hwy 69 to junction U.S. Hwy 12, and then over U.S. Hwy 12 to Coldwater, MI; (2) Between Three Rivers, MI and junction U.S. Hay 131 and the MI–IN State line, over U.S. Hwy 131; (3) Between Hancock, MI and Calumet, MI, over U.S. Hwy 41; (4) Between Escanaba, MI and Menominee, MI, over MI Hwy 35; (5) Between Detroit, MI and junction Interstate Hwy 94 and the MI–IN State line, over Interstate Hwy 94, serving the off-route points of Jackson, Albion, Marshall, Battle Creek, Benton Harbor, and St. Joseph, MI; (6) Between Detroit, MI and Ann Arbor, MI: From Detroit, over Interstate Hwy 96 to junction MI Hwy 14, then over MI Hwy 14 to junction U.S. Hwy 23, and then over U.S. Hwy 23 to Ann Arbor, MI; (7) Between Detroit, MI and Muskegon, MI: From Detroit, over Interstate Hwy 696 to junction Interstate Hwy 96, then over Interstate Hwy 96 to junction Business Route interstate Hwy 96, and then over Business Route Interstate Hwy 96 to Muskegon, MI, serving the off-route points of Brighton and Howell, MI; (8) Between junction Interstate Hwy 275 and Interstate Hwy 96 near Farmington, MI and junction Interstate Hwy 275 and Interstate Hwy 75 near Newport, MI, over Interstate Hwy 275; (9) Between Detroit, MI and Sault Ste. Marie, MI: From Detroit, over Interstate Hwy 75 to junction U.S. Hwy 10 near Bay City, MI, then over U.S. Hwy 10 to junction U.S. Hwy 27, and then over U.S. Hwy 27 to junction Interstate Hwy 75 south of Grayling, MI, and then over Interstate Hwy 75 to Sault Ste. Marie, MI, serving the off-route points of Pontiac, Flint, Saginaw, and Bay City, MI; (10) Between Midland, MI and junction U.S. Hwy 27 and U.S. Hwy 10 near Clare, MI: From Midland, over MI Hwy 20 to Mt. Pleasant, MI, and then over U.S. Hwy 27 to junction U.S. Hwy 10; (11) Between junction Interstate Hwy 94 and the IN–MI State line and junction Interstate Hwy 90 and the IN–IL State line: From junction Interstate Hwy 94 and the IN–MI State line over Interstate Hwy 94 to junction Interstate Hwy 90, and then over Interstate Hwy 90 to the IN–IL State line, serving the off-route point of Michigan City, IN; (12) Between Elkhart, IN and junction U.S. Hwy 131 and the IN–MI State line: From Elkhart, over IN Hwy 19 to juction IN Turnpike, then over IN Turnpike to junction U.S. Hwy 131, and then over U.S. Hwy 131 to the IN–MI State line; (13) between Elkhart, IN and Ft. Wayne, IN, over U.S. Hwy 33; (14) Between junction Interstate Hwy 64 and the IN–IL State line and junction Interstate Hwy 64 and the IN–KY State line, over Interstate Hwy 64, serving the off-route point of Evansville, IN; (15) Between junction Interstate Hwy 70 and the IN–IL State line and Terre Haute, IN, over Interstate Hwy 70; (16) Between Chicago, IL and junction Interstate Hwy 94 and the IL–WI State line, over Interstate Hwy 94; (17) Between Chicago, IL and junction Interstate Hwy 55 and the IL–MO State line at East St. Louis, IL, over Interstate Hwy 55, serving the off-route points of Joliet, Dwight, Pontiac, Bloomington, Lincoln, Springfield, and Litchfield, IL; (18) Between Chicago, IL and junction Interstate Hwy 24 and the IL–KY State line: From Chicago, over Interstate Hwy 94 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction Interstate Hwy 24, then over Interstate Hwy 24 to the IL–KY State line, serving the off-route points of Gilman, Champaign, Mattoon, Effingham, Salem, Mt. Vernon, and Vienna, IL; (19) Between junction Interstate Hwy 24 and Interstate Hwy 57 south of Marion, IL and junction Interstate Hwy 57 and the IL–MO State line, over Interstate Hwy 57, serving the off-route point of Cairo, IL; (20) Between Chicago, IL and junction Interstate Hwy 90 and the IL–WI State line: From Chicago, over Interstate Hwy 290 to junction Interstate Hwy 90, then over Interstate Hwy 90 to the IL–WI State line, serving the off-route points of Northlake, Elgin, Belvidere, and Rockford, IL; (21) Between the junction of Interstate Hwy 90 and Interstate Hwy 290 near Arlington Heights, IL, and junction Interstate Hwy 90 and the IL–IN State line, over Interstate Hwy 90; (22) Between Northlake, IL and junction IL Hwy 92 and the IL–IA State line at Rock Island, IL: From Northlake, over Interstate Hwy 294 to junction IL Hwy 5 at Elmhurst, IL, then over IL Hwy 5 to junction IL Hwy 92 near Silvis, IL, and then over IL Hwy 92 to the IL–IA State line, serving the off-route points of Aurora, De Kalb, Rochelle, Dixon, and Sterling, IL; (23) Between junction Interstate Hwy 70 and the IL–MO State line at East St. Louis, IL and junction Interstate Hwy 70 and the IL–IN State line, over Interstate Hwy 70, serving the off-route points of Vandalia and Effingham, IL; (24) Between junction Interstate Hwy 64 and the IL–MO State line at East St. Louis, IL and junction Interstate Hwy 64 and the IL–IN State line, over Interstate Hwy 64, serving the off-route points of Belleville and Mt. Vernon, IL; (25) Between junction Interstate Hwy 80 and Interstate Hwy 57 near Markham, IL and junction Interstate Hwy 80 and Interstate Hwy 55 near Joliet, IL, over Interstate Hwy 80; (26) Between junction Interstate Hwy 70 and the MO–IL State line at St. Louis, MO and junction Interstate Hwy 70 and the MO–KS line at Kansas City, MO, over Interstate Hwy 70; (27) Between junction Interstate

Hwy 44 and the MO–IL State line at St. Louis, MO and junction Interstate Hwy 44 and the MO–OK State line, over Interstate Hwy 44, serving the off-route points of St. James, Rolla, and Ft. Leonard Wood, MO; (28) Between junction Interstate Hwy 55 and the MO–IL State line at St. Louis, MO and junction Interstate Hwy 55 and the MO–AR State line, over Interstate Hwy 55; (29) Between junction Interstate Hwy 57 and the MO–IL State line and junction Interstate Hwy 57 and U.S. Hwy 61 and U.S. Hwy 61 near Sikeston, MO, over Interstate Hwy 57; (30) Between junction Interstate Hwy 29 and the MO–KS State line at Kansas City, MO and junction Interstate Hwy 29 and the MO–IA State line, over Interstate Hwy 29; (31) Between junction Interstate Hwy 29 and the IA–MO State line and junction Interstate Hwy 29 and the IA–SD State line, over Interstate Hwy 29; (32) Between junction Interstate Hwy 80 and the IA–IL State line at Davenport, IA and junction Interstate Hwy 80 and the IA–NE State line at Council Bluffs, IA: From junction Interstate Hwy 80 and the IA–IL State line over Interstate Hwy 80 to junction Interstate Hwy 235, then over Interstate Hwy 235 via Des Moines, IA to junction Interstate Hwy 80, and then over Interstate Hwy 80 to the IA–NE State line; (33) Between Tama, IA and junction U.S. Hwy 63 and U.S. Hwy 6 east of Grinnell, IA, over U.S. Hwy 63; (34) Between Milwaukee, WI and junction Interstate Hwy 94 and the WI–IL State line, over Interstate Hwy 94; (35) Between Lake Geneva, WI and junction WI Hwy 50 and Interstate Hwy 94 near Kenosha, WI, over WI Hwy 50; (36) Between Stevens Point, WI and Wisconsin Rapids, WI, over WI County Road P; (37) Between Duluth, MN and St. Paul, MN: From Duluth, over Interstate Hwy 35 to junction Interstate Hwy 35E, and then over Interstate Hwy 35E to St. Paul, MN; (38) Between Sauk Centre, MN and Willmar, MN, over U.S. Hwy 71; (39) Betweeen Hibbing, MN and Duluth, MN: From Hibbing, over MN Hwy 37 to junction U.S. Hwy 53, and then over U.S. Hwy 53 to Duluth, MN; (40) Between Fargo, ND and junction Interstate Hwy 29 and ports of entry on the International boundary line between the United States and Canada at or near Pembina, ND, over Interstate Hwy 29; (41) Between Sioux Falls, SD and junction Interstate Hwy 29 and the SD–IA State line: From Sioux Falls, over Interstate Hwy 229 to junction Interstate Hwy 29, and then over Interstate Hwy 29 to the SD–IA State line; and (42) Between Paducah, KY and junction Interstate Hwy 24 and the KY–IL State line, over Interstate Hwy 24, serving in (1) through (42) above all intermediate points.

Note.—(1) Applicant intends to tack this authority with its existing authority, and (2) Applicant seeks to provide regular-route service in interstate and foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

MC 1515 (Sub-330), filed January 24, 1983. Applicant GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative R. L. Wilson (same address as applicant) (602) 248–5016. Over *regular routes*, transporting *passengers:* (1) Between Bozeman, MT and the MT–ID State line, via West Yellowstone, MT: from Bozeman, MT over U.S. Hwy 191 to West Yellowstone, MT, then over U.S. Hwy 20 to the MT–ID State line and (2) between Tillamook, OR and Portland, OR: from Tillamook, OR over OR Hwy 6 to its junction with OR Hwy 8, near Glenwood, Or, then over OR Hwy 8 to its junction with U.S. Hwy 26, then over U.S. Hwy 26 to Portland, OR.

Note.—Applicant seeks to provide regular-route service in intrastate commerce under 49 U.S.C. 10922(c)(2)(B).

Note.—Applicant seeks to tack this authority to its existing authority in MC–1515.

MC 29854 (Sub-37), filed January 26, 1983. Applicant THE HUDSON BUS TRANSPORTATION CO., INC., 437 Tonnele Ave., Jersey City, NJ 97306. Representative W. C. Mitchell, 370 Lexington Ave., New York, NY 10017; (212) 532–5100. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant receives governmental financial assistance for the purchase or operations of buses, or is an operator for such a recepient.

MC 110525 (Sub-1326), filed January 17, 1983. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Lionville, PA 19353. Representative: Paul L. Gausch, P.O. Box 200, Lionville, PA 19353; (215) 363–4285. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. under continuing contract(s) with Union Carbide Corporation, of Danbury, CT.

MC 133604 (Sub-21), filed January 17, 1983. Applicant: LYNN TRANSPORTATION COMPANY, INC., 712 S. 11th Street, Oskaloosa, IA 52577. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501; (515) 682–8154. Transporting *general commodities* (except household goods, classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 134924 (Sub-4), filed December 17, 1982. Applicant: DIRECT VAN LINES, INC., 14720 Southlawn Lane, Rockville, MD 20850. Representative: Thomas R. Kingsley, 10614 Amherst Avenue, Silver Spring, MD 20902; (301) 649–5074. Transporting *household goods* (1) between points in the U.S. in and east of MN, SD, NE, CO, OK and TX, and (2) between those points in the U.S. in and east of MN, SD, NE, CO, OK and TX, on the one hand, and, on the other, those points in the U.S. west of MN, SD, NE, CO, OK, and TX.

MC 138134 (Sub-15), filed January 17, 1983. Applicant: DONALD HOLLAND TRUCKING, INC., Main Street Road, P.O. Box 646, Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501; (515) 682–8154. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Henkel Corporation of Minneapolis, MN.

MC 140464 (Sub-16), filed January 17, 1983. Applicant: D–X TRUCKING, INC., 5660 Southwyck Blvd., Ste. G, Toledo, OH 43614. Representative: Michael M. Briley, 1200 Edison Plaza, P.O. Box 2088, Toledo, OH 43603; (419) 255–8220. Transporting *clay, concrete, glass or stone products,* between points in the U.S. (except AK and HI).

MC 165724, filed January 17, 1983. Applicant: 52 WRECKER SERVICE, INC., 1941 Seventh Ave., Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526; (324) 562–3460. Transporting *mobile homes, wrecked, disabled, and repossessed motor vehicles,* between points in KY, OH and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165725, filed January 17, 1983. Applicant: ROBERT PAYSON, d.b.a. R. PAYSON CARTAGE, 9960 West 151st Street, Orland Park, IL 60462. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603; (312) 236–0548. Transporting *general commodities*, (except Classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with (1) Chicago Display Company of Melrose Park, IL, and (2) Clear Pack Company of Franklin Park, IL.

MC 165755, filed January 18, 1983. Applicant: CHARLES F. NORRIS, d.b.a. MORRIS TRUCKING COMPANY, 1412 S.W. 69th Street, Oklahoma City, OK 73159. Representative: Wilburn L. Williamson, Suite 107, 50 Classen

Center, 5101 North Classen Boulevard, Oklahoma City, OK 73118; (705) 848–7946. Transporting *oilfield commodities*, between points in AR, CO, KS, LA, MT, NE, NM, ND, OK, SD, TX, and WY.

MC 165695, filed January 14, 1983. Applicant: DONNA SCHULTZ AND DELMAR VOEGELE, d.b.a. SONIC TRANSPORTATION, 19430 S.E. 384th, Auburn, WA 98002. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104; (206) 622–3220. Transporting *general commodities*, (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI).

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–071

Decided: February 7, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 61396 (Sub-412), filed January 31, 1983. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501; (402) 475–6761. Transporting *commodities in bulk*, between points in the U.S. (except AK and HI).

MC 91306 (Sub-43), filed January 31, 1983. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Ave. N.E., Hickory, NC 28601. Representative: Eric Meierhoefer, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 737–1030. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 68717 (Sub-3), filed January 28, 1983. Applicant: W. N. DAUL TRANSFER LINES, INC., 1521 Ellis St., Kewaunee, WI 54216. Representative: John L. Bruemmer, P.O. Box 927, Madison, WI 53701; (608) 257–9521. Transporting *general commodities* (except classes A and B explosives) (1) between points in Brown, Calumet, Door, Kewaunee, Manitowoc, Outagamie and Sheboygan Counties, WI, and (2) between points named in (1) above, on the one hand, and, on the other Chicago, IL and Milwaukee, WI.

MC 133897 (Sub-4), filed January 31, 1983. Applicant: MILLVILLE TRUCKING COMPANY, INC., Orange St., P.O. Box 181, Millville, NJ 08332. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison, McLean, VA 22101; (703) 893–4924. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Owens-Illinois, Inc., of Toledo, OH.

MC 138157 (Sub-285), filed February 1, 1983. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC. dba SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant) (615) 756–7511. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) which Chevron Chemical Company of San Francisco, CA.

MC 151767 (Sub-5), filed January 31, 1983. Applicant: BOYD F. POWERS AND MICHAEL J. POWERS d.b.a. POWERS TRUCKING CO., 52 Market St., Lock Haven, PA 17745. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500 Washington, DC 20006; (202) 828–5015. Transporting *food and related products*, between points in MI, OH, PA, NY, VT, NH, ME, MA, RI, CT, NJ, DE, MD, VA, NC, and DC.

MC 152257 (Sub-5), filed February 1, 1983. Applicant: LORDCO TRUCKING, INC., 535–F Tollgate Rd., Elgin, IL 60120. Representative: Paul J. Maton, 27 E Monroe St., Rm 1000, Chicago, IL 60603; (312) 332–0905. Transporting *such commodities as are dealt in or used by manufacturers and distributors or containers*, between points in the U.S. (except AK and HI), under continuing contract(s) with National Can Corporation of Chicago, IL.

MC 163866, filed February 1, 1983. Applicant: KUTZLER EXPRESS, INC., 2109 45th St., Kenosha, WI 53141. Representative: Paul J. Maton, 27 East Monroe St., Suite 1000, Chicago, IL 60603; (312) 332–0905. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Ocean Spray Cranberries, Inc., of Hanson, MA.

MC 165967, filed February 1, 1983. Applicant: FOSTER BROS. TRUCKING, INC., R.R. 1, Box 244, Ferdinand, IN 47532. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240; (317) 846–6655. Transporting *coal*, between points in Martin, Daviess, Dubois and Greene Counties, IN, on the one hand, and, on the other, points in Brown County, WI.

MC 165996, filed January 28, 1983. Applicant: TNT CARTAGE COMPANY, 4443 Old Springfield Rd., Vandalia, OH 45377. Representative: Boyd B. Ferris, 50 W. Broad St., Columbis, OH 43215; (614) 464–4103. Transporting *general commodities* (except classes A and B explosives and household goods), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–52

Decided: February 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 31389 (Sub-340), filed January 14, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First St., Winston-Salem, NC 27154. Representative: Daniel R. Simmons (same address as applicant), (919) 721–2000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Uniroyal, Inc., of Middlebury, CT.

MC 41098 (Sub-92), filed January 11, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006; 202–833–8884. Transporting *general commodities* (except classes A and B explosives, commodities in bulk), between points in the U.S., under continuing contract(s) with Honeywell, Inc., of Minneapolis, MN.

MC 51018 (Sub-18), filed January 17, 1983. Applicant: THE BESL TRANSFER COMPANY, 5550 Este Ave., Cincinnati, OH 45232. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215; 614–228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), and commodities in bulk and household goods), between points in Hamilton County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 51018 (Sub-19), filed January 17, 1983. Applicant: THE BESL TRANSFER COMPANY, 5550 Este Ave., Cincinnati, OH 45232. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215; (614) 228–1541. Transporting *general commodities* (except classes A and B explosives and commodities in bulk and household goods), between points in Boone County, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 79658 (Sub-45), filed January 10, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant) 812–424–2222.

Transporting *household goods*, between points in the U.S., under continuing contract(s) with Consolidated Foods Corporation, of Chicago, IL.

MC 79658 (Sub-47), filed January 11, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant) 812–424–2222. Transporting *household goods*, between points in the U.S., under continuing contract(s) with ServiceMaster Industries Inc., of Downers Grove, IL.

MC 79658 (Sub-49), filed January 18, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant) 812–424–2222. Transporting *household goods*, between points in the U.S. under continuing contract(s) with the Gap Stores, Inc., of San Bruno, CA.

MC 105159 (Sub-52), filed January 17, 1983. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main St., Red Wing, MN 55066. Representative: Stephen F. Grinnell, 121 South 8th St., 1600 TCF Tower, Minneapolis, MN 55402; (612) 333–1341. Transporting *metal and metal products* between points in IL, IN, MI, MN, NJ, PA, and TX, on the one hand, and, the other, points in Pierce County, WI.

MC 117018 (Sub-6), filed January 18, 1983. Applicant: CEDARTOWN-ATLANTA FREIGHT LINES, INC., P.O Box 127, Cedartown, GA 30125. Representative: Larry M. Treadaway (same address as applicant) (404) 748–2420. Transporting *General commodities* (except classes A and B explosives and household goods), between points in AL, GA, TN, FL, NC, and SC.

MC 133589 (Sub-8), filed January 18, 1983. Applicant: BCT, INC., P.O. Box 7219, Boise, ID 83707. Representative: James R. Daly (same address as applicant) 208–384–7230. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Superior Transportation Systems, Inc. of Wilsonville, OR.

MC 135399 (Sub-25), filed January 17, 1983. Applicant: HASKINS TRUCKING, INC., 1208 F.M. 1745, P.O. Drawer 7729, Longview, TX 75602. Representative: A. William Brackett, 623 South Henderson, 2nd Floor, Fort Worth, TX 76104; (817) 332–4415. Transporting *such commodities* as are dealt in or used by foundries and industrial mills, between points in TX, LA, and AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 140889 (Sub-30), filed January 17, 1983. Applicant: FIVE STAR TRUCKING, INC., 1638 Pioneer Way, El Cajon, CA 92020. Representative: Ignatius B. Trombetta, One Public Square Bldg. #1001, Cleveland, OH 44113; 216–589–0448. Transporting *metal, plastic and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with VanDorn Co. Davis Can Company Division of Solon, OH.

MC 147008 (Sub-5), filed January 19, 1983. Applicant: ALBERT NEAL WEBBER, JR. d.b.a. A. N. WEBBER, P.O Box 95, Chebanse, IL 60922. Representative: Joel H. Steiner, 135 S. LaSalle St., Suite 2106, Chicago, IL 60603; (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147169 (Sub-6), filed January 19, 1983. Applicant: SERVICEWAY MOTOR FREIGHT, INC., P.O. Box 243, Alcoa, TN 37701. Representative: J. Greg Hardeman, 618 United Southern Bank Bldg., Nashville, TN 37219; (615) 244–8100. Transporting *general commmodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of ND, SD, WY, UT and AZ.

MC 150099 (Sub-5), filed January 18, 1983. Applicant: ALL STATE TRUCKING CO., INC., 3400 Mesa Rd., Houston, TX 77103. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459; (713) 437–1768. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 150898 (Sub-55), filed January 6, 1983. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Ave., Kearny, NJ 07032. Representative: Morton E. Kiel, 1832 Two World Trade Center, New York, NY 10048; 212–466–0220. Transporting *general commmodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 151878 (Sub-8(A)), filed January 17, 1983. Applicant: THREE WAY CORPORATION, 1120 Karlstad Drive, Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th Street NW., Suite 800, Washington, DC 20036; (202) 785–3420. To engage in operations in interstate or foreign commerce, as a *broker* at Sunnyvale, CA, in arranging for the transportation of *household goods*, between points in the U.S. (esxcept AK and HI).

Note.—Applicant also seeks authority in MC–151878 Sub 8 (B) fitness broker published in this same issue.

MC 157518 (Sub-1), filed January 14, 1983. Applicant: DONALD W. OVERCAST, SR. d.b.a. DOUBLE D TRUCKING, 1101 Hunter Drive, Mechanicsville, VA 23111. Representative: Barry Weintraub, 8133 Leesburg Pike, Suite 510, Vienna, VA 22180; (703) 442–8330. Transporting *food and related products* between Richmond, VA, Atlanta, GA, Houston, TX, Oakland, CA, and points in Orange County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162549 (Sub-1), filed January 11, 1983. Applicant: RIVER CITY FOREST PRODUCTS, INC., Indiana Hwy. 60, P.O. Box 52, Borden, IN 47106. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602; 502–223–8244. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Owen's Machinery, Inc., of Corydon, IN.

MC 165668, filed January 17, 1983. Applicant: WAUSAU CARRIERS, INC., P.O. Box 398, Wausau, WI 54401. Representative: Robert A. Wagman (same address as applicant), 715–359–3497). Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with J. I. Case Company of Racine, WI.

MC 165728, filed January 17, 1983. Applicant: PULIZ MOVING & STORAGE CO., INC., 259 S. McCarran Blvd., Sparks, NV 89431. Representative Timothy A. Puliz (same address as applicant), (702) 322–7029. Transporting *household goods*, between points in NV and CA.

MC 165759, filed January 14, 1983. Applicant: EAZOR SPECIAL SERVICES, INC., Eazor Square, Pittsburgh, PA 15201. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219; (412) 471–1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 165778, filed January 19, 1983. Applicant: ACTION TRANSFER, INC., 3888 E. 45th Ave., Denver, CO 80216. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO

80264; (303) 861–4028. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CO.

Volume No. OP5–54

Decided: February 4, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF 658, filed January 25, 1983. Applicant: PASHA SERVICES, 5725 Paradise Dr., Corte Madera, CA 94925. Representative: Ann M. Pougiales, 100 Bush St., 21st Floor, San Francisco, CA 94104; 415–986–5778. As a *freight forwarder,* in connection with the transportation of *motor vehicles* between points in the U.S.

MC 41098 (Sub-93), filed January 25, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006; (202) 833–8884. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. under continuing contract(s) with Barber-Colman Company of Rockford, IL, and its subsidiaries, Robicon and Haskell-Dawes.

MC 79658 (Sub-51), filed January 24, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant) (812) 424–2222. Transporting *household goods,* between points in the U.S., under continuing contract(s) with Babcock & Wilcox Co., of Barberton, OH.

MC 105159 (Sub-53), filed January 25, 1983. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main St., Red Wing, MN 55066. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402; (612) 333–1341. Transporting *general commodities* (except household goods, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Ralston Purina Company, of St. Louis, MO.

MC 108188 (Sub-17), filed January 25, 1983. Applicant: ROLLO TRUCKING CORP., INC., 295 Broadway, Keyport, NJ 07735. Representative: Fred H. Daly, 2555 M St., NW., Suite 100, Washington, DC 20037; (202) 293–3204. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 147019 (Sub-9), filed January 5, 1983. Applicant: WENGERT TRANSPORTATION, INC., d.b.a. CITY DELIVERY, 651 58th Ave. Court, S.W., Cedar Rapids, IA 52404. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312; 515–274–4985. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Polk, Henry, Scott and Linn Counties, IA on the one hand, and, on the other, points in IL and NE.

MC 152108 (Sub-4), filed January 24, 1983. Applicant: RELCO SYSTEMS, INC., 7310 Chestnut Ridge Rd., Lockport, NY 14094. Representative: David H. Baker, 600 Maryland Ave., SW., Washington, DC 20024; (202) 484–9090. Transporting *metals, metal products, and scrap metal,* between points in the U.S. (except AK and HI), under continuing contract(s) with Aluminum Company of America, of Pittsburgh, PA.

MC 153359 (Sub-1), filed January 24, 1983. Applicant: COSMOPOLITAN EXPRESS, INC., 2881 Carl Boulevard, Elk Grove Village, IL 60007. Representative: Patrick H. Smyth, 105 West Madison St., Suite 1008, Chicago, IL 60602; (312) 263–2397. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MI, MN, MO, OH, TN, and WI.

MC 158959 (Sub-1), filed January 24, 1983. Applicant: REINHART'S MEAT PROCESSING, INC., SR 2, Hollywood Hills, Branson, MO 65616. Representative: Charles J. Fain, 333 Madison St., Jefferson City, MO 65101; 314–635–4115. Transporting (1) *food and delated products*, between points in the U.S. under continuing contract(s) with George A. Hormel & Co., of Austin, MN; Canadian Valley Meat Co., of Oklahoma City, OK; FDL Foods, Inc., of Dubuque, IA; Kretschmar Brands, Inc., of Pittsburg, KS; Oldhams Farm Sausage Co., Inc., of Lee Summit, MO; Ozark Food Sales, Consumers Market, Inc., and The R.T. French Company all of Springfield, MO; and (2) *floor covering* between points in the U.S. under continuing contract(s) with Cla-Mar, Inc., of Topeka, KS.

MC 159008 (Sub-8), filed January 25, 1983. Applicant: NORTHERN CARRIERS, INC., 3814 11th St., Rockford, IL 61110. Representative: Abraham A. Diamond, 29 South La Salle St., Chicago, IL 60603; 312–236–0548. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 159189 (Sub-3), filed January 25, 1983. Applicant: MERRITT TRUCKING COMPANY, INC., P.O. Box 18346, Greensboro, NC 27419–8346. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602; 919–828–0731. Transporting *compressed gas,* between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 165869, filed January 24, 1983. Applicant: CLARENCE D. DAVIS, d.b.a. DAVIS AUTO PARTS & GROCERY, Rt. 1, Box 18, Red Banks, MS 38661. Representative: Clarence D. Davis (same address as applicant) 601–252–4461. Transporting *disabled motor vehicles* and *replacement vehicles* for disabled vehicles, in wrecker service, between points in the U.S. (except HI).

MC 165898, filed January 25, 1983. Applicant: HUGO NEU TRANSPORTATION, INC., 4221 West 700 South, Salt Lake City, UT 84104. Representative: Bill Milner, P.O. Box 27324, Salt Lake City, UT 84127; (801) 973–8665. Transporting (1) *metal products* and (2) *waste or scrap materials not identified by industry producing,* between points in the U.S. (except AK and HI), under continuing contract(s) with Hugo Neu Steel Products, Inc., of Salt Lake City, UT.

MC 165899, filed January 24, 1983. Applicant: HENRY STEPP, d.b.a. STEPP TRUCKING COMPANY, Rte. 3, Box 254, Lamar, MO 64759. Representative: Alex M. Lewandowski, 1221 Baltimore St., Kansas City, MO 64105; 816–221–1464. Transporting *food and related products,* between points in Jackson, Clay and Platte Counties, MO, and Johnson and Wyandotte Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3884 Filed 2–11–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon

which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-237

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 134806 (Sub-1-52TA), filed January 26, 1983. Applicant: B-D-R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East-West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Leather and leather products* between Ipswich, MA, on the one hand, and, on the other, points in AZ, CA and CO, under continuing contract(s) with Ebinger Brothers Leather Company, Inc., Ipswich, MA. Supporting shipper: Ebinger Brothers Leather Company, Inc., 1 Peatfield Street, Ipswich, MA 01938.

MC 134806 (Sub-1-53TA), filed January 27, 1983. Applicant: B-D-R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East-West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Woven piece goods* between Revere, MA, on the one hand, and, on the other, points in CA, CO, OR and WA, under continuing contract(s) with Harold Davis Textile Corporation, Revere, MA. Supporting shipper: Harold Davis Textile Corporation, 765 Revere Beach Parkway, Revere, MA 02151.

MC 134806 (Sub-1-54TA), filed January 27, 1983. Applicant: B-D-R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East-West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Footwear* between Westbrook, ME, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, under continuing contract(s) with Sebago, Inc., Westbrook, ME. Supporting shipper: Sebago, Inc., 72 Bridge Street, Westbrook, ME 04092.

MC 94901 (Sub-1-1TA), filed January 27, 1983. Applicant: EDDY MESSENGER SERVICE, INC., 31 Merritt Street, Port Chester, NY 10573. Representative: John L. Alfano, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Common Carrier:* irregular routes: *general commodities (except classes A and B explosives and hazarous waste)* between points in Dutchess, Orange, Putnam, Sullivan, and Ulster Counties, NY, and Fairfield County, CT, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC. Supporting shipper(s): Green Fan Co., 175 Fishkill Ave., Beacon, NY 12508; Somerset Investment Services, 251 Riverside Ave., Westport, CT 06880; Witco Chemical, 570 Fishkill Ave., Beacon, NY 12508; The Whittock Press, Inc., 18 Montgomery St., Middletown, NY.

MC 30521 (Sub-1-1TA), filed February 1, 1983. Applicant: H & L BLOOM, INC., 427 Cohannet Street, Taunton, MA 02780. Representative: Arthur M. White, Bifofsky, Walker and Tuttle, 281 Pleasant Street, P.O. Box 2547, Framingham, MA 01701. *Common carrier:* regular routes: *Passengers* between Wareham and Taunton, MA over Route 195 and Route 140, serving all intermediate points, and return over the same route; to be added and tacked to routes between Springfield and Buzzards Bay, MA, serving intermediate points as set forth in MC-30521 Sub 3. Supporting shipper(s): There are eight statements of support with this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 3647 (Sub-1-5TA), filed January 26, 1983. Applicant: NJ TRANSIT BUS OPERATIONS INC., 180 Boyden Avenue, Maplewood, NJ 07040. Representative: Irwin I. Kimmelman, Attorney General of New Jersey, By: John F. Ward, Dep. Atty. Gen., McCarter Highway & Market Street, P.O. Box 10009, Newark, NJ 07101. *Common carrier:* regular routes: *Passengers* (1) Between points in Fair Lawn, NJ serving all intermediate points: From junction Saddle River Road and Fair Lawn Avenue, then over Fair Lawn Avenue to junction Plaza Road, and return over the same route. (2) Between points in Paterson, NJ serving all intermediate points: (a) From junction East Thirty-third Street and Eleventh Avenue; then over Eleventh Avenue to junction Madison Avenue, then over Madison Avenue to juction Broadway (NJ Highway 4), then over Broadway to Memorial Drive, then over Memorial Drive, to junction Market Street, then over Market Street, to junction Main Street, then over Main Street, to junction Van Houten Street, then over Van Houten Street to junction at Curtis Place. Return from junction Broadway and Curtis Place, then over Curtis Place to junction Ellison Street, then over Ellison Street, to junction Memorial Drive, then over Memorial Drive to junction Broadway (NJ Highway #4), then over Broadway to junction Madison Avenue, then over Madison Avenue to junction Eleventh Avenue, then over Eleventh Avenue to junction East Thirty-third Street; (b) From junction Church Street and Broadway, then over Broadway to junction Main street, return over the same route; (c) From junction Curtis Place and Broadway, then over Broadway to junction Main Street, then over Main Street to junction Oliver Street and Main Street, return over the same route. (3) Between points in Rutherford, NJ serving all intermediate points: From junction Union Avenue and Chestnut Street, then over Chestnut Street to junction Ames Avenue, then over Ames Avenue, to junction Orient Way, return over the same route. Note Applicant proposes to tack above described routes with existing authorized routes. Supporting shipper(s): There are 19 statements of support with this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 3647 (Sub-1-6TA), filed February 1, 1983. Applicant: NJ TRANSIT BUS OPERATIONS INC., 180 Boyden Avenue, Maplewood, NJ 07040. Representative: Irwin I. Kimmelman, Attorney General of New Jersey, By: John F. Ward, Deputy Attorney General, McCarter Highway and Market Street, P.O. Box 10009, Newark, NJ 07101. *Common carrier:* regular routes: *passengers* (1) Between Paterson, N.J. and East Rutherford, N.J. serving all intermediate points: From junction Main Street and Broadway, the over Broadway to junction Curtis Place, then over Curtis Place to junction Ellison Street, then over Ellison Street to junction Washington Street, then over Washington Street to junction Market Street, then over Market Street to

junction Madison Avenue, then over Madison Avenue to junction Park Avenue, then over Park Avenue to junction Vreeland Avenue, then over Vreeland Avenue to junction East Thirty Ninth Street, then over East Thirty Ninth Street to junction Market Street, then over Market Street to junction Lakeview Avenue, then over Lakeview Avenue, and access roads to Market Street, Paterson; then over Market Street to junction River Drive, then over River Drive to U.S. Highway #46 East, then over U.S. Highway #46 East, Elmwood Park; Garfield; Lodi; Hasbrouck Heights; Teterboro; to junction Main Street, then over Main Street to junction Liberty Street then over Liberty Street, Little Ferry to junction Moonachie Road, then over Moonachie Road, Moonachie to junction Washington Avenue, then over Washington Avenue, Carlstadt and New Jersey Highway #20, then over New Jersey Highway #20 to junction New Jersey Highway #3, East Rutherford. Return from junction New Jersey Highway #3 and New Jersey Highway #20, East Rutherford, N.J., then over New Jersey Highway #20 to junction Washington Avenue, then over Washington Avenue, Carlstadt to junction Moonachie Road, then over Moonachie Road, Moonachie to junction Liberty Street, then over Liberty Street to junction Main Street then over Main Street to junction Phillips Avenue, then over Phillips Avenue to junction U.S. Highway #46 West; Little Ferry, N.J., then over U.S. Highway #46 West, Teterboro; Hasbrouck Heights; Lodi; Saddle Brook to junction River Drive; then over River Drive to junction Market Street, then over Market Street, Elmwood Park, to junction Vreeland Avenue, Paterson, then over Vreeland Avenue to junction Park Avenue, then over Park Avenue to junction Market Street, then over Market Street to junction Main Street, then over Main Street to junction Van Houten Street, then over Van Houten Street to junction Curtis Place, Paterson. (2) Between Teterboro and Moonachie, N.J. serving all intermediate points: From junction U.S. Highway #46 and Industrial Avenue, then over Industrial Avenue to junction Railroad Avenue, then over Railroad Avenue, Teterboro to junction Industrial Avenue then over Industrial Avenue to junction Moonachie Avenue, then over Moonachie Avenue to junction Moonachie Road, Moonachie, N.J. and return over the same route. (3) Between Hasbrouck Heights and Passaic, N.J. serving all intermediate points: From junction U.S. Highway #46 and New Jersey Highway #17, then over New Jersey Highway #17 South to junction Williams Avenue, then over Williams Avenue, and Union Street to junction Memorial Drive, Lodi, then over Memorial Drive to junction Passaic Street, then over Passaic Street, to junction Wall Street, then over Wall Street to junction Passaic Street, then over Passaic Street to junction Main Street, then over Main Street to junction Lexington Avenue, Passaic, N.J. Return over Lexington Avenue, to junction Monroe Street, then over Monroe Street to junction Main Street, then over Main Street, to junction Prospect Street, then over Prospect Street, to junction Wall Street, then over Wall Street to junction Passaic Street, Passaic; then over Passaic Street to junction Memorial Drive, then over Memorial Drive to junction Union Street, Lodi, then over Union Street and William Street to junction U.S. Highway #46, Hasbrouck Heights. (4) Between Hackensack and Ridgefield Park, N.J. serving all intermediate points: From junction Anderson Street and Main Street, then over Main Street to junction Ward Street, then over Ward Street to junction State Street, then over State Street, to junction Mercer Street, then over Mercer Street to junction Moore Street, then over Moore Street to junction Atlantic Street, then over Atlantic Street to junction Moore Street, then over Moore Street to junction Court Street, then over Court Street, W. Fort Lee Road, to junction River Road, then over River Road, to junction Main Street, then over Main Street to junction Palisade Avenue, then over Palisade Avenue to junction North Avenue, then over North Avenue to junction Main Street and Queen Anne road, Ridgefield Park. Return from North Avenue, to junction Palisade Avenue, then over Palisade Avenue, to junction Main Street, then over Main Street to junction River Road, then over River Road to junction W. Fort Lee Road, then over W. Fort Lee Road, Bridge Street to junction Moore Street, then over Moore Street to junction Atlantic Street, then over Atlantic Street to junction Moore Street, then over Moore Street to junction Mercer Street, then over Mercer Street to junction Main Street, then over Main Street to junction of Anderson Street, Hackensack. (5) Between points in Little Ferry, N.J. serving all intermediate points: From junction U.S. Highway #46 and Little Ferry Traffic Circle, then over U.S. Highway #46 to junction Liberty Street, then over Liberty Street to junction Main Street and return over the same route. Applicant proposes to join the above-described routes with its existing authorized routes via the Lincoln Tunnel to New York, NY. Abandonment of Manhattan Transit Lines is the basis of this request.

MC 165928 (Sub-1–1TA), filed January 27, 1983. Applicant: R.E.M. TRANSPORT, LTD., 27 Parkwood Drive, St. Stephen, New Brunswick, CD E3L 2W1. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *Wood fencing,* from ports of entry on the International Boundary Line between the U.S. and CD at Calais, ME, and Champlain, NY, to points in AL, CT, DE, DC, FL, GA, IL, IN, IA, KY, ME, MD, MA, MI, MS, MO, NE, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and WI, under continuing contract(s) with Northern Wood Products Co., Inc. of Medford, NY. Supporting shipper: Northern Wood Products, Co., Inc., 274 Middle Island Road, Medford, NY 11763.

MC 145243 (Sub-1–1TA), filed January 28, 1983. Applicant: REDBIRD DEVELOPMENT, INC., 1018 Whitlock Road, Rochester, NY 14609. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Industrial metal hydroxide residues* between all points in the U.S., under continuing contract(s) with WRC Processing Company of McLean, VA. Supporting shipper: WRC Processing Company, 1600 Anderson Road, McLean, VA 22102.

MC 140312 (Sub-1–3TA), filed January 28, 1983. Applicant: SARGENT TRANSPORT, INC., 1882 Obi Road, Portville, NY 14770. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. (1) *Electronic furniture; Chest of drawers; Dressers; Desks; Bookcases, etc., Tables or Phonographic record cabinets; completely unassembled in packages* from NY to major points in CA, IL, MT, NJ, NY, NC, OH, OR, PA and TX and (2) *Materials, equipment and supplies used in the manufacture, sale and distribution of such commodities* from major points in IL, MT, OR, NC, and PA to NY, under continuing contract(s) with Bush Industries of Little Valley, NY. Supporting shipper: Bush Industries, 312 Fair Oak Street, Little Valley, NY 14755.

MC 165985 (Sub-1–1TA), filed February 1, 1983. Applicant: TRANSPORT NORDIQUE, INC., 849, Route Benoit, Mont St-Hilaire, Quebec, CD J3G 4S6. Representative: Thomas E. Acey, Jr., Suite 1100, 1660 L Street, N.W., Washington, D.C. 20036. *Smokeless powder used in the manufacture of small arms ammunition; military and sporting small arms ammunition;* from manufacturer's plant sites in Kenvil, NJ and East Alton, IL, to points on the

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International Boundary between the U.S. and CD at Rouses Point and Champlain, NY. Supporting shipper: IVI Inc., C.P./P.O. Box 790, Courcelette, Quebec, CD G0A 1R0.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 165575 (Sub-II–1TA), filed February 1, 1983. Applicant: ADIOS MOTOR FREIGHT, INC., P.O. Box 14907, Cincinnati, OH 45214. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Contract Irregular: General commodities (except classes A and B explosives, household goods, and commodities in bulk),* between points in the U.S. (except AK and HI), under continuing contract(s) with The Kroger Co. of Cincinnati, OH and Dauphin Distribution Services Company of Camp Hill, PA for 270 days. Supporting shippers: The Kroger Co., 1014 Vine St., Cincinnati, OH 45201, and Dauphin Distribution Services Company, P.O. Box 685, Camp Hill, PA 17011.

MC 164452 (Sub-II–1TA), filed January 20, 1983. Applicant: JOSEPH F. CASSIDY, DALE J. CASSIDY AND GREGORY T. CASSIDY, PARTNERS d.b.a. CASSIDY'S EXPRESS, 5240 Comly St., Philadelphia, PA 19135. Representative: Brian L. Troiano, 918 16th St., N.W., Washington, DC 20006. *Such commodities as are dealt in by retail department stores,* between Philadelphia, PA, and its commercial zone, on the one hand, and, on the other, points in DE, DC, MD, NJ, NY, PA and VA, which are within 159 miles of Philadelphia, PA. An underlying ETA seeks 120 days authority. Supporting shipper: Spencer Gifts, Inc., 1050 Black Horse Pike, Atlantic City, NJ 08411.

MC 147723 (Sub-II–6TA), filed January 31, 1983. Applicant: E. B. COMPANY, INC., 667 Front St., Berea, OH 44017. Representative: Susan J. Radwan (same as above). *Hardware; aluminum and aluminum articles; automobile parts; plastic and plastic articles; iron and steel products; electrical components; scrap metals and scrap plastics, glass and glass products and equipment, materials and supplies used in the manufacture and distribution of the above commodities,* between points in OH, IN, IL, MI, CA, TX, NJ, NY, MA, GA, PA and WV, on the one hand, and, on the other points in the U.S. for 270 days. Supporting shipper: Big Rig Components, Inc., 8000 Baker Ave., Cleveland, OH 44102.

MC 147723 (Sub-II–7TA), filed January 31, 1983. Applicant: E. B. COMPANY, INC., 667 Front St., Berea, OH 44017. Representative: Susan J. Radwan (same as above). *Such commodities as are dealt in by wholesale, retail chain grocery, food business houses, restaurants, institutions or hospitals and equipment, materials and supplies used in connection therein,* between points in OH, MI, IN, IL, NY, FL, IA, TN, WI, on the one hand, and, on the other, points in the U.S. Supporting shipper: Robert E. Stumpf Sausage Company, 3301 West 63rd St., Cleveland, OH 44102.

MC 165882 (Sub-II–1TA), filed January 25, 1983. Applicant: EARLE BLEDSOE TRUCKING, 206 Lorraine Ave., Fredericksburg, VA 22401. Representative: Earle Bledsoe (same address as applicant). *Cinders (coal)* from Morgantown, MD to Fredericksburg, VA. An underlying ETA seeks 120 days authority. Supporting shipper: The Frackelton Block Co., 400 Howison Ave., Fredericksburg, VA 22401.

MC 165544 (Sub-II–1TA), filed January 17, 1983. Applicant: ELKINS TRUCKING CO., INC., P.O. Box 368, Milton, WV 25541. Representative: Edward T. Love, 4401 East West Hwy., Suite 404, Bethesda, MD 20814. Contract, Irregular: *Coal, in bulk, in dump vehicles,* from Dingess, WV to points in Boyd County, KY. An underlying ETA seeks 120 days authority. Under continuing contract(s) with K.I.M. Coal Co. Supporting shipper: K.I.M. Coal Company, 600 Kincaid Towers, 300 West Vine St., Lexington, KY 40507.

MC 142958 (Sub-II–2TA), filed February 2, 1983. Applicant: EMERGENCY MEDICAL DELIVERIES, INC., 230 Arco Dr., Toledo, OH 43607. Representative: Michael M. Briley, 300 Madison Ave., 12th Fl., Toledo, OH 43604. *(1) Medicinal intravenous solutions, dialysis patient treatment kits, mineral water and liquid formaldehyde* (except commodities in bulk, in tank vehicles) and *(2) materials and supplies used in the administration of the commodities in (1) above* between North Chicago, IL and Cincinnati, OH on the one hand, and, on the other, points in IN, KY, MI and OH, for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Abbott Laboratories, North Chicago, IL 60064.

MC 123405 (Sub-II–7TA), filed January 24, 1983. Applicant: FOOD TRANSPORT, INC., R.D. 1, Thomasville, PA 17364. Representative: Christian V Graf, 407 N Front St., Harrisburg, PA 17101. *Ice cream* from Cambria County, PA to Tucson, AZ; Denver, CO; and Albuquerque, NM. An underlying ETA seeks 120 days authority. Supporting shipper: Johnstown Sanitary Dairy Co., Div. of Penn Traffic Co., 400 Franklin St., Johnstown, PA 15901.

MC 107012 (Sub-II–261 TA), filed January 27, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract, irregular: *General commodities* (except household goods, classes A & B explosives, and commodities in bulk) between points in the United States under continuing contract(s) with Documation, Inc., a subsidiary of S.T.C. of Palm Bay, Florida, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Documation, Incorporated, 340 Kirby Lane, Palm Bay, FL 32905.

MC 107012 (Sub-II–262TA), filed January 27, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant) Contract, irregular: *General commodities* (except household goods, classes A & B explosives, and commodities in bulk) between points in the United States under continuing contract(s) with Amdahl Corporation of Sunnyvale, California, for 270 days. Supporting shipper: Amdahl Corporation, 1250 East Arques Ave., Sunnyvale, CA.

MC 107012 (Sub-II–263TA), filed January 27, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the United States, under continuing contract(s) with International Playtex, Inc., Dover, Delaware, for 270 days. Supporting shipper: International Playtex, Inc., Playtex Park, P.O. Box 631, Dover, DE 19901.

MC 107012 (Sub-II–264TA), filed February 1, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as applicant). Contract, irregular: *General commodities (except classes A & B explosives, commodities in bulk, and household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with Mattel, Inc., Hawthorne, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Mattel, Inc., 5150 Rosecrans Ave., Hawthorne, CA 90250.

MC 107012 (Sub-II–265TA), filed February 1, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001

U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract, irregular: *General commodities* (except household goods, classes A & B explosives, and commodities in bulk) between points in the United States under continuing contract(s) with Management Assistance, Inc., Sorbus Service Division of Frazer, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Management Assistance, Inc., Sorbus Service Division, 50 East Swedesford Road, Frazer, PA 19355.

MC 147931 (Sub-II–1TA), filed January 25, 1983. Applicant: PENNI & RALPH JR. TRUCKING COMPANY, Green Acres Addition, P.O. Box 187, Craigsville, WV 26205. Representative: Penni S. Zangari (same address as applicant). *Coal, in bulk, in dump vehicles,* from points in WV to the facilities of Calgon Corp., located at Catlettsburg, KY. An underlying ETA seeks 120 days authority. Supporting shipper: Calgon Corp., P.O. Box 1346, Pittsburgh, PA 15203.

MC 165962 (Sub-II–1TA), filed January 31, 1983. Applicant: RCJ ASSOCIATES, INC., P.O. Box 7402, Baltimore, MD 21127. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Malt beverages* from Baltimore, MD to Washington, DC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Great Bay Group, 817 S. Bond St., Baltimore, MD 21231.

MC 113499 (Sub-II–3TA), filed January 24, 1983. Applicant: EDWARD M. RUDE CARRIER CORP., R.F.D. #1, Falling Waters, WV 25419. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Books,* from Towaco and Pine Brook, NJ to Berryville, VA. An underlying ETA seeks 120 days authority. Supporting shipper: Dell Publishing Company, Inc., Change Bridge Road, Pine Brook, NY 07058.

MC 146807 (Sub-II–33TA), filed January 24, 1983. Applicant: S n W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. *Chemicals and related products* (1) between Bainbridge, NY and Philadelphia, PA, on the one hand, and, on the other, points in NJ and OH. (2) between Columbus, OH, on the one hand, and, on the other, points in CA, GA, IL, IN, KS, LA, MN, MI, MO, NJ, NV, NY, OH, OR, PA, TN, TX, and WA for 270 days. An underlying ETA seeks 120 days. Supporting shipper(s): Borden Incorporated, 180 East Broad St., Columbus, OH 43215.

The following applications were filed in region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 144218 (Sub-3–4TA), filed February 2, 1983. Applicant: FELDSPAR TRUCKING COMPANY, INC., P.O. Box 858, Spruce Pine, NC 28777. Representative: Joseph L Steinfeld, Jr., 915 Pennsylvania Building, 425 13th Street, NW., Washington, DC 20004. *Contract,* irregular: *such commodities as are dealt in or used by retail department stores,* (1) between Los Angeles, CA, and points in its commercial zone, on the one hand, and, on the other, New York, NY, and Charlotte, NC, and points in their commercial zones; and (2) between Wilmington, NC, and points in its commercial zone, on the one hand, and, on the other, Charlotte, NC, and points in its commercial zone, having prior or subsequent movement in interstate or foreign commerce, under continuing contract(s) with National Shirt Shops, of New York, NY. Supporting shipper: National Shirt Shops, 19 West 34th Street, New York, NY 10001.

MC 2900 (Sub-3–37TA), filed January 31, 1983. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as above). *Contract carrier:* irregular: *General Commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between points in the U.S. (except AK and HI) under continuing contract(s) with Best Products Co., Inc. and its subsidiaries. Supporting shipper: Best Products Co., Inc., Highway 1, North, Ashland, VA 23005.

MC 31389 (Sub-3–16TA), filed February 2, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27154. Representative: Daniel R. Simmons, P.O Box 213, Winston-Salem, NC 27102. *Contract Carrier:* Irregular: *General commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between points in the US (except AK and HI), under continuing contract or contracts with Uniroyal, Inc. of Middlebury, CT. Supporting shipper: Uniroyal, Inc., World Headquarters, Middlebury, CT 06749.

MC 140330 (Sub-3–3TA), filed February 1, 1983. Applicant: DEPENDABLE TANK LINES, INC. d.b.a. DEPENDABLE TRUCK LINES, Route 1, Box 94, Red Level, AL 36474. Representative: Calvin R. Turner, Jr., P.O. Box 517, Evergreen, AL 36401. (1) *Methanol* between Mobile County, AL and Covington County, AL, on the one hand, and, on the other, points on and east of the Mississippi River. This includes commodities which have a prior or subsequent movement by water. (2) Glue, adhesives, resins and catalysts, and materials, chemicals, and supplies used in the manufacture of glue, adhesives, resins and catalysts, between points in Covington County, AL; Winn County, LA, and Chatham County, NC, on the one hand, and, on the other, points in the United States. Supporting shipper(s): Chembond Corporation, Winnfield, LA; Getty Refining & Marketing Company, Tulsa, OK.

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 19311 (Sub-4–10TA), filed January 24, 1983. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Elmer J. Maue (same address as applicant) 313–939–7000. Transporting *General Commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in IL, IN, MI, OH, WI, Boone, Campbell, Jefferson and Kenton Counties, KY, those points in NY on, west and north of U.S. Hwy 11, and those points in PA and WV on and west of U.S. Hwy 219, under continuing contract(s) with Chrysler Corporation.

MC 102679 (Sub-4–2TA), filed January 25, 1983. Applicant: COLLINS MOVING SYSTEMS, INC., 904 West Morgan Street, Kokomo, IN 46901. Representative: John F. Wickes, Jr., Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. *Contract* irregular: *Kitchen cabinets, vanities, wall units and hardwood flooring, and parts thereto,* (1) between Las Vegas, NV and Dallas, TX, and (2) between Union City and Nappanee, IN, on the one hand, and, on the other, points in 48 states (except AK and HI). Restricted to services performed pursuant to contract(s) with Triangle Pacific Corp. Supporting shipper: Triangle Pacific Corp., 16803 Dallas Parkway, Dallas, TX.

MC 112223 (Sub-4–12TA), filed January 25, 1983. Applicant: QUICKIE TRANSPORT COMPANY, 1700 New Brighton Blvd., Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Blvd., Minneapolis, MN 55413. *Polymeric isocyanates and*

polyurethane resine, in bulk, in tank vehicles, between points in MD, MN, NJ, NC, TN, and WV. Supporting shipper Foam Enterprises, Inc. 13630 Watertower Circle, Minneapolis, MN 55441.

MC 141605 (Sub-4–1TA), filed January 26, 1983. Applicant: LAKIN MOVING & STORAGE, INC., P.O. Box 1312, Fond du Lac, WI 54935. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956. Transporting *those commodities sold by or dealt in by the food service industry* between the facilities of Warehousing Unlimited of Fond du Lac, Inc. and Valley Warehousing of Fond du Lac, Inc. located at or near Fond du Lac, WI, and, Huntsville, AL; Little Rock, AR; Hayward, CA; Denver, CO; Miami, FL, Orlando, FL; Rome, GA; Fort Wayne, IN, Lafayette, IN; Springfield, IL; Kansas City, KS; Louisville, KY; Shreveport, LA; Jessup, MD; Pocomoke City, MD; Brockton, MA; Detroit, MI, Canton, MI; Clinton, MO, Springfield, MO; Jackson, MS; Omaha, NE; Elizabeth, NJ; Albany, NY, Horsehead, NY; Akron, OH, Cleveland, OH, Oklahoma City, OK; Myrtle Beach, SC; Knoxville, TN, Memphis, TN, Nashville, TN; Amarillo, TX, El Paso, TX, Houston, TX, San Antonio, TX; Salt Lake City, UT; Harrisonburg, VA, Norfolk, VA, Roanoke, VA for 270 days. An underlying ETA seeks 120 days. There are two supporting shippers.

MC 165398 (Sub-4–1), filed November 29, 1982. Applicant: M & J CARRIERS INC., Rural Route #1, Box 111A, Oakley, IL 62552. Representative: James E. Ashby (same address as applicant), (217) 783–2111. *General commodities* (except Classes A and B explosives and household goods) between points within the U.S. except AK and HI. There are ten supporting shippers.

MC 165905 (Sub-4–1TA), filed January 26, 1983. Applicant: R & R TRUCKING, LTD., 207 South Union Street, Loyal, WI 54446. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. Contract carrier, over irregular routes transporting *butter and cheese* from the facilities of John Wuethrich Creamery Company, Inc. at or near Greenwood, WI to New York, NY under continuing contract(s) with John Wuethrich Creamery Company, Inc., of Greenwood WI. An underlying ETA seeks 120 day authority. Supporting Shipper, John Wuethrich Creamery Company, Inc.

MC 165907 (Sub-4–1TA), filed January 26, 1983. Applicant: JAMES L. LANDPHIER, 615 Birkinbine Drive, Sun Prairie, WI 53590. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Contract Irregular: Lumber and lumber products, from Sun Prairie, WI to points in IL on and north of I–80, under continuing contract(s) with Roberts & Dybdahl, Inc. Authority sought for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Roberts & Dybdahl, Inc., 325 Linnerud Drive, Sun Prairie, WI 53590.

MC 165908 (Sub-4–1TA), filed January 26, 1983. Applicant: COLONIAL AMERICAN TRANSPORTATION, INC., 860 Skokie Highway, Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602. *General commodities* (except commodities in bulk, Classes A and B explosives and household goods), between points in the United States (except AK and HI), under continuing contract with Gould, Inc., Rolling Meadows, IL.

MC 165915 (Sub-4–1TA), filed January 26, 1983. Applicant: D & P TRANSPORT, INC., 707 North Raymond Street, Griffith, IN 46319. Representative: Anthony E. Young, Ltd., 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Copper and brass articles, aluminum and aluminum products, and scrap* between the facilities of R. Lavin & Sons, located at or near Chicago, IL, on the one hand, and, on the other, points in IN, WI, OH, and MI. Supporting shipper: R. Lavin & Sons, 3426 South Kedzie Avenue, Chicago, IL 60623.

MC 15735 (Sub-4–53TA), filed January 27, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Martin T. Boratyn, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household goods, exhibition and display paraphernalia and electronic process control systems, valves, pressure regulators and materials and components thereof*, between points in the U.S. (except AK and HI) under a continuing contract with Fisher Controls International, Inc. Supporting shipper: Fisher Controls International, Inc., Marshalltown, IA. 50158.

MC 15735 (Sub-4–54TA), filed January 27, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (excluding AK and HI) under a continuing contract with New York Times Company of New York, New York and its subsidiaries.

MC 134401 (Sub-4–3TA), filed January 27, 1983. Applicant: McGILLION TRANSPORT, INC., 141 Healey Road, P.O. Box 398, Bolton, Ontario, Canada LOP 1AO. Representative: Allan C. Zuckerman, 221 N. LaSalle Street, Suite 826, Chicago, IL 60601. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Machinery, and Such Commodities* as are used in the manufacture of plastic and plastic products, between ports of entry on the international boundary line between the United States and Canada in MI and NY, on the one hand, and on the other, points in the United States Supporting shipper: Husky Injection Molding Systems, Limited, 530 Queen St., South, Bolton, Ontario, Canada LOP 1AO.

MC 163794 (Sub-4–2TA), filed January 27, 1983. Applicant: G. G. BARNETT TRANSPORT, INC., 507 York Street, Beaver Dam, WI 53916. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Food and related products* between points in WI, on the one hand, and on the other hand, points within the U.S. (except AK and HI). Supporting shipper: American Farms Corporation, 111 East Main Street, Box 311, Waupun, WI 53963.

MC 15735 (Sub-4–55TA), filed January 31, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (excluding AK and HI) under a continuing contract with ISC Systems Corporation of Spokane, Washington.

MC 15735 (Sub-4–5TA), filed January 31, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Articles, including objects of Art, Displays and Exhibits, which because of their unusual nature require specialized handling* between points in the U.S. except (AK and HI) under a continuing contract with Condit Corporation. Supporting shipper: Condit Corporation of Denver, Colorado.

MC 23441 (Sub-4–1TA), filed January 31, 1983. Applicant: LAY TRUCKING COMPANY, INC., 104 Hawthorne Street, LaPorte, IN 46350. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Combine cabs*, from Moline, IL to Independence, MO. Supporting Shipper: McLaughlin Body Company, Moline, IL.

MC 144697 (Sub-4–1TA), filed January 31, 1983. Applicant: GIBCO MOTOR

EXPRESS, INC., 3200 Haythorne Avenue, P.O. Box 478, Terre Haute, IN 47805. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491. Transporting *Coke,* from Terre Haute, IN to points in WI for 270 days. Applicant has applied for ETA authority corresponding to this application. Supporting shipper: Pickands Mather Company, 1900 Spring Road, Oakbrook, IL 60521.

MC 162041 (Sub-4–1TA), filed January 31, 1983. Applicant: P.M. SMITH CARTAGE, INC., 4140 South Herman, Milwaukee, WI 53207. Representative: Joseph P. Duffey, Esq., 111 East Wisconsin Avenue, Milwaukee, WI 53202, (414) 276–0830. Contract irregular, transporting empty metal cans and can ends or lids; malt beverages, distilled, rectified or blended liquors; wine; brandy or brandy spirits; carbonated or non-carbonated soft drinks; and equipment, materials and supplies used in the production, manufacture and distribution of such commodities, between points in the State of WI and the State of MO. Supporting shipper: Canada Dry/Grafs Bottling of Wisconsin, Inc.

MC 162041 (Sub-4–2TA), filed January 31, 1983. Applicant: P.M. SMITH CARTAGE, INC., 4140 South Herman, Milwaukee, WI 53207. Representative: Joseph P. Duffey, Esq., 111 East Wisconsin Avenue, Milwaukee, WI 53202, (414) 276–0830. *Contract,* irregular, transporting malt beverages and commodities used or useful in the manufacture, sale and distribution of malt beverages, between points in the States of WI, TN and NC. Supporting shipper: Jos. Schlitz Brewing Company.

MC 165397 (Sub-4–1TA), filed January 31, 1983. Applicant: PRAIRIE PASS SYSTEM, INC., 702 Stough, Hinsdale, IL 60455. Representative: Richard F. Porm (same address as applicant). *Fiber drums and materials equipment and supplies used in the manufacture and distribution of fiber drums,* between points in Chicago, IL Commercial Zone on the one hand, and, on the other, points in IL, IN, IA, MI, and WI. Supporting shipper: Michaels Cooperage, 380 W. Pershing Road, Chicago, IL 60609.

MC 165946 (Sub-4–1TA), filed January 31, 1983. Applicant: NORTHLAND BUS SERVICE, INC., Box 116, Surrey, ND 58785. Representative: W. L. Lesmeister (same as above). To take charter or special passengers from within the state of ND to points in the U.S. (except HI), including AK.

MC 165966 (Sub-4–2TA), filed January 31, 1983. Applicant: R&S TRUCK BROKERS, 136 S. Main St., Ithaca, MI 48847. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. *Contract,* irregular: transporting *refrigerators, other equipment, furniture, and materials used in the production of refrigerators, other equipment and furniture, utilized by restaurants and food business houses* between the facilities of The Delfield Company, Div. of Alco Foodservice Equipment Co., located at or near Mt. Pleasant, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI) under account with The Delfield Company, Div. of Alco Foodservice Equipment Co. for 270 days. Supporting shipper: The Delfield Company, Div. of Alco Foodservice Equipment Co. P.O. Box 470, Mt. Pleasant, MI 48858.

MC 165967 (Sub-4–1TA), filed January 31, 1983. Applicant: FOSTER BROS. TRUCKING, INC., R.R. 1, Box 244, Ferdinand, IN 47532. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Coal, between Martin, Daviess, Dubois, and Greene Counties, IN. Supporting shipper: Green Bay Fuels, Inc., Louisville, KY.

The following applications were filed in region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Forth Worth, TX 76102.

MC 86539 (Sub-5–2TA), filed January 24, 1983. Applicant: HIPKE TRUCKING, INC., Route 5, Atkinson, NE 68713. Representative: Bradford E. Kistler, P.O. Box 82082, Lincoln, NE 68501. *Irrigation systems, and materials, equipment and supplies used in the production and distribution of irrigation systems,* between the facilities of Energro-Olson, Inc. in Holt County, NE on the one hand, and, on the other, points in CO, IA, NE, ND, SD, MT, IL, KS, OK TX and AR. Supporting shipper: Energro-Olson, Atkinson, NE.

MC 142716 (Sub-5–4TA), filed January 25, 1983. Applicant: C & L TRUCKING, INC., P.O. Box 8355, Cedar Rapids, IA 52408. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Alcohol, in bulk, from Peoria, IL, to Bettendorf, IA. Supporting shipper: ADM Corn Sweeteners, Cedar Rapids, IA.

MC 149168 (Sub-5–4TA), filed January 24, 1983. Applicant: INTERCOASTAL CONTAINER, SERVICE CORP., P.O. Box 1770, Orange, TX 77630. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *Pulpboard and Woodpulp,* moving in ocean containers, between Evadale, TX, on the one hand, and on the other, Houston, TX and New Orleans, LA, restricted to traffic having a prior or subsequent movement via water or rail. Supporting shipper: Temple-Eastex, Inc., Silsbee, TX.

MC 152136 (Sub-5–4TA), filed January 24, 1983. Applicant: DANE TRUCKING & CARTAGE COMPANY, P.O. Box 1563, Ft. Worth, TX 76053. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Tires* from Ardmore, OK to Arlington and Dallas, TX. Supporting shipper: Nortex Trailer & Tractor, Inc., Dallas, TX.

MC 159942 (Sub-5–1TA), filed January 25, 1983. Applicant: MAYWOOD, INCORPORATED, P.O. Box 30550, Amarillo, TX 79120. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Contract, irregular: *Wood products* between Amarillo, TX, and Klamath Falls, OR, under continuing contract(s) with Maywood Industries of Oregon, Inc.

MC 163372 (Sub-5–8TA), filed January 24, 1983. Applicant: TRANS-CARRIERS, INC., 1013 Camelot Cove, West Memphis, AR 72301. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Packaging materials and materials and supplies used in the manufacture of packaging materials* between facilities of Van Ant Packaging, Division of Menasha Corp. at or near Martinsville, VA, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, KY, TN, MS, and LA. Supporting shipper: Van Ant Packaging, Div. of Menasha Corp., Martinsville, VA.

MC 164366 (Sub-5–2TA), filed January 18, 1983. Applicant: AFFILIATED VAN LINES, INC., Box 209, Lawton, OK 93502. Representative: Charles J. Kimball, 1600 Sherman St., #665, Denver, CO 80203. Contract, irregular: *Such commodities as dealt in by supermarkets and food business houses* between points in the U.S. (except AK and HI). Supporting shipper: Herbs Discount, Inc., Lawton, OK.

MC 164814 (Sub-5–1TA), filed January 24, 1983. Applicant: RAMCO TRUCKING, INC., 4005 N.W. Expressway, Suite 320, Oklahoma City, OK 73116. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105–1961. *Mercer commodities,* between all points in the U.S. (except AK and HI). Supporting shipper(s): 18.

MC 165680 (Sub-5–1TA), filed January 25, 1983. Applicant: KEN'S DELIVERY, d.b.a. KEN TIPTON, INC., 14 Salem Rd., Conway, AR 72032. Representative: Kenneth R. Tipton (same as above).

General Commodities (excluding Classes A and B explosives, HHG's and commodities in bulk), between points in Faulkner, Conway, Perry and Pulaski Counties, AR, restricted to traffic having prior or subsequent interstate move. Supporting shipper(s): 43.

Note.—Applicant intends to interline.

MC 165710 (Sub-5–1TA), filed January 24, 1983. Applicant: STEMMANS, INC., d.b.a. TRADERS REST FARM, P.O. Box 156, Carencro, IA 70520. Representative: Donald Stemmans (same as applicant). *Thoroughbred horses, including breeding mares and foals; equipment and paraphernalia,* between Carencro, LA and AL, AR, FL, KY, MS, OK, NM, TN, TX. Supporting shipper: Horsehoe Farm, Lafayette, LA.

MC 165847 (Sub-5–1TA), filed January 24, 1983. Applicant: B & A MARINE SERVICE, INC., P.O. Box 1432, Nederland, TX 77627. Representative: Kenneth R. Hoffman, 1600 W. 38th Street, Suite 410, Austin, TX 78731. *General commodities (except Classes A and B explosives and commodities in bulk),* between points in TX, LA, MS, AL and FL. Restricted to Hot Shot Service. Supporting shipper: Maritime Overseas Corporation.

MC 165848 (Sub-5–1TA), filed January 24, 1983. Applicant: P. L. PECORARO TRUCKING, d.b.a. P. L. PECORARO, 1227 Wooded Fork, Chesterfield, MO 63017. Representative: P. L. Pecoraro (same address as applicant). Contract irregular: *Dairy products, foodstuffs, and restaurant supplies,* between points in IL, on the one hand, and, on the other, points in AR, KY, MO, MS and TN, under continuing contract with Prairie Farms Dairy, Inc. and its P.F.D. Supply Corp. Div. Supporting shipper(s): Prairie Farms Dairy, Inc. and P.F.D. Supply Corp., Granite City, IL.

MC 165851 (Sub-5–1TA), filed January 24, 1983. Applicant: ROBERT TESTERMAN, d.b.a. BARRY COUNTY EXPRESS, R.R. 3, Anderson, MO 64831. Representative: Elizabeth Burkdoll, 1430 Commerce Tower, 911 Main Street, Kansas City, MO 64105. *General commodities, including household goods and furniture, crated and uncrated,* between all points in Jasper, Newton, Barry and McDonald Counties, MO. Supporting shippers: Hine Brothers Wood Products, Inc., Rocky Comfort, MO; Brumley & Sons, Powell, MO.

MC 165857 (Sub-5–1TA), filed January 24, 1983. Applicant: VINER'S INC., P.O. Box 290, Emerson, IA 51533. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Hides and cattle switches,* from Oakland, IA to points in CA, IL, KY, ME, MI, MO, GA, IN, NH, NJ, NY, NC, PA, TN, TX, WV, and WI. Supporting Shipper: Land O' Lakes, Inc., Spencer Beef Division, Oakland, IA.

MC 165859 (Sub-5–1TA), filed January 24, 1983. Applicant: HAROLD SEVERE, R.R. #1, Albion, IA 52531. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Pulp, paper and related products* and *chemicals and related products,* (1) between Marshall County, IA, on the one hand, and, on the other, points in WI, IL, MO, MN, NE, and Garland County, AR; and (2) between Colby and Burlington, WI; Minneapolis, MN; Kansas City, KS; Omaha, NE; and Chicago, IL, on the one hand, and, on the other, points in IA. Supporting Shipper: Packaging Corporation of America, Marshalltown, IA.

MC 165868 (Sub-5–1TA), filed January 25, 1983. Applicant: WELL–COAT, INC., Number 3 Industrial Park, Pauls Valley, OK 73075. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Pumps, accessories and attachments thereto,* between the facilities of Centrilift-Hughes located at or near Pauls Valley, OK on the one hand, and, on the other, points in AR, CA, CO, IL, KS, LA, MI, MO, MS, OH, TX and WY. Supporting shipper: Centrilift-Hughes, One Industrial Park, Pauls Valley, OK.

MC 133959 (Sub-5–8TA), filed January 27, 1983. Applicant: ALBAUGH TRUCK LINE, INC., 123 Main Street, Elkhart, IA 50073. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. General commodities (except commodities in bulk, household goods and explosives) between points in the U.S. (except AK and HI) under contract with ITOFCA Consolidators, Inc., 1001 West 31st Street, Downers Grove, IL 60515. Applicant intends to conduct intermodal operations with interline rail carriers.

MC 148564 (Sub-5–4TA), filed January 27, 1983. Applicant: G. KAY, INC., Box 222, Geneva, NE 68361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *General commodities* (except Classes A and B explosives, household goods, and commodities in bulk), between Adams and Hall Counties, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Wheeler's, Grand Island, NE 68802; Kerrco, Inc., Hastings, NE.

MC 150388 (Sub-5–6 TA), filed January 26, 1983. Applicant: BOSS TRANSPORTATION COMPANY, INC., AIRPORT INDUSTRIAL PARK, Diaz, AR 72043. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72702. Contract, Irregular; *General Commodities (except household goods) between points in the U.S.* (except AK and HI), under continuing contract(s) with Wal-Mart Stores, Inc., of Bentonville, AR; Distribution Service of U.S., Inc., of Diaz, AR; and, United Freight, Inc., of Morrow, GA.

MC 156836 (Sub-5–6 TA), filed January 26, 1983. Applicant: MURRY JOHNSON, INC., State Highway 38 & I–40, P.O. Box 158, Widener, AR 72394. Representative: Earl Mills (same as above). (1) *Oleomargarine* between Mississippi County, AR on the one hand, and, on the other, points in the U.S. (except AK and HI) (2) *Food and Related Products* between Shelby County, TN on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting Shipper(s): Osceola Foods, Osceola, AR, Burgie Industries, Memphis, TN.

MC 163220 (Sub-5–2 TA), filed January 27, 1983. Applicant: UTILITY COMPANY, INC., 310 SE 2nd; P.O. Box 25216, Oklahoma City, OK 73125. Representative: D.R. Beeler, P.O. Box 482, Franklin, TN 37064. *Such commodities as are dealt in by chain grocery stores* between Oklahoma City, OK on the one hand, and, on the other, points in AR, CO, KS, LA, MO, NM, and TX. Supporting Shipper: Scrivner, Inc., 1101 SE 59th Street, Oklahoma City, Ok 73126.

MC 164712 (Sub-5–2 TA), filed January 27, 1983. Applicant: TRANS-OIL, LTD., 4303 Speaker Road, Kansas City, KS 66106. Representative: Thomas A. Stroud, 109 Madison Avenue, Memphis, TN 38103. *Petroleum products, in bulk, in tank vehicles,* from Kanasas City, KS, and points in its commercial zone, to St. Joseph, MO, and points in its commerial zone. Supporting Shipper: Derby Refining Co., Wichita, KS.

MC 165106 (Sub-5–1 TA), filed January 28, 1983. Applicant: RAY TRUCKING COMPANY, INC., Route 2, Box 154A, Cuba, MO 65453. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Contract, irregular, *Beer, malt beverages and malt beverage containers* between points and places in the U.S. (except AK and HI) under continuing contract(s) with Griesedieck Beverage Company, Inc. and Ed Windler & Sons, Inc. Supporting Shippers: Ed Windler & Sons, Inc., St. Charles, MO; Griesedieck Beverage Company, Inc., St. Charles, MO.

MC 165557 (Sub-5–1TA), filed January 26, 1983. Applicant: J.D. TRUCKING CO., Rt. 2 Box 1296M, Pearl River, LA 70452. Representative: Charles D.

Crawford, Rt. 2 Box 1296M, Pearl River, LA 70452. Contract; Irregular. *Coal and Coal Products in bulk,* Ex-Barge, between the Louisiana Parishes of Orleans and St. Tammany on the one hand, and, on the other, the facility of Crown Zellerbach Corporation, Washington Parish, P.O. Box 1060, Bogalusa, Louisiana 70427. Supporting shipper: Crown Zellerbach, Bogalusa, Louisiana.

MC 165773 (Sub-5–1TA), filed January 28, 1983. Applicant: GENESIS TRANSPORTATION CO., INC., 2900 Kage Road, Cape Girardeau, MO 63701. Representative: Kermit J. Meystedt, P.O. Box 291, Cape Girardeau, MO 63701. *General Commodities (except classes A and B explosives, household goods commodities in bulk, and hazardous waste)* between Butler, Cape Girardeau, and Green Counties, MO and Alexander County, IL, on the one hand, and, on the other, points in the U.S. Supporting shippers: 5.

MC 165899 (Sub-1), filed January 26, 1983. Applicant: HENRY STEPP d.b.a. STEPP TRUCKING COMPANY, Route 3, Box 254, Lamar, MO 64759. Representative: Alex M. Lewandowski, 1221 Baltimore, Ste. 600, Kansas City, MO 64105. *Food and related products,* between Jackson, Clay and Platte Counties, MO and Johnson and Wyandotte Counties, KS, on the one hand, and, on the other, points in the U.S. Supporting shipper: Patco Products, A Division of C. J. Patterson Company, Grandview, MO.

MC 165911 (Sub-5–1TA), filed January 26, 1983. Applicant: GULF CARRIERS, INC., P.O. Box 42888, Dept. 288, Houston, TX 77042. Representative: Larry Strickland, 11410 Valley Spring. Houston, TX 77043. *General commodities (except Class A or B explosives, Commodities in bulk, and household goods)* between points in AL, AR, LA, MS, and TX. Supporting shipper: Bemis Co. Inc., Crossett, AR.

MC 165944 (Sub-5–1TA), filed January 28, 1983. Applicant: LARRY JOHNSON TRUCKING, INC., Rural Route 4, Box 6A, Chadron, NE 69337. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Transportation equipment* (except in bulk), between points in Box Butte County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Professional Lease Management Railcar Maintenance Company, Alliance, NE.

MC 44024 (Sub-5–1TA), filed January 31, 1983. Applicant: JOE J. DEMPEWOLF TRANSFER & STORAGE, INC., 2101 N. Union, Ponca City, OK 74601. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036. *Bicycles* and *materials, equipment and supplies used in the manufacture and distribution thereof (except bulk commodities);* between the facilities of Huffy Corporation at Ponca City, OK and Arkansas City, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Huffy Corporation, Ponca City, OK.

MC 120302 (Sub-5–5TA), filed February 1, 1983. Applicant: KNOX TRUCK LINE INC., P.O.Box 2427, Grand Prairie, TX 75051. Representative: Fred Knox (same as above). *Iron and steel articles* between points in NE, IL, IN, KY, TN, and GA restricted to the customers and facilities of Zelrich Steel Co. Applicant intends to tack to existing authority. Supporting shipper: Zelrich Steel Co., Houston, TX.

MC 14896 (Sub-5–3TA), filed February 1, 1983. Applicant: O. W. SMITH TRANSPORT, INC., Route 3, Highway 71 North, DeQueen, AR 71832. Representative: Wm. Dean Overstreet, 1550 Tower Building, Little Rock, AR 72201. *Roofing materials, cant strips, tapered edge strips, Perlite roof systems, and other roofing and building materials,* between (a) points in the State of MS, on the one hand, and, on the other, points and places in the States of LA, AR, MO, IA, MN, WI, TN, AL, KY, TX, OK, KS, NE, ND, SD, MT, WY, CO and NM, and, (b) points in the States of NV, on the one hand, and, on the other, points and places in the States of MT, WY, CO, NM, AZ, UT, ID, WA, OR, and CA. Supporting shipper: Desoto Cant Strip Supply, Oliver Branch, MS.

MC 153025 (Sub-5–5TA), filed February 1, 1983. Applicant: FLANCO TRANSPORTATION, INC., 104 Thompson Avenue, Corsicana, TX 75110. Representative: James W. Hightower, Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237–2385. *General Commodities, in containers or piggyback trailers, except Classes A and B explosives and commodities in bulk,* between points in TX and OK. Supporting shipper: Garrison Int'l Trade Service, Inc., DFW Airport, TX; Export Forwarding Co., Inc., Dallas, TX; Expeditors International, Inc., DFW Airport, TX; American Forwarding Company, Dallas, TX and Line Star Company, Dallas, TX.

MC 161980 (Sub-5–2TA), filed January 31, 1983. Applicant: TERS, INC., d.b.a. TRANSPORT ELECTRIC, P.O. Box 2286, Hereford, TX 79045. Representative: Richard Hubbert, P.O. Box 10236, Libbock, TX 79408. *Such commodities as are dealt in and used by grocery stores and food business houses* between points in TX, OK, CO, KS, IL, IN, AL, LA, NM, AR and MO. Supporting shipper: Harrison Enterprises, Garland, TX.

MC 165947 (Sub-5–1TA), filed February 1, 1983. Applicant: HOWARD LOVE MACHINERY AND SUPPLY CO., 1717 East Loop, Suite 330, Houston, TX 77029. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *Hot Coal Tar and Asphalt, in bulk,* between Laredo, TX, on the one hand, and on the other, Galveston, TX, Houston, TX, Hereford, TX, Odessa, TX, Pampa, TX, El Reno, OK, Ft. Collins, CO, Harvey, LA, Birmingham, AL, and Atlanta, GA; also between Houston, TX an Lone Star, TX, on the one hand, and on the other El Reno, OK, Ft. Collins, CO, Harvey, LA, Birmingham, AL, and Atlanta, GA. Supporting shippers: Bredero Price, Inc., Galveston, TX; A & A Coatings, Inc., Lone Star, TX; Energy Coatings Co., Division of Lukens General Industries, Tulsa, OK; Houston Pipe Coating Co., Houston, TX; and HMS Builders Supply, Houston, TX.

MC 165969 (Sub-5–1TA), filed January 31, 1983. Applicant: N J ENTERPRISES, LTD., P.O. Box 283, St. Clair, Missouri 63077. Representative: Stephen G. Newman, P.O. Box 456, Jefferson City, Missouri 65102. Transporting *alcoholic beverages and wines, processed pet food products and poultry feed, charcoal and charcoal briquets, paper, plastic, business and office supplies* between points in (KS and Dent, Franklin, Phelps, St. Louis Counties and) St. Louis City, MO. on the one hand, and, on the other, points in CA, AR, IL, IN, KS, KY, NY, and TN. Supporting shippers: 5.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 156406 (Sub-6–2TA), filed February 3, 1983. Applicant: BEASTON TRANSIT, INC., 30887 Road 50, Goshen, CA 93227. Representative: Edward L. Fanucchi, 2409 Merced St. STe. 3, Fresno, CA 93721. *Canned food,* between points in CA on one hand and points in AZ, NM, TX, CO, UT, NV, ID, WA and OR on the other hand, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Early California Foods, Inc., Box 71, Visalia, CA 93279.

MC 165771 (Sub-6–1TA), filed January 28, 1983. Applicant: VIRGIL PONTES, d.b.a. BEST TRANSPORT, P.O.B. 6093 Whittier, CA 90609. Representative: Terry E. Morgan, 2131 Almanor St., Oxnard, CA 93030. *Contract carrier,* irregular routes *fresh and frozen meats between points* in TX, OK, AZ, CA, WA, OR, UT, ID, NM, LA, MS, AL, FL, under

continuing contract(s) with Midland Foods, Inc. of Dallas TX.; and *canned and bottled foods, raw vinegar (bottled), cooking wine (bottled), between* Los Angeles, CA; Amarillo, Dallas, El Paso, Fort Worth, Houston, TX; Phoenix, AZ; Albuquerque, NM; Salt Lake City UT; Eugene, Portland, OR, under continuing contract(s) with Walker Foods, Inc. of Los Angeles, CA, for 270 days. Supporting shippers: Midland Foods, Inc., 15036 Beltway Dr., Dallas TX 75234; and Walker Foods, Inc., 237 N. Mission, Los Angeles, CA 90033.

MC 158818 (Sub-6–5TA), filed January 28, 1983. Applicant: BOB BOYD, d.b.a. BOB BOYD TRUCKING, 417 North M, Livingston, MT 59047. Representative: Charles A. Murray, Jr., 2822 Third Ave. N, Billings, MT 59101. *Fertilizer (anhydrous ammonia, diammonia, and monoammonia phosphate)* from Spokane, WA and Pocatello and Don, ID to Lewistown, MT, for 270 days. Supporting shipper: Cargill, Inc., P.O. Box 779, Lewistown, MT, 59497.

MC 152330 (Sub-6–7TA), filed February 3, 1983. Applicant: GLACIER CARRIERS, P.O. Box 490, Columbia Falls, MT 59912. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202–3357. *Contract carrier,* irregular routes: *Mercer and earth drilling commodities,* between points in WY, MT, NV, TX, OK, UT, CO, ID, IL, ND, KS, SD, and NE on the one hand, and on the other ports of entry on the international boundary between the U.S. and Canada located in WA, ID, MT and ND, under continuing contract(s) with Carriers & Shippers Services of Calgary, AB, for 270 days. Supporting shipper: Carriers & Shippers Services, 104 Woodford Dr., SW, Calgary, AB, Canada T2W 4C3.

MC 148786 (Sub-6–1TA), filed February 1, 1983. Applicant: JOE GOOD, d.b.a. GOOD TRANSPORTATION, P.O. Box 335, Lovell, WY 82431 Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, Co 80202–3357. *Mercer and earth drilling commodities,* between points in CA, CO, ID, KS, MT, ND, OK, SD, TX, UT, WA and WY, for 270 days. Supporting shippers: W.T.B., P. O. B. 11133, Spokane, WA 99211; Alaska Steel & Supply Co., Box 2905, T.A., Spokane, WA 99220; Baker Chemicals, Inc., 2801 Post Oak Blvd., Suite 258, Houston, TX 77056; and Carriers & Shippers Services, 104 Woodford Dr., S.W., Calgary, AB, Canada T2W 4C3.

MC 166033 (Sub-6–1TA), filed February 2, 1983. Applicant: PATRICK J. JOHNSON, Rt. 2, Box 1230, Ellensburg, WA 98926. Representative: Patrick J. Johnson (same as applicant) *Contract carrier,* irregular routes, *bulk fertilizer* from Interstate, ID, to Ellensburg, WA for the account of Midstate Co-op for 270 days. Supporting shipper: Midstate Co-op, P.O.B. 480, Ellensburg, WA 98926.

MC 165929 (Sub-6–1TA), filed January 27, 1983. Applicant: SHING KEE TRANSPORT, 107 Alta Vista Way, Daly City, CA 94014. Representative: Michael G. W. Lee, 407 Sansome St., Second Fl., San Francisco, CA 94111. *Food and related products* between points in CA to Portland and Eugene, OR; points in CA to Seattle and Tacoma, WA; points in CA to Houston and San Antonio, TX, for 270 days. Supporting shippers: All World Food Company, Inc., 1301—65th Street, Oakland, CA 94604; Thailand Food Company, 1683 Jerrold Avenue, San Francisco, CA 94124.

MC 165998 (Sub-6–1TA), filed February 1, 1983. Applicant: FRED O'NEIL d.b.a. FRED O'NEIL TRUCKING, P.O. Box 1305, Myrtle Creek, OR 97457. Representative: Jack L. Schiller, 111–56 76th Dr. Forest Hills, NY 11375. *Lumber and wood products* between points in OR and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Plywood Tacoma, P.O. Box 1576, Tacoma, WA 98401; Rogge Lumber, Inc. P.O. Box 609, Bandon, OR 97411; Bright Wood Corporation P.O. Box P, Madras, OR 97741; and Buffelen Company P.O. Box 1383, Tacoma, WA 98401.

MC 162698 (Sub-6–1TA), filed January 31, 1983. Applicant: ARTHUR VANDERLINDEN AND ROY VANDERLINDEN d.b.a. RAPCO DISTRIBUTING COMPANY, 3984 S. 500 W., Murray, UT 84107. Representative: Bruce W. Shand Ste. 280, 311 S. State St., Salt Lake City, UT 84111. *Contract carriage,* irregular routes, *nonmetallic minerals (except fuel), concrete, clay, glass and stone products,* between points in UT, NV, and CA, for 270 days, under a continuing contract(s) with All Minerals Corporation of Murray, UT. An underlying ETA seeks 120 days authority. Shipper: All Minerals Corporation, 154 Gordon Lane, Murray, UT 84107.

MC 166032 (Sub-6–1TA), filed February 2, 1983. Applicant: ALLEN RENCHER, P.O. Box 963, Hayden Lake, ID 83835. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. *Contract Carrier,* Irregular routes: *Sawdust wood pellets,* from Sandpoint, ID to Steilacoom, WA, for the account of Day Resources, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Day Resources, Inc., P.O. Box 249, Sandpoint, ID 83864.

MC 123265 (Sub-6–9TA), filed January 28, 1983. Applicant: SANTRY TRUCKING COMPANY, 10505 NE Second Ave., Portland, OR 97211. Representative: John G. McLaughlin, 1600 One Main Pl., Portland, OR 97204. *Contract carrier,* irregular routes *general commodities,* between points in the US (except AK and HI) under continuing contract(s) with Fred Meyer, Inc. of Portland, OR, for 270 days. Supporting shipper: Fred Meyer, Inc., P.O. Box 42121, Portland, OR 97242.

MC 123265 (Sub-6–10TA), filed February 1, 1983. Applicant: SANTRY TRUCKING COMPANY, 10505 NE Second Ave., Portland, OR 97211. Representative: John G. McLaughlin, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204. *Contract,* irregular routes, *talc,* in bags, between points in Gallatin County, MT and points in Pierce County, WA for Cyprus Industrial Mineral for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Cyprus Industrial Mineral, POB 3419, Englewood, CO 80155.

MC 166046 (Sub-6–1TA), filed February 3, 1983. Applicant: STREAKERLINE TRANSPORT LTD., RR#5 Highway 33 East, Kelowna B.C., CD. Representative: Verdule M. Mutlitt (same as applicant). *Contract,* irregular; *Modular buildings and portable camp structures,* from British Columbia/WA border to Seattle, WA dock area for 270 days. Supporting shipper: Atco Pacific Ltd. 1704 Government Street, Penticton, B.C. CD V2A 7A1.

MC 165990 (Sub-6–1TA), filed February 1, 1983. Applicant: LEE BRUMFIELD, d.b.a. SOUTHERN IDAHO SUPPLY, Rt. 7, Box 197, Blackfoot, ID 83221. Representative: Kevin M. Clark, 2417 Bank Dr., Ste. 8, Boise, ID 83705. (1) *Building Materials and Construction Supplies, and Fertilizers and Chemicals* between points in AZ, CA, CO, ID, MT, NV, OR, UT, WA, and WY; and (2) *Coal* between points in ID, NV, OR, and UT, for 270 days. Supporting shippers: There are 9 shippers. Their statements may be examined in the office listed.

MC 164933 (Sub-6–1TA), filed February 1, 1983. Applicant: K & G BUS TRANSPORTATION SERVICES, INC., d.b.a. WESTERN CHARTER TOURS, P.O.B. 456, Petaluma, CA 94953. Representative: Keith L. Grimm (same as applicant). *Passengers* in charter operations between Sonoma and Marin Counties, CA and points in NV for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There

are 9 shippers. Their statements may be examined in the office listed.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-3883 Filed 2-11-83; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway (202) 275-7278
or
Tom Smerdon (202) 275-7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions: These grants neither shall be constued to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review that contracts and to determine their lawfulness.

Sub-No.	Name of Railroad, contract No., and specifics	Review Board [1]	Decided date
747	Burlington Northern Railroad Co., ICC-BN-C-0236, Supplement 2, (Grain and grain products)	1	2-3-83
749	Burlington Northern Railroad Co., ICC-BN-C-0014-A, Supplement 2, (Soda ash)	3	2-3-83
750	Burlington Northern Railroad Co., ICC-BN-C-0013-A, Supplement 3, (Soda ash)	2	2-3-83
760	Missoun Pacific Railroad Co., ICC-MP-C-0239, (Corn, grain sorghums, soybeans and/or wheat)	3	2-3-83
761	The Atchison, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0054, Supplement 3, (Tankage)	1	2-4-83
762	Missoun Pacific Railroad Co., ICC-MP-C-0238, (Roofing granules)	2	2-4-83
763	Southern Pacific Transportation Co., ICC-SP-C-0367, (Cotton bales)	3	2-4-83
764	Chicago and North Western Transportation Co., ICC-CNW-C-0444, (Grain and oil seeds)	1	2-4-83
765	Mr. Richard Ogilvie, Trustee for the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC-MILW-C-0336, (Primary metal products)	2	2-4-83
766	Seaboard System Railroad, Inc., ICC-SBD-C-0016, (Wood pulp)	3	2-4-83
767	Seaboard System Railroad, Inc., ICC-SBD-C-0014, (Chemicals)	1	2-4-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-3749 Filed 2-11-83; 8:45 am]
BILLING CODE 7035-01-M

[I.C.C. Order No. P-49]

Passenger Train Operation; Atchison, Topeka and Santa Fe Railway Company

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Oakland, California and Chicago, Illinois. The operation of these trains requires the use of tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks between Sacramento and Oakland, California, are temporarily out of service because of flooding. An alternative route is available via The Atchison, Topeka and Santa Fe Railway Company between Sacramento and Oakland, California, via Stockton, California.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1982, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), The Atchison, Topeka and Santa Fe Railway Company (ATSF) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Southern Pacific Transportation Company (SP) at Sacramento, California and Oakland, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 11:30 a.m., January 28, 1983.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., Januray 31, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon The Atchison, Topeka and Santa Fe Railway Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 28, 1983.

Interstate Commerce Commission.

J. Warren McFarland,
Agent.

[FR Doc. 83-3877 Filed 2-11-83; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30111]

Southern Railway Co.; Purchase (Portion); Norfolk, Franklin and Danville Railway Co.; Exemption

February 8, 1983.

Southern Railway Company (Southern) and Norfolk, Franklin and Danville Railway Company (NF&D) jointly filed a notice of exemption from the prior approval requirements of 49 U.S.C. 11343 for the purchase by Southern of NF&D's one-half interest in a line of track between MP 142.7 and MP 143.6 near Clarksville, Mecklenburg County, VA. This track is now owned jointly by Southern and NF&D. This notice is filed pursuant to 49 CFR 1180.2(d)(3). NF&D is a wholly-owned subsidiary of Norfolk and Western Railway Company (N&W). In *Norfolk Southern Corp.—Control—Norfolk & W. Ry. Co.*, 366 ICC 173 (1982), the Commission approved consolidation of Southern and N&W and the subsidiaries of each under common control of Norfolk Southern Corporation.

NF&D obtained a certificate of public convenience and necessity permitting abandonment of its line between South Hill, VA, and Blanche, NC. This abandonment authority was exercised on June 1, 1982. NF&D's abandoned line connected with Southern's Keysville, VA–Durham, NC, line at Clarksville. Before NF&D's abandonment, Southern and NF&D had operated over joint trackage in the area of Clarksville and Jeffress, VA. A portion of the trackage between MP 142.7 and MP 143.6 at Clarksville, which was formerly operated by Southern and NF&D, remains in joint ownership. Because NF&D has abandoned its operations in the Clarksville area, NF&D wishes to sell and Southern wishes to buy NF&D's one-half interest in the joint trackage. The purpose of this transaction is to eliminate NF&D's half ownership of trackage no longer connected with its rail system and to provide Southern with undivided ownership of trackage over which it alone operates and which is essential to the continuity of its Keysville-Durham Line. The transaction will not cause any change in Southern's operations at or through Clarksville. No rail carriers other than Southern serve the Clarksville area.

Because no service or operational changes will result from this transaction, Southern and NF&D anticipate no adverse effect upon employees. Southern and NF&D acquiesce to the imposition of standard conditions for protection of employee interests, as set forth in *New York Dock RY.—Control—Brooklyn Eastern Dist.*, 360 ICC 60 (1979).

This is a transaction within a corporate family and will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Therefore, the proposed transaction is the type specifically exempted from the necessity for prior review and approval. See 49 FR 1180.2(d)(3).

The Commission has determined that the employee protective provisions found in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 ICC 60 (1979), satisfy the statutory requirements for the protection of employees involved in control and merger transactions.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3876 Filed 2-11-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30103]

Union Pacific Railroad Co. and Oregon Short Line Railroad Co.; Abandonment Exemption in Valley County, ID

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts Union Pacific Railroad Company and Oregon Short Line Railroad Company from 49 U.S.C. 10903–6 in connection with the abandonment of 250 feet of rail line in Valley County, ID, subject to employee protective conditions.

DATES: This exemption is effective on March 16, 1983. Petitions to stay the effective date of this decision must be filed by February 24, 1983, and petitions for reconsideration must be filed by March 7, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Joseph D. Anthofer, General Attorney, 1416 Dodge Street, Omaha, NE 68179.

Pleadings should refer to Finance Docket No. 30103.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: February 7, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3875 Filed 2-11-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Allied Finance Adjusters Conference, Inc; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalities Act, 15 U.S.C. 16 (b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement ("CIS") have been filed with the United States District Court for the Northern District of Illinois in *United States v. Allied Finance Adjusters Conference, Inc.*, Civil Action No. 81C–3723. The Complaint in this case alleged that Allied Finance Adjusters Conference, Inc. ("Allied"), a National association of repossessors, and its co-conspirafors engaged in a combination and conspiracy to fix prices, restrict territories and limit membership in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Consent Judgment enjoins the defendant from fixing, formulating, recommending or publishing any prices for repossession services and from participating with any repossessor or with any representatives of any other repossessor association in any communication that relates to prices for repossession services. The defendant may, however, require its members to guarantee customer satisfaction regarding price, terms or conditions of providing repossession services. Further, the proposed Judgment enjoins the defendant from restricting the area in which or the customer for which its members may provide services and from restricting the geographic area for which its members may advertise. The Judgment does not, however, prohibit Allied from placing a reasonable limit on the total number of listings for each member in any Allied directory. The Judgment does not prohibit Allied from providing its members with exclusive rights to operate offices in designated geographic areas if the area covered by

any member's exclusive rights does not overlap with the area in which the same member has received exclusive territorial rights from another repossessor organization. Prior to the end of the three-year period from the date of entry of the Judgment, the defendant shall determine whether any of its members has an overlapping exclusive territory and shall either terminate, if such member so requests, any such member's right to serve such territory as an Allied member or open such territory to service by all Allied members and by all applicants for Allied membership in such territory who meet certain specified criteria. The defendant is required to publish certain information in its publications; the defendant is required also to establish an antitrust compliance program which includes annual reporting to the Department of Justice and dissemination of the Judgment to each of its officers, directors, employees and members.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to John W. Poole, Jr., Chief, Special Litigation Section, room 7218, Antitrust Division, Department of Justice, Washington, D.C. 20530, (Telephone: (202) 633–2425).

Joseph H. Widmar,

Director of Operations.

U.S. District Court, Northern District of Illinois, Eastern Division

Stipulation

United States of America, Plaintiff v. *Allied Finance Adjusters Conference, Inc.*, Defendant.

Civil No. 81C–3723, Judge Joel M. Flaum.

Filed: January 31, 1983.

It is stipulated by the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice on defendant and by filing that notice with the Court.

2. If the plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

For the Plaintiff: William F. Baxter, *Assistant Attorney General;* Mark Leddy, John W. Poole, Jr., Thomas L. Greaney, *Attorneys, U.S. Department of Justice.*

Terrence F. McDonald, Steven B. Kramer, *Attorneys, Antitrust Division, U.S. Department of Justice, 10th & Pennsylvania Ave., N.W., Washington, D.C. 20530, Telephone: (202) 633–3082.*

For the Defendant: Kenneth J. Jurek, Esq., *Mayer, Brown & Platt, 231 South LaSalle Street, Chicago, Illinois 60604, Telephone: (312) 782–0600.*

U.S. District Court, Northern District of Illinois, Eastern Division

Proposed Final Judgment

United States of America, Plaintiff, v. *Allied Finance Adjusters Conference, Inc.*, Defendant.

Civil No. 81C–3723, Judge Joel M. Flaum.

Filed: January 31, 1983.

The plaintiff, United States of America, having filed its complaint on January 5, 1981, and the Plaintiff and the defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by either party with respect to any issue;

Now , therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law and upon consent of the parties, it is Ordered, adjudged and decreed, as follows:

I

This Court has jurisdiction over the subject matter of this action and over both parties. The complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act (15 U.S.C.1).

II

As used in this Final Judgment:

(A) "Allied" means Allied Finance Adjusters Conference, Inc.;

(B) "Person" means any individual, corporation, partnership, joint venture, firm, association, or any other business or legal entity;

(C) "Repossession services" includes, but is not limited to, tracing of property, collection and adjustment of loans, as well as repossession, sale or return of collateral;

(D) "Repossessor" means any person who owns, operates or manages an adjustment or repossession business which provides repossession services for banks, credit unions, or other lending institutions that seeks to recover merchandise sold under security agreements where the debtor has forfeited possessory rights by defaulting on loan terms;

(E) "Repossessor organization" means any trade association for repossessors or any person which licenses other persons to provide repossession services under a trademarked name;

(F) "Directory" means any Allied publication that lists members and that Allied disseminates to current or prospective Allied customers;

(G) "Exclusive territory" means a geographic area within which a repossessor organization restricts the number of its members who maintain offices for repossession services.

III

The provisions of this Final Judgment shall apply to the defendant Allied, its subsidiaries, its successors and assigns, to its officers, directors, agents and employees, and to all other persons in active concert or participation with the defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

(A) The defendant, whether acting unilaterally or in concert with any other person, is enjoined from, directly or indirectly,

(1) Entering into, adhering to, or maintaining any contract, agreement, understanding, plan or program with any other repossessor organization to fix or maintain the prices of repossession services;

(2) Formulating, establishing, publishing, maintaining, or distributing any price schedule or list of fees for repossession services;

(3) Advocating, urging, recommending or suggesting any price schedule or list of fees for repossession services; or

(4) Participating in any conversation, discussion or other communication with any other repossessor organization or repossessor, or representative thereof, that in any way relates to fees for repossession services.

(B) Nothing in this paragraph shall prohibit Allied from allowing individual members to advertise in any directory independently determined prices or fees for repossession services.

(C) Nothing in this paragraph shall prohibit Allies from requiring its members to guarantee customer satisfaction regarding prices, terms of conditions of providing repossession services.

V

The defendant is ordered to include in a prominent manner in the prefatory section of each directory the following statement: In conformity with a consent decree entered into with the United States Department of Justice, Allied Finance Adjusters Conference, Inc. has discontinued publishing and disseminating fee schedules. All prior schedules are, in their entirety, null and void. Allied makes no suggestion whatsoever concerning its members' specific fees or prices for repossession services and does not restrict or limit the right of any of its members to determine, in accordance with his or her individual business judgment, the fees to charge for repossession services.

VI

The defendant is enjoined from the following unless the plaintiff approves in writing such restriction as necessary or appropriate to promote competition in the repossession industry:

(A) Restricting the area in which or the customers for which its members may provide repossession services; and

(B) Restricting the geographic area for which its members may advertise their services, *provided, however,* that nothing in this Final Judgment shall prohibit the defendant from imposing a reasonable limit on the total number of cities and towns that each member may list in any directory.

VII

(A) Nothing in this Final Judgment shall prohibit the defendant from restricting the area in which its members may operate repossessor offices if such restrictions do not grant to any member an exclusive territory which overlaps in whole or in part an exclusive territory granted to such member by any other repossessor organization, *provided* that the defendant may continue in effect any such overlapping exclusive territory held by any member on February 6, 1982, for a period not to exceed three years from the date of entry of this Final Judgment. Prior to the end of such period, the defendant (1) shall determine whether any of its members has an Allied exclusive territory that overlaps in whole or in part an exclusive territory granted by any other repossessor organization, and (2) shall either terminate, if such member so requests, any such member's right to serve such territory as an Allied member or open such territory to service, including service from repossessor offices located in such territory, by all Allied members and by all qualified applicants who wish to be accepted as Allied members serving such territory.

(B)(1) If the defendant elects to open a territory pursuant to Paragraph VII(A), it shall promptly publish in the business opportunity classified advertisement section of the newspaper with the largest circulation in the area involved, a description of Allied and of the territory that has been opened, a statement to the effect that it is obligated to accept all qualified applicants for Allied membership for such territory, a summary of the requirements for such membership, and the address to which applications by nonmembers for Allied memberships covering such territory should be forwarded. Within fifteen (15) days of receiving any application for such membership, the defendant shall furnish to the applicant a written response stating when the application will be reviewed, whether the application is complete, and if the application is not complete, an itemization of any documents or information necessary to complete the application. Defendant shall convene at least two meetings per year at which any such membership applications shall be reviewed. All applications completed before any meeting shall be reviewed at that meeting. Within ten (10) days after reviewing any membership application, the defendant shall furnish a written notice to each applicant indicating whether the applicant was accepted for Allied membership, and, if the applicant was not accepted, a written statement of reasons why the applicant was not accepted for membership.

(2) The defendant shall accept any applicant for Allied membership covering a territory that has been opened pursuant to Paragaph VII(A) who meets the following requirements:

(a) Capability of obtaining and retaining, in the commercial market, a reasonable fidelity bond;

(b) Capability of being licensed under all applicable state and local licensing laws;

(c) The absence of a felony conviction within a period of not more than ten (10) years prior to the application for membership; and

(d) Possession of eighteen (18) months of experience as an active repossessor.

(3) The defendant is enjoined from establishing or maintaining unreasonable or discriminatory fees for Allied membership for a territory that has been opened pursuant to Paragraph VII(A).

(4) The defendant is enjoined from any action, the purpose or foreseeable effect of which is to discourage service by Allied members or qualified applicants for Allied membership in areas opened pursuant to Paragraph VII(A), including but not limited to enforcement of its restriction against a member maintaining more than three full time offices in any one state.

VIII

Except as provided in Paragraph V, the defendant is ordered to amend and eliminate from its bylaws, manuals, rules, regulations and any other governing documents, any provision inconsistent with this Final Judgment.

IX

The defendant is ordered and directed:

(A) To furnish within sixty (60) days after entry of this Final Judgment a copy of it to each of its officers, directors, employees and members;

(B) To furnish a copy of this Final Judgment to each person who in the ten (10) years after entry of this Final Judgment, becomes an officer, director, or member within thirty (30) days after such person becomes associated with the defendant;

(C) To direct each person to whom a copy of this Final Judgment is furnished pursuant to subparagraphs IX(A) and IX(B) to retain such copy for as long as he or she is associated with the defendent;

(D) To require each person to whom a copy of this Final Judgment is furnished pursuant to subparagraphs IX(A) and IX(B) to sign and submit to the defendant, within thirty (30) days of receipt of a copy of this Final Judgment, a certificate in substantially the following form; and the defendant shall retain such certificates for as long as this Final Judgment is in effect and for one year thereafter:

I (1) acknowledge receipt of a copy of the 1982 antitrust Final Judgment, (2) represent that I have read and understand the Final Judgment, and (3) acknowledge that I have been advised and understand that non-compliance with the Final Judgment may result in conviction for contempt of court and imprisonment and/or fines.

(E) At least once each year, during the ten (10) years after entry of this Final Judgment, to call to the attention of each of its officers, directors, employees and members the limitations imposed upon them by this Final Judgment, and of the sanctions that may be imposed for non-compliance;

(F) To file with the court and serve upon the plaintiff, within one hundred-twenty (120) days after entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with subparagraphs IX(A), IX(C), IX(D) and IX(E); and

(G) To furnish the plaintiff within thirty (30) days after each anniversary date of the entry of this Final Judgment, for a period of ten (10) years, an affidavit as to the fact of and manner of securing and ascertaining compliance with, the provisions of Sections IV, V, VI, VII, VIII, and subparagraphs IX(B), IX(C), IX(D), and IX(E) of this Final Judgment.

X

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to the defendant made to its principal office, any duly authorized representative of the Department of Justice shall be permitted:

(1) Access during the office hours of the defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, directors, members, employees, or agents of the defendant, who may have counsel present, regarding any such matters;

(B) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to the defendant's principal office, the defendant shall submit such written reports, under oath, if required, with respect to any of the matters contained in this Final Judgment as may be requested. No information or documents obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by the defendant to plaintiff, the defendant represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

XI

Jurisdiction is retained by the Court to enable only either of the named parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or implementation of this Final Judgment, for the modification of any of its provisions, for the enforcement of compliance and for the punishment of violations

XII

This Final Judgment shall remain in effect until ten (10) years from date of entry

XIII

Entry of this Final Judgment is in the public interest.

Joel M. Flaum,

United States District Judge.

United States District Court, Northern District of Illinois, Eastern Division

Competitive Impact Statement

United States of America, Plaintiff, v *Allied Finance Adjusters Conference, Inc.,* Defendant.

Civil No. 81C–3723; judge Joel M. Flaum

Filed: January 31, 1983.

This competitive impact statement analyzes the proposed final judgment ("Judgment") submitted for entry in this civil antitrust proceeding and is filed by the United States pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16 (b)–(h) ("'Act'").

I. Nature and Purpose of the Proceeding

On January 5, 1981, the United States filed a civil antitrust complaint alleging that Allied Finance Adjusters Conference, Inc. ("Allied"), a national association of repossessors, and other co-conspirators in the repossession industry had violated Section 1 of the Sherman Act, 15 U.S.C. 1, by agreeing upon and publishing a fee schedule for repossession services, by restricting the area in which its members could advertise and provide repossession services and by limiting membership.

The complaint asks the Court to enjoin and restrain the defendant from engaging in the allegedly illegal activities and other activities with a similar purpose or effect.

Entry of this Judgment by the Court will terminate the litigation, although the Court will retain jurisdiction over the matter for possible future proceedings to interpret, modify or enforce provisions of the Judgment

II. Nature of the Alleged Violations

Repossessors, or adjusters as they are sometimes called, provide services for banks, credit unions, and other lending institutions that seek to recover merchandise sold under a security agreement. Repossessors act as agents for lenders and furnish a variety of services to them, including tracing of property, collection and adjustment of loans, as well as repossession and sale or return of collateral.

Several nationwide repossessor organizations each publish directories or listings, which provide the names and geographic areas served by their members of franchisees, and distribute them to banks, credit unions, and other lenders across the county Potential clients refer to these publications to identify repossessors in areas outside the client's local area because collateral often is removed from the vicinity of the lender. This "out-of-area" business comprises a significant portion of the services provided by persons affiliated with repossessor organizations. Some of these persons are actual or potential competitors of one another.

During the period covered by the complaint, Allied granted members exclusive rights to operate offices in various geographical areas. Many Allied members also held exclusive rights from other nationwide repossessor organizations to maintain offices in the same geographic territories. Thus, although several national organizations of repossessors exist, the actural number of competitors for "out-of-area" business in many markets was limited because of overlapping exclusive territories.

The complaint alleges that the defendant and co-conspirators agreed to eliminate price and other forms of competition in the trade and commerce of providing repossession services. The complaint alleges that, beginning at least as early as 1975, and continuing to the date of the filing of the complaint, the defendant and various co-conspirators engaged in a nationwide conspiracy to prepare, publish, disseminate and encourage its members to adhere to fee schedules for repossession services; to restrict membership to one member in each geographic area; to restrict the area for which each of the defendant's members could advertise and provide repossession services; and to establish arbitrary and unreasonable membership restrictions.

III. Explanation of the Proposed Final Judgment

The United State and the defendant have stipulated that the Court may enter the Judgment at any time after the parties have complied with the Act. The Judgment provides that its entry does not consititute any evidence against or admission by either party with respect to any issue of fact or law Under Section 2(a) of the Act, the Judgment may not be entered until the Court finds that its entry is in the public interest.

The Judgment contains two principal forms of relief. First, the defendant is enjoined from engaging in behavior that constituted the alleged conspiracy. Second, the Judgment places affirmative burdens on the defendant to prevent recurrence of the alleged conspiracy.

A. Prohibited Behavior

Under Section IV of the Judgment, the defendant is restrained from: (1) Entering into any agreement with any other repossessor organization to fix prices for repossession services; (2) formulating or publishing any price schedule or list of fees for repossession services; (3) recommending any price schedule or list of fees for repossession services; or (4) participating with any repossessor or with any representative of any other repossessor organization in any communication that relates to fees for repossession services. The defendant, however, may require its members to guarantee customer satisfaction regarding prices, terms or conditions of providing repossession services. The purpose of this provision is to permit Allied to respond to complaints by customers about price gouging by its members.

Under Section VI, the defendant is enjoined from restricting the area in which or the customers for which its members may provide services and from restricting the geographic area for which its members may advertise. The Judgment, however, does not prohibit Allied, for purposes of controlling publication costs, from placing a reasonable limit on the total number of listings for each member in any Allied directory.

Section VII provides that the Judgment does not prohibit Allied from granting to its members exclusive rights to operate offices in designated geographic areas, if the area covered by any member's exclusive rights does not overlap, in whole or in part, the area in which the same member has received exclusive territorial rights from another repossessor organization. The defendant may continue in effect any such overlapping exclusive territory held by any member on February 6, 1982, for a period not to exceed three years from the date of entry of the Judgment. Section VII(A) further provides that the defendant shall determine, prior to the end of that period, whether any of its members has an overlapping exclusive territory and shall either terminate, if such member so requests, any such member's right to serve such territory as an Allied member or open such territory to service by all Allied members and by all qualified applicants who wish to be accepted as Allied members serving such territory.

The defendant is enjoined from establishing unreasonable or discriminatory fees for Allied membership for a territory that has been opened to new members under Section VII(A).

B. Affirmative Obligations

Under Section V, the defendant is required to publish a statement of compliance with the Judgment's fee-related prohibitions in a prominent manner in the prefatory section of each Allied directory.

If the defendant opens any territory pursuant to Section VII(A), it must promptly publish a notice in the business opportunity classified advertisement section of the newspaper with the largest circulation in the area involved. The defendant is required to convene at least two meetings per year in which applications for Allied memberships in any such territory shall be reviewed; after reviewing any membership application, the defendant is required promptly to send notices to the applicant indicating acceptance or to provide a written statement of the basis for rejection. Allied must accept all applicants who meet the following requirements: (a) Capability of obtaining reasonable fidelity bonds; (b) licensure under all applicable state and local laws; (c) the absence of a felony conviction for ten years prior to application; and (d) possession of

eighteen months' active experience as an owner, operator, or manager of an adjustment or repossession business.

Under Section VIII, the defendant is required to eliminate from its bylaws, manuals and other governing documents any provision inconsistent with the Judgment.

Sections IX and X require the defendant to establish an antitrust compliance program that includes an annual report to the Department of Justice and dissemination of the Judgment to each of the defendant's officers, directors, employees, and members.

Under Section XI, jurisdiction is retained by the Court for purposes of enabling either of the parties to apply to the Court at any time for such further orders necessary or appropriate for construction, modification, or enforcement of the Judgment.

C. Scope of the Proposed Judgment

The Judgment will remain in effect for ten years from its date of entry and applies to the defendant and its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with the defendant who have received actual notice of the Judgment.

D. Effect of the Proposed Judgment on Competition

The Judgment is intended to increase competition in the repossession business in two ways. It eliminates certain restraints on competition among Allied members that may have served to inhibit competition with other repossessor groups. All or most such groups had similar price schedules, and many geographic areas were served by repossessors with exclusive territorial rights from more than one repossessor organization. The decree enjoins the use of price schedules and requires Allied either to terminate any such overlapping exclusive memberships or to open such territories to competition from all Allied members and qualified applicants. On the other hand, the Judgment allows Allied to designate exclusive areas in which its members may maintain their Allied offices as long as none of the members have received overlapping exclusive territorial rights from Allied and another repossessor organization. The granting of such exclusive rights can be used by Allied to encourage its members to offer more or better service to compete more effectively with members of other repossession organizations.

Compliance with the Judgment should prevent collusion among the defendant, its members and competitors in determining prices or fees to be charged for repossession services and in unreasonable restricting the geographic territories in which Allied members operate or for which they advertise their services. The prohibition against Allied members holding exclusive rights for the same territory from more than one repossessor organization should promote competition between Allied members and persons affiliated with other repossessor organizations. To the extent that Allied opens any territories to service by all Allied members and all qualified applicants under Section VII(A), Section VII(B) is designed to ensure that the defendant will not unreasonably restrict admission to Allied membership for such territories.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorney's fees.

Entry of the Judgment will neither impair nor assist the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the Judgment has no *prima facie* effect in any lawsuit that may be brought against the defendant by private parties.

V. Procedures Available for Modification of the Proposed Consent Judgment

As provided by the Act, any person wishing to comment upon the Judgment may, within the statutory 60-day comment period, submit written comments to John W. Poole, Jr., Chief, Special Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. These comments and the Department's responses will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department, which remains free to withdraw its consent to the Judgment at any time prior to entry. The Judgment provides that the Court retains jurisdiction over this action and that either of the named parties may apply to the Court for any order necessary or appropriate for its modification, interpretation, or enforcement.

VI. Alternatives to the Proposed Final Judgment

The Department considered two alternatives to the Judgment. First, it considered an injunction requiring the defendant to accept as an Allied member any repossessor meeting reasonable and objective criteria. Under this alternative, Allied members would no longer be able to have exclusive rights to operate offices in given territories. The Department rejected this alternative in favor of the provisions in the proposed Judgment that will prohibit Allied members from obtaining exclusive rights in areas where the same members have received exclusive rights from any other repossessor organization. The rejected alternative would have significantly reduced Allied's incentive to take the steps necessary to distinguish its members and the quality of their service from the members and service associated with other organizations. The Department anticipates that Allied can use the limited exclusive rights it may grant under the Judgment to encourage its members to offer improved services to compete more effectively with members of other repossessor organizations. By prohibiting Allied members from obtaining exclusive rights in areas where the same members have received exclusive rights from any other repossessor organization, the Judgment is expected to increase competition among the different repossessor organizations now active in various parts of the country.

The second alternative to the Judgment considered by the Department was a full trial on the merits. The Department considers the Judgment to be of sufficient scope and effectiveness to make a trial unnecessary.

VII. Determinative Materials and Documents

The Department did not consider any materials or documents of the type described in Section 2(b) of the Act in formulating the Judgment.

Respectfully submitted,

Terrence F. McDonald,

Steven B. Kramer,

Attorneys, Antitrust Division, United States Department of Justice, Washington, D.C. 20530, Telephone: (202) 633-3082.

[FR Doc. 83-3951 Filed 2-11-83; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 82-23]

Samuel Fertig, M.D., Cedarhurst, New York; Hearing

Notice is hereby given that on September 15, 1982, the Drug Enforcement Administration, Department of Justice, issued to Samuel Fertig, M.D., as Order To Show Caues as to why the Drug Enforcement Administration should not deny the application, executed by him on December 7, 1981, for registration under Section 303 of the Controlled Substances Act (21 U.S.C. 823) to possess, dispense, prescribe and otherwise handle controlled substances in Schedules IIN, III, IIIN, IV and V.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Thursday, March 3, 1983, in Hearing Room 238, 2nd Floor, 26 Federal Building, New York, New York.

Dated February 7, 1983.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-3909 Filed 2-11-83; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL SCIENCE FOUNDATION

Statement of Organization; Information for Guidance of the Public

A. Creation and Authority. The National Science Foundation (NSF) is an independent agency of the U.S. Government, established by the National Science Foundation Act of

1950, as amended, and related legislation, 42 U.S.C. 1961 *et seq.*, and was given additional authority by the National Defense Education Act of 1958 (72 Stat. 1601; 42 U.S.C. 1876–1879). The Foundation consists of the National Science Board of 24 members and a Director, each appointed by the President with the advice and consent of the U.S. Senate. Other senior officials include a Deputy Director and six Assistani Directors.

The Foundation's organic legislation authorizes it to engage in the following activities.

1. Initiate and support scientific and engineering research and programs to strengthen scientific and engineering research potential and education programs at all levels and appraise the impact of research upon industrial development and the general welfare.

2. Award graduate fellowships in the sciences and in engineering.

3. Foster the interchange of scientific information among scientists and engineers in the United States and foreign countries.

4. Foster and support the development and use of computers and other scientific methods and technologies, primarily for research and education in the sciences.

5. Evaluate the status and needs of the various sciences and fields of engineering and take into consideration the results of this evaluation in correlating its research and educational programs with other Federal and non-Federal programs.

6. Maintain a current register of scientific and technical personnel, and in other ways provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and technical resources in the United States, and provide a source of information for policy formulation by other Federal agencies

7. Determine the total amount of Federal money received by universities, and appropriate organizations for the conduct of scientific and engineering research, including both basic and applied, but excluding development, and report annually thereon to the President and the Congress.

8. Initiate and support specific activities in connection with matters relating to international cooperation, national security, and the effects of scientific and technological applications upon society.

9. Initiate and support scientific research, including applied research, at academic and other nonprofit institutions and at the direction of the President support applied reearch at other organizations.

10. Recommend and encourage the pursuit of national policies for the promotion of basic research and education in the sciences and engineering.

11. Support activities designed to increase the participation of women and minorities in science and technology.

B. **Organization.** The Foundation is organized along functional and disciplinary lines corresponding to program support of science, engineering and science education.

1. *National Science Board.* The National Science Board is composed of 24 part-time members and the Director of the Foundation *ex officio*. Members are appointed by the President, with the advice and consent of the Senate, for 6-year terms. Members are selected because of their distinguished service in science, medicine, engineering, agriculture, education, public affairs, research management, or industry. They are chosen in such a way as to be representative of scientific leadership in all areas of the Nation. The officers of the Board, the Chairman and Vice Chairman, are elected by the Board from among its members for 2-year terms. The Board exercises authority granted it by the NSF Act, including establishing policies for carrying out the purposes of the Act. Meetings of the Board are governed by the Government in the Sunshine Act (Pub. L. 94–409) and the Board's Sunshine regulations (45 CFR Part 614). The policies of the Board on the support of science and engineering and development of scientific human resources are generally implemented through the various programs of the Foundation. The National Science Board is required by statute to render an annual report to the President for submission to the Congress.

2. *Director.* The Director of the National Science Foundation is appointed by the President, with the advice and consent of the Senate. The Director is the Chief Executive Officer of the Foundation and he serves *ex officio* as a member of the National Science Board and as Chairman of its Executive Committee. The Director is responsible for the execution of the Foundation's programs in accordance with the NSF Act and other provisions of law, and the powers and duties delegated to the Director by the Board and for recommending policy considerations to the Board. The Director is assisted by a Deputy Director who is appointed by the President, with the advice and consent of the Senate.

C. *Activities of the Foundation.* The Activities of the Foundation are carried out by a number of Foundation components reporting to the Director through their respective senior officers.

1. *Staff Offices.* a. *Director, Office of Audit and Oversight.* Responsible for post hoc sampling of proposal actions and post-award administration to evaluate documentation and adherence to stated procedures; assessing overall system performance and recommendations for improved and simplified procedures; investigating charges of improper actions by NSF staff and monitoring the decision reconsideration system; conducting financial, evaluation, and program audits; and monitoring and coordinating procedures for scientific oversight undertaken by disciplinary advisory panels.

b. *Director, Office of Equal Opportunity.* Responsible for developing, maintaining, and carrying out a continuing Agency-wide affirmative action program designed to provide equal employment opportunity for all persons and to eradicate every form of prejudice or discrimination based on race, color, religion, sex, age, or national origin.

c. *Director, Office of Government and Public Programs.* Responsible for representing the Foundation, the Director, and key associates in relationship with the Congress, the communications media and the public, various academic groups and professional societies, institutions, and other NSF clientele. The Office of Government and Public Programs carries out the above responsibilities through four major elements: the Congressional Liaison Branch, the Public Information Branch, the Communications Resource Branch, and the Community Affairs Branch.

d. *Director, Office of Planning and Resources Management.* Responsible for the formulation, presentation and execution of the budget; the development of program plans and long-range planning estimates; and a range of functions associated with the appropriation and authorization processes. The organization consists of two Divisions and one Office: the Division of Budget and Program Analysis, consisting of the Budgeting Section and the Programming Section; the Division of Planning and Policy Analysis, consisting of the Policy Analysis Section and the Program Review Section; and the Office of Special Projects, responsible for preparing policy-related reports such as the Administration's *Annual Science and Technology Report* and the *Five-Year Outlook on Science and Technology*.

e. *Director, Office of Scientific and Engineering Personnel and Education.* Serves as the focal point in NSF for all aspects of policy, planning and programs relating to scientific and engineering personnel and education. The Office consists of two Sections. The Fellowships Section manages programs for the graduate and postdoctoral training for individuals identified in national competitions as having outstanding potential for research accomplishment in science or engineering. The Award Administration and Liaison Section provides management oversight and administration of major high impact and high visibility active awards funded by the former Directorate for Science and Engineering Education, and of other activities as assigned. The Section also develops analyses and technical assistance on the Nation's science and engineering education system.

f. *Director, Office of Small Business Research and Development.* Responsible for fostering communication between the National Science Foundation and the small business community; collecting, analyzing, compiling, and publishing information concerning grants and contracts awarded to small business concerns by the Foundation; assisting small business concerns in obtaining information regarding programs, policies, and procedures of the Foundation; and recommending to the Director and to the National Science Board any changes in procedures and practices which would enable the Foundation to use more fully the resources of the small business research and development community.

g. *Director, Office of Small and Disadvantaged Business Utilization.* Responsible for NSF compliance with the provisions of Pub. L. 95–507. Assists small and disadvantaged businesses with information about NSF programs and procurement opportunities.

h. *General Counsel.* Provides legal advice to the Director, the National Science Board, and NSF staff and represents them in legal matters, including the development of law and regulations likely to affect the NSF, science, or the use of science. Prepares and coordinates NSF comments on proposed legislation.

2. *Directorates.* a. *Assistant Director for Administration.* Serves as the principal advisor to the Director on all admininstrative and general management activities of the National Science Foundation. This responsibility encompasses: grants and contracts administration, management analysis, personnel management and employee-oriented programs, general administrative and logistic support functions, financial management systems, and information processing activities, including the operation of the NSF computer facility. The organization consists of one Office and five Divisions: Health Services; Division of Grants and Contracts; Division of Information Systems; Division of Personnel and Management; Division of Financial Management; and Division of Administrative Services. In addition, a Reform '88 Project Coordination Staff has been established within this Directorate to assist the Assistant Director for Administration in carrying out the requirements on Reform '88. This Staff develops policies and procedures for the conduct of Reform '88, maintains liaison with the Office of Management and Budget and other organizations concerned with Reform '88 and provides oversight and review of Reform '88 activities in NSF in order to keep NSF management informed of the Agency status in achieving assigned goals.

(1) *Division of Administrative Services.* Responsible for the management and direction of administrative services in the following areas: Travel arrangements; procurement and issuance of supplies, materials and equipment, including maintenance; space management; communications and building maintenance; records disposition; mail (including mailing list control) and messenger services; property accountability records; document and building security matters; printing, reproduction and binding services, including publications distribution and storage, contractual, and typographic services. This Division also provides a library program for the Foundation.

(2) *Division of Financial Management.* Responsible for the development, coordination and direction of financial mamagement policies, programs, and operations, and responsible for the design of modern automated business management systems. This Division provides fund control, payroll and disbursing services, and maintains accounting systems to manage the financial aspects of Foundation operations and to produce timely and accurate data for financial management and budgetary purposes.

(3) *Division of Grants and Contracts.* Responsible for the negotiation of grants and contracts or other arrangements in accordance with existing laws, regulations, and foundation policy and procedures. Negotiation includes those activities necessary to obtain agreement on the arrangements between the grantee or contractor and the Foundation prior to the making of an award. Administration includes those administrative activities necessary to execute the award, monitor performance, and close out the grant, contract, or other arrangement.

(4) *Division of Information Systems.* Responsible for development, operation, maintenance and oversight of automated systems that provide management information and support program and administrative staff activities throughout the Foundation's business cycle. Included are policy development, technical assistance, systems analysis (for both manual and automated systems), computer programming, operation of the central computer facility, implementation/coordination of office automation/word processing systems and external computing services, and a variety of services for document handling and data entry for proposals, award budgets, reviewer forms, financial management, and grants and contracts administration.

(5) *Division of Personnel and Management.* Responsible for planning, developing, and implementing the personnel management program of the Foundation to provide for the effective acquisition, retention, motivation, development, and utilization of NSF personnel as well as for improvement of Foundation management systems and procedures.

b. *Assistant Director for Astronomical, Atmospheric, Earth, and Ocean Sciences.* The Assistant Director is appointed by the President, by and with the advice and consent of the Senate. The Assistant Director is responsible for the conduct of the Foundation's programs in the areas of astronomical, atmospheric, earth, and ocean sciences, and polar multidisciplinary sciences. The Assistant Director serves as the Director's principal advisor in these areas, formulating long-range plans, annual programs and priorities, and research policy within the framework of statutory and National Science Board authority. The Directorate is organized into five Divisions and one Office under the leadership of Division/Office Directors who report to the Assistant Director. Each Division is subdivided, on a disciplinary or functional basis into Sections and Programs, as appropriate, for effective management.

(1) *Division of Astronomical Sciences.* The Division is responsible for research support in all areas of ground-based astronomy aimed at examining the physical principles governing the universe, the solar system, individual stars and stellar groups, and such

phenomena as quasars, active galactic nuclei, and molecular lasers. The Division provides operational support for major university observatories and funding for the development and acquisition of new instrumentation incorporating the latest technological advances in astronomical instrumentation. In addition, the Division provides developmental and operational support for the five National Astronomy Centers that are operated and managed by nonprofit organizations or universities under contract to the Foundation: National Astronomy and Ionosphere Center (NAIC), Arecibo, Puerto Rico; Kitt Peak National Observatory (KPNO), Kitt Peak, AZ; Cerro Tololo Inter-American Observatory (CTIO), Cerro Tololo, Chile; National Radio Astronomy Observatory (NRAO), Socorro, NM; and Sacramento Peak Observatory (SPO), Sunspot, NM. The Division is responsible also for carrying out the Foundation's responsibilities in electromagnetic spectrum management, and coordinates the U.S. scientific effort related to total solar eclipses. The major objective of the Division of Astronomical Sciences is to increase understanding of the physical principles governing the universe and the properties and behavior of astronomical objects and phenomena of outer space.

(2) *Division of Atmospheric Sciences.* The Division is responsible for support of research at U.S. academic institutions for a wide range of investigations directed towards expanding fundamental knowledge of the atmospheres of the earth, other planets, and the sun. Research is conducted through a variety of programs including aeronomy, atmospheric chemistry, climate dynamics, experimental meteorology, global atmospheric research, meteorology, and solar terrestrial research. In addition, the Division provides developmental and operational support for the National Center for Atmospheric Research (NCAR), operated and managed by a nonprofit consortium of 49 universities under contract to the Foundation. The Divison is responsible, also, for the development and coordination of an NSF-sponsored longitudinal chain of incoherent scatter radars, ranging from Greenland to the magnetic equator. The objective of the Division of Atmospheric Sciences is to expand fundamental knowledge and understanding of the physical behavior of climate and weather, natural global cycles of gases and particles in the earth's atmosphere, the composition and dynamics of the upper atmospheric systems, and increased knowledge of the sun and neighboring planets as they relate to a greater understanding of the earth's upper atmosphere and space environment.

(3) *Division of Earth Sciences.* The Division is responsible for support of research directed toward a greater understanding of the earth's evolution from its beginning to the present, its chemical and physical properties, and the processes that operate on it to produce various landforms and mineral resources. The Division supports research at U.S. academic institutions through a wide range of interdisciplinary programs: Stratigraphy and paleontology, environmental geosciences, crustal structure and tectonics, seismology and deep earth structure, experimental and theoretical geophysics, petrogenesis and mineral resources, mantle geochemistry, and experimental and theoretical geochemistry. The objective of the Division of Earth Sciences is to enhance basic knowledge of the structure and evolution of the earth and the organisms living on it from its beginning to the present time; its chemcial and physical properties; and the processes that create continents, mountains, plains, fertile soils, ore deposits, earthquakes, landslides, and volcanic eruptions.

(4) *Division of Ocean Sciences.* The Division is responsible for support at U.S. academic institutions of all aspects of ocean sciences research directed towards an improved basic understanding of the sea and its relationship to human activities. Division support is channeled through two major program areas: Ocean sciences research projects investigating the physical, chemical, geological, and biological processes in the ocean and its boundaries; and oceanographic facilities support for research ships and for specialized shared-use facilities operated by U.S. academic oceanographic institutions. The major objective of the Division of Ocean Sciences is to ensure the availability of oceanographic research facilities for NSF-sponsored basic research and to improve basic understanding of ocean masses; the response of the ocean to the atmosphere; the ocean's influence on local weather conditions and global climate; the role of the ocean in transporting and dispersing pollutants; the nature, composition and movement of ocean waters; the nature and distribution of marine organisms, and the character of the ocean floor.

(5) *Division of Polar Programs.* The Division is responsible for NSF management and support of national goals and Foundation scientific interests in the earth's polar regions. In the antarctic, the Division is responsible for the conduct of the U.S. Antarctic Research Program as a national program under Presidential directives, supporting national interest and policy in Antarctica to: Maintain the Antarctic Treaty, insure that the continent continues to be used for peaceful purposes only, foster cooperative research contributing to the solution of regional and worldwide problems, protect the environment, and insure equitable and wise use of living and nonliving resources. The Division has overall management and funding responsibility for the U.S. Antarctic Research Program, including direct support of multidisciplinary science activities and logistic and facilities support required for the conduct of antarctic research. In addition, the Division of Polar Programs is responsible for support of arctic research aimed at the advancement of scientific knowledge in selected areas of fundamental research that are best of uniquely pursued in the Arctic that compliments and extends the arctic research programs and other elements of the Foundation and other Federal agencies. The Division is responsible, also, for coordination between NSF and the Danish government for all NSF-supported research conducted in Greenland. The major objective of the Division of Polar Programs is to acquire new knowledge of the relationship of the earth's polar regions to global weather and climate; to develop a better understanding of upper atmosphere physics, tectonics, terrestrial biology, and paleontology of the polar regions and their relationship to the rest of the world; to evaluate the scientific basis for possible renewable and nonrenewable resources; and to foster cooperative international research contributing to these objectives and toward environmental protection of the earth's polar regions.

(6) *Office of Scientific Ocean Drilling.* Responsible for the management and the support of the development and operations of the Foundation's worldwide program of scientific deep sea drilling. This is accomplished through two major activities; the Deep Sea Drilling Project (DSDP) and the Advanced Ocean Drilling Program (AOD). DSDP scientific investigations, a reconnaissance of the global ocean floor, have been essential to development of the plate tectonics hypothesis; AOD is a planning effort to define and direct future drilling objectives and techniques. The Office

directs and supports, through contracts, scientific planning and operations, the acquisition and conversion of research vessels, and the development of new drilling techniques and systems.

c. *Assistant Director for Biological, Behavioral, and Social Sciences.* Appointed by the President, with the advice and consent of the Senate. The Assistant Director serves as principal advisor to the Director in the development of long-range plans, annual programs, and research policy in the biological, behavioral, and social sciences as established under the statutory and the National Science Board authority. The Assistant Director is also responsible for developing and implementing programs to strengthen scientific research potential in these sciences. The Directorate, composed of five Divisions, each reporting to the Assistant Director, is structured primarily on a disciplinary basis. Each Division, headed by a Division Director, is subdivided into Programs.

(1) *Division of Behavioral and Neural Sciences.* Responsible for basic and applied research in anthropology, linguistics, memory and cognitive processes, neurobiology, psychobiology, sensory physiology and perception, and social and developmental psychology. The Division also provides support for dissertation research, systematic anthropological collections, conferences and workshops, specialized facilities, and instrumentation. The major goals of the Division are to advance human understanding of behavior and nervous systems and to comprehend better the biological, phychological, and cultural mechanisms underlying behavior.

(2) *Division of Biotic Systems and Resources.* Responsible for research in ecology, ecosystem studies, population biology and physiological ecology, and systematic biology. The Division provides support for biological research resources such as systematic collections, controlled environmental facilities, field research facilities, and culture collections. Support is also provided for dissertation research, research equipment, and research conferences and workshops. The research supported by this Division is to advance knowledge of the attributes and interrelations of organisms, populations, and communities as they exist in their natural environment.

(3) *Division of Information Science and Technology.* Responsible for programs to increase understanding of the properties and structure of information and information transfer, to contribute to the store of scientific and technical knowledge which can be applied in the design of information systems, and to improve understanding of the economic and other impacts of information science and technology.

(4) *Division of Physiology, Cellular, and Molecular Biology.* Responsible for supporting research in the fields of biochemistry, biophysics, genetics, cell physiology, cellular, developmental, metabolic, and regulatory biology, and on alternative biological resources. The Division also provides support for specialized facilities, research conferences and workshops, and biological instrumentation. The major objectives of the Division are to understand better how plants, animals, and microbes regulate their metabolic and physiological activities; reproduce, grow, and age; and, in physical and chemical terms, how these life processes occur at the molecular, cellular, and organismal level.

(5) *Division of Social and Economic Science.* Responsible for basic and applied disciplinary and multidisciplinary research in economics, geography and regional science, history and philosophy of science, law and social sciences, political science, sociology, measurement methodology, decision and management science, and regulation an policy analysis. The goal of the Division is to develop fundamental knowledge of how social and economic systems work, to advance understanding of organizations and institutions, how they function and change, and to enhance the scientific capability of research efforts designed to produce explanations of how human interaction and decisionmaking take place. Programs within the Division also consider proposals for doctoral dissertation support, research conferences, the acquisition of specialized research equipment, group international travel, and data resources development.

d. *Assistant director for Engineering.* Responsible for strengthening engineering research and, as appropriate, focusing research in areas which are relevant to national problems. This is accomplished by supporting research across the entire range of engineering disciplines and by identifying and supporting special areas of engineering research where results are expected to have timely and topical impacts on the selected problems. The specific objectives of the Directorate for Engineering are to advance fundamental knowledge of engineering principles that can be applied to the analysis and design of a large variety of man-made devices, systems, and processes; strengthen the academic engineering research base in order to address the need for increased basic knowledge underlying engineering technology; create an improved academic reseach environment which will encourage larger numbers of young engineers to seek graduate education and enter research; and stimulate the application of fundamental engineering knowledge and capabilities towards the solution of significant problems of national interest. The Assistant Director participates with the Director in planning, analyzing, and evaluating activities and in establishing and maintaining an effective liaison with the Congress, other Federal agencies, the educational and scientific communities, professional societies, and other interested parties. Four divisions report to the Assistant Director. Each Division is headed by a Division Director and generally subdivided on a disciplinary or functional basis into Sections and/or Programs. Within the Office of the Assistant Director for Engineering, the Office of Interdisciplinary Research seeks to bring scientific and engineering expertise to bear most effectively on problems spanning several fields, recognizing that scientific, engineering, and societal problems often cannot be addressed using the knowledge and methods from a single discipline. Activities are undertaken to identify potential research areas and to stimulate quality interdisciplinary research proposals. Support also may be provided to study the interdisciplinary research process to improve both the effectiveness of the process itself and the mechanisms for research support. Conferences and workshops are conducted and interdisciplinary state-of-the-art review papers are written in order to identify societal or scientific or engineering problems, research gaps, and needs.

(1) *Division of Chemical and Process Engineering.* Responsible for promoting the creation of knowledge relevant to the design, optimization, and operation of a wide range of processes in the chemical, petroleum/petrochemical, food, biochemical/pharmaceutical, mineral, and allied industries. Research efforts include the development of fundamental principles, design and control strategies, mathematical models, and experimental techniques which cut across a large number of industries and processes. Areas of support include catalysis, combustion, plasma chemistry, biochemical, electrochemical, macromolecular, and separation processes, particulate characterization and interaction, thermodynamic and transport properties, and renewable and nonrenewable materials processing.

(2) *Division of Civil and Environmental Engineering.* Deals with extending our understanding of the basic behavior of natural and man-made physical structures and systems from both the elemental and macroscopic viewpoints, and with the interaction of the built environment and man's activities with the natural environment Areas of research include geotechnical engineering, structural mechanics, water resources, and environmental engineering. Under the President's Earthquake Hazards Reduction Act, the Division also supports research on phenomena involved in hazard produced by earthquakes, and the means by which earthquake and other natural hazards can be mitigated

(3) *Division of Electrical, Computer, and Systems Engineering.* Seeks to stimulate exploration of fundamental engineering principles applicable to man-made electrical systems and devices. Research topics include studies of electronic materials, solid-state devices, very large scale integrated circuits, integrated optics, lasers and optoelectronics, sensors and imaging systems, plasmas and particle beams, computer engineering, machine intelligence, robotics and automation, information theory and communications, control systems methodologies and networks, and operations research.

(4) *Division of Mechanical Engineering and Applied Mechanics.* Seeks to develop a better understanding of the physical processes associated with power developed by various machines and engines, and to focus that understanding on key issues related to industrial productivity. Applied mechanics research deals with the continuum behavior of solids, fluids, multi-phase mixtures, and biological materials including the effects of heat transfer, phase changes and chemical reaction. Special attention is given to time dependent or unsteady phenomena. Mechanical engineering research deals with fundamental problems relating to the behavior and design of mechanical systems and industrial production. It supports research relating to the analysis and synthesis of machines and mechanical systems including tribology and dynamic behavior, and optimization of manufacturing processes.

e *Assistant Director for Mathematical and Physical Sciences.* Appointed by the President, with the advice and consent of the Senate. Serves as an advisor to the Director in the development of long-range plans, annual programs, and research policy in the areas of mathematical and physical sciences, as established under statutory and National Science Board authority; and is responsible for developing and carrying out a program to accomplish the Foundation's research support mission in these areas. Four Divisions report to the Assistant Director for Mathematical and Physical Sciences. Each Division is headed by a Division Director and generally is subdivided on a disciplinary or functional basis into Sections and/or Programs. In addition to the specific areas of support discussed below, each Division supports appropriate conferences, symposia, and research workshops in the areas of science for which it has responsibility.

(1) *Division of Chemistry.* Responsible for the support of fundamental research in all areas of chemistry, to improve understanding and make possible new applications of chemistry beneficial to other sciences, engineering and technology. The broad subfields supported are inorganic and organic synthesis, chemical dynamics and thermodynamics, structural chemistry, quantum chemistry, and chemical analysis. In addition, a special program exists to assist department and individual investigators in acquiring advanced instrumentation critical to modern chemical inquiry.

(2) *Division of Materials Research.* Responsible for the support of research designed to extend and deepen our understanding of materials and to help discover ways to apply that understanding. Included is research in solid state physics and chemistry, metallurgy, polymers, ceramics, and other areas of science and engineering necessary to improve basic understanding of materials and their engineering properties. This also includes research on the preparation, characterization, and understanding of the properties of crystalline and amorphous materials.

(3) *Division of Mathematical and Computer Sciences.* Responsible for providing research support in mathematics and in the applications of mathematics to other sciences; and for research in computer science and engineering, advanced computer-based research techniques and the impact of the computer on organizations and the individual. The Division also provides support for regional meetings on topics at the forefront of mathematics research.

(4) *Division of Physics.* Responsible for providing support for research which concentrates on the most fundamental aspects of the properties and interactions of matter and energy. Support is provided through programs in atomic, molecular and plasma physics, nuclear physics, elementary particle physics, theoretical physics, intermediate energy physics, and gravitational physics. In addition, support is provided for university physics research facilities.

f. *Assistant Director for Scientific, Technological and International Affairs.* Responsible for programs designed to: collect and analyze data pertaining to the status of the national scientific and technological enterprise, study public policy issues related to science and technology, and support research that cuts across scientific disciplines and is directed toward strengthening the science and technology (S&T) research enterprise, both nationally and internationally. The Assistant Director serves as a principal advisor to the NSF Director in the development of long-range plans, programs, and policy for scientific, technological, and international affairs. Also has responsibility for providing policy analysis and assessments of scientific and technological issues of interest to decisionmakers in the Executive Office of the President, the National Science Board, and the Congress. The Directorate consists of five Divisions.

(1) *Division of Industrial Science and Technological Innovation.* Responsible for programs designed to accelerate industrial science and technological innovation by improving the linkage between universities and industries. This is done by supporting research centers and projects where industrial and university scientists and engineers collaborate in work on specific topics of mutual interest. In addition, opportunities are provided for small science- and technology-based firms to perform research projects leading to more rapid commercialization of new ideas, products, and processes. The Division also supports studies to improve the understanding of the processes by which technological innovation occurs and how those processes are affected by Federal actions.

(2) *Division of International Programs.* Administers the Foundation's programs for international cooperative scientific activities including joint research projects, seminars, and scientific visits. Facilitates U.S. scientists' access to unique facilities and sites abroad. Provides staff support to Joint Commissions and other U.S. international scientific efforts. Manages the use of Special Foreign Currency for programs in research and related activities. Coordinates other National Science Foundation programs with international aspects.

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(3) *Division of Policy Research and Analysis.* Responsible for developing information for decisionmakers through analysis of existing and emerging national and international issues having substantial scientific and technological (S&T) components. Activities include: identifying issues that relate research and development and technological advances to national concerns, developing a knowledge base and monitoring capabilities for analyzing the S&T enterprise, and assessing alternative policy options and their potential costs, risks, and benefits. The Division provides information useful to policymakers within the Executive Office of the President, such as the Office of Science and Technology Policy and the Office of Management and Budget.

(4) *Division of Research Initiation and Improvement.* Responsible for providing support to a range of individuals and institutions. Activities include: providing equipments grants to institutions which award few or no Ph.D. degrees in science and engineering; providing support for women scientists and engineers to conduct research, teaching, and counselling activities as visiting professors at academic institutions; providing increased access to research opportunities for minority scientists and engineers; improving research environments at predominantly minority institutions through support of facility research and equipment acquisition; fostering development and utilization of scientific and technical resources that respond to issues addressed by state and local governments; and supporting research and related activities that improve public and professional understanding of issues of ethics and values in science and engineering.

(5) *Division of Science Resources Studies.* Responsible for development and maintenance of a data base dealing with the characteristics, magnitude, and utilization of the Nation's human and financial resources for S&T activities. Studies and analyses provide information on scientific and technical personnel, science education, scientific institutions, the funding of research and development, the nature and relationship of different types of R&D activities, the economic impact of research and development (R&D), and related topics.

Information for Guidance of the Public

A. *Inquiries and Transaction of Business.* All inquiries, submittals, or requests should be addressed to the National Science Foundation, Washington, D.C. 20550. A member of the public may call at the Foundation offices at 1800 G Street, NW., Washington, D.C. during normal business hours, 8:30 a.m. to 5:00 p.m., Monday through Friday. The Statement of Organization, set forth above, indicates the offices with which members of the public should deal on particular matters. If an individual is uncertain as to which office to contact, that person may write the Foundation's mailing address or visit the National Science Foundation, Public Information Branch, Room 531, 1800 G Street, NW.

B. *General Method of Functioning, Procedures, Forms, Description of Programs.* The Foundation accomplishes its mission primarily through the award of grants and other agreements to universities, colleges, other nonprofit organizations, and to individuals as well as profit-making organizations. In instances where NSF has a specially assigned mission, or where services are being procured, contracts are used rather than grants. The Foundation's general course and method of operations is to provide financial support for basic and applied research and education in the sciences and engineering in response to requests, applications and proposals submitted by the person or organization desiring support. In general, grants are made on a merit basis after a review process involving several qualified outside commentators drawn from the scientific, educational, and industrial communities.

C. *Honorary Awards.* The National Science Foundation bestows annually the Alan T. Waterman Award on an outstanding young scientist for support of research and study. This award provides for up to $150,000 for 3 years of research and study at the institution of the awardee's choice. From time to time the National Science Board presents the Vannevar Bush Award to a person who, through public service activities in science and technology, has made an outstanding contribution toward the welfare of the Nation and mankind. The two awards together are designed to encourage individuals to seek to achieve the Nation's objectives in scientific research and education.

The National Science Foundation also provides support for the President's Committee on the National Medal of Science.

D. *Pertinent Publications.* The Foundation and the National Science Board publish a variety of booklets and other materials describing the programs and procedures of the Foundation and assessing the status of science in the Nation. All publications and forms may be obtained by writing to or vistiting the Foundation, unless otherwise indicated below. The following are key publications of the Foundation.

1. *Grants for Scientific and Engineering Research (NSF 81-79)*—Provides basic guidelines and instructions for investigators applying to the Foundation's programs of scientific and engineering research project support and other closely related programs, such as the support of foreign travel, conferences, symposia, and specialized research equipment and facilities. Complete details are given on application procedures. Additional information outlines the more detailed areas of how application data must be presented and other scientific areas for which NSF support funds may be granted. Also provides information on the evaluation process concerning the merit review of proposals for support. Available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

2. *NSF Grant Policy Manual*—A compendium of basic NSF grant administration policies and procedures generally applicable to most types of NSF grants and to most categories of recipients. Included are fiscal regulations regarding the use and expenditure reporting of NSF granted funds and other specific administrative procedures and policies. The NSF Grant Policy Manual (GPM) is available only by subscription, $9.00 domestic and $11.25 foreign, from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. This loose-leaf manual, identified by GPO as NSF 77-47, revised October 1979, will be updated periodically through supplements which will be furnished by GPO to subscribers. GPM subscription rules and prices are subject to change by GPO.

3. *NSF Bulletin*—A monthly publication that summarizes program announcements and other NSF activities. Available from the Public Information Branch, Room 531, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

4. *NSF Annual Report*—An annual presentation to the President for submission to the Congress highlighting the activities of the Foundation for the fiscal year. Accomplishments in research project support activities and science and engineering education are reflected in a series of brief synopses illustrating and explaining recent undertakings and results which have been brought about through NSF grants. Other data relating to the Foundation staff, financial reports, patents, research center contractors, advisory committees, panels and their membership are

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contained in the appendix. Available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

5. *National Science Board Reports*—A National Science Board assessments of the status and health of science and its various disciplines, including such matters as national resources and human resources. These reports are rendered annually to the President for submission to the Congress. The last three such reports that have been submitted or are under preparation are:

Only One Science (Twelfth NSB Report, 1980)

Science Indicators—1980 (Thirteenth NSB Report, 1981)

University—Industry Research Relationships: Myths, Realities and Potentials (Fourteenth NSB Report, 1982)

6. *Publications of the National Science Foundation*—Provides a listing of issued NSF publications available to the public, with prices where they apply.

7. *Guide to Programs*—Contains summary information about assistance support programs of the National Science Foundation. The Guide is a source of general information for individuals interested in participating in these programs. Program listings describe the principal characteristics and basic purpose of each activity, as well as eligibility requirements, closing dates (where applicable), and the address from which more detailed information, brochures, or application forms may be obtained. Available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

8. *Individual Program Announcements*—Detailed program publications are issued by individual program areas of the Foundation, announcing and describing award programs and containing critical dates and application procedures for competitions.

9. *Important Notices*—The primary means of general communication by the Director, NSF, with organizations receiving or eligible for NSF support. These notices convey important announcements of NSF policies and procedures or other subjects determined to be of interest to the academic community and to other selected audiences.

10. *NSF Organization and Functions Manual*—The approved organization structure of the Foundation, including the functions and responsibilities of each major component, described in chart and narrative form.

11. *Internal Directives*—The Foundation maintains a system of internal issuances for communication within the Agency on matters of policy, procedures, and general information. The internal directives are issued to establish organizations, define missions, set objectives, assign responsibilities, delegate or limit authorities, establish program guidelines, and delineate basic requirements affecting activities of the Foundation.

a. *Staff Memoranda*—Issuances reserved for use by the Director and Deputy Director, for communication with the staff on subjects of their choice.

b. *Circulars*—A series of issuances to communicate Agency policies, regulations, and procedures of a continuing nature. (NSF is in the process of coverting all policy contained in Circulars, Staff Memoranda, and Bulletins into a series of Manuals.)

c. *Manuals*—Developed to implement detailed information on operating procedures, requirements, and criteria. Manuals also contain NSF policy.

d. *Bulletins*—Issuances to communicate urgent information concerning changes in policy or procedure prior to their incorporation into a Circular or Manual, and to communicate information that is pertinent generally for a period of less than 2 years.

12. *Mosaic*—An interdisciplinary magazine of basic and applied research. Published six times a year. Edited for nonspecialists in the sciences as a way for the Foundation to report on the scientific research it supports. Available from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Subscription is $11.00 per year in the United States and possessions. A single copy may be purchased for $2.75.

13. *Antarctic Journal of the United States*—A magazine, published quarterly, available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

14. *Arctic Bulletin*—A quarterly publication, available from the Division of Polar Programs, National Science Foundation, 1800 G Street, N W., Washington, D.C. 20550.

E. *Availability of Information*. Persons desiring to obtain information, including documents, may submit a request by telephone or in writing to the Public Information Branch or to other Foundation units. If not satisfied with the response, they may submit a formal request under terms of the NSF Freedom of Information Act regulations, 45 CFR Part 612, or, if applicable, the NSF Privacy Act regulations, 45 CFR Part 613. All documents will be made available for inspection or copying, except for those which fall within the exemptions specified in the law and the withholding of which is deemed absolutely necessary.

Sources of Information

Grants. Individuals or organizations planning to submit grant proposals should refer to the *NSF Guide to Programs* and to appropriate program brochures and announcements which may be obtained by writing the Forms and Publications Unit, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550 or calling the Foundation at 202/357–7861.

Contracts. The Foundation publicizes contracting and subcontracting opportunities in the *Commerce Business Daily* and other appropriate publications. Organizations seeking to undertake contract work for the Foundation may contact the Division of Grants and Contracts, 202/357–7842, Room 640, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Small Business. The NSF Office of Small Business Research and Development provides information on opportunities for NSF support to small businesses with strong research capabilities in science and technology. Interested organizations may contact the Office at 202/357–7464, Room 511–A, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Engineering Information Resources. Information concerning engineering resources may be obtained through Engineering Information Resources, Room 1110, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

National Science Board Documents. Schedules of Board meetings, agendas, and summary minutes of the open meetings of the Board may be obtained from the NSB Office, 202/357–7510, Room 545, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Committee Minutes. Summary minutes of meetings of the Foundation's advisory groups may be obtained from the Division of Personnel and Management, Management Analysis Section, 202/357–9520, Room 217–A, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Freedom of Information Act (FOIA) Inquiries. Requests from the public for Agency records should be clearly identified "FOIA REQUEST" and addressed to the Public Information Branch, Room 531, National Science

Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Privacy Act Inquiries. Persons desiring to obtain personal records that are legally available to the individual under the Privacy Act of 1974, should submit a request in accordance with the NSF Privacy Act Regulations, 45 CFR Part 613.

Reading Room. Persons who wish to inspect or copy records should contact the NSF Public Information Branch, 202/357-9496, Room 531, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Employment. Inquiries may be directed to the National Science Foundation, Division of Personnel and Management, Room 212, 1800 G Street, NW., Washington, D.C. 20550.

Dated: February 8, 1983.

Thomas Ubois,

Assistant Director for Administration.

[FR Doc. 83-3892 Filed 2-11-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Catawba Nuclear Station Units 1 and 2; Meeting

The ACRS Subcommittee on Catawba Nuclear Station Units 1 and 2 will hold a meeting on March 4 and 5, 1983, at the Holiday Inn, 212 Woodlawn Road (I-77 South Exit 6A), Charlotte, NC. The Subcommittee will review the application of the Duke Power Company for an Operating License.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Designated Federal Employee so far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION 4). To the extent practicable these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Friday, March 4, 1983—2:00 p.m. until the conclusion of business; Saturday, March 5, 1983—8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Duke Power Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard Major or Staff Engineer, Mr. Charles McClain (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: February 9, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-3939 Filed 2-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-6931 (Renewal of Byproducts Material License No. 19-08330-03) (ASLBP 82-469-01-SP)]

February 9, 1983.

Armed Forces Radiobiology Research Institute, (Cobalt-60 Storage Facility); Order

A special prehearing conference will be held on March 4, 1983 to address the matters raised in CNRS's "Supplement to Petition for Leave to Intervene" and to discuss the schedule for discovery and litigation in the event a hearing is required in this proceeding. The conference will begin at 9:00 a.m. and will be held in the Nuclear Regulatory Commission's Fifth Floor Hearing Room, 4350 East-West Highway, Bethesda, Maryland.

It is so ordered.

For the Atomic Safety and Licensing Board.

Helen F. Hoyt,

Chairperson, Administrative Judge.

[FR Doc. 83-3931 Filed 2-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co., et al.; Issuance of Amendment to Facility

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 63 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications to require an audit of the Facility Emergency Plan, and the Facility Security Plan at least once per 12 months, in conformance with the Regulations 10 CFR 50.54(t) and 10 CFR 73.40(d), respectively.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 6, 1982, (2) Amendment No. 63 to License No. DPR-66, and (3) the Commission's related letter dated February 7, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission,

Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 7th day of February, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-3932 Filed 2-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al., Crystal River Unit No. 3 Nuclear Generating Plant; Exemption

I

The Florida Power Corporation (the licensee) and eleven other co-owners hold Facility Operating License No. DPR-72, which authorizes the licensee to operate the Crystal River Unit No. 3 Nuclear Generating Plant (the facility). This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect. The facility is a pressurized water reactor (PWR) located at the licensee's site in Citrus County, Florida.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised Section 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.G, is the subject of this Exemption. Subsection III.G specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2).

If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, is required (III.G.3).

By letter dated December 29, 1982, the licensee requested an exemption from the requirements of Section III.G.3.b to the extent that it requires the installation of a fixed fire suppression system in the control room. In support of this request, the licensee notes the existing fire protection features, and the fact that the control room is continuously manned.

III

We have reviewed the licensee's exemption request. The control room is enclosed by walls, floor and ceiling of reinforced concrete construction, suffficient to achieve a three-hour fire rating. Openings into the room are protected by fire doors, dampers and fire rated penetration seals. Safe shutdown equipment in the room consists of the main control consoles and cabinets, including redundant control cables, indicating instruments and relays.

Existing fire protection consists of smoke and heat detection systems located throughout the room and inside the control cabinets. This protection is supplemented by portable fire extinguishers and manual hose stations. The fire loading in the control room is low. The room is continuously manned. In the event the control room becomes uninhabitable due to smoke or heat, an alternate capability to achieve safe shutdown, outside the control room, exists.

The intent of Section III.G is to require an acceptable level of fire safety to assure the maintenance of safe shutdown capability. Because the control room is continuously manned and fire extinguishing equipment is located in the control room, there is reasonable assurance that a fire would be promptly extinguished. In our judgement, a fixed suppression system in the control room should be avoided because of the potentially adverse impact of an inadvertent initiation. Therefore, the installation of a fixed fire suppression system will not significantly increase the level of fire protection in the control room and the exemption requested by the licensee should be granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or common defense and security and is otherwise in the public interest and hereby grants an exemption from the requirements of Section III.G.3.b of Appendix R to 10 CFR Part 50 to the extent that it requires the installation of a fixed fire suppression system in the control room at Crystal River Unit No. 3.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 7th day of February 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-3933 Filed 2-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana & Michigan Electric Co.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 68 to Facility Operating License No. DPR-58, and Amendment No. 50 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments change the Technical Specification to allow a roving fire watch patrol in areas affected when automatic carbon dioxide fire suppression systems are temporarily isolated.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 2, 1982, as supplemented by letters dated November 23, 1982 and December 30, 1982, (2) Amendment Nos. 68 and 50 to License Nos. DPR-58 and DPR-74, and (3) the Commission's related Safety

Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 7th day of February, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-3934 Filed 2-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co., (Maine Yankee Atomic Power Plant); Exemption

I

The Maine Yankee Atomic Power Company (the licensee) is the holder of Facility Operating License No. DPR-36 which authorizes operation of the Maine Yankee Atomic Power Plant. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises one pressurized water reactor at the licensee's site located in Lincoln County, Maine.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.L.1.(d), is the subject of this exemption request.

Section III.L.1. details the requirements for alternative and dedicated shutdown capability. Specifically, Section III.L.1.(d) require alternative and dedicated shutdown capability shall be able to achieve cold shutdown conditions within 72 hours.

III

By letter dated December 22, 1982 the licensee requested an exemption from the requirement to achieve cold shutdown in 72 hours using alternate methods. In support of this request the licensee notes that the plant will be "safely" shutdown prior to 72 hours and proceeding in an orderly manner to cold shutdown. Similar plants have required approximately 130 hours to reach cold shutdown. The licensee provided additional information based on the criteria of Section III.L to the effect that the Alternative shutdown system for these areas may not be capable of achieving cold shutdown of the reactor coolant system within 72 hours.

The licensee proposes a method of achieving cold shutdown utilizing a water solid mode of steam generator operation for the situation wherein the residual heat removal system is lost due to the fire. This method will require about 130 hours to reach a cold shutdown condition. Adequate water supply is available for the extended shutdown. Additionally, the alternative shutdown systems can accomplish cold shutdown using only onsite power sources. With the residual heat removal system operable the 72 hour requirement can be met. Therefore since the alternative shutdown system uses only onsite power, and shuts down the plant safely, the longer time to reach cold shutdown does not produce a decrease in plant safety. Therefore, the exemption requested should be granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants an exemption from the requirements of Section III.L.1.(d) of Appendix R to the extent that it requires alternative and dedicated shutdown capability to be able to achieve cold shutdown conditions within 72 hours at Maine Yankee.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

A copy of the Safety Evaluation dated February 3, 1983, related to this action is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room located at the Wiscasset Public Library, High Street, Wiscasset, Maine. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

This Exemption is effective upon issuance.

Dated at Bethesda, Md., this 3d day of February.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 83-3935 Filed 2-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-387]

Pennsylvania Power & Light Co. and Allegheny Electric Cooperative, Inc.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 8 to Facility Operating License No. NPF-14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc., for Susquehanna Steam Electric Station, Unit 1 (the facility) located in Luzerne County, Pennsylvania. This amendment grants changes to Technical Specifications to correct typographical errors noted in the document. The changes are administrative in nature. This amendment is effective as of a date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for the amendment dated October 22, 1982; (2) Amendment No. 8 to License NPF-14 dated February 7, 1983; and (3) the Commission's evaluation dated February 7, 1983. All of these items are available for public inspection at the

Commission's Public Document Room 1717 H Street NW., Washington, D.C. 20555, and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701. A copy of items (1), (2), and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 7th day of February 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-3936 Filed 2-11-83; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.150, Revision 1, "Ultrasonic Testing of Reactor Vessel Welds During Preservice and Inservice Examinations," has been revised to include an alternative method that the NRC staff has evaluated and found acceptable. The alternative method was recommended by the Ad Hoc Committee of the Electric Utility Industry after their review of the original version of the guide. Revision 1 is being issued as an active guide without prior issuance as a draft guide for comment.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 7th day of February 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-3938 Filed 2-11-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

Virgil C. Summer Nuclear Station, Unit No. 1; Issuance of Amendment to Facility Operating License No. NPF-12

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. NPF-12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees) for the Virgil C. Summer Nuclear Station, Unit No. 1 (the facility) located in Fairfield County, South Carolina. This amendment modifies the Technical Specifications to provide for an independent review of the security plan and implementing procedures at least once per 12 months in accordance with 10 CFR 73.40(d). The amendment is effective as of its date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) South Carolina Electric & Gas Company letter, dated November 17, 1982, (2) Amendment No. 9 to Facility Operating License No. NPF-12 with Appendix A Technical Specifications page change, and (3) the Commission's related safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180. A copy of Amendment No. 9 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of February 1983.

For the Nuclear Regulatory Commission.

Carl R. Stahle,

Acting Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-3937 Filed 2-11-83; 8:45 am]

BILLING CODE 7590-1-M

Regional Workshop Regarding Supplement No. 1 to NUREG-0737; Requirements for Emergency Response Capability

Correction

In FR Doc. 83-3324, appearing on page 5829, in the issue of Tuesday, February 8, 1983, in the third column, in the table, in the "Workshop date" column, in the first line "Feb. 2, 1983" should read "Feb. 22, 1983".

BILLING CODE 1505-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2072; Amendment No. 4]

Arkansas; Declaration of Disaster Loan Area

Declaration #2072 (See 47 FR 57185), Amendment #1 (See 48 FR 565), Amendment #2 (See 48 FR 2252), and Amendment #3 (See 48 FR 3442) are amended by adding the adjacent Counties of Clark, Franklin, Jefferson, Johnson, Logan, Lonoke, Marion, Nevada, Newton, Prairie, Searcy, Sevier, and Union in the State of Arkansas. All other information remains the same, i.e., the termination date for filing applications for physical damage is

close of business on February 11, 1983, and for economic injury until the close of business on September 13, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 10, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-3947 Filed 2-11-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 847]

Fishery Conservation and Management Act of 1976; Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the **Federal Register**.

Individual vessel applications for fishing in 1983 have been received from the Governments of the German Democratic Republic, Portugal and Japan.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F/CM7), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634-7432).

Dated: February 4, 1983.

Brian S. Hallman,

Acting Director, Office of Fisheries Affairs.

Fishery codes and designation of Regional Councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional council
ABS	Atlantic Billfishes and Sharks.	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet.	North Pacific
CRB	Crab (Bering Sea)	North Pacific
GOA	Gulf of Alaska	North Pacific
NWA	Northwest Atlantic	New England, Mid Atlantic
SMT	Seamount Groundfish (Pacific Ocean)	Western Pacific
SNA	Snails (Bering Sea)	North Pacific
WOC	Washington Oregon, California Trawl	Pacific
PBS	Pacific Billfish and Sharks	Western Pacific

Activity codes specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing, and other support
2	Processing and other support only
3	Other support only

Nation/vessel name/vessel type	Application No	Fishery	Activity
Japan			
Suruga Maru, Cargo/Transport Vessel	JA-83-2014	BSA, GOA, SNA, SMT, NWA	3
Erwa Maru No. 28, Pot Fishing Vessel	JA-83-0820	SNA	1,2
Chosei Maru No. 78, Pot Fishing Vessel	JA-83-0838	SNA	1,2
Kohoku Maru No. 18, Pot Fishing Vessel	JA-83-0839	SNA	1,2
Hoyo Maru No. 40, Pot Fishing Vessel	JA-83-0840	SNA	1,2
Sanlochi Maru No. 23, Pot Fishing Vessel	JA-83-0848	SNA	1,2
Takashiro Maru No. 31, Pot Fishing Vessel	JA-83-0856	SNA	1,2
Hoyo Maru No. 63, Pot Fishing Vessel	JA-83-0862	SNA	1,2
Ryoun Maru No. 2, Pot Fishing Vessel	JA-83-0877	SNA	1,2
Kaiyo Maru No. 8, Pot Fishing Vessel	JA-83-1137	SNA	1,2
Yoshiho, Cargo/Transport Vessel	JA-83-0031	BSA, GOA SNA, SMT	3
Ebisu Maru No. 5, Danish Seiner	JA-83-1183	BSA	1
Keifu Maru, Cargo/Transport Vessel	JA-83-0572	BSA, GOA NWA, SMT SNA	3
Shoutoku Maru, Cargo/Transport	JA-83-0028	GOA, BAS SNA, NWA	3
Takuyo Maru, Cargo/Transport	JA-83-0029	GOA, BAS SNA, NWA	3
Miyoshima Maru, Cargo/Transport Vessel	JA-83-0025	BSA, GOA NWA, SNA SMT	3
Aoyagi Maru, Cargo/Transport Vessel	JA-83-0026	BSA, GOA NWA, SNA SMT	3
Rishin, Cargo/Transport Vessel	JA-83-0027	BSA, CRB GOA, NWA SMT, SNA	3
Kashiwagi Maru, Cargo/Transport Vessel	JA-83-0019	NWA, BSA GOA,SMT	3
Daikoh Maru, Cargo/Transport Vessel	JA-83-0021	NWA, BAS GOA, SMT	3
Stevens, Cargo/Transport Vessel	JA-83-0022	NWA, BAS GOA,SMT	3
Skylark, Cargo/Transport Vessel	JA-83-0023	NWA, BSA GOA, SMT	3
Starling, Cargo/Transport Vessel	JA-83-0024	NWA, BSA GOA, SMT	3
Joint Ventures.			
Tokachi Maru, Large Stern Trawler	JA-83-0360	NWA	2
Zoz Maru, Large Stern Trawler	JA-83-0361	NWA	2
Nippon Suisan Kaisha, Ltd. and Charles B. Stinson, President, Stinson Canning Co., Prospect Harbor, Maine, U.S.A. 04669, have applied to engage in a joint venture fishery aimed at producing 1,000 mt Butterfish to be sold in Japan, 300 mt Loligo in Europe, and 300 mt Mackerel in West Africa during the months of January 1983 and May 1983			
Portugal:			
Brites, Stern Trawler	PO-83-0018	NWA	2
Gafanha da Nazare of Portugal and Lund's Fisheries, Inc., 997 Ocean Drive, Cape May, New Jersey, 08204, have applied to engage in a joint venture aimed at producing 10,000 mt of Illex Squid during the months of May 1, 1983 and October 31, 1983.			
Coimbra, Stern Trawler	PO-83-0009	NWA	2
Empresa de Pescas Sao Jacinto, Lda. of Portugal and Lund's Fisheries Inc., 997 Ocean Drive, Cape May, New Jersey, 08204, have applied to engage in a joint venture aimed at producing 10,000 mt of Illex Squid during the months of May 1, 1983 and October 31, 1983			
Inacio Cunha, Stern Trawler	PO-83-003	NWA	2
Testa E Cunhas, Lda. of Portugal and Lund's Fisheries Inc., 997 Ocean Drive, Cape May, New Jersey, 08204, have applied to engage in a joint venture aimed at producing 10,000 mt of Illex Squid during the months of May 1, 1983 and October 31, 1983.			
German Democratic Republic:			
Stubnitz, Stern Trawler/Factory Ship	GC-83-0047	NWA	2
Rudolf Leonhard, Stern Trawler/Factory Ship	GC-83-0048	NWA	1,2
P.C. Weskopf, Stern Trawler/Factory Ship	GC-83-0030	NWA	1,2
VEB Fischfang Sassnitz of the German Democratic Republic and Joint Trawlers (North America) Ltd., P.O. Box 1209, Gloucester, Massachusetts, 01930, have applied to engage in a joint venture aimed at producing 10,000 mt of Atlantic Mackerel during the months of January 1, 1983 to March 31, 1983 and 10,000 mt Atlantic Mackerel during the months of April 1, 1983 to March 31, 1984. They will also engage in producing 2,500 mt Loligo Squid during the months of January 1, 1983 to March 31, 1983 and 2,500 mt Loligo Squid during the months of April 1, 1983 to March 31, 1984			

[FR Doc. 83-3802 Filed 2-11-83; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Control Tower; Commissioning

Notice is hereby given that on May 25, 1983, through September 14, 1983, the Airport Traffic Control Tower at the Martha's Vineryard Airport, Martha's Vineyard, Massachusetts, will be commissioned as a part-time Federal Aviation Administration (FAA) facility. Tower hours of operation will be established in advance by a Notice to Airmen, and thereafter be published in the Airman's Information Manual. The designated facility identification for the FAA airport control tower will be: VINEYARD TOWER.

This information will be reflected in the FAA organization statement.

Communications to the tower should be directed to: Federal Aviation Administration, Airport Traffic Control Tower, P.O. Box 369, Vineyard Haven, Massachusetts 02568.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354(a) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Burlington, Mass., on January 31, 1983.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 83-3701 Filed 2-11-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Port Huron, Michigan

AGENCY: Federal Highway Administration (FHWA), DOT.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed construction of a new parallel bridge and reconstruction of the vehicular plaza, toll collection, and U.S. Customs inspection facilities in the vicinity of the existing Blue Water Bridge and plaza, Port Huron, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Fort, District Engineer, Federal Highway Administration, P.O. Box 10147, Lansing, Michigan 48901 Telephone (517) 377-1879, (FTS 374-1879) or Mr. Jack Morgan, Manager, Public Involvement Section, Michigan Department of Transportation, P.O. Box 30050, Lansing, Michigan 48909, Telephone 1-800-292-9576 (toll free in Michigan), or (517) 373-2166.

SUPPLEMENTARY INFORMATION: The FHWA, incorporation with the Michigan Department of Transportation (MDOT) will prepare an environmental impact statement (EIS) for the proposed construction of future parallel bridge and reconstruction of the vehicular plaza, toll collection and U.S. Customs Inspection facilities located in the vicinity of the existing Blue Water Bridge and plaza, Port Huron, Michigan. These improvements are considered necessary to correct existing and future capacity problems, improve service and eliminate potential safety hazards and congestion associated with the present facility. The proposed action is planned to be constructed in two stages; the first stage to include the reconstruction of the vehicular plaza, toll, and U.S. Customs facilities to satisfy existing and future needs for improved service and the second stage to include the construction of a future parallel bridge when the capacity of the existing structure reaches between 1800 and 2400 vehicles per hour.

Alternatives under consideration include (1) doing nothing; (2) low capitol improvements; (3) using alternate travel modes; and (4) constructing a future parallel bridge and reconstruction of the vehicular plaza, toll and U.S. Custom facilities. Four sub-alternate configurations for the plaza/toll/Customs facilities are being considered. All four of these sub-alternates will be similar and contain primary inspection; secondary truck, automobile, and bus inspection, truck weight scales and toll collection facilities. One of these four alternates however, has the secondary truck inspection located approximately two miles west of the primary plaza and other facilities.

The preferred location for the future parallel bridge is immediately south and adjacent to the existing Blue Water Bridge and is based on extensive studies conducted in cooperation with responsible Canadian Government officials and agencies. Those studies indicate a northerly parallel bridge location which will result in more significant displacements of American and Canadian homes, businesses and industries and affect a greater number of local street closures and recreational facilities. The results of those studies will be summarized in the EIS.

The studies, early coordination and consultation conducted to date between the various Canadian and U.S. Federal and State agencies have identified the more significant issues associated with the proposed action. A scoping document which addresses those issues has been preprared and is available on request to all interested agencies, organizations, and individuals. Copies may be obtained by contacting the above individuals at the address indicated.

The FHWA and Michigan Department of Transportation will be the joint-lead agencies for preparation and processing of the EIS. Further coordination and consultation with appropriate Canadian governmental agencies will be conducted through mutually acceptable channels. Official communication concerning the environmental studies or documentation will be coordinated with the U.S. Department of State through the Office of the Secretary of Transportation.

Those U.S. agencies which are expected to have a jurisdictional interest in the project are the U.S. Customs Services and U.S. Immigration and Naturalization Service, General Services Administration, Department of State, Corps of Engineers and U.S. Coast Guard and are herein designated cooperating agencies. Other U.S. agencies, which have jurisdiction by law and may not have been identified to date should notify FHWA prior to February 28, 1983 for designation as a cooperating agency.

The preparation and processing of this EIS is being expedited to achieve the submission of a final document prior to September 1983. Accordingly, FHWA requests all cooperating agencies give high priority to achieving the necessary coordination and consultation in a timely manner. An advance copy of the scoping document is being furnished to those cooperating agencies identified above.

The draft EIS is currently scheduled for completion by February 1983 and will be made available for public and agency review and comment. Due to the extensive agency coordination and consultation already undertaken for the study to date, no formal scoping meeting is planned.

(Catalog of Federal Domestic Assistance Program Number 20-105, Highway Research, Planning and Construction. The provisions of OMB circular Number A-95 regarding State and local clearing-house review of Federal and federally assisted programs and projects apply to this program)

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Issued on January 28, 1983.

Thomas Fort,

District Engineer Lansing, Michigan.

[FR Doc 83-3[illegible] Filed 2-11-83: 8 45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Safety Defect Investigation of General Motors X-Body Vehicles' Rear Brake Systems; Public Proceeding Postposed

The National Highway Traffic Safety Administration has postponed the public proceeding announced in the Federal Register of January 20, 1983 (48 FR 2623) regarding its initial determination of a safety-related defect in General Motors Corporation X-body vehicles alleged to be susceptible to premature rear brake lockup. The determination covered certain 1980 model year Chevrolet Citation, Pontiac Phoenix, Oldsmobile Omega and Buick Skylark cars equipped with asbestos brake shoe linings in their rear brakes. The agency also has conducted an inquiry into the adequacy of the remedy offered by General Motors in a 1981 recall of some of the vehicles covered by the current initial determination. The meeting was to be held at 10 a.m. on February 14, 1983, in Room 2230 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, D.C. 20590. General Motors has notified the agency that it will recall the vehicles covered by the initial determination and by the inquiry into the adequacy of the earlier remedy. Accordingly pending the agency's review of General Motors' proposed action, the scheduled public proceeding is postponed until further notice.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 9, 1983.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 83-3961 Filed 2-10-83: 10:51 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83-38]

Tariff Classification of Certain Imported Printing Mechanisms; Correction

AGENCY: Customs Service, Treasury.

ACTION: Notice of correction.

SUMMARY: This document give notice that a previous Customs finding of an established and uniform practice of classifying certain printing mechanisms under the provision for office machines, not specially provided for, in item 676.30, Tariff Schedules of the United States (TSUS), was made in error, and that a practice did not, in fact, exist at the time of the finding. Customs now finds that the subject mechanisms are correctly classified under the provision for other parts of office machines, not specially provided for, in item 676.52, TSUS, at a higher rate of duty.

EFFECTIVE DATE: March 16, 1983.

FOR FURTHER INFORMATION CONTACT: James C. Hill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

In a ruling letter addressed to counsel for the importer of certain printing mechanisms, dated April 26, 1976 (File No. 040922), Customs expressed the opinion that mechanisms to be placed in the same housings with cash registers, calculators, or other data source collectors such as printers, were classifiable under the provision for other parts of office machines, not specially provided for, in item 676.52, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202).

Subsequently, counsel for the importer submitted summaries of his client's importing experience purporting to show that there was an established and uniform Customs practice of classifying certain models of the printing mechanisms under the provision for office machines, not specially provided for, in item 676.30, TSUS. The column 1 rate of duty for merchandise entered under item 676.30, TSUS, has been, and presently is, less than the column 1 rate of duty for merchandise entered under item 676.52, TSUS. Customs reviewed the information submitted on behalf of the importer and issued a finding on August 18, 1976 (File No. 040922), that there was an established and uniform tariff classification practice with respect to 12 specific models of the printing mechanisms, and authorized pending entries of these articles to be liquidated at the lower rate of duty under item 676.30, TSUS.

However, later review of this matter showed that the import records concerning these articles were not complete, that some of these and other similar printing mechanisms has been entered at the higher rate of duty under item 676.52, TSUS, at several ports of entry, and that the liquidation of entries for this merchandise has been suspended at the time of Customs August 18, 1976 finding pending clarification of the appropriate tariff classification of the printing mechanisms. Consequently, Customs finding was based on insufficient factual information.

Correction

In view of the above, a notice was published in the **Federal Register** on May 26, 1982 (47 FR 23065), advising the public that Customs finding of August 18, 1976 was erroneous, and that the printing mechanisms were correctly classified under item 676.52, TSUS, at the applicable rate of duty. Pursuant to section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)), and section 177.10(c), Customs Regulations (19 CFR 177.10(c)), Customs requested comments on the proposed correction. Comments were requested on or before July 26, 1982. However, none were received.

Action

After further review of this matter, Customs proposal to correct its previous finding of an established and uniform practice of classifying the subject printing mechanisms under item 676.30, TSUS, and to classify them under item 676.52, TSUS, is adopted. Accordingly, all merchandise entered, or withdrawn from warehouse for consumption, on or after the effective date of this notice, will be classified under item 676.52, TSUS, at the applicable rate of duty.

Drafting Information

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development,

Dated: February 7, 1983.

William von Raab,

Commissioner of Customs.

[FR Doc. 83-3907 Filed 2-11-83: 8:45 am]

BILLING CODE 4820-02-M

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 18]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308 of Title 31 of the United States Code (formerly 6 U.S.C. Sections 6 to 13). An underwriting

limitation of $2,776,000 has been established for the company.

Name of Company: American Independent Reinsurance Company

Business Address: P.O. Box 3802, 3001 Summer Street, Stanford, Connecticut 06905

State of Incorporation: New York.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28871 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: February 4, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-3872 Filed 2-11-83, 8:45 am]

BILLING CODE 4810-35-M

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Sunshine Act Meetings

Federal Register
Vol. 48, No. 31
Monday, February 14, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C 552b(e)(3).

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Federal Trade Commission	5

1

COMMODITY CREDIT CORPORATION

TIME AND DATE: 9 a.m., February 16, 1983.

PLACE: Room 5066, South Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Minutes of Open CCC Board meeting on October 20, 1982.
2. Minutes of Closed CCC Board meeting on October 20, 1982.
3. Information re: CCC Monthly Sales List for February 1983.
4. Memorandum re: Payment-In-Kind Impact Analysis.
5. Memorandum re: Guaranty Fuels, North Carolina, Inc.—Curent Status.
6. Memorandum re: CCC FY 1984 President's Budget.
7. Memorandum re: Report on Dairy Restraining Order.
8. Memorandum re: Section 416 Dairy Donations Export.
9. Memorandum re: Egyptian Flour Sale.

CONTACT PERSON FOR MORE INFORMATION. Edward D. Hews, Secretary, Commodity Credit Corporation, Room 3090-South Building, Post Office Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013; (202) 447-7583.

[S-209-83 Filed 2-10-83; 10:18 am]

BILLING CODE 3410-05-M

2

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, February 17, 1983, 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Advisory Opinions:

AO 1982-58 Edwin W. Miller, P.O.B. Publishing Company
AO 1983-4 Ned H. Guthrie, American Federation of Musicians

Regulations:

Nonpartisan Communications by Corporations or Labor Organizations—11 CFR 114.3 and 114.4—Explanation and Justification and Transmittal to Congress

Disclaimer Notices - 11 CFR 110-11 Explanation and Justification and Transmittal to Congress

Routine Administrative Matters

* * * * *

DATE AND TIME: Thursday, February 17, 1983 following the conclusion of the open meeting.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Certification. Compliance.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Information Officer, telephone 202-523-4065.

[S-213-83 Filed 2-10-83; 4:00 pm]

BILLING CODE 6715-01-M

3

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Friday, February 18, 1983.

PLACE: Board Room, sixth floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

MATTERS TO BE CONSIDERED: Limited Trust Powers Application—Security Federal Savings and Loan Association of Lake County, East Chicago, Indiana

[No. 12, February 10, 1983]

[S-211-83 Filed 2-10-83; 11:49 am]

BILLING CODE 6720-01-M

4

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 5645, Monday, February 7, 1983.

PLACE: Board Room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board meeting scheduled Thursday, February 10, 1983, at 10:30 a.m.:

Net Worth Certificates: Regulatory Net Worth

[No. 11, February 10, 1983]

[S-212-83 Filed 210-83; 11:55 am]

BILLING CODE 6720-01-M

5

FEDERAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Friday, February 11, 1983.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED:

Consideration of cross-examination by nonattorney experts in Commission adjudications

CONTACT PERSON FOR MORE IMFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

[S-210-83 Filed 2-10-83; 10:45 am]

BILLING CODE 6750-01-M

Federal Register

Monday
February 14, 1983

Part II

Department of Transportation

Coast Guard

Offshore Supply Vessel Regulations; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

(46 CFR Parts 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135 and 136)

[CGD 82-004]

Offshore Supply Vessel Regulations

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rule making.

SUMMARY: The Coast Guard is preparing proposed regulations for new offshore supply vessels. This advance notice provides a preliminary draft of the proposal for public comment. The regulations would implement the provisions of Pub. L. 96–378 regarding inspection standards for new offshore supply vessels. The regulations are intended to take into consideration the particular characteristics of these vessels, their method of operations, and the service in which they are engaged.

DATES: Comments on this advance notice must be received on or before: June 14, 1983.

ADDRESSES: Comments should be mailed to Commandant (G–CMC/44) (CGD 82–004), U.S. Coast Guard, Washington, D.C. 20593. The comments and materials referenced in this notice will be available for examination and copying between 8 a.m. and 4 p.m., Monday through Friday, except holidays at the Marine Safety Council (G–CMC/44), Room 4402, Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: LCDR Kevin V. Feeney, Office of Merchant Marine Safety (G–MTH–5/13), Room 1308, U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426–2187.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this advance notice of proposed rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice as CGD 82–004 and the specific sections of the proposal to which the comments apply, and give reasons for the comments. If acknowledgment of receipt of a comment is desired, a stamped self-addressed postcard or envelope should be enclose. No public hearing is planned, but one will be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

This advance notice contains a complete set of regulations that would be applied to new offshore supply vessels in lieu of other existing regulations. The regulations, as drafted, contain many changes and relaxations to the standards presently applied to existing offshore supply vessels.

Before issuing a Notice of Proposed Rule Making, an analysis of the economic effect of the proposal is necessary along with a preliminary analysis of its technical content. The purpose of this Advance Notice is to solicit comments on both the technical merits of the proposal and its probable economic effect. Comments from the maritime community and any other interested parties are requested. All comments received will be considered in preparing the Notice of Proposed Rule Making.

Drafting Information

The principal drafter of this document was LCDR K. V. Feeney, Office of Merchant Marine Safety. Mr. W. R. Register, Office of the Chief Counsel, provided assistance.

Discussion of the Proposed Regulations

a. *Background.*

(1) There are presently over 3000 vessels operating in support of offshore oil and energy exploration and production. The offshore marine service industry consists of a diversified group of firms that provide a wide range of exploration, construction, distribution-supply, and safety services to the offshore oil and mineral extractive industries. Most of the industry is centered in the Gulf of Mexico but operates worldwide. The vessels that this industry operates are predominantly diesel propelled, of less than 500 gross tons, and engage in short voyages. Prior to the enactment of Pub. L. 96–378, these vessels were—

(a) Inspected by the Coast Guard under 46 CFR Subchapter I (Cargo and Miscellaneous Vessels) if over 15 gross tons and carrying freight for hire;

(b) Inspected by the Coast Guard under 46 CFR Subchapter T (Small Passenger Vessels) if less than 100 gross tons and carrying passengers for hire; or

(c) Not inspected by the Coast Guard under a "bareboat charter" arrangement.

(2) The Subchapter I vessels were known as supply boats. Typically, these vessels were of steel construction, carried large amounts of deck cargo, and carried up to 16 persons in addition to the crew on domestic voyages as permitted by 46 USC 882. The Subchapter T vessels were known as crew boats. Typically, these vessels were of aluminum or steel construction, relatively swift, carried limited, but significant, amounts of deck cargo, and carried more than 16 passengers.

(3) Pub. L. 96–378 (46 U.S.C. 404–1) was enacted on October 6, 1980. Its provisions make significant changes to the way in which offshore supply vessels are to be inspected by the Coast Guard. Among the changes are the following:

(a) A controversial feature of the offshore support industry for many years has been its use of contractual arrangements involving bareboat charters coupled with operating agreements in order to operate without a Coast Guard certificate of inspection. Public Law 96–378 eliminates this controversy by requiring all offshore supply vessels to be inspected.

(b) The law defines an offshore supply vessel (OSV) as being a vessel that—

(i) Regularly carries goods, supplies, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources;

(ii) Is propelled by machinery other than steam;

(iii) Is not a small passenger vessel regulated under 46 U.S.C. 390–390(g); and

(iv) Is between 15 and 500 gross tons.

(c) Existing OSV's are in turn defined as those that were operating as such on or before January 1, 1979, or that, if not in service of any kind on or before that date, were contracted for on or before that date and entered into service before October 6, 1980. New OSV's are defined as all those that are not existing OSV's.

(d) Each new OSV is subject to inspection as follows:

(i) A vessel of above fifteen and less than one hundred gross tons is subject to Coast Guard inspection to the same extent as a freight carrying vessel of the type defined in 46 U.S.C. 390(e).

(ii) A vessel of one hundred gross tons and less than five hundred gross tons is subject to Coast Guard inspection under applicable provisions of Title 46, U.S. Code (principally 46 U.S.C. 391 and 392) to the same extent as a commercial vessel propelled in whole or in part by steam.

(iii) Regulations established for these vessels are required to take into account their particular characteristics, methods of operation, and the service in which they are engaged.

(e) Each existing OSV continues to be subject to inspection under 46 U.S.C. 404 or 46 U.S.C. 390–390(g) as applicable. On October 20, 1980, the Coast Guard published rules (45 FR 69242) requiring that existing uncertificated OSV's be registered with an Officer in Charge,

Marine Inspection on or before January 6, 1981, and that they be certificated not later than two years from the date of registration. The law states that these vessels shall not be subject to rules, regulations, or standards for major structural or major equipment requirements unless compliance is necessary in order to remove an especially hazardous condition. Navigation and Vessel Inspection Circular No. 8–81 provides guidance on the minimum safety standards applicable to these vessels.

(f) The regulations proposed in this notice would apply only to new vessels built after final regulations are published and take effect. New vessels built after October 6, 1980, but before final regulations take effect would have to meet existing requirements in 46 CFR Subchapter I or T, as applicable. However, these existing regulations have been modified for these vessels by various Coast Guard policy statements. Many of these policy statements have also been proposed in this notice.

(4) These regulations would permit OSV's to carry more than 12 "offshore workers", as defined in the proposed regulations, when making a domestic voyage. They would not be permitted to carry more than 12 offshore workers when making an international voyage, as defined in the Safety of Life at Sea Convention (SOLAS), 1974, nor would they be permitted to carry pasengers. If a vessel plans to carry passengers in addition to offshore workers or carry more than 12 offshore workers on an international voyage, it would have to be certificated as a passenger vessel under either 46 CFR Subchapter T or H, as is the current practice.

b. *Intent.*

(5) Many of the regulations in this proposal have been taken directly from 46 CFR Subchapters I and T. Every effort has been made to select the most appropriate of these regulations to apply to OSV's. Where appropriate, existing regulations have been modified to consider the unique operation of OSV's and to recognize many of the policies developed for these vessels throughout the years where equivalent levels of safety have been demonstrated. Editorial modifications have also been made in instances where existing regulations are confusing or not clear enough to explain proposed application to an OSV. In preparing a subsequent Notice of Proposed Rule Making, further drafting revisions will be made consistent with Department of Transportation guidelines on providing clarity and simplicity in writing regulations.

(6) The proposed regulations provide differing standards depending on vessel size and the number of offshore workers carried.

(a) *Vessel size.* The proposed regulations recognize, as does Pub. L. 96–378, that vessels of less than 100 gross tons, due to their size, need not meet requirements that are as stringent as those applied to larger vessels. The allowances made for smaller vessels are mainly in the electrical standards, which are proposed in Subparts B and C of Part 132 in this advance notice of proposed rule making.

(b) *Number of offshore workers.* Existing supply boats are not permitted to carry more than 16 person in addition to the crew and, as a result, are not required to meet damage stability standards currently applied to passenger vessels. The proposal would make three changes as follows:

(i) New OSV's would be allowed to carry more than 16 offshore workers.

(ii) The engineroom on each new OSV, regardless of the number of offshore workers carried, would have to be designed to meet recently developed international standards on damage stability. The standards are proposed in §§ 128.13–128.16.

(iii) New OSV's carrying more than 16 offshore workers would have to meet these international standards throughout all portions of the vessel.

(7) This notice includes several equipment requirements that, if restated in the form of performance standards, could provide more flexibility in the design and construction of vessels. The Coast Guard intends to analyze these requirements closely before publishing a Notice of Proposed Rule Making. Comments and suggestions are invited on what performance standards could be substituted for specific equipment requirements in this proposal.

c. *Specific Provisions.*

(8) The cross reference table in paragraph (9) shows how the proposed regulations related to those currently in the Code of Federal Regulations. In some instances, new provisions have been combined with existing requirements. The table also references applicable Navigation and Vessel Inspection Circulars (NVC's) and pertinent provisions in the Coast Guard's Marine Safety Manual (CG–495). The references are not complete in every instance but rather provide a citation to the principal provisions from which the proposed OSV regulation was drawn in whole or in part.

(9) The following table lists the proposed regulations and corresponding provisions in Title 46, CFR, and other publications.

The table includes certain abbrevations:

NVC—Navigation and Vessel Inspection Circular

MSM—Marine Safety Manual

IMO Res.—International Maritime Organization Resolution

Some proposed regulations have more than one reference. For example, the reference for proposed 126.58 are "New, NVC 10–82." These notations indicate that the proposal has been derived in part from both sources, i.e. that part of the proposal is new and that part of it is based upon NVC 10–82.

Proposed regulation	[illegible]
[illegible]	
125.01	New
125.04	[illegible]
125.07	90.05–35, MSM 30–10–20G.
125.10	90.05–35, 49 CFR Subchapter C.
125.11	49 CFR Subchapter C.
125.13	92.01–5.
125.16	Subpart 90.10, Subpart 175.10.
125.19	90.15–1
125.22	90.35–1, 90.35–5.
125.25	175.20–5
125.28	175.30–1.
126.01	91.15–1.
126.04	91.27–15.
126.07	91.30–1
126.10	Subpart 91.05.
126.13	Subpart 91.37
126.16	Subpart 91.40, Subpart 176.15.
126.19	Subpart 91.45.
126.22	91.50–1
126.25	New
126.28	New
126.31	91.01–1, 176.01–1.
126.34	176.01–5
126.37	176.01–10.
126.40	91.01–5.
126.43	91.01–10
126.46	91.01–15
126.49	176.01–35.
126.52	91.20–1
126.55	91.20–5.
126.58	New, NVC 10–82.
126.61	91.20–10.
126.64	91.20–15.
126.67	91.20–20.
126.70	91.25–1.
126.73	91.25–5.
126.76	91.25–10.
126.79	91.25–15.
126.82	91.25–20.
126.85	New
126.88	91.25–35.
126.91	91.25–37.
126.94	91.27–1.
126.97	91.27–5.
127.01	91.55–1, NVC 10–82.
127.04	91.55–5, 91.55–10.
127.07	91.55–15.
127.10	92.01–10, NVC 11–80
127.13	Subpart 92.05.
127.16	Subpart 92.10, MSM Part [illegible].
127.19	92.15–10.
127.22	92.15–15.
127.25	92.20–10.
127.28	New
127.31	92.25–5.
127.34	92.25–10.
127.37	92.25–15.
128.01	Part 93
128.04	Proposed 170.173, MSM Part 65–4, IMO Res. A.469 [XII].
128.07	Subpart 178.15.
128.10	New.

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Proposed regulation	References
126.13	New.
126.16	IMO Res. A.469 (XII).
126.19	MSM Part 94–3.
126.22	42.15–70.
126.25	178.35–1.
126.28	56.50–95.
129.01	94.05–1.
129.04	94.05–5.
129.07	94.05–10.
129.10	94.10–5.
129.13	94.10–5.
129.16	94.10–5.
129.19	Subpart 94.10.
129.22	New, 94.10–5.
129.25	94.60–1.
129.28	Subpart 94.90.
129.31	94.15–5.
129.34	94.15–10.
129.37	94.15–15.
129.40	94.20–5.
129.43	94.20–10.
129.46	94.20–20.
129.49	94.20–30.
129.52	94.20–35.
129.55	94.40–5.
129.58	94.40–10
129.61	94.40–15.
129.64	New
129.67	New, 94.41, 160.071.
129.70	New.
129.73	New, 94.40–20.
129.76	94.40–25.
129.79	94.43–5.
129.82	94.43–10.
129.85	94.43–15.
129.88	91.25–15.
129.91	Subpart 94.50.
130.01	95.05–5, 95.10–1
130.04	95.10–15.
130.07	95.10–5.
130.10	95.10–10.
130.13	95.50–5, NVC 6–72, CH–1.
130.16	95.50–10.
130.19	95.50–15.
130.22	95.50–20.
130.25	95.05–10.
130.28	New.
130.31	95.01–5.
130.34	91.25–20, NVC 6–72, CH–1.
130.37	Subpart 95.60.
131.01	New
131.04	56.01–10.
131.07	New.
131.13	56.60.
131.16	New.
131.19	56.50–95.
131.22	New, 56.60, 58.30.
131.31	New, 58.01–10.
131.34	New 58.10–5.
131.40	Subpart 58.20.
131.43	New, 56.50–96.
131.46	New.
131.49	New, 56.50–50, 56.50–55.
131.52	New, 56.20–15, 56.50–60.
132.01	New, 90.25–1
132.07	New, Subpart 111.105.
132.10	New
132.13	183.05–5.
132.16	183.05–10.
132.19	183.05–15.
132.22	183.05–20.
132.25	183.05–25.
132.28	183.05–30.
132.31	183.05–35.
132.34	183.05–45.
132.37	183.05–50.
132.40	New.
132.43	183.10–5.
132.46	183.10–10.
132.49	183.10–15.
132.52	Subpart 111.60
132.55	183.10–20.
132.58	183.10–25.
132.61	183.10–30.
132.64	183.10–35.
132.67	183.10–40.
132.70	183.10–45.
132.73	183.10–50.
132.76	90.25–1.
132.79	New, Subpart 111.10.
132.82	New, 111.60–7.
132.85	New.
132.88	New, 111.75–17.
132.91	New, 111.103.
132.94	New, 111.105.
132.97	New
132.100	New.
133.01	NVC 1–78.
133.04	NVC 1–69.
133.07	NVC 1–78.
133.10	NVC 1–78.
133.13	NVC 1–69.
133.16	NVC 1–78.
133.22	NVC 1–78.
133.25	NVC 1–69, NVC 1–78.
134.01	Subchapters F & J.
134.04	Subchapters F & J.
134.07	New.
134.10	New.
134.13	New, Subchapters F & J.
134.16	96.13–1.
134.19	Subchapter J.
134.22	Subchapter F, Subpart 184.05.
134.25	Subpart 96.30.
134.28	New, Subpart 96.07.
134.31	Subpart 96.20.
134.34	96.17–1.
135.01	97.07–1.
135.04	97.07–5.
135.07	97.07–10.
135.10	97.07–15.
135.13	97.07–20.
135.16	97.07–25.
135.19	97.30–1.
135.22	97.30–5.
135.25	97.30–10.
135.28	97.30–20.
135.31	97.14–5.
135.34	97.14–10.
135.37	97.15–3.
135.40	97.15–5.
135.43	97.15–10.
135.46	97.15–20.
135.49	97.15–30.
135.52	97.15–35.
135.55	97.15–40.
135.58	97.15–45.
135.61	97.15–60
135.64	97.15–65.
135.67	97.35–3.
135.70	97.35–5.
135.73	97.35–10.
135.76	97.34–5.
135.79	97.34–10.
135.82	97.34–15.
135.85	97.34–20.
135.88	97.37–3.
135.91	97.37–5.
135.94	97.37–7.
135.97	97.37–9.
135.100	97.37–10.
135.103	97.37–13.
135.106	97.37–15.
135.109	97.37–23.
135.112	97.37–25.
135.115	97.37–33.
135.118	97.37–35.
135.121	97.37–37.
135.124	97.37–40.
135.127	97.37–43.
135.130	97.37–45.
135.133	97.37–47.
135.136	97.37–56.
135.139	185.30–25.
135.142	97.40–5.
135.145	97.40–10.
135.148	97.40–15.
135.151	97.03–1.
135.154	97.05–1.
135.157	Subpart 97.10.
135.160	New
135.163	97.27–10.
135.166	97.50–1.
135.169	97.75–1.
135.172	[illegible]
135.175	New
135.178	97.36–1.
135.181	97.39–1.
135.184	Subpart 97.43.
136.187	97.53–1.
135.190	97.16–1.
135.193	97.20–1.
135.196	97.23–1.
135.199	97.25–1.
135.202	97.27–5.

(10) The following specific regulations propose substantive changes to the current standards being applied to offshore supply vessels.

Section 125.4 Applicability.

This subchapter would apply to offshore supply vessels contracted for on or after the effective date of these regulations. Vessels contracted for before that date would be inspected as required by existing regulations in Subchapters I and T of Title 46, CFR. The safety standards proposed in this subchapter are not considered adequate for vessels carrying more than 150 offshore workers. Vessels planning to carry more than 150 offshore workers would have to be certificated as passenger vessels in accordance with the requirements of Subchapter T or H in Title 46, CFR, as applicable.

Section 125.7 Hazardous materials in bulk.

This section states the types and amounts of flammable or combustible liquid cargoes that would be permitted to be carried in integral or fixed independent tanks on an OSV. Grades D and E combustible liquids are currently permitted to be carried on a supply boat in "limited quantities". This regulation adopts existing Coast Guard policy, as set out in the Marine Safety Manual, to limit the amount of these liquids to 20 percent of the vessel's deadweight.

Section 126.16 Drydocking.

This section proposes that each vessel be required to be drydocked every 36 months. Presently, supply boats are required to be drydocked every 24 months. The 36 month interval will permit the drydocking and the inspection for certification to be held concurrently. The drawing of tailshafts on vessels of less than 100 gross tons is left to the discretion of the Officer in Charge, Marine Inspection (OCMI) as it is not always necessary to draw the tailshaft at each drydocking for this size vessel.

Section 126.25 Carriage of offshore workers; and

Section 126.28 Carriage of passengers.

The number of offshore workers permitted to be carried by an OSV on a domestic voyage would be determined by the OCMI in accordance with the proposed regulations. Since only passenger vessels can carry more than 12 passengers on an international voyage, an OSV would be permitted to carry a maximum of 12 offshore workers when on an international voyage. The proposed regulations also implement the

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prohibition in Pub. L. 96–378 against the carriage of passengers on an OSV.

Section 126.43 Period of validity.

This section proposes a certificate of inspection which would be valid for a period of three years. The certificate of inspection of a supply boat is presently valid for two years. The Coast Guard considers that this increased period is justified by the past performance of these vessels.

Section 126.58 Assignment of marine inspector.

This section proposes procedures for having inspections conducted by marine surveyors of the American Bureau of Shipping and other classification societies. The procedures established with the American Bureau of Shipping are contained in Navigation and Vessel Inspection Circular (NVC) No. 10–82.

Section 126.85 Dry bulk cargo tanks.

This section specifies inspection standards for dry bulk cargo tanks. The proposal adopts long-standing Coast Guard policy to inspect them in accordance with the requirements of § 61.10–5 (b) of Title 46, Code of Federal Regulations. However, the inspection interval has been extended from two to three years to correspond to the interval in this proposal for inspections for certification.

Section 126.88 Marine engineering equipment.

The required internal inspection interval for pressure vessels has been relaxed from a biennial requirement to the same interval as required for drydock examinations in proposed § 126.16 so that they can be performed concurrently.

Section 126.94 Reinspection: When made.

This section proposes an inspection by the Coast Guard between the fifteenth and the twenty-first month of the three year period for which the certificate of inspection is valid. This inspection is in addition to the inspection for certification required by Subpart D of Part 126.

a. *Vessels of 100 gross tons and over.* The Coast Guard is required under 46 U.S.C. 404–1(6)(ii), 46 U.S.C. 391, and 46 U.S.C. 392 to inspect OSV's of 100 gross tons and over at least once in every two years. A reinspection in addition to the inspection for certification every three years would satisfy this requirement.

b. *Vessels of less than 100 gross tons.* The inspection interval for an OSV under 100 gross tons can be extended under 46 U.S.C. 404–1(6)(i) and U.S.C. 390a to a three year period. However, a reinspection has also been proposed for these vessels to check for safety discrepancies that can arise during the three year period between inspection for certification.

c. *Annual certification by the master.* In preparing this proposal, consideration has been given to having the master of a vessel under 100 gross tons—

1. Conduct annual inspections in lieu of having the Coast Guard conduct a reinspection; and

2. Certify on the basis of the inspection that the vessel complies with applicable regulations.

Comments are requested on whether the same level of safety could be achieved for vessels of less than 100 gross tons by having the master perform annual inspections.

Part 127—Subpart A Plan Approval

This subpart proposes two alternatives for plan approval:

1. All of the plans listed in § 127.4 may be submitted to the Coast Guard.

2. If a vessel is classed by a recognized classification society, procedures have been established to eliminate dual submission of many of the plans to both the Coast Guard and the classification society.

Section 127.10 Structural standards.

This section identifies the American Bureau of Shipping Rules and Coast Guard Navigation and Vessel Inspection Circular No. 11–80 as the structural standards that will be accepted for the design and construction of offshore supply vessels.

Section 127.25 Location of quarters and accommodation spaces.

This section proposes that the deck of crew and offshore worker quarters and accommodation spaces be above the deepest load waterline unless the vessel meets the damage stability standards in proposed § 128.16. The intent of the regulation is to ensure that personnel have adequate time and means to get on deck in case of an emergency.

Section 127.28 Construction and arrangement of crew and offshore worker spaces.

This section includes a requirement that a seat be provided for each offshore worker carried. If the intended operation of the vessel is such that offshore workers would be on board for more than 12 hours, berths or the equivalent of aircraft style seats would have to be provided. The absence of any further specific requirements for crew and offshore workers would allow owners and operators greater flexibility in arranging these spaces. The OCMI, in determining the number of offshore workers that the vessel would be permitted to carry, would review the arrangement drawings to determine if any unsafe arrangement exists and would impose additional requirements as necessary.

Part 128—Subpart A Stability

This rule making proposes watertight integrity and stability requirements specific to OSV's. For requirements that are applicable to all vessel types, it refers to 46 CFR Parts 170 and 173 which were published in a Notice of Proposed Rule Making on August 12, 1982 (47 FR 35090). That NPRM proposes a new Subchapter S which contains subdivision and stability regulations applicable to all inspected vessels. The additional requirements proposed in this rule making will eventually be transferred to the new Subchapter S.

Section 128.4 Intact stability requirements.

The stability criterion proposed in this section is a righting energy analysis which has been applied by the Coast Guard to supply boats since 1974. As an alternative to this criterion, the proposed regulation would permit compliance with § 170.173 or proposed Subchapter S, which is an International Maritime Organization (IMO) recommended criterion for offshore supply vessels.

Section 128.10 Machinery space bulkheads; and

Section 128.13 Machinery space damage stability.

These sections would require that machinery space bulkheads be watertight and that it be demonstrated that the vessel can survive the flooding of the engineroom. The engineroom of an offshore supply vessel is the space most susceptible to flooding.

Section 128.16 Additional damage stability requirements.

This section proposes a damage stability standard for vessels carrying more than 16 offshore workers. The standard proposed in this section is similar to an internationally developed damage stability for offshore supply vessels (IMO Res. A.469 (XII)). The principal difference between the proposed regulation and the international standard relates to the transverse extent of collision penetration that must be assumed in doing stability calculations. The international standard assumes a 30 inch penetration. The proposed standard

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assumes a penetration equal to the beam of the vessel divided by 5, which the same as the assumed penetration applied to U.S. vessels in existing regulations in Title 46, CFR.

Section 128.19 Watertight bulkhead doors.

This section proposes to permit Class 1 watertight doors in required watertight bulkheads in lieu of Class 3 sliding watertight doors as proposed in Subchapter S. Access through watertight bulkheads on OSV's is an operational necessity and the requirements proposed in this section are considered to provide an adequate level of safety for these vessels while permitting the necessary operational flexibility.

Section 128.22 Drainage of weather decks.

The deck drainage requirements from the load line regulations (46 CFR Subchapter E) hae been proposed for all OSV's Adequate deck drainage is essential to the survivability of a vessel. Specific requirements are not now included in Subchapter I.

Section 128.25 Hatches and coamings.

The requirements in this section, to maintain the weathertight and watertight integrity of the deck, are taken from Subchapter T. A load lined OSV would also have to comply with the requirements in Subchapter E of this chapter.

Section 128.28 Hull penetrations and shell connections.

The requirements in this section, to maintain the watertight integrity of the hull, are taken from Subchapter F. A load lined OSV would also have to comply with the requirements in Subchapter E of this chapter.

Section 129.19 Primary lifesaving equipment.

This section requires a sufficient number of lifeboats to accommodate all persons on board and a sufficient number of inflatable liferafts to accommodate all persons on board. Alternatively, the vessel could be equipped with a sufficient number of inflatable liferafts on each side of the vessel to accommodate all persons on board. OSV's operating exclusively in the Gulf of Mexico would be permitted to provide life floats as primary lifesaving equipment in lieu of lifeboats or inflatable liferafts because of the extensive amount of shipping activity in the area and the warmer water temperatures.

Section 129.22 Rescue boat.

Existing regulations require all OSV's to provide a rescue boat of rigid construction. Rescue boats of inflatable construction have also been accepted by the Coast Guard and are included in this proposal. This section would permit the rescue boat to be omitted if, in the opinion of the OCMI, the vessel is arranged to allow a helpless person to be recovered from the sea without having to use a boat.

Section 129.64 Exposure suits.

Because of recent casualties involving deaths due to hypothermia, this section contains a proposal to require exposure suits on OSV's operating in certain waters where cold temperatures are encountered. Most OSV's operate only in the Gulf of Mexico and accordingly would be exempted. The need for exposure suits is still being evaluated. Comments and suggestions are specifically requested regarding this proposal.

Section 129.73 Personal flotation device lights.

In addition to the existing requirement that a personal flotation device light be attached to each life preserver, this section proposes that a light also be attached to each exposure suit required by § 129.64. Comments and suggestions are specifically requested regarding this proposal.

Section 130.25 Fixed fire extinguishing Systems.

Present regulations require installation of a fixed fire extinguishing system in paint lockers. The proposal makes an exception for small paint lockers on the weather deck since the fire hazard in these spaces is not nearly as severe as in a large paint locker or one located below deck.

Part 131—Marine Engineering Equipment and Systems

The proposed marine engineering equipment and systems requirements are based on 46 CFR Subchapter F is not considered necessary. In order to provide more flexibility to designers and builders, relaxations and equivalencies have been extablished over the years and have been implemented in the form of policy statements. The requirements in this part reflect many of those policy statements. In summary, Class II systems are divided into two categories; Vital and Non-Vital. Class II Non-Vital systems will not be required to comply with Subchapter F; whereas Class II Vital systems will have to comply but flexibility is given in the selection of materials for these systems. A Class I piping system will continue to be required to comply with Subchapter F.

Part 132—Electrical Engineering Equipment and Systems

The requirements of 46 CFR Subchapter J (Electrical Engineering Regulations) have been proposed for vessels of 100 gross tons or more. Where appropriate, exceptions have been made to those requirements to reflect present industry practices considered acceptable to the Coast Guard. Strict compliance with subchapter J is not considered necessary for vessels of less than 100 gross tons. The proposed electrical engineering requirements for these vessels are based on those in Subchapter T of this chapter.

Part 133—Automation of Unattended Machinery Spaces

The automation requirements in this part would apply only to OSV's of 100 gross tons and over. In general, the guidelines in Navigation and Vessel Inspection Circular No. 1–78, "Automation of Offshore Supply Vessels of 100 Gross Tons and Over," have been included in this part.

Section 134.10 Steering systems on vessels of less than 100 gross tons.

The proposed steering system requirements in this section are predominantly performance standards intended to provide adequate steering for this size vessel. More complex steering systems of the type required for larger vessels are not considered essential for OSV's of less than 100 gross tons.

Section 134.13 Steering systems on vessels of 100 gross tons and over.

This section allows use of a hydraulic helm unit steering system in lieu of a steering system required by Subchapters F and J. A hydraulic helm unit steering system is considered to provide equivalent steering capability on an OSV.

Section 134.28 Anchors, chains, and hawsers.

The rules proposed in this section identify ABS rules as the standard for anchors, chains, and hawsers but do allow alternatives for vessels depending upon their gross tonnage.

List of Subjects

46 CFR Part 125

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Administrative practice and procedures,

Authority delegations (Government agencies).

46 CFR Part 126

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Reporting and recordkeeping requirements, Law enforcement, Authority delegation (Government agencies).

46 CFR Part 127

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Reporting and recordkeeping requirements, Authority delegations (Government agencies).

46 CFR Part 128

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Stability.

46 CFR Part 129

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation.

46 CFR Part 130

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Fire prevention.

46 CFR Part 131

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation.

46 CFR Part 132

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Electric power.

46 CFR Part 133

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Reporting and recordkeeping requirements.

46 CFR Part 134

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Navigation (water), Communication equipment.

46 CFR Part 135

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Reporting and recordkeeping requirements, Penalties, Navigation (water).

In consideration of the foregoing, the Coast Guard proposes to amend Chapter 1 of Title 46 of the Code of Federal Regulations by adding a new Subchapter L to read as set forth below.

Dated: February 2, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

SUBCHAPTER L—OFFSHORE SUPPLY VESSELS

PART 125—GENERAL PROVISIONS

Sec.

125.1 Authority and purpose.
125.4 Applicability..
125.7 Hazardous materials in bulk.
125.10 Hazardous materials in portable tanks.
125.11 Packaged freight.
125.13 Load line requirements..
125.16 Definitions..
125.19 Equivalents.
125.22 Classification society standards.
125.25 Notice of deficiencies and requirements.
125.28 Right of appeal.

Authority: § 2, 87 Stat. 418 (46 U.S.C. 86); § 2, 49 Stat. 888 as amended (46 U.S.C. 88a); R.S. 4405, as amended (46 U.S.C. 375); § 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Pub. L. 96–378, 94 Stat. 1513 (46 U.S.C. 404–1); R.S. 4462, as amended (46 U.S.C. 416); § 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

§ 125.1 Authority and purpose.

The purpose of these regulations is to set forth uniform requirements for offshore supply vessels in accordance with the Small Vessel Inspection and Manning Act, Pub. L. 96–378.

§ 125.4 Applicability.

(a) This subchapter applies to each offshore supply vessel that—

(1) Is contracted for on or after (the effective date of these regulations); and

(2) Carries less than 150 offshore workers.

(b) Each vessel contracted for before the effective date of these regulations must be constructed in accordance with the regulations in effect when contracted for.

(c) Certain regulations in this subchapter apply only to limited categories of vessels. Specific applicability statements are provided at the beginning of those regulations.

§ 125.7 Hazardous materials in bulk.

(a) Except as provided in paragraph (b) of this section, a vessel may not carry hazardous materials in independent tanks or integral tanks without the specific approval of the Commandant (G–MTH).

(b) An offshore supply vessel may carry the following if provided on its certificate of inspection:

(1) Grades D and E combustible liquids in integral tanks in quantities not to exceed 20 percent of the vessel's deadweight.

(2) Excess fuel oil in the vessel's fuel tanks for delivery to offshore drilling or production facilities.

§ 125.10 Hazardous materials in portable tanks.

(a) Carriage of hazardous materials in portable tanks on board offshore supply vessels is prohibited, except as provided in this section.

(b) Flammable or combustible liquids may be carried in a Department of Transportation (DOT) specification portable tank approved in accordance with the requirements of 49 CFR Subchapter C.

(c) Hazardous materials, as defined in 49 CFR Subchapter C, may be carried in a DOT specification portable tank approved in accordance with the requirements of 49 CFR Subchapter C.

(d) A marine portable tank, designed in accordance with § 64.11 of this chapter, may be filled or discharged on board a vessel if done in accordance with the requirements in § 135.172 of this subchapter.

§ 125.11 Packaged freight.

Packaged hazardous materials may be carried if prepared, loaded, and stowed in accordance with the requirements of 49 CFR Subchapter C.

§ 125.13 Load line requirements.

Each vessel subject to load line assignment, certification, and marking under Subchapter E of this chapter must meet the requirements in Subchapter E in addition to the requirements in this subchapter.

§ 125.16 Definitions.

(a) "Accommodation space" means any space used as a messroom, lounge, sitting area, recreation room, toilet, or shower room.

(b) "Approved" means approved by the Commandant unless otherwise stated.

(c) "Approved type" means a type specifically aproved by the Commandant.

(d) "Bulkhead deck" means the uppermost deck to which watertight bulkheads and the shell extend.

(e) "Cargo gear" includes masts, stays, booms, winches, cranes, elevators, conveyors, and standing and running gear that form a part of the shipboard equipment used in connection with the loading and unloading of the vessel.

(f) "Coast Guard District Commander" means an officer of the Coast Guard designated by the Commandant to command all Coast Guard activities within a Coast Guard district, which include the inspection, enforcement, and administration of vessel safety and navigation laws and regulations.

(g) "Coastwise" refers to a route that is not more than 20 nautical miles offshore on any of the following waters:

(1) Any ocean;

(2) The Gulf of Mexico;

(3) The Caribbean Sea;

(4) The Gulf of Alaska; and,

(5) Other similar waters as may be designated by the Coast Guard District Commander.

(h) "Commandant" means the Commandant of the Coast Guard or an authorized representative of the Commandant.

(i) "Commander, Merchant Marine Technical Field Office" or "Commander (mmt)" means a district commander described in 33 CFR Part 3 whose command includes a merchant marine technical office listed in § 127.07(a)(2) of this subchapter, or an authorized representative of the district commander.

(j) "Damp or wet location" means—

(1) A location exposed to the weather;

(2) A machinery space;

(3) A cargo space;

(4) A location within a galley, a laundry, or a public washroom or toilet room that has a bath or shower normally exposed to splashing, water washdown, or other wet conditions;

(5) An area directly inside of an access door to a weather deck if the access door is not protected against rain or spray by an overhanging deck or by other means; or

(6) Other spaces with similar moisture levels.

(k) "Deadweight" means, when measured in water of specific gravity 1.025, the difference in long tons between—

(1) The displacement of the vessel with fuel, lubricants, fresh water, consumable stores, and any persons and their effects on board; and

(2) The displacement of the vessel at the deepest load waterline.

(l) "Deepest load waterline" means the waterline that corresponds to the deepest draft permitted by the applicable requirements in this subchapter.

(m) "Downflooding" means the entry of seawater through any opening into the hull or superstructure of an undamaged vessel due to heel, trim, or submergence of the vessel.

(n) "Gas free" means free from dangerous concentrations of flammable or toxic gases.

(o) "International voyage" means a voyage between a country to which the International Convention for the Safety of Life at Sea (SOLAS), 1974 applies and a port outside that country.

(p) "Length" means the distance between fore and aft points on a vessel. The following specific terms are used and correspond to specific fore and aft points:.

(1) "Length between perpendiculars (LBP)" means the horizontal distance measured between perpendiculars taken at the forward-most and after-most points on the waterline corresponding to the deepest load waterline.

(2) "Length on deck (LOD)" means the length between the forward-most and after-most points of the weather deck, excluding sheer.

(3) "Load line length (LLL)" has the same meaning that is provided for the term "length" in § 42.13–15(a) of this chapter.

(q) "Marine inspector" means any person of the Coast Guard assigned under an Officer in Charge, Marine Inspection, or any other person, designated to perform duties with respect to the inspection, enforcement, and administration of vessel safety and navigation laws and regulations.

(r) "Marine surveyor" means a person employed by the American Bureau of Shipping or other recognized classification society designated to perform an inspection function described in this subchapter.

(s) "Ocean" refers to a route which is more than 20 nautical miles offshore on any of the following waters:

(1) Any ocean;

(2) The Gulf of Mexico;

(3) The Caribbean Sea;

(4) The Gulf of Alaska; and,

(5) Other similar waters as may be designated by the Coast Guard District Commander.

(t) "Officer in Charge, Marine Inspection" or "OCMI" means any person so designated by the Commandant to be in charge of an inspection zone for the performance of duties with respect to the inspection, enforcement, and administration of vessel safety and navigation laws and regulations.

(u) "Offshore supply vessel" means a vessel that—

(1) Is propelled by machinery other than steam;

(2) Is not within the description of passenger carrying vessels in section 1 of the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390);

(3) Is of more that fifteen and less than five hundred gross tons; and

(4) Regularly carries goods, supplies, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

(v) "Offshore worker" means any one of the following persons who is carried on board an offshore supply vessel:

(1) The owner.

(2) A representative of the owner.

(3) An employee of the owner, or of a subcontractor to the owner, employed in the business of the owner.

(4) A charterer of the vessel.

(5) A representative of the charterer.

(6) An employee of the charterer, or of a subcontractor to the charterer, employed in the business of the charterer.

(7) A person employed in some phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel.

(8) A bona fide guest who has contributed no consideration for carriage on board.

(w) "Quarters" means any space where sleeping accommodations are provided.

(x) "Recognized classification society" means the American Bureau of Shipping (ABS) or any other classification society recognized by the Commandant.

§ 125.19 Equivalents.

Substitution for fittings, equipment, arrangements, calculations, information, or tests required in this subchapter may be accepted by the OCMI, the Coast Guard District Commander, or the Commandant if the substitution provides an equivalent level of safety.

§ 125.22 Classification society standards.

(a) Various regulations in this subchapter require items, methods of construction, or tests to meet the standards established by the American Bureau of Shipping. Alternatively, the standards of other recognized classification societies may be accepted upon approval by the Commandant.

(b) The standards established by the American Bureau of Shipping may be purchased from the American Bureau of Shipping, 65 Broadway, New York, N.Y. 10006. These standards may also be examined at the Office of the Commandant (M), U.S. Coast Guard, Washington, D.C. 20593, or at the office of any Coast Guard District Commander or Officer in Charge, Marine Inspection.

§ 125.25 Notice of deficiencies and requirements.

(a) If during the inspection of a vessel, the vessel or its equipment is found not

to conform to the requirements of law or the regulations in this subchapter, the marine inspector points out the identified deficiencies and discusses applicable requirements with the owner or operator. Normally, the marine inspector lists all the requirements which have not been completed and presents the list to the owner or operator.

(b) In any case, where the owner or operator of a vessel wants further clarification of, or reconsideration of, any requirement imposed by the marine inspector, he may discuss the matter with the OCMI.

§ 125.28 Right of appeal.

Any person aggrieved by a decision or action of any OCMI or Coast Guard District Commander may appeal the decision or action in accordance with the procedures in § 2.01–70 of this chapter.

PART 126—INSPECTION AND CERTIFICATION

Subpart A—General

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Authority: R.S. 4405, as amended (46 U.S.C. 375); § 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Pub. L. 96–378, 94 Stat. 1513 (46 U.S.C. 404–1); R.S. 4462, as amended (46 U.S.C. 416); § 1, Pub. L. 86–244, 73 Stat. 475 (46 U.S.C. 481); § 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—General

§ 126.1 Inspection standards.

Except where otherwise provided in applicable regulations in this chapter, the inspection standards established by the American Bureau of Shipping are employed by the marine inspector.

§ 126.4 Inspectors not limited.

The marine inspector may require that a vessel and its equipment meet any test or inspection deemed necessary to determine if they are suitable for the service in which they are to be employed.

§ 126.7 Inspection after accident.

(a) An inspection is made by a marine inspector—

(1) Every time an accident occurs or a defect is discovered which affects—

(i) The safety of the vessel; or

(ii) The effectiveness or completeness of its lifesaving appliances, fire fighting or other equipment; or

(2) Whenever any important repairs or renewals are made.

(b) The inspection is made to determine—

(1) What repairs or renewals must be made;

(2) That the material and the workmanship used to accomplish the repairs or renewals are satisfactory; and

(3) That the vessel complies with the regulations in this subchapter.

§ 126.10 Permit to proceed to another port for repair.

(a) A permit to proceed to another port for repair is issued on Form CG–948.

(b) The permit is issued only upon written application by the owner, master, or operator of the vessel.

(c) The permit states upon its face the conditions under which it is issued and whether or not the vessel is permitted to carry cargo or offshore workers.

(d) The permit must be carried in a manner similar to that described in § 126.40 for a certificate of inspection.

§ 126.13 Inspection of cargo gear.

Cargo gear, if installed, must comply with the inspection requirements in Part 91 of this chapter.

§ 126.16 Drydocking.

(a) Except for extensions authorized by the Commandant, each vessel must be placed in drydock or hauled out for examination at intervals not to exceed 36 months.

(b) The owner or operator must notify the OCMI when the vessel is to be placed on a drydock. The OCMI upon notification determines whether to assign a marine inspector to examine the underwater portion of the vessel.

(c) At each drydocking required by paragraph (a) of this section, a tailshaft survey must be conducted as required in § 61.20–15 of this chapter if the vessel is 100 gross tons or over.

(d) For a vessel of less than 100 gross tons, the propeller or tailshaft must be drawn for examination if deemed necessary by the OCMI.

§ 126.19 Repairs and alterations.

(a) No repairs or alterations to the hull, machinery, or equipment which affect the safety of the vessel are to be made without the knowledge of the OCMI.

(b) Except as provided in paragraph (d) of this section, drawings of repairs or alterations must be approved by the OCMI or Commander (mmt) before work is started.

(c) When the OCMI deems necessary, the repairs or alterations must be inspected by a marine inspector.

(d) Submission of drawings is not required for repairs in kind, but the applicable drawings approved under Subpart A of Part 127 of this subchapter must be made available to the marine inspector.

§ 126.22 Inspection and testing required when making alterations, repairs, or other operations involving riveting, welding, burning, or like fire-producing actions.

(a) The provisions of "Standard for Control of Gas Hazards on Vessels to be Repaired," NFPA No. 306, published by National Fire Protection Association, 60 Batterymarch Street, Boston, Mass., 02110, must be used as a guide in conducting the inspections and issuances of certificates required by this section.

(b) Until an inspection has been made to determine that the operation can be undertaken safely, no alterations, repairs, or other operations involving riveting, welding, burning, or like fire-producing actions may be made—

(1) Within or on the boundaries of cargo tanks that have been used to carry flammable or combustible liquids or chemicals;

(2) Within spaces adjacent to cargo tanks that have been used to carry

flammable or Grade D combustible liquid cargo, except where the distance between the cargo tanks and the work to be performed is not less than twenty-five (25) feet;

(3) Within or on the boundaries of fuel tanks; or

(4) To pipelines, heating coils, pumps, fittings, or other appurtenances connected to cargo or fuel tanks.

(c) Inspections must be conducted as follows:

(1) In ports or places in the United States or its territories and possessions, the inspection must be made by a marine chemist certificated by the National Fire Protection Association; however, if the services of a certified marine chemist are not reasonably available, the OCMI, upon the recommendation of the contractor and the owner or operator of the vessel, selects a person to make the inspection. If the inspection indicates that operations can be undertaken safely, a certificate setting forth the spaces covered and any necessary qualifications, must be issued by the person performing the inspection before the work is started. The qualifications must include any requirements necessary to maintain safe conditions in the certified spaces and must include any necessary additional tests and certifications. The qualifications must include precautions necessary to eliminate or minimize hazards that may be present from protective coatings or residues from cargoes.

(2) In all ports or places outside of the United States or its territories and possessions, where a marine chemist or other person authorized by the OCMI is not reasonably available, the inspection must be made by the master, owner, or operator of the vessel and a proper entry must be made in the vessel's logbook.

(d) The master must obtain a copy of each certificate issued by the person doing the inspection described in paragraph (c)(1) of this section. The master, insofar as the persons under his control are concerned, must maintain a safe condition on the vessel by full observance of all qualifications and requirements listed in the certificate issued under paragraph (c)(1) of this section.

§ 126.25 Carriage of offshore workers.

(a) Except as provided in paragraph (b) of this section, offshore workers may be carried on an offshore supply vessel in accordance with the regulations in this subchapter. The maximum number of offshore workers authorized to be carried will be endorsed on the vessel's certificate of inspection.

(b) No more than 12 offshore workers may be carried on board a vessel certificated under this subchapter when on an international voyage.

§ 126.28 Carriage of passengers.

(a) No passengers may be carried on an offshore supply vessel certificated under this subchapter except in an emergency.

(b) For the purpose of this section, a passenger is any person who is not listed in § 125.16(v) and who is neither—

(1) The master; nor

(2) A bona fide member of the crew engaged in the business of the vessel who has contributed no consideration for carriage on board and is paid for services on board.

Subpart B—Certificate of Inspection

§ 126.31 When required.

Except as provided in § 126.10 and § 126.46, no offshore supply vessel may be operated without a valid certificate of inspection.

§ 126.34 Description.

The certificate of inspection issued to a vessel describes the vessel, the route which it may travel, the minimum manning requirements, the major lifesaving equipment carried, the minimum fire extinguishing equipment and life preservers to be carried, the maximum number of persons which may be carried, the name of the owner and operator, and conditions of operations as may be determined by the OCMI.

§ 126.37 How to obtain or renew.

(a) A certificate of inspection may be obtained or renewed by making application for inspection on Form CG–3752, Application for Inspection of U.S. Vessel, to the OMCI in whose zone the inspection is to be made. The application forms are available at any Coast Guard Marine Inspection or Marine Safety Office.

(b) Each application for inspection of a vessel being newly constructed must be submitted prior to the start of construction.

(c) The construction, arrangement, and equipment of all vessels must be acceptable to the OCMI as a prerequisite to the issuance of the initial certificate of inspection. Acceptance will be based on the information, specifications, drawings, and calculations available to the OCMI, and on the successful completion of the initial inspection for certification.

(d) Certificates of inspection will be renewed by the issuance of new certificates of inspection.

(e) The condition of the vessel and its equipment must be acceptable to the OCMI, as a prerequisite to renewing the certificate of inspection. Acceptance will be based on the condition as found at the inspection for certification.

§ 126.40 Posting.

The certificate of inspection must be framed under glass or other suitable transparent material and posted in a conspicuous place on the vessel.

§ 126.43 Period of validity.

(a) Certificates of inspection are issued for a period of three years. The master, owner, or operator may apply for an inspection and issuance of a new certificate of inspection at any time during the period of validity of the current certificate.

(b) Certificates of inspection may be revoked or suspended by the Coast Guard for failure to comply with regulations in this subchapter or other applicable laws or regulations.

§ 126.46 Temporary certificate.

If necessary to prevent delay of the vessel, a temporary certificate of inspection, Form CG–854, may be issued pending the issuance and delivery of the regular certificate of inspection. A temporary certificate must be carried in the same manner as the regular certificate.

§ 126.49 Certificate of inspection amendment.

(a) A certificate amending a certificate of inspection may be issued at any time by any OCMI. The "Certificate of Inspection Amendment", Form CG–858, may be issued to authorize and record a change in the character of a vessel or in its route, equipment, etc., from that specified in the current certificate of inspection.

(b) A request for a certificate of inspection amendment must be made to the OCMI by the owner or operator of the vessel at any time there is a change in the character of the vessel or in its route, equipment, ownership, etc., as specified in its current certificate of inspection.

(c) The OCMI may require an inspection prior to the issuance of a certificate of inspection amendment.

(d) A certificate of inspection amendment is part of the certificate that it amends, and must be carried with the certificate of inspection.

Subpart C—Initial Inspection

§ 126.52 Prerequisite to certificate of inspection.

The initial inspection is a prerequisite to the issuance of the original certificate of inspection.

§ 126.55 When made.

(a) The initial inspection is not made until after receipt of the written application of the owner or builder of the vessel to the OCMI in whose zone the vessel is located. The application must be on Form CG–3752, Application for Inspection of U.S. Vessel.

(b) This inspection is made at a time and place mutually agreed to by the party requesting the inspection and the OMCI. The owner or builder must be present during the inspection.

§ 126.58 Assignment of marine inspector.

(a) Except as provided in paragraphs (b) and (c) of this section, the initial inspection is made by a marine inspector assigned by the OCMI.

(b) If a vessel is to be classed by the American Bureau of Shipping the Coast Guard will accept an ABS inspection of certain items during the initial inspection without attendance by a marine inspector. See Navigation and Vessel Inspection Circular No. 10–82 entitled "Acceptance of Plan Review and Inspection Tasks Performed by the American Bureau of Shipping for New Construction or Major Modifications of U. S. Flag Vessels."

(c) If a vessel is to be classed by a recognized classification society other than ABS, the Coast Guard will accept that society's inspection of certain items during the initial inspection without attendance by a marine inspector if the owner provides to the Coast Guard-

(1) A statement from the owner attesting that the completed vessel complies with all applicable U. S. Coast Guard regulations and standards; and

(2) A statement from the recognized classification society attesting that the vessel was attended to and was built to plans approved by the Coast Guard or the American Bureau of Shipping on behalf of the Coast Guard.

§ 126.61 Plans.

Before construction is started, the owner, operator, or builder must develop plans indicating the proposed arrangement and construction of the vessel. The list of plans to be developed and the required disposition of these plans is set forth in Part 127 of this subchapter.

§ 126.64 Scope of inspection.

The initial inspection normally consists of a series of inspections conducted by a marine inspector or a marine surveyor during the construction of the vessel. These inspections are done to determine whether the vessel was built in accordance with developed plans and in compliance with applicable regulations. Items normally included in these inspections are:

(a) Arrangements.
(b) Materials.
(c) Structure.
(d) Pressure vessels and their appurtenances.
(e) Piping.
(f) Main and auxiliary machinery.
(g) Steering apparatus.
(h) Electrical installations.
(i) Lifesaving appliances.
(j) Fire detecting and extinguishing equipment.
(k) Pollution prevention equipment.
(l) Watertight integrity.
(m) Workmanship.
(n) Verification of valid certificates issued by the Federal Communications Commission, if required.
(o) Lights and signals as required by the applicable navigation rules.

§ 126.67 Specific tests and inspections.

(a) The applicable tests and inspections set forth in Subpart D of this part must be made during the initial inspection.

(b) The following specific tests and inspections must also be conducted in the presence of the marine inspector:

(1) Installation of lifeboats, davits, and winches—see Subpart 94.35 of this chapter.

(2) Installation of carbon dioxide or Halon fire extinguishing piping—see § 95.15–15 of this chapter.

Subpart D—Inspection for Certification

§ 126.70 Prerequisite to reissuance of certificate of inspection.

An inspection for certification is a prerequisite to the reissuance of a certificate of inspection.

§ 126.73 When made.

An inspection for certification is not made until after receipt of the written application of the owner, operator, or master of the vessel to the OCMI in whose zone the vessel is located. The application must be on Form CG–3752, Application for Inspection of U. S. Vessel.

§ 126.76 Scope of inspection.

The inspection for certification is made by a marine inspector to determine whether the vessel is in satisfactory condition and fit for the service for which it is intended. Items normally included in these inspections are:

(a) Structure.
(b) Watertight integrity.
(c) Pressure vessels and their appurtenances.
(d) Piping.
(e) Main and auxiliary machinery.
(f) Steering apparatus.
(g) Electrical installations.
(h) Lifesaving appliances.
(i) Work vests.
(j) Fire detecting and aextinguishing equipment.
(k) Pollution prevention equipment.
(l) Sanitary condition.
(m) Fire hazards.
(n) Verification of valid certificates issued by the Federal Communications Commission, if required.
(o) Lights and signals as required by the applicable navigation rules.

§ 126.79 Lifesaving equipment.

At each inspection for certification the following tests and inspections of lifesaving equipment are conducted by the marine inspector:

(a) Each personal flotation device is examined to determine its serviceability If found to be satisfactory, it is stamped "Passed" together with the date and the port. If not in a serviceable condition, the personal flotation device will be removed from the vessel's equipment.

(b) All other items of lifesaving equipment are examined to determine whether they are in suitable condition.

(c) Inflatable liferafts and hydraulic releases are checked to determine whether they have been serviced in accordance with § 129.88 of this subchapter.

§ 126.82 Fire extinguishing equipment.

At each inspection for certification the marine inspector determines whether the tests and inspections required by § 130.34 of this subchapter have been performed.

§ 126.85 Dry bulk cargo tanks.

(a) Except as provided in paragraph (b) of this section, dry bulk cargo tanks that are pressure vessels are inspected in accordance with § 61.10–5(b) of this chapter.

(b) In lieu of the biennial inspection required by § 61.10–5(b), dry bulk cargo tanks are inspected during the inspection for certification.

§ 126.88 Marine engineering equipment.

(a) Except as provided in this section, the inspection procedures for marine engineering systems contained in Subchapter F of this chapter must be followed.

(b) In lieu of the biennial tests required in § 61.10–5(b) and (d) of this chapter, each Class I, I–L, II, and II–L unfired pressure vessel, except those specified in § 61.10–5(e) of this chapter, must be internally inspected or hydrostatically tested to 1¼ times the

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maximum allowable working pressure (MAWP) at least every three years.

(c) In lieu of the tailshaft survey interval required by § 61.20–15 of this chapter, the requirements of § 126.16 must be met.

§ 126.91 Tanks containing dangerous cargoes.

For inspection and tests of tanks containing certain dangerous cargoes in bulk, see Subparts 98.30 and 98.35 of this chapter.

Subpart E—Reinspection

§ 126.94 When made.

(a) At least one reinspection must be made by a marine inspector on each vessel holding a certificate of inspection.

(b) This inspection is made, where possible, between the fifteenth and twenty-first month of the period for which the certificate is valid.

(c) The owner, operator, or master must contact the OCMI to arrange for this inspection but no written application is required.

§ 126.97 Scope of reinspection.

In general, the scope of the reinspection is the same as that described in § 126.76 for the inspection for certification.

PART 127—CONSTRUCTION AND ARRANGEMENTS

Subpart A—Plan Approval

Sec.

127.1 General.
127.4 Plans and specifications required for new construction.
127.7 Procedure for submittal of plans.

Subpart B—Construction and Arrangements

127.10 Structural standards.
127.13 General fire protection.
127.16 Means of escape.
127.19 Ventilation for closed spaces.
127.22 Ventilation for quarters and accommodation spaces.
127.25 Location of quarters and accommodation spaces.
127.28 Construction and arrangement of crew and offshore worker spaces.

Subpart C—Rails and Guards

127.31 Where rails required.
127.34 Storm rails.
127.37 Guards in dangerous places.

Authority: R.S. 4405, as amended (46 U.S.C. 375); § 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Pub. L. 96–378, 94 Stat. 1513 (46 U.S.C. 404–1); R.S. 4462, as amended (46 U.S.C. 416); § 1, Pub. L. 88–244, 73 Stat. 475 (46 U.S.C. 481); § 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—Plan Approval

§ 127.1 General.

(a) Except as provided in paragraphs (b) and (c) of this section, the plans listed in § 127.4 must be submitted for approval after an Application for Inspection is made in accordance with the provisions of § 126.55 of this subchapter.

(b) If a vessel is to be classed by the American Bureau of Shipping, the Coast Guard will accept ABS's approval of certain plans without submittal to the Coast Guard. See Navigation and Vessel Inspection Circular No. 10–82 entitled "Acceptance of Plan Review and Inspection Tasks Performed by the American Bureau of Shipping for New Construction or Major Modifications of U.S. Flag Vessels."

(c) If a vessel is to be classed by a recognized classification society other than the American Bureau of Shipping and the requirements in § 126.58(c) of this subchapter are complied with, plans may be submitted for approval to—

(1) The Coast Guard in accordance with paragraph (a) of this section or

(2) The American Bureau of Shipping in accordance with paragraph (b) of this section.

§ 127.4 Plans and specifications required for new construction.

Each applicant for an original certificate of inspection and approval of plans must submit three copies of the following plans:

(a) *General.*

(1) Specifications.

(2) General Arrangement Plans.

(3) Safety Plan (Fire Control Plan).

(4) Lifesaving Equipment Plan.

(b) *Hull structure.*

(1) Midship Section.

(2) Booklet of Scantling Plans.

(3) Arrangement of Ports, Doors, and Airports.

(4) Hatch Coamings and Covers in Weather and Watertight Decks.

(5) Scuppers and Drains Penetrating Shell Plating.

(6) Booklet of Standard Details.

(c) *Subdivision and stability.*

For plans required for subdivision and stability, see Subchapter S of this chapter.

(d) *Marine engineering.*

(1) Piping diagrams of all Class I systems.

(2) Piping diagrams of the following Class II systems:

(i) Fuel oil service, transfer and fill systems.

(ii) Fire main, CO_2, and Halon systems.

(iii) Bilge systems.

(iv) Ballast systems.

(v) Through hull penetrations and shell connections.

(3) Steering and steering control systems.

(4) Propulsion and propulsion control systems.

(5) Piping diagrams of all systems containing flammable or combustible liquids with a flash point of less than 200 degrees F. as determined by an acceptable test method under 49 CFR 173.115(d), and all other hazardous liquids including:

(i) Cargo oil systems.

(ii) Combustible drilling fluid systems (e.g. oil based liquid mud).

(iii) Cargo transfer systems for portable tanks.

(e) *Electrical engineering.*

(1) For each vessel of less than 100 gross tons, the following plans must be submitted:

(i) Arrangement of electrical equipment (plan and profile) with equipment identification as necessary to show compliance with the regulations in this subchapter.

(ii) Electrical one line diagram that includes wire types and sizes, overcurrent device rating and setting, and electrical equipment enclosure type (dripproof, watertight, etc.).

(2) For each vessel of 100 gross tons and over, the plans required by § 110.25 of this chapter must be submitted.

(f) *Automation.* For each vessel of 100 gross tons and over requesting a reduction in the engine department manning level in accordance with Part 133 of this subchapter, the following plans must be submitted:

(1) Plans and calculations necessary to demonstrate compliance with Part 133 of this subchapter.

(2) Automation test procedure; and

(3) Operations manual.

§ 127.7 Procedure for submittal of plans.

(a) The plans, information, and calculations required by this part must be submitted to one of the following:

(1) The Marine Inspection Office, in the zone where the vessel is to be built or altered.

(2) One of the following Merchant Marine Technical field offices:

(i) Commander(mmt), 3rd Coast Guard District, Governors Island, New York, NY 10004, for the geographical area covered by the 1st, 3rd, and 5th Coast Guard Districts.

(ii) Commander(mmt), 8th Coast Guard District, Room 845, F. Edward Hebert Building, 600 South St., New Orleans, La. 70130, for the geographical area covered by the 2nd, 7th, and 8th Coast Guard Districts.

(iii) Commander(mmt), 9th Coast Guard District, 1240 East 9th St., Cleveland, OH. 44199 for the geographical area covered by the 9th Coast Guard District.

(iv) Commander(mmt), 12th Coast Guard District, Government Island, Building 51, Alameda, Ca. 94501, for the geographical area covered by the 11th, 12th, 13th, 14th, and 17th Coast Guard Districts.

(3) The American Bureau of Shipping, 65 Broadway, New York, N.Y., 10006 for plans submitted in accordance with § 127.01 (b) or (c).

(b) If a vessel is to be constructed, altered, or repaired outside of the United States, the owner or operator must contact Commandant (G–MVI), 2100 2nd Street, S.W., Washington, D.C. 20593 for a determination as to the office to which plans should be submitted.

Subpart B—Construction and Arrangements

§ 127.10 Structural standards.

(a) Except as provided in paragraphs (b) and (d) of this section, compliance with the structural standards established by the American Bureau of Shipping is required. The standards in effect at the time of construction must be used.

(b) In the case of aluminum vessels, construction of a vessel to the standards in Navigation and Vessel Inspection Circular No. 11–80 is also acceptable.

(c) When submitting the plans required by § 127.1, the standard used in the design of the vessel should be specified.

(d) If no established design standard is used, detailed design calculations must be submitted with the plans required by § 127.1.

§ 127.13 General fire protection.

(a) Each vessel must be designed to minimize fire hazards insofar as is reasonable and practicable.

(b) Internal combustion engine exhausts, galley uptakes, and similar sources of ignition must be kept clear of and insulated from any woodwork and other combustible matter.

(c) Paint lockers and similar compartments must be constructed of steel or must be wholly lined with metal.

(d) Except as provided in paragraph (e) of this section, when a compartment containing the emergency source of electric power, or vital components thereof, adjoins a space containing either the ship's service generators or machinery necessary for the operation of the ship's service generators, all common bulkheads and decks must be of "A–60" Class construction as defined by § 72.05–10 of this chapter.

(e) The "A–60" Class construction required by paragraph (d) need not be installed if the emergency source of power is contained in a small ventilated battery locker that is—

(1) Located above the main deck;

(2) Located in the open; and

(3) Has no boundaries contiguous with other decks or bulkheads.

§ 127.16 Means of escape.

(a) There must be at least two means of escape from each space—

(1) That is accessbile to offshore workers; or

(2) Where the crew may be quartered or normally employed.

(b) At least one of the two means of escape must—

(1) Be independent of watertight doors in bulkheads required by Part 128 of this chapter to be watertight; and

(2) Lead as directly to the open deck as practicable.

(c) The two means of escape required by paragraph (a) of this section must be as remote as practicable from each other so as to minimize the possibility of one incident blocking both escapes.

(d) Except as provided in paragraph (e) of this section, a vertical ladder and deck scuttle may not be designated as one of the means of escape required by paragraph (a) of this section.

(e) A vertical ladder and deck scuttle may be used as the second means of escape if—

(1) The primary means of escape is a stairway;

(2) The installation of two stairways is impracticable;

(3) The scuttle is located where stowed deck cargo could not interfere; and

(4) The scuttle is fitted with a quick-acting release and a hold-back to hold the scuttle in the open position.

(f) No means may be provided for locking doors giving access to either of the two required means of escape, except that crash doors or locking devices, capable of being easily forced in an emergency, may be employed provided a permanent and conspicuous notice to this effect is attached to both sides of the door. This paragraph does not apply to an outside door to a deckhouse if the door is locked only by a key that is under the control of one of the vessel's officers.

(g) Each stairway must be of sufficient width to provide an effective escape route for the number of persons having access to those stairs.

(h) Each interior stairway, other than one within the machinery spaces or cargo holds, must have a minimum width of 28 inches and the angle of inclination of the starway with the horizontal must not exceed 50 degrees.

(i) Dead end corridors, or the equivalent, more than 40 feet in length are not permitted.

(j) Vertical access must be provided between the various weather docks by means of permanent inclined ladders. The angle of inclination of these ladders with the horizontal must not exceed 70 degrees.

§ 127.19 Ventilation for closed spaces.

(a) All enclosed spaces within the vessel must be properly vented or ventilated. Means must be provided to close off all vents and ventilators.

(b) On vessels of 100 gross tons and over, means must be provided for stopping all fans in ventilation systems serving machinery and cargo spaces and for closing all doorways, ventilators and annular spaces around funnels and other openings to such spaces, from outside these spaces, in case of fire.

§ 127.22 Ventilation for quarters and accommodation spaces.

(a) All quarters and accommodation spaces must be adequately ventilated in a manner suitable to the purpose of the space.

(b) Each vessel of 100 gross tons and over must be provided with a mechanical ventilation system unless it can be shown to the satisfaction of the OCMI that a natural system, such as through the opening of windows, ports, doors, etc., will provide adequate ventilation in all ordinary weather conditions.

§ 127.25 Location of quarters and accommodation spaces.

(a) Crew and offshore worker quarters must not be located farther forward in the vessel than a vertical plane located at 5 percent of the vessel's LLL abaft the forward side of the stem at the deepest load waterline.

(b) Except as provided in paragraph (c) of this section, no section of the deck of crew or offshore worker quarters or accommodation spaces may be below the deepest load waterline.

(c) The deck of crew or offshore worker quarters or accommodation spaces may be below the deepest load waterline if—

(1) The vessel complies with the damage stability requirements in § 128.16 of this subchapter; and

(2) The deck head of the space is not below the deepest load waterline.

(d) A hawse pipe or chain pipe must not pass through crew or offshore worker quarters.

(e) There must be no direct access, except through solid close-fitted doors or hatches between crew or offshore worker quarters and accommodation spaces and chain lockers, cargo, or machinery spaces.

(f) There must be no access, vents, or sounding tubes from fuel or cargo oil tanks opening into crew or offshore worker quarters and accommodation spaces, except that sounding tubes and access openings may be located in corridors.

(g) Crew quarters must be located entirely separate and independent of quarters and accommodation spaces accessible to offshore workers unless an alternative arrangement is approved by the OCMI.

§ 127.28 Construction and arrangement of crew and offshore worker spaces.

(a) Each crew member and offshore worker must be provided with quarters and accommodation spaces of sufficient size, adequate construction, and with suitable equipment to provide for their protection and accommodation in a manner practicable for the size, facilities, and service of the vessel.

(b) A seat must be provided for each offshore worker carried. If the intended operation of the vessel is to carry offshore workers on board for more than 12 hours duration, berths or the equivalent of aircraft style seats must be provided.

(c) The boundary bulkheads and decks separating crew and offshore worker quarters from machinery spaces must be of "A" Class construction as defined by § 92.07–5 of this chapter.

(d) The OCMI determines and records on the vessel's certificate of inspection the number of offshore workers that may be carried after reviewing the arrangement drawings required by § 127.4.

(e) If during the life of the vessel it comes to the attention of the OCMI that the spaces provided for crew or offshore workers are inadequate for the actual or intended operation of the vessel, and if in the judgment of the OCMI the safety of the vessel or personnel on board is endangered, the OCMI may reduce the number of offshore workers permitted or may impose additional requirements.

Subpart C—Rails and Guards

§ 127.31 Where rails required.

(a) Each vessel must have efficient guard rails or bulwarks on decks and bridges. The height of rails or bulwarks must be at least 39½ inches from the deck except that where this height would interfere with the normal operation of the vessel, a lesser height may be approved by the OCMI.

(b) At exposed peripheries of the freeboard and superstructure decks, the rails must consist of at least three courses, including the top. The opening below the lowest course must not be more than 9 inches. The courses must not be more than 15 inches apart. On other decks and bridges the rails must be in at least two courses, including the top, approximately evenly spaced.

(c) If it can be shown to the satisfaction of the OCMI that the installation of rails of the required height is unreasonable and impracticable, rails of a lesser height or in some cases grab rails may be accepted, and inboard rails may be eliminated if the deck is not generally accessible.

§ 127.34 Storm rails.

Suitable storm rails must be installed in all passageways and at the deckhouse sides where persons on board have normal access.

§ 127.37 Guards in dangerous places.

Suitable hand covers, guards, or rails must be installed in way of all exposed and dangerous places such as gears, machinery, etc.

PART 128—WATERTIGHT INTEGRITY AND STABILITY

Subpart A—Stability

Sec.
128.1 General.
128.4 Intact stability requirements.

Subpart B—Watertight Integrity

128.7 Collision bulkhead.
128.10 Machinery space bulkheads.
128.13 Machinery space damage stability.
128.16 Additional damage stability requirements.
128.19 Watertight bulkhead doors.
128.22 Drainage of weather decks.
128.25 Hatches and coamings.
128.28 Hull penetrations and shell connections.

Authority: R.S. 4405, as amended (46 U.S.C. 375); 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Pub. L. 96–378, 94 Stat. 1513 (46 U.S.C. 404–1); R.S. 4462, as amended (46 U.S.C. 416); 6, 80 Stat. 938 (49 US.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—Stability

§ 128.1 General.

Except as provided in § 128.4 and § 128.19, each offshore supply vessel must meet the requirements in Parts 170 and 173 of this chapter.

§ 128.4 Intact stability requirements.

(a) In each condition of loading and operation, each vessel must be shown by design calculations to meet the requirements of either § 170.173 of this chapter or paragraphs (b) through (h) of this section.

(b) The area under each righting arm curve must be at least 15 foot-degrees up to the smallest of the folllowing angles:

(1) The angle of maximum righting arm.

(2) The downflooding angle.

(3) 40 degrees.

(c) The downflooding angle must not be less than 20 degrees.

(d) The righting arm curve must be positive to at least 40 degrees.

(e) The freeboard at the stern must be at least equal to the minimum freeboard calculated in accordance with Subchapter E of this chapter or the value taken from Table 128.4, whichever is less.

(f) For the purpose of this section, the downflooding angle means the static angle from the intersection of the vessel's centerline and waterline in calm water to the first opening that cannot be closed weathertight, or which must remain open for the operation of the vessel, and through which downflooding can occur.

(g) For the purpose of this section, at each angle of heel, a vessel's righting arm may be calculated considering either—

(1) The vessel is permitted to trim free until the trimming moment is zero; or

(2) The Vessel does not trim as it heels.

(h) For the purpose of paragraph (g) of this section, the method of calculating righting arms chosen must be used for all calculations.

TABLE 128.4.—MINIMUM FREEBOARD AT THE STERN

LBP (feet)	Stern freeboard (inches)
Less than 65	12
65 but less than 100	15
100 but less than 130	18
130 but less than 155	■
155 but less than 190	■
190 but less than 230	24
230 and greater	■

Subpart B—Watertight Integrity

§ 128.7 Collision bulkhead.

(a) Each vessel must have a collision bulkhead that complies with this section.

(b) Except as provided in paragraph (g) of this section, the portion of the collision bulkhead that is below the bulkhead deck must be watertight and have no openings in it.

(c) Each portion of the collision bulkhead must be at least 5 percent of

the LBP aft of the forward perpendicular.

(d) The collision bulkhead must be no more than 10 feet plus 5 percent of the LBP aft of the forward perpendicular.

(e) The collision bulkhead must extend to the deck above the bulkhead deck if the vessel has a superstructure that extends from a point forward of the collision bulkhead to a point at lest 15% of the LBP aft of the collision bulkhead.

(f) The collision bulkhead required by paragraph (e) of this section must have the following characteristics:

(1) The portion of the collision bulkhead above the bulkhead deck must be weathertight.

(2) If the portion of the collision bulkhead above the bulkhead deck is not located directly above the collision bulkhead below the bulkhead deck, then the bulkhead deck between must be weathertight.

(g) Piping penetrations in the collision bulkhead must be kept to a minimum and where fitted must meet the requirements in § 56.50–1(b)(1) and (c) of this chapter and § 131.19 of this subchapter.

§ 128.10 Machinery space bulkheads.

(a) The machinery space bulkheads of each vessel must be watertight to the bulkhead deck.

(b) Except as provided in paragraph (d) of this section, penetrations and openings in machinery space bulkheads must—

(1) Be kept as high and as far inboard as practicable; and

(2) Except as provided in paragraph (c) of this section, have means to make them watertight.

(c) Penetrations for ventilation ducting need not have means available to make the bulkhead watertight if—

(1) All portions of the ducting are located a distance of at least one-fifth the beam of the vessel from the side of the vessel; and

(2) The ducting is continuously watertight from the penetration to the main deck.

(d) Watertight doors may be installed in machinery space bulkheads in accordance with § 128.19.

(e) Piping pentrations in the machinery space bulkheads must be made in accordance with § 131.19 of this subchapter.

§ 128.13 Machinery space damage stability.

Each vessel must be shown by design calculations to meet the requirements in § 128.16 (c) through (f) in each condition of loading and operation assuming damage between the watertight bulkheads, required in § 128.10.

§ 128.16 Additional damage stability requirements.

(a) *Calculations.* Each vessel carrying more than 16 offshore workers must be shown by design calculations to meet the survival conditions in paragraph (e) of this section in each condition of loading and operation assuming the damage specified in paragraph (b) of this section.

(b) *Character of damage.* (1) Calculations must show that the vessel can survive damage at any location other that to a transverse watertight bulkhead unless—

(i) The transverse watertight bulkhead is located closer than the longitudinal extent of damage specified in Table 128.16(a) to the adjacent transverse watertight bulkhead; or

(ii) The transverse watertight bulkhead has a step or recess that is longer than 10 feet and the step or recess is located within the transverse extent of damage specified in Table 128.16(a).

(2) If paragraph (b)(1)(ii) of this section requires a transverse watertight bulkhead to be damaged, the stepped or recessed portion of the bulkhead must be considered to be damaged in doing the calculations required in paragraph (a) of this section.

(c) *Extent of damage.* For the purpose of paragraph (a) of this section, damage must consist of the penetrations having the dimensions given in Table 128.16(a) except that, if the most disabling penetrations are less than the penetrations described in this paragraph, the smaller penetrations must be assumed.

(d) *Permeability of spaces.* When doing the calculations required in paragraph (a) of this section, the permeability of a floodable space must be as listed in Table 128.16(b).

(e) *Survival conditions.* A vessel is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(1) *Final waterline.* The final waterline, in the final condition of sinkage, heel, and trim, must be below the lower edge of an opening through which progressive flooding may take place, such as an air pipe, a tonnage opening, or an opening that is closed by means of a weathertight door or hatch cover. This opening does not include an opening closed by a—

(i) Watertight manhole cover;

(ii) Flush scuttle;

(iii) Small watertight cargo tank hatch cover that maintains the high integrity of the deck;

(iv) Watertight door meeting the requirements in § 128.19; or

(v) Side scuttle of the non-opening type.

(2) *Heel angle.* The maximum angle of heel must not exceed 15 degrees.

(3) *Range of stability.* Through an angle of 20 degrees beyond its position of equilibrium after flooding, a vessel must meet the following conditions:

(i) The righting arm curve must be positive.

(ii) The maximum righting arm must be at least 4 inches.

(iii) Each submerged opening must be weathertight.

(4) *Progressive flooding.* Pipes, ducts, or tunnels within the assumed extent of damage must be either—

(i) Equipped with arrangements, such as stop check valves, to prevent progressive flooding to other spaces with which they connect; or

(ii) Assumed in the design calculations required in paragraph (a) of this section to permit progressive flooding to the spaces with which they connect.

(f) *Buoyancy of superstructure.* For the purpose of paragraph (a) of this section, the buoyancy of any superstructure directly above the side damage is to be disregarded. The unflooded parts of superstructures beyond the extent of damage may be taken into consideration if they are separated from the damaged space by watertight bulkheads and no progressive flooding of these intact spaces takes place.

TABLE 128.16(a).—EXTENT OF DAMAGE

	Collision Penetration
Longitudinal extent (Vessels with LBP not greater than 143 feet).	.1L or 6 feet whichever is longer
Longitudinal extent (Vessels with LBP greater than 143 feet)	(10 feet + .03L) or 35 feet whichever is shorter.
Transverse extent	B/5
Vertical extent	From the baseline upward [illegible]

(1) B = the maximum beam of the vessel measured at or below the deepest load waterline

(2) The transverse penetration is applied inboard from the side of the vessel, at right angles to the centerline, at the level of the deepest load waterline.

TABLE 128.16(b).—PERMEABILITY

Spaces and tanks	Permeability
Storeroom	60 percent.
Accommodation	95 percent.
Machinery	85 percent.
Voids and passageways	95 percent.
Consumable liquid tanks	95 percent or 0*.
Dry bulk tanks	95 percent of 0*.
Other liquid tanks	95 percent or 0**.

*Whichever results in the more disabling condition.

**If tanks are partially filled, the permeability must be determined from the actual density and amount of liquid carried.

§ 128.19 Watertight bulkhead doors.

(a) This section applies to each vessel with watertight doors in bulkheads that have been made watertight to comply with the requirements in this subchapter.

(b) Except as provided in paragraph (c) of this section, watertight doors must meet the requirements in Subpart H of Part 170 of this chapter.

(c) A Class 1 door may be installed in any location if—

(1) The door has a quick action closing device operative from both sides of the door;

(2) The door is designed to withstand a head of water equivalent to the depth from the sill of the door to the bulkhead deck but in no case less than 10 feet; and

(3) There is an indicator on the vessel's bridge indicating if the door is open.

(d) Watertight doors must be marked in accordance with the requirements in § 135.139 of this subchapter.

(e) If a Class 1 door is installed, a restriction is placed in the vessel's stability letter requiring the master to ensure that the door is closed at all times except when being used for access.

§ 128.22 Drainage of weather decks.

(a) The weather deck of each vessel must have freeing ports, where bulwarks are fitted, or open rails to allow rapid clearing of water under all weather conditions.

(b) Each vessel that is fitted with bulwarks must have freeing ports that comply with the requirements of § 42.15–70 of this chapter.

§ 128.25 Hatches and coamings.

(a) Each hatch exposed to the weather must be watertight, except that the following hatches may be weathertight:

(1) Each hatch on a watertight trunk that extends at least 12 inches above the weather deck.

(2) Each hatch in a cabin top.

(b) Each hatch cover must—

(1) Have securing devices; and

(2) Be attached to the hatch frame or coaming by hinges, captive chains, or other devices to prevent its loss.

(c) Each hatch that provides access to crew or offshore worker quarters and accommodation spaces must be capable of being opened and closed from either side.

(d) Except as provided in paragraph (e) of this section, a weathertight door with permanent watertight coamings at least 6 inches in height must be provided for each opening located in a deck house or companionway that—

(1) Gives access into the hull; and

(2) Is located in an exposed location.

(e) If an opening in a location specified in paragraph (d) of this section is provided with a Class 1 watertight door, the height of the watertight coaming need only be sufficient to accommodate the door.

§ 128.28 Hull penetrations and shell connections.

Except for engine exhausts, each over board discharge and shell connection must comply with the requirements in § 56.50–95 and § 131.19 of this chapter.

PART 129—LIFESAVING EQUIPMENT

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Authority: R.S. 4405, as amended (46 U.S.C. 375); § 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Pub. L. 96–378, 94 Stat. 1513 (46 U.S.C. 404–1); R.S. 4462, as amended (46 U.S.C. 416); § 1, Pub. L. 86–244, 73 Stat. 475 (46 U.S.C. 481); § 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—General Provisions

§ 129.1 Equipment of an approved type.

(a) Equipment that is required by this part to be of an approved type must be specifically approved by the Commandant. Commandant approvals are published in the **Federal Register** and are contained in Coast Guard publication "Equipment Lists," COMDTINST M16714.3 (old CG–190).

(b) Specifications for many of the items required to be of an approved type have been promulgated and are contained in Subchapter Q of this chapter. In general, those specifications are of interest only to the manufacturer of specific items of equipment.

§ 129.4 Equipment installed but not required.

Each item of lifesaving equipment that is installed but not required must be of an approved type or have specific approval of the Commandant.

§ 129.7 Primary lifesaving equipment.

The term "primary lifesaving equipment" means a lifeboat or an acceptable substitute. Life preservers and ring life buoys are not considered to be primary lifesaving equipment.

Subpart B—Types of Primary Lifesaving Equipment

§ 129.10 Lifeboats.

The construction and installation of each lifeboat must meet the requirements of Part 94 of this chapter.

§ 129.13 Inflatable liferafts.

(a) Each inflatable liferaft must be of a type approved under Subpart 160.051 of this chapter.

(b) The inflatable liferaft must be marked in accordance with § 160.051–8 of this chapter.

(c) The inflatable liferaft must show on or near the liferaft's nameplate, and the liferaft's container must show on or near the plate, marking approved by a Coast Guard inspector that is—

(1) An approval number consisting of "160.051/" followed by a number that is greater than 49 followed by a revision number (e.g. 160.051/50/1); or

(2) An approval number consisting of "160.051/" followed by a nuimber that is

smaller than 50 that is followed by a revision number (e.g. 160.051/48/1), the words "MOD. TEMP", a Coast Guard inspector's initials and the date that an inspector found that the liferaft met § 160.051–5(c)(4) of this chapter.

(d) Each inflatable liferaft must have a carrying capacity of not less than 6 nor more than 25 persons.

§ 129.16 Life floats.

Each life float must be of a type approved under Subpart 160.027 of this chapter.

Subpart C—Required Equipment

§ 129.19 Primary lifesaving equipment.

(a) Except as provided in paragraph (b) and paragraph (c) of this section, each vessel must be provided with sufficient lifeboats to accommodate all persons on board. In addition, the vessel must have sufficient inflatable liferafts to accommodate all persons on board.

(b) In lieu of the equipment required in paragraph (a) of this section, a vessel may provide inflatable liferafts on each side of the vessel. The inflatable liferafts on each side must be of a sufficient number to accommodate all persons on board. If the distance from the deck from which the inflatable liferafts are boarded to the waterline at the vessel's lightest operating draft exceeds 15 feet, the inflatable liferafts must be davit launched.

(c) Each vessel operating exclusively on the continental shelf of the United States in the Gulf of Mexico may carry life floats of a combined capacity to accommodate all persons on board in lieu of the lifeboats and inflatable liferafts required in paragraph (a) or paragraph (b) of this section.

§ 129.22 Rescue boat.

(a) Except as provided in paragraphs (e) and (f) of this section, each vessel must be provided with a rescue boat.

(b) The rescue boat must be a small lightweight boat capable of being readily launched and easily maneuvered.

(c) The rescue boat must be of—

(1) Rigid construction with built-in buoyancy; or

(2) Inflatable construction, with buoyancy tubes that are arranged so that if one buoyancy compartment is damaged, the intact compartments will maintain the boat with positive freeboard over the rescue boat's entire periphery.

(d) The rescue boat must be of adequate proportion to permit taking an unconscious person on board without capsizing. The rescue boat and its installation must be acceptable to the OCMI as suitable for the rescue of persons accidentally falling over the side, or for similar emergency purposes. The size, shape, installation, and other factors of suitability will be determined with due consideration of the size, arrangment, intended service, and crew requirements of the vessel on which it is to be installed.

(e) A rescue boat is not required for a vessel equipped with a lifeboat.

(f) A rescue boat is not required if—

(1) In the opinion of the OCMI, the vessel is arranged to allow a helpless person to be recovered from the sea;

(2) Recovery of the helpless person can be observed from the navigating bridge; and

(3) The vessel does not regularly engage in operations that restrict its maneuverability.

§ 129.25 Emergency position indicating radiobeacon (EPIRB).

(a) Except as provided in paragraph (b) of this section, each vessel must have an approved Class A emergency position indicating readiobeacon (EPIRB) that is—

(1) Operative;

(2) Stowed where it is readily accessible for testing and use; and

(3) Stowed in a manner so that it will float free if the vessel sinks.

(b) Compliance with this section is not required for a vessel that—

(1) Carries a VHF radiotelephone that complies with the FCC requirements; and

(2) Has a certificate of inspection endorsed for a route which does not extend more than 20 miles from a harbor of safe refuge.

§ 129.28 Ship's distress signals.

(a) Each vessel of 150 gross tons and over must carry 12 handheld rocket-propelled parachute red flare distress signals approved under Subpart 160.036 of this chapter.

(b) Each vessel of less than 150 gross tons must carry six hand red flare distress signals and six hand orange smoke distress signals or 12 hand combination flare and smoke distress signals approved under Subparts 160.037 or Subpart and 160.023 of this chapter.

(c) Distress signals must be carried within the pilothouse or on the navigators, bridge in a portable watertight container.

(d) The service use of a distress signal is limited to the expiration date on the signal. Replacement of outdated items must be made at the first port of arrival in the United States where distress signals are available, except that replacement must be made in all cases within 12 months after the date of expiration.

Subpart D—Stowage of Inflatable Liferafts, Life Floats, and Rescue Boats

§ 129.31 General.

Each inflatable liferaft, life float, and rescue boat must be readily available in the case of emergency, and must be kept in good working order and available for immediate use at all times when the vessel is being navigated and, insofar as is reasonable and practicable, while the vessel is not being navigated.

§ 129.34 Stowage.

(a) *General.* Inflatable liferafts, life floats, and rescue boats must be stowed in a manner that—

(1) Permits launching in the shortest possible time so as to allow all persons on board to abandon the vessel within ten minutes from the time the signal to abandon is given;

(2) Does not impede the launching or handling of other lifesaving equipment;

(3) Does not impede the marshalling of persons at the embarkation stations, or their embarkation; and

(4) Permits them to be put in the water safely and rapidly even under unfavorable conditions of list and trim.

(b) *Inflatable liferaft stowage.* Inflatable liferafts must be stowed so that they will float free in the event of the vessel sinking. Stowage and launching arrangements must be to the satisfaction of the OCMI.

(c) *Life float stowage.* (1) Each life float must be secured to the vessel by a painter and by a float-free link that is—

(i) Certified to meet Subpart 160.073 of this chapter;

(ii) Of proper strength for the size of the life float as indicated on its identification tag; and

(iii) Secured to the painter at one end and secured to the vessel on the other end.

(2) The means by which the float-free link is attached to the vessel must—

(i) Have a breaking strength of at least the breaking strength of the painter;

(ii) If synthetic, be of a dark color or of a type certified to be resistant to deterioration from ultraviolet light; and

(iii) If metal, be corrosion resistant.

(3) If the life float does not have a painter attachment fitting, a means for attaching the painter must be provided by a wire or line that—

(i) Encircles the body of the device;

(ii) Will not slip off;

(iii) Has a breaking strength that is at least the breaking strength of the painter; and

(iv) If synthetic, is of a dark color or is of a type certified to be resistant to deterioration from ultraviolet light.

(4) The float-free link described in paragraphs (c)(1) and (c)(2) of this section is not required if the vessel operates solely in waters that have a depth less than the length of the painter.

(5) If the vessel carries more than one life float, the life floats may be grouped and each group secured by a single painter, provided that—

(i) The combined weight of each group of life floats does not exceed 400 pounds;

(ii) Each life float is individually attached to the painter by a line that meets §§ 129.52(c)(2) and 129.52(c)(3) and which is long enough so that each can float without contacting any other life float in the group; and

(iii) The strength of the float-free link under paragraph (c)(1)(ii) of this section and the strength of the painter under § 129.52(c)(2) is determined by the combined capacity of the group of life floats.

(6) Each life float, as stowed, must be capable of easy launching. Life floats over 400 pounds must not require lifting before launching.

(7) Life floats must not be secured to the vessel except by the painter and by lashings that can be easily released or by hydraulic releases. They must not be stowed in more than four tiers. When stowed in tiers, the separate units must be kept apart by spacers.

(8) There must be means to prevent shifting.

(d) Each hydraulic release used in the installation of any inflatable liferaft or life float must meet Subpart 160.062 of this chapter.

Subpart E—Equipment for Lifeboats, Inflatable Liferafts and Life Floats

§ 129.40 General.

(a) Equipment for lifeboats, inflatable liferafts and life floats must be of good quality, efficient for the purpose they are intended to serve, and kept in good condition.

(b) Each lifeboat, inflatable liferaft and life float must be fully equipped before the vessel is navigated and the equipment must remain in them throughout the voyage.

(c) Only equipment required by this subpart may be stowed in a lifeboat, inflatable liferaft or life float unless the equipment can be properly stowed so as not to reduce the seating capacity or space available to the occupants and so as not to adversely affect the seaworthiness of the lifeboat, inflatable liferaft or life float.

(d) Loose equipment must be securely attached to the lifeboat, inflatable liferaft of life float to which it belongs.

§ 129.43 Required equipment for lifeboats.

Each lifeboat must be equipped as specified in § 94.20–10 of this chapter.

§ 129.46 Required equipment for inflatable liferafts.

Each inflatable liferaft must be equipped with ocean service equipment in accordance with Subpart 160.051 of this chapter.

§ 129.49 Required equipment for life floats.

Each life float must be equipped in accordance with Table 129.49. For a description of the items contained in this table, and the units comprising the items, see the applicable paragraphs of § 129.52.

TABLE 129.49

[Illegible]	Number required for each life [illegible]
Boathook	1
Paddles	2
Painter	1
Water light[1]	1

[1] Life floats with a capacity of 24 persons or less are not required to have a water light.

§ 129.52 Description of equipment for life floats.

(a) *Boathook.* Boathooks must be of the single hook ball point type. Boathook handles must be of clear grained white ash, or equivalent, not less than 6 feet long and 1½ inches in diameter.

(b) *Paddles.* Paddles must be not less than 5 feet long.

(c) *Painter.* The painter must—

(1) Be at least 100 feet long, but not less than 3 times the distance between the deck on which the life floats are stowed and the light draft of the vessel;

(2) Have a breaking strength of at least 1,500 pounds, except that if the capacity of the life float is 50 persons or more, the breaking strength must be at least 3,000 pounds;

(3) Be of a dark color if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light; and

(4) Be stowed in such a way that it runs out freely when the life float floats away from the sinking vessel.

(d) *Water light.* The water light must be of a type approved under Subpart 161.010 of this chapter.

Subpart F—Life Preservers

§ 129.55 General.

Each life preserver must be of a type approved under Subpart 160.002, 160.005, or 160.055 of this chapter.

§ 129.58 Number required.

Each vessel must be provided with an approved life preserver for each person on board. An additional approved life preserver must be provided for each person on watch in the engineroom and pilothouse, and at the bow lookout.

§ 129.61 Distribution and stowage.

(a) *Distribution.* Life preservers must be distributed throughout the cabins, staterooms, berths, and other places convenient for each person on board. The additional number of life preservers required by § 129.58 must be stowed so that they are readily accessible to personnel on watch in the engineroom and pilothouse, and at the bow lookout.

(b) *Stowage.*—(1) Each locker, box, and closet in which life preservers are stowed must not be capable of being locked, must be plainly marked, and the life preservers contained within it must be readily accessible.

(2) Life preservers stowed overhead must be supported so that they can be quickly released and distributed. Where life preservers are stowed at a height greater than 7 feet from the deck below, means must be provided for their immediate release by persons standing on deck.

Subpart G—Exposure Suits

§ 129.64 Applicability.

This subpart applies to each vessel except a vessel that—

(a) Has totally enclosed lifeboats sufficient to accommodate all persons on board; or

(b) Operates on routes between 35 degrees N and 35 degrees S latitude or on the Atlantic Ocean outer continental shelf of the United States south of 38 degrees N latitude.

§ 129.67 Number and type required.

(a) Each vessel must carry an exposure suit for each person on board.

(b) Except as provided in paragraph (c) of this section, additional exposure suits must be provided in the engine room, pilothouse, bow lookout, and each work station. The number of exposure suits provided must be equal to the number of persons normally on watch in, or assigned to, the station at any one time.

(c) An exposure suit need not be provided at a watch or work station for a person who has an exposure suit

stowed in a stateroom or berthing area that is readily accessible to the watch or work station.

(d) Each exposure suit must be of a type approved under Subpart 160.071 of this chapter.

§ 129.70 Distribution and stowage.

Distribution and stowage arrangements for exposure suits must meet the same requirements as for life preservers required by § 129.61.

Subpart H—Personal Flotation Device Lights and Retroreflective Material

§ 129.73 Personal flotation device lights.

(a) Each life preserver and each exposure suit must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(b) Each light required by this section must be securely attached to the front shoulder area of the life preserver or exposure suit.

§ 129.76 Retroreflective material.

(a) Each life preserver must have at least 31 square inches of retroreflective material attached on—

(1) Its front side;

(2) Its back side; and

(3) Each of its reversible sides.

(b) Retroreflective material required by this section must be Type I material approved under Subpart 164.018 of this chapter.

(c) The retroreflective material attached to each side of a life preserver must be divided equally between the upper quadrants of the side and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

Subpart I—Ring Life Buoys and Water Lights

§ 129.79 General.

(a) Each ring life buoy must be of a type approved under Subpart 160.009 or 160.050 of this chapter.

(b) Each water light must be of a type approved under Subpart 161.010 of this chapter.

§ 129.82 Number required.

(a) Each vessel under 100 gross tons must have three approved 24 or 30 inch ring life buoys.

(b) Each vessel of 100 gross tons and over must have six approved 30 inch ring life buoys.

(c) One of the ring life buoys on each side of the vessel must have secured to it a line at least 15 fathoms in length.

(d) Three of the ring life buoys for vessels 100 gross tons and over and two ring life buoys for vessels under 100 gross tons must have water lights attached.

§ 129.85 Distribution and securing.

(a) Each ring life buoy must be placed so as to be readily accessible to the persons on board, and its position plainly indicated.

(b) Each ring life buoy must be capable of being cast loose, and must not be permanently secured in any way.

Subpart J—Miscellaneous Requirements

§ 129.88 Annual servicing of inflatable liferafts and hydraulic releases.

(a) Each inflatable liferaft must be serviced at an approved servicing facility in accordance with the provisions of Subpart 160.051 of this chapter.

(b) Each inflatable liferaft must be serviced at an approved facility every 12 months or not later than the next inspection for certification provided the total time since the date of last servicing does not exceed 15 months. The period for servicing is computed from the date of the last servicing.

(c) Except in emergencies, no servicing may be done aboard vessels.

(d) If at any time external damage is found to the container or straps or if the seal is broken, the OCMI must be notified and the raft must be serviced by an approved servicing facility.

(e) A hydraulic release used as part of the installation of any inflatable liferaft of life float must undergo the periodic servicing and testing required by Subpart 160.062 of this chapter every 12 months or not later than the next inspection for certification provided the total time since the date of last servicing does not exceed 15 months.

(f) The springs of a springs-tensioned gripe used in an installation must be renewed when the accompanying hydraulic release is serviced and tested.

§ 129.91 Embarkation aids into lifeboats, inflatable liferafts, life floats, and rescue boats.

(a) Except as provided in paragraph (b) of this section, sufficient ladders approved under Subpart 160.017 of this chapter or other suitable devices must be provided to facilitate embarkation into waterborne lifeboats, inflatable liferafts, life floats, and rescue boats.

(b) The ladders required in paragraph (a) of this section are not required if the freeboard at the embarkation point is less than 15 feet.

(c) Each vessel must have lights for the illumination of the stowage position of lifeboats, inflatable liferafts, life floats, and rescue boats.

PART 130—FIRE PROTECTION EQUIPMENT

Subpart A—Fire Main System

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130.7 Fire pumps.
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Subpart B—Hand Portable Fire Extinguishers and Semiportable Fire Extinguishing Systems

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130.19 Spare charges.
130.22 Semiportable fire extinguisher stowage.
130.25 Fixed fire extinguishing systems.

Subpart C—Miscellaneous

130.28 Fire monitors.
130.31 Equipment installed but not required.
130.34 Annual tests and inspections of fire extinguishing equipment.
130.37 Fire axes.

Authority: R.S. 4405, as amended (46 U.S.C. 375); § 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Pub. L. 96-378, 94 Stat. 1513 (46 U.S.C. 404-1); R.S. 4462, as amended (46 U.S.C. 416); § 1, Pub. L. 86-244, 73 Stat. 475 (46 U.S.C. 481); § 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—Fire Main System

130.1 General.

(a) Except as provided in paragraph (b) of this subpart, each vessel must be equipped with a fire main system that complies with this section.

(b) In lieu of complying with the requirements in paragraph (a) of this section, each vessel 65 feet or less in LOD may have a hand operated pump capable of providing an effective stream of water to all parts of the vessel.

(c) In complying with paragraph (b) of this section, three-quarter inch garden hose may be used if the hose is—

(1) Of good commercial grade having an inner rubber tube, plies of braided cotton reinforcement and an outer cover made of rubber or equivalent material; and

(2) Fitted with a commercial garden hose nozzle of good grade bronze or equivalent metal.

§ 130.4 Piping.

(a) All pipe, valves, fittings and flanges must meet the applicable requirements of Part 131 of this subchapter. Piping must be—

(1) Hot dipped galvanized;

(2) At least schedule 80; or

(3) Of a suitable corrosion resistant material.

(b) All distribution cut-off valves must be marked as required by § 135.100 of this subchapter.

§ 130.7 Fire pumps.

(a) Each vessel must be equipped with one power driven fire pump capable of delivering water simultaneously from the two highest outlets at a Pitot tube pressure of at least 50 psi (pounds per square inch) using the minimum orifice size required by § 130.10(h).

(b) Each fire pump must be fitted on the discharge side with a relief valve set to relieve at 25 psi in excess of the pressure necessary to maintain the requirements of paragraph (a) of this section or 125 psi whichever is greater. A relief valve may be omitted if the pump, operating under shut-off conditions, is not capable of developing pressure exceeding this amount.

(c) A pressure gage must be fitted on the discharge side of each fire pump.

(d) The pump required by paragraph (a) of this section may be driven off one of the propulsion engines in a twin engine installation. In a single engine propulsion installation, the pump must be driven by a source of power independent of the propulsion engine.

(e) No branch lines may be connected to the fire main for other than fire, fire monitor, anchor or deck wash purposes. Discharge lines for other purposes must lead from a discharge manifold near the fire pump.

(f) If branch lines are connected to the fire main for fire monitors, they must meet the requirements in § 130.28.

(g) If branch lines are connected to the fire main for anchor wash purposes, the fire pump must be capable of providing the quantity of water required to comply with paragraph (a) of this section while simultaneously providing water to the anchor wash.

(h) The total area of the pipes leading from a pump may not be less than the discharge area of the pump.

(i) In no case may a pump having a connection to an oil line be used as a fire pump.

(j) If two fire pumps are installed, either pump may be used for other purposes provided one pump is kept available for use on the fire main system at all times.

§ 130.10 Fire stations.

(a) Except as provided in paragraph (b) of this section, fire hydrants must be of sufficient number and so located that any part of the vessel accessible to persons on board while the vessel is being navigated and all cargo holds may be reached with at least two effective spray patterns of water from separate outlets. At least one of the spray patterns must be from a single length of hose.

(b) Except as provided in paragraph (c) of this section, all portions of the main machinery spaces must be capable of being reached by at least 2 streams of water, each of which must be from a single length of hose from separate outlets.

(c) For the purpose of this section, a shaft alley is not considered part of the main machinery spaces if it contains no assigned space for the stowage of combustibles.

(d) Each fire hydrant must be numbered as required by § 135.106 of this subchapter.

(e) All parts of the fire main located on exposed decks must either be protected against freezing or be fitted with cut-out valves and drain valves so that the entire exposed parts of the piping may be shut off and drained in freezing weather. Except when closed to prevent freezing, the valves must be sealed open.

(f) The outlets at the fire hydrant must be 1½ inches in diameter and must be positioned so that the hose leads horizontally or downward to minimize the possibility of kinking.

(g) Each fire station hydrant must be equipped with a spanner suitable for use on the hose at that station.

(h) Each fire station hydrant must have at least one length of firehose. Each firehose on the hydrant must have a combination solid stream and water spray firehose nozzle that is approved under Subpart 162.027 of this chapter. The nozzle orifice size must be at least ½ inch for vessels less than 100 gross tons and ⅝ inch for vessels 100 gross tons and over.

(i) The pipes and fire station hydrants must be so placed that the fire hose may be easily coupled to them. All hydrants must be so located as to be readily accessible. If deck cargo is carried, it must not interfere with access to the fire station hydrants, and the piping must be arranged as far away from the deck cargo as practicable to avoid risk of damage by the cargo.

(j) Each fire station hydrant or "Y" branch must be equipped with a valve so that the hose may be removed while there is pressure on the fire main.

(k) Each fire station hydrant connection must be brass, bronze, or othe equivalent metal. Fire hose coupling threads must be 9 threads per inch, the National Standard for 1½ inch hose.

(l) Fire hose must be 1½ inches in diameter, 50 feet in length, and connected to outlets at all times.

(m) Fire hose, when part of the fire equipment, must not be used for any other purpose than fire extinguishing, fire drills, and testing.

(n) A suitable hose rack or other device must be provided. Each hose rack on a weather deck must be located so as to afford protection from heavy seas.

(o) Each section of fire hose must be lined commercial fire hose that conforms to Underwriters' Laboratories, Inc. Standard 19 or Federal Specification ZZ–H–451E. Hose that bears the label of Underwriters' Laboratories, Inc. as lined fire hose is acceptable.

Subpart B—Hand Portable Fire Extinguishers and Semiportable Fire Extinguishing Systems

§ 130.13 Classification.

(a) Hand portable fire extinguishers and semiportable fire extinguishing systems are classified by a combination letter and number symbol. The letter indicates the type of fire which the unit could be expected to extinguish, and the number indicates the relative size of the unit.

(b) The types of fire are designated as follows:

(1) "A" for fires in ordinary combustible materials where the quenching and cooling effects of quantities of water, or solutions containing large percentages of water, are of first importance.

(2) "B" for fires in flammable liquids, greases, etc., where a blanketing effect is essential.

(3) "C" for fires in electrical equipment where the use of nonconducting extinguishing agent is of first importance.

(c) The number designations for size start with "I" for the smallest to "V" for the largest. Sizes I and II are considered hand portable fire extinguishers and sizes III, IV, and V are considered semiportable fire extinguishing systems which must be fitted with suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered. Examples of size graduations for some of the typical hand portable and semiportable fire extinguishing systems are set forth in Table 130.13.

TABLE 130.13

Classification		Halon 1211 pounds	Foam, gallons	Carbon dioxide, pounds	Dry chemical, pounds
Type	Size				
A	II		2½		
B	I	2½	1¼	4	2
B	II	10	2½	15	10
B	III		12	35	30
B	IV		20	50	30
B	V		40	100	50
C	I			4	2
C	II			15	10

(d) Each hand portable fire extinguisher and semiportable fire extinguishing system must have a name

plate giving the name of the item, the rated capacity in gallons or pounds, the name and address of the distributor, and the identifying mark of the actual manufacturer. The name plate must be permanently attached to the extinguisher.

(e) Vaporizing-liquid type fire extinguishers containing carbon tetracholoride or chlorobromomethane or other toxic vaporizing liquids are not permitted.

§ 130.16 Location.

(a) Hand portable fire extinguishers approved under Subpart 162.028 of this chapter and semiportable fire extinguishing systems approved under Subpart 162.039 of this chapter must be installed in accordance with Table 130.16. The location of the equipment must be to the satisfaction of the OCMI. Nothing in this paragraph is to be construed as limiting the OCMI from requiring additional equipment as deemed necessary for the proper protection of the vessel.

TABLE 130.16.—HAND PORTABLE FIRE EXTINGUISHER AND SEMIPORTABLE FIRE EXTINGUISHING SYSTEMS

Space	Classification (see § 130.13)	Quantity and location
SAFETY AREAS		
Communicating corridors.	A-II	1 in each main corridor not more than 150 feet apart. (May be located in stairways.)
Wheelhouse	C-I	2 in vicinity of exit
SERVICE SPACES		
Galleys	B-II or C-II	1 for each 2,500 square feet or fraction thereof suitable for hazards involved
Paint lockers	B-II	1 outside space in vicinity of exit.
Accessible baggage and storerooms	A-II	1 for each 2,500 square feet or fraction thereof located in the vicinity of exits, either inside or outside the spaces
Work shops and similar spaces	A-II	1 outside the space in vicinity of exit
MACHINERY SPACES		
Internal combustion propelling machinery spaces	B-II	1 for each 1,000 brake horsepower, but not less than 2 nor more than 6.
	B-III	required [1]
Electric propulsive motors or generators of open type.	C-II	1 for each propulsion motor or generator unit
AUXILIARY SPACES		
Internal combustion.	B-II	1 outside the space in vicinity of exit.[3]
Electric emergency motors or generators.	C-II	1 outside the space in vicinity of exit [3]

[1] Not required where a fixed carbon dioxide system is installed.
[2] Not required on vessels of less than 300 gross tons if fuel has a flashpoint exceeding 110 degrees F
[3] Not required on vessels of less than 300 gross tons

(b) Each semiportable fire extinguishing system must be located in the open so as to be readily visible.

(c) Except as provided in paragraph (d) of this section, a hand portable fire extinguisher must be located in the open or behind glass so as to be readily visible.

(d) A hand portable fire extinguisher may be placed in an enclosure together with the fire hose, provided the enclosure is marked as required by § 135.106 of this subchapter.

(e) Each hand portable fire extinguisher and its station must be numbered in accordance with § 135.109 of this subchapter.

(f) Each hand portable and semiportable fire extinguisher having a nameplate indicating it is to be protected from freezing must not be located where freezing temperature may be expected.

§ 130.19 Spare charges.

(a) Except as provided in paragraph (b) of this section, spare charges for hand portable fire extinguishers must be carried on board the vessel. The number of spare charges for each classification of extinguisher must be equal to at least 50 percent of the number of extinguishers required to be of that classification by § 130.16.

(b) If extinguishers of a particular classification cannot be readily recharged by the vessel's personnel, one additional extinguisher of that classification must be provided in lieu of the spare charges required by paragraph 9(a) of this section for that classification.

(c) Spare charges must be so packaged as to minimize the hazards to personnel while recharging the units.

§ 130.22 Semiportable fire extinguisher stowage.

(a) The frame or support of each size III, IV, and V fire extinguisher required by Table 130.16 must be welded or otherwise permanently attached to a bulkhead or deck.

(b) If an approved size III, IV, or V fire extinguisher has wheels and is not required by Table 130.16, it must be secured at all times to prevent it from rolling out of control under heavy sea conditions.

§ 130.25 Fixed fire extinguishing systems.

(a) Except as provided in paragraph (b) of this section, a fixed carbon dioxide or other approved system must be installed in each paint locker and any space containing machinery using fuel having a flashpoint of less than 110 degrees F.

(b) A fixed fire extinguishing system need not be installed in a paint locker that is—

(1) Less than 60 cubic feet in volume;

(2) Accessible only from the weather deck; and

(3) Not adjacent to a flammable or combustible liquid tank.

(c) Each fixed extinguishing system installed must meet the requirements in Part 95 of this chapter.

Subpart C—Miscellaneous

§ 130.28 Fire monitors.

(a) Fire monitors that are supplied by the fire main must be fitted with a shut-off valve at the fire monitor and at the fire pump.

(b) All fire monitor piping must meet the requirements in § 130.04.

(c) The fire main system and the fire monitor system must be protected against over pressure.

§ 130.31 Equipment installed but not required.

Installation of fire detection and protection equipment in excess of that required by the regulations in this subchapter is permitted provided that the excess equipment does not endanger the vessel or persons on board in any way. The excess equipment must, at a minimum, be listed and labeled by a nationally recognized testing laboratory.

§ 130.34 Annual tests and inspections of fire extinguishing equipment.

(a) The master must ensure that the tests and inspections described in paragraph (b) of this section are performed—

(1) Every 12 months; or

(2) Not later than the next inspection for certification provided the total time since the date of the last tests and inspections does not exceed 15 months.

(b) The following tests and inspections must be performed as required by paragraph (a) of this section:

(1) Each fixed fire extinguishing system must be checked as noted in Table 130.34(a). In addition, all parts of each fixed fire extinguishing system must be examined for excessive corrosion and general condition.

(2) Each hand portable fire extinguisher and semi-portable fire extinguishing system must be checked as noted in Table 130.34(b). In addition, each hand portable fire extinguisher and semi-portable fire extinguishing system must be examined for excessive corrosion and general condition.

TABLE 130.34(A).—FIXED SYSTEMS

Type system	Test
Foam	Systems utilizing soda solution must have the solution replaced. In all cases, ascertain that powder is not caked.
Carbon dioxide and Halon 1301	Weigh cylinders. Recharge if weight loss exceeds 10 percent of weight of charge. (1)

(1) Cylinders must be tested and marked in accordance with the regulations of the Department of Transportation, as required by § 147.04–1 of this chapter

TABLE 130.34(B).—HAND PORTABLE EXTINGUISHERS AND SEMI-PORTABLE SYSTEMS

Type unit	Test
Foam	Discharge. Clean hose and inside of extinguisher thoroughly. Recharge.
Carbon dioxide	Weigh cylinders. Recharge if weight loss exceeds 10 percent of weight of charge. Inspect hose and nozzle to ensure they are clear (1)
Dry chemical (cartridge-operated type)	Examine pressure cartridge and replace if end is punctured or if otherwise determined to have leaked or to be in unsuitable condition. Inspect hose and nozzle to see that they are clear. Insert charged cartridge. Be sure dry chemical is free-flowing (not caked) and chamber contains full charge.
Dry chemical (stored pressure type).	See that pressure gage is in operating range. If not, or if seal is broken, weigh or otherwise determine that full charge of dry chemical is in extinguisher. Recharge if pressure is low or if dry chemical is needed
Halon 1211	See that pressure gage is in operating range. Recharge if pressure is low. If no pressure gage is provided, weigh cylinder. Recharge if weight loss exceeds 10% of weight of charge. Inspect hose and nozzle to ensure they are clear
Vaporizing liquid (2) (pump type).	Pump a few strokes into clean pail and replace liquid. Keep water out of extinguisher or liquid. Keep extinguisher completely full of liquid.
Vaporizing liquid (2) (stored pressure type)	See that pressure gage is in operating range. Weigh or check liquid level to determine that full charge of liquid is in extinguisher. Recharge if pressure is low or if liquid is needed.

(1) Cylinders must be tested and marked in accordance with the regulations of the Department of Transportation, as required by § 147.04–1 of this chapter

(2) Vaporizing-liquid type fire extinguishers containing carbon tetrachloride or chlorobromomethane or other toxic vaporizing liquids are not permitted. (See § 130.13(e).)

(3) On each fire extinguishing system, all piping controls, valves, and alarms must be checked to ascertain that the system is in operating condition.

(4) The fire main system must be operated and the pressure checked at the most remote and highest outlets. All firehose must be subjected to a test pressure equivalent to the maximum pressure to which they may be subjected in service, but not less than 100 psi.

§ 130.37 Fire axes.

(a) One fire axe is required for a vessel of less than 100 gross tons.

(b) Two fire axes are required for a vessel of 100 gross tons and over.

(c) Fire axes must be located so as to be readily available in the event of an emergency.

(d) If a fire axe is not located in the open, or behind glass, so that it may be readily seen, it may be placed in an enclosure together with the fire hose, provided the enclosure is marked as required by § 135.106 of this subchapter.

PART 131—MARINE ENGINEERING EQUIPMENT AND SYSTEMS

Subpart A—General

Sec.
131.1 System and equipment design.
131.4 Plan approval.
131.7 Vital systems.

Subpart B—Material and Pressure Design

131.13 Class II Vital systems—materials.
131.16 Class II Non-Vital systems—materials and pressure design.
131.19 Hull and watertight bulkhead penetrations—materials and pressure design.
131.22 Hydraulic or pneumatic control systems—materials and pressure design.

Subpart C—Main and Auxiliary Machinery

131.31 Fuel.
131.34 Exhaust systems.

Subpart D—Design Requirements Pertaining to Specific Systems

131.40 Ships service refrigeration systems.
131.43 Keel cooler installations.
131.46 Grid cooler installations.
131.49 Bilge systems.
131.52 Liquid mud systems.

Authority: R.S. 4405, as amended (46 U.S.C. 375); § 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Pub. L. 96–378, 94 Stat. 1513 (46 U.S.C. 404–1); R.S. 4462, as amended (46 U.S.C. 416); § 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—General

§ 131.1 System and equipment design.

(a) Except as provided in this part, the design, installation, inspection, and testing of machinery, pressure vessels and piping systems must comply with the requirements of Subchapter F of this chapter.

(b) This part includes requirements for equipment and systems commonly found on an offshore supply vessel. If additional or unique systems, e.g. steam propulsion, low temperature cargoes, feed water piping, etc. are to be installed, they must meet the requirements of Subchapter F of this chapter.

§ 131.4 Plan approval.

The plans listed in § 127.4(d) of this subchapter may be submitted for approval in lieu of the plans required by Subchapter F of this chapter.

§ 131.7 Vital systems.

(a) For the purpose of this part, the following are Vital systems:

(1) Fuel oil service, transfer and fill systems.

(2) Fire main CO_2, and Halon systems.

(3) Bilge systems.

(4) Ballast systems.

(5) Steering and steering control systems.

(6) Propulsion and propulsion control systems.

(7) Cargo transfer systems for portable tanks.

(8) A marine engineering system identified by the OCMI as being crucial to the survival of the vessel or to the protection of the personnel on board.

(b) For the purpose of this part, a system not identified in paragraph (a) of this section is a Non-Vital system.

Subpart B—Material and Pressure Design

§ 131.13 Class II Vital systems—materials.

In lieu of meeting the requirements in Part 56 of this chapter, materials used in Class II Vital piping systems may be accepted by the Commander (mmt) if proven chemically equivalent to materials selected in accordance with § 56.60 of this chapter.

§ 131.16 Class II Non-Vital systems—materials and pressure design.

(a) Except as provided in § 131.19, a Class II Non-Vital piping system need not comply with the material and pressure design requirements of Subchapter F of this chapter.

(b) Piping for salt water service must be of a corrosion resistant material, hot dip galvanized, or a minimum of Schedule 80 in wall thickness.

(c) Each Class II Non-Vital system must be certified by the builder as suitable for its intended service. This written certification must be submitted with the plans required by § 127.4(d) of this subchapter.

(d) The OCMI will review the particular installation of each system for the safety hazards identified in § 56.50–1 (a), (b)(1), and (c) through (k) of this chapter and prescribe additional requirements as appropriate.

§ 131.19 Hull and watertight bulkhead penetrations—materials and pressure design.

(a) Piping penetrations in bulkheads required by this subchapter to be watertight must meet the material and pressure design requirements of Subchapter F of this chapter.

(b) All overborad discharges and shell connections must meet the material and pressure design requirements of

Subchapter F of this chapter up to and including required shut-off valves.

§ 131.22 Hydraulic or pneumatic power and control systems—materials and pressure design.

(a) Standard piping components (e.g. pipe runs, fittings, flanges, standard valves, etc.) for hydraulic or pneumatic power and control sytems must meet the material and pressure design requirements of § 131.1, § 131.13, or § 131.16 as appropriate.

(b) Non-standard hydraulic or pneumatic components (e.g. control valves, check valves, relief valves, regulators, etc.) may be accepted if the component is certified by the manufacturer as suitable for marine service and if—

(1) The component meets all of the material and pressure design requirements of Subparts 56.60 and 58.30 of this chapter and its service is limited to the manufacturer's rated pressure; or

(2) The service of the component is limited to 1/2 the manufacturer's recommended maximum operating pressure or 1/10 the component's burst pressure. Burst pressure testing is described in ANSI Standard B31.1, Paragraph 104.7.A and must be conducted in accordance with Paragraph A–22, Section I, ASME Code. Written certification of burst test results must be submitted with the plans required by § 127.4(d) of this chapter.

Subpart C—Main and Auxiliary Machinery

§ 131.31 Fuel.

(a) Except as provided in paragraph (b) of this section, each internal combustion engine installed on a vessel, whether used for main propulsion or auxiliaries, must be driven by fuel having a flashpoint exceeding 110 degrees F. (Pensky-Martens Closed Cup Method, ASTM–D 93).

(b) The use of fuels with a flashpoint lower than 110 degrees F. must be specifically approved by the Commandant (G–MTH).

§ 131.34 Exhaust systems.

In a diesel engine exhaust system, the material requirements of § 58.10–5(d)(l)(i) of this chapter need not be met if the installation is certified as required in § 131.16(c).

Subpart D—Design Requirements Pertaining to Specific Systems

§ 131.40 Ships service refrigeration systems.

A self-contained unit for air conditioning or for refrigerated ship stores spaces need not meet the requirements in § 58.20–5, 10, 15, 20(a), and 20(b) of this chapter if—

(a) A freon refrigerant allowed by § 147.05–100 of this chapter is used;

(b) Certification is provided by the manufacturer that the unit is suitable for its intended purpose; and

(c) Electrical wiring meets the applicable requirements of Subchapter J of this chapter.

§ 131.43 Keel cooler installations.

(a) Except as provided in this section, keel cooler installations must meet the requirements of § 56.50–96 of this chapter.

(b) Approved metallic flexible connections may be located below the deepest load waterline if the system is a closed loop below the waterline and its vent is located above the waterline.

(c) Fillet welds may be used in the attachment of channels and half round pipe sections to the bottom of the vessel.

(d) Short lengths of approved non-metallic flexible hose may be used at machinery connections fixed by hose clamps provided that—

(1) The clamps are of a corrosion resistant material;

(2) The clamps do not depend on spring tension for their holding power; and

(3) Two clamps are used on each end of the hose or one hose clamp is used and the pipe ends are expanded or beaded to provide a positive stop against hose slippage.

§ 131.46 Grid cooler installations.

(a) Hull penetrations for grid cooler installations must be made through a cofferdam or at a seachest.

(b) Grid coolers must be suitably protected against damage from debris and grounding by recessing the unit into the hull or by the placement of protective guards.

§ 131.49 Bilge systems.

(a) If in the opinion of the OCMI, the design of a vessel 180 feet or more in LBP minimizes the under-deck volume subject to flooding, the vessel may be equipped to the standards of § 56.50–50 and § 56.50–55 of this chapter applicable to a dry cargo vessel less than 180 feet in LBP.

(b) For a vessel required by § 56.50–55 of this chapter to have three bilge pumps, two bilge pumps are acceptable if the steering room, engine room, centerline corridor and compartment containing the dry mud tanks are the only below deck spaces required to be fitted with bilge suctions.

§ 131.52 Liquid mud systems.

(a) Liquid mud piping systems may use resilient seated valves of the Category A type under the requirements of § 56.20–15 and § 56.50–60 of this chapter.

(b) A shut-off valve must be located at or as near as practicable to the tank boundary and equipped for local control. If the valve is not readily accessible, it must also be equipped for remote control from a readily accessible location outside of the compartment in which the valve is located.

(c) Liquid mud tanks must be fitted with tank vents equipped with flame screens. Vents must not discharge to the interior of the vessel.

PART 132—ELECTRICAL ENGINEERING EQUIPMENT AND SYSTEMS

Subpart A—General

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132.94 Hazardous locations.
132.97 Engine order telegraph systems.
132.100 Steering systems.

Authority: R.S. 4405, as amended (46 U.S.C. 375); § 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Pub. L. 96–378, 94 Stat. 1513 (46 U.S.C. 404–1); R.S. 4462, as amended (46 U.S.C. 416); § 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—General

§ 132.1 Applicability.

(a) Each vessel of less than 100 gross tons must comply with the requirements in either—

(1) Paragraph (b) of this section; or

(2) Subparts B and C.

(b) Each vessel of 100 gross tons and over must comply with the requirements in Subpart D.

(c) Each vessel regardless of tonnage must comply with § 132.07.

§ 132.7 Hazardous locations.

(a) Each vessel that carries flammable or combustible cargo with a flashpoint below 60 degrees C (140 degrees F) or specified hazardous cargoes on deck or in integral tanks, must not have electrical equipment installed in pumprooms, hose storage spaces, or within 10 feet of a source of vapor on a weather deck unless the equipment is explosion-proof or intrinsically safe in accordance with § 111.105–9 or § 111.105–11 of this chapter.

(b) Electrical equipment must not be installed in lockers that are used to store paint, oil, turpentine, or other flammable liquids unless the equipment is explosion-proof or intrinsically safe in accordance with § 111.105–9 or § 111.105–11 of this chapter.

Subpart B—Electrical Installations Operating at Potentials of Less Than 50 Volts on Vessels of Less than 100 Gross Tons

§ 132.10 Applicability.

The requirements in this subpart apply to electrical installations operating at potentials of less than 50 volts on vessels of less than 100 gross tons.

§ 132.13 Name plates.

Each generator, motor and other major item of power equipment must be provided with a name plate indicating the manufacturer's name, its rating in volts and amperes or in volts and watts and, when intended for connection to a normally grounded supply, the grounding polarity.

§ 132.16 Generators and motors.

(a) Each vessel of more than 65 feet in LOD that has any of the Vital systems listed in § 131.7 of this subchapter powered by a generator distribution system, must have two generators. One of these generators must be driven by a means independent of the main propulsion plant. A generator that is not independent of the main propulsion plant must meet the requirements of § 111.10–4(c) of this chapter.

(b) Each generator and motor must be in a location that is accessible, adequately ventilated, and as dry as practicable.

(c) Each generator and motor must be mounted as high as practicable above the bilges to avoid damage by splash and to avoid contact with low lying vapors.

(d) Each generator must be protected from overcurrent by circuit breakers, fuses or an overcurrent relay.

§ 132.19 Switchboards.

(a) Each switchboard must be in as dry a location as practicable, accessible, protected from inadvertent entry, and adequately ventilated. All uninsulated current carrying parts must be mounted on nonabsorbent, noncombustible, high dielectric isulating material.

(b) Each switchboard must be—

(1) Totally enclosed; and

(2) Of the dead front type.

(c) Each ungrounded conductor of a circuit supplying lights, motors or appliances must have at the point of attachment to the power source either—

(1) A circuit breaker; or

(2) A switch and fuse.

(d) Each switch other than one mounted on a switchboard must be of the enclosed type.

§ 132.22 Batteries.

(a) Each battery must be in a location that allows the gas generated in charging to be easily dissipated by natural or induced ventilation.

(b) Except as provided in paragraph (c) of this section, a battery must not be located in the same compartment with a gasoline tank or gasoline engine.

(c) If compliance with paragraph (b) of this section is not practicable, the battery must be effectively screened by a cage or similar structure to minimize the danger of accidental spark through dropping a metal object across the terminals.

(d) Each battery must be located as high above the bilges as practicable and secured against shifting with motion of the vessel. It must be accessible with not less than 10 inches head room.

(e) All connections must be made to battery terminals with permanent type connectors. Spring clips or other temporary type clamps must not be used.

(f) Each battery must be located in a tray of lead or other suitable material resistant to deteriorating action by the electrolyte.

(g) Each battery charger intended for connection to a commerical supply voltage must employ a tranformer of the isolating type. An ammeter that is readily visible must be included in the battery charger circuit.

(h) A voltage dropping resistor, provided for charging a battery, must be mounted in a ventilated non-combustible enclosure that prevents hazardous temperatures at adjacent combustible materials.

(i) The ungrounded main supply conductor from the battery must have an emergency switch located as close as practicable to the battery.

(j) If a storage battey is not in the same compartment and adjacent to the panel or box that distributes power to the various lighting, motor and appliance branch circuits, the storage battery lead must be fused at the battery.

§ 132.25 Radiotelephone equipment.

A separate circuit, fused at the main distribution panel, must be provided for each radiotelephone installation.

§ 132.28 Circuit breakers.

Each circuit breaker must be of the manually reset type designed for—

(a) Inverse time delay;

(b) Instantaneous short circuit protection; and

(c) Repeated opening of the circuit without damage to the circuit breaker.

§ 132.31 Accessories.

Each light, receptacle and switch exposed to the weather must be watertight and must be constructed of corrosion-resistant material.

§ 132.34 Wiring for power and lighting circuits.

(a) Wiring for power and lighting circuits must—

(1) Meet article 310–13 of the National Electrical Code;

(2) Be listed by Underwriters Laboratories Inc. as "50 volt boat cable"; or

(3) Meet § 132.52.

(b) Ampacities for conductors must meet article 310–15 of the National Electrical Code.

(c) Conductors must be sized so that the voltage drop at the load terminals is not more than 10 percent.

§ 132.37 Installation of wiring for power and lighting circuits.

(a) Wiring must be run as high as practicable above the bilges.

(b) Wiring, where subject to mechanical damage, must be protected.

(c) A wiring joint or splice must be mechanically secure and made in a junction box or enclosure.

(d) Unless a splice is made by an insulated pressure wire connector listed by Underwriters Laboratories Inc., it must be thoroughly soldered and taped with electrical insulating tape or the soldered joint must be otherwise protected as to provide an insulation the same as that of the conductors joined.

(e) Where ends of stranded conductors are to be clamped under terminal screws, they must be formed and soldered unless fitted with pressure terminal connectors listed by Underwriters Laboratories Inc.

(f) Conductors must be protected from overcurrent in accordance with their current-carrying capacities.

(g) Conductors supplying motors and motor operated appliances must be protected by a separate overcurrent device that is responsive to motor current. This device must be rated or set at not more than 125 percent of the motor full-load current rating.

(h) On metallic vessels the enclosures and frames of all major electrical equipment must be permanently grounded to the metal hull of the vessel by the mounting bolts or other means. Cable armor must not be used as the normal grounding means.

(i) On nonmetallic vessels, the enclosures and frames of major electrical equipment must be bonded together to a common ground by a normal non-current carrying conductor.

(j) For grounded systems the negative polarity of the supply source must be grounded to the metal hull or, for nonmetallic vessels, connected to the common ground.

(k) On a nonmetallic vessel where a ground plate is provided for radio equipment it must be connected to the common ground.

(l) For grounded systems, hull return must not be used except for engine starting purposes.

Subpart C—Electrical Installations Operating at Potentials of 50 Volts or More on Vessels of Less Than 100 Gross Tons

§ 132.40 Applicability.

The requirements of this subpart apply to electrical installations operating at potentials of 50 volts or more, on vessels of less than 100 gross tons.

§ 132.43 Generators and motors.

(a) Each generator and motor must be fitted with a nameplate of corrosion-resistant material mared with the following information as applicable:

(1) Name of manufacturer.

(2) Manufacturer's type and frame designation.

(3) Output in kilowatts or horsepower rating.

(4) Kind of rating (continuous, intermittent, etc.).

(5) Revolutions per minute at rated load.

(6) Amperes at rated load.

(7) Voltage.

(8) Frequency if applicable.

(9) Number of phases, if applicable.

(10) Type of winding (for direct-current motors).

(b) Each vessel of more than 65 feet in LOD that has any of the Vital systems listed in § 131.7 of this subchapter powered by a generator distribution system, must have two generators. One of these generators must be driven by a means independent of the main propulsion plant. A generator that is not independent of the main propulsion plant must meet the requirements of § 111.10-4(c) of this chapter.

(c) Each generator and motor must be in a location that is accessible, adequately ventilated, and as dry as practicable.

(d) Each generator and motor must be mounted as high as practicable above the bilges to avoid damage by splash and to avoid contact with low lying vapors.

(e) Each motor for use in a location exposed to the weather must be of the watertight or waterproof type or must be enclosed in a watertight housing. The motor enclosure or housing must be provided with a check valve for drainage or a tapped hole at the lowest part of the frame for attaching a drain pipe or drain plug.

(f) Except as provided in paragraphs (g) and (h) of this section, each generator and motor for use in a machinery space must be designed for an ambient temperature of 50 degrees C. (122 degrees F).

(g) A generator or motor may be designed for an ambient temperature of 40 degrees C. (104 degrees F) if the vessel is designed so that the ambient temperature in the machinery space will not exceed 40 degrees C. under normal operating conditions.

(h) A generator or motor designed for 40 degrees C may be used in a 50 degrees C. ambient location provided it is derated to 80 percent of full load rating, and the rating or setting of the overcurrent device is reduced accordingly. A nameplate specifying the derated capacity must be provided for each motor and generator.

(i) A voltmeter and an ammeter must be provided that can be used for measuring voltage and current of each generator that is in operation. For each alternating-current generator a means for measuring frequency must also be provided. Additional control equipment and measuring instruments must be provided, if needed, to ensure satisfactory operation of each generator.

§ 132.45 Grounded electrical systems.

(a) Except as provided in paragraph (b) of this section, each grounded electrical system must meet § 111.05 of this chapter.

(b) Ground detection is not required in a grounded electrical system.

§ 132.46 Equipment protection and enclosure.

(a) Except as provided in this section, all electrical equipment including motors, generators, controllers, distribution panels, etc., must be at least drip proof and protected.

(b) Equipment mounted on a hinged door of an enclosure must be constructed or shielded so that no live parts of the door mounted equipment will be exposed to accidental contact by a person with the door open and the circuit energized.

(c) Any cabinet, panel, or box containing more than one source of potential in excess of 24 volts must be fitted with a sign warning personnel of this condition and identifying the circuits to be disconnected to remove all the potentials in excess of 24 volts.

(d) Each distribution panelboard must be enclosed.

§ 132.49 Main distribution panels and switchboards.

(a) Each switchboard must be fitted with a driphood and front non-conducting hand rails.

(b) If the swithboard is accessible from the rear, non-conducting hand rails must be provided in the rear of the switchboard.

(c) Non-conducting mats or grating must be provided on the deck in front of each switchboard.

(d) If the switchboard is accessible from the rear, non-conducting mats or grating must be provided on the deck in the rear of the switchboard.

(e) Not less than 24 inches working space must be provided in front of each main distribution panel and switchboard and not less than 18" working space must be provided in the rear of each main distribution panel and switchboard that is accessible from the rear.

(f) Metal cases of instruments and secondary windings of instrument transformers must be grounded.

(g) Each main distribution panel and switchboard must be placed in a location that is accessible, adequately ventilated, and as dry as practicable. All uninsulated current carrying parts must be mounted on nonabsorbent, noncombustible, high dielectric insulating material.

(h) Each main distribution panel and switchboard must be of the dead front type.

§ 132.52 Wiring for power and lighting circuits.

Wiring for each power and lighting circuit must meet Subpart 111.60 of this chapter.

§ 132.55 Installation of wiring for power and lighting circuits.

(a) Wiring must be run as high as practicable above the bilges.

(b) Each cable installed where particularly susceptible to damage such as locations in way of doors, hatches, etc., must be protected by removable metal coverings, angle irons, pipe, or other equivalent means. All metallic covering must be electrically continuous and grounded to the metal hull or common ground, and all coverings such as pipe that may trap moisture must be provided with holes for drainage. Where cable protection is carried through a watertight deck or bulkhead, the installation must maintain the watertight integrity of the structure.

(c) Each cable entering a box or fitting must be protected from abrasion, and must meet the following requirements:

(1) Each opening through which conductors enter must be adequately closed.

(2) Cable armor must be secured to the box or fitting.

(3) In damp or wet locations, each cable entrance must be watertight.

(d) The enclosures of all equipment must be permanently grounded to the metal hull of the vessel by the mounting bolts or other means. Cable armor must not be used as the normal grounding means.

(e) On a nonmetallic vessel, the enclosures must be bonded to a common ground by a normal non-current carrying conductor.

(f) On a nonmetallic vessel where a ground plate is provided for radio equipment it must be connected to the common ground.

(g) When a vessel is connected to shore power, a bonding cable may be used to connect the metal hull, or on nonmetallic vessels the common ground, to shore ground.

(h) Except as provided in paragraph (i) of this section, each armored cable must have a metallic covering that is—

(1) Electrically and mechanically continuous; and

(2) Grounded at each end of the run to—

(i) The metal hull; or

(ii) The common ground required by paragraph (e) of this section on nonmetallic vessels.

(i) In lieu of being grounded at each end of the run as required by paragraph (h) of this section, final sub-circuits may be grounded at the supply end only.

(j) All equipment, including switches, fuses, lampholders, etc., must be of a type designed for the proper potential and be so identified.

(k) Except as provided in paragraph (l) of this section, each junction box, connection box, and outlet box, must have an internal depth of at least 1½ inches.

(l) For a box incorporated in a fixture having a volume of not less than 20 cubic inches, the depth may be decreased to not less than 1 inch.

(m) Each conductor, except a fixture wire within a box, must have a free space computed using the volume per conductor given in Table 132.55. If a fitting or device such as a cable clamp, hickey, switch or receptable is contained in the box, each fitting or device must count as one conductor.

TABLE 132.55

Size of conductor A.W.G	Free space for each conductor in box, cubic inches
14	2.0
12	2.25
8	2.50
1	3.0

(n) Each junction box, connection box, and outlet box for use in a damp or wet location must be of watertight construction.

(o) Each lighting fixture must be constructed in accordance with the requirements of Subchapter J of this chapter.

(p) A separate circuit, fused at the main distribution panel, must be provided for each radiotelephone installation.

(q) Knife switches must be so placed or designed that gravity or vibration will not tend to close them. Knife switches, unless of the double throw type, must be connected so that the blades are dead when the switch is in the open position. Circuits must be connected to the fuse end of switches and to the coil end of circuit breakers, except that generator leads or incoming feeders may be connected to either end of circuit breakers.

(r) Receptacle outlets and attachment plugs for the attachment of portable lamps, tools, and similar apparatus supplied as ship's equipment and operating at 100 volts or more, must provide a grounding pole and a grounding conductor in the portable cord to ground the non-current carrying metal parts of the apparatus.

(s) Receptacle outlets of the type providing a grounded pole must be of a configuration that will not permit the dead metal parts of portable apparatus to be connected to a live conductor.

§ 132.58 Disconnect switches and devices.

(a) Externally operable switches or circuit breakers must be provided for motor and controller circuits and must open all ungrounded conductors of the circuit.

(b) If the disconnect means is not within sight of the equipment that the circuit supplies and is at a location accessible to offshore workers, means must be provided for locking the disconnect device in the "open" position.

(c) For circuits protected by fuses, the disconnect switch required for fuses in § 132.64(b) is adequate for disconnecting the circuit from the supply.

(d) The disconnect means may be in the same enclosure with motor controllers.

(e) Disconnect means must be provided to open all conductors of generator and shore power cables.

§ 132.61 Distribution and circuit loads.

(a) Except as provided in paragraph (b) of this section, the connected load on a lighting branch circuit must not exceed 80 percent of the rating of the overcurrent protective device, computed using the greater of—

(1) The lamp sizes to be installed; or

(2) 50 watts per outlet.

(b) Circuits supplying electrical discharge lamps must be computed using the ballast input current.

(c) The branch circuit cables for motor and lighting loads must be no smaller than No. 14 AWG.

§ 132.64 Overcurrent protection, general.

(a) Overcurrent protection must be provided for each ungrounded conductor for the purpose of opening the electric circuit if the current reaches a value that causes an excessive or dangerous temperature in the conductor or conductor insulation.

(b) Disconnect means must be provided on the supply side of and adjacent to all fuses for the purpose of deenergizing the fuses for inspection and maintenance purposes. All disconnect means must open all ungrounded conductors of the circuit simultaneously.

(c) Each conductor, including a generator lead and shore power cable, must be protected in accordance with its current-carrying capacity.

(d) If the allowable current-carrying capacity of a conductor does not correspond to a standard size fuse, the next larger size or rating may be used but not exceeding 150 percent of the allowable current-carrying capacity of the conductor.

(e) Plug (screw in type) fuses and fuseholders must not be used in circuits exceeding 125 volts between conductors. The screw shell of plug type fuseholders must be connected to the load of the circuit. Edison base fuses must not be used.

(f) If the allowable current-carrying capacity of the conductor does not correspond to a standard rating of circuit breakers, the next larger rating not exceeding 150 percent of the allowable current-carrying capacity of the conductor may be used.

(g) Lighting branch circuits must be protected against over current either by fuses or circuit breakers rated at not more than 20 amperes.

(h) Each circuit breaker must be of the manually reset type designed for—

(1) Inverse time delay;

(2) Instantaneous short circuit protection; and

(3) Repeated opening of the circuit in which it is to be used without damage to the circuit breaker.

(i) Circuit breakers must indicate whether they are in the open or closed position.

(j) Devices such as instruments, pilot lights, ground detector lights, potential transformers, etc. must be supplied by circuits protected by overcurrent devices.

(k) Each generator must be protected with an overcurrent device set at a value not exceeding 15 percent above the full-load rating for continuous rated machines or the overload rating for special rated machines.

§ 132.67 Overcurrent protection for motors and motor branch circuits.

(a) Except as provided in paragraph (d) of this section, each motor must be provided with running protection against overcurrent. A protective device integral with the motor that is responsive to motor current or to both motor current and temperature may be used.

(b) The motor branch circuit conductors, the motor control apparatus, and the motors must be protected against overcurrent due to short circuits or grounds with overcurrent devices.

(c) The motor branch circuit overcurrent device must be capable of carrying the starting current of the motor.

(d) Each manually started continuous duty motor, rated at one horsepower or less, that is within sight from the starter location, is considered as protected against overcurrent by the overcurrent device protecting the conductors of the branch circuit.

§ 132.70 Electric heating and cooking equipment.

(a) Each electric space heater for heating rooms and compartments must be provided with thermal cutouts to prevent overheating. Each heater must be so constructed and installed as to prevent the hanging of towels, clothing, etc. on the heater, and to prevent overheating of heater parts and adjacent bulkheads or decks.

(b) All electric cooking equipment, attachments, and devices, must be of rugged construction and so designed as to permit complete cleaning, maintenance, and repair.

(c) Doors must be provided with heavy duty hinges and locking devices to prevent accidental opening in heavy seas.

(d) Electric cooking equipment must be mounted to prevent dislodgment in heavy seas.

(e) For each grill or similar type cooking equipment, means must be provided to collect grease or fat and to prevent spillage on wiring or the deck.

(f) Where necessary for safety of personnel, grab rails must be provided. Each electric range must be provided with sea rails with suitable barriers to resist accidental movement of cooking pots.

(g) Unspecified construction and circuit details must comply with Subchapter J of this chapter.

§ 132.73 Shore power.

(a) A shore power connection box or receptacle and a cable connecting this box or receptacle to the main distribution panel must be permanently installed in an accessible location.

(b) The shore power cable must be provided with a disconnect means located on or near the main distribution panel.

Subpart D—Electrical Installations on Vessels of 100 Gross Tons and Over

§ 132.76 General.

Except as provided in this subpart, electrical installations on vessels of 100 gross tons and over must meet the requirements of Parts 110–113 of this chapter.

§ 132.79 Power supply.

(a) The requirements of this section apply in lieu of Subpart 111.10 of this chapter.

(b) If a generator is used to provide electric power for any Vital system listed in § 131.7 of this subchapter, at least two generating sets must be provided. At least one required generating set must be independent of the main propulsion machinery. A generator that is not independent of the main propulsion plant must meet the requirements of § 111.10–4(c) of this chapter. With any one generating set stopped, the remaining set(s) must provide the power necessary for each of the following:

(1) Normal at sea load plus starting of the largest Vital system load that can be started automatically or started from a space remote from the main distribution panel (switchboard).

(2) All Vital systems simultaneously with Non-Vital loads secured.

(c) The adequacy of ship service generators must be demonstrated to the satisfaction of the OCMI during the intitial inspection required by § 126.52 of this subchapter.

§ 132.82 Demand loads.

Demand loads must meet § 111.60–7 of this chapter except that smaller demand loads for motor feeders are acceptable if the cable is protected at or below its current-carrying capacity.

§ 132.85 Lighting branch circuits.

Each lighting branch circuit must meet the requirements of § 111.75–5 of this chapter, except that—

(a) Appliance loads, electric heater loads, and isolated small motor loads may be connected to a lighting distribution panelboard; and

(b) Branch circuits in excess of 30 amperes may be supplied from a lighting distribution panelboard.

§ 132.88 Navigation lights.

Navigation light systems must meet the requirements of § 111.75–17 of this chapter except the requirements of § 111.75–17(a), (b), and (c).

§ 132.91 Remote stop or start stations.

In lieu of the remote stopping systems required by Subpart 111.103 of this

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chapter, remote stop stations may be provided as follows:

(a) A main propulsion shutdown in the wheel house for each propulsion unit.

(b) A bilge slop or dirty oil discharge shutdown at the deck discharge.

(c) A ventilation shutdown located outside the space ventilated.

(d) A shutdown at the tranfer control station for each combustible and flammable liquid cargo transfer pump.

§ 132.94 Hazardous locations.

Each vessel that carries flammable or combustible cargo with a flashpoint below 60 degrees C (140 degrees F) or specified hazardous cargoes on deck or in integral tanks may meet the requirements in § 132.07 in lieu of the requirements of § 111.105 of this chapter.

§ 132.97 Engine order telegraph systems.

An engine order telegraph system is not required.

§ 132.100 Steering systems.

Each vessel may comply with the requirements for steering systems in § 134.13 of this subchapter in lieu of the steering system requirements in Subchapter J of this chapter.

PART 133—AUTOMATION OF UNATTENDED MACHNERY SPACES

Sec.

133.1 Applicability.
133.2 General provisions.
133.4 Controls.
133.7 Pilothouse control.
133.10 Communications system.
133.13 Machinery alarms.
133.16 Location of machinery alarms.
133.22 Fire alarms.
133.25 Test procedure and operations manual.

Authority: R.S. 4405, as amended (46 U.S.C. 375); § 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Pub. L. 96–378, 94 Stat. 1513 (46 U.S.C. 404–1); R.S. 4462, as amended (46 U.S.C. 416); § 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

§ 133.1 Applicability.

This part applies to each vessel of 100 gross tons and over to be designed for operations without the continuous engineering watch required by Part 157 of this chapter.

§ 133.2 General provisions.

(a) In order to eliminate the continuous engineering watch required by Part 157 of this chapter, compliance with this part is required.

(b) The OCMI will determine the required engine department manning level based on the degree of automation provided and compliance with this part.

§ 133.4 Controls.

Each piece of automatically controlled machinery must have an alternative or manual means of control.

§ 133.7 Pilothouse control.

Controls must be provided at the pilothouse control station to—

(a) Control speed and direction of shaft rotation, or propeller pitch if controllable pitch propellers are used;

(b) Shutdown main propulsion machinery; and

(c) Start a fire pump and pressurize the fire main.

§ 133.10 Communications system.

(a) A communications system must be provided to immediately summon an engineer, or a crew member if no engineer is required, to the machinery space in the event of any condition in which an alarm is required by § 133.16.

(b) The communications system must be either—

(1) An alarm system that—

(i) Is dedicated for this purpose;

(ii) Sounds in the quarters, lounge, and other normally manned spaces; and

(iii) Is operable from the pilothouse; or

(2) A voice communication system operated from the pilothouse that—

(i) Is a sound powered telephone; or

(ii) Has its power supply from the emergency switchboard or from an independent battery that is continuously charged by its own battery charger.

§ 133.13 Machinery alarms.

(a) Each alarm required by § 133.16 must be of the self monitoring type that will alarm both visually and audibly upon an open or break in the sensing circuit.

(b) The visual alarm must continue until the condition is corrected.

(c) Means must be provided to manually silence each audible alarm.

(d) The silenced alarm must not prevent other audible alarms from sounding.

(e) Provisions must be made for testing all audible and visual alarms.

(f) A battery power supply must be provided for the alarm required in § 133.16(a)(7).

§ 133.16 Location of machinery alarms.

(a) Audible and visual alarms must be provided at the pilothouse control station to indicate the following:

(1) Loss of propulsion control power.

(2) Loss of steering power.

(3) Engineroom fire.

(4) High bilge level.

(5) For each main propulsion engine and each generator prime mover, low lube oil pressure.

(6) For each main propulsion engine and each generator prime mover, one alarm to indicate all of the following:

(i) High lube oil temperature.

(ii) High jacket water temperature.

(iii) High cylinder exhaust temperature.

(7) For each reduction gear and each turbocharger with a pressurized oil system, one alarm to indicate low lube oil pressure and high lube oil temperature.

(8) Loss of normal power supply for the above alarms.

(b) Bilge sensors for the high bilge level alarm required in paragraph (a) of this section, must be provided in—

(1) Each space below the deepest load waterline that contains pumps, motors or electrical equipment; and

(2) The compartment that contains the rudder post.

(c) Displays or alarms must be provided in the machinery spaces to allow rapid evaluation of the problem detected by the alarms required in paragraph (a) of this section. Equipment mounted gages or meters are acceptable for this pupose.

§ 133.22 Fire alarms.

(a) Each fire detector and control station must be of an approved type.

(b) The engineroom fire alarm circuit must not contain detectors for other spaces.

(c) The number and location of fire detectors must be approved by the OCMI.

§ 133.25 Test procedure and operations manual.

(a) A test procedure for tests and inspections of automation equipment to be conducted by the operator and the Coast Guard must be submitted in accordance with § 127.4 of this subchapter.

(b) The test procedure must be in a sequential checkoff format, include the required alarms, and provide details of the tests.

(c) Test details must specify equipment status, functions necessary to complete the test, and the expected test results.

(d) The tests must not simulate conditions by misadjustments, artificial signals, or improper wiring.

(e) A detailed operations manual that describes the operation and indicates the location of each system installed to meet the requirements of this part must be submitted in accordance with § 127.4 of this subchapter.

PART 134—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

Subpart A—Vessel Control

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134.1 Engineroom communication system.
134.4 Propulsion machinery controls.
134.7 Auxiliary machinery necessary for vessel control.
134.10 Steering systems on vessels of less than 100 gross tons.
134.13 Steering systems on vessels of 100 gross tons and over.

Subpart B—Miscellaneous Systems and Equipment

134.16 Radiotelegraph and radiotelephone.
134.19 Emergency lighting.
134.22 Cooking and heating.
134.25 Protection from refrigerants.
134.28 Anchors, chains, and hawsers.
134.31 Navigation lights and shapes, whistles, fog horns, and fog bells.
134.34 Compass.

Authority: R.S. 4405, as amended (46 U.S.C. 375); § 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Pub. L. 96-378, 94 Stat. 1513 (46 U.S.C. 404-1); R.S. 4462, as amended (46 U.S.C. 416); § 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—Vessel Control

§ 134.1 Engineroom communication system.

An effective communication system must be provided between the pilothouse and the engineroom on each vessel of 100 gross tons and over.

§ 134.4 Propulsion machinery controls.

(a) Each vessel must have a pilothouse propulsion control system.

(b) An emergency propulsion engine trip must be provided in a readily accessible location outside the engineroom for each propulsion unit. The control system for this trip must be independent of the propulsion control system.

(c) A means of monitoring engine rpm must be provided on each vessel of 100 gross tons and over.

(d) Each vessel must also have a propulsion control system independent of the system required by paragraph (a) of this section unless means of propulsion control is provided in the engineroom.

(e) A propulsion control system must be designed so that loss of power does not result in an increase in shaft speed or propeller pitch.

§ 134.7 Auxiliary machinery necessary for vessel control.

On each vessel of 100 gross tons and over, all auxiliary machinery and equipment necessary for vessel control, such as propulsion, steering, and control system auxiliaries, must have low voltage release that will automatically restart the auxiliaries when power is restored after a power outsage.

§ 134.10 Steering systems on vessels of less than 100 gross tons.

(a) Each vessel of less than 100 gross tons must have a steering system that meets—

(1) The requirements of § 134.13; or

(2) The requirements of this section.

(b) Except as provided in paragraph (j) of this section, a main and independent auxiliary means of steering must be provided for each vessel.

(c) The main steering gear must be—

(1) Of adequate strength and capable of steering the vessel at maximum service speed;

(2) Designed to operate at maximum astern speed without being damaged; and

(3) Capable of moving the rudder from 35 degrees on one side to 30 degrees on the other side in no more than 28 seconds with the vessel moving ahead at maximum service speed.

(d) Control of the main steering gear must be provided from the pilothouse, including control of any necessary ancilary device (motor, pump, valve, etc.). If a power driven main steering gear is used, a pilot light must be provided to indicate operation of the power units.

(e) The auxiliary steering gear must be—

(1) Of adequate strength;

(2) Capable of steering the vessel at navigable speed; and

(3) Controlled from a location that—

(i) Has communications with the pilothouse; or

(ii) Enables the master to safely maneuver the vessel.

(f) The steering gear must be designed so that transfer from the main steering gear or control to the auxiliary steering gear or control can be achieved rapidly. Any tools or equipment necessary to make the transfer must be readily available. Instructions for transfer procedures must be posted in the main steering gear control station.

(g) Instantaneous short circuit protection for electrical power and control circuits, sized and located in accordance with § 111.93-11 (d) and (e) of this chapter, must be provided.

(h) An independent rudder angle indicator at the pilothouse steering control station must be provided.

(i) An auxiliary steering gear need not be installed if—

(1) The main steering gear and its controls are provided in duplicate; or

(2) Multiple screw propulsion with independent pilothouse propulsion control is provided and the vessel is capable of being steered using the pilothouse propulsion control.

(j) Each vessel that has duplicate main steering gear power systems in order to comply with paragraph (i)(1) of this section, may use one of the power systems for other purposes if—

(1) Controls for the attached system are located at the pilothouse steering control station;

(2) Full power is available to the steering system when the attached system is not in operation;

(3) The attached system can be isolated from the steering system, and instructions are posted as to procedure; and

(4) The attached system is materially equivalant to the steering system.

§ 134.13 Steering systems on vessels of 100 gross tons and over.

(a) Each vessel of 100 gross tons and over must have a steering system that meets—

(1) The applicable requirements of Subchapters F and J of this chapter; or

(2) The requirements in this section for a hydraulic helm unit steering system.

(b) Each hydraulic helm unit steering system must have the following:

(1) A steering gear of adequate strength and capability to steer the vessel at maximum service speed, and not be damaged at maximum astern speed.

(2) A hydraulic system of not more than 1800 p.s.i. maximum allowable working pressure (MAWP), dedicated to steering service.

(3) Piping materials that comply with the requirements of Subchapter F of this chapter and piping of at least schedule 80 thickness.

(4) All fore and aft runs of piping located inboard.

(5) Rudder stops.

(6) Two steering pumps and drive motors with separate feeders each capable of moving the rudder from 35 degrees on one side to 30 degrees on the other side in not more than 28 seconds with the vessel moving ahead at maximum service speed. A single hydraulic sump is acceptable if it is of the "cascading overflow" type with a centerline bulkhead open only at the top, and if each half has sufficient capacity to operate the system.

(7) Control of the main steering gear from the pilothouse including—

(i) Helm control;

(ii) Control of any necessary ancillary device (motor, pump, valve, etc.); and

(iii) Manual capability to center and steady the rudder, using the hydraulic

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helm unit, in the event the vessel loses normal steering power.

(8) Multiple screw propulsion with independent pilothouse propulsion control that is capable of steering the vessel.

(9) Dual hydraulic cylinders arranged so that either cylinder can be readily isolated, permitting the other cylinder to remain in service and move all rudders.

(10) The steering alarms and indications required by § 111.93–13 of this chapter located in the pilothouse.

(11) Instantaneous short circuit protection for electrical power and control circuits sized and located as required by § 111.93–11 (d) and (e) of this chapter.

(12) An independent rudder angle indicator at the pilothouse steering control station.

(13) Means to locally start and stop the steering pumps.

(14) Means to isolate any supplementary controls or control stations so as to not impair the reliability and availability of the required systems.

(c) In complying with the requirements of paragraph (b) of this section, one set of piping between pumps, helm, and cylinders is acceptable.

Subpart B—Miscellaneous systems and Equipment

§ 134.16 Radiotelegraph and radiotelephone.

Each vessel must comply with the requirements in 47 CFR Part 83 as applicable.

§ 134.19 Emergency lighting.

(a) Each vessel that has accommodation spaces below the main deck must have emergency lighting along the line of escape from those spaces. The emergency lighting must be automatically actuated upon failure of the main lighting system.

(b) For the purpose of complying with paragraph (a) of this section, if a vessel is not equipped with a single source emergency lighting system it must have individual storage battery powered automatically operated lights installed in strategic locations. These lights must have an automatic battery charger, must not be readily portable, and must have sufficient capacity for 8 hours continuous operation.

(c) Each vessel of 100 gross tons and over must also meet the applicable emergency lighting requirements of Subchapter J of this chapter.

§ 134.22 Cooking and heating.

(a) Cooking and heating equipment must be suitable for marine use.

(b) The use of liquefied petroleum gas for cooking, heating, or other purposes must be in accordance with the requirements of Subchapter F of this chapter.

(c) The use of gasoline for cooking, heating, or lighting is prohibited on all vessels.

§ 134.25 Protection from refrigerants.

(a) On each vessel equipped with refrigeration, other than small unit type refrigeration systems of not more than 20 cubic feet capacity, a gas mask, suitable for protection against each refrigerant used, or a self-contained breathing apparatus must be provided. The refrigeration gas masks must be stowed convenient to but outside of the spaces containing the refrigeration equipment.

(b) A complete recharge must be carried for each gas mask and self-contained breathing apparatus. The spare charge must be stowed in the same location as the equipment it is to reactivate.

(c) Each self-contained breathing apparatus and gas mask must be of a type approved under Subpart 160.011 of this chapter.

(d) The master must ensure that all equipment is maintained in an operable condition and that a sufficient number of the crew are familiar with the operation of the equipment.

§ 134.28 Anchors, chains, and hawsers.

(a) Each vessel of 100 gross tons and over must be fitted with anchors, chains, and hawsers in accordance with the requirements of the American Bureau of Shipping *Rules for Building and Classing Steel Vessels Under 61 Meters (200 Feet) in Length* or paragraph (b) of this section.

(b) If compliance with paragraph (a) of this section is considered by the OCMI to be impracticable, the following modifications to the requirements in paragraph (a) may be accepted:

(1) A minimum of two anchors is required.

(2) The anchor weight of Stockless Bower anchors is calculated by taking 80% of the ABS Rule weight based on the vessel's equipment number.

(3) An additional 25% reduction in anchor weight may be allowed if anchor types designed to provide superior holding power are used.

(4) In calculating the second term of the equipment number equation in the ABS Rules, the actual width of superstructures and deck houses above the freeboard deck are used in lieu of molded breadth (B).

(5) For anchor chain, use the Rule thickness but allow 75% of the Rule length.

(c) Each vessel of under 100 gross tons must be equipped with at least one anchor sized in accordance with the requirements of paragraph (a) or (b) of this section.

(d) Each vessel with one or more anchors weighing more than 80 pounds must have a manual or power operated winch or windlass capable of retrieving the anchor.

§ 134.31 Navigation lights and shapes, whistles, fog horns, and fog bells.

(a) Each vessel must be fitted with navigation lights and shapes, whistles, fog horns, and fog bells as prescribed by applicable navigation rules.

(b) Light screens when required by the applicable navigation rules for port and starboard side lights must be painted with a matt black paint and must project not less than three feet forward of the center of the light source.

§ 134.34 Compass.

Each vessel must be fitted with a compass suitable for the intended service of the vessel.

PART 135—OPERATIONS

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135.181 Posting placards of instructions for launching and inflating inflatable liferafts.
135.184 Placard of lifesaving signals, helicopter recovery procedures, and breeches buoy instructions.
135.187 Exhibition of license.
135.190 Use of auto pilot.
135.193 Whistling.
135.196 Unauthorized lights.
135.199 Searchlights.
135.202 Lookouts.
135.205 Rescue boat.

Authority: Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 2, 49 Stat. 888 as amended (46 U.S.C. 88a); R.S. 4405, as amended (46 U.S.C. 375); sec. 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Pub. L. 96–378, 94 Stat. 1513 (46 U.S.C. 404–1); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, Pub. L. 86–244, 73 Stat. 475 (46 U.S.C. 481); sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—Notice of Casualty and Voyage Records

§ 135.1 Notice of casualty.

The owner, agent, master, or person in charge of a vessel involved in a marine casualty must give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office whenever the casualty involves any of the following:

(a) All accidental groundings and any intentional grounding which also meets any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel.

(b) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function.

(c) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, or failure or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment, or bilge pumping systems.

(d) Loss of life.

(e) Injury causing a person to remain incapacitated for a period in excess of 72 hours.

(f) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of $25,000.00. Damage includes the cost necessary to restore the property to the service condition which existed prior to the casualty. It does not include items such as demurrage.

§ 135.4 Information required.

The notice required by § 135.1 must show the name and official number of the vessel involved, the name of the vessel's owner or agent, the nature and circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

§ 135.7 Written report.

(a) In addition to the notice required by § 135.1, the person in charge of the vessel must, as soon as possible, report in writing and in person to the OCMI, at the port in which the casualty occurred or nearest the port of first arrival. However, if it may be inconvenient to report in person, due to distance, the report may be done in writing only.

(b) The written report required for personal accident must be made on form CG–924E and submitted for each individual injured and each loss of life. For all other vessel casualties the written report must be made on Form CG–2692.

(c) If filed without delay, the Form CG–924E or CG–2692 may also provide the notice required by § 135.1.

§ 135.10 Retention of records.

(a) The owner, agent, master, or other person in charge of any vessel involved in a marine casualty must retain the voyage records of the vessel, such as both rough and smooth deck and engineroom logs, bell books, navigation charts, navigation work books, compass deviation cards, gyrocompass records, storage plans, record of draft, aids to mariners, radiograms sent and received, the radio log and crew and offshore worker lists.

(b) The owner, agent, master, or other person in charge, must make these records available to a duly authorized Coast Guard officer or employee for examination upon request.

§ 135.13 Aids to navigation.

(a) Whenever a vessel collides with or is involved in a collision with a lightship, buoy, or other aid to navigation under the jurisdiction of the Coast Guard, the person in charge of the vessel must report the accident to the nearest OCMI.

(b) A report on Form CG–2692 is not required unless any of the results listed in § 135.1 occur.

§ 135.16 Reports when state of war exists.

During the period when a state of war exists between the United States and any foreign nation, communications in regard to casualties or accidents must be handled with caution and the reports must not be made by radio or by telegram.

Subpart B—Reports of Accidents, Repairs, and Unsafe Equipment

§ 135.19 Repairs to unfired pressure vessels.

Before making any repairs to unfired pressure vessels, the master or chief engineer must submit a report covering the nature of the repairs to the OCMI, at or nearest to the port where the repairs are to be made.

§ 135.22 Accidents to machinery.

In the event of an accident to an unfired pressure vessel or to machinery,

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tending to render the further use of the item unsafe until repairs are made, or if the ordinary wear these items become unsafe, a report must be made, by the master or chief engineer immediately to the OCMI, or if at sea immediately upon arrival at port.

§ 135.25 Notice required before repair.

Except in an emergency, no repairs or alterations may be made to any lifesaving or fire detecting or extinguishing equipment without advance notice to the OCMI. When emergency repairs or alterations have been made, notice must be given to the OCMI, as soon as practicable.

§ 135.28 Breaking of safety valve seal.

If at any time it is necessary to break the seal on a safety valve for any purpose, the master or chief engineer must advise the OCMI, at the next port of call, giving the reason for breaking the seal and requesting that the valve be examined and adjusted by a marine inspector.

Subpart C—Manning of Lifeboats and Inflatable Liferafts

§ 135.31 Person in command of lifeboat or inflatable liferaft.

(a) For each vessel 100 gross tons and over in ocean service, a licensed deck officer, an able seaman, or a certificated lifeboatman must be placed in command of each lifeboat or inflatable liferaft. When two or more certificated lifeboatmen are required by Table 135.34, a second in command must also be appointed and must be either a licensed deck officer, an able seaman, or a certificated lifeboatman.

(b) For each vessel in coastwise service and each vessel under 100 gross tons, the master must appoint a person in command of each lifeboat and each inflatable liferaft. The person in command of a lifeboat must be either a licensed deck officer, an able seaman, or a certificated lifeboatman. The person in command of an inflatable liferaft must be someone trained in the handling and operation of inflatable liferafts.

(c) The person in charge of each lifeboat or inflatable liferaft must have a list of its crew, and must ensure that they are acquainted with their duties.

§ 135.34 Certificated lifeboatmen.

On each vessel 100 gross tons and over, there must be a number of certificated lifeboatmen at least equal to that specified in Table 135.34 for each inflatable liferaft and lifeboat.

TABLE 135.34

Lifesaving appliance	Minimum number of lifeboatmen per appliance	
	Ocean	Coastwise
Lifeboat	2	1
Inflatable liferaft	1	1

Subpart D—Tests, Drills, and Inspections

§ 135.37 Steering gear, whistle, and means of communication.

(a) On each vessel making a voyage of more than 48 hours' duration, the steering gear, the whistle, and the means of communication between the bridge or pilothouse and the engineroom must be examined and tested by the master within a period of not more than 12 hours prior to departure. On each other vessel similar examinations and tests must be made at least once in every week.

(b) The date of the test and the condition of the equipment must be noted in the vessel's logbook.

§ 135.40 Drafts and load line markings.

(a) The master of each vessel on an ocean or coastwise voyage must enter the drafts of the vessel, forward and aft, in the vessel's logbook when leaving port.

(b) On a vessel subject to the requirements of Subchapter E of this chapter, at the time of departure from port on an ocean or coastwise voyage the master must insert in the vessel's logbook a statement of the position of the load line mark, port and starboard, in relation to the surface of the water in which the vessel is then floating.

(c) When an allowance for draft is made for density of the water in which the vessel is floating, this density must be noted in the vessel's logbook.

§ 135.43 Periodic Sanitary inspections.

(a) The master must make periodic inspections of the quarters, toilet and washing spaces, serving pantries, galleys, etc. to ensure that those spaces are maintained in a sanitary condition.

(b) The master must record the results of these inspections in the vessel's logbook.

§ 135.46 Hatches and other openings.

Before leaving protected waters, the master must ensure that all exposed cargo hatches and other openings in the hull of the vessel are closed, made properly watertight by the use of tarpaulins, gaskets or similar devices, and in all respects properly secured for sea.

§ 135.49 Emergency lighting and power systems.

(a) The master must ensure that the emergency lighting and power systems, where fitted, are operated and inspected at least once in each week that the vessel is navigated to ensure that the system is in proper operating condition.

(b) Emergency generators driven by internal combustion engines must be operated under load for at least 2 hours at least once in each month that the vessel is navigated.

(c) Storage batteries for emergency lighting and power systems must be tested at least once in each 6-month period that the vessel is navigated to demonstrate the ability of the storage battery to supply the emergency loads for the period of time specified in Table 112.05–5(a) of this chapter.

(d) The date of each test and the condition and performance of the apparatus must be noted in the vessel's logbook.

§ 135.52 Fire and boat drills.

(a) The master must conduct a fire and boat drill at least once in every week.

(b) The fire and boat drill must be conducted as if an actual emergency existed.

(c) The following tasks must be conducted during the fire and boat drill required by paragraph (a) of this section:

(1) Fire pumps must be started and a sufficient number of outlets and hoses used to ascertain that the system is in proper working order.

(2) Weather permitting lifeboat covers and strongbacks must be removed, plugs or caps put in place, boat ladders secured in position, painters led forward and tended, and other lifesaving equipment prepared for use. The motor and hand-propelling gear of each lifeboat, where fitted, must be operated for at least 5 minutes.

(3) The offshore workers, if carried, must be encouraged to fully participate in these drills and must be instructed in the location and use of life preservers and exposure suits.

(4) In port, every lifeboat must be swung out, if practicable, and the unobstructed lifeboats must be lowered to the water and the crew must practice using the oars and other means of propulsion if provided for the lifeboat. Although all lifeboats need not be used in a particular drill, care must be taken that all lifeboats are given occasional use to ascertain that all lowering equipment is in proper order and the crew properly trained. The master is responsible for ensuring that each

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lifeboat is lowered to the water at least once every 3 months.

(5) When the vessel is under way, and weather permitting, all lifeboats must be swung out to ascertain that the gear is in proper order.

(6) The person in charge of each lifeboat and inflatable liferaft must have a list of its crew and must see that they are acquainted with their duties.

(7) Lifeboat equipment must be examined at least once a month to ensure that it is complete.

(d) Each time a fire and boat drill is held, an entry must be made in the vessel's logbook indicating the—

(1) Date and hour of the drill;

(2) Length of time of the drill;

(3) Numbers on the lifeboats swung out and the numbers on those lowered;

(4) Length of time that motor and hand-propelled lifeboats are operated;

(5) Number of lengths of hose used; and

(6) Condition of all fire and lifesaving equipment, watertight door mechanisms, valves, etc.

(e) If in any week fire and boat drills are not held or only partial drills are held, an entry must be made stating the circumstances and extent of the drills held.

(f) An entry must also be made in the vessel's logbook to report the monthly examination of the lifeboat equipment.

(g) A copy of Form CG–809 (Station Bills and Drills) must be framed under glass and posted in a conspicuous place aboard the vessel. This form may be obtained from the OCMI.

(h) The master of a vessel carrying exposure suits must ensure that each crew memeber wears an exposure suit in an at least one fire and boat drill per month unless it is impracticable due to warm weather.

§ 135.55 Electric power operated lifeboat winches.

(a) The master must ensure that all lifeboat winch control apparatus, including motor controllers, emergency switches, master switches, and limit switches, are examined at least once in every 3 months. The examination must include the removal of drain plugs or the opening of drain valves to ensure that enclosures are free of water.

(b) The date of the examination required by this section and the condition of the equipment must be noted in the vessel's logbook.

§ 135.58 Lifeboats, rescue boats, inflatable liferafts, and life floats.

(a) It is the duty of the master to see that the lifeboats, rescue boats, inflatable liferafts, and life floats are properly maintained at all times, and that all equipment required by the regulations in this subchapter is provided, maintained, and replaced as indicated or when necessary.

(b) Except as provided in paragraph (g) of this section, the master must ensure that the lifeboats, rescue boats, inflatable liferafts, and life floats are at all times ready for immediate use.

(c) The decks on which lifeboats, rescue boats, inflatable liferafts, and life floats are stowed must be kept clear of cargo or any other obstructions that would interfere with immediate launching of the lifesaving equipment.

(d) Where motor-propelled lifeboats are carried, the motor of each lifeboat must be operated in the ahead and astern position for a period of not less than 5 minutes at least once in each week.

(e) Each lifeboat and rescue boat must be stripped, cleaned, and thoroughly overhauled at least once in every year. When a lifeboat is removed from a vessel for this purpose on a rotational basis, the installation test prescribed by Subpart 94.35 of this chapter need not be made.

(f) The fuel tanks of all motor-propelled lifeboats must be emptied and the fuel changed at least once in very year.

(g) Each vessel having a sufficient number of lifeboats on each side to accommodate all persons on board may provide maintenance for its lifeboats at sea, as long as enough lifeboats, sufficient to accommodate all persons on board, are fully equipped and ready for use at all times.

(h) Each inflatable liferaft must be serviced at an approved service facility every 12 months or not later than the next inspection for certification as long as the time since the last servicing does not exceed 15 months.

(i) Except in an emergency, servicing of an inflatable liferaft may not be done on board a vessel.

§ 135.61 Firefighting equipment.

(a) The master must ensure that the vessel's firefighting equipment is at all times ready for use and that all firefighting equipment is provided, maintained, and replaced as indicated.

(b) The master must require and have performed at least once in every 12 months the tests and inspections of all hand portable fire extinguishers, semiportable fire extinguishing systems, and fixed fire extinguishing sytems on board, as described in Tables 130.34(a) and 130.34(b) of this subchapter.

(c) The master must keep records of these tests and inspections showing the dates when performed, the number or other identification of each unit tested and inspected, and the name of the person or company conducting the tests and inspections. These records must be made availabe to the inspector upon request and must be kept for the period of validity of the vessel's current certificate of inspection.

(d) The conduct of tests and inspections required by this section does not relieve the master of his responsibility to maintain the firefighting equipment in proper condition at all times.

§ 135.64 Emergency Position Indicating Radiobeacon (EPIRB).

The master must ensure that each EPIRB, other than an EPIRB in an inflatable liferaft—

(a) Is tested monthly, using the integrated test circuit and output indicator, to determine whether it is operative; and

(b) Has its battery replaced—

(1) Immediately after each time the EPIRB is used; and

(2) Before the marked expiration date.

Subpart E—Logbook Entries

§ 135.67 Logbooks and records.

(a) Under various statutes or by regulations in this subchapter, vessels engaged in all trades, with the exception of vessels engaged exclusively in trade on rivers of the United States, must have certain logbooks or records, and, when the occasion arises, the master must make specific entries as required by law or regulations in this chapter.

(b) R.S. 4290, as amended [46 U.S.C. 201], states: "Every vessel making voyages from a port in the United States to any foreign port, or, being of the burden of 75 tons or upward, from a port on the Atlantic to a port on the Pacific, or vice versa, must have an Official Logbook; * * *."

(c) The Official Logbook is furnished gratuitously to masters of United States' flag vessels by the Coast Guard, as Form CG–706B or CG–706C, depending upon the number of persons employed as crew. The first several pages of this logbook lists various acts of Congress relating to logbooks and the entries required to be made therein.

(d) When a voyage is completed, or after a specified period of time is completed, the Official Logbook with required entries must be filed with the OCMI, at or nearest the port where the vessel may be.

(e) If an Official Logbook is not required, the owner, operator, or master may supply an alternate log or record for the purpose of making entries required by law or regulations in this

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subchapter. This log or record is not filed with the OCMI, but must be kept available for review by a marine inspector for a period of one year after the date to which the records refer.

§ 135.70 Actions required to be logged.

The actions and observations listed below must be entered in the vessel's log book:

(a) Fire and Boat Drills. Weekly. See § 135.52.

(b) Steering Gear, Whistle, and Means of Communication. Prior to departure. See § 135.37.

(c) Drafts and Load Line Markings. Prior to leaving port; ocean and coastwise services only. See § 135.40.

(d) Periodic Sanitary Inspections. The results of periodic sanitary inspections made by the master. See § 135.43.

(e) Hatches and other openings. All openings and closings, or leaving port without closing. Except vessels on protected waters. See § 135.46.

(f) Emergency Lighting and Power Systems. Weekly and semi-annually. See § 135.49.

(g) Electric Power Operated Lifeboat Winches. Once every 3 months. See § 135.55.

(h) Cargo gear inspections. At least once a month. See § 91.37–70 of this chapter.

§ 135.73 Official log entries.

On a vessel that is required by R.S. 4290 (46 U.S.C. 201) to have an Official Logbook, all items relative to the crew and offshore workers, as well as with respect to any casualties that may occur, must be entered in the Official Logbook.

Subpart F—Work Vests

§ 135.76 Approved unicellular plastic foam work vests.

Each buoyant work vest carried on board must comply with Subpart 160.053 of this chapter.

§ 135.79 Use.

(a) An approved buoyant work vest is considered to be an item of safety apparel and may be carried on board to be worn by a crew member when working near or over the water under favorable working conditions.

(b) The vest may not be accepted in lieu of a life preserver.

(c) Work vests must not be worn during drills.

§ 135.82 Shipboard stowage.

(a) The master must ensure that no work vest is stowed where life preservers are stowed.

(b) Each space containing a work vest must be marked "WORK VEST".

Subpart G—Markings for Fire and Emergency Equipment

§ 135.88 General.

(a) This section prescribes markings necessary for the guidance of persons on board in case of an emergency. The markings may be modified or omitted, particularly on small vessels, if they are unnecessary because of specific circumstances, and if the OCMI approves.

(b) All stateroom notices, directional signs, etc., must be printed in English and in other languages appropriate to the service of the vessel.

(c) Where in this subpart red letters are specified, letters of a contrasting color on a red background are acceptable.

§ 135.91 General alarm bell switch.

The general alarm bell switch in the pilothouse must be clearly and permanently identified by lettering on a metal plate or with a sign in red letters on a suitable background: "GENERAL ALARM."

§ 135.94 General alarm bells.

Each general alarm bell must be identified by red lettering at least ½ inch high: "GENERAL ALARM—WHEN BELL RINGS GO TO YOUR STATION."

§ 135.97 Carbon dioxide alarm.

Each carbon dioxide alarm must be conspicuously identified: "WHEN ALARM SOUNDS—VACATE AT ONCE. CARBON DIOXIDE BEING RELEASED."

§ 135.100 Fire extinguishing system branch lines.

The branch line valves of all fire extinguishing systems must be plainly and permanently marked indicating the spaces served.

§ 135.103 Fire extinguishing system controls.

The control cabinets or spaces containing valves or manifolds for the various fire extinguishing systems must be distinctly marked in conspicuous red letters at least 2 inches high: "CARBON DIOXIDE FIRE APPARATUS," or "FOAM FIRE APPARATUS" as the case may be.

§ 135.106 Fire hose stations.

Each fire hydrant must be identified in red letters and figures at least two inches high "FIRE STATION NO. 1," "2," "3," etc. Where the hose is not stowed in the open or behind glass so as to be readily seen, this identification must be so placed as to be readily seen from a distance.

§ 135.109 Hand portable fire extinguishers.

(a) Except as provided in paragraph (b) of this section, each hand portable fire extinguisher must be marked with a number and the location where stowed must be marked with a corresponding number at least ½ inch high.

(b) If only one type and size of hand portable fire extinguisher is carried, the numbering may be omitted.

§ 135.112 Emergency lights.

Each emergency light must be marked with a letter "E" at least ½ inch high.

§ 135.115 Instructions for changing steering gear.

(a) Instructions in at least ½ inch letters and figures must be posted in the steering engine room, relating in order, the different steps to be taken in changing to the emergency steering gear.

(b) The instructions must indicate each clutch or pin to be "in" or "out" and each valve or switch that is to be "opened" or "closed" in shifting to any means of steering for which the vessel is equipped.

(c) The instructions must specify that all steering wheels and rudders must be amidships before changing gears.

(d) Each clutch, gear, wheel, lever, valve, or switch that is used during the changeover must be numbered or lettered on a metal plate or painted so that the markings can be recognized at a reasonable distance.

§ 135.118 Rudder orders.

At each steering station, there must be installed a suitable notice on the wheel or device or in some other position as to be directly in the helmsman's line of vision, to indicate the direction in which the wheel or device must be turned for "right rudder" and for "left rudder."

§ 135.121 Lifeboats and rescue boats.

(a) The name of the vessel must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters not less than 3 inches high.

(b) The number of each lifeboat must be plainly marked or painted on each side of the bow of each lifeboat in figures not less than 3 inches high. The lifeboats on each side of the vessel must be numbered from forward aft, with the odd numbers on the starboard side.

(c) The cubical contents of and the number of persons allowed to be carried in each lifeboat must be plainly marked or painted on each side of the bow of each lifeboat in letters and numbers not less than 1½ inches high. In addition, the number of persons allowed must be plainly marked or painted on top of at

least 2 thwarts in letters and numbers not less than 3 inches high.

(d) All oars must be conspicuously marked with the vessel's name.

§ 135.124 Inflatable liferafts and life floats.

(a) Each life float, together with its oars and paddles, must be conspicuously marked with the vessel's name.

(b) The number of persons allowed on each life float must be conspicuously marked or painted thereon in letters and numbers at least 1½ inches high.

(c) The following statement must be stenciled in a conspicuous place in the immediate vicinity of each inflatable liferaft:

INFLATABLE LIFERAFT NO. ———

——— PERSONS CAPACITY

These markings must not be placed on the inflatable liferaft containers.

§ 135.127 Life preservers, ring life buoys, and exposure suits.

Each life preserver, ring life buoy, and exposure suit must be marked with the vessel's name.

§ 135.130 Fire hose and axes.

Each fire hose and axe must be marked with the vessel's name.

§ 135.133 Portable magazine chests.

Each portable magazine chest must be marked in letters at least 3 inches high: "PORTABLE MAGAZINE CHEST—FLAMMABLE—KEEP LIGHTS AND FIRE AWAY."

§ 135.136 Emergency position indicating radiobeacon (EPIRB).

The EPIRB required by § 129.25 of this subchapter must be marked with the vessel's name.

§ 135.139 Watertight doors and watertight hatches.

Each watertight door in a bulkhead required to be made watertight to comply with the requirements in Part 128 of this subchapter, and each watertight hatch, must be marked on both sides in at least 1-inch letters: "WATERTIGHT DOOR—KEEP CLOSED EXCEPT DURING TRANSIT" or "WATERTIGHT HATCH—CLOSE IN EMERGENCY".

Subpart H—Markings on Vessels

§ 135.142 Hull markings.

Each vessel must be marked as required by Parts 67 and 69 of this chapter.

§ 135.145 Draft marks.

(a) Each vessel must have the draft of the vessel plainly and legibly marked upon the stem and upon the sternpost or rudderpost or at any place at the stern of the vessel as may be necessary for easy observance. The draft must be taken from the bottom of the keel at the marks to the surface of the water. The bottom of the mark indicates the draft in feet.

(b) In cases where the keel does not extend forward or aft to the location of the draft marks, due to raked stem or cut away skeg, the datum line from which the draft is taken must be obtained by projecting the line of the bottom of keel forward or aft, as the case may be, to the location of the draft marks.

(c) If a vessel has a skeg or other appendage extending below the line of the keel, the draft at the end of the vessel adjacent to that appendage must be measured to a line tangent to the lowest part of the appendage and parallel to the line of the bottom of the keel.

§ 135.148 Load line marks.

Each vessel assigned a load line must have the deck line and the load line marks permanently scribed or embossed as required by Subchapter E of this chapter.

Subpart I—Miscellaneous

§ 135.151 Statutory penalties.

(a) The marine safety and criminal laws provide penalties for the violation of the applicable provisions of this subchapter. Penalty proceedings include the following:

(1) Assessment and collection of civil monetary penalty.

(2) Criminal prosecution where no loss of life results.

(3) Criminal prosecution for manslaughter where loss of life results from violation of statute or regulation or from misconduct, negligence, or inattention to duty.

(4) Libel against vessel.

(b) In addition to the foregoing, any licensed or certificated personnel committing an act of misbehavior, negligence, unskillfulness, endangering life, violation of marine safety statutes or regulations or requirements thereunder, and incompetency is subject to proceedings under the provisions of 46 U.S.C. 239 with respect to suspension or revocation of license or certificate.

§ 135.154 Notice to mariners and aids to navigation.

Masters and mates must acquaint themselves with the latest information published by the Coast Guard and the U.S. Navy regarding aids to navigation.

§ 135.157 Persons allowed in pilothouse and on navigation bridge.

Only persons connected with the navigation of the vessel may be in the pilothouse while underway, unless authorized by the master or mate on watch.

§ 135.160 Manning requirements.

Each vessel must be manned in accordance with the requirements in Subchapter P of this chapter.

§ 135.163 Reckless or negligent operators prohibited by law. [Reserved]

§ 135.166 Compliance with provisions of certificate of inspection.

The master of the vessel must ensure compliance with all of the provisions of the certificate of inspection. Nothing in this subchapter is to be construed as limiting the master of the vessel from diverting from the route prescribed in the certificate of inspection or from taking other steps necessary and prudent to assist vessels in distress or for other similar emergencies.

§ 135.169 Prevention of oil pollution.

Each vessel must be operated to meet the requirements in—

(a) Section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321);

(b) Section 12 of the Oil Pollution Act, 1961, as amended (33 U.S.C. 1011) until its repeal and replacement by 33 U.S.C. 1901–1911 and the MARPOL Protocol; and

(c) 33 CFR Parts 151, 155, 156 and 159.

§ 135.172 Portable tanks.

(a) A portable tank autorized in accordance with § 125.10 of this subchapter must be loaded and stowed in accordance with the requirements in 49 CFR Subchapter C.

(b) A marine portable tank authorized in accordance with § 125.10 of this subchapter must be loaded and stowed in accordance with the requirements in Subparts 98.30 and 98.35 of this chapter.

§ 135.175 Packaged freight.

Packaged freight, if carried, must be loaded and stowed in accordance with the requirements in 49 CFR Subchapter C.

§ 135.178 Display of plans.

Each vessel must have permanently exhibited, for the guidance of the master and crew, general arrangment plans showing for each deck the various fire-retardant bulkheads together with particulars of the—

(a) Fire detection systems;

(b) Manual alarm systems;

(c) Fire extinguishing systems;

(d) Fire doors;
(e) Means of ingress to the different compartments; and
(f) Ventilating systems including the—
(1) Positions of the dampers;
(2) Location of the remote means of stopping fans; and—
(3) Identification of the fans serving each section.

§ 135.181 Posting placards of instructions for launching and inflating inflatable liferafts.

(a) Each vessel equipped with an inflatable liferaft must have posted, in conspicuous places that are regularly accessible to the crew or offshore workers, approved placards containing instructions for launching and inflating inflatable liferafts. The number and location of these placards must be as determined necessary by the OCMI.

(b) Under the requirements contained in § 160.051–6(c)(1) of this chapter, the manufacturer of approved inflatable liferafts is required to provide approved placards containing these instructions with each liferaft.

§ 135.184 Placard of lifesaving signals, helicopter recovery procedures, and breeches buoy instructions.

Each vessel must have posted in the pilothouse a placard (Form CG–811) containing instructions for the use of breeches buoys, helicopter recovery procedures, and the lifesaving signals as set forth in Regulation 16, Chapter V, of the International Convention for Safety of Life at Sea, 1974. These signals must be used by vessels or persons in distress when communicating with lifesaving stations and maritime rescue units.

§ 135.187 Exhibition of license.

Each master and licensed officer on a vessel must have his or her license conspicuously displayed as required by R.S. 4446, 46 U.S.C. 232.

§ 135.190 Use of auto pilot.

When the automatic pilot is used in areas of high traffic density, conditions of restricted visibility, or any other hazardous navigational situations, the master must ensure that—

(a) It is possible to immediately establish manual control of the ship's steering;

(b) A competent person is ready at all times to take over steering control; and

(c) The changeover from automatic to manual steering and vice versa is made by, or under, the supervision of the master or officer of the watch.

§ 135.193 Whistling.

The unnecessary sounding of the vessel's whistle is prohibited within any harbor limits of the United States.

§ 135.196 Unauthorized lights.

The master must not authorize or permit the carrying of any lights not required by law that in any way will interfere with the distinguishing of the navigation lights.

§ 135.199 Searchlights.

No person may flash or cause to be flashed the rays of a searchlight or other blinding light onto the bridge or into the pilothouse of any vessel underway.

§ 135.202 Lookouts.

Nothing in this part exonerates any master or officer of the watch from the consequences of any neglect to keep a proper lookout, to maintain a proper fire watch, or from any neglect of any precaution which may be required by the ordinary practice of seamen or by the special circumstances of the case. When circumstances require it, additional watches must be maintained to guard against fire or other danger and to give an alarm in case of accident or disaster.

§ 135.205 Rescue boat.

The master must ensure that each inflatable rescue boat is kept fully inflated at all times.

PART 136 [RESERVED]

[FR Doc. 83–3684 Filed 2–11–83; 8:45 am]
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federal register

Monday
February 14, 1983

Part III

Office of Management and Budget

Implementation of Executive Order 12372, Intergovernmental Review of Federal Programs; Public Meeting

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OFFICE OF MANAGEMENT AND BUDGET

Implementation of Executive Order 12372, Intergovernmental Review of Federal Programs; Public Meeting

AGENCY: Office of Management and Budget; in conjunction with the following Departments: Agriculture; Commerce; Defense (including the Corps of Engineers); Education; Energy; Health and Human Services; Housing and Urban Development; Interior; Justice; Labor; State; Transportation; and Treasury; and in conjunction with the following agencies: ACTION; Environmental Protection Agency; Equal Employment Opportunity Commission; Federal Emergency Management Agency; General Services Administration; National Aeronautics and Space Administration; National Endowment for the Arts; National Endowment for the Humanities; National Science Foundation; Office of Personnel Management; Postal Service; Small Business Administration; Tennessee Valley Authority; and the Veterans Administration.

ACTION: Notice of public meeting and solicitation of views.

SUMMARY: Executive Order 12372, "Intergovernmental Review of Federal Programs," was signed by President Reagan on July 14, 1982. On January 24, 1983 all but two (the Department of Housing and Urban Development and the Tennessee Valley Authority) of the federal departments and agencies listed above either published a notice proposing that their programs and activities not be subject to the provisions of the Executive Order or a Notice of Proposed Rulemaking in the **Federal Register**. The two agencies not publishing on January 24, 1983 are publishing their proposed rules in subsequent editions of the **Federal Register**. The Office of Management and Budget (OMB) published a notice on December 23, 1982 announcing the availability of a document on regulatory policy issues and decisions for Executive Order 12372 (47 FR 57369), and on January 27, 1983 published a notice reprinting a letter sent by the Director of OMB to each state and territorial governor (48 FR 3929).

In the January 24, 1983 **Federal Register**, OMB announced that a meeting on the proposed implementation of the Executive Order would be held on March 2, 1983 in Washington, D.C. This notice provides further information on the location, time, format, and agenda of this meeting as well as procedures for oral and written presentations. Please note that no other public meetings are scheduled to be held either by OMB or any of the agencies listed above during the public comment period for the notices implementing E.O. 12372.

Date, Time, and Location of Meeting

The meeting will be held on March 2, 1983 in the Auditorium of the General Services Administration Building, 18th and F Streets N.W., Washington, D.C. The morning session will include a general briefing on the policies underlying the Executive Order. Following the briefing, at approximately 11:00 AM, a panel of OMB and agency representatives will receive views and respond to questions on the general implementation of the Executive Order. The morning session will be held from 9:00 AM until 12:00 noon.

During the afternoon session, views on particular aspects of the individual agency rules will also be received. Following the presentation of views by interested commenters, that portion of the session related to the proposed rules will adjourn.

Following a brief recess, the session will conclude with a colloquy by representatives of several state and local governments on their implementation activities.

The afternoon period for receiving comments will begin at 1:30 PM and is scheduled to end at 3:30 PM. The colloquy is expected to begin at approximately 3:30 PM and end at 4:30 PM; however, the exact schedule depends on the amount of time needed for presenters to give their views.

Presentation of Views at Meeting

You may appear to make an oral presentation on both the general approach as well as on any of the individual agency proposed rules. The presentation(s) may be on your own behalf or as a representative of any entity or any interested group, whether public or private. If you wish to provide oral testimony, you should notify Ms. Karen Dooley by telephone at (202) 395–6911 or in writing by February 25, 1983 to Ms. Winnie Austermann at the address below. Please indicate whether your views relate to general policy issues, specific agency rules, or both. Oral presentations will generally be limited to five minutes. A written summary of the oral presentation should be provided to the session moderator at the meeting; an advance copy would be desirable.

FOR FURTHER INFORMATION CONTACT: Ms. Winnie Austermann, Office of the Deputy Associate Director for Intergovernmental Affairs, Office of Management and Budget, Room 10235, 726 Jackson Place N.W., Washington, D.C. 20503. Phone (202) 395–3050. For information on the individual agency notices, contact the person listed in the appropriate agency document in the January 24, 1983 **Federal Register**.

Dated: February 9, 1983.

Harold I. Steinberg,

Associate Director for Management.

[FR Doc. 83–3906 Filed 2–11–83; 8:45 am]

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Monday
February 14, 1983

Part IV

Department of the Interior

National Park Service

Land Protection Plans; Proposed Interpretive Plans

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Ch. I

Land Protection Plans

AGENCY: National Park Service, Interior.

ACTION: Proposed interpretive rule; request for comments.

SUMMARY: The National Park Service is developing instructions for the preparation of land protection plans and providing the list of National Park System units expected to be preparing these plans during Fiscal Year 1983. These plans are being prepared in response to the Department of the Interior's policy for the Federal Portion of the Land and Water Conservation Fund (47 FR 19784). The public is inivited to comment on the proposed instructions and participate in the planning process for individual areas.

DATES: Comments on the proposed instructions should be submitted by March 16, 1983.

ADDRESS: Comments should be addressed to Director, National Park Service (Attn: 130), Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Donald Humphrey or Warren Brown, Office of Park Planning and Environmental Quality, National Park Service, Washington, D.C. 20240 (202) 343–9377.

SUPPLEMENTARY INFORMATION: On May 7, 1982 the Department of the Interior published a new final policy statement on Use of the Federal Portion of the Land and Water Conservation Fund (47 FR 19784). In response to this policy, the National Park Service has, by notice in the **Federal Register** on January 3, 1983, (48 FR 85) withdrawn its 1979 land acquisition policy and guideline (44 FR 24790), and is beginning the preparation of land protection plans consistent with the instructions printed below.

These plans will be prepared for each unit in the National Park System containing non-Federal land or interest in land within its authorized boundary. Priority is being given to those areas with current appropriations. Approximately one-third of all plans are scheduled for completion by September 30, 1983, one-third by September 30, 1984, and the remaining plans will be completed by September 30, 1985.

Each individual plan will be prepared in compliance with the National Environmental Policy Act and other applicable legislation, regulations, executive orders, and Departmental and Service directives. In some cases compliance requirements will already have been met in previous planning documents. The planning process will include consultation with the Fish and Wildlife Service where proposed actions may have an impact on endangered species, and the Advisory Council on Historic Preservation where actions may impact historic resources.

1. *Environmental Effects:* The action being taken in adopting these instuctions will establish a general format and approach for completing these plans. Each plan will consider various alternatives for carrying out the purposes of the area as authorized by Congress and will, as necessary, consider environmental implications associated with implementation of the plan. The preparation of individual plans will guide future actions to protect unit resources. The development of instructions for land protection planning has no potential for significant effect on the human environment and is categorically excluded from the procedural requirements of the National Environmental Policy Act. Once again, environmental compliance will occur at the individual land protection plan level.

2. *Statement of Effects:* The Department of the Interior has determined that these interpretive instructions are not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. National Park Service land protection is carried out under authorizing legislation for each area and annual appropriations acts. These instructions and individual land protection plans will provide landowners with more current information about NPS intentions for buying land or protecting it through other methods.

3. *Paperwork Reduction Act:* These interpretive instructions do not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

4. *Authorship Statement:* This document has been prepared by the National Park Service within the Department of the Interior. Principal authors are Donald Humphrey and Warren Brown.

Public Participation: The public was invited to comment on the proposed Departmental policy statement which was published in the **Federal Register** of March 18, 1982 (47 FR 11777). The final Departmental policy statement was published on May 7, 1982 (47 FR 19784). These instructions implement that policy. Comments on the proposed instructions for plan preparation may be submitted to the address above by March 16, 1983. Individuals and organizations interested in being involved in the planning process for any specific unit should contact the Regional Director or the Superintendent at the addresses given in Appendix A.

In response to recommendation in House Report 97–978 on Interior Appropriations for Fiscal Year 1983, the planning process is being initiated as quickly as possible, and contacts with individual units should be made promptly. Specific guidelines concerning the period prior to final adoption of these instructions are being prepared and will be available upon request. Further notices and opportunities for public involvement will be handled at the regional and local levels. Pending completion of a land protection plan, discretionary acquisition actions in any individual unit of the National Park System are being reviewed on a case-by-case basis. These reviews are to assure that: (1) Acquisition proceeds in an orderly and timely manner as intended by Congress; (2) appropriated funds are used to protect high priority tracts and address hardships, emergencies and sites needed for administrative use, and (3) the interests to be acquired are those necessary to achieve unit purposes as established in authorizing legislation. Case-by-case reviews will be conducted in a timely manner to avoid unnecessary delays in the obligation of appropriated funds. When a land protection plan has been approved, acquisitions will proceed consistent with priorities identified in the plan.

Land Protection Plan Instructions

Background

Under a policy and guideline adopted in 1979 (44 FR 24790) the National Park Service prepared land acquisition plans for approximately 120 areas. A new policy statement on land protection was adopted by the Department of the Interior on May 7, 1982 (47 FR 19784). Under this new policy, land acquisition plans will be revised or replaced by land protection plans by September 30, 1985. The following instructions for land protection plans will supercede directions in the 1979 policy statement on how to prepare land acquisition plans.

Requirements

Land Protection Plan will be prepared by the appropriate National Park Service Superintendent for each unit in the National Park System which

contains private or other non-Federal land or interest in land within its authorized boundary. Priorities for preparing plans will be established considering available or possible funding for acquisition, the amount of non-Federal land within the authorized boundary, and the potential for impacts on unit resources. The scope of the planning effort generally should be commensurate with the potential impacts to resources, complexity of the problems, and the amount of land requiring protection.

Purposes of the Plan

The guiding principle of each Land Protection Plan must be to ensure the protection of that unit of the National Park System consistent with the stated purposes for which it was created and administered. Each Superintendent has a duty to know the resources in question and to seek their protection consistent with those purposes. These instructions are designed to assist in meeting those objectives.

Land protection plans are prepared to:

1. Determine what land or interest in land need to be in public ownership, and what means of protection other than acquisition are available to achieve unit purpose as established by Congress.
2. Inform landowners about NPS intentions for buying or protecting land through other means within the unit.
3. Help managers identify priorities for making budget requests and allocating available funds to protect land and unit resources.
4. Find opportunities to help protect the unit by cooperating with state or local governments, landowners, and the private sector.

Coordination: Land protection plans are prepared as part of the unit's overall general management planning process and should be fully coordinated with other plans. The protection plan should be developed after a statement for management or general management plan (GMP) has been prepared. If an approved GMP has not been completed, the land protection plan may be prepared concurrently with the general management planning effort.

Where the land protection plan is prepared as a separate document, it becomes an action element of the general management plan when approved.

Public Involvement: The land protection plan will be prepared with public involvement. Property owners, State and local governments, and interested parties must be provided notice (individual notice should be provided when feasible) when the planning effort is initiated and given an opportunity to comment on the alternatives under consideration. The format for public involvement will be specified in the task directive which is approved by the Regional Director.

Environmental Compliance: Land Protection plans will be prepared in compliance with applicable requirements of the National Environmental Policy Act (NEPA) and other laws or administrative directives. Specific compliance requirements for each area will depend upon the potential significance of environmental consequences. Some plans are expected to be categorically excluded from the NEPA process, others will require an environmental assessment, and some may require an environmental impact statement. Determinations about compliance requirements will usually be made at the regional level, in consultation with the Washington Office as necessary. Compliance documentation should include the extent of proposed changes in land use and potential impacts on unit resources or the surrounding community from the alternatives recommended by the land protection plan.

Compliance requirements for land protection plans being prepared as part of a General Management Plan effort should be covered in the GMP compliance. Where NEPA compliance is required for a land protection plan, an environmental assessment will be prepared as a separate, but attached document. The environmental assessment may reference the alternatives and proposal in the land protection plan, making it possible for the document to be essentially an analysis of environmental consequences and a list of persons consulted. National Park Service guidelines for environmental compliance are found in NPS–12 (National Park Service NEPA Compliance Guideline).

Endangered Species: The Regional Office should contact the U.S. Fish and Wildlife Service regional endangered species staff when planning begins for a specific area and arrange for any necessary consultation early in the planning process to determine if there are any potential effects on any endangered species. If a biological assessment is necessary, it will be incorporated into the environmental document released with the plan for public review and arrangements will be made with the Fish and Widlife Service for the preparation of a biological opinion.

Notification of Advisory Council on Historic Preservation and the State Historic Preservation Officer (SHPO): The Regional Director will be responsible for sending the Advisory Council and the SHPO a letter transmitting a copy of each task directive as it is approved inviting the Council and SHPO to participate in the development of the plan, as required by the 1981 amendment to the Programmatic Memorandum of Agreement. By that agreement the Council and the SHPO foreclose their opportunity to object to the selected alternative if they fail to participate in plan development. The Council and the SHPO shall be notified that they have 30 calendar days in which to express in writing their intent to participate.

Responsibilities: The Superintendent is responsible for the preparation and recommendation of the unit's land protection plan. The Regional Director is responsible for scheduling and monitoring the preparation of land protection plans by interdisciplinary teams including planners and realty specialists, and for approving them. Plans will be reviewed concurrently by the unit, region, and Washington Office. Comments compiled during the Washington Office review will be forwarded to the Regional Director for consideration prior to his or her approval of a plan. The time allocated for WASO review will be 30 days from the date of receipt in the Office of Park Planning and Environmental Quality. The regional or field solicitor should be consulted as necessary throughout the planning process and should review proposed plans for legal sufficiency.

Task Directive: The scope of the planning effort should be defined as soon as possible in a task directive. This very brief internal working document should list major issues to be discussed, outline alternatives to be considered, establish schedules for interim and final products allowing time for reviews, and assign responsibilities for completing the tasks.

The task directive also should identify the type of public involvement, environmental compliance, special expertise requirements, coordination with other plans, and any additional guidance needed from the Regional Director or Washington Office for the planning effort. The task directive will be prepared by the Superintendent and planning team and approved by the Regional Director.

Updates: The Superintendent will review the plan on a biennial basis, and revise it as necessary to reflect changes in conditions. Once approved, land protection plans may be amended or revised, generally following the processes for General Management Plans as outlined in NPS–2 (Planning

Process Guideline). If the plan is to be amended, the extent of review and public participation may be adjusted to reflect the scope of the amendment. The Superintendent is responsible for determining if an update is required and for recommending the scheduling of necessary revisions.

Format: Formats for land protection plans may be adjusted to fit special circumstances, but must address the following points:

I. Introduction

(a) Brief summary of Departmental and NPS policies for land protection and relevant legal authorities.

(b) Explanation of why the plan is being prepared and major issues to be addressed.

(c) Statement that the plan does not constitute an offer to purchase land or interests in land, that it will generally guide subsequent activities subject to availability of funds and other constraints, and that it does not diminish the rights of non-Federal landowners.

II. Purpose of the Unit and Resources To Be Protected

(a) A brief statement of the purpose of the unit as contained in the authorizing legislation, GMP, or statement for management.

(b) A brief description of the significance of the area and the resources to be protected.

(c) Special legislative, administrative, or congressional directives or constraints on acquisition, appropriations ceiling, mandated acquisition periods, etc. and a history of the unit's growth including boundary changes, ceiling increases, other factors relevant to the protection of the unit's resources.

(d) A brief description of planned resource management and visitor use objectives and activities by zone or subzone as contained in the General Management Plan, resources management plan, etc.

III. Non-Federal Ownership and Uses

(a) Description of private and other non-Federal ownership and uses of land and interests within unit boundaries and the character of these lands (developed, undeveloped, and as relevant, the terrain, vegetation, relation to water bodies, roads, boundaries, communities, etc.). Maps should include a State map showing location of the unit; a regional map showing relationship to adjacent lands including, where relevant, existing protection and uses of these lands; and a map of the unit showing tracts, acreage and ownerships. (If there is a large number of tracts, the map may aggregate tracts by such useful groupings as type of ownership, use, level of development, etc.).

(b) Description of existing and potential uses of non-Federal lands which would be compatible or incompatible with planned management actions.

(c) External conditions and activities that have a direct bearing on the protection of land within unit boundaries and an assessment of their impact on protection efforts.

(d) Identification of Federal, State, and local laws or authorities which currently provide some resource protection or allow for planned management activities.

(e) A listing of the number of acres acquired by all means, the number of improvements acquired, the numbers and types of interest retained by sellers including, where involved, the term of years and other relevant information regarding retained right of use and occupancy, the number of acres and tracts of land and interests in land acquired by Federal purchase, donation or exchange; the present acquisition ceiling including dates and amounts of previous ceilings; the amount of money in the authorized ceiling expended to date; the amount of money appropriated and available for expenditure; the number of properties acquired through condemnation, declaration of taking, and the number of properties presently in condemnation.

(f) A general discussion of the relationship of landowners to social and cultural resources of the unit and of social, cultural, economic, and institutional relationships with nearby communities and political subdivisions; important folkways or activities that contribute to the creation, maintenance or protection of the unit's cultural resources; whether landowners are, for instance, corporations or individuals, long-term or short-term owners and known plans for changes in land use, if any.

IV. Protection Alternatives

(a) Description of reasonable alternative methods for protecting land to carry out the purpose of the unit. (See "Protection Alternatives" below).

(b) Explanation of the circumstances, conditions and requirements affecting the application of each alternative.

(c) Analysis of the effectiveness of each alternative to protect unit resources.

(d) Assessment of the social and cultural impacts of each alternative on non-Federal landowners as well as social and economic impacts on community life (environmental impacts will be assessed in a separate but attached document).

V. Recommendations

(a) Describe the rationale and list priorities for protection by tract or other reasonable aggregated areas or categories, considering the importance of resource protection, visitor use, administrative purposes, etc.

(b) Identify categories of land and rationale for protection:

—by means other than acquisition
—by acquisition of less-than-fee interests
—by acquisition of fee

(c) Discuss proposed methods of acquisition including donation, exchange, transfer, withdrawal, purchase, or condemnation.

(d) Identify land adequately protected under existing ownership and not requiring any NPS protection efforts.

VI. Appendices (as Necessary)

(a) Maps and black and white photographs should be used wherever necessary to improve understanding of the contents of the land protection plan. These may be included in the text (see III(a) above) or the Appendices. Special photo albums (for review purposes only) may be provided at the the unit, the Regional Office and other official review sites.

(b) Listing by priority ranking or grouping, where feasible, of individual tracts showing tract number, name of owner, acreage, proposed protection method (cooperative agreement, zoning, fee or less-than-fee acquisition etc.) and specific reason for protection (i.e., an easement to "protect the historic scene and permit continued farm use" in an historical area).

(c) Copies of authorizing legislation

(d) Sample documents (Easement provisions, agreements, notices to local governments etc.)

(e) One page statistical summary of plan (acres, methods of protection, highlights of III(e)).

Although all plans should follow these analytical steps, some may be very brief and all sould place primary emphasis on sections IV and V rather than repeating information already contained in the General Management Plan or other plans.

Policy and Legislative Changes

The analysis of alternatives and recommendations should be developed on the basis of current authorities and policies. However, the land protection plan may reveal the need for changes in unit boundaries, protection authorities,

or management policies. The plan must recognize that changes in legislation or policy can only be accomplished through Service planning processes and Departmental or Congressional channels. The analysis of alternatives may include various contingencies for what will be done if such new policies or authorities become available, but suggestions for major changes should be included in the Superintendent's memorandum to the Region and in the Regional Director's memorandum transmitting the plan to Washington and processed through amendment or revision to the General Management Plan or other appropriate procedures.

Land Protection Plans should be developed with special attention to the following issues relating to private ownership within unit boundaries and analysis of alterntive methods for protecting land.

Private Ownership Within Unit Boundaries

Boundaries for units of the National Park System are not always drawn exclusively on the basis of natural or cultural features or clear determinations of resource significance. Consequently, not all of the land within a unit boundary may require the same type or level of protection to achieve the purpose of the unit. Plans which call for NPS to assume management responsibility for lands currently in private or other ownership should be able to document that these lands are needed for resource protection and visitor use purposes that cannot be accomplished without Federal acquisition of these lands or interest in these lands. (See Format, Parts II, IV, V, and VI).

Short and Long Term Needs

In considering protection options, the plan should recognize the difference between needs for interim protection and long term objectives for the unit. Some areas have a long term objective of restoring natural systems to their condition prior to human settlement. However, with appropriate controls, it may be possible and, in fact, desirable to allow continued compatible private uses of the land for a specific period of time without adverse impacts on the long term mission of the unit.

In many areas, private uses of the land may contribute to the purposes of the unit by providing visitor services, reducing requirements for maintenance, reducing costs for management or continuing traditional activities that are part of the resource to be protected, particularly in areas of cultural value. The land protection plan should indicate what private uses need to be continued, controlled, or eliminated to meet long range goals of the unit. Interim private use may be provided by deferral of acquisition, right of first refusal, acquisition subject to reservation of use and occupancy, or by purchase followed by leaseback, sellback with deed restrictions.

Protection Alternatives

Direct NPS acquisition and management of land may not be the only effective or desirable method of protecting unit resources in all cases. *Land protection plans must document that other approaches have been fully considered.* The plan must identify specific protection methods and assess the ability of various alternatives to achieve management objectives. This includes attention to the following types of methods:

Agreements

Agreements are legal instruments defining administrative arrangements between two or more parties. They can provide for exchange of services of other benefits. Within unit boundaries, agreements are most likely to be useful for land owned by:

- State or local governments
- Private non-profit organizations (scout troops, churches, land trusts or conservation groups
- Other federal agencies
- Individuals or corporations who are supportive of unit purposes, in areas where such agreements are specifically authorized by law.

The terms of an agreement can include provisions for:

- Limited NPS access to manage natural or cultural resources
- Shared responsibility for maintenance of structures or facilities
- Public access for recreation or interpretation
- Conditions for management of wildlife or other resources
- Law enforcement

For example, land administered by the Coast Guard and Navy in Channel Islands National Park can be managed for unit purposes under an agreement which grants NPS access yet continues the defense and coastal security uses of the islands. NPS directives and the Federal Grants and Cooperative Agreement Act of 1977 (Pub. L. 95–224) establish some important distinctions among contracts, cooperative agreements, and memoranda of understanding. The land protection plan should outline the specific requirements to meet NPS management needs and other types of provisions to be included in an agreement so that the appropriate legal instrument can be drawn up at a later date.

Zoning

Zoning is based on the power of State and local governments to protect public health, safety, and welfare by regulating the use of land. Within a unit of the National Park System, local zoning regulations can be used to limit the density, type, location, and the character of private development. Some authorizing legislation specifically requires cooperation between NPS and local governments in developing zoning regulations. In other areas, zoning should be considered when:

- Local government has a zoning ordinance in place or appears to be willing to adopt one
- There is evidence of State and local support for the protection objectives of the unit
- Some reasonable private use of the land is consistent with unit purposes
- Private land use needs to be controlled and managed rather than prohibited to meet unit objectives.

The land protection plan should be specific about what types of protection should be exercised through a zoning ordinance administered by the local government. This may include:

- Restrictions on the type of use; residential, commercial, industrial, agricultural, etc.
- Limits on the intensity of use; size of lots, height of buildings, number of units per acre
- Specific standards for design; requirements for set backs from property lines, number of parking spaces per unit, portion of lot to remain in open space.

The plan should take special care to consider what uses of land may be allowed under current zoning classifications which appear to meet NPS objectives as well as those which seem to conflict. For example, the zoning category of "recreation use" may allow for trailer parks, resort motels, and other development unlikely to be compatible with purposes of the unit. Land zoned for low density residential use may be more adequately protected in terms of unit objectives than land zoned for agricultural use where feed lots, timber operations, and other intense activities may be allowed automatically.

A few zoning ordinances allow for transfers of density or development rights from one tract to another. This tool is especially useful in jurisdictions where development can be concentrated

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in areas already served by public utilities while undeveloped land is retained in low density uses. The land protection plan should consider if development should be prohibited, controlled, or concentrated in other locations. Where the location of new development is of primary concern, zoning and related TDR (transferable development right) programs are likely to be worthy of consideration in the protection plan.

Cooperation with state or local governments may be necessary to revise or prepare zoning regulations. The land protection plan should advise local governments about the types of zoning provisions which would be consistent with unit objectives. At the same time, the plan should recognize that zoning changes are often controversial and the NPS role should be defined with sensitivity to the potential for criticism of federal involvement in local land use regulation. Special expertise may be required to advise unit managers on complex zoning questions.

Local zoning has been criticized as a long term protection tool because of the potential for changes in local governing bodies, political pressures on decisions, and problems in enforcement of regulations. Land protection plans may suggest what steps could be taken to overcome some of these problems, or what contingency actions may be taken if zoning fails. Suggestions for NPS involvement in State or local zoning and other land use regulatory activities should be developed in close consultation with the Office of the Solicitor. In discussing zoning, the plan should give special attention to maintaining cooperative relationships with local governments rather than creating confrontations.

In limited instances where the state has ceded exclusive jurisdiction to the Federal Government within the boundaries of a National Park, or where otherwise authorized by law, the National Park Service may be able to exercise direct regulatory authority over private lands. In such cases, NPS would be acting like the local governing body in establishing limits on the type, density, and character of land use. This approach is most appropriate for developed areas within older established National Parks rather than a method of protecting new areas or undeveloped land.

Regulations

In addition to zoning, Federal agencies and state and local governments administer a variety of other laws that can help protect unit resources. The land protection plan will consider what regulatory authorities are available to control:

- Air and water pollution
- Dredging or filling of wetlands
- Hunting and fishing
- Tree cutting and forestry practices
- Resource extraction and excavation
- Construction in navigable waters
- Subdivision of land
- Development in flood hazard areas

Regulations cannot usually provide for public use, but they can prevent harm to natural or cultural resources. For example, Federal, state, and local regulations often impose strict limits on dredging or filling of wetlands which would destroy wildlife habitat or degrade water quality. Local subdivision and environmental regulations may restrict residential development that is not adequately served by roads, water, and sewage treatment facilities.

It is much more difficult for regulations to absolutely prohibit an activity than to simply limit the type, amount, or intensity of the activity. In units where the impact of development is already evident regulations are more likely to be effective in reducing adverse effects of major projects. In relatively pristine areas, regulations may be of little use in efforts to preserve natural systems from any intrusions of development. Regulations also are more likely to be effective where there is a good base of information about the impacts of certain activities on unit resources. For example, documentation that water pollution is destroying specific fish and wildlife populations will be helpful in efforts to enforce state or local regulations on the source of the pollutants.

A land protection plan should discuss the role NPS can play in assuring that regulations are effectively implemented. This could include cooperative efforts to identify and prosecute violators as well as technical assistance or review of permit applications.

Easement Acquisitions

Property ownership should be envisioned as a bundle of rights. These include the right to farm, cut trees, build houses, or extract resources and exclude others from it. Easements convey only some of the rights in property from one person to another. They may be positive: Giving a right of access, or negative: Restricting specific activities on the land. Easements are most likely to be useful where:

- Some, but not all private uses are compatible with unit purposes
- Current owners desire to continue current types of use and occupancy of the land under terms set by NPS
- Scenic values need protection, or access by the public or NPS is needed only over a portion of the land.

Easements are extremely flexible and can be drafted to fit the specific characteristics of the land as well as concerns of the owner. The protection plan should identify the types of conditions imposed by or uses which will be limited by an easement. These could include restrictions on:

- Tree cutting
- Excavation or grading
- Resource extraction
- Hunting or fishing
- Residential development
- Farming practices that erode the soil
- Grazing
- Commercial or industrial activities.

Restrictions need not be absolute; they may specify that the activity will be allowed by the unit manager subject to clearly defined conditions on the timing, intensity, or amount of the use.

The easement also could include positive provisions for:

- Public access along a river or trail
- NPS access to manage natural or cultural resources
- Utility rights of way.

Negative easements are often likely to be appropriate on developed properties where single family residential uses can continue without adverse impacts on public use of the unit. Negative easements also are useful in protecting scenic values of agricultural or forest land. The type of restrictions to be imposed can be as general or specific as necessary to meet protection needs. For example, an easement on a farm along a parkway or historic area could specify that no trees will be cut or structures built in a legally defined area unless consistent with clear standards in the easement. An easement on an historic building might specify that it will be maintained and painted only a certain color to match the character of the neighborhood, or preserve historic values.

Positive easements are likely to be most useful where the planned use by NPS or the public will not substantially interfere with other private uses of the land. Public access through land managed for farming or timber production is one example of a likely application for a positive easement. While some landowners may be receptive to selling less than their entire interest in land, others may prefer to sell in fee. The plan should indicate what factors will be considered in making the choice between fee and easement. These may include: Owner preference, relative costs, character of the site or the

resource, and plans for public use or other management requirements. In general, plans should give special attention to defining what interests in land are required to achieve unit purposes rather than leave the choice between fee and easement entirely to the property owner. The plan also should identify what special efforts might be necessary to inform landowners about possible advantages of owner imposed deed restrictions, easement sales and requirements for monitoring and enforcement of easement conditions. Plans proposing substantial use of easements should discuss any special staff, funding, or training needs to assure that easement conditions can be adequately managed and enforced.

There is no rule of thumb for determining whether easements are "too expensive" in relation to fee acquisition. Costs for purchasing easements will vary widely depending on how much potential uses of the land are limited and the local trends in development. Proposed easement programs must be evaluated on a case-by-case basis. In discussing costs of an easement program, the plan should balance all relevant factors:

Easements: Limited management control, purchase price, enforcement costs, benefits of continued private use, opportunities for public use, impact on local tax base.

Fee ownership: Full control over management, purchase price, maintenance expenses, payments in lieu of taxes, NPS liability for damages, patrol and enforcement expenses, opportunities for public use, development costs.

Fee Acquisition

When all of the interests in land are acquired, it is owned in fee-simple. Fee acquisition may be recommended when other methods of protection have been found to be inadequate, inefficient, or ineffective to meet management needs. Before recommending a protection strategy that relys entirely on fee purchases, *the plan should explain why other approaches are not adequate and why problems with these other approaches cannot be solved.* Fee acquisition is most often appropriate where the land:

- Is needed for development of unit facilities or heavy public use
- Must be maintained in pristine natural condition which precludes reasonable private use
- Requires intense NPS management to preserve historic and archeological resources, eliminate exotic species, or conduct other activities which substantially conflict with private use
- Is owned by individuals who do not wish to sell less-than-fee interests (sellback and lease back should be considered)
- Cannot be protected in accord with unit purposes by other methods, or alternatives would not be cost-effective.

Methods of Acquisition

NPS can acquire fee and less-than-fee interests through several different methods. These include:

- Purchase with donated or appropriated funds
- Withdrawal from the public domain
- Transfer from other federal agencies
- Donation
- Bargain sale
- Exchange
- Condemnation.

Plans for direct purchase should recognize the uncertainties about the level of annual appropriations by Congress. Transfers and withdrawals also usually require specific direction from Congress. Donations and exchanges depend upon a variety of factors not usually within the direct control of NPS. Consequently, the plan should discuss specific means of acquisition (i.e., donation, purchase or exchange) in general terms without attempting to define which individual tracts will be acquired by specific methods, unless some agreement has already been reached or the methods are specified in the authorizing legislation.

Landowners who have substantial taxable incomes would most likely be interest in a full donation. A bargain sale (partial donation) may be attractive to individuals or corporations which need some cash and some deductions from taxable income. The plan provides an opportunity to determine what special assistance may be necessary to inform landowners about the tax advantages of donations. The plan should not, however, attempt to offer tax advice, but may indicate what steps can be taken to encourage landowners to consult with their attorneys and accountants.

Exchanges should be considered where:

- NPS has identified potential trade lands under its own control (land outside of the current boundary acquired to avoid severance damages, for example).
- Land is located in the same state under other Federal agency jurisdiction.

In cases where the landowner wishes to sell fee but NPS needs a less-than-fee interest, a purchase and sell or lease-back arrangement should be considered. The land protection plan should identify those tracts where fee acquisition could be used initially to meet landowner objectives, and then the land could be leased, or resold with restrictions in the deed to meet NPS objectives. A discussion of timing for lease back or sell back and any necessary restrictions should be included in the plan.

Authorizing legislation for many areas provides that land also may be acquired subject to reservations of a right of use and occupancy. Reservations may be for a term of years or the life of the owner and must include restrictions to assure protection of unit resources. Rights to salvage structures or materials also may be reserved. The plan should specify what land or structures may be acquired subject to reservations as well as land which cannot be acquired with reservations, in accord with the area's legislation.

The plan should explain what circumstances may require the use of condemnation to acquire fee or less-than-fee interests in private property. These include simply resolving disagreements over fair market value and solving title problems as well as preventing uses which would harm unit resources. The plan should note any specific legislative directions on condemnation, recognize the distinction between inholding areas and recently authorized areas, and explain to landowners that condemnation is a judicial process to assure them of just compensation when private land is taken for public purposes.

The land protection plan should identify and special concerns about the actual process of acquisition which should be taken into consideration to minimize adverse impacts on landowners.

Emergencies and Hardships

It is not possible to predict in advance when landowners may be subject to hardships that require them to dispose of land or improvements in land, or to know when action by landowners may cause significant or irreparable damage to unit resources. Accordingly, both emergencies and hardships will be reviewed on a case-by-case basis as they arise and will not affect the overall setting of priorities in the preparation of land protection plans. Where authorizing legislation provides for special consideration to be given to hardships, appropriate reference to the

legislation should be included in the plan.

Appendix A

Alaska Region: John E. Cook Regional Director, National Park Service, 540 West 5th Avenue, Room 202, Anchorage, Alaska 99501 (907–271–4196)
Sitka NHP, P.O. Box 738, Sitka, AK 99835
Appalachian Trail: David Richie, Project Manager, Appalachian Trail Project Office, National Park Service, Harpers Ferry, West Virginia 25425 (304–535–2346)
Mid-Atlantic Region: James W. Coleman, Jr., Regional Director, National Park Service, 143 South Third Street, Philadelphia, Pennsylvania 19106 (215–597–7013)
Allegheny Portage RR NHS, National Park Service, P.O. Box 247, Cresson, PA 16630
Appomattox Court House NHP, P.O. Box 218, Appomattox, VA 24522
Assateague Island NS, Route 2, Box 294, Berlin, MD 21811
Colonial NHP, P.O. Box 210, Yorktown, VA 23690
Delaware Water Gap NRA, Bushkill, PA 18324
Fredericksburg & Spotsylvania NMP, P.O. Box 679, Fredericksburg, VA 22401
Friendship Hill NHS, c/o Fort Necessity Nat'l Battlefield, the National Pike, Farmington, PA 15437
Gettysburg NMP, Gettysburg, PA 17325
Hampton NHS, 525 Hampton Lane, Towson, MD 21204
Johnstown Flood N Memorial, P.O. Box 247, Cresson, PA 16630
Maggie L. Walker NHS, c/o Richmond Nat'l Battlefield Park, 3215 East Broad Street, Richmond, VA 23223
New River Gorge NR, P.O. Drawer V, Oak Hill, WV 25901
Pettersburg NB, P.O. Box 549, Petersburg, VA 23803
Richmond NBP, 3215 E. Broad Street, Richmond, VA 23223
Upper Delaware SRR, P.O. Box C, Narrowsburg, NY 12764
Valley Forge NHP, Valley Forge, PA 19481
Mid-West Region: Jim L. Dunning, Regional Director, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102 (402–221–3431)
Apostle Islands NL, P.O. Box 729, Bayfield, WI 54814
Cuyahoga Valley NRA, P.O. Box 158, Peninsula, OH 44264
Herbert Hoover NHS, P.O. Box 607, West Branch, IA 52358
Indiana Dunes NL, 1100 N. Mineral Springs, Porter, IN 46304
Lincoln Home NHS, 526 South 7th Street, Springfield, IL 62703
Lower Saint Croix, NSR, P.O. Box 708, Saint Croix Falls, WI 54024
Mound City Group NM, 16072 State Rt. 104, Chillicothe, OH 45601
Pictured Rocks NL, P.O. Box 40, Munising, MI 49862
Saint Croix NSR, P.O. Box 708, Saint Croix Falls, WI 54024
Scotts Bluff NM, P.O. Box 427, Gering, NE 69341
Sleeping Bear Dunes NL, 400 1/2 Main Street, Frankfort, MI 49635
Voyageurs NP, P.O. Drawer 50, International Falls, MN 56649
William H. Taft NHS, 2038 Auburn Avenue, Cincinnati, OH 45219
Wilsons Creek NB, Postal Drawer C, Republic, MO 65738
National Capital Region: Manus J. Fish, Jr., Regional Director, National Park Service, 1100 Ohio Drive, S.W., Washington, D.C. 20242 (202–426–5720
Antietam NB, P.O. Box 158, Sharpsburg, MD 21782
C & O Canal NHP, P.O. Box 4, Sharpsburg, MD 21782
Harpers Ferry NHP, P.O. Box 65, Harpers Ferry, WV 25425
Manassas NBP, P.O. Box 1830, Manassas, VA 22110
Monocacy NB, c/o C & O Canal NHP, P.O. Box 158, Sharpsburg, MD 21782
Piscataway Park, c/o National Capital Region—East, 5210 Indian Head Highway, Oxon Hill, MD 20021
North Atlantic Region: Herbert S. Cables, Jr., Regional Director, National Park Service, 15 State Street, Boston, Massachusetts 02119 (617–223–3769)
Adams NHS, P.O. Box 531, Quincy, MA 02269
Boston African American NHS, c/o Boston NHP, Charleston Navy Yard, Boston, MA 02129
Boston NHP, Charleston Navy Yard, Boston, MA 02129
Cape Cod NS, South Wellfleet, MA 02663
Fire Island NS, 120 Laurel Street, Patchogue, NY 11772
Gateway NRA, Floyd Bennett Field, Bldg. 69, Brooklyn, NY 11234
Home of FDR NHS, Hyde Park, NY 12538
Lowell NHP, 171 Merrimack Street, P.O. Box 1098, Lowell, MA 01853
Martin Van Buren NHS, P.O. Box 545, Kinderhook, NY 12106
Minute Man NHP, P.O. Box 160, Concord, MA 01742
Morristown NHP, National Park Service, Washington Place, Morristown, NJ 07960
Saint Croix Island NM, c/o Acadia National Park, Route 1, Box 1, Bar Harbor, ME 04609
Salem Maritime NHS, Custom House, Derby Street, Salem, MA 01970
Saratoga NHP, R.D. #1, Box 113–C, Stillwater, NY 12170
Springfield Armory NHS, One Armory Square, Springfield, MA 01105
Pacific Northwest Region: Daniel J. Tobin, Jr., Regional Director, National Park Service, 2001 6th Avenue, Seattle, Washington 98121 (206–442–5565)
Ebey's Landing NHR, c/o Pacific Northwest Regional Office, Westin Building—Rm. 1920, 2001 6th Avenue, Seattle, WA 98121
Fort Vancouver NHS, Vancouver, WA 98661
John Day Fossil Beds NM, 420 West Main Street, John Day, OR 97845
Lake Chelan NRA, Chelan, WA 98816
Mount Rainier NP, Tahoma Woods, Star Route, Ashford, WA 98304
Nez Perce NHP, P.O. Box 93, Spalding, ID 83551
North Cascades NP, 800 State Street, Sedro Woolley, WA 98284
Olympic NP, 600 East Park Avenue, Port Angeles, WA 98362
Ross Lake NRA, c/o North Cascades National Park, 800 State Street, Sedro Woolley, WA 98284
Rocky Mountain Region: L. Lorraine Mintzmyer, Regional Director, National Park Service, P.O. Box 25287, Denver, Colorado 80225 (303–234–2500)
Arches NP, c/o Canyonlands National Park, 446 S. Main Street, Moab, UT 84532
Badlands NP, P.O. Box 6, Interior, SD 57750
Bent's Old Fort NHS, P.O. Box 581, La Junta, CO 81050
Bighorn Canyon NRA, P.O. Box 458, Fort Smith, MT 59035
Black Canyon of the Gunnison NM, P.O. Box 1648, Montrose, CO 81401
Bryce Canyon NP, Bryce Canyon, UT 84717
Capitol Reef NP, Torrey, UT 84775
Dinosaur NM, P.O. Box 210, Dinosaur, CO 81610
Fort Laramie NHS, Fort Laramie, WY 82212
Fort Union Trading Post NHS, Buford Route, Williston, ND 58801
Glacier NP, West Glacier, MT 59936
Golden Spike NHS, P.O. Box 394, Brigham City, UT 84302
Grand Teton NP, P.O. Drawer 170, Moose, WY 83012
Grant-Kohrs Ranch NHS, P.O. Box 790, Deer Lodge, MT 59722
Great Sand Dunes NM, P.O. Box 60, Alamosa, CO 81101
Rocky Mountain NP, Estes Park, CO 80517
Zion NP, Springdale, UT 84767
Southeast Region: Robert M. Baker, Regional Director, National Park Service, Richard B. Russell Federal Bldg. & U.S. Courthouse, 75 Spring Street, S.W., Atlanta, Georgia 30303 (404–221–5185)
Andersonville NHS, Andersonville, GA 31711
Big Cypress N Preserve, S.R. Box 110-Satinwood Drive, Ochopee, FL 33943
Biscayne NP, P.O. Box 1369, Homestead, FL 33030
Canaveral NS, P.O. Box 2583, Titusville, FL 32780
Cape Hatteras NS, Route 1, Box 675, Manteo, NC 27954
Cape Lookout NS, P.O. Box 690, Beaufort, NC 28516
Castillo de San Marcos NM, 1 Castillo Drive, St. Augustine, FL 32084
Chattahoochee River NRA, 1905 Powers Ferry Rd-Suite 150, Marietta, GA 30067
Chickamauga & Chattanooga NMP, P.O. Box 2128, Ft. Oglethorpe, GA 30742
Cumberland Gap NHP, P.O. Box 840, Middlesboro, KY 40965
Cumberland Island NS, P.O. Box 806, Saint Marys, GA 31558
De Soto N Memorial, National Park Service, 75th Street, N.W., Bradenton, FL 33529
Everglades NP, P.O. Box 279, Homestead, FL 33030
Fort Caroline NM, 12713 Ft. Caroline Road, Jacksonville, FL 32225
Fort Frederica NM, Route 4, Box 286–C, St. Simons Island, GA 31522
Fort Pulaski NM, P.O. Box 98, Tybee Island, GA 31328
Fort Raleigh NHS, c/o Cape Hatteras National Seashore, Route 1, Box 675, Manteo, NC 27954
Fort Sumter NM, 1214 Middle Street, Sullivan's Island, SC 29482
Great Smoky Mountain NP, Gatlinburg, TN 37738
Gulf Islands NS, P.O. Box 100, Gulf Breeze, FL 32561

Mammoth Cave NP, Mammoth Cave, KY 42259
Martin Luther King, Jr., NHS, c/o Southeast Regional Office, National Park Service, 75 Springs Street, SW, Atlanta, GA 30303
Moores Creek NB, P.O. Box 69, Currie, NC 28435
Natchez Trace Parkway, Rural Route 1, NT-143, Tupelo, MS 39901
Obed WSR, P.O. Drawer 630, Oneida, TN 37841
Shiloh NMP, Shiloh, TN 38376
Vicksburg NMP, P.O. Box 349, Vicksburg, MS 39180
Virgin Islands NP, P.O. Box 7789, Charlotte Amalie, St. Thomas, VI 00801
Southwest Region: Robert I. Kerr, Regional Director, National Park Service, Old Santa Fe Trail, P.O. Box 728, Santa Fe, New Mexico 87501 (505-988-6388)
Bandelier NM,
Los Alamos, NM 87544
Big Bend NP,
Big Bend Nat'l Park, TX 79834
Big Thicket NP,
P.O.Box 7408,
Beaumont, TX 77706
Buffalo NR,
P.O. Box 1173,
Harrison, AR 72601
Chaco Culture NHP,
Star Route 4, Box 6500,
Bloomfield, NM 87413
Chickasaw NRA,
P.O. Box 201,
Ft. Oglethorpe, GA 30742
El Morro NM,
Ramah, NM 87321
Fort Smith NHS,
P.O. Box 1406,
Fort Smith, AR 72902
Georgia O'Keeffe NHS,
c/o Southwest Regional Office,
National Park Service,
P.O. Box 728,
Santa Fe, NM 87501
Hot Springs NP,
P.O. Box 1860,
Hot Springs, AR 71901
Jean Lafitte NHP,
c/o Municipal Auditorium,
1201 St. Peter Street,
New Orleans, LA 70116
Lyndon B. Johnson NHS,
P.O. Box 329,
Johnson City, TX 78636
Padre Island NS,
9405 South Padre Island Drive,
Corpus Christi, TX 78418
Palo Alto Battlefield NHS,
c/o Padre Island NS,
9405 South Padre Island Drive,
Corpus Christi, TX 78418
Salinas NM,
P.O. Box 496,
Mountainair, NM 87036
San Antonio Missions NHS,
727 E. Durango—Rm. A612,
San Antonio, TX 78206
Western Region: Howard Chapman, Regional Director, National Park Service 450 Golden Gate Avenue, Box 36063, San Francisco,California 94102 (415-556-4196)
Channel Islands NP,
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Ventura, CA 93001
Coronado NM,
Rural Route 1, Box 126,
Hereford, AZ 85615
Golden Gate NRA,
Building 201, Fort Mason,
San Francisco, CA 94124
Grand Canyon NP,
P.O. Box 129,
Grand Canyon, AZ 86023
Kaloko Honokohau NHP,
c/o Pacific Area Director,
300 Ala Moana Blvd.,
Honolulu, HI 96850
Kings Canyon NP,
c/o Sequoia and Kings Canyon Nat'l Parks,
Three Rivers, CA 93271
Lake Mead NRA,
601 Nevada Highway,
Boulder City, NV 89005
Lassen Volcanic NP,
Mineral, CA 96063
Point Reyes NS,
Point Reyes, CA 94956
Santa Monica Mountains NRA,
22900 Ventura Blvd., Suite 140
Woodland Hills, CA 91364
Sequoia NP,
c/o Sequoia & Kings Canyon Nat'l Parks,
Three Rivers, CA 93271
War in the Pacific NHP,
P.O. Box FA,
Agana, Guam 96910
Yosemite NP,
P.O. Box 577,
Yosemite National Park, CA 953789

Russell E. Dickenson,

Director.

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Presidential Documents

Title 3—

The President

Executive Order 12404 of February 10, 1983

Charitable Fund-Raising

By the authority vested in me as President by the Constitution of the United States of America, and in order to lessen the burdens of government and of local communities in meeting needs of human health and welfare, it is hereby ordered as follows:

Section 1. Executive Order No. 12353 of March 23, 1982, is amended as follows:

(a) By deleting Section 1 of that Order and inserting in its place the following provision:

"Section 1. The Director of the Office of Personnel Management shall make arrangements for voluntary health and welfare agencies to solicit contributions from Federal employees and members of the uniformed services at their places of employment or duty. These arrangements shall take the form of an annual Combined Federal Campaign in which eligible voluntary agencies are authorized to take part.".

(b) In Section 2 insert "(a)" after the Section number and add the following new subsection after the existing provision:

"(b) In establishing those criteria, the Director shall be guided by the following principles and policies:

"(1) The objectives of the Combined Federal Campaign are to lessen the burdens of government and of local communities in meeting needs of human health and welfare; to provide a convenient channel through which Federal public servants may contribute to these efforts; to minimize or eliminate disruption of the Federal workplace and costs to Federal taxpayers that such fund-raising may entail; and to avoid the reality and appearance of the use of Federal resources in aid of fund-raising for political activity or advocacy of public policy, lobbying, or philanthropy of any kind that does not directly serve needs of human health and welfare.

"(2) To meet these objectives, eligibility for participation in the Combined Federal Campaign shall be limited to voluntary, charitable, health and welfare agencies that provide or support direct health and welfare services to individuals or their families. Such direct health and welfare services must be available to Federal employees in the local campaign solicitation area, unless they are rendered to needy persons overseas. Such services must directly benefit human beings, whether children, youth, adults, the aged, the ill and infirm, or the mentally or physically handicapped. Such services must consist of care, research or education in the fields of human health or social adjustment and rehabilitation; relief of victims of natural disasters and other emergencies; or assistance to those who are impoverished and therefore in need of food, shelter, clothing, education, and basic human welfare services.

"(3) Agencies that seek to influence the outcomes of elections or the determination of public policy through political activity or advocacy, lobbying, or litigation on behalf of parties other than themselves shall not be deemed charitable health and welfare agencies and shall not be eligible to participate in the Combined Federal Campaign.

"(4) International organizations that provide health and welfare services overseas, and that meet the eligibility criteria except for the local services

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criterion, shall be eligible to participate in each local solicitation area of the Combined Federal Campaign.

"(5) Local voluntary, charitable, health and welfare agencies that are not affiliated with a national agency or federation but that satisfy the eligibility criteria set forth in this Order and by the Director, shall be permitted to participate in the Combined Federal Campaign in the local solicitation areas in which they provide or support direct health and welfare services.".

Sec. 2. All rules, regulations, and directives continued or issued under Executive Order No. 12353 shall continue in full force and effect until revoked or modified under the provisions of this Order.

Ronald Reagan

THE WHITE HOUSE,
February 10, 1983.

[FR Doc. 83-4091
Filed 2-11-83; 10:56 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1098

Milk in the Nashville, Tennessee, Marketing Area; Order Suspending Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends for the months of February through August 1983 certain provisions affecting the regulatory status of milk plants under the Nashville, Tennessee, Federal milk marketing order. The action makes inoperative the provisions that a distributing plant must dispose of at least 50 percent of its receipts in Class I to qualify as a pool plant. The action was requested by the operator of a pool distributing plant under the order.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5443.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued January 24, 1983; published January 28, 1983 (48 FR 3994).

It has been determined that this suspension is not a major action under the criteria set forth in Executive Order 12291.

It also has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the issuance of the suspension on a timely enough basis since it is necessary that it be effective for the month of February 1983. In this instance, the initial request for this action was received on January 10, 1983. A notice of proposed suspension was issued on January 24, 1983, inviting interested parties to comment on the proposed action by February 4, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Nashville, Tennessee, marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (48 FR 3994) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded an opportunity to file written data, views, and arguments thereon. None were filed in opposition.

After consideration of all relevant information, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of February through August 1983 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1098.7(a), the words "not less than 50 percent of the" and the words "that are physically received at such plant or diverted as producer milk to a pool or nonpool plant pursuant to § 1098.13".

Statement of Consideration

This action makes inoperative for February through August 1983 the provisions that a distributing plant must dispose of at least 50 percent of its milk receipts in Class I to qualify as a pool plant. The suspension action was requested by Kraft, Inc., the operator of a pool distributing plant under the order. Kraft's milk production has increased steadily during the past few years, while its Class I sales have remained about the same. Because of this, the handler frequently did not pool all of the milk of individual producers or shifted some producers to another market in order to maintain pool plant status for its Nashville distributing plant. In addition to the continuing imbalance between supply and demand, beginning in February 1983 the plant will no longer package about one million pounds of Class I sales per month for a distributing plant in Memphis.

Unless the suspension is granted, it is likely that Kraft's Nashville plant will not be able to qualify as a pool plant during the months of February through August 1983. Pool status for that plant could be maintained only at great expense to the handler by shifting some producers to another market or by withholding from the pool substantial quantities of milk produced by individual dairy farmers. Use of either of these methods by the handler would result in a loss of payments to producers for base milk under the order's seasonal base-excess plan. This action will avoid development of such uneconomic and disorderly marketing conditions.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that without this action the milk of dairy farmers currently supplying the handler's Nashville plant would not continue to have all of their milk priced under the order and thereby receive the benefits that accrue from such pricing.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1098

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions in § 1098.7(a) of the order are hereby suspended for February through August 1983.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective Date: February 15, 1983.

Signed at Washington, D.C., on: February 9, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83–4083 Filed 2–14–83; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1814

Claims Under Federal Tort Claims Act

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is removing from the Code of Federal Regulations (CFR) its regulation regarding the handling of claims under the Federal Tort Claims Act (FTCA). This regulation is being removed since the portions of it that affect the public are contained elsewhere in the CFR. The intended effect of this action is to remove an unneeded regulation from the CFR.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: A. Bernice Chenoweth, Tort Claims Liaison Officer, Directives and Administrative Services Division, Farmers Home Administration, USDA, Room 6342, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382–9738.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 to implement Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management. Since the information the public needs to know is provided in the regulations issued by the Department of Justice, and contained in 28 CFR Part 14, publication of the Agency regulation is not necessary. This action is not published for proposed rulemaking since the purpose of the changes involves Agency management and publication for comment is unnecessary.

This regulation does not directly affect any FmHA programs or projects which are subject to A–95 clearinghouse review. This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statement." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

This action does not affect any programs listed in the current Catalog of Federal Domestic Assistance (CFDA).

List of Subjects in 7 CFR Part 1814

Claims, Safety, Tort claims.

PART 1814—[RESERVED]

Accordingly, Chapter XVIII, Title 7, Code of Federal Regulations is amended by removing and reserving Part 1814.

(80 Stat. 379, 5 U.S.C. 301; Orders of the Secretary of Agriculture, 29 FR 16210; 32 FR 6650; 36 FR 18069; 71 FR 13320, 9–9–71, 7 CFR 1814)

Dated: January 19, 1983.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 83–4085 Filed 2–15–83; 8:45 am]

BILLING CODE 3410–07–M

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7 CFR Parts 1930 and 1944

Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administation (FmHA) hereby revises its regulations governing the rental assistance program to allow for amendment and transfer of rental asssistance agreements and to incorporate into the regulation clarifications of procedure and interagency processing guidance now disseminated by memorandum and/or administrative notice. This action is taken in response to general public and FmHA staff requests for clarification of the rental assistance regulations and to incorporate into the regulations certain needed revisions identified by the Agency. The intended effect is to incorporate the requirements for administering the rental assistance program into the "Multiple Housing Management Handbook" which is issued to owners and managers of FmHA Multiple Family Housing projects.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Jeanine L. Johnson, Loan Specialist, Multi-family Housing Servicing and Property Management Division, Room 5321–S, Farmers Home Administration, 14th and Independence Avenue, SW., Washington, D.C. 20250, Telephone (202) 382–1611.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291, and has been determined "nonmajor." It will not result in an annual effect on the economy of $100 million or more; an major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, and Environmental Impact Statement is not required.

Information collection requirements contained in this regulation (Paragraph VA, VB, VIII, IX, XA, XI and XII) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96–511) and have been assigned OMB Control Number 05750033.

The FmHA programs and projects which are affected by this regulation are subject to State and local clearinghouse review in the manner delineated in Subpart H of Part 1901.

This action is necessary because the Agency has found that 77% of presently funded rental assistance units scheduled to expire pursuant to the 5-year term of their rental assistance contract, or 13,560 rental assistance units, are projected to have unused funds remaining when the rental assistance agreements expire during Fiscal Year 1983.

This constitutes a loss of previously authorized and obligated budget authority of approximately $84 million per year for the next three years.

The Agency chooses to amend the existing rental assistance agreements so they do not expire until the obligated funds are fully used and to request budget authority for 7,000 rental assistance units to renew agreements where funds will be fully disbursed before January 1, 1984. This will maximize the benefit to tenant households and communities and will have the least impact on the National budget.

This action also incorporates clarifications to administrative procedures which have previously been contained in memoranda and Agency administrative notices. The major changes are: clarification of tenant eligibility requirements and selection criteria; provision for amendment or transfer of rental assistance agreements; procedure for replacing rental assistance units when the funds obligated for them have been fully disbursed and the rental assistance agreement has expired; and, procedure for servicing rental assistance on problem loans. The rental assistance regulations will be renumbered from Exhibit C, Subpart E, Part 1944 to Exhibit E, Subpart C, Part 1930 becoming part of the Multiple Housing Management Handbook which is issued to borrowers and management agents.

A proposed rule to revise the regulations governing the rental assistance program was published in the **Federal Register** for a fifteen day comment period on November 5, 1982 (47 FR 50273). Fifteen comments were received. All comments received through November 30, 1982 were considered. Eleven of the comments were from FmHA employees, two from legal services corporations, and one each from a management agent and association of FmHA borrowers.

Discussion of Comments

In general the comments from FmHA employess requested further clarification of FmHA management and servicing requirements regarding rental assistance. Three of these comments addressed a need to use rental assistance in projects with less than 100% of the units under HUD Section 8 contract. The comments of the legal services corporations,who were National Housing Law Project and Housing Assistance Council, Inc., were directed toward the protection of tenant interests.

1. Certain parts of the regulation were rewritten and reorganized for clarity based on the comments received.

2. Waiting List. Seven of the respondents requested changes in the proposed paragraph V D of Exhibit B to Subpart C of Part 1930.

Two commenters objected to the Agency's "first come, first served" policy for selecting tenants from a waiting list and the specific requirement in paragraph V D 5 that no tenant may be given preference because he or she qualifies for rental assistance. They feel that this policy prevents the agency from complying with Section 517(o)(2) of the Housing Act of 1949, as amended.

Section 517(o)(2) requires that at least 30 per centum of the housing assistance made available in any area of any State.* * * in any fiscal year shall, to the extent practicable, benefit persons with income below 50 per centum of the median income (very low-income) * * *. The information available to the Agency December 7, 1982, showed that of approximately 195,000 occupied units, 72,429 were actively receiving rental assistance aid and 46,000 were actively receiving HUD Section 8 assistance. This indicates that 61% of the occupied units are occupied by low-income or very low-income tenants who are receiving some form of deep subsidy. In addition, FmHA is also serving many tenants whose income is low enough to qualify for basic rent, which increases the number of low-income persons served.

The Agency does not require borrowers to report on the number of tenants who have very low-income. However, rental assistance is assigned to tenants paying the highest percentage of their income for rent and utilities, so it is reasonable to assume that at least 50% of the tenants receiving subsidy are very low-income.

Section 515 of the Housing Act of 1949, as amended, authorizes rental housing loans to be occupied by low- and moderate-income senior citizens, handicapped persons and families. The Agency nevertheless has modified and inserted in paragraph XI A a provision to give priority to tenants needing RA to assure that the number of units of RA assigned to a project are occupied by tenants who qualify for RA. The first come, first served policy would be followed for operational projects as prescribed in paragraph XI B.

The Agency considered and has elected to address the remaining five comments along with comments received in response to proposed rules published by the Agency on April 23, 1982 in the **Federal Register**. Volume 47, page 17544. The five comments dealt with issues of the borrower maintaining a record of the applicant's racial and ethnic group, the waiting list category for displacees, and the requirements for purging the waiting list. The Agency feels these comments can be addressed more appropriately in the final rules of Subpart C of Part 1930 which the Agency is presently preparing for publication. This action will permit the Agency to proceed with implementing needed changes in the Rental Assistance Program to achieve conservation of previously authorized and obligated budget authority.

3. Definitions for Adjusted Income and Adjusted Monthly Income have been removed. These definitions are contained in Subpart C of Part 1930, of which this Exhibit will become a part.

4. Rental Assistance In Projects With HUD Section 8 Contracts. Three comments were received regarding the prohibited use of rental assistance in any project which has a HUD Section 8 contract. The comments indicated that projects with Section 8 assistance for less than 100% of the units are experiencing problems renting the nonsubsidized units, since existing Section 8 is no longer available.

The comments were carefully considered. However, the agency determined that using Section 8 and Rental Assistance in the same project presents too many administrative problems for FmHA, HUD and borrowers. Tenants under the Section 8 program must pay 30% of their adjusted income for rent plus utilities, while tenants receiving Rental Assistance pay only 25% of their adjusted income for rent plus utilities. Also, considerable comparison of tenant records would be required of each agency to insure that there was no abuse of either program. For these reasons the recommendation was not adopted.

5. Increase in Utility Allowance. In response to one comment paragraph II H of the proposed rule has been revised to require processing utility allowance increases under the rent increase procedures in Exhibit C to Subpart C of Part 1930.

6. Tenants Petition Owner to Apply for Rental Assistance. Six comments were received requesting instruction on what is required of the tenants, owner and District Director when the owner will not apply for rental assistance. This right of petition was included in the original regulation when the rental assistance program was initiated in 1977.

In 1980, Section 530 of the Housing Act of 1949, was passed requiring any borrower requesting a rent increase to apply for rental assistance for tenants paying in excess of 25 per centum of their income. Since this Section protects

tenants' rights, the Agency determined that paragraph III B is no longer needed. Paragraph III B has been deleted.

7. Retroactive Rental Assistance. In response to one comment paragraph VI A has been amended to require that retroactive rental assistance received by a borrower must be passed on to any tenants who would have been entitled to the rental assistance during the retroactive period.

8. Twenty (20) Year Rental Assistance Agreements. One commenter recommended that only five (5) year rental assistance agreements should be allowed, thus providing four five-year units for each twenty-year unit now provided. This suggestion was not adopted. However, the appropriation act which authorizes rental assistance limits the life of the agreements entered into or extended in Fiscal Year 1983 to five years.

9. Borrower Responsibility For Error. One commenter requested that we address borrower responsibility for errors in computation or other unauthorized use of rental assistance. Paragraph VIII F was added requiring repayment of any incorrectly advanced rental assistance funds.

10. Recertification. One commenter requested that we require a new tenant certification when rental assistance is assigned and the present certification is over 90 days old. This request was considered but not adopted. It was felt that it would place an undue burden on borrowers and tenants since current regulation requires a recertification every year.

11. Rental Assistance Servicing On Delinquent Accounts. Two commenters requested stricter control of rental assistance payments on delinquent accounts or accounts with other types of default. These suggestions were not adopted. The Agency is presently designing a new accounting system for multiple family housing. Stricter controls will be considered in the design of the new system.

12. Rental Assistance For Ineligible Tenants. Four commenters objected to taking rental assistance from ineligible tenants once it was assigned. This requirement has been removed. Ineligible tenants who receive rental assistance are now addressed in paragraph II A 3 c.

13. Rental Assistance Assigned to Wrong Household. There were three responses to paragraph XII regarding the right of the tenant who received rental assistance in error; two against our proposal and one in favor. This paragraph has been rewritten, giving the tenant appeal rights under Subpart L of Part 1944.

14. Terminating Rental Assistance Agreements. There were two responses to paragraph XIV, requesting more specific guidance on when and how rental assistance agreements may be terminated. The previous paragraph XIV B 2 has been deleted and two new paragraphs have been added dealing specifically with voluntary conveyance and accelerated accounts.

15. Hardship Criteria. One commenter requested that we establish specific criteria for issuing rental assistance units to States for hardship cases. This request was considered but not adopted. This criteria is established administratively each year, based on availability of rental assistance units and nationwide survey of tenant need for rental assistance.

CFDA Numbers and Title: 10.405, Farm Labor Housing Loans and Grants; 10.415, Rural Rental Housing Loans; and 10.427, Rural Rental Assistance Payment.

List of Subjects

7 CFR Part 1930

Accounting, Administrative practice and procedure, Grant programs—housing and community development, Loan programs—housing and community development, Low- and moderate-income housing—rental, Reporting requirements.

7 CFR Part 1944

Administrative practice and procedure, Aged, Handicapped, Loan programs—housing and community development, Low- and moderate-income housing—rental, Mortgages, Nonprofit organizations, Migrant labor, Rent subsidies, Grant programs—housing and community development, Rural housing.

Accordingly, Subpart C of Part 1930 and Subparts D, E and L of Part 1944, Chapter XVIII, Tile 7, Code of Federal Regulations are amended as follows:

PART 1930—GENERAL

Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

1. Add to the table of contents after Exhibit C–1 "Exhibit D—Reserved" and "Exhibit E—Rental Assistance Programs."

§ 1930.141 [Amended]

2. In § 1930.141, paragraph (d) is revised to read "Exhibit E of this Subpart."

3. In § 1930.141, paragraph (f)(4) is amended by changing the reference from "Form FmHA 444–7" to "Form FmHA 1944–7."

4. In § 1930.141, paragraph (f)(5) is amended by changing the reference from "Form FmHA 444–29" to "Form FmHA 1944–29."

Exhibit B—[Amended]

5. In Exhibit B, "Multiple Housing Management Handbook," paragraph III B 4, lines two and three are amended by changing the reference "Exhibit C to Subpart E to Part 1944 of this Chapter" to "Exhibit E to this Subpart."

6. In Exhibit B, paragraph IV E 1, line five is amended by changing the reference from "Form FmHA 444–29." to "Form FmHA 1944–29."

7. In Exhibit B, paragraph V B 5 a (3), line four is amended by changing the reference "Form FmHA 444–29." to "Form FmHA 1944–29."

8. Exhibit B is amended by adding paragraph V D 3 which reads as follows:

Exhibit B—Multiple Housing Management Handbook

* * * * *

V. *Renting Procedure:*

* * * * *

D. Maintenance of Waiting List.

* * * * *

3. No applicant may be given preference for occupancy because he or she qualifies for rental assistance and the project has rental assistance available except as required in paragraph XI A of Exhibit E to this subpart.

* * * * *

9. In Exhibit B pargraph VII B 2 lines three and four are amended by changing the reference "Exhibit C of Subpart E of Part 1944 of this Chapter" to "Exhibit E to this Subpart."

10. In Exhibit B paragraph XI B 1 b line one is amended by changing the reference "Form FmHA 444–29." to "Form FmHA 1944–29."

Exhibit B–3—[Amended]

11. In Exhibit B–3 "Suggested Housing Management Agreement for FmHA Multiple Family Housing Projects" paragraph 16a(4)(b)(2) line three is amended by changing the reference "Form FmHA 444–29." to "Form FmHA 1944–29."

Exhibit B–6—[Amended]

12. In Exhibit B–6 "Monthly Reports" line three in the first column and line three in the sixth column are amended by changing the reference "Form FmHA 444–29." to "Form FmHA 1944–29."

Exhibit B–8—[Amended]

13. In Exhibit B–8 "Miscellaneous Report or Submittals" line two in the first column is amended by changing the

reference from "Form FmHA 444–25" to "Form FmHA 1944–25."

14. In Exhibit B–8 lines one and two in the sixth column are amended by changing the reference from "Exhibit C to Subpart E, Part 1944" to "Exhibit E to this Subpart."

Exhibit C—[Amended]

15. In Exhibit C, paragraph II, line thirty-one is amended by changing the reference from "paragraph II D of Exhibit C Part 1944 Subpart E" to "paragraph II B of Exhibit E to this Subpart."

16. In Exhibit C paragraph III A 1 line two is amended by changing the reference from "Form FmHA 444–25." to "Form FmHA 1944–25."

17. In Exhibit C paragraph IV A 3 line two is amended by changing the reference from "Form FmHA 444–29." to "Form FmHA 1944–29."

Exhibit D—[Reserved]

18. Exhibit D is reserved.

Exhibit C—[Revised and Redesignated as Exhibit E]

19. Exhibit C to Subpart E of Part 1944 is revised and redesignated as Exhibit E to Subpart C of Part 1930 and reads as follows:

Exhibit E—Rental Assistance Program

[FmHA Instruction 1930–C]

I. *General.* The objective of the rental assistance program is to reduce rents paid by low-income households. This Exhibit sets forth the policies and procedures and delegates authority under which rental assistance (RA) will be extended to eligible tenants occupying eligible Rural Rental Housing (RRH) and Rural Cooperative Housing (RCH) projects financed by FmHA. This Exhibit also applies to Farm Labor Housing (LH) projects when the borrower is a broadly-based nonprofit organization, nonprofit organization of farmworkers, or a State or local public Agency. Rental assistance will supplement the benefits available to tenants under the interest credit program outlined in Exhibit B to Subpart E of Part 1944 of this chapter.

II. *Definitions.* A. *Eligible Tenants.* Any low-income household, handicapped person, or senior citizen meeting the following requirements:

1. The household adjusted annual income must not exceed the low income limit established for the area as indicated in Exhibit C to Subpart A of Part 1944 of this chapter.

2. The household must be unable to pay the approved rental rate plus utility allowance within 25 percent of their adjusted monthly income.

3. The household must meet the occupancy standard stated in Exhibit B to this Subpart and in the borrower's RA agreement, except:

a. Tenants occupying an inappropriate size unit, who are covered by paragraph V B 1 h of Exhibit B to this Subpart, are considered eligible tenants for RA provided they agree, in writing, to move at their own expense to the next available unit of appropriate size. If the project does not contain a unit of appropriate size, the tenant may occupy an inappropriate size unit and receive RA.

b. Tenants who initially occupied an apartment unit prior to November 14, 1977, and who were determined eligible for occupancy at that time under guidelines then in effect, may remain in that apartment for an indefinite period and receive RA (and interest credit benefits) even though they do not meet the present occupancy standards, as long as they remain in the same unit and are income eligible under current FmHA regulations. Such tenants may receive RA if it becomes available to them without meeting the present occupancy standard.

c. Ineligible tenants, with State Director approval, who are income eligible but occupancy ineligible, may receive RA as long as they are permitted to occupy a unit as an ineligible tenant.

B. *Eligible Project.* 1. All projects must operate under Interest Credit Plan II RA to be eligible to receive RA, except LH loans, direct RRH, and insured RRH loans approved prior to August 1, 1968, which must operate under Plan RA. To be eligible for RA the project must have a:

a. RRH insured or direct loan made to a broadly-based nonprofit organization, or State or local agency, including Senior Citizen Housing (SCH), or

b. RRH insured loan to an individual or organization who has or will execute a Loan Resolution or Loan Agreement agreeing to operate the housing on a limited profit basis as defined in § 1944.205(r) of Subpart E to Part 1944 of this chapter, or

c. RCH insured or direct loan, or

d. LH loan, or an LH loan and grant combination, made to a broadly-based nonprofit organization or nonprofit organization of farmworkers or a State or local public Agency.

2. Borrowers may utilize HUD's Section 8 Housing Assistance Payments Program for existing housing and FmHA RA for other eligible households in the same project.

3. Projects with all or a part of the rental units under contract with the Department of Housing and Urban Development (HUD) developed under the Section 8 program for new construction or rehabilitation, by either the dual or single track processing procedures will not be considered an eligible project for RA.

C. *Operational Project.* Any FmHA financed project which has been occupied by tenants for at least 90 days. This may also include newly constructed projects in which a diligent effort has been made to rent the units and at least some units have been occupied.

D. *New Project.* Any FmHA financed, newly constructed project or a project which meets the definition of major rehabilitation in § 1944.212 of Subpart E of Part 1944 of this chapter.

E. *Rental Assistance.* Rental assistance (RA), as used in this Exhibit, is the difference between 25 percent of the household's adjusted monthly income and the approved rental rate (including the approved utility allowance, when applicable) for the rental unit being occupied by the household. When the household's adjusted monthly income is less than the approved utility allowance which is billed directly to and paid by the tenant, the owner will pay the household that difference according to paragraph IX A 2 of this Exhibit. Rental assistance is further defined as:

1. For projects operating on Interest Credit Plan II RA, the difference between 25 percent of the household's adjusted monthly income and the basic rent, including utilities for the rental unit.

2. For projects operating on Plan RA, the difference between 25 percent of the household's adjusted monthly income and the approved market rental rate, including utilities for the rental unit.

F. *Approved Rental Rate.* The approved rental rates (basic and/or market rent) are those shown on the budget for the year and approved according to § 1930.124 of this Subpart plus utility allowances, when required, which have been determined and approved according to Exhibit A–5 to Subpart E of Part 1944 of this chapter. Any increase in rental rates or utility allowance must be processed according to Exhibit C to this Subpart.

G. *Utility Allowances.* The allowance approved by FmHA according to Exhibit A–5 to Subpart E of Part 1944 of this chapter, to cover the cost of utilities which are payable directly by the households.

H. *Replacement Units.* RA units which replace RA units in RA agreements expiring because obligated funds have been fully disbursed.

III. *Utilization of Rental Assistance.* All borrowers with eligible projects as defined in paragraph II B of this Exhibit are encouraged to utilize the RA program and receive RA payments on behalf of low-income tenants. Generally, the borrower, or the borrower's approved management agent, will initiate the processing of a RA application.

IV. *Priority of Rental Assistance Applications.* The National Office may establish a State quota on the number of RA units that may be approved and obligated in any fiscal year. The State Director will limit the approval of RA to no more than the number of units allocated to the State. Unless otherwise stated by the National Office, the State allocation will indicate the number of RA units for operational projects and the number of RA units to be used for new construction. Priority in allocating RA units will be as follows:

A. *Allocation to Projects Within a State.* The State Director will distribute any RA units allocated to the State according to any specific guidance established by the National Office. When no specific guidance is established by the National Office the State Director will approve requests for RA to projects according to the provisions of this Exhibit.

1. *Replacement Units:* The State Director will distribute or reserve RA units and give priority to projects needing replacement units before any initial or additional units are allocated to other new or operational projects. The State Director should ascertain

how many RA units are expected to expire in each District Office during the current fiscal year and the first quarter of the following fiscal year.

2. *Operational Housing:* The State Director will distribute any remaining RA units allocated to the State for initial or additional units in operational RRH, RCH, and LH projects based on Forms FmHA 1944–25, "Request for Rental Assistance," that have been submitted by elighible borrowers. Priority will be given to projects based on the earliest date that Form FmHA 1944–25 and other information is received by the State Director in acceptable form. The number of RA units granted in any project will be based on the number of households in the project eligible for RA up to the maximum allowed, including exceptions granted by the State Director and National Office. The National Office will notify the State Director each year of any specific date by which all requests for RA must be submitted to FmHA for consideration.

3. *New Housing:* Any RA units allocated to the State for new construction will be distributed on a priority basis in the following order:

a. RRH or RCH projects to be provided in areas where HUD Section 8 units under the FmHA set-aside are not available.

b. Applications for RRH and RCH loans where the market survey information indicates that without RA, a large percentage of the prospective tenants will be paying in excess of 25 percent of their adjusted monthly income for rent including utilities. When the number of RA units available is inadequate to cover all such applications, the units will be distributed giving priority to those projects located in areas identified as having the greatest housing needs and selected for funding in accordance with § 1944.231(c) of Subpart E of Part 1944 of this chapter.

c. For LH projects, RA units will be allocated by the National Office on a case-by-case basis at the time the projects are considered for funding at the National Office level.

4. *Limitation on number of units of rental assistance in each project:* The maximum number of rental units in a project to obtain RA is limited to the following:

a. No limitation for eligible LH loan and grant projects.

b. No limitation for RRH, RCH or SCH projects designed and limited to housing for the senior citizen or handicapped, except that the State Director may limit the percentage of RA units granted to no more than 40 percent of the number of rental units if it appears that the number of RA units distributed to the State will not be adequate to approve all requests for RA.

c. An RCH or RRH project designed and/or primarily occupied by low- and moderate-income households will be limited to not more than 40 percent of the total number of rental units in the project.

d. An RCH or RRH project originally planned and designed for a mix of senior citizen or handicapped persons and low- and moderate-income households will be limited to not more than 40 percent of the total number of rental units designed for low- and moderate-income households but there will be no limitation on the rental units designed for and occupied by senior citizens or handicapped persons.

B. *Granting Exceptions.* 1. *State Directors Authority.* An exception to the 40 percent limitation indicated in paragraphs IV A 4 c and d of this Exhibit may be granted by the State Director for up to 70 percent of the rental units in any particular project. (Number of units × 70 percent = number of RA units rounded to the next higher whole number.) However, the total number of units of RA granted by the State Director, including exceptions, cannot exceed the number of RA units allocated to that State. Exceptions will be granted only when RA units are available, or can be made available, and the following conditions exist:

a. When more than 40 percent of the rental units are occupied by households who are paying more than 25 percent of their adjusted income for rent, including utilities, and such units are no larger than needed to meet the household's need, or

b. Other tenants in a project that is being assisted at the 40 percent level experience a hardship as a result of an income decrease or a rental increase and must obtain RA to remain in the project, or

c. The project is located in or is being developed in an area or community having a low median per capita income based on the county data from the most recent census. Also, the majority of the proposed tenants are now or will be paying in excess of 25 percent of their income for rent including utilities.

2. *Replacement Agreements.* The State Director may approve RA agreements for replacement units which exceed his/her approval authority, provided the units were initially authorized in writing by the National Office.

3. *National Office Authority.* The National Office may authorize the State Director to approve RA up to 100 percent of the rental units in family and mixed projects on a case-by-case basis. The project must be located in or proposed in an area or community having a low median per capita income based on the county data from the most recent census. Also, the majority of the tenants are now, or will be, paying in excess of 25 percent of their income for rent including utilities. Exception requests must be submitted to and approved by the National Office prior to approving the loan or requesting obligation of rental assistance for more than 70 percent of the rental units in the project.

C. *Processing Exception Requests.* A request for an exception to the 40 percent limitation will be submitted by the borrower to the District Director. After reviewing the request for completeness, accuracy, and sufficient documentation to fully support the request, the District Director will submit the request with the documentation and recommendations to the State Office by memorandum for approval. Included in the memorandum will be the number and percentage of rental units in excess of the 40 percent limit and justification for the approval. When National Office authorization is required to exceed the 70 percent limitation, the State Director will request this authorization by memorandum and will submit the following:

1. Operational Projects—

a. Form FmHA 1944–25,

b. Form FmHA 1944–29, "Project Worksheet for Interest Credit and Rental Assistance," with all columns completed for each tenant in the project,

c. A copy of the project's waiting list for occupancy identifying eligible prospective tenants on the top of the waiting list whose incomes have been verified and who are willing to occupy vacant units if an exception to the 70 percent limitation is made,

d. A copy of any existing RA agreement and modifications thereto which may be in effect on the project,

e. The comments of the District Director, and

f. The comments and recommendations of the State Director.

2. New Projects—

a. Form FmHA 1944–25,

b. Complete data and documentation on the rental housing market,

c. Complete data and documentation on the income of the households likely to be served,

d. The comments of the District Director, and

e. The comments and recommendations of the State Director.

V. *Processing of Rental Assistance Applications.* All requests for RA will be processed according to this paragraph and may be approved by the State Director.

A. *Operational Projects.* 1. A borrower with an eligible project in which there are tenants paying in excess of 25 percent of their adjusted income for rent is encouraged to file Form FmHA 1944–25 with the District Director. A separate Form FmHA 1944–25 will be submitted for each project. The borrower should include the following with each request.

a. Form FmHA 1944–29, with all columns completed for each tenant in the project. (All Forms FmHA 444–8, "Tenant Certification," must be current.)

b. Approved or proposed budget for the year on Form FmHA 1930–7, with Exhibit A–5 to Subpart E of Part 1944 of this chapter attached, when applicable.

2. Prior to the full disbursement of obligated funds on any agreement, a borrower or approved management agent may submit a request for replacement RA units. This request should contain all the material requested in paragraph V A 1 of this Exhibit and should be submitted no later than three (3) months prior to the expected full disbursement of obligated funds, to allow time for processing the request. The number of replacement units may not exceed the number of units that are expiring. Once replacement units have been requested, additional units may not be requested until Form FmHA 1944–26, "Request For Obligation of Rental Assistance", is received obligating the replacement units. Form FmHA 1944–26 requesting the additional units must be coded sequentially as required in paragraph V C 5.

3. The District Director will review the budget, Exhibit A–5, Form FmHA 1944–29, and Form FmHA 1944–25 submitted by the

borrower to assure that the items are complete and accurate. The District Director will complete Form FmHA 1944–25 and submit all data provided by the borrower to the State Director with appropriate comments and recommendations.

B. *Projects to be Funded.* 1. Applicants requesting funding for new projects who are planning to utilize the RA program, should submit a completed Form FmHA 1944–25 to the County Supervisor or District Director, as appropriate, when submitting a preapplication or application for funding.

2. The number of units of RA requested should be based on the market data for the area, the proposed rental rates as reflected in a budget for the project, and the income levels of the prospective tenants.

C. *State Director Action on Requests for Rental Assistance.* Only the State Director or delegated members of the State Office staff may approve or disapprove rental assistance requests.

1. *Approval of Actions.* When the State Director determines that RA can be granted or replaced, or a change in the number of RA assisted rental units is needed, Form FmHA 1944–26, will be prepared and distributed according to the Forms Manual Insert (FMI). *Form FmHA 1944–27, "Rental Assistance Agreement," will not be executed until Form 1944–26, has been returned from the Finance Office indicating that the requested number of RA units and funds have been obligated for the project.*

2. *Initial or Replacement Agreements.* Once the initial or replacement request for RA has been obligated by the Finance Office, a copy of the Form FmHA 1944–26 indicating the date and amount of obligation will be forwarded to the District Director. The District Director will prepare an original and two copies of Form FmHA 1944–27. When the project has not had RA previously an original and three copies of Form FmHA 1944–7, "Interest Credit and Rental Assistance Agreement", will be prepared. The original and three copies of Form FmHA 1944–7 and the original and two copies of Form FmHA 1944–27 will be executed by the borrower and District Director. The forms will be distributed according to the appropriate FMI.

3. *Modification of an Existing Agreement.* After any request for a change in the amount of RA has been obligated by the Finance Office, the Form FmHA 1944–27 will be prepared, signed and distributed according to the FMI. A new Form FmHA 1944–7 is not required.

4. *Denial of Rental Assistance Request.* If RA cannot be provided, the State Director will inform the borrower, in writing, of the reasons. The borrower will be given appeal rights according to Subpart B of Part 1900 of this chapter in all cases except when RA is not available from the State's allocation or the National Reserve.

5. *Assigning Rental Assistance Agreement Numbers.* The borrower's initial RA agreement will be coded 01–00. Associated modifications will be coded 01–01, 01–02, etc. Replacement RA agreements and associated modifications to those agreements will be coded sequentially beginning with 02–00. The State Director will assign the appropriate agreement number when preparing Form FmHA 1944–26.

VI. *Terms of the Rental Assistance Agreement.* A. *Effective Date.* Each "Rental Assistance Agreement" will be effective the first day of the month in which it is executed. If assistance is granted to a project under an appeal according to paragraph XVI of this Exhibit, the effective date will be retroactive to the first day of the month in which the assistance was denied, provided the borrower agrees to make any appropriate refunds to tenants who would have been entitled to RA during the retroactive period.

B. *Term.* 1. *Twenty (20) Year Agreement.* Twenty (20) year agreements are restricted to new projects or modifications of existing twenty (20) year agreements. The agreement shall be effective for twenty (20) years from the effective date of the agreement. This agreement may be modified or terminated in accordance with the terms of the RA agreement. The agreement will expire when the funds obligated for the RA units described in Section 1 of the agreement are fully disbursed. This can be any time before or after the end of the 20-year term. Upon expiration of the agreement, a replacement agreement may be executed. If a replacement agreement is considered, it will be for a five (5) year period.

2. *Five (5) Year Agreement.* Five (5) year agreement may be used for operational projects, or for new projects when twenty (20) year units are not available. The agreement shall be effective for five (5) years from the effective date of the agreement. This five (5) year agreement may be modified or terminated in accordance with the terms of the RA agreement. The agreement will expire when the funds obligated for the RA units described in Section 1 of the agreement are fully disbursed. This can be any time before or after the end of the five (5) year period.

3. *Modification of Agreements.* Modification of the number of RA units assigned to any project will be limited to units of the same term as the original agreement.

4. *Amendment of Agreements.* Any existing RA agreement executed prior to (final rule), which will have a remaining obligation balance at the end of the 5-year or 20-year expiration date stated in Section 9, "Term of the Agreement," may be modified by the use of Form FmHA 444–27A, "Amendment to Rental Assistance Agreement". The amended agreement will expire when the obligated funds are fully disbursed.

5. *Replacement Agreements.* Replacement RA agreements for either 5-year or 20-year agreements will be for a five (5) year period. All requirements in paragraphs VI B 2 and 3 of this exhibit apply. Expiring RA agreements and replacement RA agreements may run concurrently for one month so any undisbursed obligation balance on the expiring RA agreement can be liquidated.

VII. *Recordkeeping Responsibilities.* A. The State Director will maintain Form FmHA 444–28, "Record of Rental Assistance Agreements." Any changes which are made in the number of rental units assisted will be recorded on Form FmHA 444–28.

B. The District Director will maintain a record of each borrower's use of RA according to Exhibit E–1 of this Subpart. Exhibit E–1 will be inserted in the fold of Form FmHA 1905–6, "Management System Card—Multi-Family Housing," for each project. At the end of each twelve month period, Exhibit E–1 will be filed in Position 2 of the project case file and maintained indefinitely.

C. The District Director will notify the borrower to apply for replacement RA units when the RA Undisbursed Balance on Exhibit E–1 reaches a level sufficient to cover approximately 6 months of RA requests. This figure will be based on the project's average monthly request for RA.

D. Information on FmHA Rental Assistance on Form FmHA 2033–42, "Multi-Family Housing Information Status Tracking and Retrieval System," (MISTR) regarding balance of RA funds must be updated annually at the end of each fiscal year by the District Director and State Director.

VIII. *Responsibilities of Borrower in Administering the Rental Assistance Program.* The borrower and management agent for each project receiving RA should fully understand the responsibilities and requirements of carrying out the program. The following guidelines will be followed:

A. RA payments will not be made directly to eligible tenants receiving RA except as specified in paragraph IX A. The borrower will maintain an accurate accounting of each tenants's utility allowance and payments made to tenants. All other RA payments will be recorded as a credit to the tenant's monthly rental payment.

B. The borrower must submit Form FmHA 444–8 for each tenant as required in paragraph VI E of Exhibit B to this Subpart (Management Handbook).

C. The incomes reported by the tenants must be verified by the borrower in accordance with paragraph VI of Exhibit B to this Subpart (Management Handbook).

D. Borrowers utilizing RA must comply with § 1930.124 of this Subpart. RA will not be approved for a project until the operating budget has been approved by the FmHA State Office or the District Director. District Directors, with assistance from the State Office, must closely supervise and assist borrowers in complying with all accounting and management requirements.

E. A borrower participating in the RA program must have an FmHA approved lease with the assisted household. All leases must comply with the provisions of paragraph VII of Exhibit B to this Subpart (Management Handbook).

F. The borrower will be responsible to FmHA for any errors made in the administration of the RA program which are made by the borrower or the borrower's authorized management agent. Errors in computation or other unauthorized use of RA will require, at a minimum, the repayment of any incorrectly advanced RA funds. If the error or unauthorized use of RA appears to be deliberate or intentional, the State Director will refer the case to the Office of Inspector General according to Subpart B of Part 2012 (available in any FmHA Office).

IX. *Handling Utility Allowances.* A. *Payment of Utilities.* 1. When the tenant is billed directly for utilities, rent paid by the tenant receiving RA will be the difference

between the established utility allowance and 25 percent of the household's adjusted monthly income.

2. When utilities are paid by the household receiving RA and 25 percent of the household's monthly adjusted income is less than the allowance for utilities, the borrower will pay the household the difference between the utility allowance and 25 percent of the household's adjusted monthly income.

3. In a project where the owner pays all utilities, the tenant rent will be the full 25 percent of the adjusted monthly income up to approved rent for the rental unit being occupied.

B. *Determining the Allowance.* The utility allowance will be determined and recorded by the use of Exhibit A–5 to Subpart E of Part 1944 of this chapter.

C. *Changes in Allowances.* The utility allowance should be reviewed annually and adjusted if there are substantial changes in utility and public service rates. Normally, allowances will be adjusted on an annual basis if necessary when the owner submits a new budget for approval. Changes in utility allowance which will result in increased rent paid by tenants will be presented according to Exhibit C to this Subpart.

X. *Method of Payment of Rental Assistance to Borrower.* A. The borrower will prepare a separate Form FmHA 1944–29 for each project according to the FMI. This information will be used by the District Director in preparation of Form FmHA 1944–9, "Multiple Housing Certification and Payment Transmittal." Any requested RA payment will be mailed by the Finance Office directly to the borrower. The District Director should verify that the borrower's address on Forms FmHA 440–47, "Acknowledgement of Obligated Funds/Check Request," and FmHA 450–14, "Actual Statement of Loan Account," is correct. When the address shown on these forms is not correct, the District Director will complete Form FmHA 450–10, "Advice of Borrower's Change of Address or Name," correcting the borrower's address, and mail with the request for payment of RA following the same procedure specified in paragraph B 1 below. When a borrower has more than one project within a county, all checks must be sent to the same address.

B. When a project loan account is delinquent, the District Director should counsel with the borrower and develop a servicing plan in accordance with § 1965.85(b) of Subpart B of Part 1965 of this chapter. This plan should incorporate detailed provisions for continuing operation of the project and paying the account current.

1. As part of this servicing plan, the District Director may process a Form FmHA 450–10 to change the borrower's address to the District Office address so RA checks are delivered to the District Office. The Form FmHA 450–10 should be forwarded to the Finance Office Multiple Family Housing Unit. If a RA payment is being requested at the same time, Form FmHA 1944–9 should be attached to the Form FmHA 450–10. Only those data fields on the Form FmHA 1944–9 applicable to the RA checks request should be completed.

2. The RA check may be released to the borrower according to the servicing plan. The District Director may require that all or a portion of the RA check be applied to the delinquent loan account.

3. At the District Director's discretion, another Form FmHA 450–10 may be processed changing the address back to the borrower's mailing address so the check will be mailed directly to the borrower. The procedure in paragraph X B 1 should be followed.

C. All RA payment requests will be based on actual occupancy as of the first day of the month, except for the initial month of rent-up in a new project. During the initial month of participation by a new project in the RA program the borrower will request RA on a prorata basis for eligible tenants occupying the project. This initial RA request may be submitted at the end of the initial month.

XI. *Assigning Rental Assistance to Tenants:* A. *New Project.* Applications for occupancy should be accepted during the construction phase of the project and placed on a waiting list. During initial rent-up period the following priorities will apply:

1. Until all the RA units have been assigned, a number of apartment units in the project equal to the number of RA units will be initially reserved for applicant households who qualify for RA as defined in paragraph II A of this Exhibit. Applications qualifying for RA will be considered on a first come, first served basis, by-passing those applicants on the waiting list whose income is above the low-income limit for the area. The balance of the apartment units will be rented simultaneously to other tenants on a first come, first served basis. The District Director may grant a written waiver to this requirement when review of the borrower's method of advertising the rental units satisfactorily demonstrates that households eligible for RA are not available or do not desire occupancy.

2. If there are still vacant units, those applicants by-passed because they did not qualify for RA will be considered for occupancy on a first-come first-served basis.

3. After the project is fully occupied, or when the District Director determines that the initial rent-up period is ended, the priority procedures in paragraph XI B for operational projects will be followed.

B. *Operational Project. To determine priority for assigning an available RA unit in an operational project, the latest Form FmHA 1944–29 must be updated as of the date the unit is available, assuring that columns 3 through 9 are current and accurate.*

1. Priority for assigning RA is as follows:

a. *Eligible tenant in project. First priority* will be given to eligible households in residence paying the highest percentage of annual adjusted income for rent plus utilities.

b. *Eligible applicants from waiting list. Second priority* will be given to eligible applicants on the waiting list. All tenants will be selected on a first come, first served basis as provided in paragraph V D of Exhibit B to this Subpart (Management Handbook). No eligible household occupying a rental unit in the project may be required to move from the project to allow an applicant on the waiting list who is eligible for RA, to move in.

c. *Ineligible tenants: Third priority* for RA will be given to occupancy ineligible households living in the project with State Director approval. The requirement of paragraph II A 3c of this Exhibit must be met.

2. When the project has vacancies and RA is not available, an applicant who is eligible for RA may elect to accept occupancy without the benefit of RA. After occupancy, the household will be considered for RA according to paragraph XI B 1 of this Exhibit. If the applicant elects not to accept occupancy because RA is not available, their application will retain its priority date on the waiting list according to paragraph V D of Exhibit B to this Subpart.

3. Eligible tenants receiving the benefits of RA may continue receiving such benefits as long as they remain eligible for rental assistance and there is a RA agreement in effect.

c. *Assigning Rental Assistance Other Than The First of The Month:*

1. When a tenant receiving RA vacates before the end of the month, the RA unit should be immediately assigned to another tenant, using the priority given above, since the borrower has collected RA for the vacating tenant for the full month. The rent credit for the new RA recipient will be determined as follows:

a. Determine the tenant's new monthly rent with the RA benefit. Prorate the tenant's new rent for the balance of the present month.

b. Prorate the rent the tenant paid this month.

c. Subtract a from b.

c. Refund the balance or credit the balance toward the tenant's rent for the following month.

2. No adjustments will be made on Form FmHA 1944–29 to request additional RA payment or to refund any excess RA payment and/or overage.

XII. *Rental* Assistance Assigned to Wrong Household: When the tenant has correctly reported income and household size, but RA was assigned to a household in error, that tenant's RA benefit should be cancelled and reassigned. Incidents involving incorrect reporting are addressed in paragraph VIII C of Exhibit B to this Subpart (Management Handbook).

A. Before the borrower notifies the tenant, the borrower or management agent shall review the case with the District Director. If the District Director verifies that an error has been made based on information available at the time the unit was assigned, the tenant will be given 30 days written notice that the unit was assigned in error and that the RA benefit will be cancelled effective on the next monthly rental payment due date after the end of the 30 day notice period. The tenant will also be notified in writing that:

1. The tenant has the right to cancel the lease based on the error made by the borrower and the loss of benefit to the tenant.

2. The RA granted in error will not be recaptured.

3. The tenant may meet with management to discuss the cancellation and the facts on which the decision was based. If the facts are accurate and the tenant cannot produce further evidence proving eligibility for RA,

there will be no appeal from the decision. If the tenant feels there is justification for further review the borrower must give the tenant appeal rights under Subpart L of Part 1944 of this chapter.

B. Reassigning rental assistance:

1. The RA unit will be reassigned to the household which was erroneously denied the RA unit. The assignment will be based on the Form FmHA 1944–29 from which the original priority was established, when the unit was erroneously assigned. The RA will not be retroactive unless the reassignment was based on an appeal by the tenant. Retroactive RA may not exceed the project's remaining RA obligation balance.

2. If the originally denied household now has RA, or is no longer a resident, the RA will be assigned based on a current Form FmHA 1944–29 and the priorities in paragraph XI of this Exhibit.

XIII. *Rental Assistance Payment Cancellation:* When a RA check must be cancelled, the following procedure will be followed:

A. *Return of the original rental assistance Treasury check:* The District Office will prepare Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation", as specified in the FMI.

B. *Return of a portion of the monthly rental assistance payment or refund of rental assistance previously advanced:* A check from the borrower made payable to Farmers Home Administration will be submitted to the Finance Office as specified in the FMI for Form FmHA 1944–9.

2XIV. *Terminating Existing Rental Assistance Agreements Obligated in Prior and/or Current Fiscal Years.*

A. When obligated Funds are Fully Disbursed:

1. RA agreements will be automatically terminated when all obligated funds shown on the agreement are fully disbursed to the borrower. The District Office will enter a "final payment" code on Form FmHA 1944–9 when the last RA payment request is processed.

B. Prior to Full Disbursement of Obligated Funds.

1. Only the State Director is authorized to terminate RA agreements prior to full disbursement of obligated funds.

2. When current year RA agreements are terminated, the undisbursed funds for the RA obligation will be returned to the current fiscal year obligation authority.

3. When prior fiscal year RA agreements are terminated the undisbursed funds (unliquidated balances for those obligations) cannot be reused and are lost. To ensure effective utilization of RA funds, it is imperative that RA agreements not be unnecessarily terminated prior to the full disbursement of obligated funds.

4. When a project receiving RA is voluntarily conveyed to the Government, liquidated through sale outside of the program, or the loan is paid in full, the RA agreement will immediately be cancelled by the State Director. This cancellation will be effective upon recordation of the deed of conveyance or the receipt of payment in full. No appeal rights will be given to the tenants but they will be notified according to the requirements of § 1965.90 of Subpart B of Part 1965 of this chapter.

5. When servicing a project account according to § 1965.85 of Subpart B to Part 1965 of this chapter and the account is accelerated, the RA payments to the borrower may be suspended but not terminated. The RA payments may be reinstated when the defaults are corrected and the State Director reinstates the borrower's account. Upon expiration of all appeals and any redemption period, the RA agreement should be cancelled. In all cases not subject to redemption rights under State law, The RA agreement should be cancelled when Form FmHA 465–6, "Advice of Mortgaged Real Estate Acquired", is forwarded to the Finance Office.

XV. *Transferring Existing Rental Assistance Agreements.* When a loan is transferred to an eligible borrower, the transferee may assume the transferor's RA agreement provided the eligibility requirements of Paragraph II are met. The RA agreement will be described on the Assumption Agreement (Form FmHA 460–5 or FmHA 460–9) giving date executed, number of units, term of agreement and remaining obligation balance as required in § 1965.65 (c) (14) of Subpart B of Part 1965 of this chapter.

XVI. *Rights for Appeal if Rental Assistance is not Granted or is Cancelled by Farmers Home Administration.*

A. Borrowers who have requested RA in writing and are denied such assistance (whether in whole or in part) by Farmers Home Administration, or when RA is cancelled, will be notified in writing of the specific reasons why they have been denied RA as specified in Subpart B of Part 1900 of this chapter.

B. If at any time a borrower or a household is granted RA under an appeal, the borrower or household will receive the next available RA unit.

C. Borower denial of RA to tenants will be handled according to Subpart L of Part 1944 of this chapter.

XVII. *Forms and Exhibits.* Exhibit A–5 to Subpart E of Part 1944 of this chapter and Form FmHA 1944–7 are to be used in determining the amount of rental assistance to be provided.

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PAYMENT AND RENTAL ASSISTANCE TRACKING FORM

FmHA Instruction 1930-C
Exhibit E-1
Page 1

BORROWER :
CASE NUMBER :
LOAN CODE :
LOAN AMOUNT :
DATE OF NOTE :
INTEREST RATE :
YEARS :
INTEREST CREDIT EFFECTIVE DATE:
INTEREST CREDIT PLAN :
INTEREST ONLY PAYMENT :

INSTALLMENT DUE DATE. :
INTEREST CREDIT PAYMENT: Monthly Annual
NOTE RATE PAYMENT : Monthly Annual
RENTAL ASSISTANCE: ( ) 5 Year ( ) 20 Year
Total Unit :
Obligation Amount:
RA Agreement Number:

BEGINNING RENTAL ASSISTANCE UNDISBURSED BALANCE:

DATE	AMOUNT DUE	TOTAL PAYMENT MADE	PAID ON INSTALLMENT	OVERAGE - - - - - SURCHARGE	ACCOUNT STATUS MONTHLY	ACCOUNT STATUS ANNUAL	RA USED CURRENT MONTH	DATE RA CHECK ISSUED	RA UNDISBURSED BALANCE
							( )		
							( )		
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Instructions for Use "Payment and Renalt Assistance Tracking Form"

I. *General.* These instructions are for completing Exhibit E–1, which is a form for recording borrower's loan payments and requests for rental assistance (RA). The objective is for the District Office (DO) to maintain a constant status of the undisbursed balance of the RA obligation so RA disbursements do not exceed obligated funds. Exhibit E–1 should also be used to monitor a borrower's loan account status; as a servicing tool when working with a delinguent borrower; and, as an audit form when requesting account corrections by the Finance Office (FO).

II. *Uses for the Exhibit.* A. *Tracking rental assistance.*

1. When and execute Form FmHA 1944–26, "Request for Obligation of Rental Assistance," is returned by the FO, each obligation or deobligation of RA (including modifications) will be recorded on Exhibit E–1.

2. Each request for payment of RA on Form FmHA 1944–9, "Multiple Housing Certification and Payment Transmittal," must be recorded on Exhibit E–1 and the "Rental Assistance Undisbursed Balance" must be brought current. When Form FmHA 451–26 "Transaction record," is received the amount of the RA check issued must be verified against the requested amount shown on Exhibit E–1. If no Form FmHA 451–26 is received within 30 days from date of request, the DO should contact the Multiple Family Housing (MFH) Unit in the FO by telephone to determine if the check has been issued. If the amount of a check received differs from the amount requested, the DO should contact the MFH Unit in FO immediately by telephone.

B. *Monitoring Loan Account Status.*

1. The date and amount of each payment due should be entered monthly and the Account Status columns brought current.

2. The date and amount of each payment submitted to the FO on Form FmHA 1944–9 and the applications to installment and overage/surcharge, should be entered in the appropriate columns. The current account status should be entered.

3. When Forms FmHA 451–26 are received they should be verified against the entries made from Form FmHA 1944–9. If there is an error, copies of documentation relating to the error and the DO guidance on needed corrections should be forwarded to the State Office (SO) with a request that they contact the FO.

4. If forms FmHA 451–26 are not received on payments or overage within 30 days after Form FmHA 1944–9 is sent to the FO, the SO should be contacted immediately.

5. The SO is responsible for follow-up with the FO. However, the SO may instruct the DO to contact FO directly if the contact can be made more efficiently by the DO.

C. *Auditing Borrower Accounts.*

1. If the DO feels the account status shown by the FO is incorrect, Exhibit E–1 should be used to record a transaction-by-transaction audit of the borrower's account from the initial date of the loan. This audit can be used to demonstrate to a borrower why the account is delinquent. The audit can also be used to identify where corrections should be made in FO records.

2. A request for action by the FO should be forwarded through the SO to the MFH Unit in the FO, "Open Addressee Only". The request should include a copy of the audit; copies of input and output documents showing the errors made and necessary corrections; and, a memorandum from the DO requesting correction of the account.

3. The FO will use the material submitted to research the account and to make necessary corrections.

III. *Completing the Exhibit.* A. *Heading.*

1. For routine tracking the DO may complete only those items necessary to identify the borrower.

2. For audit purposes, and/or to send to FO, all items in the heading must be completed. Heading items should be verified as part of the audit procedure.

B. *Beginning Rental Assistance Undisbursed Balance.* This is the initial obligation for the rental assistance agreement or the balance carried forward from a previous year.

C. *Columns.*

1. *Date*—Due date of payment or transaction date.

2. *Amount Due*—Scheduled payment from promissory note or payment reduced by interest credit.

3. *Total Payment Made*—Amount of payment submitted by borrower including overage or surcharge.

4. *Paid on Installment*—Amount of total payment to be credited to scheduled note installment.

5. *Overcharge/Surcharge*—Amount of total payment which is applied as overage or surcharge.

6. *Account Status*—

a. *Monthly*—Status of the account after the amount paid on installment is applied. Show the amount of the monthly installment which is ahead (A) or behind (B) schedule as required by the promissory note and interest credit agreement. If the account is neither ahead nor behind schedule, indicate the account is even (E). If the account is ahead or behind schedule at the beginning of the tracking period, indicate the amount and status on the first line of the column and adjust the status with each succeeding entry.

b. *Annual*—Annual payment shown on annual promissory note or twelve times the monthly payment required by a monthly promissory note. The payment will be modified if the borrower has an interest credit agreement. Indicate on the first line any amount due by the date shown in the "Minimum Amount Due" box on Form FmHA 451–26. Include any carryover from a previous due date. Amount will be reduced with each payment made on the installment. This reduced figure should correspond to the "Minimum Amount Due" on Form FmHA 451–26. If these figures do not agree, further investigation is warranted to determine if there is an error and appropriate action should be taken to make the necessary corrections.

7. *R.A. Used Current Month*—Fill in dollar amount of rental assistance requested. The number of rental assistance units used this month should be inserted in ( ).

8. *R.A. Undisbursed Balance*—This amount is determined by subtracting the dollar amount of RA requested from the R.A. Undisbursed Balance for the previous month. Additional obligations, deobligations or refunds must be entered in this column and the proper balance adjustment must be made.

9. *Date R.A. Check Issued*—The FO RA balance is based on the date the RA check is issued. Enter the date the RA check was issued as shown on Form FmHA 451–26 under "Date Prepared."

PART 1944—HOUSING

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations.

§ 1944.182 [Amended]

20. In § 1944.182, lines three and four are amended by changing the references from "Exhibit C of Subpart B of Part 1944" to "Exhibit E to Subpart C of Part 1930."

Subpart E—Rural Rental Housing Loan Policies, Procedures and Authorizations

§ 1944.215 [Amended]

21. In § 1944.215, paragraph (g)(2), lines three and four are amended by changing the reference "Exhibit C of this Subpart" to "Exhibit E to Subpart C of Part 1930."

Exhibit B—[Amended]

22. In Exhibit B, "Interest Credits on Insured RRH and RCH Loans," paragraph II B, line six is amended by changing the reference "Form FmHA 444–7" to "Form FmHA 1944–7."

23. In Exhibit B, paragraph IV B 2 d line six is amended by changing the reference "Form FmHA 444–29" to "Form FmHA 1944–29."

24. In Exhibit B, paragraph VI D lines seven and eleven are amended by changing the reference "Form FmHA 444–7" to "Form FmHA 1944–7."

25. In Exhibit B, paragraph VI D line eleven is amended by changing the reference "Exhibit C" to "Exhibit E to Subpart C of Part 1930" of this chapter.

26. In Exhibit B, paragraph VI E line two is amended by changing the reference "Exhibit C or H" to "Exhibit H of this Subpart or Exhibit E to Subpart C of Part 1930 of this chapter."

27. In Exhibit B, paragraph VIII A line thirteen is amended by changing the reference "Form FmHA 444–7" to "Form FmHA 1944–7."

28. In Exhibit B, paragraph VII C line six is amended by changing the reference "Form FmHA 444–7" to "Form FmHA 1944–7."

29. In Exhibit B, paragraph IX line three is amended by changing the reference "Form FmHA 444–29" to "Form FmHA 1944–29."

30. In Exhibit B, paragraph IX line five is amended by changing the reference "Form FmHA 444–9" to "Form FmHA 1944–9."

31. In Exhibit B, paragraph IX A 2 line three is amended by changing the reference "Form FmHA 444–29 and Form FmHA 444–9" to "Form FmHA 1944–29 and Form FmHA 1944–9."

Exhibit C—[Removed and Reserved]

32. Exhibit C is removed and reserved.

Exhibit H—[Amended]

33. Exhibit H, "RRH Loan and the HUD Section 8 Housing Assistance Payments Program (New Construction)" paragraph IV A lines seven and eight are amended by changing the reference "Form FmHA 444–7" to "Form FmHA 1944–7."

Subpart L—Farmers Home Administration Tenant Grievance and Appeals Procedures

§ 1944.551 [Amended]

34. Section 1944.551 is amended by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

35. Section 1944.554 is amended by renumbering paragraph (a)(6) to paragraph (a)(7) and adding a new paragraph (a)(6) which reads as follows:

§ 1944.554 Reasons for grievance and appeal.

(a) * * *

* * * * *

(6) Denials of rental assistance.

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PART 1965—REAL PROPERTY

Subpart B—Security Servicing for Multiple Housing Loans

§ 1965.65 [Amended]

36. Section 1965.65(c)(14) is amended by changing the reference from "Exhibit C of Subpart E of Part 1944" to "Exhibit E to Subpart C of Part 1930 of this chapter."

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: January 28, 1983.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 83–4064 Filed 2–14–83; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 7

[Docket No. 83–4]

Bank Service Corporations, Transactions With Affiliates, Borrowing Limits, Visitation; Correction

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule concerning bank service corporations, transactions with affiliates, borrowing limits, and visitation that appeared at page 3936 in the **Federal Register** of Friday, January 28, 1983 (48 FR 3936). This action is necessary to correct a typographical error in that final rule.

EFFECTIVE DATE: January 15, 1983.

FOR FURTHER INFORMATION CONTACT: Moira Donohue, Attorney, Legislative Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219, (202) 447–1632.

PART 7—[AMENDED]

Accordingly, FR Doc. 83–2492 of January 28, 1983, 48 FR 3936 is corrected as follows:

1. The Authority citation for Part 7 reads as follows:

Authority: RS 324 et seq.; as amended; 12 U.S.C. 1 et seq., unless otherwise noted.

§§ 7.7390, 7.7361, 7.7518 [Removed]

2. Sections 7.7390, 7.7361 and 7.7518 are removed.

Dated: February 3, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83–4014 Filed 2–11–83; 8:45 am]

BILLING CODE 4810–33–M

CIVIL AERONAUTICS BOARD

14 CFR Part 254

[ER–1305–A; Economic Regulations Docket No. 40366, 38621]

Domestic baggage liability; Stay of Effective Date of Final Rule

AGENCY: Civil Aeronautics Board.

ACTION: Stay of effective date of final rule.

SUMMARY: The CAB is staying the effective date of its domestic baggage liability rule in order to more fully consider issues raised in a petition by certain members of the Air Transport Association to repeal the rule prior to its effective date. Pending completion of this new rulemaking, the currently effective baggage orders (without their tariff-filing requirement) will remain in effect.

DATES: Adopted: February 8, 1983. Effective: February 8, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

Accordingly, the Civil Aeronautics Board suspends the February 22, 1983, effective date of 14 CFR Part 254, issued as ER–1305, 47 FR 52987, November 24, 1982. Currently effective baggage orders, but without tariff-filing requirements, will remain in effect until further notice.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–3810 Filed 2–14–83; 8:45 am]

BILLING CODE 6320–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C–3102]

Heatcool, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires a Eugene, Oregon manufacturer and seller of plastic storm windows, among other things, to cease making false or unsubstantiated representations concerning the insulating properties of Heatcool plastic storm windows or any insulating or energy savings device. Further, the company would be required to: (1) notify its distributors that Heatcool plastic storm windows do not insulate better than comparable glass windows and that the window's insulating value is R–1.93; and, (2) include this information in all advertising and promotional literature for a period of one year. The company is also required to recall promotional and advertising materials which represent the insulating value of Heatcool storm window systems.

DATES: Complaint and order issued Feb. 1, 1983.[1]

[1] Copies of the Complaint and the Decision and Order filed with the original document.

FOR FURTHER INFORMATION CONTACT: George J. Zweibel, Acting Director, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, WA 98174. (206) 442–4655.

SUPPLEMENTARY INFORMATION: On Monday, Nov. 22, 1982, there was published in the **Federal Register**, 47 FR 52468, a proposed consent agreement with analysis In the Matter of Heatcool, Incorporated, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objection regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to crease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleading; § 13.20 Comparative data or merits; § 13.170 Qualities or properties of product or service; § 13.170–48 Insulating; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–45 Maintain records; § 13.533–53 Recall of merchandise, advertising material, etc. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1575 Comparative data or merits; § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts. Subpart—Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.2063 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Energy savings, Storm windows.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 83–4017 Filed 2–14–83; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 13

[Docket No. C–3101]

Southern Maryland Credit Bureau, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires a LaPlata, Md. consumer credit reporting agency, among other things, to cease failing to require customers, such as private investigative agencies, detectives or attorneys, who do not extend credit as part of their normal business, to certify the purpose for which credit information is sought; that use of the information will be restricted to that purpose; and that the customer understands that anyone obtaining credit information under false pretenses is subject to a fine and/or imprisonment under Federal law. The credit bureau is further required to compile a list of detectives and attorneys from the yellow pages of the telephone book in the area where the requesting party does business, and consult the list to determine whether certification must be provided. Additionally, the firm must require prospective customers to identify themselves and comply with certification requirements; and to withhold credit reports from parties it has reason to believe would use the information for improper purposes.

DATES: Complaint and Order issued Jan. 26, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PD, Charlyn J. Buss, Washington, D.C. 20580. (202) 724–1175.

SUPPLEMENTARY INFORMATION: On Wednesday, Nov. 10, 1982, there was published in the **Federal Register**, 47 FR 50922, a proposed consent agreement with analysis In the Matter of Southern Maryland Credit Bureau, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having being received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Collecting, Assembling, Furnishing or Utilizing Consumer Reports: § 13.382 Collecting, assembling, furnishing or utilizing consumer reports; 13.382–1 Confidentiality, accuracy, relevancy and proper utilization; 13.382–1(a) Fair Credit Reporting Act; 13.382–5 Formal regulatory and/or statutory requirements; 13.382–5(a) Fair Credit Reporting Act. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–37 Formal regulatory and/or statutory requirements.

List of Subjects in 16 CFR Part 13

Consumer credit reports.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 84 Stat. 1128–36; 15 U.S.C. 1681–1681t)

Carol M. Thomas,

Secretary.

[FR Doc. 83–4018 Filed 2–14–83; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM82–10–000; Order No. 282]

Revision of Form No. 12, Power System Statement

Issued: February 7, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) revises Form No. 12, "Power System Statement" and the corresponding regulations at 18 CFR 141.51. The changes eliminate certain data requirements from the form, reduce by about one third the number of electric utilities that must complete the form, and reduce from six to four the number of copies of the form that must be filed with the Commission. The revisions are part of the Commission's ongoing program to review and evaluate its filing requirements, to eliminate the reporting of information that is not used for decisionmaking in the regulatory process, and to reduce unnecessary reporting burdens.

DATE: This final rule is effective March 17, 1983, for filings due on or before September 1, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel G. Lewis, Federal Energy

Regulatory Commission, Office of Electric Power Regulation, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 376–9227
Cathy Ciagol, Federal Energy Regulatory Commission, Office of General Counsel, 825 North Capitol Street, N.E. Washington, D.C. 20426, (202) 357–8033

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is revising Form No. 12, "Power System Statement",[1] and the regulations at 18 CFR 141.51 that require the form. The revisions are part of the Commission's ongoing program to review and evaluate its filing requirements, to eliminate the reporting of information that is not used for decisionmaking in the regulatory process, and to reduce unnecessary reporting burdens. This final rule (1) eliminates from the form five entire schedules and data elements from eight other schedules that are unnecessary to the Commission's regulatory responsibilities; (2) raises the reporting threshold for entities required to file the form to eliminate unnecessary filings; (3) provides that the form shall be required for 1981 collections only, that it shall be due on or before September 1, 1983 instead of May 1st of each year as is currently required, and that it will be replaced by a new Form EIA–714 for collection of data for 1982 and years following; (4) reduces the number of required copies of the form from six to four; and (5) makes corresponding changes to the regulations that prescribe the form. These changes reduce the number of electric utilities that are required to file the requested data by approximately 33 percent, and decrease the number of data elements in the form by over 20 percent.

II. Background

Form No. 12 is an annual form filed by 623 public and private entities which operate facilities for the generation, transmission, or distribution of electric energy. The form collects information about the electric power systems of those entities including their generating and transmission facilities and transactions with other electric utility systems.[2] The information is used to analyze the details of utility operations in resolving wholesale electric rate cases and hydroelectric licensing proceedings, to determine the prudency of utility operations and investments and the value of equivalent electric energy, and to understand and make decisions respecting the electrical network made up of jurisdictional and non-jurisdictional entities.

This final rule was preceded by a Notice of Proposed Rulemaking issued January 11, 1982 (47 FR 2329, January 15, 1982). The notice proposed the following: (1) Changing the reporting threshold in the form so that the only entities required to filed the form would be those with systems which generate all or part of the system requirements, have an owned operable generating capacity of over 25 megawatts, and for which the sum of net energy for system plus firm sales for resale exceeds 100 megawatt-hours per year; (2) deleting four schedules from the form and data elements from three other schedules because they provide information that the Commission considered unnecessary or duplicative; [3] (3) reducing the number of copies of the form to be submitted from six to four; (4) providing that the filing date for the form would be May 1, 1982 and that this would be a one-time only filing; and (5) amending § 141.51 of the Commission's regulations to reflect the changes made to Form No. 12 in the rulemaking and to more accurately describe the requirements for filing the form.

The January 11, 1982 notice represented the first phase of revisions to the Form No. 12 to be effective only for the filing of 1981 data, and further revisions and reductions were planned for a later second phase. The Commission used this two-phase approach because it was unable to complete the entire review of data required in the form in time for the 1981 data collection. However, certain data could be eliminated in the first phase, resulting in a significant burden reduction for reporting companies. In fact, the Commission estimated that the first phase revisions to the form should result in about 33 percent fewer entities filing the form and should reduce by about 14 percent the amount of information that each respondent would have to file.[4]

During the time since the notice was issued, the Energy Information Administration (EIA) of the U.S. Department of Energy had begun the development of a new form entitled, Form No. EIA–714, "Power System Statement". That form would integrate the Commission's requirements for system data with similar requirements of EIA. The EIA–714 should be approved for use beginning in 1983 to collect 1982 calendar year data and data in the years following 1982. The EIA–714 is also being designed to eliminate the duplication that now exists between Form No. 12 and other Commission requirements, most notably, several schedules in the Form No. 1, "Annual Report of Electric Utilities, Licensees and Others (Class A and Class B)". The Commission supports the implementation of the EIA–714. Because the Form No. 12 will be incorporated into the EIA–714 and because any duplication in reporting that still exists between the Form No. 12 and other reporting requirements should be eliminated during the development of EIA–714, the Commission no longer needs to proceed with a separate second-phase revision of Form No. 12.

III. Summary and Analysis of Comments

The Commission received thirty-three comments in response to the notice to revise the Form No. 12, primarily from entities which file the form.[5] The overall

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[1] The Form No. 12 (Appendix) is not being printed in the **Federal Register**. Blank copies of the form including all instructions are available at the Commission's Division of Public Information, 825 North Capitol Street, Room 1000, Washington, D.C. 20426, (202) 357–8055.

[2] The Commission is authorized under section 4(a) and (d) of the Federal Power Act (16 U.S.C. 797(a), (d)) to collect and publish data concerning the utilization of water resources, and the water power industry. The Commission is also authorized to regulate electric utilities engaged in interstate commerce under Part II of the Federal Power Act (16 U.S.C. 792–828c). The authority in these provisions was transferred to the Commission from its predecessor, the Federal Power Commission, under section 402 of the Department of Energy Organization Act (42 U.S.C. 7172). In addition, the Commission collects information in Form No. 12 under sections 304, 307 and 311 of the Federal Power Act (16 U.S.C. 825c, 825f, 825j) pursuant to a delegation of authority from the Secretary of Energy to the Commission (Delegation Order No. 0204–1 (1977)).

[3] These data deletions are as follows: Schedule 5, "Steam-Electric, Including Nuclear Plant Data"—Part E, "Station Step-Up Transformers"; Schedule 7, "Internal-Combustion Engine and Gas-Turbine Plant Data"—Part D, "Station Step-Up Transformers"; Schedule 10, "Energy Delivered to Ultimate Customers"; Schedule 11, "Energy Transferred to or Across a State Line or International Boundary During the Year"; Schedule 13, "Demand on Generating Plants, Power Received and Power Delivered for Resale, at the Time of System Peak Load of the Year"; Schedule 16, "System Dependability and Assured Capacity"—Part A, "Capacity at End of Year Covered by this Report"; and Schedule 19, "Summer and Winter Peak Month and Calendar Year Load Estimates".

[4] On March 24, 1982, the Commission issued an "Order Suspending Filing of the Form No. 12, 'Power System Statement'" which provided that the filing of 1981 calendar year data that was due May 1, 1982 was suspended until after a final rule revising the Form No. 12 was issued (47 FR. 13324, March 30, 1982).

[5] The commenters were: Alabama Power Co.; Alpena Power Co.; American Electric Service Corp.; Atlantic City Electric Co.; Central Power & Light Co.; Commonwealth Edison Co.; Edison Electric Institute (EEI); El Paso Electric Co.; Energy Information Administration; Georgia Power Co.; Iowa Power and Light Co.; Iowa Southern Utilities Co.; Madison Gas and Electric Co.; Middle South

response to the notice was very favorable. Most of the commenters simply said that they approved of the proposed changes and looked forward to further revisions and deletions to Form No. 12. Eight commenters offered suggestions for additional changes to the form.

A. Authority to Collect the Form

One commenter said that publicly-owned electric utilities should not be required to file the Form No. 12. The commenter stated that the Commission can legally require reports only from privately-owned entities over which the Commission exercises jurisdictional authority.[6]

Contrary to the commenter's arguments, the Commission is authorized to collect data from non-jurisdictional entities, including publicly-owned entities under sections 4(a), 4(d), 307(a), and 311 of the Federal Power Act.[7] The Commission needs both operational and statistical data from nonjurisdictional entities which are interconnected with jurisdictional privately-owned systems to gain an adequate understanding of the entire electrical network created by such interconnections. The Commission cannot understand the characteristics and functions of the network with data from only the jurisdictional systems. In addition, the Commission needs the data for its interconnection and wheeling orders under sections 202(b), 210, 211 and 212 of the Federal Power Act (16 U.S.C. 824a(b), 824i, 824j, 824k) concerning transactions that may affect both jurisdictional and non-jurisdictional entities. Thus, the information in Form No. 12 that is collected from publicly-owned systems is essential to the efficient conduct of the Commission's business. The Commission may also use these data to respond to Congressional inquiries about power systems.

The Commission notes that, as in the case of individual data elements in the form, the requirements for those who file the form will be subject to examination in developing the EIA–714. It is possible that a revision to these requirements could be made in conjunction with that proceeding.

B. Further Reductions in Reporting Requirements

Three of the commenters questioned the need for any of the schedules in Form No. 12, contending that the data are already included in other reports or could be included in other reports. Another commenter recommended that all of the data relating to plant operations should be combined into a single form.

The Commission recognizes that the notice did not propose to eliminate all of the duplication in the form. The duplication issue should have been resolved in the planned second-phase revision. As previously noted, there will now be no second-phase revision of the Form No. 12 because of the development of the EIA–714. The Commission, however, has eliminated certain other duplicative and unnecessary data from the form as part of this final rule. (*See below* at *Additional Changes To Form No. 12.*) Any remaining duplication that may exist between Form No. 12 and other requirements should be eliminated during the development of the EIA–714, or as part of a separate Commission proceeding relating to Form No. 1.

Two commenters said that data in the form that do not necessarily change every year should only be reported when they do change, so as to eliminate repetitive reports. However, contrary to the assumption underlying this comment, the revisions to form No. 12 in this rulemaking are made for the filing of 1981 data only. Moreover, most schedules in Form No. 12 had previously required the filing of data only as they changed, and a complete filing of the form had been required only once every five years.

Some of the commenters offered suggestions for changes to individual schedules. One commenter suggested that Schedule 3, "Plant Data—Small Plants" be eliminated; or in the alternative, that the requirement for reports every fifth year for internal combustion engine and gas turbine plants under 5 megawatts be changed to reports every tenth year because more frequent reporting does not necessarily provide more accurate data. The commenter also suggested that the schedule collect data from plants with combustion turbine units having a nameplate rating per unit of 25 megawatts or less (instead of the currently-required 5 megawatt capacity) regardless of the number of units that may be located at a particular plant site. This is because a 25 megawatt combustion unit is a small unit by any fair measure of analysis, according to the commenter.

The Commission cannot delete the schedule entirely because the data are needed for comparing the operations of the electric companies that file the form as part of the Commission's ratemaking process. However, the Commission has revised the instructions in Schedule 3 to show that this schedule is required for 1981 only. The Commission notes that any issues about increasing the interval for requiring a complete filing of this schedule and changing the threshold size of the combustion unit for which a report is required will be considered during the development of the permanent Form EIA–714.

Three commenters recommended the deletion of Schedule 4, "Hydroelectric Plant Data"—Part E, "Station Step-Up Transformers", and Schedule 4–A, "Pumped Storage Plant Data"—Part E, "Station Step-Up Transformers." According to the commenters, these deletions are necessary to be consistent with the Commission's proposal to

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Services, Inc.; Mississippi Power & Light Co.; Montana Dakota Utilities Co.; New England Power Co.; Northeast Utilities Co.; Oklahoma Gas and Electric Co.; Pacific Power and Light Co.; Philadelphia Electric Co.; Portland General Electric Co.; Public Service Co. of Oklahoma; Public Service Electric and Gas Co.; Public Works Commission of Fayetteville, N.C. (PWC); Salt River Project; Southern California Edison Co. (Edison); Southwestern Public Service Co.; Tampa Electric Co.; Town of Wallingford, CT; Virginia Electric and Power Co. (Vepco); Wisconsin Electric Co.

[6] The commenter also objected to the filing of data with the Commission merely for statistical purposes.

[7] Section 4 (16 U.S.C. 797) provides in pertinent part that the Commission is authorized:

(a) To make investigations and to collect and record data concerning the utilization of the water resources of any region to be developed, the water power industry and its relation to other industries and to interstate or foreign commerce, and concerning the location, capacity, development costs, and relation to markets of power sites, and whether the power from Government dams can be advantageously used by the United States for its public purposes, and what is a fair value of such power, to the extent the Commission may deem necessary or useful for the purposes of this Act.

(d) To make public from time to time the information secured hereunder and to provide for the publication of its reports and investigations in such form and manner as may be best adapted for public information and use.

Section 307(a) (16 U.S.C. 825f(a)) provides in pertinent part that:

The Commission may investigate any facts, . conditions, practices, or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provisions of this Act or any rule, regulation or order thereunder, or to aid in the enforcement of the provisions of this Act or in prescribing rules or regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which this Act relates.

Section 311 (16 U.S.C. 825j) provides in pertinent part that:

In order to secure information necessary or appropriate as a basis for recommending legislation, the Commission is authorized and directed to conduct investigations regarding the generation, transmission, distribution, and sale of electric energy, however produced, throughout the United States and its possessions, whether or not otherwise subject to the jurisdiction of the Commission, including the generation, transmission, distribution, and sale of electric energy by any agency, authority, or instrumentality of the United States, or of any State or municipality or other political subdivision of a State.

delete Schedule 5, "Steam-Electric Including Nuclear, Plant Data"—Part E, "Station Step-Up Transformers" and Schedule 7, "Internal-Combustion Engine and Gas Turbine Plant Data"—Part D, "Station Step-Up Transformers".

The Commission has retained in the 1981 report the transformer data for hydroelectric projects in Schedules 4 and 4–A because they are necessary for transmission line analyses and for determining which transmission facilities should be included within new and amended hydroelectric project licenses issued by the Commission. A similar data base is not needed in the case of steam-electric plants or internal combustion engine and gas turbine plants because these data were collected as part of a national defense inventory and are duplicated in other reports.

One commenter also suggested the entire deletion of Schedule 7, "Internal-Combustion Engine and Gas Turbine Plant Data" and Schedule 9, "System Energy Accounting for the Year". The Commission will retain Schedule 7 in Form No. 12 because it requires a description of peaking capabilities necessary to the Commission's evaluation of the operations of those plants. However, the Commission implements the deletions from schedule 7 that were proposed in the notice and also eliminates three additional line items from the schedule. Finally, the Commission eliminates Schedule 9 in its entirety. The data from Schedule 7 and all of Schedule 9 can be deleted because similar data are provided elsewhere in the form. (*See below* at *Additional Changes To Form No. 12.*)

The commenter also recommended the deletion of Schedule 8, "Itemized Accounting of Energy Transfer with Other Electric Utility Systems and Industrial Companies During the Year". In lieu of Electric Utility eliminating this schedule, the commenter recommended that Instruction 2 in Part B of the schedule, which was proposed for revision in the notice, should be further revised so as to correspond to Schedule 9.

Schedule 8 will be retained because it is the Commission's only record of individual categories of exchange transactions, most of which are carried out under Commission approved rate schedules. However, the Commission has deleted Column 3, "Coordination, Location or Symbol on Map" from the schedule because the information is not necessary to the Commission's regulatory responsibilities. Instruction 2 in Part B will not be revised to correspond to Schedule 9 because Schedule 9 has, itself, been deleted in this final rule.

Another commenter recommended the following clarifications and revisions to the instructions in Schedule 8: (1) Changing the proposed definition of "firm sales for resale" as "energy for which the utility assumes long-term supply responsibility" to a definition that recognizes that some firm contracts may be for a short term; (2) deleting Column 4, "Firm or Nonfirm Transfer" and the corresponding instruction, because these data are already reported elsewhere in the form; (3) providing that Instruction 1 of Part A should relate to Column 5, "Energy Received," in addition to Column 6, "Energy Delivered"; (4) providing that Instruction 1 on Part A and Instruction 2 on Part B should include reports of all energy received from or delivered to another system and received from industrial companies, instead of just reports of firm sales for resale or energy delivered for resale.

The Commission makes the following responses to these suggestions:

(1) The proposed definition of firm sales will not be change because most contracts reported in this schedule are long-term. These reports are sufficient for Commission purposes in this one-time filing.

(2) Column 4 will not be deleted because it requires descriptive data only, is not a burdensome requirement, and is useful to a proper understanding of the rest of the schedule.

(3) Instruction 1 of Part A will not be revised further to refer to both "Energy Received" and "Energy Delivered". Information about "Energy Received" is currently reported in Part B of Schedule 8 and it would be too confusing to relocate that requirement in Part A just for this one-time filing.

(4) Only reports of firm sales for resale or energy delivered for resale will be required in these instructions because that information is sufficient for the Commission's understanding of these energy transfers. The added requirement to report all sales would not provide such valuable information as to justify the new reporting burden.

Two commenters suggested the deletion of Schedule 17, "Distribution of Systems Load in Service Area" because the reporting of data on the schedule requires a substantial commitment of resources by the respondents and because the data do not appear to be of significant use to the Commission. Schedule 17 will be retained by the Commission because it provides information that is essential to an understanding of a utility's operation of its generation and transmission facilities. The information is used to resolve issues concerning the ability of a utility to serve wholesale customers within a service area, the need to strengthen internal transmission (between subsidiary entities) to support wheeling, the possibility of including transmission approvel within a hydroelectric project license, and the effect of a utility's operations on wholesale transactions under review by the Commission. However, the Commission has deleted Columns (4) through (10) and (13) [8] from the schedule because similar data are available in other Commission requirements.

Three commenters recommended the elimination of Schedule 18–B, "High Voltage Line Data", alleging that the information prescribed in this schedule is not needed. One of the commenters said that this schedule is not useful because electric systems that are adjacent to each other rarely experience the same monthly system peaks, and, as a result, it is impossible to follow power flows across the systems. The commenter added that real-time loading is not used for planning, and that the lead time needed for the construction of transmission lines requires that power system analyses be done several years into the future. The commenter said that Schedule 18–B is not helpful in providing this information. Finally, the commenter added that computers are now able to monitor and study the system constantly to prevent line overloads and other problems, and that Schedule 18–B is not really necessary to aid in tracking these problems.[9]

The Commission will retain Schedule 18–B because it provides the only information about transmission line usage and power flows that are available to the Commission. While the data may not show simultaneous load flows in the interconnected systems, they do reflect the way a system is operated at peak loads and at other times. The Commission uses this information in its rate and transmission cases. For example, these data aid staff in determining whether specific load flow studies are necessary for particular case proceedings.

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[8] *See below* at *Additional Changed To Form No. 12.*

[9] Another of the commenters said that if Schedule 18–B is, somehow, useful to the Commission, it should be consolidated with FPC Form No. 12–F, "Power Line Construction Data" which reqires much of the same data as Schedule 18–B. However, Form No. 12–F was discontinued by the Commission in a final rule issued May 28, 980 ("Order Discontinuing Reporting requirements", Order No. 87, Docket No. RM80–16 (45 FF 137420, June 3, 1980).

One commenter said that the Commission should require high voltage line data only for April, October and for summer and winter monthly system peaks. The Commission will not adopt this suggestion, nor otherwise change the current requirement to report April, August, October, December and annual peak data. This is because the Form No. 12 is filed on a calendar year basis. Thus, the peak for January in a calendar year might exceed the following December peak; however, because the report is based on the calendar year, the peak data for that *year* would not be for the same winter *season*. In order to collect peak data within the calendar year, therefore, the Commission will retain the schedule in its present format. Of course, the requirements of this schedule are subject to review in the formulation of EIA–714.

One commenter stated that most of the information it files for Schedule 18–B and for Schedule 18, "System Maps and Diagrams" is repeated from year to year because that information does not change frequently. The commenter requested that these filing requirements be relaxed to eliminate such repetitious reporting. The commenter added that it did not understand the Commission's need for these data, and that it knows of no instance when its response to these schedules was ever used by staff or intervenors in a wholesale electric rate case or in a licensing or other proceeding.

The Commission will not make these revisions for the following reasons. First, Instruction 8 in Schedule 18 already provides that system maps and diagrams need not be supplied if previous submissions remain correct. Second, although data in Schedules 18 and 18–B may not have been introduced as evidence in particular cases, this fact alone is not a measure of their usefulness. These schedules provide information which staff uses to gain an understanding of system characteristics and these data can obviate the need for time-consuming interrogatories and speed the completion of case work. Finally, the Commission repeats that the revised Form No. 12 is only effective for the filing of 1981 data. The requirements in each of the schedules is subject to review in the development of the new form, EIA–714.

B. Recommended Additions to the Form

Only one commenter recommended the retention of information in Form No. 12 that was proposed for deletion. The Energy Information Administration (EIA), said that Schedule 10, "Energy Delivered to Ultimate Consumers" should be retained. EIA said that although the Commission proposed deleting the schedule because similar information is reported in the FERC Form No. 1, the classification of energy delivered to ultimate consumers in the Form No. 1 is different from the classification in Schedule 10; therefore, some information about energy deliveries would be lost if Schedule 10 was deleted. EIA also stated that the Department of Energy's Environmental Protection Safety and Energy Preparedness (EP) Form 714 "Power System Emergency Report" (the predecessor of EIA–714) has annually collected data comparable to that requested in Form No. 12 from utility systems with energy requirements that are less than those of systems required to report on Form No. 12. In order to complement the data reported in the Form 714, EIA suggested that the Commission retain Schedule 10 in the Form No. 12. By doing this, the Commission would reduce the reporting burden without eliminating necessary information, according to EIA.

The Commission does not believe that data respecting the classification of energy delivered to ultimate consumers is needed in Schedule 10 as long as such a classification is available in Form No. 1. Use of classification data in Schedule 10 may provide somewhat different information than the Form No. 1 classification; however these differences are not significant for the Commission's regulatory purposes. Furthermore, the Form No. 12 should collect data only for Commission needs in the 1981 filing, because the form is being sponsored only by the Commission. The integration of the EIA's and Commission's requirements into EIA–714 will include a review of these other specific data elements. Thus, to the extent that EIA has need for these data, they may be included in the new form under EIA sponsorship for collection in 1982 and afterwards, even though they are not required by the Commission.

The Commission is also retaining in Form No. 12 Schedule 19, "Summer and Winter Peak Month and Calendar Year Load Estimates". This schedule was proposed for deletion in the notice because the data are reported in Form No. EIA–119A, "Annual Projection of System Changes". However, in certain cases, the companies that file Form No. 12 may not file the EIA–119A. To assure that these peak data are reported either in the EIA–119A or in the Form No. 12, the Commission has retained this schedule with the instructions to report on it only if the EIA–119A has not been filed for 1981.

The Commission does not believe that retaining this schedule will create an undue reporting burden. In addition, the Commission has simplified the schedule by eliminating Column 5, "Load Factor (Percent)" from the schedule because this column provides totals that may be calculated from other data in the schedule.

In summary, the Commission has adopted the changes to the Form No. 12 that were proposed in the notice,[10] except as modified and provided for in this final rule. This includes the changes made in response to the comments, and other modifications, and the deletions that the Commission has determined are appropriate because certain data are no longer essential to the Commission's regulatory responsibilities. As a result of these additional changes to the form, the number of data elements in the form is reduced by a total of over 20 percent. Following is a summary list of these additional revisions to various schedules in the form that the Commission makes in this final rule

Additional Changes to Form No. 12

"General Information": Eliminates Line 8, requiring a list of subsidiaries.

Schedule 1, "Capacity and Output of System Generating Plants": Eliminates Columns (2) Location of plant; (4) Total of main generating units; (5) Total of auxiliary or house units; (6) Gross generation; (7) Plant use; and (9) Installed capacity connected to load.

Schedule 2, "System Hydroelectric Data," Part A, "Aggregate Dependable Hydroelectric Capacity and Potential Energy": Eliminates requirement to furnish notation about previously reported data.

Schedule 3, "Plant Data—Small Plants": Revises the instructions to reflect the fact that the form is a one-time only filing; [11] and eliminates requirement to report the post office of the plant.

Schedule 5, "Steam-Electric, Including Nuclear, Plant Data": Eliminates Part C, "Plant Net Capability Under Specified Conditions".

Schedule 7, "Internal Combustion Engine and Gas-Turbine Plant Data": Eliminates Lines (4) Post Office; (22) Manufacturer of generator; and (29) Manufacturer of prime mover.

Schedule 8, "Itemized Accounting of Energy Transfer with Other Electric Utility Systems and Industrial

[10] *See* Part II of this final rule.

[11] This revision is also made to the instructions in Schedule 4, "Hydroelectric Plant Data"; 4–A, "Pumped Storage Plant Data"; 5, "Steam-Electric, Including Nuclear, Plant Data"; and 7, "Internal Combustion Engine and Gas-Turbine Plant Data".

Companies During the Year", Part A, "Energy Deliveries to Specified Systems and Energy Transactions with Border-Line Customers": Eliminates Column (3) "Coordinate, Location or Symbol on Map".[12]

Schedule 9, "System Energy Accounting for the Year": Deletes whole schedule.[13]

Schedule 14, "Net Generation, Energy Received and Delivered, and System Peaks by Months for the Year": Eliminates Columns (8) Net energy for system; (9) Net energy for load; and (13) Load factor.

Schedule 16, "System Dependable and Assured Capacity": Eliminates whole schedule.

Schedule 17, "Distribution of System Load in Service Area": Eliminates Columns (4) Estimated Distribution—Farm; (5) Estimated Distribution—Nonfarm residential; (6) Estimated Distribution—Commercial; (7) Estimated Distribution—Industrial; (8) Estimated Distribution—Other; (9) Estimated Distribution—"In loads"; (10) Estimated Distribution—Losses; and (13) Annual load factor.

In addition to these revisions, the filing date for the Form No. 12 has been changed to September 1, 1983. This date should give the affected entities sufficient time to prepare and submit the revised form.

The Commission has also adopted the revisions to its regulations at 18 CFR 141.51 that were proposed in the notice, except for (1) changing of the filing date from "May 1st of each year for the previous calendar year, beginning with a filing by May 1, 1982", to "September 1, 1983", (2) deleting Schedules 9 and 16 from the list of schedules, (3) eliminating the list of schedules in the form because it is not necessary to the requirement, and (4) making minor reorganizational changes.

V. Certification of no Significant Economic Impact

The Regulatory Flexibiity Act (RFA),[14] requires certain statements, descriptions, and analyses of proposed rules that will have a "significant economic impact on the substantial number of small entities".[15]

Pursuant to section 605(b) of the RFA, the Commission certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Over 95 percent of the entities that are currently required to file Form No. 12 are large entities having annual operating revenues over $1 million. In addition, this rule should result in an overall reduction in the filing burden because the revisions involve a deletion of several schedules, an increase in the filing threshold, and a decrease in the number of required copies. Finally, this form will require the collection of data for calendar year 1981, only.

VI. Effective Date

This final rule is effective 30 days after publication in the **Federal Register** for calendar year 1981 reports that are due on September 1, 1983.

List of Subjects in 18 CFR Part 141

Electric power, statement and reports (Schedules), Reporting and recordkeeping requirements.

(Federal Power Act, as amended, 16 U.S.C. 792–828c; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142.)

In consideration of the foregoing, the Commission amends Form No. 12 as discussed above and as set forth in the Appendix [16] and amends Part 141 of Chapter I, Title 18 of the Code of Federal Regulations as set forth below, effective 30 days after publication in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 141—[AMENDED]

Section 141.51 is revised to read as follows:

§ 141.51 FERC Form No. 12, Power system statement.

(a) *Who must file.* Each corporation, person, agency, authority or other legal entity or instrumentality, whether public or private, which operates facilities for the generation or transmission or distribution of electric energy, whose system generates all or part of system requirements, who has an owned operable generating capacity of more than 25 megawatts, and for whom the sum of net energy for system plus firm sales for resale exceeds 100,000 megawatt-hours per year, must prepare and file with the Commission an original and conformed copies of Form No. 12, "Power System Statement" pursuant to the General Instructions set out in that form.

(b) *When to file.* The completed form must be filed on or before September 1, 1983 for the 1981 calendar year.

[FR Doc. 83-3863 Filed 2-14-83; 8:45 am]

BILLING CODE 6717-01-M

[12] Instruction 9 of Schedule 8 is also deleted. It requires the reporting of certain sums on Schedule 9. However, Schedule 9 is deleted in this final rule; therefore, that instruction is no longer needed.

[13] The definition of "net energy for system" on page 2 has also been revised to eliminate a reference to the now deleted Schedule 9.

[14] 5 U.S.C. 601–612.

[15] 5 u.S.C. 605(b).

[16] The Form No. 12 (Appendix) is not being printed in the **Federal Register.** Blank copies of the form including all instructions are available at the Commission's Division of Public Information, 825 North Capitol Street, Room 1000, Washington, D.C. 20426, (202) 357–8055.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 81F-0210]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of elemental iodine, *alpha*-[*p*-(1,1,3,3-tetramethylbutyl)-phenyl]-*omega*-hydroxypoly(oxyethylene) and *alpha*-alkyl(C_{12}-C_{15})-*omega*-hydroxy [poly(oxyethylene)poly(oxypropylene)] as components of a sanitizing solution used on food-contact surfaces. This action is based on a petition filed by the Diversey Wyandotte Corp.

DATES: Effective February 15, 1983; objections by March 17, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patricia McLaughlin, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SE., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 18, 1981 (46 FR 41862), FDA announced that a petition (FAP 1H3561) had been filed by the Diversey Wyandotte Corp., 1532 Biddle Ave., Wyandotte, MI 48192, proposing that the food additive regulations be amended to provide for the safe use of elemental iodine, *alpha*-[*p*-(1,1,3,3-tetramethylbutyl)-phenyl]-*omega*-hydroxypoly(oxyethylene) and *alpha*-alkyl(C_{12}-C_{15})-*omega*-hydroxy [poly(oxyethylene)poly(oxypropylene)] as components of a sanitizing solution to be used on food-contact surfaces.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting this finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives; Food packaging; Sanitizing solutions.

PART 178—[AMENDED]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.1010 by adding new paragraphs (b)(24) and (c)(19) to read as follows:

§ 178.1010 Sanitizing solutions.

* * * * *

(b) * * *

(24) An aqueous solution containing elemental iodine (CAS Reg. No. 7553–56–2), *alpha*-[*p*-(1,1,3,3-tetramethylbutyl)-phenyl]-*omega*-hydroxypoly(oxyethylene) produced with one mole of the phenol and 4 to 14 moles ethylene oxide, and *alpha*-alyl(C_{12}-C_{15})-*omega*-hydroxy[poly(oxyethylene) poly(oxypropylene)] (having an average molecular weight of 965.

* * * * *

(c) * * *

(19) Spolutions identified in paragraph (b)(24) of this section shall provide, at least 12.5 parts per million and not more than 25 parts per million of titratable iodine. The adjuvants used with the iodine will not be in excess of the minimum amounts required to accomplish the intended technical effect.

Any person who will be adversely affected by the foreging regulation may at any time on or before March 17, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection for which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective February 15, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348).)

Dated: February 9, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–3973 Filed 2–14–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 182

[Docket No. 80N–0108]

GRAS Status of Ethyl Acrylate and Methyl Acrylate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is not affirming ethyl acrylate and methyl acrylate as generally recognized as safe (GRAS) indirect human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. The agency is not affirming ethyl acrylate and methyl acrylate as GRAS because there is no evidence that the monomers are used in the manufacture of paper and paperboard products except as components of polymers that are covered under current food additive and prior-sanctioned regulations.

EFFECTIVE DATE: March 17, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 9, 1982 (47 FR 29963), FDA published a proposal not to affirm that ethyl acrylate and methyl acrylate are GRAS for use as indirect human food ingredients. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients. The agency proposed not to affirm ethyl acrylate and methyl acrylate as GRAS because there is no evidence that the monomers are used in the manufacture of paper and paperboard products except as components of polymers that are covered under current food additive and prior-sanctioned regulations.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review and the report of the Select Committee on GRAS Substances (the Select Committee) on ethyl acrylate and methyl acrylate are available for public review in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents have also been made available for public purchase from the National Technical Information Services as announced in the proposal.

In addition to proposing not to affirm the GRAS status of ethyl acrylate and methyl acrylate, FDA gave public notice that it was unaware of any other prior-sanctioned food uses for these ingredients other than those identified in the proposal. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sactioned uses could be determined. That notice was also an opportunity to have other prior-sanctioned uses of ethyl acrylate and methyl acrylate recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

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FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of other prior-sanctioned uses for ethyl acrylate and methyl acrylate were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of ethyl acrylate and methyl acrylate under conditions different from those identified in the proposal has been waived.

No comments were received in response to the agency's proposal on ethyl acrylate and methyl acrylate. The agency is therefore issuing the proposal as a final rule without change.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's finding of no major economic impact and not significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 182

Spices and flavorings.

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.90 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 182 is amended in § 182.90 *Substances migrating to food from paper and paperboard products* by removing "Methyl and ethly acrylate" from the list of substances.

Effective date. This regulation shall be effective March 17, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: January 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3902 Filed 2-14-83; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Parts 206, 207, and 209

Fishing, Hunting, and Navigation Regulations; Removal and Amendment of Obsolete Provisions

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is revoking obsolete regulations in 33 CFR Part 206 regarding hunting and fishing and amendming 33 CFR Parts 207 regarding navigation and 209 regarding administrative procedures by deleting obsolete and unnecessary sections.

EFFECTIVE DATE: March 16, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard, Office of the Chief of Engineers, DAEN–CWO–N, Washington, D.C. 20314 or call (202) 272–0200.

SUPPLEMENTARY INFORMATION: On 20 July 1982, the Corps of Engineers published a Notice of Proposed Rulemaking in the **Federal Register** (47 FR 31405–31407) soliciting comments on the proposal to delete certain regulations in Parts 206, 207 and 209. No objections were received and accordingly, the regulations in 33 CFR Parts 206, 207, and 209 are deleted as follows:

1. *Part 206 Fishing and Hunting Regulations* (revoked and reserved.)

2. *Part 207 Navigation Regulations.*

207.37 Jamaica Bay, Long Island, N.Y., Seaplane restricted area.

207.90 Delaware River, Pa.; use of Government landing pier at Marcus Hook.

207.280 White River, Ark.; use, administration and navigation of locks in upper White River.

207.290 Current River above Van Buren, Mo.; logging.

207.400 Duluth—Superior Harbor, Minn., and Wis.; use, administration and navigation, and bridge regulations.

207.410 Keweenaw Waterway, Mich.; use, administration and navigation.

207.490 Cheboygan River, Mich.

207.611 St. Lawrence River from Tibbets Point to Raquette River, excluding the section between Eisenhower Lock and Snell Lock, N.Y.; use, administration and navigation in U.S. Waters.

207.613 Pacific Ocean; U.S. Navy restricted area in vicinity of Scripps Institution of Oceanography Pier, La Jolla, Calif.

207.655 Rogue River, Oregon; logging.

207.660 Coquille River, Oregon, logging on North Fork between its mouth and Gravel Ford, at the junction of the North and East Forks.

207.663 South Fork of Coos River, Oreg.; logging in tidal section.

207.720 Willapa Bay and tributaries, Wash.; logging.

207.730 Grays Harbor and tributaries, Wash.; logging.

207.770 Snoqualmie and Snohomish Rivers, Wash.; logging.

207.780 Sammamish River, Wash.; logging.

3. The following regulations in Part 207 are amended to remove obsolete and unnecessary requirements.

207.180 All waterways tributary to the Gulf of Mexico (except the Mississippi River, its tributaries, South and Southwest Passes and the Atchafalaya River) from St. Marks, Fla., to the Rio Grande; use, administration and navigation. Revise paragraph (d)(5) to change VHF Channel from 16 to 14.

207.187 Gulf Intracoastal Waterway, Tex.; special floodgate lock and navigation regulations. In paragraph (c) (1) and (2) change 1.5 miles per hour to 2 miles per hour, add reference to head differential at the Colorado River Locks in (2) and in paragraph (c)(6)(i) delete 2738 kilocycles and replace with "VHF–FM Channels 12, 13, 14 and 16."

207.478 The Inland Route—lock in Crooked River, Alanson, Mich., use, administration and navigation. Paragraph (c) is amended to read "Operation—The lock operating season will commence and close as determined by the district engineer, Corps of Engineers in charge of the locality, depending on conditions and

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the need for lockage services. Public notices will be issued announcing the opening and closing dates at least 15 days in advance of such dates". Paragraph (g) is deleted and paragraph (h) is redesignated as (g).

207.614 Pacific Ocean off the east coast of San Clemente Island, Calif., Naval restricted areas. In paragraph (a) *The Area.* The reference to "the Naval Restricted Anchorage Area, as described in 202.218 (Anchorage Regulations) of this chapter", is changed to "* * * the restricted anchorage area described in 110.218 of this chapter * * *"

207.640 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, San Joaquin River and connecting waters, Calif. Delete paragraph (d) San Francisco Bay at South San Francisco, seaplane restricted area.

4. *Part 209 Administrative Procedures* is amended with respect to 209.330 Lake Survey office which is obsolete.

Accordingly, the Department of the Army is amending 33 CFR Parts 206, 207 and 209 as set forth below:

Note.—The Department of the Army has determined that this document does not contain a major rule requiring a regulatory impact analysis under Executive Order 12291 because it will not result in an annual effect on the economy of $100 million or more and it will not result in a major increase in costs or prices. The Department of the Army has also determined that this proposed rule will not have a significant economic impact on a substantial number of entities and thus does not require the preparation of a regulatory flexibility analysis.

Dated: January 24, 1983.

Approved:

Robert K. Dawson,

Deputy Assistant Secretary of the Army (Civil Works).

PART 206 [REMOVED AND RESERVED]

1. 33 CFR Part 206—Fishing and Hunting Regulations is removed and reserved.

PART 207—NAVIGATION REGULATIONS

§ 207.37 [Removed]

2. Section 207.37 *Jamaica Bay, Long Island, N.Y., seaplane restricted area* is removed.

§ 207.90 [Removed]

3. Section 207.90 *Delaware River, Pa.: use of Government landing pier at Marcus Hook* is removed.

4. Paragraph (d)(5) in § 207.180 is revised to read as follows:

§ 207.180 All waterways tributary to the Gulf of Mexico (except the Mississippi River, its tributaries, South and Southwest Passes and the Atchafalaya River) from St. Marks, Fla., to the Rio Grande; use, administration and navigation.

* * * * *

(d) Locks and floodgates. * * *

(5) *Radiophone.* Locks will monitor continously VHF—Channel 14 ("Safety and Calling" Channel) and/or AM–2738 kHz for initial communication with vessels. Upon arrival at a lock, a vessel equipped with radio-phone will immediately advise the lock by radio of its arrival so that the vessel may be placed on proper turn. Information transmitted or received in these communications shall in no way affect the requirements for use of sound signals or display of visual signals, as provided in paragraphs (d) (3) and (4) of this section.

5. Paragraphs (c)(1), (c)(2) amd (c)(6) of § 207.187 are revised to read as follows:

§ 207.187 Gulf Intracoastal Waterway, Tex.; special floodgate, lock and navigation regulations.

* * * * *

(c) *Operation of floodgates and locks*—(1) *Unlimited passage.* The floodgates and locks shall be opened for the passage of single vessels and towboats with single or multiple barges when the current in the river is less than 2 miles per hour and the head differential is less than 0.7 foot. When the head differential is less than 0.7, the Colorado River locks shall normally be operated as floodgates, using only the riverside gates of each lock.

(2) *Limited passage.* When the current in either river exceeds 2 miles per hour or the head differential at the Brazos River floodgates is between the limits of 0.7 foot and 1.8 feet, both inclusive, or the head differential at the Colorado River locks is 0.7 foot or greater, passage shall be afforded only for single vessels or towboats with single loaded barges or two empty barges. When two barges are rigidly assembled abreast of each other and the combined width of both together is 55 feet or less, they shall be considered as one barge. Each section of an integrated barge shall be considered as one barge, except when it is necessary to attach a rake section to a single box section to facilitate passage, the two sections shall be considered as one barge. It shall be the responsibility of the master, pilot or other person in charge of a vessel to determine whether a safe passage can be effected, give due consideration to the vessel's power and maneuverability, and prevailing current velocity, head differential, weather and visibility. If conditions are not favorable, passage shall be delayed until conditions improve and a safe crossing is assured.

* * * * *

(6) *Communication*—(i) *Radio.* The floodgates and locks are equipped with short wave radio equipment transmitting and receiving on VHF—FM Channels 12, 13, 14 and 16. Call letters for the floodgates are WUI 411 and for the locks are WUI 412.

(ii) *Telephone.* The floodgates and locks are equipped with telephone facilities. The floodgates may be reached by phoning Freeport, Tx, 713–233–1251; the locks may be reached by phoning Matagorda, Tx, 713–863–7842.

* * * * *

§ 207.280 [Removed]

6. *Section 207.280 White River, Ark.; use administration, and navigation of locks in upper White River* is removed.

§ 207.290 [Removed]

7. Section 207.290 *Current River above Van Buren, Mo.; logging* is removed.

§ 207.400 [Removed]

8. Section 207.400 *Duluth-Superior Harbor, Minn. and Wis.; use, administration, and navigation, and bridge regulations* is removed.

§ 207.410 [Removed]

9. Section 207.410 *Keeweenaw Waterway, Mich.; use, administration, and navigation* is removed.

10. In § 207.476, paragraph (c) is revised, paragraph (g) is removed, and paragraph (h) is revised and redesignated as (g) to read as follows:

§ 207.476 The Inland Route—Lock in Crooked River, Alanson, Mich., use, administration and navigation.

* * * * *

(c) *Operation.* The lock operating season will commence and close as determined by the district engineers, Corps of Engineers in charge of the locality, depending on conditions and the need for lockage services. Public notices will be issued announcing the opening and closing dates at least 15 days in advance of such dates.

* * * * *

(g) *Precedence at lock.* The craft arriving first at the lock shall be first to lock through; but precedence will be given to craft belonging to the United States or other local government entities, such as state, county, or municipality. Arrival posts may be established above and below the lock. Craft arriving at or opposite such posts or markers will be considered as having

arrived at the locks within the meaning of this paragraph.

§ 207.490 [Removed]

11. Section 207.490 *Cheboygan River, Mich.* is removed.

§ 207.611 [Removed]

12. Section 207.611 *St. Lawrence River from Tibbets Point to Raquette River, excluding the section between Eisenhower Lock and Snell Lock, N.Y.; use, administration, and navigation in U.S. waters* is removed.

§ 207.613 [Removed]

13. Section 207.613 *Pacific Ocean; U.S. Navy restricted area in vicinity of Scripps Institution of Oceanography Pier, La Jolla, Calif.* is removed.

14. Paragraph (a) of § 207.614 is revised to read as follows:

§ 207.614 Pacific Ocean off the east coast of San Clemente Island, Calif. naval restricted areas.

(a) *The area.* The waters of the Pacific Ocean within an area extending easterly from the east coast of San Clemente Island, California, described as follows: The northerly boundary to be a continuation, to seaward of the existing southerly boundary of the restricted anchorage area, as described in 110.218 of this chapter, to latitude 33°00.3'N., longitude 118°30.0' W.; thence to latitude 32°57.9' No., longitude 118°31.1'W.; thence to latitude 32°58.6'N., longitude 118°31.3'W on the shoreline; thence northerly along the shoreline to the point of beginning.

* * * * *

15. Paragraph (d) regarding San Francisco Bay at South San Francisco; seaplane restricted area in § 207.640 is removed and reserved.

§ 207.640 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, San Joaquin River, and connecting waters, Calif.

* * * * *

(d) [Removed and reserved]

* * * * *

§ 207.655 [Removed]

16. Section 207.655 *Rogue River, Oregon; logging* is removed.

§ 207.660 [Removed]

17. Section 207.660 *Coquille River, Oregon; logging on North Fork between its mouth and Gravel Ford, at the junction of the North and East Forks* is removed.

§ 207.663 [Removed]

18. Section 207.663 *South Fork of Coos River, Oreg.; logging in tidal section* is removed.

§ 207.720 [Removed]

19. Section 207.720 *Willapa Bay and tributaries, Wash.; logging* is removed.

§ 207.730 [Removed]

20. Section 207.730 *Grays Harbor and tributaries, Wash.; logging* is removed.

§ 207.770 [Removed]

21. Section 207.770 *Snoqualmie and Snohomish Rivers, Wash.; logging* is removed.

§ 207.780 [Removed]

22. Section 207.780 *Sammamish River, Wash.; logging* is removed.

PART 209—ADMINISTRATIVE PROCEDURE

§ 209.330 [Removed]

23. Section 209.330 *U.S. Lake Survey Office* is removed.

[FR Doc. 83-3738 Filed 2-14-83; 8:45 am]
BILLING CODE 3710-92-M

PANAMA CANAL COMMISSION

35 CFR Parts 103, 113, 119, and 123

Revised Shipping and Navigation Rules for the Panama Canal

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: Panama Canal Commission is today approving certain changes in the shipping and navigation rules for the Panama Canal in order to conform to International Maritme Organization (IMO) rules and federal regulations concerning the carriage of hazardous cargo.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, (202) 724-0104, or Mr. Dwight A. McKabney, General Counsel, Panama Canal Commission, telephone in Balboa Heights, Republic of Panama, 52-7511.

SUPPLEMENTARY INFORMATION: On December 1, 1982, a notice of proposed rulemaking was published in the Federal Register (47 FR 54105) setting forth several substantive changes to the shipping and navigation rules for the Panama Canal.

Interested parties were given the opportunity to submit comments by January 3, 1983. During that time period, no comments were received by the agency; accordingly, the only changes made were corrections of typographic errors. The substantive changes adopted by this document are as follows:

Section 103.27 is revised to require a bow steering light on all vessels over 100 meters in length, in order to make night-time navigation of such vessels safer and easier. Section 113.24 is revised to comply with regulations issued by the International Maritime Organization (IMO) concerning certain nuclear fuels and materials. Section 113.25 which permitted a limited waiver of certain requirements concerning nuclear fuels and materials is incorporated in § 113.24, and § 113.25 is revoked. Section 113.42 is modified to incorporate by reference the Department of Transportation regulations concerning dangerous cargoes not permitted to be transported by water.

In addition, § 119.141(a)(3) is revised to specify that persons applying for a Panama Canal pilot's license on the basis of experience on Commission vessels of 1,000 horsepower or over must have served at least 520 eight-hour watches while holding a Panama Canal license as Master of Steam and Motor vessels. This change merely clarifies the present rule, which requires two years of experience on such a vessel.

Finally, § 123.3, paragraphs (d) and (e) are revised to restrict the use of certain radio frequencies on the radiotelephones that must be carried aboard vessels while in Panama Canal waters, in order to be consistent with internationally accepted practices, particularly as defined by the IMO and the U.S. Coast Guard. Specifically, § 123.3, paragraph (d) is revised to limit the use of Channel 13, radio frequency 156.650 MHz, to bridge-to-bridge navigational communication, and § 123.3, paragraph (e) is revised to restrict the use of Channel 16, radio frequency 156.800 MHz, to distress, urgency, safety and calling purposes.

The Commission has determined that this rule does not constitute a major rule within the meaning of Executive Order 12291 dated February 17, 1981 (47 FR 13193). The bases for that determination are first, that the rule, when implemented would not have an annual effect on the economy of $100 million or more per year. Secondly, the rule would not result in a major increase in costs or prices for consumers, individual industries or local governmental agencies or geographic regions. Finally, the agency has determined that implementation of the rule would not have a significant adverse effect on competition, employment, investment, productivity, innovation of the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Further, the Commission has determined that this proposed rule is not subject to the requirements of section

603 and 604 of Title 5, United States Code, in that its promulgation will not have a significant impact on a substantial number of small entities, and the Administrator of the Commission so certifies pursuant to 5 U.S.C. 605(b).

List of Subjects

35 CFR Part 103

Vessels.

35 CFR Part 113

Cargo vessels, Hazardous materials transportation.

35 CFR Part 119

Administrative practice and procedure.

35 CFR Part 123

Radio, Vessels.

Accordingly, 35 CFR Parts 103 and 113, 119 and 123 are amended as follows:

PART 103—[AMENDED]

1. Section 103.27(b) is revised to read as follows:

§ 103.27 Clear view forward from the bridge and steering light requirement for certain vessels.

* * * * *

(b) All vessels over 100 meters (328 feet) in length shall have installed, at or near the stem, a steering range equipped with a fixed blue light which shall be clearly visible from the bridge along the centerline. If said range and light so placed would be partially or completely obstructed, then two such ranges and lights must be installed at an equal distance from the centerline and shall be clearly visible from the bridge along lines parallel to the keel.

* * * * *

PART 113—[AMENDED]

2. Section 113.24 is revised to read as follows:

§ 113.24 Irradiated fuel elements and special nuclear materials; shipments not originating in or destined to a port of the United States.

A vessel carrying irradiated fuel elements or special nuclear marterials not originating in, or destined to, a port of the United States shall comply with all regulations issued by the International Maritime Organization (IMO), as contained in the International Maritime Dangerous Goods Code (IMDG Code), with regard to the packaging, handling, stowage, storage and movement of Class 7-Radioactive substances; or, in the absence of compliance with the IMDG Code, shall not transit the Canal or enter Canal waters unless prior permission has been obtained. In addition, the following requirements apply to the carrying of such cargo by such a vessel:

(a) IMDG Code vessel:

(1) A vessel carrying such cargo must obtain in advance approval from the Panama Canal Commission.

(2) Any cask containing irradiated fuel elements, or special nuclear materials, together with any attachments thereto, may not weigh more than 150 tons.

(3) Upon arrival at the Canal of a vessel carrying such cargo, the Master shall deliver to the boarding officer transport documents issued by the appropriate country, or, if no such loading certificate is available, a declaration of Irradiated Fuel Elements or Special Nuclear Materials carried, similar to that contained in § 113.23(c), shall be executed.

(b) Non-compliance vessels:

(1) A vessel carrying such cargo may not transit the Canal or enter Canal waters unless prior permission therefor has been obtained from the Canal authorities. Such permission may not be granted without adequate provision for indemnity covering public liability and loss to the United States or any agency thereof, comparable in general scope to the protection afforded under section 170 of the United States Atomic Energy Act of 1954, as amended, 68 Stat. 919.

§ 113.25 [Removed]

3. Section 113.25, Certification by Commission, is removed.

4. Section 113.42(b) is revised to read as follows:

§ 113.42 Other dangerous cargo.

* * * * *

(b) Certain dangerous cargoes identified by 49 CFR 172.101 are prohibited from being transported over water. These cargoes are also not permitted aboard vessels in Panama Canal waters.

PART 119—[AMENDED]

5. Section 119.141(a)(3) is revised to read as follows:

§ 119.141 Pilot, Panama Canal, qualifications.

(a) * * *

(3) He must have served at least 520 eight-hour watches as Master of Panama Canal Commission vessels of 1,000 horsepower or over while holding a Panama Canal license as Master of Steam and Motor Vessels; or

* * * * *

PART 123—[AMENDED]

6. Section 123.3 (d) and (e) are revised as follows:

§ 123.3 Radiotelephones required.

* * * * *

(d) A vessel of a type described in paragraph (a) of this section shall maintain a continuous watch on Channel 13 when under way in Panama Canal waters for bridge-to-bridge navigational communications only. One watt maximum power shall be used on that frequency, except that in emergencies or unusual circumstances more power may be used. When such vessels have a Panama Canal pilot aboard, Channel 13 may be used only by the pilot or at his direction for navigational communications.

(e) The Signal Stations on Flamenco Island and in Cristobal may be called on Channel 12 or 16. Channel 16, however, is reserved for cases of distress, urgency, safety and calling only. Once radio contact is established on Channel 16, another channel should be selected for routine communications.

D. P. McAuliffe,

Administrator.

[FR Doc. 83-3914 Filed 2-14-83; 8:45 am]

BILLING CODE 3640-01-M

ENVIRONMENTAL PROTECTION AGENCY

41 CFR Part 15-1

[OA-FRL 2305-3]

Individual Conflicts of Interest Involving Current or Former Agency Employees

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This document establishes final rules for the Environmental Protection Agency (EPA) procurement regulations to add policy and procedures to control conflicts of interest involving current or former EPA employees. It is designed to prevent Agency contract awards from being affected by favoritism to or import influence by current or former EPA employees. It provides a mechanism for identifying the proposed use of current of former EPA employees and procedures for proper treatment of contract proposals in these situations.

DATE: This regulation is effective February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Grafton E. Young, Jr., Procurement and

Contracts Management Division (PM-214), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382-5032.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on page 17581 of the **Federal Register** on April 23, 1982, and invited comments for 21 days ending May 14, 1982. Comments were received from three business sources.

Policy

It was suggested that the rule be amended to include subcontractors. Controls relating to subcontractors were included in the proposed rule. Offerors responding to solicitations must identify in their proposals current or former EPA employees who are proposed as consultants or subcontractors. When the subcontracts create an "employer-employee" relationship, the full restrictions of the subpart apply. Whenever the EPA contracting officer has reason to believe that a contract award is biased in favor of current or former EPA employees, the rule requires that action be taken to protect the EPA from improper contract award.

General

The remaining two comments received related to contracting procedures employed by state and local governments and procedures relating to conflicts of interest in Federal assistance programs. These areas are outside of the scope of the proposed rule. The final rule, except for editorial revisions, remains unchanged from the proposed rule.

This regulation amends 41 CFR 15-1 to add a new subpart to control contract awards involving conflicts of interest with current or former EPA employees.

List of Subjects in 40 CFR Part 15-1

Administrative practice and procedure, Air pollution control, Government contracts, Grant programs—environmental protection, Loan programs—environmental protection, Reporting and recordkeeping requirements, Water pollution control.

(Sec. 205(c), 63 Stat. 390, as amended; 40 U.S.C. 486(c))

Dated: November 5, 1982.

John P. Horton,

Assistant Administrator, Office of Administration.

PART 15-1—[AMENDED]

41 CFR Part 15-1 is amended by adding a new Subpart 15-1.55, reading as follows:

Subpart 15-1.55—Prevention of Conflicts of Interest in Contracts Involving current or Former Employees of the Environmental Protection Agency (EPA)

§ 15-1.5500 Scope of subpart.

This subpart sets forth EPA policy and procedures for identifying and dealing with conflicts of interest and improper influence or favoritism in connection with contracts involving current or former EPA employees. This subpart does not apply to agreements with other departments or agencies of the Federal Government, nor to contracts awarded to State or local units of government.

§ 15-1.5501 Definitions.

(a) "Regular employee" means any officer or employee of EPA who is employed or appointed, with or without compensation, to serve more than 130 days during any period of 365 consecutive days, including regular officers of the Public health Service Commissioned Corps and reserve officers of the Public Health Service Commissioned Corps while on active duty.

(b) "Special employee" means an officer or employee of EPA who is retained, designated, appointed or employed to perform, with or without compensation, temporary duties either on a full-time or intermittent basis for not more than 130 days during any period of 365 consecutive days and who acutally served more than 60 days during such 365 day period.

§ 15-1.5502 Limitations on award of noncompetitive negotiated contracts.

(a) No contract may be awarded without competition to a current regular or special EPA employee or to a former regular or special EPA employee whose employment terminated within 365 calendar days before submission of a proposal to EPA. No contract shall be awarded without competition to a firm which employs, or proposes to employ a current regular or special EPA employee or a former EPA regular or special employee whose employment terminated within 365 calendar days before submission of a proposal to EPA if either of the following conditions exists:

(1) The current or former EPA regular or special employee is or was involved in developing or negotiating the proposal for the prospective contractor.

(2) The current or former EPA regular or special employee will be involved directly or indirectly in the management, administration, or performance of the contract.

(b) Waiver—The foregoing restriction may be waived in writing by the Deputy Administrator if the award would not involve an violation of 18 U.S.C. 203, 18 U.S.C. 205, 18 U.S.C. 207, 18 U.S.C. 208, EPA regulations at 40 CFR Part 3, or the Federal Procurement Regulations at 41 CFR 1-1.302-3 and if the award would be in the best interests of the Government. The Deputy Administrator will consult with the Designated Agency Ethics Official before making such a determination.

§ 15-1.5503 Treatment of competitive contracts.

(a) Contract awards based on competition must not involve violation of 18 U.S.C. 205, 18 U.S.C. 207, 18 U.S.C. 208, or 41 CFR 1-1.302-3 and must not be based on improper influence or favoritism arising out of an EPA employee's current or former EPA employment.

(b) When any part of the disclosure required under § 15.1.5505 is affirmative, or when the contracting officer has reason to believe that an award may be prohibited by this subpart, no award may be made without the written approval of an official at a level above that of the Head of the Procuring Activity (see § 15-1.206) indicating that award would be consistent with § 15.-1.5503(a). The official will consult with the Designated Agency Ethics Official before making such a determination.

§ 15-1.5504 Subcontracts.

This subpart does not apply to subcontracts; that is, agreements by which a subcontractor agrees to undertake part of the work as an independent contractor. However, where subcontracts essentially create an "employer-employee" relationship, the restrictions apply. In determining whether such a relationship exists, the contracting officer will be generally guided by the standards of Chapter 304, Subchapter 1-4 of the Federal Personnel Manual (distinguishing between employees and independent contractors).

§ 15-1.5505 Solicitation disclosure provision.

The following provision shall be included in all EPA requests for proposals (RFP's): Current/Former Agency employee Confict of Interest Certification. The offeror certifies that:

(a) The offeror is ☐ is not ☐ a current regular or special EPA employee or a former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this proposal.

(b) The offeror does ☐ does not ☐ employ or propose to employ a current regular or special EPA employee or a former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this proposal and who has been or will be involved, directly or indirectly, in developing or negotiating this proposal for the offeror; or in the management, administration or performance of any contract resulting from this proposal.

(c) The offeror does ☐ does not ☐ employ or propose to employ as a consultant or subcontractor under any contract resulting from this proposal a current regular or special EPA employee or a former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this proposal.

(d) A current regular or special EPA employee or a former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this proposal or such employee's spouse or minor child does ☐ does not ☐ hold a controlling interest in the offeror firm.

[FR Doc. 83-3898 Filed 2-14-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 11

Technical Corrections

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This document corrects an error in citation and changes an address in the FEMA Tort Claims regulation.

DATE: Effective February 15, 1983.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, Federal Emergency Management Agency, Room 840, 500 C Street SW., Washington, D.C. 20472; telephone number (202) 287-0377.

Accordingly, Part 11 of Title 44, Code of Federal Regulations, is amended as follows:

1. Section 11.11(b) is amended as follows:

§ 11.11 Administrative claim; when presented; appropriate FEMA office.

* * * * *

(b) Remove "1725 I Street, NW"

* * * * *

2. Section 11.15(a) is amended as follows:

§ 11.15 Authority to adjust, determine, compromise and settle.

(a) Change "Title 18" to "Title 28".

* * * * *

Dated: February 1, 1983.

George Jett,

General Counsel.

[FR Doc. 83-3999 Filed 2-14-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5923]

Letter of Map Amendment for City Of Las Vegas, Nev.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule; Map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Las Vegas, Nevada. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Las Vegas, Nevada, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. 325276, Panel 0020B, published on September 30, 1980, in 45 FR 69451, indicates that any structures to be located on an Amended Independent Square, a resubdivision of Charleston Heights Tract No. 51-1, recorded as Instrument No. 1109841 in Book 25, page 41 of Plats, Official Records Book No. 1150 of the Clark County, Nevada Records, are located within the Special Flood Hazard Area.

Map No. 325276, Panel 0020B is hereby corrected to reflect that any structures to be located on the above-mentioned property are not within the Special Flood Hazard Area identified on September 30, 1980. Any stuctures built on the property will be located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 25, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-4002 Filed 2-14-83; 8:45 am]

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Unincorporated Areas of Trempealeau County, Wis.; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map amendment.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Tremplealeau County, Wisconsin. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Trempealeau County, Wisconsin, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Anderson, Regional Director, Federal Emergency Management Agency, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606, (312) 353–1500.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b): Map Number 555585A, Panel H&I 37 published on October 6, 1980, in 45 FR 66090 indicates that Part of the SW quarter of the SW quarter of Section 3, Township 19 North, Range 8 West, Trempealeau County, Wisconsin, consisting of 1.0 acre, and described as follows: Commencing at the 2-inch pipe monumenting the South Quarter corner of said Section 3, Township 19 North, Range 8 West; thence South 69°22′ West 1,100.00 feet; thence North 46°38′ West 509.5 feet to a point of intersection of the existing property line fence on the South line of said Section 3, Township 19 North, Range 8 West and the Westerly right-of-way line of U.S. Highway 53; thence South 88°35′ West along 460.10 feet along said South line to the point of beginning of this description: thence continuing South 88°35′ West along said South line 199.25 feet; thence North 20°22′ West 202.00 feet to the point of beginning is located within the Special Flood Hazard Area. The above described parcel is unrecorded as such being a portion of Part of the SW quarter of Section 3, Township 19 North, Range 8 West, recorded as document No. 178196, Volume 134 of Deeds, Pages 229 and 230, in the office of the Register of Deeds for Trempealeau County.

Map Number 555585A, Panel H&I is hereby corrected to reflect that the above-mentioned property is not located within the Special Flood Hazard Area identified on March 26, 1976. The property is located in Zone C.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routing legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Floodplains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 21, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–4003 Filed 2–14–83; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA-6124]

Letter of Map Amendment for City of Allentown, Pennsylvania Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Allentown, Pennsylvania. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Allentown, Pennsylvania, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 27, 1982.

FOR FURTHER INFORMATION CONTACT: Brian R. Mrazik, Ph.D, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. FIRM 420585, Panel 0005A, published on January 27, 1982 in FR Vol. 47, No. 18, page 3782 and 3783, indicates that 234 Wabash Street, as described in

Deed Book Volume 1239, pages 1038 to 1040, of Lehigh County, Pennsylvania, is located within the Special Flood Hazard Area.

Map No. FIRM 420585, Panel 0005A, is hereby corrected to reflect that the existing structure located at 234 Wabash Street of the above-mentioned property is not within the Special Flood Hazard Area identified on June 1, 1982. This structure is in Zone C.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: January 26, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–4044 Filed 2–14–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6116]

Letter of Map Amendment for Somerset County, Maryland Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map correction

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Somerset County, Maryland. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Somerset County, Maryland, that certain property is not with the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: June 15, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. FIRM 240061, Panel 0275A, published on January 26, 1981 in FR Vol. 46, No. 140 Page 37653 indicates that District 8, Block 17, Parcel 2 as described in Book Number 293, Folio 638 on the Land Records for Somerset County, Maryland, is located within the Special Flood Hazard Area.

Map No. FIRM 240061, Panel 0275A, is hereby corrected to reflect that the existing structure located in District 8, Block 17, Parcel 2 of the above-mentioned property is not within the Special Flood Hazard Area identified on June 15, 1981. This structure should be in Zone B.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entites. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: February 4, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–4045 Filed 2–14–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6354]

Letter of Map Amendment for Tehama County, California, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Tehama County, California. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Tehama County, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or

acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. 065064, Panel 0825B, published on July 13, 1982, in 47 FR 30294, indicates that any structures to be located on the property described as follows: Beginning at the Northeast Corner of Section 4, T23N, R2W, MDB&M, Tehama County, California, thence along said Section Line 1320 feet to the true point of beginning, in the centerline of Dakota Avenue, at the Southeast Quarter of the Northeast Quarter of Section 4, which is the Northwest Corner of the property. Thence east 400 feet, thence south 200 feet, thence west 400 feet, thence north 200 feet to the beginning point of the property, would be located within the Special Flood Hazard Area.

Map No. 065064, Panel 0825B is hereby corrected to reflect that any structures to be located on the above-mentioned lot are not within the Special Flood Hazard Area identified on July 13, 1982. These structures are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authroity has ben delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 25, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–4046 Filed 2–14–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for City of Scottsdale, Arizona, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Scottsdale, Arizona. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Scottsdale, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division. Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal of federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. 045012A, Panel H & I 24, published on October 6, 1980, in 45 FR 66116, indicates that the existing structure located on Lot 366, Continental Villas East Unit Two Amended, according to Book 141 of Maps, page 22, in the Records of Maricopa County, Arizona, is located within the Special Flood Hazard Area.

Map No. 045012A, Panel H & I 24 is hereby corrected to reflect that the existing structures located on the above-mentioned lot are not within the Special Flood Hazard Area identified on January 9, 1976. These structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rules if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 25, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–4047 Filed 2–14–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5923]

Letter of Map Amendment for City of Las Vegas, Nevada Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; Map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published

a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Las Vegas, Nevada. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Las Vegas, Nevada, that certain property is not within the Special Flood Hazard Area.

This Map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(a):

Map No. 325276, Panel 0020B, published on October 21, 1980, in 45 FR 69451, indicates that any structures to be located on Charleston Heights Tract No. 50–E3, recorded as Instrument No. 877021 in Book 22, page 48 of Plats, Official Records Book No. 918 of the Clark County, Nevada Records, are located within the Special Flood Hazard Area.

Map No. 325276, Panel 0020B is hereby corrected to reflect that any structures to be located on the above-mentioned property are not within the Special Flood Hazard Area identified on October 21, 1980. Any structures built on the property will be located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Deyelopment Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 USC 4001–4128; Executive Order 12127, 44 FR 1936; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 25, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–4048 Filed 2–14–83; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 30209–24]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule related notice; final fishery specifications.

SUMMARY: This notice announces the final 1983 management specifications for groundfish caught off the coasts of Washington, Oregon, and California. This notice identifies the acceptable biological catch, the optimum yield, and the distribution of the optimum yield among domestic and foreign fishing operations as required in the regulations implementing the Pacific Coast Groundfish Fishery Management Plan.

EFFECTIVE DATE: February 10, 1983.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, at 206–527–6150 or Alan Ford, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved by the Assistant Administrator for Fisheries, NOAA, on January 4, 1983. The FMP and its implementing regulations at 50 CFR Part 663 (47 FR 43974) state that management specifications for five species (Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, and widow rockfish) will be evaluated each calendar year, preliminary specifications will be published in the **Federal Register**, public comment will be requested and considered with the most recent scientific data, and final specifications for the succeeding calendar year will be published. Management specifications for each species are made for the acceptable biological catch (ABC), an estimate of the annual catch that could be taken without jeopardizing a resource's productivity, and the optimum yield (OY), based on socio-economic as well as biological factors. The OYs for these five species are the maximum amounts of fish (in round weight) that may be taken and retained or landed each year from the fishery conservation zone and the territorial sea off Washington, Oregon, and California.

The OY for each of these five species is comprised of several components that will be reassessed near July 1. The domestic annual harvest (DAH), which consists of estimates of domestic annual processing (DAP) and joint venture processing (JVP), is verified by surveys of the fishing industry in November and June. The total allowable level of foreign fishing (TALFF) is the remainder, if any, of OY after domestic needs, i.e. DAH, have been confirmed. A reserve is established for Pacific whiting, which is currently the only species for which foreign fishing is allowed, in order to accommodate any underestimates in DAH.

The OYs and ABCs may be changed as appropriate during the year under the conditions and procedures outlined in the regulations at 50 CFR 663.22.

The preliminary specifications for 1983 were reviewed and approved by the Pacific Fishery Management Council (Council) and received public comment at the Council's November 17–18, 1982, meeting in Monterey, CA. The preliminary management specifications were published in the **Federal Register** on December 29, 1982 (47 FR 57977) and public comment was requested through January 13, 1983. No comments were received.

One substantive and two technical changes have been made to the preliminary specifications. The first change is the reduction of ABC for Canary rockfish in the Vancouver area (Table 1) from 4,000 metric tons (mt) to 800 mt. More recent catch and effort data indicate that the earlier biomass estimate given in the FMP, and the preliminary ABC which was based on that biomass estimate, were too high.. Given the economic value of the species, landings and catch per unit of effort have been inexplicably low, especially since the earlier biomass estimate was the largest for any species of rockfish in the Vancouver area. This species is obvioulsy not abundant in the area and is primarily caught incidentally to other target fisheries. ABC is therefore adjusted to 800 mt, the highest catch of record and the total Canary rockfish ABC is adjusted accordingly from 5,900 mt to 2,700 mt. Further adjustment may result from status of stock analyses expected in 1983. The second change is correction of a typographical error; in Table 1, the reference to footnote 2 next to the Pacific whiting OY is added. The third change, in footnote 3 of Table 1 and footnote 1 of Table 2, adds a parenthetical specification of the coordinates that define Monterey Bay for sablefish management.

The 1983 final management specifications are given in the following tables. A discussion of the specifications for each species or species complex is found in the **Federal Register** notice announcing the preliminary specifications, published on December 29, 1982 (47 FR 57977).

TABLE 1.—FINAL SPECIFICATIONS OF ABC FOR 1983

[In thousands of metric tons]

Species/areas	Vancouver	Columbia	Eureka	Monterey	Conception	Total
Groundfish:						
Lingcod	1.0	4.0	0.5	1.1	0.4	7.0
Pacific cod	2.2	0.9	(1)	(1)	(1)	3.1
Pacific whiting						(2) 175.5
Sablefish				[3]2.5		[3]13.4
Rockfish:						
Pacific ocean perch	0.6	0.95	(1)	(1)	(1)	1.55
Shortbelly						[3]10.0
Widow	0.4	[4]6.5	1.5	2.1	(5)	10.5
Other rockfish: [6]						
Bocaccio	(1)	(1)	(1)	4.1	2.0	6.1
Canary	0.8	1.3	0.6	(1)	(1)	2.7
Chilipepper	(1)	(1)	(1)	1.3	1.0	2.3
Yellowtail	1.4	1.5	0.3	(1)	(1)	3.2
Remaining rockfish	2.0	2.5	1.9	4.3	3.3	14.0
Flatfish:						
Dover sole	1.0	4.0	8.0	5.0	1.0	19.0
English sole	0.6	2.0	0.8	0.9	0.2	4.5
Petrale sole	0.6	1.1	0.5	0.8	0.2	3.2
Other flatfish (except arrowtooth flounder)	0.7	3.0	1.7	1.8	0.5	7.7
Other fish: [7]						
Jack mackerel						[8]12.0
Others	3.0	7.0	2.0	2.0	2.0	16.0

[1] These species are not common or important in the areas footnoted. Accordingly, for convenience, Pacific cod is included in the "other fish" category for the areas footnoted, and rockfish species are included in the "remaining rockfish" category for the areas footnoted only.

[2] Total all areas.

[3] Monterey Bay only (37°00' to 36°30' N. latitude).

[4] 1,600 metric tons for that portion of the Columbia subarea north of Cape Lookout (45°20' N. latitude), and 4,900 metric tons for that portion of the Columbia subarea south of Cape Lookout.

[5] Insufficient data available to estimate ABC.

[6] "Other rockfish" means rockfish species, listed in § 663.2, which do not have a numerical OY.

[7] "Other fish" includes sharks, skates, ratfish, monds, grenadiers, jack mackerel, arrowtooth flounder, and, in the Eureka, Monterey, and Conception areas, Pacific cod. "Other fish" is part of the "other species" category listed in § 663.2.

[8] North of 39°00' N. latitude.

TABLE 2.—FINAL SPECIFICATIONS OF OY AND ITS DISTRIBUTION FOR 1983

[In thousands of metric tons]

Species	Total OY	DAH	DAP	JVP	Reserve	TALFF
Pacific whiting	175.5	105.0	5.0	100.0	35.0	35.5
Sablefish	[1]17.4	17.4	17.4	[2]0.0	0.0	[2]0.0
Pacific ocean perch	[3]1.55	1.55	1.55	[2,4]0.0	0.0	[2]0.0
Shortbelly rockfish	10.0	10.0	6.0	[2,4]4.0	0.0	[2,4]0.0
Widow rockfish	10.5	10.5	10.5	[2,4]0.0	0.0	[3,4]0.0
Other species	(5)	(5)	(5)	[2,6]0.0	0.0	[2,6]0.0

[1] Of this 17,400 metric tons, 2,500 metric tons is from Monterey Bay (37°00' to 36°30' N. latitude). See § 663.21(a)(2).

[2] Incidental catch allowance percentages (based on TALFF) and incidental retention allowance percentages (based on JVP) are: sablefish 0.173%, Pacific ocean perch 0.062%, rockfish excluding Pacific ocean perch 0.738%, flatfish 0.1%, jack mackerel 3.0%, and other species 0.5%. See footnotes 4 and 6 of this table. See § 611.70(c)(2) for application of incidental retention allowance percentages to joint venture operations.

[3] Of this 1,550 metric tons, 600 metric tons is for the Vancouver subarea and 950 metric tons is for the Columbia subarea. Pacific ocean perch from other subareas are included in the OY for "other species." See § 663.21(a)(3).

[4] In foreign trawl and joint venture processing operations, shortbelly and widow rockfishes are included in the category "rockfishes excluding Pacific ocean perch."

[5] The total OY for "other species" is that amount of fish that may be lawfully harvested and/or processed under § 611.70 and Part 663. See § 663.2 for species listing.

[6] In foreign trawl and joint venture processing operations, "other species" means all species, including non-groundfish species, except Pacific whiting, sablefish, Pacific ocean perch, rockfish excluding Pacific ocean perch, flatfish, jack mackerel, and prohibited species.

Classification

These final specifications for 1983 are made under the authority of 50 CFR 663.24. This action is taken in compliance with Executive Order 12291 and is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

Dated: February 10, 1983.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 83-4050 Filed 2-10-83; 4:52 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 32
Tuesday, February 15, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A-REA Bulletins; Proposed Withdrawal of REA Specification for Direct Burial Telephone Cable (Air Core), PE-23

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A–REA Bulletins by withdrawing Bulletin 345–14, REA Specification for Direct Burial Telephone Cable (Air Core), PE–23. As the product is no longer produced in significant quantities, and rural telecommunications systems are no longer using it, withdrawal of this specification will permit a reduction in government paperwork with virtually no impact on the private sector.

DATE: Public comments must be received by REA no later than April 18, 1983.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8667. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 *et seq.*), REA proposes to amend Appendix A–REA Bulletins by withdrawing REA Bulletin 345–14, REA Specification for Direct Burial Telephone Cable (Air Core), PE–23. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A–95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Background

While useful in the past, the product covered by this specification has little or no utility in today's modern telecommunication system because of the increasing use of filled cables in similar applications. As the product is no longer produced in significant quantities, and rural telecommunications systems are no longer using it, withdrawal of this specification will permit a reduction in government paperwork with virtually no impact on the private sector.

List of Subjects in 7 CFR Part 1701

Loan programs—communications, Telecommunications, Telephone.

Dated: February 3, 1983.

Jack Van Mark,
Acting Administrator.

[FR Doc. 83-3586 Filed 2-14-83; 8:45 am]
BILLING CODE 3410-15-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Clarification of Regulations Respecting Payment of Interest on Deposits Situated Outside of the Continental United States

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rulemaking.

SUMMARY: The Board of Directors of the Federal Deposit Insurance Corporation ("Board", "FDIC") proposes to amend the provisions of FDIC's interest rate regulations with respect to payment of interest on deposits situated outside of the States of the United States and the District of Columbia. Under present regulations, deposits payable only at a bank's office which is located outside of the States of the United States and the District of Columbia are not subject to the provisions of FDIC's regulations regarding payment of interest on deposits including regulations establishing rate ceilings. This proposed amendment to FDIC's regulations would subject any deposit, even though by its terms payable solely outside of the United States and the District of Columbia, to interest rate ceilings where the deposit may be accessed either through an account maintained within the United States or the District of Columbia or through instruction for payment by any person who is *not* a resident of the extraterritorial sovereignty, possession or territory where the deposit account is maintained.

DATES: Comments should be submitted by March 2, 1983.

ADDRESSES: Comments should be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550-17th Street NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Counsel or Barbara Messe', Attorney (202) 389–4171, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Section 329.0 of FDIC's regulations (12 CFR 329.0) provides that the provisions of Part 329 do not apply to any deposit in a bank located outside of, or payable *only at,* a bank's office which is located outside of the States of the United States and the District of Columbia. The provisions of Part 329, among other things, impose interest rate restrictions on deposits at banks supervised by FDIC. Recently, some question has arisen concerning the application of Part 329 to accounts payable only at overseas offices but integrated with domestic accounts.

The principal confusion has arisen where a deposit may be accessed within the United States through a domestic account even though the account accessed is established outside of the United States. For example, one insured State nonmember bank has offered and is still offering an account relationship structured essentially as follows: A savings account is established at a branch of the bank situated outside of the United States with funds being transferred automatically from the savings deposit when a check is drawn on a domestic checking account within the United States. It has been the staff position that this account is payable within the United States by virtue of the automatic transfer link between the savings account and checking account, and is hence subject to interest rate ceilings as well as other applicable provisions of Part 329. The bank in question is, however, asserting that the deposit is, by its terms, payble solely outside of the United States, and is therefore paying interest in excess of the maximum payable on passbook savings accounts.

In part to correct this situation, and in part to prevent further abuses based upon misconstructions of FDIC regulations, the FDIC proposes to amend § 329.0 of Part 329 of its regulations to provide that the accessing of a deposit by any means or device whatsoever by a check, draft or order drawn upon an account maintained at any domestic office of the same institution is ineligible for the extraterritorial exemption from interest rate ceilings. The FDIC further proposes to amend 329.0 to exclude from the extraterritorial exemption any account maintained outside of the United States which may be accessed from within the United States by instruction for payment (*e.g.* withdrawal slip, negotiable order of withdrawal) by a depositor whose residence is other than within the possession, territory or sovereignty outside of the 50 States of the United States and the District of Columbia where the deposit account is maintained.

The FDIC considers it appropriate to solicit public comment on this matter because current abuses of the regulation are, so far, limited to one bank and it is felt that the appropriate method of correction of the problem is by a rule of general applicability and legal effect, to not only correct the current situation, but also avoid similar situations arising in the future. The Board of Directors has established a 30-day period for public comment instead of the 60 days usually required by FDIC policy, because the public interest will be served by obtaining clarification and amplification of existing regulatory provisions at the earliest reasonable time.

In submitting comments on the proposal, commenters should be advised that the purpose of the extraterritorial exemption is to place foreign branches of domestic banks on competitive parity with foreign entities. It is not intended as a device to enable domestic customers of a bank having branches outside of the continental United States or the District of Columbia to achieve the benefit of preferred interest rate treatment on insured deposits.

The FDIC requests that in submitting comments particular attention should be devoted to certain questions regarding the scope of the proposal.

As drafted, the proposed amendment has two separate components. The first of these pertains to the situation where two accounts are maintained, one outside the 50 States of the United States and the District of Columbia (*i.e.*, the extraterritorial account) and the other within the 50 States of the United States or the District of Columbia (*i.e.*, the domestic account), the latter account accessing the former. The second component involves transactions within only one account (*i.e.*, the extraterritorial account which is accessed by order domestically).

The FDIC would be interested particularly in comments on whether the second component of the proposed restriction pertaining to single accounts accessed domestically is necessary and appropriate. We raise this issue in light of the fact that the bank would have to show that the account holder is a resident of the extraterritorial jurisdiction where the account is maintained in order to establish exemption from this section. The FDIC believes that implementation of this residence requirement for banks wishing to open high interest-paying extraterritorial deposit accounts will not impose additional information collection requests or paperwork requirements since it is presumed that all banks currntly maintain account records indicating the name and address of each depositor. Nevertheless, the FDIC would appreciate comments addressing any tangential administrative burdens imposed by the second component of this proposed amendment.

In addition, the FDIC wishes public comment on the propriety of allowing those accounts which have already been opened under existing programs to continue, and, if so, under what terms and conditions.

Regulatory Analyses

The Board hereby certifies that this action will not have a significant economic impact on a substantial number of small entities since only a very few banks have the potential to establish either this form of integrated account or any other account situated outside the United States but accessible domestically. Accordingly, the requirements of the Regulatory Flexibility Act for initial and final regulatory flexibility analyses are not applicable (5 U.S.C. § 605(b)). For the same reason, the Board has determined that it is not feasible to prepare cost-benefit analyses, including a small bank impact statement, which would otherwise be required by the FDIC's policy.

List of Subjects in 12 CFR Part 329

Banks, banking; Interests on deposits; Interest rates; State nonmember banks.

As discussed above, it is proposed that chapter III of title 12 of the Code of Federal Regulations be amended as follows:

PART 329—INTEREST ON DEPOSITS

1. The authority citation for Part 329 reads as follows:

Authority: Secs. 9 and 18, Pub. L. No. 797, 64 Stat. 881, 891 (12 U.S.C. 1819 and 1828); sec. 303, Pub. L. No. 96–221, 94 Stat. 146 (12 U.S.C. 1832(a)).

2. In § 329.0 footnote 1 remains unchanged and the text of the section is revised to read as follows:

§ 329.0 Scope.

The provisions of this Part 329 apply to the advertisement and payment of interest or dividends on deposits in insured nonmember banks.[1] The provisions of this Part 329 do not apply to any deposit in a bank outside of, or payable only at a bank's office which is located outside of, the States of the United States and the District of Columbia, unless the deposit is accessible either (1) directly or indirectly through any domestic office of a bank by any means or device whatsoever by a check, draft, or order drawn upon an account maintained at any domestic office of the same institution payable within the United States, or (2) by instruction for or request for payment by means of transfer of funds or credits to any such office for payment by a person whose residence is other than within the possession, territory or sovereignty outside of the 50 States of the United States and the District of Columbia where the deposit account is

maintained, irrespective of the location of the office or branch from which the transfer is made. Except for §§ 329.7, 329.8 and 329.10, and except as may be specifically stated otherwise in this Part 329, the provisions of this Part 329 do not apply to (a) mutual savings banks; (b) guaranty savings banks operating in the State of New Hampshire or stock savings banks in the States of Washington and Maine so long as such banks operate substantially under, and pursuant to the laws of their respective States pertaining to mutual savings banks and do not engage in commercial banking; or (c) corporations operating in the Commonwealth of Massachusetts as banking companies pursuant to the provisions of chapter 172A of the General Laws of the Commonwealth of Massachusetts.

By order of the Board of Directors, February 7, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-3907 Filed 2-14-83; 8:45 am]

BILLING CODE 6714-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 12

Revision of Rules Relating to Reparation Proceedings

AGENCY: Commodity Futures Trading Commission.

ACTION: Advance notice of Proposed Rulemaking and request for Public Comment.

SUMMARY: On January 12, 1983, Section 14(b) of the Commodity Exchange Act, 7 U.S.C. 18(b), was amended to authorize the Commodity Futures Trading Commission to "promulgate such rules, regulations and orders as it deems necessary or appropriate for the efficient and expeditious administration of this section." The Commission is seeking public comment on changes in the existing reparations procedure to produce greater efficiency in the review and processing stages of a reparation proceeding and to expedite final disposition of reparation claims. The Commission is also seeking public comment on changes in the existing reparation rules which would streamline and simplify those regulations to make the reparation procedure more accessible and understandable to persons seeking relief for violations of the Act.

The Commission invites public comment on any suggested changes that would simplify the Reparation Rules and improve or expedite the reparations procedure, and it is particularly interested in public comment upon the specific changes contemplated by the Commission (as set forth under the subheading "Supplementary Information.").

DATE: Comments must be received on or before March 17, 1983.

ADDRESS: Interested persons should submit comments to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, Attention of the Secretariat. Telephone: (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Raisler, Deputy General Counsel, or Edward S. Geldermann, Attorney, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254–9880.

List of Subjects in 17 CFR Part 12

Administrative practice and procedure, Commodity exchanges, Commodity futures, Reparations.

SUPPLEMENTARY INFORMATION: In a recent amendment to Section 14(b) of the Commodity Exchange Act, Congress authorized the Commission to:

> Promulgate such rules, regulations, and orders as it deems necessary or appropriate for the efficient and expeditious administration of this section. Notwithstanding any other provision of law, such rules, regulations, and orders may prescribe, or otherwise condition, without limitation, the form, filing, and service of pleadings or orders, * * * hearings (including the waiver thereof, which may relate to the amount in controversy), rights of appeal, if any, and all other matters governing proceedings before the Commission under this section.

Futures Trading Act of 1982, Pub. L. No. 97–444, § 231, 96 Stat. 2294 (1983).[1]

Congress conferred this broad discretion upon the Commission "[t]o enable the Commission to simplify its rules of procedure regarding reparations and streamline the process." H.R. Rep. No. 565, 97th Cong., 2d Sess. 55 (1982). In addition, the amendments to Section 14(b) were intended to authorize the Commission "to use its best judgment in fashioning appropriate procedures that will be both fair and efficient." *Id.*

Pursuant to this grant of authority, the Commission has been considering, and invites public comment on, making changes to its reparation procedure in the following respects:

1. Instituting a Voluntary Decisional Procedure

The Commission is considering instituting a low-cost, voluntary decisional procedure, analogous to commercial arbitration, that will result in an expeditious final, unappealable decision. Parties could avail themselves of this procedure only by unanimous consent. All parties would have the opportunity to elect this procedure regardless of the amount of damages claimed. The procedure would require only a nominal filing fee (e.g., $25).

Under the voluntary decisional procedure, no oral hearing rights would be afforded to the parties. Proof in support of claims and defenses may be submitted by the parties only in documentary form. Where credibility issues are of cricual importance in the proceeding, the decisionmaker would be allowed to conduct oral examination of the parties in Washington, D.C., or by telephonic conference call. No examination by the parties will be permitted.

The decisionmaker would be expected to render a final, unappealable decision, not accompanied by a statement of findings and conclusions, awarding or denying the reparations claim. Awards could not exceed the amount of damages claimed unless the parties otherwise agreed. A party ordered to pay a reparation award under this procedure would not be assessed pre-judgment interest or costs.

This procedure should result in a much faster final determination of reparations claims than would occur under the Commission's other procedures. It is expected that a claim under this procedure will be decided within 180 days of the filing of the complaint.

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[1] Another major change to Section 14 of the Act made by Section 231 of the Futures Trading Act of 1982 was to limit the class of persons subject to claims in reparations to those who have registered under the Commodity Exchange Act. Prior to the enactment of the new legislation, reparations actions could be maintained against those who, although not registered under the Act, had engaged in activities requiring them to be registered. In so limiting the Commission's jurisdiction to those who are registered, Congress was aware that:

> [U]nregistered firms and individuals often file in bankruptcy, are destitute, or have disappeared by the time a claim is asserted, resulting in uncollectible reparations awards. In these circumstances, the reparations process actually operates as a disservice to those who have already been harmed, by apparantly promising recovery, which as a practical matter cannot be had. Moreover, these types of claims have served to delay the entire reparations process, thereby deferring the completion of cases where recovery is possible.

H.R. Rep. No. 565, 97th Cong., 2d Sess. 56 (1982). *See also* S. Rep. No. 384, 97th Cong., 2d Sess. 48 (1982).

2. Summary Procedure: Granting the Decisionmaker Limited Authority To Conduct Oral Examination of the Parties and Raising the Monetary Ceiling for the Procedure

Under the Commission's existing summary proceedings rules, 17 CFR 12.91–12.95, oral hearings are not available and all proof in such proceedings must be supplied in documentary form. The Commission recognizes that even where credibility determinations are crucial to the outcome of such a case, the parties do not have an opportunity to present oral testimony, and the decisionmaker cannot observe the demeanor of those who would testify orally. Therefore, the Commission is considering granting authority to the decisionmaker to conduct examination of the parties in Washington, D.C., or by telephone conference call, in proceedings where issues of credibility are crucial. However, no examination by the parties or their counsel would be permitted.

The Commission also recognizes that proceedings conducted under its summary proceedings rules have generally been far less time-consuming than those in which oral hearings have been conducted. In the 1982 legislation, Congress removed the $5,000 ceiling for damage claims eligible for summary proceedings. 7 U.S.C. 18(b); S. Rep. No. 384, 97th Cong. 2d Sess. 48–49 (1982). To increase the number of cases that would qualify for this more expeditious procedure, the Commission is considering raising the monetary ceiling for this procedure so that cases in which the amount of damages claimed did not exceed $10,000 would be conducted according to such procedure.

Because the summary procedure allows for an appeal and requires the decisionmaker to prepare limited findings and conclusions, it is expected that the summary procedure would be more time-consuming than the voluntary decisional procedure (e.g., a party would expect an initial decision under the summary procedure 240 days after filing the complaint). It is also contemplated that the summary procedure would require a higher filing fee (e.g., $100) than required under the voluntary procedure to cover some of the increased cost of the procedure to the Commission.

3. Creation of the Position of "Proceedings Officer"

In proceedings where the parties have not elected the voluntary procedure, and the amount of damages claimed exceeds $10,000, the Commission is considering utilizing a "proceedings officer," which would be a new position to be occupied by an employee of the Commission, to remove some of the burdens on the Administrative Law Judges. The proceedings officer would be granted powers and duties somewhat analogous to those performed by United States magistrates in preparing the record of a proceeding for a hearing. In addition, a proceedings officer would be authorized to issue orders in default, orders of dismissal not affecting the merits of the parties' claims, orders pertaining to discovery, and orders to submit additional documentary proof as the proceedings officer deemed relevant or material. An Administrative Law Judge could reconsider any order of a proceedings officer.

The proceedings officer would also be authorized to make recommendations to the Administrative Law Judge concerning the need for an oral hearing to resolve credibility issues that were of critical importance in the proceeding. Where an oral hearing was not necessary, the proceedings officer would be authorized to make recommendations of findings of fact and conclusions of law concerning the parties' claims. The Administrative Law Judge would be free to accept or reject, in whole or in part, any such recommendations by the proceedings officer.

The Commission's goal for a case submitted for decision by an Administrative Law Judge is that an initial decision would be issued by the Judge within one year of the filing of the complaint. The additional expense of a proceeding conducted by an Administrative Law Judge would warrant a higher filing fee (e.g., $250).

4. Dismissal of Proceedings or Respondents Because of Pendency of Parallel Proceedings

The Commission is considering amendments to its reparation procedure which would effectuate a change in its policy with regard to reparation proceedings in which the claims made by customers are the subject of parallel proceedings before other tribunals. The current stated policy of the Commission is to stay such reparation proceedings pending a decision by an arbitration tribunal or court. *See* 41 FR 3994 (January 27, 1976). Under consideration would refuse to consider any reparatation complaint or claim which, when filed with the Commission, was the subject of a pending arbitration or civil court proceeding based on the same facts and against one or more of the same parties. This proposed change would not affect Commission Regulation 180.3(b)(3), 17 CFR 180.3(b)(3) (1982), so that a customer who is notified of his broker's intention to invoke arbitration under a pre-dispute agreement would still have forty-five days in which to elect to proceed in reparations.

The Commission also is considering a change of policy concerning respondents in reparations proceedings who are the subject of a receivership. Instead of staying such reparations proceedings, when a receivership commences prior to the filing of an initial decision on the merits of a reparation claim, and such receivership would result in the resolution of customer claims against the subjects of the receivership, the Commission would dismiss, without prejudice, from the reparation proceeding those respondents who were the subject of the receivership.

The Commission also is considering changes in policy with respect to respondents in reparations proceedings who are also debtors in bankruptcy proceedings. A respondent who became a debtor prior to the filing of an initial decision adjudicating the merits of a reparation claim would be dismissed, without prejudice, from a reparation proceeding. The Commission, however, is considering staying reparation proceedings as to a debtor in the case of an involuntary petition filed pursuant to 11 U.S.C. 303 of the Bankruptcy Code until the petition has been dismissed or relief is ordered. Also, the Commission is considering staying, as opposed to dismissing, any reparation claim which would be an exception to discharge in the bankruptcy proceeding. *See* 11 U.S.C. 523.

The Commission is aware that in certain situations dismissal of a claim from a reparation proceeding may create undue prejudice to a particular customer or respondent. It is contemplated that the rules implementing such a policy would allow any party an opportunity to seek a different result in a particular case.

The Commission is considering applying the dismissal policy under consideration, and the rules which would implement that policy, to all reparation claims which have yet to result in an initial decision on the merits of the Complaint. The Commission specifically requests public comment as to the proposed effect of such rules on reparation proceedings pending at the time any rules are adopted.

In view of the foregoing, the Commission hereby gives notice of its request for comment on the specific changes to its reparations procedure that are discussed above, as well as any other suggestions for simplifying its reparation rules and streamlining the reparations process. Persons interested

in submitting views or arguments on these matters should send their comments by [Thirty days from date of publication] to Ms. Jane K. Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Issued in Washington, D.C. on February 9, 1983 by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-3874 Filed 2-14-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 83N-0011]

Whey Cheeses; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard of Identity

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the "Recommended International General Standard for Whey Cheeses" (Codex Standard No. A-7) and to comment on the desirability of and need for a U.S. standard of identity for these foods. The Codex standard was submitted to the United States for consideration of acceptance by the Food and Agriculture Organization/World Health Organization's Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, a subsidiary body of the Codex Alimentarius Commission. If the comments received do not support the need for a U.S. standard of identity for these foods, FDA will not propose a standard.

DATE: Comments by April 18, 1983.

ADDRESS: Written comments, data, or other information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. Codex standards for milk and milk products, including the general standard for whey cheeses, are developed by the FAO/WHO Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, a subsidiary body of the Codex Alimentarius Commission. Under the FAO/WHO program, a large number of food standards have been developed and submitted to governments for acceptance.

As a member of the Codex Alimentarius Commission, the United States is under treaty obligation to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country which concludes that it will not accept a Codex standard is requested to indicate the ways in which the requirements of the nonaccepting country differ from the recommended international standard. Member nations of the FAO/WHO Codex Alimentarius Commission are requested to notify the Technical Secretary, Committee on the Code of Principles Concerning Milk and Milk Products, Animal Production and Health Division, FAO, Rome, Italy, of their decision. Should a sufficient number of governments accept the standard, the Secretariat of the Committee will notify the Codex Alimentarius Commission and request the publication of the standard by the Codex Alimentarius Commission as a worldwide standard in light of acceptances received.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies, it is necessary either to establish a U.S. standard under authority of section 401 of the act (21 U.S.C. 341), or to revise an existing standard to incorporate the provisions within the U.S. standard. At present, there is no U.S. standard of identity for whey cheeses.

Under the procedure prescribed in § 130.6(b)(3) (21 CFR 130.6(b)(3)), FDA is providing an opportunity for review and informal comment on (1) the desirability of and need for a U.S. standard of identity for whey cheeses, (2) the specific provisions of the Codex standard, (3) additional or different requirements that should be in the U.S. standard of identity, if established, and (4) any other pertinent points.

FDA advises that, if comments received do not support the need for a U.S. standard of identity for these foods, no standard will be proposed. If this decision is reached, the Technical Secretary for the Committee on the Code of Principles Concerning Milk and Milk Products will be informed that imported foods which comply with the requirements of the Codex standard may move freely in interstate commerce in this country, providing they comply with the applicable U.S. laws and regulations.

Because of the large number of countries, often with diverse food regulations, that are associated with the development of Codex standards, certain provisions of the Codex standards may not be consistent with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, certain basic labeling requirements such as declaration of the net quantity of contents, name of manufacturer, and country of origin, and other factors. These factors are not considered a part of U.S. food standards under section 401 of the act; rather, they are dealt with under the authority of other sections of the act.

The Codex general standard for whey cheeses specifies analytical methods by which compliance with certain provisions is to be determined. As stated in 21 CFR 2.19, FDA's policy is to employ the methods in the latest edition of "Official Methods of Analysis of the Association of Official Analytical Chemists," when these are available, in preference to other methods. FDA will adhere to this policy in any U.S. standard of identity proposed pursuant to this notice.

Under § 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meeting or discussions

that have been held with other groups.

List of Subjects in 21 CFR Part 133

Cheese; Food standards.

The Codex standard under consideration is as follows:

Recommended International General Standard for Whey Cheeses [Codex Standard No. A–7]

1. Scope

This standard does not apply to whey cheese made from sheep's milk whey

2. Definitions

2.1 Whey cheeses are the products obtained by the concentration of whey and the moulding of the concentrated whey, with or without the addition of milk and milk fat.

2.2 The dry matter of the whey cheeses includes the water of crystallization of lactose.

3. Essential Composition and Quality Factors

3.1 *Creamed whey cheese:*

3.1.1. *Minimum* milk fat content: 33% m/m calculated in the dry matter.

3.2 *Whey cheese:*

3.2.1 *Minimum* milk fat content: 10% m/m calculated in the dry matter.

3.3 *Skinned whey cheese:*

3.3.1 Maximum milkfat content: less than 10% m/m calculated in the dry matter.

4. Food Additives—Maximum level

4.1 Sorbic acid and its sodium and potassium salts: 1000 mg/kg calculated as sorbic acid.

5. Labelling

In addition to sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CAC/RS 1–1969), the following specific provisions apply:

5.1 *The Name of the Food:*

5.1.1 The name of the product shall be (a) "Creamed whey cheese" or "Full fat whey cheese" or (b) "Whey cheese" or (c) "Skimmed whey cheese", as appropriate.

5.1.2 Where milk, and/or whey from milk, other than cow's milk is used for the manufacture of the product or any part thereof, a word or words denoting the animal or animals from which the milk has been derived should be inserted immediately before or after the designation of the product except that no such insertion need be made if the consumer would not be misled by its omission.

5.1.3 The minimum fat content in the dry matter shall be declared on the label.

5.2 *Net Contents:*

5.2.1 The net contents shall be declared by weight in either the metric ("Systéme International" units) or avoirdupois or both systems of measurement as required by the country in which the food is sold.

5.3 *Name and Address:*

5.3.1 The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the food shall be declared.

5.4 *Country of Origin (Manufacture):*

5.4.1 The country of manufacture of the food shall be declared except that foods sold within the country of manufacture need not declare the country of manufacture.

6. Methods of Sampling and Analysis

6.1 Sampling: according to FAO/WEO Standard 3.1 "Sampling Methods for Milk and Milk Products".

(6.2 Determination of the fat content: according to FAO/WEO Standard 3.10 "Determination of the Fat Content of Whey Cheeses" (Method being developed).)

6.3 Determination of the dry matter: according to FAO/WEO Standard 3.11 "Determination of Dry Matter in Whey Cheese".

Interested persons may, on or before April 18, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Each comment should identify the title of the Codex standard and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Any comments submitted in support of establishing a U.S. standard of identity for whey cheeses should be supported by appropriate information and data regarding impact on small businesses consistent with the provisions of the Regulatory Flexibility Act (Pub. L. 96–354). (Executive Order 12291 does not apply to regulations subject to the procedures for formal rulemaking in the Administrative Procedure Act (5 U.S.C. 556, 557). Food standards promulgated under 21 U.S.C. 341 and 371(e) fall under this exemption.)

Dated: February 3, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83–3974 Filed 2–14–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–236–81]

Credit for Increasing Research Activities; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to credit for increasing research activities.

DATES: The public hearing will be held on April 19, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by March 25, 1983.

ADDRESSES: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–236–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 44F of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Friday, January 21, 1983 (48 FR 2790).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject by March 25, 1983.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-4086 Filed 2-14-83; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 456]

Fiddletown Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms; Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in the Amador County, California, to be known as "Fiddletown." This proposal is in response to a petition from Fiddletown Wine Grape Growers in Fiddletown, California. The establishment of the "Fiddletown" viticultural area will allow wineries to label and advertise wines as originating in this specific grape-growing area and will aid the public by identifying wines originating in this area.

DATE: Written comments must be received by March 2, 1983.

ADDRESS: Send written comments to—Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Attention: Notice No. 456).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at the ATF Reading Room, Room 4405, Office of Public Affairs and Disclosure, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: James A. Hunt at (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) which allows the establishment of definite viticultural areas under 27 CFR Part 4—Labeling and Advertising of Wine. This final rule also allows the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 56692) which added 27 CFR Part 9—American Viticultural Areas—to provide for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e) of 27 CFR Part 4 defines a viticultural area as a delimited, grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Furthermore, § 4.25a(e)(2) requires any interested person to petition ATF for the establishment of a grape-growing region as a viticultural area and to provide the following information in support of the petitioned for viticultural area:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United Staters Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

Under the terms of 27 CFR 4.25a, ATF has received a petition from the Fiddletown Wine Grape Growers proposing an area about 45 miles east of Sacramento, California, in Amador County as a viticultural area to be known as "Fiddletown." Fiddletown is an agricultural area with 14 commercial wine grape growers farming 310 acres of vineyards in the 11,500 acre proposed viticultural area.

The petitioner furnished information that (a) the name of the viticultural area is locally and nationally known, (b) the proposed boundaries of the viticultural area are correct, and (c) the geographical features of the area have growing conditions which distinguish the proposed area from surrounding areas. The petitioiner based these claims on the following:

(a) That the name "Fiddletown" is well known because of its inclusion in a story by Bret Harte. It is the name given to an Amador County community at its settlement during the 1850 gold rush. The town's name was changed to "Oleta" for a brief period and then restored to "Fiddletown" in 1920. Several nationally known wines have been distributed bearing the Fiddletown area name since the early 1970's.

(b) That the boundaries of the proposed "Fiddletown" viticultural area may be found on four U.S.G.S. 7.5 minute topographic quadrangle maps; "Fiddletown Quadrangle California," "Amador City Quadrangle California," "Aukum Quadrangle California" and "Pine Grove Quadrangle California."

(c) That the proposed area differs from the neighboring proposed Shenandoah Valley region because of its higher elevations of 1500 to about 2500 feet, colder nighttime temperatures and a higher rainfall of 30 to 40 inches per year. The area surrounding the north and east boundaries is above 2500 feet and for the most part, to rugged a terrain and too cold for growing grapes.

The summer daytime temperatures range from the eighties to one hundred degrees and nights are cool from breezes from the surrounding mountains. The grapes are grown without any irrigation and vines produce from 1½ to 3 tons per acre. Most of the grapes are grown on the southern and western rolling slopes of the hills in the area where the soil is a deep loam of decomposed granite. The soil of the proposed area are Sierra-Ahwahee and Sites series which are deep, moderately well drained and consist of loams or sandy loams.

Grapes in the proposed Fiddletown viticultural area will not reach the high sugar level of the neighboring proposed Shenandoah Valley and the total acidity is higher due to slower maturity caused by the higher elevation and cool nights.

(d) That the specific boundaries of the proposed viticultural area are based on features found on U.S.G.S. maps. (A copy of the U.S.G.S. maps with the boundaries prominently marked are on file with ATF.)

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this

proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed Fiddletown viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not major since it will not result in—

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Public Participation

ATF requests comments on this proposed viticultural area from all interested persons. Furthermore, while this document proposes certain boundaries for the Fiddletown viticultural area, comments concerning other possible boundaries for this proposed viticultural area will be considered.

The proposed area of 11,500 acres contains only 310 acres of vineyards. ATF requests comments on whether the petitioned area could be reduced in size.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments are subject to disclosure to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is also not exempt from disclosure.

Any person who desires an opportunity to comment orally at a public hearing on the proposed viticultural area should submit his or her request, in writing, to the Director within the 30-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

List of Subjects in 27 CFR Part 9

Administrative Practice and Procedure, Viticultural Areas, Consumer Protection, and Wine.

Drafting Information

The principal author of this document is James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority contained in 27 U.S.C. 205, the Director proposes to amend 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The table of sections in 27 CFR Part 9, subpart C, is amended to add § 9.81 as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.81 Fiddletown.

2. Subpart C is amended by adding § 9.81 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.81 Fiddletown.

(a) *Name.* The name of the viticultural area described in this section is "Fiddletown."

(b) *Approved map.* The approved maps for the Fiddletown viticultural area are the U.S.G.S. maps entitled "Fiddletown Quadrangle California," "Amador City Quadrangle California," "Aukum Quadrangle California," and "Pine Grove Quadrangle California," 7.5 minute series (topographic), 1949–1962.

(c) *Boundaries.* The Fiddletown viticultural area is located in Amador County, California. The boundaries are as follows:

(1) From the beginning point at the north boundary where Fiddletown Shenandoah Road crosses Big Indian Creek in Section 28, Township 8 N, Range 11 E, proceed in a southwesterly direction following Big Indian Creek through the southeast corner of Section 29, crossing the northwest corner of Section 32 to where it meets Section 31;

(2) Then in a southerly direction follow the Section line between Sections 31 and 32, Township 8 N, Range 11 E, into Sections 5 and 6, 7 and 8, Township 7 N, Range 11 E, to where the Section line meets the South Fork of Dry Creek;

(3) Then following the South Fork of Dry Creek in an easterly direction crossing the lower portions of Sections 8, 9, 10, 11, 12 and into Township 8 N, Range 12 E, at Section 7 and across Section 7 to where it meets Section 8;

(4) Then north following the Section line between Sections 7 and 8, 5 and 6 into Township 8 N, Range 12 E, between Sections 31 and 32, to Big Indian Creek; and

(5) Then following Big Indian Creek in a northwesterly direction through Sections 31, 30, 25, 26 and 27, returning to the point of beginning.

Approved: February 9, 1983.

Stephen E. Higgins,

Acting Director.

[FR Doc. 83-4071 Filed 2-14-83; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AH017VA; A-FRL-2280-7]

Proposed Approval of Revisions to Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Secretary of Commerce and Resources has submitted several revisions to the Virginia State Implementation Plan to the Environmental Protection Agency including a proposed relaxation of the sulfur dioxide (SO_2) emission standards. This Notice proposes approval of the (SO_2) revision as submitted.

The proposed revision allows an increase in the sulfur dioxide emissions from fuel burning sources in State Region VII (the Virginia portion of the National Capital Interstate Air Quality Control Region) in that § 4.51(b) of the Virginia Regulations is being changed to allow an increase in the sulfur content of coal from .75% to 1%. Approval of this revision will provide for greater use of available coal, rather than oil, while having a minimal impact on air quality.

DATE: Comments must be submitted on or before March 17, 1983.

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ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs & Energy Branch (3AW13), Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Ms. Eileen M. Glen

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, Virginia 23219, Attn: Mr. John M. Daniel, Jr.,

All comments on the proposed revision submitted within 30 days of publication of this Notice will be considered and should be directed to Mr. James E. Sydnor, Chief of the West Virginia, Virginia Section at the EPA, Region III address. Please reference the EPA Docket Number found in the heading of this Notice.

FOR FURTHER INFORMATION CONTACT: Ms. Eileen M. Glen at the Region III address stated above or telephone 215–597–8187.

SUPPLEMENTARY INFORMATION: On September 20, 1978, the Commonwealth of Virginia submitted numerous revisions to its State Implementation Plan (SIP) EPA has acted on all but one of the proposed revisions. The remaining revision deals with a change to Section 4.51(b) of Virginia's regulations and provides for an increase in the allowable sulfur dioxide emissions from coal burning sources in State Region VII (the Virginia portion of the National Capital Interstate Air Quality Control Region). This Notice will address only the revision to Section 4.51(b).

On May 21, 1980, EPA published a Proposed Rulemaking (45 FR 34018, 34019) stating that the Administrator proposed to disapprove the proposed revision because the Commonwealth had failed to submit a control strategy demonstration, as required by 40 CFR 51.13, showing the effect of this emissions relaxation on sulfur dioxide levels in the National Capital Interstate AQCR.

As a result of the Proposed Rulemaking, EPA received three comments regarding Section 4.51(b). First, a letter from the Commonwealth of Virginia dated June 16, 1980, stated that the required control strategy demonstration was being prepared and would be submitted by October 1, 1980. Second, a letter from Potomac Electric Power Company dated June 20, 1980, urged EPA to suspend action rather than disapprove the proposed revision pending submittal of the required control strategy demonstration. Third, a letter dated June 20, 1980 from the District of Columbia's Bureau of Air and Water Quality stated that they had not received 30-day notice of the public hearings as required by 40 CFR 512.5(b)(5); that they concurred with the proposed disapproval of Section 4.51(b); and that should a control strategy demonstration be submitted, such material must be subject to a public comment period before being approved by EPA.

As a result of these comments and the Commonwealth's agreement to submit a control strategy demonstration, EPA published a final rulemaking (45 FR 66789) on October 8, 1980, suspending further action on this revision pending receipt of the demonstration.

After several meetings and conversations with representatives of the Commonwealth, it was decided that EPA would perform the necessary modeling analysis and control strategy demonstration.

Region III performed the modeling study and the MPTER model was used, with one year of meteorological data, for all grids except Quantico and Pepco Potomac River. Since only one year of data was used, the highest rather than second-highest estimated concentrations were used to determine if the NAAQS will be attained. Five major receptor grids were analyzed, one for each of the five major sources affected by the SIP revision. Each grid was a polar grid having 180 receptors and specifically designed to analyze the maximum impacts from the specific source, although emissions from all fourteen sources were included in each model run. Because of the very different nature of the Vepco Possum Point turbines, a sixth grid was developed specifically for those emissions.

The following soures were modeled at 1.0% sulfur fuel (as per the proposed SIP revision) and maximum capacity: Pepco Potomac River, Virginia Heat and Refrigeration, Department of Correction, Vepco Possum Point, and the Quantico Marine Base.

Other sources were modeled at actual 1979 emissions: Pepco Chalk Point, Pepco Dickerson, Pepco Benning Point, Pepco Buzzard Point, Capital Power, GSA West, GSA Central, Walter Reed, and Howard University.

The ISCST and Valley models were used to estimate air quality impacts in the vicinity of the Quantico Marine Base. The ISCST model predicts air quality at a specified array of receptor locations around the source. Aerodynamic downwash is accounted for by that model and was accounted for in this modeling analysis. The Valley model was also applied because the effluent plume may intercept terrain. The standard Valley screening assumptions were made: F stability, 2.5 m/sec wind speed, six hours of persistent meteorological conditions.

In the ISCST modeling analysis, five years of meteorological data were used (1967–1971 Quantico surface data and Sterling Dulles upper air data). Using five years of data permits the use of the highest second-high predicted SO_2 concentrations for determining compliance with NAAQS.

In the Spring of 1981, the Potomac Electric Power Company requested a temporary variance to burn 2% sulfur coal during the coal strike. Although the strike ended before the Commonwealth processed the variance, Pepco had performed a control strategy demonstration in support of the variance request and this modeling analysis was submitted to EPA on March 30, 1982 in support of the proposed SO_2 relaxation.

As the Commonwealth had already reviewed and approved this analysis, EPA decided not to perform a second in-depth analysis for the Pepco grid but simply to review the material on-hand and determine its acceptability.

Pepco applied the EPA CRSTER model. EPA reviewed the model inputs and found the modeling approach to be consistent with EPA guidelines.

The modeling analyses are discussed in detail in the Technical Support Document. These in-depth modeling analyses have demonstrated that no violation of the sulfur dioxide NAAQS will result from the approval of the proposed SIP revision. A table summarizing the modeling results is presented below.

Modeling Summary

The following table summarizes the results of the modeling analyses of the impact of the proposed SO_2 revision.

MODELING SUMMARY

Grids	Total predicted concentrations ($\mu g/m^3$)		
	3-hour	24-hour	Annual
Quantico	737.0	319.0	74.0
PEPCO	503.0	216.2	39.3
VA Heat & Ref.	642.0	240.0	[illegible]
Dept. of Correction	590.0	170.0	43.0
VEPCO Possum Point	(1)	(1)	(1)

[1] Included in the Quantico Grid.

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Notes.—1. SO_2 Standards: 3 hour, 1300 $\mu g/m^3$; 24 hour, 365 $\mu g/m^3$; annual, 80 $\mu g/m^3$.

2. Background concentrations are included in the above figures.

Public Comments

Of the three comments received during the initial public comment period and summarized above, only the comment from the District requires response at this time. The District's comment that it did not receive 30 days notice of the Public Hearing does not appear valid. The Commonwealth submitted a Certification of Public Hearing dated August 15, 1978, stating that letters were sent on or about June 12, 1978 to the District of Columbia, Maryland, Tennessee, and the Environmental Protection Agency notifying them of the proposed SIP revision and the Public Hearing dates. Also, the hearings were advertised in the *Richmond Times—Dispatch* on June 14, 1978 and in at least one paper of general circulation in Virginia's seven Air Quality Control Regions. Public Hearings were held on July 14, 1978 in Richmond and on July 17, 1978 in each of the other six AQCR's.

EPA does agree that a 30-day comment period, as requested by the District, on the control strategy demonstration is necessary and is hereby publishing a proposed approval notice and requesting comments.

Conclusion

The Regional Administrator's decision to propose approval of the revision is based on a determination that the amendment meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

The public is invited to submit, to the address stated above, comments on whether the proposed amendment to the commonwealth of Virginia's air pollution control regulations should be approved as a revision to the Commonwealth's SIP.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals under Section 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 Fed. Reg. 8709 (January 27, 1981). The action, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27, 1981 certification.

List of Subject in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(42 U.S.C. 7401–7642)

Dated: December 30, 1982.

Stephen R. Wassersug,

Acting Regional Administrator.

[FR Doc. 83–4006 Filed 2–14–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

[A–8–FRL 2267–6]

Designation of Areas for Air Quality Planning Purposes; Section 107—Attainment Status Designations—Colorado

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: As requested by the Governor of Colorado, EPA is proposing to change the attainment status of the Denver 3–C Urbanized Area. This area is to be redesignated to "Better than National Standards" for the primary and secondary nitrogen dioxide standards. This redesignation would allow the construction of major stationary sources of nitrogen oxides.

DATES: Comments due March 17, 1983.

ADDRESSES: Written comments should be addressed to: Robert R. DeSpain, Chief, Air Programs Branch, Environmetnal Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following office:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT: Dale Wells, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–3763.

SUPPLEMENTARY INFORMATION: In the March 3, 1978, **Federal Register** (43 CFR 81.306) the Denver 3–C Urbanized Area was designated as not attaining the standards for nitrogen dioxide (NO_2). On September 9, 1982, public hearings were held by the Colorado Air Quality Control Commission to consider the redesignation of the Denver 3–C Urbanized Area, which consists of the City and County of Denver, and portions of Adams, Arapahoe, Boulder, Douglas, and Jefferson Counties. On October 11, 1982, the Governor requested the Regional Administrator of EPA, Region VIII, to redesignate the area.

The area is presently designated as nonattainment for the NO_2 ambient air quality standards. This designation was based on measured data for the year 1977. Four additional years of ambient air quality data have been collected (1978–1981) with no violations of the NO_2 standards, 100 micrograms per cubic meter annual average for both the primary and secondary standards.

It is EPA's policy to redesignate areas to "Better than National Standards" with eight quarters of monitored data showing no violations. Therefore, EPA is proposing to so reclassify the Denver 3–C Urbanized Area.

The primary effect of this document would be that major sources of nitrogen oxides such as natural gas pumping stations would not have to demonstrate in order to obtain a permit to construct that there are offsetting emission reductions greater than their estimated emissions. Such sources would still have to demonstrate that the National Ambient Air Quality Standards would not be violated.

Under 5 U.S.C. 605b, I certify that SIP approvals/redesignations do not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407).)

Dated: November 29, 1982.

Steven J. Durham,

Regional Administrator.

[FR Doc. 83–3637 Filed 2–14–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 123

[W–4–FRL 2306–8]

State Program Requirements; North Carolina; Proposed Modification of NPDES Memorandum of Agreement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed policy.

SUMMARY: The State of North Carolina and the Environmental Protection Agency (EPA), Region IV have executed a proposed modification to the Memorandum of Agreement (MOA),

which establishes the North Carolina/EPA terms, responsibilities and procedures in which North Carolina will administer its National Pollutant discharge Elimination System (NPDES) permit program. This MOA will replace the MOA dated October 19, 1975, which was approved by the Administrator as part of the State's NPDES permit program. This notice provides for a comment period on the proposed MOA modification. Under EPA regulations, the Administrator shall approve or disapprove the MOA after taking into consideration all comments received.

DATE: Comments must be submitted on or before March 17, 1983. Interested persons may also request a public hearing on the MOA. If there is significant public interest expressed in the comments received to have a public hearing, EPA will schedule such a hearing. In the event EPA determines to hold a public hearing on the MOA, prior notice of the date, time, and location of such hearing will be given. All requests for a public hearing on the MOA must be submitted on or before March 17, 1983.

ADDRESSES: Copies of the Memorandum of Agreement are available from:

U.S. EPA, Region IV, Water Management Division, 345 Courtland Street NE., Atlanta, Georgia 30365, Attn: Earline Hanson

North Carolina Department of Natural Resources and Community Development, Division of Environmental Management, P.O. Box 27687, Raleigh, North Carolina 27611, Attn: Forrest Westall or Bill Mills.

A single copy will be provided to each request without charge. All comments and hearing requests should be directed to: Earline Hanson, U.S. EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Earline Hanson, U.S. EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 881–4316.

SUPPLEMENTARY INFORMATION: On October 19, 1975, the Administrator of EPA (Administrator) authorized North Carolina to administer its own NPDES permit program. The approval was made pursuant to Section 402(b) of the Federal Water Pollution Control Act. On the same date the Administrator executed the North Carolina/EPA MOA which set forth the responsibilities of both North Carolina and EPA concerning the State's administration of the NPDES program. The MOA also provided for periodic modification as agreed in writing by EPA and North Carolina to simplify and refine the procedures contained in the MOA. In accordance with this mandate, North Carolina and EPA Region IV have executed an MOA which replaces the MOA dated October 19, 1975. The MOA contains provisions describing the general purpose of the MOA, the State/EPA principles upon which North Carolina's administration of the NPDES program is premised, procedures for permit review and issuance including issuance of permits to federal facilities, procedures for compliance monitoring and enforcement, pretreatment requirements, requirements for reporting and transmittal of information and procedures for EPA review of North Carolina administration of the NPDES program.

The Administrator's decision to approve or disapprove the MOA will be based on the comments received, including those submitted at any public hearing, and a determination of whether the MOA meets the applicable requirements of 40 CFR Part 123. According to 40 CFR 123.6, the MOA does not become effective until approved by the Administrator.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12292.

Dated: February 2, 1983

Charles R. Jeter,

Regional Administrator, EPA Region IV.

[FR Doc. 83-3900 Filed 2-14-83; 8:45 am]

BILLING CODE 6560-50-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Part 51-4

Workshop Responsibilities

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Rule.

SUMMARY: The Committee proposes to amend its regulations (a) to require workshops to comply with the applicable compensation and employment standards prescribed by the Secretary of Labor and (b) to clarify the requirement that workshops must pay to their central nonprofit agencies the fee specified in § 51–3.5.

DATES: Comments must be received on or before April 15, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: Workshops which produce commodities or provide services to the Government under the Committee's program are subject to a number of laws relating to the pay and working conditions of their blind and other severely handicapped employees. The primary laws involved are the Fair Labor Standards Act, the Service Contract Act, and the Walsh-Healey Public Contracts Act. In each case, the Secretary of Labor has issued regulations implementing those Acts. Those regulations set certain compensation and employment standards which the workshops are required to meet.

The Committee's regulations currently require participating workshops to "comply with the applicable occupational health and safety standards prescribed by the Secretary of Labor" (41 CFR 51–4.3.(a)(5)). It is proposed to include the applicable compensation and employment standards prescribed by the Secretary of Labor as well. This will permit the Committee to take appropriate action within its authority when a workshop does not comply with compensation or employment standards set by the Secretary of Labor. For example, the continued failure of a workshop to pay its blind or other severely handicapped workers in accordance with the standards prescribed by the Secretary of Labor could result in Committee's limiting or withdrawing that workshop's authorization to produce commodities or provide services to the Government under the Committee's program.

The second change would add a new paragraph (a)(8) in § 51–4.3 "Responsibilities" to clarify the requirement that workshops must pay to their central nonprofit agency the fee specified in § 51–3.4 "Fees".

Since 1938 when the Wagner-O' Day Act was enacted, workshops participating in the program have returned to their central nonprofit agency a percentage of the value of their sales to the Government under the program. Those fees have provided the primary means of financial support for the central nonprofit agencies so that they could assist all interested workshops in expanding participation in the program. Historically, one of the basic concepts of this program has been that of self-help. The fees which the workshops have returned to their central nonprofit agencies is the practical implementation of that concept.

A workshop currently participating in the Committee's program has questioned

the requirement to pay the fees since such payment is not listed as one of the responsibilities of each participating workshop under § 51–4.3. In the past, the Committee considered that the wording of § 51–3.2 established the requirement that participating workshops must pay the fee to its central nonprofit agency. The proposed change would clarify this point, remove any questions regarding the meaning and intent of § 51–3.5, and be consistent with the practice in this regard for over 40 years.

I certify that this is not a major rule under Executive Order 12291 and would not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 41 CFR Part 51–4

Government procurement.

PART 51–4—[AMENDED]

It is proposed to amend 41 CFR 51–4 as follows:

1. Section § 51–4.3 is amended by revising (a)(5) and adding a new paragraph (a)(8) to read:

§ 51–4.3 Responsibilities

(a) * * *

(5) Comply with the applicable compensation, employment, and occupational health and safety standards prescribed by the Secretary of Labor.

* * * * *

(8) Upon receipt of payment by the Government for commodities produced or services provided under the Act, pay to the central nonprofit agency the fee specified by § 51–3.5.

* * * * *

(41 U.S.C. 46–48c)

C. W. Fletcher,

Executive Director.

[FR Doc. 83–3787 Filed 2–14–83; 8:45 am]

BILLING CODE 6820–33–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 64, 65, and 70

[Docket No. 6486]

National Flood Insurance Program; Elimination of Documents; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule, correction.

SUMMARY: On January 31, 1983 at 48 FR 4296–4298 the Federal Emergency Management Agency (FEMA) published proposed changes to 44 CFR Parts 64, 65 and 70 which would allow for the elimination of certain documents in the **Federal Register** that are currently published for the National Flood Insurance Program. The last paragraph of the January 31 publication, which begins "(b) In addition, FEMA. . . .", is incorrectly shown as paragraph (b) of § 70.7. The last paragraph of the January 31 publication correctly belongs in the Supplementary Information section of the notice. Paragraph (b) of § 70.7 is not being changed.

Also, the January 31 publication indicates that changes to the format of Part 67 notices and rules will be made. In fact, these changes have occurred and are in effect.

Dated: February 7, 1983.

George Jett,

General Counsel.

[FR Doc. 83–3998 Filed 2–14–83; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA–6243]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 3381 on January 25, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate map for the City of Keene, Cheshire County, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Keene, Cheshire County, New Hampshire, previoulsy published at 47 FR 3381 on January 25, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42, U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood Insurance, Flood Plains.

The following location descriptions have been amended to read as follows. The remainder of the Notice of Proposed Base Flood Elevations remains unchanged.

Source of flooding	Location	*Elevation in [illegible] national geodetic vertical datum
Ashuelot River	Upstream of State Route 12A	*481
Beaver Brook	Upstream of Stone Dam	*791
	Approximately 5,000 upstream of Stone Dam	*793

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 28, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–4001 Filed 2–14–83; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21, 22, 23, 74, 78, 81, 87, 90, 94 and 150

[General Docket 82-334; FCC 83-2]

Spectrum Utilization Policy for Fixed and Mobile Services in the 947 MHz–40 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission proposes to establish a spectrum utilization policy for the fixed and mobile services in the 947 MHz–40 GHz band. The Commission recognizes that the lower portion of this band is heavily used while the upper portion has remained largely undeveloped. In addition, the Commission in its Direct Broadcasting Satellite proceeding (General Docket 80–603 July 21, 1982; 47 FR 31555) indicated the need for allocating spectrum to accommodate displaced microwave operations in the 12.2–12.7 GHz band. A review of the regulations and technical standards for use of this spectrum is therefore necessary to encourage future development and satisfy growing spectrum demands. The proposed standards will result in more efficient use of the spectrum allocated to the fixed and mobile services and facilities the reaccommodation of private fixed service users who may be displaced from the 12 GHz band.

DATES: Comments must be received on or before March 25, 1983.

Reply comments must be received on or before April 25, 1983.

ADDRESS: Comments may be addressed to the Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Donald Draper Campbell, Office of Science and Technology, Spectrum Management Division, Telephone: (202) 653–8177.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 21

Point-to-point microwave.

47 CFR Part 22

Mobile radio service.

47 CFR Part 23

Radio.

47 CFR Part 74

Radio.

47 CFR Part 78

Communications equipment radio.

47 CFR Part 81

Communications equipment radio.

47 CFR Part 87

Communications equipment.

47 CFR Part 90

Mobile services.

47 CFR Part 94

Radio.

47 CFR Part 150

Technical standards.

Adopted: January 13, 1983.
Released: January 13, 1983.

Introduction

1. On 23 June 1982, the Commission adopted a *Notice of Inquiry (NOI)* in this proceeding to examine spectrum allocations and technical standards for certain fixed and mobile services' bands between 17.7 and 40 GHz. The intention was to determine whether existing regulations are appropriate for current and expected uses of the bands.[1] In the *NOI*, the Commission pointed out that the existing standards for use of fixed service bands between 17.7 and 40 GHz had been largely determined in the early 1970's and that since then the bands have remained largely undeveloped. The Commission solicited comments on a number of topics in order to develop guidelines for the future use of the bands which would encourage development in a rational and efficient manner. These topics included spectrum needs of foreseen applications by the fixed and mobile and other allocated radio services, appropriate technical standards, and licensing considerations.

2. On the same day, the Commission adopted a *Report and Order (Order)* authorizing Direct Broadcasting Satellite (DBS) services in the 12.2–12.7 GHz band (12 GHz band).[2] In that *Order*, the Commission instructed the staff to prepare a Notice of Proposed Rule Making to make spectrum available for private fixed service users who might be displaced from the 12 GHz band by the DBS services. The Commission noted that many of the 12 GHz users could be accommodated at 18 GHz or higher frequencies. While the Commission recognized that many 12 GHz fixed operations could be supported at frequencies of 18 GHz and higher, it tentatively identified other spectrum that could also support some of them. In particular, it noted that the bands at 6525–6875 MHz and 12.7–13.25 GHz might be used with significantly lower costs than those associated with the 18 GHz band.

3. When it instructed the staff to develop a rulemaking, the Commission stated that it intended to include a considerable amount of sharing or pooling of microwave spectrum among the broadcast auxiliary, cable television relay (CARS) and private operational fixed (POFS) services. Among other issues that it intended to address were (1) the need for minimum path length criteria for the use of each of the available bands, (2) bandwidth requirements and appropriate channeling plans for the bands, (3) feasibility of continued private fixed use of the 12.2–12.7 GHz band on a secondary basis, and (4) coordination and loading practices needed to ensure efficient use of the spectrum.[3]

4. In this *Notice of Proposed Rule Making (Notice)* we are expanding the scope of this docket to include consideration of certain bands between 947 MHz and 40 GHz and we are proposing specific rules and policies for fixed and mobile services use of certain frequencies in that portion of the spectrum. These proposals are designed first of all to provide for reaccommodation of fixed service users who may be displaced from the 12 GHz band. In particular, this *Notice* addresses the use of the 6525–6875 MHz (6 GHz band), 12.7–13.25 GHz (13 GHz band) and 17.7–19.7 GHz (18 GHz band) bands which had been identified for supporting displaced 12 GHz users. This includes consideration of issues and proposals concerning technical standards and coordination procedures. The proposals would lead to a considerable amount of sharing among various types of fixed service users (i.e., broadcast auxiliary, CARS, POFS). By opening up lower bands through interservice sharing, opportunities are created to reaccommodate displaced 12 GHz users at less cost than would occur if they were restricted to move only to bands at 18 GHz and higher. Some reaccommodation of 12 GHz private users can be accomplished in the lower bands with existing standards through case-by-case waivers of restricting rules. Additionally, we believe it would be beneficial in the long term to develop a utilization policy which takes into account the affected fixed and mobile microwave users. This policy should embrace, as much as possible, standards

[1] *Notice of Inquiry* (FCC 82–286) in General Docket 82–334, released 9 July 1982.

[2] *Report and Order* (FCC 82–285) in General Docket 80–603, released 14 July 1982.

[3] *Order*, paragraphs 62–65.

based on electromagnetic compatibility of particular uses in order to make efficient use of the spectrum.

5. The Commission has stated its intention to take action by September 1983 on a Report and Order which would allocate additional frequencies for displaced 12 GHz private fixed service licensees and to perform reaccommodation at minimal cost to them. Although this is our immediate objective, the proposals in this *Notice* go beyond the immediate task of reaccommodating the displaced licensees to also address changes which we expect may yield more efficient use of the identified spectrum. Accordingly, it should not be expected that the September 1983 Report and Order will resolve all of the issues and proposals contained in this *Notice*. In September we will resolve the matter of reaccommodating the 12 GHz fixed service licensees within the proposals given here. The comments received in response to this *Notice* will be considered along with those received in response to the *NOI* in developing a broad spectrum utilization plan for the identified fixed and mobile bands between 947 MHz and 40 GHz.

Background

6. The fixed and mobile services allocation policy of the Commission has been to allocate according to the type of regulatory entity (i.e., common carrier, private, cable, broadcast) that will be using the spectrum, rather than according to the technical characteristics of the transmitted signal (e.g., voice, data, video—long-haul, short-haul) that the spectrum is to support. This policy has led to a situation where, for a variety of reasons, a full complement of options is not available to some licensees. For example, broadcast and common carrier entities currently have access to more bands than do private and cable entities (cable licensees have access to only one band, 12.7–13.2 GHz). Users in the private business radio service are not permitted to use spectrum at 2 and 6 GHz which is otherwise allocated for private use. Further, channeling plans provide wider bandwidths for the private services only in bands above 6 GHz. If there is a need for wider channels, private licensees must use the higher bands regardless of the communications path length to be covered. Thus some licensees are required to use spectrum which may not best suit their communications requirements.

7. We believe that application of a rational set of technical standards based on electromagnetic compatibility along with relaxation of eligibility restrictions for users of certain bands will correct some of the problems noted above. The technical standards would be based on a consideration of suitable channel capacities, path lengths and traffic types for each band. Once these are applied, prospective licensees, regardless of entity type, would have access to the spectrum best suited to serve their needs. This "interservice" sharing would be carried out by providing for coordination of prospective and existing communications systems like that done now between some private and common carrier services. This approach, including the shared use of the undeveloped 18 GHz band, will also facilitate the reaccommodation of private fixed service users who may be displaced from the 12 GHz band.

8. The following discussions refers to proposed standards given in Appendix A. The proposals are based on the policy of greater "interservice" sharing and provide for pooling of the microwave spectrum between broadcast auxiliary, CARS, and POFS in certain bands between 2 GHz and 31 GHz. Currently, common carriers are permitted limited access to the broadcast auxiliary bands at 2, 6 and 13 GHz to provide support service to broadcasters. (Common carriers also have coequal access to the 13.20–13.25 GHz band.) This provision would be continued. Spectrum above 18 GHz is already co-equally shared by common carrier and private entities; these proposals would also provide for its use by broadcast and cable entities. The eligibility requirements would remain in Parts 21, 22, 74, 78, 81, 87 and 90, while the technical standards could be moved to a new rule part, *Part 150—Microwave Technical Standards for the Fixed and Mobile Services in Certain Bands*. This would ensure consistency between the various users. Alternatively, the proposed standards could be incorporated into each of the existing rule parts (i.e., 21, 22, 74, 78, 81, 87, 90 and 94). Comments regarding this alternative are requested. Recognizing that different protection ratios exist according to the technical characteristics of transmitted signals (i.e., voice, data and video), we have proposed restrictions on the use of certain bands (e.g., emissions in certain bands are restricted to FM video). We believe that these are necessary to insure efficient use; however, comments are requested on this policy.

Discussion and Proposals

Reaccommodation Procedure

9. The Commission is considering giving some form of priority to those who must vacate the 12 GHz band. There are several ways in which this could be done. One would be to place a freeze on applications in particular bands, or band segments, until the 12 GHz users are reaccommodated. Another would be to give preferential treatment to displaced 12 GHz users in the licensing process. Of course, both of these examples have drawbacks. The freeze would be disruptive and might impede the delivery of services to the public. Preferential treatment could result in a disservice to other applicants and might lead to difficult settlements involving a complicated web of legal, technical and economic issues. On the other hand, some time-limited preference may be necessary to assure that present 12 GHz licensees will be accommodated. We seek comments on these suggestions as well as any other proposals or suggestions which may assist the Commission in resolving this issue.

Business Radio Service

10. Currently, the Commission's Rules (§ 94.61) prohibit access to both the 1850–1990 and 6525–6875 MHz by entitles whose basis for eligibility is established under § 90.75(a)(1), i.e., commercial activity in the business radio service. Thus, if this class of entity requires bandwidths in excess of 1.6 MHz, frequencies at 12.2 GHz and above must be used.

10. This restriction was originally imposed because of concern that business users would occupy too much of these bands. It appears to be artificial and inappropriate today and may encourage inefficient use of the spectrum. Therefore, we propose to delete this restriction. This will enable greater use of the bands and provide spectrum for some of the business operations which may be removed from the 12 GHz band.

1990–2110 GHz Band

12. This band is allocated co-equally to the fixed and mobile services and is used by broadcast entities for the transmission of frequency modulated video (i.e., 525 line NTSC video plus accompanying FM audio signal) (C3F) [4]

[4] The emission designators adopted at the 1979 WARC have not yet been included in the present Commission Rules and Regulations. Although the new emission designators are used in this item, they are subject to change. We intend to address the matter of implementing the new emission designators in a separate proceeding in the future.

between studio and transmitter sites (fixed operations), between remote locations and broadcast transmitter sites (mobile operations) as provided for by §§ 74.601–74.683. This 120 megahertz is channellized into one 18 MHz and six 17 MHz channels, however; no antenna standards are imposed.

13. We propose (1) that the current channelling plan be revised to accommodate three 20 MHz channel pairs, which would also be available on an unpaired basis if required, (2) that antenna standards which would parallel those imposed on the 1850–1990 MHz band be imposed, (3) that emissions be restricted to frequency modulated video, (4) that minimum path length requirements be imposed, and (5) that private, cable, and broadcast entities be permitted equal access to this band. Common carrier entities would also have access, but only to provide service to cable and broadcast entities. Stations licensed under current technical standards would be permitted to continue operating on a primary basis for 10 years, after which they would be secondary to stations employing the then current technical standards.

14. These proposed changes would permit private and other entities operating video distribution systems to make use of the lower frequencies and where long circuit distances are involved, to minimize the number of radio links and discrete frequencies employed. The minimum path length requirement would insure that systems covering short circuit distances would use higher, more appropriate, frequencies. By imposing antenna standards, greater use of this spectrum can be made since the probability of interference due to excessive sidelobe radiation is reduced.

6525–6875 MHz Band

15. This band is allocated to the fixed service and is used by private entities for the transmission of frequency modulated, frequency division modulated voice signals (F3E) and amplitude and frequency modulated digital signals (FID and AID) between fixed points. This 350 megahertz is channellized to accommodate thirty-four 10 MHz channels pair and fifteen 5 MHz channel pairs. One of the 10 MHz channel pairs, 6535/6575 MHz, is only available for emergency restoration, maintenance, bypass, or other temporary fixed purposes; such uses are authorized on a non-interference basis to other fixed operations in this band.

16. In this *Notice*, we propose to (1) create six 20 MHz channel pairs by combining 10 MHz channel pairs together, (2) create five 1 MHz channel pairs from the bank segments 6525–6530 MHz and 6870–6875 MHz, (3) revise the 5 MHz channelling pairing plan, (4) impose minimum path length requirements, and (5) permit access by all entities except common carriers. The transmission of video signals (C3F/F3E or F3F) would not be permitted.

17. By creating the 20 MHz channel pairs, the option of using 6 GHz spectrum will also be available to long-haul wide-band users. Since the band segments 6525–6530 and 6870–6875 MHz have been used primarily as guard bands, we feel that better use could be made of this valuable spectrum. Thus we are proposing to divide it into 1 MHz channels which would be useful to support the interconnection of radio broadcast studios and transmitters. Since many of the current 5 MHz channels would have the same center frequency as the proposed new 20 MHz channels, the impact of the 20 MHz channel plan would be reduced. Therefore, we are proposing to rearrange the 5 MHz channeling plan.

6875–7125 MHz Band

18. This band is allocated co-equally to the fixed and mobile services and is used by broadcast entities for the transmission of frequency modulated television signals between studio and transmitter sites (fixed operations), and between remote locations and broadcast transmitter sites (mobile operations) as provided for by §§ 74.601–74.682. This 250 megahertz is channellized into ten 25 MHz channels; however, no antenna standards are imposed.

19. We propose (1) that the current channelling plan be revised to provide pairing of these channels into five 25 MHz channel pairs which would also be available on an unpaired basis if required, (2) that antenna standards which would parallel those imposed on the 6525–6875 MHz band be imposed, (3) that emissions be restricted to frequency modulated video, (4) that minimum path length requirements be imposed, and (5) that private, cable, and broadcast entities be permitted equal access to this band. Common carrier entities would also have access, but only to provide service to broadcast entitie. Stations licensed under present technical standards would be permitted to continue operating on a primary basis for 10 years after which they would be secondary to stations employing the then current technical standards

20. These proposed changes would permit private and other entities operating video distribution systems to make use of the lower frequencies and where long circuit distances are involved, to minimize the number of radio links and discrete frequencies employed. The minimum path length requirement would insure that systems covering short circuit distances would use higher, more appropriate, frequencies. By imposing antenna standards, greater use of this spectrum can be made since the probability of interference due to excessive sidelobe radiation is reduced.

12.7–13.25 GHz Band

21. This band is allocated to the fixed and mobile services and is used by broadcast and cable entities for the transmission of frequency (12.5 and 25.0 MHz channels) and amplitude (6.0 MHz channels) modulated television signals between studio and transmitter sites, between cable head ends (fixed operations), and between remote locations and broadcast transmitter sites and cable ends (mobile operations) as provided for by §§ 74.601–74.682, § 78.18 and §§ 78.101–78.115. This 350 megahertz is channellized into 6.0, 12.5 and 25.0 MHz channels.

22. We propose (1) that the current channelling plan be revised to provide pairing of these channels into 12.5 and 25 MHz channel pairs, which would also be available on an unpaired basis if required, (2) that minimum path length requirements be imposed, and (3) that private, cable and broadcast entities be permitted equal access to this band. Common carrier entities would also have access, but would be restricted in the band segment 12.7–13.2 GHz to provide service to broadcast entitie only. Stations licensed under present technical standards would be permitted to continue operating on a primary basis for 10 years after which they would be secondary to stations employing the then current technical standards. The current 6 MHz channelling plan would be expanded upward to 13.25. GHz.

23. These proposed changes would permit the existing private fixed occupants of the 12.2–12.7 GHz band to relocate to an adjacent band which may be less costly than moving upward or downward in the spectrum. The number of 6 MHz channels for C3F/F3E emission would also be expanded. The minimum path length requirement would insure that systems covering short circuit distances would use higher, more appropriate, frequencies. Minimum path lengths maybe pose a problem to cable entities who use the 12.7–13.2 GHz band for point-to-multipoint service, since due to power splitting some paths may be less than the minimum path length criterion. Comments on this are requested.

17.7–19.7 GHz Band

24. This band is allocated to the fixed service as well as several space services and is used by private (18.36–19.04 GHz) and common carrier (17.7–19.7 GHz) entities for the transmisssion of frequency modulated digital signals (FID and AID) between fixed points. There is mimimum use being made of this band at present; less than a dozen 220 MHz common carrier assignments, and something less than a hundred 20 MHz private assignments now exist.

25. In Docket 79–188, the Commission proposed to (1) establish a formal (5, 10, and 20 MHz) channelling plan for the band segment 18.46–18.94 GHz, (2) make this spectrum available to private, common carrier, and broadcast entities on a co-equal basis, (3) restrict use to point-to-point applications, and (4) prescribe minimum antenna standards. Also in this same proceeding, the Commission proposed to provide for the operation of digital point-to-multipoint systems (DTS) by common carrier and private entities in the band segments 18.36–18.46 and 18.94.19.04 GHz. The proposals did not, however, address several other issues, such as spectrum for cable entities and minimum path length requirements.[5]

26. The *NOI* in this proceeding addressed a variety of technical standards issues and included consideration of the 17.7–19.7 GHz band (a summary of the comments and reply comments to the *NOI* is given at Appendix C).

27. Comments in this proceeding and in Docket 79–188 indicated that there is a need to provide an expanded choice of channelling plans (6, 10/20 and 40/80 MHz) to support video, voice and data requirements, and to expand eligibility access to this band. Because Docket 79–188 is concerned mainly with Digital Termination Systems, it is addressing only some of these issues; we are proposing to address them further in this proceeding.

28. In this *Notice* we propose to (1) provide a 6 MHz channelling plan (18.18–18.36 and 19.52–19.70 GHz), (2) provide a 40/80 MHz channelling plan (17.7–18.18 and 19.04–19.52 GHz), (3) revise the pairing scheme for the 220 MHz channel pairs, (4) establish minimum path length requirement for all point-to-point 18 GHz spectrum, i.e., 17.7–18.36, 18.46–18.94 and 19.04–19.7 GHz, and (5) permit all entities access to this 18 GHz spectrum. These proposals respond to the comments received in the Docket 79–188 and/or the *NOI* which we think are in the public interest and should be implemented.

31.0–31.2 GHz Band

29. A number of comments received in the *NOI* proceeding stated that there is a need for a spectrum allocation which would have greatly reduced licensing/coordination requirements. Suggested frequency bands were the 22 and 31 GHz bands. Both the Government and non-Government sectors have equal access to the 22 GHz band for fixed and mobile operations, while only the non-Government sector has access for fixed and mobile operations in the 31 GHz band (31.0–31.2 GHz).[6] At present there are no licensed operations in the 31 GHz band. The Commission feels that this 31 GHz spectrum may be the most appropriate place to locate fixed and mobile stations whose operation is only regulated with respect to certain technical operating standards. The coordination procedure would not be applied here; however, it appears prudent to maintain a licensing procedure which would serve to register operations with the Commission.

30. In this *Notice* we propose to (1) provide a 12.5/25.0 MHz channelling plan (this proposal assumes expansion of the band to 31.0–31.3 GHz), (2) place no restriction on the type of emission which may be employed, and (3) permit all entities, including individuals, access to this spectrum. No interference protection will be afforded to fixed and mobile stations operating in this band. We believe the proposed restrictions on power and antenna characteristics at this frequency range will make the probability of harmful interference very small. We ask specific comments on whether the standards for use of this spectrum could be relaxed further while still providing for uncoordinated operations.

Other Technical Standards

31. The principal underlying thought of this proceeding and the rule changes proposed in this *Notice* is that use of the microwave radio spectrum should be governed by type of use rather than type of licensee. Along this line, we are proposing to establish technical criteria (i.e., channel loading, path length, type of emission, etc.) which will determine which bands or band segments may be used by the various entities seeking access to the radio spectrum. However, we recognize that because of special patterns of use in bands now allocated to common carriers, it may not be feasible to extend the underlying principles of this proceeding to those bands.

32. To assure efficient use of the affected spectrum, we are proposing to establish minimum path length requirements. The methodology used to derive the minimum path length values contained in the proposals is presented and discussed in Appendix B. This is based on a straightforward analysis of available equipment and propagation characteristics at the bands of interest. Appendix B also lists the assumptions used in the analysis. We request comments on the applicability of this methodology and the derived values.

33. The proposed Rules call for the use of high performance antennas in congested areas. In 1976, the Commission developed a methodology for computing congested areas for private entity use of the microwave spectrum. In 1981, the American Petroleum Institute (API) petitioned the Commission seeking revision on this methodology and proposed a new methodology. This request was addressed in Docket 82–373; however, no definitive action was taken.[7] Because that proceeding dealt exclusively with the private use of microwave spectrum, and since this proceeding deals with the shared use of the spectrum, we are re-addressing the methodology for computing congested areas. The Commission would like comments on whether the 1976 methodology, the proposed API methodology or some other methodology should be employed in determining congested areas. (A copy of the API petition has been placed in the Docket file of this proceeding).

Coordination Procedures

34. The Commission's Rules currently require that an applicant assure the Commissioin that his proposed use of a frequency will not adversely affect existing users. Each of the four groups (private, cable, broadcast and common carrier) has a coordination procedure designed to accomplish this task to varying degrees. Although existing coordination procedures appear to have worked successfully, we believe it may be desirable to experiment with a single coordination procedure for all services sharing the affected bands. The procedure could address the several fixed and mobile bands in slightly different ways, e.g., mobile versus fixed, 6 MHz versus 25 MHz.

35. For this purpose, we propose to merge parts of both the private (§ 94.63)

[5] *Further NPRM* (FCC 81–388) adopted 4 August 1981, 46 FR 34835, 14 Sep.

[6] If the proposals in the 1979 WARC domestic implementation proceeding (*NPRM*, FCC 82–507, adopted 18 November 1982) are adopted, then the band could be expanded to include 31.2–31.3 GHz.

[7] *Report and Order* (FCC 82–541) adopted 8 December 1982.

and common carrier (§ 21.100) procedures. The common carrier procedure lays out the administrative process of coordination but leaves the technical issues to the applicants and licensees to work out. The private procedure prescribes a less detailed administrative process, but details the technical standards which must be followed, since there are many more private than common carrier entities.

36. It appears wise to adopt the administrative procedures currently used by the common carriers along with the private entities' concept of specifying interference criteria for calculating interference in the Commission's Rules and apply this combined procedure to all—private, common carrier, broadcast and cable entities sharing the affected bands. This proposed procedure lays out in detail how coordination is to take place, thus placing all applicants and licensees on an equal footing and will assure efficient use of the spectrum.

37. It would appear that the interference criteria should address both dynamic and static, short, medium and long-haul telecommunications systems. In the past, the common carrier criteria were based on the need to handle dynamic circuits (i.e., circuits in a switched telecommunications network), while the private criteria were based on the need to handle static circuits (i.e., circuits not in a switched telecommunications network). Comments are solicited as to where such interference criteria should be maintained—should they be in the Commission's Rules, or left for industry to develop and administer as needed? If the criteria should be contained in the Rules, what values should be adopted, taking into consideration the above discussion (see § 150.2(b) at Appendix A)?

38. The coordination process also requires the consideration of all potential sources of interference. Currently, the coordination zone is a circle with a radius of about 200 km. Since propagation at the higher bands is greatly reduced, it would appear appropriate to have a coordination radius which is more frequency dependent. Comments on this concept and applicable values are requested (see § 150.(a)(12) at Appendix A).

Channel Loading

39. Given the amount of spectrum available for fixed and mobile use and the numbers of competing users it seems prudent to prescribe a minimum channel loading criteria to assure efficient use of the spectrum. It does not seem reasonable to permit a 20 MHz F3F (FM–FDM) channel to be loaded to only 24 voice channels when it is capable of supporting over 1200 voice channels, nor does it seem reasonable to permit a 20 MHz F8D (FM–digital) channel to be loaded to only 1.554 Mb/s when it can be loaded to over 40 Mb/s.[8] Comments are requested as to the appropriateness of having a loading requirement and if so applicable values (see § 150.3(d) at Appendix A).

Regulatory Flexibility Initial Analysis

I. Reason for Action

40. When broadcasting satellites are operational at 1.2–12.7 GHz, it will be necessary to remove private fixed service operations, which cause interference to the satellite service. In order to reaccommodate them, spectrum must be provided in other frequency bands. Further, it is important to provide guidelines which will increase spectrum utilization efficiency in order to accommodate increased use by the fixed and mobile service.

II. The Objective

41. The Commission proposes to change its Rules pertaining to the fixed and mobile services' use of certain bands in order to provide additional frequencies for private fixed service licensees, while also ensuring that allocated spectrum is used in an efficient manner by the fixed service licensees. Furthermore, the Commission intends to accomplish this objective at the lowest feasible cost to present users of the 12.2–12.7 GHz band in particular and also in other bands.

III. Legal Basis

42. Legal action as proposed is in furtherance of Sections 1, 4(i), 303(c) and (r), and 403 of the Communications Act of 1934, as amended.

IV. Description, Number and Potential Impact of Small Entities Affected

43. At this time, we cannot estimate the number or types of Commission licensees that are small entities and would be affected by this action. The proposals of this instant *Notice* are broad in scope and have the potential to affect all entities, both large and small, that use of manufacture equipment for microwave services. It is anticipated that these new rules will affect entities, both large and small, in a generally positive manner as they will provide increased opportunities for both manufactures and users of the spectrum to use, and to develop new applications for use of, the radio frequency spectrum. In general, these proposed rules remove restrictions now placed on use of fixed service spectrum. It is our opinion that most prospective fixed service users, as well as private fixed service users who may be displaced from the 12 GHz band, will be affected positively by these new rules. There will be some costs to existing users to implement the proposed rules; however, these will be minimized by providing a transition period. We anticipate no severely adverse impact from these proposals.

V. Reporting, Recordkeeping and other Compliance Requirements

44. According to our proposed rules, fixed service applicants will have to coordinate their proposed use of the spectrum with existing users and will have to submit application to the Commission for operating authority. These provisions already apply and we believe they are in keeping with the requirements of the service.

VI. Federal Rules which Overlap, Duplicate, or Conflict With These Rules

45. To our knowledge, there are no other Federal rules that overlap, duplicate or conflict with those contained in the *Notice*.

VII. Specific Alternatives Consistent With the Objective Which Would Minimize Impact on Small Entities

46. We do not believe that there is any alternative to our proposals which would have less effect on small entities.

VIII. Comments

47. The Commission seeks public comments on the initial regulatory flexibility analysis. We particularly seek comment from small entities (i.e., small business, small organizations, and small jurisdictions under the Regulatory Flexibility Act) as to how the proposed rules will affect them and how they might be modified to impose less stringent requirements on small entities and still adequately protect the public interest.

Administrative

48. The Commission has stated its intention to take action by September 1983 on a final *Report and Order* allocating additional frequencies for displaced 12 GHz private fixed service licensees. Since appropriate rule changes will affect frequency bands now used by licensees of other services, it is important that the proposed

[8] In the near future even higher efficiencies may be attainable, see: Heiichi Yamamoto "Advanced 16-QAM techniques for digital microwave radio", *IEEE Communications Magazine*, vol. 19, no. 3 (May 1981); and Paul R. Hartmann, "Digital radio technology: present and future", *IEEE Communications Magazine*, vol. 19, no. 4 (July 1981).

changes be notified to the public as soon as possible. Furthermore, due to the urgency of allocating alternative spectrum 12 GHz for private fixed users, the Commission does not expect to grant extensions of the filing dates in this proceeding. Accordingly pursuant to the authority contained in section 4(i) and 303 of the Communications Act of 1934, as amended, a *Notice of Proposed Rule Making* is adopted in the above captioned matter.

49. Interested parties may file comments on or before 25 March 1983 and reply comments on or before 25 April 1983. Section 1.419 of the Commission's Rules requires that an original and five copies of all statements, briefs or comments be filed in response to this *Notice*. All relevant and timely filed comments and reply comments in this proceeding will be considered. The Commission may also take into account other information before it, in addition to the specific comments and reply comments elicited by this *Notice of Proposed Rule Making*. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

50. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of these Commission procedures governing *ex parte* presentations in informal rulemaking is available for the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554.

51. It is ordered, that a copy of this Notice shall be sent to the Chief Council for Advocacy of the Small Business Administration.

52. The point of contact on this matter is Donald Draper Campbell (202) 653–8177.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.[9]

William J. Tricarico,

Secretary.

Appendix A

Chapter I of Title 47 of the *Code of Federal Regulations* is amended by adding a new Subchapter E to include a New Part 150 to read as follows:

SUBCHAPTER E—OTHER SERVICES

PART 150—MICROWAVE TECHNICAL STANDARDS FOR THE FIXED AND MOBILE SERVICES IN CERTAIN BANDS

Sec.

150.1 Applicability.
150.2 Frequency coordination.
150.3 Frequencies.
150.4 Frequency tolerance.
150.5 Power limitations.
150.6 Emission limitations.
150.7 Antenna limitations.
150.8 Pointing restrictions in bands coequally shared with the Fixed-Satellite Service (earth-to-space).

Authority: Sections 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

§ 150.1 Applicability.

(a) The Technical standards of this part shall govern, effective 1 October 1983, the issuance of authorizations for new stations and changes in authorized stations requiring license modifications for the frequencies specified in paragraph (b) of this section. Stations authorized prior to this date not meeting the provisions of this part may continue to be authorized for operation under previous technical standards until 1 October 1993.

(b) Frequencies in the following bands are available for assignment to fixed and mobile stations:

1.99–2.110 GHz
6.525–7.125 GHz
12.7–13.25 GHz
17.7–19.7 GHz
31.0–31.2 GHz

§ 150.2 Frequency coordination.

(a) All applicants for fixed and mobile facilities using the bands listed in § 150.1(b) shall, before filing an application or a major amendment to a pending application coordinate the proposed frequency usage with existing users in the area and other applicants with previously filed applications, whose facilities could affect or be affected by the new proposals in terms of frequency interference. In coordinating frequency usage with stations in the fixed-satellite service, applicants shall also comply with the requirements of § 21.706(c)–(d). In engineering a system or modification thereto, the applicant shall by appropriate studies and analyses select sites, transmitters, receivers, antennas and frequencies that will avoid harmful interference to other users. All applicants, permittees and licensees shall cooperate fully and make reasonable efforts to resolve technical problems and conflicts that may inhibit the most effective and efficient use of the radio spectrum; however, the party being coordinated with is not obligated to suggest changes or re-engineer a proposal in cases involving conflicts. The applicant shall identify in the application all entities with which the technical proposal was coordinated. In the event that technical problems are not resolved or if the existing licensee, permittee or applicant does not respond to coordination efforts within 30 days after notification, an explanation shall be submitted with the application. The following guidelines are applicable to the coordination procedure.

(1) Coordination involves two separate elements: Notification and response. Both or either may be oral or in written form. To be acceptable for filing, all applications and major technical amendments must certify that coordination, including response, has been completed. The name of the party with which coordination was accomplished must be specified.

(2) Notification must include relevant technical details of the proposal. At minimum, this should include, as applicable, the following:

Transmitting station name.
Transmitting station location (coordinates plus geographic location, i.e., city, county, state).
Frequencies and polarizations to be added or changed.

[9] Commissioner Quello concurring in the result. Commissioner Jones concurring and issuing a statement. Commissioner Dawson issuing a statements.

Transmitting equipment manufacturer and model number, its stability, actual output power, and emission designator.
Transmitting antenna manufacturer and model number, and if required, a typical pattern and maximum gain.
Transmitting antenna height above ground level and ground elevation above mean sea level.
Receiving station name.
Receiving station location (coordinates plus geographic location, i.e., city, county, state).
Receiving equipment manufacturer and model number.
Receiving antenna manufacturer and model number and, if required, a typical pattern and maximum gain.
Receiving antenna height above ground level and ground elevation above mean sea level.
Path azimuth and distance.

(3) For transmitters employing digital modulation techniques (i.e., F1D, A1D, etc.), the notification should clearly identify the type of modulation. Upon request, additional details of operating characteristics of equipment shall be furnished.

(4) Response to notification should be made as quickly as possible, even if no technical problems are anticipated. Every reasonable effort should be made by licensees and applicants to eliminate all problems and conflicts. If no response to notification is received within 30 days, the applicant will be deemed to have made reasonable efforts to coordinate and may file his application without a response.

(5) The 30-day notification period is calculated from the date of receipt by the licensee and applicants being notified. If notification is by mail, this date may be ascertained by: (i) The return receipt on certified mail, (ii) the enclosure of a card to be dated and returned by the recipient, or (iii) a conservative estimate of the time required for the mail to reach its destination. In the latter case, the estimated date when the 30-day period would expire should be stated in the notification.

(6) All technical problems that come to light during coordination must be resolved unless a statement is included with the application to the effect that the applicant is unable or unwilling to resolve the conflict and briefly the reason therefore.

(7) Where a number of technical changes becomes necessary for a system during the course of coordination, an attempt should be made to minimize the number of separate notifications for these changes. Where the changes are incorporated into the completely revised notice, the items that were changed from the previous notice should be identified.

(8) Where subsequent changes are not numerous or complex, the licensee or applicant receiving the changed notification should make an effort to respond in less than 30 days. Where the notifying applicant believes a shorter response time is reasonable and appropriate, it may be helpful for him to so indicate in the notice and perhaps suggest a response date.

(9) If it is determined that a subsequent change would have no impact on some licensees or applicants receiving the original notification, it is not necessary to coordinate the change with such licensees or applicants. However, these licensees or applicants should be advised of the change and of the opinion that coordination is not required for said change.

(10) Applicants should keep other licensees and applicants with which they are coordinating advised of deletions or changes in plans for facilities previously coordinated. If applications have not been filed 6 months after coordination was completed, licensees and other applicants may assume, unless notified otherwise, that such frequency use is no longer desired.

(11) In the event interference problems develop between licensed facilities, the last facility authorized (i.e., the last radio link), that is a party to the interference, will be required to resolve the problem. The provisions of this paragraph apply to both coordinated and uncoordinated frequencies.

(12) Coordination radius.

Frequency band (GHz)	Distance (km)

(b) The interference protection criteria for fixed and mobile stations are as follows:

Frequency band (MHz)	Interfered with type of emission	Maximum cumulative allowable interference level per exposure from all sources					
		Dynamic systems			Static systems		
		Short-haul	Medium-haul	Long-haul	Short-haul	Medium-haul	Long-haul

(c) Applying the Criteria: (1) The criteria specified in paragraphs (b) and (c) of this section shall be applied by calculating the ratio on dB between the desired (carrier) signal and the undesired (interfering) signal (C/I ratio) appearing at the input to the receiver under investigation (victim receiver).

(2) The development of the C/I ratios from the criteria and methods employed to perform path calculations shall follow generally acceptable good engineering practices. Procedures as may be developed by the Electronics Industries Association (EIA), the Institute of Electrical and Electronics Engineers (IEEE), the American National Standards Institute (ANSI) or any other recognized authority will be acceptable to the Commission.

(3) Parties may agree to accept higher interference levels for particular exposures without prejudice to their position vis-a-vis other applicants or licensees.

§ 150.3 Frequencies.

(a) Use of bands listed in § 150.1(b) by stations in the fixed and mobile services shall be in accordance with the provisions of paragraphs (b), (c), and (d) of this section.

(b) *Channelling plan.* Unless otherwise provided for mobile operations are secondary to fixed operations; however, in the band segments 1.99–2.11 GHz and 31.0–31.3 GHz, fixed and mobile operations are co-equal.

Transmit (or receiver) (MHz)	Receive (or transmit) (MHz)	Maximum channel bandwidth (kHz)	Permitted classes of emission	Class of station	Notes
1,999.0	n/a	16,000	F3F	FX FB MO	1
2,000.0	2,060.0	20,000	F3F	FX FB MO	2

Transmit (or receiver) (MHz)	Receive (or transmit) (MHz)	Maximum channel bandwidth (kHz)	Permitted classes of emission	Class of station	Notes
2,016.5	n/a	17,000	F3F	FX FB MO	
2,033.5	n/a	17,000	F3F	FX FB MO	1
2,020.0	2,080.0	20,000	F3F	FX FB MO	2
2,040.0	2,100.0	20,000	F3F	FX FB MO	2
2,050.5	n/a	17,000	F3F	FX FB MO	1
2,067.5	n/a	17,000	F3F	FX FB MO	1
2,084.5	n/a	17,000	F3F	FX FB MO	1
2,101.5	n/a	17,000	F3F	FX FB MO	1
6,525.5	6,870.5	1,000	F8E F1D A1D	FX	2, 4
6,526.5	6,871.5	1,000	F8E F1D A1D	FX	2, 4
6,527.5	6,872.5	1,000	F8E F1D A1D	FX	2, 4
6,528.5	6,873.5	1,000	F8E F1D A1D	FX	2, 4
6,529.5	6,874.5	1,000	F8E F1D A1D	FX	2, 4
6,532.5	n/a	5,000	F8E A8E F1D A1D	FX	3, 4
6,535.0	6,575.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,537.6	n/a	5,000	F8E A8E F1D A1D	FX	3, 4
6,542.5	6,712.5	5,000	F8E A8E F1D A1D	FX	3, 4
6,545.0	6,715.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,547.5	6,717.5	5,000	F8E A8E F1D A1D	FX	3, 4
6,552.5	6,722.5	5,000	F8E A8E F1D A1D	FX	3, 4
6,555.0	6,725.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,557.5	6,727.5	5,000	F8E A8E F1D A1D	FX	3, 4
6,562.5	6,732.5	5,000	F8E A8E F1D A1D	FX	3, 4
6,565.0	6,735.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,567.5	6,737.5	5,000	F8E A8E F1D A1D	FX	3, 4
6,572.5	n/a	5,000	F8E A8E F1D A1D	FX	3, 4
6,577.5	n/a	5,000	F8E A8E F1D A1D	FX	3, 4
6,582.5	6,742.5	5,000	F8E A8E F1D A1D	FX	3, 4
6,585.0	6,745.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,587.5	6,747.5	5,000	F8E A8E F1D A1D	FX	3, 4
6,595.0	6,755.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,600.0	6,760.0	20,000	F8E A8E F1D A1D	FX	2, 3, 4
6,605.0	6,765.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,615.0	6,775.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,620.0	6,780.0	20,000	F8E A8E F1D A1D	FX	2, 3, 4
6,625.0	6,785.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,635.0	6,795.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,640.0	6,800.0	20,000	F8E A8E F1D A1D	FX	2, 3, 4
6,645.0	6,805.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,655.0	6,815.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,660.0	6,820.0	20,000	F8E A8E F1D A1D	FX	2, 3, 4
6,665.0	6,825.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,675.0	6,835.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,680.0	6,840.0	20,000	F8E A8E F1D A1D	FX	2, 3, 4
6,685.0	6,845.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,695.0	6,855.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,700.0	6,860.0	20,000	F8E A8E F1D A1D	FX	2, 3, 4
6,705.0	6,865.0	10,000	F8E A8E F1D A1D	FX	3, 4
6,887.5	7,012.5	25,000	F3F	FX FB MO	2, 4
6,912.5	7,037.5	25,000	F3F	FX FB MO	2, 4
6,937.5	7,062.5	25,000	F3F	FX FB MO	2, 4
6,962.5	7,087.5	25,000	F3F	FX FB MO	2, 4
6,987.5	7,112.5	25,000	F3F	FX FB MO	2, 4
12,703.5	n/a	6,000	C3F/F3E	FX	3
12,706.25	12,931.25	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,709.5	n/a	6,000	C3F/F3E	FX	3
12,712.5	12,937.5	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,715.5	n/a	6,000	C3F/F3E	FX	3
12,718.75	13,943.75	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,721.5	n/a	6,000	C3F/F3E	FX	3
12,725.0	12,950.0	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,727.5	n/a	6,000	C3F/F3E	FX	3
12,731.25	12,956.25	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,733.5	n/a	6,000	C3F/F3E	FX	3
12,737.5	12,962.5	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,739.5	n/a	6,000	C3F/F3E	FX	3
12,743.75	12,968.75	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,745.5	n/a	6,000	C3F/F3E	FX	3
12,750.0	12,975.0	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,751.5	n/a	6,000	C3F/F3E	FX	3
12,756.25	12,981.25	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,762.5	12,987.5	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,757.5	n/a	6,000	C3F/F3E	FX	3
12,763.5	n/a	6,000	C3F/F3E	FX	3
12,768.75	12,993.75	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,769.5	n/a	6,000	C3F/F3E	FX	3
12,775.0	13,000.0	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,775.5	n/a	6,000	C3F/F3E	FX	3
12,781.25	13,006.25	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,781.5	n/a	6,000	C3F/F3E	FX	3
12,787.5	13,012.5	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,787.5	n/a	6,000	C3F/F3E	FX	3
12,793.5	n/a	6,000	C3F/F3E	FX	3
12,793.75	13,018.75	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,799.5	n/a	6,000	C3F/F3E	FX	3
12,800.0	13,025.0	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,895.5	n/a	6,000	C3F/F3E	FX	3
12,806.25	13,030.25	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,811.5	n/a	6,000	C3F/F3E	FX	3
12,812.5	13,037.5	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,817.5	n/a	6,000	C3F/F3E	FX	3
12,818.75	13,042.75	12,500	F3F F8E A8E F1D A1D	FX	2, 3

Transmit (or receiver) (MHz)	Receive (or transmit) (MHz)	Maximum channel bandwidth (kHz)	Permitted classes of emission	Class of station	Notes
12,823.5	n/a	6,000	C3F/F3E	FX	3
12,825.0	13,050.0	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,829.5	n/a	6,000	C3F/F3E	FX	3
12,831.25	13,055.25	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,835.5	n/a	6,000	C3F/F3E	FX	3
12,837.5	13,062.5	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,841.5	n/a	6,000	C3F/F3E	FX	3
12,843.75	13,057.75	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,847.5	n/a	6,000	C3F/F3E	FX	3
12,850.0	13,075.0	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,853.5	n/a	6,000	C3F/F3E	FX	3
12,856.25	13,080.25	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,859.5	n/a	6,000	C3F/F3E	FX	3
12,862.5	13,087.5	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,865.5	n/a	6,000	C3F/F3E	FX	3
12,868.75	13,092.75	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,871.5	n/a	6,000	C3F/F3E	FX	3
12,875.0	13,100.0	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,877.5	n/a	6,000	C3F/F3E	FX	3
12,881.25	13,105.25	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,883.5	n/a	6,000	C3F/F3E	FX	3
12,887.5	13,112.5	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,889.5	n/a	6,000	C3F/F3E	FX	3
12,893.75	13,117.75	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,895.5	n/a	6,000	C3F/F3E	FX	3
12,900.0	13,125.0	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,901.5	n/a	6,000	C3F/F3E	FX	3
12,906.25	13,130.25	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,907.5	n/a	6,000	C3F/F3E	FX	3
12,912.5	13,137.5	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,913.5	n/a	6,000	C3F/F3E	FX	3
12,918.75	13,142.75	12,500	F3F F8E A8E F1D A1D	FX	2, 3
12,919.5	n/a	6,000	C3F/F3E	FX	3
12,925.0	n/a	25,000	F3F F8E A8E F1D A1D	FX	2, 3
12,925.5	n/a	6,000	C3F/F3E	FX	3
12,931.5	n/a	6,000	C3F/F3E	FX	3
12,937.5	n/a	6,000	C3F/F3E	FX	3
12,940.5	n/a	6,000	C3F/F3E	FX	3
12,943.5	n/a	6,000	C3F/F3E	FX	3
12,945.5	n/a	6,000	C3F/F3E	FX	3
12,955.5	n/a	6,000	C3F/F3E	FX	3
12,961.5	n/a	6,000	C3F/F3E	FX	3
12,967.5	n/a	6,000	C3F/F3E	FX	3
12,973.5	n/a	6,000	C3F/F3E	FX	3
12,979.5	n/a	6,000	C3F/F3E	FX	3
12,985.5	n/a	6,000	C3F/F3E	FX	3
12,991.5	n/a	6,000	C3F/F3E	FX	3
12,997.5	n/a	6,000	C3F/F3E	FX	3
13,003.5	n/a	6,000	C3F/F3E	FX	3
13,009.5	n/a	6,000	C3F/F3E	FX	3
13,015.5	n/a	6,000	C3F/F3E	FX	3
13,021.5	n/a	6,000	C3F/F3E	FX	3
13,027.5	n/a	6,000	C3F/F3E	FX	3
13,033.5	n/a	6,000	C3F/F3E	FX	3
13,039.5	n/a	6,000	C3F/F3E	FX	3
13,045.5	n/a	6,000	C3F/F3E	FX	3
13,051.5	n/a	6,000	C3F/F3E	FX	3
13,057.5	n/a	6,000	C3F/F3E	FX	3
13,063.5	n/a	6,000	C3F/F3E	FX	3
13,069.5	n/a	6,000	C3F/F3E	FX	3
13,075.5	n/a	6,000	C3F/F3E	FX	3
13,081.5	n/a	6,000	C3F/F3E	FX	3
13,087.5	n/a	6,000	C3F/F3E	FX	3
13,093.5	n/a	6,000	C3F/F3E	FX	3
13,099.5	n/a	6,000	C3F/F3E	FX	3
13,105.5	n/a	6,000	C3F/F3E	FX	3
13,111.5	n/a	6,000	C3F/F3E	FX	3
13,117.5	n/a	6,000	C3F/F3E	FX	3
13,123.5	n/a	6,000	C3F/F3E	FX	3
13,129.5	n/a	6,000	C3F/F3E	FX	3
13,135.5	n/a	6,000	C3F/F3E	FX	3
13,141.5	n/a	6,000	C3F/F3E	FX	3
13,147.5	n/a	6,000	C3F/F3E	FX	3
13,150.0	n/a	25,000	F3F	FX MO	3, 4, 5
13,153.5	n/a	6,000	C3F/F3E	FX MO	3, 4, 5
13,155.25	n/a	12,500	F3F	FX MO	3, 4, 5
13,159.5	n/a	6,000	C3F/F3E	FX MO	3, 4, 5
13,162.5	n/a	25,000	F3F	FX MO	3, 4, 5
13,165.5	n/a	6,000	C3F/F3E	FX MO	3, 4, 5
13,167.75	n/a	12,500	F3F	FX MO	3, 4, 5
13,171.5	n/a	6,000	C3F/F3E	FX MO	3, 4, 5
13,175.0	n/a	25,000	F3F	FX MO	3, 4, 5
13,177.5	n/a	6,000	C3F/F3E	FX MO	3, 4, 5
13,180.25	n/a	12,500	F3F	FX MO	3, 4, 5
13,183.5	n/a	6,000	C3F/F3E	FX MO	3, 4, 5
13,197.5	n/a	25,000	F3F	FX MO	3, 4, 5
13,189.5	n/a	6,000	C3F/F3E	FX MO	3, 4, 5
13,193.75	n/a	12,500	F3F	FX MO	3, 4, 5
13,195.5	n/a	6,000	C3F/F3E	FX MO	3, 4, 5
13,200.0	n/a	25,000	F3F	FX MO	3, 4, 5
13,206.25	n/a	12,500	F3F	FX MO	3, 4, 5
13,212.5	n/a	25,000	F3F	FX MO	4, 5, 8

Transmit (or receiver) (MHz)
13,218.75
13,225.0
13,231.25
13,237.5
13,244.25
17,720.0
17,740.0
17,760.0
17,800.0
17,810.0
17,820.0
17,840.0
17,880.0
17,900.0
17,920.0
17,960.0
17,980.0
18,000.0
18,030.0
18,040.0
18,060.0
18,080.0
18,120.0
18,140.0
18,160.0
18,180.0
18,189.0
18,195.0
18,201.0
18,207.0
18,213.0
18,219.0
18,225.0
18,231.0
18,237.0
18,243.0
18,249.0
18,250.0
18,255.0
18,261.0
18,267.0
18,273.0
18,279.0
18,285.0
18,291.0
18,297.0
18,303.0
18,309.0
18,315.0
18,321.0
18,327.0
18,333.0
18,339.0
18,345.0
18,351.0
18,357.0
18,465.0
18,470.0
18,475.0
18,485.0
18,490.0
18,495.0
18,505.0
18,510.0
18,515.0
18,525.0
18,530.0
18,535.0
18,545.0
18,550.0
18,555.0
18,565.0
18,570.0
18,575.0
18,585.0
18,590.0
18,595.0
18,605.0
18,610.0
18,615.0
18,625.0
18,630.0
18,635.0
18,642.5
18,645.0
18,647.5
18,650.0
18,652.5
18,655.0
18,657.5
18,665.0
18,662.5

Transmit (or receiver) (MHz)	Receive (or transmit) (MHz)	Maximum channel bandwidth (kHz)	Permitted classes of emission	Class of station	Notes
13,218.75	n/a	12.500	F3F	FX MO	4, 5, 8
13,225.0	n/a	25.000	F3F	FX MO	4, 5, 8
13,231.25	n/a	12.500	F3F	FX MO	4, 5, 8
13,237.5	n/a	25.000	F3F	FX MO	4, 5, 8
13,244.25	n/a	12.500	F3F	FX MO	4, 5, 8
17,720.0	19,060.0	40.000	F8E A8E F1D A1D	FX	4
17,740.0	19,080.0	80.000	F8E A8E F1D A1D	FX	4
17,760.0	19,100.0	40.000	F8E A8E F1D A1D	FX	4
17,800.0	19,140.0	40.000	F8E A8E F1D A1D	FX	4
17,810.0	19,150.0	220.000	F1D A1D	FX	4
17,820.0	19,160.0	80.000	F8E A8E F1D A1D	FX	4
17,840.0	19,180.0	40.000	F8E A8E F1D A1D	FX	4
17,880.0	19,220.0	40.000	F8E A8E F1D A1D	FX	4
17,900.0	19,240.0	80.000	F8E A8E F1D A1D	FX	4
17,920.0	19,260.0	40.000	F8E A8E F1D A1D	FX	4
17,960.0	19,300.0	40.000	F8E A8E F1D A1D	FX	4
17,980.0	19,320.0	80.000	F8E A8E F1D A1D	FX	4
18,000.0	19,340.0	40.000	F8E A8E F1D A1D	FX	4
18,030.0	19,370.0	220.000	F1D A1D	FX	4
18,040.0	19,380.0	40.000	F8E A8E F1D A1D	FX	4
18,060.0	19,400.0	80.000	F8E A8E F1D A1D	FX	4
18,080.0	19,420.0	40.000	F8E A8E F1D A1D	FX	4
18,120.0	19,460.0	40.000	F8E A8E F1D A1D	FX	4
18,140.0	19,480.0	80.000	F8E A8E F1D A1D	FX	4
18,160.0	19,500.0	40.000	F8E A8E F1D A1D	FX	4
18,185.0	19,523.0	6.000	C3F/F3E	FX	2, 4
18,189.0	19,529.0	6.000	C3F/F3E	FX	2, 4
18,195.0	19,535.0	6.000	C3F/F3E	FX	2, 4
18,201.0	19,541.0	6.000	C3F/F3E	FX	2, 4
18,207.0	19,547.0	6.000	C3F/F3E	FX	2, 4
18,213.0	19,553.0	6.000	C3F/F3E	FX	2, 4
18,219.0	19,559.0	6.000	C3F/F3E	FX	2, 4
18,225.0	19,565.0	6.000	C3F/F3E	FX	2, 4
18,231.0	19,571.0	6.000	C3F/F3E	FX	2, 4
18,237.0	19,577.0	6.000	C3F/F3E	FX	2, 4
18,243.0	19,583.0	6.000	C3F/F3E	FX	2, 4
18,249.0	19,589.0	6.000	C3F/F3E	FX	2, 4
18,250.0	19,590.0	220.000	F1D A1D	FX	4
18,255.0	19,595.0	6.000	C3F/F3E	FX	2, 4
18,261.0	19,601.0	6.000	C3F/F3E	FX	2, 4
18,267.0	19,607.0	6.000	C3F/F3E	FX	2, 4
18,273.0	19,613.0	6.000	C3F/F3E	FX	2, 4
18,279.0	19,619.0	6.000	C3F/F3E	FX	2, 4
18,285.0	19,625.0	6.000	C3F/F3E	FX	2, 4
18,291.0	19,631.0	6.000	C3F/F3E	FX	2, 4
18,297.0	19,637.0	6.000	C3F/F3E	FX	2, 4
18,303.0	19,643.0	6.000	C3F/F3E	FX	2, 4
18,309.0	19,649.0	6.000	C3F/F3E	FX	2, 4
18,315.0	19,655.0	6.000	C3F/F3E	FX	2, 4
18,321.0	19,661.0	6.000	C3F/F3E	FX	2, 4
18,327.0	19,667.0	6.000	C3F/F3E	FX	2, 4
18,333.0	19,673.0	6.000	C3F/F3E	FX	2, 4
18,339.0	19,679.0	6.000	C3F/F3E	FX	2, 4
18,345.0	19,685.0	6.000	C3F/F3E	FX	2, 4
18,351.0	19,691.0	6.000	C3F/F3E	FX	2, 4
18,357.0	19,697.0	6.000	C3F/F3E	FX	2
18,465.0	18,705.0	10.000	F8E A8E F1D A1D	FX	4
18,470.0	18,710.0	20.000	F3F F8E A8E F1D A1D	FX	4
18,475.0	18,715.0	10.000	F8E A8E F1D A1D	FX	4
18,485.0	18,725.0	10.000	F8E A8E F1D A1D	FX	4
18,490.0	18,730.0	20.000	F3F F8E A8E F1D A1D	FX	4
18,495.0	18,735.0	10.000	F8E A8E F1D A1D	FX	4
18,505.0	18,745.0	10.000	F8E A8E F1D A1D	FX	4
18,510.0	18,750.0	20.000	F3F F8E A8E F1D A1D	FX	4
18,515.0	18,755.0	10.000	F8E A8E F1D A1D	FX	4
18,525.0	18,765.0	10.000	F8E A8E F1D A1D	FX	4
18,530.0	18,770.0	20.000	F3F F8E A8E F1D A1D	FX	4
18,535.0	18,775.0	10.000	F8E A8E F1D A1D	FX	4
18,545.0	18,785.0	10.000	F8E A8E F1D A1D	FX	4
18,550.0	18,790.0	20.000	F3F F8E A8E F1D A1D	FX	4
18,555.0	18,795.0	10.000	F8E A8E F1D A1D	FX	4
18,565.0	18,805.0	10.000	F8E A8E F1D A1D	FX	4
18,570.0	18,810.0	20.000	F3F F8E A8E F1D A1D	FX	4
18,575.0	18,815.0	10.000	F8E A8E F1D A1D	FX	4
18,585.0	18,825.0	10.000	F8E A8E F1D A1D	FX	4
18,590.0	18,830.0	20.000	F3F F8E A8E F1D A1D	FX	4
18,595.0	18,835.0	10.000	F8E A8E F1D A1D	FX	4
18,605.0	18,845.0	10.000	F8E A8E F1D A1D	FX	4
18,610.0	18,850.0	20.000	F3F F8E A8E F1D A1D	FX	4
18,615.0	18,855.0	10.000	F8E A8E F1D A1D	FX	4
18,625.0	18,865.0	10.000	F8E A8E F1D A1D	FX	4
18,630.0	18,870.0	20.000	F3F F8E A8E F1D A1D	FX	4
18,635.0	18,875.0	10.000	F8E A8E F1D A1D	FX	4
18,642.5	18,882.5	5.000	F8E A8E F1D A1D	FX	4
18,645.0	18,885.0	10.000	F8E A8E F1D A1D	FX	4
18,647.5	18,887.5	5.000	F8E A8E F1D A1D	FX	4
18,650.0	18,890.0	20.000	F3F F8E A8E F1D A1D	FX	4
18,652.5	18,892.5	5.000	F8E A8E F1D A1D	FX	4
18,655.0	18,895.0	10.000	F8E A8E F1D A1D	FX	4
18,657.5	18,897.5	5.000	F8E A8E F1D A1D	FX	4
18,665.0	18,905.0	10.000	F8E A8E F1D A1D	FX	4
18,662.5	18,902.5	5.000	F8E A8E F1D A1D	FX	4

Transmit (or receiver) (MHz)	Receive (or transmit) (MHz)	Maximum channel bandwidth (kHz)	Permitted classes of emission	Class of station	Notes
18,667.5	18,907.5	5,000	F8E A8E F1D A1D	FX	4
18,670.0	18,910.0	20,000	F3F F8E F1D A1D	FX	4
18,672.5	18,912.5	5,000	F8E A8E F1D A1D	FX	4
18,675.0	18,915.0	10,000	F8E A8E F1D A1D	FX	4
18,677.5	18,917.5	5,000	F8E A8E F1D A1D	FX	4
18,682.5	18,922.5	5,000	F8E A9E F1D A1D	FX	4
18,685.0	18,925.0	10,000	F8E A8E F1D A1D	FX	4
18,687.5	18,927.5	5,000	F8E A8E F1D A1D	FX	4
18,690.0	18,930.0	20,000	F3F F8E A8E F1D A1D	FX	4
18,692.5	18,932.5	5,000	F8E A8E F1D A1D	FX	4
18,695.0	18,935.0	10,000	F8E A8E F1D A1D	FX	4
18,697.5	18,937.5	5,000	F8E A8E F1D A1D	FX	4
31,006.25	31,156.25	12,500		FX FB MO	2, 6, 7
31,012.5	31,162.5	25,000		FX FB MO	2, 6, 7
31,018.75	31,168.75	12,500		FX FB MO	2, 6, 7
31,031.25	31,181.25	12,500		FX FB MO	2, 6, 7
31,037.5	31,187.5	25,000		FX FB MO	2, 6, 7
31,043.75	31,193.75	12,500		FX FB MO	2, 6, 7
31,056.25	31,206.25	12,500		FX FB MO	2, 6, 7
31,062.5	31,212.5	25,000		FX FB MO	2, 6, 7
31,062.75	31,218.75	12,500		FX FB MO	2, 6, 7
31,031.25	31,231.25	12,500		FX FB MO	2, 6, 7
31,087.5	31,217.5	25,000		FX FB MO	2, 6, 7
31,093.75	31,243.75	12,500		FX FB MO	2, 6, 7
31,106.25	31,256.25	12,500		FX FB MO	2, 6, 7
31,112.5	31,262.5	25,000		FX FB MO	2, 6, 7
31,118.75	31,262.75	12,500		FX FB MO	2, 6, 7
31,131.25	31,281.25	12,500		FX FB MO	2, 6, 7
31,137.5	31,287.5	25,000		FX FB MO	2, 6, 7
31,143.75	31,293.75	12,500		FX FB MO	2, 6, 7

Notes:

1. No new assignments will be made on this particular frequency after 1 October 1984, stations licensed on this particular frequency prior to this date may continue to operate; however, after 1 October 1993, use will be on a secondary basis to all other uses.
2. Frequencies may be used on a non-paired basis.
3. Common carrier usage is *not* permitted on these frequencies except to provide mobile interconnect facilities (F3F emission only) to feed broadcast stations.
4. Frequencies shared with the fixed-satellite service, see Part 25.
5. The use of F3F modulation by mobile stations is restricted to bandwidths of 12.5 MHz or less, unless the path length is greater than 20 km, in which case, bandwidths up to 25.0 MHz may be employed.
6. There are no restrictions on the type of emission.
7. No interference protection will be afforded to stations operating in this band.
8. Common carriers usage is permitted on these frequencies; however only F3F emission is permitted.

(c) *Minimum path length requirement.* All fixed and mobile stations shall employ the highest frequency which will support the communications path length requirement which must be met. Unless otherwise provided for in this section, all usage must meet or surpass the following:

Zone	Minimum path length (km)			
	Frequency band (GHz)			
	2	6	12	18
1	44	32	21	3
2	44	32	17	2
3	44	32	9	2
4	44	32	19	3
5	32	24	21	3
6	32	24	17	2
7	32	24	14	2
8	32	24	11	2
9	32	24	9	2
10	32	22	14	2
11	32	24	19	3
12	34	24	9	2
13	34	22	[illegible]	2
14	36	26	11	3
15	36	26	9	2
16	36	22	6	2
17	22	17	[illegible]	2
18	22	17	11	2
19	22	17	[illegible]	2
20	22	17	6	2
21	26	20	19	3

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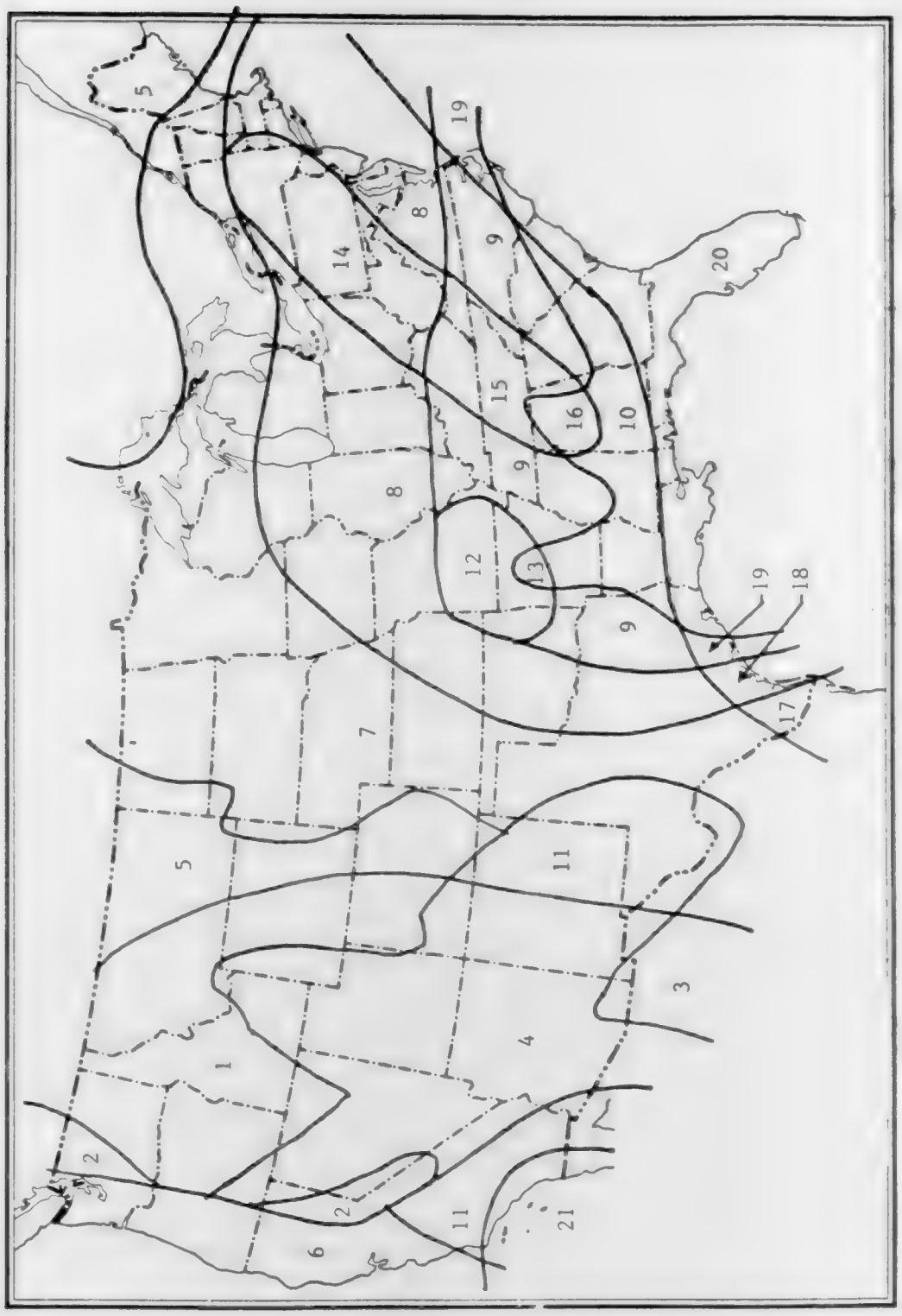

Preparation Zones

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(d) *Minimum channel loading requirements.* All fixed and mobile station shall use the least amount of spectrum required to support the communication requirements that must be met.

Bandwidth (MHz)	Class of Emission	Minimum Loading Level

§ 150.4 Frequency tolerance.

Stations in the fixed and mobile services shall maintain the carrier frequency of each authorized transmitter to within the following percentage of the assigned frequency.

Frequency band (MHz)	Transmitter frequency tolerance		
	FX (%)	FB(%)	MO (%)
1,990–2,110	0.001	0.001	0.001
6,525–6,875	0.005	n/a	n/a
6,875–7,125	0.005	0.001	0.005
12,700–13,250	(1)		
	0.005	0.005	0.005
17,700–19,700	0.003	n/a	n/a
31,000–31,200	0.003	0.003	0.003

Note: (1) Except C3F emission, 0.0005%.

§ 150.5 Power limitations.

On any authorized frequency, the average power delivered to an antenna in the fixed and mobile services shall be the minimum amount necessary to carry out the communications desired. In no event shall the transmitter output power or the effective isotropically radiated power (EIRP) exceed the values specified below.

Frequency band (MHz).	Maximum transmitter power			Maximum station EIRP		
	FX (W)	FB (W)	MO (W)	FX (dBW)	FB (dBW)	MO(dBW)
1,990–2,110	20.0	20.0	12.0	50.0	50.0	50.0
6,525–6,875	20.0	n/a	n/a	50.0	n/a	n/a
6,875–7,125	20.0	20.0	12.0	50.0	50.0	50.0
12,700–13,250	5.0	5.0	1.5	50.0	50.0	50.0
17,700–19,700	10.0	n/a	n/a	50.0	n/a	n/a
31,000–31,200	0.05	0.05	0.05	n/a	n/a	n/a

§ 150.6 Emission limitations.

(a) The mean power of emission for stations using the frequencies listed in Section 150.1(b) shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) When using transmissions other than those employing digital modulation techniques (i.e., F8E, F3F, A8E, C3F/F3E, etc.):

(i) On any frequency removed from the assigned frequency by more than 50% up to and including 100% of the authorized bandwidth, at least 25 dB.

(ii) On any frequency removed from the assigned frequency by more than 100% up to and including 250% of the authorized bandwidth, at least 35 dB.

(iii) On any frequency removed from the assigened frequency by more than 250% of the authorized bandwidth, at least $43+10\ \mathrm{Log}_{10}$ [mean output power in watts] dB, or 80 dB, whichever is the lesser attenuation.

(2) When using transmissions employing digital modulation techniques (i.e., F1D, A1D, etc.):

(i) For operating frequencies below 15.0 GHz, in any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 50% up to and including 250% of the authorized bandwidth: As specified by the following equation but in no event less than 50 dB (attenuation greater than 80 dB is not required)

$$A=35+0.8(P-50)+10\log 10B$$

where:

A = attenuation (in dB) below the mean output power level

P = Percent removed from carrier frequency

B = Authorized bandwidth (in MHz).

(ii) For operating frequencies above 15.0 GHz, in any 1 MHz band, the center frequency of which is removed from the assigned frequency by more than 50% up to and including 250% of the authorized bandwidth: As specified by the following equation but in no event less than 11 dB (attenuation greater than 56 dB is not required)

$$A=11+0.4(P-50)+10\log 10B$$

(iii) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 250% of the authorized bandwidth: At least 43 + log10 [mean output power in watts] dB, or 80 dB, whichever is the lesser attenuation.

(b) When a spurious emission results and causes harmful interference, the Commission may require the appropriate technical changes in equipment to alleviate the interference.

(c) The emission of an unmodulated carrier (i.e., NON) is prohibited except for test purposes as required for proper station and system maintenance.

(d) When an emisson outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in paragraph (a) of this section.

§ 150.7 Antenna limitations.

(a) Except where omnidirectional or wide coverage operation is specifically provided for under this part, each station in the fixed and mobile services shall employ directional antennas with the center of the major lobe of radiation directed toward the receiving station with which it communicates or if the path employs a passive repeater, to the center of that reflector.

(b) Directional antennas shall meet the performance standards indicated in the following table:

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Frequency Band	Standard	Gain	Beam-width	Front-to Back	Minimum Radiation Suppression (dB)

Frequency Band (GHz)	Standard	Gain (dBi)	Beam-width (°)	Front-to Back (dB)	Minimum Radiation Suppression (dB)						
					5 - 10°	10 - 15°	15 - 20°	20 - 30°	30 - 100°	100 - 140°	140 - 180°
1.99 - 2.11	A	- -	5	n/a	12	18	22	25	29	33	39
	B	- -	8	n/a	5	18	20	20	25	28	36
6.525 - 7.125	A	- -	1.5	n/a	26	29	32	34	38	41	49
	B	- -	2.0	n/a	21	25	29	32	35	39	45
12.7 - 13.25	A	- -	1.0	n/a	23	28	35	39	41	42	50
	B	- -	2.0	n/a	20	25	28	30	32	37	47
17.70 - 18.36	A	38	- -	n/a	25	29	33	36	42	55	55
	B	38	- -	n/a	20	24	28	32	35	36	36
19.46 - 19.7	A	38	- -	n/a	25	29	33	36	42	55	55
	B	38	- -	n/a	20	24	28	32	35	36	36
31 0 - 31.2	LP	n/a	4.0	38	- -	- -	- -	- -	- -	- -	- -

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Note.—Stations in the fixed and mobile services must employ an antenna that meets the performance standards for Standard A, except that, in areas not subject to frequency congestion antennas meeting standards for Standard B may be employed. Note, however, that the Commission may require the use of a high performance antenna where interference problems can be resolved by the use of such antennas.

(c) Applicants shall request, and authorizations for stations in the fixed and mobile services will specify, the polarization of each transmitted signal. When periscope antenna systems or passive repeaters are employed, the applicant shall indicate the expected polarization of the reflected signal.

(d) All forms of polarization are permitted. Polarization designation shall be in accordance with IEEE standard 100—1972 as amended.

(e) New periscope antenna systems will be authorized upon a certificate that the radiation, in a horizontal plane, from an illuminating antenna and reflector combination meets or exceeds the antenna standards of this section and, at locations where multiple periscope antennas are employed, that the cross-coupling between periscope antennas is suppressed by an amount equal to or greater than the radiation suppression specified in the standards for angles from the main beam of 140–180° for the particular band and antenna category selected. In no event will periscope antennas be authorized in frequency bands shared with common carriers.

(f) The provisions of paragraphs (a) and (c) of this section shall also apply to passive repeaters employed to redirect or repeat the signal from a station's directional antenna system.

§ 150.8 Pointing restrictions in bands coequally shared with the fixed-satellite service (earth-to-space).

These limitations are necessary to minimize the probability of harmful interference to reception, on-board geo-stationary space stations in the fixed-satellite service.

(a) The shared bands are as follows: 6.525 to 7.075 GHz, 12.70 to 13.25 GHz.

(b) *In shared bands between 1 and 10 GHz.* The transmitting antenna(s) for a station operating in shared bands between 1 and 10 GHz and employing an equivalent isotropically radiated power (EIRP) exceeding +35 dBW, shall be so oriented that the direction of maximum radiation will be removed at least 2.0° from the geo-stationary orbit, taking into account atmospheric refraction. However, an exception may be authorized in unusual circumstances upon a showing that there is no reasonable alternative to the transmission path proposed, and there is no evidence that such exception would cause interference to the geo-stationary satellite orbit. In such case, a transmission path may be authorized where the maximum value of equivalent isotropically radiated power does not exceed: (1) +47 dBW; or (2) +47 to +55 dBW on a linear decibel scale (8 dB per degree), in any direction within 0.5° and 1.5° of the geo-stationary orbit, taking into accont the effect of atmospheric refraction.

(c) *In shared bands between 10 and 15 GHz.* The transmitting antenna(s) of a station operating in shared bands between 10 and 15 GHz and employing an equivalent isotropically radiated power exceeding +45 dBW, shall be so oriented that the direction of maximum radiation will be removed at least 1.5° from the geo-stationary satellite orbit, taking into account atmospheric refraction.

(d) Methods of calculating azimuths to be avoided may be found in CCIR Report 393 (Green Book), Geneva, 1974; and in "Geo-Stationary Orbit Avoidance Computer Program", FFC Report Number CC–7201, Washington, D.C. 1972.

Note.—The FCC report and a card deck of the computer program itself are available through the National Techinical Information Service, U.S. Department of Commerce, Springfield, VA 22151, as report numbers PB 211–500 and PB 211–501, respectively.

Appendix B

Introduction

In this proceeding the Commission is proposing to establish a minimum path length requirement for the fixed and mobile service's use of spectrum below 19.7 GHz. The propose of this appendix is to describe the methodology used and the assumptions made by the Commission in establishing these minimum path lengths. Although values are only calculated for the bands addressed in the *Notice*, the methodology and assumptions are applicable to all bands between 947 MHz and 40.0 GHz.

The following assumptions were made:

(1) Minimum link reliability of 99.99%.

(2) The minimum receiver threshold level, i.e., the receiver mute point.

(a) For analog radios,

(i) In FM–FDM systems (i.e., F8E), the top slot noise becomes 58 dBrncO (525,000 pWpO or 30 dB S/N flat).

(ii) In 525 line FM video systems (i.e., F3F), the peak-to-peak luminance signal to EIA weighted RMS noise becomes 37 dB. In 625 line video systems, the mute point is 1 dB higher (e.g., 525 line mute point = −76 dBm, 625 line mute point = −75 dBm)

(b) For digital radios (A1D, F1D),

(i) The bit-error-rate (BER) becomes 1 in 10^{-6}.

(3) The use of Standard "B" antennas.

(4) The RF channels fully loaded.

(5) Transmission line length was assumed to be the calculated antenna height above ground, except that for 22 GHz systems, the transceiver was directly attached to the antenna system. The antenna height calculation only provided for midpoint path clearance, an earth curvature of K=4/3 and a 0.6 Fresnel clearance.

(6) Typical values of transmitter output power and receiver threshold level for equipments currently in production, see TABLE 5.

(7) Propagation models of Lin and Craine were used. See discussion below.

(8) Minimum path length, 80% of the maximum calculated usable path length of the next highest frequency band.

Propagation Characteristics

At a minimun there are four mechanisms which should be taken into consideration: free space attenuation, molecular absorption, scattering from hydrometeors and atmospheric multipath. All are frequency (f) and path length (D) dependent. In addition, the latter two are probabilistic and affect desired system usability (i.e., uptime requirements). Each of these mechanisms are discussed in detail in this section.

Free Space Attenuation

Free space attenuation (A_{fs}) can be calculated from the following equation:

$A_{fs} = 92.4 + 20LOG_{10}(f) + 20LOG_{10}(D)$, dB

where,

A_{fs} = attenuation, dB.
f = frequency, GHz.
D = path length, km.

Molecular Absorption

As can be seen in FIGURE 1, attenuation due to absorption by atmospheric gases, water and oxygen (A_g), is an insignificant factor at frequencies below about 12 to 13 GHz, however, at higher frequencies it becomes a significant factor.

Scattering from Hydrometeors (i.e., rain attenuation)

There are several rain attenuation prediction models and each requires the knowledge of the number, type and intensity of rainstorms that traverse the radio path under analysis. Unfortunately, as yet no theoretical basis exists for the calculation of the needed rainfall statistics. They must be obtained empirically, and this has resulted in the development of several prediction models. Each model has certain advantages of use; however, for the purposes of developing appropriate national regulations, the Crane model [†] appears to be most useful. It is a more general model while the others are more applicable to particular system design situations.

To calculate the effects of rain using the Crane model, the following procedures are followed:

Step 1: Establish surface projected path length D.

[†] R. K. Crane, "Prediction of Attenuation by Rain", *IEEE Trans. Comm.*, vol. COM–28, no. 9, pp. 1717–1733.

(a) Calculate the distance between er points in kilometers.

Step 2: Determine Rain Rate Distribut R_p.

(a) Locate the path end points on the FIGURE 2 and determine the rain climate region, A through H.

(b) Obtain rain rate distribution R_p from TABLE 1 for desired probability of occurence P, i.e., the probability of exceedin R_p.

(c) If D>22.5 km, then the rain rate distribution R_p will have to be determined for a modified probabilty of occurence P'.

$P' = P(22.5/D)$

Step 3: Determine a and b for the frequency of interest from TABLE 2.

Step 4: Calculate the attenuation A_r from R_p and R_p and D (or R_p' and D).

For D < d

$$A_r = a R_p^b \left[\frac{e^{cBD} - 1}{uB}\right] \quad D < d$$

For d < D

$$A_r = a R_p B \left[\frac{e^{cBd} - 1}{uB} \quad \frac{b^B e^{cBd}}{cB} + \frac{b^B e^{cBD}}{cB}\right] \quad d < D$$

For D > 22.5 km

Use the above equation, setting D=22.5 and using $R_p(P')$

where,

$u = LN(be^{cd})/d$

$b = 2.3\ R_p^{-0.17}$

$c = 0.026 - 0.03\ LN(R_p)$

$d = 3.8 - 0.6\ LN(R_p)$

Atmospheric Multipath

Atmospheric multipath can produce significant fades on long point-to-point links. Fades as much as 40 dB have been observed. It has been found that vertical antenna diversity can be employed to mitigate multipath effects, since ray path geometries generally do not occur that can simultaneously cause fading at two antennas spaced in the vertical. A model which can be used to predict the effects of multipath fading has been devised by Vigants.†† Using the Vigants model, signal unavailability U can be described as follows:

$$U = (c)\left(\frac{w}{15.24}\right)^{1.3}\left(\frac{f}{4}\right)^{1}\left(\frac{D}{1.609}\right)^{3}(10^{-5})\ (10^{-A_m/10})$$

Rearranging, we get:

$$A_m = 10LOG_{10}\left[\frac{c}{U^2}\left(\frac{w}{15.24}\right)^{1.3}\left(\frac{f}{4}\right)\left(\frac{D}{1.609}\right)^{3}(10^{-5})\right]$$

where,

P=probability of exceeding A_m, %

U=P/100, numeric

c=effect of humidity (see FIGURE 3), where,

= 4.0 for coastal areas;

= 1.0 for average climate; or

= 0.25 for dry climate

w=roughness factor (m), (see FIGURE 4 i.e., standard deviation of the terrain elevation along the radio path using a minimum of 15 equally space terrain heights above a reference level, where typical values are:

= 6.0m for smooth terrain;

= 15.2m for normal terrain

= 43.0m for rough terrain

f=frequency, GHz [2<f<15 GHz].

D=path length, km [22.5<D<65 1m].

A_m=attenuation (power), dB.

Link Analysis Equations

Link Propagation Analysis

Using the propagation models discussed in the previous sections, the propagation viability of a "proposed" radio link can be computed using the following equations. For viability to exist, C_r must be equal to or greater than the receiver's required threshold signal level for the specified emission type.

$P_t - M_t + G_t - A_{fs} - A_g - (A_r \text{ or } A_m) + G_{pr} + G_r - M_r = RSL$

where,

P_t=transmitter output power, in dBm.

M_t=misc. losses at transmitter, i.e., waveguide, etc.

G_t=gain of transmitting antenna, in dBi.

A_{fs}=free space attenuation, in dB.

A_g=attenuation by atmospheric gases, in dB.

A_r=rain attenuation, in dB.

A_m=atmospheric multipath attenuation, in dB.

G_{pr}=gain of passive (far-field) repeater(s), in dBi.

G_r=gain of receiving antenna, in dBi.

M_r=misc. losses at receiver, i.e., waveguide. etc., in dB.

RSL=Received Signal Level, in dBm.

Any link can be tested to determine the highest frequency that will support the required communications.

Figure 5 is a composite representation of figures 2, 3 and 4, and indicate that the continential United States can be divided in to twenty-one unique propagation areas. A computer program based on the above propagation equations was written to calculate the maximum usable path length for each of the twenty areas. This program was run against a representative selection of currently produced equipments. The results of these computations are shown in Table 3.

As can be seen in Table 3, rain has little effect on propagation below 18 GHz, but is the dominent factor above 18 GHz. The minimum path length was calculated to be 80% of the next higher band path length and this minimum path length is presented in Table 4.

TABLE 1.—Point Rain Rate (R_p) Distribution Values (mm/h) Versus Percent of Year Rain Rate is Exceeded†

Percent of year	Rain climate region									
	A	B	C	D1	D2	D3	E	F	G	H
0.001	[illegible]	54	[illegible]	90	102	127	164	[illegible]	129	251
0.002	24	40	62	72	[illegible]	107	144	51	[illegible]	[illegible]
0.005	19	[illegible]	41	50	[illegible]	[illegible]	117	[illegible]	[illegible]	178
0.01	15	19	[illegible]	37	[illegible]	[illegible]	[illegible]	23	67	147
0.02	12	14	[illegible]	27	35	[illegible]	77	14	51	115
0.05	[illegible]	9.5	11	16	[illegible]	31	52	[illegible]	33	77
0.1	6.5	6.8	7.2	11	15	[illegible]	35	6.5	22	51
0.2	4	4.8	4.8	7.5	9.5	14	21	3.8	14	31
0.5	2.5	2.7	2.8	4	5.2	7	8.5	2.4	7	13
1.0	1.7	1.8	1.9	2.2	[illegible]	4	[illegible]	1.7	3.7	6.4
2.0	1.1	1.2	1.2	1.3	1.8	2.5	[illegible]	1.1	1.6	2.8

† R. K. Crane, "Prediction of Attenuation by Rain", *IEEE Trans. Comm.* vol. COM-28, no. 9, pp. 1717-1733

Table 2.—Parameters for Computing Specific Attenuation: $A = aR^b$, O° C., Laws and Parson Distribution †

Frequency f—GHz	Multiplier a(f)	Exponent [illegible]
1	0.00015	0.95
4	0.00080	1.17
5	0.00138	1.24
6	0.00250	[illegible]
7.5	0.00482	1.25
10	0.0125	1.18
12.5	0.228	1.145
15	0.0357	1.12
17.5	0.0524	1.105
20	0.0699	1.10
25	0.113	1.09
30	0.170	1.075
35	0.242	1.04
40	0.325	[illegible]
50	0.485	[illegible]
60	0.650	[illegible]
70	0.780	0.79
80	0.875	0.753
90	0.935	[illegible]
100	0.965	0.715

† R.K. Crane, "Prediction of Attenuation by Rain", *IEEE Trans. Comm.*, vol. COM-28, no. 9, pp. 1717-1733.

Table 3.—Results of Calculations

Zone	Humidity	Roughness	Rain	Maximum path length: Frequency band (GHz) 2	6	12	18	22
1	0.25	43	[illegible]	70	55	[illegible]	*26	*4
[illegible]	0.25	[illegible]	C	70	55	[illegible]	*21	*3
3	0.25	[illegible]	D1	70	55	[illegible]	*11	*3
[illegible]	[illegible]	43	[illegible]	70	55	[illegible]	*24	*4
[illegible]	1	15	[illegible]	50	40	30	*26	*4
[illegible]	1	15	[illegible]	50	40	30	*21	*3
7	1	15	D1	50	40	[illegible]	*17	*3
[illegible]	1	15	[illegible]	50	40	[illegible]	*14	*3
[illegible]	1	15	[illegible]	50	40	[illegible]	*11	*2
10	1	15	E	50	40	*27	*17	*2
11	1	15	F	50	40	[illegible]	*24	*4
12	1	[illegible]	D3	54	43	[illegible]	*11	*2
13	1	[illegible]	E	54	43	*27	*7	*2
14	1	[illegible]	D2	58	45	33	*14	*3
15	1	[illegible]	D1	58	45	[illegible]	*11	*2
16	1	30	E	58	45	*27	*7	[illegible]
17	4	[illegible]	D1	33	26	21	*11	*3
18	4	[illegible]	[illegible]	33	26	21	*14	*2
19	4	[illegible]	[illegible]	33	26	21	*11	[illegible]
[illegible]	4	[illegible]	E	33	26	21	*7	*2
21	4	15	F	40	33	25	*24	*4

Note: *Rain limited

†† A. Vigants, "Space-Diversity Engineering", *BSTJ* vol. 54, no. 1 (January 1975), pp. 103-142.

Table 4.—Table of Minimum Path Lengths

Zone	Humidity	Roughness	Rain	Minimum Path Length (km)			
				Frequency Band (GHz)			
				[illegible]	[illegible]	12	18
1	0.25	43	B	44	32	21	3
2	0.25	43	C	44	32	17	2
3	0.25	43	D1	44	32	[illegible]	[illegible]
4	0.25	43	F	44	32	19	3
5	1	15	B	32	24	21	3
6	1	15	C	32	24	17	2
7	1	15	D1	32	24	14	2
8	1	15	D2	32	24	11	[illegible]
9	1	15	[illegible]	32	24	9	[illegible]
10	1	15	[illegible]	32	22	14	2
11	1	15	F	32	24	19	3

Table 4.—Table of Minimum Path Lengths—Continued

Zone	Humidity	Roughness	Rain	Minimum Path Length (km)			
				Frequency Band (GHz)			
				2	6	12	18
12	1	20	D3	34	24	9	2
13	1	20	E	34	22	6	2
14	1	30	[illegible]	[illegible]	[illegible]	11	3
15	1	30	D3	36	26	9	2
16	1	30	E	36	22	6	2
17	4	[illegible]	D1	22	17	9	2
18	4	[illegible]	D2	22	17	11	2
19	4	6	D3	22	17	[illegible]	2
20	4	6	E	22	17	[illegible]	2
21	4	15	F	26	20	19	3

TABLE 5.—Equipments Used in Making Calculations

MFG	Model	Emission	Traffic	Frequency [illegible]		Out Pwr (dBm)	Rec Thsld (dBm)
				From (GHZ)	To (GHZ)		
LEN	78F2	17000F9	525 Video	1.99	2.11	36.0	−75.0
CLL	MVR-2S	17000F9	525 Video	1.99	2.11	35.5	−83.1
FRN	FL1-6	10000F9	600 VC	6.525	6.875	27.0	−79.5
LEN	78B3	25000F9	525 Video	6.875	7.125	30.0	−78.0
CLL	MVR-6S	25000F9	525 Video	6.875	7.125	30.0	−82.5
LEN	78E3	19300F9	1260 VC	12.2	12.7	25.0	−69.0
CLL	MDR-12-5	20000F9Y	45.501 MB/S	12.2	12.7	36.0	−70.0
CLL	MVR-12P	20000F9	525 Video	12.2	12.7	26.0	−82.5
FRN	DM12-4A-45	20000A9Y	44.736 MV/S	12.2	12.7	33.0	−72.0
SNC	DMR-12	19500F9Y	18.528 MB/S	12.2	12.7	26.0	−74.0
FRN	SS12000	20000F9	1200 VC	12.2	12.7	27.5	−71.5
LEN	78E3	25000F9	525 Video	12.7	13.25	25.0	−75.0
CLL	MVR-12V	25000F9	525 Video	12.7	13.5	26.0	−82.5
CLL	MVR-12V-1N	12500F9	525 Video	12.7	13.25	24.0	−80.5
HGH	AML-STX-141	5750A5C	525 Video	12.7	13.25	20.0	−65.0
FRN	DM18	20000A9Y	6.312 MB/S	18.36	19.04	18.0	−74.0
SNC	DMR-18A	19500F9Y	18.528 MB/S	18.36	19.04	21.0	−72.0
GE	LSD-112A	16000A9Y	3.152 MB/S	21.8	23.2	13.0	−58.0

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FIGURE 1

Specific Attenuation by Atmospheric Gases

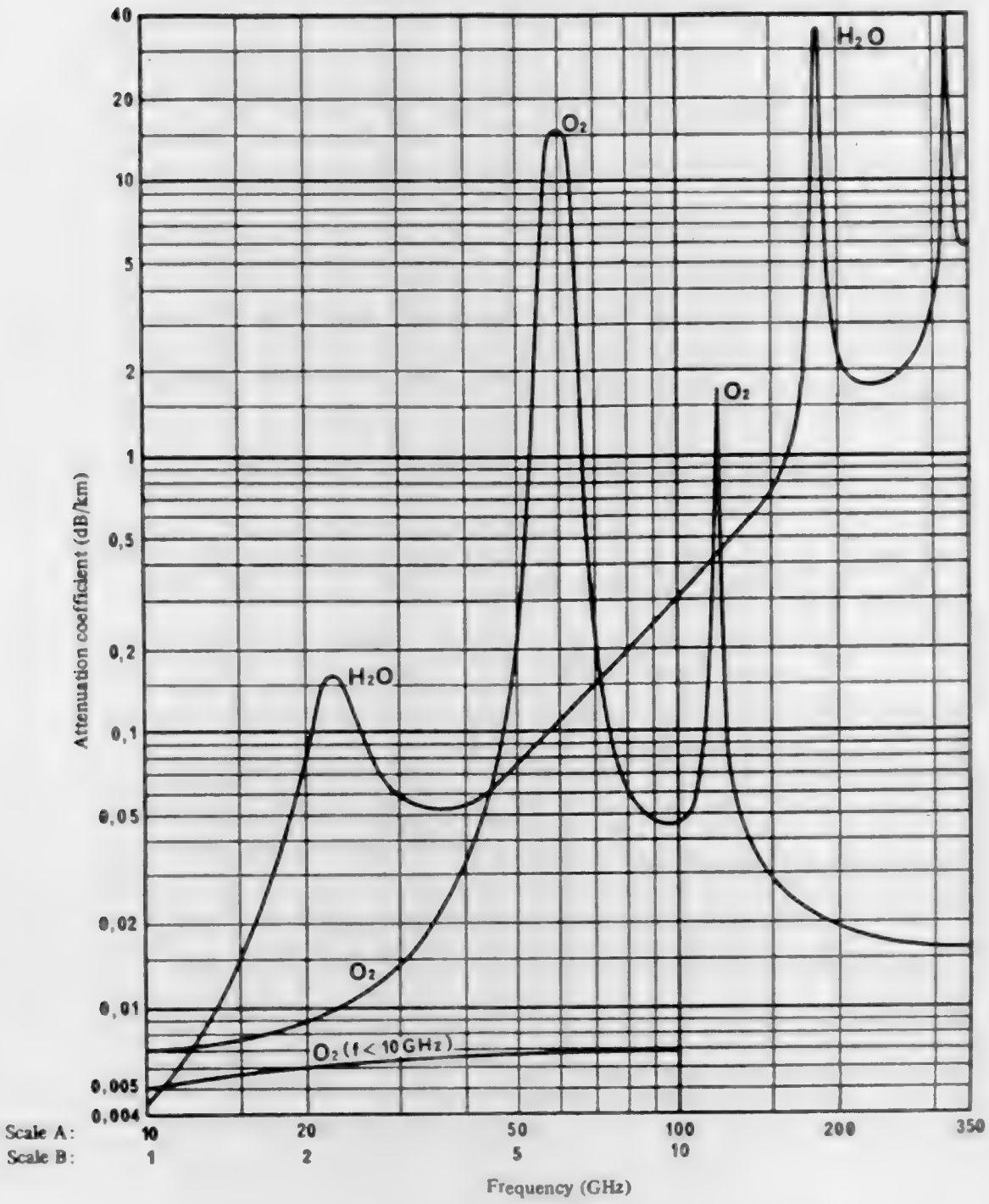

NOTES: (1) Use Scale B for oxygen absorption below 10 GHz.
(2) Pressure 1 atm (1013.6 mb), temperature: 20 °C, and water vapour density: 7.5 g/m^3.

SOURCE: CCIR Report 719, 1978.

FIGURE 2

Rain Rate Climate Regions for the Continental United States

Showing the Subdivisions of Region D †/

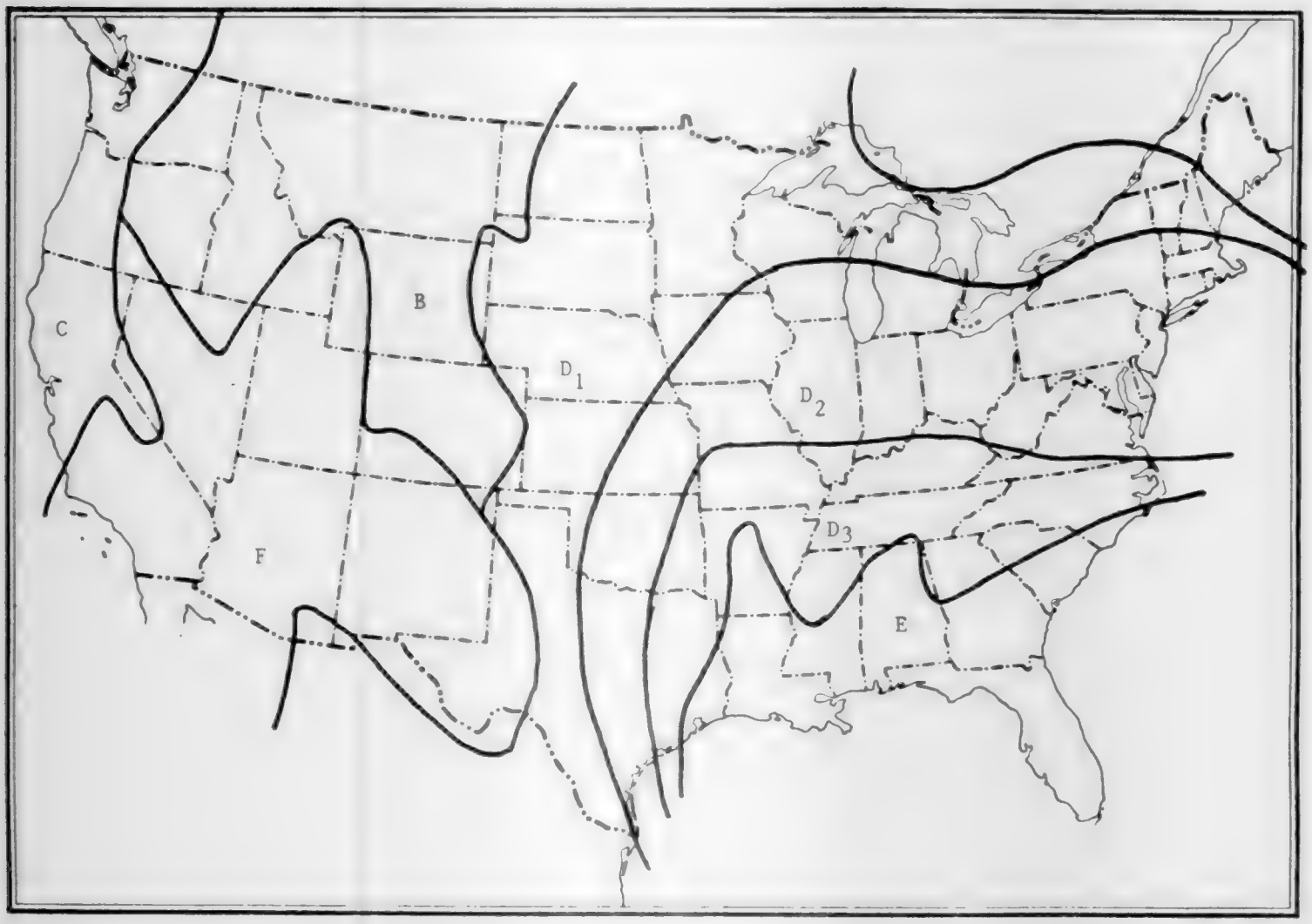

†/R.K. Crane, "Prediction of Attenuation by Rain", IEEE Trans. Comm., vol. COM-28, no. 9, pp. 1717-1733.

FIGURE 3

Humidity Regions for the Continental United States †/

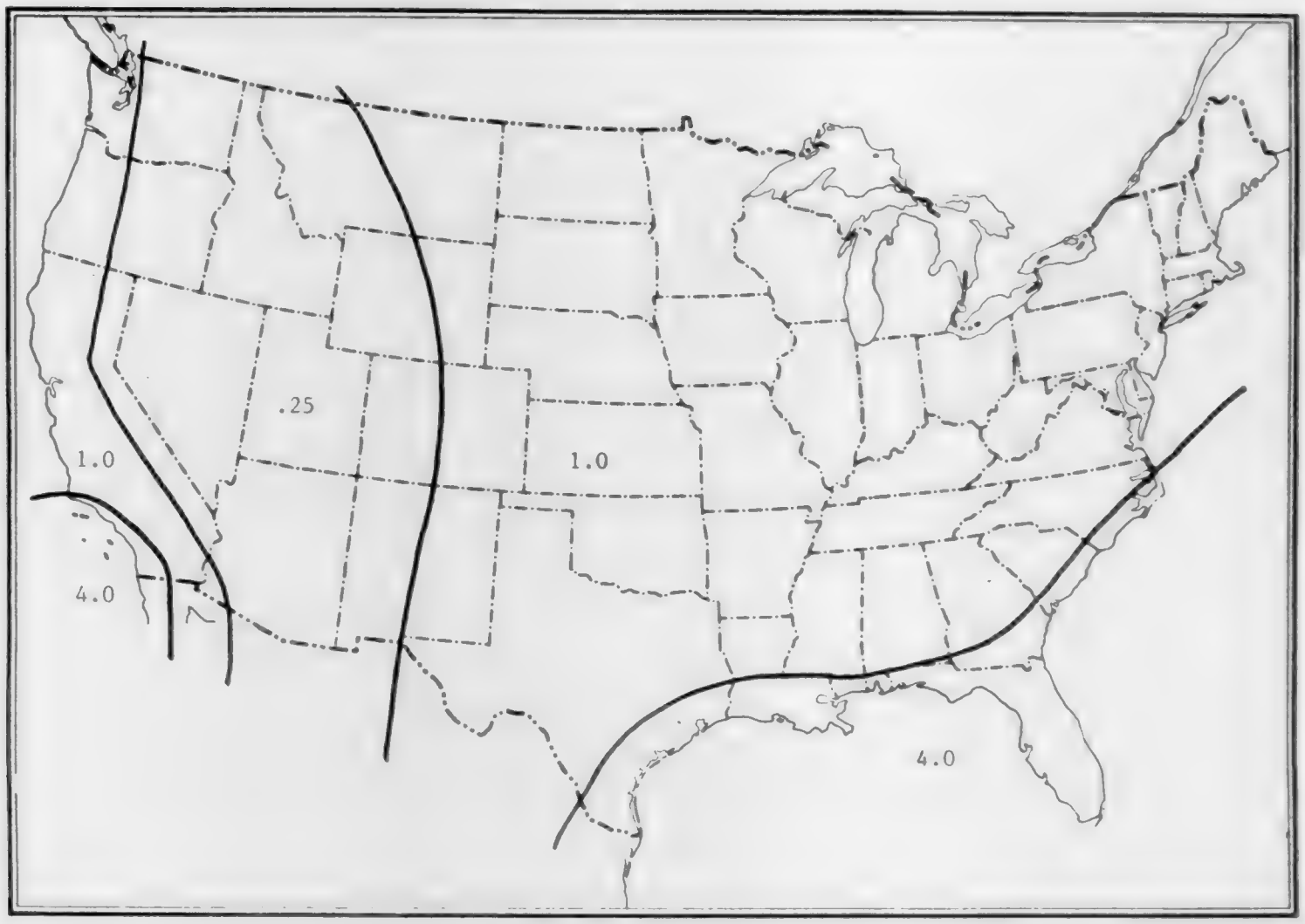

†/A. Vigants, "Space-Diversity Engineering", BSTJ, vol. 54, no. 1 (January 1975), pp. 103-142.

FIGURE 4

Roughness Factor Regions for the Continental United States †/

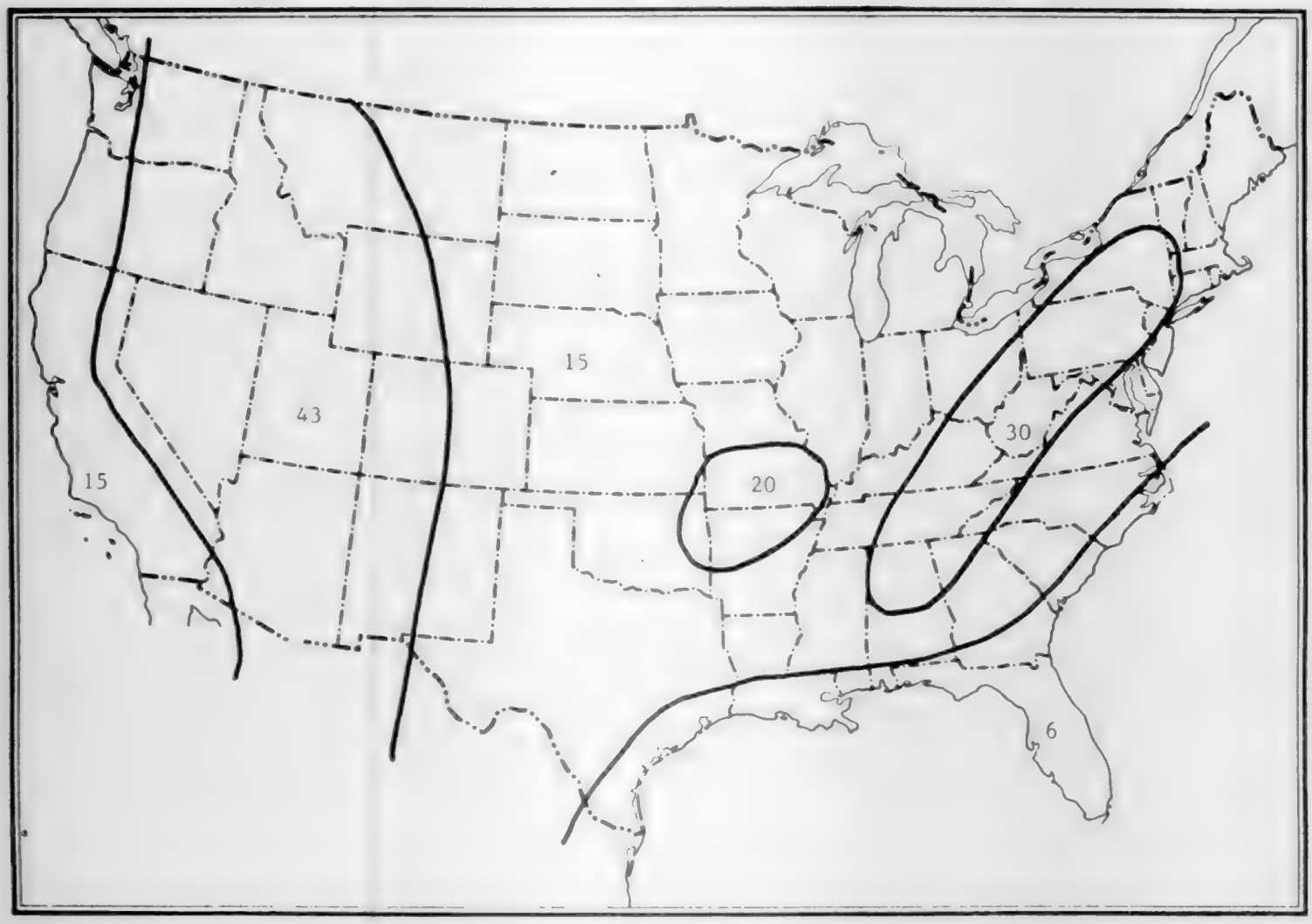

†/Derived from: U.S. Department of the Interior, Geological Survey, Land-Surface Form, Separate Sales Edition, Sheet Number 62, 1969.

FIGURE 5

Composite Propagation Zones

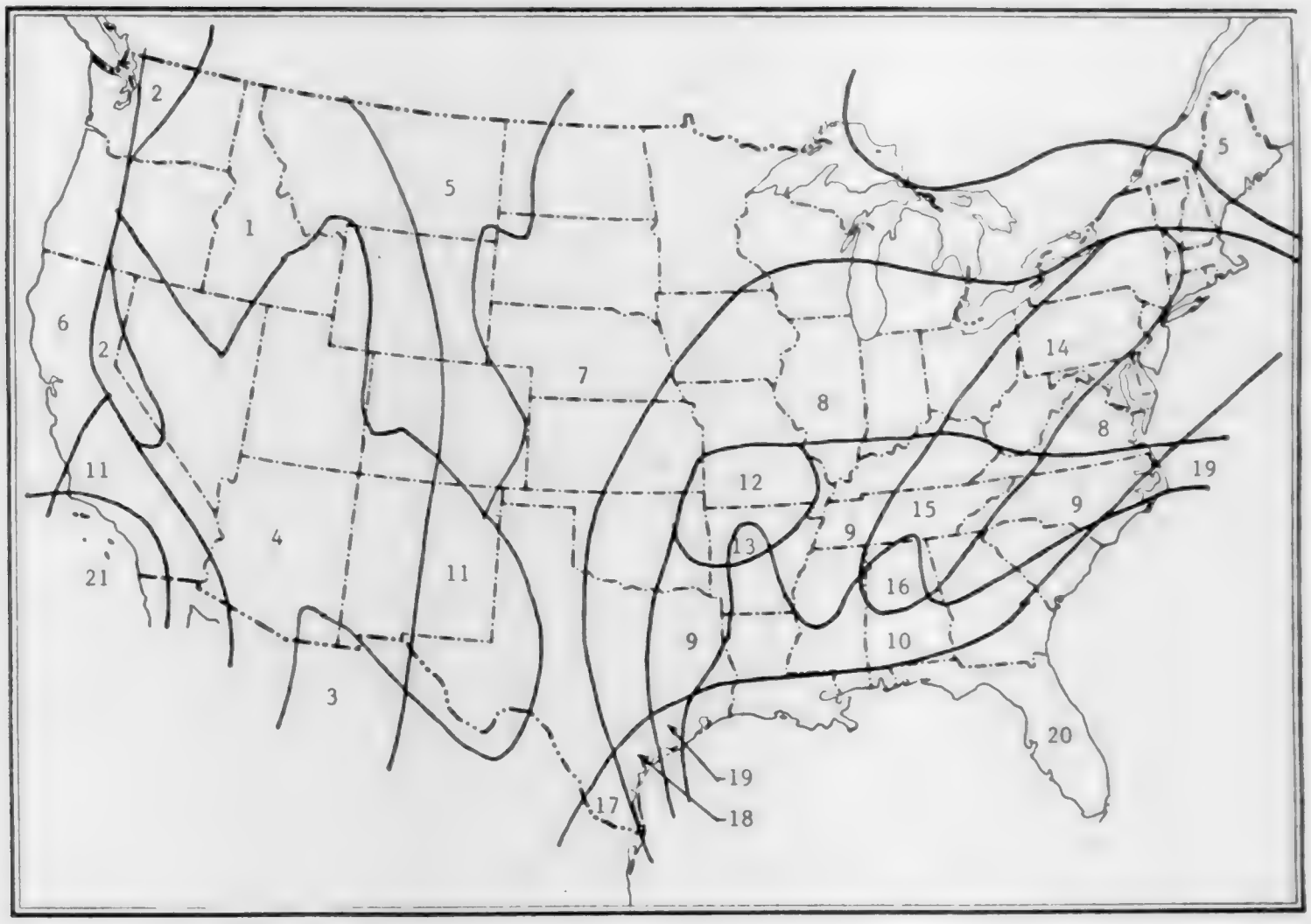

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Zone	Humidity	Roughness	Rain
1	0.25	43	[illegible]
2	0.25	43	C
3	0.25	43	D1
4	0.25	43	F
5	1	15	[illegible]
6	1	15	C
7	1	15	D1
8	1	15	D2
9	1	15	D3
10	1	15	E
11	1	15	F
12	1	20	D3
13	1	20	E
14	1	[illegible]	D2
15	1	30	D3
16	1	30	E
17	4	6	D1
18	4	6	D2
19	4	6	D3
20	4	6	E
21	4	15	F

[FR Doc. 83-2253 Filed 2-15-83, 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Findings on Certain Petitions and Reviews of Status for Several Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of findings on certain petitions and reviews of status.

SUMMARY: The Service reports the initial findings that have been made on substantiality of information for some petitions pending on October 13, 1982, and other petitions received subsequently, as required by the Endangered Species Act Amendments of 1982. Reviews of status for several species commence with this notice.

DATE: Comments may be submitted until further notice.

ADDRESSES: Interested persons or organizations are requested to submit comments to the Associate Director—Federal Assistance, U.S. Fish and Wildlife Service (OES), Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this notice are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION: Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended in 1982, requires that the Service make a finding whether a petition to list or delist a species presents substantial scientific or commercial information that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. Similarly, Section 4(b)(3)(D)(i) of the Act requires a finding within 90 days on a petition to revise Critical Habitat, with prompt publication of the finding. When a positive finding is made on a petition to list or delist a species, the Service is required to promptly commence a review of the status of the species.

Furthermore, Section 2(b)(1) of the 1982 amendments (P.L. 97-304) to the Endangered Species Act requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This makes such past petitions subject to the new requirements of Section 4(b)(3), but provides that such new procedural requirements "shall be deemed to be complied with" if similar pre-amendment requirements were satisfied before the enactment of P.L. 97-304; see Section 2(b)(1). The Service has recently conducted an analysis to consider all pending petitions. We have used the criteria in 50 CFR 424.14 to define and evaluate petitions and to distinguish them from comments. December 28, 1973, when the 1973 Endangered Species Act was enacted, is our starting date for the petition analysis.

Most petitions have already had findings made on the substantiality of their information and status reviews have been initiated when the finding was positive. For example, the December 15, 1980, notice of review (45 FR 82479-82569) is a comprehensive assessment of those native vascular plants that are considered candidates for the Act or that do not qualify. The majority of these plants were in the petitions of the Smithsonian Institution (House Document 94-51, 1975, and E. S. Ayensu and R. A. DeFilipps, Endangered and Threatened Plants of the United States, Smithsonian Institution and World Wildlife Fund, 1978). With respect to requirements of the new Section 4(b)(3)(A), positive findings already have been made for the petitioned taxa in categories 1 and 2 of the 1980 notice, and findings of lack of substantial information have been made for taxa in category 3.

Below is a list of those pending petitions for which findings required by Section 4(b)(3)(A) or 4(b)(3)(D)(i) had not already been made: the administrative record for these findings was completed by January 11, 1983, and the findings are indicated for each taxon. Also listed are several petitions submitted after October 13, 1982, and our findings for them.

EVALUATION OF CERTAIN PETITIONS

Species	Action	Petitioner	Date	Substantial information
Graham's harvestman *Banksula grahami*	List	G. H. Meral	4/07/75	No
Melones harvestman *Banksula melones*	do	do	4/07/75	No.
All Appendix II CITES species	do	S. P. Ross, D. Whittlesey and M. Klepper; Fund for Animals	5/22/75	No.
Black bear in Pennsylvania *Ursus americanus*—Pa. population	do	L. I. Cohen, E. C. Fishman and C. A. Branigan, Fund for Animals	9/76	No
Higgins eye pearly mussel, *Lampsilis higginsi*	Designate critical habitat	Wisconsin Department of Natural Resources	10/06/80	Yes
Sheath-tailed bat *Emballonura semicaudata*	List	P. M. Calvo, Governor of Guam	12/14/81	No
Rufous—fronted lantail, *Rhipidura rufifrons uraniae*	List with critical habitat	do	12/14/81	Yes
Micronesian starling, *Aplonisopaca guami*	do	do	12/14/81	No
Ufa-halomtano *Nembera longipetolata*	do	do	12/14/81	No
Hayun lagu *Senanthes nelsonii*	do	do	12/14/81	Yes.
Tsatsa, *Cyathea lunulata*	do	do	12/14/81	No
Ozark cavefish *Amblyopsis rosae*	List	A. V. Brown	9/09/82	Yes.
Alabama beach mouse *Peromyscus polionotus ammobates*	do	D. C. Holliman	10/26/82	Yes.
Southern sea otter *Enhydra lutris nereis*	Reclassify from threatened to endangered.	L. van de Velde	11/07/82	No
Three kangaroos *Macropus rufus, M. giganteus,* and *M. fuliginosus*	Delist	Australian Government	11/10/82	Yes
San Francisco tree lupine moth *Grapholitha edwardsiana*	List	R. A. Arnold and J. A. Powell	11/28/82	Yes
Larch Mountain salamander *Plethodon larselli*	do	Aku	12/08/82	No

For three taxa in this list the required status reviews began with our December 30, 1982, vertebrate notice of review (47 FR 58454–58460); these taxa are *Rhipidura rufifrons uraniae, Amblyopsis rosae,* and *Peromyscus polionotus ammobates*. The reviews of status for the plant *Serianthes nelsoii* (Guam, Rota; category 1; Fabaceae), the moth *Grapholitha edwardsiana* (California), and the three listed kangaroos (50 CFR 17.11) commence with this notice; the December 15, 1980, notice of review on plants (45 FR 82479) is supplemented with the addition of *Serianthes nelsonii*.

The Service hereby solicit data concerning these five species now under notice of review. Especially sought is information regarding taxonomy, distribution, any recommended Critical Habitat for the native species, and threats to the five species. Comments received will be considered in any future actions for the taxa.

By October 13, 1983, the Service must decide whether the petitioned action is warranted for petitions that were pending on October 13, 1982, and for which findings of substantial information have been made, in accord with Sections 4(b)(3)(B) and 4(b)(3)(D)(ii) of the Act, as amended. For such petitions received since October 13, 1982, the decision required within 12 months of the receipt of the petition.

The notice was prepared by Dr. Bruce MacBryde in the Service's Office of Endangered Species in Washington (703/235–1975), with evaluations by appropriate staff biologists in the Washington Office and Endangered Species Program staff of the Service's Regional Office and Field Stations.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Part 17 Authority

This notice is published under the authority contained in the Endangered Species Act of 1973, as amended:

(Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*))

Dated: February 8, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–3983 Filed 2–14–83; 8:45 am]

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Notices

Federal Register
Vol. 48, No. 32
Tuesday, February 15, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Exploration/Research) to the National Council on the Arts will be held on March 1, 1983 from 9:00 a.m.–6:00 p.m. in room 1422, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–4016 Filed 2–14–83; 8:45 am]

BILLING CODE 7537–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Pig Iron From Brazil; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on pig iron from Brazil. The review covers the period November 26, 1979 through December 31, 1980. As a result of the review, the Department has preliminarily determined the amount of the net subsidy to be 20.72 percent of the f.o.b. invoice price of the merchandise for the period November 26, 1979 through December 6, 1979, and 5.52 percent for the period December 7, 1979 through December 31, 1979, and 4.39 percent for the period January 1, 1980 through December 31, 1980. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Edward F. Haley or Larry T. Hampel, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On November 26, 1979, the Department of the Treasury ("Treasury") published in the **Federal Register** (44 FR 67554) a final countervailing duty determination concerning pig iron from Brazil. Effective that date, Treasury suspended liquidation of entries of the merchandise.

On April 4, 1980, the Department of Commerce ("the Department") published in the **Federal Register** (45 FR 23045) a countervailing duty order on the merchandise. The Department continued the suspension of liquidation and required a cash deposit of estimated countervailing duties on subsequent entries.

The Department published in the **Federal Register** of March 16, 1981 (46 FR 16921) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders, including Brazilian pig iron, not listed in any previous intent to review notice. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted an administrative review of the countervailing duty order on pig iron from Brazil.

Scope of the Review

The merchandise covered by the review is merchant pig iron of basic, foundry, malleable, and low phosphorous grades, imported directly or indirectly from Brazil. Such imports are currently classifiable under item 606.1300 of the Tariff Schedules of the United States Annotated.

The review covers the period November 26, 1979 through December 31, 1980 and four programs found countervailable in the original investigation: preferential financing for exports, income tax exemptions for export earnings, the IPI export credit premium, and export financing under Resolution 331. The review also covers seven additional programs that Treasury found were not used during the original investigatory period.

The Brazilian government provided insufficient information for the period November 26, 1979 through December 31, 1979. The Department therefore relied on information presented for the period January 1, 1980 through December 31, 1980 as the best information available. There were 22 known Brazilian exporters of this merchandise to the United States in 1980. The review is based on information covering 15 of those exporters, whose shipments represented 80 percent of Brazilian exports to the United States during 1980.

Analysis of Programs

(1) *Preferential Financing for Exports.* Under this program companies are declared eligible by the Department of Foreign Commerce of the Banco Central do Brasil ("CACEX") to receive working capital loans. These loans have a duration of up to one year. Each firm producing pig iron can obtain preferential financing for up to 20 percent of the value of its previous year's exports.

We calculated the subsidy under this program for 1980 by multiplying the value of loans outstanding under the program during 1980 by the differential between the commercial interest rate and the preferential interest rate for each loan. For loans granted prior to the period, only that portion extending past January 1, 1980 was included in our Calculation. We similarly prorated loans extending past December 31, 1980. For the period November 26, 1979 through December 31, 1979, we calculated the subsidy by multiplying the loan utilization rate for 1980 by the weighted-average loan rate differentials in effect during the period November 27, 1978 through December 31, 1979.

The commercial rate for short-term working capital is the rate established by the Banco do Brasil for discounting sales of accounts receivable. We chose this as the benchmark rate because information provided by the Government of Brazil indicates that working capital is normally raised within the Brazilian financial system through the sale of accounts receivable. The commercial rate includes the tax on financial transactions, from which loans under the preferential financing program are exempt, and varied from 25.08 to 37.98 percent during the period November 27, 1978 through December 31, 1980.

During 1980, firms exporting pig iron had loans outstanding under Resolutions 515 (effective February 8, 1979), 583 (effective December 7, 1979), 602 (effective March 5, 1980), and 641 (effective October 22, 1980) of the Banco Central do Brasil. The effective annual rate for loans taken out under these resolutions ranged from 8.70 percent to 31.75 percent, and the differential between the commercial and preferential rates ranged from 3.50 percent to 17.50 percent. We calculated the benefit conferred by the program for the period November 26, 1979 through December 31, 1979 to be 3.49 percent *ad valorem* and 2.36 percent *ad valorem* for 1980.

With the publication of successor Resolution 674, effective January 22, 1981, there was an increase in potential benefits under the program. The effective rate of interest for loans under this resolution is 44 percent. The comparable rate for discounting sales of accounts receivable is 59.60 percent plus the 6.90 percent tax on financial transactions. The differential is 22.50 percent.

To estimate the potential benefit and cash deposit of estimated countervailing duties for this program, we summed the prorated value of loans outstanding during 1980, and found an actual utilization rate of 21.84 percent. We then multiplied the differential between the new benchmark commercial and preferential interest rates by the loan utilization rate to find a potential benefit under this program of 4.91 percent *ad valorem*.

(2) Income Tax Exemptions for Export Earnings. Exporters of pig iron are eligible under this program for exemption from income tax of the percentage of profit attributable to export revenue. The Brazilian government calculates the tax-exempt fraction of profit as the ratio of export revenue to total revenue. The benefit equals the product of the amount of tax-exempt profit and the prevailing 35 percent corporate income tax rate. We preliminarily determine the benefit from this program to be 2.03 percent *ad valorem* for the period.

(3) IPI Export Credit Premium. The Brazilian government eliminated the IPI export credit premium on December 7, 1979, but reinstated it on April 1, 1981. Therefore, this program provided no benefit during the period December 7, 1979 through December 31, 1980. For the period November 26, 1979 through December 6, 1979, however, we preliminarily determine the benefit to be 15.2 percent *ad valorem*, the rate established for this program in the final countervailing duty determination. Currently, the Government of Brazil collects a tax on exports of pig iron to the U.S. which fully offsets the benefit received under this program. Therefore, for purposes of the cash deposit of estimated countervailing duties, the potential subsidy under this program is zero percent.

(4) Export Financing Under Resolution 331. Resolution 331 is a set of rules and regulations established by the Brazilian government enabling banks, for export transactions, to discount accounts receivable denominated in foreign currency. Beyond establishing these enabling rules, the government has no further involvement. The rules do not affect the setting of discount rates on such loans. Banks that act as intermediaries in export transactions operate under the rules if they choose to do such discounting.

In the final determination Treasury found that this program was a subsidy by comparing the discount rate for foreign currency accounts receivable to the discount rate for cruzeiro-denominated accounts receivable. The facts before us now indicate that such a comparison is inappropriate. Cruzeiro rates are not a proper basis for judging whether discount rates for hard currency receivables confer any benefit. Market rates for the hard currency in question provide the correct basis for comparison.

The Government of Brazil provides no funds to banks to enable them to discount such receivables, nor does it establish the discount rates. The rate of discount reflects commercial considerations of the banks themselves. As such, we preliminarily determine that the discounting of foreign exchange accounts receivable under the rules of Resolution 331 does not constitute a subsidy.

(5) Other Programs. Treasury found seven additional programs were not used during the original investigatory period. We preliminarily find that those programs were not used during the review period. The programs are:

(1) Excessive remission on export of indirect taxes other than IPI.

(2) Preferential export financing provided under Resolution 68.

(3) Preferential financing provided for the storage of goods under Resolution 330.

(4) Special tax credits available to firms located in Brazil's less developed regions.

(5) Accelerated depreciation for plant and equipment manufactured in Brazil.

(6) Exemption from payment of duties and value-added taxes on plant and equipment imported for the production of pig iron for export.

(7) Benefits under the "Entreposto Aduaneiro" system, which permits small producers of manufactured products to receive both a remission of the IPI tax and tax credits immediately upon the sale of a product to licensed trading companies, rather than at the time of export.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the aggregate net subsidy conferred during the period November 26, 1979 through December 6, 1979, is 20.72 percent *ad valorem*, 5.52 percent *ad valorem* for the period December 7, 1979 through December 31, 1979, and 4.39 percent *ad valorem* for the period January 1, 1980 through December 31, 1980. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 20.72 percent of the f.o.b. invoice price on all shipments of Brazilian pig iron entered, or withdrawn from warehouse, for consumption on or after November 26, 1979, and exported prior to December 7, 1979. For merchandise exported on or after December 7, 1979 through December 31, 1979, and for merchandise exported on or after January 1, 1980 through December 31, 1980, the

Department will instruct the Customs Service to assess countervailing duties of 5.52 and 4.39 percent, respectively, of the f.o.b. invoice price.

Further, as provided by section 751(a)(1) of the Tariff Act, we intend to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 6.94 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclsoure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: February 10, 1983.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-4056 Filed 2-14-83; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determination; Galvanized Steel Wire Strand From South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determination.

SUMMARY: We have preliminarily determined that there is reason to believe or suspect that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in South Africa of galvanized steel wire strand, as described in the "Scope of Investigation" section of this notice. We estimate the amount of the benefits to be 23 percent of the f.o.b. value of the merchandise.

Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and to require a cash deposit or bond in the amount equal to the estimated bounties or grants.

If this investigation proceeds normally, we will make our final determination by April 26, 1983.

EFFECTIVE DATE: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-3965.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we have preliminarily determined that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in South Africa of galvanized steel wire strand, as described in the "Scope of Investigation" section of this notice. We find the net bounty or grant to be 23 percent *ad valorem*, consisting of the following benefit amounts:

- Export incentive program—category A—0.0%
- Export incentive program—category B—0.0%
- Export incentive program—category D—3.5%
- Iron/Steel Export Promotion Scheme—19.5%

Case History

On November 17, 1982, we received a petition from counsel for Bethlehem Steel Corporation, Florida Wire and Cable Company, and Indiana Steel and Wire Company. These companies produce galvanized steel wire strand. The petition alleged that manufacturers, producers, or exporters in South Africa of galvanized steel wire strand receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. We found the petition to be sufficient, and on December 7, 1982, we initiated a countervailing duty investigation (47 FR 55988).

Since South Africa is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise under investigation is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to the U.S. industry in question.

We presented a questionnaire in Washington, D.C., to the South African government on December 17, 1982. We received its response on January 17, 1983.

Scope of Investigation

For the purpose of this investigation, the term "galvanized steel wire strand" includes aluminum conductor steel reinforced (ACSR) core strand (except stainless) and other zinc coated steel wire strand currently provided for in items 642.1142 and 642.1144 of the *Tariff Schedules of the United States Annotated.*

Haggie Limited is the only known producer and/or exporter of the galvanized steel wire strand exported to the United States from South Africa.

Analysis of Programs

The period for which subsidization is being measured is the corporate fiscal year ending December 31, 1982. In its respose to our questionnaire, the government of South Africa and Haggie Limited provided data for three quarters of this period.

Based upon our analysis to date of the response and petition, we have preliminarily determined the following:

I. *Programs Preliminarily Determined To Confer Bounties or Grants to Manufacturers, Producers, or Exporters of Galvanized Steel Wire Strand.* We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in South Africa of galvanized steel wire strand under the programs listed below:

Export Incentive Program

The South African Department of Industries, Commerce and Tourism has a four-part general export incentive program, three parts of which Haggie Limited used in 1982. These three are described below.

Category A. This program consists of a 50 percent deduction from income tax for the customs duty paid on imported raw materials used in the production of exported merchandise. Apparently there are dutiable imported raw materials used in the production of galvanized steel wire strand manufactured in South Africa because Haggie has applied for a benefit on exports to the U.S. of this material. Whether this program provides a benefit which constitutes a bounty or grant depends on whether or not the

potential benefits exceed the duties paid. In the current absence of information on this point, we must assume that they do. Therefore, we preliminarily determine that the government of South Africa through this Category A tax credit program provides a benefit which constitutes a bounty or grant. For programs involving income tax benefits, the Department generally determines the value of the bounty or grant by the value of the benefit received during the period for which subsidization is being measured. Haggie Limited has applied for, but not yet received any benefits under this program. Therefore, although we preliminarily determine the program to confer a bounty or grant, we find the estimated net bounty or grant for the period for which we are measuring subsidization to be 0.0 percent *ad valorem.*

Category B. This program consists of a credit against income taxes of 10 percent of the value-added component of the exported merchandise if there is a South African import duty on such merchandise. There is an import duty on galvanized steel wire strand. The value-added component is calculated by taking the average f.o.b. sales price per ton, increasing it by the rebate received under the Iron/Steel Export Promotion Scheme (see below), and subtracting the average raw materials costs. This figure is then multiplied by 10 percent to obtain the amount of the credit. We preliminarily determine that the government of South Africa through this Category B tax credit program provides a benefit which constitutes a bounty or grant. For programs involving income tax benefits, the Department generally determines the value of the bounty or grant by the value of the benefit received during the period for which subsidization is being measured.

Haggie Limited has applied for, but not yet received any benefits under this program. Therefore, although we preliminarily determine the program to confer a bounty or grant, we find the estimated net bounty or grant for the period for which we are measuring subsidization to be 0.0 percent *ad valorem.*

Category D (Export Marketing Assistance Program). This program consists of a deduction from taxable income of between 175 and 200 percent of export market development expenses. In a previous investigation of steel wire rope, we found that Haggie Limited was eligible for the full deduction of 200 percent. We preliminarily determine that the government of South Africa through this Category D tax deduction program provides a benefit which constitutes a bounty or grant. In this case, the measure of the benefit is three quarters of the deduction credited to Haggie in 1982 for 1980 marketing expenses allocable to sales made to the United States. This figure was divided by the total value of exports of galvanized steel wire strand to the United States in the first three quarters of 1982. The result is a benefit of 3.5 percent *ad valorem.*

Iron/Steel Export Promotion Scheme

The Iron/Steel Export Promotion Scheme rebates a fixed percentage of the f.o.b. value of exports containing rolled, drawn, or forged steel to secondary producers if the exported product meets a value-added criterion. It is administered by the South African Iron and Steel Industrial Corporation. The Department considers the scheme to have provided an export subsidy, and therefore a countervailable bounty or grant under section 303(a)(1) of the Act. Section 771(5) of the Act equates "subsidy" with "bounty or grant" and provides illustrative examples of subsidies. In the legislative history of the Act, the Senate Finance Committee in discussing section 771(5) said: "As under current law . . . a subsidy may be provided either by a government or governmental entity, subdivision, or customs union, or by a private party or group of private parties."

Primary steel producers in South Africa manage a special fund levied at a rate of 4 Rand per ton of steel sold in the domestic market. The South African government does not contribute to this fund. Direct payments from the fund are provided to exporters of fabricated articles containing iron or steel. The current value of the assistance is 19.5 percent of the f.o.b. value of the exported fabricated steel products. We have determined that the Iron/Steel Export Promotion Scheme provides a benefit which constitutes a bounty or grant. We have found that Haggie Limited takes full advantage of this program on its exports of galvanized steel wire strand.

II. *Programs Preliminarily Determined Not to Confer Bounties or Grants to Manufacturers, Producers, or Exporters of Galvanized Steel Wire Strand.* We preliminarily determine that no bounties or grants are being provided to manufacturers, producers or exporters in South Africa of galvanized steel wire strand under the programs listed below:

Employee Training Programs

The South African Department of Manpower certifies training programs to the taxing authority which allow businesses to deduct 200 percent of qualified training expenses for income tax purposes. The Department of Manpower has demonstrated that all qualified training programs are available to all companies and industries and that they are neither restricted to certain sectors of the economy nor preferential to exporters. Therefore, the training programs are preliminarily determined not to confer bounties or grants.

Bounties or Grants to the South African Iron and Steel Corporation (ISCOR)

In the investigation of "Certain Steel Products from South Africa", we determined that ISCOR receives bounties or grants within the meaning of the countervailing duty law (47 FR 39379). In our "Final Affirmative Countervailing Duty Determination on Certain Steel Products from Germany", we wrote:

> As we stated in Appendix B to "Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products from Belgium" reached on June 10 (47 FR 26309), benefits bestowed upon the manufacturer of an input do not flow down to the purchaser of that input if the sale is transacted at arm's length. In an arm's length transaction, the seller generally attempts to maximize its total revenue by charging as high a price and selling as large a volume as the market will bear (47 FR 39351).

Haggie purchases its steel rod at arm's length from ISCOR, to which it is not related. Therefore, subsidies to ISCOR are preliminarily determined not to confer bounties or grants.

III. *Programs Preliminarily Determined Not To Be Used By Manufacturers, Producers, or Exporters of Galvanized Steel Wire Strand.* We preliminarily determine that the following programs are not used by the manufacturers, producers or exporters in South Africa of galvanized steel wire strand.

- Reduced railroad rates
- Beneficiation allowances for base mineral processing, and
- Homeland development.

IV. *Programs Preliminarily Determined To Be No Longer In Existence.* We preliminarily determine that the following program is no longer in existence.

Export Incentive Program—Category C (Finance Charges Aid Scheme)

The South African government provided for a tax-free rebate to certain firms increasing the value of their exports of manufactured goods. The rebate was equal to 25 percent of the interest costs for financing exports.

Haggie Limited benefitted from this program in 1981. However, the program was discontinued on April 1, 1982. There is little likelihood that there are any exports of the subject merchandise shipped prior to that date, but not yet entered. Therefore, the benefit that Haggie received for this program in the first quarter of 1982 is not included in the calculation of total estimated bounties or grants.

No other programs alleged in the petition were found to constitute bounties or grants.

Verification

In accordance with section 776(a) of the Act, we will verify the information relied upon for our final determination.

Suspension of Liquidation

We are directing the U.S. Customs Service to suspend liquidation of all entries of galvanized steel wire strand from South Africa which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond in the amount equal to 23 percent of the f.o.b. value of the merchandise.

Public comment

In accordance with section 355.35 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on March 16, 1983, at the U.S. Department of Commerce, Room 3080, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by March 9, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.43, within thirty days of this notice's publication, at the above address and in at least ten copies.

Dated: February 9, 1983.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-3977 Filed 2-14-83; 8:45 am]

BILLING CODE 3510-25-M

Incentives/Disincentives Subcommittee of the President's Export Council; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The President's Export Council was initially established by Executive Order 11753 of December 20, 1973. The Council was reconstituted by Executive Order 12131 of May 4, 1979, and continued by Executive Order 12258 of December 31, 1980 and 12399 of December 31, 1982. The Council's purpose is to advise the President on matters relating to United States export trade. The Incentives/Disincentives Subcommittee was formed by the Council to study, and make recommendations on, incentives and disincentives to export trade.

TIME AND PLACE: March 1, 1983, from 10:00 a.m.–2:30 p.m. The meeting will be held at the Department of Commerce, 14th & Constitution Avenue NW., Room 4830, Washington, D.C. 20230.

AGENDA: Opening Remarks. Reports on: Extraterritoriality, DISC, Current trade legislation. discussion on future subcommittee projects and current trade issues.

PUBLIC PARTICIPATION: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Writtern statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OR THE MINUTES CONTACT: Elisabeth Vermily, Room 3213. U.S. Department of Commerce, Washington, D.C. 20230. Telephone: (202) 377–1125.

Dated: February 10, 1983.

Henry Misisco.

Acting Director, Office of Policy and Coordination.

[FR Doc. 83-3978 Filed 2-14-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration National Marine Fisheries Service; Notice of Issuance of Permit

On January 1, 1983, Notice was published in the **Federal Register** (48 F.R. 478), that an application had been filed with the National Marine Fisheries Service by the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, for a permit to take up to 120 northern elephant seals (*Mirounga angustirostris*) for the purpose of scientific research.

Notice is hereby given that on February 8, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Scientific Research Permit to the Southwest Fisheries Center for the above taking subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: February 8, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-4070 Filed 2-14-83; 8:45 am]

BILLING CODE 3510-22-M

United States Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on March 3, 1983, at 10:00 am in Room 6802 of the Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Public Law 97–63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans. A detailed agenda will be published in

the **Federal Register** in advance of the meeting.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Christine Hathaway, Committee Control Officer, United States Travel and Tourism Administration, Room 1865, U.S. Department of Commerce, Washington, D.C. 20230 (telephone: 202/377–0136) will respond to public request for information about the meeting.

Peter McCoy,

Under Secretary for Travel and Tourism.

[FR Doc. 83–4052 Filed 2–14–83; 8:45 am]

BILLING CODE 3510–11–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Chief of Engineers Environmental Advisory Board Meeting

ACTION: Notice of Open Meeting.

SUMMARY: Under Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463) this notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Chief of Engineers Environmental Advisory Board (EAB) Meeting. The meeting is to be jointly chaired by Mr. Gerald J. McLindon, Chairman, EAB, and Lieutenant General J. K. Bratton, Chief of Engineers, U.S. Army. The meeting is open to the public.

DATE: The meeting will be held from 8:15 a.m., Tuesday, 1 March 1983, to 10:00 a.m., Thursday, 3 March 1983.

PLACE: The meeting will be held at the Casey Building, Ft. Belvoir, Virginia 22060

FOR FURTHER INFORMATION CONTACT: Lieutenant Coloinel Thomas H. Magness, III, Assistant Director of Civil Works for Environmental Programs, or 1st Lieutenant Kevin A. Doxey, Office of the Chief of Engineers, Washington, D.C. 20314, (202) 272–0103.

SUPPLEMENTARY INFORMATION: The schedule and proposed agenda of the Environmental Advisory Board meeting is:

1 March—Tuesday—A.M. Session

8:15—Meeting convened—opening remarks
9:00—Old business
10:30—Overview of dredging program
11:30—Overview of legislation and trends

P.M. Session

1:00—Overview of research
1:15—Dredged Material Research Program (DMRP)
1:45—Dredging Operations Technical Support (DOTS) program
2:15—Long-term Effects of Dredging Operations (LEDO)
3:00—Field Verification Program
4:00—Dredging contaminated sediments
4:15—Beneficial uses
5:00—Wrap-up
5:15—Meeting recessed

2 March—Wednesday—A.M. Session

8:15—Overview of workshops
8:30—Workshops convene to discuss beneficial uses of dredged material, field practices and problems, and long-range planning.

P.M. Session

1:00—Workshops continue
3:30—Workshop wrap-up
5:00—Meeting recessed

3 March—Thursday—A.M. Session

8:15—EAB reports to Chief of Engineers
9:15—Chief of Engineers response
10:00—Meeting adjourned

Kevin Doxey,

Executive Director, Environmental Advisory Board.

[FR Doc. 83–4051 Filed 2–11–83; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportaion Allowance Committee, Defense.

ACTION: Publication of Changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 117. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 117 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: February 7, 1983.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States.

Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follow:

CIVILIAN PERSONNEL PER DIEM BULLETIN NUMBER 117

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: TABLE OF MAXIMUM PER DIEM RATES IN LIEU OF SUBSISTENCE FOR UNITED STATES GOVERNMENT CIVILIAN OFFICERS AND EMPLOYEES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTH OF PUERTO RICO AND POSSESSIONS OF THE UNITED STATES

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated 17 August 1966, subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 116 except for the cases identified by an asterisk which rates are effective on the date of this Bulletin.

3. Each Department of Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$12.60
Anaktuvuk Pass	140.00
Anchorage	89.00
Barrow	169.00
Bethel	114.00
College	87.00

Locality	Maximum rate
Cardova	109.00
Deadhorse	142.00
Dillingham	103.00
Dutch Harbor	[illegible]
Eielson AFB	97.00
Elmendorf	89.00
Fairbanks	97.00
Ft. Richardson	[illegible]
Ft. Wainwright	97.00
Juneau	97.00
Ketchikan	96.00
Kodiak	103.00
Kotzebue	109.00
Murphy Dome	97.00
Noatak	109.00
Nome	110.00
Noorvik	109.00
Petersburg	[illegible]
Point Hope	100.00
Prudhoe Bay	142.00
*Shemya AFB [1]	12.75
Shungnak	109.00
Sitka-Mt. Edgecombe	[illegible]
Skagway	[illegible]
Spruce Cape	103.00
Tanana	110.00
Valdez	[illegible]
Wainwright	79.00
Wrangell	[illegible]
All Other Localities	[illegible]
*American Samoa	75.00
Guam M.I	74.00
Hawaii:	
Oahu	91.00
All Other Localities	67.00
Johnston Atoll [2]	19.10
Midway Islands [2]	12.60
Puerto Rico:	
Bayamon:	
12-16—5-15	119.00
5-16—12-15	[illegible]
Carolina:	
12-16—5-15	119.00
5-16—12-15	88.00
Fajardo (Including Luquillo):	
12-16—5-15	119.00
5-16—12-15	[illegible]
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	119.00
5-16—12-15	[illegible]
Ponce (Incl. Ft. Allen NCS)	72.00
Roosevelt Roads:	
12-16—5-15	119.00
6-16—12-15	[illegible]
Sabana Seca:	
12-16—5-15	119.00
5-16—12-15	[illegible]
San Juan (Incl. San Juan Coast Guard Units):	
12-16—5-15	119.00
5-16—12-15	[illegible]
All Other Localities	[illegible]
Virgin Islands of U.S.:	
12-1—4-30	113.00
5-1—11-30	[illegible]
Wake Island [2]	15.00
All Other Localities	[illegible]

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska—when Government quarters are not utilized, and quarters are obtained at the Simone Construction, Inc. camp, a daily travel per diem allowance of $71.50 is prescribed to cover the cost of lodging, meals, and incidental expenses at this facility.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

February 10, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83-4065 Filed 2-14-83; 8:45 am]

BILLING CODE 3810-01-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, February 23, 1983, beginning at 1:30 p.m. The hearing will be a part of the Commission's regular February business meeting, which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation beginning at 11:00 a.m.

The hearing, meeting and conference will be held in the Rembrandt Peal Room of the Holiday Inn, 18th and Market Streets, Philadelphia, Pennsylvania.

The subjects of the hearing will be as follows:

A. *Current Expense and Capital Budgets.* A proposed current expense budget for the fiscal year beginning July 1, 1983, in the aggregate amount of $1,933,700, and a capital budget for the same period in the amount of $27,000. Copies of the current expense and capital budget are available from the Commission on request.

B. *Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11, and/or Section 3.8 of the Compact:* 1. *Keystone Water Company—Yardley District (D–79–16 CP).* A surface water withdrawal to serve the applicant's distribution system. The proposed maximum diversion will be 4.0 million gallons per day (mgd), an increase of 2.0 mgd over the existing withdrawal. The intake will be located at River Mile 137.28 on the Delaware River in Lower Makefield Township, Bucks County, Pennsylvania. This hearing continues that of January 26, 1983.

2. *Old Craigsville Television Association (D–82–46).* An overhead cable crossing to provide improved television reception for area homes on the East Bank of the Delaware River, near Handsome Eddy, New York. The proposed crossing will extend for a distance of approximately 900 feet from Lumberland Township, Sullivan County, New York, across the Delaware River to Shohola Township, Pike County, Pennsylvania. The crossing will be located approximately three miles downstream from the Town of Barryville, New York, and will be located in the Upper Delaware Wild and Scenic River area. This hearing continues that of January 26, 1983.

3. *Borough of Weatherly (D–80–80 CP).* A well water supply project to augment public water supplies in the Borough of Weatherly, Carbon County, Pennsylvania. Designated as Well No. 3, the new facility is expected to be utilized at an average rate of 95,000 gallons per day.

4. *W. R. Grace & Company (D–82–31).* A well project to supply about 0.13 mgd of water to the W. R. Grace paper manufacturing plant in the Borough of Quakertown, Bucks County, Pennsylvania. The project will relieve the Borough of its need to supply water to the plant. Cooling water will be returned to the ground waters with a separate injection well.

3. *Lackawaxen Water and Sewer Company (D–81–62 CP).* A ground water withdrawal project to provide additional public water supplies at the Masthope Rapids and Falling Waters at Masthope vacation home subdivisions in Lackawaxen Township, Pike County, Pennsylvania. New Well No. 3 and existing Wells Nos. 1 and 4 are expected to supply an average of 0.163 mgd of water within five years.

6. *U.S. Environmental Protection Agency (D–83–2).* A temporary industrial waste treatment project at the abandoned Bridgeport Rental and Oil Service Treatment Facility in Logan Township, Gloucester County, New Jersey. The project is designed to temporarily lower the liquid level in a contaminated oil lagoon, which is in danger of overtopping. The treatment process will recycle contaminants back to the lagoon and will discharge 0.288 mgd of treated effluent to Little Timber Creek in Logan Township, Gloucester County, New Jersey. Temporary lowering of the liquid level will prevent overtopping and facilitate the development of a long-range clean up plan.

Documents relating to these projects may be examined at the Commission's offices. Please contact Mr. David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

Susan M. Weisman,

Secretary.

February 8, 1983.

[FR Doc. 83-4015 Filed 2-14-83; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP83-44-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

February 10, 1983.

Take notice that on January 28, 1983, Algonquin Gas Transmission Company (Algonquin) tendered for filing proposed changes in its FERC Gas Tariff, pursuant to section 4 of the Natural Gas Act and Part 154 of the Commission's Regulations under the Natural Gas Act. Algonquin proposes that the filing take effect on March 1, 1983.

Algonquin asserts that the filing would effectuate an increase in revenue amounting to approximately $6.6 million annually, amounting to eight-tenths of one percent. Algonquin asserts tht the increase in rates is required to meet current, higher costs of operation, including higher expenses, taxes, and capital costs including rate of return.

Algonquin also notes that its filing encompasses a complete tariff volume designated Second Revised Volume No. 1, which when made effective will supersede its existing First Revised Volume No. 1. Algonquin asserts that the revised tariff volume is filed primarily to make changes in format with some modifications of an updating nature. Additionally, Algonquin asserts the tariff tracks a change made by its pipeline supplier, Texas Eastern Transmission Corporation, related to payment of bills and requiring that such payment be by wire transfer of Federal Funds. Finally, Algonquin states that it has increased the unauthorized overrun charge to $25 per MMBTU.

Algonquin states that copies of its filing were served upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 835 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4029 Filed 2-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-54-006]

Colorado Interstate Gas Co.; Filing

February 10, 1983.

Take notice that on January 31, 1983, Colorado Interstate Gas Company (CIG), submitted for filing as part of its FERC Gas Tariff, Original Volume Nos. 1 and 2:

Substitute Replacement Second Alternate Thirteenth Revised Sheet Nos. 7 and 8 (9/29/82)
Substitute Replacement Fourteenth Revised Sheet Nos. 7 and 8 (10/1/82)
Substitute Replacement Alternate Second Revised Sheet No. 463 (9/29/82)
Substitute Replacement Alternate Second Revised Sheet No. 544 (9/29/82)

These sheets are, as required by the Commission's January 10, 1983 letter order in this docket, to be effective, subject to refund, as of September 9, 1982 (for Substitute Replacement Second Alternate Thirteenth Revised Sheet Nos. 7 and 8 and Substitute Replacement Alternate Second Revised Sheet Nos. 463 and 544), and October 1, 1982 (for Substitute Replacement Fourteenth Revised Sheet Nos. 7 and 8).

CIG submits, that since this is a compliance filing, good cause exists for granting whatever waivers may be required for acceptance of this filing in this form.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4030 Filed 2-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-24-000]

Equitable Gas Co.; Proposed Change in Rates

February 9, 1983.

Take notice that Equitable Gas Company (Equitable) on February 1, 1983, tendered for filing with the Commission Sixth Revised Sheet No. 10-G to its FERC Gas Tariff, First Revised Volume No. 1, to become effective March 1, 1983. Equitable Gas Company states that the change in rates results from the applications of the Purchased Gas Cost Rate Adjustment provision in Section 5 of Rate Schedule GS-2 of FERC Gas Tariff, Original Volume No. 1, approved by the Commission in Docket No. CP80-473.

Equitable states that a copy of its filing has been served upon the purchaser and interested state commissions (and upon each party on the service list of Docket No. CP80-473).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4020 Filed 2-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-388-002]

Florida Gas Transmission Co.; Tariff Filing

February 10, 1983.

Take notice that on January 13, 1983, Florida Gas Transmission Company (Florida Gas) tendered for filing in the above-referenced docket the following sheets:

Second Revised Sheet No. 1–D
Original Sheet Nos. 505 through 536

Florida Gas requests that the Commission waive its regulations to the extent necessary to allow the above-referenced tariff sheets to become effective on November 23, 1982, the date of the certificate of public convenience and necessity was issued.

Copies of the filing were served upon Florida Gas' jurisdictional customers and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–4031 Filed 2–14–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–1–4–003 (PGA83–2, IPR83–1a)]

Granite State Gas Transmission Inc.; Proposed Changes in Rates Pursuant to Purchase Gas Cost Adjustment Provisions

February 9, 1983.

Take notice that Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, on January 28, 1983, tendered for filing Third Revised Sheet No. 7 and Third Revised Sheet No. 8 in its FERC Gas Tariff, First Revised Volume No. 1, containing proposed changes in rates for effectiveness on February 1, 1983.

Accordingly to Granite State, the revised rates contained on Third Revised Sheet No. 7 reflect the effect on its rates for jurisdictional sales of an increase in the cost of gas purchased from its sole supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) resulting from the general rate increase in Docket No. RP82–125–000 that Tennessee proposes to make effective on February 1, 1983. Granite State further states that the increase in rates is applicable to its jurisdictional sales to its two distribution company affiliates, Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities). It is stated that the annual effect of the increase is approximately $5,995,000, of which $4,684,330 would be applicable to sales to Bay State and 1,310,557 would be applicable to sales to Northern Utilities.

Granite State requests permission to effect its rate changes concurrent with the effectiveness of Tennessee's general rate increase in Docket No. RP82–125–000 because of the substantial adverse effect that a delay in reflecting the increases will have on Granite State's cash flow. It is stated that if Granite State is delayed in reflecting the Tennessee increase until its next regular purchased gas cost adjustment filing on July 1, 1983, the accumulated deferred gas costs attributable to the Tennessee increase would amount to approximately $2,700,000 exclusive of associated carrying charges.

Granite State further states that the revised rates tendered on Third Revised Sheet No. 8 pertain to a storage service that is rendered for its account by Consolidated Gas Supply Corporation (Consolidated) and storage-related transportation rendered by Tennessee. It is stated that Granite State is authorized to track changes in the rates for these services rendered by Consolidated And Tennessee. Granite State states that the revised rates for its storage service rendered under Rate Schedule GSS tracks the settlement rates proposed by Consolidated in Docket No. RP82–115–000 for its Rate Schedule GSS service and the revised rate for its storage-related transportation service tracks the revised rate filed by Tennessee in Docket No. RP82–125–000 for service under Rate Schedule ISST–NE.

Accordingly to Granite State, copies of the filing were served upon its customers and the regulatory commissions of the State of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–4021 Filed 2–14–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–48–000]

High Island Offshore System; Tariff Revision

February 9, 1983.

Take notice that on January 31, 1983, High Island Offshore System (HIOS) tendered for filing the tariff sheets listed on the attached Appendix A to Volumes Nos. 1 and 2 of its F.E.R.C. Gas Tariff.

HIOS states that the listed tariff sheets have been revised to reflect proposed revisions to Article 2.2 of all Transportation Agreements between HIOS and HIOS' Shippers. Article 2.2 establishes the manner in which a new Shipper's request for capacity is accommodated when all of HIOS' firm capacity is being used by existing Shippers.

HIOS asserts that the purpose of the proposed tariff change is to remove from the existing provision, language which has been described as discrimination in favor of a new Shipper.

HIOS requests a waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets listed on the Appendix A attached hereto be made effective as of February 1, 1983.

HIOS states that it has provided its Shippers with copies of this tariff filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party to the proceeding must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–4022 Filed 2–14–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP82-8-000]

Kansas-Nebraska Natural Gas Co., Inc.; Informal Settlement Conference

February 10, 1983.

Take notice that on February 24, 1983, at 10:00 a.m., a further settlement conference will convene in the above-captioned docket. The meeting place for this conference will be at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

All interested parties and Staff are permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4032 Filed 2-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-46-004]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

February 9, 1983.

Take notice that on January 28, 1983, Kentucky West Virginia Gas Company ("Kentucky West") tendered for filing its Substitute Revised Twenty-Fifth Revised Sheet No. 27 to its FERC Gas Tariff, First Revised Volume No. 1, to become effective November 1, 1982.

Kentucky West has filed its Substitute Revised Twenty-Fifth Revised Sheet No. 27 to its FERC Gas Tariff in compliance with the requirements set out in the Commission's Orders dated October 29, 1982 in this proceeding and December 2, 1982 in Docket No. TA82-2-46. By doing so, Kentucky West does not intend to waive or prejudice its rights to rehearing and/or further appeal of the Commission's Order dated April 30, 1979, in Docket Nos. RP73-97 and RP76-93 (PGA 79-1).

Kentucky West further states that this filing is made under protest since Kentucky West believes the requirements of the Commission's December 2, 1982 Order are unlawful. Further, Kentucky West by this filing does not intend to waive or prejudice its right to continue to prosecute its petition for review with the United States Court of Appeals for the Fifth Circuit of the Commission's Order dated December 2, 1982, denying Kentucky West's application for rehearing of the Order issued April 30, 1982 in Docket Nos. TA82-2-46-001 (PGA-2) (IPR82-2). (*Kentucky West Virginia Gas Company vs. FERC*, Case No. 82-4594—filed December 3, 1982.)

In addition, Kentucky West states that nothing contained in its filing should be construed as a waiver on behalf of Kentucky West of its right to retroactively collect any amounts that are subsequently determined by the Commission and/or the courts to be applicable to a pipeline's own production nor the right to collect carrying charges applicable thereto. Kentucky West states that it is entitled to collect NGPA rates for all of its pipeline production from December 1, 1978 forward and that it is not barred by any rate settlement or otherwise from collecting NGPA prices for such production.

Copies of the filing were served upon the Company's jurisdictional customers or interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4023 Filed 2-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 5765-001, et al.]

Madera Irrigation District, et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: License (5 MW or Less).

b. Project No: 5765-001.

c. Date Filed: September 10, 1982.

d. Applicant: Medera Irrigation District.

e. Name of Project: Madera Canal Mile 24.2 (Dry Creek).

f. Location: Madera County, California: Madera Canal.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. Sections 791(a)—825(r).

h. Contact Person: Mr. Robert L. Stanfield, Manager—Chief Engineer, Madera Irrigation District, 12152 Road 28¼, Madera, California 93637.

i. Comment Date: April 20, 1983.

j. Description of Project: The proposed project would consist of: (1) an 11-foot-high intake structure on the existing Dry Creek Lateral Turnout off the existing Madera Canal owned and operated by the Applicant; (2) a 60-inch-diameter, 330-foot-long penstock; (3) a powerhouse with a total installed capacity of 275 kW; and (4) a tailrace. Applicant estimates that the average annual output would be 833,000 kWh. The power generated by the project would be transmitted by the 12-kV transmission line existing at the site and owned and operated by the Pacific Gas and Electric Company. A preliminary permit was issued to the Applicant for this project on April 27, 1982.

k. Purpose of Project: The power produced by the project would be sold to the Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A2, B, C and D1.

2a. Type of Application: Exemption from Licensing (5MW or less Capacity).

b. Project No: 6397-001.

c. Date Filed: December 8, 1982.

d. Applicant: Lawrence J. McMurtrey.

e. Name of Project: Helena Creek.

f. Location: on Helena Creek, within Snoqualmie—Mt. Baker National Forest in Snohomish County, Washington.

g. Filed Pursuant to: Energy Security Act of 1980 (16 U.S.C. §§ 2705 and 2708 as amended).

h. Contact Person: Lawrence J. McMurtrey, 12122—196th N.E., Redmond, Washington 98052.

i. Comment Date: March 30, 1983.

j. Competing Application: Project No. 6538. Date Filed: 7/16/82. Notice Issued: 10/19/82.

k. Description of Project: The proposed project would consist of: (1) two 2-foot-high diversion structures on Helena Creek; (2) a 12-inch and a 24-inch-diameter, 600-foot and 13,000-foot-long penstock, respectively; (3) a powerhouse containing a generating unit with a rated capacity of 2.2 MW; and (4) appurtenant facilities. The Applicant estimates a 9.7 GWh average annual energy production.

l. Purpose of Project: Power would be sold to Puget Sound Power and Light.

m. This notice also consists of the following standard paragraphs: A1, B, C, D3a.

3a. Type of Application: Case-specific exemption from licensing for hydroelectric power projects of 5 MW or less capacity.

b. Project No: 6444-000.[1]

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[1] This notice replaces the notice issued January 24, 1983 and published in the **Federal Register** at 48 FR 3840 (January 27, 1983) as it pertains to Project No. 6444.

c. Date Filed: June 17, 1982.
d. Applicant: Ringo Resources Inc.
e. Name of Project: Cedar Creek Hydroelectric Project.
f. Location: Cedar Creek in Lincoln County, Montana.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 2705, and 2708 *as amended.*
h. Contact Person: Mr. Bob Dennis, Route 2, Box 717, Libby, Montana 59923.
i. Comment Date: March 28, 1983.
j. Description of Project: The proposed project will be located entirely on Federal land within the Koofenai National Forest and will consist of: (1) a proposed 22-foot-high and 34-foot-long diversion structure, to be built below the existing stream bed and to divert groundwater instead of surface water; (2) a 15,000-foot long penstock with a 14 inch diameter to be buried along an existing U.S. Forest Service trail adjacent to the stream; (3) a proposed powerhouse structure containing two turbine/generator units with a total installed capacity of 1300 kW; (4) a proposed energy dissipator located between the powerhouse and the stream to prevent stream erosion; (5) a proposed 4160 volt underground power line approximately 2 miles in length and interconnecting with the Pacific Power and Light Company; and (6) appurtenant facilities. The Applicant estimates the average annual energy production to be 11.4 MWh.
k. This notice also consists of the following standard paragraphs: A1, B, C. and D3a.
4a. Type of Application: Preliminary Permit.
b. Project No: 6900–000.
c. Date Filed: December 1, 1982.
d. Applicant: City of New Martinsville, West Virginia.
e. Name of Project: Belleville Locks and Dam.
f. Location: on the Ohio River in Wood County, West Virginia and Meigs County, Ohio.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Michael Francis, City of New Martinsville, Brenner & Francis, P.O. Drawer 98, New Martinsville, West Virginia 26155.
i. Comment Date: April 20, 1983.
j. Description of Project: The proposed project would utilize the existing Corps of Engineer's Belleville Locks & Dam and would consist of: (1) a proposed powerhouse containing two or more generating units having a total rated capacity of 53,000 kW; (2) existing public utility transmission lines; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 325,000,000 kWh.
k. Purpose of Project: The energy derived at the proposed project would be utilized by the Applicant.
l. This notice also consists of the following standard paragraphs: A4a, A4d, B, C and D2.
m. Purpose of Project: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 12 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $300,000.
5a. Type of Application: Preliminary Permit.
b. Project No: 6901–000.
c. Date Filed: December 1, 1982.
d. Applicant: City of New Martinsville, West Virginia.
e. Name of Project: New Cumberland Locks and Dam.
f. Location: on the Ohio River in Hancock County, West Virginia and Jefferson County, Ohio.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Michael Francis, City of New Martinsville, Brenner & Francis, P.O. Drawer 98, New Martinsville, West Virginia 26155.
i. Comment Date: April 20, 1983.
j. Description of Project: The proposed project would utilize the existing Corps of Engineers' New Cumberland Locks and Dam and would consist of: (1) a proposed powerhouse containing two or more generating units having a total rated capacity of 37 MW; (2) existing public utility transmission lines; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 190 GWh.
k. Purpose of Project: The energy derived at the proposed project would be utilized by the Applicant.
l. This notice also consists of the following standard paragraphs: A4a, A4d, B, C and D2.
m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 12 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies of Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $300,000.
6 a. Type of Application: Preliminary Permit.
b. Project No: 6902–000.
c. Date Filed: December 1, 1982.
d. Applicant: City of New Martinsville, West Virginia.
e. Name of Project: Willow Island Locks and Dam.
f. Location: on the Ohio River in Pleasants County, West Virginia and Washington County, Ohio.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)—825(r).
h. Contact Person: Mr. Michael Francis, City of New Martinsville, Brenner & Francis, P.O. Drawer 98, New Martinsville, West Virginia 26155.
i. Comment Date: April 22, 1983.
j. Description of Project: The proposed project would utilize the existing Corps of Engineers' Willow Island Locks and Dam and would consist of: (1) a proposed powerhouse containing two or more generating units having a total rated capacity of 33 MW; (2) existing public utility transmission lines; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 202 GWh.
k. Purpose of Project: The energy derived at the proposed project would be utilized by the Applicant.
l. This notice also consists of the following standard paragraphs; A4a, A4d, B, C and D2.
m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 12 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $300,000.
7 a. Type of application: Prelimary Permit.
b. Project No: 6922–000.
c. Date filed: December 13, 1982.
d. Applicant: City of Gillette.
e. Name of Project: Trotters Station Power Project.

f. Location: Shoshone River, Park County, Wyoming .

g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. Contact Person: Mr. Paul G. Schamp, P.E., City Electrical Engineer, City of Gillette, P.O. Box 3003, Gillette, Wyoming 82716.

i. Comment Date: April 22, 1983.

j. Description of Project: The proposed project would consist of: (1) a proposed 60-foot high and 600-foot long earthfill embankment; (2) a proposed power plant with an installed capacity of 7,210 kW; (3) a proposed switchyard connected to an existing 115 kV transmission line about ¼ mile from the site; and (4) appurtenant facilities. Applicant estimates that the average annual generation would be 37.7 GWh.

k. Purpose of Project: The power generated would be used within the Applicant's electric system.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

8 a. Type of Application: Preliminary Permit.

b. Project No: 6928–000.

c. Date Filed: December 13, 1982.

d. Applicant: City of Gillette.

e. Name of Project: Iron Creek Power Project

f. Location: Shoshone River, Park County, Wyoming.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. Contact Person: Mr. Paul G. Schamp, P.E., City Electrical Engineer, City of Gillette, P.O. Box 3003, Gillette, Wyoming 82716.

i. Comment Date: April 22, 1983.

j. Description of project: the proposed project would consist of: (1) a proposed 80-foot high and 370-foot long earthfill dam; (2) a proposed power plant with an installed capacity of 7,210 kW (3) a proposed switchyard connected to an existing 115 kV transmission line about 1 mile from the site; and (4) appurtenant facilities. Applicant estimates that the average annual generation would be 37.7 GWh.

k. Purpose of Project: The power generated would be used within the Applicant's electric system.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

9a. Type of Application: Prelimimary Permit.

b. Project No: 6929–000.

c. Date Filed: December 13, 1982.

d. Applicant: City of Gillette.

e. Name of Project: Cody Power Project.

f. Location: Shoshine River, Park County, Wyoming.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. Contact Person: Mr. Paul G. Schamp, P.E., City Electrical Engineer, City of Gillette, P. O. Box 3003, Gillette, Wyoming 82716.

i. Comment date: April 22, 1983.

j. Description of Project: The proposed project would consist of: (1) a proposed 85-foot high and 420-foot long concrete gravity dam; (2) a proposed powerhouse with an installed capacity of 6,650 kW; (3) a proposed switchyard connected to an existing 34.5 kV transmission line approximately 1.25 miles from the site; and (4) appurtenant facilities. Applicant estimates that the average annual generation would be 34.7 GWh.

k. Purpose of Project: the power generated would be used within the applicant's electric system.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

10a. Type of Application: Exemption of Small Conduit Hydro Facility.

b. Project No: 6941–000.

c. Date Filed: December 17, 1982.

d. Applicant: Hydro Management, Inc.

e. Name of Project: Whitefish Hydro Project.

f. Location: Whitefish, Flathead County, Montana.

g. Filed Pursuant to: Section 30, Federal Power Act, 16 U.S.C. § 823(a).

h. Contact Person: Mr. W. H. Edelman, President, Route 1, Box 169, Ronan, Montana 59864.

i. Comment date: April 1, 1983.

j. Description of Project: The project would consist of: (1) the existing 12-inch conduit which transports water from 3 existing collection points, located on First, Second, and Third Creeks, to the existing, man-made, City Water Reservoir; (2) a new 17,000 foot long, 12 to 15-inch inlet pipeline which would serve as the penstock; (3) a powerhouse with a capacity of 200 kW and an average annual generation of 996,000 kWh; and (4) appurtenant facilities. All power generated would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: B, C, and D3b.

11a. Type of Application: Preliminary Permit.

b. Project No: 6956–000.

c. Date Filed: December 23, 1982.

d. Applicant: City of St. Anthony, Idaho.

e. Name of Project: Engin Canal Diversion.

f. Location: Henry's Fork of the Snake River, City of St. Anthony, Fremont County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Contact Person: Mr. Boyd Yancey, City Council President, 110 West Main, St. Anthony, Idaho 83445.

i. Comment Date: April 18, 1983.

j. Description of Project: The proposed new run-of-river project would be located just downstream of the existing Egin Canal Diversion structure on the right (north) branch of Henry's Fork at Island City Park and would consist of: (1) a 10-foot high diversion structure; (2) a powerhouse along the right bank containing a generating unit having a rated capacity of 650 kW operated under a 10-foot head and at a flow of 900 cfs: (3) a transmission line; and (4) appurtenant facilities.

k. Purpose of Project: Project energy would be sold to Utah Power & Light Company or would be used by Applicant. Applicant estimates that the average annual generation would be 5.12 million kWh.

l. This notice also consists of the following standard paragraphs: A4b, a4c, A4d, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time it would perform studies and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $43,000.

12a. Type of Application: Exemption Under 5MW.

b. Project No: 6959–000.

c. Date Filed: December 27, 1982.

d. Applicant: Pan-Pacific Hydro, Inc.

e. Name of Project: Weber Flat Project.

f. Location: On West Fork of Trinity Alps Creek, near Weaverville, in Trinity County, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. §§ 2705 and 2708 *as amended*.

h. Contact Person: Mr. James B. Thompkins, Pan-Pacific Hydro, Inc., 3357 Jordan Road, Oakland, California 94205.

i. Comment Date: March 28, 1983.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) a 5-foot-high, 20-foot-long, concrete diversion structure; (2) a 3,000-foot-long, 30-inch diameter steel penstock; (3) a powerhouse containing two generating units with a total installed capacity of 750-kW and producing an estimated annual generation of 3.0 GWh; and (4) appurtenant facilities. Project power would be sold to Pacific Gas and Electric Company.

An exemption, if issued, gives the Exemptee priority of control, development, and operation of the

project under the terms of the exempton from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. This notice also consists of the following standard paragraphs: A1, B, C, and D3a.

13a. Type of Application: Preliminary Permit.

b. Project No: P–6962–000.

c. Date Filed: December 27, 1982.

d. Applicant: Yankee Hydro Corporation.

e. Name of Project: Dunn/McCarthy Dam.

f. Location: Owasco Lake Outlet in the City of Auburn, Cayuga County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Raymond S. Kusche, P.O. Box 1016, Weedsport, New York 13166.

i. Comment Date: April 20, 1983.

j. Description of Project: The proposed project would consist of the following existing facilities owned by Dunn/McCarthy and the State of New York Auburn Correctional Facility: (1) a 5-foot-high and 100-foot-long stone and concrete dam; (2) a reservoir having a surface area of 1.2 acres and a storage capacity of 4.5 acre-feet at surface elevation 650 feet m.s.l.; (3) a gated intake structure at the left (south) bank; (4) a 30-foot-wide 1,050-foot-long canal; (5) a gated intake structure with trash racks and a by-pass flume; (6) a 72-inch-diameter 140-foot-long steel penstock; (7) a powerhouse; (8) a tailrace; (9) a switchyard; and (10) miscellaneous appurtenances.

Applicant proposes to redevelop the existing facilities and would: (1) repair the dam; (2) repair the intake structure; (3) install a generating unit having a rated capacity of 685-kW operated under a 21-foot head and at a flow of 385 cfs; and (4) construct a transmission line.

k. Purpose of Project: Project energy would be sold to New York State Electric & Gas Corporation. Applicant estimates that the average annual generation would be 2.75 million kWH.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform studies and would prepare an application for an FERC license. Applicant estimates the cost of the work under the premit would be $38,000.

14a. Type of Application: Preliminary Permit.

b. Project No: 6973–000.

c. Date Filed: January 3, 1983.

d. Applicant: Kansas Electric Power Cooperative, Inc. (KEPCO).

e. Name of Project: John Redmond Water Power Project.

f. Location: on the Grand (Neosho) River in Coffey County, Kansas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Charles Ross, Kansas Electric Power Cooperative, Inc., 5315 S.W. 21st Street, P.O. Box 4877, Gage Center Station, Topeka, Kansas 66604.

i. Comment Date: April 18, 1983.

j. Description of Project: The proposed project would utilize the existing Corps of Engineers' John Redmond Dam and Reservoir, and would consist of: (1) a new powerhouse containing two generating units having a total rated capacity of 7,200 kW; (2) a new 6.5-mile, 69-kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 21.6 GWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be local utilities.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of perliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be preformed under the preliminary permit would be from $295,000 to $320,000.

15a. Type of Application: Preliminary Permit.

b. Project No: 7007–000.

c. Date Filed: January 18, 1983.

d. Applicant: City of Hibbing, Minnesota.

e. Name of Project: Mississippi River Lock & Dam No. 5.

f. Location: Winona County, Minnesota.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791(a)—825(r).

h. Contact Person: Mr. Karl E. Marietta, General Manager, Public Utilities Commission, City of Hibbing, 19th Street and 6th Avenue East, Hibbing, Minnesota 55746.

i. Comment Date: April 18, 1983.

j. Description of Project: The proposed project would consist of: (1) a proposed powerhouse containing two generating units having a total installed capacity of 5,800 kW; (2) a proposed 69,000-volt transmission line; and (3) appurtenant facilities. The estimated average annual generation would be 45,000,000 kW. The Applicant would utilize existing lands and dam owned by the U. S. Army Corps of Engineers.

k. Purpose of Project: Power generated at the project would be utilized by the Applicant.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, and C.

16a. Type of Application: Preliminary Permit.

b. Project No: 7008–000.

c. Date Filed: January 18, 1983.

d. Applicant: City of Hibbing, Minnesota.

e. Name of Project: Mississippi River Lock & Dam No. 5A.

f. Location: Winona County, Minnesota.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791(a)—825(r).

h. Contact Person: Mr. Karl E. Marietta, General Manager, Public Utilities Commission, City of Hibbing, 19th Street and 6th Avenue East, Hibbing, Minnesota 55746.

i. Comment Date: April 14, 1983.

j. Description of Project: The proposed project would consist of: (1) a proposed powerhouse containing two generating units having a total installed capacity of 6,000 kW; (2) a proposed 69,000-volt transmission line; and (3) appurtenant facilities. The estimated average annual generation would be 30,000,000 kW. The Applicant would utilize an existing dam and lands owned by the U. S. Army Corps of Engineers.

k. Purpose of Project: Energy produced at the project would be utilized by the Applicant.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

17a. Type of Application: 5MW Exemption.

b. Project No: 6964–000.

c. Date Filed: December 27, 1982.

d. Applicant: Redlands Water and Power Company.

e. Name of Project: Redlands.

f. Location: Gunnison River in the City of Grand Junction, Mesa County, Colorado.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C.

§§ 2705 and 2708 as amended), and Part I of the Federal Power Act.

h. Contact Person: Mr. Louis Brach, 2209 N 1, Grand Junction, Colorado 81501.

i. Comment Date: March 24, 1983.

j. Description of Project: The project would utilize existing facilities consisting of: (1) a 312-foot long 8.5-foot high concrete buttress-type dam surmounted by 4-foot high flashboards and having two 10-foot by 16-foot radial-type sluice gates; (2) a reservoir with a surface area of 40 acres and a storage capacity of 260 acre-feet at surface elevation 4,575 feet M.S.L.; (3) an intake structure at the left (west) bank having four 6-foot by 14-foot radial-type control gates; (4) a 4.0-mile long 40-foot wide 9-foot deep canal; (5) a powerhouse containing a generating unit having a rated capacity of 1,400 kW operated under a 35-foot head and at a flow of 750 cfs; (6) a tailrace; (7) a 300-foot long 13.2-kV transmission line; and (8) appurtenant facilities.

Applicant proposes to: (1) repair the dam; (2) improve the flashboards; (3) replace the radial gates; (4) rewind and upgrade the generator to a rated capacity of 1,900 kW; (5) replace and uprate associated electrical components; and (6) perform miscellaneous improvements and repairs.

k. Purpose of Project: Project energy would be used by Applicant to operate irrigation pumps or would be sold to Public Service Company of Colorado. Applicant estimates that the average annual generation would be 13,000,000 kWh.

l. This notice also consists of the following standard paragraphs: A1, B, and C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, developments, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

18a. Type of Application: Exemption (5MW or less).

b. Project No: 6839–000.

c. Date Filed: November 10, 1982.

d. Applicant: Piedmont Camp Fire Council and Lake Vera Mutual Water Company.

e. Name of Project: Camp Fire Project.

f. Location: On Rock Creek and Lake Vera, near Nevada City, in Nevada County, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. §§ 2705 and 2708 *as amended.*

h. Contact Person: Bart M. O'Keefe, Mutual Energy Co., 1250 Pine Street, Suite 100, Walnut Creek, California 94596.

i. Comment Date: March 25, 1983.

j. Competing Application: Project No. 6076–000. Dated Filed: March 11, 1982. Notice issue: April 20, 1982.

k. Description of Project: The proposed project would consist of: (1) the existing 10-foot-high, 368-foot-long concrete Lake Vera Dam, impounding; (2) a 15-acre reservoir; (3) a 400-foot-long concrete pipeline; (4) a surge tank; (5) a 1,500–foot-long, 32–inch-diameter steel penstock; (6) a powerhouse containing one generating unit rated at 175 kW; and (7) a 2-mile-long transmission line.The average annual energy generation is estimated to be 590,000 kWh.

l. Purpose of Project: The energy output from the project would be sold to Pacific Gas and Electric Company.

m. This notice also consists of the following standard paragraphs: A1, B, C, D3a.

19a. Type of Application: Preliminary Permit.

b. Project No: 6986–000.

c. Date Filed: January 7, 1983.

d. Applicant: Tranquillity Irrigation District.

e. Name of Project: Griswold Creek Hydroelectric Project.

f. Location: On Griswold Creek, within the Stanislaus National Forest in Tuolumne County, California.

g. Filed Pursuant to: Federal Power Act (16 U.S.C. §§ 791(a)–825(r)).

h. Contact Person: A. Keith Miller, Tranquillity Irrigation District, Post Office Box 365, Tranquillity, California 93668.

i. Comment Date: April 14, 1983.

j. Description of Project: The proposed project would consist of : (1) a 50-foot-high rolled earth dam impounding a forebay with a normal water surface at elevation 3320 feet; (2) a 42-inch-diameter, 3350-foot-long pipeline; (3) a 30- to 42-inch-diameter, 2850-foot-long penstock; (4) a powerhouse containing a turbine generating unit with a rated capacity of 7.1 MW and an average annual output of 19.5 GWh; (5) an afterbay at elevation 2160 feet on the North Fork Stanislaus River; and (6) a 3.4-mile-long transmission line connecting to an existing Pacific Gas and Electric Company line.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. The estimated cost of permit activities in $200,000.

k. Purpose of Project: The Applicant expects to sell project output to the Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

Competing Applications

A1. Exemptions for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission or a timely notice of intent allows an interested person to file the competing license application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1982). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d).

A2. Application for License—Anyone desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either the competing application itself (see 18 CFR 4.33 (a) and (d), and Part 16, where applicable) or a notice of intent (see 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or §§ 4.101 to 4.104 (1982).

A3. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for license, exemptions or preliminary permit, or notices of intent to file competing applications, will be accepted for filing in response to this notice (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate). Any application for license or exemption from licensing, or notice of intent to file a license or an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

Preliminary Permits

A4a. Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A4b. No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or there are proposed to be major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application.(see 18 CFR 4.30 to 4.33 (1982)).

A4c. The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before the specified comment date for the particular application. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

A4d. Submission of a timely notice of intent to file an application for preliminary permit allows an interested person to file an acceptable competing application for preliminary permit no later than 60 days after the specified comment date for the particular application.

B. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR §§ 385.210, .211, .214 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments

D1. License applications (5 MW or less capacity)—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. Preliminary permit applications—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Exemption applications (5 MW or less capacity)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Exemption applications (Conduit)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: February 10, 1983.
Kenneth F. Plumb,
Secretary.
[FR Doc. 83-4019 Filed 2-14-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP83-45-001]

Montana-Dakota Utilities Co.; Filing

February 10, 1983.

Take notice that on January 31, 1983, Montana-Dakota Utilities Company (MDU), submitted for filing Statements L and M of its proposed Rate Schedule X-3 to its FERC Gas Tariff, First Revised Volume No. 2, which was submitted for filing on January 28, 1983, pursuant to Section 4 of the Natural Gas Act and Section 154 of the Commission's Regulations thereunder. Statements L and M were not included in the January 28, 1983 filing due to a clerical error. MDU requests that Statements L and M be attached to MDU's filing of January 28, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[FR Doc. 83-4033 Filed 2-14-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP82-126-002]

Mountain Fuel Supply Co.; Filing

February 10, 1983.

Take notice that on January 31, 1983, Mountain Fuel Supply Company (Mountain Fuel), pursuant to Section 4(e) of the Natural Gas Act and § 154.67 of the Commission's Regulations thereunder, moved to effectuate on February 1, 1983, the following tariff sheets:

Substitute Original Sheet No. 2-A—First Revised Sheet No. 407
First Revised Sheet No. 29—First Revised Sheet No. 444
Third Revised Sheet No. 60—First Revised Sheet No. 445
Second Revised Sheet No. 82—Second Revised Sheet No. 544
Second Revised Sheet No. 100—First Revised Sheet No. 598
Second Revised Sheet No. 159—First Revised Sheet No. 599
First Revised Sheet No. 198—First Revised Sheet No. 600
First Revised Sheet No. 199—First Revised Sheet No. 643
First Revised Sheet No. 228—First Revised Sheet No. 644
First Revised Sheet No. 276—First Revised Sheet No. 645
Second Revised Sheet No. 304—First Revised Sheet No. 659
Second Revised Sheet No. 305—First Revised Sheet No. 660
First Revised Sheet No. 306-A—First Revised Sheet No. 672
First Revised Sheet No. 356—First Revised Sheet No. 691

Mountain Fuel has not moved to effectuate any increase in its Compression Redelivery Charge as proposed by the initial filing herein on July 30, 1982. Mountain Fuel states that it does not propose to effectuate that increase until such time as the compresson facilities certificated in Docket No. CP80-7, to be located near Rock Springs, Wyoming, are operational and in service.

Mountain Fuel states that copies of this filing were served on the company's jurisdictional customers and affected state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[FR Doc. 83-4034 Filed 2-14-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-1-27-000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

February 9, 1983.

Take notice that North Penn Gas Company (North Penn) of February 4, 1983 tendered for filing proposed changes to its FERC Gas Tariff, First Revised Volume No. 1 pursuant to its PGA Clause for rates to be effective March 1, 1983.

Specifically, North Penn has included in its semi-annual PGA, to be effective March 1, 1983, the following:

(a) An increase of 12.162¢ per Mcf computed on a unit of sales basis (Appendix A) to reflect changes in the cost of gas purchased.

(b) A surcharge of 4.073¢ per Mcf (Appendix B) resulting from amounts accumulated in the Unrecovered Purchased Gas Cost Account for the period July 1, 1982 through December 31, 1982; the jurisdictional portion of supplier refunds received by North Penn for the same six-month period; carrying charges computed in accordance with the Commission's Regulations; and a carry-over balance from the surcharge credit effective for the period March 1, 1982 through August 31, 1982.

As part of this filing, North Penn has also included Seventh Revised Sheet No. 15H which reflects no incremental pricing surcharges under Section 15 of the General Terms and Conditions of its tariff.

On August 31, 1982, North Penn filed revised tariff sheets (Docket No. RP82-132) pursuant to Section 4 of the Natural Gas Act and Section 154.63 of the Commission's Regulations to be effective October 1, 1982. These tariff sheets proposed an increase of $2,112,652 in North Penn's rates. North Penn also proposed in this filing a modification to its PGA Clause to permit a unit of sales methodology for recovery of pipeline purchased gas costs. The Commission, by Order issued September 30, 1982, accepted for filing the revised tariff sheets and suspended them, so that they may become effective March 1, 1983.

The FERC Commission Staff, in their Top Sheets in Docket No. RP82-132 supported North Penn's modification of its PGA Clause to reflect a unit of sales methodology conditioned upon North Penn Further modifying its PGA Clause to include the recovery of the cost of field line purchases.

North Penn has adapted its proposed revision of its PGA Clause to include Staff's suggested modification and is submitting as part of this filing the revised tariff sheets to reflect a unit of

sales methodology and recovery of field line purchases through its PGA Clause. The revised tariff sheets being filed to reflect this change are as follows:

(a) Fourth Revised Sheet Nos. 15C, 15D and 15E.

(b) Second Revised Sheet Nos. 15F and 15G.

(c) First Revised Sheet No. 15G(1).

Because the end of the suspension period in Docket No. RP82–132 of March 1, 1983 coincides with North Penn's semi-annual PGA effective date, the rates contained in Seventy-Second Revised Sheet No. PGA–1 reflect the change of rates contained in Docket No. RP82–132 as adjusted to reflect intervening changes in cost of gas purchased on a unit of sales basis including field line purchases.

Prior to March 1, 1983, North Penn will file a motion pursuant to Section 4(e) of the Natural Gas Act to make effective after suspension the rates contained in Seventy-Second Revised Sheet No. PGA–1.

North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as may be required to permit the tariff sheets contained in this filing to become effective March 1, 1983 as proposed.

Copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and interested state commissions, and to all parties in Docket No. RP82–132.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–4025 Filed 2–14–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP82–114–000]

Northwest Central Pipeline Corp. (formerly Cities Service Gas Co.); Rescheduling of Informal Settlement Conference

February 9, 1983.

Take notice that the informal settlement conference in the above-captioned docket that was scheduled for February 10 and 11, 1983 will be convened instead at 10:00 a.m. on March 1 and 2, 1983, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in a Commission meeting room to be announced.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–4024 Filed 2–14–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP82–56–000]

Northwest Pipeline Corp.; Settlement Conference

February 10, 1983.

Take notice that on February 23, 1983, at 10:00 a.m., a settlement conference will convene in the above-captioned docket. The meeting place for this conference will be at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–4035 Filed 2–14–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–1–6–000]

Sea Robin Pipeline Co.; Filing

February 10, 1983.

Take notice that on January 31, 1983, Sea Robin Pipeline Company (Sea Robin), tendered by letter an answer to the Commission's order issued December 30, 1982, in the referenced docket, requiring the company to file revised rates reflecting the recalculation of interest on transportation revenues in Account No. 191. Sea Robin claims it has recalculated its rate to reflect the ordered revision and the resulting change in the rates set forth on Sea Robin's Thirty-second Revised Sheet No.4 would be .7 mill. In accordance with the purchased gas adjustment provisions of Sea Robin's Tariff, Sea Robin has not prepared a revised tariff sheet for filing because the change in rates would be less than one mill. Sea Robin, however, proposes to adjust the balance in Account No. 191 to reflect the elimination of the interperiod tax allocation effect on its transportation revenues in that account as required by the Commission's order.

Sea Robin states that it has provided additional information relating to this filing pursuant to requests from Commission Staff.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed or or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–4036 Filed 2–14–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–1–8–001]

South Georgia Natural Gas Co.; Proposed Changes in FPC Gas Tariff

February 9, 1983.

Take notice that on January 31, 1983, South Georgia Natural Gas Company (South Georgia) tendered for filing Substitute Twentieth Revised Sheet No. 4 to its FPC Gas Tariff, First Revised Volume No. 1. This tariff sheet and supporting information are being filed pursuant to the Commission's December 29, 1982 letter order accepting Twentieth Revised Sheet No. 4, subject to the tracking of any downward modification in the rates of Southern Natural Gas Company (Southern), South Georgia's pipeline supplier.

South Georgia states that the proposed tariff sheet would reduce the rates reflected in Twentieth Revised Sheet No. 4 by $1,044,026 as a result of a reduction in Southern's rates effective January 1, 1983.

Since the proposed tariff sheet would reduce the rates reflected in Twentieth Revised Sheet No. 4, South Georgia requests the Commission to grant such waivers as may be necessary to place

the proposed tariff sheet into effect as of January 1, 1983.

Copies of the filing were served on South Georgia's jurisdictional customers, state commission and other interested parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.214, 385.211). All such petitions or protests should be filed on or before Feb. 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4028 Filed 2-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-10-001 (PGA83-1)]

Tennessee Natural Gas Lines, Inc.; Proposed Changes in FERC Gas Tariff

February 10, 1983.

Take notice that on January 28, 1983, Tennessee Natural Gas Lines, Inc. (TNGL) tendered for filing First Substitute Forty-first Revised Sheet No. PGA-1 and First Substitute Appendix A to First Revised Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1983.

TNGL states that the sole purpose in this filing is: to reflect in its rates the reduced rates of its sole supplier Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., which will become effective on January 1, 1983.

TNGL states that copies of the filing were served upon its jurisdictional customer, the interested state regulatory commission, its non-jurisdictional customers estimated to be billed for NGPA incremental pricing surcharges, and are available for public inspection at TNGL's offices in Nashville, Tennessee.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4037 Filed 2-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT83-11-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 9, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on February 7, 1983 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2, the following sheets:

Fourth Revised Volume No. 1

Cover sheet
Fifth Revised Sheet No. 1
First Revised Sheet No. 6D
Fifth Revised Sheet No. 9
Fifth Revised Sheet No. 10
Fourth Revised Sheet No. 11
Fifth Revised Sheet No. 12
Fifth Revised Sheet No. 13
Second Revised Sheet No. 173
Third Revised Sheet No. 174
Fourth Revised Sheet No. 175
Fourth Revised Sheet No. 176
Fourth Revised Sheet No. 177
Second Revised Sheet No. 180
Fourth Revised Sheet No. 182
Second Revised Sheet No. 183
Fifth Revised Sheet No. 184
Second Revised Sheet No. 185
Third Revised Sheet No. 186
Third Revised Sheet No. 187

Original Volume No. 2

First Revised Sheet No. 1H

The purpose of this filing was to update the Table of Contents, System Maps and Index of Purchasers of Fourth Revised Volume No. 1 and the Table of Contents of Original Volume No. 2.

The proposed effective date of these tariff sheets is March 9, 1983.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4027 Filed 2-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-11-001]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

February 10, 1983.

Take notice that Tanscontinental Gas Pipe Line Cprporation (Transco) on January 31, 1983 tendered for filing certain revised tariff sheets to its Second Revised Volume No. 1 of its FERC Gas Tariff. The proposed change would decrease the level of the rates filed by Transco in Docket No. RP83-11 applicable to Transco's E rate Schedules to the equivalent to Transco's 100% load factor rate for contract demand service. Transco proposes an effective date for this change of April 22, 1983, the date on which Transco's rate increase filed in Docket No. PR83-11 is allowed to become effective, subject to refund.

Transco states that the purpose of the instant proposed change is to establish and make effective simultaneously with its rate filing in Docket NO. RP83-11 a revised rate applicable to the E Rate Schedules. Transco states that in its filing in Docket No RP83-11 it inadvertently based the rate for service under the E Rate Schedules on the 80% load factor rate for contract demand service applicable to the G and OG Rate Schedules. In this regard, Transco requests special permission to file the instant rates during the RP83-11 suspension period and to make the rates effective on April 22, 1983 in lieu of the rates originally filed in Docket No. RP83-11.

Copies of the filing were served upon Transco's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 2.14

and Rule 2.11 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are availiable for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4036 Filed 2-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-49-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

February 9, 1983.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on January 31, 1983 tendered for filing certain revised tariff sheets to its Second Revised Volume No. 2 of its FERC Gas Tariff. The proposed changes would revise the minimum bill provisions of Transco's Contract Demand (CD) Rate Schedule to provide for adjustments to customers' Minimum Annual Quantities in circumstances where any customers can show that its total market requirements fall to the level where such customer is unable to purchase gas from Transco at the minimum commodity quantities under its contract with Transco. Where a customer receives gas from other sources than Transco, eligibility for the adjustment to that customer's Minimum Annual Quantity is subject to the condition that it has taken *pro rata* from Transco.

Transco requests a waiver to the Commission's Regulations in order to provide for an immediate effective date for its proposed change in minimum bill provisions and it also requests that the Commission consolidate this filing with Transco's rate case in Docket No. RP82-55-000 for hearing and decision. Under a settlement agreement filed by Transco on October 8, 1982 in Docket No. RP82-55-000, Transco's minimum bill has been reserved for hearing and Transco states that its instant filing conforms to the position taken by Transco in testimony filed January 21, 1983 with the Presiding Judge on the minimum bill question.

Copies of the filing were served upon Transco's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 2.14 and Rule 2.11 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4028 Filed 2-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-11-000]

United Gas Pipe Line Co.; Filing

February 10, 1983.

Take notice that on January 31, 1983, United Gas Pipe Line Company (United), tendered by letter an answer to the Commission's order issued December 30, 1982, in the referenced docket, requiring the company to file revised rates reflecting the recalculation of interest on transportation revenues in Account No. 191. United claims it has recalculated its rate to reflect the ordered revision and the resulting change in the rates set forth on United's Sixty-first Revised Sheet No. 4 would be .7 mill. In accordance with the purchased gas adjustment provisions of United's Tariff, United has not prepared a revised tariff sheet for filing because the change in rates would be less than one mill. United, however, proposes to adjust the balance in Account No. 191 to reflect the elimination of the interperiod tax allocation effect on its transportation revenues in that account as required by the Commission's order.

United also states that it has previously submitted supplemental data relating to the reconciliation of the balances in Account No. 191 and to the volumes of storage injections and withdrawals.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.C., Washington, D.C. 20426, in accordance with the Section 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4039 Filed 2-14-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of January 14 Through January 21, 1983

During the Week of January 14 through January 21, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: February 8, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearing and Appeals

[Week of Jan. 14 through Jan. 21, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 6, 1983	Winston Refining Co., Fort Worth, Tex	HRD-0103, HRH-0103.	Motion for discovery; request for evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to the proposed remedial order (Case No. HRO-0099) issued to Winston Refining Company.
Jan. 14, 1983	Atlantic Richfield Co., Washington, D.C	HRZ-0127	Interlocutory order. If granted: Documents identified in the Office of Special Counsel's privilege index of December 15, 1982, would be released to Atlantic Richfield Company.
Do	Gulf Oil Corp., Washington, D.C	HRZ-0128	Interlocutory order. If granted: Documents identified in the Office of Special Counsel's privilege index of December 15, 1982, would be released to Gulf Oil Corporation.
Do	Louisiana Land & Exploration Co., Washington, D.C	HRZ-0129	Interlocutory order. If granted: Documents identified in the Office of Special Counsel's privilege index of December 15, 1982, would be released to Louisiana Land & Exploration Company.
Do	Marathon Oil Co., Washington, D.C	HRZ-0130	Interlocutory order. If granted: Documents identified in the Office of Special Counsel's privilege index of December 15, 1982, would be released to Marathon Oil Company.
Do	Texaco, Inc., Washington, D.C	HRZ-0131	Interlocutory order. If granted: Documents identified in the Office of Special Counsel's privilege index of December 15, 1982, would be released to Texaco, Inc.
Jan. 17, 1983	Burgess Marketing, Inc., Dallas, Tex	HRD-0102	Motion for discovery. If granted: Discovery would be granted to Burgess Marketing, Inc. in connection with the Statement of Objections submitted in response to the September 21, 1982 proposed remedial order issued to Burgess Marketing, Inc. (Case No. HRO-0097)
Do	State of Maryland, Baltimore, Md	HRD-0101	Motion for discovery. If granted: Discovery would be granted to the State of Maryland in connection with the Statement of Objections submitted in response to the proposed remedial order issued to Crown Central Petroleum Corporation (Case No. HRO-0072).
Do	Stephen M. Shaw, La Jolla, Calif	HFA-0110	Appeal of an information request denial. If granted: The December 30, 1982, Information Request Denial issued by the Procurement Operations Office would be rescinded, and Stephen M. Shaw would receive access to certain DOE information.
Jan. 19, 1983	Atlantic Richfield Co., Washington, D.C	HRX-0074	Supplemental order. If granted: The Office of Special Counsel would be ordered to release certain documents which it submitted to the Office of Hearings and Appeals for *in camera* review pursuant to the January 5, 1983, Decision and Order issued to Atlantic Richfield Company (Case No. HRZ-0080)
Do	Gulf Oil Corp., Washington, D.C	HRX-0075	Supplemental order. If granted: The Office of Special Counsel would be ordered to release certain documents which it submitted to the Office of Hearings and Appeals for *in camera* review pursuant to the January 5, 1983, Decision and Order issued to Atlantic Richfield Company (Case No. HRZ-0080)
Do	Louisiana Land & Exploration Co., Washington, D.C	HRX-0077	Supplemental order. If granted: The Office of Special Counsel would be ordered to release certain documents which it submitted to the Office of Hearings and Appeals for *in camera* review pursuant to the January 5, 1983, Decision and Order issued to Atlantic Richfield Company (Case No. HRZ-0080)
Do	Marathon Oil Co., Washington, D.C	HRX-0076	Supplemental order. If granted: The Office of Special Counsel would be ordered to release certain documents which it submitted to the Office of Hearings and Appeals for *in camera* review pursuant to the January 5, 1983, Decision and Order issued to Atlantic Richfield Company (Case No. HRZ-0080)
Do	Texaco, Inc., Washington, D.C	HRX-0078	Supplemental order. If granted: The Office of Special Counsel would be ordered to release certain documents which it submitted to the Office of Hearings and Appeals for *in camera* review pursuant to the January 5, 1983, Decision and Order issued to Atlantic Richfield Company (Case No. HRZ-0080)
Jan. 20, 1983	Bryant & Blount Oil Co., Springfield, Mo	HEE-0058	Exception to the reporting requirements. If granted: Bryant & Blount Oil Company would not be required to file form EIA-9A "No. 2 Distillate Price Monitoring Report."
Do	Dover Energy, Inc., Dover, N.H	HEE-0059	Exception to the reporting requirements. If granted: Dover Energy, Inc. would not be required to file monthly energy questionnaires.
Do	Thornton Oil Corp., Atlanta, Ga	HFA-0111	Appeal of an information request denial. If granted: The December 17, 1982, Information Request Denial issued by the Office of Special Counsel would be rescinded, and Thornton Oil Corporation would receive access to certain DOE information.

Refund Applications Received

[Week of Jan. 14 through Jan. 21, 1983]

Date	Name of refund proceeding/ name of applicant	Case No.
1/17-21/83	Amoco refund applications	RF21-92 thru RF21-779, RF21-800 thru RF21-[illegible]
1/20/83	Charter Oil/Pep-O Petroleum Co	RF23-2.

Notices of Objection Received

[Week of Jan. 14 through Jan. 21, 1983]

Date	Name and location of applicant	Case No.
1/17/83	Duke Heating Oil, Inc., Shamokin, Pa.	HEE-0041.

[FR Doc. 83-3451 Filed 2-14-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OLEC-FRL 2301-2]

Findings of Administrator With Regard to Steel Industry Compliance Extension Act of 1981; Sharon Steel Corporation

AGENCY: Environmental Protection Agency.

ACTION: Notice of final findings.

SUMMARY: The Administrator consents to the entry of an amended consent decree permitting extensions of compliance to Sharon Steel Corporation under the Steel Industry Compliance Extension Act of 1981. The Administrator also modifies her preliminary findings of February 12, 1982, 47 FR 6483 (February 12, 1982).

DATE: Effective February 4, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Ostrov, Attorney, Office of Enforcement Counsel (EN-329), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382-2867.

SUPPLEMENTARY INFORMATION: On February 12, 1982 (47 FR 6483), the Administrator announced findings preliminary to the lodging of a consent decree under the Steel Industry Compliance Extension Act of 1981 to

extend certain compliance deadlines for the Sharon Steel Corporation's Farrell, Pennsylvania, steel facility. In the announcement the Administrator gave preliminary consent to the entry of a decree requiring capital expenditures for the pollution control projects in finding number (3). This notice amends finding number (3)(i) by striking "Four-sided" and substituting therefore the following respectively:

(3)(i) BOF vessel No. 3: Three-sided evacuated enclosure to capture and clean furnace emissions.

The Administrator in preliminary finding 4 found that the "phased program of compliance" (as defined in Section 113(e)(2) of the Act) required Sharon to make pollution control capital expenditures for the blast furnace casthouse and the basic oxygen furnace vessel No. 3 on the following schedule:

Cumulative amount required to be expended	Dates by which expenditure required
$4.0 million	By Dec. 31, 1983.
6.0 million	By Dec. 31, 1984
8.0 million	By Dec. 31, 1985.

This notice amends findings 4 by substituting the following schedule for the "phased program of compliance."

Cumulative amount required to be expended	Dates by which expenditure required
$4.0 million	By Mar. 1, 1984.
6.0 million	By Mar. 1, 1985.
8.0 million	By Dec. 31, 1985.

The Administrator in finding 5 found that the integration of the "qualifying modernization investment" and the "phased program of compliance" schedule, when allowing for the required investments under Section 113(e)(1)(B) of the Act, resulted in the following required schedule of capital expenditures:

Cumulative amount required to be expended	Dates by which expenditure required
At least $8 million in qualifying modernization investment to improve efficiency and productivity	By July 17, 1983.
At least $4 million for pollution control	By Dec. 31, 1983.
At least $6 million for pollution control	By Dec. 31, 1984.
At least $8 million for pollution control	By Dec. 31, 1985.

This notice amends finding 5 by substituting the following schedule:

Cumulative amount required to be expended	Dates by which expenditure required
At least $8 million in qualifying modernization investment to improve efficiency and productivity.	By July 17, 1983.
At least $4 million for pollution control	By Mar. 1, 1984.
At least $6 million for pollution control	By Mar. 1, 1985
At least $8 million for pollution control	By Dec. 31, 1985.

Consent

I hereby give notice that the United States of America and Sharon Steel Corporation have successfully negotiated a proposed consent decree amendment complying with the requirements of Section 113(e). I have consented to the entry of a modification which amended the decree entered in the United States District Court for the Western District of Pennsylvania on August 26, 1981, Civil Action Nos. 79–1201 J and 80–869–J: *U.S.* v. *Sharon Steel Corporation.* The superseding decree is to be lodged with the District Court under 28 CFR 50.7 and an appropriate notification of lodging has been or will be published by the Department of Justice at that time, including an indication of how copies of the amended consent decree may be obtained and where public comment, if any, may be addressed.

Dated: February 4, 1983.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83–4010 Filed 2–14–83; 8:45 am]

BILLING CODE [illegible]

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket FEMA–REP–5–IL–3; FEMA–REP–5–IL–4]

Illinois Plans for Radiological Accidents

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Receipt of Plan.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local government's radiological emergency response plans. Since FEMA has a responsibility for reviewing the State and local government offsite plans, the State of Illinois, by letter of transmittal dated December 15, 1982, submitted its radiological emergency plans to FEMA Region V office. These plans support the Commonwealth Edison Company's Zion Nuclear Power Station located in Lake County and Quad Cities Nuclear Power Station located in Rock Island County.

DATE: Plans Received: Zion, November 30, 1982; Quad Cities, January 3, 1983.

FOR FURTHER INFORMATION CONTACT: John T. Anderson, Regional Director, Region V, Federal Emergency Management Agency, 300 South Wacker Drive, Chicago, Illinois 60606, (312) 353–1500.

SUPPLEMENTARY INFORMATION: In support of the Federal requirement for offsite emergency response plans, FEMA has proposed a Rule describing its procedures for review and approval of State and local governments' radiological emergency response plans. Pursuant to this proposed FEMA Rule (44 CFR Part 350.8), "Review and Approval of State Radiological Emergency Plans and Preparedness," 47 FR 36386, the State Plan for Radiological Accidents for the State of Illinois was received by the Region V office, Federal Emergency Management Agency.

Included are plans for local governments which are wholly or partially within the plume exposure pathway emergency planning zones of the nuclear plants. For the Zion plant, plans are included for Lake County; for the Quad Cities plant, plans are included for Rock Island and White Counties.

Copies of the plans are available for review at the FEMA Region V Technological Hazards Branch, Natural and Technological Division, Federal Center, Battle Creek, Michigan 49016. Copies will be made available upon request in accordance with the fee schedule for FEMA Freeedom of Information Act requests, as set out in Subpart C of 44 CFR Part 5. There are 585 pages in the Quad Cities plan and 912 pages in the Zion plan. Reproduction fees are $.10 a page, payable with the request for copy.

Comments on the plan may be submitted in writing to John T. Anderson, Regional Director, at the above address within thirty days of this **Federal Register** Notice.

FEMA proposed Rule 44 CFR 350.10 also calls for a public meeting prior to approval of the plans. Public meetings were held on the State and local jurisdictional plans for the Zion Nuclear Power Station on August 12, 1981, 7:00 p.m., Holiday Inn, Gurnee, Illinois; and for the Quad Cities Nuclear Power Station on June 17, 1981, 7:00 p.m., Commonwealth Edison Power Plant Information Center, Cordova, Illinois.

Dated: January 24, 1983.

John T. Anderson,

Regional Director, FEMA Region V.

[FR Doc. 83-3982 Filed 2-14-83; 8:45 am]

BILLING CODE 6718-03-M

[FEMA-675-DR]

Louisiana; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA-675-DR), dated January 11, 1983, and related determinations.

DATED: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

NOTICE: The notice of a major disaster for the State of Louisiana dated January 11, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 11, 1983:

For Public Assistance:

The Parishes of Catahoula, Grant, La Salle, Ouachita, and Rapides.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-3979 Filed 2-14-83; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-676-DR]

Washington; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA-676-DR), dated January 27, 1983, and related determinations.

DATE: January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of January 27, 1983, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the state of Washington resulting from servere storms, high tides, and flooding beginning on or about December 14, 1982 is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I, therefore, declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Public Law 93-288 for public assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Richard A. Buck of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby detemine the following area of the State of Washington to have been affected adversely by this declared major disaster:

Whatcom County for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-3981 Filed 2-14-83; 8:45 am]

BILLING CODE 6718-02-M

Senior Executive Service; Performance Review Boards; SES Bonus Issuance

The Federal Emergency Management Agency has awarded bonuses to the following senior executive service members. The bonuses recognize the members outstanding performance rating for the period from July 1, 1981 to June 30, 1982. David McLoughlin, Paul Krueger, John Dickey, William Chipman, Jack McGraw, Robert Crawford and Richard Sanderson.

Dated: February 8, 1983.

Joan C. McDonald,

Director of Personnel.

[FR Doc. 83-3980 Filed 2-14-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-222]

Citizens Federal Savings and Loan Association of Birmingham, Birmingham, Alabama; Final Action Approval of Conversion Applications

Dated: February 9, 1983.

Notice is hereby given that on February 2, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Citizens Federal Savings and Loan Association of Birmingham, Birmingham, Alabama, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-4057 Filed 2-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-223]

Commonwealth Federal Savings and Loan Association, Lowell, Massachusetts; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: February 9, 1983.

Notice is hereby given that on January , 1983, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Commonwealth Federal Savings and Loan Association, Lowell,

Massachusetts ("Association"). The application had been approved by the Board by Resolution No. 81–420, dated July 27, 1981. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Boston, P.O. Box 2196, Boston, Massachusetts 02106.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83–4056 Filed 2–14–83; 8:45 am]

BILLING CODE 6720–01–M

Metropolitan Savings and Loan Association, Farmington Michigan; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in Section 406(c)(1)(B) of the National Housing Act, as added by the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97–320 (October 15, 1982), Section 122(d), 96 Stat. 1469, 1482, to be codified at 12 U.S.C. Section 1729(c)(1)(B), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole Receiver for Metropolitan Savings Association, Farmington, Michigan, effective February 10, 1983.

Dated: February 10, 1983.

J. J. Finn,

Secretary.

[FR Doc. 83–4059 Filed 2–14–83; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

[License No. 1150–R]

Independent Ocean Freight Forwarder; American International Forwarders Corp.; Reinstatement of License

By Notice served and published in the **Federal Register**, Vol. 47, No. 239, page 55729 on December 13, 1982, Independent Ocean Freight Forwarder License No. 1150–R was revoked, effective November 27, 1982, for failure to maintain a valid surety bond on file with the Commission. The Notice of Revocation was served on November 30, 1982.

An appropriate surety bond has been received in favor of American International Forwarders Corp., and compliance pursuant to section 44, Shipping Act, 1916, and § 510.15 of the Commission's General Order 4 has been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in § 10.01(a) of Commission Order No. 1 (Revised), dated November 12, 1981, Independent Ocean Freight Forwarder License No. 1150–R shall be reissued to American International Forwarders Corp. effective January 28, 1983. A copy of this notice shall be published in the **Federal Register** and served upon American International Forwarders Corp.

Albert J. Klingel, Jr.,

Director Bureau of Certification and Licensing.

[FR Doc. 83–3996 Filed 2–14–83; 8:45 am]

BILLING CODE 6730–01–M

[License No. 1751]

Independent Ocean Freight Forwarder; P.C. Devine Inc.; Order of Revocation

On January 31, 1983, P.C. Devine inc., 5 Broadway, Freeport, NY 11520 surrendered its Independent Ocean Freight Forwarder License No. 1751 for revocation.

Therefore by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1751 issued to P.C. Devine Inc. be revoked effective February 4, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this order be published in the **Federal Register** and served upon P.C. Devine Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83–3994 Filed 2–14–83; 8:45 am]

BILLING CODE 6730–01–M

[License No. 2245]

Independent Ocean Freight Forwarder; Transcargo New York, Inc.; Order Of Revocation

On February 1, 1983, Transcargo New York, Inc., One Odell Plaza, Yonkers, NY 10701 surrendered its Independent Ocean Freight Forwarder License No. 2245 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2245 issued to Transcargo New York, Inc. be revoked effective February 1, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this order be published in the **Federal Register** and served upon Transcargo New York, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83–3995 Filed 2–14–83; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License; K.D Pacific; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Kana Dobbs Castleberry (fka Kana Dobbs) and Don Scott, d.b.a. K.D. Pacific, c/o Glad, White & Ferguson, 625 Market Street, 13th Floor, San Francisco, CA 94105

Maarten ven der Biezen, d.b.a. Maarten Intermodal Expeditors, 3942 Pine Circle, North Olmsted, OH 44070

A.O.T. (Europe) Ltd, c/o 254 Edgebrook, Wood Dale, IL 60191, Officers: Rolf Bruns, President; Judith A. Bruns, Secretary; Kenneth F. Hunt, Vice President/Operations.

Dated: February 10, 1983.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83–3996 Filed 2–14–83; 8:45 am]

BILLING CODE 6730–01–M

[Agreement No. 10464]

Great Lakes Transcaribbean Line and Armada Great Lakes/East Africa Service, Ltd.; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 10464 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that

preparation of an environmental impact statement is not required.

The agreement provides that Great Lakes Transcaribbean Line (GLTL) and Armada Great Lakes/East Africa Service, Ltd. (Armada) will establish a joint-venture to operate a single new liner service between U.S. and Canadian Great Lakes Ports and East/South African ports. The proposed service operated in this trade during 1981 and 1982 but failed to file the agreement pursuant to section 15 since neither GLTL nor Armada were aware of section 15 requirements. Agreement No. 10464 intends to place them in full compliance with the provisions of the Shipping Act, 1916.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83–4056 Filed 2–14–83: 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Proposed Acquisition of Alpine Mortgage Company; Alpine Bancorp, Inc.

Alpine Bancorp, Inc., Glenwood Springs, Colorado, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Alpine Mortgage Company, Glenwood Springs, Colorado.

Applicant states that the proposed subsidiary would engage in mortgage banking activities. These activities would be performed from offices of Applicant's subsidiary in Glenwood Springs, Colorado, and the geographic area to be served is the area surrounding Glenwood Springs, Colorado. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Borad approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 9, 1983.

Board of Governors of the Federal Reserve System, February 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–3984 Filed 2–14–83: 8:45 am]

BILLING CODE 6210–01–M

Acquistion of Bank Shares by a Bank Holding Company; National Bancshares Corp. of Texas

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *National Bancshares Corporation of Texas,* San Antonio, Texas; to acquire 100 percent of the voting shares or assets of First National Bank of Mission, Mission, Texas. Comments on this application must be received not later than March 10, 1983.

Board of Governors of the Federal Reserve System, February 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–3985 Filed 2–14–83: 8:45 am]

BILLING CODE 6210–01–M

Formation of Bank Shares by a Bank Holding Company; Texas East BanCorp, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve Bank System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Texas East BanCorp, Inc.,* Jacksonville, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Jacksonville, Jacksonville, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than March 10, 1983.

Board of Governors of the Federal Reserve System, February 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–3986 Filed 2–14–83: 8:45 am]

BILLING CODE 6210–01–M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Union National Corp. et al.

The organization identified in this notice have applied, pursuant to section

4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Union National Corporation*, Mt. Lebanon, Pennsylvania (underwriting credit life and disability insurance; Arizona): To engage, through its subsidiary, Union National Life Insurance Company, in the activity of underwriting as reinsurer credit life and disability insurance which is directly related to extensions of credit by the banking subsidiaries of Union National Corporation. These activities would be conducted from offices in Arizona serving the Commonwealth of Pennsylvania. Comments on this application must be received not later than March 10, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President 400 Sansome Street, San Francisco, California 94120:

1. *Western Commercial*, Fresno, California (leasing activities; California): To engage, through it subsidiary, Western Commercial Leasing Company, in the business of leasing personal property, specifically, commercial, industrial and agricultural equipment, in accordance with the Board's Regulation Y. These activities would be conducted from an office in Fresno, California, and would be performed in the Fresno-Clovis metropolitan area and the four California counties of Fresno, Madera, Kings and Tulare. Comments on this application must be received not later than March 9, 1983.

Board of Governors of the Federal Reserve System, February 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-3987 Filed 2-14-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83F-0020]

Calgon Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that Calgon Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sodium polyacrylate as a mineral scale inhibitor in cane sugar and beet sugar evaporators.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3A3699) has been filed by Calgon Corp., Calgon Center, Box 1346, Pittsburgh, PA 15230, proposing that Part 173 (21 CFR Part 173) be amended to provide for the safe use of sodium polyacrylate as a mineral scale inhibitor in cane sugar and beet sugar evaporators.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: February 4, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-3452 Filed 2-14-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0026]

Avicon, Inc.; Premarket Approval of Avitene® (Microfibrillar Collagen Hemostat) Non-Woven Web

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Avitene® (Microfibrillar Collagen Hemostat) Non-Woven Web, sponsored by Avicon, Inc., Fort Worth, TX. After reviewing the recommendation of the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 17, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Office of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On January 18, 1980, Avicon, Inc., Fort Worth, TX, submitted to FDA an application for premarket approval of the Avitene® (Microfibrillar Collagen Hemostat) Non-Woven Web, an absorbable topical hemostatic agent. The application was reviewed by the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel, an FDA advisory committee, which recommended approval of the application for use of the device in surgical procedures as an adjunct to hemostasis when control of bleeding by ligature or conventional procedures is ineffective or impractical. On October 24, 1980, FDA approved the application

by a letter to the sponsor from the Acting Director of the then Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office.

A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 17, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 9, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–3988 Filed 2–14–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 83M–0028]

Narco Scientific; Premarket Approval of $TCPCO_2$ Monitoring System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the $TcpCO_2$ Monitoring System sponsored by Narco Scientific, Hatboro, PA. After reviewing the recommendation of the Anesthesiology Device Section of the Respiratory and Nervous System Devices, Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use in neonates as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 17, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Office of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On April 27, 1982, Narco Scientific, Hatboro, PA 19040, submitted to FDA an application for premarket approval of the $TcpCO_2$ Monitoring System for use in monitoring carbon dioxide tension at the skin surface of neonates as an adjunct to other blood gas measurement techniques. The application was reviewed by the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel, an FDA advisory committee, which recommended approval of the application for the use of this device on neonates. On January 24, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices. Use of the device on adults continues to be investigational.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 17, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 9, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–3992 Filed 2–14–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 83M-0025]

Optech, Inc.; Premarket Approval of FRE-FLEX (Focofilcon A) Soft Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the FRE-FLEX (focofilcon A) Soft Contact Lenses, sponsored by Optech, Inc., Englewood, CO. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 17, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Office of medical devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On October 29, 1981, Optech, Inc., Englewood CO, submitted to FDA an application for premarket approval of the FRE-FLEX (focofilcon A) Soft Contact Lenses in both spherical and toric configurations. These lenses range in powers from −20.00 diopters to +20.00 diopters and are indicated for daily wear by aphakic and not aphakic persons with nondiseased eyes. The spherical lenses are indicated for the correction of myopia and hyperopia. The toric lenses are indicated for the correction of myopia, hyperopia, and up to 5 diopters of astigmatism. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On January 7, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), soft contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above), and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the approved contact lenses states that the lenses are to be used only with certain solutions using the chemical (not heat) method for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lenses. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 17, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 9, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3901 Filed 2-14-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0015]

Richmond Plasma Corp.; Revocation of U.S. License No. 564

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation on November 19, 1982, of the establishment license and product licenses for the manufacture of Source

Plasma (Human) and Source Leukocytes issued to Richmond Plasma Corp. Because of significant deviations from the requirements for the manufacture of these biological products, the manufacturer requested that the licenses be revoked.

DATE: The revocation of the establishment and product licenses was effective on November 19, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: In a letter dated November 19, 1982, issued under § 601.5(a) (21 CFR 601.5(a)), FDA revoked the establishment license (U.S. License No. 564) and product licenses for the manufacture of Source Plasma (Human) and Source Leukocytes issued to Richmond Plasma Corp., 1 East Broad St., Richmond, VA 23219. FDA issued the letter of November 19, 1982, following its receipt of a letter of November 1, 1982, from Richmond Plasma Corp. The letter from Richmond Plasma Corp. stated that it has ceased manufacturing Source Plasma (Human) under license. Richmond Plasma Corp. ceased manufacturing the products because of significant deviations from the biological products regulations found by FDA during inspections.

An inspection of Richmond Plasma Corp. on May 6 to 9, 1977, revealed numerous deviations from the requirements of Parts 606 and 640 (21 CFR Parts 606 and 640) of the biological products regulations. These deviations included, but were not limited to: (1) Departures from established standard operating procedures (21 CFR 606.100(b)); and (2) collecting more than the maximum permissible amount of whole blood from donors at one time (21 CFR 640.65(b)(6)).

On August 23 to 25, 1977, a followup inspection of the firm documented continuing deviations, including the overbleeding of donors (21 CFR 640.65(b)(6)). Because these deviations were determined by the agency to constitute a danger to health, the establishment and product licenses held by Richmond Plasma Corp. were suspended on September 2, 1977. After a December 20 and 21, 1977 inspection indicated that the firm had taken appropriate action to correct its deficiencies, FDA reinstated the firm's license on February 8, 1978.

On March 22, 1978, an inspection of the firm was conducted to investigate a reported incident of red blood cells from one donor being mistakenly reinfused into another donor. The inspection revealed continued deviations from established standard operating procedures, including having only one employee rather than two employees check identification of the unit of red blood cells against the donor before reinfusion.

Inspections on November 14 to 22 and December 6 to 8, 1978, revealed significant deviations from applicable standards relating to donor suitability and plasmapheresis procedure requirements (21 CFR 640.60 et seq.). The firm's establishment and product licenses were again suspended on December 11, 1978, because these deviations presented a danger to health. After an April 3 to 5, 1979 inspection indicated that the firm had taken appropriate action to correct its deficiencies, FDA reinstated the firm's license on April 25, 1979.

On March 20 to April 2, 1980, an inspection of the firm revealed numerous deficiencies, including significant deviations concerning the maintenance of accurate and concurrent plasma processing records and equipment standardization records (21 CFR 606.160 (a) and (b)).

An inspection of the firm on July 21 to 23, 1982, documented a second incident of red blood cells from one donor being mistakenly reinfused into another donor. Although the firm had been advised on at least two previous occasions of the importance of following standard operating procedures for donor identification reguarding reinfusion of red blood cells, the inspection revealed that the reinfusion error was largely associated with employee failure to follow established procedures.

In summary, the actions of Richmond Plasma Corp. represented: (1) Repeated noncompliance with the provisions of its license for Source Plasma (Human), (2) repeated noncompliance with the applicable standards in Title 21 of the Code of Federal Regulations, and (3) instances of intentional and willful disregard for these requirements. For these reasons, FDA issued a letter informing the firm of the agency's intention to revoke the firm's establishment and product licenses and to publish a notice of opportunity for hearing. Before further regulatory action was taken, in a letter dated November 1, 1982, the firm requested that its establishment and product licenses be revoked and waived the opportunity for a hearing under § 601.5(a). The agency has granted the request.

Accordingly, under § 12.38 (21 CFR 12.38) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Office of Biologics of the National Center for Drugs and Biologics (21 CFR 5.68), U.S. License No. 564 issued to Richmond Plasma Corp. and the product licenses for the manufacture of Source Plasma (Human) and Source Leukocytes were revoked, effective November 19, 1982. This notice of revocation is published under § 601.8 (21 CFR 601.8).

Dated: February 7, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–3989 Filed 2–14–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 81N–0253]

Skull X-Ray Referral Criteria Panel; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the fourth meeting of the Skull X-Ray Referral Criteria Panel. FDA provides logistical support for this Panel, which is convened by the University of California at San Francisco. This notice tells how to submit written data and views to the Panel, how to participate in open sessions of the meeting, and how to review the reports of the Panel.

DATES: Open sessions: March 3, 1983, 8:30 a.m. to 10:15 a.m. and March 4, 1983, 8:15 a.m. to 9:45 a.m.; closed sessions: March 3, 1983, 10:30 a.m. to 5 p.m. and March 4, 1983, 10 a.m. to 12 m.

ADDRESSES: The Panel meeting will be held at the Concord Hilton Hotel, 1970 Diamond Blvd., Concord, CA 94520. The reports of the earlier meetings of this Panel may be reviewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. The report of the fourth meeting will be placed on public display as soon as it is available.

FOR FURTHER INFORMATION CONTACT: Philip M. McClean, National Center for Devices and Radiological Health (HFX–76), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4600.

SUPPLEMENTARY INFORMATION: Through the Office of Radiological Health (formerly the Bureau of Radiological Health) of the National Center for Devices and Radiological Health, FDA conducts and supports research, training, and other activities to minimize unproductive radiation exposure from

diagnostic radiological examinations. One possible source of unproductive radiation exposure is radiological examinations that are not likely to affect patient management. To minimize requests for ineffective examinations, it is important that the referring physician have up-to-date information about when a given radiological study is likely to provide needed diagnostic information. This information, which can take the form of decision guides based on patient signs, symptoms, or history, is termed here "referral criteria."

Under one part of a program designed to facilitate the development and testing by the medical profession of referral criteria for diagnostic radiological examinations, FDA, provides logistical support through a contractor for the convening of small panels of clinical and scientific experts to formulate draft referral criteria or statements of use. A detailed description of the X-ray referral criteria development process was published in the Federal Register of June 9, 1981 (46 FR 30568).

This is the fourth meeting of the Skull X-Ray Referral Criteria Panel. The meeting is being called to continue the assessment of the existing state of knowledge regarding the use of plain skull radiography following head trauma and to discuss modifications to the draft referral criteria statement developed at earlier Panel meetings. Anyone interested in specific agenda items to be discussed in the open sessions may determine from the contact person the approximate time of discussion.

Any interested person may submit written data and views to the Panel. Anyone who wishes to request time for oral presentations during the open sessions of the meeting should infom the contact person listed above, either orally or in writing, before the meeting. Any person attending the meeting who does not in advance of the meeting request time will be permitted to make an oral presentation at the conclusion of the open sesions, if time permits, at the chairperson's discretion.

A list of committee members and the meeting agenda or the reports of earlier meetings of the Panel may be reviewed at the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday. The report of the fourth meeting of the Panel will be placed on public display at the Dockets Management Branch as soon as it is available and will contain minutes of the open sessions, copies of written data and views submitted to the Panel in the open sessions, and summaries of the closed sessions. Materials will be filed under the docket number appearing in the heading of this notice.

Dated: February 9, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3980 Filed 2-14-83; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

International Narcotics Control; Delegation of Authority

Notice is hereby given that on January 24, 1983, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health, with authority to redelegate, all the authority vested in the Secretary under Section 481(d) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2291(d)), concerning the authority to monitor the impact on the health of persons who use marijuana sprayed with a herbicide to eradicate such marijuana, excluding the authority to submit reports to the Congress.

Dated: February 7, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83-4080 Filed 2-14-83; 8:45 am]

BILLING CODE 4160-17-M

Immigration and Nationality Act Amendments of 1981; Delegation of Authority

Notice is hereby given that on January 28, 1983, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health, with authority to redelegate, all the authority vested in the Secretary under Section 5(e) of Pub. L. 97-116 (8 U.S.C. 1101 note) providing for an evaluation of the exchange programs for graduate medical education of foreign medical graduates, excluding the authority to promulgate regulations and to submit reports to Congress or to a congressional committee.

Dated: February 8, 1983

Dale W. Sopper,

Assistant Secretary for Management and Budget/OS.

[FR Doc. 83-4081 Filed 2-14-83; 8:45 am]

BILLING CODE 4160-15-M

The Immigration and Nationality Act; Delegation of Authority

Notice is hereby given that on January 28, 1983, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health, with authority to redelegate, the authority vested in the Secretary under Sections 212(a)(32) and 212 (j) of the Immigration and Nationality Act, as amended, [8 U.S.C. 1182(a)], providing for limitations on the entry of foreign medical graduates into the United States as immigrants or exchange visitors, excluding the authority to promulgated regulations and to submit reports to Congress or to a congressional committee.

The June 20, 1977 delegation (42 FR 36311-36312) made by the Secretary to the Assistant Secretary for Health of the above cited authorities under Section 212 of the Immigration and Nationality Act has been superseded. Provision has been made for redelegations made under the Secretary's previous delegation to officials within the Public health Service under Sections 212(a)(32) and 212(j) of the Immigration and Nationality Act to continue if effect for no more than 90 days from the effective date of the delegation to the Assistant Secretary for Health, provided they are consistent with the delegation to the Assistant Secretary for Health.

Dated: February 8, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget/OS.

[FR Doc. 83-4082 Filed 2-14-83; 8:45 am]

BILLING CODE 4160-15-M

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 47 FR 13587, March 31, 1982) is amended to (1) revise the functional statement of the Epidemiology Program Office (EPO) to delete the introductory statement referring to the position of Assistant Director for Public Health Practice since the Director, EPO, now reports to the Director, Centers for Diseaser Control, and establish the division-level organizational substructure; (2) change the name of the Laboratory Improvement Program Office (HCJ) to Laboratory Program Office (HCJ); revise the functional statement to reflect more clearly the functions of the Program Office, and establish the division-level organizational substructure; and (3) revise the Order of Succession to delete the title "Assistant Director for Public Health Practice."

Section HC–B, Organization and Functions, is hereby amended as follows:

1. After the heading *Epidemiology Program Office (HCD)*, change the administrative code "(HCD)" to "(HCD)" and delete the introductory statement: "Under the direction of CDC's Assistant Director for Public Health Practice:". After the statement for the *Epidemiology Program Office (HCB)*, insert the following:

Office of the Director (HCB1). (1) Manages, directs, and coordinates the activities of the Epidemiology Program Office (EPO); (2) provides leadership and guidance on policy, program planning, program management, and operations; (3) provides leadership for the implementation of an integrated program of epidemiology and surveillance at CDC, State and local governments, and other agencies, both foreign and domestic; (4) recruits, trains, and coordinates the assignment of Epidemic Intelligence Service (EIS) officers and monitors their performance; (5) publishes the Morbidity and Mortality Weekly Report and other surveillance/program documents; (6) provides liaison with other governmental agencies, international organizations, the Conference of State and Territorial Epidemiologists, and other outside groups; (7) provides administrative management and editorial support services, and coordinates with the appropriate CDC staff offices on program and administrative matters; (8) advises the Director, CDC, on policy matters concerning EPO activities and CDC-wide epidemiologic and surveillance activities.

Division of Field Services (HCB3). (1) Provides epidemiologic assistance and epidemic aid services to State and local health departments through the assignment of epidemiologic generalists to health departments; (2) conducts surveillance and investigations in communities to define disease control strategies and provides recommendations for disease control and prevention for all diseases regardless of etiology; (3) provides technical assistance to other components of CDC in the conduct of disease surveillance and investigations of multi-State disease outbreaks; (4) provides opportunities for mid-level CDC staff epidemiologists to develop their career capacities in preventive medicine, epidemiology, and public health administration; (5) provides consultation to State and local health departments and other nations on the establishment and maintenance of surveillance and epidemiology services and programs; (6) provides epidemiologists for international epidemic aid, upon request, to other nations through the World Health Organization, Pan American Health Organization, or Department of State, or bilaterally upon request from the appropriate health authority.

Division of Surveillance and Epidemiologic Studies (HCB5). (1) Collects, analyzes, and communicates basic surveillance information; (2) develops, evaluates, and implements methods of health surveillance and epidemiology; (3) gathers data and produces the statistical tables for the Morbidity and Mortality Weekly Report and various surveillance reports; (4) analyzes the influence of various factors such as socioeconomic status and demographic characteristics on the incidence and severity of preventable diseases in cooperation with other CDC components; (5) provides consultation on epidemiology and surveillance to other components of CDC, other Federal agencies, State and local health departments, international organizations, and other nations, and coordinates special epidemiologic and statistical activities; (6) develops new and improved methods of communication between CDC and the States, using computer technology.

2. Under the heading *Laboratory Improvement Program Office (HCJ)*, delete the heading and the statement in its entirety and substitute the following:

Laboratory Program Office (HCJ). Under the direction of CDC's Assistant Director For Science: (1) Develops and maintains a national data base and determines baseline information concerning health laboratory practice; (2) provides a consensus development mechanism to define good laboratory practice; (3) develops and publishes guidelines, standards, and prototypes to promote efficient and effective laboratory practice; (4) directs and provides leadership to accomplish goals established for good laboratory practice; (5) collaborates public, private, academic, and voluntary sectors of the health community to identify health laboratory problems and needs; (6) analyzes the laboratory evaluation programs of States, professional associations, and other Federal agencies; (7) identifies, provides, or recommends resources which will enable the laboratory community to provide the appropriate level and quality of service; (8) analyzes policy developments in the field of health and care and disease prevention and recommends synergistic programs and activities for the laboratory community; (9) conducts applied research in laboratory training, evaluation, and management science; (10) administers a proficiency testing program, a national laboratory training and consultation program, and a national laboratory management consultation program for States and other client groups; (11) collaborates with other components of CDC to provide a liaison between the national and international health laboratory community and appropriate CDC programs.

Office of the Director (HCJ1). (1) Provides leadership and guidance on policy, program planning, program management, and operations of the Laboratory Program Office (LPO); (2) plans, directs, coordinates, and evaluates the activities of the LPO and manages a comprehensive nationwide program for improving clinical and public health laboratory services; (3) provides coordination and liaison for collaborative national and international projects with other CDC components; (4) coordinates activities that provide technical and scientific support to the Health Care Financing Administration (HCFA) in its regulation of clinical laboratories; (5) interacts with public, private, academic, and voluntary sectors of the health community to identify the problems and needs of the health laboratory community and provides consultation and assistance in the formulation of solutions.

Division of Laboratory Training and Consultation (HCJ4). (1) Administers a national laboratory training program directed toward transferring current laboratory technologies to State public health laboratories and the Nation's laboratory community; (2) promotes development of active continuing education programs by State and private associations through the support and training of trainers; (3) in collaboration with State public health laboratories and other public and private health organizations and associations, coordinates a laboratory training program directed toward underserved laboratories; (4) identifies, through proficiency testing results and other assessment methods, laboratory problems which can be corrected by training; (5) produces laboratory training materials, including training packages, procedure manuals, and audiovisuals, for use by other laboratory trainers and serves as a national resource for these materialsl (6) provides scientific consultation and on-site scientific and safety review services to local, State, and Federal health laboratories; (7) collaborates with international health

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agencies and governments by providing laboratory training and by applying appropriate training materials for use in the international health laboratory community; (8) coordinates a Postdoctoral Program in Microbiology; (9) provides consultation in specialty areas such as tuberculosis, laboratory safety, radiation safety, educational methodology, and manpower development.

Division of Management Development and Consultation (HCJ5). (1) Administers a program of management development and assistance directed toward the laboratory and allied health community; (2) analyzes policy developments in the field of health care and disease prevention, and recommends appropriate programs and activities for scientific laboratories; (3) idenfities problems and needs in the management of health laboratories, and develops and conducts programs of training and consultation to meet those needs; (4) initiates and encourages coordination and joint planning with local, State, and other Federal agencies, professional associations, and other public/private interests in the laboratory community to minimize duplication of services and to improve utilization of laboratory resources; (5) conducts applied research and development on laboratory service, organization, and management prototypes, and works to obtain a consensus in the laboratory community on standards of good management principles as they relate to laboratory practice; (6) develops and maintains a facilities planning program to plan and design medical and medically related laboratories; (7) develops and assists States in implementing a management information system for State and local laboratories, and maintains a national center for health laboratory management information; (8) develops and maintains a data base and determines requirements for health laboratory manpower on a national scale, provides consultation and assistance in development of the labor market, and studies problems related to recruitment and retention of laboratory staff; (9) as required by the Office of the Director of the Laboratory Program Office and/or the CDC Executive Office, provides consultation and conducts management studies for other CDC components.

Division of Technology Evaluation and Assistance (HCJ6). (1) Plans and conducts a national laboratory evaluation program; (2) develops proficiency testing methodology and adminsters a proficiency testing program for licensed clincial laboratories, Federal, State, and local public health laboratories, and selected study groups; (3) evaluates the need for new or revised standards and guidelines applicable to licensed and certified clinical laboratories; (4) assists HCFA in the evaluation of the performance of State agencies and approved accreditation bodies in applying departmental standards applicable to clinical laboratories for effectiveness, uniformity, and efficiency; (5) develops methodology for collection of performance data and assessment of the quality of clinical laboratory services; (6) designs and implements studies to ensure that necessary performance data are identified and obtained for development of national baselines by tests, by type of laboratory, by geographic distribution, and by other evaluative criteria; (7) provides referee testing services for the proficiency testing programs of State and national accrediting bodies; (8) develops and distributes new and updated information on the state of the technology with respect to the quality, accuracy, and efficiency of clinical laboratory testing; (9) maintains liaison with State public health laboratory directors, professional associations, other Federal agencies, and academic institutions to coordinate the acquisition of data base information and to obtain input in the development of proposed or revised standards; (10) assists HCFA by providing training courses and informational materials to State agency surveyors and departmental regional office and central office staffs concerning new or revised clinical laboratory standards, interpretive guidelines, evaluation techniques, and evaluation formats; (11) supports training and consultation efforts within other divisions of the Laboratory Program Office by providing baseline information and performance evaluation data.

Section HC–C Order of Succession, is hereby amended to delete "(3) Assistant Director for Public Health Practice;" and renumber (4), (5), and (6) as (3), (4), and (5).

Dated: February 7, 1983.

Thomas R. Donnelly, Jr.,

Acting Secretary.

[FR Doc. 83-4063 Filed 2-14-83; 8:45 am]

BILLING CODE 4160-18-M

Health Resources and Services Administration; Statement of Organization, Functions, and Delegations of Authority; Correction

In FR Doc. 82–23846, appearing on pages 38409–38424 in the issue Tuesday, August 31, 1982, make the following revisions and corrections:

Under Section HB–10. Organization and Functions

(1) All references to the "Bureau of Health Maintenance Organizations and Resource Development (HBH)," should be "Bureau of Health Maintenance Organizations and Resources Development (HBH)."

(2) In the *Office of the Administrator (HBA):*

a. The title for the "Office of Program Coordination (HBA3)" is changed to the "Office of Policy Coordination (HBA3)," and the reference to "Policy Board" in item (2) of the statement for that Office is changed to "Policy Staff;"

b. In the statement for the *Division of Management Policy and Systems (HBA45),* Items (10) and (11) are deleted and replaced with the following: "(10) approves and clears Agency acquisitions involving ADP, word processing, and telecommuncations; (11) participates in audits of ADP activities to insure compliance with policies and procedures issued by PHS, the Department, OMB, and GSA; (12) provides advice and assistance to the Administrator or the Associate Administrator for Operations and Management, and to HRSA offices and bureaus of ADP activities to support requirements for management information; and (13) provides a focal point for liaison with OASH on ADP-related matters."

c. Item (6) of the statement for the *Division of Grants and Procurement Management (HBA46),* Office of Operations and Management, is deleted and replaced with the following: "(6) coordinates the Administration's positions and actions with respect to the audit of grants and contracts, and also coordinates responses to General Accounting Office audit reports and monitors the implementation of GAO recommendations; (7) provides professional accounting advice relative to the management of grants and contracts;"

d. In the statement for the *Division of Program Planning (HBA62),* Office of Planning, Evaluation and Legislation, "and" is deleted preceding item (9), and the following is added after item (9): "and (10) coordinates the Agency's public use reports clearance function."

e. In item (5) of the statement for the *Division of Evaluation and Analysis (HBA63),* Office of Planning, Evaluation and Legislation, "compare" is changed to "comparing," and item (10) of the statement for that Division is deleted.

f. In item (8) of the statement for the *Division of Legislation (HBA64);* Office of Planning, Evaluation and Legislation, "OAS(L)" is changed to "Office of the Assistant Secretary for Legislation."

(3) In the *Bureau of Health Maintenance Organizations and Resources Development (HBH):*

a. In the general statement for the Bureau, the following is added after the semicolon at the end of item (1): "administers grant programs for the construction of health professions teaching facilities and nurse training facilities under Titles VII and VIII of the PHS Act; and administers the PHS responsibility for facility construction, renovation, and modification as prescribed in interagency memoranda of agreement with other departments of the Federal Government;"

b. In item (9) of the statement for the *Division of Energy Policy and Programs (HBHC5),* Office of the Associate Director for Health Facilities, the word "Departmental" is added after the word "Federal" and before the word "State".

c. In item (6) of the statement for the *Division of Analysis and Technical Assistance (HBHE2),* Office of the Associate Director for Health Maintenance Organizations, the semicolon following the words "operating HMOs" is deleted, and a semicolon is added at the end of item (6).

(4) In the *Bureau of Health Professions (HBP):*

a. In item (1) of the general statement for the Bureau, the last word is changed from "strategies" to "assumptions."

b. In item (7) of the general statement for the Bureau, the work "assuring"is changed to "promoting."

c. The administrative code for the *Office of Program Support,* is corrected from BHP12 to HBP12.

d. The first sentence of the statement for the *Division of Associated and Dental Health Professions (HBP2)* is deleted and replaced with the following: "Serves as a principal focus with regard to health professions education, practice, and service research in the fields of dentistry, optometry, pharmacy, veterinary medicine, public health, health administration, and allied health professions and occupations, including dental hygienists, expanded function auxiliaries, dental assistants, and dental technicians."

e. Item (5) of the statement for the *Division of Associated and Dental Health Professions (HBP2)* is deleted and replaced with the following: "(5) evaluates eductional programs for dental health, public health, and associated health professionals;"

f. Item (9) of the statement for the *Division of Associated and Dental Health Professions (HBP2)* is deleted and replaced with the following: "(9) maintains liaison with dental health, public health, and other health professional groups, including consumers, having common interests in the Nation's capacity to deliver services;"

g. In line 3 of item (1) of the statement for the *Division of Medicine (HBP3),* the word "for" is inserted immediately before the word "planning."

h. Item (3) of the statement for the *Division of Medicine (HBP3)* is deleted and replaced with the following: "(3) engages with other Bureau programs in cooperative efforts of research, development, and demonstration on the interrelationships between the members of the health care team, their tasks, education requirements, training modalities, credentialing, and practices;"

i. The following new function is inserted immediately after item (3) of the statement for the *Division of Medicine (HBP3):* "(4) supports and encourages the planning, development, and operation of regionally integrated educational systems;" and the items originally numbered (4) through (10) are successively renumbered (5) through (11).

j. Item (2) of the statement for the *Division of Nursing (HBP4)* is deleted and replaced with the following: "(2) supports and conducts programs with respect to the development, utilization, and quality of nursing personnel, including registered nurses, practical or vocational nurses, and nursing aides;"

k. Item (10) of the statement for the *Division of Nursing (HBP4)* is deleted and replaced with the following: "(10) provides consultation and technical assistance to public and private organizations, agencies, institutions, the PHS Regional Offices, program units of the Federal Government, and international agencies and ministries of health on all aspects of nursing."

l. In the first sentence of the statement for the *Division of Student Assistance (HBP5),* the comma after "Loan Cancellation Programs" is changed to a period, and the words "and the Cuban Refugee Health Professions Loan Program" are deleted.

m. Item (2) of the statement for the *Division of Student Assistance (HBP5)* is deleted and replaced with the following: "(2) develops and implements program plans, regulations, and policies and operating and evaluation plans and procedures in coordination with the Office of Program Development and the Office of Program Support;"

n. Item (7) of the statement for the *Division of Student Assistance (HBP5)* is deleted and replaced with the following: "(7) in coordination with the Office of Program Development and the Office of Program Support, develops legislative proposals and implementation plans and related administrative and management information and control documents;"

o. The following new function is inserted immediately after item (5) of the statement for the *Division of Disadvantaged Assistance (HBP6),* Bureau of Health Professions: "(6) conducts special studies and collects baseline data to identify specific factors contributing to the health and health-related problems of the disadvantaged, and to develop strategies for improving health services and career opportunities for the disadvantaged;" and the items originally numbered (6) through (11) are successively renumbered (7) through (12).

p. The renumbered item (9) of the statement for the *Division of Disadvantaged Assistance (HBP6)* is deleted and replaced with the following: "(9) in coordination with the Bureau's divisions and in collaboration with other HRSA entities, provides leadership for and assures implementation of Presidential, Departmental, and other special initiatives addressing the needs of the disadvantaged;"

q. In renumbered item (12) of the statement for the *Division of Disadvantaged Assistance (HBP6),* "Office of the Assistance Secretary" is corrected to read "Office of the Assistant Secretary," and the phrase "is access to health resources * * *" is corrected to read "in access to health resources * * *."

(5) Under the *Bureau of Health Care Delivery and Assistance (HBC),* the statements for the *Office of Program Development (HBC12),* the *Office of Policy Coordination (HBC13),* the *Office of Program Support (HBC14),* the *Office of Data Management (HBC15),* and the *Office of Financing Services (HBC16)* are placed, in the order listed, immediately after the statement for the *Office of the Director (HBC1)* and immediately before the statement for the *Division of Beneficiary Medical Programs (HBC2).*

Under Section HB–20. Order of Succession

(1) In item (4) of the order of succession, "Associate Administrator for Program Coordination" is corrected to read "Associate Administrator for Policy Coordination;"

(2) In item (7), "Director, Bureau of Health Resources and Development;" is corrected to read "Director, Bureau of Health Maintenance Organizations and Resources Development;"

Under Section HB–30. Delegations of Authority

(1) Delete item (3) of the first paragraph and change item (4) to item (3).

(2) Delete item (3) of the second paragraph and change items (4) and (5) to items (3) and (4) respectively.

Dated: February 7, 1983.

Thomas R. Donnelly, Jr.,

Acting Secretary.

[FR Doc. 83–4064 Filed 2–14–83; 8:45 am]

BILLING CODE 4190–18–M

Social Security Administration

Privacy Act of 1974; Report of New Routine Use

AGENCY: Social Security Adminstration (SSA), HHS.

ACTION: New Routine Use.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), we are issuing public notice of our intent to establish a new routine use of information in the system of records 09–60–0089—Claims Folder, HHS/SSA/OOPP. The proposed routine use will permit us to disclose information to the Immigration and Naturalization Service (INS), upon request, to identify and locate aliens in the United States.

We invite public comments on this proposal.

DATES: The proposed routine use will become effective as proposed without further notice on March 17, 1983, unless we receive comments on or before that date which would result in a contrary determination.

ADDRESSES: Interested individuals may comment on this proposal by writing to the Privacy Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235. All comments received will be available for public inspection at 3–F–1 Operations Building at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Marlene Pegg, Chief, Enumeration Policy and Field Branch, Office of Enumeration and Earnings Records, Social Security Administrtion, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (Area Code 301) 594–6576.

SUPPLEMENTARY INFORMATION: Certain aliens who have been lawfully admitted to the United States by INS have a need for Social Security numbers (SSN's), whether or not they are authorized to work (e.g., exchange students whose educational institution uses the SSN as an identifier or aliens whose financial dealings with banks require an SSN in order to comply with rules promulgated by the Internal Revenue Service).

When applying for SSN's or Social Security benefits, the aliens must present certain immigration documents to SSA (e.g., the I–94—Arrival/Departure Record issued to students and visitors and the I–151 or I–551—Alien Registration Receipt Card issued to show proof of status). Social Security field office employees use the documents to determine the alien's identity, age and alien status when determining: (1) Whether to issue an SSN to the alien; and, (2) the alien's eligibility for benefits administered by SSA.

Upon the identification of possible fradulent documents, field office employees refer the suspected documents to INS for verification. (The Clamis Folder system (09–60–0089) and the Master Files of SSN Holders system (09–60–0058) already contain the appropriate routine use statement to permit these referrals to INS.) For those documents which INS confirms as fradulent, INS will request the applicant's name and other identifying information in accordance with the provisions of section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)). Section 290(c) requires the Secretary of HHS to furnish such available information as may be requested by the Attorney General (INS) regarding the identity and location of aliens in the United States. So that we may disclose the information from the Claims Folder system, we are proposing a routine use statement which would permit the disclosure of information for the following purpose:

To the Department of Justice (Immigration and Naturalization Service), upon request, to identify and locate aliens in the United States pursuant to the provisions of section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)).

We are proposing the routine use in accordance with the Privacy Act and our disclosure regulation (20 CFR Part 401). Section 401.310 of the regulation permits us to disclose information for a routine use where the information will be used for a purpose which is compatible with the purpose for which we collected the information. We consider disclosures required by status as disclosures for compatible purposes. Since 8 U.S.C. 1360(c) requires the Secretary of HHS to disclose the information, the above statement of routine use is appropriate.

The proposed routine use statement meets all requirements of the Privacy Act and our disclosure policy. Information will be disclosed under the routine use only upon receipt of a specific request from INS. We, therefore, do not anticipate that any disclosures under the routine use would result in any clearly unwarranted adverse effects on personal privacy.

Dated: February 3, 1983.

John A. Svahn,

Commissioner of Social Security.

09–60–0089

SYSTEM NAME:

Claims Folder, HHS/SSA/OOPP.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The claims folders are generally set up in district or branch offices when claims for benefits are filed (see Appendix F.1 for address information). They are retained there until all development has been completed, and then transferred to the appropriate reviewing office as set out below. Supplemental security income claims folders are held in district or branch offices pending estalishment of a payment record, or until the appeal period, in a denied claim situation, has expired. The folders are then transferred to a folder-staging facility in Chicago prior to transfer to the Chicago Federal Archives Records Center.

Retirement and survivors insurance claims folders are maintained primarily in social security program service centers. However, if an individual to which the claim pertains resides outside the United States or any of its possessions, the folder is maintained in the Office of International Policy. See Appendix A for address information regarding the Program Service Centers and the Office of International Policy.

Disability insurance claims folders for individuals under age 62 are maintained primarily in the Office of Disability Operations, or if the individual resides outside the United States or any of its possessions, the Office of International

Policy. Disability insurance claims folders for disabled individuals over age 62 are maintained in the Program Service Centers or the Office of International Policy (see Appendix A for address information).

Claims folders relating to Black Lung claims are maintained in the Office of Disability Operations (see Appendix B.1 for address information).

Supplemental security income claims folders are maintained in the Chicago Federal Archives Records Center.

In addition, claims folders are transferred to numerous other locations thorughout the Social Security Administration and the General Service Administration and infrequently may be temporarily transferred to other Federal agencies (Department of Justice, or Office of the General Counsel, Department of Health and Human Services). The disability claims folders are also transferred to state agencies for disability and vocational rehabilitation determinations (see Appendix B.3 for address information).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Claimants for retirement, survivors, disability, health insurance, or black lung benefits or supplemental security income payments.

CATEGORIES OF RECORDS IN THE SYSTEM:

The claims folder is established when a claim for benefits is filed. It contains application for benefits, earnings record information established and maintained by the Social Security Administration, documents supporting factors of entitlement and continuing eligibility, payment documentation, and correspondence to and from claimants and/or representatives.

It also may contain data collected as a result of inquires or complaints; and evalustion and measurement study of effectiveness of claims policies.

Separate files may be maintained of certain actions which are entered directly into the computer processes. These relate to reports of changes of address, work status, and other post-adjudicative reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 202–205, 223, 226, 228, 1611, 1631, 1818, 1836, and 1840 of the Social Security Act and Section 411 of the Federal Coal Mine and Health Safety Act.

PURPOSE(S):

The claims folder constitutes the basic record for payments and determinations under the Social Security Act and the Federal Coal Mine Health and Safety Act (Black Lung Act). Data are used to produce and maintain the Master Beneficiary Record (09–60–0090) which is the automated payment system for retirement, survivors, and disability benefits; the Supplemental Security Income Record (09–60–0103) system for the aged, blind, and disabled payments; the Black Lung Payments System (09–60–0045) for black lung claims; and the Health Insurance Billing and Collection Master Record system (09–70–0522) for hospital and supplementary medical (medicare) insurance benefits.

This paper file is controlled by the Social Security Administration Claims Control System (09–60–0091) while the claim is pending development for adjudication in the district or branch office, and by the Case Control System (09–60–0092) once the folder the folder has been transferred to the reviewing office (program service centers, Office of International Policy, or the Office of Disability Programs).

The claims folders are used throughout the Social Security Administration for the purposes of determining, organizing, and maintaining documents for making normal determinations as to eligibility for benefits, the amount of benefits, reviewing continuing eligibility, holding hearings or administrative review processes, and to ensure that proper adjustments are made based on events affecting entitlement. The folder may be referred to State Disability Determination Sections or Vocational Rehabilitation Agencies in disability cases. They may also be used for quality review, evaluation, and measurement studies, and other statistical and research purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below:

1. To third party contacts in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his/her affairs or his/her eligibility for or entitlement to benefits under the social security program when:

(a) The individual is unable to provide information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist):

(i) He/she is incapable or of questionable mental capability;

(ii) He/she cannot read or write;

(iii) He/she cannot afford the cost of obtaining the information;

(iv) A language barrier exists; or

(v) The custodian of the information will not, as a matter of policy provide it to the individuals; or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following:

(i) His/her; eligibility for benefits under the Social Security program;

(ii) The amount of his/her benefit payment; or

(iii) Any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement activities.

2. To third party contacts where necessary to establish or verify information provided by representative payees or payee applicants.

3. To a person (or persons) on the rolls when a claim is filed by an individual which is adverse to the person on the rolls; i.e.:

(i) An award of benefits to a new claimant precludes an award to a prior claimant; or

(ii) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls; but only for information concerning the facts relevant to the interests of each party in a claim.

4. To employers or former employers for correcting or reconstructing earnings records and for social security tax purposes only.

5. To the Treasury Department for collecting Social Security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act, (including Social Security Number verification services) and for investigating alleged theft, forgery, or unlawful negotiation of Social Security checks.

6. To the United States Postal Service for investigating alleged forgery of theft of Social Security checks.

7. To the Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

8. To the Department of State for administering the Social Security Act in foreign countries through facilities and services of that agency.

9. To the American Institute on Taiwan for administering the Social Security Act on Taiwan through facilities and services of that organization.

10. To the Veterans Administration, Regional Office Philippines, for administering the Social Security Act in the Philippines through facilities and services of that agency.

11. To the Department of Interior for administering the Social Security Act in the Trust Territory of the Pacific Islands through facilities of that agency.

12. To the Railroad Retirement Board for administering provisions of the Social Security Act relating to railroad employment.

13. To State Social Security Administrators for administration of agreements pursuant to section 218 (State and local).

14. To State audit agencies for auditing State supplementation payments and Medicaid eligibility considerations, and expenditures of Federal funds by the State in support of the Disability Determination Section (DDS).

15. To private medical and vocational consultants for use in making preparation for, or evaluating the results of, consultative medical examinations or vocational assessments which they were engaged to perform by the Social Security Administration or a State agency acting in accord with section 221 or 1633.

16. To specified business and other community members and Federal, State, and local agencies for verification of eligibility for benefits under section 1631(e).

17. To institutions or facilities approved for treatment of drug addicts or alcoholics as a condition of the individual's eligibility for payment under section 1611(e) and as authorized by regulations issued by the Special Action Office for Drug Abuse Prevention.

18. To applicants, claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue Social Security claims and receive an account of benefit payments.

19. To a congressional office in response to an inquiry from the congressional office made at the request of that individual.

20. To the Department of Justice in the event of litigation where the defendant is:

(a) The Department of Health and Human Services (HHS), any component of HHS or any employee of HHS in his or her official capacity;

(b) The United States where HHS determines that the claim, if successful, is likely to directly affect the operations of HHS or any of its component; or

(c) Any HHS employee in his or her individual capacity where the Justice Department has agreed to represent such employee;

HHS may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

21. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act.

22. To Federal, State, or local agencies (or agents on their behalf) for administering cash or noncash income maintenance or health maintenance programs. Such disclosures include, but are not limited to, release of information to:

(a) The Railroad Retirement Board for administering provisions of the Railroad Retirement Act relating to railroad employment and for administering the Railroad Unemployment Insurance Act;

(b) The Veterans Administration for administering 38 U.S.C. 412, and upon request, information needed to determine eligibility for or amount of VA benefits or verifying other information with respect thereto;

(c) The Department of Labor for administering provisions of Title IV of the Federal Coal Mine Health and Safety Act;

(d) State welfare departments for administering sections 205(c)(b)(i)(II) and 402(a)(25) of the Social Security Act requiring information about assigned Social Security Act requiring information about assigned Social Security Numbers for Aid to Families with Dependent Children program purposes only;

(e) State agencies for making determinations of Medicaid eligibility; and

(f) State agencies for making determinations of food stamp eligibility under the food stamp program.

23. To State welfare departments pursuant to ageements with the Social Security Administration for administration of State supplementation payments; for enrollment of welfare recipients for medical insurance under section 1843 of the Social Security Act; and for conducting independent quality assurance reviews of supplemental security income recipient records, provided that the agreement for Federal administration of the supplementation provides for such an independent review.

24. To State Vocational Rehabilitation agencies or State crippled childrens's service agencies (or other agencies providing services to disabled children) for consideration rehabilitation services per sections 222a and 1615 of the Social Security Act.

25. Information necessary to adjudicate claims filed under an international Social Security agreement that the United States has entered into pursuant to Section 233 of the Social Security Act way be disclosed to a foreign country that is a party to that agreement.

26. To the Internal Revenue Service, Department of the Treasury, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

27. To the Office of the President for responding to an individual pursuant to an inquiry received from that individual or from a third party on his or her behalf.

28. To third party contacts (including private collection agenices under contract with the Social Security Administration (SSA), for the purpose of their assisting SSA in recovering overpayments.

29. To the Department of Justice (Immigration and Naturalization Service), upon request, to identify and locate aliens in the United States pursuant to the provisions of section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)).

POLICES AND PRACTICES FOR STORING RETRIEVING, ACCESSING AND DISPOSSING OF RECORDS IN THE SYSTEM:

STORAGE:

Claims folders are maintained in file cabinets by service area as set out in location above.

RETRIEVABILITY:

Claims folders are filed by Social Security Number.

SAFEGUARDS:

Claims folders are protected through Limited access to Social Security Administration records, limited employee access to need to know. All employees are instructed in Social Security Administration confidentiality rules as a part of their initial orientation training.

RETENTION AND DISPOSAL:

The claims folder is initially maintained in the reviewing office. Later, both active and inactive folders are transferred to the Federal Archives and Records Center for storage and

inactive (no one is entitled to benefits) folders are scheduled for destruction. The time for retention prior to destruction is 5-year retention—no record of surviving potential beneficiaries; 20-year retention—withdrawn claims, claims disallowed or lump-sum death payments only, and 55-year retention—potential future claimants indicated in the file.

When a subsequent claim is filed on the social security number, the claims file is recalled from the Records Center. Similarly, the claims files may be recalled from the Records Center at any time by the Social Security Administration as necessary in the administration of social security programs.

SYSTEM MANAGER(S) AND ADDRESS:

SSA Privacy Officer, 6401 Security Boulevard, Baltimore, Maryland 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record pertaining to him or her by contacting the most convenient Social Security office (see Appendix F.1 for address and telephone information).

When requesting notification, an individual should provide his or her name, social security number, the type of claim he or she filed (retirement, survivors, disability, health insurance, black lung special minimum payments, or supplemental security income; if more than one claim is filed, each should be identified), whether he or she is or has been receiving benefits, whether payments are being received under his or her own social security number, and if not, the name and social security number under which received, if benefits have not been received, the approximate date and place the claim was filed, and his or her address and/or telephone number.

An individual who requests notification of or access to a medical record shall, at the time he or she makes the request, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. However, SSA will grant direct access to a subject individual if the responsible SSA official determines that direct access is not likely to have an adverse effect on him or her. If the responsible SSA official is unable to make a determination, or makes the determination that some harm may occur to an individual, the official will send the record to the designated representative and inform the subject individual in writing that the records have been sent.

A parent or guardian who requests notification of or access to a minor's medical record shall at the time he or she makes the request designate a physician or other health professional (other than a family member) who will be willing to review the record and inform the parent or guardian of its contents at the physician's or health professional's discretion.

These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the information being sought. These procedures are in accordance with HHS Regulations 45 CFR 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record and specify the information to be contested. These procedures are in accordance with HHS Regulations 45 CFR 5b.

RECORD SOURCE CATEGORIES:

This information is obtained from the claimants, accumulated by the Social Security Administration from reports of employers or self-employed individuals, various local, State, and Federal agencies, claimant representatives and other sources to support factors of entitlement and continuing eligibilities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-4013 Filed 2-14-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Nevada; Classification Partially Vacated

February 3, 1983.

1. Multiple Use Classification N-1025 was published in the **Federal Register** on December 12, 1968 (FR Doc 68-14835). The classification was partially vacated as shown by **Federal Register** publication on November 22, 1982, page 52572 (FR Doc. 82-31879).

2. Pursuant to 43 CFR 2461.5(c)(2) Multiple Use Classification N-1025 is hereby vacated as to the following described land:

T. 16 N., R. 38 E.
sec. 8, N½S½.

The area described comprises approximately 80 acres.

3. At 9:00 a.m. on March 17, 1983 the land is hereby open to the operation of the agricultural land laws, subject to valid existing rights. All valid applications received prior to or at 9:00 a.m. on March 17, 1983 will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

4. At 9:00 a.m. on March 17, 1983 the land will be opened to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

5. The land has been and will remain open to the mineral leasing laws.

6. There are 800 acres remaining under this classification.

Inquiries concerning this land should be addressed to the Deputy State Director, Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Edward F. Spang,
State Director, Nevada.

[FR Doc. 83-3803 Filed 2-14-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-50379-1]

Alaska Native Claims Selection; Chugach Natives Inc.

On January 10, 1983, the 1982 CNI Settlement Agreement was entered into by and among the United States of America, the State of Alaska, and Chugach Natives, Inc. (hereinafter referred to as the Agreement) to enable Chugach Natives, Inc., to receive the acreage equivalent of its entitlement under Secs. 12(c) and 14(h)(8) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c), 1613(h)(8)(Supp. IV, 1980)) (ANCSA). The agreement was entered into pursuant to the provisions of Secs. 12(c), 14(h)(8) and 22(f) of ANCSA and Secs. 1302(h) and 1430(a) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2475, 2531) (ANILCA).

Pursuant to the provisions of paragraph 4 of the Agreement, Chugach Natives, Inc., has elected to receive title

to certain lands in Prince William Sound—Eagle Bay (Glacier Island) in exchange for certain selection rights the corporation had, as outlined in paragraph 12 of the Agreement. The lands are identified in case file AA–50379–1.

The lands described below do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title. The conveyance shall be considered and treated as a conveyance under ANCSA.

In view of the foregoing, the surface and subsurface estate of the following described lands, containing approximately 120 acres, are considered proper for acquisition by Chugach Natives, Inc., and are hereby approved for conveyance pursuant to Sec. 22(f) of ANCSA and Sec. 1302(h) of ANILCA.

Copper River Meridian, Alaska (Unsurveyed)

An island located northwest of Growler Bay and adjacent to Glacier Island in Prince William Sound, having a latitude and longitude at its midpoint of 60°54'15" N. and 147°07'30" W., further described as follows:
T. 11 S., R. 11 W.
Sec. 14, that portion of the large island located in the SE¼;
Sec. 23, that portion of the large island located between Eagle Bay and Growler Bay east of Elder Point which lies primarily in the E½.
Containing approximately 120 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The terms and conditions of the 1982 CNI Settlement Agreement entered into pursuant to Sec. 1430 of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2531). A copy of the Agreement is located in case file AA–50379. Any person wishing to examine this Agreement may do so at the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513; and

4. The provisions of paragraph 19.C of the 1982 CNI Agreement entered into pursuant to Sec. 1430 of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2531), namely the following covenant, which shall run with the land:

These lands may be developed only for commercial recreation purposes such as, but not limited to, lodges, recreational cabins, restaurants, small grocery outlets and supply outlets, marine fuel outlets, marine repair and docking and charter facilities.

Chugach Natives, Inc., is entitled to conveyance of approximately 371,832 acres of land selected to Secs. 12(c) and 14(h)(8) of ANCSA. To date, approximately 47,869 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 322,962 acres will be conveyed at a later date.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the CORDOVA TIMES.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until March 17, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Chugach Natives, Inc., 903 West Northern Lights, Suite 201, Anchorage, Alaska 99501.

Ann Johnson,
Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-4004 Filed 2-14-83; 8:45 am]
BILLING CODE 4310-84-M

Utah; Sunnyside Combined Hydrocarbon Lease Conversion EIS; Scoping Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement and Conduct Scoping Meetings.

SUMMARY: Notice is hereby given that in accordance with the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM), will prepare an environmental impact statement (EIS) covering the proposed conversion of existing oil and gas leases within the Sunnyside Special Tar Sand Area (Carbon County, Utah) to hydrocarbon leases, under the Combined Hydrocarbon Leasing Act of 1981.

The BLM Division of EIS Services, Denver, Colorado, will assist the Moab District Office in preparing the Sunnyside Lease Conversion EIS. The statement will analyze the impacts of the lease conversions and proposed surface and in-situ mining tar sand

projects. The Sunnyside Lease Conversion EIS will be tiered to the Tar Sand Leasing Regional EIS, which will evaluate the broader issues related to a combined hydrocarbon leasing program for eleven Special Tar Sand Areas in Utah, including the Sunnyside area.

A public open house (scoping meeting) to assist in determining the scope of the Sunnyside Lease Conversion EIS and the Tar Sand Leasing Regional EIS will be held in Price, Utah, on March 9, 1983, from 4:00 to 7:00 pm. The open house will be held in the conference room of the BLM Price River Resource Area Office, 900 North 7th East, Price, Utah. The purpose of this open house is threefold: 1) to inform the public of the nature of the combined hydrocarbon leasing program and the lease conversions proposed for the Sunnyside Special Tar Sand Area; 2) to gather resource information from the public; and (3) to consider concerns, problems, and/or issues important to the public, including possible alternatives, for possible inclusion in the Sunnyside Lease Conversion and/or Combined Hydrocarbon (Tar Sand) Leasing Regional EISs.

A summary of the proposed Sunnyside Special Tar Sand Area lease conversions and the resulting tar sand projects to be addressed in the Sunnyside Lease Conversion EIS can be obtained from: Gene Nodine, District Manager, Bureau of Land Management, Moab District, 125 W. 2nd S., P.O. Box 970, Moab, Utah 84532; telephone: (801) 259–6111. For persons who may not be able to attend the open house, letters of comment regarding the EIS scoping may be sent to this address.

Dated: February 7, 1983.

Gene Nodine,

District Manager.

[FR Doc. 83–3976 Filed 2–14–83; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications; Henry Ford Hospital et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Henry Ford Hospital, Detroit, MI—PRT 2–9991.

The applicant requests a permit to import two captive-born ruffed lemurs (*Lemur variegatus*) from the London Zoo for breeding purposes and biochemical studies aimed at detecting the hereditary biochemical abnormality in these mutant lemurs.

Applicant: San Diego Zoo, San Diego, CA—PRT 2–9986

The applicant requests a permit to import one captive-bred tiger from the Canton Zoo, Canton, Peoples Republic of China for enhancement of propagation.

Applicant: John A. Blankenship, USFWS, Mayaquez, Puerto Rico—PRT 2–9964

The applicant requests a permit to take (harass) yellow-shouldered blackbirds (*Agelaius xanthomus*) for enhancement of survival. A major factor in the decline of this blackbird has been the increase and spread of the shiny cowbird (*Molothrus bonariensis*) which parasitizes nests of yellow-shouldered blackbirds. Trapping in the blackbird's nesting area to control shiny cowbirds is proposed.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: February 8, 1983.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83–3983 Filed 2–14–83; 8:45 am]

BILLING CODE 4310–55–M

Issuance of Permits for Marine Mammals; Carle Foundation Hospital

On June 22, 1982, a notice was published in the **Federal Register** (47 FR Vol. 120, that an application had been filed with the Fish and Wildlife Service by the Carle Foundation Hospital, Urbana, Illinois for a permit to capture two polar bears (*Ursus maritimus*) for scientific research. In addition, on November 17, 1982, a notice was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the **Federal Register** (47 FR Vol. 222) that an application had been filed with the Fish and Wildlife Service and the National Marine Fisheries Service by the Mote Marine Laboratory, Sarasota, Florida, to use a sonar device in tracking movements of bottle-nosed dolphin (*Tursiops truncatus*) and West Indian manatees (*Trichechus manatus*).

Notice is hereby given that, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), both applicants named above were issued permits for the described activities subject to certain conditions set forth therein. The Carle Foundation was issued a permit (PRT 2–9221) on January 26, 1983, and Mote Marine Laboratory was issued a permit on February 1, 1983.

These permits are available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: February 7, 1983.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83–3984 Filed 2–14–83; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 4, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 2, 1983.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Jefferson County

Birmingham, *Five Points South Historic District*, Roughly bounded by 10th and 15th Aves, 19th and 21st Sts.

CONNECTICUT

Litchfield County

Canaan, *South Canaan Congregational Chruch*, CT 63 and Barnes Rd.

ILLINOIS

Cook County

Chicago, *Tri-Taylor Historic District*, Roughly bounded by Claremont, Harrison, Oakley, Polk, Ogden, and Roosevelt Rds.

Evaston, *Evaston Ridge Historic District*, Roughly bounded by Main, Asbury, Ashland, Emerson, Ridge and Maple Ave.

INDIANA

Daviess County

Washington, *Graham, Robert C., House*, 101 W. Maple St.

Franklin County

Oldenburg, *Oldenburg Historic District*, Bounded roughly by Sycamore, church land woods, Indiana, and Water Sts., and Gehring Farm.

Marion County

Indianapolis, *Cole Motor Car Company*, 730 E. Washington St.

Monroe County

Bloomington, *Morgan House*, 532 N. Walnut St.
Bloomington, *Wicks Building*, 118 W. Sixth St.

Perry County

Cannelton, *St. Luke's Episcopal Church*, Third and Washington Sts.

Vanderburgh County

Evansville, *Koester/Patberg House*, 504 Herndon Dr.

LOUISIANA

Lafayette Parish

Broussard, *Alesia (Broussard MRA)*, 108 N. Morgan St.
Broussard, *Billeaud House (Broussard MRA)*, 303 W. Main St.
Broussard, *Billeaud, Martial Jr., House (Broussard MRA)*, 118 N. Morgan St.
Broussard, *Broussard, Valsin, House (Broussard MRA)*, 408 W. Main St.
Broussard, *Comeaux House (Broussard MRA)*, 406 Second St.
Broussard, *Ducrest Building (Broussard MRA)*, 101 W. Main St.
Broussard, *Janin Store (Broussard MRA)*, 121 N. Morgan St.
Broussard, *Main Street Historic District (Broussard MRA)*, 203–302 E. Main St.
Broussard, *Roy-LeBlanc House (Broussard MRA)*, 105 St. Pierre St.
Broussard, *St. Cecilia School (Broussard MRA)*, 302 W. Main St.
Broussard, *St. Julien House (Broussard MRA)*, 203 E. Second St.

St. Landry parish

Eunice, *Midland Branch Railroad Depot*, First and North Sts.

St. Martin Parish

Breaux Bridge vicinity, *Olivier Pigeonnier*, SW of Breaux Bridge off LA 94

Union Parish

Marion, *Hopkins House*, Hopkins Lane

MARYLAND

Baltimore (Independent City)

Mercantile Trust and Deposit Company, 202 E. Redwood St.

MICHIGAN

Leelanau County

Glen Haven, *Glen Haven Village Historic District*, MI 209

NEVADA

Washow County

Reno, *Humphrey House*, 467 Ralston St.

NEW JERSEY

Bergen County, Mahwah, *Hopper Gristmill Site*,

OHIO

Delaware County

Delaware vicinity, *Warren Tavern Complex*, U.S. 36

Erie County

Sandusky, *Boeckling, G.A., (Side-paddlewheel steamboat)*, Jackson Street Dock

Lucas County

Toledo, *Gendron, Peter, House*, 1413 Walnut St.

OKLAHOMA

Creek County

Drumright vicinity, *Wheeler No. 1 Oil Well*, Off OK 99

Jefferson County

Ringling vicinity, *Cornish Orphan's Home*, Off OK 89

PENNSYLVANIA

Allegheny County

Pittsburgh, *Schenley Farms Historic District*, Roughly bounded by Andover Terr., Centre, Bellefield, and Parkman Aves. Dithridge, Thackeray, Forbes and Mawhinney Sts.

Armstrong County

Apollo, *Drake Log Cabin*, Williams Alley

Chester County

Parkerford, *Parker's Ford*, Old Schuylkill Rd.

Lancaster County

Strasburg, *Strasburg Historic District*, E. and W. Main, W. Miller, S. Decatur Sts.

Philadelphia County

Philadelphia, *Manayunk Main Street Historic District*, Roughly bounded by Reading RR, Flat Rock Dam, Schuylkill River, and Lot 4025 Main St.
Philadelphia, *Monte Vista*, 917–931 N. 63rd St., 6154–6160 Oxford St., 6151–6157 Nassau St.

TEXAS

Bexar County

San Antonio, *Thiele House and Thiele Cottage*, 411 and 415 Sixth St.

Blanco County

Johnson City, *Lyndon B. Johnson National Historical Park*, US 290

Travis County

Austin, *Haynes-DeLashwah House*, 1209 Rosewood Ave.

UTAH

Salt Lake County

Draper, *Smith, Lauritz, House*, 1350 E. 12400 South
Murray, *Cahoon, John P., House*, 4872 S. Poplar St.

VERMONT

Rutland County

West Haven, *Smith, Simeon, House*, W. Haven Rd.

Windsor County

Bethel, *Harrington House*, River St. and VT 107

WISCONSIN

Eau Claire County

Eau Claire, *Sacred Heart Church (Eau Claire MRA)*, 418 N. Dewey St.

Milwaukee County

Milwaukee, *Abbot Row*, 1019–1043 W. Ogden Ave.
Milwaukee, *Baumbach Building*, 302 N. Broasway St.

Monroe County

Sparta, *St. John's Episcopal Church*, 400 N. Water St.

[FR Doc. 83-3870 Filed 2-14-83; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Garrison Diversion Unit, North Dakota; Notice of Intent To Prepare a Supplemental Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and 40 CFR 15–2.9(c), the Department of the Interior plans to prepare a supplemental draft environmental statement covering actions proposed by the Department in connection with construction of the Garrison Diversion Unit, North Dakota. The Garrison Diversion Unit is a multipurpose project under construction in eastern North Dakota which includes irrigation, municipal and industrial water service, recreation and fish and wildlife purposes. This draft environmental statement will be supplemental to FSES 70–7, dated March 7, 1979, FSES 74–21, dated May 3, 1974, and FES 74–3, dated January 10, 1974.

The Governor of North Dakota has submitted to the Secretary of the Interior a proposal that the Garrison Diversion Unit be constructed in a phased manner so that the service areas to be constructed initially will not drain into Canada. Coincidental with the Secretary's consideration of that proposal, a joint Federal/State committee has developed potential

modifications of the fish and wildlife mitigation plan for the Garrison Diversion Unit, with emphasis on specific mitigation measures relating to the segments of the project to be constructed in the near future, which are essentially the same features included in the first phase of the Governor's proposal.

This supplemental draft environmental statement will cover: (1) Fish and wildlife mitigation and enhancement including the committee's recommended modifications mentioned above; (2) operation of Lonetree Reservoir; (3) not constructing a fish screen on the McClusky Canal; (4) a 2000 cubic feet per second (ft^3/s) emergency spillway from Lonetree Reservoir; (5) increasing the capacity of the proposed James river Feeder Canal from 450 ft^3/s to 1600 ft^3/s; (6) redirecting return and suplus flows from the new Rockford Service Area to the James River; and (7) changes in the flows of the James River resulting from the above actions. These proposed actions, which are consistent with the recommendations of the International Joint Commission and the obligations of the United States under the Boundary Waters Treaty of 1909, could be implemented independently from the Governor's proposal. Accordingly, this supplemental draft environmental statement will address only the potential impacts of the proposed actions but will also be useful to the Department in its further consideration of the Governor's proposal.

No scoping meeting is scheduled for this supplemental statement; however, the proposed modifications of the fish and wildlife mitigation plan have been the subject of public meetings in the State of North Dakota. The supplement will be prepared, circulated and filed in the same fashion as a draft and final statement and public comments will be solicited before a final decision on the proposed actions addressed in this supplemental statement is made.

The contact person for this supplemental draft statement is Mr. Larry Parsons, Bureau of Reclamation, P.O. Box 1017, Bismark, North Dakota 58501, telephone (701) 783–4595.

Dated: February 10, 1983.

R.N. Broadbent,

Commissioner.

[FR Doc. 83–4040 Filed 2–14–83; 8:45 am]

BILLING CODE 4310–09–M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability of Findings of No Significant Impact (FONSI) addressing Environmental Assessments (EAs) for development of two abandoned mine land projects (19 sites) under the State of Montana's Reclamation Plan.

SUMMARY: Montana Department of State Lands has prepared EAs on projects submitted in the Federal Grant Application to the Office of Surface Mining.

A FONSI has been prepared for the two reclamation projects (19 sites) indicated below and included in the grant application developed under Title IV of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1231–1234.

ADDRESS: Copies of the EAs and FONSI are available for inspection or may be obtained at the following location between the hours of 8:00 a.m. and 4:00 p.m.: Office of Surface Mining, Casper Field Office, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

Reclamation Projects included in FONSI, Location and description: Montana is requesting reclamation Funds for two projects Jefferson and Lewis and Clark Counties. Work to be performed is solely for sealing both adits and shafts non-coal hard rock mine openings, at the following nineteen Sites.

Project	Area	Name	Legal description
Jefferson Co.	Alhambra	Wall	T8 N., R3 W., Sec 16 N.[1]
		Haynes	T8 N., R3 W., Sec 17 E.[1]
		Stiles-Mammouth	T8 N., R3 W., Sec 9 E.[1]
	Lump Gulch	Cole-Liverpool	T9 N., R3 W., Sec 33 SW
		Marks	T9 N., R3 W., Sec 33 NW
	Clancy Creek	Clancy Creek	T8 N., R3 W., Sec 8 NW
		Marks-BLM	T8 N., R3 W., Sec 5 SW
	Elkhorn	Quaintence-Louise	T6 N., R3 W., Sec 11 NE
Lewis and Clark Co.	Scratchgravel	Anders-Julia	T10 N., R4 W., Sec 2 NE
		Lovely-Oompaul	T11 N., R4 W., Sec 35
	Grizzly Gulch	Gunn	T9 N., R4 W., Sec 3 SW
		Hubbard-Cycle	T9 N., R4 W., Sec 25 SE
		Tangen	T10 N., R4 W., Sec 35 SE
	Colorado Gulch	Stiller	T9 N., R5 W., Sec 13
	York	Virag-Golden Messenger	T11 N., R1 W., Sec 4 SW
	Marysville	Fritsche-Empire	T12 N., R6 W., Sec 33 N.[1]
		Seifert-Snowdrift	T12 N., R6 W., Sec 35.
		Tetsher-Penobscot	T11 N., R6 W., Sec 4 SE
	Rimini	Tangen-Justice	T8 N., R5 W., Sec 6 N.[1]

FOR FURTHER INFORMATION CONTACT: William R. Thomas Director, Casper Wyoming Field Office, Commercial (307) 328–5830 or (FTS) 328–5824 at the (address above).

Dated: February 8, 1983.

William B. Schmidt,

Assistant Director, POI.

[FR Doc. 83–4087 Filed 2–14–83; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[332–149]

Competitive Assessment of the U.S. Metalworking Machine Tool Industry

AGENCY: United States International Trade Commission.

ACTION: The Commission is extending the deadline for the filing of written submissions from interested parties in the subject investigation from February 1, 1983 to March 1, 1983. Supplemental submissions from parties having already filed written briefs will be accepted. The initial notice of investigation indicating the scope of the study, contact persons, and other related information was published in the **Federal Register** of December 8, 1982 (47 FR 55343).

By order of the Commission.

Issued: February 7, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–4075 Filed 2–14–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–182 (Final)]

Rail Passenger Cars and Parts Thereof From Canada

AGENCY: United States International Trade Commission.

ACTION: Termination of final countervailing duty investigation.

EFFECTIVE DATE: February 9, 1983.

SUMMARY: On February 9, 1983, the United States International Trade Commission received a letter from the Budd Co. of Troy, Michigan, the petitioner in the subject investigation, withdrawing its petition. Accordingly, the United States International Trade Commission hereby gives notice of the termination of its countervailing duty investigation involving rail passenger cars and parts thereof from Canada (investigation No. 701-TA-182 (Final)) and of the cancellation of the public hearing scheduled for February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Reavis (202-523-0296), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

By order of the Commission.

Issued: February 9, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-4076 Filed 2-14-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 104-TAA-11 and 104-TAA-12]

Unprocessed Float Glass From Belgium and Italy

Determination. Based on the record [1] developed in investigations Nos. 104-TAA-11 and 104-TAA-12, the Commission unanimously determines, pursuant to section 104(b) of the Trade Agreements Act of 1979, that an industry in the United States would not be materially injured, or threatened with material injury, nor would the establishment of an industry in the United States be materially retarded, by reason of imports of unprocessed float glass from Belgium and Italy, provided for in items 543.21 through 543.69 of the Tariff Schedules of the United States, currently covered by outstanding countervailing duty orders, if the orders were to be revoked.

Background. On November 30, 1980, and February 19, 1981, the U.S. International Trade Commission received requests from the Delegation of the Commission of the European Communities for investigations under section 104(b) of the Trade Agreements Act of 1979 with respect to unprocessed float glass imported from Italy and Belgium, respectively.

Accordingly, effective October 8, 1982, the Commission instituted investigations Nos. 104-TAA-11 and 104-TAA-12 under section 104(b) to determine whether an industry in the United States would be materially injured or threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of unprocessed float glass from Belgium and Italy, currently covered by countervailing duty orders, if the orders were to be revoked.

Notice of the institution of the Commission's investigations and of a hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. 20436, and by publishing the notice in the **Federal Register** on October 20, 1982 (47 FR 46775). The hearing was held on December 16, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on the investigations to the Secretary of Commerce on February 4, 1983. A public version of the Commission's report, *Unprocessed Float Glass from Belgium and Italy* (investigations Nos. 104-TAA-11 and 104-TAA-12, USITC Publication 1344, 1983), will contain the views of the Commissioners and information developed during the investigations.

By order of the Commission.

Issued: February 4, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-4077 Filed 2-14-83; 8:45 am]

BILLING CODE 7020-02-M

[332-152]

Monthly Reports Providing Information on the U.S. Auto Industry

AGENCY: United States International Trade Commission.

ACTION: At the request of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representative, and in accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the Commission has instituted investigation No. 332-152, for the purpose of providing monthly data on the U.S. automobile industry through December 1983. The monthly reports will include data on automobile production, imports, exports, inventories retail sales, price adjustments, and employment. The report will also include retail prices of selected comparable Japanese and U.S. produced automobiles on a monthly basis.

The reports issued under this investigation will be similar in scope to those issued under recently completed investigation Nos. 332-121, 332-129 and 332-136, of like title. Notice of the investigations were published in the **Federal Register** of January 7, 1981 (46 F.R. 1849), July 29, 1981 (46 F.R. 38779), and February 10, 1982 (47 F.R. 6118), respectively.

EFFECTIVE DATE: February 4, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James McElroy or Mr. Charles West, Machinery and Equipment Division, Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202-523-0258 and 202-523-0299, respectively).

Issued: February 7, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-4078 Filed 2-14-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-136]

Certain Marine Hardware and Accessories; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: February 4, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-4079 Filed 2-14-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-170, 171, and 173 (Final)]

Certain Carbon Steel Products From the Republic of Korea

Determinations. On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 705(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)), that an industry in the United States is materially injured by reason of imports of the following products which have been found by the

[1] The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, February 10, 1982).

[1] The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i), 47 FR 6190, Feb. 10, 1982).

Department of Commerce to be subsidized by the Government of the Republic of Korea: hot-rolled carbon steel plate (investigation No. 701–TA–170 (Final)),[2] hot-rolled carbon steel sheet (investigation No.701–TA–171 (Final)),[3] and galvanized carbon steel (investigation No. 701–TA–173 (Final)).[4 5]

Background. The Commission instituted these investigations effective October 12, 1982, following preliminary determinations by the Department of Commerce that there was a reasonable basis to believe or suspect that subsidies were being provided to manufacturers, producers, or exporters of the subject carbon steel products in the Republic of Korea.

Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on October 27, 1982 (47 FR 47703). The hearing was held in Washington, D.C., on January 10, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on the investigations to the Secretary of Commerce on February 8, 1983. A public version of the Commission's report, *Certain Carbon Steel Products from the Republic of Korea* (investigations Nos. 701–TA–170, 171, and 173 (Final), USITC Publication 1346, 1983) contains the views of the Commissioners and information developed during the investigations. Copies may be obtained after February 8, 1983, by calling 202–523–5178 or from the Office of the Secretary, 701 E Street NW., Washington, D.C. 20436.

Issued: February 8, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–4080 Filed 2–14–83; 8:45 am]

BILLING CODE 7020–02–M

[2] For purposes of this investigation, hot-rolled carbon steel plate is provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (TSUSA).

[3] For purposes of this investigation, hot-rolled carbon steel sheet is provided for in items 607.6610, 607.6700, 607.8320, 607.8342, and 607.9400 of the TSUSA.

[4] For purposes of this investigation, galvanized carbon steel sheet is provided for in items 608.0710, 608.0730, 608.1100, and 608.1300 of the TSUSA.

[5] Commissioner Stern dissenting.

[Investigation No. 701–TA–168 (Final)]

Certain Welded Carbon Steel Pipes and Tubes From the Republic of Korea

Determination. On the basis of the record [1] developed in the subject investigation, the Commission determines, [2] pursuant to section 705(b)(1) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)(1)), that an industry in the United States is materially injured by reason of imports of small diameter welded carbon steel pipes and tubes [3] which have been found by the Department of Commerce to be subsidized by the Republic of Korea.

Background. Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. and by publishing the notice in the **Federal Register** on November 3, 1982 (47 FR 49908). The hearing was held in Washington, D.C. on January 6, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on the investigation to the Secretary of Commerce on February 8, 1983. A public version of the Commission's report, *Certain Welded Carbon Steel Pipes and Tubes from the Republic of Korea* (investigation No. 701–TA–168 (Final), USITC Publication 1345, 1983), contains the views of the Commissioners and information developed during the investigation.

Issued: February 8, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–4081 Filed 2–14–83; 8:45 am]

BILLING CODE 7020–02–M

[1] The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).

[2] Commissioner Stern dissenting.

[3] For purposes of this investigation the term "small diameter welded carbon steel pipes and tubes" covers welded, jointed, or seamed carbon steel pipes and tubes with walls not thinner than 0.065 inch, of circular cross section, and 0.375 inch or more but not more than 16 inches in outside diameter, as currently provided for in items 610.3208, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244, and 610.3247 of the Tariff Schedules of the United States Annotated (TSUSA). Pipes and tubes suitable for use in boilers, superheaters, heat exchangers, condensers, and feed water heaters, or conforming to API specifications for oil well tubing with or without couplings; cold drawn pipes and tubes; and cold-rolled pipes and tubes with wall thickness not exceeding 0.1 inch are not included.

[332–96]

Collection of Data for Determination of Apparent U.S. Consumption of Watch Movements

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

EFFECTIVE DATE: February 9, 1983.

BACKGROUND: The Commission has terminated the present investigation in view of the fact that the Commission is not required to conduct such investigations until watch imports from insular possessions exceed 9 million units. Public Law 97–446, approved January 12, 1983, has amended headnote 6 of schedule 7, part 2, subpart E of the Tariff Schedules of the United States to provide that the Commission is to determine apparent U.S. consumption of watches and watch movements, report such determination to the Secretaries of Commerce and the Interior, and publish its determination in the **Federal Register** beginning with the first year in which watch imports from the U.S. insular possessions exceed 9 million units. See sec. 110(b) of Public Law 97–446 (96 Stat. 2329). Such imports are presently substantially below 9 million units.

Prior to the amendment, the Commission was required to make such determinations irrespective of the level of watch imports.

Notice of institution of the present investigation was published in the **Federal Register** of February 6, 1978 (43 F.R. 4890).

By order of the Commission.

Issued: February 9, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–4082 Filed 2–14–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days after publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7278 or Tom Smerdon (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirement of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
769	Richard Ogilvie, trustee for property of Chicago, Milwaukee, St. Paul & Pacific Railroad Co., ICC–MILW–C–0305 (zinc)	3	2–7–83
770	Missouri-Kansas-Texas Railroad Co., ICC–MKT–C–0236 (tallow and grease, inedible)	1	2–7–83
771	Chicago, Milwaukee, St. Paul & Pacific Railroad Co., ICC–MILW–C–0337 (temporary storage of grain)	1	2–7–83
773	Norfolk & Western Railway Co., ICC–NW–C–0041 (inedible tallow and grease)	3	2–7–83
774	Southern Pacific Transportation Co., ICC–SP–C–0382 (freight, all kinds—carload)	1	2–7–83
776	Southern Pacific Transportation Co., ICC–SP–C–0380 (automobiles, passenger, S/U)	3	2–7–83
777	Burlington Northern Railroad Co., ICC–BN–C–0274 (canned and preserved foodstuffs)	1	2–7–83
779	The Texas Mexican Railway Co., ICC–TN–C–11, Supplement 1, (asbestos fibre, asbestos shorts, asbestos waste	3	2–7–83
781	Richard Ogilvie, trustee for property of Chicago, Milwaukee, St., Paul & Pacific Railroad Co., ICC–MILW–C–0307 (copper)	1	2–7–83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier
Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3878 Filed 2–14–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP3MCFC–48]

Motor Carriers; Finance Applications

Decided; February 4, 1983.

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 2, Carleton, Williams and Ewing. Board Member Ewing not participating.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275–5223.

MC–FC–81102, filed December 14, 1982. By decision of February 4, 1983, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1181, Review Board Number 2, approval the transfer to ANTHONY COPPOLA, d.b.a. ANTHONY'S EXPRESS, New Haven, CT, of Certificate of Registration No. MC–120915 Sub 1, issued January 28, 1964, to ANTHONY COPPOLA AND PAUL COPPOLA, a partnership, d.b.a. Anthony's Express, New Haven, CT, evidencing a right to engage in transportation in intrastate commerce corresponding in scope to Certificate No. C–305, dated March 29, 1961, issued by the Public Utilities Commission of the State of Connecticut, authorizing the transportation of *general commodities* (other than household goods and office furniture and equipment, and other than commodities which necessitate the use of tank trucks, dump trucks or special equipment) for hire as a motor common carrier over regular routes as follows: (1) Between New Haven and Waterbury; serving New Haven, Shelton, Derby, Ansonia, Seymour, Beacon Falls, Naugatuck and Waterbury. (2) Between New Haven and Bristol; serving New Haven, East Haven, North Haven, Hamden, Wallingford, Meriden, Berlin, New Britain and Bristol., and (3) Between New Haven and Hartford; serving New Haven, Middletown, Easthampon, Portland, Cromwell, Glastonbury, East Hartford, West Hartford and Wethersfield.

Condition: Transferee shall file the following with this Commission's Office of Proceedings (either prior to or concurrently with the consummation of this transfer: (i) a certified copy of the State certificate as reissued to transferee, or—if the State Commission does not reissue the certificate—a certified copy of the State order approving the transfer of the underlying intrastate rights; and (ii) a written notice confirming the date of consummation of that intrastate transaction.

Temporary authority is not sought. Transferee is not a carrier.

Applicant's representative: Sidney L. Goldstein, 109 Church St., New Haven, CT 06510, for the transferee.

[FR Doc. 83–3967 Filed 2–14–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

In the matter of; Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property,

water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of Chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted. Please direct status inquires to Team 4 at (202) 275–7669.

Volume No. OP4–073

Decided: February 8, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 64806 (Sub-21), filed February 3, 1983. Applicant: R. P. THOMAS TRUCKING COMPANY, INCORPORATED, 807 W. Fayette St., Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 119548 (Sub-2), filed February 1, 1983. Applicant: CONTINENTAL TRUCK & TOWING CO., INC., 2021 E. 25th St., Los Angeles, CA 90058. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. Transporting (1) *construction logging, mining* and *transportation materials*, (2) *metal products*, (3) *wood products*, (4) *machinery*, and (5) *soil amendments*, between points in CA, NV, AZ, TX, CO, UT, NM, WA, OR, ID, MT, WY, KS, MO, IL, GA, and LA.

MC 157866 (Sub-1), filed February 2, 1983. Applicant: TULTEX TRANSPORTATION INCORPORATED, Franklin St., P.O. Box 5191–A Martinsville, VA 24115. Representative: Ernest W. Sams, (same address as applicant), (703) 632–2961. Transporting *chemicals*, between points in CT, DE, GA, MD, MA, NJ, NY, NC, PA, RI, SC, TN, and VA, under continuing contract(s) with Prillaman Chemical Corporation, of Martinsville, VA.

MC 164967 (Sub-1), filed January 14, 1983. Applicant: POCONO MOUNTAIN TRAILS, INC., Box 488, Blairstown, NJ 07825. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Over regular routes, transporting *passengers*, between Port Jervis, NY and Atlantic City, NJ, (a) from junction East Main St. and Jersey Ave., in Port Jervis, NY, over East Main St. to junction NJ Hwy 23, then over NJ Hwy 23 to Sussex, NJ, then over unnumbered Hwy to junction U.S. Rte. 206, at Montague, NJ, then over U.S. Rte. 206 to junction Interstate Hwy 295, then over Interstate Hwy 295 to junction access road, then over access road to Interstate Hwy 195, then over Interstate Hwy 195 to NJ route 539, then over NJ route 539 to junction access road, then over access road to Garden State Pkwy., then over Garden State Pkwy. to junction Atlantic City Expwy. then over Atlantic City Expwy. to Atlantic City, NJ, and return over the same route, serving all intermediate points, and (b) from junction East Main St. and Jersey Ave., in Port Jervis, NY over Jersey Ave. to jnction Front St., then over Front St. to junction U.S. Rte. 209, then over U.S. Rte. 209 to junction PA Hwy 611, then over PA Hwy 611 to junction 7th St., then over 7th St., to junction access roads, then over access roads to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction access roads then over access roads to junction U.S. Rte. 46, then over U.S. Rte. 46 to junction NJ Rte. 31, then over NJ Rte. 31 to junction Interstate Hwy 295, then over Interstate Hwy 295 to junction access roads, then over access roads to

junction Interstate Hwy 195 then over Interstate Hwy 195 to NJ Rte. 539, then over NJ Rte. 539 to junction access roads, then over access roads to junction Garden State Pkwy., then over Garden State Pkwy. to junction Atlantic City Expwy., then over Atlantic City Expwy. to Atlantic City, and return over the same route, serving all intermediate points.

NOTE.—Applicant intends to provide regular-route service only in interstate or foreign commerce.

MC 166057, filed February 3, 1983. Applicant: ELLENS CARTAGE LIMITED, 103 Herbert St., Mitchell, Ontario, Canada N0K 1N0. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783–3525. In foreign commerce only, transporting *rubber and plastic products, chemicals and related products,* and *metal products,* between ports of entry on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Standard Products (Canada) Limited, of Stratford, Ontario, Canada.

Volume No. OP 4–075

Decided: February 8, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–656, filed January 24, 1983. Applicant: FLORIDA AUTO SHUTTLE, INC., Suite 902, 232 St. Augustine Ave., Venice, FL 33595. Representative: William Q. Keenan, 7 Corporate Park Dr., Suite 109, White Plains, NY 10604, (914) 694–1414. As a freight forwarder in connection with the transportation of *used passenger automobiles,* between New York, NY, Philadelphia and Pittsburgh, PA, Baltimore, MD, Washington, DC, Chicago, IL, Detroit, MI, and Cincinnati, Columbus, and Cleveland, OH, on the one hand, and, on the other, Jacksonville, Tampa, and Miami, West Palm Beach, and Sarasota, FL.

MC 26377 (Sub-34), filed January 24, 1983. Applicant: LEONARDO TRUCK LINES, INC., 511 S. First St., Selah, WA 98942. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *general commodities* (except classes A and B explosives and household goods), between points in OR, WA, CA, ID, and MT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 35807 (Sub-120), filed January 28, 1983. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: David E. Wells (same address as applicant), (404) 256–0540. Transporting *currency, coin, securities, food stamps and other articles of unusual value,* between points in OH and KY.

MC 59137 (Sub-21), filed January 25, 1983. Applicant: BISOM TRUCK LINE, INC., 725 First St. North, Newton, IA 50208. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154. Transporting *machinery,* between points in Jasper County, IA, on the one hand, and, on the other, points in IN, KS, KY, MI, MO, and TN.

MC 59666 (Sub-24), filed January 28, 1983. Applicant: TRAFIK SERVICES, INC., 25 Esten Ave., Pawtucket, RI 02860. Representative: Robert A. Mega (same address as applicant), (401) 724–1200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 140916 (Sub-5), filed January 24, 1983. Applicant: R&E HAULING, INC., P.O. Box 2800, Baltimore, MD 21225. Representative: Ronald N. Corbert, 1730 M St. NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 141317 (Sub-8), filed January 24, 1983. Applicant: HAAG TRANSPORT, INC., P.O. Box 125, Shelburn, IN 47879. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *metal products,* between points in the U.S. (except AK and HI).

MC 145476 (Sub-4), filed January 27, 1983. Applicant: RAY MABRY, d.b.a. MABRY TRUCKING SERVICE, 307 Lime St., Auburndale, FL 33823. Representative: Clayton R. Byrd, 2870 Briarglen Dr., Doraville, GA 30340, (404) 491–1696. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 159986 (Sub-5), filed January 28, 1983. Applicant: AMAZON INDEPENDENT TRANSPORTATION, INC., 12480–24th Ave., Marne, MI 49435. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Gordon Manufacturing Co., and H & H Plastics Manufacturing Co., both of Grand Rapids, MI.

MC 162027, filed January 24, 1983. Applicant: FERRIS CONSTRUCTION, INC., 2005 W. Chestnut, Enid, OK 73701. Representative: Williams P. Parker, P.O. Box 54657, Oklahoma City, OK 73154 (405) 424–3301. Transporting *Mercer commodities,* (1) between points in KS, OK, and TX, and (2) between points in OK, on the one hand, and, on the other, points in AR, CO, LA, and NM.

MC 165226 (Sub-1), filed January 27, 1983. Applicant: WISCONSIN ILLINOIS STAGES, INC., Rt. 3, Box 349B, Theatre Rd., Delavan, WI 53115. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Over regular routes, transporting *passengers,* (1) between Madison, WI, and Chicago, IL: from Madison over U.S. Hwy 12 to its junction with WI Hwy 67, then south over WI Hwy 11 to Delavan, WI, then east/WI Hwy 50 to junction Theatre Rd., at or near Delavan, WI, then over Theatre Rd., to Willimas Bay, WI, then over Geneva St., to its junction with WI Hwy 50, then over WI Hwy 50 to its junction with Kenosha County Hwy P, then over Kenosha County Hwy P to its junction with Kenosha County Hwy 0, then over Kenosha County Hwy 0 to its junction with E. Main St. in Twin Lakes, then over E. Main St. to its junction with Kenosha County Hwy EM, then over Kenosha County Hwy EM to its junction with Kenosha County Hwy F, then over Kenosha County Hwy F to Kenosha County Hwy B, then over Kenosha County Hwy B to its junction with Kenosha County Hwy AH, then over Kenosha County Hwy AH to its junction with Kenosha County Hwy SA, then over Kenosha County Hwy SA to its function with WI Hwy 83, then over WI Hwy 83 to the WI–IL State line, then over IL Hwy 83 to its junction with IL Hwy 173, then over IL Hwy 173 to its junction with Interstate Hwy 94, then over Interstate Hwy 94 to its junction with Interstate Hwy 294, then over Interstate Hwy 294 to its junction with Interstate Hwy 90, then over Interstate Hwy 90 to Chicago, and return over the same route, serving all intermediate points; (2) between Williams Bay and Lake Geneva, WI: from the junction of WI Hwys 50 and 67 at or near Williams Bay, WI, over WI Hwy 67 to its junction with Walworth County Hwy B, then over Walworth County Hwy B to its junction with Academy Rd., and Walworth County Hwy BB, then over Walworth County Hwy BB to its junction with WI Hwy 120, then over WI Hwy 120 to its junction with WI Hwy 50

at or near Lake Geneva, WI, and return over the same route, serving all intermediate points; (3) between junction WI Hwy 50, and Walworth County Hwy F and Junction WI Hwy 67, over Walworth County Hwy F, and return over the same route, serving all intermediate points; (4) between junction Walworth County Hwy B, BB, and Academy Rd., and Junction Academy Rd and S. Shore Drive, WI, over Academy Rd., and return over the same route, serving all intermediate points; and (5) between Ft. Atkinson and Cambridge, WI: from Ft. Atkinson, over WI Hwy 89 to its junction with U.S. Hwy 18, then over U.S. Hwy 18 to Cambridge, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 165867, filed January 24, 1983. Applicant: JOHN W. BROWN, d/b/a BROWN's TRANSFER, 705 N. Fifth St., Reading, PA 19601. Representative: William T. Hawke, #3 Riverside Office Center, 2101 N. Front St., Harrisburg, PA 17110, (717) 236–7426. Transporting *telephone equipment, and materials and supplies used in the maintenance, construction, installation, and repair of telephone systems,* between points in PA.

[FR Doc. 83–3966 Filed 2–14–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common on contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

For the following, please direct status inquiries to Team 1 at 202–275–7992.

Volume No. OP1–30

Notice of Corrections

The following volume was incorrectly published on January 27, 1983 (48 FR 3885) under the non-fitness guidelines, and are being republished this issue to reflect that the following applications fall under the fitness standards.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 82841 (Sub-328), filed January 10, 1983. Applicant: HUNT TRANSPORTATION, INC., d.b.a. HUNT BROKERAGE; 10770 "I" St., Omaha, NE 68127. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392–1220.

MC 165571, filed January 7, 1983. Applicant: FIELDS' BUS RENTAL, INC., d.b.a., FIELDS' BUS SERVICE, 6099 Duckett Lane, Elkridge, MD 21227. Representative: William M. Fields, (same address as applicant), (301) 796–5264.

MC 165600, filed January 10, 1983. Applicant: HOWARD G. BAROUDI, 225 Belaire Terrace, Mt. Laurel, NJ 08054. Representative: Howard G. Baroudi, (same address as applicant), (609) 235–5286.

MC 165611, filed January 10, 1983. Applicant: IRVIN RAPHEAL, INC., 550 Old Stage Rd., Spotswood, NJ. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017, (212) 532–5181.

MC 165671, filed January 13, 1983. Applicant: GO TOURS, INC., 481 Eighth Ave., New York, NY 10001. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, (212) 838–0600.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–072

Decided: February 7, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 138297 (Sub-15), filed January 31, 1983. Applicant: CENTRAL FLORIDA COACH LINES, INC., P.O. Box 127,

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Mountaintop, PA 18707. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note:—Applicant seeks to provide privately-funded charter and special transportation.

MC 165986, filed January 31, 1983. Applicant: RANDALL L. ALLMENDINGER, 202 E. Cheyenne Mountain Blvd., Suite C, Colorado Springs, CO 80906. Representative: Lawrence Marquette, P.O. Box 629, Carmel Valley, CA 93924, (408) 625–2031. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165987, filed January 28, 1983. Applicant: LAPADULA EQUIPMENT CORPORATION, P.O. Box 158, 320 Pacific Ave., Cedarhurst, NY 11516. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting (1) for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI); (2) *used household goods*, for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI); and (3) as a *broker of general commodities* (except household goods), between points in the U.S.

MC 166006, filed February 1, 1983. Applicant: BONFILS TRANSPORTATION SERVICES, INC., 21454 Cold Springs Ln., Diamond Bar, CA 91765. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655–3573. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4–074

Decided: February 8, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 36470 (Sub-470), filed February 1, 1983. Applicant: NJ TRANSIT BUS OPERATIONS, INC., 180 Boyden Ave., Maplewood, NJ 07040. Representative: Irwin I. Kimmelman, McArthur Hwy and Market St., P.O. Box 10009, Newark, NJ 07101, (201) 648–6908. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant states that it receives governmental financial assistance for the purchase or operations of buses.

MC 64446 (Sub-6), filed February 1, 1983. Applicant: W. H. FITZGERALD, INC., 78 Highland Ave., Youngsville, PA 16371. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. Transporting *general commodities* (except used household goods, hazardous materials, and sensitive weapons, and munitions), for or on behalf of the United States Government, between points in the U.S. (except AK and HI).

MC 166047, filed February 1, 1983. Applicant: JOSEPH & SCHILLER, INC., 6905 N.W. 25th St., Miami, FL 33122. Representative: Mortimer Schiller, (same address as applicant), (305) 591–8740. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–076

Decided: February 8, 1983.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC 15317 (Sub-8), filed January 24, 1983. Applicant: CROWN TRANSIT LINES, INC., 1650 N. 14th St., Springfield, IL 62703. Representative: Leslieann G. Maxey, 907 S. Fourth St., P.O. Box 5039, Springfield, IL 62705, (217) 528–8476. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 126667 (Sub-8), filed January 25, 1983. Applicant: BRUSH HILL TRANSPORTATION COMPANY, 109 Norfolk St., Dorchester, MA 02124. Representative: Jeremy Kanh, Suite 733 Investment Bldg., 1511 K Street, NW., Washington, DC 20005, (202) 783–3525. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 133826 (Sub-4), filed January 24, 1983. Applicant: CARAVAN TRANSPORTATION, INC., 166–10 Archer Ave., Jamaica, NY 11433. Representative: William H. Shawn, Suite 501, 1730 M St. NW., Washington, DC 20036. (202) 296–2900.Transporting *passengers*, in charter and special operations between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165776, filed January 28, 1983. Applicant: JOSEPH ARNOLD, d.b.a. TAYLOR TRANSPORT, 1912 E. Mettler Rd., Lodi, CA 95240. Representative: Joseph A. Taylor, (same address as applicant), (209) 334–4005. Transporting *passengers*, in charter and special operations, between points in NV, AZ and UT.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165866, filed January 24, 1983. Applicant: X-PRESS AIR TRANSPORTATION, 9717 Carnegie, El Paso, TX 79925. Representative: Charles B. Candler, (same address as applicant), (915) 5983–5505. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165946, filed January 28, 1983. Applicant: NORTHLAND BUS SERVICE, INC., Box 116, Surrey, ND 58785. Representative: W. L. Lesmeister, (Same address as applicant), (701) 838–0207. Transporting *passengers*, in charter and special operations, beginning and ending at points in ND, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–53

Decided: February 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 22589 (Sub-16), filed January 10, 1983. Applicant: CAMPUS TRAVEL, INC., d.b.a. CAMPUS COACH LINES, 545 Fifth Avenue, New York, NY 10017. Representative: Robert E. Goldstein, 370 Lexinton Avenue, Room 1201, New York, NY 10017, 202–532–5181. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 37049 (Sub-4), filed January 10, 1983. Applicant: ARROW BUS CO., INC., 88 Main Street, Garfield, NJ 07026. Representative: Edward F. Bowes, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, 201–992–2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 48909 (Sub-7), filed January 11, 1983. Applicant: SEYMOUR TRANSFER LINES, INC., 800 E. Factory St., Seymour, WI 54165. Representative:

Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, 608–256–7444. Transporting *passengers,* in charter and special operations, beginning and ending at points in IL, IN, IA, KY, MI, and WI, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 57568 (Sub-3), filed January 17, 1983. Applicant: D & M BUS COMPANY, 130 Carolyn Court, Danville, VA 24541. Representative: Calvin F. Major, 200 W. Grace St., P.O. Box 5010, Richmond, VA 23220, (804) 649–7591. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 74449 (Sub-2), filed January 14, 1983. Applicant: CAMIE ALEXANDER, d/b/a SATIN STAR CHARTER SERVICE, 11 Norwood Ave., Glen Rock, NJ 07452. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY, 10123, (212) 239–4610. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 143769 (Sub-1), filed January 13, 1983. Applicant: KANNAPOLIS TRANSIT CO., INC., 625 South Main St., P.O. Box 217, Kannapolis, NC 28081. Representative: John R. Huffstetler (same address as applicant), (704) 932–8176. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 150479 (Sub-2), filed January 18, 1983. Applicant: SAFEWAY LINES & TOUR CO., 1929 East 64th Street, Los Angeles, CA 90001. Representative: Ellis Ross Anderson, 100 Bush Street, Suite 410, San Francisco, CA 94104, (415) 421–6743. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 151878 (Sub-8(B)), filed January 17, 1983. Applicant: THREE WAY CORPORATION, 1120 Karlstad Drive, Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th Street NW., Suite 800, Washington, DC 20036, (202) 785–3420. To operate as a *broker* of *general commodities* (except household goods) between points in the U.S. (except AK and HI).

Note.—Applicant also seeks authority in MC–151878 Sub 8(A) nonfitness broker nationwide authority published in the same issue.

MC 161728 (Sub-2), filed January 11, 1983. Applicant: CHARTER BUSES, INC., 36 Elm Street, P.O. Box 1511, New London, CT 06320. Representative: Owen B. Katzman, 1828 L Street NW., Suite 1111, Washington, DC 20036, 202–822–8200. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165638, filed January 11, 1983. Applicant: TERRENCE R. CONNEL d.b.a. SIREN BUS SERVICE, INC., Box 171 (Hwy 35 So.), Siren, WI 54872. Representative: Terrence R. Connel (same address as applicant), 715–349–2425. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165648, filed January 11, 1983. Applicant: THE PREFERRED COACH LINE, INC., P.O. Box 300, Rte. 153, Centerbrook, CT 06409. Representative: Ann Bembenista Elly, P.O. Box 99, Centerbrook, CT 06409, 203–767–8613. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165729, filed January 17, 1983. Applicant: SOUTHEASTERN BUS LINES, INC., 9520 Scenic Hwy., Pensacola, FL 32504. Representative: Charles E. Clevenger (same address as applicant), (904) 476–1331. Transporting *passengers,* in charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 165768, filed January 18, 1983. Applicant: PEGGY LEE ROBINSON, DBA GREAT AMERICAN STAGE, 8800 Nimbus Way, Orangevale, CA 95662. Representative: Peggy Lee Robinson (same address as applicant), (916) 988–8122. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI and AK).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165789, filed January 18, 1983. Applicant: WILLIAM J. TORRE AND MICHAEL J. SHALL d/b/a CERTIFIED TRANSPORT SYSTEMS, 189 Rose St., Metuchen, NJ 08840. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–55

Decided: February 4, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 107638 (Sub-9), filed January 18, 1983. Applicant: EVERGREEN TRAILS, INC., d/b/a EVERGREEN TRAILWAYS, 720 South Forest Street, Seattle, WA 98134. Representative: Richard A. Derham, 4200 Seattle-First National Bank Bldg., Seattle, WA 98154, (206) 622–3150. Transporting *passengers* in charter operations, beginning and ending at points in WA, OR, CA, NV, AZ, UT, and NM, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 108378 (Sub-11), filed January 24, 1983. Applicant: SUN VALLEY BUS LINES, INC., 600 East Jefferson St., Phoenix, AZ 85036. Representative: Elliott Bunce, 1600 Wilson Boulevard, Suite 1301 Arlington, VA 22209, (703) 522–0900. Transporting *passengers,* in charter and special operations between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 127738 (Sub-11) filed January 25, 1983. Applicant: TWA SERVICES, INC., Yellowstone National Park, WY 82190. Representative: Wayne Green (same address as applicant), (307) 344–7901. Transporting *passengers,* in charter and special operations between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

[FR Doc. 83–3971 Filed 2–14–83, 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 311; Sub–4]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Change in owner-operator fuel reimbursement figure.

SUMMARY: Due to a change in the nationwide average cost of diesel fuel, owner-operator reimbursement has changed from 12.5 to 12 cents per mile.

EFFECTIVE DATE: This decision will be effective on March 2, 1983.

FOR FURTHER INFORMATION CONTACT: Lee Alexander, (202) 275–7723; Ted Kalick, (202) 275–6446; Alan Rothenberg, (202) 275–7597; Boston, MA, (617) 223–2372; Philadelphia, PA, (215) 597–4460; Atlanta, GA; (404) 881–2167; Chicago, IL, (312) 353–6204; Ft. Worth, TX, (817) 334–2794; San Francisco, CA, (415) 974–7125.

SUPPLEMENTARY INFORMATION: In a decision served January 21, 1983 (48 FR 3892, January 27, 1983), the Commission established owner-operator reimbursement at 12.5 cents per mile for all carrier-related business miles. This change will become effective February 10, 1983. As noted in the October 8, 1981 decision (46 FR 50070, October 9, 1981), the mileage payment will change when the price of fuel in conjunction with the reimbursement formula causes the figure to rise or decline by .5 cents per mile.

As of February 7, 1983, the current price of diesel fuel was 119.5 cents per gallon. The reimbursement figure is 11.9. Ten working days after publication of the notice in the Federal Register (effective March 2, 1983), carriers shall reimburse owner-operators at a minimum of 12 cents per mile.

During this 10-day period or after, if they choose, carriers may adjust their rates to reflect the change in owner-operator reimbursement by using the 10-day notice provisions of Special Permission No. 81–2500 (see Part 2 of Appendix B and Appendix C to the October 8 decision). All other normal rate-making avenues are also available.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by depositing a copy with the Director, Office of the Federal Register, for publication.

Decided: February 9, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3969 Filed 2–14–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15097]

PST, INC.; Purchase Exemption; Sunset Express Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), PST, Inc. (PST) (No. MC 141532), a regulated motor carrier, seeks an exemption from the requirement under section 11343 of prior regulatory approval for the acquisition of control of the operating rights of Sunset Express Corp. (Sunset), a regulated motor carrier (No. MC 148737), through purchase of all of Sunset's certificates and permits.

DATES: Comments must be received within 30 days after the date of publication in the Federal Register.

ADDRESSES: Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's Representative, Michael J. Norton, 1905 South Redwood Road, Salt Lake City, UT 84104.

Comments should refer to No. MC–F–15097.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 9, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3972 Filed 2–14–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 29937]

Reliance Group Holdings, Inc.; Petition for Declaratory Order

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11343–11345a, the acquisition of control by Reliance Group Holdings, Inc., of Tiger International, Inc., and its two motor carrier subsidiaries, Hall's Motor Transit Company and Warren Transport, Inc.

DATES: This exemption shall be effective on April 18, 1983. Petitions to stay the effectiveness of this decision must be filed by February 28, 1983. Petitions for reconsideration must be filed by March 8, 1983.

ADDRESSES: Send pleadings to: (1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423. (2) Petitioner's representative: Robert J. Corber, 1250 Connecticut Ave., NW., Washington, DC 20036.

Pleadings should refer to Finance Docket No. 29937.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

DECIDED: February 9, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3968 Filed 2–14–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Aegis Print Works, Inc., et al., Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment

Assistance, at the address shown below, not later than February 25, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 25, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 4th day of February, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Aegis Print Works, Inc. (MP&EA)	Woodridge, NJ	1-26-83	1-25-83	TA-W-14, 376	Printing of textile material.
Amerel-Jerold Corp. (company)	Smithfield, NC	1-31-83	1-28-83	TA-W-14, 377	Outerwear, ladies & men.
American Roller Bearing (USWA)	Pittsburg, PA	1-27-83	1-17-83	TA-W-14, 378	Cylindrical roller bearing.
Armco, Inc. (USWA)	Zanesville, OH	1-21-83	1-13-83	TA-W-14, 379	Silicon sheet & strip steel
Crompton Co., Inc. (FWAIU)	Waynesboro, VA	1-24-83	1-19-83	TA-W-14, 380	Cotton textile—velveteen & corduroy.
Electra Co. (workers)	Cumberland, IN	1-24-83	1-13-83	TA-W-14, 381	Manufacturers of cordless telephones.
Ellwood Knitting Mills (ACTWU)	Ellwood City, PA	1-26-83	1-24-83	TA-W-14, 382	Sweaters—men.
Hawera Tool Mfg., Co. (workers)	Jackson, MS	1-26-83	1-20-83	TA-W-14, 383	Carbide tipped masonary drill bits.
Kerr Glass (GPPAW)	Millville, NJ	1-24-83	1-11-83	TA-W-14, 384	Beer, soda bottles, fruit & jelly jars, prescription bottles.
Langston (workers)	Cherry Hill, NJ	1-24-83	1-14-83	TA-W-14, 385	Corrugated paper box machinery, corrugated box printers & folders.
N.L. Baroid (OCAW)	Cadet, MO	1-21-83	1-18-83	TA-W-14, 386	Baroid, tiff.
Playland Industries (workers)	New York, NY	1-21-83	1-15-83	TA-W-14, 387	Rainwear apparel—ladies.
Reed Rock Bit (USWA	Houston, TX	1-31-83	1-27-83	TA-W-14, 388	Rock bit (drill for oil).
Shafer Valve Co. (workers)	Mansfield & Orrville, OH	1-24-83	1-18-83	TA-W-14, 389	Valve actuators.
The Carborundum Co. (Chemical Workers, Teamsters)	Vancouver, WA	1-21-83	1-14-83	TA-W-14, 390	Sand paper, grinding wheels, refractory
Tree Machine Tool Co., Inc. (IAMAW)	Racine, WI	1-31-83	1-27-83	TA-W-14, 391	Machine tools.

[FR Doc. 83-3980 Filed 2-14-83; 8:45 am]

BILLING CODE 4510-30-M

Hoover Universal, Inc., et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period January 31, 1983–February 4, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or pro-portion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–13,335; Hoover Universal, Inc., Metal Staffing Div., Vincennes, IN

TA–W–13,263; Imperial-Clevite Corp., Engine Parts Div., Bridgeport, OH

TA–W–13,445; City Machine Tool & Die Co., Inc., Muncie, IN

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–13,129; Gulf & Western Industries, Inc., Natural Resources Group, Thorn Hill, TN

Aggregate U.S. imports of slab zinc did not increase in 1982 as required for certification. Production of slab zinc increased in 1981 compared to 1982.

TA–W–13,583; Jersey Miniere Zinc Co., Clarksville, TN

Aggregate U.S. imports of slab zinc did not increase in 1982 as required for certification. Production of slab zinc increased in 1981 compared to 1982.

Affirmative Determinations

TA–W–13,700; Firestone Synthetic Rubber & Latex Co., Orange, TX

A certification was issued in response to a petition received on August 3, 1982 covering all workers engaged in employment related to the production of butadiene who became separated on or after May 23, 1982.

TA–W–13,270; Bethlehem Steel Corp., Sparrows Point Shipyard, Sparrows Point, MD

A certification was issued in response to a petition received on February 9, 1982 covering all workers separated on or after August 1, 1981.

TA–W–13,328; Bethlehem Mines Co., Hanover Quarry, Hanover, PA

A certification was issued in response to a petition received on February 18, 1982 covering all workers separated on or after March 1, 1981.

TA–W–13,278; U.S. Steel Corp., Fairfield Works, Fairfield & Bessemer, AL

A certification was issued covering all workers engaged in employment related to the production railroad products and basic steel at the firm separated on or after February 4, 1981.

A certification was issued covering all workers engaged in employment related to the production of galvanized sheet at the firm separated on or after July 1, 1981.

TA–W–13,188; Crucible, Inc., Midland, PA

A certification was issued in response to a petition received on January 18, 1982 covering all workers engaged in employment related to the petition of stainless steel sheet and strip separated on or after September 30, 1981.

TA–W–13,366; The Singer Co., Elizabeth, NJ

A certification was issued covering all workers engaged in employment related to the production of parts for consumer or industrial sewing machines of the firm separated on or after August 28, 1982.

A certification was issued covering all workers engaged in employment related to the assembly of industrial sewing

machines of the firm separated on or after March 9, 1981.

I hereby certify that the aforementioned determinations were issued during the period January 31, 1983–February 4, 1983. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 8, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-3959 Filed 2-14-83; 8:45 am]

BILLING CODE 4510-30-M

Office of the Secretary

Steering Subcommittee; Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: March 1, 1983, 9:30 a.m., Rm. N3437 A & B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Joseph S. Papovich, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6171

February 9, 1983.

Signed at Washington, D.C. this 9th day of February 1983.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 83-3958 Filed 2-14-83; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL SCIENCE FOUNDATION

Alan T. Waterman Award Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Alan T. Waterman Award Committee.

Date: Friday, March 4, 1983.

Time: 9 a.m. to 5 p.m.

Place: Rm. 543, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Mrs. Lois J. Hamaty, Executive Secretary, Alan T. Waterman Award Committee, National Science Foundation, Washington, D.C. 20550. Telephone: 202/357-7512.

Purpose of committee: To provide advice and recommendations in the selection of the Alan T. Waterman Award recipient.

Agenda: To review nominations, with supporting documentation, as part of the selection process for the award.

Reason for closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: The determination made on February 9, 1983 by the Director of the National Science Foundation pursuant to the provisions of Section 10(d) of Pub. L. 92-463.

Dated: February 10, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-4012 Filed 2-14-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-416]

Mississippi Power and Light Co.; Middle South Energy, Inc.; South Mississippi Electric Power Association; Issuance of Amendent of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. NPF-13, issued to Mississippi Power and Light Company, Middle South Energy, Inc., and South Missippi Electric Power Association (the licensees), for Grand Gulf Nuclear Station, Unit No. 1 (the facility) located in Claiborne County, Mississippi. This amendment grants changes to license conditions which relate to the schedule for submitting information on proposed modifications to the Automatic Depressurization System (ADS) logic and to additional one time Technical Specification exceptions for Phase I operation and adds a license condition regarding implementation of certain aspects of Pub. L. 97-425, January 7, 1983 (Nuclear Waste Policy Act of 1982). The amendment with respect to the submittal date for ADS logic was effective November 1, 1982. With respect to the other two items the amendment is effective as of the date of issuance.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The applications for the amendments dated October 21 and December 22, 1982 and February 2, 1983: (2) Amendment No. 6 to License NPF-13 dated February 7, 1983; and (3) the Commission's evaluation dated February 7, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 7th day of February 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-4068 Filed 2-14-83; 8:45 am]

BILLING CODE 7590-01-M

NRC Form 136—Security Termination Statement; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: extension.

2. The title of the information collection: Security Termination Statement.

3. The form number if applicable: NRC Form 136.

4. How often the collection is required: On occasion. NRC Form 136 is only submitted whenever an individual's NRC access authorization is terminated.

5. Who will be required to report: NRC licensees and contractors who have employees terminating their NRC access authorization.

6. An estimate of the number of responses: It is estimated that 400 forms will be submitted annually by all affected respondents.

7. An estimate of the total number of hours needed to complete the requirement or request: It is estimated that all affected respondents will expend a total of 40 hours.

8. Section 3504(h), Pub. L. 96–511 does not apply.

9. Abstract: NRC Form 136, "Security Termination Statement," is the method by which an individual's access authorization (security clearance) is terminated. The individual's signature on this form indicates he/she is aware of, and understands, certain regulations and statutes and will abide by certain measures governing the continued protection of classified information that he/she has had access to while performing official duties.

ADDRESSES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill (202) 295–7340.

NRC Clearance Officer R. Stephen Scott (301) 492–8585.

Dated at Bethesda, Maryland, this 9th day of February 1983.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 83–4067 Filed 2–14–83; 8:45 am]

BILLING CODE 7590–01–M

NRC Form 277—Request for Visit or Access Approval

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: extension.

2. The title of the information collection: Request for Visit or Access Approval.

3. The form number if applicable: NRC Form 277.

4. How often the collection is required: On occasion. Use is dependent on visits to Government agencies or other facilitites.

5. Who will be required or asked to report: NRC licensees and contractors who require access to classified information during visits to Government agencies or other facilities.

6. An estimate of the number of responses: It is estimated that 240 responses will be submitted annually by all affected respondents.

7. An estimate of the total number of hours needed to complete the requirement or request: It is estimated that all affected respondents will expend a total of 40 hours.

8. Section 3504(h), Pub. L. 96–511 does not apply.

9. Abstract: NRC Form 277 provides assurance that only properly cleared and authorized individuals, who require access to classified information as part of their offical employment duties, will have such access during visits to NRC, other contractor or licensee facilities or Government agencies.

ADDRESS: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 295–7340

NRC Clearance Officer R. Stephen Scott, (301) 492–8585.

Dated at Bethesda Maryland, this 9th day of February 1983.

For the Nuclear Regulatory Commission.

Patrica G. Norry,

Director, Office of Administration.

[FR Doc. 83–4066 Filed 2–14–83; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guide; Corrected Version of Regulatory Guide

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

A printer's error was discovered on page 1.145–7 of Regulatory Guide 1.145, Revision 1, "Atmospheric Dispersion Models for Potential Accident Consequence Assessments at Nuclear Power Plants," which was issued in November 1982. The guide has been reprinted to correct the error, and the corrected version is being distributed to subscribers and licensees.

Comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 8th day of February 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-4060 Filed 2-14-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Proposed Extension of Forms for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed extension of forms submitted to OMB for clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed extension of forms that collect information from the public. Form BRI 49–224—Child's Eligibility to Receive Benefits—is used by the Civil Service Retirement System, Compensation Group, Office of Personnel Management to survey survivor annuitants who have reached age 18 to determine if survivor benefits should be continued. Information received as a result of the survey may lead to the suspension of benefits to ineligible recipients as provided by Section 8341(a)(4)(c), Title 5, U.S. Code. Standard Form 2814—Insurance Carrier Certification—is used by the Civil Service Retirement System, Compensation Group, Office of Personnel Management to obtain certification from annuitants and insurance carriers for participation in the Retired Federal Employees' Health Benefits Program. Information received as a result of the certification may lead to the suspension of benefits to ineligible recipients as provided by Public Law 86–724. For copies of this proposal, call John P. Weld, Agency Clearance Officer, on (202) 632–7720.

DATES: Comments on this proposal should be received within 30 working days from the date of this publication.

ADDRESSES: Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6669, Washington, D.C. 20415

and

Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: William J. Washington, (202) 632–5472.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-4053 Filed 2-14-83; 8:45 am]

BILLING CODE 6325-01-M

Proposed Extension of Forms For OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed extension of forms submitted to OMB for clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed extension of forms which collect information from the public. The Form BRI 49–175—Certification of Marital Status, is used by the Civil Service Retirement System, Compensation Group, Office of personnel Management to survey widows and widowers to verify their marital status. Information received as a result of the survey may lead to the removal of ineligible benefit recipients as provided by Section 8341(b)(3), Title 5, U.S. Code. For copies of this proposal, call John F. Weld, Agency Clearance Officer, on (202) 632–7720.

DATES: Comments on this proposal should be received within thirty working days from the date of this publication.

ADDRESSES: Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW., Room 6H28, Washington, D.C. 20415

And

Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: William J. Washington, (202) 632–5472.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-4054 Filed 2-14-83; 8:45 am]

BILLING CODE 6325-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 32
Tuesday, February 15, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, Wednesday, February 16, 1983, 10:00 a.m.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS:

Open to the Public

1. *Aluminum Wire Petition AP 80-2.* The staff will brief the Commission on issues related to petition AP 80-2 from Mr. Jesse Aaronstein, Ph.D., which requests a rule under section 27(e), CPSA, requiring manufacturers of electrical wiring devices to furnish consumers with information about potential overheating hazards when incompatible receptacles and switches are used with aluminum wiring.

Closed to the Public

2. *Compliance Status Report.* The staff will brief the Commission on a Compliance Status Report.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207, 301-492-6800.

[S-216-83 Filed 2-11-83; 11:06 am]

BILLING CODE 6351-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, Tuesday, February 15, 1983, 9:00 a.m.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC.

STATUS:
Open to the Public

Mid-Year Review

The Commission will meet with staff to discuss mid-year review.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207, 301-492-6800.

[S-217-83 Filed 2-11-83; 11:06 am]

BILLING CODE 6355-01-M

3

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 14, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

Wednesday, February 16

2:00 p.m.—Briefing on Staff Actions Regarding Location of Emergency Operations Facilities (Public Meeting).

Thursday, February 17

10:00 a.m.—Briefing on Shift Manning Requirements (Public Meeting)

4:00 p.m.—Affirmation/Discussion and Vote (Public Meeting)

a. UCS Objection to *Ex Parte* Communications in TMI-1 Proceeding.

b. Regulations to Implement Public Law 97-415.

Additional Information:

Note title change—Discussion/Possible Vote on Regulatory Reform Task Force—Legislative Proposals scheduled for Wednesday, February 9.

On February 7 the Commission voted 5-0 to hold Discussion of Investigation (Closed—Ex. 5) scheduled for Wednesday, February 9.

Automatic telephone answering service for schedule update: (202) 634-1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

February 9, 1983.

[S-214-83 Filed 2-11-83; 9:20 am]

BILLING CODE 7590-01-M

4

SECURITIES EXCHANGE COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (To be published)

STATUS: Open/closed meeting.

PLACE: 450 5th Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, January 31, 1983.

CHANGES IN THE MEETING: Deletion/additional item.

The following item will not be considered at an open meeting scheduled for Thursday, February 10, 1983, at 10:00 a.m.

Consideration of whether to propose for comment a plan for the allocation of regulatory responsibilities pertaining to options-related sales practice matters pursuant to Rule 17d-2 under the Securities Exchange Act of 1934 between the American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Midwest Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc. For further information, please contact Elizabeth S. York at (202) 272-2377.

The following additional item will be considered at a closed meeting scheduled for Thursday, February 10, 1983, immediately following the 10:00 a.m. open meeting.

Institution of administrative proceeding of an enforcement nature.

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items.

FOR FURTHER INFORMATION AND TO ASCERTAIN WHAT, IF ANY MATTERS HAVE BEEN ADDED, DELETED OR POSTPONED, PLEASE CONTACT: Catherine McGuire at (202) 272-3085.

February 9, 1983.

[S-215-83 Filed 2-11-83; 9:20 am]

BILLING CODE 8010-01-M

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federal register

Tuesday
February 15, 1983

Part II

Department of Health and Human Services

Food and Drug Administration

Skin Protectant Drug Products for Over-the-Counter Human Use; Tentative Final Monograph; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 347

[Docket No. 78N-0021]

Skin Protectant Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) skin protectant drug products are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by April 18, 1983. New data by February 15, 1984.

Comments on the new data by April 16, 1984. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Comments on the agency's economic impact determination by June 15, 1983.

ADDRESS: Written comments, objections, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. New data and comments on new data should also be addressed to the Dockets Management Branch.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 4, 1978 (43 FR 3468) FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC skin protectant drug products, together with the recommendations of the Advisory Review Panel On OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by November 2, 1978. Reply comments in response to comments filed in the initial comment period could be submitted by December 4, 1978.

In a notice published in the **Federal Register** of March 21, 1980 (45 FR 18402), the agency advised that it had reopened the administrative record for OTC skin protectant drug products to allow for consideration of data and information that had been filed in the Dockets Management Branch after the date the administrative record previously had officially closed. The agency concluded that any new data and information filed prior to March 21, 1980, should be available to the agency in developing a proposed regulation in the form of a tentative final monograph.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display on the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on August 4, 1978 (43 FR 34628), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) the FDA states for the first time its position on the establishment of a monograph for OTC skin protectant drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing monograph for OTC skin protectant drug products.

In response to the advance notice of proposed rulemaking, 1 drug manufacturers' association, 1 cosmetic manufacturers' association, and 12 drug and cosmetic manufacturers submitted comments. Copies of these comments are on public display in the Dockets Management Branch.

This proposal would amend Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations by adding new Part 347. This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC skin protectant drug products as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph (46 FR 47738).

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tenative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to

be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application. Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC skin protectant drug products (published in the **Federal Register** of August 4, 1978 (43 FR 34628)), the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products will have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and reformulate their products and have them in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the **Federal Register** of December 12, 1972 (37 FR 26456) or to additional information that has come to the agency's attention since publication of advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

In the **Federal Register** of September 7, 1982 (47 FR 39436), FDA issued a notice of reopening of the administrative record for OTC skin protectant drug products to allow for consideration of the Miscellaneous External Panel's recommendations on skin protectant drug products used for the treatment of diaper rash, for prevention of poison ivy, oak, and sumac, for the treatment of fever blisters, as astringents, and as insect bity neutralizers. The agency will address the use of skin protectant active ingredients for these uses in this rulemaking in a future issue of the **Federal Register**.

I. The Agency's Tentative Conclusions on the Comments

A. General Comments on Skin Protectant drug Products

1. Several comments contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, publishd in the **Federal Register** of May 11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the **Federal Register** of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated there. Subsequent court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association* v. *Weinberger*, 512 F. 2d 688, 696–98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers* v. *FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F. 2d 887 (2d Cir. 1981).

2. Two comments requested withdrawal of the advance notice of proposed rulemaking and initiation of a new rulemaking, while another comment urged that Panel deliberations be reopened, to allow cosmetic manufacturers an opportunity to present their positions. The comments contended that the cosmetic industry was not provided enough notice and a fair opportunity to participate in the rulemaking. The comments argued that the call-for-data notice (December 12, 1972; 37 Fr 26456) did not mention cosmetics and that the agency has stated that any product for which only cosmetic claims are made, and which is therefore not a drug, will not be reviewed.

The agency regularly published notices in the **Federal Register** announcing the dates of the Panel's meetings, part of each meeting was open to the public, and minutes of each meeting were publicly available. One of the industry lisison members to the Panel was nominated by the Cosmetic, Toiletry, and Fragrance Association (CTFA). For these reasons, the agency believes that adequate opportunity was provided for all parties, including cosmetic manufacturers, to present their positions to the Panel. Because the Panel has been disbanded, its deliberations cannot be reopened. The agency believes that no valid basis exists to withdraw the advance notice of proposed rulemaking and to initiate a new rulemaking. Ample opportunities have existed and continue to exist for all interested persons to express their opinions before the agency reaches any final conclusions on OTC skin protectant drug products. For example, interested persons, including cosmetic manufacturers, could comment and submit data during the comment period following publication of the Panel's report and may do so again following publication of this tentative final monograph. (For a discussion of the distinction between the drug and cosmetic use of these ingredients, see comment 6 below.)

3. One comment requested an extension of time for filing comments to the advance notice of proposed rulemaking for OTC skin protectant drug products in order to compare it with the advance notice of proposed rulemaking on OTC anorectal drug products, which

had not been published at the time the comment was submitted. the comment was submitted by a manufacturer concerned that the labeling and other portions of the two rulemakings would overlap with respect to white petrolatum, an ingredient contained in a marketed product submitted to both rulemakings.

The agency points out that, subsequent to the comment's request, the advance notice of proposed rulemaking for anorectal drug products was published in the **Federal Register** of May 27, 1980 (45 FR 35576), and comments were submitted to that rulemaking by the originator of the comment above. Additional comments may be filed for 60 days following publication of this tentative final monograph. Thus, ample opportunity is being provided through the normal OTC drug review procedures for comment on the handling of white petrolatum in the rulemakings for skin protectant and anorectal drug products.

4. One comment pointed out a discrepancy on pages 34628 and 34629 of the panel's report (43 FR 34628–34629). The comment noted that on page 34628 the report indicates that a request was made for data and information on all active ingredients utilized in topical analgesic products, including antirheumatic, otic, burn, and sunburn treatment and prevention drug products, while on page 34629 the report indicates that a request was made for data and information on OTC skin protectant drug products.

The comment is correct. On page 34628, reference is made to the notice issued in the **Federal Register** of December 12, 1972 (37 FR 26456), which contained a request for data and information on all active ingredients utilized in topical analgesic, including antirheumatic, otic, burn, and sunburn treatment and prevention drug products. Subsequent to the 1972 request for data, the Panel organized the active ingredients in this broad listing of ingredients into four major pharmacologic groups, external analgesics, skin protectants, topical otics, and sunscreens, and prepared a report on each. The statement on page 34629 was made in reference to data and information on skin protectants received in response to the December 12, 1972 notice.

5. One comment complained that many of the products and ingredients in the list of submissions to the Panel (43 FR 34629) come within the scope of the broad category of topical analgesics rather than the more narrow category of skin protectants. The comment maintained that placing an ingredient in Category II on the basis of this narrow range of use, and what it alleged to be a restricted literature search of skin protectant drugs, stignatized the ingredient as unsafe and ineffective for other uses. Citing sulfur as an example, the comment contended that its Category II classification as a skin protectant could result in bias by other OTC panels evaluating sulfur for other uses. The comment mentioned three references to support the effectiveness of sulfur for different topical uses and argued that it should be evaluated for these uses in appropriate rulemakings (Refs. 1, 2, and 3).

The agency acknowledges that many of the products and ingredients identified in the Panel's report (43 FR 34629) have uses other than as skin protectants. As stated at 43 FR 34630, the Panel considered a number of these ingredients in its sunscreen and external analgesic reports, and not in the skin protectant report. The Panel's Category II classification of sulfur for safety as a skin protectant did not influence other panels to place sulfur in Category II for other uses. For example, sulfur was subsequently classified in Category I by the Miscellaneous External Panel for use in controlling dandruff and by the Antimicrobial II Panel for treatment of acne. The agency believes these Category I classifications of sulfur demonstrate the impartial consideration of ingredients for their different OTC uses under appropriate rulemakings.

References

(1) Harvey, S. C., "Antiseptics and Disinfectants; Fungicides; Ectoparasiticides," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The MacMillan Co., New York, p. 1005, 1975.

(2) "The Dispensatory of the United States of America," 25th Ed., edited by A. Osol and G. E. Farrar, Jr., J. B. Lippincott Co., Philadelphia, pp. 1368–1373, 1955.

(3) "AMA Drug Evaluations," 3d Ed., American Medical Association, Publishing Sciences Group, Inc., Littleton, MA, pp. 915–916, 1977.

6. Numerous comments pointed out that many of the ingredients included in the skin protectant monograph as active ingredients have historically been used in cosmetic products. The comments questioned the scope of the monograph, contending that it cannot be used to regulate cosmetic products that are not represented for use as drugs because whether a product is a drug or a cosmetic is determined by the vendor's representations in labeling or advertising. To support their contention, some comments cited definitions of "drug" and "cosmetic" in section 201 (g) and (i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 (g) and (i)), FDA Trade Correspondence issued in 1940, and prior case law. Some comments recommended revising the scope, definition, and indications sections of the monograph to emphasize that it regulates drugs only, and to state explicitly that it excludes cosmetics. Several comments requested the agency to clarify that the concentration range limitations and warnings established in the monograph do not apply to the use of the same ingredients in cosmetic products.

The agency agrees that this monograph applies only to skin protectant products that fall within the statutory definition of "drugs." The act principally defines a "drug" as an article "intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease" or "intended to affect the structure or function of the body * * *." (21 U.S.C. 321(g)(1)(B), (C)). A "cosmetic," on the other hand, is defined primarily as an article intended to be "applied to the human body * * * for cleansing, beautifying, promoting attractiveness, or altering the appearance" (21 U.S.C. 321(i)(1)). The intended use of a product, therefore, determines whether the product is a "drug," a "cosmetic," or both. This intended use may be inferred from the product's labeling, promotional material, advertising, and any other relevant factor. See, e.g., *National Nutritional Foods Ass'n* v. *Mathews*, 557 F. 2d 325, 334 (2d Cir. 1977). In order to make it clear that the scope of the monograph extends only to drug products, the agency is proposing the following changes in this tentative final monograph: The word "drug" is being added to § 347.1 ("*Scope*"), to read "An over-the-counter skin protectant drug product * * *." The word "drug" is being substituted for "agent" in the definition of "skin protectant" in § 347.3, to read "*Skin protectant.* A drug which * * *." (See also comment 7 below.)

Because the final monograph will cover only the drug use of the active ingredients listed therein, the concentration range, limitations, warnings, and directions established for these ingredients in the monograph will not apply to the use of the same ingredients in products intended solely as cosmetics. Those products intended for both drug and cosmetic use must conform to the requirements of the final monograph. However, in addition to the indications allowed for skin protectant drug products, such products may also bear appropriate labeling for cosmetic uses, in conformity with section 602 of the act (21 U.S.C. 362) and the provisions

of 21 CFR Part 701. Consistent with the provisions of § 701.3(d) (21 CFR 701.3(d)) regarding label declarations of active drug ingredients and cosmetic ingredients, it is the agency's view that cosmetic claims appearing in any portion of the labeling that is required by the monograph could be misleading. Cosmetic claims may appear elsewhere in the labeling.

7. Several comments requested that the Panel's definition of a skin protectant in § 347.3 ("* * * an agent which isolates the exposed skin or mucous membrane surface from harmful or annoying stimuli") be revised. The comments contended that the definition was too broad and could be applied to both drugs and cosmetics; that, to limit its scope to drug products, the word "drug" or "OTC drug" should be substituted for the word "agent" and that the word "exposed" should be changed to "injured or damaged."

As discussed in comment 6 above, the agency has clarified that this mongraph applies only to drug products, and the word "agent" in the definition of a skin protectant has been changed to "drug." The agency agrees that the words "injured or damaged" could be added to the definition to describe the condition of the skin being treated. However, the word "exposed" also describes the drug use of the product when it is used for prevention purposes, such as to prevent chafing or windburn. Therefore, the agency concludes that both conditions are appropriate in the definition of a skin protectant. In addition, the agency believes that the word "protects" better describes the action of these products than the word "isolates." Thus, the definition of a skin protectant has been revised to read "* * * a drug which protects injured or exposed skin or mucous membrane surface from harmful or annoying stimuli."

B. Comments on Skin Protectant Ingredients

8. One comment requested that the skin protectant monograph not be finalized until the OTC Miscellaneous External Panel completed its review of glycerin. The comment contended that the call for data for topical analgesic drug products (37 FR 26456; December 12, 1972) did not include the indications of dry skin, minor skin irritation, skin protectant, or chapping; that glycerin was listed in the call for data for OTC miscellaneous external drug products (40 FR 38179; August 27, 1975); and that the Miscellaneous External Panel received data on the effectiveness of 2 percent glycerin in relieving dry skin.

Glycerin was labeled as an ingredient in marketed products submitted to the Topical Analgesic Panel. The Panel reviewed the data submitted to it on glycerin and classified it as a Category I skin protectant, even though the Miscellaneous External Panel's call for data listed that ingredient and those indications while the Topical Analgesic Panel's call for data did not.

The Miscellaneous External Panel completed its work on December 15, 1980, and did not review the submission on 2 percent glycerin submitted to it. The agency has determined that all data not reviewed by the Miscellaneous External Panel will be incorporated into the appropriate rulemakings and reviewed by the agency. Accordingly, the submission on 2 percent glycerin and other skin protectant submissions not reviewed by the Miscellaneous External Panel will be incorporated into the administrative record for skin protectant drug products at a later date. The skin protectant final monograph will not be issued until these data have been reviewed by the agency and interested persons provided an opportunity to comment on an agency proposal.

9. One comment submitted two journal articles to support the effectiveness of glycerin as a skin protectant at aqueous concentrations lower than the 20 to 45 percent recommended by the Panel (Refs. 1 and 2). The comment contended that effectiveness had been shown in one of these studies with a product containing 14 percent glycerin and requested that the allowable concentration range for glycerin be lowered to 14 percent.

The agency has reviewed the two articles submitted by the comment and concludes that the studies are not sufficient to demonstrate the effective use of glycerin at concentrations lower than those recommended by the Panel. The study by Johnson (Ref. 1) was an open clinical evaluation designed to show effectiveness in treating many common dermatoses, such as eczema, xeroderma, and dermatitis. The article reports that the test product used to treat all patients was a cream consisting basically of dimethicone 2.5 percent (a Category I skin protectant) in a hydrophilic base. The comment states that the product also contained 14 percent glycerin; however, there is no mention of glycerin in the article, and therefore any effects obtained cannot be attributed to glycerin.

The study by Harb (Ref. 2) measured the ability of 1,3-butylene glycol and glycerin at concentration levels of 5, 10, or 20 percent to retard water vapor loss when added to skin cream formulations (water-in-oil and oil-in-water emulsions), compared with the same cream formulations without 1,3-butylene glycol or glycerin. While glycerin appeared to prevent some water vapor loss from these preparations when tested in vitro, no information was provided on how the results of this study are applicable to an in vivo situation.

The agency finds that these journal articles do not support the effectiveness of glycerin as a skin protectant ingredient at concentrations lower than 20 percent, as the comment contended. The agency notes that the Advisory Review Panel on OTC Hemorrhoidal Drug Products (hereinafter referred to as the Hemorrhoidal Panel) also found 20 to 45 percent glycerin to be effective as a protectant (in OTC anorectal preparations) (45 FR 35630). Therefore, the agency concludes that 20 to 45 percent glycerin is the suitable range for use as an OTC skin protectant.

References

(1) Johnson, A., "Non-Steroid Skin Cream in Traumatic Dermatoses: A Clinical Open Evaluation," *Medical Journal of Australia*, 1:111–113, 1976.

(2) Harb, N. A., "1,3-Butylene Glycol as a Humectant in Cosmetic Creams," *Drug and Cosmetic Industry*, 115:48–60, 1974.

10. One comment requested a change in the Panel's statement that live yeast cell derivative is "obtained by refluxing cakes of live yeast with ethanol" (43 FR 34645). The comment stated that in its general discussion the Panel did not specify use of yeast cakes and that both cakes and moist yeast may be used. The comment requested that the word "cakes" be deleted from the Panel's statement.

The agency agrees withe the comment that live yeast cell derivative may be obtained from both compressed (caked) and moist forms of the live yeast *Saccharomyces cerevisiae* and that a more accurate statement would be "* * * may be obtainted by refluxing live yeast with ethanol."

11. One comment urged that live yeast cell derivative be placed in Category I as a wound-healing aid. The comment contended that sufficient data to demonstrate efficacy were submitted to the Panel, but the Panel did not consider as adequate the evidence that live yeast cell derivative by itself increases collagen formation in vivo. The comment further indicated that data were being developed to respond to questions raised by the Panel about wound healing agents and had requested that it be permitted to present these data for the Panel's consideration. However, the comment was unaware that the Topical Analgesic Panel had signed off on its final report on skin

protectants at its December 1977 meeting. Therefore, the comment provided clarification of the data which had previously been submitted to the Panel and additional data which the Panel had not had an opportunity to consider.

The comment noted that the Panel had characterized the various in vitro and in vivo data as "sophisticated." It is well accepted that collagen formation is the central event of the biological repair process and the accepted indicator of newly formed collagen is the conversion of proline to hydroxyproline measured by the presence of radioactive hydroxyporline. The comment noted that the Panel stated that "collagen production and cross linkages have been experimentally quantified by measurements of collagen production and wound tensile strength * * *. Most agents promoting experimental wound healing such as oxygen, oral ascorbic acid, and oral vitamin A, appear to act primarily to promote collagen synthesis." (See 43 FR 34631.) The comment contended that the Panel had not taken into consideration the evidence presented that live yeast cell derivative alone increases collagen formation. The Panel had indicated that there was a significant increase in the mean net weight of new tissue and in hydroxyproline content in the in vivo study in rats and an average increase of C^{14} labeled proline uptake of 70 percent in incubated human skin samples. Instead, the Panel conclude that "it has duly noted that the manufacturer's data show that live yeast cell derivative alone is responsible for the increased oxygen uptake by skin treated with the whole product (live yeast cell derivative and shark liver oil)." The comment stated that the Panel ignored the series of sophisticated experiments it had itself described using human skin tags in vitro and implanted cylinders in vivo which clearly demonstrate a significant increase in collagen formation.

The comment also stated that several studies were reviewed by the Hemorrhoidal Panel. That Panel was divided in its findings with regard to the data. The majority of the Panel (four members) was concerned that efficacy needed to be demonstrated in the anorectal area and did not accept data in other areas. A minority of the Panel (three members) believed the data warranted a finding of Category I for live yeast cell derivative as a wound healing agent. The comment noted that experts in the field were also consulted and concluded that the data for live yeast cell derivative are adequate for safe and effective use as a wound healing agent.

In summary, the comment maintained that the most rigorous testing within technical capability of a wound healing research laboratory had been met for live yeast cell derivative and that experts in wound healing concluded that there was more than enough evidence to establish that live yeast cell derivative is effective as a wound healing agent. In addition, these tests have shown that live yeast cell derivative acts independently of the combination of live yeast cell derivative and vitamin A as a wound healing agent.

The agency has carefully reviewed the "clarifications" contained in the comment with regard to the studies evaluated by the Topical Analgesic Panel and has evaluated the additional data not reviewed by the Panel.

The additional data compared the effects of vitamin A, live yeast cell derivative, and a combination of these active ingredients on collagen synthesis by studying the incorporation of proline into hydroxyproline in human skin slices obtained from surgical procedures. Skin samples from two separate sources were incubated in the presence of C^{14} labeled proline, after which the skin was separated from the medium and the amount of hydroxyproline formed was measured by isotope counting techniques. The results indicate that vitamin A alone increased collagen formation by 57 percent and live yeast cell derivative by 122 percent, whereas the combination of vitamin A and live yeast cell derivative increased collagen formation by 112 percent. The agency has reviewed these data and concludes that live yeast cell derivative alone may promote collagenous repair. The agency concurs with the Panel that submitted animal and in vitro studies support a positive influence of live yeast cell derivative on wound healing. Specifically, live yeast cell derivative has the characteristic of a wound healing aid, i.e., increased oxygen uptake, hydroxyproline formation which is associated with collagen byosynthesis, tissue growth, and epithelization.

The majority of the Hemorrhoidal Panel had concluded that there was insufficient evidence to prove the safety and effectiveness of live yeast cell derivative as a wound healing agent for use in the anorectal area. The Panel noted that no studies of safety of live yeast cell derivative have been specifically carried out, although no toxicity has been noted when the compound was used in experimental animals and no reports of clinical toxicity have been made or noted in the various clinical studies of the commercial product containing live yeast cell derivative. The Panel therefore assumed that the compound is safe for limited use (1 week or less). The minority of the Hemorrhoidal Panel disagreed and concluded that live yeast cell derivative should be placed in Category I as safe and effective. Whereas the agency has not fully evaluated the use of live yeast cell derivative in the anorectal area, it concurs with the Topical Analgesic Panel's conclusion that the ingredient is safe for use as a wound healing agent for minor cuts, scrapes, and burns. The use of live yeast cell derivative for the relief of symptoms in the anorectal area will be addressed in the rulemaking for OTC anorectal drug products at a later date in a future issue of the **Federal Register**.

Even though the ingredient can be considered safe for use as a wound healing agent, there remains a lack of sufficient data on its effectiveness. Corroborations of the effects of live yeast cell derivative on wound healing of the type proposed for OTC use in human subjects in a well-controlled clinical study are still unavailable. Clarifications were provided in the comment regarding one human study reviewed by the Panel involving donor wound sites in patients with burn wounds, including the fact that each patient acted as his own control and often several donor sites were used for control measurements on the same patient (Ref. 1). However, even with these data, the agency concurs with the Panel's conclusion that the study remains insufficient to demonstrate a clinically significant effect. The study can only be considered as suggesting a potential wound healing effect. The number of patients is too small and the data too subjective to arrive at a conclusive interpretation.

The comment also referred to two human clinical studies in the literature that were not addressed by the Panel. In a 1944 study, Barnes (Ref. 2) evaluated the healing rate of human skin determined by the measurement of the electrical potential on experimental abrasions. The rate of healing was measured objectively by a recording potentiometer to avoid the subjective attempt to measure visually ill-defined areas of healing with photographs. After the normal potential differences between homologous digits on each hand were measured, the left fingers were sterilized with alcohol and the tips of four fingers were marked with sterilized sandpaper until blood

appeared. The electrical potential of the fresh wound was measured as the difference between an injured left finger and the intact homologous right finger. Following measurement of the wound's electrical potential, two fingers were treated with live yeast cell derivative combined with non-saponified liver oil. The other two fingers were treated with petrolatum as controls. Barnes concluded that the live yeast cell derivative-containing product accelerates healing on human skin to statistically significant degrees compared with control abrasions treated with petrolatum alone. The agency has reviewed the article and believes that it provides supportive evidence. However, the article does not provide conclusive evidence of effectiveness for OTC uses. Measurement of electrical potential has not been validated as a reliable indicator of wound healing. In addition, live yeast cell derivative as a single ingredient was not evaluated. In the second study referred to in the comment, Walsh and Nutini (Ref. 3) reported in 1943 on burn therapy founded on cellular stimulation. The article summarizes 100 burn cases treated with a live yeast cell derivative-containing product. The agency has reviewed the findings and concludes that the article lacks sufficient information to establish effectiveness for OTC uses. Live yeast cell derivative was not used alone and only 3 of the 100 burn patients were discussed.

In conclusion, the agency agrees that the available data suggest a positive influence on wound healing, but live yeast cell derivative has not been evaluated in an adequate well-controlled study in conditions such as minor cuts, scrapes, and burns, that would represent the symptoms most often to be treated OTC. The agency concurs with the Panel's evaluation that there is inadequate proof of effectiveness of live yeast cell derivative. The agency's detailed comments and evaluations on the data are on file with the Dockets Management Branch (Ref. 4). The agency recommends that the study design for any clinical evaluation of the effectiveness of live yeast cell derivative be prepared in consultation with FDA. The procedures for consulting about proposed protocols are described in a policy statement published in the **Federal Register** on September 29, 1981 (46 FR 47740).

References

(1) Trunkey, D., "Effectiveness of SRF on Donor Wound Sites," draft of unpublished paper in OTC Volume 060160.

(2) Barnes, T. C., "Healing Rate of Human Skin Determined by Measurement of the Electrical Potential of Experimental Abrasions," *The American Journal of Surgery*, 69:82–88, 1945.

(3) Walsh, T. P., and L. G. Nutini, "Burn Therapy Founded on Cellular Stimulation," *Southern Medicine and Surgery*, 104:143–152, 1943.

(4) Letter from W. E. Gilbertson, FDA, to S. F. Barshay, Whitehall Laboratories, coded LET, Docket No. 78N–0021, Dockets Management Branch.

12. One comment objected to the Panel's recommendation against using shark liver oil and live yeast cell derivative on children under 2 years of age without consulting a physician. The comment contended that both ingredients are safe and effective as skin protectants for use on children under 2 years of age for treatment of diaper rash. The comment cited Grayzel, Heimer, and Grayzel (Ref. 1) in support of the safety of topical application of cod liver oil and the "Handbook of Nonprescription Drugs" (Ref. 2) in support of the use of shark liver oil and cod liver oil as sources of vitamins A and D in the treatment of diaper rash. The comment argued that the Panel gave no reason for limiting the use of shark liver oil and live yeast cell derivative on children under 2, and failed to mention that a product containing both shark liver oil and live yeast cell derivative was submitted specifically for diaper rash (Ref. 3).

The agency notes that the product referred to by the comment is listed at 43 FR 34629 as one of the marketed products submitted to the Panel. The agency has reviewed the Panel's report and notes that the Panel discussed shark liver oil and live yeast cell derivative for use as skin protectant ingredients only. The product referred to by the comment was also submitted to the Miscellaneous External Panel and was reviewed by that Panel for diaper rash claims (Ref. 4).

The administrative record for the skin protectant rulemaking was reopened on September 7, 1982 (47 FR 39436) to include the recommendations of the Miscellaneous External Panel on drug products used for the treatment of diaper rash. The agency will review the submission on the product containing shark liver oil and live yeast cell derivative for use as skin protectants and for the treatment of diaper rash as part of its evaluation of these drug products. The agency notes that the references submitted by the comment do not address the question of systemic absorption of vitamins A and D across infant skin, although Grayzel, Heimer, and Grayzel (Ref. 1) discuss local absorption by epithelial cells and attribute the safety of cod liver oil to lack of evidence of sensitivity or dermatitis. The agency will consider this reference as part of its evaluation of diaper rash drug products. Until that evaluation has been completed, the agency will defer a decision on limiting the use of shark liver oil and live yeast cell derivative for use as skin protectants and for the treatment of diaper rash on children under 2 years of age. The agency invites the submission of additional data on these uses of shark liver oil, particularly on children under 2 years of age.

References

(1) Grayzel, H., C. Heimer, and R. Grayzel, "The Value of a Cod Liver Oil Ointment and Cod Liver Oil Lotion in the Treatment of Dermatoses," *New York State Journal of Medicine*, 53:2233–2237, 1953.

(2) Smith, G., "Handbook of Nonprescription Drugs," 5th Ed., American Pharmaceutical Association, Washington, p. 354, 1977.

(3) OTC Volume 060113.

(4) OTC Volume 160271.

13. One comment objected to the Panel's Category II classification for tannic acid. The comment argued that the Panel discussed only unsafe concentrations (e.g., 10 to 20 percent) and unsafe uses (e.g., use on severe burns and injection into animals). The comment stated that the Panel's discussion was not applicable to its product, which contains 3.92 percent tannic acid and is intended for minor burns only. Further, the comment contended that using 2 or 3 sprays of its product (each containing 50 mg of tannic acid) is not dangerous, and even if the entire bottle (90 sprays) were used on a minor burn, the 4.44 g of tannic acid applied would not be harmful. The comment added that tannic acid spray is intended for use for immediate applicatin by consumers as first aid in first and second degree burns and is not intended for use by physicians in a burn center for excessive skin damage. The comment contended that its 3.92 percent tannic acid spray treatment for burns forms a light covering or film, rather than a crust as the Panel stated (43 FR 34644), and maintained that this film reduces the likelihood of bacterial growth.

The agency concurs with the Panel's Category II classification of tannic acid as a skin protectant for the treatment of burns. The data cited by the Panel have shown that tannic acid in varying concentrations is absorbed when applied topically to severe burns. The agency does not have data demonstrating that tannic acid in concentrations as low as 3.92 percent

applied topically to minor burns would not be absorbed, nor did the comment present any. The film or crust formed over abraded tissue provides a suitable medium under which bacterial growth may flourish. The agency concurs with the Panel's conclusion that tannic acid is not safe or effective for burn therapy and is not suitable as an OTC skin protectant.

14. One comment contended that the 80- to 100-percent concentration range for cocoa butter in skin protectant products is unnecessarily high. The comment stated that because cocoa butter is a rather hard solid at room temperature, it would be difficult, if not impossible, for lotion and soft ointment formulations to contain cocoa butter even at the proposed lower level of 80 percent. The comment stated its understanding that the Hemorrhoidal Panel was recommending the use of cocoa butter as a protectant for use in the anorectal area at not less than 50 percent levels and requested that the agency lower the concentration of cocoa butter to 50 percent in the skin protectant rulemaking. The comment added that this lower percentage would permit the same level of skin protectant efficacy as the higher concentrations.

The Panel's recommended dosages for cocoa butter as a skin protectant were based on clinical and marketing experience of the products reviewed. The Panel noted that, due to its bland nonirritating properties, cocoa butter is used as a protectant on abraded or irritated tissue, especially in the anorectal area (45 FR 35630). The Hemorrhoidal Panel concluded that cocoa butter is safe and effective as a protectant in OTC preparation in concentrations of at least 50 percent (45 FR 35629). In view of those findings, the agency agrees with the comment and is proposing a dosage range for cocoa butter from 50 to 100 percent for use as an OTC skin protectant.

15. One comment requested that the concentration range of 10 to 85 percent recommended by the Panel for corn starch be extended to 10 to 100 percent. The comment stated that there was no medical reason for the upper concentration of corn starch to be limited to 85 percent and that this limit was based on the highest concentration of corn starch contained in a commercially available product submitted to the Panel. The comment mentioned that its own product contains 96 to 97 percent corn starch and that the directions for use recommended by the Panel (i.e., to use on adults, children, and infants liberally as needed) support raising the upper concentration limit.

The Panel recognized that corn starch has an effective absorptive capacity for moisture and is likely to form a sticky mass if used alone (i.e., at 100 percent) on the skin (Ref. 1). The Panel also noted that the incorporation of a finely dispersed dessicant in a formulation may eliminate this undesirable effect of corn starch. In light of the wide use of corn starch and because there is no reason to question the safety of corn starch when used externally, the agency tentatively agrees with the comment that the upper concentration limit for corn starch could be raised. However, the agency believes that an increase to a concentration of 97 percent, rather than 100 percent, would be appropriate to allow for formulation with a dessicant or other pharmaceutical necessity. As discussed in comment 22 below, the agency is tentatively deleting corn starch from the skin protectant monograph until diaper rash drug products are reviewed. The agency will state its proposal on the appropriate upper concentration limit for corn starch at that time.

Reference

(1) Barnett, G. "Baby Toiletries," *in* "Cosmetics Science and Technology," 2d Ed., edited by M. S. Balsam and E. Saqarin, Wiley-Interscience, New York, 1:154, 1972.

16. One comment requested that concentrations of zinc oxide up to and including 40 percent be permitted for OTC skin protectant drug products. The comment stated its belief that the Panel had limited the upper concentration of zinc oxide to 25 percent because it did not receive any data to substantiate the use of this ingredient at higher concentrations. The comment added that submissions for zinc oxide as a skin protectant in concentrations up to and including 40 percent were made to the Advisory Review Panel on OTC Miscellaneous External Drug Products, which classified zinc oxide in Category I at these concentrations (Ref. 1).

The agency acknowledges that the Topical Analgesic Panel did not receive data demonstrating the safety and effectiveness of zinc oxide as a skin protectant in concentrations above 25 percent. The product cited by the comment was submitted to the Miscellaneous External Panel and contained 40 percent zinc oxide as an active ingredient for the treatment of diaper rash (Ref. 2). The Miscellaneous External Panel did not review and classify individual ingredients for use in treating diaper rash, but rather recommended inclusion of zinc oxide in the skin protectant rulemaking for diaper rash claims without discussing specific concentrations. That Panel's recommendations on diaper rash drug products were incorporated into this rulemaking on September 7, 1982 (47 FR 39436). The agency will address these recommendations in the **Federal Register** at a later date. At this time, the agency has made no decision on the upper limit concentration for zinc oxide in diaper rash products. Because no additional data were submitted on the use of these higher concentrations of zinc oxide for other skin protectant claims, the agency is not proposing to increase these limits as this time.

References

(1) Minutes of the Fourteenth Meeting of the Advisory Review Panel on OTC Miscellaneous External Drug Products, November 12 and 13, 1976.

(2) OTC Volume 160021.

17. One comment noted that the Panel presented a chart that clearly identifies which active ingredients can be used to treat the symptoms of "dryness," "wetness," or "friction (lubricity)" (43 FR 34632), but that this information is not stated in the monograph. The comment requested that the type of information that appears in the chart be incorporated into the monograph.

As stated in comment 22 below, the agency is proposing to revise the types of labeling claims recommended by the Panel, and the terms "dryness," "wetness," and "lubricity" will not be proposed in the tentative final monograph. The tentative final monograph specifically states which ingredients can bear the various labeling claims. A summary chart appears in comment 22 below.

C. Comments on Testing of Skin Protectant Drug Products

18. One comment recommended four changes in the Panel's suggested methods of testing to upgrade a wound-healing aid ingredient from Category III to Category I.

The agency has not addressed specific testing guidelines in this document. In revising the OTC drug review procedures relating to Category III, published in the **Federal Register** of September 29, 1981 (46 FR 47730), the agency advised that tentatively final and final monographs will not include recommended testing guidelines for conditions that industry wishes to upgrade the monograph status. Instead, the agency will meet with industry representatives at their request to discuss testing protocols. The revised procedures also state the time in which test data must be submitted for consideration in developimg ther final monograph. (See also part II. paragraph

A.2 below—*Testing of Category II and Category III conditions.)*

19. One comment pointed out an inconsistency in two Panel statements regarding Category III testing (43 FR 34647). The first statement would have allowed 2 years to develop the methodology for wound-healing studies in human subjects. The second statement recommended reclassifying the claim "aids wound healing" in Category II if adequate data to support it were not obtained in 2 years. The comment stated that it was not possible to develop methodology and perform investigations at the same time and that a 2-year time limit was not adequate.

Since the Panel's report was published in 1978, revisions in the procedural regulations for the OTC drug review have been made as a result of the Court ruling in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The revised procedural regulations, published in the **Federal Register** of September 29, 1981 (46 FR 47730), provide that any testing necessary to resolve a Category III condition must be done before the publication of the relevant final monograph. In order to facilitate the development and submission of data to support changing a Category II or Category III classification, the agency has worked out procedures that were published in the same issue of the **Federal Register** as the revised regulations (46 FR 47740). These procedures cover review of proposed protocols by the agency and agency feedback on submitted data.

20. One comment contended that the Panel's requirement of three separate studies exceeds the "new drug" requirement of two adequate and well-controlled studies and is not necessary to confirm the extensive effectiveness data already submitted on live yeast cell derivative.

As discussed in comment 18 above, the agency will not address specific testing guidelines in this document. The number and extent of studies necessary to demonstrate effectiveness can only be resolved after the agency has met with industry representatives at their request to discuss testing protocols. For further information on testing protocols see comment 18 above and the agency's statement on testing Category II and Category III conditions in part II. paragraph A.2. below.

D. Comments on Labeling of Skin Protectant Drug Products

21. Two comments contended that FDA does not have the authority to legislate the exact wording of OTC labeling claims to the exclusion of what the comments described as other equally truthful claims for the products. The comments objected to the labeling recommended by the Panel as being overly restrictive and recommended that more flexibility in labeling be permitted by adding the following statement to each list of approved claims: "* * * or similar indication statements which are in keeping with the Panel's report."

During the course of the OTC drug review, the agency has maintained that a monograph describing the conditions under which an OTC drug will be generally recognized as safe and effective and not misbranded must include both specific active ingredients and specific labeling. (This policy has become known as the "exclusivity rule.") The agency's position has been that it is necessary to limit the acceptable labeling language to that developed and approved through the OTC drug review process in order to ensure the proper and safe use of OTC drugs. The agency has never contended, however, that any list of terms developed during the course of the review literally exhausts all the possibilities of terms that appropriately can be used in OTC drug labeling. Suggestions for additional terms or for other labeling changes may be submitted as comments to proposed or tentative final monographs within the specified time periods or through petitions to amend monographs under § 330.10(a)(12). For example, the labeling proposed in this tentative final monograph has been expanded and revised in response to comments received.

During the course of the review, FDA's position on the "exclusivity rule" has been questioned many times in comments and objections filed in response to particular proceedings and in correspondence with the agency. The agency has also been asked by The Proprietary Association to reconsider its position. To assist the agency in resolving this issue, FDA conducted an open public forum on September 29, 1982 at which interested parties presented their views. The forum was a legislative type administrative hearing under 21 CFR Part 15 that was held in response to a request for a hearing on the tentative final monographs for nighttime sleep-aids and stimulants (published in the **Federal Register** of June 13, 1978; 43 FR 25544). The agency's final decision on this issue will be announced in the **Federal Register** following conclusion of its review of the material presented at the hearing.

22. Several comments requested that the Panel's recommended indications in § 347.50(b)(7) (i) and (ii) be revised to make them more meaningful to consumers. Some comments stated that some of the indications were "cosmetic" in character, e.g., use of terms such as "soothes" or "gives comfort"; other comments questioned whether words such as "intertrigo" or "galling" would be understood by the ordinary consumer. One comment specifically objected to the use of the word "lubrication," stating that in general use the words "lubricate" and "lubricating" are understood to involve an oily or greasy substance used in machines to reduce friction and citing one dictionary definition to support this contention. The comment added that while some OTC skin protectant drug products, such as petrolatum, may be greasy, other product forms, such as powders, reduce friction without being greasy. The comment argued that consumers who do not want to use an oily or greasy substance may not use a product that is indicated for "lubrication" purposes; therefore, alternative words such as "soothing" or "smoothing" would better communicate to consumers the intended use of these products. One comment suggested that manufacturers be provided some flexibility in indications by arranging the Panel's recommended labeling into two groups and allowing manufacturers to label their products as they desire, especially if space limitations so require. The comment suggested that the indications be arranged as follows so that any phrase in column (1) may be combined with one or more terms in column (2):

(1)	(2)
Aids in temporary relief of	minor skin irritations
For the temporary protection	minor burns
[illegible]	[illegible]
Gives comfort to	windburn
For symptoms of chapping due to	scrapes
For symptoms of peeling due to	[illegible]
For symptoms of scaling due to	cracked lips
For the lubrication of	
For symptoms of	intertrigo chafing galling rubbing friction

Another comment suggested that manufacturers be provided the option of describing the mode of action, e.g., absorbent, adsorbent, emollient, lubricant, in the labeling of the product.

The agency concurs that the Panel's recommended indications in § 347.50(b)(7) (i) and (ii) could be revised to make them more meaningful to consumers and to better reflect the "drug" use of these products. Many of the ingredients reviewed by the Panel have been used in both drug and cosmetic products for many years, and there has been an overlapping of

labeling claims. The agency has reviewed all of the labels for the marketed products submitted to the Panel and has reviewed all of the Panel's evaluations of these ingredients in an effort to identify historical drug claims for these ingredients. Most of the ingredients reviewed by the Panel are currently, or have been in the past, listed in the official drug compendia.

The agency has also reviewed all of the Category I labeling claims recommended by the Panel and determined that a number of these appear inappropriate for OTC drug labeling. Terms such as "intertrigo" and "galling" are not found in labeling for marketed OTC products submitted and reviewed by the Panel and would not be familiar to consumers: "contact dermatitis" is not readily self-diagnosable. The term "minor skin irritations" when used alone is too broad and would give consumers the impression that a skin protectant could or should be used for every type of minor skin irritation that occurs. The agency does not think that was the Panel's intent and points out that other types of skin remedies, e.g., external analgesic drug products, would be used to treat other types of skin irritations involving itching or pain. The agency considers the terms "soothes," "smoothing," "rubbing," "friction," and "lubrication" to be cosmetic claims in the context of skin protectant products. Symptoms of peeling or scaling may be interpreted differently by consumers, and the agency believes that stating that the product helps prevent or temporarily protects chafed and chapped skin or lips is more informative to the consumer. The term "abrasions," as recommended by the Panel, has not been included in the Category I labeling proposed for topical antibiotic and antimicrobial drug products. Instead, the term "scrapes" was used. Likewise, the agency believes that the term "scrapes" is more appropriate for skin protectant drug products.

The agency believes that the following labeling would adequately represent the drug uses of skin protectant drug products and is proposing the following in this tentative final monograph:

(1) "For the temporary protection of minor cuts, scrapes, burns, and sunburn."

(2) "Helps prevent and temporarily protects chafed, chapped, cracked, or windburned skin and lips."

(3) "Dries the oozing and weeping of poison ivy, poison oak, and poison sumac."

Based on the Panel's recommendations, the agency is proposing that the Category I ingedients included in the tentative final monograph be labeled with one or two of the three indications above as follows:

Ingredients	Indications		
	1	II	3
Allantoin	X	X	
Cocoa butter	X	X	
Petrolatum	X	X	
White petrolatum	X	X	
Shark liver oil	X	X	
Dimethicone		X	
Glycerin		X	
Aluminum hydroxide gel			X
Calamine			X
Corn starch[1]			
Kaolin			X
Sodium bicarbonate[2]			
Zinc acetate			X
Zinc carbonate			X
Zinc oxide			X

[1] Deferred until diaper rash drug products are reviewed.
[2] Deferred to External Analgesic Rulemaking (see comment 33 below)

The permitted combinations in § 347.20 have been clarified to reflect the labeling indications above.

Based on these indications, the agency sees no need for requiring a description of the mode of action (e.g., adsorbent, absorbent) in the labeling. The agency believes that such additional information would not necessarily increase the consumer's understanding of the use of these products.

The rulemaking for skin protectant drug products was reopened on September 7, 1982 (47 FR 39436) to include the Miscellaneous External Panel's recommendations for diaper rash, astringent, external fever blister, insect bite neutralizer, and poison ivy, oak, and sumac prevention drug products. It is possible that the indications for skin protectant drug products will be expanded in the future to include some of these other uses. For example, a number of the Category I ingredients are used in diaper rash drug products. Corn starch is one of these ingredients. At the present time, none of the proposed Category I indications are applicable to corn starch. Most of the uses of corn starch discussed by the Topical Analgesic Panel are cosmetic uses. The primary OTC drug use of corn starch appears to be in diaper rash drug products. Therefore, the agency is not including corn starch in the tentative final monograph until its use in diaper rash drug products is reviewed.

23. One comment questioned whether the Panel, in recommending general warnings for a class of ingredients, considered the applicability of each warning to each individual ingredient in the class. The comment acknowledged that the Panel's recommendations could always be altered by petitioning the agency for a change, but contended that there should be no need to go through the petitioning process to eliminate requirements that are clearly not applicable to a specific ingredient.

The agency believes that, in recommending general warnings for skin protectants as a class, the Panel considered the applicability of the warnings to specific ingredients in the class. For example, the Panel recommended specific warnings for seven different skin protectant ingredients in § 347.50(c) (4) through (10). The agency has revised these warnings in a few instances and is proposing to delete some of the general warnings from the labeling the Panel recommended for certain skin protectant drug products, e.g., lip balms. (See comments 26, 28, 29, and 31 below and part II. paragraph B.12. below.) Interested persons who disagree with the agency's proposal need not petition the agency at this time to request changes. Instead, they may submit written comments and objections following publication of this tentative final monograph. Finally, interested persons may petition the agency for a change following issuance of the final monograph. The agency expects that, throughout the skin protectant rulemaking process, labeling requirements for specific ingredients will continue to be identified and thoroughly evaluated so that the final monograph will contain appropriate warnings.

24. One comment wished to reserve the right to decide after issuance of the final skin protectant monograph whether it would be appropriate to petition the agency to exempt petrolatum from the two general warnings prescribed in 21 CFR 330.1(g) ("Keep this and all drugs out of the reach of children" and "In case of accidental ingestion, seek professional assistance or contact a Poison Control Center Immediately.")

The two general warnings in 21 CFR 330.1(g) are not required in the labeling of OTC skin protectant drug products until a final monograph becomes effective for those products. As stated in § 330.1(g), all interested parties have the opportunity to petition for exemption from these general warnings at any time.

25. One comment strongly urged that petrolatum be exempt from the Panel's recommended warning in § 347.50(c)(2): "Avoid contact with the eyes." The comment referred to studies that showed that ohthalmic ointments did not interfere with corneal wound-healing (Ref. 1) and cited the classification of petrolatum by the Advisory Review Panel on OTC

Ophthalmic Drug Products as a Category I active ingredient in ophthalmic preparations and the "Physician's Desk Reference" listing of white petrolatum as a vehicle for numerous ophthalmic preparations. The comment contended that products containing white petrolatum are routinely used to treat diseased eyes and that the warning to "avoid contact with the eyes" is therefore unnecessary for petrolatum. The agency disagrees. It is possible for petrolatum that is not prepared for ophthalmic use to be contaminated and cause infection if placed in or near the eyes. Ophthalmic ointments containing petrolatum are sterilized so as not to introduce a source of infection to the eye or cornea. Nonophthalmic products containing petrolatum for topical use are not sterilized and should not be used in the eyes. The agency is therefore proposing the Panel's recommended warning in the tentative final monograph.

Reference

(1) Hanna, C., et al., "The Effects of Ophthalmic Ointments on Corneal Wound Healing," *American Journal of Ophthalmology*, 75:193–200, 1973.

26. One comment suggested that the Panel's recommended warning statement in § 347.50(c)(3), which reads "Discontinue use if symptoms persist for more than 7 days and consult a physician," be revised to read "If condition does not improve within 7 days, discontinue use and see your doctor." The comment contended that the Panel's recommended warning could be misinterpreted by some consumers and could result in unnecessary visits to the doctor, whereas the revised warning recognizes that the condition being treated may "improve" but still "persist." The comment stated that if the condition improves, it is unnecessary to encourage the consumer to visit a doctor. Another comment stated that the warning was not justified for petrolatum, adding that a brief delay in seeking medical attention would not create a hazard. The comment argued that if the consumer is going to heed the warning, then both "discontinue use" and "consult a physician" are not necessary, and referring the consumer to a physician should take precedence over telling the consumer to stop use of the drug. The comment suggested that the warning for petrolatum be shortened to "If symptoms persist, consult a physician," or "If symptoms persist, see your doctor."

The agency believes consumers should be advised that if the condition gets worse or does not improve after 7 days, a doctor should be consulted. The agency agrees that referring the consumer to a doctor is more important than telling the consumer to stop use of the drug. Therefore, the agency is proposing that the warning in § 347.50(c)(3) be revised to read: "If condition worsens or does not improve within 7 days, consult a doctor," While the consumer may continue to use the skin protectant product, the purpose of the warning is to convey to the consumer the message to seek medical care if improvement does not occur.

27. One comment contended that petrolatum is an excellent example of an ingredient generally recognized as safe; therefore, it seems somewhat contradictory that so many warnings (a total of six to date) have already been proposed for this ingredient, when several other panels that are also reviewing petrolatum have yet to be heard from.

The agency concurs that petrolatum is safe when used properly; however, some warnings are necessary to prevent improper use. The warning recommended by the Panel in § 347.50(c)(1) is a general warning for all externally applied products. The warnings proposed in § 347.50(c) (2) and (3) are discussed in comments 25 and 26 above. The warning recommended by the Panel in § 347.50(c)(7) is important to prevent improper use of petrolatum on puncture wounds, infections, and lacerations. (See part II. paragraph B.12. below.) The two general warnings required by § 330.1(g) are discussed in comment 24 above. The agency believes that the proposed warnings for petrolatum used as a skin protectant are necessary. Other panels that have evaluated petrolatum for other uses have recommended warnings related to those uses. The agency will review the recommended warnings for petrolatum in the various rulemakings and will propose appropriate warnings as necessary.

28. Several comments urged that the warning "For external use only" not be required for lip balm products. One comment claimed that 21 CFR 82.3(n) defines externally applied drugs as those "which are applied * * * not to the lips * * *," thus concluding the warning to be contradictory and confusing to the consumer. The comment also contended that consumers would not confuse a solid stick dosage form with a liquid medication that could be swallowed. Another comment believed that the warning, when read in context with the poison control warning required by 21 CFR 330.1(g), implies danger in using lip balms, thus discouraging use and increasing the incidence of chapping, cracking, and irritation of the lips. A third comment objected to the warning specifically for petrolatum-containing lip blam products. The comment contended that any hazard from the accidental ingestion of petrolatum is nonexistent, adding that the Panel stated that large amounts of petrolatum are essentially nontoxic when ingested (43 FR 34639); that petrolatum is regulated as an approved food additive by FDA in accordance with 21 CFR 172.880 and the Food Chemicals Codex; that with 424 million units distributed, only 10 adverse incidents have been reported, and these were not related to ingestion; and that the Advisory Review Panel on OTC Hemorrhoidal Drug Products found petrolatum safe and effective for intrarectal use.

The agency agrees with the comments. Although 21 CFR 82.3(n) is not applicable to drug active ingredients but to certified colors, the agency believes that lip balm products do not require the warning "For external use only" to assure safe use. Therefore, the agency is proposing that the warning in § 347.50(c)(1) is not required for lip balm products. (See comment 31 below.)

29. One comment urged that the Panel's recommended warning in § 347.50(c)(2), "Avoid contact with the eyes," should not be required for lip balms because the products' solid form will not run into the eyes and cannot be accidentlly splashed or poured into the eyes. The company submitting the comment added that it had sold millions of tubes of lip balm over 20 years and was not aware of a single complaint of irritation of the eyes.

The agency concurs with the comment that lip balms would not normally be used in or near the eyes and is proposing that the above warning not be required for lip balm products.

30. Two comments requested deletion for lip balms of the warning in § 347.50(c)(3), "Discontinue use if symptoms persist for more than 7 days and consult a physician." One comment contended that lip balms help protect against and heal chapped and dried lips and are not for treatment of a disease state, that the warning may discourage consumer use of these products, that discontinuing use increases the likelihood of symptoms occuring, that the 7-day time limitation imparts a sense of danger to the consumer, and that the warning is inconsistent with the directions for a lip balm, "Apply liberally as oftern as necessary." The second comment contended that the warning should be limited to products with indications for conditions such as

scrapes, burns, or weeping. The comment maintained that the warning should not apply to lip balms intended for chapped lips and the soothing of dry lips which could persist for many days under harsh climatic conditions.

The agency is proposing to revise the warning in § 347.50(c)(3) to read "If condition worsens or does not improve within 7 days, consult a doctor." (See comment 28 above.) The agency believes that this warning is needed for lip balms to alert consumers to consult a doctor if the condition does not improve after 7 days. Chapped lips can be caused by diseases which, if undiagnosed and untreated, can be harmful, e.g., cheilosis, a disease condition associated with deficiency of some B vitamins and characterized by fissuring and dry scaling of the surface of the lips (Ref. 1). The agency has modified the warning to refer to conditions rather than symptoms and believes that the revised warning is not inconsistent with the directions, "Apply liberally as often as necessary."

Reference

(1) Berkow R., editor, "The Merck Manual," 13th Ed., Merck and Co., Rahway, N.J., p. 1671, 1977.

31. Two comments requested that petrolatum-containing lip balms be exempt from the warning, "Not to be applied over puncture wounds, infections, or lacerations" recommended by the Panel in § 347.50(c)(7). One comment contended that the warning is appropriate for petrolatum marketed as a first-aid ointment, but is inappropriate for lip balms in which the petrolatum is combined with waxes to form a solid stick for use on chapped lips. The second comment asked that dimethicone-containing lip balms also be exempt from the same warning appearing in § 347.50(c)(5) for dimethicon, contending that lip balms containing dimethicone or petrolatum would not be mistakenly used on the conditions listed in the warning.

The agency agrees with the comments and believes that consumers would not mistakely use lip balms to treat puncture wounds, infections, or lacerations. Accordingly, the agency is proposing in the tentative final monograph that this warning not be required for lip balm products. The agency will further consider the "infection" part of this warning for the use of petrolatum-containing lip balms in the future when it evaluates the Miscellaneous External Panel's Statement on Drug Products for the Treatment of Fever Blisters, which will be incorporated into this rulemaking proceeding. Therefore, at this time, the agency is proposing the following statement in § 347.50(c) of the tentative final monograph:

"(9) *For products formulated as lip balms.* The warnings in paragraph (c) (1), (2), and (4) of this section are not required for lip balm products." (See comments 28 and 29 above.)

32. Several comments noted that it may not be possible to put all the required labeling recommended in § 347.50 on small containers without using cartons or package inserts. The comments urged that flexibility in wording be allowed on these small containers. One comment pointed out the petrolatum is a multipurpose active ingredient which was reviewed by several panels; that, because of its multipurpose character, labeling requirements may become cumbersome and confusing to consumers; and that it would be impossible to place several panels' different indications, warnings, and directions for the different uses of the product on small containers. The second comment suggested combining the indication allowed in § 347.50(b)(5), "For symptoms of chapping, peeling or scaling due to sunburn, windburn, or cracked lips," with the directions in § 347.50(d), "Apply liberally as often as necessary," to read "Apply liberally as needed for dry, chapped lips, wind or sunburned lips," adding that this shorter version would convey the same message. A third comment recommended that lip balm drug products be exempt from the warnings proposed in § 347.50(c) (1), (3), (5), and (7). The comment contended that the warnings are unnecessary, of no benefit to the public, and cannot be labeled conspicuously on small packages, as section 502(c) of the act would require. The comment also contended that off-package labeling would increase production costs and waste natural resources.

The agency has reviewed the Panel's recommended labeling and, wherever possible, has revesed the labeling so that only essential information is required. (See comments 22, 25, 26, and 27 above.) The agency has also deleted a number of warnings for products formulated as lip balms, including some the comment requested be deleted. (See comments 28, 29, and 31 above.) The agency believes that the labeling proposed in this tentative final monograph is necessary to assure proper and safe use of OTC drugs by the public and will not be confusing to consumers. Accordingly, the agency recommends that when an OTC skin protectant drug product is packaged in a container that is too small to contain the required labeling, the product be enclosed in a carton or be accompanied by a package insert that complies with the monograph.

33. On comment requested that sodium bicarbonate (baking soda) be exempted from the recommended warnings in § 347.50(c) (1), (2), and (9). Section 347.50(c)(1) states "For external use only." The comment contended that because sodium bicarbonate is both a food and an antacid, this warning statement would confuse the consumer. Section 347.50(c)(2) states "Avoid contact with the eyes." The comment contended that sodium bicarbonate is nonirritating according to the Draize Rabbit Eye Irritation Test and it is used in swimming pools and baths. Section 347.50(c)(9) states "Do not apply to extensive acid burns. Flood acid burns with cold tap water and consult a physician." The comment stated this warning should only be required when the label bears indications for relief from minor burns and sunburns.

In its evaluation of sodium bicarbonate, the Panel pointed out that sodium bicarbonate is an effective antipruritic in relieving itching due to nonpoisonous insect stings and bites or due to sunburn. It is also used to relieve the pain of minor acid burns (43 FR 34640). Because the indication "for the temporary relief of pain and itching due to minor burns, sunburn, * * *, insects bites, and minor skin irritations" is being specifically addressed in the rulemaking for OTC external analgesic drug products (44 FR 69768), the agency is transferring sodium bicarbonate to that rulemaking proceeding. The Topical Analgesic Panal also recommended that products containing any external analgesic active ingredient bear the warnings "For external use only" and "Avoid contact with the eyes." The agency will address the comment's statements about the applicability of these warnings to products containing sodium bicarbonate prior to the publication of a final monograph for external analgesic drug products in a future issue of the **Federal Register**. The Panel's recommended warning is § 347.50(c)(9) relating to acid burns will also be discussed in that publication.

34. One comment suggested substituting the term "concentration" for "dosage" in §§ 347.10 and 347.20. The comment explained that the term "dosage" is not accurate when read in context with the directions for use in §347.50(d).

The agency agrees with the comment. Accordingly, "dosage" has been changed to "concentration" where applicable in the tentative final monograph.

35. One comment requested that manufacturers not be required to put "directions for use" on petrolatum labels or at least have this option when label space limitations are a problem. This request was based on 21 CFR 201.116, which provides that the requirement for placing directions for use on labels can be omitted "insofar as adequate directions for common uses thereof are known to the ordinary individual." The comment concluded that petrolatum's long history of use qualifies it for this exemption.

Because petrolatum is used for many different indications, the agency believes that not including directions for use in the labeling might confuse consumers. It is also possible that consumers might not use the product as often as needed. Therefore, in the consumer's best interest, the agency is proposing that "directions" be required for petrolatum.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and is proposing the following categorization of skin protectant active ingredients. For the convenience of the reader, the following table is included as a summary of the categoriation of skin protectant active ingredients by the Panel and the proposed classification by the agency:

Skin protectant active ingredients	Panel	Agency
Allantoin[1]	I	I.
Aluminum hydroxide gel	I	I
Bismuth subnitrate	II	II.
Boric acid	II	II
Calamine	I	I.
Cocoa butter	I	I.
Corn starch	I	(3)
Dimethicone	I	I.
Glycerin	I	I
Kaoline	I	I.
Live yeast cell derivative[2]	III	III
Petrolatum	I	I.
Shark liver oil	I	I.
Sodium bicarbonate	I	(4)
Sulfur	II	II.
Tannic acid	II	II.
White petrolatum	I	I
Zinc acetate[1]	I	I.
Zinc carbonate	I	I.
Zinc oxide	I	I.

[1]Also classified by the Panel and the Agency as a Category III wound. healing agent
[2]Classified only as a wound healing agent.
[3]Deferred.
[4]Transferred.

2. *Testing of Category II and Category III conditions.* The Panel recommended testing guidelines for skin protectant drug products (43 FR 34647). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any skin protectant ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made in the Panel's conclusions and recommendations follows.

1. The agency has added the word "drug" to the *"Scope"* in § 347.1 of the tentative final monograph and to the definition of skin protectant in § 347.3 to emphasize that the monograph covers only drug products and does not cover cosmetic products. (See comment 6 above.)

2. The agency has revised the definition of a skin protectant drug. (See comment 7 above.)

3. The agency is redesignating proposed Subpart D as Subpart C and placing the labeling sections of the monograph under Subpart C.

4. The agency is deferring review of the Panel's recommended warning limiting the use of shark liver oil and liver yeast cell derivative on children under 2 years of age until it reviews the use of these ingredients as part of its evaluation of diaper rash drug products. (See comment 12 above.)

5. The agency is not including corn starch in the monograph until diaper rash drug products are reviewed. (See comment 22 above.)

6. The agency has revised the labeling indications recommended by the Panel, and the permitted combinations in § 347.20 have been clarified to reflect the revised labeling indications. (See comment 22 above.)

7. The agency has revised the Panel's recommended warning statement in § 347.50(c)(3). (See comment 28 above.)

8. The agency has exempted lip balm drug products from the warnings in § 347.50(c) (1), (2), and (4). (See comments 28, 29, and 31 above.) To clarify the meaning of "lip balm," the agency is adding a definition of this term to § 347.3.

9. The agency has transferred sodium bicarbonate to the rulemaking for OTC external analgesic drug products. (See comment 33 above.)

10. The agency has substituted the term "concentration" for "dosage" where appropriate in the tentative final monograph. (See comment 34 above.)

11. In an effort to simplify OTC drug labeling the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and other applicable OTC drug regulations will give manufacturers the option of using either the word "physician" or the word "doctor." This tentative final monograph proposes that option.

12. The Panel proposed the same warning for dimethicone in § 347.50(c)(5) and for petrolatum and white petrolatum in § 347.50(c)(7). The agency proposes to redesignate this warning as § 347.50(c)(4) and to make it applicable to all skin protectants labeled with the same indications as dimethicone, petrolatum, or white petrolatum. The agency further proposes to revise this warning to include the term "deep" to describe wounds that should not be self-treated with these skin protectants and to advise consumers to consult a doctor for such wounds. These revisions are proposed because deep wounds, as well as puncture wounds, should be treated by a doctor for adequate protection against tetanus. As revised, the proposed warning for products labeled according to § 347.50(b) (1) or (2) reads as follows: "Not to be applied over deep or puncture wounds, infections, or lacerations. Consult a doctor."

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require either a Regulatory Impact Analysis, as specified in Executive Order 12291, or a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Some skin protectant products may have to be reformulated to delete

nonmonogrpah ingredients. However, there are a number of Category I ingredients available for reformulation. The agency believes that minimal testing of nonmonograph ingredients will be done because of the availability of other ingredients for reformulation. Manufacturers will have up to 12 months to revise their product labeling. In most cases, this will be done at the next printing so that minimal costs should be incurred. Thus, the impact of the proposed rule, if implemented, appears to be minimal. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC skin protectant drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC skin protectant drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on skin protectant drug products, a period of 120 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined that under 21 CFR 25.24(d)(9) (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742) this proposal is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 347

OTC drugs, Skin protectants.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 347 to read as follows:

PART 347—SKIN PROTECTANT DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—General Provisions

Sec.
347.1 Scope.
347.3 Definitions.

Subpart B—Active Ingredients

347.10 Skin protectant active ingredients.
347.20 Permitted combinations of active ingredients.

Subpart C—Labeling

347.50 Labeling of skin protectant drug products.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 702, 703, 704).

Subpart A—General Provisions

§ 347.1 Scope.

(a) An over-the-counter skin protectant drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this part and each of the general conditions established in § 330.1.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 347.3 Definitions.

As used in this part:

(a) *Skin protectant.* A drug which protects injured or exposed skin or mucous membrane surface from harmful or annoying stimuli.

(b) *Lip balm.* A drug product that relieves and prevents dryness or chapping of the exposed surface of the lips.

Subpart B—Active Ingredients.

§ 347.10 Skin protectant active ingredients.

The active ingredients of the product consist of any of the following, within the established concentration for each ingredient:

(a) Allantoin, 0.5 to 2 percent.

(b) Aluminum hydroxide gel, 0.15 to 5 percent.

(c) Calamine, 1 to 25 percent.

(d) Cocoa butter, 50 to 100 percent.

(e) Dimethicone, 1 to 30 percent.

(f) Glycerin, 20 to 45 percent.

(g) Kaolin, 4 to 20 percent.

(h) Petrolatum, 30 to 100 percent.

(i) Shark liver oil, 3 percent.

(j) White petrolatum, 30 to 100 percent.

(k) Zinc acetate, 0.1 to 2 percent.

(l) Zinc Carbonate, 0.2 to 2 percent.

(m) Zinc oxide, 1 to 25 percent.

§ 347.20 Permitted combinations of active ingredients.

(a) Any two or more of the ingredients identified in § 347.10 (a), (d), (h), (i), and (j) may be combined provided the combination is labeled according to § 347.50(b)(1) and provided each ingredient in the combination is within the concentration specified in § 347.10.

(b) Any two or more of the ingredients identified in § 347.10 (a), (d), (e), (f), (h), (i), and (j) may be combined provided the combination is labeled according to § 347.50(b)(2) and provided each ingredient in the combination is within the concentration specified in § 347.10.

(c) Any two or more of the ingredients identified in § 347.10 (b), (c), (g), (k), (l), and (m) may be combined provided the combination is labeled according to § 347.50(b)(3) and provided each ingredient in the combination is within the concentration specified in § 347.10.

Subpart C—Labeling

§ 347.50 Labeling of skin protectant drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "skin protectant."

(b) *Indications.* The labeling of the product contains a statement under the heading "Indications" that is limited to one or more of the following phrases:

(1) *For products containing any ingredient in § 347.10 (a), (d), (h), (i), and (j).* "For the temporary protection of minor cuts, scrapes, burns, and sunburn."

(2) *For products containing any ingredient in § 347.10 (a), (d),. (e), (f), (h), (i), and (j).* "Helps prevent and temporarily protects chafed, chapped, cracked, or windburned skin and lips."

(3) *For products containing any ingredient in § 347.10 (b), (c), (g), (k), (l), and (m).* "Dries the oozing and weeping of poison ivy, poison oak, and poison sumac."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "For external use only."

(2) "Avoid contact with the eyes."

(3) "If condition worsens or does not improve within 7 days, consult a doctor."

(4) *For products labeled according to § 347.50(b) (1) or (2).* "Not to be applied over deep or puncture wounds, infections, or lacerations. Consult a doctor."

(5) *For products formulated as lip balms,* The warnings in paragraph (c) (1), (2), and (4) of this section are not required for lip balm products.

(6) *For products containing aluminum hydroxide gel identified in § 347.10(b).* "Do not use on children under 6 months of age without consulting a doctor."

(7) *For products containing glycerin identified in § 347.10(f).* "Do not use on children under 6 months of age without consulting a doctor."

(8) *For products containing zinc acetate identified in § 347.10(k).* "Do not use on children under 2 years of age without consulting a doctor."

(d) *Directions.* The labeling of the product contains the following statement under the heading "Directions": "Apply liberally as often as necessary."

(e) The word "physician" may be substituted for the word "doctor" in any of the labeling statements above.

Interested persons may, on or before April 18, 1983, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before June 15, 1983. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register.**

Interested persons, on or before February 15, 1984, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before April 16, 1984. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on April 16, 1984. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register** unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Dated: January 27, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Richard S. Schweiker,

Secretary of Health and Human Services.

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Part III

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Disqualification Penalties for Intentional Program Violation, and Improved Recovery of Overpayments; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272, 273, 276, and 277

[Amdt. No. 242]

Food Stamp Program; Disqualification Penalties for Intentional Program Violation, and Improved Recovery of Overpayments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking contains final regulations for the Food Stamp Program to implement certain provisions of the Omnibus Budget Reconciliation Act of 1981 and the Food Stamp Act Amendments of 1982. These provisions are aimed at deterring Food Stamp Program abuse, and improving recovery of overpayments. this rule also makes related changes based on recommendations received during the comment period on the proposed rulemaking.

DATES: This rule is effective February 15, 1983, and shall be fully implemented no later than April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302; Phone: (703) 756–3429.

SUPPLEMENTARY INFORMATION:

Classification

This final rulemaking has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified "not major." It will not have an annual effect on the economy of $100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Because the rule will not directly affect the business community, it will not result in significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Robert E. Leard, Acting Administrator of the Food and Nutrition Service, has determined, in accordance with 5 U.S.C. 553, that good cause exists for making this rulemaking effective less than 30 days after publication. The Food Stamp Act Amendents of 1982 were enacted on September 8, 1982. Section 192(a) of these 1982 Amendments established the enactment date of the 1982 Amendments as the effective date for those provisions of the Omnibus Budget Reconciliation Act of 1981 not yet implemented by the Department. In addition, Section 193 of the 1982 Amendments established the enactment date of the 1982 Amendments as the effective date of its provisions. States are given until April 1, 1983 to fully implement the rule.

The final rule has also been reviewed with regard to the requirements of Pub. L. 96–354, and Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that the action will not have a significant economic impact on a substantial number of small entities. This action will implement those provisions of the Omnibus Budget Reconciliation Act of 1981 and the Food Stamp Act Amendments of 1982 aimed at deterring Food Stamp Program abuse and improving recovery of overpayments. State and local welfare agencies will be affected to the extent that they administer the Program. Those most affected will be individuals participating in the Program who are found to have committed a Program violation, and households which have received an overissuance.

Note.—In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB). (OMB approval No. 0584–0064.)

Background

The Department, on Monday, June 21, 1982, at 47 FR 26639, issued proposed regulations to implement those provisions of the Omnibus Budget Reconciliation Act of 1981 relating to the disqualification penalties for intentional Program violation, and the improved recovery of overpayments. These proposed regulations were republished in the **Federal Register** on Tuesday, June 22, 1982, at 47 FR 27038, to meet requirements for publication on the Tuesday/Friday schedule assigned to the Food and Nutrition Service. This rulemaking contains final regulations based on the provisions of the June 21 proposed rule.

This final rulemaking will implement the following provisions of the Reconciliation Act relating to the disqualification penalties for intentional Program violation (misrepresentation or fraud). First, the basis for disqualification is expanded to include the intentional making of false or misleading statements, misrepresentations, or the concealment or withholding of facts, as well as the commission of any act that constitutes a violation of any State food stamp statute. Second, mandatory disqualification periods of six months for the first offense, 12 months for the second, and permanently for the third offense will be imposed against any individual found to have committed an intentional Program violation, regardless of whether the determination was arrived at administratively or through a court of law. Third, State agencies are prohibited from increasing the benefits to the household of a disqualified person because of the disqualification. And fourth, the Department is required to promulgate regulation to ensure that information concerning disqualified individuals is forwarded by State agencies to the Department.

In addition, this final rulemaking will implement the following provisions of the Reconciliation Act regarding the improved recovery of overpayments. First, the household of the disqualified individual, rather than the household member guilty of an intentional Program violation, is held responsible for repaying the resultant overissuance and must agree to repayment in cash or to a reduction in its allotment. Second, in cases not the result of Program violation or State agency error, State agencies are required to collect overissuances from those persons still participating in the Program by reducing future allotments. Third, the amount by which State agencies can reduce the household's monthly allotment in the collection of overissuances not the result of intentional Program violation or State agency error is limited to 10 percent of the allotment or $10 per month, whichever will result in faster collection. And fourth, State agencies are allowed to retain 50 percent of the value of claims collected through use of the expanded basis for disqualification and 25 percent of the value of the collection of claims not the result of intentional Program violation or State agency error.

The Food Stamp Act Amendments of 1982 (Pub. L. 97–253, enacted on September 8, 1982) also contained some provisions relative to the recovery of recipient overissuances. First, State agencies are allowed to collect any type of overissuance by using means other than allotment reduction or cash repayment. Second, the household of a disqualified individual is allowed 30 days after it is requested to choose between cash repayment or a reduced allotment before the State agency takes action to reduce the household's allotment. And third, State agencies are specifically prohibited from retaining

any portion of recovered overissuances which resulted from State agency error. Although the 1982 Amendments were enacted after the Department issued the June 21 proposed rulemaking, the June 21 proposal contained proposed regulations dealing with the subject matter of these three statutory provisions. Therefore, this final rulemaking will also implement those provisions of the 1982 Amendments relating to the improved recovery of overpayments. (Other changes in the Food Stamp Program mandated by the 1982 Amendments are being addressed in separate rules.)

All comment letters received during the 60-day comment period on the June 21, 1982 proposed rulemaking were reviewed and considered during the development of the final regulations contained in this action. The Department received 72 comment letters. Comments were received from one member of Congress, one internal division and six Regional Offices of the Food and Nutrition Service, one other Federal agency, 29 State welfare agencies, four local welfare agencies, one local law enforcement agency, two eligibility workers, 11 public interest groups, and 16 members of the general public. This preamble discusses changes made from the proposed regulations as a result of those comments. The preamble also addresses other concerns of commenters where changes were not made. A full understanding of the basis and purpose of these final provisions may require reference to the June 21 **Federal Register** publication, and to the extent applicable, the contents of the preamble to the proposed rule are incorporated by reference.

I. Implementation

1. *General.* The proposed rule would have allowed the State agency to implement the rules as soon as possible, but no later than the first day of the month 120 days after publication. The Department's intent was to allow State agencies the option to implement the new regulations on the first day of the next yearly quarter following publication of the final rulemaking. Several State agencies have requested on a number of occasions that the Department provide for implementation of new regulations on the first day of yearly quarters, whenever possible, in order to facilitate making changes to their administrative procedures.

The Department received six comments on the proposed implementation schedule. One commenter expressed the hope that the final regulations would be implemented as soon as possible and without further delay. Two commenters supported giving State agencies until the first of the month 120 days from the date of publication of final rules. Two commenters felt that the proposed implementation timeframes were too short and unrealistic in view of the changes required. And, one commenter specifically requested that State agencies be given until the first day of the month 160 days following publication of final rules.

As a result of the passage of the implementation sections of Pub. L. 97–253, as discussed above, all of the legislatively mandated provisions contained in this final rule became effective when the 1982 Amendments were signed into law on September 8, 1982. The Department has decided to provide for implementation of the final rule no later than April 1, 1983. This will enable State agencies to implement it as soon as practicable or to take advantage of quarterly implementation should they choose to do so. It also should provide sufficient time to amend food stamp handbooks and forms, make any necessary changes in data processing systems and administrative procedures, and train eligibility workers.

2. *Disqualification penalties.* The proposed rule would have required the State agency to apply the disqualification penalties in effect at the time of the offense. The intent was to apply the new disqualification penalties of six months for the first violation, 12 months for the second, and permanent disqualification for the third offense only to individuals disqualified for actions which occurred after implementation of the final rule. The Department received a number of implementation-related comments as a result of this provision.

One commenter requested that we clarify whether the State agency would also have to apply the procedures for administrative disqualification and treatment of income and resources of disqualified members in effect at the time of the offense. Another commenter recommended that the final rule clearly provide that the disqualification procedures in the final rule apply only to acts of intentional Program abuse occurrring after implementation of the final rule. The Department never intended for the proposed policy regarding disqualification penalties to be extended to cover all the procedures contained in the rulemaking. It would not be administratively feasible or sound Program management to require the State agency to apply different administrative procedures for disqualifying Program violators depending on the date of the offense. Therefore, language has been added to the implementation section to clarify that all of the administrative procedures authorized by this final rule relating to disqualification, except the new disqualification penalties, apply to the disqualification of any individual suspected of an offense which occurred under the Food Stamp Act of 1977.

Five commenters expressed the belief that it would be cumbersome and administratively complex to apply the disqualification penalties themselves based on when the offense occurred, and recommended applying the disqualification penalties in effect at the time of the disqualification. Another commenter felt that additional clarification was needed concerning this matter. The Department continues to believe that it is most equitable to apply the penalties which were in effect at the time of the offense and does not view this requirement as administratively burdensome. Since participants are warned on the application form of the consequences of failure to comply with Program requirements, it would be unjust to later impose a different penalty than they expected to receive. Therefore, the Department has clarified in the implementation section that the new penalties will apply only for offenses which occur after implementation of the final rules. Moreover, the new penalties will apply only to those households which are certified on the basis of an application form which contained the new penalties or to currently participating households which have been given written notification that the new penalties have superceded the old penalties as described on earlier application forms.

Another issue raised by two commenters was the question of whether the new disqualification penalties would apply to recurring acts of the same offense which occurred over a period of time prior to and after implementation of the final rule. In view of the fact that the Department has decided to continue the current policy of prohibiting the State agency from separating acts of the same offense which recur over a period of time in order to impose separate penalties, it seems practicable to apply the new penalties under such circumstances. The individual will have been warned of the new penalties and have had ample opportunity to cease the intentional Program violation which could lead to disqualification. Therefore, clarification of this policy has been added to the implementation section.

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The Department received three comments on implementation of the requirement that State agencies report to the Food and Nutrition Service (FNS) information on individuals disqualified for intentional Program violation. One commenter asked that we clarify whether State agencies will be required to report information on individuals disqualified prior to implementation of the final rule, and two commenters requested that State agencies be provided sufficient time to comply with the new reporting requirement. The Department agrees with the concerns raised by these commenters and is, therefore, giving State agencies until October 1, 1983 to report information on individuals disqualified under previous regulations implementing the Food Stamp Act of 1977.

3. *Claims.* The Department received a number of comments relating to implementation of the claims provisions in the final rule which warrant discussion. Three commenters requested that we clarify whether the procedures contained in the final rule would apply to claims pending upon implementation (i.e., those claims already established but not fully recovered). One of these commenters recommended that any claim being collected when the final rules are implemented continue to be collected under current procedures. Another commenter recommended that such claims be handled in accordance with the procedures in the final rules, and that claims already terminated remain terminated and suspended claims remain in suspense. Of primary concern to these commenters is the issue of whether or not the State agency will be allowed to utilize allotment reduction for recoupment of inadvertent household error claims already established upon implementation of the final rule. The Department sees no reason for limiting the State agency's use of this method of collection or any other procedure in the final rule to only those overissuances discovered after implementation. Therefore, language has been added to the implementation section to clarify that the recovery provisions contained in the final rule apply to any claim against a household for an overissuance which occurred under the Food Stamp Act of 1977.

The issue raised by the commenter concerning suspended claims remaining in suspense and terminated claims remaining terminated is somewhat more involved, and would seem to also apply to compromised claims. The proposed rule would have made optional the current requirements that State agencies suspend collection action on claims when certain criteria have been met, that claims be terminated after they are held in suspense for three years, and that the amount of a claim be compromised to an amount that will allow the household to repay within three years. The Department's intent in making these requirements optional was to provide State agencies increased flexibility in settling and adjusting claims, and to allow them to collect additional overissuances. There is, however, a major difference in purpose inherent in suspending claims which does not exist in the cases of compromising and terminating claims. Collection action is suspended on a claim when the State agency determines that collection is unlikely at the present time but that it may occur at some time in the future. The amount of a claim is compromised or collection action is terminated when the State agency determines that recovery of the full amount is not possible or that repayment is unlikely. The end result is that a suspension action is a temporary measure, while compromising and terminating are considered to be permanent by all parties involved. Therefore, the Department has decided to allow State agencies the option to reinstate any claims which have previously been suspended under the Food Stamp Act of 1977, and to authorize the use of the recovery provisions in the final rule for collecting such claims. However, the State agency cannot reinstate any previously compromised amounts of a claim or any terminated claims in order to collect such overissuances under the final rules.

Another issue raised by a commenter concerns exactly how far back the State agency can go in calculating the amount of an overissuance. The proposed rule would have continued the current policy of requiring the State agency to calculate the amount of an intentional Program violation claim back to the month the act occurred, regardless of the length of time that elapsed until the determination of intentional Program violation was made. It would also have allowed the State agency the option to calculate the amount of an inadvertent household or administrative error claim back to the month the error occurred, regardless of the length of time that elapsed until the error was discovered. The commenter requested that we stipulate that the amount of the claim can only be calculated back to the date of implementation of regulations under the Food Stamp Act of 1977. The Department agrees. In the preamble to the final regulations implementing the Food Stamp Act of 1977 issued on October 17, 1978 (at 43 FR 47846), the Department gave State agencies until November 1, 1979 to file claims against households for overissuances under the Food Stamp Act of 1964. Therefore, language has been added to clarify that the State agency can only go back to March 1, 1979 in calculating the amount of a claim.

The Department is taking this opportunity to clarify two other issues relating to the implementation of the claims provisions contained in the final rulemaking. First, the Department is adding language to make clear that the State agency retention of 50 percent of the value of collected intentional Program violation claims and 25 percent of the value of collected inadvertent household error claims applies to any collection action retroactive to January 1, 1982. This is consistent with the public notice issued on June 1, 1982 (at 47 FR 23786) which informed State agencies of the availability of these additional funds as an incentive to pursue collection of claims. And second, language is added to clarify that the first quarterly report on the Status of Claims Against Households, Form FNS–209, will cover the period from January 1 to March 31, 1983, and is due to FNS no later than April 30, 1983. (See 7 CFR 272.1(g)(58)).

II. Disqualification Penalties for Intentional Program Violation

1. *Household Concept.* The proposed rule would have continued the current practice of considering individuals disqualified for intentional Program violation (intentional misrepresentation or fraud) as nonhousehold members. Current Program regulations categorize certain types of individuals residing in a household as nonhousehold members for purposes of determining the household's eligibility and allotment level. Such nonhousehold members, which include roomers, live-in attendants, and others, are allowed to participate in the Program as separate households if otherwise eligible. One commenter pointed out that this classification is technically inaccurate for some individuals because they are ineligible to participate and their income and resources are considered as available to the remaining eligible household members. The Department agrees with this argument and, consequently, is taking this opportunity to revise the appropriate section of the regulations. The final rule divides the current category of nonhousehold members into two separate categories in order to distinguish between those individuals who are "excluded" from participation and those who remain

nonhoushold members. Excluded household members include those persons who are barred from participation because they are ineligible aliens or because of disqualification for failure to provide a social security number (SSN), for intentional Program violation, or for failure to comply with workfare requirements. (See 7 CFR 273.1(b)).

2. *Income and Resources of Disqualified Persons.* The proposed rule would count all of the disqualified member's income as available to the remaining household members but exclude the disqualified member when determining the household's size. Under current Program regulations, the income of the disqualified member is counted after a pro rata share (for the disqualified member) has been taken out. Current policy has resulted in some households receiving an increase in benefits when a household member is disqualified because the income which is not counted as available to the household may be substantial. Aware of this problem, Congress specifically prohibited any increase in benefits to the household of a person disqualified for intentional Program violation (Section 112 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981).

For commenters recommended that the Department require the use of the same method of calculating the budget for all households with a disqualified member (i.e., those households with a member disqualified for failure to provide an SSN or for being an ineligible alien as well as for intentional Program violation). Two of these commenters further suggested that the Department accomplish this objective by counting all of the income of a disqualified member as available to the household and applying a pro rate share reduction (for the disqualified member) to the household's allotment. The other two commenters requested that we utilize the procedure proposed for treatment of the income of household members disqualified for intentional program violation for all disqualifed household members. In addition, five commenters recommended that the current policy be retained and that the Department merely stipulate in the regulations that the household cannot receive any increase in benefits as a result of the disqualificatfon of a household member for intentional Program violation.

The Department has decided not to change the proposed procedure. It is not possible to use the same method of calculating the household budget for all households with an excluded household member at this time. Section 6(f) of the Food Stamp Act of 1977, as amended, specifically mandates that the income of an Indivudual excluded from participation because of ineligible alien status be counted after a pro rata share has been taken out. This is the procedure currently being used for households with members disqualified for fraud and, as mentioned earlier, it has resulted in some households receiving an increase in benefits because the pro rata share of the disqualified member's income may respresent a substantial amount. Also, the Department does not believe that merely stipulating in the regulations that a household cannot receive any increase in benefits as a result of the disqualification would adequately address the problem. The effect of such a provision without changing the current method of treating the disqualifed member's income would be to penalize only those households whose monthly allotment increased beyond the previous level. Unless the allotment of every household with a member disqualified for intentional Program violation would be affected by the disqualification, the imposition of a disqualification penalty would be a meaningless and, possibly, unfair exercise. In addition, the Department believes that the procedure in the final rule is consistent with legislative intent, as demonstrated by the Senate Committee's recommendation that we "seriously consider attributing all of the income of the disqualifed member to the household (with no pro rata share reduction), during the disqualification period." See S. Rep. No. 97–128, 97th Cong., 1st Sess., p. 57 (1981).

The proposed rule would have continued the current policy of counting the resources of the disqualified member in their entirety as available to the remaining household members. One commenter pointed out that the proposed rule fails to specify that the disqualified member is not counted when determining the household's size for the purpose of comparing the household's resources to the resource eligibility limits. This issue arises because households of two or more members with an elderly household member are entitled to higher resource standard of $3,000 instead of the normal standard of $1,500. The Department agrees and is taking this opportunity to incorproate language to clarify this point. It is consistent with the Department's belief that any special consideration given to a household should be subject to the effects of the exclusion of a household member.

It should be noted that the language of the regulatory provisions on treatment of income and resources of disqualified persons has been revised slighty to reflect various technical changes. First, the overall emphasis of these provisions is shifted from disqualified individuals to excluded household members. This language change is necessary to conform with the change being made in household concept to distinguish nonhousehold members from excluded household members. Further, it helps to distinguish those individuals rendered ineligible because of ineligible alien status from those persons disqualified after having participated in the Program. And second, the last sentence of § 273.111 (c)(2)(ii) has been revised to specify that in the case of a household containing individuals excluded for being an ineligible alien or because of disqualification for refusal to obtain or provide an SSN all but the excluded member's pro rata share of the income is counted as *income* for the reamining household members. The proposal inaccurately specified that all but the excluded members' share of the income is counted as a deductible shelter expense. We received six comments on this technical inaccuracy in the proposed rule. Moreover, the Department subsequently overlooked the need to make the corresponding change in the final optional workfare program regulations which were undergoing internal clearance at that time. As a result, this technical inaccuracy beame a part of the Program's regulations when the optional workfare program regulations were issued on October 8, 1982 (at 47 FR 44692). (See 7 CFR 273.11(c)).

3. *Administrative responsibility.* The proposed rule would have established a separate section in the regulations which outlined the State agency's administrative responsibilities in investigating cases of alleged intentional Program violation and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction. The provisions of this section on administrative responsibility were based on the requirements in current Program regulations governing administrative disqualifications. Related provisions of current regulations dealing with the State agency's responsibility for establishing a system for conducting administrative disqualification hearings and the conditions under which FNS would exempt any State agency from the requirement to establish such a system would have remained in the

section of the proposed rule concerning administrative disqualifications. And, included in the provisions on FNS exemptions from the requirement to establish an administrative disqualification system was a provision, taken from current regulations, which would require any State agency exempted from the requirement to refer cases of alleged intentional Program violation for prosecution by a court of appropriate jurisdiction.

The Department has decided to reorganize the provisions of the proposed rule on the State agency's responsibility for establishing an administrative disqualification system and the conditions for FNS exemptions from this requirement in the final rulemaking. This reorganization is intended to clarify the fact that it is the responsibility of each State agency to establish a system for administratively pursuing cases of alleged intentional Program violation unless they obtain an exemption from this requirement. Therefore, the section of the final rule on administrative responsibility has been expanded to include the provisions of the proposed rulemaking on this subject which would have been located in the section of the regulations on administrative disqualifications. The reorganization is also intended to clarify that any State agency exempted from the requirement to establish an administrative disqualification system must refer appropriate cases for prosecution by a court of appropriate jurisdiction. This provision has been relocated in the final rule to a new section dealing with the requirements for court referrals. The Department has also added language to the section of the final rule on administrative responsibility to clarify that if the State agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an overissuance caused by a suspected act of intentional Program violation, the State agency must take action to collect the overissuance by establishing an inadvertent household error claim. (See 7 CFR 273.16 (a) and (g)).

The proposed rule would have deleted two provisions of current Program regulations which clarify when the State agency can conduct administrative fraud hearings. The first provision allows the State agency to conduct such hearings in cases where it believes the facts do not warrant civil or criminal prosecution through the courts and in cases previously referred for prosecution that were declined by the appropriate legal authority. And, the other provision clarifies that administrative fraud hearings can be conducted regardless of whether other legal action is planned against the household member. The Department deleted these provisions to reflect a change in the language of the statutory requirement governing State agency action in pursuit of cases of alleged Program abuse. Specifically, whereas the Food Stamp Act of 1977 previously mandated State agency proceedings against individuals alleged to have committed fraud either by way of administrative hearings or by referring such matters to appropriate legal authorities, or both (Section 6(b)), the language was amended by the Omnibus Budget Reconciliation Act of 1981 (Section 112 of Pub. L. 97–35) to simply require that the proceedings be either by way of administrative hearings or referrals to appropriate legal authorities.

The Department received a number of comments on the proposed rule which indicated the need for further clarification in this area. Two commenters suggested that the State agency be allowed to hold an administrative disqualification hearing after a court's decision if clear evidence exists indicating intentional Program violation, but the court failed to find an individual guilty (i.e., due to plea bargaining, pre-trial intervention, technical reasons, or the court's reluctance to impose permanent disqualification for a third violation). One of these commenters also felt that such a procedure would be appropriate if full repayment of the amount of overissuance was not ordered or the issue of restitution was not addressed by the court. And, a third commenter expressed the view that the Department's policy of limiting State retention of 50 percent of collected claims to those claims based on determinations that intentional Program violation occurred would force the State agency to hold administrative disqualification hearings on all cases in which the court does not render a guilty finding.

We continue to believe that Congress intended to prevent the State agency from pursuing the same case of alleged Program abuse by way of both an administrative hearing and referral for prosecution when the language of the statute was changed. Therefore, the final rule prohibits the State agency from initiating an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or a court of appropriate jurisdiction. This prohibition would not apply, however, in those instances where the factual issues of a case do not involve circumstances which are the same or related to those of the case against an individual previously referred for prosecution. In addition, the final rule clarifies those limited instances where a case which meets the criteria in the State agency's agreement with a prosecutor or which have previously been referred for prosecution should be pursued by way of an administrative hearing. These instances include cases where the State agency believes the facts do not warrant prosecution through the legal system, cases previously referred for prosecution which were declined by the appropriate legal authority, and previously referred cases where no action was taken by the prosecutor within a reasonable period of time. And, when no action is taken on a case referred for prosecution within a reasonable period of time, the State agency will have to formally withdraw the referral prior to holding an administrative disqualification hearing.

And lastly, the section of the proposed rule on administrative disqualifications would have included a stipulation that the State agency must base administrative disqualification for intentional Program violation on the determinations of hearing authorities arrived at through administrative disqualification hearings or on determinations reached by courts of appropriate jurisdiction. One commenter requested that we clarify whether signing of the waiver of right to an administrative disqualification hearing constitutes a finding of intentional Program violation by a hearing authority. Although the Department provided State agencies the option of allowing accused individuals to waive their rights to administrative disqualification hearings, the authority to base administrative disqualifications on such waivers was inferred rather than specifically stated. Therefore, the Department has decided to provide State agencies specific authority to base administrative intentional Program violation disqualifications on signed waivers of right to an administrative disqualification hearing. The provisions governing the basis of disqualification have been relocated to the section of the final rule on administrative responsibility due to their general applicability. (See 7 CFR 273.16(a)).

4. *Disqualification Penalties.* One commenter requested that language be added to this section to clarify that a disqualification penalty may be imposed without an administrative

disqualification hearing if the accused individual has signed a waiver of right to such a hearing. And, two commenters requested that the regulations address how the disqualification penalties are applied in cases of deferred adjudication (when a determination of guilt is not obtained from a court because the accused individual met the terms of a court order or the case was not prosecuted because the accused individual met the terms of an agreement with the prosecutor). The Department intends for the State agency to have the flexibility of not holding an administrative disqualification hearing if an individual signs a waiver of right to a hearing and, therefore, language is added to the final rule to clarify this point. In addition, language is added to clarify that a disqualification penalty may be imposed without a determination of guilt from a court if the accused individual signs a disqualification consent agreement in cases referred for prosecution. The procedure for allowing accused individuals to sign disqualification consent agreements in cases of deferred adjudication is discussed later in this preamble.

In response to one comment, the Department has removed the word "cash" from the sentence in this section which specifies that allotment reduction will be imposed if the household fails to agree to or fails to make restitution. The reference to cash repayment is no longer applicable since households may also repay with food stamp coupons. The Department has also added language to this sentence to clarify that the remaining household members must agree to make restitution within 30 days of the date the State agency's written demand letter is mailed or the household's monthly allotment will be reduced. This change is necessary to reflect Section 178 of the 1982 Amendments which allows the household only 30 days after it has been requested to make a selection of an alternative method of repayment before its monthly allotment is reduced. The provisions of the proposed rulemaking relative to action against households which fail to respond to the State agency's written demand letter at 7 CFR 273.18(d)(4) would have incorporated such a policy, and the Department believes that inclusion of language in this section will clarify the existence of this policy.

Another commenter requested that the Department clarify in this section that the remaining household members must begin repayment of the overissuance during the period of disqualification. Under current Program rules, the disqualified individual cannot be required to begin repayment until the disqualification period has ended. The proposed rule, however, would shift responsibility for repayment from the disqualified individual to the individual's household. Since the remaining household members, if any, may continue to receive a monthly allotment while the disqualified individual is not participating in the Program, the Department sees no reason for postponing repayment. In fact, the proposed rule would have provided for a reduction of the household's allotment if it failed to respond to the written demand letter sent at the time of disqualification within 30 days. Therefore, appropriate language has been added to this section to clarify this point. (See 7 CFR 273.16(b)).

5. *Basis for Disqualification.* In the proposed rule, the Department would have substituted separate definitions of misrepresentation and fraud for the current fraud definition. The regulations currently provide a definition of fraud to assist State agencies in determining through an administrative hearing whether or not fraud was committed. The proposed definitions of misrepresentation and fraud would have incorporated the language of the statute with only a minor modification. The modification would have maintained the present stipulation that the act of Program abuse must involve obtaining benefits to which the household is not entitled. In addition, the proposal would have replaced the word "fraud" with the term "intentional misrepresentation or fraud" wherever it occurs in the Program's regulations.

While six commenters supported the new definition of fraud and the additional definition of misrepresentation, the Department also received numerous recommendations for alternative approaches. Two commenters suggested that the two proposed definitions be combined and that the term "intentional misrepresentation or fraud" be replaced with the term "intentional misrepresentation." Another commenter also thought that the two proposed definitions should be combined, but recommended using the term "Program violation." One commenter requested that the word "fraud" be deleted wherever it appears in the Program's regulations. Three commenters expressed the opinion that the proposed definition of misrepresentation would not be useful because the substance of it is already contained in the current fraud definition, and another commenter requested that we retain the current definition of fraud. In addition, two commenters recommended that the basis of disqualification be expanded to cover misuses of coupons or ATP's to which recipients *are* entitled.

The basis for disqualification has been revised in the final rule to reflect the various recommendations made in this area. The final rule combines the proposed definitions of misrepresentation and fraud into a single definition of Program violation, and deletes the language which would have stipulated that the action must involve obtaining benefits to which the household is not entitled. As a result, the definition of Program violation will be consistent with the terminology of the Food Stamp Act of 1977, as amended, and encompass both intentional misrepresentation and violations as defined by Sections 6(b)(1)(A) and (B) of the Act. In addition, the final rule will replace the term "intentional misrepresentation or fraud" with "intentional Program violation" in those portions of the Program's disqualification regulations at 7 CFR 273.16 dealing with administrative disqualifications and the mechanism for administratively arriving at determinations that Program abuse has occurred. Since cases referred for prosecution are decided on the basis of statutes written in terms of misrepresentation and fraud, those terms will continue to appear in the portions of the Program's disqualification regulations relative to court referrals. Finally, the Department would like to reiterate its belief that Congress expanded the basis for disqualification in order to encourage the use of administrative disqualification hearings, rather than prosecution by a court of law, for determining whether or not Program abuse has occurred. State agencies have reported that they are reluctant to pursue administrative hearings because they view findings of fraud to be under the jurisdiction of the legal system. We hope that the changes being made on the basis for disqualification will encourage State agencies to pursue more cases of suspected Program abuse through administrative hearings because they will no longer have to prove fraud per se, but only intentional Program violation by the household (See 7 CFR 273.16 (c)).

6. *Disqualification Hearing Procedures.* Numerous comments addressed various aspects of the procedures for holding administrative disqualification hearings. The proposed rule would have incorporated the

current regulatory provisions governing the conduct of such hearings without any major changes. The proposal would have merely renamed the administrative "fraud" hearing as an administrative "disqualification" hearing and reorganized the provisions to locate all of the procedures relating to local level hearings at the end of the section rather than scattered throughout. The purpose of the reorganization was to simplify this section of the regulations for the majority of State agencies which provide administrative hearings only at the State level. Of the six commenters which addressed the issue of renaming the hearing, only one commenter recommended that it continue to be called a fraud hearing. No comments were received on the proposed reorganization to consolidate the provisions on holding local level hearings. In addition, the proposal would have made optional to State agencies the use of FNS-designed forms and notices, and eliminated the need to obtain FNS approval of those designed by State agencies. Although two commenters supported allowing State agencies to design their own forms and notices, one commenter recommended that these forms and notices be subject to FNS approval. The Department, however, continues to believe that State agencies should have the flexibility to develop their own forms and notices to meet their individual needs. Therefore, the final rule retains the proposed renaming of the hearing system, reorganization to consolidate local level hearing procedures, and State agency option to develop its own forms and notice without FNS approval.

The remaining comments centered around the issues of increasing State agency flexibility in holding the hearing and protecting the rights of the accused individual. In fact, one commenter called into question the Department's overall approach in regulating the way State agencies conduct hearings, and recommended that a greater degree of flexibility be provided. The Department is concerned that some State agencies may be experiencing difficulties in complying with the regulatory requirements in this area, but also feels that a compelling need exists to ensure that the accused individual's rights are not violated. Although the Food Stamp Act of 1977, as amended, does not specify the kind of administrative hearing that should be conducted to determine if Program abuse has occurred, the Department has consistently taken the approach that such hearings should be as close as possible to fair hearings requested by households. The few ways in which the procedures for the two types of hearings differ have resulted from the need to account for the fact that disqualification hearings are initiated by the State agency while fair hearings are not. And, the department has always given careful consideration to the constitutional requirements of due process in establishing the standards for both types of hearings. The Department intends to continue this approach in its ongoing review of the effectiveness of these regulatory provisions, and may be able to provide a greater degree of administrative flexibility at some time in the future.

The proposed rule would have continued to allow State agencies to consolidate an administrative disqualification hearing with a fair hearing if the factual issues arise out of the same, or related, circumstances. If the hearings are combined, however, the household must receive prior notice of this fact and the timeframes for conducting administrative disqualification hearings must be followed. One commenter recommended that the household be given the option to waive the 30-day advance notice period for an administrative disqualification hearing in order for the two hearings to be combined. The Department agrees. Since the household would have requested the fair hearing, we see no reason for preventing the household from choosing to have it held at the earliest possible date if the State agency is prepared to conduct the administrative disqualification hearing at the same time. In addition, the department is taking this opportunity to clarify that if the hearings are combined for the purpose of settling the amount of the claim at the same time as determining whether or not intentional Program violation has occurred, the household will lose its right to a subsequent fair hearing on the amount of the claim.

The proposal would also have continued to require that the State agency initiate action to make its disqualification decision effective within 90 days of notifying the household member that a hearing has been scheduled. One commenter recommended that the phrase "initiate administrative action" be changed to specify that the State agency must, at a minimum, issue a notice of decision within 90 days. The Department agrees. This change will make the state agency's responsibility when administrative disqualification hearings are held the same as for fair hearings. Therefore, the final rule specifies that the household and local agency must be notified of the decision within 90 days of the date the household member is notified that a hearing has been scheduled.

The household member or representative would continue to be entitled to a postponement of the scheduled hearing in the proposed rule. One commenter suggested that the Program's regulations should require that a request for postponement be made at some reasonable time prior to the scheduled hearing date. The commenter's argument was that allowing the household member or representative to request a postponement up until the time the parties have assembled for the hearing fails to take into consideration the administrative resources expended to reimburse the administrative hearing official as well as the assembled State agency witnesses for travel time and expenses. The Department agrees with the commenter's argument and believes that requiring the household member or representative to request a postponement at least 10 days in advance of the scheduled hearing will provide the State agency sufficient time to alter its hearing schedule and notify any scheduled witnesses of the rescheduled hearing. This will provide the household member or representative with 20 days in which to decide if additional time is needed to prepare the case or for any other essential reason. Therefore, the final rule has been revised to incorporate this change.

The proposal continued to allow the requested postponement of a scheduled hearing to be for up to 30 days. (When a hearing is postponed, the state agency's time limits are extended for as many days as the hearing is postponed.) One commenter recommended that the regulations specify that the household member or representative is entitled to only one postponement of up to 30 days. Another commenter suggested that any postponement or postponements granted to a household should be limited to a total of 30 days. And a third commenter recommended that the State agency be allowed to postpone the hearing for up to 30 days in order to consider or investigate additional issues or evidence which may surface at the hearing. The Department does not agree that the State agency should be allowed to postpone the hearing in order to search out additional evidence or investigate related cases of alleged wrongdoing. The presumption is made that the State agency possesses sufficient evidence to warrant disqualifying an individual when the administrative disqualification

hearing is scheduled. The reason for holding the hearing is to provide accused individuals an opportunity and a forum for refuting the allegations being made against them. Likewise, the Department agrees that the accused individual should not be allowed to postpone indefinitely answering to the allegations being made by requesting a series of 30-day postponements. Therefore, language has been added to the final rule to clarify that the hearing cannot be postponed for more than a total of 30 days and that the State agency has the option to limit the number of postponements to one.

The State agency would continue, under the proposed rule, to inform the household in advance of a scheduled hearing through a notice mailed by certified mail—return receipt requested. One commenter requested that the State agency be allowed to serve the notice of hearing by any method of personal service allowable under State law, provided that receipt of notice is made. The Department agrees with this recommendation. The intent in requiring that these notices be mailed by certified mail—return receipt requested was to relieve the household member of the burden of proving to the State agency that the notice was not received or, if received, that it was not timely received. It also let the State agency know whether or not the notice was received and, if received, the exact date the notice was received. We see no reason why the notice has to be mailed if the State agency can arrange for it to be delivered in person, as long as there is some mechanism for proof of receipt. Therefore, the final rule allows the State agency the option to provide the advance notice by any other method as long as proof of receipt is obtained.

In the proposed rule, the advance notice of a scheduled administrative disqualification hearing would continue to include a statement that the individual can call the food stamp office to get the name and number (if available) of someone who can give free legal advice. If free legal advice is not available, the food stamp office would provide the phone number of a lawyer referral service of the local bar association. Two commenters recommended that the notice contain a direct referral to a legal services office serving the project area. One commenter requested that the State agency only be required to notify the household of free legal services if such services are available. And, one commenter suggested that State agencies be given the flexibility to decide for themselves what method is best suited for informing clients of any legal assistance available to them. The Department never intended to put State agencies in the business of providing direct referrals to lawyers' offices. However, the Department does believe that, owing to the low income levels of participating households, most households being notified of an impending administrative disqualification hearing would benefit from knowing of any free legal services available to them. We are also concerned that the present requirement may be imposing an unnecessary burden on those State agencies and local project area offices where free legal services are not available. Therefore, the requirement has been revised in the final rule to stipulate that the advance notice of a scheduled hearing must advise the household member of the availability of free legal representation, if that service is availiable. This will make the requirement for notification of free legal representation the same for both administrative disqualification hearings and fair hearings.

The proposed rule would also have continued to require that the State agency attach a copy of its published hearing procedures to the advance notice of a scheduled hearing. One commenter recommended that this provision be modified to require that the State agency inform clients that they have the right to obtain a copy of the published hearing procedures by requesting it from their caseworker. The Department believes that, as a matter of policy, households should be provided every possible opportunity to understand their rights and responsibilities regarding administrative disqualification hearings, and that access to the State agency's published hearing procedures would assist some households to do so. We also understand that many households may be overwhelmed by the legal/technical nature of these procedures and that, as a result, the procedures would be of little value to them. Therefore, the Department has decided to retain the current requirement as a standard, and to allow State agences the option to inform households in the advance notice of their right to obtain a copy of the published hearing procedures upon request.

The household member or representative would continue to have 10 days from receipt of the notice of disqualification decision to present good cause reasons for failure to appear at the scheduled hearing, under the proposed rule. (If the State agency determines that the household member or representative had good cause for not appearing, the previous decision would not stand and the hearing would be rescheduled.) The Department has decided that the timeframe for presenting good cause reasons should be tied to the date of the missed hearing rather than to receipt of the notice indicating the hearing official's decision. Also, the Department believes that the household member or representative should be advised of the good cause provision in the advance notice of a scheduled hearing. Therefore, the final rule has been revised to incorporate these changes.

In addition, the proposed rule would have continued to specify that the disqualification period for nonparticipants at the time of the administrative disqualification or court decision would be deferred until the individual applies for and is determined eligible for program benefits. One commenter expressed the belief that this provision is significant enough to warrant a separate subparagraph in order to avoid it being overlooked. The Department agrees. In fact, the Department has decided to add four separate subparagraphs to ensure that this provision is not overlooked in any of the circumstances under which a disqualification penalty can be imposed (i.e., after a hearing official or court of appropriate jurisdiction has determined that a household member committed intentional Program violation, or after the accused individual has signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases of deferred adjudication).

The Department is also taking this opportunity to clarify two other issues which arose while considering a related comment. One commenter requested that we clarify whether a disqualification penalty, once imposed, continues to run during a period in which the disqualified individual's household ceases to participate in the Program. The Department believes that it should. Otherwise, any household with remaining household members, after the individual disqualified for intentional Program violation is excluded from the household, would be more severely penalized than households in which the disqualified individual is the only member. Since a household in which the disqualified individual is the only member does not have to obtain a determination of eligibility during a period of disqualification, we see no reason for requiring that larger households continue to participate as a prerequisite for completion of the disqualification

penalty imposed against a household member. The Department would also like to point out that the household's responsibility for repayment of any claim does not end merely because the household ceases to participate in the Program. Indeed, the household's monthly allotment will be subject to reduction for repayment of any outstanding amounts of an overissuance which resulted from an intentional Program violation on the part of a household member, once it resumes participation in the Program. Therefore, the final rule also contains four additional subparagraphs to ensure that these points are not overlooked when disqualification penalties are imposed.

And finally, the proposed rule would have continued to require the State agency to mail the household member written notification of the disqualification decision prior to beginning the period of disqualification. The notice of disqualification would be sent regardless of whether the disqualification penalty was being imposed because the hearing official found that the household member committed intentional Program violation or as a result of the accused individual having waived his/her right to an administrative disqualification hearing. In addition to informing the disqualified household member of the disqualification, the notice would also inform the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. Two commenters recommended that State agencies simply be required to provide the household with written notification of the disqualification rather than required to send it through the mail. Two other commenters recommended that the requirement be revised to require the State agency to notify the disqualified member of his/her disqualification, and to notify the remaining household members of their eligibility and benefit level. The concern raised by these two commenters is that simultaneous notification of the disqualified and remaining household members may not be possible because the hearing officer is a State level official while benefit determinations are sometimes made at the local level. And, another two commenters raised the objection that this mechanism failed to ensure notification of the remaining household members of the effect of the disqualification on their allotment because it was directed to the disqualified individual. The Department agrees with the arguments raised by these commenters and has decided to revise the requirements for notification of the disqualification. The final rule specifies the content of the written notification which must be provided to the disqualified and remaining household members, respectively, and provides State agencies the additional flexibility needed to ensure that written notice is provided to the appropriate parties (See 7 CFR 273.16(e)).

7. Waived hearings. The proposed rule would have provided State agencies the option of allowing accused individuals to waive their right to administrative disqualification hearings. This option was intended to provide State agencies a mechanism for expeditiously disposing of those cases of suspected Program abuse which prosecutors have declined to prosecute or which the State agency determines do not warrant referral for prosecution, and which involve individuals who are willing to be disqualified without having a hearing on the allegations being made against them. The household members suspected of intentional Program abuse would have been provided written notification of the possibility and mechanism for waiving his/her right to an administrative disqualification hearing as a part of the advance notice of a scheduled hearing. Once the State agency received a signed waiver, the household member would have been disqualified in the same manner as any person found to have committed intentional Program violation through a disqualification hearing or prosecution in a court of law. And, there would have been no administrative mechanism for appealing the disqualification available to the household member after the waiver of right to an administrative disqualification hearing had been signed.

Comments received by the Department on the waived hearings provision fell into two basic categories. The first category of comments recommended alternative approaches for allowing individuals suspected of intentional Program violation to waive their rights to a hearing. Four commenters requested that State agencies be given the option to allow the accused individual to waive an administrative disqualification hearing before a disqualification hearing is actually scheduled. Three commenters suggested that State agencies be provided the option to disqualify the household member on the basis of the facts which point to intentional Program violation and to provide the household member an opportunity to subsequently request a disqualification hearing or fair hearing if he/she disagrees with the State agency's action. And, two commenters recommended that we provide each State agency the option of establishing its own procedures for allowing individuals suspected of intentional Program violation to waive a disqualification hearing.

The Department does not agree that State agencies should be allowed to disqualify household members on the basis of a suspicion that intentional Program violation occurred and then leave it up to the disqualified individual to request a hearing. Allowing a procedure whereby the household member is disqualified prior to a hearing would be tantamount to providing a mechanism for circumventing the entire administrative disqualification hearing system, and might result in innocent household members being disqualified. A dual system of administrative disqualification and fair hearings was adopted to afford more protection for the rights of the individual suspected of intentional Program abuse. We continue to regard the consequences of a determination that intentional Program violation occurred as being very serious, and to believe that additional protections should be provided to the accused individual under such circumstances. It follows, therefore, that the Department does not believe State agencies should be given the opportunity to develop their own procedures without regard to specific standards established at the Federal level for ensuring that the individual's rights are protected. As a result, the Department has rejected the recommendations that State agencies be allowed to establish their own procedures without specific standards or to disqualify suspected Program abusers prior to an administrative disqualification hearing.

The question of providing State agencies the additional flexibility to offer the waiver possibility to individuals suspected of intentional Program violation before a hearing has actually been scheduled, however, does not present the Department with any major problems. Our original purpose in requiring that the household member suspected of intentional Program violation be provided written notification of the waiver possibility as a part of the advance notice of a scheduled hearing was to guarantee that the State agency possessed sufficient evidence to warrant holding a disqualification hearing before allowing the household member to waive the hearing. We continue to believe that

some third party review, made by someone other than the household's eligibility worker, should be completed to determine that the evidence supports holding a disqualification hearing before informing the household member of the waiver possibility. This review is necessary to ensure that innocent household members do not waive their rights to an administrative disqualification hearing on allegations which are fabricated, contrived, or otherwise without basis. Therefore, the waived hearings provision in the final rule has been revised to provide State agencies the option to inform the household member of the waiver possibility before a disqualification hearing has actually been scheduled, as long as the State agency has obtained a determination that the evidence against the household member warrants holding such a hearing.

The second category of comments on the waived hearings provision dealt with the specific procedures outlined in the proposed rulemaking. Two commenters felt that the regulations should contain the additional stipulation that written notification of the waiver possibility is the only form of communication allowable concerning the waiver. These commenters expressed the belief that any oral communication about the waiver by State agency personnel might intimidate the household member into waiving the hearing, even though the household member committed no wrongdoing. The Department disagrees with this analysis and sees no reason for preventing the State agency from responding to recipient inquiries concerning the waiver, or otherwise informing the client of the existence of this procedure, in person or by telephone. In no event, however, will such oral communication substitute for the requirement that the household member be provided written notification of the waiver possibility and the mechanism for waiving the disqualification hearing. The proposed rule would have required that the waiver form which the household member signed in order to waive his/her right to a disqualification hearing include various statements of the individual's rights and the consequences of signing the waiver. One commenter requested that the waiver form include the additional statements that the household member is not required to sign, and that the household member cannot be adversely affected or more severely penalized for not signing. While the Department agrees with the sentiments inherent in this recommendation, we do not believe that the inclusion of such statements will significantly enhance the protection of the individual's rights.

Also, we would like to point out that the requirements in the regulations represent only the minimum information which State agencies must include when developing their waiver forms. Each State agency has the flexibility to include whatever additional information it deems to be appropriate.

Among the statements which the proposed rule would have required on the waiver form was a statement of the fact that waiving the hearing will result in an automatic disqualification and an allotment reduction for the period of disqualification. One commenter pointed out that it is technically incorrect to refer to "an automatic" disqualification because the regulations require the State agency to provide the household member written notification prior to disqualification. Another commenter recommended that this sentence be expanded to clarify that the waiver will result in a disqualification penalty being imposed, even if the individual does not admit to the facts presented but still waives the hearing. And, three commenters requested that we revise the second half of the statement to indicate that a reduction in benefits will occur for the period of disqualification. These commenters felt that the proposed wording was misleading because allotment reduction is used elsewhere in the regulations to indicate a method of collecting claims and that allotment reduction may take place for longer than the disqualification period if the claim is being collected that way. The Department agrees with the concerns raised by these commenters and has revised the statement in the final rule so that the household member will be correctly informed that a waiver of the disqualification hearing will result in disqualification and a reduction in benefits for the period of disqualification. In addition, the statement also clarifies that the disqualification and reduction in benefits will occur even if the accused individual does not admit to the facts as presented by the State agency but still decides to waive the disqualification hearing.

The waiver form would also have included the name and phone number of the disqualification hearing official responsible for resolving the case against the household member, along with a recommendation that the household member should contact that person if he/she does not understand the charges being made or the implications of waiving the disqualification hearing. Four commenters objected to inclusion of this information on the waiver form because they felt that the hearing officer was not the proper person to contact for information on the charges or the implications of signing the waiver. Two of these commenters expressed the belief that any discussion between the hearing official and accused individual prior to the waiver being signed would jeopardize the impartial status of the hearing officer, thereby presenting the household member with an excellent legal argument for subsequent reversal of the disqualification by a court of law. And, one of these commenters recommended that it would be more practical to simply require that a phone number be provided for the household member to call for more information. The Department recognizes that the hearing officer is not the proper person to discuss the charges or implications of signing the waiver with the household member. The hearing officer may not have any knowledge of the charges and facts which led to the allegations because the case has not been actually presented for a hearing. In addition, the household member may misinterpret remarks made by the hearing officer during discussions of the implications of signing the waiver as a recommendation on whether or not the accused individual should waive the hearing. Therefore, the requirement has been revised in the final rule to stipulate that the waiver include the telephone number and, if possible, name of a person to contact for additional information. This change will make the requirement for the waiver form the same as for the notice of adverse action, which informs household members of their right to request a fair hearing. Also, the Department strongly encourages State agencies to recommend to their hearing officers that they refrain from discussing cases with household members for the reasons already mentioned.

One commenter recommended that we clarify in the regulations what action the hearing officer should take on the waiver once it is received. The Department envisions that the role of the hearing officer would vary from State to State, depending on whether the State agency chose to have the signed waivers reviewed by the hearing officer prior to imposition of a disqualification penalty. There is nothing in the final rule to prevent a State agency from choosing to simply consider a case closed once the individual has signed a waiver and to disqualify the household member suspected of intentional Program

violation. Similarly, the final rule does not preclude the State agency from submitting the signed waivers to the hearing officer along with the evidence against the household member for a determination that the case warrants a disqualification action. Such a review would seem particularly appropriate if the State agency feared that household members did not fully understand the consequences or felt coerced into signing the waivers. The provisions on waiver of right to a disqualification hearing in the final rule are intended to provide the State agency with minimum standards to follow, and the flexibility to develop their own procedures based on these standards. (See 7 CFR 273.16(f)).

8. *Court referrals.* The section of the proposed rule on court imposed disqualifications has been expanded to include the requirements of current Program regulations on referral of cases for prosecution by a court of appropriate jurisdiction. These provisions would have been included in the section of the regulations on administrative disqualifications under the proposed rule. Included among the provisions which have been relocated to this section are the requirements governing agreements between State agencies and prosecutors for the referral of appropriate cases. The Department has relocated these provisions to this section of the regulations to assist those State agencies which are exempted from the requirement to establish an administrative disqualification system because they refer cases of alleged intentional Program violation for prosecution in accordance with an agreement with prosecutors or State law.

Of the comments received on the proposed regulations dealing with court imposed disqualifications, six commenters specifically addressed the issue of timeframes for imposing a disqualification penalty based on a court decision. The proposed rule would have required the State agency to initiate a court ordered disqualification period for currently eligible individuals the first month following the date the disqualification was ordered, whenever a court did not specify the date for initiating the disqualification period. Any other disqualification resulting from a court decision would have begun the first month following the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud. These are the same timeframes as required under current Program regulations. Three commenters recommended that the State agency be given until the first month following the date the State agency is served with a copy of the court order to initiate the disqualification. These commenters expressed the concern that it may take several months for a State agency to become aware of the court order, and that it would be impossible for the State agency to comply with the proposed timeframes under such circumstances. One commenter recommended that the disqualification period begin the first month which follows the date the household member receives written notification of the disqualification, so that the timeframes would be the same for court imposed disqualifications as they are for disqualifications resulting from an administrative hearing decision. One commenter suggested that the State agency should begin the disqualification period no later than the month following the month the court rendered the decision. And, another commenter requested that the State agency be given until the month following the month of the court order or determination of guilt when they occur after the 20th of a month.

The Department does not agree with the recommendations that the timeframes for initiating a disqualification period should be tied to State agency receipt of the court order. We reject the notion that the State agency, after having referred the case against a household member for prosecution, might somehow remain uninformed of the court's decision for a period of time longer than a few days. The Department also disagrees with the recommendation that the timeframes for initiating court imposed disqualification periods should be the same as those for administrative disqualifications. The timeframes for initiating disqualification periods resulting from administrative actions are tied to the written notification of the household member because that notification is the mechanism whereby the individual is advised of the State agency's decision, while in court imposed disqualifications the individual is advised of the court's decision at the time the court order is issued or the determination of guilt is made. The Department does, however, agree that State agencies may need more time to initiate the disqualification period than is currently allowed in those cases where the court order or determinations of guilt are made late in a month. Therefore, the timeframes have been revised in the final rule to require the State agency to initate the disqualification period within 45 days of the date the court ordered disqualification or found the individual guilty of civil or criminal misrepresentation or fraud. These timeframes will provide the State agency enough time to affect the benefits of the disqualified individual's household by the household's next normal issuance cycle.

The proposed rule would have required the State agency to provide the household member with written notification of the disqualification whenever the disqualification resulted from a court decision. As under current rules, the proposed rulemaking stipulated that the household member must be provided written notification prior to disqualification, whenever possible. One commenter objected to use of the phrase "whenever possible" and recommended that the regulations specifically require whether or not an advance notice must be provided. The Department would like to clarify that the current wording was chosen to account for the fact that a court may choose to specify a date for the disqualification period to begin, and it may not be possible for the State agency to provide the household member with advance notice of the disqualification prior to that date. Therefore, the language of this provision has been retained in the final rule. (See 7 CFR 273.16(g)).

9. *Deferred adjudication.* The Department also received a number of comments which indicated the need for additional clarification concerning cases of deferred adjudication. Cases of deferred adjudication are those cases either not prosecuted due to the accused individual having met the terms of an agreement with the prosecutor or in which a determination of guilt is not obtained from a court due to the accused individual having met the terms of a court order. In either situation, cases of deferred adjudication result in the State agency not obtaining a determination of guilt in cases that have been referred for prosecution.

In the proposed rule, a household member suspected of an intentional Program violation would have been disqualified only after a determination from a hearing authority or by a court of appropriate jurisdiction that intentional Program violation had occurred, or after the accused individual waived his/her right to an administrative disqualification hearing. Two commenters recommended that a disqualification penalty also be imposed in cases of deferred adjudication, and another two commenters requested additional clarification concerning whether or not the household member could be disqualified in such cases. An

additional two commenters felt that a mechanism should exist for imposing a disqualification penalty against household members which are willing to be disqualified in cases of deferred adjudication, such as the procedures in the proposed rule for disqualifying individuals who waive their rights to administrative disqualification hearings.

The Department continues to believe that a determination that intentional Program violation occurred is necessary before a disqualification penalty can be imposed in a case referred for prosecution. Although we acknowledge that an admission of guilt may be implied in the individual's decision to comply with the terms of an agreement with the prosecutor or a court order, the statute does not provide for disqualification on that basis. At the same time, the Department also believes that accused individuals should be allowed to consent to disqualification in cases of deferred adjudication. Therefore, the Department has decided to adopt a procedure whereby State agencies can impose administrative disqualifications in those cases of deferred adjudication where the accused individual consents to disqualification.

Under this procedure, State agencies will have the option of allowing accused individuals to sign disqualification consent agreements as a part of their agreements with prosecutors or as a condition of a court order. Each State agency which chooses this option will develop either a disqualification consent agreement form or language to be included in the agreements reached by prosecutors and accused individuals or in the court orders. The final rule contains guidelines for the State agency to follow in establishing its procedures which are designed to ensure that the accused individual receives advance written notice of the consequences of agreeing to be disqualified. Once the State agency receives documentation to substantiate that the household member has signed a disqualification consent agreement, the individual will be disqualified from participation in the Program. The household member will be provided written notification of the disqualification prior to imposition of a disqualification penalty, whenever possible. Unless the court specifies a date in the court order for initiating the disqualification period, disqualification will begin within 45 days of the date the household member signed the disqualification consent agreement. And, the State agency will initiate collection of the claim which results from the overissuance, unless the individual has alredy repaid the claim as a result of meeting the terms of the agreement with the prosecutor or the court order.

The procedures in the final rule for allowing accused individuals to consent to disqualification in cases of deferred adjudication are consistent with the Department's approach in providing State agencies the option to allow individuals to waive their rights to administrative disqualification hearings. Since the Department does not have the authority to mandate procedures for prosecutors or courts to follow, however, it will be the responsibility of State agencies to discuss this matter with prosecutors and ensure that individuals are disqualified only if the guidelines in the regulations are followed. As far as court orders are concerned, the State agency will have to encourage State and local prosecutors to recommend to the courts that the Program's procedures be adopted. The Department believes that this change will result in greater Program uniformity and fairness to household members suspected of intentional Program abuse while also protecting the rigths of such individuals. (See 7 CFR 273.16(h)).

10. *Reporting Requirement.* The proposed rule contained a provision for automated State agency reporting on individuals disqualified for intentional misrepresentation or fraud into a national disqualification file. The Department specifically invited comments on the administrative feasibility of the provision and on suggestions for alternative mechanisms for facilitating State agency reporting. A wide variety of comments were received from 31 commenters.

The most prevalent comment was that the proposal did not provide enough detail on how the proposed procedure would operate. This was primarily due to the fact that, although the Department had outlined the broad parameters of the most desirable alternative, we had hoped that commenters would provide information on what details were necessary to make it administratively feasible. However, the comments received on the establishment of an automated procedure were generally favorable. Only six commenters specifically stated that they were opposed to an automated disqualification reporting network, the primary reason being that some States do not have a centralized computer system. The Department has ascertained that, since all but four State agencies (South Dakota, Guam, Hawaii, Virgin Islands) will have terminals provided by FNS for the Integrated Quality Control System (IQCS) and the Department is interested in fully utilizing those resources, the automation of the National Disqualification Reporting Network is administratively feasible. The procedure for State agencies to input information on disqualified individuals into the master file is currently being developed by FNS. State agencies will access the file directly using batch job submissions through the IQCS terminals. The State agencies which cannot use the IQCS terminals could submit report requests through other automated means. State agencies which have no such access could request FNS Regional Offices to access the file for individual cases. More detailed instructions on submitting and accessing the information on disqualified individuals in the master file will be provided prior to implementation of these provisions.

The proposal contained a provision requiring submittal of disqualification reports within 30 days of the date the disqualification took effect. Two commenters suggested that 30 days was inadequate. However, the Department feels that it is desirable to have these records on file as soon as possible. Since the State agency learns of the disqualification before it takes effect, in some cases up to 45 days in advance, the Department feels that an additional 30 days allows sufficient time to report the disqualification. The Department has amended the final rule to account for reporting on individuals whose disqualifications could not be imposed because they were currently ineligible for participation in the Program. Therefore, the reports on disqualified individuals must be received by FNS no later than 30 days after the date the disqualification took effect, or would have taken effect for a currently ineligible individual whose disqualification is pending future eligibility.

Several comments addressed the data elements of the reporting procedure. In response to these comments, several items have been added to the reporting format. These are the birth date (as an additional identifier) of the disqualified individual, the county (or other appropriate political subdivision) in which the individual was disqualified, and the number of the disqualification (first, second, or third offense). Final regulations eliminate the proposed requirement for the report to contain the nature of the offense for which the individual was disqualified. As one commenter pointed out, the specificity of this element was unwarranted. One commenter suggested adding the date the disqualification period ended to the

report. Such a requirement would require updating the disqualification report at the end of each disqualification period. The Department has determined, in the interest of administrative simplicity, that once a disqualification takes effect it runs continuously until the end of the period imposed and is not to be halted mid-period because the disqualified individual has become ineligible for Program benefits. Therefore, no final updating of the file is necessary for individuals who have begun serving their disqualification penalty. The State merely needs to report the length of the period imposed and the date it took effect. A simple calculation is all that is needed to determine when the disqualification period has been served.

There are only two situations in which a report on a disqualification penalty needs to be revised after the initial submission. One is when the individual was ineligible at the time the disqualification should have taken effect and the initial report indicated that the imposition of the disqualification period was pending the individual's future eligibility. If the individual subsequently becomes eligible for Program benefits and begins serving his/her disqualification, the State agency must submit a report to FNS amending the file to indicate the date the disqualification took effect. The other situation in which the State agency must revise the initial report is when the determination of intentional Program violation is reversed by a court of appropriate jurisdiction. As two commenters pointed out, the procedure must provide for purging the file of disqualification reports which were subsequently invalidated by such a reversal. The final regulations have been revised to reflect the provisions for amending the file as described above. One commenter misunderstood the nature of the proposed procedure and requested that final regulations address the deletion of the information once the disqualification has been served. All information will be retained indefinitely so that the record shows the cumulative data on every individual ever disqualified for intentional Program violation. This is to ensure that appropriate penalties, based on the number of previous disqualifications, are imposed.

Six commenters provided suggestions on the requirements concerning when a State agency must access the information contained in the Disqualification Reporting Network file. An additional five commenters requested that individuals not be required to clear the disqualification list prior to certification. The proposed regulations addressed only circumstances in which a State agency *may* use the data and did not require States to access the national file in any circumstances. In response to the comments, the final rule contains a requirement for State agencies to access the information in the Disqualification Reporting Network: (1) When pursuing a disqualification to ascertain the appropriate penalty to impose, and (2) to determine the eligibility of individuals when the State agency has reason to believe a household member is subject to a disqualification penalty in another political jurisdiction. The automation of the reporting procedure and the fact that almost all State agencies will have direct access to the computer files should make it possible for the information to be received prior to the certification of the household in question.

In addition, State agencies may use the data in a variety of other ways. State agencies who have on-line access may want to screen all program applicants for prior or current disqualifications. Periodically, State agencies may wish to match the entire list of disqualified individuals against their current caseloads. The Department encourages State agencies to utilize the National Disqualification Reporting Network to the fullest extent possible as one means of combatting fraud and abuse in the Food Stamp Program.

The proposal at § 273.16(h)(5) stated that disqualifications which occurred prior to the implementation of the new penalties shall not be considered when determining the appropriate penalty to impose. This provision, as two commenters pointed out, conflicted with § 273.16(b) which stated that any disqualifications which occurred prior to the implementation of these penalties shall be considered as one previous disqualification. This section has been revised to bring it into conformance with § 273.16(b).

Three commenters requested that the Department address the funding provisions for establishing and maintaining the Disqualification Reporting Network. The Department has determined that because disqualification reporting is required by law and the retrieval of the information contained on file can be an integral part of an investigation, the Department will provide 75% funding for preparing the input documents and retrieving information from the Disqualification Reporting Network file to the extent that these functions are performed by State food stamp agency employees assigned specifically to the food stamp intentional Program violation investigation and prosecution functions. A subparagraph has been added to § 277.15(e) which will make this an eligible activity for 75% funding. Any costs incurred by the State agency in planning, designing, developing or installing a computerized procedure to implement the provisions of these regulations are eligible for 75% funding, provided the requirements of § 277.18 regarding the establishment of an information retrieval network are met. Because it is the Department's intention to utilize existing computer equipment to the extent possible and most of the design and development of the disqualification reporting procedure will be provided by FNS, State agency costs in this area should be minimal. (See 7 CFR 273.16(i) and 277.15(e)).

To comply with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, the Department is amending FNS Notice of Systems of Records, USDA/FNS–5, to provide for automation of the subcategory of data within the system pertaining to individuals disqualified for intentional Program violation.

III. Improved Recovery of Overpayments

1. *Categories of claims against households.* The proposed rule would allow the State agency to handle a claim as an intentional Program violation claim for collection and retention purposes only if an administrative hearing official or a court of appropriate jurisdiction determined that a household member had committed an intentional Program violation. One commenter pointed out that the proposed rule appeared to omit as intentional Program violation claims those claims established when the individual waives his/her right to an administrative disqualification hearing. The Department, however, never intended to preclude the State agency from establishing an intentional Program violation claim under such circumstances. Three commenters also recommended that State agencies be allowed to handle claims as intentional Program violation claims for collection and retention purposes in cases of deferred adjudication. For the reasons already discussed above, the Department has decided to allow States to establish intentional Program violation claims against households in cases of deferred adjudication only if the accused individual has signed a disqualification consent agreement in accordance with the procedures outlined in the Program's regulations. Therefore,

the sections of the final rulemaking on establishing and collecting claims against households, as well as State share of collected claims, have been revised to include as intentional Program violation claims those claims which result from the accused individual having signed either a waiver of his/her right to an administrative disqualification hearing or a disqualification consent agreement in cases of deferred adjudication. (See 7 CFR 273.18(a), (d), and (h)).

2. *Criteria for establishing claims.* In the proposed rule, the Department provided State agencies the option of establishing inadvertent household error and administrative error claims for which more than 12 months have elapsed between the month an overissuance occurred and the month the State agency discovered a specific case involving the overissuance. Current Program regulations contain a 12 month time limit for establishing such nonfraud claims. The Department has determined that it is not reasonable to expect a household to repay an overissuance which occurred many years prior to the date it was discovered. Therefore, the final rule limits State agency action on inadvertent household error and administrative error claims to those overissuances which occurred within six years of the date the overissuance was discovered.

The proposal also provided specific instances of overissuances for which the State agency would establish either an inadvertent household error or administrative error claim. Included among the instances for which the State agency would establish an administrative error claim was the case of a State agency having determined a household eligible or provided it with more benefits than it was entitled to receive pending a fair hearing decision. Two commenters recommended that overissuances resulting from aid pending fair hearing decisions be included as instances of inadvertent household error claims. These commenters correctly pointed out that such overissuances are not caused by the State agency but result from the household having requested a continuation of benefits pending a fair hearing decision. In addition, classification of these claims as administrative error claims prevents State agenices from collecting them through allotment reduction as well as from retaining 25 percent of the amount recovered. The Department agrees and has revised the final rule to include as instances of inadvertent household error claims those overissuances which result from the household having requested a continuation of benefits pending a fair hearing decision based on the mistaken belief that it was entitled to such benefits. (See 7 CFR 273.18(b)).

3. *Calculating the amount of claims.* Under the proposed rule, State agencies would have the option of calculating the amount of inadvertent household and administrative error claims back to the month the error occurred, regardless of the length of time that elapsed until the error was discovered. Current Program regulations require State agencies to exclude those months that are more than 12 months prior to the date the overissuance was discovered when calculating the amount of such nonfraud claims. The final rule has been revised to require State agencies to exclude those months that are more than six years prior to the date the overissuance was discovered when calculating these claims. This change is necessary in order for the method of calculating the amount of inadvertent household error and administrative error claims to conform with the revised requirements for establishing such claims. The final rule has also been revised to apply this six year limit to the calculation of intentional Program violation claims. The Department believes that this six year time limit is both reasonable and consistent with similar standards for recouping losses of Federal funds.

The proposed rule would have required State agencies to consider the first month affected by a household's inadvertent failure to timely report a change in its circumstances as the month after the month in which the change occurred. If the household timely reported a change but the State agency did not act on the change within the required timeframes, the first month affected by the State's failure to act would have been the first month the State agency should have made the change effective. Two commenters pointed out that the proposed procedures for determining the first month affected by a household's failure to report a change in its household's circumstances do not take into account either the new monthly reporting or retrospective budgeting requirements. Another two commenters felt that the first month affected should be the same for household failure to report a change as for State failure to act upon a reported change. And, three commenters recommended counting as the first month affected by a household's failure to report a change in its circumstances as the first month in which the change would have been effective had it been properly reported.

The Department agrees with the concerns raised by these commenters and has adopted their recommendations. Therefore, the final rule has been revised to require the State agency to consider as the first month affected by a household's failure to report a change in its circumstances the first month in which the change would have been effective had it been reported. This approach takes into account the fact that the first month affected by a change in a household's circumstances may vary under a monthly reporting and/or retrospective budgeting system. It may vary depending on whether the change would affect prospective eligibility or retrospective allotment and whether the State agency is operating under a one or two month system. The Department is also adding language to clarify that the first month considered to be affected by a change had it been reported or, if it was reported, had it been acted upon, cannot be any later than two months from the month in which the change occurred.

The proposed rule would also have required the State agency to determine the correct amount of food stamp benefits, if any, the household was entitled to receive for each month that a household received on overissuance due to an act of intentional Program violation. One commenter requested that we clarify that the amount of the intentional Program violation claim would then be the difference between the allotment the household received and the allotment the household should have received. Although the proposed rule stipulated that the amount of an inadvertent household or administrative error claim would equal the difference between the allotment the household received and the allotment the household should have received, the fact that this procedure would apply to intentional Program violation claims was implied rather than specifically stated. Therefore, the final rule has been revised to clarify this fact. (See 7 CFR 273.18(c)).

4. *Collecting claims against households.* The proposed rule would have required the State agency to initiate collection action on all inadvertent household and administrative error claims: unless the claim is collected through offset; the total amount of the claim is less than $35, and the claim cannot be recovered by reducing the household's allotment; or the household cannot be located. One commenter requested that we clarify that collection action will be initiated against the household and not a

particular individual. The Department agrees and has made this change. Two commenters recommended that State agencies be given the option to combine separate claims of under $35 for the purpose of establishing a claim against the household. The Department also agrees with this recommendation and has included such an option in the final rule. We would like to point out that this option does not contain any limits on the period of time over which the separate claims of under $35 could have occurred, other than the restriction that State agencies exclude those months that are more than six years prior to the date the overissuance was discovered when calculating these claims. Since the State agency also has the option to calculate the amount of larger inadvertent household and administrative error claims back to the month the error occurred, we believe it is appropriate to provide State agencies the same flexibility when combining multiple overissuance of under $35.

State agencies would have initiated collection action on claims by sending the household a written demand letter for repayment, under the proposed rules. The written demand letter would inform the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the amount of the claim. One commenter recommended that the State agency be required to provide the household a written demand letter rather than required to send one. The Department has decided to make this change in order to be consistent with the revised requirements for providing, rather than sending, the household member notification of the disqualification and the remaining household members notification of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired when a household member is disqualified for intentional Program violation. Another commenter suggested that the written demand letter should contain a direct referral to a legal services program or bar referral service for legal representation. As previously explained, the Department disagrees with providing direct referrals to lawyers' offices but does believe that households being notified of a State agency action would benefit from knowing of any free legal services available to them. Therefore, the Department has decided to require that the written demand letter for repayment also inform the household of the availability of free legal representation, if that service is available. The Department is also clarifying that the written demand letter need not inform the household of its right to a fair hearing on the amount of the claim if the household has already had such a hearing as a result of consolidation of the administrative disqualification hearing with the fair hearing.

For inadvertent household error and intentional Program violation claims against households currently participating in the Program, the proposed rule would have allowed households 30 days from receipt of the State agency's written demand letter to choose a method of repayment. If a household failed to respond within 30 days of the date of receipt, the household's monthly allotment would be reduced without further notice being provided. The Department received three comments which recommended requiring the State agency to commence allotment reduction 30 days from the date the written demand letter is mailed rather than 30 days from the date it is received by the household. These commenters pointed out that requiring the State agency to act 30 days from the date of receipt of the written demand letter places the burden on the administering agency to determine the date of receipt. The Department never intended to put such a burden on the State agency, but rather intended to place responsibility with the household for initiating an alternative payment method. Therefore, the final rule has been revised to allow the household 30 days of the date the State agency's written demand letter is mailed to choose an alternative method of repayment or the household's monthly allotment will be reduced.

The proposed rule would also have provided State agencies the option to pursue other appropriate collection actions to obtain restitution of a claim against any household which fails to respond to a written demand letter. Other collection actions would include methods of collection not specifically provided for in the Program's regulations, such as turning the claims over to professional collection agencies or pursuing collection through a civil court action. One commenter requested that we clarify whether other collection actions could be initiated when claims resulted from an overissue due to an administrative error. The Department intended for State agencies to be able to pursue other collection actions for repayment of any type of claim. Also, we believe that Congress intended for State agencies to have this ability when it authorized the use of other methods of collection in Section 177 the 1982 Amendments. Therefore, language has been added to the final rule to clarify that other collection actions can be pursued for repayment of any inadvertent household error, administrative error, or intentional Program violation claim.

Three commenters raised the issue of how the State's share of claims collected through other collection actions would be calculated due to the fact that most collection agencies are paid a percentage of the amount recovered. One commenter requested that we clarify whether the Federal government and the State agency would share the cost of the collection service, another commenter recommended that the costs of collection be deducted from the total amount recovered, and the third commenter suggested that more administrative funds should be made available to make such collections feasible. The Department does not intend for State agencies to utilize this provision in order to relieve themselves of the responsibility for initiating or otherwise pursuing collection of claims against households, or as a mechanism for obtaining additional administrative funding. Therefore, the final rule has been revised to clarify that if a State agency chooses to pursue other collection actions and the household makes payment on the claim, the State agency's retention will be based on the actual amount collected from the household. However, since any costs associated with such collection actions are allowable Food Stamp Program administrative costs at the 50 percent funding level, the Department believes that basing the State agency's retention on the actual amount collected will not impose a burden on participating State agencies. It merely becomes incumbent on the State agency to ensure that the State's share of the costs associated with such collection services does not exceed an amount which the State agency can afford to pay. The Department plans to monitor the effectiveness of this provision and to further study the costs associated with other methods of collection. (See 7 CFR 273.18(d)).

5. *Changes in household composition.* If a change in household membership occurs, the proposed rule would have required State agencies to initiate collection action against the household containing a majority of the individuals who were household members at the time of the activity which resulted in the

overissuance. The requirement would have been the same for all households, regardless of whether the overissuance resulted from an inadvertent household or administrative error or due to an act of intentional Program violation. One commenter supported the proposed provision on changes in household composition. Ten commenters opposed collecting intentional Program violation claims against the household with a majority of the household members at the time of the offense, and eight of these commenters felt that the obligation to repay should remain with the disqualified individual. One commenter suggested we provide State agencies the flexibility to initiate collection against either the larger household or the household which is currently participating in the Program, and another commenter supported this procedure but recommended that collection be first pursued against the household which contains the disqualified individual. One commenter recommended that collection be initiated against the household containing a majority of the adults who were household members at the time of the offense, and another commenter recommended pursuing collection against the income earners of the disqualified individual's original household. And, one commenter could not understand the rationale behind holding the majority of original household members responsible for repayment but agreed that the procedure would be administratively simpler than pursuing collection from the disqualified individual.

The Department continues to believe that those persons who most benefited from the overissuance should be held responsible for repayment of the claim. However, we also acknowledge that a strict adherence to this provision may result in inequities when drastic changes have occurred in the composition of the disqualified individual's original household. Therefore, the Department has decided to provide State agencies the option to pursue collection against the household currently containing the individual disqualified for intentional Program violation if it determines that circumstances warrant such action. In addition, we also recognize that responsibility for repayment of any overissuance should not end merely because the State agency cannot locate or determine which household contains a majority of the members of the household which received the overissuance. Therefore, the final rule requires State agencies to initiate collection action against the household containing the head of the household at the time the overissuance occurred under such circumstances, unless the State agency has chosen to pursue collection against the household currently containing the individual disqualified for intentional Program violations. (See 7 CFR 273.18(f)).

6. *Method of collecting claims.* The proposed rule would have allowed the household to choose a method of repayment. If the household chose to repay in either cash or food coupons, the State agency would collect a lump sum payment for whatever amount the household was financially able to pay at one time. Then, the State agency would negotiate a payment schedule with the household for repayment of any amounts of the claim not repaid through a lump sum payment. If the household fails to make a payment in accordance with the established payment schedule (either a lesser amount or no payment) the State agency would be required to renegotiate the payment schedule with the household. However, the State agency would have the flexibility to continue renegotiation with the household if it believes that the household's economic circumstances have not changed enough to warrant the requested renegotiation of the amount of repayment. The Department has decided to add language to clarify that the State agency also has the option to invoke allotment reduction against a currently participating household for repayment of an inadvertent household error of intentional Program violation claim if a settlement cannot be reached.

The proposed rule would also have required that in cases where the household is currently participating in the Program and a payment schedule is negotiated for repayment of an inadvertent household error or intentional Program violation claim, the State agency must ensure that the amount of the claim recovered through installment payments is not less than the amount which could be recovered through allotment reduction. One commenter requested that we clarify whether the provision refers to the total amount to be collected through installment payments or to the monthly installment payment. Another commenter asked that we clarify whether or not the State agency must automatically switch to allotment reduction when the amount which can be recovered through allotment reduction is greater than the installment amount. And, a third commenter suggested that it would be more appropriate to phrase the provision in terms of the applicable allotment reduction formulas which the monthly installment must exceed.

The final rule has been revised to clarify that the negotiated amount to be repaid each month through installment payments must not be less than the amount which could be recovered through reduction of the household's monthly allotment. The Department does not intend for State agencies to have to compare the monthly installment amount with the amount that could be recovered through reduction of the household's monthly allotment. Therefore, the final rule also clarifies that the amount to be repaid each month through installment payments, once negotiated, generally will remain unchanged regardless of subsequent changes in the household's monthly allotment. However, since the household's economic circumstances may change enough to warrant a renegotiation of the amount to be repaid each month through installment payments, the final rule also provides both the State agency and the household the option to initiate renegotiation of the payment schedule if they believe the circumstances warrant such an action.

Under the proposed rule, State agencies would collect payments for inadvertent household error and intentional Program violation claims from households currently participating in the Program by reducing the households' food stamp allotments, unless a household requests another method of repayment. Two commenters requested that State agencies be allowed to offer households which have received an overissuance due to administrative error the opportunity to repay the claim through allotment reduction. The Department sees no reason for preventing households from choosing to repay an administrative error claim through allotment reduction and believes that this change will provide State agencies a better opportunity to effectively collect such overissuance. Therefore, the final rule has been revised to require State agencies to accept this method of repayment form any currently participating household which prefers to use allotment reduction for repayment of an administrative error claim. In addition, the Department has decided to allow the State agency and the household to negotiate the amount by which the household's monthly allotment will be reduced for repayment of an administrative error claim should the household choose to utilize this method of repayment.

The proposed rule would have required State agencies to inform the

household of the amount of food stamps to be recovered each month and of the availability of other methods of repayment prior to reduction. One commenter suggested that State agencies have no way of knowing what a household's monthly allotment will be for the next six, twelve, or thirty-six months and recommended that households be informed of the applicable allotment reduction formula instead. The Department agrees that circumstances may exist where the State agency is unable to inform the household of the exact amount of food stamps to be recovered each month through allotment reduction. Therefore, the requirement has been revised in the final rule to stipulate that the household be informed of the appropriate formula for determining the amount of food stamps to be recovered each month and the effects of that formula on the household's allotment.

Current Program regulations contain a formula for determining the amount by which a household's monthly allotment can be reduced for repayment of a fraud claim. This formula limits the reduction amount to the lesser of 25 percent of the household's monthly allotment or the fraudulent individual's pro rata share of the entitlement. Although the proposed rule would not have changed this formula for intentional Program violation claims, it would add a separate formula for determining the amount by which a household's monthly allotment could be reduced for repayment of an inadvertent household error claim. The proposed formula would limit inadvertent household error claim reductions to the greater of 10 percent of the household's monthly allotment or $10 per month. Five commenters recommended that the formula for determining the amount by which a household's allotment can be reduced be the same for both types of overissuances. Two of these commenters suggested using the formula in the proposed rulemaking for inadvertent household error claims, and one recommended compromising the two formulas to the greater of 20 percent of the household's monthly allotment or $10 per month for both types of claims. Another seven commenters pointed out the need to clarify how to determine the amount by which the household's allotment is reduced for intentional Program violation claims during the period of disqualification. And finally, one commenter objected to the fact that the forumula for intentional Program violation claims requires State agencies to do two computations, and recommended that we use a flat percentage instead of the current formula.

The Department has decided to revise the formula for determining the amount by which a household's monthly allotment can be reduced for repayment of intentional Program violation claims on the basis of these comments. The final rule will limit the amount of such reductions to the greater of 20 percent of the household's monthly entitlement or $10 per month. The formula uses the household's monthly entitlement rather than monthly allotment in order to account for the exclusion of the household member during the period of disqualilfication. Therefore, the amount of food stamps to be recovered each month for repayment of intentional Program violation claims will always be based on the household's potential monthly allotment, the amount of benefits the household would have received if not for the disqualification of a household member. The Department believes that the chosen formula will significantly lessen the frequency of recalculations of the recovery amounts and will not impose an undue burden on households of any particular size. (See 7 CFR 273.18(g)).

7. *Submission of Payments.* Most of the 21 comment letters addressing this paragraph suggested minor clarifications of the regulatory language or changes to the FNS–209 form. The comments on the FNS–209 will be addressed here only to the extent that they affect the regulations. Those that are more procedural in nature will be addressed in the instructions provided with the transmittal of the revised FNS–209 to State agencies.

Eight commenters addressed the claim retention factors. Two of them suggested an increase to 50% for inadvertent household error claims and one felt that State agencies should be allowed to retain a portion of administrative error claims as well. Another commenter felt that State agencies should retain 50% when the prosecutor agrees not to pursue the case if the recipient agrees to repay the claim. The other comments expressed agreement with the retention factor outlined in the proposal. The Department wishes to clarify that the retention factors contained in this rule are legislatively mandated and cannot be changed by regulation. (See Section 16(a) of the Food Stamp Act of 1977, as amended).

The proposed regulations at § 273.18(h)(1) stated that the State agency shall retain the value of collected claims which include the "total value of allotment reductions to collect inadvertent household error and intentional misrepresentation or fraud claims, but does not include the value of the reduction of allotments resulting from a disqualification." A similar phrase was included in § 273.18(h)(2). Three commenters recommended that the language be clarified to reflect the Department's intent that the value of the allotment reduction resulting solely from impostiton of a disqualification period not be considered a recovered claim. The language has been revised to make this intent clear in the final regulations.

Four commenters requested that the timeframes for submission of the FNS–209 remain monthly rather than quarterly because some State agencies maintain a monthly reporting system, and that the additional calculation required to compile the data into a quarterly report increases rather than simplifies the State's reporting responsibilities. Two other commenters specifically expressed their support for the change to a quarterly submission. In as much as the adjustments to the letters of credit based on claims collection information occur quarterly and the Department has no need for more frequent submissions, the Department has decided to retain the provision for quarterly submissions of the FNS–209. The Department believes that for the majority of States this provision eases their recordkeeping and reporting responsibilities. Those State agencies which currently compile the data monthly have the option of amending their systems so that only one quarterly tabulation is necessary.

Finally, the FNS–209 has been revised to incorporate the requirements of this final rulemaking. Since the remarks section of the previous form has been eliminated, references to including information in remarks have been changed to including necessary information on an attachment to the report. (See 7 CFR 273.18(h)).

8. *Overpayment of Claims.* Two commenters provided suggestions for making the method of repayment to households for overpaid claims more specific. One commentor suggested mandating that repayment be made in the same manner as that used by the household to make its payments. However, such a provision would be inappropriate if, for example, the household paid its claim via allotment reduction and is no longer participating in the Program when the overpayment becomes known. The other suggestion was to specify that repayment shall be made either in cash, food stamps or a combination of both, as established by State agency option. As the suggested language merely includes several of the

options available to State agencies under the proposed provision the Department has determined that no change in the proposed regulatory language is necessary. Although the method of repayment is a State agency option, the Department would like to reemphasize the need to take into account the household's circumstances in determining the appropriate method of repayment.

The proposal indicated that State agencies must report repayments to households only if repayment is made from funds collected through overissuance recoveries. The Department would like to clarify that, if the collection of the overpaid claim was reported on an FNS–209, any refunds of those claims previously reported as collected must be reported on the FNS–209 for the quarter in which refund was made.

One comment indicated a need to clarify how to account for amounts that the State agency previously retained on collected claims that were subsequently returned to the household. The FNS–209 has been revised so that amounts refunded to households for overpaid claims which were previously reported on the FNS–209 are to be subtracted from the total of the claims collected for the quarter in which the refund was made. The appropriate retention factor is then applied to the reduced amount This calculation will automatically reduce the State agency's retention amount by the amount previously retained on the claims the household had overpaid.

Another commenter suggested that State agencies should be required to notify the household of the overpayment and how to obtain payment as soon as the overpayment becomes known to the State agency. This provision has been revised slightly to require that the repayment of overpaid claims be made as soon as possible after the overpayment becomes known. Since repayment is automatic and the State agency chooses the method of repayment, the Department has decided that no other notification is necessary. The State agency may wish, however, to explain the reason for the repayment to the household at the time of the repayment to avoid any confusion on the part of the household. (See 7 CFR 273.18(h)(4)).

9. *Destruction of Coupons.* The proposed rules contained a provision which would require State agencies to destroy any coupons received in payment for claims. Four comments were received which stated that State agencies should be given the option of returning unused, intact coupon books to inventory. In response, the Department has amended the rule to allow this. If the claims collection unit has access to inventory and can exercise the proper accountability controls for transmitting the usable coupon books, it may opt to return them to inventory. Otherwise, the State agency must destroy the coupons which are not returned to inventory in accordance with the procedures outlined in the Program's regulations. The final rule also clarifies that the $500 level for destruction of returned coupons by State agencies without prior FNS approval applies to each claims collection point within the State for any month. Where the State agency also receives returned coupons directly from households, the State agency is considered an additional claims collection point and the $500 level applies to the coupons received by the State agency. A separate Form FNS–471, Coupon Account and Destruction Report, must be completed each time coupons are destroyed and the State agency will submit all of the forms FNS–471 which are completed during the calendar quarter covered by the Form FNS–209 along with that form. (See 7 CFR 273.18(i)).

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Records, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Fraud, Grant programs—social programs, Penalties, Records, Reporting and recordkeeping requirements, Social security, Students.

7 CFR Part 276

Administrative practice and procedure, Food stamps, Fraud, Grant programs—social programs, Penalities.

7 CFR Part 277

Food stamps, Government procurement, Grant programs—social programs, Investigations, Reporting and recordkeeping requirements.

Accordingly, 7 CFR Parts 272, 273, 276, and 277 are being amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, a new paragraph (g)(58) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(58) *Amendment 242.* State agencies shall implement the disqualification penalties for intentional Program violation, and the improved recovery of overpayments provisions contained in Amendment 242 no later than April 1, 1983.

(i) The provision in § 273.11(c) for handling the income and resources of an individual disqualified for intentional Program violation shall apply to any individual disqualified for such a violation since the implementation of the fraud disqualification provisions of the Food Stamp Act of 1977. The disqualification procedures for intentional Program violation in § 273.16 shall apply to any individual alleged to have committed one or more acts of intentional Program violation since the implementation of the fraud disqualification provisions under the Food Stamp Act of 1977. However, the disqualification penalties in § 273.16(b) shall apply only to individuals disqualified for acts of intentional Program violation which occur after implementation of this amendment. In addition, the disqualification penalties in § 273.16(b) shall apply only to individuals disqualified for acts of intentional Program violation which occurred either during a certification period based on an application form containing these penalties or after receipt of written notification from the State agency of these penalties. Recurring acts of intentional Program violation which occur over a period of time prior to and after implementation of this final rule shall not be separated. Only one penalty can be imposed for such recurring violations and the household member shall be disqualified in accordance with the disqualification penalties specified in this amendment. The reporting requirements of § 273.16(i) shall become effective upon implementation, however, the State agency shall have until October 1, 1983, to submit such reports on individuals disqualified under previous regulations implementing the Food Stamp Act of 1977.

(ii) The recovery provisions for claims against households in § 273.18 shall apply to any overissuance caused by an action which occurred after implementation of regulations promulgating the Food Stamp Act of 1977, as amended. And, the procedures for calculating the amount of overissuances as specified in § 273.18(c) shall apply to any month in which an overissuance occurred retroactive to March 1, 1979. However, State agency retention of 50 percent of the value of collected intentional Program violation claims and 25 percent of the value of collected inadvertent household error

claims as provided in § 273.18(h) shall apply to any collection action retroactive to January 1, 1982. The State agency shall have the option of reinstating any claim previously suspended, but not terminated, under the recovery provisions of regulations implementing the Food Stamp Act of 1977 and, once reinstated, such claims shall be subject to the recovery provisions contained in this amendment. However, the State agency shall not reinstate any amount of a claim compromised or any claim terminated under previous regulations implementing the Food Stamp Act of 1977, as amended. The submission requirements for the Form FNS–209, Status of Claims Against Households, as set forth in § 273.18(h) shall become effective with the quarter ending March 31, 1983.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.1, paragraphs (b)(3) and (b)(6) are removed; paragraphs (b) (1), (2), (4), (5), and (7) are redesignated as paragraphs (b)(1) (i), (ii), (iii), (iv), and (v), respectively; introductory paragraph (b) is redesignated as the introductory paragraph of paragraph (b)(1); a new title is added for paragraph (b); and a new paragraph (b)(2) is added. The additions read as follows:

§ 273.1 Household concept.

* * * * *

(b) *Nonhousehold and excluded household members.* * * *

(2) *Excluded household members.* The following individuals residing with a household shall be excluded from the household when determining the household's size for the purposes of assigning a benefit level to the household or of comparing the household's monthly income with the income eligibility standards. However, the income and resources of excluded household member shall be considered available to the remaining household members in accordance with § 273.11(c). Excluded household members may not participate in the Program as separate households.

(i) *Ineligible aliens.* Individuals who do not meet the citizenship or eligible alien status in § 273.4(a).

(ii) *SSN disqualified.* Individuals disqualified for failure to provide an SSN, as set forth in § 273.6.

(iii) *Intentional Program violation disqualified.* Individuals disqualified for intentional Program violation, as set forth in § 273.16.

(iv) *Workfare sanctioned.* Individuals against whom a sanction was imposed while they were participating in a household disqualified for failure to comply with workfare requirements, as set forth in § 273.22.

* * * * *

3. In § 273.8, paragraph (j) is revised to read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(j) *Resources of nonhousehold and excluded household members.*—(1) *Nonhousehold members.* The resources of nonhousehold members, as defined in § 273.1 (b)(1), shall not be counted as available to the household.

(2) *Excluded household members.* The resources of excluded household members, as defined in § 273.1 (b)(2), shall be counted as available to the remaining household members.

4. In § 273.9, paragraph (3) or paragraph (b) is revised to read as follows:

§ 273.9 Income and deductions.

* * * * *

(b) *Definition of income.* * * *

(3) The earned or unearned income of an individual disqualified from the household for intentional Program violation, in accordance with § 273.16, or as a result of a sanction imposed while he/she was participating in a household disqualified for failure to comply with workfare requirements, in accordance with § 273.22, shall continue to be attributed in their entirety to the remaining household members. However, the earned or unearned income of individuals disqualified from households for failing to comply with the requirement to provide an SSN, in accordance with § 273.6, or for being an ineligible alien, in accordance with § 273.4, shall continue to be counted as income, less a pro rata share for the individual. Procedures for calculating this pro rata share are described in § 273.11(c).

* * * * *

5. In § 273.11, paragraph (c) is revised to read as follows:

§ 273.11 Action on households with special circumstances.

* * * * *

(c) *Treatment of income and resources of excluded members.* Individual household members may be excluded for being ineligible aliens, because of disqualification for failure or refusal to obtain or provide an SSN, or for intentional Program violation, or due to the imposition of a sanction while they were participating in a household disqualified for failing to comply with workfare requirements. During the period of time that such household members are ineligible, the eligibility and benefit level of any remaining household members shall be determined in accordance with the procedures outlined in this section.

(1) *Excluded for intentional Program violation disqualification or workfare sanction.* The eligibility and benefit level of any remaining household members of a household containing individuals excluded because of disqualification for intentional Program violation or imposition of a sanction while they were participating in a household disqualified for failure to comply with workfare requirements shall be determined as follows:

(i) *Income, resources, and deductible expenses.* The income and resources of the excluded household member(s) shall continue to count in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, and excess shelter deductions shall continue to apply to the remaining household members.

(ii) *Eligibility and benefit level.* The excluded member shall not be included when determining the household's size for the purposes of:

(A) Assigning a benefit level to the household;

(B) Comparing the household's monthly income with the income eligibility standards; or

(C) Comparing the household's resources with the resource eligibility limits. The State agency shall ensure that no household's coupon allotment is increased as a result of the exclusion of one or more household members.

(2) *Excluded for others causes.* The eligibility and benefit level of any remaining household members of a household containing individuals excluded for being an ineligible alien or because of disqualification for refusal to obtain or provide an SSN shall be determined as follows:

(i) *Resources.* The resources of such excluded members shall continue to count in their entirety to the remaining household members.

(ii) *Income.* A pro rata share of the income of such excluded members shall be counted as income to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the excluded member's income and dividing the income evenly among the household members, including the excluded members. All but the excluded members' share is counted as income for the remaining household members.

(iii) *Deductible expenses.* The 18 percent earned income deduction shall apply to the prorated income earned by such excluded members which is

attributed to their households. That portion of the households' allowable shelter and dependent care expenses which are either paid by or billed to the excluded members shall be divided evenly among the households' members including the excluded members. All but the excluded members' share is counted as a deductible shelter expense for the remaining household members.

(iv) *Eligibility and benefit level.* Such excluded members shall not be included when determining their households' sizes for the purposes of:

(A) Assigning a benefit level to the household;

(B) Comparing the household's monthly income with the income eligibility standards; or

(C) Comparing the household's resources with the resource eligibility limits.

(3) *Reduction or termination of benefits within the certification period.* Whenever an individual is excluded within the household's certification period, the State agency shall determine the eligibilty or ineligibility of the remaining household members based, as much as possible, on information in the case file.

(i) *Excluded for intentional Program violation disqualification.* If a household's benefits are reduced or terminated within the certification period because one of its members was excluded because of disqualification for intentional Program violation, the State agency shall notify the remaining members of their eligibility and benefit level at the same time the excluded member is notified of his or her disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits, unless the household has already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing.

(ii) *Excluded for other causes.* If a household's benefits are reduced or terminated within the certification period because one or more of its members is an ineligible alien, was sanctioned while they were participating in a household disqualified for failure to comply with workfare requirements, or was disqualified for refusal to obtain or provide an SSN, the State agency shall issue a notice of adverse action in accordance with § 273.13(a)(2) which informs the household of the exclusion, the reason for the exclusion, the eligibility and benefit level of the remaining members, and the actions the household must to end the exclusion.

* * * * *

6. In § 273.13, paragraphs (b)(7) and (b)(10) are revised to read as follows:

§ 273.13 Notice of adverse action.

* * * * *

(b) *Exemptions from notice.* * * *

(7) A household member is disqualified for intentional Program violation, in accordance with § 273.16, or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member. The notice requirements for individuals or households affected by intentional Program violation disqualifications are explained in § 273.16.

* * * * *

(10) Converting a household from cash and/or food stamp coupon repayment to benefit reduction as a result of failure to make agreed upon repayment as discussed in § 273.18.

* * * * *

7. Section 273.16 is revised to read as follows:

§ 273.16 Disqualification for intentional Program violation.

(a) *Administrative responsibility.* (1) The State agency shall be responsible for investigating any case of alleged intentional Program violation, and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the procedures outlined in this section. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional Program violation as defined in paragraph (c) of this section. If the State agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an overissuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the overissuance by establishing an inadvertent household error claim against the household in accordance with the procedures in § 273.18. The State agency should conduct administrative disqualification hearings in cases in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system, in cases previously referred for prosecution that were declined by the appropriate legal authority, and in previously referred cases where no action was taken within a reasonable period of time and the referral was formally withdrawn by the State agency. The State agency shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same, or related, circumstances. The State agency may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual. The disqualification period for nonparticipants at the time of the administrative disqualification or court decision shall be deferred until the individual applies for and is determined eligible for Program benefits.

(2) Each State agency shall establish a system for conducting administrative disqualifications for intentional Program violation which conforms with the procedures outlined in paragraph (e) of this section. FNS shall exempt any State agency from the requirement to establish an administrative disqualification system if the State agency has already entered into an agreement, pursuant to paragraph (g)(1) of this section, with the State's Attorney General's Office or, where necessary, with county prosecutors. FNS shall also exempt any State agency from the requirement to establish an administrative disqualification system if there is a State law that requires the referral of such cases for prosecution and if the State agency demonstrates to FNS that it is actually referring cases for prosecution and that prosecutors are following up on the State agency's referrals. FNS may require a State agency to establish an administrative disqualification system if it determines that the State agency is not promptly or actively pursuing suspected intentional Program violation claims through the courts.

(3) The State agency shall base administrative disqualifications for intentional Program violations on the determinations of hearing authorities arrived at through administrative disqualification hearings in accordance with § 273.16(e) or on determinations reached by courts of appropriate jurisdiction in accordance with § 273.16(g). However, any State agency has the option of allowing accused

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individuals either to waive their rights to administrative disqualification hearings in accordance with § 273.16(f) or to sign disqualification consent agreements for cases of deferred adjudication in accordance with § 273.16(h). Any State agency which chooses either of these options may base administrative disqualifications for intentional Program violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

(b) *Disqualification penalties.* Individuals found to have committed intentional Program violation either through an administrative disqualification hearing or by a court of appropriate jurisdiction, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the program for six months for the first violation, 12 months for the second violation, and permanently for the third violation. However, one or more intentional Program violation disqualifications which occurred prior to the implementation of these penalties shall be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration. If a court fails to impose a disqualification period for the intentional Program violation, the State agency shall impose the disqualification penalties specified in this section unless it is contrary to the court order. State agencies shall disqualify only the individual found to have committed intentional Program violation, or who signed the waiver of right to an administrative disqualification hearing or disqualification consent agreement in cases referred for prosecution, and not the entire household. The remaining household members shall agree to make restitution within 30 days of the date the State agency's written demand letter is mailed or the household's monthly allotment shall be reduced. If the remaining household members agree to make restitution but fail to do so, the State agency shall impose an allotment reduction on the household's monthly allotment. The remaining household members, if any, shall begin restitution during the period of disqualification imposed by the State agency or a court of law. All restitutions shall be made in accordance with established procedures for cash repayment, allotment reduction, or coupons for repayment.

(c) *Definition of intentional Program violation.* For purposes of determining through administrative disqualification hearings whether or not a person has committed an intentional Program violation, intentional Program violations shall consist of having intentionally: (1) Made a false or misleading statement, or misrepresented, concealed or withheld facts, or (2) committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or ATP's.

(d) *Notification to applicant households.* The State agency shall inform the household in writing of the disqualification penalties for intentional Program violation each time it applies for Program benefits. The penalties shall be in clear, prominent, and boldface lettering on the application form.

(e) *Disqualification hearings.* The State agency shall conduct administrative disqualification hearings for individuals accused of intentional Program violation in accordance with the requirements outlined in this section.

(1) *Consolidation of administrative disqualification hearing with fair hearing.* The State agency may combine a fair hearing and an administrative disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the household receives prior notice that hearings will be combined. If the disqualification hearing and fair hearing are combined, the State agency shall follow the timeframes for conducting disqualification hearings. And, if the hearings are combined for the purpose of settling the amount of the claim at the same time as determining whether or not intentional Program violation has occurred, the household shall lose its right to a subsequent fair hearing on the amount of the claim. However, the State agency shall, upon household request, allow the household to waive the 30-day advance notice period required by paragraph (e)(3)(i) of this section when the disqualification hearing and fair hearing are combined.

(2) *Disqualification hearing procedures.* (i) State agencies have the option of using the same hearing officials for disqualification hearings and fair hearings or designating hearing officials to conduct only disqualification hearings.

(ii) The provisions of § 273.15 (m), (n), (o), (p), and (q)(1) are also applicable for disqualification hearings.

(iii) At the disqualification hearing, the hearing official shall advise the household member or representative that they may refuse to answer questions during the hearing.

(iv) Within 90 days of the date the household member is notified in writing that a State or local hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision and notify the household member and local agency of the decision. The household member or representative is entitled to a postponement of the scheduled hearing, provided that the request for postponement is made at least 10 days in advance of the date of the scheduled hearing. However, the hearing shall not be postponed for more than a total of 30 days and the State agency may limit the number of postponements to one. If the hearing is postponed, the above time limits shall be extended for as many days as the hearing is postponed.

(v) The State agency shall publish clearly written rules of procedure for disqualification hearings, and shall make these procedures available to any interested party.

(3) *Advance notice of hearing.* (i) The State agency shall provide written notice to the household member suspected of intentional Program violation at least 30 days in advance of the date a disqualification hearing initiated by the State agency has been scheduled. The notice shall be mailed certified mail-return receipt requested or provided by any other method as long as proof of receipt is obtained, and shall contain at a minimum:

(A) The date, time, and place of the hearing;

(B) The charge(s) against the household member;

(C) A summary of the evidence, and how and where the evidence can be examined;

(D) A warning that the decision will be based solely on information provided by the food stamp office if the household member fails to appear at the hearing;

(E) A statement that the household member or representative will have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;

(F) A warning that a determination of intentional Program violation will result in a six-month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty the State agency believes is applicable to the case scheduled for a hearing;

(G) A listing of the household member's rights as contained in § 273.15(p);

(H) A statement that the hearing does not preclude the State or Federal Government from prosecuting the household member for international Program violation in a civil or criminal court action, or from collecting the overissuances; and

(I) If there is an individual or organization available that provides free legal representation, the notice shall advise the household member of the availability of the service.

(ii) A copy of the State agency's published hearing procedures shall be attached to the 30-day advance notice or the advance notice shall inform the household of its right to obtain a copy of the State agency's published hearing procedures upon request.

(iii) Each State agency shall develop an advance notice form which contains the information required by this section. A model form for providing advance notice of a scheduled hearing is available from FNS for adaptation by any State agency.

(4) *Scheduling of hearing.* The time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of intentional Program violation. If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member being represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional Program violation was committed based on clear and convincing evidence. If the household member is found to have committed an intentional Program violation but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid and the State agency shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

(5) *Participation while awaiting a hearing.* A pending disqualification hearing shall not affect the individual's or the household's right to be certified and participate in the Program. Since the State agency cannot disqualify a household member for intentional Program violation until the hearing official finds that the individual has committed intentional Program violation, the State agency shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. For example, if the misstatement or action for which the household member is suspected of intentional Program violation does not affect the household's current circumstances, the household would continue to receive its allotment based on the latest certification action or be recertified based on a new application and its current circumstances. However, the household's benefits shall be terminated if the certification period has expired and the household, after receiving its notice of expiration, fails to reapply. The State agency shall also reduce or terminate the household's benefits if the State agency has documentation which substantiates that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of intentional Program violation and the resulting disqualification hearing) and the household fails to request a fair hearing and continuation of benefits pending the hearing. For example, the State agency may have facts which substantiate that a household failed to report a change in its circumstances even though the State agency has not yet demonstrated that the failure to report involved an intentional act of Program violation.

(6) *Criteria for determining intentional Program violation.* The hearing authority shall base the determination of intentional Program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional program violation as defined in paragraphs (c) of this section.

(7) *Decision format.* The hearing authority's decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent FNS regulation, and respond to reasoned arguments made by the household member or representative.

(8) *Imposition of disqualification penalties.* (i) If the hearing authority rules that the household member has committed intentional program violation, the household member shall be disqualified in accordance with the disqualification periods specified in paragraph (b) on this section beginning with the first month which follows the date the household member receives written notification of the hearing decision. However, if the act of intentional program violation which led to the disqualification occurred prior to notification of the disqualification periods specified in paragraph (b) of this section, the household member shall be disqualified in accordance with the disqualification periods in effect at the time of the offense. The same act of intentional Program violation repeated over a period of time shall not be separated so that separate penalties can be imposed.

(ii) No futher administrative appeal procedure exists after an adverse State level hearing. The determinaton of international program violation made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(iii) If the individual is not eligible for the Program at the time the disqualification period is to begin the period shall be postponed until the individual applies for and is determined eligible for benefits.

(iv) Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualifed member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional Program violation regardless of its eligibility for Program benefits.

(9) *Notification of hearing decision.* (i) If the hearing official finds that the household member did not commit intentional Program violation, the State agency shall provide a written notice which informs the household member of the decision.

(ii) If the hearing official finds that the household member committeed intentional Program violation, the State agency shall provide written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. In addition, the notice shall inform the household member of the date disqualification will take effect. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until such time as the individual again applies for and is determined eligible for Program benefits. The State agency shall also provide written notice to the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they

must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11(c). A written demand letter for restitution, as described in § 273.18(d)(3), shall also be provided.

(iii) Each State agency shall develop a form for notifying individuals that they have been found by an administrative disqualification hearing to have committed intentional Program violation. The form shall contain the information required by this section. A model form for notifying individuals of an adverse hearing decision is available from FNS for adaptation by any State agency.

(10) *Local level hearings.* (i) The State agency may choose to provide administrative disqualification hearings at the local level in some or all of its project areas with a right to appeal to a State level hearing. If a local level disqualification hearing determines that a household member committed intentional Program violation the notification of hearing decision, as described in paragraph (e)(9) of this section, shall also inform the household member of the right to appeal the decision within 15 days after the receipt of the notice, the date disqualification will take effect unless a State level hearing is requested, and that benefits will be continued pending a State level hearing if the household is otherwise eligible. If the household member appeals the local level decision, the advance notice of hearing, as described in paragraph (e)(3) of this section, shall be provided at least 10 days in advance of the scheduled State level hearing and shall also inform the household member that the local hearing decision will be upheld if the household or its representative fails to appear for the hearing without good cause. When a local level decision is appealed, the State agency shall conduct the State level hearing, arrive at a decision, and notify the household member and local agency of the decision within 60 days of the date the household member appealed its case. The prior decision shall not be taken into consideration by the State hearing officer in making the final determination. In all other respects, local level disqualification hearings shall be handled in accordance with the procedures specified in this section for State level hearings.

(ii) The State agency shall develop appropriate forms which contain the information required by this section for notification of a local level hearing decision and advance notice of a scheduled State level hearing for appeal of a local level decision.

(f) *Waived hearings.* Each State agency shall have the option of establishing procedures to allow accused individuals to waive their rights to an administrative disqualification hearing. For State agencies which choose the option of allowing individuals to waive their rights to an administrative disqualification hearing, the procedures shall conform with the requirements outlined in this section.

(1) *Advance notification.* (i) The State agency shall provide written notification to the household member suspected of intentional Program violation that the member can waive his/her right to an administrative disqualification hearing. Prior to providing this written notification to the household member, the State agency shall ensure that the evidence against the household member is reviewed by someone other than the eligibility worker assigned to the accused individual's household and a decision is obtained that such evidence warrants scheduling a disqualification hearing.

(ii) The written notification provided to the household member which informs him/her of the possibility of waiving the administrative disqualification hearing shall include, at a minimum:

(A) The date that the signed waiver must be received by the State agency to avoid the holding of a hearing and a signature block for the accused individual, along with a statement that the head of household must also sign the waiver if the accused individual is not the head of household, with an appropriately designated signature block;

(B) A statement of the accused individual's right to remain silent concerning the charge(s), and that anything said or signed by the individual concerning the charge(s) can be used against him/her in a court of law;

(C) The fact that a waiver of the disqualification hearing will result in disqualification and a reduction in benefits for the period of disqualification, even if the accused individual does not admit to the facts as presented by the State agency;

(D) An opportunity for the accused individual to specify whether or not he/she admits to the facts as presented by the State agency. This opportunity shall consist of the following statements, or statements developed by the State agency which have the same effect, and a method for the individual to designate his/her choice:

(*1*) I admit to the facts as presented, and understand that a disqualification penalty will be imposed if I sign this waiver; and

(*2*) I do not admit that the facts as presented are correct. However, I have chosen to sign this waiver and understand that a disqualification penalty will result;

(E) The telephone number and, if possible, the name of the person to contact for additional information; and

(F) The fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim.

(iii) The State agency shall develop a waiver of right to an administrative disqualification hearing form which contains the information required by this section as well as the information described in paragraph (e)(3) of this section for advance notice of a hearing. However, if the household member is notified of the possibility of waiving his/her right to an administrative disqualification hearing before the State agency has scheduled a hearing, the State agency is not required to notify the household member of the date, time and place of the hearing at that point as required by paragraph (e)(3)(i)(A) of this section.

(2) *Imposition of disqualification penalties.* (i) If the household member suspected of intentional Program violation signs the waiver of right to an administrative disqualification hearing and the signed waiver is received within the timeframes specified by the State agency, the household member shall be disqualified in accordance with the disqualification periods specified in paragraph (b) of this section. The period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification. However, if the act of intentional Program violation which led to the disqualification occurred prior to the written notification of the disqualification periods specified in paragraph (b) of this section, the household member shall be disqualified in accordance with the disqualification periods in effect at the time of the offense. The same act of intentional Program violation repeated over a period of time shall not be separated so that separate penalties can be imposed.

(ii) No further administrative appeal procedure exists after an individual waives his/her right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty cannot be changed by a subsequent fair

hearing decision. The household member, however is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(iii) If the individual is not eligible for the Program at the time the disqualification period to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits.

(iv) Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional Program violation regardless of its eligibility for Program benefits.

(3) *Notification of disqualification.* The State agency shall provide written notice to the household member prior to disqualification. The State agency shall also provide written notice to any remaining household members of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The notice(s) shall conform to the requirements for notification of a hearing decision specified in paragraph (e)(9) of this section. A written demand letter for restitution, as described in § 273.18(d)(3), shall also be provided.

(4) *Waiver of hearing at local level.* Any State agency which has adopted the two-tiered approach for administrative disqualification hearings may also provide for waiver of the right to disqualification hearing procedures outlined in this section.

(g) *Court referrals.* Any State agency exempted from the requirement to establish an administrative disqualification system in accordance with paragraph (a) of this section shall refer appropriate cases for prosecution by a court of appropriate jusisdiction in accordance with the requirements outlined in this section.

(1) *Appropriate cases.* (i) The State agency shall refer cases of alleged intentional Program violation for prosecution in accordance with an agreement with prosecutors or State law. The agreement shall provide for prosecution of intentional Program violation cases and include the understanding that prosection will be pursued in cases where appropriate. This agreement shall also include information on how, and under what circumstances, cases will be accepted for possible prosecution and any other criteria set by the prosecutor for accepting cases for prosecution, such as a minimum amount of overissuance which resulted from intentional Program violation.

(ii) State agencies are encouraged to refer for prosecution under State or local statutes those individuals suspected of committing intentional Program violation, particularly if large amounts of food stamps are suspected of having been obtained by intentional Program violation, or the individual is suspected of committing more than one act of intentional Program violation. The State agency shall confer with its legal representative to determine the types of cases which will be accepted for possible prosecution. State agencies shall also encourage State and local prosecutors to recommend to the courts that a disqualification penalty as provided in section 6(b) of the Food Stamp Act be imposed in addition to any other civil or criminal penalties for such violations.

(2) *Imposition of disqualification penalties.* (i) State agencies shall disqualify an individual found guilty of intentional Program violation for the length of time specified by the court. If the court fails to impose a disqualification period, the State agency shall impose a disqualification period in accordance with the provisions in paragraph (b) of this section, unless contrary to the court order. If disqualification is ordered but a date for initiating the disqualification period is not specified, the State agency shall initiate the disqualification period for currently eligible individuals within 45 days of the date the disqualification was ordered. Any other court-imposed disqualification shall begin within 45 days of the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud.

(ii) If the individual is not eligible for the Program at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits.

(iii) Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional Program violation regardless of its eligibility for Program benefits.

(3) *Notification of disqualification.* If the court finds that the household member committed intentional Program violation, the State agency shall provide written notice to the household member. The notice shall be provided prior to disqualification, whenever possible. The notice shall inform the household member of the disqualification and the date disqualification will take effect. The State agency shall also provide written notice to the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11(c). In addition, the State agency shall provide the written demand letter for restitution described in § 273.18(d)(3).

(h) *Deferred adjudication.* Each State agency shall have the option of establishing procedures to allow accused individuals to sign disqualification consent agreements for cases of deferred adjudication. State agencies are encouraged to use this option for those cases in which a determination of guilt is not obtained from a court due to the accused individual having met the terms of a court order or which are not prosecuted due to the accused individual having met the terms of an agreement with the prosecutor. For state agencies which choose the option of allowing individuals to sign disqualification consent agreements in cases referred for prosecution, the procedures shall conform with the requirements outlined in this section.

(1) *Advance notification.* (i) The State agency shall enter into an agreement with the State's Attorney General's Office or, where necessary, with county prosecutors which provides for advance written notification to the household member of the consequences of consenting to disqualification in cases of deferred adjudication.

(ii) The written notification provided to the household member which informs him/her of the consequences of consenting to disqualification as a part of deferred adjudication shall include, at a minimum:

(A) A statement for the accused individual to sign that the accused individual understands the consequences of consenting to disqualification, along with a statement that the head of household must also sign the consent agreement if the

accused individual is not the head of household, with an appropriately designated signature block.

(B) A statement that consenting to disqualification will result in disqualification and a reduction in benefits for the period of disqualification, even though the accused individual was not found guilty of civil of criminal misrepresentation or fraud.

(C) A warning that the disqualification penalties for intentional Program violation under the Food Stamp Program which could be imposed are a six-month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty will be imposed as a result of the accused individual having consented to disqualification.

(D) A statement of the fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim, unless the accused individual has already repaid the claim as a result of meeting the terms of the agreement with the prosecutor or the court order.

(iii) The State agency shall develop a disqualification consent agreement, or language to be included in the agreements reached between the prosecutors and accused individuals or in the court orders, which contains the information required by this section for notifying a household member suspected of intentional Program violation of the consequences of signing a disqualification consent agreement.

(2) *Imposition of disqualification penalties.* (i) If the household member suspected of intentional Program violation signs the disqualification consent agreement, the household member shall be disqualified in accordance with the disqualification periods specified in paragraph (b) of this section, unless contrary to the court order. The period of disqualification shall begin within 45 days of the date the household member signed the disqualification consent agreement. However, if the court imposes a disqualification period or specifies the date for initiating the disqualification period, the State agency shall disqualify the household member in accordance with the court order.

(ii) If the individual is not eligible for the Program at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits.

(iii) Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualfied member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional Program violation regardless of its eligibility for Program benefits.

(3) *Notification of disqualification.* If the household member suspected of intentional Program violation signs the disqualification consent agreement, the State agency shall provide written notice to the household member. The notice shall be provided prior to disqualification, whenever possible. The notice shall inform the household member of the disqualification and the date the disqualification will take effect. The State agency shall also provide written notice to the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11(c). In addition, the State agency shall provide the written demand letter for restitution described in § 273.18(d)(3).

(i) *Reporting requirements.* (1) Each State agency shall report to FNS information concerning individuals disqualified for intentional Program violation, including those individuals disqualified based on the determination of an administrative disqualification hearing official or a court of appropriate jurisdiction and those individuals disqualified as a result of signing either a waiver of right to a disqualification hearing or a disqualification consent agreement in cases referred for prosecution. This information shall be submitted to FNS so that it is received no later than 30 days after the date the disqualification took effect, or would have taken effect for a currently ineligible individual whose disqualfication is pending future eligibility.

(2) Each State agency shall report information concerning each individual disqualified for intentional Program violation in a format designed by FNS. This format shall include the individual's social security number, date of birth, and full name, the number of the disqualification (1st, 2nd, or 3rd), the State and county in which the disqualification took place, the date on which the disqualification took effect, and the length of the disqualification period imposed.

(3) Each State agency shall submit the required information on each individual disqualified for intentional Program violation through a reporting system in accordance with procedures specified by FNS.

(4) All the data submitted by State agencies will be available for use by any State Welfare Agency.

(i) State agencies shall, at a minimum, use the data for the following:

(A) To determine the eligibility of individual Program applicants prior to certification in cases where the State agency has reason to believe a household member is subject to disqualification in another political jurisdiction, and

(B) To ascertain the appropriate penalty to impose, based on past disqualifications, in a case under consideration.

(ii) State agencies may also use the data in other ways, such as the following:

(A) To screen all program applicants prior to certification, and

(B) To periodically match the entire list of disqualified individuals against their current caseloads.

(5) The disqualification of an individual for intentional Program violation in one political jurisdiction shall be valid in another. However, one or more fraud disqualifications which occurred prior to the implementation of the penalties contained in these regulations shall be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration, regardless of where the disqualification(s) took place. State agencies are required to identify any individuals disqualified for fraud prior to implementation of this rule and to submit the information required by this section on such individuals.

(6) In cases where the imposition of a disqualification penalty is being held pending the future eligibility of a household member found to have committed intentional Program violation, the State agency shall submit a report revising the original disqualification report once the individual begins the period of disqualification in accordance with instructions provided by FNS.

(7) In cases where the disqualification for intentional Program violation is reversed by a court of appropriate jurisdiction, the State agency shall submit a report to purge the file of the information relating to the disqualification which was reversed in accordance with instructions provided by FNS.

(j) *Reversed disqualifications.* In cases where the determination of intentional program violation is reversed by a court of appropriate jurisdiction, the State agency shall reinstate the individual in the program if the household is eligible. The State agency shall restore benefits that were lost as a result of the disqualification in accordance with the procedures specified in § 273.17(e).

8. Section 273.18 is revised to read as follows:

§ 273.18 Claims against households.

(a) *Establishing claims against households.* The State agency shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive.

(1) *Inadvertent household error claims.* A claim shall be handled as an inadvertent household error claim if the overissuance was caused by a misunderstanding or unintended error on the part of the household.

(2) *Administrative error claims.* A claim shall be handled as an administrative error claim if the overissuance was caused by State agency action or failure to take action.

(3) *Intentional Program violation claims.* A claim shall be handled as an intentional Program violation claim only if an administrative disqualification hearing official or a court of appropriate jurisdiction has determined that a household member committed intentional Program violation as defined in § 273.16(c), or an individual is disqualified as a result of signing either a waiver of his/her disqualification hearing as discussed in § 273.16(f) or a disqualification consent agreement in cases referred for prosecution as discussed in § 273.16(h). Prior to the determination of intentional Program violation or the signing of either a waiver of right to a disqualification hearing or a disqualification consent agreement in cases of deferred adjudication, the claim against the household shall be handled as an inadvertent household error claim.

(b) *Criteria for establishing inadvertent household and administrative error claims.* The State agency shall take action to establish a claim against any household that received an overissuance due to an inadvertent household or administrative error if the criteria specified in this paragraph have been meet. At a minimum, the State agency shall take action on those claims for which 12 months or less have elasped between the month an overissuence occurred and the month the State agency discovered a specific case involving an overissuance. The State agency may choose to take action on those claims for which more the 12 months have elasped. However, the State agency shall not take action on claims for which more than six years have elasped between the month an overissuance occurred and the month the State agency discovered a specific case involving an overissuance.

(1) Instances of inadvertent household error which may result in a claim include, but are not limited to, the following:

(i) The household unintentionally failed to provide the State agency with correct or complete information;

(ii) The household unintentionally failed to report to the State agency changes in its household circumstances; or

(iii) The household unintentionally received benefits or more benefits than it was entitled to receive pending a fair hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits.

(2) Instances of administrative error which may result in a claim include, but are not limited to, the following:

(i) A State agency failed to take prompt action on a change reported by the household;

(ii) A State agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;

(iii) A State agency incorrectly issued duplicate ATP's to a household which were subsequently transacted;

(iv) The State agency continued to provide a household food stamp allotments after its certification period had expired without benefit of a reapplication determination; or

(v) The State agency failed to provide a household a reduced level of food stamp benefits because its public assistance grant changed.

(3) Neither an administrative error claim nor an inadvertent household error claim shall be established if an overissuance occurred as a result of the following:

(i) A State agency failed to insure that a household fulfilled the following procedural requirements:

(A) Signed the application form,

(B) Completed a current work registration form, or

(C) Was certified in the correct project area;

(ii) The household transacted an expired ATP, unless the household altered its ATP.

(c) *Calculating the amount of claims.*—(1) *Inadvertent household and administrative error claims.* (i) For each month that a household received an overissuance due to an inadvertent household or administrative error, the State agency shall determine the correct amount of food stamp benefits the household was entitled to receive. The amount of the inadvertent household or administrative error claim shall be calculated based, at a minimum, on the amount of overissuance which occurred during the 12 months preceding the date the overissuance was discovered. The State agency may choose to calculate the amount of the claim back to the month the inadvertent household or administrative error occurred, regardless of the length of time that elapsed until the inadvertent household or administrative error was discovered. However, the State agency shall not include in its calculation any amount of the overissuance which occurred in a month more than six years from the date the overissuance was discovered. In cases involving reported changes, the State agency shall determine the month the overissuance initially occurred as follows:

(A) If, due to an inadvertent error on the part of the household, the household failed to report a change in its circumstances within the required timeframes, the first month affected by the household's failure to report shall be the first month in which the change would have been effective had it been timely reported. However, in no event shall the State agency determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.

(B) If the household timely reported a change, but the State agency did not act on the change within the required timeframes, the first month affected by the State's failure to act shall be the first month the State agency would have made the change effective had it timely acted. However, in no event shall the State agency determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred. If a notice of adverse action was required but was not provided, the State agency shall assume for the purpose of calculating the claim that the maximum advance notice period as provided in § 273.13(a)(1) would have expired without the household requesting a fair hearing.

(ii) If the household received a larger allotment than it was entitled to receive, the State agency shall establish a claim against the household equal to the difference between the allotment the

household received and the allotment the household should have received.

(iii) After calculating the amount of the inadvertent household or administrative error claim, the State agency shall offset the amount of the claim against any amounts which have not yet been restored to the household in accordance with § 273.17. The State agency shall then initiate collection action for the remaining balance, if any.

(2) *Intentional Program violation claims.* (i) For each month that a household received an overissuance due to an act of intentional Program violation, the State agency shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the intentional Program violation claim shall be calculated back to the month the act of intentional Program violation occurred, regardless of the length of time that elapsed until the determination of intentional Program violation was made. However, the State agency shall not include in its calculation any amount of the overissuance which occurred in a month more than six years from the date the overissuance was discovered. If the household member is determined to have committed intentional Program violation by intentionally failing to report a change in its household's circumstances, the first month affected by the household's failure to report shall be the first month in which the change would have been effective had it been reported. However, in no event shall the State agency determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.

(ii) If the household received a larger allotment than it was entitled to receive, the State agency shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

(iii) Once the amount of the intentional Program violation claim is established, the State agency shall offset the claim against any amount of lost benefits that have not yet been restored to the household in accordance with § 273.17.

(d) *Collecting claims against households.*—(1) Criteria for initiating collection action on inadvertent household and administrative error claims.

(i) State agencies shall initiate collection action against the household on all inadvertent household or administrative error claims unless the claim is collected through offset or one of the following conditions apply:

(A) The total amount of the claim is less than $35, and the claim cannot be recovered by reducing the household's allotment. However, any State agency shall have the option to initiate collection action for other claims under $35 at such time that multiple overissuances for a household total $35 or more. If the State agency chooses this option, households shall be informed of this policy.

(B) The State agency has documentation which shows that the household cannot be located.

(ii) The State agency may postpone collection action on inadvertent household error claims in cases where an overissuance is being referred for possible prosecution or for administrative disqualification, and the State agency determines that collection action will prejudice the case.

(2) *Criteria for initiating collection action on intentional Program violation claims.* If a household member is found to have committed intentional Program violation (by an administrative disqualification hearing official or a court of appropriate jurisdiction) or has signed either a waiver as discussed in § 273.16(f) or a consent agreement as discussed in § 273.16(y), the State agency shall initiate collection action against the individual's household. In addition, a personal contact with the household shall be made, if possible. The State agency shall initiate such collection unless the household has repaid the overissuance already, the State agency has documentation which shows the household cannot be located, or the State agency determines that collection action will prejudice the case against a household member referred for prosecution. The State agency shall initiate collection action for an unpaid or partially paid claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim. In cases where a household member was found guilty of misrepresentation of fraud by a court or signed a disqualification consent agreement in cases referred for prosecution, the State agency shall request that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and accused individual.

(3) *Initiating collection on claims.* (i) State agencies shall initiate collection action by providing the household a written demand letter which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the amount of the claim, unless the household has already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing. If there is an individual or organization available that provides free legal representation, the written demand letter shall also advise the household of the availability of the service. For inadvertent household error and intentional Program violation claims, the household shall also be informed of the length of time the household has to decide which method of repayment it will choose and inform the State agency of its decision and of the fact that the household's allotment will be reduced if the household fails to agree to make restitution. For administrative error claims, the household shall also be informed of the availability of allotment reduction as a method of repayment if the household prefers to use this method. In addition, any household against which the State agency has initiated collection action shall be informed of its right to request renegotiation of any repayment schedule to which the household has agreed in accordance with paragraph (g)(2) of this section should the household's economic circumstances change. The demand letter shall provide space for the household to indicate the method of repayment and a signature block.

(ii) Each State agency shall develop a written demand letter for initiating collection action on claims which contains the information required by this section. A model form letter for demanding restitution of an overissuance is available from FNS for adaptation by any State agency.

(iii) If the household pays the claim, payments shall be accepted and submitted to FNS in accordance with the procedures outlined in paragraphs (g) and (h) of this section.

(4) *Action against households which fail to respond.* (i) If the household against which collection action has been initiated for repayment of an inadvertent household error or intentional Program violation claim is currently participating in the program and does not respond to the written demand letter within 30 days of the date the notice is mailed, the State agency shall reduce the household's food stamp allotment.

(ii) If any nonparticipating household or if any currently participating household against which collection

action has been initiated for repayment of an administrative error claim does not respond to the first demand letter, additional demand letters shall be sent at reasonable intervals, such as 30 days, until the household has responded by paying or agreeing to pay the claim, until the criteria for suspending collection action, as specified in paragraph (e) of this section, have been met, or until the State agency initiates other collection actions.

(iii) The State agency may also pursue other collection actions, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter for repayment of any inadvertent household error, administrative error, or intentional Program violation claim. If the State agency chooses to pursue other collection actions and the household pays the claim, payments shall be submitted to FNS in accordance with the procedures outlined in paragraph (h) of this section and the State agency's retention shall be based on the actual amount collected from the household through such collection actions.

(e) *Suspending and terminating collection of claims.*—(1) *Suspending collection of inadvertent household and administrative error claims.* An inadvertent household or administrative error claim may be suspended if no collection action was initiated because of conditions specified in paragraph (d)(1)(i) of this section. If collection action was initiated, and at least one demand letter has been sent, further collection action of an inavertent household error claim against a nonparticipating household or of any administrative error claim may be suspended when:

(i) The household cannot be located; or

(ii) The cost of further collection action is likely to exceed the amount that can be recovered.

(2) *Suspending collection of intentional Program violation claims.* The State agency may suspend collection action on intentional Program violation claims at any time if it has documentation that the household cannot be located. If the State agency has sent at least one demand letter for claims under $100, at least two demand letters for claims between $100 and $400, and at least three demand letters for claims of more than $400, further collection action of any intentional Program violation claim against a nonparticipating household may be suspended when the cost of further collection action is likely to exceed the amount that can be recovered.

(3) *Terminating collection of claims.* A claim may be determined uncollectible after it is held in suspense for 3 years. The State agency may use a suspended or terminated claim to offset benefits in accordance with § 273.17.

(f) *Change in household composition.*—(1) *Inadvertent household and administrative error claims.* The State agency shall initiate collection action against the household which received the overissuance for which the inadvertent household or administrative error claim was established. If a change in household membership occurs, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred. If the State agency cannot locate or determine the household which contains a majority of household members, the State agency shall initiate collection action against the household containing the head of the household at the time the overissuance occurred.

(2) *Intentional Program violation claims.* The State agency shall initiate collection action against the household which contained the household member found to have committed intentional Program violation and which received the overissuance for which the claim was established. If a change in household membership occurs, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time the act(s) of intentional Program violation occurred. However, the State agency shall have the option to initiate collection action against the household currently containing the individual found to have committed intentional Program violation if it determines that circumstances warrant such action. The State agency may choose to exercise this option if, for example, it determines that a particular household member was responsible for the act of intentional Program violation and that household member subsequently changes households. If the State agency cannot locate or determine the household which contains a majority of household members and chooses not to exercise the option of initiating collection action against the individual found to have committed intentional Program violation, the State agency shall initiate collection action against the household containing the head of the household at the time the overissuance occurred.

(g) *Method of collecting payments.* As specified in paragraph (d) of this section, State agencies shall collect payments for claims against households as follows:

(1) *Lump sum.* (i) If the household is financially able to pay the claim at one time, the State agency shall collect a lump sum cash payment. However, the household shall not be required to liquidate all of its resources to make this one lump sum payment.

(ii) If the household is financially unable to pay the entire amount of the claim at one time and prefers to make a lump sum cash payment as partial payment of the claim, the State agency shall accept this method of payment.

(iii) If the household chooses to make a lump sum payment of food stamp coupons as full or partial payment of the claim, the State agency shall accept this method of repayment.

(2) *Installments.* (i) The State agency shall negotiate a payment schedule with the household for repayment of any amounts of the claim not repaid through a lump sum payment. Payments shall be accepted by the State agency in regular installments. The household may use food stamp coupons as full or partial payment of any installment. If the full claim or remaining amount of the claim cannot be liquidated in 3 years, the State agency may compromise the claim by reducing it to an amount that will allow the household to pay the claim in 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 273.17.

(ii) If the household fails to make a payment in accordance with the established repayment schedule (either a lesser amount or no payment), the State agency shall send the household a notice explaining that no payment or an insufficient payment was received. The notice shall inform the household that it may contact the State agency to discuss renegotiation of the payment schedule. The notice shall also inform the household that unless the overdue payments are made or the State agency is contacted to discuss renegotiation of the payment schedule, the allotment of a currently participating household against which an inadvertent household error or intentional Program violation claim has been established may be reduced without a notice of adverse action.

(iii) If the household responds to the notice, the State agency shall take one of the following actions as appropriate:

(A) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household to do so;

(B) If the household requests renegotiation, and if the State agency

concurs with the request, negotiate a new payment schedule;

(C) If the household requests renegotiation of the amount of its repayment schedule but the State agency believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the State agency may continue renegotiation until a settlement can be reached. The State agency shall have the option to invoke allotment reduction against a currently participating household for repayment of an inadvertent household error or intentional Program violation claim if a settlement cannot be reached.

(iv) If a currently participating household against which an inadvertent household error or intentional Program violation claims has been established fails to respond to the notice, the State agency shall invoke allotment reduction. The State agency may also invoke allotment reduction if such a household responds by requesting renegotiation of the amount of its repayment schedule but the State agency believes that the household's economic circumstances have not changed enough to warrant the requested settlement. If allotment reduction is invoked, no notice of adverse action is required.

(v) In cases where the household is currently participating in the program and a payment schedule is negotiated for repayment of an inadvertent household error or intentional Program violation claim, the State agency shall ensure that the negotiated amount to be repaid each month through installment payments is not less than the amount which could be recovered through allotment reduction. Once negotiated, the amount to be repaid each month through installment payments shall remain unchaged regardless of subsequent changes in the household's monthly allotment. However, both the State agency and the household shall have the option to initiate renegotiation of the payment schedule if they believe that the household's economic circumstances have changed enough to warrant such action.

(3) *Reduction in food stamp allotment.* State agencies shall collect payments for inadvertent household error claims and intentional Program violation claims from households currently participating in the program by reducing the household's food stamp allotments. State agencies shall collect payments for administrative error claims from households currently participating in the program by reducing the household's food stamp allotments if the household prefers to use this method of repayment. Prior to reduction, the State agency shall inform the household of the appropriate formula for determining the amount of food stamps to be recovered each month and the effect of that formula on the household's allotment (i.e., the amount of food stamps the State agency expects will be recovered each month), and of the availability of other methods of repayment. If the household requests to make a lump sum cash and/or food stamp coupon payment as full or partial payment of the claim, the State agency shall accept this method of payment. The State agency shall reduce the household's allotment to recover any amounts of an inadvertent household error or intentional Program violation claim not repaid through a lump sum cash and/or food stamp coupon payment, unless a payment schedule has been negotiated with the household. The provision for a $10 minimum benefit level for households with one and two members only, as described in § 273.10(e)(2)(ii)(B), shall apply to the allotment prior to reduction in accordance with this paragraph. If the full or remaining amount of the claim cannot be liquidated in 3 years, the State agency may compromise the claim by reducing it to an amount that will allow the household to make restitution within 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 273.17. The amount of food stamps to be recovered each month through allotment reduction shall be determined as follows:

(i) *Inadvertent household error claims.* For inadvertent household error claims, the amount of food stamps shall be the greater of 10 percent of the household's monthly allotment *or* $10 per month.

(ii) *Administrative error claims.* For administrative error claims, the amount of food stamps to be recovered each month from a household choosing to use this method shall be negotiated with the household. Choice of this option is entirely up to the household and no household shall have its allotment reduced by an amount with which it does not agree for payment of an administrative error claim.

(iii) *Intentional Program violation claims.* For intentional Program violation claims, the amount of food stamps shall be the greater of 20 percent of the household's monthly entitlement *or* $10 per month.

(h) *Submission of payments.* (1) The State agency shall retain the value of funds collected for inadvertent household error, intentional Program violation, or administrative error claims. This amount includes the total value of allotment reductions to collect claims, but does not include the value of benefits not issued as a result of a household member being disqualified. The States' letter of credit will be amended on a quarterly basis to reflect the States' retention of 25 percent of the value of inadvertent household error claims collected and 50 percent of the value of intentional Program violation claims collected, as well as full retention by FNS of all administrative error over issuance recoveries.

(2) Each State agency shall submit quarterly a Form FNS–209, Status of Claims Against Households, to detail the State's activities relating to claims against households. This report is due no later than 30 days after the end of each calendar year quarter and shall be submitted to FNS even if the State agency has not collected any payments. In addition to reporting the amount of funds recovered from inadvertent household error and intentional Program violation claims each quarter on Form FNS–209, the State agency shall also report these amounts on other letter of credit documents as required. In accounting for inadvertent household error and intentional Program violation claims collections, the State agency shall include cash or coupon repayments and the value of allotments recovered or offset by restoration of lost benefits. However, the value of benefits not issued during periods of disqualification shall not be considered recovered allotments and shall not be used to offset an intentional Program violation claim. In addition, each State agency shall establish controls to ensure that officials responsible for intentional Program violation determinations will not benefit from the State share of recoveries.

(3) The State agency may retain any amounts recovered on a claim being handled as an inadvertent household error claim prior to obtaining a determination by an administrative disqualification hearing offical or a court of appropriate jurisdiction that intentional Program violation was committed, or receiving from an individual either a signed waiver or consent agreement, at the rate applicable to intentional Program violation claims, once the determination or signed document is obtained. In such cases, the State agency shall include a note in an attachment to the quarterly reporting form specified in paragraph (h)(2) of this section which shows the additional amounts being retained on amounts already recovered as a result of the change in status of the claim.

(4) If a household has overpaid a claim, the State agency shall pay the household any amounts overpaid as soon as possible after the overpayment becomes known. The household shall be paid by whatever method the State agency deems appropriate considering the household's circumstances. Overpaid amounts of a claim which have previously been reported as collected via the FNS–209 and which have been repaid to the household shall be reported in the appropriate column on the FNS–209 for the quarter in which the repayment occurred. The amount of the repayment shall be subtracted from the total amount collected. The appropriate retention rate shall be applied to the reduced collection total.

(5) In cases where FNS has billed a State agency for negligence, any amouts collected from households which were caused by the State's negligence will be credited by FNS. When submitting these payments, the State agency shall include a note as an attachment to the quarterly reporting form specified in paragraph (h)(2) of this section which shows the amount that should be credited against the State's bill.

(i) *Returned coupons.* If coupon books collected from households as payment for claims are returned intact and in usable form, the State agency may return them to coupon inventory. The State agency shall destroy any coupons or coupon books which are not returned to inventory in accordance with the procedures outlined in this section.

(1) The State agency shall require claims collection points to either send the coupons which are not returned to inventory to the State agency for destruction or hold the subject coupons in secure storage pending examination and destruction by the State agency at the claims collection point. After verification of the reports from the claims collection point, the State agency shall destroy the coupons or coupon books received from the claims collection points if the value of the coupons does not exceed $500.00 per claims collection point for any month. If the value of the coupons to be destroyed exceeds $500.00 per claims collection point per month, the State agency shall request FNS approval prior to any destruction of the coupons.

(2) The State agency shall destroy the coupons and coupon books by burning, shredding, tearing, or cutting so that they are not negotiable. Two State agency officials shall witness and certify the destruction and forward the Form FNS–471, Coupon Account and Destruction Report, with the Form FNS–209.

(j) *Claims discharged through bankruptcy.* State agencies shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owing food stamp claims. State agencies shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, State agencies shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority shall be transmitted to FNS as provided in paragraph (h) of this section.

(k) *Accounting procedures.* Each State agency shall be responsible for maintaining an accounting system for monitoring claims against households. At a minimum, the accounting system shall be designed to readily accomplish the following:

(1) Document the circumstances which resulted in a claim, the procedures used to calculate the claim, the methods, used to collect the claim and, if applicable, the circumstances which resulted in suspension or termination of collection action.

(2) Identify those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household.

(3) Identify those households that have failed to make installment payments on their claims.

(4) Document how much money was collected in payment of a claim and how much was submitted to FNS.

(l) *Interstate Claims Collection.* In cases where a household moves out of the area under a State agency's jurisdiction, the State agency should initiate or continue collection action against the household for any overissuance to the household which occurred while it was under the State agency's jurisdiction. The State agency which overissued benefits to the household shall have the first opportunity to collect any overissuance. However, if the State agency which overissued benefits to the household does not take prompt action to collect, then the State agency which administers the area into which the household moves should initiate action to collect the overissuance. Prior to initiating action to collect such overissuances, the State agency which administers the area into which the household moves shall contact the State agency which overissued benefits to ascertain that it does not intend to pursue prompt collection. The State share of any collected claims, as provided in § 273.18(h), shall be retained by the State agency which collects the overissuance.

PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

9. In § 276.2, paragraph (c) is revised to read as follows:

§ 276.2 State agency liabilities.

* * * * *

(c) *Cash losses.* State agencies are liable to FNS for cash losses when money collected by State agencies from participant claims has been lost, stolen, or otherwise not remitted to FNS by the State agency in accordance with the provisions of § 273.18(h). The amount of such losses shall be determined from sources such as audits, Performance Reporting System reviews, Federal reviews and investigations.

* * * * *

PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

10. In § 277.15, paragraphs (a), (c)(1), (c)(2), (c)(3), (c)(5), introductory paragraph (e), the first sentence of paragraph (e)(1), and paragraph (e)(2) are revised; and a new paragraph (e)(1)(iv) is added. The revisions and addition read as follows:

§ 277.15 Food Stamp investigations and prosecutions.

(a) *General.* This section establishes the standards and procedures for Federal funding of State and local costs of intentional Program violation investigations, prosecutions and administrative disqualification hearings under the Food Stamp Program.

* * * * *

(c) *State Agency Descriptions.* * * *

(1) Identification of the oganizational units, with a brief description of the intentional Program violation disqualification hearing, investigation or prosecution function assigned, that is claimed at the 75 percent rate;

(2) A copy of the statutes or court decisions under which intentional Food Stamp Program violation cases are prosecuted;

(3) A detailed description of the coordination between the investigative units and the prosecuting units, and the process by which prosecuting officials present indictments regarding intentional Food Stamp Program violation cases;

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(5) Assurance that the administrative disqualification hearing activity claimed under this part is conducted in accordance with § 273.16.

* * * * *

(e) *Eligible Activity.* The following activities performed at the State or local level shall be eligible for funding at 75 percent of the costs if they are an integral element of intentional Food Stamp Program investigations, prosecutions, and administrative disqualification hearings.

(1) *Direct charges.* Direct charges are costs which may be directly attributable to employees assigned specifically to the investigation and prosecution functions for intentional Food Stamp Program violations. * * *

* * * * *

(iv) Costs related to reporting individuals disqualified for intentional Program violation and to retrieving data from the Disqualification Reporting Network file, when performed by employees assigned specifically to the food stamp intentional Program violation investigation and prosecution functions.

(2) *Indirect charges.* Indirect charges are, in general, those costs which are attributable through allocation to the investigation and prosecution functions for intentional Food Stamp Program violations.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029); secs. 112, 113 and 114 of Pub. L. 97–35, 95 Stat. 362 (7 U.S.C. 2015, 2022, and 2025), and secs. 177, 178 and 179 of Pub. L. 97–253, 96 Stat. 781 (7 U.S.C. 2022 and 2025))

(Catalog of Federal Domestic Assistance Programs No. 10551, Food Stamp Program)

Dated: February 7, 1983.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 83–3580 Filed 2–14–83; 8:45 am]

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federal register

Tuesday
February 15, 1983

Part IV

Department of Energy

Office of Conservation and Renewable Energy

Grant Programs for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 455

[Docket No. CAS–RM–80–509]

Grant Programs for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy proposes to amend the regulations for administration of the grant program providing financial assistance for schools, hospitals, local government buildings and public care institutions. Present regulations provide that the administrative grant for each State not exceed 5 percent of the total value of institutional grants awarded within the State during any grant funding cycle. Recent experience has shown that a number of States with relatively small allocations of funds have found it necessary to petition for relief with DOE's Office of Hearings and Appeals because they found their allowable administrative grants inadequate. This amendment would establish $30,000 as an alternate minimum amount for a grant to a State for its expenses in administrating this program.

DATES: Written comments (15 copies) must be received no later than March 17, 1983. A hearing will be held on February 24, 1983, in Washington, D.C. Requests to speak at the hearing must be received no later than 4:30 p.m. e.s.t. February 18, 1983.

ADDRESSES: Send 15 copies of written comments and requests to speak at the hearing (include 15 copies of oral statements) to: Department of Energy, Conservation and Renewable Energy, Office of Hearings and Dockets, Docket #CAS–RM–80–509, Room 5F–078, Mail Stop 6B–025, 1000 Independence Ave., SW., Washington, D.C. 20585. Telephone: (202) 252–9319. The hearing will be held in Room 6E–069, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Nicholas Fedoruk, Office of Institutional Conservation Programs, Office of Conservation and Renewable Energy, Department of Energy, Mail Stop 5B–148, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2334

Edward H. Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6F–094, 1000 Independence Avenue, SW., Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comment Procedures
III. Additional Information

I. Background

Parts 1 and 2 of Title III of the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, 92 Stat. 3238 (42 U.S.C. 6371), established a program administered by the Department of Energy to fund technical assistance programs and energy conservation measure installations for certain types of public and private, nonprofit institutions. Regulations governing this program appear in the code of Federal Regulations at 10 CFR Part 450 and 10 CFR Part 455. The most recent amendments to these regulations, which went into effect on May 13, 1982, were published at 47 FR 15765.

Current regulations limit the amount of grants to States for their expenses in administrating the program to 5 percent of the total amount awarded for technical assistance and energy conservation measure grants within the State during any grant funding cycle. States may petition DOE's Office of Hearings and Appeals for additional administrative support funds when they (1) find the amount available under the present rules inadequate to properly support the program; and (2) can support their contention tha program participation depends on their receiving the relief requested. As a result of petitions for additional funds filed by several States, it became apparent that there is a need for additional administrative funds for those States with relatively small allocations. To address this need, the Department of Energy (DOE) proposes in this notice to amend § 455.62 and 455.83 of the program regulations to provide a "floor" for State administrative grants. Under the proposed revisions, the amount available to a participating State for administrative purposes during a funding cycle would be $30,000 or 5 percent of the total awarded for institutional grants with in the State, whichever is the larger amount. When matched with State funds, as required by the regulations for all grants under the program, the $30,000 should provide adequate funds to administer the institutional grants.

DOE is interested in receiving comments from the public on this proposed amendment.

II. Comment Procedures

A. *Written Comments.* Interested persons are invited to submit written comments with respect to the proposed regulation to: Department of Energy Conservation and Renewable Energy, Office of Hearings and Dockets, Docket # CAS–RM–80–509, Room 5F–078, Mail Stop 6B–025, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments received will be available for public inspection in the DOE Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. All comments and related information must be received on or before March 17, 1983 to ensure consideration.

All information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, or it will not be treated as confidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. *Public Hearing.* A public hearing will be held at 9:00 a.m., e.s.t., on February 24, 1983, in Washington, D.C. to receive oral presentations. Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in it may make a written request for an opportunity to make an oral presentation. The request should be sent to the address indicated in the address section of the preamble and should be received by the date indicated in the date section of the preamble. Such a request may be hand delivered to Room 5F–078, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585. The person making the request should describe his or her interest in the proceeding and provide a concise summary of the proposed oral presentation and a phone number where he or she may be reached. Each person who, in DOE's judgement, proposes to present relevant material and information shall be selected to be heard and shall be notified by DOE of their participation before 4:30 p.m., local time on February 22, 1983.

C. *Conduct of Hearing.* DOE reserves the right to arrange the schedule of presentations to be heard, and to establish the procedures governing the conduct of the hearing. The length of presentations may be limited, based on the number of persons requesting to be heard. A DOE official will be designated as presiding officer of the hearing, and

questions may be asked only by those conducting the hearing. There will be no cross-examination of persons presenting statements. Any participant who wishes to ask a question at the hearing may submit the question in writing to the presiding officer, who will determine whether the questions are relevant and material and whether time limitations permit a response.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

D. *Transcript of Hearing.* A transcript of each hearing will be made, retained by DOE, and available for inspection at the DOE Freedom of Information Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 between 8:00 a.m. and 4:30 p.m., Monday through Friday. A copy of the transcript may be purchased from the reporter.

III. Additional Information

A. Regulatory Impact Analysis and Review

The Department of Energy has determined that this rule is not a major rule under Executive Order 12291 because it will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The rule was submitted to the Director of the Office of Management and Budget pursuant to Executive Order 12291.

B. Regulatory Flexibility Act Analysis

This amendment, by providing a somewhat larger administrative grant to States with small allocations, will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 601).

C. Environmental Review

Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321), DOE published a Notice of Availability of an environmental assessment (EA) of the entire Title III of NECPA on March 12, 1979, in the **Federal Register** (44 FR 13554). Based on this EA, DOE determined that the NECPA Title III program did not constitute a major Fede[illegible]tion significantly affecting the quality of the human environment within the meaning of NEPA and that an environmental impact statement (EIS) was not needed to support the action.

DOE has reviewed the environmental impacts of the proposed amendments. It is DOE's determination that the environmental impacts of the amendments have been adequately analyzed in the March 1979 EA and that these impacts are not significant. Thus, no additional EA or EIS is required.

D. Paperwork Reduction Act

This amendment does not change the information collection requirements of the program as such requirements are defined in the Paperwork Reduction Act, Pub. L. 95–511, 94 Stat. 2812 (44 U.S.C. 3501).

E. Catalog of Federal Domestic Assistance Program Number

The Catalog of Federal Domestic Assistance program number and title is *"81.052, Energy Conservation Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions."*

List of Subjects in 10 CFR Part 455

Buildings, Community facilities, Energy audits, Energy conservation, Grant programs—energy, Health facilities, Hospitals, Reporting requirements, Schools, Solar energy, Technical assistance.

In consideration of the foregoing, DOE proposes to amend § 455.62 and § 455.83, Part 455, Chapter II, Title 10 of the Code of Federal Regulations as set forth below:

Issued in Washington, D.C., February 4, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

PART 455—[AMENDED]

10 CFR Part 455 is proposed to be amended as follows:

1. The authority citation for Part 455 reads as follows:

Authority: Title III, National Energy Conservation Policy Act, Pub. L. 95–619, 92 Stat. 3238 (42 U.S.C. 6371) and Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101).

2. In § 455.62, paragraph (a) is revised to read as follows:

§ 455.62 Grant applications for State Administrative expenses.

(a) Each State desiring to receive grants to help defray State administrative expenses shall file an application in accordance with the provisions of this section. At any time after notice by DOE of the amounts allocated to each State for a grant program cycle, each State may apply to the Secretary for an amount for administrative expenses not exceeding $30,000 or 2 percent of its total allocation for technical assistance and energy conservation measures, whichever is higher. In addition, each State, after it makes the submittal to DOE required under section 455.72, may apply for a further grant not exceeding 5 percent of the total of all grant awards for technical assistance and energy conservation measures within that State in that grant program cycle, less any amounts previously awarded the State for administrative expenses in the same grant program cycle.

* * * * *

3. In § 455.83, the introductory text of paragraph (a) and paragraph (a)(1) are revised to read as follows:

§ 455.83 Approval of grant applications.

(a) For the purpose of defraying State expenses in the administration of technical assistance programs in accordance with Subpart C and energy conservation measures in accordance with Subpart D, the Secretary may make grant awards to a State—

(1) Immediately following public notice of the amounts allocated to a State for the grant program cycle, and upon approval of the grant application for administrative costs, in an amount not exceeding $30,000 or 2 percent of the State's total allocation for a given grant cycle for technical assistance and energy conservation measures, whichever is higher. Grants for such purposes may be made for up to 50 percent of a State's administrative expenses, as approved by the Secretary; and

* * * * *

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Part V

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Office of the Secretary

Twelve-Month List for Review of Rules

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DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, V, and VI

29 CFR Subtitle A and Chs. V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

Twelve-Month List for Review of Rules

AGENCY: Department of Labor.

ACTION: Twelve-month listing for review of rules.

SUMMARY: This Notice sets forth the Department's twelve-month listing for review of existing regulations pursuant to the Regulatory Flexibility Act.

DATES: This schedule includes all regulations which will be under a Regulatory Flexibility Act review between now and January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel, Office of the Solicitor, Department of Labor, Room N2428, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8201.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act requires that each agency publish a 10-year schedule for the review of all agency rules that are in existence on the effective date of the Act (January 1, 1981) and that have or will have a significant economic impact on a substantial number of "small entities" (small businesses, small organizations and small governmental jurisdictions). The Department published its 10-year schedule on June 30, 1981 (see 46 FR 33536). During a Regulatory Flexibility Act review, the agency is required to examine the rule's economic impact on "small entities" and to determine whether the rule can be modified to lessen its "small entity" impact, consistent with the stated objectives of the applicable statutes.

The Regulatory Flexibility Act also requires that each year agencies publish in the **Federal Register** a list of the rules that the agency's 10-year schedule has set for a Regulatory Flexibility Act review during the succeeding twelve months. The list must include a brief description of each rule, the need for and legal basis of each rule, and must invite public comment.

In conducting its review of rules, the Regulatory Flexibility Act requires that, in assessing a rule's economic impact on small entities, the Department consider the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

It should be emphasized that the twelve-month review list is not intended to be an all-inclusive list of existing rules that the Department intends to have under substantive review in 1983. The 12-month review list includes only those rules that have been set by the Department of Labor's 10-year schedule for a 1983 Regulatory Flexibility Act review ("small business" review). Hence, the Department's 12-month list does not include existing Departmental rules that are currently under review for reasons other than a *scheduled* Regulatory Flexibility Act review. However, a listing of those rules is in substance published in the Department's Semiannual Agenda of Regulations. The regulations listed in that agenda are being reviewed pursuant to a mandate of Executive Order 12291; but where appropriate, the Department is simultaneously reviewing these rules for consistency with the Regulatory Flexibility Act. Executive Order 12291 establishes specific rulemaking requirements that an agency must abide by to ensure that its rules are well-reasoned and cost-effective; requires the agency to initiate reviews of its existing rules to ensure that they are in conformance with the Executive Order's requirements; and further requires the agency to publish in its Semiannual Agenda a listing of such existing regulations that are under current review pursuant to the Executive Order. The listing of existing Labor Department regulations currently under review pursuant to Executive Order 12291 was published in the **Federal Register** on October 28, 1982 (47 FR 48532).

The list of regulations to be reviewed by the Department of Labor, in 1983, pursuant to a scheduled Regulatory Flexibility Act review follows. Public comment is invited on the listing.

Twelve-Month Review List

I. Labor-Management Services Administration, Pension and Welfare Benefit Programs

1. 29 CFR 2510.3–1—Employee Welfare Benefit Plan

Description: Welfare plans and pension plans are treated differently under ERISA Title I and under Departmental regulations. Section 3(1) of ERISA defines "employee welfare plan". This regulation clarifies this definition by identifying certain employer-employee practices and arrangements which do not constitute employee welfare plans.

Need and Legal Basis: This regulation is needed to continue to clarify certain questions about coverage which have been raised. The legal basis for the regulation is 29 USC 1135 (section 505 of ERISA) which provides the Secretary with general authority to promulgate necessary and appropriate regulations.

2. 29 CFR 2510.3–2—Employee Pension Benefit Plan

Description: Pension plans and welfare plans are treated differently under ERISA Title I and under Departmental regulations. Section 3(2) of ERISA defines "employee pension plan". This regulation clarifies the section 3(2) definition by identifying certain specific plans, funds, and programs which do not constitute employee pension plans.

Need and Legal Basis: This regulation is needed to continue to clarify certain questions about coverage which have been raised. The legal basis for this regulation is (1) 29 U.S.C. 1135 (section 505 of ERISA) which provides the Secretary with general authority to promulgate necessary and appropriate regulations, and (2) 29 U.S.C. 1002(2) (§ 3(2) of ERISA) which provides the Secretary with the authority to treat certain supplemental pension plans as welfare plans.

3. 29 CFR 2510.3–3—Employee Benefit Plan

Description: This regulation section clarifies the definition in section 3(3) of ERISA of the term "employee benefit plan". It lists a number of employer-employee practices which are not employee benefit plans. Any such practices or arrangements listed in the regulation are not covered by Title I of ERISA.

Need and Legal Basis: This regulation is needed to continue to clarify certain

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questions about coverage which has been raised. The legal basis for this regulation is 29 U.S.C. 1135 (section 505 of ERISA), which provides the Secretary with general authority to promulgate necessary and appropriate regulations.

II. Employment and Training Administration

1. 20 CFR Part 609—Unemployment Compensation for Federal Civilian Employees

Description: The regulations establish a program to pay unemployment benefits to Federal civilian employees. The program is administered under agreement with State Employment Security Agencies.

Need and Legal Basis: The regulations are necessary to provide Federal and State agencies with uniform guidelines and procedures for the payment of unemployment benefits to qualified individuals. The legal bases for the regulations are 29 U.S.C. 3304 *et seq.*; 33 U.S.C. 1001 *et seq.*; and 5 U.S.C. 8501–8508.

2. 20 CFR Part 614—Unemployment Compensation for Ex-Servicemembers

Description: The regulations establish a program that pays unemployment benefits to individuals separated from military service who are unable to obtain work. The program is financed by Federal funds and is administered under agreement with State Employment Security Agencies.

Need and Legal Basis: The regulations are needed to provide agencies with guidelines and procedures for the payment of appropriate benefits to qualified individuals. The legal bases for the regulations are 26 U.S.C. 3304 *et seq.* and 5 U.S.C. 8521–8525.

3. 20 CFR Part 635 (revises and supersedes 29 CFR Part 91)—Trade Adjustment Assistance: Benefit Payments

Description: The regulations implement the Trade Adjustment Assistance Program, which provides training, employment assistance, and cash allowances to workers whose unemployment is linked to increased importation of foreign-made products.

Need and Legal Basis: The regulations are necessary to assure that services and allowances are provided appropriately to trade impacted workers and are effective in gaining such workers' return to work. The legal basis for the regulations is 19 U.S.C. 2320.

4. 20 CFR Parts 602, 653 Subpart B, and 658—Employment Service System

Description: The regulations establish the Employment Service system for carrying out responsibilities under the Wagner-Peyser Act; describe the special efforts States must undertake to serve migrant and seasonal farmworkers; and set forth administrative provisions governing the employment service complaint system, the discontinuation of services to employers, the assessment of State compliance with Federal regulations, and Federal action for handling non-compliance.

Need and Legal Basis: The regulations are necessary to provide direction and guidance to Federal and State agencies in their implementation of the employment service system. The legal bases for the regulations are 29 U.S.C. 49 *et seq.*; 38 U.S.C. 2010–2014; and 38 U.S.C. Chapters 41 and 42.

III. The Employment Standards Administration

1. 20 CFR Part 10—Claims for Compensation under the Federal Employees' Compensation Act, as amended

Description: This regulation sets forth the regulations applicable to the filing, processing and payment of claims for workers' compensation benefits under the provisions of the Federal Employees' Compensation Act, as amended. Review of this item has been carried over from 1982.

Need and Legal Basis: The regulation is needed to provide detailed guidance and assistance to persons seeking compensation benefits under the Act, as well as to personnel within the Department of Labor and other agencies of the United States who are required to perform some function with respect to its administration. The legal basis for the regulation is the Federal Employees' Compensation Act (5 U.S.C. 8101 *et seq.*).

2. 20 CFR Part 704—Special Provisions for Longshoremen's and Harbor Workers' Compensation Act Extensions

Description: This part of the regulations governing the administration of the Longshoremen's and Harbor Workers' Compensation Act and related statutes contains the exceptions to the general applicability of Parts 702 and 703 for the Defense Base Act, the District of Columbia Compensation Act, the Outer Continental Shelf Lands Act and the Nonappropriated Fund Instrumentalities Act. Review of this item has been carried over from 1982.

Need and Legal Basis: These regulations are needed to provide detailed procedures for the implementation of the provisions of the extensions of the LHWCA which differ from the provisions of the basic statute. They are based on legal provisions in 33 U.S.C. 939, 42 U.S.C. 1651 *et seq.*, 36 District of Columbia Code 501 *et seq.*, 43 U.S.C. 1331, 5 U.S.C. 8171 *et seq.*

3. 20 CFR Part 722—Criteria for Determining Whether State Workmen's Compensation Laws Provide Adequate Coverage for Pneumoconiosis and Listing of Approved State Laws

Description: These regulations establish procedures and standards to be applied by the Secretary of Labor in determining whether a State workers' compensation law provides adequate coverage for death or disability due to pneumoconiosis. Review of this item has been carried over from 1982.

Need and Legal Basis: The Black Lung Benefits Act requires the Secretary to establish criteria by which the adequacy of State laws which provide benefits for disability or death due to pneumoconiosis are to be determined. The legal basis for this regulation is 30 U.S.C. 931 and 936.

4. 20 CFR 726—Black Lung Benefits, Requirements for Coal Mine Operators' Insurance

Description: These rules govern the manner by which a coal mine operator shall fulfill its insurance obligations under the Black Lung Benefits Act, either by qualification as a self-insurer or by contracting with a commercial insurance company. Review of this item has been carried over from 1982.

Need and Legal Basis: These regulations are necessary to provide detailed procedures defining the means used to secure the payment of benefits under the Black Lung Benefits Act. The legal bases for this regulation are 30 U.S.C. 931, 933, 936 and 33 U.S.C. 901 *et seq.*

5. 20 CFR 61 and 62—Compensation for Injury, Disability, Death, or Enemy Detention of Employees of Contractors with the United States

Description: These rules define procedures for the disability compensation of employees of contractors with the United States and for reimbursement to private parties who are responsible for the payment of such compensation.

Need and Legal Basis: These rules are needed to provide orderly and uniform procedures for the compensation of these employees. The legal bases for these rules are 5 U.S.C. 8145 and 8149 and 5 U.S.C. 1706.

6. 20 CFR 71—Compensation for Injury, Disability or Death of Civilian American Citizens Incurred while Detained by or in Hiding from the Imperial Japanese Government

Description: These rules provide procedures for the compensation of American civilians who were taken prisoner or forced into hiding in the Pacific theater of World War II.

Need and Legal Basis: These rules are needed to provide orderly procedures for the compensation of these persons. The legal bases for these rules are 5 U.S.C. 8145 and 8149, 42 U.S.C. 1706 and 50 U.S.C. App. 2004.

7. 41 CFR Chapter 60—Office of Federal Contract Compliance Programs (OFCCP), Equal Employment Opportunity, Department of Labor (Except 41 CFR Part 60–3 Uniform Guidelines on Employee Selection Procedures)

Description: This group of regulations contains OFCCP's rules covering obligations of Federal contractors under E.O. 11246 (41 CFR Part 60–1); affirmative action program requirements under E.O. 11246 (41 CFR Part 60–2); required utilization analysis under E.O. 11246 (41 CFR Part 60–2.11); construction contractors' affirmative action requirements under E.O. 11246 (41 CFR Part 60–4); sex discrimination guidelines under E.O. 11246 (41 CFR Part 60–20); administrative hearing rules under E.O. 11246, 38 U.S.C. 2012 of the Vietnam Era Veterans' Readjustment Assistance Act and Section 503 of the Rehabilitation Act of 1973 (41 CFR Part 60–30); religion and national origin discrimination guidelines under E.O. 11246 (41 CFR Part 60–50); nonconstruction contractor evaluation procedures under E.O. 11246 (41 CFR Part 60–60); affirmative action requirements and enforcement provisions under 38 U.S.C. 2012 of the Vietnam Era Veterans' readjustment Assistance Act (41 CFR Part 60–250); affirmative action requirements and enforcement provisions under Section 503 of the Rehabilitation Act of 1973 (41 CFR Part 60–741); and examination and copying of OFCCP documents (41 CFR Part 60–40).

With the exception of Part 60–2.11, this review has been carried over from 1982.

Need and Legal Basis: These regulations implement E.O. 11246, as amended by E.O. 11375 and E.O. 12086, 38 U.S.C. 2012 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and Section 503 of the Vocational Rehabilitation Act of 1973, as amended.

8. 29 CFR Part 541—Defining the Terms "Executive," "Administrative," "Professional," and "Outside Salesman"

Description: These regulations set forth criteria for determining the application of the Fair Labor Standards Act (FLSA) exemption for "executive," "administrative," "professional," and "outside sales" employees from the minimum wage and overtime requirements of the Act.

Need and Legal Basis: These regulations are needed in order to delineate the duties, responsibilities, and minimum salary levels which must be met in order for employees to qualify for the minimum wage and overtime exemption contained in Section 13(a)(1) of the FLSA. The legal basis for these regulations is 29 U.S.C. 213.

9. 29 CFR Part 529—Employment of Patient Workers in Hospitals and Institutions at Subminimum Wages

Description: These regulations set forth the conditions under which certificates may be issued under the Fair Labor Standards Act (FLSA) authorizing special minimum wage rates for patient workers in hospitals and institutions.

Need and Legal Basis: Section 14(c) of the FLSA provides for the employment of handicapped individuals whose earnings or productive capacity is impaired, at special wage rates in order to prevent curtailment of their opportunities for employment. These regulations are needed in order to define the conditions under which such special wage rates may be paid handicapped workers who are patients in hospitals and institutions. The legal basis for these regulations is 29 U.S.C. 214.

10. 29 CFR Part 552—Application for the Fair Labor Standards Act to Domestic Service

Description: These regulations define the manner in which the Fair Labor Standards Act (FLSA) applies to domestic service employees.

Need and Legal Basis: Sections 6(f) and 7(1) of the FLSA require that domestic service employees be paid minimum wage and overtime compensation, respectively. Sections 13(a)(15) and 13(b)(21) of the FLSA provide exemptions from the above requirements. These regulations are needed in order to define the manner in which the FLSA applies to the various categories of domestic employment. The legal basis for these regulations is 29 U.S.C. 213.

11. 29 CFR Part 793—Exemption of Certain Radio and Televison Station Employees from Overtime Pay Requirements Under Section 13(b)(9) of the Fair Labor Standards Act

Description: These regulations set forth criteria for determining the application of the Fair Labor Standards Act (FLSA) to announcers, news editors and chief engineers employed by certain radio and television stations.

Need and Legal Basis: Section 13(b)(9) of the FLSA provides an overtime pay exemption for empolyees who are announcers, news editors or chief engineers of certain radio and television stations. These regulations are needed in order to define the conditions under which this exemption is applicable. The legal basis for these regulations is 29 U.S.C. 213.

IV. Occupational Safety and Health Administration

1. 29 CFR 1910.1001—Occupational Exposure to Asbestos

Description: OSHA's 1972 standard for asbestos established an 8-hour timeweighted (TWA) exposure limit of 5 fibers (longer than 5 micrometers) per cubic centimeter of air (5 f/cc), with a ceiling limitation against exposure in excess of 10 fibers per cubic centimeter of air (10 f/cc). Under the 1972 standard, and effective as of 1976, that 8-hour TWA was reduced to 2 fibers per cubic centimeter of air (2 f/cc). On October 9, 1975 (40 FR 47652), OSHA issued a notice of proposed rulemaking to further lower the permissible exposure level (PEL) to 0.5 fibers per cubic centimeter of air (0.5 f/cc). In 1976, OSHA requested the National Institute for Occupational Safety and Health (NIOSH) to reevaluate information on asbestos and to advise OSHA of the findings. NIOSH recommended to OSHA that the PEL be lowered to 0.1 fibers per cubic centimeter of air (0.1 f/cc). A technological feasibility assessment and an economic impact analysis were prepared in September 1977 and 1978. In April 1980, OSHA announced that it would begin work on a proposed revision to the present standard. This decision was based on recommendations of an OSHA/NIOSH committee formed in 1979 to review scientific information on asbestos-related disease and to assess the adequacy of the current OSHA occupational health standard. A draft regulatory analysis was prepared in 1980 to address the proposed PELs of 0.5 f/cc of air and 0.1 f/cc of air. OSHA will continue to review the current asbestos standard during the next year, both

under the standards set by Executive Order 12291 and the Regulatory Flexibility Act.

Need and Legal Basis: This rule is needed because asbestos is a hazard to which many thousands of American workers are exposed. New research on the health hazards of asbestos, particularly its role as a cause of occupationally related cancer, and concern for the adequacy of the current standard have prompted Agency review of the PEL for asbestos. Recent epidemiologic evidence indicates that asbestors-related disease may be induced at very low levels of exposure, and experimental data in animals suggest that all forms of asbestos present a health standard. The asbestos standard was promulgated pursuant to section 6 of the Occupational Safety and Health Act (hereinafter 29 U.S.C. 655).

2. 29 CFR 1990—Identification, Classification and Regulation of Potential Occupational Carcinogens

Description: OSHA plans to reevaluate and reconsider the current standard for the identification, classification and regulation of potential occupational carcinogens. As a result of a July 1980 Supreme Court decision on OSHA's benzene standard, the Agency deleted portions of the current regulations (46 FR 48890, January 19, 1981) to reflect the Court's finding that consideration must be given to the significance of risk in issuing standards on carcinogens. Amendments to conform such standards to the Supreme Court's decision were proposed on January 23, 1981 (46 FR 7402) but were withdrawn on March 27, 1981 (46 FR 19000) to permit the Agency to address alternatives that had not been fully considered. The Agency published an ANPR on January 5, 1982 (47 FR 187) to gather comments on needed revisions to this standard. The Agency is evaluating these comments and intends to publish a proposed revision in early 1983.

Need and Legal Basis: This rule is needed because OSHA needs to have a consistent method of dealing with the specific identification, classification and regulation of toxic substances for which there is reported to be evidence of a potential carcinogen in man. The rule attempts to deal with worker exposures to toxic substances that may be potential carcinogens. The legal basis for this rule is 29 U.S.C. 655.

3. 29 CFR 1910.95—Occupational Exposure to Noise

Description: In 1974, the Occupational Safety and Health Administration (OSHA) proposed standards governing occupational noise exposure, which included a permissible exposure limit (PEL) of 90 dB, as an 8-hour time-weighted average (TWA), and requirements for established hearing conservation programs. Public hearings were held during 1975 and 1976. On January 16, 1981 (46 FR 4078), OSHA published a final hearing conservation amendment as a final rule and a regulatory impact analysis of the amendment. This amendment was directed toward establishing hearing conservation programs for employees to prevent occupational hearing loss. Since January, the Agency received numerous petitions for an administrative stay and reconsideration of the hearing conservation amendment. In order to evaluate those petitions and to comply with Executive Order 12291, the Agency delayed the effective date from April 15 to June 1, 1981; from June 1 to August 1, 1981; and from August 1 to August 22, 1981. On August 21, 1981 (46 FR 42622), a regulatory impact and flexibility analysis was completed, and certain provisions of the hearing conservation amendment were put into effect. OSHA is continuing to evaluate and study those stayed requirements of the amendment that did not go into effect on August 22, 1981. Publication of the final decisions regarding these provisions is anticipated for early 1983.

Need and Legal Basis: This rule is needed because there are over 900,000 Americans who suffer a moderate to severe hearing loss due to exposure to occupational noise. Epidemiological and laboratory evidence indicates that protracted noise exposures above 90 dB cause hearing loss in a substantial portion of the exposed population and that more susceptible individuals will incur hearing loss at levels below 90 dB. Noise-induced hearing loss is an irreversible condition that progresses with increased exposure and with age. Because hearing is essential for communication, hearing loss can lead to serious social and psychological handicaps. The legal basis for this rule is 29 U.S.C. 655.

4. 29 CFR 1910.134; 1926.103; 1915.82; 1916.82; 1917.82; and 1918.102—Respiratory Protection

Description: On May 14, 1982 (47 FR 20803), OSHA published an advance notice of proposed rulemaking (ANPR) to solicit relevant information on revising the standards on respiratory protection. Since the adoption of the present OSHA standard on respiratory protection in 1971, important advances have been made in respirator technology. Further, the present OSHA standard makes no reference to respiratory fit or protection factors, such as numerical estimates of the effectiveness of respirators in removing contaminants. The ANSI standard, from which the OSHA standard was adopted, has been substantially revised. Because the present OSHA standard does not consider recent advances in respiratory protection, respirator use is not as protective or as cost-effective as it might be. Also, the present OSHA standard requires the use of respirators approved by the U.S. Department of Interior, Bureau of Mines, when available. This approval function has been transferred to MSHA and indirectly to NIOSH. Because serious questions have been raised about the MSHA/NIOSH approval process, the relationship between MSHA/NIOSH approval and OSHA requirements should be examined. The proposed ANPR will address a wide range of complex issues. Specific options for addressing the issues will be based on the responses to the ANPR. A regulatory impact and regulation flexibility analysis may be conducted in conjunction with the overall review of the present regulations.

Need and Legal Basis: This rule is needed because respirators are effective for protecting workers only when they are properly fitted to the wearer, properly used, and properly maintained. These rules help employers provide adequate respiratory protection for employees. The legal basis for this rule is 29 U.S.C. 655.

5. 29 CFR 1910.96 and 29 CFR 1926.53—Ionizing Radiation

Description: The present standard was adopted by OSHA in 1971 under paragraph 6(a) of the Occupational Safety and Health (OSH) Act. The standard limits worker exposure to 1.25 rems per calendar quarter, or 3 rems per quarter as long as the lifetime accumulated dose does not exceed 5 (N–18) rems where N is the worker's age. The source of most radiation covered under this standard is from commercially produced equipment such as X-ray machines and accelerators of various types. A regulatory impact and regulatory flexibility study may be conducted in conjunction with the Agency's initiation of an overall review of the standard.

Need and Legal Basis: This rule is needed because of the carcinogenic and mutagenic risks associated with exposures to ionizing radiation. The standard covers industrial exposure situations not presently regulated by other Federal agencies. The legal basis for this rule is 29 U.S.C. 655.

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6. 29 CFR 1910.97 and 1926.54—Nonionizing Radiation

Description: In 1971, OSHA adopted the American National Standards Institute (ANSI) recommended standard C9.1–1966, "Safety Level of Electromagnetic Radiation with Respect to Personnel," as its standard for nonionizing radiation (29 CFR 1910.97). The ANSI standard was written as a recommended guideline for worker exposure to nonionizing electromagnetic radiation. It covers exposures from sources such as radio frequency and microwave radiation and has a nonmandatory permissible exposure limit. This standard will be deleted in accordance with Agency action on all advisory, or nonmandatory, standards. In light of new evidence, however, OSHA is initiating a review to reevaluate the health effects of nonionizing radiation at various exposure levels to determine at what exposure level a mandatory standard is warranted. OSHA may prepare a regulatory impact and regulatory flexibility analysis to assess the costs and the effectiveness of alternative nonionizing radiation standards. In addition, the potential economic impacts on small entities will be examined.

Need and Legal Basis: This rule is needed because nonionizing radiation poses a significant risk of material impairment to the health of exposed workers. The legal basis for this rule is 29 U.S.C. 655.

7. 29 CFR Part 1907—Accreditation of Testing Laboratories

Description: Present regulations established the criteria and procedures that OSHA would use to accredit testing laboratories desiring to test products that require approval in the OSHA standards 29 CFR Parts 1910, 1915, 1918 and 1926.

Need and Legal Basis: Additional qualified laboratories, other than those specifically mentioned in Part 1907 should be allowed to achieve the nationally recognized accreditation required by Parts 1910, 1915, 1918, and 1926. The legal basis for this rule is 29 U.S.C. 655.

8. 29 CFR Part 1910, Subpart I—Personal Protective Equipment

Description: Present standards address the design, selection and use of personal protective equipment. These standards set forth the requirements for hardhats, eye and face protection, respirators, safety shoes, and other personal protective equipment. These standards were originally promulgated in 1971 based on the then existing national consensus standards.

Need and Legal Basis: This rule is needed because of the increased number of occupational injuries and deaths that would occur if the use of personal protective equipment were required, but the equipment was improperly designed. The legal basis for this rule is 29 U.S.C. 655.

9. 29 CFR Part 1910, Subpart Q—Welding, Cutting and Brazing

Description: Present standards address safe work practices for welding, cutting, and brazing operations. The standard sets forth design criteria for welding, cutting and brazing equipment, and facilities as well as their proper maintenance and use. These standards were originally promulgated in 1971 based on the then existing national consensus standards:

Need and Legal Basis: This rule is needed because of the occupational hazards related to improper welding, cutting, and brazing practices and the use of defective equipment. The legal basis for this rule is 29 U.S.C. 655.

10. 29 CFR 1910.94 (c) and (d)—Spray Finishing Operations and Open Surface Tanks

Description: Present standards address safe work practices for spray finishing and open surface tank dipping operations. The standards set forth the ventilation design, construction, and operation requirements for spraying and dipping operations. These standards were originally promulgated in 1971 based on the then existing national consensus standards.

Need and Legal Basis: These rules are needed because of the occupational hazards related to improper ventilation in spraying and dipping operations. The legal basis for this rule is 29 CFR 655.

11. 29 CFR Part 1910.144 and 1910.145—Safety Color Code for Marking Physical Hazards; Specifications for Accident Prevention Signs and Tags

Description: Present standards address the use of colors for marking physical hazards and specifications for accident prevention signs. These standards were originally promulgated in 1971 based on the then existing national consensus standards.

Needs and Legal Basis: These rules are needed primarily to warn employees of the dangers concerning immediate hazards and to warn employees to exercise caution against potential hazards or unsafe practices. Tags are to be utilized as a temporary means of warning employees of a hazardous condition, defective equipment, etc. The legal basis for this rule is 29 U.S.C. 655.

12. 29 CFR Part 1910.66—Powered Platforms for Exterior Building Maintenace

Description: Present standards address the design, maintenance, and use of powered platforms for exterior building maintenance.

Need and Legal Basis: This rule is needed because of the occupational hazards related to unsafe platforms or to the improper use of powered platforms. The legal basis for this rule is 29 U.S.C. 655.

13. 29 CFR Part 1910.266—Pulpwood Logging

Description: Present standards address safe work practices for employees who are engaged in pulpwood logging.

Need and Legal Basis: This rule is needed because of the occupational hazards related to pulpwood logging. The legal basis for this rule is 29 U.S.C. 655.

14. 29 CFR Part 1915—Occupational Safety and Health Rules for Shipyard Employment

Description: These rules set safety and health requirements for those who are engaged in shipbuilding, shipbreaking and shiprepairing operations.

Need and Legal Basis: These rules are needed because of the higher than average number of worker accidents and injuries that occur in these industries. The legal basis for these rules are 29 U.S.C. 655 and 33 U.S.C. 941.

15. 29 CFR Part 1981—Safety and Health Regulations for Longshoring

Description: These rules set safety and health requirements for employers whose employees are employed, in or whole or in part, in longshoring operations or related employments within the Federal maritime jurisdiction on navigable waters of the United States, *other than* the master, ship officers, crew of the vessel or any person engaged by the master to load or unload any vessel under 18 net tons.

Need and Legal Basis: These rules are needed because the accident and injury rates in this industry are considerably higher than the average. The legal bases for these rules are 29 U.S.C. 655 and 33 U.S.C. 941.

16. 29 CFR Part 1926, Subpart F—Fire Protection and Prevention

Description: The current standards address the hazards associated with

compressed gases, flammable and combustible liquids, and temporary heating devices. These standards were originally promulgated in 1971.

Need and Legal Basis: This rule is needed because of the hazards associated with the handling and use of such substances as compressed gases, and flammable and combustible liquids. The legal basis for this rule is 29 U.S.C. 655.

17. 29 CFR Part 1926, Subpart N—Cranes, Derricks, Hoists, Elevators and Conveyors

Description: Present standards address the design, maintenance and use of equipment such as cranes, derricks, hoists, elevators, conveyors and helicopters in construction. These standards were originally promulgated in 1971.

Need and Legal Basis: This rule is needed because of the occupational hazards related to equipment failure and to improper use and maintenance of equipment.

The legal basis for this rule is 29 U.S.C. 655.

18. 29 CFR Part 1926, Subpart O—Motor Vehicles, Mechanized Equipment and Marine Operations

Description: Present standards address the design, use, and maintenance of motor vehicles, materials handling equipment, pile driving equipment, and marine operations equipment. These standards were originally promulgated in 1971.

Need and Legal Basis: This rule is needed because of the occupational hazards related to equipment failure and to the improper use and maintenance of equipment. In addition, design changes over the past 11 years have made many of the performance requirements inappropriate, and similarly, the current standard has inhibited technological advances in this equipment. The legal basis for this rule is 29 U.S.C 655.

19. 29 CFR Part 1926, Subpart T—Demolition

Description: Present standards address construction activities such as mechanical demolition, selective demolition by explosives, removal of steel construction, and manual removal of floors, walls, and masonry sections. These standards were originally promulgated in 1971.

Need and Legal Basis: This rule is needed because of the safety and health hazards associated with the demolition of structures. The legal basis for this rule is U.S.C. 655.

20. 29 CFR Part 1926, Subpart U—Blasting and Use of Explosives

Description: Present standards address construction activities that are related to blaster's qualifications, surface and underground transportation of explosives, storing and loading blasting materials, inspection after blasting, misfires, underwater blasting, and blasting in excavation work using compressed air. These standards were originally promulgated in 1971.

Need and Legal Basis: This rule is needed because of the occupational hazards associated with the use of explosives in construction. The legal basis for this rule is 29 U.S.C. 655.

21. 29 CFR Part 1926, Subpart W—Rollover Protective Structures and Overhead Protection

Description: Present standards address the test procedures for and the design of rollover protective structuresives (ROPS) for materials handling equipment such as scrapers, loaders, dozers, graders, crawler tractors, and agricultural/industrial tractors used in construction work.

Need and Legal Basis: This rule is needed because of the occupational injuries that occur when such equipment is involved in rollover accidents. The legal basis for this rule is 29 U.S.C. 655.

V. Office of the Assistant Secretary for Administration and Management

41 CFR Part 29, Procurement and Grant Regulations

Description: This rule establishes Department of Labor procurement policies and procedures.

Need and Legal Basis: This rule is needed because of public interest and participation in providing property and services to support Department of Labor operations. The legal bases for this rule are 5 U.S.C. 301 and 40 U.S.C. 471, *et seq.*

VI. Mine Safety and Health Administration

1. 30 CFR Parts 55, 56 and 57—Review of Standards

Description: The existing safety and health standards applicable to metal and nonmetal mines have generally been in effect for over ten years. MSHA is reviewing the standards to (1) eliminate unnecessary standards, (2) clarify and update existing standards, (3) incorporate technological advances and (4) reduce recordkeeping burdens on the industry. Informal, public conferences were held during the Spring of 1982 on selected high priority sections. Preproposal drafts of the revised standards are expected in late 1982 and early 1983. This project is one of MSHA's highest priorities.

Need and Legal Basis: This rule is necessary to provide safety and health protection for metal and nonmetal miners. The legal basis for this rule is section 101 of the Mine Act (hereinafter 30 U.S.C. 811).

2. 30 CFR Part 75—Review of Underground Coal Mine Safety Standards

Description: MSHA has initiated a review of all safety standards for underground coal mines to (1) reduce recordkeeping burdens on the industry, (2) clarify and update existing standards, (3) eliminate unnecessary standards and (4) incorporate technological advances. MSHA published an ANPRM on 07/09/82 (47 FR 30025) which solicited suggestions for regulatory suggestions for regulatory changes to all of the standards, but specifically roof support, explosives, and the ventilation requirements in § 75.316. The comment period was extended to 11/15/82 (47 FR 38097). MSHA will publish preproposed drafts of high priority standards and schedule public conferences during 1983. Several proposed rules are also expected to be published during 1983.

Need and Legal Basis: This rule is needed to provide safety and health protection for underground miners. This legal basis for this rule is 30 U.S.C. 811.

3. 30 CFR Parts 55/56/57.19–20 through .19–29, 75.1401–1; 77.1402–1; 77–1903(b)—Wire Rope Standards

Description: This rule would revise, clarify and update MSHA's current wire rope standards with regard to requirements for the selection, installation, use, inspection, maintenance, and removal of wire ropes used in coal and metal and nonmetal mines. A NPRM was published 11/16/82 (47 FR 51684) with comments due by 01/17/83.

Need and Legal Basis: This rule is necessary for assuring safe wire rope standards affecting miners who rely on hoist or personnel conveyances or who work nearby materials hoisted by wire ropes. The legal basis for this rule is 30 U.S.C. 811.

4. 30 CFR Part 37—Alternate Program for Equipment Approvals

Description: The proposal would provide an alternate program for the approval of certain equipment used in underground mines. Under the proposal, applicants would certify to MSHA that the equipment meets the required design and test criteria, has been successfully

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tested, and will be produced in accordance with an accepted quality control plan. A regulatory flexibility analysis will be prepared. A regulatory impact analysis is not required.

Need and Legal Basis: This rule is necessary to provide a more expeditious process for introducing new and safe technology into mines. The legal basis for this rule is 30 U.S.C 811.

5. 30 CFR Part 48—Consolidation of and Review of Training Requirements

Description: MSHA would review all existing metal and nonmetal and coal standards to determine if certain provisions duplicate, in whole or in part, the comprehensive training regulations which were promulgated on October 13, 1978. In addition, the regulation will be reviewed for their continued applicability and effectiveness.

Need and Legal Basis: This rule is needed to provide requirements for training and retraining of miners. The legal basis for this rule is 30 U.S.C. 811.

Signed this 9th day of February, 1983, at Washington, D.C.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83-3975 Filed 2-14-83; 8:45 am]

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Tuesday
February 15, 1983

Part VI

Environmental Protection Agency

Hazardous Waste Management System: Identification and Listing of Hazardous Waste

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH–FRL 2282–2]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and notice of intent to deny rulemakng petition and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend the regulations for hazardous waste management under the Resource Conservation and Recovery Act or 1976 (RCRA), as amended, by expanding the household waste exclusion to include wastes from bunkhouses, ranger stations, crew quarters, campgrounds, and picnic grounds. EPA is taking this action on response to rulemaking petitions submitted by both the U.S. Departments of Agriculture and Interior. EPA is also publishing notice of its tentative determination to deny the American Retail Federation's petition to exempt from RCRA regulation "consumer-household products" which have left manufacturer control.

DATES: EPA will accept public comments on both the proposed rule and our tentative decision to deny the American Retail Federation's (ARF) petition until April 18, 1983.

Any person may request a hearing on the proposal or our tentative decision to deny AFR's petition by filing a request with John P. Lehman, whose address appears below by March 2, 1983. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Comments on both the proposed rule and EPA's tentative decision to deny ARF's petition should be sent to the Docket Clerk, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Comments on either of these decisions should identify the regulatory docket numbers "Section 3001—Household Exemption" or "Section 3001—Consumer Product Exemption." Requests for a hearing should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

The public docket for this amendment is located in Room S–269C, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday thru Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346 or in Washington, D.C. at 382–3000. For technical information, contact Filomena Chau, Office of Solid Waste (WH–565B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–4770.

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1980, EPA promulgated the first phase of regulations implementing the hazardous waste management system under Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended. (These regulations are published in Title 40 of the Code of Federal Regulations (CFR) in Parts 260 to 266 and 122 to 124.) Among other things, these regulations include a list of solid wastes which are not defined as hazardous wastes and thus, are not subject to the Subtitle C requirements. Included in this list of exemptions is "household waste."

The Agency defined this provision as an exclusion of a waste stream—namely "household waste"—when generated by consumers. This approach, we believe, accords closely with the legislative intent to exclude waste streams generated by consumers at the household level. Since the wastes generated at hotels and motels are essentially the same as those generated by consumers in their households, EPA decided that such wastes should also be within the exclusion. In response to comments to its original proposal of the hazardous waste regulations, EPA also indicated that Federal agencies could not, as a class, qualify as households. Therefore, the regulations as promulgated did not categorically exclude Federally owned facilities from regulation under this provision (see 45 *FR* 33099).

II. Rulemaking Petitions

A. U.S. Departments of Agriculture and Interior Petitions

On September 25, 1980 and June 3, 1981, respectively, the U.S. Department of Agriculture and the U.S. Department of the Interior submitted rulemaking petitions pursuant to 40 CFR 260.20. In their petitions, the two Federal agencies requested that EPA expand the existing household waste exclusion to include "household type wastes" generated at Federally owned campgrounds, picnic grounds, and administrative sites.[1] The petitioners claimed that wastes generated from these types of Federal facilities are essentially the same as those generated by consumers in their households, and those generated by hotels and motels. More specifically, the petitioners argued:

- *Campgrounds and Picnic Grounds*—refuse generated at campgrounds and picnic grounds is the same as that which would be generated in households. Facilities at campgrounds generally include only comfort stations, bathhouses, and wastewater pumps. Sanitary wastes from these sources are treated by septic tank-absorption field systems. These sanitary wastes are similar to those generated by a household; subsequent septic tank pumpings would also be similar.
- *Administrative Sites*—administrative sites operated by the Forest Service, the National Park Service, and other public land management agencies basically include Ranger Stations and Work Centers which generate "at home" type refuse. Facilities at these sites include residences, bunkhouses, and crew quarters for employees which are, in fact, households.[2] Wastes from these facilities—refuse and septic tank pumpings—are similar to those generated by a household.

The petitioners further argued that EPA should emphasize the nature of the waste stream itself, rather than the class of generators, in defining the breadth of the "household waste" exclusion. The petitioners believe their approach would mean that all "household type" waste, regardless of its Federal or non-Federal nature, would be treated the same by EPA. Therefore, the petitioners urged EPA to amend the existing household waste exclusion, as described above.

B. American Retail Federation Petition

On December 1, 1980, the American Retail Federation (ARF) submitted a rulemaking petition, pursuant to 40 CFR 260.20, which requested that EPA exempt "consumer-household products" which have left manufacturer control, whether in the hands of households,

[1] The U.S. Department of the Interior (DOI) petition also requested amendments to two provisions in EPA's consolidated permit regulations. This part of DOI's petition is addressed in two recently published **Federal Register** proposals (47 *FR* 25546, June 14, 1982 and 47 *FR* 32038, July 23, 1982).

[2] Administrative sites also contain storage buildings, offices, and other support type buildings. The petitioner did not request that the wastes from these facilities be included in the household waste exclusion.

retailers, transporters, or landfill operators.[3] ARF suggested that EPA might use the definition of consumer product contained in the Consumer Product Safety Act (15 U.S.C. 2052) as one way of defining those products to be exempt from hazardous waste control.

The petitioner argued that since EPA has not brought households within the hazardous waste management system, there appears to be some recognition that most "consumer-household products" when disposed create no hazard. The petitioner further argued that by exempting "consumer-household products," both enforcement and compliance costs would be reduced without significantly increasing the environmental risk. The petitioner also contended that such an amendment would address, in part, the chief concern raised by the National Solid Waste Managment Association (NSWMA) as part of their petition [4] because "the exclusion would apply to landfill operators handling such products, as well as households, retailers, and transporters." (Page 6, ARF petition)

Moreover, the ARF contends that, under the present regulations, most retailers do not know which wastes to consider in determining whether they are a small quantity generator (i.e., they argue that retailers, in most instances, are unable to determine what products when discarded would constitute hazardous waste). Thus, such an exemption would specifically clarify for the regulated community, including the retailer, its responsibility under the hazardous waste regulations. Finally, ARF believes that a "consumer-household product" exemption is consistent with the household waste exemption in that it would only exempt diluted hazardous wastes. Therefore, they requested that EPA exempt "consumer-household products" from Subtitle C regulations.

[3] The ARF indicated that acutely hazardous wastes would by definition be excluded from the definition of consumer products.

[4] The NSWMA petition of September 12, 1980 requested that EPA amend the hazardous waste regulations so that small quantity generators would be required to comply with the packaging, labeling, manifest, and recordkeeping requirements now applicable to large quantity generators and transporters of hazardous waste under 40 CFR 262 and 263, respectively. NSWMA stated that, "to exempt these generators and transporters from such regulations in the broad manner of the present regulation presents a serious threat, to the public, to employees of waste transportation and disposal firms and to the environment, yet serves no valid administrative purpose." (Page 4, NSWMA petition)

III. EPA's Decision

A. U.S. Departments of Agriculture & Interior Petitions

In reviewing these petitions, the Agency has sought to implement Congressional intent to exclude waste streams generated by consumers at the household level. Thus, EPA has tried to clearly identify those waste sources which are sufficiently similar to households, and for which an exemption would be appropriate.

In implementing this objective, EPA has concluded that it is reasonable to use two basic criteria to define the scope of the exclusion. First, the waste must be generated by a source that serves as a temporary or permanent residence for individuals. Second, the waste stream must be composed primarily of a mixture of materials found in the wastes generated by consumers in their homes. In EPA's view, a waste stream satisfying both of these criteria could be viewed as a household waste for regulatory purposes.

Under these criteria, the ownership of the source (*i.e.*, Federal vs. non-Federal) should not determine whether the source is covered by the "household waste exemption" and, thus, excluded from the hazardous waste management system. Since bunkhouses (relatively permanent multiple residences), ranger stations (relatively permanent single residences), and campgrounds and picnic grounds (temporary residences) all generate wastes similar to those generated by a consumer in his home, they should be excluded. Similarly, single and multiple residences on military installations generate wastes akin to those generated by a consumer in his home. Thus, wastes from these sources should also be excluded. The Agency has decided, however, that storage areas, offices, or work centers do not meet both criteria. These sources are not residences nor do they necessarily generate wastes similar to those generated by a consumer in his home. Thus, wastes from these sources should not be excluded.

Accordingly, EPA is responding to these petitions by proposing to expand the household waste exclusion to wastes generated at bunkhouses, ranger stations, crew quarters, campgrounds, and picnic grounds, whether or not these wastes are generated at Federally-owned sites. As proposed, the exclusion would not extend to administrative sites that do not serve as temporary or permanent residence (*e.g.*, offices, storage buildings). EPA seeks comment on the scope of the proposed exclusion as well as the criteria used in evaluating the petitions for rulemaking.

The petitioners also requested that EPA define "household waste" by waste characteristics rather than by class of generators. However, we believe that this approach is inconsistent with Congressional intent—*i.e.*, to exclude waste streams generated by consumers at the household level. Therefore, we are denying the petitioner's request for a definition of "household waste" by waste characteristcs.

B. American Retail Federation Petition

In its review of this petition, EPA has again sought to implement Congressional intent regarding the household waste exclusion. As discussed above and as stated in the legislative history, these wastes have been exempted from regulation because Congress intended to exclude "household waste," *not* because they necessarily pose no hazard [5] (See Senate Report No. 94-988, 94th Congress, 2nd Session, at 16). Thus, we believe that only those waste sources which are sufficiently similar in both quantity and nature to households should be covered under the household waste exclusion. This being the case, we do not believe that "household-type wastes" that are generated at establishments other than households (*i.e.*, retail stores, office buildings, restaurants, shopping centers, etc.) are meant to be included in the household waste exemption. Rather, we believe that these wastes should be evaluated on the same footing as all other solid wastes, *i.e.*, if they are listed or if they exhibit one or more of the characteristics of hazardous waste, they should be regulated (provided they are generated in quantities greater than the small quantity generator exclusion).

Some "consumer-household products" would be hazardous wastes when discarded by retailers or commercial establishments. Because of quantity of material or concentration of harmful constitutents, these wastes could have adverse impacts (compared to wastes discarded by a household). For example, crates of spoiled household pesticides, which could be discarded by a retailer, are likely to have adverse environmental effect; cartons of household solvents if discarded, could be viewed similarly. Consequently, we

[5] In their petition, the ARF states that, "Since the EPA has not brought households within the hazadous waste management system, it recognizes that most consumer household products when disposed of create no hazard." As discussed in the preamble to this proposal, this exemption is based entirely on Congressional intent and not on absence of hazard from the waste.

are providing notice of our intent to deny the petition.

It should be noted that most "consumer-household product" wastes would probably not exhibit any of the four characteristics. In many cases retailers producing such wastes should be able to rely on their knowledge of such wastes in making a determination as to their hazardousness. Furthermore, many retailers and commercial establishments are small quantity generators (those who generate less than 1000 kg of hazardous waste and less than I kg of acutely hazardous waste per month) and thus are subject to the small quantity generator exemption.

ARF commented that currently retailers do not know which wastes are hazardous and thus do not know which wastes to consider in determining if they are exempted by the small quantity generator conditional exclusion. For any questions on the hazardous waste regulations, we suggest that retailers contact the RCRA Hotline, toll free at (800) 424–9346 or in Washington, D.C. at 382–3000. For examining which products, when disposed, are considered hazardous wastes, we suggest that retailers consult both the "Chemical Activities Statuts Report" (#EPA 560/13–80–040(a)) and 40 CFR 261.33 ("Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof"). The Chemical Activities Status Report gives trade names for chemicals. This report was published by the Agency's Office of Pesticides and Toxic Substances and is available in the EPA Regional Libraries. It is being updated and will become available through the National Technical Information Service at the end of 1982. For further information, the reader should contact the Office of Toxic Substances Industry Assistance Office at (800) 429–9065, toll free, or 554–1404, in the Washington, D.C. area.

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed amendment is not major because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. In fact, this regulation will reduce the overall costs and economic impact of EPA's hazardous waste management regulations. For example, the approximately 450,000 Federal housing units in the United States would benefit from this proposed amendment. It is not possible at the present time to quantify the number of non-Federal bunkhouses, ranger stations, crew quarters, campgrounds, and picnic grounds in the United States. However, the Agency believes that this is also a substantial number. All this will be in addition to the 79,763,000 non-Federal housing units already covered under the "household waste" exclusion. In addition, there will be no adverse impact on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Because this proposed amendment is not a major regulation, no Regulatory Impact Analysis is being conducted.

This proposed amendment was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any responses to those comments are available for public inspection at the Office of Solid Waste Docket, Room S–269C, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This proposed amendment will have no adverse economic impact on small entities. Accordingly, I hereby certify that this proposed amendment will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

The reduction in reporting or recordkeeping provisions in this rule will be submitted for approval to the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act of 1980, U.S.C. 3501 *et seq.* Any final rule will explain how its reporting or recordkeeping provisions respond to any OMB or public comments.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: February 8, 1983.

Anne M. Gorsuch,

Administrator.

PART 261—[AMENDED]

For the reasons set out in the preamble, 40 CFR 261 is proposed to be amended as follows:

1. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In § 261.4 paragraph (b)(1) is revised to read as follows:

§ 261.4 Exclusions.

* * * * *

(b) * * *

(1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (*e.g.*, refuse-derived fuel), or reused. "Household waste" means any waste material (including garbage, trash and sanitary wastes in septic tanks) derived from single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, and picnic grounds.

* * * * *

[FR Doc. 83–4006 Filed 2–14–83; 8:45 am]

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Monday	Tuesday	Wednesday	Thursday	Friday
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Coal Mining
Surface Mining Reclamation and Enforcement Office

Meat and Poultry Products Inspection
Food Safety and Inspection Service

Pesticides and Pests
Environmental Protection Agency

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Presidential Documents

Title 3—

The President

Proclamation 5021 of February 14, 1983

Temporary Duty Reductions on Certain Articles Pursuant to Legislation Implementing the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials

By the President of the United States of America

A Proclamation

1. On March 1, 1977, the Nairobi Protocol (the Protocol) (97th Congress, 1st session, Senate Treaty Document 97–2, p. 9) to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials of November 22, 1950 (the Florence Agreement) (17 U.S.T. 1837) was opened for signature. The Protocol supplements and expands upon the Florence Agreement, which provided for duty-free entry under specified conditions of various educational, scientific, and cultural materials and which entered into force with respect to the United States on November 2, 1966. On January 16, 1981, the President submitted the Protocol to the Senate for advice and consent to its ratification, together with an explanatory letter from the Secretary of State containing a statement that the Administration did not intend to adhere to the optional Annexes F, G, and H of the Protocol.

2. On January 12, 1983, the Educational, Scientific, and Cultural Materials Importation Act of 1982 (the Act) (Pub. L. 97–446; 96 Stat. 2346) was enacted. Section 167(b)(1) of the Act directs the President to proclaim temporary duty-free treatment for certain imported articles for the blind or for other handicapped persons.

3. Section 167(b)(2) of the Act also authorizes the President to proclaim temporary duty-free treatment for imports of specified printed, visual, and auditory material and certain tools for scientific apparatus, if he determines such action is in the interest of the United States. I have determined that it is in the interest of the United States to implement, on a temporary basis, duty-free treatment for such articles as provided in section 167(b)(2) of the Act.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including, but not limited to, section 167(b) of the Educational, Scientific, and Cultural Materials Importation Act of 1982 (96 Stat. 2349) and section 604 of the Trade Act of 1974 (19 U.S.C. 2483), do proclaim that—

(1) The Appendix to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) is modified as set forth in the Annex to this proclamation.

(2) The modifications of the Appendix to the TSUS made by the Annex hereto shall be effective as to articles entered, or withdrawn from warehouse for

consumption, on and after February 11, 1983, and before the close of August 11, 1985, unless the period of their effectiveness is earlier expressly suspended, terminated, or modified.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of February, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

ANNEX

The Appendix to the Tariff Schedules of the United States is modified by inserting the following new part, including its headnotes and items with accompany rates of duty:

"PART 4. – TEMPORARY DUTY REDUCTIONS, PURSUANT TO THE EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS IMPORTATION ACT OF 1982

Part 4 headnotes:

1. An article described in any of the provisions of this part, if entered during the period specified in the last column, is classifiable in said provision, if the conditions and requirements thereof and of any applicable regulations are met. The provisions of this part shall prevail over any provision describing such article in schedules 1 to 8, inclusive.

2. For the purposes of items 960.10, 960.12, and 960.15—

(a) The term *"physically or mentally handicapped persons"* includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(b) These items do not cover—

(i) articles for acute or transient disability;

(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled;

(iii) therapeutic and diagnostic articles; and

(iv) medicines or drugs.

Item	Articles	Rates of Duty 1	Rates of Duty 2	Effective Period
	Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons (however provided for in schedules 1 to 7):			
	Articles for the blind:			
960.10	Books, music, and pamphlets, in raised print, used exclusively by or for them	Free	Free	On or before 8/11/85
960.12	Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively	Free	Free	On or before 8/11/85
960.15	Other	Free	Free	On or before 8/11/85
960.20	Catalogs of films, recording or other visual and auditory material of an educational, scientific or cultural character (provided for in items 270.25, 270.45, 270.50, and 270.85, part 5, schedule 2)	Free	Free	On or before 8/11/85
960.30	Architectural, engineering, industrial, or commercial drawings and plans, whether originals or reproductions (provided for in items 270.45, 270.58, and 270.56, part 5, schedule 2)	Free	Free	On or before 8/11/85
960.40	Loose illustrations, reproduction proofs or reproduction films used for the production of books (provided for in items 274.50, 274.60, 274.65, 274.70, and 274.73, part 5, schedule 2)	Free	Free	On or before 8/11/85

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Item	Articles	Rates of Duty 1	Rates of Duty 2	Effective Period
960.50	Developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiche, and similar articles (provided for in items 274.50 through 274.70, inclusive, part 5, schedule 2)	Free	Free	On or before 8/11/85
960.55	Motion picture films in any form on which pictures, or sound and pictures, have been recorded, whether or not developed (provided for in items 724.05 and 724.10, part 2G, schedule 7)	Free	Free	On or before 8/11/85
960.60	Magnetic video tape on which pictures or pictures and sound have been recorded (provided for in item 724.12, part 2G, schedule 7)	Free	Free	On or before 8/11/85
960.65	Sound recordings, combination sound and visual recordings, and magnetic recordings (however provided for in schedules 1 to 7)	Free	Free	On or before 8/11/85
960.70	Patterns, models (except toy models) and wall charts of an educational, scientific or cultural character; mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae; materials for programmed instruction; and kits containing printed materials and audio materials and visual materials or any combination of two or more of the foregoing (however provided for in schedules 1 to 7)	Free	Free	On or before 8/11/85
960.80	Tools specially designed to be used for the maintenance, checking, gauging, or repair of instruments or apparatus admitted under item 851.60, part 4 of schedule 8; all of the foregoing entered for the use of any nonprofit institution, whether public or private, established for educational or scientific purposes (however provided for in schedules 1 to 7)	Free	Free	On or before 8/11/85"

[FR Doc. 83-4172
Filed 2-15-83; 10:45 am]
Billing code 3195-01-M

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[FR Doc. 83
Filed 2-14-
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Presidential Documents

Proclamation 5022 of February 14, 1983

Zoo and Aquarium Month, 1983

By the President of the United States of America

A Proclamation

As the living classroom for some 20 million school children each year, zoos and aquariums have an important role in the American educational process. They also provide stimulating recreational experiences for more than 125 million people who visit them annually.

The United States has some of the finest zoo and aquarium facilities in the world. Many are foremost in the effort to conserve the species they house. American zoos and aquariums cooperate with institutions around the globe to preserve wildlife and to create more sophisticated techniques for exhibiting animals in natural settings.

To both children and adults, animals represent a special sense of curiosity, feeling, and caring. By enabling us to observe animals firsthand and to learn about their habitats, zoos and aquariums have become a valuable and unique asset.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the month of June 1983 as Zoo and Aquarium Month.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of Feb., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-4173
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Presidential Documents

Executive Order 12405 of February 14, 1983

Establishing an Emergency Board To Investigate a Dispute Between the Consolidated Rail Corporation and the Brotherhood of Locomotive Engineers

A dispute exists between the Consolidated Rail Corporation and the Brotherhood of Locomotive Engineers.

The dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended ("the Act").

This dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service:

NOW, THEREFORE, by the authority vested in me by Section 10 of the Act, as amended (45 U.S.C. § 160), it is hereby ordered as follows:

1–101. *Establishment of Board.* There is established, effective immediately, a board of three members to be appointed by the President to investigate this dispute. No member shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

1–102. *Report.* The board shall report its findings to the President with respect to the dispute within 30 days of its creation.

1–103. *Maintaining Conditions.* As provided by Section 10 of the Act, as amended, from the date of the creation of the Emergency Board, and for 30 days after the board has made its report to the President, no change, except by agreement of the parties, shall be made by the carrier or by the employees, in the conditions out of which the dispute arose.

1–104. *Expiration.* The Emergency Board shall terminate upon submission of the report provided for in paragraph 1–102 of this Order.

Ronald Reagan

THE WHITE HOUSE,
February 14, 1983.

[FR Doc. 83–4174
Filed 2–15–83; 10:47 am]
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DEPARTME

Food Safety

9 CFR Parts

[Docket No. 8

Revision of

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ACTION: Fina

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 307 and 381

[Docket No. 82-016F]

Revision of the Basic Workweek

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat and poultry products inspection regulations by changing the definition of the "basic workweek". The "basic workweek" is the operating period during which the Agency provides inspection service without charge to official establishments, importers, and exporters subject to the inspection requirements of the Federal Meat Inspection Act and Poultry Products Inspection Act. Currently, the "basic workweek" is defined as five consecutive eight-hour days Monday through Friday, excluding lunch period. This rule revises the current definition by providing that the "basic workweek" shall consist of any five consecutive eight-hour days Sunday through Saturday, excluding lunch period. The rule also provides that when possible the "basic workweek" shall consist of five consecutive eight-hour days Monday through Friday, excluding lunch period. This amendment is designed to preclude application of the current definition of the basic workweek in an unduly restrictive or inequitable manner by revising that definition to better reflect Agency practices and procedures currently in use.

EFFECTIVE DATE: April 18, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. W. S. Horne, Assistant Deputy Administrator, Regional Operations, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3697.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Food Safety and Inspection Service (Agency) has made a determination that this rule is not a "major" rule under Executive Order 12291. The rule will not result in an annual effect on the economy of $100 million or more, or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have any significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The rule amends existing regulations by changing the definition of the "basic workweek"; the operating period during which the Agency provides inspection service without charge to the recipient of the service. Currently defined as consisting of five consecutive eight-hour days Monday through Friday, this rule amends the definition of the basic workweek so as to expressly reflect the Agency's current practice of providing inspection service without charge on any five consecutive eight-hour days Sunday through Saturday. Since the amendment merely formalizes existing Agency practice and procedure, it will not have a substantive impact on the economy, consumers, State or local governments or entities subject to the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). In addition, the rule will not impose new duties, requirements or obligations on such entities.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). The rule relates solely to a method of operation used in conducting the Agency's business and is intended to incorporate in the regulations a policy designed to conform such operation to that of the industry regulated by the Agency. It will not have a substantial impact on any entity regulated by the Agency.

Historical Background

Under the provisions of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), the cost of inspection services rendered by the Food Safety and Inspection Service (Agency) is to be borne by the United States, unless the services are performed under circumstances making the time spent by Agency employees performing such services compensable at an overtime or holiday rate. The cost of overtime and holiday services is to be borne by the official establishment, importer or exporter receiving such services.

To implement these provisions, the Agency established a 40-hour "basic workweek" consisting of five consecutive eight-hour days Monday through Friday (40 FR 45798 (October 3, 1975); 9 CFR 307.4(c) and 9 CFR 381.37(c)). This Monday through Friday basic workweek was established to designate the operating period during which the Agency would provide cost-free inspection service unless such inspection service otherwise constituted holiday or overtime work. Cost-free inspection service would be furnished on other than a Monday through Friday only at plants that were operating on an approved Tuesday through Saturday schedule at the time the Monday through Friday basic workweek was promulgated; in which case the prior approved Tuesday through Saturday schedule would be designated as the basic workweek. The Agency would also furnish inspection service without charge on other than a Monday through Friday in cases where maintaining a Monday through Friday basic workweek would seriously handicap the Agency in carrying out its functions.

The Agency adopted the above definition of the basic workweek because at the time the definition was promulgated, the collective bargaining agreement between the Agency and the National Joint Council of Food Inspection Locals, AFGE (National Joint Council) defined the non-overtime workweek of Agency inspection personnel as five consecutive eight-hour days Monday through Friday. The FMIA

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and PPIA provide that the cost of overtime inspection service is to be borne by the recipient of the service (7 U.S.C. 394 and 21 U.S.C. 468). Thus, for the basic workweek to be the operating period when the Agency would provide cost-free inspection service, it had to correspond to the Monday through Friday non-overtime workweek of Agency inspection personnel.

Literally interpreted, the 1975 definition of the basic workweek provides that cost-free inspection service will generally be available only for eight hours per shift, per day, Monday through Friday. Thus, unless operating on a prior approved Tuesday through Saturday schedule, an official establishment, importer, or exporter operating on a schedule not conforming to the Monday through Friday basic workweek would receive free inspection service only for that portion of their workweek that runs concurrently with the Monday through Friday basic workweek. For example, if the 1975 basic workweek provisions were literally applied to an official establishment operating on a 40-hour workweek consisting of five consecutive eight-hour days Sunday through Thursday, the official establishment would receive free inspection service only for those non-overtime hours of operation occurring on Monday through Thursday, provided no holiday occurs during this period. The inspection service on Sunday would not be furnished without charge because it falls outside of the Monday through Friday basic workweek. Since to be cost-free, the basic workweek and the 40-hour non-overtime workweek of Agency inspection personnel must correspond, the inspection work performed outside of the basic workweek would also be in addition to the inspector's 40-hour non-overtime workweek and would constitute overtime as defined in § 307.5(a) of the Federal meat inspection regulations and § 381.38(a) of the poultry products inspection regulations (9 CFR 307.5(a) and 381.38(a)). Therefore, under the 1975 basic workweek provisions an establishment operating on a 40-hour workweek not conforming to the Monday through Friday basic workweek would receive less than 40-hours of free inspection service and would be required to reimburse the Agency at an overtime rate for the cost of inspection service furnished during that portion of its 40-hour workweek falling outside of the basic workweek.

Recognizing the burdens on the industry associated with a literal application of the basic workweek provisions, the Agency, immediately after the promulgation of such provisions, negotiated and entered into a memorandum of understanding with the National Joint Council. This memorandum modified the collective bargaining agreement by defining the non-overtime workweek of inspection personnel as any five consecutive eight-hour days Sunday through Saturday. As a result of this modification the Agency was able to schedule the non-overtime workweek of inspection personnel on five consecutive days other than Monday through Friday and was no longer restricted to furnishing free inspection services on only Monday through Friday. Thus the basic workweek, like the non-overtime workweek of inspection personnel, could be scheduled on any five consecutive days Sunday through Saturday. This change led to the present practice used by the Agency in furnishing cost-free inspection service.

Present Application of the Basic Workweek

To avoid the hardship associated with a strict application of the basic workweek regulations, the Agency has established a practice of defining the basic workweek in terms of the regularly scheduled 40-hour workweek maintained by official establishments, importers, and exporters, subject to the inspection requirements of the FMIA and PPIA. In effect, the Agency provides a basic workweek for each official establishment, importer, or exporter on an individual basis. The basic workweek is specified so that it will run concurrently with the five consecutive eight-hour days that constitute the regularly scheduled 40-hour workweek maintained by the official establishment, importer, or exporter. In this manner each recipient of inspection services receives eight hours of free inspection service per shift, per day, for five consecutive days regardless of whether or not such recipient operates on five consecutive days Monday through Friday. For example, where an official establishment operates a 40-hour workweek consisting of five consecutive eight-hour days, Sunday through Thursday, it has been the Agency's practice to define the basic workweek applicable at such establishment so as to conform to the Sunday through Thursday schedule. Holiday and overtime compensation and reimbursement are all calculated in terms of this schedule. The only limitations imposed on the Agency in carrying out this practice are that the five consecutive eight-hour days of the basic workweek must occur during the administrative workweek, Sunday through Saturday, and that when possible the five consecutive eight-hour days of the basic workweek should be Monday through Friday. These limitations are necessary to assure that the scheduling of Agency inspection personnel to furnish the inspection services during the basic workweek will be in accordance with section 6101 of Title 5 of the United States Code (5 U.S.C. 6101), the present collective bargaining agreement with the National Joint Council, and other directives controlling the scheduling of work for Agency personnel.

The Agency believes that the practice of defining the basic workweek so as to correspond to the regularly scheduled 40-hour workweek of an official establishment, importer, or exporter is consistent with the intent of Congress under the FMIA and PPIA that inspection costs should be borne primarily by the United States, and is in accord with section 6101 of Title 5 of the United States Code (5 U.S.C. 6101), the present collective bargaining agreement with the National Joint Council and FSQS Directive 4610.1, *Tours of Duty*. However, the fact that this practice is not reflected in the current regulations has caused some confusion and concern among some segments of the industry and Agency personnel. Therefore, the Agency believes the definition of the basic workweek should be amended to reflect this scheduling practice.

The Agency has determined that since this rule involves a matter concerning Agency organization, procedure or practice and will not have a substantive impact on entities subject to the rule, notice and comment under the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) is not required and good cause exists for finding such procedure unnecessary.

The sole purpose of this amendment is to provide, in the regulations, an accurate description of a currently existing Agency practice. The amendment clarifies the method of operation used in carrying out the Agency's business. It has no substantive impact on the duties, rights, obligations, or standards of conduct of the persons subject to the jurisdiction of the Agency because the rule merely formalizes an Agency practice which is currently applied uniformly to all such persons.

Other procedures related to the schedule of operations as established in section 307.4 of the Federal meat inspection regulations and 381.37 of the poultry products inspection regulations (9 CFR 307.4 and 381.37) including the obligation of each establishment, importer, and exporter to maintain

consistent work schedules (9 CFR 307.4(d)(2) and 381.37(d)(2)) are unaffected by this rule.

Final Rule

The Agency is amending the definition of the basic workweek in the Federal meat inspection regulations (9 CFR 307.4(c)) and the poultry products inspection regulations (9 CFR 381.37 (c)), to more accurately reflect current Agency policy on providing inspection service without charge to the recipient of such service. This final rule changes the definition of the basic workweek which will hereafter be defined as consisting of five consecutive eight-hour days within the administrative workweek, Sunday through Saturday, excluding lunch period; except that, when possible, the basic workweek will be scheduled so as to consist of five consecutive eight-hour days, Monday through Friday. No change concerning the formulation, prior approval, or maintenance of a work schedule instituted by an official establishment, importer, or exporter subject to the inspection requirements of the FMIA or PPIA is being made.

The Agency has determined that this is a matter of Agency organization, practice, and procedure, and is therefore exempt from notice and comment requirements under the Administrative Procedure Act.

Indexing Terms: As required by 1 CFR 18.20 (46 FR 7162, January 22, 1981), the following are the index terms for this regulation:

List of Subjects

9 CFR Part 307

Schedule of operations, Meat inspection.

9 CFR Part 381

Schedule of operations, Poultry products inspection.

Accordingly, Part 307 of the Federal meat inspection regulations (9 CFR Part 307) and Part 381 of the poultry products inspection regulations (9 CFR Part 381) are amended as follows:

PART 307—[AMENDED]

1. The authority citation for Part 307 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 483; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. Section 307.4(c) of the Federal meat inspection regulations (9 CFR 307.4(c)) is revised to read as follows:

§ 307.4 Schedule of operations.

* * * * *

(c) Official establishments, importers, and exporters shall be provided inspection service, without charge, up to 8 consecutive hours per shift during the basic workweek subject to the provisions of § 307.5: Provided, That any additional shifts meet requirements as determined by the Administrator or his designee. The basic workweek shall consist of 5 consecutive 8-hour days within the administrative workweek Sunday through Saturday, excluding the lunch period; except that, when possible, the Department shall schedule the basic workweek so as to consist of 5 consecutive 8-hour days Monday through Friday, excluding lunch period. The Department may depart from the basic workweek in those cases where maintaining such a schedule would seriously handicap the Department in carrying out its function.

* * * * *

PART 381—[AMENDED]

3. The authority citation for Part 381 reads as follows:

Authority: Section 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*), the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450); and subsection 21(b) of the Federal Water Pollution Control Act, as amended by Public Law 91–224 and by other laws (33 U.S.C. 1254).

4. Section 381.37(c) of the poultry products inspection regulations (9 CFR 381.37(c)) is revised to read as follows:

§ 381.37 Schedule of operations.

* * * * *

(c) Official establishments, importers, and exporters shall be provided inspection service, without charge, up to 8 hours per shift during the basic workweek subject to the provisions of § 381.38: Provided, That any additional shifts meet requirements as determined by the Administrator or his designee. The basic workweek shall consist of 5 consecutive 8-hour days within the administrative workweek Sunday through Saturday, excluding the lunch period; except that, when possible, the Department shall schedule the basic workweek so as to consist of 5 consecutive 8-hour days Monday through Friday, excluding lunch period. The Department may depart from the basic workweek in those cases where maintaining such a schedule would seriously handicap the Department in carrying out its functions.

* * * * *

Done at Washington, DC, on: January 20, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83–4098 Filed 2–15–83; 8:45 am]

BILLING CODE 3410–DM

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 2H5331/R127; PH–FRL 2304–3]

Tolerances for Pesticides in Animal Feeds; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation to permit chlorpyrifos and its metabolite in or on the feed commodity dried apple pomace. This regulation to establish the maximum permissible level for the combined residues of chlorpyrifos in or on dried apple pomace was requested, pursuant to a petition, by the Dow Chemical Company.

EFFECTIVE DATE: Effective on February 16, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of February 17, 1982 (47 FR 6991) that announced that the Dow Chemical Company, P.O. Box 1706, Midland, MI 48640, had submitted feed additive petition 2H5331 proposing that 21 CFR 561.98 be amended by establishing a regulation permitting the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate and its metabolite 3,5,6-trichloro-2-pyridinol in or on the feed commodity dried apple pomace at 8.0 part per million (ppm).

The Dow Chemical Company subsequently amended the petition (47 FR 53117, November 24, 1982) by

increasing the proposed tolerance from 8.0 to 12 ppm.

There were no comments received in response to the notice of filing.

The scientific data and other relevant material have been evaluated and discussed in a related document [PP 2F2620/R516], establishing a tolerance for apples, appearing elsewhere in this issue of the **Federal Register**.

The pesticide is considered useful for the purpose for which the feed additive regulation is sought, and it is concluded that the pesticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*). Therefore, the feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1))).

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: February 1, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 561—[AMENDED]

Therefore, 21 CFR 561.98(a) is amended by adding and alphabetically inserting the feed commodity dried apple pomace to read as follows:

§ 561.98 Chlorpyrifos.

(a) * * *

Feeds	Parts per million
* * * * *	
Apple pomace, dried	12.0
* * * * *	

[FR Doc. 83-3642 Filed 2-15-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2620/R516; PH-FRL 2304-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity apples. This regulation to establish the maximum permissible level for the combined residues of chlorpyrifos in or on apples was requested, pursuant to a petition, by the Dow Chemical Company.

EFFECTIVE DATE: Effective on February 16, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of February 17, 1982 (47 FR 6991) that announced that the Dow Chemical Company, PO Box 1706, Midland, MI 48640, had submitted pesticide petition 2F2620 to the Agency proposing that 40 CFR 180.342 be amended by establishing a tolerance for the combined residues of the insecticide chlorpyrifos [*O-O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity apples at 1.0 part per million (ppm).

The Dow Chemical Company subsequently amended the petition (47 FR 53117, November 24, 1982) by increasing the proposed tolerance from 1.0 to 1.5 ppm.

There were no comments received in response to the notice of filing.

The scientific data and other relevant material have been evaluated. The toxicological data considered in support of the tolerance included a 2-year rat feeding/oncogenicity study with a no-observed-effect level (NOEL) of 0.1 mg/kg of body weight per day based on red blood cells (RBC) cholinesterase activity and was negative for oncogenic effects at 30 mg/kg (highest dose tested); a dog feeding study with a NOEL of 0.1 milligram (mg)/kilogram (kg) of body weight (bw) per day based on RBC cholinesterase activity; a mouse oncogenicity study which was negative at 15 ppm (highest dose); a mouse teratology study which was negative at 25 mg/kg; an acute delayed neurotoxicity study which was negative at 100 mg/kg; and a 3-generation reproduction which demonstrated a NOEL of 1.0 mg/kg/day. Based on the 2-year chronic rat feeding study with a NOEL of 0.1 mg/kg of bw/day and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from this tolerance and previously established tolerances for residues of chlorpyrifos on a variety of raw agricultural commodities does not exceed the ADI.

The metabolism of chlorpyrifos is adequately understood for this use, and and adequate analytical method, gas chromatography, is available for enforcement purposes. No regulatory actions are currently pending against the continued registration of chlorpyrifos, nor are there any other relevant considerations involved in establishing the tolerance. The established tolerances for residues in fat, meat, meat byproducts of livestock, and milk are adequate to cover any secondary residues resulting from this use. Because there are no poultry feed items involved, there will be no secondary residues in poultry tissue and eggs.

Desirable data which are considered lacking from the petition included a 2-generation rat reproduction study and a teratology study in a second species. In a letter dated December 21, 1982, the petitioner indicated that these studies would be submitted to the Agency by June 1983. The petitioner also agreed to voluntarily delete the use on apples from the label should the studies be

found to exceed the risk criteria for unreasonable adverse effects.

A related document [FAP 2H5331/R127], establishing a regulation permitting the combined residues of chlorpyrifos and its metabolite in or on the animal feed dried apple pomace appears elsewhere in this issue of the **Federal Register.**

The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register,** file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: February 1, 1983.

James Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by adding and alphabetically inserting the commodity apples to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Apples	1.5
* * * * *	

[FR Doc. 83–3841 Filed 2–15–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[OPP–300070; PH–FRL 2303–6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; O,O-Diethyl-O-Phenylphosphorothioate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for the herbicide extender *O,O*-diethyl-*O*-phenylphosphorothioate when used as an inert ingredient in pesticide formulations. This regulation was requested, pursuant to a petition, by the Stauffer Chemical Company.

EFFECTIVE DATE: February 16, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Rm. 3708, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Roland Blood, Processing Coordination Branch, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of November 3, 1982 (47 FR 49893) that announced that the Stauffer Chemical Company, 1828 L St., NW., Washington, D.C. 20033, had submitted pesticide petition 2E2742 to the Agency proposing to amend 40 CFR 180.1066 by establishing an exemption from the requirement of a tolerance for residues of the inert ingredient herbicide extender *O,O*-diethyl-*O*-phenylphosphorothioate when applied in accordance with good agricultural practices to crops prior to harvest at a maximum rate of 1 pound per acre in accordance with the Federal Food, Drug, and Comestic Act. Inert ingredients are ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active. The bases for the exemption are:

1. The data which were reviewed for the original exemption provide adequate toxicological support for exemption from the requirement of a tolerance.

2. The initial clearance was based, in part, on a finding that the pre-emergent application would not result in detectable residues on corn.

3. No detectable residues of *O,O*-diethyl-*O*-phenylphosphorothioate are likely to result from the expanded use.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register,** file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulations deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

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Dated: February 3, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1066 is revised to read as follows:

§ 180.1066 O-O-Diethyl-O-phenylphosphorothioate; exemption from the requirement of a tolerance.

O-O-Diethyl-*O*-phenylphosphorothioate, applied at a maximum of 1 pound per acre, is exempted from the requirement of a tolerance when use as an inert ingredient herbicide extender in formulations containing *S*-ethyl dipropylthiocarbamate, *S*-ethyl hexahydro-*H*-azepine-l-carbothioate, *S*-ethyl cyclohexylethylthiocarbamate, *S*-proply dipropylthiocarbamate, *S*-ethyl diisobutylthiocarbamate and *S*-proply butylethylthiocarbamate applied, in accordance with good agricultural practices, to crops prior to harvest, at a maximum rate of 1 pound *O,O*-diethyl-*O*-phenylphosphorothioate per acre.

[FR Doc. 83-3838 Filed 2-15-83; 8:45 am]

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Proposed Rules

Federal Register
Vol. 48, No. 33
Wednesday, February 16, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 0E2377/1E2580/P281; PH-FRL 2303-7]

Permethrin; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for the combined residues of the insecticide permethrin and its metabolites in or on certain raw agricultural commodities horseradish and pears. The proposed regulation to establish maximum permissible levels for residues of the insecticide in or on the commodities was requested, pursuant to petitions submitted, by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before March 18, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Illinois (PP 0E2377) and New York (PP 1E2580).

These petitions request that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the insecticide permethrin [3-phenoxyphenyl(methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] and its metabolites 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylic acid (DCVA) and (3-phenoxyphenyl)methanol (3 PBA) calculated as parent in or on the raw agricultural commodities horseradish (PP 0E2377) at 1.0 part per million (ppm) and pears (PP 1E2580) at 3.0 ppm. A recently established (47 FR 45008, October 13, 1982) tolerance of 0.05 ppm in pears will be superseded by final action on PP 1E2580.

The data submitted in the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances were discussed in a related document published in the **Federal Register** of October 13, 1982 [47 FR 45008]. Tolerances for residues of the insecticide on various raw agricultural commodities have been previously established ranging from 0.05 to 20.0 ppm.

The acceptable daily intake (ADI), based on a 2-year rat chronic feeding/oncogenicity study (NOEL of 5.0 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.05 mg/kg/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 3.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.6338 mg/day. The current action for horseradish (0E2377) will increase the TMRC by 0.00045 mg/day or 0.07 percent, and pears (1E2580) will add 0.01131 mg/day to the TMRC or 1.78 percent. Approved tolerances utilize 21.13 percent of the ADI; the current action will utilize an additional 0.39 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography with an electron capture detector, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical. Neither horseradish nor pears are animal feed items and therefore there is no reasonable expectation of residues in eggs, meat, milk or poultry from these tolerances.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.378(b) would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 0E2377, 1E2580/P281). All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 1, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.378(b) be amended by adding and alphabetically inserting the commodity

horseradish and increasing the tolerance for the commodity pears to read as follows:

§ 180.378 Permethrin; tolerances for residues.

* * * * *

(b)* * *

Commodities	Parts per million
* * * * *	
Horseradish	1.0
* * * * *	
Pears	3.0
* * * * *	

[FR Doc. 83-3639 Filed 2-15-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300071; PH-FRL 2304-2]

Proposed Exemption from the Requirement of a Tolerance; 2,2'(2,5-Thiophenediyl) Bis (5-Tert-Butylbenzoxazole)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposses that [2,2'(2,5-thiophenediyl) bis (5-*tert*-butylbenzoxazole)] be exempted from the requirement of a tolerance when used as an inert ingredient quality control agent in pesticide formulations. This proposed regulation was requested by the Ciba-Geigy Corporation.

DATE: Written comments must be received on or before March 18, 1983.

ADDRESS: Written comments to: Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716 D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Roland D. Blood (703-557-7700) at the above address.

SUPPLEMENTARY INFORMATION: At the request of the Ciba-Geigy Corporation, the Administrator proposes to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for [2,2'(2,5-thiophenediyl) bis (5-*tert*-butylbenzoxazole)], a fluorescent quality control agent that would be used in the continuous monitoring of the quantity of surfactant in pesticide formulations to be applied to growing crops only.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: [2,2'(2,5-Thiophenediyl) bis (5-*tert*-butylbenzoxazole)].

Name and address of requestor: Ciba-Geigy Corporation, P.O. Box 11422, Greensboro, North Carolina 27409.

Bases for approval:

1. [2,2'(2,5-Thiophenediyl) bis (5-*tert*-butylbenzoxazole)] is cleared as an indirect food additive under 21 CFR 177.105 (adhesives in packaging in contact with food). Certain toxicity studies submitted to FDA in support of the Food Additive Clearance (FAP #5B3053) were also considered in support of the exemption. These include:

a. Rat oral $LD_{50} > 50$ gm/kg.

b. 14-week rat feeding, NOEL > 100,000 (highest level tested).

c. 13-week dog oral (ampule) NOEL > 2,500 mg/kg/da (100,000 ppm).

d. 1-year mouse feeding/reproduction NOEL > 1,000 ppm (HLT).

2. Residues, if any, are not of sufficient magnitude (less than or equal to 0.08 ppm maximum) to warrant toxicological concern.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to and Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, "[OPP-300071]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 28, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001(d) be amended by adding and alphabetically inserting the inert ingredient [2,2'(2,5-thiophenediyl) bis (5-*tert*-butylbenzoxazole)] as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert Ingredients	Limits	Uses
* * * * * *		
[2,2'(2,5-Thiophenediyl) bis (5-*tert*-butylbenzoxazole)] (CAS Registry Number 7128-64-5).	10ppm in pesticide formulations.	Quality control agents.
* * * * * *		

[FR Doc. 83-3640 Filed 2-15-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300072; PH-FRL 2305-2]

Proposed Exemptions From the Requirement of a Tolerance; Sorbitan Fatty Acid Ester Ethoxylates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that sorbitan fatty acid ester ethoxylates with 5 moles of ethoxylation be exempted from the requirement of a tolerance when used as an inert ingredient quality control agent in pesticide formulations. This proposed regulation was requested by the Shield-Brite Corporation.

DATE: Written comments must be received on or before March 18, 1983.

ADDRESS: Written comments to: Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716 D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Roland D. Blood (703) 557-7700 at the above address.

SUPPLEMENTARY INFORMATION: At the request of the Shield-Brite Corporation, the Administrator proposes to amend 40 CFR 180.1001(c) by broadening the exemption from the requirement of a tolerance for sorbitan fatty acid ester ethoxylates (fatty acids limited to C_{12}, C_{14}, C_{16}, and C_{18}) and their poly(oxyethylene) (POE) derivatives where the POE content averages 16–20 moles. The POE content will be expanded from 16–20 moles to 5–20 moles.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Sorbitan fatty acid esters (fatty acids limited to C_{12}, C_{14}, C_{16}, and C_{18} and their POE derivatives, where the POE content averages 5–20 moles.

Name and address of requestor: Shield-Brite Corporation, P.O. Box 519, Kirkland, WA 98033.

Bases for approval:

1. Sorbitan fatty acid esters where the POE content averages 5–20 moles are widely used in foods as "polysorbates" (21 CFR 172.836, 838).

2. This minimum change in the amount of POE is not of toxicological significance.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, [OPP-300072]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 1, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed 40 CFR 180.1001(c) be amended by adding and alphabetically inserting the inert ingredient sorbitan fatty acid ester ethoxylates with five moles of ethoxylation to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert Ingredients	Limits	Uses
* * * * *		
Sorbitan fatty acid esters (fatty acids limited to C_{12}, C_{14}, C_{16}, and C_{18} containing minor amounts of associated fatty acids) and their derivatives; the poly (oxyethylene) content averages 5–20 moles.		[illegible], related adjuvants or surfactants.
* * * * *		

[FR Doc. 83-3897 Filed 2-15-83; 8:45 am]

BILLING CODE 6560-50-M

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1983

Notices

Federal Register

Vol. 48, No. 33

Wednesday, February 16, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59116; BH-FRL 2305-1]

Alkyl Co-Polymer; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the Federal Register of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting of the exemption.

DATE: Written comments by: March 3, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-59116]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environomental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

TME 83-22

Close of Review Period. March 18, 1983.

Manufacturer. Confidential.

Chemical. (G) Alkyl Co-polyether.

Use/Protection. (S) Textile Auxiliary. Prod. range: 15,000 kg/yr (max).

Toxicity Data. Acute oral: <5 ml/kg; Irritation: Skin—Mild, Eye—Minimal; Corneal anesthetic effect: None.

Exposure. Manufacture: dermal, a total of 3 workers, up to 5 da/yr. Processing: dermal, up to 400 workers at both sites, up to 8 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. 10-100 kg/yr released to water, with 100-1,000 kg/yr to land. Disposal by publicly owned treatment works (POTW) and approved landfill.

Dated: February 4, 1983.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 83-3879 Filed 2-15-83; 8:45 am]

BILLING CODE 6560-50-M

[PP 1G2450/T403; PH-FRL 2303-8]

Dow Chemical Co.; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for residues of the herbcide 3,6-dichloro-2-pyridinecarboxylic acid in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire May 1, 1984.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the Federal Register of July 23, 1981 (46 FR 37970), announcing the establishment of tempory tolerances for residues of the herbicide 3,6-dichloro-2-pyridinecarboxylic acid in or on the raw agricultural commodities forage grasses and forage grass hay at 100 parts per million (ppm); cattle (kidney), horse (kidney), sheep (kidney) at 1 ppm; cattle, horse, sheep (meat, fat, and meat byproducts except kidney) at 0.2 ppm. These tolerances were issued in response to pesticide petition PP 1G2450, submitted by Dow Chemical Company, Agricultural Products Department, P.O. Box 1706, Midland, MI 48640.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit (464-EUP-67), which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Dow Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire May 1, 1984. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary with, the provisions of the experimental use

permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C 346(j)))

Dated: February 1, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-3677 Filed 2-15-83; 8:45 am]

BILLING CODE 6560-50-M

[PP 2G2696/T402; PH-FRL 2304-1]

Methamidophos; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the insecticide methamidophos in or on the raw agricultural commodities soybeans and soybean forage. These temporary tolerances were requested by Mobay Chemical Corp.

DATE: These temporary tolerances expire June 1, 1984.

FOR FURTHER INFORMATION CONTACT: William Miller, Product Manager (PM) 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 211 CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2600).

SUPPLEMENTARY INFORMATION: Mobay Chemical Corp., Agricultural Chemicals Division, P.O. Box 4913, Kansas City, MO 64120, has requested, in pesticide petition PP 2G2696 the establishment of temporary tolerances for residues of the insecticide methamidophos, in or on the raw agricultural commodities soybeans and soybean forage at 0.05 part per million (ppm). These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 3125–EUP–182 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Mobay Chemical Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire June 1, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of seciton 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: February 1, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-3678 Filed 2-15-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Final Environmental Impact Statement on the Proposed State-Federal Land Exchange Involving Portions of False Cape State Park and Back Bay National Wildlife Refuge located in Virginia Beach, Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises that the Final Environmental Impact Statement on the proposed State-Federal Land Exchange is available to the public. The statement discusses various land exchange alterntives each of which would provide access through Back Bay National Wildlife Refuge to False Cape State Park.

DATE: No action will be taken before March 15, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Walter J. Quist, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 01258, (617) 965–5100, extension 300..

Individuals wishing a copy of the FEIS should immediately contact the above individual. Copies have been sent to all agencies, organizations and individuals who participated in the scoping process and to those who provided substantive comments during the review process. Copies will be available for examination at: Back Bay National Wildlife Refuge Headquarters, Pembroke Office Park, Virginia Beach, Virginia 23462; Virginia Beach Public Library Operations Building, Room 300, Courthouse Complex, Virginia Beach, Virginia 23456; and Commonwealth of Virginia Department of Conservation and Economic Development, Division of Parks, 1201 Washington Building, Capitol Square, Richmond, Virginia 23219.

SUPPLEMENTARY INFORMATION: This action is designed to provide limited access through the Back Bay National Wildlife Refuge to False Cape State Park. This access would enable the Virginia Division of Parks to establish beach facilities, expand hiking and

bicycling trails and primitive campsites and provide environmental education programs.

The major alternatives, including the Preferred Alternative (Alternative V), that are analyzed and evaluated in the Final EIS are:

1. Alternative I (No Action) would not involve any exchange of lands. Conditions would remain the same as present.

2. Alternative II is based on recommendations made by the Governor of Virginia's False Cape State Park Task Force. It would involve the establishment of an access corridor to the park along existing refuge roads and dikes. In exchange for this corridor the Fish and Wildlife Service would acquire approximately 900 acres of existing park land. This alternative would limit access to the park to some type of mass transit system. Peak visitor use would not exceed 2,000 visitors per day.

3. Alternative III involves the construction of a road through a portion of the wildlife refuge to the False Cape State Park. The method of access would not be limited, however the intensity of public use would be controlled. In exchange for this road corridor, the Fish and Wildlife Service would acquire approximately 1,650 acres of barrier island located at the southern end of False Cape State Park.

4. Alternative IV involves an exchange of land which would result in the State receiving an 80-acre parcel in the northern portion of the refuge in order to establish a beach facility. The State would also recieve a 75-acre strip of beach front extending from the above mentioned tract southward to the park. In exchange the Service would receive approximately 2,600 acres of marsh islands, wooded swamp, shrublands, forest and dunelands extending along Back Bay. This alternative would concentrate beach usage along the northern portion of the beach and allow the remaining portion of the park to be managed on a low intensity level. The Service would manage these additional lands in keeping with present refuge objectives.

5. Alternative V Preferred Alternative—This alternative, which is the preferred alternative of the Department of the Interior, combines many of the elements of Alternative II with the concerns of the Department. Under this alternative the Service would grant to the Commonwealth of Virginia an access corridor along an existing dike through Back Bay National Wildlife Refuge to the park. In exchange, the Commonwealth of Virginia would provide to the Service a tract of land in the southernmost portion of the park. This 900-acre tract, has high wildlife value, would compensate the Service for the access corridor and also for loss of wildlife management capability in the vicinity of the access corridor. This differs from Alternative II in that the park would retain the beach intertidal zone and assume responsibility for North Carolina access south of the refuge.

The U.S. Fish and Wildlife Service has developed these alternatives in cooperation with the Virginia Division of Parks. Public and agency input was also provided at public meetings held on October 4, 1982 in Richmond, Virginia and on October 5, 1982 in Virginia Beach, virginia and through written comments.

The legal authority for an exchange of Federal lands for State lands exists in the National Wildlife Refuge System Administration Act of 1966.

(16 U.S.C. 668dd (a)(3)).

Dated: February 10, 1983.

William C. Ashe,

Acting Regional Director.

Approved: February 10, 1983.

Bruce Blanchard,

Environmental Project Review.

[FR Doc. 83-4089 Filed 2-15-83; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[No. 38999]

ContiCarriers and Terminals, Division of Continental Grain Company—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: ContiCarriers and Terminals, a water contract carrier, has requested exemption from the requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted.

DATES: Comments are due by March 3, 1983. The sought relief will become effective on March 18, 1983, unless, in response to timely filed adverse comments, the Commission issues a decision withdrawing this relief.

ADDRESS: Send an original and, if possible 15 copies of comments to: Room 2139 Interstate Commerce Commission, Washington D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Robin K. Williams, (202) 275-7697
or
Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION:

Section 10702(b) of the Interstate Commerce Act requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff on file with the Commission, and section 10762 sets forth general tariff requirements including contract carrier authority to file only minimum rates. Each of these sections authorizes the Commission to grant exemptions to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101. 49 U.S.C. 10702(b), 10961(b) and 10762(f).

ContiCarriers and Terminals, Division of Continental Grain Company (Conti) holds authority to operate as a water contract carrier, transporting paper, paper articles and woodpulp from Calhoun, TN, to ports and points on seven mid-western rivers and the Gulf Intracoastal Waterway between St. Mark, FL, and Brownsville, TX. Conti has filed a petition requesting exemption under the three exemption provisions mentioned above.

Petitioner argues that the tariff filing requirements are burdensome, incompatible with the simple contract relationship established with its sole contracting shipper, and constitute an unnecessary business expense. Conti asserts that the traffic which it hopes to obtain from its shipper is highly competitive and, therefore, it desires to minimize its costs wherever possible.

After reviewing the applicable statutory language,[1] we see no reason to deny this water contract carrier the savings to be realized from a tariff filing exemption. Such action will enable Conti to be more flexible and competitive in its operations, resulting in economic benefits to the shipping public. It appears that exemption of this carrier from the requirement that it file a tariff covering its existing contract operations is consistent with the public interest and the transportation policy of 49 U.S.C. 10101. The applicable statutes apply to both motor contract carriers[2] and water

[1] A "contract carrier" is defined at 49 U.S.C. 10102 as a motor contract carrier and a water contract carrier. 49 U.S.C. 10702(b), 10761(b), and 10762(f) provide generally that a contract carrier may be granted relief from the tariff filing requirements when relief is consistent with the public interest and the transportation policy of section 10101. These sections provide further that the Commission may begin a proceeding on application of a contract carrier or group of contract carriers and on its own initiative for a water contract carrier or group of water contract cariers.

[2] The Commission has instituted a proceeding to investigate the exemption of motor contract carriers on an industry wide basis in Ex Parte No. MC-165, *Exemption of Motor Contract Carriers from Tariff*

contract carriers; therefore the relief provisionally granted here is consistent with previous contract carrier tariff exemption decisions. *See e.g.* No. 38749. *UTF Carriers, Inc., Petition for Exemption from Tariff Filing Requirements under 49 U.S.C. 10761(b) (not printed)*, decided May 28, 1982, and No. 38838, *Three Way Corporation, Petition for Exemption from Tariff Filing Requirements* (not printed), decided June 25, 1982.

We provisionally grant the sought relief. This sought relief will become effective unless the Commission issues a further decision modifying or withdrawing the relief in response to adverse comments that may be filed.

This decision does not appear to have a significant effect on either the quality of the human environment or conservation of energy resources. However, comments may be submitted on these issues.

(49 U.S.C. 10702(b), 10761(b), and 10762(f).)

Decided: February 9, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Simmons. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3985 Filed 2-15-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway, (202) 275-7278
or
Tom Smerdon, (202) 275-7277

Filing Requirements, 47 FR 57303 (December 23, 1982).

SUPPLEMENTARY INFORMATION:

The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
768	Missouri Pacific Railroad Co., ICC-MP-C-0243, (Roughnce)	2	2-8-83
772	Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC-MILW-C-0338, (Temporary storage of grain)	2	2-8-83
775	Southern Pacific Transportation Co., ICC-SP-C-0377, (Soda ash)	2	2-8-83
778	Burlington Northern Railroad Co., ICC-BN-C-0072, Supplement 3, (Soda ash)	2	2-8-83
780	Texas Mexican Railway Co., ICC-TM-C-13, Supplement 1, (Asbestos fiber, asbestos shorts, asbestos waste)	2	2-8-83
782	Seaboard System Railroad, Inc., ICC-SBD-C-0046, Suplement 1, (LN Sence) (Scrap iron)	2	2-8-83
783	Soo Line Railroad Co., ICC-SOO-C-0164, (Woodpulp & papar)	3	2-8-83
784	Richard Ogilvie, Trustee for Property of Chicago, Miwaukee, st. Paul and Pacific Railroad Co., ICC-C-0307, (Copper)	1	2-8-83
785	Southern Pacific Transportation Co., ICC-SP-C-0373, (Corn, grain sorghums, soybeans, wheat)	2	2-8-83
786	Southern Pacific Transportation Co., ICC-SP-C-0383, (Cotton, linters)	3	2-8-83
787	Burlington Northern Railroad co., ICC-BN-C-0024-A, (Soda ash)	1	2-8-83
788	Southern Pacific Transportion Co., ICC-SP-C-0384, (Sulphate of potash)	2	2-8-83
789	Southern Pacific Transportion Co., ICC-SP-C-0385, (Soda ash)	3	2-8-83
790	Union Pacific Railroad Co., ICC-UP-C-0255, (Salt)	3	2-8-83
791	Southern Pacific Transportion Co., ICC-SP-C-0368, (Scrap iron or steel)	1	2-8-83
792	Consolidated Rail Corp., ICC-CR-C-0081, Suplement 2(Coiled rods)	2	2-8-83
793	Union Pacific Railroad Co., ICC-UP-C-0256, (Canned goods)	3	2-8-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3970 Filed 2-15-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of Legal Policy

Federal Justice Research Program; Withdrawal of Solicitation

The Federal Justice Research Program withdraws its notice of solicitation on the Effects of the Speedy Trial Act on Prosecutorial and Investigative Activities as announced in 47 FR 58069, December 29, 1982. This solicitation may be reissued as a request for proposals in the near future.

Dated: February 10, 1983.
Approved:

Jonathan C. Rose,

Assistant Attorney General, Office of Legal Policy.

[FR Doc. 83-4088 Filed 2-15-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular Public Debt Series—No. 5-83]

Treasury Notes of February 28, 1985; Series R-1985

February 10, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,500,000,000 of United States securities, designated Treasury Notes of February 28, 1985, Series R-1985 (CUSIP No. 912827 PE 6). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

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2. Description of Securities

2.1. The securites will be dated February 28, 1983, and will bear interest from that date, payable on a semiannual basis on August 31, 1983, February 29, 1984, August 31, 1984, and February 28, 1985. They will mature February 28, 1985, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, February 16, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 15, 1983, and received no later than Monday, February 28, 1983.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yield to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, February 28, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution ot which the tender was submitted, which must be received from institutional investors no later than Thursday, February 24, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed

timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for the make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-4167 Filed 2-15-83; 10:25 am]

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Sunshine Act Meetings

Federal Register
Vol. 48, No. 33
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This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL RESERVE SYSTEM

Board of Governors.

TIME AND DATE: 10:00 a.m., Tuesday, February 22, 1983.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 14, 1983.

James McAfee,

Associate Secretary of the Board.

[S–218–83 Filed 2–14–83; 2:17 pm]

BILLING CODE 2610–01–M

federal register

Wednesday
February 16, 1983

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Federal Lands Program; Final Rules

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701, 740, 741, 742, 743, 744, 745 and 746

Federal Lands Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rules.

SUMMARY: The Office of Surface Mining (OSM) is amending its rules governing the Federal lands program which set forth the requirements for surface coal mining and reclamation operations on Federal lands. The final rules will more clearly delineate the roles of the Federal government and the States in the regulation of surface coal mining and reclamation operations on Federal lands. Under the final rules, States will be able to assume greater responsibility for administering the requirements of the Surface Mining Control and Reclamation Act of 1977 on Federal lands. The final rules provide a revised process for review and approval of mining plans by the Secretary, and require mining plan approval only where leased Federal coal is involved.

EFFECTIVE DATE: March 18, 1983.

FOR FURTHER INFORMATION CONTACT: H. Leonard Richeson, Federal Lands Specialist, Branch of Regulatory Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion and Disposition of Comments and Rules Adopted
III. Procedural Matters

I. Background

Section 523(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201, *et seq.*, requires the Secretary to promulgate and implement a Federal lands program applicable to all surface coal mining and reclamation operations taking place pursuant to Federal law on Federal lands. Section 523(a) also provides that the Federal lands program must (1) incorporate all of the requirements of the Act, (2) incorporate, at a minimum, the requirements of a State program in a State with a State program approved pursuant to section 503 of the Act, and (3) consider the diverse physical, climatological and other unique characteristics of the Federal lands in question. Under section 523(c) of the Act, a State with an approved State program may enter into a cooperative agreement with the Secretary under which the State would assume responsibility for regulation of surface coal mining and reclamation operations on Federal lands within the State. Sections 523(a) and 523(c) of the Act provide, however, that the Secretary may not delegate to the State, among other things, his responsibilities to approve mining plans on Federal lands and to designate Federal lands unsuitable for surface coal mining pursuant to section 522 of the Act.

The Secretary implemented the initial phase of the Federal lands program by promulgating 30 CFR Chapter VII, Subchapter B, Parts 710–725, (42 FR 6277, December 13, 1977) and by adopting amendments to 30 CFR Part 211 (43 FR 37181, August 22, 1978) to incorporate the requirements of sections 502 and 523 of the Act. On March 13, 1979, the Secretary promulgated the permanent phase of the Federal lands program, 30 CFR Chapter VII, Subchapter D. 44 FR 15332–15341. On December 31, 1979, in response to a petition by the State of Montana, OSM postponed the effective date of the permanent phase of the Federal lands program until the date of approval of a State program or implementation of a Federal program for a State. 44 FR 7740.

Pursuant to Executive Order 12291, every Federal agency is required, within applicable statutory constraints, to choose regulatory goals that maximize benefits to society and to select the most efficient and effective means to achieve these goals. In addition, one of the Secretary's goals is to eliminate rules which are excessive, burdensome or counterproductive. To accomplish this regulatory reform and to assure that the Executive Order is carried out with respect to regulations governing surface coal mining and reclamation operations on Federal lands, OSM published on June 9, 1982, proposed rules to amend 30 CFR Chapter VII, Subchapter D, the Federal Lands Program. 47 FR 25092.

OSM has sought to provide early and meaningful public participation during its regulatory review. To this end, OSM has met with and/or received comments and recommendations from the public, representatives of coal mining States that have or will have surface coal mining on Federal lands, industry and environmental organizations. Comments were initially invited for 30 days ending on July 9, 1982. The comment period was extended for 14 additional days ending on July 23, 1982, to provide more time for commenters who indicated that additional time was needed to adequately review and comment on the proposed rules. 47 FR 28706 (July 1, 1982). The comment period was reopened on August 2, 1982, for 14 days ending on August 16, 1982, because several commenters requested that they be given an opportunity to review and comment on those provisions of the proposed rules that interrelated with the final revised 30 CFR Part 211 rules published by the Department on July 30, 1982. *See* 47 FR 33714.

All substantive comments were carefully considered in the rulemaking process. These comments are addressed in the following preamble. Two hearings were scheduled to receive testimony on the proposed rules. However, as provided in the proposed rules, both were canceled because no persons indicated an intention to testify at either public hearing by 5 days before the appropriate hearing date.

All comments received as well as summaries of meetings held are available for inspection in the Administrative Record (R&I—04), Room 5315, 1100 L Street, NW., Washington, D.C.

II. Discussion and Disposition of Comments and Rules Adopted

A. General comments

In OSM's proposed rules, several conceptual changes to the Federal lands program were discussed. One change provided that upon either approval of a State program or implementation of a Federal program for a State, certain requirements of that program would become applicable to mining on Federal lands within that State.

A second change concerned the review and approval of SMCRA permits. States with cooperative agreements approved pursuant to section 523(c) of the Act would independently review and issue SMCRA permits; the previous regulations required concurrent review and approval of permits by OSM and the State. "Permit" would be redefined, for Federal lands, to mean the permit approved by the regulatory authority instead of the Secretary to reflect this change. This responds to one commenter who opposed OSM's revision of the definition of "permit" under revised § 701.5. This is further discussed below under "Permit Application and Mining Plan Review and Approval."

A third change concerned the definition of mining plan. "Mining plan" would mean the plan for mining leased Federal coal required by the Mineral Leasing Act (MLA). The current regulations define "mining plan" as the plan complying with the requirements of SMCRA and other applicable laws and regulations, as well as the MLA.

Finally, the requirement for a mining plan would apply only to those surface coal mining and reclamation operations on lands containing leased Federal coal, since the mining plan is an exclusive requirement of the Mineral Leasing Act, which applies only to minerals owned and leased by the United States.

OSM received numerous comments on these major conceptual changes and on the corresponding sections of the proposed rules. Comments on these conceptual changes will be addressed before discussion of comments on other, more specific changes in the rules.

1. *Applicability of State and Federal Programs on Federal Lands.* As stated in the proposed rules, § 740.11(a) makes each approved State program or Federal program for a State applicable to (1) coal exploration operations on lands not subject to 30 CFR Part 211 and (2) surface coal mining and reclamation operations on Federal lands within the State, except for specific provisions in the State or Federal program that are inappropriate for Federal lands.

One commenter argued that the statement in the preamble to the proposed rules that these regulations would "foster uniform regulation of mining on Federal lands within a State" is "facially inconsistent" with an earlier preamble statement that "Congress intended that the Federal lands program would not be uniform for all Federal lands, but would instead be tailored to the specific conditions on different Federal lands within a State." The commenter believed that the Federal lands program should allow for variations among conditions on Federal lands within a given State.

OSM's statement that these regulations would "foster uniform regulation of mining on Federal lands" was intended only to point out that the proposed revisions to Subchapter D would generally apply the standards and procedural requirements of the applicable regulatory program to surface coal mining and reclamation operations on both Federal and non-Federal lands within that State. To the extent that a particular regulatory program does provide different performance standards or other requirements for different geographical areas within a State, the revised Federal lands program ensures that such provisions are made applicable both on and off non-Federal lands within the State. The "uniformity" to which the preamble referred was intended to mean that Federal and non-Federal lands within a given State ought not be subject to different standards simply as a consequence of their differing ownership.

OSM stated in the preamble to the proposed rules that the Federal lands program currently required operators to comply with the requirements of 30 CFR Chapter VII, rather than with the applicable State or Federal program. One commenter stated that since the Federal lands program is required by section 523(a) of the Act to include the requirements of the approved State program, this statement was confusing and inconsistent with the law, as it implied that operators had to comply only with 30 CFR Chapter VII and not the approved State program.

OSM did not intend to create the impression that, under previous regulations, there were circumstances in which appropriate State program requirements would not apply on Federal lands; in fact, previous 30 CFR Chapter VII provided for inclusion of State program requirements in the Federal lands program through cooperative agreements. *See* Previous 30 CFR 745.12(a). Absent a cooperative agreement, previous regulations required operators to comply with the requirements of 30 CFR Subchapter K (OSM's permanent program performance standards), rather than with the substantive and procedural requirements of the State regulatory program. *See* previous 30 CFR 744.12(a). In contrast, the revised rules provide that standards of the applicable State or Federal program apply whether or not a cooperative agreement is in place. *See* revised 30 CFR 740.19(a).

2. *Permit Application and Mining Plan Review and Approval.* Several commenters questioned the basis for OSM's proposed definitions of "mining plan" and "permit application package" and for the proposed changes in the procedures for review and approval of permit applications and mining plans. OSM proposed to separate permit approval from mining plan approval by providing that States with cooperative agreements would independently review and approve SMCRA permits, while the Secretary would retain responsibility for approval of mining plans as required under the Mineral Leasing Act and section 523(c) of SMCRA. *See* 47 FR 25092 (June 9, 1982).

OSM believes that separating the requirement for approval of permits from that for approval of mining plans is consistent with the Mineral Leasing Act, as well as with the intent of Congress under SMCRA that "the primary governmental responsibility for [regulating] surface mining and reclamation operations subject to this Act should rest with the States." SMCRA section 101(f).

Previous 30 CFR 740.5 defined "mining plan" to include, among other things, both the mining and reclamation plan required under the Mineral Leasing Act and the permit application required under the Act. *See also* previous 30 CFR 741.12. Since section 523(c) of the Act prohibits the Secretary from delegating his responsibility to approve mining plans, and since previous OSM regulations defined mining plans to include permit applications, the previous regulations tended to promote duplicative actions between the State regulatory authority and OSM. This duplication is inconsistent with the Act's intent that the primary governmental responsibility rest with the States.

The principal change accomplished by the revised regulations is that the term "mining plan" has been redefined to exclude the SMCRA permit application in order to allow States with section 523(c) cooperative agreements to assume a largely independent role in the review and approval of permit applications filed under sections 506, 507 and 508 of the Act. Accordingly, States will have clear authorization under cooperative agreements to assume the responsibility for issuing permits under the Act. *See* revised § 740.4(c)(1).

The revised regulations define a new term, "permit application package," that describes the materials that an operator seeking to conduct surface coal mining and reclamation operations on Federal land must file. As defined in revised section 740.5, the permit application package includes all information required to be filed by SMCRA (including the SMCRA permit application), 30 CFR Chapter VII, Subchapter D, the applicable State or Federal program, any applicable cooperative agreement, and all other applicable laws and regulations, including, with respect to leased Federal coal, the Mineral Leasing Act and its implementing regulations.

Where there is leased Federal coal, the operator will be required to file a resource recovery and protection plan (RRPP) within three years of leasing, even if the operator is not yet prepared to file a complete permit application package. *See* discussion of "Resource Recovery and Protection Plans" in the final revisions to 30 CFR Part 211, 47 FR 33154 (July 30, 1982). As noted in the discussion of those rules, where the operator is prepared to submit the complete permit application package by the three-year deadline, the permit application package will be submitted to the regulatory authority. Otherwise, an RRPP prepared only to meet the three-

year deadline will be submitted to the Bureau of Land Management (BLM), while the complete permit application package, including any necessary supplements to the RRPP, will be filed with the regulatory authority when ready.

Prior to approval of a cooperative agreement, the permit application package will be submitted to OSM, since OSM is the regulatory authority on Federal lands in such circumstances. OSM will have lead responsibility for reviewing the package, consulting with other Federal agencies with respect to their responsibilities and ensuring compliance with applicable Federal laws, regulations and orders not otherwise covered under the SMCRA review. BLM will review the RRPP and provide OSM with its recommendation that the Secretary approve, conditionally approve or disapprove the RRPP. OSM will prepare a decision document for the Secretary that recommends approval, conditional approval or disapproval of the mining plan.

Where a cooperative agreement is in place, the permit application package will be submitted to OSM and the State. The State will then assume the lead role in the review of the package, which (at the State's option) may or may not include ensuring consultation with involved Federal agencies, including OSM. Where the State has elected not to coordinate the required consultation among Federal agencies, OSM would ensure that affected Federal agencies were consulted and necessary comments or concurrences received. In particular, the State will be responsible for review and approval of the SMCRA permit application. OSM will continue to be responsible for ensuring compliance with other applicable Federal laws, regulations and orders not otherwise covered under the SMCRA review. Following review of the permit application package and receipt of, among other things, the findings and recommendations of the State on the permit application and of BLM on the RRPP, OSM will prepare a decision document to assist the Secretary in approving the mining plan. The State could issue the SMCRA permit following completion of its review of the permit application, although actual commencement of mining would have to await Secretarial approval of the mining plan.

Where there is no leased Federal coal and where OSM is the regulatory authority, the operator will still submit a permit application package. The package need not, however, include RRPP materials not otherwise required under SMCRA, because the Mineral Leasing Act does not apply in the absence of leased Federal coal. OSM will still have the lead responsibility for review where there is no cooperative agreement. Since no Secretarial approval of a mining plan will be involved, mining could commence once consultation had been completed with the Federal land management agency and the permit application had been reviewed and approved by OSM or, as applicable, the State.

One commenter stated that the permit application package concept confused matters by requiring the combination in one document of logically and legally separate documents, primarily the RRPP required by the Mineral Leasing Act and the permit application required by SMCRA. The commenter suggested deletion of the term "permit application package."

OSM has declined to accept this suggestion because it is necessary to define for potential operators the entire package of materials that a person desiring to mine coal on Federal lands must submit. This definition does not confuse either the components of the permit application package or the discrete review, concurrence and approval responsibilities of, among others, States, BLM, OSM and the Secretary. It merely defines what a potential operator must submit. The SMCRA permit application and the mining plan, as described earlier, will be approved or disapproved by the regulatory authority and the Secretary, respectively.

Another commenter suggested that mining plans should be required for any proposal to mine coal on Federal lands, not just for proposals to mine leased Federal coal. This commenter averred that OSM's position is inconsistent with section 523(a) of SMCRA, which requires the Secretary to implement SMCRA's requirements on Federal lands, and with OSM's position that certain non-delegable Secretarial responsibilities (such as for designating Federal lands unsuitable for mining) will remain whether or not leased Federal coal is present.

OSM disagrees with these comments. As discussed at length in the preamble to the proposed rules (47 FR 25097, June 9, 1982), the reference to "mining plan" in section 523(c) of SMCRA is a reference to the plan for mining leased Federal coal under the Mineral Leasing Act. There is no basis for requiring mining plans for proposals to mine other than leased Federal coal. OSM's position is fully consistent with SMCRA section 523(a), for that section cannot be read to expand the applicability of the Mineral Leasing Act mining plan requirement. 30 U.S.C. 1292(a)(8). Nor does OSM's position conflict with the express requirement of the Act that the Secretary retain responsibility for designating Federal lands unsuitable, since that responsibility, unlike his mining plan approval responsibility, extends to all Federal lands.

Several commenters requested that OSM clarify that the mining plan and the RRPP are congruent. Some of these commenters asserted that the mining plan referred to in section 523(c) of SMCRA pertains only to the production or operation requirements of the Mineral Leasing Act and not as well to the reclamation requirements of section 7(c) of the Mineral Leasing Act.

OSM has rejected these comments. First, the mining plan referred to in section 523(c) is composed of, among other things, the "operation and reclamation plan" required by section 7(c) of the Mineral Leasing Act. *See* preamble to final revised 30 CFR Part 211 (47 FR 33166, July 30, 1982) and preamble to the proposed revised Federal lands rules (47 FR 25097, June 9, 1982). The mining plan, therefore, does have a reclamation aspect. OSM believes that this aspect of the Secretary's mining plan approval is satisfied through BLM's review of the reclamation schedule required in the RRPP, and as supplemented by OSM and Federal land management agency actions. *See* preamble to proposed revised Federal lands rules (47 FR 25097, June 9, 1982). Mining plan approval is thus not precisely equivalent to approval of the RRPP.

One person commented that an operator who is ready to submit both the RRPP and the permit application package should not be required to submit these separately if both are ready by three years after leasing.

OSM agrees. The permit application package is the entire submisson by an operator desiring to mine on Federal lands. If the full permit application package is ready by the three-year deadline, then that package, which will include the RRPP, is all that the operator submits. Only if the full permit application package is not ready by the three-year deadline would separate submissions be made. The operator, in that case, would submit the RRPP by the three-year deadline and submit the permit application package, supplementing the RRPP as necessary, when the complete package is ready.

Other commenters recommended that the final rules not require submission of

permit application packages to both the State regulatory authority and OSM when a cooperative agreement is in place, because the State, and not OSM, should review SMCRA permit applications. These commenters also urged that the Secretary's review of permit applications in such situations be limited to receiving the State's findings on permit applications.

These comments are based on a misconception of how permit application packages will be reviewed when cooperative agreements are in place. OSM will receive copies of permit application packages, which include permit applications, not to review the applications for compliance with SMCRA, but to facilitate OSM's role in compliance with applicable laws not otherwise covered in the SMCRA review. The State will have the sole responsibility for reviewing permit applications for SMCRA compliance. In addition, both the proposed and final rules provide that the Secretary's decision on mining plan approval will be based on, among other things, the State's findings on the permit application. *See* revised 30 CFR 746.13(f).

Several commenters stated that OSM should not sever permit applications from mining plans, because mining plan approvals must be consistent with approved permits.

OSM believes that the revised regulations provide for consistency between the approved SMCRA permit and the approved mining plan. Because mining may not commence prior to Secretarial approval of the mining plan, even if the SMCRA permit has already been issued, the Secretary will have the opportunity, prior to any mining being conducted, to ensure that the mining plan and permit are consistent. Where there are inconsistencies, the Secretary reserves the right to require the operator to comply with any additional conditions or requirements of the approved mining plan.

These commenters also believe that the Secretary may not discharge the reclamation aspect of his mining plan approval responsibility as proposed (*See* 47 FR 25097, June 9, 1982), and must instead rely on OSM review of each permit application for compliance with SMCRA.

OSM disagrees with these commenters' assertions. Neither section 201(b) nor section 523(c) of SMCRA requires this OSM role. Section 201(b) is silent on whether or not OSM must perform particular SMCRA functions. Section 523(c) was discussed earlier. OSM also is certain that the documentation of the SMCRA review and the various oversight processes will be more than adequate to apprise the Secretary of pertinent reclamation information.

Several commenters averred that, when a cooperative agreement is in force, it is State approval of the permit, rather than Secretarial approval of the mining plan, that authorizes mining. These commenters therefore concluded that in such circumstances there is not a Federal action within the meaning of NEPA.

OSM has not accepted the position of these commenters that there is no continuing Federal NEPA responsibility. However, OSM will study the issue of NEPA compliance within the context of SMCRA permit application review and MLA mining plan review. OSM will publish further information on NEPA compliance procedures following this study.

B. Specific Revisions

All references in the previous rules to the terms "Regional Director" and "Regional Office" have been replaced in the revised rules with references to "OSM," to conform to the September 13, 1981, reorganization of OSM which abolished OSM's regional structure. All references to "Director" used to describe the head of OSM and to other Federal agencies have been replaced with references to "OSM" or the specific name of the Federal agency, as appropriate, for simplicity.

Part 700—General

Section 700.1 Scope.

Previous § 700.1(d) provided a general description of the applicability of Subchapter D to Federal lands and stated that Subchapter D incorporates by reference the requirements of various other subchapters of Chapter VII, including the permit requirements of Subchapter G, the performance bond and insurance requirements of Subchapter J, the performance standards of Subchapter K, the inspection and enforcement requirements of Subchapter L and the blaster certification requirements of Subchapter M. With the exception of Subchapter L, reference to other subchapters that are incorporated by reference into Subchapter D has been removed, as proposed, and replaced with the phrase "applicable regulatory program." Thus, the rules explicitly incorporate into the Federal lands program the requirements of a State program or Federal program implemented for a State. Section 700.1 will continue to state that Subchapter D incorporates the requirements of Subchapter L, to make clear that the inspection, enforcement and civil penalty requirements of Subchapter L continue to apply where OSM is the regulatory authority on Federal lands that are subject to the requirements of Subchapter D. Where the State is the regulatory authority under a cooperative agreement, the State will apply its State program requirements to inspection, enforcement and civil penalties on lands subject to the requirements of Subchapter D, while OSM will apply the requirements of Subchapter L in its oversight capacity. *See* revised § 740.17.

Section 700.5 Definitions.

The definition of the term "regulatory program" has been revised to include, under certain circumstances, the requirements of subchapters A, F, G, J, K, L, M, and P of Chapter VII, in addition to a State or Federal program. The requirements of subchapters A, F, G, J, K, L, M, and P of Chapter VII become the regulatory program where no State program under section 503 of SMCRA or Federal program under section 504 of SMCRA has been approved and where there is coal exploration or surface coal mining and reclamation operations on Federal lands in a State. Defining "regulatory program" in this manner ensures that the permanent program requirements of the Act apply on federal lands in those States that do not have approved State or Federal programs that could be used to implement these requirements.

Section 700.11 Applicability.

Previous § 700.11(g) provided that coal exploration on Federal lands outside the permit area would not be governed by Chapter VII. this provision has been revised by replacing the phrase "Federal lands outside a permit area" with the phrase "Federal lands that are subject to the requirements of 30 CFR Part 211." Thus, revised § 700.11(g) eliminates any overlap between the coal exploration requirements of Chapter VII and 30 CFR Part 211 by excluding from the requirements of Chapter VII, regulation of exploration operations on Federal lands that are subject to 30 CFR Part 211. Exploration operations which are subject to the requirements of Chapter VII include (1) lands containing leased Federal coal within a permit area, but only after the commencement of mining operations, (2) lands where the surface is owned by the United States and the coal is owned privately or by a State, or (3) lands owned by the Tennessee Valley Authority. Limiting the applicability of Chapter VII to coal exploration operations not subject to 30 CFR Part 211 will ensure that no

duplication occurs between the requirements of Chapter VII and 30 CFR Part 211, while also ensuring that all exploration on Federal lands is subject to one of these regulatory schemes. The relationship between these revised rules and the regulations at 30 CFR Part 211 concerning exploration is further discussed below. *See* discussion of revised 30 CFR 740.11.

One commenter objected to proposed 30 CFR 700.11(g), which limits the applicability of 30 CFR Chapter VII, with respect to coal exploration, to lands not subject to 30 CFR Part 211.

OSM believes this revision is necessary for several reasons. Section 512(e) of the Act provides that section 4 of the Federal Coal Leasing Amendments Act of 1975 (FCLAA) shall govern coal exploration operations on Federal lands. Section 4 of the FCLAA, however, does not apply to lands without Federal coal. In recognition that Congress intended that Federal standards would apply to coal exploration on Federal lands not subject to section 4 of the FCLAA, the previous regulations applied OSM's exploration rules to exploration taking place within a permit area on Federal lands. *See* discussion at 44 FR 14972–14973 (March 13, 1979). The applicability of the revised 30 CFR Part 211 exploration standards differs from that of old 30 CFR Part 211 in that it is extended to exploration within an approved permit area on leased Federal coal, but only prior to commencement of mining operations. See 47 FR 33154 (July 30, 1982). Thus, with respect to leased lands, revised 30 CFR 700.11(g) differs in effect from the previous rule by commencing the applicability of 30 CFR Chapter VII to coal exploration with actual commencement of surface coal mining operations, rather than with approval of a permit. Revised § 700.11(g) will also apply 30 CFR Chapter VII to exploration on Federal lands that do not have Federal coal whether or not a permit has been issued. Previous 30 CFR 700.11(g) provided that the SMCRA exploration standards do not apply until the SMCRA permit is issued even on lands with no leased Federal coal. Exploration on such Federal lands prior to permit approval was therefore apparently not subject to the standards of either SMCRA or section 4 of the FCLAA. The revised rule eliminates this apparent gap by providing for a dovetailing of the applicability of the 30 CFR Chapter VII and 30 CFR Part 211 exploration standards.

This commenter was also concerned with the standards that would apply to exploration under 30 CFR Part 211.

Where BLM has the primary responsibility for exploration on Federal lands, it will apply the applicable exploration provisions of OSM's permanent program (30 CFR Part 815) or, where it is in effect, the approved State or Federal program. Thus, the requirements of section 512 of SMCRA will continue to be applicable either under 30 CFR Part 211 or under 30 CFR Chapter VII.

This commenter also found no statutory basis for the Secretary to exempt lands owned by the United States and entrusted to or managed by the Tennessee Valley Authority (TVA lands) from the requirements of Chapter VII, stating that section 701(4) of the Act exempts TVA lands only from section 714 (surface owner protection) and section 715 (Federal lessee protection) of the Act.

OSM agrees with this comment. Revised § 700.11(g) will not have the effect of exempting TVA lands from Chapter VII. Since TVA lands are not covered by 30 CFR Part 211, surface coal mining and reclamation operations on such Federal lands must be regulated by 30 CFR Chapter VII (subject, of course, to the exemptions provided under section 701(4) of the Act).

Part 701—Permanent Regulatory Program

Part 701 of Subchapter A has been revised to conform to revisions to Subchapter D as follows:

Section 701.5 Definitions.

The second sentence of the previous definition of the term "permit" provided that, for purposes of the Federal lands program, permit meant the document issued authorizing surface coal mining and reclamation operations on Federal lands after approval of a mining plan by the Secretary and, where a cooperative agreement has been approved, by the State regulatory authority. As proposed, the revised definition of permit provided that a permit may be issued by the State regulatory authority under a cooperative agreement or OSM where there is no cooperative agreement.

One commenter opposed redefining the permit in this manner, stating that allowing States to issue permits is inconsistent with the intent and clear language of SMCRA.

This comment was rejected for the reasons discussed above under "General Comments" and "Permit Application and Mining Plan Review and Approval."

Section 701.11 Applicability.

The citation in previous § 701.11(b) to 30 CFR Part 741.11(c), with respect to conditions which enable operations on Federal lands to continue past eight months from the date of approval of a State program or implementation of a Federal program has been changed, as proposed, to 30 CFR 740.13(a)(3) to reflect the corresponding revisions in Subchapter D.

Part 740—General Requirements for Surface Coal Mining and Reclamation Operations on Federal Lands

As proposed, Subchapter D has been restructured as follows: (a) Part 740 contains the permitting, bonding, inspection, enforcement, civil penalty and performance standard provisions of previous Parts 741, 742, 743 and 744, respectively. Part 740 incorporates and supplements the permitting, bonding, inspection, enforcement, civil penalty and performance standard requirements of the applicable State or Federal program. The inspection, enforcement and civil penalty provisions in Part 740 apply the requirements of 30 CFR Parts 842, 843 and 845 to inspection, enforcement, civil penalty and related activities that are conducted by OSM and the Department with respect to mining on Federal lands; (b) Part 745 provides for State-Federal cooperative agreements under which a State may assume responsibility for regulation of surface coal mining and reclamation operations on all Federal lands within the State; and (c) new Part 746 sets forth the requirements for review and approval of mining plans for surface coal mining and reclamation operations on lands containing leased Federal coal.

Subchapter D is being published here in its entirety for continuity and the convenience of the reader.

Section 740.1 Scope and purpose.

Previous section 740.1 has been revised, as proposed, to eliminate the unnecessary listing in current 30 CFR 740.1 of the areas covered by Subchapter D and to instead provide a more general introductory statement specifying that Subchapter D governs surface coal mining and reclamation operations on Federal lands.

Previous § 740.2 has been removed, as proposed.

Section 740.4 Responsibilities.

As proposed, revised § 740.4 describes the responsibilities of the Secretary, various Federal agencies and the States for regulating surface coal mining and reclamation operations on Federal lands under SMCRA, the Mineral Leasing Act and other applicable Federal laws, regulations and executive orders. Revised § 740.4 describes in particular

those responsibilities that may be delegated to a State under a cooperative agreement and those responsibilities that may not be so delegated.

Revised § 740.4(a) incorporates with some revision the requirements of previous 30 CFR 740.4(a) through (c). The only significant change is incorporated in revised § 740.4(a)(1), which corresponds to previous 30 CFR 740.4(a) and requires Secretarial approval of mining plans only for leased Federal coal. Revised § 740.5 defines mining plan accordingly. These depart from the previous regulations, which required Secretarial approval of mining plans without regard to whether or not the lands contained leased Federal coal. *See* previous 30 CFR 740.4(a) and 745.13(i).

One commenter opposed the revision of § 740.4(a) to require Secretarial approval of mining plans only for leased Federal coal because the commenter saw no basis in the Act for so limiting the Secretary's authority on Federal lands. The same commenter interpreted OSM's use of the term "leased Federal coal" under revised § 740.4(a) as a change in the definition of Federal lands in section 701(4) of the Act.

As stated in the proposed rules, OSM believes its interpretation of section 523 of the Act is consistent with the requirements of both the Act and the Mineral Leasing Act. Section 523(c) of the Act provides that "nothing in this subsection shall be construed as authorizing the Secretary to delegate to the States his duty to approve mining plans on Federal lands * * *" The context in which this provision was drafted and its relevant history indicate that this is a reference to the requirements of the Mineral Leasing Act, which, with respect to coal, applies only to Federally-owned coal. *See* discussion above of revised definition of "mining plan" under "Permit Application and Mining Plan Review and Approval." Secretarial approval of mining plans is required only in circumstances involving the production of Federal coal. Accordingly, mining plan approval will not be required for mining private coal, since such mining operations are not subject to the mining plan or other requirements of the Mineral Leasing Act or 30 CFR Part 211. The Secretary will retain, however, certain other non-delegable responsibilities with respect to mining on Federal lands whether or not they contain leased Federal coal. For instance, the Secretary will retain his responsibility to designate Federal lands as unsuitable for mining or to terminate such designations of all Federal lands.

Use of the phrase "leased Federal coal" to limit the requirement for mining plan approval does not alter in language or effect the definition of "Federal lands" in section 701(4) of the Act or 30 CFR 700.5. The phrase "leased Federal coal" simply clarifies that the Secretary's mining plan approval responsibility extends only to lands containing leased Federal coal. To avoid further misinterpretation, however, OSM has prefaced the phrase "leased Federal coal" with the phrase "lands containing" in revised 30 CFR 740.4(a)(1).

OSM has included in the final rule two new provisions under revised § 740.4(a) and corresponding provisions under revised § 745.13. The first set of changes adds new §§ 740.4(a)(4) and 745.13(o) which specify that the Secretary is responsible for determining valid existing rights for surface coal mining and reclamation operations on Federal lands within the boundaries of any areas specified under section 522(e)(1) or (2) of the Act. These areas include (1) lands within the boundaries of units of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act and National Recreation Areas designated by Act of Congress (section 522(e)(1) of the Act), and (2) lands within the boundaries of any national forest (section 522(e)(2) of the Act). Valid existing rights determinations on such areas are of such paramount national importance that this responsibility appropriately should not be delegated. Thus, the inclusion of new § 740.4(a)(4) reflects the Secretary's continuing commitment to carry-out the Congressional mandate to protect these areas and to ensure that there will be no mining on Federal lands in national parks.

The second set of changes adds new § 740.4(a)(5) and 745.13(p). These provisions recognize that under section 522(e)(2) of the Act, it is the Secretary's responsibility to determine that there are no significant recreational, timber, economic, or other values which may be incompatible with surface coal mining operations on any Federal lands within the boundaries of any national forest. Therefore, these determinations must be reserved to the Secretary and may not be delegated to States.

In this regard, OSM notes that determinations or valid existing rights and of compatibility which are reserved to the Secretary should be performed independently of the permit review process. Under these final rules, the permit review process may be delegated to States under cooperative agreements. OSM expects in the near future to propose further changes to its Federal lands program to specify the procedures the Secretary will use in making such determinations on Federal lands.

As proposed, revised § 740.4(b) specified those responsibilities that must remain with OSM even under a cooperative agreement. Revised § 740.4(b)(1), which had no counterpart in the previous regulations, reserves to OSM responsibility for preparing and submitting to the Secretary a decision document that recommends approval, conditional approval or disapproval of all mining plans or mining plan modifications. OSM will be responsible for this function even in States with cooperative agreements.

Proposed § 740.4(b)(2) would have required OSM to ensure compliance with applicable Federal laws and regulations other than SMCRA and its implementing regulations.

Several commenters stated that since a cooperative agreement delegates to the State regulatory authority permit application approval authority on Federal lands, and since permit application approval and not mining plan approval authorizes disturbance of lands by a surface mining operation, there is no Secretarial action that would trigger NEPA compliance requirements. Even though the Secretary must comply with other Federal laws, these commenters continued, the Secretary plays a role only by assuring himself that these "other Federal laws" have not been violated. The commenters believe that such assurance can be better accomplished by a scheme other than that of the proposed Federal lands program, which requires, a decision document for Secretarial approval of the mining plan. The commenters would have either the State, OSM or other affected Federal agencies provide the Secretary with information on compliance with other Federal laws. The Secretary would notify the State when he is satisfied that these other applicable Federal laws for which he has responsibility are not violated. The State would then issue the permit. Therefore, the commenters reasoned, the final action allowing mining would be the State's permit issuance, not the Secretary's mining plan approval and, thus, NEPA would not be triggered.

OSM has not accepted the position of the commenters that NEPA would not be triggered. However, OSM believes that the position of the commenters warrant further review. Therefore, OSM will further review the relationship between NEPA, the SMCRA permit application, and the Mineral Leasing Act mining

plan, and whether or not NEPA compliance can be achieved through alternatives to present procedures. Such alternatives include, among others, (1) whether or not the SMCRA permit application review and approval can constitute a functional equivalent to the NEPA process or (2) whether NEPA compliance can be satisfied through actions taken by the Federal land management agency. In any case, proposed paragraph (b)(2) was confusing as written and has been deleted from the final rule. Subsequent sections of the final rule have been renumbered accordingly.

Revised § 740.4(b)(2) continues the requirement of previous 30 CFR 740.4(e) that OSM be responsible for approving experimental practices on Federal lands.

Revised § 740.4(b)(3), which corresponds to previous § 740.4(g), reserves to OSM responsibility for overseeing State regulatory authority inspection, enforcement and civil penalty activities with respect to surface coal mining and reclamation operations on Federal lands. Revised section 740.4(c)(5), on the other hand, allows the State regulatory authority to assume responsibility for inspection, enforcement and civil penalty activities that would be the responsibility of OSM in the absence of a cooperative agreement. Thus, after a cooperative agreement is approved, the State will enforce its State program (including its own inspection, enforcement and penalty provisions) on Federal lands, while OSM will conduct necessary oversight inspection, enforcement and civil penalty activities pursuant to 30 CFR Parts 842, 843 and 845.

Under revised § 740.4(b)(4), citizen requests for Federal inspections on Federal lands will be processed in accordance with 30 CFR Parts 842, 843 and 845, which include provisions for citizen involvement in the inspection, enforcement and civil penalty process. *See*, e.g., 30 CFR 842.12 and 842.15. This revision makes clear the process of citizen participation in inspection, enforcement and civil penalty activities on Federal lands where OSM is conducting such activities.

Several commenters stated that proposed § 740.4(b)(5) (revised § 740.4(b)(4)) and 740.4(c)(5)—which limit OSM, where there is a cooperative agreement, to conducting oversight inspections, enforcement and civil penalty activities on Federal lands, and to responding to citizen requests for Federal inspections—violate sections 517, 518, and 521 of the Act. The commenters believe that the references in sections 518 and 521 to the Secretary's civil penalty and enforcement authority under the Federal lands program make explicit that his full inspection, enforcement and civil penalty authority (not just oversight authority) extends to Federal lands without regard to whether a cooperative agreement is in force. The commenter also reasoned that since the Secretary's enforcement authority on lands cannot be restricted to oversight, citizens cannot be limited to requesting Federal oversight inspections.

OSM disagrees that the Secretary must maintain full inspection, enforcement and civil penalty authority when a cooperative agreement is in place. Section 523(c) of the Act allows the Secretary to enter into a cooperative agreement with a State to provide for State regulation of surface coal mining and reclamation operations on Federal lands. OSM interprets this section to allow States with cooperative agreements to assume full responsibility for implementing the requirements of the Act on Federal lands, rather than joint responsibility with OSM. Further, OSM can find no prohibition in the Act against delegating to a State with a cooperative agreement the responsibility for inspection, enforcement and assessing civil penalties required under the Act. On the contrary, requiring dual inspection, enforcement and civil penalty systems (State and OSM) would be inconsistent with the intent of section 523(c) to allow States independently to implement SMCRA on Federal lands subject, of course, to OSM oversight and the express limitations on Secretarial delegation contained in section 523(c).

OSM agrees, however, that citizens have the right to request Federal inspections on Federal lands when a cooperative agreement is in place. This right is provided for in 30 CFR 842.12 and revised § 740.4(b)(4), which make clear that OSM will continue to be responsible for 30 CFR Parts 842, 843 and 845 when a cooperative agreement is in place. Section 740.4(b)(4) has been revised to refer explicitly to citizens' rights to request Federal inspections.

Revised § 740.4(b)(5) requires OSM to oversee a State's administration and enforcement of the terms of a cooperative agreement.

Revised § 740.4(c), as proposed, sets forth those OSM responsibilities that may be delegated to a State regulatory authority under the terms of a cooperative agreement. Revised § 740.4(c)(1) allows a State with a cooperative agreement to review permit applications and issue SMCRA permits for surface coal mining and reclamation operations on Federal lands. States could assume similar authority with respect to revisions and renewals of permits and applications for transfer, sale or assignment of permits. The previous regulations placed all these responsibilities with OSM. *See* previous 30 CFR 740.4(d).

One commenter opposed the delegation in revised § 740.4(c)(1) because the commenter believes that OSM has improperly limited the Secretary's mining plan review authority to that authorized by the Mineral Leasing Act. Another commenter supported revised § 740.4(c)(1), stating that it properly authorizes States with cooperative agreements to issue permits because under section 523(c) of the Act, the Secretary's duty to review mining plans applies only to Federally-owned coal.

OSM is adopting revised § 740.4(c)(1) as proposed for the reasons discussed above under "Permit Application and Mining Plan Review and Approval."

OSM is adopting revised §§ 740.4(c)(2) and 740.4(c)(3), which correspond to the remaining requirements of previous 30 CFR 740.4(d). Revised § 740.4(c)(2) continues the requirement of the second sentence of previous 30 CFR 740.4(d) for consultation with Federal land management agencies with respect to post-mining land uses and special requirements for protection of non-coal resources in areas affected by surface coal mining. Revised § 740.4(c)(3) continues the requirement of the last sentence of previous § 740.4(d) that the Bureau of Land Management be consulted concerning the development, production and recovery of coal resources. This was formerly a requirement of the Geological Survey.

Under revised § 740.4(c)(4), the State regulatory authority can assume the performance bond, Federal lessee protection bond and liability insurance responsibilities previously found in 30 CFR 740.4(f). Revised § 740.4(c)(4) provides that, with respect to the Federal lessee protection bond, approval requires the concurrence of the Federal land management agency. Previous 30 CFR 740.4(f) inappropriately provided that, in addition to the Federal lessee protection bond, the Federal land management agency must concur in approval of the performance bond and liability insurance.

One commenter stated that the proposed change in previous § 740.4(c)(4), to allow States with cooperative agreements to assume performance bonds and liability insurance responsibilities for surface coal mining and reclamation operations on Federal lands without the consent of the Federal land management agency, would be inconsistent with section 6 of the

Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 207(c)).

OSM has declined to accept this comment because OSM believes that section 6 of the Federal Coal Leasing Amendments Act of 1976 does not prohibit the delegation of the bonding responsibilities under section 523(c) of the Act. Under revised § 740.13(c)(6) and 740.4(f), the Federal land management agency must, among other things, be consulted prior to approval of permit applications (which include requirements for the performance bond). Final approval of the performance bond, however, is properly a function of the approved regulatory authority under SMCRA. The commenter is correct, however, in that under the Mineral Leasing Act, if the surface is under the jurisdiction of an agency other than the Department of the Interior, the Secretary must also obtain the concurrence of that other Federal agency prior to issuing the required approval under the MLA. To clarify this limitation, § 740.4(f)(4) has been revised to state specifically that where the land contains leased Federal coal and the surface is under the jurisdiction of a Federal agency other than the Department, that other agency must concur in the terms of the mining plan approval.

The same commenter stated that it is inconsistent with section 715 of the Act to allow States to assume the performance bond and liability insurance responsibilities of OSM as was proposed. The commenter believes that, while it is clear from sections 509 and 715 of the Act that States with approved cooperative agreements are entitled to receive monies due under these bonds and, therefore, must have some concurrent responsibility over the administration of these bonds, it is equally clear that the Federal Government must retain some monetary and administrative responsibility for these bonds in order to protect the Secretary's stewardship interest in public lands and to protect his SMCRA responsibilities.

OSM disagrees with the commenter. Allowing States to assume the responsibilities set forth in revised § 740.4(c)(4) is consistent with section 523(c) of the Act with respect to SMCRA responsibilities that are delegable to States. The Secretary will ensure that States properly carry out these delegated responsibilities on Federal lands through oversight of the State program and the cooperative agreement. The Secretary will retain a monetary interest in the bonds required on Federal lands, since revised § 740.15(b) requires that bonds be payable to the United States in the absence of a cooperative agreement and to both the State and the United States where there is a cooperative agreement. Thus, the Federal Government will have both a monetary and an administrative interest in the bonds in all instances.

One commenter stated that § 740.4(c) should allow OSM to delegate to States with cooperative agreements the release of performance bonds.

OSM agrees with this comment, and has revised § 740.4(c)(4) accordingly. OSM believes it is reasonable to allow States with cooperative agreements to release performance bonds as well as to approve them.

Revised § 740.4(c)(5) allows the State regulatory authority to be responsible for inspection, enforcement and imposition of civil penalties that would otherwise be performed by OSM as the regulatory authority. Where a State assumes this responsibility under a cooperative agreement, OSM will assume an oversight role, as provided in revised § 740.4(b)(4) of the regulations.

OSM has adopted revised § 740.4(c)(6), as proposed. This section allows the State regulatory authority to assume the responsibility for review and approval of exploration plans for operations not subject to 30 CFR Part 211, such as on lands owned by the Tennessee Valley Authority and on Federal lands with underlying private coal. This will ensure that no gap exists between State regulatory authority and BLM responsibilities for exploration on Federal lands in States with cooperative agreements.

One commenter stated that, since the Secretary's authority under section 523 of the Act to administer the Federal lands program is not limited to Federally-owned coal, no State should be given authority to review and approve coal exploration plans on lands owned by the Tennessee Valley Authority and on Federal lands with underlying private coal.

OSM disagrees with this comment. OSM believes that States should have the authority to approve exploration operations under a cooperative agreement for Federal lands not governed by 30 CFR Part 211. This is consistent with section 523(c) of the Act. OSM has this responsibility in the absence of a cooperative agreement.

Revised § 740.4(c)(7), as proposed, allowed the State regulatory authority to assume some responsibility for preparation of documentation in compliance with the National Environmental Policy Act (NEPA). In adopting revised § 740.4(c)(7), OSM recognizes that where the State prepares NEPA documentation, OSM must (1) furnish guidance and participate in the preparation of NEPA documents and (2) independently evaluate NEPA documents prior to approval or adoption in order to make the ultimate decision on Federal action to be taken on the alternatives presented in any NEPA documents. The State regulatory authority may be authorized to prepare NEPA compliance documents (environmental assessments (EA's) or (environmental impact statements (EIS's)), provided OSM: (1) Determines the scope, content, format and objectivity of NEPA compliance documents and jointly participates in preparing such documents; (2) makes the determination of whether or not the preparation of an EIS is required; (3) notifies and solicits views of other State and Federal agencies, as appropriate, on the environmental effects of the action; (4) publishes and distributes draft and final NEPA compliance documents; (5) makes policy responses to comments on draft NEPA compliance documents; (6) independently evaluates NEPA compliance documents; and (7) adopts NEPA compliance documents and determines Federal actions to be taken on the alternatives presented in them.

One commenter suggested that OSM include in the list of responsibilities delegable to States under cooperative agreements consultation and participation in processes to designate Federal lands as unsuitable for mining.

OSM has declined this suggestion because OSM's and the Secretary's responsibilities in this area are non-delegable under 30 U.S.C. 1273(c) and because the States' role in OSM's Federal lands unsuitability process is addressed in 30 CFR Part 769, the revision of which is the subject of a separate rulemaking.

As proposed, revised § 740.4(d) identifies the responsibilities assigned to the BLM. Revised § 740.4(d) continues the requirements of previous §§ 740.4(h) and 740.4(i) with minor exceptions, including the replacement of the Geological Survey with the Bureau of Land Management as the responsible agency to reflect the Secretary's Order No. 3087 (December 3, 1982) which transferred these responsibilities to BLM. In addition, revised § 740.4(d)(2) refers to coal exploration licenses issued pursuant to 43 CFR Part 3400 (instead of 43 CFR Part 3507) to conform to revisions in those regulations. Revised § 740.4(d)(1) and 740.4(d)(5) delete references to the permit area, to reflect changes in 30 CFR Part 211 that alter responsibilities for exploration on Federal lands. *See* 47 FR 33154 (July 30,

1982). Under revised § 740.4(d)(4), the Bureau of Land Management is responsible for reviewing the resource recovery and protection plan portion of the permit application package and for recommending to the Secretary approval, conditional approval or disapproval of the resource recovery and protection plan, as outlined earlier in this notice. Revised § 740.4(d)(6) indicates that BLM is responsible for protecting mineral resources not under lease.

Revised § 740.4(d)(7) indicates that BLM is responsible for the issuance of exploration licenses for Federally-owned coal. Revised § 740.4(d)(8) makes BLM responsible for the issuance of leases and licenses to mine pursuant to 43 CFR Part 3400. Revised § 740.4(d) (9) indicates that BLM is responsible for the issuance, readjustment, modification, termination, cancellation, and approval of transfers of Federal coal leases required by the Mineral Leasing Act and the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351, *et seq.*).

OSM is adopting revised § 740.4(e) substantially as proposed. That section identifies specific responsibilities of Federal land management agencies. Revised § 740.4(e) acknowledges the responsibility of Federal land management agencies to make certain decisions regarding surface coal mining and reclamation operations on Federal lands within their jurisdiction. Federal land management agencies are responsible, under revised § 740.4(e), for determining post-mining land uses (revised § 740.4(e)(1)), ensuring protection of non-mineral resources (revised § 740.4(e)(2)), and imposing appropriate conditions on surface coal mining and reclamation operations on lands under their jurisdiction (revised § 740.4(e)(3)). In accordance with the comment discussed above under § 740.4(c)(4), where lands containing leased Federal coal are under the jurisdiction of an agency other than the Department, that agency must also concur in the terms of the mining plan approval.

One commenter expressed concern that BLM might not have the same responsibilities under § 740.4(f) that other Federal land management agencies have in view of the separate treatment of BLM under § 740.4(e).

Revised § 740.4(e) lists those BLM responsibilities that other Federal land management agencies do not share, while revised § 740.4(f) lists those responsibilities shared by all Federal land management agencies, including BLM.

Section 740.5 Definitions.

As proposed, revised § 740.5 deletes several terms defined in previous 30 CFR 740.5. The definition of the term "authorized State regulatory authority" has been deleted because the term is not used in revised Subchapter D. The term has been replaced by "regulatory authority," which means both OSM acting prior to approval of a cooperative agreement and the State regulatory authority acting afterwards.

One commenter stated that OSM should not delete the term "State regulatory authority" because States with approved cooperative agreements can never be the sole regulatory authority on Federal lands.

OSM has rejected this comment and is deleting the term "State regulatory authority," as proposed. This change is consistent with the other changes in these regulations to allow States with cooperative agreements to assume full responsibility for administering delegable requirements of the Act on Federal lands in accordance with section 523(c) of the Act.

Definition of the term "mining supervisor" has been deleted, as proposed, because the term is not used in revised Subchapter D. "Authorized officer" has been redefined to refer to any person authorized to take official action on behalf of a Federal agency having responsibility relating to Federal lands. "Cooperative agreement" has been defined as a cooperative agreement approved in accordance with section 523(c) of the Act and 30 CFR Part 745.

The term "surface managing agency" has been replaced by the term "Federal land management agency" to clarify that "Federal land management agency" applies specifically to the agency having jurisdiction over the surface of the Federal lands in question.

One commenter stated that the phrase "surface of" should be deleted from the definition of "Federal land management agency" since in many cases TVA holds only a mineral interest in its coal lands.

OSM has rejected this comment and is adopting the definition of "Federal land management agency" as proposed. While OSM recognizes that the definition of "Federal land management agency" has the effect of excluding circumstances where TVA holds only a mineral interest in its coal lands, the proposed definition will suffice, since the regulations which utilize the term are only concerned with the activities of the agency with jurisdiction over the surface of such lands.

Consistent with the revised structure of Subchapter D, the definitions of "Federal lease bond" and "Federal lessee protection bond" have been moved from previous § 742.5 to revised § 740.5. Thus, all definitions for Subchapter D appear in revised § 740.5. The definition of "Federal lease bond" has been revised to be consistent with the regulations of the Bureau of Land Management at 43 CFR Part 3400.

"Leased Federal coal" has been defined as coal leased pursuant to 43 CFR Part 3400, except for mineral interests in coal on Indian lands. Definition of this term is necessary because the responsibilities of different Federal agencies and the applicability of such laws as the Mineral Leasing Act are dependent upon whether or not leased Federal coal is involved.

As proposed, the definition of "mining plan" has been revised to mean the plan for mining leased Federal coal required by the Mineral Leasing Act. The reasons for the revised definition of "mining plan" are discussed above under "Permit Application and Mining Plan Review and Approval."

The proposed definition of "performance bond" has been deleted from § 740.5 because the term is already defined at 30 CFR Part 701.5.

The new term "permit application package" is treated above in the discussion of "Permit Application and Mining Plan Review and Approval." It refers to the application materials submitted by a person desiring to mine on Federal lands and includes, among other things, the permit application required under SMCRA and, where Federal coal is under lease, the resource recovery and protection plan (RRPP) required under the Mineral Leasing Act.

One commenter stated that SMCRA permit applications and MLA RRPP's should not be combined into "permit application packages." The commenter believes that the separate functions under SMCRA, and under the MLA, must be clear and concise, which is not possible if the requirements of the two acts are combined.

OSM disagrees with the commenter for the reasons discussed above under "Permit Application and Mining Plan Review and Approval." Further, by combining the requirements of the permit application under SMCRA and the RRPP in one permit application package, conflicting or duplicative submittals can be eliminated and approval of the mining plan can be coordinated among the Federal agencies involved.

As proposed, the term "regulatory authority" has been defined as OSM when OSM is administering Subchapter D (as will be the case where there is no

cooperative agreement) and as the State regulatory authority when the State is administering the requirements of its program on Federal lands under a cooperative agreement.

As proposed, the term "TVA-owned land" has been defined as land owned by the United States and entrusted to or managed by the Tennessee Valley Authority.

Other terms used in the rules have meanings as set forth in 30 CFR Part 211. These include "exploration," "exploration plan," "maximum economic recovery," "method of operation," "mine" and "resource recovery and protection plan."

Section 740.10 Information collection.

Revised § 740.10 corresponds to the "Note" at the beginning of previous 30 CFR Part 741 with respect to permits and the "Note" at the beginning of 30 CFR Part 742 with respect to bonds; it identifies the OMB approval numbers for the relevant information collection requirements of those Parts. OSM has deleted these notes and is codifying OMB's revised approval of the relevant information collection requirements of previous Parts 741 and 742 in revised § 740.10.

Section 740.11 Applicability.

OSM is adopting, as proposed, § 740.11, which describes when Subchapter D and a regulatory program will be applicable to surface coal mining and reclamation operations on Federal lands within a State.

Section 740.11(a) provides that upon approval of a regulatory program for a State, Subchapter D and that regulatory program will become applicable to (1) coal exploration operations on Federal lands not subject to 30 CFR Part 211; (2) surface coal mining and reclamation operations on lands containing leased Federal coal; and (3) surface coal mining and reclamation operations on lands where either the coal to be mined or the surface is owned by the United States, except as specified in Subchapter D. This clarifies an ambiguity in the previous regulations pertaining to the location of surface facilities on private- or State-owned surface that might overlie Federal minerals, but where there is no Federal coal mining contemplated. OSM believes that, because of the interaction of the State primacy provision, section 503 of the Act, with section 523 of the Act, the Federal lands program can be interpreted to exclude State- or privately-owned surface overlying Federally-owned coal where the operation will not involve mining the Federally-owned coal and where there will be no disturbance of the Federally-owned estate. This secondary impact to the Federal interest will be so slight that OSM does not believe that Congress intended that the provisions of the Federal lands program should be imposed in addition to the requirements of the applicable Federal or State regulatory program.

OSM had proposed to make the Federal lands program applicable to surface coal mining and reclamation operations on lands "where either the surface or mineral interests owned by the United States will be directly affected by such operations * * *" Several commenters addressed the use of the term "directly affected" in proposed § 740.11(a). One commenter stated that it should be qualified by the phrase "in a manner requiring reclamation" to preclude minimum effects like blowing dirt from triggering applicability.

Another commenter stated that "directly affected" should be clarified to mean either actual mining or exploration of Federally-owned coal or action that would incidentally preclude the coal from being mined in the future. This commenter noted that since SMCRA is not concerned with the leasing of the right or removal of the coal itself, OSM does not have jurisdiction over mining operations on lands containing unleased Federal coal.

A third commenter stated that the phrase "directly affected" should be clarified so that the State's delegated responsibilities regarding coal exploration activities will not be confused with other delegated requirements pertaining to surface coal mining and reclamation obligations.

A fourth commenter stated that more clarity is needed as to what a Federal mineral "interest" and "directly affected" mean. This commenter noted that if a Federal mineral interest pertains to leased coal only, then that should be stated.

A fifth commenter noted that OSM should not restrict the Act's requirements to surface coal mining and reclamation operations on lands "where either the surface or mineral interests owned by the United States will be directly affected by such operations." The commenter asserted that there is no statutory basis for this since such surface activities would be "incidental" to the underlying Federal coal and, therefore, within the definition in section 701(28)(B) of "surface coal mining" which includes "areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities." The commenter also asserted that the non-applicability of the Mineral Leasing Act to private coal underlying Federal lands is no reason to restrict SMCRA to lands which are "directly affected" by such operations.

Several commenters stated that OSM should clarify that in the case of intermingled Federal and non-Federal coal covered by the same mining permit, the prohibition on mining before the Secretary's approval applies only to the Federal coal.

OSM has reviewed these comments and has decided to continue to recognize a limitation on the applicability of the Federal lands program where the effect on a Federal interest will be minimal. The final rules, however, have been revised based upon the comments indicating confusion with respect to the use of the phrase "directly affected." Under the final rules, this phrase has not been adopted and the rules have been clarified to indicate that Subchapter D applies to surface coal mining and reclamation operations on lands containing leased Federal coal and lands where either the coal to be mined or the surface is owned by the United States.

OSM has, as proposed, revised § 740.11(b), which provides that, where OSM is administering Subchapter D and applying a State program prior to approval of a cooperative agreement for the State, references in the State program to the State or to officials of the State (with respect to functions of the State regulatory authority will be construed as references to OSM in order that OSM can effectively administer State program requirements.

Section 740.11(c) provides that where the Secretary and the State have entered into a cooperative agreement, the cooperative agreement will delineate the responsibilities of the Secretary and the State with respect to administration of the regulatory program and Subchapter D. For example, where the Secretary has entered into a cooperative agreement with a State, the State regulatory authority will assume the primary role for the review and processing of permit applications on Federal lands, subject to the terms of the cooperative agreement. The cooperative agreement, in addition to providing for State processing of permit applications on Federal lands, will specify how the responsibility for administration of the additional requirements of this Subchapter for a permit application package will be divided between OSM and the State regulatory authority. Although some of the additional requirements are non-delegable, it is possible for the State to perform much of the basic research and

analysis required for the Department to determine compliance with such requirements.

Section 740.11(d) reserves to the Secretary and other Federal agencies the right to condition actions affecting Federal lands within their jurisdictions in accordance with section 702(b) of SMCRA. For example, a decision regarding surface coal mining and reclamation operations may be subject to: (1) Conditions on mining that may have resulted from the review of Federal areas for unsuitability for mining under Subchapter F of this Chapter; (2) terms and conditions or special stipulations of a lease issued pursuant to the Mineral Leasing Act; and (3) any land use plans or other requirements of the Federal land management agency with respect to the surface estate.

Revised § 740.11(e) provides that Subchapter D does not apply to surface coal mining and reclamation operations within a State prior to promulgation of a permanent regulatory program for that State. Prior to such approval, the SMCRA requirements incorporated in 30 CFR Part 211 and 30 CFR Chapter VII, Subchapter B will apply to surface coal mining and reclamation operations on Federal lands within the State. The Department has promulgated regulations to delete these requirements from 30 CFR Part 211, but only after final promulgation and implementation of revised Subchapter D. *See* 47 FR 33154 (July 30, 1982).

One commenter stated that the Federal lands program applies to States with Federal lands within their boundaries regardless of whether or not a State has achieved primacy to administer the Act. The commenter also stated that the requirements of 30 CFR Part 211 are no substitute for those of OSM's interim program on Federal lands prior the State obtaining primacy. For those reasons the commenter was opposed to § 740.11(e).

This comment is based on a misconception of how the Secretary has implemented the interim program on Federal lands. The interim program performance standards apply on Federal lands (30 CFR 710.11(c)) and, with respect to lands containing leased Federal coal, were incorporated into 30 CFR Part 211 (43 FR 37181 (August 22, 1978)). These requirements have been applicable in States without State programs and will remain so until Subchapter D becomes effective, at which time the permanent program standards take effect. *See* 44 FR 77440 (December 31, 1979); 47 FR 33154 (July 30, 1982). Thus, for example, only the interim program performance standards (and not 30 CFR 211) are applicable to surface coal mining operations on Federal lands without leased Federal coal in a State prior to the approval of a regulatory program. Final section in 30 CFR Part 211 and 30 CFR Chapter VII, Subchapter B will apply to surface coal mining and reclamation operations on Federal lands within the State. The Department has promulgated regulations to delete these requirements from 30 CFR Part 211, but only after final promulgation and implementation of revised Subchapter D. *See* 47 FR 33154 (July 30, 1982).

One commenter stated that the Federal lands program applies to States with Federal lands within their boundaries regardless of whether or not a State has achieved primacy to administer the Act. The commenter also stated that the requirements of 30 CFR Part 211 are no substitute for those of OSM's initial regulatory program on Federal lands prior the State obtaining primacy. For those reasons the commenter was opposed to § 740.11(e).

This comment is based on a misconception of how the Secretary has implemented the initial regulatory program on Federal lands. The initial regulatory program performance standards apply on Federal lands (30 CFR 710.11(c)) and, with respect to lands containing leased Federal coal, were incorporated into 30 CFR Part 211 (43 FR 37181 (August 22, 1978)). These requirements have been applicable in States without State programs and will remain so until Subchapter D becomes effective, at which time the permanent program standards take effect. *See* 44 FR 77440 (December 31, 1979); 47 FR 33154 (July 30, 1982). Thus, for example, only the initial regulatory program performance standards (and not 30 CFR 211) are applicable to surface coal mining operations on Federal lands without leased Federal coal in a State prior to the approval of a regulatory program. Final § 740.11(e) makes clear that the permanent Federal lands program becomes applicable when a regulatory program is implemented in a State. Thus, for example, when the State achieves primacy, the permanent Federal lands program, 30 CFR Chapter VII, Subchapter D, becomes applicable to Federal lands within a State.

OSM is adopting a new § 740.11(f) which provides that, where coal exploration or surface coal mining and reclamation operations within a State are only on Federal lands and where no State or Federal program has been approved for the State, this subchapter shall apply in that State upon the effective date of these regulations. The regulatory program triggering the applicability of subchapter D, in this case, is the permanent program requirements of subchapters A, F, G, J, K, L, M, and P of Chapter VII. *See* the revised definition of "regulatory program" under revised § 700.5. Thus, new § 740.11(f) ensures that the permanent program requirements of SMCRA apply on Federal lands in States that do not have approved State or Federal programs implementing these requirements.

Section 740.13 Permits.

OSM is adopting revised § 740.13 which retains and consolidates those requirements of previous Part 741 that are unique to Federal lands and will not be included in a regulatory program. Those portions of previous Part 741 that have counterparts in the applicable regulatory program have not been repeated in revised Subchapter D. Persons concerned with the requirements for a permit to conduct surface coal mining and reclamation operations on Federal of the state regulatory program" in order to mitigate any adverse impacts on adjacent Federal lands.

OSM believes that adequate protection of any affected Federal resource will be ensured by applying the performance standards of the same regulatory program to both Federal and non-Federal lands. Any impacts on the Federal resource that cannot be satisfied by the State program are subject to the additional requirements of Subchapter D. Thus, this comment was rejected.

OSM is adopting revised § 740.13(a)(1), as proposed. This section provides that no person shall conduct surface coal mining and reclamation operations on Federal lands unless that person has first obtained a permit issued pursuant to the regulatory program. Thus, operators proposing to conduct surface coal mining and reclamation operations on Federal lands must comply with the permitting and approval requirements of both the applicable regulatory program and Part 740. The requirements of Part 740 supplement the regulatory program by specifying those additional requirements that are unique to Federal lands and outside of the scope of the regulatory program.

OSM is adopting revised § 740.13(a)(2), as proposed. It retains, with minor revisions, the requirements of previous § 741.11(d), which provided that the permittee shall conduct operations in accordance with all requirements of the permit and lease or license, Subchapter D and all other applicable State and Federal laws.

Previous § 741.11(c) provided for surface coal mining and reclamation

operations on Federal lands to continue past the eight-month period established by previous § 741.11(a) where the operations are being conducted under a mining plan approved by the Secretary in accordance with the Act and 30 CFR Part 211. With revisions, this section has been retained as revised § 740.13(a)(3), although the cross-reference to previous § 741.11(a) has been changed to "the applicable regulatory program." The permitting requirements of the applicable regulatory program will implement the requirement of section 506(a) of the Act that unpermitted surface coal mining operations not continue beyond eight months after the approval of a State or Federal program. It should be noted that the eight-month deadline for submission of a permit application as it applies to ongoing operations that were required to have a previously approved 30 CFR 211 mining plan is limited to lands containing leased Federal coal. Section 740.13(a) has been revised to reflect the limited applicability of 30 CFR Part 211. On Federal lands where only the surface is Federally-owned, the applicable regulatory program will govern the timing of submission of permit applications for ongoing operations.

One commenter opposed the deletion of previous § 741.12 because its removal is premised upon the agency successfully delegating to the States with approved cooperative agreements the Secretary's authority to issue permits.

OSM has declined to accept this comment. Deletion of previous §741.12 is consistent with other changes in Subchapter D to separate the SMCRA permit requirement from the MLA mining plan requirement. *See* above discussion of "Permit Application and Mining Plan Review and Approval."

Section 740.13(b) Permit application package.

Previous § 741.13, which corresponds to revised § 740.13(b), has been revised by adding the word "package" to the title. This clarifies that the material submitted by an operator proposing to conduct surface coal mining and reclamation operations on Federal lands includes, in addition to the documentation required for a SMCRA permit submitted pursuant to the applicable regulatory program, the documentation and information necessary to determine compliance with all other requirements for mining on Federal lands.

As proposed, previous § 741.13(a) has been redesignated as § 740.13(b)(1) and revised to provide that permit fees on Federal lands will be determined in accordance with the permit fee criteria of the applicable regulatory program.

One commenter suggested that previous § 740.13(b)(1) should reflect circumstances where permit revisions and renewals may not require a filing fee.

OSM has declined to accept this comment because revised § 740.13(b)(1) clearly makes the permit fee structure of the appropriate regulatory program applicable. Whether or not a fee will be required for permit revisions and renewals will depend on the provisions of the applicable regulatory program, provisions which may vary among regulatory programs. If the applicable State program is silent on the collection of such fees, however, then none will be required for Federal lands in that State.

One commenter stated that proposed § 740.13(b)(1) should provide flexibility to establish permit fees on Federal lands which differ from those imposed on non-Federal lands in the same State, since often there can be additional administrative responsibilities on Federal lands.

OSM considered several alternatives for establishing the fee schedule, including setting higher fees for administrative responsibilities on Federal lands that may be in addition to those required on non-Federal lands. OSM has decided against higher fees for permit applications on Federal lands because it prefers not to deviate from the applicable regulatory program except where there are compelling reasons for doing so.

As proposed, revised § 740.13(b)(2) incorporates and continues the requirement of previous § 741.13(b) that the applicant file at least seven copies of the complete permit application package with the regulatory authority.

One commenter suggested that revised § 740.13(b)(2) should allow flexibility on the number of permit application copies required, since seven may be too many for some regulatory authorities and too few for others.

OSM has accepted this comment and has modified § 740.13(b)(2) to allow for variations in the number of copies of permit application packages that will be required where there is a cooperative agreement and the State is the regulatory authority. In that instance, the cooperative agreement will specify the required number of copies. However, where OSM is the regulatory authority, it will continue to require seven copies because that number is needed for distribution to reviewers.

Revised § 740.13(b)(3)(i) and (ii) requires that the permit application package include (1) the information required for a permit application under the applicable regulatory program, and (2) the resource recovery and protection plan required under 30 CFR Part 211. Providing that the permit application package include the permit application required by the applicable regulatory program is consistent with the intent of Subchapter D to apply the substantive and procedural requirements of the applicable regulatory program on Federal lands. The resource recovery and protection plan will be included in the permit application package, where necessary, for reasons discussed earlier under "Permit Application and Mining Plan Review and Approval."

Section 740.13(b)(3)(ii) has been revised in the final rule to clarify that a resource recovery and protection plan is required only for lands containing leased Federal coal, not for all Federal lands.

OSM is adopting a new § 740.13(b)(3)(iii) that requires the permit application package to include the supplementary information that was proposed to be required by proposed § 746.12. Proposed § 746.12 listed supplementary information that would assist the regulatory authority in determining compliance with Federal laws and regulations other than SMCRA, and executive orders as they relate to surface coal mining and reclamation operations on lands subject to Subchapter D. Revised § 740.13(b)(3)(iii) simplifies the structure of the regulations by including all supplementary information requirements for the permit application package in one section.

While OSM expects that most of the information needed to determine compliance with Federal laws, regulations and orders other than the Act will be included in the SMCRA permit application, those items listed under new § 740.13(b)(3)(iii) would be unlikely to be included otherwise. For example, the reference under revised § 740.13(b)(3)(iii)(D) to a plan to evaluate properties listed or eligible for listing on the National Register of Historic Places indicates OSM's emphasis on the need to preserve worthwhile cultural and historical information, in accordance with the National Historic Preservation Act, and to proceed with identification and evaluation in an efficient and timely fashion. The Advisory Council on Historic Preservation has supported OSM in this approach to cultural resource management.

One commenter suggested that proposed § 746.12 (revised § 740.13(b)(3)(iii)) should state that the information is required before mining

plan approval, and that this section is advisory as to including the listed material in the initial permit application package.

OSM disagrees with the commenter because the information required under revised § 740.13(b)(3)(iii) is important to the timely review and approval of both the permit where OSM is the regulatory authority and, as applicable, the mining plan. It will facilitate compliance with Federal laws and regulations other than SMCRA and the SMCRA permit application and thereby minimize the burden on the operator.

One commenter suggested that OSM should clarify that, in the case of intermingled Federal and non-Federal lands, the information showing compliance with NEPA provisions would be required only as it pertained to Federal lands, since Secretarial approval of the mining plan is necessary for the Federal lands only.

OSM agrees that mining plan approval applies only to Federal lands. In some areas the required analysis can be limited to the Federal lands involved. In other cases, such as the evaluation of hydrologic impacts, the analysis could extend beyond the Federal lands boundaries. Thus, while the required information must be sufficient to allow OSM to fully analyze the environmental effects of mining on Federal lands, it will also be necessary in some instances to consider the related non-Federal lands.

One commenter stated that proposed § 746.12(a)(6) should be removed, because establishing a relationship between the cumulative hydrologic impact assessment requirements of section 507(b)(11) of SMCRA and the Federal Water Pollution Control Act (FWPCA) is in error.

Proposed § 746.12(a)(6) was not intended to establish a relationship between section 507(b)(11) of SMCRA and the FWPCA as suggested by the commenter; however, OSM has not included proposed § 746.12(a)(6) in the final rule because it was somewhat confusing. Further, this information is unnecessary, since the FWPCA requirements for hydrologic protection, including compliance with water quality standards and effluent limitations, are fully covered by the regulatory program under SMCRA.

Two commenters stated that proposed § 746.12 (revised § 740.13(b)(3)(iii)) should be written to indicate clearly the necessary data elements to be included as part of the permit application package. Otherwise, delays in the mine plan approval process will result because of differences of opinion as to what is "necessary" supplemental information.

OSM agrees with the commenter and has provided specific language concerning the information required by this section. Revised § 740.13(b)(3)(iii)(A) requires a description of the affected area of the proposed surface coal mining and reclamation operations with respect to (1) increases in employment, population and revenues to public and private entities, and (2) the ability of public and private entities to provide goods and services necessary to support surface coal mining and reclamation operations. This requirement parallels proposed § 746.12(a)(1)(i) and will assist in preparation of documentation in compliance with the National Environmental Policy Act.

Revised § 740.13(b)(3)(iii)(B) requires an evaluation of impacts to scenic and aesthetic resources including noise on the surrounding area due to the proposed surface coal mining and reclamation operation. This requirement parallels proposed § 746.12(a)(1)(iii) and will also be used to assist in preparation of documentation in compliance with NEPA.

Revised § 740.13(b)(3)(iii)(C) requires a statement, including maps and ownership data, as appropriate, of any cultural or historical site listed on the National Register of Historic Places within the affected area of the proposed surface coal mining and reclamation operation. Additionally, § 740.13(d)(3)(iii)(D) requires a statement of the classes of properties of potential significance within the disturbed area, and a plan for the identification and treatment, in accordance with 36 CFR Part 800, of properties significant and listed or eligible for listing on the National Register of Historic Places within the disturbed area of the proposed surface coal mining and reclamation operation. This information will assist in insuring compliance with the National Historical Preservation Act of 1976, the Archeological Resources Protection Act of 1977 and other related requirements pertaining to cultural and historic resources. These requirements roughly parallel proposed § 746.12(a) (2) and (3) as revised based upon discussions with the Advisory Council on Historic Preservation.

Revised § 740.13(b)(3)(iii)(E) requires a description of the probable changes in air quality resulting from the mining operation and any necessary measures to comply with the prevention of significant deterioration limitations, State implementation plans for air quality protection and any other State or Federal Laws. These requirements parallel requirements of proposed § 746.12(a)(5) and will provide information to determine compliance with the Clean Air Act.

Revised § 740.13(b)(3)(iii)(F), (G), and (H) require information pertaining to fish and wildlife resources to assist in evaluating compliance with the Fish and Wildlife Act of 1958, the Endangered Species Act, the Fish and Wildlife Coordination Act, and other related requirements. These sections require (1) a description of the location, acreage, and condition of important habitats of selected indicator species located within the affected area of the proposed surface coal mining and reclamation operation, (2) a description of active and inactive nests and prey areas of any bald or golden eagles located within the affected areas of the proposed surface coal mining and reclamation operations, and (3) a description of all threatened and endangered species and their critical habitats located within the affected area of the proposed surface coal mining and reclamation operations. Similar requirements relating to fish and wildlife were included in proposed § 746.12(a)(4)

OSM has deleted previous § 741.13(c)(1) and (2), as proposed. This section, which described the required contents of a permit application, is unnecessary in the final rules because equivalent provisions will be contained in the applicable regulatory program.

OSM has adopted the proposed redesignation of previous § 741.13(c)(3), concerning Federal lessee protection, as revised § 740.13(b)(4) and added language to clarify that it does not apply to TVA-owned lands. *See* section 701(4) of the Act.

Previous § 741.14, which addressed permitting requirements for special operations, has been removed, as proposed, because similar requirements will be included in each regulatory program.

Previous §§ 741.15(a), (b)(1), (b)(3) and (b)(4) have been removed, as proposed, because similar requirements will be included in each regulatory program.

Section 740.13(c) Permit review and processing.

OSM has adopted revised § 740.13(c), essentially as proposed; it provides that the permit processing requirements of the applicable regulatory program will be used to process permits on Federal lands, subject to the additional requirements specified under revised §§ 740.13(c)(1) through 740.13(c)(9).

OSM has adopted, as proposed, revised § 740.13(c)(1), "Permit terms and conditions," which provides that any

applicable requirements of other Federal laws and regulations, including the Mineral Leasing Act, must be reflected in the terms and conditions for permits. This section continues the requirement of previous § 741.15(b)(2) that no extension of a permit term may be granted if the effect of that extension would be to extend the term of a Federal coal lease beyond the period allowed for diligent development under that lease and section 7 of the Mineral Leasing Act.

One commenter asked OSM to clarify whether it is the State's responsibility to incorporate the terms of the lease and other requirements of the MLA and other Federal laws in the SMCRA permit and, if so, who would enforce such terms and requirements.

While States with cooperative agreements may independently review and approve permit applications on Federal lands, these regulations prohibit the commencement of operations that are subject to mining plan approval until the Secretary has approved such plan. In order to ensure compliance with non-SMCRA matters (e.g., MLA, NEPA, lease terms and stipulations, etc.), the Secretary may impose additional requirements for mining in his approval of the mining plan. OSM will rely on the States with cooperative agreements to assist in enforcing these additional requirements as part of the State's inspection and enforcement program. Each cooperative agreement will detail how these responsibilities will be handled since the precise roles of OSM and the States will vary from State-to-State.

Previous § 741.16, which required permits to reflect local and regional conditions, has been removed, as proposed, since its purpose will be accomplished by incorporation of State and Federal programs into the Federal lands program. Each State or Federal program is mandated by the Act to take regional and local conditions into account.

Revised § 740.13(c)(2), "Criteria for permit approval of denial," corresponds to previous § 741.17. As proposed, the introductory paragraph of previous § 741.17 (which required that the Director make the written findings required by 30 CFR Part 786 regarding permit applications) and all of previous § 741.17(b) (which required that the applicant satisfy all applicable requirements for approval of permits under 30 CFR Part 786) have been removed because similar provisions will have been included in the applicable regulatory program.

One commenter suggested that proposed § 740.13(c)(2) and (7) allow the regulatory authority to approve a permit application if it is in accordance with the requirements of the applicable regulatory program (rather than the requirements of Part 740) and process the approval within the time frames of that program.

OSM disagrees with the commenter because Parts 740–746 impose some requirements on the regulatory authority in addition to those of the applicable regulatory program. For example, where OSM is the regulatory authority, under revised § 740.13(c)(1), the SMCRA permit terms and conditions must reflect requirements of other Federal laws and regulations as they apply to the lands in question. Another example is the required consultation with Federal land management agencies, which may affect decisions on permits. The precise requirements where a State is the regulatory authority will be addressed in the applicable cooperative agreements. Thus, this section has been revised to indicate that either the requirements of Part 740 or the cooperative agreement will apply to permit approval or denial.

With regard to the second point made by the commenter, it will not always be possible to approve a permit within the time frames in the State programs due to the additional requirements of Subchapter D. However, OSM believes that any such delays will be minimal.

As proposed, previous § 741.17(a) has been removed because Subchapter D does not require that the Secretary approve the mining plan prior to approval of the permit application.

One commenter stated that previous § 741.17(a) should not be deleted because, "even though actual commencement of mining on Federal lands would not be allowed until the Secretary has approved the mining plan, this change would allow the State regulatory authority to get out ahead of the Secretary and would prevent the Secretary from making a meaningful determination of the consistency of the proposed mining activity, as described in the permit application, with the plan of operation for the life of the mine."

OSM has rejected this comment and has deleted previous § 741.17(a), as proposed. As discussed above, under "Permit Application and Mining Plan Review and Approval," the Secretary is confident that he will be able to ensure consistency between the approved mining plan and the permit under the revised Federal lands program.

As proposed, previous § 741.17(c), which required the Director and the State regulatory authority to concur in permit approval where there is a State-Federal cooperative agreement, has been removed.

One commenter opposed the deletion of previous § 741.17(c), noting that OSM has not explained the basis for this deletion and that such deletion (insofar as it severed permit approval from mining plan approval) was inconsistent with section 523 of the Act.

While OSM did not include a lengthy explanation of the proposed deletion of previous § 741.17(c), this change was proposed because of, and clearly is consistent with, the overall revisions to Subchapter D in allowing States with cooperative agreements an independent role in the approval of SMCRA permit applications on Federal lands.

OSM has, as proposed, revised previous § 741.17(d) and redesignated it § 740.13(c)(2). Revised § 740.13(c)(2) provides that SMCRA permit applications for mining on Federal lands may not be approved unless they are in accordance with the requirements of the applicable regulatory program and revised Part 740 or a cooperative agreement, as applicable. Previous § 741.17(d) had required permit applicants to comply with, among other things, the Mineral Leasing Act. The effect of the revision is to ensure continued compliance with all Federal laws and regulations applicable to permit applications, but to separate permit approval from mining plan approval, since the latter is a requirement of the Mineral Leasing Act.

OSM is adopting, as proposed, revised § 740.13(c)(3), "Public participation in permit review process," which corresponds to previous § 741.18. Revised § 740.13(c)(3) provides that the matters already covered by public hearings held under the MLA need not be readdressed in SMCRA permit hearings, and may be made a part of the record of hearings held on the permit application. The reference to the public participation provisions in 30 CFR 786.11 through 786.15 has been removed since the public participation requirements of the applicable regulatory program will apply.

Two commenters opposed reliance on the public participation requirements of approved State regulatory programs because any appeal of a decision on a permit application would be to the State authority where a cooperative agreement is in place. As a result, citizens would not retain rights that they now have to utilize the Federal appeal process. These commenters also believe that State review of the Federal aspects of the permitting decision would be inconsistent with section 523 of the Act. Thus, these commenters opposed the deletion of the cross-reference in previous section 741.18 to the public

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participation provisions of 30 CFR 786.11 through 786.15.

OSM has rejected this comment because States with cooperative agreements will independently review permit applications on Federal lands in accordance with the requirements of their approved State programs. Since the approved State program will contain provisions for public participation, including appeal of decisions on the permit, OSM believes that the proper avenue for appeals should be through the State. Such appeals will be limited, however, to SMCRA matters and not to matters concerning non-delegable responsibilities of the Secretary, such as decisions relating to the Secretary's approval of the mining plan. Appeals of non-delegable decisions will be to the Federal administrative process.

Proposed § 740.13(c)(4), "Availability of information," would have retained the requirement of previous § 741.19(a)(2) that information exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)) shall be held in confidence by the Office in accordance with 43 CFR Part 2. The proposed provision has not been adopted previous § 741.19 has been removed since similar requirements will be included in the applicable regulatory program.

One commenter stated that previous § 741.19, which required OSM and the State authority to make available for public inspection information in permit applications, should not be deleted since similar requirements in approved State programs cannot be imposed upon OSM.

OSM has declined to accept this comment and has adopted the revision, as proposed. Contrary to the assertion of the commenter, OSM , as the regulatory authority in the absence of a cooperative agreement, will follow the substantive and procedural requirements of the applicable regulatory program, including those relating to the public availability of information in permit applications. *See* revised § 740.11(b).

Revised § 740.13(c)(4), "Permit review processing for operations on lands administered by a Federal land management agency," retains, with minor revisions, the requirement of previous § 741.20 that a copy of the permit application package be transmitted to the Forest Service for review. The revision in the title makes revised § 740.13(c)(4) applicable to all Federal land management agencies, not just the Forest Service. The language concerning the consent of the Forest Service to the approval of the permit application has been removed because revised § 740.13(c)(5) provides an adequate process for Federal land management agency permit review and consultation.

One commenter stated that proposed § 740.13(c)(5) violates section 7(c) of the Federal Coal Leasing Amendments Act by deleting the Forest Service's authority to consent to (not just simply review) permits.

OSM disagrees with the commenter. Section 7(c) of the Federal Coal Leasing Amendments Act requires: (1) The Secretary's approval of an operation and reclamation plan prior to an operator taking any action on a leasehold which might cause a significant disturbance and (2) the consent of any other Federal agency having jurisdiction over the land involved. The Mineral Leasing Act and its subsequent amendments under the Federal Coal Leasing Amendments Act apply to the approval of mining plans for operations involving leased Federal coal, rather than to all SMCRA permits. Since revised § 740.13(c)(4) applies only to the SMCRA permit and since there are no consent requirements under SMCRA, OSM cannot require the consent of the Federal land management agency with respect to the SMCRA permit; consent of other Federal agencies with respect to the mining plan, however, is provided under revised section 746.13(d).

However, OSM recognizes the right of Federal land management agencies to review and comment on permit applications and to have their comments included in the record of permit decisions with respect to operations on Federal lands within their jurisdiction. This is provided under section 702(b) of SMCRA, which states that—

> Nothing in this Act shall affect in any way the authority of the Secretary or the heads of other Federal agencies under other provisions of law to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations on land under their jurisdiction.

The right of Federal land management agencies to have their comments included in the record of permit decisions is provided for under revised § 740.13(c)(5) as discussed below.

Revised § 740.13(c)(5), "Consultation with other Federal agencies," which corresponds with previous § 741.21(a)(1), requires that decisions on permits for operations on Federal lands be made after consultation with the Federal land management agency or BLM, as applicable. As noted above, OSM has modified proposed § 740.13(c)(6) to require the regulatory authority to include the comments of the Federal land management agency in the record of decisions regarding the permit application. The remainder of previous § 741.21(a)(1) and (2), which concerned the review of permit applications, has been removed because similar requirements will be included in the applicable regulatory program.

OSM is adopting, as proposed, revised § 740.13(c)(6), "Permit processing schedule," which revises previous § 741.21(a)(3) by adopting the schedule for processing permit applications which is included in the applicable regulatory program. Revised § 740.13(c)(6) recognizes, however, that, with respect to permit applications for mining on Federal lands, it may not always be possible to meet the schedules of the applicable regulatory programs due to the numerous other Federal laws and regulations with which the Department must comply. Thus, this provision allows, where necessary, a reasonable extension of the schedule.

As proposed, OSM is deleting previous § 741.21(a)(4), "Issuance of decision," because similar requirements will be included in the regulatory program.

Revised § 740.13(c)(7), "Determination of operator compliance with the Act," retains in full the requirements of previous § 741.21(b) that OSM determine whether the operator is in violation of laws and regulations pertaining to air or water environmental protection prior to issuance of a permit. OSM's intent in proposing to retain this requirement was to ensure that OSM determinations made pursuant to this provision are subject to Federal, rather than State, administrative appeals. Final revised § 740.13(c)(7) refers only to the Federal administrative review of such determinations, because the other requirements of previous § 741.21(b) must be included in the applicable regulatory program.

Revised § 740.13(c)(8), "Administrative review of decisions on permit applications," retains the requirements of previous § 741.21(a)(5) that permit decisions by OSM on Federal lands be subject to Federal administrative appeals.

Several commenters suggested that OSM clarify that the administrative review of decisions on permit applications under cooperative agreements will be subject to the State administrative review process.

OSM agrees with these commenters' suggestion and has added a sentence to revised § 740.13(c)(8) stating that "[w]here the State is the regulatory authority under a cooperative agreement, the final decision on a permit application is subject to administrative

review as provided under the approved State program."

Revised § 740.13(c)(9), "Bonds and insurance required for issuance of permits," continues, with minor revisions, the requirement of previous § 741.22 that an applicant/permittee must file with the regulatory authority, a performance bond, proof of liability insurance and a Federal lessee protection bond.

Previous § 741.23, "Renewal of permits," provided for successive renewal of permits for areas within the boundaries of an approved permit, provided such renewals do not extend beyond the period allowed for diligent development under the Mineral Leasing Act. OSM has removed this section because provisions for renewal of permits will be included in the applicable regulatory program, while compliance with all of the requirements of the Mineral Leasing Act will be ensured elsewhere in these rules. *See* revised § 740.13(c)(1).

One commenter stated that deletion of previous § 741.23 would be improper because it would make unenforceable the restriction against permit renewals encompassing land beyond previously permitted boundaries. The commenter stated that this restriction must be explicit in the Federal lands program, and that its enforcement cannot depend upon the good will of the States, particularly as the restriction affects Federal lands.

OSM disagrees with the commenter. The Act and any applicable regulatory program require that extension to the area covered by a permit, except for incidental boundary changes, must be made by application for a new permit. *See* section 511(a)(3) of the Act.

Previous § 741.24 (a) through (c), which concerned the review of approved permits and of permit revisions, have been removed as proposed, because counterpart provisions must be included in each regulatory program.

Section 740.13(d) Review of permit revisions.

OSM is adopting, as proposed, revised § 740.13(d), "Review of permit revisions," which revises previous § 741.24(d) to provide that, where the State is the regulatory authority, it must inform OSM of each request for a permit revision with respect to operations on lands containing leased Federal coal. OSM will review each permit revision in consultation with BLM and the Federal land management agency, as appropriate, to determine whether the revision constitutes a "mining plan modification" requiring Secretarial approval under the criteria in revised § 746.18.

One commenter stated that proposed § 740.13(d)(1) might be better placed in proposed Part 746, since proposed § 740.13(d)(1) relates to actions that affect the mining plan.

OSM has rejected this comment because modifications of a mining plan originate primarily through changes occurring during the term of an approved permit and within the boundaries of an approved permit area. Revised § 740.13(d)(1) will provide the necessary bridge between actions on the permit and any resulting requirement for corresponding actions on the mining plan.

Several commenters stated that OSM should clarify further how it intends to handle permit revisions on Federal lands. The commenters suggested that proposed § 740.13(d)(1) should be limited to lands containing leased Federal coal and those permit revisions which may require Secretarial review as a mining plan modification under revised § 746.18(d). One of the commenters stated this would facilitate the permit revision process and cut down on required consultations.

OSM has accepted these suggestions and has modified proposed § 740.13(d) to limit its applicability to lands containing leased Federal coal. However, OSM has added a new § 740.13(d)(3) requiring that the regulatory authority consult with the Federal land management agency to determine whether any permit revision will adversely affect other Federal resources, and whether the revision is consistent with that agency's land use plans. This will ensure that the Federal land management agency is given an opportunity to review and comment on decisions that affect its interests.

One commenter stated that OSM should clarify OSM's classifications for revisions. Specifically, the commenter asked (1) whether the regulatory authority needed the Secretary's concurrence on revisions determined to constitute mining plan modifications and (2) how the Secretary's review will correspond to the regulatory authority's time frame for review.

Revised § 740.13 does not provide specific criteria for what constitutes a mining plan modification because this is specifically defined in revised § 746.18(d). If the permit revision would also constitute a modification of the mining plan, then the Secretary must issue a new approval or disapproval for the mining plan modification in accordance with the Mineral Leasing Act. With respect to the Secretary's time schedule for processing mining plan modifications, OSM anticipates that the schedule will correlate with the time frame and procedures used for the initial review of mining plan, since the same procedures must be followed.

Section 740.13(e) Transfer, assignment or sale of rights.

As proposed, previous § 741.25(a) has been deleted because a counterpart provision must be included in each regulatory program.

Previous § 741.25(d), which required the Director to authorize the Regional Director to grant the application if he or she approves the transfer, sale or assignment, has also been deleted. This provision was consistent with OSM's reorganization, as discussed earlier in this notice.

Revised § 740.13(e), "Transfer, assignment or sale of rights," corresponds to previous § 741.25 (c) and (e). Revised § 740.13(e)(1) requires consultation with Federal land management agencies and BLM prior to the regulatory authority approving applications for transfer, assignment or sale of rights granted under a permit, while previous § 741.25(c) required the concurrence of these agencies. OSM believes that consultation, not concurrence, is sufficient. Revised § 740.13(e)(2) continues the requirement of previous § 741.25(e) that approval of a transfer, assignment or sale of rights granted under a permit shall not be construed to constitute a transfer or assignment of leasehold interests.

Section 740.13(f) Suspension or revocation of permits.

Revised § 740.13(f), "Suspension or revocation of permits," continues the requirements of previous § 741.26 with regard to the suspension or revocation of permits. The words "suspension" has been added to the title to more precisely reflect its subject. In response to a commenter, a sentence has been added to revised § 740.13(f)(2) to clarify that this section does not release the Federal lessee from any diligent development or continued operation requirements of 30 CFR Part 211.

One commenter stated that the applicability of proposed § 740.13(f)(2) should be limited to those lands containing leased Federal coal.

OSM has accepted this comment and has modified proposed § 740.13(f)(2) by inserting the phrase "containing leased Federal coal" after the phrase "Federal lands."

Another commenter stated that proposed § 740.13(f)(2) might be better placed in proposed Part 746, since propsed Part 746 deals with

requirements of the Mineral Leasing Act for lands containing leased Federal coal.

OSM rejected this comment, preferring to retain revised § 740.13(f)(2) as proposed because its purpose is directed specifically at actions regarding the permit rather than at the mining plan.

Section 740.15 Bonds on Federal lands.

As proposed, those portions of previous Part 742 that must be included in any regulatory program have been removed, while those that are unique to Federal lands have been incorporated into revised § 740.15. Persons subject to the requirements for bonding on Federal lands must comply with both the applicable regulatory program and the additional requirements of revised § 740.15.

OSM has renumbered previous Part 742 as revised § 740.15 and deleted the term "liability insurance" from the title because requirements for liability insurance must be included in the applicable regulatory program.

As proposed, previous §§ 742.1 and 742.4 have been removed.

OSM has moved the definitions of "Federal lease bond" and "Federal lessee protection bond" to revised § 740.5 in order to group all definitions in Subchapter D in the same section.

Section 740.15(a) Federal lease bonds.

As proposed, OSM has deleted the first sentence of previous § 742.11(a), which stated that "[A]ll operators on any Federal lease shall have a Federal lease bond." This is already a requirement of 43 CFR Part 3474, making it superfluous here. In addition, the reference to 43 CFR Part 3504 in previous § 742.11(a) has been changed in revised § 740.15(a) to 43 CFR Part 3474, as proposed, to reflect the current regulations govering lease bonds for leased Federal coal. With minor editorial revisions, the remainder of previous § 742.11(a) and all of previous § 742.11(b) have been retained under revised § 740.15(a).

As proposed, previous § 742.11(c) has been removed to conform to the regulations of the Bureau of Land Management, at 43 CFR Part 3400, which do not require that a lease bond include a performance bond.

Section 740.15(b) Performance bonds.

As proposed, previous § 742.12(a), which provided that persons conducting surface coal mining and reclamation operations on Federal lands shall comply with the performance bond requirements of 30 CFR 800–808, has been removed because the applicable regulatory program must contain a similar requirement.

One commenter expressed concern that OSM, by removing previous § 742.12(a), was deleting the regulation concerning the posting of a performance bond. The commenter stated that, if § 740.15(c)(4) were to stand as proposed, there may not be sufficient monetary incentive for the operator to complete reclamation, or sufficient bond resources for the State to complete reclamation if the operator does not do so.

OSM is not deleting the performance bond requirements as stated by the commenter. The applicable regulatory program must include performance bond requirements in accordance with the Act and those requirements apply on Federal lands.

Previous § 742.12(b) has been renumbered as § 740.15(b) and revised to provide that the performance bond required for operations on Federal lands shall be payable to the United States and, where a cooperative agreement is in force, the State. Thus, in the absence of a cooperative agreement, the performance bond will be payable only to the United States; where the Department and the State have entered into a cooperative agreement, the performance bond will be payable to both the United States and the State. OSM considered requiring that the performance bond be payable only to the State where the State is the regulatory authority under a cooperative agreement, but rejected this option because of the need to ensure that protection for Federal lands is continued if the cooperative agreement is suspended or terminated and OSM becomes the regulatory authority.

One commenter stated that it is not clear under proposed § 740.15(b) that the bond must be payable to both the State and the United States (as the preamble says) under a cooperative agreement.

OSM agrees with the commenter that the proposed wording was ambiguous and is modifying proposed § 740.15(b) to clarify that where the State is the regulatory authority, the performance bond shall be payable to both the United States and the State. Where OSM is the regulatory authority, the bond will be payable only to the United States.

Several commenters stated that the performance bond should be payable only to States under cooperative agreements, because having the bond payable to the United States as well complicates the release and forfeiture of the bond.

As stated in the proposed rules, OSM must ensure that the interests of the Federal government are protected, particularly in the event of an interruption in the effectiveness of the cooperative agreement with the State OSM does not believe the potential complications described by the commenters outweigh OSM's obligation to ensure protection of the Federal interests.

Section 740.15(c) Federal lessee protection bonds.

As proposed, revised § 740.15(c) continues the provisions of previous § 742.13.

One commenter suggested that proposed § 740.15(c)(1) should be revised to clarify that the consent requirement is not intended for a permit issued and authorized by the United States Department of Agriculture, Forest Service. The commenter pointed out that permits issued by the Forest Service for uses of the surface for purposes other than coal mining operations do not carry the right of transfer, sale or consent to other uses. These rights are retained by the Forest Service.

OSM has accepted this comment and is modifying proposed § 740.15(c)(1) by adding a sentence at the end of this section stating that it does not apply to permits or licenses for the use of the surface that do not convey to the permittee or licensee the right of transfer, sale or consent to other uses.

Previous §§ 742.14, 742.15, 742.16, 742.17, and 742.19 have been removed, as proposed, since similar requirements will be included in the applicable regulatory program.

Section 740.15(d) Release of bonds.

As proposed, revised § 740.15(d)(1) and (2) retain, with minor editorial revisions for clarity, the provisions of previous § 742.18(a), (c), and (d).

Previous § 742.18(b) has been removed because similar requirements will be included in each regulatory program.

One commenter suggested that the criteria for Federal lease bond release should be stated in § 740.15(d)(1).

OSM has rejected this comment because the Bureau of Land Management is responsible for the release of Federal lease bonds under the provisions of 43 CFR Part 3400 and 30 CFR Part 211, and OSM considers it unnecessary to list those requirements under revised § 740.15(d)(1). As discussed below, however, these requirements are referenced in revised § 740.15(d)(1).

One commenter stated that, because reclamation of a mine is not considered when establishing a lease bond,

concurrence from OSM (with respect to reclamation) is not necessary when releasing it. Thus, the commenter suggested that § 740.15(d)(1) be rewritten to delete OSM.

OSM has accepted the commenter's suggestion and has deleted from § 740.15(d)(1) the requirement that OSM concur in the release of the lease bond as well as the word "reclamation" since the lease bond is not concerned with SMCRA reclamation requirements.

Two commenters stated that § 740.15(d)(2) is unnecessary inasmuch as notice of the release of the bond is required by the Act.

OSM agrees with the commenter and is deleting proposed § 740.15(d)(2). The applicable regulatory program must provide for public notice and an opportunity for a hearing by persons with a valid interest which might be adversely affected by release of the bond. *See* section 519 of the Act, 30 U.S.C. 1269.

Proposed § 740.15(d)(3) has been renumbered as § 740.15(d)(2).

Another commenter stated that proposed § 740.15(d)(2) is unclear as to whether Federal concurrence in State regulatory authority performance bond release is required. OSM has added a new section 740.15(d)(3) to clarify that Federal concurrence is required in State regulatory performance bond release only when the surface coal mining and reclamation operations are subject to an approved mining plan. OSM believes Federal concurrence is appropriate in such situations to ensure that reclamation is completed consistent with the approved mining plan for non-SMCRA matters.

Section 740.15 Inspection, enforcement and civil penalties.

As proposed, the requirements of previous Part 743 with respect to inspection, enforcement and civil penalties on Federal land have been revised and incorporated under revised § 740.17.

Previous § 743.1, "Scope," and § 743.2, "Objective," have been removed.

Previous § 743.4, "Responsibilities," has also been removed because responsibilities for inspection, enforcement and civil penalties on Federal lands are adequately described under revised § 740.4

Section 740.17(a) General requirements.

As proposed, OSM has retitled previous § 743.11 as "General requirements" and renumbered it as revised § 740.17(a). Revised § 740.17(a)(1) provides that, where OSM is the regulatory authority, 30 CFR Parts 840, 842, 843 and 845, rather than the requirements of the applicable regulatory program shall govern inspection, enforcement and civil penalty activities with respect to surface coal mining and reclamation operations on lands subject to Subchapter D. This is a departure from the overall thrust of the revisions of Subchapter D, which is to apply uniform substantive and procedural requirements on both Federal and non-Federal lands. OSM believes that utilization of its own inspection, enforcement and civil penalty provisions, which are familiar to its inspection and enforcement staff, is more appropriate than using different State inspection, enforcement and civil penalties provisions in each State.

Revised § 740.17(a)(2) provides that, where the State is the regulatory authority under a cooperative agreement, the State program shall govern its inspection, enforcement and civil penalty activities on lands subject to Subchapter D, while OSM will utilize the requirements of 30 CFR Parts 842, 843 and 845 in its oversight role.

Revised § 740.17(a)(3) limits OSM's inspection, enforcement and civil penalty authority with respect to exploration on Federal lands to lands not covered by 30 CFR Part 211. These lands include Federal lands entrusted to or managed by the Tennessee Valley Authority and Federal lands inside the permit area after the commencement of surface coal mining operations. This will eliminate overlap and duplication between the requirements of Subchapter D and 30 CFR Part 211. Revised 30 CFR Part 211 contains specific requirements for the conduct of inspection, enforcement and civil penalty activities with respect to exploration on Federal lands and encompasses the requirements of both the Mineral Leasing Act and SMCRA. 47 FR 33714 (July 30, 1982). OSM, therefore, will not assert overlapping authority of its own in this area.

One commenter stated that proposed § 740.17 (a)(2) and (a)(3) are improper because OSM has specific inspection and enforcement duties on Federal lands in addition to its oversight responsibilities, and because regardless of whether the Federal lands overlie non-leased or leased Federal coal, OSM is the regulatory authority under sections 512 and 523 of the Act.

OSM disagrees with the commenter. As stated under the discussion of revised § 740.4(b)(5), the Secretary believes that delegation to States with cooperative agreements of the responsibility for inspection and enforcement on Federal lands is consistent with section 523(c) of the Act. Since States with cooperative agreements will have regulatory programs that the Secretary has approved as consistent with the Act, the Secretary believes that it is the State program that should be relied upon for implementation of the Act's inspection and enforcement requirements. The Secretary's oversight will ensure that the State program is properly applied to surface coal mining and reclamation operations on both Federal and non-Federal lands in all such States.

Section 740.17(b) Right of entry.

As proposed, previous § 743.11 (a), (b) and (c), with minor revisions, continue under revised § 740.17(b), entitled "Right of entry," as revised § 740.17(b) (1), (2) and (3).

Section 740.17(c) Inspections.

OSM has adopted the proposed deletion of the first sentence of previous § 743.12(a), which required that inspections be conducted under 30 CFR Parts 840 and 842, because revised § 740.17(a) requires inspections to be conducted according to 30 CFR Parts 840 and 842 or their regulatory program counterparts. With revisions, the remaining portion of previous § 743.12(a) will be incorporated into revised § 740.17(c), as proposed. Revised § 740.17(c) also incorporates the requirements of the first sentence of previous § 743.12(b)(1) with respect to coordination by OSM of inspections by Federal agencies. This responds to a commenter who stated that OSM should not delete the requirement in previous § 743.12(b)(1) giving OSM authority to coordinate inspections, since this provision is necessary to avoid unnecessary sequential Federal inspections, and assures that OSM remains aware of an operator's performance under other Federal statutes that may bear on the operator's performance under SMCRA. The remaining portion of previous § 743.12(b)(1) has been deleted, as proposed.

As proposed, previous § 743.12(b)(2) has been deleted because similar requirements are included in 30 CFR Part 842 with respect to inspections by OSM, and the State regulatory program with respect to inspections by the State regulatory authority under a cooperative agreement.

Previous § 743.13 has been removed, as proposed, because the requirements of this section are provided for under revised § 740.17(a).

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Section 740.19 Performance standards.

As proposed, those portions of previous Part 744 that must be included in any regulatory program have been removed. Revised § 740.19, entitled "Peformance standards," retains those requirements of previous Part 744 that are unique to Federal lands. Persons conducting surface coal mining and reclamation operations on Federal lands will be subject to the performance standards of the applicable regulatory program and the additional requirements of revised § 740.19.

As proposed, previous § 744.1, "Scope," has been removed.

Previous § 744.11, which concerned performance standards for exploration, has been removed, as proposed, because the Department's regulations at 30 CFR Part 211 provide performance standards for exploration on Federal lands subject to the requirements of the Mineral Leasing Act and because the performance standards of the applicable regulatory program will be applied to exploration on other Federal lands.

Section 740.19(a) Operations and reclamation.

OSM has adopted revised § 740.19(a)(1), which requires surface coal mining and reclamation operations on Federal lands to comply with the performance standards of the applicable regulatory program, rather than with the performance standards of 30 CFR Chapter VII, Subchapter K, as required by previous § 74.12(a). Thus, a single set of performance standards will be applicable both on and off Federal lands within a State whether or not a cooperative agreement is in force, and operators of mines containing mixed Federal and non-Federal lands will not be required to comply with two different sets of performance standards.

Except for the addition of the reference to the 30 CFR Part 211 regulations, OSM has adopted, as proposed, revised § 740.19(a)(2), which corresponds to previous § 744.12(a). Revised § 740.19(a)(2) requires that surface coal mining and reclamation operations on lands containing leased Federal coal be conducted in accordance with the terms, conditions and stipulations of the lease issued under the Mineral Leasing Act and its implementing regulations at 30 CFR Part 211, and the mining plan. This responds to one commenter who stated that the previous language in § 744.12(a) should be retained to give notice to operators on Federal lands of the separate MLA requirements found in 30 CFR Part 211 which are not part of the Secretary's regulations implementing section 523 of the Act.

Another commenter stated that, as worded, proposed § 740.19(a) conveyed the impression that the mining plan requirement is not a part of the Mineral Leasing Act and suggested rewording § 740.19(a) to clarify that the mining plan requirement is part of the MLA.

OSM has rejected this comment because the term "mining plan" has been adequately defined under revised § 740.5 to be the plan for mining leased Federal coal required by the Mineral Leasing Act and no further elaboration is needed under § 740.19(a).

As proposed, previous § 744.12(b) has been removed.

One commenter opposed the deletion of previous § 744.12(b), because it is the responsibility of the Secretary to reconcile the mineral utilization and conservation dictates of section 515(b)(1) of the Act and the diligent development requirements of the Mineral Leasing Act, a function which the State cannot perform. Therefore, the commenter stated, it is improper to rely on a State regulatory authority for performance of this function.

OSM sees no inherent conflict in allowing State regulatory authorities to implement the requirements of section 515(b)(1) of the Act where leased Federal coal is involved. Conflicts that may arise in specific cases will be resolved in the mining plan approval process.

As proposed, previous § 744.13(a), which concerned temporary abandonment of operations, has been removed because similar provisions must be included in each regulatory program.

Section 740.19(b) Completion of operations and abandonment.

As proposed, previous § 744.13(b), which described the requirements for permanent abandonment of coal exploration and surface coal mining and reclamation operations, has been removed. The Department's regulations at 30 CFR Part 211 cover abandonment of exploration activities on lands containing leased Federal coal. Abandonment of exploration activities on other Federal lands will be subject to the requirements of the applicable regulatory program, as will abandonment of all surface coal mining and reclamation operations subject to Subchapter D.

As proposed, previous § 744.13(c)(2), which concerned the notice of abandonment, has been renumbered as revised § 740.19(b)(1) and revised to require that bonds shall be released in accordance with revised § 740.15(d).

Previous § 744.13(d) has been removed, as proposed, because the requirements of this section will be provided under revised § 740.15(d).

OSM has adopted proposed § 740.19(b)(2), which pertains to cessation or abandonment of mining operations where there is a Federal lease bond, with minor modifications.

One commenter suggested that revised § 740.19(b)(2)(ii) should not require inspections by OSM with respect to Federal lease bonds.

OSM agrees. Revised § 740.19(b)(2)(ii) does not require OSM involvement in joint inspections to determine compliance with applicable requirements, because OSM has no responsibility for Federal lease bonds. Similarly, the reference to compliance with the requirements of the Federal lands program and the permit has been replaced with a reference to 30 CFR Part 211, because that is where the requirements applicable to Federal lease bonds are contained.

OSM proposed to delete previous § 744.13(e), which concerns public participation in the approval of abandonment and release of performance bonds because each regulatory program must contain counterpart requirements.

One commenter suggested that previous § 744.13(e) should be retained, because OSM must comply with the requirements of 30 CFR Part 807, which will not be replicated in a State program, and because States are not likely to have appropriate hearing procedures for bond release.

OSM partially agrees with the commenter and has retained a modified version of previous § 744.13(e). Approved State programs must contain standards and procedures for the approval of abandonment and release of performance bonds that are consistent with section 519 of the Act, which 30 CFR Part 807 implements. Thus, the standards and procedures of the State program concerning the approval of abandonment and release of performance bonds will apply to surface coal mining and reclamation operations on Federal lands, which is consistent with OSM's intent to apply the requirements of the applicable regulatory program to mining on Federal lands to the extent possible. However, where OSM is the regulatory authority, OSM cannot apply the State program requirements for public hearings. Such hearings by OSM must be in accordance with 5 U.S.C. 554 and the rules of the Department's Office of Hearings and Appeals at 43 CFR Part 4. Accordingly, OSM is adopting revised § 740.19(c)(3)

to provide that, where OSM is the regulatory authority, it shall conduct public hearings held on final abandonment and release of performance bonds in accordance with 5 U.S.C. 554 and the rules of the Department's Office of Hearings and Appeals at 30 CFR Part 4. Where the State is the regulatory authority, the State will use the administrative hearings procedures of its approved State program.

Part 745—State-Federal Cooperative Agreements

Section 745.1 Scope.

As proposed, previous § 745.1 has been retained with minor revisions for clarity.

Previous § 745.2, "Objectives," and § 745.4, "Responsibilities," have been removed, as proposed.

One commenter stated that § 745.4 should not be deleted to the extent that it describes the respective duties of the Secretary, OSM, and the State regulatory authority under cooperative agreements on Federal lands.

OSM has rejected this comment because the responsibilities of the Secretary, OSM, and the State regulatory authority are adequately described under revised § 740.4.

Section 745.10 Information collection.

Section 745.10 corresponds with the "Note" at the beginning of previous Part 745, which indentifies the OMB approval number for the information collection requirements of this Part. OSM has deleted this "Note" and is codifying OMB's approval of the information collection requirements of Part 745 in revised § 745.10.

Section 745.11 Application and agreement.

As proposed, revised § 745.11(a) replaces the phrase "which are being conducted under the terms of a Federal lease" in previous § 745.11(a) with the phrase "on Federal lands." This change makes clear that cooperative agreements apply to all Federal lands, not just lands containing leased Federal coal.

As proposed, previous § 745.11(b) (1) through (6), which concerned specific information that must be submitted in a State's request for a cooperative agreement, will be removed and replaced with revised § 745.11(b)(1). These subsections have been deleted because the same information can be obtained from the State program submitted to the Office by the State for approval of its State program or from information available elsewhere in the Department. Moreover, revised § 745.11(b)(1) provides a direct correlation between information needed to support an application for a cooperative agreement and the findings required under revised § 745.11(f) through cross-referencing that section. With minor revisions for clarity, previous § 745.11(b) (7) and (8) have been redesignated as revised § 745.11(b) (2) and (3); no change in effect is intended.

As proposed, previous § 745.11(c) has been revised to eliminate the requirement that the text of each cooperative agreement be published as a proposed rule in the exact terms submitted by the State. This will allow publication of either the text as submitted by the State or of a subsequent version resulting from discussions between OSM and the State. The requirement that a notice of the request and a summary of the terms of the agreement be published in newspapers in the State will be continued.

One commenter stated that proposed § 745.11(c) should not eliminate the requirement that cooperative agreements be published in the **Federal Register** as submitted by the State, since this initiates the rulemaking process and with it the procedural protection afforded by the Administrative Procedure Act, such as the prohibition against *ex parte* communications.

OSM disagrees with the commenter that receipt of cooperative agreements from the State initiates the rulemaking process. OSM has found that when States initially submit proposed agreements, in addition to substantive changes that may be required, there are typically numerous editorial and format changes required before the document can be published in the **Federal Register**. Making these changes before publishing the document alleviates minor problems so that substantive changes can be dealt with more effectively upon publication of the proposed agreement as a proposed rule. Further, OSM does not consider discussions of these changes to violate the Administrative Procedure Act, since they occur prior to publication of the proposed rule in the **Federal Register**.

As proposed, the requirement of previous § 745.11(c)(1), that the date, time and place of the public hearing be included in the rule, has been moved to the end of revised § 745.11(d). As proposed, previous § 745.11(c)(2) has been redesignated as revised § 745.11(c)(1), no change in effect is intended.

As proposed, previous § 745.11(c)(3) has been redesignated as § 745.11(c)(2) and revised to reduce the period for the public to submit written comments on the State's request for a cooperative agreement from 60 to 30 days following its publication in the **Federal Register** as a proposed rule. This will greatly expedite the rulemaking process for adoption of cooperative agreements. One commenter stated that the time period for public participation should not be shortened. OSM believes, however, that the shortened comment period will still provide an adequate opportunity for public comment, a belief based upon the fact that OSM has received relatively few comments on past cooperative agreements under the longer comment period.

As proposed, previous § 745.11(d) has been revised to eliminate the requirement that public hearings on the State's request for a cooperative agreement be held not less than 30 days after publication of the rules announcing such request. Instead, revised § 745.11(d) requires that a public hearing be held within the comment period and that notice of such hearing be published in the **Federal Register** not less than 15 days prior to the date of the hearing. Such notice will, therefore, be required at least 15 days prior to the close of the comment period. One commenter opposed this shortened notice of hearing requirement. OSM believes that fifteen days is sufficient notice. Moreover, allowing the notice to be given after publication of the proposed cooperative agreement is justified by the difficulty of establishing a precise date and location for the hearing at the time the **Federal Register** notice is developed.

As proposed, previous §§ 745.11 (e) through (g) have been retained with minor editorial revisions.

Section 745.12 Terms

As proposed, OSM has revised previous § 745.12(a) to delete the phrase " and describing each applicable provision of the State's applicable statutes, regulations and policies" because in practice it has been found cumbersome and unproductive to describe these provisions in detail. An assessment of these provisions is required as part of OSM's State program approval process and need not be repeated in the cooperative agreement. However, any part of the State program not applicable on Federal lands will be identified in the cooperative agreement.

As proposed, previous § 745.12(b) has been revised by inserting the phrase "but not limited to" after the word "including" in order to clarify that the description of the powers and authority

reserved by the Secretary under revised § 745.13 is not exhaustive.

As proposed, OSM has redesignated previous § 745.12(c) as revised § 745.12(d) with minor editorial revisions.

Revised § 745.12(c) requires that the cooperative agreement specify how the requirements of Subchapter D will be applied to surface coal mining and reclamation operations on Federal lands to minimize overlap and duplication. Under revised § 745.12(c), the cooperative agreement will specify which requirements in Subchapter D may be assumed by the State, which are reserved to the Department and which may be administered jointly. The Secretary intends to allow States to assume full responsibility for delegable requirements. Further, the Secretary believes that States can and should be relied upon to assist in carrying out non-delegable responsibilities. For example, States cannot assume responsibility for ensuring compliance with the National Environmental Policy Act, but can participate in preparing the supporting environmental documents and analyses. *See* 40 CFR 1506.2. The Secretary believes that certain other non-delegable requirements of this Subchapter may be complied with through joint participation by the State and the Department.

As proposed, previous § 745.12 (d) and (e) have been redesignated as revised § 745.12 (e) and (f), respectively; no changes in their effects are intended.

As proposed, previous § 745.12(f), which provided that the cooperative agreement establish the amount of, and collection procedures for, permit application fees on Federal lands, has been removed, since the permit fee requirements of the State regulatory program will be applicable on Federal lands under revised § 740.13(b)(1).

One commenter stated that previous § 745.12(f) should remain in effect because provisions for fee collection on Federal lands should be contained in the cooperative agreement so that they can be enforced under that agreement by the Secretary, not through the State program.

OSM disagrees with the commenter. Establishment and collection of permit application fees is a regulatory matter properly delegable to a State under a SMCRA section 523(c) cooperative agreement.

As proposed, revised § 745.12(g)(1) requires that under the cooperative agreement the State regulatory authority must make available to OSM information on any action taken regarding a permit application for surface coal mining and reclamation operations on Federal lands. This will enable OSM to ensure compliance with all legal and procedural requirements for which OSM is responsible. *See* revised § 740.4(b). As proposed, revised § 745.12(g)(2) requires that each cooperative agreement obligate the State regulatory authority to provide OSM with, at a minimum, a written finding indicating that a permit application is in compliance with the terms of the State program and a technical analysis of the permit application that will assist OSM in meeting its responsibilities under applicable Federal laws and regulations other than SMCRA. OSM will prescribe the content and format for the information needed to satisfy the requirements of revised § 745.12(g)(2) in order to establish a degree of uniformity among the various States with cooperative agreements. The addition of § 745.12(g)(2) formalizes a provision which has been included in the terms of all cooperative agreements either already approved or currently being negotiated pursuant to the permanent program regulations. These agreements now require that the State regulatory authority, upon completion of its review of a permit application, provide OSM with documentation to assist OSM in meeting its non-delegable responsibilities under NEPA and other Federal laws and regulations other than SMCRA.

One commenter stated that the requirements of proposed § 745.12(g)(2) should be limited to those lands containing leased Federal coal.

OSM agrees with the commenter and has revised § 745.12(g)(2) accordingly. This section ensures that the Secretary fulfills all requirements under other Federal laws and regulations that may be triggered by the Secretary's approval of the mining plan.

Another commenter suggested that § 745.12(g)(2) should read, "provide the Office, in the form specified by the Office in consultation with the State, with written findings * * *."

OSM has accepted this comment and incorporated the language suggested by the commenter into revised § 745.12(g)(2).

Section 745.13 Authority reserved to the Secretary.

The listing of requirements that are specifically reserved to the Secretary under previous § 745.13 has been revised and expanded to include requirements for (1) evaluating the State's administration and enforcement of the State program and implementation of the cooperative agreement on Federal lands; (2) complying with the inspection, enforcement and civil penalty requirements of 30 CFR Parts 842 and 843, except as provided under § 740.4(c)(5) of this Subchapter, (3) determining valid existing rights for surface coal mining and reclamation operations on Federal lands within the boundaries of any areas specified under section 522(e)(1) or (2) of the Act, and (4) as discussed earlier, compatibility determinations under section 522(e)(2) of the Act. The specific references in proposed § 745.13(m) and (o) to Endangered Species Act and National Historic Preservation Act responsibilities, respectively, have been deleted. In their place, revised § 745.13(b) now refers to responsibilities under Federal laws and regulations other than SMCRA.

One commenter stated that proposed § 745.13(c) should be modified to allow the State regulatory authority to approve post-mining land uses where the surface is privately- or State-owned and the coal is Federally-owned. Another commenter stated that proposed § 745.13(k) should also be modified in this manner with respect to the development of land use plans.

OSM agrees with these commenters and is modifying the language proposed for § 745.13(c) and (k) to allow delegation of those functions where the surface estate is not Federally-owned.

One commenter stated that proposed § 745.13 should be amended to include the requirements of section 176(c) of the Clean Air Act. Section 176(c) provides that:

> No department, agency, or instrumentality of the Federal Government shall (1) engage in, (2) support in any way or provide financial assistance for, (3) license or permit or (4) approve, any activity which does not conform to a plan after it has been approved or promulgated under section 110. * * * The assurance of conformity to such a plan shall be an affirmative responsibility of the head of such department, agency, or instrumentality.

OSM agrees with the commenter that compliance with section 176(c) of the Clean Air Act is a responsibility of the Secretary; however, specific reference to this requirement is unnecessary because it is encompassed by revised § 745.13(b).

Sections 745.14, 745.15 and 745.16.

As proposed, previous §§ 745.14, 745.15 and 745.16 have been retained.

One commenter stated that OSM should authorize under § 745.14 a fast-track procedure which avoids the cumbersome rulemaking requirements of § 745.11 for amendments to a cooperative agreement that merely bring

the agreement in line with the revised Federal lands regulations.

OSM has declined to adopt the procedures suggested by the commenters. OSM believes that any changes in an approved cooperative agreement should be made through rulemaking to provide the public with an opportunity to comment on those changes. Further, OSM believes it has already substantially streamlined the requirements for amending cooperative agreement through the changes being adopted under this rulemaking.

Part 746—Review and Approval of Mining Plans

As proposed, Part 746, which has no counterpart in previous regulations, sets forth the requirements for review and approval of mining plans.

Section 746.1 Scope.

As proposed, § 746.1 describes the coverage of these regulations and the requirements for review and approval, disapproval or conditional approval of mining plans on lands containing leased Federal coal.

Section 746.10 Information collection.

Section 746.10 corresponds to the "Note" at the beginning of previous 30 CFR Part 741 with respect to mining plans and identifies the OMB approval number for the relevant information collection requirements of that part. OSM has deleted the "Note" and is codifying OMB's revised approval of the information collection requirements of previous Part 741 as it relates to mining plans in § 746.10.

Section 746.11 General requirements.

As proposed, § 746.11(a) provides that surface coal mining and reclamation operations on lands containing leased Federal coal will require approval of a mining plan by the Secretary. While the processing of a permit may be undertaken as a separate action by the regulatory authority, the Secretary must decide whether surface coal mining can occur on such lands before mining may commence.

One commenter stated that OSM should neither (1) restrict the Secretary's authority to approve mining plans under section 523 to lands containing leased Federal coal, nor (2) allow States with approved cooperative agreements to either issue permits for mining on Federal lands or take that action prior to Secretarial approval of the mining plan.

OSM has rejected this comment for the reasons discussed above under "Permit Application and Mining Plan Review and Approval."

As proposed, § 746.11(b) requires that mining on lands containing leased Federal coal be conducted under an approved permit that is issued in accordance with Subchapter D and that is consistent with an approved mining plan. Where there is a cooperative agreement, the State regulatory authority will fully process a permit application in accordance with its program and, if it approves the application, issue the permit. Issuance of the permit in this circumstance will be based on the requirements of the State program and any requirements of this Subchapter that have been delegated to the State. Thus, permit issuance will be separate from approval of the mining plan by the Secretary. It is possible, though unlikely, that although the State regulatory authority has concluded that mining could be conducted within the requirements of its regulatory program, the Secretary could determine that mining cannot occur because of applicable Federal laws and regulations other than SMCRA and, therefore, disapprove the mining Plan. However, because of the close coordination and continuous communication that are necessary to properly implement the terms of a cooperative agreement, OSM expects few instances of disagreement on decisions regarding mining proposals.

Section 746.13 Decision document and recommendation on mining plan.

OSM has adopted, as proposed, § 746.13, which provides for the preparation of a decision document by OSM to be submitted to the Secretary recommending approval, disapproval, or conditional approval of the mining plan. Section 746.13 sets forth the elements on which the decision document will be based, including, but not limited to, the permit application package, which includes the resource recovery and protection plan required by 30 CFR Part 211; information prepared in compliance with the National Environmental Policy Act; documentation assuring compliance with Federal laws, regulations and executive orders other than SMCRA; comments and recommendations or concurrences of other Federal agencies; comments of the public; the findings and recommendations of the BLM regarding compliance with the resource recovery and protection plan and other requirements of the Mineral Leasing Act and the lease; the findings and recommendations of the regulatory authority with respect to the permit application, the Act, and the State program; and the findings and recommendations of the Office with respect to the additional requirements of this subchapter.

Section 746.14 Approval, disapproval or conditional approval of mining plan.

As proposed, § 746.14 requires the Secretary to approve, disapprove, or conditionally approve the mining plan.

One commenter stated that the heading for proposed § 746.14 is misleading because Secretarial action can be something other than approval.

OSM agrees with the commenter and is modifying the heading to § 746.14 accordingly.

Section 746.17 Term of approval.

As proposed, § 746.17(a) will specify that each mining plan approval shall cover the operations for which a complete permit application package was submitted, unless otherwise indicated in the approval.

One commenter stated that OSM should modify proposed §§ 746.17 and 746.18 to clarify that permit renewal decisions are the sole responsibility of the regulatory authority unless the renewal proposes some change which constitutes a mining plan modification.

OSM agrees that permit renewal decisions are the responsibility of the regulatory authority and that such revisions will not require Secretarial approval unless they modify the mining plan.

As proposed § 746.17(b) specifies that an approved mining plan remains in effect until modified, cancelled or withdrawn and is binding on any person mining under its provisions.

Section 746.18 Mining plan modification.

As proposed, § 746.18(a) requires that modifications to mining plans be approved by the Secretary and § 746.18(b) requires that such modifications be processed in accordance with Part 746.

Section 746.18(c) provides that mining operations under a permit revision for mining on land containing leased Federal coal may not commence until either OSM determines that the revision is not a mining plan modification or, if a mining plan modification is involved, the Secretary approves the modification. Section 746.18(c) is intended to make clear that it is only where a permit revision affects the basis for mining plan approval that Secretarial approval of the revision will be required. Approval of permit revisions that will not constitute a mining plan modification will be the responsibility of the regulatory authority.

OSM has adopted, as proposed, § 746.18(d) which lists the criteria for determining when a permit revision constitutes a mining plan modification.

One commenter stated that, assuming that "term" means "stipulation" in proposed § 746.18(d)(1), OSM should clarify the meaning of this criterion, since past practice has been to include very broad language in stipulations.

OSM has accepted this comment in part. Revised § 746.18(d)(1) provides that any change in a permit "term, condition, or stipulation" included pursuant to Federal law or regulation other than SMCRA constitutes a mining plan modification. OSM's intent is to ensure Secretarial review of permit changes relating to laws other the SMCRA, while preserving State independence in approving permit revisions as they relate to SMCRA. OSM deems it inappropriate and unnecessary, however, to include specific revision criteria in these regulations. While some terms, conditions and stipulations are standard and are included in many approved mining plans, most are developed on a case-by-case basis, and reflect special requirements applicable only to the mining operation in question.

III. Procedural Matters

National Environmental Policy Act

This rule is part of the Secretary's implementation of the Federal lands program and, therefore, pursuant to section 702(d) of the Act, 30 U.S.C. 1292(d), OSM is not required to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Federal Paperwork Reduction Act

The information collection requirements in previous 30 CFR Parts 741, 742 and 745 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned clearance numbers 1029–26, 1029–27 and 1029–28. This approval was identified in "notes" at the introduction to 30 CFR Parts 741, 742 and 745. OSM has deleted those "notes" and is codifying the OMB approvals under sections 740.10, 745.10 and 746.10. OSM has received OMB approval of the information collection requirements being for the following sections: 30 CFR 740.13(b), 740.13(c)(8), 740.13(e), 740.15(a), 740.15(c)(1), 740.15(d)(2), 740.15(d)(3) and 746.12. The information required by 30 CFR Parts 740, 745 and 746 will be used by the Office in the implementation of the Federal lands program required under section 523(a) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1273(a). The information required by 30 CFR Parts 740, 745 and 746 is mandatory.

Executive Order 12291 and Regulatory Flexibility Act.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and does not require a small entity flexibility analysis under the Regulatory Flexibility Act.

It is not anticipated that the proposed revisions to Subchapter D would have any significant adverse impacts on State or Federal agencies, individual industry or consumers. Unnecessarily burdensome and counterproductive provisions would be eliminated, modified or rewritten to provide additional flexibility, and to distinguish mandatory from discretionary requirements.

The proposed revisions to Subchapter D would not result in significant adverse effects on employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete in domestic or foreign markets. The main impact of the changes would be to provide for better coordination and cooperation among the State regulatory authority, OSM and the Geological Survey in regulating coal mining activities under a State-Federal cooperative agreement. The OSM regulations concerning State-Federal cooperative agreements would continue to require that minimum standards be met, which assures that a State may not secure a competitive advantage for its mining operators over those of another State by adopting substandard regulations.

This would be a beneficial impact on small coal mine operators, in that small operators whose operations extend to both State and Federal lands would have only one regulatory authority to deal with instead of two.

List of Subjects

30 CFR Part 700

Administration practice and procedure, Coal mining, Surface mining, Underground mining, Reporting requirements.

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 740

Coal mining, Public lands, Mineral resources, Reporting requirements, Surface mining.

30 CFR Part 745

Coal mining, Intergovernmental relations, Public lands, Mineral resources, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 746

Coal mining, Mining plan, Public lands, Mineral resources, Reporting requirements, Surface mining, Underground mining.

Accordingly, 30 CFR Parts 700, 701, 740, and 745 are amended, Parts 741, 742, 743 and 744 removed, and a revised Part 746 added as follows:

Dated: December 27, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 700—GENERAL

1. Section 700.1(d) is revised to read as follows:

§ 700.1 Scope.

* * * * *

(d) Subchapter D of this chapter identifies the procedures that apply to surface coal mining and reclamation operations conducted on Federal lands rather than State or private lands and incorporates by reference the requirements of the applicable regulatory program and the inspection and enforcement requirements of Subchapter L of this chapter.

* * * * *

Authority: 30 U.S.C. 1201 *et seq.*

2. The definition of "regulatory program" in § 700.5 is revised to read as follows:

§ 700.5 Definitions.

* * * * *

Regulatory program means any approved State or Federal program or, in a State with no approved State or Federal program and coal exploration and surface coal mining and reclamation operations are on Federal lands, the requirements of subchapters A, F, G, J, K, L, M, and P of this chapter.

Authority: 30 U.S.C. 1201 *et seq.*

3. Section 700.11(g) is revised to read as follows:

§ 700.11 Applicability.

* * * * *

(g) Coal exploration on lands subject to the requirements of 30 CFR Part 211 of this title.

Authority: 30 U.S.C. 1201 *et seq.*

PART 701—PERMANENT REGULATORY PROGRAM

4. The definition of "permit" in § 701.5 is revised to read as follows:

§ 701.5 Definitions.

* * * * *

Permit means a permit to conduct surface coal mining and reclamation

operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program. For purposes of the Federal lands program, permit means a permit issued by the State regulatory authority under a cooperative agreement or by OSM where there is no cooperative agreement.

* * * * *

Authority: 30 U.S.C. 1201 *et seq.*

5. Section 701.11(b) is revised to read as follows:

§ 701.11 Applicability.

* * * * *

(b) Any person who conducts surface coal mining and reclamation operations on Federal lands on or after 8 months from the date of approval of a State program or implementation of a Federal program for the State in which the Federal lands are located shall have a permit issued pursuant to Part 740 of this chapter. However, under conditions specified in § 740.13(a)(3) of this chapter, a person may continue such operations under a mining plan previously approved pursuant to Part 211 of this title or a permit issued by the State under the interim State program after 8 months after the date of approval of a State program or implementation of a Federal program.

* * * * *

Authority: 30 U.S.C. 1201 *et seq.*

6. Part 740 is revised to read as follows:

PART 740—GENERAL REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS ON FEDERAL LANDS

Sec.

740.1 Scope and purpose.
740.4 Responsibilities.
740.5 Definitions.
740.10 Information collection.
740.11 Applicability.
740.13 Permits.
740.15 Bonds on Federal lands.
740.17 Inspection, enforcement and civil penalties.
740.19 Performance standards.

Authority: 30 U.S.C. 1201 *et seq.* and 30 U.S.C. 181 *et seq.*

§ 740.1 Scope and purpose.

This subchapter provides for the regulation of surface coal mining and reclamation operations on Federal lands.

§ 740.4 Responsibilities.

(a) The Secretary is responsible for:

(1) Approval, disapproval or conditional approval of mining plans with respect to lands containing leased Federal coal and of modifications thereto, in accordance with the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181 *et seq.*;

(2) Execution, modification or termination of State-Federal cooperative agreements in accordance with Part 745 of this chapter; and

(3) Designation of areas of Federal lands as unsuitable for all or certain types of surface coal mining and reclamation operations, or termination of such designations, in accordance with Part 769 of this chapter.

(4) Determination of valid existing rights for surface coal mining and reclamation operations on Federal lands within the boundaries of any areas specified under section 522 (e)(1) or (2) of the Act.

(5) Determination that there are no significant recreational, timber, economic, or other values which may be incompatible with surface coal mining and reclamation operations on any Federal lands within the boundaries of any national forest under section 522(e)(2) of the Act.

(b) OSM is responsible for:

(1) Providing a decision document recommending to the Secretary approval, disapproval or conditional approval of mining plans and of modifications thereto;

(2) Approval of experimental practices on Federal lands;

(3) Inspection, enforcement and civil penalties with respect to surface coal mining and reclamation operations on Federal lands except as provided in paragraph (c)(5) of this section;

(4) Processing citizen requests for Federal inspections on Federal lands in accordance with Parts 842, 843 and 845 of this chapter; and

(5) Overseeing the State regulatory authority's administration and enforcement of the State program on Federal lands pursuant to the terms of any cooperative agreement.

(c) The following responsibilities of OSM may be delegated to a State regulatory authority under a cooperative agreement:

(1) Review and approval, conditional approval of disapproval or permit applications for surface coal mining and reclamation operations on Federal lands, revisions or renewals thereof, and applications for the transfer, sale or assignment of such permits;

(2) Consultation with and obtaining the consent, as necessary, of the Federal land management agency with respect to post-mining land use and to any special requirements necessary to protect non-coal resources of the areas affected by surface coal mining and reclamation operations;

(3) Consultation with and obtaining the consent, as necessary, of the Bureau of Land Management with respect to requirements relating to the development, production and recovery of mineral resources on lands affected by surface coal mining and reclamation operations involving leased Federal coal pursuant to 43 CFR Part 3400;

(4) Approval and release of performance bonds, liability insurance and, as applicable, Federal lessee protection bonds required for surface coal mining and reclamation operations on Federal lands. Approval and release of Federal lessee protection bonds requires the concurrence of the Federal land management agency;

(5) Responsibilities of the regulatory authority with respect to inspection, enforcement and civil penalty activities for (i) exploration operations not subject to Part 211 of this title, and (ii) surface coal mining and reclamation operations on Federal lands;

(6) Review and approval of exploration operations not subject to the requirements of Part 211 of this title; and

(7) Preparation of documentation to comply with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), except, OSM continues to be responsible for:

(i) Determining the scope, content and format and ensuring the objectivity of NEPA compliance documents;

(ii) Making the determination of whether or not the preparation of an environmental impact statement is required.

(iii) Notifying and soliciting views of other State and Federal agencies, as appropriate, on the environmental effects of the proposed action;

(iv) Publishing and distributing draft and final NEPA compliance documents;

(v) Making policy responses to comments on draft NEPA compliance documents;

(vi) Independently evaluating NEPA compliance documents; and

(vii) Adopting NEPA compliance documents and determining Federal actions to be taken on alternatives presented in such documents.

(d) The Bureau of Land Management is responsible for:

(1) Receiving and approving exploration plans pursuant to Part 211 of this title;

(2) Inspection, enforcement and civil penalties with respect to the terms and conditions of coal exploration licenses issued pursuant to 43 CFR Part 3400;

(3) Inspection, enforcement and civil penalties with respect to the terms and conditions of exploration operations subject to Part 211 of this title;

(4) Reviewing the resource recovery and protection plan and modifications thereto, as required by Part 211 of this title and recommending to the Secretary approval, disapproval or conditional approval of the resource recovery and protection plan;

(5) Inspection, enforcement and civil penalties with respect to the recovery and protection of the coal resource as required by Part 211 of this title;

(6) Protecting mineral resources not included in the coal lease;

(7) Issuance of exploration licenses for Federal coal subject to the requirements of 43 CFR Part 3400;

(8) Issuance of leases and licenses to mine Federal coal subject to the requirements of 43 CFR Part 3400; and

(9) Issuance, readjustment, modification, termination, cancellation, and approval of transfers of Federal coal leases pursuant to the Mineral Leasing Act and the Mineral Leasing Act for Acquired Lands of 1947, as amended, 30 U.S.C. 351 *et seq.*

(e) The Federal land management agency is responsible for:

(1) Determining post-mining land uses;

(2) Protection of non-mineral resources;

(3) Requiring such conditions as may be appropriate to regulate surface coal mining and reclamation operations under other provisions of law applicable to such lands under its jurisdiction; and

(4) Where land containing leased Federal coal is under the surface jurisdiction of a Federal agency other than the Department, concur in the terms of the mining plan approval.

§ 740.5 Definitions.

(a) As used in this subchapter, the term:

Authorized officer means any person authorized to take official action on behalf of a Federal agency that has administrative jurisdiction over Federal lands.

Coal lease means a Federal coal lease or license issued by the Bureau of Land Management pursuant to the Mineral Leasing Act and the Federal Acquired Lands Leasing Act of 1947 (30 US.C. 351 *et seq.*).

Cooperative agreement means a cooperative agreement entered into in accordance with section 523(c) of the Act and Part 745 of this chapter.

Federal land management agency means a Federal agency having administrative jurisdiction over the surface of Federal lands that are subject to these regulations.

Federal lease bond means the bond or equivalent security required by 43 CFR Part 3400 to assure compliance with the terms and conditions of a Federal coal lease.

Federal lessee protection bond means a bond payable to the United States or the State, whichever is applicable, for use and benefit of a permittee or lessee of the surface lands to secure payment of any damages to crops or tangible improvements on Federal lands, pursuant to section 715 of the Act.

Lease terms, conditions and stipulations means all of the standard provisions of a Federal coal lease, including provisions relating to lease duration, fees, rentals, royalties, lease bond, production and recordkeeping requirements, and lessee rights of assignment, extension, renewal, termination and expiration, and site-specific requirements included in Federal coal leases in addition to other terms and conditions which relate to protection of the environment and of human, natural and mineral resources.

Leased Federal coal means coal leased by the United States pursuant to 43 CFR Part 3400, except mineral interests in coal on Indian lands.

Mineral Leasing Act or *MLA* means the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181, *et seq.*

Mining plan means the plan for mining leased Federal coal required by the Mineral Leasing Act.

Permit application package means a proposal to conduct surface coal mining and reclamation operations on Federal lands, including an application for a permit, permit revision or permit renewal, all the information required by the Act, this subchapter, the applicable State program, any applicable cooperative agreement and all other applicable laws and regulations including, with respect to leased Federal coal, the Mineral Leasing Act and its implementing regulations.

Regulatory authority means the State regulatory authority pursuant to a cooperative agreement approved under Part 745 of this chapter or, in the absence of a cooperative agreement, OSM.

TVA-owned lands means land owned by the United States and entrusted to or managed by the Tennessee Valley Authority.

(b) The following terms shall have meanings as set forth in Part 211 of this title: Exploration; exploration plan; maximum economic recovery; method of operation; mine; and resource recovery and protection plan.

§ 740.10 Information collection.

The information collection requirements contained in this part have been approved by OSM of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1029–0026 and 1029–0027. The information is being collected to determine compliance with sections 506, 507, 509, 510, 515 and 523 of the Act (30 U.S.C. 1256, 1257, 1259, 1260, 1265 and 1273) and this part. The obligation to respond to the information collection requirements of this part is mandatory.

§ 740.11 Applicability.

(a) Upon approval or promulgation of a regulatory program for a State, that program and this subchapter shall apply to:

(1) Coal exploration operations on lands not subject to Part 211 of this title,

(2) Surface coal mining and reclamation operations on lands containing leased Federal coal, and

(3) Surface coal mining and reclamation operations on lands where either the coal to be mined or the surface are owned by the United States, except as specified in this subchapter.

(b) Where OSM is the regulatory authority, references in the State program to the State or an agency or official of the State (with respect to functions of the State acting as regulatory authority) shall be construed as referring to OSM.

(c) Where the Secretary and a State have entered into a cooperative agreement, the cooperative agreement shall delineate the responsibilities of the Secretary and the State with respect to the administration of the regulatory program and this subchapter.

(d) Nothing in this subchapter shall affect in any way the authority of the Secretary or any Federal land management agency to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations under provisions of law other than the Act on land under their jurisdiction.

(e) This subchapter shall not apply to surface coal mining and reclamation operations within a State prior to approval or promulgation of a regulatory program for the State.

§ 740.13 Permits.

(a) General requirements. (1) No person shall conduct surface coal mining and reclamation operations on lands subject to this part unless that person has first obtained a permit issued pursuant to the regulatory program and this part.

(2) Every person conducting surface coal mining and reclamation operations on lands subject to this part shall comply with the terms and conditions of the permit and the lease or license, the

Act, this subchapter, the regulatory program and all other applicable State and Federal laws and regulations.

(3) Surface coal mining and reclamation operations authorized under the initial regulatory program or Part 211 of this title, as applicable, may be conducted beyond the eight-month period prescribed in the applicable regulatory program if all of the following conditions are present:

(i) A timely and administratively complete application for a permit to conduct those operations under this Part has been made to the regulatory authority in accordance with the provisions of this Part and the applicable regulatory program;

(ii) The regulatory authority has not yet rendered a final decision with respect to the permit application; and

(iii) Those operations are conducted in compliance with all terms and conditions of the initial regulatory program approval or permit, the requirements of the Act. 30 CFR Chapter VII, Subchapter B or Part 211 of this title, as applicable, applicable State laws and regulations, and the requirements of the applicable lease or license.

(b) Permit Application Package. (1) Each application for a permit, or permit revision or renewal thereof to conduct surface coal mining and reclamation operations on lands subject to this part shall be accompanied by a fee made payable to the regulatory authority. The amount of the fee shall be determined in accordance with the permit fee criteria of the applicable regulatory program.

(2) Unless specified otherwise by the regulatory authority, seven copies of the complete permit application package shall be filed with the regulatory authority.

(3) Each permit application package shall include:

(i) The information required for a permit application or for an application for revision or renewal of a permit under the applicable regulatory program;

(ii) The resource recovery and protection plan required by Part 211 of this title for operations on lands containing leased Federal coal; and

(iii) Where OSM is the regulatory authority or where the proposed operations are on lands containing leased Federal coal, the following supplemental information to ensure compliance with Federal laws and regulations other than the Act:

(A) A description of the affected area of the proposed surface coal mining and reclamation operation with respect to: (*1*) Increases in employment, population and revenues to public and private entities, and (*2*) the ability of public and private entities to provide goods and services necessary to support surface coal mining and reclamation operations.

(B) An evaluation of impacts to the scenic and aesthetic resources, including noise on the surrounding area, due to the proposed surface coal mining and reclamation operation.

(C) A statement, including maps and ownership data as appropriate, of any cultural or historical sits listed on the National Register of Historic Places within the affected area of the proposed surface coal mining and reclamation operation.

(D) A statement of the classes of properties of potential significance within the disturbed area, and a plan for the identification and treatment, in accordance with 36 CFR Part 800, of properties significant and listed or eligible for listing on the National Register of Historic Places within the disturbed area of the proposed surface coal mining and reclamation operation.

(E) A description of the probable changes in air quality resulting from the mining operation and any necessary measures to comply with prevention of significant deterioration limitations, State Implementation Plans, or other Federal or State laws for air quality protection.

(F) A description of the location, acreage and condition of important habitats of selected indicator species located within the affected area of the proposed surface coal mining and reclamation operation.

(G) A description of active and inactive nests and prey areas of any Bald or Golden eagles located within the affected area of the proposed surface coal mining and reclamation operations.

(H) A description of all threatened and endangered species and their critical habitats located within the affected area of the proposed surface coal mining and reclamation operations.

(4) Where the surface of the Federal lands is subject to a lease or permit issued by the Federal government to a person other than the applicant, the permit application package shall contain information sufficient to demonstrate compliance with the requirements of § 740.15(c)(1). This requirement shall not apply to TVA-owned lands.

(c) Permit Review and Processing. Applications for permits, permit revisions or renewals thereof to conduct surface coal mining and reclamation operations on lands subject to this part shall be reviewed and processed in accordance with the requirements of the applicable regulatory program, subject to the following additional requirements:

(1) Permit terms and conditions. Permits shall include, as applicable, terms and conditions required by the lease issued pursuant to the Mineral Leasing Act and by other applicable Federal laws and regulations.

(2) Criteria for permit approval or denial. The regulatory authority shall not approve an application for a permit, or permit revision or renewal thereof for surface coal mining and reclamation operations on lands subject to this part unless the application is in accordance with the requirements of the applicable regulatory program and this Part or a cooperative agreement, as applicable.

(3) Public participation in permit review process. Where public hearings were held and determinations made under section 2(a)(3) (A), (B) and (C) of the Mineral Leasing Act (30 U.S.C. 201(a)(3) (A), (B) and (C)), such hearings may be made a part of the record of each public hearing on a permit application held pursuant to the requirements of the applicable regulatory program and this part. Matters covered at such hearings and determinations made at such hearings need not be readdressed.

(4) Permit review processing for operations on lands administered by a Federal land management agency. Upon receipt of a permit application package or a proposed revision or renewal of an approved permit that involves surface coal mining and reclamation operations on lands administered by an agency of the Federal Government, the regulatory authority shall transmit a copy of the complete permit application package, or proposed revision or renewal thereof, to the Federal land management agency, with a request for review and comment.

(5) Consultation with other Federal agencies. Prior to approving or disapproving a permit, permit revision or renewal thereof, the regulatory authority shall consider the comments of the Federal land management agency and include these comments in the record of permit decisions.

(6) Permit processing schedule. The regulatory authority shall process the permit application package within the time schedule established by the applicable regulatory program, except that the schedule may be extended if necessary to ensure compliance with Federal laws and regulations other than the Act.

(7) Determination of operator compliance with the Act. Where OSM is the regulatory authority, it shall afford the applicant or operator an opportunity for an adjudicatory hearing as provided in 43 CFR Part 4 prior to a final determination on whether the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated

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pattern of willful violations of the Act of such nature and duration and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of the Act.

(8) Administrative review of decisions on permit applications. Where OSM is the regulatory authority, the final decision on a permit application is subject to an appeal to the Department's Office of Hearings and Appeals as provided in Part 787 of this Chapter. Where the State is the regulatory authority under a cooperative agreement, the final decision on a permit application is subject to administrative review as provided under the approved State program.

(9) Bonds and insurance required for issuance of permits. After the approval of an application for a new or revised permit or for renewal of an existing permit, but prior to issuance of such permit, the applicant/permittee shall file with the regulatory authority: (i) a performance bond which meets the requirements of the applicable regulatory program; (ii) proof of liability insurance in accordance with the applicable regulatory program; and (iii) where required, evidence of the execution of a Federal lessee protection bond. Bonds required to be filed with OSM shall be in a form required by OSM and made payable to the United States.

(d) Review of permit revisions. (1) Where the State is the regulatory authority for surface coal mining and reclamation operations on lands subject to this subchapter, it shall inform OSM of each request for a permit revision with respect to operations on lands containing leased Federal coal.

(2) OSM shall review each permit revision in consultation with the Bureau of Land Management and the appropriate Federal land management agency to determine whether the permit revision constitutes a mining plan modification requiring the Secretary's approval under section 746.18 of this chapter.

(3) The regulatory authority shall consult with the Federal land management agency to determine whether any permit revision will adversely affect Federal resources other than coal and whether the revision is consistent with that agency's land use plans for other Federal laws, regulations and executive orders for which it is responsible.

(e) Transfer, assignment or sale of rights. (1) The regulatory authority, before approving or disapproving an application for transfer, assignment or sale of rights granted under a permit issued pursuant to this subchapter, shall consult with the appropriate Federal land management agency and the Bureau of Land Management, as applicable.

(2) Approval of a transfer, assignment or sale of rights granted under a permit issued pursuant to this subchapter shall not be construed to constitute a transfer or assignment of leasehold interests. Leasehold interests may be transferred or assigned only in accordance with 43 CFR Part 3453.

(f) Suspension or revocation of permits. (1) A permit to conduct surface coal mining and reclamation operations on Federal lands may be suspended or revoked by the regulatory authority in accordance with Part 843 of this chapter and the applicable regulatory program.

(2) If a permit to conduct surface coal mining and reclamation operations on lands containing leased Federal coal is suspended or revoked, the regulatory authority shall notify the Bureau of Land Management so that the Bureau of Land Management can determine whether action should be taken to cancel the Federal lease. This section does not release the Federal lessee from the diligent development or continued operation requirements of Part 211 of this title.

§ 740.15 Bonds on Federal lands.

(a) Federal lease bonds. (1) Each holder of a Federal coal lease that is covered by a Federal lease bond required under 43 CFR Part 3474 may apply to the authorized officer for release of liability for that portion of the Federal lease bond that covers reclamation requirements.

(2) The authorized officer may release the liability for that portion of the Federal lease bond that covers reclamation requirements if:

(i) The lessee has secured a suitable performance bond covering the permit area under this part;

(ii) There are no pending actions or unresolved claims against existing bonds; and

(iii) The authorized officer has received concurrence from OSM and the Bureau of Land Management.

(b) Performance bonds. Where the State is the regulatory authority under a cooperative agreement, the performance bonds required for operations on Federal lands shall be made payable to the United States and the State. Where OSM is the regulatory authority, such bonds shall be payable only to the United States.

(c) Federal lessee protection bonds. (1) Where leased Federal coal is to be mined and the surface of the land is subject to a lease or permit issued by the United States for purposes other than surface coal mining, the applicant for a mining permit, if unable to obtain the written consent of the permittee or lessee of the surface to enter and commence surface coal mining operations, shall submit to the regulatory authority with his application evidence of execution of a bond or undertaking which meets the requirements of this section. The Federal lessee protection bond is in addition to the performance bond required by a regulatory program. This section does not apply to permits or licenses for the use of the surface that do not convey to the permittee or licensee the right of transfer, sale or consent to other uses.

(2) The bond shall be payable to the United States and, as applicable, the State for the use and benefit of the permittee or lessee of the surface lands involved.

(3) The bond shall secure payment to the surface estate for any damage which the surface coal mining and reclamation operation causes to the crops or tangible improvements of the permittee or lessee of the surface lands.

(4) The amount of the bond shall be determined either by the applicant and the Federal lessee or permittee or as determined in an action brought against the person conducting surface coal mining and reclamation operations or upon the bond in a court of competent jurisdiction.

(d) Release of Bonds. (1) A Federal lease bond may be released by the State upon satisfactory compliance with all applicable requirements of Part 211 of this chapter and 43 CFR Part 3400 and after the release is concurred in by the Bureau of Land Management.

(2) A Federal lessee protection bond shall be released upon the written consent of the permittee or lessee.

(3) Where surface coal mining and reclamation operations are subject to an approved mining plan, a performance bond shall be released by the State after the release is concurred in by OSM.

§ 740.17 Inspection, enforcement and civil penalties.

(a) General requirements. (1) Where OSM is the regulatory authority, Parts 840, 842, 843 and 845 of this chapter shall govern its inspection, enforcement and civil penalty activities with respect to surface coal mining and reclamation operations on Federal lands.

(2) Where the State is the regulatory authority under a cooperative agreement, the State program shall govern inspection, enforcement and civil penalty activities by the regulatory authority with respect to surface coal

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mining and reclamation operations on Federal lands, while the requirements of Part 842, 843 and 845 of this chapter shall govern OSM inspection, enforcement and civil penalty activities conducted in oversight of the State program.

(3) The requirements of this section shall not apply to coal exploration on Federal lands subject to the requirements of Part 211 of this chapter.

(b) Right of entry. (1) Persons engaging in coal exploration or surface coal mining and reclamation operations on Federal lands shall provide access for any authorized officer of OSM, the regulatory authority, and, as applicable, the Bureau of Land Management or the appropriate Federal land management agency to inspect the operations, without advance notice or a search warrant and upon presentation of appropriate credentials, to determine whether the operations are in compliance with all applicable laws, regulations, notices and orders, and terms and conditions of the permit.

(2) Any authorized representative of the regulatory authority and, as applicable, the Bureau of Land Management may, at reasonable times and without delay, have access to and copy any records and inspect any monitoring equipment or method of operation required under the Act, this subchapter and the permit, lease, license or mining plan in accordance with paragraph (a) of this section.

(3) No search warrant shall be required with respect to any activity under paragraph (a) or (b) of this section, except entry into a building without consent of the person in control of the building.

(c) Inspections. Inspections shall, to the extent practical, be conducted jointly if more than one government agency is involved. The regulatory authority shall coordinate inspections by Federal agencies and may request the participation of representatives from other Federal agencies when necessary to ensure compliance with this subchapter and other applicable Federal laws, regulations and orders.

§ 740.19 Performance standards.

(a) Operations and reclamation. (1) Surface coal mining and reclamation operations on lands subject to this Part shall be conducted in accordance with the performance standards of the applicable regulatory program.

(2) Surface coal mining and reclamation operations on lands containing leased Federal coal shall be conducted in accordance with the requirements of the terms, conditions and stipulations of the lease issued under the Mineral Leasing Act and its implementing regulations in Part 211 of this title, as applicable, and the mining plan.

(b) Completion of operations and abandonment. (1) Upon completion of operations, bonds shall be released in accordance with § 740.15(d) of this chapter.

(2) Where there is a Federal lease bond:

(i) Not less than 30 days prior to permanent cessation or abandonment of surface coal mining and reclamation operations, the person conducting those operations shall submit to OSM, in duplicate, a notice of intention to cease or abandon those operations, with a statement of the number of acres affected by the operations, the extent and kind of reclamation accomplished and the structures and other facilities that are to be removed from or remain on the permit area.

(ii) Upon receipt of this notice, the Bureau of Land Management and the appropriate Federal land management agency shall promptly make joint inspections to determine whether all operations have been completed in accordance with the requirements of Part 211 of this title, the lease or licenses and the mining plan. Where all of these requirements have been complied with, the liability under the lease bond of the person conducting surface coal mining and reclamation operations shall be terminated.

(3) Where OSM is the regulatory authority, public hearings held with respect to final abandonment and releases of the performance bonds shall be in accordance with 5 U.S.C. 554 and 43 CFR Part 4.

PARTS 741, 742, 743 AND 744—[REMOVED]

7. Parts 741, 742, 743 and 744 are removed.

8. Part 745 is revised to read as follows:

PART 745—STATE-FEDERAL COOPERATIVE AGREEMENTS

Sec.

745.1 Scope.
745.10 Information collection.
745.11 Application and agreement.
745.12 Terms.
745.13 Authority reserved by the Secretary.
745.14 Amendments.
745.15 Termination.
745.16 Reinstatement.

Authority: 30 U.S.C. 1201 *et seq.* and 30 U.S.C. 181 *et seq.*

§ 745.1 Scope.

This Part sets forth requirements for the development, approval and administration of cooperative agreements under section 523(c) of the Act.

§ 745.10 Information collection.

The information collection requirements contained in this part have been approved by OSM of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0028. The information is being collected pursuant to section 523(c) of the Act (30 U.S.C. 1273(c)) and will be used to support a State's request for a State-Federal cooperative agreement or an amendment, termination or reinstatement thereto.

The obligation to respond to the information collection requirements of this part is mandatory.

§ 745.11 Application and agreement.

(a) The Governor of any State may request that the Secretary enter into a cooperative agreement with the State, provided the State has an approved State regulatory program or has submitted a regulatory program for approval under Part 731 of this chapter, and has or may have within the State surface coal mining and reclamation operations on Federal lands.

(b) A request for a cooperative agreement shall be submitted in writing and, except to the extent previously submitted in the State program, shall include the following information:

(1) Information sufficient for OSM to make findings in accordance with paragraph (f) of this section;

(2) A proposed agreement consistent with the requirements of this Part; and

(3) A certification by the Attorney General or the chief legal officer of the State regulatory authority that no State statutory, regulatory or legal constraint exists which would preclude the State regulatory authority from fully carrying out the proposed cooperative agreement.

(c) OSM shall publish a notice of the request and the full text of the terms of the proposed cooperative agreement as submitted or as subsequently modified by OSM and the State in the **Federal Register** as a proposed rule. A notice of the request and a summary of the terms of the proposed agreement shall also be published in a newspaper(s) of general circulation throughout the State. Both notices shall include:

(1) The location at which a copy of the request submitted by the State may be obtained; and

(2) A date, not less than 30 days after publication of the notices, before which members of the public may submit written comments on the request and

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the person to whom comments should be addressed.

(d) A public hearing shall be held within the comment period in a suitable location in the State requesting the cooperative agreement. This hearing may be combined with public hearings required under Part 732 of this chapter for the Secretary's consideration of approval of a State program submission, if appropriate. The date, time and place of the public hearing(s) on the request will be published in the **Federal Register** not less than 15 days prior to the date of the hearing.

(e) Before the expiration of the comment period, OSM shall consult with the Bureau of Land Management, Fish and Wildlife Service, and Federal land management agencies, as appropriate, with respect to the proposed cooperative agreement.

(f) OSM shall recommend to the Secretary that a cooperative agreement be entered into with a State, if OSM finds that:

(1) The State has an approved State regulatory program;

(2) The State regulatory authority has sufficient budget, equipment and personnel to enforce fully its regulatory program on lands subject to this Part in the State; and

(3) The State has the legal authority to enter into the cooperative agreement.

(g) The Secretary shall publish in the **Federal Register** his or her decision with respect to a request by a State to enter into a cooperative agreement and the reasons therefor and the full text of the cooperative agreement.

§ 745.12 Terms.

Each cooperative agreement shall include:

(a) Terms obligating the State regulatory authority to inspect all surface coal mining and reclamation operations on Federal lands in accordance with the State regulatory program and to enforce the State program on Federal lands;

(b) A description of the powers and authority reserved by the Secretary, including, but not limited to, those specified under § 745.13;

(c) Provisions for the administration and enforcement by OSM and the State of this subchapter so as to minimize overlap and duplication;

(d) Provisions for regular reports by the State regulatory authority to OSM on the results of the State's implementation and administration of the cooperative agreement.

(e) Terms requiring the State regulatory authority to maintain sufficient personnel and facilities to comply with the terms of the cooperative agreement, and to notify OSM of any substantial change in State statutes, regulations, funding, staff, or other changes which would affect the State's ability to carry out the terms of the cooperative agreement;

(f) Terms for coordination among the State regulatory authority, the Federal land management agency, the Bureau of Land Management and OSM;

(g) Terms obligating the State regulatory authority to—

(1) Make available to OSM information on any action taken regarding any permit application for surface coal mining and reclamation operations on Federal lands; and

(2) Where lands containing leased Federal coal are involved, provide OSM, in the form specified by OSM in consultation with the State, with written findings indicating that each permit application is in compliance with the terms of the regulatory program and a technical analysis of each permit application to assist OSM in meeting its responsibilities under other applicable Federal laws and regulations.

§ 745.13 Authority reserved by the Secretary.

The Secretary shall not delegate to any State, nor shall any cooperative agreement under this Part be construed to delegate to any State, authority to—

(a) Designate Federal lands as unsuitable for surface coal mining under subchapter F of this chapter or terminate such designations;

(b) Comply with the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*, and Federal laws and regulations other than SMCRA;

(c) Develop land use management plans for Federal lands where the surface estate is Federally-owned;

(d) Regulate non-coal mining activities on Federal lands;

(e) Determine when, where, and how to lease Federal coal and how much to lease;

(f) Develop terms for Federal coal leases, including any special terms relating to mining and reclamation procedures;

(g) Evaluate Federal coal resources;

(h) Establish royalties, rents, and bonuses charged in connection with Federal coal leases;

(i) Approve mining plans or modifications thereto;

(j) Enforce Federal lease terms, including diligent development and maximum economic recovery requirements;

(k) Approve or determine post-mining land uses for Federal lands where the surface estate is Federally-owned;

(l) Release Federal lease bonds;

(m) Evaluate the State's administration and enforcement of the approved State program and implementation of the cooperative agreement on Federal lands;

(n) Comply with the inspection, enforcement and civil penalties requirements of Parts 842 and 843 of this chapter except as provided under § 740.4(c)(5) of this chapter;

(o) Determine valid existing rights for surface coal mining and reclamation operations on Federal lands within the boundaries of any areas specified under section 522(e) (1) or (2) of the Act; or

(p) Determine that there are no significant recreational, timber, economic, or other values which may be incompatible with surface coal mining and reclamation operations on any Federal lands within the boundaries of any national forest under section 522(e)(2) of the Act.

§ 745.14 Amendments.

A cooperative agreement which has been approved pursuant to § 745.11 may be amended by mutual agreement of the Secretary and the Governor of a State. Amendments shall be adopted by Federal rulemaking, in accordance with § 745.11.

§ 745.15 Termination.

(a) A cooperative agreement may be terminated by the State upon written notice to the Secretary, specifying the date upon which the cooperative agreement shall be terminated. The date of termination shall not be less than 90 days from the date of the notice.

(b) A cooperative agreement may be terminated by the Secretary after giving notice to the State regulatory authority and affording the State regulatory authority and the public an opportunity for a public hearing and comment period, in accordance with the cooperative agreement, if the Secretary finds that:

(1) The State regulatory authority has substantially failed to comply with the requirements of this subchapter, the State program, or the cooperative agreement, or

(2) The State regulatory authority has failed to comply with any undertaking by the State in the cooperative agreement upon which approval of the State program, cooperative agreement, or grant by OSM for administration or enforcement of the State program or cooperative agreement was based.

(c) A cooperative agreement shall terminate—

(1) When no longer authorized by Federal law or the applicable State laws and regulations; or

(2) Upon termination or withdrawal of the Secretary's approval of the applicable State program.

§ 745.16 Reinstatement.

(a) A State may apply for reinstatement of the cooperative agreement by providing written evidence to OSM that the State has remedied all defects for which the agreement was terminated and is fully capable of carrying out the cooperative agreement. Any reinstatement shall be by Federal rulemaking in accordance with § 745.11.

(b) OSM may recommend approval of the reinstatement to the Secretary if it finds that the State meets all the requirements for the initial approval of a cooperative agreement under this subchapter.

(c) The Secretary may approve reinstatement of a cooperative agreement if the Secretary concurs in findings of OSM which recommended that approval.

9. Part 746 is added to Subchapter D to read as follows:

PART 746—REVIEW AND APPROVAL OF MINING PLANS

Sec.

746.1 Scope.
746.11 General requirements.
746.10 Information collection.
746.13 Decision document and recommendation on mining plan.
746.14 Approval of mining plan.
746.17 Term of approval.
746.18 Modification of approved mining plans.

Authority: 30 U.S.C. 1201 *et seq.* and 30 U.S.C. 181 *et seq.*

§ 746.1 Scope.

This Part provides the process and requirements for the review and approval, disapproval or conditional approval of mining plans on lands containing leased Federal coal.

§ 746.10 Information collection.

The information collection requirements contained in this section have been approved by OSM of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0026. The information is being collected to determine compliance with section 523 of the Act (30 U.S.C. 1273) and this part. The obligation to respond to the information collection requirements of this Part is mandatory.

§ 746.11 General requirements.

(a) No person shall conduct surface coal mining and reclamation operations on lands containing leased Federal coal until the Secretary has approved the mining plan.

(b) Surface coal mining and reclamation operations on lands containing leased Federal coal shall be conducted in accordance with a permit issued in accordance with this subchapter, any lease terms and conditions, and the approved mining plan.

§ 746.13 Decision document and recommendation on mining plan.

OSM shall prepare and submit to the Secretary a decision document recommending approval, disapproval or conditional approval of the mining plan to the Secretary. The recommendation shall be based, at a minimum, upon:

(a) The permit application package, including the resource recovery and protection plan;

(b) Information prepared in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*;

(c) Documentation assuring compliance with the applicable requirements of other Federal laws, regulations and executive orders other than the Act;

(d) Comments and recommendations or concurrence of other Federal agencies, as applicable, and the public;

(e) The findings and recommendations of the Bureau of Land Management with respect to the resource recovery and protection plan and other requirements of the lease and the Mineral Leasing Act;

(f) The findings and recommendations of the regulatory authority with respect to the permit application and the State program; and

(g) The findings and recommendations of OSM with respect to the additional requirements of this subchapter.

§ 746.14 Approval, disapproval or conditional approval, of mining plan.

The Secretary shall approve, disapprove or conditionally approve the mining plan in accordance with this part.

§ 746.17 Term of approval.

(a) Each mining plan approval shall cover the operations for which a complete permit application package was submitted, unless otherwise indicated in the approval.

(b) An approved mining plan shall remain in effect until modified, cancelled or withdrawn and shall be binding on any person conducting mining under the approved mining plan.

§ 746.18 Mining plan modification.

(a) Mining plan modifications shall be approved by the Secretary.

(b) The approval of mining plan modifications shall be in accordance with the procedures of this part for mining plan approval.

(c) Surface coal mining and reclamation operations on lands containing leased Federal coal pursuant to a permit revision issued by the regulatory authority shall not commence until—

(1) OSM determines that the permit revision does not constitute a mining plan modification under this section, or

(2) If the permit revision constitutes a mining plan modification under this section, such modification has been approved by the Secretary.

(d) Permit revisions constitute mining plan modifications if they meet any of the following criteria:

(1) Any change in the mining plan which would affect the conditions of its approval pursuant to Federal law or regulation other than the Act;

(2) Any change which would adversely affect the level of protection afforded any land, facility or place designated unsuitable for mining;

(3) Any change in the location or amount of coal to be mined, except where such change is the result of:

(i) A minor change in the amount of coal actually available for mining from the amount estimated; or

(ii) An incidental boundary change;

(4) Any change which would extend coal mining and reclamation operations onto leased Federal coal lands for the first time;

(5) Any change which requires the preparation of an environmental impact statement under the National Environmental Policy Act or 1969, 42 U.S.C. 4321 *et seq.*;

(6) Any change in the mining operations and reclamation plan that would result in a change in the postmining land use where the surface is Federally-owned.

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Part III

Office of Management and Budget

Budget Rescissions and Deferrals; Cumulative Report

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OFFICE AND MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

February 1, 1983.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of February 1, 1983 of 20 rescission proposals and 69 deferrals contained in the first five special messages of FY 1983. These messages were transmitted to the Congress on October 1, and December 7, and 16, 1982, and January 5, and February 1, 1983.

Rescissions (Table A and Attachment A)

Twenty rescission proposals totaling $1,554 million are currently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of February 1, 1983, while Attachment A shows the history and status of each rescission proposed during FY 1983.

Deferrals (Table B and Attachment B)

As of February 1, 1983, $12,125 million in 1983 budget authority was being deferred from obligation and another $31 thousand in 1983 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1983.

Information from special messages

The special messages containing information on the recissions and the deferrals covered by the cumulative report are printed in the **Federal Registers** listed below:

Vol. 47, No. 194, FR p. 44524, Thursday, October 7, 1982
Vol. 47, No. 238, FR p. 55602, Friday, December 10, 1982
Vol. 47, No. 246, FR p. 57230, Wednesday, December 22, 1982
Vol. 48, No. 7, FR p. 1266, Tuesday, January 11, 1983
Vol. 48, No. 25, FR p. 5474, Friday, February 4, 1983

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TABLE A

STATUS OF 1983 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$1,554.0
Accepted by the Congress	-0-
Rejected by the Congress	-0-
Pending before the Congress	$1,554.0

TABLE B

STATUS OF 1983 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$13,365.2
Routine Executive releases (-$1801.1 million) and adjustments ($560.9 million) through February 1, 1983	-1,240.2
Overturned by the Congress	-0-
Currently before the Congress	$12,125.0 a

a. This amount includes $31 thousand in outlays for a Department of the Treasury deferral (D83-16A).

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1983

AS OF FEBRUARY 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT							
Appalachian Regional Development Programs							
Appalachian Regional Development programs BA	R83- 2		15,133	2 1 83			
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA			15,133				
DEPARTMENT OF AGRICULTURE							
Agricultural Research Service							
Buildings and facilities BA	R83- 3		1,927	2 1 83			
Soil Conservation Service							
Watershed and flood prevention operations BA	R83- 4		58,995	2 1 83			
Resource conservation and development BA	R83- 5		5,600	2 1 83			
Agricultural Cooperative Service							
Salaries and expenses BA	R83- 6		779	2 1 83			
DEPARTMENT OF AGRICULTURE TOTAL BA			77,301				
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Construction BA	R83- 1		2,000	12 16 82			
DEPARTMENT OF COMMERCE TOTAL BA			2,000				
DEPARTMENT OF EDUCATION							
Office of Elementary and Secondary Education							
Compensatory education for the disadvantaged BA	R83- 7		133,925	2 1 83			
School assistance in federally affected areas BA	R83- 8		5,000	2 1 83			
Special programs and populations BA	R83- 9		56,639	2 1 83			
Indian education [illegible]	R83- 10		16,128	2 1 83			
Off of Bilingual Educ & Minority Lang. Affairs							
Bilingual eduation [illegible]	R83- 11		43,523	2 1 83			
Office of Postsecondary Education							
Guaranteed student loans BA	R83- 12		900,000	2 1 83			
Higher and continuing education BA	R83- 13		68,941	2 1 83			

ATTACHMENT A STATUS OF RESCISSIONS - FISCAL YEAR 1983

AS OF FEBRUARY 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Office of Educational Research and Improvement							
Educational research and statistics							
BA	R83- 14		6,225	2 1 83			
DEPARTMENT OF EDUCATION TOTAL BA			1,230,381				
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Housing Programs							
Payments for oper of low income housing proj							
BA	R83- 15		69,000	2 1 83			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA			69,000				
DEPARTMENT OF THE INTERIOR							
National Park Service							
Construction							
BA	R83- 16		63,600	2 1 83			
DEPARTMENT OF THE INTERIOR TOTAL BA			63,600				
DEPARTMENT OF TRANSPORTATION							
Federal Highway Administration							
Federal aid highways (trust fund)							
BA	R83- 17		23,200	2 1 83			
Coast Guard							
Nat l recreat. boat. safety & facil. improv							
BA	R83- 18		5,000	2 1 83			
DEPARTMENT OF TRANSPORTATION TOTAL BA			28,200				
OTHER INDEPENDENT AGENCIES							
Corporation for Public Broadcasting							
Public broadcasting fund							
BA	R83- 19		45,000a	2 1 83			
OTHER INDEPENDENT AGENCIES TOTAL BA			45,000				
OFF-BUDGET FEDERAL ENTITIES							
Department of Agriculture							
Rural telephone bank							
BA	R83- 20		23,400	2 1 83			
OFF-BUDGET FEDERAL ENTITIES TOTAL BA			23,400				
TOTAL BA			1,654,015				

a This is a rescission of FY 1985 funds

END OF REPORT

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-83
FUNDS APPROPRIATED TO THE PRESIDENT								
Appalachian Regional Development Programs								
Appalachian regional development programs								
BA	D83- 40	10,000		2 1 83				10,000
International Security Assistance								
Foreign military sales credit								
BA	D83- 21	165,000		12 7 82				
BA	D83- 21A		1,010,000	2 1 83				1,175,000
Economic support fund								
BA	D83- 22	554,720		12 7 82	-551,150			
BA	D83- 22A		1,347,130	2 1 83	-12,000		551,150	1,889,850
Military assistance								
BA	D83- 29	11,650		12 7 82	-11,650			
BA	D83- 29A		221,350	2 1 83			11,650	233,000
International Development Assistance								
Functional development assistance program								
BA	D83- 1	8,129		10 1 82	-8,129			
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA		749,499	2,578,480		-582,929		562,800	3,307,850
DEPARTMENT OF AGRICULTURE								
Agricultural Stabilization & Conservation Service								
Dairy and beekeeper indemnity programs								
BA	D83- 36	7,000		1 5 83				7,000
Soil Conservation Sevice								
Watershed and flood prevention operations								
BA	D83- 41	10,329		2 1 83				10,329
Animal and Plant Health Inspection Service								
Salaries and expenses								
BA	D83- 34	2,134		12 16 82				
BA	D83- 34A		4,066	2 1 83				6,200
Forest Service								
National forest system								
BA	D83- 42	108,035		2 1 83				108,035
Timber salvage sales								
BA	D83- 2	10,002		10 1 82				
BA	D83- 2A		3,105	2 1 83				13,107
Expenses, brush disposal								
BA	D83- 3	44,575		10 1 82	-10,042			34,533
DEPARTMENT OF AGRICULTURE TOTAL BA		182,075	7,171		-10,042			179,204
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs								
BA	D83- 43	181,900		2 1 83				181,900
Economic development revolving fund								
BA	D83- 37	25,350		1 5 83				25,350
International Trade Administration								
Operations and administration								
BA	D83- 44	20,100		2 1 83				20,100
Participation in U S expositions								
BA	D83- 4	3,356		10 1 82	-571			2,785
National Oceanic and Atmospheric Administration								
Construction								
BA	D83- 45	3,000		2 1 83				3,000
Promote and develop fishery products and research								
BA	D83- 5	30,619		10 1 82	-30,619			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-83
National Bureau of Standards								
Scientific & technical research & services								
BA	D83- 38	6,500		1 5 83				6,500
DEPARTMENT OF COMMERCE TOTAL BA		270,825			-31,190			239,635
DEPARTMENT OF DEFENSE MILITARY								
Procurement								
Shipbuilding and conversion, Navy								
BA	D83- 46	2,400,000		2 1 83				2,400,000
Military Construction								
Military construction, all services								
BA	D83- 6	64,063		10 1 82				
BA	D83- 6A		1,166,415	12 7 82	-725,238			505,240
Family Housing, Defense								
Family housing, Defense								
BA	D83- 23	161,640		12 7 82				161,640
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA		2,625,703	1,166,415		-725,238			3,066,880
DEPARTMENT OF DEFENSE-CIVIL								
Corps of Engineers								
Construction, general								
BA	D83- 47	180,000		2 1 83				180,000
Wildlife Conservation, Military Reservations								
Wildlife conservation								
BA	D83- 7	1,061		10 1 82			-50a	1,011
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA		181,061					-50	181,011
DEPARTMENT OF ENERGY								
Energy Programs								
Energy supply R&D-plant and capital equip								
BA	D83- 48	91,107		2 1 83				91,107
Fossil energy research and development								
BA	D83- 8	20,136		10 1 82				
BA	D83- 8A			b 2 1 83	-15,136			5,000
Fossil energy construction								
BA	D83- 49	20,000		2 1 83				20,000
Energy conservation								
BA	D83- 24	22,803		12 7 82				22,803
Strategic Petroleum Reserve								
BA	D83- 50	57,400		2 1 83				57,400
Departmental Administration								
Depart admin , operating expenses								
BA	D83- 51	21,767		2 1 83				21,767
Depart admin , plant & capital equipment								
BA	D83- 52	12,693		2 1 83				12,693
DEPARTMENT OF ENERGY TOTAL BA		245,906			-15,136			230,770
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St Elizabeths Hospital								
BA	D83- 9	9,714		10 1 82				9,714

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-83
Office of Assistant Secretary for Health								
Special foreign currency program								
BA	D83- 10	6,420		10 1 82				6,420
Social Security Administration								
Limitation on administrative expenses								
BA	D83- 53	9,633		2 1 83				9,633
DEPARTMENT OF HEALTH AND HUMAN SERVICES TOTAL BA		25,767						25,767
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Subsidized housing programs								
BA	D83- 54	3,081,153		2 1 83				3,081,153
Payments for operation of low income housing								
BA	D83- 30	150,000		12 7 82	-150,000			
Community Planning and Development								
Community development grants								
BA	D83- 31	221,000		12 7 82	-221,000			
Urban development action grants								
BA	D83- 32	234,000		12 7 82				
BA	D83- 32A		10,000	2 1 83				244,000
Urban homesteading								
BA	D83- 33	8,000		12 7 82	-8,000			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		3,694,153	10,000		-379,000			3,325,153
DEPARTMENT OF THE INTERIOR								
Office of Water Research & Technology								
Salaries and expenses								
BA	D83- 25	2,545		12 7 82	-2,545			
National Park Service								
Land acquisition and state assistance								
BA	D83- 11	30,000		10 1 82				
BA	D83- 11A		3,000	2 1 83				33,000
Minerals Management Service								
Payments from proceeds, sale of water								
BA	D83- 39	48		1 5 83				48
Office of Territorial Affairs								
Administration of territories								
BA	D83- 55	3,188		2 1 83				3,188
DEPARTMENT OF THE INTERIOR TOTAL BA		35,781	3,000		-2,545			36,236
DEPARTMENT OF JUSTICE								
Interagency Law Enforcement								
Organized crime drug enforcement								
BA	D83- 56	13,656		2 1 83				13,656
Federal Prison System								
Buildings and facilities								
BA	D83- 35	16,330		12 16 82				16,330
DEPARTMENT OF JUSTICE TOTAL BA		29,986						29,986
DEPARTMENT OF STATE								
International Organizations and Conferences								
Contributions to international organizations								
BA	D83- 57	8,111		2 1 83				8,111

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-83
Other								
Emergency refugee and migration assistance fund								
BA	D83- 12	37,692		10 1 82			-1,844a	35,848
U S bilateral science and technology agreements								
BA	D83- 58	2,000		2 1 83				2,000
DEPARTMENT OF STATE TOTAL BA		47,803					-1,844	45,959
DEPARTMENT OF TRANSPORTATION								
Urban Mass Transportation Administration								
Urban mass capital fund								
BA	D83- 59	229,000		2 1 83				229,000
Federal Aviation Administration								
Construction, Metropolitan Washington Airports								
BA	D83- 59	500		2 1 83				500
Civil supersonic aircraft development termination								
BA	D83- 13	46		10 1 82				46
Facilities & equip (Airport & airway trust fund)								
BA	D83- 14	158,485		10 1 82				
BA	D83- 14A		566,751	2 1 83				725,236
Coast Guard								
Natl recreat boat safety & facil improv								
BA	D83- 61	40,000		2 1 83				40,000
DEPARTMENT OF TRANSPORTATION - TOTAL BA		428,031	566,751					994,782
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing								
State and local government fiscal assistance fund								
BA	D83- 15	106,474		10 1 82				
BA	D83- 15A		305	12 7 82	-1,820			104,959
O	D83- 16	7,909		10 1 82				
O	D83- 16A		6,537	12 7 82	-14,415			31
Federal Law Enforcement Training Center								
Construction								
BA	D83- 17	3,078		10 1 82				3,078
DEPARTMENT OF THE TREASURY TOTAL BA		109,552	305		-1,820			108,037
TOTAL O		7,909	6,537		-14,415			31
NATIONAL AERONAUTICS & SPACE ADMINISTRATION								
Research and development								
BA	D83- 26	34,500		12 7 82				34,500
VETERANS ADMINISTRATION								
Construction, major projects								
BA	D83- 27	4,000		12 7 82				4,000
OTHER INDEPENDENT AGENCIES								
District of Columbia								
Loans to DC for capital investment								
BA	D83- 18	38,832		10 1 82	-38,832			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS / AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 2-1-83
Interstate Commission on the Potomac River Basin								
Contrib to Interst Comm on Potomac Riv Basin								
BA	D83- 28	12		12 7 82				12
Pennsylvania Avenue Development Corporation								
Land acquisition and development fund								
BA	D83- 19	17,949		10 1 82				
BA	D83- 19A		4,409	12 16 82				22,358
Railroad Retirement Board								
Milwaukee railroad restructuring, administration								
BA	D83- 20	240		10 1 82				
BA	D83- 20A		250	2 1 83				490
Small Business Administration								
Business loan and investment fund								
BA	D83- 62	143,000		2 1 83				143,000
Surety bond guarantees revolving fund								
BA	D83- 63	3,000		2 1 83				3,000
Poliu cont equip contract guar revolv								
BA	D83- 64	1,000		2 1 83				1,000
Motor Carrier Ratemaking Study Commission								
Salaries and Expenses								
BA	D83- 65	282		2 1 83				282
Tennessee Valley Authority								
Tennessee Valley Authority fund								
BA	D83- 66	47,271		1 31 83				47,271
United States Information Agency								
Salaries and expenses (spec for curr prog)								
BA	D83- 67	1,344		2 1 83				1,344
Acquis and construction of radio facilities								
BA	D83 68	12,437		2 1 83				12,437

David A. Stockman,
Director.

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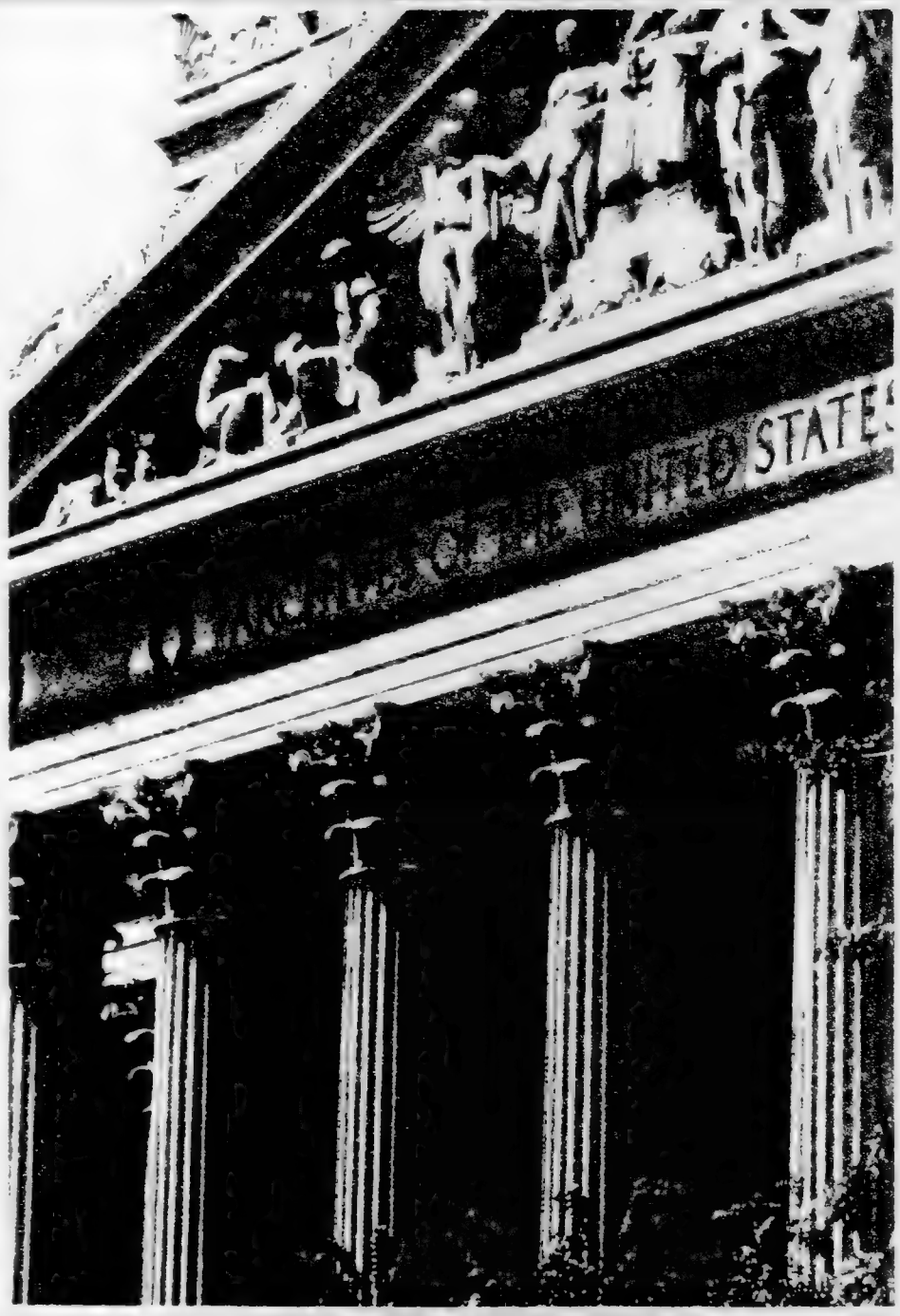

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Railroads
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Water Pollution Control
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Rules and Regulations

Federal Register
Vol. 48, No. 34
Thursday, February 17, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 566]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 18–24, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on February 15, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. § 907.866 is added as follows:

§ 907.866 Navel orange regulation 566.

The quantities of navel oranges grown in California and Arizona which may be handled during the period February 18, 1983 through February 24, 1983, are established as follows:

(a) District 1: 1,500,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 16, 1983.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-4239 Filed 2-16-83; 11:55 am]
BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-60-AD; Amdt. 39-4549]

Airworthiness Directives: Boeing Model 707, 727C, and 727-100C Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adds a new Airworthiness Directive (AD) which requires inspection and repair if necessary, of the main cargo door structure on certain Boeing Model 707, 727C, and 727-100C series airplanes. The AD is prompted by reports of skin cracking and door frame failures. Failure to detect the cracking prior to reaching critical length could result in rapid decompression or loss of a portion of the main cargo door.

DATE: Effective March 21, 1983.

ADDRESSES: The applicable service bulletins may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2516. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the inspection and repair, as necessary, to the main cargo door on certain Boeing Model 707 and 727 series airplanes was published in the **Federal Register** on September 7, 1982 (47 FR 39189). The comment period for the proposal closed on November 8, 1982.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

The Air Transport Association of America (ATA) commenting on behalf of its member operators requested that the comment period be extended to February 22, 1983. The ATA stated that this would give industry and the FAA time to review the B727 Supplemental Structural Inspection Document (SSID) presently in development. The FAA does not concur. It has been previously established and is well documented that the structural details covered by the SSID are only those details for which there are no known fatigue cracking history. The fatigue cracking history of the main cargo door skin is well established. As such, the inspection of the affected structure will not be included in the SSID.

The ATA also stated that the proposed AD does not conform with the policy set forth in the FAA letter to the ATA dated June 16, 1982. That letter stated that acceptable incorporation of the SSID items, which are covered by an AD, into the approved airplane maintenance program of an operator constitutes an approved alternate means of AD compliance for these items. This procedure was also recognized in NPRM Docket No. 81-NW-17-AD on Boeing Model 707/720 service bulletin related SSID items. The ATA requested that this procedure be followed for the B707 cargo door skin structure. The FAA concurs. The AD, as adopted, recognizes the approved incorporation of Boeing Model 707/720 SSID as an acceptable alternate means of compliance for B707/720 airplanes.

One commenter stated that it has been inspecting the affected structure on its airplanes, using eddy current techniques, for ten years at intervals of approximately 2000 to 2300 landings. It was stated that there have been no adverse findings. The commenter, therefore, objected to the initial 500 landing threshold and the 750 landing repeat interval. The FAA does not concur. Althouth it is not possible to predict the initiation of fatigue damage, it is possible to estimate the rate of growth of such damage once it has been initiated. The manufacturer in assessing the reported fatigue damage to this structure evaluated the crack growth characteristics of the structure. The inspection times listed in the AD reflect the results of this evaluation. These times ensure that once cracks initiate there will be sufficient opportunities to detect the cracks prior to them reaching critical dimensions.

The manufacturer commented that it had reviewed the service history of the B707 and B727 main cargo door structure and this revealed that the only instance of basic fatigue cracking occurred at approximately 27,000 landings. With approximately sixty percent of the fleet currently exceeding 25,000 landings, the manufacturer believed that its original recommendation of a 10,000 landing threshold was unduly conservative. It recommended that the threshold be changed to 25,000 landings. The FAA concurs that service history supports this threshold and that air safety would not be adversely affected. Therefore, the AD as adopted reflects this change.

There are approximately 147 B707 and 81 B727 airplanes totaling 228 airplanes of U.S. registry which are affected by this AD. Any one of three inspection methods (visual, eddy current or X-ray) is acceptable; however, an X-ray inspection is the most expensive. It is estimated that an X-ray inspection requires three manhours per airplane. It is further estimated that labor cost is $40 per manhour. Based on these figures, the total labor cost impact of this AD per inspection cycle is estimated to be $29,000 if all operators elect to use the more expensive X-ray inspection method. For these reasons, the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and public interest require the adoption of the proposed rule with the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Models 707, 727C, and 727-100C series airplanes certificated in all categories listed in Boeing Service Bulletins Number 2999, Revision 3; and Number 727-52-79, Revision 4; or later FAA approved revisions.

Compliance required as indicated unless already accomplished.

To detect cracking of the main cargo door skin and frames and to prevent rapid decompression or loss of a portion of the door accomplish the following in accordance with Boeing Service Bulletins Number 2999, Revision 3; or Number 727-52-79, Revision 4; or later FAA approved revisions.

A. Within the next 500 landings after the effective date of this AD, or prior to accumulating 25,000 landings, whichever occurs later, inspect for cracks in the main cargo door skin between B.S. 505 and B.S. 595 from the lower edge of the door hinge downwards a minimum of six inches, and six inches above and three inches below the center line of stringer 10. Inspect visually or by using eddy current or X-ray procedures as specified in the applicable service bulletin.

B. Repeat the inspections at intervals not to exceed one of the following until the airplane is modified in accordance with the applicable service bulletin listed in paragraph D:

1. 500 landings, if visually inspected, or

2. 750 landings, if eddy current inspected, or

3. 1,000 landings, if X-ray inspected.

C. Cracks are to be repaired prior to further pressurized flight in accordance with the following service bulletins:

1. For Boeing Model 707/720 series airplanes: Boeing Service Bulletin No. 2999, Revision 3, or later FAA approved revisions.

2. For Boeing Models 727C and 727-100C series airplanes: Boeing Service Bulletin No. 727-52-79, Revision 4, or later FAA approved revisions.

D. Modification in accordance with the Boeing Service Bulletin listed in paragraph C. or later FAA approved revisions constitutes terminating action for this AD.

E. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

F. Aircraft may be ferried to a maintenance base for repair in accordance with FAR Sections 21.197 and 21.199.

G. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—Acceptable incorporation of the Boeing Model 707/720 Supplemental Structural Inspection Document (SSID) into the approved airplane maintenance program of a B707/720 operator constitutes an approved alternate means of AD compliance for B707/720 airplanes.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be

examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 21, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the critieria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington, on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-3956 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-59-AD; Amdt. 39-4548]

Airworthiness Directives: Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires inspection and repair, if necessary, of the forward cargo compartment sidewall frames on certain Boeing Model 727 series airplanes. The AD is prompted by reports of fatigue cracks on the B727 fatigue test airplane and on in-service B727 airplanes. Recently, severe fatigue damage has been reported on multiple frames on Boeing Model 737 airplanes and was the subject of a separate AD. The cargo compartment frames on the B737 and B727 are of very similar construction. This action is necessary to ensure the structural integrity of the forward fuselage of the B727.

DATES: Effective March 21, 1983.

ADDRESSES: The applicable service bulletins may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2516. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the inspection and repair, as necessary, of the forward cargo compartment sidewall frames on certain Boeing Model 727 series airplanes was published in the **Federal Register** on August 23, 1982 (47 FR 36653). The comment period for the proposal closed on October 22, 1982.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

The Air Transport Association of America (ATA) commenting on behalf of its member operators requested that the comment period be extended to February 22, 1983. The ATA stated that this would give industry and the FAA time to review the B727 Supplemental Structural Inspection Document (SSID) presently in development. The FAA does not concur. It has been previously established and is well documented that the structural details covered by the SSID include only those details for which there are no known fatigue cracking histories. The fatigue cracking history of the forward cargo compartment frames of the B727 is well established. As such, the inspection of the affected frames will not be included in the SSID.

One commenter requested that the AD include clarification as to which fairings/panels must be removed to accomplish the external inspection. The AD requires that the external skin be inspected from body station 480 to 680. In the absence of specific instructions from the manufacturer, the AD, as adopted, notes that the procedure for gaining access to areas covered by fairings must be acceptable to either an assigned Principal Maintenance Inspector or the Manager, Seattle Aircraft Certification Office. The commenter also requested that the internal inspection only involve the inner chord with the cargo liner removed. The FAA concurs since the only reported cracks have originated in the inner flange of the frame at the liner attach points. Therefore, it is only necessary to remove or displace the blankets sufficiently to expose the frame down to the fail-safe chord. The AD, as adopted, includes this clarification.

One commenter requested that credit be given for previously accomplished inspections. The FAA concurs that this would not have an adverse effect on safety. Therefore, the AD, as adopted, requires compliance as indicated unless already accomplished.

Several commentors suggested that the initial inspection threshold and the external reinspection interval were too conservative based on their experience and should be relaxed. The FAA does not concur. Reported service experience supports the proposed threshold and review of available crack growth characteristics and detection capabilities support the proposed reinspection interval. If acceptable substantiation is submitted which would support changing these times, this may be done in accordance with paragraph F. of the AD.

It is estimated that 327 airplanes of U.S. registry are affected by this AD, that it will take approximately 76 manhours per airplane to accomplish the required inspections, and that the average labor cost is $40 per manhour. Based on these figures, the total cost impact of the required inspections is estimated to be $994,000. Repair costs have not been included in this estimate since it is not possible to estimate the extent of damage existing in the fleet. For these reasons the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and public interest require the adoption of the proposed rule with the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Model 727 series airplanes, line numbers 1 through 478 and 480 certificated in all categories.

Compliance required as indicated unless already accomplished.

To ensure the structural integrity of the forward cargo compartment sidewall frames, accomplish the following:

A. To detect cracks in the forward cargo compartment sidewall frames accomplish one of the following in accordance with Boeing Service Bulletin No. 727-53-68, Revision 2, or later FAA approved revisions:

1. Within the next 2,000 landings after the effective date of this AD or prior to accumulating 15,600 landings, whichever occurs later, and thereafter at intervals not to exceed 4,000 landings, visually inspect externally the forward cargo compartment skins from Body Station 480 to 680 and between stringers 17L and 26L, and 17R and 26R for cracks, or

2. Within the next 2,000 landings after the effective date of this AD or prior to accumulating 15,600 landings, whichever occurs later, and thereafter at intervals not to exceed 9,000 landings, visually inspect internally, the forward cargo compartment sidewall frames from Body Station 480 to 680 for cracks.

Note.—To inspect the frames internally, it is only necessary to remove and/or displace the insulation blankets sufficient to expose the frames down to the fail-safe chord. For external inspections, in lieu of complete fairing removal, the procedure for gaining access to areas covered by fairings must be acceptable to an assigned Principal Maintenance Inspector or the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Repair cracked structure before further pressurized flight in accordance with Boeing Service Bulletin No. 727-53-68, Original Issue, or later FAA approved revisions. Repaired structure shall continue to be inspected in accordance with paragraph A. until the terminating action in paragraph C. is accomplished.

C. Modification of the affected structure in accordance with Accomplishment Instructions, Part I or Part II, as applicable, of Boeing Service Bulletin No. 727-53-68, Original Issue, or later FAA approved revisions, eliminates the repetitive inspection requirements of paragraph A. and constitutes terminating action for the requirements of this AD.

D. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

E. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

F. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 21, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the captions "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington, on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-3955 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-NW-76-AD; Amdt. 39-4550]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adds a new Airworthiness Directive (AD) which requires modifications in the area of the wheel well on certain Boeing 747 airplanes. This action is necessary to prevent accumulated water in the wing center section from dripping onto portions of the lateral control system. Freezing of this water has resulted in reduced lateral control capability. There have been twelve instances in service where this occurred, and it was necessary in some cases for the pilot to apply excessive force to control the airplane.

DATE: Effective March 21, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The Boeing service bulletins specified in this AD may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM-120S, telephone (206) 767-2516. Mailing address: FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the modification of the existing lateral control system in the wing gear wheel well area on certain Boeing airplanes was published in the **Federal Register** on November 16, 1981 (46 FR 56206). The comment period for the proposal closed on December 31, 1981.

The proposal was prompted by reports of numerous occurrences of binding in the aileron control system. The cause of the binding is the accumulation of ice on the aileron control system in the wing gear wheel well area. This ice is caused by water accumulating in the wing center section, and then dripping through the pressure seals where the aileron cables or speed brake cables pass through the pressure bulkhead, or leaking by the water drain valve onto the aileron control system and freezing. The presence of ice on the aileron control system has resulted in reduced lateral control capability.

Boeing has issued Service Bulletins Number 27-2065, 27-2095, and 27-2161 that direct raising the level of the pressure seals above any possible water accumulation in the wing center section, and Service Bulletin 51-2032 which reduces the possibility of drain leakage. These design improvements prevent water from draining onto the aileron control system. Later production aircraft have an equivalent change incorporated during manufacture.

Since this condition is likely to exist or develop in other airplanes of the same type design, this AD requires modifications of certain Boeing 747 series airplanes within 3000 hours time in service after the effective date of the AD. Each numbered paragraph of this AD lists the service bulletin which identifies the serial numbers of the airplanes affected by that paragraph and the related corrective action.

Interested persons have been afforded an opportunity to participate in the making of this AD. Due consideration has been given to all comments received.

The manufacturer requested that the compliance time be increased to allow adequate time for kits to be made

available. It is estimated that it will require approximately 30 weeks for the kits' delivery. Based on this delivery schedule, the FAA concurs that the 1500 hours time in service compliance time can be increased to 3000 hours time in service without compromising safety, and the rule as adopted incorporates this change.

Comments were received from thirteen operators and the Air Transport Association of America. Their major concern was the proposed compliance time. The FAA believes that the extension of compliance to 3000 hours time in service is sufficient so that no operator will be unduly burdened by it.

It is estimated that 122 airplanes of U.S. registry will be affected by this AD, that it will take approximately 43 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Repair parts are estimated at $535 per airplane. Based on these figures, the total cost impact of the AD is estimated to be $275,110. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Boeing Model 747 series aircraft certificated in all categories. Serial numbers as indicated in the following service bulletins.

Within the next 3000 hours time in service after the effective date of this AD, unless previously accomplished, modify the aircraft as noted below in accordance with the following service bulletins or later FAA approved revisions:

1. Applies to aircraft listed in Boeing 747 Service Bulletin 27–2065 dated February 22, 1971. To prevent incing of the aileron control cables in the right wing gear wheel well, modify the aircraft in accordance with the Accomplishment Instructions of Boeing 747 Service Bulletin 27–2065 dated February 22, 1971.

2. Applies to aircraft listed in Boeing 747 Service Bulletin 27–2095 dated June 5, 1972. To prevent icing of the aileron control cables in the left wing gear wheel well, modify the aircraft in accordance with the Accomplishment Instructions of Boeing 747 Service Bulletin 27–2095 dated June 5, 1972.

3. Applies to aircraft listed in Boeing 747 Service Bulletin 27–2161 dated March 4, 1977. To prevent icing of the aileron control cables in the left wing gear wheel well, modify the aircraft in accordance with the Accomplishment Instructions of Boeing 747 Service Bulletin 27–2161 dated March 4, 1977.

4. Applies to aircraft listed in Boeing 747 Service Bulletin 51–2032 dated November 20, 1981. To prevent icing of the aileron control cables in the left wing gear wheel well, modify the aircraft by installation of an MS28778–8 "O" ring or replace the knurled nut with an AN818L–10 nut in accordance with Boeing 747 Service Bulletin 51–2032 dated November 20, 1981.

5. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, Northwest Mountain Region.

6. Aircraft may be ferried to a base for maintenance in accordance with Sections 21.197 and 21.199 of the Federal Aviation Regulations.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 21, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION."

Issued in Seattle, Washington on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-3957 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-96-AD; Amdt. 39-4546]

Airworthiness Directives: Gates Learjet Models 24E/F and 25D/F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing AD (81–16–08) to permit installation of FAA approved modifications. AD 81–16–08 restricts the maximum operating altitude to 45,000 feet due to the aircraft's aerodynamic characteristics which make response to certain control system malfunctions more critical at higher altitudes. Installation of the modifications permits removal of the 45,000 feet limitation, thereby allowing the airplane to operate at the maximum certificated altitude of 51,000 feet.

DATE: Effective February 17, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: Gates Learjet Corporation Airplane Modification Kit AMK 81–12, AMK 82–6, AMK 81–13, AMK 82–4, and AAK 82–5 pertain to this matter. These kits may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277; telephone (316) 946–2000.

FOR FURTHER INFORMATION CONTACT: Robert R. Jackson, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 269–7008.

SUPPLEMENTARY INFORMATION: AD 81–16–08, Amendment 39–4184 (46 FR 39990, August 6, 1981), was issued because it had been determined that Gates Learjet Models 24E/F and 25D/F aerodynamic response may be such that the crew may not have sufficient time to react in the event of certain malfunctions. It restricted the maximum operation altitude of 45,000 feet and required modification of several flight control systems on Model 25D/F. AD 81–16–08R1, Amendment 39–4295 (47 FR 2477, January 18, 1982), changed the method of how the pitch axis trim actuator could be modified and authorized the airplane modification kit to be installed at a FAA

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certificated maintenance repair agency separate from the agencies performing the detail modification of the actuator. AD 81-16-08R2, Amendment 39-4338 (47 FR 9813, March 8, 1982), changed the compliance date from February 28, 1982, to May 31, 1982. This amendment will be AD 81-16-08R3.

Installation of the following modification kits and incorporation of associated Flight Manual Changes reestablish the maximum operating altitude of 51,000 feet.

Gates Learjet Corporation has made available an optional Aircraft Modification Kit AMK 82-6 for affected Model 24E/F, S/N 350, 352, 353, 354, 356, and subsequent, which provides engine stall warning. A prerequisite for installation of AMK 82-6 is prior or concurrent installation of: (1) AMK 81-13 which provides horizontal stabilizer modifications and autopilot improvements, (2) AMK 82-4 which provides reduced autopilot pitch limits, and (3) AAK 82-5 which provides autopilot roll rate limits.

Gates Learjet Corporation has also made available optional Aircraft Modification Kit AMK 81-12, for Model 25D/F, S/N 230 thru 341, and 343 thru 362, which provides engine stall warning (S/N 342, 363, and subsequent have been modified for 51,000 feet operation by the manufacturer). A prerequisite for installation of AMK 81-12 is prior or concurrent installation of: (1) AMK 81-7 (Reference AD 81-16-08) which provides horizontal stabilizer modifications and autopilot improvements for aircraft S/N 230 thru 341 except S/N 337, (2) AMK 82-4 which provides reduced autopilot pitch limits, and (3) AAK 82-5 which provides autopilot roll rate limits.

The following Airplane Flight Manual changes must be incorporated at the time of Kit Installations as follows: (1) Change 9 for Model 24E, (2) Change 7 for Model 24F, (3) Change 8 for Model 25D/F, (4) Airplane Flight Manual Supplement W1018 for Models 24E/F, and (5) Airplane Flight Manual Supplement W1008, Change 1, for Model 25D/F.

Since this amendment provides terminating action, and compliance will impact only those operators desiring to return to the maximum operating altitude of 51,000 feet, it has no adverse economic impact and imposes no additional burden on those persons not choosing to incorporate it. Therefore, notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Regulation (14 CFR 39.13) is amended by further amending AD 81-16-08, Amendment 39-4184 (46 FR 39990, August 6, 1981) as amended by Amendment 39-4295 (47 FR 2477, January 18, 1982) and Amendment 39-4338 (47 FR 9813, March 8, 1982), by reidentifying existing paragraphs (E) and (F) as (H) and (I) respectively and adding new paragraphs (E), (F), and (G) as follows:

* * * * *

(E) Operators of Model 24E, and 24F, S/N 350, 352, 353, 354, 256, and subsequent, desiring to remove the 45,000 feet limitation of paragraph (A), above, may do so by accomplishing the following requirements of this paragraph at a FAA certified maintenance repair agency. However, the modification and inspection of the horizontal stabilizer trim actuator as required in the airplane modification kits referenced in subparagraph 1 below may be performed by another FAA certificated repair agency utilizing qualified technicians who must have recent accessory overhaul experience performing the overhaul and test of the Gates Learjet Horizontal Stabilizer Trim Actuator with the necessary shop equipment (Attachment I hereto) as referenced in Learjet Repair Manual Number 1711-9, or the equivalent equipment.

1. Install AMK 82-6, Engine Stall Warning System, and concurrently required kits called out in "PARTS REQUIRED," namely: AMK 81-13, Horizontal Stabilizer Trim and Autopilot Improvement, AMK 82-4 Autopilot Pitch Nose Down Limiter, and AAK 82-5 Autopilot Roll Rate Limiter.

2. Incorporate FAA approved Airplane Flight Manual (AFM) Change 9 for Model 24E and Change 7 for Model 24F, which supersedes AFM revisions previously required by paragraph (A), above, and delete superseded AFM revisions previously required by paragraphs (A)2, (A)5, and (A)6 of AD 80-19-11.

3. Insert FAA approved AFM Supplement AFMS: W1018, which supersedes previous AFM supplements for FC-110 autopilot.

(F) Operators of Model 25D and 25F, S/N 230 thru 341, and 343 thru 362, desiring to remove the 45,000 feet limitation of paragraph (A), above, may do so by accomplishing the following requirements at an FAA certificated maintenance repair agency.

1. Install AMK 81-12 Engine Stall Warning System, and concurrently required kits called out in "PARTS REQUIRED," namely: AMK 82-4 Autopilot pitch nose down limiter and AAK 82-5 Autopilot Roll Rate Limiter.

2. Incorporate FAA approved Airplane Flight Manual (AFM) Change 8 to the FAA approved Airplane Flight Manual which supersedes AFM revisions previously required by paragraph (A), above.

3. Insert FAA approved AFM Supplement AFMS: W1008, Change 1, which supersedes previous AFM supplements for FC-110 autopilot.

(G) The modifications described above have been incorporated by the manufacturer on airplanes Model 25D and 25F, S/N 342, 363, and subsequent.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. These documents may also be examined at FAA, Central Region, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209.

This amendment becomes effective February 17, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423; Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier, the Federal Aviation Administration has determined that this document involves an amendment that does not impose any additional burden on any person. Therefore: (1) It is not major under Executive Order 12291 (46 FR 13193; February 19, 1981); and (2) it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and it does not warrant preparation of a regulatory evaluation. Further, I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it effects few small entities.

Issued in Seattle, Washington on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-3952 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-29]

Alteration of VOR Federal Airways V-3, V-35, V-51, V-157, V-267, V-295, V-492, and Establishment of V-531 and V-529

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters VOR Federal Airways V-3, V-35, V-51, V-157, V-267, V-295, and V-492 in Central and South Florida. This action renumbers certain alternate airway segments in support of the International Civil Aviation Organization (ICAO) agreement to phase out alternate airway descriptions from the National Airspace System, revokes segments that are no

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longer needed for flight planning or Air Traffic Control (ATC) to help reduce chart clutter, and realigns other airways to accommodate recent traffic flow changes in South Florida.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone: (202) 426-8777.

SUPPLEMENTARY INFORMATION:

History

On December 20, 1982 (47 FR 56655), and subsequently corrected on January 10, 1983 (48 FR 1075), the FAA proposed to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to: (1) Revoke V-35 west alternate between Biscayne Bay, FL, and the DEEDS intersection; V-267 east alternate between Biscayne Bay, FL, and Palm Beach, FL; V-51 east alternate between Biscayne Bay, FL, and Pahokee, FL; V-157 west alternate between the VEGIE intersection and La Belle, FL; and V-157 east alternate between La Belle, FL, and Lakeland, FL; (2) renumber V-267 east alternate between Palm Beach, FL, and Orlando, FL; V-492 north alternate between La Belle, FL, and Palm Beach, FL; (3) realign V-492 between La Belle, FL, and Palm Beach, FL; V-295 between Orlando, FL, and Cross City, FL; and (4) establish new VOR Airways V-531 from Palm Beach, FL, to Orlando, FL, and V-529 from Biscayne Bay, FL, to La Belle, FL. Alternate airway segments that are no longer needed for flight planning or ATC are being revoked to help reduce chart clutter. Certain segments that are retained have been renumbered in support of the ICAO agreement to phase out alternate descriptions from the National Airspace System. Other airways are realigned or established to accommodate arrival/departure transition areas in South Florida and conform with recent traffic flow changes. Alternate airway segments not addressed will be amended in subsequent dockets. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Of the comments received on the proposal, none were objections. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters VOR Federal Airways V-3, V-35, V-51, V-157, V-267, V-295, and V-492 in Central and South Florida, renumbers certain alternate airway segments in support of an ICAO agreement to phase out alternate airway descriptions from the National Airspace System, and revokes segments that are no longer needed for flight planning or ATC to help reduce chart clutter. Other airways are realigned to accommodate recent traffic flow changes in South Florida.

List of Subjects of 14 CFR Part 71

Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., April 14, 1983, as follows:

1. V-3 [Amended]

By deleting the words ", including an E alternate via INT Biscayne Bay 021° and Palm Beach 166° radials".

2. V-35 [Amended]

By deleting the words ", including a west alternate from Biscayne Bay via INT Biscayne Bay 262° and Fort Myers 137° radials to the INT of Biscayne Bay 288° and Fort Myers 137° radials".

3. V-51 [Amended]

By deleting the words ", including an east alternate from Biscayne Bay, Fort Lauderdale, FL, INT Fort Lauderdale 339° and Pahokee 124° radials".

4. V-157 [Amended]

By deleting the words "including a W alternate from INT Miami 222° and Fort Myers, FL, 137° radials to La Belle via INT Fort Myers 137° and La Belle 162° radials" and ", including an E alternate via INT La Belle 004° and Lakeland 132° radials".

5. V-267 [Amended]

By deleting the words ", including an east alternate from Biscayne Bay, INT Biscayne Bay 340° and Palm Beach, FL, 201° radials: Palm Beach; INT Palm Beach 326° and Orlando 162° radials".

6. V-531 [New]

By adding "V-531 From Palm, Beach, FL; INT Palm Beach 326° and Orlando, FL, 162° radials; to Orlando."

7. V-492 [Amended]

By deleting the words "INT La Belle 101° and Palm Beach, FL, 272° radials; Palm Beach, including a north alternate from La Belle to Palm Beach via INT La Belle 043° and Palm Beach 298° radials" and substituting for them the words "Pahokee, FL; Palm Beach, FL".

8. V-295 [Amended]

By deleting the words "INT Orlando 283° and Ocala, FL, 156° radials;"

9. V-529 [New]

By adding "V-529 From Biscayne Bay, FL; INT Biscayne Bay 262° and La Belle, FL, 158° radials; to La Belle."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 9, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-3953 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 82-ANM-18]

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends Jet Route J-143 from Point Reyes, CA, to Eugene, OR, via Roseburg, OR. The extension of J-143 provides an additional route that improves traffic flow into the Seattle, WA, terminal area. Also, this alteration to J-143 reduces the necessity for long radar vectors and aids flight planning.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

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SUPPLEMENTARY INFORMATION:

History

On December 13, 1982 (47 FR 55688), the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to extend J–143 from Point Reyes, CA, to Eugene, OR. A preferred, parallel route to Jet Route J–1 is required to allow an orderly flow of traffic between Seattle, WA, and points in California, and improve traffic flow in the Seattle terminal area. This action would improve traffic flow, aid flight planning, and decrease controller workload. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations extends Jet Route J–143 from Point Reyes, CA, to Eugene, OR, via Roseburg, OR. The extension of J–143 provides an additional route to improve traffic flow into the Seattle, WA, terminal area. Also, this alteration to J–143 reduces the necessity for long radar vectors, and aids flight planning.

List of Subjects in 14 CFR Part 75

Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, effective 0901 G.m.t., April 14, 1983, as follows:

J–143 [Revised]

J–143 From Point Reyes, CA, via Roseburg, OR; Eugene, OR; The Dalles, OR; to Spokane, WA.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 9, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83–3954 Filed 2–16–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 82–AWA–22]

Establishment of Jet Routes and Area High Routes; Establishment of a Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes Jet Route/High Level J/HL–562 (formerly J/HL–542 as stated in the Notice of Proposed Rulemaking), from Brandon, MB, Canada, to Dickinson, ND. The Canadian Government has requested this jet route so that an additional point of entry into Canadian airspace would be available to international air carriers proceeding overseas. This action facilitates flight planning and saves fuel by providing a direct route into Canadian airspace.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8763.

SUPPLEMENTARY INFORMATION:

History

On December 20, 1982 (47 FR 56659), the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish new Jet Route/High Level J/HL–542 between Brandon, MB, Canada, and Dickinson, ND. However, during the comment period the Canadian Government requested that the Jet Route/High Level number be changed from J/HL–542 to J/HL–562, and the FAA has concurred. The Canadian Government established this route into Canada in order to permit an additional point of entry into Canadian airspace for the international air carriers proceeding overseas, and this action supports that request. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations establishes J/HL–562 from Brandon, MB, Canada, to Dickinson, ND. The Canadian Government has requested this jet route so that an additional point of entry into Canadian airspace is available to international air carriers proceeding overseas.

List of Subjects in 14 CFR Part 75

Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, effective 0901 G.m.t. April 14, 1983, as follows:

J–562 [New]

J–562 From Dickinson, ND; to Brandon, MB, Canada. The airspace within Canada is excluded.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 10, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83–4094 Filed 2–16–83; 8:45 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

14 CFR Part 254

[Dockets 40366, 38621; ER-1305-A]

Domestic Baggage Liability

AGENCY: Civil Aeronautics Board.

ACTION: Stay of effective date of final rule.

SUMMARY: The CAB is staying the effective date of its domestic baggage liability rule in order to more fully consider issues raised in a petition by certain members of the Air Transport Association to repeal the rule prior to its effective date. Pending completion of this new rulemaking, the currently effective baggage orders (without their tariff-filing requirement) will remain in effect.

DATES:

Adopted: February 8, 1983.
Effective: February 8, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: Accordingly, the Civil Aeronautics Board suspends the February 22, 1983, effective date of 14 CFR Part 254, issued as ER–1305, 47 FR 52987, November 24, 1982. Currently effective baggage orders, but without tariff-filing requirements, will remain in effect until further notice.

(Sec. 204, 403, 404, and 411, Pub. L. 85–726, as amended, 72 Stat. 743, 758, 760, 769; 49 U.S.C. 1324, 1373, 1374, 1381)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–4165 Filed 2–16–83; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 804, 805, 860, 880, 881, 882, 883, 884 and 886

[Docket No. R-82-1045]

Reexamination of Family Income for the Public Housing and Section 8 Housing Assistance Payments Programs

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule; notice of effective date.

SUMMARY: This document announces the effective date for the final rule published in the **Federal Register** on December 2, 1982 (47 FR 54293) which implements two statutory changes requiring reexamination of family income "no less frequently than annually" under HUD's Public Housing and Section 8 Housing Assistance Payments Programs. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before publication of further notice of the effective date in the **Federal Register**. Based on the present Congressional schedule, it is expected that the 30-session-day period will expire during March 1983.

EFFECTIVE DATE: The effective date for the final rule published December 2, 1982 at 47 FR 54293 is April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Edward Whipple, Office of Public Housing, (202) 426–0744; James Tahash, Program Planning Division, Office of Multifamily Management, (202) 755–5654; or Steven Silvert, Office of State Agency and Bond Financed Programs, (202) 755–7177; Department of Housing and Urban Development, Washington, D.C. 20410. These are not toll-free telephone numbers.

Dated: February 10, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83–4111 Filed 2–16–83; 8:45 am]

BILLING CODE 4210–27–M

VETERANS ADMINISTRATION

38 CFR Part 19

Appeals Regulations; Rules of Practice

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending the Appeals Regulations of the Board of Veterans Appeals to add a new regulation regarding appellate jurisdiction of determinations of the Department of Medicine and Surgery. The Board of Veterans Appeals Rules of Practice have also been revised in order to clarify existing practices before the Board of Veterans Appeals.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jan Donsbach (01C), Special (Legal) Assistant to the Chairman, Board of Veterans Appeals, 810 Vermont Avenue N.W., Washington, D.C. 20420 (202–389–2978).

SUPPLEMENTARY INFORMATION: On pages 56093–56104 of the **Federal Register** of August 22, 1980, there was published a notice of proposed rulemaking to amend Part 19.

Interested persons were given 30 days in which to submit comments regarding the proposal. The Veterans Administration received many suggestions. The comments and our action on those comments are listed below. We have first addressed those comments of a general nature which do not relate to a specific rule or appeals regulation. The comments relating to specific rules or regulations follow thereafter.

One organization expressed the opinion that the proposed additional rules have the effect of strengthening the insulation of the Veterans Administration from outside advocacy. In formulating these new rules, as well as revising existing rules, the aim was to clarify as much as possible the existing procedures for appeals. The proposed rules were developed to assist representatives who were not employed by major service organizations and who have not had many years of experience practicing before the Board in presenting their appeals before the Board and also to assist those appellants who specifically did not desire representation. Contrary to the commenter's opinion, these rules will encourage greater participation by all advocates.

A group criticized the rules for being too technical and legalistic and claimed that they created more formal and complex procedures. This was believed to work to the disadvantage of unrepresented appellants. There is little complex legal terminology used in the rules. Confusing terminology was defined and clarified, as suggested by some commenters. Furthermore, Rule 1(c) guarantees that the Rules of Practice will be interpreted in a manner most favorable to the appellant.

One group suggested that a rule be added requiring that claimants be notified that the filing of a notice of disagreement might result in reduced benefits and that the Board of Veterans Appeals does not traditionally reduce benefits. This comment could be viewed as influencing the claimant as to whether to appeal and is not proper subject matter for these rules. This area relates in particular to those subjects normally discussed between claimant and representative.

Comments were received requesting that processing times for preparation of

hearing transcripts and decisions be added to the rules. In an effort to decrease the processing time of an appeal where a hearing has been held, the Board of Veterans Appeals is no longer preparing hearing transcripts unless specifically requested to do so. See Rule 68(a). The average processing time of an appeal from date of certification to the Board of Veterans Appeals to the date of a final appellate decision is currently 220 days. The current processing time is the result of an unprecedented interest in appealing agency of original jurisdiction determinations and staffing limitations at the Board. Therefore, setting a specific processing time, such as 45 days, is unrealistic. The preparation and review of appellate decisions is monitored under strict work measurement standards. Accordingly, appeals are disposed of as quickly as possible.

It was suggested that a comparision of the terms "harmless error," "sufficient cause," and "good cause" be made. See the comments under Rule 91 for a discussion of harmless error and Rule 6 for good cause. The term "sufficient cause," which was used in Rule 75, has been changed to "good cause." Examples of good cause have been included in Rule 6. As is shown by the definitions of "harmless error" and "good cause" in the rules, they have entirely different meanings, are applied in entirely different circumstances, and cannot be compared.

The appeals regulations have been renumbered so they fall in a more logical sequence. Former §§ 19.2, 19.3, 19.4, 19.5 and 19.6 are now designated as §§ 19.5, 19.2, 19.6, 19.4 and 19.3, respectively. However, to make it easier to correlate the comments on the proposed regulations with the regulations as they appeared then, we have used the old numbering sequence in addressing those comments and have made cross-references to the new regulation numbers.

Section 19.1. A comment was received to the effect that the phrase "to apply all the adjudicative criteria" was unclear. This phrase basically means that the Board has the authority to apply all the adjudicative criteria as contained in the regulations of the agency, instructions of the Administrator and precedent opinions of the General Counsel. Since the Board is already bound by these administrative issues, the phrase itself is unnecessary. A new paragraph (b) has been added concerning appeals as to jurisdiction.

Section 19.2. This regulation is now numbered as § 19.5. Comments were received that the role and authority of the Vice Chairman should be clarified, as well as the term "administrative action" in paragraph (b).

Section 19.3. This regulation is now numbered as § 19.2. A request was made that the Board list those particular issues over which it had no jurisdiction. The current list of subject matter is very lengthy and an additional list over which the Board had no appellate jurisdiction would only tend to further confuse the regulation. Furthermore, it could be incorrectly assumed that a particular issue which was not listed as being exempt would be under the Board's jurisdiction. This regulation was also criticized because of a lack of citations and unusual terminology; it has been rephrased to simplify the descriptions.

The issue of reduction or increase in compensation or pension benefits has been deleted from this regulation since it is contemplated that these issues are included in determinations as to service connection and pension. Issues relating to emergency officers' retirement benefits (Section 11, Pub. L. 85–857), adjusted compensation (Section 12(b), Pub. L. 85–857) and unemployment compensation have been deleted since these particular issues are rarely certified to the Board and their inclusion would only unduly lengthen this regulation.

Section 19.4. This regulation has been renumbered as § 19.6. This regulation was misconstrued by one group as creating a presumption against disclosure of information contained in appellate decisions and statements of the case. It was felt that the regulation was in violation of the Privacy Act. This regulation was not intended to create a presumption against disclosure of information. To the contrary, it is the policy of the Board of Veterans Appeals to release a full text of all appellate decisions. There are a few cases dealing with medical matters and confidential records for which it would be ill-advised to release such information directly to the appellant. However, the regulation authorizes disclosure of a full-text decision to the designated representative. The only exception is where a close relationship exists between the appellant and representative, e.g., those situations where the representative for the appellant is either the spouse or a parent. The Privacy Act exempts certain medical information from direct disclosure to a requester and allows a third-party physician to discuss such information with the requester. This regulation is revised in order to clarify the policy of the Board of Veterans Appeals and to add a cross-reference to the agency's regulation concerning access to records under the Privacy Act.

Section 19.5. This regulation is now numbered as § 19.4. A question was raised as to what is meant by "review or determination" in this regulation. The regulation has been revised to make this clearer.

Section 19.6. This regulation has been renumbered as § 19.3. Comments were received suggesting a stylistic revision of this regulation for clarity. That revision has been accomplished. The substance of the regulation has not changed.

Rule 1. The citation of 38 U.S.C. 4002 was questioned; however, this section authorizes a Board member to make a determination on any proceedings instituted before the Board and any motion in connection therewith. It was suggested that any special procedure which is prescribed should be consistent with title 38, United States Code, and these rules. This language has been added.

Rule 2. Objection was taken to the exception for applying the new Rules of Practice on the basis that the standard was too vague. In order to clarify the application of these Rules, January 1, 1980 will be used as the effective date. The January 22, 1964 version of the Rules of Practice, as amended, will apply to all claims filed before January 1, 1980.

Rule 3. It was suggested that private medical evidence and independent medical expert opinions be given more consideration by the Board as they originate from nongovernment medical sources. 38 U.S.C. 4009 specifically categorizes these opinions as advisory. The regulation is merely consistent with that section and points out to the public that the various medical opinions are advisory in nature. The function of the Board as set out in 38 U.S.C. 4004 is to make a decision based on all the evidence of record. It is not contemplated that a private physician should make this decision. Private medical evidence as well as all other evidence of record is considered in the deliberations of the Board.

It was suggested that the agency's manuals, circulars and similar administrative issues not approved by the Administrator be promulgated in accordance with the Administrative Procedure Act and the Freedom of Information Act. The subject matter of the Rules of Practice does not relate to the promulgation of manuals or circulars and administrative issues not approved by the Administrator. Furthermore, the purpose of Rule 3 is to stress the fact

that these particular issues are not binding upon the Board.

Several commenters requested clarification as to what constitutes a General Counsel precedent opinion. General Counsel opinions have generally been understood to apply, at a minimum, to opinions which have been published and are available for wide dissemination. Internal General Counsel guidelines governing opinions ensure that only those which formulate a new policy requiring a change in regulation; interpret a new statute; expand upon, clarify, or depart from a prior decision; have timely significance; or examine such a difficult question as to have precedential value to the office of General Counsel are to be selected for digesting or publication. General Counsel Memorandum No. 02–76–3 (1976). Published opinions should be treated as generally applicable precedents. In reference to a comment, the indexing of General Counsel opinions under the provisions of the Freedom of Information Act is not appropriate subject matter for these rules.

Rule 4. Suggestions which assisted in clarifying this rule were adopted.

Rule 6. Suggestions were received with respect to other examples of good cause. Some of these have been included in the revision of this regulation. It was also felt that the appellant and representative should be separately notified when a motion has been granted to advance a case on the docket. Inasmuch as any case which is advanced on the docket of the Board of Veterans Appeals is expedited, notifying the appellant and representative that the motion has been granted would simply delay processing of the appeal and would only reach the appellant and representative at most a day or two before the actual decision. However, the regulation has been expanded to require that an appellant and representative be notified when a motion to advance a case on the docket has been denied.

Rule 9. It was suggested that Rule 9 be revised to require a psychiatrist be included on a review panel when a case involves mental disability. The Board of Veterans Appeals handles many cases involving medical specialties. It is not always possible to include in a section of the Board a physician who is a specialist in the particular disease which is at issue. However, the Board has access to specialists within the Veterans Administration and in accredited medical schools who can offer expert medical advice.

Rule 11. Suggestions regarding clarification of this rule were made and adopted.

Rule 13. A comment was made that the waiver of the fees for copying evidence of record during a pending appeal should be mandatory rather than discretionary. Neither statute nor agency regulation prohibits the charging of fees. Thus, any waiver of the fee should be subject to the discretion of the official.

It was requested that a rule be incorporated governing the right of an appellant to gain access to the file and to receive notice regarding documents added to the file. It is felt that the Board's rule with respect to copying information and access to the claims folder by appellants and their representatives sufficiently takes care of this. The laws and regulations governing statements of the case and supplemental statements of the case provide for automatic notification to the appellant and representative anytime pertinent evidence is added to the claims folder. The only exception would be when evidence is submitted and added to the claims folder by the appellant and/or representative. The Rules of Practice also contain procedures for notifying the appellant or representative anytime an advisory opinion is obtained and affords the appellant or representative a period of time within which to respond. It was also suggested that Rule 13 be expanded to note the existence of the Board's Index to Appellate Decisions and the collection of the Board's appellate decisions. Rule 100 was added to inform the public of the existence of the BVA Index to Appellate Decisions (BVA Index I–01–1).

Rule 14. Questions were raised with respect to perfecting an appeal. It was requested that the notification of the right to appeal should include information about the next step in the appeal. VA Form 1–4107 is used to notify claimants of the right to appeal and the time limits. This form describes the appellate procedure and the "next step" of filing a notice of disagreement which initiates the appeal. The VA has interpreted appeals notification to include information concerning filing a notice of disagreement. We have added a cross-reference to Rule 17 which sets forth what constitutes an appeal. We have also split Rule 14 into two rules. Former paragraph (a) is still part of Rule 14 while former paragraphs (b) and (c) are now included in Rule 15. Rule 14 has also been amended to show that the agency's notification of appellate rights includes notification of the right to a hearing and to representation.

Rule 15. Comments were received expressing concern over an apparent inconsistency between Rules 14 and 15. In view of the agency's self-imposed notification rule, prior Rule 15 is being deleted to avoid any ambiguity. Rule 15 now discusses notification of the right to appeal contested claims and administrative appeals (formerly Rule 14 (b) and (c)).

Rule 17. It was suggested that Rule 27 be made part of Rule 17 and that there be additional cross-references in this rule as to timeliness and where to file a notice of disagreement. As requested, additional cross-references to Rules 27 and 29 were added.

Rule 19. Stylistic suggestions which clarified this rule were adopted.

Rule 20. One group suggested that the statement of the case should include a specific discussion of all of the issues or contentions raised by the appellant, the relevant operative facts, and the legal, medical or other bases upon which the determination of the Regional Office was made. This is already specified by paragraph (b)(3). Other stylistic suggestions were made and adopted.

Rule 21. Suggestions were received requesting that the provisions of Rule 23 be incorporated into paragraph (b) of this rule. The addition of other material to this rule would make it too lengthy and more difficult to understand; however, a cross-reference has been added. One commenter felt that the veteran should not be presumed to agree with every statement to which a specific objection was not raised. However, 38 U.S.C. 4005(d)(4) states that the appellant will be presumed to be in agreement with any statement of fact contained in the statement of the case to which no exception was taken. Furthermore, the instructions contained on VA Form 1–9, Appeal to Board of Veterans Appeals, notify the appellant of this presumption.

A comment was received to the effect that Rule 21(b) does not actually specify what information is necessary in a substantive appeal. Rule 21(b) has set out the more important features of a substantive appeal. Due to the numerous types of appeals it is impossible to be more specific.

This rule has been amended to show that the agency's notification of appellate rights includes notification of the right to a hearing and to representation.

Rule 22. Stylistic changes were adopted.

Rule 23. The word "argument" has been substituted for the word "allegation" since the former suggests both contentions and reasoning in support of those contentions. A commenter, with respect to Rule 73, requested that "certification" be

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defined. Rule 23 now contains that definition.

Rule 24. It was requested that this regulation provide for a 30-day notice to the appellant that the appeal will be closed. A notice provision is not considered necessary inasmuch as the appellant is notified of the time limits within which to file a substantive appeal at the time a statement of the case is furnished. The appellant is already on notice that failure to file the substantive appeal will result in closing of the case.

Rule 25. A commenter thought there was an implication that the agency of original jurisdiction could withdraw a notice of disagreement. The regulation was revised to avoid this implication.

Rule 26. A comment was received that this regulation is unnecessary. Although the Board of Veterans Appeals does not commonly dismiss an appeal, there are instances of cases being dismissed for failure to state any disagreement in the law or fact as contained in the statement of the case. Another commenter felt that the regulation does not conform to the statute since 38 U.S.C. 4005(d)(5) requires failure to allege a *specific* area of law or fact. To avoid ambiguity, the regulation has been revised to use the statutory language.

It was suggested that the regulation require notification to an appellant of the dismissal action and any further recourse he/she may have after a dismissal action. The policy of the Board of Veterans Appeals is to construe any substantive appeal in a very liberal manner. There are few occasions in which a dismissal action arises and in those situations the appellant receives a dismissal decision signed by the Board members. The only recourse an appellant would have is reconsideration. A cross-reference to the rule on reconsideration has been added.

Rule 27. It was suggested that Rule 27 be part of Rule 17. Rule 17 deals specifically with commencement of the appeal. Rule 27 relates to the details of actually filing a notice of disagreement and is appropriately found in this section of the Rules of Practice. "Decision" was changed to the more accurate field term "determination." Another commenter requested that the designation "agency of original jurisdiction" be included in this rule. Inasmuch as the language "the Veterans Administration office from which the claimant received notice of the determination being appealed" is the definition of "agency of original jurisdiction," the additional designation is unnecessary.

Rule 28. A question was raised as to what particular paragraph of this rule would apply to a comatose claimant. In the situation where a patient remains comatose for a considerable period of time, he/she would be considered incompetent and paragraph (b) would apply. The rule has been revised to point out that a proper power of attorney or declaration of representation could also accompany the notice of disagreement and substantive appeal.

Rule 29. One commenter described a circumstance in which an adverse determination was received by the claimant who then filed a notice of disagreement within 1 year and thereafter arranged for a hearing with a posthearing review. The commenter wanted to know whether the veteran had another 1-year period to file a notice of disagreement. In this situation the notice of disagreement had already been filed within 1 year from the date of the initial determination and the case remained in a pending appellate status throughout the hearing and posthearing review. It is unnecessary to file another notice of disagreement. In other words, hearings on appeals and subsequent reviews by the agency of original jurisdiction would not adversely affect the appellant with respect to the pending appeal. As the result of one suggestion, the phrase "date of mailing" has been defined.

Rule 30. It was suggested that the rule indicate where extension requests and additional evidence are to be filed and who makes the determination. Accordingly, this rule is revised and cross-references are added to show this information. With respect to paragraph (b) several comments were received to the effect that the filing of additional evidence and the resultant review and determination be subject to an additional 1-year period within which to file a notice of disagreement. The purpose of paragraph (b) was to stress that the filing of additional evidence should not be used as a substitute for a notice of disagreement or a substantive appeal. Once a determination has been made in the field it is necessary to file a notice of disagreement within 1 year. Once that notice of disagreement has been filed, the submission of additional evidence will not affect the appellate status of the initial determination. However, if a notice of disagreement or a substantive appeal is not filed, the submission of additional evidence cannot reactivate the appeal. If an appellant wishes to submit additional evidence and needs additional time within which to do this, the proper procedure is to request an extension. The additional evidence, of course, could serve as a basis for a reopened claim and initiate a new 1-year period within which to appeal.

Rule 33. A sentence contained in rules 33 through 35, stating that the Board of Veterans Appeals will make a final decision regarding its appellate jurisdiction, was questioned. The purpose of that statement was to indicate that if a notice of disagreement or substantive appeal is not timely filed or is inadequate only the Board can decide whether it has jurisdiction to review the merits of the case. Since the statement is not necessary for these regulations and may create some confusion it is being deleted here and incorporated into § 19.1(b).

Questions were raised as to the distinctions between Rules 33 and 34 and Rules 35 and 36. Rules 33 and 34 cover those situations where the agency of original jurisdiction questions the timely filing of a notice of disagreement or a substantive appeal or the adequacy of a notice of disagreement. The usual situation contemplated is when there is disagreement among members of the rating board as to this particular question. These questions should be referred to the Board using the administrative appeal procedure. Rules 33 and 34 were amended for clarification. Rules 35 and 36 are applicable when the claimant protests findings of untimely filing or inadequacy made by the agency of original jurisdiction.

Rule 37. A comment was received to the effect that the 30-day period within which to present argument and adequacy questions was not long enough for preparation of response, especially because of any time lost in the mail, weekends and holidays. In view of this comment, the regulation is amended to provide for a period of 60 days.

Rule 38. A comment was received suggesting that a cross-reference to § 19.5 (now § 19.4) be included and that the definition of an administrative appeal be rephrased to show that it is taken by a Veterans Administration official. Accordingly, the rule was amended.

Rule 39. Clarification of the phrase "date of mailing" was requested and adopted to show that it refers to the date of the letter of notification to the claimant. Another commenter requested that the 60-day period within which an adjudication officer must file an administrative appeal be extended to 6 months since sometimes an adjudication officer does not learn of a controversial case until 3 or 4 months after the initial determination. It is felt that a 60-day period is sufficient for an adjudication officer to file an administrative appeal inasmuch as the adjudication officer has

direct contact with rating boards. However, if an adjudication officer learns of a controversial case after the 60-day period he/she can request the Director of the Regional Office to file an administrative appeal within the 6-month period.

Rule 40. It was requested that a copy of the memorandum for file entitled "Administrative Appeal," which sets forth the issues and basis for the appeal, be furnished the claimant and representative. The rule is revised to require the memorandum or a summary thereof be furnished so that the claimant can better determine whether to join in the appeal.

Rule 41. One commenter was concerned that there was no provision ensuring that the claimant did not submit a statement which accidentally triggered a merged administrative appeal. The procedure to prevent accidental merger has been explained and added to this rule.

Rule 42. This rule has been rephrased to clarify that the processing time of an unmerged administrative appeal is not chargeable to the claimant for purposes of perfecting an appeal.

Rule 43. A suggestion that the rule be clarified to indicate that the initial portion of this rule is a definition of what constitutes a contested claim has been adopted.

A comment was received requesting a regulation requiring suspension of all payments pending resolution of a contested claim. It was suggested that no benefits be paid to contesting parties until the end of the 60-day appeal period or until a Board of Veterans Appeals decision, whichever occurs last.

The agency's procedures with respect to suspension of benefits in contested claims is not appropriate subject matter for these rules.

This rule has been amended to show that the agency's notification of appellate rights includes notification of the right to a hearing and to representation.

Rule 45. The rule has been amended to add a definition as to what constitutes "date of mailing."

Rule 51. A comment was received suggesting the use of the term "designation and power of attorney." The rule is changed, using the term "designation by power of attorney."

The citation, 38 U.S.C. 4005(b)(2), was questioned; however, that is the Board's statutory authority for accepting the designation by power of attorney.

Rule 52. A comment was received questioning the term "declaration of representation," suggesting that the term be changed to "power of attorney." However, attorneys practicing before the Veterans Administration are permitted to declare that they are the representative of the appellant without the appellant executing a power of attorney. A power of attorney executed by the appellant is unnecessary.

It was also stated that a signed consent from both the appellant and from the attorney ignores the legal practice of accepting the client's retainer as a power of attorney. Cross-references to 38 CFR 14.629(c) and 14.631(c), the agency's regulations concerning a declaration of representation by an attorney, were included. It is not necessary to have both a consent from the appellant and a signed statement from the attorney. A statement from the attorney indicating that he/she is the representative of the appellant is sufficient for a valid power of attorney. However, this statement alone would limit the attorney's access to only those records and evidence directly relating to the issue on appeal. The combination of both a consent from the appellant and a statement from the attorney affords the attorney full access to all evidence of record pertaining to the appellant in the Veterans Administration. The rule was written in this fashion so that, by following this procedure, the attorney would have full access to all evidence in the agency and be saved unnecessary administrative delay.

It was suggested that the word "attorney" be defined as lawyers or law firms since the rule would cause undue delay and difficulty in the substitution of representatives as a result of staff changes in law school clinics, law firms or other nonrecognized organizations. It was claimed that the rule produces a discriminatory effect by restricting representation by attorneys but not similarly restricting representation by service organizations. Since this matter is more appropriate for inclusion in the regulations concerning recognition of attorneys as representatives and the General Counsel is in the process of revising those regulations to permit attorneys associated with a claimant's attorney to assist in the preparation and representation of a claim or appeal, we have removed paragraph (b) from Rule 52. We have added a sentence, though, stating that a legal intern, law student or paralegal may assist in an appeal if the appellant furnishes written consent. This consent does not, however, have to name a specific individual. A suggestion was made to rephrase the paragraph dealing with revocation of a power of attorney in Rules 52 and 53 so that they conform with the revocation subparagraph in Rule 51. Rules 52 and 53 are so amended.

A suggestion was received requesting that information about attorney's fees and expenses be a part of this rule. That information is already contained in the Notice of Procedural and Appellate Rights, VA Form 1–4107, which is furnished with every notification of an adverse determination. The authority for the Rule, 38 U.S.C. 3404, provides for fee limitations.

Rule 53. It was suggested that the phrase in paragraph (a) reading "The designation should be an individual agent" be changed to read "The designation must be an individual." It was also suggested that the phrase "representation by an agent" in paragraph (c) be changed to read "designation and power of attorney." We changed the language to "power of attorney." "Designation" is not necessary since agents are designated by a power of attorney.

Rule 54. Paragraph (b) has been simplified, as requested.

Rule 55. A comment was received with respect to allowing only one attorney or agent to be recognized at any one time. For the same reasons as set forth in Rule 52, above, the agency is without authority to formulate a regulation to allow for representation by legal aid societies, law school clinics or law firms.

A comment was received that, following the death of a veteran, the survivors should be notified of the claim or appeal. The purpose of the rule is simply to allow an eligible survivor who wishes to continue the veteran's appeal or claim with the Veterans Administration not to have to execute another power of attorney at a time when the loss of the veteran may have produced considerable emotional stress.

Another comment was received suggesting that the reasonable period in paragraph (c) be defined as 1 year. The Board prefers to use the term "reasonable period" since this allows greater flexibility in preserving a particular power of attorney. New paragraph (d) defines "reasonable period."

Rule 56. A group suggested that an attorney need not be present when a paralegal or legal intern appears before the Board of Veterans Appeals. The agency has no authority to recognize as a representative a paralegal or a legal intern in the absence of an attorney since 38 U.S.C. chapter 59 specifically delineates those individuals who may act as a representative of the appellant. A paralegal who wishes to represent an appellant and not be under the supervision of a recognized attorney must satisfy the laws and regulations

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with respect to agent status. A comment was received that many veterans go entirely unrepresented. Our records show, however, that over 90 percent of the appellants are represented. With respect to any limitation on the freedom of choosing a representative, the veteran or appellant has the freedom to choose either a representative of a service organization, an attorney or an individual who can qualify as an agent. It is felt that there is no practical restriction upon the choice of the representative an appellant may desire. Some groups requested that the status of legal intern be extended to a paralegal. Because of the confusion with respect to legal interns and paralegals, the rule is revised to permit legal interns, law students, and paralegals to assist in the representation of appellants.

Rule 57. A request was made to add a provision allowing appellants to ask questions of all witnesses present at the hearing. This provision has been added.

Rule 58. A revision to show that not only argument but testimony may be presented at a hearing was requested and adopted.

Rule 59. Common examples of good cause have been added to paragraph (c), as requested.

Rule 60. Comments suggesting that the rule specify that the place of the hearing is at the option of the appellant, the functions of field personnel be clarified, and the applicability of Rules 61 through 67 to paragraph (c) hearings were essentially adopted. However, Rules 61 and 63 were excepted since they can only be applicable to the Board of Veterans Appeals. A cross-reference was added to show the statutory citation for decisions with dissenting opinions. A commenter requested that more travel Boards be held in the field. The frequency of travel Board hearings is limited by the availability of travel funds and personnel. Travel Board planning is not proper regulatory subject matter.

We have clarified Rule 60 to show the exceptions where a hearing panel does not participate in the final decision.

Rule 61. It was asked whether three individuals are needed to conduct a hearing in the field. This particular rule applies only to hearings before Board members of the Board of Veterans Appeals. The rule is rephrased for greater clarity.

A sentence was added concerning the procedure to be followed when a member of the hearing panel cannot participate in the final decision.

Rule 62. A question was raised as to the role of the other section members in procedural questions. The chairman of the panel has always decided questions relating to procedure. However, any nonprocedural motions filed, such as requests for independent medical expert opinions and others relating to the actual merits of the case, would be subject to a decision of all three members. A cross-reference to Rule 57(c) has been added as a result of this suggestion.

Rule 63. It was requested that this rule be amended to state that a representative has a right to a prehearing conference and that it be expanded to include the following as subject matter for the prehearing conference: clarification of evidence to be presented, determinations as to additional evidence and all other matters which would facilitate the conduct of the hearing. While the appellant and representative have a right to a hearing before the Board of Veterans Appeals, there is no right to a prehearing conference. The purpose of the prehearing conference is to facilitate matters prior to the actual hearing. The language of the regulation clearly shows that the purpose of a prehearing conference is basically procedural. A prehearing conference should never be a substitute for a hearing.

Rule 64. A commenter requested examples of good cause. The Board has a liberal policy of allowing the record to remain open after a hearing. The rule itself explains the usual good cause situation, i.e., sufficient time to obtain the desired evidence. The use of the term "good cause" insures continuation of the Board's liberal policy. As requested, a cross-reference to Rule 73 has been added.

Rule 65. It was suggested that the agency provide subpoena power over Veterans Administration personnel upon a reasonable showing of relevance and materiality. It was felt that permitting the Board to exercise subpoena power over agency personnel upon a showing of good cause would prevent abuses in the agency and greatly improve the overall fairness of the proceedings. The Board of Veterans Appeals has no authority to subpoena employees of the Veterans Administration. The Board usually reviews evidence prepared by agency employees. Should there be some question as to the behavior or action of a VA employee, the appellant and/or representative could request that the Board conduct a field or Central Office investigation to review the matter. This is a sufficient remedy if such a situation should arise. The use of the citation, 38 U.S.C. 4002, was questioned. However, this is the Board's basic statutory authority for the appellate hearing program.

Rule 67. A comment was received questioning whether there as a difference between a simultaneously contested claim and a contested claim. There is no difference. 38 U.S.C. 4005A refers to these claims as "simultaneously contested." To avoid any confusion, Rules 43 and 67 are revised accordingly.

Rule 68. A commenter felt that a tape recording of a Board hearing would not be sufficient if the appeal were subject to court review. The Board of Veterans Appeals, as required by this rule, will keep a file of all hearing tapes. In the event there is any court review of the Board proceedings, a transcript will automatically be prepared without a request from the appellant and representative.

Another commenter suggested that the regulation require notice to the appellant and representative prior to the hearing that a copy of the transcript could be obtained without cost. The rule, itself, is considered adequate notice to the public. Clarification was requested as to how an informal hearing prior to filing of the notice of disagreement should be recorded. Any informal hearing held prior to the filing of a notice of disagreement is not a hearing on appeal and is not subject to these rules. M21–1, paragraph 18.18, contains the appropriate hearing guidelines for the Department of Veterans Benefits.

Rule 72. It was suggested that Rules 72 and 30(b) be combined. Although Rule 30(b) deals specifically with the time limits within which to file an appeal, a cross-reference to Rule 30(b) was added.

Rule 73. A question was posed as to the procedure for and significance of certification." In view of this, Rule 23 has been amended to include a definition of "certification." A commenter stated that the agency of original jurisdiction should notify the appellant that the evidence submitted does not have a direct bearing on the appellate issue. The agency of original jurisdiction normally forwards to the Board any evidence directly relating to the issue. The purpose of the Rule is to prevent an automatic transfer to the Board of evidence unrelated to the appeal. Because the agency of original jurisdiction may develop its own instructions for processing this type of evidence, formal notification rules are unnecessary.

Rule 74. The heading of this regulation was criticized; therefore, it has been changed to read "Consideration of additional evidence received by the Board of Veterans Appeals." Although one suggester recommended that the place for filing additional evidence be

specified, it is difficult to specify the particular place since appellants and representatives may submit additional evidence either in the field or at Central Office. Furthermore, Rules 73 and 74 cover all situations where such evidence may be filed. It was suggested that the Board review uncertified, new issues of law or fact when waiver of Regional Office review is requested. The waiver of a supplemental statement of the case under this regulation is applicable only to those issues which have been properly prepared for submission to the Board of Veterans Appeals. The Board has no jurisdiction to review issues which have not been considered by the agency of original jurisdiction. As a policy matter, the Board assumes jurisdiction only to allow those issues disposed of in an agency of original jurisdiction determination. The status of Board of Veterans Appeals Bulletin 01–7, paragraph 2(b), was questioned. This Bulletin was rescinded in November 1976 and replaced by M1–1, Field Appellate Procedures, paragraph 11.04(a). A supplemental statement of the case need not be prepared if, prior to forwarding the records to the Board, additional evidence is received of which the veteran is aware. Under this circumstance, a letter to the veteran would be sufficient.

Rule 75. As the result of a comment, a cross-reference to Rule 6 has been added.

Rule 76. A commenter requested that the fact that an appellant does not have a vested right to an expert medical opinion be clarified. The rules are very clear that the obtaining of any opinion by the Board of Veterans Appeals is discretionary but at the same time an appellant or representative may file a motion requesting such an opinion. A question was raised as to the appropriateness of the citation, 38 U.S.C. 4004(c), relating to professional opinions. The purpose of the inclusion of this citation was to point out that these opinions are not binding upon the Board of Veterans Appeals and are strictly advisory. However, the cross-reference to Rule 3 is sufficient to show that these opinions are advisory. The citation to 38 U.S.C. 4004(c) is changed to 38 U.S.C. 4009(a).

Rule 77. It was suggested that this rule specify that the appellant know the identity of the independent medical expert, have the opportunity to comment on the expert's findings and be able to submit written questions to the IME to be answered under oath.

The purpose of the independent medical opinion program is to allow a specialist, who is not an employee of the Veterans Administration, to review the medical evidence of record and provide an opinion from an unbiased point of view. The procedures used by the Board of Veterans Appeals in obtaining such an opinion do not provide for advance identification of a particular specialist. The Board does not know the identity of the specialist until the opinion is received from the medical school. After the opinion reaches the Board, a copy is submitted to the appellant and/or representative, thereby automatically disclosing the identity of the expert. Rule 98 covers those situations wherein the identity of the independent medical expert is requested.

The rule does specify that, upon receipt of the opinion, it will be referred to the appellant and representative for comments.

With respect to submitting written questions to the specialist to be answered under oath, it is VA policy not to allow cross-examination. Furthermore, the specialist is not a witness but only provides the Board Members with a reasoned opinion clarifying a controversial or complex medical issue. The appellant in requesting an opinion can always suggest questions to be presented to the expert.

Rule 78. A comment was received requesting a definition of "good cause." The purpose of using the phrase "good cause" was to honor a request for a medical opinion any time a valid reason is shown by the appellant or representative. To clarify the rule, an example of "good cause" is provided.

Rule 79. It was believed that 38 U.S.C. 3301 did not apply to this rule. This section of title 38, United States Code, provides that information from medical records can be referred to an independent medical expert; however, disclosure of this information may not be made to the appellant if such information is injurious to the physical and mental health of the appellant. It should be noted, though, that 38 CFR 1.577(d) allows release of such information to a physician or other professional person selected by the appellant, or the appellant may discuss the matter with a VA physician who can make a decision regarding release of the information to the appellant. It was recommended that a provision be made for the appellant and representative to submit questions through the Board's hearing panel to the independent medical expert. It has been a practice in the past that, when an appellant or representative makes a request for an independent medical opinion, he/she may suggest questions for the specialist. The Board makes these questions a part of the record at the time of referral to the medical institution. Some felt that the 30-day response period was inadequate when representatives are located only in the field. Accordingly, the rule is amended to allow for a 60-day response time.

Rule 81. A commenter noted that the exceptions set forth in 38 U.S.C. 4003(a) are not set forth in paragraph (a) of this rule. The exceptions to finality, i.e., obvious error in the record or additional official information from the service department are covered in Rule 85. A cross-reference has been added. Another comment was received stating that no provision was made for a case in which a decision, made by an expanded panel, is not unanimous and the Chairman agrees with the minority. Voting panels are comprised of three, six or twelve Board members. If the Chairman agrees with the minority he/she may expand the panel to six or a maximum of twelve members. The majority vote would prevail. Cross-references have also been added to Rules 10(d), 60 and 61.

Rule 82. Comments which suggested modification of the text to afford greater clarity were adopted. Another suggestion was made to require a supplemental statement of the case after completing action on a remand curing a procedural defect. Since, for instance, correction of the proper power of attorney or clarification of a request for hearing may require only correspondence from the agency of original jurisdiction, a supplemental statement of the case is not always required.

Rule 83. A comment was received suggesting that a Board member should disqualify himself/herself not only where there are circumstances which might give the impression of bias but also for any other reason. The basis for disqualification in this rule is conflict of interest which is adequately described in paragraph (a). It was requested that the appellant be given the right to challenge or question Board members' qualifications. They are appointed by the Administration with the approval of the President. The appellate decision is not the proper vehicle for challenging a Board member. The purpose of this rule is to avoid conflict of interest. A recommendation was made to require that a psychiatrist be included on the panel in cases involving mental disability. Adoption of this recommendation is not feasible since the Board handles several thousand such appeals every year. See the comment for Rule 9.

Rule 84. A comment was adopted which suggested that the phrases

"administrative action" in § 19.2(b) (now § 19.5(b)) and "administrative allowance" in Rule 84 be reconciled. The action is designated an "administrative allowance" since this is in common usage among representatives and Board members. Another commenter suggested that the rule allow an appellant and/or representative to request an administrative allowance. This action can only be invoked by the Board itself when no error is found following a request for reconsideration or a review of a final determination by an agency of original jurisdiction. A question was raised as to whether a specific number of members is required in order to recommend an administrative allowance. A specific number is not required. This is a discretionary action by the Chairman or Vice Chairman on recommendations submitted to them by Board members.

Rule 85. One suggester believed that reconsideration should be accorded when evidence such as new scientific or medical evidence is discovered. While such evidence would provide a new factual basis for reopening the claim, it would not prove error in the prior decision and entitle the appellant to receive retroactive benefits. The Board of Veterans Appeals decision would remain valid based on then-known scientific or medical knowledge. It was also requested that this rule be clarified to indicate that the agency of original jurisdiction need not furnish a statement of the case on the issue of obvious error of fact or law. Reconsideration reviews can be conducted only by the Board of Veterans Appeals. The agency of original jurisdiction has no authority to do so. Comments were received and adopted specifying that: (1) Reconsideration be accorded for corrected official service department records or upon the discovery of new and material evidence from the service department; (2) reconsideration may be requested at any time; and (3) reconsideration may also be requested by the appellant.

Rule 86. There appeared to be some confusion in the comments as to the exact processing of a reconsideration request. This rule is revised to emphasize the two-stage process: (1) Motion disposition and (2) actual review of the merits by the Board members.

Rule 87. This rule has been rephrased to specify how additional evidence would be treated on reconsideration.

Rule 88. This rule has been clarified, as suggested.

Rule 89. A comment was received suggesting that this rule be titled "Time limit for filing of a request." It was also requested that cross-references to Rules 29, 39 and 45 be added. However, those rules do not relate to reconsideration. The use of a heading entitled "Time limits" is not appropriate for reconsideration since there is no specific time limit. Another commenter pointed out that the filing of a brief for reconsideration is unrelated to a hearing request. This language has been inserted in Rule 86 which covers application for reconsideration. Rule 89 has been retitled "Hearings on reconsideration."

Rule 90. A comment suggesting that "assign a panel" be substituted for "create a panel" was adopted. For uniformity with Rule 86, "request" is deleted and "motion" substituted. Another comment was received suggesting that the appellant/representative be notified when a motion for reconsideration is granted or denied. Rule 86 was revised to clarify the processing of requests for reconsideration. See the comments under that rule.

Rule 91. It was suggested that the term "harmless error" be defined and compared with the terms "sufficient cause" and "good cause." This rule adequately defines the concept of harmless error. For further clarification, examples are typographical errors, misspellings, and other minor errors which do not affect the substance of the Board's decision and its disposition. The Board has a policy of issuing corrected pages when harmless error is found. See the general comments preceding this rule-by-rule analysis for a discussion of the comparison with the other terms.

Rule 94. A comment was received requesting that the rule be amended to show that a claim *will be* reopened if new and material evidence is submitted. This rule requires a determination to be made when new evidence is submitted If the evidence is found to be new and material, the claim is considered reopened.

Rule 95. It was suggested that the rule be clarified to show the Board may or may not complete its action. By using "may," it is already implied that completion of the appeal is at the Board's discretion. Cross-references to Rules 55 and 96 were requested and added.

One commenter asked that the rule require notification to the survivors of a pending appeal. The Board usually notifies immediate relatives that they may wish to file claims for accrued benefits. However, failure to notify survivors that they may file such claims would not affect the disposition of the pending appeal and is not deemed appropriate for incorporation in these rules.

Rule 96. It was requested that language referring to Rule 95 be incorporated in this Rule. This Rule applies to any prior decisions during the veteran's lifetime and not just to those pending at the time of the veteran's death.

Rule 97. Several commenters suggested that BVA decisions be considered as precedent. 38 U.S.C. 4004(c) enumerates three categories of pronouncements which are binding on the Board. Prior Board decisions are not included. In the absence of a specific declaration by Congress that it intends the Board to rely on its own decisions, it would be inappropriate for us to adopt a rule to that effect. We have revised the rule to stress the need for consistency. Prior decisions are given considerable weight in a case when the factual backgrounds reasonably relate to the current question at issue. It was also suggested that § 19.1 or 19.103 indicate that Board decisions are not precedent. A cross-reference has been added to Rule 3 (§ 19.103).

Rule 98. A stylistic change was suggested and adopted.

Rule 99. It was suggested that this proposed Rule be deleted entirely. The comment was made that any request to amend an appellate decision could be interpreted as an attack on the functions of the Board of Veterans Appeals. It was also suggested that the Board would be seeking to insulate its decisions from correction under the Privacy Act.

Nothing in the proposed rule should be read as changing or modifying the amendment provisions of the Privacy Act. Indeed, at the outset Rule 99 specifies that a request to amend a Board decision under the Privacy Act may be entertained. It should be emphasized that a request for correction of erroneous factual information in a BVA decision will be considered in association with all relevant evidence. The language of the rule is intended to show that a final adjudicatory decision of the Board is not properly the subject of a Privacy Act amendment request. In essence, the provisions for amendment of records under the Privacy Act are not intended to permit a collateral attack upon a Board decision. (OMB Privacy Act Implementation Guidelines and Responsibilities, 40 FR 28958 (1975).) Where there are matters in dispute that involved the adjudicatory functions of the Board, the challenge should be made using the procedures established under Rules 85 through 90. In this respect, it is pointed out that amendment of a record under the Privacy Act could also be the subject of an argument for reconsideration.

We believe that the objections received indicate that the proposed rule, as written, may be confusing. Hence editorial changes have been made for the purpose of clarification.

Rule 100. Pursuant to a comment with respect to Rule 13, this rule was added to inform the public of the existence of the BVA Index to Appellate Decisions (BVA Index I–01–1).

The Administrator hereby certifies that these final rules and regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these final rules and regulations therefore are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the rules and regulations will regulate only individual Veterans Administration benefit recipients. They will have no significant direct impact on small entities (i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions).

The agency has also determined that these rules and regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation.

There is no Catalog of Federal Domestic Assistance number involved.

The information collection requirements contained in these regulations (§§ 19.121, 19.123, 19.146 and 19.151) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. No. 96–511) and have been assigned OMB control numbers 2900–0085 (see §§ 19.121, 19.123, 19.146) and 2900–0321 (§ 19.151).

The proposed rules and regulations, as amended, are hereby adopted and are set forth below.

List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Approved: February 4, 1983.

By direction of the Administrator.

Everett Alverez, Jr.,

Deputy Administrator.

Title 38, CFR, Part 19 is revised to read as follows:

PART 19—BOARD OF VETERANS APPEALS

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19.2 Subject matter of appeals.
19.3 Appellate jurisdiction of determinations of the Department of Medicine and Surgery.
19.4 Restriction as to change in payments pending determination of administrative appeals.
19.5 Delegation of authority to Chairman and Vice Chairman, Board of Veterans Appeals.
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19.138 Rule 38; Administrative appeal.
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Contested Claims

19.143 Rule 43; Notification of right to appeal in simultaneously contested claims.
19.144 Rule 44; Who can file an appeal in contested claims.
19.145 Rule 45; Time limits for filing in contested claims.
19.146 Rule 46; Notice to contesting parties on receipt of notice of disagreement.
19.147 Rule 47; Notice of substance of appeal to other contesting parties.
19.148 Rule 48; Extension of time for filing in contested claims.
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Representation

19.150 Rule 50; Right to representation.
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19.194 Rule 94; New claim after appellate decision.
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19.198 Rule 98; Privacy Act request—appeal pending.
19.199 Rule 99; Amendment of appellate decision.
19.200 Rule 100; Index to appellate decisions.

Subpart A—Appeals—General

§ 19.1 Appellate jurisdiction.

(a) *General.* All questions on claims involving benefits under the laws administered by the Veterans Administration are subject to review on appeal to the Administrator of Veterans Affairs, decisions in such cases to be made by the Board of Veterans Appeals. In its decisions, the Board is bound by the regulations of the Veterans Administration, instructions of the Administrator and precedent opinions of the General Counsel. The Board may exercise the same authority as the department having original jurisdictional responsibility. (38 U.S.C. 4004)

(b) *Appeals as to jurisdiction.* All claimants have the right to appeal a determination made by the agency of original jurisdiction that the Board does not have jurisdictional authority to review a particular issue. This includes questions relating to the timely filing and adequacy of the notice of disagreement and the substantive appeal. Only the Board of Veterans Appeals will make final decisions with respect to its jurisdiction. (38 U.S.C. 4004)

§ 19.2 Subject matter of appeals.

The Board's appellate jurisdiction extends to all questions on claims involving benefits under the laws administered by the Veterans Administration. (38 U.S.C. 4004(a)) More common examples of the issues over which the Board has jurisdiction are as follows:

Entitlement to and benefits resulting from service-connected disability or death. (38 U.S.C. ch. 11)

Dependency and indemnity compensation for service-connected death including benefits in certain cases of inservice or service-connected deaths (38 U.S.C. 412) and certification and entitlement to death gratuity. (38 U.S.C. 423)

Entitlement to nonservice-connected disability pension, service pension and death pension. (38 U.S.C. ch. 15)

Training and rehabilitation for veterans with service-connected disabilities. (38 U.S.C. ch. 31)

Post-Vietnam Era Veterans' Educational Assistance. (38 U.S.C. ch. 32)

Veterans' Educational Assistance. (38 U.S.C. ch. 34)

Survivors' and Dependents' Educational Assistance. (38 U.S.C. ch. 35)

Matters arising under National Service Life Insurance and U.S. Government Life Insurance. (38 U.S.C. ch. 19)

Payment or reimbursement for unauthorized medical expenses. (38 U.S.C. 628)

Burial benefits. (38 U.S.C. ch. 23)

Benefits for persons disabled by medical treatment or vocational rehabilitation. (38 U.S.C. 351)

Basic eligibility for home, condominium and mobile home loans as well as waiver of payment of loan guaranty indebtedness. (38 U.S.C. ch. 37 and 3102)

Waiver or recovery of overpayments. (38 U.S.C. 3102)

Forfeiture of rights, claims or benefits for fraud, treason, or subversive activities. (38 U.S.C. 3502–3505)

Character of discharge. (38 U.S.C. 3103)

Determinations as to duty status. (38 U.S.C. 101(21)–(24))

Determinations as to marital status. (38 U.S.C. 101(3), 103)

Determination of dependency status as parent or child. (38 U.S.C. 101(4), (5))

Validity of claims and effective dates of benefits. (38 U.S.C. ch. 51)

Apportionment of benefits. (38 U.S.C. 3107)

Payment of benefits while a veteran is hospitalized and questions regarding an estate of an incompetent institutionalized veteran. (38 U.S.C. 3203)

§ 19.3 Appellate jurisdiction of determinations of the Department of Medicine and Surgery.

(a) The Board's appellate jurisdiction extends to questions of eligibility for hospitalization, outpatient treatment, and nursing home and domiciliary care, for devices such as prostheses, canes, wheelchairs, back braces, orthopedic shoes, and similar appliances, for automobile and automobile adaptive equipment assistance, and for other benefits administered by the Department of Medicine and Surgery.

(b) Medical determinations, such as determinations of the need for and appropriateness of specific types of medical care and treatment for an individual, are not adjudicative matters and are beyond the Board's jurisdiction. Typical examples of these issues are whether a particular drug should be prescribed, whether a specific type of physiotherapy should be ordered, and similar judgmental treatment decisions with which an attending physician may be faced. (38 U.S.C. 4004(a))

§ 19.4 Restriction as to change in payments pending determination of administrative appeals.

If an administrative appeal is taken from a review or determination by the agency of original jurisdiction pursuant to Rules 38 through 42 (§§ 19.138–19.142), that review or determination cannot effect any change in payments until after a decision is made by the Board of Veterans Appeals. (38 U.S.C. 4006)

§ 19.5 Delegation of authority to Chairman and Vice Chairman, Board of Veterans Appeals.

The Chairman and/or Vice Chairman have authority delegated by the Administrator to:

(a) Approve the assumption of appellate jurisdiction of an adjudicative determination which has not become final in order to grant a favorable benefit.

(b) Approve an administrative allowance on an adjudicative determination which has become final by appellate decision or failure to timely appeal.

(c) Order Central Office investigations of matters before the Board. (38 U.S.C. 210(b), 212(a))

§ 19.6 Disclosure of information.

It is the policy of the Board of Veterans Appeals for the full text of appellate decisions and statements of the case to be disclosed to appellants. In those situations where disclosing certain information directly to the appellant would not be in conformance with 38 U.S.C. 3301, that information will be

removed from the decision or statement of the case and the remaining text will be furnished the appellant. A full-text appellate decision or statement of the case, however, will be disclosed to the designated representative unless the relationship between the appellant and representative is such (for example, a parent or spouse) that disclosure to the representative would be as harmful as if made to the appellant. (38 U.S.C. 4005(d)(2))

Cross-Reference: Access to records. See § 1.577(d).

Subpart B—Appeals—Rules of Practice

General

§ 19.101 Rule 1; Authority, scope of rules, and construction.

(a) *Authority.* Pursuant to the authority vested in the Administrator of Veterans Affairs (38 U.S.C. 210(c)(1)) there are hereby issued revised Rules of Practice which govern proceedings in appeals to the Board of Veterans Appeals.

(b) *Scope.* These rules govern the practices and procedures for processing appeals for the Board of Veterans Appeals. Where in any instance there is no applicable rule or procedure, the presiding Board member before whom the matter is pending may prescribe a procedure which is consistent with the provisions of title 38, United States Code, and these rules. (38 U.S.C. 4002)

(c) *Construction.* In accordance with the agency's policy of providing assistance to the appellant, these rules shall be construed to secure a just and speedy decision in every appeal. (38 U.S.C. 210)

Cross-References: Reasonable doubt. See § 3.102. Due process—procedural and appellate rights with regard to disability and death benefits and related relief. See § 3.103.

§ 19.102 Rule 2; Effective date.

These rules are effective as of January 1, 1980. They govern all proceedings in cases filed on or after January 1, 1980.

§ 19.103 Rule 3; Governing criteria.

(a) *General.* In the consideration of appeals, the Board shall be bound by the laws and regulations of the Veterans Administration, decisions and instructions of the Administrator of Veterans Affairs, and precedent opinions of the General Counsel. (38 U.S.C. 4004(c))

(b) *Manuals, circulars and opinions.* In its appellate decisions, the Board is not bound by agency manuals, circulars and similar administrative issues not approved by the Administrator. Opinions of the Chief Medical Director, Armed Forces Institute of Pathology, and independent medical experts obtained pursuant to Rules 76 and 77 (§§ 19.176 and 19.177) are only advisory in nature. (38 U.S.C. 4004(c), 4009)

Cross-Reference: Nonprecedential nature of Board decisions. See Rule 97, § 19.197.

§ 19.104 Rule 4; Finality of decisions.

(a) A decision of the Board of Veterans Appeals is final (38 U.S.C. 211(a), 4004(a)), with the exception of a claim involving an insurance contract. (38 U.S.C. 784)

(b) Reconsideration by the Board may be accorded under Rules 85 through 90 (§§ 19.185 through 19.190). (38 U.S.C. 4003)

Docketing

§ 19.105 Rule 5; Docketing of appeals.

(a) *In order received.* Applications for review on appeal shall be docketed in the order in which they are received. (38 U.S.C. 4007)

(b) *Remanded cases.* Cases returned to the Board following action pursuant to a remand shall assume their original places on the docket. (38 U.C.S. 4007)

§ 19.106 Rule 6; Advance on the docket.

(a) A case may be advanced on the docket for good cause. Examples of good cause may be terminal illness, advanced age, extreme financial hardship, etc. A motion for this purpose must be filed with the Chairman, Board of Veterans Appeals, and specify the urgent nature of the cause. Interpretation of law of general application affecting other claims may afford a basis for advancing a case on the docket. (38 U.S.C. 4007)

(b) If a motion to advance a case on the docket is not granted, the appellant and representative will be immediately notified. If the motion to advance a case on the docket is granted it will be noted in the decision when rendered. (38 U.S.C. 4007)

Cross-Reference: Order of consideration. See Rule 75, § 19.175.

The Board

§ 19.107 Rule 7; Name and business hours.

(a) *Name.* The name of the Board is the Board of Veterans Appeals.

(b) *Business hours.* The Board shall be open during business hours on all days except Saturday, Sunday and legal holidays. Business hours are from 8:00 a.m. to 4:30 p.m.

(c) *Mailing address.* Mail to the Board should be addressed to: Chairman (01), Board of Veterans Appeals, 810 Vermont Avenue, NW., Washington, D.C. 20420. (38 U.S.C. 4001(a))

Cross-Reference: Legal holidays. See Rule 32, § 19.132.

§ 19.108 Rule 8; Establishment of the Board.

The Board of Veterans Appeals is established by authority of and functions pursuant to 38 U.S.C. chapter 71.

§ 19.109 Rule 9; Composition of the Board.

The Board shall consist of a Chairman, Vice Chairman, Members, and necessary professional, administrative, clerical and stenographic personnel. (38 U.S.C. 4001(a))

§ 19.110 Rule 10; Appointment, assignment, and rotation of members.

(a) *Appointment.* Members of the Board (including the Chairman and Vice Chairman) shall be appointed by the Administrator with the approval of the President of the United States. (38 U.S.C. 4001(b))

(b) *Assignment.* The Chairman may divide the Board into sections of three members and assign the members of the Board thereto. (38 U.S.C. 4002)

(c) *Rotation.* The Chairman may from time to time rotate the members of the sections. (38 U.S.C. 4002)

(d) *Vacancy or absence.* If, as a result of a vacancy, absence, or inability of an assigned member to serve, a section of the Board does not have a full complement of members, the Chairman may assign other members or direct the Section to proceed without any additional assignment of members. (38 U.S.C. 4002)

§ 19.111 Rule 11; Function of the Board.

The principal functions of the Board are to make determinations of appellate jurisdiction, consider all applications on appeal properly before it, conduct hearings on appeal, evaluate the evidence of record and enter decisions in writing on the questions presented on appeal. (38 U.S.C. 4002, 4004)

§ 19.112 Rule 12; Jurisdiction.

(a) *Statutory.* The Board's jurisdiction extends to all questions on claims involving benefits under the laws administered by the Veterans Administration. (38 U.S.C. 4004(a))

(b) *Delegated authority.* The Board may assume jurisdiction of an unappealed issue on its own motion in a case properly before it, as provided in § 19.5. (38 U.S.C. 212(a))

§ 19.113 Rule 13; Board records.

(a) *Removal of records.* No original record, paper, document or exhibit certified to the Board shall be taken from the Board except as authorized by the Chairman or except as may be necessary to furnish copies or to

transmit copies for other official purposes. (38 U.S.C. 3301)

(b) *Release of information.* Information requested from records, including copies of such records in the custody of the Board of Veterans Appeals, will be furnished to the extent permitted by law and Veterans Administration regulations. (5 U.S.C. 552, 552a; 38 U.S.C. 3301)

(c) *Fees.* The fees to be charged and collected for the release of information and for any copies will be in accordance with §§ 1.526, 1.555, and 1.577 of this title.

(d) *Waiver of fees.* When information is requested from records certified to and in the custody of the Board, the required fee may be waived if such information is requested in connection with a pending appeal.

(e) *Review of records.* Information in the records may be reviewed by agency employees on a "need to know" basis. (5 U.S.C. 552a(b)(1))

Cross-References: Release of information from Veterans Administration claimant records. See §§ 1.500–1.527. Release of information from Veterans Administration records other than claimant records. See §§ 1.550–1.559. Safeguarding personal information in Veterans Administration records. See §§ 1.575–1.584.

Notification of Appellate Rights

§ 19.114 Rule 14; Notification of right to appeal.

The claimant and the representative, if any, will be informed of the right to initiate an appeal and the time within which to do so, the right to a personal hearing and the right to representation. This information will be included in each notification of a determination of entitlement or nonentitlement to Veterans Administration benefits by the agency of original jurisdiction. (38 U.S.C. 4005(a))

Cross-Reference: What constitutes an appeal. See Rule 17, § 19.117.

§ 19.115 Notification of right to appeal in administrative appeals and contested claims.

(a) *Administrative appeals.* Claimants will be notified of administrative appeals pursuant to Rule 40 (§ 19.140). (38 U.S.C. 4006)

(b) *Contested claims.* Contesting claimants will be notified of appellate rights pursuant to Rule 43 (§ 19.143). (38 U.S.C. 4005A(a))

§ 19.116 Rule 16; Decision notification.

After a decision has been rendered by the Board, all parties to the appeal and the representatives, if any, will be notified of the results. (38 U.S.C. 4004(a), (d))

Commencement of Appeal

§ 19.117 Rule 17; What constitutes an appeal.

An appeal consists of a timely filed notice of disagreement in writing and, after a statement of the case has been furnished, a timely filed substantive appeal. (38 U.S.C. 4005)

Cross-References: Notice of disagreement. See Rule 18, § 19.118. Substantive appeal. See Rule 23, § 19.123. Place of filing, notice of disagreement and substantive appeal. See Rule 27, § 19.127. Time limit for filing. See Rule 29, § 19.129.

§ 19.118 Rule 18; Notice of disagreement.

A written communication from a claimant or the representative expressing dissatisfaction or disagreement with an adjudicative determination of an agency of original jurisdiction (the Veterans Administration regional office, medical center or clinic which notified the claimant of the action taken) will constitute a notice of disagreement. The notice of disagreement should be in terms which can be reasonably construed as a desire for review of that determination. It need not be expressed in any special wording. (38 U.S.C. 4005)

§ 19.119 Rule 19; Action by agency of original jurisdiction on notice of disagreement.

(a) *Preliminary action.* When a notice of disagreement is timely filed, the agency of original jurisdiction may develop and review the claim again. (38 U.S.C. 4005(d)(1))

(b) *Statement of the case.* If no preliminary action is required or when it is completed, the agency of original jurisdiction will prepare a statement of the case pursuant to Rule 20 (§ 19.120), unless the issue or issues are resolved by granting the benefits sought in the appeal or the notice of disagreement is withdrawn by the appellant or the representative. (38 U.S.C. 4005(d)(1))

Cross-References: Place of filing, notice of disagreement and substantive appeal. See Rule 27, § 19.127. Time limit for filing. See Rule 29, § 19.129.

§ 19.120 Rule 20; Statement of the case.

(a) *Purpose.* The statement of the case should provide the appellant notice of those facts and applicable laws and regulations upon which the agency of original jurisdiction based its determination of the issue or issues. It should be complete enough to allow the appellant to present written and/or oral arguments before the Board of Veterans Appeals. (38 U.S.C. 4005(d)(1))

(b) *Contents.* A statement of the case shall contain:

(1) A summary of the evidence in the case relating to the issue or issues with which the appellant or representative has expressed disagreement.

(2) A summary of the applicable law and regulations, with appropriate citations.

(3) The determination of the agency of original jurisdiction on each issue and the reasons for each such determination with respect to which disagreement has been expressed. (38 U.S.C. 4005(d)(1))

§ 19.121 Rule 21; Furnishing the statement of the case and instructions for filing a substantive appeal.

(a) *Copies of statement of the case.* The statement of the case will be forwarded to the appellant at the latest address of record and a separate copy provided to the representative (if any). (38 U.S.C. 4005(d)(3))

(b) *Information on filing substantive appeal.* With the statement of the case, the appellant and the representative will be furnished information on the right and time limit to file a substantive appeal, as well as hearing and representation rights, and VA Form 1–9, Appeal to Board of Veterans Appeals. Instructions to the appellant state that:

(1) The benefits sought must be clearly identified.

(2) The substantive appeal should set out specific arguments as to error of fact or law, related to the issues.

(3) The appellant will be presumed to be in agreement with any statement of fact contained in the statement of the case to which no exception is taken.

(4) The agency of original jurisdiction may close the appeal for failure to respond to the statement of the case.

(5) The Board of Veterans Appeals will base its decision on the evidence and argument of record, and will not be limited to that cited in the statement of the case. (Approved by the Office of Management and Budget under OMB control number 2900–0085) (38 U.S.C. 4005(d))

Cross-Reference: Substantive appeal. See Rule 23, § 19.123.

§ 19.122 Rule 22; Supplemental statement of the case.

A supplemental statement of the case, so identified, will be furnished to the appellant and representative, if any, when additional pertinent evidence is received, when a material defect is discovered, or when, for any other reasons, the original statement is inadequate under the requirements of Rule 20 (§ 19.120). A supplemental statement of the case will also be issued following development pursuant to a remand of the Board. A supplemental

statement of the case is not required following a hearing on appeal before field personnel when no additional pertinent evidence is received, when a material defect is not discovered, or when the original statement is adequate under the requirements of Rule 20 (§ 19.120). (38 U.S.C. 4005(d))

Cross-References: Consideration of additional evidence received by the Board of Veterans Appeals. See Rule 74, § 19.174. Remand for further development. See Rule 82, § 19.182.

§ 19.123 Rule 23; Substantive appeal.

(a) *Substantive appeal.* A substantive appeal shall consist of a properly completed VA Form 1–9, Appeal to Board of Veterans Appeals, or correspondence containing the necessary information. The appeal should set out specific arguments relating to errors of fact or law. To the extent feasible the argument should be related to specific items in the statement of the case. This is the last action the appellant needs to take to perfect the appeal. The Board will construe such arguments in a liberal manner for purposes of determining whether they raise issues on appeal. (Approved by the Office of Management and Budget under OMB control number 2900–0085) (38 U.S.C. 4005(d)(4)-(5))

(b) *Certification.* Following receipt of the substantive appeal, the agency of original jurisdiction will certify the case to the Board of Veterans Appeals. Certification is accomplished by the execution of VA Form 1–8, Certification of Appeal. Its purpose is to identify the issues for appellate consideration and to serve as a check list for the originating agency to ensure that the appeals development procedures have been adequate, particularly as they affect the appellant's due process rights. (38 U.S.C. 4005)

Cross-Reference: Furnishing the statement of the case and instructions for filing a substantive appeal. See Rule 21(b), § 19.121(b).

§ 19.124 Rule 24; Closing—failure to respond to statement of the case.

The agency of original jurisdiction may close the appeal without notice to an appellant for failure to respond to a statement of the case within the period allowed. However, if a response is subsequently received within the 1-year appeal period (except for contested claims), the appeal will be considered to be reactivated. (38 U.S.C. 4005(d)(3))

Cross-Reference: Time limit for filing. See Rule 29(b), § 19.129(b).

§ 19.125 Rule 25; Withdrawal.

(a) *Notice of disagreement.* A notice of disagreement may be withdrawn in writing before a timely substantive appeal is filed. (38 U.S.C. 4005(d)(1))

(b) *Substantive appeal.* A substantive appeal may be withdrawn in writing at any time before the Board enters a decision except where withdrawal would be detrimental to the appellant. (38 U.S.C. 4005(d)(3))

(c) *Who may withdraw.* Withdrawal may be by the appellant or the authorized representative (person or organization) except that a representative may not withdraw either a notice of disagreement or substantive appeal filed by the appellant personally. The agency of original jurisdiction may not withdraw a notice of disagreement or a substantive appeal after filing of either or both. (38 U.S.C. 4005(b)(2))

Cross-References: Substantive appeal. See Rule 23, § 19.123. Timely filing of appeal questioned within the agency of original jurisdiction. See Rule 33, § 19.133. Untimely filing of appeal protested by claimant. See Rule 35, § 19.135. Adequacy of the substantive appeal. See Rule 37, § 19.137.

§ 19.126 Rule 26; Dismissal.

Appeals which fail to allege specific error of fact or law in the determination being appealed may be dismissed. The appellant and/or representative will be notified of the dismissal action. (38 U.S.C. 4005(d)(5), 4008)

Cross-Reference: Reconsideration. See Rules 85–90, §§ 19.185–19.190.

Filing

§ 19.127 Rule 27; Place of filing notice of disagreement and substantive appeal.

The notice of disagreement and substantive appeal shall be filed with the Veterans Administration office from which the claimant received notice of the determination being appealed. (38 U.S.C. 4005(b)(1), (d)(3))

§ 19.128 Rule 28; Who can file an appeal.

(a) *Persons authorized.* A notice of disagreement and a substantive appeal may be filed by a claimant personally or by an accredited representative of a recognized organization, by an attorney or by an agent, if a proper power of attorney or declaration of representation, as applicable, is on record or accompanies such notice of disagreement or appeal. (38 U.S.C. 4005(b)(2))

(b) *Claimant rated incompetent by Veterans Administration or under disability and unable to file.* If an appeal is not filed by a person listed in paragraph (a) of this section, and the claimant is rated incompetent by the Veterans Administration or has a physical, mental or legal disability which prevents the filing of an appeal on his or her own behalf, a notice of disagreement and a substantive appeal may be filed by a fiduciary appointed to manage the claimant's affairs by the Veterans Administration or a court, or by a person acting as next friend if the appointed fiduciary fails to take needed action or no fiduciary has been appointed. (38 U.S.C. 4005(b)(2))

(c) *Claimant under disability and able to file.* Notwithstanding the fact that a fiduciary may have been appointed for a claimant, an appeal filed by a claimant will be accepted. (38 U.S.C. 4005(b)(2))

Cross-References: Who can file an appeal in contested claims. See Rule 44, § 19.144 Recognized organizations. See Rule 51, § 19.151. Attorneys. See Rule 52, § 19.152. Agents. See Rule 53, § 19.153. Other persons as representative. See Rule 54, § 19.154.

§ 19.129 Rule 29; Time limit for filing.

(a) *Notice of disagreement.* A notice of disagreement shall be filed within 1 year from the date of mailing of notification of the initial review and determination; otherwise, that determination will become final. The date of the letter of notification will be considered the date of mailing for purposes of determining whether a timely appeal has been filed. (38 U.S.C. 4005(b)(1))

(b) *Substantive appeal.* A substantive appeal shall be filed within 60 days from the date of mailing of the statement of the case, or within the remainder of the 1-year period from the date of mailing of the notification of the initial review and determination being appealed, whichever period ends later. The date of the statement of the case itself will be considered the date of mailing for purposes of determining whether a timely appeal has been filed. Where a supplemental statement of the case is furnished, a period of 30 days will be allowed for response. (38 U.S.C. 4005(b)(1), (d)(3))

Cross-Reference: Time limits for filing in contested claims. See rule 45, § 19.145.

§ 19.130 Rule 30; Extension of time for filing.

(a) *General.* An extension of the 60-day period for filing a substantive appeal or the 30-day period for responding to a supplemental statement of the case may be granted for good cause shown. A request for such an extension should be in writing and must be made prior to expiration of the time limit for filing the substantive appeal. The request for extension should be filed with the Veterans Administration office from which the claimant received

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notice of the determination being appealed. That same office will make a determination as to extension. A denial of a request for extension may be appealed to the Board. (38 U.S.C. 4005(d)(3))

(b) *Additional evidence filed.* The filing of additional evidence after receipt of notice of an adverse determination shall not extend the time limit for initiating or completing an appeal from that determination. (38 U.S.C. 4005(d)(3))

Cross-References: Extension of time for filing in contested claims. See Rule 48, § 19.148. Evidence. See Rules 72–74, §§ 19.172–19.174. New claim after appellate decision. See Rule 94, § 19.194.

§ 19.131 Rule 31: Computation of time limit.

(a) *Acceptance of postmark date.* A notice of disagreement or a substantive appeal postmarked prior to expiration of the applicable time limit will be accepted as having been timely filed. (38 U.S.C. 4005(b)(1))

(b) *Computation of time limit.* In computing the time limit for filing a notice of disagreement or a substantive appeal, the first day of the specified period will be excluded and the last day included. Where the time limit would expire on a Saturday, Sunday, or holiday, the next succeeding workday will be included in the computation. (38 U.S.C. 4005(b)(1))

§ 19.132 Rule 32; Legal holidays.

For the purpose of Rule 31 (§ 19.131), the legal holidays, in addition to any other day appointed as a holiday by the President or the Congress of the United States, are as follows: New Year's Day—January 1; Inauguration Day—January 20 of every fourth year or, if the 20th falls on a Sunday, the next succeeding day selected for public observance of the inauguration; Washington's Birthday—third Monday in February; Memorial Day—last Monday in May; Independence Day—July 4; Labor Day—first Monday in September; Columbus Day—second Monday in October; Veteran's Day—November 11; Thanksgiving Day—fourth Thursday in November; and Christmas Day—December 25. (5 U.S.C. 6103)

§ 19.133 Rule 33; Timely filing of appeal questioned within the agency of original jurisdiction.

If, within the agency of original jurisdiction, there is a question as to the timely filing of a notice of disagreement or substantive appeal, the procedures for an administrative appeal must be followed. (38 U.S.C. 4005(d)(3), 4006)

Cross-References: Administrative appeal. See Rule 38, § 19.138. Officials authorized and time limits for filing administrative appeals. See Rule 39, § 19.139. Notification to claimant. See Rule 40, § 19.140. Merge of administrative appeal and claimant's appeal. See Rule 41, § 19.141. Effect of decision on administrative or merged appeal. See Rule 42, § 19.142.

§ 19.134 Rule 34; Adequacy of notice of disagreement questioned within the agency of original jurisdiction.

If, within the agency of original jurisdiction, there is a question as to the adequacy of a notice of disagreement, the procedures for an administrative appeal must be followed. (38 U.S.C. 4005(d)(3), 4006)

Cross-References: Administrative appeal. See Rule 38, § 19.138. Officials authorized and time limits for filing administrative appeals. See Rule 39, § 19.139. Notification to claimant. See Rule 40, § 19.140. Merge of administrative appeal and claimant's appeal. See Rule 41, § 19.141. Effect of decision on administrative or merged appeal. See Rule 42, § 19.142.

§ 19.135 Rule 35; Untimely filing of appeal protested by claimant.

If the claimant or his/her representative protests an adverse determination made by the agency of original jurisdiction with respect to timely filing of the notice of disagreement or substantive appeal, the claimant will be furnished a statement of the case. (38 U.S.C. 4005(d))

§ 19.136 Rule 36; Inadequacy of the notice of disagreement.

If the claimant or his/her representative protests an adverse determination made by the agency of original jurisdiction with respect to adequacy of the notice of disagreement, the claimant will be furnished a statement of the case. (38 U.S.C. 4005(d))

§ 19.137 Rule 37; Adequacy of the substantive appeal.

A decision as to the adequacy of allegations of error of fact or law in a substantive appeal will be made by the Board of Veterans Appeals. When the Board raises the issue of adequacy of the substantive appeal, the appellant and representative, if any, will be given notice of the issue and a period of 60 days following the date on which such notice is mailed to present written argument or to request a hearing to present oral argument on this question. The date of the letter of notification will be considered the date of mailing the notice. (38 U.S.C. 4005(d)(3), 4008)

§ 19.138 Rule 38; Administrative appeal.

(a) *General.* An administrative appeal from an agency of original jurisdiction determination is an appeal taken by an official of the Veterans Administration authorized to do so to resolve a conflict of opinion or a question of a claim involving benefits under laws administered by the Veterans Administration. Such appeals may be taken not only from determinations involving dissenting opinions but also from unanimous determinations denying or allowing the benefit claimed, in whole or in part. (38 U.S.C. 4006)

(b) *Form of appeal.* An administrative appeal is entered by a memorandum entitled "Administrative Appeal" in which the issues and the basis for the appeal are set forth. (38 U.S.C. 4006)

Cross-Reference: Restriction as to change in payments pending determination of administrative appeals. See § 19.4.

§ 19.139 Rule 39; Officials authorized and time limits for filing administrative appeals.

The Administrator of Veterans Affairs authorizes certain officials of the Veterans Administration to file administrative appeals within specified time limits.

(a) *Central office.*—(1) *Officials.* The Chief Benefits Director or a service director of the Department of Veterans Benefits, the Chief Medical Director or a service director of the Department of Medicine and Surgery, and the General Counsel are so authorized.

(2) *Time limit.* Such officials must file an administrative appeal within 1 year from the date of the determination, or within 1 year from the date of mailing notice of such determination, whichever is later. (38 U.S.C. 4006)

(b) *Agencies of original jurisdiction.*—(1) *Officials.* Directors, adjudication officers, and officials at comparable levels in field offices deciding any claims for benefits, from any determination originating within their established jurisdiction, are also authorized.

(2) *Time limit.* The director or comparable official must file an administrative appeal within 6 months from the date of the determination or within 6 months from the date of mailing notice of the determination, whichever is the later date. Officials below the level of director must do so within 60 days from such date. (38 U.S.C. 4006)

(c) *The date of mailing.* With respect to paragraphs (a) and (b) of this section, the term "date of mailing" is defined as the date of the letter of notification to the claimant. (38 U.S.C. 4005)

§ 19.140 Rule 40; Notification to claimant.

When an administrative appeal is entered, the claimant and the representative, if any, will be promptly furnished a copy of the memorandum entitled "Administrative Appeal," or an

adequate summary thereof, outlining the question at issue and will be allowed a period of 60 days to join in the appeal if he/she so desires. The claimant will also be advised of the effect of such action and preservation of normal appeal rights if he/she does not elect to join. (38 U.S.C. 4006)

§ 19.141 Rule 41; Merger of administrative appeal and claimant's appeal.

If the claimant or the representative elects to join in the administrative appeal, it becomes a merged appeal and the rules governing an appeal initiated by a claimant are for application. The presentation of evidence or argument in response to notification of the right to join in the administrative appeal will be construed as merging the appeal. If the claimant or representative does not authorized the merger, he/she should hold such evidence or argument in abeyance until resolution of the administrative appeal. (38 U.S.C. 4006)

§ 19.142 Rule 42; Effect of decision on administrative or merged appeal.

(a) *Appeal merged.* If the administrative appeal is merged, the appellate decision on the merged appeal will constitute final disposition of the claimant's appellate rights.

(b) *Appeal not merged.* If the claimant does not authorize merger, normal appellate rights on the same issue are preserved, and a decision in a separate appeal perfected by the claimant will be entered by another section of the Board. The period of time, from the date of notification to the claimant of the administrative appeal to the date of the Board's decision on the administrative appeal, is not chargeable to the claimant for purposes of perfecting the appeal. (38 U.S.C. 4006)

Cross-References: Notification of appellate rights. See Rules 14–16, §§ 19.114–19.116. Commencement of appeal. See Rules 17–26, §§ 19.117–19.126. Disqualification of members. See Rule 83, § 19.183.

Contested Claims

§ 19.143 Rule 43; Notification of right to appeal in simultaneously contested claims.

A simultaneously contested claim exists where one claim is allowed and another claim involving the same benefit is disallowed or the allowance of one claim would result in the payment of a lesser benefit to another claimant. All interested parties will be specifically notified of the action taken and of the right and time limit for initiation of an appeal, as well as hearing and representation rights. (38 U.S.C. 4005A(a))

Cross-Reference: Hearings in simultaneously contested claims. See Rule 67, § 19.167.

§ 19.144 Rule 44; Who can file an appeal in contested claims.

In a contested claim, any claimant or representative of a claimant may file a notice of disagreement or substantive appeal within the time limits set out in Rule 45 (§ 19.145). (38 U.S.C. 4005(b)(2), 4005A)

Cross-Reference: Who can file an appeal. See Rule 28, § 19.128.

§ 19.145 Rule 45; Time limits for filing in contested claims.

(a) *Notice of disagreement.* Where one claim is allowed and one denied, or the allowance of one claim would result in payment of a lesser amount to another claimant, the notice of disagreement from the person adversely affected must be filed within 60 days from the date of mailing the notification of the review or determination; otherwise, that determination will become final. The date of the letter of notification will be considered the date of mailing for purposes of determining whether a timely notice of disagreement has been filed. (38 U.S.C. 4005A(a))

(b) *Substantive appeal.* A substantive appeal must be filed within 30 days from the date of mailing of the statement of the case. The date on the statement of the case will be considered the date of mailing for purposes of determining whether a timely appeal has been filed. (38 U.S.C. 4005A(b))

Cross-References: Computation of time limit. See Rule 31, § 19.131. Legal holidays. See Rule 32, § 19.132. Timely filing of appeal questioned within the agency of original jurisdiction. See Rule 33, § 19.133.

§ 19.146 Rule 46; Notice to contesting parties on receipt of notice of disagreement.

Upon the filing of a notice of disagreement in a contested claim, all parties in interest and their representatives will be furnished a copy of the statement of the case. The parties in interest who filed notices of disagreement will be duly notified of the right and time limit to file a substantive appeal and furnished with VA Form 1–9, Appeal to Board of Veterans Appeals. (Approved by the Office of Management and Budget under OMB control number 2900–0085) (38 U.S.C. 4005A(b))

Cross-Reference: Furnishing the statement of the case and instructions for filing a substantive appeal. See Rule 21, § 19.121.

§ 19.147 Rule 47; Notice of substance of appeal to other contesting parties.

When a substantive appeal is filed, the substance of the appeal will be communicated to the other interested parties, and a period of 30 days will be allowed for filing a brief or argument in answer. (38 U.S.C. 4005A(b))

§ 19.148 Rule 48; Extension of time for filing in contested claims.

An extension of the 30-day period to file a substantive appeal may be granted for good cause shown. In granting an extension in contested claims, consideration will be given to the interests of the other parties involved. A request for such an extension should be in writing and must be made prior to expiration of the time limit for filing the substantive appeal. (38 U.S.C. 4005A(b))

§ 19.149 Rule 49; Notices to last addresses of record in contested claims.

Notices in contested claims will be forwarded to the last address of record of the parties concerned and such action will constitute sufficient evidence of notice. (38 U.S.C. 4005A(b))

Representation

§ 19.150 Rule 50; Right to representation.

An appellant will be accorded full right to representation in all stages of an appeal by a recognized organization, attorney or agent, or other person authorized to represent claimants before the agency of original jurisdiction. (38 U.S.C. 3401–3405, 4005(a))

§ 19.151 Rule 51; Recognized organizations.

(a) *Designation by power of attorney.* The designation by power of attorney to a recognized organization will be by duly executed VA Form 23–22, Appointment of Veterans Service Organization as Claimant's Representative. (38 U.S.C. 4005(b)(2))

(b) *Revocation or change of power of attorney.* An appellant may revoke a power of attorney to a recognized organization at any time, irrespective of whether another representative is concurrently designated. The revocation is effective when notice of such is received by the Veterans Administration. (Approved by the Office of Management and Budget under OMB control number 2900–0321) (38 U.S.C. 4005(b)(2))

Cross-Reference: Powers of attorney. See § 14.631

§ 19.152 Rule 52; Attorneys.

(a) *Designation.* A signed consent by the appellant or appellant's guardian permitting access to all information in the individual's records and a signed statement by the attorney that he/she is authorized to represent the appellant prepared on the attorney's letterhead

will be accepted as an executed power of attorney. If it is contemplated that a legal intern, law student, or paralegal will assist in the appeal, written consent must be obtained from the appellant. (38 U.S.C. 3401, 3404)

(b) *Revocation or change of representation by an attorney.* An appellant may revoke a declaration of representation by an attorney at any time, irrespective of whether another representative is concurrently designated. The revocation is effective when notice of such is received by the Veterans Administration. (38 U.S.C. 3404)

Cross-References: requirements for recognition of representatives, agents, and attorneys. See § 14.629(c). Powers of attorney. See § 14.631. Legal interns, law students and paralegals. See Rule 56, § 19.156.

§ 19.153 Rule 53; Agents.

(a) *Designation.* The designation of an agent will be by a duly executed power of attorney (VA Form 2–22a, Appointment of Attorney or Agent as Claimant's Representative, or its equivalent). The designation must be to an individual, rather than a firm or partnership. (38 U.S.C. 3404)

(b) *Admission to practice.* The provisions of 38 U.S.C. 3404 and 38 CFR 14.629(b) are applicable to admission of agents to practice before the Veterans Administration. Authority for making determinations concerning admission to practice rests with the General Counsel of the Veterans Administration, and any questions concerning admissions should be addressed to that office, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

(c) *Revocation or change of power of attorney.* An appellant may revoke a power of attorney to an agent at any time, irrespective of whether another representative is concurrently designated. The revocation is effective when notice of such is received by the Veterans Administration. (38 U.S.C. 3403, 3404)

Cross-Reference: Powers of attorney. See § 14.631.

§ 19.154 Rule 54; Other persons as representative.

(a) *General.* Any competent person may be recognized as a representative for a particular claim, unless that person has been barred from practice before the Veterans Administration. The designation must be by VA Form 2–22a, Appointment of Attorney or Agent as Claimant's Representative, or its equivalent, which stipulates that no fee or compensation of any nature will be charged or paid for the services. (38 U.S.C. 3403)

(b) *More than one appellant.* If an individual has been recognized as a representative for one appellant and has not appealed such limitation to the Office of the General Counsel as provided in § 14.630 of this title, he/she must obtain permission from the Chairman of the Board of Veterans Appeals to represent any other appellant before the Board. (38 U.S.C. 3403)

(c) *Revocation or change of power of attorney.* An appellant may revoke a power of attorney to such an individual at any time, irrespective of whether another representative is concurrently designated. The revocation is effective when notice of such is received by the Veterans Administration. (38 U.S.C. 3403, 3404)

§ 19.155 Rule 55; General.

(a) *One representative.* A specific claim may be prosecuted at any one time by only one recognized organization, attorney, agent or other person properly designated to represent the appellant. (38 U.S.C. 4005(b)(2))

(b) *Change of status from spouse to surviving spouse.* A power of attorney or designation of representation submitted by the spouse of a veteran may continue in effect after the veteran's death. (38 U.S.C. 3402–3404)

(c) *Recognition of representation after the death of the veteran.* A recognized organization, attorney, agent or person properly designated to represent a veteran may, in the event of the death of the veteran, be recognized as the representative of the survivors for a reasonable period thereafter, but not as representative of a survivor who has appointed another representative. (38 U.S.C. 3403–3404)

(d) *Reasonable period.* For purposes of paragraph (c) of this section, a reasonable period may be considered as that which would enable a potential appellant to recover sufficiently from the emotional stress and strain caused by the veteran's death so as to enable him/her to exercise his/her right to representation. (38 U.S.C. 3402–3404)

Cross-References: Inspection of records by or disclosure of information to recognized representatives of organizations and recognized attorneys. See § 1.525(d). Powers of attorney. See § 14.631(e).

§ 19.156 Rule 56; Legal interns, law students and paralegals.

Legal interns, law students and paralegals must be under the direct supervision of a recognized attorney (Rule 52, § 19.152) in order to prepare cases before the Board of Veterans Appeals. These individuals may present oral arguments at hearings only if the recognized attorney is present. Otherwise, such individuals must qualify as agents or representatives under Rule 53 or 54 (§ 19.153 or 19.154). Legal interns, law students and paralegals who desire to participate at a hearing before the Board must make advance arrangements with the Chief of the Hearing Section and submit written authorization from the attorney naming the individual who will be participating in the hearing. (38 U.S.C. 3404, 4005(b)(2))

Hearings

§ 19.157 Rule 57; General.

(a) *Right to a hearing.* A hearing on appeal shall be granted if an appellant or a representative expresses a desire to appear in person. (38 U.S.C. 4002)

(b) *Purpose of hearing.* The purpose of a hearing is to receive argument and testimony relevant and material to the appellate issue. (38 U.S.C. 4002)

(c) *Nonadversary proceedings.* Hearings conducted by and for the Board are ex parte in nature and nonadversary. Parties to the hearing will be permitted to ask questions, including follow-up questions, of all witnesses but cross-examination will not be permitted. Proceedings will not be limited by legal rules of evidence, but reasonable bounds of relevancy and materiality will be maintained. (38 U.S.C. 4002)

§ 19.158 Rule 58; Who may appear.

The appellant, the authorized representative, and members of Congress and their staffs may appear and present argument and testimony in support of an appeal. At the request of an appellant, a Veterans Benefits Counselor of the Veterans Administration may present the appeal at a hearing before the Board of Veterans Appeals or before Veterans Administration field personnel acting for the Board. (38 U.S.C. 4002, 4005(b)(2))

Cross-Reference: Witnesses. See Rule 65. § 19.165.

§ 19.159 Rule 59; Scheduling and notice of hearing.

(a) *General.* To the extent that facilities permit, hearings will be scheduled at the convenience of appellants and their representatives, with consideration of the travel distance involved. While a statement of the case should be prepared prior to the hearing it is not a prerequisite for entitlement to a hearing, and an appellant may request that the hearing be scheduled prior to issuance of the statement of the case. (38 U.S.C. 4002)

(b) *Notification of hearing.* When a hearing is scheduled, the person

requesting it will be notified of its time and place, and of the fact that the government may not assume any expense incurred by the appellant, the representative or witnesses attending the hearing. (38 U.S.C. 4002)

(c) *Extension of time.* An extension of time for appearance at a hearing may be granted for good cause shown, with due consideration of the interests of other parties if a contested claim is involved. Ordinarily, hearings will not be postponed more than 30 days. Examples of good cause include the following: illness of the appellant and/or representative, difficulty in obtaining records, and unavailability of a witness. (38 U.S.C. 4002, 4005A)

§ 19.160 Rule 60; Place of hearing.

A hearing may be held in one of the following places at the option of the appellant:

(a) Before a section of the Board of Veterans Appeals in Washington, D.C.

(b) To the extent scheduling permits, before a traveling section of the Board of Veterans Appeals during regularly scheduled visits to Veterans Administration facilities.

(c) Before appropriate personnel in the Veterans Administration regional or other office nearest the appellant's residence, acting as a hearing agency for the Board of Veterans Appeals. Such personnel will allow the appellant and/or representative to present any argument and testimony as well as any witnesses before the panel. Rule 62 (§ 19.162) and Rules 64–67 (§§ 19.164–19.167) are applicable to this paragraph.

Hearings under paragraph (a) of this section are held before members who will make the final decision on the appeal. Hearings under paragraph (b) of this section are normally held before members who will make the final decision on appeal unless the issue on appeal involves radiation exposure, agent orange exposure or asbestosis. In these instances the decision will be signed by Board members specializing in those issues. If a travel Board panel is comprised of less than three Board members, the Chairman will assign additional member(s) in Washington, D.C., to constitute a three-member panel. (38 U.S.C. 4002)

Cross-References: Determinations by the Board. See 38 U.S.C. 4003. Voting by Board members. See Rule 81, § 19.181.

§ 19.161 Rule 61; Composition of the hearing panel.

The Board of Veterans Appeals hearing panel shall consist of a presiding Member acting as the chairman, and usually two other Board members, all of whom will participate in the final decision. When, after a hearing, a Board member assigned to a panel is unable to participate in the final decision, the Chairman may assign a substitute pursuant to Rule 10 (§ 19.110). (38 U.S.C. 4002)

Cross-Reference: Appointment, assignment, and rotation of members. See Rule 10(d), § 19.110(d).

§ 19.162 Rule 62; Functions of the presiding member.

The presiding member is responsible for the conduct of the hearing, administration of the oath or affirmation, and for ruling on questions of procedure. The presiding member will assure that the course of the hearing remains relevant to the issue on appeal and that there is no cross-examination of the parties or witnesses. (38 U.S.C. 4002)

Cross-References: Authority, scope of rules, and construction. See Rule 1(b), § 19.101(b). General (Hearings). See Rule 57(c), § 19.157(c).

§ 19.163 Rule 63; Prehearing conference.

Any representative desiring a prehearing conference with the presiding member must make advance arrangements through the Chief of the Hearing Section. Such conference should be limited to issue identification, stipulations of fact and procedural matters. (38 U.S.C. 4002)

§ 19.164 Rule 64; Procurement of additional evidence following a hearing.

If it appears during the course of a hearing that additional evidence would assist in the review of the questions at issue, the president member may direct that the record be left open so that the appellant and any representative may obtain the desired evidence. The presiding member will determine the period of time during which the record will stay open, considering the amount of time estimated by the appellant or representative as needed to obtain the evidence and other factors adduced during the hearing; the period will not customarily exceed 60 days, and will be as short as possible in order that appellate consideration of the case not be unnecessarily delayed. (38 U.S.C. 4002, 4004)

Cross-References: Consideration of additional evidence received by the agency of original jurisdiction. See rule 73, § 19.173. Consideration of additional evidence received by the Board of Veterans Appeals. See Rule 74, § 19.174.

§ 19.165 Rule 65; Witnesses.

(a) *General.* The testimony of witnesses will be heard. An appellant or a representative may arrange for the voluntary appearance of any witnesses he/she desires, but the Board will not require the appearance of any Veterans Administration official or other person. (38 U.S.C. 4002)

(b) *Testimony under oath.* All testimony must be given under oath unless excused because of religious principles or other good cause. If the witness declines to take an oath, he/she should be informed that the testimony will be permitted on affirmation. The witness should then be requested to make a solemn declaration as to the truth of the testimony about to be given. The witness may use such words as he/she considers binding on his/her conscience. Administration of the oath for the sole purpose of presenting contentions and argument is not required. (38 U.S.C. 4002)

§ 19.166 Rule 66; Expenses.

No expenses incurred by an appellant, counsel, or witnesses incident to attendance at a hearing may be paid by the government. (38 U.S.C. 111)

§ 19.167 Rule 67; Hearings in simultaneously contested claims.

If a hearing is scheduled for either party to a simultaneously contested claim, the Board will either accord the other contesting claimant or his/her representative the opportunity to be present but not participate, or will advise the other contesting claimant or his/her representative in writing of the substance of the arguments or contentions advanced. In either event, a reasonable time will be allowed for argument or testimony in refutation, and a separate hearing for the other contesting claimant will be scheduled for that purpose, if requested. (38 U.S.C. 4005A)

§ 19.168 Rule 68; Recorded hearing.

(a) *Board of Veterans Appeals.* The hearing proceedings before a Section of the Board shall be recorded and a tape of these proceedings shall be on file at the Board of Veterans Appeals. A written transcript or a copy of the tape may be furnished without cost to the appellant or representative if so requested at the time of or prior to the hearing; otherwise a charge may be made in accordance with § 1.577 of this title.

(b) *Field offices.* The hearing proceedings before field office personnel after the filing of a notice of disagreement shall be recorded and a copy of the complete transcript incorporated as a permanent part of the claims folder. A copy may be furnished without cost to the appellant or

representative if so requested at the time of or prior to the hearing; otherwise a charge may be made in accordance with § 1.577 of this title. (38 U.S.C. 4002)

§ 19.169 Rule 69; Recording of hearings.

An appellant or representative may record the hearing with his/her own equipment. Filming, videotaping or televising the hearing may be authorized provided a consent is obtained from the appellant and made a matter of record. In all such situations advance arrangements must be made with the Chief of the Hearing Section. In no event will such additional equipment be used if it interferes with the conduct of the hearing or the official recording apparatus. (38 U.S.C. 4002)

Cross-Reference: Functions of the presiding member. See Rule 62, § 19.162.

§ 19.170 Rule 70; Official transcript.

The Board of Veterans Appeals transcript is the only official transcript. (38 U.S.C. 4002)

§ 19.171 Rule 71; Alternate transcript versions.

Alternate transcript versions prepared by the appellant and representative may be considered as a supplemental argument and filed in the appellant's record. (38 U.S.C. 4002, 4005)

Evidence

§ 19.172 Rule 72; Submission of additional evidence.

An appellant may submit additional evidence or information as to the availability of additional evidence after initiating an appeal. (38 U.S.C. 4005(d)(1))

Cross-Reference: Extension of time for filing. See Rule 30(b), § 19.130(b).

§ 19.173 Rule 73; Consideration of additional evidence received by the agency of original jurisdiction.

(a) *Evidence received prior to transfer of records to Board of Veterans Appeals.* Evidence received in the agency of original jurisdiction after an appeal has been initiated but prior to transfer of the records to the Board of Veterans Appeals, including evidence received after certification has been completed, will be referred to the rating or authorization activity for review and disposition. A supplemental statement of the case will be furnished the appellant and his/her representative as provided in Rule 22 (§ 19.122). (38 U.S.C. 4005(d)(1))

(b) *Evidence received after transfer of records to the Board of Veterans Appeals.* Additional evidence received in an agency of original jurisdiction after the records have been transferred to the Board of Veterans Appeals for appellate consideration will be forwarded to the Board if it has a direct bearing on the appellate issue or issues. The Board will then determine what procedural steps are required with respect to the additional evidence. (38 U.S.C. 4004(b), 4005(d)(1))

Cross-References: Substantive appeal. See Rule 23(b), § 19.123(b). Consideration of additional evidence received by the Board of Veterans Appeals. See Rule 74, § 19.174.

§ 19.174 Rule 74; Consideration of additional evidence received by the Board of Veterans Appeals.

The appellant and/or representative may submit additional pertinent evidence following certification and transfer of the appeal to the Board. This evidence, as well as any referred by the originating agency under Rule 73(b) (§ 19.173(b)), must be referred to the agency of original jurisdiction for review and preparation of a supplemental statement of the case unless this procedural right is waived by the appellant. Such waiver must be in writing or formally entered as part of the hearing transcript. (38 U.S.C. 4005)

Action by the Board

§ 19.175 Rule 75; Order of consideration.

Applications for review on appeal shall be considered in the order in which they are entered on the docket, except that a case may be advanced on the docket for earlier consideration for good cause shown. (38 U.S.C. 4007)

Cross-Reference: Advance on the docket. See Rule 6, § 19.106.

§ 19.176 Rule 76; Medical opinions.

(a) *Opinion of the Chief Medical Director.* The Board may obtain an expert medical opinion from the Chief Medical Director of the Veterans Administration on medical questions involved in the consideration of an appeal when, in its judgment, such medical expertise is needed for equitable disposition of the appeal. (38 U.S.C. 4009(a))

(b) *Armed Forces Institute of Pathology Opinions.* The Board may refer pathologic material to the Armed Forces Institute of Pathology for review and expression of opinion. (38 U.S.C. 4009(a))

Cross-Reference: Governing criteria. See Rule 3, § 19.103.

§ 19.177 Rule 77; Independent medical expert opinions.

When, in the judgment of the Board, additional medical opinion is warranted by the medical complexity or controversy involved in an appeal, the Board may obtain an advisory medical opinion from one or more medical experts who are not employees of the Veterans Administration. Opinions will be secured, as requested by the Chairman of the Board, from recognized medical schools, universities, clinics or medical institutions with which arrangements for such opinions have been made by the Administrator of Veterans Affairs. An appropriate offical of the institution will select the individual expert(s) to give an opinion. (38 U.S.C. 4009)

§ 19.178 Rule 78; Filing of requests for the procurement of medical opinions.

The appellant or representative may request that the Board obtain a medical opinion under Rule 76 or 77 (§ 19.176 or 19.177). Such request must be in writing and will be granted upon a showing of good cause, such as where complex or controversial medical issues are involved in the appeal. (38 U.S.C. 4002, 4004(c), 4009)

§ 19.179 Rule 79; Notification of medical opinions secured by the Board.

When an opinion under Rule 76 or 77 (§ 19.176 or 19.177) has been obtained by the Board, a copy of such opinion will be furnished to the appellant's representative or, subject to the limitations provided in 38 U.S.C. 3301, to the appellant if there is no representative. A period of 60 days will be allowed for response. (38 U.S.C. 4005, 4009)

§ 19.180 Rule 80; The decision.

(a) *Decisions based on entire record.* The appellant is presumed to be in agreement with any statement of fact contained in a statement of the case to which no exception is taken. Decisions of the Board, however, shall be based on a review of the entire record. (38 U.S.C. 4005(d)(4)–(5))

(b) *Disposition of issues.* The decision of the Board will dispose of each issue on appeal by allowance, denial, remand or dismissal, in whole or in part. (38 U.S.C. 4004(a))

(c) *Format.* The decision of the Board shall be in writing and shall set forth specifically the issue or issues, separately stated findings of fact and conclusions of law, and the reasons for the Board's decision. (38 U.S.C. 4004(d))

§ 19.181 Rule 81; Voting by Board members.

(a) *Unanimous decisions.* A decision unanimously concurred in by the Members of the Section and duly promulgated shall be final. (38 U.S.C. 4003(a))

(b) *Dissent.* Where the members do not agree, the Chairman of the Board

may either concur with the majority, in which event this will constitute a final decision of the Board, or may direct further consideration by two or more sections, not to exceed 12 members, including the section to which the case was originally assigned. Any decision by an expanded panel which is not unanimous will require approval of the Chairman of the Board; if the members are equally divided, the Chairman will participate in the decision by casting the deciding vote. (38 U.S.C. 4003(b))

Cross-References: Appointment, assignment, and rotation of members. See Rule 10(d), § 19.110(d). Place of hearings. See Rule 60, § 19.160. Composition of the hearing panel. See Rule 61, § 19.161. When reconsideration is accorded. See Rule 85, § 19.185.

§ 19.182 Rule 82; Remand for further development.

(a) *General.* When, during the course of review, it is determined that further evidence or clarification of the evidence or correction of a procedural defect is essential for a proper appellate decision, the section of the Board shall remand the case to the agency of original jurisdiction, specifying the further development to be undertaken. (38 U.S.C. 4002, 4004(a))

(b) *Review by agency of original jurisdiction.* Where the development results in additional evidence, a supplemental statement of the case will be furnished the appellant and any representative, and the records will again be reviewed by the agency of original jurisdiction. A supplemental statement of the case will not be required where the only purpose of the remand is to assemble records previously considered by the agency of original jurisdiction. If the case is remanded to cure a procedural defect, the Board may also require issuance of a supplemental statement of the case to assure full notification to the appellant of the status of the case. (38 U.S.C. 4005(d)(1)

(c) *Resubmission to Board of Veterans Appeals.* Unless the benefits at issue on appeal are awarded upon review by the agency of original jurisdiction, the records will be returned to the Board of Veterans Appeals for completion of appellate review. Remanded cases will not be closed for failure to respond to the supplemental statement of the case. (38 U.S.C. 4005(d))

§ 19.183 Rule 83; Disqualification of members.

(a) *General.* A member of the Board shall disqualify himself/herself in a hearing or decision on an appeal from a determination in which he/she participated or had supervisory responsibility in the agency of original jurisdiction prior to his/her appointment as a member of the Board, or where there are other circumstances which might give the impression of bias either for or against the appellant. (38 U.S.C. 4002)

(b) *Appeal on same issue subsequent to decision on administrative appeal.* Members of the Board signatory to the decision on an administrative appeal will disqualify themselves from acting on a subsequent appeal by the claimant on the same issue. (38 U.S.C. 4002)

Cross-Reference: Effect of decision on administrative or merged appeal. See Rule 42, § 19.142.

§ 19.184 Rule 84; Administrative allowance.

The Chairman or Vice Chairman, under authority delegated in 38 CFR 19.5(b), may authorize an administrative allowance, following review and recommendation by members of the Board, in adjudicative actions which are otherwise final. (38 U.S.C. 210(b), 212(a))

Reconsideration

§ 19.185 Rule 85; When reconsideration is accorded.

Reconsideration of an appellate decision may be accorded at any time by the Board of Veterans Appeals on request by the appellant or his/her representative or on the Board's own motion:

(a) Upon allegation of obvious error of fact or law; or

(b) Upon discovery of new and material evidence in the form of records or reports of the military, naval or air service department concerned or officially corrected service department record. (38 U.S.C. 4003, 4004(b))

§ 19.186 Rule 86; Filing and disposition of a motion for reconsideration.

(a) *Application requirements.* A motion for reconsideration shall set forth clearly and specifically the alleged obvious error(s) of fact or law in the decision of the Board or other appropriate basis for requesting reconsideration. This motion may be filed at any time. (38 U.S.C. 4003, 4008)

(b) *Disposition.* The Chairman or his/her designee will review the sufficiency of the allegations set forth in the motion.

(1) *Motion denied.* The appellant and representative will be notified if the motion is denied. The notification will be signed by the Chairman and will include reasons why the allegations are found insufficient. This constitutes final disposition of the motion.

(2) *Motion allowed.* If the motion is allowed, the Chairman or his/her designee will assign a reconsideration panel according to Rule 90 (§ 19.190). The appellant and representative will be so notified. At the time of notification the appellant and the representative will be given a period of 60 days to present additional arguments. (38 U.S.C. 4003, 4008)

§ 19.187 Rule 87; Evidence considered.

Reconsideration of an appellate decision for error shall be limited to review of the evidence of record at the time the decision was entered, but the Board may secure additional medical or legal opinion. Additional evidence, apart from service department records, submitted following the decision being reconsidered is subject to the provisions of Rule 94 (§ 19.194) concerning new and material evidence. (38 U.S.C. 4003, 4009)

Cross-Reference: When reconsideration is accorded. See Rule 85, § 19.185.

§ 19.188 Rule 88; Remand pursuant to reconsideration.

In connection with a reconsideration, the Board may remand for the purpose of obtaining or developing additional evidence. Such evidence may provide the basis for a reopened claim under the provisions of Rule 94 (§ 19.194). (38 U.S.C. 4004(b))

§ 19.189 Rule 89; Hearings on reconsideration.

(a) *Right to a hearing.* After a motion for reconsideration has been allowed, a hearing shall be granted if an appellant or representative desires to appear in person. (38 U.S.C. 4002, 4003)

(b) *Composition of the hearing panel.* The hearing panel will include those members who participated in the original decision, if available, and any additional members assigned by the Chairman or his/her designee. (38 U.S.C. 4002, 4003)

§ 19.190 Rule 90; Number of members on reconsideration panel.

(a) *Board member(s) signatory to decision available.* When a motion for reconsideration is allowed, the Chairman or his/her designee will assign a panel to review the merits of the reconsideration. The number of Board members assigned to the reviewing panel shall be determined by doubling the number of members who participated in the original decision (to a maximum number of 12 members). All members who participated in the decision being reconsidered and are still available will be assigned to the panel. (38 U.S.C. 4002)

(b) *Board member(s) signatory to decision unavailable.* When a motion for reconsideration is allowed and the

Board Members who participated in the decision being reconsidered are no longer available, the Chairman or his/her designee may assign a panel consisting of three Board members to review the merits of the reconsideration. (38 U.S.C. 4002)

Finality

§ 19.191 Rule 91; Harmless error.

An error or defect in any decision by the Board of Veterans Appeals which does not affect the merits of the issue or substantive rights of the appellant will be considered harmless and not a basis for vacating, reversing, or modifying such decision. (38 U.S.C. 4003)

§ 19.192 Rule 92; Finality of determinations of the agency of original jurisdiction where appeal is not perfected.

A determination on a claim by the agency of original jurisdiction of which the claimant is properly notified shall become final if an appeal is not perfected as prescribed in Rule 29 (§ 19.129). (38 U.S.C. 4005(c))

§ 19.193 Rule 93; Finality of determinations of the agency of original jurisdiction affirmed on appeal.

When the determination of the agency of original jurisdiction is affirmed by the Board of Veterans Appeals, such determination becomes a part of the appellate decision. (38 U.S.C. 4004(a))

§ 19.194 Rule 94; New claim after appellate decision.

When a claimant requests that a claim be reopened after an appellate decision and submits evidence in support thereof, a determination as to whether such evidence is new and material must be made and, if it is, whether it provides a new factual basis for allowing the claim. An adverse determination as to either question is appealable. (38 U.S.C. 4004(b))

§ 19.195 Rule 95; Death of appellant during pendency of appeal.

When an appeal is pending before the Board of Veterans Appeals at the time of the appellant's death, the Board may complete its action on the issues properly before it without application from the survivors. (38 U.S.C. 4008)

Cross-References: General (Representation). See Rule 55(c), § 19.155(c). Claim for death benefits by survivor—prior unfavorable decision. See Rule 96, § 19.196.

§ 19.196 Rule 96; Claim for death benefits by survivor—prior unfavorable decision.

Issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime. (38 U.S.C. 4004(b))

§ 19.197 Rule 97; Nonprecedential nature of Board decisions.

The Board will strive for consistency in issuing its decisions. Previously issued Board decisions will be considered binding only with regard to the specific case decided; prior decisions in other appeals may be considered in a case to the extent that they reasonably relate to the case. Each case presented to the Board will be decided on the basis of the individual facts of the case in light of applicable law and procedure. (38 U.S.C. 4004(a))

Privacy Act

§ 19.198 Rule 98; Privacy Act request—appeal pending.

When a Privacy Act request is filed by an individual seeking records pertaining to him or her (under § 1.577 of this title) and the relevant records are in the custody of the Board, such request will be reviewed and processed prior to appellate action on that individual's appeal. (5 U.S.C. 552a; 38 U.S.C. 4002, 4007)

§ 19.199 Rule 99; Amendment of appellate decisions.

A request for amendment of an appellate decision under the Privacy Act (5 U.S.C. 552a) may be entertained. However, such a request may not be used in lieu of, or to circumvent, the procedures established under Rules 85 through 90 (§§ 19.185 through 19.190). The Board will review a request for correction of factual information set forth in a decision. Where the request to amend under the Privacy Act is an attempt to alter a judgment made by the Board and thereby replace the adjudicatory authority and functions of the Board, the request will be denied on the basis that the Act does not authorize a collateral attack upon that which has already been the subject of a decision of the Board. The denial will satisfy the procedural requirements of § 1.579 of this title. If otherwise appropriate, the request will be considered one for Reconsideration under Rules 85 through 90 (§§ 19.185 through 19.190). (5 U.S.C. 552a(d); 38 U.S.C. 4003, 4008)

§ 19.200 Rule 100; Index to appellate decisions.

(a) *Index.* The appellate decisions of the Board of Veterans Appeals have been indexed to facilitate access to the contents of the decisions (BVA Index I–01–1). The index is published quarterly in microfiche form with an annual cummulation. It is organized to provide citations to Board of Veterans Appeals decisions under subject terms chosen to describe the issues adjudicated in the appeals. Cases which pertain to the same issues are grouped together in the index under alphabetically arranged subject terms. The index is available at Veterans Administration regional offices and at the Board of Veterans Appeals in Washington, D.C. Microfiche copies can be obtained by writing to the Appellate Index and Retrieval Staff (01C1), Board of Veterans Appeals, Washington, D.C. 20420.

(b) *Copies of decisions.* The index can be used to locate citations to decisions with issues similar to those of concern to an appellant. Each indexed decision has a locator number assigned to it, e.g., 82–07–0001. This number should be used when requesting a paper copy of that decision. These request should be directed to the Appellate Index and Retrieval Staff (01C1), Board of Veterans Appeals, Washington, D.C. 20420. (5 U.S.C. 552a(2))

[FR Doc. 83–4005 Filed 2–16–83; 8:45 am]
BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 2267-2; EPA Docket No. AW036PA]

Commonwealth of Pennsylvania; Approval of a Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Commonwealth of Pennsylvania has requested a revision to its State Implementation Plan (SIP) to incorporate an alternative emission reduction plan or "bubble." Pennsylvania has requested that the plan be approved by EPA for the Homestead and Edgar Thomson plants of the United States Steel Corporation (USSC) in Allegheny County, Pennsylvania. This plan consists of bubble regulations which apply to sulfur dioxide emissions from ten categories of miscellaneous Homestead sources, the Homestead Open Hearth Furnaces, the Carrie Furnaces boilers (Homestead), and the Edgar Thomson soaking pits and boilers. The plan allows USSC to increase on a temporary basis sulfur dioxide emissions from Carrie boilers Nos. 3 and 4 when the increases are offset by sulfur dioxide reductions at the remaining listed sources due to shutdown or use of natural gas. In support of this bubble, an air quality analysis was conducted. EPA has

reviewed this analysis and has concluded that no significant air quality impact will occur if this bubble is implemented. This bubble plan was proposed in the **Federal Register** on August 26, 1982 (47 FR 37590).

EFFECTIVE DATE: February 17, 1983.

ADDRESSES: Copies of the SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs & Energy Branch, 6th & Walnut Streets, Curtis Building, Philadelphia, Pennsylvania 19106, ATTN: David L. Arnold

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, ATTN: Mr. Gary L. Triplett

Allegheny County Health Department, Bureau of Air Pollution Control, 301 Thirty-ninth Street, Pittsburgh, Pennsylvania 15201, ATTN: Mr. Roger C. Westman

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW (Waterside Mall), Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Mr. David Arnold at: Pennsylvania Section (3AW11), Air & Waste Management Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, (215) 597-8173.

SUPPLEMENTARY INFORMATION: The changes to the Pennsylvania State Implementation Plan (SIP) were submitted by the Allegheny County Health Department (ACHD) and the Pennsylvania Department of Environmental Resources (PA DER) on September 16, 1982, and were proposed in the **Federal Register** on August 26, 1982 (47 FR 37590). The changes allow the implementation of an alternative emission reduction plan (bubble) in accordance with EPA's Bubble Policy of December 11, 1979 (44 FR 71780). EPA, PA DER, and the ACHD processed this proposal concurrently. No comments were received by EPA during the 30-day comment period following EPA's August 26, 1982 proposed approval.

The bubble being approved involves sulfur dioxide (SO_2) emission sources at the Homestead and Edgar Thomson plants of the United States Steel Corporation (USSC). The primary purpose of this plan is to provide some cost savings during the current economic slowdown. The plan allows emissions from two Carrie boilers to increase when the increase is offset by a reduction in emissions from the use of natural gas and reduced operations. This alternative emission reduction plan is temporary and will apply only during the periods of time for which USSC requests and receives approval from the Director of the Allegheny County Health Department. The bubble plan would allow emissions of 2.5 pounds of SO_2 per million Btu of heat input, with a maximum allowable rate of 735 pounds per hour, from Carrie boilers Nos. 3 and 4 at the Homestead plant. This increase would be offset by SO_2 reductions from ten categories of miscellaneous Homestead sources, the Homestead Open Hearth Furnaces, and the soaking pits and boilers at the Edgar Thomson plant. The current Pennsylvania SIP (Article XX, Section 403, of the ACHD Rules and Regulations) limits boilers to between 0.6 to 1.0 lbs. SO_2 per million Btu, and the remaining process sources in the bubble to a level of 500 ppm (vol) of SO_2. The plan would require the Carrie boilers to meet an emission limit of 2.5 pounds per million Btu and 735 pounds per hour; the Open Hearth Furnaces to meet an emission limit of 120 pounds per hour but never to exceed 720 pounds in any 24 hour period; the remaining sources to meet an emission limit of 0 pounds per hour. Table 1 below lists the sources involved in the plan and summarizes the annual SO_2 emission for each under the bubble plan and the average actual emissions for 1979 and 1980 calendar years.

TABLE 1.—SULFUR DIOXIDE EMISSIONS FROM USSC FACILITIES

[In tons per year]

	1979–80 average actual	Bubble plan
Homestead		
Open Hearth	2,078	132
Soaking Pits	634	0
36-inch Mill	69	0
Blacksmith	18	0
100-inch Reheat	425	0
Preheat Hoods	135	0
160-inch Mill	201	0
No. 2 Forge	262	0
Harvey Forge	98	0
48-inch Mill	18	0
Package Boilers	319	0
Boilers No. 3 and 4	2,826	3,210
Total	7,077	3,342
Edgar Thomson:		
Soaking Pits	9	0
Boilers	528	0
Grand total	7,614	3,342

As illustrated by Table 1, the bubble plan will result in an overall net decrease in SO_2 emissions of 4272 tons per year. In addition, the company estimates its savings in operating costs to be approximately $10,000 per day.

With the bubble plan, ACHD submitted an air quality modeling analysis conducted by USSC. In the subsequent review, EPA found that the modeling analysis was inadequate. Therefore, in accordance with EPA's modeling guidelines, EPA conducted a Level II air quality analysis to support the plan. A Level II analysis is required when the emissions trade will result in no net increase in baseline emissions and the relevant sources are *not* in the same immediate vicinity. Air dispersion modeling analyses were conducted using the bubble emission rates and the base case emission rates. Results of the modeling predictions indicate that no significant increase in air quality impact will occur at the receptor of maximum predicted impact. (See 47 FR 15082; which pertains to ambient equivalence demonstrations for emissions trades.)

The regulation to implement and enforce this plan is in Section 903 of Article XX of the Allegheny County Health Department Rules and Regulations. Subsection (A) of the Section identifies the sources affected by this plan. Subsection (B) relieves USSC from compliance with Section 403 when in compliance with this Section. Subsection (C) prohibits sulfur dioxide emissions from each identified source in excess of specified emission rates. Subsection (D), (E) and (F) establishes periods of applicability, procedures for record keeping, and reporting requirements. Subsection (G) terminates the use of this plan by USSC at any time after December 31, 1985. Subsection (H) and (I) provide for enforcement remedies for failure to comply with this and any other Section of Article XX.

EPA has reviewed the information submitted by the State, and is approving this bubble as a SIP revision since it has met the requirements of the April 7, 1982 Emissions Trading Policy (47 FR 15076). In addition, no comments were received during the comment period.

The Office of Management and Budget has exempted this rule from requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 18, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

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List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(42 U.S.C. 7401–7642)

Dated: February 7, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

1. In § 52.2020(c)(50) is added as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(50) Regulations and supporting documents implementing an SO_2 bubble plan for the U.S. Steel Homestead and Edgar Thomson Works in Allegheny County, PA. submitted by DER Secretary Peter S. Duncan on September 16, 1982.

[FR Doc. 83–4128 Filed 2–16–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 162

[OPP 30055B; PH–FRL 2308–1]

Effective Date for Designation of Certain Antimicrobial Pesticide Ingredients as Inert Rather Than Active; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice; correction.

SUMMARY: This document corrects a typographical error in the rule related notice that established the effective date for the final regulation regarding the classification of certain ingredients used in antimicrobial pesticides as inert rather than as active ingredients. The rule related notice was published in the **Federal Register** of November 24, 1982. The effective date for the rule is December 1, 1982.

FOR FURTHER INFORMATION CONTACT: Reto Engler, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 246, CM#2, 1922 Jefferson Davis Highway, Arlington, VA 22202 (703–557–3661).

SUPPLEMENTARY INFORMATION: In FR Doc. 82–32390, published in the **Federal Register** of November 24, 1982, appearing at page 53003, the section number in the next to the last paragraph of the first column on page 53004 is corrected to read 40 CFR 162.60.

Dated: February 7, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83–4106 Filed 2–16–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6489]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street SW., Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is not available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64.

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Minnesota: Rice	Unincorporated areas	260646B	May 30, 1974, emergency; Feb. 4, 1981, regular; Feb. 4, 1981, suspended; Jan. 1, 1983, reinstated	Oct. 21, 1977
Illinois: Franklin	Zeigler, city of	170240A	Jan. 6, 1983, emergency	Feb. 25, 1977
North Dakota:				
Richland	Belford, township of	380662—New	do	
Pembina	Joliette, township of	380281A	do	Dec. 8, 1981
North Carolina: Carteret	Indian Beach, town of	370433	Jan. 13, 1983, emergency	
North Dakota: Richland	Antelope, township of	380663—New	do	
North Carolina: Wilson	Unincorporated areas	370370B	Jan. 12, 1983, emergency; Jan. 12, 1983, regular	Mar. 10, 1978.
Arkansas:				
Conway	do	050426A	Jan. 7, 1983, emergency	Jan. 10, 1977.
Ouachita	Louann, town of	050262	do	Nov. 5, 1976
Iowa: Monona	Whiting, city of	190684A	Jan. 13, 1983, emergency	July 2, 1976 and Sept. 5, 1978
Michigan: Genesee	Richfield, township of	260402	do	NSFHA.
Missouri: Wayne	Williamsville, city of	290452A	Jan. 10, 1983, emergency	Oct. 18, 1974 and Mar 5, 1976
Arkansas:				
Logan	Caulksville, city of	050397	Jan. 13, 1983, emergency	June 27, 1975
Lee	Unincorporated areas	050444A	do	Nov. 1, 1977
California: Placer	do	060239B	Jan. 7, 1983, emergency	July 12, 1977 and Apr 3, 1979
Georgia:				
Lee	Smithville, city of	130349	Jan. 18, 1983, emergency	May 27, 1977
DeKalb	Stone Mountain, city of	130260	do	May 12, 1974
Pennsylvania: York	Dillsburg, borough of	420919B	Sept. 16, 1975, emergency; Sept 28, 1979, regular; Sept. 30, 1982, suspended; Jan. 17, 1983, reinstated.	Mar. 19, 1976 and Sept 28, 1979
Michigan: Genesee	Richfield, township of	260402	Jan. 13, 1983, emergency; Jan. 13, 1983, regular.	NSFHA's.
Virginia: Prince Edward	Unincorporated areas	510233A	Apr. 11, 1974, emergency; Sept. 1, 1978, regular; Sept. 1, 1978, suspended; Jan. 21, 1983, reinstated.	Jan. 10, 1975
Arkansas:				
White	Bradford, city of	050131	Jan. 14, 1983, emergency	Feb 21, 1975
Baxter	Unincorporated areas	050010A	Jan. 18, 1983, emergency	May 17, 1977
Sharp	Williford, town of	050575—New	do	Do
Washington	Greenland, city of	050217A	Jan. 26, 1983, emergency	June 28, 1974, Oct 24, 1975, and Aug 2, 1978
Grant	Prattsville, city of	050279	do	Apr 25, 1975
Oklahoma: Mayes	Salina, town of	400118	do	July 2, 1975
Arkansas: Sebastian	Unincorporated areas	050462A	Jan. 27, 1983, emergency	May 31, 1977
Kentucky: Clinton	do	210327A	do	July 15, 1977
Arkansas: Stone	do	050465	Jan. 28, 1983, emergency	Do
Colorado: Mesa	Grand Junction, city of	080117D	Jan. 6, 1983, suspension withdrawn	Feb. 1, 1974, June 28, 1974, Oct 10, 1975, and Dec. 12, 1978.
Illinois: Sangamon	Unincorporated areas	1709*2C	do	May 5, 1978, and June 15, 1979
Indiana:				
Nobel	Kendallville, city of	180185C	do	June 14, 1974, Dec. 26, 1975, and Sept. 10, 1976
Do	Ligonier, city of	180186A	do	July 16, 1976
Porter	Valparaiso, city of	180204C	do	Jan. 9, 1974, and Apr 9,.1976
Michigan: Oakland	Bloomfield, township of	260169B	do	May 17, 1974, and June 18, 1976
Minnesota:				
Hennepin	Independence, city of	270167B	do	June 28, 1974, and July 30, 1976
Pine	Sandstone, city of	270351B	do	May 10, 1974, and June 4, 1976
Missouri: Ray	Hardin, city of	290307B	do	June 7, 1974, and Nov 28, 1975
New Jersey:				
Cape May	Cape May City, city of	345288A	do	Aug. 7, 1970, and Feb. 13, 1976
Do	Cape May Point, borough of	345289B	do	July 1, 1970, and Feb. 13, 1976
Monmouth	Howell, township of	340301B	do	Mar 22, 1974, and Aug 27, 1976
Warren	Knowlton, township of	340488B	do	Aug. 16, 1974, and July 9, 1978
Gloucester	Logan township of	340206C	do	Sept. 13, 1974, Nov 28, 1975, and Dec. 30, 1977
Somerset	Somerville, borough of	340444C	do	July 26, 1974, Oct. 24, 1975, and Mar 31, 1981
Ocean	South Toms River, borough of	340392B	do	July 26, 1974, and July 23, 1976
Cape May	Wildwood, city of	345329A	do	June 5, 1970, and Dec. 19, 1975
Do	North Wildwood, city of	345308B	do	Mar 6, 1971, and Dec 19, 1975
New York:				
Montgomery	Canajohane, town of	360442B	do	May 3, 1974, and April 23, 1976
Albany	Guilderland, town of	360010A	do	Jan 17, 1975
North Caroline: Lenoir	Unincorporated areas	370144B	do	Dec. 27, 1974, and July 21, 1978
Ohio: Jefferson	Mingo Junction, city of	390300B	do	Mar. 1, 1974, and June 11, 1976
Oklahoma: Jefferson	Waurika, city of	400076B	do	June 26, 1974, and July 19, 1977
New Mexico:				
Sandoval	Bernalillo, town of	350056B	do	June 4, 1974, and May 21, 1976
Do	Corrales, village of	350094B	do	Dec 20, 1974, and May 15, 1979
Pennsylvania: Delaware	Ridley, township of	420429B	do	April 27, 1973, and Aug. 6, 1976
Tennessee: Wilson	Lebanon, city of	470208B	do	Apr. 12, 1974.
Texas:				
Jefferson	Bevil Oaks, town of	480878B	do	May 13, 1977
Orange	Unincorporated areas	480510B	do	Mar 11, 1977
Do	Orange, city of	480512B	do	June 14, 1974, and May 24, 1977
Do	Pinehurst, city of	480513B	do	Jan. 6, 1983
Do	West Orange, city of	480515A	do	Mar 31, 1974
Wisconsin:				
Oconto	Unincorporated areas	550294A	do	Jan 6, 1983
La Crosse	La Crosse, city of	555562A	do	May 14, 1976
Minnesota:				
Hennepin	Brooklyn Park, city of	270152B	do	Apr. 12, 1974, and May 17, 1982
Marshall	Stephen, city of	270273A	do	May 17, 1974
New Jersey: Cape	Sea Isle, city, city of	345318B	do	Dec. 31, 1970, and Dec. 26, 1975
Montana: Missoula	Missoula, city of	300049B	do	Mar. 8, 1974, and Aug. 15, 1975

State and county	Location	Community No	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Wisconsin: Washington	West Bend, city of	550475B	do	Dec 28, 1973, and Apr 30, 1976
California: Nevada	Unincorporated areas	060210B	Jan 19, 1983, suspension withdrawn	Sept 6, 1977
Florida:				
Marion	Unincorporated areas	120160B	do	Dec 27, 1974, and July 22, 1977
Pinellas	Belleair, town of	125088B	do	May 14, 1971, July 1, 1974, and Aug 13, 1976
Do	Belleair Bluffs, city of	120239	do	June 28, 1974, and June 11, 1976
Alachua	Gainesville, city of	125107B	do	Oct 13, 1971, July 1, 1974, and Mar 19 1976
Georgia: Newton	Porterdale, city of	130145B	do	Feb 6, 1976, and Apr 12, 1974
Illinois: McHenry	Lakemoor, village of	170915A	do	Dec 10 1976
Kentucky: Rowan	Unincorporated areas	210203B	do	July 29, 1977, and June 10, 1977
Maine: York	Kennebunk, town of	230151B	do	June 28, 1974, and Oct 10 1975
Massachusetts: Essex	Saugus, town of	250104B	do	Sept 13, 1974, and Dec 10, 1976
Michigan	Thomas, township of	260603A	do	Oct 13, 1975
Minnesota				
Polk	Beltrami, city of	270362C	do	Aug 23, 1974
Winona	Winona, city of	275250B	do	Apr 20, 1972, July 1, 1974 and Dec 13, 1976
Missouri: Howard	New Franklin, town of	290500A	do	Nov 22, 1974
New York				
Schoharie	Cobleskill, town of	361573B	do	Dec 5, 1975 and Dec 20, 1974
Montgomery	Fort Johnson, village of	360447B	do	Mar 15, 1974, and July 30, 1976
Oswego	Hastings, town of	[illegible]C	do	Nov 1, 1974, May 21, 1976, and July 1 1977
Nassau	Kensington, village of	360472B	do	June 14, 1974, and May 14, 1976
Madison	Madison, town of	361292B	do	Dec 20 1974, and June 4, 1976
Montgomery	Minden, town of	360451B	do	July 9, 1976, and Nov 1, 1974
Oneida	Oriskany Falls, village of	361354B	do	June 18, 1976, and Nov 22, 1974
Columbia	Stockport, town of	361322B	do	Oct 18, 1974, and June 4, 1976
North Carolina: Union	Monroe, city of	370236B	do	Sept 20, 1974, and Sept. 17, 1976
Ohio: Miami	Unincorporated areas	390398B	do	Jan 10, 1975, and Dec 2, 1977.
Pennsylvania: York	Franklin, township of	422220D	do	Nov 8, 1974, May 14, 1976, Dec 10, 1976, and Sept 19, 1980
Utah				
Weber	Oden, city of	490189B	do	Aug 16, 1977, and June 21, 1974
Do	North Ogden, city of	490214B	do	May 6, 1977
Washington: Yakima	Naches, town of	530223B	do	Jan 23, 1974, and Apr 23, 1976

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E. O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 27, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support

[FR Doc. 83-4042 Filed 2-16-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 64

[Docket No. FEMA-6493]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Food Insurance Program (NFIP) and eligible for second layer insurance coverage. These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Soutwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom

authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Arkansas, Grant County	Sheridan, City of	050367	760413, Emergency, 830118, Regular	750425
Arizona, Coconino County	Flagstaff, City of	040020	750115, Emergency, 830119, Regular	740628
California, Nevada County	Nevada County [1]	060210	781016, Emergency, 830119, Regular	770906
Florida, Marion County	Marion County [1]	120160	740625, Emergency, 830119, Regular	741227
Florida, Polk County	Polk County [1]	120261	770901, Emergency, 830119, Regular	770513
Georgia, Newton County	Porterdale, Town of	130145	750731, Emergency, 830119, Regular	740412
Illinois, Fulton County	Cuba, City of	170243	750529, Emergency, 830119, Regular	750131
Illinois, McHenry County	Lakemoor, Village of	170915	760305, Emergency, 830119 Regular	761210
Kentucky, Greenup County	Greenup County [1]	210284	770216, Emergency, 830119 Regular	770729
Kentucky, Rowan County	Rowan County [1]	210203	750519, Emergency, 830119, Regular	741018
Kentucky, Greenup County	Russell, City of	210090	750715, Emergency, 830119, Regular	740208
Massachusetts, Essex County	Saugus, Town of	250104	750825, Emergency, 830119, Regular	740913
Maine, York County	Kennebunk, Town of	230151	730209, Emergency, 830119, Regular	740628
Michigan, Saginaw County	Kochville, Township of	260501	771026, Emergency, 830119, Regular	750725
Michigan, Saginaw County	Thomas, Township of	260603	740213, Emergency, 830119 Regular	751031
Minnesota, Polk County	Beltrami, City of	270362	750624, Emergency, 830119, Regular	740823
Missouri, Howard County	Fayette, City of	290163	750519, Emergency, 830119, Regular	731228
Missouri, Howard County	New Franklin, Town of	290500	751216, Emergency, 830119, Regular	741122
Missouri, Ray County	Ray County [1]	290778	750326, Emergency, 830119, Regular	790501
Mississippi, Humphreys County	Belzoni, City of	280080	730502, Emergency, 830119, Regular	740201
North Carolina, Union County	Monroe, City of	370236	750421, Emergency, 830119, Regular	740920
New Jersey, Atlantic County	Linwood, City of	340011	740327, Emergency, 830119, Regular	740329
New Jersey, Atlantic County	Pleasantville, City of	340015	740121, Emergency, 830119 Regular	740531
New York, Schoharie County	Cobleskill, Town of	361573	760217, Emergency 830119, Regular	741220
New York, Montgomery County	Fort Johnson, Village of	360447	750722, Emergency, 830119, Regular	740315
New York, Oswego County	Hastings, Town of	360653	750310, Emergency, 830119 Regular	741101
New York, Nassau County	Hewlett Bay Park, Village of	360468	741125, Emergency, 830119, Regular	740628
New York, Nassau County	Hewlett Neck, Village of	360470	741210 Emergency, 830119, Regular	740628
New York, Nassau County	Kensington, Village of	360472	750715 Emergency, 830119, Regular	740614
New York, Madison County	Madison, Town of	361292	761026, Emergency, 830119, Regular	741220
New York, Nassau County	Massapequa Park, Village of	360480	750606, Emergency, 830119, Regular	740621
New York, Montgomery County	Minden, Town of	360451	751110, Emergency, 830119 Regular	741101
New York, Oneida County	Oriskany Falls, Village of	361354	771006, Emergency, 830119, Regular	741122
New York, Columbia County	Stockport, Town of	361322	751010, Emergency, 830119, Regular	741018
New York, Onondaga County	Tully, Village of	361552	750627, Emergency, 830119, Regular	741018
Ohio, Miami County	Miami County [1]	390398	760401, Emergency, 830119 Regular	750110
Pennsylvania, York County	Franklin, Township of	422220	750731, Emergency, 830119, Regular	741108
Texas, Chambers County	Beach City, City of	480121	790808, Emergency, 830119 Regular	770520
Texas, Bell County	Temple, City of	480034	740517, Emergency, 830119, Regular	771108
Utah, Weber County	North Ogden, City of	490214	751002, Emergency, 830119, Regular	770506
Utah, Weber County	Ogden, City of	490189	741227, Emergency, 830119, Regular	740621
Washington, Yakima County	Naches, Town of	530223	750429, Emergency, 830119, Regular	740123
Indiana, Gibson County	Princeton, City of	180073	750319, Emergency, 830121, Regular	740531
Michigan, Alpena County	Alpena, Township of	260011	751002, Emergency, 830121, Regular	750131
Michigan, Monroe County	IDA, Township of	260147	750520, Emergency, 830121, Regular	740621
New Jersey, Burlington County	Chesterfield, Township of	340091	750613, Emergency, 830121, Regular	740628
New Jersey, Warren County	Hardwick, Township of	340528	760407, Emergency 830121, Regular	750228
New Jersey, Salem County	Upper Pittsgrove, Township of	340425	750319, Emergency, 830119, Regular	740719
New York, Dutchess County	Stanford, Town of	361145	760319, Emergency, 830121, Regular	741018
Pennsylvania, Mercer County	West Salem, Township of	422490	760318, Emergency 830121, Regular	750124
California, Del Norte County	Del Norte County [1]	065025	700904, Emergency, 830124, Regular	741227
Illinois, Bureau County	Manlius, Village of	170013	751001, Emergency, 830128, Regular	740308
Minnesota, Chisago County	Center City, City of	270695	750905, Emergency 830128, Regular	0
New Jersey, Burlington County	Springfield, Township of	340116	760816, Emergency, 830128, Regular	740726
Pennsylvania, Crawford County	Sparta, Township of	422398	750910, Emergency 830128, Regular	750117
Total is: 55				

[1] Key for reading 4th column (effective date): First two digits designate the year, middle two digits designate the month, last two digits designate the year

(National Flood Insurance Act of 1968 (title XIII, Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 7, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-4043 Filed 2-16-83; 8:45 am]

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44 CFR Part 65

[Docket No. FEMA-6494]

Communities With No Special Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consulation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by 100-year flood. Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with No Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as Zone C. In a Zone C, insurance coverage is available on a voluntary basis at low acturial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating, the rate of a one-story 1–4 family dwelling is $.40 per $100 of coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is $.10 per $100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium is $.15 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agency or broker serving the eligible community, or from the National Flood Insurance Program.

The effective date of conversion to the Regular Program would not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register**.

Pursuant to the provision of U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazard areas of the specified community and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains

PART 65—[AMENDED]

The entry reads as follows:

§ 65.8 List of communities with no special flood hazard areas.

State and county	Community	Date of conversion to regular program
Illinois		
Vermillion	Village of Allerton	January 31 1983
Cook	Village of Bedford Park	Do
St. Clair	Village of Millstadt	Do
Michigan		
Oakland	City of Ferndale	Do
New York		
Hamilton	Town of Benson	Do
Tompkins	Village of Cayuga Heights	Do
Orleans	Town of Clarendon	Do
Schoharie	Town of Conesville	Do
Franklin	Town of Fort Covington	Do
Nassau	Village of North Hills	Do
Schoharie	Village of Sharon Springs	Do
Onondaga	Village of Solvay	Do
Madison	Village of Wampsville	Do

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 24, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-4023 Filed 2-16-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6490]

Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with Minimal Flood Hazard Areas.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provisions of 5 USC 605(b), the Associate Director, to whom

authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazards areas of the specified community and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

PART 65—[AMENDED]

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State and county	Community	Date of conversion to regular program
New Jersey:		
Sussex	Borough of Andover	March 4, 1983
Atlantic	Borough of Buena	Do
Warren	Township of Hope	Do
Sussex	Township of Montague.	Do
Michigan. Calhoun	Township of Sheridan	March 11, 1983
New Jersey:		
Sussex	Borough of Branchville	Do
Gloucester	Borough of Clayton	Do
Sussex	Township of Frankford	Do
Sussex	Township of Fredon	Do
Cumberland	Township of Greenwich	Do
Warren	Township of Oxford	Do
New York. Chautauqua.	Town of Poland	Do
Pennsylvania.		
Schuylkill	Township of Schuylkill	Do
Chester	Township of Wallace	Do
Arkansas		
Perry	Town of Casa	March 15, 1983
Pope	City of Dover	Do.
Faulkner	City of Mayflower	Do
New Jersey		
Sussex	Township of Lafayette	March 18, 1983
Warren	Township of Liberty	Do
Burlington	Township of Mansfield	Do
Bergen	Borough of Moonachie	Do
Sussex	Township of Walpack	Do
New York.		
Cattaraugus	Town of Carrolltown	Do
Chautauqua	Village of Forestville	Do.
Broome	Town of Maine	Do
Pennsylvania		
Carbon	Township of Lausanne.	Do
Berks	Township of North Heidelberg	Do
New Jersey:		
Hudson	Town of Secaucus	March 25, 1983
Cumberland	Township of Upper Deerfield	Do
California. San Mateo	City of Brisbane	March 29, 1983

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 27, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–4074 Filed 2–16–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA 6333]

National Flood Insurance Program; Final Flood Elevation Determination

AGENCY: Federal Emergency Management Agency.

ACTION: Deletion of final rule for the City of Port Arthur, Jefferson County, Texas.

SUMMARY: The Federal Emergency Management Agency has erroneously published the final base flood elevation (BFE) determination for the City of Port Arthur, Jefferson County, Texas. This notice will serve to delete that publication. A new notice of final flood elevation determination will be published in the near future.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: As a result of the appeal submitted by the community, the Federal Emergency Management Agency has determined that the notice of final flood elevation determination for the City of Port Arthur, Jefferson County, Texas, published at 47 FR 55240, on December 18, 1982, should be deleted. After a technical evaluation of the appeal data and resolution, a new notice of final flood elevations will be issued.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: February 7, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83–4072 Filed 2–16–83; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 31

[CC Docket No. 82–185; FCC 83–25]

Uniform System of Accounts for Class A and Class B Telephone Companies; Requirement for Filing Journal Entries Recording the Acquisition of Plant

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: The Commission has adopted a Report and Order amending § 31.2–21(e) of Part 31 of its Rules and Regulations raising the dollar criterion for filing journal entries recording the acquisition of telephone plant for Commission approval to $1,000,000, and also amending § 31.100:4(c)(3) of Part 31 by raising the dollar criterion for filing journal entries disposing of telephone plant acquisition adjustments to $100,000 or more. This action is necessary in order to recognize the effects of inflation since the dollar limits were last adjusted in 1960 and to reduce the burden on the carriers and the Commission staff while still retaining oversight of significant transactions. This action will eliminate approximately 80%–90% of the routine filings made each year.

EFFECTIVE DATE: August 17, 1983.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Chief, Accounting and Audits Division, Common Carrier Bureau, 634–1861.

SUPPLEMENTARY INFORMATION:

List of Subjects in Part 47 CFR Part 31

Communications common carriers, Telephone, Uniform system of accounts.

In the Matter of Amendment of Part 31 (Uniform System of Accounts for Class A and Class B Telephone Companies) of the Commission's Rules and Regulations to revise the requirement for filing journal entries recording the acquisition of plant; CC Docket No. 82–185.

Report and Order

Adopted: January 20, 1983.

Released Febuary 8, 1983.

1. On April 1, 1982, the Commission adopted a Notice of Proposed Rulemaking (NPRM) which proposed to amend Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies (Part 31), of the Commission's Rules and Regulations (Rules) to raise the dollar criteria that require the Commission's approval of journal entries in two instances. First,

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we proposed to raise the dollar criterion in § 31.2–21(e) of Part 31 which requires telephone companies having annual operating revenues exceeding $1,000,000 to obtain our approval of journal entries recording the acquisition of telephone plant when the consideration paid is $100,000 or more. We propose to raise the dollar limit for consideration paid to $1,000,000 or more. Second, we proposed to raise the dollar criterion contained in § 31.100:4(c)(3) of Part 31 which requires companies to obtain the Commission's approval before writing-off the total amount of telephone plant acquisition adjustment by a lump sum charge or credit when the amount exceeds $10,000. We proposed to raise that dollar limit to $100,000.

2. Interested parties were invited to file comments on or before May 19, 1982, and reply comments on or before June 3, 1982. Comments were received from the American Telephone and Telegraph Company, for itself, and on behalf of the associated Bell System Operating Companies (AT&T); GTE Service Corporation, for itself, and on behalf of its affiliated domestic telephone companes (GTE); the United States Independent Telephone Association (USITA); and the Colorado Public Utilities Commission (Colorado). No reply comments were received.

3. AT&T, GTE, and USITA support the Commission's proposed amendments. They consider them to be reflective of today's economic realities and consistent with the Commission's policy of eliminating unnecessary and burdensome regulation. AT&T estimates that, if the $1,000,000 limit had been in effect during the past several years, 80%–90% of the administrative work associated with the routine submission of journal entries for plant acquisitions would have been saved.

4. Colorado understands the need for the first proposed change as it would apply to large telephone companies, but believes additional clarification is needed with respect to small Class C telephone companies.[1] Colorado expresses concern that any telephone company which settles revenue sharing with a Bell Operating Company on an individual cost basis instead of an average settlement basis must follow Class A accounting regardless of the size of annual operating revenues. It suggests that if these companies are included in the proposed change, then the proposed change should not be made. It states, however, that it would have no objection to this change if the operating revenue requirement was also raised to $50,000,000 thereby insuring that the small and medium sized telephone companies would still be required to file journal entries.

5. Colorado also objects to the second proposed change. It claims that any write-off or amortization of an acquisition adjustment should be subject to prior Commission approval. It fears that this proposal would allow up to $100,000 of goodwill to be written off above the line for ratemaking. It states that any acquisition of telephone plant for a cost above the book value of that plant must be justified and that allowing the write-off without Commission approval would preclude the ratepayer from the opportunity of challenging the acquisition costs. It also believes that this would allow smaller telephone companies to reprice plant and charge this repricing to the customer.

Discussion

6. After careful consideration of the comments received, we have decided to raise the two dollar criteria for approval of journal entries as proposed. As previously noted, the proposals were favored by all respondents except Colorado. We believe that Colorado's objections were based, at least in part, on a misunderstanding of the proposal and its impact on small telephone companies. Our views concerning each proposal are discussed more fully below.

Reporting Requirement to Submit Journal Entries to Record Acquisition of Telephone Plant, Section 31.2–21(e)

7. Paragraph (e) of § 31.2–21 requires companies having annual operating revenues exceeding $1,000,000 to submit to this Commission for consideration and approval copies of journal entries recording the acquisition of telephone plant where the consideration paid is $100,000 or more. The only proposed change to the existing wording would substitute $1,000,000 for $100,000 as the criterion for consideration paid.

8. As previously noted, Colorado objects to this proposal because small telephone companies are required to follow the accounting prescribed in Part 31 if they settle revenue sharing with a Bell Operating Company on an individual cost basis. Therefore, because many small companies follow Part 31 accounting, Colorado opposes raising the dollar criterion for consideration paid unless we also raise the revenue criterion for companies affected by this provision from $1,000,000 to $50,000,000. By raising the revenue criterion Colorado believes that small telephone companies following Part 31 accounting would continue to obtain Commission approval of their entries.

9. We have decided not to adopt Colorado's suggestions. A small Class C telephone company is not required to follow Part 31 accounting under this Commission's rules regardless of its method of settling revenues. Thus, any requirement that such companies follow Part 31 is established pursuant to intercompany agreements or state regulation. Small companies following Part 31 pursuant to such agreements have not obtained this Commission's approval of their accounting entries in the past. Therefore, these small companies would not be affected by this amendment. Moreover, if Colorado desires to review and approve plant acquisitions for small interstate carriers at a lower level than $1,000,000, it can require such filings at the state level. As we indicated in the NPRM, we proposed the limit of $1,000,000 to recognize the effects of inflation since the previous revision in 1960, and to lighten the administrative burden on the respondents and the Commission's staff. We pointed out that the Producer Price Index for Finished Goods had risen from 93.5 in May 1960 to 271.3 in July 1981. We also stated that a study of filings for 1979, 1980, and 1981 showed that about 90% of the filings would have been eliminated if the $1,000,000 limit had been established during that period. Finally, we indicated the $1,000,000 limit would maintain the Commission's oversight for the 10% of the journal entries which are of significance from a regulatory standpoint. Nothing in Colorado's comments has persuaded us to alter our tentative position stated in the NPRM. Based on the foregoing, we have decided to raise the consideration paid criterion in § 31.2–21(e) from $100,000 to $1,000,000 as proposed.

Reporting Requirement to Submit Journal Entries to Dispose of Plant Acquisition Adjustments, Section 31.100:4(c)(3)

10. Section 31.100:4(c)(3) provides that a company may dispose of the total amount arising from an acquisition of telephone plant by a lump sum charge or credit to account 614, "Amortization of telephone plant acquisition adjustment," provided that such amount does not exceed $10,000. The only proposed change to the existing wording would increase the dollar limit from $10,000 to $100,000.

11. As previously noted, Colorado's objection to the proposed increase in the

[1] Section 31.01–1 of Part 31 of our Rules classifies telephone companies based on annual operating revenues. Class C Companies have annual operating revenues exceeding $50,000 but not more than $100,000.

dollar limit was based on its concern that the amendment would allow small companies to write-off excessive amounts of plant acquisition adjustment without this Commission's approval. However, for the reasons discussed in paragraph 9 above, these small Class C companies have not been subject to this provision of Part 31 in the past, and, therefore, they would not be affected by this amendment. If Colorado desires to review and approve plant acquisition adjustments by small intrastate carriers at a lower level for its own ratemaking purposes, it can require such review and approval at the state level. Our action is not in any way to be construed as altering any requirements or arrangements between the carriers and the state commissions. As we indicated in the NPRM, we proposed to increase the dollar limit to $100,000 to recognize the effects of inflation and to focus our resources where they can most likely accomplish Commission objectives. We indicated that information supplied under the proposed limit would be useful and that increasing the dollar limit to $100,000 would reduce the reporting requirement to a minimum. Finally, establishing this criterion at $100,000 maintains the ten to one ratio which has historically existed between the criteria prescribed in §§ 31.2–2(e) and 31.100:4(c)(3). We are not persuaded by Colorado's objections to alter our proposal. Accordingly, based on the foregoing, we have decided to raise the dollar limit for write-off of plant acquisition adjustments from $10,000 to $100,000 as proposed.

Ordering Clauses

12. Accordingly, it is ordered, that under the authority contained in Section 4(i), 4(j), and 220 of the Communications Act of 1934, as amended, Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies of the Commission's Rules is amended as set forth in the attached Appendix to be effective six months after publication in the **Federal Register**, provided however, that any carrier may, at its option, adopt these changes effective no earlier than January 1, 1983.

13. It is further ordered, That the Secretary shall cause to be served on each state commission having jurisdiction over intrastate communications service, a copy of this *Report and Order.*

14. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, is amended as follows:

PART 31—[AMENDED]

1. Section 31.2–21 is amended by revising paragraph (e) to read as follows:

§ 31.2–21 Telephone plant acquired.

(e) Companies having annual operating revenues exceeding $1,000,000 shall submit to this Commission for consideration and approval copies of journal entries recording acquisitions of telephone plant covered by this instruction where the consideration paid is $1,000,000 or more. The text of such entries shall give a complete description of the property acquired and the basis upon which the amounts of the entries have been determined.

2. Section 31.100:4 is amended by revising paragraph (c)(3) to read as follows:

§ 31.100:4 Telephone plant acquisition adjustment.

* * * * *

(c) * * *

(3) Within 1 year from the date of inclusion in this account of a debit or credit amount with respect to a current acquisition, the company may dispose of the total amount (other than that portion relating to land) arising from an acquisition of telephone plant by a lump-sum charge or credit, as appropriate, to account 614, "Amortization of telephone plant acquisition adjustment," without further approval of the Commission, provided that such amount does not exceed $100,000 and that the plant was not acquired from an affiliated company.

* * * * *

[FR Doc. 83–4134 Filed 2–16–83; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Thirteenth Rev. S.O. No 1474]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Thirteenth Revised Service Order No. 1474.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie), Trustee, and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., February 14, 1983, and continuing in effect until 11:59 p.m., March 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: February 10, 1983.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, the Commission is authorizing various railroads to provide interim service over Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee), (MILW) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued rail service over certain MILW lines pending the implementation of long-range solutions, this order permits carriers named in this order to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A of Twelfth Revised Service Order No. 1474 is revised by

deleting at Item 3., the authority for the Burlington Northern Railroad Company to operate between Council Bluffs, Iowa, and Bayard, Iowa. Finance Docket No. 30051 permits Burlington Northern permanently to assume this operation.

Appendix A is further revised by adding at Item 3. of this order, the authority for the Central Wisconsin Railroad Company to operate between Janesville and Madison, Wisconsin, and between Elkhorn and Bardwell, Wisconsin, which lines the State of Wisconsin intends to purchase from MILW.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendix be authorized to conduct operations using MILW tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1474 Service Order No. 1474.

(a) Various railroads authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, debtor (Richard B. Ogilvie, trustee). Various railroads are authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW), as listed in Appendix A to this order, to provide interim service over the MILW.

(b) The Trustee shall permit the affected carriers to enter upon the property of the MILW to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the MILW Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the MILW lines, interim operators shall be responsible for preserving the value of the lines, associated with each interim operation, to the MILW estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as this operation by interim operators over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) *Employees.* In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order

(m) *Effective date.* This order shall become effective at 12:01 a.m., February 14, 1983.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. 10304–10305 and Section 122, Pub. L. 96–254)

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—MILW Lines Authorized To Be Operated by Interim Operators

1. *Seattle and North Coast Railroad Company (SNC):*

A. Between Port Angeles and Port Townsend, Washington, including Pier 27 and associated track in Seattle, Washington.

2. *Des Moines Union Railway Company (DMU):*

A. Between Des Moines (milepost 0) and Clive, (milepost 8.5) Iowa; and between Clive (milepost 0) and Grimes, Iowa (milepost 7), a total distance of 15.5 miles.

+3. *Central Wisconsin Railroad Company (CWRC):*

A. Between Elkhorn, Wisconsin (milepost 38.5) and Bardwell, Wisconsin (milepost 53.0), a distance of 14.5 miles.

B. Between Janesville (Station Anderson), Wisconsin (milepost 102.0) and Madison (Station Minona), Wisconsin (milepost 138.4), a distance of 36.4 miles.

+ Added.

[FR Doc. 83–4141 Filed 2–16–83; 8:45 am]
BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 48, No. 34
Thursday, February 17, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 83-ASO-3]

Proposed Amendment to Restricted Area R-3004, Fort Gordon, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Restricted Area R-3004, Fort Gordon, GA, by changing the controlling agency from Jacksonville ARTCC to Atlanta ARTCC, and to include in the record the addition of air to surface inert and practice ordnance delivery activities to the current use of the area for artillery firing. No increased area size or time of use is proposed. This notice also informs interested persons of nonrulemaking proposal 83-ASO-4NR to establish the Bulldog Military Operations Area (MOA).

DATES: Comments must be received on or before March 31, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Manager, Air Traffic Division, Docket No. 83-ASO-3, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

Send comments on environmental aspects to: Environmental Planning Division, Headquarters TAC/DEEV, Langley AFB, VA 23665. Attn: Lt. Daryl Lawver, Telephone: (804) 764-4430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW, Washington, D.C.

An information docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; telephone: (202) 426-8777.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particulary helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No 83-ASO-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identfiy the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 73.30 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to amend Restricted Area R-3004, Fort Gordon, GA, by changing the controlling agency from Jacksonville ARTCC to Atlanta ARTCC, and to enter in the record the addition of air to surface inert and practice ordnance delivery to the current use of the area for artillery firing. The controlling agency change would reflect a relocation of the Jacksonville and Atlanta ARTCC boundaries. The need for the addition of aircraft activities within the restricted area is a result of significant increases in the using agency's operational readiness training requirements that cannot be accommodated in existing areas wherein aircraft activity is authorized or without the establishment of an additional restricted area.

Additionally, this notice informs interested persons of nonrulemaking proposal 83-ASO-4NR, to establish the Bulldog MOA, an area adjacent to R-3004, which is designed to accommodate aircraft access and maneuvers in conjunction with R-3004 activities. The MOA would be described as follows:

Bulldog MOA

Boundaries. Beginning at lat. 33°14'00"N., long. 82°30'00"W.; to lat. 33°21'15"N., long. 82°18'47"W.; to lat. 33°17'29"N., long. 82°23'00"W.; to lat. 33°16'20"N., long. 82°18'00"W.; to lat. 33°19'43"N., long. 82°d12'15"W.; to lat. 33°22'3"N., long. 82°12'15"W.; to lat. 33°13'00"N., long. 82°09'00"W.; to lat. 33°12'00"N., long. 82°23'00"W.; to point of beginning.

Altitudes. 100 feet AGL to 17,000 feet MSL

Times of use. Intermittent, 0800 to 1800 local time.

Using agency. 363 TFW Shaw AFB, SC.

Controlling agency. FAA, Jacksonville ARTCC.

Section 73.30 of Part 73 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 73

Restricted areas, Aviation safety

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The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 73.30 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as follows:

R-3004 Fort Gordon, GA [Amended]

By deleting the words "Controlling agency. FAA, Jacksonville ARTCC." and substituting for them the words "Controlling agency FAA, Atlanta ARTCC."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 7, 1983.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-3700 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-179 (New Mexico-19)]

High-Cost Gas Produced From Tight Formations; New Mexico

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may received an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Mesaverde Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 31, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 1, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

I. Background

On January 20, 1983, the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Mesaverde Formation located in San Juan County, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Mesaverde Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Mesaverde Formation is located in north central San Juan County, New Mexico, in portions of Township 32 North, Range 8 West, NMPM, in the Blanco Mesaverde Gas Pool, on the southwestern flank of the San Juan Basin. The Mesaverde Formation is composed of three separate members: the Cliffhouse member which averages 50 feet in thickness, the Menefee member with a thickness range of 230 to 290 feet, and the Point Lookout member which averages 150 to 200 feet in thickness. The vertical limits of the Mesaverde Formation are from the Huerfanito Bentonite in the Lewis Shale above to a point 500 feet below the top of the Point Lookout member. The average depth to the top of the Mesaverde Formation is approximately 5,650 feet.

The recommended area is subject to New Mexico Order No. R-1670-T, issued November 14, 1974, which authorizes infill drilling in the Blanco Mesaverde Gas Pool in San Juan and Arriba Counties, New Mexico. Accordingly, certain portions within the proposed area may be subject to exclusion pursuant to § 271.703(c)(2)(i)(D) of the regulations.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7697 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Mesaverde Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North

Capitol Street, NE., Washington, D.C. 20426, on or before March 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–179 (New Mexico-19), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 1, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432.)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d) (162) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(162) *Mesaverde Formation in New Mexico.* RM79–76–179 (New Mexico-19).

(i) *Delineation of formation.* The Mesaverde Formation is located in San Juan County, New Mexico, Township 32 North, Range 8 West, NMPM, Sections 7, 8, and 17 through 20.

(ii) *Depth.* The Mesaverde Formation is in the Blanco Mesaverde Gas Pool in the southwestern flank of the San Juan Basin and consists of three members: the Cliffhouse member which averages 50 feet in thickness, the Menefee member with a thickness range of 230 to 290 feet, and the Point Lookout member which ranges from 150 to 200 feet in thickness. The vertical limits of the Mesaverde Formation are from the Huerfanito Bentonite in the Lewis Shale above to a point 500 feet below the top of the Point Lookout member. The average depth to the top of the Mesaverde Formation is 5,650 feet.

[FR Doc. 83–4140 Filed 2–16–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM 79–76–166 (Texas—3 Addition V)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or cost. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Cisco-Canyon Formations located in Glasscock, Reagan, and Sterling Counties, Texas, be designated as tight formations under § 271.703(d).

DATE: Comments on the proposed rule are due on March 31, 1983.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 1, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: February 14, 1983.

I. Background

On December 16, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Cisco-Canyon Formations located in Glasscock, Reagan, and Sterling Counties, in west Texas, be designated as tight formations. The Commission previously adopted a recommendation that the Cisco-Canyon Formations encountered in a specified portion of Glasscock County be designated as tight formations (Order No. 242, issued July 15, 1982, in Docket No. RM79–76 (Texas—3 Addition III)) and currently has under consideration a recommendation that an additional area of the Cisco-Canyon Formations in Glasscock, Reagan and Sterling Counties be designated as tight formations (Docket No. RM79–76–149 (Texas—3 Addition IV), Notice of Proposed Rulemaking issued December 16, 1982). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that an additional area of the Cisco-Canyon Formations in Glasscock, Reagan, and Sterling Counties be designated tight formations should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Cisco-Canyon Formations encountered in southeast Glasscock County, southwest Sterling County and northwest Reagan County, in west Texas, Railroad Commission Districts 7C and 8, be designated as tight formations. The designated area is an expansion of the Cisco-Canyon Formations in the area of the Conger, S.W. (Penn) Field and the Conger (Penn) Field which are pending or have previously been approved. The recommended area includes Sections 15, 16, 17, 20, 21, 22, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, 39, 44, 45, 47, and 48, Block 32, T–5–S, T&P RR Survey, Glasscock and Sterling Counties; Sections 1 and 2 of EL & RR RR Survey, Sterling County; north half of Section 2, Harry Tweedle Survey, Sterling County; Section 1, GC & SF RY Survey, Sterling County; Section 4, W. C. Elam Survey, Glasscock County; Sections 9, 10, 11, 12, 13, 14, 21, 22, 23, 24, 25, 26, 33, 34, 35, 36, 41, 43, 49, 51, 52, 61, 69, 71, 89, 91, and 92, Block 2, T&P RR Survey, Glasscock, Reagan, and Sterling Counties.

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For the total area of the Cisco-Canyon Formations which have either been approved or are currently under consideration by the Commission, including the additional area recommended herein, the depth to the top of the Cisco Formation varies from approximately 8,670 feet on the southwest part of the area to 7,680 feet on the northeast. The depth to the top of the Canyon Formation (the base of the Cisco Formation) varies from approximately 8,810 feet on the southwest to 7,900 feet on the northeast. Total thickness of the two sandstone formations varies from approximately 200 feet on the southwest to 520 feet on the northeast.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of these formations will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Cisco-Canyon Formations, as described and delineated in Texas' recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–166 (Texas—3 Addition V), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 1, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(12)(iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(12) *Cisco Sandstone Formation in Texas.* RM79–76 (Texas—3).

* * * * *

(iii) *The Cisco-Canyon Formations.*

(A) *Delineation of formation.* The Cisco-Canyon Formations are found in the area of the Conger (Penn) Field and the Conger, S.W. (Penn) Field in Glasscock, Reagan and Sterling Counties, Texas, Railroad Commission Districts 7C and 8. The area includes the following surveys: T&P RR Block 33, T–5–S, Sections 34, 36, and W 1/2 of 38; T&P RR, Block 32, T–5–S, Sections 15, 16, 17, 20, 21, 22, 25 through 29, 32 through 42 and 44 through 48; EL & RR RR Sections 1, 2, 3 and 4; D. L. Carver Section 4; H. T. Tweedle Section 2; T&P RR, Block 2, Sections 9 through 14, 21 through 26, 33 through 36, 41, 43, 44, 49 through 52, 61, 62, 69, 70, 71, 89 through 92, 100, 118, 128, 146, 155 and 156; GC & SF RR Sections 1 and 3; GC & SF RY Section 1; W. C. Elam Section 4; CT & MC RR Section 2; W. R. Barton Section 4; S. H. Birdwell Section 17; Brooks & Burleson Sections 1 and 2; and T. B. Wilson Section 2.

(B) *Depth.* The depth to the top of the Cisco Formation varies from approximately 8,670 feet on the southwest part of the area to 7,680 feet on the northeast. The depth to the top of the Canyon Formation varies from approximately 8,810 feet on the southwest to 7,900 feet on the northeast. Total thickness of the two formation varies from approximately 200 feet on the southwest to 520 feet on the northeast.

[FR Doc. 83–4138 Filed 2–16–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–161 (Texas—7 Addition III)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additonal area of the Lower Wilcox Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 31, 1983.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written

requests for a public hearing are due on March 1, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511 or Walter W. Lawson (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: February 14, 1983.

I. Background

On November 22, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Lower Wilcox Formation, located in Dewitt County in the southeastern part of the state of Texas, be designated as a tight formation. The Commission issued Order Nos. 133 and 210 on February 19, 1981 and February 5, 1982, respectively, in Docket No. RM79–76 (Texas—7 and 7 Addition I) in which the Commission designated the Lower Wilcox Formation in portions of Wharton, Austin, and Colorado Counties, Texas, as tight formations under § 271.703. There is currently under consideration a recommendation to designate the Lower Wilcox (Midcox) Formation in Colorado County as a tight formation in Docket No. RM79–76–156 · (Texas—7 Addition II), Notice of Proposed Rulemaking issued December 30, 1982. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Lower Wilcox Formation in the Friar Ranch, South Field in Dewitt County, Texas, be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Lower Wilcox Formation encountered in the Friar Ranch, South Field located in the southeastern portion of Dewitt County, Texas, Railroad Commission District 2, be designated as a tight formation. The recommended area is located in the heart of the faulted Wilcox trend and consists of the following surveys; Sidney V. Bibber A–78 and John Troy A–466, plus portions of Bartolo A–2, E. Caruthers A–130, S. Van Bibber A–76, Sidney V. Bibber A–77, Harrison A–239, S.A. & M.G. RR A–445, T & N.O. RR A–571, Mrs. M. E. Blair A–573, W. J. Parker A–672, and T. Wilson A–483. The only Lower Wilcox completion in the designated area is Forest Oil Corporation Friar Thomas No. 1 well and the top of the designated interval in this well is at approximately 10,805 feet and extends to 14,392 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Lower Wilcox Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 31, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–161 (Texas—7 Addition III), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 1, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(18)(iv) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(18) *Lower Wilcox Formation in Texas.* RM 79–76 (Texas—7).

* * * * *

(iv) *Friar Ranch, South Field.*

(A) *Delineation of formation.* The Lower Wilcox Formation is found in the Friar Ranch, South Field, Dewitt County, Texas, Railroad Commission District 2. The field is located in the heart of the faulted Wilcox trend of south Texas and consists of all or part of the following surveys: Sidney V. Bibber A–78, John Troy A–466, Bartolo A–2, E. Caruthers A–130, S. Van Bibber A–76, Sidney V. Bibber A–77, Harrison A–239, S.A. & M.G. RR A–445, T & N.O. RR A–571, Mrs. M. E. Blair A–573, W. J. Parker A–672, and T. Wilson A–483.

(B) *Depth.* The top of the Lower Wilcox Formation is at an approximate depth of 10,805 feet and extends to 14,392 feet.

[FR Doc. 83–4139 Filed 2–16–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 11, and 54

[EE-99-78]

Minimum Funding Requirements and Minimum Funding Excise Taxes; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing relating to the minimum funding requirements for employee pension benefit plans and to excise taxes for failure to meet the minimum funding standards.

DATES: The public hearing will be held on April 26, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by April 12, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue. Attn: CC:LR:T (EE-99-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 412 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Wednesday, December 1, 1982 (47 FR 54093).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the proposed regulations and also desire to present oral comments at the hearing on the proposed regulations, should submit an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject by April 12, 1983. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Jonathan P. Marget,

Acting Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 83-4166 Filed 2-16-83; 8:45 am]

BILLING CODE 4830-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 6356]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Shreveport, Caddo Parish, Louisiana.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 47 FR 30505 on June 14, 1982 and in the *Shreveport Times* on July 8 and July 15, 1982, and hence superseded those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for inspection at the City Engineer's Office, City Hall Annex, 1237 Murphy Avenue, Shreveport, Louisiana 71130.

Send comments to: Mayor William T. Hanna, or E. J. French, City Engineer, City Hall, P.O. Box 31109, Shreveport, Louisiana 71130.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Shreveport in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(A).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, imposed no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Louisiana	City of Shreveport, Caddo Parish	Red River	Just downstream of 70th Street	*162
			Just upstream of the Long Allen Bridge	*166
		Cross Bayou	Approximately 1,400 feet downstream of Hearne Avenue (LA Highway 3094)	*168
			Just upstream of the Texas and Pacific Railroad	*167
		Twelve Mile Bayou	Approximately 4,800 feet upstream of State Highway 3094	*169
			Just upstream of U.S. Highway 71	*170
		Cross Bayou Lateral	Just downstream of Holzman Street	*171
			Just upstream of Abbie Street	*175
		McCain Creek (backwater effects from Twelve Mile Bayou)	Just upstream of Interstate Highway 220	*169
			Just upstream of Cooper Road	*170
		Country Club Lateral	Just downstream of Lake Shore Drive	*176
			Just upstream of Hassett Avenue extended	*187
		Galaxy Lateral	Just upstream of Jefferson Paige Road	*196
		Bickham Bayou	Just upstream of South Lakeshore Drive	*176
			Approximately 300 feet upstream of Yontan Road	*205
		Boggy Bayou	At the confluence with Gilmer Bayou	*170
		Gilmer Bayou	Just downstream of Colquitt Road	*171
			Just upstream of Flournoy-Lucas Road	*182
			Just upstream of Buncombe Road	*218
		Southwood High Lateral (backwater effects from Gilmer Bayou)	At the confluence with Gilmer Bayou	*182
		Industrial Park Lateral	Just upstream of Texas Pacific Railroad (abandoned)	*177
			Just upstream of Buncombe Road	*206
			Just downstream of Industrial Loop Expressway	*208
		Francis Shirley Lateral	At the confluence with Industrial Park Lateral	*207
		Lincoln Memorial Park Lateral	Just downstream of Buncombe Road	*206
		Brush Bayou	Just upstream of U.S. Highway 171	*186
			Just upstream of West 70th Street	*192
			At Meadow Avenue	*198
		Brookwood Lateral	Just downstream of Kingston Road	*170
			Just upstream of Acacia Lane	*176
		75th Street Drainage Ditch	Just upstream of Wyngate Circle	*184
			Just upstream of Wallace Avenue	*190
		Airport Ditch	Just downstream of Southern Pacific Railroad	*186
			At Jewella Road	*194
			Just upstream of Texas and Pacific Railroad	*204
			Just upstream of Menwether Road	*230
		Hollywood Lateral	Just upstream of West 70th Street	*200
			Just upstream of Powell-Broadway Street	*209
			Just downstream of Kennedy Street	*213
		Werner Park Lateral	Just upstream of Waggoner Street	*201
			Just downstream of Bibb Street	*211
		Southern Hills Lateral	Just upstream of Darlington Court extended	*172
			Just downstream of Southern Pacific Railroad	*184
		Bayou Pierre	Just upstream of Flournoy-Lucas Road	*160
			Just downstream of Ockley Drive	*164
			Just upstream of Ockley Drive	*166
			Just upstream of King's Highway	*169
		Bayou Pierre Lateral (Gilbert Ditch)	Approximately 100 feet upstream of Radcliff Street	*168
			Approximately 80 feet upstream of Wilder Street	*173
		Ockley Ditch	Just upstream of Line Avenue	*172
			Just upstream of Kansas City Southern Railroad	*190
		Sand Beach Bayou	Just downstream of Industrial Loop Expressway	*160
		South Broadmoor Lateral	Just upstream of Village Green Drive extended	*160
			Just upstream of State Highway 1	*160
		Old River	Just upstream of State Highway 1	*160
			Just downstream of East 70th Street	*167
		Cross Lake	The entire shoreline	*176

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 40014128); E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 28, 1983.

Lee Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-4000 Filed 2-16-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Ch. 1

Transport of Radioactive Materials; Request for Public Comment on Proposed Changes to International Regulations

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Request for public comment.

SUMMARY: The International Atomic Energy Agency (IAEA) has published for comment a proposed revision of its "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6". This notice invites public comment on the desirability of the proposed changes as they will affect international transportation and will be considered for inclusion in the U.S. domestic regulations.

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DATE: Comments should be received by April 1, 1983.

ADDRESS: Send comments and requests for documents to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should be identified as pertaining to the "Third Draft Revision of the IAEA Regulations" and be submitted in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th Street, SW., Washington, D.C. 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday. Telephone (202) 426–3148.

FOR FURTHER INFORMATION CONTACT: R. R. Rawl, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, telephone (202) 426–2311.

SUPPLEMENTARY INFORMATION: In 1959, at the request of the Economic and Social Council of the United Nations, the IAEA undertook the development of international regulations for the safe transportation of radioactive materials. The initial regulations published by the IAEA in 1961 were recommended to member states as the basis for national regulations and for application to international transportation. As a result of extensive revision in 1963 and 1964 and further effort in 1966, a version of the IAEA "Regulations for Safe Transport of Radioactive Materials, Safety Series No. 6" was published in 1967. The IAEA regulations have since been adopted generally by most of the nations of the world as a basis for their own national regulations governing the transportation of radioactive materials.

Since 1966, the U.S. Nuclear Regulatory Commission (USNRC) (formerly the Atomic Energy Commission (AEC)) has issued regulations which are substantially in conformance with IAEA standards for fissile radioactive materials and large quantities of radioactive materials. On October 4, 1968, the Hazardous Materials Regulations Board of the DOT published amendments which were also in substantial conformance with the 1967 IAEA standards (Docket HM–2, 33 FR 14918). In February 1969, recognizing the international standards should be revised from time-to-time on the basis of scientific and technical advances, as well as accumulated experience in their application, the IAEA invited all of its member states to submit comments and suggested changes to the regulations. Another aim was to remove any ambiguities and to simplify the presentation of the text of the regulations.

Comments and suggested revisions to the IAEA regulations were then collected by DOT from the AEC, the American National Standards Institute (ANSI), the Atomic Industrial Forum, and others. As a result of that effort, a compilation of some 40 comments was then forwarded by DOT to the IAEA in July 1969. Some of these suggested changes were intended to make possible a more positive alignment of the U.S. regulations-with the IAEA regulations.

A final Review Panel of experts was convened by the IAEA in October 1971, to finalize the revisions. As a result of that Panel, the IAEA subsequently issued its "Safety Series No. 6, Regulations for the Safe Transport of Radioactive Materials, 1973 Revised Edition," in late 1973. Since that time most major countries and international transport organizations, i.e., International Maritime Organization (IMO), International Civil Aviation Organization (ICAO), International Air Transport Association (IATA), European Agreement for the Carriage of Dangerous Goods by Rail (RID), and European Agreement Concerning International Carriage of Dangerous Goods by Road (ADR), have completed revising their own regulations to achieve conformity with the 1973 IAEA Standards.

Since it is recognized that the international standards need to be updated periodically (as was accomplished by the 1973 revision), the IAEA has undertaken a review and revision of the regulations slated for completion in 1984. A request for public input (44 FR 20532) was issued by MTB so that U.S. input to this revision would be as complete as possible. All comments received were compiled and forwarded to the IAEA and were considered at the Advisory Group for the Comprehensive Review an Revision of the Agency's Transport Safety Regulations which met in September, 1980. Careful consideration of these and all other comments submitted by other countries led to the development of a number of changes even in light of a very strong emphasis on revisions only where clearly justified.

A subsequent Technical Committee met in March 1981 to consider the comments which had been submitted and were related to the criticality safety aspects of the IAEA regulations. This Technical Committee recommended an extensive simplification of the criticality safety regulations, primarily by eliminating the three fissile classes.

As a result of the September 1980 and March 1981 meetings a "Second Draft Revision" of the "1983 Revised Edition" of the IAEA regulations was published by the IAEA for comment by Member States. The MTB requested (46 FR 25491 and 46 FR 40540) public comment on the draft for use in formulating the U.S. comments to the IAEA. Taking these comments into account, the MTB, in conjunction with the Nuclear Regulatory Commission established positions which were both acceptable to the regulatory agencies and as responsive as possible to the comments received. These positions were forwarded to the IAEA as official U.S. comments on the Second Draft Revision" of the IAEA regulations.

In March 1982, the IAEA convened an Advisory Group to consider the comments which had been received from Member States and international organizations concerning the second draft revision. Also considered by this Advisory Group were the recommendations made by the IAEA convened Technical Committee on Transport Package Test Standards which had met in September 1981. The March 1982 Advisory Group recommended some significant modifications to the second draft, notably:

(1) The addition of a "crush" test to certain lightweight low density Type B packages containing significant quantities of normal form material;

(2) Adoption of a "grandfather clause" to ease the transition to the new regulations;

(3) A reduction in the number of packaging levels specified for Low Specific Activity materials; and

(4) Adoption of a new system for establishing the Type A package contents limits (A_1/A_2 values).

The results of the Advisory Group's decisions have been incorporated by the IAEA into a "Third Draft Revision" of the transport regulations and has been circulated to Member States for comment. The MTB is now requesting public comment on the "Third Draft Revision" which is currently scheduled for final publication in 1984. MTB is making available to the public copies of the "Third Draft Revision" including an Annex which provides additional background information and an attachment which explains the revised system for establishing the limits for Type A package contents.

These documents are available free of charge from the Dockets Branch at the address given above

In providing comments on the draft it would be most helpful to MTB if commenters would provide specific information on their position concerning the requirements they wish to address.

Some of the impacts that would be helpful to have information on include:

(1) Radiological impacts such as expected radiation dose increase or decrease which will result from the proposed change;

(2) Economic impacts resulting from necessary modifications to shipping methods if the change is adopted;

(3) Ease or difficulty of understanding and applying the proposed change; and

(4) Suitability of the proposed change for application to domestic shipments.

It should be noted that comments on the fundamentals of the regulations and suggestions for significant *new* changes to the regulations should have been submitted in response to the earlier drafts and will not now be considered. Commenters should concentrate on changes which have been introduced since the second draft and on the completeness and adequacy of the third draft. It is anticipated that this will be the final round of comments and consequently no new substantive changes may be introduced.

All comments received will be considered and included, as far as practical, in the U.S. Comments to the IAEA on the proposal.

Issued in Washington, D.C. on February 10, 1983.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-4114 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1051, 1320, 1321, 1322, 1323, and 1324

[Ex Parte No. MC-1; No. 73; [1] No. 73 (Sub.-1); No. 143; No. 170]

Rates and Charges; Extension of Comment Deadline

AGENCY: Interstate Commerce Commission.

ACTION: Extension of comment deadline to revised notice of proposed rulemaking.

SUMMARY: In a revised notice of proposed rulemaking served January 17, 1983, and published at 48 FR 2151 (January 18, 1983), the Commission proposed various changes in its credit regulations. In that notice, the Commission proposed to modify present credit time limits, make them applicable unless carriers elect to publish separate provisions in tariffs and authorize such separate provisions within prescribed boundaries. Comments were due by February 17, 1983. The American Trucking Associations, Inc. (ATA); the Rubber Manufacturers Association (RMA); the Association of American Railroads (AAR); and the American Paper Institute, Inc. (API) have petitioned the Commission to extend this deadline. The present comment due date is too soon for ATA and RMA because of meeting schedules. AAR and API seek a 60-day extension because of the importance and complexity of the issues. Such an extension of the comment deadline is warranted.

DATE: Comments are due on or before April 18, 1983.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 5344, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer, (202) 275-7425

or

Mont Burrup, (202) 275-6447.

Decided: February 9, 1983.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4142 Filed 2-16-83; 8:45 am]

BILLING CODE 7035-01-M

[1] Embraces Docket No. 37152.

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Notices

Federal Register
Vol. 48, No. 34
Thursday, February 17, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

National Bureau of Standards

National Voluntary Laboratory Accreditation Program (NVLAP); Correction to Quarterly Report

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of correction to NVLAP quarterly report.

In the notice in the **Federal Register** on January 21, 1983 (48 FR 2813–14) presenting the NVLAP quarterly report for the period October 1–December 31, 1982, there was inadvertently omitted the name of a laboratory whose accreditation under the Carpet LAP had been renewed during the fourth quarter of 1982. The laboratory is Underwriters Laboratories, Inc., Northbrook, Illinois.

Dated: February 10, 1983.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 83–4109 Filed 2–16–83; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Salmon and Steelhead Advisory Commission; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: Postponement of a meeting of the Salmon and Steelhead Advisory Commission from February 17, 1983 until March 8, 1983.

DATE: The meeting of the Salmon and Steelhead Advisory Commission originally scheduled for February 17, 1983 at the Hyatt Hotel, Seattle, Washington, has been postponed until March 8, 1983 at the same location and time. The meeting will commence at 10:00 a.m. and is scheduled to continue no later than 3:00 p.m. The meeting will be open to interested members of the public; a public comment period will be held at 11:30 a.m.

ADDRESS: Hyatt Hotel, 17001 Pacific Highway South, Seattle, Washington 98118, (206) 244–6000.

MEETING AGENDA: The Commission will meet to consider possible solutions to issues, problems, and concerns regarding the salmon and steelhead resource and which need to be resolved in order to provide coordinated management, research, enforcement, and enhancement. The Commission will also consider current budgetary issues and the possible hiring of consultants for special tasks.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Regional Director, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115, Telephone: (206) 527–6150.

Dated: February 14, 1983.

William H. Stevenson,

Deputy, Assistant Administrator for Fisheries National Marine Fisheries, Service.

[FR Doc. 83–4161 Filed 2–16–83; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Prepare an Environmental Assessment on Implementing the Northwest Power Planning Council's Water Budget

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice to perpare an Environmental Assessment analyzing the systemwide power impacts and the related environmental consequences associated with implementation of the Water Budget concept.

SUMMARY: On November 15, 1982, the Northwest Power Planning Council (Council) adopted its Fish and Wildlife Program (Program). Part of the Program directs Federal hydroelectric system operating agencies to make available certain volumes of water (Water Budget) at given points on the Columbia and Snake Rivers between April 15 and June 15 of each year. Providing these flows will result in modification to the operation of the Federal Columbia River Power System (FCRPS). The U.S. Army Corps of Engineers and the U.S. Bureau of Reclamation will operate FCRPS hydroelectric projects to provide flows as identified in the annual coordinated operations planning process. BPA proposes to participate in implementation of the Water Budget by taking certain power marketing actions that result from Federal implementation of the Water Budget concept. The power marketing actions BPA proposes to take include selling increased amounts of nonfirm energy when Water Budget water is released, and either selling reduced amounts of firm energy or providing additional firm resources during those parts of each year when Water Budget water is being retained.

The Environmental Assessment will be used to determine if a draft environmental impact statement will be prepared or if a finding of no significant impact is appropriate for BPA actions regarding modifications to FCRPS operations.

SUPPLEMENTARY INFORMATION: Enactment of the Pacific Northwest Electric Power Planning and Conservation Act directs the Council to develop a Fish and Wildlife Program as part of their Regional Conservation and Electric Power Plan. One required element of the Program is a measure which will provide flows of sufficient quality and quantity between hydroelectric facilities to improve production, migration, and survival of anadromous fish. For this purpose, the Council has included a "Water Budget" concept designed to improve flows during the critical periods of juvenile salmon downstream migration.

The Water Budget is expected to result in an annual loss of 550 average megawatts of firm energy load carrying capability. The actual amount of loss is dependent on actions taken by power managers to accommodate the Water Budget. The Council's Program also directs that the Water Budget should not conflict with other firm operating constraints such as flood control and irrigation. In addition to analyzing the impacts of alternative flow levels, this Environmental Assessment will evaluate various scenarios for implementing the proposed action. These implementation scenarios are based on the availability of water.

FOR FURTHER INFORMATION CONTACT: Anthony R. Morrell, Environmental Manager, Bonneville Power

Administration, P.O. Box 3621–SJ, Portland, Oregon
97208; phone 503–230–5136.

Issued in Portland, Oregon, February 8, 1983

Peter T. Johnson,

Administrator.

[FR Doc. 83–4099 Filed 2–16–83; 8:45 am]

BILLING CODE 6450–01–M

Intent To Revise Hanford Extension Energy Rate To Become Effective November 1, 1983, Request for Recommendations and Suggestions

AGENCY: Bonneville Power Administration, DOE.

ACTION: Notice of Intent.

SUMMARY: BPA file No. HR–83.

Bonneville Power Administration (BPA) requests that all comments and documents which become part of the Official Record compiled in the process of adjusting the firm energy and transmission rates for Hanford extension energy contain the file number designation HR–83.

BPA is in the initial stages of developing energy marketing and transmission rates for use in new marketing and transmission agreements which specify the terms under which five Pacific Northwest investor-owned utilities purchase firm energy related to the Hanford Generating Project. These agreements are scheduled for implementation in November 1983. At this time, BPA is announcing its intent to revise the rates currently applied to Hanford extension energy and is seeking from interested persons suggestions, advice, and recommendations which can be used in the development of the Hanford extension energy rate proposals.

BPA expects to have its initial proposed Hanford rates formulated in late February 1983. BPA will then publish a notice announcing their availability. That notice will also include a schedule for formal hearings as specified in Section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). These hearings will give interested persons an opportunity to present both oral and written comments on the proposal.

Suggestions and recommendations concering the development of proposed Hanford extension energy rates will be accepted through February 22, 1983, by the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen S. Johnson, Public Involvement Office, P.O. Box 12999, Portland, Oregon 97212; 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–345–0311.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

SUPPLEMENTARY INFORMATION: BPA, an agency of the U.S. Department of Energy, is the Federal electric power marketing agency in the Pacific Northwest. BPA markets hydroelectric power from 30 U.S. Army Corps of Engineers and U.S. Bureau of Reclamation projects on the Columbia River and its tributaries, as well as thermal power it acquires from non-Federal interests in the region and firm energy produced by the Hanford Generating Project. In addition, BPA owns, operates, and maintains the nation's largest high-voltage transmission system grid.

The Hanford Generating Project (HGP) was constructed by the Washington Public Power Supply System (Supply System) and began producing electric energy on a commercial basis in 1966. The HGP makes use of steam which is a by-product of the plutonium production process performed at the N-Reactor located at Hanford, Washington. The N-Reactor is federally owned and operated.

Operation of the HGP was temporarily suspended in January 1971 when the Atomic Energy Commission expressed its intent to exercisxe its option to discontinue dual purpose operation of the N-Reactor. In June of the same year, however, a new contract, referred to as the Restart Agreement, was executed extending dual purpose operation of the N-Reactor. The term of the Restart Agreement has been extended by amendatory agreement through June 30, 1983.

The Supply System's HGP turbine genertor is capable of producing 860 megawatts. Because the Supply System cannot actually dictate when the N-Reactor is to operate and because the dual purpose operation of the N-Reactor requires frequent refueling outages, the HGP resource is not considered to be a firm capacity resource. However, utilities do rely on the HGP energy on a planning basis since load factoring is available from existing regional hydro resources. Therefore, the HGP output is treated as firm energy.

Fifty percent of the HGP energy is made available to 71 public agency participants which chose to purchase such energy. These agencies make monthly payments to the Supply System. These payments are sufficient to cover the public agency half of the cost of operating the HGP and related expenses. In return, each public agency receives an amount of power equal to the amount of power which could have been purchased from BPA with such funds. The remaining costs are recovered from five Pacific Northwest investor owned utilities (IOU's) which receive energy pursuant to their contracts. The rates which BPA is currently in the process of developing will be used to recover these costs from the IOU's as well as costs associated with the transmission of HGP energy from the HGP to points of interconnection with the IOU systems.

The agreement under which IOU's purchase HGP energy specifies that they are required to pay an amount equal to their share of the Supply System's HGP costs and related expenses. However, the amount of energy to be delivered will vary with the actual operation of the project. Section 4 of the Hanford 1983–1993 Continued Operation Agreement (Contract No. 90984) specifies that the IOU's shall pay a monthly charge equal to the budgeted amount, adjusted retroactively for actual costs.

In addition to a firm energy rate, a rate is needed for transmission of HGP energy to the IOU participants. It is important that any new rate be consistent with BPA's new transmission policy which is currently being developed.

As required by the National Environmental Policy Act, BPA is currently initiating efforts to identify and evaluate any potentially significant environmental effects associated with implementing changes in the rates for sale and transmission of HGP energy.

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BPA is seeking public involvement in developing its Hanford rate proposals. Interested persons are invited to submit suggestions, advice, and recommendations regarding BPA's intent to revise these rates through February 22, 1983. Following publication of the initial rate proposal in the **Federal Register**, both public and formal hearings will be conducted by BPA on the proposals. Written comments also will be accepted. Following the hearings BPA will announce its final proposed Hanford power marketing and transmission rates. The Administrator shall submit the final proposed rates to the Federal Energy Regulatory Commission for confirmation and approval.

Issued in Portland, Oregon, February 8, 1983.

George A. Tupper,

Acting Administrator.

[FR Doc. 83-4168 Filed 2-16-83; 11:19 am]

BILLING CODE 6450-01-M

Office of the Secretary

International Atomic Energy Agreements; Proposed Subsequent Arrrangement; Governments of Sweden and Switzerland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreements for Cooperation Between the Government of the United States of America and the Governments of Sweden and Switzerland Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer: RTD/SD (SW)-2, from Sween to Switzerland, 11 irradiated fuel rods, containing 3.552 kilograms of uranium, enriched to 1.80% in U-235, and 34 grams of plutonium, for post-irradiation examination at the Federal Institute for Reactor Research.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: February 10, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-4102 Filed 2-16-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Extension and Modification of NSR/PSD Permit to Petro-Lewis Corporation

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice of Approval of Extension and Modification of Prevention of Significant Air Quality Deterioration permit to Petro-Lewis Corporation in Poso Creek Field, Kern County, California, EPA project number SJ 77-50.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by April 18, 1983.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Roccena Lawatch (M-5), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on March 9, 1982 the Environmental Protection Agency extended and modified the PSD permit (which was originally issued on February 1, 1978) to the applicant named above for approval to construct three (3) 50 MM BTU/hr steam generators.

This project has been reviewed by EPA, Region 9 to ensure compliance with control technology reflective of current requirements for Best Available Control Technology and lowest achievable emission rate and is subject to certain conditions including allowable emission of 0.20 lb/MMBTU of NO_x.

Best Available Control Technology (BACT) requirements for NO_x include the use of low NO_x burners and excess O_2 control. Continuous monitoring is not required; the source is not subject to New Source Performance Standards.

Dated: February 2, 1983.

David P. Howekamp,

Director, Air Management Division.

[FR Doc. 83-4107 Filed 2-16-83; 8:45 am]

BILLING CODE 6560-50-M

[A-9-FRL 2266-5]

Issuance of PSD Permit to Kernridge Oil Company

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to Kernridge Oil Company for a project located in Kern County, California, EPA project number SJ 82-01.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on November 20, 1981 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct four oil fired steam generators in Kern County, California.

This permit has been issued under EPA's PSD (40 CFR 52.21) regulations and is subject to certain conditions including allowable NO_x emissions of 0.20lbs/10^6BTU.

Best Available Control Technology (BACT) requirements for NO_x include excess oxygen control equipment and low NO_x burners.

Air Quality Impact Modeling was required for NO_x.

Continuous monitoring is not required and the source is not subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. a petition for review must be filed by April 18, 1983.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Grants & Permits Administration, Kathryn Strickland (M-5); U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Dated: November 18, 1982.

David P. Howekamp,

Acting Director, Air Management Division, Region 9.

[FR Doc. 83-4104 Filed 2-16-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240025 PH-FRL 2308-3]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and

Rodenticide Act (FIFRA) from 47 states. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of the product became effective.

FOR FURTHER INFORMATION CONTACT: Sandra Engish, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1122, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2126).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by EPA in July 1982. Two were received earlier, but notice of their receipt was not previously published. Receipts by EPA of State registrations will be published periodically. Except as indicated by (CUP) in four of the registrations listed below, there is no changed use pattern involved in any of these registrations.

Alabama

EPA SLN No. AL 82 0028. Helena Chemical Co. Registration is for Helena Liquid DSMA, to be used on cotton to control emerged weeds. July 14, 1982.

EPA SLN No. AL 82 0029. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on soybeans to control larvae of lesser cornstalk borers. July 14, 1982.

EPA SLN No. AL 82 0030. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on grain sorghum to control lesser cornstalk borers. July 16, 1982.

EPA SLN No. AL 82 0031. Mobay Chemcial Corp. Registration is for Oftanol 5% GR, to be used on turfgrasses to control mole crickets. July 22, 1982.

EPA SLN No. AL 82 0032. Vertac Chemical Corp. Registration is for Vertac Premerge 3 Dinitroamine Herbicide, to be used on soybeans to control small cockleburs and morning glories. July 23, 1982.

Arizona

EPA SLN No. AZ 82 0014. Mobay Chemical Corp. Registration is for Monitor 4, to be used on Bermuda grass (seed crop) to control fulgorids and Banks grass mites. July 13, 1982.

EPA SLN No. AZ 82 0015. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15G Aldicarb Pesticide, to be used on pecans to control aphids. July 20, 1982.

Arkansas

EPA SLN No. AR 82 0028. BASF Wyandotte Corp. Registration is for Basagran Herbicide, to be used on soybeans to control sicklepods and other broadleaf weeds. July 9, 1982.

California

EPA SLN No. CA 82 0038. ICI Americas Inc. Registration is for Insectrin WP, to be used on structural surfaces in dairies, poultry houses, and horse stables to control house flies, stable flies, and other manure breeding flies. July 2, 1982.

EPA SLN No. CA 82 0043. Cotton Pest Abatement District of Imperial County. Registration is for Galecron 4E, to be used on cotton to control tobacco budworms and bollworms. July 8, 1982.

EPA SLN No. CA 82 0055. California Dept. of Food and Agriculture. Registration is for Dursban 2E Insecticide, to be used on citrus plant propagative material to control comstock mealybugs, California red scale, brown soft scale, cottony cushion scale, citricola scale, yellow scale, citrus red mites, two-spotted spider mites, citrus flat mites, citrus thrips, citrus cutworms, and fruit tree leafrollers. July 19, 1982.

EPA SLN No. CA 82 0056. Ventura County Agriculture Dept. Registration is for Morestan 25% WP, to be used on kiwi fruit to control red and two-spotted mites. July 19, 1982.

EPA SLN No. CA 82 0060. Union Carbide Agricultural Products Co., Inc. Registration is for Weedar 649, to be used on ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, rivers, and streams to control water hyacinths. July 19, 1982.

Delaware

EPA SLN No. DE 82 0011. E.I. du Pont de Nemours and Co. Registration is for Du Pont Benlate Fungicide, to be used on strawberries to control *verticillium* wilt (CUP). July 6, 1982.

Florida

EPA SLN No. FL 82 0039. Diamond Shamrock Corp. Registration is for Ectrin Insecticide 10 Water Dispersible Liquid, to be used on livestock premises to control flies, lice and ticks. July 2, 1982.

EPA SLN No. FL 82 0040. Kocide Chemical Corp. Registration is for K-Tea, to be used on rivers, streams, and flowing canals to control *Hydrilla verticillata*. July 6, 1982.

EPA SLN No. FL 82 0041. Great Lakes Chemical Corp. Registration is for Soilbrom-90, to be used on peanuts to control nematodes. July 7, 1982.

EPA SLN No. FL 82 0042. Philips Roxane, Inc. Registration is for Anchor Permectrin 25% WP Long Lasting Barn and Premise Fly Spray, to be used on livestock and poultry premises to control house flies, face flies, stable flies, and false stable flies. July 7, 1982.

EPA SLN No. FL 82 0043. Philips Roxane, Inc. Registration is for Bioceutic Overtime 25% WP Long Acting Livestock Premise Insecticide, to be used on livestock and poultry premises to control house flies, face flies, stable flies, and false stable flies. July 7, 1982.

Georgia

EPA SLN No. GA 82 0015. Stauffer Chemical Co. Registration is for Dyfonate 10-G Insecticide, to be used on corn, sweet potatoes, and peanuts to control whitefringed beetle larvae. July 7, 1982.

EPA SLN No. GA 82 0016. Stauffer Chemical Co. Registration is for Dyfonate 4-EC Insecticide, to be used on corn, sweet potatoes, and peanuts to control whitefringed beetle larvae. July 7, 1982.

Hawaii

EPA SLN No. HI 82 0003. Hawaii State Dept. of Health. Registration is for Fennimore Pyrethrin Fogging Concentrate 7257, to be used on outdoor, non-crop sites to control yellow jackets. July 19, 1982.

Idaho

EPA SLN No. ID 82 0001. J.R. Simplot Co. Registration is for Sim-Tec 0.50, to be used on russet Burbank seed potatoes to control *Fusrium* seed-piece decay. July 7, 1982.

EPA SLN No. ID 82 0006. Tuco Products Co. Registration is for Botran 75W Fungicide, to be used on greenhouse grown conifers and nursery stock to control *Botrytis*. March 24, 1982.

EPA SLN No. ID 82 0020. V.R.E. Inc. Registration is for CPF, to be added to exterior latex paints to control flies, mosquitoes, spiders, ants, ticks, and mites. July 1, 1982.

EPA SLN No. ID 82 0021. Diamond Shamrock Corp. Registration is for Bravo 500, to be used on dry bulbs of sweet Spanish onions and onions grown for seed to control *Botrytis* leaf blight (blast) and purple blotch (CUP). July 1, 1982.

EPA SLN No. ID 82 0022. Dow Chemical Co. Registration is for Garlon 4 Herbicide, to be used on conifer plantations to control brush. July 15, 1982.

EPA SLN No. ID 82 0023. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on potatoes to control weeds and grasses. July 22, 1982.

EPA SLN No. ID 82 0024. Velsicol Chemical Corp. Registration is for Banvel 10G GR Hericide, to be used on croplands rotated to wheat to control perennial weeds. July 21, 1982.

EPA SLN No. ID 82 0025. Bell Laboratories, Inc. Registration is for P.C.O. Rat and Mouse Bait, to be used on orchards to control voles (*Microtus spp.*). July 23, 1982.

Illinois

EPA SLN No. IL 82 0012. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on pure seeded alfalfa (no-till seedings) to control potato leafhoppers, pillbugs, crickets, and grasshoppers. July 12, 1982.

EPA SLN No. IL 82 0013. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on sunflowers to control emerged annual broadleaf weeds and grasses. July 12, 1982.

EPA SLN No. IL 82 0014. FMC Corp. Registration is for Furadan 10G, Insecticide/Nematicide, to be used on cucumbers, melons, squash, and pumpkins to control nematodes and cucumber beetles. July 12, 1982.

Kansas

EPA SLN No. KS 82 0012. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 Emulsible Concentrate, to be used on field corn to control cutworms, armyworms, corn earworms, grasshoppers, European corn borers, and southwestern corn borers. July 15, 1982.

EPA SLN No. KS 82 0013. Motomco Ltd. Registration is for Contrax-P, to be used on orchards and groves to control meadow and pine mice and voles. July 15, 1982.

Louisiana

EPA SLN No. LA 82 0027. V.R.E. Inc. Registration is for CPF, to be added to latex paint to control flying and crawling insects. July 9, 1982.

EPA SLN No. LA 82 0028. Mobay Chemical Corp. Registration is for Guthion 2L, to be used on cotton to control boll weevils. July 12, 1982.

EPA SLN No. LA 82 0029. Platte Chemical Co. Registration is for Clean Crop Methyl P, to be used on cotton to control bollworms, tobacco budworms, cabbage loopers, cotton leaf perforators, boll weevils, cotton fleahoppers, Lygus bugs, whiteflies, and cotton aphids. July 28, 1982.

EPA SLN No. LA 82 0030. Monsanto Co. Registration is for Roundup Herbicide, to be used along roadsides to control rhizome Johnson grass. July 28, 1982.

Maryland

EPA SLN No. MD 82 0013. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. July 9, 1982.

EPA SLN No. MD 82 0014. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on alfalfa to control weeds. July 9, 1982.

Michigan

EPA SLN No. MI 82 0019. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control European corn borers and corn earworms. July 19, 1982.

EPA SLN No. MI 82 0020. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control corn root-worms, flea beetles and nematodes; and on cucurbits to control nematodes, striped, and spotted cucumber beetles. July 1, 1982.

Mississippi

EPA SLN No. MS 82 0027. Valley Chemical Co. Registration is for Attac-4-4, to be used on cotton to control aphids, thrips, fleahoppers, plant bugs, and over-wintered boll weevils. July 12, 1982.

EPA SLN No. MS 82 0028. Cotton States Chemical Co., Inc. Registration is for Ketokil No. 52, to be used on cotton to control boll worms and boll weevils. July 13, 1982.

EPA SLN No. MS 82 0029. Helena Chemical Co. Registration is for Helena Metam 5-2, to be used on cotton to control Lygus bugs, cabbage loopers, armyworms, bollworms, tobacco budworms, boll weevils, and pink bollworms. July 13, 1982.

EPA SLN No. MS 82 0030. Helena Chemical Co. Registration is for Helena Metam, to be used to control Lygus bugs, cabbage loopers, armyworms, bollworms, tobacco budworms, boll weevils, and pink bollworms. July 13, 1982.

EPA SLN No. MS 82 0032. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on grain sorghum to control chinch bugs. July 22, 1982.

EPA SLN No. MS 82 0033. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. July 30, 1982.

Missouri

EPA SLN No. MO 82 0021. Merck & Co., Inc. Registration is for Mertect 340-F Fungicide, to be used on soybeans grown for seed purposes to control pod and stem blight, anthracnose, brown spot, frog eye leaf spot and purple seed stain (CUP). July 14, 1982.

EPA SLN No. MO 82 0022. E. I. du Pont de Nemours and Co. Registration is for Du Pont Benlate Fungicide, to be used on soybeans grown for seed to control stem and pod diseases (CUP). July 15, 1982.

Nebraska

EPA SLN No. NE 82 0010. Fairfield American Corp. Registration is for Permanone Tick Repellent, to be used on outer surfaces of clothing to repel ticks. July 6, 1982.

New Jersey

EPA SLN No. NJ 82 0011. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles, northern corn rootworms, and nematodes. June 24, 1982.

EPA SLN No. NJ 82 0012. Pennwalt Corp. Registration is for Penncap-M Insecticide, to be used on chrysanthemums to control leafminers. July 21, 1982.

EPA SLN No. NJ 82 0013. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. July 28, 1982.

EPA SLN No. NJ 82 0014. Texize. Registration is for No Pest Strip Insecticide II, to be used in warehouses to control cocoa bean moths. July 29, 1982.

New Mexico

EPA SLN No. NM 82 0016. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15G Aldicarb Pesticide, to be used on pecans to control aphids. July 9, 1982.

EPA SLN No. 82 0019. U.S. Fish and Wildlife Service. Registration is for 1.6% Strychnine Paste, to be used on rangeland and grassland to control blacktailed jack rabbits. July 9, 1982.

New York

EPA SLN No. NY 82 0010. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. July 8, 1982.

North Carolina

EPA SLN No. NC 82 0024. Diamond Shamrock Corp. Registration is for Ectrin Insecticide 10 Water Dispersible Liquid, to be used on livestock premises

to control flies, lice, and ticks. July 7, 1982.

EPA SLN No. NC 82 0025. FMC Corp. Registration is for Furadan 4 FL, to be used on alfalfa to control clover root curculio, potato leafhoppers, crickets and grasshoppers. July 28, 1982.

EPA SLN No. NC 82 0026. FMC Corp. Registration is for Furadan 10 GR, to be used on alfalfa to control clover root curculio, potato leafhoppers, crickets and grasshoppers. July 28, 1982.

EPA SLN No. NC 82 0027. FMC Corp. Registration is for Furadan 15 GR, to be used on alfalfa to control clover root curculio, potato leafhopper, crickets and grasshoppers. July 28, 1982.

North Dakota

EPA SLN No. ND 82 0014. Cooperative Power Association. Registration is for Aquazine Algicide, to be used in the circulating water system at Coal Creek stations to control algae. July 1, 1982.

EPA SLN No. ND 82 0015. Agsco, Inc. Registration is for Agsco 2, 4-D Amine Weed Killer, to be used on millet to control certain annual and perennial broadleaf weeds. July 2, 1982.

EPA SLN No. ND 82 0016. Burroughs Wellcome Co. Registration is for Atroban 11% EC, to be used on livestock, poultry and their premises to control ticks, psoroptic (scabies) mites, house flies, and stable flies. July 23, 1982.

EPA SLN No. ND 82 0017. Philips Roxane, Inc. Registration is for Anchor Permectrin 10% EC II Long Lasting Livestock and Premise Spray, to be used on livestock, poultry and their premises to control house flies, coastal flies, stable flies, cockroaches, mosquitoes, and fleas. July 27, 1982.

EPA SLN No. ND 82 0018. Philips Roxane, Inc. Registration is for Bio-ceutic Overtime II Long Acting Livestock and Premise Insecticide, to be used on livestock, poultry and their premises to control house flies, coastal flies, stable flies, cockroaches, mosquitoes, and fleas. July 27, 1982.

Oregon

EPA SLN No. OR 82 0053. V.R.E. Inc. Registration is for CPA, to be used as a paint additive to control flies, mosquitoes, spiders, ants, ticks and mites. July 26, 1982.

EPA SLN No. OR 82 0054. Shell Chemical Co. Registration is for Pyudrin Insecticide 2.4 EC, to be used on filberts to control filbert worms. July 12, 1982.

EPA SLN No. OR 82 0055. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 EC, to be used on broccoli, cabbage, and cauliflower to control diamondback moths. July 8, 1982.

EPA SLN No. OR 82 0056. PBI/Gordon Corp. Registration is for Ultra-Sulv Amine, to be used on pastures, rangeland, non-crop and fallow land rotated to grow wheat, barley, rye or oats to control weeds. July 26, 1982.

EPA SLN No. OR 82 0057. FMC Corp. Registration is for Kolospray, to be used on peas to control powdery mildew. July 26, 1982.

Pennsylvania

EPA SLN No. PA 82 0021. Pennwalt Corp. Registration is for Penncap-M Insecticide, to be used on chyrsanthemums to control leafminers. July 19, 1982.

South Carolina

EPA SLN No. SC 82 0020. ICI Americas Inc. Registration is for Ambush 4E EC, to be used on cotton to control boll weevils, budworms, bollworms, pink bollworms, Lygus bugs, cotton aphids, cabbage loopers, and cotton leaf perforators. July 8, 1982.

EPA SLN No. SC 82 0021. Mobay Chemical Corp. Registration is for Guthion 2L, to be used on cotton to control boll weevils. July 27, 1982.

EPA SLN No. SC 82 0022. Mobay Chemical Corp. Registration is for Bolstar 6, to be used on cotton to control tobacco budworms, cotton bollworms, and Lygus nymphs. July 27, 1982.

EPA SLN No. SC 82 0023. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae, mole crickets, billbugs, chinch bugs, sod webworms, and larvae. July 29, 1982.

EPA SLN No. SC 82 0024. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on staked tomatoes to control crop destruction. July 30, 1982.

Texas

EPA SLN No. TX 82 0030. V.R.E. Inc. Registration is for CPF, to be added to water-based paints to control flying and crawling insects. July 13, 1982.

EPA SLN No. TX 82 0031. Monsanto Co. Registration is for Roundup Herbicide, to be used on roadside Bermuda grass to control rhizome Johnson grass. July 20, 1982.

EPA SLN No. TX 82 0032. Pennwalt Corp. Registration is for Penncap-M Insecticide, to be used on chrysanthemums to control leafminers. July 20, 1982.

EPA SLN No. TX 82 0033. E. I. du Pont de Nemours and Co. Registration is for Du Pont Velpar Gridball 1 cc Brush Killer, to be used on reforestation areas to control woody plants and as a brush killer. July 20, 1982.

EPA SLN No. TX 82 0034. Helena Chemical Co. Registration is for Milan Emulsifiable Insecticide Concentrate, to be used on cotton to control aphids, boll weevils, cotton leafworms, fleahoppers, and some species of spider mites. July 22, 1982.

EPA SLN No. TX 82 0035. Helena Chemical Co. Registration is for Helena 5 Lb EPN, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms, July 22, 1982.

EPA SLN No. TX 82 0036. Valley Co-op Oil Mill. Registration is for Valco 50, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms. July 22, 1982.

EPA SLN No. TX 82 0037. Valley Co-op Oil Mill. Registration is for Valco 33, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms. July 22, 1982.

EPA SLN No. TX 82 0038. Tide Products, Inc. Registration is for Tide EPN 5E, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms. July 22, 1982.

EPA SLN No. TX 82 0039. Tide Products, Inc. Registration is for Budmor 33, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms. July 22, 1982.

EPA SLN No. TX 82 0040. Platte Chemical Co. Registration is for Clean Crop Methyl Parathion-EPN 3–3EC, to be used on cotton, corn, beans, soybeans, and tomatoes to control thrips, fall armyworms, boll weevils, leafworms, and red spider mites. July 22, 1982.

EPA SLN No. TX 82 0041. Platte Chemical Co. Registration is for Clean Crop EPN 5 EC, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms. July 22, 1982.

EPA SLN No. TX 82 0042. Platte Chemical Co., Inc. Registration is for Clean Crop EPN 4 EC, to be used on cotton to control thrips, yellow-striped armyworms, cotton leafworms, boll weevils, and bollworms. July 22, 1982.

EPA SLN No. TX 82 0043. Thompson-Hayward Chemical Co. Registration is for PCO Lindane E–1 Insecticide, to be used on structures to control wood-infesting beetles such as *Lyctidae, Anobiidae,* and *Cerambycidae*. July 26, 1982.

EPA SLN No. TX 82 0044. Mobay Chemical Corp. Registration is for Bolstar 6, to be used on cotton to control tobacco budworms, cotton bollworms, and Lygus bugs. July 23, 1982.

EPA SLN No. TX 82 0045. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used for cotton desiccation. July 29, 1982.

EPA SLN No. TX 82 0046. Shell Chemical Co. Registration is for Bladex 80W Herbicide, to be used on winter wheat and cotton to control weeds, grasses and broadleaf weeds. July 30, 1982.

EPA SLN No. TX 82 0047. Ciba-Geigy Corp. Registration is for Igran 80W Herbicide, to be used on winter wheat after harvest for weed control during idle season. July 30, 1982.

Utah

EPA SLN No. UT 82 0008. Philips Roxane, Inc. Registration is for Bio-ceutic Overtime 25% WP Long Acting Livestock Premise Insecticide, to be used on livestock and poultry premises to control house flies and stable flies. July 20, 1982.

EPA SLN No. UT 82 0009. Philips Roxane, Inc. Registration is for Anchor Permectrin 25% WP Long Lasting Barn and Premise Fly Spray, to be used on livestock and poultry premises to control house flies and stable flies. July 20, 1982.

Vermont

EPA SLN No. VT 82 0005. O.M. Scott and Sons Co. Registration is for Proturf Insecticide, to be used on golf course fairways, tees, greens, and roughs to control white grubs (cool season grasses only), sod webworms, chinch bugs, mole crickets and Hyperodes weevils. July 16, 1982.

Washington

EPA SLN No. WA 82 0047. Wilbur-Ellis Co. Registration is for Wilbur Ellis Phosphamidon 8 Spray, to be used on bearing apple trees to control leaf hoppers and green and rosy apple aphids. July 9, 1982.

EPA SLN No. WA 82 0048. Shell Chemical Co. Registration is for Pydrin Insecticide, to be used on filberts to control filbert worms. July 26, 1982.

EPA SLN No. WA 82 0051. Aceto Agricultural Chemicals Corp. Registration is for Phorate 15G Systemic Insecticide, to be used on potatoes to control aphids, leafhoppers, leaf miners, psyllids, wireworms, and flea beetle larvae. July 12, 1982.

EPA SLN No. WA 82 0052. Occidental Chemical Company. Registration is for Dimethoate 25 WP, to be used on wine grapes to control grape leafhoppers and Pacific spider mites. July 13, 1982.

EPA SLN No. WA 82 0054. Pennwalt Corp. Registration is for Penncap-M Insecticide, to be used on lentils to control aphids. July 23, 1982.

EPA SLN No. WA 82 0055. Aceto Agricultural Chemicals Corp. Registration is for Dimethogon 267 Systemic Insecticide, to be used on cherries to control cherry fruit flies. July 27, 1982.

EPA SLN No. WA 82 0056. Platte Chemical Co., Inc. Registration is for Clean Crop Phosphamidon 8, to be used on apples (post bloom) to control green and rosy apple aphids and leafhoppers. July 27, 1982.

EPA SLN No. WA 82 0057. PBI/Gordon Corp. Registration is for Ultra-Sulv Amine, to be used on grain crops, pastures, non-cropland and fallow land to control field bindweed, Canada thistle, and musk thistle. July 17, 1982.

West Virginia

EPA SLN No. WV 82 0008. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control weeds. July 2, 1982.

Dated: February 8, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-4105 Filed 2-16-83; 8:45 am]

BILLING CODE 6560-50-M

[A-10-FRL 2307-8]

PSD Applicability Determination for Crown Zellerbach at Camas, Washington

Notice is hereby given that the Environmental Protection Agency has determined that Crown Zellerbach's proposed modifications at the Camas, Washington mill are not subject to PSD review. The August 7, 1980 PSD regulations required that the construction or modification of a major stationary source is subject to PSD review if the resulting increase in potential emissions is greater than the significant levels. EPA has reviewed the projected emissions from the subject facility and has concluded that potential emission increases are less than the PSD applicability threshold amounts subject to federally enforceable permit requirements.

The applicant was notified of this determination on February 17, 1983. Under section 307(b)(1) of the Clean Air Act, judicial review of the PSD non-applicability status is available only by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the determination of nonapplicability which is the subject of today's notice may not be challenged later in civil or criminal proceedings for enforcement.

Copies of the applicability determination are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, M/S 532, Seattle, Washington, 98101.

Dated: January 31, 1983.

John R. Spencer,

Regional Administrator.

[FR Doc. 83-4108 Filed 2-16-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Closed Circuit Test of the Emergency Broadcast System During the Week of March 28, 1983

February 11, 1983.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of March 28, 1983. Only ABC, MBS, NPR, AP Radio, CBS, IMN, NBC and UPI Audio Radio Network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. The ABC, CBS, NBC and PBS television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a Closed Circuit Test and Will Not Be Broadcast Over the Air.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-4152 Filed 2-16-83; 8:45 am]

BILLING CODE 6712-01-M

Mobile Services Advisory Committee; Meeting

February 9, 1983.

The Mobile Services Advisory Committee will meet on Tuesday, March 29, 1983, at 9:30 a.m. in Room 856 (Commission Meeting Room), 1919 M Street, NW., Washington, D.C.

With the Commission's recent allocation of nearly 70 new paging channels and the rapid growth in paging demand, it is anticipated that misdirected and interfering pages may become a serious problem. Accordingly, the Advisory Committee is being convened to discuss the possible organization of a nationwide system for

coordinating codes for pagers using the POCSAG code. Topics for discussion will include the desirability of a nationwide coordinating body, the identification of the coordinating body, the source of funding for such a body, the extent of liability of the coordinating entity, and other related issues. Pager manufacturers, common carriers and all other interested persons are invited to attend.

For further information, contact Claudia Borthwick at (202) 632–6400.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–4154 Filed 2–16–83; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1396]

Petitions for Reconsideration of Actions in Rule Making Proceedings

February 9, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: MTS and WATS Market Structure. (CC Docket No. 78–72, Phase II)

Filed by: Robert K. McGuire, Alan Y. Naftalin & Margot Smiley Humphrey, Attorneys for Alascom, Inc., on 1–6–83.

Subject: Amendment of Sec. 73.606(b), Table of Assignments, Television Broadcast Stations (Rancho Palos Verdes, California). (BC Docket No. 82–567, RM–4149.)

Filed by: Mark Pierce on 2–3–83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–4153 Filed 2–16–83; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collection and Recordkeeping Requirement Submitted to Office of Management and Budget for Review

February 7, 1983.

On February 4, 1983 the Federal Communications Commission submitted the following information collection and recordkeeping requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of this submissions are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632–7513. Comments should be sent to Edward H. Clarke, Office of Management and Budget, OIRA, Room 3201 NEOB, 726 Jackson Place, NW., Washington, D.C. 20503.

Title: Application for Aircraft Radio Station License and Temporary Aircraft Radio Station Operating Authority.

Form No.: FCC 404/404–A.

Action: Revision.

Respondents: Individuals, Associations, Partnerships, Corporations, and Local Governmental entities eligible to hold a radio station authorization in the Aircraft Radio Service.

Estimated Annual Burden: 26,000 Responses; 5,200 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–4155 Filed 2–16–83; 8:45 am]

BILLING CODE 6712–01–M

Study Groups A and B of U.S. Organization for International Telegraph and Telephone Consultative Committee (CCITT); Meeting

February 9, 1983.

The Department of State announces that Study Groups A and B of the U.S. Organization for the CCITT will meet on Wednesday, March 2, at 10:30 a.m. in Room 1107 of the Department of State, 2201 C Street NW., Washington, D.C. These Study Groups deal inter alia with the United States positions related to international inter-active Videotex services under consideration in CCITT Study Groups I and VIII.

The meeting will receive reports on the recent meetings in Geneva of Study Groups I and VIII and consider the approach the United States should follow as the international discussions on Videotex proceed in CCITT.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to March 2, 1983 members of the general public who plan to attend the meeting inform Mr. William Lowell, Office of International Communications Policy, Department of State, telephone (202) 632–6583, of their intention. All attendees must use the C Street entrance to the building.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–4157 Filed 2–16–83; 8:45 am]

BILLING CODE 6712–01–M

Technical Subgroup of Radio Advisory Committee; Meeting

The Technical Subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Friday, February 18, 1983 at 10 a.m. in the Wasilewski Room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

The Subgroup will continue its consideration of recommendations to the Federal Communications Commission concerning matters pertinent to the ongoing U.S.–Canadian discussions on the drafting of a new bilateral AM agreement which, it is expected, will replace the North American Regional Broadcasting Agreement (NARBA).

The Subgroup will also discuss preparations for bilateral discussions which have started with Mexico, looking toward post-Rio revision of the U.S.–Mexican AM Agreement.

The meeting, a continuing one, will be resumed after the February 18, 1983 session at such time and place as is decided at that session. It is open for participation by all interested persons.

For further information, please call the Subgroup Chairman, Mr. Wallace Johnson, at (703) 841–0500.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–4149 Filed 2–16–83; 8:45 am]

BILLING CODE 6712–01–M

Technical Subgroup of Radio Advisory Committee; Meeting

February 11, 1983.

The Technical Subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Friday, February 18, 1983 at 10 a.m. in the Wasilewski Room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

The Subgroup will continue its consideration of recommendations to the Federal Communications Commission concerning matters pertinent to the ongoing U.S.–Canadian discussions on the drafting of a new bilateral AM agreement which, it is expected, will replace the North

American Regional Broadcasting Agreement (NARBA).

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For further information, please call the Subgroup Chairman, Mr. Wallace Johnson, at (703) 841–0500.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–4151 Filed 2–16–83; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group; Income and Other Accounts Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Income and Other Accounts Subcommittee scheduled to meet on Thursday, February 24, 1983. The meeting will begin at 9:30 a.m. and will be open to the public. The meeting location is as follows: *Thursday, February 24, 1983,* AT&T, 1120 20th St., NW., Room 905, Washington, D.C.

The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Griffin (214/659–3484) at least five days prior to the meeting date.

William J. Tricarico,

Federal Communications Commission.

[FR Doc. 83–4156 Filed 2–16–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities; Mellon National Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts or interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation,* Pittsburgh, Pennsylvania (consumer finance, leasing and credit related insurance activities): To engage through a *de novo* office of its subsidiary, Mellon Financial Services Corporation, in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including, but not limited to, loans and other extensions of credit secured by mortgages or deeds of trust on real property; leasing personal or real property or acting as agent, broker or advisor in leasing such property and servicing such leases, subject to all the qualifications specified in Section 225.4(a)(6) of Regulation Y; and acting as agent for the sale of related credit life, credit accident and health insurance and credit property insurance in connection with extensions of credit by any of Applicant's subsidiaries. The credit property insurance activities satisfy exemptions (B) and (D) of section 601 of the Garn St-Germain Depository Institutions Act of 1982. Applicant received approval to engage in these activities in May of 1978. These activities will be conducted from an office in Riverside, California, serving customers in Riverside and surrounding areas in California. Comments on this application must be received not later than March 10, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Tennessee National Corporation,* Memphis, Tennessee (financing activities; Alabama, Arkansas, California, Georgia, Kentucky, Mississippi, Missouri, New York, North Carolina, Tennessee, Virginia): To engage directly in making or acquiring loans and other extensions of credit, for its own account and for the account of others. These activities would be conducted from Applicant's main office located in Memphis, Tennessee, serving the eleven states listed in the caption to this notice. Comments on this application must be received not later than March 10, 1983.

Board of Governors of the Federal Reserve System, February 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–4096 Filed 2–16–83; 8:45 am]

BILLING CODE 6210–01–M

Independent Bankshares Corp.; Proposed Acquisition of Independent Bankshares Corporation

Independent Bankshares Corporation, San Rafael, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b) (2) of the Board's Regulation Y (12 U.S.C. 225.4(b)(2)), for permission to acquire voting shares of Learnex Corporation, LaJolia, California.

Applicant states that the proposed subsidiary would engage in the activity of providing management consulting services to financial institutions, including but not limited to banks, savings and loan associations, industrial banks and credit unions. These activities would be performed from offices in San Rafael, California, and the

geographic area to be served is the United States. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 10, 1983.

Board of Governors of the Federal Reserve System, February 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-4095 Filed 2-16-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Commerce Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Commerce Bancorp, Inc.*, Marlton, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Commerce Bank, N.A., Marlton, New Jersey. Comments on this application must be received not later than March 11, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citi-Bancshares, Inc.*, Leesburg, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank of Leesburg, Leesburg, Florida. Comments on this application must be received not later than March 11, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Mid-South Bancshares, Inc.*, Bossier City, Louisiana; to become a bank holding company by acquiring at least 99.2 percent of the voting shares of Bank of the Mid-South, Bossier City, Louisiana. Comments on this application must be received not later than March 11, 1983.

Board of Governors of the Federal Reserve System, February 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-4160 Filed 2-16-83; 8:45 am]

BILLING CODE 6210-01-M

Merger of Bank Holding Companies; Gwinnett Holding Co.

Gwinnett Holding Company, Snellville, Georgia, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Fulton Bancshares, Inc., Snellville, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 10, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not sufice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-4159 Filed 2-16-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Establishment of a Branch Office; Old Colony Co-Operative Bank

Old Colony Co-Operative Bank, Providence, Rhode Island, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to establish a *de novo* office in East Providence, Rhode Island.

Applicant states that the proposed subsidiary would engage in the activities of a Rhode Island building-loan association (primarily accepting share deposits and making real estate mortgage loans). The geographic area to be served is the City of East Providence, Rhode Island. The Board has previously approved, by Order, the acquisition or retention of a Rhode Island thrift institution or the establishment of an office thereof by a bank holding company. *Newport Savings and Loan Association*, 58 Federal Reserve Bulletin 313 (1972); *Old Colony Co-operative Bank*, 58 Federal Reserve Bulletin 417 (1972); *Old Colony Co-operative Bank*, 66 Federal Reserve Bulletin 665 (1980); *Old Colony Co-operative Bank*, 68 Federal Reserve Bulletin 785 (1982). However, the operation of such institutions in Rhode Island has not been specified by the Board in section 225.4(a) of Regulation Y as permissible generally for bank holding companies.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than March 8, 1983.

Board of Governors of the Federal Reserve System, February 14, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-4158 Filed 2-16-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Annual Revision of Poverty Income Guidelines

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: This notice provides a revision of the Federal poverty income guidelines to account for increases in the Consumer Price Index, and to reflect minor technical changes made by the Censes Bureau in the poverty definition.

DATE: Effective February 17, 1983.

ADDRESS: Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: For information about the poverty guidelines in general, contact George Grob (telephone: (202) 245-7150); or Joan Turek-Brezina (telephone: (202) 245-6141). Questions pertaining to the application of these guidelines to an individual program should be referred to the Federal office which is responsible for that program.

This notice provides the 1983 revision of the poverty income guidelines required by sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981. (The 1982 revision of those guidelines was published in the **Federal Register** for April 9, 1982, at 47 FR 15417.) As required by the statute, this revision reflects changes in the Consumer Price Index; it was accomplished using the same methodology used in previous years, applied to the slightly modified poverty definition recently adopted by the Census Bureau.

These poverty income guidelines are used as an eligibility criterion by a number of Federal programs. For some programs, however, the poverty guidelines are only one of several eligibility criteria used; for others, the guidelines may be modified (e.g., multiplied by 130%). Such other eligibility criteria or program-specific modifications in the application of these guidelines are described in the authorizing legislation or regulations for the programs in question. These poverty income guidelines may not become effective for certain programs until a regulation or notice specifically applying to the program in question has been issued.

The Bureau of the Census announced several technical changes in the official statistical definition of poverty in the **Federal Register** for December 28, 1981, at 46 FR 62674; these changes were incorporated into the poverty statistics from the Current Population Survey beginning with estimates for calendar year 1981, issued in July 1982. Two of the three changes announced directly affect the revision of the annual poverty income guidelines: (1) The farm/nonfarm distinction has been eliminated; and (2) the statistical poverty matrix has been expanded so that the upper limit for the guidelines matrix is now eight persons rather than six persons. In accordance with the first of these changes, any references in legislation or regulation to nonfarm income poverty guidelines or thresholds shall be deemed to refer to the single set of guidelines given below, as indicated in the Bureau of the Census **Federal Register** announcement.

1983

POVERTY INCOME GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII

Size of family unit	Poverty guideline
1	$4,860
2	6,540
3	8,220
4	9,900
5	11,580
6	13,260
7	14,940
8	16,620

For family units with more than 8 members, add $1,680 for each additional member.

POVERTY INCOME GUIDELINES FOR ALASKA

Size of family unit	Poverty guideline
1	$6,080
2	8,180
3	10,280
4	12,380
5	14,480
6	16,580
7	18,680
8	20,780

For family units with more than 8 members, add $2,100 for each additional member.

POVERTY INCOME GUIDELINES FOR HAWAII

Size of family unit	Poverty guideline
1	$5,600
2	7,530
3	9,460
4	11,390
5	13,320
6	15,250
7	17,180
8	19,110

For family units with more than 8 members, add $1,930 for each additional member.

The following definitions, derived from U.S. Bureau of the Census, *Current Population Reports*, Series P-60, Nos. 91, 124, and 130, are made available for use in connection with the poverty income guidelines. Some programs may use somewhat different versions of these definitions, as noted in their authorizing legislation or regulations.

(a) *Size of family unit.* In conjunction with the Federal poverty income guidelines, a family unit of size one is an unrelated individual (as defined by the Census Bureau)—i.e., a person 15 years old or over (other than an inmate of an institution) who is not living with any relatives. An unrelated individual may be the sole occupant of a housing unit, or may be residing in a housing unit (or in group quarters such as a rooming house) in which one or more persons also reside who are not related to the individual in question by birth, marriage, and/or adoption. (Examples of unrelated individuals residing with others include a lodger, a foster child, a ward, or an employee.) Family units of size greater than one include only persons related by birth, marriage, and/or adoption who reside together; all such related persons are considered as members of one family. (If a household includes more than one family and/or more than one unrelated individual, the poverty guidelines are applied separately to each family and/or unrelated individual, and not to the household as a whole.)

(b) *Income.* Refers to total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. These receipts include net receipts from nonfarm or farm self-employment (e.g., receipts from own business or farm after deductions for business or farm expenses). They include regular payments from public assistance (including Supplemental Security

Income), social security or railroad retirement, unemployment and workers' compensation, strike benefits from union funds, veterans' benefits, training stipends, alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions, and regular insurance or annuity payments; and income from dividends, interest, rents, royalties, or periodic receipts from estates or trusts. For eligibility purposes, income does not refer to the following money receipts: capital gains; any assets drawn down as withdrawals from a bank, sale of property, house, or car; tax refunds, gifts, lump-sum inheritances, one-time insurance payments, or compensation for injury. Also excluded are non-cash benefits, such as employer-paid health insurance and other employee fringe benefits, food or rent received in lieu of wages, the value of food and fuel produced and consumed on farms, and the imputed value of rent from owned-occupied nonfarm of farm housing.

Dated: February 10, 1983.

Thomas R. Donnally, Jr.,

Acting Secretary.

[FR Doc. 83-4132 Filed 2-16-83; 8:45 am]

BILLING CODE 4150-04-M

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of March 1983:

Name: Health Services Research Review Subcommittee.

Date and time: March 3-4, 1983, 8:30 a.m.

Place: Bethesda Marriott Hotel, Chevy Chase Room, 5151 Pooks Hill Road, Bethesda, Maryland 20814. Open March 4, 8:30 a.m.-9:30 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda: The open session of the meeting on March 4, 1983 will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Anthony Pollitt, Ph. D., National Center for Health Services Research, Room 1-52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3091.

Name: Health Care Technology Study Section.

Date and time: March 7-8, 1983, 8:30 a.m.

Place: Bethesda Marriott, 51 Pooks Hill Road, Bethesda, Maryland 20814, 301-897-9400. Open March 7, 8:30 a.m. to 9:30 a.m. Closed for remainder of meeting.

Purpose: The Committee is charged with the initial review of health research grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research (NCHSR).

Agenda: The open session of the meeting on March 7, 1983 will include a presentation by the Director, NCHSR, and a business meeting covering administrative matters and reports. The closed portion of the meeting will be utilized in a review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, Room 1-52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3091.

Name: Health Services Developmental Grants Review Subcommittee.

Date and time: March 13-15, 1983.

Place: Washington Circle Inn, Rock Creek Room, 2430 Pennsylvania Avenue, NW., Washington, D.C. Open March 13, 8:30 p.m. to 10:00 p.m. and March 14, 8:30 a.m. to 9:30 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda: The open session of the meeting on March 13 and 14 will be devoted to a business meeting covering administrative matters and reports. During the closed sessions the Subcommittee will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Ms. Elinor Walker, National Center for Healath Services Research, Room 1-52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3091.

Agenda items are subject to change as priorities dictate.

Dated: February 7, 1983.

John E. Marshall,

Director, National Center for Health Services Research.

[FR Doc. 83-4093 Filed 2-16-83; 8:45 am]

BILLING CODE 4160-17-M

National Center for Health Services Research; Notice of Assessment of Medical Technology

The Public Health Service (PHS) through the Office of Health Technology Assessment (OHTA) announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, appropriateness, and use (indications) of programmable or multiprogrammable cardiac pacemakers vs. standard pacemakers. Specifically, we are interested in the medical indications for the: (1) Implantation of programmable pacemakers; and (2) use of the newer programmable and multiprogrammable pacemakers including those with the capacity to monitor themselves while in use.

For the purposes of this announcement, programmable or multiprogrammable cardiac pacemakers are defined as those that have an implantable pulse generator that can be activated, adjusted, and controlled noninvasively to vary the output and produce a stable, but reversible change in pacemaker function. Programmable pulse generators can be varied according to the functions designed by the manufacturers such as the rate; impulse, amplitude, or duration; sensitivity, refractory period and hysteresis; and pacing mode. Usually, the hand-held programmer, a noninvasive device external to the pulse generator, is used to send a preselected coded message to the implanted pulse generator to change the pacemaker function. The message may be transmitted by: magnetic field (continuous or pulsed), radio frequency waves, or ultrasound (via crystal oscillators).

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCHA) in establishing Medicare coverage policy. Any person or group wishin to provide OHTA with information relevant to this assessment

should do so in writing no later than May 30, 1983, or approximately 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies since 1979, and other information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology. Proprietary information is not being sought.

Written material should be submitted to: Office of Health Technology Assessment, Park Bldg., Room 3–10, Stop #2, 5600 Fishers Lane, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Dr. Rita K. Chow, Health Science Analyst, at the above address or by telephone (301) 433–4990.

Dated: January 27, 1983.

Harold Margulies,

Director, Office of Health Technology Assessment National Center for Health Services Research.

[FR Doc. 83–4082 Filed 2–16–83; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–83–694]

Little Rock Area Office; Designation of Authority

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of order of succession.

SUMMARY: The Area Manager is designating officials who may serve as Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager.

EFFECTIVE DATE: This designation is effective November 24, 1982.

FOR FURTHER INFORMATION CONTACT: Nancy J. Mattox, Director, Management and Budget Division, Office of Regional Administration, Fort Worth Regional Office, Department of Housing and Urban Development, 221 West Lancaster Ave., Box 2905, Fort Worth, TX 76113, Phone (817) 870–5451 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Designation

Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence, disability, or vacancy in the position of the Area Manager, with all the powers, functions and duties redelegated or assigned to the Area Manager: Provided, that no official is authorized to serve as Acting Area Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position: 1. Deputy Area Manager, 2. Area Consel, 3. Director, CPD Division, 4. Director, Fair Housing & Equal Opportunity Division, and 5. Director, Housing Division.This designation supersedes the designation effective March 13, 1981.

(Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971)

Dated: February 14, 1983.

John T. Suskie,

Area Manager, Little Rock Area Office.

Dick Eudaly,

Regional Administrator, Region VI.

[FR Doc. 83–4112 Filed 2–16–83; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Montana and North Dakota; Availability of Final Environmental Impact Statement and Call for Filing of Surface Owner Consents in the Fort Union Coal Production Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM), Department of the Interior, has prepared a final environmental impact statement (EIS) on seven production maintenance/bypass tracts and 17 new production tracts located in Montana and North Dakota.

In addition, BLM is issuing a call for submission to the BLM of written surface owner consents given by qualified surface owners that would permit mining of Federal coal on the identified tracts where the Federal coal is overlain by privately owned surface. Qualified surface owners also have the opportunity to submit written refusals to consent. The legal descriptions of all the tracts considered for regional lease sale in the final EIS are provided in Appendix A of this Notice.

DATES: The dates for filing valid surface owner consent agreements, or evidence thereof, shall be published in the Federal Register following establishment of a lease sale schedule.

FOR FURTHER INFORMATION CONTACT: Lloyd Emmons, Team Leader, Fort Union Regional Coal EIS, Billings, Montana at the address given below.

ADDRESSES: Single copies of the final EIS may be obtained from and are available for inspection at the following addresses:

Montana State Office Public Room, Bureau of Land Management, 222 North 32nd Street, Billing, Montana 59107

Dickinson District Office, Gate City Savings & Loan Building, 204 Sims Street, P.O. Box 1229, Dickinson, North Dakota 58601

Miles City District Office, Bureau of Land Management, West of Miles City on Garry Owen Road, P.O. Box 940, Miles City, Montana 59301

Office of Public Affairs, Bureau of Land Management, 18th & C Streets, NW., Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: The final statement analyzes environmental impacts that could result from leasing Federal coal in the Fort Union Coal Region. The statement further analyzes the environmental impacts that could result from the implementation of each of six alternatives. The regional implications of the Woodson Preference Right Lease Application and Meridian Land and Mineral Company's proposed coal exchange are also analyzed in conjunction with Alternative 3. The alternatives are as follows:

Alternative 1. No action or production maintenance/bypass (203.2 million tons).

Alternative 2. Production maintenance/bypass (203.2 million tons) plus five new production tracts (510.4 million tons) totaling 713.6 million tons.

Alternative 3. Production maintenance/bypass (203.2 million tons) plus nine new production tracts (790.2 million tons) total 993.4 million tons.

Alternative 4. Production maintenance/bypass (203.2 million tons) plus nine new production tracts (822.4 million tons) totaling 1025.6 million tons.

Alternative 5. Production maintenance/bypass (203.2 million tons) plus 11 new production tracts (1031.6 million tons) totaling 1234.8 million tons.

Alternative 6. Production maintenance/bypass (203.2 million tons) plus all the new production tracts (1600.0 million tons) totaling 1803.2 million tons.

In accordance with 43 CFR Part 3427 of the coal management regulations, the BLM is also requesting that written surface consent agreements, or evidence

thereof, given by qualified surface owners for lands within the region be submitted to the appropriate BLM State Office at the address given above. Valid written consent for lands in which the ownership of the surface is held by qualified surface owners, where the ownership of the underlying coal is reserved to the Federal Government, will be accepted until a yet-to-be determined date prior to the lease sale for the specific lands involved. The actual deadline for submission of written consents shall be determined after the lease sale dates have been established, and shall be published in the **Federal Register.** It is the responsibility of parties intending to file consents to be aware of pending lease sale dates, as set forth in an announced regional lease sale schedule, and deadlines for submission of written consents as announced in the **Federal Register.** Section 714(c) of the Surface Mining Control and Reclamation Act (SMCRA) states that, "The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent."

As defined in the regulations (43 CFR 3400.0–5(gg)), qualifed surface owner "means the natural person or persons (or corporation, the majority stock of which is held by a person or persons) who:

(1) Hold legal or equitable title to the surface of split estate lands;

(2) Have their principal place of residence on the land; or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operation; and

(3) Have met the conditions of paragraphs (gg) (1) and (2) of this subsection for a period of at least 3 years, except for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (gg) (1) and (2) of this section. In computing the 3-year period the authorized officer shall include periods during which title was owned by a relative of such person by blood or marriage if, during such periods, the relative would have met the requirements of this subsection.

Valid written consent is defined in the regulations (43 CFR 3400.0–5(qq)) as "the document or documents that a qualified surface owner has signed that: (1) Permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for the permission, including in-kind considerations; (3) describe any consideration given in terms of type or method of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) contain a full and accurate description of the area covered by the permission."

As required by 43 CFR 3427.2(d), it is the Bureau's responsibility to review all consents received. The Bureau will verify that the named surface owner is a qualified owner as defined in the regulations and that the title for split estate lands described in the filing is held by the named qualified owner(s). In addition, to be considered valid, consents entered into after the August 3, 1977, enactment of the Surface Mining Control and Reclamation Act must be transferable to whomever makes the successful bid in a lease sale for the tract that includes the lands to which the consent applies. A written consent shall be considered transferable only if it provides that after the lease sale for the tract to which the consent applies (i) The successful bidder shall assume all rights and obligations of the holder of the consent, including the obligation to make all payments to the grantor of the consent and to reimburse the holder of the consent for all money previously paid to the grantor under the consent contract; and (ii) neither the holder nor the grantor of the consent has any right under the consent contract to prevent the successful bidder from assuming the rights and obligations of the holder of the consent by imposing additional costs or conditions or otherwise. If a filing is from anyone other than the named qualified surface owner, the Bureau shall contact the named qualified surface owner and request confirmation, in writing, that the filed, transferable, written consent, or evidence thereof, to enter and commence surface mining has been granted and that the filing fully discloses all of the items of the written consent.

To facilitate the filing and review of written consents from qualified surface owners, the person submitting the consent is asked to include a statement that the evidence submitted represents a true, accurate, and complete statement of information regarding the consent for the area described. Such a validation statement is required by 43 CFR 3427.3. The statement is to be signed and dated by the person submitting the consent and can be either incorporated directly into the consent document or enclosed as a separate item submitted with the consent document. The statement can be worded as follows: "I (We) hereby declare that the evidence submitted, to the best of my (our) knowledge, represents a true, accurate, and complete statement of information regarding the surface owner consent for the area described." This validation statement does not have to be witnessed or notarized.

A qualified surface owner that has not been contacted by, or requested to enter into any agreement with, a private party and who may wish to give consent to enter and commence surface coal mining may prepare, sign, and submit a consent document to the BLM Montana State Office. The consent document should include the information and requirements specified earlier in this Notice in order to constitute a valid written consent as defined in the coal regulations (43 CFR 3400.0–5(qq)) and must indicate any specific terms the surface owner may request to allow permission to enter and commence surface coal mining. This unilateral consent document must be signed by a private party prior to the deadline for the filing of consents for the area affected, or the area affected will not be offered for lease sale.

In accordance with 43 CFR 3427.2(a)(2), written statements from qualified surface owners who refuse to consent to coal leasing may be filed with the Montana State Office at the address given above. Early submission of a refusal to consent, hereby disqualifying the specified lands from further leasing consideration, will deter pressure from persons or parties seeking to enter into a consent agreement and will prevent continued inquiries by the BLM of the status of surface owner consent for the specified lands.

A Secretarial decision for leasing in the Fort Union Region is expected in May 1983 after filing of the final EIS. As part of that decision, the Secretary may choose to hold a series of lease sales beginning in July 1983.

Dated: January 28, 1983.

Robert F. Burford,

Director, Bureau of Land Management.

Approved: February 7, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

Appendix A.—Fort Union Coal Region Legal Description of Federal Coal Tracts

Tracts Included in Preferred Alternative:

Maintenance tracts

Antelope

T. 145 N., R. 87 W., 5th P.M.,
Sec. 6, SE¼;
Sec. 20, NW¼;
Sec. 32, NE¼, NE¼SE¼;
Sec. 34, NE¼NE¼.
T. 145 N., R. 88 W., 5th P.M.,
Sec. 2, lot 1, SE¼NE¼.

Center

T. 142 N., R. 83 W., 5th P.M.,
Sec. 30, lot 4.
T. 141 N., R. 84 W., 5th P.M.,
Sec. 2, lots 3, 4, SW¼NW¼;
Sec. 10; N½NE¼, NE¼NW¼.
T. 142 N., R. 84 W., 5th P.M.,
Sec. 14, NE¼, N½NW¼, N½S½NW¼, SE¼SW¼NW¼, S½SE¼NW¼;
Sec. 20, N½NE¼, SW¼NE¼, NW¼.

Glenharold

T. 143 N., R. 83 W., 5th P.M.,
Sec. 20, NW¼SE¼, S½SW¼;
Sec. 30, lots 1, 2, 3, 4, NE¼NE¼, SE¼NW¼, NE¼SW¼.
T. 143 N., R. 84 W., 5th P.M.,
Sec. 6, lot 5, SW¼NE¼, SE¼NW¼, SE¼;
Sec. 8, E½, N½NW¼, S½SW¼;
Sec. 14, SW¼SE¼;
Sec. 18, lots 1, 2, 3, 4, NW¼NE¼, E½W½, W½SE¼;
Sec. 22, S½SW¼;
Sec. 24, SE¼NW¼, NE¼SW¼, SW¼SW¼, NE¼SE¼, S½SE¼;
Sec. 26, all;
Sec. 28, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼;
Sec. 30, lot 1, NW¼NE¼, NE¼NW¼.
T. 144 N., R. 84 W., 5th P.M.,
Sec. 28, SW¼, NW¼SE¼.
T. 143 N., R. 85 W., 5th P.M.,
Sec. 24, NW¼.

North Beulah

T. 144 N., R. 88 W., 5th P.M.,
Sec. 10, SW¼, NW¼SE¼, S½SE¼;
Sec. 14, N½SW¼, SW¼SW¼;
Sec. 20, SE¼NE¼;
Sec. 22, N½NE¼, SW¼NE¼, NW¼.

Renner

T. 145 N., R. 87 W., 5th P.M.,
Sec. 32, NW¼SW¼, S½SW¼.
T. 144 N., R. 88 W., 5th P.M.,
Sec. 2, lots 3, 4, S½NW¼, NW¼SE¼;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, N½SW¼;
Sec. 18, lot 1, N½NE¼, NE¼NW¼.
T. 145 N., R. 88 W., 5th P.M.,
Sec. 4, lot 4, SW¼NW¼, SW¼;
Sec. 22, all;
Sec. 26, N½NE¼, SW¼NE¼, W½, NW¼SE¼;
Sec. 28, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 32, NE¼NW¼, S½NW¼, SW¼;
Sec. 34, N½N½, SE¼NE¼, SW¼, NE¼SE¼, S½SE¼.
T. 144 N., R. 89 W., 5th P.M.,
Sec. 2, lots 2, 3, 4, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 10, E½, N½NW¼, SE¼NW¼;
Sec. 12, all;
Sec. 14, N½.

Schoolhouse

T. 142 N., R. 87 W., 5th P.M.,
Sec. 4, lots 1, 4;
Sec. 6, lots 1, 2, 3, 4.
T. 143 N., R. 87 W., 5th P.M.,
Sec. 6, N½SE¼, SE¼SE¼;
Sec. 8, E½NE¼, NW¼NW¼, S½SE¼;
Sec. 20, NW¼NE¼, S½NE¼, N½SE¼;
Sec. 28, NE¼SW¼, S½SW¼;
Sec. 30, lots 3, 4, NW¼NE¼, S½NE¼, E½SW¼, SE¼;
Sec. 32, NW¼;
Sec. 34, N½, SW¼, N½SE¼, SW¼SE¼.
T. 143 N., R. 88 W., 5th P.M.,
Sec. 2, SW¼;
Sec. 10, SE¼SE¼;
Sec. 14, NW¼NW¼, E½SW¼NW¼, SE¼NW¼, E½W½SW¼, E½SW¼;
Sec. 24, NW¼NW¼, S½NW¼, SW¼, S½SE¼;
Sec. 26, NE¼NE¼NE¼.

Underwood

T. 146 N., R. 81 W., 5th P.M.,
Sec. 30, lot 4, SE¼SW¼, S½SE¼.
T. 146 N., R. 82 W., 5th P.M.,
Sec. 2, lot 4, S½NW¼;
Sec. 3, lots 1, 2, S½NE¼, SE¼;
Sec. 6, NE¼SE¼;
Sec. 10, E½;
Sec. 24, NE¼NW¼;
Sec. 34, NE¼NE¼, NW¼SW¼, S½SW¼.

New Mine Development Tracts

Bloomfield

T. 20 N., R. 53 E., P.M.M.,
Sec. 8, all;
Sec. 10, all;
Sec. 14, NE¼, N½NW¼, SW¼NW¼;
Sec. 18, NE¼NE¼;
Sec. 22, N½, SE¼.
T. 21 N., R. 53 E., P.M.M.,
Sec. 30, lots 3, 4, E½SW¼, SE¼;
Sec. 32, all.

Circle West III

T. 19 N., R. 44 E., P.M.M.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 8, NE¼NE¼, S½NE¼, E½SW¼, SE¼;
Sec. 10, all;
Sec. 12, N½, N½SW¼, SE¼SW¼, SE¼.
T. 20 N., R. 44 E., P.M.M.,
Sec. 24, E½NE¼, E½SW¼, SE¼;
Sec. 26, S½SW¼, SW¼SE¼;
Sec. 34, S½NE¼, S½.
T. 19 N., R. 45 E., P.M.M.,
Sec. 6, lots, 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, N½, W½SW¼;
Sec. 18, N½NE¼, E½NW¼.
T. 20 N., R. 45 E., P.M.M.,
Sec. 4, SW¼NW¼, W½SW¼;
Sec. 8, NE¼, NE¼NW¼, S½NW¼, SW¼, N½SE¼;
Sec. 18, E½, E½SW¼;
Sec. 20, E½NE¼, NW¼, S½;
Sec. 30, lots 1, 2, 3, 4, E½, E½W½;
Sec. 32, N½NE¼, SW¼NE¼, NW¼, S½;
Sec. 33, SW¼SW¼.

South Wilbaux-Beach

T. 13 N., R. 60 E., P.M.M.,
Sec. 2, lots 1, 2, 3, 4, S½NE¼, N½SE¼;
Sec. 10, NE¼NE¼, S½NE¼, E½SW¼, SE¼;
Sec. 12, N½, SW¼;
Sec. 14, NE¼, NE¼SW¼;
Sec. 24, S½SW¼.
T. 14 N., R. 60 E., P.M.M.,
Sec. 26, S½SE¼;
Sec. 28, NW¼NW¼, S½NW¼, S½;
Sec. 34, W½.
T. 13 N., R. 61 E., P.M.M.,
Sec. 6, lots 1, 2, 3, 4;
Sec. 18, lots 1, 2;
Sec. 30, lots 1, 2, 3, 4.
T. 139 N., R. 106 W., P.M.,
Sec. 10, lots 1, 2, 3, 4;
Sec. 14, NW¼;
Sec. 22, lots 1, 2, 3, 4.
T. 140 N., R. 106 W., P.M.,
Sec. 34, lots 3, 4.

Dunn Center

T. 144 N., R. 93 W., P.M.,
Sec. 4, lots 1, 2, 3, 4, S½N½, SE¼;
Sec. 6, lots 4, 5, 6, E½SW¼;
Sec. 8, W½NE¼, NW¼, SE¼;
Sec. 18, lots 1, 2, 3, 4, E½W½, SE¼.
T. 145 N., R. 93 W., P.M.,
Sec. 32, all;
Sec. 34, N½, SE¼.
T. 143 N., R. 94 W., P.M.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½.
T. 144 N., R. 94 W., P.M.,
Sec. 2, lots 1, 2, S½NE¼, SE¼;
Sec. 10, NW¼, S½;
Sec. 12, all;
Sec. 14, NE¼, S½;
Sec. 22, all;
Sec. 24, all;
Sec. 26, all;
Sec. 28, NE¼NW¼, SE¼;
Sec. 32, SE¼SE¼;
Sec. 34, all.

Garrison

T. 149 N., R. 84 W., 5th P.M.,
Sec. 5, SE¼SE¼;
Sec. 7, NE¼;
Sec. 8, SW¼;
Sec. 9, W½NE¼;
Sec. 15, W½SW¼;
Sec. 17, SE¼.
T. 149 N., R. 85 W., 5th P.M.,
Sec. 3, E½SE¼;
Sec. 4, NW¼SE¼;
Sec. 9, E½NW¼,N½SW¼,SE¼SW¼;
Sec. 13, N½SW¼, SW¼SW¼;
Sec. 15, SE¼;
Sec. 24, W½NW¼, NW¼SW¼.

Sakakawea

T. 148 N., R. 84 W., 5th P.M.,
Sec. 13, NW¼;
Sec. 14, E½NE¼;
Sec. 23, SW¼NW¼.

Truax

T. 145 N., R. 86 W., 5th P.M.,
Sec. 2, SE¼NW¼, NE¼SW¼, S½SW¼;
Sec. 4, lots 2, 3, 4, S½NW¼, SW¼SW¼;
Sec. 6, lots 3, 4, 5, SE¼NW¼;
Sec. 8, E½E½, NW¼NW¼, SE¼NW¼, SE¼SW¼, SW¼SE¼;
Sec.10, NW¼NW¼, S½NW¼;
Sec. 18, E½;
Sec. 20, SW¼;
Sec. 26, E½SE¼
T. 146 N., R. 86 W., 5th P.M.,
Sec. 32, E½E½;
Sec. 34, SE¼;
Sec. 36, NE¼, SW¼, N½N½SE¼.

Werner

T. 145 N., R. 92 W., 5th P.M.,
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
T. 145 N., R. 93 W., 5th P.M.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½
Sec. 4, lots 1, 2, S½NE¼, S½;
Sec. 8, NW¼, S½;
Sec. 10, all;
Sec. 12, N½, SW¼.

Tracts Included in Other Alternatives in the Fort Union EIS

Circle West I

T. 20 N., R. 44 E., P.M.M.,
Sec. 24, E½ NE¼, E½SW¼, SE¼.
T. 19 N., 45 E., P.M.M.,
Sec. 8, N½, W½SW¼.
T. 20 N., R. 45 E., P.M.M.,
Sec. 4, SW¼NW¼, W½SW¼;
Sec. 8, NE¼, NE¼NW¼, S½NW¼, SW¼, N½SE¼;
Sec. 18, E½, E½SW¼;
Sec. 20, E½NE¼, NW¼, S½;
Sec. 30, lots 1, 2, 3, 4, E½, E½W½;
Sec. 32, N½NE¼, SW¼NE¼, NW¼, S½;
Sec. 33, SW¼SW¼.

Circle West II

T. 19 N., R. 44 E., P.M.M.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 8, NE¼NE¼, S½NE¼, E½SW¼, SE¼;
Sec. 10 all;
Sec. 12, N½ N½SW¼, SE¼SW¼, SE¼.
T. 20 N., R. 44 E., P.M.M.,
Sec. 26, S½SW¼, SW¼SE¼;
Sec. 34, S½NE¼, S½.
T. 19 N., R. 45 E., P.M.M.,
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec.18, N½ NE¼, E½NW¼.

North Wibaux-Beach

T. 14 N., R. 60 E., P.M.M.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½ NE¼, SW¼NW¼, NW¼SW¼;
Sec. 6, lot 1;
Sec. 10, E½E½, NW¼NE¼, N½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 12, NW¼, S½;
Sec. 14, all;
Sec. 22, E½E½, NW¼NE¼;
Sec. 24, NW¼, NW¼SW¼, SE¼;
Sec. 26, N½ NW¼.
T. 15 N., R. 60 E., P.M.M.,
Sec. 26, S½;
Sec. 28, E½SE¼;
Sec. 32, E½, E½W½, SW¼NW¼;
Sec. 34; N½, NW¼SW¼, S½SW¼, NE¼SE¼.
T. 14 N., R. 61 E., P.M.M.,
Sec. 6, lots 1, 2, 3, 4;
Sec. 18, lots 1, 2.
T. 15 N., R. 61 E., P.M.M.,
Sec. 30, lots 1, 2, 3, 4.
T. 141 N., R. 105 W., 5th P.M.,
Sec. 18, lots 1, 2, 3, 4, S½N½NE¼, S½NE¼, E½W½;
Sec. 20, W½E½NE¼, W½NE¼, S½;
Sec. 30, lot 1, E½, E½NW¼;
Sec. 32, W½.
T. 140 N., R. 106 W., 5th P.M.,
Sec. 2, lots 5, 6, 11, 12;
Sec. 10, lots 1, 2.

Redwater I

T. 19 N., R. 48 E., P.M.M.,
Sec. 2, lots 1, 2, 3, S½N½, S½;
Sec. 12, N½NE¼, NW¼, N½SW¼, SW¼SW¼.
T. 20 N., R. 48 E., P.M.M.,
Sec. 2, SW¼'
Sec. 12, S½ NW¼, SW¼;
Sec. 14, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 24, N½, NE¼SE¼.
T. 19 N., R. 49 E., P.M.M.,
Sec. 2, lot 1, SE¼NE¼, NE¼SE¼;
Sec. 4, lots 1, 2, 3, 4, SW¼NE¼, S½NW¼, NE¼SW¼, SW¼SW¼;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, all.
T. 20 N., R. 49 E., P.M.M.,
Sec. 18, lots 1, 2, 3, 4, NE¼, E½W½, NW¼SE¼, S½SE¼;
Sec. 20, all;
Sec. 22, all;
Sec. 23, NW¼NE¼, S½N½, NE¼NW¼, E½SE¼;
Sec. 24, all;
Sec. 26, N½, NE¼SW¼, E½SE¼;
Sec. 28, all;
Sec. 30, lots 3, 4, E½, E½W½;
Sec. 32, all;
Sec. 34, W½.

Redwater II

T. 21 N. R. 48 E., P.M.M.,
Sec. 26, S½NE¼, SE¼;
Sec. 34, SE¼.
T. 20 N., R. 49 E., P.M.M.,
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;l
Sec. 8, NE¼, N½NW¼, SE¼NW¼;
Sec. 10, all;
Sec. 12, all;
Sec. 14, all.
T. 21 N., R. 49 E., P.M.M.,
Sec. 20, S½SW¼, SW¼SE¼;
Sec. 22, E½, E½W½, W½SW¼;
Sec. 24, SW¼NW¼, N½ SW¼, SW¼SW¼;
Sec. 26, N½, N½S½, S½SW¼;
Sec 28, all;
Sec. 30, E½NE¼, SE¼;
Sec. 32, all;
Sec. 34, N½, N½SW¼, SW¼SW¼, NW¼SE¼.

Southwest Glendive

T. 15 N., R. 53 E., P.M.M.,
Sec. 10, SE¼NE¼;
Sec. 14, NE¼, E½NW¼, S½;
Sec. 22, all;
Sec. 24, NW¼;
Sec. 26, N½ N½SW¼, SE¼SW¼, SE¼l
T. 16 N., R. 53 E., P.M M.,
Sec. 10, N½NE¼, SW¼NE¼, W½;
Sec. 14, S½NE¼, NW¼, S½;
Sec. 22, NE¼NE¼, NE¼SE¼;
Sec. 24, W½E½, W½, SE¼SE¼;
Sec. 26, NE¼, NE¼NW¼.
T. 14 N., R. 54 E., P.M.M.,
Sec. 4, lots 3, 4, SW¼NE¼, S½NW¼, N½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 6, lot 1, SE¼NE¼, NE¼SE¼;
Sec. 8, N½NE¼, NE¼NW¼.
T. 15 N., R. 54 E., P.M.M.,
Sec. 6, lots 6, 7, E½SW¼, S½SE¼;
Sec. 8, NW¼NE¼, W½, SW¼SE¼;
Sec. 20, all;
Sec. 28, W½NW¼;
Sec. 30, lots 1, 2, 3, 4, E½, E½W½;
Sec. 32, all.
T. 16 N., R. 54 E., P.M.M.,
Sec. 30, lots 1, 2, 4, SE¼SW¼, S½SE¼;
Sec. 32, lots 1, 2, NW¼NW¼, S½NW¼, N½SW¼.

Zenith

T. 139 N., R. 98 W., 5th P.M.,
Sec. 8, SW¼NW¼,NW¼SE¼NW¼, S½SE¼NW¼, N½SW¼, S½S½;
Sec. 18, lots 1, 2, 3, 4, E½, E½, W½;
Sec. 20, all;
Sec. 30, lots 1, 2, 3, 4, E½W½.
T. 139 N., R. 99 W., 5th P.M.,
Sec. 2, N½S½S½SE¼;
Sec.10, SW¼;
Sec. 12, N½, SE¼;
Sec. 22, NE¼, S½;
Sec. 24, N½, SE¼;
Sec. 26, all;
Sec. 28, S½.

These tract descriptions may be slightly altered during finalization of the lease sale notice.

[FR Doc. 83-4101 Filed 12-16-83; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[No. MC-F-15106]

Motor Carriers; Robert H. Fates—Continuance in Control Exemption—R. C. Service, Inc., and Allen Freight Lines, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343*, 363 I.C.C. 113 (1928), Robert H. Fates seeks an exemption from the requirement under section 11343 of prior regulatory approval of his continuance in control of R. C. Service, Inc. (No. MC-152082), and Allen Freight Lines, Inc. (No. MC-164771), upon the latter becoming a motor carrier subject to the jurisdiction of the Commission.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative, Thomas M. O'Brien, Sullivan & Associates, Ltd., 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601.

Comments should refer to No. MC-F-15106.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the

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offices of the Interstate Commerce Commission during usual business hours.

Decided: February 9, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4143 Filed 2-16-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.— All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-238

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 2934 (Sub-3-55TA), filed February 3, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Electronic Instruments:* between points in the U.S. (excluding AK and HI), under continuing contracts with Leeds & Northrup Instruments (Florida Operations), 300 Old Roosevelt Road, St. Petersburg, FL 33702. Supporting shipper: Leeds & Northrup Instruments (Florida Operations), 300 Old Roosevelt Road, St. Petersburg, FL 33702.

MC 166038 (Sub-3-1TA), filed February 3, 1983. Applicant: AMERICAN TARA CORPORATION, 5667 New Peachtree Rd., Atlanta, GA 30341. Representative: Bruce E. Mitchell, Suite 520, 3390 Peachtree Rd. NE., Atlanta, GA 30326. *Irregular routes: Contract carrier: business forms, stock tabs, and related materials, equipment and supplies used by office business supply houses,* between the facilities of Coastal Stock Tab Company, at or near Georgetown, DE and Atlanta, GA under contract or continuing contracts with Coastal Stock Tab Company of Georgetown, DE.

MC 165917 (Sub-3-1TA), filed February 3, 1983. Applicant: B & H VAN LINES, INC., 524 Cooper Street, Asheboro, NC 27203. Representative: Albert R. Byrd, Rt. 2, Box 351-A, Pleasant Garden, NC 27313. *New & Used Household Goods;* between Randolph and Guilford Counties, NC on the one hand, and on the other, points in: SC, GA, FL, AL, LA, MS, TN, VA, WV, KY, OH, PA, NY, NJ, DE, and MD. Supporting shippers: There are 6 support statements attached to this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 166069 (Sub-3-1TA), filed February 4, 1983. Applicant: TROSPER TRUCKING, INC., 130 Edgewood, Ripley, TN 38063. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Flanges* from the facilities of Gulf-Western, Taylor Forge Division, at or near Cicero, IL, to facilities of Taylor Forge Division at or near Memphis, TN. Supporting shipper: Gulf-Western, Taylor Forge Division, 5577 Tay-For Rd., Memphis, TN 38127.

The following applications were filed in Region 4. Send protests to: ICC Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 65210 (Sub-4-2TA), filed February 3, 1983. Applicant: SPARTA-LACROSSE TRUCK LINES, INC., Route 5, Box 468, Sparta, WI 54656. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705-0086, 608-238-3119. *Paper products and plastic products* from New Berlin and Beloit, WI to Waukon and Lansing, IA and Spring Grove, MN. An underlying ETA seeks 120 day authority. Supporting shipper: Northern Engraving Corporation, 803 South Black River Street, Sparta, WI 54656.

MC 97932 (Sub-4-8TA), filed February 2, 1983. Applicant: WREN, INC., d.b.a. LAKEVILLE MOTOR EXPRESS, P.O. Box 8167, Roseville, MN 55113. Representative: Richard L. Gill, Gill and Brinkman, 1805 American National Bank Bldg., Saint Paul, MN 55101. *General commodities (except those of unusual value and Classes A and B explosives and household goods),* between Mpls.-St. Paul, MN and its commercial zone and all points in the State of WI. Applicant intends to tack with existing authority in MC 97932 (Sub-9) and intends to interline at Mpls.-St. Paul, MN. Supporting shipper: Rosemount Office Systems, Inc., P.O. Box D, Lakeville, MN 55044; Hoffman Engineering, 9th & Tyler Sts., Anoka, MN; Office Electronics, Inc., 21565 Hamburg Ave., Lakeville, MN 55044.

MC 152257 (Sub-4-6TA), filed February 3, 1983. Applicant: LORDCO TRUCKING INC., 535-F Tollgate Road, Elgin, IL 60120. Representative: Paul J. Maton, 27 E. Monroe St., Suite 1000, Chicago, Il 60603, (312) 332-0905. *Contract,* irregular, *Food and Related Products* between points in IL and WI under continuing contract(s) with Gateway Foods of LaCrosse, WI. Supporting shipper: Gateway Food, 1647 St. James, LaCrosse, WI 54601.

MC 153046 (Sub-4-1TA), filed February 3, 1983. Applicant: LAKE COUNTRY FARMS, INC., RR 2, Rice, MN 56367. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Food and related products,* between WI and Chicago, IL, on the one hand, and, on the other, points in the MN counties of Hennepin, Ramsey, Sherburne, and Wright. Shippers: Lemke Cheese Co., Inc., POB 688, Wausau, WI 54401; Wrightco, Inc., 206 W 4th St., Monticello, MN 55362; Gilgosch, Kane & Reiners, Inc., 5948 Pleasant Av. S., Minneapolis, MN 55419

MC 166031 (Sub-4-1TA), filed February 2, 1983. Applicant: KELLY KOST, d.b.a. KELLY KOST TRUCKING, Bowdon, ND 58418. Representative: Richard P. Anderson, P.O. Box 2581, Fargo, ND 58108. *Such commodities as are dealt in or used by wholesale beverage distributors* between Milwaukee County, WI, and points in the Minneapolis, MN Commercial Zone, on the one hand, and, on the other, Foster County, ND, under contract(s)

with Central Distributing Company, Inc. Supporting shipper: Central Distributing Company, Inc., 695 South 6th Street, Carrington, ND 58421.

MC 65781 (Sub-4–3TA), filed February 4, 1983. Applicant: BARRETT MOVING & STORAGE, INC., 7100 Washington Avenue South, Eden Prairie, MN 55344. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402. *Household goods, computers, displays and exhibits, energy avionic aeronautical, medical, building control, communication, and analog/digital text systems and equipment and parts, materials and supplies* used in the manufacture, distribution, sale and maintenance of these commodities between points in the United States (except AK and HI) under continuing contract with Honeywell, Inc., Honeywell Plaza, Minneapolis, MN 55408.

MC 74681 (Sub-4–1TA), filed February 4, 1983. Applicant: STEVENS VAN LINES, INC., 121 South Niagara Street, Saginaw, MI 48602. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036. Transporting General Commodities (except Class A & B Explosives) between points in the U.S., under continuing contract(s) with Picker International, Inc. of Cleveland, OH.

MC 139837 (Sub-4–1TA), filed February 4, 1983. Applicant: K & I DISTRIBUTORS, INC., P.O. Box 29, New Haven, IN 46774. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. Contract: *Such commodities as are dealt in by retail appliance stores,* between the facilities of Highland Appliance Company, Inc., located at South Bend, IN, on the one hand, and, on the other, points in MI, under continuing contract(s) with Highland Appliance Company, Inc., of Taylor, MI .

MC 157240 (Sub-4–2TA), filed February 4, 1983. Applicant: KOTTKE TRUCKING, INC., P.O. Box 206, Buffalo Lake, MN 55314. Representative: Robert D. Gisvold, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. *Pet food,* between DeGraffe, MN on the one hand, and, on the other, points in IA and WI. Supporting shipper is the Supreme Pet Food Company of DeGraffe, MN.

MC 74681 (Sub-4–1TA), filed February 4, 1983. Applicant: STEVENS VAN LINES, INC., 121 South Niagara Street, Saginaw, MI 48602. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036. Transporting General Commodities (except Class A & B Explosives) between points in the U.S., under continuing contract(s) with Picker International, Inc. of Cleveland, OH.

MC 3526 (Sub-4–1TA), filed February 1, 1983. Applicant: M & R TRUCKING, INC., 17351 Halsted Drive, So. Holland, IL 60473. Representative: Philip A. Lee, 120 W. Madison St., Suite 618, Chicago, IL 60602. *Articles of Iron and Steel,* including billets, forgings and scraps, between the Chicago Commercial Zone on the one hand and on the other points and places in IL, IN, MI, WI, OH, PA, KY, TN, and AL. Supporting shippers: Velko Hinge, 9325 Kennedy Ct., Munster, IN, Stanadyne, Western Steel Division, 4000 E. 7th Ave., Gary, IN, Wyman Gordon, 14600 S. Wood St., Harvey, IL 60426.

MC 153610 (Sub-4–2TA), filed February 1, 1983. Applicant: LEASEWAY TRUCKING, INC., 1101 31st St., Downers Grove, IL 60515. Representative: Thomas B. Hill (same address as applicant) (312) 971–8400. Transporting *General commodities* (except household goods, commodities in bulk, and Classes A and B explosives), from Milwaukee, WI to points in OH, KS, MN, MI, IN, IL and IA, under continuing contract(s) with The Goodyear Tire and Rubber Company. An underlying ETA seeks 120 days' authority. Supporting shipper: The Goodyear Tire and Rubber Company, 1144 E. Market St., Akron, OH 44316.

MC 162610 (Sub-4–12TA), filed January 31, 1983. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 W. 47th Street, Lyons, IL 60534. Representative: Daniel C. Sullivan, Sullivan & Associates, Ltd., 180 N. Michigan Avenue, Chicago, IL 60601. *Contract; Irregular: Such commodities* as are dealt in by manufacturers and distributors of link chain and attachments, from Broadview, IL to points in IA, IL, IN, KS, MI, MN, MO, NE, ND, OH, SD and WI, under continuing contract(s) with Columbus McKinnon Corp. of Broadview, IL.

MC 165217 (Sub-4–3TA), filed February 1, 1983. Applicant: POSTMA CARTAGE, INC., 13550 South Indiana, Riverdale, IL 60626. Representative: Andrew K. Light, SCOPELITIS & GARVIN, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. *Food and related products (in bulk, in tank vehicles),* from Chicago, IL, and its commercial zone to Milwaukee, WI and Kalamazoo, MI. An underlying ETA seeks 120 days authority. Supporting shipper: Knappen Molasses, Division of Pacific Molasses, 13550 South Indiana, Riverdale, IL 60626.

MC 165298 (Sub-4–1TA), filed February 1, 1983. Applicant: STEVEN R. GROSSMANN d.b.a. COUNTY CAB, 16020 Lake Blvd., Center City, MN 55012. Representative: Steven R. Grossmann (same as applicant), (612) 257–4876. Transporting *items used in hospitals and clinics* as: Biological and laboratory samples, specimens, cultures, perishable bacteriogical culture media, supplies, business reports between points in MN and WI. Supporting shipper is American Red Cross, St. Paul Region Blood Services, 100 South Robert Street, St. Paul, MN 55107.

MC 165971 (Sub-4–1TA), filed January 31, 1983. Applicant: V. B. MOTOR SERVICE, INC., 9870 Franklin Avenue, Franklin Park, IL 60131. Representative: Donald B. Levine, 180 North LaSalle Street, Chicago, IL 60601. *Steel products,* between Chicago, IL and points in its commercial zone on the one hand, and, on the other, Milwaukee, Racine, Waukesha and Washington Counties, WI for 270 days. Supporting shippers—Masterform Tool Company, 9901 Franklin Avenue, Franklin Park, IL 60131, and Cylinder Components, Inc., P.O. Box 591, Wooddale, IL 60191.

MC 165977 (Sub-4–1TA), filed January 31, 1983. Applicant: WAYN THYGESON d.b.a. THYGESON TRUCKING, Middle River, MN 56737. Representative: Robert N. Maxwell, POB 2471, Fargo, ND 58108. *Malt beverages,* from St. Louis, MO and Memphis, TN to Thief River Falls, MN, for 270 days. Supporting shipper: Northwest Beverages, Inc., POB 575, Thief River Falls, MN 56701.

MC 165978 (Sub-4–1TA), filed January 31, 1983. Applicant: ACME BARREL COMPANY, INC., 2300 West 13th Street, Chicago, IL 60608. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract irregular: Steel drums,* between the facilities of PPG Industries, Inc. at or near Oak Creek, WI, on the one hand, and, on the other, points in the Chicago, IL Commercial Zone, under continuing contract(s) with PPG Industries, Inc., of Pittsburgh, PA. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222.

MC 165858 (Sub-4–1TA), filed January 31, 1983. Applicant: CHARLES MOELLER d.b.a. MOELLERS TRUCK SERVICE, Box 103, Highway 28, Bryant, SD 57221, (605) 628–2331. Representative: Same as above. Transporting *lumber* and *wood products* between points in ID, IA, MN, MT, ND, SD, WI, and WY. Supporting shipper, Sprenger Midwest, Inc., 2901 West 11th, Sioux Falls, SD 57106.

The following applications were filed in region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 33037 (Sub-5–3TA), filed February 4, 1983. Applicant: STUDER TRUCK LINE, INC., Beattie, KS 66406. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. *Fertilizer*, Between Stratford, TX on the one hand, and on the other, points in AZ, CA, LA and UT. Supporting shipper: Conklin Co., Inc., Shakopee, MN.

MC 67234 (Sub-5–45TA), filed February 2, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract irregular, *General Commodities* (except Classes A and B explosives and commodities in bulk) between points and places in the U.S. (including AK and HI) under continuing contract(s) with Volkswagen of America, Inc. Supporting shipper: Volkswagen of America, Inc., Warren, MI.

MC 67234 (Sub-5–46TA), filed February 4, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract irregular, *General Commodities (except Classes A and B explosives and commodities in bulk)* between points and places in the U.S. (including AK and HI) under continuing contract(s) with Picker International. Supporting shipper: Picker International, Highland Heights, OH.

MC 123476 (Sub-5–17TA), filed February 2, 1983. Applicant: CURTIS TRANSPORT, INC., P.O. Box 427, Arnold, MO 63010. Representative: David G. Dimit. Same address as applicant. *Liquified Petroleum Gases (LPG) in bulk, in tank vehicles*, from Douglas County, IL to St. Louis, MO. Supporting shipper: Monsanto Chemical Co., St. Louis, MO.

MC 141914 (Sub-5–24TA), filed February 4, 1983. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same as applicant). *Paper, paper products and the materials and supplies used in the manufacture thereof* between Mayes County, OK, on the one hand, and, on the other, points in and West of ND, SD, NE, KS & TX. Supporting shipper: Orchids Paper Products, La Palma, CA.

MC 147552 (Sub-5–9TA), filed February 3, 1983. Applicant: CAJUN CARTAGE AND WAREHOUSING CORPORATION, P.O. Box 10686, New Orleans, LA 70181–0686. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *General Commodities, including bulk liquid and dry bulk shipments only when moving in ocean containers (Except Classes A & B Explosives and Household Goods)*, between the commercial zones of Baton Rouge, LA, Lake Charles, LA and new Orleans, LA, on the one hand, and on the other, points in AR, MS and AL. Supporting shippers: (8).

MC 156611 (Sub-5–2TA), filed February 2, 1983. Applicant: FOOD TRANSPORT, INC., P.O. Box 446, Fayetteville, AR 72701. Representative: Grant M. Davis, 2217 Juneway Terrance, Fayetteville, AR 72701. Contract, irregular: *food and related products* between points in the United States (except HI and AK) under continuing contract with Land O' Lakes, Inc., Arden Hills, MN.

MC 156720 (Sub-5–2TA), filed February 4, 1983. Applicant: McNEILL TRUCKING CO., INC., Box 456, Calico Rock, Ark. 72519. Representative: David E. McNeill (same as above). Contract, irregular: *Such commodities as are dealt in by wholesale and retail grocery houses, (except commodities in bulk)*, between points in the U.S. (except AK and HI), under continuing contracts with Mondi, Inc., of Cincinnati, OH, and Grand Enterprises, Inc., of Springfield, MO. Supporting shippers: Mondi, Inc., Cincinnati, OH; Grand Enterprises, Inc., Springfield MO.

MC 165857 (Sub-5–2TA), filed February 4, 1983. Applicant: VINER'S INC. P.O. Box 290, Emerson, IA 51533. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Hides and cattle switches* on shipments moving for the account of Philadelphia Hide Brokerage Corporation, between points in the U.S. (except AK and HI). Supporting shipper: Philadelphia Hide Brokerage Corporation, Philadelphia, PA.

MC 165945 (Sub-5–1TA), filed February 2, 1983. Applicant: MID-KANSAS BUS SERVICE, INC., Route 2, Newton, KS 67114. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601. *Passengers and their baggage in special and charter operations*, between points in McPherson, Reno and Harvey Counties, KS on the one hand, and on the other, all points in CO. Supporting shipper: Bethel Mennonite Church, Inman, KS.

MC 165984 (Sub-5–1TA), filed February 4, 1983. Applicant: OLYMPIA PETROLEUM TRANSPORT, INC., 3518 Travis Street, Houston, TX 77002. Representative: Virgil O. Musick, 6220 Gaston Ave., Suite 605, Dallas, TX 75214. Contract; Irregular, *Natural gas liquids, liquified petroleum gas, natural gasoline and mixtures thereof*, between points in the U.S. Supporting shipper: Olympia Petroleum, Inc., Houston, TX.

MC 166058 (Sub-5–1TA), filed February 4, 1983. Applicant: JIM CURRIE INC., Route 2, Manhattan, KS 66502. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612. (*Part 1*) *Cereal Malt Beverages and Mineral Water (Part 2) Pallets, Load-Jacks, Cardboard Separaters, Empty Bottles and Empty Kegs*, (Part 1) From the Commerical zones of St. Louis, MO., Minneapolis-St. Paul, MN and LaCrosse, WI to points in Pottawatomie County, KS. (Part 2) From points and places in Pottawatomie County, KS to the Commerical zones of St. Louis, MO, Minneapolis-St. Paul, MN and LaCrosse, WI. Supporting shipper: Campbell Distributors, Manhattan, KS.

MC 166059 (Sub-5–1TA), filed February 3, 1983. Applicant: CLIFFORD A. PHILLIPS d.b.a. Cam's Trucking, 2123 S. Barcliff, Springfield, MO 65804. Representative: Bruce McCurry, Dickey, Allemann, Chaney & McCurry, 910 Plaza Towers, Springfield, Mo. 65804. *Foodstuffs*, except commodities in bulk, between points in Greene County, MO on the one hand and points in Johnson and Wyandotte Counties, KS and points in FL on the other hand. Supporting shipper: Associated Wholesale Grocers, Inc., Springfield, MO.

MC 166062 (Sub-5–1TA), filed February 4, 1983. Applicant: OLYMPIA PETROCHEMICAL TRANSPORT, INC., 3518 Travis Street, Houston, TX 77002. Representative: Virgil O. Musick, 6220 Gaston Ave., Suite 605, Dallas, TX 75214. Contract; Irregular, *Natural gas liquids, liquified petroleum gas, natural gasoline and mixtures thereof*, between points in the U.S. Supporting shipper: Olympia Petroleum, Inc., Houston, Texas.

MC 166064 (Sub-5–1TA), filed February 4, 1983. Applicant: THERMO DISTRIBUTION, INC., 13789 Rider Trail, Earth City, MO 63045. Representative: Barry Weintraub, Suite 403, 7700 Leesburg Pike, Falls Church, VA 22043. *Contract: Irregular; (1) fruits and flavor syrups* between Fenton, MO, Compton, CA and Somerset, NJ under continuing contract(s) with Universal Flavors of Missouri, Inc. of Fenton, MO, and *(2) chemicals and containers used in the paint industry* between St. Louis, MO, Memphis, TN, Kansas City, MO and Denver, CO on the one hand, and, on the

other, points in the U.S. (except AK & HI) under continuing contract(s) with Walsh & Associates, Inc. of St. Louis, MO. Supporting shippers: Universal Flavors of Missouri, Inc., Fenton, MO, Walsh & Associates, Inc., St. Louis, MO.

MC 166064 (Sub-5–2TA), filed February 4, 1983. Applicant: THERMO DISTRIBUTION, INC., 13789 Rider Trail, Earth City, MO 63045. Representative: Barry Weintraub, Suite 403, 7700 Leesburg Pike, Falls Church, VA 22043. *Contract: Irregular;* transporting *(1) protective coatings and materials, equipment and supplies used in the manufacture and distribution thereof* between points in the U.S. (except AK & HI) under continuing contract(s) with Thermo Chemical Products, Inc. of Earth City, MO and *(2) containers used in the food, drug and chemical industries* between points in the U.S. (except AK & HI) under continuing contract(s) with Northwestern Bottle Co., Inc. of St. Louis, MO. Supporting Shippers: Thermo Chemical Products, Earth City, MO, Northwestern Bottle Co., Inc., St. Louis, MO.

MC 166070 (Sub-5–1TA), filed February 4, 1983. Applicant: ARAM BOYAJIAN, Box 192, Irwin, Iowa 51446. Representative: Aram Boyajian (same as applicant). *Anhydrous ammonia, bulk dry fertilizers, liquid fertilizers, and chemicals* between points in Bureau and Henry Counties, IL; Washington, Douglas, and Sarpy Counties NE; and Pottawattamie, Harrison, Shelby, and Audubon Counties, IA. Supporting shippers: Irwin Farm Suppy, Inc., Irwin, IA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–4144 Filed 2–16–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15081]

Motor Carriers; Murrell Enterprises, Inc.; Continuance in Control Exemption; Earl C. Smith, Inc. and Magra, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures Handling Exemptions Filed By Motor Carriers,* 367 I.C.C. 113 (1982), Murrell Enterprises, Inc., (Murrell) and, in turn, Ronald C. Murrell, Lorraine M. Burman, Robert S. Boris and James Byrne, who jointly control Murrell, seek an exemption from the requirement under 11343 of prior regulatory approval for the continuance in control of Earl C. Smith, Inc. (No. MC–80498) and Magra, Inc. (No. MC–164848).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423
and
(2) Petitioner's representatives, Ronald J. Mastej and Neill T. Riddell, 900 Guardian Building, Detroit, Michigan 48226.

Comments should refer to No. MC–F–15081.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representatives. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 9, 1983.

By the Commission, Herber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–4146 Filed 2–16–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30100]

Rail Carriers; Cairo Terminal Railroad Company; Exemption; Issuance of Notes

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission has exempted the issuance by the Cairo Terminal Railroad Company of notes in the principal amount of $740,000 to finance the acquisition of a line of railroad between Davis and Elco, IL.

DATES: The exemption will become effective on February 17, 1983. Petitions to reopen must be filed by March 9, 1983.

ADDRESSES: Send petitions to reopen to:

(1) Interstate Commerce Commission, Rail Section, Room 5349, Washington, DC 20423.
(2) Petitioner's representative: Peter A. Gilbertson, Suite 350, 1575 Eye Street NW., Washington, DC 2005.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 227, 12th & Constitution Ave., NW. Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: February 9, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–4145 Filed 2–16–83; 8:45 am]

BILLING CODE 7035–01–M

[Directed Service Order No. 1398]

Railcarriers; Kansas City Terminal Railway Company—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee); Termination of Claim Settlement Operations

AGENCY: Interstate Commerce Commission.

ACTION: Directed rail carrier ordered to terminate claim settlement and accounting operations; proposed wind-down procedures authorized.

SUMMARY: Kansas City Terminal Railway Company, directed rail carrier (KCT–DRC), operated over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (Rock Island) in 1979–80. KCT–DRC personnel are performing accounting services at Rock Island Trustee headquarters relating to directed service. On December 9, 1981, we ordered KCT–DRC to terminate claim settlement and accounting operations on March 31, 1983. We authorize KCT–DRC to wind down its accounting operations in accordance with its petition of November 10, 1982, subject to the requirement that it retain personnel as necessary through the end of 1983 to assist the Commission with specified functions. All claims must be submitted by February 28, 1983, if they are to be processed by the carrier before the termination of the accounting operations.

DATES: This decision is effective on February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase

a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: February 9, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–4137 Filed 2–16–83; 8:45 am]

BILLING CODE 7035–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13015; 811-2296]

The Fore Fund, Inc.; Filing of Application

February 7, 1983.

In the matter of The Fore Fund, Inc., c/o The Partners Fund, Inc., 342 Madison Avenue, New York, NY 10173.

Notice is hereby given that the Partners Fund, Inc. ("Partners"), on November 18, 1982, filed an application on behalf of the Fore Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized under the laws of Maryland on June 3, 1972, and on June 21, 1972, it registered under the Act. On June 29, 1972, it filed a registration statement pursuant to the Securities Act of 1933 (File No. 2–44939), which was declared effective on March 30, 1973, the date that Applicant commenced the public offering of its shares of capital stock. As of March 31, 1976, Applicant had 1,500,000 shares of authorized capital stock, $1.00 par value, of which 45,152 shares were outstanding representing net assets of $546,078.

According to the application, Applicant was merged with Partners, registered under the Act as an open-end, diversified management investment company, effective July 30, 1976 ("Effective Time"), in accordance with the laws of the State of Maryland. At the Effective Time, all property, rights, privileges and franchises of Applicant were transferred to, vested in and devolved upon Partners, and Partners became liable for all the debts and obligations of Applicant. Each whole and fractional share of Applicant outstanding at the Effective Time was converted into a number of whole and fractional shares of Partners having an equivalent net asset value at the close of business on the last business day preceding the Effective Time. The merger of Applicant with Partners was approved by Applicant's and Partner's boards of directors on April 27, 1976, and by Applicant's shareholders at a special meeting held on July 30, 1976.

The application states that Applicant is not engaged in any business; is not involved in any administrative proceeding or litigation; it has no assets and no securityholders; no outstanding debts or liabilities; no separate trust was created for the benefit of its securityholders; and that it has filed the Articles of Merger with the State of Maryland's Department of Assessments and Taxation.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, and that, upon the effectiveness of such order the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 4, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–4116 Filed 2–16–83; 8:45 am]

BILLING CODE 8010–01–M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 8, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks: Alaska Airlines, Inc., Common stock, $1 par value (File No. 7–6513), Instrument Systems Corporation, Common stock, $.25 par value (File No. 7–6514).

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 2, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–4118 Filed 2–16–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19496; File No. SR–NSCC–82–26]

National Securities Clearing Corporation ("NSCC"); Order Approving Proposed Rule Change

February 9, 1983.

On November 18, 1982, NSCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b–4 thereunder, a proposed rule change that amends NSSC Rule 4 to permit NSCC participants to secure their clearing fund obligations by pledging certain types of securities. Notice of the proposed rule change, together with the terms of the proposed rule change, was given by

publication of Securities Exchange Act Release No. 19273 (November 24, 1982), 47 FR 54393 (December 1, 1982). One letter of comment was received.[1]

All NSCC participants are required by NSCC's existing rules to contribute to NSCC's clearing fund in accordance with a formula adopted by NSCC's board of directors.[2] The proposed rule change would permit a participant to secure the non-cash portion of its clearing fund contribution ("open account indebtedness" (by pledging "qualifying securities" to NSCC.[3] The proposal defines "qualifying securities" to be: (i) Exchange-listed or over-the-counter ("OTC") debt securities or equity securities that have and maintain a market value of at least $5.00 per share ("liquidity requirement");[4] and (ii) securities that are eligible for deposit in a Qualified Securities Depository.[5] The proposal further provides that qualifying securities shall be valued at 50% of their daily market value ("value limitation");[6] and that no greater than $100,000 or 5% of a participant's open account indebtedness, whichever is less, may be secured by the deposit of a single issue of any qualifying securities, unless a lesser amount is deemed appropriate by NSCC because of special market risks ("concentration requirement"). Hypothecable qualifying securities would be pledged to NSCC on such terms and conditions as NSCC shall require, with such pledges being effected by appropriate book-entry movements at DTC.[7]

In its filing, NSCC states that its proposal is designed to expand the types of assets that can be used by participants in satisfying their open account indebtedness and to reduce participants' costs of satisfying their clearing fund obligations. NSCC previously sought to achieve these objectives by allowing participants to use letters of credit to secure their open account indebtedness.[8] NSCC notes, however, that the increasing cost of letters of credit and the reluctance of many banks to issue unsecured letters of credit on behalf of broker-dealers have reduced the ability of participants to satisfy their clearing fund requirements easily and inexpensively. Accordingly, NSCC has submitted this proposed rule change to establish another low-cost method of securing clearing fund obligations. NSCC believes that because firms generally are able to loan or otherwise use only a portion of their securities inventory, the pledge of hypothecable qualifying securities to secure clearing fund obligations will be inexpensive for participants.[9]

Finally, NSCC believes the proposal's limitations, (*i.e.*, the liquidity requirement, value limitation, and concentration requirement) would insulate NSCC from most market risks and would prevent NSCC from becoming unduly dependent upon any one issue of securities as collateral. Moreover, NSCC believes that these limitations would enable NSCC to liquidate qualifying securities readily and without untoward impact on the marketplace, if, for example, NSCC became financially exposed as the result of a participant insolvency.[10] Accordingly, NSCC believes that the proposal is consistent with Section 17A(b)(3) of the Act, which provides that a registered clearing agency must be organized and have the capacity to safeguard securities and funds in its custody or control or for which it is responsible.

The Commission believes that NSCC's proposal would reduce participants' costs of securing their open account indebtedness and would not impair NSCC's ability to safeguard securities and funds in its custody or control or for which it is responsible. Nevertheless, the Commission believes that the proposal raises two concerns. First, NSCC's proposed value and concentration requirements may be too strict in certain circumstances, thereby diminishing unnecessarily the proposal's utility.[11] For example, the Commission believes that NSCC should consider whether a relaxation of the concentration requirement for equity securities and high grade debt securities would increase the proposal's usefulness without jeopardizing NSCC's ability to safeguard funds and securities.

Second, the proposal lacks a liquidity requirement for debt securities. Thus, for example, under NSCC's proposal a corporation's common stock will not constitute qualifying securities if its market price is under $5.00 per share; yet at the same time, that corporation's deferred convertible debentures will constitute qualifying securities. The Commission believes that such disparate treatment of similar securities of a single issuer seems anomalous. NSCC explains that, in its experience, equity securities priced below $5.00 generally tend to be volatile and often

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[1] Leonard Mayer, Vice President of Mayer & Schweitzer, Inc., letter dated November 29, 1982, discussed at note 6 *infra*.

[2] NSCC Rule 2, section 2(f), Rule 4, section 1, and Procedures XIV, Subsection (a).

[3] Under NSCC's existing rules, participants may secure their open account indebtedness by the pledge of (i) certain unmatured bearer bonds issued and guaranteed by the United States or a state or one of its subdivisions ("qualifying bonds"); or (ii) letters of credit issued by a bank approved by NSCC. NSCC Rule 4, section 1, paragraph 2.

The Commission has been advised by the staff of the Board of Governors of the Federal Reserve System ("BOG") that the proposed rule change is not inconsistent with either Regulation G (12 CFR Part 207) or Regulation T (12 CFR Part 220.1 *et seq.*).

[4] NSCC's staff has informed the Commission that NSCC would monitor daily the market values of qualifying securities. NSCC also has indicated that if a participant's open account indebtedness becomes inadequately secured by qualifying securities because of a decline in the aggregate market value of those securities or because some of those securities no longer are qualifying securities, the participant would be required to supply substitute or additional collateral within ten days or such earlier time as NSCC deems appropriate. *See also* NSCC Rule 15, § 3.

[5] A "Qualified Securities Depository" is defined in NSCC Rule 1 to mean "a Registered Clearing Agency which has entered into an agreement with [NSCC] pursuant to which it will act as a securities depository for [NSCC] and effect book-entry transfers of securities to and by [NSCC] in respect of the [Continuous Net Settlement] System." At this time, the only Qualified Securities Depository is The Depository Trust Company ("DTC").

[6] In a November 29, 1982 letter to the Commission, Leonard Mayer agreed with the purpose of the proposal, *i.e.*, allowing participants to pledge hypothecable securities to secure participants' open account indebtedness. He stated, however, that the proposed $5.00 liquidity requirement seems inordinately strict because stocks with lower market values are not necessarily volatile. Similarly, Mr. Mayer suggested that the 50% value limitation is excessive for securities with stable market values. *See* notes 10 and 11 *infra*.

[7] The proposal would permit pledging participants to receive any dividends or interest earned or paid on any pledged qualifying securities.

[8] SR–NSCC–80–15, approved by the Commission in Securities Exchange Act Release No. 18052 (August 21, 1981), 46 FR 43341 (August 27, 1981).

[9] The proposal is similar in substance to an Options Clearing Corporation ("OCC") filing previously approved by the Commission. That proposed rule change (SR–OCC–82–11) enables OCC participants to meet their OCC margin obligations by pledging common stocks underlying outstanding option classes. Securities Exchange Act Release No. 18994 (August 20, 1982), 47 FR 37731 (August 26, 1982) ("Release No. 34–18994"). The objectives underlying OCC's proposed rule change, as articulated in Release No. 34–18994, are substantially similar to those underlying NSCC's proposal.

[10] NSCC based the $5.00 liquidity requirement and the 50% value limitation on similar provisions in Regulation T. Specifically, § 220.8(h)(8) permits broker-dealers to pledge an OTC equity security for financing customer margin if the security's minimum average bid price is at least $5.00 per share. In addition, § 220.8(a)(1) generally limits the credit value of non-equity securities to 50% of their market value. In like manner, Regulation U (12 CFR 227.4(a)) limits the maximum loan value of any margin stock to 50% of its current market value. It should be noted, however, that these regulations do not apply directly to NSCC's proposal.

[11] As discussed *supra* at note 6, Mr. Mayer expressed similar concerns in his comment letter. The Commission believes, however, that the credit policy considerations underlying the analogous provisions in Regulation T, *e.g.*, volatility, market depth, liquidity, market-maker performance, and issuer creditworthiness, are instructive to NSCC as a clearing agency creditor and support the proposition that the proposed liquidity requirement and value limitation are, at a minimum, reasonable and consistent with the Act.

trade in thin markets. NSCC further explains that debt securities often are less volatile than equity securities, which obviates the need for a similar liquidity requirement for debt securities. While the Commission believes that price volatility is a fundamental consideration underlying liquidity limitations, other factors, including issuer creditworthiness, are relevant. Accordingly, it is the Commission's view that this apparent disparate treatment requires further study by NSCC.

NSCC has agreed to review the value, concentration, and liquidity requirements in light of the Commission's concerns, as well as to monitor the operation of the program generally to ascertain whether additional modifications may be appropriate. The Commission welcomes such a review and believes that future modifications to this rule change should increase the opportunity for participants to secure their clearing fund obligations practically and inexpensively.

In conclusion, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and, in particular, the requirements of Section 17A of the Act.[12] The Commission believes that the proposal's liquidity requirement, value limitation, and concentration requirement should protect NSCC from most market risks, including the risk posed by an illiquid market, and should reduce substantially the likelihood that NSCC will become unduly dependent upon any one issue of securities. In addition, the procedure of valuing pledged securities daily should contribute substantially to the safety of the proposal. In any event, the proposal allows NSCC not to accept any qualifying security in special risk circumstances. With these safeguards, together with the potential benefits of the proposal to NSCC and its participants, the Commission believes that the proposal should be approved in its current form.

Accordingly, it is therefore ordered, pursuant to Section 19(b) of the Act, that the proposed rule change (SR–NSCC–82–26) be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–4113 Filed 2–16–83; 8:45 am]

BILLING CODE 8010–01–M

[12] *See also* Release No. 34–18994.

Pacific Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

February 8, 1983.

The above named national securities exchange had filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of: U.S. Air Group, Common stock, $1 par value (File No. 7–6515).

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 2, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–4119 Filed 2–16–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13014, (812–5430)]

Pulte Home Credit Corp.; Filing of an Application

February 7, 1983.

In the Matter of Pulte Home Credit Corporation, 4380 S. Syracuse Street, Suite 200, Denver, Colorado 80237.

Notice is hereby given that Pulte Home Credit Corporation ("Applicant"), a Michigan corporation which is an indirect wholly-owned subsidiary of Pulte Home Corporation ("Pulte"), a Delaware corporation, filed an application on January 20, 1983, and an amendment thereto on February 7, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that it was incorporated on January 6, 1983 and that all of its outstanding stock is owned by Pulte Financial Companies, Inc., a wholly-owned subsidiary of Pulte. According to the application, Pulte is one of the largest independent publicly-owned builders of single-family homes in the United States. Through subsidiaries, Pulte also engages in mortgage banking and mortgage financing activities providing mortgage funds for purchasers of its homes.

Applicant states that its sole business will be the lending of funds derived either from capital contributions or from funds borrowed within the United States to Pulte and its subsidiaries and, accordingly, substantially all of its assets will consist of amounts receivable from, and other obligations of, Pulte or its subsidiaries. Applicant has recently completed an offering of subordinated debentures (the "Debentures") due 2008 convertible into common stock of Pulte. The Debentures are guaranteed by Pulte. Pulte's obligation to pay under such guarantee is subordinated to Pulte's obligation to pay principal and interest on senior debt as that term is defined in the indenture for the Debentures. Applicant proposes to undertake, on behalf of Pulte, to issue and sell additional debt securities ("Securities") in the United States from time to time.

Payment of principal of and premium, if any, and interest on the Securities would be unconditionally guranteed by Pulte on a subordinated basis as in the case of the Debentures. Applicant represents that, as in the case of the Debentures, the terms of the Pulte guarantees will be such that in the event of a default with respect to a Security legal proceedings may be instituted directly against Pulte to enforce the guarantee of such Security without first proceeding against the Applicant. Applicant further states that it would advance to, deposit with, or apply toward the purchase of assets from, Pulte or subsidiaries of Pulte substantially all of the proceeds of sales of Securites made by the Applicant. Insofar as the proceeds of the offering of the Debentures are concerned, Applicant states that it plans to acquire mortgages or other liens on or interests in real estate from a subsidiary of Pulte until such time as it is determined that Applicant is not an investment company subject to regulation under the Act. Applicant represents that, at the times

of issuance and sale of Securities and so long as any Securities are outstanding, Applicant will remain a wholly-owned subsidiary of Pulte or one of Pulte's subsidiaries and Applicant will own or hold no equity securities other than equity securities of Pulte and subsidiaries of Pulte.

Applicant represents that its offerings of Securities would take the form of a public offering of securities registered under the Securities Act of 1933 (the "1933 Act"). Applicant further represents that Applicant and Pulte would not sell such Securities until the registration statement was declared effective by the Commission and the related indenture was qualified under the Trust Indenture Act of 1939.

Applicant states that it may be deemed an investment company under Section 3(a)(3) of the Act on the grounds that its proposed advances to, or deposits with, Pulte may be deemed "investment securities" and would constitute more than 40% of its total assets. However, contending that it has been organized solely for the purpose of financing operations of Pulte, Applicant states that it does not view itself as an investment company. Accordingly, in order to eliminate any doubt that it would be entitled, without registration under the Act, to issue and sell the Securities and invest the proceeds in securities of Pulte and its subsidiaries, Applicant requests an exemption from all provisions of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

According to Applicant, expansion of its activities and those of Pulte and its affiliates is appropriate in the public interest in that such expansion will create jobs in a depressed housing market and foster economic growth. Without the requested exemption, Applicant argues, its activities will be restricted, thereby reducing its contribution to the growth of Pulte and its affiliates. Furthermore, Applicant states that the relief sought is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The Securities to be issued by the Applicant will be registered under provisions of the 1933 Act and will be sold to investors on the basis of a prospectus meeting requirements of the Act. Upon sale of the Securities, Applicant expects that it will be subject to registration and periodic reporting requirements of the Securities Exchange Act of 1934. Therefore, Applicant asserts that the interests of investors will be protected by Applicant's compliance with the disclosure requirements of those Acts. Applicant contends that the relief sought is also consistent with a proposed revision of Rule 6c–1 under the Act (Investment Company Act Release No. 12679, September 21, 1982), which if adopted, would allegedly allow the proposed transactions without first obtaining an exemption.

In view of the Pulte guarantees and the fact that Applicant will derive all of the funds needed to repay the purchasers of its Securities from Pulte, Applicant asserts that it is appropriate that, as a subsidiary financing company of Pulte, it should be exempted from the requirements of the Act for the same reasons that Pulte itself would be exempt from the provisions of the Act. Therefore, Applicant requests that the Commission enter an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 3, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–4117 Filed 2–16–83; 8:45 am]

BILLING CODE 8010–01–M

Ranger Oil Limited; Application To Withdraw From Listing and Registration

February 8, 1983

In the Matter of Ranger Oil Limited, Common Stock, No Par Value.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Ranger Oil Limited ("Company") is listed and registered on the Amex and the Pacific Stock Exchange ("PSE"). Pursuant to a Registration Statement on Form 8–A which became effective on January 3, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining listing of the common stock on the Amex, PSE and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the PSE and NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before March 2, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–4121 Filed 2–16–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13018; (812-5412)]

Winthrop Residential Associates III, et al.; Filing of an Application

February 7, 1980.

In the matter of Winthrop Residential Associates III, Two Winthop Properties, Inc., and Linnaeus-Oxford Associates, 225 Franklin Street, Boston, MA 02110.

Notice is hereby given that Winthrop Residential Associates III ("Partnership"), a Maryland limited partnership, and its general partners, Two Winthrop Properties, Inc. ("Two Winthrop"), and Linnaeus-Oxford Associates ("General Partners" and, together with the Partnership, collectively referred to herein as "Applicants"), filed an application on December 23, 1982, and an amendment thereto on January 31, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that the Partnership was formed under the Maryland Uniform Limited Partnership Act on June 28, 1982. Applicants state that the Partnership will operate as a "two-tier" partnership; i.e., the Partnership will invest, as a limited partner, in other limited partnerships ("Local Limited Partnerships"), that in turn, will be engaged in the development, rehabilitation, ownership and operation of government-assisted apartment complexes ("Properties").

Applicants represent that the Partnership is organized as a limited partnership because that form of organization is the only one that provides investors with both liability limited to their capital investment and the ability to claim on their individual tax return, the deduction, losses, credits, and other tax items arising from the Partnership's interests in Local Limited Partnerships that own, operate, and construct or rehabilitate the Properties. Applicants further represent that the Partnership is requesting a private ruling from the Internal Revenue Service that the Partnership will be classified as a partnership and not as an association taxable as a corporation.

Applicants state that the Partnership's investment objectives are to preserve and protect the Partnership's capital, provide capital appreciation through appreciation in value of the Properties of the Local Limited Partnerships, provide "tax losses" during the early years of the Partnership's operations that the Limited Partners may use to offset income from other sources, provide quarterly cash distributions that will not constitute taxable income and which may increase over time, and build additional equity through reduction of mortgage loans of the Local Limited Partnerships.

The application states that on December 23, 1982, the Partnership filed a registration statement under the Securities Act of 1933 (the "Securities Act"), pursuant to which the Partnership intends to offer to the public 15,000 units of limited partnership interest ("Units") at $1,000 per Unit with a minimum investment of $5,000 per investor. Purchasers of Units will become limited partners ("Limited Partners") of the Partnership. In the event that subscriptions for more than 15,000 Units are received, the Partnership has registered a total of 25,000 Units and has granted to Winthrop Securities Co., Inc. ("Selling Agent") a right to sell up to 10,000 additional units. According to the application, the maximum amount of funds available to the Partnership for investment in Properties from the proceeds of its offering will be between $1,305,000 and $13,575,000 ($22,625,000 if the Selling Agent exercises its right to sell an additional 10,000 Units), after deductions for sales commissions, anticipated offering expenses, acquisition fees and expenses, and the establishment of a contingency reserve.

Applicants state that subscriptions for Units must be approved by Two Winthrop ("Managing General Partner"), and that such approval will be made conditional upon representations as to suitability of the investment for each subscriber. Applicants further state that the subscription agreement for Units will require that, at least for the first five calendar years of the Partnership's operation, transfers of Units will be permitted only if the transferee meets the same suitability standards as had been imposed upon the transferor Limited Partner.

Applicants state that the Partnership will be controlled by its General Partners pursuant to the Partnership Agreement, and the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. It is asserted that a majority in interest of the Limited Partners will have the right to amend the Partnership Agreement, dissolve the Partnership, and remove any General Partner and elect a replacement therefor. Any amendment to the Partnership Agreement, however, may not allow the Limited Partners to take part in the control of the Partnership's business or otherwise affect their limited liability.

According to the application, the Partnership will receive an opinion of counsel to the effect that the Partnership's liability in respect of each Local Limited Partnership will be limited to the Partnership's capital contribution to the Local Limited Partnership. Applicants represent, in addition, that under the Partnership Agreement, each Limited Partner is entitled to review all books and records of the Partnership at any and all reasonable times.

Applicants state that the fees and other forms of compensation that will be paid to the General Partners and their affiliates will not have been negotiated at arm's length. They represent, however, that terms of all such compensation will be fair and not less favorable to the Partnership than would be the case if such terms had been negotiated with independent third parties.

According to the application, the Partnership will invest any net proceeds not immediately utilized to acquire Local Limited Partnership interests or for other Partnership purposes (such as the establishment of a reserve equal to 1 percent of the Gross Proceeds) in United States Government securities, securities issued or fully guaranteed by the United States Government agencies, certificates of deposit and time or demand deposits in commercial banks having a net worth of at least $25,000,000 or commercial paper rated P-1 by Moody's Investors Service, Inc. Applicants further state that after the Partnership has made an initial capital contribution to a Local Limited Partnership, other funds allocated for subsequent investment in that Local Limited Partnership will be temporarily invested by the Partnership in tax-exempt securities. It is represented that all such tax-exempt investments made by the Partnership will be rated MIG-2 or better by Moody's and have maturities not exceeding one year.

Applicants state that the Partnership expects to file with the Commission, pursuant to Section 15(d) of the Securities Exchange Act of 1934, all required annual reports, quarterly reports, and current reports on Forms 10-K, 10-Q and 8-K, respectively, as well as any other reports required by that act. In addition to these reporting requirements, the Partnership's prospectus states that the Partnership will distribute to Limited Partners annual and quarterly financial statements and an annual report of the Partnership's activities. It is also stated

in the prospectus that a detailed statement describing any new arrangement or contract between the Partnership and the General Partners or their affiliates and the amount of all fees and other compensation paid to the General Partners and their affiliates will be distributed to Limited Partners quarterly.

Applicants represent that the Partnership Agreement provides that the Partnership shall indemnify the General Partners for losses sustained by them or their affiliates by reason of acts or omissions performed in connection with the business of the Partnership. Applicants further state, however, that insofar as indeminification for liabilities under the Securities Act may be permitted to the General Partners, the Partnership has been advised that in the opinion of the Commission, such indemnification is contrary to public policy as expressed in said Act and is therefore unenforceable. Therefore Applicants assert that the Partnership Agreement provides that there shall be no indemnification in connection with (1) any claim or settlement involving the Securities Act unless (a) the persons seeking indemnification are successful in defending such action and (b) such indemnification is specifically approved by a court that has been advised as to the current position of the Commission regarding such indemnification (unless Partnership counsel advises that the matter has been settled by controlling precedent), or (2) any liability imposed by law, including for fraud, bad faith or negligence.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Partnership be exempted from the provisions of the Act pursuant to Section 6(c). Section 6(c) of the Act provides in pertinent part that the Commission may exempt any person from any provision of the Act and rules thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that the exemption of the Partnership from all provisions of the Act is both necessary and appropriate in the public interest.

In support of their request, Applicants represent that by investing in Local Limited Partnership interests, the Partnership is implementing the national policy enunciated by Congress in Section 901 of Title IX of the Housing and Urban Development Act of 1968. Applicants state that such investment is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form. Applicants assert that the limited partnership structure is the only way of bringing private equity capital into government-assisted housing, particulary because outside investors usually perceive investment in low and moderate income housing programs as more risky than real estate investment generally. Applicants state that the limited partnership form insulates each limited partner from personal liability and limits his financial risk to the amount he has invested in the program, while also allowing the limited partner to claim on his individual tax return his proportionate share of the income and losses from the investment.

Applicants assert that the limited partnership form of organization is incompatible with the operational framework of the Act. Thus, an exemption from these basic provisions is necessary, and, Applicants contend, it is appropriate that such exemption be granted so as not to discourage use of the two-tier limited partnership entity. To do so, Applicants assert, would frustrate the public policy established by the housing laws.

The application further states that the contemplated arrangement of the Partnership is not susceptible to abuses of the sort the Act was designed to remedy. Finally, Applicants assert that the suitability standards set forth in the subscription agreement, the requirements for fair dealing provided by the Partnership's governing instruments, and pertinent governmental regulations imposed on each Local Limited Partnership by various federal, state and local agencies, provide protection to investors in Units comparable to and in some respects greater than that provided by the Act. Applicants contend, therefore, that the requested exemption would be entirely consistent with the protection of investors and the purposes and policies of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 4, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, or fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notice and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4115 Filed 2-16-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S-730]

Aeron Marine Shipping Co., Aries Marine Shipping Co., Atlas Marine Co., Aquarius Marine Co., American Shipping, Inc., Pacific Shipping, Inc., and Worth Oil Transport Co.; Notice of Joint Application for Section 805(a) Permission

Aeron Marine Shipping Company, Aries Marine Shipping Company, Atlas Marine Company, Aquarius Marine Company, American Shipping, Inc., Pacific Shipping, Inc., and Worth Oil Transport Company (Berger subsidized companies) are each holders of long-term operating-differential subsidy contracts. By letter of counsel dated February 9, 1983, the Berger subsidized companies request written permission pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended, to be affiliated with three companies, as yet unformed (herein the "Operating Companies"), which, upon delivery, expect to become the bareboat charterer and operator, respectively, of the BALTIMORE, MOBILE and PHILADELPHIA for their owners, Third Tug/Barge Corporation, Fourth Tug/Barge Corporation, and Fifth Tug/Barge Corporation, each a wholly-owned subsidiary of Amerada Hess Corporation. The BALTIMORE, MOBILE, and PHILADELPHIA are approximately 50,000 DWT, CATUG design, integrated tug/barge crude oil and product carriers, the barge portions of which are being completed at Bethlehem Steel Sparrows Point and the tug portions of which are nearing completion at Halter Marine's Chickasaw yard.

The BALTIMORE, MOBILE and PHILADELPHIA are the fourth, fifth and sixth tug/barge units so constructed, following the JACKSONVILLE,

GROTON and NEW YORK, also operated by affiliates of the Berger subsidized companies. The applicants state that the Operating Companies will, when formed, have common officers and directors with the Berger subsidized companies. However, except for the bareboat charters, they will have no ownership interest in the tug/barge units.

The applicants further advised that, at the same time each Operating Company enters into the bareboat charter with the respective owning company, it will time charter the CATUG it will operate on a "hell-or-high water" basis to Amerada Hess Corporation. The Operating Companies expect that the BALTIMORE, MOBILE and PHILADELPHIA will operate primarily in the Virgin Islands to U.S. trade, which does not require permission under section 805(a). However, under the time charters, Amerada Hess would control the trading of the vessels and will require that the vessels be utilized from time to time in the Gulf Coast to East Coast trade, and other domestic trades, during the period of the Berger subsidized companies' operating-differential subsidy contracts. Accordingly, the permission requested would cover domestic trade operations of the BALTIMORE, MOBILE and PHILADELPHIA for the period of each subsidy contract.

Any person, firm, or corporation having any interest in such application (within the meaning of section 805(a) of the Act) and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20259, by close of business on March 8, 1983, together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations: (a) Could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

By Order of the Maritime Administrator.

Dated: February 10, 1983.

Murray A. Bloom,

Acting Assistant Secretary.

[FR Doc. 83-4123 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App. I) notice is hereby given of the 402-Public-Private-Relaltionship Subcommittee meeting of the National Highway Safety Advisory Committee to be held March 8, 1983. The subcommittee will be meeting to outline plans for the 1984 Highway Safety Conference. Topics to be discussed include: (1) What issues should be addressed at the Conference; (2) How should the Conference be structured; (3) Who should participate and attend; and (4) Date and location of Conference.

The meeting will be held at the Holiday Inn, 8221 N. Tamiami Trail, Sarasota, Florida. The subcommittee will meet from 9 a.m.—6 p.m. in the Dolphin Room. Attendance is open to the interested public, but may be limited to the space available. Members of the public may present a written statement to the Committee at any time.

The meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA, Executive Secretariat, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-2870.

Issued in Washington, D.C. on February 14, 1983.

Robert E. Doherty,

Executive Secretary.

[FR Doc. 83-4124 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[General Counsel Order No. 21 (Rev. 2)]

Appointment of Members of the Legal Division to the Performance Review Board

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 1009 and 26 U.S.C. 7801, Treasury Department Order No. 101-5 (Revised), and pursuant to the Civil Service Reform Act, I hereby appoint the following persons to the Legal Division Performance Review Board:

(1) For the General Panel—
- Chairperson, Margery Waxman
- Arnold Intrater
- Jordan Luke
- Richard Fitzgerald
- Richard Abbey
- Marvin Dessler

(2) For the IRS Panel—
- Chairperson, the Deputy Chief Counsel, Internal Revenue Service
- Deputy General Counsel
- An Associate Chief Counsel for the Internal Revenue Service
- A rotating Regional Counsel
- A rotating Division Director of the Internal Revenue Service and such other SES officials as designated by the Chief Counsel

I hereby delegate to the Chief Counsel for the Internal Revenue Service the authority to make the appointments specified in this Order to the IRS Panel and to make the publication required by section 4314(c)(4) of 5 U.S.C. Code of the members of the IRS Panel.

Effective date: February 8, 1983.

Peter J. Wallison,

General Counsel.

[FR Doc. 83-4103 Filed 2-16-83; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Notice of Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB, for review, the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This notice contains an extension and a revision and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The Agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans

Administration 810 Vermont Avenue, NW., Washington, D.C. 20420 (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Joe Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395–6880.

DATES: Comments on forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: February 9, 1983.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

SUPPLEMENTARY INFORMATION:

Revision

(1) Department of Memorial Affairs
(2) State Cemetery Grant Program Questionnaire
(3) VA Form 40–4996 (formerly VAF 40–9976(NR))
(4) Annually
(5) States and Territories
(6) 55
(7) 15 minutes
(8) No—Not applicable under 3504(H)

Extension

(1) Information and Regulations Staff
(2) Certification of Inability to Pay Transportation Costs
(3) VA Form 00–2323
(4) Annually
(5) Nonservice-connected beneficiaries who are not in receipt of pension after VA has established that annual family income is not above the maximum annual base pension rates established in 38 U.S.C.521
(6) 552,500
(7) Five minutes
(8) Section 3504(H) of Pub. L. 96–511 does not apply

[FR Doc. 83–4122 Filed 2–16–83; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 34
Thursday, February 17, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting, Thursday, February 17, 1983.

February 10, 1983.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, February 17, 1983, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Joint Motion for Dismissal of Action with Prejudice and Termination of Proceedings in the Western States Telephone Company Common Carrier proceeding (Docket No. 16883).

This item is closed to the public because it concerns adjudicatory matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend:

Commissioners and their Assistants
General Counsel and members of his staff
Managing Director and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission February 9, 1983: Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone (202) 254–7674.

Issued: February 10, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–221–83 Filed 2–15–83; 10:11 am]

BILLING CODE 6712–01–M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Items From February 9th Open Meeting

February 9, 1983.

The following items have been deleted from the list of agenda items scheduled for consideration at the February 9, 1983 Open Meeting and previously listed in the Commission's Notice of February 2, 1983.

Agenda, Item No., and Subject

General—2—*Title:* A Re-Examination of Technical Standards. *Summary:* The staff has prepared a combined Notice of Inquiry and Proposed Rule Making which examines the basis for the FCC's technical regulations. The item includes a table in which FCC technical standards have been classified according to their purpose.

Audio—1—*Title:* In re application of Ettlinger Broadcasting Corporation, File No. BPH–10,075, for a new FM station in Westmorland, California. *Summary:* The Commission considers the above application and a petition by the applicant seeking reconsideration of the Commission's action dismissing the application.

Policy—1—*Title: Report and Order* in the rule making proceeding on the Suburban Community Policy, the *Berwick* Doctrine and the *De Facto* Reallocation Policy. *Summary:* The Commission will consider the *Report and Order* in BC Docket 82–320.

Video—2—*Title:* "Request for Tax Certificate" (CSR–2075) filed February 4, 1982, by Fetzer Broadcasting Company. *Summary:* Fetzer Broadcasting Company, pursuant to Section 1071 of the 1954 Internal Revenue Code, requests issuance of a tax certificate in connection with the sale of Wolverine Cablevision, Inc.

Issued: February 9, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–219–83 Filed 2–15–83; 10:11 am]

BILLING CODE 6712–01–M

3

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, February 17, 1983.

February 10, 1983.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, February 17, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* A Re-Examination of Technical Standards. *Summary:* The staff has prepared a combined Notice of Inquiry and Proposed Rule Making which examines the basis for the FCC's technical regulations. The item includes a table in which FCC technical standards have been classified according to their purpose.

Private Radio—1—*Title:* Amendment of Parts 81 and 83 of the Commission's rules to specify the circumstances under which limited coast stations may be exempted from the watch requirements on 156.8 MHz and to authorize the use of marine VHF Channel 88A in the Lake Michigan area. *Summary:* The Commission will consider whether to adopt rules which will: (1) Specify criteria for exempting limited coast stations from the requirement to maintain a watch on the marine VHF distress and safety frequency, and (2) permit ship stations to utilize VHF channel 88A on most of Lake Michigan.

Common Carrier—1—*Title:* CC Docket No. 79–252, Competitive Carrier Rulemaking proceeding. *Summary:* The Commission will consider three petitions for reconsideration of its Second Report and Order in this proceeding forbearing from tariff and facilities regulation of resellers of basic domestic terrestrial common carrier services.

Common Carrier—2—*Title:* Joint Requests for Approval of Settlement Agreements and Related Relief. *Summary:* The Commission will consider the Joint Requests for Approval of Settlement Agreement and Related Relief and Partnership Agreements filed by the nonwireline applicants in the cellular communications service for the Indianapolis, Indiana and Milwaukee, Wisconsin, Standard Metropolitan Statistical Areas.

Common Carrier—3—*Title:* Policy and Rules Concerning the Furnishing of Customer Premises Equipment by the Bell Operating Companies. *Summary:* The Commission will consider whether to issue a Notice of Inquiry and Proposed Rulemaking seeking public comment on whether Computer II structural separation requirements should be applied to the divested BOCs.

Common Carrier—4—*Title:* Application of GTE Corporation and Southern Pacific Company for Consent to Transfer Control of Southern Pacific Communications Company and Southern Pacific Satellite Company. *Summary:* The Commission will

decide whether the Bureau properly dismissed MCI's Opposition to the request for confidentiality made by GTE and SP with respect to materials submitted by GTE and SP in connection with the above-captioned application.

Common Carrier—5—*Title:* Motions of Cincinnati Bell Inc. and Southern New England Telephone Company for Declaratory Ruling to Remove Uncertainty of Their Status Under the Commission's Decisions in the Second Computer Inquiry (CC Docket 20828). *Summary:* Commission will consider whether to adopt staff proposal concerning the two Bell Companies' petitions for reconsideration of the October 20, 1981 Order requiring Computer II structural separation.

Audio—1—*Title:* (1) Application of Santa Monica Broadcasting, Inc., licensee of FM Station KSRF, Santa Monica, California, for a construction permit for modification of facilities; the decision of the U.S. Court of Appeals in *Western Broadcasting Company* v. *F.C.C.*, 674 F. 2d 44 (D.C. Cir. 1981). *Summary:* The Commission will consider the Court's decision and the applicability of Section 316(a) of the Act on the application for modification.

Audio—2—*Title:* In re application of Etteinger Broadcasting Corporation, File No. BPH–10,075, for a new FM station in Westmorland, California. *Summary:* The Commission considers the above application and a petition by the applicant seeking reconsideration of the Commission's action dismissing the application.

Video—1—*Title:* Application (BPCT–800213KF) of Capitol Broadcasting Company for a construction permit for a new satellite television broadcast station to operate on channel 18, Laurel, Mississippi. *Subject:* The Commission considers the application of Capitol Broadcasting Company for a new satellite television station in Laurel, Mississippi and the petition to deny filed by Central Television, Inc., permittee of television broadcast station WLHT, channel 22, Hattiesburg, Mississippi.

Audio—2—*Title:* Application for review and request for stay of Bureau action returning as untimely filed the application of Caldwell Television Associates, Ltd. for a new commercial television station in Caldwell, Idaho. *Summary:* The Commission will determine whether it properly returned the application as untimely filed.

Audio—3—*Title:* License Renewal Application of WAVY Television, Inc., for Television Station WAVY–TV, Portsmouth, Virginia. *Summary:* The Commission will consider a petition to deny the above license renewal application filed on behalf of the Media Forum of Tidewater and the National Black Media Coalition.

Video—4—*Title:* (1) Applications for the voluntary assignment of station KSDK–TV, St. Louis, Missouri, from KSDK, Inc., a subsidiary of the Pulitzer Publishing Company, to Multimedia, Inc., in exchange for Multimedia, Inc.'s stations WFBC–TV, Greenville, South Carolina, and WXII(TV), Winston-Salem, North Carolina (File Nos. BALCT–820219HD through BALCT–820219HF); and (2) petitions to deny these applications filed by the National Black Media Coalition and others and by the St. Louis Broadcast Coalition. *Summary:* The Commission will consider the petitioners' allegations concerning lack of candor; equal employment opportunity performance; and the adequacy of present and proposed programming.

Video—5—*Title:* License Renewal Application, as supplemented, of WHYY, Inc. for noncommercial educational television Station WHYY–TV, Wilmington, Delaware. *Summary:* The Commission considers a "complaint" filed against WHYY–TV by the Broadcast and Communications Committee of the City Council of Wilmington, Delaware.

Policy—1—*Title:* Amendment of Part 73 Subpart E of the Commission's Rules concerning the minimum aural power limit for TV broadcast stations. *Summary:* The FCC will consider proposing to permit TV stations to operate with an aural power of less than 10% of the peak radiated power of the visual transmitter (RM–4086).

Policy—2—*Title: Report and Order* in the rule making proceeding on the Suburban Community Policy, the *Berwick* Doctrine and the *De Facto* Reallocation Policy. *Summary:* The Commission will consider the *Report and Order* in BC Docket 82–320.

Enforcement—1—*Title:* Application for Review filed by Henry W. Maier, Mayor of Milwaukee, Wisconsin of the Bureau's ruling of July 29, 1982. *Summary:* The Commission will consider whether or not to reverse the Bureau's ruling with respect to a broadcast licensee's obligations under the Fairness Doctrine and personal attack rule.

Enforcement—2—*Title:* Application for Review filed by Brother Rama Behera and Disciples of Lord Jesus of the Bureau's ruling of August 25, 1982. *Summary:* The Commission will consider whether or not to reverse the Bureau's ruling with respect to whether the complainant was "identified" for purposes of the personal attack rule and whether the licensee has satisfied its obligations under the personal attack rule.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone (202) 254–7674.

Issued: February 10, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–220–83 Filed 2–15–83; 10:11 am]

BILLING CODE 6712–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:05 p.m. on Saturday, February 12, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in American State Bank, Bradley, Illinois, which was closed by the Illinois Commissioner of Banks and Trust Companies on Saturday, February 12, 1983; (2) accept the bid for the transaction submitted by Midwest Trust and Savings Bank of Bradley, Bradley, Illinois, a newly chartered State nonmember bank; (3) approve the applications of Midwest Trust and Savings Bank of Bradley, Bradley, Illinois, for Federal deposit insurance, and for consent to purchase certain assets of and to assume the liability to pay deposits made in American State Bank, Bradley, Illinois; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

At that same meeting, the Board of Directors made funds available for the payment of insured deposits in State Bank of Barnum, Barnum, Minnesota, which was closed by the Commissioner of Banks of the State of Minnesota on Wednesday, February 9, 1983.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 14, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–222–83 Filed 2–15–83; 3:46 pm]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, February 14, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application for assistance pursuant to section 13(i) of the Federal Deposit Insurance Act and the FDIC's Capital Assistance Plan: Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Memorandum and Resolution re: Selection of Presiding Officer for hearing Under Section 308.61 of the Corporation's Regulations.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: February 14, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-223-83 Filed 2-14-83; 3:47 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(3)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, February 14, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Cast No. 45,587-L: The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee

Memorandum and Resolution re: The Drovers' National Bank of Chicago, Chicago, Illinois

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: February 14, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-224-83 Filed 2-15-83; 3:47 pm]

BILLING CODE 6714-01-M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m., February 23, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 10459: APL/Sea-Land Joint Feeder Vessel Agreement.
2. Agreement No. 10461: U.S./Philippines Equal Access Agreement.
3. Docket No. 80-56: Rulemaking Proceeding Concerning Temporary Tariff Filings—Proposed Amendments to General Order 13—Proposed Final Rule.

Portion closed to the public.

1. Activities of Terry Marler d.b.a. Titantic Steamship Line.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-226-83 Filed 2-15-83; 4:00 pm]

BILLING CODE 6730-01-M

8

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-5]

TIME AND DATE: 9 a.m., Thursday, February 24, 1983.

PLACE: Conference Room 8 ABC, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Special Investigation Report:* Followup Study of the U.S. Air Traffic Control System and Recommendations to the Federal Aviation Administration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

February 15, 1983.

[S-225-83 Filed 2-15-83; 3:45 pm]

BILLING CODE 4910-58-M

Federal Register

Thursday
February 17, 1983

Part II

Environmental Protection Agency

Nonferrous Metals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 421

[OW-FRL-2289-1]

Nonferrous Metals Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA is proposing effluent limitations guidelines and standards under the Clean Water Act to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works (POTW) from particular nonferrous metals manufacturing facilities. The Clean Water Act and a consent decree require EPA to propose and promulgate this regulation. The purpose of this action is to propose effluent limitations based on best practicable technology, best available technology and best conventional technology, new source performance standards based on best demonstrated technology, and pretreatment standards for existing and new indirect dischargers. After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATES: Comments on this proposal must be submitted by April 18, 1983.

ADDRESSES: Send comments to: Mr. James R. Berlow, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Attention: Nonferrous Metals Manufacturing Comments. Technical information and copies of technical documents may be obtained from Mr. James R. Berlow, Effluent Guidelines Division, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 or call 202/382-7126. The economic analysis may be obtained from Mr. John Kukulka, Economic Analysis Staff (WH-586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or call 202/382-5388.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall, (202) 382-7126.

SUPPLEMENTARY INFORMATION:

Overview

This preamble describes the legal authority and background, the technical and economic bases, and other aspects of the proposed regulations. It also summarizes comments on a draft technical document circulated in November 1979, and solicits comments on specific areas of interest. The abbreviations, acronyms, and other terms used in the Supplementary Information section are defined in Appendix A to this notice.

This proposed regulation are supported by three major documents available from EPA. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants.* EPA's technical conclusions are detailed in the *General Development Document for Effluent Limitations Guidelines and Standards for the Nonferrous Metals Manufacturing Point Source Category* and the subcategory supplements. The Agency's economic analysis is found in *Economic Impact Analysis of Effluent Limitations Guidelines and Standards for the Nonferrous Metals Manufacturing Point Source Category.*

The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2402 (Rear) (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

The reporting or recordkeeping (information) provisions in this rule have been submitted for approval to the Office of Management and Budget (OMB) under Section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Any final rule will explain how its reporting or recordkeeping provisions respond to any OMB or public comments.

Organization of this Notice

I. Legal Authority.
II. Background.
A. The Clean Water Act and the Settlement Agreement.
B. Prior EPA Regulations.
C. Overview of the Category.
III. Scope of this Rulemaking and Summary of Methodology.
IV. Date Gathering Efforts.
V. Sampling and Analytical Program.
VI. Industry Subcategorization.
VII. Available Wastewater Control and Treatment Technology.
A. Control and Treatment Technologies Considered.
B. Status of In-Place Technology.
C. Control and Treatment Options Considered.
VIII. Substantive Changes from Prior Regulations.
IX. Summary of Generic Issues.
X. Best Practicable Technology (BPT) Effluent Limitations.
XI. Best Available Technology (BAT) Effluent Limitations.
XII. New Source Performance Standards (NSPS).
XIII. Pretreatment Standards for Existing Sources (PSES).
XIV. Pretreatment Standards for New Sources (PSNS).
XV. Best Conventional Technology (BCT).
XVI. Regulated Pollutants.
XVII. Pollutants and Subcategories Not Regulated.
XVIII. Cost and Economic Impacts.
A. Costs and Economic Impacts.
B. Executive Order 12291.
C. Regulatory Flexibility Analysis.
XIX. Non-Water Quality Aspects of Pollution Control.
XX. Best Management Practices (BMPs).
XXI. Upset and Bypass Provisions.
XXII. Variances and Modifications.
XXIII. Relationship to NPDES Permits.
XXIV. Solicitation of Comments.
XXV. List of Subjects in 40 CFR Part 421.
XXVI. Appendices:
A. Abbreviations, Acronyms, and Other Terms Used in this Notice.
B. Summary of BCT Test in the Nonferrous Metals Manufacturing Category.
C. Pollutants Selected for Regulation by Subcategory.
D. Toxic Pollutants Not Detected.
E. Pollutants Detected Below the Analytical Quantification Limit.
F. Toxic Pollutants Detected in Amounts Too Effectively Reduced by Technologies Considered in Preparing this Regulation.
G. Toxic Pollutants Detected in the Effluent from Only a Small Number of Sources.
H. Toxic Pollutants Effectively Controlled by Technologies Upon Which are Based Other Effluent Limitations and Standards.
I. Toxic Pollutants Detected But Only in Trace Amounts and are Neither Causing Nor Likely to Cause Toxic Effects.
J. Toxic Pollutants Detected But Present Solely as a Result of Their Presence in the Intake Waters.

I. Legal Authority

EPA is proposing the regulation described in this notice under the authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217) ("the Act"). These regulations also are proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train,* 8 ERC 2120 (D.D.C. 1976), *modified,* 12 ERC 1833 (D.D.C. 1979), modified by additional orders of August 25, 1982 and October 26, 1982.

II. Background

A. The Clean Water Act and the Settlement Agreement

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," Section 101(a). By July 1, 1977, existing industrial dischargers were

required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" ("BPT"), Section 301(b)(1)(A). By July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable—which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT"), Section 301(b)(2)(A). New industrial direct dischargers were required to comply with Section 306 new source performance standards ("NSPS"), based on best available demonstrated technology; and new and existing discharges to publicly owned treatment works ("POTW") were subject to pretreatment standards under Sections 307 (b) and (c) of the Act. The requirements for direct discharge were to be incorporated into National Pollutant Discharge Elimination System (NDPES) permits issued under Section 402 of the Act. Pretreatment standards were made enforceable directly against dischargers to POTW (indirect dischargers).

Although Section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct discharges on a case-by-case basis, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, Section 304(c) and 306 of the Act required promulgation of regulations for NSPS, and Section 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, Section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, Section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by the dates contained in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the District Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating for 21 major industries BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), modified by additional orders of August 25, 1982 and October 26, 1982.

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the Federal water pollution control program, its most significant feature is its incorporation into the Act of several of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984 of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes pollutants which Congress declared "toxic" under Section 307(a) of the Act. Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" ("BMP") to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

The 1977 Amendments added Section 301(b)(2)(E) to the Act establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those mentioned specifically in Section 304(a)(4) (biochemical oxygen demands, TSS coliform, and pH), and any additional pollutants defined by the Administrator as "conventional." (To date, the Agency has added one such pollutant, oil and grease, 44 FR 44501, July 30, 1979.)

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in Section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test, *American Paper Institute* v. *EPA*, 660 F. 2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50372). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA had argued that a second cost test was not required.)

On October 29, 1982, the Agency proposed a revised BCT methodology. 47 FR 49176. This methodology has been applied to each of the Subcategories and is discussed in Section XIII of this preamble.

For non-toxic, nonconventional pollutants, Sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of this proposed regulation is to provide effluent limitations guidelines for BPT, BAT and BCT, and to establish NSPS, pretreatment standards for existing source, (PSES), and pretreatment standards for new sources (PSNS), under Sections 310, 304, 306, 307, and 501 of the Clean Water Act.

B. Prior EPA Regulations

EPA already has promulgated effluent limitations and standards pretreatment standards for certain nonferrous metals manufacturing subcategories. These regulations, and the technological basis are summarized below.

Primary Aluminum Subcategory. EPA has promulgated BPT, BAT, NSPS, and PSNS in this subcategory. 39 FR 12822 (March 26, 1974). BPT is based on lime precipitation and sedimentation technology. BAT is based on this technology and flow reduction; NSPS and PSNS are based on the same technology and additional flow reduction.

Secondary Aluminum Subcategory. Existing regulations in this subcategory cover BPT, BAT, NSPS, PSES and PSNS. See 39 FR 12822 (March 26, 1974) and 41 FR 54854 (December 15, 1976) (establishing pretreatment standards). BPT is based on lime precipitation and sedimentation with pH adjustment to control ammonia. BAT is no discharge of

wastewater pollutants, PSES is based on oil skimming, pH adjustment and ammonia air stripping, while NSPS and PSNS are based on lime precipitation and sedimentation and flow reduction. (Promulgated NSPS and PSNS are less stringent than BAT and PSES because the processes believed to be necessary to achieve zero discharge were not demonstrated in 1974 or 1976, but we believed they would be demonstrated by the time of the BAT and PSES compliance dates.)

Primary Copper Smelting. Existing regulations cover BPT and BAT. Current BPT, the most recently promulgated regulation, is no discharge of process wastewater pollutants subject to an exception for unlimited discharge of the volume of water falling within impoundments in excess of the 10-year, 24-hour storm (known as a catastrophic precipitation event) when a storm of at least that magnitude occurred. See 45 FR 44926 (July 2, 1980). Existing BAT, promulgated earlier (40 FR 8523 (February 27, 1975)), is presently less stringent than BPT, allowing as exemptions to zero discharge a similar unlimited discharge for stormwater (except the allowance is for a volume of wastewater in excess of a 25-year, 10-hour storm), and a further discharge during any calendar month equal in volume to the difference between precipitation on and evaporation from the impoundment during that month. This later discharge is subject to concentration-based limitations.

Primary Electrolytic Copper Refining. Existing regulations cover PBT and BAT. The BPT regulation for this subcategory allows a mass-based continuous discharge based on lime precipitation and sedimentation. 45 FR 44926 (July 2, 1980). The BAT regulation promulgated earlier (40 FR 8524 (December 15, 1976)) is impoundment rather than hardware-based, and establish a mass-based continuous discharge limitation, based on flow reduction, lime precipitation, sedimentation, and the same allowances for catastrophic stormwater discharge and net precipitation discharge described for primary copper smelting, above. (Refiners located in areas of net evaporation, however, cannot discharge process wastewaters, based on the use of solar evaporation. The monthly net precipitation and catastrophic discharges may be discharged.)

Secondary Copper. EPA has established BPT, BAT and PSES in this subcategory. BPT and BAT, based on the presence of impoundments (or cooling tower circuits), require no discharge of process wastewater pollutants with allowances for catastrophic stormwater discharge and net precipitation discharge as described above when impoundments are used instead of cooling tower circuits. See 40 FR 8526 (February 27, 1975). PSES, promulgated later (41 FR 54854 (December 15, 1976)) is based on lime precipitation and sedimentation.

Primary Lead. The existing BPT and BAT limitations in this subcategory are based on impoundments. See 40 FR 8527 (February 27, 1975). These limitations provide for no discharge of process wastewater pollutants, with exemptions for catastrophic stormwater and new precipitation discharge of acid plant blowdown (subject to mass limitations) and monthly net precipitation on impoundments.

Primary Zinc. We have promulgated BPT and BAT in this subcategory. See 40 FR 8528 (February 27, 1975). These limitations are based on lime precipitation and sedimentation technology for BPT, with flow reduction added for BAT.

Metallurgical Acid Plants. This subcategory was established in 1980, and presently includes only acid plants (*i.e.*, plants recovering by-product sulfuric acid from sulfur dioxide smelter air emissions) associated with primary copper smelting operations. See 45 FR 44926. Primary lead and zinc plants also have associated acid plants, but their discharges presently are covered under the primary lead and zinc subcategories. BPT for copper smelting acid plants is based on lime precipitation and sedimentation.

The Agency has not proposed or adopted regulations for primary columbium-tantalum, primary tungsten, secondary silver or secondary lead subcategories.

Table 1 indicates the regulations currently in place for phase I of the nonferrous metals manufacturing category.

We are proposing today to amend some of these existing regulations, but to leave others in place. As a general matter, we are not amending existing BPT regulations, the only exception being in the primary lead subcategory. We also are including zinc and lead acid plants within the metallurgical acid plant subcategory, to be subject to the existing BPT limitations.

We are proposing today to amend all existing BAT, NSPS, PSES and PSNS limitations and standards. Our reasons for all of these decisions are stated later in the preamble.

TABLE 1.—CURRENTLY PROMULGATED LIMITATIONS AND STANDARDS—NONFERROUS METALS MANUFACTURING

Subcategory	BPT	BAT	NSPS	PSES	PSNS
Primary aluminum	LS	LS, FR	LS, FR[1]		LS, FR[1]
Secondary aluminum.	LS, pH	ND	LS, FR	OS, pH, AS	LS, FR
Primary copper smelting.	ND[2]	ND[2,3]			
Primary electrolytic copper refining.	LS	LS, FR[1], [4]			
Secondary copper.	ND[2,3]	ND[2,3]		LS	
Primary lead	ND[2,3]	ND[2,3]			
Primary zinc	LS	LS, FR			
Metallurgical acid plants[4]	LS				
Primary tungsten					
Primary columbium tantalum.					
Secondary silver					
Secondary lead					

[1] Includes additional flow reduction beyond BAT.
[2] Allows a discharge without limitation during a 10-year, 24-hour rainfall (or 25-year, 24-hour rainfalls at BAT) for stormwater falling on the wastewater cooling or settling pond.
[3] Allows a discharge, subject to concentration limitations, for a flow equal to the net monthly precipitation on the wastewater settling pond.
[4] Copper acid plants only; zinc and lead acid plants are currently covered in the primary zinc and primary lead subcategories.
LS = lime precipitation and sedimentation.
FR = flow reduction.
ND = no discharge.
OS = oil skimming.
pH = pH adjustment.
AS = ammonia air stripping.

C. Overview of the Category

The nonferrous metals manufacturing category includes plants producing primary metals from ore concentrates and recovering secondary metals from recycled metallic wastes (aluminum cans, lead batteries, etc.). Because of the diversity of the nonferrous metals category, EPA has divided it into separate segments (nonferrous metals manufacturing phase I, nonferrous metals manufacturing phase II, and nonferrous metals forming) in order to devote immediate resources to regulation of the phase I plants, which generate the largest quantities of toxic pollutants.

The proposed regulatory strategy for phase I nonferrous metals manufacturing addresses 12 subcategories: primary aluminum, copper smelting, copper electrolytic refining, lead, zinc, columbium-tantalum, and tungsten; secondary aluminum, silver, copper, lead and metallurgical acid plants. Nonferrous metals manufacturing phase II, containing an additional 21 primary metals and metal groups, 15 secondary metals and metal groups and bauxite refining, will be considered separately and is scheduled for proposal in September, 1983. A group of metals—including six primary metals and five secondary metals—were excluded from regulation in a Paragraph 8 affidavit executed pursuant to the

Settlement Agreement on May 10, 1979 (see Section XVII of this preamble). These metals were excluded from regulation either because the manufacturing processes do not use water or because they are regulated by toxics limitations and standards in other categories (ferroalloys and inorganic chemicals). EPA also has studied the segments of the nonferrous metals industry associated with forming or casting nonferrous metals. Proposed regulations for aluminum forming (47 FR 52626), copper forming (47 FR 51278), and metal molding and casting (47 FR 51512) were issued in November, 1982. The forming of metals other than aluminum and copper will be addressed in a proposed regulation for nonferrous metals forming that is scheduled for September, 1983.

There are 314 plants in the phase I subcategories which, according to EPA estimates, employ 61,000 people and annually generate raw wastes containing approximately 5 million kilograms of toxic pollutants. There are 76 (25 percent) direct dischargers which currently discharge 2 million kg/yr of toxic pollutants and there are 58 (18 percent) indirect dischargers which currently discharge an additional 76,000 kg/yr of toxics. There are 180 plants in this category (57 percent) that do not discharge process wastewater.

A brief description of each of the subcategories is provided below, with particular emphasis on the sources of wastewater and the types of pollutants present. Section V of the subcategory supplemental Development Documents provides specific characterization data on each of the wastewater sources.

We are proposing discharge limitations standards for each of the wastewater sources identified below. The limitation for an individual plant would then be the sum of all limitations or standards for those wastewater sources actually present at the plant. (See discussion of building blocks in Section VIII below.)

Primary Aluminum

There are 31 primary aluminum reduction plants in the United States. The majority of plants are located near sources of abundant and inexpensive hydroelectric power (the east, southeast and northwest regions), since considerable amounts of electrical energy are required to produce aluminum. Twenty-seven plants are direct dischargers and the remaining four do not discharge wastewater; none are indirect dischargers.

Industry data indicate that 27 of the 31 plants (85 percent) produce less than 200,000 tons per year each. Median production is in the 100,000 to 150,000 tons per year range.

All primary aluminum produced in the United States is manufactured by the electrolytic reduction of alumina via the Hall-Heroult Process.

The electrolytic cells used in the Hall-Heroult Process are called pots. These pots, ranging in size from 1.8 x 5.5 to 4.3 x 12.8 meters (6 x 18 to 14 x 42 feet), are made of cast iron and lined with carbon. This carbon lining serves as the cathode in the electrolytic circuit, collecting aluminum ions from the electrolyte. Large numbers of these pots (from 100 to 250 cells) are hooked electrically in series. This forms the potline, the basic production unit of the reduction plant. Potlines are generally contained in one or two long, ventilated buildings called potrooms. The electrolyte is a solution of cryolite, a double fluoride salt of calcium and aluminum. Alumina is periodically added to and dissolved in the electrolyte solution. The cells are heated to about 950 C, and when an electrical current is passed through the molten cryolite, the alumina is converted to aluminum ions. These ions then migrate to the cathode, where they are reduced to aluminum. The molten aluminum, because of its heavier weight, collects in the bottom of the pot, forming a layer beneath the cryolite solution.

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The anode is the electrical counterpart of the cathode in the electrolytic cell. The anode used in the primary aluminum industry is made from coal tar pitch and petroleum or metallurgical coke and when electrically connected is given a positive charge. This positive charge attracts negative ions from the cryolite solution, transferring the positive charge to the aluminum. This is the manner in which the positive aluminum ions, which are attracted to the negatively charged cathode, are formed. Additionally, the carbon anode reacts with by-product oxygen to form carbon monoxide and carbon dioxide. Thus, the anode is consumed by the process of charge transfer and must be replaced periodically. Potline cells are generally operated with currents of from 80,000 to 100,000 amperes. Anodes used in the Hall-Heroult Process are of two basic types: prebaked and Soderberg anodes. Fabrication of these anode types is initiated in the same manner. Coal tar pitch and ground coke are blended together to form a paste. Operations included in the paste plant are crushing, screening, calcining, and grinding and mixing. Anode preparation releases particulates, tars, oils, and hydrocarbons to the air.

When manufacturing prebaked anodes, the paste is formed into green (unbaked), free-standing anodes. These green anodes are then cast and baked in an anode bake plant housing a ring furnace or tunnel kiln. During baking, an electrical connector, a steel or ion electrode, is bonded to the anode. The prebaked anode is gradually consumed by the electrolysis and eventually becomes too short to be effective. The resulting anode "butts," as they are commonly referred to, are recycled for use in the paste plant and replaced by fresh anodes.

The alternative to the prebaked anode is the Soderberg anode. In the Soderberg process, the anode paste is used in the electrolytic cell without further processing. The paste is periodically fed into a rectangular steel compartment above the pot. The heat of the chemical reaction in the pot then bakes the paste, fusing the new material with the old anode. The tip of this anode projects through the steel shell into the electrolyte. As the tip is oxidized, constant replacement of the anode is possible. Two configurations exist in the aluminum industry using the Soderberg process: (1) The Horizontal Stud Soderburg (HSS) process and (2) the Vertical Stud Soderberg (VSS) process.

The HSS system uses horizontal studs or pins to support the anode body, while the VSS system uses vertical pins. In the horizontal Soderberg process, the holding pins are adjusted from the side of the pot, while in the vertical Soderberg process the pins are adjusted from the top.

It is essential for purity of the product aluminum and the structural integrity of the cell that the molten aluminum be isolated from the iron shell. If the pot was left unlined, the iron would react with the electrolytic bath, and an iron-aluminum alloy would be the result of the electrolysis. Therefore, a carbon liner is used. A service life of up to three years may be attained for a properly installed liner in a well-managed cell, but an average life of between two and three years is reported to be more common.

Upon failure of a liner, the cell is emptied, cooled, and removed from the cell room to a working area. By mechanical drilling or soaking in water, the shell is stripped of old lining material, which may be processed through a wet cryolite facility for recovery of fluoride values or simply set aside in a storage yard.

Potlining or cathode manufacture is sometimes preceded by the in-plant grinding of the anthracite in a wet ball mill. Subsequent filtration and settling process steps result in the production of a wastewater. Four primary aluminum plants reported the presence of this wastewater stream. Potline cells emit gases and oils. The molten aluminum collected in the bottom of the electrolytic pots is tapped and conveyed to holding furnaces for subsequent degassing and alloying. Degassing is performed by injecting chlorine gas (sometimes with nitrogen and carbon dioxide) into the molten metal to remove hydrogen. The addition of gas to the melt also mixes the aluminum to assure that all materials added concurrently for alloying are distributed evenly in the molten aluminum.

Casting is the final step at most reduction plants. Pigs and sows are cast in conventional molds (stationary casting), while direct chill (DC) and continuous rod casting may be used for other shapes. In DC casting, molten aluminum is poured into a bottomless water-cooled mold, and after surface solidification is completed, is continuous drops down through a series of water sprays into a water-filled pit where solidification is completed. In continous rod casting, a ring mold is fitted into the edge of a rotating casting wheel. Molten aluminum is then poured into the mold and cools as the wheel/mold assembly rotates. After the wheel has rotated about 180 degrees, the pliable aluminum bar is released. Contact cooling water is used for cooling of the molten aluminum after it is cast.

The principal sources of wastewater in the primary aluminum subcategory are listed below, along with the pollutants typically found in each:

(1) *Anode paste wet air pollution control* wastewater results from wet scrubbers used to control process emissions from the paste plant; it contains toxic organics and suspended solids.

(2) *Anode bake plant wet air pollution control* wastewater results from wet scrubbers used to control process emissions from the bake plant; it contains toxic organics, oil and grease, and suspended solids.

(3) *Anode contact cooling* water is used to quench the anodes after they are formed; the wastewater contains suspended solids.

(4) *Cathode manufacturing* wastewater results from the manufacture of cathodes to be used in the electrolytic cells; the wastewater contains toxic organics and suspended solids.

(5) *Cathode reprocessing* wastewater results from the recovery of electrolytic solutions and the removal of the cathode lining; it contains toxic organics, cyanide, and suspended solids.

(6) *Potline wet air pollution control* wastewater results from wet scrubbers used to control process emissions immediately above the electrolytic cells; the wastewater contains fluoride, toxic metals, and suspended solids. It may contain toxic organics in plants using Soderberg electrolytic cells.

(7) *Potroom wet air pollution control* wastewater results from wet scrubbers used to control process emissions in the buildings housing the electrolytic cells; the wastewater contains fluoride and suspended solids.

(8) *Degassing wet air pollution control* wastewater results from wet scrubbers used to control emissions from degassing; the wastewater contains suspended solids.

(9) *Direct chill and continuous rod casting contact cooling* water is uesd to cool the aluminuim as it is cast. Wastewater from plants using direct chill casting may contain oil and grease when lubricants are used.

Secondary Aluminum

Of the 55 secondary aluminum plants operating in the United States, the majority are located in the eastern region, and most are in urban areas near raw materials and markets. Most of the facilities are less than 25 years old, reflecting relatively recent development of this industry. Industry data indicate that the majority of facilities produce between 5,000 and 20,000 tons of aluminum per year. Most plants use a demagging process and almost all cast molten aluminum. Thirty-four of these facilities achieve zero discharge through evaporation and recycle. Eight plants are direct dischargers and 13 are indirect dischargers.

Refining scrap into aluminum involves a two-step process: scrap pretreatment and smelting and refining. Secondary aluminum raw materials include: Old sheet and castings, new clippings and forgings, borings and turnings, residues, and high run.

Scrap pretreatment involves preparing the raw material for further processing removing contaminants. There are three general methods of pretreating scrap: mechanical, hydrometallurgical, and pyrometallurgical, with the method used being dependent on the type of scrap. The mechanical method consists of shredding, classifying, baling, crushing and screening. Hydrometallurgical treatment involves leaching with water and pyrometallurgical processing requires burning or drying and sweating.

Residues, such as drosses, skimmings, and slags, are treated by both wet and dry methods. The wet process involves leaching with water to remove contaminants. Such as fluxing salts from the drosses and slags. The dry process consists of crushing, screening, and iron removal by magnetic separation. The smelting and refining step in secondary aluminum processing consists of five substeps: charging scrap to the furnace; addition of fluxing agents; addition of alloying agents; demagging or degassing; and skimming.

Scrap is charged to the furnace continuously or by batch. The molten charge is then fluxed. There are two general types of fluxes: cover fluxes that are used to reduce oxidation of the melt by air and solvent fluxes that react with contaminants such as nonmetallics, residues from burned coatings, and dirt to form insolubles which float on the surface of the melt as slag.

Next, alloying agents are added to the melt in varying amounts according to production specifications. Copper, silicon, manganese, magnesium or zinc are typical alloys added. Mixing the furnace contents is necessary to assure uniform composition. Nitrogen or other inert gases may be injected to aid in the mixing.

The next step, demagging is accomplished by chlorination. Chlorine gas is normally used although other chlorinating agents such as anhydrous aluminum chloride or chlorinated

organics are sometimes used. The chlorine gas is injected under pressure through tubes or lances into the molten aluminum. As the chlorine bubbles to the surface it reacts with the aluminum to form aluminum chloride, which then reacts with the magnesium to form magnesium chloride which floats to the surface and is skimmed off. Degassing is normally done by lancing the melt with nitrogen, chlorine, or mixtures of the two to remove dissolved hydrogen, oxygen, and moisture. Other techniques include the use of vibration, vacuum, and solidification with remelting.

In the skimming step, the dross or slag with its associated impurities is skimmed from the molten aluminum. The cooled slag is stored for shipment to a residue processor, recycled or discarded.

The molten aluminum is cast into ingots, billets, notched bars or shot. Cooling of direct chill cast aluminum is accomplished by a combination of contact and noncontact cooling water; air cooling is generally used to cool aluminum by stationary means.

The principal sources of wastewater in the secondary aluminum industry are listed below, along with the pollutants typically found in each:

(1) *Scrap drying wet air pollution control* wastewater results from the drying of aluminum scrap to remove cutting oils and water. This wastewater contains total suspended solids and aluminum.

(2) *Scrap screening/milling* wastewater results from washing contaminants from scrap aluminum and contains total suspended solids, aluminum and toxic metals.

(3) *Dross washing* wastewater is generated from the leaching of residues with water to remove contaminants. This wastewater contains toxic metals, aluminum, ammonia and suspended solids.

(4) *Demagging wet air pollution control* wastewater is the scrubber liquor resulting from the removal of magnesium from molten aluminum. Toxic metals, chloride, fluoride and suspended solids characterize this wastewater.

(5) *Direct chill casting contact cooling* water results from casting the molten aluminum into ingot, bars, or shot. This wastewater contains oil and grease, chloride, phenols, and suspended solids.

Primary Copper Smelting

The primary copper smelting industry consists of 20 smelting operations located primarily in the southwest. Of these 20 facilities, four were built in the past 20 years, while seven of them were built at least 80 years ago. On an average, the plant production from these facilities is 200,000 tons of smelter copper. There are two direct dischargers, no indirect dischargers, and 18 zero dischargers.

In smelting copper sulfide concentrates, six processes may be used. However, at several facilities these processes, discussed below, may not be used or combined in several ways. The processes used depend on the age of the facility and the raw materials.

Concentrated copper sulfide ore contains various impurities; however, the major impurity of the ore is iron sulfide. In the first step, roasting, the iron sulfide contained within the ore is converted to iron oxide and sulfur dioxide gas. Off-gases from this process are treated in a sulfuric acid plant to remove smelting furnace for separation of copper sulfide and iron oxide. In this process fluxing agents are added to form an iron silicate slag which floats to the top of the charge and is removed. Oftentimes two separate processes are not required so that roasting and smelting may take place in one furnace.

Copper matte, tapped from the smelting furnace, is composed of copper sulfides and iron sulfides not removed during the smelting operation. The copper matte is charged to a furnace where additional air and fluxing agents are added to remove any remaining iron sulfide or oxide. After the iron sulfides and oxides are removed, compressed air is blown through the charge to convert the copper sulfide to copper oxide and sulfur dioxide. After this conversion process, further purification of the copper is required to prevent the interference of impurities in refining processes or to improve physical characteristics such as ductility and conductivity. Fire refining is very similar to the conversion process in that compressed air is blown through the copper sulfide to copper oxide and sulfur dioxide. After this conversion process, further purification of the copper is required to prevent the interference of impurities in refining processes or to improve physical characteristics such as ductility and conductivity. Fire refining is very similar to the conversion process in that compressed air is blown through the molten copper. Impurities within the charge oxidize and rise to the surface and are skimmed off. Repeated iterations of oxidizing and skimming are performed until the copper has become completely oxidized. Reducing agents are then added to convert the copper oxide to copper, reducing the oxygen concentration to approximately 0.3 percent.

The copper recovered from the fire refining process is cast for further marketing. Depending on the intended use of the copper, it may be cast into shapes that can be formed, or cast into usable shapes for further refining.

The principal sources of wastewater in the primary copper smelting subcategory are listed below, along with the pollutants typically found in each:

(1) *Slag granulation* wastewater results from the conditioning of slag tapped from the furnaces. Wastewater from this operation contains impurities found within the slag, toxic metals, and suspended solids.

(2) *Casting wet air pollution control* wastewater results from the control of particulate matter produced in the casting furnace and contains dissolved toxic metals and suspended solids.

Wastewater discharges from roaster, converter and smelting furnace wet air pollution control are included as a part of the metallurgical acid plant.

Primary Electrolytic Copper Refining

The primary electrolytic copper refining industry consists of 15 refining and electrowinning facilities located along maritime centers and in the southwest near smelters. Four of these facilities are direct dischargers while 11 achieve zero discharge. The average age of these facilities is approximately 30 years, while the average production is approximately 115,000 tons per year of cathode copper.

Further refining of copper is necessary if it is to be used in electrical applications. By using electrolysis, the copper can be refined to a purity of 99.98 percent or greater, and the precious metals contained as impurities in the copper can be recovered. Fire refined blister copper from the smelting operation, sulfuric acid, and copper sulfate are the principle raw materials used in electrolytic refining.

At the refinery, anodes and starter sheets of electrolytic refined copper are suspended in solutions of sulfuric acid and copper sulfate. Through electrolysis, positive copper ions from the anode migrate through the copper sulfate-sulfuric acid medium and are deposited on the starter sheet which has become the cathode. To drive the reaction, an electric current is passed through each cell.

Impurities released into the electrolyte either go into solution or settle to the bottom of the tank. Electrolyte is continously circulated through the system of cells with a small slip stream removed for purification.

After approximately two weeks when the cathodes reach a designated size,

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generally 180 pounds, they are removed and rinsed. Another set of starter sheets is inserted with the anodes for another two week period. At the end of the second cycle, both the cathodes and anodes are removed. The anodes are not completely consumed, but if they were left in the cell they soon would break, falling into the cell and shortcircuiting it. Scrap anodes may be rinsed and then returned back to anode casting. The cathodes are either sold and shipped with no further modifications, or they are cast into wire bar, ingots, or billets for copper forming operations.

Processing the spent electrolyte is accomplished with various methods, but the most popular uses a two-stage process. In the first step, commonly referred to as electrowinning, copper is removed from solution by electrolysis in much the same way as was done in the tank house. The major difference is that an insoluble anode, such as lead or iron, is used to force the copper out of solution and plate onto a cathode. This process uses two to three liberator cells connected in a series. In the first cell, the cathode copper is of high purity with slight lead contamination and may be used with no additional refining. As the copper concentration in the electrolyte decreases, the purity of the copper cathode also decreases.

The spent electrolyte is now composed of nickle sulfate and sulfuric acid. Through evaporation, the decopperized solution is concentrated and then cooled. As the solution cools, nickel sulfate is precipitated leaving what is known as black acid. The acid is usually recycled back to the refining process, but it may be used for leaching operations or fertilizer manufacture.

The principal sources of wastewater in the primary electrolytic copper refining subcategory are listed below, along with the pollutants typically found in each:

(1) *Anode and cathode rinse water* results from the rinsing of anodes and cathodes when they are removed from the electrolytic cells. Characteristics of the rinse water include a low pH due to the sulfuric acid rinsed from the anodes or cathodes along with dissolved toxic metals.

(2) *Spent electrolyte* after electrowinning and nickel sulfate removal may be discharged, although in most cases it is recycled back to the electrolytic tank house. This waste stream contains dissolved toxic metals and is characterized by a low pH due to electrolyte medium.

(3) *Casting contact cooling* wastewater results from the contact cooling of metal castings and contains dissolved toxic metals and suspended solids.

(4) *Casting wet air pollution* wastewater results from the control of particulate matter produced in the casting furnace and contains dissolved toxic metals and suspended solids.

Secondary Copper

Of the 31 secondary copper processing plants in the United States, the majority are located in or near major industrial cities in the Great Lakes and New England states, where most of the raw materials are generated and collected. The subcategory is fairly well established; the average plant age falls between 30 and 40 years, somewhat older than the average for plants in primary copper. The average production of secondary copper plants is only about one-tenth of the average of plants in primary copper. Only five plants of the 31 plants listed in this subcategory are direct dischargers while six of these plants are indirect dischargers. Zero discharge of process wastewater is achieved by 20 plants.

Depending on the type of raw materials and the desired end product, the manufacturing process consists of three distinct operations: pretreatment of scrap, smelting and refining. Most plants, however, do not go beyond the smelting process.

Pretreatment consists basically of separating the raw materials into low-, intermediate-, and high-grade scrap and readying these materials for the next process they will undergo, depending on the desired end product. In the next step, smelting, the low-grade scrap is charged into either a blast or cupola furnace. Then, the pre-melted low-grade materials, intermediate-grade scrap, and high-grade scrap are refined or alloyed in reverberatory or rotary furnaces. The methodology of further refining or alloying varies with the scrap charged, the finished product, equipment available, and individual manufacturer preference. When the melt has attained the degree of purity required by product specifications, the metal is cast and cooled. A few secondary copper facilities practice electrolytic refining. Copper anodes are alternated with refined copper starter sheets in the electrolytic cell. Pure copper is deposited on the starter sheets, which serve as the cathode in the electrolytic reaction. The starter sheets, with deposited cathode copper, are periodically removed. The electrolyte, a solution of sulfuric acid and copper sulfate, is washed from the cathode copper. Casting of electrolytically refined copper is essentially the same as for fire-refined copper.

The principal sources of wastewater with the secondary copper subcategory are listed below, along with the pollutants typically found in each:

(1) *Slag milling and classification* wastewater results from milling and classifying slag (when used as a raw material) prior to smelting, and is characterized by the presence of suspended solids, copper, lead and zinc.

(2) *Smelting wet air pollution control* wastewater is typically acidic and contains copper; it may also contain varying concentrations of other metals, due in part to differences in the metallic contents of the raw material and the fluxes used.

(3) *Contact cooling* wastewater results when the water used in ingot or anode cooling is discharged without recycle. This stream is characterized by the presence of suspended solids and toxic metals.

(4) *Electrolyte,* a solution of sulfuric acid and copper sulfate, is usually recycled or sold; when discharged, however, the strongly acidic wastewater contains copper.

(5) *Slag granulation* wastewater results when molten slag is impacted with a high pressure water jet. This stream is characterized by the presence of toxic metals.

Primary Lead

Only One of the seven plants in the primary lead subcategory is a direct discharger. All others (six) have achieved zero discharge. Three of these plants are located near the rich lead ore deposits in Missouri, while the rest are spread throughout the west. Four plants were built prior to World War I, another in 1920, and the final two in the 1968 in Missouri. EPA data show that plant production ranges from 100,000 to 250,000 tons per year while average annual plant production is about 150,000 tons.

The process used in lead production has changed very little in the last 75 years. Primary lead production can be divided into five distinct steps as described below.

In the initial step, ore concentrates are sintered in a traveling grate furnace. This sintering operation which drives off sulfur a sinter of suitable size and strengths for the blast furnace and recover sulfur as sulfuric acid.

The second step is blast furnace reduction. In this process, sinter, fluxes, and coke are charged to a blast furnace. Lead bullion is tapped off the bottom while slag from the top of the furnace may be granulated with water or sent to a fuming furnace where zinc and other

metal impurities can be volatilized away.

Drossing is the next primary lead production step. Molten bullion is transferred to large, hemispherical drossing kettles, and the temperature is subsequently lowered to a point where lead oxides or impurities such as copper soildify. The solid scum or "dross" floats to the top and is removed by skimming. The drossed skim is charged to a reverberatory furnace where the melt again separates into layers. The top layer, slag is returned to the blast furnace, and speiss and matte, the intermediate layers, are sold to copper smelters. Lead is tapped from the bottom.

The fourth step, softening and refining, is performed to remove antimony and other specific impurities which may persists in the bullion. These processes are similar to drossing in that they involve efforts to "float" impurities to the top of the lead melt and then skim the scum away. This is accomplished through oxidation or by adding chemicals which combine with impurities. Antimony rich slag may be refined in furnaces to recover "hard" or antimonial lead.

Casting is the fifth production step. Refined, high purity lead bullion is cast into a variety of sizes and shapes. There is no process wastewater generated during casting. Cooling is accomplished using noncontact cooling water or air cooling.

The principal sources of wastewater in the primary lead subcategory are listed below, along with the pollutants typically found in each:

(1) *Slag granulation* wastewater results when molten blast furnace slag is impacted with a high pressure water jet. Toxic metals, especially lead, are present in this waste stream.

(2) *Zinc fuming furnace scrubber water* is generated by wet scrubbers used to contain particulates and volatilized metals (especially zinc), produced by the fuming of blast furnace slag.

(3) *Dross reverberatory furnace scrubber water* is a potential discharge associated with the wet scrubbers which are used to contain particulates and fumes from the reverberatory fumes. Toxics metal and substained solids are presented in this wastewater.

(4) *Dross reverberatory furnace granulation* wasterwater is used to prepare speiss and matte from the dross reverberatory furnace for resale. Metals and suspended solids again characterize this stream.

(5) *Hard lead refining wet air pollution control* wastewater results from air pollution control equipment on furnaces used to refine antimonial, or "hard," lead from the softening step. Again, metals, particularly lead and antimony, and suspended solids, are present.

(6) *Hard lead refining slag granulation* wastewater is used to granulate slag from the hard lead refining blast furnace. Toxic metals and suspended solids characterize this stream.

Wastewater discharges associated with sintering wet air pollution control are included as a part of the metallurgical acid plant.

Primary Zinc

There are seven primary zinc plants in the United States. The primary zinc industry is well established; the average plant age is about 50 years. The zinc industry is not confined to any particular geographic location. Four plants are located east of the Mississippi river, two plants are located in the southwest (Texas and Oklahoma), and one plant is located in the northwest. The average plant has a production of 100,000 to 200,000 tons per year. The production of three plants is less than 100,000 tons per year while the production of one plant is more than 200,000 tons per year. At present, five of the plants are direct dischargers and the remaining two are classified as zero dischargers.

There are two zinc production processes; pyrolytic and electrolytic. The first step in each process is roasting. Roasting converts the sulfur present in the zinc concentrates to sulfur dioxide. The sulfur dioxide is then converted to sulfuric acid at an acid plant located on-site with the zinc plants.

In the pyrolytic process, the roasting calcine is sintered and then reduced to metallic zinc. Sintering agglomerates the calcine and drives off any residual sulfur. The sintered calcine is reduced to metallic zinc in vertical retort or electrothermic furnaces. The metallic zinc may be refined further by liquation or redistillation or cast into various shapes and sold.

In the electrolytic processes, zinc is leached from the calcine by a solvent comprised of sent electrolyte and sulfuric acid. Various impurities such as cadmium and copper are precipitated from the leachate. The purities zinc sulfate solution is then electrolyzed. In the electrolytic cells, zinc from the zinc sulfate solution (electrolyte) deposits on the cathodes. When the cathodes attain the desired thickness the zinc is stripped, melted, cast in various shapes and sold.

There are a number of by-products associated with the production of zinc. Cadmium and sulfuric acid are the two major by-products. Currently, all seven zinc plants have sulfuric acid and cadmium recovery plants associated with them.

The principal sources of wastewater in the primary zinc subcategory are listed below, along with the pollutants typically found in each:

(1) *Zinc reduction furnace wet air pollution control* wastewater results from the conditioning of off-gases from the reduction furnaces, and contains zinc, cadmium, and several other toxic metals at treatable concentrations.

(2) *Leaching* wastewater results from leaching tank dischargers to prevent the buildup of dissolved solids) or the thickeners and filters associated with leaching. Leaching wastewater is characterized by the presence of toxic metals.

(3) *Leaching wet air pollution control* wastewater results from the use of contact scrubbers to control acidic leaching emissions. The scrubbing liquor contains various toxic metals.

(4) *Cathode and anode washing* wastewater results from the periodic washing of the cathodes and anodes used in the eletrolytic zinc process. Cathode and anode washing wastewater contains toxic metals and suspended solids.

(5) *Casting wet air pollution control* wastewater results from cleaning the gaseous emissions associated with the casting melting furnace, and contains toxic metals and suspended solids.

(6) *Casting contact cooling* wastewater results from the contact cooling of metal castings and contains toxic metals.

(7) *Cadmium plant* wastewater results from by-product cadmium recovery and contains toxic metals.

Wastewater discharges associated with roasting wet air pollution control and sintering wet air pollution control are included as a part of the metallurgical acid plant.

Metallurgical Acid Plants

There are 22 metallurgical sulfuric acid plants in the United States. Of these, eight are direct dischargers, one is an indirect discharger and 13 achieve zero discharge. Eleven metallurgical sulfuric acid plants are located on-site with primary copper smelting plants, four are on-site at primary lead plants, and there is one on-site at each of the seven primary zinc plants. All but one of the plants associated with copper smelting are located in Texas or west of Texas, and all except one of these are zero dischargers. Two of the acid plants associated with lead are located in Missouri and are both direct discharge

acid plants. The other two are zero discharge acid plants and are located in Idaho and Montana. Only one of the plants associated with zinc is a zero discharger. It is also the only zinc-related plant west of Texas. The other six zinc-related acid plants, five direct dischargers and one indirect discharger, are located between Texas and Pennsylvania. There are insufficient data to ascertain the age of acid plants independently of the base metal plants associated with them. Acid plants have been added as a result of air pollution abatement measures at some of the existing primary metal production facilities. The average production capacity for metallurgical acid plants is 100,000 to 300,000 tons per year of 100 percent sulfuric acid. The production capacities range from 50,000 to 850,000 tons per year.

Metallurgical acid plants produce sulfuric acid from the sulfer oxide emissions of pyrometallurgical operations. By producing acid, the acid plants not only clean the smelter emissions of many tons per day of sulfur oxides, but they also produce a marketable sulfuric acid product.

Prior to entering the acid plant, the off-gas stream from pyrometallurgical operations will usually undergo various pretreatment steps. The pretreatment steps include cooling, cleaning, conditioning (humidification), mist precipitation, drying and compression.

In the acid production section, a vanadium pentoxide catalyst converts the sulfur dioxide in smelter off-gases to sulfur trioxide, and the sulfur trioxide is absorbed into a sulfuric acid stream. The sulfur trioxide combines with water in the absorbing sulfuric acid (which, in effect, increases the strength of the contacting acid stream).

The principal wastewater sources in metallurgical acid plants are as follows:

—Sintering wet air pollution control,
—Roasting wet air pollution control,
—Conversion wet air pollution control,
—Acid plant wet air pollution control,
—Mist precipitator,
—Bearing cooling,
—Compression,
—Steam generator,
—Box cooler, and
—Mist eliminator.

These wastewater sources are usually combined into a single wastewater stream—acid plant blowdown—which is mixed, a (treated and then recycled or discharged. Plants usually reported this discharge to EPA as a single flow. Therefore, we intend to consider this discharge as a single process.

The acid plant blowdown stream contains the toxic metals antimony, arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, and zinc, and total suspended solids.

Primary Tungsten

Of the eight primary tungsten plants in the United States, two are direct dischargers, three are indirect dischargers, and three are zero dischargers. Seven of the eight plants are located around the Great Lakes, and all, except one in California, are in areas of net precipitation. Only two primary tungsten plants have been built in the last 30 years; most were built around the time of World War II. EPA data show that plant production ranges from 100 to 4,000 tons per year while the average yearly production is approximately 1,000 tons.

The processes used at a primary tungsten production facility depend largely on the raw material used and the final product desired. The three basic primary tungsten processing steps which an individual plant may utilize are discussed below.

The first step involves chemical separating impurities from tungsten ore concentrates with either an acidic or alkaline leaching process, dependent on the purity of the concentrates. Relatively high quality scheelite ores ($CaWO_4$) are leached with hot hydrochloric acid to produce tungstic acid, H_2WO_4. Wolframite ores (Fe, Mn)WO_4, and lower purity scheelite ores are leached with an alkaline leaching agent to produce a sodium tungstate intermediate (Na_2WO_4).

The second step involves purifying the leaching products into another intermediate, ammonium paratungstate (APT). Calcium chloride is added to a sodium tungstate solution to precipitate chloric acid to produce tungstic acid. Tungstic acid, from either synthetic or natural scheelite leaching, is dissolved in ammonium hydroxide, and APT is crystallized out of solution. Some plants produce APT from Na_2WO_4 using a newer, liquid ion-exchange process instead of the traditional methods described above.

In the third step, dried APT is calcined in rotary furnaces to metal powder is then produced by the reduction of tungsten oxides in hydrogen filled, high temperature reduction furnaces.

The principal sources of wastewater in the primary tungsten subcategory are listed below, along with the pollutants typically found in each:

(1) *Tungsten acid* rinsewater is generated when water is used to wash the insoluble tungstic acid product of leaching. This stream is characterized by high acidity as well as the presence of toxic metals and suspended solids.

(2) *Acid leach wet air pollution control* wastewater results from air pollution controls used to control HCl fumes from acid leaching, and is characterized by low pH (2 to 5) and contains toxic metals and suspended solids.

(3) *Alkali leach* wash water results from the filtering and stream contains toxic metals and suspended solids.

(4) *Ion-exchange raffinate* is a waste stream from the liquid are present in this stream due to the use of organic compounds as an ion-exchange median. This stream is also characterized by the presence of toxic metals and suspended solids.

(5) *$CaWO_4$ precipitation* wash water results from the precipitation of $CaWO_4$ from a sodium tungstate solution to which calcium chloride has been added. The resulting waste stream is characterized by the presence of calcium chloride and toxic metals.

(6) *The crystallization and drying of APT* may generate water as the APT crystals are precipitated from the mother liquor. Additionally, wet air pollution control methods may be applied to control ammonia fumes. The wastewater associated with this stream is characterized by the presence of ammonia.

(7) *APT conversion to oxides wet air pollution control* wastewater results from air pollution control devices on the rotary furnaces used to convert APT to tungsten oxides and contains ammonia and toxic metals.

(8) *Reduction to tungsten wet air pollution control* wastewater results from wet scrubbers on the reduction furnace. Toxic metals and suspended solids are found in this waste stream.

(9) *Reduction to tungsten water of formation* is produced in the reduction furnace when the reduction of oxides to metal frees oxygen to combine with the hydrogen in the furnace. The characteristics of this stream are similar to those of the reduction scrubber waters.

Primary Columbium-Tantalum

All five of the columbium-tantalum plants were built in the 20-year period just after World War II. The plants are scattered geographically, with half the plants located in New England and the rest in the West and Midwest. Only the plant in Oklahoma is in area of net evaporation; the remaining facilities are in net precipitation areas. EPA data show that average plant production is approximately 450 tons per year, and that all plants discharge wastewater. There are three direct dischargers, two indirect dischargers.

The processes used at a columbium and tantalum production facility depend largely upon the raw material used and the plant's final product. Four basic operations from ore or slag to metal must be performed, as described below.

In the first step, the ore or slag is pulverized to approximately the consistency of talcum power. Then, columbium and tantalum (along with some impurities) are leached from the powder by either hydrofluoric acid or by chlorine gas.

The second step, which involves separation and purification of the columbium and tantalum fluorides, is accomplished using solvent extraction. Methyl isobutyl ketone (MIBK) is the most commonly used solvent. Usually, a low normality feed stream is contacted with MIBK, whereupon tantalum salt of high purity is extracted. More hydrofluoric acid is then added to the aqueous phase (the columbium-laden stream) and is contacted with more fresh MIBK, extracting the columbium salt. Impurities remain in the raffinate waste stream, which is very highly acidic. The columbium and tantalum are then extracted from the MIBK into deionized water. The MIBK is recycled. This step also requires wet air pollution control equipment.

In the third step, the salts are precipitated, usually by the addition of potassium chloride or ammonia. Finally, the crystals are then filtered from the aqueous mother liquor (which is run to waste), then subjected to a water wash and dried.

Treatment of the ore or slag powder with chlorine gas at 500 to 1,000° C evolves the volatile pentachlorides of columbium, tantalum, as well as the chlorides of various other substances. These are removed by selective condensation and the columbian and tantalum chlorides are separated by distillation. This process is completely anhydrous and generates no wastewater streams. The process has been used in the past, but is not now in use on a commercial scale.

The principal sources of wastewater in the primary columbium-tantalum subcategory are listed below, along with the pollutants typically found in each:

(1) *Concentrate digester wet air pollution control* wastewater results from the digestion of ore concentrates and slags with hydrofluoric acid, and contains suspended solids, fluorides and toxic metals.

(2) *Solvent extraction raffinate* is a product of two-step extraction process, resulting in the extraction and separation of columbium and tantalum. The raffinate contains impurities from digestion and contains toxic organics, fluorides, toxic metals and suspended solids.

(3) *Precipitation and filtration* wastewater results from the precipitation of pure metal salts from the aqueous phase by ammonia addition to form columbium and tantalum oxides, or hydrofluoric acid and potassium fluoride addition to recover tantalum. These precipitates are filtered and washed, producing effluent streams containing ammonia, fluoride, toxic metals and total suspended solids, and potassium fluorides, and chlorides, for the respective processes.

(4) *Metal salt drying wet air pollution control* wastewater are produced as the precipitates are dried and calcined to yield purified salts. The solvents produced reflect the precipitation process employed.

(5) *Reduction of salt to metal* wastewater is produced from sodium reduction, or extensive washing of the product metal with water and/or acid. The resulting waste streams typically contain dissolved solids and fluoride, sodium chloride and sulfate, and potassium chloride and sulfate. Another reduction process, aluminothermic reduction, is used in plants in the United States; however, the process generates no wastewater.

(6) *Reduction of salt to metal wet air pollution control* wastewater results from wet scrubbers which control the reduction process emissions; this discharge is similar in pollutant content to the reduction washing stream.

(7) *Consolidation and casting contact cooling* produces no wastewater discharge. One plant surveyed practiced direct contact cooling of metal castings; however, it recycles 100 percent of the water used in this process.

Secondary Silver

There are 44 plants in the United States that recover silver from photographic and nonphotographic sources. The plants are grouped in three major areas of the country: the Gulf Coast, the Rocky Mountains-Pacific Coast, and the Great Lakes-New England area. EPA data show that a small minority (four) of secondary silver plants are direct dischargers. Of the remainder, 17 are indirect dischargers and 23 are zero dischargers. Fourteen plants process only photographic materials, 15 process only nonphotograph materials, and 16 process both types. The average plant age is between 15 and 24 years.

Over half of the 44 secondary silver plants that reported data, produce in excess of 100,000 troy ounces of silver per year; 12 of these plants produce over 1,000,000 troy ounces of silver per year. Five plants reported production of less than 50,000 troy ounces per year.

The processes used at a secondary silver production facility depend largely upon the raw materials used and the plant's final product. Secondary silver production proceses can be discussed in the context of two sources of raw materials: photographic and nonphotographic materials.

In the most common method for recovering silver from film, the film is granulated and stripped of the emulsion using nitric acid. The waste film is removed by sedimentation and the silver precipitated from solution. Precipitation reagents commonly used are caustic soda (NaOH), and soda ash (Na_2CO_3). The silver precipitate is dewatered by gravity, filtered and dried. The dried cake is roasted in a reverberatory furnace and cast into ingots or Dore plates (electrodes). Dore plates are electrolytically refined on-site or shipped to other facilities. The refined silver is melted and recast as ingots.

Film processing solutions are processed similarly, using chemical precipitation, metallic replacement, or direct electrolytic refining methods. Photographic film may also be incinerated, and the silver-bearing ash roasted and refined.

Nonphotographic waste plating solutions are treated to precipitate the silver. The process consists of precipitation, filtration and washing, roasting, casting, refining, and recasting. Precipitation is usually accomplished by addition of sodium hypochlorite. Roasting, casting and electrolytic refining operations are identical to those used in photographic materials processing.

Silver scrap from electrical components is smelted in a reverberatory furnace to produce lead bullion, copper matte, and slag. The slag is smelted in a blast furnace and its constituents recycled. Lead bullion is discarded or further refined for other precious metals. The copper matted is crushed, ground, roasted, and leached. Leaching may be effected with nitric, sulfuric, or hydrochloric acid. The leaching agent either dissolves the base metals, leaving silver to be roasted and refined, or dissolves the silver which is precipitated from solution, roasted, and refined. High-purity sterling-silver scrap is frequently melted and recast without further refining.

Silver-rich sludges from waste plating solutions, stripping solutions, and photographic solutions are leached, and the silver recovered using processes described above. Leaching agents employed include nitric acid, sulfuric

acid and hydrochloric acid. The silver-rich solution that results is put through precipitation filtration, roasting, electrolytic refining, and casting steps to produce refined silver ingots.

The principal sources of wastewater in the secondary silver subcategory are listed below, along with pollutants typically found in each:

(1) *Film stripping* wastewater consists of wash water from the screening and rinsing of emulsions, which has been stripped from photographic film. This effluent contains toxic organics and metals, as well as cyanide, phenols, suspended solids, and oil and grease.

(2) *Film stripping wet air pollution control* wastewater is a result of air emissions from film stripping operations. Pollutants found in this wastewater include toxic organics and metals, cyanide, phenols and suspended solids.

(3) *Precipitation and filtration of film stripping solution* wastewater consists of discharged silver-free solution from the silver precipitation/filtration process, and contains toxic organic, toxic metals, and suspended solids.

(4) *Precipitation and filtration of film stripping solution wet air pollution control* wastewater is produced from scrubbers employed on precipitation and filtration operations. This wastewater contains toxic organics and toxic metals.

(5) *Precipitation and filtration of photographic solutions* wastewater results from the precipitation of silver from photographic hypo solutions. The presence of toxic organics, toxic metals, ammonia, chloride, suspended solids and oil and grease characterize this wastewater.

(6) *Precipitation and filtration of photographic solutions wet air pollution control* wastewater consists of scrubber liquor from the precipitation and filtration of photographic solutions, and contains toxic organics and toxic metals. Suspended solids and ammonia may also be present.

(7) *Electrolytic refining* wastewater is a product of silver refining, after the metal has been roasted and cast into electrodes. This effluent consists of spent electrolyte solution and contains toxic organics, toxic metals, ammonia, phenols, fluoride, cyanide, suspended solids and oil and grease.

(8) *Furnace wet air pollution control* wastewater results from the scrubbing of roasting and melting furnace off-gases. Suspended solids may be present in this wastewater, along with toxic organics and toxic metals.

(9) *Casting contact cooling* water is used in casting the silver into ingots or Dore plants. This wastewater contains toxic organics, toxic metals, ammonia, cyanide, fluoride, phenols, suspended solids and oil and grease.

(10) *Casting wet air pollution control* wastewater is scrubber liquor from casting operations, and contains toxic organics and metals, phenols, cyanide, suspended solids and oil and grease.

(11) *Leaching* wastewater is a product of the leaching of nonphotographic silver sludges and cooper matte associated with the melting of electrical components parts. This stream contains toxic organics and metals, ammonia, flouride, phenols, cyanide, suspended solids, and oil and grease.

(12) *Leaching wet air pollution control* wastewater is the effluent from scrubbers employed to reduce air emissions from leaching operations. The scrubber liquor is characterized by toxic organics and metals, phenols, cyanide, suspended solids, and oil and grease.

(13) *Precipitation and filtration of nonphotographic solutions* wastewater consists of the spent solutions left after silver is precipitated from leachates, waste plating solutions and melted silver scrap. Wash water from filtration may also be included in this effluent which contains toxic organics and metals, ammonia, cyanide, chloride, fluoride, phenols, suspended solids, and oil and grease.

(14) *Precipitation and filtration wet air pollution control* wastewater results from the scrubbing of air emissions from precipitation and filtration operations. Toxic organics and metals, phenols, cyanide, suspended solids, and oil and grease are found in this wastewater.

Secondary Lead

Sixty-nine secondary lead plants presently operate in the United States, and are predominately located in or near major urban centers where most of the raw materials are readily available. Twenty-one plants (30 percent) are located west of the Mississippi River, and the remaining 48 percent are located in two bands east of the Mississippi, around the Great Lakes and in the South. Seventeen plants discharging to a POTW and 46 plants achieving zero discharge are found in all areas, while seven plants discharging directly to receiving waters are found in the East and South.

The median age of secondary lead plants is within a span of 25 to 44 years. Data gathered from the industry show that for the 54 plants providing sufficient production data, only nine produced over 20,000 tons of lead in 1976. Most secondary lead plants are relatively small operations; two-thirds of the plants produced under 15,000 tons in 1976.

There are three major phases involved in the secondary lead subcategory: scrap pretreatment, smelting, and refining and casting. However, not all secondary lead plants perform all of these processes.

The scrap pretreatment methods used in the secondary lead industry are dependent on the raw materials. Scrap pretreatment for used batteries involves crushing or cutting to allow separation of the lead from the battery case. Lead scrap is processed through crushing of drosses and oversize scrap, and sweating of lead alloys. The general crushing operations reduce larger pieces of scrap to a suitable size using mechanical methods such as jaw crushers. Sweating involves charging lead alloy scrap to a furnace where the lead is separated by selective melting. The molten lead is collected and cast and the residue is removed from the furnace.

There are two types of furnaces used to smelt lead scrap, both of which produce different characteristics in the lead. A reverberatory furnace is used to produce a higher purity product known as soft lead. Processed scrap is charged to a reverberatory furnace and melted with the impurities allowed to rise to the top of the melt. The smelted lead is tapped from the bottom of the furnace for refining and the slag is skimmed from the top of the bath and further processed in a blast furnace.

In the blast furnace, slag from the reverberatory furnace, scrap lead, and iron form the raw materials for hard lead, or what is often called antimonial lead. Compressed air is blown through the alternating layers of scrap metal and coke allowing the coke to ignite and melt the charge. The iron added acts as a reducing agent to produce molten lead containing significant amounts of antimony.

Refining of the lead from the smelter is done in large kettles where fluxing agents are added to the molten charge. After agitation and slag skimming, a soft, high purity lead is produced. Certain desired physical characteristics are achieved by adding antimony, arsenic, copper, silver, and tin to form lead alloys. Finally, the refined lead or antimonial lead is cast into ingots for further processing and forming operations.

The principal waste streams that are produced in the secondary lead subcategory are described below, together with the major pollutants found in each:

(1) *Battery cracking* produces a wastewater stream containing dissolved toxic metals, total suspended solids, and oil and grease. It is generated when the

electrolyte is drained from the battery case and when water is used to cool saws used to cut batteries.

(2) *Smelting furnace wet air pollution control* systems are used to control emissions from this operation, especially particulate matter. The scrubber liquor is characterized by the presence of total suspended solids and lead.

(3) *Kettle wet air pollution control* systems are used to control particulate matter in the off-gases from refining. This waste stream contains total suspended solids and toxic dissolved metals.

(4) *Casting contact cooling* water is frequently recycled and may be totally evaporated. However, a small stream is often blown down to limit the buildup of dissolved solids. This waste stream is characterized by the presence of toxic metals such as antimony, arsenic, thallium, and zinc.

III. Scope of This Rulemaking and Summary of Methodology

This proposed regulation is a part of a new chapter in water pollution control requirements. The 1973–1976 round of rulemaking emphasized the achievement of best practicable technology (BPT) by July 1, 1977. In general, this technology level represented the average of the best existing performances of well-known technologies for control of familiar (or "classical") pollutants.

In this round of rulemakings EPA is emphasizing the achievement by July 1, 1984, of the best available technology economically achievable (BAT), which will result in reasonable further progress toward the discharge of all pollutants. In general, this technology level represents the very best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic substances.

In developing the regulation, EPA studied the nonferrous metals manufacturing category to determine whether differences in raw materials, final products, manufacturing processes, equipment, age, and size of plants, water use, wastewater constituents, or other factors required the development of separate effluent limitations and standards for different segments (or subcategories) of the industry. This study included the identification of raw waste and treated effluent characteristics, including: the sources, and volume of water used, the processes employed, and the sources of pollutants and wastewaters. Sampling and analysis of specific waste streams enabled EPA to determine the presence and concentration of toxic pollutants in wastewater discharges.

EPA also identified both actual and potential control and treatment technologies (including both in-process and end-of-process technologies). The Agency analyzed both historical and newly generated data on the performance, operational limitations, and reliability of these technologies. In addition, EPA considered the impacts of these technologies on air quality, solid waste generation, water scarcity, and energy requirements.

The Agency then estimated the costs of each control and treatment technology using cost equations developed by standard engineering analyses. EPA derived unit process costs for 145 discharging plants using data and characteristics (production and flow) applied to each treatment process (*e.g.*, chemical precipitation, sedimentation, granular bed—multi-media filtration, etc.). These unit process costs were added to yield the total cost at each treatment level.

As a means of evaluating each technology option, the Agency developed estimates of the pollutant reduction benefits and the compliance costs associated with each option. Our methodologies are described below.

A. *Pollutant Reduction Benefits.* In calculating pollutant reduction benefits, we developed estimates for pollutant loadings in raw wastewater (by subcategory), for the mass of pollutants that would be discharged at each technology option, and for the mass of pollutants discharged currently.

Calculation of raw waste values varied depending upon whether the Agency was able to sample wastewater from unit operations within the subcategory. Where we sampled a unit operation (or sampled the same unit operation at different plants) and were able to obtain both analytical concentration data (mg/1) and production normalized flow values (liters of flow/kkg of production), we computed the mass loading associated with the unit operation (expressed in mg/kg, *i.e.*, pollutant concentration x production normalized flow), and took the mean of these mass loadings at every plant sampled.

After deriving this mean, we multiplied it by the subcategory-wide production associated with that unit operation at each plant (the production data are part of each plant's response to the data collection portfolio (dcp)—see Section IV below). The total represents estimated raw waste values for the subcategory from the unit operation. Summing raw waste values from each unit operation in the subcategory gives the total for the subcategory.

If we sampled a unit operation and were able to determine analytical concentrations of pollutants, but were unable to determine flow, we used production normalized flow data from the dcp's to compute mass loadings and otherwise followed the same procedure.

If we were unable to sample a unit operation at any plant, we computed raw waste values by making an engineering judgment as to which sampled unit operations had wastewater of similar quality. We then took these analytical values and computed a mass limitation using production normalized flow information from the dcp's. These mass limitations then were summed to give total subcategory raw waste values for that unit operation.

In determining mass loadings associated with each technology option, our general procedure is to take the achievable concentrations associated with the option (mg/1) and compute mass loadings using the production normalized flow associated with that option (for example BAT regulatory flow). This mass (mg/kg of production) is then multiplied by the total production in the subcategory (from dcp's as before) to give total mass discharged.

We varied this procedure slightly in computing estimated BPT discharge in a subcategory where there is an existing BPT limitation. In this case, we took the mass limits from the BPT guidelines (for all pollutants limited at BPT) and multiplied these limits by the total subcategory production (from dcp's). (The assumption is that plants are discharging a volume equal to their BPT allowance times their production.) Where pollutants are not controlled by existing BPT, we used the achievable concentration for the associated technology proposed today, and multiplied these concentrations by the total end-of-pipe discharge of process wastewater for the subcategory (from dcp's). The total of both these calculations represents estimated mass loadings for the subcategory BPT discharge.

We used similar means to estimate current discharge. We first identified from dcp responses what treatment was in place. We then evaluated how well the technology was operated on a subcategory-wide basis, and assumed that pollutants will be removed at a rate of 80 percent of the achievable concentration proposed today at less well-operated plants, and will be removed at a 100 percent rate at well-

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operated plants. We next identified the end-of-pipe discharge of process wastewater for each plant (also from dcp's). Multiplying these two values gave estimated current discharge per plant, which we then summed to give estimated current discharge levels.

B. *Compliance Costs.* In estimating subcategory-wide compliance costs our first step was to develop universally applicable cost curves, relating total costs associated with installation and operation of wastewater treatment technologies to the volume of plant process wastewater discharged. We next applied these curves on a per plant basis, plant's costs—both capital and operating and maintenance—being determined by what treatment it has in place and by its individual process wastewater discharge (from its dcp). The final step was to annualize the capital costs, and to sum the annualized capitalized costs and the operating and maintenance costs from all of the discharging plants, yielding the cost of compliance for the subcategory. These costs were used in assessing economic achievability (see Section XVIII below.)

IV. Data Gathering Efforts

The data gathering program is described briefly in Section III and in substantial detail in Section V of the General Development Document and the subcategory supplements. A data collection portfolio (dcp) was developed to collect information about the industry and was mailed out in 1977, under the authority of Section 308 of the Clean Water Act, to each company known or believed to perform smelting and refining of the metals discussed in Section III of this notice in the United States. Analytical data were collected from 46 sampled plants. Supplemental data were obtained from NPDES permit files and engineering studies on treatment technologies.

EPA reviewed and evaluated existing literature for background information to clarify and define various aspects of the nonferrous metals manufacturing category and to determine general characteristics and trends in production processes and wastewater treatment technology. Review of current literature continued throughout the development of these guidelines. We also reviewed earlier EPA development documents for particular nonferrous metals manufacturing subcategories.

The available information included a summary of the industry describing the production processes, the wastewater characteristics associated with the processes, recommended pollutant parameters requiring control; applicable end-of-pipe treatment technologies for wastewaters; effluent characteristics resulting from this treatment, and a background bibliography. Also included in these studies were detailed production and sampling information for may plants.

Frequent contact has been maintained with industry personnel. Contributions from these sources were particularly useful for clarifying differences in production processes.

The nonferrous metals manufacturing plants were surveyed to gather information regarding plant size, age and production, the production processes used, and the quantity, treatment, and disposal of wastewater generated at these plants. This information was requested in data collection portfolios (dcp's) mailed to all companies known or believed to belong to the nonferrous metals manufacturing category. A listing of the companies comprising the nonferrous metals manufacturing industry (as classified by standard industrial code numbers) was compiled by consulting trade associations and the U.S. Bureau of Mines

In all, dcp's were sent to 319 firms (416 facilities). In many cases, companies contacted were not actually members of the nonferrous metals manufacturing category as it is defined by the Agency. Where firms had operations at more than one location, a dcp was submitted for each plant.

If the dcp's were not returned, we collected information on production processes, sources of wastewater, and treatment technology at these plants by telephone survey. The information so gathered was validated by sending a copy of the information recorded to the party consulted. The information was assumed to be correct as recorded if no reply was received in 30 days. In total, information was collected from more than 95 percent of the industry either by mail or by telephone.

The dcp responses were interpreted individually, and the following data were documented for future reference and evaluation:

—Company name, plant address, and name of the contact listed in the dcp.
—Plant discharge status as direct (to surface water), indirect (to POTW), or zero discharge.
—Production process streams present at the plant, as well as associated flow rates; production rates; process capacities; operating hours, wastewater treatment, reuse, or disposal methods; and the quality and nature of process chemicals.
—Capital and annual treatment costs.
—Availability of pollutant monitoring data provided by the plant.

A separate data gathering effort was conducted to obtain plant by plant for economic and financial information. We developed questionnaries concerning the cost structure of the plants in the nonferrous metals manufacturing point source category and mailed them to every known plant in the industry (under authority of Section 308 of the Clean Water Act). These questionnaires covered capacity, production costs, financial data relating to sales, inventories, net working capital and net book value, and existing regulatory costs for the base year of 1978.

Twenty-four major corporations involved in mining, milling, smelting and refining of nonferrous and ferrous metals entered into an agreement with the EPA through the American Mining Congress. Eight of these companies are major nonferrous metals producers in the primary metals sector. This agreement ("third party agreement") covered the handling of the confidential information contained in the questionnaire. EPA agreed to let the industry use a third party data aggregation contractor to assemble the questionnaire on a coded basis into a confidential data base. This data base was made available to the economic contractor on a restricted basis under the terms of the aggreement and, when combined with the questionnaire retured directly to EPA, provided a plant specific data base for use in the study. The third party agreement was used by the producers in the primary copper, lead, zinc, tungsten and columbium-tantalum subcategories. The response rate for questionnaires in the primary subcategories was greater than 90 percent for the primary copper, lead, and zinc subcategories, and 50 percent in the tungsten and columbium-tantalum subcategories.

Companies in the primary aluminum subcategory worked through the Aluminum Association to reach a separate agreement with EPA concerning the aluminum questionnaries. EPA and these companies agreed to use model plants instead of the plant-specific questionnaires to assess economic achievability. The aluminum companies agreed to review and comment on the model plants developed by the economic contractor. EPA agreed to let the companies submit partially completed questionnaires covering employment and pollution control information. However, the portion of the questionnaire dealing with information contained in the model plants was not

required to be filled out. The model plants and partially completed questionnaires had 100 percent industry coverage.

Plants in the secondary metals subcategories submitted their questionnaires to the EPA and were covered by the Agency's standard confidentiality procedures. Response rates in the secondary metals subcategories were approximately 50 percent of the production for secondary aluminum, less than 20 percent for secondary copper, approximately 25 percent for secondary lead, and approximately 30 percent for secondary silver.

V. Sampling and Analytical Program

The sampling and analysis program for this rulemaking concentrated on the toxic pollutants designated in the Clean Water Act. However, we sampled an analyzed nonferrous metals wastewaters for conventional and nonconventional pollutants as well as inorganic and organic toxic pollutants. The Agency has not promulgated analytical methods for many of the organic toxic pollutants under Section 304(h) of the Act, although a number of these methods have been proposed (44 FR 69464 (December 3, 1979); 44 FR 75028 (December 18, 1979)). Additional information on the development of sampling and analysis methods for toxic organic pollutants is contained in the preamble to the proposed regulations for the Leather Tanning Point Source Category, 40 CFR Part 425 (44 FR 38749 (July 2, 1979)).

Information gathered in the date collection portfolios was used to select sites for wastewater sampling for each subcategory. The plants sampled were selected to be representative of the industry. Considerations included how well each facility represented the subcategory as indicated by available data, potential problems in meeting technology-based standards, differences in production processes used, and wastewater treatment in place.

After selection of the plants to be sampled, each plant was contacted by telephone, and a letter of notification was sent to each plant as to when a visit would be expected. These inquiries led to acquisition of facility information necessary for efficient on-site sampling. The information resulted in selection of the sources of wastewater to be sampled at each plant. The sample points included, but were not limited to, untreated and treated discharges, process wastewater, and partially treated wastewater.

During this program, 36 nonferrous metals manufacturing plants were sampled by the technical contractor and 10 nonferrous metals manufacturing plants were sampled by other contractors or by EPA regional personnel, for a total of 46 plants.

Wastewater samples were collected in two phases: screening and verification. The first phase, screen sampling, was to identify which toxic pollutants were present in the wastewaters from production of the various metals. Screening samples were analyzed for 128 ot the 129 toxic pollutants and other pollutants deemed appropriate. (Because the analytical standard for TCDD was judged to be too hazardous to be made generally available, samples were never analyzed for this pollutant. There is no reason to expect that TCDD would be present in nonferrous metals manufacturing wastewater.) A total of 10 plants were selected for screen sampling. At least one plant in every subcategory was sampled during the screening phase, with some plants providing data for two or more subcategories. Two plants were sometimes screen sampled within a subcategory because the production processes were different. For example, both pyrolytic and electrolytic plants were screen sampled in the primary zinc industry.

The second phase of sampling, verification sampling, was used to determine whether the pollutants identified by screen sampling are present throughout a subcategory, and if so, at what concentrations. The samples gathered under the verification sampling were analyzed only for those pollutants selected from the screening results.

To reduce the volume of data handled, avoid unnecessary expense, and direct the scope of the sampling program, a number of the pollutants analyzed for during the screen sampling were not analyzed for during the verification sampling. Three sources of information were used for selecting the pollutants for the verification phase of the study: the pollutants that industry believes or knows are present in their wastewater, the screen sampling analyses, and the pollutants the Agency believes should be present after studying the processes and materials used by the industry. If a pollutant was not detected during screen sampling, and if industry and the Agency did not believe it would likely be present in the wastewater after studying the processes and materials used, verification analyses for that pollutant were not run. EPA collected this information in the following manner.

The 129 toxic pollutants were listed in each dcp and each facility was asked to indicate for each particular pollutant whether it was: "Known to be Present" (KTBP), "Believed to be Present" (BTBP), "Believed to be Absent" (BTBA), or "Known to be Absent" (KTBA). If the pollutant had been analyzed for and detected, the facility was to indicate KTPB, if analyzed for and not detected, KTBA. If the pollutant had not been analyzed, but might be present in the wastewater, the facility was to indicate BTBP it could not be present, BTBA. The reported results are tabulated in Section V of each of the subcategory supplements.

Wherever possible, each sample of an individual raw waste stream, a combined waste stream or a treated effluent was collected by an automatic time series compositor during sampling periods as long as 24 hours. Where automatic compositing was not possible, grab samples were taken and composited manually.

EPA used the analytical techniques described in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, revised in April 1977. A very similar method is found among those proposed on December 3, 1979.

VI. Industry Subcategorization

In developing this regulation, it was necessary to determine whether different effluent limitations and standards were appropriate for different segments (subcategories) of the industry. The major factors considered in identifying subcategories included: waste characteristics, basic material used, manufacturing processes, products manufactured, water use, water pollution control technology, treatment costs, solid waste generation, size of plant, age of plant, number of employees, total energy requirements, non-water quality characteristics, and unique plant characteristics.

The Agency set forth a subcategorization scheme based on manufacturing processes in its first proposed regulation for this category on November 30, 1973. EPA stated that manufacturing operations and treatability of wastewaters were considered to be the most significant factors affecting the manner in which the category would be regulated. The proposed regulation on November 30, 1973 (38 FR 33170) established three subcategories, bauxite refining, primary aluminum smelting and secondary aluminum smelting in 40 CFR Part 421. These same subcategories were retained in the final rule promulgated on April 8, 1974 (39 FR 12822).

On February 27, 1975, EPA amended 40 CFR Part 421 by adding five new

subcategories, primary copper smelting, primary copper refining, secondary copper, primary lead and primary zinc (40 FR 8514). Again, the manufacturing processes were considered to be the most significant factor in subcategorizing the industry.

On July 2, 1980, EPA modified the subcategorization set forth in the interim final regulation from February 27, 1975 for BPT. The primary copper smelting subcategory was retained. The primary copper refining subcategory which originally included only refineries not on-site with primary copper smelters was changed to the primary copper electrolytic refining subcategory. This new subcategory included all electrolytic refining operations, whether or not they are on-site with a smelter. (45 FR 44926) In addition, EPA added a new subcategory for metallurgical acid plants associated with primary copper smelters. The new subcategory was added because we believed that establishing separate limitations for these three subcategories would ensure that the maximum feasible BPT pollutant reduction could be accomplished for each plant.

The subcategorization scheme is again modified by today's notice. We again considered raw materials, final products, manufacturing processes, geographical location, plant size and age, wastewater characteristics, non-water quality environmental impacts, energy costs, and solid waste generation. Our conclusion, as before, is that—with the exception of the metallurgical acid plants subcategory—subcategorization should be based on manufacturing process alone. The proposed BAT effluent limitations guidelines for primary copper smelting, primary copper electrolytic refining, and metallurgical acid plants use the identical subcategorization as was used in the promulgated BPT. Also, metallurgical acid plants associated (i.e., on-site) with primary lead or primary zinc smelters will be considered a part of the metallurgical acid plants subcateory created for primary copper metallurgical acid plants on July 2, 1980 (45 FR 44926) (see Section VIII—New Subcategorizations). Finally, the proposed regulation set forth below will amend 40 CFR Part 421—Nonferrous Metals Manufacturing Point Source Category, by adding effluent limitations guidelines, new source performance standards and pretreatment standards for new and existing sources for the primary tungsten subcategory (subpart I) primary columbium-tantalum subcategory (subpart K), secondary silver subcategory (subpart L), and secondary lead subcategory (subpart M).

VII. Available Wastewater Control and Treatment Technology

A. Control Technologies Considered

The control and treatment technologies available for this category include both in-process and end-of-pipe treatments. These technologies were considered appropriate for the treatment of nonferrous metals manufacturing wastewater and formed the basis of the regulatory options. These control and treatment technologies are discussed in greater detail in Section VII of the General Development Document. The applicability of each of the technologies to specific sources of wastewater is discussed in the subcategory supplements.

In-process treatment includes a variety of water flow reduction steps and major process changes. The following in-process treatments are considered for this proposal:

Recycle. Recycling of processing water is the practice of treating and returning water to be used again for the same pupose. Total recycle can be achieved (in therory) through the use of reverse osmosis. In establishing PSES for secondary copper, EPA considered complete recycle and reuse of process wastewater after treatment with lime precipitation, and sedimentation to remove suspended solids and metals. EPA also considered partial recycle of process water by using cooling towers and holding tanks. In doing so, we considered that it may be necessary to discharge a bleed stream to purge dissolved and suspended solids that tend to accumulate in the system.

End-of-pipe treatment includes modules used to reduce pollutant concentrations prior to discharge. The following end-of-pipe treatments are considered for this proposal:

Chemical Precipitation. Chemical precipitation generally involves adjusting the pH and adding a flocculationg agent to precipitate out of solution metal ions (e.g., copper) and certain anions (e.g., fluoride). The chemical commonly associated with this treatment is lime.

Sedimentation. Sedimentation is a process which removes solid particles from a liquid matrix by gravitational force. This is done by reducing the velocity of the feed stream in a large volume tank or lagoon so that gravitational settling can occur. This treatment when combined with chemical precipitation is frequently referred to as lime and settle treatment.

Ammonia Steam Stripping. Steam may be used to remove ammonia from process wastewater. Generally, the steam is introduced into a separation column countercurrent to the process wastewater. The ammonia is absorbed into the steam. In some instances it may be necessary to add an additional stripping stage in which the pH of the wastewater is elevated in order to remove certain types of ammonia compounds.

Cyanide Oxidation or Precipitation. With the addition of oxidizing agents or complexing agents cyanide can either be oxidized or complexed. Cyanide can also be precipitated out of solution using ferrous or zinc sulfate. Cyanide precipitation is the more effective technology for removal of cyanide complexed with metals such as iron.

Oil Skimming. Oil and other materials with a specific gravity less than water often float unassisted to the surface of the wastewater. Skimming removes these floating wastes usually in a tank designed to allow floating debris to rise while the water flows to an outlet located below the floating layer. A variety of devices are used to remove the floating layer from the surface.

Carbon Adsorption. The use of activated carbon to remove dissolved organics is one of the most efficient organic removal processes available. The carbon removes contaminants from water by the process of adsorption or the attraction and accumulation of one substance on the surface of another. Activated carbon preferentially adsorbs organic compounds and because of this selectivity is particularly effective in removing organic compounds from aqueous solution.

Activated Alumina. Activated alumina may be used as an end-of-pipe treatment process to further reduce concentrations of arsenic and fluoride below those in the effluent from a chemical precipitation and sedimentation system.

Multimedia Filtration. Gravity mixed-media filtration may be used as an end-of-pipe polishing step to reduce concentrations of toxic metals. Rapid sand or pressure filters perform as well and may be used interchangably with gravity mixed media filters.

Reverse osmosis was considered for the purpose of achieving zero discharge of process wastewater; however, the Agency ultimately rejected this technology because it was determined that its performance for this specific purpose was not adequately demonstrated in this category nor was it clearly transferable from another category. Activated alumina was also

considered; however, this technology was rejected because it too was not demonstrated in this category nor was it clearly transferable to nonferrous wastewater.

B. Status of In-Place Technology

Current wastewater treatment practices in the nonferrous metals manufacturing category range from no treatment to treatment with chemical precipitation, sedimentation and filtration. Of the 134 discharging plants, 61 plants have treatment to remove metals and suspended solids, four have technologies for oil removal, six practice ammonia stripping and 22 practice end-of-pipe filtration. The remainder of the dischargers did not report any treatment for their nonferrous metals manufacturing wastewaters.

Recycle using treatment of lime precipitation and sedimentation is practiced at 20 plants. Three plants use filtration while two other plants use ammonia stripping prior to recycling process water.

C. Control and Treatment Options

EPA considered the following treatment and control options as the basis for BPT, BAT, BCT, NSPS, PSES, and PSNS for facilities within the nonferrous metals manufacturing category:

Option A—End-of-pipe treatment consisting of lime precipitation and sedimentation, and preliminary treatment, where necessary, consisting of oil skimming, cyanide precipitation, and ammonia steam stripping. This combination of technology reduces toxic metals and conventional and nonconventional pollutant.

Option B—Option B uses the same end-of-pipe treatment as Option A (lime precipitation and sedimentation) preceded by flow reduction of process wastewater through the use of cooling towers for contact cooling water and holding tanks for all other process wastewater subject to recycle.

Option C—Option C uses the same in-process flow reduction as Option B and adds polishing filtration to the end-of-pipe treatment included in Options A and B (preliminary treatment, lime precipitation, sedimentation and filtration). This result in a further reduction of toxic metals and TSS

Option D—Option D uses the in-plant flow reductions and end-of-pipe treatment in Option C and adds treatment of isolated waste streams with activated carbon adsorption for removal of toxic organics and activated alumina for reduction of fluorides and arsenic concentrations.

Option E—Option E consists of Option C flow reduction and end-of-pipe technology plus activated carbon adsorption applied to the total plant discharge as a polishing step to reduce toxic organic concentrations.

Option F—Option F consists of Option C flow reduction and end-of-pipe technology plus reverse osmosis treatment to attain complete recycle of all process wastewater.

VIII. Substantive Changes From Prior Regulations

The regulation proposed today contain several substantive changes to regulations proposed and promulgated previously.

A. *New Subcategorizations.* As discussed in Section VI of this preamble, EPA is proposing to include metallurgical acid plants associated (i.e., on-site) with primary lead or primary zinc smelters as a part of the metallurgical acid plants subcategory created for primary copper metallurgical acid plants on July 2, 1980 (45 FR 44928). All these plants would accordingly have identical effluent limitations and standards. In making this determination, the Agency considered the way in which acid plants are operated when associated with the primary smelters and the characteristics of the wastewater generated by each type of acid plant. Our conclusion is that these processes, rate of process discharge, and wastewater matrices are essentially identical justifying a single subcategory for all acid plants.

Metallurgical acid plants are constructed on-site with primary copper, lead and zinc smelters to treat the smelter emissions, remove the sulfur dioxide, and produce sulfuric acid as a marketable by-product. Although two basic technologies, single contact and double contact, are used in the industry, the Agency found no predominance of either technology in place in plants of the three metal types. Nor was there any significant observable difference in the amount of water discharged from plants using the two technologies.

The processes are also similar in terms of waste streams generated. Wastewaters are typically combined in all three types of acid plants into a single waste stream (acid plant blowdown). Principal streams going into the blowdown (compressor condensate, blowdown from acid plant scrubbing, mist precipitation, mist elimination, and steam generation) are common to all three types of plants. Rate of wastewater discharge from plants associated with all three metals also is similar, as shown by a comparison of mean discharge rates: 2,237 1/kkg of 100 percent acid produced (primary copper smelting), 3,754 1/kkg of 100 percent acid produced (primary zinc smelting), and 3,844 1/kkg of 100 percent acid produced (primary lead smelting). (The mean values for copper and lead smelting exclude one plant in each subcategory with abnormally high wastewater flow.)

The wastewater matrices from all three types of acid plants also are similar. The Agency reviewed the analytical data that were obtained in sampling programs described in Section V and compared the characteristics of untreated acid plant blowdown from plants asociated with each of the three primary metals considered. There were similar concentrations (i.e., in the same order of magnitude) of antimony, arsenic, cadmium, chromium, mercury, selenium, and silver among the three. The lead concentrations were significantly higher in the blowdown from lead acid plants than from copper and zinc plants. The same was true for copper and zinc in acid plants associated with their manufacture. However, all of these metals were present at concentrations that are treatable to the same effluent concentration upon application of chemical precipitation and sedimentation or chemical precipitation, sedimentation and multimedia filtration, and are within the range used in calculating treatment effectiveness for these technologies.

Therefore, in light of these essential similarities of process, wastewater flow and composition, we have chosen to include all acid plants in a single subcategory.

B. *Building Blocks.* In our prior regulations covering nonferrous metals manufacturing subcategories, we generally regulated plants as a single source of wastewater without regard to the specific manufacturing processes contributing to wastewater flow.

The regulations proposed today use the so-called building block approach, whereby EPA considers both end-of-pipe treatment technologies and process changes and controls within the plant prior to discharge to a common end-of-pipe treatment system. This approach is preferable because it allows regulations to be tailored to reflect particular circumstances. (This examination, of course, is mandated by the Clean Water Act. See, e.g., Sections 304(b)(2)(A) and 306(a)(1).) As a result, the proposed regulation identifies principal process steps that discharge wastewater, determines what wastewater flows (and in some cases, pollutant concentrations) are premissible for this indigenous

operation, and establishes a mass-based limitation or standard for each such step ("building block"). These limitations (or standards) then are added together to give the permissible mass discharge for the entire process.

Under the building block approach proposed today, to determine the allowable discharge from a point source a discharger must first identify the specific process sources that comprise that discharge. He should then multiply the limitations or standards (mg/kkg) for each wastewater present in the plant, by the production of that source (kkg), in the units specified, to yield the mass discharge from each source. The mass from all of the sources should then be added to yield the maximum for any one day and the maximum monthly averages for that discharge point. Waste streams (both process and nonprocess) not identified in this preamble may be regulated on a case-by-case basis by the permit writer pursuant to the authority granted in Section 402.

We stress that a plant is to receive a discharge allowance for a particular building block *only if it is actually operating that particular process.* The plant need not be discharging wastewater from the process to receive the allowance, however. Thus, if the regulation contains a discharge allowance for wet scrubber effluent and a particular plant has dry scrubbers, it cannot include a discharge allowance for wet scrubbers as part of its aggregate limitation. On the other hand, if it has wet scrubbers and discharges less than the allowable limit (or does not discharge from the scrubbers), it would receive the full regulatory allowance. In this way, the building block approach recognizes and accommodates the fact that not all plants use identical steps in manufacturing a given metal.

C. *Building Block Approach Applied to Integrated Facilities.* There are several facilities within this category that have integrated manufacturing operations; that is, they combine wastewater from smelting and refining operations, which are part of this point source category, with wastewater from other manufacturing operations which are not a part of this category, and treat the combined stream prior to discharge.

Indirect dischargers that are integrated facilities are subject to standards as specified by the "combined waste stream formula" set forth at 40 CFR 403.6(e). In establishing direct discharger permit requirements for integrated facilities subject to effluent guidelines that are mass-based for each category, the permit writer can apply the same building block approach discussed above, simply aggregating each allowable discharge.

The building block approach is only to be used when the individual discharger combines wastewater from various processes and co-treats the wastewater before discharge through a single discharge pipe. The building block approach allows the determination of appropriate effluent limitations for the discharge point by combining appropriate limitations based upon the various processes that contribute wastewater to the discharge point. EPA does not intend to establish a "water bubble" for nonferrous metals manufacturing and related facilities and will not allow the trading of limitations or allowances from various process wastewaters that are discharged through separate discharge points.

In establishing limitations for integrated facilities for which a portion of the plant is covered by concentration-based limitations, the permit writer can determine the appropriate mass limitations for the entire facility or point source. The portion of the wastewater covered by this category receives mass limitations according to the building block methodology described above. The permit writer must then determine an appropriate flow for the portion of the facility subject to concentration-based limitations and multiply it by the concentration limitations to yield mass limitations. The mass limitations applicable to the discharge are obtained by summing these two sets of mass limitations. (Additional discussion and examples are found in the General Development Document).

D. *Stormwater.* In the preambles of previously promulgated regulations for primary copper smelting, primary copper electrolytic refining, primary zinc, primary lead, and secondary copper subcategories, we have discussed the treatment of stormwater to achieve BPT and BAT limitations when it is commingled with process wastewater prior to discharge. This discussion has led to some confusion as to whether stormwater runoff at these plants should be considered process wastewater and a discharge allowance provided. In our previous discussions of this subject it was not EPA's intent to make a determination as to the appropriateness of a discharge allowance for stormwater runoff at these plants. Instead, we were notifying the public that stormwater, like any nonprocess water, is considered process wastewater when it is mixed with process wastewater prior to discharge. Therefore, NPDES regulations require that it be treated pursuant to permit requirements. At some plants, stormwater runoff may contribute significantly to pollutant loadings. However, the Agency is not proposing effluent limitations guidelines and standards for stormwater runoff because the flow and pollutant generation are site-specific and cannot be related to actual production.

We are soliciting comment on the need to add specific relief in the final regulation for this category for plants that presently combine stormwater and process wastewater prior to end-of-pipe treatment. As a general matter, however, we do not consider such relief appropriate unless data are submitted that prove that:

(1) Stormwater is sufficiently contaminated to warrant treatment;

(2) Contamination of stormwater cannot be eliminated by good housekeeping or best management practices; and

(3) Treatment of contaminated stormwater in the process wastewater system is justified technically and economically (i.e., contaminated stormwater cannot be segregated).

E. *Catastrophic Precipitation Event Allowances and Allowances for Net Precipitation.* Certain existing regulations for nonferrous metal subcategories—namely BPT regulations in secondary copper and primary lead, and BAT regulations in primary copper smelting, primary copper electrolytic refining, secondary copper, and primary lead—are based on use of settling impoundments as BPT or BAT. Facilities in these subcategories are subject to a zero discharge requirement; however, facilities meeting certain design capacity requirements could discharge, regardless of effluent quality, a volume of water falling within the impoundment in excess of the 10-year, 24-hour storm, when a storm of at least that magnitude occurred. Further, they can discharge once per month, subject to concentration-based effluent limitations, a volume of water equal to the difference between precipitation and evaporation in that month.

The Agency began to revise some of these impoundment-based regulations in 1980 for primary copper smelting and electrolytic refining BPT, and today is proposing to revise others. The revised regulations are based on mechanical end-of-pipe treatment using hardware (viz. lime precipitation and sedimentation technology using clarifiers). By eliminating impoundments, we have eliminated the need for a net precipitation allowance and (subject to an exception discussed below) stormwater discharge.

We generally are reluctant to issue limitations based on impoundments for a number of reasons:

—Discharge from impoundments can be as a "slug", allowing potentially heavy and damaging pollutant loadings to be discharged all at once;
—Impoundments allow dilution of heavily contaminated process wastewaters with relatively cleaner process streams;
—Net precipitation limitations are hard to calculate because of periodic shifts between net precipitation and net evaporation;
—Impoundments posea risk of groundwater contamination; and
—Impoundment-based regulations effectively require the Agency to specify impoundment design.

(See generally 45 FR at 44926 (July 2, 1980), revising impoundment-based regulations in the primary copper smelting and electrolytic refining subcategories.) In addition, plants within these subcategories have, in many cases, already installed hardware-based lime precipitation and sedimentation technology, so that these technologies are now BPT or BAT for these subcategories.

In light of these considerations, we are not including an allowance for net precipitation for BAT, NSPS, PSES, and PSNS for these subcategories because these guidelines and standards are not based on settling and evaporation impoundments. We also are eliminating the allowance for BPT in the primary lead subcategory, because we are revising BPT in this subcategory and revised BPT will be based on lime precipitation and sedimentation technology, not impoundments.

In addition, we are not including an allowance for stormwater discharge at BAT, NSPS, PSES and PSNS (and BPT for primary lead), except where the proposed limitation is based on use of a cooling impoundment. This exception applies for BAT in the primary copper smelting and secondary copper subcategories, where for direct dischargers cooling impoundments for contact cooling water are a common alternative to cooling towers. (We are eliminating the allowance at NSPS because new plants can be constructed exclusively with cooling towers.) As with all such allowances, it applies only to the volume of water falling within the impoundment area (see 45 FR 44928 July 2, 1980). (There is, however, no allowance for net precipitation from these cooling impoundments because they require much smaller surface areas than the settling and evaporative impoundments for which such discharge was allowed.) Table 2 summarizes existing and proposed regulations regarding the catastrophic stormwater and net precipitation allowances.

We recognize that this approach to catastrophic rainfalls varies from the approach used for the ore mining and dressing category (47 FR 54603 December 3, 1982). In that regulation EPA required only that impoundments be designed and operated so as to contain a 10-year, 24-hour storm, while this proposed regulation requires that no discharge from the impoundment may occur except when a 10-year, 24-hour (or 25-year, 24-hour for BAT) storm occurs. We believe this difference is justified by the fact that the nonferrous metals manufacturing allowance applies only to water falling on the surface of the impoundment while the ore mining allowance applies to stormwater drainage from various processing locations at the ore mine and mill. The relative surface area of a nonferrous manufacturing impoundment is a small fraction of the area drained at an ore mine and mill. Therefore, the quantity of stormwater that must be contained at a nonferrous plant impoundment is much smaller, making containment of the stormwater under the provisions of this proposed regulation achievable. The Agency is not reaching any conclusions as to the need to capture and treat surface runoff at any nonferrous metals manufacturing plant. We believe that such decisions are site-specific and are best handled based on the judgment of individual permit writers.

TABLE 2.—STORMWATER/PRECIPITATION ALLOWANCES

Subcategory	Existing regulations			
	BPT		BAT	
	Catastrophic storm	Net precipitation	Catastrophic storm	Net precipitation
Primary copper smelting	Yes	No	Yes	Yes.
Primary copper electrolytic refining	No	No	Yes	Yes
Secondary copper	Yes	Yes	Yes	Yes.
Primary lead	Yes	Yes	Yes	Yes.

Subcategory	Proposed regulations					
	BPT		BAT		NSPS	
	Catastrophic storm	Net precipitation	Catastrophic storm	Net precipitation	Catastrophic storm	Net precipitation
Primary copper smelting			Yes	No	No	No
Primary copper electrolytic refining			No	No	No	No
Secondary copper			Yes	No	No	No.
Primary lead	No	No	No	No	No	No.

Subcategory	Proposed regulations			
	PSES		PSNS	
	Catastrophic storm	Net precipitation	Catastrophic storm	Net precipitation
Primary copper smelting	(*)		No	No.
Primary copper electrolytic refining	(*)		No	No.
Secondary copper	No	No	No	No.

Subcategory	Proposed regulations			
	PSES		PSNS	
	Catastrophic storm	Net precipitation	Catastrophic storm	Net precipitation
Primary lead	(*)		No	No.

Yes = Regulation contains this allowance.
No = Regulation does not contain this allowance.
* = No existing indirect dischargers.

IX. Summary of Generic Issues

EPA has identified several issues that are generic to many of the subcategories and to the limitations and standards proposed in this proposed regulation. These issues are discussed in this section, rather than in the discussion of each particular subcategory.

A. Data Bases to Determine Achievable Concentrations and Variability Factors for Hydroxide Precipitation-Sedimentation and for Filtration. As discussed in Section VII, chemical precipitation-sedimentation and filtration were considered as a part of various treatment options for BPT, BAT, BCT, NSPS, PSES and PSNS. The methods of determining achievable concentrations and variability factors used to compute monthly average and daily maximum concentrations are discussed for these technologies below.

Hydroxide Precipitation-Sedimentation. In considering the performance achievable using hydroxide (usually lime) precipitation-sedimentation of metals with and without polishing filtration, EPA evaluated data from nonferrous metals plants and plants in other categories with similar wastewater. The data base we selected for lime precipitation and sedimentation (lime and settle) without filtration is the so-called combined metals data base. This data is a composite of data for nine pollutants from wastewaters treated by lime and settle technology drawn from EPA sampling and analysis of copper and aluminum forming, battery manufacturing, porcelain enameling and coil coating. These wastewaters are similar to nonferrous metals manufacturing wastewater in all material respects because they contain comparable concentrations of dissolved metals.

We regard the combined metals data base as the best available measure for establishing the concentrations attainable with hydroxide precipitation and sedimentation. Our determination is based on the similarity of the raw wastewaters as generally determined by statistical analysis for homogeneity (a separate study of statistical homogeneity of these wastewaters is part of the record of this rulemaking), the larger number of plants used (21 plants versus six nonferrous metals plants available), and the larger number of data points available for each pollutant. The larger quantity of data in the combined metals data base, as well as a greater variety of influent concentrations, enhances the Agency's ability to estimate long term performance and variability through statistical analysis.

We view the use of the combined metals data base as appropriate for nonferrous metals manufacturing plants for the following reasons:

(1) Process Chemistry: We believe that properly operated hydroxide precipitation and sedimentation will result in effluent concentrations that are directly related to pollutant solubilities. Since the nonferrous metals manufacturing raw wastewater matrix contains the same toxic pollutants in the same order of magnitude as the combined metals data base raw wastewater and the technology is solubility-based, we believe the mean treatment process effluent and variability will be identical. We also do not believe any interfering properties (such as chelating agents) exist in nonferrous metals manufacturing wastewater that would interfere with metal precipitation and so prevent attaining concentrations calculated from the combine metals data base.

It should be noted, however, that our statistical analysis indicate that the raw wastewater matrix in nonferrous metals manufacturing contains higher concentrations of lead and cadmium than the raw wastewater of plants used for the combined metals data base. Because the precipitation (and ultimate removal by sedimentation) of these metals is directly related to their solubility, we believe that the differences in raw waste concentrations, while statistically significant, are not large enough to impact the achievable concentrations following treatment. We solicit comment on this judgment, as well as data demonstrating the need for less stringent concentrations for lead and cadmium because of the higher raw wastewater concentrations of these pollutants.

(2) Nonferrous Metals Manufacturing Data Base: EPA sampled nine nonferrous plants with lime precipitation and sedimentation. For the six plants with well-operated systems, we combined the EPA short-term sampling data with any available plant self-monitoring data and compared their long-term mean performance with the long-term mean performance calculated from the combined metals data base performance.

These nonferrous metals manufacturing plants are achieving long-term mean effluent concentrations equal to or better than the combined metals data base for five of six metals and TSS. The mean lead concentration for the nonferrous plants is only 0.01 mg/1 greater than the mean for the combined metals plants of 0.12 mg/1. We do not consider this difference to be significant, especially in the context of compliance with all other pollutant performances.

We also compared the combined metals data base long-term mean performance with long-term mean lime and settle performance from an additional nonferrous plant for which we have extensive (over 100 data points) self-monitoring. This plant met or bettered the combined metals data base limits for all pollutants monitored (cadmium, zinc, and TSS).

(3) Previous Regulations: BPT limitations based on more stringent concentrations than those calculated from the combined metals data base have been promulgated for cadmium, copper, lead, and zinc in copper refining and metallurgical acid plants (July 2, 1980, 45 FR 44926). We believe that plants achieving these more stringent limitations will not encounter any difficulty in achieving limitations based on the combined metals data base.

We also are proposing limits based on this technology for certain pollutants not included in the combined metals data base. Treatability limits for these pollutants are calculated either from nonferrous metals manufacturing data (for arsenic, selenium, silver, and antimony) or—for aluminum and fluoride—from categories with wastewaters similar to nonferrous metals manufacturing (aluminum from aluminum forming data and fluoride from electrical components manufacturing data). Chapter VII of the General Development Document

provides a more detailed discussion of these performance calculations. In general, however, we are using these data bases because they represent the best available performance data on removal of these metals from wastewater similar to nonferrous metals wastewater.

The mean of concentrations from nonferrous plants with well operated lime precipitation and sedimentation that the Agency sampled indicates that the plants are meeting the limits for all of these pollutants except for arsenic and selenium. We believe the proposed limitations for these metals are achievable, however, because they are based on permit data from nonferrous metal plants including one of the six plants with treatment sampled by EPA.

Filtration. EPA established the pollutant concentrations achievable with lime precipitation, sedimentation and polishing filtration with data from three plants with the technology in-place: one nonferrous metals manufacturing plant and two porcelain enameling plants whose wastewater is similar (as determined by statistical analysis for homogeneity) to wastewater generated by nonferrous metals manufacturing plants. In generating long-term average standards, EPA applies variability factors calculated from the combined metals data base because the combined data base provided a better statistical basis for computing variability than the data from the three plants sampled. In fact, the use of the lime and settle combined data base variability factors is probably a conservative assumption because filtration is a less variable technology than lime and settle, since it is less operator dependent.

For pollutants for which there were no data relating to filtration effectiveness, long-term concentrations were developed assuming that removal by filtration would remove 33 percent more pollutants than lime precipitation and sedimentation. This assumption was based upon a comparison of removals of several pollutants by lime precipitation, sedimentation and filtration which showed 33 percent incremental removal attributable to filtration. The same rate of removal should apply for other toxic metals and for cyanide because filtration removes precipated toxic metals and cyanide without preference.

EPA selected this approach because of the extensive long-term data available from these three plants. We believe that the use of polishing filtration data from porcelain enameling plants is justified because porcelain enameling was included in the combined metals data base. Since we have determined that lime precipitation and sedimentation will produce identical results on both nonferrous metals manufacturing and porcelain enameling wastewater, it is reasonable for the Agency to assume that polishing filters treating these identical intermediate waste streams will produce an indentical final effluent. Although the one nonferrous plant samples only supplied data for cadmium, zinc, and TSS, its attainment of the limitations calculated from the extensive porcelain enameling data suggests the ability to attain the other limitations because of the nonpreferential nature of toxic metal removal by filters.

We solicit comment on our use of the combined data base for nonferrous metals manufacturing. We specifically request submission of additional data, including both raw waste and treated waste data, from nonferrous metals manufacturing plants using properly operated lime and settle and lime, settle and filtration systems.

There is one exception to this discussion. In those subcategories where we are not altering existing BPT requirements—primary aluminum, secondary aluminum, primary zinc, primary copper electrolytic refining and metallurgical acid plants—those limitations necessarily continue to be based on subcategory-specific data. It is not logical to write new BPT limits for these plants because permit writers will include BAT limitations (and not new BPT limitations) in the next generation of permits for these plants. BAT limitations for all of these subcategories will, of course, be based on the data base for polishing filtration discussed above.

B. *Mass-Based Standards vs. Concentration-Based Standards for PSES and PSNS.* In proposing PSES and PSNS, we considered whether to propose exclusively mass-based standards, or to allow POTWs the alternative of concentration- or mass-based standards. Mass-based standards ensure that limitations are achieved by means of pollutant removal rather than by dilution. They are particularly important when a limitation is based upon flow reduction because pollutant limitations associated with the flow reduction cannot be measured any way but as a reduction of mass discharged. Mass-based standards, however, are harder to implement because POTWs face increased difficulties in monitoring. POTWs also must develop specific limits for each plant based on the unit operations present and the production occurring in each operation.

We have resolved these competing considerations by proposing mass-based standards exclusively where the PSES and PSNS treatment options include significant flow reductions or where significant pollutant discharge reductions are attributable to flow reductions. This is the case here for the secondary lead, primary tungsten, and primary columbium-tantalum subcategories. The flow reductions over estimated current flows in these subcategories are 7.8 percent in the secondary lead subcategory (with estimated annual removals associated with reduced flow of 205 kg of toxic pollutants and 1,527 kg of nonconventional pollutants over current removals of these pollutants), 32.8 percent in primary tungsten (with estimated annual removals attributable to reduced flow of 42 kg toxic pollutants and 26,047 kg of nonconventional pollutants), and 16.1 percent in primary columbium-tantalum (with estimated annual removals attributable to reduced flow of 10,405 kg toxic pollutants and 59,018 kg of nonconventional pollutants). We believe the incremental pollutant removals associated with flow reduction are significant enough to warrant mass-based standards exclusively in these subcategories (for both PSES and PSNS).

In the secondary silver subcategory we also are proposing mass-based PSES without alternative concentration-based standards although the flow reduction for the entire subcategory is not great. However, several plants grossly exceed the flow basis of PSES. Mass-based limits are needed to ensure that these plants reduce their water usage. We likewise are proposing mass-based PSNS in this subcategory because PSNS for secondary silver is based on 90 percent flow reduction of raw wastewater by recycle, and new plants would lack incentive to achieve these reductions without a mass-based standard.

In the secondary aluminum subcategory, however, flow reduction over current discharge rates is minimal (0.2 percent). PSES for this subcategory consequently contains alternative mass-based and concentration-based standards. We are not proposing alternative mass- and concentration-based PSNS subcategories, however, since PSNS includes significant flow reductions for each subcategory (90 percent flow reduction of direct chill casting wastewater).

C. *pH.* In those subcategories where we are first proposing BPT, and in the one subcategory where we are modifying existing BPT, we are proposing pH limitations of 7.5 to 10. These levels vary somewhat from the pH limitations of 6 to 9 in existing BPT

for other nonferrous metal subcategories. We are proposing the higher ranges to allow for proper performance of the lime precipitation and sedimentation technology. This technology generally requires a wastewater pH of 8.8 to 9.3 (depending on wastewater compositions) so as to achieve optimum precipitation of some metals.

We are not proposing to amend the pH standards in existing BPT regulations in the nonferrous metals category. We are, however, making this change for proposed BCT (in all cases where we are regulating pH), so that the next generation of permits should all contain the revised pH limitation. (Since no cost is associated with achieving pH levels of 7.5 to 10, this level is clearly appropriate to BCT.)

D. *Frequency of Sampling to Demonstrate Compliance With 30-Day Average Limitations.* The proposed regulation establishes monthly average limitations that are based on the average of 10 consecutive sampling days (not necessarily consecutive calendar days). The 10-day average value was selected as the minimum number of consective samples which need to be averaged to arrive at a stable slope on a statistically based curve relating one-day and 30-day average values and it approximates the most frequent monitoring requirements of direct discharge permits. The monthly average numbers shown in the regulation are to be used by plants with combined waste streams that use the "combined waste stream formula" set forth at 40 CFR 403.6(e) and by permit writers in writing direct discharge permits.

E. *Compliance Date for PSES.* It is our tentative intention that the date for compliance with PSES be three years from the regulation's final promulgation date. Few indirect dischargers in this category have installed and are properly operating the treatment technology for PSES. In addition, the readjustment of internal processing conditions to achieve reduced wastewater flows may require further time above installation of end-of-pipe treatment equipment. Many plants in this and other industries also will be installing the treatment equipment suggested as model technologies for this regulation which may result in delays in engineering, ordering, installing, and operating this equipment. Under these circumstances, we think that three years is the appropriate compliance date under Section 307(b)(1) of the Act. We invite comment on the appropriateness of the compliance date.

F. *Recycle of Wet Scrubber and Contact Cooling Wastewater.* We are proposing as BAT and PSES for most subcategories that 90 percent of the wet air pollution control and contact cooling wastewater be recycled (we have proposed a higher rate for certain subcategories where reported rates of recycle are even higher). Water is used in wet air pollution control systems to capture particulate matter or fumes evolved during manufacturing. Cooling water is used to remove excess heat from cast metal products.

We observed extensive recycle of these streams throughout the industry. Indeed, some plants reported 100 percent recycle of process water from these operations. The Agency believes, however, that most plants may have to discharge a portion of the recirculating flow to prevent the excessive buildup of dissolved solids. The Agency believes based on the data submitted in dcp's that through operation with a discharge of 10 percent of the recirculating flow, contact cooling water and scrubber water can be reused while controlling scale formation, equipment corrosion and maintaining product quality.

Existing practice supports our selection of a 90 percent recycle rate. Twenty-nine of 61 aluminum smelting and forming plants practice greater than 90 percent recycle of the direct chill casting contact cooling water. Two of the five aluminum smelters practicing continuous rod casting recycle 90 percent or more of their contact cooling water. Four of eight primary aluminum plants using wet air pollution control on anode bake ovens, five of 11 plants using wet scrubbers on potlines, and three of eight plants using wet scrubbers for potrooms recycle 90 percent or more of their scrubber water.

Five of 10 primary copper plants currently recycle 90 percent or more of their casting contact cooling water. Two of three primary zinc plants with leaching scrubbers recycle 90 percent or more. Two of five primary tungsten plants with scrubbers on reduction furnaces practice 90 percent or greater recycle. Six of seven secondary silver plants with furnace scrubbers currently recycle 90 percent or more of the scrubber water.

G. *Cost of Compliance at Integrated Facilities.* As discussed in Section VIII (Building Block Approach Applied to Intergrated Facilities), integrated facilities subject both to this proposed regulation and to regulations for other point source categories must install technology and modify processes so as to comply with mass limitations calculated using the building block approach. In estimating the cost of compliance with this proposed regulation, we did not include any specific costs associated with integrated facilities.

We believe this approach is justified for plants not currently providing BPT or BAT because we have included costs for separate treatment of wastewater in calculating costs associated with each regulation. Costs associated with segregation of the combined waste streams (i.e. additional piping) are not normally significant compared to the cost of the treatment equipment.

We have assumed that the co-treated wastewaters are compatible and that this proposed regulation will not require segregation and separate treatment of these wastewaters.

We solicit comment on these assumptions. We also request cost data from plants that have experienced costs or that have developed cost estimates that reflect specific costs associated with integrated facilities.

X. Best Practicable Technology (BPT) Effluent Limitations

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of applying technology in relation to the effluent reduction benefits derived, the age of equipment and facilities involved, the processes employed, non-water quality environmental impacts (including energy requirements), and other factors the Administrator considers appropriate. In general, the BPT level represents the average of the best existing performances of plants of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category. Limitations based on transfer technology must be supported by a conclusion that the technology is, indeed, transferable and a reasonable prediction that it will be capable of achieving the prescribed effluent limits. See *Tanners' Council of America* v. *Train*, 540 F. 2d 1188 (4th Cir. 1976). BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where such are common industry practice.

The cost-benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, which does not require the Agency to quantify benefits in monetary terms. See, e.g. *American Iron and Steel Institute* v. *EPA*, 526 F. 2d 1027 (3rd Cir. 1975). In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general

environmental effects of the pollutants, and the cost and economic impacts of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water quality bodies. Accordingly, water quality considerations were not the basis for selecting the proposed BPT. See *Weyerhaeuser Company* v. *Costle*, 590 F. 2d 1011 (D.C. Cir. 1978).

In developing the proposed BPT limitations, the Agency considered the amount of water used per unit production in each waste stream. These data were used to determine the average (mean) water discharge for each subcategory operation. Aberrant flows were excluded from mean calculations. Since the proposed BPT limitations were based on the average water discharge, plants with greater than average discharge flows may have to implement some method of flow reduction in order to achieve the effluent limits of BPT.

Next, we evaluated the appropriate treatment technology for BPT treatment. The proposed BPT level treatment for each subcategory was based on the average of the best existing performance currently demonstrated throughout that subcategory. As stated above, BPT was based on end-of-pipe treatment technologies except in those instances where a process change or internal control is common practice in the subcategory. As an example, of the nine plants in the secondary lead subcategory that use wet air pollution control on kettle refining operations, six discharge no process wastewater through complete recycle, two recycle greater than 90 percent of the water used and one completely reuses this water elsewhere in the plant. We are proposing zero discharge from this stream because complete recycle or reuse is so widely demonstrated for this waste stream.

The effluent concentrations resulting from the application of the proposed model BPT technology are identical for all wastewater streams; however, the mass limitations vary for each waste stream depending on the regulatory flow. The BPT limitation were calculated by multiplying the effluent concentrations achievable by the selected option technology by the regulatory flow established for each waste stream.

Where we already have promulgated BPT, we are (with one exception) not proposing to alter these existing limitations. We think this would be unnecessary since by the time any limitations were finalized, permits would be modified to reflect new BAT limitations, due to the imminence of the 1984 BAT compliance date. We therefore are leaving unaltered existing BPT limitations for the primary aluminum, secondary aluminum, primary copper smelting, primary electrolytic copper refining, secondary copper, primary zinc, and metallurgical acid plants subcategories. We are modifying existing BPT in the primary lead subcategory, as explained in more detail below, only because it appears that the existing zero discharge limitation fails to provide a needed allowance for certain process wastewater streams.

All of these existing BPT regulations (except primary copper smelting) are based on lime precipitation and sedimentation technology. However, the achievable concentration limits for this technology used in the regulations are not derived from the combined data base (see Section VIII above), and so differ from those proposed today as BPT in other subcategories. This difference disappears at BAT, where all limits for this technology reflect the combined metals data base. Thus, any seeming anamoly is very short-lived.

We also realize that our modification of the metallurgical acid plants subcategory to include primary zinc acid plants, without modifying BPT for the primary zinc subcategory to delete the acid plant allowance provided, will create the potential for double counting of the BPT acid plant allowance at primary zinc plants. This is not our intention. Instead, we believe that existing permits at these plants will be modified to reflect the BAT requirements where there is no such double counting. Therefore, this apparent inconsistency should not have any actual effect on existing permits.

To fulfill our statutory obligation, we are proposing BPT in those subcategories we have not addressed previously, namely primary columbium-tantalum, primary tungsten, secondary silver and secondary lead. We also are proposing that lead and zinc metallurgical acid plants be subject to existing limits already promulgated for copper metallurgical acid plants. Our basis for these decisions, and the basis for our proposed modification of BPT in the primary lead subcategory, are explained below.

Primary Lead

EPA promulgated BPT effluent limitations guidelines for the primary lead subcategory on February 27, 1975 under Subpart G of 40 CFR Part 421. The promulgated BPT is based on the complete recycle and reuse of slag granulation wastewater (or dry slag dumping), dry air scrubbing, and treatment and impoundment subject to allowances for net precipitation based on lime precipitation and sedimentation and catastrophic precipitation discharges without limitation of acid plant blowdown. Acid plant blowdown is now included in the metallurgical acid plants subcategory (see Section VIII—New Subcategorizations). The remaining operations were not provided discharge allowances, suggesting that BPT for those operations should be zero discharge.

However, new information has become available to the Agency that supports the need for discharge of wastewater from slag granulation, an operation previously considered and included in the promulgated zero discharge regulations. Our information in 1975 led us to believe that slag granulation is a net water consuming operating and, therefore, we found no justification for a discharge allowance. Our data show that one plant uses an ore with a lead content that makes it feasible to recycle blast furnace slag into the sintering machine to recover the remaining lead content. After studying this further, we found that there may be an accumulation of dissolved salts in recycled slag granulation wastewater. Accumulation of dissolved salts, particularly sodium salts, in the recycle water and ultimately in the recycled slag is detrimental to the sintering process chemistry. For this reason, we are modifying the promulgated BPT for this subcategory to allow a discharge to prevent the accumulation of solids in slag granulation water circuits.

Lead refineries not on-site with lead smelters were not included in the applicability of the promulgated BPT. At the time of promulgation, we noted that the single off-site lead refinery did not discharge any process wastewater off-site and was not subject to the interim final limitations. After studying the refining processes further, the Agency believes there is no technical reason that on-site and off-site refineries should be regulated differently. Consequently, we are modifying the applicability of the regulations proposed in today's notice so that it includes all refining operations. In doing so we are including the same limitations and standards for hard lead refining blast furnace slag granulation and wet air pollution control to be applied using the building block approach discussed above.

The technology basis of the limitations will be identical to that used in the promulgated BPT for the net precipitation allowance-lime

precipitation and sedimentation. Although the only direct discharging plant now has lime precipitation, sedimentation and filtration in place, we are reluctant to revise the technology basis of a regulation retroactively.

The data base used to establish concentrations for the limitations in the promulgated BPT was based solely on acid plant data. As stated above, we regard the combined metals data base as a superior measure of performance of lime precipitation and sedimentation on nonferrous metals wastewaters, and therefore we are using these limits in today's proposal. We also note that there are no costs associated with meeting these limitations because treatment already is in place.

The pollutants selected for specific limitation are lead, zinc, TSS and pH. These pollutants (except for pH) were selected because they were present in the largest quantities in the raw wastewater. We selected pH for limitation because of the potential for acidic discharges from this subcategory.

Metallurgical Acid Plants

As previously discussed in Section VIII, "Significant Changes to Prior Regulations," BPT for primary copper acid plants was promulgated on July 2, 1980 (45 FR 44928). This existing BPT regulation is being expanded to include primary zinc and primary lead acid plants. The BPT effluent mass limitations for primary zinc and primary lead acid plants are identical to those for primary copper acid plants. As noted above, this is because the Agency collected data on primary zinc and primary lead acid plants and found that the acid manufacturing process, wastewater discharge flow rates and pollutants present in the raw wastewater were essentially the same as those found at primary copper acid plants.

The existing BPT effluent mass limitations are based on lime precipitation and sedimentation treatment technology. The pollutants limited by the existing BPT are cadmium, copper, lead, zinc, TSS and pH. There is no cost associated with expanding the current BPT regulation to include primary zinc and primary lead acid plants because all of the direct discharging plants in the metallurgical acid plants subcategory currently have BPT technology in-place.

Primary Tungsten

We are proposing BPT requirements for the primary tungsten subcategory, since BPT has not yet been promulgated. The technology basis for the BPT limitations is lime precipitation and sedimentation technology to remove metals and solids from combined wastewaters and to control pH, and ammonia steam stripping to remove ammonia. These technologies already are in place at both of the direct dischargers in the subcategory. The pollutants specifically proposed for regulation at BPT are lead, selenium, zinc, ammonia, TSS and pH.

Proposed limitations for ammonia steam stripping are based on data from a well-operated plant in the iron and steel manufacturing point source category. We believe that the iron and steel subcategory data provide the best basis for determination of ammonia steam stripping performance because the paired influent and effluent data were collected by EPA sampling personnel from a plant with well-operated technology. This technology should achieve similar removals in both primary tungsten and iron and steel because raw wastewater ammonia concentrations are in the same order of magnitude and no interfering agents are present in primary tungsten that would interfere with this solubility-limited process.

Implementation of the proposed BPT limitations will remove annually an estimated 12 kg of toxic metals, 12,700 kg of ammonia, and 7,100 kg of TSS over estimated current discharge (no toxic organics would be removed). Removals from raw wastewater are an estimated 3,560 kg of toxic metals, 741,470 kg of ammonia, and 2,658,600 kg of TSS. We project no capital or annual cost for achieving proposed BPT because the technology already is in place at both discharging facilities.

More stringent technology options were not selected for BPT since they require in-process changes or end-of-pipe technologies less widely practiced in the subcategory, and, therefore, are more appropriately considered under BAT.

Primary Columbium-Tantalum

We are proposing BPT requirements for the primary columbium-tantalum subcategory, since BPT has not yet been promulgated. EPA is proposing BPT effluent mass limitations based on lime precipitation and sedimentation to control toxic metals, TSS, pH and fluoride, and preliminary treatment with steam stripping to reduce ammonia concentrations. These technologies are currently in place at all three of the direct dischargers in the primary columbium-tantalum subcategory. The pollutants specifically proposed for regulation at BPT are lead, zinc, ammonia, fluoride, TSS and pH.

The proposed limitations are based on concentrations for the lime precipitation and sedimentation technology taken from the combined data base discussed earlier. Proposed limitations for ammonia steam stripping are based on the same iron and steel sampling data described. We believe this technology will perform at the same level in the primary columbium-tantalum subcategory as in iron and steel because ammonia is present at the same order of magnitude in primary columbium-tantalum wastewater, and there are no interfering agents in the wastewater.

BPT will result in the removal of an estimated 850 kg of toxic pollutants and 263 kg of conventional pollutants per year from current discharge levels. There is no cost associated with compliance with the proposed BPT mass limitations because the technology is already in place at all three of the direct discharging plants in the primary columbium-tantalum subcategory.

More stringent technology options were not selected since they require in-process changes or end-of-pipe technologies which are less widely practiced by the industry and, therefore, are more appropriately considered under BAT.

Secondary Silver

EPA is proposing BPT requirements for the secondary silver subcategory because BPT requirements for this subcategory have not previously been promulgated. The proposed BPT effluent mass limitations are based on lime precipitation and sedimentation to remove toxic metals, pH, TSS, and pretreatment with steam stripping to reduce ammonia concentrations. This technology is currently in place at two of the four direct discharges in the secondary silver subcategory. The pollutants specifically regulated at BPT are copper, zinc, ammonia, TSS and pH. Specific effluent mass limitations have been developed for each of these pollutants.

The proposed limitations are based on concentrations for the lime precipitation and sedimentation technology taken from the combined data base discussed earlier. Proposed limitations for ammonia steam stripping are based on data from a well-operated plant in the iron and steel manufacturing point source category. We believe that the iron and steel subcategory data provide the best basis for determination of ammonia steam stripping performance because the paired influent and effluent data were collected by EPA sampling personnel from a plant with well-operated technology. This technology

should achieve similar removals in both secondary silver and iron and steel because raw wastewater ammonia concentrations are in the same order of magnitude and no interfering agents are present in secondary silver that would interfere with this solubility-limited process.

The proposed BPT will result in the removal of an estimated 230 kg of toxic pollutants and 578,350 kg of ammonia per year from estimated current discharge levels. The estimated capital investment cost of BPT is $124,000 and the estimated annual cost is $263,000. These costs represent wastewater treatment equipment not currently in place.

We do not project any plant closures or unemployment, and price impacts are expected to be less than 1 percent. The Agency has determined, therefore, that the reduction benefits associated with compliance justify the costs.

More stringent options were not selected for BPT because they involve in-process changes or end-of-pipe treatment technologies which are less widely practiced by the industry and, therefore, are more appropriately considered under BAT. However, we are considering a BPT limitation for cyanide based on cyanide precipitation. Although our plant sampling data do not show that cyanide is present in treatable concentrations, our analysis of the processes used to recover silver from spent plating solutions indicates that cyanide could be present at concentrations higher than we found in the sampled plants. Therefore, we are soliciting data from secondary silver plants to demonstrate whether our existing data base is representative of cyanide concentrations in raw wastewater in this subcategory. If the data received support a conclusion that cyanide is present at treatable concentrations, then we will consider including limitations for cyanide based on cyanide precipitation. These limitations are presented in the subcategory supplement to the Development Document (see Section II—Recommendations).

Secondary Lead

EPA is proposing BPT requirements for the secondary lead subcategory because BPT requirements for this subcategory have not previously been promulgated. The proposed BPT effluent mass limitations are based on lime precipitation and sedimentation to remove toxic metals and total suspended solids (TSS), and to control pH. This technology is currently in place at five of the seven direct discharging plants in the secondary lead subcategory. The pollutants and pollutant parameters controlled at BPT are antimony, arsenic, lead, zinc, TSS and pH. The proposed limitations are based on concentrations for the lime precipitation and sedimentation technology taken from the combined data base discussed earlier. We are proposing that there shall be no discharge of ammonia from secondary lead plants. The only source generating ammonia, kettle smelting, is not given a regulatory flow allowance because we are proposing dry scrubbing as BPT for this process (see general discussion at the beginning of this section).

BPT will result in the removal of an estimated 1,105 kg of toxic pollutants and 40,500 kg of conventional pollutants per year from current discharge levels. The estimated capital investment cost of BPT is $470,000 and the estimated annual cost is $228,000. These costs are in 1978 dollars and represent wastewater treatment equipment not currently in place.

We project no closures or unemployment as a result of compliance with these limitations, and price impacts are expected of less than $0.01 per lb. The Agency finds therefore, that the effluent reduction benefits associated with compliance justify these costs.

More stringent options were not selected for BPT because they involve in-process changes or end-of-pipe treatment technologies which are less widely practiced by the industry and, therefore, are more appropriately considered under BAT.

XI. Best Available Technology (BAT) Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, nonwater quality environmental impacts (including energy requirements) and the costs of applying such technology (Section 304(b) (2)(B) of the Clean Water Act). At a minimum, the BAT technology level represents the best economically achievable performance of plants of various ages, sizes, processes or other shared characteristics. As with BPT, where the Agency has found the existing performance to be uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may include feasible process changes or internal controls, even when not in common industry practice.

The required assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle, supra*). In developing the proposed BAT, however, EPA has given substantial weight to the reasonableness of cost. The Agency has considered the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels.

Despite this expanded consideration of costs, the primary determinant of BAT is still effluent reduction capability. As a result of the Clean Water Act of 1977, the achievement of BAT has become the principal national means of controlling toxic water pollution.

The Agency has evaluated six major sets of technology options, set out in Section VII, that might be considered BAT level technology. Each of these options would substantially reduce the discharge of toxic pollutants. These options are described in detail in Section X of the General Development Document.

We have considered reverse osmosis for the purpose of achieving zero discharge and activated alumina to reduce concentrations of arsenic and fluoride for BAT in this category. We ultimately rejected these technologies because they are not demonstrated in the nonferrous metals manufacturing category and are not clearly transferable. In addition, these technologies significantly increase the compliance costs, are difficult to operate and do not appear to result in significant pollutant removals.

We also considered dry scrubbing as an in-process modification in BAT. This technology, however, was not sufficiently demonstrated for nonferrous metals manufacturing. There were exceptions; dry scrubbing on kettle smelting, in secondary lead, for example, was so widely demonstrated that we are proposing dry scrubbing as BPT. The emissions from many of the manufacturing processes were found to contain hot particulate matter, acidic fumes. Emissions of this nature would tend to cause operational problems. The materials of construction would also be prohibitively expensive. Finally, we rejected dry scrubbing because the retrofit costs associated with implementation of this technology would also be prohibitively expensive.

As a means of evaluating the economic achievability of each of these options, the Agency developed estimates of the compliance costs. An estimate of capital and annual costs for the six BAT options was prepared for each subcategory as an aid in choosing the best BAT options. All costs are expressed in 1978 dollars.

The cost methodology has been described in detail in Section VIII. For most treatment technologies, standard cost literature sources were used for module capital and annual costs. Data from several sources were combined to yield average or typical costs as a function of flow or other characteristic design parameters. In a small number of modules, the technical literature was reviewed to identify the key design criteria, which were then used as a basis for vendor contacts. The resulting costs for individual pieces of equipment were combined to yield module costs. In either case, the cost data were coupled with flow data from each plant to established system costs for each facility.

Primary Aluminum

The BAT option proposed is flow reduction, lime precipitation, sedimentation, and filtration for control of toxic metals and fluoride; cyanide precipitation and filtration; and activated carbon absorption preliminary treatment for toxic organics removal. Flow reduction—based on recycle of scrubber wastewater and casting contact cooling water—is widely demonstrated within the subcategory, with 17 of 27 dischargers presently practicing some form of recycle. The proposed level of flow reduction from each unit operation is demonstrated within the subcategory. Lime precipitation and sedimentation, likewise, is widely practiced (this technology is in place at 13 plants) and is the technology basis for existing BPT. One primary aluminum plant presently uses filters. Activated carbon and cyanide precipitation technologies are not presently in use in the subcategory, but are transferable from other subcategories or from benchscale data.

The pollutants specifically proposed for regulation under BAT are benzo(a)pyrene, antimony, cyanide, nickel, aluminum and fluoride. These pollutants were selected because they were present in the largest quantities in the raw wastewater.

Implementation of the proposed BAT would remove annually an estimated 1,592,676 kg/yr of toxic pollutants: 471,908 kg/yr of toxic metals, 1,056,728 kg/yr of toxic organics, and 64,040 kg/yr of cyanide from raw wastewater. In addition, it would remove an estimated 8,841,865 kg/yr of nonconventional pollutants. This represents estimated removals of 1,213,584 kg/yr toxic pollutants (including all of the toxic organics removed) and 1,389,551 kg/yr nonconventional pollutants above BPT removal levels. It also represents significant estimated removals over the intermediate BAT option considered but not selected (the same technology but without filtration and activated carbon): 1,062,012 kg/yr of toxic polutants and 295,254 kg/yr of nonconventional pollutants. Filtration thus serves as an important polishing step in proposed BAT.

We believe this technology is economically achievable. The estimated capital cost of proposed BAT is $34.85 million (1978 dollars) and the annualized cost is $18.71 million (1978 dollars). We project no plant closures or unemployment, and reduction in margin of less than $0.25/ton as a result of compliance. The estimated capital cost for achieving the intermediate option is $24.96 million, and $15.63 million annual cost. We also project no significant impacts from achieving this option.

There are several issues regarding where the point of compliance and monitoring should be for this subcategory. Some commenters to a draft version of this proposal suggested that plants would have to reduce toxic pollutants below the detectable limit to meet the mass limitations at the end of pipe (because the same toxic pollutants are not present in every process wastestream and so some dilution occurs when wastestreams are commingled). We do not believe this to be true for any pollutants other than toxic organics. The standards for these other pollutants assume combined treatment of process wastewaters, and the mass limitation is the concentration basis of the technology (always above the analytical detection limit) times the allowable flow from every unit process actually operated at the plant, whether or not the pollutant is present in wastewater from each particular operation. Under this approach, it is not possible for a regulatory mass limitation at an end-of-pipe discharge point to be below the detection limit.

There is a distinct possibility, however, that plants may be able to meet the limits for toxic organics through dilution unless the compliance point is at-the-source, rather than end-of-pipe. Again this is because the organic pollutants are present in wastewater from only certain unit operations, and are present at concentrations that could be reduced below analytical detection levels after commingling with other process wastewaters.

We believe it important that this not occur. The strong policy of the Act is that pollutants be removed, not diluted. In addition, the Agency's Carcinogen Assessment Group has concluded that these pollutants possess substantial evidence of carcinogenicity, and their human health ambient water quality levels are extremely low.

We therefore are proposing to require that the limitations on toxic organics in this subcategory be imposed on the internal waste streams containing these pollutants prior to mixing with other process wastewaters ("at-the-source"). Compliance monitoring also would be applied to these internal waste streams. The Agency may impose such a limitation "where permit effluent limitations . . . imposed at the point of discharge are impractical or infeasible." 40 CFR 122.63(i). This is the case here, as explained above. Indeed, the Agency gave as an example of a situation justifying an upstream effluent limitation, the circumstance "where the wastes at the point of discharge are so diluted as to make monitoring impracticable. . . ." 44 FR at 32909 (June 7, 1979).

We believe this requirement is technically feasible. In fact, the model BAT treatment includes preliminary treatment with activated carbon to reduce concentrations of toxic organics. This technology is applied only to those wastestreams containing these pollutants. When assessing BAT compliance costs, we included the cost of segregating the organic-laden waste streams to allow preliminary treatment and compliance monitoring. A sampling point following the activated carbon pretreatment is the most logical choice to ensure compliance. Plants that do not have any of the five process waste streams (potline, potroom, anode bake plant, and anode paste plant scrubbing or cathode reprocessing) containing the toxic organics would not need to comply with this requirement; in fact, under the building block approach, their permits would not contain limitations for toxic organics unless discharged from another source within the plant. We solicit comments on this approach.

As an alternative, plants may segregate those waste streams containing toxic organics and treat and discharge them separately or choose to treat all wastewaters with carbon following central treatment for other pollutants. These alternatives are far more costly than upstream preliminary treatment and monitoring, however, and we do not expect that plants will pursue them.

Two of the technologies in the proposed BAT treatment train—carbon adsorption and cyanide precipitation—are being transferred to the primary aluminum subcategory because existing treatment does not effectively remove toxic organic pollutants and cyanide.

Carbon adsorption pretreatment is directed at better control of discharges from wet air emission scrubbing associated with anode paste plants, anode bake plants, potlines and potrooms, as well as from cathode reprocessing operations. (As an alternative method of controlling these discharges, a plant could install a dry alumina air scrubber of institute 100 percent recycle of wet scrubbing discharges.) The discharges contain large amounts of toxic organics (polynuclear aromatic hydrocarbons) that do not appear to be effectively removed by existing treatment in the subcategory. Activated carbon technology is a demonstrated control technology for polynuclear aromatic hydrocarbons in the iron and steel cokemaking subcategory. In addition, adsorption is demonstrated in bench-scale studies on POTW wastewater spiked with polynuclear aromatic hydrocarbons (Petrasek, A.C., Kugelman, I.J., Austern, B.M., Pressley, T.A., Winslow, L.A. and R.A. Wise, Fate of Toxic Organic Compounds in Wastewater Treatment Plants, Unpublished, December, 1981).

We are proposing an achievable concentration of 10 ug/1 of benzo(a)pyrene, the level from the bench-scale study. Although we promulgated a somewhat higher achieveable concentration (50 ug/1) in the iron and steel category, we believe the 10 yg/1 limitation is more appropriate for primary aluminum wastewaters because concentrations of phenols, and oil and grease in the iron and steel raw wastewaters are an order of magnitude higher than the primary aluminum raw matrix and these pollutants would interfere with organics removal. We solicit comment on the appropriate achievable concentration level.

We also solicit comment as to the possibility of incidental removal of polynuclear aromatic hydrocarbon by lime precipitation and sedimentation, with and without polishing filtration. These toxicants have low solubilities, suggesting the possibility of incidental removal. Our sampling data, however, fail to demonstrate that incidental removal is occurring.

The second transferred technology—cyanide precipitation—is directed at control of free and complexed cyanides in waste streams within the primary aluminum subcategory that result from use of coke and pitch in the electrolytic reduction process. These waste streams collectively discharge approximately 121,000 Kg/yr of cyanide. The achievable concentration level is transferred from three well-operated coil coating plants. The Agency believes this technology, and the achievable concentration limits, are transferable to the primary aluminum subcategory because raw wastwater cyanide concentrations (prior to dilution with waste streams without cyanide) are of the same order of magnitude in both categories. Further, no pollutants were identified in primary aluminum wastewater that would interfere with the operation or performance of this technology. (We also note that the limit for cyanide in the proposed regulation reflects further removals from filtration following cyanide precipitation preliminary treatment. For the derivations of these limitations, see Chapter VII of the General Development Document.)

Secondary Aluminum

We are proposing to amend existing effluent limitations guidelines for the secondary aluminum subcategory. The promulgated BAT prohibits the discharge of process wastewater. However, new information has become available to the Agency that supports the need for discharge of wastewater from chlorine demagging, an operation considered and included in the promulgated zero discharge regulation. Three dry processes existed at the time of promulgation: The Durham process, the Alcoa process, and the Teller process. The Agency believed that each of these processes were sufficiently well demonstrated to be installed and become operational by 1984, the compliance date for BAT. Consequently, we found no justification for a discharge allowance associated with this waste stream. Our new information shows that the technologies are not sufficiently demonstrated nor are they applicable to plants on a nationwide basis. For this reason, we are modifying the promulgated BAT. The proposed BAT is based on the use of wet scrubbing on chlorine demagging operations.

Information also has become available to the Agency that supports the need for discharge of wastewater from direct chill casting, an operation neither considered nor included in the promulgated BAT regulation. Direct chill casting is a relatively new process and companies have been installing this technology into their plants over the past five years. We have considered the process as a part of this rulemaking and are proposing effluent limitations that allow a discharge.

The technology basis for BAT is also modified. We are proposing lime precipitation, sedimentation and filtration, along with ammonia steam stripping preliminary treatment as the technological basis for BAT. Lime precipitation and sedimentation, and ammonia steam stripping are demonstrated technologies in this subcategory. The proposed limitations are based on achievable concentrations from two porcelain enameling plants and one nonferrous metals plant and variability factors from the combined data base (see Section IX above), and (for ammonia) achievable concentrations transferred from the iron and steel category.

The pollutants specifically proposed for regulation under BAT are lead, zinc, aluminum and ammonia. Estimated removals by the proposed BAT treatment technology are 903 kg/yr of toxic pollutants and 541 kg/yr of nonconventional pollutants from raw wastewater, and 17 kg/yr of toxic pollutants and 46 kg/yr of nonconventional pollutants over estimated BPT discharge. Our proposed BAT is economically achievable. The estimated capital cost of achieving BAT is $1.6 million and the estimated annualized cost is $1.35 million. We also project no plant closures or unemployment. Price changes are not expected to exceed 0.01 $/ton of aluminum product, as a result with this option. Since filtration removes additional toxic and nonconventional pollutants, and is economically achievable, we are including it as part of proposed BAT. Filtration also adds to the treatment system reliability by making it less susceptible to operator error and to sudden changes in raw wastewater flows and concentrations.

We also are modifying the technology basis for regulating ammonia in this subcategory, as well as the achievable concentrations for ammonia removal. The technology basis for the control of ammonia under existing BPT is pH adjustment of the intake water. We are modifying BAT to include steam stripping to reduce ammonia concentrations. Air stripping is an effective technology for reducing ammonia concentrations; however, the Agency is reluctant to retain limitations and standards based on the use of air stripping because we believe that this technology reduces ammonium concentrations by simply transferring pollutants from one media (water) to another (air). Steam stripping reduces ammonia concentrations by stripping the ammonia from the wastewater with steam. The ammonia is concentrated in the steam phase and may be condensed, collected, and sold as a by-product or disposed of offsite.

Primary Copper Smelting

We are proposing to amend promulgated BAT in this subcategory to conform BAT to promulgated BPT. As discussed in Section III above, promulgated BPT is zero discharge, subject to an unlimited discharge allowance for stormwater from a 10–year, 24–hour storm falling on a cooling impoundment. Promulgated BAT includes this same allowance for plants with cooling impoundments (except the storm event is the 25–year, 24–hour storm), and an additional allowance for discharge of net precipitation falling on the impoundment. We are proposing to eliminated this later allowance, for the same reasons we eliminated it at BPT. See 45 Fed. Reg. 44926, July 2, 1980, and Section VIII above. There are no costs associated with this proposal since the discharge allowance already is eliminated at BPT.

Primary Electrolytic Copper Refining

EPA is proposing alternative BAT effluent mass limitations for the primary electrolytic copper refining subcategory. Alternative A is based on the existing BPT—lime precipitation and sedimentation—with additional reduction in pollutant discharge achieved through in-process wastewater flow reduction. Alternative B is equivalent to Alternative A with the addition of filtration as an effluent polishing step. Wastewater flow reduction is based on increased recycle of spent electrolyte, anode rinse water and casting contact cooling water, and is demonstrated in the subcategory for each of these unit operations. One of the four direct discharging plants in the primary electrolytic copper refining subcategory currently practices filtration of wastewater.

The pollutants specifically limited under BAT are copper, lead and nickel; the three toxic metals present in the largest quantities in primary electrolytic copper refining raw wastewaters. Alternative A would remove an estimated 2,691 kg of toxic metals over the estimated BPT discharge. The estimated capital cost for achieving this option is $0.328 million, and the estimated annualized costs is $0.239 million.

Application of the proposed BAT Alternative B would remove annually an estimated 52,507 kg of toxic metals. This proposed alternative will result in the removal of an estimated 2,864 kg of toxic metals above the estimated BPT discharge level. The estimated capital investment cost of this proposed BAT is $0.487 million and the estimated annualized cost is $0.290 million. We project no plant closures or unemployment. Price changes of less than 0.05 percent are expected as a result of compliance.

As stated on more detail in Section XVIII, below, we are concerned that this subcategory is presently undergoing adverse structural economic changes that may affect its ability to achieve economically the limitations based upon filtration. At the same time, filtration is demonstrated in the subcategory, removes additional toxic pollutants, and appears economically achievable based on our existing economic impact analyses. Because these recent economic changes may not be fully reflected in our analyses, however, and in order to receive the most responsive type of public comment, we are proposing alternative BAT limitations for this subcategory.

Secondary Copper

We are proposing to amend promulgated BAT in this subcategory to eliminate the discharge allowance for net precipitation on impoundments. See Section VIII above. There is no significant cost associated with this amendment, since we considered costs of achieving this change—namely costs for cooling towers—when promulgating BPT in 1975. See 40 FR 8517 (February 27 1975). The installation of cooling towers eliminates the need for cooling ponds used by some plants in this subcategory, and, therefore, the need for an allowance for net precipitation on those ponds.

Primary Lead

We are proposing to amend existing BAT for this subcategory. The amended BAT is based on lime precipitation, sedimentation, and filtration, along with in-process flow reduction. As discussed in the section on BPT for this subcategory, we have included a flow allowance to prevent the accumulation of solids in slag granulation water circuits. Since the only direct discharger in the subcategory has this technology presently in place, the technology is clearly demonstrated and economically achievable. The pollutants specifically limited are lead and zinc. These were found in the greatest quantities in the raw wastewater.

Primary Zinc

We are proposing to amend the existing BAT regulation in this subcategory. Amended BAT would be based on BPT (lime precipitation and sedimentation) with additional reduction in pollutant discharge achieved through inprocess wastewater flow reduction and the use of filtration as an effluent polishing step. Wastewater flow reduction is based on increased recycle of casting scrubber water and casting contact cooling water. Filtration is currently in place at two of the five direct discharging plants in the primary zinc subcategory.

The pollutants specifically limited under BAT are cadmium, copper, lead, and zinc. These toxic metals are present in the largest quantities in raw wastewater.

Application of the proposed BAT effluent mass limitations will result in the removal of an estimated 5,390 kg/yr of toxic pollutants above the estimated BPT discharge rate. The estimated capital investment cost of the proposed BAT is $2.57 million and the estimated annualized cost is $1.63 million. The intermediate BAT option, lime precipitation and sedimentation and flow reduction, would remove 1,798 kg/yr of toxic pollutants above the estimated BPT removal rate. Costs of this intermediate option are $0.228 million (capital cost) and $0.047 million (annual cost).

Either option appears to be economically achievable. We project no plant closures or unemployment and reduction in margin of $1 to $1.38 million per year from the intermediate and proposed options.

We are proposing the filtration option because it is demonstrated in the subcategory and results in removal of 3,590 kg/yr of toxic pollutants above the intermediate option.

Metallurgical Acid Plants

The Agency is proposing BAT effluent mass limitations for metallurgical acid plants based on BPT with additional reduction in pollutant discharge achieved through in-process wastewater flow reduction and the use of filtration as an effluent polishing step. Wastewater flow reduction is based on increased recycle of acid plant scrubber liquor and is demonstrated by existing acid plants associated with all three of the primary metal types. Filtration is currently demonstrated at three of the eight direct discharging plants in the metallurgical acid plants subcategory.

The pollutants specifically limited under BAT are arsenic, cadmium, copper, lead, and zinc, the toxic metals are present in the largest quantities in acid plant raw wastewaters.

Application of the proposed BAT mass limitations will result in the removal of 2,919 kg of toxic pollutants per year above estimated current discharge rates. The estimated capital investment cost of proposed BAT is

$3.55 million and the annualized cost is $2.18 million.

We considered as an intermediate option the proposed BAT option without filters. This option removes an estimated 1,168 kg/yr of toxic pollutants above estimated current discharge levels. The estimated capital cost of this option is $1.42 million and the annualized cost is $0.93 million.

We are proposing filtration as part of BAT because this technology is demonstrated in the subcategory, results in removal of an additional 1,751 kg/yr of toxic pollutants over the intermediate option, and is economically achievable. We project no plant closures or unemployment resulting from compliance with either the intermediate and proposed option. In addition, filtration adds reliablity to the treatment system by making it less susceptible to operator error and to sudden changes in raw wastewater flows and concentrations.

Primary Tungsten

Our proposed BAT limitations for this subcategory are based on the BPT technology (lime precipitation and sedimentation), in-process wastewater reduction, and filtration. Flow reductions are based on 90 percent recycle of scrubber effluent, a rate surpassed by three of the eight existing plants. Filters also are presently utilized by three plants in the subcategory.

The pollutants specifically limited under BAT are lead, selenium, zinc and ammonia. These pollutants were selected because they were present in the largest quantities in the raw wastewater.

Implementation of the proposed BAT limitations would remove annually an estimated 3.689 kg of toxic metals from raw wastewater which is 139 kg of toxic metals over the current discharge. Since both discharging plants have filtration in place, these removals are solely a result of the flow reduction measures proposed. No additional ammonia is removed at BAT, nor are any toxic organics removed. The proposed BAT represents a 22 percent incremental toxics removal over BPT, and 89 percent total toxics removal from raw waste. Estimated capital cost for achieving proposed BAT is $.447 million, and annualized cost is $.193 million.

We believe both the proposed BAT economically achievable. We project no plant closures or unemployment, and prices are expected to change by only 1.5 cents per pound of tungsten produced.

Primary Columbium-Tantalum

For BAT, EPA is proposing mass limitations based on BPT (lime precipitation and sedimentation with ammonia steam stripping) with additional reduction in pollutant discharge achieved through in-process wastewater flow reduction and the use of filtration as an effluent polishing step. Wastewater flow reduction is based on increased recycle of scrubber liquors associated with three sources: concentrate digestion scrubber, solvent extraction scrubber, and metal salt drying scrubber. Filtration is currently in place at one of the three direct discharging plants in the primary columbium-tantalum subcategory. These flow reductions are demonstrated in the subcategory for each of these unit operations.

The pollutants specifically limited under BAT are lead, zinc, ammonia and flouride. These pollutants were present in the largest quantities in columbium-tantalum raw wastewater.

Application of the proposed BAT would remove 145,735 kg of toxic metals and 1,286,679 kg of nonconventionals annually. The proposed BAT will result in the removal of 285 kg/yr of toxic pollutants and 2,424 kg/yr of nonconventionals over the estimated BPT discharge. The estimated capital investment cost of BAT is $797,000 and the estimated annual cost is $396,000.

We considered as an intermediate option, the proposed BAT option without filtration. This option removes 156 kg/yr of toxic pollutants, and 785 kg/yr of nonconventionals over estimated BPT discharge, at estimated capital cost of $0.086 million and annual cost of $0.013 million. We rejected this option because filtration removes additional pollutants (an estimated 129 kg/yr of toxic pollutants and 1,575 kg/yr of fluoride) and appears to be economically achievable. We project no closures or unemployment, and reduction in margin of less than $0.31/lb. Filtration is also demonstrated in the subcategory. In addition, filtration adds reliability to the treatment system by making it less susceptible to operator error and to sudden changes in raw wastewater flows and concentrations.

Secondary Silver

For BAT, EPA is proposing alternative effluent mass limitations for the secondary silver subcategory. Alternative A is based in BPT (lime precipitation and sedimentation and ammonia steam stripping) with additional reduction in pollutant discharge achieved through in-process wastewater flow reduction. Alternative B is equivalent to Alternative A with the addition of filtration as an effluent polishing step. Wastewater flow reduction is based on increased recycle of leaching scrubber water, furnace scrubber water and casting contact cooling water. Flow reduction is demonstrated for each of these unit operations in the subcategory. Filtration is currently in place at one of the four direct discharging plants in the secondary silver subcategory, and all four of the plants practice some form of flow reduction.

The pollutants specifically limited under BAT are copper, zinc, and ammonia. We have selected copper, zinc and ammonia because they are present in the largest quantities in secondary silver raw wastewater.

Alternative A would remove an estimated 54 kg of toxic metals over the estimated BPT discharge. The estimated capital cost for achieving this option is $0.184 million; the annualized cost is $0.278 million.

Application of the proposed BAT Alternative B would remove 27,163 kg of toxic metals and 578,429 kg of ammonia annually. This proposed alternative will result in the removal of 92 kg of toxic pollutants per year above the estimated BPT discharge. The estimated capital investment cost of the proposed BAT is $0.206 million and the annualized cost is $0.345 million.

As stated in moree detail in Section XVIII, below, we are concerned that this subcategory may be undergoing structural economic changes not anticipated in our analysis, and that our economic analysis does not adequately reflect ability of the tolling segment of the industry to achieve economically proposed limitations based upon filtration. Filtration is, however, demonstrated in the subcategory, removes additional toxic pollutants, and appears economically achievable based on our existing economic analysis. Because of our uncertainty, and in order to receive the most responsive type of public comment, we are proposing alternative BAT limitations for this subcategory.

As discussed in Section X, BPT, we are considering limitation of cyanide (under either of the alternatives) based on cyanide precipitation technology. Although our plant sampling data do not show that cyanide is present in treatable concentrations, our analysis of the processes used to recover silver from spent plating solutions indicates that cyanide could be present at concentrations higher than we found in the sampled plants. We are soliciting other raw wastewater data to

demonstrate whether our existing data base is representative. In the event that we do receive data showing that cyanide is present in treatable concentrations, the selection of end-of-pipe filtration takes on greater environmental significance. Our data show that filtration would result in an additional 33 percent reduction beyond that achieved by cyanide precipitation (see Section VII of the General Development Document).

Secondary Lead

For BAT, EPA is proposing alternative effluent mass limitations for the secondary lead subcategory. Alternative A is based on BPT (lime precipitation and sedimentation) with additional reduction in pollutant discharge achieved through in-process wastewater flow reduction. Wastewater flow reduction is based on increased recycle of smelter scrubber water and cating contact cooling water, and reducing the amount of water used for battery cracking. These flow reductions are all demonstrated in the subcategory. Alternative B is based on Alternative A plus filtration. Filtration is currently in place at two of the seven direct discharging plants in the secondary lead subcategory.

As stated in more detail in Section XVIII below, we are concerned that this subcategory is presently undergoing adverse structural exconomic changes that may affect its ability to achieve economically the limitations based upon filtration. At the same time, filtration is widely demonstrated in the subcategory, removes additional toxic pollutants, and appears economically achievable based on our existing economic analyses. Because these recent economic changes may not be fully reflected in our analyses, however, and in order to receive the most responsive public comment, we are proposing alternative BAT limitations for this subcategory.

The pollutants specifically limited under BAT are antimony, arsenic, lead, and zinc. These pollutants were selected since they were present in the largest quantities in raw wastewater. These flow reductions are all demonstrated in the subcategory. We are proposing that there shall be no discharge of ammonia from secondary lead plants because the only source generating ammonia, kettle smelting, is not given a regulatory flow allowance (see Section X–BPT). Alternative A would remove an estimated 118 kg of toxic metals over the estimated BPT discharge. The estimated capital cost for this option is $0.470 million; the annualized cost is $0.228 million.

Implementation of Alternative B would remove 14,602 kg of toxic metals and 495 kg of ammonia annually from raw wastewaters. Alternative B effluent mass limitations will result in the removal of 250 kg of toxic pollutants above the estimated BPT discharge. The estimated capital investment cost of Alternative B is $2.12 million and the estimated annual cost is $1.36 million.

XII. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology. New plants have the opportunity to design and use the best and most efficient nonferrous metals manufacturing processes and wastewater treatment technologies, without facing the added costs and restrictions encountered in retrofitting an existing plant. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies which reduce pollution to the maximum extent feasible.

The Agency has considered six major sets of technology options which might be applied at the BDT level discussed in Section XII. Each of these options would substantially reduce the discharge of toxic pollutnats. These options are described in detail in Section X of the General Development Document. The option selected for each subcategory and the underlying rationale are presented below.

Primary Aluminum

We are proposing NSPS that are based on BAT plus additional flow reduction. This flow reduction can be achieved by the use of dry air pollution scrubbing on potlines, anode bake plants, and anode paste plants and elimination of potroom and degassing scrubber discharges. Potroom scrubbing discharges are eliminated by design of efficient potline scrubbing (eliminating potroom scrubbing completely) or 100 percent recycle (with blowdown recycled to casting). Degassing scrubbers are limited by replacing chlorine degassing with inert gases.

These flow reductions are demonstrated at existing plants, but are not included in BAT because they might involve substantial retrofit costs at other existing plants. However, new plants can include these reductions in plant design at no significant additional cost. Dry scrubbing also prevents the contamination of scrubbing discharges with toxic organics, eliminating the need for activated carbon pretreatment included in the proposed BAT to control these toxic organics except for plants discharging wastewater from cathode reprocessing.

The Agency does not believe that the proposed NSPS will provide a barrier to entry for new facilities. In fact, installation of dry scrubbing instead of wet scrubbing in new facilities reduces the cost of end-or-pipe treatment by reducing the overall volume of wastewater discharged and eliminates the need for activated carbon pretreatment proposed for BAT except for process wastewater from cathode reprocessing.

Secondary Aluminum

EPA promulgated NSPS for the secondary aluminum subcategory on April 8, 1974 as part of Subpart C of 40 CFR Part 421. The promulgated NSPS prohibits the discharge of process wastewater except for an allowance, if determined to be necessary, which allows the discharge of process wastewater from chlorine demagging. In this respect, promulgated NSPS was less stringent than promulgated BAT. The Agency did this recognizing that NSPS became effective on the date of promulgation and we did not believe that the dry chlorine demagging processes were appropriate for BAT with its compliance date being 10 years later.

We now are proposing to modify the promulgated NSPS to allow for a discharge from chlorine demagging and direct chill casting. The discharge allowances are identical to those proposed for BAT. The technology basis is also identical to that of the proposed BAT: lime precipitation, sedimentation and filtration.

Reverse osmisis, as noted above, is not demonstrated and is not clearly transferable to nonferrous metals manufacturing wastewater. The Agency also does not believe that new plants could achieve and additional flow reduction for chlorine demagging and direct chill casting beyond that proposed for BAT.

Primary Copper Smelting

EPA is proposing that NSPS for the primary copper smelting subcategory be zero discharge. It is our view that new smelting facilities can be constructed using cooling towers to cool and recirculate casting contact cooling water and slag granulation wastewater instead of large volume cooling impoundments. This technology is also in place in this subcategory. Thus, this proposal eliminates the allowance for the catastrophic precipitation discharge allowed at BAT. The costs associated

with construction and operation of a cooling tower system are not significantly greater than those for cooling impoundments and as such, the Agency does not believe that the proposed NSPS will constitute a barrier for entry of new facilities.

Primary Electrolytic Copper Refining

EPA is proposing NSPS for this subcategory equal to BAT with filtration. Review of the industry indicates that no additional demonstrated technologies exist that improve on this BAT technology. Reverse osmosis, as noted above, is not demonstrated and is not clearly transferable to nonferrous metals manufacturing wastewater. The Agency also does not believe that new plants could achieve any additional flow reduction beyond that proposed for BAT.

Secondary Copper

EPA is proposing that NSPS for the secondary copper subcategory be equal to zero discharge. We thus are eliminating the allowance for catastrophic stormwater discharge provided at BAT. It is our belief that new sources can be constructed with cooling towers exclusively, and that the cost of cooling towers instead of cooling impoundments, is minimal. Some existing plants use cooling towers rather than cooling impoundments. Therefore, we believe that NSPS, as defined, does not constitute a barrier to entry for new plants.

Primary Lead

We are proposing NSPS that prohibits the discharge of all process wastewater from primary lead smelting.
Zero discharge can be achieved by the complete recycle and reuse of slag granulation wastewater or through slag dumping. Elimination of discharge from slag granulation is demonstrated in six of the seven existing plants, but it is not included at BAT because it would involve substantial retrofit costs for the one existing discharger (installation of a modified sintering machine—see the discussion of BPT and BAT for this subcategory). New plants can include elimination of the discharge from the slag granulation process in the plant design at no significant additional cost. Therefore, we believe NSPS does not present any barrier to entry for new plants.

Primary Zinc

EPA is proposing that NSPS for the primary zinc subcategory be equal to BAT. Review of the industry indicates that no new demonstrated technologies exist that improve on BAT technology. Reverse osmosis, as noted above, is not demonstrated in this subcategory and is not clearly transferable to nonferrous metals manufacturing wastewater.

Dry scrubbing is not demonstrated for controlling emissions from zinc reduction furnaces, leaching and product casting. The nature of these emissions (acidic fumes, hot particulate matter) technically precludes the use of dry scrubbers. Therefore, we are including an allowance from this source at NSPS equivalent to that proposed for BAT. We do not believe that new plants could achieve any additional flow reduction beyond that proposed for BAT.

Metallurgical Acid Plants

EPA is proposing that NSPS for the metallurgical acid plants subcategory be equal to BAT. Review of the industry indicates that no new demonstrated technologies exist that improve on BAT technology. Reverse osmosis, as noted above, is not demonstrated in this subcategory and is not clearly transferable to nonferrous metals manufacturing wastewater. The Agency also does not believe that new plants could achieve any additional flow reduction beyond that proposed for BAT.

Primary Tungsten

We are proposing that NSPS be equal to BAT. Our review of the industry indicates that no new demonstrated technologies that improve on BAT technology exist. Reverse osmosis, as noted above, is not demonstrated in this subcategory and is not clearly transferable to nonferrous metals manufacturing wastewater.

Dry scrubbing is not demonstrated for controlling emissions from acid leaching, APT conversion to oxides and tungsten reduction furnaces. The nature of these emissions (acid fumes, hot particulate matter) technically precludes the use of dry scrubbers. Therefore, we are including an allowance from this source at NSPS equivalent to that proposed for BAT. We also do not believe that new plants could achieve any additional flow reduction beyond the 90 percent scrubber effluent recycle proposed for BAT.

Primary Columbium-Tantalum

EPA is proposing that NSPS for the primary columbium-tantalum subcategory be equal to BAT. Review of the industry indicates that no new demonstrated technologies that improve on BAT technology exist. Reverse osmosis, as noted above, is not demonstrated in this subcategory and is not clearly transferable to nonferrous metals manufacturing wastewater.

Dry scrubbing is not demonstrated for controlling emissions from concentration digestion, metal salt drying and salt to metal reduction. The nature of these emissions (acidic fumes, hot particulate matter) technically precludes the use of dry scrubbers. Therefore, we are including an allowance for these sources at NSPS equivalent to that proposed for BAT. The Agency also does not believe that new plants could achieve any additional flow reduction beyond that proposed for BAT.

Secondary Silver

EPA is proposing that NSPS for the secondary silver subcategory be equal to BAT with filtration. Review of the industry that no new demonstrated technologies that improve on this BAT technology exist. Reverse osmosis, as noted above, is not demonstrated in this subcategory and is not clearly transferable to nonferrous metals manufacturing wastewater.

Dry scrubbing is not demonstrated for controlling emissions from film stripping, precipitation and filtration of film stripping solutions, precipitation and filtration of photographic solutions, reduction furnaces, leaching and precipitation and filtration. The nature of these emissions (acidic fumes, hot particulate matter) technically precludes the use of dry scrubbers. Therefore, we are including an allowance for these sources at NSPS equivalent to that proposed for BAT. The Agency does not believe that new plants could achieve any additional flow reduction beyond that proposed for BAT.

Secondary Lead

EPA is proposing that NSPS for the secondary lead subcategory be equal to BAT with filtration. Review of the industry indicates that no new demonstrated technologies that improve on this BAT technology exist. Reverse osmosis as noted above is not demonstrated in this subcategory and is not clearly transferable to nonferrous metals manufacturing wastewater.

Dry scrubbing is demonstrated for controlling emissions from Kettle smelting. In fact, it is applied so widely throughout this subcategory that we selected dry scrubbing as the best practicable control technology currently available for kettle smelting. Dry scrubbing, however, is not demonstrated for controlling emissions from blast and reverberatory furnaces, and the nature of these emissions (hot particulate matter) precluded the use of dry

scrubbing. Therefore, we are including an allowance for these sources at NSPS equivalent to that proposed for BAT. The Agency also does not believe that new plants could achieve any additional flow reduction beyond that proposed for BAT.

XIII. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES) to prevent the discharge to pollutants which pass through, interfere with, or are otherwise incompatible with the operation of POTW. These standards must be achieved within three years of promulgation. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology based, generally analogous to BAT for direct dischargers. (Conference Report 95–830 at 87; *Reprinted in* Comm. on Environmental and Public Works, 95th Cong. 2d Sess., *A Legislative History of the Clean Water Act of 1977,* Vol. 3 at 272.)

Before proposing pretreatment standards, the Agency examines whether the pollutants discharged by the industry pass through the POTW or interfere with the POTW operation or its chosen sludge disposal practices. In determining whether pollutants pass through, the Agency compares the percentage of a pollutant removed by a well-operated POTW achieving secondary treatment with the percentage removed by direct dischargers applying the best available technology economically achievable. A pollutant is deemed to pass through the POTW when the average percentage removed nationwide by well-operated POTW meeting secondary treatment requirements, is less than the percentage removed by direct dischargers complying with BAT effluent limitations guidelines for that pollutant. (See generally, 46 FR 9415–16 (January 28, 1981).)

This definition of pass through satisfies two competing objectives set by Congress: (1) That standards for indirect dischargers be equivalent to standards for direct dischargers, while at the same time, (2) that the treatment capability and performance of the POTW be recognized and taken into account in regulating the discharge of pollutants from indirect dischargers.

The Agency compares percentage removal rather than the mass or concentration of pollutants discharged because the latter would not take into account the mass of pollutants discharged to the POTW from non-industrial sources nor the dilution of the pollutants in the POTW effluent to lower concentrations due to the addition of large amounts of non-industrial wastewater.

There were no data concerning POTW removals for arsenic, antimony and selenium to compare with our estimates of in-plant treatment. We have assumed that these toxic metals pass through a POTW because they are soluble in water and are not degradable in this proposed regulation; however, we formally solicit comments and data on whether these pollutants do pass through POTW and on actual POTW removal performance.

As explained in Section IX previously, EPA is proposing mass-based PSES for five of seven subcategories to ensure that the effluent reduction achieved by the flow reduction is realized. An explanation of our decision to include alternative concentration standards is described below for each subcategory.

We have considered and rejected reverse osmosis and activated alumina technology for PSES in this subcategory. Reverse osmosis and activated alumina are not demonstrated in the nonferrous metals manufacturing category and are not clearly transferable. In addition, these technologies significantly increase the costs, are difficult to operate and do not appear to result in significant pollutant removals.

Primary Aluminum Smelting

We are not proposing pretreatment standards for existing sources for the primary aluminum smelting subcategory since there are no existing indirect dischargers.

Secondary Aluminum

We are proposing PSES equal to BAT for this subcategory. (In doing so, we are proposing to amend existing PSES.) It is necessary to propose PSES to prevent pass through of lead, zinc and ammonia. These toxic pollutants are removed by well-operated POTW on an average of 53 percent (lead—40 percent and zinc—65 percent), while BAT technology removes approximately 95 percent. Most POTW in the United States are not designed for nitrification. Hence, aside from incidental removal, most if not all of the ammonia introduced into POTW from secondary aluminum operations will pass through into receiving waters without treatment. Depending on the size of the POTW and the volume of and pretreatment provided for these wastewaters, operating problems may not be experienced at the POTW because of dilution. Nonetheless, the ammonia discharged to the POTW will pass through untreated.

The technology basis for PSES thus is lime precipitation and sedimentation, ammonia steam stripping, wastewater flow reduction and filtration. The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data, as explained in our discussion of BAT. Flow reduction is based on the same zero discharge of scrubber effluent for scrap drying wet air pollution control which is equivalent to the flow basis of BAT. Only one indirect discharger uses a wet system to control air emissions from scrap drying, and it does not practice any recycle for this system. Ammonia steam stripping and lime precipitation and sedimentation, and filter technologies are presently demonstrated in the subcategory.

Existing PSES is based on oil skimming, ammonia air stripping, and pH control. We previously selected oil and grease for control under PSES since it was detected in casting contact cooling water at concentrations in excess of 100 mg/l. Oil and grease concentrations of 100 mg/l are known to cause interference to the POTW operation. However, we are not controlling either oil and grease or pH because these conventional pollutants are normally compatible with POTW operation. Individual POTW's may control these pollutants under authority of 40 CFR Part 403 when necessary to prevent site-specific problems.

We are proposing ammonia steam stripping instead of ammonia air stripping (see Section XI under Secondary Aluminum). As we stated above, we regard steam stripping as the superior type of technology because it does not transfer a pollutant from one media to another.

Implementation of the proposed PSES limitations would remove annually an estimated 1,214 kg of toxic pollutants over estimated current discharge. Removals over estimated raw discharge are approximately 1,214 kg of toxic pollutants. Capital cost for achieving proposed PSES is $2.4 million, and an annual cost of $1.6 million. No closures or unemployment are projected as a result of compliance, and price impacts are projected to be less than $.01/ton. The proposed PSES consequently appears to be economically achievable.

The intermediate option we considered for PSES is BAT equivalent technology without filters. This option removes an estimated 1,185.9 kg of toxic pollutants over estimated current discharge. We estimate that the capital cost of this technology is $2.2 million, and an annual cost of $1.5 million.

The Agency is proposing alternative concentration-based standards in this subcategory for the reasons discussed in Section IX B above.

Primary Copper Smelting

We are not proposing pretreatment standards for existing sources for the primary copper smelting subcategory since there are no existing indirect dischargers.

Primary Electrolytic Copper Refining

We are not proposing pretreatment standards for existing sources for the primary electrolytic copper refining subcategory since there are no existing indirect dischargers.

Secondary Copper

EPA promulgated PSES for the secondary copper subcategory on December 15, 1976 (41 FR 48650). The promulgated PSES allows a continuous discharge of process wastewater subject to specific limitations based on treatment with lime precipitation and sedimentation. Proposed BAT (and promulgated BPT) for this subcategory is also based on lime precipitation and sedimentation, with cooling towers and holding tanks to achieve no discharge of process wastewater. The proposed PSES will prevent pass through of copper, chromium, lead, nickel and zinc. We therefore are proposing to modify PSES to make it equivalent to BAT. Implementation of the proposed PSES would remove annually an estimated 4,837 kg of toxic pollutants over estimated current discharge. Removals over estimated raw discharge are approximately 4,837 kg of toxic pollutants.

It is our belief that the costs associated with installaton and operation of cooling towers and holding tanks for indirect dischargers will be insignificant. In addition, costs for cooling towers and holding tanks were considered during the 1976 PSES rulemaking. At that time we concluded that the additional cost was not significant.

Primary Lead

We are not proposing pretreatment standards for existing sources for the primary lead subcategory since there are no existing indirect dischargers.

Primary Zinc

We are not proposing pretreatment standards for existing sources for the primary zinc subcategory since there are no existing indirect dischargers.

Metallurgical Acid Plants

We are not proposing PSES for metallurgical acid plants. There is only one existing indirect discharger, and its estimated current mass discharge is less than the level that would be achieved by indirect dischargers with BAT-equivalent technology (lime precipitation and sedimentation, flow reduction, and filtration). Consequently, we believe that the amount of pollutants discharged by this plant are too insignificant to justify developing PSES, within the meaning of paragraph 8(b)(ii) of the Settlement Agreement.

Primary Tungsten

We are proposing PSES equal to BAT for this subcategory. It is necessary to propose PSES to prevent pass-through of lead, selenium, zinc and ammonia. These toxic pollutants are removed by a well-operated POTW at an average of 40 percent (lead—40 percent, zinc—65 percent, and ammonia—0 percent), while BAT technology removes approximately 98 percent.

The technology basis for PSES thus is lime precipition and sedimentation, ammonia steam stripping, wastewater flow reduction and filtration. The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data, as explained in the discussion of BPT and BAT for this subcategory. Flow reduction is based on 90 percent recycle of scrubber effluent that is the flow basis of BAT. This flow rate is achieved by one of the three indirect dischargers in the subcategory, and filters are demonstrated at one indirect discharger.

Implementation of the proposed PSES limitations would remove annually an estimated 130 kg of toxic pollutants over estimated current discharge, and an estimated 79,500 kg of ammonia. Removals over estimated raw discharge are approximately 4,075 kg of toxic pollutants and 79,530 kg of ammonia. Capital cost for achieving proposed PSES is $.396 million, and annual cost of $.329 million. We project no closures, unemployment or price impacts as a result of complying with this standard.

The intermediate option we considered for PSES is BAT equivalent technology without filters. This option removes an estimated 77 kg of toxic pollutants over estimated current discharge. We estimate that capital cost of this technology is $.572 million, and annual cost $.222 million.

We are proposing filtration and recycle as part of PSES in order to avoid pass-through. In addition, filtration is demonstrated in the subcategory (including one of three indirect dischargers), and will not result in adverse economic impacts.

Primary Columbium-Tantalum

We are proposing PSES equal to BAT for this subcategory. It is necessary to propose PSES to prevent pass-through of lead, zinc and ammonia. These toxic pollutants are removed by well operated POTW at an average of 52 percent (fluoride—100 percent, lead—40 percent, zinc—65 percent, and ammonia—0 percent), while BAT technology removes approximately 99 percent.

The technology basis for PSES thus is lime precipitation and sedimentation, ammonia steam stripping, wastewater flow reduction and filtration. The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data, as explained in our discussion of BPT and BAT for this subcategory. Flow reduction is based on 90 percent recycle of scrubber effluent that is the flow basis of BAT. This flow rate is achieved by both indirect dischargers in the subcategory, and filters are demonstrated at direct dischargers in this subcategory.

Implementation of the proposed PSES limitations would remove annually an estimated 1,601 kg of toxic pollutants over estimated current discharge, and an estimated 185,600 kg of ammonia. Removals over estimated raw discharge are approximately 64,890 kg of toxic pollutants and 8,808 kg of ammonia. Capital cost for achieving proposed PSES is $2.47 million, and annual cost of $1.41 million. We project no closures or unemployment and price increases of less than $0.20/lb resulting from compliance.

The intermediate option we considered for PSES is BAT equivalent technology without filters. This option removes an estimated 1,513 kg of toxic pollutants over estimated current discharge. We estimate that capital cost of this technology is $2.19 million, and annual cost $1.35 million.

Secondary Silver

We are proposing alternative PSES equal to proposed BAT with and without polishing filtration for this subcategory for the reasons explained in our discussion of BAT for this subcategory. PSES prevents pass-through of copper, zinc and ammonia. These toxic pollutants are removed in a well-operated POTW on an average of 49 percent (copper—58 percent, and zinc—65 percent, and ammonia—0 percent), while BAT technology removes approximately 99 percent.

The technology basis for PSES Alternative A is ammonia steam stripping lime precipitation and sedimentation, preceded by wastewater flow reduction. Alternative B is equivalent to Alternative A with the addition of end-of-pipe polishing filtration. The achievable concentration for ammonia steam stripping is based on iron and steel manufacturing category data. Flow reduction is based on 99 percent recycle of scrubber effluent and 90 percent recycle of contact cooling water that is used as the flow basis of BAT. These flow rates are achieved by 11 of the 17 indirect dischargers in the subcategory, and filters are demonstrated at two indirect dischargers.

Alternative A removes an estimated 1,500 kg of toxic pollutants over estimated current discharge. We estimate that capital cost of this technology is $1.03 million, and annual cost $.958 million.

Implementation of the proposed PSES Alternative B would remove annually an estimated 1,561 kg of toxic pollutants over estimated current discharge, and an estimated 149,300 kg of ammonia. Removals over estimated raw discharge are approximately 9,792 kg of toxic pollutants and 149,300 kg of ammonia. Capital cost for achieving proposed PSES Alternative B is $1.14 million, with an annual cost of $1.07 million.

We project two closures as a result of complying with Alternative A and an additional closure with Alternative B. We have considered and rejected the idea of tailoring the regulation to modify pretreatment standards for plants this size and smaller. Our reasons are given in Section XVIII below, in our detailed discussion of economic achievability.

Secondary Lead

We are proposing alternative PSES equal to proposed BAT for this subcategory. It is necessary to propose PSES to prevent pass-through of antimony, arsenic, lead, and zinc. These toxic pollutants are removed by well-operated POTW at an average of 48 percent (lead—40 percent, and zinc—65 percent), while BAT technology removes approximately 99 percent.

The technology basis for PSES Alternative A is lime precipitation and sedimentation preceded by wastewater flow reduction. Alternative B is equivalent to Alternative A with the addition of end-of-pipe polishing filtration. Flow reduction is based on 90 percent recycle of scrubber effluent and casting contact cooling water that is the flow basis of BAT. This flow rate is achieved by two of the 16 indirect dischargers in the subcategory, and filters are demonstrated at five dischargers.

PSES Alternative A, is BAT equivalent technology without filters and this option removes an estimated 2,470 kg of toxic pollutants over estimated current discharge. We estimate that capital cost of this technology is $1.49 million, with annual cost $0.56 million.

Implementation of the proposed Alternative B PSES would remove annually an estimated 2,625 kg of toxic pollutants over estimated current discharge. Removals over estimated raw discharge are approximately 17,290 kg of toxic pollutants. Capital cost for achieving proposed PSES Alternative B is $3.04 million, with an annual cost of $1.94 million.

XIV. Pretreatment Standards for New Sources (PSNS)

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. New indirect dischargers will produce wastes having the same pass through problems as described for existing dischargers. In selecting the technology basis for PSNS, the Agency compares the toxic pollutant removal achieved by a well-operated POTW to that achieved by a direct discharger meeting NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant controls, and end-of-pipe treatment technologies, and to use plant site selection to ensure adequate treatment system installation.

We are proposing only mass-based PSNS for all subcategories to assure that the identified flow reduction technologies are considered in new plant designs. (See discussion in Section IX).

Primary Aluminum

The technology basis for proposed PSNS is identical to NSPS. We are proposing limitations for antimony, cyanide and nickel to prevent pass-through. Nickel is removed by a well-operated POTW at a rate of 19 percent while the POTW removal of cyanide is 56 percent. The removal of antimony has not been established. Since the pollutant is not degraded and is soluble in water, we are assuming pass-through. We solicit comment on the pass-through of antimony in POTW's.

Aluminum is not limited because in its hydroxide form is used by POTW as a flocculant aid in the settling and removal of suspended solids. As such, aluminum in limited quantities does not pass through or interfere with POTW; rather it is a necessary aid to its operation. Reverse osmosis, the only techology available to further reduce flow, is neither demonstrated nor clearly transferable to nonferrous metal manufacturing wastewaters. Because PSNS does not increase costs compared to PSES or BAT, we do not believe that PSNS will prevent entry of new plants.

Secondary Aluminum

The technology basis for proposed PSNS is identical to NSPS, PSES, and BAT. The same pollutants pass-through as at PSES, for the same reasons. We know of no demonstrated technology that is better than PSES technology because the only other flow reduction technology available is neither demonstrated nor clearly transferable to this subcategory. Because PSNS does not increase costs compared to PSES or BAT, we do not believe PSNS will prevent entry of new plants. (See Section XIII of the Secondary Aluminum Supplement.)

Primary Copper Smelting

The technology basis for proposed PSNS is identical to NSPS (and BAT), which is zero discharge of all process wastewater pollutants, with no allowance for catastrophic stormwater discharge. New indirect dischargers will be constructed with cooling towers, not cooling impoundments, since they will be located near POTWs, suggesting that they will be near heavily populated areas where land is scarce making the cost of acquiring land to install an impoundment relatively high. Thus, we do not believe there are any incremental costs associated with PSNS. Consequently, we do not believe that PSNS will prevent entry of new plants.

Primary Copper Electrolytic Refining

The technology basis for proposed PSNS is identical to NSPS. We know of no economically feasible, demonstrated technology that is better than BAT. All process wastewater discharge is eliminated at BAT except casting contact cooling water. This discharge is minimized through the use of 90 percent recycle in a cooling tower circuit. No additional flow reduction for new sources is feasible in our view, because the only other available flow reduction technology, reverse osmosis, is not demonstrated or clearly transferable for this subcategory. (See Section XII of the Primary Copper Electrolytic Refining Supplement.) PSNS prevents the pass-through of copper, lead, nickel, and zinc, which are the regulated pollutants. A well operated POTW will only remove

these pollutants at an average of 57 percent (copper—58 percent, lead—48 percent, and zinc—65 percent). Because PSNS does not increase costs compared to NSPS, we do not believe PSNS will prevent the entry of new plants.

Secondary Copper

The technology basis for proposed PSNS is identical to NSPS, PSES, and BAT, which is zero discharge of all process wastewater (including no allowance for catastrophic stormwater discharges). Because PSNS does not increase costs compared to PSES or BAT, we do not believe that PSNS will prevent the entry of new plants.

Primary Lead

The technology basis for proposed PSNS is identical to NSPS. We know of no demonstrated technology that provides better pollutant removal than BAT technology, because all process wastewater discharge is eliminated at PSNS. (See Section XII of the Primary Lead Supplement.) PSNS prevents the pass-through of lead and zinc. As explained in NSPS, the elimination of all wastewater discharges can be accomplished without additional cost beyond BAT-equivalent costs. Therefore, we believe that PSNS will not prevent the entry of new plants.

Primary Zinc

The technology basis for proposed PSNS is identical to NSPS and BAT. We know of no demonstrated technology that provides better pollutant removal than NSPS and BAT technology. The NSPS and BAT flow allowances are based on minimization of process wastewater wherever possible through the use of cooling towers to recycle contact cooling water and sedimentation basins for wet scrubbing wastewater. The discharges are based on 90 percent recycle (see Section IX—Recycle of Wet Scrubber and Contact Cooling Water). No additional flow reduction for new sources is feasible in our view because the only other available flow reduction technology, reverse osmosis, is not demonstrated nor is it clearly transferable for this subcategory. (See Section XII of the Primary Zinc Supplement.) PSNS prevents the pass-through of cadmium, copper, lead and zinc. Since PSNS does not include any cost above BAT or PSES, we do not believe it will prevent the entry of new plants.

Metallurgical Acid Plants

The technology basis for proposed PSNS is identical to NSPS and BAT. PSNS prevents the pass-through of arsenic, cadmium, copper, lead and zinc, which are the regulated pollutants. A well operated POTW will provide only an average of 52 percent removal (cadmium—38 percent, copper—58 percent, lead—48 percent, and zinc—65 percent). The removal of arsenic by a well-operated POTW has not been established. Since the pollutant is not degraded and is soluble in water, we are assuming pass-through of arsenic in POTW. We solicit comment on this assumption. We know of no demonstrated technology that provides better pollutant removal than BAT and NSPS technology. The acid plant blowdown allowance at BAT and NSPS is based on 90 percent recycle. The Agency believes that no additional flow reduction is feasible for new sources because the only other available flow reduction technology, reverse osmosis, is not demonstrated nor is it clearly transferable for this subcategory (see Section IX—Recycle of Wet Scrubber and Contact Cooling Water). (See also Section XII of the Metallurgical Acid Plants Supplement.) Because PSNS does not include any additional costs compared to NSPS and BAT, we do not believe it will prevent entry of new plants.

Primary Tungsten

The technology basis for proposed PSNS is identical to NSPS, PSES, and BAT. The same pollutants pass-through as at PSES, for the same reasons. We know of no economically feasible, demonstrated technology that is better than PSES technology. The PSES flow allowances are based on minimization of process wastewater wherever possible through the use of cooling towers to recycle contact cooling water and sedimentation basins for wet scrubbing wastewater. The discharges are based on 90 percent recycle of these waste streams (see Section IX—Recycle of Wet Scrubber and Contact Cooling Water). No additional flow reduction for new sources is feasible in our view because the only other flow reduction technology, reverse osmosis, is not demonstrated nor is it clearly transferable for this subcategory. (See Section XII of the Primary Tungsten Supplement.) The only other end-of-pipe technology, activated carbon, does not significantly reduce toxic pollutant discharges while increasing costs ten-fold. Because PSNS does not include any additional costs compared to NSPS and PSES, we do not believe it will prevent entry of new plants.

Primary Columbium-Tantalum

The technology basis for proposed PSNS is identical to NSPS, PSES and BAT. The same pollutants pass-through as at PSES, for the same reasons. We know of no economically feasible, demonstrated technology that is better than PSES technology. The PSES flow allowances are based on minimization of process wastewater wherever possible through the use of cooling towers to recycle contact cooling water and sedimentation basins for wet scrubbing wastewater. The discharges are based on 90 percent recycle of these waste streams (see Section IX—Recycle of Wet Scrubber and Contact Cooling Water). No additional flow reduction for new sources is feasible in our view because the only other available flow reduction technology, reverse osmosis, is not demonstrated nor is it clearly transferable for this subcategory. (See Section XII of the Primary Columbium-tantalum Supplement.) Because PSNS does not include any additional costs compared to NSPS and PSES, we do not believe it will prevent entry of new plants.

Secondary Silver

The technology basis for proposed PSNS is identical to NSPS. The same pollutants pass-through as at PSES, for the same reasons. We know of no demonstrated technology that is better than PSES technology. The PSES flow allowances are based on minimization of process wastewater wherever possible through the use of cooling towers to recycle contact cooling water and sedimentation basins for wet scrubbing wastewater. The discharges are based on 90 percent recycle of those waste streams (see Section IX—Recycle of Wet Scrubber and Contact Cooling Water). No additional flow reduction for new sources is feasible in our view because the only other available flow reduction technology, reverse osmosis, is not demonstrated nor is it clearly transferable to this subcategory. (See Section XII of the Secondary Silver Supplement.) Because PSNS does not include any additional costs compared to NSPS, we do not believe it will prevent the entry of new plants.

Secondary Lead

The technology basis for proposed PSNS is identical to NSPS. The same pollutants pass-through as at PSES, for the same reasons. We know of no demonstrated technology that is better than PSES technology. The PSES flow allowances are based on minimization of process wastewater wherever possible through the use of cooling towers to recycle contact cooling water and sedimentation basins for wet scrubbing wastewater. The discharges are based on 90 percent recycle of these

waste streams (see Section IX—Recycle of Wet Scrubber and Contact Cooling Water). No additional flow reduction for new sources is feasible in our view because the only other available flow reduction technology, reverse osmosis, is not demonstrated for this subcategory. (See Section XII of the Secondary Lead Supplement.) Because PSNS does not include any additional costs compared to NSPS, we do not believe it will prevent the entry of new plants.

XV. Best Conventional Pollutant Control Technology (BCT)

The 1977 amendments to the Clean Water Act added Section 301(b)(2)(E), establishing "best conventional pollutant control technology" (BCT) for discharge of conventional pollutants from existing industrial point sources. Biochemical oxygen demand, coliform, oil and grease (O&G), and pH have been designated as conventional pollutants (see 44 FR 44501).

BCT is not an additional limitation, but replaces BAT for the control of conventional pollutants. In addition to the other factors specified in Section 304(b)(4)(B), the Act requires that limitations for conventional pollutants be assessed in light of a two-part cost-reasonableness test. On October 29, 1982, the Agency proposed a revised methodology for carrying out BCT analyses (47 FR 49176). The purpose of the proposal was to correct errors in the BCT methodology originally established in 1977.

Part 1 of the proposed BCT test requires that the cost and level of reduction of conventional pollutants by industrial dischargers be compared with the cost and level of reduction to remove the same type of pollutants by publicly-owned treatment works (POTW). The POTW comparison figure has been calculated by evaluating the change in costs and removals between secondary treatment (30 mg/l BOD and 30 mg/l TSS) and advanced secondary treatment (10 mg/l BOD and 10 mg/l TSS). The difference in cost is divided by the difference in pounds of conventional pollutants removed, resulting in an estimate of the "dollar per pound" of pollutant removed, that is used as a benchmark value. The proposed POTW test benchmark is $0.27 per pound (1976 dollars).

Part 2 of the BCT test requires that the cost and level of reduction of conventional pollutants by industrial dischargers be evaluated internally to the industry. In order to develop a benchmark that assesses a reasonable relationship between cost and removal, EPA has developed an industry cost ratio which compares the dollars per pound of conventional pollutant removed in going from primary to secondary treatment levels with that of going from secondary to more advanced treatment levels. The basis of costs for the calculation of this ratio are the costs incurred by a POTW. EPA used these costs because: they reflect the treatment technologies most commonly used to remove conventional pollutants from wastewater; the treatment levels associated with them compare readily to the levels considered for industrial dischargers; and the costs are the most reliable for the treatment levels under consideration. The proposed industry subcategory benchmark is 1.42. If the industry figure for a subcategory is less than or equal to 1.43, the subcategory passes the BCT test.

The Agency usually considers two conventional pollutants in the cost test, TSS and an oxygen-demanding pollutant. Although both substances by EPA (see 44 FR 50733), only the one accounting for the greatest removal was selected in the cost analysis to conform to procedures used POTW costs. Oil and grease is used rather than BOD5 in cost analysis performed for nonferrous metals manufacturing waste streams in this category.

BPT is the base for evaluating limitations on conventional pollutants i.e., it is assumed that BPT is already in place). The test evaluates the cost and removals associated with treatment and controls in addition to that specified as BPT.

If the conventional pollutant removal cost of the candidate BCT is less than the POTW cost, Part 1 of the cost-reasonableness test is passed and Part 2 (the internal industry test) of the cost-reasonableness test must be performed. If the internal, industry test is passed, then a BCT limitation is promulgated equivalent to the candidate BCT level. If all candidate BCT technologies fail both parts of the cost-reasonableness test, the BCT requirements for conventional pollutants are equal to BPT.

The BCT test was performed on the 10 subcategories with direct dischargers. The results are summarized in Appendix B. All of the 10 subcategories failed Part 1 of the test for both the proposed BAT and intermediate options, eliminating the need for testing in Part 2. Consequently, BCT is equivalent to BPT in all subcategories.

XVI. Regulated Pollutants

The basis upon which the controlled pollutants were selected as well as the general nature and environmental effects of these pollutants, is set out in Sections V, VI, IX and X of the General Development Document and each of the subcategories supplements. Some of these pollutants are designed as toxic under Section 307(a) of the Act. Three pollutants have been deleted from the list of 129. These are dichlorodifluoromethane, trichlorofluoromethane 46 FR 2266 (January 8, 1981) and bis(chloromethyl) ether 46 FR 10723 (February 4, 1981).

The pollutants selected for regulation are listed by subcategory in Appendix C.

XVII. Pollutants and Subcategories Not Regulated

The Settlement Agreement contains provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories.

A. Exclusion of Pollutants

Paragraph 8(a)(iii) of the Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected and, therefore, excluded from regulation are listed in Appendix D of this notice by subcategory.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detected in amounts too small to be effectively reduced by technologies known to the Administrator. Appendix E to this notice lists the toxic pollutants in each subcategory which were detected in the effluent in amounts at or below the nominal limit of analytical quantification. Appendix F to this notice lists the toxic pollutants in each subcategory present in amounts which are too small to be effectively reduced by technologies and which, therefore, are excluded from regulation.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detectable in the effluent from only a small number of sources within the subcategory because they are uniquely related to those sources. Appendix G to this notice lists for each subcategory the toxic pollutants which were detected in the effluents of only one plant, are uniquely related to that plant, and are not related to the manufacturing processes under study.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants which will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines, or pretreatment standards. Appendix H lists those toxic pollutants which will be

effectively controlled by the BAT limitations and pretreatment standards, even though they are not specifically regulated. Appendix H lists those toxic organic pollutants which are not regulated at BAT because they are effectively controlled by BPT limitations.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detected but only in trace amounts and which are neither causing nor likely to cause toxic effects. Appendix I lists those pollutants excluded under this provision.

Paragraph 8(a)(i) also allows the Administrator to exclude from regulation toxic pollutants detected but solely as a result of their presence in the intake waters. Appendix J lists those pollutants excluded under this provision.

B. Exclusion of Subcategories

As explained in Section II-C, above, EPA executed an affidavit on May 10, 1979, excluding six primary and five secondary metal subcategories from regulation under Paragraph 8(a)(iv) of the Settlement Agreement. The subcategories were:

Primary Arsenic
Primary Antimony
Primary Barium
Primary Bismuth
Primary Calcium
Primary Tin
Secondary Beryllium
Secondary Cadmium
Secondary Molybdenum
Secondary Tantalum
Secondary Babbitt

The Agency is excluding the following subcategories from pretreatment standards for existing sources under provisions of Paragraph 8(a)(iv) because there are no facilities discharging wastewater to POTW. They are:

Primary Aluminum
Primary Copper Smelting
Primary Copper Electrolytic Refining
Primary Lead

The Agency is excluding metallurgical acid plants from pretreatment for existing sources under provisions of Paragraph 8(b)(ii) because the single indirect discharger discharges pollutants in amounts that are not significant enough to warrant a national pretreatment standard.

XVIII. Cost and Economic Impacts

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major rules. Major rules impose an annual cost to the economy of $100 million or more, cause major price increases to the consumer or cause significant adverse effects on competition, employment, investment, productivity or the balance of trade. Our analysis indicates that the proposed regulation for the nonferrous smelting and refining industry is not a major rule since it has none of these impacts, and therefore does not require a formal regulatory impact analysis.

The ecomomic assessment for this proposed regulation is presented in the *Economic Impact Analysis of Proposed Effluent Standards and Limitations for the Nonferrous Smelting and Refining Industry*, EPA 440/2–82–002. This report details the investment and annual costs for the industry and for each metal type covered by the proposed regulation. Compliance costs are based on engineering estimates of incremental capital requirements above the water pollution control equipment already in-place. The report assesses the impact of effluent control costs associated with each regulatory option in terms of price changes, production changes, plant closures, employment effects, and balance of trade effects.

In addition, EPA has conducted an analysis of the incremental removal cost per pound equivalent for each of the proposed technology-based options. A pound equivalent is calculated by multiplying the number of pounds of pollutant discharged by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant (copper), divided by the water quality criterion for the pollutant being evaluated. the use of "pound equivalent" gives relatively more weight to removal of more toxic pollutants. Thus, for a given expenditure, the cost per pound equivalent removed would be lower when a highly toxic pollutant is removed then if a less toxic pollutant is removed. This analysis, entitled "Cost Effectiveness Analysis for the Nonferrous Metals Manufacturing Industry," is included in the record of this rulemaking. EPA invites comments on the methodology used in this analysis.

The Agency predicts that in 1984 there will be 147 nonferrous smelting or refining "wet plants" (49 percent of all plants) producing a process wastewater, of which 82 will discharge into navigable waters, and 65 plants will discharge into publicly owned treatment works (POTWs). One hundred and fifty-three plants will have eliminated their discharge of process wastewater.

The economic analysis projects total capital and annual costs for both scenarios proposed by this regulation. The total capital cost for existing plants to comply with the more stringent scenario will be $73.4 million, with annual costs of $43.3 million including interest and depreciation. These costs are expressed in 1982 doilars. These costs expressed in 1978 dollars would be $54.75 million for total investment costs and $32.32 million for annual costs, including interest and depreciation. Total capital costs for exisitng plants under the less stringent scenerio will be $69.09 million with annual cost of $39.68 million including interest and depreciation expressed in 1982 dollars. These same costs expressed in 1978 dollars would be $51.55 for total investment and $29.61 million for annual costs including interest and depreciation. All costs presented in Section XVIII of this proposed regulation are expressed in 1982 dollars, while the other sections of this notice use 1978 dollars.

As a result of compliance with this regulation, three plant closures (all indirect dischargers) with total unemployment of approximately 45 workers may result. These figures for closures and unemployment represent less than one half of 1 percent of the total population of plants and employment anticipated to be in the nonferrous smelting and refining industry in 1985. These closures are expected to occur from PSES. No additional closures are expected as a result of compliance with recommended BAT technologies. Price increases in either scenario are not expected to exceed 0.5 percent with production decreases of less than 0.5 percent. No balance of trade effects are expected.

To further measure the economic impacts, we subcategorized the nonferrous metals industry by metal type, and assessed possible economic impacts on a plant-by-plant basis in each subcategory. Ten separate metal subcategories were used, six in the primary and four in the secondary subcategories. (For purposes of our economic analysis, we treated primary copper smelters, refiners, and acid plants located at the same site as one economic subcategory, since they are a single economic entity. Similarly, primary lead and zinc smelters and associated acid plants are one economic subcategory.) In view of the number of subcategories and their differing sizes, we developed varying methodological approaches for different subcategories on the basis of perceived impact, significance of the subcategory to the economy and data availability. We note that in assessing economic impacts under these methodologies, we used higher compliance costs reflecting more

costly and stringent options than those we are proposing today.

For the primary aluminum subcategory, the analytical approach utilized publicly available production and financial data to develop four separate "models" representing different segments of the aluminum smelting industry: old prebake smelters, new prebake smelters, old Sodereberg smelters and new Soderberg smelters. These four models were developed by the Agency in conjunction with the Aluminum Association in the fall of 1978. These models represent mediun sized plants with a capacity of 160,000 tons per year. The impact analysis was conducted on two levels: an industry-wide screening analysis and a more detailed plant-specific cash flow analysis for any plant that appeared, after screening, to incur high impacts. The screening analysis compared plant-specific compliance costs to the projected 1985 baseline population of plants to their anticipated 1985 revenue. If compliance costs for any plant exceeded 5 percent of revenue the plant was considered to be seriously impacted and was evaluated accordingly.

The 5 percent point was chosen because the average operating margin to aluminum companies over the 1972 to 1977 period was 14.6 percent of sales, including all production levels. Production costs for smelting are estimated to account for 30 percent of total production costs. Based on industry financial behavior over the 1972 to 1977 period we believe this compliance cost for just the smelting portion of a plant, if greater than 5 percent, would begin to impact the existing financial structure of the plant and thus warrant further analysis.

For the primary copper, lead and zinc subcategories a plant-by-plant screening analysis was also conducted on the projected 1985 baseline comparing the cost of compliance with their expected revenues. If the cost of compliance exceeded 5 percent of expected revenues the plant was considered to be seriously impacted and was the subject of a plant-specific cash flow analysis. The 5 percent point was chosen because the Agency found that for the primary copper, lead and zinc companies over the 1970 to 1977 period the average operating margin on sales ranged between 13 percent and 20 percent, while production costs ranged between 25 percent and 37 percent of total cost. Based on industry financial behavior over this period, the Agency believes that if compliance costs exceed 5 percent of revenues for the smelting and refining segments, impacts would occur on the current financial structure of the plant and thus warrant further analysis. In addition to this screening analysis, we determined relevant economic impacts for the primary copper, lead and zinc subcategories by developing econometric models to assess the industry, market structure and pricing behavior to determine prices, production, consumption and balance of trade effects for the 1985 baseline year.

For the secondary metal subcategories, we used a three-step plant-by-plant approach to determine economic impacts. A screening analysis was conducted on the baseline population comparing plant-specific total net revenues before and after compliance to the industry-wide average gross (before tax) profitability rate for secondary producers. If the results of the screening indicated a wide variation in impact on the average gross throughout the subcategory, plants with compliance costs exceeding the median value for the subcategory were considered to be impacted and subject to a plant specific analysis. To calculate the adjustments in price production, employment and balance of trade effects, an econometric model using a comparative statistics analysis technique was used. The model used the price quantity relationships observed in the base year, 1978, and assumed they represented the conditions expected to exist in 1985. Using these assumptions and long run supply and demand elasticities for each metal subcategory, the model was able to show the results on specific market indicators after implementation of pollution control requirements.

Because of the small number of plants in the columbium-tantalum and tungsten subcategories, we conducted a plant-by-plant impact analysis. The first step determined the probable response by the industries to the costs imposed by the new limitations and standards. The second step determined the relevant economic impacts. After examining the metal trade, product demand and historical pricing behavior of both columbium-tantalum and tungsten processors, the Agency concluded that the most feasible option available to both columbium-tantalum and tungsten was to increase prices by an amount equal to the total environmental costs divided by total production. The Agency found that price increases of less than 1 percent for columbium-tantalum and price increases of between 1 and 2 percent for tungsten would occur. The Agency believes that domestic demand is likely to be totally price inelastic over this small change and, therefore, believes that an additional closure analysis was unnecessary.

The Agency recognizes that it is unlikely that the projected 1985 sales and revenue figures for industries in each category will reach the levels oiriginally predicted in the current Economic Impact Analysis. Therefore, the Agency has conducted a sensitivity analysis using lower prices, production, and revenue figures which reflect a revised expectation of future economic conditions in the market by 1985. The sensitivity analysis assumed that real prices would remain constant at the 1981 level over the 1983 to 1985 period. Production was assumed to decrease 3 percent between 1981 and 1982 and grow 1 percent in 1983 and 4 percent between 1984 and 1985. These projections assume that these subcategories of the nonferrous metals industry will not attain at the same level of growth predicted by the Administration for the entire economy. These revised economic figures were then compared to the compliance costs of the options we are proposing today. However, under this analysis, the projected economic impacts are not expected to be appreciably different than those originally predicted. Thus, revenue and price changes are still expected to remain less than 1 percent for all subcategories except secondary silver, which is expected to have revenue changes of approximately 2.5 percent. This reduction in revenue is not expected to cause significant alterations in the structure of the industry or reduce overall plant revenues to the point of forcing closure. (This sensitivity analysis is included in the Economic Impact Analysis for these proposed regulations.)

During the period between proposal and promulgation of this regulation the Agency will be collecting new data from public and industry sources so as to revise its projected baseline economic conditions in light of the persistence and severity of the current economic recession.

Work Plan for Analytical Update

Using the same methodological approach outlined in the Economic Impact Analysis, the Agency intends to reevaluate the impacts of the proposed requirements on the projected baseline, in a manner that more fully incorporates this current recession and its effect on future gowth, production, prices and profitability. The Agency is outlining below the steps its intends to take regarding its methodology and data collection.

I. Basecase Projection

The current base case assessment predicted conditions for 1985 from the year 1978. The current regulations are not expected to be promulgated until January 1984. The first objective is to project economic conditions for 1985 and beyond, incorporating the present recession and reduced expectations for growth in the next two to three years. This will be accomplished by conducting a microeconomic analysis on each sector of the nonferrous industry evaluating and collecting new data on:

—Structural changes in the industry
—Current and future production
—Pricing policy and prices
—Closures of plants between 1978–1982 and expectations for new openings and closures beyond 1982
—Demand elasticities
—Profitability projections
—Imort/export market
—Capital structural projections:
(a) Industry depreciation averages
(b) Level of debt payments
(c) Capital structure
(d) Lending markets

II. Screening

Currently each industry subcategory has a screening trigger point based on financial criteria developed using historical financial data from 1970–1977. When this point is breeched by the plant screening analysis, the affected plant is then subject to an individual discounted cash flow analysis. The incorporation of 1978–1982 data will increase the data base and more accurately define an appropriate trigger point. Where there is significant unspecificity about certain economic factors, a sensitivity analysis around these factors will be performed.

III. Financial Analysis

The current individual plant analysis consists of a discounted cash flow analysis and a liquidity/capital availability analysis to determine whether it will close due to implementation of proposed requirements. The main source of data for this analysis are the firm's 308 surveys presently available to the Agency. We are requesting that those plants who have not returned their 308 surveys do so at this time so that they can be incorporated in the new analysis. The plant specific information obtained from the 308 surveys will be updated based on our microeconomic projections. The discounted cash flow and liquidity/capital availability analysis will be rerun using the updated 308 results to determine closures.

IV. Individual Case Analysis

Three industry subcategories have been selected for more detailed economic analysis. Plants representing various levels of financial health in the secondary lead, secondary silver, and primary cooper electrolytic refining industry subcategories will be identified and studied in detail. Each plant's 308 survey will be updated based on new data obtained in the assessment of the baseline, and individual plant visits will be conducted to discuss each's expections for future growth, production, prices and profits. These studies will be used to verify the projections being made regarding the baseline and to support the assessment conducted on each industry sector.

V. Data Collection

Each area of the methodology outlined above will require current data from each industry subcategory. The Agency is seeking the cooperation of all trade groups and associations representing manufacturers in each nonferrous subcategory. We are in constant contact with trade associations representing the primary producers, but contact with trade groups representing smaller producers in the secondary subcategories has been more difficult. The Agency intends to contact these groups and work closely with them to strengthen our data base and financial profiles. Information obtained from these groups will be combined with other public data sources to conduct the new analyses of each subcategory, the case studies and finally any plant-by-plant analysis that is necessary. These adjustments will form the basis for the new 1985 baseline conditions upon which the economic impacts of the present compliance costs will be assessed. More detailed conclusions of our present analysis are presented below.

BPT

New BPT limitations are proposed for four new subcategories: primary columbium-tantalum, tungsten, secondary lead, and secondary silver. We are amending existing BPT limitations for the primary lead and metallurgical acid plants (applicability only) subcategories. Investment costs for these proposed limitations are $13.94 million with total annual costs of $7.97 million including interest and depreciation. No plant closures or unemployment were expected while price changes are expected to be less than 1 percent with production changing by less than 1 percent. No balance of payment effects are expected.

BAT

New BAT regulations are proposed for primary columbium-tantalum, and tungsten; secondary silver and lead; and metallurgical acid plants. Modifications to existing BAT are proposed for primary aluminum, copper smelting, copper electrolytic refining, lead and zinc; and secondary aluminum and copper. The costs for these regulations are expected to be $60.25 million for investment and $34.37 million for annual costs including interest and depreciation. Compliance with the less stringent option proposed for the primary copper electrolitic refining, secondary lead refining and secondary silver subcategories will result in total costs for this regulation to be $58.20 million in investment costs and $32.73 million in annual costs including interest and depreciation. No closures or unemployment are expected as a result of compliance with either these regulations. Price changes from each option are expected to increase by no more than 0.25 percent in any metal category with overall production changes to decrease by less than 1 percent.

PSES

New PSES are being proposed for six new subcategories, secondary lead, primary tungsten, primary columbium-tantalum, secondary silver, and metallurgical acid plants with modification of PSES for secondary aluminum and secondary copper. The costs for this regulation are expected to be $13.11 million in investment and $8.94 million in annual costs including interest and depreciation. As a result of compliance with this regulation, three plant closures and the loss of employment for approximately 45 workers in the secondary silver subcategory may result. Compliance with the less stringent option proposed for the secondary lead refining and secondary silver subcategories will result in total costs for this regulation to be $58.20 million in investment costs and $32.73 million in annual costs including interest and depreciation. As a result of compliance with this scenario three plant closures and 45 job losses will also occur. Prices for both scenarios are expected to increase by no more than 1 percent in any metal category with overall production changes to decrease by less than 1 percent.

NSPS/PSNS

New NSPS and PSNS are being proposed for 10 subcategories and modifications of promulgated NSPS and PSNS for primary and secondary

aluminum. The technology basis for both NSPS and PSNS is BAT except in three subcategories that include additional flow reductions. The additional flow reductions are based on dry air pollution scrubbing and 100 percent recycle of all other wastewater discharges (except for casting cooling) in primary aluminum, dry air pollution scrubbing and installation of dry slag conditioning for primary lead and dry air pollution scrubbing for secondary lead. There is no expected incremental cost for this regulation above BAT and therefore the Agency expects that no economic impacts will occur as a result of implementation of these standard in any new source.

The Agency believes that these regulations as proposed are economically achievable and pose no significant economic effects on any subcategory within the nonferrous metals manufacturing category. The Agency is, however, concerned that in three subcategories present economic conditions are changing the structure and composition of the market to the point where previously-held assumptions regarding business behavior and profitability must be reevaluated. These subcategories are: Secondary silver, secondary lead and primary copper electrolytic refining.

The Agency is concerned that significant changes in the secondary silver subcategory have occurred due to the tremendous fluctuation of silver prices over the past few years. The major assumption in the present economic analysis assumes that all processing plants assume ownership of the metal. Toll processors were assumed to operate in the same manner as the processors who owned the silver. The Agency believes that this assumption may not fully characterize the possible economic distinctions between these two segments of the market. Recent data analysis indicate that, in fact, many tollers are becoming more active in the silver market through speculation, obtaining ownership of scrap for processing and selling the silver on the open market. We are also aware that changes have occurred with regard to the traditional tolling fee structure. Firms appear to be moving away from flat rate fees per troy oz. refined to a percentage fee based on the current price of the metal. With the occurrence of these types of changes and the relative ease of entry into this sector, the Agency is seeking ways to more accurately characterize this changing subcategory. The Agency is considering the formation of a separate subcategory for toll operations and seeks comments, both technical and economic, on the viability of this approach.

With regard to the projected closures in the secondary silver subcategory, the Agency has also considered proposing less stringent requirements applicable to small plants than to large plants, including an exemption for small plants affected by this regulation. We are not proposing different requirements for small facilities, because small secondary silver facilities, as a class, will not incur significant or disproportionate economic impacts as a result of complying with the regulation. Thus, plants of the same or smaller size as the three potential closure candidates would not incur significant impacts. In addition, the three plants that are potential closures use disproportionate amounts of wastewater (in one case, 10 times the PSES regulatory flow) and account for 70 percent of the toxic pollutants discharged to POTWs by this subcategory. Therefore, we do not believe that a size cutoff is justified. The Agency, however, solicits specific comments together with technical and financial supporting documentation to support or reject differing regulations for large and small secondary silver plants.

Although the current impact analysis of the secondary lead subcategory does not predict any closures, the Agency is concerned about the long run market shifts which are affecting the structure and composition of this subcategory. The major changes affecting the secondary lead market are an overall stagnant demand, and a major shift by battery manufacturers to low-antimony maintenance free (MF) batteries. The change to MF batteries reduces profits, and also places the secondary producers in direct competition with primary producers in the marketing of pure lead. Because a majority of the secondary lead subcategory is involved in some aspect of battery manufacture, through the production of antimonial lead, the long run effects of this shift to low antimonial lead batteries is significant. In addition, this change will eliminate the traditional cost advantage secondary lead producers have had over primary lead operations in the production of antimonial lead. This cost advantage is due to the fact that secondary producers have purchased antimonial lead scrap for only the price of contained lead. Their resale price includes the value of the antimony. This incremental profit is reduced as the use of antimony decreases. These shifts in the market are of serious concern to the Agency and we are soliciting comments on changes in this market and its effect on production prices, profitability and capacity.

The world market for refined copper has traditionally been subject to cyclical charges in demand ranging from ±10 percent to high as 20 percent. Several trends in the world market have caused the Agency to focus its concern on where the U.S. refining industry is headed over the next 3–5 years. Throughout this recessionary period the production of refined copper in the U.S. has decreased to approximately 55% of capacity in 1982, according to a Standard and Poors Industry Survey (February 1982). However, due to slack demand for copper produced even at this level, inventories are building which have placed a downward pressure on prices. These conditions are further exacerbated by developing countries with high grade ores, who are maintaining output at levels exceeding demand. This behavior has also contributed to the downward pressure on prices. Over the long run, the cost of production provides a rising floor on copper prices and the long run price of copper tends to be equal to the price that is sufficient to reduce continued investment. Because of the rising costs of production in the U.S. aggravated by slack demand, world wide surpluses and depressed prices, the Agency believes that profit margins are being reduced to the point where investment in future production of copper is in serious question. These shifts in the market and continued pressures on prices are of serious concern to the Agency and we are soliciting comments on production costs, prices, operating margins, profitability and projected increases or decreases in capacity.

Regulatory Flexibility: Public Law 96–354 requires that a Regulatory Flexibility Analysis (RFA) be prepared for regulations that have a significant impact on a substantial number of small entities. We do not believe these proposed regulations have such an impact. In the course of developing the impact analysis for this regulation the industry was divided into two major subcategories, primary and secondary producers. (Primary producers use virgin ore as a raw material; secondary producers use scrap as their major raw material.) For each metal group under the primary and secondary subcategory the definition of small varied according to capacity, production and number of employees. No "small" plants exist in the primary subcategory. Within each metal group in the secondary subcategory a wide range of plant sizes exist. However, each plant in the secondary subcategory data base was

subjected to a plant-by-plant screening analysis which compared compliance costs to projected 1985 annual revenues. The only substantial impacts shown by this analysis are in the secondary silver subcategory, where three small (150,000 troy oz./yr.) processing plants may close due to this regulation. This impact, we believe, is not "significant" within the meaning of the Regulatory Flexibility Act.

SBA Loans: The Agency is continuing to encourage small nonferrous smelting and refining operations to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) The Guaranteed Pollution Control Bond Program, (2) the Section 503 Program, and (3) the Regular Guarantee Program. All the SBA loan programs are only open to businesses that have: (a) net assets less than $6 million, (b) an average annual aftertax income of less than $2 million, and (c) fewer than 250 employees.

The guaranteed pollution control bond is a full faith and credit instrument with a tax free feature, making it the most favorable of the programs. Although, all 1981 funds have already been committed, the SBA is trying to get additional funding for this program. The program applies to projects that cost from $150,000 to $2,000,000.

The Section 503 Program, as amended in July 1981, allows long-term loans to small and medium-sized businesses. These loans are made by SBA approved local development companies. For the first time, these companies are authorized to issue Government backed debentures that are bought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Guarantee Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Guarantee and Section 503 Programs contact your district or local SBA Office. The coordinator at EPA Headquarters is Ms. Frances Desselle who may be reached at (202) 426–7874. For further information and specifics on the Guaranteed Pollution Control Bond Program contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203, (703) 235–2902.

XIX. Non-water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Therefore, Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption. While it is difficult to balance pollution problems against each other and against energy utilization, EPA is proposing regulations which it believes best serve often competing national goals.

The following are the non-water quality environmental impacts (including energy requirements) associated with the proposed regulations:

A. Air Pollution

Imposition of BPT will not create any substantial air pollution problems. BAT, BCT, NSPS, PSES, and PSNS will result in a slight increase in air pollution. Water vapor containing some particulate matter will be released in the drift from the cooling tower systems which are used as the technology basis for flow reduction which is a part of BAT, NSPS, PSES, and PSNS in many subcategories. In those plants using lubricants for casting, there may be organics present in the drift from cooling towers used to cool and recycle casting contact cooling water. The Agency does not consider any of these impacts to be significant.

B. Solid Waste

EPA estimates that nonferrous metals manufacturing facilities generated 164 kkg of solid wastes (wet basis) in 1978 as a result of wastewater treatment in place. These wastes were comprised of treatment system sludges containing toxic metals, including arsenic, antimony, cadmium, chromium, copper, lead, nickel, selenium, and zinc.

EPA estimates that the proposed BPT will contribute an additional 65 kkg per year of solid wastes. Proposed BAT and PSES will increase these wastes by approximately 20 kkg per year beyond BPT levels. These sludges will necessarily contain additional quantities (and concentrations) of toxic metal pollutants.

Wastes generated by primary smelters an refiners are currently exempt from regulation by Act of Congress (Resource Conservation and Recovery Act (RCRA)), Section 3001(b). Consequently, sludges generated from treating primary industries' wastewater are not presently subject to regulation as hazardous wastes.

Wastes generated by secondary metal industries can be regulated as hazardous. However, the agency examined the solid wastes that would be generated at secondary nonferrous metals manufacturing plants by the suggested treatment technologies and believes they are not hazardous wastes under the Agency's regulations implementing Section 3001 of the Resource Conservation and Recovery Act. None of these wastes is listed specifically as hazardous. Nor are they likely to exhibit a characteristic of hazardous waste. This judgment is made based on the recommended technology of lime precipitation, sedimentation and filtration. By the addition of excess lime during treatment, similar sludges, specifically toxic metal bearing sludges, generated by other industries such as the iron and steel industry passed the Extraction Procedure (EP) toxicity test. See 40 CFR 261.24. Thus, the Agency believes that the wastewater sludges will similarly not be EP toxic if the recommended technology is applied.

Although it is the Agency's view that solid wastes generated as a result of these guidelines are not expected to be hazardous, generators of these wastes must test the waste to determine if the wastes meet any of the characteristics of hazardous waste (see 40 CFR 262.11).

If these wastes should be identified or are listed as hazardous, they will come within the scope of RCRA's "cradle to grave" hazardous waste management program, requiring regulation from the point of generation to point of final disposition. EPA's generator standards would require generators of hazardous nonferrous metals manufacturing wastes to meet containerization, labeling, recordkeeping, and reporting requirements; if plants dispose of hazardous wastes off-site, they would have to prepare a manifest which would track the movement of the wastes from the generator's premises to a permitted off-site treatment, storage, or disposal facility. See 40 CFR 262.20 45 FR 33142 (May 19, 1980), as amended at 45 FR 86973 (December 31, 1980). The transporter regulations require transporters of hazardous wastes to comply with the manifest system to assure that the wastes are delivered to a permitted facility. See 40 CFR 263.20 45 FR 33151 (May 19, 1980), as amended at 45 FR 86973 (December 31, 1980). Finally, RCRA regulations establish standards for hazardous waste treatment, storage, and disposal facilities allowed to receive such wastes. See 40 CFR Part 464, 46 FR 2802 (January 12, 1981), 47 FR 32274 (July 26, 1982).

Even if these wastes are not identified as hazardous, they still must be disposed of in compliance with the

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Subtitle D open dumping standards, implementing 4004 of RCRA. See 44 FR 53438 (September 13, 1979). The Agency has calculated as part of the costs for wastewater treatment the cost of hauling and disposing of these wastes. For more details, see Section VIII of the General Development Document.

C. Energy Requirements

EPA estimates that achieving proposed BPT effluent limitations will result in a net increase in electrical energy consumption of approximately 77.2 million kilowatt-hours per year. The BAT and PSES technology should not substantially increase the energy requirements of BPT because the additional pumping requirements for filtration should be offset by the reduced pumping requirements, the agitation requirements for mixing wastewater and other volume related energy requirements, as a result of reducing process wastewater discharge to treatment. To achieve the proposed BPT and BAT effluent limitations, a typical direct discharger will increase total energy consumption by less than 1 percent of the energy consumed for production purposes.

The Agency estimates that the NSPS and PSNS technology will, in general, require as much energy as the existing source limitations.

XX. Best Management Practices (BMP)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" (BMP) described under Legal Authority and Background. EPA is not proposing specific BMP for nonferrous metals manufacturing at this time.

XXI. Upset and Bypass Provisions

A recurring issue is whether industry limitations and standards should include provisions that authorize noncompliance during "upsets" or "bypasses." An upset, sometimes called an "excursion," is unintentional noncompliance beyond the reasonable control of the permittee. EPA believes that upset provisions are necessary because upsets will inevitably occur, even if the control equipment is properly operated. Because technology-based limitations can require only what technology can achieve, many claim that liability for upsets is improper. When confronted with this issue, courts have been divided on the questions of whether an explicit upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's enforcement discretion. Compare *Manathon Oil Co.* v. *EPA*, 564 F.23 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costel, supra* and *Corn Refiners Association, et. al.* v. *Costle*, No. 78–1069 (8th Cir. April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F.2d 1320 (8th Cir. 1976); and *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

Unlike an upset—which is an unintentional episode—a bypass is an intentional noncompliance to circumvent waste treatment facilities during an emergency.

EPA has both upset and bypass provisions in NPDES permits, and the NPDES portions of the Consolidated Permit regulations include upset and bypass permit provisions. See 40 CFR Part 11.60, 44 FR 32854, 32862–3 (June 7, 1979). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Since permittees in the nonferrous metals manufacturing category are entitled to the upset and bypass provisions in NPDES permits, this proposed regulation does not repeat these provisions. Upset provisions are also contained in the General Pretreatment regulation.

XXII. Variances and Modifications

Upon the promulgation of the final regulation, the numerical effluent limitations for the appropriate subcategory must be applied to all Federal and State NPDES permits thereafter issued to aluminum forming directed dischargers. In addition, on promulgation, the pretreatment standards are directly applicable to indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. duPont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra*. This variance recognizes factors concerning a particular discharger which are fundamentally different from the factors considered in this rulemaking. However, the economic ability of the individual operator to meet the compliance cost for BPT standards is not a consideration for granting a variance. See *National Crushed Stone Association* v. *EPA*, 449 U.S. 64 (1980). This variance clause was originally set forth in EPA's 1973–1976 industry regulations. It is now included in the general NPDES regulations and will not be included in the aluminum forming or other specific industry regulations. See the NPDES regulations at 40 CFR Part 122 Subparts A and D, 45 FR 33290 et seq. (May 19, 1980) for the text and explanation of the "fundamentally different factors" variance.

The BAT limitations in this regulation are subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations for nonconventional pollutants are subject to modifications under Sections 301(c) and 301(g) of the Act. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations guidelines. See 43 FR 40859 (September 13, 1978). Under Section 201(1) of the Act, these statutory modifications are not applicable to "toxic" pollutants.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance. See 40 CFR 403.13; 46 FR 9404 (January 28, 1981); 46 FR 50502 (October 13, 1981); 47 FR 4518 (February 1, 1982). In addition, pretreatment standards for existing and new sources are subject to a provision allowing relaxation of a pretreatment standard upon demonstration by a POTW of consistent removal of the regulated pollutants. 40 CFR 403.7; 43 FR 27736 (June 26, 1978); 40 CFR 403.13; 46 FR 9404 (January 28, 1981).

New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory of regulatory modifications. See *duPont* v. *Train, supra*.

XXIII. Relation to NPDES Permits

The BPT and BAT limitations and NSPS in this regulation will be applied to individual plants through NPDES permits issued by EPA or approved state agencies under Section 402 of the Act. Under the proposed regulation for the nonferrous metals manufacturing category, all limitations are mass based.

The preceding section of this preamble discussed the binding effect of this regulation on NPDES permits, except when variances and modifications are expressly authorized. The following adds more detail on the relation between this regulation and NPDES permits.

One subject that has received different judicial rulings is the scope of NPDES permit proceedings when effluent limitations and standards do not exist. Under current EPA regulations, States and EPA regions that issue NPDES permits before regulations are promulgated must do so on a case-by-case basis. This regulation provides a technical and legal base for new permits.

Another issue is how the regulation affects the authority of those that issue NPDES permits. EPA has developed the

limitations and standards in this regulation to cover the typical facility for this point source category. In specific cases, the NPDES permitting authority may have to establish permit limits on toxic pollutants that are not covered by this regulation. This regulation does not restrict the power of any permit-issuing authority to comply with law or any EPA regulation, guideline, or policy. For example, if this regulation does not control a particular pollutant, the permit issuer may still limit the pollutant on a case-by-case basis, when such action conforms with the purposes of the Act. In addition, if State water quality standards or other provisions of State or Federal law require limits on pollutants not covered by this regulation (or require more stringent limits on covered pollutants), the permit-issuing authority must apply those limitations.

A final topic of concern is the operation of EPA's NPDES enforcement program, which was an important consideration in developing this regulation. The Agency emphasizes that although the Clean Water Act is a strict liability statute, EPA can initiate enforcement proceedings at its discretion (*Sierra Club* v. *Train*, 557 F.2d 485 (5th Cir. 1977)). EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good-faith compliance and conserves enforcement resources for those who fail to make these good-faith efforts.

XXIV. Solicitation of Comments

EPA invites public participation in this rulemaking. We ask that any perceived deficiencies in the record be addressed specifically. We also ask that any suggested revisions or corrections be supported by data.

In addition to issues already addressed in the preamble, EPA is particularly interested in receiving additional comments and information on the following issues:

1. In our discussion of choices for BAT, PSES, NSPS, and PSNS for each subcategory, we described the range of options we considered. We formally solicit comment on whether we should adopt less or more stringent options in each subcategory, and if so, why.

2. The Agency is continuing to seek additional data to support these proposed limitations. The treatment effectiveness data for lime precipitation and sedimentation and lime precipitation, sedimentation and filtration technology. This regulation are based on the results of Agency sampling of the raw wastewaters and treated effluents from a broad range of plants generating similar wastewaters and (for filtration) on long-term self-monitoring. The Agency invites comments on the treatment effectiveness results, and the statistical analysis and underlying assumptions discussed in Section VII of the Development Document as they pertain to the nonferrous metals manufacturing plants. The Agency specifically requests long-term sampling data (especially paired raw wastewater—treated effluent data) from nonferrous metals manufacturing plants having well-operated treatment systems using the treatment technologies relied upon for this regulation, and also other equally effective treatment technologies.

3. The Agency requests long-term sampling data (especially paired raw wastewater—treated effluent data) from any plants treating cadmium that use chemical precipitation and settling technology (with and without a polishing filter).

4. In its cost estimates the Agency has not considered cost savings associated with water flow reduction, such as reduced charges for water use and sewerage savings.

The Agency invites comments and requests that cost data be submitted to the Agency.

5. Nonferrous plants in roughly half the subcategories (secondary aluminum, primary copper electrolytic refining, secondary lead, primary zinc, primary tungsten, primary columbium-tantalum, secondary silver, and metallurgical acid plants) discharge to POTWs. Because their wastewaters contain substantial amounts of toxic metals, the Agency invites comments and any supporting data concerning incompatibility of these wastewaters with the POTW treatment systems or sludge disposition.

6. We request comment as to whether nonferrous plants could incur disproportionate costs as a result of treating both nonferrous wastewaters and wastewaters from a different point source category.

7. We request that commenters identify any process wastewater streams not identified by EPA which they believe should receive a discharge allowance. For any such streams, commenters should identify flow (in relation to production normalized parameter) and pollutant concentrations.

8. In the primary aluminum subcategory, we are proposing that NSPS be based on dry (or 100 percent recycle) emission scrubbing, because we know of primary aluminum plants that do not discharge scrubber wastewater. Recently EPA has received information that certain types of primary aluminum production require wet scrubber systems that cannot achieve 100 percent recycle. The Agency solicits comments as to the accuracy of this information, and generally as to whether NSPS (and PSNS) should include an allowance for scrubber blowdown.

9. For the primary lead subcategory, we solicit comment as to whether it is necessary to have a BAT discharge allowance for slag granulation wastewater. Our information is that a discharge allowance is necessary to allow slag recycling. On the other hand, we know of other plants with this waste stream that do not discharge, although we do not know if they practice slag recycling. We solicit comment as to whether slag recycling necessarily requires wastewater discharge.

10. For the primary tungsten subcategory, we solicit additional data as to organic pollutant concentrations in APT purification wastewaters using organics in ion-exchange extraction.

11. For the primary columbium-tantalum subcategory, we solicit additional data on organic pollutant concentrations in process wastewaters.

12. In the primary aluminum subcategory, we are proposing that BAT, NSPS and PSNS include activated carbon adsorption pretreatment to reduce the concentrations of benzo(a)pyrene and other polynuclear aromatic compounds. We solicit comment on the reduction of benzo-(a)pyrene and other polynuclear aromatic compounds through the use of lime precipitation and sedimentation, lime precipitation and sedimentation followed by polishing filtration and activated carbon pretreatment. Specifically, the Agency requests data (preferably paired raw wastewater treated effluent data) from plants having well-operated treatment systems using these technologies or from plants who have performed bench- or pilot-scale studies using these technologies on primary aluminum wastewater.

13. The methodology used to estimate the economic effects of these regulations is discussed in Section XVIII of this preamble and in the Economic Development Document. We solicit comments on the methodology and criteria used to screen for economic impacts and on the methodology presented for financial analyses of individual plants. The Agency plans to reassess a number of the estimates used in its economic analysis incorporating the current economic recession and the Administrations forecasts of expected recovery. We solicit information on current production levels for the industry, prices, returns on investment, and changes in industry capacity. We solicit historical information on these

same factors so we can evaluate how they change with the general economic conditions. We solicit information on structural changes in the industry that have occurred and changes in the competitive position of the domestic market vis-a-vis in the international markets.

14. A number of firms have not responded to the economic survey mailed to them under the authority of Section 308 of the Clean Water Act. The Agency requests that each facility that has failed to respond to submit its response. If the questionnaire has been misplaced there is a blank copy of a survey in the Appendix of the Economic Impact Analysis that can be used or a duplicate of the survey will be sent directly upon request.

15. The Agency is concerned that fundamental changes in the economic conditions of the secondary lead industry may affect the ability of certain firms to install the technology necessary to meet the proposed limitations and standards. Restrictions on the use of lead in gasoline and changes in the material used in automotive batteries are affecting the overall demand for lead and the supply of scrap batteries used by secondary lead smelters. The Agency solicits comments on these and any other structural changes that have affected production levels, prices, profitability, and changes in existing capacity.

16. The Agency is considering forming a separate subcategory for toll processors in the secondary silver subcategory due to the special market position of toll processors. The Agency solicits comments on the economic conditions in the industry and the financial conditions of toll processors in the industry. We especially are interested in information on the pricing policies of toll processors.

17. The current and future conditions of the primary copper refining industry are of concern to the Agency. We are soliciting comments and data on world supplies of copper and their influence on U.S. producer prices and revenues. We are also requesting data on this level of substitution affecting the industry, its chief competitors and their effects on copper demand. The Agency also requests comments on the overall health and direction of the industry and what structural changes may be taking place over the next 3–5 years.

List of Subjects in 40 CFR Part 421

Metals, Water pollution control, Waste treatment and disposal.

Dated: January 31, 1983.

Anne M. Gorsuch,

Administrator

Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology under Section 304(b)(4) of the Act.

BMP—Best management practices under Section 304(e) of the Act.

BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act.

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*) as amended by the Clean Water Act of 1977 (Public Law 95–217)

Direct Discharger—A facility which discharges or may discharge pollutants into waters of the United States.

Indirect Discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works.

NPDES Permits—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.

NSPS—New source performance standards under Section 306 of the Act.

POTW—Publicly owned treatment works.

PSES—Pretreatment standards for existing sources of indirect discharges under Section 307(b) of the Act.

PSNS—Pretreatment standards for new sources of direct dischargers under Sections 307 (b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (Public Law 94–580) of 1976, Amendments to Solid Waste Disposal Act.

Appendix B—Summary of BCT Test in the Nonferrous Metals Manufacturing Category

Subcategory	Comparable POTW benchmark	Incremental cost proposed BAT (part 1)	Proposed BAT option part 1 (pass or fail)	Incremental cost intermediate option (part 1)	Proposed intermediate option part 1 (pass or fail)
Primary Aluminum	$0.27	$3.07	Fail	$2.20	Fail.
Secondary Aluminum	0.27	15.68	Fail	..	Fail.
Primary Electrolytic Copper Refining	0.27	5.07	Fail.	22.06	Fail
Primary Lead	0.27	13.26	Fail	0.0	Fail.
Primary Zinc	0.27	8.20	Fail	4.30	Fail.
Metallurgical Acid Plants	0.27	19.60	Fail.	23.77	Fail.
Primary Tungsten	0.27	15.04	Fail	19.73	Fail
Primary Columbium-Tantalum	0.27	76.16	Fail	8.73	Fail
Secondary Silver	0.27	4.09	Fail	1,700.00	Fail.
Secondary Lead	0.27	179.94	Fail	15.34	Fail.

Appendix C—Pollutants Selected for Regulation by Subcategory

(a) Subpart B—Primary Aluminum Smelting Subcategory.

73. benzo(a) pyrene
114. antimony
121. cyanide (Total)
124. nickel, aluminum fluoride, oil and grease, TSS, pH

(b) Subpart C—Secondary Aluminum Subcategory.

122. lead
128. zinc, aluminum, ammonia(N), TSS pH

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

120. copper
122. lead
124. nickel, TSS, pH

(d) Subpart G—Primary Lead Subcategory.

122. lead
128. zinc, TSS, pH

(e) Subpart H—Primary Zinc Subcategory.

118. cadmium
120. copper
122. lead
128. zinc TSS, pH

(f) Subpart I—Metallurgical Acid Plants Subcategory.

115. arsenic
118. cadmium
120. copper
122. lead
128. zinc, TSS, pH

(g) Subpart J—Primary Tungsten Subcategory.

122. lead
125. selenium

128. zinc, ammonia (N), TSS, pH

(h) Subpart K—Primary Columbium-tantalum Subcategory.

122. lead
128. zinc, ammonia (N), fluoride, TSS, pH

(i) Subpart L—Secondary Silver Subcategory.

120. copper
128. zinc, ammonia (N), TSS, pH

(j) Subpart M—Secondary Lead Subcategory.

114. antimony
115. arsenic
122. lead
128. zinc, TSS, pH

Appendix D—Toxic Pollutants Not Detected

(a) Subpart B—Primary Aluminum Smelting Subcategory.

2. acrolein
3. acrylonitrile
6. carbon tetrachloride (tetrachloromenthane)
7. chlorobenzene
8. 1, 2, 4-trichlorobenzene
9. hexachlorobenzene
10. 1.2-dichloroethane
11. 1, 1, 1-trichlorethane
12. hexachlorethane
13. 1, 1-dichloroethane
14. 1, 1, 2-trichloroethane
15. 1, 1, 2, 2–tetrachloroethane
16. chloroethane
17. bis (chloromethyl) ether
18. bis (2-chloromethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
21. 2, 4, 6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1, 2-dichlorobenzene
26. 1, 3-dichlorobenzene
27. 1, 4-dichlorobenzene
28. 3, 3'–dichlorobenzidine
30. 1, 2-trans-dichloroethylene
31. 2, 4-dichlorophenol
32. 1, 2-dichloropropane
33. 1, 2-dichloropropylene (1, 3-dichloropropene)
38. ethylbenzene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
43. bis (2-choroethoxy) methane
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
49. trichlorofluoromethane
50. dichlorodifluoromethane
51. chlorodibromethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
56. nitrobenzene
57. 2–nitrophenol
58. 4-nitrophenol
59. 2, 4-dinitrophenol
60. 4, 6-dinitro-o-cresol
61. N-nitrosodimethylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
88. vinyl chloride (chloroethylene)
94. 4, 4'-DDD (p,p' TDE)
95. a-endosulfan-Alpha
97. endosulfan sulfate
98. endrin
129. 2, 3, 7, 8–tetrachlorodibenzo-p-dioxin (TCDD)

(b) Subpart C—Secondary Aluminum Subcategory

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
7. chlorobenzene
8. 1, 2, 4-trichlorobenzene
9. hexachlorobenzene
11. 1, 1, 1-trichlorethane
12. hexachlorethane
13. 1, 1-dichloroethane
14. 1, 1, 2-trichloroethane
17. DELETED
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2, 4, 6–trichlorophenol
22. parachloromenta cresol
24. 2-chlorophenol
25. 1, 2-dichlorobenzene
26. 1, 3-dichlorobenzene
31. 2, 4-dichlorophenol
32. 1, 2-ichloropropane
33. 1, 2-dichloropropylene (1, 3-dichloropropene)
34. 2, 4-dimethylphenol
37. 1, 2-diphenylhydrazine
38. ethylbenzene
40. 4–chlorophenyl phenyl ether
41. 4–bromophenyl phenyl ether
42. bis (2-chloroisopropyl) ether
43. bis (2-choroethoxy) methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
49. DELETED
50. DELETED
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2, 4-dinitrophenol
60. 4, 6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
70. diethyl phthalate
72. benzo (a) anthracene (1, 2-benzanthracene)
79. benzo (ghi) perylene (1, 11-benzoperylene)
82. dibenzo (a, h) anthracene (1, 2, 5, 6-dibenzanthracene)
83. indeno (1, 2, 3–cd) pyrene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
94. 4, 4'-DDD (p, P' TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. enosulfan sulfate
105. g-BHC-Delta
117. asbestos
129. 2, 3, 7, 8-tetrachlorodibenzo-p-dioxin (TCDD)

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

2. acrolein
3. acrylonitrile
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1, 2, 4-trichlorobenzene
9. hexachlorobenzene
10. 1.2-dichloroethane
12. hexachlorethane
13. 1, 1-dichloroethane
14. 1, 1, 2-trichloroethane
16. chloroethane
17. DELETED
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphalene
21. 2, 4, 6–trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1, 2-dichlorobenzene
26. 1, 3-diclorobenzene
27. 1, 4-dichorobenzene
28. 3, 3'-dichlorobenzidine
31. 2, 4-dichlorophenol
32. 1, 2-dichloropropane
33. 1, 2-dichloropropylene (1, 3–dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-choroethoxy) methane
44. methylene chloride (dichloromethane)
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
49. DELETED
50. DELETED
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
70. diethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
74. 3,4-benzofluoranthene
77. acenaphthylene
79. benzo(ghi)perylene (1,11-benzoperylene)
80. flourene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
86. toluene
88. vinyl chloride (chloroethylene)
89. aldrin
94. 4,4'-DDD(p,p'TDE)
105. g-BHC-Delta
106. PCB–1242 (Arochlor 1242)
108. PCB–1221 (Arochlor 1221)
109. PCB–1232 (Arochlor 1232)
110. PCB–1248 (Arochlor 1248)
111. PCB–1260 (Arochlor 1260)
113. toxaphene
116. asbestos
117. beryllium
118. cadmium
121. cyanide (Total)
123. mercury
127. thallium

129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(d) Subpart G—Primary Lead Subcategory

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichlorethane
12. hexachlorethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. bis (chloromethyl) ether
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-choroethoxy) methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane
50. dichlorodifluoromethane
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
55. naphthalene
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
66. bis(2-ethylhexyl) phthalate
67. ethyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthane (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene (a)
79. benzo(ghi)perylene (1,11-benzoperylene)
80. flourene
81. phenanthrene (a)
82. dibenzo(a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
84. pyrene
85. tetrachloroethylene
86. toluene
87. trichloroethylene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE(p,p'DDX)
94. 4,4'-DDD(p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
105. g-BHC-Delta
106. PCB-1242 (Arochlor 1242) (b)
107. PCB-1254 (Arochlor 1254) (b)
108. PCB-1221 (Arochlor 1221) (b)
109. PCB-1232 (Arochlor 1232) (c)
110. PCB-1248 (Arochlor 1248) (c)
111. PCB-1260 (Arochlor 1260) (c)
112. PCB-1016 (Arochlor 1016) (c)
113. toxaphene
121. cyanide (Total)
127. thallium
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(a), (b), (c) Reported together.

(e) Subpart H—Primary Zinc Subcategory

1. acenaphthene
2. acrolein
3. acrylonitrile
4. benzene
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichlorethane
12. hexachlorethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
17. Deleted
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
23. chloroform (trichloromethane)
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
29. 1,1-dichloroethylene
30. 1,2-trans/dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-choroethoxy) methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
49. Deleted
50. Deleted
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
55. naphthalene
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo(a) anthracene (1,2-benzanthracene)
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthane (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene (a)
79. benzo(ghi)perylene (1,11-benzoperylene)
80. fluorene
81. phenanthrene (a)
82. dibenzo(a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
84. pyrene
85. tetrachloroethylene
86. toluene
87. trichloroethylene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE(p,p'DDX)
94. 4,4'-DDD(p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha

103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
105. g-BHC-Delta
106. PCB-1242 (Arochlor 1242) (b)
107. PCB-1254 (Arochlor 1254) (b)
108. PCB-1221 (Arochlor 1221) (b)
109. PCB-1232 (Arochlor 1232) (c)
110. PCB-1248 (Arochlor 1248) (c)
111. PCB-1260 (Arochlor 1260) (c)
112. PCB-1016 (Arochlor 1016) (c)
113. toxaphene
114. antimony
117. beryllium
121. cyanide (Total)
127. thallium
129. 2,3,7,8-B-tetrachlorodibenzo-p-dioxin (TCDD)

(a), (b), (c) Reported together.

(f) Subpart I—Metallurgical Acid Plants Subcategory.

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidene
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
11. 1,1,1-trichlorethane
12. hexachlorethane
16. chloroethane
17. Deleted
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. ethylbenzene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-choroethoxy) methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
47. bromoform (tribromomethane)
50. Deleted
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
72. benzo(a)anthracene (1,2-benzanthracene)
77. acenaphthylene
79. benzo(ghi)perylene (1,11-benzoperylene)
82. dibenzo(a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
88. vinyl chloride (chloroethylene)
89. aldrin
95. a-endosulfan-Alpha
97. endosulfan sulfate
102. a-BHC-Alpha
105. g-BHC-Delta
113. toxaphene
129. 2,3,7,8-tetrachlorodinbenzo-p-dioxin (TCDD)

(g) Subpart J—Primary Tungsten Subcategory.

2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
7. chlorobenzene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
11. 1,1,1-trichlorethane
12. hexachlorethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
16. chloroethane
17. bis (chloromethyl) ether
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-choroethoxy) methane
44. methylene chloride (dichloromethane)
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane
50. dichlorodifluoromethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
67. butyl benzyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
73. benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthane (11,12-benzofluoranthene)
79. benzo(ghi)perylene (1,11-benzoperylene)
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
88. vinyl chloride (chloroethylene)
89. aldrin
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE(p,p'DDX)
94. 4,4'-DDD(p,p'TDE)
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
105. g-BHC-Delta
113. toxaphene
114. antimony
116. asbestos
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(h) Subpart K—Primary Columbium-tantalum Subcategory.

2. acrolein
3. acrylonitrile
5. benzidene
9. hexachlorobenzene
13. 1,1-dichloroethane
16. chloroethane
17. Deleted
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
37. 1,2-diphenylhydrazine
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis (2-chloroisopropyl) ether
43. bis (2-chloroethoxy) methone
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
49. Deleted
50. Deleted
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
72. benzo(a)anthracene (1,2-benzanthracene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthane (11,12-benzofluoranthene)
82. dibenzo(a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
88. vinyl chloride (chloroethylene)

94. 4,4'-DDD(p,p'TDE)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(i) Subpart L—Secondary Silver Subcategory.

2. acrolein
3. acrylonitrile
5. benzidene
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
12. hexachlorethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
16. chloroethane
17. Deleted
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-demethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-choroethoxy) methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
48. dichlorobromomethane
49. Deleted
50. Deleted
52. hexachlorobutadiene
53. hezachlorocyclopentadiene
54. isophorone
55. naphthalene
56. nitrobenzene
57. 2-nitrophenol
58. 4-notrophenol
59. 2,4-dinitrophenol
60. 4, 6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-notrosodi-n-propylamine
64. pentachlorophenol
65. phenol
71. dimethyl phthalate
72. benzo'(a)anthracene (1,2-benzanthracene)
73. benzo (a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo (k)fluoranthane (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
79. benzo(ghi)perylene (1,11-benzoperylene)
80. fluorene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
88. vinyl chloride (chloroethylene)
89. aldrin
94. 4,4'-DDD (p,p'TDE)
95. a-endosulfan-Alpha
96. b-endousulfan-Beta
97. endosulfan sulfate
101. heptachlor epoxide
106. PCB-1242 (Arochlor 1242)
116. asbestos
117. beryllium
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

(j) Subpart M—Secondary Lead Subcategory.

2. acrolein
3. acrylonitrile
5. benzidene
6. carbon tetrachloride (tetrachloromethane)
8. 1,2,4-trichlorobenzene
9. hexachlorobenzene
11. 1,1,1-trichlorethane
12. hexachlorethane
14. 1,1,2-trichloroethane
16. chloroethane
17. bis (chloromethyl) ether
18. bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. parachlorometa cresol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,3-dichloropropene)
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-choroethoxy) methane
45. methyl chloride (chloromethane)
46. mehtyl bromide (bromomethane)
48. dichlorobromomethane
49. trichlorofluoromethane
50. dichlorodifluoromethane
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
55. naphthalene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
65. phenol
67. butyl benzyl phthalate
79. benzo(ghi)perylene (1,11-benzoperylene)
88. vinyl chloride (chloroethylene)
89. aldrin
95. a-endosulfan-Alpha
97. endosulfan sulfate
105. g-BHC-Delta
116. asbestos
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

Appendix E—Toxic Pollutants Detected Below the Analytical Quantification Limit

(a) Subpart B—Primary Aluminum Smelting Subcategory.

5. benzidene
15. 1,1,2,2-tetranchloroethane
29. 1,1-dichloroethylene
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
45. methyl chloride (chloromethane)
48. dichlorobromomethane
70. diethyl phthalate
71. dimethyl phthalate
85. tetrachloroethylene
86. toluene
87. trichloroethylene
89 aldrin
90. dieldrin
91. chlordane (technical mixture and metabolities)
92. 4,4'-DDT
93. 4,4'-DDE (p,p'DDX)
96. b-endosulfan-Beta
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
g-BHC-Delta
113 toxaphene

(b) Subpart C—Secondary Aluminum Subcategory.

6. carbon tetrachloride (tetrachloromethane)
10. 1,2-dichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
28. 3,3'-dichlorobenzidine
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
54. isophorone
55. naphthalene
3,4-benzofluoranthene
75. benzo(k)fluoranthane (11,12-benzofluoranthene)
78. anthracene (a)
80. fluorene
81. phenanthrene (a)
86. toluene
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'DDE(p,p'DDX)
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
121. cyanide (Total)

(a) Reported together.

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

1. acenaphthene
4. benzene
5. benzidene
11. 1,1,1-trichlorethane
15. 1,1,2,2-tetrachloroethane
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
39. fluoranthene
55. naphthalene
71. dimethyl phthalate
73. benzo (a)pyrene (3,4-benzopyrene)
75. benzo(k)fluoranthane (11,12-benzofluoranthene)
76. chrysene

78. anthracene (a)
81. phenanthrene (a)
84. pyrene
85. tetrachloroethylene
87. trichloroethylene
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE(p,p'DDX)
95. a-endosulfan-Alpha
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
107. PCB-1254 (Arochlor 1254)

(a) Reported together.

(d) Subpart G—Primary Lead Subcategory.

4. benzene
6. carbon tetrachloride (tetrachloromethane)
23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
116. asbestos

(e) Subpart I—Metallurgical Acid Plants Subcategory.

4. benzene
10. 1,2-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
39. fluoranthene
49. DELETED
51. chlorodibromomethane
54. isophorone
55. naphthalene
64. pentachlorophenol
65. phenol
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
73. benzo (a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthane (11,12-benzofluoranthene)
76. chrysene
80. fluorene
84. pyrene
87. trichloroethylene
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE(p,p'DDX)
94. 4,4'-DDD)p,p'TDE)
96. b-endosulfan-Beta
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
103. b BHC-Beta
104. r-BHC (lindane)-Gamma
106. PCB-1242 (Arochlor 1242) (a)
107. PCB-1254 (Arochlor 1254) (a)
108. PCB-1221 (Arochlor 1221) (a)
109. PCB-1232 (Arochlor 1232) (b)
110. PCB-1248 (Arochlor 1248) (b)
111. PCB-1260 (Arochlor 1260) (b)
112. PCB-1016 (Arochlor 1016) (b)
116. asbestos
117. beryllium
121. cyanide (Total)

(a), (b) Reported together.

(f) Subpart J—Primary Tungsten Subcategory.

4. benzene
10. 1,2-dichloroethane
15. 1,1,2,2-tetrachloroethane
39. fluoranthene
78. anthracene (a)
81. phenanthrene (a)
84. pyrene
87. trichloroethylene
95. a-endosulfan-Alpha
106. PCB-1242 (Arochlor 1242) (b)
107. PCB-1254 (Arochlor 1254) (b)
108. PCB-1221 (Arochlor 1221) (b)
109. PCB-1232 (Arochlor 1232) (c)
110. PCB-1248 (Arochlor 1248) (c)
111. PCB-1260 (Arochlor 1260) (c)
112. PCB-1016 (Arochlor 1016) (c)

(a), (b), (c) Reported together.

(g) Subpart K—Primary Columbium-tantalum Subcategory.

20. 2-chloronaphthalene
39. fluoranthene
55. naphthalene
69. di-n-octyl phthalate
70. diethyl phthalate
73. benzo (a)pyrene (3,4-benzopyrene)
76. chrysene
77. acenaphthylene
79. benzo(ghi)perylene (1,11-benzoperylene)
80. fluorene
84. pyrene
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE(p,p'DDX)
94. 4,4'-DDD(p,p'TDE)
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
105. g-BHC-Delta
121. cyanide (Total)

(h) Subpart L—Secondary Silver Subcategory.

7. chlorobenzene
15. 1,1,2,2-tetrachloroethane
51. chlorodibromomethane
78. anthracene (a)
81. phenanthrene (a)
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE(p,p'DDX)
98. endrin
99. endrin aldehyde
100. heptachlor
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
113. toxaphene

(a) Reported together.

(i) Subpart M—Secondary Lead.

1. acenaphthene
4. benzene
7. chlorobenzene
10. 1,2-dichloroethane
13. 1,1-dichloroethane
15. 1,1,2,2-tetrachloroethane
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
37. 1,2-diphenylhydrazine
38. ethylbenzene
39. fluoranthene
54. isophorone
55. naphthalene
70. diethyl phthalate
72. benzo (a)anthracene (1,2-benzanthracene)
73. benzo (a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. benzo (k)fluoranthane (11,12-benzofluoranthene)
80. fluorene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
85. tetrachloroethylene
86. toluene
90. dieldrin
91. chlordane (technical mixture and metabolites)
92. 4,4'-DDT
93. 4,4'-DDE(p,p'DDX)
94. 4,4'-DDD(p,p'TDE)
96. b-endosulfan-Beta
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. a-BHC-Alpha
103. b-BHC-Beta
104. r-BHC (lindane)-Gamma
106. PCB-1242 (Arochlor 1242) (a)
107. PCB-1254 (Arochlor 1254) (a)
108. PCB-1221 (Arochlor 1221) (a)
109. PCB-1232 (Arochlor 1232) (b)
110. PCB-1248 (Arochlor 1248) (b)
111. PCB-1260 (Arochlor 1260) (b)
112. PCB-1016 (Arochlor 1016) (b)
113. toxaphene
121. cyanide (Total)
125. selenium

(a), (b) Reported together.

Appendix F—Toxic Pollutants Detected in Amounts Too Small To Be Effectively Reduced by Technologies Considered in Preparing This Guideline

(a) Subpart B—Primary Aluminum Smelting Subcategory.

4. benzene
37. 1,2-diphenylhydrazine
42. bis(2-chloroisopropyl) ether
54. isophorone
123. mercury
127. thallium

(b) Subpart C—Secondary Aluminum Subcategory.

29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
48. dichlorobromomethane
113. toxaphene
117. beryllium
123. mercury
126. silver

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

114. antimony
119. chromium (Total)

(d) Subpart G—Primary Lead Subcategory.

115. arsenic
117. beryllium
118. cadmium
119. chromium (Total)

123. mercury
124. nickel
126. silver

(e) Subpart H—Primary Zinc Subcategory.

44. methylene chloride
116. asbestos (Fibrous)
123. mercury

(f) Subpart I—Metallurgical Acid Plants Subcategory.

23. chloroform (trichloromethane)
48. dichlorobromomethane
85. tetrachloroethylene

(g) Subpart J—Primary Tungsten Subcategory.

1. acenaphthene
23. chloroform (trichloromethane)
29. 1,1-dichloroethylene
38. ethylbenzene
51. chlorodibromomethane
55. naphthalene
77. acenaphthylene
80. fluorene
85. tetrachloroethylene
86. toluene
117. beryllium
121. cyanide (Total)
123. mercury

(h) Subpart K—Primary Columbium-tantalum Subcategory.

4. benzene
14. 1,1,2-trichloroethane
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
47. bromoform (tribromomethane)
48. dichlorobromomethane
54. isophorone
126. silver

(i) Subpart L—Secondary Silver Subcategory.

1. acenaphthene
4. benzene
6. carbon tetrachloride (tetrachloromethane)
10. 1,2-dichloroethane
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
38. ethylbenzene
87. trichloroethylene
114. antimony
125. selenium
126. silver
127. thallium
115. arsenic
121. cyanide (Total)
125. selenium
127. thallium

(j) Subpart M—Secondary Lead Subcategory.

23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
47. bromoform (tribromomethane)
56. nitrobenzene
71. dimethyl phthalate
117. beryllium
126. silver
127. thallium

Appendix G—Toxic Pollutants Detected in the Effluent From Only A Small Number of Sources

(a) Subpart B—Primary Aluminum Smelting Subcategory.

20. 2-chloronaphthalene
23. chloroform (trichloromethane)
34. 2,4-dimethylphenol
44. methylene chloride (dichloromethane)
55. naphthalene
62. N-nitrosodiphenylamine
65. phenol
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
106. PCB-1242 (Arochlor 1242) (a)
107. PCB-1254 (Arochlor 1254) (a)
108. PCB-1221 (Arochlor 1221) (a)
109. PCB-1232 (Arochlor 1232) (b)
110. PCB-1248 (Arochlor 1248) (b)
111. PCB-1260 (Arochlor 1260) (b)
112. PCB-1016 (Arochlor 1016) (b)
113. toxaphene
116. asbestos (Fibrous)
117. beryllium
126. silver
128. zinc

(a), (b) Reported together.

(b) Subpart C—Secondary Aluminum Subcategory.

4. benzene
23. chloroform (trichloromethane)
27. 1,4-dichlorobenzene
39. fluoranthene
44. methylene chloride (dichloromethane)
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
71. dimethyl phthalate
73. benzo (a)pyrene (3,4-benzopyrene)

Appendix G—Toxic Pollutants Detected in the Effluent From Only A Small Number of Sources

(a) Subpart B—Primary Aluminum Smelting Subcategory.

20. 2-chloronaphthalene
23. chloroform (trichloromethane)
34. 2,4-dimethylphenol
44. methylene chloride (dichloromethane)
55. naphthalene
62. N-nitrosodiphenylamine
65. phenol
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
106. PCB-1242 (Arochlor 1242) (a)
107. PCB-1254 (Arochlor 1254) (a)
108. PCB-1221 (Arochlor 1221) (a)
109. PCB-1232 (Arochlor 1232) (b)
110. PCB-1248 (Arochlor 1248) (b)
111. PCB-1260 (Arochlor 1260) (b)
112. PCB-1016 (Arochlor 1016) (b)
113. toxaphene
116. asbestos
117. beryllium
126. silver
128. zinc

(a), (b) Reported together.

(b) Subpart C—Secondary Aluminum Subcategory.

4. benzene
23. chloroform (trichloromethane)
27. 1,4-dichlorobenzene
39. fluoranthene
44. methylene chloride (dichloromethane)
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
71. dimethyl phthalate
73. benzo (a)pyrene (3,4-benzopyrene)
76. chrysene
77. acenaphthylene
84. pyrene
85. tetrachloroethylene
87. trichloroethylene
106. PCB-1242 (Arochlor 1242) (a)
107. PCB-1254 (Arochlor 1254) (a)
108. PCB-1221 (Arochlor 1221) (a)
109. PCB-1232 (Arochlor 1232) (b)
110. PCB-1248 (Arochlor 1248) (b)
111. PCB-1260 (Arochlor 1260) (b)
112. PCB-1016 (Arochlor 1016) (b)
113. toxaphene
114. antimony
115. arsenic
119. chromium (Total)
120. copper
124. nickel
125. selenium
127. thallium

(a), (b) Reported together.

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory.

23. chloroform
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
112. PCB-1016

(d) Subpart G—Primary Lead Subcategory.

114. antimony
120. copper

(e) Subpart H—Primary Zinc Subcategory.

116. asbestos

(f) Subpart I—Metallurgical Acid Plants Subcategory.

6. carbon tetrachloride
13. 1,1-dichloroethane
44. methylene chloride (dichloromethane)
66. bis(2-ethylhexyl) phthalate
78. anthracene (a)
81. phenanthrene (a)
86. toluene
127. thallium

(a) Reported together.

(g) Subpart J—Primary Tungsten Subcategory.

47. bromoform (tribromomethane)
66. bis(2-ethylhexyl) phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
76. chrysene
115. arsenic
120. copper
124. nickel
126. silver

(h) Subpart K—Primary Columbium-tantalum Subcategory.

6. carbon tetrachloride (tetrachloromethane)
10. 1,2-dichlorethane
11. 1,1,1-trichloroethane
12. hexachlorethane
15. 1,1, 2,2-tetrachloroethane
23. chloroform (trichloromethane)
29. 1,1-dichloroethylene
38. ethylbenzene
44. methylene chloride (dichloromethane)
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n/butyl phthalate

71. demethyl phthalate
78. anthracene (a)
81. phenanthrene (a)
86. toluene
113. toxaphene
116. asbestos
117. beryllium
123. mercury
127. thallium

(a) Reported together.

(i) Subpart L—Secondary Silver Subcategory.

11. 1,1,1-trichlorethane
23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
47. bromoform (tribromomethane)
66. bis(2-ethylhexyl) phthalate
67. butyl benzyl phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
70. diethyl phthalate
84. pyrene
85. tetrachloroethylene
86. toluene.
106. PCB-1242 (Arochlor 1242) (a)
107. PCB-1254 (Arochlor 1254) (a)
108. PCB-1221 (Arochlor 1221) (a)
109. PCB-1232 (Arochlor 1232) (b)
110. PCB-1248 (Arochlor 1248) (b)
111. PCB-1260 (Arochlor 1260) (b)
112. PCB-1016 (Arochlor 1016) (b)
123. mercury

(a), (b) Reported together.

(j) Subpart M—Secondary Lead Subcategory.

66. bis(2-ethylhexyl) Phthalate
68. di-n-butyl phthalate
69. di-n-octyl phthalate
76. chrysene
77. acenaphthylene
78. anthracene (a)
81. Phenanthrene (a)
84. pyrene
87. trichloroethylene
123. mercury

(a) Reported together.

Appendix H—Toxic Pollutants Effectively Controlled By Technologies Which Other Effluent Limitations and Guidelines Are Based Upon

(a) Subpart B—Primary Aluminum Smelting Subcategory.

1. acenaphthene
39. fluoranthene
72. benzo (a)anthracene (1,2-benzanthracene)
74. 3,4-benzofluoranthene
75. benzo(k) fluoranthane (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo(ghi)perylene (1,11-benzoperylene)
80 fluorene
81. phenanthrene
82. dibenzo (a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno (1,2,3-cd)pyrene
84. pyrene
115. arsenic
118. cadmium
119. chromium (Total)
120. copper
122. lead
125. selenium
128. zinc

(b) Subpart C—Secondary Aluminum Subcategory.

118. cadmium

(c) Subpart E—Primary Copper Electrolytic Refining Subcategory

115. arsenic
125. selenium
126. silver
128. zinc

(d) Subpart H—Primary Zinc Subcategory.

115. arsenic
119. chromium (Total)
124. nickel
125. selenium
126. silver

(e) Subpart I—Metallurgical Acid Plants Subcategory.

114. antimony
119. chromium (Total)
123. mercury
124. nickel
125. selenium
126. silver

(f) Subpart J—Primary Tungsten Subcategory.

118. cadmium
119. chromium (Total)

(g) Subpart K—Primary Columbium-tantalum Subcategory

114. antimony
115. arsenic
118. cadmium
119. chromium (Total)
120. copper
124. nickel

(h) Subpart L—Secondary Silver Subcategory.

118. cadmium
119. chromium (Total)
121. cyanide
122. lead
124. nickel

(i) Subpart M—Secondary Lead Subcategory.

118. cadmium
119. chromium (Total)
120. copper
124. nickel

Appendix I—Toxic Pollutants Detected but Only in Trace Amounts And Are Neither Causing nor Likely To Cause Toxic Effects

(f) Subpart J—Primary Tungsten Subcategory.

1. acenapthene
55. naphthalene
77. acenaphthylene
80. fluorene

(g) Subpart K—Primary Columbium-tantalum Subcategory.

1. acenaphthene
7. chlorobenzene
8. 1,2,4-trichlorobenzene
30. 1,2-trans-dichloroethylene
56. nitrobenzene
85. tetrachloroethylene
87. trichloroethylene

(h) Subpart L—Secondary Silver Subcategory.

4. benzene
6. carbon tetrachloride (tetrachloromethane)
10. 1,2-dichloroethane
29. 1,1-dichloroethylene
87. trichloroethylene

For the reasons discussed above, EPA proposes to add an undesignated subpart titled "General Provisions", revise portions of Subparts B–I and to add Subparts J–M of 40 CFR Part 421, to read as follows: (For the purpose of clarity, promulgated BPT effluent limitations guidelines and provisions relating to applicability and to definitions are being reprinted as part of today's regulation. The BPT limitations and other reprinted provisions remain unaffected by today's regulation and are not subject to review. These provisions are indicated by an asterisk (*).)

PART 421—NONFERROUS METALS MANUFACTURING POINT SOURCE CATEGORY

General Provisions

Sec.
421.01 Applicability.
421.02 [Reserved].
421.03 Monitoring and reporting requirements.
421.04 Compliance date for PSES.

Subpart A—Bauxite Refining Subcategory

* * * * *

Subpart B—Primary Aluminum Smelting Subcategory

421.20 Applicability: Description of the primary aluminum smelting subcategory.*
421.21 Specialized definitions.
421.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*
421.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.24 Standards of performance for new sources.
421.25 [Reserved].
421.26 Pretreatment standards for new sources.
421.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart C—Secondary Aluminum Smelting Subcategory

421.30 Applicability: Description of the secondary aluminum smelting subcategory.*
421.31 Specialized definitions.*
421.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*

Sec.
421.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.34 Standards of performance for new sources.
421.35 Pretreatment standards for existing sources.
421.36 Pretreatment standards for new sources.
421.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart D—Primary Copper Smelting Subcategory

421.40 Applicability: Description of the primary copper smelting subcategory.*
421.41 Specialized definitions.*
421.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*
421.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.44 Standards of performance for new sources.
421.45 [Reserved].
421.46 Pretreatment standards for new sources.
421.47 [Reserved].

Subpart E—Primary Electrolytic Copper Refining Subcategory

421.50 Applicability: Description of the primary electrolytic copper refining subcategory.*
421.51 Specialized definitions.*
421.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*
421.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.54 Standards of performance for new sources.
421.55 [Reserved].
421.56 Pretreatment standards for new sources.
421.57 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart F—Secondary Copper Subcategory

421.60 Applicability: Description of the secondary copper subcategory.*
421.61 Specialized definitions.*
421.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*
421.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.64 Standards of performance for new sources.
421.65 Pretreatment standards for existing sources.
421.66 Pretreatment standards for new sources.
421.67 [Reserved].

Subpart G—Primary Lead Subcategory

421.70 Applicability: Description of the primary lead subcategory.
421.71 Specialized definitions.*
421.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.74 Standards of performance for new sources.
421.75 [Reserved].
421.76 Pretreatment standards for new sources.
421.77 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart H—Primary Zinc Subcategory

421.80 Applicability: Description of the primary zinc subcategory.*
421.81 Specialized definitions.*
421.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*
421.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.84 Standards of performance for new sources.
421.85 [Reserved].
421.86 Pretreatment standards for new sources.
421.87 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart I—Metallurgical Acid Plants Subcategory

421.90. Applicability: Description of the metallurgical acid plants subcategory.
421.91 Specialized definitions.*
421.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.*
421.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.94 Standards of performance for new sources.
421.95 [Reserved].
421.96 Pretreatment standards for new sources.
421.97 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart J—Primary Tungsten Subcategory

421.100 Applicability: Description of the primary tungsten subcategory.
421.101 Specialized definitions.
421.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.104 Standards of performance for new sources.
421.105 Pretreatment standards for existing sources.
421.106 Pretreatment standards for new sources.
421.107 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart K—Primary Columbium-Tantalum Subcategory

421.110 Applicability: Description of the primary columbium-tantalum subcategory.
421.111 Specialized definitions.
421.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.114 Standards of performance for new sources.
421.115 Pretreatment standards for existing sources.
421.116 Pretreatment standards for new sources.
421.117 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart L—Secondary Silver Subcategory

421.120 Applicability: Description of the secondary silver subcategory.
421.121 Specialized definitions.
421.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

421.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.124 Standards of performance for new sources
421.125 Pretreatment standards for existing sources.
421.126 Pretreatment standards for new sources.
421.127 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Subpart M—Secondary Lead Subcategory

421.130 Applicability: Description of the secondary lead subcategory.
421.131 Specialized definitions.
421.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.133 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.134 Standards of performance for new sources.
421.135 Pretreatment standards for existing sources.
421.136 Pretreatment standards for new sources.
421.137 Effluent limitations guidelines representing the degree of effluent reduction attainably by the application of the best conventional pollutant control technology.

Authority: Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307(c), and 501 of the Federal Water Pollution Control Act as amended (the Act); 33 U.S.C. 1251, 1311, 1314 (b), (c), (e) and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217

General Provisions

§ 421.01 Applicability.

This part applies to facilities producing primary metals from ore concentrates and recovering secondary metals from recycle wastes which discharge or may discharge pollutants to waters of the United States or which introduce or may introduce pollutants into a publicly owned treatment works.

§ 421.02 [Reserved].

§ 421.03 Monitoring and reporting requirements.

The following special monitoring requirements apply to all facilities controlled by this regulation:

(a) The "monthly average" regulatory values shall be the basis for the monthly average discharge in direct discharge permits and for pretreatment standards. Compliance with the monthly discharge limit is required regardless of the number of samples analyzed and averaged.

§ 421.04 Compliance date for PSES.

The compliance date for pretreatment standards for existing sources will be three years after promulgation of this regulation

Subpart A—Bauxite Refining Subcategory

* * * * *

Subpart B—Primary Aluminum Smelting Subcategory

§ 421.20 Applicability: Description of the primary aluminum smelting subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of aluminum from alumina in the Hall-Heroult process.

§ 421.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter, shall apply to this subpart.

(b) "At-the-source" means at or before the commingling of wastewaters from potroom wet air pollution control, potline wet air pollution control, anode bake plant wet air pollution control, anode paste plant wet air pollution control, and cathode reprocessing (or any combination of these) with other process or non-process wastewaters.

(c) The Term "product" shall mean hot aluminum metal.

§ 421.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that date which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of product	
	English units—lbs/million lbs of product	
Fluoride	2.0	1.0
Total suspended solids	3.0	1.5
pH	(1)	(1)

[1] Within the range of 6 to 9 at all times.

§ 421.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart B—Anode Paste Plant Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of paste produced	
	English units—lbs/billion lbs of paste produced	
Benzo(a)pyrene[1]	1.03	
Antimony	14.42	6.18
Cyanide	20.60	8.24
Nickel	56.65	38.11
Aluminum	312.09	127.72
Fluoride	3,996.40	1,627.40

[1] At the source

(b) *Subpart B—Anode Bake Plant Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of anodes baked	
	English units—lbs/billion lbs of anodes baked	
Benzo (a)pyrene	0.49	
Antimony	6.92	2.96
Cyanide	9.88	3.95
Nickel	27.17	18.28
Aluminum	149.68	61.26
Fluoride	1,916.72	780.52

[1] At the source

(c) *Subpart B—Cathode Manufacturing.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of cathodes produced	
	English units—lbs/billion lbs of cathodes produced	
Antimony	10.84	4.64
Cyanide	15.48	6.19
Nickel	42.57	28.64
Aluminum	234.52	95.98
Fluoride	3,003.12	1,222.36

(d) *Subpart B—Cathode Reprocessing.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of aluminum from electrolytic reduction	
	English units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo(a)pyrene[1]	9.52	
Antimony	133.28	57.12
Cyanide	190.40	76.16
Nickel	523.60	352.24
Aluminum	2,884.56	1,180.48
Fluoride	36,937.60	15,041.60

[1] At the source.

(e) *Subpart B—Anode Contact Cooling.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kg of anode cast	
	English units—lbs/billion lbs of anode cast	
Antimony	86.95	37.27
Cyanide	124.22	49.69
Nickel	341.61	229.81
Aluminum	1,881.93	770.16
Fluoride	24,098.68	9,813.38

(f) *Subpart B—Potline Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric Units—mg/kg of aluminum from electrolytic reduction	
	English Units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo (a) pyrene[1]	6.42	
Antimony	91.32	54.28
Cyanide	127.90	57.64
Nickel	460.40	318.06
Aluminum	2,584.14	1,062.42
Fluoride	32,514.40	13,240.40

[1] At the source

(g) *Subpart B—Potroom Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kg of aluminum from electrolytic reduction	
	English units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo(a)pyrene	13.05	
Antimony	182.70	78.30
Cyanide	261.0	104.40
Nickel	717.75	496.85
Aluminum	3,954.15	1,618.20
Fluoride	50,634.0	20,619.0

[1] At the source

(h) *Subpart B—Degassing Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric Units—mg/kg of aluminum degassed	
	English Units—lbs/billion lbs of aluminum degassed	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0

(i) *Subpart B—Direct Chill Casting Contact Cooling.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric Units—mg/kg of aluminum product from direct chill casting	
	English Units—lbs/billion lbs of aluminum product from direct chill casting	
Antimony	279.86	119.94
Cyanide	399.80	159.92
Nickel	1,099.45	739.63
Aluminum	6,056.97	2,478.76
Fluoride	77,561.20	31,584.20

(j) *Subpart B—Continuous Rod Casting Contact Cooling.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric Units—mg/kg of aluminum product from continuous rod casting	
	English Units—lbs/billion lbs of aluminum product from continuous rod casting	
Antimony	14.60	6.26
Cyanide	20.86	8.34
Nickel	57.37	38.59
Aluminum	316.03	129.33
Fluoride	4,046.84	1,647.94

(k) *Subpart B—Stationary Casting Contact Cooling.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kg of aluminum product from stationary casting	
	English units—lbs/billion lbs of aluminum product from stationary casting	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0

§ 421.24 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Subpart B—Anode Paste Plant Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of paste produced	
	English units—lbs./billion lbs of paste produced	
Benzo(a)pyrene [2]	0	0
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0
Oil and Grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.
[2] At the source

(b) *Subpart B—Anode Bake Plant Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of anode baked	
	English units—lbs/billion lbs of anode baked	
Benzo(a)pyrene [1]	0	0
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0
Oil and Grease	0	0
TSS	0	0
pH	(2)	(2)

[1] At the source
[2] Within the range of 7.5 to 10.0 at all times

(c) *Subpart B—Cathode Manufacturing NSPS.*

Pollutant of pollutant property	Maximum for any one day	Maximum for monthly average
	Metric Units—mg/kkg of cathode produced	
	English Units—lbs/billion lbs of cathode produced	
Antimony	10.84	4.64
Cyanide	15.48	6.19
Nickel	42.57	28.64
Aluminum	294.52	95.98
Fluoride	3,003.12	1,222.92
Oil and Grease	774.0	774.0
TSS	1,161.0	928.80
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(d) *Subpart B—Cathode Reprocessing NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction	
	English units—lbs./billion lbs of aluminum from electrolytic reduction	
Benzo (a)pyrene [1]	9.52	

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
Antimony	133.28	57.12
Cyanide	190.40	76.16
Nickel	*523.60	352.24
Aluminum	2,884.56	1,180.48
Fluoride	36,937.60	15,041.60
Oil and Grease	9,520.0	9,520.0
TSS	14,280.0	11,424.0
pH	(2)	(2)

[1] At the source
[2] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart B—Anode Contract Cooling NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of anodes cast	
	English units—lbs/billion lbs of anodes cast	
Antimony	86.95	37.27
Cyanide	124.22	49.69
Nickel	341.61	229.81
Aluminum	1,881.93	770.16
Fluoride	24,098.68	9,813.38
Oil and Grease	6,211.0	6,211.0
TSS	9,316.50	7,453.20
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart B—Potline Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction	
	English units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo(a)pyrene [1]	0	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0
Oil and Grease	0	0
TSS	0	0
pH	(2)	(2)

[1] At the source
[2] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart B—Potroom Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction	
	English units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo(a)pyrene [1]	0	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
Oil and Grease	0	0
TSS	0	0
pH	(2)	(2)

[1] At the source.
[2] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart B—Degassing Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum degassed	
	English units—lbs/billion lbs of aluminum degassed	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluoride	0	0
Oil and Grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart B—Direct Chill Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly
	Metric units—mg/kkg of aluminum product from direct chill casting	
	English units—lbs/billion lbs of aluminum product from direct chill casting	
Antimony	279.86	119.94
Cyanide	399.80	159.92
Nickel	1,099.45	739.63
Aluminum	6,058.97	2,478.76
Fluoride	77,561.20	31,584.20
Oil and Grease	19,990.0	19,990.0
TSS	29,985.0	23,988.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Subpart B—Continuous Rod Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any one day	Maximum for monthly average
	Metric units—mg/kkg of aluminum product from continuous rod casting	
	English units—lbs/billion lbs of aluminum product from continuous rod casting	
Antimony	14.60	6.26
Cyanide	20.86	8.34
Nickel	57.37	38.59
Aluminum	316.03	129.33
Fluoride	4,046.84	1,647.94
Oil and Grease	1,043.0	1,043.0
TSS	1,564.50	1,251.60
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(k) *Subpart B—Stationary Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum product from stationary casting	
	English units—lbs/billion lbs of aluminum product from stationary casting	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Aluminum	0	0
Fluonde	0	0
Oil and Grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.25 [Reserved].

§ 421.26 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in primary aluminum process wastewater introduced into a POTW shall not exceed the following values:

(a) *Subpart B—Anode Paste Plant Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of paste produced	
	English Units—lbs/billion lbs of paste produced	
Benzo(a)pyrene[1]	0	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Fluonde	0	0

[1] At the source.

(b) *Subpart B—Anode Bake Plant Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of anode baked	
	English Units—lbs/billion lbs of anode baked	
Benzo(a)pyrene[1]	[illegible]	
Antimony	[illegible]	[illegible]
Cyanide	[illegible]	[illegible]
Nickel	0	0
Fluonde	0	[illegible]

[1] At the source.

(c) *Subpart B—Cathode Manufacturing Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of cathode produced	
	English Units—lbs/billion lbs of cathode produced	
Antimony	10.84	4.64
Cyanide	15.48	6.19
Nickel	42.57	28.64
Fluonde	3,003.12	1,222.92

(d) *Subpart B—Chathode Reprocessing PSNS.*

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum from electrolytic reduction	
	English Units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo (a)pyrene[1]	9.52	
Antimony	133.28	57.12
Cyanide	190.40	76.16
Nickel	523.60	352.24
Fluoride	36,937.60	15,041.60

[1] At the source.

(e) *Subpart B—Anode Contact Cooling PSNS.*

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of anode cast	
	English Units—lbs/billion lbs of anode cast	
Antimony	86.95	37.27
Cyanide	124.22	49.69
Nickel	341.61	229.81
Flounde	24,098.68	9,813.38

(f) *Subpart B—Potline Wet Air Pollution Control PSNS.*

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum from electrolytic reduction	
	English Units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo (a)pyrene[1]	0	
Antimony	0	0
Cyanide	0	[illegible]
Nickel	0	0
Fluonde	[illegible]	0

[1] At the source.

(g) *Subpart B—Potroom Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum from electrolytic reduction	
	English Units—lbs/billion lbs of aluminum from electrolytic reduction	
Benzo (a)pyrene[1]	0	
Antimony	0	0
Cyanide	0	0
Nickle	0	0
Fluonde	0	0

[1] At the source.

(h) *Subpart B—Degassing Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum degassed	
	English Units—lbs/billion lbs of aluminum degassed	
Antimony	0	0
Cyanide	0	0
Nickle	0	0
Fluonde	0	0

(i) *Subpart B—Direct Chill Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from direct chill casting	
	English Units—lbs/billion lbs of aluminum product from direct chill casting	
Antimony	279.86	119.94
Cyanide	399.80	159.92
Nickle	1,099.45	739.63
Fluonde	77,561.20	31,584.20

(j) *Subpart B—Continuous Rod Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from continuous rod casting	
	English Units—lbs/billion lbs of aluminum product from continuous rod casting	
Antimony	14.60	6.26
Cyanide	20.86	8.34
Nickel	57.37	[illegible]
Fluonde	4,046.84	1,647.94

(k) *Subpart B—Stationary Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from stationary casting	
	English Units—lbs/billion lbs of aluminum product from stationary casting	
Antimony	0	0
Cyanide	0	0
Nickel	0	0
Fluoride	0	0

§ 421.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in §§ 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart B—Anode Paste Plant Wet Air Pollution Control*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of paste produced	
	English Units—lbs./billion lbs of paste produced	
Oil and grease	20,560.0	12,336.0
Total Suspended Solids	42,148.0	20,560.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart B—Anode Bake Plant Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of anode baked	
	English units—lbs/billion lbs of anode baked	
Oil and grease	12,340.0	7,404.0
Total Suspended Solids	25,297.0	12,340.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(c) *Subpart B—Cathode Manufacturing.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction	
	English units—lbs/billion lbs of aluminum from electrolytic reduction	
Oil and grease	1,550.0	930.0
Total Suspended Solids	3,177.5	1,550.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart B—Cathode Reprocessing.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction	
	English units—lbs/billion lbs of aluminum from electrolytic reduction	
Oil and grease	19,040.0	11,424.0
Total Suspended Solids	39,032.0	19,040.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart B—Anode Contact Cooling.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of anode cast	
	English units—lbs./billion lbs of anode cast	
Oil and grease	29,800.0	17,880.0
Total Suspended Solids	61,090.0	29,800.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart B—Potline Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction	
	English units—lbs/billion lbs of aluminum from electrolytic reduction	
Oil and grease	16,760.0	10,056.0
Total Suspended Solids	34,358.0	16,760.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart B—Potroom Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum from electrolytic reduction	
	English units—lbs/billion lbs of aluminum from electrolytic reduction	
Oil and grease	26,100.0	15,660.0
Total Suspended Solids	53,505.0	26,100.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart B—Degassing Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum degassed	
	English Units—lbs/billion lbs of aluminum degassed	
Oil and grease	52,320.0	31,392.0
Total Suspended Solids	107,256.0	52,320.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart B—Direct Chill Casting Contact Cooling.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from direct chill casting	
	English Units—lbs/billion lbs of aluminum product from direct chill casting	
Oil and grease	39,980.0	23,988.0
Total Suspended Solids	81,959.09	39,980.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(j) *Subpart B—Continuous Rod Casting Contact Cooling.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from continuous rod casting	
	English Units—lbs/billion lbs of aluminum product from continuous rod casting	
Oil and grease	20,840.0	12,504.0
Total Suspended Solids	42,722.0	20,840.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(k) *Subpart B—Stationary Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum product from stationary casting	
	English Units—lbs/billion lbs of aluminum product from stationary casting	
Oil and grease	0	0
Total Suspended Solids	0	0
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all times.

Subpart C—Secondary Aluminum Smelting Subcategory

§ 421.30 Applicability: Description of the secondary aluminum smelting subcategory.

The provisions of this subpart are applicable to discharges resulting from the recovery, processing, and remelting of aluminum scrap to produce metallic aluminum alloys.

§ 421.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean hot aluminum metal.

§ 421.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart and which uses water for metal cooling, after application of the best practicable control technology currently available: There shall be no discharge of process wastewater pollutants to navigable waters.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart and which uses aluminum fluoride in its magnesium removal process ("demagging process"), after application of the best practicable control technology currently available: There shall be no discharge of process wastewater pollutants to navigable waters.

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this section, which may be discharged by a point source subject to the provisions of this subpart and which uses chlorine in its magnesium removal process, after application of the best practicable control technology currently available:

EFFLUENT LIMITATIONS

Effluent characteristic	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg magnesium removed)
	English units pounds per 1,000 lb magnesium removed
TSS	175
COD	6.5
pH	[1]

[1] Within the range of 7.5 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart and which processes residues by wet methods, after application of the best practical control technology currently available:

EFFLUENT LIMITATIONS

Effluent characteristic	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)
	English units (pounds per 1,000 lb of product)
TSS	1.5
Fluoride	0.4
Ammonia (as N)	0.01
Aluminum	1.0
Copper	0.003
COD	1.0
pH	[1]

[1] Within the range of 7.5 to 9.0.

§ 421.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart C—Scrap Drying Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap dried	
	English units—pounds per billion pounds of aluminum scrap dried	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0

(b) *Subpart C—Scrap Screening and Milling.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap screened and milled	
	English units—pounds per billion pounds of aluminum scrap screened and milled	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0

(c) *Subpart C—Dross Washing.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of dross washed	
	English units—pounds per billion pounds of dross washed	
Lead	1,086.80	978.12
Zinc	11,085.36	4,564.56
Aluminum	32,930.04	13,476.32
Ammonia (as N)	1,445,444.0	636,864.80

(d) *Subpart C—Demagging Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum demagged	
	English units—pounds/billion pounds of aluminum demagged	
Lead	80.0	72.0
Zinc	816.0	336.0
Aluminum	2,424.0	992.0
Ammonia (as N)	106,400.0	46,880.0

(e) *Subpart C—Direct Chill Casting Contact Cooling.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum product from direct chill casting	
	English units—pounds/billion pounds of aluminum product from direct chill casting	
Lead	86.20	77.58
Zinc	879.24	362.04
Aluminum	2,611.86	1,068.88
Ammonia (as N)	114,646.0	50,513.20

(f) *Subpart C—Stationary Casting Contact Cooling.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from stationary casting	
	English units—pounds/billion pounds of aluminum produced from stationary casting	
Lead	[illegible]	0
Zinc	0	0
Aluminum	0	[illegible]
Ammonia (as N)	[illegible]	[illegible]

(g) *Subpart C—Shot Casting Contact Cooling.*

BAT Effluent Limitations

Pollutant or pollutant property	[illegible] for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum produced from shot casting	
	English Units—lbs/billion lbs of aluminum produced from shot casting	
Lead [1]	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0

§ 421.34 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Subpart C—Scrap Drying Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum scrap dried	
	English Units—lbs/billion lbs of aluminum scrap dried	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0
Oil and grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range 7.5 to 10.0 at all times.

(b) *Subpart C—Scrap Screening and Milling NSPS.*

Pollutant or pollutant property	[illegible] for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap screened and milled	
	English units—pounds per billion pounds of aluminum scrap screened and milled	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0
Oil and grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart C—Dross Washing NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly [illegible]
	Metric units—mg/kkg of dross washed	
	English units—pounds per billion pounds of dross washed	
Lead	1,086.80	978.12
Zinc	11,085.36	4,564.56
Aluminum	32,930.04	13,476.32
Ammonia (as N)	1,445,444.0	636,864.80
Oil and grease	108,680.0	108,680.0
TSS	163,020.0	130,416.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart C—Demagging Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 [illegible]	Maximum for monthly average
	Metric units—mg/kkg of aluminum demagged	
	English units—pounds per billion pounds of aluminum demagged	
Lead	80.0	72.0
Zinc	816.0	336.0
Aluminum	2,424.0	992.0
Ammonia (as N)	106,400.0	46,880.0
Oil and grease	8,000.00	8,000.00
TSS	12,000.0	9,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart C—Direct Chill Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any One day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from direct chill casting	
	English units—pounds per billion pounds of aluminum produced from direct chill casting	
Lead	86.20	77.58
Zinc	879.24	362.04
Aluminum	2,611.86	1,068.88

Pollutant or pollutant property	Maximum for any One day	Maximum for monthly average
Ammonia (as N)	114,646.0	50,513.20
Oil and grease	8,620.0	8,620.0
TSS	12,930.0	10,344.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(f) Subpart C—Stationary Casting Contract Colling NSPS.

Pollutant or pollutant property	Maximum for any One day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from stationary casting	
	English units—pounds per billion pounds of aluminum produced from stationary casting	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0
Oil and grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(g) Subpart C—Short Casting Contact Cooling NSPS.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of Aluminum produced from shot casting	
	English units—pounds per billion pounds of aluminum produced from shot casting	
Lead	0	0
Zinc	0	0
Aluminum	0	0
Ammonia (as N)	0	0
Oil and grease	0	0
TSS	0	0
pH	(1)	

[1] Within the range of 7.5 to 10.0 at all times

§421.35 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in secondary aluminum process wastewater introduced into a POTW shall not exceed the following values:

(a) Subpart C—Scrap Drying Wet Air Pollutaion Control PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap dried	
	English Units—pounds per billion pounds of aluminum scrap dried	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(b) Subpart C—Scrap Screening and Milling PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum scrap screened and milled	
	English Units—pounds per billion pounds of aluminum scrap screened and milled	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(c) Subpart C—Dross Washing PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of dross washed	
	English units—pounds per billion pounds of dross washed	
Lead	1,086.80	978.12
Zinc	11,085.36	4,564.56
Ammonia (as N)	1,445,444.0	636,864.80

(d) Subpart C—Demagging Wet Air Pollution Control PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum demagged	
	English units—pounds per billion pounds of aluminum demagged	
Lead	80.0	72.0
Zinc	816.0	336.0
Ammonia (as N)	106,400.0	46,880.0

(e) Subpart C—Direct Chill Casting Contact Cooling PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum produced from direct chill casting	
	English units—pounds per billion pounds of aluminum produced from direct chill casting	
Lead	86.20	77.58
Zinc	879.24	362.04
Ammonia (as N)	114,646.0	50,513.20

(f) Subpart C—Stationary Casting Contact Cooling PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of aluminum produced from stationary casting	
	English units—pounds per billion pounds of aluminum produced from stationary casting	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(g) Subpart C—Shot Casting Cooling PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from shot casting	
	English Units—pounds per billion pounds of aluminum produced from shot casting	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

Alternatively, a POTW electing to use concentration-based standards may apply the concentrations (shown below) to all process wastewater streams for which allowances were given under the mass-based standards proposed above.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/l	
	English units—ppm	
Lead	0.10	0.09
Zinc	1.02	0.42
Ammonia (as N)	133	58.6

§421.36 Pretreatment standards for new sources

Except as provided in 40 CFR 403.7, any new source subject to this subpart

which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants introduced in secondary aluminum process wastewater into a POTW shall not exceed the following values:

(a) *Subpart C—Scrap Drying Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap dried	
	English units—pounds per billion pounds of aluminum scrap dried	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(b) *Subpart C—Scrap Screening and Milling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap screened and milled	
	English units—pounds per billion pounds of aluminum scrap screened and milled	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(c) *Subpart C—Dross Washing PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of dross washed	
	English units—pounds per billion pounds of dross washed	
Lead	1,086.80	978.12
Zinc	11,085.36	4,564.56
Ammonia (as N)	1,445,444.0	636,864.80

(d) *Subpart C—Demagging Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum demagged	
	English units—pounds per billion pounds of aluminum demagged	
Lead	80.0	72.0
Zinc	816.0	336.0
Ammonia (as N)	106,400.0	46,880.0

(e) *Subpart C—Direct Chill Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from direct chill casting	
	English units—pounds per billion pounds of aluminum produced from direct chill casting	
Lead	86.20	77.58
Zinc	879.24	362.04
Ammonia (as N)	114,646.0	50,513.20

(f) *Subpart C—Stationary Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from stationary casting	
	English units—pounds per billion pounds of aluminum produced from stationary casting	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(g) *Subpart C—Shot Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from shot casting	
	English units—pounds per billion pounds of aluminum produced from shot casting	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

§ 421.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

Except as provided in § 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart C—Scrap Drying Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap dried	
	English units—pounds per billion pounds of aluminum scrap dried	
Oil and grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 all times.

(b) *Subpart C—Scrap Screening and Milling.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum scrap screened and milled	
	English units—pounds per billion pounds of aluminum scrap screened and milled	
Oil and grease	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 all times.

(c) *Subpart C—Dross Washing.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of dross washed	
	English units—pounds per billion pounds of dross washed	
Oil and grease	217,360.0	130,416.0
TSS	445,588.0	217,360.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 all times.

(d) *Subpart C—Demagging Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum demagged	
	English units—pounds per billion pounds of aluminum demagged	
Oil and grease	16,000.0	9,600.0
TSS	32,800.0	16,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 all times.

(e) *Subpart C—Direct chill casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from direct chill casting	
	English units—pounds per billion pounds of aluminum produced from direct chill casting	
Oil and grease	17,240.0	10,344.0
TSS	35,342.0	17,240.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 all times.

(f) *Subpart C—Stationary Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from stationary casting cast-	
	English units—pounds per billion pounds of aluminum produced from stationary casting	
Oil and grease	0	
TSS	0	
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 all times.

(g) *Subpart C—Shot Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of aluminum produced from shot casting	
	English units—pounds per billion pounds of aluminum produced from shot casting	
Oil and grease	0	
TSS	0	0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 all times

Subpart D—Primary Copper Smelting Subcategory

§ 421.40 Applicability: Description of the primary copper smelting subcategory.

The provisions of this subpart apply to process wastewater discharges resulting from the primary smelting of copper from ore or ore concentrates. Primary copper smelting includes, but is not limited to, roasting, converting, leaching if preceded by a pyrometallurgical step, slag granulation and dumping, fire refining, and the casting of products from these operations.

§ 421.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 apply to this subpart.

(b) In the event that the waste streams covered by this subpart are combined for treatment or discharge with waste streams covered by Subpart E—Primary Electrolytic Copper Refining and/or Subpart I—Metallurgical Acid Plants, the quantity of each pollutant or pollutant property discharged shall not exceed the quantity of each pollutant or pollutant property which could be discharged if each waste stream were discharged separately.

(c) For all impoundments constructed prior to the effective date of the interim final regulation (40 FR 8513), the term "within the impoundment," when used to calculate the volume of process wastewater which may be discharged, means the water surface area within the impoundment at maximum capacity plus the surface area of the inside and outside slopes of the impoundment dam as well as the surface area between the outside edge of the impoundment dam and any seepage ditch adjacent to the dam upon which rain falls and is returned to the impoundment. For the purpose of such calculations, the surface area allowances set forth above shall not exceed more than 30 percent of the water surface area within the impoundment dam at maximum capacity.

(d) For all impoundments constructed on or after the effective date of the interim final regulation (40 FR 8513), the term "within the impoundment," for purposes of calculating the volume of process wastewater which may be discharged, means the water surface area within the impoundment at maximum capacity.

§ 421.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) Except as provided in 40 CFR 125.30 through 125.32 and paragraph (b) of this section, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located may discharge that volume of process wasterwater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 10-year, 24-hour rainfall event, when such event occurs.

§421.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) Subject to the provisions of paragraph (b) of this section, there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls widthin the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§421.44 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source source performance standards: There shall be no discharge of process wastewater pollutants into navigable waters.

§ 421.45 [Reserved]

§ 421.46 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment

standards for new sources. The mass of wastewater pollutants introduced in primary copper smelting process wastewater into a POTW shall not exceed the following values: There shall be no discharge of process wastewater pollutants into a publicly owned treatment works.

§ 421.47 [Reserved]

Subpart E—Primary Electrolytic Copper Refining Subcategory

§ 421.50 Applicability: Description of the primary electrolytic copper refining subcategory.

The provisions of this subpart apply to process wastewater discharges resulting from the electrolytic refining of primary copper, including, but not limited to, anode casting performed at refineries which are not located on-site with a smelter, product casting, and by-product recovery.

§ 421.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 apply to this subpart.

(b) The term "product" means electrolytically refined copper.

§ 421.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed-
	(Metric units, kg/kkg of product; English units, lbs/1,000 lb of product)	
Total suspended solids	0.100	0.050
Copper	0.0017	0.0008
Cadmium	0.00006	0.00003
Lead	0.0006	0.0026
Zinc	0.0012	0.0003
pH	[1]	

[1] Within the range of 6.0 to 9.0

§ 421.53 Effluent limitations guidelines representing the degree or effluent reduction attainable by the application of the best available technology economically achievable.

Alternative A:

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart E—Anode and Cathode Rinsing.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode coper produced	
	English units—pounds per/billion pounds of cathode copper produced	
Cooper	0	0
Lead	0	0
Nickel	0	0

(b) *Subpart E—Spent Electrolyte.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per/billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0
Nickel	0	0

(c) *Subpart E—Casting Contact Cooling.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of copper cast	
	English Units—pounds per/billion pounds of copper cast	
Copper	0	0
Lead	0	0
Nickel	0	0

(d) *Subpart E—Casting Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of product recovered from electrolytic slimes processing	
	English units—pounds per/billion pounds of product recovered from electrolytic slimes processing	
Copper	0	0
Lead	0	0
Nickel	0	0

Alternative B

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart E—Anode and Cathode Rinsing.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of cathode copper produced	
	English Units—pounds/billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0
Nickel	0	0

(b) *Subpart E—Spent Electrolyte.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of cathode copper produced	
	English Units—pounds/billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0

BAT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Nickel	0	0

(c) *Subpart E—Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of copper cast	
	English Units—pounds/billion pounds of copper cast	
Copper	637.44	303.78
Lead	49.80	44.82
Nickel	273.90	184.26

(d) *Subpart E—Casting Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of copper cast	
	English Units—pounds/billion pounds of copper cast	
Copper	0	0
Lead	0	0
Nickel	0	0

(e) *Subpart E—By-Product Recovery.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of product recovered from electrolytic slimes processing	
	English units—pounds per billion pounds of product recovered from electrolytic slimes processing	
Copper	0	0
Lead	0	0
Nickel	0	0

§ 412.54 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Subpart E—Anode and Cathode Rinsing NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0
Nickel	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart E—Spent Electrolyte NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0
Nickel	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart E—Casting Contact Coolling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of copper cast	
	English units—pounds per billion pounds of copper cast	
Copper	637.44	303.78
Lead	49.80	44.82
Nickel	273.90	184.26
TSS	7,470.0	5,976.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart E—Casting Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of copper cast	
	English units—pounds per billion pounds of copper cast	
Copper	0	0
Lead	0	0
Nickel	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart E—By-Product Recovery NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of product recovered from electrolytic slimes processing	
	English units—pounds per billion pounds of product recovered from electrolytic slimes processing	
Copper	0	0
Lead	0	0
Nickel	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.55 [Reserved].

§ 421.56 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards of new sources. The mass of wastewater pollutants in primary electrolytic copper refining process wastewater introduced into a POTW shall not exceed the following values:

(a) *Subpart E—Anode and Cathode Rinsing PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0
Nickel	0	0

(b) *Subpart E—Spent Electrolyte PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per billion pounds of cathode copper produced	
Copper	0	0
Lead	0	0
Nickel	0	0

(c) *Subpart E—Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of copper cast	
	English units—pounds per billion pounds of copper cast	
Copper	637.44	303.78
Lead	49.80	44.82
Nickel	273.90	184.26

(d) *Subpart E—Casting Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of copper cast	
	English units—pounds per billion pounds of copper cast	
Copper	0	0
Lead	0	0
Nickel	0	0

(e) *Subpart E—By-Product recovery PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of product recovered from electrolytic slimes processing	
	English units—pounds per billion pounds of product recovered from electrolytic slimes processing	
Copper	0	0
Lead	0	0
Nickel	0	0

§ 421.57 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart E—Anode and Cathode Rinsing.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per billion pounds of cathode copper produced	
TSS	4,920.0	2,400.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart E—Spent Electrolyte.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode copper produced	
	English units—pounds per billion pounds of cathode copper produced	
TSS	11,480.0	5,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(c) *Subpart E—Casting Contact Cooling.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of copper cast	
	English units—pounds per billion pounds of copper cast	
TSS	41,000.0	20,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(d) *Subpart E—Casting Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of copper cast	
	English units—pounds per billion pounds of copper cast	
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(e) *Subpart E—By-Product Recovery.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of product recovered from electrolytic slimes processing	
	English units—pounds per billion pounds of product recovered from electrolytic slimes processing	
TSS	[illegible]	[illegible]
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

Subpart F—Secondary Copper Subcategory

§ 421.60 Applicability: Description of the secondary copper subcategory.

The provisions of this subpart are applicable to discharges resulting from the recovery, processing, and remelting of new and used copper scrap and residues to produce copper metal and copper alloys.

§ 421.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general difinitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) For all impoundments constructed prior to the effective date of this regulation the term "within the impoundment" when used for purposes of calculating the volume of process wastewater which may be discharged shall mean the water surface area within the impoundment at maximum capacity plus the surface area of the inside and outside slopes of the impoundment dam as well as the surface area between the outside edge of the impoundment dam and any seepage ditch immediately adjacent to the dam upon which rain falls and is returned to the impoundment. For the purpose of such calculations, the surface area allowances set forth above shall not be more than 30 percent of the water surface area within the impoundment dam at maximum capacity.

(c) For all impoundments constructed on or after the effective date of this regulation, the term "within the impoundment" for purposes of calculating the volume of process wastewater which may be discharged shall mean the water surface area within the impoundment at maximum capacity.

(d) The term "pond water surface area" when used for the purpose of calculating the volume of wastewater which may be discharged shall mean the water surface area of the pond created

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by the impoundment for storage of process wastewater at normal operating level. This surface shall in no case be less than one-third of the surface area of the maximum amount of water which could be contained by the impoundment. The normal operating level shall be the average level of the pond during the preceding calendar month.

§ 421.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations established the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of paragraphs (b), (c), and (d) of this section, there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the areas in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 10-year, 24-hour rainfall event, when such event occurs.

(c) During any calendar month there may be discharged from a process wastewater impoundment either a volume of process wastewater equal to the difference between the precipitation for the month that falls within the impoundment and either the evaporation from the pond water surface area for that month, or a volume of process wastewater equal to the difference between the mean precipitation for that month that falls within the impoundment and the mean evaporation from the pond water surface area as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located (or as otherwise determined if no monthly data have been established by the National Climatic Center), whichever is greater.

(d) Any process wastewater discharged pursuant to paragraph (c) of this section shall comply with each of the following requirements:

EFFLUENT LIMITATIONS

Effluent characteristic	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Mertic units mg/1) Engligh units (ppm)	
TSS	50	25
Cu	0 5	0 25
Zn	10	5
Oil and Grease	20	10
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 461.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representating the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) Subject to the provisions of paragraph (b) of this section, there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 421.64 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards: There shall be no discharge of process wastewater pollutants into navigable waters.

§ 421.65 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in secondary copper process wastewater introduced into a POTW shall not exceed the following values:

(a) There shall be no discharge of process wastewater pollutants into a publicly owned treatment works subject to the provisions of paragraph (b) of this section.

(b) A process wastewater impoundment which is designed, constructed and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is

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located may discharge that volume of process wastewater equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 421.66 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in secondary copper process wastewater introduced into a POTW shall not exceed the following values: There shall be no discharge of process wastewater pollutants into a publicly owned treatment works.

§ 421.67 [Reserved]

Subpart G—Primary Lead Subcategory

§ 421.70 Applicability: Description of the primary lead subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of lead at primary lead smelters and refineries.

§421.71 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations and methods of analysis set forth in 40 CFR part 401 shall apply to this subpart

§ 421.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

(a) *Subpart G—Blast Furnace Slag Granulation.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of blast furnace lead bullion produced	
	English Units—pounds per billion pounds of blast furnace lead bullion produced	
Lead	559.5	484.9
Zinc	4,960.9	2,088.8
TSS	152,930.0	74,600.0

BPT Effluent Limitations—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart G—Blast Furnace Wet Air Pollution Control.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of blast furnace	
	English units—pounds per billion pounds of blast furnace lead bullion produced	
Lead	0	0
Zinc	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart G—Zinc Fuming Furnace Wet Air Pollution Control.*

BPT Effulent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of blast furnace lead bullion produced	
	English units—pounds per billion pounds of blast furnace lead bullion produced	
Lead	63.9	[illegible]
Zinc	566.58	238.56
TSS	17,466.0	8,520.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart G—Dross Reverberatory Furnace Wet Air Pollution Control.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly [illegible]
	Metric units—mg/kkg of dross reverberatory furnace production	
	English units—pounds per billion pounds of dross reverberatory furnace production	
Lead	0	0
Zinc	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart G—Dross Reverberatory Furnace Granulation.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of slag, matte, and speis granulated	
	English units—pounds per billion pounds of slag, matte, and speis granulated	
Lead	470.10	407.42
Zinc	4,168.22	1,755.04
TSS	128,494.0	62,680.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart G—Hard Lead Refining Wet Air Pollution Control.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly [illegible]
	Metric Units—mg/kkg of hard lead produced	
	English units—pounds per billion pounds of hard lead produced	
Lead	2,975.40	2,578.68
Zinc	26,381.88	11,108.16
TSS	813,276.0	396,720.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart G—Hard Lead Refining Slag Granulation.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 [illegible]	Maximum for monthly [illegible]
	Metric Units—mg/kkg of hard lead produced	
	English units—pounds per billion pounds of hard lead produced	
Lead	0	0
Zinc	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart G—Blast Furnace Slag Granulation.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of blast furnace lead bullion produced	
	English units—pounds per billion pounds of blast furnace lead bullion produced	
Lead	373.0	335.7
Zinc	3,804.6	1,566.6

(b) *Subpart G—Blast Furnace Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of blast furnace lead bullion produced	
	English units—pounds per billion pounds of blast furnace lead bullion produced	
Lead	0	0
Zinc	0	0

(c) *Subpart G—Zinc Fuming Furnace Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of blast furnace lead bullion produced	
	English units—pounds per billion pounds of blast furnace lead bullion produced	
Lead	0	0
Zinc	0	0

(d) *Subpart G—Dross Reverberatory Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of dross reverberatory furnace production	
	English Units—pounds per billion pounds of dross reverberatory furnace production	
Lead	0	0
Zinc	0	0

(e) *Subpart G—Dross Reverbertory Furnace Granulation.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of slag, matte, and speis granulated	
	English Units—pounds per billion pounds of slag, matte, and speis granulated	
Lead	0	0
Zinc	0	0

(f) *Subpart G—Hard Lead Refining Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of hard lead produced	
	English Units—pounds per billion pounds of hard lead produced	
Lead	0	0
Zinc	0	0

(g) *Subpart G—Hard Lead Refining Slag Granulation.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of hard lead produced	
	English Units—pounds per billion pounds of hard lead produced	
Lead	0	0
Zinc	0	0

§ 421.74 Standards of performance for new sources.

Any new source subject to this subpart must achieve the following performance standards: There shall be no discharge of process pollutants to navigable waters.

§ 421.75 [Reserved]

§ 421.76 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources: There shall be no discharge of process pollutants into a publicly owned treatment works.

§ 421.77 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart G—Blast Furnace Slag Granulation.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of blast furnace lead bullion produced	
	English Units—Pounts per billion pounds of blast furnace lead bullion produced	
TSS	152,930.0	74,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart G—Blast Furnace Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of blast furnace	
	English Units—pounds per billion pounds of blast furnace lead bullion produced	
TSS		
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(c) *Subpart G—Zinc Fuming Furnace Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of blast furnace lead bullion produced	
	English Units—pounds per billion pounds of blast furnace lead bullion produced	
TSS	17,466.0	8,520.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart G—Dross Reverberatory Furnace Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of dross reverberatory furnace production	
	English Units—pounds per billion pounds of dross reverberatory furnace production	
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart G—Dross Reverberatory Furnace Granulation.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of slag, matte, and speis granulated	
	English units—pounds per billion pounds of slag, matte, and speis granulated	
TSS	128,494.0	62,680.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart G—Hard Lead Refining Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of hard lead produced	
	English units—pounds per billion pounds of hard lead produced	
TSS	813,276.0	396,720.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(g) *Subpart G—Hard Lead Refining Slag Granulation.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of hard lead produced	
	English units—pounds per billion pounds of hard lead produced	
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

Subpart H—Primary Zinc Subcategory

§ 421.80 Applicability: Description of the primary zinc subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of primary zinc by either electrolytic or pyrolytic means.

§ 421.81 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "product" shall mean zinc metal.

§ 421.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available, and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

EFFLUENT LIMITATIONS

Effluent characteristic	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kg/kkg of product)	
	English units pounds per 1,000 lb of product)	
TSS	0.42	0.21
As	1.6×10^{-3}	8×10^{-4}
Cd	0.008	0.004
Se	0.08	0.04
Zn	0.08	0.04
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0

§ 421.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart H—Zinc Reduction Furnace Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of [illegible]	
	English units—pounds per billion pounds of zinc [illegible]	
Cadmium	333.66	133.46
Copper	2,135.42	1,017.66
Lead	166.83	150.15
Zinc	1,701.67	700.69

(b) *Subpart H—Leaching.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
Cadmium	262.0	104.80
Copper	1,676.80	799.10
Lead	131.0	117.90
Zinc	1,336.20	550.20

(c) *Subpart H—Leaching Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
Cadmium	0	0
Copper	0	0
Lead	0	0
Zinc	0	0

(d) *Subpart H—Cathode and Anode Washing.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode zinc produced	
	English units—pounds per billion pounds of cathode zinc produced	
Cadmium	3,970.0	1,588.0
Copper	25,408.0	12,108.50
Lead	1,985.0	1,786.50
Zinc	20,247.0	8,337.0

(e) *Subpart H—Casting Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per billion pounds of zinc cast	
Cadmium	51.40	20.56
Copper	328.96	156.77
Lead	25.70	23.13
Zinc	262.14	107.94

(f) *Subpart H—Casting Contact Cooling.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per billion pounds of zinc cast	
Cadmium	36.20	14.48
Copper	231.68	110.41
Lead	18.10	16.29
Zinc	184.62	76.02

(g) *Subpart H—Cadmium Plant.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cadmium produced	
	English units—pounds per billion pounds of cadmium produced	
Cadmium	1,234.20	493.68
Copper	7,898.88	3,764.31
Lead	617.10	555.39
Zinc	6,294.42	2,591.82

§ 421.84 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Subpart H—Zinc Reduction Furnace Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of zinc reduces	
	English units—pounds per billion pounds of zinc reduced	
Cadmium	333.68	133.46
Copper	2,135.42	1,017.66
Lead	166.83	150.15
Zinc	1,701.67	700.69
TSS	25,024.50	20,019.60
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(b) *Subpart H—Leaching NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
Cadmium	262.0	104.80
Copper	1,676.80	799.10
Lead	131.0	117.90
Zinc	1,336.20	550.20
TSS	19,650.01,	15,720.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart H—Leaching Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
Cadmium	0	0
Copper	0	0
Lead	0	0
Zinc	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(d) *Subpart H—Cathode and Anode Washing NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode zinc produced	
	English units—pounds per billion pounds of cathode zinc produced	
Cadmium	3,970.0	1,588.0
Copper	25,408.0	12,108.50
Lead	1,985.0	1,786.50
Zinc	20,247.0	8,337.0
TSS	297,750.0	238,200.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart H—Casting Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per/ billion pounds of zinc cast	
Cadmium	51.40	20.56
Copper	328.96	156.77
Lead	25.70	23.13
Zinc	262.14	107.94
TSS	3,855.0	3,084.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(f) *Subpart H—Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per billion pounds of zinc cast	
Cadmium	36.20	14.38
Copper	231.68	110.41
Lead	18.10	16.29
Zinc	184.62	76.02
TSS	2,715.0	2,172.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart H—Cadmium Plant NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cadmium produced	
	English units—pounds per billion pounds of cadmium produced	
Cadmium	1,234.20	493.68
Copper	7,898.88	3,764.31
Lead	617.10	555.39
Zinc	6,294.42	2,591.82
TSS	92,565.0	74,052.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

§ 421.85 [Reserved]

§ 421.86 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in primary zinc process wastewaters introduced into a POTW shall not exceed the following values:

(a) *Subpart H—Zinc Reduction Furnace Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc reduced	
	English units—pounds per billion pounds of zinc reduced	
Cadmium	333.66	133.46
Copper	2,135.42	1,017.66
Lead	166.83	150.15
Zinc	1,701.67	700.69

(b) *Subpart H—Leaching PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
Cadmium	262.0	104.80
Copper	1,676.80	799.10
Lead	131.0	117.90
Zinc	1,336.20	550.20

(c) *Subpart H—Leaching Wet Air Pollution Control PSNS*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
Cadmium	0	0
Copper	0	0
Lead	0	0
Zinc	0	0

(d) *Subpart H—Cathode and Anode Washing PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode zinc produced	
	English units—pounds per billion pounds of cathode zinc produced	
Cadmium	3,970.0	1,588.0
Copper	25,408.0	12,108.50
Lead	1,985.0	1,786.50
Zinc	20,247.0	8,337.0

(e) *Subpart H—Casting Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per billion pounds of zinc cast	
Cadmium	51.40	20.56
Copper	328.96	156.77
Lead	25.70	23.13
Zinc	262.14	107.94

(f) *Subpart H—Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per billion pounds of zinc cast	
Cadmium	36.20	14.48
Copper	231.68	110.41
Lead	18.10	16.29
Zinc	184.62	76.02

(g) *Subpart H—Cadmium Plant PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cadmium produced	
	English units—pounds per billion pounds of cadmium produced	
Cadmium	1,234.20	493.68
Copper	7,898.88	3,764.31
Lead	617.10	555.39
Zinc	6,294.42	2,591.82

§ 421.87 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in §§ 125.30 through 125.32 any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart H—Zinc Reduction Furnace Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc reduced	
	English units—pounds per billion pounds of zinc reduced	
TSS	68,400.30	33,366.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(b) *Subpart H—Leaching.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
TSS	53,710.0	26,200.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart H—Leaching Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc processed through leaching	
	English units—pounds per billion pounds of zinc processed through leaching	
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(d) *Subpart H—Cathode and Anode Washing.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cathode zinc produced	
	English units—pounds per billion pounds of cathode zinc produced	
TSS	813,850.0	397,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(e) *Subpart H—Casting Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per billion pounds of zinc cast	
TSS	105,370.0	51,400.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart H—Casting Contact Cooling.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of zinc cast	
	English units—pounds per billion pounds of zinc cast	
TSS	79,827.0	38,940.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart H—Cadmium Plant.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cadmium produced	
	English units—pounds per billion pounds of cadmium produced	
TSS	253,011.0	123,420.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

Subpart I—Metallurgical Acid Plants Subcategory

§ 421.90 Applicability; Description of the metallurgical acid plants subcategory.

The provisions of this subpart apply to process wastewater discharges resulting from or associated with the manufacture of byproduct sulfuric acid at primary copper smelters, primary zinc facilities and primary lead facilities, including any associated air pollution control or gas-conditioning systems for sulfur dioxide off-gases from pyrometallurgical operations.

§ 421.91 Specialized definitions.

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 apply to this subpart.

(b) The term "product" means 100 percent equivalent sulfuric acid, H_2SO_4 capacity.

§ 421.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed
	Metric units, kg/kkg of product	
	English units, pounds per 1,000 pounds of product	
Total Suspended Solids	0.304	0.152
Copper	0.005	0.002
Cadmium	0.00018	0.00009
Lead	0.0018	0.00079
Zinc	0.0036	0.0009
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 421.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart I—Acid Plant Blowdown.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of 100 pct sulfuric acid capacity	
	English units—pounds per billion pounds of 100 pct. sulfuric acid capacity	
Arsenic	3,550.06	1,455.78
Cadmium	510.80	204.32
Copper	3,269.12	1,557.94
Lead	255.40	229.86
Zinc	2,605.08	1,072.68

§ 421.94 Standards of performance for new sources.

Any new source subject to this supbart shall achieve the following new source performance standards:

(a) *Subpart I—Acid Plant Blowdown NSPS.*

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of 100 pct sulfuric acid capacity	
	English units—pounds per billion pounds of 100 pct sulfuric acid capacity	
Arsenic	3,550.06	1,455.78
Cadmium	510.80	204.32
Copper	3,269.12	1,557.94
Lead	255.40	229.96

Pollutant of pollutant property	Maximum for any 1 day	Maximum for monthly average
Zinc	2,605.08	1,072.68
TSS	38,310.0	30,648.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

§421.95 [Reserved]

§ 421.96 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutions into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in metallurgical acid plant blowdown introduced into a POTW shall not exceed the following values:

(a) *Subpart I—Acid Plant Blowdown PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of 100 pt sulfunc acid capacity	
	English units—pounds per billion pounds of 100 pt sulfunc acid capacity	
Arsenic	3,550.06	1,455.78
Cadmium	510.80	204.32
Copper	3,269.12	1,557.94
Lead	255.40	229.86
Zinc	2,605.08	1,072.68

§ 421.97 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in § 125.30 through 125.32 any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of product	
	English units—pounds per billion pounds of product	
TTS	249,239.0	121,580.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

Subpart J—Primary Tungsten Subcategory

§ 421.100 Applicability; Description of the primary tungsten subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of tungsten at primary tungsten facilities.

§ 421.101 Specialized definitions.

For the purposes of this subpart the general information abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 421.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Subpart J—Tungsten Acid Rinse.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric unit—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	7,140.0	6,188.0
Selenium	58,548.0	26,180.0
Zinc	63,308.0	26,656.0
Ammonia (as N)	6,330,800.0	789,360.0
TSS	1,951,600.0	952,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart J—Acid Leach Wet Air Pollution Control.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric unit—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	5,655.0	4,901.0
Selenium	46,371.0	2,735.0
Zinc	50,141.0	21,112.0
Ammonia (as N)	5,014,100.0	2,209,220.0
TSS	1,545,700.0	754,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart J—Alkali Leach Wash.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of sodium tungstate produced	
	English Units—pounds per billion pounds of sodium tungstate produced	
Lead	7,005.0	6,071.0
Selenium	57,441.0	25,685.0
Zinc	62,111.0	26,152.0
Ammonia (as N)	6,211,100.0	2,736,620.0
TSS	1,914,700.0	934,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart J—Ion-Exchange Raffinate.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of ammonium tungstate produced	
	English Units—pounds per billion pounds of ammonium tungstate produced	
Lead	7,680.0	6,656.0
Selenium	62,976.0	28,160.0
Zinc	68,096.0	28,672.0
Ammonia (as N)	6,809,600.0	3,000,320.0
TSS	2,099,200.0	1,024,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart J—Calcium Tungstate Precipitate Wash.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of calcium tungstate produced	
	English Units—pounds per billion pounds of calcium tungstate produced	
Lead	5,580.0	4,836.0
Selenium	45,756.0	20,460.0
Zinc	49,476.0	20,832.0
Ammonia (as N)	4,947,600.0	2,179,920.0
TSS	1,525,200.0	744,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(f) *Subpart J—Crystallization and Drying of Ammonium Paratungstate.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of ammonium paratungstate produced	
	English Units—pounds per/billion pounds of ammonium paratungstate produced	
Lead	0	

BPT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Selenium	0	0
Zinc	0	0
Ammonia (as N)	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(g) *Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of "blue" oxide (WO_3) produced	
	English Units—pounds per billion pounds of "blue" oxide (WO_3) produced	
Lead	3,135.0	2,717.0
Selenium	25,707.0	11,495.0
Zinc	27,797.0	11,704.0
Ammonia (as N)	2,779,700.0	1,224,740.0
TSS	856,900.0	418,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(h) *Subpart J—Reduction to Tungsten Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of tungsten produced	
	English Units—pounds per billion pounds of tungsten produced	
Lead	10,980.0	9,516.0
Selenium	90,036.0	40,260.09
Zinc	97,356.0	40,992.0
Ammonia (as N)	9,735,600.0	4,289,520.0
TSS	3,001,200.0	1,464,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(i) *Subpart J—Reduction to Tungsten Water of Formation.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of tungsten reduced	
	English Units—pounds per billion pounds of tungsten reduced	
Lead	2,910.0	2,522.0
Selenium	23,862.0	10,670.0
Zinc	25,802.0	10,864.0
Ammonia (as N)	2,580,200.0	1,136,840.0
TSS	795,400.0	388,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

§ 421.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart J—Tungsten Acid Rinse.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of tungstic acid produced	
	English Units—pounds per billion pounds of tungstic acid produced	
Lead	4,760.0	4,284.0
Selenium	1,428.0	476.0
Zinc	48,552.0	19,992.0
Ammonia (as N)	6,330,800.0	2,789,360.0

(b) *Subpart J—Acid Leach Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of tungstic acid produced	
	English Units—pounds per billion pounds of tungstic acid produced	
Lead	337.0	339.30
Selenium	113.10	37.70
Zinc	3,845.40	1,583.40
Ammonia (as N)	501,410.0	220,922.0

(c) *Subpart J—Alkali Leach Wash.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of sodium tungstate produced	
	English Units—pounds per billion pounds of sodium tungstate produced	
Lead	4,670.0	4,203.0
Selenium	1,401.0	467.0
Zinc	47,634.0	19,614.0
Ammonia (as N)	6,211,100.0	2,736,620.0

(d) *Subpart J—Ion-Exchange Raffinate.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of ammonium tungstate produced	
	English Units—pounds per billion pounds of ammonium tungstate produced	
Lead	5,120.0	4,608.0
Selenium	1,536.0	512.0
Zinc	52,224.0	21,504.0
Ammonia (as N)	6,809,600.0	3,000,320.0

(e) *Subpart J—Calcium Tungstate Precipitate Wash.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of calcium tungstate produced	
	English units—pounds per billion pounds of calcium tungstate produced	
Lead	3,720.0	3,348.0
Selenium	1,116.0	372.0
Zinc	37,944.0	15,624.0
Ammonia (as N)	4,947,600.0	2,179,920.0

(f) *Subpart J—Crystallization and Drying of Ammonium Paratungstate.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of ammonium paratungstate produced	
	English Units—Pounds per billion pounds of ammonium paratungstate produced	
Lead	0	0
Selenium	0	0
Zinc	0	0
Ammonia (as N)	0	0

(g) *Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of "blue" oxide (WO_3) produced	
	English Units—Pound per/ billion pounds of "blue Oxide (WO_3) produced	
Lead	3,135.0	2,717.0
Selenium	25,707.0	11,495.0
Zinc	27,797.0	11,704.0
Ammonia (as N)	2,779,700.0	1,224,740.0

(h) *Subpart J—Reduction to Tungsten Wet Air Pollution control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of tungsten produced	
	English Units—Pounds per/ billion pounds per of tungsten produced	
Lead	732.0	658.80
Selenium	219.60	73.20
Zinc	7,466.40	3,074.40
Ammonia (as N)	973,560.0	428,952.0

(i) *Subpart J—Reduction to Tungsten Water of Formation.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten reduced	
	English units—pounds per billion pounds of tungsten reduced	
Lead	1,940.0	1,746.0
Selenium	582.0	194.0
Zinc	19,788.0	8,148.0
Ammonia (as N)	2,580,200.0	1,136,840.0

§ 421.104 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Subpart J—Tungsten Acid Rinse NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	4,760.0	4,284.0
Selenium	1,428.0	476.0
Zinc	48,552.0	19,992.0
Ammonia (as N)	6,330,800.0	2,789,360.0
TSS	174,000.0	571,200.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart J—Acid Leach Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	377.0	339.30
Selenium	113.10	37.70
Zinc	3,845.40	1,583.40
Ammonia (as N)	501,410.0	220,922.0
TSS	56,550.0	45,240.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart J—Alkali Leach Wash NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of sodium tungstate produced	
	English units—pounds per billion pounds of sodium tungstate produced	
Lead	4,670.0	4,203.0
Selenium	1,401.0	467.0
Zinc	47,634.0	10,614.0
Ammonia (as N)	6,211,100.00	2,736,620.0
TSS	700,500.0	560,400.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart J—Ion-Exchange Raffinate NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium tungstate produced	
	English units—pounds per billion pounds of ammonium tungstate produced	
Lead	5,120.0	4,608.0
Selenium	1,536.0	512.0
Zinc	52,224.0	21,504.0
Ammonia (as N)	6,809,600.0	3,000,320.0
TSS	768,000.0	614,400.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart J—Calcium Tungstate Precipitate Wash NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of calcium tungstate produced	
	English units—pounds per billion pounds of calcium tungstate produced	
Lead	3,720.0	3,348.0
Selenium	1,116.0	372.0
Zinc	37,944.0	15,624.0
Ammonia (as N)	4,947,600.0	2,179,920.0
TSS	558,000.0	446,400.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart J—Crystallization and Drying of Ammonium Paratungstate NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium paratungstate produced	
	English units—pounds per billion pounds of ammonium paratungstate produced	
Lead	0	0
Selenium	0	0
Zinc	0	0
Ammonia (as N)	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of "blue" oxide (WO_3) produced	
	English units—pounds per billion pounds of "blue" oxide (WO_3) produced	
Lead	3,135.0	2,717.0
Selenium	25,707.0	11,495.0
Zinc	27,797.0	11,704.0
Ammonia (as N)	2,779,700.0	1,224,740.0
TSS	856,900.0	418,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart J—Reduction to Tungsten Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten produced	
	English units—pounds per billion pounds of tungsten produced	
Lead	732.0	[illegible]
Selenium	219.60	73.20
Zinc	7,466.40	3,074.40
Ammonia (as N)	973,560.0	428,952.0
TSS	109,800.0	87,840.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart J—Reduction to Tungsten Water of Formation NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten reduced	
	English units—pounds per billion pounds of tungsten reduced	
Lead	1,940.0	1,746.0
Selenium	582.0	194.0
Zinc	19,788.0	8,148.0
Ammonia (as N)	2,580,200.0	1,136,840.0
TSS	291,000.0	232,800.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

§421.105 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in primary tungsten process wastewater introduced into a POTW shall not exceed the following values:

(a) *Subpart J—Tungsten Acid Rinse PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	4,760.0	4,284.0
Selenium	1,428.0	476.0
Zinc	48,552.0	19,992.0
Ammonia (as N)	6,330,800.0	2,789,360.0

(b) *Subpart J—Acid Leach Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	377.0	339.30
Selenium	113.10	37.70
Zinc	3,845.40	1,583.40
Ammonia (as N)	501,410.0	220,922.0

(c) *Subpart J—Alkali Leach Wash PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of sodium tungstate produced	
	English units—pounds per billion pounds of sodium tungstate produced	
Lead	4,670.0	4,203.0
Selenium	1,401.0	467.0
Zinc	47,634.0	19,614.0
Ammonia (as N)	6,211,100.0	2,736,620.0

(d) *Subpart J—Ion-Exchange Raffinate PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium tungstate produced	
	English units—pounds per billion pounds of ammonium tungstate produced	
Lead	5,120.0	4,608.0
Selenium	1,536.0	512.0
Zinc	52,224.0	21,504.0
Ammonia (as N)	6,809,600.0	3,000,320.0

(e) *Subpart J—Calcium Tungstate Precipitate Wash PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of calcium tungstate produced	
	English units—pounds per billion pounds of calcium tungstate produced	
Lead	3,720.0	3,348.0
Selenium	1,116.0	372.0
Zinc	37,944.0	15,624.0
Ammonia (as N)	4,947,600.0	2,179,920.0

(f) *Subpart J—Crystallization and Drying of Ammonium paratungstate PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium paratungstate produced	
	English units—pounds per billion pounds of ammonium paratungstate produced	
Lead	0	0
Selenium	0	0
Zinc	0	0
Ammonia (as N)	0	0

(g) *Subpart J—Ammonium Paratungstate Convention to Oxides Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of "blue" oxide (WO_3) produced	
	English units—pounds per billion pounds of "blue" oxide (WO_3) produced	
Lead	3,135.0	2,717.0
Selenium	25,707.0	11,495.0
Zinc	27,797.0	11,704.0
Ammonia (as N)	2,779,700.0	1,224,740.0

(h) *Subpart J—Reduction to Tungsten Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten produced	
	English units—pounds per billion pounds of tungsten produced	
Lead	732.0	658.80
Selenium	219.60	73.20
Zinc	7,466.40	3,074.40
Ammonia (as N)	973,560.0	428,952.0

(i) *Subpart J—Reduction to Tungsten Water of Formation PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten reduced	
	English units—pounds per billion pounds of tungsten produced	
Lead	1,940.0	1,746.0
Selenium	582.0	194.0
Zinc	19,788.0	8,148.0
Ammonia (as N)	2,580,200.0	1,136,840.0

§ 421.106 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in primary tungsten process wastewater introduced into a POTW shall not exceed the following values:

(a) *Subpart J—Tungsten Acid Rinse PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	4,760.0	4,284.0
Selenium	1,428.0	476.0
Zinc	48,552.0	19,992.0
Ammonia (as N)	6,330,800.0	2,789,360.0

(b) *Subpart J—Acid Leach Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
Lead	377.0	339.30
Selenium	113.10	37.70
Zinc	3,845.40	1,583.40
Ammonia (as N)	501,410.0	220,922.0

(c) *Subpart J—Alkali Leach Wash PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of sodium tungstate produced	
	English units—pounds per billion pounds of tungstate produced	
Lead	4,670.0	4,203.0
Selenium	1,401.0	467.0
Zinc	47,634.0	19,614.0
Ammonia (as N)	6,211,100.0	2,736,620.0

(d) *Subpart J—Ion-Exchange Raffinate PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium tungstate produced	
	English units—pounds per billion pounds of ammonium tungstate produced	
Lead	5,120.0	4,608.0
Selenium	1,536.0	512.0
Zinc	52,224.0	21,504.0
Ammonia	6,809,600.0	3,000,320.0

(e) *Subpart J—Calcium Tungstate Precipitate Wash PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of calcium tungstate produced	
	English units—pounds per billion pounds of calcium tungstate produced	
Lead	3,720.0	3,348.0
Selenium	1,116.0	372.0
Zinc	37,944.0	15,624.0
Ammonia (as N)	4,947,600.0	2,179,920.0

(f) *Subpart J—Crystallization and Drying of Ammonium Paratungstate PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium paratungstate produced	
	English units—pounds per billion pounds of ammonium paratungstate produced	
Lead	0	0
Selenium	0	0
Zinc	0	0
Ammonia (as N)	0	0

(g) *Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of "blue" oxide (WO_3) produced	
	English units—pounds per billion pounds of "blue" oxide (WO^{T23}) produced	
Lead	3,135.0	2,717.0
Selenium	25,707.0	11,495.0
Zinc	27,797.0	11,704.0
Ammonia (as N)	2,779,700.0	1,224,740.0

(h) *Subpart J—Reduction to Tungsten Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten produced	
	English units—pounds per billion pounds of tungsten produced	
Lead	732.0	658.80
Selenium	219.60	73.20
Zinc	7,466.40	3,074.40
Ammonia (as N)	973,560.0	428,952.0

(i) *Subpart J—Reduction to Tungsten Water of Formation PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten reduced	
	English units—pounds per billion pounds of tungsten reduced	
Lead	1,940.0	1,746.0
Selenium	582.0	194.0
Zinc	19,788.0	8,148.0
Ammonia (as N)	2,580,200.0	1,136,840.0

§ 421.107 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30 through 125.32 any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart J—Tungsten Acid Rinse.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid reduced	
	English units—pounds per billion pounds of tungstic acid produced	
TSS	1,951,600.0	952,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(b) *Subpart J—Acid Leach Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungstic acid produced	
	English units—pounds per billion pounds of tungstic acid produced	
TSS	1,545,700.0	754,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(c) *Subpart J—Alkali Leach Wash.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of sodium tungstate produced	
	English units—pounds per billion pounds of sodium tungstate produced	
TSS	1,914,700.0	934,000.0

BCT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart J—Ion-Exchange Raffinate.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium tungstate produced	
	English units—pounds per billion pounds of ammonium tungstate produced	
TSS	2,099,200.0	1,024,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart J—Calcium Tungstate Precipitate Wash.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of Calcium tungstate producted	
	English units—pounds per billion pounds of calcium tungstate produced	
TSS	1,525,200.0	744,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart J—Crystallization and Drying of Ammonium Paratungstate.*

BCT EFFLUENT LIMITATION

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of ammonium paratungstate produced	
	English units—pounds per billion pounds of ammonium paratungstate produced	
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of "blue" oxide (WO_3) produced	
	English units—pounds per billion pounds of "blue" oxide (WO_3) produced	
TSS	856,900.0	418,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart J—Reduction to Tungsten Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten produced	
	English units—pounds per billion pounds of tungsten produced	
TSS	3,001,200.0	1,464,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart J—Reduction to Tungsten Water of Formation.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of tungsten reduced	
	English units—pounds per billion pounds of tungsten reduced	
TSS	795,400.0	388,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

Subpart K—Primary Columbium-Tantalum Subcategory

§ 421.110 Applicability: Description of the primary columbium-tantalum subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of columbium or tantalum by primary columbium-tantalum facilities.

§ 421.111 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 421.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Subpart K—Concentrate Digestion Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium-tantalum salt produced from digestion	
	English units—pounds per billion pounds of columbium-tantalum salt produced from digestion	
Lead	1,637.25	1,418.95
Zinc	14,516.95	6,112.40
Ammonia (as N)	1,451,695.0	639,619.0
Fluoride	649,442.50	288,156.0
Total Suspended Solids	447,515.0	218,300.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart K—Solvent Extraction Raffinate.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	4,037.40	3,499.08
Zinc	35,798.28	15,072.96
Ammonia (as N)	3,579,828.0	1,577,277.60
Fluoride	1,601,502.0	710,582.40
Total Suspended Solids	1,103,556.0	538,320.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart K—Solvent Extraction Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	645.21	559.18
Zinc	5,720.86	2,408.78
Ammonia (as N)	572,086.20	252,062.04
Fluoride	255,933.30	113,556.96
Total Suspended Solids	176,357.40	86,028.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart K—Precipitation and Filtration of Metal Salts.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt precipitated	
	English units—pounds per billion pounds of columbium or tantalum salt precipitated	
Lead	37,083.45	32,138.99
Zinc	328,806.59	138,444.88
Ammonia (as N)	32,880,659.0	14,487,267.80
Fluoride	14,709,768.50	6,526,687.20
Total Suspended Solids	10,136,143.0	4,944,460.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(e) *Subpart K—Metal Salt Drying Wet Air Pollution Control.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt dried	
	English units—pounds per billion pounds of columbium or tantalum salt dried	
Lead	12,546.45	10,873.59
Zinc	111,245.19	46,840.08
Ammonia (as N)	11,124,519.0	4,901,479.80
Fluoride	4,976,758.50	2,208,175.20
Total Suspended Solids	3,429,363.0	1,672,860.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(f) *Subpart K—Reduction of Salt to Metal.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	52,899.45	45,846.19
Zinc	469,041.79	197,491.28
Ammonia (as N)	46,904,179.0	20,666,051.80
Fluoride	20,983,448.50	9,310,303.20
Total Suspended Solids	14,459,183.0	7,053,260.0
pH	(1)	(1)

Within the range of 7.5 to 10.0 at all times

(g) *Subpart K—Reduction of Salt to Metal Wet Air Pollution Control.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	3,228.15	2,797.73
Zinc	28,622.93	12,051.76
Ammonia (as N)	2,862,293.0	1,261,130.60
Fluoride	1,280,499.50	568,154.40
Total Suspended Solids	882,361.0	430,420.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(h) *Subpart K—Consolidation and Casting Contact Cooling.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum cast or consolidated	
	English units—pounds per billion pounds of columbium or tantalum cast or consolidated	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Fluoride	0	0
Total Suspended Solids	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

§ 421.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart K—Concentrate Digestion Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt produced from digestion	
	English units—pounds per billion pounds of columbium or tantalum salt produced from digestion	
Lead	515.63	464.07
Zinc	5,259.43	2,165.65
Ammonia (as N)	685,787.90	302,159.18
Fluoride	200,064.44	81,469.54

(b) *Subpart K—Solvent Extraction Raffinate.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	2,691.60	2,422.44
Zinc	27,454.32	11,304.72
Ammonia (as N)	3,579,828.0	1,577,277.60
Fluoride	1,044,340.80	425,272.80

(c) *Subpart K—Solvent Extraction Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	43.01	38.71
Zinc	438.70	180.64
Ammonia (as N)	57,203.30	25,203.86
Fluoride	16,687.88	6,795.58

(d) *Subpart K—Precipitation and Filtration of Metal Salts.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt precipitated	
	English units—pounds per billion pounds of columbium or tantalum salt precipitated	
Lead	24,722.30	22,250.07
Zinc	252,167.46	103,833.66
Ammonia (as N)	32,880,659.0	14,487,267.80
Fluoride	9,592,252.40	3,906,123.40

(e) *Subpart K—Metal Salt Drying Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt dried	
	English units—pounds per billion pounds of columbium or tantalum salt dried	
Lead	1,647.90	1,483.11
Zinc	16,808.58	6,921.18
Ammonia (as N)	2,191,707.0	965,669.40
Fluoride	639,385.20	260,368.20

(f) *Subpart K—Reduction of Salt to Metal.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	35,266.30	31,739 67
Zinc	359,716 26	148,118 46
Ammonia (as N)	46,904,179.0	20,666,051 80
Fluoride	13,683,324 40	5,572,075 40

(g) *Subpart K—Reduction of salt to Metal Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	2,152 10	1 936 89
Zinc	21 951 42	9 038 82
Ammonia (as N)	2 862,293 0	1,261,130 60
Fluoride	835,014 80	340 031 80

(h) *Subpart K—Consolidation and Casting Contact Cooling.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly coverage
	Metric units—mg/kkg of columbium or tantalum cast or consolidated	
	English units—pounds per billion pounds of columbium or tantalum cast or consolidated	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Fluoride	0	0

§ 421.114 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Subpart K—Concentrate Digestion Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly coverage
	Metric units—mg/kkg of columbium or tantalum salt produced from digestion	
	English units—pounds per billion pounds of columbium or tantalum salt produced from digestion	
Lead	515 63	464 07
Zinc	5,259 43	2,165 65
Ammonia (as N)	685,787 90	302,159 18
Fluoride	200 064 44	81,469 54
Total Suspended Solids	77,344 50	61,875 60
pH	(1)	(1)

[1] Within the range of 7 5 to 10.0 at all times.

(b) *Subpart K—Solvent Extraction Raffinate NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	2,691 60	2,422 44
Zinc	27,454 32	11,304 72
Ammonia (as N)	3 579,828 0	1,577,277 60
Fluoride	1,044,340 80	425,272 80
Total Suspended Solids	403,740 0	322,992 0
pH	(1)	(1)

[1] Within the range of 7 5 to 10 0 at all times.

(c) *Subpart K—Solvent Extraction Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	43 01	38 71
Zinc	438 70	180 64
Ammonia (as N)	57,203 30	25,203 86
Fluoride	16 687 88	6,795 58
Total Suspended Solids	6,451.50	5,161 20
pH	(1)	(1)

[1] Within the range of 7.5 to 10 0 at all times

(d) *Subpart K—Precipitation and Filtration of Metal Salts NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt precipitated	
	English units—pounds per billion pounds of columbium or tantalum salt precipitated	
Lead	24,722 30	22,250 07
Zinc	252,167 46	103 833 66
Ammonia (as N)	32,880,659 0	14,487,267.80
Fluoride	9,592,252 40	3,906,123 40
Total Suspended Solids	3,708,345 0	2,966,676 0
pH	(1)	(1)

[1] Within the range of 7 5 to 10.0 at all times.

(e) *Subpart K—Metal Salt Drying Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt dried	
	English units—pounds per billion pounds of columbium or tantalum salt dried	
Lead	1 647 90	1,483 11
Zinc	16,808 58	6,921 18
Ammonia (as N)	2,191,707 0	965,669 40
Fluoride	639 385 20	260 368 20
Total suspended solids	247 185 0	197,748 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10 0 at all times.

(f) *Subpart K—Reduction of Salt to Metal NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	35 266 30	31,739 67
Zinc	359,716 26	148,118 46
Ammonia (as N)	46,904,179 0	20,666,051 80
Fluoride	13 683,324 40	5,572,075 40
Total suspended solids	5,289,945 0	4,231,956 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10 0 at all times

(g) *Subpart K—Reduction of Salt to Metal Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	2,152 10	1,936 89
Zinc	21,951 42	9,038 82
Ammonia (as N)	2 862,293 0	1,261,130 60
Fluoride	835,014 80	340,031 80
Total suspended solids	322,815 0	258,252 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(h) *Subpart K—Consolidation and Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum cast or consolidated	
	English units—Pounds per billion pounds of columbium or tantalum cast or consolidated	
Lead	0	[illegible]
Zinc	0	0
Ammonia (as N)	0	[illegible]
Fluoride	0	0
TSS	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.115 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in primary columbium-tantalum process wastewater introduced into a POTW shall not exceed the following values:

(a) *Subpart K—Concentrate Digestion Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium-tantalum salt produced from digestion	
	English units—Pounds per billion pounds of columbium-tantalum salt produced from digestion	
Lead	515.63	464.07
Zinc	5,259.43	2,165.65
Ammonia (as N)	685,787.90	302,159.18
Fluoride	200,064.44	81,469.54

(b) *Subpart K—Solvent Extraction Raffinate PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	2,691.60	2,422.44
Zinc	27,454.32	11,304.72
Ammonia (as N)	3,579,828.00	1,577,277.60
Fluoride	1,044,340.80	425,272.80

(c) *Subpart K—Solvent Extraction Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	43.01	38.71
Zinc	438.70	180.64
Ammonia (as N)	57,203.30	25,203.86
Fluoride	16,687.88	6,795.58

(d) *Subpart K—Precipitation and Filtration of Metal Salts PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt precipitated	
	English units—pounds per billion pounds of columbium or tantalum salt precipitated	
Lead	24,722.30	22,250.07
Zinc	252,167.46	103,833.66
Ammonia (as N)	32,880,659.00	14,487,267.80
Fluoride	9,592,252.40	3,906,123.40

(e) *Subpart K—Metal Salt Drying Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt dried	
	English units—pounds per billion pounds of columbium or tantalum salt dried	
Lead	1,647.90	1,483.11
Zinc	16,808.58	6,921.18
Ammonia (as N)	2,191,707.0	965,669.40
Fluoride	639,385.20	260,368.20

(f) *Subpart K—Reduction of Salt to Metal PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	35,266.30	31,739.67
Zinc	359,716.26	148,118.46
Ammonia (as N)	46,904,179.0	20,666,051.80
Fluoride	13,683,324.40	5,572,075.40

(g) *Subpart K—Reduction of Salt to Metal Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum [illegible]	
	English units—pounds per billion pounds of columbium or tantalum [illegible]	
Lead	2,152.10	1,936.89
Zinc	21,951.42	9,038.82
Ammonia (as N)	2,862,293.0	1,261,130.60
Fluoride	835,014.80	340,031.80

(h) *Subpart K—Consolidation and Casting Contact Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum cast or consolidated	
	English units—pounds per billion pounds of columbium or tantalum cast or consolidated	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Fluoride	0	0

§ 421.116 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in primary columbium-tantalum process wastewater introduced into a POTW shall not exceed the following values:

(a) *Subpart K—Concentrate Digestion Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kkg of columbium or tantalum salt produced from digestion	
	English Units—pounds per billion pounds of columbium or tantalum salt produced from digestion	
Lead	515.63	464.07
Zinc	5,259.43	2,165.65
Ammonia (as N)	685,787.90	302,159.18
Fluoride	200,064.44	81,469.54

(b) *Subpart K—Solvent Extraction Raffinate PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	2,691 60	2,422.44
Zinc	27,454.32	11,304 72
Ammonia (as N)	3,579,828.0	1,577,277 60
Fluoride	1,044,340 80	425,272.80

(c) *Subpart K—Solvent Extraction Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	43 01	38 71
Zinc	438 70	180 64
Ammonia (as N)	57,203 30	25,203 86
Fluoride	16,687 88	6,795 58

(d) *Subpart K—Precipitation and Filtration of Metal Salts PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Lead	24,722 30	22 250 07
Zinc	252,167.46	103,833 66
Ammonia (as N)	32,880,659 0	14,487,267 80
Fluoride	9,592,252.40	3,906,123 40

(e) *Subpart K—Metal Salt Drying Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt dried	
	English units—pounds per billion pounds of columbium or tantalum salt dried	
Lead	1,647 90	1 483 11
Zinc	16,808.58	6 921 18
Ammonia (as N)	2,191,707 0	965,669 40
Fluoride	639,385 20	260 368 20

(f) *Subpart K—Reduction of Salt to Metal PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	35,266 30	31,739 67
Zinc	359,716.26	148,118 46
Ammonia (as N)	46,904,179.0	20 666,051 80
Fluoride	13,683,324.40	5,572,075.40

(g) *Subpart K—Reduction of Salt to Metal Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Lead	2,152 10	1,936.89
Zinc	21,951.42	9,038 82
Ammonia (as N)	2,862,293.0	1,261,130.60
Fluoride	835,014.80	340,031.80

(h) *Subpart K—Consolidation and Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum cast or consolidated	
	English units—pounds per billion pounds of columbium or tantalum cast or consolidated	
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Fluoride	0	0

§ 421.117 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology:

(a) *Subpart K—Concentrate Digestion Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium-tantalum salt produced from digestion	
	English units—pounds per billion pounds of columbium-tantalum salt produced from digestion	
Total Suspended Solids	447,515.0	218 300 0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times

(b) *Subpart K—Solvent Extraction Raffinate.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Total Suspended Solids	1,103,556.0	538,320 0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times

(c) *Subpart K—Solvent Extraction Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt extracted	
	English units—pounds per billion pounds of columbium or tantalum salt extracted	
Total Suspended Solids	176,357.40	86,028.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times.

(d) *Subpart K—Precipitation and Filtration of Metal Salts.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt precipitated	
	English units—pounds per billion pounds of columbium or tantalum salt precipitated	
Total Suspended Solids	10,136,143.0	4,944,460.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times

(e) *Subpart K—Metal Salt Drying Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum salt dried	
	English units—pounds per billion pounds of columbium or tantalum salt dried	
Total Suspended Solids	3,429,363.0	1,672,860.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(f) *Subpart K—Reduction of Salt to Metal.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Total Suspended Solids	14,459,183.0	7,053,260.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(g) *Subpart K—Reduction of Salt to Metal Wet Air Pollution Control.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum reduced	
	English units—pounds per billion pounds of columbium or tantalum reduced	
Total Suspended Solids	882,361.0	430,420.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(h) *Subpart K—Consolidation and Casting Contact Cooling.*

BCT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of columbium or tantalum cast or consolidated	
	English units—pounds per billion pounds of columbium or tantalum cast or consolidated	
Total Suspended Solids	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

Subpart L—Secondary Silver Subcategory

§ 421.120 Applicability: Description of the secondary silver subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of silver from secondary silver facilities processing photographic and nonphotographic raw materials.

§ 421.121 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 421.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application fo the best practicable technology currently available:

(a) *Subpart L—Film Stripping.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	3,076,100.0	1,619,000.0
Zinc	2,153,270.0	906,640.0
Ammonia (as N)	215,327,000.0	94,873,400.0
Total Suspended Solids	66,379,000.0	32,380,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(b) *Subpart L—Film Stripping Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	29,602.0	15,580.0
Zinc	20,721.40	8,724.80
Ammonia (as N)	2,072,140.0	912,988.0
Total Suspended Solids	638,780.0	311,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions.*

BPT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	3,516,900.0	1,851,000.0
Zinc	2,461,830.0	1,036,560.0
Ammonia (as N)	246,183,000.0	106,468,600.0
Total Suspended Solids	75,891,000.0	37,020,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart L—Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control.*

BPT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	29,602.0	15,580.0
Zinc	20,721.40	8,724.80
Ammonia (as N)	2,072,140.0	912,988.0
Total Suspended Solids	638,780.0	311,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions*

BPT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,622,600.0	854,000.0
Zinc	1,135,820.0	478,240.0
Ammonia (as N)	113,582,000.0	50,044,400.0
Total Suspended Solids	35,014,000.0	17,080,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(f) *Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control.*

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	741,570.0	390,300.0
Zinc	519,099.0	218,568.0
Ammonia (as N)	51,909,900.0	22,871,580.0
Total Suspended Solids	16,002,300.0	7,806,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(g) *Subpart L—Electrolytic Refining.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per billion pounds of silver refined	
Copper	46,200.40	24,316.0
Zinc	32,340.28	13,616.96
Ammonia (as N)	3,234,028.0	1,424,917.60
Total Suspended Solids	996,956.0	486,320.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart L—Furnace Wet Air Pollution Control.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted, or dried	
	English units—pounds per billion pounds of silver roasted, smelted, or dried	
Copper	40,886.10	21,519.0
Zinc	28,620.27	12,050.64
Ammonia (as N)	2,862,027.0	1,261,013.40
Total Suspended Solids	882,279.0	430,380.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(i) *Subpart L—Casting Contact Cooling.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	22,866.50	12,035.0
Zinc	16,006.55	6,739.60
Ammonia (as N)	1,600,655.0	705,251.0
Total suspended solids	493,435.0	240,700.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(j) *Subpart L—Casting Wet Air Pollution Control.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	9,007.90	4,741.0
Zinc	6,305.53	2,654.96
Ammonia (as N)	630,553.0	277,822.60
Total suspended solids	194,381.0	94,820.0

BPT Effluent Limitations—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(k) *Subpart L— Leaching.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	5,282.0	2,780.0
Zinc	3,697.4	1,556.8
Ammonia (as N)	369,740.0	162,908.0
Total suspended solids	113,980.0	55,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(l) *Subpart L—Leaching Wet Air Pollution Control.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	270,539.10	142,389.0
Zinc	189,377.37	79,737.84
Ammonia (as N)	18,937,737.0	8,343,995.40
Total suspended solids	5,837,949.0	2,847,780.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	187,296.30	98,577.0
Zinc	131,107.41	55,203.12
Ammonia (as N)	13,110,741.0	5,776,612.20
Total suspended solids	4,041,657.0	1,971,540.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(n) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions Wet Air Pollution Control.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	151,868.90	79,931.0
Zinc	106,308.23	44,761.36
Ammonia (as N)	10,630,823.0	4,683,956.60
Total suspended solids	3,277,171.0	1,598,620.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Alternative A

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart L—Film Stripping.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	3,076,100.0	1,619,000.0
Zinc	2,153,270.0	906,640.0
Ammonia (as N)	215,327,000.0	

(b) *Supart L—Film Stripping Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	29,602.0	15,580.0
Zinc	20,721.0	8,724.8
Ammonia (as N)	2,072,140.0	912,988.0

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	3,516,900.0	1,851,000.0
Zinc	2,461,830.0	1,036,560.0
Ammonia (as N)	246,183,000.0	108,468,600.0

(d) *Subpart L—Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	29,602.0	15,580.0
Zinc	20,721.0	8,724.8
Ammonia (as N)	2,072,140.0	912,988.0

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,622,600.0	854,000.0
Zinc	1,135,820.0	478,240.0
Ammonia (as N)	113,582,000.0	50,044,400.0

(f) *Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	741,570.0	390,300.0
Zinc	519,099.0	218,568.0
Ammonia (as N)	51,909,900.0	22,871,580.0

(g) *Subpart L—Electrolytic Refining.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per/billion pounds of silver refined	
Copper	46,200.4	24,316.0
Zinc	32,340.28	13,616.96
Ammonia (as N)	3,234,028.0	1,424,917.60

(h) *Subpart L—Furnace Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted, or dryed	
	English units—pounds per/billion pounds of silver roasted, smelted, or dryed	
Copper	0	0
Zinc	0	0
Ammonia (as N)	0	0

(i) *Subpart L—Casting Contact Cooling.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per/billion pounds of silver cast	
Copper	2,287.6	1,204.0
Zinc	1,601.32	674.24
Ammonia (as N)	160,132.0	70,554.40

(j) *Subpart L—Casting Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per/billion pounds of silver cast	
Copper	9,007.8	4,741.0
Zinc	6,305.53	2,654.96
Ammonia (as N)	630,553.0	277,822.60

(k) *Subpart L—Leaching.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly coverage
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	5,282.0	2,780.0
Zinc	3,697.4	1,556.8
Ammonia (as N)	369,740.0	165,662.20

(l) *Subpart L—Leaching Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly coverage
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	270,539.1	142,389.0
Zinc	189,377.37	79,737.84
Ammonia (as N)	18,937,737.0	8,343,995.40

(m) *Subpart L—Precipitation and Filtration of Nonphotographic.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly coverage
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	187,296.30	98,577.0
Zinc	131,107.41	55,203.12
Ammonia (as N)	13,110,741.0	5,776,612.20

(n) *Subpart L—Precipitation and Filtration of Nonphotographic.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly coverage
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	151,868.9	79,931.0
Zinc	106,308.23	44,761.36
Ammonia (as N)	10,630,823.0	4,683,956.60

Alternative B

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application

of the best available technology economically achievable:

(a) *Subpart L—Film Stripping.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	2,072,320.0	987,590.0
Zinc	1,651,380.0	679,980.0
Ammonia (as N)	215,327,000.0	94,873,400.0

(b) *Subpart L—Film Stripping Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.0	912,988.0

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	2,369,280.0	1,129,110.0
Zinc	1,888,020.0	777,420.0
Ammonia (as N)	246,183,000.0	108,468,600.0

(d) *Subpart L—Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.0	912,988.0

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,093,120.0	520,940.0
Zinc	871,080.0	358,680.0
Ammonia (as N)	113,582,000.0	50,044,400.0

(f) *Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	499,584.0	238,083.0
Zinc	398,106.0	163,926.0
Ammonia (as N)	51,909,900.0	22,871,580.0

(g) *Subpart L—Electrolytic Refining.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per billion pounds of silver refined	
Copper	31,124.48	14,832.76
Zinc	24,802.32	10,212.72
Ammonia (as N)	3,234,028.0	1,424,917.60

(h) *Subpart L—Furnace Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted, or dried	
	English units—pounds per billion pounds of silver roasted, smelted, or dried	
Copper	0	0
Zinc	0	0
Ammonia (as N)	0	0

(i) *Subpart L—Casting Contact Cooling.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	1,541.12	734.44
Zinc	1,228.08	505.68
Ammonia (as N)	160,132.0	70,554.40

(j) *Subpart L—Casting Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	6,068.48	2,892.01
Zinc	4,835.82	1,991.22
Ammonia (as N)	630,553.0	277,822.60

(k) *Subpart L—Leaching.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	3,558.4	1,695.8
Zinc	2,835.6	1,167.6
Ammonia (as N)	369,740.0	162,908.0

(l) *Subpart L—Leaching Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	182,257.92	86,857.29
Zinc	145,236.78	59,803.38
Ammonia (as N)	18,937,737.00	8,343,995.40

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	126,178.56	60,131.97
Zinc	100,548.54	41,402.34
Ammonia (as N)	13,110,741.00	5,776,612.20

(n) *Subpart L—Precipitation of Nonphotographic Solutions Wet Air Pollution Control.*

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	102,311.68	48,757.91
Zinc	81,529.62	33,571.02
Ammonia (as N)	10,630,823.0	4,683,956.60

§ 421.124 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Subpart L—Film Stripping NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	2,072,320.0	987,590.0
Zinc	1,651,380.0	679,980.0
Ammonia (as N)	215,327,000.0	94,873,400.0
Total Suspended Solids	24,285,000.0	19,428,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(b) *Subpart L—Film Stripping Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.0	912,988.0
Total Suspended Solids	233,700.0	186,960.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	2,369,260.0	1,129,110.0
Zinc	1,888,020.0	777,420.0
Ammonia (as N)	246,183,000.0	108,468,600.0
Total Suspended Solids	27,765,000.0	22,212,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart L—Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.0	912,988.0
Total Suspended Solids	233,700.0	186,960.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,093,120.0	520,940.0
Zinc	871,080.0	358,680.0
Ammonia (as N)	113,582,000.0	50,044,400.0
Total Suspended Solids	12,810,000.0	10,248,000.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(f) *Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	499,584.0	238,083.0
Zinc	396,106.0	163,926.0
Ammonia (as N)	51,909,900.0	22,871,580.0
Total Suspended Solids	5,854,500.0	4,683,600.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart L—Electrolytic Refining NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	31,124.48	14,832.76
Zinc	24,802.32	10,212.72
Ammonia (as N)	3,234,028.0	1,424,917.60
Total Suspended Solids	364,740.0	291,792.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart L—Furnace Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	0	0
Zinc	0	0
Ammonia (as N)	0	0
Total Suspended Solids	0	0
pH	(1)	(1)

Within the range of 7.5 to 10.0 at all times

(i) *Subpart L—Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	1,541.12	734.44
Zinc	1,228.08	505.68
Ammonia (as N)	160,132.0	70,554.40
Total Suspended Solids	18,060.0	14,448.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(j) *Subpart L—Casting Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	6,068.48	2,892.01
Zinc	4,835.82	1,991.22
Ammonia (as N)	630,553.0	277,822.60
Total Suspended Solids	71,115.0	56,892.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(k) *Subpart L—Leaching NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	3,558.4	1,695.8
Zinc	2,835.6	1,167.6
Ammonia (as N)	369,740.0	162,908.0
Total Suspended Solids	41,700.0	33,360.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(l) *Subpart L—Leaching Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	182,257.92	86,857.29
Zinc	145,236.78	59,803.38
Ammonia (as N)	18,937,737.0	8,343,995.40
Total Suspended Solids	2,135,835.0	1,708,668.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	126,178.56	60,131.97
Zinc	100,548.54	41,402.34
Ammonia (as N)	13,110,741.0	5,776,612.20
Total Suspended Solids	1,478,655.0	1,182,924.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(n) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	102,311.68	48,757.91
Zinc	81,529.62	33,571.02
Ammonia (as N)	10,630,823.0	4,683,956.60
Total Suspended Solids	1,198,965.0	959,172.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 421.125 Pretreatment standards for existing sources.

Alternative A

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in secondary silver process wastewater introduced into a POTW must not exceed the following values:

(a) *Subpart L—Film Stripping PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	3,076,100.0	1,619,000.0
Zinc	2,153,270.0	906,640.0
Ammonia (as N)	215,327,000.0	94,873,400.0

(b) *Subpart L—Film Stripping Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	29,602.0	15,580.0
Zinc	20,721.0	8,724.8
Ammonia (as N)	2,072,140.0	912,988.0

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	3,516,900.0	1,851,000.0
Zinc	2,461,830.0	1,036,560.0
Ammonia (as N)	246,183,000.0	108,468,6000.0

(d) *Subpart L—Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	29,602.0	15,580.0
Zinc	20,721.0	8,724.8
Ammonia (as N)	2,072,140.0	912,988.0

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,622,600.0	854,000.0
Zinc	1,135,820.0	478,240.0
Ammonia (as N)	113,582,000.0	50,044,400.0

(f) *Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	741,570.0	390,300.0
Zinc	519,099.0	218,568.0
Ammonia (as N)	51,909,900.0	22,871,580.0

(g) *Subpart L—Electrolytic Refining PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per billion pounds of silver refined	
Copper	46,200 4	24,316.0
Zinc	32,304 28	13,616 96
Ammonia (as N)	3,234,028 0	1,424,917.60

(h) *Subpart L—Furnace Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted, or dryed	
	English units—pounds per billion pounds of silver roasted, smelted, or dryed	
Copper	0	0
Zinc	0	0
Ammonia (as N)	0	0

(i) *Subpart L—Casting Contact Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	2,287.6	1,204 0
Zinc	1,601.32	674.24
Ammonia (as N)	160,132 0	70,554 40

(j) *Subpart L—Casting Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	9,007 8	4,741.0
Zinc	6,305 53	2,654.96
Ammonia (as N)	630,553 0	277,822 60

(k) *Subpart L—Leaching PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	5,282 0	2,780 0
Zinc	3,697.4	1,556 8
Ammonia (as N)	369,740.0	165,662 20

(l) *Subpart L—Leaching Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	270,539.1	142,389 0
Zinc	189,377.37	79,737.84
Ammonia (as N)	18,937,737.0	8,343,995.40

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	187,296 30	98,577.0
Zinc	131,107.41	55,203.12
Ammonia (as N)	13,110,741.0	5,776,612.20

(n) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	151,868 9	79,931.0
Zinc	106,308.23	44,761.36
Ammonia (as N)	10,630,823.0	4,683,956 60

Alternative B

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in secondary silver process wastewater introduced into a POTW must not exceed the following values:

(a) *Subpart L—Film Stripping PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly [illegible]
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film strip- [illegible]	
Copper	2,072,320 0	987,590 0
Zinc	1,651,380 0	679,980 0
Ammonia (as N)	215,327,000 0	94,873,400 0

(b) *Subpart L—Film Stripping Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	19,942 40	9,503 80
Zinc	15,891 60	6,543 60
Ammonia (as N)	2,072,140.0	912,988 0

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	2,369,280 0	1,129,110 0
Zinc	1,888,020.0	777,420.0
Ammonia (as N)	246,183,000.0	108,468,600.0

(d) *Subpart L—Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	19,942 40	9,503 80
Zinc	15,891 60	6,543 60

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Ammonia (as N)	2,072,140.0	912,988.0

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	1,093,120.0	520,940.0
Zinc	871,080.0	358,680.0
Ammonia (as N)	13,582,000.0	50,044,400.0

(f) *Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	499,584.0	238,083.0
Zinc	398,106.0	163,926.0
Ammonia (as N)	51,909,900.0	22,871,580.0

(g) *Subpart L—Electrolytic Refining PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per billion pounds of silver refined	
Copper	31,124.48	14,832.76
Zinc	24,802.32	10,212.72
Ammonia (as N)	3,234,028.0	1,424,917.60

(h) *Subpart L—Furnace Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted, or dried	
	English units—pounds per billion pounds of silver roasted, smelted or dried	
Copper	0	0
Zinc	0	0

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Ammonia (as N)	0	0

(i) *Subpart L—Casting Contact Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	1,541.12	734.44
Zinc	1,228.08	505.68
Ammonia (as N)	160,132.0	70,554.40

(j) *Subpart L—Casting Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	6,068.48	2,892.01
Zinc	4,835.82	1,991.22
Ammonia (as N)	630,553.0	277,822.60

(k) *Subpart L—Leaching PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	3,558.40	1,695.80
Zinc	2,835.60	1,167.60
Ammonia (as N)	369,740.0	162,908.0

(l) *Subpart L—Leaching Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	182,257.92	86,857.29
Zinc	145,236.78	59,803.38
Ammonia (as N)	18,937,737.0	8,343,995.40

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	126,178.56	60,131.97
Zinc	100,548.54	41,482.34
Ammonia (as N)	13,110,741.0	5,776,612.20

(n) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	102,311.68	48,757.91
Zinc	81,529.62	33,571.02
Ammonia (as N)	10,630,823.0	4,683,956.60

§ 421.126 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in secondary silver process wastewater introduced into a POTW shall not exceed the following values:

(a) *Subpart L—Film Stripping PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	2,072,320.0	987,590.0
Zinc	1,651,380.0	679,980.0
Ammonia (as N)	215,327,000.0	94,873,400.0

(b) *Subpart L—Film Stripping Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.0	912,988.0

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	2,369,280.0	1,129,110.0
Zinc	1,888,020.0	777,420.0
Ammonia (as N)	246,183,000.0	108,468,600.0

(d) *Subpart L—Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	19,942.40	9,503.80
Zinc	15,891.60	6,543.60
Ammonia (as N)	2,072,140.00	912,988.00

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	Englsh units—pounds per billion pounds of silver precipitated	
Copper	1,093,120.0	520,940.0
Zinc	871,080.0	358,680.0
Ammonia (as N)	113,582,000.0	50,044,400.0

(f) *Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	499,584.0	238,083.0
Zinc	398,106.0	163,926.0
Ammonia (as N)	51,909,900.0	22,871,580.0

(g) *Subpart L—Electrolytic Refining PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per billion pounds of silver refined	
Copper	31,124.48	14,832.76
Zinc	24,802.32	10,212.72
Ammonia (as N)	3,234,028.00	1,424,917.60

(h) *Subpart L—Furnace Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted or dried	
	English units—pounds per billion pounds of silver roasted, smelted, or dried	
Copper	0	0
Zinc	0	0
Ammonia (as N)	0	0

(i) *Subpart L—Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	1,541.12	734.44
Zinc	1,228.08	505.68
Ammonia (as N)	160,132.0	70,554.40

(j) *Subpart L—Casting Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Copper	6,068.48	2,892.01
Zinc	4,835.82	1,991.22
Ammonia (as N)	630,553.0	277,822.60

(k) *Subpart L—Leaching PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	3,558.40	1,695.80
Zinc	2,835.60	1,167.60
Ammonia (as N)	369,740.0	162,908.0

(l) *Subpart L - Leaching Wet Air Pollution Control PSNS*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Copper	182,257.92	86,857.29
Zinc	145,236.78	59,803.38
Ammonia (as N)	18,937,737.0	8,343,995.40

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	126,178.56	60,131.97
Zinc	100,548.54	41,402.34
Ammonia (as N)	13,110,741.0	5,776,612.20

(n) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Copper	102 311 68	48.757 91
Zinc	81.529 62	38,571.02
Ammonia (as N)	10,630,823 0	4,683,956 60

§ 421.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollution control technology:

(a) *Subpart L—Film Stripping.*

BCT Effluent Limitations

Pollutants or pollutants property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Total suspended solids	66,379,000 0	32,380 000 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(b) *Subpart L—Film Stripping Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutants or pollutants property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from film stripping	
	English units—pounds per billion pounds of silver produced from film stripping	
Total suspended solids	638 780 0	311,600 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart L—Precipitation and Filtration of Film Stripping Solutions.*

BCT Effluent Limitations

Pollutants or pollutants property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Total suspended solids	75,891,000 0	37,020,000 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(d) *Subpart L—Precipitation and Filtration of Film Stripping Solutions Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Total suspended solids	638 780 0	311 600 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(e) *Subpart L—Precipitation and Filtration of Photographic Solutions.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds silver precipitated	
Total suspended solids	35,014,000 0	17,080,000 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(f) *Subpart L—Precipitation and Filtration of Photographic Solutions Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Total suspended solids	16,002,300 0	7,806,000 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(g) *Subpart L—Electrolytic Refining.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver refined	
	English units—pounds per billion pounds of silver refined	
Total Suspended Solids	996 956 0	486,320 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(h) *Subpart L—Furnace Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver roasted, smelted, or dried	
	English units—pounds per billion pounds of silver roasted, smelted or dried	
Total Suspended Solids	882,279.0	430,380 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(i) *Subpart L—Casting Contact Cooling.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Total Suspended Solids	493,435.0	240,700 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(j) *Subpart L—Casting Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver cast	
	English units—pounds per billion pounds of silver cast	
Total Suspended Solids	194,381 0	94 820 0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

(k) *Subpart L—Leaching.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Total Suspended Solids	113,980.0	55,600.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times

(l) *Subpart L—Leaching Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver produced from leaching	
	English units—pounds per billion pounds of silver produced from leaching	
Total Suspended Solids	5,837,949.0	2,847,780.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times

(m) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Total Suspended Solids	4,041,857.0	1,971,540.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times

(n) *Subpart L—Precipitation and Filtration of Nonphotographic Solutions Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of silver precipitated	
	English units—pounds per billion pounds of silver precipitated	
Total Suspended Solids	3,277,171.0	1,598,620.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times

Subpart M—Secondary Lead Subcategory

§ 421.130 Applicability: Description of the secondary lead subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of lead by secondary lead facilities.

§ 421.131 Specialized definitions.

For the purpose of this subpart the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 421.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable technology currently available:

(a) *Subpart M—Battery Cracking.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	2,697.80	1,193.80
Arsenic	1,964.60	808.40
Lead	141.0	122.20
Zinc	1,250.20	526.40
Ammonia (as N)	0.0	0.0
Total Suspended Solids	38,540.0	18,800.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	9,700.60	4,292.60
Arsenic	7,064.20	2,906.80
Lead	507.0	439.40
Zinc	4,495.40	1,892.80
Ammonia (as N)	0.0	0.0
Total Suspended Solids	136,580.0	67,600.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times

(c) *Subpart M—Kettle Wet Air Pollution Control.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Total Suspended Solids	0	0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times

(d) *Subpart M—Casting Contact Cooling.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of [illegible]	
	English units—pounds per billion pounds of lead cast	
Antimony	634.84	280.92
Arsenic	462.31	190.23
Lead	33.18	28.76
Zinc	294.20	123.87
Ammonia (as N)	0.0	0.0
Total Suspended Solids	9,069.20	4,424.0
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times

§ 421.133 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Alternate A

Except as provided in 40 CFR 125.30 through 125.32, any existing point source[4] subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart M—Battery Cracking.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	1,931.51	854.71
Arsenic	1,406.57	578.78
Lead	100.95	87.49
Zinc	[illegible]	376.88
Ammonia (as N)	0.0	0.0

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	7,490.7	3,314.7
Arsenic	5,454.9	2,244.6
Lead	391.5	339.3
Zinc	3,471.30	1,461.6
Ammonia (as N)	0.0	0.0

(c) *Subpart M—Kettle Wet Air Pollution Control.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	[illegible]
Arsenic	0	[illegible]
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(d) *Subpart M—Casting Contact Cooling.*

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Antimony	63.43	28.07
Arsenic	46.19	19.01
Lead	3.32	2.87
Zinc	29.39	12.38
Ammonia (as N)	0.0	0.0

Alternative B

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) *Subpart M—Battery Cracking.*

BAT Effluent Limitation

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	94.22	40.38
Arsenic	935.47	383.61
Lead	67.30	60.57
Zinc	686.46	282.66
Ammonia (as N)	0.0	0.0

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control.*

BAT Effluent Limitation

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	365.40	156.60
Arsenic	3,627.90	1,487.70
Lead	261.0	234.90
Zinc	2,662.20	1,096.20
Ammonia (as N)	0.0	0.0

(c) *Subpart M—Kettle Wet Air Pollution Control.*

BAT Effluent Limitation

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(d) *Subpart M—Casting Contact Cooling.*

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Antimony	3.09	1.33
Arsenic	30.72	12.60
Lead	2.21	1.99
Zinc	22.54	9.28
Ammonia (as N)	0.0	0.0

§ 421.134 Standards of performance for new sources.

Any new source subject to this subpart shall achieve the following new source performance standards:

(a) *Subpart M—Battery Cracking NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	94.22	40.38
Arsenic	935.47	383.61
Lead	67.30	60.57
Zinc	686.46	282.66
Ammonia (as N)	0.0	0.0
Total Suspended Solids	10,095.0	8,076.0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	365.40	156.60
Arsenic	3,627.90	1,487.70
Lead	261.0	234.90
Zinc	2,662.0	1,096.20
Ammonia (as N)	0	[illegible]
Total Suspended Solids	39,150.0	31,320.0
pH	(1)	(1)

Within the range of 7.5 to 10.0 at all times.

(c) *Subpart M—Kettle Wet Air Pollution Control NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0
Total Suspended Solids	0	0
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart M—Casting Contact Cooling NSPS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of cast	
	English units—pounds per billion pounds of lead cast	
Antimony	3.09	1.33
Arsenic	30.72	12.60
Lead	2.21	1.99
Zinc	22.54	9.28
Ammonia (as N)	0.0	0.0
Total Suspended Solids	331.50	265.20
pH	(1)	(1)

(1) Within the range of 7.5 to 10.0 at all times

§ 421.135 Pretreatment standards for existing sources.

Alternative A.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in secondary lead process wastewater introduced into a POTW shall not exceed the following values:

(a) *Subpart M—Battery Cracking PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	1,931.51	854.71
Arsenic	1,406.57	578.78
Lead	100.95	87.49
Zinc	895.09	376.88
Ammonia (as N)	0.0	0.0

(b) *Subpart M—Blast and Reverberatory Furnance Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	7,490.7	3,314.7
Arsenic	5,454.9	2,244.6
Lead	391.5	339.3
Zinc	3,471.30	1,461.6
Ammonia (as N)	0.0	0.0

(c) *Subpart M—Kettle Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(d) *Subpart M—Casting Contact Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Antimony	63.43	28.07
Arsenic	46.19	19.01
Lead	3.32	2.87
Zinc	29.39	12.38
Ammonia (as N)	0.0	0.0

Alternative B

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in secondary lead process wastewater introduced into a POTW shall not exceed the following values:

(a) *Subpart M—Battery Cracking PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	94.22	40.38
Arsenic	935.47	383.61
Lead	67.30	60.57
Zinc	686.46	282.66
Ammonia (as N)	0.0	0.0

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	365.40	156.60
Arsenic	3,627.90	1,487.70
Lead	261.0	234.90
Zinc	2,662.20	1,096.20
Ammonia (as N)	0.0	0.0

(c) *Subpart M—Kettle Wet Air Pollution Control PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(d) *Subpart M—Casting Contact Cooling PSES.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Antimony	3.09	1.33
Arsenic	30.72	12.60
Lead	2.21	1.99
Zinc	22.54	9.28
Ammonia (as N)	0.0	0.0

§ 421.136 Pretreatment standards for new sources.

Except as provided in 40 CFR 403.7 any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass of wastewater pollutants in secondary lead process wastewater introduced into a POTW shall not exceed the following values:

(a) *Subpart M—Battery Cracking PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Antimony	94.22	40.38
Arsenic	935.47	383.61
Lead	67.30	60.57
Zinc	686.46	282.66
Ammonia (as N)	0.0	0.0

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Antimony	365.4	156.6
Arsenic	3,627.9	1,487.7
Lead	261.0	234.9
Zinc	2,662.2	1,096.2
Ammonia (as N)	0	0

(c) *Subpart M—Kettle Wet Air Pollution Control PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Antimony	0	0
Arsenic	0	0
Lead	0	0
Zinc	0	0
Ammonia (as N)	0	0

(d) *Subpart M—Casting Contact Cooling PSNS.*

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Antimony	3.09	1.33
Arsenic	30.72	12.60
Lead	2.21	1.99
Zinc	22.54	9.28
Ammonia (as N)	0.0	0.0

§ 421.137 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollution control technology:

(a) *Subpart M—Battery Cracking.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead scrap produced	
	English units—pounds per billion pounds of lead scrap produced	
Total Suspended Solids	38,540.0	18,800.0
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all time

(b) *Subpart M—Blast and Reverberatory Furnace Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from smelting	
	English units—pounds per billion pounds of lead produced from smelting	
Total Suspended Solids	138,580.0	67,600.0
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all times.

(c) *Subpart M—Kettle Wet Air Pollution Control.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead produced from kettle furnaces	
	English units—pounds per billion pounds of lead produced from kettle furnaces	
Total Suspended Solids	0	0
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all times.

(d) *Subpart M—Casting Contact Cooling.*

BCT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kkg of lead cast	
	English units—pounds per billion pounds of lead cast	
Total Suspended Solids	9,069.20	4,424.0
pH	[1]	[1]

[1] Within the range of 7.5 to 10.0 at all times.

[FR Doc. 83-3192 Filed 2-16-83; 8:45 am]
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federal register

Thursday
February 17, 1983

Part III

Environmental Protection Agency

Standards of Performance for New Stationary Sources: Four Categories of Sources in the Phosphate Fertilizer Industry

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2244-7]

Standards of Performance for New Stationary Sources; Phosphate Fertilizer Industry; Wet Process Phosphoric Acid Plants; Superphosphoric Acid Plants; Diammonium Phosphate Plants; Triple Superphosphate Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Revised standards of performance for fluoride emissions from four categories of sources in the phosphate fertilizer industry were proposed in the **Federal Register** on June 21, 1982. This action, which promulgates these revised standards, is based on comments received from the Tennessee Valley Authority (TVA) that small research facilities have been unable to achieve the existing standards. After investigating the problem, EPA concluded that research facilities should be excluded from the standard. These revisions limit the applicability of standards to plants with a capacity of more than 15 tons of equivalent phosphorus pentoxide (P_2O_5) feed per day. The effect of these revisions is to exempt from the standard small plants used for research and development of production processes.

EFFECTIVE DATE: February 17, 1983.

Under section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESS: The docket, number A–81–33, containing supporting information used by EPA in development of the promulgated amendments to the standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Ajax, U.S. Environmental Protection Agency, Standards Development Branch, Emission Standards and Engineering Division (MD–13), Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578.

SUPPLEMENTARY INFORMATION: On August 6, 1975 (40 FR 33152), the Administrator promulgated standards of performance for fluoride emissions for five new affected facilities within the phosphate fertilizer industry: wet-process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants, and granular triple superphosphate storage facilities. The Clean Air Act Amendments of 1977 require that the Administrator of EPA review and, if appropriate, revise established standards of performance for new stationary sources at least every 4 years (Section 111(b)(1)(B)). During 1980 EPA undertook a review of the phosphate fertilizer industry and the associated NSPS. On the basis of this review, the Agency concluded that NSPS revision was not warranted. The findings and conclusions of this review were published for comment in the **Federal Register** on November 21, 1980 (45 FR 77075).

In December 1980, EPA received a comment from the Tennessee Valley Authority (TVA) that small research plants in the phosphate fertilizer industry have been unable to achieve the existing standards for fluorides. TVA provides about 75 percent of the Nation's research in phosphate fertilizers. Although at present TVA's only phosphate fertilizer research facility is a small wet-process phosphoric acid plant, TVA anticipates other phosphate fertilizer research facilities in the future and foresees similar control problems with the three other standards pertaining to phosphate fertilizer.

After investigating the problem, the Administrator has concluded that research facilities should be exempted from the standards. Therefore, the Administrator proposed to amend the NSPS for wet-process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, and triple superphosphate plants to cover only those facilities with a design capacity greater than 15 tons of equivalent P_2O_5 feed per day. This processing rate is less than that of any known existing commercial production facility and no production units of this size are expected to be built in the future.

Comments on the proposed rule change were received from three organizations: The Fertilizer Institute, the United States Department of the Interior, and the Tennessee Valley Authority. Each commenter fully supported the proposed revisions. The Fertilizer Institute did, however, suggest that expresing the production cutoff in terms of "calendar" day would make the definition clearer. EPA agrees with this suggestion. No objections to the proposed revision were received. Therefore, the revision is being promulgated, as proposed, except that the cutoff is expressed on a calendar-day basis.

Docket: The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of these amendments. The principal purposes of the docket are: (1) To allow interested parties to readily identify and locate documents so they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review, except for interagency review materials [section 307(d)(7)(A)].

Miscellaneous: The effective date of this regulation is February 17, 1983. Section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities, construction or modification of which was commenced after the date of proposal, October 22, 1974. Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment of any revision to a new source standard of performance "which the Administrator determines to be (a) substantial revision * * *", (section 317(a)). These amendments are not substantial revisions. The revisions will only reduce the economic impacts of the standards. Therefore, no economic impact assessment of the amendment has been prepared * * *.

Executive Order 12291 requires that EPA determine whether a regulation is "major" and therefore subject to the requirements of a regulatory impact analysis (RIA). These amendments to the standards are not major because they would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be major. The only economic change is to lessen the economic impact on research facilities. These research facilities will no longer be required to incur unreasonable costs in order to achieve the NSPS. Because there are no adverse economic impacts associated with these revisions, no RIA has been prepared.

The provisions of 5 U.S.C. 605(b) require the Administrator to prepare a

regulatory flexibility analysis (RFA) or to certify that a rule will not have a significant economic impact on a substantial number of small entities. These amendments will not create additional impacts since the only change will be to lessen the economic burdens on research facilities. Therefore, the Administrator certifies that the promulgated rules will have no adverse economic impact on small entities.

The Paperwork Reduction Act of 1980 (Pub. L. 96–511) requires clearance from the Office of Management and Budget (OMB) of certain public reporting/recordkeeping requirements before a rulemaking can be promulgated. There are no reporting/recordkeeping requirements associated with these revisions. A statement to that effect has been submitted to OMB.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement plants, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, and Zinc.

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

PART 60—[AMENDED]

1. For the reasons set out in the preamble, it is proposed to amend 40 CFR Part 60, paragraph (a) of §§ 60.200, 60.210, 60.220, and 60.230 (to read as follows).

§ 60.200 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each wet-process phosphoric acid plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per calendar day. For the purpose of this subpart, the affected facility includes any combination of: reactors, filters, evaporators, and hot wells.

* * * * *

§ 60.210 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each superphosphoric acid plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per calendar day. For the purpose of this subpart, the affected facility includes any combination of: evaporators, hot wells, acid sumps, and cooling tanks.

* * * * *

§ 60.220 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each granular diammonium phosphate plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per calendar day. For the purpose of this subpart, the affected facility includes any combination of: reactors, granulators, dryers, coolers, screens, and mills.

* * * * *

§ 60.230 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each triple superphosphate plant having a design capacity of more than 15 tons of equivalent P_2O_5 feed per calendar day. For the purpose of this subpart, the affected facility includes any combination of: mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills, and facilities which store run-of-pile triple superphosphate.

* * * * *

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Part IV

Department of Transportation

Federal Aviation Administration

Water Survival Regulations: Denial of Air Line Pilots Association Petition for Rulemaking; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 25, 121, and 139

[Docket No. 21222]

Water Survival Regulations; Denial of Air Line Pilots Association Petition for Rulemaking

AGENCY: Federal Aviation Administration, DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice publishes verbatim the denial of the petition for rulemaking submitted to the Federal Aviation Administration by the Air Line Pilots Association. The denial discusses in detail the FAA's ongoing research and development program on water survival and extends an open invitation to the public to participate in the program.

FOR FURTHER INFORMATION CONTACT:

Concerning the denial of petition for rulemaking: Henri Branting, Aircraft Engineering Division (AWS–120), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone (202) 426–8382

or

Concerning the research and development program: William T. Shepherd, Ph.D., Biomedical and Behavioral Sciences Division (AAM–550), Office of Aviation Medicine, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone (202) 426–3434.

SUPPLEMENTARY INFORMATION:

Background

In December 1980, the Air Line Pilots Association (ALPA) petitioned to amend various parts of the Federal Aviation Regulations to improve survivability in aircraft accidents involving water contact. As a result of the summary of the petition published in the **Federal Register** on March 30, 1981 (46 FR 19245), numerous comments on the petition were received from the general public, including a wide cross-section of the aviation community. On November 30, 1982, the FAA Administrator issued a denial of the petition (published verbatim herewith) which summarizes the public comments and addresses all issues and recommendations made by the petitioner. The denial discusses in detail the current FAA research and development program on water survival and establishes an open invitation for any party in the general public to participate in the program by submitting or lending new and improved water survival equipment for testing and evaluation by the FAA.

Participation Invited

Interested persons are invited to participate in this research and development program by submitting to the FAA, on a voluntary or loan basis, any new or improved water survival equipment. This equipment will be tested and evaluated by the FAA and considered for use in water-contact situations. Favorable results obtained during the test and evaluation program may, at some future date, lead to a notice proposing the use of such devices. Inquiries regarding the test and evaluation program may be made to the individual listed under the caption "**FOR FURTHER INFORMATION CONTACT.**"

The Denial

Accordingly, the Federal Aviation Administration publishes verbatim the following denial of petition issued to the Air Line Pilots Association on November 30, 1982.

Issued in Washington, D.C. on February 10, 1983.

M. C. Beard,

Director of Airworthiness.

United States of America, Department of Transportation, Federal Aviation Administration, Washington D.C. 20591

In the matter of the petition of Air Line Pilots Association for rulemaking to amend Parts 1, 25, 121, and 139 of the Federal Aviation Regulations, Regulatory Docket No. 21222.

Denial of Petition

By letter dated December 17, 1980, Mr. John E. O'Brien, Manager, Engineering and Operations, Engineering and Air Safety Department, Air Line Pilots Association (ALPA), 1625 Massachusetts Avenue, NW., Washington, D.C. 20036, petitioned to amend various sections of Parts 1, 25, 121, and 139 of the Federal Aviation Regulations (FAR) to improve the survivability of aircraft in accidents resulting from intentional or unintentional water contact. The supporting information in the petition was supplemented by a letter dated June 3, 1981, from Mr. Joseph M. Schwind, Deputy Manager—Engineering, ALPA.

Sections of the FAR affected:

FAR Part 1—

The petitioner proposes to redefine the term "extended over-water operation," with respect to aircraft other than helicopters, as an operation over water outside coverage of air traffic control (ATC) radar or over water in areas where search-and-rescue efforts could not ensure removal of accident survivors from the water in less than 1 hour. Part 1 currently defines this term as an operation over water at a horizontal distance of more than 50 nautical miles from the nearest shoreline. The petitioner also proposes to establish in Part 1 the new term, "restricted over-water operation," defined as an operation over water within ATC radar coverage or operation from airports bounded by significant bodies of water.

FAR Section 25.801—

The petitioner proposes to change the title of § 25.801 from "Ditching" to "Controlled water contact". The petitioner also proposes to revise § 25.801(b) to read: "Each practical design measure, compatible with the general characteristics of the airplane, must be taken to minimize the probability that in a planned emergency landing on water or unplanned controlled water contact, the behavior of the airplane * * * [unchanged] * * *" Section 25.801(b) currently reads: "Each practicable design measure, compatible with the general characteristics of the airplane, must be taken to minimize the probability that in an emergency landing on water, the behavior of the airplane would cause immediate injury to the occupants or would make it impossible for them to escape."

In addition, the petitioner proposes to revise § 25.801(c) to read: "The probable behavior of the airplane in a planned or unplanned water landing must be investigated by model tests or by comparison with airplanes of similar configuration for which the water landing characteristics are known * * * [unchanged] * * *." Section 25.801(c) currently reads: "The probable behavior of the airplane in a water landing must be investigated by model tests or by comparison with airplanes of similar configuration for which the ditching characteristics are known. Scoops, flaps, projections, and any other factor likely to affect the hydrodynamic characteristics of the airplane, must be considered."

FAR Section 25.1411—

The petitioner proposes to revise § 25.1411(d)(1) to read: "The storage provisions for the water survival equipment described in § 25.1415 must accommodate enough rafts for the maximum number of occupants for which certification for planned and unplanned water landing is requested." Section 25.1411(d)(1) currently reads: "The stowage provisions for the liferafts described in § 25.1415 must accommodate enough rafts for the maximum number of occupants for which certification for ditching is requested."

The petitioner also proposes to revise § 25.1411(d)(2) to reflect certification for both planned and unplanned water landings. Section 25.1411(d)(2) currently reads: "Liferafts must be stowed near exits through which the rafts can be launched during an unplanned ditching."

In addition, the petitioner proposes to revise § 25.1411(f) to reflect use of life preservers in planned and unplanned water landings and to require storage of life preservers in a location above the seat bottom cushion which would permit donning of the life preserver in 15 seconds by a seated passenger.

Section 25.1411(f) currently reads: "The stowage provisions for life preservers described in § 25.1415 must accommodate

one life preserver for each occupant for which certification for ditching is requested. Each life preserver must be within easy reach of each seated occupant."

FAR Section 25.1415—

The petitioner proposes to retitle § 25.1415 as "Water survival equipment" and substitute this terminology throughout the section in place of the currently used title and term "Ditching equipment."

The petitioner also proposes to revise § 25.1415(e) to read: "For airplanes certificated for restricted overwater operation and not certificated in accordance with § 25.801, there must be approved life preservers and secondary flotation equipment to permit each occupant to keep the trunk of the body out of the water. These means must be within easy reach of each seated occupant and must be readily removable from the airplane." Section 25.1415(e) currently reads: "For airplanes not certificated for ditching under § 25.801 and not having approved life preservers, there must be an approved flotation means for each occupant. This means must be within easy reach of each seated occupant and must be readily removable from the airplane."

FAR Section 121.339—

The petitioner proposes to delete the term "extended" in the title and align the text of the section with the overwater operation definitions proposed as amendments for Part 1. Equipment for extended overwater operation would remain the same, and all references to "ditching" would be changed to "planned or unplanned water landing."

The petitioner also proposes to revise § 121.339 to require that air carrier airplanes operating in restricted overwater operations (as defined in the proposed amendments of Part 1) be equipped with water survival equipment adequate to keep occupants out of the water when operating in areas, and at times, when the water temperature is known to be below 53 degrees F.

In addition, the petitioner proposes to revise § 121.339(a)(3) to describe pyrotechnic signaling devices suitable for use in rafts in the water. Section 121.339(a)(3) currently requires that at least one pyrotechnic signaling device be carried in the airplane for each liferaft.

FAR Section 121.340—

The petitioner proposes to revise § 121.340 to eliminate the option for either a life preserver or an approved flotation means and to require the carriage of both a life preserver and an approved flotation means for each occupant. Also, the petitioner proposes to revise § 121.340 to require that life preservers be located above the level of the seat bottom cushion, and that life preservers be supplemented with rafts or flotation platforms when the water temperature is known to be below 53 degrees F.

FAR Section 139.49—

The petitioner proposes to revise § 139.49 by adding a new paragraph to read: "Airports located adjacent to significant bodies of water must maintain or have available adequate water rescue equipment to retrieve the occupants of the largest aircraft operating from that airport and to permit response of 50 percent of this equipment to a water area within 2,000 feet of the active runway threshold within 10 minutes of dispatch."

FAR Section 139.55—

Section 139.55 requires that an emergency plan be established that ensures prompt response to emergencies and unusual conditions on the airport. This section requires, in part, that the emergency plan provide, to the extent practicable, for transportation and medical assistance for the maximum number of persons that can be carried on board the largest air carrier aircraft the airport reasonably can be expected to serve. The emergency plan must contain a list of surface vehicles and aircraft that are intended to provide transportation for injured and deceased persons following an airport disaster. The petitioner proposes to revise § 139.55 to require that the emergency plan ensure prompt response both on the airport and in water areas adjacent to the airport. Also, the petitioner proposes to revise § 139.55(b)(2)(iii) to require that water vehicles be added to the list of surface vehicles and aircraft designated for medical transportation.

In addition to the changes to the above sections, the petitioner seeks the following actions:

Establish a technical standard order (TSO) describing requirements for pyrotechnic signaling devices intended for use in rafts or in the water.

Revise existing TSO's on escape slides to include design features making slides suitable as rudimentary rafts for flights conducted in restricted overwater operations.

Revise the existing TSO on lifevests to require simplified retaining systems permitting donning by a seated passenger within 15 seconds.

Develop an advisory circular describing coastal surface water temperatures and establishing water survival zones based upon water temperatures less than 53 degrees F.

The petitioner's supportive information is as follows:

There has been controversy concerning requests of some air carriers to delete liferafts from emergency equipment for operation beyond 50 nautical miles from shore. There were survival problems common to the unintentional water contact of a B–727 in Escambia Bay near Pensacola, Florida, on May 8, 1978, and a planned ditching of a DC–9 near St. Croix, Virgin Islands, on May 2, 1970. A review of available information on water survival provisions for occupants of transport aircraft indicates that existing requirements and terminology in FAA safety regulations do not meet the water survival needs of current transport aviation as reflected by service experience. Several areas which are critical to survival following intentional or unintentional water contacts are not addressed by FAA requirements. The FAR should be revised to address both intentional and unintentional water contact since the term "ditching," now used in the FAR, refers only to intentional water contact. Public interest will be served by a comprehensive FAA program aimed at revision of water survival equipment requirements.

Since the advent of turbine-powered air carrier airplanes, from the standpoint of occupant survival in water, the threat of an unplanned landing in water relatively close to rescue resources has become the predominant consideration as compared to the threat of a landing in the open ocean far from land. The current airworthiness and operational requirements for extended overwater operations are necessary to ensure the self-sufficiency needed for open-ocean survival. Accident trends and increased pressure for change by operators make it necessary to revise water survival equipment requirements for restricted operations near shore or during departure from or approach to airports located near significant bodies of water. (The petitioner does not indicate the nature of the change on the part of operators.)

The petitioner contends that experience has shown that most air carrier accidents occur during either the takeoff or approach/landing phase of flight. About 15 percent occur en route. There has been only one planned ditching of an air carrier jet transport, which was the St. Croix accident.

Four charts submitted with the petition indicate the potential of transport airplanes making an unplanned water landing close to the arrival or departure airport. One chart depicts accident locations relative to the hypothetical 10,000-foot runway and direction of flight for the period 1964 through 1977. Two charts depict the potential water hazards in the runway overrun areas and the approach and departure areas of U.S. terminal airports. One chart compiles brief descriptions of 42 jet transport accidents worldwide involving water contact during the period 1959 through 1979.

There is much literature on immersion hypothermia and human survival in water. Submitted with the petition is the current research report, "Physiological Response of Human Subjects Wearing Thermal Protective Clothing Assemblies in Varying Environments," prepared by the Naval Air Development Center. In summary, current research indicates that if human body core temperature drops to 30–35 degrees C, death is likely due to the subject's inability to participate in his or her own rescue. Some dexterity of the hands is retained at 10 degrees C. In one research project, a lightly clothed male subject in 11 degrees C water had a 2.3 degree C per hour drop in rectal temperature. At this rate, after 1 to 2 hours, the subject's temperature could be expected to become critically low. Thinner, smaller, or less healthy subjects would have a decreased survival time.

The U.S. Coast Guard National Search and Rescue Manual indicates the "safe" border is 1 hour in 11 degree C (53 degree F) water. When correlated with the Air Force System Command Design Handbook DH 2–8 table on probability of water survival, this temperature-time combination offers a probability of 1.0 of survival for 1 hour (for healthy, young males).

The petitioner submitted a survivability chart reportedly agreed on by most members of the Society of Automotive Engineers Committee S–9, Cabin Safety Provisions. This chart shows: at 32 degree F water

temperature, 50 percent of the survivors die within 10 minutes and 99 percent of the survivors are dead within 1 hour and 20 minutes; at 41 degrees F, 50 percent die within 20 minutes and 99 percent are dead within 2 hours and 15 minutes; at 50 degrees F, 50 percent die within 30 minutes and 99 percent are dead within 3 hours and 20 minutes; above 68 degrees F, likelihood of shark attack increases.

The information above is presented in context with the number of U.S. airports located near water at or below 53 degrees F during winter or longer periods. Several U.S. air carriers operate over water which is often below this temperature. The above temperature/time criterion is conservative, and public comment may suggest a higher temperature criterion based upon better knowledge of physiology or survival experience.

In water accidents, kerosene might be released and float on the water near survivors. Kerosene ingestion is just as dangerous as hypothermia. Following the accident in Escambia Bay, the Civil Aeromedical Institute experimented with white rats and found that under certain experimental conditions kerosene on water reduced the time of survival to one-fourth to one-sixth that of rats swimming in clear water. Kerosene might have caused the deaths of three victims in Escambia Bay, all of whom were expert swimmers.

Planning and regulations for water survival must account for search and rescue (SAR). Submitted with the petition is a description of the Coast Guard's airborne SAR capabilities and the location of its aircraft. These aircraft can rescue a limited number of people, primarily by dropping rafts. Coast Guard aircraft can be expected to need 1 to 2 hours to reach an accident scene. Coast Guard SAR is augmented somewhat by Navy patrol aircraft, which can drop 2 seven-person rafts on a 2- to 4-hour notice, and by H–46 helicopters at a few naval air stations. In areas close to the shore of the continental United States and in certain other areas, ATC radar would permit direction of rescue to a transport aircraft operating under positive radar control prior to an accident. In such case, airborne water survival equipment can be selectively minimized based upon the required ability to locate an accident site and airdrop supplemental equipment within 1 hour of the accident. Minimum equipment must include flotation platforms to keep the body out of the water to delay hypotermia and protect survivors from aggressive marine life.

Though some U.S. airports near water have water rescue plans and equipment, such is not the general case. Submitted with the petition is the Washington National Airport emergency plan, as an example of a typical good plan. This plan contains one short section on contacting harbor police in the event of unspecified need. Telephone numbers or radio frequencies for harbor police are not listed. Planning maps illustrate land areas adjacent to the airport. Water areas are excluded. This deficiency in the emergency plan is reflected in the water rescue capability of the airport. The 1978 water rescue drill at National Airport contrasted with the well-planned and coordinated 1977 land rescue drill. Airport water rescue equipment and training were minimal and ineffective, and there was little coordination with nearby rescue resources such as the harbor police. National Airport is typical since it complies with current regulations. Part 139 entirely overlooks water rescue.

Part 25 requires that an airplane not equipped with life preservers be equipped with flotation devices. These devices are generally seat cushions and are inadequate for survival. Cushions lose buoyancy in about 15 minutes. An improved device should be developed, through FAA research, if necessary. Submitted with the petition is a photograph of an average male subject in still water using a device similar to those used by air carriers. The photo shows the subject assuming the natural chest-up reclining position, holding the device to his chest, with the back of his head submerged and his nose and mouth barely above water. This reclining position is insecure and critical from the standpoints of hypothermia and water ingestion. Also submitted with the petition are photographs of newly designed possible alternative devices. One is an inflatable one-person flotation platform to keep the upper torso out of water. The other is a quick-donning lifevest.

Virtually no passenger information card used by air carriers illustrates the inclined position a survivor will naturally assume when using a flotation cushion. Generally, cards show the passenger floating vertically with shoulders out of the water. One card shows a passenger floating on her stomach with the cushion beneath her chin, with head and shoulders fully out of water. Passenger information cards should be changed to relect experience and minimize passengers' surprise at their inability to float according to expectation.

Many air carriers stow lifevests under seats. During water impact, these seats tend to collapse and make lifevests inaccessible. Lifevests should be stowed in seat backs. Submitted with the petition is a photograph of a possible seat back stowage compartment. Seat back stowage would improve accessibility and help prevent pilferage, which is reported as very frequent in air carrier service.

The most logical solution to the water survival problem is to equip all aircraft with slide rafts or rapidly deployable flotation equipment to keep everyone out of the water, especially the handicapped and the aged. The slide raft does add weight to the aircraft; however, to offset this weight, the emergency pack currently required for liferafts could be eliminated since it is of little use except for an extended period of survival. The pack of course would be required for extended overwater flight.

Although the FAA requires the use of approved pyrotechnic signaling devices, no FAA guidance exists on design or operation of these devices. Due to this, one operator equipped its aircraft with highway flares labeled with prohibitions against holding in the hand and which could not be ignited in water. Though this is an example of skirting regulatory intent, no regulatory guidelines have been established. This particular case was corrected. There are more than 40 years of military experience with pyrotechnic signaling devices, and specifications exist for their design and use. A TSO should be established for these devices.

An illustration of water rescue complexity and survival is the recent rescue of the passengers and crew of the cruise ship *Prinsendam*. A fire occurred on board the ship. Submitted with the petition are the telegraphic status reports of the fire and rescue efforts which lasted several hours. These reports summarize delays in mounting an air/sea rescue and the resources that were needed in rescuing 510 people from Alaskan coastal waters. All of the *Prinsendam's* complement left the ship in boats and were airlifted to rescue vessels. All survived and no one entered the 57 degree F water. This would not be the case in an aviation accident due to existing deficiences in planning, preparation, and equipment.

A summary of the ALPA petition was published in the **Federal Register** on March 30, 1981 (46 FR 19245).

Comments on the petition:

Numerous commenters support the general objective of improving both airborne and waterborne rescue capability to increase survivability in aircraft water accidents. Many support the ALPA regulatory proposals or a comprehensive program to improve survivability, or both. Numerous comments are from individuals, indicating broad popular support from the general public.

Concerning the proposal to amend Part 1, numerous commenters support, without substantial comment, the revision of basic definitions proposed in the petition.

Regarding accident experience as it pertains to basic definitions and objectives in the petition, several commenters agree that an unplanned accident near land is much more probable than a planned ditching in open sea. No commenter opposes this basic position.

Several commenters point out that in the 42 accidents cited, the petitioner fails to distinguish between the survivable and the nonsurvivable and to identify those in which the proposals would have affected survivability.

One commenter analyzes the 14 accidents involving U.S. carriers and concludes: 2 involved turboprops not comparable to turbojets; 3 involved runway overruns, not extended overwater flight; 3 involved uncontrolled impacts and were not survivable; 3 involved inadvertent controlled descent with destruction on impact; 1 did not come to rest in water; and 2 had some type of water survival gear which was relatively ineffective. The commenter states that the accidents verify that only on rare occasions may there be a need for flotation equipment and that they do not establish a need for flotation equipment for extended overwater flight. The commenter states that since the early 1950's, jet transports of the free world have flown approximately 175 million hours, 91 million by U.S. carriers, and that there has never been a case in which a commercially operated jet transport has attempted an intentional controlled ditching. The

commenter states that in 22 years of jet operation, the need for all of the emergency equipment for extended overwater operations specified in § 121.399 has not been verified.

Another commenter similarly discusses the absence of planned ditchings. The commenter states that in jet airline operations there have been over 40 water-impact accidents and that, except for the St. Croix accident, all have been unintentional water contacts within 14 miles of land. The commenter contends that FAA regulations require airlines to prepare for a type of accident which has never occurred in jets and not to prepare for the type which has occurred.

One commenter states that no data base is shown for the accident location chart in the supporting data and that there is no definition of a "significant" body of water.

One commenter, opposed to the changes in basic definitions of Part 1, agrees with the petitioner that existing requirements and terminology on water survival do not reflect the needs of transport aviation and should be refined.

In opposition to the petition, the commenter states that the present definitions regarding extended over-water operation were developed 30 years ago based on airplanes at that time and do not reflect the improved safety and reliability of aircraft, engines, systems, and equipment in current service over that which existed when the regulations were developed.

The commenter states that the revised definition of "extended over-water operation" would be imprecise and difficult to administer and that although the present definition is outmoded, it is definable and usable by a crew in flight. The commenter questions how to present to a pilot information on the flight area falling within ATC radar coverage and how this information would be updated if a radar system becomes inoperative. The commenter questions the definition of search and rescue organizations. The commenter estimates that the new definition would increase the number of air carrier operations defined as "extended overwater" with the accompanying equipment requirements and points out that ICAO permits operation up to 400 nautical miles or 120 minutes at cruising speed, whichever is less, offshore without the carriage of liferafts. The commenter states that the definition of "restricted over-water operation" is imprecise and that no definition of "significant bodies of water" is offered. The commenter states that the proposed changes could require every airplane to have life preservers, approved flotation means, and, depending on airport location and time of year, liferafts or flotation platforms, because there is no practical way to schedule only certain airplanes for operation over water and into specific stations.

One commenter states that the major proposals should require separate rulemaking because of the impact on fleet operation. The commenter states that current regulations provide for takeoff over water and extended overwater flight and are adequate for safe operation and that the use of ATC radar coverage as a means of distinguishing between the two types of operations may introduce undesirable variations in compliance.

One commenter states that the definitions would be beneficial since they recognize both rescue resources and the threat to survival. The commenter states that distance from shore is an arbitrary criterion and a matter of custom but bears little on survival needs.

One commenter in favor of the proposed regulatory changes states that unspecified small changes are needed to achieve consistent terminology.

Concerning the proposal to amend Part 25, numerous commenters support, without substantial comment, the revisions of the various sections.

One commenter, supporting the proposed revision of § 25.801, states that the revision would orient the regulations to both unplanned as well as planned water contact. The commenter contends that this is preferable since most accidents have been unplanned.

One commenter, opposing revision of § 25.801, states that there is no substantiation for the revision. The commenter states that structural consequences of ditching depend on airplane configuration, attitude, and orientation with water waves and that in a planned ditching the pilot can follow procedures to minimize damage. The commenter points out that in unplanned water contact, airplane configuration, attitude, and orientation are undefined and that the term "unplanned controlled water contract" is open to a multitude of interpretations which will result in confusion. The commenter points out that inadvertent contact with water can occur, for example, as a result of loss of control during climb-out or extensive overrun following an attempted rejected takeoff and that these conditions cannot be designed for structurally and would be potentially nonsurvivable accidents.

One commenter states that the requirements in current § 25.801 envisage an emergency landing on water and that the proposed changes go beyond the "unplanned controlled water contract" when taken in context with the list of 42 accidents submitted by the petition. The commenter states that an airplane cannot withstand impacts at speeds higher than normal touchdown and with the gear either up or down. The commenter states that accident history shows any successful water landing must be preplanned and precisely controlled. The commenter states that it would be impossible to prepare an airplane for "unplanned controlled water contacts" and that such a requirement is not supportable from the record.

Several commenters in favor of the proposed revision of § 25.1411 state that the term "mass flotation devices" would be more descriptive than the word "rafts."

One commenter in favor of the proposed revision of § 25.1411 states that the provisions pertaining to life preservers meet the needs of water survival and are in agreement with the Society of Automotive Engineers Aeronautical Recommended Practice on water survival equipment. The commenter states that some life preservers on a specific wide-body aircraft are mounted above the seat pan in the seat backs and that another transport, currently being designed, may have life preservers stowed in the bottoms of the overhead passenger service units. The commenter states that such locations are preferable for emergency access and likely would reduce pilferage.

One commenter favors the proposed revision of § 25.1411 regarding the stowage and donning of life preservers, stating that this is important because the size and amount of passenger carry-on baggage has doubled in the past 5 years, and this baggage, which is forced under seats, restricts passenger access to the life preservers and causes passengers to waste precious time in retrieving the life preservers.

One commenter opposes the proposed revision of § 25.1411, stating that there is no documentation in the petition to substantiate the need to don a life preserver in 15 seconds, which appears to be an arbitrary time. The commenter states that the petitioner, in proposing to locate life preservers above seat bottoms, presents no data to substantiate that the traditional location under the seat bottom does not meet the purpose of the proposed new location. The commenter states that this location requirement would be unduly restrictive because it dictates a location in the back of the seat in front of the passenger, in the back of the passenger's own seat, or in the area above the seat where automatically deployed oxygen masks are stowed. The commenter states that study and testing of alternatives should be performed before the traditional service-tested location beneath seats is prohibited as proposed.

One commenter opposes the proposed revision of § 25.1411 regarding stowage of life preservers, stating that it would require the relocation of every lifevest now installed. The commenter states that the traditional underseat location was selected to make the life preserver readily available, removable, and within easy reach, as is required. The commenter states that the underseat location protects the life preserver from damage and pilferage. The commenter points out that at one time vests were stowed in seat backs and, besides being pilfered, were frequently punctured by sharp objects and rendered unusable. The commenter advises that there is a new life preserver being purchased by many air carriers which can be donned in less than 15 seconds and that FAA should consider revising the life preserver TSO in this regard.

One commenter opposes the proposed revision of § 25.1415 regarding secondary flotation equipment to permit each occupant to keep the trunk of the body out of water. The commenter states that no such equipment now exists which would meet the proposed requirements of being within easy reach of each seated occupant and being readily removable from the airplane.

Concerning the proposal to amend Part 121, numerous commenters support, without substantial comment, the revisions of the various sections. Several commenters indicate that comments on related proposed revisions of Part 25 apply in principle to the proposed Part 121 revisions.

Several commenters favor the proposed revision of § 121.339, provided it requires that equipment for extended overwater operations

be demonstrated as being suitable for both planned and unplanned water landings.

Several commenters favor the proposed revision of § 121.339 regarding required equipment for operation over water at 53 degree F, except that they favor specifying a higher water temperature to allow a margin of safety. One commenter recommends 60 degrees F as the limit. Several recommend that flotation equipment be required on all overwater flights, regardless of water temperature, explaining that as water temperature increases, the risk of hypothermia decreases, but the risk of shark attack increases. One commenter briefly cited the results of three accidents to support the recommendation, and one commenter submitted two technical articles on hypothermia.

One commenter opposes the revision of § 121.339, as proposed in the petition, pointing out that it is difficult to comment without specific realignment of the text.

One commenter states that the proposed requirement for both life preservers (stowed above seat bottoms) and secondary flotation equipment is excessive. The commenter recommends requiring lifevests for all overwater operations and rudimentary raft capability for inflatable evacuation slides.

One commenter favoring the petition submitted a list of recommendations made by a panel of experts following the St. Croix accident, which included, in part: use of slide rafts, automatically deployed supplementary flotation devices, and quick-donning lifejackets. Another commenter cautions that escape slides should be evaluated to determine the feasibity of using them as flotation equipment without major modifications and that slides are critical in size and weight.

One commenter states that in an unplanned controlled water contact, reliance on lifevests and complex individual flotation devices would cause confusion. That commenter also states that it would be better to rely on multipassenger rafts, operated by trained personnel, as the primary flotation means and to use lifevests and seat cushions to ensure safe transport to the raft.

One commenter states that the inflatable one-person flotation platform cited in the petition as an example is impractical. The commenter states that stowage would be extremely difficult and that each passenger would have to retrieve and don a lifevest and retrieve and carry the platform at the same time. The commenter states that this would delay evacuation and cause more problems than it would solve. The commenter states that the Escambia Bay accident indicates evacuation time is minimal in a water landing.

Regarding the pyrotechnic device, one commenter states that, in lieu of a new TSO, the FAA should develop an advisory circular on the various types acceptable for use by air carriers and FAA inspectors. The commenter points out that the primary ocean locator is the locator beacon and that dye markers are used for daytime location and flares for night.

Concerning the proposal to amend Part 139, one commenter favors the revision of § 139.49, stating that this would allow airport operators flexibility in meeting water survival needs with airport equipment or through cooperative arrangements with local operators.

One commenter favors the revision of §§ 139.49 and 139.55 and stresses the importance of waterborne rescue. The commenter points out that wide-body aircraft can carry 400 passengers and that the required 8 flight attendants plus 3 flightcrew cannot handle 400 people in the water. The commenter states that it is likely that some crewmembers will be incapacitated and that the crew and passengers will need water rescue.

One commenter questions the need and justification for proposed § 139.49. The commenter suggests an advisory circular on existing rescue capabilities. The commenter questions whether the few accidents which occurred justify a substantial change in regulations.

One commenter favors the revision of § 139.55, citing a renewed interest at the FAA-operated Washington National Airport in water rescue and stating that this is a noteworthy improvement over the situation described by the petitioner.

One commenter opposes the changes to §§ 139.49 and 139.55, stating that it is not economically feasible to require an airport to provide adequate waterborne capability to serve its largest aircraft. The commenter explains this could entail the provision, operation, and maintenance of up to 20 watercraft for airports served by wide-body aircraft. The commenter states that the facts presented by the petitioner do not support the need and do not justify the huge cost that would be placed on the air transportation industry. The commenter states that the petitioner failed to identify in the supporting data those accidents in which waterborne rescue would have affected survivability. The commenter stated that in 14 of the accidents cited by the petitioner, the accident was not fatal, occurred far from an airport, or was unsurvivable. The commenter states that a survey of 36 airports near water indicated that 86 percent were provided waterborne rescue service, wholly or in part, by government and 17 percent had an inhouse capability.

In commenting on the possible economic impact of the proposal, one commenter submitted a summary of the costs that would be incurred by six U.S. airlines if the proposed regulations were adopted. Briefly, this summary indicates a typical liferaft costs $3,500 and weighs 130 pounds, and that the added fuel cost for 1 pound of added weight is $25 per year per airplane. One airline operating about 32,000 seats would spend $1 million for lifevest retrofit. One airline would spend $9 million for 900 new flotation escape slides and $8 million for individual flotation platforms, if available, and added fuel would cost $5.5 million per year. The commenter estimates first-year cost to the U.S. fleet at about $42 million for equipment and maintenance plus $38 million yearly for added fuel, a total of $80 million for the first year. The commenter states this does not include the cost of waterborne rescue under the proposed Part 139 changes, which could be significant.

The FAA's analysis is as follows:

The petitioner clearly states the significance and the principal aspects of the unplanned water-contact type of accident. The information submitted in support of the petition and that provided by various commenters emphasize that unplanned water contact, with the associated post-impact water survival environment, should be viewed as the predominant water accident threat as compared to the planned ditching. It indicates that a broad cross-section of the aviation community and general public perceives the potential for this type of accident as a problem which calls for action on the part of the FAA. Considerable airport and accident data are citied by the petitioner. Although several commenters question the value of these data and the relevance to specific aircraft configurations and accident scenarios, the FAA believes these data reinforce well the premise that a clear potential exists for the occurrence of an unplanned water-contact type of accident in the vicinity of certain airports in the United States. The data on hypothermia submitted by the petitioner provides an insight into one of the more critical factors of short-term water survival. Although some commenters suggest different water temperatures as the baseline for criteria addressing hypothermia, no commenter, nor the FAA, disputes the implications of the petitioner's data or the consequences of cold water immersion in survival.

Contrary to the view of one commenter that current regulations do not address unplanned water contact, the regulations contain requirements intended to account for the full range of crash-landing situations, including the crash landing on land, the planned ditching associated with extended overwater flight, and the unplanned crash landing on water. Most of these current regulations are intended to address all three types of accidents collectively, with requirements on seat retention, occupant head protection, emergency exit marking, emergency lighting, exit access, aisle width, emergency equipment, and cabin interior materials. The objective of these regulations is to provide occupants protection against the crash-landing impact sequence, whether it occurs on land or water, and to ensure quick escape after the airplane has come to rest.

In addition to these collective requirements, certain regulations aim specifically at the crash landing on land, with requirements on evacuation slides, emergency exits, fire protection, and evacuation demonstration. Because a suvivable accident on land is more probable than on water, these requirement have added importance and, consequently, are frequently upgraded as technology and economic considerations permit.

Of the regulations pertaining to the two types of water contact accidents discussed in the petition, planned ditching and unplanned water contact, those for the planned ditching associated with extended overwater flight are the more extensive. These include requirements on aircraft impact behavior, flotation characteristics, ditching, emergency exits, liferafts, life preservers, extended survival and emergency locator equipment,

and demonstration of ditching evacuation capability. As one commenter points out, these ditching regulations were developed before the advent of civil jet transports and have not been revised substantially since then, even thought the improved reliability of multiengine jet transports has greatly reduced the likelihood of a planned ditching. The petitioner seeks to retain these regulations essentially intact to provide for the self-sufficiency and endurance necessary for extended survival in open sea. The FAA concurs in this.

The airworthiness regulations the petitioner proposes to revise are those pertaining to the unplanned water-contact accident. These have been in effect about 25 years and apply to the certification of all transport category airplanes. Although these regulations are less extensive than those on the planned ditching, they clearly envisage the special circumstances which could arise if the airplane were to contact a body of water without warning. They require that each airplane were to contact a body of water without warning. They require that each airplane, whether or not intended for extended overwater flight, be equipped with a prescribed number of exits located above the flotation water line and with an approved individual flotation device, readily removable from the airplane, located within each reach of each seated occupant. These regulations, of course, are in addition to those mentioned above on occupant head protection, emergency lighting, and other features designed to protect the occupants against crash landings in general, whether they occur on land or water. The individual flotation devices required by regulations are defined by TSO–C72b and are generally foam flotation seat cushions, although in many cases inflatable life preservers are used.

The FAA is in full accord with the thrust of the petitioner's presentation. The FAR recognize that extended endurance time is critical to survival following a planned ditching far from land and rescue; similarly, it is clear that short-term endurance is critical to survival in cold water following an unplanned crash landing in water close to land and rescue, as might occur during an approach or departure at an airport adjacent to a body of water. The FAA believes a program for improvement of water survival provisions, as advocated by the petitioner, is warranted to establish, as soon as practicable, a basis for identifying feasible and cost-effective requirements pertaining to the unplanned water-contact type of accident and, if appropriate, to bring these requirements into closer balance with the existing requirements regarding planned ditching. The FAA has such a program underway at this time.

In July 1981, the FAA initiated a research, development, and evaluation program of the scope, and for the objectives, described in the petition. One of the first tasks in this program was the assessment of the feasibility of the petitioner's proposals in light of the prerequisites for any such comprehensive upgrading of the civil fleet's water crash survivability. This program, Survivability in Unplanned Crash Landings in Water, is under the direction of the Office of the Associate Administrator for Aviation Standards and involves development programs at the Civil Aeromedical Institute at Oklahoma City and the FAA Technical Center at Atlantic City. Inquiries regarding this program may be made to Dr. William T. Shepherd, Office of Aviation Medicine, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426–3434. Details and the time frame of this program are discussed in several of the following paragraphs.

While the FAA concurs with the petitioner on the significance of the unplanned water-contact type of accident and the general objectives of the petition, it is apparent that certain problems confront the establishment of new requirements in the immediate future. There is not sufficient information in the petition and comments to permit the development and identification of effective options. There is a substantial technical area which must be explored and issues to be resolved before reasonable judgment can be exercised as to how to handle this general matter of water survival. The wide range of comments and conflicting viewpoints expressed in response to the petition are indicative of this.

As is generally the case in establishing new requirements, the basic issue is one of defining the hazard and the exposure to the hazard, developing countermeasures, and defining the circumstances which would call for these countermeasures. The hazard in this case is the unplanned water-contact accident scenario. The exposure is the potential for occurrence. Although the information in the petition and comments addresses this problem and appears to offer some specific solutions, it does not equip the FAA to analyze the numerous possible water contact scenarios, derive the baseline scenario, and proceed with development of equipment and design criteria to counter that scenario. At this time, there are too many different accident situations, types of emergency equipment, and design configurations which have not been evaluated, to reach a valid conclusion as to the proper way to handle the problem. The FAA program aims to resolve these issues. We believe it should be completed as expeditiously as possible to establish a sound technical basis for identifying options. The program is concentrating on the unplanned water-contact type of accident and is taking into consideration the crash-impact sequence, the evacuation process, immersion hypothermia, and any other factors found significant in determining survival. It will entail an assessment of airworthiness design and aircraft emergency equipment vis-a-vis the crash-landing scenario and post-crash survival environment. The program will consider all of the proposals and supporting information submitted by the petitioner.

There are several technical areas in which there is a particular need for information. One of these is in the determination of the hazard exposure and the definition of the circumstances, or airport locales, which warrant consideration of the possibility of an unplanned water-contact accident. The petitioner has proposed new definitions in FAR Part 1 as the means of specifying applicability of the proposed equipment requirements for both "extended overwater operation" and "restricted overwater operation" based, in part, on the location of the flight route relative to ATC radar coverage and on the location of the airport relative to a significant body of water. While several commenters support these proposals, others cite problems which might arise and object to the lack of definition of the term "significant" as used in the petition. The FAA believes a criterion more definitive than that proposed by the petitioner is necessary. One of the key parts of the FAA program is the development of a rational reference criterion which can be used to identify those airport locales for which consideration of the possibility of an unplanned water-contact accident is reasonably practical and those for which consideration is not practical. This is to provide a basis for an efficient and cost-beneficial application of whatever findings or conclusions may be developed in the program. Until this aspect of the problem has been explored and some definitive rationale is available for determining applicability, we do not believe criteria should be established, as proposed in the petition. As one commenter points out, the proposed new definition of "extended overwater operation" would require a number of carriers to upgrade airplanes and carry a full complement of ditching equipment over existing routes. The information and data submitted by the petitioner in this regard is limited, and we find that it does not support such a general upgrading, especially in view of the favorable service experience on ditchings.

Another key area in which information and data are needed is in the development of the baseline accident scenario. The scenario must account for the condition of the survivable space within the cabin from the time the airplane initially contacts the water to the time it comes to rest and the evacuation process is underway. This is necessary to provide the baseline against which various cabin and equipment configurations can be evaluated and their effectiveness and efficiency determined. In regard to a baseline scenario, the petitioner proposes to revise § 25.801 (b) and (c) to require that unplanned controlled water contact and unplanned water landing be accounted for in the airplane design, in addition to the emergency landing on water, as currently required for ditching certification. The petitioner does not propose parameters on other means of identifying the specific design impact conditions envisaged in the proposal, such as aircraft speed, attitude, or descent rate. Commenters point out that this lack of definition of scenario could result in various interpretations and confusion in design and that some unplanned controlled water-contact accidents essentially are nonsurvivable.

The FAA program recognizes the importance of a valid and practicable baseline scenario and the complex aspects of establishing and adequately defining the scenario for design purposes. An unplanned crash landing in water might result from various events, such as runway overrun or

controlled descent into water. Contact could be made at many combinations of aircraft speed, attitude, weight, fuel loading, and center of gravity, all of which could greatly affect the impact behavior of the aircraft. While the research and development program cannot account for all of the details of the numerous possible sequences of structural behavior in crash landings, there should be some general indication as to what to expect in unplanned water contacts for various types of aircraft and various impact conditions. For instance, if an airplane contacts the water at a given speed, weight, attitude, etc., can that airplane be expected to remain relatively intact, or is massive breakup probable? Will the airplane come to rest upright or inverted? What is the expected flotation time and attitude?

These scenario factors are critical since the efficacy of the required emergency systems and equipment is dependent on the scenario the systems and equipment are intended to counter. For example, if the airplane is expected to undergo an impact sequence which would leave the cabin intact with emergency exits above water and all passengers and crew in sound condition and ambulatory, the proper survival equipment might consist of a few well-placed high-capacity liferafts or flotation platforms which would be deployed by trained crewmembers and able-bodied assistants. If, on the other hand, the airplane is expected to undergo major breakup which would leave some of the passengers and crewmembers incapacitated, the survival equipment configuration might entail a number of readily accessible individual flotation devices dispersed throughout the cabin which would be usable by untrained passengers without the assistance of crewmembers.

The program being carried out by the FAA will include an investigation of the behavior of typical transport airplanes in unplanned water-contact type accidents and the resulting general condition of the cabin, structural damage, flotation time and attitude, availability of exits, and any other factors found relevant to survival. This will provide necessary insight into what to expect in water crash landings of various types of airplanes so that emergency equipment and procedures can be configured accordingly. Much of the work required for this scenario study has been completed under a research program concerned with crash impact scenarios in general and the structural behavior of airplanes involved in accidents. The results of this research program were published recently in three FAA/NASA reports: No. DOT–FAA–CT–82–69, Transport Aircraft Crash Dynamics, dated March 1982; No. DOT–FAA–CT–82–70, Transport Aircraft Accident Dynamics, dated March 1982; and No. DOT–FAA–CT–82–68, Commercial Jet Transport Crashworthiness, dated April 1982—all of which are available from the National Technical Information Service, Springfield, Virginia 22161.

Considerable technical information concerning performance capabilities of various types of water-survival equipment and cabin design features is still needed. This information is necessary to identify those equipment items and design features which effectively and efficiently counter the design accident scenario and increase survivability. The petitioner favors use of specific types of survival equipment, much of which is the type currently used in service, and proposes revisions of §§ 25.1411, 25.1415, 121.339, and 121.340 to establish new requirements pertaining to liferafts, life preservers, individual flotation devices, and secondary flotation equipment. Secondary flotation equipment is a relatively new concept in survival gear, not mandated or otherwise referenced in current regulations. Essentially, it is a simple and lightweight flotation device which can keep the survivors out of the water but is not intended or equipped for extended survival in open sea as is the liferaft.

The FAA is particularly interested in new ideas and concepts in water survival equipment and in ways of making existing equipment more effective. We do not believe selection of equipment and design features should necessarily be limited to those currently available since some new concept might be found the most effective. The one-person flotation platform cited by the petitioner is an example of the type of new equipment which should be considered. Although commenters contend this particular device is impractical and not available on the general market, it might be found to have sufficient merit to warrant further design refinement and commercial production. Any such new equipment item volunteered by a manufacturer, individual, or other party early enough in the program to allow its consideration, or otherwise obtained by the FAA, will be tested and evaluated. The FAA program is looking into many aspects of survival equipment and design features including quick-donning life preservers, life preserver stowage and access, emergency evacuation slides/rafts, flotation seat cushions, advanced lightweight portable liferafts, and secondary flotation equipment. This will entail thorough evaluations by survival pool tests and, if necessary, open-sea tests to determine the capabilities and performance levels which can be expected.

The FAA issued a notice regarding water-survival equipment in the November 16, 1981, **Federal Register** (46 FR 56292). This notice announced publicaiton and invited public comment on the proposed comprehensive upgradings of three TSO's on inflatable equipment: TSO–C13d, Life Preservers; TSO–C69a, Emergency Evacuation Slides, Ramps, and Slide/Raft Combinations; and TSO–C70a, Liferafts (reversible and nonreversible). These proposed upgradings are based on research, development, and testing and on the experience in recent aircraft type certification programs. Proposed TSO–C13d would establish a new requirement that a life preserver be demonstrated capable of being donned within 15 seconds by an unassisted seated adult, who has received only the customery preflight briefing. This is consistent with the proposal made by the petitioner.

The equipment testing and evaluation portion of the FAA program has a special bearing on the petitioner's proposal that inflatable evacuation slides serve as rudimentary flotation platforms for unplanned water-contact accidents and that the TSO be revised to require this. Obviously, this concept has merit although its feasibility has not been established for slides in general. If a slide could be inflated, released from the airplane, and boarded by survivors, it would be invaluable in a water-survival situation. Proposed TSO–C69a would foster this concept to some extent. This TSO would establish a new criteria package for the certification of slide/raft combination devices and contain provisions in evacuation slide criteria for optional design features which would permit slides to be usable as rudimentary flotation platforms. Not all slides, however, may be suitable as flotation platforms. Some slides have flotation and water-stability characteristics which have not been evaluated and demonstrated to be appropriate for the purposes of survival equipment. The FAA program is to investigate this matter of slides as flotation equipment, including open-water testing of typical slides, and identify those characteristics and design features which are necessary to ensure that a slide can serve adequately as a flotation platform. This basic work is necessary to place the FAA in a position to develop guidelines and criteria regarding the design of slides for use as water-survival equipment.

As a result of a reported service difficulty, in Febraury 1981 the FAA initiated a program to investigate the buoyancy of flotation seat cushions used in airline service. This program is germane to the petitioner's contention that flotation cushions lose buoyancy after a short time in water. Cushions which have been in long service are being obtained from various air carriers and subjected to cyclical submersion testing in a manner simulating the wave action of an actual survival situation. The objective of this program is to determine if there is some deficiency in current flotation criteria for cushions and, if so, the appropriate means to correct it.

Several of the petitioner's proposals would revise sections of Part 139 to require that each airport which is adjacent to a significant body of water maintain an extensive water-rescue capability. Apropos of the petitioner's proposals, the National Transportation Safety Board (NTSB) recently recommended to the FAA that it "Amend 14 CFR 139.55 to require adequate water resuce capabilities at airports having approach and departure flight-paths over water which are compatible with the range of weather conditions which can be expected." (Recommendation A–82–89.)

The FAA is reviewing all of Part 139 to update its provisions and ensure that, in compliance with Executive Order 12291, the benefits to society of each requirement outweigh the potential costs to society and to maximize the net benefits to society of the airport certification and operating rules as a whole. The FAA recognizes that there are emergency situations in which ground-based water rescue could be effective, and the FAA sees the positive benefits of planning and preparedness by local governments and jurisdictions for all types of emergencies and accidents, regardless of whether on water or on land. In reviewing Part 139, the FAA will consider the information provided in the petition; however, to adopt the petitioner's

proposed revisions while all of Part 139 is under review would be premature.

The NTSB has also recommended to the FAA that it "Survey all certificated airports having approach and departure flightpaths over water and evaluate the adequacy of their water rescue plans, facilities, and equipment according to the guidance contained in Advisory Circular 150/5210–13 and make recommendations for improvement as necessary to appropriate airport authorities." (Recommendation A–82–88.) In response to this recommendation, the FAA is surveying over 200 airports to inventory their water-resuce capabilities. This information will be used, not only in formulating recommendations to these airports, but also in determining what revisions of Part 139 would be appropriate.

The petitioner specifically proposes that the FAA revise § 139.55(b)(2)(iii) to require that water vehicles be added to the list of surface vehicles and aircraft designated for medical transportation. The FAA, however, interprets "surface vehicles" to include vehicles that travel on water as well as those that travel on land and, while a clarification of this and other provisions may be proposed during the review of Part 139, it is unnecessary at this time.

The petitioner has recommended several actions to complement and facilitate its package of regulatory proposals, among which is the development of a TSO on pyrotechnic devices. The FAA issued Advisory Circular C 91–58, Use of Pyrotechnic Visual Distress Signaling Devices in Aviation, dated May 27, 1982, which describes the approval basis and appropriate uses of various types of devices for both day and night rescue. This satisfies the objective of the petitioner's recommendation, and development of a TSO is not necessary.

The other actions recommended by the petitioner are revision of passenger information cards on individual flotation devices and publication of advisory material regarding survival zones and coastal water temperatures.

There is merit in these recommendations and they will be taken into consideration along with the results of the FAA program.

In summary, the petitioner has identified a safety matter which, as indicated by the comments, many parties in the aviation community and general public see as a problem calling for corrective action. Although the petitioner proposes a number of specific actions and regulatory changes there is no supporting information indicating that these proposals are the appropriate means for countering the problem from practical and cost-beneficial standpoints. The petitioner and commenters make clear the possible consequences of cold-water immersion on the survival of occupants following an unplanned water-contact type of accident. The FAA recognizes this critical aspect of water survival and has a comprehensive program underway which is similar to that advocated by the petitioner for the improvement of water survival provisions.

Considerable progress has been made in the FAA program to date, and we expect this program to continue without major problem to its completion which is estimated to be in later 1983. The analysis of water impact accident scenarios and the development of the airport reference criterion on threat exposure are nearing completion. We expect the preliminary reports on these two subprograms to be completed by December 1982. The three proposed TSO's on water survival equipment which were published in the **Federal Register** drew supportive response from a wide section of the aviation community. More than 60 individual responses containing valuable information and constructive suggestions were submitted. These responses are currently being evaluated. Issuance of the finalized TSO's is expected in later 1982.

In the subprogram regarding the buoyancy of individual flotation devices, more than 70 flotation seat cushions from inservice transport airplanes have been subjected to cyclical submersion testing. We plan to continue this testing as additional cushions become available from service and to complete this subprogram well ahead of the completion of the overall program in later 1983.

The major subprogram in terms of cost and significance is the performance testing and evaluation of various emergency equipment items and design features and the evacuation slides intended for flotation use. This work is taking a critical look at the capabilities and feasibility of equipment and seeking practical and cost-effective solutions to the problem of water survivability. The outcome of this subprogram will depend in large part on the availability for FAA testing of a wide range of state-of-the-art emergency equipment, particularly those new models and experimental prototype which might offer new and innovative approaches to water survivability. Except in a very few circumstances, the FAA does not have the resources or the responsibility for product development. As a result, the new ideas and equipment being sought in this program must come from the private sector. The FAA takes this opportunity to invite the petitioner and any other party, especially those parties the petitioner deems well-qualified, to cooperate and assist in obtaining items of emergency equipment for tesing and evaluation under the FAA program. This, in effect, is an open invitation for any party, finding it to its competitive advantage, to volunteer or loan equipment items to the FAA and to call attention to the merits of their equipment through an objective and impartial evaluation.

In view of the progress made to date, we believe the FAA program should be completed to develop requirements pertaining to survival before specific actions, such as those proposed, are taken. Any action taken before completion of this program would be premature and could waste time and money in addressing an issue which has not been evaluated thoroughly. We also believe that the petitioner's proposals should be taken into consideration to enhance the scope and effectiveness of the FAA program.

In consideration of the foregoing, I find that rulemaking, as proposed, is not appropriate at this time. Therefore, in accordance with rulemaking procedures of Part 11 of the Federal Aviation Regulations, the petition of the Air Line Pilots Association to amend Parts 1, 25, 121, and 139 of the Federal Aviation Regulations is hereby denied.

Issued in Washington, D.C., on November 30, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 83–4100 Filed 2–16–83; 8:45 am]

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Part V

Environmental Protection Agency

Toxic Substances Control; Significant New Uses of Chemical Substances

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50501; FRL 2255-2]

Potassium N,N-Bis (Hydroxyethyl) Cocoamine Oxide Phosphate and Potassium, N,N-Bis (Hydroxyethyl) Tallowamine Oxide Phosphate; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a Significant New Use Rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2), to require persons to notify EPA at least 90 days before manufacturing, importing, or processing two substances for a "significant new use." EPA is proposing that consumer uses of potassium N,N-bis (hydroxyethyl) cocoamine oxide phosphate and potassium N,N-bis (hydroxyethyl) tallowamine oxide phosphate be designated as a "significant new use." The two substances were the subject of premanufacture notices (PMN's) P-82-400 and P-82-409.

DATES: Written comments should be submitted by April 18, 1983.

ADDRESS: Comments should bear the document number OPTS-50501 and should be addressed to: TSCA Publication Information Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Chris C. Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, toll free: (800-424-9065), in Washington, D.C. (554-1404), outside the USA (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Section 5(a)(2) of the Toxic Substances Control Act (TSCA) authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is generally subject to the same statutory requirements and procedures as a premanufacture notice (PMN) submitted under section 5(a)(1)(A). In particular, these include the information submission requirements of section 5(d)(1) and section 5(b), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5(e) and section 5(f). If EPA does not take regulatory action under sections 5, 6 or 7 to control a substance on which it has received a SNUR notice, section 5(g) requires the Agency to explain its reasons for not taking action in the **Federal Register**. Substances covered by proposed or final SNUR's are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707.

I. PMN Background

The two chemical substances covered by this proposed rule were the subject of PMN's. They are potassium N,N-bis (hydroxyethyl) cocoamine oxide phosphate, which was the subject of P-82-400 and potassium N,N-bis (hydroxyethyl) tallowamine oxide phosphate which was the subject of P-82-409. For convenience, the chemical substances will be referred to by their PMN numbers in this preamble.

On June 1 and 2, 1982, EPA received two PMN's from Jordan Chemical Company (the notice submitter) which the Agency designated as P-82-400 and P-82-409. EPA announced receipt of the two PMN's in the **Federal Register** of June 11, 1982 (47 FR 25401). The notice submitter stated in the PMN's that the substances, which are amphoteric surfactants, will be used primarily in industrial cleaning products and could be used in general purpose cleaners and in personal care products. In the PMN submission, the notice submitter included test data for acute oral toxicity and eye and skin irritation. The two substances were tested for skin and eye irritation potential at concentrations of 45 to 50 percent using rabbits. The reported primary skin irritation scores were 6.05 for P-82-400 and 6.12 for P-82-409 (with eight the maximum score). Some evidence of corrosive effects was reported for both substances. The reported ocular irritation scores for the substances ranged from 5.8 to 42.2 for P-82-400 and 37.0 to 103.3 for P-82-409 (with 110 the maximum score). Based on these results, EPA believes that both substances are severe primary skin and eye irritants at concentrations of 45 to 50 percent. In addition, the substances may be severe primary skin and eye irritants at lower concentrations. A more detailed analysis of the possible health hazard posed by the substances appears in the section 5(e) Consent Order for these substances which is included in the public record for this rulemaking.

The PMN's contained no data for eye and skin irritation at concentrations of 0.5 to 5 percent that are likely to be found in consumer products. Since irritation effects of relatively low concentrations are not known and cannot be reliably estimated from the available data, EPA concluded that information available to the Agency was insufficient to permit a reasoned evaluation of potential health effects of the two substances at the lower concentrations. EPA further determined that, absent sufficient information to make such and evaluation, the two substances may present an unreasonable risk of injury to human health.

Based on these findings, EPA negotiated a section 5(e) Consent Order with the notice submitter. The Order became effective on September 14, 1982 and will remain in effect until the effective date of this SNUR. The Order prohibits the notice submitter from manufacturing, processing, or distributing either P-82-400 or P-82-409 for use as a "consumer chemical." The Order defines "consumer chemical" as "any chemical which is (1) sold or made available directly to consumers for their use; or (2) present in a solution, mixture, suspension, or gelatin which is sold or made available to consumers for their use." In addition, the Order prohibits the notice submitter from manufacturing, processing, or distributing either P-82-400 or P-82-409 unless a Material Safety Data Sheet (MSDS) is distributed to each vendee or other recipient of the substances. The MSDS must state that the substance is not to be manufactured, processed, or distributed for use as a consumer chemical. Further, the notice submitter has stated that the MSDS will warn that preliminary screening suggests that the substance may cause severe skin and eye irritation and recommend the use of protective gloves and eye protection by workers who may be exposed to the substance.

II. Reasons for Proposing This Rule

As stated above, EPA issued a section 5(e) Consent Order to prohibit manufacture of the two substances for use as a consumer chemical pending the development of further information on the substances' potential health effects. However, the Order by its terms applies only to the notice submitter. Since the notice submitter has commenced commercial manufacture of the substances and submitted a Notice of Commencement of Manufacture to EPA,

the Agency will add the substances to the TSCA Chemical Substance Inventory. When the substances are on the Inventory, another person may manufacture or process the substances for any use, including use as a consumer chemical. Therefore, EPA is proposing to designate use of the substances as a consumer chemical a significant new use so that the Agency can review that use before it occurs. In that review, EPA would want to see data on the effects of the substances at lower concentrations.

EPA considered other possible approaches. One alternative approach would be to not place the substances on the Inventory while the section 5(e) Order is in effect. However, under this approach, another person would have to submit a premanufacture notice if he intended to manufacture the substances for any use, even an industrial use about which EPA has little concern. Another alternative is to promulgate a section 8(a) reporting rule for the substances. Under such a rule, EPA could require any person to report to EPA before manufacturing or processing the substances for use as a consumer chemical. Because the substances are subject to a section 5(e) Order, the normal small business exemption of section 8(a) would not apply. However, the use of section 8(a) rather than SNUR authority has one major drawback. If EPA received a report under section 8(a) indicating that a person intended to manufacture or process the substances for use as a consumer chemical, the Agency could not take action under section 5(e) as it can under a SNUR and thus would not be able to regulate the substances pending development of information. Rather, EPA would have to obtain test data under section 4 and then, if necessary, regulate the substances under section 6. This approach would allow unnecessary risks to human health during the time needed for data development. The Agency specifically requests comment on these possible alternatives to promulgating a SNUR.

III. Proposed Significant New Uses

To determine what would constitute a significant new use of these chemical substances, EPA considered relevant information about the toxicity of the chemicals and likely exposures associated with possible new uses including the four factors listed in section 5(a)(2) of TSCA. In particular, EPA considered the extent to which potential new uses may change the exposure to humans. Based on these considerations, EPA proposes to define "use as a consumer chemical" as a significant new use of P–82–400 and P–82–409.

The Agency proposes to define consumer chemical as "any chemical substance which is (1) sold or made available directly to consumers for their use in or around a permanent or temporary household or residence, a school, in recreation or otherwise; or (2) present in a solution, mixture, suspension, or gel which is sold or made available to consumers for their use in or around a permanent or temporary household or residence, a school, in recreation or otherwise." This definition is similar to that in the section 5(e) Order. Examples of chemical substances "present in a solution, mixture, suspension, or gel which is sold or made available to consumers for their use * * *" include substances used as surfactants in liquid soap, household all-purpose cleaners, rug shampoos, or laundry detergents which are sold or made available to consumers. By "consumers," EPA means natural persons who use products for personal rather than business purposes. This definition of "consumer chemical" is consistent with the definition of "consumer product" in the Consumer Product Safety Act, 15 U.S.C. 2051. EPA's basis for its proposed significant new use determination is explained below.

EPA believes that the use of P–82–400 or P–82–409 as a consumer chemical would present a greater and different type of exposure than the likely exposures associated with the non-consumer uses allowed under the section 5(e) Consent Order. In addition, the largest identified market for the substances for which manufacture would be permitted under the section 5(e) Order is use in industrial cleaners containing alkaline materials such as caustic (sodium hydroxide), ammonia, or metasilicates. Because of the presence of alkaline materials, these products generally will have labeling which warns of potential skin and eye irritation. This labeling limits potential exposure to the substances in the uses permitted under the section 5(e) Order.

The PMN submitter indicated that P–82–400 and P–82–409 could be used in a number of consumer products such as liquid soaps, household all-purpose cleaners, rug shampoos, scouring pads, oven and pot and pan cleaners, and laundry detergents. Use of many of these products would involve direct contact with the skin. The users of these consumer products are unlikely to expect that the products may cause severe eye or skin irritation since products such as liquid soaps, household all-purpose cleaners, rug shampoos, and laundry detergents do not normally cause such effects and are not likely to be labeled as severe irritants. Thus, the likelihood of eye and skin exposures is much greater since users of such products are unlikely to take the same precautions that workers do when using industrial cleaners. In addition, any use of these substances in consumer products would expose far more people to the substances. These users of the consumer products would constitute a different, much broader segment of the general population than the workers likely to be exposed to industrial cleaners. Therefore, EPA believes that use of the substances as a "consumer chemical" would significantly change the population exposed to the substances and greatly increase the level and magnitude of exposure.

Finally, EPA has already determined in the section 5(e) Consent Order that use of the substances as a consumer chemical may present an unreasonable risk. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that this new use of the substances would be significant.

IV. Persons Subject to SNUR Notice Requirements

Section 5(a)(1)(B) requires persons to submit a SNUR notice to EPA before they manufacture or process a substance subject to a SNUR for a significant new use. The language of this proposal makes clear that manufacturers, importers, and processors are subject to SNUR notice requirements. Since both manufacturers and processors are legally subject to SNUR notice requirements, EPA could require both manufacturers and processors to submit complete SNUR notices. However, this may be unnecessary since it could result in the Agency receiving the same information from both parties. Therefore, EPA is considering allowing manufacturers and processors to decide which party should submit what information to EPA so long as all appropriate information is submitted. Thus, manufacturers and processors may decide to submit one joint SNUR notice or to submit separate notices each containing the information uniquely within the purview of the respective party. For example, under this approach, the processor may submit a notice containing such information as likely exposures and releases from processing, while the manufacturer may submit a notice containing information such as the projected market potential

for the substance. Both the manufacturer and processor would submit test data in their sole possession or control and the parties would determine who is responsible for submitting test data that they both possess or control. Alternatively, manufacturers and processors could decide to submit one joint notice containing information from both parties.

Another approach would be to require only the person who actively develops and markets the substance for the significant new use to submit a SNUR notice because this person is likely to know the most about exposure from the significant new use and to have the most information about the market potential for the substance in the new use. The other party or parties technically subject to the notice requirements would at least initially be excused from this responsibility. For example, if a person manufactures a substance for use in industrial cleaners, but a processor formulates the substance for use in liquid soaps, increased and different exposures would occur only from the actions of the processor. In such a case, the processor is the one who actively develops the substance for a significant new use and the person who should have information on potential exposure and the market potential for the product. Therefore, under this approach, the processor would submit ther SNUR notice. On the other hand, if a person intends to manufacture the substance for use in consumer products, that person is developing and marketing the substance for a significant new use and the person who is most likely to have information about potential new uses and likely exposures. Therefore, under this approach, the manufacturer would submit the SNUR notice. However, under this approach, EPA would reserve the right to require the party that did not submit a SNUR notice to submit necessary information. For example, if the manufacturer submitted a SNUR notice, but only the processor had certain exposure information, EPA would require the processor to submit that information.

The Agency specifically requests comment on these various approaches.

V. Uses That May Be Subject to SNUR Notice Requirements

EPA recognizes that when chemical substances proposed to be subject to a SNUR are added to the Inventory they may be manufactured or processed for "significant new uses" as defined in the proposal before promulgation of the rule. The statute and its legislative history do not make clear whether uses occurring after proposal but before promulgation are to be considered "new uses" subject to SNUR notification. However, EPA believes that the intent of section 5(a)(1)(B) can be best served by determining whether a use is "new" or "existing" as of the proposal date of the SNUR. If EPA considered uses commenced during the proposal period to be "existing" rather than "new" uses, it would be almost impossible for the Agency to establish SNUR notice requirements since any person could defeat the SNUR by initiating the proposed significant new use before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, under this statutory interpretation, if substances are manufactured or processed between proposal and promulgation for proposed "significant new uses," the Agency will still consider such uses to be "new" if those particular significant new uses are included in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who commenced manufacture or processing for a "significant new use" during the proposal period. The Agency specifically requests comment on ways to minimize this disruption.

VI. Procedures for Informing Persons of the Existence of This Significant New Use Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rule, EPA is exploring additional ways of informing potential SNUR notice submitters of the existence of the rule.

EPA intends to publish information concerning final SNUR's in the TSCA Chemicals-in-Progress Bulletin, published by the Industry Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNUR's through footnotes by the chemical identities of substances subject to SNUR's. The footnotes would refer to an Inventory Appendix which would give a **Federal Register** or CFR citation of the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNUR's as an Inventory Appendix.

Any person who intends to manufacture or import a substance for the first time should check the Inventory to determine if the substance is listed. If a person finds that the substance is on the Inventory, but subject to a SNUR, he can determine whether he would be subject to reporting by contacting EPA or reviewing the rule. EPA believes that manufacturers and importers will generally know the identities of the substances they manufacture and import and therefore can follow this procedure.

EPA recognizes that some processors may not know the identity of substances they process and therefore may not know they are required to submit a SNUR notice. Therefore, EPA has identified two ways of ensuring that processors are aware that substances are subject to a SNUR.

First, EPA could hold manufacturers and importers responsible if any of their customers process a substance subject to this rule for a significant new use without submitting a SNUR notice even if the manufacturer did not know that the customer intended to process the substance for a significant new use. However, manufacturers and importers could avoid this problem by informing their customers in writing that the substances are subject to a SNUR. Even if a manufacturer or importer provides such information to a processor, if the manufacturer or importer has reason to believe that the processor is commencing a significant new use before submitting a SNUR notice, the manufacturer or importer should submit a SNUR notice and cease sales to the processor for that use to avoid further liability. In addition, the manufacturer or importer may wish to contact EPA enforcement authorities to mitigate any liability stemming from sales made prior to the discovery by the manufacturer or importer that a customer was processing the substance for a significant new use without submitting a SNUR notice.

Second, EPA could hold processors responsible if they process substances for a significant new use without submitting a SNUR notice, even if they did not know the identity of the substances or that the substances were subject to a SNUR. However, processors could avoid this problem by asking their suppliers whether the substances are subject to a SNUR. EPA believes that many processors ask suppliers to certify that chemical substances of unknown identity are on the Inventory. Therefore, the Agency believes that processors can similarly ask suppliers whether substances are subject to SNUR notice requirements.

The Agency specifically requests comment on these two approaches as well as on other approaches to ensure that SNUR notice requirements are followed.

VII. Required Information

EPA is not now proposing a special form for SNUR notices. Instead, the Agency will encourage SNUR notice

submitters to use the proposed premanufacture notice form published in the **Federal Register** of October 16, 1979 (44 FR 59754) or, when it is promulgated, the final premanufacture notice form. SNUR notices must comply with section 5 of TSCA. The Agency interpreted section 5 requirements in its Interim Policy for Premanufacture Notices published in the **Federal Register** of May 15, 1979 (44 FR 28564) and its Statement of Revised Interim Policy published in the **Federal Register** of November 7, 1980 (45 FR 74374).

VIII. Test Data

EPA recognizes that under TSCA section 5, a person is not required to develop any particular test data before submitting a notice. Rather, a person is only required to submit test data in his possession or control and to describe any other data known to or reasonably ascertainable by him. However, in view of the potential health risk that may be posed by a significant new use of P–82–400 and P–82–409, EPA encourages possible SNUR notice submitters to test the substances to evaluate the potential for skin and eye irritation at concentrations likely to be found in consumer products. If a SNUR notice is submitted for a use involving consumer exposure without such test data, EPA may take action under section 5(e).

As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substances. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substances.

EPA generally encourages potential notice submitters who intend to test the substances to review test methodologies published by the Organization for Economic Cooperation and Development or EPA test guidelines proposed under section 4 of TSCA or section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act. Other test methods generally accepted in practice among professionals in the particular scientific field may also be appropriate.

IX. EPA Review of Notice

EPA generally intends to review SNUR notices the same way it reviews premanufacture notices. EPA will publish a summary of each notice in the **Federal Register** under section 5(d)(2). The review period for the notice will run 90 days from EPA's receipt of the notice. Under section 5(c) this period may be extended up to an additional 90 days for good cause. The submitter may not manufacture, import, or process the substances for a significant new use until the review period, including extensions, has expired.

The Agency may regulate the substance during the review period. If a significant new use notice is submitted for a chemical substance without information sufficient to judge the toxicity and exposure potential of the substances, EPA may issue a section 5(e) order limiting or prohibiting the new use until sufficient information is developed. In addition, section 5(f) authorizes EPA to prohibit a significant new use that presents or will present an unreasonable risk to health or the environment. EPA may also refer information in a SNUR notice to other EPA offices and other Federal agencies. If EPA does not take action under sections 5, 6, or 7 to control a substance on which it has received a significant new us notice, section 5(g) requires the Agency to explain in the **Federal Register** its reasons for not taking action.

X. Modification of Reporting Requirements

EPA is not proposing a sunset provision that would terminate significant new use reporting requirements for a particular substance on a certain date. However, the Agency believes that there may be circumstances that will lead to modification of the proposed requirements.

When a significant new use notice is submitted, EPA will review the use to determine whether any regulatory action is necessary. If after review, EPA allows the use to occur, the use arguably should not be subject to further reporting. EPA will amend the SNUR to eliminate notice requirements for the use if the Agency decides that further notice of that use under a SNUR is not warranted. EPA may also amend the SNUR to eliminate notice requirements for other uses if it determines based on new data that the substances no longer present health or environmental concerns for those uses.

EPA will amend a SNUR through a rulemaking. When EPA revises a SNUR by eliminating notice requirements for a single, narrow use of the substance, the Agency may dispense with notice and comment if it for good cause finds that notice and comment is impracticable, unnecessary, or contrary to the public interest. However, EPA will completely revoke or substantially alter a SNUR only after notice and an opportunity for comment.

XI. Proposed Rule Language

This proposed rule is structured as follows. The chemicals and defined significant new use are described in paragraph (a) of this rule. In paragraph (b), EPA proposes definitions applicable for the section, most of which have been used in other TSCA rules. Paragraph (c) describes the persons who must report. In this proposal, EPA also makes clear that the "principal importer" in an import transaction must be the party that submits the SNUR notice. An explanation of the principal importer concept appeared in EPA's clarification of its proposed premanufacture notification requirements published in the **Federal Register** of September 23, 1980 (45 FR 63006). The notice requirements and procedures for reporting under this rule are stated in paragraph (d).

Paragraph (e) clarifies that the exemptions of TSCA section 5(h) apply in SNUR's with the exception of the section 5(h)(4) exemption provisions which apply only to new chemical substances. Thus, substances may be manufactured in small quantities solely for research and development without a SNUR notice being submitted. In addition, EPA proposes that if the substances appear in a consumer chemical as an impurity or byproduct, they are not subject to SNUR notice requirements. The Agency is adopting this policy for this proposal because identification of the presence of the substances when used in this way can be very difficult and because the Agency does not believe that these substances would give rise to significant exposures if they appear as an impurity or byproduct. Paragraph (f) describes enforcement provisions applicable to this rule.

EPA invites comments on all aspects of this proposed rule language.

XII. Enforcement

It is unlawful for any person to fail or refuse to comply with any provisions of section 5 or any rule promulgated under section 5. Manufacture or processing of chemical substances for a significant new use, as defined by rule, without submission of a SNUR notice, would be a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

1. Use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distrubuted in commerce in violation of a SNUR.

2. Fail or refuse to permit entry or inspection as required by section 11.

3. Fail or refuse to permit access to or copying of records, as required by TSCA.

Violators may be subject to various penalties and to both criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of a SNUR may be subject to penalties calculated as if they never filed their notices. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of a SNUR could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of a SNUR and the seizure of chemical substances manufactured or processed in violation of a SNUR.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies. In particular, EPA may proceed against individuals who report false information or cause it to be reported.

XIII. Analyses and Assessments

A. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for P–80–400 and P–82–409. This evaluation is summarized below.

Persons who intend to manufacture or process the substances for a significant new use, as defined in this rule, would be required to submit a SNUR notice with the information required by statute. The cost of submitting a SNUR notice can be estimated from the cost of submitting a PMN, which has been estimated to range between $1,200 and $7,900 per substance, or an average of $4,550.

In addition, although the SNUR would not require that persons submitting notices perform additional testing, EPA expects that some additional test data will be developed. EPA recommends that the substances be tested to evaluate the potential for skin and eye irritation at concentrations likely to be found in consumer products. The direct costs of such tests would be about $1,600 per substance. The dermal irritation test would cost from $300 to $1,000, with a most likely cost of $700. The eye irritation test would cost from $450 to $1,350, with a most likely cost of $900.

The SNUR may also result in delay costs. The delay caused by the preparation of a SNUR notice and the statutory notice review period could reduce the value of future profits. EPA estimates that these delay costs could range from zero to $6,100.

Total direct costs, including notification, testing, and delay would be from $2,000 to $16,500 per substance. If the original PMN submitter also intends to manufacture the substances for the new use, the direct costs would add from less than 0.1 percent to 3.5 percent to the price of the substances.

EPA has not estimated any indirect costs that may result from this SNUR. These indirect cost may result from decisions not to manufacture or process these substances because of uncertainty about possible Agency regulatory action or due to the magnitude of the direct costs. The cost of this impact would be whatever profits or benefits to consumers that use of the substances would have generated. In addition, EPA has not estimated the potential public benefits gained through the avoidance of potential health and environmental problems. Such benefits include the avoidance of costs such as the medical costs of treating exposed persons. While the Agency acknowledges that indirect cost and benefits exist, it is impossible at this time to estimate their extent precisely.

As a regulatory alterntive, EPA considered proposing reporting requirements under section 8(a) rather than a SNUR. Therefore, the Agency also assessed the costs and benefits of a section 8(a) rule. Unlike a SNUR, a section 8(a) rule would not cause delay costs. The direct costs of a section 8(a) rule would range from $1,000 to $10,350, including $200 to $7,900 for form submission and $800 to $2,450 for testing that may be required under section 4 after the Agency receives a SNUR notice. The direct costs of the section 8(a) rule would add from less than 0.1 percent to 3.3 percent to the price of the substances.

The prime benefit of a SNUR over a section 8(a) rule is that the substances cannot be used as consumer chemicals until EPA has reviewed a SNUR notice and had the opportunity to take action under section 5(e). These advantages are significant here since the potential risks are acute effects and a consumer population is potentially exposed.

A more complete economic analysis of this SNUR and other regulatory options is included in the rulemaking record and is available for public review. EPA invites comments on this economic analysis.

B. Regulatory Assessment Requirements

1. *Executive Order 12291.* Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it does not have an effect on the economy of $100 million or more and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low. Even if EPA received 50 SNUR notices, the direct cost of the rule would be under one million dollars. In addition, because of the nature of the rule and the substances subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation which has high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the record for this rulemaking.

2. *Regulatory Flexibility Act.* Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. EPA acknowledges that the submitter of the PMN's for P–82–400 and P–82–409, who is also the most likely submitter of a SNUR notice, is a small business. The Agency has not determined whether other parties affected by this proposed rule are likely to be small businesses. However, EPA believes that the number of small businesses affected by this rule would not be substantial even if all the potential new uses were developed by small companies. EPA expects to receive few SNUR notices for the substances. The Agency expects that one of the first notice submitters will test the substances to determine their potential for skin and eye irritation at concentrations found in consumer products. With this data, EPA would be able to evaluate the risks posed by the substances in this use and, if necessary, take action to control those risks. At that time, the Agency presumably would

repeal the SNUR. Therefore, even if all SNUR notices are submitted by small businesses, only a few small businesses will be directly affected by the rule. In addition, the cost of the testing that may be encouraged by this rule should not have a major impact on a small business that may want to use these substances as a consumer chemical.

3. *Paperwork Reduction Act.* The reporting provisions of this rule are not subject to the Paperwork Reduction Act, 44 U.S.C. 3501, because this rule is not expected to impose reporting requirements on ten or more persons as defined in 44 U.S.C. 3502(4).

XIV. Rulemaking Record

EPA has established a public record for this rulemaking (docket number OPTS–50501). The complete record is available to the public from 8:00 a.m. to 4:00 p.m., Monday through Friday except legal holidays in the OPTS Reading Room, Rm. E–107, 401 M St., SW., Washington, D.C.

The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information:

1. The PMN's for these substances.

2. The **Federal Register** notice of receipt of the PMN's.

3. A copy of the section 5(e) Consent Order.

4. The Economic Analysis of this proposed rule.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this notice and designation of the complete record. The final rule will also permit persons to point out any errors or omissions in the record.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: February 7, 1983.

Anne M. Gorsuch,

Administrator.

Therefore, it is proposed that a new Part 721 be added to Chapter I of Title 40, consisting at this time of § 721.225, to read as follows:

PART 721—SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

Subpart A—[Reserved]

Subpart B—Significant New Uses for Specific Chemical Substances

Sec.

721.225 Potassium N,N-bis (hydroxyethyl) cocoamine oxide phosphate, and potassium N,N-bis (hydroxyethyl) tallowamine oxide phosphate.

Authority: Sec. 5, Pub. L. 94–469, 90 Stat. 2012 (15 U.S.C. 2604).

Subpart A—[Reserved]

Subpart B—Significant New Uses for Specific Chemical Substances

§ 721.225 Potassium N,N-bis (hydroxyethyl) cocoamine oxide phosphate, and potassium N,N-bis (hydroxyethyl) tallowamine oxide phosphate.

This section identifies activities with respect to certain chemical substances which EPA has determined are "significant new uses" under the authority of section 5(a)(2) of the Toxic Substances Control Act (TSCA). In addition, it specifies procedures for reporting on these chemicals.

(a) *Chemical substances subject to reporting.* Use as a consumer chemical is a "significant new use" of potassium N,N-bis (hydroxyethyl) cocoamine oxide phosphate, and potassium N,N-bis (hydroxyethyl) tallowamine oxide phosphate.

(b) *Definitions.* The definitions in section 3 of TSCA, 15 U.S.C. 2602, apply to this section. In addition, the following definitions apply:

(1) The terms "article," "byproduct," "EPA," and "impurity," have the same meanings as in § 710.2 of this Chapter.

(2) "Consumer chemical" means any chemical substance which is (i) sold or made available directly to consumers for their use in or around a permanent or temporary household or residence, a school, in recreation or otherwise; or (ii) present in a solution, mixture, suspension, or gel which is sold or made available to consumers for their use in or around a permanent or temporary household or residence, a school, in recreation or otherwise.

(3) "Importer" or "person who intends to import" means anyone who intends to import any chemical substance, in pure form or as part of a mixture or article, into the customs territory of the United States and includes:

(i) The person liable for the payment of any duties on the merchandise, or any authorized agent on his behalf (as defined in 19 CFR 1.11).

(ii) The consignee.

(iii) The importer of record.

(iv) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(v) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purpose of this definition the customs territory of the United States consists of the 50 States, Puerto Rico, and the District of Columbia.

(4)(i) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture:

(A) For commercial distribution, including for test marketing.

(B) For use by the manufacture, including use for product research and development, or as an intermediate.

(ii) The term "manufacture for commercial purposes" also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including byproducts and coproducts that are separated from that other substance or mixture, and impurities that remain in that substance or mixture. Byproducts and impurities may not in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical produced for a commercial purpose.

(5) "Person" means any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal government.

(6) "Principal importer" means the first importer who, knowing that a chemical substance will be imported rather than manufactured domestically, specifies the chemical substance and the amount to be imported. Only persons who are incorporated, licensed, or doing business in the United States may be principal importers.

(7) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing

of any amount of a chemical substance or mixture is included. If a chemical or mixture containing impurities is processed for commerical purposes, then those impurities are also processed for commercial purposes.

(8) "Small quantities solely for research and development" means quantities of a chemical substance manufactured, imported, or processed solely for research and development and that: (i) Are not greater than reasonably necessary for such purposes and (ii) are used by, or directly under the supervision of, a technically qualified individual.

(9) "Technically qualified individual" means a person or persons: (i) Who, because of education, training, or experience, or a combination of these factors, is capable of understanding the health and environmental risks associated with the chemical substance which is used under his or her supervison, (ii) who is responsible for enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research in order to minimize such risks, and (iii) who is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substance as may be appropriate or required within the scope of conducting the research and development activity.

(c) *Persons who must report.* Any person who intends to manufacture, import (other than as part of an article), or process the substances listed in paragraph (a) of this section for the significant new use defined in that paragraph must submit a notice to the EPA Office of Toxic Substances in Washington, D.C. under the provisions of section 5(a)(1)(B) of TSCA and this section. Any notice of import must be submitted by the principal importer.

(d) *Notice requirements and procedures.* Each person who is required to submit a significant new use notice under this section must submit the notice at least 90 calendar days before commencing a significant new use. The submitter must comply with any applicable requirement of section 5(b) of TSCA, and the notice must include the information and test data specified in section 5(d)(1).

(e) *Exemptions and exclusions.* The chemical substances listed in this section are not subject to the notification requirements of this section if they:

(1) Meet any of the applicable exemption requirements of TSCA section 5(h), including the exemptions of subsection 5(h)(1) for test marketing substances and subsection 5(h)(3) for substances manufactured only in small quantities solely for research and development.

(2) Are manufactured or processed only as an impurity or byproduct.

(f) *Enforcement.* (1) Failure to comply with any provision of this part is a violation of TSCA section 15 (15 U.S.C. 2614).

(2) Using for commercial purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of a Significant New Use Rule is a violation of section 15 of TSCA (15 U.S.C. 2614).

(3) Failure or refusal to permit access to or copying of records, as required by TSCA, is a violation of TSCA section 15 (15 U.S.C. 2614).

(4) Failure or refusal to permit entry or inspection, as required by TSCA section 11, is a violation of section 15 of TSCA (15 U.S.C. 2614).

(5) Violators may be subject to the civil and criminal penalties in TSCA section 16 (15 U.S.C. 2615) for each violation. Persons who submit materially misleading or false information in connection with the requirement of any provision of a Significant New Use Rule may be subject to penalties calculated as if they never filed their notices.

(6) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of a Significant New Use Rule or act to seize any chemical substance manufactured or processed in violation of a Significant New Use Rule or take other actions under the authority of TSCA section 7 or 17 (15 U.S.C. 2606 or 2616).

[FR Doc. 83-4125 Filed 2-16-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 721

[OPTS-50013B; BH FRL-2268-8]

N-Methanesulfonyl-P-Toluenesulfonamide; Withdrawal of Proposed Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Termination of proposed rule.

SUMMARY: EPA is withdrawing a rule proposed under section 5(a)(2) of the Toxic Substances Control Act (TSCA) on the chemical substance N-methanesulfonyl-p-toluenesulfonamide (NMPT). The proposal was published in the **Federal Register** of November 26, 1980 (45 FR 78970). EPA is withdrawing this proposed rule because the chemical does not present potential risks of sufficient concern to justify regulation under a Significant New Use Rule (SNUR) at this time.

FOR FURTHER INFORMATION CONTACT: Chris Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washinton, D.C.: (544-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2)(A) through (D). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import or process the substance for that use. The notice must contain the information specified in section 5(d)(1). After submission of a notice, the EPA can take action to regulate the chemical under the authorities of section 5(e) or 5(f). Under section 12(b), persons who export or intend to export a chemical substance subject to a proposed or final rule under section 5 must notify EPA of this fact.

NMPT was the subject of a premanufacture notice (PMN) number 79-3 (0016) from National Starch and Chemical Corporation, submitted September 5, 1979. In its notice, National Starch provided no test data concerning specific health or environmental effects of the substance, although it did supply some information on certain physical and chemical properties of the substance. At that time, EPA was unable to evaluate the toxicity of the PMN substance because no data were available on the PMN substance or on any close structural analogues. However, the Agency was satisfied that the submitter would limit exposures in manufacture and use of the substance. The Agency took no action to regulate the substance during the PMN period, and the substance was added to the TSCA Inventory of Chemical Substances in Commerce when National Starch began production.

On November 26, 1980, EPA proposed a SNUR on NMPT. EPA proposed a SNUR primarily because, once listed on the TSCA Inventory, the chemical substance could be manufactured in any volume or for any purpose, with possible increased exposure and release. However, the submitter's original production volume estimates and further information on the progress of NMPT in

the market place indicate that it is unlikely that exposures to this chemical will significantly increase in the future.

Because significant increases in exposure are unlikely and because the Agency has not identified potential toxicity concerns, the Agency believes that NMPT is not likely to present a significant risk to health or the environment. Therefore, EPA has concluded that a SNUR is not appropriate for this chemical at this time and is withdrawing the proposed rule. One immediate effect of this action is that if the chemical is exported, no notice need be submitted under section 12(b).

Withdrawal of this proposed rule does not signal lessened interest by the Agency in the use of SNUR's on new or existing chemical substances. For example, elsewhere in today's **Federal Register**, EPA is proposing a SNUR on the PMN substances 82–400/409. EPA will continue to propose regulations under section 5(a)(2) for chemical substances that may present significant risks or result in widespread exposure in future uses.

Dated: February 7, 1983.

Anne Gorsuch,

Administrator.

[FR Doc. 83–4126 Filed 2–16–83; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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Federal Register
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Friday, February 18, 1983

Presidential Documents

Title 3—

The President

Proclamation 5023 of February 16, 1983

Lithuanian Independence Day, 1983

By the President of the United States of America

A Proclamation

Sixty-five years ago a small nation achieved freedom in the aftermath of World War I. Proclaiming the Lithuanian Republic, its founders stepped forward on February 16, 1918, to assert their country's independence and commitment to a government based on justice, democracy, and the rights of the individual.

Twenty-two years later Soviet tyranny imposed itself on Lithuania and denied the Lithuanian people their just right of national self-determination. In the intervening years, the United States has refused to recognize the forcible incorporation of Lithuania into the Soviet Union.

An enduring belief in freedom for all people unites Americans everywhere. But we must be vigilant in the protection of our common ideal, for as long as freedom is denied others, it is not secure here.

We mark this anniversary of Lithuanian independence with a renewed hope that the blessings of liberty will be restored to Lithuania.

The Congress of the United States, by House Joint Resolution 60, has authorized and requested the President to proclaim February 16, 1983, as Lithuanian Independence Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim February 16, 1983, as Lithuanian Independence Day.

I invite the people of the United States to observe this day with appropriate ceremonies and deeds and to reaffirm their dedication to the ideals which unite us and inspire others.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of February, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-4439
Filed 2-17-83; 11:19 am]
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7 CFR P

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AGENCY:
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Rules and Regulations

Federal Register
Vol. 48, No. 35
Friday, February 18, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 399; Lemon Reg. 398, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period February 20–26, 1983, and increases the quantity of lemons that may be shipped during the period February 13–19, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective February 20, 1983, and the amendment is effective for the period February 13–19, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on February 15, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons continues to be strong.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

1. Section 910.699 is added as follows:

§ 910.699 Lemon Regulation 399.

The quantity of lemons grown in California and Arizona which may be handled during the period February 20, 1983 through February 26, 1983, is established at 235,000 cartons.

2. Section 910.698 Lemon Regulation 398 (48 FR 6316) is revised to read as follows:

§ 910.698 Lemon Regulation 398.

The quantity of lemons grown in California and Arizona which may be handled during the period February 13, 1983, through February 20, 1983, is established at 250,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 17, 1983.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–4452 Filed 2–17–83; 1:16 pm]

BILLING CODE 3410–02–M

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Under Secretary for International Affairs and Commodity Programs to reflect the establishment of an additional position of Deputy Under Secretary for International Affairs and Commodity Programs.

EFFECTIVE DATE: February 18, 1983

FOR FURTHER INFORMATION CONTACT: Robert Siegler, Deputy Assistant General Counsel, Office of the General Counsel, Department of Agriculture, Washington, D.C. (202) 447–6035.

SUPPLEMENTARY INFORMATION: This document amends the delegations of authority from the Under Secretary for International Affairs and Commodity Programs to reflect the establishment of a second position of Deputy Under Secretary for International Affairs and Commodity Programs. One Deputy Under Secretary will have primary responsibility for the international affairs area, and the other Deputy Under Secretary will have primary responsibility for the commodity programs area. During the absence or unavailability of the Under Secretary, the Deputy Under Secretaries shall perform the duties of the Under

Secretary in the order in which they have taken office as a Deputy Under Secretary.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause in found for making this rule effective less than 30 days after publication in the **Federal Register**.

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise noted.

2. Section 2.63 is revised to read as follows:

§ 2.63 Deputy Under Secretaries for International Affairs and Commodity Programs.

(a) *Delegations.* Pursuant to § 2.21, subject to reservations in § 2.22 and subject to policy guidance and direction by the Under Secretary, the following delegations of authority are made to the Deputy Under Secretaries for International Affairs and Commodity Programs, to be exercised only during the absence or unavailability of the Under Secretary: Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Under Secretary for International Affairs and Commodity Programs: *Provided,* That this authority shall be exercised by the respective Deputy Under Secretary in the order in which he or she has taken office as a Deputy Under Secretary.

Done this 10th day of February, 1983, at Washington, D.C.

John R. Block,

Secretary of Agriculture.

[FR Doc. 83-4237 Filed 2-17-83; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 397, Amdt. 2]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action further increases the quantity of California-Arizona lemons that may be shipped to the fresh market during the period February 6–12, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: The amendment is effective for the period February 6–12, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California–Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met by telephone on February 9, 1983, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is strong.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based, and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the amendment during the telephone meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.697 Lemon Regulation 397 (48 FR 5216) is revised to read as follows:

§ 910.697 Lemon Regulation 397.

The quantity of lemons grown in California and Arizona which may be handled during the period February 6, 1983, through February 12, 1983, is established at 250,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 11, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-4240 Filed 2-17-83; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1922 and 1944

Appraisal of Single Family Residential Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) adds regulations regarding appraisal of single family residential property for Section 502 and 504 loan making and servicing

purposes. This action is being taken to provide FmHA field staff additional appraisal guidance in using appraisal principles and techniques to arrive at market value and to provide instructions in the completion of the new appraisal form developed in conjunction with the Department of a Housing and Urban Development and the Veterans Administration.

This action will result in more accurate estimates of real estate values by using updated appraisal techniques. This will insure that the FmHA loan will not exceed the value of the property securing the loan, thereby reducing the incidence of loss to the Government.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: Don V. Mahaffey, Realty Specialist, Single Family Housing Servicing and property Management Division, USDA, FmHA, 14th Street and Independence Avenue, S.W., Room 5309 South Building, Washington, D.C. 20250, Telephone (202) 382–1452.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only internal agency management related to appraisal of real estate serving as Agency security. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of this change involves only internal Agency management and publication for comment is unnecessary.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

This final action describes new form requirements for FmHA Single Family Housing appraisals. The adoption of the new forms will provide a more defendable format in which the appraisers will record data justifying their conclusions and final estimates of value.

The FmHA programs and projects which are affected by this regulation are not subject to state and local clearinghouse review in the manner delineated in Part 1901 Subpart H.

The Catalog of Federal Domestic Assistance Numbers for the Single Family Rural Housing Loan programs affected by this document are 10.410, "Low to Moderate Income Housing Loans," and 10.417, "Very Low-Income Housing Repair Loans and Grants."

List of Subjects in 7 CFR Part 1922

Loan programs—Housing and community development, Low and moderate income housing, Rural housing.

Accordingly, FmHA amends Chapter XVIII, Title 7, Code of Federal Regulations as follows:

PART 1922—APPRAISAL

1. Subpart C is added to read as follows:

Subpart C—Appraisal of Single Family Residential Property

Sec.

1922.101 General.
1922.102 Definition of appraisal terms.
1922.103 [Reserved]
1922.104 Influences on value.
1922.105 Steps preliminary to writing the appraisal.
1922.106 [Reserved]
1922.107 Depreciation.
1922.108 Appraisal of leasehold estate.
1922.109 Writing the appraisal.
1922.110 Final Reconciliation/estimated value.
1922.111 Abbreviated appraisal and revising existing appraisals.
1922.112 through 1922.150 [Reserved]

Subpart C—Appraisal of Single Family Residential Property

§ 1922.101 General.

This subpart prescribes the policies and procedure for appraisals in connection with making and servicing Single Family Rural Housing (RH) loans on fee simple owned nonfarm and small farm real properties, and on leaseholds on nonfarm and small farm real properties. Property will be appraised for market value. In no case will an appraisal be made without inspecting the property and, when applicable, reviewing all plans and specifications for proposed improvements to the site.

(a) *Employees authorized to appraise under this subpart.* Employees whose job descriptions contain appraisal responsibilities, after receiving the required training and written delegation from the State Director, are authorized to make appraisals. The employee's immediate supervisor will recommend the employee be designated to make appraisals after determining he or she has:

(1) Satisfactorily completed the exercises outlined in the Appraisal Manual, Exhibit A of this Subpart, (which is available in any FmHA office);

(2) Inspected at least two properties not previously used by FmHA for sales comparison and completed corresponding Forms FmHA 1922–12, "Nonfarm Tract Comparable Sales Data" for those comparables; and

(3) Satisfactorily prepared at least two appraisals on Forms FmHA 1922–8, "Residential Appraisal Report," and Form AP 1007, "Square Foot Appraisal Form."

(b) *Appraisal report.* An appraisal report is a supportable, defensible, written report as of a specific date by an appraiser setting forth an estimate of the value of a property, along with documentation supporting the value estimate. The basic principles and methods of appraising real estate outlined in this Subpart and Exhibit A to this Subpart (available in any FmHA office) will be followed in making appraisals. Use Form FmHA 1922–8, for all appraisals made under this Subpart. Attach a cost calculation sheet, Form AP 1007, to Form FmHA 1922–8 with at least one photograph of existing dwellings. The appraisal report will include market data on comparable sales of similar properties in the market data approach. Use three comparable sales if available. A cost calculation based on a residential cost handbook or building valuation manual approved by the National Office is required for all appraisals. Appraisals for loan making purposes will be made on an "as developed" basis. Appraisals for foreclosure, voluntary conveyance, partial release, recapture, etc., will be made on an "as is" basis. Appraisals made in connection with voluntary conveyance and foreclosure may also contain an additional "as developed" value documented in item 32 of Form FmHA 1922–8 if repairs are planned prior to or in connection with sale of the property. When an "as developed" value is documented in item 32 of Form FmHA 1922–8, a list of the repairs and estimated cost of the repairs must be included.

§ 1922.102 Definition of appraisal terms.

(a) *Depreciation.* A decline in market value of dwelling and related facilities from the time improvements were constructed to the time an appraisal is made. Depreciation may result from:

(1) Physical deterioration, such as wear and tear, etc., to a structure and

other site improvements that are subject to deterioration.

(2) Functional obsolescence, such as inadequacies or overadequacy due to size, design, style, age; changes in taste of the general public; the high cost of heating and cooling dwellings that cannot economically be made energy efficient, etc.

(3) Locational/Economic obsolescence is caused by forces external to the property; such as changes in use, or poorly maintained properties in the neighborhood, decline in area employment, noise or other pollution, a decline in the purchasing power of potential buyers, etc.

(b) *Economic life.* When applied to single family dwellings, the normal time a dwelling is expected to remain suitable as a residence, taking into consideration a normal depreciation rate. This may vary significantly from the remaining physical life of the structure. Economic life minus effective age equals remaining economic life.

(c) *Effective age.* The age of the dwelling taking into account any remodeling or refurbishment that has been accomplished or is planned to take place immediately and deterioration or abuse of the property that will not be included in any planned improvements. Effective age usually will be less than actual age when significant refurbishment has taken place, or greater than actual age if the property has deteriorated more than typical properties of the same age.

(d) *Final reconciliation/estimated value.* The final estimate of market value after weighing the relative significance, supportability, and reliability of the market data and cost approaches; the most probable price a property should bring, as of a specific date, in a competitive and open market, assuming the buyer and seller are prudent, knowledgeable and the price is not affected by undue stimulus such as forced sale or loan interest subsidy.

(e) *Reproduction cost.* The estimated cost of reproducing an exact duplicate or replica of a structure using the same materials, construction standards, quality of workmanship, layout, design, and incorporating all the deficiencies and superadequacies (functional obsolescence) of the subject structure. Reproduction cost less the sum of physical depreciation, functional and economic/locational obsolescence equals depreciated replacement cost.

(f) *Depreciated replacement cost.* The calculated cost of replacing a structure with a structure of equal utility that conforms to present day standards. Replacement cost may be significantly less than the cost of reproducing an older outdated structure or a new structure that is overbuilt or does not conform to current market standards.

(g) *Living area.* (1) For appraisal purposes, living area will include only finished area as determined by the exterior dimensions of the dwelling.

(2) For dwelling size eligibility determinations, living area is defined differently and is calculated as prescribed in § 1944.16, Subpart A of Part 1944, of this chapter.

(h) *Leased fee value.* This is the value of the landlord's rights to the property being leased.

(i) *Leasehold value.* This is the value of the tenant's rights under the lease that can be transferred or sold to another party.

(j) *Residential property.* The site and all improvements to the site, including the dwelling.

(k) *Cost calculation manual.* A manual or handbook published on a national basis, approved by the National Office, that is used to estimate the depreciated replacement cost of single family residential structures and other site improvements.

§ 1992.103 [Reserved]

§ 1922.104 Influences on value.

(a) *Factors to be considered.*—(1) *Location.* Location is one of the greatest influences on real property value. A location near railroads, commercial or industrial plants, landfills, cemeteries, airports, etc., or too distant from employment opportunities may adversely affect a residential property value, whereas a location in a quiet residential area near good employment, schools, shopping, public services, etc., may enhance property value.

(2) *Supply and demand.* If the market area has an oversupply of residential properties and/or building sites for sale or depressed economic conditions exist, a negative effect on property value will normally be observed. When the supply of residential properties or suitable building sites is short and/or the general economy is good, a positive effect on residential property values may be observed.

(3) *Replacement cost.* Cost does not directly create or maintain value, however, cost does have an influence on value and will be considered when estimating value of improvements to a site.

(4) *Highest and best use of the site.* The site and the improvements to the site will be valued separately. However, for loan making purposes, the value estimate of the site will not exceed its value as a residential site, based on market data on actual sales of similar residential sites in the area. For other than loan making purposes, when an alternate use of the site indicates a site value greater than the value of the improved site, the higher value will be used.

(5) *Accrued depreciation.* This is a combination of physical deterioration, functional and economic/locational obsolescence.

(6) *Use restrictions.* Easements, rights-of-ways, subdivision covenants, zoning, and deed restrictions, etc., affect value.

(7) *Utilities.* Availability, reliability, quality of utility service and cost to obtain suitable water supply, sewer, gas, electrical and other utility services affect value.

(8) *Taxes and assessments.* Tax rates and other public assessments as compared to rates in other similar neighborhoods in the market area affect value.

(9) *Homogeneity.* Similarities to other properties in the neighborhood; for example, a property overbuilt for the neighborhood or a new property in an older or deteriorating neighborhood may have a value less than its replacement cost.

(10) *Site.* Topography, size, shape, drainage, general suitability of the site and site view for residential purposes and site development in addition to the dwelling must be considered in estimating the value of the site.

(11) *Financing.* Terms, availability of funds, interest rates and cost of obtaining long-term loans, including but not limited to FmHA RH loans, have an influence on the value of property.

(12) *Construction.* Living area, room arrangement, garages, porches, built-in equipment, storage, parking facilities, basement, quality of construction, and "value in use" of certain energy efficient and/or solar items affect value. Exhibit A of Subpart B of Part 1922 of this chapter will be used when estimating value in use of any component described in § 1944.16(a)(4) of Subpart A, Part 1944 of this chapter.

(13) *Street improvements.* Street improvements adjacent to the property and the type of roads leading to the neighborhood affect value.

(b) *Factors not to be considered.* (1) Amount of existing liens or debts secured by the property; (2) Proposed sale price or bid amount to build the structure; (3) Amount of FmHA loan requested; (4) Sex, age, race, national origin, color, religion or handicap(s) of residents of the neighborhood or community; and

(5) Appraisals for voluntary conveyances and foreclosure will not reflect any consideration of a forced

sale, unpaid balance of FmHA loan(s), other liens against the property, or cost of acquisition.

§ 1922.105 Steps preliminary to writing the appraisal.

The appraisal will be made only when sufficient information has been developed to enable the appraiser to properly evaluate the property.

(a) *Basic information on property.* As a minimum, the property legal description, address, plat, subdivision and/or neighborhood map, tax information, recording information, and complete plans and specifications of any planned improvements should be obtained by the appraiser prior to beginning the appraisal.

(b) *Analysis information.* The appraisers will consider general economic conditions of the market area and obtain additional information which he or she considers pertinent to the appraisal. The appraiser should examine the community and the neighborhood before inspecting the site.

(1) *Community analysis.* The appraiser needs pertinent information about the history and growth of the community. The collection, analysis and interpretation of community data helps the appraiser to determine the relative competitive position of a property in the total market. A knowledge of how and why the community grew and an understanding of its economic trends enables the appraiser to better understand the factors influencing the value of real property. The community factors to consider include:

(i) Population—increase or decrease;
(ii) Geography i.e., topography, etc.;
(iii) Roads and public transportation service;
(iv) Employment wages and other income sources;
(v) Medical facilities;
(vi) Schools;
(vii) Volume of new construction;
(viii) Number of homes (new and old) being offered for sale in the market area;
(ix) Fire and police protection;
(x) Availability of suitable building sites;
(xi) Shopping facilities; and
(xii) Other financing available in the area.

(2) *Neighborhood analysis.* Neighborhoods are divisions or sections of a community or city which are usually homogeneous in some respect. Neighborhoods customarily pass four stages of life: building, static, declining, and rebuilding. In measuring the desirability of neighborhoods, features such as the number of unoccupied homes, age and condition of nearby properties, etc., should be studied and compared.

(3) *Site analysis.* The importance of location cannot be overemphasized. The location of a community, city, or neighborhood to available job opportunities, places of worship, schools, medical care, shopping, etc. is as important as the location of the property within its own neighborhood. Other factors to consider about the site are:

(i) Frontage;
(ii) Width;
(iii) Depth;
(iv) Shape;
(v) Total usable area;
(vi) Topography;
(vii) Hazards, such as being located in a flood plain, subject to localized flooding, etc.;
(viii) View from the site; and
(ix) Utilities available.

(c) *Inspection of the property.* An inspection of the site and all improvements to the site will be made at such time and under such conditions that the appraiser can adequately evaluate the entire property. In the case of planned improvements a thorough evaluation of the plans and specifications of the improvements to be made should be completed to determine if the improvements are suitable for the site and any existing improvements.

(1) The appraiser, after locating and identifying the property, must check boundary lines against the plat and legal description. This is essential in order to be certain the improvements to the site are totally on the site and do not encroach on adjoining property.

(2) When inspecting an existing structure, the appraiser will determine the condition of the structure, and estimate depreciation and cost to repair individual items he or she determines need repair or replacement in order for the structure to meet minimum property requirements and FmHA thermal standards. The appraiser will determine the total living area, storage, basement and parking area by actual measurements made during the inspection of an existing structure; for proposed construction, measurements will be made from the building plans.

(3) If the house is under construction or less than one year old and an individual water or sewage system is involved, include a certification by the builder that the house and any water and waste disposal systems have been or will be built or installed in accordance with the local building codes, plans and specifications. Evidence of approval by health authorities having jurisdiction in the area also will be included. If the house is one year or more old, the appraiser will require approval of individual water and/or sewage systems by health authorities or, in a case where no State or local health authority exists, by a person or firm qualified to determine the adequacy and safety of such systems.

(4) If the inspection reveals the property cannot economically be made suitable for the FmHA program, an appraisal will not be made except in connection with servicing existing FmHA security or inventory property.

(5) The date the real property is inspected will be the date placed in block 34 of Form FmHA 1922–8.

§ 1922.106 [Reserved]

§ 1922.107 Depreciation.

Adjustments to reproduction cost and the market data analysis that reflect a decrease in value of a structure or other improvements to the site due to physical deterioration and/or functional and economic obsolescence will be determined. Land and improvements to the site such as wells, etc., do not depreciate but may change in value.

(a) *Adjustments for depreciation.*—(1) *Physical deterioration.* Any deterioration to a structure or other improvement to a site which adversely affects the value of the property is physical depreciation. The residential cost calculation manual tables on depreciation and condition modifiers may be used as a guide in estimating physical depreciation of existing residences that have not been severely abused and have an effective age of 10 years or less. Since all parts of a structure are not expected to have the same life expectancy, it is necessary to determine the age, suitability and condition of certain major components of the existing structure. Physical depreciation estimates in structures with an effective age over 10 years will be made by estimating depreciation of the short-lived components of the property separately from the long-lived components of the property. The appraiser, as a minimum, will consider the heating and/or cooling system(s), roof covering, floor covering, and built-in or easily removable appliances as short-lived components and estimate depreciation based on the percent of total economic life which has passed since the component was installed. The appraiser will subtract the replacement cost new of these component items from the replacement cost new of the entire structure; then estimate the physical depreciation of the long lived items in accordance with the depreciation section of the residential cost

calculation manual and Exhibit A to this Subpart (available in any FmHA Office). The total of short-lived and long-lived depreciation equals total physical depreciation.

(2) *Functional obsolescence.* Any design or feature of a dwelling that is not acceptable to the typical buyer in the market area will be identified by the appraiser on the inspection visit to an existing dwelling or in the review of the plans and specifications of a dwelling to be built. All items affecting the livability and marketability of the property will be recorded in the appraisal report. The appraiser will measure the value difference in the subject property caused by functional obsolescence by comparing properties that have sold that do meet the livability and marketability demands of the typical purchaser. The appraiser must be familiar with the taste and desires of the typical purchaser in the market area in order to support the estimate of value loss due to functional obsolescence of a property. Exhibit A to this Subpart (available in any FmHA office) outlines the parts of a property and design items to consider when estimating functional obsolescence.

(3) *Economic obsolescence.* Any factor outside the property boundary that causes real property to be worth less because of its location is an economic obsolescence factor. The community, neighborhood and site analysis will form the basis for making this estimate. The actual dollar adjustment estimate for economic obsolescence will be based on a comparison of sales prices of similar properties in similar and nonsimilar locations. Exhibit A to this Subpart (available in any FmHA Office) explains market data extraction of economic obsolescence and sources of economic trend data.

(b) *Accrued depreciation.* The sum of physical depreciation, and functional and economic obsolescence equals accrued depreciation. Accrued depreciation will be entered on Line 29 of Form AP 1007 and will be documented on the reverse of Form AP 1007. Accrued depreciation will be reflected in the market data analysis of Form FmHA 1922–8.

§ 1922.108 Appraisal of leasehold estate.

Prior to making an appraisal for loan making purposes involving a leasehold, the appraiser must determine if the lease complies with the requirements of § 1944.15 (a)(5) of Subpart A of Part 1944, of this chapter. The value of the leased fee will not be estimated under this subpart.

(a) *Property as improved.* Estimate the market value of the property "as improved" as though the property was owned under a good and marketable fee title. Estimate the market value of the site on an "as is" basis as if no improvements exist or are to be made or placed on the site and subtract from "as improved" property value.

(b) *Rent.* Estimate the amount of rent that customarily is paid in the area for similar sites leased under similar terms.

(c) *Lease acquisition cost.* Where a lease acquisition cost is involved, determine the total annual leasehold cost of the site as if vacant. In making this determination, the appraiser will consider the amount of annual rent to be paid under the lease plus the annual loan payment required on the portion of the RH loan used to acquire the leasehold site. The sum of these should not exceed the amount an applicant would need to pay on a loan to buy a similar site with fee simple title.

Example: Present market value of the site as if owned with fee simple title is $5,000. Amortization factor for 33-year loan at 12% interest with monthly payments is .0102 per $1.00 of loan.

$5,000 × .0102 = $51/month.
$51 × 12 mos. = $612 (annual payment on the site if owned with fee simple title).
Lease acquisition cost is $2,000. Amount of annual rent is $300.
$2,000 × .0102 = $21/mo. (rounded up to nearest dollar).
$21 × 12 = $252 annual payment on leasehold acquisition fee.
$252 plus $300 (annual rent) equals an annual leasehold cost of $552.

Since the total annual cost of the leasehold interest in the site in this example is less than the annual payment would be on the site as if owned with fee simple title, the $2,000 lease acquisition fee would be reasonable. The lease acquisition "value" to be entered on Forms FmHA 1922–8 and AP 1007 would be adjusted downward if the total annual cost of the leasehold exceeded the annual cost of an identical fee simple owned site.

(d) *Security value of leasehold.* The maximum security value of a leasehold interest (recommended market value of leasehold) on Form FmHA 1922–8, including improvements to be made to the leasehold site, will not exceed the market value of the improved property less the "as is" value of the site as if owned with fee simple title, plus the market value of the leasehold site.

Example:

Market value of the property "as improved" as if owned with fee title	$40,000
Less market value fee title owned site "as is"	5,000
Market value of improvements	35,000
Acquisition Cost of leasehold site (unimproved)	2,000
Maximum security value of leasehold property "as improved"	37,000

Complete Form FmHA 1922–8 with a full explanation as to how the value estimates were arrived at and what factors were considered in estimating the maximum security value for a loan being made on the leasehold.

§ 1922.109 Writing the appraisal.

In order to analyze and evaluate the influence of the value of a property by the factors outlined in this subpart and Exhibit A of this subpart (available in any FmHA office), the following steps, as a minimum, will be followed by the appraiser.

(a) *Comparable sales data approach.* Collecting, verifying and analyzing sales of comparable properties in the market area will provide a basis for completing the market data approach on the residential appraisal report (item 26 of Form FmHA 1922–8). Information on each comparable sale will be recorded on Form FmHA 1922–12, after inspecting the property. A photograph of the comparable sale should also be attached to Form 1922–12. Comparable sales less than one year old with nonsubsidized financing from lenders other than FmHA should be used in the market data analysis. When this type of comparable sales data is not available in the market area, the District Director may authorize limited use of comparable sales financed by FmHA after verifying that other comparable sales are not available and that the sales prices are in line with sales prices of similar properties within his or her District. Only "arms length" sales will be used. Market value of the site should be obtained by using comparable sales data for other building sites sold in the area. Dollar adjustments for differences in time, size and quality will be made first. All adjustments to comparables will be based on paired sales extraction, cost estimate and market surveys of value differences. The cost estimate and market survey methods of making adjustments to comparables will be used only when data extracted from paired sales cannot be obtained. Comparable sales closest to the subject are the most desirable and the best indicator of value, but if comparable sales in the immediate area are nonexistent, the distance may be increased to the nearest similar communities where comparable sales have occurred.

(b) *Cost approach.* A residential cost calculation manual approved by the National Office will be used in estimating the replacement cost of the dwelling and improvement to the site. The cost calculation will be made in accordance with instructions furnished in the handbook or manual and recorded

on a Form furnished by the cost manual supplier or Form AP 1007. The cost manual contains basic cost adjustment tables for different qualities of houses. The quality description which best describes the house being appraised will be used. Accrued depreciation will be estimated in accordance with Exhibit A (available in any FmHA office) and § 1922.107 of this Subpart. Lot or land value will be estimated and added to depreciated replacement cost of improvements.

§ 1922.110 Final reconciliation/estimated value.

(a) *Indicated value by the market data approach.* The appraiser will make an estimate of value by the market data approach after reviewing the similarity of each comparable sale to the subject. The final market data estimate of value (item 27A on Form FmHA 1922–8) will be tempered by the degree of similarity and reliance placed on each of the different comparable sales and will not be an average of the three indicated values.

(b) *Indicated value by cost approach.* The appraiser will enter the value indicated by the cost approach in item 27C of Form 1922–8.

(c) *Final reconciliation/estimated value.* The estimated market value in item 33 of Form FmHA 1922–8 will never exceed the higher of the values indicated by the market data approach or the cost approach and may exceed the lower of the two indicated values only when the appraiser includes justifying and supporting documentation in the appraisal report.

(d) *Valuation of buildings for insurance purposes.* The value of buildings for insurance purposes will be the amount indicated on Line 30, Form AP 1007.

§ 1922.111 Abbreviated appraisal and revising existing appraisals.

A complete new appraisal will be made for each property requiring an appraisal except:

(a) *Abbreviated appraisal.* An abbreviated appraisal may be made for property to be built when:

(1) The property being appraised is identical, except for minor differences, with a property appraised not more than 90 days prior to the date of the abbreviated appraisal and is located on an equally desirable site within the same subdivision. A copy of all appraisal documents from the first appraisal, "the master appraisal," will be attached to, and will become a part of Form FmHA 1922–8, for the abbreviated appraisal.

(2) All items on the abbreviated appraisal that differ from the property being appraised, such as property address, legal description, applicant's name and reconciliation/estimated value will be completed along with a narrative explanation of any adjustments made and any differences in final value estimate.

(b) *Revised appraisal.* An existing appraisal may be revised when an accurate estimate of present market value can be determined without making a complete new appraisal and the following conditions exist:

(1) The appraisal being revised is not more than 2 years old;

(2) Adequate narrative documentation is attached to support the revised estimate; and

(3) The appraisal being revised was made using Forms FmHA 1922–8 and AP 1007.

§§ 1922.112 through 1922.150 [Reserved]

(42 U.S.C. 1480 (j); 7 CFR 2.23; 7 CFR 2.70)

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1944.24 [Amended]

2. Section 1944.24 (c)(1), is amended by changing the reference from "FmHA Instruction 422.3 (available in any FmHA office)" to "Subpart C of Part 1922 of this chapter," in lines 7, 8 and 9.

§ 1944.45 [Amended]

3. Section 1944.45 (f) (3) (iii) is amended by changing the reference from "FmHA Instruction 422.3 (available in any FmHA office)," to "Subpart C of Part 1922 of this chapter."

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations

§ 1944.157 [Amended]

4. Section 1944.157 (a)(7)(iii) is amended by changing the reference from "FmHA Instruction 422.3 which is available in any FmHA office" to "Subpart C of Part 1922 of this chapter."

§ 1944.169 [Amended]

5. Section 1944.169 (a)(1)(ii) is amended by changing the reference from "FmHA office" to "Subpart C of Part 1922 of this chapter."

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

§ 1944.222 [Amended]

6. Section 1944.222 (a), is amended by changing the reference from "FmHA Instruction 422.3, available in any FmHA office" to "Subpart C of Part 1922 of this chapter," in lines 10 and 11.

(42 U.S.C. 1480 (j); 7 CFR 2.23; 7 CFR 2.70)

Dated: January 11, 1983.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 83–4274 Filed 2–17–83; 8:45 am]

BILLING CODE 3410–07–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Policy Statement; Truth in Lending; Enforcement Guidelines and Restitution Review Procedures

AGENCY: National Credit Union Administration (NCUA).

ACTION: Policy statement.

SUMMARY: The NCUA Board has made the following changes in its policies for implementation of the restitution provisions of the Truth in Lending Act: (1) Established procedures that will be followed in reviewing requests by Federal credit unions for relief from restitution: (2) delegated to the NCUA Regional Directors the authority to rule on such request; and (3) revised its guidelines concerning restitution by Federal credit unions for violations resulting from improper disclosure of credit insurance so that, to the extent permitted by law, restitution will not be required in cases where members were not misled by the violations.

EFFECTIVE DATE: February 18, 1983.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert M. Fenner, Director, Department of Legal Services, at the above address or telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION:

Policy Statement 83–1

Background

The Truth in Lending Act (Act) directs the Federal financial institution regulatory agencies, including NCUA, to require institutions under their jurisdiction to make restitution to consumers in certain cases for

understatement of the annual percentage rate or finance charge disclosed in connection with extensions of consumer credit.

Generally, pursuant to section 108(e) of the Act (15 U.S.C. ,1607(e)), restitution must be made if: (1) The undisclosure was willful or (2) the undisclosure exceeds certain tolerances and it either resulted from gross negligence or was part of a pattern of similar violations in the institution. In certain limited circumstances, the Act directs the agencies not to order restitution either because the violations are old beyond certain limits, or because they predate an earlier examination in which the violations were not noted, or because the amount of the adjustment is below $1. In certain other circumstances, described below, the Act provides the agencies with the discretion to waive or modify restitution. NCUA and the other financial regulatory agencies have adopted guidelines that explain the actions the agencies generally intend to take in certain of those situations in which the Act gives the agencies discretion. NCUA's guidelines were published at 45 FR 48712 (1980).

Purposes

The purposes of this policy statement are to: (1) Provide notice of a revision to NCUA's restitution guidelines concerning violations resulting from improper disclosure of credit disability and life insurance, (2) summarize for the benefit of Federal credit unions and other interested parties those circumstances in which NCUA may under the law exercise discretion to waive or modify restitution, (3) set out procedures to be followed by Federal credit unions that wish to request review of an initial recommendation by NCUA staff that restitution be considered, and (4) delegate to the NCUA Regional Directors the authority to rule on such requests subject to review in certain cases by the NCUA Board.

Revision To Enforcement Guidelines

The Act grants the enforcement agencies discretion in determining whether to require restitution for violations resulting from improper disclosure of the cost and optional nature of credit life and disability insurance, with respect to violations that occurred prior to April 1, 1982, and were nonwillful. Concerning this discretion, NCUA's enforcement guidelines as previously published provided that restitution would be required for failure to disclose the optional nature of the insurance. If the optional nature was disclosed, but either the cost was not disclosed or there was no signed insurance option, the guidelines provided that the credit union would be required to notify the member of the cost and optional nature and offer to cancel and return all premiums. Based on its experience in implementing those guidelines, NCUA has determined that they are unduly restrictive and that other factors, such as a low penetration rate of sale of such insurance, may provide evidence that member-borrowers understood the optional nature of the insurance. The previous guidelines with respect to credit life and disability insurance are therefore repealed. Restitution will not be required if the Federal credit union demonstrates, by penetration rate or other evidence, that it is unlikely that the credit union's members were misled by the violation. If such a demonstration can not be made, the credit union may be required to notify affected members and offer to cancel the insurance and return all premiums. (It should again be noted that this policy applies only to violations that occurred before April 1, 1982. The Act does not permit the agencies to exercise this type of discretion with respect to violations that have occurred on or after that date.)

Agency Discretion

In order to promote a better understanding of the circumstances in which it may be appropriate for NCUA to waive or modify restitution, the following is a summary of the discretion granted under the Act with reference to any relevant enforcement guidelines. With the exception of paragraph 5, discretion does not apply to willful violations. Otherwise, discretion is granted:

1. Where the understatement did not result either from a pattern of violations or from gross negligence;

2. Where the understatement resulted from improper disclosure of certain charges that would, if properly disclosed, be excludable from the finance charge, i.e., charges related to property and liability insurance (section 106(c) of the Act), fees for perfecting and releasing security interests (section 106(d)), and the cost and optional nature of credit life and disability insurance (section 106(b), limited by date of occurrence of the violation as explained above). The enforcement guidelines provide that restitution will not be required for violations involving sections 106 (c) and (d) of the Act. With respect to violations involving section 106(b), NCUA has revised its enforcement guidelines as described above;

3. Where either: (1) The finance charge or annual percentage rate was accurately disclosed, but the other disclosure was either omitted or 10% or less of the amount that should have been disclosed (e.g., slipped decimal) or (2) neither the finance charge nor annual percentage rate was disclosed. In these cases, the enforcement guidelines provide that no adjustment will be required, except that where no annual percentage rate was disclosed, the contract rate will be used or in its absence the member will not be required to pay an amount greater than the actual annual percentage rate subject to a limited tolerance;

4. Where NCUA determines that the understatement resulted from any unique circumstance involving a clearly technical and nonsubstantive disclosure violation which did not adversely affect information provided to the consumer; and

5. Where, in connection with loans consummated before April 1, 1980, restitution would have a significantly adverse effect upon the safety and soundness of the credit union. Also, in connection with loans consummated on or after April 1, 1980, restitution may be permitted in partial payments over an extended period where immediate full restitution would have such an effect.

Procedures and Delegation

In those instances where NCUA discovers, through an examination or otherwise, an apparent violation for which restitution may be appropriate, NCUA personnel will advise the Federal credit union of the apparent violation and recommend that the Act and enforcement guidelines be reviewed and that voluntary restitution be considered. (NCUA can *order* restitution only in accordance with cease and desist proceedings conducted pursuant to 12 U.S.C. 1786(e)(1).) In any case where a Federal credit union either disagrees with a factual determination of NCUA staff that reimbursable violations exist or believes that agency discretion, as described above, can and should be exercised to waive or modify restitution, the following procedures will be utilized.

1. The Federal credit union should submit a written request, along with supporting documentation, to the appropriate NCUA Regional Director for consideration.

2. The Regional Director will review the request and supporting documentation. Additional information or clarification will be solicited if appropriate. The Regional Director, under authority delegated by the NCUA Board, will make a decision and will

notify the Federal credit union of the decision and any requested action.

3. In any case where the Regional Director declines to exercise discretion granted under the Act to waive or modify restitution, the credit union may request a review of that decision by the NCUA Board.

By the National Credit Union Administration Board on February 9, 1983.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 83-4204 Filed 2-17-83; 8:45 am]

BILLING CODE 7535-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

Minority Small Business and Capital Ownership Development

AGENCY: Small Business Administration.

ACTION: Notice of expiration of interim emergency regulation and reinstatement of prior rules.

SUMMARY: On August 17, 1982, at 47 FR 35754, SBA adopted as an interim measure an interim emergency regulation which established upon its publication in the **Federal Register**, a size standard for all present participants in the section 8(a) program based upon the concern's net worth and average net income after Federal income taxes for the preceding two years. The rule was effective only for a period of 180 days from date of publication.

The rule made eligible for continued participation in the section 8(a) program all otherwise qualified concerns which qualified under rules effective on that date and, those which did not as of the date of publication have net worth in excess of $4,000,000 and average net income of $1,000,000 after Federal income taxes for the preceding two years. If the net worth of a concern already participating in the program exceeded $4,000,000, or if the average net income for the preceding two years exceeds $1,000,000 during the period of the effectiveness of this rule, and the concern exceeded the size standard as described in 13 CFR 121.1-1(c)(1) and 13 CFR 121.3-8 on August 17, 1982, the concern was subject to termination proceedings to be conducted pursuant to section 8(a)(9) of the Small Business Act, 15 U.S.C. 637(a)(9), and 13 CFR 124.10, *et seq.*, and suspension of contractual support. The interim emergency rule did not change the SBA size regulation governing admission to the section 8(a) program.

Effective February 15, 1983, this interim emergency rule has lapsed. SBA hereby gives notice that 13 CFR 124.1-1(c)(1) and 13 CFR 121.3-8 will be applied from that date forward to determine the size of a concern for purposes of both eligibility for and continued participation in the section 8(a) program as they were prior to August 17, 1982.

DATE: This Notice is effective upon publication in the **Federal Register**. Address comments to: Robert L. Wright, Associate Administrator, Small Business Administration, 1441 L Street NW., Room 317, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Robert L. Wright, (202) 653-6407 (same address as above).

SUPPLEMENTARY INFORMATION: Litigation and administrative proceedings which were conducted in the Summer of 1982, required temporary alteration of the administration of the SBA's section 8(a) program. Under this program, SBA contracts with other agencies of the Federal Government for the performance of contracts for the procurement of goods and services and then enters into subcontracts with participants in the program for performance thereof. (See 15 U.S.C. 637(a) and generally 13 U.S.C. 124.1-1.) The litigation and administrative proceedings referred to above, taken as a whole, found that SBA does not have the administrative discretion to award section 8(a) subcontracts to participants in the program who have been found other than small in a proper size review which has been conducted by SBA.

SBA was compelled to adhere to the holdings of the litigation and administrative proceedings. In this regard, it was and is SBA's intention to suspend contract assistance to firms properly found to be other than small and not to ignore the holdings in these matters. However, to have done so in the Summer of 1982, in an abrupt and immediate manner, would have resulted in the immediate suspension of contractual assistance to a substantial number of participants in the 8(a) program.

This would have had a two-fold adverse affect upon the orderly function of the program which SBA found intolerable. First, it would have imposed economic hardship upon a significant number of participants in the program who had reasonable expectations that an adverse size determination by SBA would not result in immediate suspension of contractual assistance.

Secondly, an immediate suspension of contract assistance to the section 8(a) concerns which exceeded SBA's size standards also would have adversely affected the established procurement cycle of the procuring agencies for which the contracts are to be performed.

For the above reasons, SBA adopted as an interim measure the interim emergency regulation referred to above. This regulation established upon its publication in the **Federal Register**, a size standard for all present (as of August 17, 1982) participants in the section 8(a) program based upon the concern's net worth and average net income after Federal income taxes for the preceding two years. The rule was effective only for a period of 180 days from date of publication.

The interim emergency rule avoided the hardships which SBA foresaw as a result of immediate suspension of contractual assistance. However, as indicated immediately above, it has lapsed by its own terms. SBA is in the process now of revising certain of the regulations which govern the administration of the section 8(a) program. However, until that revision is completed and final regulations are issued governing the question of size as it applies to section 8(a) concerns, SBA's present regulations (which were also in effect on August 17, 1982), will govern that matter.

List of Subjects in 13 CFR Part 124

Administrative practice and procedure, Government procurement, minority businesses, Surety bonds, Technical assistance.

PART 124—[AMENDED]

Accordingly, notice is hereby given that 13 CFR 124.1-1(c)(1) as it existed on August 17, 1982, is reinstated upon the lapse of the interim emergency regulation which appeared at 47 FR 35754 on August 17, 1982, as follows:

§ 124.1-1 The section 8(a) program.

* * * * *

(c) * * *

(1) Small Business Concern. In order to be eligible to enter the section 8(a) program, an applicant concern must qualify as a small business concern as defined for purposes of Government procurement in § 121.3-8 of the SBA Rules and Regulations. The particular size standard to be applied shall be based on the principal activity of the applicant concern.

* * * * *

Dated: February 8, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-3798 Filed 2-17-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 82F-0288]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Hexadecyl 3,5-di-Tert-Butyl-4-Hydroxybenzoate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of hexadecyl 3,5-di-*tert*-butyl-4-hydroxybenzoate as a stabilizer in olefin polymers intended for use in contact with food. This action is based on a petition filed by the American Cyanamid Co.

DATES: Effective February 18, 1983; objections by March 21, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 1, 1982 (47 FR 43427), FDA announced that a food additive petition (FAP 2B3648) had been filed by the American Cyanamid Co., Wayne, NJ 07470, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of hexadecyl 3,5-di-*tert*-butyl-4-hydroxybenzoate as a light stabilizer at levels not to exceed 0.5 percent by weight of olefin polymers complying with § 177.1520 (21 CFR 177.1520).

In the **Federal Register** of October 22, 1982 (47 FR 47005), FDA amended the food additive regulations to provide for the safe use of hexadecyl 3,5-di-*tert*-butyl-4-hydroxybenzoate as a stabilizer in polypropylene and certain polyethylene polymers complying with §177.1520, under conditions of use restricted to room temperature and below. This amendment extends the use of the stabilizer to all olefin polymers regulated under § 177.1520 and removes the temperature restriction.

FDA has evaluated data in the petition and other relevant material, and concludes that the proposed food additive use is safe and that § 178.2010 should be amended as set forth below. FDA is also making an editorial correction of the Chemical Abstracts Service Registry Number for the stabilizer in this final rule. Section 178.2010 lists stabilizers for polymers without regard to their mechanism of action. Accordingly, the compound need not be identified in the regulation as a "light" stabilizer, as it was referred to in the notice of filing.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.2010(b) by revising the item "Hexadecyl 3,5-di-*tert*-butyl-4-hydroxybenzoate," to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

[illegible]	Limitations
Hexadecyl 3,5-di-*tert*-butyl-4-hydroxybenzoate (CAS Reg. No. 67845-93-6).	For use only at levels not to exceed 0.5 percent by weight of olefin polymers complying with § 177.1520 of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 21, 1983 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in the brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective February 18, 1983.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: February 11, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-4193 Filed 2-17-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for MAC-PAGE, Inc., providing for the manufacture of a 10-gram-per-pound tylosin premix. A 40-gram-per-pound premix is used to make the 10-gram-per-pound premix for use in the manufacture of complete feeds for swine, cattle, and chickens. In addition, the firm is added to the list of sponsors of approved NADA's.

EFFECTIVE DATE: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary

Medicine (HFV–128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: MAC-PAGE, Inc., 1600 S. Wilson Ave., Dunn, NC 28334, is the sponsor of NADA 131–957, submitted on its behalf by Elanco Products Co. This NADA provides for use of a premix containing 40-grams-per-pound of tylosin (as tylosin phosphate) to make a 10-gram-per-pound permix which is used to make complete feeds for swine, beef cattle, and chickens. The feed is used as in 21 CFR 558.625(f)(1) (i) through (vi). The basis of approval is discussed in the freedom of information (FOI) summary. The NADA is approved and the regulations are amended to reflect the approval.

In addition, the sponsor has not been previously added to the list of sponsors of approved NADA's in 21 CFR 510.600(c). The list is amended to add this sponsor.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
. . . . .	
MAC-PAGE, Inc., 1600 S. Wilson Ave., Dunn, NC 28334	047427
. . . . .	

(2) * * *

Drug labeler code	Firm name and address
. . . . .	
047427	MAC-PAGE, Inc., 1600 S. Wilson Ave., Dunn, NC 28334.
. . . . .	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(79) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(79) To 047427: 10 grams per pound: paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Effective date: February 18, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 9, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83–4191 Filed 2–17–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Fenprostalene Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Syntex Agribusiness, Inc., providing for use of fenprostalene solution as an abortifacient (an agent that induces abortion) in pregnant feedlot heifers.

EFFECTIVE DATE: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, filed NADA 128–549 providing for subcutaneous use of Bovilene ™ (fenprostalene) solution as an abortifacient in pregnant feedlot heifers. Data and information from dose-response studies, controlled field studies, and toxicological safety studies demonstrated safe and effective use of the drug in cattle. In addition, use of the drug was evaluated for human safety related to food use of treated animals. The data show that residues of the drug are well below safe levels in all edible tissues within 24 hours after treatment. Therefore, establishment of a tolerance, preslaughter withdrawal period, and a regulatory method of analysis are not needed. The NADA is approved, and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human emvironment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is

amended by adding new § 522.914, to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.914 Fenprostalene solution.

(a) *Specifications.* Each milliliter of sterile solution contains 0.5 milligram of fenprostalene.

(b) *Sponsor.* See 000033 in § 510.600(c) of this chapter.

(c) *Special considerations.* Labeling shall bear the following statements: Women of childbearing age, asthmatics, and persons with bronchial and other respiratory problems should exercise extreme caution when handling this product. It is readily absorbed through the skin and may cause abortion and/or bronchiospasms. Accidental spillage on the skin should be washed off immediately with soap and water.

(d) *Conditions of use*—(1) *Amount.* 1 milligram (2 milliliters) subcutaneously per animal as single does.

(2) *Indications for use.* For feedlot heifers to induce abortion when pregnant 150 day or less.

(3) *Limitations.* Subcutaneous use only in cattle. Do not use in pregnant animals unless abortion is desired. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: February 18, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated February 9, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-4192 Filed 2-17-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bambermycins

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for the Feed Specialites Co. providing for use of 10 grams-per-pound bambermycins premixes to make 0.4 and 2 grams-per-pound bambermycins premixes which are used for making finished swine feeds used for increased rate of weight gain and improved feed efficiency in growing-finishing swine, and 2 grams-per-pound bambermycins premixes for making finished turkey feeds used for increased rate of weight gain and improved feed efficiency.

EFFECTIVE DATE: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: Feed Specialties Co., 1877 NE. 58th Ave., Des Moines, IA 50313, is sponsor of NADA 132-448 providing for safe and effective use of 10 grams-per-pound bambermycins premixes to make 0.4 and 2 grams-per-pound bambermycins intermediate premixes. Both premixes are used to manufacture finished feed for growing-finishing swine for increased rate of weight gain and improved feed efficiency. The 2 grams-per-pound premix is also used to manufacture finished feed for growing turkeys for increased rate of weight gain and improved feed efficiency. The application was filed on behalf of Feed Specialties Co. by American Hoechst Corp., Animal Health Division.

Approval of this application is based on safety and effectiveness data contained in American Hoechst's approved NADA 44-759. American Hoechst has authorized use of the data in NADA 44-759 to support this application. The NADA is approved and the regulations are amended to reflect the approval.

Approval of this NADA does not change the approved use of the drug. Consequently, approval of the NADA poses no increased human risk of exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this approval is equivalent to a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in the parent NADA 44-759.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal feeds, Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.95 is amended by adding new paragraph (b)(4) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.95 Bambermycins.

* * * * *

(b) * * *

(4) Premix levels of 0.4 and 2 grams of bambermycins activity per pound for use as in paragraph (e)(2) of this section and 2 grams per pound for use as in paragraph (e)(3) of this section granted to 017274 in § 510.600(c).

* * * * *

Effective date: February 18, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 9, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-4189 Filed 2-17-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Walnut Grove Products, Division of W. R. Grace & Co., providing for use of a 50-gram-per-pound lincomycin premix in manufacturing a 4-gram-per-pound lincomycin premix. The intermediate premix is subsequently used in swine feeds for treatment and/or control of dysentery.

EFFECTIVE DATE: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: Walnut Grove Products, Division of W. R. Grace & Co., 201 Linn St., Atlantic, IA 50022, is sponsor of NADA 132–984 filed in its behalf by the Upjohn Co. The NADA provides for use of a 50-gram-per-pound lincomycin premix in manufacturing a 4-gram-per-pound lincomycin intermediate premix for subsequent incorporation into complete swine feeds. The feeds are used for control and/or treatment of swine dysentery as provided in 21 CFR 558.325(f)(2). Based on the data and information submitted, the NADA is approved and the regulations are amended to reflect the approval.

Approval of this application is based on safety and effectiveness data contained in Upjohn's approved NADA 97–505. Upjohn has authorized use of the data in NADA 97–505 to support approval of this NADA. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk of exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as a Category II supplement which does not require reevaluation of the safety and effectiveness data in the original NADA.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine had determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment not an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.325 is amended by revising paragraph (b)(1), to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.325 Lincomycin.

* * * * *

(b) *Approvals.* (1) Premix level of 4 grams per pound has been granted to:

(i) 000009 for use as in paragraph (f)(1) and (3) of this section.

(ii) 034139 for use as in paragraph (f)(2) of this section.

* * * * *

Effective date: February 18, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 9, 1983.

Lester M. Crawford,

Director Bureau of Veterinary Medicine.

[FR Doc. 83–4198 Filed 2–17–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 620

[Docket No. 78N–0425]

Typhoid Vaccine; Additional Standards

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations to revise the additional standards for typhoid vaccine. These amendments will update the requirements for the vaccine concerning production, the U.S. Standard preparations, and the potency test.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 17, 1979 (44 FR 41484), FDA proposed to amend Part 620 (21 CFR Part 620) of the biologics regulations to revise the additional standards for typhoid vaccine concerning production, U.S. Standard preparations, and potency test requirements. The revisions proposed in the July 17, 1979 document included the following:

(1) To ensure the antigenic integrity of the Strain Ty 2 of *Salmonella typhosa*, which is used in the manufacture of typhoid vaccine, FDA proposed to amend § 620.11 (21 CFR 620.11) to require that antigenic integrity be verified by the agglutination of living bacteria by a Ty 2 antiserum.

(2) To clarify the source of necessary reference materials, FDA proposed to amend § 620.12 (21 CFR 620.12) to require that the U.S. Standard Typhoid Vaccine and U.S. Opacity Standard be obtained from the Bureau of Biologics (now the Office of Biologics, National Center for Drugs and Biologics).

(3) Because FDA had found that the use of phosphate-buffered saline (PBS) in certain dilutions required in the potency test had not resulted in any detectable changes in the potency test, FDA proposed to amend § 620.13 (b)(1) and (c)(2) (21 CFR 620.13 (b)(1) and (c)(2)) to permit the use of PBS to dilute the vaccine, the challenge, and the virulence titrations of Strain Ty 2 of *Salmonella typhosa*.

(4) Based on statistical methods used in, and results derived from, typhoid vaccine potency tests performed by FDA, the agency proposed to amend § 620.13(e) to require that new statistical methods be used to determine the validity of the potency test. For consistency, FDA proposed to amend § 620.13(g) to eliminate the requirement that the standard deviation be used as the basis for calculating the ED_{50} of each lot of typhoid vaccine.

(5) Based on test data accumulated and analyzed by FDA, the agency determined that existing § 620.13(e)(6) should be amended to change the maximum challenge dose of typhoid bacteria from 10 to 20 colony-forming units per LD_{50}. This change, as found in § 620.13(e)(7) of the proposed amendments, would decrease the frequency of repeat tests that may be necessary to meet the criteria for test validity.

(6) Consistent with the changes proposed in § 620.13(e) and due to the statistical significance of biological variations encountered in typhoid vaccine potency testing, FDA proposed to amend § 620.13(f) to prescribe conditions for repeat potency tests and to require that the results of not more than four valid tests be used for determining that typhoid vaccine meets the potency requirements.

(7) Because the potency test is of such a variable nature that it necessitates at least two separate assays of the required potency test on each lot of typhoid vaccine, FDA proposed to amend § 620.13(h) to require the submission of the results of at least two separate potency tests, and to prescribe potency requirements based on the results of at least two, but no more than four, tests. From the statistical data

accumulated and analyzed in the potency testing of lots of typhoid vaccine, FDA also proposed new minimum values based on the number of tests performed, for the geometric mean relative potency for each lot.

The vaccine is used in the United States for immunization against typhoid disease of persons who have come into contact with a known typhoid carrier, persons who plan to travel to an area where typhoid fever is endemic, or if there is an outbreak of typhoid fever in the community. Interested persons were given until September 17, 1979, to submit comments on this proposal, and two comments were received. A summary of the comments, FDA's responses, and a description of FDA's editorial revisions intended to clarify the regulations follow:

1. FDA proposed in § 620.11(a)(2) (21 CFR 620.11(a)(2)) that the antigenic integrity of the Ty 2 strain of *Salmonella typhosa* be verified by the agglutination of living bacteria by Ty 2 antiserum. FDA now believes that this section should be amended to permit a manufacturer to identify the organism by an appropriate serological procedure, rather than to restrict the manufacturer to an agglutination procedure. Accordingly, in the final rule § 620.11(a)(2) is amended to read, "The antigenic integrity of the Ty 2 strain shall be verified by an appropriate serological procedure." In addition, in accordance with current bacteriological nomenclature, §§ 620.10, 620.11 (a)(1), (b), (c)(2), and 620.13(c)(1) (21 CFR 620.10, 620.11 (a)(1), (b), (c)(2), and 620.13(c)(1)) are amended in the final rule by changing the species designation "typhosa" to "typhi."

2. One comment on proposed § 620.13 recommended that because of the variability of test results, the potency test for typhoid vaccine should not be continued as a required test. Rather, the product should be controlled by the manufacturing procedure, as recommended by the World Health Organization (WHO). The comment recommened, alternatively, that if the potency test is continued as a requirement, the results of the potency test be calculated by the Wilson-Worcester statistical procedure on the basis of a three-dose response, using 32 mice per test. The comment submitted data in support of the recommended change.

FDA disagrees with the comment. FDA believes that the potency test should not be discontinued because it is still needed. A mouse potency test has been required since typhoid vaccine was first licensed and has been included in the additional standards for typhoid vaccine since those standards were issued in the **Federal Register** of June 4, 1969 (34 FR 8914). The 1967 WHO recommendations for typhoid vaccine, developed by an expert committee on biological standardization, stated that "until a potency test of proven significance has been developed, no specific requirements can be formulated" (WHO Technical Report Series No. 361). Although FDA cannot predict what a WHO expert committee would now recommend regarding a potency test for typhoid vaccine, the agency believes that the additional standards for potency test requirements as amended in this rule will better assure the production of a high quality typhoid vaccine than do the 1967 WHO recommendations.

FDA has reviewed the Wilson-Worcester procedure and finds that it is not a valid statistical procedure for establishing the potency value of a test vaccine compared to the standard vaccine. This method does not take into consideration the variability of the test vaccine for testing the parallelism, nor does it calculate parallel lines after testing parallelism. It should be noted that § 620.13(e)(5) is not intended to preclude the use of different methods for calculating the ED_{50} values (the dose of the standard or test vaccine that produces its effects in 50 percent of the mice), provided that the methods are statistically equivalent to a parallel line bioassay method. Accordingly, in the final rule § 620.13(e)(5) is clarified by providing that the results of all dilutions shall be used to calculate the ED_{50} value of both the standard and test vaccine by a parallel line bioassay method or a statistically equivalent method.

In response to the recommendation in the comment that FDA require the use of 32 mice per test, FDA notes that the regulation does not set any upper limits on the number of mice used for testing each of at least 4 dilutions of each vaccine. FDA is further clarifying § 620.13 in paragraph (a) to specify that at least 16 mice shall be used for testing each dilution of each vaccine, and that for each test of a dilution no less than 10 mice shall be used for control testing purposes. FDA believes that these numbers of mice are adequate for the required testing.

3. One comment on proposed § 620.13(c)(2) concerning the preparation of the challenge and virulence titration doses into a mucin preparation recommended that the regulation be amended to permit the suspensions for the challenge and virulence titration doses to be put into either a sterile gastric mucin preparation or other suitable virulence-enhancing preparation.

FDA agrees with the comment. Preparations other than mucin are capable of enhancing virulence of bacterial suspensions and, thus, may be suitable for use in the potency test for typhoid vaccine. In addition, it is currently difficult to obtain mucin that is suitable as a virulence-enhancing agent. Accordingly, § 620.13(c)(2) is amended in the final rule to require that the suspensions for the challenge and virulence titration doses shall be put into sterile gastric mucin preparation or other suitable virulence-enhancing preparation.

4. One comment on proposed § 620.13(c)(2) recommended that the challenge suspension be prepared from whatever bacterial dilution provides about 1,000 LD_{50} for a 0.5 milliliter challenge dose. In addition, the comment recommended that proposed § 602.13(e)(6) be amended to require that the challenge dose contain approximately 1,000 (but not less than 50) LD_{50} and that § 620.13(e)(7) be deleted. Data were submitted in support of the recommended changes.

FDA disagrees with the comment. The existing regulations require that the challenge dose (the quantity of bacterial suspension administered to each mouse previously inoculated with the vaccine) be prepared from whichever bacterial dilution provides about 1,000 colony forming units for a 0.5 milliliter challenge dose. Because FDA did not propose a change in the criteria for preparing the challenge dose, the agency would need to have good cause to amend the regulations to make such a change. The agency has reviewed the criteria and supporting data that were submitted with the comment and believes that the recommended change in criteria would not better assure the validity of a test. In addition, the agency is not aware of any other scientific (or economic) benefits that would result from the recommended change. Accordingly, the comment is rejected. Nevertheless, if a manufacturer is interested in implementing different criteria for determining potency test validity, such as those criteria recommended by the comment, § 620.15 (21 CFR 620.15) allows the submission of an application to employ equivalent criteria.

5. One comment on proposed § 620.13(h) recommended that the potency requirements be based on one valid test meeting all requirements.

FDA disagrees with the comment. Because of the variability of the potency test, at least two but not more than four

separate assays must be conducted on each lot of typhoid vaccine to assure the statistical validity of the results. Accordingly, the comment is rejected. However, for clarification, § 620.13(h) is amended to state that the potency test results are identified in terms of the geometric mean.

Accordingly, FDA is amending the additional standards for typhoid vaccine to ensure the antigenic integrity of the Ty 2 strain of bacteria used in vaccine production, to require use of new statistical methods for determining the validity of the potency test, and to make other changes to update these regulation, such as to change the references to the Bureau of Biologics. That Bureau and the previous Bureau of Drugs have been merged to form the National Center for Drugs and Biologics (see 47 FR 26913; June 22, 1982). The regulatory functions concerning biological products, controlled formerly by the previous Bureau of Biologics, are controlled now by the Office of Biologics of the National Center for Drugs and Biologics. Accordingly, in this final rule, the references to the Director, Bureau of Biologics in § 620.10 through 620.14 are corrected to read "the Director, Office of Biologics," and the correct mailing address is included in § 620.14(c).

The economic impact of this rule has been assessed in accordance with Executive Order 12291. This rule is not a major rule as defined by that Order. Specifically, this rule, which updates the potency requirements for Typhoid Vaccine, will not have a significant impact on the economy or the availability of biological products, nor cause a major increase in costs for manufacturers, physicians, or consumers. Of the four licensed manufacturers of Typhoid Vaccine, only one large manufacturer is now producing the vaccine, and it is urging that FDA issue this final rule. The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

List of Subjects in 21 CFR Part 620

Biologics.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 620 of Title 21 of the Code of Federal Regulations is amended as follows:

PART 620—[AMENDED]

1. Revise § 620.10, to read as follows:

§ 620.10 Typhoid Vaccine.

The proper name of this product shall be Typhoid Vaccine which shall be an aqueous or dried preparation of killed *Salmonella typhi* bacteria.

2. In § 620.11 revise paragraphs (a), (b), and (c)(2), to read as follows:

§ 620.11 Production.

(a) *Strain of bacteria.* (1) Strain Ty 2 of *Salmonella typhi* shall be used in the manufacture of Typhoid Vaccine.

(2) The antigenic integrity of the Ty 2 strain shall be verified by an appropriate serological procedure.

(b) *Propagation of bacteria.* The culture medium for propagation of *S. typhi* shall not contain ingredients known to be capable of producing allergenic effects in human subjects. The harvested bacteria shall be free of extraneous bacteria, fungi, and yeasts, as demonstrated by microscopic examination and cultural methods.

(c) * * *

(2) The number of *S. typhi* bacteria in the vaccine shall not exceed 10^9 per milliliter.

* * * * *

3. Revise § 620.12 to read as follows:

§ 620.12 U.S. Standard preparations.

The following U.S. Standard preparations shall be obtained from the Office of Biologics (HFN–890), National Center for Drugs and Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, for use as prescribed in this Part:

(a) *Vaccine standard.* The U.S. Standard Typhoid Vaccine for determining the potency of Typhoid Vaccine.

(b) *Opacity standard.* The U.S. Opacity Standard for adjusting the opacity of the suspension from which the challenge culture is prepared.

4. In § 620.13 by revising the introductory paragraph and paragraphs (a), (b)(1), (c) (1) and (2), (e), (f), (g), and (h), to read as follows:

§ 620.13 Potency test.

The number of potency units per milliliter shall be estimated for each lot of vaccine from the results of simultaneous mouse protection tests of the vaccine under test and of the U.S. Standard Typhoid Vaccine. At least four dilutions of each lot of vaccine shall be tested. The test shall be performed as follows:

(a) *Mice.* Healthy mice shall be used, all from a single strain and of the same sex, or an equal number of each sex in each group, with individual weights between 13 and 16 grams. A system of randomization shall be used to distribute the mice into the groups, with respect to shelf position and to determine the order of challenge. A group of at least 16 mice shall be used for each dilution of each vaccine. There shall be at least 4 groups consisting of no less than 10 mice each for control testing purposes, as required under paragraph (c) of this section.

(b) *Inoculation of vaccine.* (1) Serial dilutions, no greater than fivefold, of the vaccine to be tested and of the standard vaccine shall be made in saline (0.85 percent sodium chloride solution or phosphate-buffered saline). The mean effective dose (ED_{50}) value shall be bracketed by the dilutions used. Each mouse in each group for inoculation shall be injected intraperitoneally with 0.5 milliliter of the appropriate dilution.

* * * * *

(c) *The challenge.* (1) The challenge culture of Strain Ty 2 of *S. typhi* for each test shall be taken from a batch of cultures maintained by a method, such as freeze-drying, that retains constancy of virulence.

(2) The challenge and virulence titration doses shall be prepared as follows: The bacteria shall be harvested from a 5- to 6-hour culture grown at 36°±1° C on a suitable agar medium that shall have been seeded from a 16- to 20-hour culture grown at 36°±1° C on a suitable agar medium, and the harvested bacteria then shall be uniformly suspended in saline or phosphate-buffered saline. The suspension, freed from agar particles and clumps of bacteria and adjusted to an opacity of 10 units, shall be diluted in saline or phosphate-buffered saline by tenfold increments. The suspensions for the challenge and virulence titration doses shall be put into a sterile gastric mucin preparation or other suitable virulence-enhancing preparation. The challenge suspension shall be prepared from whichever bacteria dilution provides about 1,000 colony forming units for a 0.5 milliliter challenge dose. The virulence titration suspensions shall be 10^1, 10^2, 10^3 dilutions, respectively, of the challenge suspension.

* * * * *

(e) *Validity of the test.* The test is deemed valid if: (1) The ED_{50} of the vaccine under test and the standard vaccine is between the largest and smallest doses inoculated into the mice;

(2) The homogeneity of the dose response lines for both the vaccine under test and the standard vaccine is acceptable;

(3) A graded protective response is obtained in relation to the vaccine dilutions;

(4) The slopes of the dose response curves for the vaccine under test and the standard vaccine are shown to be parallel by an appropriate statistical method;

(5) The results of all dilutions are used to calculate the ED_{50} value of both the standard and test vaccine by a parallel line bioassay method or a statistically equivalent method;

(6) The challenge dose contains approximately 1,000 colony forming units; and

(7) The LD_{50} of the challenge dose contains no more than 20 colony forming units.

(f) *Repeat tests.* If the test does not meet the criteria prescribed in paragraph (e) of this section, repeat tests may be performed. The results of all tests shall be combined by geometric mean. Any test result established as invalid under § 610.1 of this chapter may be disregarded. The determination that the vaccine meets the potency requirements shall be made from the results of not more than four valid tests.

(g) *Estimate of the potency.* The ED_{50} of each vaccine shall be calculated. The protective unit value per milliliter of the vaccine under test shall be calculated in terms of the unit value of the standard vaccine.

(h) *Potency requirements.* The results of at least two separate tests shall be included on the release protocol, required under § 620.14(c)(2), that is submitted to the Office of Biologics, Food and Drug Administration. The vaccine shall have a potency of 8.0 units per milliliter. This requirement shall be met only if the geometric mean potency for two tests is not less than 3.9 units per milliliter; or for three tests, not less than 4.4 units per milliliter; or for four tests, not less than 4.8 units per milliliter.

§ 620.14 [Amended]

5. In § 620.14 *General requirements,* by amending paragraph (c) by revising the address beginning after the word "Director" to read "Office of Biologics (HFN–890), National Center for Drugs and Biologics, 8800 Rockville Pike, Bethesda, MD 20205"; by amending paragraph (c)(1) by changing "Bureau" to "Office"; and by amending Paragraph (b)(2) by changing "Bureau" to "Office."

Effective date: This regulation is effective March 21, 1983.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: February 1, 1983.

Arthur Hull Hayes, Jr.,
Commissioner of Food and Drugs.

[FR Doc. 83-4196 Filed 2-17-83; 8:45 am]
BILLING CODE 4160-01-M

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21 CFR Part 680

[Docket No. 82N-0028]

Allergenic Products; Equivalent Methods

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a regulation that permits manufacturers of licensed allergenic products to use an equivalent manufacturing method. This action is consistent with provisions under the additional standards for other types of biological products, such as bacterial vaccines and viral vaccines.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 25, 1982 (47 FR 27566), FDA proposed to amend the biologics regulations under 21 CFR Part 680 by adding new § 680.5 *Equivalent methods,* to provide licensed manufacturers of allergenic products an opportunity to apply for and for FDA to approve the use of a manufacturing method or process that is different from the methods or processes set forth in the additional standards regulations that govern manufacturing standards for allergenic products. The proposal explained that the application for use of such a modified method or process would be in the form of an amendment to the license application that would be required to include evidence that the modification would provide assurances of the safety, purity, potency, and efficacy of the product equal to or greater than the assurances provided by the additional standards. The modification could be used only after receipt of written approval from the Director, Office of Biologics. This "equivalent methods" regulation is consistent with the existing "equivalent methods" provisions for other types of injectable biological products, such as bacterial vaccines and viral vaccines.

Interested persons were given until August 24, 1982, to submit written comments on the proposal. No comments on the proposed rule were received. FDA believes that this rule is appropriate for the large number and variety of allergenic extract products covered by the additional standards under 21 CFR Part 680. The regulatory flexibility introduced under § 680.5 gives FDA the authority to permit the use by manufacturers of new manufacturing or testing methods or processes that are less costly than the methods or processes specified in the additional standards, but provides the same assurance of safety and effectiveness. Accordingly, the final rule is being published as proposed, with a change in the previous reference to the Bureau of Biologics. That Bureau and the previous Bureau of Drugs have been merged to form the National Center for Drugs and Biologics (see 47 FR 26913; June 22, 1982). The regulatory functions concerning biological products, controlled formerly by the previous Bureau of Biologics, are controlled now by the Office of Biologics of the National Center for Drugs and Biologics. Accordingly, the reference in § 680.5(b) of the proposal to the Director, Bureau of Biologics, is changed in this final rule to the Director, Office of Biologics, and the complete mailing address is included in the final rule.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has reexamined the regulatory impact and regulatory flexibility implications of the final rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act. The impact of the final rule is neutral in that it neither adds nor removes requirements from the existing additional standards. But a manufacturer may benefit from the flexibility permitted under the rule if the result is FDA approval of a modified method or process that would require the use of less time or resources than may be required under the additional standards. The agency concludes that the final rule does not warrant designation as a major rule under section 1(b) of Executive Order 12291. The agency also certifies that a regulatory flexibility analysis is not required because the final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 680

Biologics, Allergenics, Blood.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 680 is amended in Subpart A by adding new § 680.5, to read as follows:

PART 680—ADDITIONAL STANDARDS FOR MISCELLANEOUS PRODUCTS

§ 680.5 Equivalent methods.

Modification of any particular manufacturing method or process or the conditions under which it is conducted as required in the additional standards for allergenic products shall be permitted only under the following conditions:

(a) The manufacturer presents evidence, in the form of an amendment to its license application, that demonstrates the modification will provide assurances of the safety, purity, potency, and efficacy of the allergenic product that are equal to or greater than the assurances provided by the additional standards for allergenic products; and

(b) Approval of the modification is received in writing from the Director, Office of Biologics (HFN–800), National Center for Drugs and Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205.

Effective date. This regulation is effective on March 21, 1983.

(Sec. 351, 58 Stat, 702 as amended (42 U.S.C. 262))

Dated: February 1, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83–4194 Filed 2–17–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 740

[Docket No. 76N–0486]

Bubble Bath Products Label Warning; Interim Stay of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; interim stay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is announcing an interim stay of the effective date of a regulation requiring a caution statement on labels of cosmetic bubble bath products pending its decision whether to issue a final stay based on a proposal published elsewhere in this issue of the **Federal Register**.

DATE: The stay becomes effective on February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Heinz J. Eiermann, Bureau of Foods (HFF–440), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–245–1530.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, FDA is proposing to stay the effective date of a final regulation (21 CFR 740.17), published in the **Federal Register** of August 19, 1980 (45 FR 55172), requiring that labels of bubble bath products bear a prescribed caution statement and provide adequate directions for the products' safe use. The proposed stay invites the submission of comments, data, and other information on the proposed stay and on alternative ways to protect consumers from irritation to the skin and urinary tract that might result from the misuse of bubble bath products.

Pending its decision whether to issue a final stay based on the proposed stay of the bubble bath products label warning rule, FDA has decided to issue an interim stay under its administrative practices and procedures regulation (21 CFR 10.35). To reduce unnecessary costs during the time needed to prepare this notice, on June 1, 1981, the agency issued a press release announcing its intention to stay this regulation, which had been scheduled to become effective on August 19, 1981. It would be wasteful now to require manufacturers to begin compliance efforts, with attendant costs, when the regulation may be revoked; a revocation of labeling requirements would render wasted whatever compliance steps, such as the preparation of new labels, had been taken. Furthermore, because the regulation has not been enforced, prejudice to the interest of any affected groups and individuals will be minimal. Finally, FDA is inviting public comment on the proposed stay as well as on the other issues involved in this rulemaking as described in the notice elsewhere in this issue of the **Federal Register**. Accordingly, the agency has good cause for issuing this interim stay.

List of Subjects in 21 CFR Part 740

Cosmetics, Safety substantiation, Warning statements.

PART 740—COSMETIC PRODUCT WARNING STATEMENTS

§ 740.17 [Amended]

Therefore, under 21 CFR 10.35 and the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 602(a), 701(a), 52 Stat. 1041 as amended, 1054, 1055 (21 U.S.C. 321(n), 362(a), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 740.17 *Bubble bath products* is hereby stayed on an interim basis until further notice.

Effective date. This interim stay is effective February 18, 1983.

Dated: February 4, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83–4188 Filed 2–17–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 178

[Docket No. 82F–0156]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Octyltin Stabilizers in Vinyl Chloride Plastics

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of C_{10-16}-alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichlorooctylstannane as a stabilizer for vinyl chloride plastics intended for use in contact with food. This action is in response to a petition filed by Ciba-Geigy Corp.

DATES: Effective February 18, 1983. Objections by March 21, 1983. The Director of the **Federal Register** approves the incorporation by reference of the publication in 21 CFR 178.2650 effective on February 18, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 15, 1982 (47 FR 25772), FDA announced that a petition (FAP 2B3597) had been filed by Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing to amend § 178.2650 (21 CFR 178.2650) to provide for the safe use of C_{10-16}-alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichlorooctylstannane, as a stabilizer for vinyl chloride plastics intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food

additive use is safe and that Part 178 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register**. No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Incorporation by reference, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.2650 by revising the introductory paragraph, by revising the introductory text of paragraph (a), by adding new paragraph (a)(3), and by revising paragraph (b)(1)(ii) to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.2650 Octyltin stabilizers in vinyl chloride plastics.

The octyltin chemicals identified in paragraph (a) of this section may be safely used alone or in combination, at levels not to exceed a total of 3 parts per hundred of resin, as stabilizers in polyvinyl chloride and vinyl chloride copolymers complying with the provisions of § 177.1950 or § 177.1980 of this chapter and that are intended for use in contact with food of types I, II, III, IV (except liquid milk), V, VI (except malt beverages and carbonated nonalcoholic beverages), VII, VIII, and IX described in table 1 of § 176.170(c) of this chapter, except for the octyltin chemical identified in paragraph (a)(3) of this section which may be used in contact with food of types I through IX at temperatures not exceeding 49° C (120° F), in accordance with the following prescribed conditions:

(a) For the purpose of this section, the octyltin chemicals are those identified in paragraphs (a) (1), (2), and (3) of this section.

* * * * *

(3) C_{16-18}-Alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichlorooctylstannane (CAS Reg. No. 83947–69–2) is an organotin chemical mixture having 10.8 to 11.8 percent by weight of tin (Sn) and having 8.0 to 8.6 percent by weight of mercapto sulfur. It is made from a mixture of di(*n*-octyl)tin dichloride and (*n*-octyl)tin trichloride which has an organotin composition that is not less than 95 percent by weight di(*n*-octyl)tin dichloride/(*n*-octyl)tin trichloride, and not more than 1.5 percent by weight of tri(*n*-octyl)tin chloride. The alkyl radical in the mercaptoacetate is derived from a mixture of saturated *n*-alcohols which has a composition that is not less than 50 percent by weight tetradecyl alcohol, and that is not more than 50 percent by weight total of decyl alcohol and/or dodecyl alcohol, and/or hexadecyl alcohol.

(b) * * *

(1) * * *

(ii) Subsequent determinations shall be at a minimum of 24-hour intervals for aqueous solvents, and 2-hour intervals for heptane. These tests shall yield di(*n*octyl)tin S,S'-bis (isoocytylmercaptoacetate), di(*n*-octyl)tin maleate polymer or C_{16-18}-alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichlorooctylstannane or any combination thereof not to exceed 0.5 part per million as determined by analytical method titled "Atomic Absorption Spectrometric Determination of Sub-part-per-Million Quantities of Tin in Extracts and Biological Materials with Graphite Furnace," *Analytical Chemistry*, Vol. 49, pp. 1090–1093 (1977), which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Bureau of Foods (HFF–330), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L ST. NW., Washington, DC 20408.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 21, 1983 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective February 18, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: February 11, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–4190 Filed 2–17–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 174

Operation and Maintenance Charges

January 19, 1983.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This document removes provisions relating to the operation and maintenance charges on trust land for all irrigation projects listed in 25 CFR Part 174. This action is necessary to reflect Code of Federal Regulations amendments providing the Officers-in-Charge with greater flexibility in the day-to-day operation of the Projects.

EFFECTIVE DATE: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Paul S. Danis, Bureau of Indian Affairs, Water and Land Resources, Code 210, 1051 Constitution Avenue, NW., Washington, D.C. 20245, Telephone Number (202) 343–8249.

SUPPLEMENTARY INFORMATION: This notice is issued by authority delegated to the Asssistant Secretary for Indian Affairs by the Secretary of the Interior in 209 DM 8.

In the June 14, 1977, **Federal Register** (42 FR 30361) there was published a notice of a final rule on new general regulations governing the operation and maintenance of Indian Irrigation Projects. The revision consolidated the regulations for all Indian Irrigation Projects in a new Part 191 (recently renumbered as Part 171) of Title 25 of the Code of Federal Regulations. This was accomplished to reduce paperwork connected with changing operation and maintenance charges. The rule that is being rescinded has no impact on the public since all future changes to operation and maintenance charges will be done according to the provisions of 25 CFR Part 171 which authorize changes to be made by publication of a notice in the **Federal Register**. For that reason an opportunity for public comment on this action is unnecessary. In addition, since there will be no impact on the public by rescission of this rule there is no need to publish this document 30 days before its effective date. Accordingly, good cause exists to make this action effective immediately upon publication in the **Federal Register**. The updated provisions, as found in 25 CFR 171.1(e), provide for the Area Director to publish the annual operation and maintenance rates and related information by general notice document in the **Federal Register**.

The Department of the Interior has determined that because the provisions of 25 CFR Part 174 are no longer used to change operation and maintenance charges, the rescission of Part 174 is not a major rulemaking and will not have a significant effect on a substantial number of small entities under the requirements of the Regulatory Flexibility Act.

The primary author of this document is Paul S. Danis, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245, Telephone Number (202) 343–8249.

The next notice of water charges and related information on Irrigation Projects shall be published as a general notice in the **Federal Register** by March 1983.

List of Subjects in 25 CFR Part 174

Indians—lands, Irrigation.

Therefore, under the authority of 25 U.S.C. 385, Chapter I, Title 25 of the Code of Federal Regulations is amended as follows:

Part 174 of Chapter I of 25 CFR is hereby rescinded.

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 83–4230 Filed 2–17–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Tax Division Directive No. 42]

Organization of the Department of Justice; Appendix To Subpart Y—Redelegation of Authority To Compromise and Close Civil Claims

Correction

In FR Doc. 82–27527 beginning on page 44254 in the issue of Thursday, October 7, 1982, make the following corrections.

On page 44254, first column, second paragraph of "**Supplementary Information**" fourth line, "Tax Division Directive No. 1" should read "Tax Division Directive No. 41".

On the same page, third column, "Section 5", beginning with paragraph (F), should have read as follows:

(F) Reject offers in compromise, or disapprove administrative settlements or concessions, regardless of amount, *Provided,* That such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

* * * * *

BILLING CODE 1505–01–M

Office of the Attorney General

28 CFR Part 0

[Order No. 996–83]

Service of Process Upon the Attorney General

AGENCY: Justice Department.

ACTION: Final rule.

SUMMARY: This order amends 28 CFR 0.77(j) to limit the Assistant Attorney General for Administration's authority to accept service of process to service upon the Attorney General in his official capacity and service of process other than subpoenas.

EFFECTIVE DATE: February 4, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Snider, Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, NW., Washington, D.C. 20530 ((202) 633–3452).

SUPPLEMENTARY INFORMATION: This order is occasioned by the holding in *Stafford* v. *Briggs,* 444 U.S. 527 (1980), that a government official is entitled to personal service (as opposed to mail service) when sued in his individual capacity. The Attorney General has determined that he will avail himself of this right and, further, that he will authorize members of his immediate staff to accept subpoenas directed to him rather than the Assistant Attorney General for Administration, who has organizational responsibility for records managment and mail and messenger service within the Department of Justice.

This order pertains to agency management. It is not subject to publication for notice and comment under 5 U.S.C. 553 and is not a rule within the meaning of, or subject to, the requirements of either the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* or Executive Order No. 12291.

List of Subjects in 28 CFR Part 0

Government employees, Organization and functions (Government agencies), and Authority delegations (Government agencies).

PART 0—[AMENDED]

Accordingly, by virtue of the authority vested in me by 28 U.S.C 510 and 5 U.S.C. 301, § 0.77 of Title 28, Code of Federal Regulations, is amended by revising paragraph (j) to read as follows:

§ 0.77 Operational functions.

* * * * *

(j) Accepting service of summonses, complaints or other papers, except subpoenas, directed to the Attorney General in his official capacity, as a representative of the Attorney General, under the Federal Rules of Civil and Criminal Procedure or in any suit within the purview of subsection (a) of Section 208 of the Department of Justice Appropriation Act, 1953 (66 Stat. 560 (43 U.S.C. 666(a))).

* * * * *

Dated: February 4, 1983.

William French Smith,

Attorney General.

[FR Doc. 83–4272 Filed 2–17–83; 8:45 am]

BILLING CODE 4410–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS—62015E; TSH–FRL 2292–3]

Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Equipment; Statement of Policy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule-Related Notice; Statement of General Policy.

SUMMARY: The final rule on the use of polychlorinated biphenyls (PCBs) in electrical equipment was published in the **Federal Register** of August 25, 1982 (47 FR 37342). In that rule, special restrictions are placed on the use and storage for reuse of any transformer, electromagnet, or large capacitor (those containing three pounds or more of dielectric fluid) that contains 500 parts per million (ppm) or greater PCBs and poses an exposure risk to food or feed products. This notice constitutes EPA's statement of policy as to how the Agency will determine whether this electrical equipment poses an exposure risk to food or feed.

EFFECTIVE DATE: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Chris C. Tirpak, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–509, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: EPA promulgated a final rule, published in the **Federal Register** of August 25, 1982 (47 FR 37342), regarding the use of PCBs in electrical equipment. This rule is listed in the Code of Federal Regulations under 40 CFR Part 761 and became effective on September 24, 1982.

The rule amends the PCB regulations by authorizing the use of PCBs in electrical equipment in accordance with certain use and servicing conditions. Special restrictions apply to transformers, electromagnets, and large capacitors (those containing three pounds or more of dielectric fluid) that contain 500 ppm or greater PCBs and pose an exposure risk to food or feed. See 40 CFR 761.30(a), (h), and (l). The use and storage for reuse of such electromagnets or transformers requires a weekly inspection for leaks of dielectric fluid and is prohibited after October 1, 1985. The use and storage for reuse of large capacitors that pose an exposure risk to food or feed is prohibited after October 1, 1988.

Section 761.3(ll) (47 FR 37356) of the PCB rule states that "posing an exposure risk to food or feed" means being in any location where human food or animal feed could be exposed to PCBs released from a PCB Item. A PCB Item poses an exposure risk to food or feed if PCBs released in any way from the PCB Item have a potential pathway to human food or animal feed. Only food and feed that is used or stored in private homes is excluded from this definition.

Since publication of this definition EPA has received requests from the American Frozen Food Institute (AFFI) and the American Feed Manufacturers Association (AFMA) for further clarification of this definition. These requests raised concerns about how EPA will interpret this definition and explained that a clarification would aid the food and feed industry in developing a strategy for compliance with the regulations. EPA is publishing this notice to express the Agency's policy for interpreting the definition of "posing an exposure risk to food or feed." EPA plans to interpret this definition in a reasonable manner, according to the guidance provided in this notice.

The exposure risk from a PCB Item to food and feed products is clearly dependent on the specific location of the applicable PCB Item (transformer, capacitor, or electromagnet) in relation to food and feed products. If, after considering the location of an individual PCB Item and all other available evidence, there is a reasonable possibility of contact between PCBs and food or feed, the PCB Item will be considered to pose an exposure risk to food or feed under 40 CFR 761.3(ll). In evaluating the exposure risk from a particular PCB Item, it is useful to consider a hypothetical situation in which PCBs are discharged in any way from the PCB Item, such as through an equipment leak or rupture. Assuming such a discharge occurred releasing all or a portion of the contained PCBs and considering the PCB Item's location and any relevant factors, the question to be asked is whether contact between the PCBs and food or feed is reasonably possible. If, contact between PCBs and food or feed is reasonably possible, the PCB Item poses an exposure risk to food or feed. It is not EPA's intention to consider remote events that are unrelated to the use or storage for reuse of PCB Items when determining if these items pose an exposure risk to food or feed.

A determination whether or not a PCB Item poses an exposure risk to food or feed requires an individual evaluation of the circumstances regarding a PCB Item's location. PCB Items that are located directly adjacent to or above food or feed products pose an exposure risk unless there is some type of secondary containment or other physical structure that prevents discharges of PCBs from contaminating food or feed. The PCB rule provides a number of options for eliminating restrictions on the use of transformers, electromagnets, and large capacitors that contain 500 ppm PCBs and pose an exposure risk to food or feed, including:

1. Relocating the PCB Item to an installation which does not pose an exposure risk to food or feed.
2. Reducing the PCB concentration in the PCB Item to less than 500 ppm (transformers and electromagnets only).
3. Adequately isolating or containing the PCB Item to prevent it from posing an exposure risk.
4. Relocating the food or feed to a location that is not in a potential exposure risk area.
5. Replacing the PCB Item with equipment containing less than 500 ppm PCBs.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: January 17, 1983.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83–3828 Filed 2–17–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Assistants at Surgery

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations amend the interim final Medicare rules published on October 1, 1982, that implement section 113 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248). Those regulations provide that Medicare will pay on a reasonable charge basis for the services of a physician who actively assists the physician in charge of a case in performing a surgical procedure (i.e., an assistant at surgery) in teaching

hospitals only under certain specific conditions. These regulations add as a result of public comments a new condition under which assistants at surgery may be reimbursed. They also clarify the rules for determining the amount of payment for services furnished by assistants at surgery in all settings.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: William Morse, (301) 594–1160.

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 1982, we published in the **Federal Register** an interim final rule with comment period to implement section 113 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982 (47 FR 43650).

The rule revised Medicare regulations to permit payment on a reasonable charge basis for assistants at surgery in teaching hospitals only under certain conditions. (Assistants at surgery are physicians who actively assist the physician in charge of a case in performing a surgical procedure.) The regulations eliminated program payment on a reasonable charge basis for assistants at surgery in teaching hospitals where a resident is available and qualified to perform the service.

The rule also established new limits on the amount of payment for services furnished by assistants at surgery in all settings.

II. Discussion of Major Comments

Over 100 comments on the October 1 publication were received from physicians and physician organizations, health care providers and provider organizations, and medical schools. The majority of comments were from ophthalmologists and doctors of osteopathy. The recommendations of the commenters and our responses follow.

1. *Comment:* Three commenters requested that the length of the comment period be extended to 90 days to permit time for an in-depth analysis of the implications of the rule.

Response: These regulations were issued as interim final rules with a comment period. The legislation specified that if the rules were issued on such an interim basis, that they be final no later than January 31, 1983. Therefore it was necessary to specify a 30-day comment period in order to have final rules in place by the January 31 deadline.

2. *Comment:* The interim final rule with comment period required that carriers presume that residents are available unless the hospital furnishes documentation to the contrary. Seventy commenters believe that the regulations inappropriately assume that if the hospital has a residency program in a specialty, residents are available to serve as assistants at surgery. The commenters believe that teaching hospitals should be used for the purpose of teaching and, therefore, residents should not be relied on primarily for service. These commenters indicated that, for a variety of reasons, residents are not always available to cover all surgeries. First, residents are involved in many other types of activities relating to their own educational activities, such as clinic duties, and are responsible for treating patients in capacities other than surgery. Second, there are many situations in which there are inadequate numbers of qualified residents in a program to furnish the necessary surgical assistant services. Several commenters suggested that we provide exemptions for small teaching hospitals and hospitals with small residency programs and that if, in such cases, a resident is not available, reimbursement of an assistant should be allowed.

Response: The statutory language states that, except under certain conditions, reasonable charge payment may not be made for the services of assistants at surgery if the hospital has a training program related to the specialty required for the surgical procedure, and a qualified resident is available to furnish such services. We believe the commenters have raised valid points on the issue of the availability of residents to act as assistants at surgery. We realize that residents have a full schedule of activities, and that the unavailability of residents to assist at surgery is more than simply a scheduling problem of the teaching hospital. The interim final rules, as well as these final rules, provide that if adequate written documentation is made available to the carrier that no qualified resident was available for a particular surgery case, payment may be made for the service.

3. *Comment:* Several physicians and a professional association opposed the regulations because, in their view, the regulations discriminate against teaching hospitals by establishing separate rules for teaching and nonteaching hospitals. The commenters said that as a result, physicians will move their patients to nonteaching hospitals, thereby threatening the existence of surgical residency programs in teaching hospitals. The commenters also believe that the regulations discriminate against Medicare patients because residents will assist during their surgery, while other patients receive the services of trained physicians. In a related comment, a medical school dean and a national organization representing teaching hospitals pointed out that there are physicians who perform surgery in teaching hospitals who do not involve residents in surgical procedures and use only nonresident physicians as assistants. Other physicians commented that a decision to use residents should be decided by the primary surgeon.

Response: The basic distinctions made by the regulation are compelled by the statute. The intent of the statute and the regulations is to eliminate payment for use of assistants at surgery if residents are available to assist. However, it was not the intent of Congress to jeopardize any surgical residency programs. Therefore, we are modifying the interim final rules by adding a condition to § 405.580 to allow reasonable charge payment for the services of an assistant at surgery where the primary surgeon does not involve residents in the preoperative, operative, or postoperative care of his or her patients. Generally this will apply to physicians who do not have compensation arrangements with a teaching hospital or entity for compensation of their services furnished by them in the hospital. In those cases, although the services take place in a teaching hospital, the circumstances are as if the surgical procedure is not being furnished in a teaching setting and the surgery is indistinguishable from surgery performed in nonteaching hospitals.

4. *Comment:* Several physicians suggested examples of specific types of surgery that require a team of physicians that should be considered complex medical procedures. In a related comment, physicians pointed out that there are procedures of such complexity that residents would not generally have the expertise or experience to serve as an assistant at surgery.

Response: The regulations take these situations into account. Based on accepted medical practice in the community, the carrier will establish a list of those procedures that fall into the category of complex medical procedures that require a team of physicians. The local carriers have considerable expertise in this area. Regarding the competence of residents to perform as surgical assistants in specific types of procedures, § 405.580(a) (2) provides in effect that payment on the basis of reasonable charges may be made for the services of an assistant at surgery if documentation is furnished to the carrier that no *qualified* resident was available to perform the function. If there is a question regarding the use of a resident

in a specific case, the carrier's medical staff will make the staff will make the necessary determination.

6. *Comment:* Twelve physicians requested that they be allowed to serve as assistants at surgery in teaching hospitals because they are the individuals most familiar with the case and because their patients request that they be present at surgery to provide moral and psychological support.

Response: The regulation does not preclude the presence of a Medicare beneficiary's personal physician in surgery to provide moral or psychological support, but prohibits Medicare reimbursement for such services. If a beneficiary wishes to have his or her personal physician present however, the physician may bill the patient for such service. The regulation provides for the situation in which a concurrent medical condition of the patient requires the presence of a physician of another specialty during surgery. In addition, payment is permitted for an assistant surgeon (one primarily engaged in the field of surgery) if there is no qualified resident available or, under the revised § 405.580(c)(4), if the primary surgeon does not involve residents in the care of his or her patients. The regulation does not, however, permit reimbursement for the services of a personal physician who is in attendance at the surgical procedure but does not meet any of the above critieria.

6. *Comment:* Several commenters, including a national association of physicians, expressed concern about the lack of specificity in the interim regulations and the possibility that carriers will interpret the provisions in many different ways.

Response: Carriers have discretion in implementing this provision and will consider local medical practice in determining payments for assistant at surgery services. It would not be administratively feasible to publish a comprehensive, uniform list of procedures that would have to be constantly modified in response to changes in medical practice. HCFA may, however, issue instructions from time to time about particular situations which require more uniform treatment.

7. *Comment:* A Medicare carrier has suggested that the 20 percent limitation on payment for services of assistants at surgery be implemented by establishing prevailing charges for the assistant at surgery at 20 percent of the prevailing charge for the procedure using the medical specialty of the assistant. The carrier points out that this accomplishes the intent of limiting payment without introducing delays and costly complexities into claims processing.

Response: In processing claims for assistant at surgery services that are subject to the § 405.502(a) limitation, the carrier may base payment on 20 percent of the prevailing charge for the service when performed by someone in the assistant's specialty. In this way the carrier will not have to wait to receive the primary surgeon's claim before making payment for the services of the assistant.

8. *Comment:* A national association of physicians commented on the preamble language regarding complex medical procedures that warrant the presence of a team of physicians. The preamble indicated that in these situations, each physician is performing a different level of activity than could properly be described as assistance, and is entitled to full reimbursement. The association commented that it expected that this recognition of such procedures would guarantee appropriate reimbursement for the medical team in the future, and that HCFA would assure proper recognition of such procedures by its contractors.

Response: The reference to full reimbursement in the preamble to the October 1 regulations was used to distinguish team and concurrent services from those subject to the assistant at surgery limitation. The regulations set a reimbursement ceiling, not a floor. These regulations are not a basis for raising Medicare reasonable charge payments in a way that is inconsistent with prevailing practices in the carrier's service area. Medicare payment should not exceed the lesser of the amount billed, the customary charge, the prevailing charge, or any other applicable reasonable charge criteria established in 42 CFR 405.502.

9. *Comment:* A Medicare Part B carrier indicated that these rules could encourage physicians to bill beneficiaries rather than accept assignments. The carrier also suggested that in the case of beneficiaries who are eligible for both Medicare and Medicaid, there could be a shifting of costs of denied Medicare claims to Medicaid.

Response: The modifications contained in these revised rules should temper these effects by reducing the number of claims that are denied or paid at the reduced rate. However, current payment rules in general allow physicians to bill beneficiaries, rather than accept assignment, if they choose to do so. We do not believe that these rules will encourage any changes in this behavior.

10. *Comment:* Several physicians have pointed out that often hospitals have rules requiring an assistant at surgery for particular types of procedures. They asked how this affects Medicare payment criteria.

Response: Such hospital requirements are not a consideration in determining reasonable charge payment. A carrier may determine that a service does not meet the conditions for payment despite the existence of hospital rules.

III. Provisions of These Final Regulations

After reviewing comments received on the interim rule, we have revised the existing regulations to include the following provisions.

Criteria for Determining Reasonable Charges

We have revised subparagraph (a)(10) to section 405.502 to clarify that prevailing practice in the carrier's service area, rather than the assistant at surgery limitation, applies where the team physician or the concurrent medical care exceptions are met. We have done this to avoid the possibility that this regulation is used to escalate program payments. The intent of the regulation is to eliminate unreasonable payments. We have also made several technical corrections in § 405.502(a) to clarify the language and correct inaccurate citations to other parts of the Medicare regulations.

Conditions for Payment

Section 405.580(c) of the regulations describes the conditions under which reasonable charge payment may be made for the services of assistants at surgery in teaching hospitals. Payment may be made for the services of assistants at surgery in teaching hospitals only if the services:

1. Are required due to exceptional medical circumstances;

2. Are performed by team physicians needed to perform complex medical procedures;

3. Constitute concurrent medical care relating to a medical condition which requires the presence of and active care by a physician of another specialty during surgery; or

4. Are medically required and are furnished by a physician who is primarily engaged in the field of surgery and the primary surgeon does not utilize interns or residents in the surgical procedures he or she performs (including preoperative and postoperative care).

The exception included in number 4 is added by this document and is explained more fully below. Under this exception, payment will be limited to situations in which the assistant surgeon

is a physician who is primarily engaged in the field of surgery.

This new exception applies to services furnished in teaching hospitals by surgeons who do not utilize interns or residents in surgical procedures, including the preoperative and postoperative care involved. Under such circumstances, the surgery is virtually indistinguishable from surgery performed in a nonteaching setting. Generally in this instance, the physician has an "across-the-board" policy of not utilizing residents in patient care.

The carrier should have a list of all teaching hospitals in its service area to which these regulations may apply. The carrier will presume that a resident is available if the hospital has a teaching program relating to the medical specialty required for the surgical procedure, unless satisfactory written documentation is made available to the carrier that a resident was not available. However, the carrier should take into account the fact that residents may be legitimately involved in various activities, that there may not be a sufficient number of residents in the program, and that there may be situations, particularly those involving small teaching programs, in which there may not always be a qualified resident available to serve as an assistant at surgery. Claims for payment for services of assistants at surgery in teaching hospitals should include a written description supported by relevant documentation of the exception which is the basis for payment. The appropriate manual instructions are being modified to reflect this change in policy.

In this document, we are also correcting an incomplete citation that appears in § 405.580(a) and a typographical error in § 405.580(c)(1).

Technical Revision

On October 1, 1982, two documents were published that amended 42 CFR Part 405, Subpart E. The authority citations, although correct for each individual document, were inconsistent. In reviewing the inconsistent citations, we discovered that an additional citation, to section 1832 of the Act, had been previously omitted at the time that § 405.522 was published. In both FR Doc. 82–27110, "Medicare Program; Limitation of Reasonable Charges for Services in Hospital Outpatient Settings", appearing at 47 FR 43610, and FR Doc 82–27148, "Medicare Program; Assistants at Surgery", appearing at 47 FR 43650, the authority citation for 42 CFR Part 405, Subpart E should read as follows:

Authority: Secs. 1102, 1814(b), 1832, 1833(a), 1842(b) and (h), 1861(v)(1)(K), and 1871 of the Social Security Act, as amended (42 U.S.C. 1302, 1395f(b), 1395k, 1395l(a), 1935u(b) and (h), 1395x(v)(1)(K), and 1395h(h) unless otherwise noted.

IV. Effective Date of the Regulations

In order for us to have implementing regulations in place by the October 1, 1982 effective date specified in section 113 of Pub. L. 97–248, we published an interim final rule with comment period on October 1, 1982 with an effective date of October 1, 1982. We believe that rapid implementation of these regulations was desirable in order to eliminate unnecessary Medicare payment for assistants at surgery. Also, Congress expressly addressed the issuance of interim final regulations as an option for the development of these regulations.

Based upon public comments, we are now adding a new condition under which assistants at surgery may be reimbursed on a reasonable charge basis. This addition expands the availability of reasonable charge reimbursement and is advantageous to all concerned. At the same time, the addition disadvantages no one. Therefore, we are making the revised rules effective retroactively to October 1, 1982. Since the revised rules grant a new exemption from the reimbursement limitations, a delayed effective date is unnecessary. Also, the use of a delayed effective date is impracticable because it would promote inconsistencies in the application of payment for assistants at surgery during the interim period. For these reasons, we find there is good cause to waive the usual 30-day delay in effective date.

These regulations are effective for services furnished on or after October 1, 1982. Claims for payment for the services of assistants at surgery that were denied during the period from October 1, 1982 until the publication of these revised regulations may be resubmitted to the Medicare carrier and will be reviewed for payment under these expanded criteria.

V. Impact Analysis

Executive Order 12291

We have determined that these final regulations are not likely to result in an annual economic impact of $100 million or meet other threshold criteria of section 1(b) of the Order.

These final regulations state the conditions under which payment will be made on a reasonable charge basis for the services of a physician who actively assists the physician in charge of a case, in performing a surgical procedure in teaching hospitals. We noted above the inclusion of one new condition as a result of public comment under which assistants at surgery may be reimbursed. Our actuaries have re-estimated their analysis contained within the October, 1, 1982 interim final rule, to include the effect of this new exception. They now estimate FY 1983 savings of $35 million and FY 1984 savings of $50 million.

As the estimated impact of these final regulations is significantly below the $100 million threshold, a regulatory impact analysis is not required.

Regulatory Flexibility Analysis

The Secretary certifies under 5 U.S.C. 605(b), enacted by Regulatory Flexibility Act (Pub. L. 96–354), that this final rule will not result in a significant impact on a substantial number of small entities.

The primary impact of these final regulations will be on physicians who continue to serve as assistants at surgery in teaching hospitals. The individual impact will be determined by the extent to which a physician continues to participate as an assistant. Actual Medicare revenue reduction will be the difference between the total Medicare payment physicians received prior to the implementation of this rule, and the Medicare payment physicians will not receive as a result of this rule.

We do not believe that a significant monetary impact will be generated. Payment record data indicate that payment for services of assistants at surgery represents only 2.6 percent of total reimbursement for Part B physicians' services to hospital inpatients. Thus, any revenue reduction to physicians resulting from these final provisions should not be a significant reduction in total physician revenue. Therefore, a regulatory flexibility analysis is not required.

VI. List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR Part 405 is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. The authority citation for Part 405, Subpart E, is revised to read as follows:

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Authority. Secs. 1102, 1814(b), 1832, 1833(a), 1842(b) and (h), 1861(v)(1)(k) and 1871 of the Social Security Act, as amended (42 U.S.C. 1302, 1395f(b), 1395k, 1395l(a), 1395u (b) and (h), 1395x(v)(1)(K) and 1395hh) unless otherwise noted.

2. In § 405.502, the introductory language for paragraph (a), and paragraph (a)(10) are revised to read as follows:

§ 405.502 Criteria for determining reasonable charges.

(a) *Criteria.* The law allows for flexibility in the determination of reasonable charges to accommodate reimbursement to the various ways in which health services are furnished and charged for. The criteria for determining what charges are reasonable include:

* * * * *

(10) In the case of services of assistants at surgery that meet the exception under § 405.580(c) (2) or (3) because the physician is performing a unique, necessary, specialized medical service in the total care of a patient during surgery, reasonable charges consistent with prevailing practice in the carrier's service area rather than the special assistant at surgery rate.

* * * * *

3. Section 405.580 is amended by revising paragraph (a), revising the introductory language for paragraph (c), and revising paragraphs (c)(1) and (4) as follows:

§ 405.580 Conditions of payment for assistants at surgery in teaching hospitals.

(a) *Basis, purpose, and scope.* This section describes the conditions under which Medicare will pay on a reasonable charge basis for the services of an assistant at surgery in a teaching hospital. This section is based on section 1842(b)(6)(D)(i) of the Social Security Act and applies only to hospitals with an approved teaching program. Except as specified in paragraph (c) of this section, reasonable charge reimbursement is not available for assistants at surgery in hospitals with—

* * * * *

(c) *Conditions for payment for assistants at surgery.* Beginning October 1, 1982, payment on the basis of reasonable charges may be made for the services of an assistant at surgery in a teaching hospital only if the services—

(1) Are required due to exceptional medical circumstances;

* * * * *

(4) Are medically required and are furnished by a physician who is primarily engaged in the field of surgery and the primary surgeon does not utilize interns and residents in the surgical procedures he or she performs (including preoperative and postoperative care).

(Catalog of Federal Domestic Assistance Program No. 13,774, Medicare—Supplementary Medical Insurance)

Dated: January 12, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: February 1, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-4238 Filed 2-17-83; 8:45 am]

BILLING CODE 4120-03-M

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42 CFR Part 421

Medicare Program; Revisions to Criteria and Standards for Evaluating Intermediaries

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This is a technical revision to Medicare regulations that will simplify and improve our system for evaluating the performance of fiscal intermediaries in the administration of the Medicare program. Currently, we evaluate intermediaries using performance criteria, described in regulations, and statistical standards issued through an annual notice in the **Federal Register.** We are removing the detailed description of the criteria from regulations in favor of issuing a combined **Federal Register** notice for both the criteria and the standards. This change will obviate the need to revise the description of the criteria in regulations as changes are made in the evaluation system.

DATES: This rule is effective February 18, 1983. It is being issued in final form for reasons explained in Waiver of Proposed Rulemaking in the Supplementary Information section below. However, we will consider any comments mailed by March 21, 1983, and revise the regulations, if necessary.

ADDRESSES: Please address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Attn: BPO–15–FC, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland. In commenting, please refer to BPO–15–FC.

Comments will be available for public inspection, as they are received, beginning approximately three weeks from today, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Newton Dikoff, 301–594–8190.

SUPPLEMENTARY INFORMATION:

I. Background

The hospital insurance program (Part A of Medicare, title XVIII of the Social Security Act) helps pay for medically necessary health care furnished to eligible individuals by providers of services (hospitals, skilled nursing facilities (SNFs), and home health agencies (HHAs)). Under section 1816 of the Act, the Secretary may contract with organizations and agencies to participate in the administration of Part A. These organizations and agencies are called fiscal intermediaries.

Intermediaries perform the bulk of actual bill processing and benefit payment functions for Part A of the Medicare program. These functions generally follow set procedures. First, a provider submits a bill to the intermediary, which determines whether the services are covered under Part A of Medicare, and determines the reasonable cost for the services. Second, the intermediary reimburses the provider on behalf of the beneficiary to whom the services were furnished. Third, the intermediary recoups from HCFA the program reimbursement it makes to providers as well as its administrative costs. Intermediaries similarly process bills for certain outpatient hospital services covered under Part B of Medicare (supplementary medical insurance).

Under section 1816(b) of the Act (originally enacted in section 14 of Pub. L. 95–142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977), we evaluate intermediaries in the performance of their Medicare functions when we enter into or renew a contract. In addition, although providers may nominate a particular intermediary to serve them under section 1816(a) of the Act, we may assign or reassign providers to particular intermediaries or designate a national or regional intermediary for a class of providers under section 1816(e). We may take these actions if we determine that they would result in more effective and efficient administration of the Medicare program.

Under section 1816(f) of the Act, we are required to establish criteria and standards in regulations for purposes of evaluating intermediaries. Congress enacted this provision because it believed that more precise information, and more uniform criteria and standards, were necessary to provide a basis for objective determinations concerning renewal or termination of intermediary contracts, as well as the assignment of providers to certain intermediaries.

We evaluate intermediary performance based on a two-phase system. In the first phase, we measure compliance with certain functional requirements (that is, functions generally required by law, regulations or general instructions) such as bill processing, provider reimbursement, and contract management. Each of these requirements contains several sub-requirements and methodologies used for assessing compliance that we refer to as performance criteria. The criteria currently are generally described in 42 CFR 421.120. If an intermediary does not satisfy the criteria, we may initiate adverse administrative action.

The second phase of the evaluation system is based on statistical standards (42 CFR 421.122) in more quantifiable areas of performance such as timeliness of bill processing and administrative cost of bill processing. We also require satisfactory performance in this phase of the two-phase evaluation system.

We consider the results of both phases of the evaluation in reviewing intermediary contracts, in determining what action is required to obtain better intermediary performance, and in reaching decisions on renewing contracts and awarding future contracts.

In recognition of changes in the operations of intermediaries due to fluctuating workloads and fiscal constraints, the availability of more current data for setting performance levels, and our objectives in achieving better performance, we update the required performance levels assigned to the performance criteria and statistical standards for each evaluation period. Currently, we issue changes to the elements of both the performance criteria and the statistical standards in our intermediary manuals. In addition, we are required by regulations (42 CFR 421.122(d)) to publish the statistical standards in the **Federal Register**.

We develop the elements of the performance criteria and the statistical standards primarily from management studies conducted by HCFA and information supplied by intermediaries. We also consult with intermediary advisory groups, which provide additional data and expertise. The intermediaries and intermediary advisory groups furnish us with detailed explanations of the intricacies of their internal operations so that the elements reflect functions actually performed. We also work with these groups to ensure that performance requirements are set at meaningful levels; that is, not so low that evaluation would be meaningless and not so high as to be impossible to attain. After these consultations, and after the elements have been developed, we issue the results to all intermediaries through our manual issuances system, as noted above. (These issuances are available to the general public from HCFA central and regional offices on request. We have then published the statistical standards in the **Federal Register** each year beginning in 1980.

II. Changes in the Regulations

A. Performance Criteria

The performance criteria described in the regulations were first used for the FY 80 evaluation period. Due to the efforts of the intermediary community and HCFA, these criteria have been refined and updated for each subsequent fiscal year evaluation period. We issued the changes in the intermediary manuals but have not amended the regulations. It is apparent that, in order to keep the CFR current under the present system, it will be necessary to amend the regulations frequently. Changes in the Medicare law and in our evaluation procedures, as well as changing emphases in the importance of evaluating the various areas of performance, make existing criteria contained in the CFR out-of-date. Therefore, we are amending § 421.120 to replace the specific criteria with a general explanation of the areas evaluated by the performance criteria, and to state that we will publish the specific performance criteria and elements as part of the notice that we are currently required to publish for the statistical standards under § 421.122. The result will be the publication of a combined notice of performance criteria and statistical standards that will obviate the need to amend the regulations on an annual basis. We believe that this approach will be less burdensome, costly and time consuming than the frequent efforts that would otherwise be necessary to amend the CFR because we are already required to follow the notice procedure in order to update the statistical standards. Expanding the notice to include the performance criteria will not materially increase the administrative burden of issuing the notice. Moreover, we believe that this approach complies with the statutory mandate (section 1816(f) of the Act) to establish criteria and standards by regulation.

Each year, beginning with FY 84, we intend to publish a proposed notice, for public comment, on the criteria and standards and a final notice that will address comments received. This will allow the public-at-large to review the proposed revisions to the evaluation system and make comments before the changes are implemented. As is our current practice, however, we will continue to issue the criteria and standards to the intermediaries through our manual issuance system. A notice containing proposed criteria and standards for FY 84 will appear in the **Federal Register** shortly.

For FY 83, we have issued a general notice for both the criteria and the standards. The notice appears elsewhere in this issue of the **Federal Register**. As a practical matter, we are unable to issue proposed and final **Federal Register** notices for the FY 83 criteria and standards because of the limited amount of time still available to us during FY 83. However, intermediaries have been extensively involved in the development of the criteria and standards through workshops and meetings. In addition, both the criteria and the standards for FY 83 have already been issued to the intermediaries through our manual issuance system. We are also affording the intermediaries and other interested parties an opportunity to review and comment on the criteria and standards by providing a comment period on the general notice. We will issue any changes in the evaluation system for FY 83, which we determine are necessary as a result of the comments, in a subsequent notice in the **Federal Register**.

B. Statistical Standards

We are also revising the statistical standards provision (§ 421.122). An important characteristic of the current unit cost standard is the accountability for significant measurable factors that are beyond the control of the intermediary and that impact upon unit cost. For example, how well intermediaries perform their Medicare responsibilities is inevitably affected by factors beyond their control such as differing salary levels between geographic areas, various levels of bill workloads, and variations of bill-mix by provider type. As explained in the existing regulations, we use a statistical approach known as multiple regression analysis to identify these

noncontrollable factors so that we may make proper adjustments to intermediary performance. Regression analysis also quantifies the extent of the impact on unit cost or other performance measures.

After consulting with the intermediary community, we have concluded that the use of other statistical approaches, besides multiple regression analysis, should be explored (for example, factor analysis and linear programming). The use of more than one statistically acceptable approach permits more rigorous analyses and, in many instances, a better understanding of factors that may influence performance. Though we will continue to include the multiple regression approach as part of our studies, we will no longer be limiting ourselves to this one methodology. Based on our analyses, which employ these statistical approaches, we will identify noncontrollable factors that affect unit cost and determine which of the factors to consider in making appropriate adjustments to the statistical standards. This is reflected in paragraph (c) of the revised § 421.122.

III. Impact Analyses

A. Executive Order 12291

These regulations are intended to improve an evaluation system already in place. No increased costs will be incurred by the Federal government or the intermediaries. Therefore, we have determined that this final rule does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this rule will not increase expenditures by over $100 million per year; or cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or cause significant adverse effect on business or employment. Because we have determined that this rule is not a major rule, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not have a significant economic impact on a substantial number of small businesses, organizations or government jurisdictions. The changes to the existing regulations do not add to or alter the functions that intermediaries already perform for the Medicare program and, therefore, will not increase the cost of an intermediary's Medicare operation. For this reason, a regulatory flexibility analysis is not required.

C. Discussion

As noted above, the provisions of these regulations will not meet the threshold criteria of Executive Order 12291 or of the Regulatory Flexibility Act. Thus, we are not required to conduct analysis under either of those authorities. In addition, however, we note that even if there are incidental costs associated with these provisions, they will be outweighed by the accompanying benefits resulting from not amending regulations in the CFR periodically in order to update the evaluation criteria.

IV. Waiver of Proposed Rulemaking and Prospective Effective Date

These regulations are essentially technical in that they constitute a simplification in the administration of our system for evaluating intermediary performance. No policy changes are contained in the regulations, and no increased costs to intermediaries will result. Moreover, the change from the detailed description of the performance criteria in the regulations will not adversely affect intermediaries because they will continue to receive actual notice of the criteria through the issuance of administrative manuals, and because of the change in procedure to publication of both the criteria and the standards in proposed and final notices in the **Federal Register**.

Also, we plan to begin the proposed and final notice procedure beginning with FY 84. Therefore, it is important that the general public and the intermediary community be informed of this approach as soon as possible.

For those reasons, we believe that publication of a notice of proposed rulemaking is unnecessary and that there is good cause to waive the usual proposed rulemaking procedures. For the same reasons, we find good cause to waive the usual 30-day delay in the effective date. Although we are publishing these regulations in final form, we invite comments from the public and we will publish any changes we find necessary.

V. List of Subjects in 42 CFR Part 421

Administrative practice and procedure, Contracts (Agreements), Courts, Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Information (Disclosure), Lawyer, Medicare, Professional Standards Review Organizations (PSRO), Reporting requirements.

PART 421—[AMENDED]

42 CFR Part 421 is amended as set forth below:

A. The authority citation for Part 421 reads as follows:

Authority: Secs. 1102, 1815, 1816, 1842, 1861(u), 1871, 1874 and 1875 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395h, 1395u, 1395x(u), 1395hh, 1395kk and 1395ll), and 42 U.S.C. 1395b–1.

B. Part 421, Subpart B is amended as follows:

1. Section 421.100 is amended by revising paragraph (a) as follows:

Subpart B—Intermediaries

§ 421.100 Intermediary functions.

An agreement between the Administrator and an intermediary shall provide for the performance of the following functions:

(a) *Coverage.* The intermediary must assure that it makes payments only for services that are:

(1) Furnished to Medicare beneficiaries;

(2) Covered under Medicare part A or part B; and

(3) Medically necessary. When a Professional Standards Review Organization (PSRO) has assumed review responsibility in accordance with the applicable provisions of Part 463 of this chapter, the PSRO shall make final determinations of medical necessity which are binding for purposes of payment.

* * * * *

2. Section 421.120 is revised to read as follows:

§ 421.120 Performance criteria.

(a) *Application of performance criteria.* As part of the intermediary evalutions authorized by section 1816(f) of the Act, HCFA periodically assesses the performance of intermediaries in their Medicare operations using performance criteria. The criteria measure and evaluate intermediary performance of functional responsibilities such as—

(1) Correct coverage and payment determinations;

(2) Responsiveness to beneficiary concerns; and

(3) Proper management of administrative funds.

(b) *Basis for criteria.* HCFA will base the performance criteria on—

(1) Nationwide intermediary experience;

(2) Changes in intermediary operations due to fiscal constraints; and

(3) HFCA's objectives in achieving better performance.

(c) *Publication of criteria.* The development and revision of criteria for evaluating intermediary performance is a continuing process. Therefore, before the beginning of each evaluation period, HCFA will publish the performance criteria as a notice in the **Federal Register**.

3. Section 421.122 is revised to read as follows:

§ 421.122 Statistical standards.

(a) *Development of standards.* In addition to the performance criteria (§ 421.120), HCFA will develop statistical standards, for use in evaluating intermediary performance, based on application of acceptable statistical measures of variation to nationwide intermediary experience during a base period. HCFA will adjust those standards dealing with administrative cost to reflect both the estimated effect of inflation and increased intermediary productvity.

(b) *Factors beyond intermediary's control.* To identify measurable factors that significantly affect an intermediary's performance, but that are not within the intermediary's control, HCFA will—

(1) Study the performance of intermediaries during the base period using acceptable statistical approaches (for example, multiple regression analysis); and

(2) Select the noncontrollable factors to be used in adjusting performance standards.

(c) *Publication of standards.* The development and revision of standards for evaluating intermediary performance is a continuing process. Therefore, before the beginning of each evaluation period, HCFA will publish the statistical standards as part of the **Federal Register** notice describing the performance criteria issued under § 421.120(c).

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance)

Dated: December 30, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: January 28, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-4222 Filed 2-17-83; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6352

[U-47669]

Utah; Public Land Order No. 6262; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the land description of Public Land Order No. 6262 of June 17, 1982.

EFFECTIVE DATE: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office 801-524-4245.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is hereby order as follows:

1. Public Land Order No. 6262 of June 7, 1982, in **Federal Register** Vol. 47, No. 117 appearing at page 26132 in the issue of June 17, 1982, is corrected as follows:

2. The T. and R. listed as "2 N., 14 W" is corrected to read "T. 2 N., R. 14 E."

Inquires concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East Temple, Salt Lake City, Utah 84111.

Dated: February 9, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior

[FR Doc. 83-4242 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Part 3833

Recordation of Mining Claims and Filing of Annual Assessment Work or Notice of Intention To Hold Mining Claims, Mill Sites, or Tunnel Sites; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction to Final Regulations.

SUMMARY: This notice corrects typographic and editorial errors found in the final regulations, related to recordation of unpatented mining claims located on public lands, which were published in the **Federal Register** December 15, 1982 (47 FR 56300).

ADDRESS: Any suggestions or inquiries should be addressed to: Director (570), Bureau of Land Management, 1800 "C" Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Roger A. Haskins, (202) 343-8537.

SUPPLEMENTARY INFORMATION:

1. Section 3833.0-5:

A. Paragraph (m) on page 56305 is corrected by removing the citation "§ 3833.2-1(a)" from the third sentence and replacing it with the citation "§ 3833.1-2"; and changing the word "file" on line 5 of the paragraph to "filed".

B. Paragraph (o) on page 56305 is corrected by removing the words "December 31st" and replacing it with the words "January 1st" and deleting the words "of the following year" and placing a period after the figure "30th".

2. Section 3833.1-2(b)(6) on page 56305 is corrected by removing the word "town" from the second sentence and replacing it with the word "township".

3. Section 3833.2-1:

A. Paragraph (b)(1) on page 56306 is corrected by removing the quotation mark at the end of the words "United States Forest Service" and inserting the words "after October 26, 1976 shall".

B. Paragraph (d) on page 56306 is corrected by removing the citation "43 CFR" in the first line and replacing it with the citation "U.S.C.".

4. Section 3833.2-3(c)(3) on page 56307 is corrected by removing it in its entirety as was stated in the preamble; and removing the semicolon at the end of subparagraph 3833.2-3(c)(2) and replacing it with a period.

5. Section 3833.4(a) is corrected by removing the figure "(b)," from the first sentence.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-4175 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 303

Child Support Enforcement Program; Requests for Full Collection Services by the Secretary of the Treasury

Correction

In FR Doc. 82-10234 beginning on page 16027 in the issue for Wednesday, April 14, 1982, make the following change to § 303.71 on page 16030; in the middle column, the ninth paragraph currently designated "(i)" should read "(3)(i)".

BILLING CODE: 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Forty-Seventh Revised Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Forth-Seventh Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 12:01 a.m., February 9, 1983, and continuing in effect until 11:59 p.m., July 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: February 7, 1983.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by deleting at Item 1.A., the authority for Peoria and Pekin Union Railway (PPU) to operate Peoria Terminal trackage east of the Illinois River. This trackage has been purchased by PPU. Appendix A is further revised by deleting at Item 24, the authority for the Colorado & Eastern Railway Company (COE) to operate at Lincoln, Nebraska. COE was granted overlapping authority with the Omaha, Lincoln and Beatrice Railway Company (OLB) at Lincoln in order to serve one shipper not served by OLB. While COE has occupied Rock Island facilities at Lincoln, no service has been provided during the period this authority has been in effect. In addition, OLB has since leased the track authorized to COE and proposes to provide full and immediate service to shippers. Finally, the Trustee reports that no compensation has been paid the Rock Island by COE for the time it has occupied the property. All succeeding Items are numbered accordingly.

Appendix A is further revised by adding at Item 23, the authority for OLB to extend its operation at Lincoln, Nebraska, as described in the appendix.

An application has been received from COE requesting interim authority in Iowa, Nebraska, Kansas, and Missouri, over Rock Island lines which, in some cases, presently have rail service. COE has been requested to provide additional information to the Board on these overlapping operations, as well as certification of the right to do business in Kansas, Missouri, and Iowa, and compensation arrangements with the Trustee. Further action on COE's application has been suspended pending the receipt of the requested information.

Appendix B of Forty-Third Revised Service Order No. 1473 is unchanged and is incorporated into this order by reference.

It has been brought to the attention of the Board that, in certain cases, payment of compensation to the Trustee for the use of Rock Island property is in arrears. All interim operators are reminded that compensation, whether determined by lease, agreement, or the Rock Island Formula, is a requirement of this order and should remain current.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities, that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

Various Railroads Authorized to Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).

(a) *§ 1033.1473 Service Order No. 1473.* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties, or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator

incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(K) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(1) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., February 9, 1983.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads. Transportation Division as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien. Bernard Gaillard not participating.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized aTo Be Operated by Interim Operators

1. *Peoria and Pekin Union Railway Company (PPU):*

A. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

2. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

3. *Toledo, Peoria and Western Railroad Company (TPW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

4. *Chicago and North Western Transportation Company (CNW):*

A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

E. from East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).

F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0)

H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. at Sibley, Iowa.

P. at Hartley, Iowa.

Q. from Carlisle to Indianola, Iowa.

R. at Omaha, Nebraska, (between milepost 502 to milepost 504).

5. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. from Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

B. from Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

6. *Missouri Pacific Railroad Company (MP):*

A. from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. from Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. from Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

7. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

8. *Cadillac and Lake City Railway Company (CLK):*

A. from Poplar Street (milepost 0.76) to and including junction with DRGW Belt Line (milepost 3.99) all in the vicinity of Denver, Colorado.

B. from Colorado Springs (milepost 608.93) to Caruso, Kansas (milepost 430.0) a distance of 178.93 miles.

C. over-head rights from Caruso, Kansas (milepost 430.0) to Colby, Kansas (milepost 387.0), a distance of approximately 43 miles, in order to effect interchange with the Union Pacific Railroad.

9. *Baltimore and Ohio Railroad Compay (BO):*

A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

10. *Keota Washington Transportation Company (KWTR):*

A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. at Vinton, Iowa (milepost 120.0 to 123.0).

C. from Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

11. *The La Salle and Bureau County Railroad Company (LSBC):*

A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10, and crossover 115 to effect interchange at Blue Island, Illinois.

B. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

C. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. from Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights and to effect interchange at the Kensington and Eastern Yard.

12. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

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A. at Alva, Oklahoma.
B. at St. Joseph, Missouri.
13. *The Brandon Corporation (BRAN):*
A. from Clay Center, Kansas (milepost 178.37), to Manhattan, Kansas (milepost 143.0), a distance of approximately 35 miles.
14. *Iowa Northern Railroad Company (IANR):*
A. from Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1)
B. at Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.
15. *Iowa Railroad Company (IRRC):*
A. from Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.
B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.
C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.
D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item, 5.E.)
E. from East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance 113.79 miles.
F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)
G. from Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35)
H. from Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.
I. at Rock Island, Illinois including 26th Street Yard.
J. from Altoona to Pella, Iowa.
16. *Missouri-Kansas-Texas Railroad Company (MKT):*
A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.
17. *Chicago Short Line Railway Company (CSL):*
A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.
B. from Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.
18. *Kyle Railroad Company (Kyle):*
A. from Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.
B. from Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.
C. from Bellevelle (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.
19. *North Central Oklahoma Railway Inc. (NCOK):*
A. from Mangum, Oklahoma (milepost 97.2) to Anadarko, Oklahoma (milepost 18.14)
B. from El Reno, Oklahoma (milepost 515.0) to Hydro, Oklahoma (milepost 553.0) a distance of approximately 38 miles.
C. from Geary, Oklahoma (milepost 0.0) to Okeene, Oklahoma (milepost 39.0) a distance of approximatey 39 miles.
20. *South Central Arkansas Railway, Inc. (SCAR):*
A. from El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).
21. *Burlington Northern Railroad Company (BN):*
A. at Burlington, Iowa (milepost 0 to milepost 2.06).
B. at Okeene, Oklahoma.
22. *Fort Worth and Denver Railway (FWD):*
A. from Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.
B. at North Fort Worth, Texas (mileposts 603.0 to 611.4).
23. *Omaha, Lincoln and Beatrice Railway Company (OLB):*
*A. at Lincoln, Nebraska (milepost 559.16) to (milepost 561.37).
24. *Enid Central Railway Company, Inc. (ENIC):*
A. from North Enid, Oklahoma (Milepost 0.12) to Ponca City, Oklahoma (milepost 54.8).
25. *Texas North Western Railway Company (TNW):*
A. from Hardesty, Oklahoma (milepost 119.20) to Liberal, Kansas (milepost 152.35) a distance of approximately 33.15 miles.
*Changed.

[FR Doc. 83-3748 Filed 2-17-83; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Part 1201

[Docket No. 36988]

Alternative Methods of Accounting for Railroad Track Structures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rule.

SUMMARY: This rule revises the Commission's accounting regulations for track assets. The rule changes the method of accounting for track structure from retirement-replacement-betterment (RRB) to ratable depreciation accounting. Ratable depreciation accounting will: (1) More accurately match the asset costs consumed in each accounting period with related revenues; (2) more accurately measure railroad investment in track assets, (3) improve the Commission's ability to assess revenue adequacy and (4) make financial statements more comparable with other industries.

The Commission recognizes that inflation has somewhat diminished the value of historical cost financial statements and that sound economic principles require the impact of inflation to be taken into account in railroad ratemaking. Therefore, the Commission is proposing procedures for inflation accounting that will be used for all property accounts assets in the Commission's future regulatory determinations in Ex Parte No. 393. Data submitted under depreciation accounting is necessary before we can implement inflation accounting.

The Commission also recognizes that railroads need time to implement ratable depreciation accounting. Consequently, although depreciation accounting is effective for the reporting year beginning January 1, 1983, railroads will only reflect ratable depreciation accounting for track assets in the 1983 annual report Form R-1 (due to be filed by March 31, 1984). Railroads will file 1983 quarterly reports using RRB accounting. Railroads are asked to footnote their quarterly reports with estimated results of operations under depreciation accounting based on data available from the Commission.

DATE: This final rule is effective for the reporting year beginning January 1, 1983.

ADDRESS: Copies of this rule may be purchased by contacting: TS Infosystems, Inc., Room 2227, 12th and Constitution Avenue, NW., Washington, D.C. 20423, (202) 289-4357—D.C. Metropolitan area, (800) 424-5403—toll free for outside D.C. area.

FOR FURTHER INFORMATION CONTACT: Brian Holmes, (202) 275-7448.

SUPPLEMENTARY INFORMATION: In considering this change, we issued a Notice of Proposed Rulemaking (NPR), served June 22, 1981, 46 FR 32289 (June 22, 1981), and served a Supplemental Notice of Proposed Rulemaking (SNPR), on March 16, 1982, 47 FR 11539 (March 17, 1982). Several parties filed comments in response to both documents. After reviewing the comments, we have decided that track structure should no longer be treated differently from other assets for accounting purposes. We have concluded that, because DA (unlike RRB) relates cost consumption to the utilization of assets over time, it should be used for all assets except land.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic impact on a substantial number of small entities. This decision directly affects only Class I railroads which have annual revenues of $50 million or more. No substantial number of small entities shall suffer from this action.

This decision will not significantly affect the quality of the human

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environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1201

Railroads, Uniform System of Accounts.

Accordingly, effective January 1, 1983, Part 1201 will be revised as set forth in Appendix A.

This rule is issued under authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: January 26, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison.
Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

Appendix

For the reasons set out in the preamble, Part 1201, Subpart A of Title 49, Code of Federal Regulations, is amended as set forth below:

PART 1201—RAILROAD COMPANIES

* * * * *

Regulations Prescribed

In (ii) *Definitions:*

1. New definitions 32, 33 and 34 are added to read as follows:

* * * * *

32. "Programmed track replacements" are cost incurred as part of a track replacement program or planned expenditures. Programmed track replacements are generally performed by relatively large work gangs which, on the basis of programmed and authorized work orders, use heavy mechanized equipment to replace rail, ties and other track material. For guidance on what not to capitalize, see the notes to the text of Accounts 8, 9 and 11.

33. "Track maintenance" is material and labor costs of routine track repairs such as sporadic tie replacement, repair of broken rails, tightening track bolts and track spikes. A more complete list of maintenance items are included in notes to the text of Accounts 8, 9 and 11.

34. "Net salvage value" means salvage value of property retired less the cost of removal.

Instructions For Property Accounts

2. Instruction 2–7 *Additions to and retirements of property—General* is amended by revising paragraph (a) and adding paragraph (e) to read as follows:

* * * * *

2–7 *Additions to and retirements of property—General.*

(a) In accounting for additions to and retirements and replacements of road and equipment property (excluding land) used in transportation operations, such property changes shall be considered as consisting of: (1) Units of property, and (2) other than units of property as prescribed in Instruction 2–19. Track property changes will be distinguished by units of property as approved by the Commission.

* * * * *

(e) The accounting for track additions and retirements (with and without replacement) shall be guided by instruction 2–10.

3. Instruction 2–10 is redesignated as 2–11.

4. New instruction 2–10 is added to read as follows:

2–10 *Additions to and retirements of track.*

(a) When track or its components are added to the plant, the cost shall be included in the track primary account. When track components are replaced as part of a track replacement program, the replacement cost shall be accounted for as an addition to the track property account. The cost of track components which are retired with or without replacement shall be written out of the track property account at the time of retirement.

(b) When track is retired the service value (ledger value less net salvage) shall be charged to account 735, "Accumulated depreciation; Road and equipment property."

(c) All repairs of tracks shall be accounted for as operating expenses.

(d) Track investment written out of the accounts shall be at original cost or estimated standard or average cost for that density category. Material to be reused shall be put in an investment pool at unrecovered cost and, when reused, included in the appropriate density category at the average cost of the investment pool.

5. Instruction 2–12 *Changes in line of road.* is removed.

6. Instruction 2–11 *Units of property rebuilt or converted.* is redesignated 2–12.

7. The heading and text of Instruction 2–13 are revised to read as follows:

2–13 *Changes in line of road and relocation of yard tracks.*

(a) When changes are made in a line of road for the purpose of reducing curves or grades, or to eliminate bridges, tunnels, tracks in the installation of a centralized traffic control system, or other physical features, the part of the line so changed shall be considered property retired and its ledger value credited to the property accounts. The new line of road, including land, grading, ballast, track elements, and other transportation facilities serving the road shall be considered an addition and the cost charged to the property accounts. The cost of track changes which do not involve change in the existing roadbed shall be charged to operating expenses, even though the tracks may be dismantled in the process, but the resulting track extensions or reductions shall be accounted for as additions or retirements as appropriate.

(b) The cost of shifting or rearranging tracks within a yard shall be charged to operating expenses, even though the tracks may be dismantled in the process, but resulting increases or decreases in grading, ballast, or track length shall be accounted for as additions or retirements, as appropriate. Where tracks in whole or in part within a yard are determined to be no longer permanently used, the ledger value of such tracks shall be eliminated from the property account. If yard tracks and facilities are constructed in another location to take the place of tracks retired, such tracks and facilities shall be accounted for as additions and the cost thereof shall be included in the property account.

8. Paragraph (c) of Instruction 2–19 is revised to read as follows:

2–19 *List of units of property.*

* * * * *

(c) Rules applicable to units of property rebuilt or converted and to changes in line of road or tracks which involve accounting for units or property retired are set forth in instructions 2–12 and 2–13.

Instructions For Depreciation Accounts

9. Paragraphs (a) and (c) of Instruction 4–1 are revised to read:

4–1 *Method.*

(a) There shall be charged monthly to operating expenses or other appropriate accounts and credited to account 735, "Accumulated depreciation; Road and equipment property," during the service life of depreciable road and equipment property, includable in accounts classed as depreciable, amounts which will approximate the loss in service value not restored by current repairs or covered by insurance. The charges for accruing depreciation currently shall be computed in conformity with the group plan by applying to the cost of property such percentage rates as will distribute the service value by the straight-line method in equal annual charges to operating expenses or other accounts during the estimated life of the property In the case of track accounts 8, 9 and 11. service value shall reflect net salvage value. For road property, the cost shall

be original cost or estimated original cost, as used in the valuation records, adjusted to current date. If a carrier submits proof that the actual cost of depreciable property is substantially different from cost figures in the valuation records, the carrier may, with the approval of the Commission, use such cost figures as the depreciation base.

* * * * *

(c) For the purpose of the group plan of depreciation accounting, the following primary accounts are classed as depreciable accounts:

Road accounts:

1. Engineering (as appropriately assigned but not distributed, to the other depreciable accounts in arriving at the amounts used as the depreciation base).
3. Grading.
4. Other right-of-way expenditures.
5. Tunnels and subways.
6. Bridges, trestles and culverts.
7. Elevated structures.
8. Ties.
9. Rails and other track material.
11. Ballast.
13. Fences, snowsheds, and signs.
16. Station and office buildings.
17. Roadway buildings.
18. Water stations.
19. Fuel stations.
20. Shops and enginehouses.
22. Storage warehouses.
23. Wharves and docks.
24. Coal and ore wharves.
25. TOFC/COFC terminals.
26. Communication systems.
27. Signals and interlockers.
29. Power plants.
31. Power transmission systems.
35. Miscellaneous structures.
37. Roadway machines.
39. Public improvements—construction.
44. Shop machinery.
45. Power plant machinery.

Equipment accounts:

52. Locomotives.
53. Freight-train cars.
54. Passenger-train cars.
55. Highway revenue equipment.
56. Floating equipment.
57. Work equipment.
58. Miscellaneous equipment.

* * * * *

10. Instruction 4–2 is amended by adding paragraph (e) to read as follows:

4–2 *Rates of depreciation.*

* * * * *

(e) A separate track depreciation rate shall apply to each primary property account in each track density category as provided in Instruction 4–3(d). Track depreciation rates shall be developed by estimating the average life based on an acceptable depreciation methodology, consistently applied, including as an option the units of production method based on gross ton-miles per mile of track.

11. Instruction 4–3 is amended by adding paragraphs (d) and (e) to read as follows:

4–3 *Depreciation records to be kept.*

* * * * *

(d) Carriers shall be prepared to justify all track depreciation rates by keeping appropriate data on the service lives and salvage values of track components which went into the life and net salvage computation of each primary account in each density category.

(e) The investment and related accumulated depreciation for accounts 3, 4, 5, 8, 9, 11 and 39 must be maintained by distinct traffic density categories. Each line segment shall be identified on January 1 of each year as belonging to one of the following traffic density classes, based on the average traffic density in the preceding three years:

Density

Class	Description
I	Lines carrying at least 20 million gross ton-miles per mile on an annual basis and not designated as belonging to Density Class III.
II	Lines carrying less than 20 million gross ton-miles per mile on an annual basis and not designated as belonging to Density Class III
III	Lines identified as potentially subject to abandonment pursuant to Section 10904 of the Interstate Commerce Act.
IV	Yard and way switching tracks.
V	Electronic yards.

Note A.—For purposes of designating line segments as belonging to one of the density classes, the carrier shall consider all traffic carried over the segment whether in the carrier's trains or in the trains of other carriers (estimated if not known).

Note B.—When a carrier operates systems of parallel tracks on a single roadbed, the density associated with the related segment of a rail route shall be the aggregate gross ton-miles on all individual tracks.

Property Accounts

12. The text of Note C to Account 5 is revised to read as follows:

5 *Tunnels and subways.*

* * * * *

Note C.—When a tunnel is converted into an open cut, the ledger value of the tunnel shall be credited to this account. The service value of the tunnel shall be charged to account 735, "Accumulated depreciation: Road and equipment property."

13. The text of Account 8 is revised to read:

8 *Ties.*

(a) This account shall include the cost of cross, switch, bridge and other track ties used in the construction of tracks for the movement or storage of locomotives and cars (including tracks in shop, fuel station, supply yard areas, etc.), and the cost of additional ties subsequently laid in such tracks. This account should also include the cost of labor for unloading, distributing and placing ties in tracks.

(b) The cost of handling ties in general supply and storage yards shall be included as store expenses.

Note.—The cost of ties used in the construction of car floats shall be included in the cost of such floating equipment, and the cost of ties used in the construction of temporary tracks, such as gravel-pit and quarry tracks, shall be included in the appropriate clearing accounts.

Note.—Respacing crossties is to be considered maintenance and expense.

14. The heading and text of Account 9 is revised to read:

9 *Rails and other track material.*

(a) This account shall include the cost of rails and other track material used in the construction of tracks for the movement or storage of locomotives and cars (including tracks in shop, fuel station, supply yard areas, etc.); the cost of welding two or more lengths or rail into continuous lengths for use in construction of tracks; and the cost of labor associated with unloading and installation of the rail and other track material.

(b) The cost of handling rails and "other track material" in general supply and storage yards shall be included as store expenses.

Items of Other Track Material

Angle bars.
Anticreepers.
Bumping posts.
Compromise joints.
Connecting rods.
Crossings, including foundations or bases.
Derails.
Frog blocking.
Frogs.
Guard-rail blocking.
Guard-rail clamps.
Guard-rail fasteners.
Guard rails, switch and other.
Main rods.
Nut locks.
Nuts.
Offset bars.
Rail braces.
Rail chairs.
Rail clips.
Rail joints.
Rail rests.
Rail shims.
Rail splices.
Splice bars.
Step chairs.
Switch chairs.
Switch crossings.
Switch lamps.
Switch locks and keys.
Switch points.
Switch stands.
Switch targets.
Switches.

Tie plates.
Tie plugs.
Tie rods.
Track bolts.
Track insulators.
Track spikes.

Note A.—The cost of rails and other track material used in the construction of car floats shall be included in the cost of such floating equipment and the cost of rails and other track material used in the construction of temporary tracks, such as gravel-pit and quarry tracks, shall be included in the appropriate clearing accounts.

Note B.—The following activities are considered as maintenance and should be expensed accordingly.

- Rail flaw detection
- Track inspection
- Shifting of existing track
- Removing weeds in track
- Transporting rail
- Restoring chipped and battered rail ends by welding and/or by rail grinding train or other such equipment
- Gauging track
- Loading scrap track materials
- Lubricating rail incurved track
- Tightening bolts
- Resetting spikes and rail anchors in existing track
- Any other maintenance work not involving the placement of track material

15. Account 10, *Other track material* is removed.

16. The heading and text of Account 11 is revised to read:

11 *Ballast.*

(a) This account shall include the cost of gravel, stone, slag, cinders, sand, and like material used in ballasting tracks (including tracks in shop, fuel station, and supply yard areas, etc.) including cost of worktrain service and the cost of labor expended in placing ballast in tracks.

Note A.—The cost of ballast used in the construction of temporary tracks, such as gravel-pit and quarry tracks, shall be included in the appropriate clearing accounts.

Note B.—Earth placed to form a crown in the middle of the track is not considered as ballast.

Note C.—The cost of ballast material placed on the decking of bridges solely for fire-protected purposes shall be included in account 6, "Bridges, trestles and culverts."

Note D.—This account shall be credited for the cost of old ballast left in the roadbed as part of the subgrade, where the quantity of such ballast exceeds the carrier's established standard due to the application of additional ballast. (See paragraph (d) of the text of account 3, "grading.")

Note E.—Surfacing (surface correction of existing ballast) is to be considered maintenance and expensed.

17. Account 12, Track laying and surfacing is removed.

[FR Doc. 83-4131 Filed 2-17-83; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 35
Friday, February 18, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

15 CFR Part 303

[Docket No. 30201-21]

Allocation of Watch Quotas for Calendar Year 1983 Among Producers Located in the Virgin Islands, Guam and American Samoa

AGENCY: Import Administration, International Trade Administration, Commerce Department; and Interior Department.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend an earlier proposal on the allocation of watch quotas for calendar year 1983, published January 4, 1983. It also proposes to add new provisions to implement new features added by the enactment of Pub. L. 97–446 on January 12, 1983 and extends the period for receipt of comments on the proposal. The amendment of the earlier proposal has to do primarily with the definition of creditable wages, not only for allocation purposes but for purposes added by Pub. L. 97–446 as well. The main change brought about by the new law was the creation of a production incentive over and above the existing tariff benefit and the additional provisions are being proposed for the purpose of putting this additional incentive in place.

DATE: Comments must be received on or before March 21, 1983.

ADDRESS: Comments should be sent to: Statutory Import Programs Staff, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Creel, at the address above (Telephone: (202) 377–1660).

In accordance with Executive Order 12291 dated February 17, 1981, the Departments of Commerce and the Interior have determined that these rules do not constitute a "major rule" as defined by Section 1(b) of the Order. They are not likely to result in

(1) Annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices in either the public or private sector; or

(3) Significant adverse impact on the domestic economy or on the ability of U.S. enterprises to compete with foreign enterprises.

The General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities (there are fewer than ten entities affected by this action) and is therefore not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Finally, the Departments have determined that publication of this rule will not increase the information collection burden on the public. Certain of the proposed amendments will, in fact, reduce the reporting and recordkeeping burden on the respondents. The overall burden is limited solely to those entities receiving the associated federal benefits and the information collection is made on Form ITA–334P under OMB approval number 0625–0040. Accordingly, publication of these rules is consistent with the Departments' responsibilities under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

On December 21, 1982, the 97th Congress passed Pub. L. 97–446. The President signed the law on January 12, 1983. The main provisions of the new law are the elimination of the general headnote 3(a) foreign content limitation on insular watches and watch movements and the establishment of a new incentive designed further to stimulate watch assembly activity in the U.S. insular possessions. The law also forbids the extension of headnote 3(a) privileges and benefits to any articles containing materials to which Column 2 rates of duty apply and limits the size of the 1983 calendar year allocation to 3,000,000 units in the Virgin Islands, 1,200,000 units in Guam, and 600,000 units in American Samoa. The law requires the Departments to adopt minimum assembly requirements in their regulations, and Conference language added to the Senate Finance Committee Report (97–564) states that it is the intention of the Congress in this regard to "ensure that substantial and meaningful work be performed."

The new incentive created by the legislation is in the form of a production incentive certificate which can be used to secure the refund of duties on specified watch, watch movement, and component imports which were entered during a three-year period beginning two years prior to the issue date of the certificate, which is to be issued to eligible producers by March 1 of each calendar year.

The proposed new Section 7(a) language is designed to provide a single definition of "creditable wages" both for allocation and incentive certificate purposes. We propose to raise the individual ceiling on creditable wages from $23,000 to $28,000. The proposed ceiling is still substantially below the FICA maximum in accordance with the Departments' longstanding policy to encourage reliance on permanent residents of the insular possessions in filling management positions.

We are proposing to delete from this definition the exclusion of wages paid to persons engaged in the "strapping and packaging of watches" (a feature of the Departments' rules since adoption of the 1979 provisions). This change is proposed for several reasons. First, assembly modes in which strapping and packaging were a substantial part of the entire local labor contribution (a significant phenomenon in the period immediately prior to adoption of the 1979 provisions) are no longer thought to constitute a significant practice in the industry. Second, packing materials and containers are not subject to duty, so there is no direct benefit accruing from the allowance of credit. Third, the changes will result in a modest simplification of the Departments' information collection and data verification procedures and in a corresponding reduction of the records maintenance and reporting burden on the producer. We propose to leave in place, however, the exclusions of wages paid for the assembly and repair of non-headnote 3(a) units, as these are considered necessary to prevent potentially significant advantages for

some producers *vis a vis* others not engaged in such activity.

In addition, we propose to conform Section 7(a) with another new proposed provision (see discussion of proposed new Section 10, below) and with Congressional intent for our administration of the amended law. We propose, specifically, to define "substantial and meaningful work" with reference to existing Customs requirements (45 FR 37324 (1980)). This standard, however, would apply only during calendar year 1983. The Departments intend to adopt a new and more stringent standard beginning in calendar year 1984. We envision that the 1984 requirements will raise marginally the number of parts from which conventional movements and watches must be assembled under present provisions limiting access to a portion of the annual allocation (see Section 3(a) of the proposed appendix). Tentatively, the numbers being considered are at least 30 discrete parts for movements and at least 33 discrete parts for watches.

With respect to quartz analog watch production, the Departments note that such production is less labor-intensive than mechanical watch assembly. Accordingly, we are considering the adoption of a standard for 1984 which, with the exception of circuit-manufacturing and associated delicate electronic assembly steps currently beyond the industry's capability in terms of equipment and trained personnel, would require complete assembly. In other words, an adequate standard would encompass all four major assembly operations (as defined in the Customs requirements) for quartz analog watches.

Interested parties are advised of the Departments' intentions in this regard to facilitate planning for 1983 operations, on the basis of which the Departments' 1984 calculation of allocation and certificate entitlements will be made. (See the Departments' invitation for recommendations on new quartz analog assembly requirements in the earlier notice of proposed rulemaking at 48 FR 264.)

The amended law authorizes the Departments to "issue such regulations . . . as they determine necessary to carry out their respective duties under this headnote." They are also directed, in making allocations, to "consider the potential impact of territorial production on domestic production of like articles." In exercising their authority to determine the annual limitations on the quantity which may be entered free of duty, they also are to consider "whether such limit is . . . not inconsistent with domestic or international trade policy considerations." Language added by the conferees to the Senate Finance Committee report, finally, requires the Secretaries to ensure that work performed in the insular possessions adds "significantly to the value of the product."

Upon consideration of these expressions of Congressional intent, we have determined that in order to carry out our duties under the headnote it is necessary to adopt value limitations for parts and components employed in insular watch assembly. We consider such limitations desirable in terms of domestic and international trade policy. Furthermore, we believe it would not be possible to characterize as a significant enhancement of the value of the product the typical levels of local labor input ($0.75 to $1.50 depending on the type of movement) if the value of the components were to exceed certain levels. The value levels proposed for 1983 give insular producers sufficient flexibility to assemble watches and movements suitable for sale in the section of the market in which the great majority of watches are sold. The value limitations could be modified in future years if circumstances dictated a change.

Accordingly, the proposed Section 10 would establish value limitations on components of $20 for watch movements and $40 for watches. Units assembled from components exceeding these limitations would not be eligible for duty-free treatment.

The proposed Section 11 would establish provisions governing the calculation, issuance, handling and use of the production incentive certificates provided for in the new legislation.

List of Subjects in 15 CFR Part 303

Imports, Customs duties and inspection, Watches and jewelry, Marketing quotas, Administrative practice and procedure, Reporting requirements, American Samoa, Guam, Virgin Islands.

PART 303—[AMENDED]

For the above reasons, the Departments propose to substitute the revised Section 7(a) below for the corresponding Section 7(a) in their earlier notice of proposed rulemaking (48 FR 263 (1983)) and to add Sections 10 and 11, as shown below, to the proposed Appendix to Part 303.

§ 303.3 Annual allocation formula and other special provisions.

* * * * *

Appendix

* * * * *

Section 7. Definitions.

(a) "Creditable wages" means all wages up to $28,000 per person paid to residents of the territories employed in a firm's headnote 3(a) watch and watch movement assembly operations. Excluded, however, are wages paid (i) accountants, lawyers, or other professional personnel who may render special services to the firm, (ii) persons assembling non-headnote 3(a) watches and watch movements, and (iii) persons engaged in the repair of non-headnote 3(a) watches and watch movements. Non-headnote 3(a) watches and watch movements include, but are not limited to, watches and movements which: are liquidated as dutiable by the U.S. Customs Service; contain any material which is the product of any country with respect to which Column 2 rates of duty apply; are ineligible for duty-free treatment pursuant to Section 10 of this Appendix; or the Departments have determined the assembly of which did not involve substantial and meaningful work in the insular possession. ("Substantial and meaningful work" shall be considered to have taken place if the minimal assembly requirements of the U.S. Customs Service have been complied with; see 45 FR 37324, June 2, 1980.) Wages paid to persons engaged in both headnote 3(a) and non-headnote 3(a) assembly and repair activities may be credited proportionately for their headnote 3(a) activities, provided the firm maintains production and payroll records adequate for the Departments' verification of the headnote 3(a) portion.

* * * * *

Section 10. Limitation on value of components used.

(a) Watch movements assembled from components with a value of more than $20 and watches assembled from components with a value of more than $40 shall not be eligible for duty-free entry into the U.S. customs territory.

(b) As used in subsection (a), "value" means the value of the merchandise plus all charges and costs incurred up to the last point of shipment.

(c) Wages expended in the assembly of watches and watch movements described in Subsection 10(a) are wages for non-headnote 3(a) assembly activity, as defined in Subsection 7(a) of this Appendix.

Section 11. Production Incentive Certificates—(a) *Calculation of value.* (1) The Departments shall verify total creditable wages paid by each producer during the calendar year and divide by the total units it shipped during the calendar year to derive its average creditable wage per unit shipped (APS). The Departments may, however, make adjustments for these data in the manner set forth in Section 3(a)(2) of this Appendix.

(2) The value of each producer's certificate shall equal the producer's APS times the sum of

(i) the number of units shipped up to 300,000 units times a factor of 90%; plus

(ii) incremental units shipped up to 450,000 units times a factor of 85%; plus

(iii) incremental units shipped up to 600,000 units times a factor of 80%; plus

(iv) incremental shipments up to 750,000 units times a factor of 65%.

(3) For purposes of determining the applicable amount of each producer's certificate to be issued during calendar year 1983, the greater of (i) the producer's creditable wages for calendar year 1982 or (ii) 60% of the producer's creditable wages for calendar year 1981 shall be considered the creditable wages for 1982. Data on any firm's 1981 operations not available in the insular possession during the Departments' 1983 annual verification must be made available to the Departments at a time and location specified by the Departments.

(4) "Creditable wages" means wages as defined in Section 7(a) of this Appendix

(b) *Issuance of certificates.*

(1) Certificates ("Certificate of Entitlement to Secure the Refund of Duties on Watches and Watch Movements (Pub. L. 97–446)"; Form ITA–360) shall be issued as soon as possible after February 1, 1983 (with the exceptions specified in (2) and (3), below) upon receipt of the producer's certification that it intends and shall be able to sustain operations beyond calendar year 1983.

(2) Certificates shall not be issued to more than one company in the same insular possession which are owned or controlled by the same corporate entity.

(3) Any producer which failed or was ineligible to request a calendar year 1983 quota prior to January 31, 1983, shall be ineligible to receive a calendar year 1983 certificate. Any producer which assembled and shipped watches for at least six months of 1981 or six months of 1982 may, however, reestablish its eligibility, whether or not such producer had informed the Departments of its intention to discontinue insular watch production, by taking actions necessary to resume assemble prior to June 1, 1983. Only after such producer has actually begun assembly operations in 1983 and has satisfied the Departments that it intends and shall be able to sustain operations beyond calendar year 1983 shall the producer be eligible to receive its certificate based on the creditable wages generated during calendar year 1981 or 1982 and verified by the Departments. The Departments may make appropriate 1983 allocations to such firms under the provisions of Section 303.5(a)(5) of the codified regulations.

(c) *Security and handling of certificates.* (1) Certificates (Form ITA–360) authorize the holder to request the refund of duties (see (d), below). Certificates themselves may not be used to secure such refunds.

(2) Certificate holders are responsible for the security of the certificates. They shall be maintained at the territorial address of the insular producer or at another location having the advance approval of the Departments.

(3) All requests for refunds made pursuant to the certificates shall be entered on the reverse side of the certificate.

(4) Certificates shall immediately be returned by registered mail to the Departments (i) together with any request for refunds which exhausts the entitlement on the face of the certificate, (ii) upon expiration of the certificate, or (iii) upon demand (for good cause) by the Departments.

(5) The transfer of certificate entitlements may be effected only in accordance with the procedures described in (d), below.

(d) The use and transfer of certificate entitlements.

(1) To request a refund pursuant to a certificate entitlement, the insular producer shall execute a Form ITA–361 ("Request for Refund of Duties on Watches and Watch Movements (Pub. L. 97–446)") in accordance with the instructions thereon. After authentication by the Department of Commerce, the Form ITA–361 may be used to secure the refund of duties on watch movements, watches, and (except for discrete cases) parts therefor (excluding articles containing any material which is the product of a country with respect to which Column 2 rates of duty apply) which were entered into the customs territory of the United States during the two-year period prior to the issue date of the certificate and during the one year period the certificate remains valid. Copies of the appropriate Customs entries must be provided with the request for refund (Form ITA–361) in order to establish a basis for issuing the claimed amounts. Certification regarding drawback claims and liquidated refunds relating to the presented entries is required from the claimant on Form ITA–361

(2) The refund of duties pursuant to Public Law 97–446 is governed by regulations issued by the U.S. Customs Service, U.S. Department of the Treasury. Unauthorized use of any official form or other violation of the Customs regulations shall, upon receipt by the Departments of official information of such violation, result in the cancellation of the affected certificate and may subject the violator to other penalties provided by the Customs regulations.

(3) To transfer a portion or all of its certificate entitlements, the insular producer shall execute Form ITA–361 and, checking the "other party" box in block C of the form, enter thereon the name, address and phone number of the party to which it wishes to transfer the entitlement.

(4) After a Form ITA–361 transferring a certificate entitlement to a party other than the certificate holder has been authenticated by the Department of Commerce, the form may be exchanged for any consideration satisfactory to the two parties. In all cases, authenticated forms shall be transmitted to the certificate holder or its authorized custodian (see Section 11(c)(2), above) for disposition.

(5) All disputes concerning the use of an authenticated Form ITA–361 shall be referred to the Departments for resolution. Any party named on an authenticated Form ITA–361 shall be considered an "interested party" within the meaning of Section 303.11(a) of the codified regulations (relating to appeals), under the provisions of which all such disputes shall be settled.

Issued at Washington, D.C. on February 15, 1983.

Pedro A. Sanjuan,

Assistant Secretary for Territorial and International Affairs, U.S. Department of the Interior.

John Evans,

Deputy to the Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce.

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

15 CFR Part 400

[Docket No. 21222–257]

Foreign-Trade Zones in the United States

AGENCY: International Trade Administration, Commerce.

ACTION: Proposed rule.

SUMMARY: The Foreign-Trade Zones Board (the Board) invites public comment on proposed amendments to its regulations. The amendments are comprehensive, with all but a few sections of the current regulations proposed for revision. Consequently, the action constitutes a complete revision of Part 400.

The revision is intended to simplify and update the regulations so that they reflect contemporary zone practice as it has evolved through interpretations and actions by the Board and the Customs Service. Included in the changes are more definitive coverage and criteria for manufacturing activity, subzones, and the "public interest" provision. Also, procedures are sumplified for applications and decisionmaking.

Because of the growth in the number of zones and subzones, and increases in manufacturing and other zone activity, it is intended that this proposed rulemaking also serve as a forum for general comments on the zone program and the policies reflected in the proposed regulations.

DATE: Comments are invited in writing for 60 days and must be received by April 19, 1983.

ADDRESS: Comments (original and 6 copies) are to be addressed to the: Executive Secretary, Foreign-Trade Zones Board, International Trade Administration, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Room 1872, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:
John J. Da Ponte, Jr., Executive Secretary, Foreign-Trade Zones Board, 202/377–2862.

SUPPLEMENTARY INFORMATION:

Background

Foreign-Trade Zones (zones) are restricted areas in or near ports of entry, which are licensed by the Board and operated under the supervision of the Customs Service. They are considered outside of U.S. Customs territory for purposes of Customs entry procedures. Authority for establishing these facilities is granted to qualified corporations, usually public, who submit applications under the Board's regulations showing the need for zone services and a workable plan that includes suitable facilities and financing.

Zones are operated under public utility principles, with grantees frequently contracting with private firms to operate facilities and provide services to zone users. They have as their public policy objective the creation and maintenance of employment through the encouragement of operations in the United States which, for Customs cost reasons, would otherwise have been carried on abroad. The objective is furthered when zones assist exporters and reexporters, or when goods arrive from abroad in an unfinished condition for processing here rather than overseas.

Foreign and domestic merchandise may be moved into zones for operations not otherwise prohibited by law involving storage, exhibition, assembly, manufacture or other processing. The usual formal Customs entry procedure and payment of duties is not required on the foreign merchandise unless and until it enters Customs territory for domestic consumption, in which case the importer has a choice of paying duties either on the original foreign material or the finished product. Quota restrictions do not normally apply to foreign goods in zones, except that special procedures may apply when manufacturing is involved. Domestic goods moved into a zone for export may at the request of the exporter be considered exported upon entering the zone for purposes of excise tax rebates and drawback. "Subzones" are a special-purpose type of ancillary zone authorized by the Board, through grantees of public zones, for operations by individual firms that cannot be accommodated within an existing zone, when it can be demonstrated that the activity, usually manufacturing, will result in a significant public benefit.

During the past decade the number of ports of entry with zone projects has grown from 10 to 75, and the value of goods entering zones and subzones has increased from just over $100 million to over $3 billion, about 50 percent of which involves manufacturing activity. About 33 percent of the goods currently entering zones is of domestic origin and some 30 percent of the goods shipped from zones are exported.

This intensified interest in zones, both on the part of communities providing zone services as part of their economic development efforts and on the part of firms using zone procedures to help make their products more competitive, is related to growth that has occurred in international trade and foreign direct investment in the United States. While there has been little public controversy concerning the establishment of public zones, many proposals for manufacturing in zones for the domestic market have been opposed by competing domestic industries that are sensitive to imports.

In commenting on zone proposals, firms interested in using zones for manufacturing have expressed a desire for greater access and flexibility in zone procedures to help them compete against imports of finished goods and increase their exports. Those opposing zone manufacturing operations have argued that zone procedures should be restricted for non-export operations because, in reducing import costs, zones can adversely affect import-sensitive industries.

The Board and the Customs Service have in recent years interpreted and adapted their requirements in a way that has allowed zone procedures to become more widely available at ports of entry throughout the United States, including the smaller ones. In approving larger zone areas that can be activated with Customs approval and clearance on manufacturing, flexibility has been injected into the program so that communities can adapt zones to their local needs and use them more effectively in their economic development efforts. At the same time, the Board has been responsive to complaints on certain manufacturing proposals from adversely affected domestic firms, by imposing restrictions when it is found that negative economic consequences are threatened.

On October 8, 1980, the Board issued an Advance Notice of Proposed Rulemaking (45 FR 67681, October 14, 1980), soliciting suggestions for amendments to the regulations, especially on "subzones" and the "public interest" section. The comments received have been taken into account in drafting this revision.

Through simplification and consolidation, the number of sections in the existing regulations has been decreased from 110 to 75, with a resulting reduction in the overall length of the regulations by some 30 percent. Some of the more important changes are:

Procedures and criteria for reviewing manufacturing proposals are stated (Sec's. 400.1309; 400.700 (a)(1); 400.807(b)).

The "public interest" provision is expanded to include criteria and procedures (Sec. 400.807).

Subzones are defined and criteria for approval stated (Sec's. 400.101; 400.400(c)).

Distinction made between "approved" zone space and "activated" space, with only the latter being considered outside Customs territory (Sec's. 400.101; 400.700(a)(5)).

Relationship of grantee and operator clarified (Sec. 400.106).

Examiners Committee would be replaced by a single examiner, assisted by advisers (Sec's. 400.109, 400.1305(a)).

Locational provisions, including adjacency requirements, clarified (Sec's. 400.300–400.303).

The criteria for approving zones is outlined in a single provision (Sec. 400.400).

The statement on physical requirements for zones is simplified (Sec. 400.401).

The format for applications and zone schedules are simplified (Sec's. 400.600–604; 400.1002–1003).

General conditions applicable to all grants of authority are stated to permit incorporation by reference (Sec. 400.700).

The provision on accounts, records and reports is simplified (Sec. 400.1004).

The Committee of Alternates can act as the Board when members present at quorum meeting have authority to act for their principals (Sec. 400.1302).

Commerce and Treasury attendance is necessary for a quorum at Board meetings (Sec. 400.1303).

The advisory role of the Department of the Army is recognized, and the Army District Engineer would no longer be automatically involved in zone proposals, his involvement to be determined by the Resident Member BERH and Executive Secretary (Sec's 400.202; 400.1305(a); 400.108).

Authority

This revision is proposed under the authority of section 8 of the Foreign-Trade Zones Act of June 18, 1934 (48 Stat. 1000; 19 U.S.C. 81h).

Comments

The period for the submission of comments will close April 19, 1983. All comments received during this period will be considered by the Board in developing the final regulations. Submissions (original ans six copies) shall be in writing and shall not contain information of a proprietary nature, as they will be made available for public inspection and copying, with the exception of those submitted by other Federal agencies.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, D.C. 20230. Written public comments on file at the facility may be inspected and copied in accordance with 15 CFR Part 4. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Regulatory Flexibility Act

This proposed rule is not subject to the requirements of sections 603 and 604 of Title 5, United States Code, added by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because it will not have a significant economic impact on a substantial number of small entities. There are some 75 zone grantees and 40 firms operating all or parts of zone facilities for grantees. Of some 1,500 firms using zones, about 600 use them on a full time basis. It is estimated that less than 100 small entities are included among the above firms. In all cases, however, the impact of the proposed rules would be favorable, as they reduce the present regulatory burden on these parties and simplify procedures.

Executive Order 12291

This proposed rulemaking does not involve a major rule as defined in Section 1(b) of E.O. 12291 because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The proposed rule will impose no additional reporting or record keeping burden on the public. Existing requirements for zone applicants, grantees, operators, and users, are simplified and there is an overall reduction of the burden on these parties, which are the ones mainly affected (Paperwork Reduction Act of 1980, Pub. L. 96–511).

List of Subjects in 15 CFR Part 400

Administrative practice and procedures, Foreign-trade zones, Freedom of information, Harbors, Penalties, Imports, Customs duties and inspection.

For the reasons set out in the preamble, it is proposed to revise 15 CFR Part 400 as follows:

PART 400—FOREIGN-TRADE ZONES IN THE UNITED STATES

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400.100 Act and regulations.
400.101 Zone, subzone, and zone project.
400.102 Board, Secretary of Commerce.
400.103 State.
400.104 Corporation.
400.105 Applicant.
400.106 Grantee, operator, user.
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400.108 Resident Member BERH, District Engineer.
400.109 Examiner.

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400.200 Authority of the Board.
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400.202 Role of the Department of the Army.

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400.300 Ports of entry entitled to at least one zone.
400.301 Multi-state and multi-city ports of entry.
400.302 Additional zones in ports of entry
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400.800 Operations in zones subject to customs supervision.
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400.1000 Administration of zones.
400.1001 Activation of space within approved zone areas.
400.1002 Zone schedules.
400.1003 Format for zone schedules.
400.1004 Accounts, records and reports.
400.1005 Zones as public utilities.
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[Reserved]

400.1100 [Reserved]

Violations of Act or Regulations

400.1200 Fine imposed for violation of act or regulations.
400.1201 Revocation of grant.
400.1202 Procedure for revocation.
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Rules of Procedure and Practice

400.1300 Board headquarters.
400.1301 Executive Secretary: Functions and authority.
400.1302 Committee of Alternates.
400.1303 Board meetings and the transaction of Board decision-making.
400.1304 Board decisions.
400.1305 Applications—processing and decision-making procedure.
400.1306 Reports on proposals or requests for Board decisions.
400.1307 Authorization for investigations and hearings.
400.1308 Revocations, nullifications, and relinquishments of grants.

Sec.
400.1309 Requests for new manufacturing operations within approved zones and subzones.
400.1310 Ex parte evidence.
400.1311 Additional or special rules of procedure and practice.

Public Information

400.1400 Policy.
400.1401 Public information activities.
400.1402 Availability of materials for inspection and copying.
400.1403 Requests for identifiable records.
400.1404 Determinations of availability of records.
400.1405 Security information.

Authority: Foreign-Trade Zones Act of June 16, 1934, (48 Stat. 998–1003; 19 U.S.C. 81a–81u), as amended by Pub. L. 566, 81st Congress, approved June 17, 1950, (64 Stat. 246, and Pub. L. 791, 85th Congress, approved August 28, 1958 (72 Stat. 945).

Definitions

§ 400.100 Act and regulations.

(a) "Act" means the Foreign-Trade Zones Act of June 16, 1934 (48 Stat. 998–1003; 19 U.S.C. 81a–81u), as amended by Pub. L. 566, 81st Congress, approved June 17, 1950 (64 Stat. 246, and Pub. L. 791, 85th Congress, approved August 28, 1958 (72 Stat. 945).

(b) "Regulations" means these regulations adopted by the Foreign-Trade Zones Board pursuant to the Act (15 CFR Part 400).

§ 400.101 Zone, subzone, zone project.

(a) "Zone" means "foreign-trade zone" and might as a general term include "subzone." Foreign-trade zones are restricted areas, under supervision of the U.S. Customs Service, which are considered outside the Customs territory of the United States when activated under zone procedures. They are the U.S. version of what are generally known internationally as Customs free trade zones. Located in or near U.S. Customs ports of entry, zones are operated under public utility principles by qualified corporations. Authority for establishing these facilities is granted by the Foreign-Trade Zones Board under the Act and Regulations. If the zone is designed to serve a special type of activity the term "special-purpose zone" may be used. When a zone consists of more than one site under the same grantee, the sites shall be considered part of the same zone project. Foreign and domestic merchandise may be moved into zones for operations not otherwise prohibited by law involving storage, exhibition, assembly, manufacture or other processing. The usual formal Customs entry procedures and payment of duties is not required on the foreign merchandise unless and until it enters Customs territory for domestic consumption, in which case the improper has a choice of paying duties either on the original foreign material or the finished product. Quota restrictions do not normally apply to foreign goods in zones, except that special procedures may apply when manufacturing is involved. Domestic goods moved into a zone for export may at the request of the exporter be considered exported upon entering the zone for purposes of excise tax rebates and drawback.

(b) "Subzones" are special-purpose ancillary zone sites authorized by the Board, through grantees of public zones, for operations by individual firms that cannot be accommodated within an existing zone, when it can be demonstrated that the activity, usually manufacturing, will result in a significant public benefit. They are considered non-contiguous extensions of zones for single users, usually at their own facilities and, in this sense, are private rather than public zone facilities. Separate zone sites within an industrial or commercial complex subject to common management and convenants may be considered contiguous, and thus a part of a zone, rather than as subzones.

(c) "Zone Project" means all of the zone and subzone sites under a single grantee, normally in a single port of entry area.

§ 400.102 Board; Secretary of Commerce.

(a) "Board" means the Foreign-Trade Zone Board established by the Act. The Board consists of the Secretary of Commerce, who serves as chairman and executive officer, the Secretary of the Treasury, and the Secretary of the Army. Each Board member designates an official of his Department, usually an Assistant Secretary, to serve as his Alternate (see, Section 400.1302).

(b) "Secretary" means the Secretary of Commerce.

§ 400.103 State.

"State" means any State of the United States, the District of Columbia, and Puerto Rico.

§ 400.104 Corporation.

"Corporation" means a public or private corporation.

(a) "Public corporation" means a State, political subdivision thereof, a municipality, a public agency of a State, political subdivision thereof, or municipality, or a corporate municipal instrumentality of one or more States

(b) "Private corporation" means any corporation other than a public corporation.

(1) "Non-profit" private corporations are those organized and chartered for a public purpose that involves port or economic development and includes that of establishing zones (see, § 400.501(a)).

(2) "For-profit" private corporations applying for a grant of authority to establish a zone shall be organized and chartered for this purpose under a special act of the State or States in which the zone is to be located (See § 400.501(b)).

§ 400.105 Applicant.

"Applicant" means a corporation applying for a grant of authority to establish a foreign-trade zone or subzone, or a grantee applying for authority concerning an existing zone project.

§ 400.106 Grantee, operator, user.

(a) "Grantee" means a corporation which has been issued a grant of authority for establishing a foreign-trade zone or subzone. The authority to establish a zone includes the authority to operate ——— and the responsibility to ———

(b) "Operator" means a corporation, partnership, or person that operates a zone; noncontiguous, activated zone site; or, subzone. An operator's responsibilities and functions are covered in an operating agreement with the grantee, which can contract for the operation and maintenance of a zone or a zone activity, but cannot assign the grant of authority itself. Such agreements are subject generally to the Act and regulations and should include the terms between the parties concerning such matters as the time length of the agreement and termination provisions, as well as the responsibilities for dealing with U.S. Customs. The District Director's concurrence is required for the party designated "operator", to be recognized as such, and an understanding should be reached with Customs officials concerning bonding and liability.

(c) "User" means a person or firm using a zone or subzone. The user usually deals directly with the operator of the zone. A user that is the sole occupant of a noncontiguous site or a subzone may be designated by the grantee as an operator.

§ 400.107 Regional Commissioner; District Director.

(a) "Regional Commissioner" means the Regional Commissioner of Customs for the Customs Region in which the zone is located.

(b) "District Director" means the director of Customs for the district in which the zone or subzone is located.

§ 400.108 Resident Member BERH; District Engineer.

(a) "Resident Member BERH" means the Resident Member, Board of Engineers for Rivers and Harbors, Department of the Army. This official has been delegated authority by the Secretary of the Army to act on nondiscretionary zone matters.

(b) "District Engineer" means the engineer of the Department of the Army in whose district the zone is located.

§ 400.109 Examiner.

"Examiner" means an employee of one of the Board agencies designated under the regulations to conduct or participate in an investigation concerning the establishment or expansion of a zone or subzone or other matter requiring a fact-finding determination and recommendation for Board action.

Jurisdiction and Authority of the Board

§ 400.200 Authority of the Board.

The Board is authorized, subject to the provisions of the Act, and other laws of the United States applicable to zones to:

(a) Grant to corporations the privilege of establishing foreign-trade zones in or adjacent to ports of entry of the United States, if it finds that there is a need for zone services and an adequate plan for facilities and financing.

(b) Prescribes rules and regulations concerning zones.

(c) Approve the rates and charges of zone grantees and operators for zone users, subject to subject to public utility provisions of the Act and regulations.

(d) Require compliance with its regulations and the legal requirements of other federal, state and local agencies that are applicable to zones.

(e) Prescribe the form and manner for zone accounts.

(f) Require the submission annually, and at such other times as the Board may prescribe, of reports containing information on zone operations and finances.

(g) Inspect and examine the premises, operations or accounts of grantees and operators.

(h) Impose fines of not more than $1,000 per day for violations of the Act or of the regulations in this part.

(i) Revoke the grant of any corporation, after due notice and a public hearing, for repeated and willful violations of the Act.

(j) Make an annual report to the Congress on zone operations.

(k) Perform such other duties as may be necessary to administer the provisions of the Act.

§ 400.201 Cooperation with other agencies.

(a) The Board is authorized to cooperate with other federal, state and local agencies having jurisdiction in zones.

(b) By authority of the Act and Executive Order No. 7104, July 18, 1935, the executive departments and other establishments of the Government will furnish such records, papers, and information in their possession as may be required by the Board, and temporarily detail to the service of the Board such personnel as may be necessary to enable the Board to carry out its duties under the Act.

§ 400.202 Role of the Department of the Army.

(a) The role of the Department of the Army on the Board is more specialized than that of the other members. Through the Corps of Engineers, Army advises the Board on matters within its areas of expertise and responsibility.

(b) The Executive Secretary shall notify the Resident Member BERH of cases and matters as they are filed, requesting an advisory opinion or the assistance of a District Engineer when appropriate.

(c) Based upon his review of applications, the Resident Member BERH may, on request or at his own initiative, submit advisory opinions and other information to the Excecutive Secretary when appropriate.

(d) Some of the possible areas for Army's involvement in an advisory capacity are:

(1) Section 10 (Rivers and Harbors Act of 1899) permits for construction in navigable waters.

(2) Section 103 (Ocean Dumping Act) permits.

(3) Section 404 (Clean Waters Act) permits for fill materials in U.S. Waters.

(4) Advice on floodplain and environmental matters.

Number and Location of Zones

§ 400.300 Ports of entry entitled to at least one zone.

Every port of entry of the United States is entitled to establish at least one zone upon meeting the requirements of the Act and regulations. The use of zones is considered a privilege subject to the legal and public interest provisions.

§ 400.301 Multi-state and multi-city ports of entry.

When a port of entry covers more than one State, each of the States in the port of entry area shall be entitled to a zone, subject to the Act and regulations. When a port of entry covers more that one city separated by a navigable waterway, each of the cities shall be entitled to a zone subject to the Act and regulations.

§ 400.302 Additional zones in ports of entry.

(a) Once a zone project has been approved for a port of entry, additional projects under separate grantees (other than those provided for in § 400.301) may be authorized only if the Board finds that the existing project will not adequately serve the convenience of commerce. The burden of proof in establishing these facts shall be on the prospective grantee.

(b) When a zone grantee wishes to expand its zone to a noncontiguous site or sites, the proposal shall be submitted as an application for an expansion or boundary modification (See, § 400.605). Zone projects should be consolidated at single locations within a port of entry as much as possible.

§ 400.303 Location in relation to ports of entry.

Zones and subzones may be located only in or adjacent to ports of entry. The definition of "adjacent" is a location within 35 statute miles of a Customs port of entry. Because of the special nature of subzones, a more distant location may be considered "adjacent" for a proposed subzone if it is within 90 minutes driving time, as measured by a Customs officer, from the supervising Customs office. For purposes of this section, a Customs station designated by Customs regulations is considered a port of entry if it is staffed by at least one full-time Customs officer at the time the application is filed.

Economic, Financial, and Physical Requirements for Establishment of Zones

§ 400.400 General criteria: zones and subzones.

(a) An applicant for a zone (§ 400.600) must demonstrate to the satisfaction of the Board that its establishment will expedite and encourage commerce in a manner that is consistent with the public interest (See, § 400.807). In evaluating the proposed zone, general factors considered by the Board will include:

(1) The need for zone services in the port of entry in question, taking into account existing as well as projected international trade related activities and anticipated employment to be generated or sustained.

(2) Whether an adequate operation plan exists, including a suitable site and facilities, and proof of ability to finance the project.

(3) Local community and State government support, including (i) evidence that the zone project is compatible with the community's master plan or stated goals for economic development, (ii) the views of State and local public officials involved in related economic development programs; and, (iii) the views of persons and firms likely to be affected by proposed zone activity.

(b) The establishment of a zone shall normally be considered under the criteria of § 400.400. Proposals for manufacturing in zones or subzones that involve "public interest" questions, shall be reviewed under the criteria enumerated in § 400.807.

(c) In reviewing proposals for subzones (See, § 400.101(b)) the Board will, in addition to the economic factors for public zones, consider:

(1) Whether the operation can be accommodated in the public zone serving the area.

(2) Whether efforts have been made to accommodate the operation, such as enlarging the public zone area, the cost of locating in public zone not being a determining factor.

(3) The specific zone benefits sought, and whether alternative means or remedies are available.

(4) Whether convincing evidence has been presented as to a resulting significant public benefit, including export development and displacement or substitution of imports, usually measured in terms of new or sustained employment.

(d) When appropriate, the Board may approve zones, subzones or zone activity with restrictions, such as types of activity, procedures, and time.

(e) Proposals for new zones, zone expansions, subzones, or manufacturing, which involve operations exclusively for export shall be expedited, and there shall be presumption that such proposals are in the public interest.

(f) Proposals requiring expeditious or special treatment under federal law will be reviewed with special consideration given to the objectives of the programs involved.

§ 400.401 Operational and physical requirements.

(a) A zone plan shall include proof as to the ability to finance and operate the proposed zone, and an adequate infrastructure of facilities and services necessary to carry out the project, including cargo handling and storage/processing facilities, utilities, physical security, facilities for the U.S. Customs Service, and access to transportation systems.

(b) Physical security and access requirements shall be determined by the District Director, who shall consider the latest Customs Standards for Cargo Security in determining what is adequate under the circumstances. The District Director may deny admission of goods to any zone in which the security is considered inadequate. Adequate administrative facilities shall be provided for government officials by the grantee or operator.

Eligible Applicants

§ 400.500 Eligibility for zone grants of authority.

Public and private corporations, eligible under State law, may apply for grants of authority to establish and operate zones and subzones; but, the Board shall give preference to public corporations.

§ 400.501 State enabling legislation.

(a) The eligibility of public and non-profit corporations to apply for a grant of authority for zones and subzones shall be supported by enabling legislation of the legislature of the State in which the zone is to be located, indicating that the corporation, individually or as part of a class, is authorized to so apply.

(b) Private for-profit corporations so applying must be chartered under a special act of the legislative and organized for the purpose of establishing a zone or subzone.

Applications for Grants of Authority

§ 400.600 General.

Applications for grants of authority for zones shall consist of a cover letter and five exhibits. Standard letter sized paper (8½" x 11") shall be used, and the original shall be submitted with 12 copies, unless the Executive Secretary determines that fewer or more copies are needed. The application shall be addressed to the Secretary of Commerce, Chairman, Foreign-Trade Zone Board, U.S. Department of Commerce, Washington, D.C. 20230, c/o the Executive Secretary.

§ 400.601 Form and content.

The following requirements shall apply to the cover letter and five exhibits:

(a) *Cover letter.* The cover letter shall be signed by an authorized officer of the corporation and bear the corporate seal. The cover letter shall:

(1) Describe the corporation and its eligibility to apply.

(2) Make a specific statement as to the type of authority requested from the Board.

(3) Give a brief description of the proposed site and facilities and the larger project of which the zone is a part.

(4) Provide a summary as to the project background, including surveys and studies.

(5) Make a brief statement concerning the need for the zone as a service to the business community.

(6) Make a brief statement as to relationship of the project to the community's and state's overall economic development plans and objectives.

(7) Make a brief statement as to how the project will be operated and financed.

(8) Provide any additional pertinent information needed for a complete summary description of the proposal.

(b) *Exhibits.* Applications for grants of authority shall contain the following exhibits:

(1) *Exhibit 1—Authority to apply.* This exhibit shall include: (i) A certified copy of State enabling legislation (See, Sec. 400.501). (ii) A copy of pertinent sections of the applicant's charter or organization papers. (iii) A certified copy of the resolution of the governing body of the corporation authorizing the official signing the application.

(2) *Exhibit 2—Site description.* This exhibit shall include: (i) A detailed description of the zone or subzone site, including size, location, address, and a legal description of the area proposed for approval. (ii) A summary description of the larger project of which the zone is a part, including type, size, location and address. (iii) A statement as to whether the zone is within or adjacent (see § 400.303) to a Customs port of entry. (iv) A description of zone facilities and services, including dimensions and types of existing and proposed structures. (v) A description of existing or proposed site qualifications including: land-use zoning, relationship to floodplain, infrastructure, utilities, security, and access to transportation services. (vi) A description of current activities carried on in or contiguous to the project. (vii) If part of a port facility, a summary of port and transportation services and facilities. If not, description of transportation systems indicating connections from local and regional points of arrival to the zone. (viii) A statement as to the possibilities and plans for zone expansion.

(e) *Exhibit 3—Operation and financing.* This exhibit shall include: (i) A statement as to site ownership; and, if not owned by the applicant or proposed operator, evidence as to their legal right to use the site on a long-term basis. (ii)

A discussion of the operational plan; and, when the zone or a portion thereof will be operated by other than the grantee, the name and qualifications of the proposed operator, a summary of the process used in selecting the operator, and the type of operating agreement. (iii) A brief explanation of the plans for providing facilities and physical security. (iv) A summary of the plans for financing capital and operating costs, including a statement as to the source and use of funds. (v) The estimated time schedule for construction and activation. (vi) A summary as to anticipated cash flow projections on an annual basis for the first three years of operation.

(4) *Exhibit 4—Economic justification.* This exhibit shall include: (i) A statement of community's overall economic goals and strategies, in relation to those of the region and state. (ii) A reference to the plan or plans on which the goals are based and how they relate to the zone project. (iii) An economic profile of the community including indentification and discussion of dominant sectors in terms of percentage of employment or income, area resources and problems, economic imbalances, unemployment rates, area foreign trade statistics, and area port facilities and transportation networks. (vi) A statement as to the role and objectives of the zone project. (v) A discussion of the anticipated economic impact, direct and indirect, of the zone project, including references to public costs and benefits, employment, the U.S. balance of trade, and environmental impact. (vi) A statement as to the need for zone services in the community, with information on surveys of business, and specific expressions of interest from proposed zone users, with letters of intent from those firms that are considered prime prospects. (vii) Any proposed manufacturing and processing operations shall be described with information as to the nature and scope of the operation and production process, materials and components used, an indication of which will be foreign sourced, zone benefits anticipated and how they will affect the firm's plans, and the economic impact of the operation on the community. Because the Board will consider the broader impact of manufacturing operations in relation to competing domestic industries, the applicant should also address this area particularly where the operations involve import-sensitive products.

(5) *Exhibit 5—Maps.* Three full-sized original maps in the three categories listed below shall be submitted, with letter sized reductions provided when possible for the copies of application. One of the original sets shall be sent to the district director of Customs. (i) State and county maps showing the general location of the zone in terms of the areas transportation network. (ii) A U.S. Geodetic Survey map, or the equivalent, showing in red the location of the proposed zone. (iii) A detailed blueprint of the zone or subzone area showing zone boundaries in red, with dimensions and metes and bounds, or other legal description, and showing existing and proposed structures. The applicant shall retain the master drawing.

(c) *Additional information.* The Board or the Executive Secretary may require additional information needed to adequately evaluate a proposal.

§ 400.602 Amendments.

The Board or the Executive Secretary may authorize amendments to applications. When substantive changes are made after formal notice has been given, further public notice shall be given and comments invited when appropriate.

§ 400.603 Drafts.

Prior to the submission of a formal application a draft should be submitted to the Executive Secretary for review by his office so that comments and suggestions can be made.

§ 400.604 Formal acceptance, filing, and public notice.

(a) Applications submitted by eligible corporations shall be reviewed for filing sufficiency by the Executive Secretary. Upon determining that the application is correct as to form and complete as to information and material required, the Executive Secretary shall formally accept the application and assign a docket number and filing date, and the applicant shall be so advised.

(b) Subsequent to the assignment of a docket number, public notice will be given in the **Federal Register.** The notice will contain the name and address of the applicant, a general description of the project and its location, information as to a public hearing, if one is to be held, and information concerning the open record period during which interested parties may communicate their views to the Board.

(c) Expeditious and special treatment shall be given to applications required to receive such treatment under other federal laws. These cases shall not be delayed because of their numbering sequence.

§ 400.605 Applications for zone expansions, subzones, relocations and boundary modifications.

(a) Applications that involve a significant expansion of zone operations, including the establishment of additional zone or subzone sites, shall be submitted and processed in the same manner as an original application for a grant of authority, except that the information called for in the various exhibits may be condensed and reference may be made to information in the original application.

(b) Other applications, not involving a significant expansion of zone operations, including proposals for minor revisions of zone boundaries or relocations, may be submitted in a condensed format as determined by the Executive Secretary. Such proposals may be administratively approved by the Executive Secretary, providing they have the concurrence of the District Director of Customs, or his representative. In determining whether the application can be processed under subsection (b), the Executive Secretary shall consider whether the zone plan approved by the Board is being significantly revised or that the change is designed to accomplish an expansion of operations beyond that contemplated in proposals previously approved by the Board.

§ 400.606 Confidential information.

Information that is considered proprietary or confidential shall not be submitted as part of an application or for the public record. The Board reserves the right to consider any submitted information and to include it as part of the public record. When the Board or the Executive Secretary determines that proprietary or confidential information is essential for a decision, such information may be requested and given business confidential treatment. The parties submitting such material shall mark each page "business confidential" at the top.

Conditions Applicable to Grants of Authority

§ 400.700 Conditions applicable to grants of authority.

(a) Grants of authority issued by the Board for the establishment of zones or subzones, including those already issued, shall be subject to the Act and regulations; and, the following general conditions:

(1) The Executive Secretary shall be notified by the grantee or operator for approval prior to the commencement of

any manufacturing operations not approved as part of the application.

(2) Implementation of the project shall commence within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee or operator shall obtain all necessary permits from Federal, State, and municipal authorities; if a zone project is not activated and in operation within 5 years of the date of the grant of authority, the grant shall be null and void (for grants outstanding on the date this regulation is adopted, time shall commence as of the date the regulation is adopted).

(3) Officers and employees of the United States shall have free and unrestricted access throughout the foreign-trade zone site in the performance of their official duties.

(4) The grant shall not be construed to relieve the Grantee, operator or zone users from liability for injury or damage to the person or property of others occasioned by the construction, operation, maintenance, or use of said zone, and in no event shall the United States be liable therefor.

(5) The approval of the District Director shall be obtained before the commencement of operations of any portion of the approved zone area or zone facilities. "Activation" means approval for operations by the grantee and District Director. Areas in a zone which are not activated shall be considered a part of U.S. Customs territory. The zone grantee and District Director shall keep a current layout drawing or plan of the approved zone area showing the portions that are activated, and maintain a file showing required approvals. Approved areas also may be deactivated or reactivated pursuant to this approval process. The Executive Secretary shall be advised as changes occur and furnished with a copy of the current layout.

(6) Should the grantee fail to comply with any of the conditions of a grant of authority, the Board may declare it null and void. In such cases the Board shall issue an order to show cause why the action it contemplates should not be taken, and the grantee shall have 30 days in which to answer.

(b) The Board may also adopt special conditions and restrictions.

§ 400.701 Disposition of grant prohibited.

(a) Grants of authority shall not be sold, conveyed, transferred, set over, or assigned. This provision does not prevent a zone grantee from contracting with qualified parties for operation of a zone or zone activities. Also, the provision does not preclude private ownership of zone land and facilities, providing the grantee retains the control necessary to carry out the project and its public service aspects. Should title to land or facilities be transferred after a grant of authority is issued, the grantee must retain such control by agreement. No consideration shall be paid over the market value for such land or facilities because of a grant of authority. Any violation of this section shall be grounds for revocation of the zone grant of authority or for termination of zone status on transferred land or facilities.

(b) A request shall be made to the Board, supported by appropriate documents, when a zone grantee wishes to have its zone grant reissued in the name of another qualified corporation.

Operations in Zones

§ 400.800 Operations in zones subject to customs supervision.

Zone operations are subject to the control of the U.S. Customs Service, exercised mainly through the District Director who shall be in charge of the zones within his district for purposes of enforcement of the requirements of the Act and regulations, the Board, and the Customs Service. Requirements for such matters as zone forms, inventory control systems, cargo security standards, and physical security shall be determined by the U.S. Customs Service. Customs regulations on foreign-trade zones are found in 19 CFR Part 146.

§ 400.801 Merchandise permitted in a zone.

Foreign and domestic merchandise of every description except such as is prohibited by law, may, without being subject to the customs laws of the United States, except as otherwise provided in the act and the regulations made thereunder, be brought into a zone.

(a) Merchandise which is specifically and absolutely prohibited by law shall not be admitted into a zone. Any merchandise so prohibited by law which is found within a zone shall be disposed of in the manner provided for in the laws and regulations applicable to such merchandise. A distinction is made between (i) merchandise which is specifically and absolutely prohibited by law on the grounds of policy or morals, such as immoral or subversive literature, obscene articles, or lottery matter, and (ii) conditionally admissible merchandise which may be imported under certain conditions, for example, articles which are subject to permits or licenses for the protection of economic or national security or which may be reconditioned to bring them into compliance with the laws administered by various Federal agencies. District Directors of Customs are required to exclude the first class of articles and may not permit them to be transferred to a zone if they are aware of their prohibited status, except that the District Director may permit the temporary deposit of any such merchandise in the zone pending final determination of its status. The transfer of articles of the second class to a zone is subject to any requirements of the Federal agency concerned. Unless otherwise prohibited, over-quota merchandise may be placed in a zone pending its right to transfer to customs territory pursuant to the applicable quota provisions.

(b) The application for the admission of merchandise into a zone shall be approved or disapproved by the District Director of Customs, as the representative of the Board, where the merchandise is not excluded by any other Federal agency having jurisdiction over the merchandise.

(c) Zone procedures may not be used to circumvent the requirements of U.S. antidumping and countervailing duty laws and regulations. Upon order of the Secretary of Commerce, or his designee, the Commissioner of Customs, or his designee, shall direct that an importer place goods in a specific status for this purpose, subject to appeal to the Board.

§ 400.802 Disposition of merchandise in a zone.

In general, merchandise lawfully brought into a zone, in accordance with these and other regulations made under the provisions of the Act, may be exported, destroyed, or sent into the customs territory of the United States in the original package or otherwise; but when foreign merchandise, and domestic merchandise whose identity has been lost, is sent from a zone into the customs territory of the United States, it shall be subject to the laws and regulations of the United States affecting imported merchandise.

§ 400.803 Manipulation, manufacture, and exhibition of merchandise.

In general, merchandise, lawfully brought into a zone may in accordance with these and other regulations made under the provisions of the act, be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign and domestic merchandise, or otherwise manipulated, or be manufactured, except as otherwise provided by the act.

(a) Permission for any manipulation, manufacture, or exhibition in a zone shall be obtained from the District

Director of Customs, as the representative of the Board, subject to such application and procedure prescribed by the Secretary of the Treasury for the protection of the revenue.

(b) In the event of the denial of any application by the District Director of Customs for any reason, the applicant, the grantee, or the operator of the zone may appeal the adverse ruling to the Board. If any revenue-protection considerations are involved in such an application, the Board shall be guided by the determinations of the Secretary of the Treasury with respect to them.

§ 400.804 Status of merchandise in a zone.

(a) For the purposes of the act and the regulations of this part, all merchandise within a zone, except merchandise in transit through a zone as provided in §146.14 of the customs regulations, and except merchandise temporarily transferred to a zone for manipulation as provided in paragraph (b) of this section, shall be given a zone status as: (i) Privileged foreign merchandise. (ii) Privileged domestic merchandise. (iii) Non-privileged foreign merchandise, (iv) Non-privileged domestic merchandise, or (v) Zone-restricted merchandise.

(b) Imported merchandise which has been entered and which has remained in continuous customs custody may be temporarily transferred to a zone for manipulation under customs supervision pursuant to section 562, Tariff Act of 1930, as amended, and for return to customs territory. Any such merchandise shall not be considered within the purview of the Foreign Trade Zone Act, but shall be treated in all respects as though remaining in customs territory. Therefore no zone form or procedure shall be considered applicable, but the merchandise shall remain subject in the zone to such requirements as are necessary for the enforcement of customs laws.

§400.805 Use of zone by carriers.

The cargo facilities and services of a zone are intended primarily for the use of vessels, vehicles, or aircraft lading or unlading zone merchandise, and their use for other purposes may be terminated by Commissioner of Customs if found to endanger the revenue, or by the Board if found to interfere with the primary uses of the zone.

§ 400.806 Subsequent importation of zone merchandise.

Articles produced or manufactured in a zone and exported therefrom shall, on subsequent importation into the customs territory of the United States, be subject to the import laws applicable to like articles manufactured in a foreign country, except that articles produced or manufactured in a zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the second proviso of section 3 of the Act, as amended, may, on such importation, be entered as American goods returned.

§ 400.807 Public interest provision.

Pursuant to § 15(c) of the Act the Board has authority to restrict or prohibit any zone operation "that in its judgment is detrimental to the public interest, health or safety". (a) Adversely affected parties may submit complaints to the Board under this section, requesting the prohibition or restriction of a zone activity; or, the Board may conduct investigations on its own initiative. A complaint must contain information as to how the zone activity in question is or would be deterimental to the public interest, health or safety. When good cause is found by the Board or the Executive Secretary, the matter shall be investigated pursuant to these regulations. In deciding whether good cause exists special consideration shall be given to conducting investigations when the zone activity in question involves an "import sensitive" industry. In determining whether an industry is import sensitive, the Board and the Executive Secretary shall be guided by references to such industries in trade laws and regulations, land decisions of federal courts and agencies.

(b) In investigations under this section, either self-initiated or in response to complaints, the factors considered by the Board shall include:

(1) Whether the adverse effect is significant in relation to actual and potential public benefits.

(2) Whether additional exports from the U.S. will be created.

(3) Whether zone procedures will encourage activity related to import displacement or substitution.

(4) Whether employment and investment will be generated or sustained in the U.S.

(5) Whether zone activity will undermine a remedial action or program in effect because of an unfair trade practice, or materially or substantially harm an existing domestic industry.

(c) Zone activity may be approved for limited periods, subject to extension after a review as to whether the anticipated public benefits have materialized.

(d) Zone activity which is exclusively for export shall be presumed to be in the public interest.

(e) Interested parties shall have an opportunity to submit comments or participate in any public hearings or proceedings held on such investigations.

§ 400.808 Retail sales.

(a) No retail trade shall be conducted within activated zone space except under permits issued by the grantee and approved by the Board. Only domestic, duty-paid, and duty-free goods may be sold in such cases. In considering whether to approve requests under this section the Board shall consider the economic impact on the retail trade outside the zone in the port of entry area. No approval is required for sales involving domestic, or duty-paid food products sold within the zone or subzone to be consumed on premises by persons working therein. Grantees shall revoke permits when there is a violation of this restriction. The District Director of Customs shall determine which sales are to be classified as retail sales under this section, subject to review by the Board when a question arises. Appeals from his decision may be made to the Executive Secretary.

(b) Retail sales within non-activated, but approved zone areas, may be prohibited if found by the Board, the Executive Secretary, or the District Director, to be incompatible with zone operations.

§ 400.809 Residence within zone.

No person shall be allowed to reside within an activated zone area except federal, state, or municipal officers or agents whose resident presence is deemed necessary by the Board or the Customs Service.

§ 400.810 Controlled access to zones.

Plans for the controlled access of persons and vehicles to activated zone areas shall be subject to the approval of the District Director as part of his review for operational approval. All persons and vehicles entering such areas shall be subject to the requirements of the Customs Service and the zone schedule. Business hours shall be subject to the approval of Customs.

§ 400.811 Reimbursement—Customs Service and District Engineer.

(a) Zone grantees and operators shall reimburse the Customs Service for the cost of maintaining the additional services of the agency required in carrying out its supervisory functions. Reimbursement payments shall be made according to the regulations and procedures of the Customs Service.

(b) When the District Engineer has been directed by BERH to conduct an inspection or investigation on a zone matter, the District Engineer shall

approve a plan, from the applicant, grantee, or operator involved, for reimbursement to his agency for the cost of additional services.

§ 400.812 Construction of buildings and facilities.

Zone grantees, operators and users may construct buildings and facilities necessary to implement a zone plan approved by the Board, subject to: Uniform procedures established by the grantee in its zone regulations; these regulations, including the public utility requirements; and, the requirements of federal, State and local officials. This permission shall not constitute a vested right against the United States, and the consideration for the sale of any such buildings or facilities shall not be affected by zone status. The commencement of operations in any building or facility shall be subject to approval by the District Director of Customs (See § 400.700(a)(5)).

§ 400.813 Hours of business and service.

Hours of business and service, for Customs purposes, shall be the same as those prescribed in Customs regulations. (19 CFR Chapter 1)

Maintenance of Zones

§ 400.900 Structures and facilities to be maintained in good order.

The grantee or operator shall at all times maintain the structures and other facilities within the zone in good condition and so as not to endanger the life and health of employees of the United States and others who may be required to enter the zone.

Administration of Zones by Grantees and Operators

§ 400.1000 Administration of zones.

Zones shall be operated by or under the contractual oversight of zone grantees, subject to the requirements of the Act and regulations, the Board, the Customs Service, as well as those of other federal, State and local agencies having jurisdiction over the site and operation. Grantees are expected to insure that the reasonable zone needs of the business community are served by their zone projects.

§ 400.1001 Activation of space within approved zone areas.

Prior to the commencement of operations in an activated zone area the grantee shall obtain the operational approval of the District Director of Customs. This shall include a review of physical security, inventory control, bonding and documentary requirements.

§ 400.1002 Zone Schedules.

(a) Prior to the commencement of operations the grantee shall also submit to the Executive Secretary for approval a zone "schedule" (original and 1 copy) containing the internal rules and regulations for its zone, as well as the rates and charges (sometimes hereinafter referred to collectively as fees) for zone users. the Executive Secretary shall approve and file the schedule if it contains sufficient information for users concerning the operation of the facility and a statement of rates and charges that meets the Board's requirements. Upon approval the grantee shall be notified and shall maintain a copy of the schedule for public inspection at its offices and those of the operator. A copy shall also be furnished to the District Director of Customs, who may submit comments to the Executive Secretary.

(b) If a complaint is made by a zone user or prospect, or there is otherwise good cause to question whether zone or subzone fees are reasonable, fair and uniform, an investigation shall be directed by the Executive Secretary. The factors considered in reviewing reasonableness and fairness, shall include: The going rates and charges for like operations in the area and the extra costs of operating a zone, including return on investment. The fees for subzones shall be based upon actual services rendered by the grantee or operator, or reasonable out-of-pocket expenses.

(c) Grantees may assign the responsibility for preparing zone schedules to operators, but must approve them prior to submission.

(d) Amendments shall be approved and maintained in the same manner.

§ 400.1003 Format for zone schedules.

Zone schedules shall consist of typed, loose-leaf, numbered, letter-sized pages (approximately 8½" x 11"), enclosed in covers. As amendments are made and approved, the newly inserted pages shall show the amendment number. The following outline format shall be followed:

(a) A title page shall contain such information as, the name of the grantee and opertor(s), schedule identification information, information as to the sites covered, the date of the original schedule, and the name of the preparer.

(b) Administrative and organizational information, including the names of grantee and operating officials.

(c) Table of contents.

(d) Definitions, abbreviations, and symbols.

(e) Zone policy, rules and regulations.

(f) A section with rates and charges shall contain sufficient information so that rates and charges can be comparted with other like operations in the area, and so that it can be determined whether there is uniform treatment under like circumstances among zone users.

(g) A list of amendments and dates.

§ 400.1004 Accounts, records and reports.

(a) Zone accounts shall be maintained in accordance with generally accepted principles of accounting, and in compliance with the requirements of federal, State or local agencies having jurisdiction over the site or operation.

(b) Records and forms shall be prepared and maintained in accordance with the requirements of the Customs Service.

(c) Annual reports shall be made to the Board at the time and in the format prescribed by the Executive Secretary. These reports are used in the preparation of the Board's annual report to the Congress. The Board's report shall be prepared and submitted to the Congress by the Department of Commerce, with copies furnished to Board members upon its submission. (OMB Clearance 0625–0109)

§ 400.1005 Zones as public utilities.

The rates and charges for space, facilities and services within a zone shall be fair and reasonable, and the grantee shall afford uniform treatment under like conditions to all users. Subzone fees shall be related to actual services rendered or our-of-pocket expenses. When a report is made to the Board under Sec. 400.1002, the Board shall determine whether the rates and charges are fair and reasonable, unless an adjustment is made that eliminates the issue.

§ 400.1006 Inspection of zones.

In addition to the supervision of zones by Customs officials, representatives of the Board may inspect zones to determine whether its requirements are being met. Zone grantees and operators shall cooperate with such officials in obtaining access to facilities and records.

[Reserved]

§ 400.1100 [Reserved]

Violations of Act or Regulations

§ 400.1200 Fine imposed for violation of act or regulations.

In case of a violaltion of the Act or of any regulation under the Act by the grantee or operator, any officer, agent, or employee thereof responsible for

permitting any such violation shall be subject to a fine of not more than $1,000. Each day during which a violation continues shall constitute a separate offense.

§ 400.1201 Revocation of grant.

In the event of repeated willful violations by the grantee of any of the provisions of the Act, the Board may revoke the grant after 4 months' notice to the grantee and after affording it an opportunity to be heard. The testimony taken before the Board shall be reduced to writing and filed in the records of the Board, together with the decision reached thereon.

§ 400.1202 Procedure for revocation.

In the conduct of any proceeding for the revocation of a grant the Board may compel the attendance of witnesses, the giving of testimony, and the production of documentary evidence; and for such purposes may invoke the aid of the district courts of the United States.

§ 400.1203 Appeal from revocation order.

An order issued by the Board revoking the grant shall be final and conclusive, unless within 90 days after its service the grantee appeals to the circuit court of appeals for the circuit in which the zone is located by filing with the clerk of said court a written petition praying that the order of the Board be set aside. Such order shall be stayed pending the disposition of appellate proceedings by the court. The clerk of court shall notify the Board, which will furnish transcript of the record in the proceedings held before it, the charges, the evidence, and the order revoking the grant. The Board record on the matter shall be considered by the court as evidence.

Rules of Procedure and Practice

§ 400.1300 Board headquarters.

The headquarters and administrative office of the Board is the Office of the Executive Secretary, Foreign-Trade Zones Board, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

§ 400.1301 Executive Secretary: Functions and authority.

The Executive Secretary, who also serves as the principal operating official of the Board and director of the Commerce Department's Foreign-Trade Zones Staff, shall have the following functions and authority to:

(a) Represent the Board in administrative, regulatory, and operational matters.

(b) Execute and implement Board Orders and provisions of the Act and regulations.

(c) Make recommendations, and other zone matters requiring Board action.

(d) Provide information on the zone program to public officials, the business community, and the general public.

(e) Arrange for meetings of the Board.

(f) Maintain custody of the seal, records, files and correspondence of the Board.

(g) Designate an acting Executive Secretary to act in his absence.

(h) Authorize the movement of "zone-restricted merchandise" valued at less than $50,000 into Customs territory for entry subject to Customs regulations, upon determining that such entry is in the public interest, if such action is supported by a recommendation from the Commissioner of Customs, or his designee.

(i) Authorize modifications to zone boundaries not involving significant expansions of zone operations, with the prior concurrence of the District Director of Customs, pursuant to Section 400.605(b).

(j) Determine the uniform format and content of annual reports from zone grantees.

(k) Approve manufacturing operations pursuant to § 400.1309.

(l) Perform such other duties as the Board or its regulations direct.

§ 400.1302 Committee of Alternates.

Each member of the Board shall designate an Alternate, usually an Assistant Secretary-level official of his Department, to serve on the Committee of Alternates, with authority to act for him under Departmental delegations of authority. The Commerce member shall be chairman, and the participation of the Commerce and Treasury members shall be necessary for a quorum. The Committee may hold meetings or hearings, open or closed, or otherwise conduct Board business at the request of the chairman. Meetings of the Committee may be considered Board meetings under § 400.1303, when a quorum with "full authority" is present. A majority of members shall constitute a quorum.

§ 400.1303 Board meetings and the transaction of board decisionmaking.

(a) Meetings of the Board will be held at the call of the chairman. All members will be informed of meetings, with a majority constituting a quorum. The Commerce and Treasury members, or their Alternates, must be present for a quorum. Summary minutes shall be kept of meetings unless the Chairman determines there shall be detailed or verbatim record.

(b) At the option of the Chairman, the Board may conduct its business, including voting, without an actual meeting, provided that no Board member has requested one. When business is so conducted, Board members or their Alternates may communicate their views and recommendations by such means as telephone and memorandum, but their votes shall be made in writing and submitted to the Executive Secretary for entry in the voting record. The Department of the Army's participation shall be subject to § 400.202.

(c) Final votes shall be recorded and a voting record maintained.

§ 400.1304 Board decisions.

(a) Board decisions shall be made on the basis of the record developed in the case or matter under consideration. When public participation has been invited the record shall be public. The Board's decisions shall be made in the form of Board Orders.

(b) Applications for the establishment of new zones or subzones, or significant expansions of zone operations pursuant to § 400.605(a), shall be given public notice in the **Federal Register** with an opportunity for comments by the applicant and from the public. Such comments shall be a part of the record.

§ 400.1305 Applications—processing and decision-making procedure.

(a) Applications under §§ 400.600 and 400.605(a).

(1) Upon receipt of an application under §§ 400.600 or 400.605(a), the Executive Secretary shall determine whether it contains the information and is in the format required by the regulations, and upon making such a determination shall file the proposal and assign a docket number and date. An examiner, usually a Commerce employee, shall be designated to investigate the proposal and prepare a report.

(2) Formal notice shall be given in the **Federal Register** by the Executive Secretary concerning the filing, inviting comments for the record from the applicant and the public. Public notice shall be given by applicants in local newspapers once they have been notified their application has been filed. A copy of the formal notice and application shall be sent by the Executive Secretary to the District Director of Customs and the Resident Member BERH.

(3) The Regional Commissioner, or his designee, shall submit a report on the Customs aspects of the proposal to the examiner to be made a part of the latter's report within 30 days after the record closes.

(4) The Resident Member BERH in consultation with the Executive Secretary shall determine whether the involvement of the District Engineer is appropriate, usually based upon an issue concerning the proposed site or operation over which Department of the Army has independent jurisdiction; and, when appropriate, the Resident Member BERH shall instruct the District Engineer as to the functions he is to perform, reports to be submitted to the Executive Secretary within 30 days of the closing of the application record.

(5) When the proposal is for a new zone project, a local public hearing will usually be scheduled as part of the examiner's investigation and announced in the **Federal Register** and local newspapers. The Customs adviser and the District Engineer, when appropriate, shall be invited to participate in such hearings.

(b) Other applications requiring a formal board decision.

(1) Applications, proposals and requests made to the Board for a decision, other than those referred to in §§ 400.600 or 400.605(a) shall be reviewed by the Executive Secretary for filing sufficiency, and if found in filing order shall be filed and assigned a docket number and date.

(2) Public notice shall be given in the **Federal Register** when public comments are appropriate, and the District Director and Resident Member BERH notified.

(3) An examiner may be designated, unless a report by the Executive Secretary or the Foreign-Trade Zones Staff is appropriate. A report shall be prepared for the Board by the Executive Secretary or the examiner.

(4) The Regional Commissioner or his designee shall submit comments, when appropriate.

(c) Applications not requiring formal board action.

(1) Applications not requiring formal Board action, such as those submitted under § 400.605(b), shall be processed by the Executive Secretary in accordance with these regulations.

(2) An administrative file of these cases shall be maintained.

§ 400.1306 Reports on proposals or requests for board decisions.

(a) Reports prepared by an examiner or by the Executive Secretary in a case or matter requiring a Board decision, and any advisory reports submitted as part of the process, shall contain findings of fact and non-binding recommendations for Board action.

(b) The reports shall be considered internal documents subject to release under the provisions of the Freedom of Information Act or by the Chairman of the Committee of Alternates.

§ 400.1307 Authorization for investigations and hearings.

(a) The Board, the Committee of Alternates, their Chairmen, the Executive Secretary, or an examiner may conduct or direct reviews, investigations, or hearings, closed or public, in order to obtain information and evidence needed for decisions or recommendations. The Board or Committee of Alternates Chairman may order the presentation of testimony or records when appropriate.

(b) When a public hearing is held, notice shall be given in the **Federal Register** and parties having a proper interest in the subject matter shall be given an opportunity to appear and submit oral or written testimony. Applicants will normally be the first parties to appear, followed by their witnesses, after which other interested parties may be called. The presiding officer may adopt time limitations. When appropriate, such hearings shall be transcribed and the transcript made available for public inspection as part of the public record.

§ 400.1308 Revocations, nullifications, and relinquishments of grants.

(a) Proceedings by the Board to revoke a zone or subzone grant of authority are subject to the procedures in §§ 400.1200–400.1203.

(b) Zone or subzone grants of authority may become null and void under § 400.700(a)(2) or be so declared under § 400.700(a)(6).

(c) Voluntary relinquishments of zone grants may be approved by the Board. If the zone has been in operation, users will be given an opportunity to comment on the proposal and the Board will consider the impact on users.

§ 400.1309 Requests for new manufacturing operations within approved zones and subzones.

(a) Zone grantees or operators, when authorized to do so by grantees, are required to notify the Executive Secretary pursuant to § 400.700(a)(1) for approval prior to the commencement of any manufacturing operations not approved as part of the application for the zone or subzone in which the operations are to be located. The guidance of the Customs Service shall be sought in determining whether an operation involves manufacture, and the factors enumerated in § 400.807(b) shall be considered.

(b) The purpose of the review or investigation conducted or directed by the Executive Secretary in these situations is to determine whether the operation in question is one that could or is likely to be the subject of a complaint to the Board under § 400.807, the "public interest" provision.

(c) If the proposed manufacturing operation involves a product that has been the subject of a past complaint resulting in restrictive Board action, or involves an "import sensitives" industry, the proposal shall not be approved without the concurrence of the Board, unless the manufacturing is for export only. Such concurrence may be given on a general basis to apply to like cases. In determining whether an industry is "import-sensitive", trade laws and regulations, and decisions of federal courts and agencies shall be referred to for guidance. When appropriate, public notice shall be given inviting comments and a hearing scheduled.

(d) When a product involved is subject a quantitative quota program, such as textiles, the Executive Secretary shall invite comments from the federal agency that administers the quota program.

(e) If the product involved is subject to special controls, such as petroleum, or under any other special circumstances, the Executive Secretary may make his action subject to the concurrence of the Board.

(f) Approvals or denials in these cases shall be made in a letter to the grantee. Denials may be appealed to the Board Approvals shall not preclude the filing of a complaint by an industry under § 400.807.

§ 400.1310 Ex parte evidence.

In making decisions in cases and on matters involving a public record the Board shall not consider *ex parte* evidence and arguments. If new information or evidence that could substantially affect a decision becomes known after the closing of the public record, and there is good cause why it was not submitted earlier, the record may be reopened by the Secretary, his Alternate, or the Executive Secretary so that interested parties have an opportunity to comment or submit evidence on the new information or evidence.

§ 400.1311 Additional or special rules of procedure and practice.

Additional or special rules of procedure and practice may be adopted by the Board when appropriate.

Public Information

§ 400.1400 Policy.

It is the policy of the Foreign-Trade Zones Board, consistent with the purposes of the Foreign-Trade Zones

Act and the role of the Board as a regulatory agency, to furnish the public with information pertaining to the establishment, operation and administration of foreign-trade zones in the United States, except such information as is exempted from disclosure under 5 U.S.C. 552, as amended.

§ 400.1401 Public information activities.

The Executive Secretary of the Board shall conduct the following public information activities of the Board:

(a) Preparation and release of material published by or for the Board, including public announcements, items for publication in the **Federal Register**, news releases, and reports.

(b) Clearance for release of informational material from other agencies referred to the Board for review.

(c) Release of general information pertaining to Board activities, rules and regulations and, at his discretion, information contained in Board records as necessary to further the regular information dissemination activities of the Board.

§ 400.1402 Availability of materials for inspection and copying.

(a) The Board shall utilize the facilities and services of the International Trade Administration Freedom of Information Records Inspection Facility, U.S. Department of Commerce, 14th and Pennsylvania, NW., Washington, D.C. 20230 (FOI facility), to make available for public inspection and copying the materials required by 5 U.S.C. 552(a)(2).

(b) Rules and procedures concerning the availability of materials and records for inspection and copying, and requirements for public inspection of records through the FOI facility are contained in Part 4 of this title.

§ 400.1403 Requests for identifiable records.

The Board will utilize the facilities and services of the FOI facility to make available for public inspection and copying identifiable records which have been determined to be disclosable pursuant to 5 U.S.C. 552(a)(3).

§ 400.1404 Determinations of availability of records.

In accordance with the rules and procedures of the FOI facility, a request for the determination of availability of a record of the Board will be referred to the Executive Secretary who shall comply with the procedures of Part 4 of this title.

400.1405 Security information.

Nothing in the regulations in §§ 400.1400–400.1405 should be construed to modify or supersede laws, rules, and regulations governing the release of information classified as security information.

Dated: December 29, 1982.

Lawrence J. Brady,

Assistant Secretary for Trade Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.

[FR Doc. 83-4275 Filed 2-17-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

[Docket No. 79N-0147]

Quality Assurance in Nuclear Medicine; Withdrawal of Notice of Intent for Reconsideration

Correction

In FR Doc. 83-883 beginning on page 1734 in the issue of Friday, January 14, 1983, make the following correction:

On page 1735, first column, 13 lines from the top of the page, "(secs. 356, . . ." should have read "(secs. 356, 358, . . .".

BILLING CODE 1505-01-M

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21 CFR Part 131

[Docket No. 83N-0010]

Butter and Whey Butter; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard of Identity

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the "Recommended International Standard for Butter and Whey Butter" (Codex Standard No. A-1) and to comment on the desirability of and need for U.S. standards of identity for these foods. The Codex standard was submitted to the United States for consideration of acceptance by the Food and Agriculture Organization/World Health Organization's Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, a subsidiary body of the Codex Alimentarius Commission. If the comments received do not support the need for U.S. standards of identity for these foods, FDA will not propose standards.

DATE: Comments by April 19, 1983.

ADDRESS: Written comments, data, or other information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. Codex standards for milk and milk products, including butter and whey butter, are developed by the FAO/WHO Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, a subsidiary body of the Codex Alimentarius Commission. Under the FAO/WHO program, a large number of food standards have been developed and submitted to governments for acceptance.

As a member of the Codex Alimentarius Commission, the United States is under treaty obligation to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country which concludes that it will not accept a Codex standard is requested to indicate the ways in which the requirements of the nonaccepting country differ from the recommended international standard. Member nations of the FAO/WHO Codex Alimentarius Commission are requested to notify the Technical Secretary, Committee on the Code of Principles Concerning Milk and Milk

Products, Animal Production and Health Division, FAO, Rome, Italy, of their decision. Should a sufficient number of governments accept the standard, the Secretariat of the Committee will notify the Codex Alimentarius Commission and request the publication of the standard by the Codex Alimentarius Commission as a worldwide standard in light of acceptances received.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies, it is necessary either to establish a U.S. standard under authority of section 401 of the act (21 U.S.C. 341), or to revise an existing standard to incorporate the provisions within the standard. At present, there are no U.S. standards of identity for butter and whey butter. Butter, however, is defined in section 201a of the act (21 U.S.C. 321a), as follows:

> For the purpose of this chapter 'butter' shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 per centum by weight of milk fat, all tolerances having been allowed for.

There is no comparable U.S. definition for whey butter.

Under the procedure prescribed in § 130.6(b)(3) (21 CFR 130.6(b)((3)), FDA is providing an opportunity for review and informal comment on: (1) The desirability of and need for U.S. standards of identity for butter and whey butter, (2) the specific provisions of the Codex standard, (3) additional or different requirements that should be in the U.S. standards of identity, if established, and (4) any other pertinent points.

FDA advises that, if comments received do not support the need for U.S. standards of identity for these foods, no standards will be proposed. If this decision is reached, the Technical Secretary for the Committee on the Code of Principles Concerning Milk and Milk Products will be informed that imported foods which comply with the requirements of the Codex standard may move freely in interstate commerce in this country, providing they comply with the applicable U.S. laws and regulations.

Because of the large number of countries, often with diverse food regulations, that are associated with the development of Codex standards, certain provisions of the Codex standards may not be consistent with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, certain basic labeling requirements such as declaration of the net quantity of contents, name of manufacturer, and country of origin, and other factors. These factors are not considered a part of U.S. food standards under section 401 of the act; rather, they are dealt with under the authority of other sections of the act.

The Codex standard for butter and whey butter specifies analytical methods by which compliance with certain provisions is to be determined. As stated in 21 CFR 2.19, FDA's policy is to employ the methods in the latest edition of "Official Methods of Analysis of the Association of Official Analytical Chemists," when these are available, in preference to other methods. FDA will adhere to this policy in any U.S. standard of identity proposed under this notice.

Under § 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

List of Subjects in 21 CFR Part 131

Cream, Food standards, Milk, Yogurt.

The Codex standard under consideration is as follows:

Recommended International Standard for Butter and Whey Butter (Codex Standard No. A-1)

1. *Definitions:*

1.1 *Butter* is a fatty product exclusively derived from milk.

1.2 *Whey butter* is a fatty product derived from whey containing no other fat than milkfat.

2. *Essential Composition and Quality Factors:*

2.1 Minimum milkfat content: 80% m/m.

2.2 Maximum milk solids-not-fat content: 2% m/m.

2.3 Maximum water content: 16% m/m.

2.4 *Additions:*

2.4.1 Sodium chloride.

2.4.2 Cultures of harmless lactic acid producing bacteria.

3. *Food Additives:*

3.1 *Food Colours and Maximum Level:*

3.1.1 Annatto [1]—Not limited.

3.1.2 Beta-Carotene—Not limited.

3.1.3 Curcumin [1]—Not limited.

3.2 *Neutralizing Salts, Use, and Maximum Level:*

3.2.1 Sodium ortho-phosphate; the addition of these salts is restricted for the pE adjustment; 0.2% m/m singly or in combination expressed as anhydrous substances.

3.2.2 Sodium carbonate; the addition of these salts is restricted for the pE adjustment; 0.2% m/m singly or in combination expressed as anhydrous substances.

3.2.3 Sodium bicarbonate; the addition of these salts is restricted for the pE adjustment; 0.2% m/m singly or in combination expressed as anhydrous substances.

3.2.4 Sodium hydroxide; the addition of these salts is restricted for the pE adjustment; 0.2% m/m singly or in combination expressed as anhydrous substances.

3.2.5 Calcium hydroxide; the addition of these salts is restricted for the pE adjustment; 0.2% m/m singly or in combination expressed as anhydrous substances.

4. *Labelling:*

In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CAC/RS 1-1969), the following specific provisions apply:

4.1 *The Name of the Food:*

4.1.1 The name of the product shall be "butter" or "whey butter" as appropriate.

4.1.2 Where milk other than cow's milk is used for the manufacture of the product or any part thereof, a word or words denoting the animal or animals from which the milk has been derived should be inserted immediately before or after the designation of the product except that no such insertion need be made if the consumer would not be misled by its omission.

4.1.3 Butter may be labelled as to whether it is salted or unsalted according to national legislation.

4.2 *Net Contents:*

4.2.1 The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the food is sold.

4.3 *Name and Address:*

4.3.1 The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the food shall be declared.

4.4 *Country of Origin (Manufacture):*

4.4.1 The country of manufacture of the food shall be declared except that foods sold within the country of

[1] Temporarily endorsed by the Codex Committee on Food Additives.

manufacture need not declare the country of manufacture.

4.4.2 Where a food undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purpose of labelling.

5. *Methods of Sampling and Analysis:*

5.1 Sampling: according to FAO/WEO Standard 3.1, "Sampling Methods for Milk and Milk Products", paragraphs 2 and 6.

5.2 Determination of the acid value: according to FAO/WHO Standard 3.4, "Determination of the Acid Value of Fat from Butter".

5.3 Determination of the refractive index: according to FAO/WHO Standard 3.5, "Determination of the Refractive Index of Fat from Butter".

5.4 Determination of the salt content: according to FAO/WEO Standard 3.8, "Determination of the Salt (Sodium Chloride) Content of Butter".

5.5 Determination of water, solids-not-fat and fat content: according to FAO/WHO Standard 3.9, "Determination of water, solids-not-fat and fat contents of butter on one test portion". (Method being developed).)

Interested persons may, on or before April 19, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Each comment should identify the title of the Codex standard and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m, Monday through Friday.

Any comments submitted in support of establishing U.S. standards for butter and/or whey butter should be supported by appropriate information and data regarding impact on small business consistent with the provisions of the Regulatory Flexibility Act (Pub. L. 96–354). (Executive Order 12291 does not apply to regulations subject to the procedures for formal rulemaking in the Administrative Procedure Act (5 U.S.C. 556, 557). Food standards promulgated under 21 U.S.C. 341 and 371(e) fall under this exemption.)

Dated: February 3, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-4197 Filed 2-17-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 82N-0246]

Ascorbic Acid and Its Sodium and Calcium Salts, Erythorbic Acid and Its Sodium Salt, and Ascorbyl Palmitate; Proposed Affirmation of GRAS Status and Removal of Calcium Ascorbate From the List of GRAS Ingredients

Correction

In FR Doc. 83–881 beginning on page 1735 in the issue of Friday, January 14, 1983, make the following corrections:

1. On page 1735, first column, 11 lines from the bottom of the page, "(L-" should have read "L-".

2. On the same page, second column, under **SUPPLEMENTARY INFORMATION,** in the 12th line, "erythorbic acid isoascorbic acid)" should have read "erythorbic acid (D-isoascorbic acid)".

3. On page 1736, middle column, in footnote 2 at the bottom of the page, fourth line, "Live Sciences" should have read "Life Sciences".

4. Same page, third column, fourth complete paragraph, fourth line, "administered (L-ascorbid acid," should have read "administered L-ascorbic acid,".

5. On page 1738, first column,

"§ 182.3041 [Removed]

"b. By removing § 182.3043 *Erythorbic acid.*"

should have read

"§ 182.3041 [Removed]

"b. By removing § 182.3041 *Erythorbic acid*"

BILLING CODE 1505-01-M

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21 CFR Parts 182 and 184

[Docket No. 78N-0308]

Biotin; Proposed Affirmation of GRAS Status

Correction

In FR Doc. 83–880 beginning on page 1739 in the issue of Friday, January 14, 1983, make the following correction:

On page 1740, third column, in the third complete paragraph, fifth line, "50μg" should have read "50mg".

BILLING CODE 1505-01-M

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21 CFR Parts 182 and 184

[Docket No. 80N-0389]

Calcium Pantothenate, Sodium Pantothenate, and D-Pantothenyl Alcohol; Affirmation of GRAS Status of Calcium Pantothenate as a Direct Human Food Ingredient and Removal of Sodium Pantothenate and D-Pantothenyl Alcohol From GRAS Status

Correction

In FR Doc. 83–879 beginning on page 1742 in the issue of Friday, January 14, 1983, make the following corrections:

1. On page 1743, middle column, third complete paragraph, fourth line, "DL– or DL–" should have read "D– or DL–".

2. On the same page, third column, in the last paragraph, eighth line from the bottom of the page, "186(b)(1)" should have read "186.1(b)(1)". In the same column, in footnote 5, "Chumg" should have read "Chung".

BILLING CODE 1505-01-M

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21 CFR Parts 182 and 184

[Docket No. 81N-0329]

Vitamin A; Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient

Correction

In FR Doc. 83–1057 beginning on page 1745 in the issue of Friday, January 14, 1983, make the following corrections:

1. On page 1747, third column, 10 lines from the bottom of the page "υ-" should have read "γ-".

2. On page 1750, third column, 25 lines from the top of the page, "hypervitaminosis" should have read "hyperostosis".

3. On page 1756, first column, 18 lines from the bottom of the page, "per ky" should have read "per kg".

BILLING CODE 1505-01-M

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21 CFR Part 357

[Docket No. 82N-0165]

Orally Administered Menstrual Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

Correction

In the correction appearing on page 1758 of the issue for Friday, January 14, 1983, the fourth entry should have read:

4. On page 55083, the middle column, the sixth line from the bottom, the word "dosage" should read "dose".

BILLING CODE 1505-01-M

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21 CFR Part 740

[Docket No. 76N-0486]

Bubble Bath Products Label Warning; Proposed Stay of Effective Date, and Request for Comments, Data and Information

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed stay of effective date of a final rule and request for comments, data and information.

SUMMARY: The Food and Drug Administration (FDA) is proposing to stay the effective date of a regulation requiring a caution statement on labels of cosmetic bubble bath products and is reconsidering the regulation. The agency is inviting the submission of comments, data, and other information on how consumers may effectively be protected from irritation to the skin and urinary tract that might result from the misuse of cosmetic bubble bath products.

DATE: Comments, data, and other information by April 19, 1983.

ADDRESS: Comments, data, and information identified with the docket number in the heading above may be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Heinz J. Eiermann, Bureau of Foods (HFF-440), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1530.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, FDA is announcing an interim stay of the bubble bath products label warning regulation pending a final decision on this proposed stay.

In the **Federal Register** of August 19, 1980 (45 FR 55172), FDA published a final regulation (21 CFR 740.17) requiring that labels of bubble bath products bear a prescribed caution statement and provide adequate directions for their safe use. The statement cautions that excessive use or prolonged exposure may cause irritation to skin and the urinary tract, and it urges consumers to discontinue use if rash, redness, or itching occurs and to consult a physician if irritation persists.

The caution statement and directions for safe use required by this regulation were proposed in the **Federal Register** of January 28, 1977 (42 FR 5368) in response to consumer complaints and reports in the medical literature of adverse reactions, including urogenital disorders, associated with the use of bubble bath products. FDA stated that, under certain conditions of use, particularly conditions of misuse, alkylarylsulfonate and other detergents serving as foaming agents in bubble bath products are capable of causing rash, redness, or itching of the skin or mucous membrane and, in severe cases, inflammation or infection. The medical and consumer reports of adverse reactions and the scientific data on which the agency based its proposed label warning requirement are cited in the preamble to the January 28, 1977 proposed regulation. The preamble to the August 19, 1980 final rule contains a full discussion of the issues raised in the 85 comments received in response to the proposed regulation.

On April 17, 1981, the Cosmetic, Toiletry, and Fragrance Association, Inc. (CTFA), petitioned FDA to revoke the bubble bath label caution requirement (21 CFR 740.17) and, while FDA considered the merits of this petition, stay the effective date of the regulation.

CTFA made the following argument:

1. Administration policy (as exemplified by Executive Order 12291) supports a stay and withdrawal of the regulation in question, which places an unnecessary burden on industry.

2. FDA label warning regulations are justified only for material risks, which CTFA argued do not exist for bubble bath products.

3. Unnecessary warnings on bubble bath products would undermine the value of warnings on other products that do present serious risks.

4. FDA failed to address important comments in the **Federal Register** notice promulgating the final regulation.

5. FDA drew overly broad and irrational inferences from the record.

6. Requirement of a warning for all bubble bath products destroys manufacturers' incentives to develop less irritating products.

7. The regulation should be stayed to avoid unnecessary costs to manufacturers, many of which are small companies.

A similar petition requesting the same actions and stating essentially the same grounds was received on June 6, 1981, from the Independent Cosmetic Manufacturers and Distributors.

FDA is still concerned about the adverse effects on children of bubble bath products when not properly used. The agency has concluded, however, that the petitions raise issues that merit consideration. FDA has, therefore, decided to propose to stay the effective date of the regulation while reconsidering it. FDA wishes to receive comments on the proposed stay and information that will help the agency consider alternative ways of informing consumers of the risks associated with bubble bath products by means other than a regulatory requirement of a caution statement and directions for safe use on all bubble bath products.

Among possible alternatives to be considered is a revision in the regulation to impose such a requirement only on bubble bath products intended for use by children. Most adverse reactions, particularly urogenital reactions, associated with bubble bath products occur in children. Although the available data show that some adverse reactions have been associated with bubble bath products marketed for adult use, it is not clear whether the products caused the reported reactions in adults or in children. FDA invites submission of comments, data, and other information about this issue and about whether a revised regulation applicable only to products intended for use by children will provide adequate consumer protection taking into account the possibility of use (or misuse) of adult products for children's baths.

In addition, consistent with the purposes of Executive Order 12291, FDA will consider the possibility that the protection of consumers intended to be accomplished by the required caution statement and adequate directions for safe use may be achieved equally well by means other than regulatory requirements. Interested persons are invited to submit comments, data, and other information on this issue.

Any submission recommending an alternative regulatory approach should be accompanied by factual support for the alternative along with an explanation of how the alternative can achieve effective consumer protection. Further, FDA requests the submission of information on the costs that would be associated with the label requirements in the final regulation and with any alternatives suggested in comments.

As discussed in a notice in the **Federal Register** of July 5, 1982 (47 FR 29004), the agency is undertaking a systematic review of its existing rules for the purpose of identifying and eliminating any unnecessary regulatory burdens on the public as required by the Regulatory Flexibility Act (Pub. L. 96-354) and the Executive Order 12291. Among the regulations included for the agency's priority review is the regulation for bubble bath products. The agency emphasizes that this review will be completed promptly upon evaluation of

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the comments and data received in response to this proposed interim stay of the regulation. At that time, FDA will determine what action to take, i.e., whether to stay the regulation, put it into effect at a future date to be set, propose to revoke the regulation and take no other action, propose to revoke the regulation while proposing a revised regulation, or do something else. This determination will be the subject of a future document.

Therefore, under 21 CFR 10.35 and the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 602(a), 701(a), 52 Stat. 1041 as amended, 1054, 1055 (21 U.S.C. 321(n), 362(a), 371(a))) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that § 740.17 *Bubble bath products* be stayed pending a final decision on this proposal.

Interested persons may, on or before April 19, 1983, submit to the Dockets management Branch (address above), written comments, data, and other information regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 4, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83-4187 Filed 2-17-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1907

[Docket No. S-105]

Accreditation of Testing Laboratories; Extension of Comment Period

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for written comments and information requested in the advance notice of proposed rulemaking: "Accreditation of Testing Laboratories" (48 FR 270, January 4, 1983).

DATES: Written comments and information should be postmarked on or before March 15, 1983.,

ADDRESS: The written comments and information should be submitted in quadruplicate to the Docket Office, Docket No. S-105, Room S-6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Director, Office of Information, and Consumer Affairs, Room N3637, U.S. Department of Labor—OSHA, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8151.

SUPPLEMENTARY INFORMATION: On January 4, 1983, OSHA published in the **Federal Register** (48 FR 270) a notice, "Accreditation of Testing Laboratories," announcing its plan to revise its regulation (of the same name) at 29 CFR Part 1907.

In the notice, OSHA solicited information regarding the content, scope and format of a complete revision of 29 CFR Part 1907 and complementary changes to 29 CFR Part 1910. The written responses were to have been postmarked on or before February 15, 1983.

OSHA has received several requests to extend the comment period. In order to ensure that interested parties have sufficient time to prepare and submit information, comments and regulatory proposals related to this subject, as requested and encouraged by OSHA in the notice, OSHA has decided to extend the written comment period to March 15, 1983.

(Secs. 6 and 8, 84 Stat. 1593, 1600 (29 U.S.C. 655, 657); Sec. 107, 83 Stat. 96 (40 U.S.C. 333); 5 U.S.C. 553; 29 CFR part 1911; Secretary of Labor's Order No. 8-76 (41 FR 25059)

Signed at Washington, D.C., this 14th day of February 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-4110 Filed 2-17-83; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Withdrawal of Proposed Notice to Lessees and Operators of Federal Oil and Gas Leases in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Withdrawal of a proposed Notice to Lessees and Operators.

SUMMARY: The Minerals Management Service (MMS) published in the **Federal Register** on June 8, 1982 (47 FR 24752), a proposed Notice to Lessees and Operators (NTL) of Federal oil and gas leases in the Outer Continental Shelf (OCS) concerning the establishment of standardized requirements for shallow hazards surveys and subsequent analyses conducted prior to OCS exploratory drilling. A careful review and analysis of the comments received indicated that a national standardization of technical requirements for shallow hazards surveys on the OCS is not feasible. The proposed national NTL is being withdrawn.

SUPPLEMENTARY INFORMATION: Comments on the proposed OCS-wide shallow hazards NTL were received from 24 respondents from the oil and gas industry, State agencies, and environmental groups. The MMS appreciates the efforts of all commenters in responding to the proposed NTL. Comments were almost entirely negative, with objections raised to both technical and conceptual aspects.

A careful review and analysis of the comments received indicated that due to variations from region to region in water depth, climate, coastal environment, seabottom morphology, subbottom geologic structure, type of drilling required, and supporting infrastructure, a national standardization of technical requirements for shallow hazards surveys on the OCS is not feasible. Thus, the proposed national NTL is being withdrawn. The MMS will no longer pursue the concept of a national shallow hazards NTL.

It should be noted that a shallow hazards NTL's issued by the MMS regional offices are still in effect, although modifications to these regional NTL's may be necessary for compliance with the Department's streamlined OCS leasing program. Also, the Department of the Interior's new hazards analysis program as described in the Background section of the **Federal Register** Notice (47 FR 24751) is being implemented.

FOR FURTHER INFORMATION CONTACT: Wing L. Gee, Branch of Geologic and Geophysical Studies, Minerals Management Service, Reston, Virginia 22091, (703) 860-7571 or FTS 928-7571.

Dated: February 3, 1983.

Robert L. Rioux,

Associate Director for Offshore Minerals Management.

[FR Doc. 83-3856 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-MR-M

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1656 and 1660

Selective Service Regulations; Alternative Service

AGENCY: Selective Service System.

ACTION: Proposed rule.

SUMMARY: Procedures to implement the program of alternative service under section 6(j) of the Military Selective Service Act (50 U.S.C. App. 456(j)) are revised to assure greater fairness and efficiency in its administration.

DATES: Comment Date: Written comments received on or before March 25, 1983 will be considered. Effective date: Subject to the comments received the amendments are proposed to become effective upon publication in the Federal Register of a final rule not earlier than March 25, 1983.

ADDRESS: Written comment to: Selective Service System, ATTN: General Counsel, Washington, D.C. 20435.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435 Phone: (200) 724–1167.

SUPPLEMENTARY INFORMATION: These amendments to Selective Service Regulations are published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)). These Regulations implement section 6(j) of the Military Selective Service Act (50 U.S.C. App. 456(j)). This proposal replaces the proposal appearing at 47 FR 24599 (June 7, 1982) and the proposal appearing at 47 FR 43079 (September 30, 1982).

Various sections of 32 CFR Chapter XVI will be revised in separate rule making to bring them in consonance with this proposed rule.

The Proposed Concept of Alternative Service (46 FR 6998, January 22, 1981) has no stature and should not be considered in interpreting this proposal.

Interested persons are invited to submit written comments on the proposed regulations. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the General Counsel from 9:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612). I have determined that these regulations do not have significant economic impact on a substantial number of small entities.

List of Subjects in 32 CFR Part 1656

Armed forces—draft, Conscientious objection.

Dated: February 14, 1983.

Thomas K. Turnage,

Director.

PART 1660—[REMOVED]

32 CFR Part 1660, Alternate Service, is removed.

32 CFR Part 1656 is added to read as follows:

PART 1656—ALTERNATIVE SERVICE

Sec.

1656.1 Purpose; definitions.
1656.2 Order to perform alternative service.
1656.3 Responsibility for administration.
1656.4 Alternative service office: Jurisdiction and authority
1656.5 Eligible employment.
1656.6 Overseas assignments.
1656.7 Employer responsibilities.
1656.8 Employment agreements.
1656.9 Alternative service worker's responsibilities.
1656.10 Job placement.
1656.11 Job performance standards and sanctions.
1656.12 Job reassignment.
1656.13 Review of alternative service job assignments.
1656.14 Postponement of reporting date.
1656.15 Suspension of order to perform alternative service because of hardship to dependents.
1656.16 Early release—Grounds and procedures.
1656.17 Administrative complaint process.
1656.18 Computation of creditable time.
1656.19 Completion of alternative service.
1656.20 Expenses for emergency medical care.

Authority: Sec. 6(j) Military Selective Service Act; 50 U.S.C. App. 456(j).

§ 1656.1 Purpose; definitions.

(a) The provisions of this part govern the administration of registrants in Class 1–W and the Alternative Service Program.

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(1) "Alternative Service (AS)." Civilian work performed in lieu of military service by a registrant who has been classified in Class 1–W.

(2) "Alternative Service Office (ASO)." An office to administer the Alternative Service Program in a specified geographical area.

(3) "Alternative Service Office Manager (ASOM)." The head of the ASO.

(4) "Alternative Service Work." Civilian work which contributes to the maintenance of the national health, safety or interest, as the Director may deem appropriate.

(5) "Alternative Service Worker (ASW)." A registrant who has been found to be qualified for service and has been ordered to perform alternative service (Class 1–W).

(6) "Civilian Review Board." A board to review appeals by ASWs of job assignments.

(7) "Creditable Time." Time that is counted toward an ASW's fulfillment of his alternative service obligation.

(8) "Director." The Director of Selective Service, unless used with a modifier.

(9) "Employer." Any institution, firm, agency or corporation engaged in lawful activity in the United States, its territories or possessions, or in the Commonwealth of Puerto Rico, that has been approved by Selective Service to employ ASWs.

(10) "Job Assignment." A job with an eligible employer to which an ASW is assigned to perform his alternative service.

(11) "Job Bank." A current inventory of alternative service job openings.

(12) "Job Matching." A comparison of the ASW's work experience, education, training, special skills, and work preferences with the requirements of the positions in the job bank.

(13) "Job Placement." Assignment of the ASW to alternative service work.

(14) "Open Placement." The assignment of ASW's without employer interview to employers who have agreed to employ all ASWs assigned to them up to an agreed number.

§ 1656.2 Order to perform alternative service.

The local board of jurisdiction shall order any registrant who has been classified in Class 1–O–Q to perform alternative service at a time and place to be specified by the Director.

§ 1656.3 Responsibility for administration.

(a) The Director in the administration of the Alternative Service Program shall establish and implement appropriate procedures to:

(1) Assure that the program complies with the Selective Service Law;

(2) Provide information to ASWs about their rights and duties;

(3) Find civilian work for ASWs;

(4) Place ASWs in jobs approved for alternative service;

(5) Monitor the work performance of ASWs placed in the program;

(6) Order reassignment and authorize job separation;

(7) Issue certificates of completion;

(8) Specify the location of Alternative Service Offices;

(9) Specify the geographical area in which the ASOs shall have jurisdiction over ASWs;

(10) Establish Civilian Review Boards and panels and provide for the selection and appointment of members thereof;

(11) Refer to the Department of Justice, when appropriate, any ASW who fails to perform satisfactorily his alternative service;

(12) Perform all other functions necessary for the administration of the Alternative Service Program; and

(13) Delegate any of his authority to such office, agent or person as he may designate and provide as appropriate for the subdelegation of such authority.

(b) The Region Director shall be responsible for the administration and operation of the Alternative Service Program in his Region as prescribed by the Director.

(c) The State Director shall perform duties for the administration and operation of the Alternative Service Program in his State as prescribed by the Director.

(d) The ASOM shall perform duties for the administration and operation of the Alternative Service Program as prescribed by the Director.

(1) The ASO shall be an office of record that is responsible for the administration and operation of the Alternative Service Program in its assigned geographical area of jurisdiction.

(2) The staff of each ASO shall consist of as many compensated employees as shall be authorized by the Director.

(3) Appointment of civilians to ASO positions requiring direct dealing with ASWs will be made as soon as feasible.

(e) The manager of an area office shall perform duties for Alternative Service as prescribed by the Director.

§ 1656.4 Alternative service office: Jurisdiction and authority.

(a) Jurisdiction over the ASW will be transferred from the area office immediately after his classification in Class 1-W to the ASO that administers the Alternative Service Program in the area in which he is assigned to perform alternative service.

(b) The ASO shall:

(1) Evaluate and approve jobs and employers for Alternative Service;

(2) Order the ASW to report for alternative service work;

(3) Issue such orders as are required to schedule the ASW for job interviews;

(4) Issue such orders as are required to schedule the ASW for job placement;

(5) Monitor the ASW's job performance;

(6) Issue a certificate of satisfactory completion of the ASW's Alternative Service obligation;

(7) Return the ASW to the jurisdiction of the area office from which he was directed to perform Alternative Service; and

(8) Perform such other actions the Director may authorize as necessary to administer the Alternative Service Program.

§ 1656.5 Eligible employment.

(a) The Director will determine in accordance with the Selective Service Law which civilian employment programs or activities are appropriate for Alternative Service work.

(1) Employer which are considered appropriate for Alternative Service assignments are limited to:

(i) The U.S. Government or a state, territory or possession of the United States or a political subdivision thereof, the District of Columbia or the Commonwealth of Puerto Rico;

(ii) Organizations, associations or corporations primarily engaged either in a charitable activity conducted for the benefit of the general public or in carrying out a program for the improvement of the public health, welfare or environment, including educational and scientific activities in support thereof, when such activity or program is not principally for the benefit of the members of such organization, association or corporation or for increasing the membership thereof.

(2) Employment programs or activities generally considered to be appropriate for Alternative Service work include:

(i) Health care services, including but not limited to hospitals, nursing homes, extended care facilities, clinics, mental health programs, hospices, community outreach programs and hotlines;

(ii) Educational services, including but not limited to teachers, teacher's aids, counseling, administrative support, parent counseling, recreation, remedial programs and scientific research;

(iii) Environmental programs, including but not limited to conservation and firefighting, park and recreational activities, pollution control and monitoring systems, and disaster relief;

(iv) Social services, including but not limited to sheltered or handicapped workshops, vocational training or retraining programs, senior citizens activities, crisis intervention and poverty relief;

(v) Community services, including but not limited to fire protection, public works projects, sanitation services, school or public building maintenance, correctional facility support programs, juvenile rehabilitation programs, and

(vi) Agricultural work.

(b) An organization desiring to employ ASWs is encouraged to submit a request in writing to the Director or an ASOM for approval. Such requests will be considered at any time.

(c) Selective Service shall negotiate employment agreements with prospective employers with the objective of obtaining an adequate number of agreements to assure the timely placement of all ASWs. Participating employers will provide prospective job listings to Selective Service.

(d) Selective Service shall also negotiate employment agreements with eligible employers wherein the employer will agree to hire a specified number of ASWs for open placement positions.

(e) As soon as a registrant is classified I-O-Q, he may seek his own alternative service work by identifying a job with an employer he believes would be eligible for Alternative Service and by having the employer advise the ASO in writing that he desires to employ the ASW. The acceptability of the job and employer so identified will be evaluated in accordance with § 1656.5 (a) of this part.

§ 1656.6 Overseas assignments.

Alternative Service job assignments outside the United States, its territories or possessions of the Commonwealth of Puerto Rico, will be allowed when:)

(a) The employer is deemed eligible to employ ASWs and is based in the United States, its territories or possessions, or the Commonwealth of Puerto Rico;

(b) The job meets the criteria listed in 1656.5(a);

(c) The ASW and the employer submit a joint application to Selective Service for the ASW to be employed in a specific job;

(d) The employer satisfies Selective Service that the employer has the capability to supervise and monitor the overseas work of the ASW; and

(e) International travel is provided without expense to Selective Service.

§ 1656.7 Employer responsibilities.

Employers participating in the Alternative Service Program are responsible for:

(a) Complying with the employment agreement with Selective Service;

(b) Providing a clear statement of duties, responsibilities, compensation and employee benefits to the ASW;

(c) Providing full-time employment for ASWs;

(d) Assuring that wages, hours and working conditions of ASWs conform with Federal, state and local laws;

(e) Providing adequate supervision of ASWs in their employ; and

(f) Providing nondiscriminatory treatment of ASWs in their employ.

§ 1656.8 Employment agreements.

(a) *Nature of Agreement.* Before any ASW is placed with an employer, Selective Service and the employer shall enter into an employment agreement that specifies their respective duties and responsibilities under the Alternative Service Program.

(b) *Restrictions on Selective Service.* The Selective Service System shall not act in any controversy involving ASW's wages, hours and working conditions except to the extent any of these subjects is specifically covered in § 1656.7, § 1656.9, or the employment agreement between Selective Service and the employer.

(c) *Investigating and Negotiating:* Whenever there is evidence that an employer appears to be in violation of §1656.7, Selective Service will investigate the matter. If the investigation produces substantial evidence of violations of § 1656.7, Selective Service will resolve the matter.

(d) *Termination of Employment Agreement.* If a resolution of a dispute cannot be reached by negotiation within a reasonable time, the Selective Service System shall terminate the employment agreement and shall reassign the ASW.

§1656.9 Alternative service worker's responsibilities.

(a) A registrant classified in Class 1–W is required to comply with all orders issued under this part.

(b) A registant classified in Class 1–W is liable to perform 24 months of creditable time toward completion of Alternative Service, unless released earlier by the Director.

§1656.10 Job placement.

(a) Selective Service will maintain a job bank for the exclusive purpose of placing ASWs in alternative service jobs.

(b) An ASW who has identified his own job in accordance with § 1656.5(e) of the Part may be assigned by the ASO in that job pending review of the job by Selective Service. If the job is then approved as Alternative Service Work in accordance with § 1656.5(a) the ASW will receive creditable time beginning with the date he was placed on the job by Selective Service. If the job is not approved he will not receive creditable time and will be placed by Selective Service in a position approved for Alternative Service Work. Selective Service must review the job within 30 calendar days of the time it assigned the ASW to begin work. If the elapsed time from date of placement to the date of Selective Service review exceed 30 days, the ASW will receive creditable time from the date of placement regardless of the final determination of employer eligibility made by Selective Service. If the placement is ultimately determined to be inappropriate for Alternative Service the ASW will be reassigned in accordance with § 1656.12.

(c) In making job interview referrals and in making assignments of ASWs to jobs, Selective Service will consider the compatibility of the ASW's skills, work experience, and preferences with the qualification criteria for the job.

(d) When an ASW is hired, the ASO will issue a Job Placement Order specifying the employer, the time, date and place to report for his alternative service work.

(e) The ASO will normally place the ASW in an alternative service job within 30 calendar days after classification in Class 1–W.

§ 1656.11 Job performance standards and sanctions.

(a) *Standards of Performance.* An ASW is responsible for adhering to the standards of conduct, attitude, appearance and performance demanded by the employer of his other employees in similar jobs. It there are not other employees, the standards shall conform to those that are reasonable and customary in a similar job.

(b) *Failure To Perform.* An ASW will be deemed to have failed to perform satisfactorily whenever:

(1) He refuses to comply with an order of the Director issued under this part;

(2) He refuses employment by an approved employer who agrees to hire him;

(3) His employer terminates the ASW's employment because his conduct, attitude, appearance or performance violates reasonable employer standards; or

(4) He quits or leaves his job without reasonable justification, and has not submitted an appeal of his job assignment to the Civilian Review Board.

(c) *Sanctions for ASW's Failure To Perform.* (1) The sanctions for failure to meet his Alternative Service obligation are job reassignment, loss of creditable time during such period and referral to the Department of Justice for failure to comply with the Military Selective Service Act.

(2) Prior to invoking any of the sanctions discussed herein, the ASO will conduct a review as prescribed in § 1656.17 of all allegations that an ASW has failed to perform pursuant to any of the provisions of § 1656.11(b).

§ 1656.12 Job reassignment.

(a) *Grounds for Reassignment.* The Director may reassign as ASW whenever the Director determines that:

(1) The job assignment violates the ASW's religious, moral or ethical beliefs or convictions as to participation in a war that led to his classification as a conscientious objector or violates § 1656.5(a) of this Part;

(2) An ASW experiences a change in his mental or physical condition which renders him unfit or unable to continue performing satisfactorily in his assigned job;

(3) An ASW's dependents incur a hardship which is not so severe as to justify a suspension of the Order to Perform Alternative Service under § 1656.15;

(4) The ASW's employer ceases to operate an approved program or activity;

(5) The ASW's employer fails to comply with the terms and conditions of these regulations or;

(6) Continual and severe differences between the ASW's employer and ASW remain unresolved;

(7) The sanctions authorized in § 1656.11 should be applied.

(b) *Who May Request Reassignment.* Any ASW may request reassignment to another job. An employer may request job reassignment of an ASW who is in his employ.

(c) *Method for Obtaining a Reassignment.* All requests for reassignment must be in writing with the reasons specified. The request may be filed with the ASO of jurisdiction at any time during an ASW's alternative service employment. An ASW must continue in his assigned job, if available, until the request for reassignment is approved.

§ 1656.13 Review of alternative service job assignments.

(a) Review of ASW job assignments will be accomplished in accordance with the provisions of this subsection.

(b) Whenever the ASW believes that this job assignment violates his religious, moral or ethical beliefs or convictions as to participation in war that led to his classification as a conscientious objector or is in violation of the provisions of this part he may request a reassignment by the ASOM, as provided for in § 1656.12.

(c) The ASOM shall reassign the ASW if the ASOM concludes that the ASW's work assignment violates his religious, moral or ethical beliefs or convictions as to participation in war which led to his classification as a CO or is in violation of the provisions of this Part.

(d) If the ASOM does not reassign the ASW, the ASW may, within 15 days after the date of mailing of the decision of the ASOM, request a review of his job assignment by a Civilian Review Board.

(e) The Director shall establish a Civilian Review Board for each ASO in whose area ASWs are working. The Civilian Review Board shall consist of not less than three members who will serve without compensation. The Director may establish panels. No person will be appointed to a Civilian Review Board who would be ineligible for appointment to a District Appeal Board. A member of a Civilian Review Board would be disqualified in any case that a member of a District Appeal Board would be disqualified under the provisions of § 1605.25(a), (b) of this chapter. Each Board, or panel thereof, shall elect a chairman and a vice-chairman at least every two years. A majority of the members of the Board when present at any meeting shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question. Every member, unless disqualified, shall vote on every question. In case of a tie vote on a question, the Board shall postpone action until the next meeting. If the question remains unresolved at the next meeting, the Director will transfer the case to another board. If, through death, resignation, or other causes, the membership of the Board falls below the prescribed number of members, the Board or panel shall continue to function, provided a quorum of the prescribed membership is present at each official meeting.

(f) It shall be the function of the Civilian Review Board to determine whether or not an ASW's job assignment violates the ASW's religious, moral, or ethical beliefs or convictions as to participation in war which led to his classification as a conscientious objector or is in violation of the provisions in § 1656.5(a) of this part. In making the former determination, the Review Board must be convinced by the ASW that if the ASW performed the job, his convictions as to participation in war would be violated in a similar way as if the ASW had participated in war.

(g) The Civilian Review Board may affirm the assignment or order the reassignment of the ASW in any matter considered by it.

(h) Procedures of the Civilian Review Board are:

(1) Appeals to the Board shall be in writing, stating as clearly as possible the grounds for the appeal.

(2) The ASW may appear before the Board at his request. He may not be represented by counsel or present witnesses. The ASOM or his representative may represent the Selective Service System at the hearing and present evidence.

(3) The Board's determination will be based on all documents in the ASW's file folder and statements made at the hearing.

(4) The decision of the Board will be binding only in the case before it. A decision of a Board will not be relied upon by a Board in any other case.

(5) A decision of the Board is not subject to review within the Selective Service System.

§ 1656.14 Postponement of reporting date.

(a) *General.* The reporting date in any of the following orders may be postponed in accord with this section.

(1) Report for Job Placement;

(2) Report for a Job Interview; or

(3) Report to an Employer to Commence Employment.

(b) *Requests for Postponement.* A request for postponement of a reporting date specified in an order listed in (a) must be made in writing and filed prior to the reporting date with the office which issued the order. Such requests must include a statement of the nature of the emergency and the expected period of its duration.

(c) *Grounds for Postponement.* An ASW may, upon presentation of the appropriate facts in his request, be granted a postponement based on one or more of the following conditions:

(1) The death of a member of his immediate family;

(2) An extreme emergency involving a member of his immediate family;

(3) His serious illness or injury; or

(4) An emergency condition directly affecting him which is beyond his control.

(d) *Basis for Considering Request.* The ASW's eligibility for a postponement shall be determined by the office of jurisdiction based upon official documents and other written information contained in his file. Oral statements made by the ASW or made by another person in support of the ASW shall be reduced to writing and placed in the ASW's file.

(e) *Duration of Postponement.* The initial postponement shall not exceed 60 days from the reporting date in the order. When necessary, the Director may grant one further postponement, but the total postponement period shall not exceed 90 days from the reporting date in the order involved.

(f) *Termination of Postponement.*

(1) A postponement may be terminated by the Director for cause upon no less than ten days written notice to the ASW.

(2) Any postponement shall be terminated when the basis for the postponement has ceased to exist.

(3) It is the responsibility of the ASW promptly to notify in writing the office that granted the postponement whenever the basis for which his postponement was granted ceases to exist.

(g) *Effect of Postponement.* A postponement of the reporting date in an order shall not render the order invalid, but shall only serve to postpone the date on which the ASW is to report. The ASW shall report at the expiration or termination of the postponement.

(h) *Religious Holiday.* The Director may authorize a delay of reporting under any of the orders specified for an ASW whose date to report conflicts with a religious holiday historically observed by a recognized church, religious sect or religious organization of which he is a member. Any ASW so delayed shall report on the next business day following the religious holiday.

§ 1656.15 Suspension of order to perform alternative service because of hardship to dependents.

(a) Whenever, after an ASW has begun work, a condition develops that results in hardship to his dependent as contemplated by § 1630.30(a) of this chapter which cannot be alleviated by his reassignment under § 1656.12(a)(3) of this part, the ASW may request a suspension of Order to Perform Alternative Service. If the local board that ordered the ASW to report for Alternative Service determines he would be entitled to classification in Class 3–A, assuming that the ASW were eligible to file a claim for that class, further compliance with his order shall be suspended for a period not to exceed 365 days, as the local board specifies. Extensions of not more than 365 days each may be granted by the local board so long as the hardship continues until the ASW's liability for training and service under the Military Selective Service Act terminates.

(b) An ASW may file a request for the suspension of his Order to Perform Alternative Service with the ASO. This

request must be in writing, state as clearly as possible the basis for the request, and be signed and dated by the ASW. The ASW must continue working in his assigned job until his request for the suspension of his Order to Perform Alternative Service has been approved.

(c) Local boards shall follow the procedures established in Parts 1642 and 1648 of this chapter to the extent they are applicable in considering a request for the suspension of an Order to Perform Alternative Service.

§ 1656.16 Early release—Grounds and procedures.

(a) *General Rule of Service Completion.* An ASW will not be released from alternative service prior to completion of 24 months of creditable service unless granted an early release.

(b) *Reasons For Early Release.* The Director may authorize the early release of an ASW whenever the ASO determines that the ASW:

(1) Has failed to meet the performance standards of available alternative service employment because of physical, mental or moral reasons;

(2) No longer meets the physical, mental or moral standards that are required for retention in the Armed Forces based on a physical or mental examination at a MEPS or other location designated by Selective Service;

(3) Is planning to return to school and has been accepted by such school and scheduled to enter within 30 days prior to the scheduled completion of his alternative service obligation;

(4) Has been accepted for employment and that such employment will not be available if he remains in alternative service the full 24 months. Such early release shall not occur more than 30 days before the scheduled completion of his alternative service obligation; or

(5) Has enlisted in or has been inducted into the Armed Forces of the United States.

(c) *Reclassification and Records.* Upon granting an early release to an ASW, the Director will reclassify the ASW and transfer his records in accordance with § 1656.19 of this part.

§ 1656.17 Administrative complaint process.

(a) Whenever the ASOM learns that the ASW may have failed to perform satisfactorily his work (see 1656.11 (b)) or he receives a complaint by an employer or an ASW involving the ASW's work other than matters described in 1656.8(b) of this part, he shall take necessary action to:

(1) Interview, as appropriate, all parties concerned to obtain information relevant to the problems or complaints;

(2) Place a written summary of each interview in the ASW's file and employer's file;

(3) Inform the persons interviewed that they may prepare and submit to him within ten days after the interveiw their personal written statements concerning the problem;

(4) Place such statements in the ASW's file; and

(5) Resolve the matter.

(b) The employer or ASW may seek a review of the decision pursuant to § 1656.17(a)(5). Such request must be filed in writing with the ASO, for action by the State Director of Selective Service, within ten days after the date the notice of the decision is transmitted to the ASW and employer.

§ 1656.18 Computation of creditable time.

(a) Creditable time starts when the ASW begins work pursuant to an Order to Perform Alternative Service or 30 days after the issuance of such order, whichever occurs first. Creditable time will accumulate except for periods of:

(1) Work of less than 35 hours a week or an employer's full-time work week whichever is greater;

(2) Leaves of absence in a calendar year of more than 5 days in the aggregate granted by the employer to the ASW to attend to his personal affairs unless such absence is approved by the ASOM;

(3) Time during which an ASW fails or neglects to perform satisfactorily his assigned Alternative Service;

(4) Time during which the ASOM determines that work of the ASW is unsatisfactory because of his failure to comply with reasonable requirements of his employer;

(5) Time during which the ASW is not employed in an approved job because of his own fault; or

(6) Time during which the ASW is in a postponement period or his Order to Perform Alternative Service has been suspended.

(b) Creditable time will be awarded for periods of travel, job placement and job interviews performed under orders issued by Selective Service. Creditable time may be awarded for normal employer leave periods.

(c) Creditable time will be awarded to an ASW for the time lost after he leaves his job assignment following his request for reassignment on the basis of § 1656.13(b) of this part until he is reassigned pursuant to § 1656.13 (c) or (g) of this part. Creditable time for the corresponding period will be lost if neither the ASOM nor the Civilian Review Board orders the ASW's reassignment on the basis of § 1656.12(a)(1) of this part.

§ 1656.19 Completion of alternative service.

Upon completion of 24 months of creditable time served in alternative service or when released early in accordance with § 1656.16(b) (3) or (4):

(a) The ASW shall be released from the Alternative Service Program; and

(b) The Director shall issue to the ASW a Certificate of Completion and the registrant shall be reclassified in Class 4–W in accordance with § 1630.47 of this chapter, and

(c) The ASW's records shall be returned to the area office of jurisdiction after the ASW has completed his obligation or has been separated from the Alternate Service Program for any reason.

§ 1656.20 Expenses for emergency medical care.

(a) Claims for payment of actual and reasonable expenses for emergency medical care, including hospitalization, of ASWs who suffer illness or injury, and the transportation and burial of the remains of ASWs who suffer death as a direct result of such illness or injury will be paid in accordance with the provisions of this section.

(b) The term "emergency medical care, including hospitalization", as used in this section, means such medical care or hospitalization that normally must be rendered promptly after occurrence of the illness or injury necessitating such treatment. Discharge by a physician or facility subsequent to such medical care or hospitalization shall terminate the period of emergency.

(c) Claims will be considered only for expenses:

(1) For which only the ASW is liable and for which there is no legal liability for his reimbursement except in accord with the provisions of this section; and

(2) That are incurred as a result of illness or injury that occurs while the ASW is acting in accord with orders of Selective Service to engage in travel or perform work for his Alternative Service employer.

(d) No claim shall be allowed in any case in which the Director determines that the injury, illness, or death occurred because of the negligence or misconduct of the ASW.

(e) No claim shall be paid unless it is presented to the Director within one year after the date on which the expense was incurred.

(f) Cost of emergency medical care including hospitalization greater than usual and customary fees for service established by the Social Security Administration, will *prima facie* be considered unreasonable. Payment for

burial expenses shall not exceed the maximum that the Administrator of Veteran's Affairs may pay under the provisions of 38 U.S.C. 902(a) in any one case.

(g) Payment of claims when allowed shall be made only directly to the ASW or his estate unless written authorization of the ASW or the personal representative of his estate has been received to pay another person.

[FR Doc. 83-4182 Filed 2-17-83; 8:45 am]
BILLING CODE 6015-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2297-1]

Approval and Promulgation of the Implementation Plans; Illinois and Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental Proposed Rulemaking.

SUMMARY: On December 17, 1982 (47 FR 56516 and 47 FR 56518), EPA proposed to approve an alternate control strategy (ACS) permit for Granite City Steel (GCS) and a State Consent Order for Great Lakes Steel (GLS), Divisions of the National Steel Corporation. These revisions provide alternate emission control strategies which require implementation of controls by December 31, 1982. EPA is today announcing the availability of the short-term ambient equivalence demonstration, presenting the results of EPA's review of these demonstrations, and soliciting additional public comment on these revisions.

DATE: Comments must be submitted on or before March 7, 1983.

ADDRESSES: Copies of these revisions, supplemental information, and EPA technical review are available for review during normal business hours at the following addresses: U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706 (Illinois SIP Revision Only). Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917 (Michigan SIP Revision Only).

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano (Illinois SIP), (312) 886-6035. Toni Lesser (Michigan SIP), (312) 886-6037.

SUPPLEMENTARY INFORMATION: On September 30, 1982, the Illinois Environmental Protection Agency (IEPA) submitted a proposed revision to the Illinois SIP in the form of an approved ACS permit for GCS. This ACS gives credit to GCS for providing greater control of fugitive particulate emissions from the facility's unpaved roadways and parking lots than is required by State regulations. This extra reduction in emissions from the roads and parking lots will be substituted for control of emissions from the blast furnace casthouse. This SIP revision waives installation of casthouse control equipment until 1986, and requires implementation of the ACS by December 31, 1982.

On June 24, 1982, the State of Michigan submitted a proposed revision to the Michigan SIP in the form of an alternate emissions control plan (AECP) Consent Order for GLS. The AECP calls for paving and cleaning certain plant roadways beyond the RACT-level of control reflected in Michigan's SIP for TSP and control of the electric arc furnace shop to the New Source Performance Standards level. These greater than RACT-level controls would be traded for less than RACT-level control at the No. 2 BOF Shop and the blast furnace casthouses. This AECP would result in reductions of particulate emissions in the Detroit (Wayne County) primary nonattainment area. The AECP requires that all controls be implemented by December 31 1982.

EPA stated in its December 17, 1982, proposed rulemaking notices (47 FR 56516 and 56518) that a short-term ambient equivalence demonstration was required for both GCS and GLS. The modeling analysis was scheduled to be completed during the public comment period of the proposed rulemaking and the public would be given an opportunity to review the results of the short-term modeling prior to EPA's final rulemaking on GCS and GLS.

EPA has issued a proposed Emission Trading Policy Statement (ETPS) (April 7, 1982; 47 FR 15076) which sets forth the general principles that EPA will use to evaluate emission trades such as the GLS and GCS proposals. To comply with requirements in the ETPS, National Steel performed a short-term ambient equivalence demonstration for both the GLS and GCS control strategies. The analysis employed the applicable EPA reference technique, the Industrial Source Complex Short Term (ISCST) air quality model, with one year of representative National Weather Service meteorological data. Per the requirments of EPA's proposed ETPS, the ISCST analyses included only the sources involved in the trades and was intended to determine if the strategies would result in a significant air quality impact (i.e. 10 ug/m^3, 24-hour average). The results of the ISCST modeling show that the GLS and GCS trades will not result in a significant increase in ambient 24-hour TSP concentrations on any day, at any receptor modeled. In fact the analyses indicate that the trades will result in a marked improvement in air quality on most days and in most locations. Consequently, based on results of the short-term and annual air quality analyses, EPA has determined that the proposed alternative emission control programs for GLS and GCS meet the requirements of EPA's ETPS. Also, the trades will not interfere with measures in the Illinois and Michigan TSP SIPs which are designed to lead to attainment and maintenance of the TSP NAAQS in the Granite City and Detroit primary nonattainment areas. For a detailed review of the GLS and GCS strategies the reader is referred to the December 17, 1982 (47 FR 56516 and 47 FR 56518) proposed rulemaking notices; EPA rationales for approval September 7, 1982, (GCS) and September 10, 1982 (GLS); and EPA's analyses of the short-term ambient equivalence demonstration, for GCS and GLS.

EPA is providing a fifteen-day comment period on this supplemental notice of proposed rulemaking. During this comment period, comments on all elements of the GCS and GLS SIP revisions will be considered. Public comment received on or before (15 days from the date of publication) will be considered in EPA's final rulemaking. When possible, comments should be submitted in triplicate. All comments will be available for inspection during normal business hours at the Region V office listed at the beginning of this notice. Please call the appropriate contact person listed at the beginning of this notice, before visiting the Region V office.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have significant

economic impact on a substantial number of small entities. (See 46 FR 8709)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Sec. 110 of the Clean Air Act as amended)

Dated: January 26, 1983.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 83-4227 Filed 2-17-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2282-7]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: On September 2, 1982, the State of Ohio submitted a revision to the total suspended particulate (TSP) portion of its State Implementation Plan (SIP). This revision is in the form of individual variance permits for two coal-fired boilers and three PVC resin storage silos at the B.F. Goodrich Chemical Plant located in Avon Lake (Lorain County), Ohio. The State is requesting an alternative emission strategy "bubble" which would involve trading emission reductions between the boilers and the silos. The purpose of this notice is to discuss EPA's evaluation of the bubble strategy and to solicit public comment on EPA's proposed action.

DATE: Comments on this revision to the Ohio SIP and EPA's proposed action must be received by March 21, 1983.

ADDRESSES: Copies of this SIP revision are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Regulatory Analysis Section, Air Programs Branch, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: On April 7, 1982 (47 FR 15076), the Environmental Protection Agency issued a proposed Emissions Trading Policy Statement, General Principles for Creation, Banking, and use of Emission Reduction Credits. This statement indicated that it is the policy of EPA to encourage use of emissions trades to achieve more flexible, rapid and efficient attainment of national ambient air quality standards. This policy statement describes emissions trading, sets out general principles EPA will use to evaluate emissions trades under the Clean Air Act, and expands opportunities for States and industry to use these less costly control approaches. The April 7, 1982, notice indicates that, until EPA takes final action on its policy statement, state actions involving emission trades would be evaluated under the provisions set forth in the proposed policy statement.

In accordance with the provisions contained in the proposed Emissions Trading Policy Statement, the State of Ohio, on September 2, 1982, submitted to EPA a revision to the TSP portion of its SIP. This revision is in the form of variance permits for two coal-fired boilers (B006 and B007) and three PVC resin storage silos (P013, P014 and P015) located at the B.F. Goodrich Chemical Plant in Avon Lake, Lorain County, Ohio. The State is requesting an alternative emission strategy "bubble" which would involve trading emissions between the boilers and the silos. B.F. Goodrich is located in the portion of Lorain County that is designated for the secondary national ambient air quality standard for particulates (40 CFR 81.336).

Under the Emissions Trading Policy Statement, an acceptable Reasonably Available Control Technology (RACT) baseline for the emission sources involved in the trade must be established. The permits which form the basis of this revision regulate TSP emissions from the coal-fired boilers and resin storage silos by Rules 10 and 11, respectively, of Chapter 3745-17 of the Ohio Administrative Code (OAC). On September 21, 1982 (47 FR 41584), in its general rulemaking on the Ohio TSP SIP, EPA proposed approval of the generic emission limits contained in these rules as being representative of RACT. Thus, these limits are an appropriate RACT baseline for the bubble trade. EPA notes that the limits in Rules 10 and 11, as they apply to B.F. Goodrich, are identical to the limits in the existing federally approved SIP.

Under the bubble, B.F. Goodrich will achieve a greater emission reduction than if it had complied with RACT under Rules 10 and 11. To achieve this reduction, B.F. Goodrich will operate the PVC silos 25.0 pounds per hour below the RACT baseline. Emissions from the coal-fired boilers will be 8.8 pounds per hour above the RACT baseline. Thus, the net decrease in emissions from this bubble will be 16.2 pounds per hour.

The State submitted modeling which indicates that the trade will not significantly increase ambient TSP levels. In the initial analysis, annual and 24-hour concentrations were computed using the EPA reference model for this source (MPTER) and the five most recent, available years of representative meteorological data (1973-1977 Cleveland/Buffalo). A subsequent analysis to address a revision in the bubble emissions used MPTER and the worst-case year from the initial modeling (1977). Both analyses demonstrate that the bubble will provide an air quality benefit. Thus, the bubble satisfies the requirements of a Level II analysis under the Emissions Trading Policy.

EPA believes that these variance permits, which incorporate the "bubble" concept, are consistent with EPA's proposed Emission Trading Policy Statement, and EPA is, therefore, proposing to approve the B.F. Goodrich "bubble".

At this time, EPA is only proposing action on the variance permits for B.F. Goodrich Chemical Plant. EPA is not proposing further action on OAC Rule 3745-17-10 and 11. Rulemaking on the adequacy of these rules will be discussed in a separate rulemaking after review of public comments received in response to EPA's September 21, 1982, Notice of Proposed Rulemaking on the Ohio TSP SIP.

EPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before March 21, 1983 will be considered in EPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office listed at the front of this notice.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

(Sec. 110 of the Clean Air Act, as amended).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbon, Intergovernmental relations.

Dated: December 29, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 83-4228 Filed 2-17-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL No. 2283-2]

Michigan; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA is proposing to approve a revision to the Michigan State Implementation Plan (SIP) which would reduce the Detroit seven-county ozone demonstration area (presently consisting of Wayne, Oakland, Macomb, Livingston, Monroe, St. Clair and Washtenaw Counties) to a three-county demonstration area consisting of Wayne, Oakland and Macomb Counties. EPA's action is based upon a revision request which was submitted by the State.

DATE: Comments must be received on or before March 21, 1983.

ADDRESSES: Copies of the redesignation request and the supporting technical information are available at the following addresses:

Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser,Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6037.

SUPPLEMENTARY INFORMATION: On May 6, 1980 (45 FR 29796), EPA approved Michigan's Part D SIP control strategy for ozone with the exception of Michigan Rules 336.1603 and 336.1606, which were conditionally approved. Michigan's SIP defined the Detroit area for ozone to consist of: Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw and Wayne Counties. This area was chosen to coincide with the seven-county Regional Planning and Development District established in 1974. However, the existing seven-county area goes beyond what is minimally required according to U.S. EPA policy (April 4, 1979; 44 FR 20376). This policy requires that the area used for urban area SIPs include the central city and surrounding closely settled areas defined by the 1970 census, plus any adjacent fringe areas of development. The 1970 Bureau of Census maps identify the urbanized area of Detroit to be confined primarily within the three counties of Wayne, Oakland and Macomb. (1970; Census Population, No. of Inhabitants, Michigan; PC(1) A24, Michigan.)

On September 1, 1982, the State of Michigan formally requested that EPA propose approval of the reduction of the size of the ozone demonstration area for Southeast Michigan from the present seven counties (Wayne, Oakland, Macomb, Livingston, Monroe, St. Clair and Washtenaw) to include only the three counties of Wayne, Oakland and Macomb Counties. Under this proposed revision, Livingston, Monroe, St. Clair and Washtenaw counties would remain nonattainment, but would be considered to be rural nonattainment. Therefore, any control requirements that apply to ozone nonattainment areas would still apply to these four counties. Michigan's designation of rural nonattainment for these four counties was based on the EPA guidance that a county may be designated rural if it has no urbanized areas of 200,000 or more people (according to 1970 Census). The only urbanized area in these four counties is Ann Arbor, and the 1970 population of the Ann Arbor urbanized area was 178,605.

Michigan also provided evidence in its request showing that the reduction of size of the ozone demonstration area would have minimal impact on air quality. Michigan is retaining the nonattainment designation of the other four counties and is thus retaining the RACT I and II regulations in these counties. The only potential emissions impact of Michigan's request is that RACT III regulations and regulations for major non-Control Technique Guideline (CTG) sources might not be enacted in these counties. EPA requires these regulations in ozone nonattainment areas for which the State received an extension of the attainment date to 1987, but not in other nonattainment areas. However, this potential impact on emissions is likely to have a small, if any, impact on air quality. First, Michigan has found that RACT III and major non-CTG sources contribute only a small portion of the overall seven county inventory. Second, these sources, particularly those in Ann Arbor, are located such that they are not likely to have significant air quality impact in the same area that Detroit sources have their principal impact. Third, Michigan may choose to adopt RACT III and non-CTG regulations statewide (as was done with the RACT I and II regulations), in which case Michigan's request would have no air quality impact.

EPA proposes approval of Michigan's request to reduce the Detroit seven county attainment demonstration area presently consisting of Wayne, Oakland, Macomb, Livingston, Monroe, St. Clair and Washtenaw to a three-county demonstration are consisting of Wayne, Oakland and Macomb Counties. U.S. EPA also proposes to approve Michigan's request to classify Livingston, Monroe, St. Clair and Washtenaw Counties as rural nonattainment. The existing control requirements of reasonably available control technology (RACT) I and II are statewide regulations and will not be affected by this classification.

EPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comment received on or before (30 days from the date of publication) will be considered in EPA's final rulemaking. When possible, comments should be submitted in triplicate. All comments will be available for inspection during normal business hours at the Region V office listed at the beginning of this notice.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have significant economic impact on a substantial number of small entities. (See 46 FR 8709)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur dioxide.

(Sec. 110 of the Clean Air Act, as amended)

Dated: December 29, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 83-4229 Filed 2-17-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3130

Amendment to the National Petroleum Reserve in Alaska; Oil and Gas Leasing Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would amend the regulations in 43 CFR Part 3130 to clarify the provisions regarding antitrust review requirements for leasing in the National Petroleum Reserve—Alaska. Several minor editorial changes would also be made to conform to changes that have been made in the general regulations in 43 CFR Part 3100 relating to oil and gas leasing and to reflect other changes. For example, references to the U.S. Geological Survey would be deleted to reflect the recent consolidation of leasing functions into the Bureau of Land Management.

DATE: Comments on this proposed rulemaking postmarked or delivered by March 21, 1983, will be considered by the Department of the Interior in formulating the final rule.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jan Daniels (202) 343-7753.

SUPPLEMENTARY INFORMATION: The proposed rulemaking would amend the regulations implementing the provisions of the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96-514), that authorize an oil and gas leasing program for the National Petroleum Reserve—Alaska. Specifically, the rulemaking would amend § 3130.1(b) to make it clear that a successful bidder would not forfeit its one-fifth deposit if the Department of Justice determines that lease issuance may create or maintain a situation inconsistent with the antitrust laws.

The proposed rulemaking would also clarify that a successful bidder would not forfeit its one-fifth deposit if information required by the Attorney General is not available for submission to the Department of Justice.

The proposed rulemaking would specifically provide that a listing of the specific information that a successful bidder is required to submit to the Department of Justice would not be published as part of the notice of sale but would be published independently at the same time as the notice of sale is published. Because Attorney General review is not a requirement imposed by the Department of the Interior, it is inappropriate for the listing of required information to appear as an integral part of the notice of sale.

Section 3132.5(f) would be amended to specify that failure of a successful bidder to meet applicable Department of the Interior regulations would result in forfeiture of its deposit.

Sections 3132.3 and 3132.5(e) would be amended to delete reference to the term "deferred bonus." Since all bonus payments are made prior to lease issuance, this reference is no longer necessary in the existing regulations.

The principal author of this proposed rulemaking is Jan Daniels, Division of Oil, Gas, and Geothermal, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by this proposed rulemaking will facilitate leasing in the National Petroleum Reserve—Alaska by making changes that the Department of the Interior found to be burdensome and unneeded based upon the experience of the first lease sale in the National Petroleum Reserve—Alaska.

The changes made by the proposed rulemaking will be equally applicable to all those who hold leases in the National Petroleum Reserve—Alaska, regardless of their size, with all applicants having to file any information requested by the Attorney General to allow completion of the required antitrust review.

There are no additional information collection requirements in this proposed rulemaking beyond those contained in Part 3130 of the final regulations, which were approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004-0067 and 1004-0066.

List of Subjects in 43 CFR Part 3130

Alaska, Mineral royalties, Oil and gas reserves, Public lands mineral resources, Surety bonds.

Under the authority of the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96-514), the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) except for sections 202 and 603 thereof.

PART 3130—[AMENDED]

It is proposed to amend Part 3130, Subchapter A, Chapter D, Title 43 of the Code of Federal Regulations, as set forth below:

§ 3130.0-5 [Amended]

1. Section 3130.0-5 is amended by:

A. Revising paragraph (e) to read:

* * * * *

(e) "Secretary" means the Secretary of the Interior.

§ 3130.1 [Amended]

2. Section 3130.1 is amended by:

a. Revising paragraph (b) to read as follows:

* * * * *

(b) In advance of each competitive lease sale, the Attorney General shall notify the Secretary of his/her preliminary determination of the information each successful bidder shall be required to submit for review purposes. The Secretary shall make available to the public the Attorney General's information requirements at the same time as, but independent of, the publication of the notice of sale. A successful bidder shall submit any required information never submitted to the Attorney General and, with respect to any required information previously submitted, a reference thereto, together with a statement of any and all changes in the information since the date of the previous submission. The successful bidder shall submit the required information within 60 days of the bid opening. Should the successful bidder fail to submit the required information within the time provided, the bid shall be declared unacceptable and shall be returned to the bidder, and the deposit submitted with the bid shall be

refunded. In cases where a bid has been declared unacceptable, the Secretary may offer the lease to the next highest qualified bidder therefor.

* * * * *

b. Amending paragraph (c)(1) by inserting a comma after the word "lease", by inserting the phrase "by the Attorney General" after the word "required" and by removing the phrase "under this section".

c. Revising paragraph (d) to read as follows:

* * * * *

(d) If, during the 30-day review period, the Attorney General notifies the Secretary that issuance of the lease contract or operating agreement to the successful bidder would create or maintain a situation inconsistent with the antitrust laws, the Secretary shall not issue the requested document, shall declare the bid unacceptable and shall return the bid document and refund the deposit submitted with the bid. In cases where a bid has been declared unacceptable, the Secretary may offer the lease to the next highest qualified bidder therefor.

§ 3130.3 [Amended]

3. Section 3130.3 is amended by removing the words "Director, U.S. Geological Survey", and replacing them with the words "authorized officer" and by changing the reference "§ 3100.3" to "§ 3100.2".

§ 3130.5 [Amended]

4. Section 3130.5 is amended by changing the reference "§ 3102.1–2" to "section 3102".

§ 3130.6 [Amended]

5. Section 3130.6 is amended by removing the word "Leasing" from the heading and capitalizing the first letter of the word "maps".

§ 3130.6–1 [Amended]

6. Section 3130.6–1 is amended by removing the word "Leasing" from the heading, by capitalizing the first letter of the word "maps" in the heading and by removing the word "leasing" from the text.

§ 3130.6–2 [Amended]

7. Section 3130.6–2(a) is amended by inserting the phrase "or designated special areas" immediately after the phrase "upland navigable water areas" and before the comma.

§ 3131.2 [Amended]

8. Section 3131.2 is amended by:

A. Amending paragraph (a) by removing the phrase, "with a copy to the Regional Conservation Manager, U.S. Geological Survey".

B. Amending paragraph (b) by removing the phrase "Regional Conservation Manager".

§ 3131.3 [Amended]

9. Section 3131.3 is amended by removing the phrase "and shall be attached to" from the third sentence.

§ 3132.2 [Amended]

10. Section 3132.2 is amended by:

A. Amending paragraph (b) by removing the words "a certified or cashier's check, bank draft, U.S. currency or any other form of payment approved by the Secretary for".

B. Removing paragraph (c) and redesignating existing paragraph (d) as parapraph (c).

§ 3132.3 [Amended]

11.Section 3132.3 ia amended by:

A. Amending paragraph (a) by removing the words "including deferred bonuses" and removing the word "made" and replacing it with the word "submitted" in the first sentence; by removing the second sentence in its entirety; and amending the third sentence by removing the words "Bureau of Land Management" and replacing them with "Minerals Management Service".

B. Amending paragraph (b) by removing the phrase "U.S. Geological Survey" and replacing it with the phrase "Minerals Management Service".

§ 3132.5 [Amended]

12. Section 3132.5 is amended by:

A. Amending paragraph (b) by substituting the word "may" for the words "reserves the right to";

B. Amending paragraph (e) removing the words "unless deferred" from the third sentence;

C. Amending paragraph (f) by inserting the words "Department of the Interior" between the words "applicable" and "regulations", and the phrase "under Section 3132 of this title" immediately after the word "regulations" and before the comma.

§ 3136.1 [Amended]

13. Section 3136.1 is amended by removing the phrase "Are linquishment" from the last sentence and replacing it with the words "A relinquishment", and removing the phrase "Director, U.S. Geological Survey" and replacing it with the words "authorized officer".

Garrey E. Carruthers,

Assistant Secretary of the Interior.

December 21, 1982.

[FR Doc. 83–4176 Filed 2–17–83; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 6492]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, National Flood Insurance Program, (202) 287–0237, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the

second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance—flood plains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Arizona	Scottsdale, city, Maricopa County	Indian Bend Wash	At downstream corporate limits	*1,189
			Upstream of Thomas Road	*1,226
			Upstream of Camelback Road	*1,245
			Upstream of Indian Bend Road	*1,283
			At upstream corporate limits	*1,299
			Approximately 700 feet upstream of upstream corporate limits	*1,302
		Granite Reef Wash	At downstream corporate limits	*1,196
			Upstream of McDowell Road	*1,214
			At upstream corporate limits	*1,227
		Wash B	Approximately 6,100' downstream of 124th Street	*1,446
			Just downstream of Granite Reef Aqueduct (approximately 1,100' downstream of 124th Street)	*1,506

Maps available for inspection at the office of the Director of Engineering Services, City Hall, 3939 Civic Center Plaza, Scottsdale, Arizona

Send comments to Honorable Herbert R. Drinkwater, Mayor of Scottsdale, 3939 Civic Center Plaza, Scottsdale, Arizona 85251

Florida	City of Crystal River, Citrus County	Gulf of Mexico	At the intersection of State Highway 44 and NE Seventh Avenue	*8
			At the intersection of SW Paradise Point Road and SE Fourth Avenue	*9
			At the intersection of Spruce Street and Hibiscus Avenue	*11
			At the intersection of Azalea Avenue and Hickory Street	*12

Maps available for inspection at City Hall, 123 Northwest Highway 19, Crystal River, Florida 32629

Send comments to Mayor Herbert Williams or Mr. John Morrison, City Manager, City Hall, 123 Northwest Highway 19, Crystal River, Florida 32629.

Florida	Dade County (unincorporated areas)	Atlantic Ocean	At the intersection of Collins Avenue and Biscayne Street	*9
			100 feet north of Bear Cut Bridge along Crandon Blvd	*13
			100 feet east of Petrel Point	*18
		Biscayne Bay	At the intersection of 190th Street and North Bay Road	*6
			At the intersection of S. Miami Avenue and U.S Highway 41	*12

Maps available for inspection at Metro Dade County Department of Environmental Resources Management, 909 SE 1st Avenue, 4th Floor, Brickell Plaza, Miami, Florida

Send comments to Mr. Merrett R. Stierheim, Dade County Manager, Courthouse, 2nd Floor, 73 W. Flagler Street, Miami, Florida 33130

Florida	Unincorporated areas of Dixie County	Steinhatchee River	Approximately 500 feet upstream of U.S. Highways 19, 96, and 27A (State Highway 55)	*24
		Suwannee River	Just downstream of Seaboard Coastline Railroad	*22
			Just upstream of State Highway 340	*28
		Gulf of Mexico	Approximately 100 feet northeast of Otter Sink Camp	*11
			Intersection of State Highway 358 and State 361	*12
			Approximately 100 feet north of Thompson Lake	*13
			Just downstream of State Highway 361 (Rocky Creek)	*13
			Intersection of old railroad grade and State Highway 349.	*17
			Just downstream of State Highway 358 (Steinhatchee River)	*17
			Approximately 500 feet east of Bumblebee Island	*19
			Approximately 1,000 feet northeast of Bowlegs Point	*20
			Approximately 1,000 feet east of Sand Point	*21
			Approximately 500 feet northwest of Drum Point	*22

Maps available for inspection at Dixie County Clerk's Office, County Courthouse, State Route 351, Cross City, Florida 32628

Send comments to Mr. Edward Osten, Chairman of Dixie County Commission or Mr. Joe Hubert Allen, Auditor for Building Commissioners, Dixie County Courthouse, P.O. Drawer 4J, Cross City, Florida 32628.

Florida	City of Horseshoe Beach, Dixie County	Gulf of Mexico	Intersection of First Street and East First Avenue	*18
			Intersection of Fifth Street and West Eighth Avenue	*19
			Intersection of Eighth Street and State Highway 351	*20

Maps available for inspection at City Hall, Horseshoe Beach, Florida 32648

Send comments to Mayor James M. Kelley or Ms. Francis Cherry, City Clerk, City Hall, P.O. Box 273, Horseshoe Beach, Florida 32648

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Florida	Key Colony Beach (City), Monroe County..	Atlantic Ocean.	At the center of intersection of 1st Street and 2nd Street	*9
			At the center of intersection of 12th Street and Ocean Drive West	*11
			350 feet southwest from the center of intersection of 12th Street and Ocean Drive West	*14
		Florida Bay	At the center of intersection of North Street and 8th Street	*9
Maps available for inspection at City Hall, Key Colony Beach, Florida				
Send comments to Honorable Gerald D. Partney, P.O. Box 141, Key Colony Beach, Florida 33051.				
Florida	Key West (city), Monroe County	Atlantic Ocean and Gulf of Mexico..	At the center of intersection of Seminary Street and Leon Street	*8
			At the center of intersection of Steven Avenue and Atlantic Boulevard	*11
Maps available for inspection at City Hall, Key West, Florida				
Send comments to Honorable Dennis J. Wardlow, P.O Box 1550, Key West, Florida				
Florida	Layton (city), Monroe County	Florida Bay.	At the center of intersection of Long Key Drive and U.S. Highway 1	*11
			150 feet north from the center of intersection of North Layton Drive and U.S. Highway 1.	*15
		Atlantic Ocean..	At the center of intersection of Sands Lane and South Layton Drive	*11
Maps available for inspection at City Hall, Layton, Florida.				
Send comments to Honorable Del Layton, P.O. Box 778, Layton, Florida 33001				
Florida	Monroe County (unincorporated areas).	Atlantic Ocean	At the center of intersection of State Highway South 939 and State Highway South 939A.	*9
			At the confluence of Largo Sound and North Sound Creek	*15
			At the confluence of Pumpkin Creek and Turtle Harbor Channel	*19
		Florida Bay	At Palm Island	*12
			At the confluence of Whale Harbor Channel and Windley Harbor near U.S. Highway 1.	*17
		Gulf of Mexico	At Douglas Key	*12
Maps available for inspection at Chief Building Official Office, Public Service Building, Stock Island, Key West, Florida				
Send comments to Honorable Kermit H. Lewin, P.O. Box 1680, Key West, Florida 33040				
Florida	Unincorporated areas of Taylor County.	Fenholloway River..	Just upstream of U.S. Highway 19	*42
			Just downstream of Secondary Road 2	*48
		Spring Creek	Approximately 1,100 feet upstream of U.S. Highway 98	*25
		Steinhatchee River	Just upstream of U.S. Highway 19 and 98, Alternate 27	*23
		Gulf of Mexico	Econfina River approximately 5.3 miles upstream of mouth	*12
			State Highway 14 at Econfina Landing	*17
			East of Jack Lee Island at State Highway 361	*21
Maps available for inspection at Taylor County Coordinator's Office County Courthouse, Jefferson Street, Perry, Florida 32347				
Send comments to Mr. Edward Henry, Chairman, County Commission or Mr. Edward L. Allen, County Coordinator, Taylor County Courthouse, P.O. Box 620, Perry, Florida 32347				
Florida	Unincorporated areas of Wakulla County.	Gulf of Mexico/Dickson Bay	At the intersection of Buckhorn Creek and State Highway 372	*12
			Just south of the intersection of Tide Creek and State Highway 10	*16
		Gulf of Mexico/Oyster Bay.	At the intersection of county dump road and State Highway 365	*17
			At the intersection of State Highway 367 and county dump road	*20
		Gulf of Mexico/Apalachee Bay	At the confluence of Shepherd Spring, Gander and West Goose Creeks	*21
			State Highway 59 and Lighthouse Pool	*23
Maps available for inspection at Building Inspector's Office or the Planning Department, Wakulla County Courthouse Annex, Church Street, Crawfordville, Florida 32327.				
Send comments to Mr. J. D. Turner, Wakulla County Chairman or Mr. Buddy Abbott, County Building Inspector, Wakulla County Courthouse, P.O. Box 337, Crawfordville, Florida 32327.				
Georgia	Unincorporated areas of Bryan County	Ogeechee River..	Approximately 200 feet upstream of Morgan Bridge	*28
			Just upstream of Interstate Highway 16 west bound bridge	*35
			Just downstream of U.S. Highway 80 bridge	*43
		Black Creek	Just upstream of U.S. Highway 280 bridge	*43
			Approximately 200 feet upstream of Interstate Highway 16 westbound bridge	*56
		Mill Creek	Approximately 100 feet upstream of State Highway 623.	*45
		Atlantic Ocean/Ogeechee River	Along State Highway 63 just outside of Richmond Hill (southwest corporate limits) on the east side of the Highway.	*12

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			At Richmond Hill Park where State Highway 144 spur intersects an unnamed road linking Fort McAlister to Savage Island	*15
		Atlantic Ocean	At the east end of Belvedere toward the waterfront where it intersects a dirt road	*16
			At Kilkenny where Kilkenny Road meets Kilkenny Creek	*17
		Atlantic Ocean/Jerico River, Laurel View River, Medway River	Just east of Interstate Highway 95 where the highway meets Jerico River	*13
			At Fancy Hale where State Highway 63 intersects a dirt road coming from the north.	*14
Maps available for inspection at County Commissioner's Office, County Courthouse, Pembroke, Georgia 31321				
Send comments to Mr. Carlton Gill, Chairman, Bryan County Commission or Mr. Jay Williams, County Building Inspector, County Courthouse, P.O. Box 428, Pembroke, Georgia 31321				
Georgia	City of Fort Oglethorpe, Catoosa County	Black Branch	Just downstream of State Highway 2A, Battlefield Parkway	*705
			Just downstream of Van Cleve	*715
		Tributary No. 1 to Black Branch	Just downstream of Elaine Circle	*714
		Tributary No. 2 to Black Branch	Just downstream of LaFayette Road (U.S. Highway 27).	*736
			Just downstream of Old Fayette Road	*740
			Just upstream of Coffman Drive	*752
		Tributary No. 3 to Black Branch	Just downstream of Cross Street	*718
		West Chickamalga Creek	Just downstream of southern corporated limits (upstream crossing)	*692
Maps available for inspection at City Hall, Codes Enforcement Office, 201 Forest Road, Fort Oglethorpe, Georgia 30742				
Send comments to Mayor John Norris or Mr. Jerry Robbins, City Manager, City Hall, 201 Forest Road, Fort Oglethorpe, Georgia 30742				
Georgia	Unincorporated areas of Hall County	Chattahoochee River	Approximately 0.5 mile downstream of the county line between Hall and Habersham Counties	*1,109
		East fork Little River	Just upstream of Honeysuckle Road	*1,105
			Approximately 175 feet upstream of F. Gailey Road	*1,283
			Approximately 300 feet downstream of State Highway 283	*1,301
		West fork Little River	Just upstream of Highland Road	*1,068
			Just upstream of Bethel Road	*1,208
			Just downstream of State Highway 283	*1,232
		Wahoo Creek	Approximately 400 feet upstream of Hubert Stephens Road	*1,100
			Approximately 300 feet upstream of George Barnes Road	*1,151
		Wahoo Creek tributary	Just downstream of Gilstrap Mill Road	*1,176
		Flat Creek	Approximately 100 feet upstream of McEver Road	*1,102
			Approximately 125 feet downstream of Jones and Dale Road	*1,140
		Flat Creek tributary	Approximately 700 feet upstream of confluence with Flat Creek	*1,165
		Balus Creek	Approximately 350 feet upstream of McEver Road	*1,087
			Just upstream of Mundy Mill Road	*1,111
		Balus Creek tributary	Approximately 1,500 feet upstream of confluence with Balus Creek	*1,103
		Mud Creek	Just downstream of McEver Road	*1,132
			Just upstream of Southern Railway	*1,140
		Caney Fork	Approximately 100 feet upstream of Tanners Mill Road	*853
			Just downstream of Pine Vale Road	*948
Maps available for inspection at Planning Department, City-County Administration Building, 300 Green Street, Gainesville, Georgia 30503				
Send comments to Mr. Henry Ward, Chairman, Board of County Commissioners or Mr. Harry Hayes, Planning Director, P.O. Box 1435, Gainesville, Georgia 30503				
Georgia	Unincorporated areas of Henry County	Big Cotton Indian Creek	Just upstream of Crombly Road	*640
			Just upstream of State Highway 138	*697
		Little Cotton Indian Creek	Just upstream of State Highway 155	*678
			Just upstream of U.S. Highway 23 (State Highway 42)	*697
		Pates Creek	Just upstream of Southern Railway	*700
			Just upstream of State Highway 351	*736
		Reeves Creek	Just upstream of Rock Quarry Road	*710
			Approximately 200 feet upstream of Tye Road	*715
		Rum Creek	Just upstream of Rock Quarry Road	*711
			Just upstream of Lake Spivey Dam	*786
		Line Creek	Just downstream of Chestnut Creek Road	*757
		James Creek	Just upstream of Old Stockbridge Conyers Road	*714
		Brush Creek	Just upstream of Brush Creek Road	*709
		Panther Creek	Just upstream of U.S. Highway 23/State Highway 42	*750
		Walnut Creek	Just upstream of State Highway 155	*706
			Just upstream of State Road 192	*768
		South River	Just upstream of Butler Bridge Road	*592
			Just upstream of State Highway 20	*614
Maps available for inspection at County Administrator's Office, Henry County Courthouse, 345 Phillips Drive, McDonough, Georgia 30253				
Send comments to Mr. Edward Whiddon, Chairman, Henry County Commission or Mr. Ron Rabun, County Administrator, Henry County Courthouse, 345 Phillips Drive, McDonough, Georgia 30253				
Illinois	(V) Central City, Marion County	Crooked Creek	About 0.8 mile downstream of Illinois Central and Gulf Railroad	*466
			At confluence of Raccoon Creek	*471
Maps available for inspection at the Central City Village Hall, 141 North Harrison Street, Centralia, Illinois				
Send comments to Honorable Charles Woolbright, Village President, Village of Central City, Central City Village Hall, 141 North Harrison Street, Centralia, Illinois 62801				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Illinois	(C) Chester, Randolph County	Mississippi River	About 1.9 miles downstream of State Highway 51	*389
			About 1.45 miles upstream of State Highway 51	*391
Maps available for inspection at Mayor's Office, Municipal Building 1330 Swanwick Street, Chester, Illinois				
Send comments to Honorable Stanley A. Maciesiu, Mayor, City of Chester, Municipal Building, 1330 Swanwick Street, Chester, Illinois 62233				
Illinois	(V) Hawthorn Woods, Lake County	Indian Creek	About 600 feet downstream of confluence of west branch Indian Creek.	*730
			Just downstream of Elgin, Joliet and Eastern Railroad	*762
		North Flint Creek	Just upstream of Briarwood Drive	*836
			Just upstream of Echo Lake Road	*852
		West branch Indian Creek	Mouth at Indian Creek	*731
			Just upstream of Gilmer Road	*757
			About 700 feet downstream of Elgin, Joliet and Eastern Railroad.	*792
		Forest Lake drain	About 1,550 feet downstream of Gilmer Road	*729
			Just downstream of Gilmer Road	*732
			Just upstream of Gilmer Road	*737
			About 600 feet upstream of Old McHenry Road	*782
Maps available for inspection at the Clerk's Office, Village Hall, Two Lagoon Drive, Hawthorn Woods, Illinois				
Send comments to the Honorable Robert Luedtke, Village President, Village of Hawthorn Woods, Village Hall, Two Lagoon Drive, Hawthorn Woods, Illinois 60647				
Illinois	(V) Jerome, Sangamon County	Jacksonville branch	Just downstream of Iles Avenue	*569
			Just downstream of Chatham Road	*575
Maps available for inspection at the Municipal Building, Village of Jerome, 2901 Leonard Street, Springfield, Illinois				
Send comments to the Honorable Vernon L. Shontz, Village President, Village of Jerome, Municipal Building, 2901 Leonard Street, Springfield, Illinois 62704.				
Illinois	(V) Kingston, De Kalb County	South branch Kishwaukee River	About 1,600 feet downstream of Main Street	*788
			About 0.8 mile upstream of Main Street	*792
Maps available for inspection at the Village Clerk's Office, Village Hall, Kingston, Illinois.				
Send comments to the Honorable Walter Lyle, Village President, Village of Kingston, Village Hall, Kingston, Illinois 60145.				
Illinois	(V) Kingston Mines, Peoria County	Illinois River	Within corporate limits	*457
Maps available for inspection at Kingston Mines Post Office, Kingston Mines, Illinois.				
Send comments to the Honorable Steven Hedge, Village President, Village of Kingston Mines, Village Hall, Kingston Mines, Illinois 61539				
Illinois	(V) Lake-In-The-Hills, McHenry County	Crystal Creek	Just downstream of Algonquin-Huntley Road	*771
			Just downstream of Apache Trail Dam	*784
			Just upstream of Apache Trail Dam	*794
			About 1 mile upstream of Plum Street	*828
			About 1,500 feet upstream of upstream corporate limit (about 2.5 miles upstream of Plum Street)	*872
		Woods Creek	Just downstream of Algonquin-Huntley Road	*782
			Just upstream of Hilltop Drive	*796
			Just downstream of Randall Road	*830
		Woods Creek tributary	At confluence with Woods Creek	*830
			Just downstream of Randall Road	*832
		Lake-In-The-Hills	Shoreline	*828
Maps available for inspection at the Village Administrator's Office, Village Hall, 1111 Crystal Lake Road, Lake-In-The-Hills, Illinois 60102.				
Send comments to Honorable Kenneth Olsen, Village President, Village of Lake-In-The-Hills, Village Hall, 1111 Crystal Lake Road, Lake-In-The-Hills, Illinois 60102				
Illinois	(V) Rockwood, Randolph County	Mississippi River	Downstream corporate limits	*385
			Upstream corporate limits	*386
Maps available for inspection at the Rockwood Post Office, Rockwood, Illinois.				
Send comments to Honorable Hazel Smith, Village President Pro-Tem, Village of Rockwood, Village Hall, Rockwood, Illinois 62280				
Illinois	(V) St. Joseph, Champaign County	Salt Fork	About 0.52 mile downstream of Conrail	*664
			About 650 feet upstream of (new) U.S. Route 150	*665
Maps available for inspection at the Village Hall, St. Joseph, Illinois				
Send comments to Honorable B. J. Hacker, Village President, Village of St. Joseph, Village Hall, 207 East Lincoln Street, St. Joseph, Illinois 61873				
Illinois	(V) Sherman, Sangamon County	Sangamon River	About 800 feet downstream of Interstate Loop 55	*529
			About 3,500 feet upstream of Illinois Central Gulf Railroad.	*531
Maps available for inspection at the Sherman County Bank, Sherman, Illinois.				
Send comments to Honorable Sherwood N. Zimmerman, Village President, Village of Sherman, 509 Emory Drive, Sherman, Illinois 62684				
Illinois	(C) Vienna, Johnson County	Little Cache Creek	About 1.1 miles downstream of U.S. Route 45	*365
			About 0.85 mile upstream of State Route 146	*370
Maps available for inspection at the Clerk's Office, Vienna Village Hall, Vienna, Illinois				
Send comments to Honorable Scott Obourn, Mayor, City of Vienna, P.O. Box 516, Vienna, Illinois 62995				
Indiana	(T) Carthage, Rush County	Big Blue River	About 1,000 feet upstream of County Road 800 North	*866
			Just downstream of Conrail	*875
Maps available for inspection at the Town Hall, Carthage, Indiana				
Send comments to Honorable Kenneth Land, Town Board Chairman, Town of Carthage, Town Hall, Carthage, Indiana, 46115.				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Indiana	(T) Huntertown, Allen County	Willow Creek	About 1,200 feet downstream of Golf Course Road	*820
			About 550 feet upstream of Hunter Street	*828
		Willow Creek branch No. 7	About 1,350 feet downstream of Lima Road	*835
			About 950 feet upstream of Lima Road	*840
		Willow Creek branch No 8	About 500 feet upstream of confluence with Willow Creek.	*820
			About 2,000 feet upstream of confluence with Willow Creek.	*823

Maps available for inspection at the Town Hall, Huntertown, Indiana.

Send comments to Honorable Wilber Spangle, Town Board President, Town of Huntertown, Town Hall, Huntertown, Indiana, 45748.

Indiana	(C) Seymour, Jackson County	East fork White River	At confluence of Heddy Run	*560
			About 1.7 miles upstream of U.S. Highway 31–A	*579
		Heddy Run	At mouth	*560
			Just upstream of 600 East Road	*564
		Von Fange ditch	About 0.2 mile upstream of Sixth Street	*571

Maps available for inspection at City Hall, 222 North Chestnut Street, Seymour, Indiana.

Send comments to Honorable Christopher Morts, Mayor, City of Seymour, City Hall, 222 North Chestnut, Seymour, Indiana 47274

Indiana	(Uninc.) Vigo County	Wabash River	At Sullivan-Vigo County line	*456
			At Vermillion-Parke-Vigo County line	*481
		Sugar Creek	Mouth at Wabash River	*469
			At Edgar-Vigo County line	*510
		Otter Creek	Mouth at Wabash River	*479
			Just upstream of 79th Street	*514
		South fork Lost Creek	At mouth	*518
			Just downstream of U.S. Highway 40	*522
		Gundy ditch	About 0.1 mile downstream of Devanold Road	*494
			Just upstream of Devanold Road	*500
			Just downstream of Rio Grande Road	*512
		Honey Creek	Mouth at Wabash River	*465
			Just downstream of State Road 46	*524
		Little Lost Creek	About 0.1 mile upstream from mouth	*511
			Just downstream of Fort Harrison Road	*534
		Thompson ditch	Mouth at Honey Creek	*483
			About 250 feet downstream of Margaret Avenue	*498
		Lost Creek	Just upstream of city of Terre Haute corporate limits	*509
			About 0.7 mile upstream of Chamberlain Road near confluence of unnamed tributary	*547
		North branch Otter Creek	Mouth at Otter Creek	*514
			Just downstream of Vigo-Clay County Line	*564
		Sulphur Creek	Just downstream of Roberts Road	*507
			Just downstream of Vigo-Clay County line	*547
		South fork Sulphur Creek	About 0.15 mile upstream from mouth	*526
			Just downstream of Vigo-Clay County line	*554
		East Little Sugar Creek	About 0.1 mile downstream of Paris Road	*474
			About 0.32 mile upstream of 10 West Road near unnamed road	*528
		Unnamed tributary to Honey Creek	About 0.35 mile from mouth	*505
			About 1.25 miles upstream of Eaton Road	*540
		Unnamed tributary to East Little Sugar Creek	At mouth	*484
			About 0.37 mile upstream of Cusick Road	*501
		Shallow flooding	Near intersection of Kidder Road and Rigney Road	#2
			East of U.S. Highway 41 between Thompson ditch and Honey Creek.	#2
			South of Thompson ditch between U.S. 41 and 7th Street	#2

Maps available for inspection at the County Courthouse, 201 Cherry Street, Terre Haute, Indiana

Send comments to Honorable John Scott, Chairman of the County Commissioners, Vigo County, 201 Cherry Street, Courthouse Annex, Terre Haute, Indiana 47807

Massachusetts	Newton, city, Middlesex County	Charles River	Most downstream corporate limits	*7
			Upstream Bems Dam (Remnants)	*20
			Upstream Commonwealth Avenue (State Route 30)	*39
			Upstream of Cordingly Dam	*64
			Upstream of Sudbury Aqueduct	*90
			Most upstream corporate limits	*91
		South Meadow Brook	Downstream Needham Street	*110
			Upstream of Dedham Street	*114
		Paul Brook	Downstream of Mildred Road	*115
			Upstream of Old Field Road	*117
			Upstream of Hagen Road	*120
		Cheese Cake Brook	Upstream of Eddy Street	*36
			Downstream of Dunstan Street	*39
			Upstream of Dunstan Street	*41

Maps available for inspection at the City Hall, Planning Department, 1000 Commonwealth Avenue, Newton, Massachusetts.

Send comments to Honorable Theodore Mann, Mayor of Newton, City Hall, 1000 Commonwealth Avenue, Newton, Massachusetts 02159

Michigan	(Twp) Bridgeport, Saginaw County	Lull drain	Just upstream Shendan Road	*595

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			About 300 feet upstream Grand Trunk Western Railroad	*601
		King drain	Just upstream Shendan Road	*595
			Just downstream of Dixie Highway	607
		Cass River	About 1.8 miles downstream Chessie System	*595
			About 0.36 miles upstream Chessie System	*597

Maps available for inspection at the Township Hall, 6206 Dixie Highway, Bridgeport, Michigan.

Send comments to Honorable Steve Ciolek, Supervisor, Charter Township of Bridgeport, Township Hall, 6206 Dixie Highway, Bridgeport, Michigan 48722.

Michigan	(V) Estral Beach, Monroe County	Lake Erie	Within the corporate limits	*578

Maps available for inspection at the Village Clerk's Office, Village Hall, 7194 Lakeview, Estral Beach, Michigan.

Send comments to Honorable John Powell, Village President, Village of Estral Beach, Village Hall, P.O. Box 107, 7194 Lakeview, Estral Beach, Michigan 48166

Michigan	(C) Greenville, Montcalm County	Flat River	About 0.66 mile downstream of South Fairplains Street	*795
			Just downstream of Franklin Street Dam	*810
			Just upstream of Franklin Street Dam	*817
			About 0.93 mile upstream of Hillcrest Street	*819

Maps available for inspection at City Hall, 411 South Lafayette Street, Greenville, Michigan.

Send comments to Honorable Marcus Hansen, Mayor, City of Greenville, City Hall, 411 South Lafayette Street, Greenville, Michigan 48838

Michigan	(C) Ionia, Ionia County	Grand River	About 0.6 mile downstream of State Highway 66	*644
			About 0.1 mile upstream of Cleveland Street	*646

Maps available for inspection at City Hall, 114 North Kidd Street, Ionia, Michigan

Send comments to Honorable Fred Thwartes, Mayor, City of Ionia, City Hall, 114 North Kidd Street, Ionia, Michigan 48846.

Michigan	(V) Lake Angelus, Oakland County	Lake Angelus, Lake Mohawk	Within corporate limits	*953

Maps available for inspection at the Village President's Office, Lake Angelus, Michigan

Send comments to Honorable Raymond Hayes, Village President, Village of Lake Angelus, Village Hall, 45 Gallogly Road, Lake Angelus 48058.

Michigan	(V) Ontonagon, Ontonagon County	Ontonagon River	About 2,000 feet downstream of State Highway 64	*605
			Just upstream of State Highway 64	*609
			About 1.2 miles upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*611

Maps available for inspection at the Village Hall, 311 North Steel Street, Ontonagon, Michigan

Send comments to Honorable Kirk Gieshu, Village President, Village of Ontonagon, Village Hall, 311 North Steel Street, Ontonagon, Michigan 49953

Michigan	(C) Saginaw, Saginaw County	Saginaw River	About 1.55 miles downstream of Sixth Avenue	*589
			About 1.15 miles upstream of Center Street	*594
		King drain	With corporate limits	*594
		Lull drain	About 0.7 mile upstream of Washington Road	*594
			Just upstream of Grand Trunk Western Railroad	*601

Maps available for inspection at the City Hall, 1315 South Washington Avenue, Saginaw, Michigan

Send comments to Honorable Ronald Bushey, Mayor, City of Saginaw, City Hall, 1315 South Washington Avenue, Saginaw, Michigan 48601

Michigan	(C) Sylvan Lake, Oakland County	Sylvan Lake	Shoreline	*931

Maps available for inspection at the City of Manager's Office, City Hall, 1820 Inverness Avenue, Sylvan Lake, Michigan

Send comments to Honorable Betty B. Wilson, Mayor, City of Sylvan Lake, City Hall, 1820 Inverness Avenue, Sylvan Lake, Michigan 48053

Mississippi	City of Bay St. Louis, Hancock County	Gulf of Mexico/Mississippi Sound, Bay St. Louis	Intersection Leopold Street and North Beach Boulevard	*13
			Intersection of Cedar Point and Dunbar Avenue	*15

Maps available for inspection at City Hall, Second Street, Bay Louis, Mississippi 39520

Send comments to Mayor Larry Bennett or Mr. Wilmer Seymour, Mayor Pro-Tem, City Hall, P.O. Box 310, Bay St. Louis, Mississippi 39520

Mississippi	City of Biloxi, Harrison County	Gulf of Mexico/Mississippi Sound	Intersection of Pine Street and U.S. Highway 90	*14
			Intersection of Howard Avenue and Myrtle Street	*12
		Back Bay of Biloxi	Intersection of Bay Side Drive and Glenview	*11

Maps available for inspection at Planning Commission Office, Dantzler House, 1026 West Beach Boulevard, Biloxi, Mississippi 39533

Send comments to Mr. Roy Benbow, Executive Planner, Planning and Zoning Commission, Dantzler House, 1026 West Beach Boulevard, Biloxi, Mississippi 39533.

Mississippi	City of Gulfport, Harrison County	Gulf of Mexico/Mississippi Sound	Intersection of Jones Park Drive and 20th Avenue	*14
			Intersection Jones Park Drive and Marine Life Drive	*15
		Bernard Bayou	Intersection W. Pine Street and Mill Street	*11

Maps available for inspection at City Hall, 2309 15th Street, Gulfport, Mississippi 39501

Send comments to Mayor Jack Barnett or Mr. Arvah Hopkins, Administrative Assistant, City Hall, P.O. Box 1780, Gulfport, Mississippi 39501

Mississippi	Unincorporated areas of Hancock County	Gulf of Mexico/Mississippi Sound	Intersection Lakeshore Road and Chicago Street	*14
			Intersection of Lakeshore Road and Louisville and Nashville Railroad	*13
		Gulf of Mexico/St. Louis Bay	Intersection of Hau Street and IKI Place	*12
			Intersection of Chapman Road and Beverly Drive	*11
			Intersection of Noma Drive and Nele Place	*10
			Intersection of Walnut Drive and Fir Drive	*9
		Mill Creek	At Hancock County boundary	*71
		Shiloh Creek	Approximately 2,000 feet upstream of confluence with Cypress Creek	*87

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		White Cypress Creek	Just downstream of county road approximately 2,300 feet upstream of confluence with Hickory Creek	*67
		Necaise Creek	Just downstream of county road approximately 8,000 feet upstream of confluence with Hickory Creek	*119
		Anner Creek	Approximately 2,800 feet upstream of confluence with Hickory Creek	*102
		Hickory Creek	At Hancock County boundary	*135
			Just upstream of Highway 43	*57
		Orphan Creek	Just upstream of Route 603	*72
			Just upstream of Highway 43	*44
		Bayou Bacon	Just upstream of Route 603	*96
			Just upstream of Highway 43	*43
		Catahoula Creek	At Hancock County boundary	*143
			Just upstream of Highway 43	*67
		Crane Creek	Just upstream of county road approximately 12,000 feet upstream of confluence with Wolf River.	*109
		Wolf River	At downstream county boundary	*88
		Bayou La Salle	Just upstream of Highway 43	*13
		Bayou La Terre	Just upstream of county road approximately 18,000 feet upstream of confluence with Rotten Bayou.	*19
		Pearl River	At confluence with Rones Bayou	*20
			Just downstream of Highway 11	*19
			Just downstream of Interstate 10	*11

Maps available for inspection at Hancock County Courthouse, Main Street, Bay St. Louis, Mississippi 39520.

Send comments to Mr. Alton Keller, President, County Board of Supervisors, P.O. Box 152 or Mr. John Scafied, County Planning Commission Attorney, P.O. Drawer 71, Bay St Louis Mississippi 39520.

Mississippi	City of Long Beach, Harrison County	Gulf of Mexico/Mississippi Sound	Intersection of White Harbor Road and U.S. Highway 90	*16
			Intersection of Shelter Rock Drive and U.S. Highway 90	*13

Maps available for inspection at City Hall, City Clerk's Office, 201 Jeff Davis Avenue, Long Beach, Mississippi 39560

Send comments to Mayor Glen W. Mitchell, or Mr. Lewis Elias, Mayor Pro-Tem, City Hall, P.O. Box 378, Long Beach, Mississippi 39560.

Mississippi	City of Pass Christian, Harrison County	Gulf of Mexico/Mississippi Sound	Intersection of Shadow Lawn Boulevard and Beach Boulevard	*13
			Intersection of Cedar Avenue and Beach Boulevard West	*16
		St. Louis Bay/Johnson Bayou	Intersection of Long Avenue and Francis Street	*12

Maps available for inspection at City Hall, 200 West Scenic Drive, Pass Christian, Mississippi 39573.

Send comments to Mayor Gordon Bishop, or Ms. Kim McDonald, City Secretary, City Hall, P.O. Drawer 368, Pass Christian, Mississippi 39573.

Mississippi	City of Waveland, Hancock County	Gulf of Mexico/Mississippi Sound	At the intersection of Gulf Drive and Sears Avenue	*12
			At the intersection of South Beach Boulevard and Dane Road	*17
		Gulf of Mexico St Louis Bay	At the intersection of Avenue B and Ene Street	*9

Maps available for inspection at City Hall, 301 Coleman Avenue, Waveland, Mississippi 39576.

Send comments to Mayor John Longo or Ms. Barbara Rappold, City Secretary, City Hall, P.O. Box H, Waveland, Mississippi 39576.

New Jersey	Bedminster, township, Somerset County	Lamington River	Confluence with north branch Raritan River	*88
			Lamington Road (upstream side)	*96
			Lamington River Road (upstream side)	*106
			Interstate Route 78 (upstream side)	*115
			Lamington Road (second crossing) (upstream side)	*130
			Black River Road (first crossing) (upstream side)	*150
			McCansmil Road (upstream side)	*166
			Confluence of Herzog Brook	*194
			Approximately 2,650 feet upsteam of Herzog Brook	*206
			Access road (upstream side)	*224
			Approximately 470 feet downstream of the upstream corporate limits.	*241
			Upstream corporate limits	*254
		North branch Raritan River	Confluence of Chambers Brooks	*80
			Confluence of Lamington River	*88
			Confluence of Middle Brook	*96
			Klines Mill Road (upstream side)	*103
			U.S. Routes 202 and 206 (upstream side)	*117
			Approximately 3,900 feet upstream of the AT&T access roads	*127
			U.S. Route 202 (upstream side)	*139
			Peapack Road (upstream side)	*153
			Upstream corporate limits	*162
		Chambers Brook	Downstream corporate limits	*80
			Airport Road (upstream side)	*85
			Country Club Road (upstream side)	*107
			Approximately 1,100 feet downstream of Interstate Route 287	*124
			Approximately 620 feet upstream of Interstate Route 287.	*144
			Upstream Routes 202 and 206 (upstream side)	*171
			Upstream corporate limits	*190
		Middle Brook	Confluence with north branch Raritan River	*96
			Confluence of Hoopstick Brook	*101
			Upstream dam (second)	*121
			Lamington Road (upstream side)	*137

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Foot bridge (upstream side)	*163
			Upstream dam (fourth)	*176
			Approximately 1,420 feet upstream of 4th dam	*196
			Approximately 85 feet upstream of Spook Hollow Road	*213
		Clucas Brook	Confluence with north branch Raritan River	*104
			Approximately 7,200 feet upstream of confluence with north branch Raritan River	*124
			Approximately 60 feet upstream of Lamington Road	*149
		Peapack Brook	Confluence with north branch Raritan River	*152
			Upstream corporate limits	*163
		Herzog River	Confluence with Lamington River	*194
			Approximately 60 feet upstream of Pottersville Road	*220
		Hoopstick Brook	Confluence with Middle Brook	*101
			Foot bridge (upstream side)	*122
			Approximately 50 feet upstream of Lamington Road	*136

Maps available for inspection at the Municipal Building, Hillside Avenue, Bedminster, New Jersey

Send comments to Honorable Paul Gavin, Mayor of Bedminster Township, Municipal Building, Hillside Avenue, Bedminster, New Jersey 07921

New Jersey	Margate City, city, Atlantic County	Atlantic Ocean	Entire Atlantic Ocean shoreline within community	*15
			Entire beach thorofare shoreline within community	*10

Maps available for inspection at the Municipal Building, Washington and Ventnor Avenues, Margate City, New Jersey

Send comments to Honorable William H. Ross, III, Mayor of Margate City, Washington and Ventnor Avenues, Margate City, New Jersey 08402

New York	Croton-on-Hudson, village, Westchester County	Croton River	Upstream of U.S. Route 9	*8
			Downstream of first crossing of Quaker Bridge Road	*34
			Upstream corporate limits	*50
			Hudson River Entire shoreline within community	*8

Maps available for inspection at the Municipal Building, Van Wyck Street, Croton-on-Hudson, New York.

Send comments to Honorable Richard Herbek, Village Manager, Municipal Building, Van Wyck Street, Croton-on-Hudson, New York 10520

New York	Mill Neck, village, Nassau County	Oyster Bay Harbor	Entire shoreline within community	*15
		Mill Neck Creek	Shoreline from Bayville Bridge to approximately 1,700 feet northwest of Cleft Road.	*14
			Shoreline from approximately 1,700 feet northwest of Cleft Road to Cleft Road.	*13
		Beaver Lake	Entire shoreline within community	*12
		Beaver Brook	Entire shoreline within community	*12

Maps available for inspection at the Village Hall, Frost Mill Road, Mill Neck, New York

Send comments to Honorable John C. Jansing, Mayor of Mill Neck, Village Hall, Box 351, Frost Mill Road, Mill Neck, New York 11765

New York	New York, city, Queens, New York, Bronx, Richmond, and Kings Counties	Bronx River	Confluence with East River	*13
			Upstream of Tremont Avenue	*14
			Upstream of Zoological Garden/Dam No. 3	*38
			Upstream of Botanical Garden/Dam No. 4	*58
			Upstream of Gun Hill Road	*63
			Upstream of East 233d Street	*68
			Upstream corporate limits	*74
		Atlantic Ocean	Shoreline at B Sixth Street extended	*11
			Shoreline at Beach 204th Street extended	*14
		East River	Shoreline at 20th Street extended	*12
			At confluence with Upper Bay	*13
			Shoreline at confluence of Bronx Kill	*15
			At confluence with Long Island Sound	*20
		Gravesend Bay	Entire shoreline within community	*13
		Jamaica Bay	Entire shoreline within community	*10
		Little Neck Bay	Entire shoreline within community	*17
		Long Island Sound	Shoreline at City Island Avenue extended	*17
			Shoreline at northeast corner of Hunters Island	*20
		Raritan Bay	Entire shoreline within community	*14
		Rockaway Inlet	Shoreline at Beach 184th Street extended	*10
			Shoreline at Rockaway Point Boulevard extended	*13
		Upper Bay	Entire shoreline within community	*13
		The Narrows	Shoreline at Swan Street extended	*12
			Shoreline at Sand Lane extended	*13
		Lower Bay	Shoreline at Norton Point	*13
			Entire shoreline of Hoffman Island	*14

Maps available for inspection at the offices of the Borough Engineers

Send comments to: Bronx County: Mr. James Carsolio, Bronx Borough Engineer, 851 Grand Concourse, Bronx, New York 10451, Kings County: Mr. Roger Bennett, Brooklyn Borough Engineer, 209 Joralemon Street, Brooklyn, New York 11201; New York County: Mr. Anthony Gulotta, Manhattan Borough Engineer, Municipal Building, 20th floor, One Center Street, New York, New York 10007; Queens County: Mr. James Gollia, Queens Borough Engineer, 120–55 Queens Boulevard, Kew Gardens, New York 11424; Richmond County: Mr. William Drinnan, Staten Island Borough Engineer, Borough Hall, Staten Island, New York 11424.

New York	Saddle Rock, village, Nassau County	Little Neck Bay	Shoreline at southern corporate limits	*13
			Shoreline at Candy Lane extended	*15
			Shoreline of Udalls Mill Pond	*13

Maps available for inspection at 34 Forest Road, Great Neck, New York

Send comments to Honorable Leonard Einsburg, Mayor of Saddle Rock, 5 Stevenson Road, Great Neck, New York 11023

North Carolina	Town of Beaufort, Carteret County	Atlantic Ocean/Bogue Sound/Taylors Creek.	At intersection of Front Street and Craven Street	*9

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			At intersection of Broad Street and Craven Street	*7
			At intersection of Front Street and Leonda Drive	*8
		Atlantic Ocean/Bogue Sound/ Town Creek.	At intersection of Turner Street and West Beaufort Road	*7
		Atlantic Ocean/Back Sound/ Turner Creek	Along State Route 1304 Marshalls Road east of a point located 200 feet on the east of its intersection with Sycamore Drive	*7
	Maps available for inspection at Town Hall, 215 Pollock Street, Beaufort, North Carolina 28516			
	Send comments to Mayor Joyce Fulford or Mr. Erskine Blankenship, Town Administrator, Town Hall, Beaufort, North Carolina 28516			
North Carolina	Town of Cape Carteret, Carteret County	Atlantic Ocean/Bogue Sound/Deer Creek	At intersection of Loma Linda Drive and Yucca Loop	*10
			At intersection of Edgewater Court and Liveoak Avenue	*10
		UAtlantic Ocean/White Oak River/ U Pettiford Creek	1,500 feet from the intersection of Star Hill Drive and Apollo drive	*8
	Maps available for inspection at Town Hall, Cape Carteret, 204 McLean Drive, Cape Carteret, North Carolina 28584			
	Send comments to Mayor C. A. Stevens or Larry Stell, Chairman of the Planning Board, Town Hall, Cape Carteret, North Carolina 28584			
North Carolina	Town of Morehead City, Carteret County	Bogue Sound	Approximately 300 feet southwest of the intersection of Savannah Avenue and Sound Drive	*10
			Intersection of East Coral Avenue and South Shore Drive	*9
		Crab Point throughfare	Approximately 4,200 feet east of intersection of fourth Street and Bridges Street	*6
		Calico Bay/newport River	At intersection of SR1179 (Loop Road) and North Yaupon Terrace	*7
	Maps available for inspection at Town Hall, 706 Arendell Street, Morehead City, North Carolina 28557			
	Send comments to Mayor Edward S. Dickson or Mr C. W. Sewell, Building Inspector and Zoning Administrator, Town Hall, Morehead City, North Carolina 28557.			
North Carolina	Town of Newport, Carteret County	Atlantic Ocean/Bogue Sound/ Newport River/Deep Creek.	At Church Street	*10
		Bogue Sound/Newport River/Deep Creek, Little Deep Creek	At the corporate limits	*11
		Bogue Sound/Newport River	At Chatham Street (U.S. Highway 70)	*10
	Maps available for inspection at Town Hall, Newport, North Carolina 28570.			
	Send comments to Mayor Derryl Garner or Ms. Beverly McCarvill, Town Clerk, Newport, North Carolina 28750			
North Carolina	Town of Swansboro, Onslow Conunty	Atlantic Ocean/White Oak River	Front Street extended, east of its intersection with Corbett Avenue (State Route 24)	*10
			At intersection of Church Street and Water Street and Water Street	*11
			At intersection of Spring Street and Walnut Street	*10
	Maps available for inspection at Town Hall, Church Street, Swansboro, North Carolina 28584			
	Send comments to Mayor Andy Ennett of Ms. Patty Sue Chandler, Town Clerk, Town Hall, Church Street, Swansboro, North Carolina 28584			
Ohio	(C) Bellaire, Belmont County	Ohio River	Downstream corporate limit	*656
			Upstream corporate limit	*658
		Indian Run	Mouth at Ohio River	*656
			About 100 feet upstream of 41st Street	*700
		Pinch Run	Within corporate limits	*656
		McMahon Creek	Within corporate limits	*656
	Maps available for inspection at the Community Development Office, City Hall, 32nd and Belmont Streets, Bellaire, Ohio			
	Send comments to Honorable Mary E. Fitch, Mayor, City of Bellaire, City Hall, 32nd and Belmont Streets, Bellaire, Ohio 43906.			
Ohio	(V) Clarrington, Monroe County	Ohio River	About 0.35 mile downstream of confluence of Sunfish Creek (at downstream corporate limit).	*624
			About 0.36 mile upstream of confluence of Stillhouse Run (at upstream corporate limit)	*644
		Sunfish Creek	About 0.5 mile upstream of mouth	*642
	Maps available for inspection at the Village Hall, Market Street, Clarrington, Ohio			
	Send comments to Honorable Jess Morris, Mayor, Village of Clarrington, Village Hall, Market Street, Clarrington, Ohio 43915			
Ohio	(C) Delaware, Delaware County	Delaware Run	Just downstream of Henry Street	*863
			Just downstream of Chessie System	*892
			Just upstream of Chessie System	*899
			About 800 feet upstream of State Route 37	*930
		Olentangy River	About 5,000 feet downstream of Olentangy Avenue	*844
			About 1.63 miles upstream of east Central Avenue	*872
	Maps available for inspection at the Building Inspector's Office, City Hall, One South Sandusky, Delaware, Ohio			
	Send comments to Honorable Harold Weller, City Manager, City of Delaware, City Hall, One South Sandusky, Delaware, Ohio 43015			
Ohio	(V) Rayland, Jefferson County	Ohio River	About 0.72 mile downstream of confluence of Short Creek	*663
			About 0.22 mile upstream of confluence of Short Creek	*664
		Short Creek	Within community	*663
	Maps available for inspection at the Mayor's Office, Village Hall, Rayland, Ohio			
	Send comments to Honorable Bartok, Mayor, Village of Rayland, Village Hall, 195 Main Street, Rayland, Ohio 43943.			

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
South Carolina	City of Camden, Kershaw County	Big Pine Tree Creek	At the Southern Railway (flooding controlled by backwater effects from the Wateree River).	*151
		Little Pine Tree Creek	Just downstream of Haile Street extension	*155
		Camp Creek	Just upstream of Five Bridges Road	*189
			Just upstream of confluence of tributary CCI	*195
		Tributary CCI	Just upstream of confluence with Camp Creek	*195
Maps available for inspection at City Administrator's Office, City Hall, 100 Lyttleton Street, Camden, South Carolina 29020.				
Send comments to Mayor James Anderson or Mr. Max Pauling, City Hall, 1000 Lyttleton Street, Camden, South Carolina 29020.				
South Carolina	Horry County, unincorporated area	Atlantic Ocean	Intersection of Stanley Drive and Fourth Street	*14
			Intersection of Stanley Drive and Second Street	*15
			Approximately 800 feet seaward of Elizabeth Drive and Cypress Avenue intersection along Cypress Avenue.	*16
			Intersection of Seabreeze Drive and Rainbow Drive	*15
			Approximately 150 feet seaward of Hawes Avenue and Wacaman Drive intersection along Hawes Avenue (extended).	*16
			Approximately 300 feet seaward of Hawes Avenue and Wacaman Drive intersection along Hawes Avenue (extended).	*18
			Approximately 400 feet seaward of Hawes Avenue and Wacaman Drive intersection along Hawes Avenue (extended).	*22
			Town of Surfside Beach southern corporate limits at Melody Lane and Lakeside Drive intersection.	*15
			Approximately 150 feet seaward of Melody Lane and South Ocean Boulevard intersection along Melody Lane (extended).	*18
			Approximately 400 feet seaward of Melody Lane and South Ocean Boulevard intersection along Melody Lane (extended).	*22
			Town of Surfside Beach northern corporate limits at 17th Avenue North and Dogwood Drive North intersection.	*15
			Approximately 400 feet seaward of 17th Avenue North and North Ocean Boulevard intersection along 17th Avenue North (extended).	*22
			Intersection of Woodview Lane and Dogwood Drive at Long Bay Estates.	*14
			Intersection of Ocean Boulevard and Dogwood Drive at Long Bay Estates.	*16
			Approximately 400 feet seaward of Ocean Boulevard and Dogwood Drive intersection along Dogwood Drive (extended) at Long Bay Estates.	*22
			City of Myrtle Beach southern corporate limits at State Route 73.	*14
			Mouth of Singleton Swash just north of city of Myrtle Beach northern corporate limits	*20
			Singleton Lake at Lake Arrowhead Road Bridge	*13
			Town of Briarcliffe Acres southern corporate limits at shoreline.	*20
			Town of Briarcliffe Acres southern corporate limits inland	*13
			Mouth of White Point Creek	*20
			Mouth of Little River	*13
			Northern county boundary	*14
		Waccamaw River	Southern county boundary	*7
			Bull Creek	*7
			Old River	*7
			Peachtree Landing	*7
			Pitch Landing	*8
			U.S. Route 501 bridge upstream	*12
			State Route 544 bridge upstream	*14
			5,000 feet upstream of State Route 544 bridge	*15
		Kingston Lake Swamp	State Route 905 bridge	*14
			Confluence with Crab Tree Swamp	*14
		Little River	At mouth	*13
			At Mullet Creek	*13
		Intracoastal Waterway	Town of North Myrtle Beach southern corporate limits	*11
			Sea Mountain Highway bridge	*10
			Interstate Route 501 bridge	*7
			State Route 544 bridge	*7
			Confluence with Waccamaw River	*7
Maps are available for inspection at: Horry County Building Inspection Department, 101 Beaty Street, Conway, South Carolina; Chapin Memorial Library, 300 Fourteenth Avenue North, Myrtle Beach, South Carolina; Surfside Branch Library, 1032 Tenth Avenue North, Surfside Beach, South Carolina, Grand Strand Branch Library, 799 Second Avenue North, North Myrtle Beach, South Carolina; Aynor Branch Library, South Main Street, Aynor, South Carolina; and Loris Branch Library, 4316 Main Street, Loris, South Carolina.				
Send comments to Mr. John Hatchell, Horry County Administrator, P.O. Box 1236, Conway, South Carolina 29582				
South Carolina	Unincorporated areas of Kershaw County	Wateree River	Just upstream of confluer of town Creek	*143
			Just downstream of Intersa e Highway 20	*150

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Approximately 200 feet upstream of Seaboard Coastline Railroad	*155
			Just downstream of Wateree Lake Dam	*175
		Swift Creek	Just downstream of State Highway 261	*144
			Just downstream of County Road 562	*185
		Town Creek	Just upstream of Southern Railway	*145
			Just upstream of Interstate Highway 20	*169
		Big Pine Tree Creek	Just downstream of Interstate Highway 20	*150
			Just downstream of County Road 131	*170
		Little Pine Tree Creek	Just upstream of State Road 132	*174
		Bolton branch	Just downstream of Old Ferry Road	*160
			Just downstream of U.S. Highway 1 and 601	*166
		Five and Twenty Creek	Just upstream of County Road 36	*159
		Camp Creek	Just downstream of U.S. Highway 1 and 601	*160
			Just downstream of of Chestnut Ferry Road	*172
		Tributary WR-1	Just downstream of County Road 35	*221
		Sanders Creek	Just upstream of State Highway 97	*202
			Just upstream of U.S. Highway 521 and 601	*234

Maps available for inspection at Kershaw County Courthouse, County Administrator's Office, Room 202, Camden, South Carolina 29020.

Send comments to Mr. James Burgess, County Administrator, or Mr. Max Rush, County Tax Assessor, Kershaw County Courthouse, Room 202, Camden, South Carolina 29020

South Carolina	City of Laurens, Laurens County	Little River	Approximately 200 feet upstream of East Earley Avenue	*549
			Just downstream of Hillcrest Drive	*566
		Tributary LR-1	Approximately 120 feet upstream of East Main Street	*564
			Approximately 70 feet downstream of Fleming Street	*575
		Tributary LR-2	Approximately 80 feet downstream of South Harper Street (U.S. Highway 221)	*572
		Tributary LR-3	McDowell Street (extended)	*571
		Reedy Fork Creek	Just downstream of Church Street	*567
			Just downstream of Anderson Drive	*573
		Tributary RF-1	Just upstream of Sunset Park Road	*576
		Burnt Mill Creek	Approximately 200 feet upstream of U.S. Highway 221	*583
		Scout branch	Just upstream of Parkview Drive	*612
			Just downstream of Pamela Lane	*634
			Just upstream of Pamela Lane	*641

Maps available for inspection at Building and Zoning Administrator's Office, City Hall, Public Square, Laurens, South Carolina 29360

Send comments to Mayor Bob Dominick or Mr. Paul Whillette, City Administrator, City Hall, P.O. Box 519, Laurens, South Carolina 29360

South Carolina	Town of McClellanville, Charleston County	Atlantic Ocean/Intracoastal Waterway	Intersection of Lofton Court and Pinckney Street	*13
			Intersection of Oak Street and Venning Street	*13
			Intersection of Society Road and Pinckney Street	*12

Maps available for inspection at Town Clerk's Office, Town Hall, 405 Pinckney Street, McClellanville, South Carolina 29458

Send comments to Mayor Rutledge Leland or Ms. Priscilla Parker, Town Clerk, Town Hall, P.O. Box 181, McClellanville, South Carolina 29458

Tennessee	Unincorporated areas of Gibson County	North fork of Forked Deer River	Just upstream of Route 54	*313
			Just upstream of U.S. Highway 45W Bypass	*316
		North fork of Forked Deer River tributary one	Just upstream of U.S. Highway 45W Bypass	*322
		North fork of Forked Deer River tributary two	At confluence with north fork of Forked Deer River	*312
		North fork of Forked Deer River tributary three.	Approximately 1,500 feet upstream of the confluence with north fork of Forked Deer River at county road.	*320
		Little Sugar Creek	Just upstream of U.S. Highway 45W (State Route 5)	*345
			Just upstream of U.S. Highway 45W Bypass	*353
		Lick Creek	Just downstream of eastern corporate limits	*332
		Barnett Branch	Just upstream of Gibson Wells Road	*335
		Duffy Creek	Just upstream of State Route 5	*352
		Unnamed tributary to middle fork of Forked Deer River	Approximately 8,000 feet upstream of confluence with middle fork of Forked Deer River	*330
		Town Creek	Approximately 200 feet upstream of the Illinois Central Gulf Railroad	*349

Maps available for inspection at County Executive's Office, Gibson County Courthouse, Trenton, Tennessee 38382.

Send comments to Mr. Ronnie Riley, County Executive, or Mr. Charles Lovell, Administrative Assistant, Gibson County Courthouse, Trenton, Tennessee 38382.

Vermont	Hardwick, town and village, Caledonia County	Lamoille River	Downstream corporate limits	*784
			Upstream of Town Road 41	*789
			Upstream of Lake Hardwick Dam	*803
			Upstream of Cottage Street	*817
			Upstream of Main Street	*829
			Upstream of Lamoille Valley Railroad (downstream crossing)	*886
			Upstream of Lamoille Valley Railroad (upstream crossing)	*944
			Upstream of Town Road 31	*968
			Upstream of Town Road 30	*974
			Upstream of Town Road 28	*1,046
			Upstream of State Route 16	*1,074
			Upstream of Town Road 62	*1,131
			Upstream corporate limits	*1,157
		Cooper Brook	Confluence with Lamoille River	*812
			Upstream of Elm Street	*815

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Upstream of State Route 14 (most downstream crossing).	*818
			Upstream corporate limits	*834
		Nichols Brook	Confluence with Cooper Brook	*818
			Approximately 1,000 feet downstream of Town Road [redacted]	*868
			Upstream of Town Road 48	*900
			Downstream of Mackville Dam	*913
			Upstream of Mackville Dam	*929

Maps available for inspection at the Town Hall, Town Offices, Hardwick, Vermont.

Send comments to Honorable Michael Smith, Town Manager, Town Hall, Box 523, Hardwick, Vermont 05843.

Wisconsin	(V) Soldiers Grove, Crawford County	Baker Creek	Mouth at Kickapoo River	*731
			About 1,500 feet upstream from confluence of unnamed tributary to Baker Creek.	*775
		Johnson Valley Creek	Mouth at Kickapoo River	*726
			About 2,300 feet upstream from B Street	*750
		Kickapoo River	About 900 feet downstream of confluence of Johnson Valley Creek.	*726
			About 4,200 feet upstream from A Street	*735
		Shendan Creek	Mouth at Baker Creek	*755
			Eastern corporate limit	*807
		Unnamed tributary to Baker Creek	Mouth at Baker Creek	*763
			Southern corporate limit	*902

Maps available for inspection at the Village Clerk's Office, Village Hall, Soldiers Grove, Wisconsin.

Send comments to Honorable S. Robert Peterson, Village President, Village of Soldiers Grove, P.O. Box 121, Soldiers Grove, Wisconsin 54655.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 28, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-4041 Filed 2-17-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

45 CFR Parts 1010, 1061, and 1064

Removal of Former Community Services Regulations Regarding Civil Rights, Character of Specific Programs, and Delegate Agency Appeals

AGENCY: Office of Community Services, HHS.

ACTION: Proposed rule.

SUMMARY: The Office of Community Services (OCS) proposes to remove former Community Services Administration (CSA) regulations which used to govern ongoing, programmatic CSA grantee activities. As CSA was abolished effective October 1, 1981 and all former CSA grants affected by the rule will have expired by April 30, 1983, these regulations relating only to ongoing, programmatic grantee activities are unnecessary. The removal of these regulations removes obsolete material, leaving in effect only those former CSA regulations which may still be relevant to closeout.

DATE: Comments must be received by March 21, 1983.

ADDRESS: Comments should be directed to Dr. Harvey R. Vieth, Director, Office of Community Services, Department of Health and Human Services, 1200 19th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Mr. John C. Meyer, telephone 202–653–9233.

SUPPLEMENTARY INFORMATION: The three Parts to be removed are Parts 1010, 1061, and 1064.

Parts 1010 contains CSA civil rights regulations which are obsolete, since all former CSA grants are now in the closeout stage, during which no further services are delivered to which these regulations could apply.

All transition and block grants funded by OCS are subject to the Departmental civil rights regulations, including 45 CFR Parts 80, 81, 84, 90, 91.

Part 1061 governs the conduct of specific categorical programs funded under Sections 222 and 231 of the repealed Economic Opportunity Act of 1964. All such grants are in the process of closeout and these regulations have no effect on closeout activities.

Part 1064 implemented Section 604(1) of the repealed Economic Opportunity Act of 1964, which provided that an agency which applied for funding as a delegate agency of a Community Action Agency (CAA), for a subsequent funding period, could appeal to CSA if the CAA rejected, or failed to act on, the application. Thus the remedy was prospective only, and because the authority of OCS to provide funding directly to CAAs in transition states ended as of September 30, 1982 (see 42 U.S.C. 9911), the appeal authority is no longer relevant.

Regulatory Impact and Regulatory Flexibility Act

As these changes merely remove obsolete regulations, this proposed rule will not meet the criteria for a major rule under Executive Order 12291 and a regulatory impact analysis is not required. This rule also will not have a significant impact on a substantial number of small entities. Accordingly, the Secretary hereby certifies that a regulatory flexibility analysis under the

Regulatory Flexibility Act (5 U.S.C. Ch. 6) is not required.

(Sec. 682(e), Pub. L. 97-35, 95 Stat. 519 (42 U.S.C. 9911); Statement of Organization, Functions and Delegations of Authority, Office of Community Services, 46 FR 49211)

PARTS 1010, 1061 AND 1064—[REMOVED]

For the reasons set forth in the preamble, Title 45 of the Code of Federal Regulations is proposed to be amended by removing Parts 1010, 1061, and 1064.

Dated: December 16, 1983.

Harvey R. Vieth,

Director, Office of Community Services.

Dated: January 19, 1983.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 83-4273 Filed 2-17-83; 8:45 am]

BILLING CODE 4150-04-M

Notices

Federal Register
Vol. 48, No. 35
Friday, February 18, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Burley Tobacco; 1983–84 National Marketing Quota for Burley Tobacco

AGENCY: Notice of Determination of 1983–84 Marketing Quota.

SUMMARY: The purpose of this notice is to announce determinations with respect to the 1983 crop of burley tobacco in accordance with the Agriculture Adjustment Act of 1938, as amended. The Secretary of Agriculture has determined that the 1983–84 national marketing quota for burley tobacco shall be 647 million pounds. The Secretary is required by statute to announce the 1983–84 national marketing quota by February 1, 1983. This notice also proclaims that marketing quotas will be in effect for burley tobacco for three marketing years beginning October 1, 1983. A referendum of producers of burley tobacco will be held by mail ballot from February 28 to March 3, 1983 inclusive, to determine whether they favor or oppose such quotas for the three year period.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Analysis Division, ASCS, Room 3736, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical region, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This notice of determination is issued in accordance with the Agricultural Adjustment Act of 1938, as amended, (hereinafter referred to as the "Act") in order to announce for the 1983–84 marketing year for burley tobacco the following:

1. The amount of the reserve supply level;
2. The amount of the total supply;
3. The amount of the national marketing quota;
4. The national factor; and
5. The national reserve:

A. For establishing marketing quotas for new farms, and

B. For making corrections and adjusting inequities in marketing quotas for old farms.

Since the 1982–83 marketing year is the last of the three consecutive years for which marketing quotas previously proclaimed on a poundage basis will be in effect, section 319(b) of the Act provides that the Secretary shall proclaim marketing quotas for burley tobacco on a poundage basis for the next three marketing years.

The determinations by the Secretary as set forth in this notice have been made on the basis of the latest available statistics of the Federal Government, and after consideration of data, views, and recommendations received from burley tobacco producers and others pursuant to a Proposed Notice of Determination which was published on October 29, 1982 (47 FR 49046).

Discussion of Comments

During the comment period, 11 written (responses) were received from producers, members of the trade including trade associations, and farm groups. Five of the 6 comments which made specific recommendations with respect to the size of the 1983–84 marketing quota recommended a 5 percent reduction in the quota, noting that supplies were excessive. The other response commented that the 1983–84 marketing quota should be maintained at the same level as the 1982–83 marketing quota and level of support for burley tobacco should be the same as the level of support for the 1982 crop. The other 5 responses made comments which were not related to the marketing quota, including one which objected to the whole price support program.

A meeting was held in the burley tobacco producing area to give producers and others a further opportunity to express their views. Eight of the 16 persons in attendance who expressed views favored a 5 percent reduction in quota; one opposed an increase; one favored maintaining the quota at last year's level; one favored a quota that would induce production of 650 million pounds; and 5 made no specific recommendations. Their comments were based upon the existing excess supply of burley tobacco.

Section 319(c) of the Act provides that the national marketing quota which is determined for burley tobacco for any marketing year shall be the amount of burley tobacco which is produced in the United States which the Secretary estimates will be utilized domestically and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 percent of such estimated domestic utilization and exports. For each marketing year for which marketing quotas are in effect under section 319, the Secretary in his discretion may establish a reserve

(hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 percent of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms.

Section 319(e) of the Act provides, in part, that the farm marketing quota for the 1983–84 marketing year shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined for the 1983–84 marketing year. However, such national factor shall be not less than 95 percent.

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other domestic conditions, as well as in years of plenty. The "normal supply" is defined in section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the average quantity produced and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which the quota must be announced (1982–83), adjusted for current trends in such consumption. A "normal year's exports" is defined in section 301(b)(12) of the Act as the average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The reserve supply level is 1,672 million pounds, based on a normal year's domestic consumption of 495 million pounds and a normal year's exports of 140 million pounds. The average domestic usage for the past 10 marketing years is 502 million pounds. The 10-year average for exports is 106 million pounds. Exports have averaged 126 million pounds during the past 3 marketing years and are expected to continue their upward trend in the future as foreign manufacturers upgrade their blends. In view of these data and estimates, a reserve supply level of 1,672 million pounds is reasonable.

The total supply for the 1982–83 marketing year (carryover stocks as of October 1, 1982 plus estimated marketings of the 1982 crop) is 1,851 million pounds. This is 179 million pounds above the reserve supply level.

Total disappearance for the 1983–84 marketing year is estimated at 615 million pounds. While it would appear appropriate to establish a national marketing quota for the 1983–84 marketing year at less than 615 million pounds, section 319(e) of the Act provides that the sum of the farm marketing quotas for such marketing year cannot be less than 95 percent of the farm marketing quotas for the previous marketing year. Accordingly, the national marketing quota for burley tobacco for the marketing year beginning October 1, 1983 is determined to be 647 million pounds. The sum of the preliminary farm marketing quotas for farms eligible for the 1983–84 marketing year is 680,297,245 pounds. A quota of 647 million pounds, less a national reserve of 700,000 pounds, results in a national factor for burley tobacco for the 1983–84 marketing year of 0.95.

Since the Secretary is required by statute to announce the 1983 national marketing quota by February 1, 1983, this notice is effective on February 1, 1983.

Determinations

Accordingly, the Secretary has made the following determinations with respect to burley tobacco:

Proclamation of National Marketing Quotas

Since the 1982–83 marketing year is the last of 3 consecutive marketing years for which marketing quotas previously proclaimed will be in effect for burley tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1983, October 1, 1984, and October 1, 1985 is hereby proclaimed.

Method and Period for Holding Referendum

It is hereby determined that a referendum will be conducted by mail ballot during February 28–March 3, 1983 inclusive. If more than 66⅔ percent of those voting favor quotas, then quotas will be in effect for the next three marketing years beginning October 1, 1983.

Determinations for the 1983–84 Marketing Year

For burley tobacco for the marketing year beginning October 1, 1983:

(a) *National marketing quota.* A national marketing quota for burley tobacco on a poundage basis for the marketing year beginning October 1, 1983, is hereby determined and announced in the amount of 647 million pounds.

(b) *National factor.* The national factor is 0.95.

(c) *National reserve.* The national reserve for the 1983–84 marketing year which is used for the purpose of making corrections and adjusting inequities in old farm quotas and for establishing quotas for new farms is 700,000 pounds.

(Secs. 301, 319, 375, 52 Stat. 38, as amended, 85 Stat. 23, 52 Stat. 66, as amended, 7 U.S.C. 1301, 1314e, 1375)

Signed at Washington, D.C. on February 15, 1983.

John R. Block,

Secretary.

[FR Doc. 83-4280 Filed 2-17-83; 8:45 am]

BILLING CODE 3410-05-M

Cigar Filler and Maryland Tobaccos; 1983–84 National Marketing Quota for Cigar Filler (Type 41) and Maryland Tobaccos

AGENCY: Agricultural Stabilization and Conservation Service, Agriculture (USDA).

ACTION: Notice of Determination of 1983–84 Marketing Quota.

SUMMARY: The purpose of this notice is to announce determinations with respect to the 1983 crops of cigar filler (type 41) and Maryland tobaccos in accordance with the Agricultural Adjustment Act of 1938, as amended. The Secretary of Agriculture has determined that the 1983 acreage allotment is 14,263 acres for cigar-filler (type 41) and 38,072 acres for Maryland tobacco. This notice also proclaims marketing quotas for these tobaccos for three marketing years beginning October 1, 1983. Separate referenda of producers of these kinds of tobacco will be held by mail ballot from February 28–March 3, 1983 inclusive, to determine whether they favor or oppose such quotas for the three year period.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Analysis Division, ASCS, Room 3736-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187.

Maryland tobacco growers have not had marketing quotas since 1965 and cigar-filler tobacco growers have never approved marketing quotas. Since neither Maryland nor cigar-filler tobacco

growers are expected to approve quotas for the next three marketing years, a Preliminary Regulatory Analysis Statement has not been prepared. If growers of either kind of tobacco should approve quotas, a Final Regulatory Impact Statement describing the options considered in developing the final notice and the impact of implementing each option would be made available on request from Robert Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical region, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Under section 312(a) of the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), the Secretary is required to proclaim not later than February 1 of any marketing year with respect to any kind of tobacco, other than Flue-cured tobacco, a national marketing quota for any kind of tobacco for each of the next 3 succeeding marketing years if the Secretary determines that a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers in a referendum. Such is the case with respect to cigar filler (type 41) and Maryland tobaccos.

The Act also requires the Secretary to announce the reserve supply level and the total supply for these tobaccos for the marketing year beginning October 1, 1982, and to announce for the 1983–84 marketing year the amounts of the national marketing quotas, national acreage allotments, and national acreage factors for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for cigar filler (type 41) and Maryland tobaccos.

These determinations have been made on the basis of the latest available statistics of the Federal Government, and after consideration of data, views, and recommendations received from tobacco producers and others pursuant to a Proposed Notice of Determination which was published on December 10, 1982 (47 FR 55505).

Pursuant to the provisions of section 317(c) it has been determined that acreage-poundage quotas will not be announced for the 1983–84 marketing year for these kinds of tobacco since such quotas would not result in a more effective marketing program for such kinds of tobacco.

Discussion of Comments

No comments making specific recommendations on the amount of the 1983–84 national marketing quota with respect to either cigar-filler (type 41) or Maryland tobaccos were received.

In keeping with the Secretary's obligations to maintain an adequate supply of these kinds of tobacco, acreage allotments of 14,263 acres and 38,072 acres have been announced for the 1983–84 marketing year for cigar-filler (type 41) and Maryland tobaccos, respectively.

Provisions

Section 312(b) of the Act provides, in part, that the amount of the national marketing quota is the total quantity of a kind of tobacco which may be marketed which will make available during such marketing year a supply of such tobacco equal to the reserve supply level. This amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet marketing demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

Definitions

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The "normal supply" is defined in section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the average quantity produced and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which the quota must be announced (1982–83), adjusted for current trends in such consumption. A "normal year's exports" is defined in section 301(b)(12) of the Act as the average quantity produced in and exported from the United States during the 10 marketing years immediately preceding the marketing year in which the quota must be announced (1982–83), adjusted for current trends in such exports.

Cigar-Filler (Type 41) Tobacco

The yearly average quantity of cigar-filler (type 41) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1982–83 marketing year was approximately 24.5 million pounds. The average annual quantity of cigar-filler (type 41) tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1982–83 marketing year was 0.3 million pounds (farms sales weight basis). Since both domestic use and exports have shown no predominant trend during this 10-year period, 25.0 million pounds have been used as a normal year's domestic consumption and 0.3 million pounds have been used as a normal year's exports. Application of the formula prescribed by section 301(b)(14)(B) the Act results in a reserve supply level of 72.8 million pounds.

Manufacturers and dealers reported stocks of cigar-filler (type 41) tobacco held on October 1, 1982, of 52.3 million pounds. The 1982 cigar-filler (type 41) tobacco crop is estimated to be 25.4 million pounds. Therefore, the total supply of cigar-filler (type 41) tobacco for the 1982–83 marketing year is 77.7 million pounds. During the 1982–83 marketing year, it is estimated that disappearance will total approximately 27.4 million pounds. By deducting this disappearance from the total supply, a carryover of 50.3 million pounds for the 1983–84 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1983 is 22.5 million pounds. This represents the quantity of cigar-filler (type 41) tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Increasing the quota by 20 percent in accordance with section 312(b) of the Act to 27.0 million pounds is necessary to avoid undue restriction of marketings. This results in the 1983–84 national marketing quota of 27.0 million pounds. In accordance with section 313(g) of the Act, the 1983–84 national marketing quota divided by the 1978–82, 5-year national average yield of 1,893 pounds per acre results in a 1983 national acreage allotment of 14,263.07 acres.

Pursuant to the provisions of section 313(g), a national acreage factor of 1.00 is determined by dividing the national acreage allotment less a national reserve of 65 acres by the total of the 1983 preliminary farm acreage allotments. The Preliminary farm acreage allotments reflects the factors specified in section 313(g) for apportioning the national acreage allotment, less reserve, to old farms.

Maryland Tobacco

The yearly average quantity of Maryland tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1982–83 marketing year was approximately 20.6 million pounds. The average annual quantity of Maryland tobacco produced in the United States and exported during the 10 marketing years preceding the 1982–83 marketing year was 10.1 million pounds (farm sales weight basis). Domestic consumption has shown an upward trend while exports have declined. Accordingly, 23.0 million pounds have been used as a normal year's domestic consumption and 9.0 million pounds have been used as a normal year's exports. Application of the formula prescribed by section 301(b)(14)(B) of the act results in a reserve supply level of 82.1 million pounds. Carryover stocks of Maryland tobacco held by manufacturers and dealers on January 1, 1983, are estimated to be 41.0 million pounds. The 1982 Maryland tobacco crop is estimated to be 37.6 million pounds. Therefore, the total supply of Maryland tobacco for the 1982–83 marketing year is 78.6 million pounds. During the 1982–83 marketing year, it is estimated that disappearance will total approximately 36.0 million pounds. By deducting this disappearance from the total supply, a carryover of 42.6 million pounds for the 1983–84 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1983 is 39.5 million pounds. This represents the quantity of Maryland tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Increasing the quota by 20 percent in accordance with section 312(b) of the Act to 47.4 million pounds is necessary to avoid undue restriction of marketings. This results in the 1983–84 national marketing quotas of 47.4 million pounds.

In accordance with section 313(g) of the Act, the 1983–84 national marketing quota, divided by the 1978–82, 5-year national average yield of 1,245 pounds per acre, results in a 1983 national acreage allotment of 38,072.29 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 240 acres, by the total of the 1983 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national acreage allotment, less reserve, to old farms.

Reasons for Immediate Implementation

Since section 312 of the Act requires that the amount of the national marketing quotas for the 1983–84 marketing year cigar for filler and Maryland tobacco must be announced by February 1, 1983, it is hereby determined that no further public rulemaking is required. Therefore, this notice shall become effective February 1, 1983.

Determination; Proclamations of National Marketing quotas

Since the 1982–83 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for cigar-filler tobacco (type 41) and Maryland tobacco, a national marketing quota for each such kind of tobacco for each of the 3 marketing years beginning October 1, 1983, October 1, 1984, and October 1, 1985 is hereby proclaimed.

Method and Period for Holding Referenda

It is hereby determined and announced that separate referenda of farmers engaged in 1982 production of cigar filler (type 41) and Maryland tobaccos will be conducted by mail ballot during the period February 28–March 3, 1983 inclusive. If more than 66⅔ percent of those voting favor quotas, then quotas will be in effect for the next three marketing years beginning October 1, 1983.

Determinations for the 1983–84 Marketing Year

For cigar filler (type 41) tobacco for the marketing year October 1, 1983:

(a) *Reserve supply level.* The reserve supply level for cigar-filler (type 41) tobacco is 72.8 million pounds.

(b) *Total supply.* The total supply of cigar-filler (type 41) tobacco for the marketing year beginning October 1, 1982, is 77.7 million pounds.

(c) *Carryover.* The estimated carryover of cigar-filler (type 41) tobacco for the marketing year beginning October 1, 1983, is 50.3 million pounds.

(d) *National marketing quota.* The amount of cigar-filler (type 41) tobacco which will make available during the marketing year beginning October 1, 1983 a supply of cigar-filler (type 41) tobacco equal to the reserve supply level of such tobacco is 22.5 million pounds, and a national marketing quota of such amount is hereby announced. It is determined, however, that a national marketing quota in the amount of 22.5 million pounds would result in undue restriction of marketings during the 1983–84 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for cigar-filler (type 41) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1983, is 27.0 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 14,263.07 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1983–84 marketing year is 1.00.

(g) *National reserve.* The national acreage reserve is 65.0 acres, of which 15.0 acres are made available for 1983 new farms, and 50.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

For Maryland tobacco for the marketing year October 1, 1983:

(a) *Reserve supply level.* The reserve supply level for Maryland tobacco is 82.1 million pounds.

(b) *Total supply.* The total supply of Maryland tobacco is 78.6 million pounds.

(c) *Carryover.* The estimated carryover of Maryland tobacco for the

marketing year beginning October 1, 1983 is 42.6 million pounds.

(d) *National marketing quota.* The amount of Maryland tobacco which will make available during the marketing year beginning October 1, 1983, a supply of Maryland tobacco equal to the reserve supply level of such tobacco is 39.5 million pounds. It is determined, however, that a national marketing quota in the amount of 39.5 million pounds would result in undue restriction of marketings during the 1983–84 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for Maryland tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1983, is 47.4 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 38,072.29 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1983–84 marketing year is 1.00.

(g) *National reserve.* The national acreage reserve is 240.00 acres, of which 40.00 acres are made available for 1983 new farms, and 200.00 acres are made available for making corrections and adjusting inequities in old farm allotments.

(Secs. 301, 312, 313, 375, 52 Stat. 38, as amended, 46, as amended, 47, as amended, 66, as amended; 7 U.S.C. 1301, 1312, 1313, 1375)

Signed at Washington, D.C., on February 15, 1983.

John R. Block,

Secretary.

[FR Doc. 83-4281 Filed 2-17-83; 8:45 am]

BILLING CODE 3410-05-M

Fire-Cured (Type 21), Virginia Sun-Cured, Cigar-Binder (Types 51 and 52), and Cigar-Filler and Binder (Types 42, 43, 44, 53, 54, and 55); 1983–84 National Marketing Quotas and Acreage Allotments for Fire-Cured (Type 21), Virginia Sun-Cured, Cigar-Binder (Types 51 and 52), and Cigar-Filler and Binder (Types 42, 43, 44, 53, 54, and 55) Tobaccos

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination of 1983–84 Marketing Quota and Acreage Allotments.

SUMMARY: The purpose of this notice is to announce determinations with respect to the 1983 crops of fire-cured (type 21), Virginia sun-cured, cigar-binder, and cigar-filler and binder tobaccos. In addition to other determinations, USDA has declared national acreage allotments for the following kinds of tobaccos: Fire-cured (type 21), 9,342 acres; Virginia sun-cured, 1,283 acres; cigar-binder (types 51 & 52), 2,405 acres; cigar-filler and binder (types 42–44 & 53–55), 12,879 acres.

A referendum for Virginia sun-cured tobacco will be held during the period February 28–March 3, 1983, by mail to determine whether or not these producers favor quotas for the next three marketing years.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Analysis Division, ASCS, Room 3736 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical region or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Under section 312(a) of the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), the Secretary is required to proclaim not later than February 1 of any marketing year with respect to any kind of tobacco, other than flue-cured tobacco, a national marketing quota for any kind of tobacco for each of the next 3 marketing years if such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect. Such is the case with respect to Virginia sun-cured tobacco. The Act also requires the Secretary to announce the reserve supply level and the total supply of fire-cured (type 21), Virginia sun-cured, cigar-binder, and cigar-filler and binder tobaccos for the marketing year beginning October 1, 1982, and to announce for the 1983–84 marketing year the amounts of the national marketing quotas, national acreage allotments, and national acreage factors for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for fire-cured (type 21), Virginia sun-cured, cigar-binder, cigar-filler and binder tobaccos.

These determinations have been made on the basis of the latest available statistics of the Federal Government, and after consideration of data, views, and recommendations received from tobacco producers and others in response to a Proposed Notice of Determination which was published on December 10, 1982 (47 FR 55503).

Pursuant to the provisions of section 317(c) of the Act, it has been determined that acreage-poundage quotas will not be announced for the 1983–84 marketing year for any of these kinds of tobacco since such quotas would not result in a more effective marketing quota program for such kinds of tobacco.

Discussion of Comments

Nine written responses were received. A summary by kind of tobacco is as follows:

Fire-cured (type 21) tobacco: Two comments were received recommending that quotas remain unchanged.

Virginia sun-cured (type 37) tobacco: One comment was receive recommending quotas remain unchanged.

Cigar binder (types 51–52) tobacco: Two comments were received recommending that quotas remain unchanged.

Cigar-filler and binder (type 42–44; 53–55) tobacco: Four comments were received. Two recommended that quotas be reduced but gave not specific level.

One recommended that quotas remain the same. The other comment did not

concern to the amount of the national quota.

There were no comments with respect to the method or period for holding the referendum.

Statutory Provisions

Section 312(b) of the Act provides, in part, that the amount of the national marketing quotas is the total quantity of a kind of tobacco which may be marketed which will make available during such marketing year a supply of such tobacco equal to the reserve supply level. Since producers of these kinds of tobacco generally produce less than their respective national acreage allotments, it is determined that a larger quota would be necessary to make available production equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restriction of marketings in adjusting the total supply to the resrve supply level.

Definitions

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, floods, or other adverse conditions, as well as in years of plenty. The "'normal supply" is defined in section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the average quantity produced and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which the quota must be announced (1982–83), adjusted for current treands in such consumption.

A "normal year's exports" is defined in section 301(b)(12) of the Act as the average quantity produced in and exported from the United States during the 10 marketing years immediately preceding the marketing year in which the quota must be announced (1982–83), adjusted for current trends in such exports.

Fire-Cured (Type 21) Tobacco

The yearly average quantity of fire-cured (type 21) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1982–83 marketing year was approximately 1.9 million pounds. The average annual quantity of fire-cured (type 21) tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1982–83 marketing year was 3.6 million pounds (farm sales weight basis). Domestic use has shown an upward, while there does not seem to be a pattern to exports. Accordingly, a normal year's domestic consumption has been set at 2.6 million pounds while a normal year's exports has been set at 3.6 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 13.6 million pounds.

Manufacturers and dealers reported stocks of fire-cured (type 21) tobacco held on October 1, 1982, of 8.9 million pounds. The 1982 fire-cured (type 21) tobacco crop is estimated to be 5.5 million pounds. Therefore, the total supply of fire-cured (type 21) tobacco for the 1982–83 marketing year is 14.4 million pounds. During the 1982–83 marketing year, it is estimated that disappearance will total approximately 5.0 million pounds. By deducting this disappearance from the total supply, a carryover of 9.4 million pounds for the 1983–84 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1983 is 4.2 million pounds. This represents the quantity of fire-cured (type 21) tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because less than 48 percent of the announced national marketing quotas during the past 5 marketing years has been produced, it is hereby determined that a national marketing quota of 8.78 million pounds is necessary to make available production of 4.2 million pounds. Increasing the quota by 20 percent in accordance with section 312(b) of the Act to 10.5 million pounds is necessary to avoid undue restriction of marketings. This results in the 1983–84 national marketing quota of 10.5 million pounds.

In accordance with section 313(g) of the Act, the 1983–84 national marketing quota, divided by the 1978–82, 5-year national average yield of 1,124 pounds per acre, results in a 1983 national acreage allotment of 9,341.64 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 55.0 acres, by the total of 1983 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Virginia Sun-Cured Tobacco

The yearly average quantity of Virginia sun-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1982–83 marketing year was approximately 700 thousand pounds. The average annual quantity produced in the United States and exported during the same period was approximately 180 thousand pounds (farm-sales weight basis). Both domestic use and exports have shown a downward trend. Accordingly, 661 thousand pounds have been used as a normal year's domestic consumption and 176 thousand pounds have been used as a normal year's exports. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 2,213 thousand pounds.

Manufacturers and dealers reported stocks of Virginia sun-cured tobacco held on October 1, 1982, of 1,575 thousand pounds. The 1982 Virginia sun-cured tobacco crop is estimated to be 741 thousand pounds. Therefore, the total supply of Virginia sun-cured tobacco for the 1982–83 marketing year is 2,316 thousand pounds. During the 1982–83 marketing year, it is estimated that disappearance will total approximately 800 thousand pounds. By deducting this disappearance from the total supply, a carryover of 1,716 thousand pounds for the 1983–84 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1983 is 497 thousand pounds. This represents the quantity of Virginia sun-cured tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because less than 40 percent of the announced national marketing quotas over the past 5 years have been produced, it is hereby determined that a national marketing quota of 1,252 thousand pounds is necessary to make available production of 497 thousand pounds. Increasing the quota by 20 percent in accordance with section 312(b) of the Act to 1,502 thousand pounds is necessary to avoid undue restriction of marketings. This results in

a national marketing quota of 1,502 thousand pounds.

In accordance with section 313(g) of the Act, the 1983–84 national marketing quota, divided by the 1978–82, 5-year national average yield of 1,189 pounds per acre, results in a 1983 national acreage allotment of 1,263.25 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 9.0 acres, by the total of the 1983 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act of apportioning the national acreage allotment, less the national reserve, to old farms.

Cigar-Binder (Types 51 and 52) Tobacco

The yearly average quantity of cigar-binder (types 51 & 52) tobacco produced in the United States, which is estimated to have been consumed in the United States during the 10 years preceding the 1982–83 marketing year, was approximately 2.6 million pounds. The average annual quantity of cigar-binder tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1982–83 marketing year was .1 million pounds (farm-sales weight basis). Domestic use has shown an upward trend, while exports have remained relatively steady. Accordingly, 3.1 million pounds have been used as a normal year's domestic consumption and .1 million pounds have been used as a normal year's exports. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 9.1 million pounds.

Manufacturers and dealers reported stocks of cigar-binder tobacco held on October 1, 1982 of 7.1 million pounds. The 1982 cigar-binder crop is estimated to be 3.1 million pounds. Therefore, the total supply of cigar-binder tobacco for the 1982–83 marketing year is 10.2 million pounds. During the 1982–83 marketing year, it is estimated that disappearance will total about 2.5 million pounds. By deducting the estimated disappearance during the 1982–83 marketing year from the total supply, a carryover of 7.7 million pounds at the beginning of the 1983–84 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1983 is 1.4 million pounds. This represents the quantity of cigar-binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because less than 40 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota of 3.6 million pounds is necessary to make available production of 1.4 million pounds. Use of the authority of the Secretary in section 312(b) of the Act to increase the computed quota by 20 percent to 4.3 million pounds is necessary in order to avoid undue restriction of marketings. This results in a national marketing quota of 4.3 million pounds.

In accordance with section 313(g) of the Act, the 1983–84 national marketing quota of 4.3 million pounds, divided by the 1978–82, 5-year national average yield of 1,788 pounds per acre, results in a 1983 national acreage allotment of 2,404.92 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of 0.74 is determined by dividing the national acreage allotment, less a national reserve of 12 acres, by the total of the 1983 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national allotment, less the national reserve, to old farms.

Cigar-Filler and Binder Tobacco

The yearly average quantity of cigar-filler and binder tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1982–83 marketing year was approximately 23.1 million pounds. The average annual quantity of cigar-filler and binder tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1982–83 marketing year was less than .1 million pounds. Domestic use is erratic, while exports are steady.

Accordingly, a normal year's domestic consumption has been set at 27.4 million pounds while a normal year's exports has been set at 0.5 million pounds. Application of the formula prescribed by section 301(b)(14)(B) the Act results in a reserve supply level of 79.3 million pounds.

Manufacturers and dealers report stocks of cigar-filler and binder tobacco held on October 1, 1982 of 64.4 million pounds. The 1982 cigar-filler and binder crop is estimated to be 23.2 million pounds. Therefore, the total supply of cigar-filler and binder tobacco for the 1982–83 marketing year is 87.6 million pounds. During the 1982–83 marketing year, it is estimated that disappearance will total about 23.5 million pounds. By deducting this disappearance from the total supply, a carryover of 64.1 million pounds at the beginning of the 1983–84 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1983 is 15.2 million pounds. This represents the quantity of cigar-filler and binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because about 75 percent of the announced national marketing quotas over the past 5 years have been produced, it is hereby determined that the 1983–84 national marketing quota of 20.2 million pounds is necessary to make available production of 15.2 million pounds. Increasing the quota by 20 percent in accordance with section 312(b) of the Act of 24.2 million pounds, is necessary to avoid undue restriction of marketings. This results in the 1983–84 national marketing quota of 24.2 million pounds.

In accordance with section 313(g) of the Act, the 1983–84 national marketing quota of 24.2 million pounds, divided by the 1978–82, 5-year national average yield of 1,879 pounds per acre, results in the 1983–84 national acreage allotments of 12,879.19 acres.

Pursuant to the provisions of section 313(g), a national acreage factor of 0.85 is determined by dividing the national acreage allotment, less a national reserve of 55 acres, by the total of the 1983 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national acreage allotment, less the national reserve, to old farms.

Reasons for Immediate Implementation

Since section 312 of the Act requires that the amount of the national marketing quotas for the 1983–84 marketing year for the minor kinds of tobacco be announced by February 1, 1983, it is hereby determined that no further public rulemaking is required. Therefore, this notice shall become effective February 1, 1983.

Determination; Proclamations of National Marketing Quotas

Since the 1982–83 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for Virginia sun-cured tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1983, October 1, 1984, and October 1, 1985 is hereby proclaimed.

Method and Period for Holding Referendum

It is hereby determined and announced that a referendum of farmers engaged in 1982 production of Virginia sun-cured tobacco will be conducted by mail ballot during the period February 28–March 3, 1983 inclusive. If more than 66⅔ percent of those voting favor quotas, then quotas will be in effect for the next three marketing years beginning October 1, 1983.

Determinations 1983–84 Marketing Year

For Virginia sun-cured tobacco for the marketing year October 1, 1983:

(a) *Reserve supply level.* The reserve supply level for Virginia sun-cured tobacco is 2,213 thousand pounds.

(b) *Total supply.* The total supply of Virginia sun-cured tobacco for the marketing year beginning October 1, 1982 is 2,316 thousand pounds.

(c) *Carryover.* The estimated carryover of Virgina sun-cured tobacco for the marketing year beginning October 1, 1983, is 1,716 thousand pounds.

(d) *National marketing quota.* The amount of Virginia sun-cured tobacco which will make available during the marketing year beginning October 1, 1983, a supply equal to the reserve supply level of such tobacco is 497 thousand pounds. Because producers have been producing less than 40 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 1,252 thousand pounds is necessary to make available production of 497 thousand pounds. Accordingly, a national marketing quota of 1,252 thousand pounds is hereby announced. It is further determined, however, that a national marketing quota in the amount of 1,252 thousand pounds would result in undue restriction of marketings during the 1983–84 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for sun-cured (type 37) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1983, is 1,502 thousand pounds.

(e) *National acreage allotment.* The national acreage allotment is 1,263.25 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1983–84 marketing year is 1.0.

(g) *National reserve.* The national acreage reserve is 9 acres, of which 5.0 acres are made available for 1983 new farms, and 4.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

For fire-cured (type 21) tobacco for the marketing year October 1, 1983:

(a) *Reserve supply level.* The reserve supply level for fire-cured (type 21) tobacco is 13.6 million pounds.

(b) *Total supply.* The total supply of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1982, is 14.4 million pounds.

(c) *Carryover.* The estimated carryover of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1983, is 9.4 million pounds.

(d) *National marketing quota.* The amount of fire-cured (type 21) tobacco which will make available during the marketing year beginning October 1, 1983 a supply equal to the reserve supply level of such tobacco is 4.2 million pounds. Because producers have been producing less than 48 percent of the announced national marketing quota during the past 5 marketing years, it is national marketing quota of 8.78 million pounds is hereby announced.

It is further determined, however, that a national marketing quota in the amount of 8.78 million pounds would result in undue restriction of marketings during the 1983–84 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for fire-cured (type 21) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1983 is 10.5 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 9,341.64 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments is 1.0.

(g) *National reserve.* The national acreage reserve is 55 acres, of which 15.0 acres are made available for 1983 new farms, and 40.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

For cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year October 1, 1983:

(a) *Reserve supply level.* The reserve supply for cigar-filler and binder (types 42–44, 53–55) tobacco is 79.3 million pounds.

(b) *Total supply.* The total supply of cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1982 is 87.6 million pounds.

(c) *Carryover.* The estimated carryover of cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1983 is 64.1 million pounds.

(d) *National marketing quota.* The amount of cigar-filler and binder (types 42–44, 53–55) tobacco which will make available during the marketing year beginning October 1, 1983, a supply equal to the reserve supply level of such tobacco is 15.2 million pounds. Because producers have been producing about 75 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 20.2 million pounds is necessary to make available production of 15.2 million pounds. Accordingly, a national marketing quota of 20.2 million pounds is hereby announced. It is further determined, however, that a national marketing quota in the amount of 20.2 million pounds would result in undue restriction of marketings during the 1983–84 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for cigar-filler and binder (types 42–44, 53–55) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1983, is 24.2 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 12,879.19 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1983–84 marketing year is 0.85.

(g) *National reserve.* The national acreage reserve is 55 acres, of which 50 acres are made available for 1983 new farms, and 5 acres are made available for making corrections and adjusting inequities in old farm allotments.

For cigar-binder (types 51 & 52) tobacco for the marketing year October 1, 1983:

(a) *Reserve supply level.* The reserve supply level for cigar-binder (types 51 & 52) tobacco is 9.1 million pounds.

(b) *Total supply.* The total supply of cigar-binder (types 51 & 52) tobacco for the marketing year beginning October 1, 1982 is 10.2 million pounds.

(c) *Carryover.* The estimated carryover of cigar-binder (types 51 & 52) tobacco for the marketing year beginning October 1, 1983 is 7.7 million pounds.

(d) *National marketing quota.* The amount of cigar-binder (types 51 & 52) tobacco which will make available during the marketing year beginning October 1, 1983 a supply equal to the

reserve supply level of such tobacco is 1.4 million pounds. Because producers have been producing less than 40 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 3.6 million pounds is necessary to make available production of 1.4 million pounds. Accordingly, a national marketing quota of 3.6 million pounds is hereby announced. It is further determined, however, that a national marketing quota in the amount of 3.6 million pounds would result in undue restriction of marketings during the 1983–84 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent.

Therefore, the amount of the national marketing quota for cigar-binder (types 51 & 52) tobacco in terms of the total quantity of such tobacco which may be marketed during the year beginning October 1, 1983, is 4.3 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 2,404.92 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1983–84 marketing year is 0.74.

(g) *National reserve.* The national acreage reserve is 12.0 acres of which 5.0 acres are made available for new farms, and 7.0 acres are for making corrections in adjusting inequities in old farm allotments.

(Secs. 301, 312, 373, 52 Stat. 38, as amended, 46, as amended, 66, as amended; 7 U.S.C. 1301, 1312, 1313, 1375)

Signed at Washington, D.C., on February 15, 1983.

John R. Block,

Secretary.

[FR Doc. 83-4278 Filed 2-17-83; 8:45 am]

BILLING CODE 3410-05-M

Fire-Cured (Types 22 & 23) and Dark Air-Cured (Types 35 & 36) Tobacco; 1983–84 National Marketing Quotas and Acreage Allotments for Fire-Cured; (Types 22 & 23) and Dark Air-Cured (Types 35 & 36) Tobaccos

AGENCY: Agricultural Stablilization and Conservation Service, USDA.

ACTION: Notice of determination of 1983–84 marketing quotas and acreage allotments.

SUMMARY: The purpose of this notice is to announce determinations with respect to the 1983 crops of fire-cured (types 22 & 23) and dark air-cured (types 35 & 36) tobaccos. In addition to other determinations, USDA has established national acreage allotments for fire-cured (types 22 & 23) tobacco of 22,466 acres, and dark air-cured (types 35 & 36) tobacco of 9,679 acres; and poundage quotas for fire-cured (Types 22 & 23) tobacco of 39.9 million pounds, and dark air-cured (types 35 & 36) tobacco of 17.2 million pounds. Both acreage allotments and poundage quotas represent about a 15 percent reduction in quotas for fire-cured (types 22 & 23) tobacco and about a 20 percent reduction in quotas for dark air-cured (types 35 & 36) tobacco. Separate referenda for fire-cured (types 22 & 23) and dark air-cured (types 35 & 36) tobaccos will be held during the period February 28–March 3, 1983, by mail to determine which type of marketing restriction these producers prefer.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Analysis Division, ASCS, Room 3736 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical region, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This notice of determination is issued in accordance with the Agricultural Adjustment Act of 1938, as amended, (hereinafter referred to as the "Act") and announces for the 1983–84 marketing year for fire-cured (types 22 & 23) and dark air-cured (types 35 & 36) tobaccos the following:

1. The amount of the reserve supply levels;
2. The amount of the total supplies;
3. The amount of the national marketing quotas;
4. The amount of the national acreage allotments;
5. The national factors:
   A. For acreage adjustments,
   B. For poundage adjustments;
6. The national average yield goals;
7. The national yield factors; and
8. The national reserve (in both acres and pounds)
   A. For establishing marketing quotas for new farms, and
   B. For making corrections and adjusting inequities in old farms.

Section 312 of the Act provides that the Secretary shall proclaim marketing quotas for fire-cured (types 22 & 23) and dark air-cured (types 35 & 36) tobaccos on both an acreage basis and a poundage basis for the 1983–84 marketing year. During the period February 28–March 3, 1983 inclusive, a referendum of producers engaged in the 1982 production of each of such kinds of tobacco will be held to determine whether they favor farm marketing quotas on a poundage basis for the three marketing years beginning October 1, 1983, instead of quotas on an acreage basis for the two marketing years beginning October 1, 1983. If 50 percent or more of the producers voting in such referenda approve marketing quotas on a poundage basis, such quotas will be in effect for the three marketing years beginning October 1, 1983. If poundage quotas are not approved by at least 50 percent of the producers voting in such referenda, quotas on an acreage basis will be in effect for the two marketing years beginning October 1, 1983.

These determinations have been made on the basis of the latest available statistics of the Federal Government, and after consideration of data, views, and recommendations received from tobacco producers and others pursuant to a Proposed Notice of Determination published on December 12, 1982 (47 FR 56522).

Discussion of Comments

Six written responses were received. Some responses contained recommendations on more than one kind of tobacco. A summary by kind of tobacco is as follows:

Fire-cured (types 22 & 23): Three of the 4 comments received recommended that quotas be reduced 10 percent. The fourth comment recommended that quotas remain unchanged.

Dark air-cured (types 35 & 36): Four of the six comments received recommended quotas be reduced 20 percent; one recommended a 5 percent reduction; and one recommended no change in quotas.

There were no comments regarding the method or period for holding the referenda.

Acreage Provisions

Section 312(b) of the Act provides, in part, that the amount of the national marketing quota is the total quantity of a kind of tobacco which may be marketed which will make available during such marketing year a supply of such tobacco equal to the reserve supply level. Section 312(b) also provides the amount of the national marketing quota so determined may, not later than the following March 1, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level.

Poundage Provisions

Section 319(c) of the Act defines "national marketing quota" for various kinds of tobacco including fire-cured (types 22 & 23) and dark air-cured (types 35 & 36) for a marketing year as the amount of that kind of tobacco produced in the United States which the Secretary estimates will be used domestically and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply. The maximum downward adjustment is 5 percent of estimated domestic use and exports.

National Average Yield Goal

The Act provides that when a marketing quota program for these kinds of tobacco is first established under section 319(c), such farm yields determined with respect to fire-cured (types 22 & 23) and dark air-cured (types 35 & 36) tobaccos shall be adjusted proportionately so that the weighted average of the farm yields is equal to the national average yield goal of each respective kind of tobacco.

Other Definitions

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The "normal supply" is defined in section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in section 301(b)(11)(B) of the Act as the average quantity produced and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which the quota must be announced (1982–83), adjusted for the current trends in such consumption.

A "normal year's exports" is defined in section 301(b)(12) of the Act as the average quantity produced in and exported from the United States during the 10 marketing years immediately preceding the marketing year in which the quota must be announced (1982–83), adjusted for current trends in such exports.

Since different methods are used to determine marketing restrictions and different determinations are made with respect to marketing quotas on an acreage basis or on a poundage basis, the amount of such quotas would normally be different. However, in order to avoid influencing the outcome of the referenda to determine whether producers favor marketing quotas on an acreage or poundage basis, the national average yield goal will be used to adjust yields with respect to marketing quotas on a poundage basis in order that the amount of tobacco which could be marketed without penalty under either an acreage or poundage basis would be similar. Such calculations do not take into consideration the 10 percent which could be marketed under a poundage basis and which would otherwise be excluded from the succeeding year's quota.

Accordingly, the national poundage quota, insofar as practicable, shall equal the national marketing quota as determined under section 312 of the Act.

Fire-Cured (Types 22 & 23) Tobacco

The yearly average quantity of fire-cured (types 22 & 23) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1982–83 marketing year was about 15.3 million pounds. The average annual quantity of fire-cured (types 22 & 23) tobacco produced in the United States and exported during the 10 marketing years preceding the 1982–83 marketing year was 19.8 million pounds (farm-sales weight basis). Domestic use and exports are very irregular. Accordingly, a normal year's domestic consumption has been established at 21.0 million pounds and a normal year's exports at 22.0 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the Act results in a reserve supply level of 98.7 million pounds.

Manufacturers and dealers reported stocks of fire-cured (types 22 & 23) tobacco on October 1, 1982, of 62.5 million pounds. The 1982 fire-cured (types 22 & 23) crop is estimated to be 43.6 million pounds. Therefore, the total supply of fire-cured (types 22 & 23) tobacco for the marketing year beginning October 1, 1982, is 106.1 million pounds. During the 1982–83 marketing year, it is estimated that disappearance will total approximately 34.0 million pounds. By deducting this disappearance from the total supply, a carryover of 72.1 million pounds for the 1983–84 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1983 is 26.6 million pounds. This represents the quantity of fire-cured (types 22 & 23) tobacco which may be marketed which will make available during the 1983–84 marketing year a supply equal to the reserve supply level. Because less than 80 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota for the 1983–84 marketing year of 33.25 million pounds is necessary to make available production of 26.6 million pounds. In accordance with section 312(b) of the Act, it has been further determined that the 1983–84 national marketing quota must be increased in order to avoid undue restriction of marketings. This results in a national marketing quota for the 1983–84 marketing year of 39.9 million pounds.

The national acreage allotment for the 1983–84 marketing year is determined to be 22,466.22 acres. In accordance with section 313(g) of the Act, the national marketing quota for the 1983–84 marketing year has been divided by the 1978–82, 5-year national average yield of 1,776 pounds per acre, to obtain a national acreage allotment of 22,466.22 acres, for the 1983–84 marketing year.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 0.85 is determined by dividing the national acreage allotment for the 1983–84 marketing year less a national reserve of 75 acres, by the total of the 1983 preliminary farm acreage allotments.

The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the Act for apportioning the national acreage allotment, less reserve, to old farms.

The sum of preliminary farm marketing quotas as determined in accordance with section 319(e) of the Act, prior to any adjustment in the national average yield goal, for fire-cured (types 22 & 23) tobacco for use in determining the national marketing quota for the 1983–84 marketing year is 47,672,733 pounds.

The application of a national yield factor, in accordance with section 319(d) of the Act reduces the sum of preliminary farm marketing quotas to 42,009,212 pounds. The yield factor, which is .8812, was calculated by dividing the national average yield goal of 1,595 pounds per acre by the weighted average of the preliminary farm yields of 1,810 pounds.

The revised sum of preliminary farm marketing quotas multiplied by the national factor of 0.95 results in a national marketing quota for 1983–84 marketing year of 39.9 million pounds.

Dark Air-cured Tobacco

The yearly average quantity of dark air-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1982–83 marketing year was approximately 14.4 million pounds. The average annual quantity produced domestically and exported during this period was 2.3 million pounds (farm-sales weight basis). Exports have shown a downward trend while domestic use has been erratic. Accordingly, 16.5 million pounds have been used as a normal year's domestic consumption and 202 million pounds have been used as a normal year's exports. Application of the formula required by section 301(14)(B) of the Act results in a reserve supply level of 51.4 million pounds.

Manufacturers and dealers reported stocks of dark air-cured tobacco held on October 1, 1982, of 37.9 million pounds. The 1982 dark air-cured crop is estimated to be 18.6 million pounds. Therefore, the total supply for the marketing year beginning October 1, 1982, is 56.5 million pounds. During the 1982–83 marketing year, it is estimated that disappearance will total approximately 16.0 million pounds. By deducting this disappearance from the total supply, a carryover of 40.5 million pounds for the 1983–84 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1983 is 10.9 million pounds. This represents the quantity of dark air-cured tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 76 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota for the 1983–84 marketing year of 14.3 million pounds is necessary to make available production of 10.9 million pounds. In accordance with section 312(b) of the Act, it has been further determined that the 1983–84 marketing quota must be increased by 20 percent to 17.2 million pounds in order to avoid undue restriction of marketings. This results in the 1983–84 national marketing quota of 17.2 million pounds.

In accordance with section 313(g) of the Act, the 1983–84 national marketing quota, divided by the 1978–82, 5-year national average yield of 1,777 pounds per acre, results in a national acreage allotment of 9,679.23 acres.

Pursuant to the provisions of section 313(g) of the Act, a national acreage factor of 0.80 is determined by dividing the national acreage allotment, less a national reserve of 80.0 acres, by the total of the 1983 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national acreage allotment, less the national reserve, to old farms.

The sum of preliminary farm marketing quotas as determined by section 319(e) of the Act prior to any adjustment in the national average yield goal, for dark air-cured tobacco for use in determining the marketing quota for the 1983–84 marketing year is 21,857,774 pounds.

The application of a national yield factor, in accordance with section 319(d) of the Act reduces the sum of preliminary farm marketing quotas to 18,102,608 pounds. The yield factor, which is 0.8282, was calculated by dividing the national average yield goal of 1,509 pounds per acre by the weighted average of the preliminary farm yields of 1,822 pounds, as determined in accordance with section 319(d) of the Act.

The revised sum of preliminary farm marketing quotas multiplied by the national factor of 0.95 results in a national marketing quota for 1983–84 marketing year of 17.2 million pounds.

Reasons for Immediate Implementation

Since section 312 of the Act requires that the amount of the national marketing quotas for the 1983–84 marketing year for the minor kinds of tobacco be announced by February 1, 1983, it is hereby determined that no further public rulemaking is required. Therefore, this notice shall become effective February 1, 1983.

Determination; Proclamations of National Marketing Quotas

Marketing quotas on an acreage basis and a poundage basis for fire-cured and dark air-cured tobaccos for each of the 3 marketing years beginning October 1, 1983, October 1, 1984, and October 1, 1985 are hereby proclaimed.

Method and Period for Holding Referenda

It is hereby determined and announced that separate referenda of farmers engaged in 1982 production of fire-cured and dark air-cured tobaccos will be conducted by mail ballot during the period February 28–March 3, 1983 inclusive. If more than 50 percent of those voting favor marketing quotas on a poundage basis, then quotas on a poundage basis will be in effect for the next three marketing years beginning October 1, 1983. If less than 50 percent of those voting favor marketing quotas on a poundage basis, then quotas on an acreage basis will be in effect for the next two marketing years beginning October 1, 1983.

Determinations for the 1983–84 Marketing Year

For fire-cured (types 22 & 23) tobacco for the marketing year October 1, 1983:

(a) *Reserve supply level.* The reserve supply level for fire-cured (types 22 & 23) tobacco is 98.7 million pounds.

(b) *Total supply.* The total supply of fire-cured (types 22 & 23) tobacco for the marketing year beginning October 1, 1982, is 106.1 million pounds.

(c) *Carryover.* The estimated carryover of fire-cured (types 22 & 23) tobacco for the marketing year beginning October 1, 1983, is 72.1 million pounds.

(d) *National marketing quota.* The amount of fire-cured (types 22 & 23) tobacco which will make available during the marketing year beginning October 1, 1983, a supply equal to the reserve supply level of such tobacco is 26.6 million pounds. Because producers have been producing less than 80

percent of the announced national marketing quota during the past 5 marketing years, it is hereby determined that a national marketing quota for the 1983–84 marketing year of 33.25 million pounds is necessary to make available production of 26.6 million pounds. Accordingly, the 1983–84 national marketing quota of 33.25 million pounds is hereby announced. It is further determined, however, that the 1983–84 national marketing quota in the amount of 33.25 million pounds would result in undue restriction of marketings during the 1983–84 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the 1983–84 national marketing quota for fire-cured (types 22 & 23) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1983, is 39.9 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 22,466.22 acres.

(f)(1) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1983–84 marketing year is 0.85.

(2) *National factor based on poundage.* The national factor based on poundage for use in determining farm marketing quotas on a poundage basis for the 1983–84 marketing year is 0.95.

(g) *National yield factor.* The national yield factor for use in calculating farm marketing quotas on a poundage basis for the 1983–84 marketing year is 0.8812.

(h) *National average yield goal.* The national average yield goal for use in determining farm marketing quotas on a poundage basis for the 1983–84 marketing year is 1,595 pounds per acre.

(i) *National reserve.* The national reserves 75.0 acres (119,625 pounds), of which 15.0 acres (23,925 pounds) are made available for 1983 new farms, and 60.0 acres (95,700 pounds) are made available for making corrections and adjusting inequities in old farm allotments.

For dark air-cured tobacco for the marketing year October 1, 1983:

(a) *Reserve supply level.* The reserve supply level for dark air-cured tobacco is 51.4 million pounds.

(b) *Total supply.* The total supply of dark air-cured tobacco for the 1983–84 marketing year beginning October 1, 1982, is 56.5 million pounds.

(c) *Carryover.* The estimated carryover of dark air-cured tobacco for the 1983–84 marketing year beginning October 1, 1983, is 40.5 million pounds.

(d) *National marketing quota.* The amount of dark air-cured tobacco which will make available during the 1983–84 marketing year beginning October 1, 1983, a supply equal to the reserve supply level of such tobacco is 10.9 million pounds. Because producers have been producing only about 76 percent of the announced national marketing quota during the past 5 marketing years, it is hereby determined that the 1983–84 national marketing quota of 14.3 million pounds is necessary to make available production of 10.9 million pounds. Accordingly, the 1983–84 national marketing quota of 14.3 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 14.3 million pounds would result in undue restriction of marketings during the 1983–84 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the 1983–84 national marketing quota for dark air-cured (types 35 & 36) tobacco in terms of the total quantitiy of such tobacco which may be marketed during the marketing year beginning October 1, 1983, is 17.2 million pounds.

(e) *National acreage allotment.* The national acreage allotment is 9,679.23 acres.

(f)(1) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1983–84 marketing year is 0.80.

(2) *National factor based on poundage.* The national factor based on poundage for use in determining farm marketing quotas for the 1983–84 marketing year is 0.95.

(g) *National yield factor.* The national yield factor for use in determining farm marketing quotas on a poundage basis for the 1983–84 marketing year is .8282.

(h) *National average yield goal.* The national average yield goal for use in determining farm marketing quotas on a poundage basis for the 1983–84 marketing year is 1,509 pounds per acre.

(i) *National reserve.* (1) In accordance with section 319(c) of the Act, the national reserve is 120,720 pounds, of which 15,090 pounds are made available for 1983 new farms, and 105,630 pounds are made available for making corrections and adjusting inequities in old farm allotments. (2) In accordance with 313(g) of the Act the National Acreage Reserve is 80.0 acres, of which 10.0 acres are made available for the 1983 new farms, and 70.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

(Sec. 301, 312, 319, 375, 52 Stat. 38, as amended, 46, as amended; 65 Stat. 23, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1301, 1312, 1313, 1314(e), 1375).

Signed at Washington, D.C. on February 15, 1983.

John R. Block,

Secretary.

[FR Doc. 83-4279 Filed 2-17-83; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Ochoco National Forest Grazing Advisory Board; Notice of Meeting

The Ochoco National Forest Grazing Advisory Board will meet at 10:00 a.m., April 15, 1983, in the Forest Supervisor's Office, Federal Building, Prineville, Oregon.

The purpose of this meeting is to discuss subjects concerning the development of allotment plans and utilization of range betterment funds as presented by board members, permittees, and the general public.

The meeting will be open to the public. Persons who wish to attend should notify Jack Royle, P.O. Box 490, Prineville, Oregon 97754; phone (503) 447–6247. Written statements may be filed with the committee before or after the meeting.

Dated: February 8, 1983.

William L. McCleese,

Forest Supervisor.

[FR Doc. 83-4247 Filed 2-17-83; 8:45 am]

BILLING CODE 3410-11-M

Stanislaus National Forest Grazing Advisory Board; Meeting

The Stanislaus National Forest Grazing Advisory Board will meet at 8:00 a.m., on March 23, 1983, in Conference Room–A, of the Forest Supervisor's Office, 19777 Greenley Road, Sonora, California. The purpose of this meeting is to consider: (1) Priorities for use of range betterment funds, and (2) allotment management plans. This is the Board's second semi-annual meeting.

The meeting will be open to groups and individuals who have an interest in range management. Persons who wish to attend should notify me at 19777 Greenley Road, Sonora, California 95370; (209) 532–3671. Written statements may be filed with the committee before or after the meeting.

The committee has not established rules for public participation.

Dated: February 8, 1983.

Blaine L. Cornell,

Forest Supervisor.

[FR Doc. 83-4243 Filed 2-17-83; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

Forms Under Review by Office of Management and Budget

February 11, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzler, Acting Statistical Clearance Officer, (202) 447–6201.

New

- Animal and Plant Health Inspection Service

9 CFR 85 Pseudorabies (Reporting)
On occasion
Farms: 75,000 responses; 12,000 hours; not applicable under 3504(h)
Dr. R. Good (301) 436–8487

- Animal and Plant Health Inspection Service

9 CFR 85 Pseudorabies (Recordkeeping)
On occasion
Farms: 75,000 responses; 1,275 hours; not applicable under 3504(h)
Dr. R. Good (301) 436–8487

- Forest Service

Volunteer Application
Nonrecurring
Individuals or households: 60,000 responses; 15,000 hours; not applicable under 3504(h)
Stan Gaylord (202) 382–1725

Revised

- Agricultural Marketing Service

Potatoes Grown in Idaho and Malheur County, Oregon—Marketing Order 945
On occasion
Farms and businesses: 10,663 responses; 106,388 hours; not applicable under 3504(h)
Charles W. Porter (202) 447–2615

Extension

- Animal and Plant Health Inspection Service

National Poultry Improvement Plan (Recordkeeping)
On occasion
State and local government, businesses; 10,983 responses; 878 hours; not applicable under 3504(h)
R. D. Schar (301) 344–2227

- Animal and Plant Health Inspection Service

National Poultry Improvement Plan (Reporting)
VS Form 9–2, 9–3, 9–4, 9–5, 9–6, 9–7, 10–3
On occasion, annually
State and local government and businesses: 23,191 responses; 2,055 hours; not applicable under 3504(h)
R. D. Schar (301) 344–2227

Reinstatement

- Agricultural Stabilization and Conservation Service

7 CFR—1446—General Regulations: 1982–85 Crops Peanut Warehouse Storage
Loans and Handler Operations
ASCS–1007, ASCS–1030
On Occasion
Farms: 768,192 responses; 192,880 hours; not applicable under 3504(h)
James Davis (202) 447–7413.

Marshall L. Dantzler,
Acting Statistical Clearance Officer.

[FR Doc. 83–4216 Filed 2–17–83; 8:45 am]
BILLING CODE 3410–01–M

Soil Conservation Service

Hoyle Creek Watershed, Oklahoma; Record of Decision

AGENCY: Soil Conservation Service, USDA

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: Roland R. Willis, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Oklahoma, is hereby providing notification that a record of decision to proceed with the installation of the Hoyle Creek Watershed project is available. Single copies of this record of decision may be obtained from Roland R. Willis at the address shown below.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, USDA Agricultural Center Building, Stillwater, Oklahoma, 74074, telephone (405) 624–4360.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: February 11, 1983.

Donald R. Vandersypen,
Assistant State Conservationist (WR)

[FR Doc. 83–4261 Filed 2–17–83; 8:45 am]
BILLING CODE 3410–16

Moodys Road Critical Area Treatment RC&D Measure, Oklahoma; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Moodys Road Critical Area Treatment RC&D Measure, Cherokee County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, State Office, Agricultural Center Building, Stillwater, Oklahoma, 74074, telephone 405–624–4360.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns stabilizing eroding areas along county roadsides. The planned works of improvement include construction of a vegetative waterway with a rock riprap inlet

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of

copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roland R. Willis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: February 7, 1983.

Billy R. Littlefield,

Assistant State Conservationist.

[FR Doc. 83–4268 Filed 2–17–83; 8:45 am]

BILLING CODE 3410–16–M

San Diego-Rosita Creeks Watershed, Texas; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the San Diego-Rosita Creeks Watershed, Duval and Jim Wells Counties, Texas.

FOR FURTHER INFORMATION CONTACT: Billy C. Griffin, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main, Temple, Texas 76503, telepone (817) 774–1214.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Billy C. Griffin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood prevention. The planned works of improvement include the installation of a dike.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Billy C. Griffin.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: February 4, 1983.

Billy C. Griffin,

State Conservationist.

[FR Doc. 83–4249 Filed 2–17–83; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Steel Products From the Republic of Korea; Countervailing Duty Orders

AGENCY: International Trade Administration, Commerce.

ACTION: Countervailing Duty Orders; Certain Steel Products from the Republic of Korea.

SUMMARY: In separate investigations, the U.S. Department of Commerce (the Department) and the U.S. International Trade Commission (ITC) have determined that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, and exporters in the Republic of Korea (Korea) of certain steel products and that these imports are materially injuring a U.S. industry. Therefore, all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 12, 1982, the date of publication of our preliminary determinations, are liable for the possible assessment of countervailing duties. Further, a cash deposit of estimated countervailing duties must be posted on all such entries made on or after publication of these orders in the **Federal Register**.

Effective Date: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, or Steven Lim, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, D.C. 20230, telephone: (202) 377–1276.

SUPPLEMENTARY INFORMATION: On October 12, 1982, we published our preliminary determinations that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Korea of certain steel products (47 FR 44807). On December 27, 1982, we published our final affirmative countervailing duty determinations on these imports (47 FR 57535).

On February 8, 1983, the ITC notified us in accordance with section 705(d) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671d(d)), that it had determined that an industry in the United States is being materially injured by reason of imports of certain steel products from Korea. Therefore, all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 12, 1982, the date of publication of our preliminary determinations, are liable for the possible assessment of countervailing duties.

I am directing the U.S. Customs Service to assess countervailing duties in accordance with section 706(a)(1) and 751 of the Act and to require a cash deposit equal to the amount of the estimated net subsidy for all entries of certain steel products imported from Korea as defined in Appendix 1. These orders apply to all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice. The amount to be deposited for each product and company is listed in Appendix 2 of this notice.

The products covered by these countervailing duty orders are:

- Small diameter welded carbon steel pipes and tubes.
- Hot-rolled carbon steel plate.
- Hot-rolled carbon steel sheet.
- Galvanized carbon steel sheet.

These products are fully described in Appendix 1 of this notice.

I hereby make public these countervailing duty orders with respect to certain steel products from Korea pursuant to section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36). The Department intends to complete an administrative review of these orders under section 751 of the Act.

Dated: February 10, 1983.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

Appendix 1

Description of Products

For purposes of these investigations:

1. The term *"hot-rolled carbon steel plate"* covers carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 of an inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6615, or 607.94, of the *Tariff Schedules of the United States Annotated ("TSUSA");* and hot- or cold-rolled carbon steel plate which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710 or 608.11 of the TSUSA. Semi-finished products of solid rectangular cross section with a width at least four times the thickness in the cast condition or processed only through primary mill hot-rolling are not included.

2. The term *"hot-rolled carbon steel sheet"* covers the following hot-rolled carbon steel products. Hot-rolled carbon steel sheet is a hot-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 8 inches in width and in coils or if not in coils under 0.1875 of an inch in thickness and over 12 inches in width; as currently provided for in items 607.6610, 607.6700, 607.8320, 607.8342, or 607.9400 of the *Tariff Schedules of the United States Annotated "TSUSA". PLEASE NOTE THAT THE DEFINITION OF HOT-ROLLED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEMS 607.6610 AND 607.8320).*

3. The term *"Galvanized carbon steel sheet"* covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710, 608.0730, 608.11 or 608.13 of the *Tariff Schedules of the United States Annotated ("TSUSA"). NOTE THAT THE DEFINITION OF GALVANIZED CARBON STEEL SHEET INCLUDES SOME PRODUCTS CLASSIFIED AS "PLATE" IN THE TSUSA (ITEMS 608.0710 AND 608.11).* Hot- or cold-rolled carbon steel sheet which has been coated or plated with metal other than zinc is not included.

4. The term *"small diameter welded carbon steel pipes and tubes"* covers welded carbon steel pipes and tubes with walls not thinner that 0.065 of an inch, of circular cross section and 0.375 of an inch or more in outside diameter but not more than 16 inches as currently provided for in items 610.3208, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244, and 610.3247, of the *Tariff Schedules of the United States Annotated ("TSUSA").* Pipes or tubes suitable for use in boilers, superheaters, heat exchangers, condensers, and feedwater heaters, or conforming to A.P.I. specifications for oil well tubing, with or without couplings, cold drawn pipes and tubes and cold-rolled pipes and tubes with wall thickness not exceeding 0.1 inch are *not included.*

Appendix 2

Product and manufacturer/producer/exporter	Ad valorem rate
Small diameter welded carbon steel pipes and tubes	
Masan tube	1.86
POSCO (Dong Jin)	1.88
Other manufacturers investigated	0.00
All other manufacturers/producers/exporters	1.88
Hot-rolled carbon steel plate	
All manufacturers/producers/exporters	1.88
Hot-rolled carbon steel sheet	
All other manufacturers/producers/exporters	1.88
Galvanized carbon steel sheet	
POSCO (Dong Jin)	1.74
Union Steel	1.36
All other manufacturers/producers/exporters	1.74

[FR Doc. 83-4206 Filed 2-17-83; 8:45 am]

BILLING CODE 3510-25-M

Postponement of Final Determination; Tool Steel From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of postponement of final determination.

SUBJECT: The Department of Commerce hereby extends the period for its final determination with respect to the antidumping investigation of tool steel from the Federal Republic of Germany (FRG). The final determination will be made no later than May 27, 1983.

EFFECTIVE DATE: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230 (202) 377-5288.

SUPPLEMENTARY INFORMATION: On January 5, 1983, the Department of Commerce determined preliminarily that tool steel from FRG was being sold, or was likely to be sold, at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act). We announced our determination in the **Federal Register** on January 12, 1983 (48 FR 1334).

An exporter who accounted for a significant proportion of exports of the merchandise which is the subject of this investigation requested that the Department extend the period for final determination. This request is in accordance with section 735(a)(2)(A) of the Act (19 U.S.C. 1673d (a)(2)(A)).

Accordingly, the period for determination in this case is hereby postponed. Final determination will be made not later than May 27, 1983.

Dated: February 10, 1983.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-4205 Filed 2-17-83; 8:45 am]

BILLING CODE 3510-25-M

Subcommittee on Export Administration of the President's Export Council; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: In accordance with Section 10(a)(2) of the Federal advisory committee Act, 5 U.S.C. App. (1976), notice is hereby given that a closed meeting of the Subcommittee on Export Administration of the President's Export Council will be held on Wednesday, February 23, 1983.

The Subcommittee on Export Administration was initially established on June 1, 1976. Executive Order 12399 of December 31, 1982 continued the Subcommittee until December 31, 1984.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act of 1979 that deal with United States policies of encouraging trade with all countries with which the United States had diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

TIME AND PLACE: The meeting will take place from 9:30 a.m. to 3:30 p.m., February 23, 1983, at the Main Commerce Building, Room 6043, 14th Street and Constitution Avenue, NW., Washington, D.C.

AGENDA: *Executive Session.* Discussion of matters properly classified under Executive Order 12356, dealing with matters pertaining to the control of exports for national security, foreign policy or short supply reasons under the Export Administration Act.

SUPPLEMENTARY INFORMATION: The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 2, 1983, pursuant to Secton 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in Executive Session should be exempt from the provisions of the Federal

Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 522b(c)(1) and properly classified under Executive Order 12356.

A copy of the Notice of Determination to close the Subcommittee's meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone (202) 377–4217.

For further information contact: Ms. Debbie Kappler, Office of the Assistant Secretary for Trade Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–1455) of Ms. Elisabeth Vermilye, President's Export Council Room 3213 (202–377–1125).

Dated: February 9, 1983

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 83–4217 Filed 2–17–83; 8:45 am]

BILLING CODE 3510–25–M

Subcommittee on Export Administration of the President's Export Council; Renewal

AGENCY: International Trade Administration, Commerce.

ACTION: The purpose of this notice is to announce the renewal of the Subcommittee on Export Administration of the President's Export Council.

SUPPLEMENTARY INFORMATION: The Subcommittee was originally established as a subordinate committee of the President's Export Council pursuant to the provisions of Section 3 of Executive Order 11753 on June 1, 1976.

SUMMARY: The Subcommittee is being renewed pursuant to Executive Order 12399 of December 31, 1982. The Subcommittee advises on matters pertinent to those portions of the Export Administration Act of 1979 (50 U.S.C. App. 2401, et seq.) that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security, foreign policy, and short supply reasons.

Representatives shall be balanced among large and small firms with interests in exporting and export control matters. To the extent possible, such representatives shall be from all parts of the country. They shall be appointed by the Secretary of Commerce and will serve at his discretion.

FOR FURTHER INFORMATION CONTACT: John Boidock, Director, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone (202) 377–4188 or Ms. Yvonne Barnes, Committee Management Analyst, U.S. Department of Commerce, (202) 377–4217.

Dated: February 3, 1983.

Dennis C. Boyd,

Executive Director, Information Resources Management.

[FR Doc. 83–4011 Filed 2–17–83; 8:45 am]

BILLING CODE 3510–CW–M

Portland Hydraulic Cement From Japan; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary antidumping determination.

SUMMARY: The preliminary determination of portland hydraulic cement from Japan is being postponed, and we intend to issue it not later than April 21, 1983.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Terry Link, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Telephone: (202) 377–0189.

SUPPLEMENTARY INFORMATION: On October 13, 1982, we announced our initiation of an antidumping investigation to determine whether portland hydraulic cement from Japan is being, or is likely to be, sold in the United States at less than fair value within the meaning of the antidumping law (47 FR 46558). The notice stated that we would issue a preliminary determination by March 2, 1983.

As detailed in the notice of initiation of the antidumping investigation, the petition alleges that imports from Japan of portland hydraulic cement are being, or are likely to be, sold in the United States in less than fair value. On February 3, 1983, counsel for the petitioners, Kaiser Cement Company, *et al.*, requested that the Department extend the period for the preliminary determination until 210 days after the date of receipt of the petition in accordance with section 733(c)(1)(A) of the Tariff Act of 1930, as amended.

We have determined that additional time is necessary to make the preliminary determination. Accordingly, the period for determination in this case is hereby extended. We intend to issue a preliminary determination not later than April 21, 1983.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: February 9, 1983.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 83–4276 Filed 2–17–83; 8:45 am]

BILLING CODE 3510–25–M

Portland Hydraulic Cement From Australia; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Commerce

ACTION: Postponement of preliminary antidumping determination.

SUMMARY: The preliminary determination of portland hydraulic cement from Australia is being postponed, and we intend to issue it not later than April 21, 1983.

EFFECTIVE DATES: February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Terry Link, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Telephone: (202) 377–0189.

SUPPLEMENTARY INFORMATION: On October 13, 1982, we announced our initiation of an antidumping investigation to determine whether portland hydraulic cement from Australia is being, or is likely to be, sold in the United States at less than fair value within the meaning of the antidumping law (47 FR 46558). The notice stated that we would issue a preliminary determination by March 2, 1983.

As detailed in the notice of initiation of the antidumping investigation, the petition alleges that imports from Australia of portland hydraulic cement are being, or are likely to be, sold in the United States at less than fair value. Because of the number and complexity of the transactions to be considered, we believe that this case is extraordinarily complicated in accordance with section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act), and additional time is necessary to make the preliminary determination. We intend to issue a preliminary determination not later than April 21, 1983.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: February 9, 1983.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-4277 Filed 2-17-83; 8:45 am]

BILLING CODE 3510-25-M

Export Trading Company Contact Facilitation Service and Fee Schedule

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce announces a pricing change in its Export Trading Company Contact Facilitation Service.

FOR FURTHER INFORMATION CONTACT: Donald Huber, (202) 377-4533.

SUPPLEMENTARY INFORMATION: As a part of the Department's active role in supporting and promoting U.S. exports, under Pub. L. 97-290 the International Trade Administration (ITA) established a Contact Facilitation Service for U.S. suppliers and export trading companies. This service helps U.S. producers identify and contact newly formed ETCs and aids ETCs to identify possible clients for their services. On December 23, 1982, ITA published a notice in the **Federal Register** (47 FR 57311) containing addresses, fees and instructions on how to register for this service. The previously established fee of $25 for registration and $25 to search the data base, plus $5 per contact found, has been changed. Registration is now free. Search requests will cost $50, plus $5 per contract found.

Paul Padwo,

Acting Deputy Assistant Secretary for Trade Information and Analysis

[FR Doc. 83-4252 Filed 2-17-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council's Scientific and Statistical Committee and Advisory Panel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Scientific and Statistical Committee and an Advisory Panel, which will meet jointly to examine and provide recommendations on the policy to be adopted by the Council regarding area closures as a management tool in the Caribbean Fishery Conservation Zone, with specific reference to the Shallow-Water Reef Fish Fisdhery Management Plan and to discuss other related fishery matters.

DATES: The public meeting will convene on Tuesday, March 16, 1983, at approximately 9:30 a.m., and will adjourn at approximately 3:30 p.m., and will take place at the Federal Building, Room G-59, Carlos Chardon Avenue, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Bldg., Hato Rey, Puerto Rico 00918; telephone (809) 753-4926.

Dated: February 15, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-4285 Filed 2-17-83; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council's Stone Crab Subpanel and South Atlantic Fishery Management Council's Spiny Lobster Subpanel; Meeting Amendment

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: The published notice (February 11, 1983, 48 FR 6381), of a joint public meeting of the Gulf of Mexico Fishery Management Council's Spiny Lobster and Stone Crab Subpanels should be amended as follows:

The Gulf of Mexico and South Atlantic Fishery Management Councils, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), have established subpanels. The Gulf of Mexico's Stone Crab and the South Atlantic's Spiny Lobster Subpanels will meet jointly to review the National Marine Fisheries Service's proposals for a new statistical reporting system utilizing logbooks in the spiny lobster fishery.

All other information remains unchanged.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609; telephone (813) 228-2815.

Dated: February 10, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-4286 Filed 2-17-83; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Comments on Foreign Fishing Applications

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Opportunity for public comments on foreign fishing applications received by the Mid-Atlantic Fishery Management Council.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended). As required by the Act, Section 204(b)(5), the Council announces that the public may comment on any and all foreign fishing applications received by the Council on or before March 7, April 4, and/or May 2, 1983.

The Council's staff will be available between 9 a.m. and noon on March 7, April 4, and May 2, 1983, to receive comments which may be made in person at the Council's Headquarters Office, Federal Building, Room 2115, 300 South New Street, Dover, Delaware, between the above-stated hours. In addition, written comments must be mailed in time to be received and reviewed by the Council on March 7, April 4, and/or May 2, 1983.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901; telephone (302) 674-2331.

Dated: February 15, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-4284 Filed 2-17-83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Dr. Bruce Mate (126C).

b. Address: Marine Science Center, Oregon State University, New Port, Oregon 97365.

2. Type of Permit: Scientific research.

3. Name and Number of Animals:

Harbor seal (Phoca vitulina); 1,000/yr (5,000).

Northern elephant seal (Mirounga angustirostris); 1,000/yr (5,000).

Northern sea lion (Eumetopias jubatus); 3,000/yr (15,000).

California sea lion (Zalophus californianus); 1,000/yr (5,000).

Short-finned pilot whale (Globicephala macrorhynchus); 1,000/yr (5,000).

4. Type of Take: Intentional harassment by generating sound in areas of marine mammal/fisheries conflict to test efficiency of the technique.

5. Location of Activity: California, Oregon, Washington, and Alaska.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammals Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 91668, Juneau, Alaska 99802;

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, N.E., BIN C15700, Seattle, Washington 98115.

Dated: February 15, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-4283 Filed 2-17-83; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Census Employment Inquiry.

Form number: Agency—BC-170; OMB—0607-0139.

Type of request: Reinstatement.

Burden: 3,000 respondents; 500 reporting hours.

Needs and uses: This form is used as preliminary application and screening for prospective employees for special censuses.

Affected public: Applicants for special census employment.

Frequency: On occasion.

Respondent's obligation: Voluntary.

OMB Desk officer: Timothy Sprehe, 395-4814.

Agency: Bureau of the Census.

Title: Methods Development Survey/ Random Digit Dialing Phase.

Form number: Agency—MDS/RDD-1 and MDS/RDD-2; OMB—0607-0199.

Type of request: Revision.

Burden: 11,580 respondents; 6,022 reporting hours.

Needs and uses: This survey instrument provides a means for testing various labor force concepts for the purpose of improving the quality and reliability of the employment and unemployment statistics collected in Current Population Survey.

Affected public: Individuals or households.

Frequency: Monthly.

Respondent's obligation: Voluntary.

OMB Desk officer: Timothy Sprehe, 395-4814.

Agency: Economic Development Administration (EDA).

Title: Application for Technical Assistance from Non-government Applicants.

Form number: Agency—ED-357NG; OMB—0610-0024.

Type of request: Reinstatement.

Burden: 45 respondents; 450 reporting hours.

Needs and uses: This program provides technical assistance to reduce unemployment and raise income in distressed areas enabling local areas to counteract internal and external factors causing economic distress. The information collected is used by EDA staff to obligate and disburse U.S. Government funds in the economic development program.

Affected public: Businesses or other institutions (except farms).

Frequency: On occasion.

Respondent's obligation: Required to obtain or retain benefit.

OMB Desk officer: Timothy Sprehe, 395-4814.

Agency: Economic Development Administration.

Title; Midland Employer Survey.

Form number: Agency—ED-375Q.

Type of request: New.

Burden: 25 respondents; 13 reporting hours.

Needs and uses: The interviews are required to collect information on the impact of a private sector job search club set up to assist displaced steelworkers. The information will be used to explore the policy potential of such clubs.

Affected public: Employers in the area of a major steel layoff.

Frequency: Nonrecurring.

Respondent's obligation: Voluntary.

OMB Desk officer: Timothy Sprehe, 395-4814.

Agency: International Trade Administration.

Title: Investment Experience of U.S. Business in Egypt.

Form number: None.

Type of request: New.

Burden: 50 respondents; 25 reporting hours.

Needs and uses: The proposed study will provide information to Egyptian government officials on U.S. business perceptions and experience of investing in Egypt. The purpose is to assist Egyptian officials in encouraging increased U.S. investment in Egypt. The study also will aid U.S. Government officials in supporting U.S. business efforts in Egypt.

Affected public: Firms investing in oil and gas production, chemicals, textiles, agribusiness, and other manufacturing.

Frequency: Nonrecurring.

Respondent's obligation: Voluntary.

OMB Desk officer: Ken Allen, 395-3785.

Agency: National Oceanic and Atmospheric Administration.

Title: Foreign Fishing Vessel Permit Application.

Form number: Agency—NOAA 88-120; OMB—0648-0089.

Type of request: Revision.

Burden: 1,200 respondents; 360 reporting hours.

Needs and uses: Applications are required to issue permits and to assign identifying numbers to vessels. Information from the applications is used to monitor vessel activities and used in computerized data management.

Affected public: Businesses or other institutions (except farms).

Frequency: Annually.

Respondent's obligation: Required to obtain or retain benefit; mandatory.

OMB Desk officer: Ken Allen, 395–3785.

Agency: Office of the Secretary.

Title: Monthly Report from Business.

Form number: None—letter format.

Type of request: New.

Burden: 40 respondents; 360 reporting hours.

Needs and uses: The Secretary of Commerce will use these reports for early judgmental reading of business conditions in key industries. As appropriate, the Secretary will transmit this information to senior administration economic advisors.

Affected public: Chief executive officers or presidents of major corporations.

Frequency: Monthly.

Respondent's obligation: Voluntary

OMB Desk officer: Ken Allen, 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 83-4208 Filed 2-17-83; 8:45 am]

BILLING CODE 3510-CW-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels for Certain Wool and Man-Made Fiber Textile Products From the Socialist Republic of Yugoslavia

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain wool and man-made fiber textile products imported from Yugoslavia, effective on January 1, 1983.

SUMMARY: The Bilateral Wool and Man-made Fiber Textile Agreement of October 26 and 27, 1978, between the Governments of the United States and the Socialist Republic of Yugoslavia, establishes levels of restraint for certain wool and man-made fiber textile products in Category 443/643, produced or manufactured in Yugoslavia and exported during the twelve-month period which began on January 1, 1983. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool and man-made fiber textile products in Category 443/643 in excess of 16,995 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Dated: February 15, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, and December 22, 1981; and pursuant to the Bilateral Wool and Man-Made Fiber Textile Agreement of October 26 and 27, 1978, between the Governments of the United States and the Socialist Republic of Yugoslavia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on February 22, 1983 and for the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products, in Category 443/643, in excess of the following level of restraint

Category	12-mo level of restraint[1]
443-643	16,995 dozen of which not more than 8,093 dozen shall be in Cat. 443.

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1982

Wool and man-made fiber products in Category 443/643 which have been exported to the United States prior to the January 1, 1983 shall not be subject to this directive.

Textile products in Category 443/643 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of October 26, and 27, 1978, between the Governments of the United States and the Socialist Republic of Yugoslavia, which provide, in part, that: (1) within the group limit the specific limit may be exceeded by no more than five percent in any agreement period; and (2) the group limit may be exceeded for carryover and carryforward not to exceed 11 percent of the applicable limit.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Republic of Yugoslavia and with respect to imports of wool and man-made fiber textile products from Yugoslavia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-4294 Filed 2-17-83; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Advisory Committee on State Jurisdiction and Responsibilities Under the Commodity Exchange Act; Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, § 10(a), that the Commodity Futures Trading Commission's Advisory Committee on State Jurisdiction and Responsibilities under the Commodity Exchange Act ("Advisory Committee") will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, D.C., headquarters located at Room 532, 2033 K Street, N.W., Washington, D C

20581, on March 24, 1983, beginning at 9:00 a.m. and lasting until 5:00 p.m. The agenda will consist of discussion of: The Futures Trading Act of 1982, and its effect on Commission programs and future Commission regulations, as they relate to state enforcement efforts.

The purpose of this meeting is to solicit the views of the Committee on the actions that should be considered by the Commission to effectuate those provisions of the Futures Trading Act of 1982 that relate to state enforcement efforts. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on such matters as state enforcement of the Commodity Exchange Act and enforcement of general state criminal and civil antifraud laws. The purposes and objectives of the Advisory Committee are more fully set forth at 47 FR 17608 (April 23, 1982).

The meeting is open to the public. The Co-Chairman of the Advisory Committee, Dennis A. Dutterer, the General Counsel, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Advisory Committee c/o Mr. Dutterer, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, before the meeting. Members of the public who wish to make oral statements should also inform Mr. Dutterer in writing at the latter address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, D.C. on February 15, 1983.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 83-4205 Filed 2-17-83; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through November 31, 1985, of information collection requirements in regulations implementing the flammability standards for clothing textiles and for vinyl plastic film. These regulations are codified at 16 CFR Part 1610 and Part 1611, the prescribe requirements for testing and recordkeeping by persons and firms issuing guaranties of items subject to the Standard for the Flammability of Clothing Textiles and the Standard for the Flammability of Vinyl Plastic Film.

Information About the Proposed Collection of Information

Agency address: Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

Title of information collection: Standard for the Flammability of Clothing Textiles, 16 CFR Part 1610; Standard for the Flammability of Vinyl Plastic Film, 16 CFR Part 1611.

Type of request: Extension of approval.

Frequency of collection: Varies depending upon volume of goods manufactured or imported.

General description of respondents: Manufacturers and importers of all articles of wearing apparel, except children's sleepwear, and of all fabrics intended for use in those products

Estimated number of respondents: 10,000.

Estimated average number of hours per response: Records, 20 minutes; testing, 1½ hours.

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (telephone: (202) 395-7313), not later than March 7, 1983. Copies of the proposed collection of information are available from Russell Smith, Office of Budget and Program Implementation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 492-6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: February 11, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-4218 Filed 2-17-83; 8:45 am]

BILLING CODE 6355-01-M

Notification of Proposed Collection of Information

AGENCY: Consumer Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through December 31, 1985, of information collection requirements in a regulation applicable to electrically operated toys and children's articles. The regulation, published at 16 CFR Part 1505, is intended to reduce or eliminate unreasonable risks of death or injury to children from electrocution, electric shock, and electrical or thermal burns. The regulation sets forth criteria which will be used to determine if an electrically operated toy or children's article is banned from sale or distribution under provisions of the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*). Additionally, § 1505.4(a) of this regulation requires manufacturers of the electrically operated toys and children's articles subject to its provisions to establish a quality assurance program and to maintain records concerning that program. The records required by the regulation must describe the manufacturer's quality assurance program; contain the results of all inspections and tests conducted in accordance with that program; and set forth specified information about the manufacture, distribution, and sales of the toys and children's articles subject to the regulation.

Information About the Proposed Collection of Information

Agency address: Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

Title of information collection: Electrically operated toys, 16 CFR 1505.4(a)(3).

Type of request: Extension of approval.

Frequency of collection: Varies depending upon volume of products manufactured, imported, or sold, and amount of testing performed.

General description of respondents: Manufacturers and importers of electrically operated toys and children's articles.

Estimated numbe, of respondents: 40.

Estimated average number of hours per response: Records, 4 hours; testing, 16 hours.

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of

Management and Budget, Washington, D.C. 20503 (telephone: (202) 395–7313), not later than March 7, 1983. Copies of the proposed collection of information are available from Russell Smith, Office of Budget and Program Implementation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: February 11, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-4219 Filed 2-17-83; 8:45 am]

BILLING CODE 6355-01-M

Notification of Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a collection of information in the form of a survey of upholstered furniture manufacturers.

The purpose of this survey is to determine which manufacturers are using certain materials which are believed to improve resistance of upholstered furniture to cigaretts ignition in their production of upholstered furniture items. The information obtained from this survey will be used to select samples of upholstered furniture from manufacturers' regular production for testing by the Commission to measure resistance of those furniture items to cigarette ignition.

Members of the Commission staff will conduct this survey by interviewing representatives of upholstered furniture manufacturers at a trade show at High Point, North Carolina, in April of 1983.

Information about the Proposed Collection of Information.

Agency address: Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Title of information collection: Incorporation of UFAC Phase 2 in Upholstered Furniture.

Type of request: Approval of a new plan.

Frequency of collection: One time.

General description of respondents: Manufacturers of upholstered furniture.

Estimated number of respondents: 200.

Estimated average number of hours per response: .2 hours (12 minutes).

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone: (202) 395–7313. Copies of the proposed collection of information are available from Russell Smith, Office of Budget and Program Implementation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: February 11, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-4220 Filed 2-17-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Institute of Technology Subcommittee of the Air University Board of Visitors; Meeting

The Air Force Institute of Technology Subcommittee of the Air University Board of Visitors will hold an open meeting at 1 p.m. on 13 March 1983 in room 2004 (ten seats available), building 125, Wright-Patterson Air Force Base, Ohio.

The purpose of the meeting is to give the subcommittee the opportunity to present to the Commandant, Air Force Institute of Technology, a report of findings and recommendations concerning the Institute's educational programs. The findings of the subcommittee will also be reported to the Commander, Air University, at the next regularly scheduled meeting of the Air University Board of Visitors.

For further information on this meeting, contact Captain Peter Macchia, Assistant Chief, Instructional Technology, Directorate of Educational Plans and Programs, Air Force Institute of Technology, (513) 255–5760 or 3791.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-4258 Filed 2-17-83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of meeting: Friday, 11 March 1983.

Time: 0830–1700 hours (Open).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board 1983 Summer Study Panel examining the Army's Future Development Goal will meet to kick off this study effort. The study organization and milestones will be determined at this time in order that the group may effectively address the objectives of this study: (1) to develop ideas as to how the Army can nurture an environment at all levels within which innovative personnel can look toward the future, and (2) to make a fresh assessment of where the Army should be headed in all of the functional areas (doctrine, force structure, manning, training, equipping, and mobilizing) in the 21st Century. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. In order to be able to accommodate prospective attendees, Helen M. Bowen, the ASB Administrative Officer, must be notified no later than 7 March 1983. For further information, call the ASB at (202) 697–9703 or 695–3039.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 83-4214 Filed 2-17-83; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Monday and Tuesday, 14 & 15 March 1983.

Times: 0830–1200 hours, 14 March 1983 (Closed); 1330–1630 hours, 14 March 1983 (Open); 0830–1330 hours, 15 March 1983 (Open); 1330–1700 hours, 15 March 1983 (Open).

Proposed agenda: The Army Science Board will hold its Spring General Membership Meeting to present and receive briefings as follows:

Monday, 14 March 1983

—Morning Session: The Army Plan, The Long Range RDA Plan, and The DARCOM Research (6.1) Plan.

—Afternoon Session: Equipping the Man, and West Point Presentations/ Tours on Science Research Lab, Physics and Chemistry Lab, and the Computer Aided Design Lab.

Tuesday, 15 March 1983

—Morning Session: ASB Business, Functional Subgroup Meetings (Planning, Concepts and Management Support; Weapons Systems; C^3I; Human Capabilities and Resources; Logistics and Support Systems; and Research and New Initiatives); Executive Review Board Meeting, and Summary/Wrap-Up Discussion.

—Afternoon Session: Organizational Planning Meetings of New ASB Study Efforts.

This meeting will be partially closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The morning session presentations on 14 March 1983 are all classified and preclude opening that portion of the meeting. The public may attend the open portions of the meeting. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. In order to accommodate prospective attendees, the Army Science Board Administrative Officer, Helen Bowen, must be notified *no later than 9 March 1983.* Call (202) 697–9703 or 695–3039 for further information.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 83–4215 Filed 2–17–83; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Naval Discharge Review Board; Hearing Locations

In November 1975 the Naval Discharge Review Board commenced to convene and conduct prescheduled discharge review hearings for a number of days each quarter in locations outside of the Washington, D.C. area. The cities in which these hearings are scheduled are determined in part by the concentration of applicants in a geographical area.

The following Naval Discharge Review Board itinerary for February through June 1983 has been approved, but remains subject to modification if required:

February 28 through March 11, 1983, San Diego, CA
April 11 through April 22, 1983, Chicago, IL
May 16 through May 27, 1983, Dallas, TX
June 6 through June 10, 1983, San Francisco, CA

Any former member of the Navy or Marine Corps who desires a discharge review, either in Washington, D.C., or in a city nearer their residence, should file an application with the Naval Discharge Review Board using DD Form 293. If a personal appearance is requested, the petitioner should enter on the application the hearing location which is preferred. Applicant forms (DD 293) may be obtained from, and the completed application should be mailed to, the following address: Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203.

Notice is hereby given that since the foregoing itinerary is subject to modification and since, following receipt of a new application, the Naval Discharge Review Board must obtain the applicant's military records before a hearing may be scheduled, the submission of an application to the Naval Discharge Review Board is not tantamount to scheduling a hearing. Applicants and representatives will be mailed a notification of the date and place of their hearing when personal appearance has been requested.

For further information concerning the Naval Discharge Review Board, contact: Captain Raymond A. Ways, U.S. Navy, Executive Secretary, Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203. Telephone: (202) 696–4881.

Dated: February 10, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer,

[FR Doc. 83–4212 Filed 2–17–83; 8:45 am]

BILLING CODE 3810–AE–M

Office of the Secretary

Defense Science Board Task Force on Transition of Weapon Systems From Development To Production; Cancellation of Advisory Committee Meeting

The meeting of the Defense Science Board Task Force on Transition of Weapon Systems from Development to Production scheduled for 17 February 1983 as published in the **Federal Register** (Vol. 48, Tuesday, January 18, 1983, FR Doc. 83–1378) has been cancelled and will be rescheduled at a later date.

Dated: February 14, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83–4223 Filed 2–17–83; 8:45 am]

BILLING CODE 3810–01–M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DOD Advisory Group on Electronic Devices (AGED) will meet in closed session on 29 March 1983, at AGED Secretariat Office, 1925 North Lynn Street, Suite 1000, Arlington, Va. 22209.

The Mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App 1, 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: February 15, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–4292 Filed 2–17–83; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of deadline date for submitting appeals for funds and notice of average program expenditures by type of institution.

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline date for filing an appeal of their initial allocation of funds (tentative awards) for award year 1983–84 funds under the National Direct Student Loan

(NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) programs. Regulations setting forth the procedures for calculating institutional awards and appeals of those awards for the three programs were published in the **Federal Register** on August 2, 1982 (47 FR 33398–33410). Under these programs, the Secretary allocates funds to institutions for students who need financial aid to meet the cost of postsecondary education.

The Secretary also announces the average 1981–82 expenditure of funds per enrolled student for NDSL, CWS, and SEOG programs by type of institution. These average expenditures are used in calculating the 1983–84 NDSL, CWS, or SEOG award of an institution that is participating in that program for the first or second time.

The NDSL, CWS, and SEOG programs are authorized by Parts E, C, and Subpart A–2, respectively, of title IV of the Higher Education Act of 1965.

(20 U.S.C. 1087aa–1087il, 42 U.S.C. 2751–2756b; and 20 U.S.C. 1070b–1070b–3)

SUPPLEMENTARY INFORMATION: *Deadline Date For Submitting An Appeal.* The deadline date for submitting an appeal by an institution of higher education of its 1983–1984 tentative NDSL, CWS, or SEOG award is March 21, 1983.

Appeals Delivered By Mail. An appeal sent by mail must be addressed to Appeals, NDSL/CWS/SEOG, Post Office Box 23914, L'Enfant Plaza, Washington, D.C. 20024.

An institution must show proof of mailing its appeal by the deadline date. Proof of mailing consists of one of the following: (1) A legible mail receipt with the Date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark; or (3) any other proof of mailing acceptable to the Secretary.

If an appeal is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with is local post office. An institution is encouraged to use certified or at least first-class mail.

Appeals Delivered By Hand. An appeal that is hand-delivered must be taken to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus and State Grant Branch, Room 4621, Regional Office Building 3, 7th and D Streets, SW., Washingon, D.C. The Campus and State Grant Branch will accept hand-delivered appeals between 8:00 a.m. and 4:30 p.m. daily (Eastern Standard Time), except Saturdays, Sundays, and Federal holidays.

An appeal that is hand-delivered will not be accepted after 4:30 p.m. on March 21, 1983.

Appeals. An institution that wishes to participate in the NDSL, CWS, or SEOG programs must submit an application for funds to the Secretary before an established closing date. The information provided on the application is evaluated against the appropriate funding criteria to determine the institution's appropriate funding level. Each institution is informed of this funding level. However, the regulations for each of the above programs permit an institution to appeal this funding level under the appeal procedures spelled out in the regulations. 34 CFR 674.7 for the NDSL program, 34 CFR 675.7 for the CWS program, and 34 CFR 676.7 for the SEOG program.

Failure to Enact Statutory Amendments To The SEOG And CWS Programs. Under section 413D(b) of the Higher Education Act, for the 1983–84 award year an institution that participated in the SEOG program during the 1979–1980 award year is entitled to receive at least the amount it expended during the 1979–80 award year before an institution that did not participate in the SEOG program during the 1979–80 award year receives any funds for the 1983–84 award year. Section 446(a) of the HEA contains a similar provision for the CWS program.

As a result, institutions that began their participation in the SEOG or CWS programs after the 1979–80 award year are advised that they may not receive any funds under either of these programs unless Congress makes certain amendments to the funding schemes of those programs.

To alleviate this problem, the Secretary has proposed amendments to the SEOG and CWS statutes that would enable him to allocate funds to institutions under each program in the manner in which such funds were allocated during the 1982–1983 award year.

Average 1981–82 Expenditure Of Funds Per Enrolled Student For NDSL, CWS, And SEOG Programs By Type Of Institution. Listed below are the types of institutions and the average program expenditure per enrolled student for each type of institution. This information is used to calculate the 1983–84 award of an institution that is participating in the NDSL, CWS or SEOG programs for the first or second time. However as noted above, if Congress does not enact the statutory amendments noted above, institutions participating for the first or second time in the SEOG or CWS programs may not receive any funds for the 1983–84 award year.

Type of institution	NDSL expenditure	SEOG	CWS Federal share
Cosmetology	$128	$76	$25
Business	184	78	[illegible]
Trade and technical	118	61	[illegible]
Art	[illegible]	47	108
Other proprietary	119	43	53
Other non propretary	52	17	56

Applicable Regulations

The following regulations, published in the **Federal Register** on August 2, 1982 (47 FR 33398–33410), are applicable to the appeal process:

NDSL 34 CFR 674.6 and 674.7;
CWS 34 CFR 675.6 and 675.7;
SEOG 34 CFR 676.6 and 676.7.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Coates, Chief, Campus and State Grant Branch, Division of Program Operations, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4621, ROB–3), Washington, D.C. 20202. Telephone (202) 245–2432.

(Catalog of Federal Domestic Assistance No. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Dated: February 16, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–4343 Filed 2–17–83, 8:45 am]

BILLING CODE 4000–01–M

National Advisory Board on International Education Programs; Meeting

AGENCY: National Advisory Board on International Education Programs.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule of a forthcoming meeting of the National Advisory Board on International Education Programs. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is also intended to notify the general public of their opportunity to attend.

DATE: March 10 and 11, 1983.

ADDRESS: The Capstone Conference Center, 17th Floor, the University of South Carolina, Columbia, South Carolina 29208.

FOR FURTHER INFORMATION CONTACT: Marguerite A. Follett or Gertha M. Basey, International Education Programs Office, ROB–3, Room 3923, 400 Maryland Avenue, S.W., Washington, D.C. 20202 (202) 245–7401 or 2356.

SUPPLEMENTARY INFORMATION: The National Advisory Board on International Education Programs is established under section 621 of the Higher Education Act of 1965 as amended by the Education Amendments of 1980 (Pub. L. 96–374; 20 U.S.C. 1131). The Committee is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90–247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) which set forth the standards for the formation and use of advisory committees. The Board is established to advise the Secretary of Education.

The Board will:

(1) Advise the Secretary on geographic areas of special need or concern to the United States;

(2) Recommend innovative approaches which may help to fulfill the purposes of Title VI of the Higher Education Act of 1965;

(3) Inform the Secretary of activities which are duplicative of programs operated under other provisions of Federal law;

(4) Recommend changes which should be made in the operation of programs authorized under Title VI in order to ensure that the attention of scholars is attracted to international problems of the United States; and

(5) Advise the Secretary regarding the administrative and staffing requirements of the international education programs in the Department.

This meeting of the National Advisory Board on International Education Programs is open to the public. The proposed agenda includes a description of the current status of U.S. ED Title VI programs including the newly activated Part B of Title VI, Business and International Education Programs, as well as a program presentation regarding the RAND Report on Federal support for International Studies: The Role of NDEA, Title VI. The meeting will be held from 9:00 A.M. to 4:30 P.M. on the 10th of March and will continue from 9:00 A.M. to 4:30 P.M. on the 11th of March.

Records are kept on the Board's proceedings and are available for public inspection at the office of the National Advisory Board on International Education Programs from 8:00 A.M. to 4:30 P.M., ROB–3, 7th & D Streets, S.W., Room 3923, Washington, D.C.

Signed at Washington, D.C., On February 8, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–4291 Filed 2–17–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Oil-Tex Petroleum Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Oil-Tex Petroleum, Inc. at 520 South Post Oak Road, #820, Houston, Texas. This Proposed Remedial Order alleges pricing violations in the amount of $2,477,378.00 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Parts 205, 210, and 212, Subparts J and L during the time period March 1980 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Manager Crude Reseller Program, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767–7432. Within fifteen (15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 31st day of January, 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83–4232 Filed 2–17–83; 8:45 am]

BILLING CODE 6450–01–M

Summa Energy Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Summa Energy Corporation at 5200 Lakeshore Drive, Wichita Falls, Texas 76310. This Proposed Remedial Order alleges pricing violations in the amount of $660,903.63 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart L during the time period June 1979 through February 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767–7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 2nd day of February, 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83–4235 Filed 2–17–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER83–192–000 and ER81–736–000]

Central Illinois Public Service Co.; Order Accepting for Filing and Suspending Rate Schedule, Granting Interventions, Granting Waiver of Notice, Consolidating Dockets, and Establishing Hearing Procedures

Issued: February 10, 1983

On December 14, 1982, Central Illinois Public Service Company (CIPSCO) tendered for filing as an initial rate schedule an unexecuted service agreement with Mt. Carmel Public Utility Company (Mt. Carmel) under its transmission tariff.[1] Mt. Carmel recently terminated its firm power agreement with CIPSCO in order to begin purchasing power from Illinois Power Company (IP) as of January 1, 1983. While it was receiving firm power from CIPSCO, Mt. Carmel was served at two separate delivery points. However, CIPSCO states that the terms of its transmission tariff provide for service at only one delivery point and require the

[1] The applicable rate schedule designation is: *Central Illinois Public Service Company* Service Agreement Under FERC Electric Tariff Original Volume No. 5 (supersedes Service Agreement dated November 7, 1975, under FPC Electric Tariff Original Volume No. 3).

company to impose an excess facilities charge for company substation facilities used in connection with a second Mt. Carmel delivery point. Thus, under the proposed service agreement, CIPSCO would assess an excess facilities charge of $4,486/month. The parties have agreed to apply proposed settlement rates to the basic transmission service under the instant agreement,[2] and have agreed to commence service under the tariff on January 1, 1983. Therefore, CIPSCO requests waiver of the notice requirements to permit such an effective date.

Notice of the filing was published in the **Federal Register**, with responses due on or before January 13, 1983. IP filed a timely motion to intervene. IP objects to CIPSCO's characterization of the service agreement as an initial rate schedule and objects to the assessment of the excess facilities charge. According to IP, this charge is not authorized under the tariff and is inappropriate since all of CIPSCO's subtransmission costs are already reflected in the basic transmission rate. IP supports waiver of notice with respect to CIPSCO's proposed service agreement, except for the excess facilities charge. With respect to that charge, IP requests a five month suspension. On January 14, 1983, Mt. Carmel filed an untimely motion to intervene raising the same issues and requesting the same relief as IP. Mt. Carmel states its expectation that its interests will be represented by IP, but seeks independent intervenor status in the event that its interests diverge from those of IP.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), IP's motion to intervene serves to make it a party to this proceeding absent opposition within 15 days of its pleading. Given Mt. Carmel's status as the affected customer in this proceeding, the fact that its motion was only one day out of time, and the early stages of this case, we find that good cause exists to permit Mt. Carmel to intervene out of time. Accordingly, Mt. Carmel's motion to intervene will be granted.

Although CIPSCO characterizes the service agreement as an initial rate schedule, we note that transmission service has previously been provided to Mt. Carmel as part of the firm power service rendered by CIPSCO under its partial requirements rates. The proposed arrangement does not constitute an entirely new service to Mt. Carmel, but rather a change in the existing service agreement and the transfer of an existing customer from CIPSCO's partial requirements tariff to its transmission tariff.[3] Therefore, the submittal constitutes a change in rate schedule.

Our analysis indicates that CIPSCO's submittal has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed service agreement for filing and suspend its operation as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982), we explained the Commission's suspension policy primarily in the context of rate schedule filings involving contested increases in rate level. In the instant docket, the intervenors are not objecting to the proposed tariff transmission rate, but rather to the imposition of a separate charge for a second delivery point. Indeed, Mt. Carmel has agreed to the base transmission charge as filed. Furthermore, the intervenors support waiver of notice and a nominal suspension, with the exception of the excess facilities charge, in order to implement Mt. Carmel's new purchase arrangement with IP. Under these circumstances, we believe that good cause exists to waive the notice requirements as to impose a nominal suspension. We do not, however, agree that it is necessary or appropriate to bifurcate CIPSCO's filing for purposes of imposing a suspension period. To do so would apparently require CIPSCO to provide the transmission service requested by Mt. Carmel at two delivery points while foregoing a portion of the compensation for service at one of those points which CIPSCO claims to be cost supported and consistent with the terms of its tariff. In the event that the intervenors ultimately prevail on this issue, the refund provision imposed by this order should adequately protect their interests. Accordingly, we shall suspend CIPSCO's entire submittal to become effective, subject to refund, on January 1, 1983.

We find that common questions of law and fact may be presented in Docket No. ER81-736-000, and in this docket. As a result, we shall consolidate these dockets for purposes of hearing and decision.

The Commission orders: (A) Mt. Carmel's motion to intervene in this proceeding is hereby granted subject to the Commission's Rules of Practice and Procedure.

(B) CIPSCO's request for waiver of the notice requirements is hereby granted for good cause shown.

(C) CIPSCO's proposed transmission service agreement is hereby accepted for filing and suspended to become effective on January 1, 1983, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 therefore, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning CIPSCO's proposed service agreement.

(E) Docket No. ER83-192-000 is hereby consolidated with Docket No. ER81-736-000 for purposes of hearing and decision.

(F) The administrative law judge designated to preside in Docket No. ER81-736-000 shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Such conference shall be held for purposes of establishing procedures best suited for consideration of these consolidated dockets.

(G) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4305 Filed 2-17-83; 8:45 am]

BILLING CODE 6717-01-M

[2] CIPSCO's transmission tariff is under investigation in Docket No. ER81-736-000. A settlement transmission rate of $1.93/KW was certified to the Commission. By order dated December 15, 1982, the Commission remanded the settlement agreement to the administrative law judge for further hearings. On January 13, 1983, CIPSCO filed with the Commission to implement the proposed settlement rate as the rate to be charged under the tariff. CIPSCO also included in its application a proposed increase in that charge to $2.02/KW. The Commission has not yet acted on that rate filing.

[3] We note that CIPSCO has also filed a notice of cancellation of Mt. Carmel's service agreement under the partial requirements tariff. Because the transmission service agreement will supersede the prior agreement, such a notice is unnecessary under § 35.15 of the Commission's regulations and no action will be taken with respect to it.

[Docket No. ER83-194-000]

Mississippi Power Co.; Order Accepting for Filing and Suspending rates, Noting Intervention, Granting Summary Disposition, and Establishing Hearing Procedures

Issued: February 10, 1983.

On December 15, 1982, Mississippi Power Company (MPC) tendered for filing revised rates applicable to wholesale service to three cooperative customers.[1] Based on a calendar 1983 test year, the proposed rates would increase revenues by approximately $3.2 million. The company requests an effective date of February 14, 1983.

Notice of MPC's filing was published in the **Federal Register**,[2] with comments due on or before January 13, 1983. A timely protest and motion to intervene was filed jointly by MPC's affected wholesale customers (Customers). The Customers request that the Commission suspend the proposed rates for five months, citing several cost of service issues.[3] In addition, the Customers allege that the company has failed to synchronize its fuel clause revenues and test year fuel expense. Accordingly, they request that the Commission summarily order MPC to refile its rates to reflect a proper synchronization.

On January 25, 1983, MPC filed an answer to the Customers' protest and motion to intervene. While not objecting to the Customers' intervention, the company disputes the allegations raised in their pleading and requests that any suspension be limited to one day. In response to the Customers' request for simmary disposition, MPC denies that it has improperly synchronized fuel revenues and expenses and therefore requests that summary disposition be denied.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motion to intervene filed by the Customers serves to make them parties to this proceeding.

Concerning the issue of fuel clause synchronization, the Customers are correct in their assertion that MPC has improperly reconciled fuel clause revenues (on a lagging basis) and test period fuel expenses in connection with its rate design. By designing its rates reflecting fuel clause revenues based on non-synchronized fuel factors, the company has, in effect, developed rates which would produce some $207,000 more than MPC's own claimed revenue requirement as shown in its Period II cost of service Statement BK. This result represents a departure from the Commission's established practice of requiring that proposed rates be supported by the filing utility's test period cost of service. MPC's January 25 answer recognizes that precedent dictates fuel clause synchronization,[4] but evidences an apparent misunderstanding as to the proper mechanics for making the associated calculations and the source of error in MPC's approach. Thus, we shall grant the request for summary disposition and direct MPC to revise its rates accordingly, but we shall not require the company to submit its compliance filing until after the first prehearing conference is held in this docket. That conference should provide an opportunity to clarify any misconceptions under which MPC may be laboring.

Our preliminary review indicates that MPC's rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, as modified by summary disposition, and we shall suspend them as ordered below.

The Commission explained its suspension policy in *West Texas Utilities Co.*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982). As noted there, where our preliminary review suggests that increased rates may be unjust and unreasonable, and may produce substantially excessive revenues as defined in *West Texas*, we will ordinarily suspend the rates for the maximum period. Because our preliminary review in this case indicates that MPC's rates may produce substantially excessive revenues, we shall therefore suspend MPC's rates for five months to become effective on July 14, 1983, subject to refund.

The Commission orders: (A) The Customers' motion for summary disposition as to fuel synchronization is hereby granted as noted in the body of this order. Within thirty (30) days after the first prehearing conference held in this docket, MPC shall file revised rates reflecting this determination.

(B) MPC's proposed rates, as modified by summary disposition, are hereby accepted for filing and suspended for five months from sixty days after filing, to become effective on July 14, 1983, subject to refund.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonabless of MPC's rates.

(D) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Mississippi Power Company, Rate Schedule Designations, Docket No. ER83-194-000

Filed: December 15, 1982.

FPC Electric Tariff, Original Volume No. 1

Sheet No	Supersedes
(1) 10th Revised Sheet No. 3	9th Revised Sheet No. 3
(2) 11th Revised Sheet No. 4	10th Revised Sheet No. 4
(3) 2d Revised Sheet No. 9	1st Revised Sheet No. 9

[FR Doc. 83-4306 Filed 2-17-83; 8:45 am]

BILLING CODE 6717-01-M

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[1] *See* Attachment A for rate schedule designations. The affected customers are Coast Electric Power Association, East Mississippi Electric Power Association, and Singing River Electric Power Association.

[2] 48 FR 692.

[3] The Customers challenge MPC's requested rate of return, stated capital structure, expense projections, rate base treatment of deferred income taxes, and stated fuel stocks.

[4] *See, e.g., Utah Power & Light Co.*, Opinion No. 113, 14 FERC ¶ 61,182 (1981); *Louisiana Power & Light Co.*, Opinion No. 110, 14 FERC ¶ 61,075 (1981); *Commonwealth Edison Co.*, Opinion No. 63 (Sept. 14, 1979); *Alabama Power Co.*, Opinion No. 54 (Aug 1, 1979); *Delmarva power & Light Co.*, Initial Decision, 17 FERC ¶ 63,044 (1981); *Southern California Edison Co.*, Initial Decision, 3 FERC ¶ 63,033 (1978), *affirmed* Opinion No. 62 (Aug. 22, 1979).

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[Docket No. RI73-60 (Refund Phase)]

Mitchell Energy Corp.; Filing of Proposal for Repayment of Refund Obligation

February 10, 1983.

On January 31, 1983, Mitchell Energy Corporation (Mitchell), 2001 Timberloch Place, The Woodlands, Texas 77380, filed a Proposal for Repayment of Refund Obligation in the above-captioned proceeding with the Federal Energy Regulatory Commission (Commission) pursuant to Rule 601 and 602 of the Commission's Rules of Practice and Procedure. The proposal provides for the method of repayment of Mitchell's refund obligation established by prior Commission Order.[1]

Mitchell proposes to retire the refund obligation by the sale to Natural Gas Pipeline Company of America (Natural), commencing on January 1, 1985, of up to 50 billion cubic feet (Bcf) of natural gas from newly dedicated acreage at a price at least 50 cents per MMBtu below a designated "competitive field price." Mitchell will be required to dedicate acreage over a five year period capable of producing 70 Bcf of gas. If Natural is unable, or unwilling, because of its purchasing policies, to contract for sufficient tendered properties in that time frame, then Mitchell will make certain defined cash payments to Natural. Once sufficient gas has been delivered, or payments made to Natural by Mitchell pursuant to this proposal, to retire the total refund obligation of $25 million, the proposed agreement shall terminate and Mitchell shall have fulfilled its refund obligation.

Mitchell states that the method of repayment is the result of informal conferences involving Mitchell, the Commission staff and Natural. Mitchell further states that the proposal is in the public interest, benefits Natural's customers, and fully discharges Mitchell's refund obligation.

A copy of Mitchell's proposal is on file in the Commission's Office of Public Information. Any person desiring to file comments on the proposed settlement offer may do so pursuant to Rule 602(f) on or before February 28, 1983. Reply comments are due March 10, 1983. All comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All comments filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the person filing comments a party to the proceedings. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4306 Filed 2-17-83; 8:45 am]

BILLING CODE 6717-01-M

[1] *Mitchell Energy Corporation*, Docket No. RI73-60, Order determining Refund Obligation on Remand and Ordering Refunds (September 15, 1977).

[Docket No. RI73-60-000 (Refund Phase)]

Mitchell Energy Corp.; Further Extension of Time

February 10, 1983.

On January 31, 1983, Mitchell Energy Cooperative (Mitchell) filed a motion for a further extension of time to make refunds and file a refund report in compliance with a letter order issued June 15, 1982, in the above-docketed proceeding by the Director, Office of NGPA Compliance. Mitchell requests that this extension be granted pending the Commission's consideration of the company's Proposal for Repayment of Refund Obligation which was recently filed in this proceeding.

Upon consideration, notice is hereby given that a further extension of time for the making of refunds and for the filing of a refund report is granted to and including April 11, 1983, and April 25, 1983, respectively.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4307 Filed 2-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-355-000]

Natural Gas Pipeline Co. of America; Continued Settlement Conference

February 10, 1983.

Take notice that the settlement discussions undertaken at the January 5 and February 2, 1983, conferences noticed herein will be resumed on February 17, 1983, at 1:30 p.m. in the offices of the Commission, 825 N. Capitol St., Washington, D.C. Additional materials are to be shared among the parties in the interim.

All parties may at their option attend, but mere attendance will not serve to make one a party to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4309 Filed 2-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 5965, 6442, 6230, 6589, 6590, 6591, 6755, 6702, 6809, 6810, 6811, 5865, 3503, 6175, 6206, 6231, 6434, 6267, 6433, 6435, 6246, 6442, 6245, 6267]

Salmon River Basin (Idaho); Public Notice of FERC Staff's Attending Public Meeting

February 10, 1983.

Various applications seeking authorization to develop the hydroelectric potential of the Salmon River and its tributaries have been filed with the Federal Energy Regulatory Commission. Public notices have been published and comments have been received from interested Federal and State agencies. Petitions to intervene by the National Marine Fisheries Service, the National Wildlife Federation and the Idaho Wildlife Federation have been granted.

A public meeting will be held on March 4 and 5, 1983, in Boise, Idaho to: (1) Determine the significant issues related to the processing of the pending applications; (2) identify and eliminate from detailed study the issues which are not significant; (3) to allocate assignments for developing, processing and analyzing required data among appropriate persons and agencies; and (4) provide an opportunity for interested persons to express their opinions to the FERC Staff.

The meetings will take place at 9:00 a.m. on March 4 and 5, 1983 in the Gold Room, 4th Floor, Idaho State House, Boise, Idaho.

Questions regarding FERC Staff attendance should be directed to Richard A. Azzaro, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426. Telephone Number 202-357-8493.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4310 Filed 2-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Volume 827] Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued February 3 1983

JD NO	DA RT				FIELD NAME	API	PURCHASER
KANSAS CORPORATION COMMISSION							
-PAN EASTERN EXPLORATION COMPANY			RECEIVED:	01/14/83 JA: KS			
8317992	K-82-C185	15[illegible]	108	JENSEN #1-17	HUGOTON	18.0	PANHANDLE EASTERN
8317993	K-82-C183	15[illegible]	108	KELLY #1-15	HUGOTON	18.0	PANHANDLE EASTERN
8317991	K-82-C184	15[illegible]	108	LEEPER #1-21	HUGOTON	18.0	PANHANDLE EASTERN
8317994	K-82-D186	15[illegible]	108	MORGAN #1-33	HUGOTON	18.0	PANHANDLE EASTERN
8317990	K-82-D182	15[illegible]	108	NIX #1-5	HUGOTON	18.0	PANHANDLE EASTERN
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS							
-CITIES SERVICE COMPANY			RECEIVED:	01/17/83 JA: NM			
8318000		[illegible]	103	STATE CT #1	JALMAT YATES - 7 RIVE	70.0	
-GULF OIL CORPORATION			RECEIVED:	01/17/83 JA: NM			
8317997		30[illegible]	108	VINSON RAMSAY (NCT-D) #1	JUSTIS MINERY	10.2	EL PASO NATURAL G
-MARATHON OIL COMPANY			RECEIVED:	01/17/83 JA: NM			
8318002		30[illegible]	103	W TURNER #4	DRINKARD	100.0	GETTY OIL CO
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	01/17/83 JA: NM			
8318003		3002527424	103	E VACUUM GP/SA UNIT TRACT 2[illegible]3 #002	VACUUM GB/SA	1.0	EL PASO NATURAL G
8317999		3002500000	108-TF	EAST VACUUM GB/SA UNIT #1		0.0	EL PASO NATURAL G
-WARREN PETR CO A DIV OF GULF OIL CO			RECEIVED:	01/17/83 JA: NM			
8317996		3002[illegible]	108	ALICE PADDOCK #5	WANTZ GRANITE WASH	5.3	EL PASO NATURAL G
8317995		3002[illegible]	108	DRINKARD (NCT-B) #6	WANTZ ABO	3.4	EL PASO NATURAL G
8317998		3002500[illegible]	108	J N CARSON (NCT-A) #5	PADDOCK	3.7	EL PASO NATURAL G
-WESTERN OIL PRODUCERS INC			RECEIVED:	01/17/83 JA: NM			
8318001		3002500000	103	STATE MTS #1	SCHARB	27.4	WARREN PETROLEUM
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION							
-BEREA OIL AND GAS CORPORATION			RECEIVED:	01/17/83 JA: NY			
8318055 4648		3101317668	107-TF	M BURNSIDE UNIT #1	GERRY	14.0	COLUMBIA GAS TRAN
8318075 4681		3101317716	103	W JOSEPHSON #2	GERRY	16.0	COLUMBIA GAS TRAN
8318074 4682		3101317716	107-TF	W JOSEPHSON #2	GERRY	16.0	COLUMBIA GAS TRAN
-CHAUTAUQUA ENERGY INC			RECEIVED:	01/17/83 JA: NY			
8318060 4603		3101317823	107-TF	EADES #1	SHERMAN	12.0	COLUMBIA GAS TRAN
8318063 4597		3101317899	107-TF	GIBBS #2	SHERMAN	12.0	COLUMBIA GAS TRAN
8318061 4601		3101317890	107-TF	GRISWOLD #1	SHERMAN	12.0	COLUMBIA GAS TRAN
8318064 4615		3101317887	107-TF	MORRIS #2	SHERMAN	12.0	COLUMBIA GAS TRAN
8318059 4616		3101317796	107-TF	PERSONS #1	SHERMAN	12.0	COLUMBIA GAS TRAN
8318062 4589		3101317919	107-TF	REED #1	SHERMAN	12.0	COLUMBIA GAS TRAN
-ENVIROGAS INC			RECEIVED:	01/17/83 JA: NY			
8318056 4614		3101317790	107-TF	A KOPTA #5	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
-EYE PETROLEUM ASSOCIATES			RECEIVED:	01/17/83 JA: NY			

JD NO	JA TKT	API NO	SEC(1)	SEC(2)	WELL NAME	VOLUME 827 PAGE 002 FIELD NAME	PROD	PURCHASER
8318065	4518	3102917881	103		MAMMOSER #2	LAKE SHORE	12.0	NATIONAL FUEL GAS
8318066	4615	3102917882	103		SESSANA #1	LAKE SHORE	12.0	NATIONAL FUEL GAS
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8318078	4676	3102960371	108		JFS INC WELL #2	LAKEVIEW	0.0	NATIONAL FUEL GAS
8318077	4677	3102904863	108		JFS INC WELL #3	LAKEVIEW	0.0	NATIONAL FUEL GAS
8318076	4678	3102904858	108		JFS INC WELL #4	LAKEVIEW	0.0	NATIONAL FUEL GAS
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8318070	4620	3100917888	107-TF		ALLAN SCHLEGEL #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8318072	4583	3100917835	107-TF		AMELIA S ROTE #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8318069	4539	3100916919	107-TF		ARTHUR BUGENHAGEN #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8318068	4551	3100916923	107-TF		BAIRD #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8318050	4673	3100917793	107-TF		FRANK KEWLEY #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8318053	4672	3100917793	103		FRANK KEWLEY #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8318048	4668	3100917992	107-TF		FREDONIA MIRWALD #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
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8318049	4671	3100917796	107-TF		KLEINDIENST #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8318067	4554	3100917794	107-TF		LETTIE VAN ETTEN #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
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8318073	4585	3100916920	107-TF		ROBERT CLARK #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8318071	4618	3100916931	107-TF		WILLIAM HOJNACKI #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
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8318079	4691	3101317848	103		MILITELLO #1	LAKE SHORE	12.0	NATIONAL FUEL GAS
-US ENERGY DEVELOPMENT CORP			RECEIVED:	01/17/83	JA: NY			
8318058	4532	3101317844	107-TF		A HANSON #2	GERRY	20.0	COLUMBIA GAS TRAN
-4-R INVESTMENT CO			RECEIVED:	01/17/83	JA: NY			
8318057	4589	3101317921	107-TF		M J ELDERKIN #1	GERRY	20.0	NATIONAL FUEL GAS

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OKLAHOMA CORPORATION COMMISSION

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8317909	19341	3500330000	108		WHELPTON #1	MARSHALL	10.0	EASON OIL CO
-AMR PRODUCTION CO			RECEIVED:	01/13/83	JA: OK			
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-ARCO OIL AND GAS COMPANY			RECEIVED:	01/14/83	JA: OK			
8317938	19224	3500920[illegible]	108		CANFIELD GAS UNIT #1	NORTHWEST LOVEDALE	11.0	CITIES SERVICE GA
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8317980	14125	3503720000	102-4		ANTHIS #1	SLICK	0.0	PHILLIPS PETROLEU
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JD NO	JA TKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
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8317907	19055	3501720000	103		BORNEMAN #24	BORNEMAN	131.8	CONOCO INC
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8317905	19053	3501720000	103		BORNEMAN #26	BORNEMAN	131.8	CONOCO INC
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8317902	19050	3501720000	103		BORNEMAN #29	BORNEMAN	131.8	CONOCO INC
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8317901	19049	3501720000	103		BORNEMAN #30	BORNEMAN	131.8	CONOCO INC
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8317898	19047	3501720000	103		BORNEMAN #32	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317897	19046	3501720000	103		BORNEMAN #33	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317896	19045	3501720000	103		BORNEMAN #34	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317895	19044	3501720000	103		BORNEMAN #35	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317894	19043	3501720000	103		BORNEMAN #36	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317893	19042	3501720000	103		BORNEMAN #37	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317892	19041	3501720000	103		BORNEMAN #38	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317891	19040	3501720000	103		BORNEMAN #39	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317890	19039	3501720000	103		BORNEMAN #40	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317889	19038	3501720000	103		BORNEMAN #41	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317888	19037	3501720000	103		BORNEMAN #42	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317887	19036	3501720000	103		BORNEMAN #43	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317886	19035	3501720000	103		BORNEMAN #44	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317885	19034	3501720000	103		BORNEMAN #45	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317884	19033	3501720000	103		BORNEMAN #46	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317883	19032	3501720000	103		BORNEMAN #47	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317882	19031	3501720000	103		BORNEMAN #48	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317881	19030	3501720000	103		BORNEMAN #49	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317880	19029	3501720000	103		BORNEMAN #50	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317879	19028	3501720000	103		BORNEMAN #51	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317878	19027	3501720000	103		BORNEMAN #52	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317877	19026	3501720000	103		BORNEMAN #53	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317876	19025	3501720000	103		BORNEMAN #54	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317875	19024	3501720000	103		BORNEMAN #55	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317874	19023	3501720000	103		BORNEMAN #56	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317873	19022	3501720000	103		BORNEMAN #57	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317872	19021	3501720000	103		BORNEMAN #58	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317871	19020	3501720000	103		BORNEMAN #59	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317870	19019	3501720000	103		BORNEMAN #60	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317869	19018	3501720000	103		BORNEMAN #61	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317868	19017	3501720000	103		BORNEMAN #62	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317867	19016	3501720000	103		BORNEMAN #63	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317866	19015	3501720000	103		BORNEMAN #64	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317865	19014	3501720000	103		BORNEMAN #65	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317864	19013	3501720000	103		BORNEMAN #66	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317863	19012	3501720000	103		BORNEMAN #67	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317862	19011	3501720000	103		BORNEMAN #68	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317861	19010	3501720000	103		BORNEMAN #69	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317860	19009	3501720000	103		BORNEMAN #70	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317859	19008	3501720000	103		BORNEMAN #71	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317858	19007	3501720000	103		BORNEMAN #72	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317857	19006	3501720000	103		BORNEMAN #73	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317856	19005	3501720000	103		BORNEMAN #74	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317855	19004	3501720000	103		BORNEMAN #75	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317854	19003	3501720000	103		BORNEMAN #76	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317853	19002	3501720000	103		BORNEMAN #77	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317852	19001	3501720000	103		BORNEMAN #78	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317851	19000	3501720000	103		BORNEMAN #79	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317850	18999	3501720000	103		BORNEMAN #80	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317849	18998	3501720000	103		BORNEMAN #81	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317848	18997	3501720000	103		BORNEMAN #82	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317847	18996	3501720000	103		BORNEMAN #83	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317846	18995	3501720000	103		BORNEMAN #84	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317845	18994	3501720000	103		BORNEMAN #85	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317844	18993	3501720000	103		BORNEMAN #86	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317843	18992	3501720000	103		BORNEMAN #87	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317842	18991	3501720000	103		BORNEMAN #88	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317841	18990	3501720000	103		BORNEMAN #89	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317840	18989	3501720000	103		BORNEMAN #90	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317839	18988	3501720000	103		BORNEMAN #91	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317838	18987	3501720000	103		BORNEMAN #92	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317837	18986	3501720000	103		BORNEMAN #93	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317836	18985	3501720000	103		BORNEMAN #94	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317835	18984	3501720000	103		BORNEMAN #95	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317834	18983	3501720000	103		BORNEMAN #96	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317833	18982	3501720000	103		BORNEMAN #97	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317832	18981	3501720000	103		BORNEMAN #98	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317831	18980	3501720000	103		BORNEMAN #99	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317830	18979	3501720000	103		BORNEMAN #100	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317829	18978	3501720000	103		BORNEMAN #101	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317828	18977	3501720000	103		BORNEMAN #102	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317827	18976	3501720000	103		BORNEMAN #103	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317826	18975	3501720000	103		BORNEMAN #104	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317825	18974	3501720000	103		BORNEMAN #105	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317824	18973	3501720000	103		BORNEMAN #106	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317823	18972	3501720000	103		BORNEMAN #107	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317822	18971	3501720000	103		BORNEMAN #108	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317821	18970	3501720000	103		BORNEMAN #109	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317820	18969	3501720000	103		BORNEMAN #110	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317819	18968	3501720000	103		BORNEMAN #111	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317818	18967	3501720000	103		BORNEMAN #112	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317817	18966	3501720000	103		BORNEMAN #113	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317816	18965	3501720000	103		BORNEMAN #114	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317815	18964	3501720000	103		BORNEMAN #115	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317814	18963	3501720000	103		BORNEMAN #116	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317813	18962	3501720000	103		BORNEMAN #117	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317812	18961	3501720000	103		BORNEMAN #118	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317811	18960	3501720000	103		BORNEMAN #119	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317810	18959	3501720000	103		BORNEMAN #120	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317809	18958	3501720000	103		BORNEMAN #121	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317808	18957	3501720000	103		BORNEMAN #122	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317807	18956	3501720000	103		BORNEMAN #123	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317806	18955	3501720000	103		BORNEMAN #124	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317805	18954	3501720000	103		BORNEMAN #125	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317804	18953	3501720000	103		BORNEMAN #126	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317803	18952	3501720000	103		BORNEMAN #127	BORNEMAN	131.8	CONOCO INC
-BOGERT OIL CO			RECEIVED:	01/14/83	JA: OK			
8317802	18951	3501720000	103		BORNEMAN #128	BORNEMAN

JD JO	JA PRT	API NO	PROD SPCG	WELL NAME	FIELD NAME	TROC	PURCHASER
8317982	15824	3501732340?	102-? 103	PUMPLE BEE RANCH #1-R	SOONER TREND	450.0	PHILLIPS PETROLEU
8317966	18749	3500732345?	102-?	OPPEL 1-2	SOONER TREND	90.0	PHILLIPS PETROLEU
-BOSWELL ENERGY CORP			RECEIVED: 01/13/83	JA: OK			
8317922	19101	3508121620	103	STRICKER #1-2	E SKELLYVILLE	0.0	KERR MCGEE CORP
-BRACKEN EXPLORATION CO			RECEIVED: 01/13/83	JA: OK			
8318040	18846	3503920526	102-4	REINHARD #1-R	STAFFORD	190.0	
8318039	18847	3504321467	102-4	SIGMAN #1-32	SOUTH HUCMAC	69.0	
8318041	18844	3503920571	102-4	STRATTON FARMS #1-5	STAFFORD	403.0	
-BRAXTON OIL AND GAS CORP			RECEIVED: 01/14/83	JA: OK			
8317967	18895	3500721557	10R	BARBY #2	MOCANE-LAVERNE	10.0	INTER NORTH INC
-BROCK HYDROCARBONS INC			RECEIVED: 01/13/83	JA: OK			
8317921	19102	3504722514	103	PECK #1-33	NE ENID	0.0	
-CABOT PETROLEUM CORP			RECEIVED: 01/13/83	JA: OK			
8318029	18667	3500700000	10R	STURDIVAN-STATE #1	UNDESIGNATED	17.5	NATURAL GAS PIPEL
-CAYMAN EXPLORATION CORP			RECEIVED: 01/13/83	JA: OK			
8317905	09023	3509321910	103	ALVA THOMASON #17-1		0.0	NORTH WEST CENTRA
-CHAMPLIN EXPLORATION INC			RECEIVED: 01/14/83	JA: OK			
8317977	18733	3504321361	102-4	SINGLETON #3	NORTHEAST KREMLIN	0.0	CRA INC
-CHAMPLIN PETROLEUM COMPANY			RECEIVED: 01/13/83	JA: OK			
8318042	18783	3515100000	10R	BOND-HOFER #1	STATE LINE	9.0	PANHANDLE EASTERN
8317902	18145	3508300000	103	SARAH HAMMOND #4	CASHION	0.0	CITIES SERVICE GA
-CHEYENNE PETROLEUM COMPANY			RECEIVED: 01/13/83	JA: OK			
8317927	19025	3500321514	103	FLROD #1-15		0.0	TRANSOK PIPE LINE
-CITIES SERVICE COMPANY			RECEIVED: 01/13/83	JA: OK			
8317926	19036	3500721846	103	GIRK "B" #7 (UPPER MORROW)	N W MOCANE	132.0	COLORADO INTERSTA
-CITIES SERVICE COMPANY			RECEIVED: 01/14/83	JA: OK			
8317954	19037	3500721846	103	GIRK "B" #7 (UPPER CHESTER)	N W MOCANE	165.0	COLORADO INTERSTA
-CLARK RESOURCES INC			RECEIVED: 01/14/83	JA: OK			
8317963	18736	3505320914	102-4	HAMILTON 6-1		50.0	CITIES SERVICE GA
-COOK OPERATING CO			RECEIVED: 01/13/83	JA: OK			
8318045	18670	3511720373	10R	STATE "A" #A-1	UNKNOWN	12.3	H J D CATTLE CO
8318028	18671	3511720730	10R	STATE "A" A-2	UNKNOWN	7.9	H J D CATTLE CO
8318027	18672	3511720978	10R	STATE "A" A-3		7.6	H J D CATTLE CO
8318030	18673	3511720999	10R	STATE "A" A-5	UNKNOWN	6.9	H J D CATTLE CO
8318031	18675	3511720423	10R	STATE "C" #C-2	UNKNOWN	9.5	H J D CATTLE CO
8318046	18674	3511720367	10R	STATE "C" C-1	UNKNOWN	4.5	H J D CATTLE CO
-DYCO PETROLEUM CORPORATION			RECEIVED: 01/13/83	JA: OK			
8317911	19024	3504320981	10R	WILSON-MOORE #1-27	LEEDY N	0.0	DELHI GAS PIPELIN
-EDINGER INC			RECEIVED: 01/13/83	JA: OK			
8317928	19024	3503120517	103	MAYHUGH #1	HANBURY	8.0	COMANCHE NATURAL
-EDINGER INC			RECEIVED: 01/14/83	JA: OK			
8317974	18994	3503120532	103	CHA-YAH 1-A	HANBURY	12.0	COMANCHE NATURAL
8317960	19071	3503120455	103	OTIPPOBY #1	HANBURY	0.0	COMANCHE NATURAL
-EMPIRE EQUIPMENT CO			RECEIVED: 01/14/83	JA: OK			
8317961	19072	3507300000	103	COUGHLAN #2	EAST LOYAL	30.0	
-ENERGY RESERVES GROUP INC			RECEIVED: 01/13/83	JA: OK			
8318032	19035	3509121667	103	SHIRLEY BADGER UNIT #3	WEST WELLSTON	51.5	SUN GAS CO
-F HOWARD WALSH JR			RECEIVED: 01/14/83	JA: OK			
8317565	18746	3501521300	102-?	GREEN #1		507.0	TENNESSEE GAS PIP
-FULLER PETROLEUM INC			RECEIVED: 01/13/83	JA: OK			
8318017	19040	3508321792	103	RAINS #1	NORTH THACKERVILLE	72.0	UNION TEXAS PETRO
8318018	19039	3508520564	103	RAINS #2	NORTH THACKERVILLE	56.0	UNION TEXAS PETRO
-GETTY OIL COMPANY			RECEIVED: 01/13/83	JA: OK			

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JD NO	JA PT	API NO	R SEC(1) SEC(2)	WELL NAME
8317920	19106	3507720242	103	WHITE "J" #2
			RECEIVED:	01/14/83 JA: OK
-GLENCO PETROLEUM CORP				
8317976	18452	3506321504	103	TEDDY BEAR #1
			RECEIVED:	01/13/83 JA: OK
-GULF OIL CORPORATION				
8317916	19382	3505900000	108	R F MCCLUNG #1
			RECEIVED:	01/14/83 JA: OK
-GULF OIL CORPORATION				
8317972	18914	3507323569	103	F OPPEL JR #2-30
8317930	19076	3513700000	108	SADLER #1
			RECEIVED:	01/14/83 JA: OK
-HARPER OIL COMPANY				
8317937	19219	3501520587	108	SALYER #1
			RECEIVED:	01/14/83 JA: OK
-HAWKINS OIL & GAS INC				
8317971	18913	3500722345	103	ISAAC #1-7
			RECEIVED:	01/14/83 JA: OK
-HY-CARB ENERGY INC				
8317936	19212	3515320076	108	BAKER UNIT #3
			RECEIVED:	01/13/83 JA: OK
-IMPERIAL PETROLEUM INC				
8318037	18853	3511721557	102-4	DOLLIE NO 1
			RECEIVED:	01/14/83 JA: OK
-JEFFERSON-WILLIAMS ENERGY CORP				
8317968	18999	3505320883	103	WILBUR DESTER #1
			RECEIVED:	01/14/83 JA: OK
-JOHN A TAYLOR				
8317955	19042	3508720435	103	MOTTINGER #1
			RECEIVED:	01/14/83 JA: OK
-JOHN L COX				
8317953	19034	3504521060	103	STATE #1-33
			RECEIVED:	01/13/83 JA: OK
-JUMAS OIL PART CORP				
8318043	18719	3510720313	108	BELL DOUGLAS #1
8317912	19271	3510700000	108	THORNBURGH #3
			RECEIVED:	01/14/83 JA: OK
-JUMAS OIL PART CORP				
8317944	19259	3511100000	108	SIEGRIST #1
			RECEIVED:	01/14/83 JA: OK
-LADD PETROLEUM CORPORATION				
8317973	18968	3504721820	108	VOTH #2
			RECEIVED:	01/14/83 JA: OK
-LARIO OIL & GAS COMPANY				
8317986	19051	3504921940	103	C BURR #10
8317956	19047	3504921921	103	C BURR #4
8317984	19048	3504921922	103	C BURR #5
8317983	19049	3504921912	103	C BURR #7
8317985	19052	3504921935	103	C BURR #8
			RECEIVED:	01/14/83 JA: OK
-LEMA PETROLEUM INC				
8317943	19253	3510720890	108	HENDRIX #1
			RECEIVED:	01/13/83 JA: OK
-MAGANA OIL CO				
8318025	19003	3514723548	103	FOSTER # B-2A
8318024	19005	3514722829	103	FOSTER # M-2
8318033	19019	3514722830	103	FOSTER # M-3
8317898	19020	3514723476	103	FOSTER #B-1
8317929	19021	3514723609	103	FOSTER #B-3
8318020	19016	3514722828	103	FOSTER #M-1
8318023	19006	3514723354	103	FOSTER #M-6
8318022	19014	3514723355	103	FOSTER #S-A
8318021	19015	3514723480	103	SCHEER #M-2
			RECEIVED:	01/14/83 JA: OK
-MAGANA OIL CO				
8317947	19008	3514723477	103	FOSTER #B-2
8317951	19013	3514723355	103	FOSTER #M-5
8317950	19012	3514723479	103	SCHEER #M-1
8317948	19010	3514700000	103	SCHEER NO M-3
8317946	19007	3514723478	103	SHEER #1-A

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FIELD NAME	PROD	PURCHASER
KINTA	146.0	ARKANSAS LOUISIAN
	197.1	GLENCO PIPELINE C
LAVERNE	9.0	COLORADO INTERSTA
OMEGA SOUTH	72.0	ONG WESTERN INC
SOUTH MARLOW	14.0	ARKANSAS LOUISIAN
WEST COGAR	0.0	OKLAHOMA GAS & EL
LORENA EXT	3.7	
NORTH WOODWARD	18.0	INTER NORTH INC
JENNINGS	0.0	MIDAMERICA GAS LI
DEER CREEK SOUTH	100.0	ARKANSAS LOUISIAN
	0.0	SUN EXPLORATION &
SOUTH MAY	0.0	PANHANDLE EASTERN
NATURA	13.2	PHILLIPS PETROLEU
LYONS QUINN	0.0	PHILLIPS PETROLEU
HENRYETTA	4.8	PHILLIPS PETROLEU
N E ENID	11.3	CITIES SERVICE GA
WEST WHITEBEAD	97.1	BUCKEYE NATURAL G
WEST WHITEBEAD	43.3	BUCKEYE NATURAL G
WEST WHITEBEAD	16.1	BUCKEYE NATURAL G
WEST WHITEBEAD	57.7	BUCKEYE NATURAL G
WEST WHITEBEAD	77.0	BUCKEYE NATURAL G
LYONS-QUINN	20.0	PHILLIPS PETROLEU
	109.5	BARON PIPELINE IN
	438.0	BARON PIPELINE IN
	474.5	BARON PIPELINE IN
	146.0	BARON PIPELINE IN
	146.0	BARON PIPELINE IN
	20.1	BARON PIPELINE IN
	255.5	BARON PIPELINE IN
	109.5	BARON PIPELINE IN
	219.0	CITIES SERVICE GA
	100.4	BARON PIPELINE IN
	273.8	BARON PIPELINE IN
	328.5	CITIES SERVICE GA
	69.4	CITIES SERVICE GA
	109.5	CITIES SERVICE GA

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JD NO	JA PT	API NO	R SEC(1) SEC(2)	WELL NAME
8317920	19106	3507720242	103	WHITE "J" #2
			RECEIVED:	01/14/83 JA: OK
-GLENCO PETROLEUM CORP				
8317976	18452	3506321504	103	TEDDY BEAR #1
			RECEIVED:	01/13/83 JA: OK
-GULF OIL CORPORATION				
8317916	19382	3505900000	108	R F MCCLUNG #1
			RECEIVED:	01/14/83 JA: OK
-GULF OIL CORPORATION				
8317972	18914	3507323569	103	F OPPEL JR #2-30
8317930	19076	3513700000	108	SADLER #1
			RECEIVED:	01/14/83 JA: OK
-HARPER OIL COMPANY				
8317937	19219	3501520587	108	SALYER #1
			RECEIVED:	01/14/83 JA: OK
-HAWKINS OIL & GAS INC				
8317971	18913	3500722345	103	ISAAC #1-7
			RECEIVED:	01/14/83 JA: OK
-HY-CARB ENERGY INC				
8317936	19212	3515320076	108	BAKER UNIT #3
			RECEIVED:	01/13/83 JA: OK
-IMPERIAL PETROLEUM INC				
8318037	18853	3511721557	102-4	DOLLIE NO 1
			RECEIVED:	01/14/83 JA: OK
-JEFFERSON-WILLIAMS ENERGY CORP				
8317968	18999	3505320883	103	WILBUR DESTER #1
			RECEIVED:	01/14/83 JA: OK
-JOHN A TAYLOR				
8317955	19042	3508720435	103	MOTTINGER #1
			RECEIVED:	01/14/83 JA: OK
-JOHN L COX				
8317953	19034	3504521060	103	STATE #1-33
			RECEIVED:	01/13/83 JA: OK
-JUMAS OIL PART CORP				
8318043	18719	3510720313	108	BELL DOUGLAS #1
8317912	19271	3510700000	108	THORNBURGH #3
			RECEIVED:	01/14/83 JA: OK
-JUMAS OIL PART CORP				
8317944	19259	3511100000	108	SIEGRIST #1
			RECEIVED:	01/14/83 JA: OK
-LADD PETROLEUM CORPORATION				
8317973	18968	3504721820	108	VOTH #2
			RECEIVED:	01/14/83 JA: OK
-LARIO OIL & GAS COMPANY				
8317986	19051	3504921940	103	C BURR #10
8317956	19047	3504921921	103	C BURR #4
8317984	19048	3504921922	103	C BURR #5
8317983	19049	3504921912	103	C BURR #7
8317985	19052	3504921935	103	C BURR #8
			RECEIVED:	01/14/83 JA: OK
-LEMA PETROLEUM INC				
8317943	19253	3510720890	108	HENDRIX #1
			RECEIVED:	01/13/83 JA: OK
-MAGANA OIL CO				
8318025	19003	3514723548	103	FOSTER # B-2A
8318024	19005	3514722829	103	FOSTER # M-2
8318033	19019	3514722830	103	FOSTER # M-3
8317898	19020	3514723476	103	FOSTER #B-1
8317929	19021	3514723609	103	FOSTER #B-3
8318020	19016	3514722828	103	FOSTER #M-1
8318023	19006	3514723354	103	FOSTER #M-6
8318022	19014	3514723355	103	FOSTER #S-A
8318021	19015	3514723480	103	SCHEER #M-2
			RECEIVED:	01/14/83 JA: OK
-MAGANA OIL CO				
8317947	19008	3514723477	103	FOSTER #B-2
8317951	19013	3514723355	103	FOSTER #M-5
8317950	19012	3514723479	103	SCHEER #M-1
8317948	19010	3514700000	103	SCHEER NO M-3
8317946	19007	3514723478	103	SHEER #1-A

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FIELD NAME	PROD	PURCHASER
KINTA	146.0	ARKANSAS LOUISIAN
	197.1	GLENCO PIPELINE C
LAVERNE	9.0	COLORADO INTERSTA
OMEGA SOUTH	72.0	ONG WESTERN INC
SOUTH MARLOW	14.0	ARKANSAS LOUISIAN
WEST COGAR	0.0	OKLAHOMA GAS & EL
LORENA EXT	3.7	
NORTH WOODWARD	18.0	INTER NORTH INC
JENNINGS	0.0	MIDAMERICA GAS LI
DEER CREEK SOUTH	100.0	ARKANSAS LOUISIAN
	0.0	SUN EXPLORATION &
SOUTH MAY	0.0	PANHANDLE EASTERN
NATURA	13.2	PHILLIPS PETROLEU
LYONS QUINN	0.0	PHILLIPS PETROLEU
HENRYETTA	4.8	PHILLIPS PETROLEU
N E ENID	11.3	CITIES SERVICE GA
WEST WHITEBEAD	97.1	BUCKEYE NATURAL G
WEST WHITEBEAD	43.3	BUCKEYE NATURAL G
WEST WHITEBEAD	16.1	BUCKEYE NATURAL G
WEST WHITEBEAD	57.7	BUCKEYE NATURAL G
WEST WHITEBEAD	77.0	BUCKEYE NATURAL G
LYONS-QUINN	20.0	PHILLIPS PETROLEU
	109.5	BARON PIPELINE IN
	438.0	BARON PIPELINE IN
	474.5	BARON PIPELINE IN
	146.0	BARON PIPELINE IN
	146.0	BARON PIPELINE IN
	20.1	BARON PIPELINE IN
	255.5	BARON PIPELINE IN
	109.5	BARON PIPELINE IN
	219.0	CITIES SERVICE GA
	100.4	BARON PIPELINE IN
	273.8	BARON PIPELINE IN
	328.5	CITIES SERVICE GA
	69.4	CITIES SERVICE GA
	109.5	CITIES SERVICE GA

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JD NO	DA DKT	API N	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8317949	19011	3514723353	103		WARREN FOSTER #M-4		146.0	BARON PIPELINE IN
-MARLIN OIL CORPORATION			RECEIVED:		■1/14/■3 JA: OK			
8317979	16059	3507322432	102-■	103	EARL #1	SOONER TREND	548.0	PHILLIPS PETROLEU
-MGF OIL CORP			RECEIVE■:		01/13/8■ JA: OK			
8317901	18487	3505121228	103		METHVIN 1-12	SOUTH NORGE	4.3	ARKANSAS LOUISIAN
-MOBIL OIL CORP			■ECEIVED:		01/13/83 JA: OK			
8317925	19080	3501900000	108		C F ADAMS #26	SHO VEL TUM	1.3	LONE STAR GAS CO
8317908	19371	3501900000	108		C F ADAMS #27	SHO VEL TUM	3.0	OKLAHOMA NATURAL
8317910	19339	3515700000	108		JOHN W WILSON #36	SHO VEL TUM	0.3	GETTY OIL CO
-MORAN EXPLORATION INC			RECEIVED:		■1/1■/83 JA: OK			
8317931	19078	3504521052	103		HAGEN #1	WILDCAT	0.0	PHILLIPS PETROLEU
-NORTHWEST OIL CO			RECEIVE■:		01/1■/83 JA: OK			
8317952	19031	3502720475	103		STATE "D" #3	WEST NORMAN	0.0	SUN GAS CO
-PETRO-ENERGY EXPLORATION INC			■ECEIVE■:		01/13/■3 JA: OK			
8317907	20274	3515120258	108		■EDGATE #2-1	S E FAIRVALLEY	0.0	PANHANDLE EASTERN
-PHILLIPS PETROLEUM COMPANY			RECEIVE■:		01/13/■3 JA: OK			
8318044	18695	3504721553	108		■RYDEN A #1	SOONER TREND	5.4	PANHANDLE EASTERN
8318016	19001	3501721751	103		SCHWEITZER A #1	WEST OKARCHE	5.4	
-PHILLIPS PETROLEUM COMPANY			■ECEIVED:		01/■4/83 JA: OK			
8317945	19263	3504721610	10■		SWART "A" #1	SOONER TREND	13.0	PANHANDLE EASTERN
-PRESTON CARTER OIL CO			RECEIVED:		■1/1■/83 JA: OK			
8317970	18898	3510900000	1■■		SCH■■ÊDER #1	MUNGER	13.0	
-PUBLISHERS PETROLEUM			■ECEIVED:		01/13/8■ JA: OK			
8318036	18980	3508321917	103		■ELLOGG #1		180.0	BUCKEYE GAS PROCE
-QUAD OPERATING COMPANY			RECEIVE■:		01/13/83 JA: OK			
8317915	19387	3511100000	108		LIBERTY GLASS #1	MOUNDS	8.0	PRODUCTION SYSTEM
-SAMEDAN OIL CORPORATION			RECEIVED:		■1/1■/■3 JA: OK			
8317964	18741	3501521321	102-2		CURTIS #28-1	ATOKA	0.0	EL PASO NATURAL G
-SEARCH DRILLING CO			RECEIVE■:		01/1■/■3 JA: OK			
8317962	19074	3515321307	103		BAIRD ■1-11	N W SHARON	93.0	PHILLIPS PETROLEU
-SENTRY PETROLEUM CORP			RECEIVED:		■1/13/8■ JA: OK			
8318038	18852	3511900000	102-■		MARC■ ■■	YALE - QUAY	12.0	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO			RECEIVE■:		01/1■/83 JA: OK			
8317939	19246	3510700000	10■		MCCLAIN ■1	IRON POST	4.0	KERR-MCGEE CORP
8317942	19249	3509321930	1■■		NICH■LS #1-31	ORION	17.8	PHILLIPS PETROLEU
8317940	19247	3515130010	10■		WILSON #1-11	N E LOVEDALE	14.8	EL GRANDE PIPELIN
8317941	19248	3515130044	10■		■ILSO■ ■1-15	N E LOVEDALE	3.6	EL GRANDE PIPELIN
-STEVE JERNIGAN INC			RECEIVE■:		■1/13/83 JA: OK			
8317903	16970	3501722190	1■2-2		VIRGIN ROYCE #1	CONCHO FIELD	0.0	PHILLIPS PETROLEU
-SUN EXPLORATION & PRODUCTION CO			RECEIVE■:		01/13/83 JA: OK			
8317899	18752	3501521299	1■2-2		MERVIN CHISUM #1	WILDCAT	3869.0	EL PASO NATURAL G
-T C CRAIGHEAD			■ECEIVED:		01/1■/83 JA: OK			
8317959	19070	3508321987	103		WE■LING 6-1	LUCIEN	18.3	EASON OIL CO
-TED STEWART			■ECEIVE■:		01/13/8■ JA: OK			
8317906	19077	3511123457	10■		STEWART 1-A		21.0	PHILLIPS PETROLEU
-TENNECO OIL COMPANY			RECEIVED:		01/13/■3 JA: OK			
8317917	19377	3507336056	10■		AGNES F IVEN 2-6	SOONER TREND	5.0	CONTINENTAL OIL C
8318026	22477	3500920404	107-0■		BLACKBURN #1-15	S NEW LIBERTY	300.0	TRANSWESTERN PIPE
8317913	19395	3507320507	10■		BLANCHE CLEMENTS 1-17	SOONER TREND	4.0	EXXON OIL CO USA
8317918	19378	3507330■■	10■		GEORGE GREEN #1-30	SOONER TREND	35.0	CONTINENTAL OIL C
8317914	19394	3505300000	10■		STAGGERS 1-A	LAMONT EAST	5.5	CRA INC
-TENNECO OIL COMPANY			RECEIVED:		01/14/83 JA: OK			
8317958	19069	3512920726	103		MERRICK #1-9	S E STRONG CITY	378.0	DELHI GAS PIPELIN

JD NO	JD DKT	WELL NO	SEC(1)	SEC(2)	WELL NAME	VOLUME 827	PAGE 006	
						FIELD NAME	PRICE	PURCHASER
-TEXAS INTERNATIONAL PET CORP					RECEIVED: 01/14/83 JA: OK			
8317933	19081	35043.1342	103		DEAN #1-A	WILDCAT	0.0	
-TEXOMA NATURAL GAS & OIL CORP					RECEIVED: 01/13/83 JA: OK			
8317919	19111	3503723332	103		BROWN #2 037-69225	NORTH KELLYVILLE	11.0	COLORADO GAS COMP
-THE WIL-MC OIL CORP					RECEIVED: 01/13/83 JA: OK			
8318034	18993	3510321605	103		CURTIS #1	POLO	129.6	AMINOIL U S A INC
-TXO PRODUCTION CORP					RECEIVED: 01/14/83 JA: OK			
8317975	17319	3506120378	102-4	103	MITCHELL "G" #1	KINTA	755.0	DELHI GAS PIPELIN
-W R HENDRICKSON					RECEIVED: 01/13/83 JA: OK			
8317904	15534	3511100000	108		MOSS #1		0.0	PHILLIPS PETROLEU
-WAYLAND CHITWOOD					RECEIVED: 01/14/83 JA: OK			
8317978	13533	3503120677	108		SCHOOL LAND #1	PUNKIN CENTER	1.8	MANN INDUSTRIES I
8317988	13524	3503120697	108		SCHOOL LAND #5	PUNKIN CENTER	1.8	MANN INDUSTRIES I
8317989	13532	3503120696	108		SCHOOL LAND #6	PUNKIN CENTER	1.8	MANN INDUSTRIES I
8317987	13531	3503120698	108		SCHOOL LAND #7	PUNKIN CENTER	1.8	MANN INDUSTRIES I
-WOODS PETROLEUM CORPORATION					RECEIVED: 01/14/83 JA: OK			
8317969	16191	3504321227	102-4	103	GAIL B GORE #28-1	PUTNAM	182.5	MICHIGAN WISCONSI
-101 ENERGY CORP					RECEIVED: 01/13/83 JA: OK			
8318035	18992	3507322091	103		TURNER 32-1	SOGNER TREND	32.0	EASON OIL CO
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK								
-MARMAC RESOURCES CO					RECEIVED: 01/17/83 JA: OK 8			
8318004		3511300000	103		CONNIE 1B	PERSHING	0.0	PHILLIPS PETROLEU
8318005		3511300000	103		CONNIE 4P	PERSHING	0.0	PHILLIPS PETROLEU
8318014		3511300000	103		PERSHING 10A	PERSHING	0.0	PHILLIPS PETROLEU
8318015		3511300000	103		PERSHING 11A	PERSHING	0.0	PHILLIPS PETROLEU
8318006		3511300000	103		PERSHING 2A	PERSHING	0.0	PHILLIPS PETROLEU
8318007		3511300000	103		PERSHING 3A	PERSHING	0.0	PHILLIPS PETROLEU
8318008		3511300000	103		PERSHING 4A	PERSHING	0.0	PHILLIPS PETROLEU
8318009		3511300000	103		PERSHING 5A	PERSHING	0.0	PHILLIPS PETROLEU
8318010		3511300000	103		PERSHING 6A	PERSHING	0.0	PHILLIPS PETROLEU
8318011		3511300000	103		PERSHING 7A	PERSHING	0.0	PHILLIPS PETROLEU
8318012		3511300000	103		PERSHING 8A	PERSHING	0.0	PHILLIPS PETROLEU
8318013		3511300000	103		PERSHING 9A	PERSHING	0.0	PHILLIPS PETROLEU

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4311 Filed 2-17-83, 8:45 am]

BILLING CODE 6717-01-C

[Volume 828]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

UMI

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 10 1983

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	FIELD NAME	PROD	PURCHASER
MICHIGAN DEPARTMENT OF NATURAL RESOURCES							
-GRACE PETROLEUM CORPORATION			RECEIVED:	01/20/83 JA: MI			
8318295		2112532842	102-4	JAMES R GOODFELLOW 5-12	ADDISON 12	0.0	MICHIGAN CONSOLID
8318296		2112532541	102-4	MELVIN LENPHAR 3-12	ADDISON "12"	0.0	MICHIGAN CONSOLID
-KULKA E SCHMIDT INC			RECEIVED:	01/28/83 JA: MI			
8318297		2104500000	102-4	BOSWORTH UNIT #1-22A	EATON RAPIDS "22"	146.0	BATTLE CREEK GAS
-SOUTHERN MICHIGAN PRODUCTION CO			RECEIVED:	01/28/83 JA: MI			
8318298		2102500000	102-4	WALTER-LEMCY #1-15	LEE 15-C	365.0	MICHIGAN GAS UTIL
NORTH DAKOTA INDUSTRIAL COMMISSION							
-BELCO PETROLEUM CORPORATION			RECEIVED:	01/19/83 JA: ND			
8318286	672	3305300000	102-4	EDGAR PN 9-13	POUGHRIDER	0.0	KOCH OIL CORP INC
-EDWIN L & BERRY R COX			RECEIVED:	01/19/83 JA: ND			
8318289	675	3305301476	102-4	BERTINUSON #1	PATENT GATE	600.0	
8318290	676	3305301568	102-4	BERTINUSON #11-36	PATENT GATE	400.0	
-MONSANTO OIL CO			RECEIVED:	01/19/83 JA: ND			
8318293	679	3301300926	103	ARTHUR #1	FLAXTON	63.0	CITIES SERVICE CO
8318287	673	3301300871	102-4	ELLITHORPE #1	NORTHEAST FOOTHILLS	638.4	CITIES SERVICE CO
8318294	680	3301300924	103	GWENDOLYN #1	FLAXTON	35.0	CITIES SERVICE CO
8318295	681	3301300900	103	JACOBSEN #1	FLAXTON	11.0	CITIES SERVICE CO
8318291	677	3301300881	103	STOEN #1	BLACK SLOUGH	644.6	CITIES SERVICE CO
-TXO PRODUCTION CORP			RECEIVED:	01/19/83 JA: ND			
8318292	678	3301300837	103	SKWYER STATE #1	RIVAL	36.0	CITIES SERVICE CO
-UNION TEXAS PETROLEUM			RECEIVED:	01/19/83 JA: ND			
8318288	674	3305900272	102-4	KUNTZ 9-1	NORTH BELFIELD	70.8	
OHIO DEPARTMENT OF NATURAL RESOURCES							
-ALTHEIRS OIL INC			RECEIVED:	01/17/83 JA: OH			
8316085		3412725720	103	107-TF R HUPP #1	HARRISON TOWNSHIP	6.0	NATIONAL GAS & OI
-APPALACHIAN EXPLORATION INC			RECEIVED:	01/17/83 JA: OH			
8316084		3410322825	107-TF	ESTATE OF S KELLER #1	WADSWORTH	4.4	YANKEE RESOURCES
8316087		3415320881	107-TF	GAMBUF-BENDER UNIT #4	COPLEY	43.8	YANKEE RESOURCES
8316085		3415320767	107-TF	J & T & E HAMMOND #3	COPLEY	8.8	YANKEE RESOURCES
8316086		3415320880	107-TF	L GAMAUE #3	COPLEY	45.6	YANKEE RESOURCES
8316088		3415321008	107-TF	R EMERY #3	COPLEY	7.3	YANKEE RESOURCES
8316089		3415321007	107-TF	R EMERY UNIT #2	COPLEY	9.1	YANKEE RESOURCES
8316083		3410322414	107-TF	S PARKAS #5	SHARON	4.0	YANKEE RESOURCES
-BOBBY ANDERSON			RECEIVED:	01/17/83 JA: OH			
8318081		3416717303 D	107-TF	TRITCHEL #4	WATERTOWN	7.3	COLUMBIA GAS TRAN
-CALLANDER & KIMBELL INC			RECEIVED:	01/17/83 JA: OH			

JC NO	JA ENT	JET NO	CODE SEQ # WELL NAME
8318090		3403124541	103 107-TF CARL WRIGHT #1
			RECEIVED: 01/17/83 JA: OH
-CARLTON OIL CORP			
8318091		3416726200	107-CV TIDD #1
			RECEIVED: 01/17/83 JA: OH
-CLARENCE SHERMAN			
8318175		3415722204	103 107-RT ALBERT J BEACHY #6
8318176		3415722218	103 107-RT EARL & CAROL FLINNER #1
8318174		3407523873	103 107-TF NOAH TROYER #1
			RECEIVED: 01/17/83 JA: OH
-CLINTON OIL CO			
8318093		3413302895	103 107-TF E YOUNG #1-794
8318092		3411926491	103 107-TF W HUGHES BARNES #1-766
			RECEIVED: 01/17/83 JA: OH
-DOLPHA ANDERSON			
8318082		3416[illegible]	107-TF MARGUERITE WOODRUFF #1
			RECEIVED: 01/17/83 JA: OH
-DOME ENERGICORP			
8318095		3409321179	107-TF CASPER #2
8318094		3409321171	107-TF POK CO #1
			RECEIVED: 01/17/83 JA: OH
-ELAN ENERGY INC			
8318096		3416902996	103 107-TF ENOS WEAVER #2
			RECEIVED: 01/17/83 JA: OH
-ENERGY DISTRIBUTORS INC			
8318097		3411[illegible]	103 107-TF MCHENRY #3
			RECEIVED: 01/17/83 JA: OH
-ENTERPRISE ENERGY CORP			
8318099		3411522940	103 107-TF FERGUSON #2
8318098		3407322[illegible]	103 107-TF LAPP #1
8318100		3416320[illegible]	103 107-TF MCAFEE #1
			RECEIVED: 01/17/83 JA: OH
-FORAKER PRODUCING COMPANY INC			
8318102		3411925[illegible]	107-TF HAMPP #1
8316103		3411724[illegible]	107-TF LEWIS/PEABODY #1
8318101		3411924[illegible]	107-TF SWINEHART/OHIO POWER #2
			RECEIVED: 01/17/83 JA: OH
-FRONTIER PETROLEUM LTD			
8318104		3416727[illegible]	107-CV H D HELDMAN #2
			RECEIVED: 01/17/83 JA: OH
-GASEARCH INC			
8318107		3415[illegible]	103 107-TF BYLER #1
8318106		3409[illegible]	103 107-TF TROYER #1
8318105		3409[illegible]	103 107-TF TROYER #2
			RECEIVED: 01/17/83 JA: OH
-GREGG PRICE CORP			
8318108		3407504[illegible]	107-TF R J PATTERSON #1
			RECEIVED: 01/17/83 JA: OH
-H & K ENERGY CORP			
8318109		3412[illegible]	103 107-TF LUZADDER-HOWERTH-MOONEY #1
-HOPEWELL OIL AND GAS DEVELOPMENT CO			RECEIVED: 01/17/83 JA: OH
8318111		3411[illegible]	103 107-TF ANNA & VICTOR SELLERS #1
8318112		3412[illegible]	103 107-TF LEWIS & ELLA SAUM #1
			RECEIVED: 01/17/83 JA: OH
-J D DRILLING CO			
8318114		3410[illegible]	107-CV GAYLE ELLA & ERNESTINE PRICE #1
8318115		3410[illegible]	107-CV GAYLE H PRICE #1
8318113		3410[illegible]	107-CV LEROY DONOHUE #1
			RECEIVED: 01/17/83 JA: OH
-JADOIL INC			
8318116		3407[illegible]	107-TF EVARD & MILDRED LOWE #2
			RECEIVED: 01/17/83 JA: OH
-K S T OIL & GAS CO INC			
8318119		3415[illegible]	103 107-TF FIGGIE INTERNATIONAL #1
8318120		3415[illegible]	103 107-TF FIGGIE INTERNATIONAL #2
8318117		3415[illegible]	103 107-TF SCHLUETER #1
8318118		3415[illegible]	103 107-TF SCHLUETER #2
			RECEIVED: 01/17/83 JA: OH
-KING DRILLING CO			
8318121		3413[illegible]	107-TF BETTY COOLMAN #2

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FIELD NAME	PROD	PURCHASER
DRESDEN	5.0	
NEWPORT	50.0	
BUCKS	5.5	EAST OHIO GAS CO
BUCKS	6.4	EAST OHIO GAS CO
CLARK	9.1	EAST OHIO GAS CO
RAVENNA	10.0	
UNION	10.0	
WATERTOWN	3.7	COLUMBIA GAS TRAN
COLUMBIA	7.0	COLUMBIA GAS TRAN
COLUMBIA	30.0	COLUMBIA GAS TRAN
PAINT	11.0	COLUMBIA GAS TRAN
NTA YORK	10.0	NATIONAL GAS & OI
MANCHESTER	36.5	TEXAS EASTERN TRA
WASHINGTON	18.2	COLUMBIA GAS TRAN
SWAN	18.2	COLUMBIA GAS TRAN
NEWTON	10.0	
PIKE	8.0	
NEWTON	5.0	
INDEPENDENCE	10.0	COLUMBIA GAS TRAN
MESOPOTAMIA	20.0	
BERLIN	20.0	COLUMBIA GAS TRAN
BERLIN	20.0	COLUMBIA GAS TRAN
PRAIRIE	12.0	COLUMBIA GAS TRAN
PIKE	4.0	
PERRY	10.0	COLUMBIA GAS TRAN
MADISON	10.0	COLUMBIA GAS TRAN
LEBANON	8.0	COLUMBIA GAS TRAN
LEBANON	9.0	COLUMBIA GAS TRAN
LETART	6.0	COLUMBIA GAS TRAN
CLARK	18.0	COLUMBIA GAS TRAN
NORTHAMPTON	0.0	
NORTHAMPTON	0.0	
BATH	0.0	
BATH	0.0	
GUILFORD	10.0	COLUMBIA GAS TRAN

JC NO	JA ENT	JET NO	CODE SEQ # WELL NAME
-LIBERTY OIL & GAS CORP			
			RECEIVED: 01/17/83 JA: OH

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FIELD NAME	PROD	PURCHASER

OPR NO	API NO	FED(1) REC(2) WELL NAME
-LIBERTY OIL & GAS CORP		RECEIVED: 01/17/83 JA: OH
8318126	34[illegible]	107-DV S A WEAVER #2
8318124	34[illegible]	107-DV ELIZABETH PUTNAM #2
8318127	3410[illegible]	107-DV LESTER KEATON #1
-LIBERTY OIL&GAS CORP		RECEIVED: 01/17/83 JA: OH
8318125	34 09[illegible]	107-DV CHARLES D PUTNAM #2
-LOMAK PETROLEUM INC		RECEIVED: 01/17/83 JA: OH
8318138	3415[illegible]	107-TF A KETTERER #2
8318130	3415[illegible]	107-TF C OSMOND #2
8318137	3413[illegible]	107-TF E & G MCCOY UNIT #1
8318134	34133.1211	107-TF G SHOWALTER #6
8318139	3415521731	107-TF G WALSH #1
8318140	3415[illegible]	107-TF G WALSH #2
8318133	3411[illegible]	107-TF H & B STARRETT #1-MC
8318136	3413[illegible]	107-TF J GOTTHARDT #1
8318132	3411[illegible]	107-TF K & O ALEXANDER UNIT #2
8318135	3413[illegible]	107-TF PORTAGE COUNTY UNIT #1
8318131	3411[illegible]	107-TF R & M TROUT UNIT #1
8318129	3405[illegible]	107-TF S TIMMONS UNIT #1
8318128	3405[illegible]	107-TF T HESS #2
-MID-ATLANTIC OIL CO		RECEIVED: 01/17/83 JA: OH
8318142	3411522840	103 107-TF DANA MORRIS ETAL #2
8318143	3412122844	103 107-TF L C HUGHES/NEELY #1
8318144	3412122897	103 107-TF R FARSON ETAL #1
-MORELAND OIL & GAS		RECEIVED: 01/17/83 JA: OH
8318145	3405922764	D 107-TF RUTH CAROTHERS #1
-NEW FRONTIER EXPLORATION INC		RECEIVED: 01/17/83 JA: OH
8318147	3405923[illegible]	103 107-TF JOHN MILLER #1
8318146	3419221[illegible]	103 107-TF R KUGLER #2
8318148	3415123[illegible]	103 107-TF ROBERT ECREMENT #2
-OHIO NATURAL FUEL CO		RECEIVED: 01/17/83 JA: OH
8318149B	3403124[illegible]	D 107-TF HOLMES LIMESTONE #2
8318149A	3403124[illegible]	103 HOLMES LIMESTONE #2
8318150A	3403124[illegible]	103 HOLMES LIMESTONE #3
8318150B	3403124[illegible]	D 107-TF HOLMES LIMESTONE #3
8318151A	3403124907	103 HOLMES LIMESTONE #4
8318151B	3403124907	D 107-TF HOLMES LIMESTONE #4
-ONEAL PETROLEUM INC		RECEIVED: 01/17/83 JA: OH
8318152	3411521[illegible]	107-TF BARNETT #2
8318154	3411522[illegible]	103 107-TF HARSHBERGER #1
8318155	3411522871	107-TF HIPP #1
8318156	3411522967	107-TF MORRIS HEIRS #5
8318153	3411522[illegible]	103 107-TF R JUTTE #2
-ORION ENERGY CORP		RECEIVED: 01/17/83 JA: OH
8318157	3415723[illegible]	107-TF TURKOVICH UNIT #1
-OXFORD OIL CO		RECEIVED: 01/17/83 JA: OH
8318158	3411122170	107-DV ALBERT HUPP #1
8318161	3416923744	107-TF DEWEY RUMBAUGH #1
8318159	3411122761	107-DV JAMES ROBINSON #1
8318160	3411926414	107-TF KARNES-COEN UNIT #2
-PONDEROSA OIL COMPANY		RECEIVED: 01/17/83 JA: OH
8318163	3407523[illegible]	107-TF WILLIAM P HERMAN WELL #3
8318162	3407523907	107-TF WILLIAM P HERMAN WELL #4

FIELD NAME	PROD	PURCHASER
CARTHAGE	18.0	COLUMBIA GAS TRAN
CARTHAGE	18.0	COLUMBIA GAS TRAN
ORANGE	0.0	COLUMBIA GAS TRAN
CARTHAGE	18.0	COLUMBIA GAS TRAN
LAKE	36.0	YANKEE RESOURCES
BURTON	36.0	YANKEE RESOURCES
NELSON	30.0	YANKEE RESOURCES
WINDHAM	24.0	COLUMBIA GAS TRAN
MESOPOTAMIA	24.0	YANKEE RESOURCES
MESOPOTAMIA	24.0	YANKEE RESOURCES
MEIGS	24.0	ROVI RESOURCES CO
MIRAM	30.0	YANKEE RESOURCES
HARRISON	18.0	COLUMBIA GAS TRAN
FRANKLIN	18.0	YANKEE RESOURCES
HARRISON	18.0	COLUMBIA GAS TRAN
AUBURN	36.0	YANKEE RESOURCES
BURTON	36.0	YANKEE RESOURCES
DANA MORRIS	1000.0	EAST OHIO GAS CO
L C HUGHES/NEELY	1000.0	EAST OHIO GAS CO
R FARSON	1000.0	EAST OHIO GAS CO
KIMBOLTON	10.0	EAST OHIO GAS
SPENCER	0.0	YANKEE RESOURCES
UNION	0.0	COLUMBIA GAS TRAN
WASHINGTON	20.0	YANKEE RESOURCES
MONROE	20.0	COLUMBIA GAS TRAN
MONROE	20.0	COLUMBIA GAS TRAN
MONROE	18.0	COLUMBIA GAS TRAN
MONROE	18.0	COLUMBIA GAS TRAN
MONROE	20.0	COLUMBIA GAS TRAN
MONROE	20.0	COLUMBIA GAS TRAN
MEIGSVILLE	26.0	COLUMBIA GAS TRAN
PENN	19.0	COLUMBIA GAS TRAN
MALTA	20.0	COLUMBIA GAS TRAN
CENTER	25.0	EAST OHIO GAS CO
PENN	22.0	COLUMBIA GAS TRAN
GOSHEN	20.0	EAST OHIO GAS CO
FRANKLIN	11.0	
CHESTER	10.0	
FRANKLIN	11.0	
HARRISON	11.0	
PRAIRIE	11.0	COLUMBIA GAS TRAN
PRAIRIE	12.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-REPUBLIC STEEL CORP				RECEIVED: 01/17/83		JA: OH			
8318165		3409921509		103	107-TF	AMERICAN FIRE CLAY - A F C #3	GREEN	6.0	REPUBLIC STEEL CO
8318164		3409921505		103	107-TF	AMERICAN FIRE CLAY - AFC #2	GREEN	6.0	REPUBLIC STEEL CO
-RESOURCE EXPLORATION INC				RECEIVED: 01/17/83		JA: OH			
8318167		3406720240		107-RT		ARTHUR MILLESON #1	WASHINGTON	29.0	COLUMBIA GAS TRAN
8318171		3406721067		107-RT		FERGUSON #1	WASHINGTON	25.0	COLUMBIA GAS TRAN
8318168		3406720273		107-RT		HIRRIE GREEN #1	WASHINGTON	10.0	COLUMBIA GAS TRAN
8318169		3406720994		107-RT		LAUGHLIN #2	WASHINGTON	40.0	COLUMBIA GAS TRAN
8318170		3406721007		107-RT		POULSON #3	WASHINGTON	32.0	COLUMBIA GAS TRAN
8318166		3406720232		107-RT		ROBIN #1	WASHINGTON	30.0	COLUMBIA GAS TRAN
-RIMCO OPERATING INC				RECEIVED: 01/17/83		JA: OH			
8318172B		3416923152	D	107-TF		F LADRACH #1	PLAIN	12.0	COLUMBIA GAS TRAN
8318172[illegible]		3416923152		103		F LADRACH #1	PLAIN	12.0	COLUMBIA GAS TRAN
8318173		3416923216		103	107-TF	MORRIS #1	CHESTER	12.0	COLUMBIA GAS TRAN
-TATUM PETROLEUM OHIO INC				RECEIVED: 01/17/83		JA: OH			
8318177		3403124646		107-TF		AUGUSTA LOWER #1	MILLCREEK	750.0	COLUMBIA GAS TRAN
8318179		3407523279		107-TF		C FENDER-H MILLER 1982-1 LTD #1	CLARK	750.0	COLUMBIA GAS TRAN
8318178		3407523278		107-TF		C FENDER-R MILLER 1982-1 LTD #1	CLARK	850.0	COLUMBIA GAS TRAN
8318180		3407523487		107-TF		ELI E RABER 1982-1 LTD #1	CLARK	900.0	COLUMBIA GAS TRAN
-TOWNER PETROLEUM CO				RECEIVED: 01/17/83		JA: OH			
8318181		3405923353		103	107-TF	ALLEN H/WINN L #1	WILLS	27.0	TENNESSEE GAS PIP
8318182		3405923358		103	107-TF	HOLLINGSWORTH M #1	JEFFERSON	27.0	TENNESSEE GAS PIP
-UNIVERSAL EXPLORATION				RECEIVED: 01/17/83		JA: OH			
8318183		3415321134		107-TF		GEORGE #2	NORTON	50.0	YANKEE RESOURCES
-VICTOR MCKENZIE				RECEIVED: 01/17/83		JA: OH			
8318141		3411926460		103	107-TF	WILLIAM DAVY #1	HOPEWELL	0.0	
-VIKING RESOURCES CORP				RECEIVED: 01/17/83		JA: OH			
8318188		3409921469		103	107-TF	HILLES UNIT #6	BERLIN	30.0	
8318[illegible]		3408520352		103	107-TF	KLYN #3	PERRY	30.0	
8318185		3408520409		103	107-TF	KLYN #7	PERRY	30.0	
8318186		3409921454		103	107-TF	POWELL/MORALCO UNIT #1	BERLIN	30.0	
8318189		3409921476		103	107-TF	REPICH #1	BERLIN	30.0	
8318187		3409921462		103	107-TF	SANDSTROM #1	BERLIN	30.0	
-WALTER & ALICE KLINGER				RECEIVED: 01/17/83		JA: OH			
8318122		3416722710		108		JOHN HENDERSHOT - #1	WATERTOWN TOWNSHIP	1.0	COLUMBIA GAS TRAN
8318123		3416722717		108		WALTER KLINGER #1	WATERTOWN TOWNSHIP	1.0	COLUMBIA GAS TRAN
-WAYNE HAMMOND				RECEIVED: 01/17/83		JA: OH			
8318110		34157237[illegible]		103	107-TF	E W & L L RICHARD #2	LAWRENCE	11.0	COLUMBIA GAS TRAN
-WHITNAM OIL & GAS CORP				RECEIVED: 01/17/83		JA: OH			
8318192		3416726016		107-TF		DALE & PHYLLIS HAUGHT #10	INDEPENDENCE	15.0	COLUMBIA GAS TRAN
8318193		3416726024		107-TF		HILLE HEIRS #1	INDEPENDENCE	15.0	COLUMBIA GAS TRAN
8318194		3416726071		107-TF		MARY & COMER HAUGHT #1	LUDLOW	15.0	COLUMBIA GAS TRAN
8318190		3416725965		107-TF		SWANEY #1	LAWRENCE	15.0	COLUMBIA GAS TRAN
8318191		3416726004		107-TF		U S A MCKINNON #2	LUDLOW	15.0	COLUMBIA GAS TRAN
-ZENITH OIL & GAS INC				RECEIVED: 01/17/83		JA: OH			
8318195		3411926497		107-TF		BURRIER #7	NASHPORT	1.0	NATIONAL GAS & OI
********** OKLAHOMA CORPORATION COMMISSION **********									
-AMOCO PRODUCTION CO				RECEIVED: 01/17/83		JA: OK			
8318243	18881	3503920672		102-2		FRIZZELL UNIT #1	WEATHERFORD NW (ATOKA	359.0	SOUTHERN NATURAL
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318203	18816	3500722292		102-4		ISSAC "A" #2	FLORIS	109.5	PANHANDLE EASTERN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8318248	18888	3500720000		102		JONES 1-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318249	18889	3500720000		102		JONES 2-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318250	18890	3500720000		102		JONES 3-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318251	18891	3500720000		102		JONES 4-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318252	18892	3500720000		102		JONES 5-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318253	18893	3500720000		102		JONES 6-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318254	18894	3500720000		102		JONES 7-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318255	18895	3500720000		102		JONES 8-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318256	18896	3500720000		102		JONES 9-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318257	18897	3500720000		102		JONES 10-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318258	18898	3500720000		102		JONES 11-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318259	18899	3500720000		102		JONES 12-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318260	18900	3500720000		102		JONES 13-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318261	18901	3500720000		102		JONES 14-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318262	18902	3500720000		102		JONES 15-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318263	18903	3500720000		102		JONES 16-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318264	18904	3500720000		102		JONES 17-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318265	18905	3500720000		102		JONES 18-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318266	18906	3500720000		102		JONES 19-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318267	18907	3500720000		102		JONES 20-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318268	18908	3500720000		102		JONES 21-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318269	18909	3500720000		102		JONES 22-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318270	18910	3500720000		102		JONES 23-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318271	18911	3500720000		102		JONES 24-25	CRAIG	31.5	ARKANSAS LOUISIANA
8318272	18912	3500720000		102		JONES 25-25	CRAIG	31.5	ARKANSAS LOUISIANA
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318204	18817	3500722293		102-4		ISSAC "A" #3	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318205	18818	3500722294		102-4		ISSAC "A" #4	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318206	18819	3500722295		102-4		ISSAC "A" #5	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318207	18820	3500722296		102-4		ISSAC "A" #6	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318208	18821	3500722297		102-4		ISSAC "A" #7	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318209	18822	3500722298		102-4		ISSAC "A" #8	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318210	18823	3500722299		102-4		ISSAC "A" #9	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318211	18824	3500722300		102-4		ISSAC "A" #10	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318212	18825	3500722301		102-4		ISSAC "A" #11	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318213	18826	3500722302		102-4		ISSAC "A" #12	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318214	18827	3500722303		102-4		ISSAC "A" #13	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318215	18828	3500722304		102-4		ISSAC "A" #14	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318216	18829	3500722305		102-4		ISSAC "A" #15	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318217	18830	3500722306		102-4		ISSAC "A" #16	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318218	18831	3500722307		102-4		ISSAC "A" #17	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318219	18832	3500722308		102-4		ISSAC "A" #18	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318220	18833	3500722309		102-4		ISSAC "A" #19	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318221	18834	3500722310		102-4		ISSAC "A" #20	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318222	18835	3500722311		102-4		ISSAC "A" #21	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318223	18836	3500722312		102-4		ISSAC "A" #22	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318224	18837	3500722313		102-4		ISSAC "A" #23	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318225	18838	3500722314		102-4		ISSAC "A" #24	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318226	18839	3500722315		102-4		ISSAC "A" #25	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318227	18840	3500722316		102-4		ISSAC "A" #26	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318228	18841	3500722317		102-4		ISSAC "A" #27	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318229	18842	3500722318		102-4		ISSAC "A" #28	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318230	18843	3500722319		102-4		ISSAC "A" #29	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318231	18844	3500722320		102-4		ISSAC "A" #30	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318232	18845	3500722321		102-4		ISSAC "A" #31	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318233	18846	3500722322		102-4		ISSAC "A" #32	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318234	18847	3500722323		102-4		ISSAC "A" #33	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318235	18848	3500722324		102-4		ISSAC "A" #34	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318236	18849	3500722325		102-4		ISSAC "A" #35	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318237	18850	3500722326		102-4		ISSAC "A" #36	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318238	18851	3500722327		102-4		ISSAC "A" #37	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318239	18852	3500722328		102-4		ISSAC "A" #38	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318240	18853	3500722329		102-4		ISSAC "A" #39	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318241	18854	3500722330		102-4		ISSAC "A" #40	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318242	18855	3500722331		102-4		ISSAC "A" #41	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318243	18856	3500722332		102-4		ISSAC "A" #42	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318244	18857	3500722333		102-4		ISSAC "A" #43	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318245	18858	3500722334		102-4		ISSAC "A" #44	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318246	18859	3500722335		102-4		ISSAC "A" #45	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318247	18860	3500722336		102-4		ISSAC "A" #46	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318248	18861	3500722337		102-4		ISSAC "A" #47	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318249	18862	3500722338		102-4		ISSAC "A" #48	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318250	18863	3500722339		102-4		ISSAC "A" #49	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318251	18864	3500722340		102-4		ISSAC "A" #50	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318252	18865	3500722341		102-4		ISSAC "A" #51	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318253	18866	3500722342		102-4		ISSAC "A" #52	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318254	18867	3500722343		102-4		ISSAC "A" #53	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318255	18868	3500722344		102-4		ISSAC "A" #54	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318256	18869	3500722345		102-4		ISSAC "A" #55	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318257	18870	3500722346		102-4		ISSAC "A" #56	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318258	18871	3500722347		102-4		ISSAC "A" #57	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318259	18872	3500722348		102-4		ISSAC "A" #58	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318260	18873	3500722349		102-4		ISSAC "A" #59	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318261	18874	3500722350		102-4		ISSAC "A" #60	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318262	18875	3500722351		102-4		ISSAC "A" #61	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318263	18876	3500722352		102-4		ISSAC "A" #62	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318264	18877	3500722353		102-4		ISSAC "A" #63	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318265	18878	3500722354		102-4		ISSAC "A" #64	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318266	18879	3500722355		102-4		ISSAC "A" #65	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318267	18880	3500722356		102-4		ISSAC "A" #66	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318268	18881	3500722357		102-4		ISSAC "A" #67	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318269	18882	3500722358		102-4		ISSAC "A" #68	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318270	18883	3500722359		102-4		ISSAC "A" #69	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318271	18884	3500722360		102-4		ISSAC "A" #70	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318272	18885	3500722361		102-4		ISSAC "A" #71	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318273	18886	3500722362		102-4		ISSAC "A" #72	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318274	18887	3500722363		102-4		ISSAC "A" #73	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318275	18888	3500722364		102-4		ISSAC "A" #74	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318276	18889	3500722365		102-4		ISSAC "A" #75	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318277	18890	3500722366		102-4		ISSAC "A" #76	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318278	18891	3500722367		102-4		ISSAC "A" #77	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318279	18892	3500722368		102-4		ISSAC "A" #78	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318280	18893	3500722369		102-4		ISSAC "A" #79	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318281	18894	3500722370		102-4		ISSAC "A" #80	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318282	18895	3500722371		102-4		ISSAC "A" #81	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318283	18896	3500722372		102-4		ISSAC "A" #82	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318284	18897	3500722373		102-4		ISSAC "A" #83	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318285	18898	3500722374		102-4		ISSAC "A" #84	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318286	18899	3500722375		102-4		ISSAC "A" #85	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318287	18900	3500722376		102-4		ISSAC "A" #86	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318288	18901	3500722377		102-4		ISSAC "A" #87	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318289	18902	3500722378		102-4		ISSAC "A" #88	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318290	18903	3500722379		102-4		ISSAC "A" #89	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318291	18904	3500722380		102-4		ISSAC "A" #90	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318292	18905	3500722381		102-4		ISSAC "A" #91	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318293	18906	3500722382		102-4		ISSAC "A" #92	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318294	18907	3500722383		102-4		ISSAC "A" #93	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318295	18908	3500722384		102-4		ISSAC "A" #94	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318296	18909	3500722385		102-4		ISSAC "A" #95	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318297	18910	3500722386		102-4		ISSAC "A" #96	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318298	18911	3500722387		102-4		ISSAC "A" #97	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318299	18912	3500722388		102-4		ISSAC "A" #98	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEIVED: 01/17/83		JA: OK			
8318300	18913	3500722389		102-4		ISSAC "A" #99	FLORIS	109.5	PANHANDLE EASTERN
-ANADARKO PRODUCTION COMPANY				RECEI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8318249	19000	3500700000		108		JONES 1-25
-ANDOVER OIL COMPANY				RECEIVED:	01/17/83	JA: OK
8318234	18861	3507323225		103		OTTIS #20-1
-B J BROWN				RECEIVED:	01/17/83	JA: OK
8318244	18479	3509100000		108		PHELPS #1
8318226	18480	3509100000		108		TABOR #1
-BEARD OIL COMPANY				RECEIVED:	01/17/83	JA: OK
8318242	18882	3510020550		102-4		STAPLES #1
-BERRY OIL & GAS CO				RECEIVED:	01/17/83	JA: OK
8318250	19017	3503700000		103		SELLERS FRANK #2
-BOBBY ROWE ENERGY INC				RECEIVED:	01/17/83	JA: OK
8318245	17768	3511100000		108		KOERNER #1-6
-BUNKER EXPLORATION CO				RECEIVED:	01/17/83	JA: OK
8318217	21942	3505121243		107-DP		PORTER 1-13
-C F BRAUN & CO				RECEIVED:	01/17/83	JA: OK
8318199	18817	3512020757		102-4		YOXSIMER #1-15
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	01/17/83	JA: OK
8318233	18876	3503920592		102-2	103	C O ARNETT #1-17
8318225	18875	3509300000		108		H A LOGAN #1
8318235	18873	3504700000		108		MATHILDA VOGT #1
8318236	18872	3507300000		108		STATE C V H #1
-CHEROKEE RESOURCE MANAGEMENT				RECEIVED:	01/17/83	JA: OK
8318219	18954	3508121592		103		EVANS #1
8318220	18955	3508121732		103		EVANS #2
8318221	18956	3508121733		103		EVANS #3
8318222	18957	3508121734		103		EVANS #4
-CRAWLEY PETROLEUM CORPORATION				RECEIVED:	01/17/83	JA: OK
8318238	18862	3515120257		108		FARRIS-VEATCH #1
-DYCO PETROLEUM CORPORATION				RECEIVED:	01/17/83	JA: OK
8318228	18704	3504720954		108		BEGGS #1
8318227	18703	3504720686		108		BEGGS #2
-EDINGER INC				RECEIVED:	01/17/83	JA: OK
8318197	18930	3510320640		103		GEARY #1
-F C D OIL CORP				RECEIVED:	01/17/83	JA: OK
8318252	18915	3505320919		103		THORNE 1-20
-GRUY MANAGEMENT SERVICE CO				RECEIVED:	01/17/83	JA: OK
8318202	16389	3500700000		108		CORRELL #1
-GULF OIL CORPORATION				RECEIVED:	01/17/83	JA: OK
8318241	18885	3501121674		102-2		ERVAN YOST #1-24
-HARPER OIL COMPANY				RECEIVED:	01/17/83	JA: OK
8318200	18826	3501121721		102-2		MCEACHERN #1
-HB OIL & GAS INC				RECEIVED:	01/17/83	JA: OK
8318208	18814	3511921422		102-4		KINZIE #1
-HPC INC				RECEIVED:	01/17/83	JA: OK
8318205	18809	3503920318		102-2		COMPS #1
-JUMAS OIL PART CORP				RECEIVED:	01/17/83	JA: OK
8318237	18866	3510720225		108		FERGUSON #1
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	01/17/83	JA: OK
8318223	18958	3504700000		108		CHUCK #1-20
-LADD PETROLEUM CORPORATION				RECEIVED:	01/17/83	JA: OK
8318214	18966	3504721513		108		SIMPSON #2
-LARIO OIL & GAS COMPANY				RECEIVED:	01/17/83	JA: OK
8318251	19050	3504921936		103		C BURR #11

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FIELD NAME	PROD	PURCHASER
COMO	4.6	INTER NORTH INC
	375.0	WARREN PETROLEUM
COALTON	3.6	PHILLIPS PETROLEU
COALTON	5.1	PHILLIPS PETROLEU
N CHOCTAW	479.0	BEARD OIL CO
	25.6	ARCO OIL & GAS CO
BEGGS	0.0	PHILLIPS PETROLEU
CHITWOOD	500.0	
S W ANGORA	700.0	DELHI GAS PIPELIN
S W LEEDY	0.0	
CHANEY DELL	10.0	CHAMPLIN PETROLEU
ENID	17.0	CHAMPLIN PETROLEU
SOONER TREND	15.0	PHILLIPS PETROLEU
SOUTH STROUD PRUE	23.4	SWAB CORP
SOUTH STROUD PRUE	27.0	SWAB CORP
SOUTH STROUD PRUE	25.2	SWAB CORP
SOUTH STROUD PRUE	19.8	SWAB CORP
N W OAKDALE	18.0	PANHANDLE EASTERN
	0.0	CHAMPLIN PETROLEU
	0.0	CHAMPLIN PETROLEU
EAST BILLINGS	33.0	ARCO OIL & GAS CO
SOUTH POND CREEK	65.7	C R A INC
MOCANE	28.0	INTER NORTH INC
SOUTH OMEGA	38.0	O N G WESTERN INC
SOUTHWEST LONGDALE	182.8	PANHANDLE EASTERN
GEORGIA	88.0	SUN GAS TRANSMISS
SOUTH THOMAS	608.8	TRANSOK PIPE LINE
LYONS-QUINN	7.2	PHILLIPS PETROLEU
E SPRING VALLEY	9.8	ARCO OIL & GAS CO
N E ENID	5.5	CITIES SERVICE GA
WEST WHITEHEAD	99.7	BUCKEYE NATURAL G

JD NO	DR ENT	API NO	SEC(1)	SEC(2)	WELL NAME	
-MACK OIL CO						
8318246	18997	3505320657		RECEIVED:	01/17/83	JA: OK
			103		MELOTT #1	
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	01/17/83	JA: OK
8318247	18996	3515102186	103		MORRIS #1	
-MONEXCO				RECEIVED:	01/17/83	JA: OK
8318196	18218	3500722022	102-4	103	MCADAMS "B" #2-29	
-NORTEX GAS & OIL CO				RECEIVED:	01/17/83	JA: OK
8318248	18989	3505920691	103		CRAWFORD 32 #1	
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/17/83	JA: OK
8318231	18829	3505135182	108		DAHL #1	
8318230	18801	3513900000	108		SHEIL #2	
-PORTS OF CALL OIL CO				RECEIVED:	01/17/83	JA: OK
8318206	18810	3510920583	102-2		BOYINGTON #7-I	
8318207	18811	3501521076	102-2		TIGER #15-1	
-PUBLISHERS PETROLEUM				RECEIVED:	01/17/83	JA: OK
8318216	18979	3501722194	103		SCHROEDER #1	
-RICKS EXPLORATION CO				RECEIVED:	01/17/83	JA: OK
8318212	18982	3515321111	103		D L BENNETT #29A	
-S K TUTHILL & B J BARBEE				RECEIVED:	01/19/83	JA: OK
8318285	11689	3515321184	102-2		HOLIDAY #1-2P	
-SENECA OIL COMPANY				RECEIVED:	01/17/83	JA: OK
8318213	18805	3501722247	102-4	103	COLLETT #2-21	
8318204	18806	3501722147	102-2		SHAFFENBERG #1-20	
8318218	18804	3501722179	102-4	103	SIMPSON #2-21	
-SHELL OIL CO				RECEIVED:	01/17/83	JA: OK
8318240	18886	3501900000	108		PROITT #3C	
8318239	18867	3505920278	108		STINSON-DEXTER #2A	
-SONIC PETROLEUM CO				RECEIVED:	01/17/83	JA: OK
8318218	18306	3515920215	108		CUMMINS #2	
-STANTON ENERGY INC				RECEIVED:	01/17/83	JA: OK
8318209	18990	3503723833	103		PATTERSON #2	
8318198	18989	3503723854	103		PATTERSON #3	
-STAR RESOURCES INC				RECEIVED:	01/17/83	JA: OK
8318215	18976	3510721392	103		SNELL HEIRS #18-2	
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	01/17/83	JA: OK
8318229	18766	3502700000	108		H HARRIS #2	
-SUNDANCE ENERGY CORP				RECEIVED:	01/17/83	JA: OK
8318211	18953	3504722961	103		ROBIE J #1	
-TENNECO OIL COMPANY				RECEIVED:	01/17/83	JA: OK
8318224	18858	3512920726	102-2		MERRICK #1-9	
-THE GHK COMPANY				RECEIVED:	01/17/83	JA: OK
8318232	18831	3503920589	102-2		KEPHART 1-20	
8318201	18830	3503920626	102-2		NELLIE MCCONNELL 1-27	
**********						
WEST VIRGINIA DEPARTMENT OF MINES						
**********						
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	01/17/83	JA: WV
8318256		4703301071	108		A-652	
8318269		4700100866	108		A-662	
8318255		4701701661	108		A-664	
8318257		4703301089	108		A-673	
8318259		4703301146	108		A-694	
8318258		4703301152	108		A-701	

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FIELD NAME	PROD	PURCHASER
N E HILLSDALE	54.0	
S E WAYNOKA	26.0	MAGIC CIRCLE GAS
	0.0	PANHANDLE EASTERN
MOCANE-LAVERNE	198.0	INTERNORTH INC
CHICKASHA	14.1	ARKANSAS LOUISIAN
S GUYMON	0.0	PANHANDLE EASTERN
YUKON	180.0	MOBIL OIL CORP
E EAKLEY	275.0	DELHI GAS PIPELIN
NORTH CALUMET	180.0	PHILLIPS PETROLEU
S W WOODWARD	9.0	PHILLIPS PETROLEU
SOUTH FREEDOM	25.0	PANHANDLE EASTERN
	73.0	PHILLIPS PETROLEU
	167.9	PHILLIPS PETROLEU
	139.1	PHILLIPS PETROLEU
SHOLEM ALECHEM	8.4	MOBIL OIL CORP
MOCANE LAVERNE	16.6	MICHIGAN WISCONSI
TONKAWA	5.0	MICHIGAN - WISCON
	20.0	COLORADO GAS COMP
	20.0	COLORADO GAS COMP
E WELEETKA	365.0	PUBLIC SERVICE CO
WEST MOORE	0.4	OKLAHOMA NATURAL
	60.2	GRACE PETROLEUM
S E STRONG CITY	378.0	DELHI GAS PIPELIN
NEW POOL	689.0	PANHANDLE EASTERN
N E CANUTE	308.0	EL PASO NATURAL G
SARDIS DISTRICT	0.0	CONSOLIDATED GAS
PHILIPPI DISTRICT	0.0	CONSOLIDATED GAS
SOUTHWEST DISTRICT	0.0	CONSOLIDATED GAS
UNION DISTRICT	0.0	CONSOLIDATED GAS
SARDIS DISTRICT	0.0	CONSOLIDATED GAS
EAGLE DISTRICT	0.0	CONSOLIDATED GAS

JD NO	DR ENT	API NO	SEC(1)	SEC(2)	WELL NAME
8318263		4704102480	108		A-703

FIELD NAME	PROD	PURCHASER
COURT HOUSE DISTRICT	0.0	CONSOLIDATED GAS

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JOB NO	DA NT	API NO	-	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8318263		470410249□		108		A-703	COURT HOUSE □ISTRICT	0.0	CONSOLIDATED GAS
8318262		47□3301933		108		A-704	EAGLE □ISTRICT	0.0	CONSOLIDATED GAS
8318253		4700100991		108		A-711	PHILIPPI □ISTRICT	0.0	CONSOLIDATED GAS
8318270		4703301184		108		A-722	SARDIS □ISTRICT	0.0	CONSOLIDATED GAS
8318261		47□3301259		108		A-7□2	SARDIS DISTRICT	0.0	CONSOLIDATED GAS
8318260		47033□1253		108		A-75□	UNION DISTRICT	0.0	CONSOLIDATED GAS
8318265		4709701961		108		A-754	WARREN □ISTRICT	0.0	CONSOLIDATED GAS
8318254		47001□1066		108		A-755	COVE DISTRICT	0.0	CONSOLIDATED GAS
8318264		4704102540		108		A-770	HACKERS CREEK □ISTRIC	0.0	CONSOLIDATED GAS
8318265		4704102554		108		A-783	COURT HOUSE DISTRICT	0.0	CONSOLIDATED GAS
8318267		4709701917		108		A-795	UNION DISTRICT	0.0	CONSOLIDATED GAS
8318266		4704102605		108		A-821	HACKERS CREEK DISTRIC	0.0	CONSOLIDATED GAS
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:		01/□0/□3 JA: WV			
8318318		4708300605		103		A-10□□	ROARING CREEK □ISTRIC	0.0	COLUMBIA GAS TRAN
8318315		4704103165		103		A-105□	FREEMANS CREEK DISTRI	0.0	COLUMBIA GAS TRAN
8318316		470830□544		103		A-1099	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8318314		47□9702404		103		A-110□	WASHINGTON DISTRICT	□.□	CONSOLIDATED GAS
8318324		4708300629		103		A-1137	ROARING CREEK □ISTRIC	□.□	COLUMBIA GAS TRAN
8318319		470□103170		103		A-1150	FREEMANS CREEK □ISTRI	0.0	CONSOLIDATED GAS
8318322		4704103171		103		A-1179	FREEMANS CREEK □ISTRI	0.0	CONSOLIDATED GAS
8318317		47□□300□□3		103		A-1235	MIDDLE FORK □ISTRICT	0.0	COLUMBIA GAS TRAN
8318323		47□83□0647		103		A-1237	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8318326		4700100862		108		A-653	PLEASANT □ISTRICT	0.0	CONSOLIDATED GAS
8318325		4703301053		108		A-656	EAGLE DISTRICT	0.0	CONSOLIDATED GAS
8318320		4703301182		103		A-697	SARDIS DISTRICT	0.0	CONSOLIDATED GAS
8318321		4708505132		103		A-992	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
-APPCO OIL & GAS CORP				RECEIVED:		01/17/83 JA: WV			
8318272		4708505397		103		VERA LANGON #2	CLAY DISTRICT	27.0	CONSOLIDATE□ GAS
-ARABIE INC				RECEIVED:		01/20/□3 JA: WV			
8318328		4708703542		107-DV		F L GREENLEAF #1	HARPER□ DISTRICT	24.0	ROARING FORK GAS
-BIG NINE □IL CO INC				RECEIVED:		01/17/83 JA: WV			
8318271		4704900729		108		HIGGINBOTHAM #4	MANNINGTON	3.6	PENNZOIL CO
-C & P OIL & GAS CO				RECEIVED:		01/20/83 JA: WV			
8318313		4703302678		103		C & P H-1	UNION DISTRICT	0.0	CONSOLIDATED GAS
-CAMERON OIL & GAS COMPANY				RECEIVED:		01/20/83 JA: WV			
8318336		4700500025		107-DV		GEORGE F ALDERSON #13	JULIAN - MADISON	36.0	COLUMBIA GAS TRAN
-CHESTERFIELD CORP				RECEIVED:		01/17/83 JA: WV			
8318277		4709702149		108		MANIFAN #1 47-097-2149		0.0	COLUMBIA GAS TRAN
-CITIES SERVICE COMPANY				RECEIVED:		01/17/83 JA: WV			
8318279		4703500309		108		STARCHER B #2	WAVENSWOOD	0.0	GAS TRANSPORT INC
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:		01/17/83 JA: WV			
8318274		4704102055		108		ABRAM GASTON 12198	FREEMANS CREEK DISTRI	20.0	GENERAL SYSTEM PU
8318275		4704101969		108		ESTA □ MOORE WN 11840	COLLINS SETTLEMENT	5.0	GENERAL SYSTEM PU
-DEVON ENERGY CORP				RECEIVED:		01/2□/83 JA: WV			
8318331		4703501624		107-DV		HARRY W RILEY #□□6	RIPLEY	3□.0	DEVON PIPELINE CO
-DORAN & ASSOCIATES INC				RECEIVED:		01/17/83 JA: WV			
8318280		4704920658		108		R LUCAS #1 KL-11□	MANNINGTON	20.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:		01/17/83 JA: WV			
8318282		4700121016		108		P-1□2	UNION	0.□	CONSOLIDATED GAS
8318273		4700107740		109		□-3□	UNION	0.□	CONSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:		01/20/□3 JA: WV			
8318303		4703321721		108		P-197	SARDIS	0.0	CONSOLIDATED GAS
8318310		4703302135		108		P-233 MAR-2135	UNION	0.0	CONSOLIDATED GAS

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8318308		4703302052	108		B-236 HAR-2052
8318305		4703302015	108		B-240
8318306		4703302016	108		B-241
8318309		4703302053	108		B-244 HAR-2053
8318304		4703301959	108		B-246
8318307		4703302028	108		B-264
8318300		4700101182	108		B-290
8318302		4701702768	108		J-46
8318301		4701702467	108		J-57
			RECEIVED: 01/17/83 JA: WV		
-JAMES F SCOTT					
8318283		4703302443	108		DESSIE MOORE S-313
8318284		4703302467	108		SALERNO S-321
			RECEIVED: 01/20/83 JA: WV		
-JAMES F SCOTT					
8318334		4700101581	103		ISAAC BOOTH S-372
			RECEIVED: 01/20/83 JA: WV		
-LESLIE ROBINSON					
8318311		4702103492	108		HEWITT #2
			RECEIVED: 01/20/83 JA: WV		
-NATIONAL OPERATING INC					
8318330		4707301452	107-DV		WINCE H-1278
			RECEIVED: 01/20/83 JA: WV		
-OIL & GAS ENERGY RESOURCES INC					
8318329		4707901079	107-DV		FORTH #2 47-079-1079
			RECEIVED: 01/17/83 JA: WV		
-PIGOTT & LANGFITT					
8318276		4701702850	108		MARY DAVIS BALL #1
			RECEIVED: 01/20/83 JA: WV		
-ROBERT P JACKSON					
8318335		4708502485	108		ROBERT P JACKSON - RIT 2485
			RECEIVED: 01/20/83 JA: WV		
-ROYAL OIL & GAS CORPORATION					
8318312		4700701560	103		DR E L FISHER #2
			RECEIVED: 01/20/83 JA: WV		
-TALLWOOD CORP					
8318337		4706700551	102-4		GEORGE RAGLAND #4
			RECEIVED: 01/20/83 JA: WV		
-TYRONE ENERGY INC					
8318333		4708300632	107-DV		JAMES LAROSA TYRONE ENERGY #10
8318332		4708300469	107-DV		ROY A HOWES/TYRONE ENERGY #2
			RECEIVED: 01/20/83 JA: WV		
-VANDERBILT RESOURCES CORPORATION					
8318327		4701302595	108		KEITH I-575
			RECEIVED: 01/17/83 JA: WV		
-W S GAS & OIL ASSOCIATES					
8318278		4708504206	108		HATFIELD #1 (H-603)
			RECEIVED: 01/17/83 JA: WV		
-WILSON GAS COMPANY					
8318281		4709901726	108		WILSON #1

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FIELD NAME	PROD	PURCHASER
UNION	0.0	CONSOLIDATED GAS
TENMILE	0.0	CONSOLIDATED GAS
TENMILE	0.0	CONSOLIDATED GAS
UNION	0.0	CONSOLIDATED GAS
ELK	0.0	CONSOLIDATED GAS
EAGLE	0.0	CONSOLIDATED GAS
PLEASANT	0.0	CONSOLIDATED GAS
NEW MILTON	0.0	CONSOLIDATED GAS
WEST UNION	0.0	CONSOLIDATED GAS
EAGLE	5.0	CONSOLIDATED GAS
CLAY DISTRICT	10.0	CONSOLIDATED GAS
PHILIPPI	30.0	COLUMBIA GAS TRAN
R G HEWITT (STEER CRE	15.0	CONSOLIDATED GAS
FRENCH CREEK	15.0	COLUMBIA GAS TRAN
HURRICANE CREEK	9.0	COLUMBIA GAS TRAN
MORGANS RUN	4.9	CONSOLIDATED GAS
GRANT	1.2	CONSOLIDATED GAS
OTTERBEIN	23.0	COLUMBIA GAS TRAN
HAWKS NEST	20.0	EQUITABLE GAS CO
ROARING CREEK	0.0	COLUMBIA GAS TRAN
ROARING CREEK	0.0	COLUMBIA GAS TRAN
ORMA	18.0	CONSOLIDATED GAS
GRANT DISTRICT	3.6	CONSOLIDATED GAS
	5.4	COLUMBIA GAS TRAN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4312 Filed 2-17-83, 8:45 am]

BILLING CODE 6717-01-C

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Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 10, 1983.

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 10, 1983.

JD	CD NO	API NO	SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION							
-HELMERICH & PAYNE INC			RECEIVED:	01/21/83 JA: KS			
K318479	K791053	1517500000	108-EP	JENKINS #1		0.0	INTER NORTH INC
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS							
-ARCO OIL AND GAS COMPANY			RECEIVED:	01/21/83 JA: NM			
8318485		3002504457	108	STATE "E" #1	EUNICE MONUMENT	2.4	PHILLIPS PETROLEU
-GULF OIL CORPORATION			RECEIVED:	01/21/83 JA: NM			
8318483		3002511904	108	ARNOTT RAMSAY (NCT-F) #7	JUSTIS BLINEBRY	5.0	EL PASO NATURAL G
8318482		3002504650	106	R R BELL (NCT-C) #2	EUNICE MONUMENT	1.8	PHILLIPS PETROLEU
-NORTHWEST PIPELINE CORPORATION			RECEIVED:	01/21/83 JA: NM			
8318489		3003922671	103	SAN JUAN 29-5 UNIT 37A	BLANCO MESAVERDE	176.9	NORTHWEST PIPELIN
-SUPERIOR OIL CO			RECEIVED:	01/21/83 JA: NM			
8318490		3002526958	103	SIMS #1	SOUTH BELL LAKE (MORR	0.0	TRANSWESTERN PIPE
-THOMPSON J CLEO & JAMES CLEO JR			RECEIVED:	01/21/83 JA: NM			
8318488		3001500000	103	HOVER STATE #5	GRAYBURG-SAN ANDRES	0.0	PHILLIPS PETROLEU
8318486		3001500000	103	HOVER STATE #6	GRAYBURG-SAN ANDRES	0.0	PHILLIPS PETROLEU
8318487		3001500000	103	MERRILL STATE #5	GRAYBURG-SAN ANDRES	100.0	PHILLIPS PETROLEU
-WARREN PETR CO A DIV OF GULF OIL CO			RECEIVED:	01/21/83 JA: NM			
8318481		3002506971	108	J N CARSON (NCT-A)#3	PADDOCK	13.9	EL PASO NATURAL G
8318480		3002504252	108	R R BELL (NCT-G) #2	EUNICE MONUMENT	7.0	EL PASO NATURAL G
-WARRIOR INC			RECEIVED:	01/21/83 JA: NM			
8318484		3002500000	108	STATE WF "D" #2	EUMONT YATES 7-RIVERS	3.2	WARREN PETROLEUM
OKLAHOMA CORPORATION COMMISSION							
-ADAMS PETROLEUM ENTERPRISES CORP			RECEIVED:	01/21/83 JA: OK			
8318498	19206	3513321955	103	BARTER #1	SASAKWA	200.0	KANOKLA ENERGY CO
8316524	16790	3513321670	103	REDBUD #1	SASAKWA	474.5	OKLAHOMA GAS & EL
-AGGIE OIL CO			RECEIVED:	01/21/83 JA: OK			
8318528	06809	3504900000	102-4	CASHION-TETER #1	PAULS VALLEY	102.5	WARREN PETROLEUM
-ANADARKO LAND & EXPLORATION CO			RECEIVED:	01/21/83 JA: OK			
8318504	19122	3503920652	103	ENGLES #1	SOUTH THOMAS	250.0	TRANSOK PIPELINE
-BEARD OIL COMPANY			RECEIVED:	01/21/83 JA: OK			
8316497	19201	3507323263	103	LILLIBRIDGE #2	DOVER-EAST	26.0	PHILLIPS PETROLEU
-BERRY PETROLEUM CORP			RECEIVED:	01/21/83 JA: OK			
8318514	19105	3501721929	103	MUEGGENBORG 1-25	NW PIEDMONT	0.0	PHILLIPS PETROLEU
-BROCK HYDROCARBONS INC			RECEIVED:	01/21/83 JA: OK			
8318526	18371	3515321330	103	VLOEDMAN #1-34	S E FORT SUPPLY	0.0	
-C & T RESOURCES			RECEIVED:	01/21/83 JA: OK			
8318536	19143	3510121425	103	BORUM #C-A	BELAND	1.0	ESPERANZA TRANSMI

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JD NO	DK/CT	API NO	-	SEC(1)	SEC(2)	WELL NAME
8318534	19141	3510121380		103		FORUM B-A
8318535	19142	3510121424		103		FORUM B-A
				RECEIVED:	01/21/83	JA: OK
-CZAR RESOURCES INC						
8318543	19156	3502720647		103		MORAVA D-1
				RECEIVED:	01/21/83	JA: OK
-DAWN ENERGY CO						
8318509	19145	3504521047		103		OLIVER #1-17
				RECEIVED:	01/21/83	JA: OK
-DONALD C SLAWSON						
8318550	18758	3507323278		102-4		LOOSEN TRUST #1-31
				RECEIVED:	01/21/83	JA: OK
-EAGLE MINERALS INC.						
8318499	19222	3508121737		103		SHAW #2
				RECEIVED:	01/21/83	JA: OK
-F C D OIL CORP						
8318519	18916	3507323581		103		OLTMANNS 1-23
				RECEIVED:	01/21/83	JA: OK
-GULF OIL CORPORATION						
8318538	19096	3509100000		108		MARY LEE DODD #1
				RECEIVED:	01/21/83	JA: OK
-HAMM PRODUCTION CO						
8318529	18639	3508320611		103		POST #1
				RECEIVED:	01/21/83	JA: OK
-HOLDEN ENERGY CORP						
8318500	15653	3508500000		103		LOCKE #1
				RECEIVED:	01/21/83	JA: OK
-INTERNATIONAL TECHNOLOGY RESOURCES						
8318501	17020	3509322339		103		VICTOR GEIS #1
				RECEIVED:	01/21/83	JA: OK
-JAMES C MEADE						
8318520	18974	3515121298		103		EBERLY & MEADE IRWIN #1-12
				RECEIVED:	01/21/83	JA: OK
-JONES & PELLOW OIL CO						
8318495	19161	3504520648		108		DRAKE 10-1
				RECEIVED:	01/21/83	JA: OK
-JUMAS OIL PART CORP						
8318532	19125	3510700000		108		THORNBURGH #1
8318548	19155	3510700000		108		THORNBURGH #2
				RECEIVED:	01/21/83	JA: OK
-KENNEDY & MITCHELL INC						
8318541	18747	3504520940		102-4		LARASON #36-563
				RECEIVED:	01/21/83	JA: OK
-L L WILKINS ELECTRIC & OIL CO						
8318503	19114	3504921866		103		HAROLD #3
				RECEIVED:	01/21/83	JA: OK
-LONGHORN OIL & GAS CO						
8318545	19165	3504321188		103		K R CLIVE #1
				RECEIVED:	01/21/83	JA: OK
-LUBELL OIL CO						
8318547	19164	3506320599		108		LUBELL #3-4 CITY OF WETUMKA
				RECEIVED:	01/21/83	JA: OK
-MARSH OIL & GAS CO						
8318518	18890	3506321558		103		GEORGE #7-1
				RECEIVED:	01/21/83	JA: OK
-MOBIL OIL CORP						
8318494	19160	3513700000		108		SW VELMA SPRI 5-7 BEUL A WARDEN E&F
8318493	19159	3513700000		108		SW VELMA SPRINGER 8-1 DOAK ZIGLER 1
				RECEIVED:	01/21/83	JA: OK
-MPS ENTERPRISES INC						
8318533	19133	3504722358		103		CHARLIE #1
				RECEIVED:	01/21/83	JA: OK
-NONDORF OIL & GAS INC						
8318491	18770	3508520538		102-2		MARTIN 1-16
8318492	18771	3508121682		102-2		REYNOLDS #1-33
8318530	18769	3508520517		102-2		WILLIAMS #1-7
-P C RESOURCES INC						
8318544	19162	3513723186		103		LIVINGSTON #3
				RECEIVED:	01/21/83	JA: OK
-PETRO-ENERGY EXPLORATION INC						
8318525	18558	3504722817		103		SHADES #1-4
				RECEIVED:	01/21/83	JA: OK
-PHILLIPS PETROLEUM COMPANY						
8318511	19088	3513900000		108		KASER #4
8318522	19087	3513900000		108		KASER #5

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FIELD NAME	PROD	PURCHASER
	1.0	ESPERANZA TRANSMI
	1.0	ESPERANZA TRANSMI
	35.8	CONOCO INC
MOCANE-LAVERNE	490.0	DELHI GAS PIPELIN
WEST OKARCHE	150.0	PHILLIPS PETROLEU
	0.0	COLORADO GAS COMP
EAST COLUMBIA	24.1	EASON OIL CO
STIDHAM	7.0	PHILLIPS PETROLEU
S E MARSHALL	3.8	EASON OIL CO
WEST ENVILLE	115.0	CIMARRON TRANSMIS
N E OKEENE	150.0	CITIES SERVICE CO
S E WAYNOKA	100.0	MAGIC CIRCLE GAS
S E SALON	1.2	INTER NORTH INC
LYONS QUINN	5.7	PHILLIPS PETROLEU
LYONNS QUINN	2.8	PHILLIPS PETROLEU
UNDESIGNATED SE SW 33	500.0	INTER NORTH INC
MAYSVILLE	36.0	WARREN PETROLEUM
SOUTH ALEDO	150.0	PANHANDLE EASTERN
WETUMKA	2.6	PUBLIC SERVICE CO
	72.9	WELLHEAD ENTERPRI
SHO VEL TUM	1.1	GETTY OIL CO
SHO VEL TUM	2.5	GETTY OIL CO
SOONER TREND	50.0	PHILLIPS PETROLEU
N E OSWALT	1.0	
SOUTHEAST ARLINGTON	93.8	EL PASO NATURAL G
N E OSWALT	1.0	
NORTH VELMA	75.0	MOBIL OIL CORP
SOONER TREND	100.0	PANHANDLE EASTERN
GUYMON S-MORROW	0.0	PANHANDLE EASTERN
GUYMON S-MORROW	0.0	PANHANDLE EASTERN

JD NO	DK/CT	API NO	-	SEC(1)	SEC(2)	WELL NAME
8318521	19085	3513900000		108		NORTON C #2

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FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API #	SEC(1)	SEC(2)	WELL NAME
8318521	19085	3513900000	108		NORTON C #2
8318531	19134	3501722314	103		SHUTTEE TRUST #2
			RECEIVED:	01/21/83	JA: OK
-RATLIFF EXPLORATION CO					
8318539	18665	3510920599	102-4	103	WILKERSON #1
			RECEIVED:	01/21/83	JA: OK
-READ & STEVENS INC					
8318507	19131	3507100000	103		L B SHECKLER 1-A
			RECEIVED:	01/21/83	JA: OK
-RESCO ENTERPRISES INC					
8318523	16731	3503723578	102-2		HUDGINS #1
			RECEIVED:	01/21/83	JA: OK
-SAKET PETROLEUM CO					
8318505	19123	3510300000	103		HAGEMAN #1
			RECEIVED:	01/21/83	JA: OK
-SAMEDAN OIL CORPORATION					
8318549	22553	3501521280	107-DP		L H FLANSBURG #1-1
			RECEIVED:	01/21/83	JA: OK
-SENECA OIL COMPANY					
8318516	18772	3501722098	102-2	103	PRAIRIE ESTATES #1-34
8318517	18773	3501722049	102-2		TREECE #2-34
			RECEIVED:	01/21/83	JA: OK
-SENTRY PETROLEUM CORP					
8318537	22648	3511921783	102-4		MARCO #3
			RECEIVED:	01/21/83	JA: OK
-SERVICE DRILLING CO					
8318512	19094	3508300000	103		IVA #1-33
			RECEIVED:	01/21/83	JA: OK
-SILVER LAKE EXPLORATION					
8318540	18739	3507122391	103		JOHN COURTNEY #1
			RECEIVED:	01/21/83	JA: OK
-STAR RESOURCES INC					
8318506	19126	3510721243	103		STANFORD #1-26
			RECEIVED:	01/21/83	JA: OK
-SUN EXPLORATION & PRODUCTION CO					
8318527	18363	3512321687	103		L F KINLEY #4
			RECEIVED:	01/21/83	JA: OK
-SWAN PETROLEUM CORP					
8318546	19166	3504521022	103		LARASON #1
			RECEIVED:	01/21/83	JA: OK
-TEXOMA NATURAL GAS & OIL CORP					
8318515	19112	3503723472	103		BROWN #3 037-69225
8318502	19113	3503723674	103		BROWN #4 037-69225
			RECEIVED:	01/21/83	JA: OK
-TOMLINSON OIL CO INC					
8318496	19188	3500722228	103		BENJEGERDES #1
			RECEIVED:	01/21/83	JA: OK
-TRIGG DRILLING COMPANY INC					
8318508	19135	3508720774	103		D M BROOKS #2
			RECEIVED:	01/21/83	JA: OK
-VULCAN ENERGY CORP					
8318510	19198	3507322708	103		SHABERG #1
			RECEIVED:	01/21/83	JA: OK
-WHITMAR EXPLORATION CO					
8318542	18759	3507720248	102-4		MCCREERY #1-30
			RECEIVED:	01/21/83	JA: OK
-WILLIAM H DAVIS					
8318513	19095	3505320?5*	103		WAKITA TOWNSITE #1
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES					
			RECEIVED:	01/20/83	JA: PA
-ALCOVE INVESTMENTS					
8318387	18367	3700522744	103		LORAN B & CAROL A HALL #1
			RECEIVED:	01/20/83	JA: PA
-ATLAS RESOURCES INC					
8318388	18443	3706327115	102-4		GLEN WILLIAMS #1
8318390	18445	3706327111	102-4		INDIANA SPORTSMENS CLUB #1
8318391	18557	3706327017 0	102-2		ST JOHNS U O CHURCH #2
8318389	18444	3706327100	102-4		VOLKAY #1
			RECEIVED:	01/20/83	JA: PA
-BARON CREST ENERGY PROGRAM NO IV					
8318368	17016	3703120906	108		CARMEN FURRELL DREW #1
8318369	17017	3703120907	108		CARMEN FURRELL DREW #2

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FIELD NAME	PROD	PURCHASER
GUYMON-HUGOTON	0.0	MICHIGAN WISCONSI
CONCHO	0.0	ONG WESTERN INC
WHEATLAND	■.0	CONOCO INC
	4■■.0	CHASE EXPLORATION
W SAPULPA	15.0	COLORADO GAS COMP
	14■.0	AMCO OIL & GAS CO
	1679.0	
	18.3	PHILLIPS PETROLEU
	8.1	PHILLIPS PETROLEU
YALE-QUAY	36.0	PHILLIPS PETROLEU
	■.■	CITIES SERVICE GA
N E BLACKWELL	54.7	CHASE EXPLORATION
WELEETKA	150.0	PUBLIC SERVICE CO
FITTS	■4.0	
S W FARGO	■.0	INTER NORTH INC
NORTH KELLYVILLE	11.0	COLORADO GAS COMP
NORTH KELLYVILLE	■.0	COLORADO GAS COMP
MOCANE-LAVERNE	■4.8	INTER NORTH INC
SOUTH BLANCHARD	365.0	
SOONER TREND	1■9.9	PHILLIPS PETROLEU
RED OAK - NORRIS	0.0	ARKANSAS LOUISIAN
WAKITA TREND	146.0	CITIES SERVICE GA
COWANSHANNOCK	30.0	APOLLO GAS CO
CHERRYHILL	6■.0	COLUMBIA GAS TRAN
CHERRYHILL	116.■	COLUMBIA GAS TRAN
GREEN	0.■	COLUMBIA GAS TRAN
CHERRYHILL	193.■	COLUMBIA GAS TRAN
RIMERSBURG	1.5	NATIONAL FUEL GAS
EAST BRADY	1.5	NATIONAL FUEL GAS

JD NO	JA ENT	API NO	WELL NO	SEC(1)	SEC(2)	WELL NAME
-CABOT OIL & GAS CORP						
8318397	18581	3712132773				RECEIVED: 01/20/83 JA: PA
8318396	18580	3712132773	102-2			JOHN GILES #1
8318395	18579	3712132914	107-TF			JOHN GILES #1
8318394	18578	3712132914	102-2			ROLLIN ROUGH #1
-CARDINAL OIL CO			107-TF			ROLLIN ROUGH #1
8318384	18268	3704922009				RECEIVED: 01/20/83 JA: PA
-COWEN ASSOCIATES LTD II			107-TF			RONALD ABBOTT #1 82-17 ERI-2200*
8318372	17313	3703921416				RECEIVED: 01/20/83 JA: PA
8318373	17314	3703921416	103			LAWRENCE BERKEBILE #1
-DORAN & ASSOCIATES INC			107-TF			LAWRENCE BERKEBILE #1
8318371	17181	3706325652	D 108			RECEIVED: 01/20/83 JA: PA
8318370	17180	3706325651	108			R & P COAL #8 KJ-10
-ENVIROGAS INC						R & P COAL 7 KJ-9
8318380	17551	3704922106				RECEIVED: 01/20/83 JA: PA
8318378	17547	3704922105	107-TF			G GRUENWALD #1-A
8318379	17549	3704922054	107-TF			R DALE #1-A
8318381	17552	3704922001	107-TF			R TITUS #2
8318377	17546	3704922002	107-TF			S REYDA #1
-EPSILON 1980 S T JOINT VENTURE			107-TF			X BEMIS #2
8318338	11306	3706522296				RECEIVED: 01/20/83 JA: PA
-MICON ENERGY GROUP LTD			108			O'HARRAH #1
8318398	18662	3708139974				RECEIVED: 01/20/83 JA: PA
-MID-EAST OIL CO			108			OVER THE HILL #OH-1
8318401	18715	3708324700				RECEIVED: 01/20/83 JA: PA
8318400	18714	3708324701	103			WAYNE R RHEA #1
-MITCH-WELL ENERGY INC			104			WAYNE R RHEA #2
8318349	15754	3704921722				RECEIVED: 01/20/83 JA: PA
8318350	15755	3704921122	102-2			GUSTAVE W & PAULINE T WELZ #1
8318348	15753	3704921773	107-TF			GUSTAVE W & PAULINE T WELZ #1
8318347	15752	3704921723	107-TF			GUSTAVE W & PAULINE T WELZ #2
8318402	18873	3704921829	102-2			GUSTAVE W & PAULINE T WELZ #2
8318351	15970	3704921829	103			RONALD F & PATRICIA D BURDICK #1
-MITCHELL ENERGY CORPORATION			107-TF			RONALD F & PATRICIA D BURDICK #1
8318393	18575	3704921735				RECEIVED: 01/20/83 JA: PA
8318392	18574	3704921735	107-TF			C J WALKER UNIT #1
-NEA CROSS CO			104			C J WALKER UNIT #1
8318376	17361	3704921851				RECEIVED: 01/20/83 JA: PA
8318375	17360	3704921851	107-TF			CAMPBELL #1
8318344	15273	3704921831	102-2			CAMPBELL #1
8318343	15272	3704921831	107-TF			DONALD & PATRICIA KOWALCZYK #1
8318353	16133	3704921953	107-TF			DONALD & PATRICIA KOWALCZYK #1
8318352	16132	3704921953	102-2			CLOVER #3
8318357	16137	3704921946	107-TF			CLOVER #3
8318356	16136	3704921946	102-2			HANAS #1
8318363	16911	3704922028	107-TF			HANAS #1
8318362	16910	3704922028	102-2			HERBERT YAPLE #2
8318365	16913	3704921966	102-2			HERBERT YAPLE #2
8318364	16912	3704921966	107-TF			JAMES RHEA #1
8318361	16909	3704922024	107-TF			JAMES RHEA #1
8318360	16908	3704922024	102-2			JOSEPH BURAWA #1
8318355	16135	3704921902	107-TF			JOSEPH BURAWA #1
8318354	16134	3704921902	102-2			KREIGER #1
						KREIGER #1

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FIELD NAME	PROD	PURCHASER
CANAL	50.0	TENNESSEE GAS PIP
CANAL	50.0	TENNESSEE GAS PIP
CANAL	50.0	TENNESSEE GAS PIP
CANAL	50.0	TENNESSEE GAS PIP
CONNEAUT	0.0	COLUMBIA GAS TRAN
LAWRENCE BERKEBILE	18.3	NATIONAL FUEL GAS
LAWRENCE BERKEBILE	18.3	NATIONAL FUEL GAS
UPPER DEVONIAN SANDS	20.0	COLUMBIA GAS TRAN
UPPER DEVONIAN SANDS	20.0	COLUMBIA GAS TRAN
NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
CLYMER	18.0	TENNESSEE GAS PIP
CLYMER	18.0	TENNESSEE GAS PIP
WINSLOW	0.0	NATIONAL FUEL GAS
ADRIAN N MARGARET BOO	7.3	NATIONAL FUEL GAS
PLUMVILLE	14.6	PEOPLES NATURAL G
PLUMVILLE	15.7	PEOPLES NATURAL G
WATERFORD POOL	35.0	COLUMBIA GAS TRAN
WATERFORD POOL	35.0	COLUMBIA GAS TRAN
WATERFORD POOL	35.0	COLUMBIA GAS TRAN
WATERFORD POOL	35.0	COLUMBIA GAS TRAN
WATERFORD POOL	35.0	NATIONAL FUEL GAS
WATERFORD POOL	35.0	NATIONAL FUEL GAS
CONNEAUT LAKE (MEDINA	411.0	TENNESSEE GAS PIP
CONNEAUT LAKE (MEDINA	411.0	TENNESSEE GAS PIP
LEBOEUF	10.0	NATIONAL FUEL GAS
LEBOEUF	10.0	NATIONAL FUEL GAS
WATERFORD	10.0	NATIONAL FUEL GAS
WATERFORD	10.0	NATIONAL FUEL GAS
LEBOEUF	10.0	COLUMBIA GAS TRAN
LEBOEUF	10.0	COLUMBIA GAS TRAN
LEBOEUF	10.0	COLUMBIA GAS TRAN
LEBOEUF	10.0	COLUMBIA GAS TRAN
LEBOEUF	10.0	COLUMBIA GAS TRAN
LEBOEUF	10.0	COLUMBIA GAS TRAN
LEBOEUF	10.0	COLUMBIA GAS TRAN
LEBOEUF	10.0	COLUMBIA GAS TRAN
LEBOEUF	10.0	COLUMBIA GAS TRAN
LEBOEUF	10.0	COLUMBIA GAS TRAN
LEBOEUF	10.0	COLUMBIA GAS TRAN
LEBOEUF	10.0	COLUMBIA GAS TRAN

JD NO	JA ENT	API NO	WELL NO	SEC(1)	SEC(2)	WELL NAME
8318359	16139	3704921838	107-TF			LESIK #1

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FIELD NAME	PROD	PURCHASER
LEBOEUF	10.0	COLUMBIA GAS TRAN

JOB NO	JA DKT	API NO	FORM	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8318359	16139	3704921833	107-TF			LESIK #1	LEBOEUF	10.0	COLUMBIA GAS TRAN
8318358	16138	3704921873	102-2			LESIK #1	LEBOEUF	10.0	COLUMBIA GAS TRAN
8318342	15269	3704921854	102-2			LOUIS & RALPH BIZZARRO #1	WATERFORD	10.0	NATIONAL FUEL GAS
8318341	15268	3704921854	107-TF			LOUIS & RALPH BIZZARRO #1	WATERFORD	10.0	NATIONAL FUEL GAS
8318367	16915	3704921979	107-TF			MARJORIE RHEA #1	LEBOEUF	10.0	COLUMBIA GAS TRAN
8318366	16914	3704921979	102-2			MARJORIE RHEA #1	LEBOEUF	10.0	COLUMBIA GAS TRAN
8318374	17358	3704921855	102-2			NITSCHKE #1	LEBOEUF	10.0	NATIONAL FUEL GAS
8318345	15437	3704921589	102-2			PETER & GERTRUDE SIMON #1	WATERFORD	10.0	NATIONAL FUEL GAS
8318346	15438	3704921589	107-TF			PETER & GERTRUDE SIMON #1	WATERFORD	10.0	NATIONAL FUEL GAS
-NYS NATURAL GAS COMPANY			RECEIVED:	01/20/83		JA: PA			
8318385	18351	3703921707	107-TF			FOX #2 - CRA - 21707	ATHENS	3.0	COLUMBIA GAS TRAN
8318386	18352	3703921707	103			FOX #2 - CRA 21707	ATHENS	3.0	COLUMBIA GAS TRAN
-PETRO EVALUATION SERVICES INC			RECEIVED:	01/20/83		JA: PA			
8318340	13697	3703900000	103			HITCHCOCK #2	CROSSINGVILLE	36.0	PETRO EVALUATION
8318339	13696	3703900000	107-TF			HITCHCOCK #2	CROSSINGVILLE	36.0	PETRO EVALUATION
-VICTORY DEVELOPMENT CO			RECEIVED:	01/20/83		JA: PA			
8318399	18713	3703321370	102-2			SAVAGE #1 CLE-21370	BURNSIDE	0.0	COLUMBIA GAS TRAN
-VINEYARD OIL & GAS CO			RECEIVED:	01/20/83		JA: PA			
8318383	17655	3704921824	102-2			OSBORNE #1	SUMMIT	10.0	NATIONAL FUEL GAS
8318382	17654	3704921824	107-TF			OSBORNE #1	SUMMIT	10.0	NATIONAL FUEL GAS

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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM

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-ALPHA TWENTY-ONE PRODUCTION CO			RECEIVED:	01/20/83		JA: NM 4			
8318449	NM-1562-82	3002527206	103			BUCKSKIN FEDERAL #6	DOLLARHIDE-TUBB DRINK	13.0	EL PASO NATURAL G
-AMERADA HESS CORPORATION			RECEIVED:	01/20/83		JA: NM 4			
8318470	NM-1511-82	3003922976	103			JICARILLA APACHE "C" #3	PICTURED CLIFFS	816.5	EL PASO NATURAL G
8318469	NM-1525-82	3003922722	103			JICARILLA APACHE "D" #3	BALLARD PICTURED CLIF	29.2	EL PASO NATURAL G
-AMOCO PRODUCTION CO			RECEIVED:	01/20/83		JA: NM 4			
8318410	NM 0435-82	3002527473	102-4			FEDERAL GK #1	WILDCAT MORROW	873.0	EL PASO NATURAL G
8318467	NM-1546-82	3001522342	102-4			FEDERAL F COM #1	UNDESIGNATED WOLFCAMP	0.7	GAS CO OF NEW MEX
8318411	NM 0020-82ER	3003906012	108-CP			FRED PHILLIPS C #2	TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN
8318468	NM 1539-82	3003922931	103			JICARILLA APACHE 102 #29A	BLANCO-MESAVERDE	35.0	GAS CO OF NEW MEX
-CHACE OIL COMPANY INC			RECEIVED:	01/20/83		JA: NM 4			
8318441	NM-1571-82	3003923047	103			JICARILLA #1-361-JV	SOUTH LINDRITH GALLUP	215.0	EL PASO NATURAL G
8318440	NM-1578-82	3003923028	103			JICARILLA 71-9	S LINDRITH GALLUP DAK	15.0	EL PASO NATURAL G
-CONOCO INC			RECEIVED:	01/20/83		JA: NM 4			
8318446	NM-1565-82	3003921506	103			AXI APACHE K #5A	AXI APACHE AREA	815.0	GAS CO OF NEW MEX
8318448	NM-1563-82	3001523363	103			FEDERAL 34 #2	SPRING	715.0	GAS CO OF NEW MEX
8318442	NM-1570-82	3002527598	103			HAWK A NO 9	NMFU-BLINEBRY	0.4	GETTY OIL CO
8318447	NM-1564-82	3003922989	103			NORTHEAST HAYNES #14	OTERO RANCH	547.0	EL PASO NATURAL G
8318443	NM-1569-82	3002527289	103			SEMU BLINEBRY #120	NMFU - BLINEBRY	0.0	WARREN PETROLEUM
8318445	NM-1566-82	3002527566	103			WARREN UNIT #91	NMFU - BLINEBRY	11.0	GETTY OIL CO
8318444	NM-1567-82	3002527588	103			WARREN UNIT #93	NMFU - BLINEBRY	8.8	GETTY OIL CO
-CURTIS J LITTLE			RECEIVED:	01/20/83		JA: NM 4			
8318434	NM-1583-82	3004525388	103			WIEDEMER #1	FULCHER KUTZ PICTURED	36.0	EL PASO NATURAL G
8318433	NM-1584-82	3004525387	103			WIEDEMER #2	FULCHER KUTZ PICTURED	36.0	EL PASO NATURAL G
-DEPCO INC			RECEIVED:	01/20/83		JA: NM 4			
8318404	NM-1341-82	3003922916	103			MILES FEDERAL #1A	BLANCO MV/LARGO CHACR	360.0	
-DUGAN PRODUCTION CORP			RECEIVED:	01/20/83		JA: NM 4			
8318451	NM 1402-82	3004522936	103			BLANCO WASH #4	WHITE WASH MANCOS - D	3.5	EL PASO NATURAL G
-EL PASO EXPLORATION CO			RECEIVED:	01/20/83		JA: NM 4			
8318457	NM 1410-82	3003922979	103			JICARILLA 117E #5A	BLANCO MESAVERDE	180.0	NORTHWEST PIPELIN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8318456	NM 1409-82	3003922980		103		JICARILLA 119N #4A
8318458	NM 1412-82	3003922971		103		JICARILLA 123C #28E
8318459	NM1413-82	3003922985		103		JICARILLA 152W #3E
				RECEIVED:	01/20/83	JA: NM 4
-EL PASO NATURAL GAS COMPANY						
8318414	NM-1606-82	3004520812		108		DAY A #12
8318406	NM-1363-82	3003921218		108		JICARILLA C #12
8318474	NM-1610-82	3004509246		108		LUDWICK #17
8318475	NM 1426-82	3003923005		103		SAN JUAN 27-4 UNIT #150
8318416	NM-1602-82	3003907218		108		SAN JUAN 28-4 UNIT #8
8318415	NM-1604-82	3003907137		108		SAN JUAN 28-6 UNIT #11
8318408	NM-1113-82	3003907339		108		SAN JUAN 28-6 UNIT #30
8318478	NM-1425-82	3003922210		107-TF		SAN JUAN 30-4 UNIT #39
				RECEIVED:	01/20/83	JA: NM 4
-ENERGY RESERVES GROUP INC				108		GALLEGOS CANYON UNIT P C #295
8318430	NM-1588-82	3004523995		RECEIVED:	01/20/83	JA: NM 4
-GETTY OIL COMPANY						
8318473	NM 1642-82	3003922967		103		JICARILLA "B" #23E
8318465	NM1551-82	3003922997		103		JICARILLA "B" #27
8318466	NM1550-82	3003922930		103		JICARILLA "C" #32
				RECEIVED:	01/20/83	JA: NM 4
-GRACE PETROLEUM CORPORATION				103		FELMONT FEDERAL #2
8318407	NM-1336-82	3002526032		RECEIVED:	01/20/83	JA: NM 4
-GULF OIL CORPORATION				102-2		LENTINI FEDERAL COM #1
8318437	NM-1572-82	3001523772		RECEIVED:	01/20/83	JA: NM 4
-LYNX PETROLEUM CONSULTANTS INC				103		LYNX FEDERAL #1
8318417	NM-1600-82	3002527861		RECEIVED:	01/20/83	JA: NM 4
-MARTINDALE PETROLEUM CORPORATION				103		DUNCAN FEDERAL #1
8318464	NM1316-82	3002527287		RECEIVED:	01/20/83	JA: NM 4
-MERRION OIL & GAS CORP				103		BONANZA #1
8318476	NM 1427-82	3004320653		103		CANYON LARGO UNIT #316
8318432	NM-1585-82	3003923009		103		FIKES COM #2
8318462	NM135282	3003922936		RECEIVED:	01/20/83	JA: NM 4
-MESA PETROLEUM CO				102-2	107-TF	CAMACK FEDERAL COM #9
8318426	NM-159182107	3000561617		102-2	107-TF	DEBBIE FEDERAL #8
8318425	NM-159282107	3000561731		103		SOUTH BLANCO FEDERAL 26 #6
8318439	NM-1576-82	3004525217		RECEIVED:	01/20/83	JA: NM 4
-NORTHERN NATURAL GAS PRODUCING CO				108		NYE FEDERAL #3
8318405	NM-1399-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-NORTHWEST PIPELINE CORPORATION				10R		ROSA UNIT #16
8318436	NM-1580-82	3003907963		108		SAN JUAN 30-5 UNIT 10
8318435	NM-1581-82	3003907838		RECEIVED:	01/20/83	JA: NM 4
-OXOCO PRODUCTION CORP				103		TRAIL CANYON #3
8318429	NM-1590-82-A	3004524622		103		TRAIL CANYON #3
8318427	NM-1590-82	3004524622		RECEIVED:	01/20/83	JA: NM 4
-PERRY R BASS				102-4		BIG EDDY UNIT #83
8318471	NM-145882102	3001523578		RECEIVED:	01/20/83	JA: NM 4
-READ & STEVENS INC				102-4		HARRIS FEDERAL #7
8318413	NM-1611-82	3000561179		RECEIVED:	01/20/83	JA: NM 4
-ROBERT L BAYLESS				103		AXI "A" #11
8318418	NM-1599-82	3003922914		103		AXI "D" #6
8318419	NM-1598-82	3003922924		RECEIVED:	01/20/83	JA: NM 4
-SHERMAN F WAGENSELLER				103		MOBIL APACHE #17
8318477	NM 1428-82	3003922863		103		MOBIL APACHE 18 #1
8318472	NM 1926-82	3003922862		RECEIVED:	01/20/83	JA: NM 4
-SOUTHLAND ROYALTY CO						

FIELD NAME	PROD	PURCHASER
BLANCO MESAVERDE	100.0	NORTHWEST PIPELIN
BASIN DAKOTA	100.0	NORTHWEST PIPELIN
BASIN DAKOTA	150.0	NORTHWEST PIPELIN
BLANCO - PICTURED CLI	22.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	21.0	EL PASO NATURAL G
BASIN DAKOTA	17.0	EL PASO NATURAL G
BASIN DAKOTA	75.0	EL PASO NATURAL G
BLANCO - MESAVERDE	9.0	EL PASO NATURAL G
BLANCO - MESA VERDE	20.0	EL PASO NATURAL G
BLANCO - MESA VERDE	19.0	EL PASO NATURAL G
BASIN DAKOTA	65.0	EL PASO NATURAL G
KUTZ WEST PICTURED CL	19.6	EL PASO NATURAL G
BASIN DAKOTA	350.0	EL PASO NATURAL G
BALLARD PICTURED CLIF	250.0	EL PASO NATURAL G
OTERO CHACRA	50.0	EL PASO NATURAL G
SALT LAKE MORROW SOUT	0.0	SOUTHERN UNION GA
NORTH LOVING MORROW	324.0	EL PASO NATURAL G
MALJAMAR	0.0	PHILLIPS PETROLEU
SANDHILLS GRAYBURG SA	16.0	GETTY OIL CO
CHACON DAKOTA	91.0	EL PASO NATURAL G
DEVILS FORK GALLUP	184.0	EL PASO NATURAL G
DEVILS FORK GALLUP	243.0	EL PASO NATURAL G
PECOS SLOPE ABO	388.0	
UNDESIGNATED ABO	388.0	
LYBROOK GALLUP EXT	72.0	GAS CO OF NEW MEX
BLANCO MESAVERDE GAS	19.4	EL PASO NATURAL G
BLANCO MV	0.0	EL PASO NATURAL G
BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
BLANCO MESA VERDE	112.0	NORTHWEST PIPELIN
BASIN DAKOTA	26.0	NORTHWEST PIPELIN
SAND POINT (ATOKA)	125.0	NATURAL GAS PIPEL
UND DIAMOND MOUND	164.0	EL PASO NATURAL G
BALLARD PICTURED CLIF	36.0	GAS CO OF NEW MEX
BALLARD PIC CLIFFS	33.0	GAS CO OF NEW MEX
SOUTH BLANCO PC	32.6	EL PASO GAS CO
SOUTH BLANCO PC	24.9	EL PASO GAS CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8318433	NM-1582-82	3003907963		108		SAN JUAN 30-5 UNIT 10
8318434	NM-1583-82	3003907838		RECEIVED:	01/20/83	JA: NM 4
-TENNECO OIL E&P				103		JICARILLA 152 #1
8318409	NM-1114-82	3003907339		103		JICARILLA 152 #2
8318410	NM-1115-82	3003907339		RECEIVED:	01/20/83	JA: NM 4
-TEXACO INC				108		NYE FEDERAL #3
8318404	NM-1398-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-TEXAS OIL & GAS CORP				108		NYE FEDERAL #3
8318403	NM-1397-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-TOM BROWN INC				103		JICARILLA 152 #1
8318412	NM-1609-82	3003907339		103		JICARILLA 152 #2
8318411	NM-1608-82	3003907339		RECEIVED:	01/20/83	JA: NM 4
-TRIGG DRILLING CORP				103		JICARILLA 152 #1
8318402	NM-1396-82	3004500000		103		JICARILLA 152 #2
8318401	NM-1395-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-UNION TEXAS PETROLEUM CORP				108		NYE FEDERAL #3
8318400	NM-1394-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WESTERN NATURAL GAS PRODUCING CO				108		NYE FEDERAL #3
8318399	NM-1393-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318398	NM-1392-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
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-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318296	NM-1290-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318295	NM-1289-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318294	NM-1288-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318293	NM-1287-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318292	NM-1286-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318291	NM-1285-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318290	NM-1284-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318289	NM-1283-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318288	NM-1282-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318287	NM-1281-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318286	NM-1280-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318285	NM-1279-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318284	NM-1278-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318283	NM-1277-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318282	NM-1276-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318281	NM-1275-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318280	NM-1274-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318279	NM-1273-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318278	NM-1272-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318277	NM-1271-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318276	NM-1270-82	3004500000		RECEIVED:	01/20/83	JA: NM 4
-WILLIAMS PRODUCTION CO				108		NYE FEDERAL #3
8318275	NM-1269-82	3004500000		RECEIVED:	01/20/83	JA

JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8318463	NM 1353-82	3004525382	103		HANKS #16F	BASIN	35.0	SOUTHERN UNION GA
8318422	NM-1594-82	3004508063	108		HARE #10	AZTEC	7.0	SOUTHERN UNION GA
8318423	NM-1595-82	3004507438	108		REID #13	AZTEC	12.0	SOUTHERN UNION GA
8318420	NM-1597-82	3004507337	108		REID #17	AZTEC PICTURED CLIFFS	7.3	SOUTHERN UNION GA
8318421	NM-1596-82	3004507252	108		REID #8	AZTEC PICTURED CLIFFS	4.5	SOUTHERN UNION GA
-STEVENS OPERATING CORP			RECEIVED: 01/20/83		JA: NM 4			
8318412	NM 038782107	3000561702	102-4	107-TF	MELVIN #1 (NM 32325)	WILDCAT ABO	65.0	TRANSWESTERN PIPE
-TENNECO OIL COMPANY			RECEIVED: 01/20/83		JA: NM 4			
8318452	NM 1405-82	3004525022	103		FLORANCE 126	UNDESIGNATED CHACRA	500.0	EL PASO NATURAL G
8318453	NM 1406-82	3004525302	103		OMLER A #11	UNDES CHACRA	500.0	EL PASO NATURAL G
8318454	NM 1407-82	3004525326	103		OMLER A #14	UNDES CHACRA	500.0	EL PASO NATURAL G
8318455	NM 1408-82	3004525303	103		OMLER A-12	UNDESIGNATED CHACRA	500.0	EL PASO NATURAL G
8318424	NM-1593-82	3004525261	103		RUSSELL 4E	BASIN DAKOTA	500.0	EL PASO NATURAL G
-WEXPRO COMPANY			RECEIVED: 01/20/83		JA: NM 4			
8318409	NM-0993-82	3004524992	103		GREG #1	BASIN-DAKOTA	31.7	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION			RECEIVED: 01/20/83		JA: NM 4			
8318428	NM-1586-82	3001522365	107-RT		ALLISON "CQ" FED #3	UND CISCO	0.0	TRANSWESTERN PIPE
8318431	NM-1587-82	3001524133	103		ALLISON "CQ" FEDERAL #9	UND HOAG TANK MORROW	0.0	TRANSWESTERN PIPE
8318438	NM-1577-82	3001523371	103		BENSON DEEP UNIT #2	WILDCAT MORROW	0.0	TRANSWESTERN PIPE
8318450	NM-155482102	3001523678	102-4	103	EASTERN SHORE "OV" FEDERAL #1	WILDCAT MORROW	0.0	TRANSWESTERN PIPE
8318460	NM1417-82	3001524049	103		LECHUGUILLA CANYON UNIT #9	WILDCAT MORROW	0.0	EL PASO NATURAL G
8318461	NM1418-82	3000520870	103		UNION "SI" FEDERAL #7	UND TOMAHAWK BA	0.0	CITIES SERVICE CO
-TENNECO OIL COMPANY			RECEIVED: 01/20/83		JA: OK 4			
8318403	OKA-1344-82	3503920776	103		WALKING WOMAN 1-31	NORTH WEATHERFORD	110.0	

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

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The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MCV). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.3 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old ocs lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CB: Coal seams
107–DV: Devonian shale
107–PR: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–4313 Filed 2–17–83; 8:45 am]

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[Volume 830]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 10, 1983

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 10, 1983.

JD No.	DOCKET	AGENCY	FERC STATUS	WELL CODE	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES							
-ALL STATES OIL & PRODUCING CO INC		RECEIVED: 01/24/83	JA: OH				
8318551	3410323072	107-TF		JELEN #1	GRANGER	5.5	COLUMBIA GAS TRAN
8318552	3410323073	107-TF		JELEN WELL #2-A	GRANGER	5.5	COLUMBIA GAS TRAN
-APPALACHIAN EXPLORATION INC		RECEIVED: 01/24/83	JA: OH				
8318568	3415320564	107-TF		A CUNNINGTON #1	COPLEY	5.8	YANKEE RESOURCES
8318572	3415321137	107-TF		A R LOCKHART #2	COVENTRY	36.5	
8318554	3405923330	107-TF		A VANDERHILL #1	LIBERTY	45.6	FRUEKEL INC
8318560	3410322745	107-TF		C HAZEN #1	SHARON	7.3	YANKEE RESOURCES
8318553	3405923027	107-TF		CARLOS #1	MONROE	36.5	FRUEKEL INC
8318561	3410322826	107-TF		ESTATE OF S KELLER #2	WADSWORTH	4.4	YANKEE RESOURCES
8318556	3410322624	107-TF		J PATTERSON #1	SHARON	4.1	YANKEE RESOURCES
8318557	3410322625	107-TF		J PATTERSON #2	WADSWORTH	8.0	YANKEE RESOURCES
8318558	3410322626	107-TF		J PATTERSON #3	WADSWORTH	4.4	YANKEE RESOURCES
8318566	3415320792	107-TF		K WASIL #1	NORTON	62.0	YANKEE RESOURCES
8318565	3415320776	107-TF		L BETTS #1	COPLEY	365.0	YANKEE RESOURCES
8318569	3415320928	107-TF		OHIO SPORTSMEN CLUB #1	COPLEY	8.3	YANKEE RESOURCES
8318570	3415321004	107-TF		R EMERY #1	COPLEY	8.4	YANKEE RESOURCES
8318564	3415320747	107-TF		R HEMPHILL #1	COPLEY	46.8	YANKEE RESOURCES
8318571	3415321080	107-TF		RAIRICK #1	COPLEY	14.6	
8318562	3410322827	107-TF		S KELLER ESTATE #3	WADSWORTH	4.7	YANKEE RESOURCES
8318567	3415320794	107-TF		SOVARY-BURKHART #1	NORTON	7.8	YANKEE RESOURCES
8318559	3410322709	107-TF		W HARTLEY #1	WADSWORTH	11.0	YANKEE RESOURCES
8318563	3415320741	107-TF		W L VAN NOSTRAN #1	COPLEY	5.5	YANKEE RESOURCES
8318555	3410322547	107-TF		W MASON #1	SHARON	4.0	YANKEE RESOURCES
-B-J INC		RECEIVED: 01/24/83	JA: OH				
8318578B	3416923013	C 107-TF		A JOHNSON #1	MILTON	18.0	COLUMBIA GAS TRAN
8318578A	3416923013	103		A JOHNSON #1	MILTON	18.0	COLUMBIA GAS TRAN
8318573B	3407523410	D 107-TF		BENJAMIN GIAUQUE #1	RICHLAND	18.0	COLUMBIA GAS TRAN
8318573A	3407523410	103		BENJAMIN GIAUQUE #1	RICHLAND	18.0	COLUMBIA GAS TRAN
8318574B	3407523413	D 107-TF		E GIAUQUE #1	RICHLAND	18.0	COLUMBIA GAS TRAN
8318574A	3407523413	103		E GIAUQUE #1	RICHLAND	18.0	COLUMBIA GAS TRAN
8318576A	3407523821	103		ELMER GIAUQUE #2	RICHLAND	18.0	COLUMBIA GAS TRAN
8318576B	3407523821	D 107-TF		ELMER GIAUQUE #2	RICHLAND	18.0	COLUMBIA GAS TRAN
8318577B	3407523822	D 107-TF		ELMER GIAUQUE #3	RICHLAND	18.0	COLUMBIA GAS TRAN
8318577A	3407523822	103		ELMER GIAUQUE #3	RICHLAND	18.0	COLUMBIA GAS TRAN
8318575B	3407523414	C 107-TF		H HAWKINS #1	RICHLAND	18.0	COLUMBIA GAS TRAN
8318575A	3407523414	103		H HAWKINS #1	RICHLAND	18.0	COLUMBIA GAS TRAN
-BATES OIL & GAS INC		RECEIVED: 01/24/83	JA: OH				
8318583	3419322691	D 108		BERMAN FLESHMAN #1		2.4	COLUMBIA GAS TRAN
-BAUM-GILCREST JOINT VENTURE		RECEIVED: 01/24/83	JA: OH				
8318584	3413322544	107-TF		GILCREST #1	KENT	25.0	COLUMBIA GAS OF O

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JD NO	JA PKT	API NO	SEC(1)	SEC(2)	WELL NAME
-BERRESFORD ENTERPRISES INC					RECEIVED: 01/24/83 JA: OH
8318588		3416725206	108		GAREN #1
8318587		3416725110	108		GREGORY GREENE #1
8318586		3416725035	108		GREGORY GREENE #2
8318589		3416725983	108		ULLMAN #1
-BKK PROSPECTING LTD					RECEIVED: 01/24/83 JA: OH
8318582		3416727231	103		COU WHETSTONE #2
8318581		3416727229	103		COY WETSTONE #1
8318579		3412122777	103		MANTEL #1
8318580		3412122778	103		MANTEL #2
-BLACK RUN DEVELOPMENT CO					RECEIVED: 01/24/83 JA: OH
8318590		3411926469	103		TYSON-KING #1
-CAMERON BROS					RECEIVED: 01/24/83 JA: OH
8318594		3411926419	107-TF		KENNETH GREINER #2
-CANECO RESOURCES CORP					RECEIVED: 01/24/83 JA: OH
8318596		3416923428	107-TF		AMSTUTZ #1
8318598		3416923448	107-TF		GEISER #1
8318597		3416923438	107-TF		MAST #1
8318595		3416923412	107-TF		SNAVELY #1
-CLINTON OIL CO					RECEIVED: 01/24/83 JA: OH
8318599		3411926488	103	107-TF	R HITTLE UNIT #1-761
8318600		3411926534	103	107-TF	ROBERT MCBRIDE #2-720
-DALTON & HANNA CO					RECEIVED: 01/24/83 JA: OH
8318601		3415720248	108		GERALD F GRAFF #1
-DAVID A WALDRON & ASSOC INC					RECEIVED: 01/24/83 JA: OH
8318719		3415321224	103	107-TF	NITRAM #2
-DUSTY DRILLING COMPANY INC					RECEIVED: 01/24/83 JA: OH
8318602		3411521088	107-TF		POPE #1
-EDCO DRILLING & PRODUCING INC					RECEIVED: 01/24/83 JA: OH
8318603		3407522498	108		JACOB ED-1A
8318604		3408322824	108		KAUFFMAN KB-2A
-EDWARD H EVERETT CO					RECEIVED: 01/24/83 JA: OH
8318608		3411923979	107-RT		L DOCKRAY #1
-ELKHEAD GAS & OIL COMPANY					RECEIVED: 01/24/83 JA: OH
8318605		3408320290	103		LEPLEY #2
-ENVIROGAS INC					RECEIVED: 01/24/83 JA: OH
8318607		3400922658	103	107-TF	DRYDOCK COAL #18(
8318606		3400922520	103	107-TF	DRYDOCK COAL #2D
-EVERFLOW EASTERN INC					RECEIVED: 01/24/83 JA: OH
8318609		3415723751	103	107-TF	RALPH H ROMIG #1
-FAIRPOINT COAL CO					RECEIVED: 01/24/83 JA: OH
8318610		3401320472	103		L ZACCAGNINI #3
-FOX OIL CO					RECEIVED: 01/24/83 JA: OH
8318611		3416120067	103		C M THOMAS #
8318612		3416120075	103		L J RAAFF #1
-GREEN GAS COMPANY					RECEIVED: 01/24/83 JA: OH
8318613		3409321168	107-TF		MCFAUL #1
-H I SNYDER OIL & GAS					RECEIVED: 01/24/83 JA: OH
8318696		3415723112	108		CARRUTHERS #1
8318697		3415723164	108		CARRUTHERS #2
8318686		3415722497	108		DEEDS #1
8318687		3415722411	108		DEEDS #2
8318692		3415722907	108		OHIO INDUSTRIAL SUPPLY #1

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FIELD NAME	PROD	PURCHASER
	2.0	
	1.0	
	1.0	
	0.5	
SALEM	10.0	COLUMBIA GAS TRAN
SALEM	10.0	COLUMBIA GAS TRAN
JEFFERSON	10.0	COLUMBIA GAS TRAN
JEFFERSON	10.0	COLUMBIA GAS TRAN
LICKING	7.3	NATIONAL GAS & OI
WASHINGTON	11.0	
WILDCAT	0.0	COLUMBIA GAS TRAN
WILDCAT	0.0	COLUMBIA GAS TRAN
WILDCAT	0.0	COLUMBIA GAS TRAN
WILDCAT	0.0	COLUMBIA GAS TRAN
SALEM	10.0	
CASS	10.0	
	0.0	EAST OHIO GAS CO
COPLEY	28.0	
DEERFIELD	12.0	COLUMBIA GAS TRAN
	10.0	COLUMBIA GAS TRAN
	10.0	COLUMBIA GAS TRAN
FALLS TWP	27.4	NATIONAL GAS & OI
BUTLER	50.0	COLUMBIA GAS TRAN
DOVER	27.3	COLUMBIA GAS TRAN
DOVER	18.2	COLUMBIA GAS TRAN
RUSH	0.0	
RICHLAND	21.3	
LIBERTY	60.0	WEST OHIO GAS CO
LIBERTY	60.0	WEST OHIO GAS CO
COLUMBIA	10.0	COLUMBIA GAS TRAN
WASHINGTON	5.0	EAST OHIO GAS CO
WASHINGTON	5.0	EAST OHIO GAS CO
DOVER	3.0	I F MFG
DOVER	3.0	I F MFG
WARREN	3.0	EAST OHIO GAS CO

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FIELD NAME	PROD	PURCHASER

OP #	CA PI						
8318688		3415722645	C	108		OHIO INDUSTRIAL SUPPLY #2	
8318689		3415722642	C	108		OHIO INDUSTRIAL SUPPLY #3	
-H I SNYDER OIL & GAS DRLG PTNSP 76A				RECEIVED:	01/24/83	JA: OH	
8318690		3415722715		108		DEEDS #4	
8318691		3415722734	C	108		OHIO INDUSTRIAL SUPPLY #4	
-H I SNYDER OIL & GAS DRLG PTNSP 77A				RECEIVED:	01/24/83	JA: OH	
8318695		3415723001		108		DEEDS #3	
8318694		3415722986		108		HURSEY #1	
8318693		3415722985		108		HURSEY #2	
-H I SNYDER OIL & GAS DRLG PTNSP 78A				RECEIVED:	01/24/83	JA: OH	
8318698		3415723171		108		HAGAN #1	
-JADOIL INC				RECEIVED:	01/24/83	JA: OH	
8318616		3407312407		107-TF		D & J FEYDES #1	
8318618		3407523330		107-TF		OLIN & ELLA YODER #1	
8318617		3407521727		107-TF		DAVID AND FANNIE TROYER #1	
8318615		3407312396		107-TF		A E & M V LORENZ #1	
8318619		3407522337		107-TF		PERRY & SAM MILLER #1	
-JAMES R BERNHARDT				RECEIVED:	01/24/83	JA: OH	
8318685		3410322068		107	107-TF	LOOMIS #2	
-JEFFERSON OIL & GAS CO				RECEIVED:	01/24/83	JA: OH	
8318620		3412725455		107-TF		CROSSAN #2	
-JERRY MOORE INC				RECEIVED:	01/24/83	JA: OH	
8318641		3407312291		103		LEWIS SHANNON #1	
-L & M OIL & GAS DEVELOPMENT CO				RECEIVED:	01/24/83	JA: OH	
8318622		3416923407	C	107-TF		LABRACH #2	
8318621		3416923382		107-TF		W-S INC (GANT/GROSJEAN) #1	
-LAKE REGION OIL INC				RECEIVED:	01/24/83	JA: OH	
8318623		3407522863		103		FRED KLOHA #1	
8318624		3407523454		103		PAUL ZOLLARS #2	
-LOMAK PETROLEUM INC				RECEIVED:	01/24/83	JA: OH	
8318626		3413322851		107-TF		D ROBERTS #1	
8318626		3413322856		107-TF		F VINE #5	
8318625		3413322900		107-TF		H CLARK UNIT #1	
8318625		3413322823		107-TF		L A SHOWALTER #1	
8318627		3413322894		107-TF		N CHAFFEE #1	
-ONEAL PETROLEUM INC				RECEIVED:	01/24/83	JA: OH	
8318683		3411522[illegible]		107-TF		J ROGERS #1	
8318684		3411522677		107-TF		J ROGERS #2	
8318685		3411522667		107-TF		P MERCER #2	
-OXFORD OIL CO				RECEIVED:	01/24/83	JA: OH	
8318696		3411522827		107-TF		I P PORTER #1	
8318697		3411522514		107-TF		PAUL CUBBISON #1	
-PAUL J OBERMILLER				RECEIVED:	01/24/83	JA: OH	
8318642		3416923421		103	107-TF	RICHARD BAUMAN #1	
-PENN-OHIO ENERGY CORP				RECEIVED:	01/24/83	JA: OH	
8318656		3405520371		107-TF		A P BARBER #1 GC-108	
8318655		3405520371		107-TF		BLUM UNIT #1 GC-304	
8318651		3405520331		107-TF		BURTON ARMSTRONG #1 GC-103	
8318654		3405520372		107-TF		CROWLEY UNIT #1 GC-303	
8318657		3405520381		107-TF		DEL BALSO SCHMIDT UNIT #2 GC-30[illegible]	
8318653		3405520361		107-TF		GEAUGA COUNTY INFIRMARY #1 GC-309	
8318652		3405520351		107-TF		WILLIAM B OPPER #1 GC-105	
-PINE TOP ESTATES PARTNERSHIP				RECEIVED:	01/24/83	JA: OH	

VOLUME [illegible]	PAGE 603	
FIELD NAME	PRICE	PURCHASER
WARREN	3.0	EAST OHIO GAS CO
WARREN	3.0	GREER STEEL
WASHINGTON	2.0	EAST OHIO GAS CO
WASHINGTON	3.0	GREER STEEL
WASHINGTON	5.0	EAST OHIO GAS CO
WASHINGTON	9.0	EAST OHIO GAS CO
WASHINGTON	9.0	EAST OHIO GAS CO
WASHINGTON	7.0	EAST OHIO GAS CO
MILLCREEK	15.0	EAST OHIO GAS CO
CLARK	40.0	EAST OHIO GAS CO
CLARK	15.0	EAST OHIO GAS CO
CRAWFORD	10.0	EAST OHIO GAS CO
CLARK	5.0	EAST OHIO GAS CO
GRANGER	0.0	COLUMBIA GAS TRAN
FULTONHAM WEST	20.0	COLUMBIA GAS TRAN
WORSAW	2.0	COLUMBIA GAS TRAN
PLAIN	10.0	COLUMBIA GAS TRAN
CHESTER	10.0	COLUMBIA GAS TRAN
RICHLAND	15.0	COLUMBIA GAS TRAN
RICHLAND	15.0	COLUMBIA GAS TRAN
WINDHAM	20.0	COLUMBIA GAS TRAN
WINDHAM	24.0	COLUMBIA GAS TRAN
WINDHAM	12.0	COLUMBIA GAS TRAN
WINDHAM	18.0	COLUMBIA GAS TRAN
WINDHAM	12.0	COLUMBIA GAS TRAN
PENN	12.0	COLUMBIA GAS TRAN
PENN	10.0	COLUMBIA GAS TRAN
PENN	18.0	COLUMBIA GAS TRAN
DEERFIELD	12.0	
UNION	11.0	
MILTON	12.0	COLUMBIA GAS TRAN
CLARIDON	22.5	EAST OHIO GAS CO
CLARIDON	30.5	EAST OHIO GAS CO
CLARIDON	35.6	EAST OHIO GAS CO
CLARIDON	15.7	EAST OHIO GAS CO
CLARIDON	27.2	EAST OHIO GAS CO
CLARIDON	26.2	EAST OHIO GAS CO
CLARIDON	24.0	EAST OHIO GAS CO

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JOB NO	DATE	API NO	PRODN	FIELD	WELL NAME	FIELD NAME	PROD	PURCHASER
8318658		3415321244	103	107-TF	LYNETT UNIT #1	BATH	0.0	EAST OHIO GAS CO
-POI ENERGY INC			RECEIVED: 01/24/83 JA: OH					
8318648		3405520387	103	107-TF	BAINBRIDGE INVESTMENTS #1	BAINBRIDGE	35.0	
8318649		3405520388	103	107-TF	SEAWORLD ETAL #2	BAINBRIDGE	45.0	
8318650		3413322918	103	107-TF	SEAWORLD INC #T-1	AURORA	55.0	
-POMINEX INC			RECEIVED: 01/24/83 JA: OH					
8318664		3409921537	103	107-TF	BIEBER UNIT #1	BOARDMAN	18.0	
8318663		3409921536	103	107-TF	BIEBER UNIT #2	BOARDMAN	18.0	
8318662		3409921535	103	107-TF	BIEBER UNIT #3	BOARDMAN	18.0	
8318661		3409921530	103	107-TF	HOLZBACH UNIT #1	CANFIELD	18.0	
8318660		3409921523	103	107-TF	URSULINE NUNS #2	CANFIELD	18.0	
-PONDEROSA OIL COMPANY			RECEIVED: 01/24/83 JA: OH					
8318665		3407522323	108		FERNANDO MATA #1		0.0	COLUMBIA GAS TRAN
8318666		3407522324	108		H WOLGAMOTT #1		0.0	COLUMBIA GAS TRAN
-QUAKER STATE OIL REFINING CORP			RECEIVED: 01/24/83 JA: OH					
8318668		3411926506	103	107-TF	C & L VERNON #1	ADAMS	11.0	COLUMBIA GAS TRAN
-QUALITY OIL & GAS CORP			RECEIVED: 01/24/83 JA: OH					
8318667		3409921312	107-TF		HAWKINS-GLEE #2	SMITH	45.0	EAST OHIO GAS CO
-R C POLING CO INC			RECEIVED: 01/24/83 JA: OH					
8318659		3416322785	103	107-TF	ROBERT SWANGER #1	SWAN	5.0	
-R GENE BRASEL DBA BRASEL & BRASEL			RECEIVED: 01/24/83 JA: OH					
8318592		3410521702	108		FLOYD CARSON #1		1.5	COLUMBIA GAS TRAN
8318593		3410521984	108		FLOYD CARSON #2		1.0	COLUMBIA GAS TRAN
8318591		3405320326	108		STELLA BURNETT #1		1.5	COLUMBIA GAS TRAN
-RIMCO OPERATING INC			RECEIVED: 01/24/83 JA: OH					
8318669		3416923269	103	107-TF	BEELER #1-A	PLAIN	12.0	COLUMBIA GAS TRAN
8318670		3416923271	103	107-TF	COEN #1	CHESTER	12.0	COLUMBIA GAS TRAN
8318674		3416923383	103	107-TF	HOOKWAY #2	CANAAN	12.0	COLUMBIA GAS TRAN
8318671		3416923280	103	107-TF	R MAIRS #1	WOOSTER	12.0	COLUMBIA GAS TRAN
8318673		3416923295	103	107-TF	RAUDEBAUGH #1	WAYNE	12.0	COLUMBIA GAS TRAN
8318672		3416923294	103	107-TF	SNYDER UNIT #1	CHESTER	12.0	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)			RECEIVED: 01/24/83 JA: OH					
8318676		3416727225	103		LONGFELLOW #7	GRANDVIEW	14.6	
-SANTA FE DRILLING CO INC			RECEIVED: 01/24/83 JA: OH					
8318675		3416724022	103		HAROLD & DORA WEPPLER #2	FEARING	50.0	
-SHONGUM OIL & GAS INC			RECEIVED: 01/24/83 JA: OH					
8318678		3416923180	107-TF		BARKMAN ETAL #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
8318679		3416923181	107-TF		BARKMAN ETAL #2	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
8318680		3416923182	107-TF		DOROTHY SHAMMO #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
8318681		3416923311	107-TF		EDWARD CHIRDON #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
8318677		3416923119	107-TF		JAMES URWIN #1	SUGAR CREEK	12.0	EAST OHIO GAS CO
8318683		3416923398	107-TF		ROLAND FAIR #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
8318682		3416923338	107-TF		RUSSELL BAER #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
8318684		3416923422	107-TF		STEINER UNIT #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
-SOUTHERN TRIANGLE OIL CO INC			RECEIVED: 01/24/83 JA: OH					
8318685		3411521320	108		EUBANK #1	PELLICAN	2.9	EAST OHIO GAS COR
-TEXACO INC			RECEIVED: 01/24/83 JA: OH					
8318701		3411521193	108		C R PHILLIS UNIT #1	HACKNEY	7.8	TEXAS EASTERN TRA
8318702		3411521196	108		EMA SHERLOCK UNIT #1	HACKNEY	4.3	TEXAS EASTERN TRA
8318699		3411521173	108		ORA J STOUT #1	HACKNEY	7.4	TEXAS EASTERN TRA
8318700		3411521186	108		RALPH MORETZ UNIT #1	HACKNEY	3.8	TEXAS EASTERN TRA
-TIGER OIL INC			RECEIVED: 01/24/83 JA: OH					
8318704		3411922497	108		BUMLINGAME #1		2.0	EAST OHIO GAS CO

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JOB NO	DATE	API NO	PRODN	FIELD	WELL NAME	FIELD NAME	PROD	PURCHASER

OPR CO	GAS INT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8318703		3405921191	108		C BELL #1		17.0	EAST OHIO GAS CO
8318705		3411922859	108		H CULBERTSON #1		2.0	EAST OHIO GAS CO
8318706		3412121542	108		OHIO POWER #2		1.0	EAST OHIO GAS CO
			RECEIVED: 01/24/83 JA: OH					
-TOWNER PETROLEUM CO								
8318708		3405923394	103	107-TF	BONIPHANT B #2	LONDONDERRY	27.0	TENNESSEE GAS PIP
8318707		3405923387	103	107-TF	FERGUSON D #1	LONDONDERRY	27.0	TENNESSEE GAS PIP
			RECEIVED: 01/24/83 JA: OH					
-TWINOAKS OIL & GAS								
8318709		3403124913	103		J SCHULER & D L WIDDER 1-A	MONROE	6.0	COLUMBIA GAS TRAN
			RECEIVED: 01/24/83 JA: OH					
-UNIVERSAL EXPLORATION								
8318710		3410323212	107-TF		JAMES E & K PACE #1	WADSWORTH	25.0	YANKEE RESOURCES
			RECEIVED: 01/24/83 JA: OH					
-VICTOR PETROLEUM CORP								
8318712		3407523899	103	107-TF	DAN R MILLER #1	CLARK	0.0	COLUMBIA GAS TRAN
8318711		3407523849	103	107-TF	N L RABER #1	CLARK	9.0	COLUMBIA GAS TRAN
			RECEIVED: 01/24/83 JA: OH					
-VIKING RESOURCES CORP								
8318717		3409921486	103	107-TF	HAWKINS UNIT #1	BERLIN	30.0	
8318713		3408520331	103	107-TF	HICKS #3	PERRY	30.0	
8318716		3408520354	103	107-TF	KLYN #4	PERRY	30.0	
8318714		3408520336	103	107-TF	LAKE COUNTY NURSERY #1	PERRY	30.0	
8318715		3408520338	103	107-TF	LAKE COUNTY NURSERY #2	PERRY	30.0	
			RECEIVED: 01/24/83 JA: OH					
-W B C CORP								
8318718		3400720142	108		TALKINGTON #1		2.3	EAST OHIO GAS CO
			RECEIVED: 01/24/83 JA: OH					
-W J LYDIC INC								
8318635		3411521601	108		BERNARD COMBS #1		6.0	YANKEE RESOURCES
8318632		3411122301	103		BUTLER #1	OHIO	40.0	COLUMBIA GAS TRAN
8318636		3411521622	108		ETHEL L WELCH #1		11.5	YANKEE RESOURCES
8318631		3411122230	103		HARP-LANCASTER 3A	JACKSON	35.0	COLUMBIA GAS TRAN
8318639		3411521634	108		JEFFERSON A TRACEY #1		10.0	YANKEE RESOURCES
8318630		3407523690	103		KINER 1-17-3	MECHANIC	36.0	COLUMBIA GAS TRAN
8318634		3411122899	103		KURTZMAN #1A	SALEM	40.0	COLUMBIA GAS TRAN
8318637		3411521624	108		MARK SPRAY #1		11.0	YANKEE RESOURCES
8318633		3411122814	103		MARTIN #1	LEE	50.0	COLUMBIA GAS TRAN
8318638		3411521625	108		SMITH #1		10.0	YANKEE RESOURCES
8318640		3411521700	108		WILKINSON #1		7.0	YANKEE RESOURCES
			RECEIVED: 01/24/83 JA: OH					
-WALLICK PETROLEUM CO								
8318720		3411926446	103	107-TF	HAROLD GAREY #1	CASS	10.0	NATIONAL GAS & OI
8318721		3411926463	103	107-TF	JOHN SHAW #2	CASS	10.0	NATIONAL GAS & OI
			RECEIVED: 01/24/83 JA: OH					
-WAYNE HAMMOND								
8318614		3415723785	103	107-TF	E W & L C RICHARD #1	LAWRENCE	7.3	COLUMBIA GAS TRAN
			RECEIVED: 01/24/83 JA: OH					
-ZENITH OIL & GAS INC								
8318722		3401924238	103		EMERINE #1	NASHPORT	1.5	NATIONAL GAS & OI

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4314 Filed 2-17-83 8:45 am]

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Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 10, 1983.

JD NO	DA SAT	API NO	SEC(1) SEC(2) WELL NO	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION						
-TXO PRODUCTION CORP		RECEIVED: 01/24/83	JA: LA			
8318783	82-1171	1706120320	102-4 WILKS #1	CLAY	56.9	ARKANSAS-LOUISIAN
NORTH DAKOTA INDUSTRIAL COMMISSION						
-MONSANTO OIL CO		RECEIVED: 01/24/83	JA: ND			
8318782	691	3301300895	103 ALFRED #1	FLAXTON	19.0	CITIES SERVICE CO
8318781	690	3301300931	103 ALFRED #2	FLAXTON	100.0	CITIES SERVICE CO
8318777	686	3301300887	103 BIRD #1	FLAXTON	8.3	CITIES SERVICE CO
8318775	684	3301300871	103 ELLITHORPE #1	MISSION CANYON	638.4	CITIES SERVICE CO
8318780	689	3301300901	103 JENSEN #1	FLAXTON	55.0	CITIES SERVICE CO
8318773	682	3301300925	103 JENSEN #2	FLAXTON	7.1	CITIES SERVICE CO
8318779	688	3301300917	103 MARVIN #1	FLAXTON	18.0	CITIES SERVICE CO
8318776	685	3301300935	103 MARVIN #2	FLAXTON	170.0	CITIES SERVICE CO
8318774	683	3301300930	103 MAVIS #1	FLAXTON	90.0	CITIES SERVICE CO
8318778	687	3301300910	103 SORUM #1	FLAXTON	100.0	CITIES SERVICE CO
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS						
-C & C OPERATING CORP		RECEIVED: 01/24/83	JA: NM			
8318763		3002500000	108 LEA OR STATE #1	ARKANSAS JUNCTION SAN	0.9	WARREN PETROLEUM
-GULF OIL CORPORATION		RECEIVED: 01/24/83	JA: NM			
8318764		3001520375	108 JONES "D" #2	ATOKA SAN ANDRES	1.3	PHILLIPS PETROLEU
8318762		3001520377	108 JONES "D" #4	ATOKA SAN ANDRES	1.2	PHILLIPS PETROLEU
-MESA PETROLEUM CO		RECEIVED: 01/24/83	JA: NM			
8318765		3000561735	102-3 107-TF ERMA #1	WILDCAT ABO	150.0	
OKLAHOMA CORPORATION COMMISSION						
-A B OIL CO		RECEIVED: 01/24/83	JA: OK			
8318821	21419	3514723753	102-2 POOS 1-A	WILDCAT	72.0	MARION CORP
-ANDOVER OIL COMPANY		RECEIVED: 01/24/83	JA: OK		54.0	DELHI GAS PIPELIN
8318837	19448	3501722141	103 ADAMS PARK #7-3	SOONER TREND-DOVER WE	55.0	PHILLIPS PETROLEU
-BEARD OIL COMPANY		RECEIVED: 01/24/83	JA: OK		10.0	CITIES SERVICE CO
8318820	19508	3507323649	103 LINDSEY #1		7.2	AMINOIL USA INC
-BOW VALLEY PETROLEUM INC		RECEIVED: 01/24/83	JA: OK		2.5	CITIES SERVICE GA
8318793	19202	3504721982	108 HANE 33-1		2.5	CITIES SERVICE GA
8318794	19203	3509320424	108 WARFIELD 1-32			
-BURL PETROLEUM CO INC		RECEIVED: 01/24/83	JA: OK			
8318813	16197	3510500000	103 BEARD #2			
8318812	16198	3510500000	103 BEARD #3			

JD NO	DA SAT	API NO	SEC(1) SEC(2) WELL NO	FIELD NAME	PROD	PURCHASER

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JD NO	JA DKT	API NO	F	EFF(1)	EFF(2)	WELL NO		FIELD NAME	PROD	PURCHASER
8318811	16397	3510500000		103		SCOTT #1			2.5	CITIES SERVICE GA
-CLARK OPERATING SERVICES INC				RECEIVED:	01/24/83	JA: OK				
8318605	18154	3511822687		103		EWELL #3-25		NOYAKE	31.0	PHILLIPS PETROLEU
-CLARK RESOURCES INC				RECEIVED:	01/24/83	JA: OK				
8318829	19337	3504723810		103		GOODWIN 15-1		SOONER TREND	50.8	EXXON CO USA
-EAGLE MINERALS INC.				RECEIVED:	01/24/83	JA: OK				
8318837	19450	3508121766		103		SHAW #4			8.8	COLORADO GAS COMP
-ENSERCH EXPLORATION INC				RECEIVED:	01/24/83	JA: OK				
8318810	16399	3514920222		103		E C WALTERS - CITY OF CLINTON #1-22		BURNS FLAT	8.0	NATURAL GAS PIPEL
-GEC PRODUCTION CO				RECEIVED:	01/24/83	JA: OK				
8318828	19332	3504722655		103		BRAINARD #1		RINGWOOD	8.0	PANHANDLE EASTERN
-GRAND RESOURCES INC				RECEIVED:	01/24/83	JA: OK				
8318830	19340	3504723080		103		PLACER #2-14		SOONER TREND	0.0	WELLHEAD ENTERPRI
-HPC INC				RECEIVED:	01/24/83	JA: OK				
8318819	19507	3501722325		103		CLARK #1		WEST EL RENO	28.0	
8318814	19312	3503920748		103		DON MCNEIL #4		S E THOMAS	13.6	WESTERN FARMERS E
-HUNGERFORD OIL & GAS INC				RECEIVED:	01/24/83	JA: OK				
8318826	19446	3504723009		103		KIDD-MEWHERTER #3			288.0	AMINOIL USA INC
8318825	19443	3504723089		103		ROY BEEBY #1			226.8	AMINOIL USA INC
-J WALTER DUNCAN JR				RECEIVED:	01/24/83	JA: OK				
8318816	19370	3501521382		103		WILLARD 1		SOUTH BINGER	198.0	PIONEER GAS PRODU
-JET OIL COMPANY				RECEIVED:	01/24/83	JA: OK				
8318785	19367	3504723851		103		OTJEN #2		WILSON	88.8	EASON OIL CO
-JONES & PELLOW OIL CO				RECEIVED:	01/24/83	JA: OK				
8318796	19257	3501922251		103		BUCK 17-1		TATUMS	100.0	AMINOIL USA INC
8318797	19258	3501922534		103		HUNSUCKER 11-4		TATUMS	100.0	MOBIL OIL CORP
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	01/24/83	JA: OK				
8318844	19453	3509321659		103		LAUGHBAUM #1		CHEYENNE VALLEY	182.0	TRANSOK PIPELINE
8318804	19196	3504700000		108		TOEWS #1-17		NORTH ENID	82.0	CHAMPLIN PETROLEU
-L E JONES PRODUCTION COMPANY				RECEIVED:	01/24/83	JA: OK				
8318815	19369	3501922482		103		BENSON #1		SHO-VEL-TUM	8.0	LONE STAR GAS CO
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	01/24/83	JA: OK				
8318801	19353	3515121261		103		LYNN OSHEL #1		S W WAYNOKA	30.0	MAGIC CIRCLE GAS
8318802	19354	3515121223		103		VANDEVELDE #1		OAKWOOD	31.8	MAGIC CIRCLE GAS
-MAHAN-KOWSEY INC.				RECEIVED:	01/24/83	JA: OK				
8318832	19387	3504921913		103		SEARCY #4			36.0	WARREN PETROLEUM
-MONSANTO OIL CO				RECEIVED:	01/24/83	JA: OK				
8318841	21541	3504320419		108		THOMPSON #1		VICI S W	17.8	TRANSWESTERN PIPE
-MORGAN & STEINERT INC				RECEIVED:	01/24/83	JA: OK				
8318795	19288	3507323562		103		MARY #1		SOONER TREND	120.0	EXXON CO USA
-O W OIL CO				RECEIVED:	01/24/83	JA: OK				
8318799	19281	3514722512		103		GUINN #B-10		GUINN LEASE	4.6	BARTLESVILLE GATH
8318798	19283	3514722511		103		GUINN #B-11		GUINN LEASE	1.7	BARTLESVILLE GATH
8318800	19285	3514722513		103		GUINN #B-9		GUINN LEASE	0.7	BARTLESVILLE GATH
-P-T LTD #2				RECEIVED:	01/24/83	JA: OK				
8318808	18438	3504722360		108		VAVERKA 25-1		SOONER TREND	15.0	WELLHEAD ENTERPRI
-PATHFINDER PETROLEUM CORP				RECEIVED:	01/24/83	JA: OK				
8318806	18428	3508321861		103		TOWLE #1		SOONER TREND	0.0	EASON OIL CO
-PETRO-ENERGY EXPLORATION INC				RECEIVED:	01/24/83	JA: OK				
8318836	19482	3504723023		103		LEGRAND #1-1		SOUTH DOUGLAS	108.8	WELLHEAD ENTERPRI
-PETROMARK EXPLORATION INC				RECEIVED:	01/24/83	JA: OK				
8318807	18722	3507323550		103		WHITE #-1		SOONER TREND	7.5	CITIES SERVICE GA
-RANDALL POGUE				RECEIVED:	01/24/83	JA: OK				

JD NO	JA DAT	API NO	SEC(1)	SEC(2)	WELL NAM	VOLUME 831 PAGE 003 FIELD NAME	PROD	PURCHASER
8318803	19365	3512321665	103		DUNCAN #1	NORTH ADA	54.0	ARKANSAS LOUISIAN
-RH OPERATING CO			RECEIVED:	01/24/83	JA: OK			
8318788	19409	3510524006	108		COYLE #10	SOUTH COFFEYVILLE	6.0	RH OPERATING CO
8318790	19411	3510524007	108		COYLE #11	SOUTH COFFEYVILLE	6.0	RH OPERATING CO
8318792	19413	3510524004	108		COYLE #8	SOUTH COFFEYVILLE	6.0	RH OPERATING CO
8318791	19412	3510524005	108		COYLE #9	SOUTH COFFEYVILLE FIE	6.0	RH OPERATING CO
8318787	19408	3510523778	108		E SMITH #29	SOUTH COFFEYVILLE	6.0	RH OPERATING CO
8318789	19410	3510523959	108		KING #3	SOUTH COFFEYVILLE FIE	6.0	RH OPERATING CO
8318838	19416	3503520255	106		VANNESS #32-3	NORTH CRAIG	6.0	TRANS-GAS CO
8318842	19415	3503520282	108		VANNESS #32-4	NORTH CRAIG	6.0	TRANS-GAS CO
8318828	19414	3503520991	108		VANNESS #32-5	NORTH CRAIG	6.0	TRANS-GAS CO
8318827	19406	3503520990	108		VANNESS #32-6	NORTH CRAIG FIELD	6.0	TRANS-GAS CO
-STANTON ENERGY INC			RECEIVED:	01/24/83	JA: OK			
8318835	19440	3511921935	103		ED KELLY #1		90.0	COLORADO GAS COMP
-STAR RESOURCES INC			RECEIVED:	01/24/83	JA: OK			
8318831	19342	3510721247	103		WALKER #1-24	N E WELEETKA	20.0	PUBLIC SERVICE CO
-STEVE JERNIGAN INC			RECEIVED:	01/24/83	JA: OK			
8318809	16972	3509322452	103		EDINGFIELD #1-18		0.0	DELHI GAS PIPELIN
-SUN EXPLORATION & PRODUCTION CO			RECEIVED:	01/24/83	JA: OK			
8318824	19333	3507323110	103		BARNES GAS UT # 20	LACEY SE (VIOLA)	361.0	ARKLA OIL CO
-TENNECO OIL COMPANY			RECEIVED:	01/24/83	JA: OK			
8318833	19405	3507323345	103		LEFLER 1A-30	OKARCHE NORTH	11.0	DELHI GAS PIPELIN
8318834	19436	3505300000	108		STAGGERS 2-4	LAMONT EAST	5.5	CRA INC
8318822	22789	3500920353	107-DP		SWEET #1-21	S NEW LIBERTY	200.0	TENNESSEE GAS PIP
-TEXACO INC			RECEIVED:	01/24/83	JA: OK			
8318817	19501	3513723018	103		HATTIE HARRELL "D" #1	DOYLE POOL	293.6	TENNESSEE GAS PIP
8318818	19502	3513723018	103		HATTIE HARRELL "C" 1	DOYLE POOL	62.9	TENNESSEE GAS PIP
-TXO PRODUCTION CORP			RECEIVED:	01/26/83	JA: OK			
8318885	17319	3506120378	103		MITCHELL "G" #1	KINTA	755.0	DELHI GAS PIPELIN
-VIERSEN & COCHRAN			RECEIVED:	01/24/83	JA: OK			
8318786	19368	3501721984	103		SPURLIN #3-14	EAST EL RENO	150.0	DELHI GAS PIPELIN
VIRGINIA DEPARTMENT OF LABOR & INDUSTRY								
-PHILADELPHIA OIL COMPANY			RECEIVED:	01/26/83	JA: VA			
8318844		4505120464	103		WILMA C HELTON #P-123	NORA	196.4	KENTUCKY WEST VIR
8318843		4505120462	103		WILMA C HELTON #P-124	NORA	46.3	KENTUCKY WEST VIR
WEST VIRGINIA DEPARTMENT OF MINES								
-ASHLAND EXPLORATION INC			RECEIVED:	01/24/83	JA: WV			
8318761		4701900156	108		POCAHONTAS LAND CO #20 - 166071	LOUP CREEK	4.0	ELKEM METALS CO
-COLUMBIA GAS TRANSMISSION CORP			RECEIVED:	01/24/83	JA: WV			
8318760		4704300786	106		L R SWEETLD ETAL - 802432	W VA FIELD AREA B	0.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED:	01/24/83	JA: WV			
8318746		4703302377	108		A G SWIGER WN 12538	EAGLE	23.0	GENERAL SYSTEM PU
8318745		4704700837	108		CONSOLIDATED COAL CO 12656	ELKHORN DISTRICT	22.0	GENERAL SYSTEM PU
8318748		4700100394	108		IRA MCBEE WN-10968	PLEASANT	23.0	GENERAL SYSTEM PU
8318747		4703300704	106		LAVINA MCMILLAN WN 11546	UNION DISTRICT	13.0	GENERAL SYSTEM PU
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED:	01/27/83	JA: WV			
8318866		4704700271	108		OLGA COAL CO WN-10555	SANDY RIVER	23.0	GENERAL SYSTEM PU
-J & J ENTERPRISES INC			RECEIVED:	01/24/83	JA: WV			
8318727		4703302175	108		R-235	UNION	0.0	CONSOLIDATED GAS

JD NO	JA DAT	API NO	SEC(1)	SEC(2)	WELL NAM	FIELD NAME	PROD	PURCHASER
8318802	19364	3512321664	103		DUNCAN #2	NORTH ADA	54.0	ARKANSAS LOUISIAN
-RH OPERATING CO			RECEIVED:	01/24/83	JA: OK			
8318795	19414	3510524008	108		COYLE #12	SOUTH COFFEYVILLE	6.0	RH OPERATING CO
8318796	19415	3510524009	108		COYLE #13	SOUTH COFFEYVILLE	6.0	RH OPERATING CO
8318797	19416	3510524010	108		COYLE #14	SOUTH COFFEYVILLE	6.0	RH OPERATING CO
8318798	19417	3510524011	108		COYLE #15	SOUTH COFFEYVILLE FIE	6.0	RH OPERATING CO
8318799	19418	3510524012	108		COYLE #16	SOUTH COFFEYVILLE	6.0	RH OPERATING CO
8318800	19419	3510524013	108		COYLE #17	SOUTH COFFEYVILLE FIE	6.0	RH OPERATING CO
8318801	19420	3510524014	108		COYLE #18	NORTH CRAIG	6.0	TRANS-GAS CO
8318829	19421	3503520992	108		VANNESS #32-7	NORTH CRAIG	6.0	TRANS-GAS CO
8318830	19422	3503520993	108		VANNESS #32-8	NORTH CRAIG	6.0	TRANS-GAS CO
8318832	19423	3503520994	108		VANNESS #32-9	NORTH CRAIG FIELD	6.0	TRANS-GAS CO
-STANTON ENERGY INC			RECEIVED:	01/24/83	JA: OK			
8318836	19441	3511921936	103		ED KELLY #2		90.0	COLORADO GAS COMP
-STAR RESOURCES INC			RECEIVED:	01/24/83	JA: OK			
8318840	19343	3510721248	103		WALKER #1-25	N E WELEETKA	20.0	PUBLIC SERVICE CO
-STEVE JERNIGAN INC			RECEIVED:	01/24/83	JA: OK			
8318810	16973	3509322453	103		EDINGFIELD #1-19		0.0	DELHI GAS PIPELIN
-SUN EXPLORATION & PRODUCTION CO			RECEIVED:	01/24/83	JA: OK			
8318825	19334	3507323111	103		BARNES GAS UT # 21	LACEY SE (VIOLA)	361.0	ARKLA OIL CO
-TENNECO OIL COMPANY			RECEIVED:	01/24/83	JA: OK			
8318841	19437	3505300001	108		STAGGERS 2-5	LAMONT EAST	5.5	CRA INC
8318823	22790	3500920354	107-DP		SWEET #1-22	S NEW LIBERTY	200.0	TENNESSEE GAS PIP
-TEXACO INC			RECEIVED:	01/24/83	JA: OK			
8318819	19503	3513723019	103		HATTIE HARRELL "D" #2	DOYLE POOL	293.6	TENNESSEE GAS PIP
8318820	19504	3513723020	103		HATTIE HARRELL "C" 2	DOYLE POOL	62.9	TENNESSEE GAS PIP
-TXO PRODUCTION CORP			RECEIVED:	01/26/83	JA: OK			
8318886	17320	3506120379	103		MITCHELL "G" #2	KINTA	755.0	DELHI GAS PIPELIN
-VIERSEN & COCHRAN			RECEIVED:	01/24/83	JA: OK			
8318787	19369	3501721985	103		SPURLIN #3-15	EAST EL RENO	150.0	DELHI GAS PIPELIN
VIRGINIA DEPARTMENT OF LABOR & INDUSTRY								
-PHILADELPHIA OIL COMPANY			RECEIVED:	01/26/83	JA: VA			
8318846		4505120466	103		WILMA C HELTON #P-126	NORA	196.4	KENTUCKY WEST VIR
8318845		4505120465	103		WILMA C HELTON #P-125	NORA	46.3	KENTUCKY WEST VIR
WEST VIRGINIA DEPARTMENT OF MINES								
-ASHLAND EXPLORATION INC			RECEIVED:	01/24/83	JA: WV			
8318762		4701900157	108		POCAHONTAS LAND CO #21 - 166072	LOUP CREEK	4.0	ELKEM METALS CO
-COLUMBIA GAS TRANSMISSION CORP			RECEIVED:	01/24/83	JA: WV			
8318759		4704300785	106		L R SWEETLD ETAL - 802431	W VA FIELD AREA B	0.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED:	01/24/83	JA: WV			
8318744		4703302376	108		A G SWIGER WN 12537	EAGLE	23.0	GENERAL SYSTEM PU
8318743		4704700836	108		CONSOLIDATED COAL CO 12655	ELKHORN DISTRICT	22.0	GENERAL SYSTEM PU
8318742		4700100393	108		IRA MCBEE WN-10967	PLEASANT	23.0	GENERAL SYSTEM PU
8318741		4703300703	106		LAVINA MCMILLAN WN 11545	UNION DISTRICT	13.0	GENERAL SYSTEM PU
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED:	01/27/83	JA: WV			
8318865		4704700270	108		OLGA COAL CO WN-10554	SANDY RIVER	23.0	GENERAL SYSTEM PU
-J & J ENTERPRISES INC			RECEIVED:	01/24/83	JA: WV			
8318726		4703302174	108		R-234	UNION	0.0	CONSOLIDATED GAS

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		8318739		4703322333	108	P-259	UNION	0.0 CONSOLIDATED GAS
		8318740		4703322356	108	P-242	UNION	0.0 CONSOLIDATED GAS
		8318733		4704102745	108	P-277	COURTHOUSE	0.0 CONSOLIDATED GAS
		8318734		4700121183	108	P-275	PLEASANT	0.0 CONSOLIDATED GAS
		8318728		4703322640	108	P-326	TENMILE	0.0 CONSOLIDATED GAS
		8318729		4703322660	108	P-329	TENMILE	0.0 CONSOLIDATED GAS
		8318731		4703302347	108	P-351	ELK	0.0 CONSOLIDATED GAS
		8318730		4703322790	108	P-341	TENMILE	0.0 CONSOLIDATED GAS
		8318732		4703302389	108	P-356	SARDIS	0.0 CONSOLIDATED GAS
		8318752		4701722716	108	J-105	NEW MILTON	0.0 COLUMBIA GAS TRAN
		8318743		4701722698	108	J-114	NEW MILTON	0.0 CONSOLIDATED GAS
		8318753		4701722838	108	J-126	NEW MILTON	0.0 CONSOLIDATED GAS
		8318735		4701722700	108	J-140	NEW MILTON	0.0 CONSOLIDATED GAS
		8318757		4709520782	108	J-182	CENTERVILLE	0.0 CARNEGIE NATURAL
		8318742		4701722670	108	J-189	CENTRAL	0.0 CONSOLIDATED GAS
		8318738		4701722814	108	J-17	CENTRAL	0.0 CONSOLIDATED GAS
		8318751		4701722617	108	J-230	CENTRAL	0.0 COLUMBIA GAS TRAN
		8318750		4701722624	108	J-235	CENTRAL	0.0 COLUMBIA GAS TRAN
		8318755		4703322465	108	J-246	SARDIS	0.0 CONSOLIDATED GAS
		8318759		4709722083	108	J-261	BANKS	0.0 COLUMBIA GAS TRAN
		8318741		4701722687	108	J-302	CENTRAL	0.0 CONSOLIDATED GAS
		8318758		4701722603	108	J-348	CENTRAL	0.0 EQUITABLE NATURAL
		8318749		4701722608	108	J-358	NEW MILTON	0.0 CARNEGIE NATURAL
		8318744		4701722660	108	J-36	NEW MILTON	0.0 CONSOLIDATED GAS
		8318756		4703322468	108	J-371	SARDIS	0.0 CONSOLIDATED GAS
		8318754		4702123696	108	J-376	TROY	0.0 CONSOLIDATED GAS
		8318737		4701722689	108	J-50	NEW MILTON	0.0 CONSOLIDATED GAS
		8318736		4701722685	108	J-52	NEW MILTON	0.0 CONSOLIDATED GAS
	-PHILLIPS PETROLEUM COMPANY			RECEIVED: 01/24/83		JA: WV		
		8318882		4706100315	108-PB	CASCADE B #1		0.0 CONSOLIDATED GAS
		8318883		4706100316	108-PB	CASCADE C #1		0.0 CONSOLIDATED GAS
	-PHILLIPS PETROLEUM COMPANY			RECEIVED: 01/24/83		JA: WV		
		8318884		4706771703	108-PB	JASPER B #1	SOUTH BURNS CHAPEL	17.5 CONSOLIDATED GAS
	-STERLING DRILLING & PROD CO INC			RECEIVED: 01/24/83		JA: WV		
		8318723		4701501650	108	ALOI 22 SDP #182	BUFFALO DISTRICT	19.0 EQUITABLE GAS CO
		8318725		4701501662	108	S NOTTINGHAM #159	RITTER DISTRICT	13.0 EQUITABLE GAS CO
		8318726		4701501663	108	S NOTTINGHAM 160	RITTER DISTRICT	23.4 EQUITABLE GAS CO
		8318724		4706701433	108	WIANT #131	SALT LICK DISTRICT	4.0 EQUITABLE GAS CO
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	** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO							
	**********							
	-ARCO OIL AND GAS COMPANY			RECEIVED: 01/26/83		JA: CO 1		
		8318856	CD 0562-82	0506706605	103	107-TF SOUTHERN UTE 18-2 33-10 (TF)	IGNACIO BLANCO	128.0 WESTERN SLOPE GAS
		8318854	CD 0540-82	0506706461	103	107-TF SOUTHERN UTE 19-2 33-10 (TF)	IGNACIO BLANCO	95.0 WESTERN SLOPE GAS
		8318855	CD 0534-82	0506706458	103	107-TF SOUTHERN UTE 19-4 33-10 (TF)	IGNACIO BLANCO	70.0 WESTERN SLOPE GAS
	-BEARTOOTH OIL & GAS CO			RECEIVED: 01/26/83		JA: CO 1		
		8318874	CD-057R-82	0510308957	103	NATOMAS FEDERAL #9-15	DRAGON TRAIL	70.0 NORTHWEST PIPELIN
		8318873	CD 0577-82	0510308956	103	NATOMAS FEDERAL #9-6	DRAGON TRAIL	70.0 NORTHWEST PIPELIN
	-CELSIUS ENERGY CO			RECEIVED: 01/26/83		JA: CO 1		
		8318860	CD 0561-82	0506706477	102-2	HIAWATHA DEEP UNIT #2	HIAWATHA	650.0 MOUNTAIN FUEL SUP
	-COORS ENERGY CO			RECEIVED: 01/26/83		JA: CO 1		
		8318877	CD 0555-82	0507701849	102-2	107-TF USA 1-19JC	JACKSON CANYON FEDERA	185.0 NORTHWEST PIPELIN
	-COSERA RESOURCES (USA) LIMITED			RECEIVED: 01/26/83		JA: CO 1		

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JC NO	JA INT	API NO	T SEC(1) SEC( ) WELL NAME	FIELD NAME	PROD	PURCHASER
8318857	CD 0567-82	0510307991	102-2 FEDERAL #1-14-1N-103	WILDCAT	237.3	NORTHWEST PIPELIN
8318858	CD 0587-82	0510306977	102-2 FEDERAL 5-13-1N-103	WILDCAT	1120.0	NORTHWEST PIPELIN
-FUEL RESOURCES DEVELOPMENT CO			RECEIVED: 01/26/83 JA: CO 1			
8318868	CD 0549-82	0510308534	103 107-TF G-14-3-101-S	CATHEDRAL	9.6	MOUNTAIN FUEL SUP
8318869	CD 0535-82	0510308530	102-2 107-TF H-27-3-101-S	CATHEDRAL	9.0	MOUNTAIN FUEL SUP
8318870	CD0541-82	0510308787	102-2 107-TF K-27-3-101-S	CATHEDRAL	8.3	MOUNTAIN FUEL SUP
-GETTY OIL COMPANY			RECEIVED: 01/26/83 JA: CO 1			
8318878	CD 0544-82	0508106514	103 H W OSBORNE #2	WEST MIAWATMA	100.0	MOUNTAIN FUEL SUP
-GULF OIL CORPORATION			RECEIVED: 01/26/83 JA: CO 1			
8318879	CD 0570-82	0508106413	102-3 FEDERAL LAND BANK #23-2	BIG HOLE DEEP UNIT	150.0	NORTHWEST PIPELIN
-MITCHELL ENERGY CORPORATION			RECEIVED: 01/26/83 JA: CO 1			
8318865	CD0512-82	0507708447	102-2 COYOTE WASH UNIT 2-N-8-102A	WILDCAT	0.0	
-MURCHISON BROTHERS			RECEIVED: 01/26/83 JA: CO 1			
8318846	CD 0546-82	0506706591	103 SOUTHERN UTE #14-20-151-17	IGNACIO-BLANCO	61.0	WESTERN SLOPE GAS
8318845	CD 0547-82	0506706592	103 SOUTHERN UTE #14-20-151-17	IGNACIO-BLANCO	57.0	WESTERN SLOPE GAS
8318847	CD 0545-82	0506706590	103 SOUTHERN UTE BLK 6 WELL #6-5	IGNACIO-BLANCO	70.5	WESTERN SLOPE GAS
-NORTHWEST PIPELINE CORPORATION			RECEIVED: 01/26/83 JA: CO 1			
8318675	CD 0580-82	0506705719	108 IGNACIO 33-7 #10	IGNACIO BLANCO MESAVE	0.0	NORTHWEST PIPELIN
-SUN EXPLORATION & PRODUCTION CO			RECEIVED: 01/26/83 JA: CO 1			
8318881	CD 0573-82	0510309679	103 SAGEBRUSH HILLS II #11-2-99	CORRAL CREEK (MANCOS	153.0	INTER NORTH INC
-TWIN ARROW INC			RECEIVED: 01/26/83 JA: CO 1			
8318863	CD0559-82	0510308407	107-TF CONTINENTAL 3-28	CATHEDRAL	8.1	NORTHWEST PIPELIN
8318864	CD0560-82	0510308104	108 MOUNTAIN FUEL 5-34	CATHEDRAL	13.3	I&C PRODUCTION CO
-TXO PRODUCTION CORP			RECEIVED: 01/26/83 JA: CO 1			
8318853	CD 0558-82	0510308874	103 TEXAS MOUNTAIN FEDERAL #2	TEXAS MOUNTAIN	408.0	WESTERN SLOPE GAS
-AMBRA OIL & GAS CO			RECEIVED: 01/26/83 JA: UT 1			
8318876	UD 0556-82	4301930956	102-4 23-A I F	GREATER CISCO (CISCO	20.0	NORTHWEST PIPELIN
-BEARTOOTH OIL & GAS CO			RECEIVED: 01/26/83 JA: UT 1			
8318872	UD 0590-82	4301930962	103 FEDERAL #33-16	SAN ARROYO	650.0	NORTHWEST PIPELIN
8318871	UD 0589-82	4301930963	103 FEDERAL #33-8	SAN ARROYO	750.0	NORTHWEST PIPELIN
-CELSIUS ENERGY CO			RECEIVED: 01/26/83 JA: UT 1			
8318859	UD 0550-82	4304731241	103 ISLAND UNIT #11	ISLAND	738.0	MOUNTAIN FUEL SUP
8318862	UD 0552-82	4304731242	103 ISLAND UNIT #12	ISLAND	533.0	MOUNTAIN FUEL SUP
8318861	UD 0551-82	4304731239	103 ISLAND UNIT #13	ISLAND	936.0	MOUNTAIN FUEL SUP
-COASTAL OIL & GAS CORP			RECEIVED: 01/26/83 JA: UT 1			
8318850	UD 0575-82	4304731098	103 107-TF NATURAL BUTTES UNIT #64 N-3 8-9-21	NATURAL BUTTES	292.0	COLORADO INTERSTA
8318851	UD 0576-82	4304731246	103 107-TF NATURAL BUTTES UNIT #85J (4-10-22)	NATURAL BUTTES	365.0	COLORADO INTERSTA
8318848	UD 0538-82	4304731088	103 107-TF NBU #72N-3 (12-10-20)	NATURAL BUTTES	328.0	COLORADO INTERSTA
8318849	UD 0539-82	4304731250	103 107-TF NBU #87J (3-10-22)	NATURAL BUTTES	584.0	COLORADO INTERSTA
-NATURAL GAS CORPORATION OF CALIF			RECEIVED: 01/26/83 JA: UT 1			
8318867	UD0557-82	4304730616	108 MAIN CANYON UNIT 11-9-15-23	MAIN CANYON	22.5	PACIFIC GAS & ELE
8318866	UD0548-82	4304730698	107-TF RIVER BEND 11-22E	RIVER BEND FIELD	108.0	PACIFIC GAS & ELE
-ODEGARD RESOURCES INC			RECEIVED: 01/26/83 JA: UT 1			
8318880	UD 0572-82	4301930852	103 WESTWATER UNIT #5	WESTWATER UNIT	180.0	NORTHWEST PIPELIN
-TXO PRODUCTION CORP			RECEIVED: 01/26/83 JA: UT 1			
8318852	UD 0582-82	4301930704	108 BAILEY FEDERAL #1	WILDCAT	383.0	NORTHWEST PIPELIN
**********						
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM						
**********						
-CONSOLIDATED OIL & GAS INC			RECEIVED: 01/24/83 JA: NM 4			
8318784	NM-1224-80	3003921510	108-PR TRIBAL "C" 11-A	BLANCO MESAVERDE	21.0	NORTHWEST PIPELIN
**********						
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK						
**********						
-GUSSMAN OIL CO			RECEIVED: 01/24/83 JA: OK 8			

BILLING CODE 6717-01-C

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JC NO	JA INT	API NO	T SEC(1) SEC( ) WELL NAME	FIELD NAME	PROD	PURCHASER
8318877	UD 0555-82	4301930955	102-4 23-B I F	GREATER CISCO (CISCO	20.0	NORTHWEST PIPELIN
8318878	UD 0554-82	4301930954	102-4 23-C I F	GREATER CISCO (CISCO	20.0	NORTHWEST PIPELIN
-CELSIUS ENERGY CO			RECEIVED: 01/26/83 JA: UT 1			
8318860	UD 0553-82	4304731240	103 ISLAND UNIT #14	ISLAND	1.0	MOUNTAIN FUEL SUP
-COASTAL OIL & GAS CORP			RECEIVED: 01/26/83 JA: UT 1			
8318853	UD 0574-82	4304731247	103 107-TF NATURAL BUTTES UNIT #85K (4-10-22)	NATURAL BUTTES	365.0	COLORADO INTERSTA
-NATURAL GAS CORPORATION OF CALIF			RECEIVED: 01/26/83 JA: UT 1			
8318865	UD0556-82	4304730615	108 MAIN CANYON UNIT 10-9-15-23	MAIN CANYON	22.5	PACIFIC GAS & ELE
-TXO PRODUCTION CORP			RECEIVED: 01/26/83 JA: UT 1			
8318854	UD 0581-82	4301930705	108 BAILEY FEDERAL #2	WILDCAT	383.0	NORTHWEST PIPELIN
**********						
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM						
**********						
-CONSOLIDATED OIL & GAS INC			RECEIVED: 01/24/83 JA: NM 4			
8318785	NM-1224-80	3003921511	108-PR TRIBAL "C" 11-B	BLANCO MESAVERDE	21.0	NORTHWEST PIPELIN
**********						
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK						
**********						
-GUSSMAN OIL CO			RECEIVED: 01/24/83 JA: OK 8			

BILLING CODE 6717-01-C

BILLING CODE 6717-01-C

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JD NO	DATE	API NO	SEC (1)	SEC (2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8318766		3511300000	102-4		FRED #1A	EAST OSAGE CITY	150.0	CITIES SERVICE GA
8318767		3511300000	102-4		FRED #2A	EAST OSAGE CITY	100.0	CITIES SERVICE GA
-RAUEL A GUSSMAN			RECEIVED: 01/24/83		JA: OK 8			
831876		3511300030	103		HAPPY #2-A	TIDAL OSAGE	4.0	PHILLIPS PETROLEU
831877		3511300000	103		HAPPY #3A	TIDAL OSAGE	4.0	PHILLIPS PETROLEU
831877		3511300000	103		HAPPY #4-A	TIDAL OSAGE	4.0	PHILLIPS PETROLEU
8318772		3511300000	103		HAPPY #5-A	TIDAL OSAGE	2.0	PHILLIPS PETROLEU
8318768		3511300000	102-4		SAVAGE #1A	SIGNAL HILLS	50.0	PHILLIPS PETROLEU

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 10 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (A) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 10 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Categories within each MGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-4315 Filed 2-17-83; 8:45 am]
BILLING CODE 6717-01-M

[Volume 832]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 10, 1983.

CO SC	CA NT	NU M	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS								
-ALAN J ANTWEIL			RECEIVED:	01/28/83	JA: NM			
8319053		3002527932	103		SHAMU #1 1-A-12-20S-37E	SKAGGS DRINKARD	64.2	WARREN PETROLEUM
-AMERADA HESS CORPORATION			RECEIVED:	01/28/83	JA: NM			
8319062		3002500000	108		WEIR "A" #1	EUNICE-MONUMENT	11.4	WARREN PETROLEUM
-ARCO OIL AND GAS COMPANY			RECEIVED:	01/28/83	JA: NM			
8319063		3001521295	108-ER		STATE BR COM #1	AVALON	70.9	GAS CO OF NEW MEX
-CITIES SERVICE COMPANY			RECEIVED:	01/28/83	JA: NM			
8319064		3002500000	108-ER		STATE #5	EUMONT YATES	0.0	INTER NORTH INC
-HARVEY E YATES COMPANY			RECEIVED:	01/28/83	JA: NM			
8319052		3001524076	103		HEYCO AID STATE COM #1	UND S EMPIRE MORROW	0.0	TRANSWESTERN PIPE
-HNG OIL COMPANY			RECEIVED:	01/28/83	JA: NM			
8319056		3002527849	103		LOVINGTON PLAINS "1" STATE COM #1	UNDESIGNATED N EIDSON	100.4	WARREN PETROLEUM
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	01/28/83	JA: NM			
8319065		3002526696	108		EAST VACUUM GB/SA TR 3456 #010	VACUUM GB/SA	0.0	EL PASO NATURAL G
-READ & STEVENS INC			RECEIVED:	01/28/83	JA: NM			
8319055		3001524270	103		AMOCO MESA #1	UND BUNKER HILL PENRO	1.0	PHILLIPS PETROLEU
8319054		3001524271	103		MOBIL MESA #1	UND BUNKER HILL PENRO	1.0	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO			RECEIVED:	01/28/83	JA: NM			
8319051		3004525395	103		RATTLESNAKE CANYON #2	BLANCO	275.0	EL PASO NATURAL G
-SUN EXPLORATION & PRODUCTION CO			RECEIVED:	01/28/83	JA: NM			
8319057		3001500000	103		PECOS IRRIGATION CO #1	SOUTH CULEBRA BLUFF	197.1	TRANSWESTERN PIPE
-TEXAS WEST OIL & GAS CORPORATION			RECEIVED:	01/28/83	JA: NM			
8319061		3002500000	108		STATE "2" #2	ANTELOPE RIDGE (ATOKA	0.5	EL PASO NATURAL G
-TRANSWESTERN GAS SUPPLY CO			RECEIVED:	01/28/83	JA: NM			
8319058		3000561020	107-TF		MACHO STATE #1	WILDCAT/ABO	11.0	TRANSWESTERN PIPE
8319060		3000561132	102-P		MACHO STATE #2	WILDCAT/ABO	55.0	TRANSWESTERN PIPE
8319059		3000561132	107-TF		MACHO STATE #2	WILDCAT/ABO	55.0	TRANSWESTERN PIPE
-WARREN PETR CO A DIV OF GULF OIL CO			RECEIVED:	01/28/83	JA: NM			
8319067		3002509940	108		ALICE PADDOCK #4	BLINEBRY	6.8	EL PASO NATURAL G
8319066		3002505730	108		D A WILLIAMS #2	EUNICE MONUMENT	16.4	EL PASO NATURAL G
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION								
-BEREA OIL AND GAS CORPORATION			RECEIVED:	01/28/83	JA: NY			
8319082	4731	3101317944	107-TF		H OAG 3-A	WILDCAT	16.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED:	01/28/83	JA: NY			
8319070	4715	3101110702	108		ANNA RINDFLEISCH N-1332	AUBURN	20.0	GENERAL SYSTEM PU
-ECLIPSE MANAGEMENT ASSOCIATES INC			RECEIVED:	01/28/83	JA: NY			
8319068	4791	3101314771	108		DAY (SWEETMAN) #3129	LAKE SHORE	14.2	NATIONAL FUEL GAS
8319086	4789	3101314869	107-TF		THOMPSON A #3162	LAKE SHORE	0.0	COLUMBIA GAS TRAN
8319085	4786	3101314869	103		THOMPSON A #3162	LAKE SHORE	0.0	COLUMBIA GAS TRAN

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JC SC	SA MT	API #	CODES	STATUS	WELL NAME
-GYPSUM ENERGY MANAGEMENT CO			RECEIVED:	01/28/83	JA: NY
8319075	4744	3103717340	103		KOLARIK #1
8319074	4746	3103717333	103		LITTLEJOHN #1
8319073	4748	3103717341	103		MECK #1
8319076	4742	3103717334	103		P KERN #2
8319072	4750	3103717361	103		RILEY #1
8319071	4752	3103717335	103		SIERK #1
-J C WEIL CO INC			RECEIVED:	01/28/83	JA: NY
8319078	4757	3102913631	108		GIALLANZA #1
-J M RESOURCES			RECEIVED:	01/28/83	JA: NY
8319083	4760	3101317749	107-TF		A FAIRBANKS #1
8319080	4759	3101317749	103		A FAIRBANKS #1
-JAMISON GAS CO			RECEIVED:	01/28/83	JA: NY
8319069	4729	3102917159	103		GAPFP #001
-KEYSTONE ENERGY OIL & GAS PRODUCTIO			RECEIVED:	01/28/83	JA: NY
8319081	4741	3100916921	107-TF		CLARK #2
8319077	4740	3100916921	103		ROBERT CLARK #2
-UNIVERSAL RESOURCES HOLDINGS INC			RECEIVED:	01/28/83	JA: NY
8319084	4762	3101317753	107-TF		S LANPHERE #1
8319079	4761	3101317753	103		S LANPHERE #1
OKLAHOMA CORPORATION COMMISSION					
-ANDOVER OIL COMPANY			RECEIVED:	01/27/83	JA: OK
8319047	19389	3501721965	103		COURTNEY #30-1
-ARCO OIL AND GAS COMPANY			RECEIVED:	01/27/83	JA: OK
8319005	19077	3501700006	108		C E SYKES #1
-BANDERA ENERGY CO			RECEIVED:	01/27/83	JA: OK
8318995	19543	3515321327	103		BURKHART 1-33
-BERRY OIL & GAS CO			RECEIVED:	01/27/83	JA: OK
8319035	19178	3513300000	108		SEARCY #28-1
-BONRAY ENERGY CORP			RECEIVED:	01/27/83	JA: OK
8319044	19393	3515321276	103		STATE-STORY #36-3
-BURKHART PETROLEUM CORP			RECEIVED:	01/27/83	JA: OK
8319050	19361	3504551076	103		SCHOLLENBARGER #1-14
-CANADIAN EXPLORATION CORP			RECEIVED:	01/27/83	JA: OK
8319031	19360	3501777092	103		SCALAMINO #13-1
-CIMARRON PETROLEUM CORPORATION			RECEIVED:	01/27/83	JA: OK
8319036	19028	3505921007	102-2		CRC #158-2 WILLS
8319037	19027	3505921007	103		CRC #158-2 WILLS
-CITIES SERVICE COMPANY			RECEIVED:	01/27/83	JA: OK
8318997	19537	3500713021	108		MILES R #3
-COTTON PETROLEUM CORPORATION			RECEIVED:	01/27/83	JA: OK
8319022	22760	3501521210	107-DP		DEDE #1
-DEMINEX US OIL COMPANY			RECEIVED:	01/27/83	JA: OK
8319001	19097	3500921710	103		GREEN #3
-DOME PETROLEUM CORP			RECEIVED:	01/27/83	JA: OK
8319025	18788	3504321354	103		MILLER #1-5
-EDC OIL CO			RECEIVED:	01/27/83	JA: OK
8319041	19072	3514722611	103		THOMAS #32-1 S32-T25N-R14E
8319042	19071	3514722612	103		THOMAS #32-2 S32-T25N-R14E
-F C D OIL CORP			RECEIVED:	01/27/83	JA: OK
8319033	19357	3507323605	103		STATES 1-13

FIELD NAME	RECI	PURCHASER
HURON CREEK	10.0	U S GYPSUM CO
INDIAN FALLS	9.2	U S GYPSUM CO
HURON CREEK	8.2	U S GYPSUM CO
HURON CREEK	3.5	U S GYPSUM CO
INDIAN FALLS	10.2	U S GYPSUM CO
HURON CREEK	10.1	U S GYPSUM CO
LAWRENCE	3.0	NATIONAL FUEL GAS
FORESTVILLE	2.5	CHAUTAUQUA NATURA
FORESTVILLE	2.5	CHAUTAUQUA NATURA
BUFFALO CREEK	8.6	NATIONAL FUEL GAS
SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
CHARLOTTE	20.0	COLUMBIA GAS TRAN
CHARLOTTE	20.0	COLUMBIA GAS TRAN
	21.0	PHILLIPS PETROLEU
SHO-VEL-TUM	10.0	AMINOIL USA INC
NORTH EAST WAYNOKA	1300.0	DELHI GAS PIPELIN
	35.5	ARCO OIL & GAS CO
SW KEENAN	5.7	PHILLIPS PETROLEU
WEST SHATTUCK	0.0	TRANSWESTERN PIPE
SOUTH YUKON	30.0	DELHI GAS PIPELIN
	270.0	MICHIGAN WISCONSI
	120.0	MICHIGAN WISCONSI
MOCANE	5.3	COLORADO INTERSTA
	0.0	UNITED GAS PIPELI
S W PAOLI	1.0	WARREN PETROLEUM
	268.6	TRANSWESTERN PIPE
OGLESBY GAS FIELD	23.0	OKAN GAS CO
OGLESBY GAS	5.5	OKAN GAS CO
SOONER TREND	54.8	EXXON CO USA

OL NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	
-FOREST OIL CORPORATION			RECEIVED:	01/27/83		JA: OK
8319020	22822	3512920909	107-DP		MCCASKILL #1-19	
-GRACE PETROLEUM CORPORATION			RECEIVED:	01/27/83		JA: OK
8319023	22756	3500920449	107-DP		CAIN 1-14	
-GULF OIL CORPORATION			RECEIVED:	01/27/83		JA: OK
8318994	19547	3515100000	108		REXROAT #1	
-HANOVER MANAGEMENT CO			RECEIVED:	01/27/83		JA: OK
8319003	19461	3503120946	103		NEASE A-1	
-HARPER OIL COMPANY			RECEIVED:	01/27/83		JA: OK
8319002	19496	3507300000	108		RAY BRUCE #1	
-HEARTLAND EXPLORATION INC			RECEIVED:	01/27/83		JA: OK
8319040	18777	3510320948	102-2		FRAILEY #1	
-HOFFMAN OIL & GAS CO			RECEIVED:	01/27/83		JA: OK
8318998	19532	3511100000	108		SITLER #1	
-ITR PETROLEUM INC			RECEIVED:	01/27/83		JA: OK
8319049	19365	3504722636	103		BYRNES #1	
-JOE C RICHARDSON JR			RECEIVED:	01/27/83		JA: OK
8319004	19480	3500722284	103		KAMOS #1-13	
-KELLOIL INC			RECEIVED:	01/27/83		JA: OK
8319039	18859	3500722249	103		WATSON #1	
-MOBIL OIL CORP			RECEIVED:	01/27/83		JA: OK
8319043	19447	3513700000	108		JOHN L WILSON #35	
-NATIONAL OIL COMPANY			RECEIVED:	01/27/83		JA: OK
8319038	18950	3500721392	103		POTTER "B" #1	
-PAGE PETROLEUM INC			RECEIVED:	01/27/83		JA: OK
8319026	18303	3510121209	103		WHITEFIELD #1	
-PCX CORP			RECEIVED:	01/27/83		JA: OK
8319021	22797	3501521474	107-DP		BERNDSEN #1	
-PETRO-LEWIS CORPORATION			RECEIVED:	01/27/83		JA: OK
8318996	19541	3509320558	108		FEDERAL 14 #1	
8318999	19521	3507320544	108		MEAUX 14-1	
-RESOURCES INVESTMENT CORPORATION			RECEIVED:	01/27/83		JA: OK
8319000	19503	3502720622	103		IDELL #1-A	
-RH OPERATING CO			RECEIVED:	01/27/83		JA: OK
8319012	19424	3503520664	108		CENTRAL COAL & COKE #12A	
8319011	19425	3503520737	108		CENTRAL COAL & COKE #13	
8319010	19426	3503520736	108		CENTRAL COAL & COKE #16	
8319009	19427	3503520758	108		CENTRAL COAL & COKE #18	
8319013	19423	3503520874	108		CENTRAL COAL & COKE #8B	
8319006	19431	3503520687	108		F STICE #10	
8319030	19432	3503520688	108		F STICE #11	
8319029	19433	3503520689	108		F STICE #12	
8319028	19435	3510523556	108		LUCAS #25A	
8319007	19429	3503520534	108		NORTH EWERS #2	
8319008	19428	3503520535	108		NORTH EWERS #3	
8319015	19421	3503520422	108		PARKER #28-2	
8319014	19422	3503520484	108		PARKER #28-6	
8319016	19420	3503520465	108		PARKER #29-3	
8319017	19419	3503520487	108		PARKER #29-5	
8319018	19418	3503520486	108		PARKER #29-6	
8319019	19417	3503520275	108		VAN NESS #32-1	
-ROCKWELL PETROLEUM CORP			RECEIVED:	01/27/83		JA: OK
8319027	17785	3508101424	102-4		STATE SCHOOL LAND #1	

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FIELD NAME	PROD	PURCHASER
N W BERLIN (SOUTH CHE	1100.0	EL PASO NATURAL G
KENNEMER	0.0	EL PASO NATURAL G
OAKDALE NORTH	10.0	MICHIGAN WISCONSI
HANBURY	10.8	ARKANSAS LOUISIAN
SOONER TREND	21.9	PHILLIPS PETROLEU
SOUTH TONKAWA	130.0	ARCO OIL & GAS CO
NORTH DEGGS	0.0	PHILLIPS PETROLEU
N E ENID	110.0	CRA INC
MOCANE-LAVERN (MORROW	365.0	PANHANDLE EASTERN
	226.0	NATURAL GAS PIPE
SHO VEL TUM	0.5	GETTY OIL CO
WEST GREENOUGH	23.0	PANHANDLE EASTERN
HASKELL	40.0	PHILLIPS PETROLEU
S FORT COBB	0.0	EL PASO NATURAL G
SOONER TREND	[illegible].0	PARTNERSHIP PROPE
SOONER TREND	[illegible].0	PARTNERSHIP PROPE
N W NORMAN	[illegible]2.1	SUN GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
SOUTH COFFEYVILLE FIE	6.0	RH OPERATING CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
NORTH CRAIG FIELD	6.0	TRANS-GAS CO
SKELLYVILLE	365.0	

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OPR / API WELL	CA PT	API NO	RECEIVED / PERMIT NO / WELL NAME	FIELD NAME	REG	PURCHASER
-STANTON ENERGY INC			RECEIVED: 01/27/83 JA: OK			
8319048 19368		3[illegible]115[illegible]1574	103 WAYNE JESKE #1		54.0	ENTERPRISE DEVELO
-TENNECO OIL COMPANY			RECEIVED: 01/27/83 JA: OK			
8319024 22746		3500920446	107-DF BLACKBURN #1-16	SOUTH NEW LIBERTY	65.0	TRANSWESTERN PIPE
-TOM F MARSH INC			RECEIVED: 01/27/83 JA: OK			
8319034 19355		3[illegible]125[illegible]0477	103 COPELAND #1	KEYES	73.0	COLORADO INTERSTA
-TOMLINSON OIL CO INC			RECEIVED: 01/27/83 JA: OK			
8319032 19358		3500700000	103 STICKLER #1	GREENOUGH	76.3	PHILLIPS PETROLEU
-VIERSEN & COCHRAN			RECEIVED: 01/27/83 JA: OK			
8319045 19391		3514721373	103 EGGERS-PARFFE UNIT #2	SOONER TREND	5.0	CHAMPLIN PETROLEU
8319046 19390		3514721431	103 EGGERS-RODES UNIT #3	SOONER TREND	75.0	CHAMPLIN PETROLEU

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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

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-ADOBE OIL & GAS CORPORATION			RECEIVED: 01/28/83 JA: PA			
8318952 18738		3703321392	102-2 KENNETH HARCHICK #1	HASTINGS	24.0	COLUMBIA GAS TRAN
8318953 18739		3703321393	102-2 KENNETH HARCHICK #2	HASTINGS	25.0	COLUMBIA GAS TRAN
8318954 18740		3703321394	102-2 KENNETH HARCHICK #3	HASTINGS	26.0	COLUMBIA GAS TRAN
8318955 18741		3706327185	103 ZOE FARMERY #1	BURNSIDE	22.0	COLUMBIA GAS TRAN
-ASHTOLA PRODUCTION CO			RECEIVED: 01/28/83 JA: PA			
8318950 18728		3751203040	103 J HAROLD ARNOLD #3	WALTERSBURG	44.0	UGI DEVELOPMENT C
-CABOT OIL & GAS CORP			RECEIVED: 01/28/83 JA: PA			
8318940 18642		3712142[illegible]1[illegible]	102-2 CLIFFORD REID #1	CANAL	50.0	TENNESSEE GAS PIP
8318939 18641		3712142[illegible]1[illegible]	107-CS CLIFFORD REID #1	CANAL	50.0	TENNESSEE GAS PIP
8318942 18644		3712142[illegible]094	102-2 DAVID WAGNER #1	CANAL	50.0	TENNESSEE GAS PIP
8318941 18643		3712142[illegible]094	107-TF DAVID WAGNER #1	CANAL	50.0	TENNESSEE GAS PIP
-CARDINAL OIL CO			RECEIVED: 01/28/83 JA: PA			
8318972 18841		3703921[illegible]	107-TF JOSEPH MORELAND #7 82-28 CPA-21[illegible]09	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED: 01/28/83 JA: PA			
8318980 18886		3703321379	102-4 JANE WELLINGTON #1 WN-1887	BURNSIDE	17.0	GENERAL SYSTEM PU
8318986 18881		3703321379	103 JANE WELLINGTON #1 WN-1887	BURNSIDE	17.0	GENERAL SYSTEM PU
8318989 18884		3707120174	103 LORETTA PAWLOWSKI #2 WN-1928	SUSQUEHANNA	71.0	GENERAL SYSTEM PU
8318987 18882		3705327005	103 W B BROOKS #1 WN-1915	MONTGOMERY	71.0	GENERAL SYSTEM PU
8318988 18883		3703321417	103 WILLIAM B ROSS #1 WN-1916	BURNSIDE	11.0	GENERAL SYSTEM PU
-CROSS RESOURCES			RECEIVED: 01/28/83 JA: PA			
8318898 17423		3704922031	102-2 HERBERT MERCIER #1	WATERFORD	10.0	NATIONAL FUEL GAS
8318897 17422		3704922031	107-TF HERBERT MERCIER #1	WATERFORD	10.0	NATIONAL FUEL GAS
8318900 17425		3704922025	102-2 SAMUEL FAULKABER #1	WATERFORD	10.0	NATIONAL FUEL GAS
8318899 17424		3704922025	107-TF SAMUEL FAULKABER #1	WATERFORD	10.0	NATIONAL FUEL GAS
-ENVIROGAS INC			RECEIVED: 01/28/83 JA: PA			
8318951 18729		3704922453	103 HOLZHAUSEN #1	NORTH EAST DEEP	4.0	NATIONAL FUEL GAS
8318929 18697		3704[illegible]1930	107-TF L ALLEN #4	WATERFORD DEEP	18.0	COLUMBIA GAS TRAN
8318930 18698		3704[illegible]2000	107-TF R MCGFORD #1	WATERFORD	18.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC			RECEIVED: 01/28/83 JA: PA			
8318958 18745		3706[illegible]1681	103 MAX E PIPER #1	HENDERSON	0.0	CONSOLIDATED GAS
8318957 18744		3706324743	103 R D MCNAUGHTON #1	WHITE	2.0	T W PHILLIPS GAS
8318956 18743		3706324314	103 STUDENT COOP ASSOCIATION #3	WHITE	0.0	PEOPLES NATURAL G
-KRIEBEL WELLS #2			RECEIVED: 01/28/83 JA: PA			
8318947 18709		3704327244	103 PEARL #1	JOHNSONBURG	20.0	
8318993 18707		3706[illegible]7246	103 MCCULLY #3	TUNNELTON	20.0	
8318943 18650		3706327205	103 PEARCE #1	JOHNSONBURG	19.0	
-MERIDIAN EXPLORATION CORP			RECEIVED: 01/28/83 JA: PA			
8318982 18870		3704927167	107-TF C W FETTEROLF #640-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN

JD NO	OPERAT	API #	FIELD	SELECT	WELL NAME
8318981	18869	3704922167	102-2		G W FETTEROLF #640-1
8318984	18872	3703921847	107-TF		JAMES KUHN #625-1
8318983	18871	3703921847	102-2		JAMES KUHN #625-1
			RECEIVED:	01/28/83	JA: PA
-MITCH-WELL ENERGY INC					
8318928	18091	3704922071	107-TF		BEAVERS #1
8318927	18090	3704922071	102-2		BEAVERS #1
8318922	17764	3704922128	107-TF		FITTING #1
8318921	17763	3704922128	102-2		FITTING #1
8318926	18089	3704922212	107-TF		LAPAGLIA #1
8318925	18088	3704922212	102-2		LAPAGLIA #1
8318920	17762	3704921967	107-TF		VANVELD/BURBRIDGE #1
8318919	17761	3704921967	102-2		VANVELD/BURBRIDGE #1
			RECEIVED:	01/28/83	JA: PA
-MITCHELL ENERGY CORPORATION					
8318992	18901	3703921796	107-TF		C E BUNNELL UNIT #1
8318991	18900	3703921796	103		C E BUNNELL UNIT #1
			RECEIVED:	01/28/83	JA: PA
-MITCHELL HEARD HOPKINS & BEAVERS					
8318932	18303	3704922211	107-TF		HULL #1
8318931	18302	3704922211	102-2		HULL #1
			RECEIVED:	01/28/83	JA: PA
-NEA CROSS CO					
8318938	18571	3704922174	107-TF		ALBERT SHIELDS #1
8318937	18570	3704922174	102-2		ALBERT SHIELDS #1
8318907	17705	3704921937	107-TF		ARCHILLES C PULAKOS #1
8318906	17704	3704921937	102-2		ARCHILLES C PULAKOS #1
8318948	18710	3704921567	102-2		C & H BOYD #4
8318904	17702	3704921952	107-TF		CHARLES J BURGE #1
8318903	17701	3704921952	102-2		CHARLES J BURGE #1
8318910	17708	3704921936	107-TF		CLARENCE W MITCHELL #1
8318905	17703	3704921936	102-2		CLARENCE W MITCHELL #1
8318934	18453	3704921837	107-TF		EDWARD & LUCY BIELAK #1
8318933	18452	3704921837	102-2		EDWARD & LUCY BIELAK #1
8318895	17365	3704921852	107-TF		FOSTER #1
8318894	17364	3704921852	102-2		FOSTER #1
8318893	17363	3704921890	102-2		G MITCHELL #3
8318892	17362	3704921890	107-TF		G MITCHELL #3
8318918	17716	3704921928	107-TF		HOWARD & DORRIS PROCTOR #1
8318917	17715	3704921928	102-2		HOWARD & DORRIS PROCTOR #1
8318916	17714	3704921907	107-TF		KURTZ & BARBARA FICHTHORN #2
8318915	17713	3704921907	102-2		KURTZ & BARBARA FICHTHORN #2
8318909	17707	3704921945	107-TF		LOUIE H KUHNS #1
8318908	17706	3704921945	102-2		LOUIE H KUHNS #1
8318896	17367	3704921880	102-2		NATHAN #2
8318912	17710	3704921905	107-TF		RAYMOND AND BERTHA BOYD #2
8318911	17709	3704921905	102-2		RAYMOND AND BERTHA BOYD #2
8318914	17712	3704921904	107-TF		RAYMOND BARRITT #1
8318913	17711	3704921904	102-2		RAYMOND BARRITT #1
8318946		3704922311	107-TF		ROSCOE L & MARILYN C MITCHELL #4
8318945	18687	3704922311	102-2		ROSCOE L & MARILYN C MITCHELL #4
8318936	18567	3704922207	102-2		ROSCOE L & MARILYN MITCHELL #3
8318935	18566	3704922207	107-TF		ROSCOE L & MARILYN MITCHELL #3
8318949	18711	3704921508	102-2		THOMAS MANNARELLI #2
			RECEIVED:	01/28/83	JA: PA
-NORTHWEST NATURAL GAS CO					
8318975	18651	3703921793	103		CHARLES & BARBARA WILSON #1
8318974	18650	3703921793	107-TF		CHARLES & BARBARA WILSON #1

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FIELD NAME	PROD	PURCHASER
EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
ROCKDALE	0.0	COLUMBIA GAS TRAN
ROCKDALE	0.0	COLUMBIA GAS TRAN
WATERFORD POOL	0.0	COLUMBIA GAS TRAN
WATERFORD POOL	0.0	COLUMBIA GAS TRAN
WATERFORD POOL	0.0	COLUMBIA GAS TRAN
WATERFORD POOL	0.0	COLUMBIA GAS TRAN
WATERFORD POOL	0.0	NATIONAL FUEL GAS
WATERFORD POOL	0.0	NATIONAL FUEL GAS
WATERFORD POOL	0.0	COLUMBIA GAS TRAN
WATERFORD POOL	0.0	COLUMBIA GAS TRAN
CONNEAUT LAKE (MEDINA	410.0	TENNESSEE GAS PIP
CONNEAUT LAKE (MEDINA	410.0	TENNESSEE GAS PIP
WATERFORD POOL	0.0	COLUMBIA GAS TRAN
WATERFORD POOL	0.0	COLUMBIA GAS TRAN
WATERFORD	10.0	NATIONAL FUEL GAS
BOROUGH	10.0	NATIONAL FUEL GAS
WATERFORD	10.0	NATIONAL FUEL GAS
LEHOUEF	10.0	NATIONAL FUEL GAS
MILL VILLAGE	30.0	NATIONAL FUEL GAS
WATERFORD	10.0	NATIONAL FUEL GAS
WATERFORD	10.0	NATIONAL FUEL GAS
WATERFORD	10.0	NATIONAL FUEL GAS
WATERFORD	10.0	NATIONAL FUEL GAS
LEHOEUF	10.0	NATIONAL FUEL GAS
LEHOEUF	10.0	NATIONAL FUEL GAS
LEBOUEF	10.0	NATIONAL FUEL GAS
LEBOEUF	10.0	NATIONAL FUEL GAS
LEBOEUF	10.0	NATIONAL FUEL GAS
WATERFORD	10.0	NATIONAL FUEL GAS
WATERFORD	10.0	NATIONAL FUEL GAS
WATERFORD	10.0	NATIONAL FUEL GAS
LEBOEUF	10.0	NATIONAL FUEL GAS
LEBOEUF	10.0	NATIONAL FUEL GAS
WASHINGTON	10.0	NATIONAL FUEL GAS
WASHINGTON	10.0	NATIONAL FUEL GAS
LEBOEUF	10.0	NATIONAL FUEL GAS
LEBOEUF	10.0	NATIONAL FUEL GAS
LEBOEUF	10.0	NATIONAL FUEL GAS
LEBOEUF	10.0	NATIONAL FUEL GAS
MILL VILLAGE	25.0	NATIONAL FUEL GAS
CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
CONNEAUTVILLE	0.0	NATIONAL FUEL GAS

JD NO	JD FD	FERC	RECEIVED	DOCKET(S)	WELL NAME
-NYS NATURAL GAS COMPANY					
8318889	14768	3703921575	RECEIVED:	01/28/83	JA: PA
			103		FOX #1 - CRA-21575
-PENN PROJECTS LTD DRILLING PROGRAM			RECEIVED:	01/28/83	JA: PA
8318985	18674	3712921966	102-2		OLIVER K PAINTER
-PERO BROS GAS CO			RECEIVED:	01/28/83	JA: PA
8318961	18830	3704920997	107-TF		PERO FARMS #1
-PNB PETROLEUM CORP			RECEIVED:	01/28/83	JA: PA
8318960	18748	3708520415	107-TF		J MIRAGE #1
8318959	18747	3708520415	103		J MIRAGE #1
-ROBERT BRACE FARMS			RECEIVED:	01/28/83	JA: PA
8318890	17224	3704921994	107-TF		OWEN #1
8318891	17225	3704921994	102-2		OWEN #1
-S T JOINT VENTURE #1A			RECEIVED:	01/28/83	JA: PA
8318973	18643	3703921437	103		MCCARTNEY #1-A
-T W PHILLIPS GAS & OIL CO			RECEIVED:	01/28/83	JA: PA
8318969	18638	3700520344	102		E H SLEASE #1
8318970	18639	3700521110	102		ERNEST O & METTY J SMITH #1
8318963	18832	3700520812	102		HELVETIA COAL MINING CO #6
8318962	18831	3700520884	102		HELVETIA COAL MNG CO #4
8318971	18840	3700520703	102		J M THOMPSON #1
8318964	18833	3700500000	102		JOHN MCCURDY #1
8318965	18834	3700520258	102		JOHN MCCURDY #2
8318966	18837	3700520780	102		NELL PATTERSON #1
8318967	18836	3700500000	102		O O MEYER #2
8318966	18835	3700521029	102		R A MCMEANS #1
-TURM OIL INC			RECEIVED:	01/28/83	JA: PA
8318977	18665	3700522450	103		CURTIS C & RUTH W WHITE #1
8318978	18666	3700522512	102		CURTIS C & RUTH W WHITE #2
8318979	18667	3700522513	103		CURTIS C & RUTH W WHITE #3 (NORTH)
8318980	18668	3700522416	102		DWIGHT C MCKAIN #1
8318976	18662	3706325087	102		F L MCCAULEY JR #2
8318944	18657	3706327085	103		JOHN R KLIMKIEWICZ #2
-VINEYARD OIL & GAS CO			RECEIVED:	01/28/83	JA: PA
8318888	11696	3704921751	102-2		MARTENS #4
8318887	11695	3704921751	107-TF		MARTENS #4
8318902	17462	3704922005	107-TF		ZIMMERLY #3
8318901	17461	3704922005	102-2		ZIMMERLY #3
8318924	18087	3704922088	102-2		ZIMMERLY #5
8318923	18086	3704922088	107-TF		ZIMMERLY #5

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FIELD NAME	PROD	PURCHASER
ATHENS	30.0	COLUMBIA GAS TRAN
EAST HUNTINGDON	35.0	
CORRY	20.0	NATIONAL FUEL GAS
DEER CREEK	30.0	TENNESSEE GAS PIP
DEER CREEK	30.0	TENNESSEE GAS PIP
WATERFORD	0.0	NATIONAL FUEL GAS
WATERFORD	0.0	NATIONAL FUEL GAS
PENN	25.0	CONSOLIDATED GAS
COWANSHANNOCK	2.2	T W PHILLIPS GAS
COWANSHANNOCK	1.4	T W PHILLIPS GAS
COWANSHANNOCK	6.2	T W PHILLIPS GAS
COWANSHANNOCK	5.2	T W PHILLIPS GAS
COWANSHANNOCK	1.1	T W PHILLIPS GAS
COWANSHANNOCK	2.8	T W PHILLIPS GAS
COWANSHANNOCK	2.6	T W PHILLIPS GAS
COWANSHANNOCK	3.7	T W PHILLIPS GAS
COWANSHANNOCK	1.4	T W PHILLIPS GAS
COWANSHANNOCK	2.7	T W PHILLIPS GAS
RURAL VALLEY	25.0	INDUSTRIAL ENERGY
RURAL VALLEY	15.0	INDUSTRIAL ENERGY
BRYAN	24.0	INDUSTRIAL ENERGY
RURAL VALLEY	17.0	INDUSTRIAL ENERGY
ROCHESTER MILLS	12.0	INDUSTRIAL ENERGY
MCINTYRE	40.0	
LEBOEUF	12.0	NATIONAL FUEL GAS
LEBOEUF	12.0	NATIONAL FUEL GAS
DRUMLIN	18.0	NATIONAL FUEL GAS
DRUMLIN	18.0	NATIONAL FUEL GAS
DRUMLIN	18.0	NATIONAL FUEL GAS
DRUMLIN	18.0	NATIONAL FUEL GAS

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8581.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4316 Filed 2-17-83, 8:45 am]

BILLING CODE 6717-01-C

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Office of Hearings and Appeals

Cases Filed; Week of January 21 through January 28, 1983

During the Week of January 21 through January 28, 1983, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 10, 1983.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of January 21 through January 28, 1983]

Date	Name and location of applicant	Case No	Type of submission
Jan. 24, 1983	Economic Regulatory Administration/Farmers Gas & Oil Company of Michigan, Inc.	HRR-0046	Request for modification/rescission. If granted: The November 22, 1977, Decision and Order (Case No. FRA-1393) issued to Farmers Gas and Oil Company of Michigan, Inc. would be modified regarding the repayment of overcharges.
Do	Economic Regulatory Administration/Sun Company, Inc., Washington, D.C	HRR-0045	Request for modification/rescission. If granted: The January 3, 1983, Decision and Order (Case No. HRZ-0117) issued to Sun Company, Inc. would be modified regarding the amount of overcharges for which Mapco, Inc. may be liable in a pending Proposed Remedial Order proceeding (Case No. BRO-1457).
Do	John T. Troland and David W. Ratliff, Washington, D.C.	HRD-0105	Motion for discovery. If granted: Discovery would be granted to John T. Troland and David W. Ratliff in connection with the Statement of Objections submitted in response to the Proposed Remedial Order issued to Petrotech Trading Company et al. (Case No. HRO-0095).
Jan. 25, 1983	Dresser Industries, Inc., Washington, D.C.	HEX-0079	Supplemental order. If granted: The April 5, 1982, Decision and Order issued to Dresser Industries, Inc. (Case No. HFA-0045) would be modified and DOE material requested by the firm under the Freedom of Information Act would be released.
Do	Western Energy Planners, Ltd., Aurora, Colo.	HFA-0112	Appeal of an information request denial. If granted: The January 3, 1983, Freedom of Information Request Denial issued by the DOE Inspector General would be rescinded and Western Energy Planners, Ltd. would receive access to records from the DOE audit of the firm's subcontract No. K-7678 with EG&G Idaho, Inc.
Jan. 26, 1983	Petrotech Trading Co. and David L. Hooper	HRD-0106 and HRH-0106.	Motions for discovery and evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to the Proposed Remedial Order issued to Petrotech Trading and David L. Hooper (Case No. HRO-0095).
Do	Vanbus Corp., Beaumont, Tex.	HRD-0107 and HRH-0107	Motions for discovery and evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to the Proposed Remedial Order issued to Vanbus Corporation (Case No. HRO-0093).
Jan. 27, 1983	Systematic Management Services, Hamilton Square, N.J.	HFA-0113	Appeal of an information request denial. If granted: The January 17, 1983, Freedom of Information Request Denial issued by the Chicago Operations Office would be rescinded, and Systematic Management Services would receive access to certain DOE information.
Jan. 28, 1983	William J. Mutryn, Washington, D.C.	HFA-0114	Appeal of an information request denial. If granted: The December 28, 1982, Freedom of Information Request Denial issued by the Office of Hearings and Appeals would be rescinded and Mr. William J. Mutryn would receive access to certain DOE information.

REFUND APPLICATIONS RECEIVED

[Week of Jan. 21 to Jan. 28, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No assigned
Jan. 24, 1983–Jan. 28, 1983	Amoco Refund Applications	RF21-840—RF21-1495
Jan. 24, 1983	Ada Resources, Inc./Rapid Transit Lines, Inc.	RF24-2
Do	Northeast Petroleum Industries, Inc./DeBlois Oil Co	RF25-1.
Do	Northeast Petroleum Industries, Inc./O.B. Hill Motor Trans. Company, Inc/	RF25-2.
Jan. 27, 1983	Tenneco Oil Company/Capitol Oil Company, Inc	RF7-105

[FR Doc. 83-4233 Filed 2-17-83; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

Availability of Draft Environmental Impact Statement and Public Hearing on the DEIS; Uranium Mill Tailings Remedial Action at Salt Lake City, Utah

AGENCY: Division of Remedial Action Projects, Energy Department.

ACTION: Notice of availability of draft environmental impact statement (DEIS) and public hearing on the DEIS.

SUMMARY: The Department of Energy (DOE) has published a draft environmental impact statement, DOE/EIS-0099-D, Remedial Actions at the Former Vitro Chemical Company Mill, South Salt Lake, Salt Lake County, Utah (January 1983) for a proposed DOE action to perform remedial actions on residual radioactive material at the inactive uranium mill in South Salt Lake, Utah.

Written comments are invited and a public hearing will be held with respect to the DEIS.

DATES: Written comments should be received at DOE by April 4, 1983, in order to insure consideration in preparation of the final environmental impact statement. The public hearings are scheduled on March 22, 1983, in Tooele, Utah, at 7:00 p.m. and March 23, 1983, in South Salt Lake, Utah, at 1:30 p.m. and 7:30 p.m. Requests to speak and preferred times should be received at DOE by March 18.

ADDRESS: Written comments on the DEIS and requests to speak at the hearing should be addressed to: Mr. James A. Morley, Project Manager,

Uranium Mill Tailings Project Office, U.S. Department of Energy, P.O. Box 5400, Albuquerque, New Mexico 87115.

FOR FURTHER INFORMATION YOU MAY CONTACT:

1. Mr. James A. Morley, Project Manager, Uranium Mill Tailings Project Office, U.S. Department of Energy, P.O. Box 5400, Albuquerque, New Mexico 87115, Phone: (505) 844–3941.
2. Dr. Robert J. Stern, Director, Office of Environmental Compliance, Office of the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, U.S. Department of Energy, Washington, D.C. 20585, Phone: (202) 252–4600.
3. Mr. Henry Garson, Esq., Assistant General Counsel for Environment, U.S. Department of Energy, Washington, D.C. 20585, Phone: (202) 252–6947.

SUPPLEMENTAL INFORMATION:

I. Previous Notice of Intent

The Department of Energy published a Notice of Intent (46 FR 21692) on April 13, 1981, regarding the preparation of an EIS and conduct of public scoping meetings for the remedial actions at the South Salt Lake inactive uranium mill site.

II. Background for the Proposed Project

The uranium mill tailings at the former Vitro Chemical processing site are 4 miles south-southwest of the center of Salt Lake City. From 1951 to 1964 the mill processed uranium ore for sale to the U.S. Atomic Energy Commission, the predecessor of the DOE. The tailings remaining from these operations now rest in piles up to 16 feet high covering more than 100 acres of land.

In 1978 the U.S. Congress passed the Uranium Mill Tailings Radiation Control Act, Pub. L. 95–604. In this Act the Congress found that uranium mill tailings may pose a potential and significant radiation health hazard to the public and directed the DOE to designate processing sites for remedial action to remove this potential hazard. It authorized the DOE to carry out remedial action at each site in cooperation with other Federal agencies and with the states or Indian tribes affected by the action. It gave to the Nuclear Regulatory Commission (NRC) responsibility for consulting with the DOE over a range of subjects concerning conduct of remedial action, for concurring with the selected remedial action and with any cooperative agreement with a state or Indian tribe, and for licensing the maintenance of each tailings disposal site after the remedial action is completed. In addition, the Environmental Protection Agency (EPA) was given the responsibility to set standards to protect public health, safety, and the environment at the tailings sites and the disposal sites.

In accordance with Pub. L. 95–604, the DOE designated 24 sites for remedial action. One of them is the former Vitro processing site near Salt Lake City. The State of Utah has investigated several locations where the tailings might safely be disposed of and recommended three for further analysis. The South Clive site was selected for further analysis because of its environmental and geotechnical superiority. The EPA issued standards for remedial actions at inactive uranium processing sites on January 5, 1983 (48 FR 590).

III. Scope of the DEIS

The DEIS evaluates the no-action alternative and two alternatives for minimizing the potential public health hazards associated with the Vitro site contaminated materials; (1) stabilization of the contaminated material on the Vitro site; and (2) decontamination of the Vitro site and disposal of the material at a site located about 1 mile south of Clive, Utah. The impact of these three alternatives are assessed in terms of effects on radiation levels, health effects, air quality, soils and mineral resources, surface- and ground-water resources, ecosystems, land use, sound levels, historical and cultural resources, populations and employment, economic structures, and transportation networks.

IV. Comment Procedures

A. Availability of Draft EIS

Copies of the DEIS have been distributed to Federal, State, and local agencies, organizations, and to individuals known to be interested in the Vitro remedial action project. Additional copies may be obtained from the Project Manager, Uranium Mill Tailings Project Office, U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, New Mexico, 87108, Phone: (505) 844–3941.

Copies of the DEIS are available for public inspection at the following locations:

Tooele Public Library, 47 East Vine, Tooele, UT 84074.
Salt Lake County Library, 209 East 400 South, Salt Lake City, UT 84111.
Salt Lake County Library, 2480 South State, Salt Lake City, UT 84115.
University of Utah, Library Office, Salt Lake City, UT 84112.
Brigham Young University, Harold B. Lee Library, University Hill, Provo, UT 84604.
Freedom of Information Reading Room, Room 1E–190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, NM 871115.
Library, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60639.
Library, Idaho Operations Office, 550 Second Street, Idaho Falls, ID 83401.
Library, Nevada Operations Office, 2753 South Highland Drive, Las Vegas, NV 89114.
Library, Oak Ridge Operations Office, Federal Building, Oak Ridge, TN 37830.
Library, Richland Operations Office, Federal Building, Richland, WA 99352.
Energy Resource Center, 1333 Broadway, Oakland, CA 94612.
Library, Savannah River Operations Office, Savannah River Plant, Aiken SC 29801.
Regional Energy/Environment Center, Denver Public Library, 1357 Broadway, Denver, CO 80210.

B. Written Comments

Interested parties are invited to provide written comments on the DEIS to the Project Manager in Albuquerque, New Mexico, at the address given above. Comments should be identified on the outside of the envelope with the designation "Draft EIS on Salt Lake City—Vitro Site." All comments and related information should be received by DOE by April 4, 1983, in order to insure consideration in preparing the final statement.

Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

C. Public Hearing

1. Participation Procedure.

Public hearings on the draft statement will be held at the Senior Citizen's Center, Tooele, Utah, on March 22, 1983, at 7:00 p.m. and at the South Salt Lake City Hall, City of South Salt Lake, Utah, on March 23, 1983 at 1:30 p.m. and 7:30 p.m. to provide an opportunity for oral presentations by interested persons.

A DOE official will designate a presiding officer to chair the hearing. This will not be a judicial or evidentiary-type hearing.

Any person who desires to speak at the hearing should notify the Project Manager at the Albuquerque, New Mexico, address listed above before March 18, 1983, so that time can be scheduled. Although not required, persons who intend to speak are encouraged to provide a brief summary of the presentation.

Individuals who did not make an advance arrangement to speak may register to speak at the hearing. After all scheduled speakers, an opportunity will be provided to these individuals to speak. Time for each participant will be limited depending on time available and the number of responses.

2. Conduct of Hearing

DOE will arrange the schedule of presentations to be heard and will establish basic rules and procedures for conducting the hearing. The lenght of each presentation may be limited, depending on the number of persons desiring to speak.

Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer at the start of the hearing.

A transcript of the hearing will be made and the entire record of the hearing, includng the transcript, will be retained by DOE and made available for inspection at the same locations as listed above for review of the DEIS (Section IV A). Additional copies of the complete transcript will also be available at the public document centers noted above. Any person may purchase a copy of the transcript from the reporter.

D. Public Meetings

In addition to the public hearings, DOE will also conduct informal public information meetings on the DEIS in Salt Lake City. DOE will issue specific information on the time and place of the meetings in the local news media.

Issued in Washington, D.C., February 14, 1983.

Shelby T. Brewer,

Assistant Secretary for Nuclear Energy

[FR Doc. 83-4234 Filed 217-83; 8:45 am]

BILLING CODE 6450-01-M

Incineration Facility for Radioactively Contaminated Polychlorinated Biphenyls and Other Wastes; Record of Decision

Pursuant to Regulations of Council on Environmental Quality (40 CFR Part 1505) Implementing Procedures of U.S. Department of Energy (45 FR 20694).

Decision

The U.S. Department of Energy (DOE) has decided to build and operate an incineration facility for the disposal of hazardous organic waste materials (including polychlorinated biphenyls (PCB's)) which are contaiminated with trace quantities of low-assay enriched uranium.

Project Description

The incineration facility will provide a means of disposal for PCB-contaminated wastes, hazardous wastes as defined by the Resource Conservation and Recovery Act, and other liquid organic wastes, which are contaminated with very small concentrations of radionuclides (primarily low-assay uranium). The project consists of the construction and operation of a high-temperature incinerator and its associated auxiliary equipment to be located at the Oak Ridge Gaseous Diffusion Plant (ORGDP) in Oak Ridge, Tennessee. It also provides waste storage, packaging, and shipping facilities to be located at the Paducah Gaseous Diffusion Plant in Paducah, Kentucky, and the Portsmouth Gaseous Diffusion Plant in Piketon, Ohio. Although no new facilities will be provided as part of this project for the Y-12 Plant and Oak Ridge National Laboratory in Oak Ridge, they too will ship wastes to the incinerator.

The Oak Ridge facilities associated with this project will be located on a previously cleared plot of land, 450 meters east of the steam plant (building K-1501) at ORGDP. The incinerator will occupy approximately two hectares and includes:

- Storage tank farm for liquid wastes
- Drum storage and unloading area
- Rotary kiln primary incinerator
- Secondary (after) burner
- Emissions control devices
- Collection tanks for spent process water
- Office and analytical laboratory space
- Security fencing and patrol roads around the compound.

All shipments of wastes to the incinerator will be in trucks over predetermined routes. Some waste materials generated and stored at ORGDP will be transported over TN 58 from the west side of the plant to the incinerator.

In addition to the incinerator and associated facilities to be built at ORGDP, special waste handling and storage facilities will be constructed at the Gaseous Diffusion Plants at Piketon and Paducah. These facilities will provide for the decommissioning of PCB-containing transformers as they are removed from service and will be prefabricated metal buildings of 186 meters ^{2} with flooring that is sloped, curbed, and drained in such a manner so as to contain and recover spills.

The incinerator will be designed to incinerate PCB's in accordance with 40 CFR 761 requirements. Although PCB's comprise less than 5 percent of the total material to be fed to the incinerator, they are among the most difficult organic compounds to degrade thermally. Therefore, designing the incinerator for PCB destruction will insure other organic compounds will also be destroyed. Some of the non-PCB liquid organic waste materials will serve as the major fuel source for the incinerator. The incinerator facility will include an air emission control system designed to minimize the release of radionuclides and acid gases.

Description of Alternatives

The following alternatives were considered in detail by DOE in reaching its decision:

1. Store the PCB's and delay the decision to construct and operate a disposal facility (no Federal action);

2. Use one of three chemical destruction alternatives;

3. Transport the wastes to the incinerator along alternate routes.

The no action alternative would involve the storage of the PCB's and other hazardous organic materials and delay until some future date a decision to construct and operate a disposal facility for these materials. This decision would require the construction and operation of additional storage facilities and would incur a number of environmental impacts, including effluents from redrumming, leaks and spills, and the risk of unrecoverable accidental releases from fire, explosion, or other catastrophe. In addition, environmental impacts would result from the eventual implementation of the future method of disposal.

DOE considered three candidate processes for the chemical destruction of the hazardous organic materials. These were the Sun Ohio PCBX process, the Goodyear sodium naphthalide process, and the wet air oxidation process. A review of these processes indicated that none of them meet the technical requirements of environmentally sound destruction of the entire waste materials inventory now in storage at the five DOE facilities. Two processes have been demonstrated to dechlorinate or otherwise destroy PCB's; one of these is limited to pure PCB's or PCB's in oils, and the other may not be effective in the presence of water or certain of the other constituents of the waste inventory. The remaining process has not been demonstrated to destroy PCB's and probably could not destroy high molecular weight chlorinated hydrocarbons.

DOE considered using three alternative routes from Piketon to Interstate 95, three from Interstate 75 to ORGDP, and three from Interstate 40 from Paducah to ORGDP. The route DOE decided to use in each case represents the best route based on an analysis of two types of factors, those related to the probability of an accident, and those related to the impact of an accident should one occur. Thus, the chosen routes will minimize the potential environmental impact of the transportation of the waste materials to the incinerator.

Several classes of alternatives were eliminated from detailed examination because they do not constitute reasonable alternatives. These classes and the reasons for their elimination are discussed below:

An alternative process involving removal of uranium from PCB-contaminated waste was not examined in detail because the current state-of-the art technology for separation of uranium from PCB waste does not approach 100 percent removal efficiency. This performance criteria would be necessary in order for this alternative to be considered.

Alternative sites are not reasonable alternatives because an alternative site would increase either the impact associated with the construction and operation of the facility or the risk of a transportation accident. Siting at another DOE Oak Ridge Operations facility would increase the volume and number of shipments of materials, increasing the risk of a transportation accident. Siting at any other alternative site would increase both risks of a transportation accident and the impacts of construction and operation due to the need for support facilities and personnel already present at an existing plant.

Multiple incinerators are not reasonable as alternatives because the cost and impact of construction for each of a number of incinerators would approach those for the proposed action. Impacts of operation would be dispersed, rather than lessened. The increase in capital cost of doubling for two incinerators or tripling for three incinerators would achieve only elimination of the small risk of a transportation accident. Operational costs would increase as well, due primarily to the need for operational personnel at each incinerator.

Alternative modes of transportation are not reasonable alternatives primarily because these modes (rail, barge) would increase the risk of transportation accident and the likelihood that a spill or release would not be as easily or quickly recovered. Costs would also increase. No reduction in other impacts would occur as a result of selecting an alternative mode of transportation.

Basis for Decision

Polychlorinated biphenyls (PCB's) are highly stable, synthetic organic compounds. They have been used widely for the past 50 years in industrial and commercial applications, including use as a dielectric liquid in electrical transformers and as an additive to hydraulic fluids. Recent investigations, however, have demonstrated that PCB's pose a risk to human health and the environment. In 1976, Congress, as part of the Toxic Substances Control Act (TSCA), banned the further manufacture of PCB's. Subsequent regulations (40 CFR 761) imposed specific storage and disposal requirements for all materials containing PCB's.

The five facilities, which the Oak Ridge Operations Office of DOE supervises, have in storage and in service PCB-contaminated materials, some of which also contain trace quantities of low-assay enriched uranium, a special nuclear material regulated by the Nuclear Regulatory Commission (NRC). The PCB content of the wastes ranges from below 5 ppm to more than 60 percent; the average PCB content of all wastes for destruction is about 1.6 percent. The uranium content of the waste materials averages less than 200 ppm with a maximum concentration of less than 10,000 ppm. The uranium-235 content, as a percentage of total uranium, is less than 1.0 percent.

Other hazardous waste materials to be disposed of in the incinerator include waste chlorinated solvents, sludges, waste oils, and waste chemicals. Some of these wastes also have uranium contamination. Many of these wastes oils have heat values sufficiently high to permit their use as a fuel in the incinerator, reducing the volume of fuel oil required for the destruction of PCB's and thereby reducing the operating costs of the incinerator.

It is the intent of DOE to bring DOE operations into accord with the intent of TSCA and the regulations (40 CFR 761) at the earliest possible time. However, since much of these waste materials is contaminated with enriched uranium, its disposal at non-DOE facilities would be regulated by NRC. Under these regulations, the receipt, processing, and disposal of special nuclear material requires a license from NRC regardless of the quantity or concentration which may be involved. Under the Atomic Energy Act, DOE is exempt from this licensing requirement.

At present, there are no facilities with both a license to dispose of PCB's or hazardous chemicals and a license from NRC to accept and dispose of special nuclear materials. It is also unlikely that a commercial facility would undergo the expense and effort associated with obtaining and operating under both types of licenses. Therefore, commercial disposal is not a feasible course of action for DOE.

The principal advantage to building and operating an incineration facility over the other alternatives considered is that incineration can dispose of the existing and projected inventory of PCB-contaminated wastes (solids, liquids, and soils) and other hazardous organic wastes. It is also a demonstrated technology that has received U.S. Environmental Protection Agency approval at other locations.

Discussion of the Environmentally Preferred Alternative

DOE believes that building and operating the incinerator facility is environmentally preferred to the alternatives considered. The decision to take action now is preferable to Alternative 1, which would defer the environmental impacts of disposing of the waste materials while increasing the risk of impacts due to prolonged storage of larger amounts of the PCB and other hazardous waste materials.

Incineration is preferred to the destruction methods of Alternative 2. Incineration has the demonstrated capability to dispose of the existing and projected inventory of PCB contaminated wastes and other hazardous organic wastes. The environmental impacts of Alternative 2

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are in some cases smaller and in many cases larger than those of the incinerator. However, not all the impacts are known for many of the effluents since the alternative processes are untried for much of the waste inventory. Since none of the alternative processes has the demonstrated capability to dispose of the entire inventory of organic waste materials and the destruction of these materials is itself an environmental benefit of the project, DOE does not consider Alternative 2 an environmentally preferred alternative.

The transportation routes to be used are environmentally preferred to those of Alternative 3. The routes considered in Alternative 3 were compared in a number of criteria including the percentage of limited-access four-lane divided highway; the overall distance; the number of streams, lakes, and rivers crossed; and the number of metropolitan areas through which the route passes. The routes to be used reduce the probability of a release of the waste materials to the environment by reducing the likelihood of an accident, and also reduce the likely environmental impacts of a release by avoiding populated areas and bodies of water.

Considerations in Implementation of the Decision

DOE is acutely aware of the many concerns that have been expressed about the environmental impacts from the incineration of radioactive contaminated PCB's. In implementing its decision, DOE will use every reasonable means to avoid or minimize harm to the environment.

The facility design incorporates various features intended to mitigate environmental impacts. Air emissions will be controlled by a three-stage flue-gas scrubber system. First there will be an aqueous quench which is expected to remove about 40 percent of the particulates and about half of the soluable acid gases. It will be followed by a medium energy venturi and packed scrubber-mist eliminator using alkalinized water which is expected to remove about 68 percent of the remaining particulates and most of the soluble acid gases. This is, in turn, followed by a wet electrostatic precipitator which will remove about 66 percent of the remaining particulates which will include principally fine phosphoric acid aerosols, fine metallic oxide particles, and fine salt particles. The overall removal efficiency for the system is expected to be 99.2 percent for the soluble acid gases and 97.3 percent for particulates. The combination of aqueous and alkaline scrubbing and the use of units with the ability to remove fine particles will provide exceptionally efficient control of airborne pollutants.

During construction, mitigation measures will also be employed. Fugitive dust emissions will be controlled by watering, and accepted construction practices to prevent erosion will be used. For excessive noise levels at the construction site, recognized administrative noise exposure control methods will be implemented where it is necessary to have people working in high-noise level areas.

Mitigation measures will be employed during the operation of the facility for solid and aqueous wastes. The solid waste produced by this facility will be disposed of in an existing DOE radioactive waste landfill according to established procedures. Chemical analysis of each batch of ash will insure against the inadvertent inclusion of toxic organics in the material going to the landfill. The aqueous effluent from this facility will be tested; treated, if necessary, to remove organic contaminants; and discharged to an existing waste treatment facility. The existing facility will adjust the pH of the waste and provide some suspended solids removal before discharging the effluent to Poplar Creek.

Conclusion

The benefits derived from the incineration facility have been balanced against the potential environmental impacts. In addition, reasonably available project alternatives have been considered. As a result of these evaluations, DOE has decided to construct and operate the incineration facility. Nevertheless, DOE is concerned about the project's potential environmental impacts and is taking reasonable measures to mitigate them.

Dated: February 14, 1983.

Shelby T. Brewer,

Assistant Secretary for Nuclear Energy, Department of Energy.

[FR Doc. 83-4236 Filed 2-17-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2309-1]

Availability of Environmental Impact Statements Filed February 7 Through February 11, 1983 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382-5075 or 383-5076.

Corps of Engineers:
- EIS No. 830076, Suppl, COE, CA, Sacramento R. Bank Stabilization, Chico Landing to Red Bluff, Due: 04-04-83
- EIS No. 830082, Final, COE, AR, Bull Creek Reservoir, Construction, Permit, White County, Due: 03-21-83

Department of the Interior:
- EIS No. 830081, Final, FWS, VA, False Cape State Park & Back Bay Nat'l Wildlife Refuge, Land Exchange, Due: 03-21-83

Department of Transportation:
- EIS No. 830073, Draft, FHW, HI, Makai Boulevard-Nimitz Highway Improvement, Honolulu County, Due: 04-15-83
- EIS No. 830075, Draft, FHW, DC, Barney Circle Freeway Modification (I-295), Due: 04-08-83

Department of Energy:
- EIS No. 830078, Draft, DOE, UT, Former Vitro Chemical Site, Remedial Actions, Salt Lake County, Due: 04-11-83

Environmental Protection Agency:
- EIS No. 830074, Draft, EPA, REG, Basic Oxygen Process Furnaces, Secondary Emissions, Revised Standards, Due: 04-07-83
- EIS No. 830077, Draft, EPA, REG, Flexible Vinyl Coating and Printing Operations, Standards, Due: 04-04-83

Department of Housing and Urban Development:
- EIS No. 830072, Final, HUD, WY, Westborough Subdivision, Mortgage Insurance, Sweetwater County, Due: 03-21-83

Federal Energy Regulatory Commission:
- EIS No. 830071, Final, FRC, SEV, NY, PA, MA, NJ, NH, CT, Tennessee/Boundary Looping Project, Certificate, Due: 03-21-83

Department of Agriculture:
- EIS No. 830079, Draft, AFS, AK, Quartz Hill Molybdenum Claims, 1980-83 Operation Amendments 2, 3 & 4, Due: 04-04-83
- EIS No. 830070, Final, AFS, WA, Naches Pass Road Construction, Wenatchee & Mt. Baker Snoqualmie NFs, Due: 03-21-83
- EIS No. 830080, Final, AFS, CO, Rifle Ski Area Expansion, Permit, White River NF, Garfield County, Due: 03-21-83

Dated: February 15, 1983.

Louis J. Cordia,

Director, Office of Federal Activities.

[FR Doc. 83-4304 Filed 2-17-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59117; BH-FRL 2309-2]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to

permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of four applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by March 7, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–59117]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Envoronmental Protection Agency, Rm. E–401, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW, Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

TME 83–23

Close of Review Period. March 20, 1983.
Manufacturer. Confidential.
Chemical. Substituted alkoxy silane.
Use. (S) A curing agent, an industrial use. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Irritant, Eye—Severe.
Exposure. Manufacture and qualtity control testing: dermal and eye.
Environmental Release/Disposal. Confidental.

TME 83–24

Close of Review Period. March 24, 1983.
Manufacturer. Confidential.
Chemical. (G) Polymer of alkyl and heteromonocyclic amines and an alkanedioic acid.
Use/Production. (G) Contained use. Prod. range: 10,000 kgs (max).
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and inhalation.
Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW) and landfill.

TME 83–25

Close of Review Period. March 24, 1983.
Manufacturer. Confidential.
Chemical. (G) Aromatic polyamide solution.
Use/Production. Confidential. Prod. Range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: sampling, up to 4 workers, up to 1 hr/da, up to 75 da/yr.
Environmental Release/Disposal. No release to air, water and land.

TME 83–26

Close of Review Period. March 26, 1983.
Manufacturer. Confidential.
Chemical. (G) Modified polyester of a carbomonocyclic anhydride and a substituted alkanediol.
Use. (G) Open use. Prod. range: 0–400 kg/yr (max).
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and eye, a total of 12 workers, up to 6 hrs/da, up to 2 da/yr. Processing: dermal and eye, a total of 10 workers, up to 4 hrs/da, up to 8 da/yr. Use: dermal inhalation and eye, a total of 12 workers, up to 1 hr/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–100 kg/yr to land. Disposal by incineration.

Dated: February 14, 1983.

Woodson W. Bercaw,
Acting Director, Mangement Support Division.

[FR Doc. 83–4224 Filed 2–17–83; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–51454; BH–FRL 2309–3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty-seven PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83–457, 83–458, 83–459, 83–460 and 83–461; May 4, 1983.
PMN 83–462, 83–463, 83–464, 83–465, 83–466, 83–467 and 83–468; May 7, 1983.
PMN 83–469, 83–470, 83–471, 83–472, 83–473, 83–474, 83–475 and 83–476; May 8, 1983.
PMN 83–477, 83–478 and 83–489; May 9, 1983.
PMN 83–480, 83–481, 83–482 and 83–483; May 10, 1983.

Written comments by:

PMN 83–457, 83–458, 83–459, 83–460 and 83–461; April 4, 1983.
PMN 83–462, 83–463, 83–464, 83–465, 83–466, 83–467 and 83–468; April 7, 1983.
PMN 83–469, 83–470, 83–471, 83–472, 83–473, 83–474, 83–475, and 83–476; April 8, 1983.
PMN 83–477, 83–478 and 83–479; April 9, 1983.
PMN 83–480, 83–481, 83–482, and 83–483; April 10, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–51454]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–126, 401 M St., SW., Washington, DC 20460, (202–382–3729)

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

PMN 83–457

Manufacturer. The Upjohn Company.
Chemical. (S) N,N-hexanedioyl-bis[3,4,5,6-tetrahydro-2(1H) pyrimidinone].
Use/Production. (S) Industrial polyurethane and powder and solvent based coatings. Prod. range: 300–1,200 kg/yr.
Toxicity Data. Acute oral: > 5.0 g/kg; Irritation: Skin—Very Slight, Eye—Mild.

Exposure. Manufacture and processing: dermal and inhalation, a total of 4 workers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to water. Disposal by publicly owned treatment works (POTW) and landfill.

PMN 83-458

Manufacturer. Confidential.

Chemical (G) Substituted polyhydric alcohol.

Use/Production. (G) Plastic additive. Prod. range: Confidential.

Toxicity Data. Acute oral: 230 mg/kg; Acute dermal: >2 g/kg; Irritation: Skin—1.7, Eye—Mild; Aquatic Toxicity, LC_{50}: 190 parts per million (ppm); Ames Test: Negative.

Exposure. Manufacture: dermal and inhalation, a total of 41 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/disposal. Less than 10 kg/yr released to air and water. Disposal by biological treatment system.

PMN 83-459

Manufacturer. American Cyanamid Company.

Chemical. (G) Dialkyl dithiophosphate.

Use/Production. (G) Mineral processing. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 10 workers, up to 24 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. No release.

PMN 83-460

Manufacturer. American Cyanamid Company.

Chemical. (G) Dialkyl dithiophosphate.

Use/Production. (G) Mineral processing. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: dermal, a total of 16 workers.

Evironmental Release/Disposal. No release.

PMN 83-461

Manufacturer. Confidential.

Chemical. (G) Substituted alkoxy silane.

Use/Production. (S) Curing agent. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and eye.

Environmental Release/Disposal. Confidential.

PMN 83-462

Manufacturer. Confidential.

Chemical. (G) Succinate ester amide.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: >10,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—3.2/8.0, Eye—6.3/110.0; Skin Sensitization: Non-sensitizing.

Exposure. Confidential.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–100 kg/yr to land. Disposal by biological treatment system.

PMN 83-461

Manufacturer. Confidential.

Chemical. (G) Amino aliphatic propoxylate.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 3,246 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—5.8/8.0, Eye—89.5/110.0.

Exposure. Confidential.

Environmental Release/Disposal. Less than 10 kg/yr released to air with 10–100 kg/yr to water and land. Disposal by biological treatment system and approved landfill.

PMN 83-464

Manufacturer. Confidential.

Chemical. (G) Sodium sulfosuccinate of ethoxylated substituted phenol.

Use/Production. (G) Open use. Prod. range: Confidential.

Toxicity Data Acute oral: Non-toxic; Acute dermal: Non-toxic; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture and processing: dermal, a total of 5 workers, up to 6 hrs/da, us to 164 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to water, up to 36 da/yr. Disposal by POTW and biological treatment system.

PMN 83-465

Manufacturer. Confidential.

Chemical. (G) Metal polyisobutenylsuccinate.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83-466

Manufacturer. Confidential.

Chemical. (G) Ether-olefin-sulfone terpolymer

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. Acute oral: >1 g/kg; Acute dermal: >2 g/kg; Irritation: Skin—None, Eye—Transient irritant; Ames Test: Negative; Skin sensitization: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Disposal by incineration.

PMN 83-467

Importer. Confidential.

Chemical. (G) Alkyl cyclohexane carboxaldehyde.

Use/Import. Confidential. Import range: 1–100 kg/yr.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Repeated insult patch test: Negative; Photoallergy test: Negative.

Exposure. Use: workplace air, a total of 2 workers, up to less than 1 hr/da, less than 20 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air less than 1 hr/da, less than 20 da/yr.

PMN 83-468

Manufacturer. Franklin Institute Research Laboratory, Inc.

Chemical. (S) Complex sodium polyethylene glycolate salt.

Use/Production. Industrial dechlorination of PCBs or other halogenated organics. Prod. range: 0–95,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, use and disposal: dermal, a total of 16 workers.

Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by incineration, approved landfill and municipal waste treatment facility.

PMN 83-469

Manufacturer. Confidential.

Chemical. (G) Aromatic polyamide solution.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: sampling, a total of 4 workers, up to 1 hr/da, up to 75 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land, 1 hr/da, 75 da/yr.

PMN 83-470

Manufacturer. Confidential.

Chemical. (G) Polymer of substituted acrylic ester and substituted acrylamide.

Use/Production. (G) A minor constituent in an article for commercial and consumer use. Prod. range: 7,500–15,000 kg/yr.

Toxicity Data. Acute oral: >3,000 mg/kg; Acute dremal: >20 mL/kg; Irritation: Skin—Slight, Eye——Not an eye irritant: Skin sensitization: Low potential; Acute effects on seven aquatic species: >100 mg/L; Secondary waste treatment compatibility study: >5,000 mg/L; Plant

growth effects: No effects @ 100 mg/; TOD: 0.21 g/ml.

Exposure. Manufacture and processing: dermal, a total of 45 workers, up to 1 hr/da, up to 100 da/yr.

Environmental Release/Disposal. No release. Disposal by biological treatment system, incineration and approved landfill.

PMN 83–471

Manufacturer. Confidential.

Chemical. (G) Metal salt of saccharin.

Use/Production. (S) Cure initiator for fully-formulated adhesives. Prod. range: 1,000–10,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and inhalation, 2 workers/batch, 6½ hrs/batch, 3 batches/yr.

Environmental Release/Disposal. No release. Disposal by Resource Conservation Recovery Act (RCRA).

PMN 83–472

Importer. Hitachi Chemical Co., America Ltd.

Chemical. (S) 2-propenoic acid, (2,4,6-trioxo-1,3,5-triazine-1,3,5, (2H, 4H, 6H)-triyl) di-2,1-ethanediyl ester.

Use/Import. (S) Site-limited and industrial curing agent for polymers. Import range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Non-irritant.

Exposure. Processing: dermal, a total of 6 workers, up to 3 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. Disposal by incineration and reclamation.

PMN 83–473

Importer. Hitachi Chemical Co., America Ltd.

Chemical. (S) 2-propenoic acid, (2,4,6-trioxo-1,3,5-triazine-1,3,5 (2H, 4H, 6H)-triyl; 2,1-ethanediyl ester.

Use/Import. (S) Site-limited and industrial curing agent for polymers. Import range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Non-irritant.

Exposure. Processing: dermal, a total of 6 workers, up to 3 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. Disposal by incineration and reclamation.

PMN 83–474

Importer. Hitachi Chemical Co., America Ltd.

Chemical. (S) 2-propenoic acid, (2,4,6-trioxo-1,3,5-triazine-1,3,5 (2H, 4H, 6H)-triyl; 2,1-ethanediyl ester.

Use/Import. (S) Site-limited and industrial curing agent for polymers. Import range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Non-irritant.

Exposure. Processing: dermal, a total of 6 workers, up to 3 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. Disposal by incineration and reclamation.

PMN 83–475

Manufacturer. Confidential.

Chemical. (G) Chlorendic anhydride base alkyd polymer.

Use/Production. (G) Open use. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. 5,000–50,000 kg/yr released to the environment. Disposal by POTW, incineration and approved landfill.

PMN 83–476

Manufacturer. Confidential.

Chemical. (G) Polyether modified alkyd.

Use/Production. (S) Resin for low volatile organic content industrial coatings. Prod. range: 5,000–100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and inhalation, a total of 53 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Less than 10–100 kg/yr released to air and water with more than 10,000 kg/yr to land. Disposal by POTW, incineration and approved landfill.

PMN 83–477

Manufacturer. Confidential.

Chemical. (G) Aliphatic phosphite ester.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: up to 24 hrs/da, up to 200–300 da/yr.

Environmental Release/Disposal. Release is nil.

PMN 83–478

Manufacturer. Confidential.

Chemical. (G) Carboxylic acid derivatives of alkoxylated phenol derivatives and alkoxylated polyamines.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: Minimal.

Environmental Release/Disposal. Release is negligible.

PMN 83–479

Importer. Sandoz Colors and Chemicals.

Chemical. (G) Monoazo substituted aromatic.

Use/Import. (S) Industrial textile fiber colorant. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin— Non-irritating. Eye—Non-irritating.

Exposure. Use: dermal and inhalation, up to 1 worker/plant/shift up to 1 hr/person.

Environmental Release/Disposal. 10–100 kg/yr released to water, 1 hr/da. Disposal by POTW and on-site biological waste treatment system.

PMN 83–480

Manufacturer. AZS Chemical Company.

Chemical. Further clarification needed before information may be released to the public files.

Use/Production. (S) Industrial lube oil additive, asphalt additive and polyamides. Prod. range: 27,000–1,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: a total of 12 workers, up to 8 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. No release. Disposal by biological treatment system.

PMN 83–481

Manufacturer. AZS Chemical Company.

Chemical. Further clarification needed before information may be released to the public files.

Use/Production. (S) Industrial polyamides. Prod. range: 50,000–1,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: breathing vapors a total of 6 workers, up to 8 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by biological treatment system.

PMN 83–482

Manufacturer. Confidential.

Chemical. (G) Modified polyester of a carbomonocyclic anhydride and a substituted alkanediol.

Use/Production. (G) Open use. Prod range: 0–8,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal, inhalation and eye. a total of 59 workers, up to 6 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–10,000 kg/yr to land. Disposal by incineration.

PMN 83-483

Manufacturer. Confidential.

Chemical. (G) Mixed fatty acids; alkanepolyol; benzenecarboxylic acids polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. 10-100 kg/yr to land. Disposal by incineration or approved landfill.

Dated: February 4, 1983.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 83-4225 Filed 2-17-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Trans-Border Customs Service Inc. et al.; Independent Ocean Freight Forwarder License; Applicants

Correction

In FR Doc. 83-3270 appearing on page 5803 in the issue for Tuesday, February 8, 1983, the following applicant should have appeared before Americargo International, Inc.:

Trans-Border Customs Services, Inc., 76 Main Street, P.O. Box 800, Champlain, NY 12919, Officer: Arthur S. Spiegel, President.

BILLING CODE 1505-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) Transaction Number 83-0044, Grain Processing Corporation's proposed acquisition of all voting securities of Evergreen Mills, Inc.	Feb. 1, 1983
(2) Transaction Number 83-0057, Stephens, Inc.'s (W. R. Stephens, UPE) proposed acquisition of all voting securities of Atlantic Oil Corporation.	Do
(3) Transaction Number 83-0015, W. R. Grace & Company's proposed acquisition of all voting securities of Amicon Company	Jan. 28, 1983
(4) Transaction Number 83-0032, 83-0036, Phillips Petroleum Company's proposed acquisition of all voting securities of General American Oil Company of Texas.	Jan. 27, 1983

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

By direction of the Commission.

Carol M. Thomas,

Secretary

[FR Doc. 83-4241 Filed 2-17-83; 8:45 am]

BILLING CODE 6750-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

Vietnam Claims Program; Extension of Deadline for Filing Claims

AGENCY: Foreign Claims Settlement Commission.

ACTION: Notice of extension of time in which to file claims against Vietnam.

SUMMARY: This notice extends the deadline for filing claims based on property owned by United States nationals which was nationalized or otherwise taken by the Socialist Republic of Vietnam.

DATE: New deadline for filing claims on official FCSC Form No. 606 is February 25, 1983.

ADDRESS: Foreign Claims Settlement Commission, Washington, DC 20579.

FOR FURTHER INFORMATION CONTACT: David H. Rogers, General Counsel, Room 400, Vanguard Building, 1111 20th Street, Washington, DC 20579, (202) 653-5883.

Notice of Extension of Deadline for Filing Claims under Pub. L. 96-606.

On February 26, 1981 and again on March 5, 1981, the Commission published notice in the Federal Register on pages 14230 and 15386, respectively, of the commencement of the Vietnam Claims Program authorized by Congress under Public Law 96-606, approved December 28, 1980, and the deadline for filing claims with the Commission. The deadline established was July 31, 1982. In August 3, 1982, the Commission published notice in the Federal Register on page 33555 of the extension of time to October 31, 1982 in which to file claims against Vietnam.

Under the law, the Commission is authorized to establish a period for filing claims, ". . . which period shall not be more than a period of two years beginning on the date of publication in the Federal Register. . . ."

Based upon a recent increase in interest in filing claims against Vietnam, it has been determined that in order to provide United States nationals full opportunity to file in a timely manner for claims against the Socialist Republic of Vietnam, the deadline of filing claims under Pub. L. 96-606 be and it is hereby extended to February 25, 1983. Under the law, no further extensions are possible.

Dated: at Washington, D.C. on February 15, 1983.

J. Raymond Bell,

Chairman.

[FR Doc. 83-4213 Filed 2-17-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82M-0327]

Blairex Laboratories, Inc.; Premarket Approval of the Blairex System II (250 MG)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application for premarket approval under the Medical Device Amendments of 1976 of the Blairex System II (250 mg (milligrams)) for all soft (hydrophilic) contact lenses, sponsored by Blairex Laboratories, Inc., Evansville, IN. The Blairex System II (250 mg) is intended for use in the preparation of 27.7 milliliters of normal saline (0.9 percent) solution to be used in heat disinfection of all soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic, Ear, Nose, and Throat, and Dental Devices Panel, FDA notified the

sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 21, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, National Center for Devices and Radiological Health (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On October 27, 1981, Blairex Laboratories, Inc., Evansville, IN, submitted to FDA a supplemental application for premarket approval of the Blairex System II (250 mg) for all soft (hydrophilic) contact lenses. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On October 1, 1982, FDA approved the application by a letter to the sponsor from the Acting Associate Director for Device Evaluation of the then Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), salt tablets for preparing solutions for use in heat disinfection of soft (hydrophilic) contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such salt tablets are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or the solutions prepared from salt tablets for the use above comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Blairex System II (250 mg) states that the solution prepared from the salt tablets is designed for use in heat disinfection of all soft (hydrophilic) contact lenses. Sponsors of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new salt tablets that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this supplemental application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). a petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 21, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 11, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–4200 Filed 2–17–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82M–0325]

Ciba Vision Care; Premarket Approval of Ciba Vision Care Salt Tablets (250 MG)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application for premarket approval under the Medical Device Amendments of 1976 of the Ciba Vision Care Salt Tablets (250 mg (milligrams)) for all soft (hydrophilic) contact lenses, sponsored by Ciba Vision Care, Atlanta, GA. The Ciba Vision Care Salt Tablets (250 mg) are intended for use in preparing 27.7 milliliters of normal saline (0.9 percent) solution to be used in heat disinfection of all soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 21, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On May 10, 1982, Ciba Vision Care, Atlanta, GA, submitted to FDA a supplemental application for premarket approval of Ciba Vision Care Salt Tablets (250 mg) for all soft (hydrophilic) contact lenses. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application. On October 5, 1982, FDA approved the application by a letter to the sponsor from the Acting Associate Director for Device Evaluation of the then Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), salt tablets for preparing solutions for use in heat disinfection of soft (hydrophilic) contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such salt tablets are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or the solutions prepared from salt tablets for the above use comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of Ciba Vision Care Salt Tablets (250 mg) states that the solution prepared from the salt tablets is designed for use in heat disinfection of all soft (hydrophilic) contact lenses. Sponsors of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new salt tablets that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this supplemental application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 21, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 11,1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-4201 Filed 2-17-83; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Atlanta District Office, chaired by John H. Turner, District Director; the topics to be discussed are Patient Drug Education Program, Sodium Labeling, and Update Summaries on the Cambridge Diet, Starch Blockers, and Drug Tampering.

DATE: Tuesday, March 1, 1983, 10 a.m.

ADDRESS: The Golden Years Club House, 105 Pullen Rd., Raleigh, NC 27607.

FOR FURTHER INFORMATION CONTACT: Ana M. Rivera, Consumer Affairs Officer, Food and Drug Administration, Atlanta District Office, 1182 W. Peachtree St. NW., Atlanta, GA 30309, 404-881-7355.

Kansas City District Office, chaired by James A. Adamson, District Director.

DATE: Thursday, March 3, 1983, 10:30 a.m. to 2 p.m.

ADDRESS: W. Dale Clark Library (Downtown), 215 S. 15th St. (Lower Level), Omaha, NB 68102.

FOR FURTHER INFORMATION CONTACT: Tywanna G. Paul, Consumer Affairs Officer, Food and Drug Administration, 200 S. 16th St., Suite 430, Omaha, NB 68102, 402-221-4675.

Newark District Office, chaired by Matthew H. Lewis, District Director; the topic to be discussed is Nutrition Labeling: New Format.

DATE: Wednesday, March 23, 1983, 10 a.m. to 12 m.

ADDRESS: Freeholder's Public Meeting Room, Morris County Court House, Washington St., Morristown, NJ 07960.

FOR FURTHER INFORMATION CONTACT: Lillie Dortch-Wright, Consumer Affairs Officer, Food and Drug Administration,

20 Evergreen Place, East Orange, NJ 07018, 201–645–3265.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: February 11, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–4185 Filed 2–15–83; 12:23 pm]

BILLING CODE 4160–01–M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings: Kansas City District Office, chaired by James A. Adamson, District Director.

DATE: Wednesday, February 23, 1983.

ADDRESS: Senior Citizens Center, 101 S. Fourth St., Savannah, MO 64485 (at 10 a.m.); Joyce Raye Patterson Senior Center, 100 S. 10th St., St. Joseph, MO 64501 (at 2 p.m.).

FOR FURTHER INFORMATION CONTACT: Julia S. Hewgley, Consumer Affairs Officer, Food and Drug Administration, Kansas City District Office, 1009 Cherry St., Kansas City, MO 64106, 816–374–3817.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District offices, and to contribute to the agency's policymaking decisions on vital issues. The topics to be discussed are tamper-resistant packaging, sodium, and patient education.

Dated: February 11, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–4186 Filed 2–15–83; 12:23 pm]

BILLING CODE 4160–01–M

[Docket No. 82M–0328]

Horizon Pharmacal, Inc.; Premarket Approval of the Horizon System (250 MG)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application for premarket approval under the Medical Device Amendments of 1976 of the Horizon System (250 mg (milligrams)) for all soft (hydrophilic) contact lenses, sponsored by Horizon Pharmacal, Inc., Kansas City, MO. The Horizon System (250 mg) is intended for use in the preparation of 27.7 milliliters of normal saline (0.9 percent) solution to be used in the heat disinfection of all soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 21, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, National Center for Devices and Radiological Health (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On April 6, 1982, Horizon Pharmacal, Inc., Kansas City, MO, submitted to FDA a supplemental application for premarket approval of the Horizon System (250 mg) for all soft (hydrophilic) contact lenses. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On October 1, 1982, FDA approved the application by a letter to the sponsor from the Acting Associate Director for Device Evaluation of the then Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–283), salt tablets for preparing solutions for use in heat disinfection of soft (hydrophilic) contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such salt tablets are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or the solutions prepared from salt tablets for the use above comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Horizon System (250 mg) states that the solution prepared from the salt tablets is designed for use in heat disinfection of all soft (hydrophilic) contact lenses. Sponsors of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new salt tablets that may be used with an approved lens may be grounds for withdrawing approval of the application

for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this supplemental application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 21, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 11, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-4108 Filed 2-17-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0323]

Marlin Industries; Premarket Approval of the Marlin Salt System 250 MG

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application for premarket approval under the Medical Device Amendments of 1976 of the Marlin Salt System 250 mg (milligrams) for all soft (hydrophilic) contact lenses, sponsored by Marlin Industries, Tarzana, CA. The Marlin Salt System 250 mg is intended for use in preparing 27.7 milliliters of normal saline (0.9 percent) solution to be used in heat disinfection of all soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 21, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On May 14, 1982, Marlin Industries, Tarzana, CA, submitted to FDA a supplemental application for premarket approval of the Marlin Salt System 250 mg for all soft (hydrophilic) contact lenses. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On October 4, 1982, FDA approved the application by a letter to the sponsor from the Acting Associate Director for Device Evaluation of the then Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), salt tablets for preparing solutions for use in heat disinfection of soft (hydrophilic) contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such salt tablets are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or the solutions prepared from salt tablets for the above use comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Marlin Salt System 250 mg states that the solution prepared from the salt tablets is designed for use in heat disinfection of all soft (hydrophilic) contact lenses. Sponsors of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that wherever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new salt tablets that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (212 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this supplemental application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's

action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the person who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 21, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 11, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-4202 Filed 2-17-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83-0039]

Parker Hannifin Corp.; Premarket Approval of Cryomax®

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Cryomax® sponsored by Parker Hannifin Corp., Irvine, CA. After reviewing the recommendation of the Gastroenterology-Urology Device Section of the General Medical Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 21, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On March 2, 1982, Parker Hannifin Corp., Irvine, CA, submitted to FDA an application for premarket approval of the Cryomax®, indicated for use in therapeutic procedures requiring the separation of plasma from whole blood for (1) the removal of some plasma components (principally macromolecules) by cryofiltration, or (2) plasma exchange. The application was reviewed by the Gastroenterology-Urology Device Section of the General Medical Devices Panel, an FDA advisory committee, which recommended approval of the application. On January 31, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details

Petitioners may, at any time on or before March 21, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 11, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-4196 Filed 2-17-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0326]

Professional Supplies, Inc.; Premarket Approval of Soft Rinse 250™

AGENCY: Food and Drug Administration

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application for premarket approval under the Medical Device Amendments of 1976 of the Soft Rinse 250™ for all soft (hydrophilic) contact lenses, sponsored by Professional Supplies, Inc., Stevens Point, WI. The Soft Rinse 250™ is intended for use in the preparation of 27.7 milliliters of normal saline (0.9 percent) solution to be used in heat disinfection of all soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 21, 1983.

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ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, National Center for Devices and Radiological Health (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On May 24, 1982, Professional Supplies, Inc., Stevens Point, WI, submitted to FDA a supplemental application for premarket approval of the Soft Rinse 250™ for all soft (hydrophilic) contact lenses. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On October 4, 1982, FDA approved the application by a letter to the sponsor from the Acting Associate Director for Device Evaluation of the then Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), salt tablets for preparing solutions for use in heat disinfection of soft (hydrophilic) contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(lh)), such salt tablets are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or the solutions prepared from salt tablets for the use above comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Soft Rinse 250™ states that the solution prepared from the salt tablets is designed for use in heat disinfection of all soft (hydrophilic) contact lenses. Sponsors of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution at the next printing or any such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new salt tablets that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this supplemental application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 21, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 11, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–4203 Filed 2–17–83; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Medicare Program; Performance Criteria and Statistical Standards for Evaluating Intermediary Performance During Fiscal Year 1983

AGENCY: Health Care Financing Administration (HFCA), HHS.

ACTION: General notice with comment period.

SUMMARY: This notice describes performance criteria and statistical standards to be used for evaluating the performance of fiscal intermediaries in the administration of the Medicare program for fiscal year 1983. The results of these evaluations may be considered when we enter into, renew, or terminate an intermediary agreement; assign or reassign providers of services to an intermediary; or designate regional or national intermediaries.

DATES: February 18, 1983. To assure consideration, comments should be mailed by March 21, 1983.

ADDRESSES: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO–32–GNC, P.O. Box 17073, Baltimore, Maryland 21235. If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C., or Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland. In commenting please refer to BPO–32–GNC.

Comments: We are publishing this notice in final form in order to avoid delay in the use of the performance criteria and statistical standards in fiscal year 1983 evaluations. However,

we will accept the comments of interested parties and consider them as we develop future performance measures.

Comments will be available for public inspection as they are received, beginning approximately three weeks from today, in Room 309–G of the Department's office, at 200 Independence Avenue, SW., Washington, D.C., 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Newton Dikoff, 301–594–8190.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1816 of the Social Security Act, public or private organizations and agencies may participate in the administration of Part A (Hospital Insurance) of the Medicare program under contract with the Secretary. These agencies or organizations are known as fiscal intermediaries, and they perform bill processing and benefit payment functions for the Medicare program. Providers of services (hospitals, skilled nursing facilities (SNFs), and home health agencies (HHAs)) submit bills to these intermediaries, which determine whether the services are covered under Medicare and determine reasonable costs. The intermediaries then reimburse the providers on behalf of the beneficiaries.

Using performance criteria and statistical standards, we evaluate the performance of intermediaries in such areas as bill processsing, provider reimbursement, contract management, bill processing cost, bill processing timeliness, and cost report settlement quality. The areas of bill processing, provider reimbursement, and contract management are measured using performance criteria that evaluate the overall quality of an intermediary's Medicare operation. The areas of bill processing cost, timeliness, and the quality of cost report settlement are measured using statistical standards that evaluate the efficiency of an intermediary's Medicare operation.

As a result of our evaluation of intermediary performance under these performance criteria and statistical standards, we may initiate administrative actions. As stated in the regulations in subpart B of 42 CFR Part 421, we consider the results of the evaluations in determinations we make concerning—

- Entering into, renewing, or terminating agreements with intermediaries;
- Assigning or reassigning providers to intermediaries; and
- Designating regional or national intermediaries for classes of providers.

The evaluation system was established in regulations on June 23, 1980 (45 FR 42174). At that time, we placed in the regulations a general description of performance criteria (42 CFR 421.120) and a requirement that statistical standards be issued through notices in the **Federal Register** before the beginning of each evaluation period (42 CFR 421.122). A complete description of the criteria and standards, along with sub-elements of each, is also published annually through HCFA's manual issuances system.

The description of the criteria contained in § 421.120 has remained unchanged since it was issued in June 1980, and is now out-of-date because of changes in the importance of the various areas of intermediary performance evaluated by the criteria, along with changes in the Medicare law and in our evaluation procedures. Consequently, we have determined that we must revise § 421.120 to replace the description of the performance criteria with a commitment to issue updated criteria before each evaluation period through **Federal Register** notices in the same manner as we update the statistical standards in accordance with § 421.122. The result will be annual notices that will consist of a detailed description of the performance criteria and statistical standards along with the numerical values of each. A final rule making this change appears elsewhere in this issue of the **Federal Register**.

Additionally, we are including in this notice the revised performance criteria applicable for fiscal year 1983 in order to provide the intermediary community and the public-at-large with an opportunity to comment on the performance criteria, as well as the statistical standards issued under § 421.122. The intermediary community has had an opportunity to comment on the performance criteria and statistical standards for fiscal year 1983 through workshops, meetings and consultations between intermediary representatives and HCFA. The fiscal year 1983 criteria and standards, as described in the notice, have already been issued to intermediaries through the HCFA manual issuance system.

Throughout the process of developing the elements and numerical values of the fiscal year 1983 performance criteria and statistical standards, we have consulted with the intermediary community. Through an informal and a formal consultation process we have negotiated with, and received substantive input, from the intermediaries concerning fiscal year 1983 performance levels.

II. Performance Criteria

We will use the following performance criteria to evaluate the overall quality of an intermediary's performance during fiscal year 1983. Within the 3 areas to be evaluated, there are a total of 11 performance criteria: 3 for bill processing, 3 for provider reimbursement, and 5 for contract management. The 11 performance criteria contain a total of 37 elements.

A. Scoring System

We will measure each of the three areas that are evaluated using performance criteria. We have set the requirement levels for fiscal year 1983 as follows:

- Bill Processing—132 points.
- Provider Reimbursement—132 points.
- Contract Management—220 points.

These levels were determined by considering the results of fiscal year 1981 intermediary performance evaluations, reports of performance in fiscal year 1982, and performance levels expected to be achieved in fiscal year 1983. We believe that the levels are achievable by most of the intermediaries. Therefore, failure of a particular intermediary to achieve the levels would raise serious questions about its ability to perform its Medicare responsibilities adequately.

An intermediary's score in each of the three areas is determined by summing the criteria scores within each area. Unsatisfactory performance in any of the three areas may result in an overall assessment of unsatisfactory performance for the performance criteria phase of the evaluation system.

The starting score for each of the performance criteria is 50 points. The starting score of 50 represents a numerical value assigned to the performance level for a criterion against which an intermediary's performance will be measured. This performance level reflects a level of efficiency and effectiveness which can be achieved by the large majority of intermediaries. Each element within a criterion has a method of evaluation that is used to calculate points based on an intermediary's performance for that element. For each element, HCFA will provide an acceptable performance level and specific method of measuring performance. This methodology will be applied uniformly to each intermediary's performance. In addition, each element

carries a weight of 1.0, 1.5, or 2.0 depending on its relative importance to the criterion, and the Medicare program. The calculated points are multiplied by the element's weight before being applied to the criterion starting score of 50. The sections below list the performance criteria, elements, and element weights for fiscal year 1983.

If an intermediary exactly meets the requirements for each of the elements within a criterion, it will achieve the criterion starting score of 50. For performance better or worse than the levels set for the criteria elements, calculated weighted points will either be subtracted from the starting score, or added to the starting score if the intermediary is eligible for bonus points.

If an intermediary is not responsible for performing a function measured by an element(s), it will not be evaluated for that particular element(s).

If an intermediary performs below the level set for the element, calculated points (after multiplying by the weight) are subtracted from the starting score of 50. Bonus points are added to the starting score of 50 after this calculation to help distinguish between various levels of acceptable performance within each element by intermediaries. However, an intermediary must achieve a score of 44 or higher in a criterion to be eligible for bonus points. He will not use bonus points in an area to help an intermediary whose performance does not achieve a score of 44 in that area. The score of 44 was selected as the level of performance expected to be achieved in a criterion by a substantial number of intermediaries, following consideration of FY 81 evaluation scores and reports of FY 82 performance.

As previously explained, the areas of bill processing, provider reimbursement, and contract management require a score that meets or exceeds the aforementioned prescribed levels. To ensure that extremely deficient performance in a criterion is not offset by good performance in another criterion, within that same area, a criterion score of 38 must be achieved. Otherwise, performance for the entire area will be considered unsatisfactory. Though achieving a score of 38 or higher in each criterion will not necessarily result in a standard score above the required level, a score below 38 in any criterion would result in an unsatisfactory assessment. Selection of the score of 38 was also made after consideration of FY 81 evaluation scores and reports of FY 82 performance. A score of 38 represents performance at least 13 points below the acceptable performance level.

The following sections explain each area with its respective criteria and elements. Attachment A shows some examples of scoring in the three areas that are measured by the performance criteria.

B. Bill Processing

The evaluation of the area of bill processing is intended to measure an intermediary's compliance with several bill processing adjudication requirements. Under these requirements, an intermediary must:

(1) Accurately process bills from providers;

(2) Determine whether rendered services are covered under the Medicare program;

(3) Ensure the correct amount of benefit payments;

(4) Respond promptly and accurately to beneficiary inquiries; and

(5) Issue proper notices of reconsideration determinations.

For the FY 83 evaluation period, there are three performance criteria that are used to assess an intermediary's performance with respect to bill processing. Within these three criteria are a total of thirteen elements. The performance criteria and their respective elements are as follows:

(a) Criterion A—Maintain control of provider bills to assure orderly and accurate provider bill processing.

(1) Element 1—Age bills from the actual date of receipt. Weight=2.0.

(2) Element 2—Inpatient hospital bills must pass HCFA utilization edits. Weight=1.0.

(3) Element 3—Outpatient hospital bills must pass HCFA utilization edits. Weight=1.0.

(4) Element 4—SNF bills must pass HCFA utilization edits. Weight=1.0.

(b) Criterion B—Make correct coverage and payment determinations.

(1) Element 1—Process inpatient hospital bills to ensure that coverage and payment requirements are met. Weight=1.5.

(2) Element 2—Process SNF bills to ensure that coverage and payment requirements are met. Weight=1.0.

(3) Element 3—Process HHA bills to ensure that coverage and payment requirements are met. Weight=1.0.

(4) Element 4—Process outpatient bills to ensure that coverage and payment requirements are met. Weight=1.0.

(5) Element 5—Make payment for dialysis to end stage renal disease (ESRD) facilities based on the reimbursement limit screen or the approved exception rate. Weight=1.0.

(c) Criterion C—Respond promptly and accurately to beneficiary inquiries and appeals.

(1) Element 1—Respond promptly to beneficiary inquiries. Weight=1.5.

(2) Element 2—Respond accurately to beneficiary inquiries. Weight=1.5.

(3) Element 3—Prepare accurate reconsideration determinations. Weight=1.5.

(4) Element 4—Notice of the reconsideration decision must provide adequate information and be furnished to appropriate parties. Weight=1.5.

c. Provider Reimbursement

Proper stewardship over Medicare reimbursable costs is an important responsibility. An intermediary must reimburse providers for the reasonable costs they incur in furnishing covered services to Medicare beneficiaries. This requirement includes responsibility for setting interim rates; receipt, review, audit, and settlement of provider cost reports; and timely disposition of overpayments.

In FY 83, there are a total of nine elements within the provider reimbursement area's three performance criteria as follows:

(a) Criterion A—Establish interim rates and periodic interim payment rates for providers accurately and timely, and identify and recover overpayments timely.

(1) Element 1—Establish interim payments for participating hospitals to approximate Medicare reimbursable costs as closely as possible. Weight=2.0.

(2) Element 2—Establish interim payments for participating SNFs to approximate Medicare reimbursable costs as closely as possible. Weight=1.0.

(3) Element 3—Establish interim payments for participating HHAs to approximate Medicare reimbursable costs as closely as possible. Weight=1.5.

(4) Element 4—Recover provider overpayments timely. Weight=2.0.

(b) Criterion B—Based on provider cost reports, accurately apply the Principles of Reimbursement (42 CFR 405, Subpart D) to ensure that only reasonable and allowable costs incurred in furnishing covered services to Medicare beneficiaries are reimbursed by the Medicare program.

(1) Element 1—Properly finalize SNF cost reports. Use the Principles of Reimbursement and comply with HCFA requirements to ensure that only reasonable and allowable costs incurred in furnishing covered services to Medicare beneficiaries have been reimbursed to providers of services. Weight=1.5.

(2) Element 2—Properly finalize HHA, Rural Health Clinic and outpatient physical therapy cost reports. Use the Principles of Reimbursement and comply with HCFA requirements to ensure that only reasonable and allowable costs incurred in furnishing covered services to Medicare beneficiaries have been reimbursed to providers of services. Weight=1.5.

(c) Criterion C—Settle provider cost reports timely.

(1) Element 1—Hospital FY 81 cost reports must be settled by the end of FY 83. Weight=2.0.

(2) Element 2—SNF FY 81 cost reports must be settled by the end of FY 83. Weight=1.5.

(3) Element 3—HHA FY 81 cost reports must be settled by the end of FY 83. Weight=1.5.

D. Contract Management

An intermediary must protect the Medicare program and the public interest by properly managing Federal funds for both benefit payments and cost of administration. This effort must be in accordance with the agreement with the Secretary, the Federal Procurement Regulations, and HCFA instructions. In addition, prevention of fraud and abuse is an important facet of this responsibility.

There are five performance criteria in this area that contain a total of fifteen elements as follows:

(a) Criterion A—Equitably charge and control allowable Medicare administrative expenses to the program.

(1) Element 1—Cost allocations must be consistent (provide reasonable assurance that comparable transactions are treated alike) and allocable (assigned or chargeable to a particular cost objective in accordance with the relative benefits received or other equitable relationship). Weight=2.0.

(2) Element 2—Control actual expenditures to the latest approved budget and have the ability to identify potential over-expenditures in advance. Weight=1.5.

(3) Element 3—Control administrative funds drawn to the approved Budget Distribution and in line with actual expenditures. Weight=1.5.

(b) Criterion B—Submit accurate fiscal reports and maintain Medicare bank accounts through appropriate letter of credit procedures.

(1) Element 1—Submit accurate Interim Expenditure Reports. Weight=1.5.

(2) Element 2—Submit Accurate Final Administrative Cost Proposals. Weight=2.0.

(3) Element 3—Submit timely "Time Account Adjustment Schedules." Weight=1.0.

(4) Element 4—Accurately complete quarterly adjustments to the Medicare Time Account(s). Weight=1.5.

(5) Element 5—Make timely adjustments to the Medicare Time Account. Weight=1.0.

(c) Criterion C—Identify and process program integrity issues in accordance with general instructions.

(1) Element 1—Properly close all potential fraud and abuse cases. Weight=2.0.

(2) Element 2—Properly close audited fraud and abuse cases involving provider cost reports. Weight=1.5.

(d) Criterion D—Comply with the contractual provisions regarding required clauses, prior approval, and/or notification when entering into, modifying, or renewing subcontracts.

(1) Element 1—Include all applicable clauses in subcontracts executed during the review period. Weight=1.0.

(2) Element 2—Submit leases and other subcontracts (excluding those for electronic data processing (EDP) services included in element 3) to HCFA for prior approval or give notice in accordance with the Medicare agreement and HCFA instructions. Weight=2.0.

(3) Element 3—Submit subcontracts for EDP services or equipment to HCFA for prior approval or give notice in accordance with the Medicare agreement and HCFA instructions. Weight=2.0.

(e) Criterion E—Implement HCFA instructions accurately.

(1) Element 1—Accurately implement Intermediary Letters (ILs) and manual transmittals issued by HCFA central office. Weight=2.0.

(2) Element 2—Implement HCFA regional office directives and recommendations accurately. Weight=2.0.

III. Statistical Standards

We will use the statistical standards in this notice to evaluate intermediary performance during FY 83. Performance will be measured by three statistical standards: unit cost of bill processing, timeliness of bill process, and quality of cost report settlement. The three statistical standards collectively contain 6 elements.

A. Scoring System

We will measure each of the three statistical standards (unit cost, timeliness of bill processing, and cost report settlement quality) individually, as we did in FY 82. A starting score of 100 points will be assigned to each of the three standards, and we will subtract points from the starting score for intermediary performance that does not meet the levels set by the elements within the standards. The starting score of 100 points is representative of the performance level reached by about 50 percent of the intermediaries in FY 81.

Attainment of 75 points represents the performance at the 85th to 90th percentile of intermediaries in the FY 81 base year. If an initial score of 75 or better is attained in a standard, bonus points will be awarded for levels of performance exceeding the levels prescribed for the elements within the standards. Failure to achieve a score of 75 in any of the statistical standards may result in an overall assessment of unsatisfactory performance for the statistical standards phase of the evaluation process.

In setting the levels for the elements of the standards, we accounted for past intermediary performance, current fiscal constraints, and the need to promote the best possible performance. Moreover, should significant noncontrollable factors impact on an intermediary's performance of a selected performance measure, we will make an appropriate adjustment to the intermediary's score.

As stated earlier, unsatisfactory performance as measured by the criteria and standards is taken into account in entering into, renewing or terminating agreements with intermediaries, assigning or reassigning providers to intermediaries and in designating regional or national intermediaries for classes of providers.

B. Use of Weights

As previously mentioned, the three statistical standards for FY 83 contain a total of 6 elements: 1 for unit cost, 4 for bill processing timeliness, and 1 for cost report settlement quality. We assigned each of the 6 elements a weight between 0 and 1, and we will multiply points received in any of these elements by the weight of the element before we apply them to the starting score. We will use the bonus point concept in the unit cost and cost report quality elements to provide an incentive to the intermediaries to exceed the levels prescribed by the standards' elements as much as possible. However, bonus points will not be awarded for the FY 83 bill processing timeliness standard. Because there is only one element in each of the unit cost and cost report quality standards, each has been assigned a weight of one. In the bill processing timeliness standard, the individual elements carry weights according to their relative importance

within the statistical standard to beneficiaries, providers, and governmental recordkeeping requirements. We derived these weights on the basis of our experience in the bill processing area and after consultation with representatives of the intermediary community.

There are 4 elements in the standard for bill processing timeliness: 1 each for inpatient hospital, outpatient hospital, SNF and HHA bills. We assigned relatively equal weights to the elements for each type of bill because we believe each is equally important. We set the required levels of performance at different levels for each type of bill, based on actual achievements reached by intermediaries in these areas, but adjusted the results so that the standard would not have to exceed FY 82 levels as a cost savings measure. The requirements for all 4 elements have been given a weight between 0 and 1.

The following sections explain each statistical standard and the respective elements in detail. Attachment B exhibits some examples of scoring the statistical standards.

C. Unit Cost Standard

We based the standard for unit cost of bill processing on FY 81 data adjusted to reflect the effect of contractor budget allowances estimated to occur in FY 83. In the calculation of unit cost per bill, we define the numerator "cost" as the intermediary's Medicare FY 83 administrative costs. These costs exclude nonrecurring costs and costs related to provider reimbursement; provider audit; Professional Standards Review Organization and health maintenance organization activities; and State premium taxes, where applicable. For Blue Cross Plans, the numerator includes a share of Blue Cross Association administrative support costs. These data will be derived from the final Interim Expenditure Report (Form HCFA-1527) filed for FY 83. We define the denominator "bill" as the intermediary's total number of processed bills for FY 83 as correctly reported on its Intermediary Workload Report (Form HCFA-1566).

D. Adjustment to Unit Cost

To allow for a more equitable comparison with the unit cost standard, we adjust each intermediary's unit cost value for significant measurable factors that are not within the intermediary's control. Statistical techniques, such as multiple regression analysis, are used to derive the adjustment factors. Regression analysis is a statistical tool that is used to identify variables (such as differing salary levels between geographic areas) that impact significantly upon a given measure (such as unit cost) and to quantify the extent of such impact. Before we compare an intermediary's unit cost with the FY 83 standard, appropriate adjustments will be made by applying the adjustment factors described below.

In the study of intermediary unit costs for FY 83, five noncontrollable factors were identified through the use of regression analysis: A geographical salary index, the inverse of the intermediary's total bill volume, the percent of bills processed by the intermediary that are inpatient hospital bills, the percent of bills processed by the intermediary that are HHA bills, and the percent of bills processed by the intermediary that are SNF and "other" bills.

We will adjust each intermediary's FY 83 unit cost for the effect of noncontrollable factors V_1 to V_5 by means of the following formula:

$$\text{Adjusted Unit Cost} = (\text{Unit Cost}) - 1.(V_1 - 1.00) - 3.05(V_2 - .05) - 2.86(V_3 - .29) - 3.80(V_4 - .09) - 3.52(V_5 - .06).$$

Where:

V_1 = An index value based on average starting salaries for clerk-typists employed by the insurance industry in 1981.

V_2 = Inverse Bill Volume—Monthly (12 times 1,000 divided by the number of bills reported as processed during FY 83 by the intermediary on its Intermediary Workload Reports);

V_3 = Ratio of Inpatient Hospital Bills (column ii of the Intermediary Workload Report) processed to total bills processed (based on FY 83 bills processed as reported by the intermediary on its Intermediary Workload Reports);

V_4 = Ratio of HHA bills (column v of the Intermediary Workload Report) processed to total bills processed; and

V_5 = Ratio of SNF and "other" bills (column iv plus column vi of the Intermediary Workload Report) processed to total bills processed.

For FY 83, we have set the unit cost standard at $3.30. An intermediary with an adjusted unit cost of $3.30 would achieve a score of 100. The unit cost value that will achieve 75 points is equivalent to $3.80. That is, an intermediary must have a unit cost of not more than $3.80 (after it is adjusted for noncontrollable factors that significantly impact upon cost) for it to satisfy the unit cost standard. The levels of $3.30 and $3.80 were derived based on: (1) Past intermediary performance; (2) acknowledgement of noncontrollable factors that may impact upon cost; and (3) current and projected budgetary conditions.

Since there is only one element that constitutes the unit cost standard, we established a weight of 1.0 for that element. The scoring formula used to subtract points for an adjusted unit cost that is above the unit cost standard or to award bonus points for a value that is below the standard is as follows:

50 ($3.30 − Performance)

Where, the intermediary's performance is its adjusted unit cost value.

E. Timeliness of Bill Processing

We define bill processing time as the length of time in calendar days from the date of initial receipt of the bill by the intermediary to the date the intermediary processed the bill to completion. The percent of bills processed within a specific timeframe is determined in the following manner. Using the universe of bills processed by the intermediary during FY 83 and required to be sent to HCFA, we will divide the number of bills sent to us within the specified time period by the total number of bills processed and then multiply the result by 100.

Our analyses show the major noncontrollable factor affecting bill processing timeliness is the proportion of bills by type. Therefore, instead of trying to adjust a single set of elements for these proportions, we have established requirements by type of bill according to the following definitions:

- Inpatient Hospital bills—HCFA-1453 forms submitted by hospitals.
- SNF bills—HCFA-1453 forms submitted by SNFs.
- HHA bills—HCFA-1487 forms submitted by HHAs.
- Outpatient bills—HCFA-1483 forms (Provider Billing for Medical and other Health Services) submitted by all types of providers.

The FY 83 bill processing time elements, scoring formulas, and weights are as follows:

Element	Standard	Scoring formula [2]	Weight
Inpatient Hospital Bills: 1. Percent Processed in 30 Days	98.5 (80.0)	4.0 (PERF-80.0)	25
Outpatient Hospital Bills: 2. Percent Processed in 30 Days	97.5 (80.0)	5.0 (PERF-80.0)	25
SNF Bills: 3. Percent Processed in 30 Days	92.5 (74.5)	2.0 (PERF-74.5)	25
HHA Bills: 4. Percent Processed in 30 Days	95.5 (77.0)	2.0 (PERF-77.0)	25

[1] Processing time standards shown in parenthesis have been relaxed and are the FY 83 standards.
[2] The variable "PERF" refers to the intermediary's actual performance for the elements.

F. Cost Report Settlement Quality

This standard will be measured using HCFA's Cost Report Evaluation Program (CREP). The objectives of this program are: (1) To determine if cost report settlement instructions are being properly followed; (2) to discover errors and recoup monies when appropriate; and (3) to identify underlying areas where instructions need clarification.

CREP is implemented through a sampling approach applied to an intermediary's universe of settled hospital and HHA cost reports. Once the sample is selected, the cost reports are reviewed in conjunction with the above objectives. The sample findings are then projected to the unverse at which time a quality rating is assigned based on the intermediary's performance for the provider cost report settlement function.

For FY 83, we set the provider cost report settlement quality standard at 88.0. This level will achieve a CREP Cost Report Settlement Quality score of 100 points. A CREP performance level of 70.2 is required to achieve the required level of 75 points in the CREP Cost Report Settlement Quality Standard. Since there is only one element for this standard, we established a weight of 1.0 for that element. The scoring formula used to substract points or award bonus points is as follows:

1.4 (Performance—88.0)

Where, the intermediary's performance is its CREP score.

IV. Impact Analyses

A. Executive Order 12291

We have determined that this notice does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this proposed rule will not have an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or cause significant adverse effect on business, or employment.

We are required by regulations to issue the statistical standards before the beginning of each evaluation period. No increased costs will be incurred by the Federal government or the intermediaries as a result of this notice. Therefore, a Regulatory Impact Analysis is not required.

B. Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this notice will not have a significant economic impact on a substantial number of small businesses, organizations, or government jurisdictions. The updated performance criteria and statistical standards do not add to or alter the functions that intermediaries already perform for the Medicare program and, therefore, do not increase the cost of an intermediary's Medicare operation.

We believe that the changes will, in fact, be of benefit to the intermediaries because the criteria and standards used in the evaluation system will ensure a good level of performance without placing an inordinate number of intermediaries in serious jeopardy of not satisfying the performance criteria or the statistical standards.

In addition, all intermediaries are under contract with HCFA and these contracts provide for evaluations of intermediary performance. The evaluations, therefore, are mutually agreed to.

Lastly, we set the performance criteria and statistical standards so that the size of an intermediary does not adversely affect its ability to meet the requirements.

For these reasons, we do not believe that a regulatory flexibility analysis under the Regulatory Flexibility Act is required for this annual notice.

Attachment A—Examples of Scoring the Areas Measured Using Performance Criteria

EXAMPLE 1.—BILL PROCESSING

	Weighted penalty point	Weighted potential bonus points
Criterion A:		
Element 1	-2	0
Element 2	0	1
Element 3	-1	0
Element 4	-*	0
Criterion Score = 50 − 4 = 46 + 1 [1] = 47		
Criterion B:		
Element 1	-3	0
Element 2	-2	0
Element 3	-1	0
Element 4	-2	0
Element 5	0	1
Criterion Score = 50 − 8 = 42		
Criterion C:		
Element 1	-3	0
Element 2	0	0
Element 3	0	0
Element 4	0	0
Criterion Score = 50 − 3 = 47		

Bill Processing Score = 47 + 42 + 47 = 136, which surpasses the required level

[1] Bonus point awarded since initial criterion score (i.e., 46) is above 44

[2] Bonus point not awarded since initial score is below 44

EXAMPLE 2.—BILL REIMBURSEMENT

	Weighted penalty point	Weighted potential bonus points
Criterion A:		
Element 1	-4	0
Element 2	-1	0
Element 3	-3	0
Element 4	-2	0
Criterion Score = 50 − 10 = 40		
Criterion B:		
Element 1	-3	0
Element 2	0	0
Criterion Score = 50 − 3 = 47		
Criterion C:		
Element 1	0	0
Element 2	-3	0
Element 3	-3	0
Criterion Score = 50 − 6 = 44		

Provider Reimbursement Score = 40 + 47 + 44 = 131 which is below the required level

EXAMPLE 3.—CONTRACT MANAGEMENT

	Weighted penalty point	Weighted potential bonus points
Criterion A:		
Element 1	0	0
Element 2	-1.5	0
Element 3	-1.5	0
Criterion Score = 50 − 3 = 47		
Criterion B:		
Element 1	0	0
Element 2	0	0
Element 3	0	0
Element 4	0	0
Element 5	0	0
Criterion Score = 50		
Criterion C:		
Element 1	0	2
Element 2	0	0
Criterion Score = 50 + 2 = 52.		
Criterion D:		
Element 1	0	0
Element 2	0	0
Element 3	0	0
Criterion Score = 50		
Criterion E:		
Element 1	-8	0
Element 2	-6	0
Criterion Score = 50 − 14 = 36		

Contract Management Score = 47 + 50 + 52 + 50 + 36 = 235, however, since Criterion E has a score below 38, the intermediary is not meeting the requirements

Attachment B—Example of Scoring Statistical Standards

Standard	Performance requirement	Performance	Subtraction (−) bonus (+) points [1]	Weight	Weighted subtraction (−) bonus (+) points	Standard
Unit Cost						
1. Adjusted Unit Cost	$3.30	$3.90	-.30	1.00	30	70
Timeliness of Bill Processing: [1]						
2. Inpatient—30 Days	98.5 (80.0%)	75.0%	-20.0	25	5.0	95
3. Outpatient—30 Days	97.5 (80.0%)	88.4%	0	25	0	
4. SNF—30 Days	92.5 (74.5%)	77.7%	0	25	0	
5. HHA—30 Days	95.5 (77.0%)	88.9%	0	25	0	
Cost Report Settlement Quality						
6. CREP Score	88.0%	85.0%	−4.2	1.00	4.2	95.8

[1] No bill processing timeliness bonus point available for FY 83. Bill processing timeliness standards have been relaxed to FY 82 levels.

(Secs. 1102, 1816 and 1871 of the Social Security Act (42 U.S.C. 1302, 1395h, and 1395hh))
(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: December 30, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: January 28, 1983

Richard S. Schweiker,

Secretary.

[FR Doc. 83-4239 Filed 2-17-83; 8:45 am]

BILLING CODE 4120-03-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was last published on February 11.

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration

Subject: Inventory of Mental Health Organizations (Abbreviated Version)—New
Respondents: Psychiatric hospitals under State or county auspices
OMB Desk Officer: Fay S. Iudicello

Centers For Disease Control

Subject: National Venereal Disease Morbidity Program (0920-0001)—Revision
Respondents: State, territorial, and local health departments
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Transmittal of Periodic Reports and Promotional Material for New Arrival Drugs (0910-0019)—Extension/No change
Respondents: Drug manufacturing firms
OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: Statement Regarding the Inferred Death of an Individual by Reason of Continued and Unexplained Absence (SSA-723 (1-83))—Revision
Respondents: Individuals or households
Subject: Statement of Income and Resources by Person Whose Income May be Deemed to a Supplemental Security Income Recipient or Applicant (SSA-8010-F6)—Revision
Respondents: Individuals or households
Subject: Certificate of Responsibility for Welfare and Care of Child not in Applicant's Custody (SSA-781 (1-83))—Revision
Respondents: Individuals or households
Subject: Field Review Worksheet for a Study of the Social Security Administration's Procedures for Waiving the Repayment of Title II and XVI Overpayments—New
Respondents: Individuals or households
OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Evaluation of Medicare and Medicaid Alcoholism Services Demonstration—Preliminary Plan
Respondents: Selected alcoholism treatment facilities
Subject: Medicaid Quality Control Sampling Plan (HCFA-317)—Reinstatement
Respondents: State agencies administering the Medicaid program
OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

Subject: Study of Preplacement and Reunification Child Welfare Service Programs—New
Respondents: Child welfare services caseworkers and supervisors and families receiving child welfare services
OMB Desk Officer: Milo Sunderhauf

Office of the Secretary

Subject: Pilot Short-Term Evaluation of HHS Clearinghouse Users (User Survey)—New
Respondents: Sample of users of certain HHS clearinghouses
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building Room 524-F, Washington, D.C. 20201
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer)

Dated: February 15, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83-4282 Filed 2-17-83; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-83-1207]

Privacy Act of 1974; New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of a new system of records.

SUMMARY: The Department is giving notice of a system of records it intends to maintain which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: This notice shall become effective March 20, 1983, unless comments are received on or before that

date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stokes, Departmental Privacy Act Officer, (202) 755–5320. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Audit Planning and Operations System (APOS) is being developed to assist the Office of Assistant Inspector General for Audit in planning, executing and evaluating its audit work and other assignments. This system will collect and store the Office of Inspector General (OIG) audit planning information. It will store information reflecting the accomplishments of all planned activity for purposes of comparing this data to the plan. The automated APOS will also collect all information concerning the execution of all OIG audit assignments at both Headquarters and in the regions. The collected information will include all time charged to each task within each assignment for each participating staff member; planned dates for each task within each assignment; actual task completion dates; and information on receipt, review and acceptance of audit reports of HUD grantees conducted by Independent Public Accountants (IPAs) and subject to review and acceptance by the OIG. The APOS will also provide standard cyclic and "on-request" reports of general audit plans, audit operations and detailed plan accomplishments pursuant to the OIG fulfilling its obligation to HUD, the Congress, and the President. The prefatory statement containing General Routine Uses applicable to most of the Department's systems of records was published at 47 FR 34322 (August 6, 1982). Appendix A, which lists the addresses of HUD's Field Offices was published at 47 FR 34331 (August 6, 1982). A new system report was filed with the Speaker of the House, the President of the Senate, and the Director of the Office of Management and Budget on December 27, 1982.

HUD/DEPT–77

SYSTEM NAME:

Audit Planning and Operations System (APOS).

SYSTEM LOCATION:

This system is located in Headquarters, with regional and Headquarters data entry and access capabilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All OIG staff personnel and Independent Public Accountants (IPAs) who perform audits of HUD grantees where reports are subject to OIG review and acceptance.

CATEGORIES OF RECORDS IN THE SYSTEM:

The automated APOS contains name and ID number for OIG auditors and Independent Public Accountants (IPAs) who perform audits of HUD grantees where the audit reports are subject to OIG review and acceptance. Additionally, the APOS has records reflecting the OIG Annual Audit Plan (AAP) and detailed assignments within the AAP staffing and time goals for each assignment; records on direct time expenditures for each task within each assignment for each OIG employee; indirect time for each employee; information reflecting the receipt, review, acceptance and audit verification of IPA audits; and direct time charges to other categories of OIG audit work such as assistance to U.S. Attorneys, complaint handling and special projects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OMB Circular No. A–73, Revised, dated March 15, 1978, Audit of Federal Operations and Programs; Paragraphs 7 and 7(3). Inspectors General Act 1978. Pub. L. 95–452; Section 4, Paragraph (1) and Section 5(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See routine uses paragraphs in prefatory statement. Other routine uses: None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic media.

RETRIEVABILITY:

Retrievability of records that refer to OIG personnel will be by HUD-OIG numbers and regional identifier. Retrieval of records that refer to Independent Public Accountants will be by the OIG designated numeric code for the IPA and regional identifier.

SAFEGUARDS:

Manual files are kept in lockable file drawers in secure areas. Technical restraints are employed with regard to accessing the automated records.

RETENTION AND DISPOSAL:

Coded imput forms will be retained for one month, and upon successful execution of program, the forms will be destroyed. Printed computer output forms will be retained until the next cyclical run. The system report cycles will occur monthly, quarterly, or semiannually depending on the nature of the report. Stored data within the system will be retained for three years. At the end of that period the records will be removed and maintained for two more years on tape where they will be restored to the system only as needed. At the end of a 5-year period, records will be removed from tape library and destroyed.

SYSTEM MANAGER AND ADDRESS:

Assistant Director, Audit Operations Division, Field Operations, 451 7th Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 24010.

RECORD SOURCE CATEGORIES:

Subject individuals and other HUD employees. All records within the automated APOS will be developed from current existing records within

Regional and Headquarters OIG sites. Time records will be reported for OIG personnel through their supervisors. IPA data will be reported by the IPA liaison groups within each OIG regional facility.

AUTHORITY:

5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., February 9, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-4120 Filed 2-17-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Advisory Committee for Exceptional Children; To Identify the Unmet Needs of Handicapped Indian Children; Meeting

January 26, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

In accordance with section 612(7) of Pub. L. 91-230 as amended by section 5(a) of Pub. L. 94-142, Education of the Handicapped Act, the Bureau of Indian Affairs Advisory Committee will meet on February 22-27, 1983, at the Cosmopolitan Hotel at 1030 N.E. Union Avenue, Portland, Oregon from 8:30 A.M. to 4:30 P.M. each day.

The purpose of the meeting will be to investigate the unmet needs of handicapped Indian children and to discuss the proposed special education regulations for the Bureau of Indian Affairs.

The meeting is open to the public. Any member of the public can file a written statement concerning the matters discussed with the Division of Exceptional Education, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Code 507, Washington, D.C. 20245, within 30 days after the meeting.

Additional information about the meeting may be be obtained from Ms. Dixie Owen, Bureau of Indian Affairs, Department of the Interior, room 4655, telephone number (202) 343-4071.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 83-4251 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-02-M

Lac du Flambeau Indian Reservation; Ordinance Regulating the Use, Possession, Sale, and Distribution of Intoxicating Beverages

February 8, 1983.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Resolution No. 266 (82), and Ordinance No. 266 (82) relating to the application of the Federal Indian Liquor Laws on the Lac du Flambeau Indian Reservation, Wisconsin, were duly adopted on August 16, 1982, by the Lac du Flambeau Tribal Council which has jurisdiction over the area of Indian country included in the ordinance, reading as follows:

Kenneth Smith,

Assistant Secretary, Indian Affairs.

Resolution No. 266 (82)

Whereas, the Tribal Council of the Lac du Flambeau Band of Lake Superior Chippewa Indians adopted an Ordinance legalizing the introduction, sale or possession of intoxicants on the Lac du Flambeau Indian Reservation approved by the Secretary of the Department of the Interior on January 25, 1974, and

Whereas, the Tribal Council of the Lac du Flambeau Band of Lake Superior Chippewa Indians has the duty and responsibility of regulating the possession, use, consumption and sale of alcoholic beverages on the Lac du Flambeau Reservation, and

Whereas, the Lac du Flambeau Constitution and Bylaws, Article VI, Section 1(i) requires approval of an ordinance known as the "Lac du Flambeau Liquor Control Ordinance" by popular referendum of the Tribe, and

Whereas, said popular referendum was held on July 19, 1982, resulting in a vote of 98 (ninety-eight) ballots cast for the adoption of the Ordinance and 92 (ninety-two) ballots cast against the adoption of the Ordinance, now therefore be it

Resolved, by the Council in Special Session assembled, that the Tribal Council of the Lac du Flambeau Band of Lake Superior Chippewa Indians hereby adopts the attached Lac du Flambeau Liquor Control Ordinance.

Certification

I, the undersigned, as Secretary of the Lac du Flambeau Band of Lake Superior Chippewa Indians, an Indian Chartered Corporation, do hereby certify that the Tribal Council of the Band is composed of twelve members, of who eleven, constituting a quorum were present at a Special Meeting, duly called, noticed, convened and held on the 16th day of August, 1982, and that the foregoing resolution was duly adopted at said meeting by an affirmative vote of ten members, none against, none abstaining, and that the said resolution has not been rescinded or amended in any way.

George W. Brown, Jr., *Secretary,*

Lac du Flambeau Band of Lake Superior Chippewa Indians.

Approved: August 19, 1982.

Robert P. St. Arnold,

Superintendent, Great Lakes Agency.

Ordinance 266 (82)

Be it ordained by the Tribal Council of the Lac du Flambeau Band of Lake Superior Chippewa Indians:

Section 1.0 Introduction

1.1 Title—This ordinance shall be known as the "Lac du Flambeau Tribal Liquor Control Ordinance."

1.2 Authority—This ordinance is enacted pursuant to the Act of August 15, 1953 (Pub. L. 83-277, 67 Stat. 588, 18 U.S.C. 1161) which provides that federal Indian liquor laws shall be inapplicable to any act or transaction within any area of Indian Country, provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over such area of Indian country, certified by the Secretary of the Interior and published in the Federal Register.

1.3 Purpose—The purpose of this ordinance is to regulate and control the possession and sale of liquor on the Lac du Flambeau Indian Reservation. The enactment of a tribal ordinance governing liquor possession and sales on the Reservation will increase the ability of the tribal government to control Reservation liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of tribal government and the delivery of tribal government services.

1.4 Effective Date—This ordinance shall be effective on such date as the Secretary of the Interior certifies this ordinance and publishes the same in the Federal Register.

1.5 Abrogation and Greater Restrictions—Where the ordinance imposes greater restrictions than those contained in other Tribal ordinances controlling the possession and sale of liquor, the provisions of this ordinance shall govern.

1.6 Interpretation—In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the tribe and shall not be deemed a limitation or repeal of any other tribal power or authority.

1.7 Severability and Non-Liability—If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe asserts there is no liability on the part of the Lac du Flambeau Band of Lake Superior Chippewa Indians, its agencies or employees for damages that may occur as a result of reliance upon, and conformance with this ordinance.

1.8 All other ordinances or parts of ordinances of the Tribe inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.

1.9 Relation to other Laws—All acts and transactions under this ordinance shall be in conformity with this ordinance and in conformity with the laws of the State of Wisconsin as that term is used in 18 U.S.C. 1161.

1.10 Violation—The introduction, purchase, sale or dealing in liquor, other than when done pursuant to license under this ordinance, is prohibited and is a violation of tribal law. The federal Indian liquor laws are intended to remain applicable to any act or transaction which is not authorized by this ordinance. Violations of this ordinance by any person shall be subject to federal prosecution as well as to legal action in accordance with tribal law.

1.11 The ordinance must be adopted pursuant to the requirements of Article VI, Section 1(i) of the Constitution and Bylaws of the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin.

Section 2.0 Definitions

2.10 General Definitions—For the purposes of this ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular includes the plural; and the plural includes the singular. The word "shall" is mandatory and the word "may" is permissive.

2.20 Specific Words and Phrases

2.21 "Intoxicating Liquors."—All ardent, spirituous, distilled, or vinous liquids, or compounds, whether medicated, proprietary, patented or not and by whatever name called containing one-half of one percent or more alcohol by volume, which are fit for use for beverage purposes, but shall not include "fermented malt beverages" as defined in section 2.22 which contain less than 5 per centum of alcohol by weight.

2.22 "Fermented Malt Beverages" shall mean any liquor or liquid capable of being used for beverage purposes, made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing one-half per cent or more of alcohol by volume.

2.23 "Sale" and "sell" include the exchange, barter, traffic, donation, with or without consideration, in addition to the selling, supplying, or distributing, by any means whatsoever, of intoxicating liquors or fermented malt beverage by any person to any person or corporation; and, also includes a sale or selling within an area of tribal jurisdiction to a foreign consignee or his agent.

2.24 "Class A Retailer License" shall mean the granting of authority to sell fermented malt beverages either to be consumed on the premises where sold or away from such premises.

2.25 "Class B Retailers License" shall mean the granting of authority to sell fermented malt beverages either to be consumed on the premises where sold or away from such premises.

2.26 "Class A Retail Intoxicating Liquor License" shall mean the granting of authority to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.

2.27 "Class B Retail Intoxicating Liquor License" shall mean the granting of authority to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and not in the original package or container.

2.28 "Temporary License" shall mean a license for a term of no more than 7 days of any of the types defined in 2.24, 2.25, 2.26, and 2.27.

2.29 "Package" means the original container or receptacle used for holding intoxicating liquor or fermented malt beverages.

2.30 "Council" means the Lac du Flambeau Tribal Council.

2.31 "Reservation" means the Lac du Flambeau Band of Lake Superior Chippewa Indians.

3.0 Sovereign Immunity

3.10 Nothing in this ordinance is intended nor shall be construed as a waiver of the sovereign immunity of the Lac du Flambeau Band of Lake Superior Chippewa Indians. No employee or agent of the Tribe shall be authorized, nor shall he and she attempt to waive the immunity of the Tribe.

4.0 Liquor Licenses and Fees

4.10 The Tribal Council may issue to an applicant any one or combination of the following licenses: Class A Retailers License; Class B Retailers License; Class A Retail Intoxicating Liquor License; Class Be Retail Intoxicating Liquor License, and a temporary license of any of the above types. The fee for any of the above license with the exception of the temporary license shall be $150.00 for one license and $300.00 for two or more licenses. The fee for a temporary license shall be $25.00.

5.0 Liquor Licenses: Issuance, Refusal, Suspension, Cancellation, Conditions and Restrictions.

5.10 Issuance

5.11 The Tribal Council shall, in its discretion, determine how many liquor licenses it shall issue or have outstanding in any one year.

5.12 Application for all licenses shall be submitted in the prescribed form to the Tribal Council or its authorized employees. The Tribal Council shall designate a committee to review and recommend to the Tribal Council whether the license shall be issued.

5.13 At a minimum, the application for any liquor license authorized by this ordinance must be in writing, setting forth the following information: applicant's name, address, age and tribal affiliation (if any); type(s) of license(s) desired; a legal description of the land where the licensed activity will take place; prior liquor licenses held; prior felony convictions; owner of land and premises where the licensed activity will take place.

5.14 An application for a liquor license must be accompanied by a nonreturnable application fee of $25.00. There shall be no application fee for a temporary license.

5.15 The Tribal Council has complete discretion in the granting or denial of all licenses.

5.16 All new license requests will be acted upon by the Tribal Council within 45 days from the time when the application and fee were submitted to the Tribal Council.

5.17 For the purposes of considering an application for a license under this ordinance, the Tribal Council may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises.

5.18 Every license shall be issued in the name of the applicant and no license shall be transferable, nor shall the

holder thereof allow any other person to use the license or permit.

5.19 Every licensee shall post and keep its license in a conspicuous place on the premises.

5.20 Inspection

5.21 All licensed premises used in the storage or sale of intoxicating liquor or fermented malt beverages, or any premises or parts of premises used or in any way connected, physically or otherwise, with the licensed business shall at all times be open to inspection by any tribal or federal inspector or tribal or federal police officer.

5.22 Every person, being on any such premises and having charge thereof, who refuses or fails to admit a tribal or federal inspector or tribal or federal police officer demanding to enter therein in pursuance of this section in the execution of his duty, or who obstructs or attempts to obstruct the entry of such inspector or officer, shall thereby be deemed to have violated this ordinance.

5.30 Suspension and Cancellation

5.31 The Tribal Council may, for violation of this ordinance, issue a suspension or cancellation order of any license issued pursuant to this ordinance and all rights of the licensee to keep or sell thereunder shall be suspended or terminated as the case may be.

5.32 Procedure—At least ten (10) days prior to the effective date of the order to cancel or suspend, the Tribal Council shall provide written notice of such cancellation or suspension by certified mail, return receipt requested to the licensee at the address shown on the application. A licensee who receives a written notice of suspension or cancellation shall have the right prior to the suspension or cancellation date to request a hearing by the Tribal Council by sending written notice by certified mail with return receipt to the Tribal Chairperson at the Lac du Flambeau Community Center within the ten (10) day period between notice of the cancellation or suspension order. Upon receipt of the request for hearing, the Tribal Council shall not suspend or cancel the license pending the completion of the hearing. The Tribal Chairperson shall set a date for said hearing which shall be held within thirty (30) days of receipt of the licensee's request for a hearing. The council may affirm or revise in whole or part its decision to cancel or suspend said license or permit after said hearing and its decision shall be final.

5.33 Upon suspension or cancellation of a license, the licensee shall forthwith deliver the license to the Tribal Council and cease all activities formerly conducted pursuant to the terms of the license. Where the license has been suspended, the Tribal Council shall return the license to the licensee at the expiration or termination of the period of suspension.

5.34 Licenses may be suspended by the Tribal Council for a period not to exceed 30 days.

5.35 The Tribal Council may reject any application for license renewal for any violation of this ordinance resluting in a suspension or revocation of said permit.

5.40 Expiration of Licenses

5.41 Unless sooner cancelled, every license issued by the Tribal Council shall expire at midnight on the 31st day of December.

5.50 Renewal

5.51 Applications for license renewals for the next calendar year must be submitted to the Lac du Flambeau Tribal Council on or before November 15 of the preceding year. Applications for renewals shall contain the same information required for new licenses. The Tribal Council will act on all renewal applications on or before December 15.

5.52 The Tribal Council shall not be liable for any losses incurred by the licensee resulting from cancellation, suspension or non-renewal of a license.

6.0 Illegal Activities

6.10 State laws relative to the hours in which sales are permitted shall apply to all establishments licensed under this ordinance.

6.20 All sales shall be prohibited to any person known or believed to be intoxicated.

6.30 All sales shall be prohibited to any person under the age of eighteen (18) years. All sales shall be prohibited to individuals known or believed to be purchasing on behalf of any person under the age of eighteen (18). Any person may be required to present a Wisconsin identification card which shows correct age and bears the holder's signature.

6.40 Where a liquor license is required by this ordinance, all sales of intoxicating liquor and fermented malt beverages within the exterior boundaries of the Lac du Flambeau Indian Reservation without a license issued pursuant to this ordinance are illegal.

7.0 Contraband—Seizure and Forfeiture

7.10 All intoxicating liquor and fermented malt beverages within the Lac du Flambeau Indian Reservation held, owned, or possessed by a person who is operating in violation of any provision(s) of this ordinance is hereby declared to be contraband. The Tribal Council may issue a request to proper federal authorities requesting the enforcement of Federal Liquor Laws including seizure of contraband liquor and fermented malt beverages.

8.0 Violations—Remedies

8.10 Any person found to have violated this ordinance or any lawful rule or regulation made pursuant thereto shall be liable for a civil remedial fine not to exceed five hundred dollars ($500.00).

8.20 Consistent with *United States v. Wheeler*, 435 U.S. 313 (1978), nothing shall prevent both federal and tribal jurisdiction to enforce this ordinance.

9.0 Regulations

9.10 The Tribal Council shall have the authority to adopt and enforce rules and regulations to implement this ordinance and further the purposes thereof. This section grants the Tribal Council the authority to revise license fees when necessary.

10.0 Amendment

10.10 This ordinance may be amended by a majority vote of the Tribal Council, approved by a popular referendum of the Tribe and approved by the Secretary of the Interior pursuant to Article VI, Section 1(i) of the Constitution and Bylaws of the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin.

11.0 Grandfather Clause

11.1 All licenses currently operating within the exterior boundaries of the Lac du Flambeau Indian Reservation under a license issued by a jurisdiction authorized by the State of Wisconsin to issue said licenses shall be allowed to operate under said licenses for a period not to exceed the remaining portion of the calendar year from the time of the effective date of this ordinance. At that time, said licensees must apply for a license as described in this ordinance.

[FR Doc. 83-4258 Filed 2-17-83; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

[A 7359, A 9329 and A 9603]

Arizona; Order Providing for Opening of Public Lands

February 10, 1983.

1. In exchanges of lands made under the provisions of Section 8 of the Act of

June 28, 1934 (48 Stat. 1272, as amended, 43 U.S.C. 315g), the following lands have been reconveyed to the United States under the serial numbers listed:

Gila and Salt River Meridian, Arizona

A 7359

T. 7 S., R. 1 E.,
Sec. 8 N½.

A 9329

T. 16 N., R. 11 W.,
Sec. 28, SE¼SE¼.

A 9603

T. 11 S., R. 29 E.,
Sec. 1, Lots 1, 2, 3, S½N½, S½;
Sec. 12, N½NW¼.

The areas described aggregated 1,003.94 acres in Cochise, Maricopa and Mohave Counties.

2. At 10 a.m. on March 17, 1983, the lands described in paragraph 1 shall be open to operation of the public land laws generally, subject to valid existing rights the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 17, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on March 17, 1983, the lands described in paragraph 1, except Lots 1, 2, 3, S½N½, S½ sec. 1, N½NW¼ sec. 12, T. 11 S., R. 29 E., are hereby open to applications and offers under the mineral leasing laws and to location under the United States mining laws.

4. At 10 a.m. on March 17, 1983, Lots 1, 2, 3, S½N½, S½ sec. 1, N½NW¼ sec. 12, T. 11 S., R. 29 E., is hereby open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands shall be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoeniz, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-4284 Filed 2-17-83; 8:45am]

BILLING CODE 4310-84-M

Colorado, Call for Coal Resource Information for the San Juan/San Miguel Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for coal resource information.

SUMMARY: The purpose of this Notice is to solicit coal resource information and indications of interest and needs pursuant to 43 CFR 3420.1–2. Data received from this call will be used in the land use planning and coal activity processes of the Federal Coal Management Program. This call covers portions of the San Juan River Coal Production Region.

DATE: Comments to this notice will be accepted until April 11, 1983.

ADDRESSES: Send comments to: Bureau of Land Management, San Juan Resource Area, 701 Camino Del Rio, Durango, Colorado 81301. Any proprietary data should be sent to: District Supervisor, Resource Evaluation, P.O. Box 580, Grand Junction, Colorado 81502.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Dave Miller, San Juan Resource Area Manager, or Bob Kershaw, Area Geologist, Durango, Colorado, (303) 247–4082.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to solicit indications of interest and information on coal resource development potential for lands in the planning area. The planning area is comprised of western Montrose County, San Miguel County, Dolores County, Montezuma County, Archuleta County, and La Plata County, Colorado and northern Rio Arriba County, New Mexico.

Industry, State and local governments and the general public may submit information on lands that should be considered for future coal leasing, including statements describing why the lands should be considered for leasing. This information will be useful in the analysis processes of the Federal Coal Management Program defined in 43 CFR Subpart 3420.

It is important to note that availability of information from this call will be a major factor in applying the unsuitability criteria and delineating tracts likely to receive consideration for second round competitive coal leasing in the San Juan River Coal Production Region. Information submitted should be as detailed as possible (i.e., location, quantity needs, potential coal reserves, quality, etc.).

Glen Marlow,

Acting District Manager.

[FR Doc. 83-4285 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

Montana State Office; Land Resource Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plat of survey.

SUMMARY: A plat of survey of the lands described below accepted on January 24, 1983, will be officially filed in the Montana State Office, Billings, Montana, effective 8 a.m. on April 4, 1983.

Principal Meridian, Montana

T. 31 N., R. 19 W.,
T. 31 N., R. 20 W.,
T. 30 N., R. 20 W.,
Sec. 1, 2, 35 and 36.

The plat represents the dependent resurvey of a portion of the south and west boundaries of T. 31 N., R. 19 W., a portion of the south boundary and a portion of the subdivisional lines, and the completion survey of the south boundary and the subdivisional lines of sections 35 and 36, T. 31 N., R. 20 W., a portion of the east boundary and a portion of the subdivisional lines, and the completion survey of the subdivisional lines of sections 1 and 2, T. 30 N., R. 20 W., Principal Meridian, Montana. The area described is in Flathead County.

This survey was executed at the request of the U.S. Forest Service for the purpose of identifying the selected land in an exchange between the United States and private individuals.

Inquiries concerning these lands should be addressed to the Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

EFFECTIVE DATE: 45 days after publishing in the Federal Register.

ADDRESS: Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Dated: February 10, 1983.

Delores M. Heser,

Chief, Branch of Records.

[FR Doc. 83-4265 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

Montana State Office; Land Resource Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plat of survey

SUMMARY: A plat of survey of the lands described below accepted on January 24, 1983, will be officially filed in the Montana State Office, Billings, Montana, effective at 8 a.m. on April 4, 1983.

Principal Meridian, Montana

T. 7 S., R. 35 E.

The plat represents the dependent resurvey of the south, east and north boundaries, portions of the subdivisional lines, and the east and west center lines of certain sections, T. 7

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S., R. 35 E., Principal Meridian, Montana. The area described is in Big Horn County.

This survey was executed at the request of the Bureau of Indian Affairs.

Inquiries concerning these lands should be addressed to the Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

EFFECTIVE DATE: 45 days after publishing in the Federal Register.

ADDRESS: Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Dated: February 10, 1983.

Delores M. Heser,

Chief, Branch of Records.

[FR Doc. 83-4286 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

[A-5321; A-7730]

Arizona; Realty Action Competitive Sale of Public Land in Graham County; Correction

In FR 83-2238 appearing on page 3874 in the issue of Thursday, January 27, 1983, make the following correction:

In the land description, within the entry of Parcel P, "SE¼SE¼SW¼" should have read "SE¼SE¼SW¼".

Dated: February 9, 1983.

Lester K. Rosenkrance,

District Manager.

[FR Doc. 83-4254 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

Shoshone District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Shoshone District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94-529, and 43 CFR Part 1780, that a meeting of the Shoshone District Grazing Advisory Board will be held on Thursday, March 10, 1983 at 9 a.m. at the BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

This purpose of the meeting will be to disburse Advisory Board funds for range improvements, review the 8100 Range Betterment project funding, review Monument RMP allotment categorization, develop a district policy for livestock conversions, and review the current policy on the Assets Management program, plus FY 83 land sales program.

SUPPLEMENTARY INFORMATION: The public is invited to attend and make written or oral statements between 2:00 p.m. and 3:00 p.m. The statements should not exceed 15 minutes in length. Requests for these statements should be made to the official listed below at least five days prior to the meeting.

Further information concerning this meeting may be obtained from the Shoshone District Manager, Bureau of Land Management, P.O. Box 2B, Shoshone, Idaho 83352, telephone 208-886-2206. Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Shoshone District Office, Shoshone, Idaho.

Dated: February 8, 1983.

Charles J. Haszier,

District Manager.

[FR Doc. 4257 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

Winnemucca District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Winnemucca District Grazing Advisory Board will be held on April 1, 1983. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include:

1. Water rights policy
2. Annual Work Plan Fiscal Year 1983
3. Update on Wild Horse/Burro Program
4. CRMP update
5. Wilderness EIS update
6. Direction in use of 8100 funds
7. Grazing Management Policy—MIC Categories. Discusson of final selective management criteria (MIC), and resultant Allotment Categories
8. Management Framework Plan Step III
9. Public Statements
10. Grazing Fee Study
11. Arrangement for meeting and discussion of agenda items

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:00 and 2:00 PM on April 1, 1983 or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445 by March 21, 1983. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: February 10, 1983.

Vaden G. Stickely,

Acting District Manager for the State Director, Nevada.

[FR Doc. 83-9253 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

[2220; OR-34702]

Public Lands in Deschutes County Oregon; Realty Action-Exchange

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Willamette Meridian, Oregon

T. 16 S., R. 12 E.,
Sec. 34: SE¼NE¼, SW¼SE¼, E½SE¼, 160.00;
Sec. 35: N½NW¼, SW¼NW¼, 120.00.
T. 17 S., R. 12 E.,
Sec. 2: Lots 3 and 4, SW¼NW¼, W½SW¼, 200.03;
Sec. 3: Lots 1 and 2, S½NE¼, SE¼, 319.75;
Sec. 10: All, 640.00;
Sec. 11: W½W½, 160.00.
Total Acreage Public Lands, 1,599.78.

In exchange for these lands the Federal Government will acquire scattered tracts of non-Federal land from the Deschutes County Board of Commissioners, described as follows:

Willamette Meridian, Oregon

T. 14 S., R. 11 E.,
Sec. 6: E½NE¼, SE¼;
Sec. 7: SE¼SW¼, W½SE¼, SE¼SE¼.
T. 15 S., R. 12 E.,
Sec. 32: N½NE¼.
T. 16 S., R. 11 E.,
Sec. 1: SW¼ (irregular section);
Sec. 2: SW¼ (irregular section);
Sec. 5: SE¼SE¼;
Sec. 6: That portion of SW¼SW¼ lying west of the road;
Sec. 7: NW¼, W½SW¼, SE¼SW¼, W½SE¼, SE¼SE¼;
Sec. 8: NE¼NE¼, S½NE¼, SE¼NW¼, SW¼SW¼, E½SW¼, SE¼;
Sec. 9: W½W½;
Sec. 11: NE¼NE¼, NW¼;
Sec. 16: SW¼NW¼, W½SW¼, SE¼SW¼.
Sec. 17: NE¼NE¼, S½NE¼, NW¼, S½;
Sec. 18: NE¼, W½NW¼, SE¼NW¼, S½;
Sec. 19: S½NE¼, W½NE¼NW¼, W½NW¼, SE¼NW¼, E½SW¼, SW¼SW¼, SE¼;
Sec. 20: N½NE¼, SW¼NE¼, NE¼NW¼, E½NW¼NW¼, S½NW¼, N½SW¼, SW¼SW¼;
Sec. 30: N½NE¼.
T. 17 S., R. 14 E.,
Sec. 33: S½NE¼, SE¼NW¼.
T. 22 S., R. 21 E.,
Sec. 17: W½E½SW¼.
Total Acreage of County Land, 4,451.04.

The purpose of the exchange is to provide lands for community expansion

anticipated for future needs. The exchange is consistent with the Bureau's planning for the lands involved, and has been discussed with Deschutes County government officials, and the Bend Chamber of Commerce.

The exchange will be made on an equal value basis. Upon completion of the final appraisal, there may be adjustments in acreage to equalize values. The surface and mineral estate would be transfered subject to valid and existing rights.

Detailed information concerning the exchange, including the field reports, is available for review at the Prineville District Office, 185 E. Fourth Street, P.O. Box 550, Prineville, OR 97754.

For a period of 45 days interested parties may submit comments to the Prineville District Manager, P.O. Box 550, Prineville, OR 97754. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, the realty action will become the final determination of the Department of the Interior.

Dated: February 8, 1983.

Gerald E. Magnuson,

District Manager.

[FR Doc. 83-4260 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

South Dakota; Fort Meade Area Recreation Management Restrictions

February 9, 1983.

Under the Authority of section 202(c)(5) of the Sikes Act (88 Stat. 1369, 1371); and as a result of the Approval of the Fort Meade Recreation Management Plan on May 15, 1981, the following restriction for the use of Fort Meade Recreation Area, Sturgis, SD are hereby announced, pursuant to Section 202(a)(1) of the Sikes Act, supra and other authorities.

The following restrictions will become effective March 1, 1983:

1. All vehicles are restricted to designated roads and trails.

2. The use, possession afield, or discharge of all firearms is prohibited on the south end of the Fort Meade Area (all land south of Highway No. 34), except during such Special Big Game seasons as may be established by the South Dakota Game, Fish and Parks. The use, possession afield, or discharge of all firearms is prohibited on the North end of the Fort Meade Area (all land North of Highway No. 34), except in specially designated areas or during the designated hunting season.

3. The possession and use of fireworks is prohibited.

4. The taking or attempting to take any wild animal by trap or snare is prohibited.

5. Camping is restricted to designated campgrounds only.

6. Open fires are prohibited. Fires are allowed only in designated campgrounds or other designated fire pits or grates.

7. Dumping or littering is prohibited.

These regulations apply to the public lands in sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, T. 5 N., R. 5 E., BHM; and sections 25, 26, 27, 34, 35, 36 T. 6 N., R. 5 E., BHM.

The purpose of these restrictions is to minimize hazards to visitors and surrounding residences, minimize the possibility of wild fire, stop soil erosion, vegetation loss, wildlife habitat loss, and damage to historic and cultural resources.

The public lands within the designated area, will remain open to other resource and recreation uses. Adminstrative access by ORV is allowed for BLM and BLM contractors, licensees, permittees, and all other Federal, State, and County employees when on official duty. Permits for ORV use in the area may be authorized by the District Manager for other special purposes.

The roads and trails designated for ORV use will be marked by signs. A map of the area affected by this designation is available from the South Dakota Area Office, 310 Roundup Street, Belle Fourche, South Dakota 57717. Pursuant to section 204(a)(2) of the Sikes Act, supra, any persons who knowingly violates or fails to comply with any regulations prescribed under section 202(c)(5) of the Act shall be fined not more than $500 or imprisoned not more than 6 months, or both.

For further information contact: Area Manager, South Dakota Resource Area, Bureau of Land Management, 310 Roundup Street, Belle Fourche, South Dakota 57717.

Robert A. Teegarden,

Associate District Manager.

[FR Doc. 83-4263 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 83-10; 26T-910]

Utah; Uintah Basin Synfuels Development

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the final environmental impact statement (FEIS).

SUMMARY: Pursant to section 102(2)(C) of the National Environmental Policy Act of 1969, the BLM has prepared a FEIS for the proposed Uintah Basin Synfuels Development.

SUPPLEMENTARY INFORMATION: The BLM has prepared a FEIS on nine synfuels projects proposed for the Uintah Basin of northeastern Utah. Site-specific impact analyses are presented for five projects, including their alternatives, proposed to begin construction within the next two years. These projects are the Enercor Rainbow Project, Magic Circle Cottonwood Wash Project, Paraho-Ute Project, Syntana-Utah Project, and Tosco Sand Wash Project. A nine-project cumulative analysis is also presented. It considers the cumulative impacts of the five site-specific projects, four more conceptual projects (Enercor-Mono Power P.R. Springs Project, Geokinetics Lofreco and Agency Draw Projects, and Sohio Asphalt Ridge Tar Sand Project), plus interrelated projects planned for development in the Uintah Basin during the analysis period.

This EIS may result in amendments to the Bonanza, Book Cliffs, Hill Creek, and Rainbow Management Framework Plans.

FOR FURTHER INFORMATION CONTACT: Bob Pizel, Project Leader, EIS Services, Bureau of Land Management, First Floor East, 555 Zang Street, Denver, Colorado 80228, telephone (303) 234-6737.

Copies of the FEIS will be available for inspection at the following locations:

Bureau of Land Management, Public Affairs, Interior Bldg., 18th and C Streets, N.W., Washington, D.C. 20240; (202) 343-6011;

Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Bldg., 1600 Broadway, Denver, Colorado 80202; (303) 837-3515;

Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111; or

Bureau of Land Management, Vernal District Office, 170 South 500 East, Vernal, Utah 84078.

Public Libraries

Uintah County Public Library, 155 E. Main, Vernal, Utah 84078.

Roosevelt Public Library, 33 N. State St., Roosevelt, Utah 84066.

Salt Lake City Public Library, 209 E. 5th S., Salt Lake City, Utah 84111.

Mesa County Library, 530 Grand Ave., Grand Junction, Colorado 81501.

Craig/Moffat County Public Library, 651 Yampa Ave., Craig, Colorado 81625.

Rifle Public Library, Rifle, Colorado 81650.

Meeker Public Library, 200 Main, Meeker, Colorado 81641.

Rangely Public Library, 109 E. Main St., Rangely, Colorado 81648.

Conservation Library, Denver Public Library, 1537 Broadway, Denver, Colorado 80206.

A limited number of single copies of the FEIS can be obtained from the District Manager, Vernal District Office or the State Director, Utah State Office, at the address listed above.

Dated: February 9, 1983.

Roland G. Robison,

Bureau of Land Management, Utah State Director.

[FR Doc. 83-4262 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Pennzoil Exploration and Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 2719, Block A-582, High Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 7, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-4248 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the Main Pass Block 40 Federal Unit Agreement No. 14-08-001-3847, submitted on February 1, 1983, a proposed annual plan of development/production describing the activities it proposes to conduct on the Main Pass Block 40 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 8, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-4270 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Exxon Company U.S.A., Unit Operator of the South Marsh Island Block 73 Federal Unit Agreement No. 14-08-0001-11653, submitted on January 28, 1983, a proposed annual plan of development/operation describing the activities it proposes to conduct on the South Marsh Island Block 73 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 8, 1983

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-4269 Filed 2-17-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Union Oil Co. of California

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Union Oil Company of California, Unit

Operator of the Vermilion Block 14 Federal Unit Agreement No. 14–08–0001–12339, submitted on February 7, 1983, a proposed annual plan of development describing the activities it proposes to conduct on the Vermilion Block 14 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 10, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–4255 Filed 2–17–83; 8:45 am]

BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–174 (Sub-1)]

Central Vermont Railway, Inc.—Abandonment in New London County, CT; Findings

The Commission has found that the public convenience and necessity permit Central Vermont Railway, Inc., to abandon its 2.6 mile rail line between Montville (milepost 6.0) and Palmertown (milepost 2.6) in New London County, CT. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27 [formerly 49 CFR 1121.38].

Agatha L. Mergenovich,

Secretary

[FR Doc. 83–4148 Filed 2–17–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 399]

Cost Recovery Percentage

AGENCY: Interstate Commerce Commission.

ACTION: Grant of extension of time to file comments to further notice of proposed costing standards and decision.

SUMMARY: This order grants a 45-day extension of time in which to file comments to the Commission's decision served December 13, 1982 in the above proceeding. This action is in response to a petition by the railroads for a 60-day extension of the comment period and is taken to facilitate adequate analysis and comment by all parties.

DATE: The comment date in the decision served December 13, 1982 (47 FR 56055, December 14, 1982) is hereby extended to March 29, 1983.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275–7354, Robert C. Hasek (202) 275–0938.

SUPPLEMENTARY INFORMATION: By a decision served December 13, 1982 (47 FR 56055, December 14, 1982), the Commission published the 1982 Cost Recovery Percentage (CRP). The decision requested comments on refining the costing methodology as well as other aspects of the computation of a CRP. Comments were due on February 12, 1983.

On January 24, 1983, the railroads requested a 60-day extension of the comment period to April 11, 1983. No other party has requested an extension or replied to the railroads' petition. Nonetheless, we are seeking comments which will assist us in improving the process of developing the CRP as much as possible. Some extension of time appears warranted. We believe an additional 45 days is adequate for the railroads to analyze the data and comment without jeopardizing our ability to issue a 1983 CRP before October 1, 1983.

The comment date in this proceeding is extended to March 29, 1983.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources or have an adverse effect on small entities.

Dated: February 14, 1983.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–4182 Filed 2–17–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–102 (Sub-No. 10)]

Missouri-Kansas-Texas Railroad Company—Abandonment—In Jasper County, Mo.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Missouri-Kansas-Texas Railroad Company to abandon its rail line extending from railroad milepost S–434.16 at Horn, MO, to milepost S–440.12 at Joplin, MO, a distance of 5.9 miles, in Jasper County, MO, subject to certain conditions. Since no investigation was instituted, the requirement of § 1152.27(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipty by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts appraisals, working papers, and other docuemnts used in preparing Exhibit I (§ 1152.35 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1152.27(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment

shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4147 Filed 2-17-83; 8:45 am]

BILLING CODE 7035-01-M

[OP 5MCF-57]

Motor Carriers; Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2 (d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: February 9, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC-F-15084, filed January 14, 1983. FEDERAL ARMORED EXPRESS, INC. (FEDERAL), (7675 Canton Center Drive, Baltimore, MD 21224)—control—COASTAL ARMORED CAR SERVICE, INC. (COASTAL) (Suite 10, Ocean Lakes Plaza, Myrtle Beach, SC 29577). Representative: Eugene T. Liipfert, Suite 1100, 1660 L Street, N.W., Washington, DC 20036. Federal, a motor common and contract carrier, seeks authority to acquire control of Coastal through the purchase of all of its issued and outstanding stock. By the same application, James L. Dunbar, Sr., of Baltimore, MD seeks authority to acquire control of Coastal's rights and properties through the transaction. The operating rights of Coastal sought to be controlled by Federal are contained in Certificate No. MC-157919, authorizing the transportation of currency, coins, commercial paper, and negotiable securities radially (1) between Richmond, VA, and points in North Carolina; and (2) between Charlotte, NC, and points in South Carolina. Federal holds motor common and contract carrier authority under Nos. MC-147461 and MC-139566, respectively.

Note.—A temporary authority application has been filed.

MC-F-15090, filed January 12, 1983. JOHN F. WALTER, INC. (JOHN F. WALTER, assignor) (WALTER) (P.O. Box 175, Newville, PA 17241)—purchase (portion)—THE CHIEF FREIGHT LINES COMPANY (debtor-in-possession) (CHIEF) (2401 North Harvard, Tulsa, OK 74115). Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Walter seeks authority to purchase a portion of the interstate operating rights and property of Chief. John F. Walter, the sole stockholder of Walter, seeks authority to acquire control of said rights through the transaction. Walter is seeking to acquire that portion of Chief's operating rights contained in No. MC-71478 (Sub-No. 54), issued April 13, 1982, authorizing the transportation of *general commodities* (except classes A and B explosives, household goods, as defined by the Commission, and commodities in bulk), between points in CT, IL, IN, KY, KS, MA, MO, NJ, NY, OH, OK, RI, WV, PA, and points in TX on and east of U.S. Highway 75. Walter is authorized to operate as a motor common carrier in No. MC-123314 and sub-numbers thereunder.

Note.—(1) An application for temporary authority has been filed. (2) Transferor, in the recent past, has not operated. Thus, it appears that the operating rights to be acquired may be dormant.

[FR Doc. 83-4177 Filed 2-17-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions from reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Note. Please direct status inquiries to Team 4 at (202) 275–7669.

Volume No. OP4–081

MC–FC–81176, filed January 20, 1983. By decision of February 9, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to GART, INC., of Washington, NJ, of Permit No. MC–142957 (Sub-1), issued May 5, 1978, to NETWORK TRANSPORTATION SYSTEMS, INC., of Washington, NJ, authorizing the transportation of *audio visual equipment,* and *materials and supplies* used in connection therewith (except in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Caribiner, Inc., of New York, NY. Representative: Robert B. Peper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551.

FC–81188, filed January 25, 1983. By decision of February 9, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to NEW LONDON MOVING AND STORAGE, INC., of Waterford CT, of Certificate No. MC–29737, issued October 23, 1969, to R. BLINDERMAN MOTOR LINES, INC. of Waterford, CT, authorizing the transportation of *household goods,* between Norwich, CT, and points in CT within 20 miles of Norwich, on the one hand, and, on the other, points in CT, MA, RI, NY, and NJ. Representative: Garon Camassar, 190 Hempstead St., New London, CT 06320, (203) 442–4495.

Volume No. OP4–082

No. MC–FC–81089. By decision of February 8, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2 approved the transfer to C–B–C TRANSPORTS, INC., Greenville, MS, of Certificate No. MC–142467 and the remaining portion of Certificate No. MC–142467 (Sub-No. 1), issued October 1, 1979 and December 2, 1981, respectively, to DIXIE FREIGHT LINE, INC., of Greenville, MS, authorizing the transportation of (A) (1) farmm implements, farm implement parts, and farm supplies, (2) automobile, truck and bus parts and supplies, (3) electrical appliances and parts for electrical appliances, and (4) watercraft parts and supplies, between Memphis, TN, on the one hand, and, on the other, points on U.S. Hwy 61 between Shaw, MS, and Memphis, TN, including Shaw, subject to certain restrictions, and (B) general commodities (except classes A and B explosives) over a series of regular routes, between Memphis, TN and Rolling Fork, MS, between Leland, MS and Greenville, MS, and between Rolling Fork, MS, and the junction of U.S. Hwys 49 and 61, serving all points in Bolivar, Coahoma, DeSoto, Issaquena, Sharkey, Tunica, and Washington Counties, MS, as off-route points in connection with carrier's otherwise regular-route service. Transferee intends to tack the regular route authority sought to be acquired with its present irregular route authority in No. MC–141853 (Sub-4)X, at points in Washington and Bolivar Counties, MS. An application for temporary authority has been filed. Transferee is a carrier holding authority under No. MC–141853 (Sub-4)X. Douglas C. Wynn, Attorney at Law, P.O. Box 1295, Greenville, MS 38701.

No. MC–FC–81187. By decision of February 8, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2 approved the transfer to CAPITAL CITY TRANSFER, INC., Madison, WI, of Certificate No. MC-109376 (Sub-25)X, Item Nos. (8) and (9) and a portion of MC-109376 superseded therein, issued May 26, 1982 and April 16, 1971 respectively, to SKINNER TRANSFER CORP., Reedsburg, WI, authorizing the transportation of (8) *emigrant movables and household goods* as defined by the Commission, between points in Adams, Columbia, Dane, Iowa, Juneau, Marquette, Monroe, Sauk, Richland, and Vernon Counties, WI, on the one hand, and, on the other, points in IL, IN, IA and MN, and (9) *household goods* as defined by the Commission, between points in Adams, Columbia, Dane, Iowa, Juneau, Marquette, Monroe, Sauk, Richland, and Vernon Counties WI, on the one hand, and, on the other, points in MN, IA and IL. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086. (608) 238–3119, for both transferee and transferor.

No. MC–FC–81198, filed January 31, 1983. By decision of February 3, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board No. 3 approved the transfer to Ideal Trucking, Inc., Gibsonia, PA, of Certificate No. MC–135707 Sub 7, issued May 14, 1981, to Dietz Trucking, Inc., Cheswick, PA, authorizing the transportation of metal products, between points in Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Lawrence, Washington and Westmoreland Counties, PA, on the one hand, and, on the other, points in the U.S. Representative: William Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–4181 2–17–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must

follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protected *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involved duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract." Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–58

Decided: February 10, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 39491 (Sub-20), Filed January 28, 1983. Applicant: COLONIAL COACH CORP., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Michael J. Marazno, 99 Kinderkamack Rd., Westwood, NJ 07675 (201) 666–5111. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 116370 (Sub-5), Filed January 27, 1983. Applicant: CATAWESE COACH LINES, INC., 545 N. Second St., Shamokin, PA 17872. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington DC 20005 (202)–783–3525. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 146281 (Sub-3), Filed January 27, 1983. Applicant: FUN TIME TOURS, INC., 628 Broadway St., Daytona Beach, FL 32014. Representative: O. C. Beakes, 836 Riverside Ave., Jacksonville, FL 32204 (904) 354–1590. Transporting *passengers,* in charter and special operations, beginning and ending at points in FL and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 152381 (Sub-1), Filed January 28, 1983. Applicant: CHARLES B. GEIER, 1900 Grant, Helena, MT 59601. Representative: Charles B. Geier (same address as applicant) (406)–442–1852. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 153421 (Sub-4B), filed January 24, 1983. Applicant: PRINTCO, INC., P.O. Box 16039, Memphis, TN 38116. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203 Alexandria, VA 22304 (703) 751–2441. Transporting, for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Note.—Applicant has also requested authority in MC–153421 Sub 4(A) published this same **Federal Register** issue.

MC 157721 (Sub-2), filed January 31, 1983. Applicant: LORENZ BUS SERVICE, INC., 8600 Xylite Street, N.E., Minneapolis, MN 55434. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956 (414) 722–2848. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165970, filed February 1, 1983. Applicant: C.W. LIMOUSINE SERVICE, INC., 333 East 63rd Street, Chicago, IL 60637. Representative: Charles A. Wilson, Jr. (same address as applicant) (312) 493–2700. Transporting *passengers,* in charter and special operations, beginning and ending at points in Cook County, IL, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165981, filed January 26, 1983. Applicant: MILVIN L. ROBINSON d.b.a. ROBINSON BROKERAGE, P.O. Box 26, Thomasville, AL 36784. Representative: Calvin R. Turner, Jr., P.O. Box 517, Evergreen, AL 36401 (205) 578–3212. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–079

Decided: February 9, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 164697, filed November 10, 1982, previously noticed in the **Federal Register** of December 16, 1982. Applicant: ELIZABETH HALL JOHNSON, d.b.a. HALL'S CHARTER SERVICE, 7360 Furnace Branch Rd., Glen Burnie, MD 21061. Representative: Walter T. Evans, 4304 East-West Highway, Bethesda MD 20814 (301) 657–2636. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI). The purpose of this republication is to correct the territorial description.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166027, filed February 1, 1983. Applicant: LAMBRIGHT TRUCKING, INC., R. R. #4, Box 225, La Grange, IN 46761. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg., 421 S. Second St., Elkhart, IN 46516 (219) 293–3597. Transporting *food and other edible products and byproducts intended for human consumption,* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 166076, filed February 7, 1983, Applicant: GERALD L. CONKLIN d.b.a. CONKLIN DISTRIBUTION SERVICES, 3270 Williams Lane, Mound, MN 55364. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424 (612) 927–8855. As a *broker of general commodities,* (except household goods), between points in the U.S.

MC 166087, filed February 4, 1983, Applicant: CONTINENTAL TRAFFIC SERVICE, 1531 E. Sunshine, Suite G–15, Springfield, MO 65808. Representative: Gene Busbey (same address as applicant) (417) 831–4164. As a *broker of general commodities* except household goods), between points in the U.S.

MC 166106, filed February 7, 1983. Applicant: AAV, INC., 12 North Stenton Ave., Atlantic City, NJ 08400. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107 (215) 564–3880. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI and AK).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166107, filed February 7, 1983. Applicant: MAX L. LINDLEY, d.b.a. WESTERN INTERNATIONAL LINES, 2790 Crater Lake Hwy., Medford, OR 97501. Representative: Max L. Lindley (Same address as applicant) (503) 772–5277. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–085

Decided: February 10, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 166077, filed February 1, 1983. Applicant: LARRY D. HAFER, 5519 12th St., Lubbock, TX 79416. Representative: Terry Holt, 8212 Ithaca, Suite 9, Lubbock, TX 79423 (806) 797–9743. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–60

Decided: February 9, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 97009 (Sub-33), filed January 27, 1983. Applicant: HERZOG TRUCKING COMPANY, INC., 200 Delaware St., Honesdale, PA 18431. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201–234–0301. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 126759 (Sub-1), filed January 24, 1983. Applicant: BRODERICK TEAMING COMPANY, 3226 So. Shields, Chicago, IL 60616. Representative: William D. Brejcha, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601 (312) 263–1600. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 143578 (Sub-4), filed January 26, 1983. Applicant: WILSON BUS CO., INC., 314 Alexander St., Fayetteville, NC 28301. Representative: Wilmer B. Hill, 1030 Fifteenth St., NW., Suite 366, Washington, DC 20005 (202) 296–5188. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165909, filed January 25, 1983. Applicant: TOM RUPEL, Box 291, Charleston, IL 61920. Representative: Martin J. Kennedy, 120 W. Madison St., Suite 1306, Chicago, IL 60602 (312) 726–0375. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165939, filed January 24, 1983. Applicant: ROBERT K. PUCKETT d.b.a. LAND TRANSPORT SERVICE, P.O. Box 2626, Mobile, AL 36652. Representative: Marie A. Puckett, P.O Box 2521, Panama City, FL 32402 (904) 763–2909. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–4179 Filed 2–17–83; 8:45 am]
BILLING CODE 7035–01–M

[No. MC–F–15099]

Motor Carriers; Howard Bell, Jr., d.b.a. Bell Ready Mix—Purchase Exemption—Nebraska Carriers, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions Filed by Motor Carriers,* 367 ICC 113 (1982), Bell Ready Mix (Bell) (MC–163160) seeks an exemption from the requirement under section 11343 of prior regulatory approval for its proposed acquisition of the operating authority of Nebraska Carriers, Inc. (Nebraska) (MC–153207) authorizing the transportation of (1) machinery and metal products, between Chicago and Assumption, IL, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and (2) machinery, metal products, and building materials, between points in Montgomery County, IN, and Hamilton County, IA, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Note: Petitioner states that it intends to tack Nebraska's authority with its existing authority but has not filed a gateway elimination application. Unless a gateway application is filed, a no tracking restriction will be imposed on the authority to be acquired. See Gateway Eliminations Policy Statement, 39 FR 42958 (December 9, 1974).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESS: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423

(2) Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309
and

(3) A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101.

Comments should refer to No. MC–F–15099.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by

contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 10, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4180 Filed 2-17-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent Corporation: Carnation Company (incorporated State of Delaware), 5045 Wilshire Blvd., Los Angeles, CA 90036.

Carnation Corp. includes operating divisions who operate under the name of Treton Foods, Seaboard Container, Herff-Jones.

2. Wholly-owned subsidiaries are as follows:

Princeton Industries (Incorporated in State of Indiana), 5045 Wilshire Blvd., Los Angeles, CA 90036

Dayton Reliable Tool, Inc. (Incorporated in the State of Delaware), 5045 Wilshire Blvd., Los Angeles, CA 90036

McGraw Colorgraph, Inc. (Incorporated in the State of Delaware), 5045 Wilshire Blvd., Los Angeles, CA 90036

Contadina Foods, Inc. (Incorporated in the State of Delaware), 5045 Wilshire Blvd., Los Angeles, CA 90036

Carnaco Transport, Inc. (Incorporated in the State of Delaware), 5045 Wilshire Blvd., Los Angeles, CA 90036

1. Parent corporation and address of principal office: Hergert Milling, Inc., P.O. Box 240, 1415 Avenue B, Scottsbluff, NE 69361.

2. Wholly-owned subsidiaries which will participate in the operations and State of incorporation: H. M. Transportation, Inc. (State of incorporation: Nebraska), P.O. Box 240, 1415 Avenue B, Scottsbluff, NE 69361.

1. Parent corporation and address of principal office is: Knox Nelson Oil Co., Inc., 101 Pennsylvania Street, Pine Bluff, Arkansas, 71601.

2. Wholly-owned subsidiaries which will participate in the operations and states of incorporation:

i. Southeast Transportation, Inc., 101 Pennsylvania Street, Pine Bluff, Arkansas, 71601, incorporated in the State of Arkansas.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4178 Filed 2-17-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich

Secretary.

Volume No. OP3-54

Decided: February 8, 1983.

For status, please call Team 3 at 202-275-5223.

MC 148294 (Sub-1)X, filed January 31, 1983. Applicant: R.I.C. FREIGHT FORWARDERS, INC., Building 6A, Terminal Way, P.O. Box 188, Avenel, NJ 07001. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466-0220. Lead Certificate: (1) Broaden general commodities (with exceptions) to general commodities (except classes A and B explosives, household goods, and commodities in bulk), (2) remove facilities limitations, and (3) broaden (a) one-way authority to two-way radial authority, and (b) to county-wide authority: Jersey City, NJ (Union, Essex, Passaic, Hudson and Bergen Counties, NJ, and New York, Kings, Richmond, Queens, and Bronx Counties, NY); Phoenix, AZ (Maricopa and Pinal Counties); Tucson, AZ (Pima County, AZ); Oakland, CA (Alameda, San Francisco, Marin, Contra Costa and San Mateo Counties), and Vernon, CA (Los Angeles County).

Volume No. OP4-080

Decided: February 9, 1983.

For status, please call Team 4 at 202-275-7669.

MC 94107 (Sub-4)X, filed February 3, 1983. Applicant: PACIFIC NORTHWEST BUS COMPANY, LTD., 285 E. First Ave., Vancouver, B.C., Canada V5T 1A8. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751-2441. Sub 3: Authorize passenger service to all intermediate points on regular routes, between ports of entry on the International Boundary line between the United States and Canada near Blaine, WA, and Seattle, WA.

[FR Doc. 83-4183 Filed 2-17-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR

1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted. Please direct status inquiries to Team 3 at (202) 275–5223.

Volume No. OP3–53

Decided: February 7, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–654, filed January 19, 1983. Applicant: AQUATRAN, INC., 6823 Fulton, Houston, TX 77022. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., N.W., Washington, D.C. 20005, (202) 296–5188. As a *freight forwarder,* in connection with the transportation of *general commodities* (except classes A and B explosives), between points in the U.S.

FF–655, filed January 17, 1983. Applicant: STATELINE SERVICES, INC., 14525 62nd St., N. Clearwater, FL 33520. Representative: Sylvester Lukis, 1320 19th St., N.W., Suite 200, Washington, D.C. 20036, (202) 554–1100. As a *freight forwarder* in connection with the transportation of *general commodities* (except classes A and B explosives and household goods), between points in the U.S.

MC 2934 (Sub-128), filed January 21, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 No. Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant), (317) 875–1142. Transporting *electronic instruments,* between points in the U.S. (except AK and HI), under continuing contract(s) with Leeds & Northrup Instruments of St. Petersburg, FL.

MC 16334 (Sub-29), filed January 21, 1983. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212 (913) 888–3386. Transporting *lumber and wood products and pulp, paper and related products,* between points in the U.S. (except AK and HI).

MC 67234 (Sub-78), filed January 28, 1983. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 So. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *household goods,* between points in the U.S., under continuing contract(s) with General Mills, Inc. of Minneapolis, MN.

MC 116254 (Sub-331), filed January 20, 1983. Applicant: CHEM-HAULERS, INC., 118 E. Mobile Plaza, Florence, AL 35631. Representative: P. K. Hubbert (same address as applicant), (205) 766–9111. Transporting *furniture and fixtures,* between points in the U.S. (except AK and HI), under continuing contract(s) with Worboys Furniture Division of Milan Products Corporation of Milan, TN.

MC 116254 (Sub-332), filed January 20, 1983. Applicant: CHEM-HAULERS, INC., 118 E. Mobile Plaza, Florence, AL 35631. Representative: P. K. Hubbert (same address as applicant), (205) 766–9111. Transporting *furniture and fixtures,* between points in the U.S. (except AK and HI), under continuing contract(s) with Barkels, Inc. of New Braunfels, TX.

MC 120905 (Sub-2), filed January 25, 1983. Applicant: F & S MOVING & STORAGE, INC., 250 E. Bayview Ave., Biloxi, MS 39503. Representative: David Earl Tinker, 1000 Connecticut Ave., NW., Washington, D.C. 20036 (202) 887–5868. Transporting *household goods, furniture and fixtures,* between points in the U.S. (except ME, ND and SD).

MC 123265 (Sub-11), filed January 28, 1983. Applicant: SANTRY TRUCKING COMPANY, 10505 NE Second Ave., Portland, OR 97211. Representative: John G. McLaughlin, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204, (503) 224–5525. Transporting *malt beverages,* between points in the U.S., under continuing contract(s) with Blitz-Wienhart Brewing Company, of Portland, OR. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit stating why Commission approval is unnecessary, or submit a petition of exemption to the Secretary's office. In order to expedite issuance of any authority please submit a copy of

the affidavit or petition or proof of filing the application(s) for common control to Team 3, Room 2156..

MC 123405 (Sub-87), filed January 24, 1983. Applicant: FOOD TRANSPORT, INC., R. D. 1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. Transporting *food and related products*, between points in Cambra County, PA, on the one hand, and, on the other, points in AZ, CA, CO, NV, NM, and UT.

MC 123685 (Sub-47), filed January 28, 1983. Applicant: DIXON BROS., INC., P.O. Drawer 8, Newcastle, WY 82701. Representative: Jerome Anderson, P.O. Drawer 849, Billings, MT 59103, (406) 248–2811. Transporting *clay, concrete, glass or stone products* and *ores and minerals*, between points in the U.S. (except AK and HI).

MC 141255 (Sub-25), filed January 18, 1983. Applicant: TANDY TRANSPORTATION, INC., 2560 E. Long Ave., Fort Worth, TX 76111. Representative: Roy Beans, (same address as applicant), (817) 834–0182. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with Car Trim, Inc., of Fort Worth, TX.

MC 144705, filed January 24, 1983. Applicant: CARL O. SCHEIDEMANTLE, R. D. #1, Harmony, PA 16037. Representative: Kevin W. Walsh, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Merit Metals, Inc., of Pittsburgh, PA.

MC 148874 (Sub-11), filed January 25, 1983. Applicant: PROFICIENT FOOD COMPANY, 17872 Cartwright Rd., Irvine, CA 92705. Representative: Floyd L. Farano, 2555 E. Chapman Ave., Suite 415, Fullerton, CA 92631, (714) 773–4111. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Heinz USA Division of H. J. Heinz Co. of Pittsburgh, PA and Dean Foods Co., and its subsidiaries of Franklin Park, IL.

MC 152245 (Sub-5), filed January 1, 1983. Applicant: ARMOUR FOOD EXPRESS COMPANY, P.O. Box 466, Fort Worth, TX 76101. Representative: A. S. Pavich, Greyhound Tower–1130, Phoenix, AZ 85077, (602) 248–5932. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI).

MC 154234 (Sub-3), filed January 27, 1983. Applicant: LAMBERT TRANSFER CO., 666 Grand Ave., Des Moines, IA 50309. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304, (515) 245–2725). Transporting *general commodities* (except classes A and B explosives and household goods), between points in IL, IA, MN and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 154345 (Sub-2), filed January 25, 1983. Applicant: DICK HOGLO d.b.a DICK HOGLO TRUCKING, 311 S. Arnold, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, (612) 452–8770. Transporting *food and related products*, between points in Shelby County, TN, on the one hand, and, on the other, points in Pennington County, MN.

MC 157204 (Sub-5), filed January 20, 1983. Applicant: SUR–WAY TRANSPORT, INC., 1506 Radium Springs Rd., Albany, GA 31705. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Helena Chemical Company of Memphis, TN.

MC 162104 (Sub-4), filed January 24, 1983. Applicant: PETERSON EXPRESS, INC., P.O. Box 41770, Indianapolis, IN 46240. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6055. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods), between points in CA, IN, MD, SC, MI, TX, IL, CO, KS, NC, SC, OH, TN, KY, GA, FL, MN, NJ, NH, LA, MO, AZ, MS, OK, UT, PA, MA, WA, and NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162455 (Sub-1), filed January 24, 1983. Applicant: CASWELL TRUCKING, INC., Route 1, Box 30, St. Charles, IA 50240. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *food and related products*, between points in U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 172804, filed January 26, 1983. Applicant: PENNY'S WRECKER SERVICE, INC., 6404 Geyer Springs Rd., Little Rock, AR 72209. Representative: A. R. Pendergrass (same address as applicant) (501) 565–6641. Transporting *disabled motor vehicles*, in wrecker service, between points in AR, on the one hand, and, on the other, points in LA, MS, TX, and AR.

MC 164185, filed January 26, 1983. Applicant: JERALD & ELISABETH PAYNE & SONS, INC., 12975 So. 300 East, Draper, UT 84020. Representative: Jerald Payne (same address as applicant) (801) 572–3247. Transporting *general commodities* (except classes A and B explosives and household goods), between points in NV, on the one hand, and, on the other, points in UT, CA, and AZ.

MC 164845, filed January 28, 1983. Applicant: GILCO EXPRESS, INC., 1410 Kerry Dr., Apt. 160, Atlanta, GA 30318. Representative: Clayton R. Byrd, 2870 Briargen Dr., Doraville, GA 30340 (404) 491–1696. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contracts with (1) Crown Cork & Seal Company, Inc., of Philadelphia, PA, (2) The Drackett Company, of Cincinnati, OH, and (3) Oxford Chemicals, Inc., of Chamblee, GA.

MC 165575, (Sub-1), filed January 24, 1983. Applicant: ADIOS MOTOR FREIGHT, INC., 4th & Bakewell, Covington, KY 41011. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215 (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Kroger Co., of Cincinnati, OH, and Dauphin Distribution Services Company, of Camp Hill, PA.

MC 165674, filed January 28, 1983. Applicant: JOY TRUCK LINES, INC., 119 Maresco Dr., N.E., Dalton, GA 30720. Representative: Kim G. Meyer, 1006 So. Tower, 225 Peachtree St., N.E., Atlanta, GA 30303 (404) 523–1717. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Carpet Shippers Association, Inc. of Dalton, GA.

MC 165794, filed January 18, 1983. Applicant: BEARD'S TOWING, INC., 137 South Main St., Jacobus, PA 17407. Representative: Norman T. Petow, 43 North Duke St., York, PA 17401 (717) 843–8004. Transporting *motor vehicles*, between points in PA, on the one hand, and, on the other, points in CT, DE, KY,

MD, MA, NH, NJ, NY, OH, VT, VA, WV, and DC.

MC 165855, filed January 24, 1983. Applicant: CONSOLIDATED FROZEN FOODS, INC., P.O. Box 29356, Lincoln, NE 68529. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506 (402) 488–4841. Transporting *food and related products,* between points in NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165875, filed January 24, 1983. Applicant: BORDERLAND TRANSPORT, INC., P.O. Box 408, Littlefork, MN 56653. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402 (612) 333–1341. Transporting *lumber and wood products,* between points in Koochiching County, MN and Chippewa County, WI, on the one hand, and, on the other, points in CO, IA, IL, IN, KS, MN, NE, MO, ND, OH, OK, SD, TX, WI and MT.

MC 165924, filed January 25, 1983. Applicant: NORMA AND BARBARA REAM, d.b.a. STEED TRUCKING, 2950 Yoder Rd., Lima, OH 45806. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215 (614) 224–3161. Transporting *waste or scrap materials* not identified by industry producing, between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to team 4 at 202–275–7669.

Volume No. OP4–078

Decided: February 9, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 2017 (Sub-10), filed February 3, 1983. Applicant: ALTO'S EXPRESS, INC., P.O. Box 45, Riverton, NJ 08077. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., 426 Cottman St., Jenkintown, PA 19046, (215) 576–0131. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S. (except AK and HI).

MC 59686 (Sub-25), filed February 1, 1983. Applicant: TRAFIK SERVICES, INC., 25 Esten Ave., Pawtucket, RI 02860. Representative: Robert A. Mega (Same address as applicant), (401) 724–1200. Transporting *hazardous or secret materials, and sensitive weapons, and munitions,* between points in the U.S. (except AK and HI).

MC 109376 (Sub-26), filed February 3, 1983. Applicant: SKINNER TRANSFER CORP., P.O. Box 284, Reedsburg, WI 53959. Representative: Richard A. Westley, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *general commodities* (except classes A and B explosives and household goods), between points in IL, IN, IA, MI, MN, OH, and WI, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 148576 (Sub-11), filed February 3, 1983. Applicant: DOTSON TRUCKING COMPANY, INC., 1220 Murphy Ave., SW, Atlanta, Ga 30310. Representative: Brian S. Stern, 5411–D Backlick Rd., Springfield, VA 22151, (703) 941–8200. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 154457 (Sub-3), filed February 4, 1983. Applicant: ELKAY TRANSFER, INC., Polifka Rd., Francis Creek, WI 54214. Representative: James A. Spiegel, Olde Tone Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *petroleum, and chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with U.S. Oil Co., Inc., of Combined Locks, WI.

MC 155377 (Sub-5), filed February 3, 1983. Applicant: PGT TRUCKING, INC., P.O. Box 197, Rt. 68, Industry, PA 15052. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th Street NW., Washington, DC 20004, (202) 628–4600. Transporting *metal products,* between points in PA, OH, and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158587 (Sub-1), filed February 3, 1983. Applicant: BARNEY L. MESSERSMITH, d.b.a. M&M, P.O. Box 833, Emporia, KS 66801. Representative: Thomas A. Stroud, 109 Madison Ave., Memphis, TN 38103, (901) 526–2900. Transporting *food and related products,* between points in AL, AR, CO, FL, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NC, NE, NM, NJ, NY, OH, OK, PA, SC, SD, TN, TX, and WI.

MC 165857, filed February 2, 1983. Applicant: VINER's, INC., 801 Morton Ave., P.O. Box 290, Emerson, IA 51533. Representative: James F. Crosby, 7363 Pacific St., Suite 210(B), Omaha, NE 68114, (712) 824–7370. Transporting *food and related products,* between points in IA and NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166007, filed February 1, 1983. Applicant: J. A. MIARA TRANSPORTATION, INC., 12 Locust St., Medford, MA 02155. Representative: Joseph Andrew Miara, Jr., 107 Wendell St., Winchester, MA 01890, (617) 729–4709. Transporting *machinery,* between points in MA, NH, ME, VT, CT, and RI.

MC 166016, filed February 2, 1983. Applicant: MICHAEL P. BARRETT, d.b.a. M. P. BARRETT TRUCKING, Route 1, Box 96, Brainerd, MN 56401. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *chemicals and related products,* (1) between points in IA, MN, ND, SD, and WI, on the one hand, and, on the other, the ports of entry on the International Boundary line between the U.S. and Canada in MT, ND, and MN, and (2) between Minneapolis, MN, on the one hand, and, on the other, points in IA, ND, SD, and WI.

MC 166036, filed February 2, 1983. Applicant: SCHUMACHER TRANSPORT, 125 First St., P.O. Box 147, Lewiston, MN 55952, (507) 523–2167. Representative: Charles Giannetto, 228 Northwestern Bank Bldg., Rochester, MN 55901, (507) 288–7755. Transporting *sweetener* between points in IA and MN, under continuing contract(s) with Coca-Cola Bottling Midwest, inc., of St. Paul, MN.

MC 166086, filed February 7, 1983. Applicant: MOHASCO CORPORATION, Rt. 3, Box 137, Dillon, SC 29536. Representative: William H. Borghesani, Jr., 1150 17th St., N.W., Suite 1000, Washington, DC 20036, (202) 457–1122. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with International Freight Brokers, Inc., of Charlotte, NC and United Freight, Inc., of Morrow, GA.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–58

Decided: February 8, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–659, filed January 24, 1983. Applicant: HAP DONG EXPRESS, INC., 241 No. 9th St., Brooklyn, NY 1121. Representative: John W. Boyle, 205–10 42nd Ave., Bayside, NY 11361, (212) 229–4083. To operate as a *freight forwarder* in connection with the transportation of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 123329 (Sub-61), filed January 4, 1983. Originally published in the Federal Register republication on January 26, 1982. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta, Canada T2P2P9.

Representative: D. S. Vincent (same address as applicant) 403–265–9900. Transporting *lumber and wood products*, between ports of entry on the international boundary line between the United States and Canada, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, IN, IA, KS, LA, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, WA, WI, and WY.

Note.—The purpose of this republication is to reflect the appropriate territorial description.

MC 164779, filed January 18, 1983. Applicant: BILL E. YOUSEY, d.b.a. YOUSEY TRUCK DRIVERS, INC., Rt. 2 Box 94, Pea Ridge, AR 72751. Representative: Lloyd Burrow, Box 237, Bentonville, AR 72712, 501–273–9026. Transporting *such commodities* as are dealt in or used by wholesale, retail, discount or variety stores, between points in AL, AR, FL, GA, IL, KS, KY, LA, MO, MS, NE, OK, SC, TN, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP5–59

Decided: February 9, 1983.

By the Commission, Review Board No. 1, Member Parker, Chandler, and Fortier.

FF–368 (Sub-2), filed January 28, 1983. Applicant: EXECUTIVE INTERNATIONAL FORWARDING, INC., 5060 Shawline Dr., San Diego, CA 92111. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, 202–833–8884. As a freight forwarder in connection with the transportation of *used household goods, unaccompanied baggage* and *used automobiles*, between points in AK, on the one hand, and, on the other, points in the U.S.

MC 19458 (Sub-6), filed January 28, 1983. Applicant: B & B TRUCKING, INC., 83 Egleston Rd., Westfield, MA 01085. Representative: James Robert Evans, 145 Wisconsin Ave., Neenah, WI 54956, 414–722–2848. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT and DC.

MC 35628 (Sub-448), filed January 26, 1983. Applicant: IMFS, INC., d.b.a. INTERSTATE SYSTEM, 110 Ionia Avenue NW., Grand Rapids, MI 49503. Representative: Michael P. Zell (same address as applicant) (616) 774–0400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Allied Stores Corp., of New York, NY, Hercules, Incorporated, and E. I. DuPont DeNemours & Company, both of Wilmington, DE, Honeywell, Inc., of Minneapolis, MN, The DeVilbiss Co., of Toledo, OH, Borden, Inc., of Columbus, OH, and Uniroyal, Inc., of Middleburg, CT.

MC 79658 (Sub-52), filed January 27, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills, (same address as applicant) 812–424–2222. Transporting *household goods*, between points in the U.S. under continuing contract(s) with The Atchison Topeka and Santa Fe Railway Co., of Chicago, IL.

MC 113828 (Sub-285), filed January 26, 1983. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Bethesda, MD 20814. Representative: Herbert Alan Dubin, 818 Connecticut Ave., N.W., Washington, DC 20006, 202–331–3700. Transporting *commodities in bulk*, (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Ashland Chemical Company, a division of Ashland Oil Inc., of Dublin, OH.

MC 146798 (Sub-8), filed January 26, 1983. Applicant: SULLIVAN TRUCKING, INC., 1340 Umatilla St., Denver, CO 80204. Representative: Dale E. Isley, 50 So. Steele St., Suite 330, Denver, CO 80209, (303) 320–6100. Transporting (1) *food and related products*, (2) *pharmaceutical materials*, (3) *chemicals and related products*, and (4) *tobacco products*, (a) between points in KS, CO, and OK, and (b) between points in (a) above, on the one hand, and, on the other, points in NE, TX, NM, WY, MT, ID, UT, AZ, NV, WA, OR, and CA.

MC 147039 (Sub-9), filed January 21, 1983. Applicant: TRANSPORTATION SERVICES, INC., 21055 West Rd., Trenton, MI 48183. Representative: H. Neil Garson, 3251 Old Lee Hwy, Suite 400, Fairfax, VA 22030, 703–691–0900. Transporting *metal products, machinery, rubber products, chemicals and related products, transportation equipment, clay concrete and stone products, and petroleum products*, between points in the U.S. (except AK and HI).

MC 151418 (Sub-1), filed January 27, 1983. Applicant: ROY L. T. TRUCKING COMPANY, INC., 7117 E. Firestone Blvd., Downey, CA 90241. Representative: Roy Tyra (same address as applicant), (213) 927–4439. Transporting *paper and paper products* between points in the U.S. (except AK and HI), under continuing contract(s) with Scott Paper Company, of Philadelphia, PA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–4184 Filed 2–17–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30076]

Rail Carriers; Greenbrier and Eastern Railroad Company—Exemption From 49 U.S.C. 10901 and 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission under 49 U.S.C. 10505 exempts: (a) From 49 U.S.C. 10901, the acquisition and operation by Greenbrier and Eastern Railroad Company of 12.22 miles of the Western Maryland Railway Company's rail system located in Webster County, WV, and (b) from 49 U.S.C. 11301, the issuance of a maximum of $650,000 in securities by Greenbrier and Eastern Railroad Company.

DATES: This decision shall be effective on February 18, 1983. Petitions to reopen this proceeding must be filed by March 10, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section Room 5349, Interstate Commerce Commission, Washington, D.C. 20423.

(2) Petitioner's representative: William L. Slover, 1224 Seventeenth Street, N.W., Washington, D.C. 20036. Pleadings should refer to Finance Docket No. 30076.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, D.C. 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: February 9, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–4186 Filed 2–17–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30087]

Rail Carriers; Southern Pacific Transportation Company—Abandonment and Discontinuance Exemption—in Fannin, Grayson, and Lamar Counties, TX

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts Southern Pacific Transportation Company from the requirements of 49 U.S.C. 10903 *et seq.* concerning its abandonment of a 1.39-mile segment of its line, in Lamar County, TX, and discontinuance of its service over 63.01 miles of the Missouri Pacific Railroad Company in Fannin, Grayson, and Lamar Counties, TX, subject to the standard labor protective conditions.

DATES: This exemption will be effective on March 21, 1983. Petitions for reconsideration must be filed by March 10, 1983. Petitions for stay must be filed by February 28, 1983.

ADDRESSES: Send pleadings to:
(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, D.C. 20423, (202) 289–4357—DC metropolitan area (800) 424–5403—Toll free for outside the DC area.

Decided: February 10, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simons, and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–4135 Filed 2–17–83; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 4–83]

Privacy Act of 1974; Notice of a Modified System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to modify an existing system of records entitled "Legal and General Administration Accounting System (LAGA), JUSTICE/JMD–007," which was most recently published on January 10, 1980 in **Federal Register** Volume 45, page 2227.

The system notice is being revised to reflect a number of changes to the system. The system name has been changed to "Accounting System for the Offices, Boards and Divisions and the United States Marshals Service" to more clearly describe the sytem. The "Storage," "Retrievability," "Safeguards," and "Retention and disposal" sections of the notice have been revised to reflect that data is also being stored on magnetic tapes and disks. Two sections of the notice, "Categories of records in the system" and "Categories of individuals covered by the system," have been revised to clarify and define the term "vouncher." The term "voucher" includes all documents required to reserve, obligate, process and effect collection or payment of funds. In addition, a new routine use has been added to permit disclosure of records to a consumer reporting agency to assist in the collection of debts pursuant to Pub. L. 97–365. The "Routine uses of records maintained in the system" section has been revised to include the new routine use and to further clarify existing routine uses. Further, the "Authority for maintenance of the system" section has been corrected to reflect new and revised legislative authority.

5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment on new routine uses of a system of records. The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 60-day period in which to review the proposed automation of the system. Therefore, the public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, NW., Washington, D.C. 20530. Automation of the system will be implemented 60 days from the publication date of this notice or upon receipt of specific approval or a "no comment" response from OMB whichever is earlier. If no comments are received from the public, the new routine use will be implemented 30 days from the publication date of this notice without further notice in the **Federal Register.**

A report has been provided to the Director, OMB, to the President of the Senate, and the Speaker of the House of Representatives in accordance with 5 U.S.C. 552a(o).

Dated: February 7, 1983.

Kevin D. Rooney,
Assistant Attorney General for Administration.

Justice/JMD–007

SYSTEM NAME:

Accounting System for the Offices, Boards and Divisions and the United States Marshals Service.

SYSTEM LOCATION:

United States Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals on whom vouchers are submitted requesting payment for goods or services rendered (except payroll vouchers for Department of Justice employees), including vendors, contractors, experts, witnesses, court reporters, travelers, and employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

All vouchers processed, i.e., all documents required to reserve, obligate, process and effect collection or payment of funds. (Excluded from the system are payroll vouchers.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

After processing the vouchers, the records are used to maintain individual financial accountability; to furnish statistical data (not identified by personal identifiers) to meet both internal and external audit and reporting requirements; to disclose information to a consumer reporting agency to assist in collection of debts pursuant to Pub. L. 97–365; and to provide Administrative Officers from the Offices, Boards and Divisions and the United States Marshals Service with information on vouchers by name and social security number.

Release of information to the news media. Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an

unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice not otherwise required to be released pursuant to 5 U.S.C. 552 may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service. A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

STORAGE:

Magnetic disks, magnetic tapes, and file folders.

RETRIEVABILITY:

Records on magnetic tapes and disks are primarily retrieved by social security number or digital identifiers. Records in paper form are retrieved primarily by payee name from file folders which prior to Fiscal Year 1976 were maintained by payee name and since Fiscal Year 1976 have been kept by batch and controlled by schedule on which paid.

SAFEGUARDS:

Information contained in the system is unclassified. Operational access to information maintained on magnetic disks is controlled by the convention of the operating system utilized. This is normally by password key. These passwords are issued only to employees who have a need to know in order to perform job functions relating to financial management and accountability. Records are also safeguarded in accordance with organizational rules and procedures. Access is limited to personnel of the Department of Justice who have a need for the records in the performance of their official duties.

RETENTION AND DISPOSAL:

Magnetic tapes and disks are retained indefinitely. Payment documents are retained for three fiscal years (current and two prior years). The payment documents are then shipped to a General Services Administration's Federal Records Center for storage and subsequent destruction in accordance with instructions of the General Accounting Office.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Finance Staff, Office of the Controller, Justice Management Division, U.S. Department of Justice, 10th & Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the System Manager.

RECORD ACCESS PROCEDURES:

Same as the System Manager.

CONTESTING RECORD PROCEDURES:

Same as the System Manager.

RECORD SOURCE CATEGORIES:

Submitted by operating accounting personnel or individual of record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-4771 Filed 2-17-83; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

February 15, 1983.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Monday, Tuesday, and Wednesday, March 7–9, 1983. The meeting on Monday, Tuesday, and Wednesday will be held in Rooms 416 and b–100 at the Page Building, 2001 Wisconsin Avenue, NW., Washington, D.C. The Committee, consisting of 18 non-Federal members appointed by the President by academia, business and industry, public interest organizations, and State and local government, was established by Congress by Pub. L. 95–63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of reports as may from time to time be requested by the President or Congress.

The Tentative Agenda is as follows:

Monday, March 7, 1983

2001 Wisconsin Avenue, NW., Page Building #1, Rooms 416 and B–100, Washington, DC
8:45 a.m.–12:00 Noon—Plenary
8:45 a.m.–9:00 a.m.—Announcements
9:00 a.m.–10:30 a.m.—Sea Grant
Chairman: Jack R. Van Lopik
Speakers: Norman Doelling, Executive Officer, Sea Grant Program, Massachusetts Institute of Technology
James M. Utterback, Center for Policy Alternatives, Massachusetts Institute of Technology
10:30 a.m.–12:00 Noon—Discussion of New Topics
12:00 Noon–1:00 p.m.—Lunch
1:00 p.m.–5:00 p.m.—Panel meetings
1:00 p.m.–3:00 p.m.—Sea Grant
Chairman: Jack Van Lopik, Room B–100
Topic: Panel Work Session
1:00 p.m.–5:00 p.m.—Radioactive Waste Disposal
Chairman: John A. Knauss, Room 416
Topic: Panel Work Session
3:00 p.m.–5:00 p.m.—Hydrology
Chairman: Paul Bock, Room B–100
Topic: Panel Work Session
5:30 p.m.—Recess

Tuesday, March 8, 1983

2001 Wisconsin Avenue, NW., Page Building #1, Room 416, Washington, D.C.
8:30 a.m.–10:00 a.m.—Panel meetings
Marine Minerals
Chairman: Burt Keenan
Topic: Panel Work Session
10:00 a.m.–12:00 Noon—Wetlands
Chairman: Sharron Stewart
Topic: Review Proposed Legislation
12:00 Noon–1:00 p.m.—Lunch
1:00 p.m.–3:30 p.m.—Plenary
1:00 p.m.–2:00 p.m.—Review and Approval of Hydrology Report
Chairman: Paul Bock
2:00 p.m.–3:30 p.m.—Action Items
Panel Reports
3:30 p.m.—Recess

Wednesday, March 9, 1983

2001 Wisconsin Avenue, NW., Page Building #1, Room B–100, Washington, D.C.
9:00 a.m.–3:00 p.m.—Panel meeting
Ocean Research
Chairman: Sylvia Earle
Topic: Undersea Technology
Speakers: TBA
3:00 p.m.—Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chariman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere.

3300 Whitehaven Street, NW., Washington, DC 20235.

Dated: February 14, 1983.

Steven N. Anastasion,

Executive Director.

[FR Doc. 83-4210 Filed 2-17-83; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Museum Advisory Panel (Wider Availability, Fellowships/Visiting Specialists/Sabbaticals);

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Wider Availability, Fellowships/Visiting Specialists/ Sabbaticals) to the National Council on the Arts will be held on March 1, 1983, from 9:00 a.m.—5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 9, 1983.

[FR Doc. 83-4245 Filed 2-17-83; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel (Overview and Individual Support); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Overview and Individual Support) to the National Council on the Arts will be held on March 3-4, 1983, from 9:00 a.m.-5:00 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on March 3, from 9:00-10:00 a.m.; 11:00 a.m.-5:00 p.m., and on March 4, from 9:00-9:30 a.m. and 3:30-5:00 p.m. to discuss guidelines and general policy issues.

The remaining sessions of this meeting on March 3, from 10:00 a.m.-11:00 a.m. and on March 4, from 9:30 a.m.-3:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 9, 1983.

[FR Doc. 83-4244 Filed 2-17-83; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel (Forums/ Publications); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Forums/Publications) to the National Council on the Arts will be held on March 3, 1983, from (9:00 a.m.-5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on March 3, 1983, from 9:00-9:30 a.m. to discuss introductory remarks.

The remaining sessions of this meeting on March 3, from 9:30 a.m.-5:30 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 9, 1983.

[FR Doc. 83-4246 Filed 2-17-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-382-OL]

Louisiana Power & Light Company (Waterford Steam Electric Station, Unit 3); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding. As reconstituted, the Appeal Board for this proceeding will consist of the following members: Stephen F. Eilperin, Chairman, Dr. W. Reed Johnson, Christine N. Kohl.

Dated: February 10, 1983.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-4286 Filed 2-17-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Clinch River Breeder Reactor; Cancellation of Meeting

The ACRS Subcommittee on Clinch River Breeder Reactor (CRBR) meeting scheduled for February 23 and 24, 1983, Washington, DC has been cancelled. Notice of this meeting was published February 7, 1983 (48 FR 5626).

Dated: February 14, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-4290 Filed 2-17-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on March 9, 1983, Room 1046, at 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the recent NRC study on precursors to potential severe core damage accidents, NUREG/CR-2497, "Precursors to Potential Severe Core Damage Accidents: 1969–1979—A Status Report" and the peer review of this report.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

Wednesday, March 9, 1983, 8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: February 14, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–4289 Filed 2–17–83; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Order No. 485; Docket No. A83–15]

Burr Oak, Indiana 46509 Mr. John P. Helt, Petitioner; Notice and Order of Filing of Appeal

February 10, 1983.

On February 7, 1983, the Commission received a letter from Mr. John P. Helt (hereinafter "Petitioner"), concerning the United States Postal Service's decision to close the Burr Oak, Indiana, post office. Mr. Helt has informed the Commission that he intends that his letter be a request for the review provided for by section 404(b) of the Postal Reorganization Act [39 U.S.C. 404(b)] [1]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views." [2] The petition set forward a number of reasons why the decision to close the Burr Oak post office should be reconsidered.

The Postal Reorganization Act states: The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal service be insured to residents of both urban and rural communities.[3]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the closing of post offices.[4]

Upon preliminary inspection, this case appears to involve the following issues of law:

1. Whether the Postal Service's actions are consistent with the statutory requirement that the Postal Service provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining [39 U.S.C. 404(b)(2)(C)].

Other issues of law may become apparent when the Commission has had the opportunity to examine further the determination made by the Postal Service. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by § 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on the issue described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be filed within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioners by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Commission orders:

(A) The appeal letter from Mr. Helt be accepted as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register**.

By the Commission.

David F. Harris,

Secretary.

February 7, 1983, Filing of Petition
February 10, 1983, Notice and Order of Filing of Appeal
February 22, 1983, Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].
February 28, 1983, Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
March 9, 1983, Petitioner's Initial Brief [*see* 39 CFR 3001.115(a)].
March 24, 1983, Postal Service Answering Brief [*see* 39 CFR 3001.115(b)]
April 8, 1983, (1) Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001.115(c)].
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just

[1] 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94–421 (September 24, 1976), 90 Stat. 1310–11. Our rules of practice governing these cases appear at 39 CFR 3001.110 et seq.

[2] 39 U.S.C. 404(b)(1).

[3] 39 U.S.C. 101(b).

[4] 42 F.R. 59079–85 (November 17, 1977). The Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

decision may require, in scheduling or dispensing with oral argument.

June 7, 1983, Expiration of 120 day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 83-4250 Filed 2-17-83; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-12252]

American Southwest Financial Corp.; Application and Opportunity for Hearing

February 14, 1983.

Notice is hereby given that American Southwest Financial Corporation (the "Company") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended, (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that trusteeship of The Valley National Bank of Arizona ("Valley") under an indenture dated as of December 1, 1982 (the "Qualified Indenture"), between the Company and Valley which was heretofore qualified under the Act, and trusteeship by Valley under an indenture tentatively to be dated as of February 1, 1983, and which will be qualified under the Act (the "New Indenture"), is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Valley from acting as trustee under the Qualified Indenture and the New Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this Section of the Act provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that the trusteeships under the indentures are not so likely to involve a material conflict of interest to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any such indentures.

The Company alleges that:

(1) Pursuant to the Qualified Indenture, the Company has issued $50,475,000 aggregate principal amount of its 12¾% GNMA-Collateralized Bonds, Series A (the "Series A Bonds"), for which Valley serves as trustee. The Series A Bonds were registered under the Securities Act of 1933 and the Qualified Indenture was qualified under the Act.

(2) Pursuant to the New Indenture, the Company proposes to issue and sell an as yet undetermined amount of its GNMA-Collateralized Bonds, Series B (the "Series B Bonds"), for which it contemplates Valley will serve as trustee. The Company contemplates that the Series B Bonds will be registered under the Securities Act of 1933 and that the New Indenture will be qualified under the Act.

(3) The collateral granted to Valley as trustee for the Series A Bonds will serve as collateral security only for the Series A Bonds and the holders of other Bonds issued by the Company (including the Series B Bonds) will not have recourse to the collateral granted to Valley as trustee for the Series A Bonds.

(4) The collateral to be granted to Valley as trustee for the Series B Bonds will serve as collateral security only for the Series B Bonds and the holders of other Bonds issued by the Company (including the Series A Bonds) will not have recourse to the collateral granted to Valley as trustee for the Series B Bonds.

(5) The Company is not in default under the Qualified Indenture.

(6) Such differences as exist between the Qualified Indenture and the New Indenture are not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Valley from acting as trustee under any of the Indentures.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than March 7, 1983 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4297 Filed 2-17-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13013; 812-5414]

Capital Funding Corp.; Filing of Application

February 7, 1983.

In the matter of Capital Funding Corporation, 165 Broadway, New York, N.Y. 10080 (812-5414). Notice is hereby given that Capital Funding Corporation ("Applicant"), a Delware Corporation, filed an application on December 23, 1982, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting applicant from all of the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant states that it is a Delaware corporation organized on October 29, 1982. Applicant represents that its sole business will consist of issuing and selling its commercial paper notes and making advances ("Advances") of the net proceeds from the sale thereof to specified industrial and commercial entities and utilities ("Borrowers") for use in their respective businesses and that substantially all of Applicant's assets will consist of master promissory notes issued to Applicant by the Borrowers ("Master Notes") evidencing the obligations of the Borrowers to repay to Applicant the Advances. Payments at maturity of principal and interest due on each Master Note will be supported by (i) a surety bond in favor of Applicant issued by Industrial

Indemnity Company ("Surety") for the account of the Borrower whose Advances are evidenced by the Master Note and (ii) a surety bond in favor of a trustee for the holders of Applicant's commercial paper notes issued by the Surety for the account of Applicant.

Applicant represents that none of its outstanding common stock is, or in the future will be, owned by the Surety or by any of the Borrowers, or by any affiliate of any of them. Applicant represents that there has been, and undertakes that in the future there will be, no public offering of Applicant's common stock or of any other equity security of Applicant.

Applicant understands that the Surety and certain of its wholly-owned subsidiaries are primarily involved in the business of providing property and casualty insurance in ten states. Applicant states that, as an insurance company organized in California, the Surety is governed by the California Insurance Code and is subject to regulation and supervision by the California Department of Insurance. Applicant further states that the Surety is also licensed to transact an insurance business in the District of Columbia and forty-eight states other than California and is subject to regulation and supervision in each of these jurisdictions. Applicant also states that, as an insurance company authorized to provide insurance for the United States government, the Surety is restricted with respect to its liability on any single undertaking by regulations promulgated by the United States Department of the Treasury.

Applicant states that the Surety is a wholly-owned subsidiary of Crum and Forster ("C&F"), a New York-based insurance holding company, which, through the operations of its subsidiaries, provides a wide variety of insurance services in and outside the United States, including commercial as well as personal property and casualty insurance, fidelity and surety bonds, and reinsurance. The Surety has entered into a Reinsurance Participation Agreement with four other C&F insurance companies, pursuant to which all insurance written by the participating companies and related expenses are pooled and the business produced by all the participating companies is shared among the participating companies in accordance with percentage shares specified in the Reinsurance Participation Agreement.

Applicant states that, based on an analysis of the current financial condition and operating performance of the Surety and the four other C&F insurance companies which participate in the business pooling arrangement, A.M. Best Company, a major insurance company rating agency, assigned the Surety and the four other participating insurance companies its highest Policyholders' Rating of "A+" (Excellent).

Applicant states that the Borrowers will be industrial and commercial entities and investor-owned utilities, which, although highly creditworthy, have been unable to participate directly in the United States commercial paper market due either to their inability to obtain the highest categories of credit ratings from commercial paper rating agencies or to their inability to generate individually sufficient borrowings to make possible a cost-effective commercial paper program.

Applicant represents that it will receive assurances from each Borrower that the Borrower will use the proceeds of the Advances in the ordinary course of its business to finance "current transactions" within the meaning of paragraph 3(a)(3) of the Securities Act of 1933 ("Securities Act"). In addition, Applicant represents that it will receive assurances from each Borrower, both at the time the credit relationship with the Borrower is entered into and for any period during which any Master Note of the Borrower is outstanding, that the Borrower either is not an investment company within the meaning of subsection 3(a) of the Act or is deemed to be excluded from the definition of an investment company by virtue of the provisions of either subsection 3(b) or subsection 3(c) of the Act.

Applicant proposes to enter into arrangements with each Borrower pursuant to which the Borrower may request Applicant to make Advances to the Borrower. Under these arrangements, each Borrower will execute and deliver to Applicant a Master Note which will evidence both the Advances made by Applicant to the Borrower and the Borrower's obligation to repay the Advances. The aggregate amount of Advances to any Borrower will not be permitted to exceed a designated amount specified for that Borrower and the maturities of the Advances will not exceed 270 days. Upon receipt by Applicant of a request by a Borrower that Applicant make an Advance, Applicant will attempt to issue and sell its commercial paper notes ("Commercial Paper Notes") in an amount sufficient to obtain funds to make the requested Advance. Applicant will have no obligation to make an Advance unless it is able to issue the requisite amount of Commercial Paper Notes.

Applicant will advance the proceeds from sales of the Commercial Paper Notes to the Borrowers (after deduction from the proceeds of a commission payable to Applicant's commercial paper dealer for services in connection with the purchase and sale of the Commercial Paper Notes and, in the case of Advances made on a discount basis, after deduction of the amount of the discount). Upon the maturity of an Advance, or earlier if requested by Applicant, a Borrower will be obligated to pay to Applicant the principal amount of the Advance plus interest at a rate which is at least equal to the rate of interest on the Commercial Paper Notes issued by Applicant to obtain funds to make the Advance. The principal amount of each Advance will be evidenced by an appropriate entry on the Master Note of the Borrwer.

The payment obligations of each Borrower to Applicant in respect of Advances evidenced by the Master Note issued by the Borrower will be supported by a surety bond (the "Borrower Surety Bond") issued by the Surety for the account of such Borrower. Pursuant to each Borrower Surety Bond, the Surety will agree to indemnify Applicant for any default of the Borrower, for whose account the Borrower Surety Bond was issued, in repaying at maturity the principal amount of any Advance and any accrued interest.

Pursuant to the Issuer Surety Bond, the Surety will agree that, if on any day that Commercial Paper Notes mature, funds are not available to pay Commercial Paper Notes, the Surety will indemnify the trustee under the Issuer Surety Bond for Applicant's inability to repay the Commercial Paper Notes up to the amount of such bond. Applicant, in turn, will ensure that the aggregate amount of Commercial Paper Notes maturing on any day will not exceed the aggregate on that day of all maturing Advances, all amounts available in accounts maintained by Applicant to pay maturing Commercial Paper Notes, and the amount available under the Issuer Surety Bond.

Applicant proposes to issue and sell short-term negotiable promissory notes of the type exempt from the registration requirements of the Securities Act by virtue of paragraph 3(a)(3) thereof and generally referred to as commercial paper. The Commercial Paper Notes will be sold in minimum denominations of $100,000, will have a maturity not exceeding 270 days, and will neither be payable on demand prior to maturity nor eligible for any extension, renewal, or

automatic "rollover" at the option of either the holder or the issuer.

Applicant undertakes not to market any Commercial Paper Notes prior to receiving an opinion of counsel to the effect that the proposed offering of Commercial Paper Notes is exempt from the registration requirements of the Securities Act by virtue of paragraph 3(a)(3) thereof. Applicant further undertakes that, in respect of any future offerings of Applicant's debt securities, it will obtain an opinion of counsel as to compliance with, or the availability of an exemption from, the registration requirements of the Securities Act. Applicant does not request Commission review or approval of counsel's opinion regarding the availability of an exemption for the Commercial Paper Notes under paragraph 3(a)(3) of the Securities Act.

Applicant states that the Commercial Paper Notes will be offered publicly, through one or more major dealers, only to the types of sophisticated and largely institutional investors that ordinarily participate in the commercial paper market and that, while an announcement of the establishment of the commercial paper facility may be made as a matter of record, the offering will not be advertised. Applicant undertakes to ensure that each dealer in the Commercial Paper Notes will furnish to each offeree memoranda describing the businesses of the Surety and Applicant and providing the most recent annual and quarterly financial information for the Surety. Applicant represents that the memoranda prepared by each dealer will be updated as promptly as practicable to reflect material adverse changes in the financial status of Applicant or the Surety and will be at least as comprehensive as memoranda customarily used in offering commercial paper.

Applicant undertakes to select a major commercial bank to act as issuing and paying agent for the Commercial Paper Notes (the "Depositary"). The Surety will consent to the appointment of the Depositary. As trustee for the benefit of holders of the Commercial Paper Notes, the Depositary will receive an assignment of a first security interest in, among other rights, (i) Applicant's rights to payment of the principal of and interest on the Advances evidenced by the Master Notes, (ii) Applicant's rights to payment under the Borrower Surety Bond, and (iii) Applicant's rights under the Issuer Surety Bond. The Depositary will receive proceeds from the Applicant's sales of the Commercial Paper Notes and will deposit such proceeds in bank accounts maintained for the benefit of the holders of Commercial Paper Notes and for Applicant. The Depositary will collect payments by the Borrowers in respect of the Master Notes upon maturity and will transfer such payments for deposit in accounts used to pay the Commercial Paper Notes. The Depositary, as trustee for the benefit of the holders of the Commercial Paper Notes, will make any drawings required under the Borrower Security Bonds or the Issuer Bond.

Applicant represents that, prior to their issuance, the Commercial Paper Notes, and any future issue of Applicant's debt securities, will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization. However, no such rating shall be required with respect to future issues of Applicant's debt securities other than the Commercial Paper Notes if, in the opinion of counsel, an exemption is available for the issue pursuant to subsection 4(2) of the Securities Act. Applicant believes that in the first year in which Commercial Paper Notes are issued, the face amount of Commercial Paper Notes outstanding will average approximately $100,000,000.

Section 6(c) of the Act provides that the Commission by order upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class of persons, securities, or transactions from any provison or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant states that approval of the application is necessary or appropriate in the public interest. Applicant maintains that each Borrower with which Applicant enters into credit relations will be a company or utility which could itself directly issue commercial paper notes in the United States without compliance with the Act's registration provisions, but because of its inability to obtain the highest categories of credit ratings or because of the costs involved in entering the commercial paper market on its own has not entered the commercial paper market. Applicant and the Surety believe that a program in which commercial paper is effectively supported by surety bonds will serve the public interest by enabling the Borrowers to take advantage of the attractive rates available in the commercial paper market without obtaining a rating based on their credit or incurring the high cost which would accompany the Borrowers' entry into the commercial paper market on their own.

Applicant states that approval of the application would also be consistent with the protection of investors. Applicant asserts that its limited business purpose and its obligation to invest in the Master Notes, none of which will be an obligation of an investment company, and the repayment of the Advances evidenced by the Master Notes, each of which will be supported by surety bonds issued by the Surety, obviate the need for the regulatory safeguards provided by the Act. Applicant states that its "investment" activity would be the acquisition of the Master Notes of the Borrowers supported by surety bonds issued by an insurance company. In addition, Applicant maintains that as the trust beneficiaries of Applicant's rights under the Borrower Surety Bonds and the Issuer Surety Bond, holders of the Commercial Paper Notes will be adequately protected by the credit of the Surety in the event the Borrowers fail to meet their repayment obligations to Applicant.

Applicant contends that because the Commercial Paper Notes will generate funds for Applicant's "current transactions"; will have a maturity of 270 days or less, exclusive of days of grace; and will neither by payable on demand nor provide for any extension, renewal, or automatic "rollover," the characteristics of the Commercial Paper Notes themselves also limit the possible exposure of investors as well as the possibility of the abuses against which the Act is directed.

Applicant notes that, as an insurance company, the Surety is one of a category of institutions which are exempted from the Act's definition of investment company pursuant to paragraph 3(c)(3) of the Act. Applicant asserts that the policy considerations which underlie the paragraph 3(c)(3) exemption apply equally to an issuer, such as Applicant, whose only publicly-held securities will be sold, and purchased by investors, on the basis of the credit support provided by an entity which comes within the paragraph 3(c)(3) exemption.

Notice is further given that any interested person wishing to request a hearing of the application may, not later then March 4, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are

disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4300 Filed 2-17-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22851; 37-67]

Eastern Utilities Associates and EUA Service Corp.; Proposed Increase in Amount of Notes Issued by Subsidiary Service Company to Banks and/or Holding Co.

February 10, 1983.

In the matter of Eastern Utilities Associates, EUA Service Corporation, P.O. Box 2333, Boston, Massachusetts 02107 (37-67).

Eastern Utilities Associates ("EUA"), a registered holding company, and its subsidiary service company, EUA Service Corporation ("Service Company"), have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 40(b) promulgated thereunder.

By supplemental order in this proceeding dated February 8, 1982 (HCAR No. 22385), Service Company was authorized to borrow from banks and to borrow from EUA up to a maximum of aggregate borrowings from banks and/or EUA to be outstanding at any one time of $2,000,000. The post-effective amendment states that in order to provide for the expenses of relocating the Service Company's corporate offices (including related remodeling) estimated to be $500,000 and to provide for unforeseen circumstances which may arise in the future, it is now proposed that the Service Company retain authority to make borrowings from EUA, that any such future borrowings from EUA be evidenced by notes bearing interest at a rate not in excess of the commercial base rate at The First National Bank of Boston as adjusted from time to time, and that the aggregate amount of notes of the Service Company payable to banks and/or to EUA to be outstanding at any one time will not exceed $3,000,000.

The post-effective amendment and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 8, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4301 Filed 2-17-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13022; 812-5435]

Hutton Investment Series, Inc.; Filing of Application

February 9, 1983.

In the matter of Hutton Investment Series Inc., One Battery Park Plaza, New York, New York 10004 (812-5435).

Notice is hereby given that Hutton Investment Series Inc. ("Applicant" or "Fund") filed an application in January 28, 1983, and an amendment thereto on February 4, 1983, requesting a retroactive, temporary order of the Commission pursuant to Section 10(e) of the Investment Company Act of 1940 ("Act") exempting Applicant from the provisions of Section 10(b) of the Act, in order to provide time for the nominating committee of its board of directors to select and nominate, and its board of directors to elect, and additional director who is not an "interested person", within the meaning of Section 2(a)(19) of the Act, of the Applicant or of E.F. Hutton & Co. Inc. ("E.F. Hutton"), which is Applicant's distributor and regular broker, and which is also engaged in the investment banking business. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the provisions to which the exemption applies.

The Applicant is an open-end, diversified, series-type management investment company consisting of four series (Growth Series, Bond and Income Series, Short Term Investment Series, and Emerging Growth Series). The Applicant was incorporated in Maryland on September 29, 1981, and its registration statement under the Securities Act of 1933 became effective on December 29, 1981.

According to Applicant, E.F. Hutton serves as investment adviser and distributor for Applicant. E.F. Hutton is a registered investment adviser and broker-dealer and is a member of the New York Stock Exchange, other major securities and commodities exchanges, the National Association of Securities Dealers and the Securities Industry Association. E.F. Hutton also engages in investment banking activities.

The application states that prior to January 6, 1983, the Applicant's board of directors consisted of five members, two of whom (John N. Daly and Thomas P. Lynch) were interested persons of the Applicant and E.F. Hutton by viture of the fact that each is an officer and director of E.F. Hutton, and three of whom (Dwight B. Crane, Allan R. Johnson and J. Stanford Smith) were non-interested persons of the Applicant and E.F. Hutton. Mr. Smith, one of the non-interested directors, died on January 6, 1983. As a result of Mr. Smith's untimely death, the Applicant's board of directors has been reduced to four members, two of whom are interested directors and two of whom are non-interested directors. Applicant states that since the two interested directors are affiliated persons or otherwise interested persons of E.F. Hutton, the Applicant's principal underwriter and regular broker, the composition of Applicant's board of directors may be deemed to be in violation of section 10(b) of the Act.

Section 19(e) of the Act provides, in pertinent part, that if by reason of the death of any director the requirements of section 10(b) of the Act shall not be met by an investment company, the operation of the provisions of that section shall be suspended for a period of 30 days if the vacancy may be filled by a vote of directors or for such longer period as the Commission may prescribe by order upon application as not

inconsistent with the protection of investors. Applicant states that pursuant to its by-laws any vacancy occurring in its board of directors by reason of death may be filled by a majority of the directors then in office, although less than a quorum, provided, however, that immediately after filling such vacancy, at least two-thirds of the directors then holding office shall have elected to such office by the stockholders of the Applicant. The Applicant contends that such a procedure is in accordance with the requirements of Section 16(a) of the Act regarding the filling of vacancies on boards of directors of registered investment companies.

Applicant states that application of the 30-day limit in Section 10(e) of the Act would require the nominating committee of its board to select and nominate, and its full board to elect, a non-interested director in order for E.F. Hutton to continue to serve as Applicant's regular broker and principal underwriter. Applicant's board of directors has determined that it is the prudent course to retain E.F. Hutton as the Applicant's regular broker and principal underwriter, to retain Messrs. Daly and Lynch as directors and to retain Applicant's current officers past February 5, 1983, the date upon which the 30-day limit of Section 10(e) expired, and thereby prevent a serious disruption in the normal operations of Applicant.

The application states that the nominating committee of Applicant's board of directors (Messrs. Crane and Johnson) met on January 21, 1983, to begin the process of identifying a director to replace Mr. Smith. In the view of the nominating committee, it is in the best interests of the Fund and its shareholders to make a diligent and careful search for a qualified and competent disinterested director. Even after qualified candidates are identified for the position, it will take time to assure that the candidate is indeed qualified under the requirements of the Act to serve as a non-interested director of the Applicant and E.F. Hutton. Accordingly, Applicant represents that a new disinterested director could not be selected within the 30-day deadline as set forth in Section 10(e) of the Act.

Applicants argue that in situations where a director intends to resign from an investment company's board of directors, the board quite often will have advance notice of such an impending resignation and thus will have an adequate opportunity to locate a replacement director without creating problems under Section 10 of the Act. However, Applicants state, when the vacancy is unexpected, as in the case of death, 30 days is a relatively short period of time to identify and determine the qualifications of a suitable replacement director.

The Applicant states that Section 10 of the Act is designed to ensure a measure of independence for the supervising group on the board of directors of an investment company, limiting the control of investment advisers, brokers, underwriters and investment bankers over an investment company's operations. Applicant asserts that even with its board containing two non-interested and two interested directors, the board is not controlled by its principal underwriter, regular broker or an investment banker, since the two members of Applicant's board affiliated with E. F. Hutton cannot dictate the outcome of board decisions. Thus, the Applicant contends it would not be inconsistent with the policy of Section 10 of the Act to grant the Applicant an extension to identify and select a new non-interested director.

The Applicant agrees that as a condition of the temporary order, it will undertake to ensure that at least 50 percent of the members of its board of directors continue to be non-affiliated and non-interested persons of E. F. Hutton.

The Applicant submits that a temporary order exempting the Applicant from the provisions of Section 10(b) of the Act for the period February 5, 1983 until April 30, 1983, or until the conclusion of the next annual board meeting (now set for March 30, 1983), whichever occurs first, is not inconsistent with the protection of the Applicant's shareholders. Applicant requests that such order be granted on a retroactive basis since, Applicant states, the 30-day period set forth in Section 10(e) was too short in light of the suddenness of Mr. Smith's death to permit an application to be filed and reviewed, and a notice to be published in the **Federal Register** and an order issued, prior to expiration of that period. Applicant asserts that unless a temporary exemptive order were made retroactive to February 5, 1983, questions may be raised as to the validity of actions of Applicant's board of directors for the period February 5, 1983, to the date of the temporary order, since it may be contended that during such period the Applicant was not in compliance with Section 10(b) of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 7, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4302 Filed 2-17-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13023; 811-2775]

Widener Place Fund, Inc.; Filing of Application

February 9, 1983.

In the matter of Widener Place Fund, Inc., 500 North Woodward Avenue, Suite 200, Bloomfield Hills, MI 48013 (811-2775).

Notice is hereby given that Widener Place Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified, management investment company, filed an application on January 3, 1983, for an order of the Commission, pursuant to Section 8(f) of the Act declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On September 29, 1977, Applicant registered under the Act. Applicant states that it has not made a public offering since becoming a registered investment company and therefore has not, during that period, filed any registration statements under the Securities Act of 1933. Applicant represents that its most recent public offering occurred in 1968 when it was an operating company.

Applicant represents that at meetings held on June 9, 1980, and June 16, 1981, its board of directors approved the Agreement and Plan of Reorganization

("Agreement") between Applicant and Dreyfus Tax-Exempt Bond Fund, Inc. ("Dreyfus"). Applicant further represents that its shareholders approved the Agreement and the liquidation and dissolution of Applicant, in accordance with the laws of the State of New York. Applicant represents that it has taken all steps necessary to be dissolved in accordance with New York law and that acceptance by the Secretary of State of the Certificate of Dissolution awaits only tax clearance from the State of New York.

Applicant represents that an initial liquidation distribution of .83 shares of capital stock of Dreyfus per outstanding share of Applicant's common stock was made by Applicant on July 16, 1981. Applicant further represents that a final distribution of .021 shares of Dreyfus capital stock per outstanding share of Applicant's common stock was made on November 30, 1982. Applicant states that, as of November 30, 1982, after deducting amounts due Applicant's stockholders with respect to the liquidation distributions, Applicant retains approximately $30,522 in assets. Applicant represents that such assets consist of cash and cash items held for the payment of all known and contingent liabilities of Applicant and for the costs of liquidation. Applicant estimates that all such amounts will be disbursed within 60 to 90 days from the filing of the final tax returns. Applicant represents that any amounts not required for the payment of known and contingent liabilities and costs of liquidation, estimated to be less than $10,000 will be donated to charity.

Applicant represents that it has no other debts or other outstanding liabilities, and it is not a party to any litigation or administrative proceeding. Applicant states that within the last 18 months it has not transferred any of its assets to a separate trust. Finally, Applicant states that it is not now engaged, and does not propose to engage, in any business activity other than that necessary to wind up its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4303 Filed 2-17-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19501; File No. SR-AMEX 83-2]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Relating to Distribution Criteria for Original Listing of Common Stock and Warrant Issues

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 2, 1983, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms or Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend Sections 102 and 105 of the AMEX Company Guide (i) to modify public float and holder requirements of existing distribution criteria for evaluating the listing eligibility of common stock and warrant issues and (ii) to provide for alternative listing criteria based on prior trading volume.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

(a) *Purpose.* The purpose for amending the rules is to update the Exchange's present distribution criteria for original listing of common stock and warrant issues, and to provide for an alternative volume-based guideline. The modification inclues an increase in the size of the public float for stock issues, expansion of the round-lot category, and a reduction in the number of odd-lot holders by narrowing the gap between the existing specified number of round-lot holders and total holders.

The alternative volume-based guidelines will add flexibility to the process of evaluating a company's qualification for listing and registration on the Exchange. The volume-based standard will be used primarily in those instances where accurate shareholder distribution information is difficult to obtain because of significant holdings in street or nominee name.

(b) *Basis.* The proposed amendments are consistent with Section 6(b) of the Exchange Act and further the objectives of Section 6(b)(5) in that they are designed to protect investors and the public interest and are not designed to regulate matters not related to the purposes of the Act or the administration of the Exchange.

D. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange has determined that the proposed rule changes will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to

90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(b) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 10, 1983.

George A. Fitzsimmons,

Secretary.

Exhibit A—American Stock Exchange, Inc.

*Proposed Rule Amendments**

§ 102 COMMON STOCK[S]—Companies applying for listing [Common Stock issues] are [, as a general rule,] expected to meet the following additional criteria:

(a) Distribution of Common Stock Issues: Minimum public distribution of [400,000] *500,000* shares (exclusive of [the] holdings of officers, directors, controlling shareholders and other concentrated or family holdings), including at least 150,000 of such shares held in lots of 100 to [500] *1,000* shares. Minimum of [1,200] *1,000* public stockholders, including not less than 800 holders of lots of 100 shares or more, [(]among which at least 500 holders must hold lots of 100 to [500] 1,000 shares[)].

When a company is unable to provide specific data evidencing that the distribution criteria in the preceding paragraph have been met, the Exchange may still favorably consider the listing of a company's securities if the company has a minimum of 500,000 shares publicly held, a minimum of 800 shareholders and the daily volume of trading in the issue has been approximately 2,000 shares or more for the six months preceding the date of application. In evaluating the suitability of an issue for listing under this alternative provision, the Exchange will review the nature and frequency of trading activity and such other factors as it may determine to be relevant in ascertaining whether such issue is suitable for auction market trading. A security which trades infrequently and which does not appear to have a reasonably wide public distribution, will not be considered for listing under this paragraph even though average daily volume amounts to 2,000 shares per day or more.

Companies whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, are normally not considered eligible for listing unless the public distribution appreciably exceeds [400,000] *500,000* shares.

(b) Stock Price/Market Value *of Shares* [for] Publicly Held [Shares: $3,000,000 aggregate minimum. In general,] The Exchange requires a minimum market price of $5 per share *and $3,000,000 aggregate market value* [for a common stock issue] for a reasonable period of time prior to the filing of the listing application. In certain instances, however, the Exchange may favorably consider [for] listing an issue selling for less than $5 per share[. In this connection, the Exchange will give consideration to] *after considering* all pertinent factors, including market conditions in general, [whether the applicant exceeds the Exchange's net tangible assets and earnings standards,] whether historically the issue has sold above $5 per share, the applicant's capitalization, *and* the number of outstanding and publicly-held shares of the issue; [applied for and, in respect of securities of foreign issuers, the general practice in the country of origin of trading in low-selling issues]. Voting Rights: See § 124

2. Section 105 of the Company Guide is proposed to be amended as follows:

§ 105 [LONG-TERM] WARRANTS—The listing of [long-term] warrant issues is [also] considered [individually] on a case by case basis, [as in the case of Preferred Stock and Bond and Debenture issues.]

The Exchange, [as a general rule,] will not consider listing the [long-term] warrants *issues* of a Company unless:

[Listing of Common Stock:] the common stock or other securities underlying the warrants are listed either on the *American* [Exchange] or [on the] New York Stock Exchanges.

(a) Size and Earnings: The Company meets the size and earnings criteria set forth at § 101 [above.]

(b) Distribution [of Long-Term Warrant Issues: The issue has a minimum public distribtution of 500,000 warrants (exclusive of the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) including at least 150,000 of such Warrants held in lots of 100 to 500 Warrants. Minimum of 1,200 public holders of Warrants, including not less than 800 holders of lots of 100 Warrants or more (among which at least 500 holders must hold lots of 100 to 500 Warrants).]

The issue meets the distribution guidelines set forth in § 102(a).

(c) Exercise Provisions: The Exchange will not list warrant issues containing provisions which give the company the right, at its discretion, to alter the exercise price of the warrants for periods of time, or from time to time, during the life of the warrants, or to establish at a later date, the right to surrender other securities in payment of the warrant exercise price. If the warrant issue contains such a provision, the Exchange may list the warrants only if the Company [submits an agreement to the Exchange] *agrees* that it will not exercise any such rights. This policy will not preclude the listing of warrant issues for which regularly scheduled and specified changes in the exercise price (or the right to surrender specified securities at their par value in payment of the exercise price) have been previously established.

[FR Doc. 83-4298 Filed 2-17-83; 8:45 am]

BILLING CODE 8010-01-M

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*Note: Brackets [ ] indicate material to be deleted and italics indicate material to be added

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[Release No. 34-19495; File No. SR-NYSE-83-5]

Self-Regulatory Organizations; Proposed Rule Changes by New York Stock Exchange, Inc.; NYSE Member Information Memorandum Concerning the Disclosure of Names of Buyers, Sellers, Bidders, and Offerors

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 31, 1983 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

(a) The proposed rule amendments, if approved, would change and codify a long-standing practice on the trading floor, whereby the specialist will be permitted to disclose names of the parties to orders he holds for execution, he is in the process of executing, or he has executed—unless he is specifically instructed *not* to do so by the parties involved at the point of order entry.

(b) This change in policy may be construed as having an indirect effect on

the application of Rule 115. To the extent it would have such an effect, however, it would merely constitute a clarifying interpretation so as to permit the specialist to bring buyers and sellers together, which is one of his market-maker functions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes, on Burden on Competition, and on Comments Received

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in secontions (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes*

(1) *Purpose.* The purpose of the proposed change is to conform an official policy with a practice that has become increasingly prevalent on the trading floor. The specialist is expected to make every reasonable effort to bring together known buyers and sellers. Often brokers and upstairs traders are interested in who the parties are to a trade just effected, in the process of being effected, or about to be effected.

In the past, the specialist had to obtain permission every time he wanted to disclose a name. It is more efficient for the specialist to be able to give such information whenever it is requested *except* where the parties involved have specified at the time they gave the order to the specialist that they do not want to have their names disclosed. While it is up to the specialist's judgement whether to disclose names or not depending on his customers' best interest, once he gives the information to one member, he must give it to all who request it in order to ensure evenhandedness.

(2) *Statutory Basis.* By assisting the specialist in bringing together known buyers and sellers, the proposed policy change is consistent with the provisions of Section 6(b)(5) of the Securities Exchange Act of 1934 which provides that rules of an exchange should be designed, among other things, to promote just and equitable principles of trade, to facilitate transactions in securities, and to perfect the mechanism of a free and open market and a national market system.

(B) *Self-Regulatory Organization's Statement on Burden on Competition*

The policy change proposed herein will not impose any burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received from Members, Participants, or Others*

The Exchange has not solicited written comments on the proposed rule changes from its members or others, nor have any written comments been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes of,

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the abovementioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: February 9, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4296 Filed 2-17-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19499; file No. SR-PSE-83-4]

Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Stock Exchange, Inc.

February 10, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 28, 1983, the Pacific Stock Exchange, Incorporated ("PSE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The PSE proposed to amend Options Floor Procedure Advice F-1, Admission to the Trading Floor ("Advice F-1"), and Options Floor Procedure Advice F-2, Visitors on the Options Trading Floor ("Advice F-2"). PSE states in its filing that the principle effect of the amendment to Advice F-1 is to add member organization floor managers to the class of persons who may identify certain persons seeking admission to the options trading floor. In addition, the Advice is being amended to require badges to be displayed at all times by all persons on the options trading floor. With respect to Advice F-2, the PSE states that one purpose of the proposed amendment is to clarify procedures regarding the admission of visitors to the options trading floor. The Exchange proposes to add equity trading floor members and member organization floor managers to the class of persons who may invite guests to the trading floor. According to the PSE, another purpose of the proposed amendment to Advice F-2 is to reduce congestion on the options trading floor by limiting the number of guests who may be admitted at one time, as well as the frequency and duration of visits to the floor. The PSE states that the statutory basis for the proposed amendment is Section 6(b)(5) of the Act.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may

summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

Interested persons are invited to submit written data, views and arguments concening the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR-PSE-83-4.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Georga A. Fitzsimmons,

Secretary.

[FR doc. 83-4299 Filed 2-17-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-5249]

Fluid Financial Corp.; Issuance of License To Operate as a Small Business Investment Company

On March 5, 1982, a notice was published in the **Federal Register** (47 FR 9628), stating that Fluid Financial Corporation, Suite 8421 B, Montgomery Boulevard, N.E., Albuquerque, New Mexico 87102, has filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given 15 days to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 06/06-5249 to Fluid Financial Corporation on December 10, 1982, to operate as a small business investment company, pursuant to the Act.

[Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies]

Dated: February 9, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-4171 Filed 2-17-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0310]

Vista Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On April 6, 1982, a notice was published in the **Federal Register** (47 FR 14822), stating that Vista Capital Corporation, 484 Prospect Street, La Jolla, California 92038, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given 15 days to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 09/09-0310 to Vista Capital Corporation on February 2, 1983, to operate as a small business investment company, pursuant to the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 9, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-4170 Filed 2-17-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 04-04-0221]

Mighty Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), under the name Mighty Capital Corporation, Suite 100, 50 Technology Park/Atlanta, Norcross, Georgia 30092, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Dallas F. Wallace, 1555 Spalding Drive, Dunwoody, Georgia 30338—Chairman of the Board, Director

Charles R. Leibensperger, 730 Rivergate Drive, Atlanta, Georgia 30338—President, Director

Jerry D. Beck, 1950 Monticello Court, Dunwoody, Georgia 30338—Vice President, Director

David P. Smith, 8060 River Circle, Dunwoody, Georgia 30338—Secretary/Treasurer, Director

Gary E. Korynoski, 4082 Glen Meadow Dr., Norcross, Georgia 30092—General Manager

Mighty Distributing System of America, Inc. (MDSA)—Sole shareholder.

The beneficial owners of MDSA are:

Dallas F. Wallace, 51 percent
Charles F. Leibensperger, 22 percent
Jerry D. Beck, 16 percent
David P. Smith, 11 percent.

There is one class of stock authorized: 2.0 million shares of common stock. Initially only 100,000 shares will be issued with a resultant private capital of $530,000. Applicant proposes to conduct its operations principally in the State of Georgia.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed officers, directors, and shareholders, and the probability of successful operation of the Applicant in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (fifteen days from the date of publication of this notice), submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Norcross, Georgia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 9, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-4169 Filed 2-17-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/604]

Study Groups A and B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Groups A and B of the U.S. Organization for the CCITT will meet on Wednesday, March 2, at 10:30 a.m. in Room 1107 of the Department of State, 2201 C Street, NW., Washington, D.C. These Study Groups deal inter alia with the United States positions related to international interactive Videotex services under consideration in CCITT Study Groups I and VIII.

The meeting will receive reports on the recent meetings in Geneva of Study Groups I and VIII and consider the approach the United States should follow as the international discussions on Videotex proceed in CCITT.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to March 2, 1983 members of the general public who plan to attend the meeting inform Mr. William Lowell, Office of International Communications Policy, Department of State, telephone (202) 632-6583, of their intention. All attendees must use the C Street entrance to the building.

Dated: February 3, 1983.

Gordon L. Huffcutt,

Director, Acting, Office of International Communications Policy.

[FR Doc. 83-4250 Filed 2-17-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TREASURY

Public Information Collection Requirements Submitted to OMB for Review

During the period February 4 through February 10, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0255
Form Number: N/A
Title: Tax Forms Testing Program

Alcohol, Tobacco and Firearms

OMB Number: 1512-0202
Form Number: ATF F 5110.34
Title: Notice of Change in Plant Status
OMB Number: 1512-0220
Form Number: ATF F 5170.4
Title: Application for Importer's and/or Wholesaler's Basic Permit under the Federal Alcohol Administration Act
OMB Number: 1512-0076
Form Number: ATF F 1485
Title: Application and Withdrawal Permit of User to Procure Specially Denatured Spirits
OMB Number: 1512-0217
Form Number: ATF F 5120.28
Title: Report of Wine Spirits Added to Wines
OMB Number: 1512-0144
Form Number: ATF F 2736 (5100.12)
Title: Specific Transportation Bond—Distilled Spirits or Wines Withdrawn for Transportation to Manufacturing Bonded Warehouse-Class Six
OMB Number: 1512-0184
Form Number: ATF F 4710 (5400.4)
Title: Explosives Transaction Record (non-licensee or non-permittee)
OMB Number: 1512-0095
Form Number: ATF F 1678 (5530.5)
Title: Formula and Process for Nonbeverage Products
OMB Number: 1512-0085
Form Number: ATF F 1610
Title: Claim for Internal Revenue Drawback on Distilled Apparatus Exported and Entry for Exportation Thereof
OMB Number: 1512-0034
Form Number: ATF F 5000.9
Title: Personnel Questionnaire Alcohol & Tobacco Products
OMB Number: 1512-0007
Form Number: ATF F 3310.6
Title: Report of Theft of Loss of Firearms
OMB Number: 1512-0005
Form Number: ATF F 3210.1
Title: Application for Relief from Disabilities
OMB Reviewer: Judy McIntosh (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Office of the Secretary

OMB Number: 1505-0023
Form Number: International Capital Form CM
Title: Dollar Deposit and Certificate of Deposit Claims on Banks Abroad
OMB Number: 1505-0024
Form Number: International Capital Form CQ-1, CQ-2
Title: Financial and Commercial Liabilities to, and Claim on, Unaffiliated Foreigners
OMB Reviewer: Richard Sheppard (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: February 14, 1983.

Joy Tucker,

Departmental Reports, Management Officer.

[FR Doc. 83-4293 Filed 2-17-83; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 35
Friday, February 18, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

Civil Aeronautics Board 1
Federal Election Commission 2
Federal Home Loan Bank Board 3
Federal Reserve System 4, 5
Securities and Exchange Commission 6

1

CIVIL AERONAUTICS BOARD

[M-373, Amdt. 3, Feb. 8, 1983]

Addition to the February 8, 1983 Meeting

TIME AND DATE: 10 a.m. (open), 3 p.m. (closed), February 8, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

21a. Review of U.S.-Netherlands Aviation Relations. (BIA)
25. Discussion of U.S.-Israel Aviation Market. (BIA)

STATUS: Closed.

PERSON TO CONTACT FOR INFORMATION: Phyllis T. Kaylor, *Secretary*, (202) 673-5068.

[S-231-83 Filed 2-16-83; 3:29 pm]

BILLING CODE 6320-01-M

2

FEDERAL ELECTION COMMISSION

DATE AND TIME: Wednesday, February 23, 1983, 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Personnel. Litigation. Audits.

* * * * *

DATE AND TIME: Thursday, February 24, 1983, 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions:
Draft AO 1983-2: James Richardson, Chairman, Citizens for Emery Committee
Draft AO 1983-3: John J. O'Connell, Chairman, and J. William Siefert, Treasurer, Philadelphia Electric Company Political Action Committee
Commission appointment and promotion procedures (non-bargaining unit)
1984 Financial control and compliance manual for presidential primary candidates
Finance Committee report
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Riland, Information Officer, telephone 202-523-4065.

Majorie W. Emmons,
Secretary of the Commission.

[S-232-83 Filed 2-16-83; 3:46 pm]

BILLING CODE 6715-01-M

3

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Wednesday, February 23, 1983.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

MATTERS TO BE CONSIDERED:

Branch Office Application—First Federal Savings and Loan Association of Ottawa, Ottawa, Illinois
Application for Limited Trust Powers—First Federal Savings and Loan Association of Marion, Marion, Indiana
Application to Incur Future Debt Without Further Application—Financial Corporation of America, Los Angeles, California
Request for Extension of Time—(Proposed) Superior Savings Association, Los Angeles, California

[S-230-83 Filed 2-16-83; 10:49 am]

BILLING CODE 6720-01-M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: Approximately 11 a.m., Wednesday, February 23, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: February 15, 1983.

James McAfee,
Associate Secretary of the Board.

[S-227-83 Filed 2-16-83; 10:08 am]

BILLING CODE 6210-01-M

5

FEDERAL RESERVE SYSTEM

BOARD OF GOVERNORS.

TIME AND DATE: 10 a.m., Wednesday, February 23, 1983.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed one-time survey by the Federal Reserve Bank of New Yok on transactions volume in the U.S. foreign exchange market.

Discussion Agenda:

2. Proposed revision of Regulations G (Securities Credit by Persons Other Than Banks, Brokers, or Dealers) and U (Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks).

3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

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Dated: February 15, 1983.

James McAfee

Associate Secretary of the Board.

[S–228–83 Filed 2–16–83; 10:09 am]

BILLING CODE 6210–01–M

6

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 21, 1983, at 450 5th Street, N.W., Washington, D.C.

Closed meetings will be held on Wednesday, February 23, 1983, at 10 a.m. and on Thursday, February 24, 1983, following the 10 a.m. open meeting. An open meeting will be held on Thursday, February 24, 1983, at 10 a.m. in Room 1C30.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendar matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, February 23, 1983, at 10 a.m., will be:

Settlement of injunctive action.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Formal orders of investigation.
Litigation matter.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Opinions.

The subject matter of the closed meeting scheduled for Thursday, immediately following the 10 a.m. open meeting, will be:

Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Litigation matter.
Institution of administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, February 24, 1983, at 10 a.m., will be:

1. Consideration of whether to amend the Commission's rules governing maintenance of employee performance appraisal related documents in order to conform the rules to new regulations adopted by the Office of Personnel Management. For further information, please contact Laurie S. Schaffer at (202) 272–2453.

2. Consideration of whether to proceed with rulemaking or other appropriate steps with respect to one or more of the seven securities recommendations from the first SEC Government-Business Forum on Small Business Capital Formation. For further information, please contact H. Steven Holtzman at (202) 272–7617.

3. Consideration of whether to publish for comment certain technical amendments relating to various rules, forms and schedules under the Securities Act of 1933 and the Securities Exchange Act of 1934. Such amendments clarify certain language and correct technical omissions and errata. For further information, please contact Gerard V. Comizio at (202) 272–2589.

4. Consideration of whether to adopt on a final basis under the Investment Advisers Act of 1940 certain temporary amendments to Form ADV, the investment adviser registration application. For further information, please contact Arthur E. Dinerman at (202) 272–3021.

5. Consideration of whether to publish for comment Rule 6c–8 under the Investment Company Act of 1940, which would provide registered insurance company separate accounts and others with exemptive relief from various provisions of the Act with respect to variable annuity contracts participating in such accounts to the extent necessary to permit them to impose a deferred sales load upon redemption of any such contract and to deduct a full annual fee under certain circumstances. For further information, please contact Mary K. Crook at (202) 272–3010.

6. Consideration of whether to propose for comment amendments to Rule 482 under the Securities Act of 1933 and Item 17 of Part I of Form N–1 under the Investment Company Act of 1940 to permit investment companies to advertise their securities by direct mail, modify the method by which money market mutual funds calculate their yield, and permit money market mutual funds to advertise their compound yield. For further information please contact Gregory K. Todd at (202) 272–7317.

7. Consideration of whether to authorize issuance of a release which announces the adoption of amendments to the Commission's rule regarding the independence of accountants. The amendments revise the definition of the term "member" in § 210.2–01(b) (Rule 2–01(b) of Regulation S-X) and make minor clarification changes in the rule. For further information, please contact Clarence M. Staubs at (202) 272–2130.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272–2014.

February 15, 1983.

[S–229–83 Filed 2–16–83; 10:09 am]

BILLING CODE 8010–01–M

Federal Register

Friday
February 18, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama	
AL83-1001	Jan. 21, 1983.
AL82-1039	Sept. 3, 1982
AL82-1047	Sept. 19, 1982
AL82-1049	Sept. 24, 1982
District of Columbia, Maryland, and Virginia. DC82-3031	Nov. 12, 1982
Maryland: MD81-3047	Oct. 9, 1981
Massachusetts: MA81-3054	Sept. 4, 1981
Illinois: IL82-2001	Jan. 15, 1982
Kansas.	
KS83-4009	Feb. 4, 1983
KS83-4013	Feb. 4, 1983
KS83-4014	Feb. 4, 1983
New Jersey	
NJ81-3053	Oct. 9, 1981
NJ81-3063	Dec. 28, 1981
Minnesota:	
MN82-2064	Nov. 26, 1982
MN82-2069	Dec. 27, 1982
Ohio: OH82-2037	May 21, 1982
Oklahoma.	
OK83-4011	Jan. 14, 1983
OK83-4012	Jan. 14, 1983
Pennsylvania:	
PA81-3041	July 6, 1981
PA81-3051	Sept. 4, 1981
PA81-3058	Aug. 28, 1981
PA81-3066	Oct. 23, 1981
PA81-3068	Sept. 25, 1981
PA81-3076	Oct. 9, 1981.
PA81-3077	Oct. 9, 1981
PA82-3011	Mar. 12, 1982
PA81-3043	July 17, 1981
PA81-3072	Oct. 2, 1981
PA81-3090	Dec. 18, 1981
Texas	
TX82-4025	June 18, 1982
TX83-4046	Oct. 1, 1982
TX83-4002	Jan. 7, 1983.
TX83-4003	Jan. 7, 1983.
TX83-4004	Jan. 7, 1983
TX83-4005	Jan. 7, 1983
TX83-4006	Jan. 7, 1983
TX83-4007	Jan. 7, 1983
Wisconsin: WI82-2011	Mar. 19,1982
Virginia: VA82-3022	Dec. 3, 1982

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses

following the numbers of the decisions being superseded.

Alabama.	
AL81-1288 (AL83-1010)	Sept. 4, 1981
AL82-1026 (AL83-1008)	Sept. 10, 1982
AL82-1041 (AL83-1009)	Sept. 10, 1982
AL82-1063 (AL83-1011)	Oct. 15, 1982
AL82-1082 (AL83-1007)	Nov. 19, 1982
Illinois: IL81-2062 (IL83-2011)	Oct. 16, 1981
Montana: MT82-5101 (MT83-5101)	Feb. 5, 1982
Oklahoma: OK78-4093 (OK83-4020)	Sept. 15, 1978
Oregon: OR82-5100 (OR83-5100)	Mar. 12, 1982
Wisconsin: WI82-2062 (WI83-2012)	Dec. 17, 1982

Signed at Washington, D.C., this 11th day of February 1983.

Dorothy P. Come,

Assistant Administrator Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION No. AL83-1001 - Mod. #1 (January 21, 1983 - 47 FR 2929) CHANGE:	Basic Hourly Rates	Fringe Benefits
CARPENTERS		
Carpenters & Soft Floor Layers	$ 13.10	.50
Piledrivermen	13.85	.50
Millwrights	13.40	.50
ELECTRICIANS		
Electricians	14.85	4%+2.5
Cable Splicers	14.60	4%+2.5
IRONWORKERS	12.62	1.98
PLUMBERS & PIPEFITTERS	14.99	2.44
POWER EQUIPMENT OPERATORS:		
Group A	13.53	1.75
Group B	11.19	1.75
Group C	10.00	1.75

DECISION NO. AL83-1003 - Mod. #1 (September 3, 1982 - 47 FR 39074) CHANGE:	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$ 12.22	$ 1.35
ELECTRICIANS	14.70	1.20+ 3%
GLAZIERS	11.64	2.[illegible]
IRONWORKERS	13.67	1.48
ROOFERS	11.45	

DECISION NO. AL82-1047 - Mod. #1 (47 FR 52334 - September 19, 1982) Lawrence, Limestone, & Morgan Counties, Alabama BUILDING CONSTRUCTION CHANGE:	Basic Hourly Rates	Fringe Benefits
PLUMBERS & PIPEFITTERS	$ 14.94	2.44

DECISION NO. AL82-1049 - Mod. #1 (September 24, 1982 - 47 FR 42258) CHANGE:	Basic Hourly Rates	Fringe Benefits
Electricians	$ 14.70	$ 1.20+ 3%

DECISION NO. DC82-2001, Mod. #2 (47 FR 51 [illegible] November 12, 1982) District of Columbia; Maryland-Montgomery & Prince Georges Counties; & the Dulles School; Virginia-Fairfax County, Alexandria & Fairfax Cities. CHANGE: BUILDING CONSTRUCTION-PRINCE Counties (Mont. ANDY [illegible] HEAVY CONSTRUCTION (PRINCE AND [illegible] (ONE MILE RAD. (D.C. COUNTIES) LABORERS	Basic Hourly Rates	Fringe Benefits
	$12.58	
	14.85	1.81

DECISION NO. MA82-3001 - Mod. #1 (46 FR 41691 - Sept. 4, 1981) BARNSTABLE, BRISTOL, [illegible], MIDDLESEX, NANTUCKET, NORFOLK, PLYMOUTH & SUFFOLK COS., MASSACHUSETTS CHANGE: ELECTRICIANS PIPEFITTERS MIDDLESEX (Acton, Ayer - except west of Greenville Branch of the Boston and Maine RR, Bedford, Burlington, Carlisle, Chelmsford, Concord, Dracut, Dunstable, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westford and Wilmington'	Basic Hourly Rates	Fringe Benefits
	14.46	4.21
	14.13	4.[illegible]
	14.73	4.21
	14.52	2.34

MODIFICATION PAGE 2

DECISION NO. IL82-2001 - MOD. #6 (47 FR 2459 - January 15, 1982) Alexander, Champaign, ... White & Williamson Counties, Illinois Changes	Basic Hourly Rates	Fringe Benefits
Carpenters; Lathers; Millwrights; Piledrivermen; & Soft Floor Layers:		
Area 1	$13.95	$2.00
Area 3:		
Carpenters; Lathers; & Soft Floor Layers	15.855	2.13
Millwrights & Piledrivermen	16.355	2.13
Area 4:		
Carpenters & Lathers	15.50	2.45
Millwrights & Piledrivermen	16.00	2.45
Area 5:		
Carpenters; Piledrivermen; & Soft Floor Layers	13.61	1.93
Millwrights	14.01	1.93
Area 6:		
Carpenters & Soft Floor Layers	15.37	1.64
Millwrights	15.97	1.64
Piledrivermen	15.77	1.64
Area 7:		
Carpenters & Soft Floor Layers	16.38	2.32
Millwrights & Piledrivermen	16.85	2.32
Area 8:		
Carpenters; Piledrivermen; & Soft Floor Layers	13.61	1.93
Millwrights	14.01	1.93
Area 9:		
Carpenters; Piledrivermen; & Soft Floor Layers	13.61	1.93
Millwrights	14.01	1.93
Area 10	17.65	1.75
Area 11:		
Carpenters; Lathers; & Soft Floor Layers	15.755	2.23
Millwrights & Piledrivermen	16.255	2.23
Area 12:		
Carpenters; Lathers; & Soft Floor Layers	15.705	2.28
Millwrights & Piledrivermen	16.205	2.28

DECISION KS83-4009-Mod. #1 (48 FR 5448-February 4, 1983 Leavenworth County CHANGE:	Basic Hourly Rates	Fringe Benefits
Elevator Constructors	$16.93	3%+2
Sheet Metal Workers	16.65	2

DECISION KS83-4011-Mod. #1 48 FR 5446 - February 4, 1983 Shawnee County CHANGE:	Basic Hourly Rates	Fringe Benefits
Carpenters (Building):		
Carpenters	$12.35	$1.60
Millwrights	12.85	1.60
Piledrivermen	12.725	1.60
Carpenters (Residential)	9.90	1.60

DECISION NO. KS83-4014-Mod. #2 48 FR 5441-February 4, 1983 Sedgwick County CHANGE:	Basic Hourly Rates	Fringe Benefits
Sheet Metal Workers	$14.51	3%+2
Elevator Constructors	13.21	3%+2
Elevator Constructors' Helpers	9.25	3%+2

MODIFICATION PAGE 3

MODIFICATION PAGE 4

DECISION NO. OK83-4012 - MOD. #2 48 FR 1916 - January 14,	Basic Hourly Rates	Fringe Benefit

DECISION NO. NJ81-3053 - MOD. #1. (46 FR 50343 - October 9, 1981) BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET, SUSSEX, UNION AND WARREN COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
ADD: DIVERS AND DIVER TENDERS: ZONE 1		
Divers	19.29	5.98
Diver Tenders	15.09	5.98
DIVER AND DIVER TENDERS ZONES:		
ZONE 1 - Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren Cos.		
LABORERS, BUILDING CONSTRUCTION:		
ZONE 6		
Laborers, Air Tool Ops., Mason Tenders, Mortar Mixers, Pipelayers (Concrete & Clay)	10.65	2.75
DECISION NO. NJ81-3063 - MOD. #14 (46 FR 62746 - Dec. 28, 1981) ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY		
ADD: DIVERS AND DIVER TENDERS: ZONE 1		
Divers	19.29	5.98
Diver Tenders	15.09	5.98

DECISION NO. NJ81-3063 - CONT'D	Basic Hourly Rates	Fringe Benefits
DIVER & DIVER TENDERS ZONES:		
ZONE 1 - ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM		

DECISION NO. MN82-2066 - MOD. #2 (47 FR 53622 - November 26, 1982) Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, & Washington Counties, Minnesota	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Anoka (Exclu. Anoka & Fridley Twps.) & Remaining Cos.:		
Commercial Building:		
Electricians	$15.75	$4.84
Cable Splicers	16.35	4.91

DECISION NO. MN82-2069 - MOD. #2 (47 FR 57612 - December 27, 1982) Benton, Sherburne, & Stearns Counties, Minnesota	Basic Hourly Rates	Fringe Benefits
Omit:		
Electricians:		
Sherburne (Rem. of Co.) Co.:		
Electricians	$15.75	$3.69
Cable Splicers	16.35	3.76
Add:		
Electricians:		
Sherburne (Rem. of Co.) Co.:		
Commercial Building:		
Electricians	15.75	4.84
Cable Splicers	16.35	4.91
Residential	13.75	2.61

DECISION NO. OH82-2037 - MOD. #3 (47 FR 22307 - May 21, 1982) Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians		
Cuyahoga & Lorain (Twp. of Columbia) Cos.	$17.90	$3.24

DECISION NO. OK83-4011-Mod. #3 48 FR1913-January 14, 1983 Adair, Atoka, Bryan, Coal, Cherokee, Craig, Creek, Delaware, Haskell, Hughes, Le-floro, Latimar, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Tulsa, Sequoyah, Wagoner and Washington Counties, Oklahoma	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Line Construction		
Lineman	$15.80	3%+.65
Cable Splicer	17.06	3%+.65
Hole Digger Operator; Heavy Equipment Operator	14.08	3%+.65
Line Truck Driver (winch op.)	12.40	3%+.65
Jackhammerman	11.25	3%+.65
Powdermen	13.68	3%+.65
Groundman	10.09	3%+.65
Truck Driver (flat bed, ton half and under)	10.73	3%+.65
Truck Drivers		
Area I		
Group I	12.80	
Group II	12.85	
Group III	12.95	
Sheet Metal Workers		
Area I	16.15	2.66

DECISION NO. OK83-4012 - MOD. #2 48 FR 1916 - January 14, 1983 Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Pottawatomie, Seminole, Stephens, Tillman, Washita, Woods and Woodward Counties, Oklahoma	Basic Hourly Rates	Fringe Benefits
Delete:		
Cement Mason - Power Tool Operators		
Area 3		
Long County		
Lathers		
Area I		
Major County		
Add:		
Cement Mason - Power Tool Operators		
Area 3		
Logan County		
Plasterers		
Area I		
Murray County		
Change:		
Bricklayers-Stonemasons:		
Area VII	$15.48	$1.67
Line Construction:		
Lineman	15.80	3%+.65
Cable Splicer	17.06	3%+.65
Hole Digger Op.; Heavy Equipment Op.	14.08	3%+.65
Line Truck Driver (winch Op.)	12.40	3%+.65
Jackhammerman	11.25	3%+.65
Powderman	13.68	3%+.65
Groundman	10.09	3%+.65
Truck Driver (flat bed, ton half and under)	10.73	3%+.65
Truck Drivers		
Area II		
Group I	12.80	
Group II	12.85	
Group III	12.95	
Sheet Metal Workers	16.15	2.66

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DECISION NO. PA81-3041 - MOD. #10 (46 FR 34934 - July 6, 1981)	Basic Hourly Rates	Fringe Benefits
ALLEGHENY, ARMSTRONG, BEAVER, BEDFORD, BLAIR, BUTLER, CAMBRIA, CAMERON, CENTRE, CLARION, CLEARFIELD, CLINTON, CRAWFORD, ELK, ERIE, FAYETTE, FOREST, FRANKLIN, FULTON, GREENE, HUNTINGDON, INDIANA, JEFFERSON, MERCER, LAWRENCE, McKEAN, MIFFLIN, POTTER, SOMERSET, VENANGO, WARREN, WASHINGTON, WESTMORELAND CO., PA.		
CHANGE:		
HEAVY & HIGHWAY CONSTRUCTION:		
CARPENTERS		
ZONE I	14.25	27%
ZONE II	14.06	27%
CARPENTER - WELDER		
ZONE I	14.65	27%
ZONE II	14.45	27%
CARPENTER - BURNER		
ZONE I	14.45	27%
ZONE II	14.25	27%
CEMENT MASONS	14.72	23%
PILEDRIVERMEN	15.12	27%
PILEDRIVERMEN - WELDER	15.35	27%
LABORERS		
CLASS I		
ZONE I	12.02	20%
ZONE II	11.90	20*
CLASS II		
ZONE I	12.17	20%
ZONE II	12.07	20%
CLASS III		
ZONE I	12.60	20%
ZONE II	12.60	20%
CLASS IV		
ZONE I	13.55	20%
ZONE II	13.55	20%
LINE CONSTRUCTION.		
ZONE I		
Lineman	18.57	.60+ 3 3/8%
Winch Truck Op	12.99	.60+ 3 3/8%
Truck Driver	12.07	.60+ 3 3/8%
Groundman	11.14	.60+ 3 3/8%
IRONWORKERS.		
ZONE III	15.32	4.40
POWER EQUIPMENT OPERATORS:		
CLASS I		
ZONE I	15.90	20%+
ZONE II	15.66	20%
CLASS II		
ZONE I	15.68	20%+
ZONE II	15.43	20%+
CLASS III		
ZONE I	12.64	20%+
ZONE II	12.40	20%+
CLASS IV		
ZONE I	12.26	20%+
ZONE II	11.99	20%+
CLASS V		
ZONE I	12.06	20%+
ZONE II	11.82	20%+
TRUCK DRIVERS		
HEAVY & HIGHWAY CONSTRUCTION		
CLASS I		
ZONE I	12.88	18%
ZONE II	12.65	18%
CLASS II		
ZONE I	13.02	18%
ZONE II	12.83	18%
CLASS III		
ZONE I	13.09	18%
ZONE II	12.93	18%
CLASS IV		
ZONE I	13.09	18%
ZONE II	12.93	18%
CLASS V		
ZONE I	13.19	18%
ZONE II	13.01	18%
CLASS VI		
ZONE I	13.19	18%
ZONE II	13.01	18%
CLASS VII		
ZONE I	13.17	18%
ZONE II	12.98	18%
CLASS VIII		
ZONE I	12.92	18%
ZONE II	12.68	18%
CLASS IX		
ZONE I	13.02	18%
ZONE II	12.79	18%

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DECISION NO. PA81-3041 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS: (CONT'D)		
CLASS X		
ZONE I	13.09	18%
ZONE II	12.93	18%
CLASS XI		
ZONE I	13.01	18%
ZONE II	12.83	18%
CLASS XII		
ZONE I	12.97	18%
ZONE II	12.79	18%
DECISION NO. PA81-3041 - MOD. #7 (46 FR 44653 - Sept. 4, 1981) LUZERNE COUNTY, PA		
CHANGE		
BOILERMAKERS	17.88	2.415
CARPENTERS:		
Black Creek, Butler, Dennison, Foster, Hazle, Hollenback, Foscopeck, Sugarload and Lower Salem Township	14.00	1.95
ELEVATOR CONSTRUCTORS	14.425	2.6%+ C+D
ELEVATOR CONSTRUCTORS HELPERS	12.10	Same
ELEV.CONST.MOB.HELPERS	9.21	
LATHERS:		
Remainder of County	12.04	.11
DECISION NO. PA81-3058 - MOD. #11 (46 FR 43596 - August 28, 1981) ADAMS, BERKS, BRADFORD, CARBON, COLUMBIA, CUMBERLAND, DAUPHIN, JUNIATA, LACKAWANNA, LANCASTER, LEBANON, LEHIGH, LUZERNE, LYCOMING, MONROE, MONTOUR, NORTHAMPTON, NORTHUMBERLAND, PERRY, PIKE, SCHUYLKILL, SNYDER, SULLIVAN, SUSQUEHANNA, TIOGA, UNION, WAYNE, WYOMING & YORK CO., PA		
CHANGE:		
LINE CONSTRUCTION:		
Adams, Cumberland, Dauphin, Lancaster, Lebanon, Juniata, Perry & York Cos., Pa.		
Linemen	14.25	.60+ 3 3/8%
Winch Truck Op.	9.98	.60+ 3 3/8%
Truck Driver	9.26	.60+ 3 3/8%
Groundman	8.55	.60+ 3 3/8%
MILLWRIGHTS:		
Adams, Bradford, Cumberland, Columbia, Dauphin, Juniata, Lebanon, Luzerne, Lycoming, Montour, Northumberland, Perry, Schuylkill, Snyder, Sullivan, Tioga, Union & Lancaster Cos. & Townships in Carbon County:		
Banks, Lausanne, Lehigh & northern part of Packer Wyoming Co., York County, New Cumberland Army Depot & Harrisburg-York State Airport	15.77	1.90
Berks County	15.92	2.02
Lehigh & Northampton Cos.	15.85	2.53
DECISION NO. PA81-3060 - MOD. #5 (46 FR 52082 - Oct. 29, 1981) DAUPHIN, CUMBERLAND, PERRY, JUNIATA, NEW CUMBERLAND DEPOT, PA YORK COUNTY, PA.		
CHANGE:		
CARPENTERS	14.00	1.95
LATHERS	14	1.95

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DECISION NO. PA81-3068 - MOD. #10 (46 FR 34934 - July 6, 1981)	Basic Hourly Rates	Fringe Benefits
ALLEGHENY, ARMSTRONG, BEAVER, BEDFORD, BLAIR, BUTLER, CAMBRIA, CAMERON, CENTRE, CLARION, CLEARFIELD, CLINTON, CRAWFORD, ELK, ERIE, FAYETTE, FOREST, FRANKLIN, FULTON, GREENE, HUNTINGDON, INDIANA, JEFFERSON, MERCER, LAWRENCE, McKEAN, MIFFLIN, POTTER, SOMERSET, VENANGO, WARREN, WASHINGTON, WESTMORELAND CO., PA.		
CHANGE:		
HEAVY & HIGHWAY CONSTRUCTION:		
CARPENTERS		
ZONE I	14.25	27%
ZONE II	14.06	27%
CARPENTER - WELDER		
ZONE I	14.65	27%
ZONE II	14.45	27%
CARPENTER - BURNER		
ZONE I	14.45	27%
ZONE II	14.25	27%
CEMENT MASONS	14.72	23%
PILEDRIVERMEN	15.12	27%
PILEDRIVERMEN - WELDER	15.35	27%
LABORERS		
CLASS I		
ZONE I	12.02	20%
ZONE II	11.90	20*
CLASS II		
ZONE I	12.17	20%
ZONE II	12.07	20%
CLASS III		
ZONE I	12.60	20%
ZONE II	12.60	20%
CLASS IV		
ZONE I	13.55	20%
ZONE II	13.55	20%
LINE CONSTRUCTION.		
ZONE I		
Lineman	18.57	.60+ 3 3/8%
Winch Truck Op	12.99	.60+ 3 3/8%
Truck Driver	12.07	.60+ 3 3/8%
Groundman	11.14	.60+ 3 3/8%
IRONWORKERS.		
ZONE III	15.32	4.40
POWER EQUIPMENT OPERATORS:		
CLASS I		
ZONE I	15.90	20%+
ZONE II	15.66	20%
CLASS II		
ZONE I	15.68	20%+
ZONE II	15.43	20%+
CLASS III		
ZONE I	12.64	20%+
ZONE II	12.40	20%+
CLASS IV		
ZONE I	12.26	20%+
ZONE II	11.99	20%+
CLASS V		
ZONE I	12.06	20%+
ZONE II	11.82	20%+
TRUCK DRIVERS		
HEAVY & HIGHWAY CONSTRUCTION		
CLASS I		
ZONE I	12.88	18%
ZONE II	12.65	18%
CLASS II		
ZONE I	13.02	18%
ZONE II	12.83	18%
CLASS III		
ZONE I	13.09	18%
ZONE II	12.93	18%
CLASS IV		
ZONE I	13.09	18%
ZONE II	12.93	18%
CLASS V		
ZONE I	13.19	18%
ZONE II	13.01	18%
CLASS VI		
ZONE I	13.19	18%
ZONE II	13.01	18%
CLASS VII		
ZONE I	13.17	18%
ZONE II	12.98	18%
CLASS VIII		
ZONE I	12.92	18%
ZONE II	12.68	18%
CLASS IX		
ZONE I	13.02	18%
ZONE II	12.79	18%

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DECISION NO. TX82-4025 - MOD. #2 (47 FR 26550 - 6/18/82)	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS	14.00	1.95
LATHERS	14	1.95
DECISION NO. TX83-4004 - MOD. #2 (48 FR 936 - 1/7/83)		
CHANGE:		
CARPENTERS	14.00	1.95
LATHERS	14	1.95

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DECISION NO. PA81-3068 - MOD. #9 (46 FR 47403 - Sept. 25, 1981) LABANON COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	17.88	2.415
CARPENTERS	14.00	1.95
LATHERS	14.00	1.95

DECISION NO. PA81-3076 - MOD. #6 (46 FR 50263 - Oct. 9, 1981) SCHUYLKILL COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	15.76	2.04
CARPENTERS	14.00	1.95
ELECTRICIANS-		
North Manhein etc.	15.59	3%+ 1.81
LATHERS	14.00	1.95

DECISION NO. PA81-3077 - MOD. #8 (46 FR 50265 - Oct. 9, 1981) LANCASTER COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS	14.00	1.95
LABORERS:		
General Laborers	9.80	1.42
Operators of Jackhammers	10.00	1.42
Wagon Drill	10.10	1.42
Handling of all materials	10.05	1.42
Laborers assisting tile	9.85	1.42
Handling & using dynamite	10.13	1.42
Caisson Work (Top Men)	10.05	1.42
Caisson Work (Bottom Men)	10.25	1.42
Mixer Men	10.20	1.42
LATHERS	14.00	1.9[illegible]

DECISION NO. PA82-3011 - MOD. 04 (47 FR 10963 - March 12, 1982) BRADFORD, TIOGA & UNION COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LATHERS	12.72	1.95

DECISION NO. PA81-3043 - MOD. #9 (46 FR 37212 - July 17, 1981) ARMSTRONG, ALLEGHENY, BEAVER, BUTLER, FAYETTE, INDIANA, WASHINGTON, WESTMORELAND COS., PENN	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS ZONE 2	15.60	3.86
ELECTRICIANS ZONE 1	17.70	2.85+ +3%
STONEMASONS ZONE 1	13.73	5.04

DECISION NO. PA81-3072 - MOD. #7 (46 FR 48851 - October 2, 1981) ADAMS & YORK COUNTIES, PENNSYLVANIA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
General Laborers	9.80	1.42
Operator of jackhammer (etc.)	10.00	1.42
Wagon drill operator	10.10	1.42
Handling of all material (etc.)	10.05	1.42
Laborers assisting tile (etc.)	9.85	1.42
Handling & using dynamite	10.13	1.42
Caisson work (top men)	10.05	1.42
Caisson work (bottom men)	10.25	1.42
Mixer man	10.20	1.42
LATHERS	14.00	1.95
SOFT FLOOR LAYER:		
Adams County	11.69	1.95
MILLWRIGHTS		
Adams County	15.77	1.95
York County	13.89	1.98

DECISION NO. PA81-3090 - MOD. #5 (46 FR 61813 - Dec. 18, 1981) LYCOMING COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	17.88	2.415
CARPENTERS	14.00	1.95
LATHERS	14.00	1.95

DECISION NO. TX82-4025 - MOD. #5 (47 FR 26550 - 6/18/82) Brazos County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheet metal workers	$17.4[illegible]	2.09+3%

DECISION NO. TX82-4046 - MOD. #6 (47 FR 43525 - 10/1/82) Jefferson & Orange Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayer & stonemasons	17.48	2.20
Tile setters	15.97	2.20

DECISION NO. TX83-4002 - MOD. #2 (48 FR 931 - 1/7/83) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Cement masons	14.20	
Ironworkers - Zone 2	13.125	[illegible].95

DECISION NO. TX83-4003 - MOD. #2 (48 FR 935 - 1/7/83) Bexar County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheet metal workers	15.95	2.31+3%

DECISION NO. TX83-4004 - MOD. #2 (48 FR 936 - 1/7/83) Galveston & Harris Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheet metal workers	$17.[illegible]	2.09+3%
ADD TO DESCRIPTION OF WORK:		
Does not apply to any work on Treatment Plant Sites in Harris Co.		

DECISION NO. TX83-4005 - MOD. #1 (48 FR 934 - 1/7/83) Lubbock County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers:		
Structural, ornamental, reinforcing	13.00	2.95
All ironworkers on jobs 30 miles or more from City of Lubbock	13.125	2.95
ADD:		
Roofers	7.[illegible]0	

DECISION NO. TX83-[illegible]006 - MOD. #2 (48 FR 933 - 1/7/83) Travis County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sheet metal workers	15.95	2.31+3%

DECISION NO. TX83-4007 - MOD. [illegible]1 (48 FR 932 - 1/7/83) Wichita County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers:		
Structural, ornamental, reinforcing	13.00	2.95
Ironworkers on jobs 30 miles or more from City of Wichita Falls	13.12[illegible]	2.95
Line construction:		
Lineman; operators	1[illegible].30	.80+ 3-1/2%
Cable splicers	14.55	" "
Groundman	70%JR	
Plasterers	13.75	.01

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DECISION NO. WI82-2011 - Mod. #1
(47 FR 12029 - March 19, 1982)
Columbia, Dane, Iowa and Sauk Counties, Wisconsin

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$16.50	2.70
Boilermakers	16.12	2.825
Bricklayers	14.24	2.26
Carpenters; Soft Floor Layers	13.76	1.91
Cement Mason:		
Columbia & Sauk Cos.	14.45	1.85
Dane and Iowa Cos.	13.80	2.33
Electricians	15.54	1.19+ 12 3/4%
Elevator Constructors:		
Constructors	15.22	2.465
Helpers	10.65	2.465
Helpers (Prob..	7.61	
Glaziers	15.08	1.58
Ironworkers	14.08	2.85
Line Construction:		
Lineman	15.47	.65+ 10%
Heavy Equipment Op.	13.92	.65+ 10%
Light Equipment Op.	12.38	.65+ 10%
Heavy Groundman Truck-driver	10.83	.65+ 10%
Light Groundman Truck-driver	10.06	.65+ 10%
Groundman	8.51	.65+ 10%
Millwrights & File-drivermen	14.16	1.91
Painters:		
Brush & Structural Steel	13.10	1.81
Spray and Sandblaster	14.10	1.81
Plasterers:		
Dane & Iowa Cos.	13.45	2.30
Sauk & Columbia Cos.	14.45	1.85
Plumbers	16.54	2.95+ 13
Roofers	12.74	2.10
Sprinkler Fitters	16.67	2.83

	Basic Hourly Rates	Fringe Benefits
Sheet Metal Workers	15.81	3.83
Terrazzo Workers		
Dane & Iowa Cos.	13.50	1.85
Columbia & Sauk Cos.	13.95	1.85
Tile Setters,		
Dane & Iowa Cos.	13.25	1.85
Truck Drivers:		
Triple & Tandem Axle	10.40	246.15 per m.
Laborers:		
General	12.17	1.43
Mortar Mixers	12.32	1.43
Air hammer & Vibrator Laborers	12.42	1.43
Power Equipment Operators:		
Group I	15.22	2.90
Group II	14.92	2.85
Group III	14.56	2.80
Group IV	14.44	2.80
Group V	13.88	2.80
Group VI	13.41	2.80

	Basic Hourly Rates	Fringe Benefits
[illegible]		
[illegible]		
[illegible]		
[illegible]		
[illegible]		
[illegible]		
[illegible]		
[illegible]		
[illegible]	14.35	1.43
[illegible]	15.10	1.85
ELEVATOR CONSTRUCTORS	14.01	2.46 a&b
ELEVATOR CONSTRUCTORS HELPERS	9.31	2.46 a&b
ELEVATOR CONSTRUCTORS HELPERS		
PHARMACOLOGY	6.505	

SUPERSEDEAS DECISION

STATE: ALABAMA
COUNTIES: BALDWIN,CHOCTAW,CLARKE,CONECUH, ESCAMBIA,MOBILE,MARENGO,MONROE,WASHINGTON, & WILCOX.
DECISION NUMBER: AL83-1010
DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL81-1288 dated September 4, 1981 in 46 FR 44598.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION PROJECTS (excluding Sewer & Water Line Construction & Drainage Projects).

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$13.54	1.52
CEMENT MASONS	[illegible].74	.9[illegible]
ELECTRICIANS-Wiremen	15.47	1.75 + 3%
IRONWORKERS-Structural & Reinforcing	1[illegible].08	1.52
LABORERS:		
Zone 1: Baldwin,Clarke, Escambia,Mobile,Monroe, & Washington Counties		
1.Asphalt Raker,Air Tool Oper.,Chain Saw Oper.,Concrete Saw Oper.,Vibrator Oper.	7.49	.95
2.General Laborers,Hand Blade Oper.,Batch Truck Dumper	7.31	.95
3.Pipelayer,Mucker,Mortar Mixer	7.44	.95
4.Powderman & Blaster	8.32	.95
Zone 2: Choctaw,Marengo, & Wilcox Counties		
1.Asphalt Raker,Air Tool Oper.,Chain Saw Oper., Concrete Saw Oper., Vibrator Oper.	6.58	.95
2.General Laborer,Hand Blade Oper., Batch Truck Dumper	[illegible].[illegible]0	.95
3.Pipelayer,Mucker, Mortar Mixer	6.50	.95
4.Powderman & Blaster	7.40	.95
PAINTERS:		
Industrial Brush	13.43	1.16
Industrial Spray	14.18	1.16
POWER EQUIPMENT OPERATORS:		
Group A	13.35	1.3[illegible]
Group B	12.92	1.35
Group C	12.13	1.35
Group D	8.70	1.35
PLUMBERS & PIPEFITTERS	15.40	2.13
PILEDRIVERMEN	13.[illegible]9	1.52

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
1. Truck Drivers up to but not including 1 1/2 tons	9.85	1.52
2. Drivers 1 1/2 tons up to but not including 5 tons	10.63	1.52
3. Rec & Issuing truck	11.07	1.52
4. Scalemen	11.34	1.52
5. Truck drivers on rated 5 tons or 6 yards & over including heavy equipment such as pole truck, miss or corning wagons, dumpsters, semi drivers, agitators, ross carriers, dempsey dump euclid trucks, forklift trucks in warehouses & similar equipment such as tractors, ten wheeler, jeeps, or dump trucks, pickup trucks pulling 2 or 4 wheel trailers hauling equipment (not applicable to pulling equipment which rolls on its own wheels)	12.42	1.52
6. Auto Mechanics	13.39	1.52
WELDERS--Rate for Craft		

POWER EQUIPMENT OPERATORS: Classification Definitions:

SUPERSEDEAS DECISION

STATE: ALABAMA
COUNTY: MOBILE
DECISION NUMBER: AL83-1008
DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL82-1026 dated September 10, 1982 in 47 FR 39958.

POWER EQUIPMENT OPERATORS: Classification Definitions:

Group A: Heavy duty mechanic, crane, shovel, derrick Oper. 2 or more drums, dragline, piledriver oper., hoist oper., (2 or more drums), tugboat, cableways, excavators, front end loaders, backhoe, rubber tired backhoe, dredges, leverman, welders, mounted rotary drill machine, cherry picker, side boom tractors, paving machines, motor patrol, pump crete machines, gradalls Johnson mixers, hydro-lift trucks all batch plants & header house Oper., panel board (redi-mix), Hydro-hammer on demolition work, concrete plants, asphalt plants, helicopter pilots & concrete paving trains.

Group B: Dozer scraper, turnapull, 1 drum hoist, self-propelled rollers, construction elevators, locomotive engineer, elevating grader, tractor with power-control attachments, winch truck, riding, trenching & ditching machines, mixers, asphalt spreaders, drilling machines, form graders, asphalt distributors, forklift, (well point & dewatering system), subgraders, finishing machines, motorized compactors, wagmobiles, & push carts

Group C: Light plant generators, welding machines, air compressors, pumps, conveyors, motor boats under 30 ft., tow tractors, piledriver hammer, (diesel gas, air, or electric), fireman, outboard motor boat operators & brakeman.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTY: MOBILE
DECISION NUMBER: AL83-1008 DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL82-1026 dated September 10, 1982 in 47 FR 39958.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS, STONEMASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	$ 13.99	$ 2.04
CARPENTERS	13.54	1.52
CEMENT MASONS	13.21	1.52
ELECTRICIANS	15.47	1.75 +3%
ELEVATOR MECHANICS	13.53	2.465 +a+b
GLAZIERS	7.30	
IRONWORKERS: Structural, Ornamental, & Reinforcing	14.08	1.82
LABORERS:		
Unskilled	8.76	1.52
Air Tool Operator, Mason Tenders, Mortar Mixers, & Pipelayers	9.04	1.52
LATHERS	14.21	1.52
MILLWRIGHTS	14.28	1.52
PAINTERS:		
Brush	12.68	1.52
Paperhanger	12.93	1.52
Spray	13.68	1.52
PILEDRIVERMEN	13.89	1.52
PLASTERERS	14.20	1.52
PLUMBERS & PIPEFITTERS & STEAMFITTERS	$15.40	$2.13
ROOFERS	6.00	
SHEET METAL WORKERS	13.90	2.29
SPRINKLER FITTERS	14.57	2.83
TRUCK DRIVERS	5.50	
WELDERS-Rate for Craft		
POWER EQUIPMENT OPERATORS		
Backhoe, Crane, & Cherry Picker	14.15	1.52
Bulldozer, Forklift, & Drum Hoist	13.70	1.52

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. 7 Paid Holidays-A through F, plus Friday after Thanksgiving Day.
b. Employer contributes 8% basic hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% basic hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: ALABAMA
DECISION NUMBER: AL83-1009
Supersedes Decision No.: AL82-1041 dated September 10, 1982 in 47 FR 39967.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (does not include residential construction consisting of single family homes and apartments up to and including 4 stories).

COUNTY: ETOWAH
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.16	2.16
BRICKLAYERS	12.95	.30
CARPENTERS:		
Carpenters	12.25	1.24
Millwrights	12.75	1.24
CEMENT MASONS	10.44	.65
ELECTRICIANS	14.70	1.20 + 3½%
GLAZIERS	9.00	
IRONWORKERS	13.67	1.91
INSULATORS	8.35	
LABORERS, Unskilled	7.67	.78
LATHERS	8.50	
PAINTERS	9.00	
PLUMBERS & PIPEFITTERS	14.00	1.42 + a
ROOFERS	11.45	.60
SHEET METAL WORKERS	14.67	1.96
SPRINKLER FITTERS	$ 14.57	2.83
TRUCK DRIVERS		
1. Up to but not incl. 1½ tons	8.00	.50
2. 1½ up to but not including 3 tons	8.26	.50
3. 3 up to but not including 5 tons	8.54	.50
4. 5 tons & over incl. special equipment	8.54	.50
5. Heavy duty, off the road trucks	8.83	.50
WELDERS - Rate for Craft		

FOOTNOTES:
a. Four Paid Holidays--July 4, Labor Day; Thanksgiving Day; Christmas Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: ALABAMA

COUNTIES: CALHOUN, ETOWAH, GREEN, JEFFERSON PICKENS, ST. CLAIR, SHELBY, SUMTER, TALLADEGA, TUSCALOOSA, & WALKER
DATE: DATE OF PUBLICATION

DECISION NUMBER: AL83-1011
Supersedes Decision No.: AL82-1063 dated October 15, 1982 in 47 FR 46217.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION PROJECTS.

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$ 9.50	
CARPENTERS:		
1.Etowah,Pickens,Sumter, & Tuscaloosa Counties	10.67	.08
2.Jefferson,Shelby, Walker, & that portion of St. Clair & Talladega Cos. west of HWY 231 from the Blount Co. line south to Interstate 20. Also that portion of St. Clair & Talladega Cos. south of Interstate 20 & west of U.S. Alternate 231 south, but including the city of Talladega & that portion of Talladega Co. south,of the City of Talladega & west & south of the Talladega National Forest.	11.13	1.11
3.Calhoun,Etowah, & remainder of St. Clair, & Talladega Counties	9.84	.70
ELECTRICIANS	14.70	1.20+ 3 1/2%
IRONWORKERS	13.67	1.91
LABORERS:		
Zone 1: Jefferson,St. Clair,Shelby,Talladega, & Walker Counties:		
1.Asphalt Raker,Air Tool Oper., Chain Saw Oper., Concrete Saw Oper.,Vibrator Oper.	7.49	.85
2.General Laborers,Hand Blade Oper.,Batch Truck Oper.,Batch Truck Dumper	7.31	.95
3.Pipelayer,Mucker, Mortar Mixer	7.44	.95
4.Powderman & Blaster	8.32	.95
5.Tunnel Work--		
Tunnel Miner	8.29	.95
Tunnel Laborer	7.80	.95
Chuck Tender	7.97	.95
Pneumatic Concrete Gun Oper., & Nuzzleman	8.16	.95
LABORERS: cont'd:		
Zone 2: Calhoun,Etowah, Green,Pickens,Sumter, & Tuscaloosa Counties:		
1.Asphalt Raker,Air Tool Chain Saw Oper.,Concrete Saw Oper.,Vibrator Oper.	$ 6.78	.85
2.General Laborer,Hand Blade Oper.,Batch Truck Dumper	6.68	.95
3.Pipelayer,Mucker,Mortar Mixer	6.73	.95
4.Powderman & Blaster	7.49	.95
5.Tunnel Work--		
Tunnel Miner	7.57	.95
Tunnel Laborer	7.09	.95
Chuck Tender	7.27	.95
Pneumatic Concrete Gun Oper. & Nuzzleman	7.46	.95
PLUMBERS & PIPEFITTERS	9.45	.65
POWER EQUIPMENT OPERATORS:		
Class A	11.91	1.50
Class B	11.19	1.50
Class C	10.65	1.50
Class D	9.83	1.50
TRUCK DRIVERS:		
1.Up to 1 1/2 tons	7.44	.58
2.1 1/2 up to 3 tons	7.73	.58
3.3 tons up to 5 tons	8.08	.58
4.Off Road Truck	8.80	.58

POWER EQUIPMENT OPERATORS: Classification Definitions.

SUPERSEDEAS DECISION

STATE: ALABAMA
DECISION NUMBER: AL83-1007

COUNTY: MADISON
DATE: DATE OF PUBLICATION

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POWER EQUIPMENT OPERATORS: Classification Definitions.

Class A: Asphalt plant, asphalt spreader, backhoe, boat oper.(inboard), boom tractor, bulldozer, cableways, cherry picker, compressers-2 or more within 200 ft. radius, concrete plants-stationary, mixer oper., concrete pump, conveyors-2 or more up to 4, core driller-crane-derricks-draglines-deck hoist on construction barges, crane-hydro, dinky locomotive distributors-bituminous surface, dredge oper., farm tractor with attachments (30 hp or more-which are an integral part of tractor), forklift, front end loader, gradall, headache oper., heavy duty, mechanic, hoist-2 drums or more, ice plant in connection with concrete mixers-5 bags or over, motor graders, piledriver, push tractor, quarry master, & rock crusher, rollers-asphalt, scraper, scrapers in tandem (operator to receive 25¢ per hour for each additional scraper), shovels, trenching machines & all similar equipment.

Class B: Crawler, tractor, hoist-drum, pumps-2 or more 4 inch & over, under within 200 ft. radius rollers-other than asphalt), winch truck, well points & other equipment used for dewatering.

Class C: Air compressor, blade graders-pull type, farm tractor with attachments finishing machines-screed mounted self-propelled, mixers - under 5 bags.

Class D: Outboard boats, air compressor-125 & under, conveyor-oper., tender by oiler, pumps--under 4 inch or under, welding machines-1 or under, oiler in-goard boats, deckhand.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii) .

SUPER. DEC. NO.

STATE: ALABAMA COUNTY: MADISON
DECISION NUMBER AL83-1007 DATE: DATE OF PUBLICATION
Supersedes Decision No. AL82-1082 dated November 19, 1982 in 47 FR 52316.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS: (does not include single family houses and apartments up to and including 4 stories.)

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKER	$ 15.16	$ 2.26	PLUMBERS & PIPEFITTERS	$ 14.10	$ 2.14
BRICKLAYER	13.50		ROOFING	7.50	
CARPENTERS	10.50	1.39	SHEET METAL WORKERS	14.67	1.66
CEMENT MASON	12.75		TRUCK DRIVER	5.00	
ELECTRICIAN	14.35	2.07 + 4%	WELDERS-Rate for craft		
IRONWORKERS	12.62	1.48	POWER EQUIPMENT OPERATORS		
LABORERS, Unskilled	7.07	1.0	Crane	13.03	1.75
MILLWRIGHT	11.15	1.39	Front End Loader	13.03	1.75
PAINTERS	11.80	.75	Oiler (35 Ton Crane & Over)	11.39	1.75

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Illinois
DECISION NUMBER: IL83-2011
COUNTY: Cook
DATE: Date of Publication
Supersedes Decision No. IL81-2062, dated October 16, 1981 in 46 FR 51155
DESCRIPTION OF WORK: Building (Including Residential), Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.00	$3.03
BOILERMAKERS	18.60	5.00
BRICKLAYERS:		
Bricklayers; Stonemasons	16.80	2.74
Caulkers; Pointers; & Potters	16.50	3.29
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers	16.50	3.38
CEMENT MASONS	15.75	4.37
ELECTRICIANS	17.55	2.58
ELEVATOR CONSTRUCTORS:		
Mechanics	17.36	2.33+a+b
Helpers	70%JR	2.33+a+b
Helpers (Prob.)	50%JR	
GLAZIERS	15.70	2.27
IRONWORKERS:		
Structural & Reinforcing	17.65	4.83
Ornamental	17.10	3.305
Riggers & Machinery Movers	13.755	6.22
Metal Fence Erectors:		
Black Book	18.20	2.69+c
Red Book	11.59	3.305+c
LATHERS	13.82	1.29
LINE CONSTRUCTION:		
Linemen; Equipment Operators	17.05	3.39
Groundmen	12.10	2.69
MARBLE SETTERS	17.66	2.15
MARBLE SETTERS' FINISHERS	13.20	2.15
PAINTERS:		
Brush; Decorators; Paperhangers & Tapers	14.50	1.57
PIPEFITTERS; Steamfitters	18.00	3.00
PLASTERERS	15.835	2.45
PLUMBERS	17.05	2.97
ROOFERS	16.50	2.55
SHEET METAL WORKERS:		
Commercial Building; Residential Aluminum Gutter Work	16.15	3.04
SPRINKLER FITTERS	17.58	3.45
TERRAZZO WORKERS; Tile Setters	15.66	2.77
TERRAZZO WORKERS' FINISHERS	11.99	1.50

	Basic Hourly Rates	Fringe Benefits
TERRAZZO BASE MACHINE	$12.35	$1.50
TILE SETTERS' FINISHER	13.85	2.22
TRUCK DRIVERS:		
Building & Residential:		
2-3 Axles	14.775	d,e
4 Axles	15.025	d,e
5 Axles	15.225	d,e
6 Axles	15.425	d,e
Heavy & Highway:		
2-3 Axles	14.30	2.95+a & f
4 Axles	14.55	2.7+a & f
5 Axles	14.75	2.7+a & f
6 Axles	14.95	2.95+a & f
LABORERS (Wrecking):		
General	13.40	1.92
Wallmen, Wreckers, Burners, & Hammermen	13.90	1.92
Smokestack or High Man	14.25	1.92
LABORERS (Landscape):		
Landscape Plantsmen	8.18	g & h
Truck Driver - Tractor Trailer (3 axle or more) & Equipment Operator	8.66	g & h
Truck Driver - 2 Axle	8.24	g & h
LABORERS (Building & Residential):		
Group 1	13.65	2.17
Group 2	13.725	2.17
Group 3	13.75	2.17
Group 4	13.80	2.17
Group 5	13.85	2.17
Group 6	13.875	2.1
Group 7	13.975	2.17
Group 8	14.00	2.17
Group 9	14.10	2.17
Group 10	14.225	2.17
LABORERS (Heavy & Highway):		
Group 1	13.90	1.92
Group 2	13.975	1.92
Group 3	14.05	1.92
Group 4	14.175	1.92

	Basic Hourly Rates	Fringe Benefits
LABORERS (Sewer & Tunnel):		
Group 1	$13.90	$1.92
Group 2	14.025	1.92
Group 3	14.125	1.92
Group 4	14.25	1.92
POWER EQUIPMENT OPERATORS (Building & Residential):		
Class 1	17.10	4.50
Class 2	15.80	4.50
Class 3	14.20	4.50
Class 4	12.60	4.50
POWER EQUIPMENT OPERATORS (Sewer, Heavy & Highway):		
Class 1	$16.75	$4.50
Class 2	16.20	4.50
Class 3	15.10	4.50
Class 4	13.80	4.50
Class 5	12.65	4.50

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; & G-Christmas Day

FOOTNOTES:
a. 7 Paid Holidays: A through G
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for 5 years or less
c. $.065 per employee per week
d. $97.00 per week per employee
e. 6 Paid Holidays: A, C, D, F, G, & Decoration Day
f. 900 straight-time hours or more in 1 calendar year for same employer - 1 week's paid vacation; 3 years - 2 weeks' paid vacation; 10 years - 3 weeks' paid vacation; & 20 years - 4 weeks' paid vacation
g. 6 Paid Holidays: A, B, C, D, F, & G
h. 1 year's service - 1 week's paid vacation; 3 or more years' service - 2 weeks' paid vacation

LABORERS CLASSIFICATIONS (Building & Residential):
Group 1 - Construction; Plasterers' Tenders; & Pumps for Dewatering & other Power Equipment
Group 2 - Cement Gun
Group 3 - Chimney over 40 ft.; Scaffold
Group 4 - Cement Gun Nozzle (Gunite)
Group 5 - Stone Pavers, Curbers, & Handlers
Group 6 - Jackhammermen; & Power Driven Concrete Saws & Other Power Equipment
Group 7 - Firebrick & Boiler Setters
Group 8 - Chimney on Fire Brick; Caisson Diggers; & Well Point System Men
Group 9 - Boiler Setter Plastic
Group 10 - Jackhammermen on Fire Brick

LABORERS CLASSIFICATIONS (Heavy & Highway):
Group 1 - Construction; Tenders; Material Expediter (Asphalt Plant); Street Paving, Grade [illegible] All Laborers not Otherwise Mentioned

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Sewer, Heavy & Highway):

Class 1: Asphalt Plant; Asphalt Heater and Planer Combination;

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LABORERS CLASSIFICATIONS (Heavy & Highway):
Group 1 - Construction; Tenders; Material Expeditor (Asphalt Plant); Street Paving, Grade Separation, Sidewalk, Curb & Gutter, Striper; All Laborers not Otherwise Mentioned
Group 2 - Asphalt Tampers & Smoothers; Cement Mason
Group 3 - Cement Gun Nozzle (Laborers) Gunite
Group 4 - Rakers & Lutemen; Machine Screedmen; Finishermen; Mixermen; Drum-Men; Jackhammermen (Asphalt); Paintmen; Mitre Box Spreaders; Laborers on Birch, Overman & Similar Spreader Equipment; Laborers on Apsco; Laborers on Air Compressors; Paving Form Setters; Jackhammermen (Concrete); Power Driven Concrete Saws; Other Power Equipment

LABORERS CLASSIFICATIONS (Sewer & Tunnel):
Group 1 - Top Laborer; All Laborers not otherwise Mentioned
Group 2 - Concrete; & Steel Setters
Group 3 - Cement Carriers; Cement Mixers; Concrete Repairmen; Mortar Men; Scaffold Men; & Second Bottom Men
Group 4 - Air Trac Drill Operations; Bottom Men; Brakers-Braking; Bricklayers Tenders; Catch Basin Diggers; Drainlayers; Gunnite; Form Men; Jackhammermen; Pipelayers; Rodders; Welders & Burners; & Well Point System Men

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Building & Residential):

Class 1: Mechanic; Asphalt Plant; Asphalt Spreader; Autograde; Batch Plant; Benoto (requires 2 Engineers); Boiler and Throttle Valve; Caisson Rigs; Central Redi-mix Plant; Combination Back Hoe Front EndLoader Machine; Compressor and Throttle Valve; Concrete Breaker (truck mounted); Concrete Conveyor; Concrete Paver 27E cu. ft.; Concrete Placer; Concrete Tower; Cranes (all); Cranes, Hammerhead; Derricks (all); Derricks, traveling; Grader; Elevating Grouting Machines; Highlift Shovels or Front Endloader 2½ yd. and over; Hoists, 1, 2 and 3 drum; Hoists, 2 tuggers one floor; Hydraulic Boom Trucks; Locomotives (all); Motor Patrol; Piledrivers and Skid Rig; Post Hole Digger; Pre-stress Machine; Pump Cretes: Squeeze Cretes, Screw type Pumps; Gypsum Bulker and Pump; Rock Drill (self-propelled); Rock Drill (truck mounted); Scoops, tractor drawn; Slip Form Paver; Straddle Buggies; Tournapull; Tractor w/boom and side boom; Trenching Machines

Class 2: Boilers, Bulldozers, Broom, all power propelled; Concrete Mixer (2 bag and over); Conveyor, portable; Forklift Trucks; Greaser Engineer; Highlift Shovels or Front Endloaders under 2½ yd.; Hoists, automatic; Hoists, all elevators; Hoists, Tugger, single drum; Rollers (all); Steam Generators; Stone Crushers; Tractors (all); Winch Trucks with "A" Frame

Class 3: Air Compressor, small 125 and under: (1 to 5 not to exceed a total of 300 ft.); Air Compressor, large over 125 combination, small equipment Operator; Generators, small 50KW and under; Generators, large over 50 KW; Heaters, mechanical; Pumps, over 3" (1 to 3 not to exceed a total of 300 ft.); Pumps, well points; Welding Machines (2 through 5); Winches, 4 small electric drill; Winches

Class 4: Oilers

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Sewer, Heavy & Highway):

Class 1: Asphalt Plant; Asphalt Heater and Planer Combination; Asphalt Spreader; Autograde; Belt Loader; Caisson Rigs; Central Redimix Plant; Concrete Breaker (truck mounted); Concrete Conveyor; Concrete Paver over 27E cu. ft.; Concrete Placer; Concrete Tube Float; Cranes, all attachments; Cranes, Linden, Peco and Machines of a like nature; Derricks, traveling; Dredges; Euclid Loader; Elevating type Gradall and Mechanics of a like nature; Derricks; All Derrick Boats; Derricks, traveling; Dredges; Euclid Loader; Elevating type Gradall and Mechanics of a like nature, 1 cu. yd. and over; Mucking Machine, under 1 cu. yd.; Piledrivers and Skid Rig: Pre-stress Machine; Pump Cretes, Dual Ram (requiring frequent lubrication and water); Rock Drill, Crane type; Slip Form Paver; Straddle Buggies; Tractor w/boom; Tractaire w/attachments; Trenching Machine; Underground Boring and/or Mining Machine, under 5 ft.; Wheel Excavator Widener (Apsco)

Class 2: Mechanic-welder; Batch Plant; Bituminous Mixer; Bulldozer; Combination Backhoe Front End Loader Machine; Concrete Breaker of Hydro-hammer; Concrete Grinding Machine; Concrete Mixer or Paver, 7S Series to and including 27 cu. ft.; Concrete Spreader; Concrete Curing Machine; Burlap Machine; Belting Machine and Sealing Machine; Finishing Machine; Concrete Grader; Motor Patrol; Auto Patrol; Form Grader; Pull Grader; Subgrader; Highlift Shovels or Front End Loader; Hydraulic Boom Trucks (all attachments); Locomotives, Dinky; Pump Cretes: Squeeze Cretes, Screw type Pumps; Cypsum Bulker and Pump; Rock Drill (self-propelled); Roto-tiller; Seaman, etc.; Self-propelled Scoops; Tractor drawn, self-propelled Compactor, Spreader, Chipstone, etc.; Scraper; Tank Car Heater; Tractor, push, pulling Sheeps Foot, disc.; Compactor; etc.; Tug Boats

Class 3: Boilers; Boiler and Throttle Valve; Brooms, all power propelled; Cement Supply Tender; Compressor Throttle Valve; Concrete Mixer (2 bags and over); Conveyor, portable; Fireman on Boiler; Forklift Trucks; Greaser Engineer; Grouting Machine Hoists; Automatic Hoists; All Elevator Hoists; Tugger, single drum; Jeep Diggers; Pipe Power Saw, Concrete; Power-driven Pug Mills; Rollers, all; Steam Generators; Stone Crushers; Stump Machine; Winch Truck with "A" Frame; Work Boats; Tamper; Form Motor driven

Class 4: Air Compressors, all; Generators; Heaters; Mechanical Light Plants, all (1 through 5); Pumps, all; Pumps, well points; Tractmire; Welding Machines (2 through 6)

Class 5: Oilers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Montana
DECISION NUMBER: MT83-5101
Supersedes Decision No. MT82-5101 dated February 5, 1982, in 47 FR 5630
DESCRIPTIONOF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

COUNTIES: Statewide
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.84	$2.27
BOILERMAKERS	16.12	2.735
BRICKLAYERS; MARBLE MASONS:		
Area 1	14.20	.55
Area 2	14.60	1.70
Area 3	16.20	.90
Area 4	12.55	1.30
Area 5	14.15	.55
Area 6	17.00	2.05
Area 7	13.60	1.65
Area 8	14.45	1.45
Area 9	12.00	
CARPENTERS:		
Area 1:		
Carpenters	12.55	2.45
Piledrivermen	12.8[illegible]	2.[illegible]5
Millwrights	13.55	2.45
Area 2:		
Carpenters	11.93	2.21
Piledrivermen	12.93	2.21
Millwrights	12.18	2.21
Area 3:		
Carpenters	12.52	2.21
Piledrivermen; Millwrights	12.77	2.21
Area 4:		
Carpenters	11.93	2.21
Piledrivermen	13.12	2.21
Millwrights	12.23	2.21
Area 5:		
Carpenters	12.08	2.21
Piledrivermen	12.23	2.[illegible]1
Millwrights	13.08	2.21
Area 6:		
Carpenters	12.98	2.21
Piledrivermen; Millwrights	13.48	2.21
CEMENT MASONS:		
Area 1:		
Cement Masons Grinder, Bush Hammer and Chipping Gun, preparing finished surface, Epox;	14.10	1.50
Area 2	11.95	1.25
Area 3	13.05	1.00
CEMENT MASONS: (Cont'd)		
Area 4	$10.00	
ELECTRICIANS:		
Area 1	15.75	1.28+3%
Area 2:		
Electricians	16.30	1.45+3%
Cable Splicers	16.75	1.45+3%
Area 3	11.47	3%
Area 4:		
Contracts under $75,000:		
Electricians	14.45	1.45+3%
Cable Splicers	15.17	1.45+3%
Contracts over $75,000:		
Electricians	15.90	1.45+3%
Cable Splicers	16.70	1.45+3%
Area 5:		
Electricians	1[illegible].95	1.40+3%
Area 6:		
Electricians	16.65	1.60+3%
Cable Splicers	17.53	1.60+3%
Area 7:		
Electricians	17.61	1.40+3%
Cable Splicers	18.49	1.40+3%
Area 8:		
Electricians	14.05	1.40+3%
Cable Splicers	14.75	1.40+3%
Area 9:		
Electricians	13.85	1.40+3%
Cable Splicers	14.54	1.4[illegible]+3%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.365	2.69+a

	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS: (Cont'd):		
Helpers	$10.755	2.69+a
Probationary Helpers	7.68	
IRONWORKERS:		
Area 1	15.16	3.05
Area 2	16.74	3.30
Area 3	15.16	3.05
LINE CONSTRUCTION:		
Area 1:		
Lineman, Pole Sprayer	15.50	1.95+3%
Cable Splicers	16.57	1.95+3%
Line Equipment Operator; Powderman	13.70	1.95+3%
Groundman	11.10	1.95+3%
Area 2:		
Lineman	13.92	1.95+3%
Cable Splicers	15.49	1.95+3%
Pole Sprayer	12.37	1.95+3%
Line Equipment Operators	11.87	1.95+3%
Powderman, Jackhammerman, Compressorman	10.29	1.95+3%
Groundman "A"	9.65	1.95+3%
Tree Trimmer	12.83	1.95+3%
PAINTERS:		
Area 1:		
Brush, Roller; Floor Layers	11.56	1.48
Brush, Roller on steel and roofs, Pot Tender; Paperhanger	11.81	1.[illegible]
Perfataper (hand tools)	11.66	1.[illegible]
Perfataper (machine tools)	12.06	1.48
Spray (not steel)	12.54	1.48
Sandblaster; commerical and steel; Spray on structural steel and tanks	12.79	1.[illegible]8
Area 2:		
Brush; Preparatory work; Pot Tender; Parking Lot Striping and related work; Roller up to 9"	12.47	1.48
Hand Taper	12.87	1.54+1%
Machine Taper	14.12	1.54+1%
PAINTERS: (Cont'd)		
Area 2: (Cont'd):		
Paperhanger	$12.97	1.54+1%
Brush and Roller on steel	12.47	1.54+1%
Roller over 9" long	13.97	1.54+1%
Water and Sandblasting; Application of cold tar products, epoxies and polyurethanes and acid resistant paints; Spraying and airless spray	1[illegible].72	1.54+1%
Area 3:		
Painters	10.02	
Perfataper	10.27	
Paint Mitts	10.52	
Application of cold tar products, epoxies, polyurethanes and acid resistant paints; Water sandblasting and steam cleaning; Stacks and Steeples; Brushing of steel; Spraying and airless spraying; Work over 30 feet	12.80	
Area 4:		
Wet Sandblasting, Brush or Roller; Application of cold tar epoxies, and acid resistant materials	14.08	1.11
Brush or Roller; Prep. work; Pot Tender	12.[illegible]8	1.11
Spray application of cold tar epoxies, and acid resistant materials	17.[illegible]8	1.11
Paper or Vinyl Hanger	12.[illegible]8	1.11
Structrual Steel; Brush or Roller	14.08	1.11
Perfataping	12.58	1.11
Structural Steel; Spraying	15.08	1.11
Airless Spraying	13.08	1.11
Area 5	10.90	
Area 6	12.58	1.11

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	Basic Hourly Rates	Fringe Benefits
PLASTERERS:		
Area 1	$10.50	$1.10
Area 2	13.75	1.50
Area 3	10.95	1.25
Area 4	10.00	
PLUMBERS:		
Area 1	15.78	1.60
Area 2	16.95	2.42
Area 3	16.45	1.95
Area 4	17.60	2.30
ROOFERS; WATERPROOFERS:		
Area 1:		
Roofers	12.94	.25
Kettleman	12.81	.25
Area 2:		
Roofers	12.80	.30
Area 3	11.32	1.30
Area 4:		
Roofers	13.6[illegible]	1.[illegible]
Irritable bituminous Roofer, Waterproofer, Kettleman	15.15	1.8[illegible]
Area 5:		
Roofers	13.00	1.55
Irritable bituminous Roofer, Waterproofer, Kettleman	15.00	1.55
Area 6	13.50	.55
SHEET METAL WORKERS	15.71	3.06
SPRINKLER FITTERS	16.42	2.75
TERRAZZO WORKERS and TILE SETTERS:		
Area 1	12.55	.60
Area 2	15.00	1.45
Area 3	14.45	1.45
Area 4	13.60	1.65
Area 5	16.00	2.05
LABORERS:		
Area 1:		
Group 1	10.16	1.75
Group 2	10.36	1.75
Group 3	10.41	1.75
Group 4	10.66	1.75
Group 5	10.75	1.75

LABORERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Area 2:		
Group 1	[illegible]10.29	$1.75
Group 2	10.45	1.75
Group 3	10.54	1.75
Group 4	10.79	1.75
Group 5	10.89	1.75
Area 3:		
Group 1	10.03	1.75
Group 2	10.19	1.75
Group 3	10.29	1.75
Group 4	10.53	1.75
Group 5	10.63	1.75
Area 4:		
Group 1	10.60	2.70
Group 2	10.71	2.70
Group 3	10.80	2.70
Group 4	11.05	2.70
Group 5	11.15	2.70
Area 5:		
Group 1	10.6[illegible]	1.75
Group 2	10.7[illegible]	1.75
Group 3	10.90	1.75
Area 6:		
Group 1	10.20	1.75
Group 2	10.42	1.75
Group 3	10.45	1.75
Group 4	10.75	1.75
Area 7:		
Group 1	10.3[illegible]	1.75
Group 2	10.5[illegible]	1.75
Group 3	10.6[illegible]	1.75
Group 4	10.7[illegible]	1.75
Area 8:		
Group 1	10.57	1.75
Group 2	10.82	1.75
Group 3	10.97	1.75
Area 9:		
Group 1	10.50	1.75
Group 2	10.75	1.75
Group 3	10.85	1.75
Group 4	10.90	1.75
Group 5	11.00	1.75
Group 6	11.22	1.75

POWER EQUIPMENT OPERATORS: Broadwater, Flathead, Lake, Lewis & Clark, Lincoln, Mineral, Missoula, Northern half of Powell, Ravalli and Sanders Counties:	Basic Hourly Rates	Fringe Benefits
A-Frame Truck Crane, Winch Truck and similar	$12.85	$2.94
Air Compressor, single	12.54	2.94
Air Compressor, two or more	12.71	2.94
Air Doctor	13.01	2.94
Asphalt Paving Machine Operator	13.21	[illegible].94
Asphalt Paving Machine Screed Operator	13.21	2.[illegible]4
Automatic Finegrader, Gurries and other similar types	13.3[illegible]	[illegible].[illegible]4
Belt Finish Machine Operator	13.[illegible]1	2.94
Bit Grinder	13.[illegible]1	2.94
Bituminous Mixer Paving, Travel Plant	13.[illegible]1	[illegible].[illegible]4
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	12.60	2.94
Boring Machine (large)	13.21	2.94
Broom, self-propelled	12.68	2.94
Cableway Highline Operator	13.72	2.94
Cement Silo Operator	12.80	2.94
Central Mixing Plants, Concrete dam and stationary	13.46	2.94
Chain Bucket Loader	12.73	2.94
Chip or Gravel Spreader, self-propelled	12.[illegible]3	[illegible].94
Concrete Batch Plant, one and two Mixers	13.21	2.94
Concrete Batch Plant, three and four Mixers	13.[illegible]1	[illegible].[illegible]4
Concrete Batch Plant, five Mixers and over	13.61	[illegible].94

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits
Concrete Batch Plant Oiler, up to and including two Mixers	$12.53	$2.94
Concrete Batch Plant Oiler, three Mixers and over	12.84	2.94
Concrete Bucket Dispatcher	13.01	2.94
Concrete Curing Machine	13.01	2.94
Concrete Finish Machine Paving	13.21	2.94
Concrete Float-Spreader	13.11	2.94
Concrete Mixer, three bags and under	12.60	2.94
Concrete Mixer, four bags and over	12.77	2.94
Concrete Power Saw, Self-propelled	13.[illegible]1	2.94
Concrete Travel Batcher	13.[illegible]1	2.94
Concrete Conveyor under 40 feet	12.[illegible]9	2.94
Concrete Conveyor over 40 feet	13.34	2.94
Concrete Pump	13.54	2.94
Conveyor Loader Operator, up to and including 42' belt	13.[illegible]9	2.[illegible]4
Conveyor Loader Operator over 42' belt	12.71	2.94
Crane, to and including 80' boom	13.37	2.94
Crane, 81' to 130' boom	13.52	2.94
Crane, 131' to 150' boom	13.57	2.94
Crane, 151' boom and over	13.52	2.94
Crane Oiler	12.58	2.94
Crane with jibs an additional $.15 per hour		
Crusher Operator	13.21	2.94
Crusher Oiler	12.50	2.94
Crusher Conveyor, when required	12.47	2.94
Distributor Operator	13.11	2.94
DW 10, 15, or 20 tractor pulling Roller	12.73	2.94
Electric Overhead Cranes	13.29	2.94

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Elevating Grader	$13.01	$2.94
Farm type tractor up to and including 50 HP engine	12.47	2.94
Farm type tractor, over 50 HP engine	12.55	2.94
Fireman	12.60	2.94
Forklift, on construction job site	12.82	2.94
Form Grader Operator	12.78	2.94
Gradall Operator	13.21	2.94
Grade Setter	12.47	2.94
Heavy Duty Drills, all types	13.11	2.94
Herman-Nelson Heaters and similar type	12.55	2.94
Hoist Operator, single drum	12.78	2.94
Hoist, two or more drums	13.01	2.94
Helicopter Hoist Operator	13.51	2.94
Hot Plant Operator	13.21	2.94
Hot Plant Fireman, when in operation	13.11	2.94
Hot Plant Oiler, 100 ton per hour or over	12.50	2.94
Hydra Lift and similar types	12.81	2.94
Industrial Locomotive all classes	13.81	2.94
Mechanic and/or Welder on job	13.31	2.94
Mechanic Shop (Dec. - April 1)	12.91	2.94
Mixermobile	13.09	2.94
Motor Patrol Operator	13.34	2.94
Mountain Logger or similar type	13.01	2.94
Mucking Machine Operator	13.21	2.94
Oiler-Driver, Rubber-tired Cranes	12.58	2.94
Oiler, other than Shovels and Cranes	12.50	2.94
Oiler, Hoist House, dams	12.91	2.94

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Pavement Breakers, Emsco and similar	$13.01	$2.94
Paving and Mixing Machine	13.34	2.94
Power Auger, large truck or tractor mounted and Punch	13.21	2.94
Power Mixer, single or double drum	13.01	2.94
Power Saw, multiple cut, self-propelled	13.01	2.94
Pumpcrete or Grout Machine	13.21	2.94
Pumpman	12.54	2.94
Push Tractor	13.21	2.94
Quad Cat	13.51	2.94
Quad Loader and similar type	13.79	2.94
Radiator Repairman	12.82	2.94
Raygo Gaint	13.79	2.94
Refrigeration Plant Operator	13.01	2.94
Retort Operator	12.60	2.94
Roller, on blade or hot mix oil paving	13.11	2.94
Roller, on other than blade or hot mix paving	12.71	2.94
Roller, 25 ton or over	13.01	2.94
Ross and simialr type Carriers, on construction site	13.11	2.94
Rubber-tired Dozer	13.21	2.94
Rubber-tired Front End Loader, 1 cu. yd. and under	11.82	2.94
Rubber-tired Front End Loader, 1 cu. yd. to and including 3 cu. yds.	13.21	2.94
Rubber-tired Front End Loader, over 3 cu. yds. to and including 5 cu. yds.	13.33	2.94
Rubber-tired Front End Loader, over 5 cu. yds. to and including 10 cu. yds.	13.43	2.94

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits
Rubber-tired Front End Loader, over 10 cu. yds. to and including 15 cu. yds.	$13.53	$2.94
Rubber-tired Front End Loader, over 15 cu. yds.	13.63	2.94
Scraper, DW 15, 20, 21 and similar type if power unit is not used	13.11	2.94
Scraper, single or twin engine pulling Belly Dump trailer	13.59	2.94
Scraper, single engine	13.34	2.94
Scraper, twin engine	13.44	2.94
Scraper, tandem engine or 3 engine	13.70	2.94
Self-propelled Sheepfoot and similar type	13.11	2.94
Shovels, including all attachments, under 1 cu. yd.	13.21	2.94
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	13.39	2.94
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	13.66	2.94
Shovels, including all attachments over 5 cu. yds.	13.79	2.94
Shovel Oiler, 3 cu. yds. and under	12.50	2.94
Shovel Oiler, over 3 cu. yds.	12.91	2.94
Slip Form Paver Operator	13.34	2.94
Stiff Leg Derrick and Guy Derrick	13.66	2.94
Track-type Front End Loaders, up to and including 5 cu. yds.	13.21	2.94

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	$13.44	$2.94
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	13.54	2.94
Track-type Front End Loaders, over 15 cu. yds.	13.64	2.94
Track-type Tractor, on Euclid Loader	13.39	2.94
Trenching Machine	13.21	2.94
Turnhead Conveyor, or Head Tower on Batch Plant	13.81	2.94
Wagner Roller and similar type	13.01	2.94
Whirley Crane Operator	13.74	2.94
Whirley Crane Oiler	12.91	2.94
Water Pull when used for compaction	13.01	2.94
Washing and Screening Plant Operator	13.21	2.94
Washing and Screening Plant Oiler	12.50	2.94
Yo-Yo Cat, both ends	13.41	2.94
Big Horn, Carbon, Carter, Custer, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, and Yellowstone Counties:		
A-Frame Truck Crane Operator	12.71	2.42
Air Compressor Operator, single	12.88	2.42
Asphalt Paving Machine Operator	12.96	2.42
Air Doctor	12.96	2.42

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits
Assistant Engineer	$13.21	$2.94
Assistant Mechanic	13.11	2.94
Batch Plant Operator	13.21	2.94
Batch Plant Oiler	12.50	2.94
Bit Grinder	13.11	2.94
Blaster	13.21	2.94
Boat Operator	13.11	2.94
Boilermaker	13.11	2.94
Boom Truck Operator	13.11	2.94
Bridge Crane Operator	13.11	2.94
Bridge Crane Oiler	12.50	2.94
Broom, self-propelled	13.11	2.94
Bulldozer Operator	13.21	2.94
Cableway Operator	13.11	2.94
Cableway Oiler	12.50	2.94
Cement Hog	13.11	2.94
Chain Trencher	13.21	2.94
Chief Engineer	13.21	2.94
Chief Mechanic	13.21	2.94
Chip Spreader	13.11	2.94
Clamshell Operator	13.21	2.94
Compressor Operator, single	12.88	2.94
Concrete Batch Plant Operator	13.21	2.94
Concrete Batch Plant Oiler	12.50	2.94
Concrete Mixer Operator, single	12.88	2.94
Concrete Pump Operator	13.21	2.94
Concrete Saw Operator	13.11	2.94
Concrete Slip Form Paver	13.34	2.94
Concrete Spreader	13.11	2.94
Conveyor Operator	13.11	2.94
Crusher Operator	13.11	2.94
Crusher Oiler	12.50	2.94
Deck Hand	13.11	2.94
Derrick Operator	13.21	2.94
Ditch Witch	13.11	2.94
Dozer Operator	13.21	2.94
Drill Operator, Truck Mounted	13.21	2.94
Drill Operator, Well Point	13.11	2.94
Drill Operator, Water Well	13.11	2.94
Drill Operator, Wagon	13.11	2.94
Drill Operator, Underground	13.21	2.94
Drill Operator, Track	13.21	2.94
Drill Operator, Shaft	13.21	2.94
Drill Operator, Oil Field	13.11	2.94
Drill Operator, Core	13.11	2.94
Drill Operator, Churn	13.11	2.94
Drill Operator, Calyx	13.11	2.94
Drill Operator, Air Track	13.21	2.94
Drill Operator, Air Leg	13.11	2.94
Drill Operator, Air Hammer	13.11	2.94
Drill Operator, Air Auger	13.11	2.94
Drill Operator, Air	13.11	2.94
Drill Operator, Above Ground	13.11	2.94
Drill Operator, Above Ground Oiler	12.50	2.94
Dry Batch Plant Operator	13.21	2.94
Dry Batch Plant Oiler	12.50	2.94
Dump Man	13.11	2.94
Elevating Belt Loader	13.11	2.94

POWER EQUIPMENT OPERTORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Elevating Grader	$13.01	$2.94
Farm type tractor up to and including 50 HP engine	12.47	2.94
Farm type tractor, over 50 HP engine	12.55	2.94
Fireman	12.60	2.94
Forklift, on construction job site	12.82	2.94
Form Grader Operator	12.78	2.94
Gradall Operator	13.21	2.94
Grade Setter	12.47	2.94
Heavy Duty Drills, all types	13.11	2.94
Herman-Nelson Heaters and similar type	12.55	2.94
Hoist Operator, single drum	12.78	2.94
Hoist, two or more drums	13.01	2.94
Helicopter Hoist Operator	13.51	2.94
Hot Plant Operator	13.21	2.94
Hot Plant Fireman, when in operation	13.11	2.94
Hot Plant Oiler, 100 ton per hour or over	12.50	2.94
Hydra Lift and similar types	12.81	2.94
Industrial Locomotive all classes	13.81	2.94
Mechanic and/or Welder on job	13.31	2.94
Mechanic Shop (Dec. - April 1)	12.91	2.94
Mixermobile	13.09	2.94
Motor Patrol Operator	13.34	2.94
Mountain Logger or similar type	13.01	2.94
Mucking Machine Operator	13.21	2.94
Oiler-Driver, Rubber-tired Cranes	12.58	2.94
Oiler, other than Shovels and Cranes	12.50	2.94
Oiler, Hoist House, dams	12.91	2.94

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits
Pavement Breakers, Emsco and similar	$13.01	$2.94
Paving and Mixing Machine	13.34	2.94
Power Auger, large truck or tractor mounted and Punch	13.21	2.94
Power Mixer, single or double drum	13.01	2.94
Power Saw, multiple cut, self-propelled	13.01	2.94
Pumpcrete or Grout Machine	13.21	2.94
Pumpman	12.54	2.94
Push Tractor	13.21	2.94
Quad Cat	13.51	2.94
Quad Loader and similar type	13.79	2.94
Radiator Repairman	12.82	2.94
Raygo Gaint	13.79	2.94
Refrigeration Plant Operator	13.01	2.94
Retort Operator	12.60	2.94
Roller, on blade or hot mix oil paving	13.11	2.94
Roller, on other than blade or hot mix paving	12.71	2.94
Roller, 25 ton or over	13.01	2.94
Ross and simialr type Carriers, on construction site	13.11	2.94
Rubber-tired Dozer	13.21	2.94
Rubber-tired Front End Loader, 1 cu. yd. and under	11.82	2.94
Rubber-tired Front End Loader, 1 cu. yd. to and including 3 cu. yds.	13.21	2.94
Rubber-tired Front End Loader, over 3 cu. yds. to and including 5 cu. yds.	13.33	2.94
Rubber-tired Front End Loader, over 5 cu. yds. to and including 10 cu. yds.	13.43	2.94

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits
Rubber-tired Front End Loader, over 10 cu. yds. to and including 15 cu. yds.	$13.53	$2.94
Rubber-tired Front End Loader, over 15 cu. yds.	13.63	2.94
Scraper, DW 15, 20, 21 and similar type if power unit is not used	13.11	2.94
Scraper, single or twin engine pulling Belly Dump trailer	13.59	2.94
Scraper, single engine	13.34	2.94
Scraper, twin engine	13.44	2.94
Scraper, tandem engine or 3 engine	13.70	2.94
Self-propelled Sheepfoot and similar type	13.11	2.94
Shovels, including all attachments, under 1 cu. yd.	13.21	2.94
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	13.39	2.94
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	13.66	2.94
Shovels, including all attachments over 5 cu. yds.	13.79	2.94
Shovel Oiler, 3 cu. yds. and under	12.50	2.94
Shovel Oiler, over 3 cu. yds.	12.91	2.94
Slip Form Paver Operator	13.34	2.94
Stiff Leg Derrick and Guy Derrick	13.66	2.94
Track-type Front End Loaders, up to and including 5 cu. yds.	13.21	2.94

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	$13.44	$2.94
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	13.54	2.94
Track-type Front End Loaders, over 15 cu. yds.	13.64	2.94
Track-type Tractor, on Euclid Loader	13.39	2.94
Trenching Machine	13.21	2.94
Turnhead Conveyor, or Head Tower on Batch Plant	13.81	2.94
Wagner Roller and similar type	13.01	2.94
Whirley Crane Operator	13.74	2.94
Whirley Crane Oiler	12.91	2.94
Water Pull when used for compaction	13.01	2.94
Washing and Screening Plant Operator	13.21	2.94
Washing and Screening Plant Oiler	12.50	2.94
Yo-Yo Cat, both ends	13.41	2.94
Big Horn, Carbon, Carter, Custer, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, and Yellowstone Counties:		
A-Frame Truck Crane Operator	12.71	2.42
Air Compressor Operator, single	12.88	2.42
Asphalt Paving Machine Operator	12.96	2.42
Air Doctor	12.96	2.42

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POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits
Belt Finishing Operator	$12.63	$2.42
Bit Grinder	12.96	2.42
Bituminous Mixer Operator	12.96	2.42
Bulldozer Operator	12.96	2.42
Boring Machine Operator, small	1[illegible].[illegible][illegible]	[illegible].4[illegible]
Boring Machine Operator, large	12.96	2.42
Cableway Operator	13.48	2.42
Cement Silo Operator	12.78	2.42
Concrete Batch Plant Operator	1[illegible].[illegible]5	2.42
Concrete Finish Machine, paving	1[illegible].[illegible][illegible]	2.42
Concrete Float Operator and Spreader	12.96	2.42
Conveyor Operator	12.66	2.42
Chip and Gravel Spreader	12.66	2.42
Crane Operator, to and including 80' boom	13.12	2.4[illegible]
Crane Operator, 81' to 130' boom	13.[illegible]7	2.42
Crane Operator, 131' to 150' boom	13.32	[illegible].4[illegible]
Crane Operator, 151' to 170' boom (an additional $.05 per hour is added for each 20' of boom)	13.37	[illegible].4[illegible]
All Cranes with jibs, an additional $.25 per hour is added to above crane rates.		
Crane Oiler-Driver, rubber tired	1[illegible].51	2.42
Electric Overhead Crane Operator	13.15	[illegible].4[illegible]
Crusher and/or Screening Plant Operator, portable	12.[illegible]6	[illegible].4[illegible]
Crusher and/or Screening Plant Tender, if over 2 units	12.45	[illegible].4[illegible]
Crusher and/or Screening Plant Operator, Stationary	1[illegible].[illegible][illegible]	[illegible].4[illegible]
Distributor Operator	$12.96	$2.42
Drilling Machine Operator, does not include Jackhammer, Wagon Driller, Waterliner	12.86	2.42
Euclid Loader and similar type	12.40	2.42
Tractor, Rubber-tired, industrial	12.40	2.42
Elevating Grader	12.96	2.42
Fireman	12.52	2.42
Fork Lift on construction site	12.75	2.42
Front End Loader, rubber-tired, under 1 yd.	12.65	2.42
Front End Loader, 1 yd. and including 3 yds.	12.96	2.42
Front End Loader, rubber-tired, over 3 yds. and including 5 yds.	13.09	2.42
Front End Loader, rubber-tired, over 5 yds. and including 10 yds.	13.19	2.42
Front End Loader, rubber-tired, over 10 yds. and including 15 yds.	13.29	2.42
Front End Loader, rubber-tired, over 15 yds. (factory struck rating, not to include sideboards)	13.39	2.42
Grade Setter	12.42	2.42
Heavy Duty Drills-Rotary-Quarry Master	12.96	2.42
Heavy Duty Rotary Drill Tender	12.41	2.42
Helicopter Hoist Operator	13.46	2.42
Herman Nelson Heaters and similar type	12.42	2.42
Hoist Operator, single drum	12.71	2.42
Hoist Operator, two or more drums	12.96	2.42

POWER EQUIPMENT OPERTORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits
Hot Plant Operator	$12.96	$2.42
Hot Plant Fireman	12.96	2.42
Industrial Locomotive	12.96	2.42
LeTourneau Operator, single and similar type	1[illegible].09	[illegible].42
LeTourneau Operator, Tandem and similar type	13.[illegible]0	2.4[illegible]
Loaders, Barber Green and similar types	12.60	2.4[illegible]
Mechanic and/or Welder on job	13.[illegible]6	[illegible].4[illegible]
Mechanic and/or Welder Tender	12.[illegible]1	[illegible].4[illegible]
Mixer Operator, Concrete, 3 bags or under	12.52	2.4[illegible]
Mixer Operator, Concrete, 4 bags or over	12.77	2.42
Mixermobile	13.05	2.42
Motor Patrol Operator	13.09	2.42
Mucking Machine Operator	12.96	2.42
Oiler	12.41	2.42
Pavement Breaker, Emsco and similar type	12.[illegible]6	2.42
Paver Mixer Operator	12.[illegible]6	2.42
Power Saw Operator, self-propelled, multiple cut	12.[illegible]6	[illegible].4[illegible]
Pumpcrete or Grout Machine Operator	12.96	2.42
Pumpman	12.46	2.42
Quad Cat	13.26	2.42
Retort Operator	12.52	2.42
Roller Operator, Grade or finish	12.[illegible][illegible]	2.[illegible][illegible]
Roller Operator, finish high type pavement	12.[illegible][illegible]	2.[illegible][illegible]
Ross and similar type Carriers on construction site	12.96	2.42
Roller, 25 ton or over	12.96	2.42
Screed Operator	12.96	2.42
Shovels, including all attachments under 1 yd.	$12.9[illegible]	$2.4[illegible]
Shovels, including all attachments 1 yd. to and including 4 yds.	13.15	2.42
Shovels, over 4 yds.	13.45	2.42
Shovel Oiler for Shovel over 4 yds. ($.05 per hour under Shovel Operator)		
Stiff Leg and Guy Derrick Operator	13.45	2.[illegible]2
Tournapull, DW 20, 21, and similar type	13.15	2.42
Scraper, twin engine	13.19	2.42
Scraper, Tandem, 3 engine	13.45	2.42
Track type Tractor, with or without attachments including Track-type Loader, Front End up to and including 5 yds.	12.[illegible][illegible]	2.4[illegible]
Track type Front End Loaders, over 5 yds. to and including 10 yds.	13.[illegible][illegible]	2.[illegible]2
Track type Front End Loaders, over 10 yds. to and including 15 yds.	13.[illegible][illegible]	[illegible].[illegible]2
Track type Front End Loaders, over 15 yds.	13.3[illegible]	[illegible].42
Traxcavator, and Athey type Loader	12.96	2.42
Trench Machine Operator	12.90	2.42
Wagner Roller and similar type	12.[illegible][illegible]	[illegible].[illegible]2
Winch Truck Operator with Hydraulic Boom	12.86	2.[illegible][illegible]
Tower Crane	13.45	2.4[illegible]
Automatic Finegrader, Gurries and similar type	[illegible]3.[illegible]9	2.[illegible]2
Concrete Conveyor, under 40'	12.5[illegible]	[illegible].4[illegible]
Concrete Conveyor, over 40'	13.29	[illegible].4[illegible]

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (Cont'd)		
Concrete Pump	$13.29	$2.42
Raygo Gaint	13.54	2.42
Quad Loader and similar type	13.54	2.42
Leadman: $.25 per hour above highest paid Operator		
TRUCK DRIVERS:		
Statewide, except Gallatin, Park, Sweet Grass, Broadwater (south of U.S. Highway #12) Counties:		
Combination Truck; Concrete Mixer and Transit Mixers:		
To and including 4 cu. yds.	12.7[illegible]	2.51
Over 4 cu. yds. to and including 6 cu. yds.	12.78	2.51
Over 6 cu. yds. to and including 8 cu. yds.	12.86	2.51
Over 8 cu. yds. to and including 10 cu. yds.	12.[illegible]	2.51
Over 10 cu. yds. - additional $.[illegible]8 per hour each additional 2 cu. yds. increment		
Distributor Driver	12.68	2.51
Dry Batch Trucks:		
3 Batch or under	12.45	2.51
Over 3 Batch to and including 5 Batch	12.58	2.51
Over 5 Batch to and including 10 Batch	12.7[illegible]	2.51
Over 10 Batch to and including 15 Batch	12.90	2.51
Over 15 Batch - additional $.15 per hour each additional 5 Batch increment		
TRUCK DRIVERS: (Cont'd)		
Pickup Driver, hauling materials	$12.5[illegible]	$2.51
Dumpman, Gravel Spreader Box Operator; Pilot Car Driver, Teamsters	12.4[illegible]	[illegible].51
Dump Trucks and similar Equipment, DW 20, 21, or Euclid Tractors, pulling P. R. 21 or similar Dump Wagons:		
Water Level capacity, including Sideboards:		
7 cu. yds. or less	12.[illegible]5	2.51
Over 7 cu. yds. to and including 10 cu. yds.	12.58	2.51
Over 10 cu. yds. to and including 15 cu. yds.	12.74	2.51
Over 15 cu.yds. to and including 20 cu. yds.	12.88	2.51
Over 20 cu. yds. to and including 25 cu. yds.	12.9[illegible]	2.51
Over 25 cu. yds. to and including 30 cu. yds.	13.0[illegible]	2.51
Over 30 cu. yds. to and including 35 cu. yds.	[illegible]3.06	2.51
Over 35 cu. yds. to and including 40 cu. yds.	13.12	2.51
Over 40 cu. yds. to and including 45 cu. yds.	13.1[illegible]	[illegible].51
Over 45 cu. yds. - additional $.10 per hour each additional 5 cu. yds. increment		
Dumpsters	12.58	[illegible].51

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS: (Cont'd)		
Power Truck Driver (bulk unloader type)	$12.63	[illegible]2.51
Flat Trucks:		
To and including 3 tons	12.6[illegible]	2.51
Over 3 tons factory rating	12.80	2.51
Fuel Truck drivers; Tiremen	[illegible]3.04	2.51
Lowboys, four-wheel Trailer, Float Semi-trailer	12.80	2.51
Lumber Carriers, Lift Truck and Fork Lifts	12.70	2.51
Power Broom	12.54	2.51
Water Tank Drivers, Petroleum Products Drivers:		
2,500 gallons and under	12.4[illegible]	[illegible].51
Over 2,500 gallons to and including 4,500 gallons	12.74	2.51
Over 4,500 gallons to and including 6,[illegible]00 gallons	12.94	2.51
Over 6,00[illegible] gallons to and including [illegible],000 gallons	13.[illegible]0	2.5[illegible]
Over 8,000 gallons to and including 10,[illegible]00 gallons	13.[illegible]8	[illegible].[illegible]1
Over 10,00[illegible] gallons - additional $.10 per hour each additional 2,000 gallons increment		
Truck Mechanic	13.[illegible]	2.51
TRUCK DRIVERS: (Cont'd)		
Broadwater County (south of U. S. Highway #12); Gallatin, Park, and Sweet Grass Counties:		
Dump Trucks:		
7 yards or less	$10.43	$1.84
Over 7 yds. to and including 10 yds.	10.68	1.84
Over 10 yds. to and including 15 yds.	10.84	1.84
Over 15 yds. to and including 20 yds.	10.98	1.84
Pickup Driver, hauling materials	10.43	1.84
Flat Trucks:		
Less than 2 ton factory rating	10.43	1.84
2-5 tons	10.58	1.84
5-8 tons	10.58	1.84
Semi and 4-wheel Trailers	10.68	1.84
Service Trucks and A-Frame Trailers	10.43	1.84
House Movers	10.52	1.84

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

AREA DESCRIPTIONS (Cont'd)

CEMENT MASONS:
Area 1: Beaverhead, Deer Lodge, and Granite Counties; Jefferson

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WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day

AREA DESCRIPTIONS

BRICKLAYERS; MARBLE MASONS:
Area 1: Beaverhead County; Jefferson County (except northern tip of County); Madison County, and Silver Bow Counties
Area 2: Gallatin and Park Counties
Area 3: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweet Grass, Stillwater, Treasure, Wibaux, and Yellowstone Counties
Area 4: Broadwater, Lewis & Clark, and Meagher Counties
Area 5: Deer Lodge, Powell, and Granite Counties
Area 6: Cascade, Chouteau, Glacier, Pondera, and Teton Counties
Area 7: Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole, and Valley Counties
Area 8: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties
Area 9: Fergus, Garfield, Golden Valley, Judith Basin, Musselshell, Petroleum, and Wheatland Counties

CARPENTERS:
Area 1: Cascade, Chouteau, Fergus, Glacier, Judith Basin, Liberty, Meagher, Pondera, Teton, and Toole Counties
Area 2: Blaine, Broadwater, Carter, Custer, Daniels, Dawson, Fallon, Flathead, Gallatin, Hill, and Jefferson Counties; Lake County (excluding the area south of the Town of Ravalli from the point where Highways #10-A and #93 intersect, excluding the area east of the Town of Superior); Lewis & Clark, Lincoln, Madison, and McCone Counties; Mineral County (that portion lying southeast of the southeastern City limits of the Town of Superior); Park, Phillips, Powder River, Prairie, Richland, and Roosevelt Counties; Sanders County (except S. E. corner portion); Sheridan, Sweet Grass, Valley, and Wibaux Counties
Area 3: Deer Lodge and Granite Counties; Powell County (area lying south of the N.E. corner of Granite County)
Area 4: Lake County (southern area including the Town of Ravalli from the point where Highways #10-A and #93 intersect); Mineral County (area southeast of the southeastern City limits of the Town of Superior); Missoula County; Powell County (area lying north of the N. E. corner of Granite County); Ravalli County); Sanders County (southeastern portion)
Area 5: Big Horn, Carbon, Garfield, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Treasure, Wheatland, and Yellowstone Counties
Area 6: Beaverhead and Silver Bow Counties

AREA DESCRIPTIONS (Cont'd)

CEMENT MASONS:
Area 1: Beaverhead, Deer Lodge, and Granite Counties; Jefferson County (Southern area including Town of Wickes); Madison County; Powell County (southern area, including Town of Deer Lodge); Silver Bow County
Area 2: Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland, and Yellowstone Counties
Area 3: Blaine, Cascade, Chouteau, Hill, Liberty, Pondera, Teton, and Toole Counties
Area 4: Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Richland, and Wibaux Counties

ELECTRICIANS:
Area 1: Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell, and Silver Bow Counties
Area 2: Big Horn, Carbon, Carter, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Treasure, Wibaux, and Yellowstone Counties
Area 3: Custer and Garfield Counties
Area 4: Blaine, Chouteau, Daniels, Fergus, Glacier, Hill, Judith Basin, Liberty, McCone, Petroleum, Pondera, Phillips, Richland, Roosevelt, Sheridan, Teton, Toole, Valley, and Wheatland Counties
Area 5: Broadwater, Lewis & Clark, and Meagher Counties
Area 6: Cascade County
Area 7: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties
Area 8: Gallatin County
Area 9: Park and Sweet Grass Counties

IRONWORKERS:
Area 1: Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, and Jefferson Counties; Lewis & Clark County (the City of Wolf Creek and area south of an east-west line at that point); Madison, Park, Powell, Ravalli, and Silver Bow Counties
Area 2: Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, and Sanders Counties
Area 3: Remaining Counties (including northern half of Lewis & Clark County)

LINE CONSTRUCTION:
Area 1: Statewide, except Flathead, Lake, and Lincoln Counties
Area 2: Flathead, Lake, and Lincoln Counties

PAINTERS:
Area 1: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, Wibaux, and Yellowstone Counties

AREA DESCRIPTIONS (CONT'D)

PAINTERS: Cont'd):
Area 2: Cascade Couty; Chouteau County (south of a line running east and west through the southern limits of Big Sandy); Daniels, and Fergus Counties; Glacier County (excluding Glacier National Park); Garfield and Judith Basin Counties; Lewis & Clark County (northern portion from a line running east and west through the northern limits of Craig); McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, and Valley Counties; Wheatland County (northern area from a line running east and west through the southern limits of Harlowtown)
Area 3: Deer Lodge County and the southern part of Granite County from a line east-west through the southern limits of Phillipsburg
Area 4: The Entire Counties of Beaverhead, Gallatin, Park, and Silver Bow. The northern portion of Jefferson County from a line running east and west (5) miles south of the southern City limits of Boulder, Montana; The south part of Jefferson County from a line running due west from the south limits of Tosten, Montana; the southern portion of Lewis & Clark County from a line running east and west through the southern limits of Craig, Montana; the southern portion of Powell County from a line running east and west through the southern limits of Helmsville, Montana; the west part of Madison County from a line running north and south through the west limits of Harrison, Montana
Area 5: Blaine, Hill, and Liberty Counties; Chouteau County (north of the southern limits of the City of Big Sandy)
Area 6: Flathead County; Granite County (northern area north of the limits of Phillipsburg); Lake County (southern area including the City of Ronan); Lincoln, Mineral, and Missoula Counties; Powell County (northern area through south limits of Helmsville); Ravalli and Sanders Counties

PLASTERERS:
Area 1: Granite County; Lake County (southern area, including the City of Pablo); Mineral and Missoula Counties; Powell County (northern area including the City of Helmsville); Ravalli County; Sanders County (south portion, including the City of Paradise)
Area 2: Beaverhead, Deer Lodge, and Granite Counties; Jefferson County (southern area, including Town of Wickes); Madison County; Powell County (southern area, including Town of Deer Lodge); Silver Bow County
Area 3: Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland, and Yellowstone Counties
Area 4: Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud, and Wibaux Counties

PLUMBERS:
Area 1: Flathead, Lake, Lincoln, Mineral, Missoula, and Sanders Counties
Area 2: Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith Basin, Liberty, McCone, Meager, Phillips, Pondera, Roosevelt, Teton, Toole, and Valley Counties
Area 3: Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferrson, Lewis & Clark, Madison, Park, Powell, Silver Bow and Sweet Grass Counties

AREA DESCRIPTIONS (Cont'd)

PLUMBERS: (Cont'd)
Area 4: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Powder River, Prairie, Richland, Rosebud, Sheridan, Stillwater, Treasure, Wheatland, Wibaux, and Yellowstone Counties

ROOFERS; Waterproofers:
Area 1: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Richland, Rosebud, Stillwater, Treasure, Wibaux, and Yellowstone Counties
Area 2: Blaine, Cascade, Chouteau, Daniels, Fergus, Garfield, Glacier, Hill, Judith Basin, Liberty, McCone, Petroleum, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole, and Valley Counties
Area 3: Deer Lodge, Powell, and Silver Bow Counties
Area 4: Flathead, Lake, Lincoln, Mineral, Missoula, and Sanders Counties
Area 5: Lewis and Clark County
Area 6: Beaverhead, Broadwater, Gallatin, Jefferson, Madison, Meagher, Park, Sweet Grass, and Wheatland Counties

SHEET METAL WORKERS:
Area 1: Broadwater County; Jefferson County (including north half of the City of Boulder); Lewis & Clark and Meagher Counties
Area 2: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties
Area 3: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Park, Petroleum, Phillips, Powder River, Prairie, Richland, Rosebud, Roosevelt, Sheridan, Stillwater, Sweet Grass, Treasure, Valley, Wibaux, Wheatland, and Yellowstone Counties
Area 4: Blaine, Cascade, Chouteau, Glacier, Hill, Judith Basin, Liberty, Pondera, Teton, and Toole Counties
Area 5: Beaverhead, Deer Lodge, and Granite Counties; Jefferson County (southern half); Madison, Powell, and Silver Bow Counties

TERRAZZO WORKERS and TILE SETTERS:
Area 1: Broadwater, Lewis & Clark, and Meagher Counties; Jefferson County (northern area north of Boulder Hill)
Area 2: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweet Grass, Stillwater, Treasure, Wibaux, and Yellowstone Counties
Area 3: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties
Area 4: Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole, and Valley Counties
Area 5: Cascade, Chouteau, Glacier, Pondera, and Teton Counties

LABORERS:
Area 1: Beaverhead and Deer Lodge Counties; Jefferson County (south half, excluding the City of Boulder); Madison County (west of the Gravely Mountain Range); Powell County (west of a north-south line at the west edge of the Town of Elliston); and Silver Bow County

AREA DESCRIPTIONS (Cont'd)

LABORERS: (Cont'd)

LABORERS (Cont'd)

(AREAS 1, 2, 3, and 4) (Cont'd)

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AREA DESCRIPTIONS (Cont'd)

LABORERS: (Cont'd)
Area 2: Broadwater County (north of an east-west line north of the City of Tosten); Jefferson County (north half, including the City of Boulder); Lewis & Clark and Meagher Counties; Powell County (east of a north-south line at the west edge of the Town of Elliston)
Area 3: Broadwater County (south of an east-west line north of the City of Tosten); Gallatin County; Madison County (east of the Gravely Mountain Range); Park, Sweet Grass, and Wheatland Counties
Area 4: Cascade, Chouteau, and Fergus Counties; Glacier County (excluding Glacier National Park); Judith Basin, Pondera, Teton, and Toole Counties
Area 5: Flathead County, and Glacier National Park; Lake County (north of a line (5) miles north of the 5th Parallel); Lincoln County; Sanders County (north of a line (5) miles north of the 5th Parallel)
Area 6: Carter, Custer, Dawson, Fallon, Powder River, Prairie, and Wibaux Counties
Area 7: Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure, and Yellowstone Counties
Area 8: Granite County(western portion); Lake County (south of a line (5) miles north of the 5th Parallel); Mineral, Missoula, and Ravalli Counties; Sanders County (south of a line (5) miles north of the 5th Parallel)
Area 9: Blaine, Daniels, Garfield, Hill, Liberty, Petroleum, Phillips, Richland, Roosevelt, Sheridan, and Valley Counties

LABORERS

(AREAS 1, 2, 3, and 4)

Broadwater, Cascade, Chouteau, Deer Lodge, Fergus, Gallatin, Glacier, Jefferson, Judith Basin, Lewis & Clark, Madison, Meagher, Park, Pondera, Powell, Silver Bow, Sweet Grass, Teton, Toole, and Wheatland Counties

Group 1: Axeman; Caisson Workers (free air); Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Concrete Laborers (wet or dry); Bucketman and Signalman; Cosmoline, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborer - Building and structure; Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type or butane fire, without blowers or fans - General Laborers scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblasting Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Houseman; Tool Checker

Group 2: Burning Bar; Cement Handlers; Choker Setter; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Hand Faller; Nozzleman - air, water, Gunite and Placo Machine; Pipelayer (all types); Laser Equipment Operator; Pipewrapper

LABORERS (Cont'd)

(AREAS 1, 2, 3, and 4) (Cont'd)

Group 3: Asphalt Raker; Concrete Vibrator (3" and over); Drills, Air Track (all types); Equipment Handler; Grade Setter; Grout, Concrete Pump and Nozzleman; High Scaler; High Pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Cutting Torch and Air Arc Operator

(AREA 5)
Flathead County and Glacier National Park; Lake County (north of a line (5) miles north of the 5th Parallel); Lincoln County; Sanders County (north of a line (5) miles north of the 5th Parallel)

Group 1: General Laborers; Form Strippers; Carpenter Tender

Group 2: Concrete Handlers, conveying and handling concrete; Nozzlemen (air or water); Sand Blast Tail Hoseman; Powderman Tender; Power driven Wheelbarrow; Rodder and Spreader; Form Setters (paving); Bucketman (small air tool Operators, including Blow Pipe) Small Power Tool Operators; Rigger; Chuck Tenders; Asphalt Rakers; Dumpman; Rip Rapping; Pipe Wrapper; Pot Tender; Concrete Pumper Hoseman; Jackhammer; Pavement Breakers; Vibrator; Mechanical Tamper and other air tools; Cement Handlers (sack or bulk); Burning Bar

Group 3: Pipe Layers (non-metallic); Metal Culvert Pipe Layer; Mason and Plaster Tenders; Cement Finisher Tender; Small Concrete Mixer Operator; Shoring and Lagging open ditches; Concrete Saw; Powderman; Drills, Air-trac, Wagon Drill, cat or truck mounted air operated Drills; Sand Blaster (wet or dry); Gunite Nozzleman; Barco Tamper; Welder, Laser Equipment and tools; Cutting Torch, Equipment Man

(AREAS 6 and 7)
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Treasure, Wibaux and Yellowstone Counties

Group 1: Axeman; Car and Truck Loaders (weighing loaded trucks); Cosmoline, applying and removing; Concrete Laborer; Chucktenders and Nippers; Crusher Laborer; Form Stripper; General Laborer; Hand Faller; Landscape Laborer; Riprap Tender; Stake Jumper

LABORERS (Cont'd)

(AREAS 6 and 7) (Cont'd)

Goup 2: Applicator, hand or nozzle (applying hot protective material of oil or asphalt base); Asphalt Raker; Barco Tamper; Caulker, Collarman, Jointer, Mortarman; Cement Handler (sack or bulk); Choker Setter; Concrete and Asphalt Saws; Concrete Bucketman; Creosote Material Handler; Curb Machine; Dumpman, Grademan; Dumpman, Spotter; Equipment Handlers (trucks, Bobcats); Form Setters; Gunite, Pumpcrete and Placo Machine Operator; Machine Operator; Jackhammer Operator; Mechanical Tampers; Laser Beam Operator; Pipelayers (all types); Plastic Pipe Layer; Pavement Breaker Operator; Pneumatic and electric tool Operator; Pipe Wrapper; Powderman Tender, Primerhouseman; Power-driven Wheelbarrow; Power Saw (bucking and falling); Rip Wrapper (hand placed); Rodder and Spreader; Shoring and Lagging (Open ditch); Tar Pot Operator

Group 3: Air Track mounted Drills; Air Cat mounted Drills; Cat or truck mounted Drills; Core Drill Operator; High Scaler; Mobile Drills; Nozzleman, concrete (outside); Powderman; Riggers and Jackers; Wagon Drillers

Group 4: Tenders, Trowel Trades (scaffolding, staging, Forklifts for Masons and Plasterers)

(AREA 8)
Granite County (western portion); Lake County (south of a line (5) miles north of the 5th Parallel); Mineral, Missoula, and Ravalli Counties; Sanders County (south of a line (5) miles north of the 5th Parallel)

Group 1: General Laborers; Form Strippers; Carpenter Tenders; Concrete Handler, conveying and handling concrete

Group 2: Nozzleman (air or water); Sand Blast Tailhoseman; Powderman Tender; Power driven Wheelbarrow; Rodder and Spreader; Form Setters (paving); Bucketman; Rigger; Small Air Tool Operators, including Blow Pipes; Small power tool Operators; Chuck tenders; Asphalt Rakers; Dumpman; Rip Rapping; Pipe Wrapper; Pot Tenders; Concrete Pumper Hoseman; Cutting Torch; Jackhammer; Pavement Breaker; Vibrator; Mechanical Tamper and other air tools; Cement Handlers (sack or bulk); Burning Bar

Group 3: Pipelayers (non-metallic); Metal Culvert Pipelayers; Mason and Plaster Tenders; Cement Finisher Tender; Small Concrete Mixer Operator; Shoring and Lagging Open Ditches; Concrete Saw; Powderman; Drills, Air-trac, Wagon Drill, Cat or Truck mounted air operated Drills; Laser Equipment and Tool, Welder; Sand Blaster (wet or dry); Gunnitemen; Barco Tamper

LABORERS (Cont'd)

(AREA 9)
Blaine, Daniels, Garfield, Hill, Liberty, Petroleum, Phillips, Richland, Roosevelt, Sheridan, and Valley Counties

Group 1: General and Building Laborers and Form Stripper and Carpenter Tender; Car and Truck Loaders; Concrete Laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpmen (Spotter); Small power tools, Chippers, Clay Spaders, Pogo Stick, etc.; Fence Erectors and Installers includes installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers

Group 2: Dumpmen (Grade)

Group 3: Power driven Concrete Buggies or power driven Wheelbarrows; Pipe Layers (non-metallic); Sandblaster, Concrete Nozzleman, Placo Operator, Jackhammer, Pavement Breaker, Vibrator (2½" and over); Barco Tamper, Vibrator Turtle; Small Concrete Mixers, Concrete Saw; Nozzleman (air and water); Sandblaster, Tailhoseman, Pot Tender, TAr Pot Tender; Gunite Nozzleman; Caisson Workers (free air); Tunnels and Shafts (free air); Bull Gang, Pot Tender; Chuck Tender, Muckers and Nippers, Primerhouseman

Group 4: Brick Tenders handling bricks and blocks only

Group 5: Hod Carriers and Plaster Tenders (men carrying mortar either by hod, pail or barrow); High Scaler; Wagon Driller, Cat or truck mounted air operated Drills; Asphalt Rakers and Tampers, Gunite, Form Setter (slab steel forms); Stake Setter, Stake Jumper, Rodder and Spreader, Grademan; Concrete Nozzleman; Miners

Group 6: Powdermen; Lasers Tools and Equipment; Small Concrete Mixers; Concrete Saw

Unlisted classifications needed for work not included within the scope of the classification slisted may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTIES: Atoka, Bryan, Choctaw, Haskell, LeFlore, Latimer, McCurtain, Pittsburg & Pushmataha

SUPERSEDEAS DECISION

STATE: Oregon COUNTIES: Statewide
DECISION NUMBER: OR83-5100 DATE: Date of Publication
Supersedes Decison No. OR82-5100 dated March 12, 1982, in 47 FR 10954
DESCRIPTION OF WORK: Building Projects (does not include single family

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SUPERSEDEAS DECISION

STATE: Oklahoma COUNTIES: Atoka, Bryan, Choctaw, Haskell, LeFlore, Latimer, McCurtain, Pittsburg & Pushmataha

DECISION NO. OK83-4020 DATE: Date of Publication

Supersedes Decision No. OK78-4093 dated September 15, 1978 in 43 FR 41363

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to & including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr
Air conditioning mechanic	$8.00				
Bricklayers	10.00				
Carpenters	7.57				
Cement masons	7.29				
Drywall installers	10.00				
Electricians	8.00				
Elevator mechanic	13.74				
Elevator mechanic helper	9.48				
Insulation installer	5.50				
Ironworker	6.85				
Laborers	5.10				
Painters	8.00				
Plumbers & pipefitters	7.81				
Roofers	6.00				
Sheet metal workers	5.50				
Soft floor layers	8.00				
Tile setters	8.00				
Truck drivers	5.00				
POWER EQUIPMENT OPERATORS:					
Backhoe operator	6.68				
Box blade operator	6.68				
Bulldozer operator	6.69				
Crane operator	9.50				
Motor grader	6.85				
Roller	6.85				
Scraper	6.85				
Tractor	6.85				
Trenching Machine	6.00				

SUPERSEDEAS DECISION

STATE: Oregon COUNTIES: Statewide

DECISION NUMBER: OR83-5100 DATE: Date of Publication

Supersedes Decison No. OR82-5100 dated March 12, 1982, in 47 FR 10954

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$21.52	$3.5
BOILERMAKERS	19.67	3.96
BRICKLAYERS; Stonemasons:		
Area 1	17.64	3.23
Area 2	17.13	2.27
CARPENTERS:		
Group 1	16.19	3.32
Group 2	16.34	3.32
Group 3	16.44	3.32
Group 4	16.59	3.32
Group 5	16.29	3.32
Group 6	16.39	3.32
CEMENT MASONS:		
Cement Masons	15.4	4.0
Composition Workers; Power Machinery Operator	15.0	3.02
ELECTRICIANS:		
Area 1:		
Electricians	15.05	2.00+4%
Cable Splicers	16.56	2.00+4%
Area 2:		
Electricians	20.39	3.53+3%
Cable Splicers	21.41	3.53+3%
Area 3:		
Electricians	19.0	3.00+3%
Cable Splicewrs	20.95	3.00+3%
Area 4:		
Electricians	22.0	2.42+3%
Line Cable Splicers	24.2	2.42+3%
Area 5:		
Electricians	20.8	3.03+3%
Cable Splicers	21.6	3.03+3%
Area 6:		
Electricians	19.06	3.07+3%
Cable Splicers	20.9	3.07+3%
ELEVATOR CONSTRUCTORS:		
Mechanics	18.06	1.475+a
Helpers	70%JR	1.475+a
Probationary Helpers	50%JR	
GLAZIERS	16.34	3.09
IRONWORKERS:		
Structural; Reinforcing; Ornamental; Riggers; Fence Erectors; Signal Men	18.04	3.80
LATHERS:		
Area 1	18.87	3.16
MARBLE SETTERS:		
Area 1	$17.11	$2.85
MASON TENDERS:		
(including tenders or Plasterers, Bricklayers, Tile Setters, Marble Setters and Terrazzo Worker; Topping for Cement Finishers and Mortar Mixer)	14.2	0.60
PAINTERS:		
Area 1:		
Painters and Tapers	12.25	1.41
Area 2:		
Brush	13.73	2.99
Spray	14.28	2.99
Bridges, High work over 50' (brush)	14.63	2.99
Bridges, High work over 50' (spray)	15.1	2.99
Drywall Tapers	15.4	2.11
PLASTERERS:		
Area 1	15.3	3.16
Area 2	16.23	3.31
PLUMBERS:		
Area 1	14.67	3.74
Area 2	19.43	6.98
Area 3	15.50	6.22
Area 4	20.58	3.60
Area 5	20.26	3.65
Area 6	19.58	4.15
Area 7	21.19	3.10
Area 8	16.51	4.05
ROOFERS:		
Area 1:		
Roofers	14.85	2.30
Handling of irritating material (coal tar or epoxy)	17.10	2.30
Handling of irritating material (coal tar or epoxy) in confined area	17.35	0.30
Area 2:		
Roofers	14.75	1.72
Spray and/or application of irritating materials in a confined area	15.75	1.72

	Basic Hourly Rates	Fringe Benefits
ROOFERS: (Cont'd)		
Area 3	$14.35	$1.85
Area 4	14.50	4.10
SHEET METAL WORKERS:		
Area 1	17.95	1.13+ 3%
Area 2	15.81	1.90
Area 3	18.76	3.10+ 3%
Area 4	15.705	2.11
SOFT FLOOR LAYERS:		
Area 1	11.052	
Area 2	12.37	1.19
SPRINKLER FITTERS	17.92	2.83
TILE SETTERS:		
Area 1	17.31	3.05
Area 2	15.43	2.15
TILE and TERRAZZO HELPERS:		
Area 1	15.70	1.70
LINE CONSTRUCTION:		
Area 1:		
Zone 1 - (Base Rate):		
Group 1	19.38	2.55+ 3½%
Group 2	17.88	2.55+ 3½%
Group 3*	15.78	2.55+ 3½%
Group 4	15.08	1.85+ 3½%
Group 5	13.18	1.85+ 3½%
Group 6*	13.13	1.85+ 3½%
Group 7	12.18	1.85+ 3½%
Zone Differential - (Add to Zone 1 Rate):		
Zone 2 - $2.00		
Zone 3 - 2.75		
Zone 4 - 3.50		
Zone 5 - 4.75		
*Groups 3 and 6 receive Zone 1 Rates ONLY (No Zone Differential)		

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
Area 2:		
Cable Splicers	$17.56	$1.80+ 3½%
Journeyman Lineman	18.92	1.20+ 3½%
Line Equipment Mechanic (right-of-way)	15.05	1.20+ 3½%
Line Equipment Mechanic (base shop)	14.07	1.20+ 3½%
Line Equipment Serviceman	14.07	1.20+ 3½%
Line Equipment Operator	14.31	1.20+ 3½%
Groundman	11.40	1.20+ 3½%
DREDGING:		
Leverman, Hydraulic	16.97	3.87
Leverman, Dipper	17.68	3.87
Assistant Engineer (including Watch Engineer, Welder, Mechanic and Machinist); Mate	16.48	3.87
Tenderman (Boatman, attending Dredge Plant); Fireman	16.08	3.87
Assistant Mate (Deckhand); Oiler	15.87	3.87
TIMBER SALES ROADS:		
Operating Engineer	11.71	3.37
Operating Engineer Assistant (Oiler)	10.65	3.37
Teamster	11.49	2.52
Laborer	9.90	4.00
Power Saw, Driller, Powderman	18.67	4.00

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Zone 1 - (Base Rate):		
Group 1	$12.84	$4.30
Group 2	13.19	4.30
Group 3	13.49	4.30
Group 4	13.74	4.30
Zone Differential - (Add to Zone 1 Rate):		
Zone 2 - $0.65		
Zone 3 - 1.15		
Zone 4 - 1.70		
Zone 5 - 2.75		
Zone 6 - 3.55		
POWER EQUIPMENT OPERATORS:		
Zone 1 - (Base Rate):		
Group 1	15.00	4.15
Group 2	15.18	4.15
Group 3	15.33	4.15
Group 4	15.53	4.15
Group 5	15.56	4.15
Group 6	15.67	4.15
Group 7	15.74	4.15
Group 8	15.87	4.15
Group 9	15.96	4.15
Group 10	16.04	4.15
Group 11	16.06	4.15
Group 12	16.15	4.15
Group 13	16.25	4.15
Group 14	16.48	4.15
Group 15	16.67	4.15
Group 16	16.91	4.15
Group 17	17.10	4.15
Group 18	17.34	4.15
Group 19	17.52	4.15
Zone Differential - (Add to Zone 1 Rate):		
Zone 2 - $0.65		
Zone 3 - 1.15		
Zone 4 - 1.70		
Zone 5 - 2.75		
Zone 6 - 3.55		

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Zone 1 - (Base Rate):		
Group 1	$14.69	$3.74
Group 2	14.74	3.74
Group 3	14.79	3.74
Group 4	14.84	3.74
Group 5	14.89	3.74
Group 6	14.99	3.74
Group 7	15.09	3.74
Group 8	15.19	3.74
Group 9	15.29	3.74
Group 10	15.46	3.74
Group 11	15.56	3.74
Group 12	15.66	3.74
Group 13	15.76	3.74
Group 14	15.86	3.74
Zone Differential - (Add to Zone 1 Rate):		
Zone 2 - $0.65		
Zone 3 - 1.15		
Zone 4 - 1.70		
Zone 5 - 2.75		
Zone 6 - 3.55		

WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding and rigging are incidental

AREA DESCRIPTIONS (Cont'd)

LATHERS:

WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding and rigging are incidental

FOOTNOTE:
a. Employer credits 8% of basic hourly rate for employees with more than 5 years' service; 6% basic hourly rate for 6 months' to 5 years' service to Vacation Plan. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day

AREA and GROUP DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River; Malheur County (north half); Marion, Morrow, Multnomah, Polk, Sherman, and Tillamook Counties; Umatilla, Union, Wallowa, and Wasco Counties (north of the City of Maupin); Washington and Yamhill Counties
Area 2: Benton, Crook, Coos, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, and Linn Counties; Malheur County (south half); Wasco County (including the City of Maupin and south thereof); Wheeler County

CARPENTERS:
Group 1: Acoustical and Drywall Applicator; Automatic Nailing Machine; Carpenters; Form Strippers; Manhole Builders
Group 2: Floor Layers and Finishers; Stationary Power Saw Operators
Group 3: Millwrights and Machine Erectors
Group 4: Certified Welders
Group 5: Piledrivermen; Bridge, Dock and Wharf Builders
Group 6: Boom Men

ELECTRICIANS:
Area 1: Malheur County
Area 2: Baker, Gilliam, Grant, Morrow, Umatilla, Union, Wallowa, and Wheeler Counties
Area 3: Coos, Curry, and Lincoln Counties; Douglas and Lane Counties (those portions lying west of a line north and south from the NW corner or Coos County to the SE corner of Lincoln County)
Area 4: Benton, Crook, Deschutes, and Jefferson Counties; Lane County (eastern portion); Linn, Marion, and Polk Counties; Yamhill County (south half)
Area 5: Clackamas, Clatsop, Columbia, Hood River, Multnomah, Sherman, Tillamook, Wasco, and Washington Counties; Yamhill County (north half)
Area 6: Harney, Jackson, Josephine, Klamath, and Lake Counties; Douglas County (that portion lying east of a line running north and south from the NE corner of Coos County to the SE corner of Lincoln County)

AREA DESCRIPTIONS (Cont'd)

LATHERS:
Area 1: Clackamas, Clatsop, Columbia, Gilliam, Harney, Hood River, Morrow, Multnomah, Sherman, and Yamhill Counties

MARBLE SETTERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties; Malheur County (north half); Multnomah, Morrow, Sherman, and Tillamook Counties; Union, Umatilla, and Wallowa Counties; Wasco County (north of the City of Maupin); Washington County; Yamhill County (north half)

PAINTERS:
Area 1: Malheur County
Area 2: Remaining Counties

PLASTERERS:
Area 1: Benton, Coos, Crook, Curry, Douglas, Deschutes, Harney, and Jefferson Counties; Klamath County (northern one-third); Lane County; Lincoln, Linn, Wasco, and Wheeler Counties (south half)
Area 2: Remaining Counties

PLUMBERS:
Area 1: Baker County; Harney (except NW portion); Malheur County
Area 2: Grant County (except SW corner); Morrow, Umatilla, Wallowa, and Union Counties
Area 3: Benton, Lincoln, and Linn Counties (north half); Marion and Polk Counties; Tillamook and Yamhill Counties (south half)
Area 4: Clackamas, Clatsop, Columbia, Gilliam, Hood River, Jefferson, Multnomah, Sherman, Wasco, Wheeler, and Washington Counties; Tillamook and Yamhill Counties (north half)
Area 5: Coos and Curry Counties; Douglas County (West Coast portion); Lann County (including the City of Florence)
Area 6: Benton County (south half); Crook and Deschutes Counties; Douglas County (except Coast portion); Grant County (SW corner); Harney County (NW portion); Jefferson County (south half); Klamath and Lake Counties (northern portion); Lane County (except the City of Florence); Lincoln and Linn Counties (south half)
Area 7: Remainder of Klamath and Lake Counties
Area 8: Jackson and Josephine Counties

ROOFERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Grant, Gillimn, Hood River, Morrow, Multnomah, Sherman, Tillamook, Wasco, Washington, and Wheeler Counties
Area 2: Benton, Coos, Crook, Curry, Deschutes, Douglas, Harney, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, Polk, and Yamhill Counties
Area 3: Malheur County
Area 4: Umatilla, Union, and Wallowa Counties

AREA and GROUP DESCRIPTIONS (Cont'd)

SHEET METAL WORKERS:
Area 1: Benton, Clackamas, Clatsop, Columbia, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Lincoln, Linn, Marion, Multnomah, Polk, Sherman, Tillamook, Wasco, Washington, Wheeler, and Yamhill Counties
Area 2: Baker and Malheur Counties
Area 3: Morrow, Umatilla, Union, and Wallowa Counties
Area 4: Coos, Curry, Douglas, Klamath, Lake, Lane, and Josephine Counties

SOFT FLOOR LAYERS:
Area 1: All Counties except Malheur County
Area 2: Malheur County

TILE SETTERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties, Malheur County (north half); Morrow, Multnomah, Sherman, Tillamook, Umatilla, Union, and Wallow Counties; Wasco County (north of Maupin); Washington County; Yamhill County (north half)
Area 2: Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, and Linn Counties; Malheur County (south half); Wasco County (Maupin and south thereof); Wheeler County (south half)

TILE and TERRAZZO HELPERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties; Malheur County (north half); Morrow, Multnomah, Sherman, Tillamook, Umatilla, Union, and Wallow Counties; Wasco County (north of Maupin); Washington County; Yamhill County (north half)

LINE CONSTRUCTION:
Area 1: All Counties Except Malheur County
Group 1: Cable Splicer, Leadman Pole Sprayer
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder
Group 3: Tree Trimmer
Group 4: Line Equipment Man
Group 5: Head Groundman, Powderman, Jackhammer Man
Group 6: Head Groundman (Chipper)
Group 7: Groundman
Zone Definitions:
Zone 1 - (Base Rate): 0 to 3 miles radius from the geographimal center of the Cities listed below
Zone 2 - 3 to 20 miles radius
Zone 3 - 20 to 30 miles radius
Zone 4 - 30 to 50 miles radius
Zone 5 - Over 50 miles radius
Base Rate is paid when working out of employer's permanent shop
BASE POINTS:

Bellingham	Seattle	Astoria	Klamath Falls	Coeur D' Alene
Ellensburg	Spokane	Baker	Lakeview	Kellog
Ephrata	Tacoma	Bend	Medford	Lewiston
Everett	Burns	Pendleton	Orfino	Walla Walla
Kennewick	Wenatchee	Corvallis	Portland	Sand Point
Longview	Wilbur	The Dalles	Roseburg	Salem
Olympia	Yakima	Eugene	Umatilla	

Area 2: Malheur County

ZONE DESCRIPTIONS
for
LABORERS
POWER EQUIPMENT OPERATORS
and
TRUCK DRIVERS

CITIES:

Albany	Hood River	Newport
Astoria	Klamath Falls	Ontario
Baker	La Grande	Pendleton
Bend	Lakeview	Port Orford
Brookings	Longview	Reedsport
Burns	Madras	Roseburg
Coos Bay	Medford	The Dalles
Corvallis	McMinnville	Tillamook
Goldendale	Vancouver	
Grants Pass		

ZONE 1 - All jobs or projects located within 10 miles of the respective City Hall

ZONE 2 - More than 10 miles but less than 25 miles form the respective City Hall

ZONE 3 - More than 25 miles but less than 35 miles from the respective City Hall

ZONE 4 - More than 35 miles but less than 45 miles from the respective City Hall

ZONE 5 - More than 45 miles but less than 75 miles from the respective City Hall

ZONE 6 - More than 75 miles from the respective City Hall

Portland, Eugene and Salem ONLY

ZONE 1 - All jobs or projects located within 25 miles of the respective City Hall

ZONE 2 - More than 20 miles but less than 25 miles from the respective City Hall

ZONE 3 - More than 25 miles but less than 35 miles from the respective City Hall

ZONE 4 - More than 35 miles but less than 45 miles from the respective City Hall

ZONE 5 - More than 45 miles but less than 75 miles from the respective City Hall

ZONE 6 - More than 75 miles from the respective City Hall

LABORERS

POWER EQUIPMENT OPERATORS

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail equip-

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LABORERS

Group 1: Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Change-house Man or Dry Shack Man; Choke Setter; Clean-up Laborers; Concrete Laborers; Culvert hand labor; Curing, concrete; Demolition, wrecking, and moving Laborers; Driller Tenders; Dumpers, road oiling crew; Dumpmen (for grading crew); Elevator Feeders; Fence Builder (including Guard Rail, Median Rail, Reference Post, Right-of-way Marker); Fine Graders; Form Strippers (not swinging stages); General Laborers; Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and Loading Spotters and similar types); Material Yard Man (including electrical); Powderman Tender; Pittsburgh Chipper Operator or similar types; Ribbon Setters (including Steel Forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipman; Slopers; Spraymen; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bullgang (above ground); Weightman, Crusher (aggregate when used); Railroad Track Laborers

Group 2: Applicator (including Pot Tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters (power saw); Burners; Choker Splicer; Clary Power Spreader and similar types; Clean-up Nozzleman; Green Cutter (concrete, rock, etc.); Concrete Power Buggyman; Crusher Feeder; Demolition and wrecking charred materials; Grade Checker; Granite Nozzleman Tender; Gunite or Pot Tender; Handlers or Mixers of all materials of an irritating nature (including cement and lime); Power Tool Operators, includes but not limited to: Dry Pack Machine; Jackhammer; Chipping Guns; Paving Breakers; Vibrators (less than 4" in diameter); Post Hole Digger, air, gas or electric; Vibrating Screed; Tampers; Sand Blasting (wet); Stake-setter; Tunnel - Muckers, Brakemen, Concrete Crew, Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill Operators, Air Tracks, Cat Drills, Wagon Drills, Rubber-mounted Drills, and other similar types; Concrete Saw Operator; Gunite Nozzleman; High Scalers, Strippers and Drillers (covers work in Swinging Stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down, or sloping and stripping); Laser Beam (pipe laying)(applicable when employee assigned to move, set up, align Laser Beam); Manhole Builder; Powdermen; Power Saw Operators (bucking and falling); Pumpcrete Nozzlemen; Sand Blasting (dry); Sewer Pipe Layers; Sewer Timberman; Track Liners, Anchor Machines, Ballast Regulators, Multiple Tampers, Power Jacks; Tugger Operator; Tunnel - Chuck Tenders, Nippers, and Timbermen; Vibrator (4" and larger); Water Blaster; Welder

Group 4: Laser Beam (tunnel) - applicable when employee assigned to move, set up, align Laser Beam; Tunnel Miners; Tunnel Powderman

POWER EQUIPMENT OPERATORS

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail equipment, and Trenching Machine; Assistant Conveyor Operator; Crusher Feederman; Deckhand; Self-propelled Scaffolding Operator; Guardrail Punch Oiler; Pump Operator, under 4"; Brakeman; Switchman; Parts Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler - Driver, 25 ton capacity or over; Crane Fireman (all equipment except floating); A-Frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Driller Tender; Auger; Oiler; Boatman; Fork Lift or Lumber Stacker Operator (on job site); Oiler, combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Tender; Welder's Tender; Helicopter Radioman (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Aspahlt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with Screed; Compressor Operator (any power), under 1,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy, phones, etc; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunnite Work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Lull Hi-lift Operator or similar type; Fork Lift, over 5 ton; Service Oiler (Greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Pactor or similar type (without blade); Concrete Batch Plant Quality Control Operator; Power Jumbo, Setting Slip Forms, etc. in tunnels; Slip Form Pumps, Power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulva-mixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayne type) Self-propelled (on job site); Tractor, rubber-tired 50 H.P. flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2½ cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Beltcrete; Pumpcrete Operator (any type); Puller-Kenyon and similar; Concrete Pump; Grouting machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck, double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without Front End attachments 2½ cu. yds. and under (Ford, John Deer, Case type); Elevating Grader, Tractor towed requiring Operator or Grader; Pot Rammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

Group 8: Diesel-electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Generator Operator; Belt Loader, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type lifting device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yds.; Loader, Front End and Overhead, 2½ cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (Bit Grinder); H.D. Mechanic and Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. flywheel; Tractor with boom attachment; Trench Machine, maximum digging capacity over 3 ft. depth; Asphalt Plant Operator

Group 10: Bulldozer, twin engine (TC 12 and similar); Cable Plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Combination H.D. Mechanic - Welder, with dispatcher and/or when required to do both; Rubber-tired Dozers and Pushers (Michigan, Cat, Hough type); Driller - Percussion, Diamond, Core, Cable, Rotary and similar type

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel; Dragline; Clamshell, Hoe, etc., under 1 cu. yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

POWER EQUIPMENT OPERATORS (Cont'd)

Group 12: Blade Operator; Batch Plant and/or Wet Mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper, single and twin engine; Single Scraper, with Push-pull attachments, self-loader; Paddle Wheel, auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engine; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25 ton and over; Crane, over 25 ton and including 40 tons; Piledriver Operator; Floating Clamshell, etc., under 3 cu .yds.; Floating Crane (Derrick Barge), less than 30 ton; Elevating Grader, operated by Tractor Operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc. 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, auger type, finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Autograder or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (Derrick Barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley, over 80 ton and including 150 ton; Floating Crane (Derrick Barge), 80 ton, but less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane, 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane, 250 ton and over; Remote controlled earth moving equipment; Underwater equipment, remote or otherwise

TRUCK DRIVERS

TRUCK DRIVERS (Cont'd)

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TRUCK DRIVERS

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: 6 cu. yds. and under; Lift Jitneys, Fork Lifts (all sizes in loading, unloading and transporting material on job site); Loader and/or Leverman on Concrete Dry Batch Plant (manually operated); Pilot Car; Solo Flat Bed and misc. Body Trucks, 0-10 tons; Truck Tender; Truck Mechanic Tender; Water Wagons (rated capacity) - up to 1,600 gallons

Group 2: "A" Frame or Hydra-lift Truck with load bearing surface; Lubrication Man, Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix, and Wet or Dry Mix Trucks: 5 cu. yds. and under; Tireman Water Wagons (rated capacity) - 1,600 to 3,000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer, Truck and Trailers or doubles transporting equipment or wet or dry materials; Lumber Carrier Driver - Stadddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity) - 3,000 to 5,000 gallons

Group 5: Dumpsters or similar equipment, all sizes; Transit Mix and Wet or Dry Trucks, over 5 cu. yds. and including 7 cu. yds..

Group 6: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 10 cu. yds. and including 20 cu. yds.; Transit Mix and Wet or Dry Mix Truck, over 7 cu. yds. and including 9 cu. yds.; Truck Mechanic - Welder - Body Repairman; Water Wagons (rated capacity) -5,000 to 7,000 gallons

Group 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains of combinations thereof: over 20 cu. yds. and including 30 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 9 cu. yds. and including 11 cu. yds.; Water Wagons (rated capacity) over 7,000 gallons to 10,000 gallons

TRUCK DRIVERS (Cont'd)

Group 8: Dump Trucks, side, end and bottom cumps, including Semi Trucks and Trains or combinations thereof: over 30 cu. yds. and including 40 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 11 cu. yds. and including 15 cu. yds.; Water Wagon (rated capacity) over 10,000 gallons to 15,000 gallons

Group 9: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: Over 40 cu. yds. and including 50 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trians or combinations thereof: over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 90 cu. yds. and including 100 cu. yds.

Drivers and Tenders (handling Sacked cement - add $0.15 per nour)

Winch Truck - takes classification of Truck on which Winch is mounted.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses 29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Wisconsin
DECISION NUMBER: WI83-2012
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision Number WI82-2062 dated December 17, 1982 in 47 FR 56606
DESCRIPTION OF WORK: Highway and Airport Runway and Taxiway Construction (does not include bridges over navigable waters; tunnels; buildings in highway rest areas; and railroad construction)

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS; STONEMASONS:		
Zone 1	$14.15	1.70
Zone 2	13.22	2.19
Zone 3	12.75	2.09
Zone 4	13.83	2.45
Zone 5	13.55	1.90
Zone 6	13.77	2.95
Zone 7	14.24	2.25
Zone 8	14.82	3.90
Zone 9	14.24	2.25
Zone 10	15.53	1.55
Zone 11	13.05	2.35
CARPENTERS; PILEDRIVERMEN:		
Zone 1:		
Carpenters	12.95	2.35
Piledrivermen	13.15	2.35
Zone 2:		
Carpenters	13.76	1.91
Piledrivermen	14.16	1.91
Zone 3:		
Carpenters	13.76	1.91
Piledrivermen	14.16	1.91
Zone 4:		
Carpenters	15.59	2.21
Piledrivermen	15.74	2.21
Zone 5:		
Carpenters	14.16	2.11
Piledrivermen	14.25	2.11
Zone 6:		
Carpenters	13.76	1.91
Piledrivermen	14.16	1.91
Zone 7:		
Carpenters	13.76	1.91
Piledrivermen	14.16	1.91
Zone 8:		
Carpenters; Piledrivermen	13.59	2.15
Zone 9:		
Carpenters	14.30	3.83
Piledrivermen	15.27	3.96
Zone 10:		
Carpenters	14.56	1.71
Piledrivermen	14.65	1.71

	Basic Hourly Rates	Fringe Benefits
CARPENTERS; PILEDRIVERMEN (Cont'd)		
Zone 11:		
Carpenters	$14.00	$2.80
Piledrivermen	14.00	2.80
Zone 12:		
Carpenters	13.76	1.91
Piledrivermen	14.16	1.91
CEMENT MASONS:		
Zone 1	15.85	.70
Zone 2	14.15	1.76
Zone 3	12.72	2.19
Zone 4	13.46	1.89
Zone 5	12.25	2.69
Zone 6	12.83	1.85
Zone 7	12.42	2.90
Zone 8	12.55	2.35
Zone 9	14.45	1.85
Zone 10	12.38	2.76
Zone 11	13.80	2.30
Zone 12	13.93	
Zone 13	12.18	2.90
Zone 14	14.71	1.55
ELECTRICIANS:		
Zone 1	15.59	1.10+6%
Zone 2	15.66	12½%
Zone 3	15.31	.75+ 9½%
Zone 4	15.13	.75+ 11½%
Zone 5	17.50	.71+ 3-3/4%
Zone 6	15.79	1.30+3%
Zone 7	15.58	.72+ 13½%
Zone 8	15.54	1.19+ 12-3/4%
Zone 9	14.91	1.88+ 14%
Zone 10	15.75	27%
Zone 11	17.50	.70+ 3½%
Zone 12	16.11	1.88+ 14%
Zone 13	14.23	2.00+ 4%

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS:		
Zone 1	$15.11	$1.90
Zone 2	15.82	2.60
Zone 3	14.68	2.85
Zone 4	14.80	6.46
Zone 5	16.65	2.59
LINE CONSTRUCTION:		
Statewide:		
Lineman	15.57	9½%+.6%
Heavy Equipment Operators	13.92	9½%+.6%
Light Equipment Operators	11.3[illegible]	9½[illegible]+.6%
Heavy Truck Drivers and Groundman	10.83	9½[illegible]+.[illegible]%
Light Truck Drivers and Groundman	1[illegible].06	9½%+.6%
Groundman	[illegible].51	9½%+.6%
PAINTERS:		
Zone 1:		
Brush	13.85	.50
Spray and Sandblasting	14.60	.50
Zone 2:		
Brush	14.00	5%+.15
Spray and Sandblasting	13.50	5%+.15
Zone 3:		
Brush; Spray and Sandblasting	1[illegible].43	1.[illegible]
Zone 4:		
Brush	12.12%	2.25
Spray and Sandblasting	12.72%	2.25
Zone 5:		
Brush	12.80	1.00
Spray and Sadnblasting	13.22	1.00
Zone 6:		
Brush; Spray and Sandblasting	15.[illegible]1	1.53
Zone 7:		
Brush	13.10	1.77
Spray	14.10	1.77
Sandblasting	13.35	1.77
Zone 8:		
Brush and Spray	13.40	
Sandblasting	13.40	
Zone 9:		
Brush	12.35	
Spray and Sandblasting	12.75	

	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Zone 10:		
Brush	$13.45	$3.26
Spray	13.60	3.26
Sandblasting	13.85	3.26
Zone 11:		
Brush	13.35	1.55
Spray and Sandblasting	13.85	1.55
Zone 12:		
Brush	12.85	2.15
Spray and Sandblasting	13.45	2.15
Zone 13:		
Brush and Sandblasting	10.30	1.60
Spray	10.80	1.60
LABORERS:		
Zone 1:		
Group 1	10.63	3.49
Group 2	10.73	3.49
Group 3	10.78	3.49
Group 4	10.83	3.49
Group 5	10.88	3.49
Group 6	10.98	3.49
Group 7	11.03	3.49
Group 8	11.28	3.49
Zone 2:		
Group 1	10.75	2.43
Group 2	10.85	2.43
Group 3	10.90	2.43
Group 4	10.95	2.43
Group 5	11.00	2.43
Group 6	11.10	2.43
Group 7	11.15	2.43
Group 8	11.40	2.43
Zone 3:		
Group 1	10.15	3.03
Group 2	10.25	3.03
Group 3	10.30	3.03
Group 4	10.35	3.03
Group 5	10.40	3.03
Group 6	10.50	3.03
Group 7	10.55	3.03
Group 8	10.80	3.03
Zone 4:		
Group 1	10.80	1.53
Group 2	10.85	1.53
Group 3	10.80	1.53

FOOTNOTES:
a. Per week per employee on payroll 30 days or longer, $91.25

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	Basic Hourly Rates	Fringe Benefits
LABORERS: (Cont'd)		
Zone 4: (Cont'd)		
Group 4	$10.95	$1.53
Group 5	11.00	1.53
Group 6	11.05	1.53
Zone 5:		
Group 1	9.88	3.49
Group 2	9.93	3.49
Group 3	9.98	3.49
Group 4	10.03	3.49
Group 5	10.08	3.49
Group 6	10.13	3.49
Zone 6:		
Group 1	10.52	1.53
Group 2	10.57	1.53
Group 3	10.62	1.53
Group 4	10.67	1.53
Group 5	10.72	1.53
Group 6	0.77	
POWER EQUIPMENT OPERATOR:		
Group 1	14.02	2.60
Group 2	13.76	2.60
Group 3	13.67	2.60
Group 4	13.59	2.60
Group 5	13.51	2.60
Group 6	13.47	2.60
Group 7	13.38	2.60
Group 8	13.26	2.60
LABORERS (Sewer & Water)		
Zones 1 and 5:		
Bottomman	12.58	3.69
Pipelayer	13.07	3.69
Topman	12.16	3.69
Zone 2:		
Bottomman	11.10	2.43
Pipelayer	11.50	2.43
Topman	10.90	2.43
Zone 3:		
Bottomman	10.50	3.03
Pipelayer	10.90	3.03
Topman	10.50	3.03
Zone 4:		
Bottomman	11.05	1.53
Pipelayer	11.25	1.53
Topman	10.90	1.53
Zone 6:		
Bottomman	10.77	1.53
Pipelayer	10.47	1.53
Topman	10.62	1.53

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVER:		
Zone 1:		
Group 1	$11.25	.35+a
Group 2	11.40	.35+a
Zone 2:		
Group 1	11.25	.35+b
Group 2	11.40	.35+b
Zone 3:		
Group 1	11.65	.35+c
Group 2	11.40	.35+c
	12.47	[illegible]

FOOTNOTES:
a. Per week per employee on payroll 30 days or longer, $91.25 Per week - Health, Welfare and Pension
b. Per week per employee on payroll 30 days or longer, $100.50 per week - Health, Welfare and Pension
c. Per week per employee on payroll 30 days or longer, $92.68 per week - Health, Welfare and Pension

ZONE DESCRIPTIONS

BRICKLAYERS; STONEMASONS:
Zone 1: Barron, Burnett, Chippewa, Dunn, Eau Claire, Pepin, Pierce, Polk, Rusk, St. Croix, Sawyer, and Washburn Counties
Zone 2: Adams, Clark, Forest, Langlade, Lincoln, Marathon, Menominee, Oneida, Portage, Price, Taylor, Vilas, and Wood Counties
Zone 3: Brown, Calumet, Door, Florence, Fond Du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Oconto, Outagamie, Shawano, Sheboygan, Waupaca, Waushara, and Winnebago Counties
Zone 4: Green, Lafayette, and Rock Counties
Zone 5: Buffalo, Crawford, Jackson, Juneau, La Crosse, Monroe, Trempealeau, and Vernon Counties
Zone 6: Kenosha, Racine, and Walworth Counties
Zone 7: Dane, Grant, Iowa, and Richland Counties
Zone 8: Milwaukee, Ozaukee, Washington, and Waukesha Counties
Zone 9: Columbia and Sauk Counties
Zone 10: Ashland, Bayfield, Douglas, and Iron Counties
Zone 11: Dodge and Jefferson Counties

CARPENTERS; PILEDRIVERMEN:
Zone 1: Ashland, Bayfield, and Iron Counties
Zone 2: Barron, Burnett, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Pepin, Pierce, Polk, Rusk, St. Croix, Sawyer, Taylor, and Washburn Counties
Zone 3: Brown, Calumet, Door, Fond Du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Shawano, Sheboygan, Waupaca, Waushara, and Winnebago Counties
Zone 4: Green, Rock, and Walworth Counties
Zone 5: Kenosha County
Zone 6: Jackson, La Crosse, Monroe, Trempealeau, and Vernon Counties
Zone 7: Adams, Columbia, Crawford, Dane, Dodge, Grant, Iowa, Jefferson, Juneau, Lafayette, Richland, and Sauk Counties
Zone 8: Florence County
Zone 9: Milwaukee, Ozaukee, Washington, and Waukesha Counties
Zone 10: Racine County
Zone 11: Douglas County
Zone 12: Forest, Langlade, Lincoln, Marathon, Oneida, Portage, Price, Vilas, and Wood Counties

ZONE DESCRIPTIONS (Cont'd)

CEMENT MASONS:
Zone 1: Bayfield, Douglas, Price, Sawyer, and Washburn Counties
Zone 2: Barron, Burnett, Chippewa, Dunn, Polk, Rusk, and St. Croix Counties
Zone 3: Adams, Clark, Forest, Langlade, Lincoln, Marathon, Menominee, Oneida, Portage, Taylor, Vilas, and Wood Counties
Zone 4: Eau Claire, Pepin, and Pierce Counties
Zone 5: Brown, Calumet, Door, Florence, Fond Du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Oconto, Outagamie, Shawano, Sheboygan, Waupaca, Waushara, and Winnebago Counties
Zone 6: Buffalo, Crawford, Jackson, Juneau, La Crosse, Monroe, Richland, Trempealeau, and Vernon Counties
Zone 7: Racine and Kenosha Counties
Zone 8: Dodge and Jefferson Counties
Zone 9: Columbia and Sauk Counties
Zone 10: Milwaukee, Ozaukee, Washington, and Waukesha Counties
Zone 11: Dane, Green, Iowa, Lafayette, and Rock Counties
Zone 12: Grant County
Zone 13: Walworth County
Zone 14: Ashland and Iron Counties

ELECTRICIANS:
Zone 1: Calumet, Green Lake, Marquette, Outagamie, Waupaca, Waushara, and Winnebago Counties
Zone 2: Barron, Buffalo, Burnett, Chippewa, Clark, Dunn, Eau Claire, Jackson, Pepin, Pierce, Polk, Price, Rusk, St. Croix, Sawyer, Taylor, Trempealeau, and Washburn Counties
Zone 3: Brown, Door, Kewaunee, Manitowoc, and Oconto Counties
Zone 4: Adams, Florence, Forest, Juneau, Langlade, Lincoln, Marathon, Marinette, Menominee, Oneida, Portage, Shawano, Vilas, and Wood Counties
Zone 5: Kenosha County
Zone 6: Crawford, Grant, La Crosse, Monroe, Richland, and Vernon Counties
Zone 7: Green, Jefferson, Lafayette, Rock, and Walworth Counties
Zone 8: Columbia, Dane, Dodge, Iowa, and Sauk Counties
Zone 9: Fond Du Lac and Sheboygan Counties
Zone 10: Ashland, Bayfield, Douglas, and Iron Counties
Zone 11: Racine County
Zone 12: Milwaukee, Ozaukee, Washington, and Waukesha Counties

IRONWORKERS:
Zone 1: Grant County
Zone 2: Ashland, Barron, Bayfield, Burnett, Douglas, Iron, Price, Rusk, Sawyer, Vilas, and Washburn Counties
Zone 3: Adams, Clark, Columbia, Crawford, Dane, Dodge, Florence, Fond Du Lac, Forest, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, La Crosse, Lafayette, Langlade, Lincoln, Marquette, Marathon, Menominee, Monroe, Oconto, Oneida, Outagamie, Portage, Richland, Rock, Sauk, Shawano, Taylor, Vernon, Walworth, Waupaca, Waushara, Winnebago, and Wood Counties
Zone 4: Brown, Calumet, Door, Kenosha, Kewaunee, Marinette, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and Waukesha Counties
Zone 5: Buffalo, Chippewa, Dunn, Eau Claire, Pepin, Pierce, Polk, St. Croix, and Trempealeau Counties

ZONE DESCRIPTIONS (Cont'd)

PAINTERS:
Zone 1: Florence, Forest, Iron, Langlade, Lincoln, Marathon, Menominee, Oneida, and Vilas Counties
Zone 2: Barron, Buffalo, Chippewa, Dunn, Eau Claire, Pepin, Pierce, Polk, Price, Rusk, St. Croix, Sawyer, Trempealeau, and Washburn Counties
Zone 3: Brown, Door, Kewaunee, and Oconto Counties
Zone 4: Kenosha and Walworth Counties
Zone 5: Adams, Clark, Crawford, Jackson, Juneau, La Crosse, Monroe, Portage, Vernon, Taylor, and Wood Counties
Zone 6: Ashland, Bayfield, Burnett, and Douglas Counties
Zone 7: Columbia, Dane, Dodge, Grant, Green, Iowa, Layafette, Richland, Rock, and Sauk Counties
Zone 8: Calumet and Manitowoc Counties
Zone 9: Marinette County
Zone 10: Jerferson, Milwaukee, Ozaukee, Washington, and Waukesha Counties
Zone 11: Fond Du Lac, Green Lake, Marquette, Outagamie, Shawano, Waushara, Waupaca, and Winnebago Counties
Zone 12: Racine County
Zone 13: Sheboygan County

LABORERS:
Zone 1: Milwaukee and Waukesha Counties
Zone 2: Racine County
Zone 3: Kenosha County
Zone 4: Dane County
Zone 5: Washington and Ozaukee Counties
Zone 6: Remainder of State

TRUCK DRIVERS:
Zone 1: Entire State except those Counties in Zones 2 and 3
Zone 2: Milwaukee, Ozaukee, Washington, and Waukesha Counties
Zone 3: Racine and Kenosha Counties

LABORERS CLASSIFICATIONS
ZONES 1, 2, and 3

Group 1: Bituminous Workers (Shoveler, Loader, Utility Man); Demolition and Wrecking Laborer; Guard Rail Builder; Reinforcing Steel Setter (pavement); Stone Handler; Tree Trimmer; Landscaper; Multiplate Culvert Assembler; Conduit Layer; Unskilled Laborer

Group 2: Bituminous Workers (Dumper, Ironer, Smoother, Tamper); Batch Truck Dumper or Cement Handler; Concrete Handler

Group 3: Chain Saw Operator; Demolition Burning Torch Laborer; Joint Sawer and Filler (pavement); Vibrator or Tamper Operator (mechanical, hand operated)

LABORERS CLASSIFICATIONS - ZONES 1, 2, and 3 (Cont'd)

Group 4: Bituminous Workers (Raker, Screed); Concrete Saw Operator; Concrete Worker; Curb Builder; Grade Checker; Hydroseeder; Mulcher; Pipelayer; Power Buggy; Rip Rap Man; Scaffold Erector; Sign Erector; Slipform Paver Operator; Stake Driver; Timber Bridge Builder; Tunnel Laborer

Group 5: Asphalt Plant Laborer; Bituminous Worker (Raker, Screed) Specialty; Concrete Saw Operator Specialty; Concrete Worker Specialty; Curb Builder Specialty; Grade Checker Specialty; Hydroseeder Specialty; Mulcher Specialty; Pipelayer Specialty; Power Buggy Specialty; Rip Rap Man Specialty; Scaffold Erector Specialty; Sign Erector Specialty; Slipform Paver Operator Specialty; Stake Driver Specialty; Timber Bridge Builder Specialty; Tunnel Laborer Specialty

POWER EQUIPMENT OPERATORS

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LABORERS CLASSIFICATIONS - ZONES 1, 2, and 3 (Cont'd)

Group 4: Air Tool Operator (hand operated)

Group 5: Strike Off Man

Group 6: Form Setter (curb, walk and pavement)

Group 7: Bituminous Worker (Raker and Luteman)

Group 8: Powderman, Blaster

ZONES 4 and 6

Group 1: Bituminous Workers (Dumper, Ironer, Smoother, Tamper, Shoveler, Loader, Utility Man); Strike Off Man; Joint Sawer and Filler (pavement); Concrete Handler; Demolition and Wrecking Laborer; Guard Rail Builder; Reinforcing Steel Setter (pavement); Stone Handler; Landscaper; Multiplate Culvert Assembler; Conduit Layer; Unskilled Laborer

Group 2: Tree Trimmer

Group 3: Air Tool Operator (Hand Operated); Vibrator or Tamper Operator, Mechanical (hand Operated); Batch Truck Dumper or Cement Handler

Group 4: Chain Saw Operator; Demolition Burning Torch Laborer; Form Setter (curb, walk and pavement)

Group 5: Powderman, Blaster

Group 6: Bituminous Worker (Raker, Luteman)

ZONE 5

Group 1: Bituminous Workers (Dumper, Ironer, Smoother, Tamper, Shoveler, Loader, Utility Man); Concrete Handler; Conduit Layer; Demolition and Wrecking Laborer; Guard Rail Builder; Joint Sawer and Filler (pavement); Landscaper; Multiplate Culvert Assembler; Reinforcing Steel Setter (pavement); Stone Handler; Strike Off Man; Unskilled Laborer

Group 2: Tree Trimmer

Group 3: Air Tool Operator (hand operated); Batch Truck Dumper or Cement Handler; Vibrator or Tamper Operator, mechanical (hand operated)

Group 4: Chain Saw Operator; Demolition Burning Torch Laborer; Formsetter (curb, walk and pavement)

Group 5: Blaster, Powderman

Group 6: Bituminous Workers (Raker, Luteman)

POWER EQUIPMENT OPERATORS

Group 1: Automatic Subgrader; Bituminous Paver or Plant; Central Concrete Plant; Concrete Breaker (heavy); Concrete Mixer-Paver; Crane; Derrick; Dragline; Dredge; Excavator (Side Boom); Grader; Loading Machine (Conveyor); Mechanic or Welder (heavy duty equipment); Milling Machine; Percussion or Rotary Drilling Machine; Pile Driver; Placer-Spreader; Power Shovel; Screed (Bituminous Paver); Slipform Paver; Stabilizing Mixer (self-propelled); Steel Roller (over 5 tons); Tractor (Scraper, Dozer, Pusher, Loader, Endloader, Backhoe); Trench Machine Tube Finisher

Group 2: Concrete Mixer (less than 21 C.F.); Concrete Pump; Steel Roller (5 tons or less)

Group 3: Shouldering Machine

Group 4: Concrete Breaker (light); Concrete Spreader; Curing Machine; Finishing Machine; Launch; Mechanical Float; Roller (Pneumatic tired self-propelled); Subgrader (Form Paving); Tractor (light equipment); Tractor (towing Compactors and light equipment)

Group 5: Fireman; Environmental Burner

Group 6: Air Compressor; Curb Machine; Drilling or Boring Machine (heavy); Generator; Greaser (heavy equipment); Stump Chipper; Tank Car Heater

Group 7: Crusher or Screening Plant; Screed (Milling Machine)

Group 8: Oiler; Percussion or Rotary Drilling Machine Helper; Pump (over 3 inches)

TRUCK DRIVERS

Group 1: Truck Drivers, 2 axle; Mechanics Helper, Truck

Group 2: Truck Drivers 3 or more axles; Euclids or Dumptor units; Mechanics

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

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Part III

Environmental Protection Agency

Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL-2260-2a]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Emission Standards for 1984 Model Year Light-Duty Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rules.

SUMMARY: This action implements section 206(f)(1) of the Clean Air Act, as amended, which requires that 1984 and later model year light-duty vehicles (LDVs) comply with the national emission standards of section 202 regardless of the altitude at which they are sold. More specifically, the statute requires that, beginning in 1984, every vehicle sold in the nation must be equipped with suitable emission control hardware which will *automatically* reduce emissions of hydrocarbon (HC), carbon monoxide (CO), nitrogen oxides (NOx), evaporative HC, and diesel particulate to the requisite levels at both low and high altitudes.

This interim final rule affects 1984 model year LDVs only. Elsewhere in this **Federal Register**, similar provisions are proposed for 1985 and later model year LDVs (Part III of this issue).

Under the rule, certification to the applicable standards is specifically required by all LDVs at both a low- and high-altitude location. The present (1982–83) certification provisions for determining compliance with emission standards at high altitude is being extended for 1984 LDVs. The current low-altitude certification protocols are essentially unaffected by this action. Also, certain low-power vehicles may be exempted from the high-altitude requirements since they are not typically sold at high altitude.

The new program, if continued for 1985 and later years, is expected to provide up to a 3 percent greater improvement in the ambient air quality of high-altitude urban areas than would result from a continuation of the numerically less stringent (i.e., proportional) standards of the 1982–83 high-altitude program. The program is also expected to add about $13–16 to the purchase price of the average vehicle sold nationwide.

DATES: These regulations are effective as of March 21, 1983. EPA will, however, consider comments on this rulemaking which are received within 30 days of the publication of this notice. Comments should be submitted to Public Docket No. A–80–1 at the address provided below.

Note.—Under section 307(b)(1) of the Clean Air Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

ADDRESSES: Copies of the material relevent to this rulemaking are contained in Public Docket No. A–80–1 at the U.S. Environmental Protection Agency, Central Docket Section. The docket is located in West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Wilcox, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668–4390.

SUPPLEMENTARY INFORMATION: OMB Control Number 2000–0390.

I. Background

A. Need for High-Altitude LDV Standards

EPA has found that light-duty motor vehicles which demonstrate compliance with only low-altitude emission standards generally produce about 50 percent more exhaust hydrocarbons (HC) and 100 percent more carbon monoxide (CO) when tested at 5,300 feet above sea level.[1] Also, in most high-altitude urban areas, motor vehicles account for more than half of the total HC emissions and almost all of the CO emissions. The HC emissions in the presence of summer sunlight contribute to numerous violations of the National Ambient Air Quality Standard (NAAQS) for ozone in high-altitude metropolitan areas. Similarly, CO emissions in stable winter atmospheric conditions cause numerous violations of the NAAQS for CO. Although progress is being made in reducing the severity of air pollution episodes in these metropolitan areas, specifically controlling emissions from high-altitude motor vehicles is needed to help assure that the NAAQS for ozone and CO are attained and maintained in the future.

B. Current High-Altitude Program

Currently, EPA regulates the gaseous emissions from 1982–83 light-duty vehicles (LDVs) sold for principal use above 4,000 feet in designated high-altitude locations (45 FR 66984). These emission control regulations were promulgated under the Agency's general authority under section 202(a)(1), (2) of the Clean Air Act (the Act), and are consistent with the guidelines established by Congress for such standards in section 202(f) of the Act.

More specifically, the 1982–83 standards generally require the same percentage reduction in emissions from uncontrolled vehicles at high altitude as that achieved by their counterpart vehicles at low altitude. The result is that high-altitude standards are generally numerically higher than the corresponding low-altitude standards. Also, vehicles may be modified prior to being sold, if necessary, to comply with these standards. The current program also provides exemptions from the high-altitude requirements for certain low-power vehicles which are not normally sold at high altitude. Such exempted vehicles may be sold at low altitude but not at high altitude.

C. Statutory Provisions

For 1984 and later model years, Congress mandated more stringent high-altitude emission controls than were adopted by EPA for the 1982–83 model years. This statutory requirement is contained in section 206(f)(1) of the Act and requires that, beginning in 1984, all light-duty vehicles must meet the applicable emission standards contained in section 202 regardless of the altitude at which they are sold. More specifically, every 1984 and later LDV in the nation must be equipped with self-actuating emission control hardware to achieve standards with the same numerical values *automatically* at both low and high altitude.[2]

In section 206(f)(1) of the Act, Congress clearly intended to bring the benefits of national emission standards to high-altitude areas, and to ensure that

[1] For most conventional vehicles, the amount of fuel metered by the fuel system is dependent on the volume of air entering the combustion chamber. As altitude increases, the same amount of fuel is metered, but the corresponding volume of air which enters the chamber contains less oxygen to support combustion. As a result, the fuel is less completely burned, and HC and CO emissions increase.

[2] Although this rulemaking action implements the statutory high-altitude program in the most reasonable manner possible, EPA continues to believe this Congressional requirement is more burdensome and costly than necessary. There appears to be less expensive alternatives which adequately meet the needs of high-altitude residents. However, it is impossible to implement any of these alternatives without amending the Act.

vehicle models offered for sale in low-altitude areas would be available at higher elevations. Although this requirement may seem straightforward and would become effective even in the absence of implementing regulations, it is in actuality quite complex. Therefore, it is unlikely that all manufacturers would interpret the statutory requirement in the same way. For this reason, EPA is implementing this section of the Act by regulation. These regulations will provide a uniform set of more detailed requirements for all LDV manufacturers and will ensure that the intent of Congress is achieved in an equitable manner. The specific components of this rulemaking are discussed in the following section.

II. Components of the Rule

A. Standards

As previously stated, Congress mandated in section 206(f)(1) that all 1984 and later LDVs must comply with the applicable national emission standards at both low and high altitude. Therefore, emission standards are numerically identical regardless of elevation. The emission standards which are effective for 1984 and later LDVs (these standards were previously effective for only low-altitude vehicles) are summarized in Table 1.

TABLE 1.—EMISSION STANDARDS FOR 1984 AND LATER LIGHT-DUTY VEHICLES

Model	HC[1]	CO[1]	NOx[1]	Evap HC[2]	Part[1,3]
1984	0.41	3.4	1.0	2.0	0.6
1985 and later	0.41	3.4	1.0	2.0	0.2

[1] Grams/mile.
[2] Grams/test.
[3] Only applies to diesel-powered LDVs.

B. Certification Requirements

This rulemaking establishes certification protocols that implement a high-altitude emission control program that is both practical and responsive to the Congressional mandate contained in section 206(f)(1) of the Act. It is important to note that the Agency has carefully designed the all-altitude certification program to complement the already established low- and high-altitude certification protocols. This avoids introducing significant changes which are not necessary into either certification procedure and allows vehicle certification to proceed as normally as possible.

There are essentially four parts to the new requirements: (1) The overall emission control strategy, (2) the altitudes at which compliance demonstration is specifically required, (3) the procedure to be used for demonstrating compliance, and (4) exemptions from the high-altitude requirements. Each of these parts is discussed separately below.

1. *Overall Emission Control Strategy.* In accordance with the statutory requirement that all vehicles must be capable of meeting the applicable standards regardless of elevation, this interim final rule requires that every LDV sold in the nation must be capable of *automatically* controlling emissions to the appropriate levels at both low and high altitude, unless otherwise exempted as discussed below. For simplicity, this philosophy of control is termed a "one-car" strategy since each non-exempted vehicle must comply at both low and high altitude. Accordingly, the special modification of vehicles sold in high-altitude areas, as is currently allowed under the 1982–83 regulations, is not allowed under the Clean Air Act for 1984 and beyond.

2. *Certification Altitudes.* Section 206(f)(1) states that vehicles should meet the national emission standards regardless of where they are sold, but does not specifically identify the altitudes at which certification should be required. While it is possible to interpret the language of this section to require a demonstration of compliance at every elevation, EPA has concluded that this is neither practical nor compelled by the legislative history of the 1977 Amendments to the Clean Air Act. For Example, the Senate Committee Report[3] states that "The committee's intent is to require certification compliance only at a high altitude specified by regulation (presumably 4,000 feet), not at all possible higher altitudes at which a car may be driven."

This rule follows this approach by requiring that compliance be demonstrated at a single low-altitude location (as is currently required) and at a single high-altitude location. (For simplicity, this is refered to as "two-point" certification.) The high-altitude certification point is specified as 5,300 feet to correspond to the elevation at which emission test facilities already exist (Denver, Colorado). However, many high-altitude areas with significant air pollution problems are located below 5,300 feet. The lowest is Salt Lake City, which has an elevation of 4,260 feet. Since EPA is only requiring certification at sea level and 5,300 feet, it is possible that some manufacturers may use a one-step, pressure-sensing device which would automatically set the proper high-altitude calibration (no manual devices may be used) at some elevation below 5,300 feet but above 4,260 feet. This would reduce the benefit of this program for areas such as Salt Lake City. It would also be inconsistent with the previously stated Senate Committee's desire to have emission controls functioning at a certification altitude of "* * * presumably 4,000 feet * * *." Thus, EPA will require that any one-step, high-altitude control must automatically actuate below 4,000 feet. The Agency will make this determination on a case-by-case basis, since any such auxillary emission control device is already required to be fully described in the manufacturer's application for certification. With this requirement, two-point certification responds directly to the intent of Congress, since emissions are controlled in both low-altitude locations and high-altitude locations with significant air quality problems.

As alluded to previously, EPA considered, but rejected, a different interpretation of section 206(f) that would require emission control systems to compensate for *any* change in altitude, including elevations above 5,300 feet. This is certainly a possible reading of the statutory requirement. Nonetheless, given two plausible interpretations of the provision, EPA may reasonably choose the one that best implements Congressional intent and policy objectives. Requiring that vehicles compensate for subtle changes in altitude would add significantly to the cost of these regulations. Such an interpretation could require complex electronic controls or expensive trubochargers on many vehicles sold nationwide. Moreover, this costly approach would result in no additional air quality benefits for the high-altitude areas with air quality problems that Congress sought to protect by enacting section 206(f), since under either approach vehicles will have to meet statutory standards at those altitudes. Accordingly, EPA favored the view of the statute that satisfies Congressional objectives without placing unwarranted and severe burdens on the industry and consumers.

3. *Demonstration of Compliance.* As stated previously, the existing low-altitude certification protocols are essentially unaffected by this all-altitude program. Hence, compliance at low altitude will continue to be demonstrated using the applicable Federal test procedures.

At high altitude, EPA is continuing the certification provisions contained in the 1982–83 high-altitude regulations. These provisions provide manufacturers with

[3] "Report of the Committee on Environmental and Public Works, U.S. Senate," Report No. 95–127, May 10, 1977, available in EPA Docket No. A–80–1.

the option of either using the applicable Federal test procedures to demonstrate compliance with national emission standards at high altitude, or relying on engineering evaluations to determine compliance at high altitude. This latter certification technique is termed "self-certification," and is being provided to allow the use of more efficient methods for demonstrating compliance.[4]

This program is consistent with the President's goal of minimizing the costs of environmental regulations. Also, although self-certification could theoretically increase the risk of certifying some LDVs that do not comply with high-altitude standards, the nonexempt LDVs will be liable for meeting applicable standards while in-use at high altitude and EPA will also continue its emission factor program of testing in-use vehicles at high altitude. Thus, EPA is confident that this increased risk will not result in any air quality degradation in areas above 4,000 feet.

4. *Exemptions.* Based on the legislative history of section 206(f)(1), Congress apparently intended to make all models that are available at low altitude, available at high altitude. The Agency does not believe, however, that Congress wanted this to occur at the expense of forcing some vehicles off the low-altitude market. Stated more simply, EPA believes that Congress intended that the requirement for 1984 and later LDVs contained in section 206(f)(1) have a neutral effect on both low- and high-altitude automobile markets. Unfortunately, as explained below, without exempting certain vehicles from the high-altitude certification requirements, this will not be the case.

For the low-altitude market to be unaffected, it must be true that manufacturers can and will modify *all* of their normal low-altitude models for all-altitude control. Unfortunately, many low-power, high fuel economy vehicles normally marketed at low altitude would have significantly degraded acceleration performance when required to meet the high-altitude requirements and would, therefore, potentially become unsafe when sold and driven at higher elevations.[5] This would be possible because the requisite emission control techniques for all-altitude control for these vehicles would further reduce their performance at high altitude, as documented in EPA's High-Altitude Report to Congress.[6] Given this, manufacturers may decide to certify these high fuel-economy vehicles at high altitude but not offer them for sale, or more likely take them off both markets rather than possibly sell such poor performing vehicles at high altitude. In the first case, this would reduce model availability at high altitude and unnecessarily increase the cost of vehicles at low altitude. In the second case, it would reduce model availability at all altitudes and could have a serious impact on national fuel economy. In neither case would high-altitude air quality nor vehicle availability be improved. In essence, then, there is clearly no benefit to requiring that these vehicles be certified at both low and high altitudes because such a requirement will not only result in a high-altitude penalty, but in a nationwide penalty as well.

It is unlikely that Congress foresaw that strict application of section 206(f) could in fact frustrate the express goals of the provision. The serious impacts that would result from requiring every vehicle to be certified at both low and high altitudes is certainly contrary to Congress' desires to protect model availability at high altitude and to maximize national fuel economy. Additionally, permitting exemptions is not at odds with the statute. The Act requires that LDVs meet applicable standards regardless of the altitude at which they are sold and this rule prohibits the sale of exempted vehicles in high-altitude areas since such vehicles do not comply with the standards at high altitude. (These areas are defined in the current high-altitude regulations.) For these reasons, EPA finds that allowing exemptions from the high-altitude certification requirements for certain low-power vehicles is both proper and necessary.

The exemption provisions contained in this interim final rule use well-known vehicle design parameters or performance measurements to determine which low-power vehicles should have unacceptable performance at higher elevations. If a manufacturer finds it necessary to exempt a particular vehicle from the high-altitude certification requirements based on the performance criteria contained in the regulations, then that particular vehicle may not be marketed in designated high-altitude locations. (These areas are specified in the regulations, and lie above 4,000 feet.) Accordingly, the availability of exemptions will have no adverse effect on air quality in high-altitude areas.

The exemption criteria contained in this action are nearly identical to those included in the 1982–83 high-altitude LDV regulations with two minor differences. First, it was recently brought to EPA's attention that although the performance model used in the 1982–83 performance exemption provision generally is satisfactory, the model could be improved somewhat by simply changing one of the design parameters to reflect a vehicle's maximum power more accurately. Currently, maximum power is assumed to be accurately described by engine displacement. While this is generally true, the analogy is less accurate when gasoline-fueled vehicles, diesel-powered vehicles, and turbocharged versions of these vehicles are evaluated collectively in the performance model, as is presently the case. The various engines used in these vehicles all exhibit different horsepower ratings per unit of displacement. Because of this, some vehicles may not be eligible for exemption when indeed they should be. Therefore, EPA is offering manufacturers the option of using either: (1) The current exemption procedure, which includes the displacement parameter, or (2) a modified form of the current procedure, in which rated horsepower is substituted for displacement. A manufacturer may use only one of the two options in any single model year, however, to avoid the potential of permitting more exemptions than may actually be necessary based on these general models of performance.

Second, in reviewing the need to revise the performance exemption scheme for 1984 and later, EPA also found that even in its modified form, neither of the above performance models will always identify vehicles with unacceptable driveability at high altitude which should be eligible for exemption if the manufacturer should so choose. This is especially apparent if a vehicle with unacceptable performance would be eligible for exemption under one of the options, but cannot in fact be exempted because of the limitation on using one exemption option in any model year.

To deal with these instances, EPA is implementing a test procedure with which a manufacturer can actually measure the acceleration performance of a vehicle to determine if it is eligible for exemption. Under the test procedure, any vehicle with poorer performance (i.e., longer acceleration time) at high altitude than the manufacturer's worst performing vehicle at low altitude can be exempted. This test procedure may

[4] Self-certification was first established for 1982–83 model year vehicles at high altitude (46 FR 23053). The reader should refer to that reference for additional detail.

[5] When a vehicle is driven at higher elevations, the air it consumes is less dense due to its lower atmospheric pressure. As the air becomes less dense, less oxygen is available in a given volume of air to combine with fuel and produce power.

[6] Available for review in EPA Docket No. A–80–1.

be used in conjunction with either of the performance models described previously.

Under the current 1982–83 exemption provisions, manufacturers exempted about 4 percent of their total projected high-altitude LDV sales. Since the standards contained in this interim rule are more stringent than the 1982–83 high-altitude standards, the number of exemptions could increase somewhat for 1984. Based on experience with the current program, however, the Agency believes that the number of projected sales which manufacturers will exempt in the 1984 model year should not be much greater than about 5 percent of total high-altitude sales, even with the changes in the performance exemption procedures.[7]

The Agency is also establishing an additional requirement as part of the exemption procedure for 1984, which was not part of the 1982–83 provision, to ensure that all models certified for sale at low altitude are also certified for sale at higher elevations. Specifically, as a condition for exempting a particular vehicle, the manufacturer is required to certify for sale at both low and high altitude at least one version of that vehicle's "model type."[8] Additionally, for those model types with manual transmissions, the manufacturer must certify, at both altitudes, at least one version of each transmission configuration (excluding differences due to the presence of overdrive).[9] Even with these additional model type requirements, a manufacturer will have enough flexibility to design a vehicle configuration of the exempted model with acceptable performance at high altitude, while still meeting the applicable emission standards.

Even though a manufacturer could certify one configuration of a model type and then not sell that vehicle at high altitude, EPA believes that the expenditure of resources to develop and certify such a vehicle will result in it being offered for sale in high-altitude areas. As a practical matter, therefore, this additional requirement should make all of the "models" available to high-altitude dealers that are available at low altitude, with only certain configurations of each model being unavailable.

[7] "High-Altitude Sales Exemptions for Light-Duty Vehicles and Light-Duty Trucks," available for review in EPA Docket No. A–80–1, U.S. EPA, OANR, OMS, ECTD/SDSB, October 1982.

[8] As defined in 40 CFR Part 86.078–2, a model type is basically a unique combination of car line, basic engine, and transmission class.

[9] As defined in 40 CFR Part 86.078–2, and for the purposes of this regulation, a transmission configuration is basically the number of forward gears

III. Issues Affecting the Rulemaking

A. *Technical Feasibility*

The Act does not require that EPA find the requirements of section 206(f)(1) to be technically feasible, since Congress mandated the implementation of this section. In any event, the requirements established by this interim final rule are technically feasible, This determination is based on the detailed analyses of various high-altitude control scenarios contained in the High-Altitude Report to Congress[6]. Specifically, the Agency expects that manufacturers will generally equip non-electronically controlled LDVs, i.e., those that are not computer controlled, with pressure-sensing devices (aneroids) to change engine calibrations automatically in response to changes in elevation. Electronically controlled LDVs, which would already have some capability to respond to changes in elevation, will generally require an expansion of their electronic capabilities and the addition of pressure-sensing devices (manifold absolute pressure sensors and aneroids) in order to achieve the applicable standards at both low and high altitudes. In most cases, the Agency expects that diesel-powered LDVs will not require any emission control hardware to comply with the applicable particulate standards at high altitude beyond that necessary for HC control, as described above.

B. *Economic Impact*

Based on the emission control hardware described above and on the detailed analyses contained in the High-Altitude Report to Congress[6], EPA estimates that by adopting these rules for 1984 and later LDVs, the purchase price of the average LDV sold nationwide will increase by about $13–$16, or 0.12–0.15 percent. From a national perspective, the aggregate 5-year cost of this mandated emission control program is estimated at $263–$325 million (expressed in 1981 dollars discounted at 10 percent per annum to 1984).

C. *Environmental Impact*

This mandated emission control program should not affect the emissions from LDVs at low altitude. At high altitude, however, an environmental benefit will occur (refer to the High-Altitude Report to Congress[6] for details). By adopting these regulations for 1984 and later LDVs, emissions of HC and CO at high altitude will be reduced by 9 percent and 31 percent, respectively, beyond that which would have resulted from a continuation of the 1982–83 program. These emission reductions will reduce ozone levels in high-altitude urban areas by up to 1 percent, while CO levels in these areas will be reduced by up to 3 percent. The particulate emissions from diesel-powered LDVs sold and driven at high altitude will also be reduced. However, this reduction could not be quantified due to lack of data on the particulate emissions of high-altitude vehicles.

D. *Leadtime*

The statutory requirements contained in section 206(f)(1) would be effective beginning in the 1984 model year regardless of whether or not EPA issued implementing regulations, and the Agency is aware that manufacturers have already begun development programs to respond to the Congressional requirement. The issuance of these regulations serves more to clarify the specific requirements of section 206(f)(1), ensuring that all manufacturers are operating under the same set of requirements. Since the program contained in this action is consistent with Congressional intent and implements the statutory requirements in a practical and reasonable manner, there should certainly be adequate time available for manufacturers to adjust the high-altitude control strategy they had presumed would be required to the details of these regulations.

E. *Selective Enforcement Auditing (SEA)*

The Agency is continuing its policy of forgoing SEA testing at high-altitude locations. Therefore, when EPA conducts an SEA of an "all-altitude" configuration, i.e., a vehicle that has been certified at both low and high altitudes, the Agency will require testing only under low-altitude conditions. If EPA subsequently revokes or suspends a certificate of conformity as a result of this testing, such revocation or suspension will apply to that vehicle configuration regardless of the altitude at which it might be sold or used.

When a manufacturer has been granted a performance exemption for a configuration designed principally for use at low altitude, EPA will require SEA testing only under low-altitude conditions. However, in addition to satisfying SEA requirements, each exempted configuration must have certified at least one corresponding all-altitude configuration of the same model type. Thus, revocation or suspension of a certificate of conformity by the Administrator for an all-altitude configuration will result in suspension of the certificate of conformity for any

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corresponding exempted configuration of the same model type, unless another corresponding all-altitude configuration remains covered by the certificate.

Legal Authority: Statutory authority for this interim final rule is provided by sections 206(f)(1) and 301(a) of the Clean Air Act [42 U.S.C. 7525 and 7601]. Section 206(f)(1) of the Act provides that "[a]11 light-duty vehicles and engines manufactured during or after model year 1984 shall comply with the requirements of section 202 of this Act regardlese of the altitude at which they are sold." Section 301(a) provides, in part, that "the Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act."

Public Participation: This rule is, in principal part, an interpretive rule providing the Agency's view of the proper reading of section 206(f)(1). Therefore, those portions of the rule do not need to be proposed prior to promulgation. To the extent that other provisions in the rules are not merely interpretive, the Agency finds that good cause exists for omitting as unnecessary, impracticable, and contrary to the public interest a notice of proposed rulemaking. This finding is based on the fact that these rules implement a statutory requirement that would become effective even in the absence of these regulations. Therefore, this action essentially does not implement any new requirement, but merely provides a uniform set of guidelines which are consistent with the existing statute.

It is also essential that these rules be promulgated via an interim final rulemaking so that manufacturers will have adequate time to certify and produce vehicles for the 1984 model year. There is simply not enough leadtime available for issuing a notice of proposed rulemaking for the 1984 model year prior to publishing final rules, without seriously disrupting the production schedules which many manufacturers are irreversibly committed to. Such a disruption could seriously affect the economic health of the entire industry. Issuing these rules for the 1984 model year via an interim final rulemaking should avoid such a serious problem. Elsewhere in today's **Federal Register**, EPA is proposing and soliciting comments on extending these provisions to the 1985 and later model years, although as explained above, notice and comment on the interpretive portions of the rules are not required.

The Agency will consider comments on all aspects of this rule which are received within 30 days after publication of this notice. If, as a result of these comments, amendments to the regulations are needed, EPA will initiate the rulemaking process to implement the appropriate changes.

Please submit written comments to: United States Environmental Protection Agency, Central Docket Section (A–130), Attn: Docket No. A–80–1, Waterside Mall, West Tower Lobby, Gallery I, 401 M Street SW., Washington, D.C. 20460.

The docket may be inspected between 8:00 a.m. and 4:00 p.m., Monday through Friday. A reasonable fee may be charged for copying service.

Administrative Designation: Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it has an annual effect on the economy of less than $100 million and it involves no significant adverse effect on competition, productivity, investment, employment, or innovation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Effect on Small Entities: The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires that EPA certify that its regulations do not have a significant impact on a substantial number of small entities. Small entities potentially affected by this regulation include the automobile dealerships selling LDVs throughout the nation. These dealerships could potentially be adversely affected in two ways. One, the price of a LDV could increase to the point of reducing sales. Two, the availability of certain vehicle configurations could be eliminated, again reducing sales.

EPA has designed these regulations to ensure that neither situation occurs. The cost of these regulations has already been described and should not adversely affect sales to any significant degree. Also, the existence of the performance-based exemption and the associated requirement to certify at least one "model type" for the high-altitude market should maximize model availability at all elevations. Therefore, I certify that this regulation does not have any significant impact on small entities.

Impacts on Reporting Requirements: Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 U.S.C. 3501 et seq., and have been assigned OMB control number 2000–0390.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: February 9, 1983.

Anne M. Gorsuch,

Administrator.

PART 86—[AMENDED]

For the reasons set forth in the preamble, Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. A new § 86.084–8 is added to read as follows:

§ 86.084–8 Emission standards for 1984 and later model year light-duty vehicles.

(a)(1) Exhaust emissions from 1984 and later model year light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 0.41 gram per vehicle mile (0.255 gram per vehicle kilometer);

(ii) *Carbon monoxide.* 3.4 grams per vehicle mile (2.11 grams per vehicle kilometer);

(iii) *Oxides of nitrogen.* 1.0 gram per vehicle mile (0.62 gram per vehicle kilometer) except that oxides of nitrogen emissions from light-duty diesel vehicles of the following 1984 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Standard (gpm)
General Motors Corp	5.7 liter (L)	1.5
	1.8L	1.5
	4.3L	1.5
	EF–C	1.5
BL Cars, Ltd	2.4L–TC	1.5
	3.6L–TC	1.5
Daimler-Benz	2.4L	1.25
	2.0L	1.5
	3.0L-turbocharged (TC)	1.5
AB Volvo	2.4L naturally aspirated (NA)	1.5
	2.4L turbocharged (TC)	1.5
Peugeot	XD2S/XD3S–TC	1.5
	2.3L–NA–XD2C	1.2
	1.9L–NA–XUD9	1.5
Volkswagen AG	1.6L–NA–2250 pound inertia weight class (IW)	1.3
	2.0L–NA	1.5
	1.6L–TC–2250–IW	1.3
	1.6L–TC–2500–IW	1.4
	2.0L–TC	1.5
	1.6L–NA–2750–IW	1.4
	1.6L–NA–2500–IW	1.4
	1.6L–TC–2750–IW	1.4
Nissan Motor Co	2.8L	1.5
	XM1	1.5
Isuzu Motors, Ltd	1.8L	1.5
Chrysler Corp	1.9L–NA	1.5
Ford Motor Co	2.4L–TC	1.5
BMW	2.4L–TC	1.5
Renault	2.0L	1.5

(iv) *Particulate emissions* (diesels only). 0.60 gram per vehicle mile (0.373 gram per vehicle kilometer).

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(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(b) (1) Fuel evaporative emissions from 1984 and later model year gasoline-fueled light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 2.0 grams per test.

(2) The standards set forth in paragraph (b) (1) of this section refer to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1984 and later model year gasoline-fueled light-duty vehicle.

(d) [Reserved]

(e) [Reserved]

(f) [Reserved]

(g) Any 1984 model year light-duty vehicle that a manufacturer wishes to certify for sale shall meet the emission standards under both low- and high-altitude conditions as specified in § 86.082–2, except as provided in paragraph (h) of this section. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. Any emission control device used to meet emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(h) The manufacturer may exempt 1984 model year vehicles from compliance at high altitude with the emission standards set forth in paragraphs (a) and (b) of this section if the vehicles are not intended for sale at high altitude and if the requirements of paragraphs (h) (1) and (2) of the section are met.

(1) A vehicle configuration shall only be considered eligible for exemption if the requirements of either paragraph (h) (1) (i), (ii), or (iii) of this section are met.

(i) Its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle-speed ratio (N/V)) fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(A) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the equivalent vehicle test weight expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crankshaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(B) The product line is then defined by the equation, $N/V = C(D/W)^{0.9}$, where the constant, C, is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graphs.

(C) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.9}$, where the constant, C is the same as that found in paragraph (h)(1)(i)(B) of this section.

(D) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(ii) Its design parameters fall within the alternate exempted range for that manufacturer that year. The alternate exempted range is determined by substituting rated horsepower (hp) for displacement (D) in the exemption procedure described in paragraph (h)(1)(i) of this section and by using the product line $N/V = C(hp/W)^{-0.9}$.

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure, J 245, or any subsequent version of that test procedure.

(B) No exemptions will be allowed under paragraph (h)(1)(ii) of this section to any manufacturer that has exempted vehicle configurations as set forth in paragraph (h)(1)(i) of this section.

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 to 40 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The procedure to be followed in making this determination is:

(A) The manufacturer shall list the vehicle configuration and acceleration time under low-altitude conditions of that vehicle configuration which has the highest acceleration time under low-altitude conditions of all the vehicle configurations it will offer for the model year in question. The manufacturer shall also submit a description of the methodology used to make this determination.

(B) The manufacturer shall then list the vehicle configurations and acceleration times under high-altitude conditions of all those vehicle configurations which have higher acceleration times under high-altitude conditions than the highest acceleration time at low altitude identified in paragraph (h)(iii)(A) of this section above.

(2) A vehicle shall only be considered eligible for exemption if at least one configuration of its model type (and transmission configuration in the case of vehicles equipped with manual transmissions, excluding differences due to the presence of overdrive) is certified to meet emission standards under low- and high-altitude conditions as specified in paragraphs (a) through (g) of this section. The Certificate of Conformity (the Certificate) covering any exempted configuration(s) of a model type will also apply to the corresponding non-exempt configuration(s) required under this subparagraph. As a condition to the exemption, any suspension, revocation, voiding, or withdrawal of the Certificate as it applies to a non-exempt configuration for any reason will result in a suspension of the Certificate as it applies to the corresponding exempted configuration(s) of that model type, unless there is at least one other corresponding non-exempt configuration of the same model type still covered by the Certificate. The suspension of the Certificate as it applies to the exempted configuration(s) will be terminated when any one of the following occur:

(i) Another corresponding non-exempt configuration(s) receive(s) coverage under the Certificate; or

(ii) Suspension of the Certificate as it applies to the corresponding non-exempt configuration(s) is terminated; or

(iii) The Agency's action(s), with respect to suspension, revocation, or voiding of the Certificate as it applies to the corresponding non-exempt configuration(s), is reversed.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (h) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

2. Section 86.084–24 is amended by revising paragraphs (b)(1)(v)(B)(*1*) and (b)(1)(viii)(B)(*1*) to read as follows:

§ 86.084–24 Test vehicles and engines.

* * * * *

(b) * * *

(1) * * *

(v) * * *

(B) * * *

(*l*) that all light-duty vehicles not exempt under § 86.084–8(h) comply with the emission standards at high altitude; and

* * * * *

(viii) * * *

(B) * * *

(*l*) that all light-duty vehicles not exempt under § 86.084–8(h) comply with the emission standards at high altitude.

* * * * *

3. Section 86.084–26 is amended by revising paragraphs (a)(3)(i)(B), (a)(3)(i)(C), (a)(3)(ii)(B), and (a)(3)(ii)(C), and by adding paragraphs (a)(3)(i)(D) and (a)(3)(ii)(D), as follows:

§ 86.084–26 Mileage and service accumulation; emission requirements.

* * * * *

(a) * * *

(3) * * *

(i) * * *

* * * * *

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.084–24(b)(1)(v) or (b)(1)(viii) shall be conducted at the mileage at which the engine-system combination is stabilized for emission testing under high-altitude conditions.

(C) Exhaust and evaporative emissions tests for emission-data vehicle(s) selected for testing under § 86.084–24(b)(1) (i), (ii), (iii), (iv), or (vii)(B) shall be conducted at the mileage at which the engine-system combination is stabilized for emission testing under low-altitude conditions.

(D) For each engine family, the manufacturer will select one vehicle previously selected under § 86.084–24(b)(1)(i) through (b)(1)(iv) to be tested under high-altitude conditions. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications.

(ii) * * *

* * * * *

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.084–24(b)(1)(v) shall be conducted at the mileage at which the engine-system combination is stabilized for emission testing under low-altitude conditions.

(C) Exhaust and evaporative emission tests for emission-data vehicle(s) selected for testing under § 86.084–24(b)(1)(i) through (iv) shall be conducted at the mileage at which the engine-system combination is stabilized for emission testing under low-altitude conditions.

(D) For each engine family, the manufacturer will select one vehicle previously selected under § 86.084–24(b)(1)(i) through (b)(1)(iv) to be tested under high-altitude conditions. Vehicles shall meet emission standard under both low-altitude and high-altitude conditions without manual adjustments or modifications. In addition, any emission control device used to conform with the emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

4. Section 86.084–35 is amended by revising paragraphs (a)(1)(iii)(D) and (a)(1)(iii)(F), as follows.

§ 86.084–35 Labeling.

* * * * *

(a) * * *

(1) * * *

(iii) * * *

* * * * *

(D) Engine tune-up specifications and adjustment, as recommended by the manufacturer, including but not limited to idle speed(s), ignition timing, the idle air/fuel mixture setting procedure and value (e.g., idle CO, idle air/fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any should be in operation.

* * * * *

(F) A statement, if applicable, that the vehicle has been exempted from compliance with the emission standards at high altitude as specified in § 86.084–8(h), that its unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude, and as a consequence, the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude.

* * * * *

[FR Doc. 83–4009 Filed 2–17–83; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL-2260-2b]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines Emission Standards for 1985 and Later Model Year Light-Duty Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation would implement section 206(f)(1) of the Clean Air Act, as amended, for 1985 and later model year light-duty vehicles (LDVs). Under the statute, all 1984 and later model year LDVs must meet the national emission standards, regardless of the altitude at which they are sold. The regulation being proposed here for 1985 and later model years is identical to that being promulgated elsewhere in this **Federal Register** for the 1984 model year [See the preceding document in this Part III of this issue.]. Anyone desiring to review and comment on this proposal should refer to that interim final rulemaking for further information.

DATES: EPA will hold a public hearing on this action in Denver, Colorado, 30 days or more after this Notice of Proposed Rulemaking is published in the **Federal Register**. The public hearing will convene at 9:30 a.m. and adjourn when the business of the hearing has been completed. Written comments will be accepted for a period of 30 days following the close of the hearing. The exact date of the hearing will be announced in a future issue of the **Federal Register**.

ADDRESSES: The exact location of the public hearing will be announced in a future issue of the **Federal Register**. Written comments, other than those submitted directly at the hearing, should be submitted (preferably 4 copies) to: Central Docket Section (A–130), U.S. Environmental Protection Agency, Docket No. A–80–1, 401 M Street, SW., Washington, D.C., 20460. Docket No. A–80–1 is located in the U.S. EPA, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays. As provided in the 40 CFR Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Wilcox, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105 (313) 668–4390.

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000–0390.

I. Public Participation

Any persons desiring to make a statement at the hearings should provide written notice of such intention to the Agency contact indicated above by March 10, 1983. This notice should include an estimate of the length of testimony and any need for audio-visual equipment. If possible, EPA requests that an advance copy of the proposed statement or material be included. The Agency also suggests that approximately 30 copies be brought to the hearings for distribution to the audience.

The record of the hearings will be left open for 30 days following the close of the hearings to allow submission of rebuttal and supplementary information. Any documents submitted during this period should be sent to the EPA central docket section at the address shown above (Docket No. A–80–1). It is also requested, but not required, that a copy of this submittal be sent directly to the Agency contact indicated above.

Commenters desiring to submit proprietary information should segregate that information from other comments to the greatest extent possible, and label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the Agency contact indicated above, and not to the Docket, to ensure that proprietary information is not inadvertently placed in the public docket.

Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the information when it is received by EPA, it may be made available to the public without further notice to the commenter.

Mr. Richard D. Wilson is hereby designated as the Presiding Officer of the hearing. The hearing will be conducted informally. Technical rules of evidence will not apply. A written transcript of the hearing will be taken. Anyone desiring to purchase a copy of the transcript should make arrangements individually with the court reporter recording the hearing.

II. Authority

Statutory authority for this proposal is provided by sections 202, 206, and 301 of the Clean Air Act [42 U.S.C. 7521, 7525, and 7601].

Administrative Designation: Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The proposed regulation is not major because it would have an annual effect on the economy of less than $100 million as described elsewhere in this **Federal Register** (preceding document in this Part III), and it would not have any significant adverse effect on competition, productivity, investment, employment, or innovation.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Effect on Small Entities: The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires that EPA certify that its regulations do not have a significant impact on a substantial number of small entities. Small entities potentially affected by this proposed regulation include the automobile dealerships selling LDVs throughout the nation. These dealerships could potentially be adversely affected in two ways. One, the price of a LDV could increase to the point of reducing sales. Two, the availability of certain vehicle configurations could be eliminated, again reducing sales.

EPA has designed this proposed regulation to ensure that neither situation would occur. The cost of this regulation is described elsewhere in this **Federal Register** (preceding document in this Part III) and should not adversely affect sales to any significant degree. Also, the existence of the performance-based exemption and the associated requirement to certify at least one "model type" for the high-altitude market would maximize model availability at the elevations. Therefore, I certify that this proposed regulation does not have any significant impact on small entities.

Impacts on Reporting Requirements: Information collection requirements contained in this proposed regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 U.S.C. 3501 et seq., and have been assigned OMB Control Number 2000–0390.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: February 9, 1983.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83–4011 Filed 2–17–83; 8:45 am]

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Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

Guidelines for Fishery Management Plans

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 602

[Docket No. 21130-240]

Guidelines for Fishery Management Plans

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA is revising the national standard guidelines for fishery conservation and management issued in July 1977 under the Magnuson Fishery Conservation and Management Act (the Act). The seven national standards of the Act represent statutory criteria and principles with which all fishery management plans (FMPs) must be judged consistent by the Secretary of Commerce. The Act requires the Secretary to issue guidelines based on the national standards to assist in the development and review of FMPs, their amendments, and regulations. Review and revision of the 1977 guidelines was needed to update and codify them to reflect current Secretarial interpretations and several years of operational experience in resolving fishery management issues. The guidelines are designed to improve the quality of FMPs by providing clearer, more comprehensive guidance and to produce a more uniform understanding of the Secretary's basis for FMP review and implementation.

DATE: Effective February 18, 1983.

FOR FURTHER INFORMATION CONTACT: Daphne White, Office of Fisheries Management, NMFS, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, telephone (202) 634-7218.

SUPPLEMENTARY INFORMATION:

Background

The guidelines NOAA has revised are currently found at 50 CFR 602.2, published on July 5, 1977, at 42 FR 34458. The Environmental Defense Fund (EDF) petitioned the National Marine Fisheries Service (NMFS) in October 1979 to initiate review and revision of all of Part 602. On February 8, 1980, NMFS granted the petition, in part, and issued an Advance Notice of Proposed Rulemaking (ANPR). The ANPR solicited comments on only those portions of the petition related to the national standards (Section 602.2), and on certain other national standard issues not addressed in the petition for which public comment was also deemed advisable. The ANPR was published at 45 FR 8686.

The major issues identified by the 45 commenters on the ANPR as needing policy clarification included establishment of fishery management objectives and consideration of short- vs. long-term effects of management regimes, and arose from the full range of national standard principles. A series of four regional workshops was held in September 1981, with personnel from NOAA and the Regional Fishery Management Councils, to examine feasibility and to discuss rationale directly with those to be affected. The proposed guidelines—Notice of Proposed Rulemaking (NPR), published on June 23, 1982, at 47 FR 27228—addressed the issues raised as a result of the EDF petition, the ANPR, the workshops, and the written followup comments to the workshops. Excerpts adapted from the NPR preamble and other relevant material providing useful explanatory information are retained as an Appendix to this publication.

Overview of Issues and Rational

Eighteen comments were received from outside NOAA: four Regional Fishery Management Councils (Councils), six State marine resource divisions, three commercial fishing interest associations, one environmental group, and four regional/Federal commissions/agencies. Four Councils wrote to say they had no further comments. Five issue areas continued to provoke serious comment: multi-species management, overfishing, achievement of OY, limited access, and the role of the Councils. The same generalizations may be applied regarding the approach of the commenters to the NPR as were made concerning the public response to the ANPR: industry generally supported flexibility and decentralization of fishery management decisions, while environmentalists favored more centralized direction. Many of the suggested changes were primarily editorial in nature, speaking to the need for clarification or further illustration. In general, NOAA's response was: (a) To maintain policy positions since they had been derived, for the most part, from decisions reflected in approved FMPs and discussed widely at the workshops, (b) to balance opposing points of view, and (c) to clarify the ambiguities. Many of the changes in the final guidelines are, in fact, refinements and clarifications, and as such are not necessarily addressed individually in the body of the comments and response section.

The statutory language of each standard is presented as paragraph (a) under the appropriate section of the guidelines.

Comments and Response

Section 602.2 Style Guide

1. Comment: Three commenters wanted definitions added to this section, to cover "maximum biological yield," "maximum economic yield," and "growth, localized, pulse, and economic" overfishing. The definition of "must" concerned five commenters, with objections centering on including "logical extension" (of the Act), and "national policy."

Response: NOAA did not add any of these definitions; changes were made in the definition of overfishing designed to make the meanings better understood (discussed under 602.11(d)(1)). Explanations of some of the overfishing descriptors are in the Appendix. NOAA retained "logical extension" as the essence of what interpretive guidelines do; every use of the word "must" was reviewed and five were changed. Reference to "national policy" was deleted.

Section 602.10 General

2. Comment: One commenter felt that any discussion of fishery management objectives in the guidelines was inappropriate because objectives are not mentioned in the Act.

Response: 602.10(b) and 602.11(e)(1) were retained because NOAA believes the establishment of objectives is central to the application of the national standards. Management measures cannot be judged except as they are directed to the achievement of an objective; the objectives of each FMP provide the context within which the Secretary judges consistency with the standards, the Act, and other applicable law.

Section 602.11 Standard 1

Overview

All but two of the commenters had things to say about this standard, in 38 separate suggestions. Comments were directed to the specific paragraph headings: (c) MSY, (d) Overfishing, (e) Specification of OY, (f) OY as a target, and (g) OY and foreign fishing. Most of them, however, can be aggregated under the two broad policy categories of the standard: Overfishing and achievement of OY. The comments and responses are grouped under these broader classifications, with appropriate reference to specific individual paragraph headings and numbers as necessary. Many of the comments focused on the need for clarification or

further explanation; all of these were taken into account, and appropriate changes were made but may not be cited individually in the preamble. Some of the commenters questioned NOAA's use of the terms "may," "should," and "must." All of these were reviewed, the usage was reevaluated and appropriate changes were made, but they are likewise not necessarily addressed individually. The preamble discussion centers, rather, on significant areas of disagreement among the commenters themselves, and disagreement of the commenters with NOAA's approach.

Overfishing

3. Comment: Four commenters expressed concern about the phrase "maintain or recover to" in the definition of overfishing (602.11(d)(1)), although from opposite perspectives. Two suggested deleting "maintain or"; two suggested deleting "or recover to." The problem is that using the two verbs together can be interpreted to define two separate stock levels: One, the level at which a stock can no longer produce maximum biological yield (MBY); the other, the level at which a stock can no longer recover to the level where it can produce MBY. The conflicting views of the commenters arise from two related questions: Degree of Council discretion, and degree of stock protection that should be required.

Response: NOAA agrees with the two commenters who favored deleting "maintain or," and believes that this change more clearly reflects the intent of the Act since jeopardizing the capacity of a stock to recover to MBY could be considered akin to the "irreversible damage" referred to in its legislative history. MBY would thus not necessarily be a goal; rather, the goal is the prevention of a stock's reaching a point where recovery to that level is not possible. While NOAA shares the concern of the two other commenters about the potential for targeting fisheries on depleted stocks, it believes that a ban on jeopardizing the capacity to *maintain* a level at which the stock can produce MBY goes beyond the intent of the Act. NOAA believes that, within the "irreversible damage" limits, it is up to the Councils to define allowable levels of impact on depressed stocks. "Capacity" is the operative word. The "buffer in favor of conservation" concept, favored by environmentalists and others concerned with protection of depressed stocks, is not diminished, because under standard 6 it can be factored into an FMP in a variety of different ways.

4. Comment: One organization questioned the legal basis for adding the non-biological factor "or economic value" to the definition of overfishing.

Response: It was added, at the suggestion of previous commenters and as a result of the workshops, because NOAA believes it is an inseparable concept in evaluating the stock level within which a Council might wish to operate. Maximum economic value could be less than MBY, depending on the market product desired. It is the "capacity" to recover to a maximum physical or economic value that is at issue. Both encompass protection from "irreversible damage" to the stock.

5. Comment: Several commenters challenged NOAA's approach to identifying exceptions to the overfishing prohibition in 602.11(d)(1). One organization argued that the guidelines authorize an open-ended array of extra-statutory exceptions to the prohibition, which in the organization's view constitutes a rewriting of the statute. It acknowledged, however, that the Secretary has the authority to define overfishing in a way that recognizes potentially different meanings in different contexts. The objection appeared the focus on the candid acknowledgement that overfishing of minor components may be an inevitable consequence of multi-species management. The organization offered a complicated substitute definition that allows for essentially the same type of overharvest, but places the concept in what it viewed as a more legal context. Another commenter proposed that the emphasis be placed on the overall management unit, obscuring the fact that overfishing may, in fact, occur on minor components. Two commenters were opposed to allowing any exception to the overfishing prohibition.

Response: NOAA did not change the approach. NOAA believes that, as management regimes become more comprehensive, the interrelationships of fishing pressure on target and nontarget (both major and minor) species will have to be addressed more directly. Unlike the first commenter, NOAA believes that an effective way of forcing an evaluation of the risk of overfishing in mixed-species fisheries is to label it as such, despite the appearance of conflict with the statutory language. NOAA disagrees with the second point of view, which could be perceived to lack concern for individual populations within a management unit. NOAA considers the interpretation of the remaining two commenters—that, in general, the guidelines permit overfishing to occur unless a stock is threatened with extinction—to be based on an ambiguity in the order of the section. NOAA made an editorial change in (d)(1) and in the OY analysis section, (e)(5), designed to clear up any ambiguity. A change was made in the OY factors section, (e)(3)(iii), to highlight the vulnerability of incidental or unregulated species.

6. Comment: Two commenters objected strenuously to the statement in 602.11(d)(4) that an FMP must contain measures to reduce fishing mortality unless it can be shown that reduced fishing pressure would not alleviate the problem. (This section discusses changes in environment/habitat conditions producing the appearance of overfishing.)

Response: NOAA changed "most effective management response" to "the only direct control" to make it clearer that, even if fishing pressure were not the cause of the problem, the Act limits the authority of the Councils in addressing the other causes. NOAA did not mean to "lock the fishery management system into regulating unless it can be proved that the regulations are ineffective." NOAA was trying to convey that when a downward trend is obvious, allowing unregulated levels of fishing pressure to continue assumes a greater-than-normal risk of increasing the stress. NOAA also changed "unless it can be shown" to "unless the Council asserts," a change acknowledging that such judgments are based on elusive evidence, at best, but that the national interest compels examination of the issue.

Achievement of OY

7. Comment: Three respondents commented on the relationship between exceeding OY and overfishing as expressed in 602.11(f)(2). The first did not understand how standard 1 could be violated if overfishing does not occur; the second wanted it made clear that exceeding OY was, in fact, overfishing; the third noted that exceeding OY would coincide with overfishing, except in the case of underutilized species or where allocations to users take precedence over conservation objectives.

Response: No change was made. NOAA believes it is important to keep the distinction clear between the two separate parts of standard 1: the directive is to prevent overfishing, and to achieve OY. Earlier working drafts of the guidelines had been organized to reinforce the separation of the two ideas. The proposed rule was reorganized, however, to respond to the direction of the workshop discussion and written comments, such that overfishing became an intrinsic limitation on OY—built into the OY

determination but maintaining a separate identity as a prohibition. For example, exceeding OY does not constitute overfishing when the fishery is not depressed. On the other hand, exceeding OY may constitute overfishing when the margins of tolerance are low. (Buffers to protect against overfishing because of uncertainty in estimating stock size or domestic harvest may be established in the form of reserves or a reduced OY.) Whether exceeding OY is overfishing is a separate issue from continual harvest at a level above a fixed-value OY. The latter violates the other half of the standard (which is to achieve OY), whether or not overfishing is the result.

8. Comment: One commenter proposed language that touched on this question from the OY rather than the overfishing standpoint—add "on a continuing basis" at the end of the second sentence of 602.11(f)(1).

Response: No change was made. NOAA believes that the Act requires an attempt to be made to achieve OY on an annual basis year after year, although it recognizes this won't always happen. NOAA believes that the proposed language obscures the "annual" part of the continuing obligation, and that the change would dilute the strength of (f)(2), where the distinction between exceeding OY and overfishing is described. Standard 1 may be violated from either side of the OY equation—if the level of harvest is continually above, or below, a fixed-value OY.

9. Comment: Several commenters expressed concern about different aspects of constructing multi-species management regimes, indicating that more guidance was needed.

Response: NOAA made several changes that address this problem. In 602.11(c)(1), the MSY section, this sentence was inserted: "One MSY may be specified for a related group of species in a mixed-species fishery." By making this change, NOAA intends to convey that if it is not possible or desirable to specify a separate MSY for each stock in the fishery, it is acceptable to specify one MSY for a group of related species. In 602.11(e)(3)(iii), the ecological factors in determining OY section, NOAA substituted "the vulnerability of incidental or unregulated species in a mixed-species fishery" for "the nature of a mixed-species fishery", and added "or competitive interactions". NOAA also added, at the end of 602.11(e)(4): "In the case of a mixed-species fishery, the incidental species OY may be a function of the directed catch or absorbed into an OY for related species." NOAA believes that these additions clarify and draw attention to the complex decisions that must be faced in multi-species management.

10. Comment: In 602.11(e)(3)(i), the economic factors in determining OY section, one commenter wanted to delete reference to improvement in the U.S. balance of trade as being beyond the scope of Council authority.

Response: NOAA agrees with the commenter, and deleted the reference.

11. Comment: Two commenters wanted to change "must" to "should" in 602.11(e)(4)(iv), the form of OY specification section, each for different reasons. Another wanted to add at the end of the first sentence, "it must be so converted".

Response: Upon reexamination, NOAA found that "must" had been used in this section in a way that was inconsistent with the 602.2 definition. The sentence was accordingly changed to read: "The OY specification can be converted into an annual numerical estimate to establish the TALFF and * * *" The third commenter's suggestion was felt to be unnecessary; in those cases when a TALFF is calculated, it is so converted in the FMP. The language here is meant to be descriptive.

12. Comment: Four commenters raised recurring questions concerning OY and foreign fishing, (section 602.11(g)). Section 201(d) of the Act provides that fishing by foreign nations is limited to that portion of the OY that will not be harvested by vessels of the United States (OY minus DAH). Three commenters took exception to the guideline statement that the achievement of OY under standard 1 requires that foreign fishing vessels be given reasonable opportunity to harvest this surplus (called TALFF, the total allowable level of foreign fishing). One commenter wanted further guidance on what conditions or situations would allow Councils to adjust OY so as to minimize or completely prevent any allocation of surplus beyond U.S. estimated annual harvest. One wanted it expressly stated that Councils may set OY equal to DAH, effectively preventing this allocation.

Response: No change was made. NOAA believes that achievement of OY includes giving foreign fishing vessels reasonable opportunity to harvest the "surplus" between DAH and OY. There is nothing to preclude Councils from setting OY equal to DAH now, if circumstances warranting it are documented. NOAA has written 602.11(e)(3)(i) to allow international economic considerations to influence the size of TALFF through adjustment of OY.

Section 602.12 Standard 2

13. Comment: One commenter was concerned that 602.12(c), the provision permitting collection of information about harvest within state boundaries if needed for proper implementation of the FMP, might invite excessive data collection.

Response: NOAA added the phrase: "and cannot be obtained otherwise", to avoid duplication of effort. All data collection called for within an FMP must be analyzed under the Paperwork Reduction Act.

14. Comment: One agency expressed concern about estimating human resource requirements and enforcement costs. It felt that some FMPs have not contained sufficient information to be useful, and submitted a list of minimum data required to make realistic assessments of the effort necessary to enforce regulations.

Response: NOAA agrees that the information is needed, but could not fit the specific suggestions into the guidelines framework. The analysis under standard 7 is as responsive as NOAA believes it possible to be in the national standard guidelines; enforcement and administrative costs are both addressed there.

Section 602.13 Standard 3

15. Comment: Two commenters wanted to change "encourage" to "require" in the first sentence of 602.13(b).

Response: "Encourage" was changed to "induce," because while NOAA agrees that a stronger word is appropriate, the standard does not explicitly mandate comprehensive management. It is an implied consequence of the statutory language. The guidelines go on to explain NOAA's interpretation of the term "comprehensive management".

16. Comment: One commenter expressed concern about multi-Council management, disagreeing with the guideline statement that preparation of one FMP should be the preferred course of action when the range of a stock overlaps Council areas.

Response: No change was made. NOAA believes that comprehensive management means every effort should be made to define the broadest possible management unit and to avoid the potential for conflicting management measures being issued by adjacent jurisdictions for a widely ranging stock.

17. Comment: Two commenters addressed the provision in 602.13(d)(2) that a management unit may contain, in addition to regulated species, stocks of

fish for which there is not enough information available to specify MSY and OY or to establish management measures, so that data on these species may be collected under the FMP. One commenter's objection was based on the semantic problem of allowing data collection of unregulated species within the management unit. The other commenter's concern centered on the scope of the permitted data collection on unregulated species, proposing that such efforts be limited to biological and ecological data.

Response: No change was made. The definition of "management unit" is important here: "a fishery or that portion of a fishery identified in an FMP as relevant to the FMP's management objectives." NOAA accepts inclusion within the management unit of those stocks of fish for which there is not enough information to specify MSY or OY or to establish management measures; however, the unregulated portion of the fishery for which data are being collected must have relevance to the objectives of the FMP. Since the specification of OY calls for an evaluation of social and economic data, limiting data collection efforts to biological and ecological information would be counterproductive to an eventual determination of OY.

Section 602.14 Standard 4

18. Comment: One commenter suggested replacing the third sentence in 602.14(b) with: "Conservation and management measures must equitably distribute the conservation burden across all user groups with significant impact on the stock(s)." The commenter also suggested a third example: "An FMP that permitted an ocean salmon fishery on a stock which significantly reduced or precluded inside fisheries on the same stock for conservation needs would violate standard 4."

Response: No change was made. This section deals with discrimination among residents of different States—a separate concept from equity, which is treated under section (c)(3), factors in making allocations. The commenter's concern is adequately addressed there. In addition, NOAA did not want to delete the third sentence, which contains an important point that—under certain conditions—could affect part of the problem identified in the proposed example. The two examples as given, however, illustrate the two points made in section (b).

19. Comment: Under 602.14(b), one commenter questioned whether intent or effect were the critical factor in determining whether discrimination has occurred, citing the examples as unclear on the point.

Response: The examples illustrate that, in fact, Councils have to be cognizant of both. However, the critical question in both examples is not intent or effect, but whether State residence, citizenship, or incorporation determines the result. In example 1, there appears to be both intent and effect. In example 2, the fact that spawning grounds have a physical location, the closure of which disadvantages those that live closest to it (who may or may not be citizens of another State), is not discriminatory in and of itself. If the closure differently affects citizens of different States, the discriminatory effect is incidental because it is not based on State residence. Discrimination is a distinct concept from equity, which is treated under section (c)(3), factors in making allocations.

20. Comment: One commenter questioned the use of the word "deliberate" in the definition of allocation (602.14(c)(1)), in particular reference to perpetuation of existing fishing practices as a deliberate allocation.

Response: No change was made. "Deliberate" is one of the most important operative words in the definition. If an FMP perpetuates existing fishing practices, the Council has made a deliberate and documentable choice among alternatives.

21. Comment: Two commenters proposed inserting "and management" after "conservation" in 602.14(c)(3), factors in making allocations.

Response: No change was made. This section is a paraphrase of the statutory language of standard 4, which does not include the words "and management". It is a lead-in to the fuller explanations of each of the statutory factors to be considered in making allocations.

22. Comment: One commenter believed that it is incorrect to define "conservation" in terms of either social or economic measures; the organization also felt that allocation of fishing privileges is not a conservation and management measure under the Act, and that optimizing yield is not necessarily a conservation measure.

Response: In maintaining its interpretation of that part of standard 4 which requires an allocation scheme to be "reasonably calculated to promote conservation," NOAA is cognizant of the inherent difficulty of rationalizing allocation schemes in those terms. However, NOAA believes the "wise use" sense of conservation to be sensible, within Congressional intent, and consistent with the Act's definition of "conservation and management." Wise use embodies optimizing yield, in the fullest definition of the term. NOAA softened the language in the first sentence of 602.14(c)(3)(ii) to make it clearer that the discretionary provisions of section 303(b), which describes numerous measures having distributive effects, are referred to as conservation and management measures in section 303(a).

23. Comment: One commenter proposed changing "single buyer" to "small groups of buyers" in 602.14(c)(3)(iii), avoidance of excessive shares. The commenter felt this change would conform the standards to accepted economic thought on market concentration.

Response: NOAA revised the section beginning with "under which a single buyer * * *" to read, "fostering inordinate control by buyers or sellers that would not otherwise exist." The exact wording suggested was not used because the term "small groups" is inexact. However, NOAA does recognize that one or a few entities in the market can exert sufficient influence to control the market. It was decided, therefore, to broaden the wording to include the thought that the allocation scheme should not encourate control by one *or more* buyers or sellers, thereby addressing the concepts of monopoly or oligopoly in fishery markets. The phrase "that would not otherwise exist" is a key part of this section. It recognizes that normal market structure can include monopolistic or oligopolistic conditions, particularly in local or regional areas. The phrase indicates only that the result of an allocation scheme should not be to foster greater control by buyers or sellers than that which would occur without the scheme. While reduction in the number of buyers or sellers is not necessarily inconsistent with the national standards, overt action by a Council to concentrate the industry so that market price manipulations could occur would be contrary to the standards.

Section 602.15 Standard 5

24. Comment: One commenter recommended that NOAA reconsider its whole approach to this standard: that instead of defining efficiency in terms of attaining the greatest benefits at the least cost to society, we should define it in terms of the least cost to the individual fisherman. The commenter believed that the guidelines as written prohibit free market action related to investment in fishery activities, and that limitations on the number of vessels

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participating in a fishery bear no relationship to achieving optimum yield except where overcrowding exists.

Response: NOAA did not change its approach. NOAA believes that particular care should be taken when considering management of common property resources—where intensive individual market actions risk the "tragedy of the commons," a concept that comprises damage not only to the individual fisherman, but to the very resource on which he depends. Where there are no property rights, the role of government takes on the dimension of stewardship. NOAA also believes that managing at least cost to society and managing at least cost to the fisherman are not mutually exclusive. NOAA reads standards 5 and 7 together; to minimize costs of regulating also means to minimize costs to the industry of compliance. Section (d)(1) of the standard 7 guidelines is clear: "Management measures should be designed to give fishermen the greatest possible freedom of action in conducting business and pursuing recreational opportunities that are consistent with ensuring wise use of the resource and reducing conflict in the fishery." Finally, NOAA believes its approach does not imply any deterrent to free market action since it does not narrow any Council options. The Appendix expands on this discussion.

25. Comment: One commenter felt that the definition of efficiency (602.15(b)(2)) is too narrow and predetermines the objective. Two commenters proposed changes to indicate that economic efficiency is not always desirable. Two expressed resistance to the linkage between efficiency and conservation.

Response: NOAA added "or desirable" at the end of 602.15(b)(1). This makes it clearer that the level of efficiency to be attained is a judgmental decision. Efficiency should be evaluated along with the statutory policy principles expressed in the other standards. NOAA acknowledges in 602.15(b)(1) that "a goal of promoting efficient utilization of fishery resources may conflict with other legitimate social or biological objectives of fishery management", and again in (b)(2)(ii) that the "use of inefficient techniques or creation of redundant fishing capacity" are acceptable if they contribute to social or biological objectives. NOAA believes the linkage between efficiency and conservation to be valid in the wise use context and compatible with 602.14(c)(3)(ii); it does not automatically exclude resource or social reasons for justifying an inefficient fishery. The Appendix expands on this discussion.

26. Comment: One commenter proposed adding language in 602.15(b) to highlight the fact that the term "utilization" applies to both the commercial and recreational sectors of the industry. The general concern regarding application of guideline provisions to both sectors was expressed several times by this commenter and others.

Response: NOAA added a definition of "industry" in 602.2 to respond to this general concern, and to obviate the need to repeat "commercial and recreational sectors" throughout the guidelines.

27. Comment: Two commenters repeated their recommendations to delete the limited access section (602.15(c)) entirely.

Response: NOAA retained the section. NOAA agrees that limited access is only one tool among many; this point is expanded in the Appendix. However, because limited access is given special treatment in the Act, it was directly addressed in the 1977 guidelines and again in this revision.

28. Comment: Two commenters suggested inserting "and/or conservation" after "efficiency" in the first sentence of 602.15(c). One wanted to add "to distribute fishing effort over time and space, and" before "to combat".

Response: NOAA added "or conservation" as suggested, thus acknowledging explicitly that limited access may have a conservation purpose, rather than subsuming it within the concept of efficiency. It was felt that the second change might add confusion rather than clarification. At the suggestion of the second commenter, a descriptive sentence was added at the end of the section that amplifies the conservation effects: "In some cases, limited entry is a useful ingredient of a conservation scheme, because it facilitates application and enforcement of other management measures."

29. Comment: One commenter proposed to delete reference to units of effort as being confusing, and offered substitute language: "the number of participants in the fishery or to limit the amount caught by each individual participant."

Response: No change was made. NOAA believes the substitute is too limiting since units of effort may encompass people, vessels, types of gear, or other elements that act together to affect the volume of effort. Limiting the amount caught by each individual participant is not what NOAA characterizes as limited access unless the number of participants is also limited.

30. Comment: One commenter objected to the application of 602.15(e), the economic allocation paragraph, to U.S. fishermen only.

Response: While the legislative history of the Act suggests that standard 5 was primarily concerned with promoting efficiency in the U.S. fishing industry, the context and application of the final clause is somewhat obscure. NOAA has not yet been presented with a management measure (as distinguished from an OY specification) whose sole purpose was an economic allocation in favor of U.S. fishermen at the expense of foreign fishermen, or that favored one group of foreign fishermen over another—so that issue has never been squarely resolved. "U.S." was deleted to avoid foreclosing further discussion of the meaning of the clause.

Section 602.16 Standard 6

31. Comment: One commenter was concerned about expansion of the concept of variations to include social and economic occurrences in 602.16(c)(1).

Response: No change was made. This paragraph is primarily descriptive of conditions that may cause variations in "fisheries, fishery resources, and catches." It is a listing of potentially influential factual circumstances.

32. Comment: Two commenters wanted to change "should" to "must" in the second sentence of 602.16(c)(2), which sets forth the provision for a "suitable buffer in favor of conservation."

Response: No change was made NOAA agrees that it is important that this effort be made, which is why four examples are given as to how to do it. However, such a buffer is not mandated. Two standard 1 provisions—allowing for adjustment of MSY prior to determining OY, and strengthening the OY ecological factors—particularly reinforce the standard 6 guidelines in this regard.

33. Comment: One commenter was under the impression that 602.16(2)(ii) permitted establishment of reserves without an amendment to an FMP.

Response: NOAA wishes to clarify that the section permits the establishment of reserves within an FMP for the purposes stated; however, if the FMP has been approved without a provision for reserves, the FMP must be amended to include it.

34. Comment: One commenter proposed substitution of "should" for "may" in 602.16(2)(iv), an example concerning habitat protection that illustrates how allowances for

uncertainties can be factored into an FMP.

Response: The change was not made because examples are descriptive and explanatory rather than advisory or exhortatory. NOAA did, however, change "may" to "should" in the lead-in sentence to the examples, to indicate that such actions were recommended.

35. Comment: One commenter was concerned that a flexible management regime as described in 602.16(d) makes it possible to act quickly without amending the FMP or its regulations. The commenter believed that the Councils should be required to document the action taken under a flexible plan. Another commenter was similarly concerned from the standpoint of achieving a balance between the Councils' primary responsibility for management and the Secretary's responsibility for oversight. The organization stated, "While we want flexible management plans, we do not want any FMP so flexible that the Secretary manages by regulatory fiat or a Council—or its designee—does so by default on the Secretary's part."

Response: NOAA added a clarifying paragraph (602.16(d)(1)) that addresses both problems: the concern about the public's opportunity to challenge the various contingency options and to review the criteria under which they would be used, and the concern about the division of functions between the Council and the Secretary.

Section 602.17 Standard 7

36. Comment: One commenter raised the question of who decides whether a plan is necessary—the Council or the Secretary—under 602.17(b). The question came up in the context of an objection to the provision precluding the need to collect data as an adequate reason for an FMP.

Response: No change was made. NOAA believes that the proposed guidelines allow for less costly ways to gather data than to prepare an FMP for that purpose alone. (See 602.12(c), 602.13(d)(2), and 602.17(b)(2)(vi).) Work plans for such FMPs have been disapproved. Use of the guidelines as supplementary guidance on "other applicable law" was discussed at the workshops; the standard 7 guidelines come as close as is appropriate to providing a bridge to the policies of the National Environmental Policy Act, the Paperwork Reduction Act, Executive Order 12291, and other legislative and executive actions in regulatory reform. The issue of who decides whether management is necessary was also broadly discussed at the workshops. It was agreed that the issue of whether a fishery needs management through regulations implementing an FMP is initially a Council decision; section 602.10(2) makes this clear. The new 602.16(d)(1) also describes the Councils' policy-setting role. NOAA has presented under standard 7 some of the reasons for management through regulation that are consistent with the two requirements of the standard—reducing costs and avoiding duplication. The list of criteria is not inclusive.

37. Comment: One commenter wanted section (b) deleted entirely, as inappropriate. The commenter felt that the criteria are useless because, by the time the guidelines are used, the decision on development of a plan has already been made; if used at all they should be in guidelines for FMP development or the scoping process.

Response: NOAA retained the section. The commenter has pinpointed the very reason for the section. The NOAA Office of General Counsel has interpreted standard 7 to apply to the whole FMP as well as to individual management measures. Initial judgments regarding the objectives of the FMP made with the assistance of the standard 7 criteria will have a better chance of reducing costs and avoiding duplication.

38. Comment: Two commenters proposed additions to the criteria; one commented that, while the individual criteria are unobjectionable, collectively they are so extensive as to make it necessary to prepare FMPs to make the determination.

Response: No change was made. Both suggestions were subsumed within the existing criteria. Individual criteria need not be aggregated to make judgments.

Classification

The amendments to the national standard guidelines are issued in conformity with the Executive Order 12291. The guidelines impose no information collection requests nor paperwork burden on the public under the Paperwork Reduction Act.

Because they produce no direct regulatory impact on the general public, industry, or small business, the Department of Commerce Office of General Counsel certified on May 12, 1982, that the guidelines will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act; thus, no Regulatory Flexibility Analysis is required. The guidelines indicate how NOAA interprets the fishery management principles in the national standards of the Act. They describe a range of acceptable management measures that could be adopted by the Councils, approved by the Secretary, and subsequently translated into regulations. The impact on the public occurs through specific management decisions contained within specific FMPs; until a given FMP is developed, there is no basis for evaluating the consequences of these decisions. Economic impact on small entities is addressed at a later date through RFAs for individual FMPs.

The term "significance" under the National Environmental Policy Act relates to impact on the human environment. Section 1508.14 of the Council on Environmental Quality regulations interprets "human environment" to include "the natural and physical environment and the relationship of people with that environment. This means that economic and social effects are not intended by themselves to require preparation of an environmental impact statement." Amendments to the national standard guidelines do not in themselves affect the human environment. The effect of the guideline amendments on the contents of FMPs is addressed through the requirement for environmental assessments and environmental impact statements. The consequences of specific management measures are addressed in those documents. For these reasons, NOAA determined on July 7, 1980, that an environmental assessment or an EIS is not required for revision of the national standard guidelines.

Explanation of Restructuring

NOAA is restructuring Part 602 by designating subparts to differentiate the subject matter of the guidelines and by renumbering the sections to make them easier to follow. The first phase of this restructuring is a part of this amendment.

List of Subjects in 50 CFR Part 602

Administrative practice and procedure, Fish, Fisheries, Fishing.

Dated: February 14, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 602 is amended as follows:

1. The authority citation for Part 602 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. The Part heading for Part 602 is revised;

Sections 602.1–602.6 are designated as Subpart A;

Sections 602.1 and 602.2 are revised;

Subpart B (Sections 602.10–602.17) is added, as set forth below:

PART 602—GUIDELINES FOR FISHERY MANAGEMENT PLANS

Subpart A—General

Sec.
602.1 Purpose and Scope.
602.2 Style Guide.
* * * * *

Subpart B—National Standards

602.10 General.
602.11 National Standard 1—Optimum Yield.
602.12 National Standard 2—Scientific Information.
602.13 National Standard 3—Management Units.
602.14 National Standard 4—Allocations.
602.15 National Standard 5—Efficiency.
602.16 National Standard 6—Variations and Contingencies.
602.17 National Standard 7—Costs and Benefits.
Appendix A to Subpart B—Explanatory Material.

Subpart A—General

§ 602.1 Purpose and scope.

The Act requires that any fishery management plan or amendment prepared by either the Regional Fishery Management Councils or the Secretary of Commerce, and any regulations issued to implement a fishery management plan or amendment, shall be consistent with seven national standards, the other provisions of the Act, and any other applicable law. Part 602 implements those portions of the Act that pertain to the development, content, submission, amendment, review, and implementation of fishery management plans, and establishes guidelines to assist in achieving the required consistency.

§ 602.2 Style guide.

(a) *Definitions.* The terms used in these guidelines have the meanings that are prescribed in section 3 of the Act. In addition, the following definitions apply:

The Act—the Magnuson Fishery Conservation and Management Act, as amended (U.S.C. 1801 *et seq.*), also known as the FCMA, or the Magnuson Act.

Council—Regional Fishery Management Council, as established by the Act.

Secretary—Secretary of Commerce.

(b) *Abbreviations.*

ABC—acceptable biological catch.
DAH—estimated domestic annual harvest.
DAP—estimated domestic annual processing.
EY—equilibrium yield.
FCZ—fishery conservation zone.
FMP—fishery management plan.
JVP—joint venture processing.
MSY—maximum sustainable yield.
OY—optimum yield.
PMP—preliminary fishery management plan.
TAC—total allowable catch.
TALFF—total allowable level of foreign fishing.

(c) *Word usage.*—(1) *Must* is used to denote an obligation to act; it is used primarily when referring to requirements of the Act, the logical extension thereof, or of other applicable law.

(2) *Should* is used to indicate that an action or consideration is strongly recommended to fulfill the Secretary's interpretation of the Act, and is a factor reviewers will look for in evaluating an FMP.

(3) *May* is used in a permissive sense.

(4) *May not* is proscriptive; it has the same force as *must not*.

(5) *Will* is used descriptively.

(6) *Shall* is not used at all, except when quoting the statutory language of each standard. "Must" is used instead of "shall" to avoid confusion with the future tense.

(7) *Could* is used when giving examples, in a hypothetical, permissive sense.

(8) *Can* is used to mean "is able to," as distinguished from "may."

(9) *Examples* are given by way of illustration and further explanation. They are not inclusive lists; they do not limit options.

(10) *Analysis*, as a paragraph heading, signals more detailed guidance as to the type of discussion and examination an FMP should contain to demonstrate compliance with the standard in question.

(11) *Determine* is used when referring to OY.

(12) *Adjust* is used when establishing a deviation from MSY for biological reasons, such as in establishing ABC, TAC, or EY.

(13) *Modify* is used when the deviation from MSY is for the purpose of determining OY, in accord with relevant economic, social, or ecological factors.

(14) *Industry* includes recreational and commercial fishing and the harvesting, processing, and marketing sectors.

Subpart B—National Standards

§ 602.10 General.

(a) *Purpose.* (1) This subpart establishes guidelines, based on the national standards, to assist in the development and review of FMPs, amendments, and regulations prepared by the Councils and the Secretary.

(2) In developing FMPs, the Councils have the initial authority to ascertain factual circumstances, to establish management objectives, and to propose management measures that will achieve the objectives. The Secretary will determine whether the proposed management objectives and measures are consistent with the national standards, other provisions of the Act, and other applicable law. The Secretary has an obligation under section 301(b) of the Act to inform the Councils of the Secretary's interpretation of the national standards so that they will have an understanding of the basis on which FMPs will be reviewed.

(3) The national standards are statutory principles that must be followed in any FMP. The guidelines summarize Secretarial interpretations that have been and will be, applied under these principles. The guidelines are intended as aids to decisionmaking; FMPs formulated according to the guidelines will have a better chance for expeditious Secretarial review, approval, and implementation. FMPs that are in substantial compliance with the guidelines, the Act, and other applicable law must be approved.

(b) *Fishery management objectives.* (1) Each FMP, whether prepared by a Council or by the Secretary, should identify what the FMP is designed to accomplish, i.e., the management objectives to be attained in regulating the fishery under consideration. In establishing objectives, Councils balance biological constraints with human needs, reconcile present and future costs and benefits, and integrate the diversity of public and private interests. If objectives are in conflict, priorities should be established among them.

(2) How objectives are defined is important to the management process. Objectives should address the problems of a particular fishery. The objectives should be clearly stated, practicably attainable, framed in terms of definable events and measurable benefits, and based upon a comprehensive rather than a fragmentary approach to the problems addressed. An FMP should make a clear distinction between objectives and the management measures chosen to achieve them. The objectives of each FMP provide the context within which the Secretary will judge the consistency of an FMP's conservation and management measures with the national standards.

§ 602.11 National Standard 1—Optimum Yield.

(a) *Standard 1.* Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

(b) *General.* The determination of OY is a decisional mechanism for resolving the Act's multiple purposes and policies, for implementing an FMP's objectives, and for balancing the various interests that comprise the national welfare. OY is based on MSY, or on MSY as it may be adjusted under paragraph (c)(4) of this section. The most important limitation on the specification of OY is that the choice of OY—and the conservation and management measures proposed to achieve it—must prevent overfishing.

(c) *MSY.*—(1) MSY, a theoretical concept, is the largest average annual catch or yield that can be taken over a period of time from each stock under prevailing ecological and environmental conditions. It may be presented as a range of values. One MSY may be specified for a related group of species in a mixed-species fishery. Since MSY is a long-term average, it need not be specified annually.

(2) In an unexploited stock of fish, the natural mortality rate is balanced by growth and recruitment rates on average. Once fishing pressure is applied, the balance of mortality, growth, and recruitment is altered, and the average value of these rates and the average population size changes. As the population size changes, a new balance of rates is achieved. The interrelationship between these rates and population size provides the basis for specifying the MSY of a stock. Techniques for estimating MSY depend on the scientific information available. The MSY may be derived from average past catches, stock production models, yield per recruit or dynamic pool models, spawner/recruit relationships, total biomass estimates and estimates of natural mortality, biomass estimates from ecosystem models, or other valid methods.

(3) The determination of OY requires a specification of MSY. However, where sufficient scientific data as to the biological characteristics of the stock do not exist, or the period of exploitation or investigation has not been long enough for adequate understanding of stock dynamics, or where frequent large-scale fluctuations in stock size make this concept of limited value, the OY should be based not on a fabricated MSY but on the best scientific information available.

(4) MSY may be only the starting point in providing a realistic biological description of allowable fishery removals. MSY may need to be adjusted because of environmental factors, stock peculiarities, or other biological variables, prior to the determination of OY. Examples are ABC, TAC, and EY. Such adjustments are valid, provided that they are explained and justified.

(d) *Overfishing.* (1) Overfishing is a level of fishing mortality that jeopardizes the capacity of a stock(s) to recover to a level at which it can produce maximum biological yield or economic value on a long-term basis under prevailing biological and environmental conditions. An FMP must prevent overfishing, except in certain limited situations. For example, harvesting the major component of a mixed fishery at its optimum level may result in the overharvest of a minor (smaller or less valuable) stock component. In another case, solving a particular problem may necessitate pruning larger fish from the population. A Council may decide to permit this type of overharvest if the analysis (paragraph (e)(5) of this section) identifies the benefits from such overfishing, and if the Council's action will not cause any stock component to require protection under the Endangered Species Act.

(2) Significant downward trends in spawning stock sizes and in average annual recruitment over a period of several years may signal that overfishing is occurring. These downward trends usually are preceded or accompanied by increased variability in annual recruitment and by major shifts to younger fish and fewer year classes in the spawning stock. If fishing continues at a rate that perpetuates the downward trends, the spawning stock eventually may be incapable of significant reproduction and may be irreversibly damaged.

(3) Declines in stock size may occur independent of fishing pressure, caused by a combination of factors such as natural fluctuations in the stock itself and in the environment, and man-made changes in essential habitat. Significant adverse alterations in the environment increase the possibility that fishing effort will contribute to a stock collapse. Decisions about the allowable level of fishing mortality will vary according to the conditions of the fishery and the amount of risk associated with different harvest rates.

(4) Since changes in environment/habitat conditions can produce the appearance of overfishing (as can new fishing pressure on an underutilized stock), care should be taken to identify the cause of the downward trends. Whether the trends in spawning stock size and in average recuitment are caused by environmental changes or by fishing effort, the only direct control under the Act is to propose management measures to reduce fishing mortality. Unless the Council asserts that reduced fishing pressure would not alleviate the problem, the FMP must include measures to reduce fishing mortality. If environmental changes are the primary cause of the downward trends, Councils may recommend restoration of habitat and other ameliorative programs.

(5) Fishing can produce a variety of effects on local and stockwide abundance, availability, size, and composition. Some of these effects have been called "overfishing"—with or without qualifiers such as growth, localized, and pulse. These effects are not "overfishing" under standard 1; a Council may recommend conservation and management measures to prevent or permit these effects, depending on the objectives of a particular FMP.

(e) *Specification of OY.*—(1) *OY and management objectives.* Ideally, the process of determining OY and the resulting specification integrate the various objectives of the FMP. Relative weighting of the elements of the OY determination will be influenced both by regional objectives and by national considerations. Rarely will a fishery be managed to meet a single objective. Objectives may conflict. Consequently, priority decisions should be made in developing objectives, the timing of their achievement, and the management measures to achieve them. (See section 602.10.)

(2) *Values in determining OY.* In determining the greatest benefit to the Nation, two values that should be weighed are food production and recreational opportunities (section 3(18)(A) of the Act). They should receive serious attention as measures of benefit when considering the economic, ecological, or social factors used in modifying MSY to obtain OY.

(i) "Food production" encompasses the goals of providing seafood to consumers at reasonable prices, maintaining an economically viable fishery, and utilizing the capacity of U.S. fishery resources to meet nutritional needs.

(ii) "Recreational opportunities" includes recognition of the importance of the quality of the recreational fishing experience, and of the contribution of recreational fishing to the national, regional, and local economies and food supplies.

(3) *Factors relevant to OY.* The Act's definition of OY identifies three categories of factors to be used in modifying MSY to arrive at OY: economic, social, and ecological (section 3(18)(B)). Examples are given below. Not every factor will be relevant in every fishery; for instance, there may be no Indian treaty rights. For some fisheries,

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insufficient information may be available with respect to some factors to provide a basis for corresponding modifications to MSY.

(i) *Economic factors.* Examples are promotion of domestic fishing, development of unutilized or underutilized fisheries, satisfaction of consumer and recreational needs, and encouragement of domestic and export markets for U.S. harvested fish. Some other factors that may be considered are the value of industrial fisheries the level of capitalization, operating costs of vessels, alternate employment opportunities, and economies of coastal areas.

(ii) *Social factors.* Examples are enjoyment gained from recreational fishing, avoidance of gear conflicts and resulting disputes, preservation of a way of life for fishermen and their families, and dependence of local communities on a fishery. Among other factors that may be considered are the cultural place of subsistence fishing, obligations under Indian treaties, and world-wide nutritional needs.

(iii) *Ecological factors.* Examples are the vulnerability of incidental or unregulated species in a mixed-species fishery, predator-prey or competitive interactions, and dependence of marine mammals and birds or endangered species on a stock of fish. Equally important are environmental conditions that stress marine organisms, such as natural and man-made changes in wetlands or nursery grounds, and effects of pollutants on habitat and stocks.

(4) *Form of OY specification.*—(i) The "amount of fish" that constitutes the OY need not be expressed in terms of numbers or weight of fish. The economic, social, or ecological modifications to MSY may be expressed by describing fish having common characteristics, the harvest of which provides the greatest overall benefit to the Nation. For instance, OY may be expressed as a formula that converts periodic stock assessments into quotas or guideline harvest levels for recreational, commercial, and other fishing. OY may be defined in terms of an annual harvest of fish or shellfish having a minimum weight, length, or other measurement. OY may also be expressed as an amount of fish taken only in certain areas, or in certain seasons, or with particular gear, or by a specified amount of fishing effort. In the case of a mixed-species fishery, the incidental-species OY may be a function of the directed catch, or absorbed into an OY for related species.

(ii) If a numerical OY is chosen, a range or average may be specified.

(iii) In a fishery where there is a significant discard component, the OY may either include or exclude discards.

(iv) The OY specification can be converted into an annual numerical estimate to establish the TALFF and to analyze impacts of the management regime. There should be a mechanism in a multiyear plan for periodic reassessment of the OY specification, so that it is responsive to changing circumstances in the fishery.

(5) *Analysis.* An FMP must contain an analysis of how its OY specification was determined (section 303(a)(3) of the Act). It should relate the explanation of overfishing in paragraph (d) of this section to conditions in the particular fishery, and explain how its choice of OY and conservation and management measures will prevent overfishing in that fishery. If overfishing is permitted under paragraph (d)(1) of this section, the analysis must contain a justification in terms of overall benefits and an assessment of the risk of the species reaching a "threatened" or "endangered" status. If the stock has been diminished below a desired level, the analysis should include a program for rebuilding the stock. A Council must identify those economic, social, and ecological factors relevant to management of a particular fishery, then evaluate and weigh them to arrive at the modification (if any) of MSY. The choice of a particular OY must be carefully defined and documented to show that the OY selected will produce the greatest benefit to the Nation.

(f) *OY as a target.*—(1) The specification of OY in an FMP is not automatically a quota or ceiling, although quotas may be derived from the OY where appropriate. OY is a target or goal; an FMP must contain conservation and management measures, and provisions for information collection, that are designed to achieve it. These measures should allow for practical and effective implementation and enforcement of the management regime, so that the harvest is allowed to reach but not to exceed OY by a substantial amount. The Secretary then has the obligation to implement and enforce the FMP so that OY is achieved. If management measures prove unenforceable—or too restrictive or not rigorous enough to realize OY—they should be modified; an alternative is to reexamine the adequacy of the OY specification.

(2) Exceeding OY does not necessarily constitute overfishing, although they might coincide. Even if no overfishing resulted, continual harvest at a level above a fixed-value OY would violate national standard 1 because OY was exceeded (not achieved) on a continuing basis.

(g) *OY and foreign fishing.* Section 201(d) of the Act provides that fishing by foreign nations is limited to that portion of the OY that will not be harvested by vessels of the United States. The achievement of OY under national standard 1 requires that foreign fishing vessels be given reasonable opportunity to harvest such "surplus." The exception is where an annual fishing level is certified under section 201(d)(2)(B). The annual fishing level amount is allocated to foreign fishing, as is the remainder of the "surplus" (OY minus DAH); if the determinations under section 201(d)(4) are made, however, allocation of all or part of that remainder may be deferred until the next harvesting season.

(1) *DAH.* Councils must consider the capacity of, and the extent to which, U.S. vessels will harvest the OY on an annual basis. Estimating the amount that U.S. fishing vessels will actually harvest is required to determine the surplus.

(2) *Reserves.* Part of the OY may be held as a reserve to allow for uncertainties in estimates of stock size and of DAH. If an OY reserve is established, an adequate mechanism should be included in the FMP to permit timely release of the reserve to foreign fishermen, if necessary, so that full utilization of the OY may be achieved. An FMP may also provide for a direct transfer of a portion of DAH to TALFF.

(3) *DAP.* (i) Each FMP must identify the capacity of U.S. processors. It must also identify the amount of domestic annual processed fish (DAP), which is the sum of two estimates:

(A) The amount of U.S. harvest that domestic processors will process. This estimate may be based on historical performance and on surveys of the expressed intention of manufacturers to process, supported by evidence of contracts, plant expansion, or other relevant information; and

(B) The amount of fish that will be harvested but not processed (e.g., marketed as fresh whole fish, used for private consumption, or used for bait).

(ii) When DAH exceeds DAP, the surplus is available for JVP. JVP is a part of DAH.

§ 602.12 National Standard 2—Scientific information.

(a) *Standard 2.* Conservation and management measures shall be based upon the best scientific information available.

(b) *FMP development.* The fact that scientific information concerning a fishery is incomplete does not prevent the preparation and implementation of

an FMP (see related §§ 602.13(d)(2) and 602.17(b)).

(1) Scientific information includes, but is not limited to, information of a biological, ecological, economic, or social nature. Successful fishery management depends, in part, on the timely availability, quality, and quantity of scientific information, as well as on the thorough analysis of this information, and the extent to which the information is applied. If there are conflicting facts or opinions relevant to a particular point, a Council may choose among them, but should justify the choice.

(2) FMPs must take into account the best scientific information available at the time of preparation. Between the initial drafting of an FMP and its submission for final review, new information often becomes available. This new information should be incorporated into the final FMP where practicable; but it is unnecessary to start the FMP process over again unless the information indicates that drastic changes have occurred in the fishery that might require revision of the management objectives or measures.

(c) *FMP implementation.*—(1) An FMP must specify whatever information fishermen and processors will be required or requested to submit to the Secretary. Information about harvest within State boundaries, as well as in the FCZ, may be collected if it is needed for proper implementation of the FMP and cannot be obtained otherwise. The FMP should explain the practical utility of the information specified in monitoring the fishery, in facilitating inseason management decisions, and in judging the performance of the management regime; it should also consider the effort, cost, or social impact of obtaining it.

(2) An FMP should identify scientific information needed from other sources to improve understanding and management of the resource and the fishery.

(3) The information submitted by various data suppliers about the stock(s) throughout its range or about the fishery should be comparable and compatible, to the maximum extent possible.

(d) *FMP amendment.* FMPs should be amended on a timely basis, as new information indicates the necessity for change in objectives or management measures.

§ 602.13 National Standard 3—Management Units

(a) *Standard 3.* To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(b) *General.* The purpose of this standard is to induce a comprehensive approach to fishery management. The geographic scope of the fishery, for planning purposes, should cover the entire range of the stock(s) of fish, and not be overly constrained by political boundaries. Wherever practicable, an FMP should seek to manage interrelated stocks of fish.

(c) *Unity of management.* Cooperation and understanding among entities concerned with the fishery (e.g., Councils, States, Federal government, international commissions, foreign nations) are vital to effective management. Where management of a fishery involves multiple jurisdictions, coordination among the several entities should be sought in the development of an FMP. Where a range overlaps Council areas, one FMP to cover the entire range is preferred. The Secretary designates which Council or Councils will prepare the FMP, under section 304(f) of the Act.

(d) *Management unit.* The term "management unit" means a fishery or that portion of a fishery identified in an FMP as relevant to the FMP's management objectives.

(1) *Basis.* The choice of a management unit depends on the focus of the FMP's objectives, and may be organized around biological, geographic, economic, technical, social, or ecological perspectives. For example:

(i) *Biological*—could be based on a stock(s) throughout its range.

(ii) *Geographic*—could be an area.

(iii) *Economic*—could be based on a fishery supplying specific product forms.

(iv) *Technical*—could be based on a fishery utilizing a specific gear type or similar fishing practices.

(v) *Social*—could be based on fishermen as the unifying element, such as when the fishermen pursue different species in a regular pattern throughout the year.

(vi) *Ecological*—could be based on species that are associated in the ecosystem or are dependent on a particular habitat.

(2) *Conservation and management measures.* FMPs should include conservation and management measures for that part of the management unit within U.S. waters, although the Secretary can ordinarily implement them only within the FCZ. The measures need not be identical for each geographic area within the management unit, if the FMP justifies the differences. A management unit may contain, in addition to regulated species, stocks of fish for which there is not enough information available to specify MSY and OY or to establish management measures, so that data on these species may be collected under the FMP.

(e) *Analysis.* To document that an FMP is as comprehensive as practicable, it should include discussions of the following:

(1) The range and distribution of the stocks, as well as the patterns of fishing effort and harvest.

(2) Alternative management units and reasons for selecting a particular one. A less-than-comprehensive management unit may be justified if, for example, complementary management exists or is planned for a separate geographic area or for a distinct use of the stocks, or if the unmanaged portion of the resource is immaterial to proper management.

(3) Management activities and habitat programs of adjacent States and their effects on the FMP's objectives and management measures. Where State action is necessary to implement measures within State waters to achieve FMP objectives, the FMP should identify what State action is necessary, discuss the consequences of State inaction or contrary action, and make appropriate recommendations. The FMP should also discuss the impact that Federal regulations will have on State management activities.

(4) Management activities of other countries having an impact on the fishery, and how the FMP's management measures are designed to take into account these impacts. International boundaries may be dealt with in several ways. For example:

(i) By limiting the management unit's scope to that portion of the stock found in U.S. waters;

(ii) By estimating MSY for the entire stock and then basing the determination of OY for the U.S. fishery on the portion of the stock within U.S. waters; or

(iii) By referring to treaties or cooperative agreements.

§ 602.14 National Standard 4—Allocations

(a) *Standard 4.* Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be: (A) Fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(b) *Discrimination among residents of different States.* An FMP may not differentiate among U.S. citizens, nationals, resident aliens, or

corporations on the basis of their State of residence. An FMP may not incorporate or rely on a State statute or regulation that discriminates against residents of another State. Conservation and management measures that have different effects on persons in various geographic locations are permissible, if they satisfy the other guidelines under standard 4. Examples of these precepts are:

(1) An FMP that restricted fishing in the FCZ to those holding a permit from State X would violate standard 4 if State X issued permits only to its own citizens.

(2) An FMP that closed a spawning ground might disadvantage fishermen living in the State closest to it, because they would have to travel farther to an open area, but the closure could be justified under standard 4 as a conservation measure with no discriminatory intent.

(c) *Allocation of fishing privileges.* An FMP may contain management measures that allocate fishing privileges if such measures are necessary or helpful in furthering legitimate objectives or in achieving the OY, and if the measures conform with paragraphs (c)(3) (i) through (iii) of this section.

(1) *Definition.* An "allocation" or "assignment" of fishing privileges is a direct and deliberate distribution of the opportunity to participate in a fishery among identifiable, discrete user groups or individuals. Any management measure (or lack of management) has incidental allocative effects, but only those measures that result in direct distributions of fishing privileges will be judged against the allocation requirements of standard 4. Adoption of an FMP that merely perpetuates existing fishing practices may result in an allocation, if those practices directly distribute the opportunity to participate in the fishery. Allocations of fishing privileges include, for example, per-vessel catch limits, quotas by vessel class and gear type, different quotas or fishing seasons for recreational and commercial fishermen, assignment of ocean areas to different gear users, and limitation of permits to a certain number of vessels or fishermen.

(2) *Analysis of allocations.* Each FMP should contain a description and analysis of the allocations existing in the fishery and of those made in the FMP. The effects of eliminating an existing allocation system should be examined. Allocation schemes considered but rejected by the Council should be included in the discussion. The analysis should relate the recommended allocations to the FMP's objectives and OY specification, and discuss the factors listed in paragraph (c)(3) of this section.

(3) *Factors in making allocations.* An allocation of fishing privileges must be fair and equitable, must be reasonably calculated to promote conservation, and must avoid excessive shares. These tests are explained in paragraphs (c)(3) (i) through (iii) of this section:

(i) *Fairness and equity.* (A) An allocation of fishing privileges should be rationally connected with the achievement of OY or with the furtherance of a legitimate FMP objective. Inherent in an allocation is the advantaging of one group to the detriment of another. The motive for making a particular allocation should be justified in terms of the objectives of the FMP; otherwise, the disadvantaged user groups or individuals would suffer without cause. For instance, an FMP objective to preserve the economic status quo cannot be achieved by excluding a group of long-time participants in the fishery. On the other hand, there is a rational connection between an objective of harvesting shrimp at their maximum size and closing a nursery area to trawling.

(B) An allocation of fishing privileges may impose a hardship on one group if it is outweighed by the total benefits received by another group or groups. An allocation need not preserve the status quo in the fishery to qualify as "fair and equitable," if a restructuring of fishing privileges would maximize overall benefits. The Council should make an initial estimate of the relative benefits and hardships imposed by the allocation, and compare its consequences with those of alternative allocation schemes, including the status quo. Where relevant, judicial guidance and government policy concerning the rights of treaty Indians and aboriginal Americans must be considered in determining whether an allocation is fair and equitable.

(ii) *Promotion of conservation.* Numerous methods of allocating fishing privileges are considered "conservation and management measures" under section 303 of the Act. An allocation scheme may promote conservation by encouraging a rational, more easily managed use of the resource. Or it may promote conservation (in the sense of wise use) by optimizing the yield, in terms of size, value, market mix, price, or economic or social benefit of the product.

(iii) *Avoidance of excessive shares.* An allocation scheme must be designed to deter any person or other entity from acquiring an excessive share of fishing privileges, and to avoid creating conditions fostering inordinate control, by buyers or sellers, that would not otherwise exist.

(iv) *Other factors.* In designing an allocation scheme, a Council should consider other factors relevant to the FMP's objectives. Examples are economic and social consequences of the scheme, food production, consumer interest, dependence on the fishery by present participants and coastal communities, efficiency of various types of gear used in the fishery, transferability of effort to and impact on other fisheries, opportunity for new participants to enter the fishery, and enhancement of opportunities for recreational fishing.

§ 602.15 National Standard 5—Efficiency.

(a) *Standard 5.* Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(b) *Efficiency in the utilization of resources.*—(1) *General.* The term "utilization" encompasses harvesting, processing, and marketing, since management decisions affect all three sectors of the industry. The goal of promoting efficient utilization of fishery resources may conflict with other legitimate social or biological objectives of fishery management. In encouraging efficient utilization of fishery resources, this standard highlights one way that a fishery can contribute to the Nation's benefit with the least cost to society: given a set of objectives for the fishery, an FMP should contain management measures that result in as efficient a fishery as is practicable or desirable.

(2) *Efficiency.* In theory, an efficient fishery would harvest the OY with the minimum use of economic inputs such as labor, capital, interest, and fuel. Efficiency in terms of aggregate costs then becomes a conservation objective, where "conservation" constitutes wise use of all resources involved in the fishery, not just fish stocks.

(i) In an FMP, management measures may be proposed that allocate fish among different groups of individuals or establish a system of property rights. Alternative measures examined in searching for an efficient outcome will result in different distributions of gains and burdens among identifiable user groups. An FMP should demonstrate that management measures aimed at efficiency do not simply redistribute gains and burdens without an increase in efficiency.

(ii) Management regimes that allow a fishery to operate at the lowest possible cost (e.g., fishing effort, administration,

and enforcement) for a particular level of catch and initial stock size are considered efficient. Restrictive measures that unnecessarily raise any of those costs move the regime toward inefficiency. Unless the use of inefficient techniques or the creation of redundant fishing capacity contributes to the attainment of other social or biological objectives, an FMP may not contain management measures that impede the use of cost-effective techniques of harvesting, processing, or marketing, and should avoid creating strong incentives for excessive investment in private sector fishing capital and labor.

(c) *Limited access.* A "system for limiting access," which is an optional measure under section 303(b) of the Act, is a type of allocation of fishing privileges that may be used to promote economic efficiency or conservation. For example, limited access may be used to combat overfishing, overcrowding, or overcapitalization in a fishery to achieve OY. In an unutilized or underutilized fishery, it may be used to reduce the chance that these conditions will adversely affect the fishery in the future, or to provide adequate economic return to pioneers in a new fishery. In some cases, limited entry is a useful ingredient of a conservation scheme, because it facilitates application and enforcement of other management measures.

(1) *Definition.* Limited access (or limited entry) is a management technique that attempts to limit units of effort in a fishery, usually for the purpose of reducing economic waste, improving net economic return to the fishermen, or capturing economic rent for the benefit of the taxpayer or the consumer. Common forms of limited access are licensing of vessels, gear, or fishermen to reduce the number of units of effort, and dividing the total allowable catch into fishermen's quotas (a stock-certificate system). Two forms (i.e., Federal fees for licenses or permits in excess of administrative costs, and taxation) are not permitted under the Act.

(2) *Factors to consider.* The Act ties the use of limited access to the achievement of optimum yield. An FMP that proposes a limited access system must consider the factors listed in section 303(b)(6) of the Act and in section 602.14(c)(3) of these guidelines. In addition, it should consider the criteria for qualifying for a permit, the nature of the interest created, whether to make the permit transferable, and the Act's limitation on returning economic rent to the public under section 304(d)(1). The FMP should also discuss the costs of achieving an appropriate distribution of fishing privileges.

(d) *Analysis.* An FMP should discuss the extent to which overcapitalization, congestion, economic waste, and inefficient techniques in the fishery reduce the net benefits derived from the management unit and prevent the attainment and appropriate allocation of OY. It should also explain in terms of the FMP's objectives any restriction placed on the use of efficient techniques of harvesting, processing, or marketing. If during FMP development the Council considered imposing a limited-entry system, the FMP should analyze the Council's decision to recommend or reject limited access as a technique to achieve efficient utilization of the resources of the fishing industry.

(e) *Economic allocation.* This standard prohibits only those measures that distribute fishery resources among fishermen on the basis of economic factors alone, and that have economic allocation as their only purpose. Where conservation and management measures are recommended that would change the economic structure of the industry or the economic conditions under which the industry operates, the need for such measures must be justified in light of the biological, ecological, and social objectives of the FMP as well as the economic objectives.

§ 602.16 National Standard 6—Variations and Contingencies.

(a) *Standard 6.* Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(b) *Conservation and management.* Each fishery exhibits unique uncertainties. The phrase "conservation and management" implies the wise use of fishery resources through a management regime that includes some protection against these uncertainties. The particular regime chosen must be flexible enough to allow timely responses to resource, industry, and other national and regional needs. Continual data acquisition and analysis will help the development of management measures to compensate for variations and to reduce the need for substantial buffers. Flexibility in the management regime and the regulatory process will aid in responding to contingencies.

(c) *Variations.* (1) In fishery management terms, variations arise from biological, social, and economic occurrences, as well as from fishing practices. Biological uncertainties and lack of knowledge can hamper attempts to estimate stock size and strength, stock location in time and space, environmental/habitat changes, and ecological interactions. Economic uncertainty may involve changes in foreign or domestic market conditions, changes in operating costs, drifts toward overcapitalization, and economic perturbations caused by changed fishing patterns. Changes in fishing practices, such as the introduction of new gear, rapid increases or decreases in harvest effort, new fishing strategies, and the effects of new management techniques, may also create uncertainties. Social changes could involve increases or decreases in recreational fishing, or the movement of people into or out of fishing activities due to such factors as age or educational opportunities.

(2) Every effort should be made to develop FMPs that discuss and take into account these vicissitudes. To the extent practicable, FMPs should provide a suitable buffer in favor of conservation. Allowances for uncertainties should be factored into the various elements of an FMP. Examples are:

(i) Reduce OY. Lack of scientific knowledge about the condition of a stock(s) could be a reason to reduce OY.

(ii) Establish a reserve. Creation of a reserve may compensate for uncertainties in estimating domestic harvest, stock conditions, or environmental factors.

(iii) Adjust management techniques. In the absence of adequate data to predict the effects of a new regime, and to avoid creating unwanted variations, a Council could guard against producing drastic changes in fishing patterns, allocations, or practices.

(iv) Highlight habitat conditions. FMPs may address the impact of pollution and the effects of wetland and estuarine degradation on the stocks of fish; identify causes of pollution and habitat degradation and the authorities having jurisdiction to regulate or influence such activities; propose recommendations that the Secretary will convey to those authorities to alleviate such problems; and state the views of the Council on unresolved or anticipated issues.

(d) *Contingencies.* Unpredictable events—such as unexpected resource surges or failures, fishing effort greater than anticipated, disruptive gear conflicts, climatic conditions, or environmental catastrophes—are best handled by establishing a flexible management regime that contains a range of management options through which it is possible to act quickly without amending the FMP or even its regulations.

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(1) The FMP should describe the management options and their consequences in the necessary detail to guide the Secretary in responding to changed circumstances, so that the Council preserves its role as policy-setter for the fishery. The description enables the public to understand what may happen under the flexible regime, and to comment on the options.

(2) FMPs should include criteria for the selection of management measures, directions for their application, and mechanisms for timely adjustment of management measures comprising the regime. For example, an FMP could include criteria that allow the Secretary to open and close seasons, close fishing grounds, or make other adjustments in management measures.

(3) Amendment of a flexible FMP would be necessary when circumstances inthe fishery change substantially, or when a Council adopts a different management philosophy and objectives.

§ 602.17 National Standard 7—Costs and Benefits.

(a) *Standard 7.* Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(b) *Necessity of Federal management.* (1) *General.* The principle that not every fishery needs regulation is implicit in this standard. The Act does not require Councils to prepare FMPs for each and every fishery—only for those where regulation would serve some useful purpose and where the present or future benefits of regulation would justify the costs. For example, the need to collect data about a fishery is not, by itself, adequate justification for preparation of an FMP, since there are less costly ways to gather the data (see § 602.13(d)(2)). In some cases, the FMP preparation process itself, even if it does not culminate in a document approved by the Secretary, can be useful in supplying a basis for management by one or more coastal States.

(2) *Criteria.* In deciding whether a fishery needs management through regulations implementing an FMP, the following general factors should be considered, among others:

(i) The importance of the fishery to the Nation and to the regional economy.

(ii) The condition of the stock or stocks of fish and whether an FMP can improve or maintain that condition.

(iii) The extent to which the fishery could be or is already adequately managed by States, by State/Federal programs, by Federal regulations pursuant to FMPs or international commissions, or by industry self-regulation, consistent with the policies and standards of the Act.

(iv) The need to resolve competing interests and conflicts among user groups and whether an FMP can further that resolution.

(v) The economic condition of a fishery and whether an FMP can produce more efficient utilization.

(vi) The needs of a developing fishery, and whether an FMP can foster orderly growth.

(vii) The costs associated with an FMP, balanced against the benefits (see paragraph (d) of this section as a guide).

(c) *Alternative management measures.* Management measures should not impose unnecessary burdens on the economy, on individuals, on private or public organizations, or on Federal, State, or local governments. Factors such as fuel costs, enforcement costs, or the burdens of collecting data may well suggest a preferred alternative.

(d) *Analysis.* The supporting analyses for FMPs should demonstrate that the benefits of fishery regulation are real and substantial relative to the added research, administrative, and enforcement costs, as well as costs to the industry of compliance. In determining the benefits and costs of management measures, each management strategy considered and its impacts on different user groups in the fishery should be evaluated. This requirement need not produce an elaborate, formalistic cost/benefit analysis. Rather, an evaluation of effects and costs, especially of differences among workable alternatives including the status quo, is adequate. If quantitative estimates are not possible, qualitative estimates will suffice.

(1) *Burdens.* Management measures should be designed to give fishermen the greatest possible freedom of action in conducting business and pursuing recreational opportunities that are consistent with ensuring wise use of the resource and reducing conflict in the fishery. The type and level of burden placed on user groups by the regulations need to be identified. Such an examination should include, for example: capital outlays; operating and maintenance costs; reporting costs; administrative, enforcement, and information costs; and prices to consumers. Management measures may shift costs from one level of government to another, from one part of the private sector to another, or from the government to the private sector. Redistribution of costs through regulations is likely to generate controversy. A discussion of these and any other burdens placed on the public through FMP regulations should be a part of the FMP's supporting analyses.

(2) *Gains.* The relative distribution of gains may change as a result of instituting different sets of alternatives, as may the specific type of gain. The analysis of benefits should focus on the specific gains produced by each alternative set of management measures, including the status quo. The benefits to society that result from the alternative management measures should be identified, and the level of gain assessed.

Appendix A to Subpart B

Explanatory Material

Overview

The guidelines allow for innovative policy evolution in response to new social or economic circumstances, and set out the benchmarks of current fishery management policy under the Act. With responsible management of a valued national resource as the goal, NOAA believes the guidelines should supply the Councils, as fishery management planners, a means to assess their work in developing and documenting their decisions. To that end, certain sections of the guidelines specifically address requirements and options for contents of an FMP, supplementing and drawing into sharper focus provisions of § 602.3 (Contents of Fishery Management Plans), currently in effect. These sections are usually indicated by the paragraph heading "analysis," within which is given more detailed guidance as to the kind of discussion and examination that an FMP should contain to demonstrate consistency with the standard in question. Words within these sections were carefully chosen to convey levels of effort and information commensurate with need (e.g., "consider," "take into account," "explain," "discuss," "examine," "analyze," "identify").

Fishery management decisions affect the fishing industry, the government and the individual taxpayer/consumer. Members of industry, citizens, and those responsible for implementing a fishery management regime need to know the reasons for decisions that affect them. Thus, it is important that certain issues (particularly those that are controversial) undergo enough examination and discussion to illuminate the options, demonstrate the rationales, and justify the final choice of management regime. This implicit democratic principle of accountability in government underlies and reinforces the Secretary's statutory responsibility to make informed judgments regarding an FMP's consistency with the national standards. The principle is reflected in the philosophies of the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act (FRA), the Paperwork Reduction Act (PRA) and Executive Order (E.O.) 12291—all of which seek accountability in regulatory action.

Section 602.2 contains a style guide, which explains the use of specific words to distinguish the advisory, explanatory, or obligatory nature of the guideline language.

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and presents other words within the precise context of the guidelines.

Section 602.10 makes it clear that FMPs in substantial compliance with the guidelines, the Act, and other applicable law must be approved. The guidelines are meant as a protection for everyone in the FMP system. Their acceptance and use are a matter of practical utility for the Councils and of public commitment of the agency to consistent application of the policies stated. As an aggregation of policies developed through creative Council responses to regional fishery management problems, they are a way of sharing the empirical knowledge gained over the life of the Act.

Standard 1

Maximum Sustainable Yield (MSY)

Past controversy concerning MSY has related to its adequacy as a goal to be achieved by management. As used in the Act, MSY is a baseline tool in the determination of OY. In recognizing that MSY represents the underlying biological rationale upon which most determinations of OY rest, the guidelines set forth a more flexible framework for its calculation. Recognition of the need for flexibility in approaching MSY and OY has come as a result of plan review experience and Council innovation in adapting these concepts to the characteristics of different fisheries.

It is clear that because the Act requires the MSY specification, every attempt should be made to specify it. The guidelines acknowledge that MSY may be derived from a number of formulas or models (depending on the level and type of information available), that the use of range for MSY is satisfactory, and that in some fisheries a numerical MSY is not essential in establishing an appropriate underlying biological basis for OY. NOAA believes that Congressional intent is served if OY rests, even in these cases, on the best directly relevant biological information available.

The guidelines permit adjustment of (deviation from) MSY prior to determining OY under certain conditions, provided that the adjustment is fully justified in terms of environmental, ecological, or biological data available for the management unit under consideration. One type of adjustment is illustrated by the concept of Acceptable Biological Catch (ABC), used by some Councils. Following from the guideline definition of MSY as a long-term average, ABC is an annually determined catch that may differ from MSY for biological reasons—lower or higher to allow for fluctuating recruitment. It may be set lower than MSY to rebuild overfished stocks, or to be conservative when there is inadequate data on the status of the stocks.

Other types of adjustment to MSY have been made to allow for the influence of environmental factors. For example, the Gulf of Mexico shrimp MSY is adjusted annually through the use of an environmental calculation involving water flow and temperature characteristics. This fishery also illustrates that the biological resiliency and high fecundity of some stocks may allow OY to become a descriptive statement, equivalent—for all practical purposes—to MSY: OY in the Gulf shrimp FMP is equal to all the shrimp harvested under the FMP's management measures. Another instance where stock characteristics influence the determination of OY directly (making a numerical calculation of MSY immaterial) is the stone crab FMP, in which OY is all the stone crab caught with a minimum claw size. (Descriptive OYs can be converted into an annual numerical estimation for purposes of deriving TALFF, and for other reasons.) In cases where specification of MSY may not be technically possible because of lack of assessment data—such as might occur in an unutilized resource for which a fishery suddenly develops or in species that are minor components of mixed species fisheries—the OY still must be derived from biological information, as for example, the proportional abundance of associated species.

Overfishing

Overfishing is a relative term; it cannot be defined in isolation from its biological, economic, or ecological consequences, nor from its relationship to given management objectives. The prevention of overfishing has as its goal the protection of a stock's general reproductive capacity and its productivity in terms of maintaining an adequate supply of catchable fish.

The guidelines state that significant downward trends in spawing stock size and in average annual recruitment to the fishery may signal that overfishing is occurring. Recruitment is the process of adding new fish to the catchable population by the growth of smaller fish, or movement of fish into a fishing area from an unfished area. For an individual fish, recruitment occurs when the fish becomes large enough to be, in some degree, vulnerable to capture by the fishing gear used in the fishery. Thus, one refers to "recruitment to the fishery" to indicate the process of becoming catchable or becoming a recruit.

Ascertaining when these downward trends in stock size and recruitment have been established is a judgment based on information gained over time from scientific stock assessment, from harvesters and processors (through logbooks, catch samples, interviews, weigh-out slips, etc.), and from other sources such as aerial surveys or hydroacoustic data. NOAA also recognizes that a decline in stock size or abundance may occur independent of fishing pressure and that adverse changes in essential habitat may increase the risk that fishing effort will contribute to a stock collapse.

The guidelines specify that an FMP should explain how its conservation and management measures will prevent overfishing, including a program for rebuilding the stock if it has been diminished below a desired level. They also indicate that even if fishing pressure were not the cause of the problem, the Act limits the authority of the Councils in addressing the other causes. The only direct control available under the Act, under any circumstances, is to reduce fishing mortality. These controls might include, for example, establishment of catch quotas, closed seasons, closed areas, limits on mesh size, limited vessel days, and limits on vessels entering the fishery.

Fishing can produce a variety of effects on local and areawide abundance, availability, size, and composition of a stock. Some of these effects have been called "overfishing"; however, the guidelines state that these effects are not "overfishing" under standard 1, and that a Council may recommend conservation and management measures to prevent or permit these effects, depending on the objectives of a particular FMP. These "permissible" types of overfishing have been called "growth," "localized," and "pulse" overfishing.

Growth overfishing occurs when fishing pressure or some other factor results in the taking of too many fish before they have reached their optimum size for harvest. It may be the result of a planned attempt to harvest preferentially because of a demand for a smaller product, a high discard rate of a non-target species, faulty fishing practices, or heavy fishing pressure. Growth overfishing may be discouraged or disallowed by regulating mesh sizes or imposing area closures, to force fishing on larger or more marketable fish, as in the cases of butterfish, surf clams, or Gulf of Mexico shrimp.

Localized overfishing occurs when small portions of a fishery are temporarily overfished at a particular point in space and time. It can occur in reef fish fisheries when fishing pressure causes a temporary denuding of a particular reef. However, the chief characteristic of this type of overfishing is its temporary nature (i.e., the remainder of the stock of fish can repopulate the overfished portion).

Pulse overfishing can be tolerated under certain conditions. For example, it may be desirable for economic and social reasons in a specific fishery to allow the taking of a given amount of fish in a short time, and then let the stock rest for a period. Extra care should be taken so that pulse fishing does not result in serious long-term depletion.

As management regimes become more comprehensive, the interrelationships of fishing pressures on target and nontarget (both major and minor) species will have to be addressed more directly. NOAA believes that rational management of any multi-species fishery includes acknowledging the fact that overharvesting minor subcomponents may be unavoidable. The guidelines allow such overharvesting if the benefits are analyzed, the individual populations within a management unit so affected are identified, and an assessment of the risk of the species reaching a "threatened" or "endangered" status is made so that Council action will not cause any stock component to require protection under the Endangered Species Act.

Whether to allow any type of overfishing will continue to be argued among economists, biologists, industry representatives, and environmentalists. The policy question centers on whether the primary responsibility under the Act is to the resource or to the users of the resource, on the "wise use"/preservation dichotomy inherent in the word "conservation," and on the tension between risk and predictability. NOAA believes that the overfishing sections of the guidelines are responsive to the findings of the Act,

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particularly when read in conjuction with the standard 6 guideline provisions for buffers, reserves, and framework plan flexibility.

Optimum Yield (OY)

NOAA believes it important to keep the distinction clear between the two separate parts of standard 1: To prevent overfishing, and to achieve OY. The guidelines are written such that overfishing is an intrinsic limitation on OY; it is built into the OY determination, yet maintains a separate identity as a prohibition. For example, exceeding OY does not constitute overfishing when the fishery is not depressed. On the other hand, exceeding OY may constitute overfishing when the margins of tolerance are low. (Buffers to protect against overfishing because of uncertainty in estimating stock size or domestic harvest may be established in the form of reserves or a reduced OY.)

Whether exceeding OY is overfishing is a separate issue from continual harvest at a level above a fixed-value OY. The latter violates the other half of the standard (which is to achieve OY), whether or not overfishing is the result. Standard 1 may be violated from either side of the OY equation—if the level of harvest is continually above, or below, a fixed-value OY. NOAA believes that the Act requires that an attempt be made to achieve OY on an annual basis year after year, though recognizing that this may not always happen.

The guidelines also state that in the case of a mixed species fishery, the OY for incidental species may be a function of the directed catch, or absorbed into an OY for related species.

NOAA believes that achievement of OY includes giving foreign fishing vessels reasonable opportunity to harvest that portion of the OY that will not be harvested by vessels of the United States (OY minus DAH, called the total allowable level of foreign fishing—TALFF). However, nothing precludes Councils from setting OY equal to DAH (effectively eliminating TALFF), if circumstances warranting it are documented. NOAA has written the guidelines to allow international economic considerations to influence the size of TALFF through adjustment of OY.

Standard 2

Application of this standard affects the operation of all the other standards. The level of information influences the establishment of MSY, OY, and management unit composition; it underlies determinations of allocations, judgments of efficiency, adjustments for variations and contingencies, and evaluations of costs and benefits. The guidelines address the questions of timeliness, opposing bodies of opinion, and practical utility of the information specified, and emphasize the continuing need for information for monitoring and in-season adjustment decisions under a flexible management regime. A voluntary system of data collection is permissible, but requires a justification under the Paperwork Reduction Act, and is not covered under the Act's confidentiality provision. (Under the NOAA data security system, all individually collected fishery data are treated internally with the same degree of protection.) It is acceptable to collect data within State boundaries when needed for proper implementation of an FMP, but duplication of effort should be avoided. Successful data collection depends on the protection of confidential data, the public trust in that protection, and the public perception of the valid uses of those data. The validity of the entire process may hinge on the cooperative attitudes of constituents, the research community, and the relevant governmental institutions.

Standard 3

Standard 3's principle of comprehensive management works well with standard 7's principle of avoiding duplication. The emphasis in the revision is on the scope, composition, and unity of the management unit, and on coordination and cooperation rather than on potential jurisdictional tension. NOAA believes that range-wide planning should encourage active State participation in the planning process, and that such planning will provide clear direction to the States as to what is needed to implement the proposed management regime effectively. This is consistent with Council practice; the result should be greater compatibility between Federal and State management measures.

Because the potential for incompatibility does exist, however, the guidelines require an FMP to discuss the interrelationship between State management activities and the proposed Federal regime. Federal regulations supersede any conflicting State regulations of FCZ fishing (F/V American Eagle v. Alaska, No. 2227 (Alaska, Nov. 21, 1980)). State landing laws and other forms of indirect regulation of FCZ fishing may be affected by implementing an FMP. The required analysis focuses attention on these impacts and on the effect of inconsistent State action on attaining the objectives of the FMP. This latter discussion will assist in determining Secretarial responsibilities under section 306(b) of the Act.

Standard 3 calls for management of a "stock" throughout its range. NOAA feels that the use of the words "stock," "fishery," and "management unit" is significant, and has endeavored to use the appropriate term in the guidelines. A stock may be larger than the fishery, as is the case when only a portion of the stock is actively fished. A fishery may be larger than a stock, when more than one stock is fished together. The management unit may ignore a portion of a fishery or stock when it includes a transboundary fishery or when a minor portion of the unit is fished within the area of authority of another Council. Examples are given of the perspectives around which a management unit may be organized.

Standard 4

To assist Councils in making what are usually the most controversial decisions within an FMP, NOAA has tried to confront the human issues surrounding fishery management directly, consistent with its concern for the econoimic and social consequences of regulation.

The guidelines address the "discrimination among residents of different States" issue as an extension of the Federal "privilege and immunities" clause of the U.S. Constitution, which means that Councils may not rely on, nor incorporate within an FMP, a State law that discriminates against residents of a different State. Discrimination is a distinct concept from equity.

Fishery management is essentially a series of allocations among present users, between present and future users, between public and private interests. The guidelines define "allocation" for purposes of the standard as a direct and deliberate distribution of the opportunity to participate in a fishery among identifiable, discrete groups of fishermen. Because only measures that meet the definition will be judged against the standard, this is a critical and sensitive differentiation.

Many management measures may have an *incidental* effect on the fishing privileges enjoyed by different groups of U.S. fishermen. Any quota has a distributive effect on present and future users through its impact on stock maintenance or rebuilding. Area closures may cause practical difficulties for smaller vessels or those located far from open areas. Seasonal quotas create difficulties for those whose economics of operation do not permit a long period of inactivity.

Direct allocations, by contrast, have been made by the several Councils in a variety of FMPs in the past: Quotas by classes of vessels (Atlantic groundfish), quotas for commercial and recreational fishermen (Atlantic mackerel), different fishing seasons for recreational and commercial fishermen (salmon), assignment of ocean areas to different gears (stone crab), and limiting permits to present users (surf clam). These direct allocations were approved under standard 4 because the Councils complied with the three statutory criteria of the standard in constructing their allocation schemes.

The guideline's definition is an attempted middle ground between all measures affecting fishing practices and measures designated as allocations in an FMP. The distribution must be direct and deliberate, but a Council could not disclaim an intent to allocate through a measure that had obvious and inevitable allocative effects.

NOAA believes that the required analysis of allocations and alternative schemes considered—including the status quo—will help to focus attention on the existing distribution of privileges and the alteration of that distribution which Federal management will impose. Each FMP should contain the Council's judgment on fairness and equity, conservation promotion, and possible monopolistic or oligopolistic effects of the proposed allocations.

The guidelines link "fairness" with FMP objectives and OY and acknowledge that fishing rights of treaty Indians and aboriginal Americans should be factored into Council judgments. Rational use of the resource is suggested as one way an allocation scheme may promote conservation. A more visible conservation purpose is illustrated by the moratorium on entry of new vessels into the surf clam fishery, initiated to mitigate a resource crisis in a stock.

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Standard 5

NOAA believes that, for purposes of standard 5, efficiency can be defined as the ability to produce a desired effect or product (or achieve an objective) with a minimum of effort, costs, or misuse of valuable biological and economic resources. In other words, Councils should choose management measures that achieve the FMP's objectives with minimum cost and burdens on society. NOAA believes that particular care should be taken when considering management of common property resources—where intensive individual market actions risk the "tragedy of the commons," a concept that comprises damage not only to the individual fisherman, but to the very resource on which he depends. Where there are no property rights, the role of government takes on the dimension of stewardship. NOAA also believes that managing at least cost to society and managing at least cost to the fisherman are not mutually exclusive. NOAA reads standards 5 and 7 together; to minimize costs of regulating also means to minimize costs to the industry of compliance.

The guidelines also recognize the difficulty inherent in reconciling particular economic and social needs of industry participants and consumers with this goal of efficiency. For example, maximizing employment opportunities by allowing continued overcapitalization instead of reducing effort might be considered inefficient in terms of an economic goal, but not necessarily in terms of a social goal. Or, when it is necessary to preserve a subsistence way of life or enjoyment of recreational fishing, application of the efficiency standard may not be appropriate. Councils thus may have to choose between—or rank—competing objectives.

NOAA believes that an FMP should not restrict the use of productive and cost-effective techniques of harvesting, processing or marketing, unless such restriction is necessary to achieve the conservation or social objectives of the FMP. For example, the Pacific salmon FMP provides for use of a barbless hook to decrease mortality of sublegal coho and chinook. The high seas salmon FMP requires "heads on" landing for fin-clipped coho and chinook to insure recovery of coded wire tags used to establish a needed distribution data base. In both cases, reduction in efficiency was outweighed by the conservation benefit.

Administrative efficiency can be a factor in choosing between management regime alternatives, as well. The Gulf of Mexico shrimp FMP's cooperative Texas closure, for example, increased the effectiveness and efficiency of enforcement.

NOAA chose to address the questions surrounding "limited access" in the context of standard 5 rather than in standard 4, even though limited access, by its nature, is an allocative measure. In fact, the guidelines caution that any limited access system must be consistent with section 303(b)(6) of the Act and the standard 4 guidelines. NOAA believes that placement within standard 5 puts the emphasis more appropriately on concepts of economic efficiency in achieving OY rather than on the contentious issues of right of entry, or limit on effort, per se. The placing of limited access within the standard 5 context does not imply, however, that efficiency is always attained by limited access, nor that limited access is the most desirable method of attaining efficiency, nor that efficiency is the only purpose for limited access, nor that limited entry has always resulted in the benefits listed in the guidelines.

Standard 6

NOAA recognizes that each fishery exhibits unique uncertainties, and that the unpredictable nature of the fishery resource caused by vulnerability to changing conditions and unforeseeable events makes long-term planning difficult. Long-term objectives are more easily attainable in the more stable fisheries. The guidelines clarify that it is possible to compensate for variations by establishing buffers; protection against contingencies is urged through use of flexibility in the regulatory process.

Standard 7

The principles of standard 7 coincide with many earnest and recently intense efforts of NOAA and the Councils to streamline the FMP process. As more FMPs have come on line, the costs of enforcement and of collecting data for monitoring, while reduced per FMP, have increased in total. The rising costs of fishing, due in part to dependence on petroleum-based products, has intensified the need to consider the impact of potentially burdensome regulations. Thus, it has become necessary to be more precise in evaluating the costs to industry and to goverment, to support comprehensive management, and to work toward a flexible regulatory structure.

NOAA believes that the requirements of E.O. 12291 and other regulatory reform legislation quite appropriately focus attention on the threshold question of the actual need for management through regulation. Even when a Council believes there is an advantage to managing a fishery, growing public concern over excessive Federal regulation of private activities and over the need to reduce the cost of government emphasizes the responsiblity to ensure that FMPs are developed only for those fisheries where the need for Federal regulation can be clearly demonstrated. For these reasons, the guidelines propose criteria to assist in making these threshold decisions.

NOAA recognizes that the wide diversity of fisheries and of management objectives increases the difficulties of devising a quantitative cost/benefit analysis for fishery management measures. However, under the guidelines, the types of analyses suggested under standards 4 and 5 would be the first steps in evaluating relative distribution of gains and burdens produced by each alternative set of management measures. While weight of intangibles such as recreational enjoyment, habitat protection, or social dislocation often cannot be expressed in dollar terms, NOAA believes they should be considered and described as explicitly as possible.

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Part V

Department of the Interior

Bureau of Land Management

Combined Hydrocarbon Leasing; Procedures for the Leasing of Combined Hydrocarbon Resources; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3140

[Circular No. 2520]

Combined Hydrocarbon Leasing; Procedures for the Leasing of Combined Hydrocarbon Resources

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking provides the procedure to be used by the Secretary of the Interior in implementing a competitive leasing program in Special Tar Sand Areas as required by the Combined Hydrocarbon Leasing Act of 1981.

EFFECTIVE DATE: March 21, 1983.

ADDRESS: Any inquiries or suggestions should be sent to: Director (540), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

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SUPPLEMENTARY INFORMATION: The proposed rulemaking providing procedures for the Leasing of Combined Hydrocarbon Resources was published in the **Federal Register** on June 14, 1982 (47 FR 25720), with a 45-day comment period. In addition, a public information meeting was held on the proposed rulemaking in Salt Lake City, Utah, on June 15, 1982.

During the comment period, ten written comments were received on the proposed rulemaking, seven from industry sources and three from Federal agencies. These written comments and the oral comments received at the information meeting were given careful consideration.

In general, the comments were favorable to the proposed rulemaking and its purpose. The comments expressed satisfaction at the speed with which the Department of the Interior was implementing the provisions of the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070). The comments on specific points will be discussed in the section they cover. Only those sections that were the subject of comments will be discussed.

Section 3141.0–5 Definitions

The term "Special Tar Sand Area" contained in paragraph (b) has been amended by the final rulemaking to clarify that the orders designating the Special Tar Sand Areas were orders of the Department of the Interior, rather than Secretarial orders. This is a technical correction.

A new paragraph has been added to the definition section by the final rulemaking. This paragraph defines the term "oil". The decision to add this term was based on the fact that its addition clarifies the final rulemaking, making it easier to understand.

Section 3141.0–8 Effect of existing regulations

Several comments were received on this section of the proposed rulemaking which recommend additions to the language of paragraph (a) to specifically identify those provisions of 43 CFR Part 3100 that are applicable to the provisions on competitive combined hydrocarbon leases. In the alternative, the comments suggested that additional sections be added to the final rulemaking to specifically provide the detailed procedures to be used in issuing combined hydrocarbon leases. After careful consideration of this issue, the final rulemaking amends paragraph (a) to provide a detailed listing of those sections of part 3100 that are applicable to combined hydrocarbon leasing. When the proposed rulemaking revising 43 CFR Group 3100 is finalized, any needed changes will be made to this section.

One comment on paragraph (b) of the proposed rulemaking objected to the inclusion of the provision concerning diligent development because the Combined Hydrocarbon Leasing Act, in the comment's view, does not impose a requirement for diligent development on leases issued under its provisions. The point raised in the comment was well taken and paragraph (b) has been amended to state that the provisions of 30 CFR Part 231 apply to the development and approval of plans of operations on combined hydrocarbon leases issued under this subpart. This includes the requirement that prior to commencement of operations, the successful lessee shall either develop a plan of operations as provided in 30 CFR 231.10 or file an application for a permit to drill as provided in 30 CFR Part 221. Since the requirements for a plan of operations provided in 30 CFR 231.10 presently contain no requirement to demonstrate diligence, this requirement has been removed by the final rulemaking. In addition, the 10-year primary term for a combined hydrocarbon lease appears sufficient incentive for diligent development of tar sand under a combined hydrocarbon lease. However, the Department of the Interior expects its lessees to conduct all development activities in a manner consistent with the prudent operator standard of diligent development. In addition, the final rulemaking amends paragraph (b) for clarity.

Section 3141.1 General

A comment was received concerning applications for a lease or permit filed under 43 CFR Part 2920. The comment suggested that the term of any lease issued in association with a combined hydrocarbon lease run for a period at least as long as that of the combined hydrocarbon lease. Section 2920.9–3(a) provides various methods by which a lease or permit will terminate and governs the term of such leases or permits. This provision gives an authorized officer all the authority needed to set the term of an associated lease or permit and no change has been made in this portion of the proposed rulemaking by the final rulemaking.

Paragraph (a) of this section has been revised by the final rulemaking to clarify its intent. Another change made by the final rulemaking in this section and other sections of the proposed rulemaking, is to remove the reference to the Utah State Office of the Bureau of Land Management in order to follow the existing procedure of referring to the proper BLM office. Once the revised regulations for 43 CFR Group 3100 are finalized, the term "proper BLM office" defined in that revision will apply to this subpart.

Section 3141.2–2 Exploration licenses

The purpose of this section of the proposed rulemaking is to establish procedures which would allow an individual to conduct core drilling and other exploration activities within Special Tar Sand Areas only for tar sand resources by obtaining an exploration license. All applications for an exploration license would be processed in accordance with the procedures outlined in this section. Language has been added to the final rulemaking to make it clear that its provisions are only applicable to those lands where the surface is under the jurisdiction of the Bureau of Land Management.

Another comment recommended that the final rulemaking allow for the issuance of exploration licenses on areas outside a designated Special Tar Sand Area. Exploration licenses are issued under the authority granted the Secretary of the Interior to manage the public lands and their resources by various statutes. This authority is not limited to Special Tar Sand Areas.

Therefore, this section of the final rulemaking has been amended to allow the issuance of exploration licenses for tar sand for areas adjacent to Special Tar Sand Areas. This amendment will allow greater administrative efficiency in the issuance of exploration licenses for tar sand. However, it should be noted that the Combined Hydrocarbon Leasing Act limits the authority of the Secretary of the Interior to issue combined hydrocarbon leases to designated Special Tar Sand Areas.

Paragraph (b)(5) has been amended by the final rulemaking to require the applicant to justify the granting of an exploration license for an area in excess of 5,120 acres. This amendment clarifies the intent of this paragraph of the proposed rulemaking.

Paragraph (c) of the proposed rulemaking required an applicant for an exploration license to permit an opportunity for participation by others in the exploration activity on a pro rata cost share basis. This requirement was objected to by several comments. After careful consideration of the comments and the purpose of the paragraph, the final rulemaking has been amended to give the authorized officer discretionary authority to require an applicant to provide an opportunity for participation in exploration activity under an exploration license.

A comment on paragraph (e)(2) of the proposed rulemaking questioned the $2 per acre per year fee required by the proposed rulemaking and recommended that it be reduced or eliminated. After careful consideration of the comment and its implications, the $2 per acre per year rental has been retained by the final rulemaking because it represents an adequate return to the taxpayers for the activities covered by the rulemaking.

Paragraph (e)(4) of the proposed rulemaking has been amended by the final rulemaking to clarify the intent of the proposed rulemaking that information will be supplied by an exploration licensee only upon the request of the Bureau of Land Management. Another change made to this paragraph by the final rulemaking was in response to several comments concerning the period of time that proprietary data would be treated as confidential. The comments expressed the view that the 3-year limit provided by the proposed rulemaking was too short and might compromise the competitive position of licensees. The change made by the final rulemaking provides the Bureau of Land Management with discretion to release the data when it determines that public access to the data will not damage the competitive position of the licensee.

Paragraph (e)(8) of the proposed rulemaking has been revised by the final rulemaking to clarify its requirements. A careful analysis of the paragraph indicated that its provisions were confusing and needed clarification.

Section 3141.4–2 Consultation With Others

One comment was received on this section of the proposed rulemaking. The comment raised questions about the language of the consultation process and recommended that it be expanded and clarified, with special emphasis on the limitations on the issuance of combined hydrocarbon leases in units of the National Park System. The final rulemaking revises the section, dividing it into two paragraphs and expanding its scope.

In addition, to further the Department of the Interior's policy of consultation with the affected State government, this section is revised to state more clearly that the Secretary of the Interior will solicit detailed recommendations from the Governor of the affected State concerning which tracts to lease. Language has also been added to this section to provide for sending written notice to the Governor of the affected State concerning acceptance or rejection of his/her recommendation regarding lease sales. Provision has also been made for publication of his/her decision in the **Federal Register** in addition to the written notification.

Section 3141.5–1 Economic Evaluation

Two changes have been made in this section by the final rulemaking. The first change is a clarification that makes it clear that the authorized officer will request an economic evaluation on each proposed lease tract prior to a lease sale. A second change made by the final rulemaking is moving the minimum bid requirement to the section on conduct of sale, where it more appropriately belongs.

Section 3141.5–3 Royalties and Rentals

This section of the proposed rulemaking, which received several comments, establishes the royalty rate for combined hydrocarbon leases. It is recognized that some methods of extraction will result in the value of the product produced from tar sand differing from that produced from more traditional sources. In accordance with section 7 of the Combined Hydrocarbon Leasing Act, this section allows the Secretary of the Interior, at the request of the lessee, to review and reduce the lease royalty rate prior to the commencement of comercial operations, with the intent of promoting development and maximizing production of the resource by requiring enhanced recovery methods. The final rulemaking amends the proposed rulemaking to provide that the Bureau of Land Management will establish the procedures for implementing the pre-production royalty rate reduction.

One of the principal issues raised in the comments on royalty reduction was a request that the potential lessees be assured that a reduction would be granted upon a reasonable request. The final rulemaking makes no change on this point. However, the Secretary of the Interior will be responsive in carrying out the provisions of the Combined Hydrocarbon Leasing Act and will use the discretion granted by that Act to promote development and maximize production of the tar sand resource. It would be inappropriate to limit the Secretary's discretionary authority by having the final rulemaking require the granting of a royalty rate reduction upon request, as some comments suggested.

In addition, several comments were received on this section of the proposed rulemaking which dealt with the procedure that would be used for establishing the basic royalty rate for tar sands. Specific questions were raised on what the royalty would be computed upon, and where in the processing procedure the royalty would be assessed. As noted in the comments, these issues are beyond the purview of this rulemaking. The Bureau of Land Management is presently developing procedures for addressing these issues. No change has been made on this point by the final rulemaking.

Section 3141.6–2 Publication of Notice of Competitive Lease Offering

In addition to some editorial changes that have been made by the final rulemaking for clarity, this section has been amended to require that the notice of competitive lease offering contain a notice of the amount of the minimum bid.

Section 3141.6–3 Conduct of Sales

Several comments were received that questioned whether sealed bidding followed by oral bidding provided by the proposed rulemaking would in fact encourage competition in the leasing process. In response to these comments and in keeping with Department of the Interior policy, this section has been changed by the final rulemaking to remove all mention of oral bidding.

As indicated earlier in this preamble, the final rulemaking moves the minimum bid requirement to this section, where it more appropriately belongs.

Section 3141.6–4 Qualifications

This section of the proposed rulemaking has been clarified by the final rulemaking to require that the bid statement must be signed by the bidder. The proposed rulemaking was not clear as to who was required to sign the bid statement.

Section 3141.6–5 Fair Market Value

In keeping with current Department of the Interior policies, the final rulemaking has a new section 3141.6–5 requiring a post-sale evaluation by the Bureau of Land Management to determine if the bids do in fact reflect fair market value of each tract offered through the competitive leasing program. This evaluation will assure the public that they have received fair market value for the use of the resources.

Miscellaneous

One comment was made regarding the Windfall Profit Taxes. Windfall Profit Taxes are outside the scope of this rulemaking and no action can be taken on the comment.

Editorial and grammatical changes, as needed, have been made.

The primary authors of this final rulemaking are Richard J. Aiken and Edward E. Coggs, Division of Coal, Tar Sands and Oil Shale, Bureau of Land Management, Bob Randolph and Orvall Hadley, Utah State Office, Bureau of Land Management, assisted by William Murray, Division of Energy and Resources, Office of the Solicitor, Department of the Interior and the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This rulemaking is not expected to have an impact of $100 million annually on the economy since 70–80 percent of the resource available in the Special Tar Sand Areas is available for noncompetitive leasing under the conversion section of the Combined Hydrocarbon Leasing Act. The demand for competitively leased tar sand is expected to be limited to holders of converted combined hydrocarbon leases who will be seeking to round out their holdings. The cost of oil and gas development under this rulemaking will not differ significantly from that incurred under the oil and gas leasing regulations in Group 3100, although the cost of tar sand development will be higher than under the conversion regulations.

As pointed out in the preamble to the proposed rulemaking, the leasing provisions provided in this rulemaking are available to all entities wishing to avail themselves of the opportunity to lease combined hydrocarbon resources, regardless of the size of the entity. The final rulemaking follows the guidance set out in the Combined Hydrocarbon Leasing Act and is designed to provide an equitable process for leasing and development of combined hydrocarbon resources.

The information collection requirements contained in 43 CFR Subpart 3141 do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq. because there are fewer than ten respondents annually.

List of Subjects in 43 CFR Part 3140

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—mineral resources.

Under the authority of the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070), the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 3140, Group 3100, Subchapter C, Chapter II of the Code of Federal Regulations is amended by adding a new Subpart 3141 as follows.

Garrey E. Carruthers,

Secretary of the Interior.

January 18, 1983.

Subpart 3141—Competitive Leasing in Special Tar Sand Areas

Note.—The information collection requirements contained in 43 CFR Subpart 3141 do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq. because there are fewer than 10 respondents annually.

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Authority: 30 U.S.C. 181 et seq., 351 et seq., 43 U.S.C. 1701 et seq., 95 Stat. 1070.

Subpart 3141—Competitive Leasing in Special Tar Sand Areas

§ 3141.0–1 Purpose.

The purpose of this subpart is to provide for the competitive leasing of lands and issuance of Combined Hydrocarbon Leases within Special Tar Sand Areas.

§ 3141.0–3 Authority.

These regulations are issued under the authority of the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), the Federal Land Policy and Manangement Act of 1976 (43 U.S.C. 1701 et seq.), and the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070).

§ 3141.0–5 Definitions.

As used in this subpart, the term:

(a) "Combined hydrocarbon lease" means a lease issued in a Special Tar Sand Area for the removal of any gas and nongaseous hydrocarbon substance other than coal, oil shale or gilsonite.

(b) "Special Tar Sand Area" means an area designated by the Department of the Interior's Orders of November 20, 1980 (45 FR 76800), and January 21, 1981 (46 FR 6077), and referred to in those orders as Designated Tar Sand Areas, as containing substantial deposits of tar and sand.

(c) "Tar sand" means any consolidated or unconsolidated rock (other than coal, oil shale or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature greater than 10,000 centipoise, or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying.

(d) "Oil" means all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale or gilsonite (including all vein-type solid hydrocarbons).

§ 3141.0–8 Effect of existing regulations.

(a) The following provisions of part 3100 of this title, as they relate to competitive leasing, apply to the issuance and administration of combined hydrocarbon leases issued under this part.

(1) All of subpart 3100, with the exception of §§ 3100.5–2 and 3100.6–2;

(2) None of subpart 3101, except that §§ 3101.1–1, 3101.2–1, 3101.2–2 and 3101.4–5 do apply;

(3) All of subpart 3102;

(4) All of subpart 3103, with the exception of §§ 3103.3–1, those portions of 3103.3–2 dealing with noncompetitive leases, and 3103.3–4(a);

(5) All of subpart 3104;

(6) All of subpart 3105, with the exception of § 3105.1–4;

(7) All of subpart 3106, with the exception of § 3106.3–4;

(8) All of subpart 3107, with the exception of § 3107.7;

(9) All of subpart 3108; and

(10) All of subpart 3109, with special emphasis on § 3109.5–2(e).

(b) Prior to commencement of operations, the lessee shall develop either a plan of operations as described in 30 CFR 231.10 which ensures reasonable protection of the environment or file an application for a permit to drill as described in 30 CFR Part 221, whichever is appropriate.

(c) The provisions of 30 CFR Part 226 shall serve as general guidance to the administration of combined hydrocarbon leases issued under this subpart to the extent they may be included in unit or cooperative agreements.

§ 3141.1 General.

(a) All oil and gas within a Special Tar Sand Area shall be leased only by competitive bonus bidding and only combined hydrocarbon leases shall be issued for oil and gas within such areas.

(b) The acreage of combined hydrocarbon leases held within a Special Tar Sand Area shall not be charged against acreage limitations for the holding of oil and gas leases.

(c)(1) The authorized officer may noncompetitively lease additional lands for ancillary facilities in a Special Tar Sand Area that are shown by an applicant to be needed to support any operations necessary for the recovery of tar sand. Such uses include, but are not limited to, mill siting or waste disposal. An application for a lease or permit to use additional lands shall be filed under the provisions of part 2920 of this title with the proper BLM office having jurisdiction of the lands. The application for additional lands may be filed at the time a plan of operations is filed.

(2) A lease for the use of additional lands shall not be issued under this part when the use can be authorized under part 2800 of this title. Such uses include, but are not limited to, reservoirs, pipelines, electrical generation systems, transmission lines, roads and railroads.

(3) Within units of the National Park System, permits or leases for additional lands for any purpose shall be issued only by the National Park Service. Applications for such permits or leases shall be filed with the Regional Director of the National Park Service.

§ 3141.2 Prelease exploration within Special Tar Sand Areas.

§ 3141.2–1 Geophysical exploration.

Geophysical exploration in Special Tar Sand Areas shall be governed by subpart 3045 of this title. Information obtained under a permit shall be made available to the Bureau of Land Management upon request.

§ 3141.2–2 Exploration licenses.

(a) Any person(s) qualified to hold a lease under the provisions of subpart 3102 of this title and this subpart may obtain an exploration license to conduct core drilling and other exploration activities to collect geologic, environmental and other data concerning tar sand resources only on lands, the surface of which are under the jurisdiction of the Bureau of Land Management, within or adjacent to a Special Tar Sand Area. The application for such a license shall be submitted to the proper BLM office having jurisdiction of the lands. No drilling for oil or gas will be allowed under an exploration license issued under this subpart. No specific form is required for an application for an exploration license.

(b) The application for an exploration license shall be subject to the following requirements:

(1) Each application shall contain the name and address of the applicant(s);

(2) Each application shall be accompanied by a nonrefundable filing fee of $250.00;

(3) Each application shall contain a description of the lands covered by the application according to section, township and range in accordance with the official survey;

(4) Each application shall include 3 copies of an exploration plan which complies with the requirements of 30 CFR 231.10(a); and

(5) An application shall cover no more than 5,120 acres, which shall be as nearly compact as possible.

The authorized officer may grant an exploration license covering more than 5,120 acres only if the application contains a justification for an exception to the normal limitation.

(c) The authorized officer may, if he/she determines it necessary to avoid impacts resulting from duplication of exploration activities, require applicants for exploration licenses to provide an opportunity for other parties to participate in exploration under the license on a pro rata cost sharing basis. If joint participation is determined necessary, it shall be conducted according to the following:

(1) Immediately upon the notification of a determination that parties shall be given an opportunity to participate in the exploration license, the applicant shall publish a "Notice of Invitation," approved by the authorized officer, once every week for 2 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands covered by the exploration license are situated. This notice shall contain an invitation to the public to participate in the exploration license on a pro rata cost sharing basis. Copies of the "Notice of Invitation" shall be filed with the authorized officer at the time of publication by the applicant for posting in the proper BLM office having jurisdiction over the lands covered by the application for at least 30 days prior to the issuance of the exploration license.

(2) Any person seeking to participate in the exploration program described in the Notice of Invitation shall notify the authorized officer and the applicant in writing of such intention within 30 days after posting in the proper BLM office having jurisdiction over the lands covered by the Notice of Invitation. The authorized officer may require modification of the original exploration plan to accommodate the legitimate exploration needs of the person(s) seeking to participate and to avoid the duplication of exploration activities in the same area, or that the person(s) should file a separate application for an exploration license.

(3) An application to conduct exploration which could have been conducted under an existing or recent exploration license issued under this paragraph may be rejected.

(d) The authorized officer may accept or reject an exploration license application. An exploration license shall become effective on the date specifed by the authorized officer as the date when exploration activities may begin. The exploration plan approved by the Bureau of Land Management shall be attached and made a part of each exploration license.

(e) An exploration license shall be subject to these terms and conditions:

(1) The license shall be for a term of not more than 2 years;

(2) The rental shall be $2 per acre per year payable in advance;

(3) The licensee shall provide a bond in an amount determined by the authorized officer after consultation with the Mining Supervisor, but not less than $5,000. The authorized officer may accept bonds furnished under subpart 3104 of this title, if adequate. The period of liability under the bond shall be terminated only after the authorized officer determines that the terms and conditions of the license, the exploration plan and the regulations have been met;

(4) The licensee shall provide to the Bureau of Land Management upon request all required information obtained under the license. Any information provided shall be treated as confidential and proprietary, if appropriate, at the request of the licensee, and shall not be made public until the areas involved have been leased or only if the Bureau of Land Management determines that public access to the data will not damage the competitive position of the licensee.

(5) Operations conducted under a license shall not unreasonably interfere with or endanger any other lawful activity on the same lands, shall not damage any improvements on the lands, and shall not result in any substantial disturbance to the surface of the lands and their resources;

(6) The authorized officer shall include in each license requirements and stipulations to protect the environment and associated natural resources, and to ensure reclamation of the land disturbed by exploration operations;

(7) When unforeseen conditions are encountered that could result in an action prohibited by subparagraph (5) of this section, or when warranted by geologic or other physical conditions, the authorized officer may adjust the terms and conditions of the exploration license, may direct adjustment in the exploration plan;

(8) The licensee may submit a request for modification of the exploration plan to the authorized officer. Any modification shall be subject to the regulations in this section and the terms and conditions of the license. The authorized officer may approve the modification after any necessary adjustments to the terms and conditions of the license that are accepted in writing by the licensee; and

(9) The license shall be subject to termination or suspension as provided in § 2920.9–3 of this title.

§ 3141.3 Land use plans.

No lease shall be issued under this subpart unless the lands have been included in a land use plan which meets the requirements under Part 1600 of this title or an approved Minerals Management Plan of the National Park Service. The decision to hold a lease sale and issue leases shall be in conformance with the appropriate plan.

§ 3141.4 Consultation.

§ 3141.4–1 Consultation with the Governor.

The Secretary shall consult with the Governor of the State in which any tract proposed for sale is located. The Secretary shall give the Governor 30 days to comment before determining whether to conduct a lease sale. The Secretary shall seek the recommendations of the Governor of the State in which the lands proposed for lease are located as to whether or not to lease such lands and what alternative actions are available and what special conditions could be added to the proposed lease(s) to mitigate impacts. The Secretary shall accept the recommendations of the Governor if he/she determines that they provide for a reasonable balance between the national interest and the State's interest. The Secretary shall communicate to the Governor in writing and publish in the **Federal Register** the reasons for his/her determination to accept or reject such Governor's recommendations.

§ 3141.4–2 Consultation with others.

(a) Where the surface is administered by an agency other than the Bureau of Land Management, including lands patented or leased under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.), all leasing under this subpart shall be in accordance with the consultation requirements of subpart 3100 of this title.

(b) The issuance of combined hydrocarbon leases within units of the National Park System shall be allowed only where mineral leasing is permitted by law and where the lands are open to mineral resource disposition in accordance with any applicable Minerals Management Plan. In order to consent to any issuance of a combined hydrocarbon lease or subsequent development of combined hydrocarbon resources within a unit of National Park System, the Regional Director of the National Park Service shall find that there will be no resulting significant adverse impacts to the resources and administration of the unit or other contiguous units of the National Park System in accordance with § 3109.5–2(e) of this title.

§ 3141.5 Leasing procedures.

§ 3141.5–1 Economic evaluation.

Prior to any lease sale, the authorized officer shall request an economic evaluation of the total hydrocarbon resource on each proposed lease tract exclusive of coal, oil shale or gilsonite.

§ 3141.5–2 Term of lease.

Combined hydrocarbon leases shall have a primary term of 10 years and shall remain in effect so long thereafter as oil or gas is produced in paying quantities.

§ 3141.5–3 Royalties and rentals.

(a) The royalty rate on all combined hydrocarbon leases in 12½ percent of the value of production removed or sold from a lease. The Minerals Management Service shall be responsible for assessing tha administering royalties.

(b) The lessee may request the Secretary to reduce the royalty rate applicable to tar sand prior to commencement of commercial operations in order to promote development and maximum production of the tar sand resource in accordance with procedures established by the Bureau of Land Managment and may request a reduction in the royalty after commencement of commercial operations in accordance with § 3103.3–7 of this title.

(c) The rental rate for a combined hydrocarbon lease shall be $2 per acre per year, and shall be payable annually in advance.

(d) Except as explained in paragraphs (a), (b), and (c) of this section, all other provisions of subpart 3103.3 of this title apply to combined hydrocarbon leasing.

§ 3141.5–4 Lease size.

Combined hydrocarbon leases shall not exceed 5,120 acres.

§ 3141.5–5 Dating of lease.

A combined hydrocarbon lease shall be effective as of the first day of the month following the date the lease is signed on behalf of the United States, except that where prior written request is made, a lease may be made effective on the first of the month in which the lease is signed.

§ 3141.6 Sale procedures.

§ 3141.6–1 Initiation of competitive lease offering.

The Bureau of Land Management may, on its own motion, offer lands through competitive bidding. A request or expression(s) of interest in tract(s) for

competitive lease offerings shall be submitted in writing to the proper BLM office.

§ 3141.6–2 Publication of a notice of competitive lease offering.

Where a determination to offer lands for competitive leasing is made, a notice shall be published of the lease sale in the **Federal Register** and a newspaper of general circulation in the area in which the lands to be leased are located. The publication shall appear once in the **Federal Register** and at least once a week for 3 consecutive weeks in a newspaper, or for other such periods deemed necessary. The notice shall specify the time a place of sale, the manner in which the bids may be submitted; the description of the lands; the terms and conditions of the lease, including the royalty and rental rates; the amount of the minimum bid; and shall state that the terms and conditions of the leases are available for inspection and designate the proper BLM office where bid forms may be obtained.

§ 3141.6–3 Conduct of sales.

(a) Competitive sales shall be conducted by the submission of written sealed bids.

(b) Minimum bids shall be not less than $25 per acre.

(c) In the event that only 1 sealed bid is received and it is equal to or greater than the minimum bid, that bid shall be considered the highest bid.

(d) The authorized officer may reject any or all bids.

(e) The authorized officer may waive minor deficiencies in the bids or the lease sale advertisement.

(f) A bid deposit of one-fifth of the amount of the sealed bid shall be required and shall accompany the sealed bid. All bid deposits shall be in the form of either a certified check, money order, bank cashier's check or cash.

§ 3141.6–4 Qualifications.

Each bidder shall submit with the bid a statement over the bidder's signature with respect to compliance with subpart 3102 of this title.

§ 3141.6–5 Fair market value.

Only those bids which reflect the fair market value of the tract(s) as determined by the authorized officer shall be accepted; all other bids shall be rejected.

§ 3141.6–6 Rejection of bid.

If the high bid is rejected for failure by the successful bidder to execute the lease forms and pay the balance of the bonus bid, or otherwise to comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited.

§ 3141.6–7 Consideration of next highest bid.

The Department reserves the right to accept the next highest bid if the highest bid is rejected. In no event shall an offer be made to the next bidder if the difference beween his/her bid and that of the successful bidder is greater than the one-fifth bonus forfeited by the rejected successful bidder.

§ 3141.7 Award of lease.

After determining the highest responsible qualified bidder, the authorized officer shall send 3 copies of the lease on a form approved by the Director, and any necessary stipulations, to the successful bidder. The successful bidder shall, not later than the 30th day after receipt of the lease, execute the lease, pay the balance of the bid and the first year's rental, and file a bond as required in subpart 3104 of this title. Failure to comply with this section shall result in rejection of the lease.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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Rules and Regulations

Federal Register
Vol. 48, No. 36
Tuesday, February 22, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

Onions Grown in South Texas; Amendment to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the continuing regulation§ 959.322 to extend from May 10 to June 1 of each year the ending date for grade and size requirements and the Sunday shipping prohibition. The regulation requires shipments of onions to fresh market to be inspected and meet minimum grade, size, pack and container requirements. The regulation promotes orderly marketing of such onions and keeps the less desirable quality and sizes from being shipped to consumers.

EFFECTIVE DATE: March 24, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. Copies of the marketing policy are available from him.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act.

Information collection requirements contained in this regulation (7 CFR Part 959) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0074.

The rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not significantly affect costs for the directly regulated handlers.

Marketing Agreement No. 143 and Order No. 959, both as amended, regulate the handling of onions grown in designated counties in South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Onion Committee, established under the order, is responsible for its local administration.

Notice was published in the January 3, 1983, **Federal Register** (48 FR 28) regarding the proposal. It afforded interested persons an opportunity to file written comments by February 2, 1983. One comment was filed. However, the comment was unrelated to the proposal and therefore was not acted upon.

Because requirements under this program have changed infrequently, in October 1981 the committee recommended, and the Secretary approved, a regulation which would continue in effect from marketing season to marketing season indefinitely unless modified, suspended or terminated by the Secretary upon recommendation submitted by the committee or other information available to the Secretary.

At its public organizational meeting in McAllen, Texas, on October 28, 1982, the committee recommended that the regulation continue in effect again this season with one change.

The committee recommended that the grade and size requirements and the Sunday shipping prohibition be extended through June 1 of each year. These requirements currently are in effect March 1 through May 10 of each year. However, committee members representing the Laredo and the Winter Garden districts, the two districts most directly affected by the change, believe it will improve the overall quality of onions marketed during this period. This will contribute to more orderly marketing of the South Texas onion crop.

Although the regulation being amended is effective for an indefinite period, the committee will continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee will submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before December 1, each year. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension or termination of the regulations on shipments of South Texas onions would tend to effectuate the declared policy of the act.

Findings. After consideraton of all relevant matters, including the proposal set forth in the notice, it is hereby found that the following amendment, as hereinafter set forth, will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 959

Marketing agreements and orders, Onions, Texas.

PART 959—ONIONS GROWN IN SOUTH TEXAS

The introductory test of § 959.322 *Handling regulation* (47 FR 8551, March 1, 1982) is hereby revised as follows:

§ 959.322 Handling regulation.

During the period beginning March 10 and ending on June 15 each season no handler may package or load onions on Sunday or handle any onions except red varieties, unless they comply with paragraphs (a) through (d) or (e) or (f) of this section. However, the requirements of paragraphs (a) and (b) and the Sunday prohibition shall terminate at 11:59 p.m. on June 1 of each season.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 14, 1983 to become effective.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–4350 Filed 2–18–83; 8:45 am]
BILLING CODE 3410–02–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 511

[No. 83-66]

Employee Responsibilities and Conduct

Dated: February 3, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Board has amended provisions of Part 511 that are applicable to special Government employees. Previously, these provisions imposed greater restrictions than those contained in the regulations adopted by the Office of Personnel Management. Agency experience has shown that some of these restrictions were unnecessary and overly-restrictive, and they have been amended accordingly.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: William Van Lenten, (202) 377-6463, Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G St., N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 511.735-2(c) of the Board's General Regulations (12 CFR 511.735-2(c)) defines a "special Government employee" with reference to the definition contained in section 202 of Title 18 of the United States Code, Pub. L. 87-849, section 1(a), Oct. 23, 1962. The relevant portions of that definition characterize a special Government employee as an officer or employee of an independent agency who is retained, designated, appointed, or employed to perform, for not more than 130 days per year, temporary duties either on a full-time or intermittent basis.

The Board's regulations pertaining specifically to special Government employees are set forth in 12 CFR 511.735-25 through 511.735-29. Section 511.735-28 prohibits receipt or solicitation of gifts, loans, entertainment and favors during or in connection with the employment, with certain limited exceptions. This prohibition is overly-restrictive with regard to special Government employees, who ordinarily serve in advisory capacities or other non-policy-making functions, and the Board has therefore determined to amend the regulation to prohibit receipt or solicitation of such items solely as a result of such Government employment. Similarly, 12 CFR 511.735-29, regarding other regulatory provisions applicable to special Government employees, has been amended to eliminate reference to restrictions inappropriate to such employees.

The Board finds that the public notice and comment procedures of 5 U.S.C. 553(b) and 12 CFR 508.13 are unnecessary because the amendments pertain to Board management and personnel processes, and that the delay in effective date of 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary for the same reason.

Accordingly, the Board hereby amends Part 511 of Subchapter A, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

List of Subjects in 12 CFR Part 511

Conflict of interest.

SUBCHAPTER A—GENERAL REGULATIONS OF THE FEDERAL HOME LOAN BANK BOARD

PART 511—EMPLOYEE RESPONSIBILITIES AND CONDUCT

1. Revise § 511.735-28 as follows:

§ 511.735-28 Gifts, entertainment, and favors.

A special Government employee, while so employed or in connection with his or her employment, shall not because of said employment receive or solicit from a person having business with the Board, anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person.

2. Revise § 511.735-29 as follows:

§ 511.735-29 Other provisions applicable to special Government employees.

Sections 511.735-18, 511.735-21 and 511.735-22 of this Part shall be applicable to special Government employees.

(E.O. 11222; 3 CFR, 1964-1965 Comp.; 5 CFR 735.104)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-4395 Filed 2-18-83; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Part 545

[No. 83-75]

Data Processing Activities of Federal Associations; Home Banking Services

Dated: February 10, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board is amending its regulations to authorize federal associations to engage in a wider range of permissible data processing activities, to provide home banking services to their customers, and to utilize any data processing technology as a means of conducting their authorized activities. The amendments allow federal associations to provide certain data processing and transmission services for their own use, the use of other depository institutions, or of any person having a loan or deposit relationship with the association. Associations can provide data processing services to any other person if such services constitute less than one half the services provided by the associations. The amendments also authorize associations to market by-products generated from their data processing activities and excess capacity on their facilities as an incident to providing the described services. The amendments are intended to assist associations in engaging in additional data processing activities that will allow them to conduct their operations as efficiently and productively as possible, to provide such services to other institutions in certain circumstances, and to provide modern financial services to their customers as they become available for commercial use.

EFFECTIVE DATE: February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Neil R. Crowley, Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, (202) 377-6417.

SUPPLEMENTARY INFORMATION: On September 17, 1982, the Board proposed to amend 545.16-1 of its regulations (12 CFR 545.16-1) to allow federal associations to engage in a wider range of data processing activities and to state expressly that they may use any data processing technology or equipment in conducting their authorized business activities. The proposal also requested comment on whether it would be appropriate for the Board to authorize the provision of home banking services by federal associations. (FHLBB Res. No. 82-640; 47 FR 42366 (September 1982)).

The Board received thirteen comments on the proposed rule. Eight of these were from federally-chartered savings and loan associations, two were from savings and loan trade associations, two were from savings and loan data processing organizations, and one was from a trade association for data processing organizations. All but two of the commenters generally supported the proposed amendments. Most of the supporters, however, also urged the Board to relax the restrictions in the proposal and suggested revisions

to accomplish this. The data processing trade association contended that the proposal violated the Home Owners' Loan Act, as well as the Regulatory Flexibility Act. The comments are reviewed more fully below in the discussion of particular issues.

Home Banking

In conjunction with the proposed amendment of section 545.16–1, the Board noted that the application of electronic and data processing technology to customer services could allow associations to provide home banking services to their customers. Those commenters responding to this issue were in favor of allowing federal associations to provide such services. The Board believes that future advances in computer and communications technology will allow all depository institutions to provide their customers with the means of conducting transactions electronically from their homes. In order for federal associations to remain competitive with other financial institutions, the Board is adopting a new regulation, pursuant to section 5(a) of the Home Owners' Loan Act (HOLA), 12 U.S.C. 1464(a) (as amended by Pub. L. No. 97–320, section 31, 96 Stat. 1469 (1982)) authorizing the provision of home banking services. Because these services differ somewhat from data processing services provided pursuant to § 545.16–1, the Board has decided to incorporate the home banking authorization into a new § 545.4–3 rather than into § 545.16–1, as proposed.

Section 545.4–3 provides simply that a federal association may utilize electronic technology to provide its customers with home banking services. These services are defined broadly to mean the transfer of funds or financial information, or the performance of other transactions by a customer of the association through an electronic home terminal. A home terminal includes a telephone, a home computer, or a television set that provides a link to the association's computer by means such as telephone or cable television lines. The regulation provides, however, that associations must take adequate measures to prevent unauthorized access to the association or customer records, or use of the home terminal to defraud the association or any of its customers. It should be noted that a transfer of funds to or from a customer's asset account that is initiated by a home terminal is an electronic fund transfer and as such is subject to the Electronic Funds Transfer Act, 15 U.S.C. 1693 *et seq.*, and Regulation E of the Federal Reserve Board 12 CFR Part 205 (Supplement II—Official Staff Interpretation 2–23).

Data Processing

Technology

The Board proposed to amend 545.16–1 by adding a new paragraph (a), which would have provided expressly that federal associations may utilize any data processing equipment or technology in conducting their authorized business activities. This reflects the belief that, as a general matter, data processing is a technology, *i.e.*, a means of providing services, rather than a separate activity, and that its use is in substance no different from any other modern means of utilizing financial information. To that extent, the Board has concluded that associations should be permitted to employ developments in technology as they become available for commercial use.

The current regulations are silent on this matter and the Board believes that an express authorization will eliminate any question that federal associations may use data processing technology for such purposes. The commenters uniformly supported this aspect of the proposal, and the Board is adopting it substantially as proposed.

Services

Existing regulations permit federal associations to maintain an office to provide "data processing services" primarily for themselves and for other depository institutions. These services are, by definition, limited to the maintenance of bookkeeping, accounting, or other records. The proposal would have changed the possible recipients of these services to include a subsidiary of the association or the parent or subsidiary of another depository institution. The proposal also would have implicitly allowed associations to provide data processing services to nondepository financial intermediaries if such services constituted less than one half of the total services provided by the association. An association would have been permitted to provide data processing services to the public only to the extent that it had excess capacity on its facilities and complied with certain enumerated limitations.

In addition, the proposal would have deleted the definition of data processing services and replaced it with an authorization to provide such services if the data involved were financial, economic, or related to thrift, home financing, or the activities of depository institutions. Associations also would have been permitted to provide the necessary data processing facilities, such as hardware, software, and operating personnel, as part of their data processing services.

Most of those commenters responding, though generally supportive, believed that the limitations on data types and customers were unduly restrictive and suggested that they be deleted from the final regulation. The data processing trade association and one federal association, however, believed that the data and customer limitations were inadequate. The trade association further contended that the proposal effectively allowed associations to provide unlimited data processing services to the public and, in doing so, violated the Home Owners' Loan Act. The Board has decided to retain in the final regulation both the limitations on permissible data and, with some revision, those on customers.

Authorization

As adopted, paragraph (a) authorizes federal associations to use any data processing technology or equipment when engaging in permissible activities, and to provide data processing and transmission services in certain circumstances. The paragraph also states that associations may establish and maintain a data processing office to provide these services without observing the approval procedures for branch offices.

Data Limitations

Paragraph (b)(1) limits the authority to provide data processing services by restricting the types of data that may be processed or transmitted to data that are economic, financial, or related to thrift, home financing, or the activities of depository institutions.

The types of data listed in paragraph (b)(1) are all integral to the business operations of associations (including those of a parent or subsidiary), to dealings with borrowers and depositors, and to business relationships with other institutions. To the extent that associations, their parent companies, or subsidiaries need to utilize any of this information in the conduct of their business, associations may compile, analyze, and distribute it consistent with the authority provided by the HOLA. The means by which associations accomplish this, either manually or by means of data processing technology, is not a material consideration. The use of the enumerated types of information by associations and its dissemination to customers and other institutions is both necessary and useful to associations' business operations and aids in

furthering their statutory purposes. For that reason, the collection, use and provision of such information is within the scope of their authority.

Recipient Limitations

The amendments further limit the authorization in paragraph (a) by restricting the categories of recipients to whom associations may provide data processing services. Associations must provide the services primarily for their own use, for other depository institutions (including the parent or a subsidiary of either), or for persons having a loan or deposit relationship with the association. Associations may provide data processing services to these recipients in whatever percentages they desire, so long as the aggregate services exceed 50 percent of the total data processing services provided under paragraph (b). Because federal associations may only process data that are integral to their operations, the Board believes that associations may also provide data processing services to any other person if such services constitute less than one half of the services provided under paragraph (b).

An association may, consistent with its authority, provide the financial data processing services permitted by paragraphs (a) and (b)(1) to any recipient. The Board has adopted the customer limitations in paragraph (b)(2), however, as a means of further ensuring that associations will only provide data processing services consistent with the authority granted by the HOLA.

In response to one commenter's concern that associations could require borrowers to obtain data processing services from the associations as a condition of obtaining credit, the Board notes that the anti-tying provisions of the Garn-St Germain Depository Institutions Act, Pub. L. No. 97–320, section 331, 96 Stat. 1469 (1982), would apply whenever associations provide data processing services to customers in conjunction with an extension of credit. In addition, the restrictions on providing data processing services to other depository institutions are not intended in any way to limit the correspondent activities of associations authorized by 12 CFR 545.30 (1982).

Facilities Limitations

Paragraph (b)(3) pertains to the authority of federal associations to provide data processing facilities to others. In conjunction with providing the services authorized by paragraphs (a) and (b), associations may supply facilities, such as software, documentation, and operating personnel to their data processing customers. The regulation further requires that such facilities, as well as those used by the association, be designed and operated for the processing or transmission of permissible data (*i.e.*, that described in paragraph (a)). The Board believes that the provision of these facilities is incidental to the provision of data processing services, and that the restrictions are adequate to ensure that associations only engage in authorized data processing activities.

Although the regulations do not authorize the provision of data processing hardware, the Board notes that associations may provide computer hardware to others under the authority to invest in tangible personal property for rental or sale conferred by 12 U.S.C. 1464(c)(2)(A) (Pub. L. No. 97–320, § 330, 96 Stat. 1503 (1982)). The Board has recently proposed regulations that would implement the authority conferred by 12 U.S.C. 1464(c)(2)(A), 47 FR 2340 (January 19, 1983). Associations will possess authority to provide computer hardware to their data processing customers upon final action by the Board on that proposal.

By-Products and Excess Capacity

As a consequence of engaging in data processing activities, an association may generate by-products and have excess capacity available on its equipment. The Board believes that it should allow associations to market by-products and excess capacity in order to make the most efficient use of their data processing facilities. Accordingly, paragraph (c)(1) authorizes associations to market by-products of their data processing activities—including software or work products—to any person. The Board believes that it is reasonable to allow associations to market to anyone products legitimately developed in conjunction with their data processing activities and which have not been substantially enhanced for the purpose of marketing to third parties. Such flexibility allows the entire data processing operation (and, indirectly, the operation of the association) to become more cost-efficient. The only limitation is that such products must have been developed by the associations in providing services under paragraph (b).

For the same reason, the Board has decided to allow associations to market to the public the excess capacity on their facilities that they cannot use in providing services pursuant to paragraph (b). Any associations marketing excess capacity may do no more than furnish access to their facilities and provide the necessary operating personnel. Any person using the facilities may do so without restriction, but may not, due to the safeguards required by paragraph (d), have access to any data bases or other information of the associations or their customers.

The proposal would have allowed associations to provide data processing services to the public to the extent of the excess capacity available. As adopted, the amendments do not allow associations to provide any services to the public in conjunction with their excess capacity. Thus, federal associations may not provide unlimited data processing services to the general public. The only services that associations may provide to the public are those permitted under paragraphs (a) and (b), which are limited by the types of data that are permissible and the types of facilities that may be provided. Paragraph (c) further states that associations may not artificially create excess capacity by acquiring facilities that substantially exceed the associations' present or reasonably expected future data processing needs.

Controls

Paragraph (d) requires associations to adopt controls to ensure that the integrity of their records and those of the depositors and customers are protected. After reviewing comments received on this issue, the Board has decided not to specify the types of controls required. Instead, the regulation will require that controls be adopted, that they conform at a minimum to Generally Accepted Auditing Standards, and that the associations disclose to the customers the general nature of the measures taken prior to performing any services.

In considering the comments that expressed concern that associations might be able to engage in unlimited data processing activities under the authority of this regulation, the Board has decided that it would be appropriate to require that any contract for data processing services provided by associations incorporates the regulatory limitations prescribed herein. The intent of this provision is to make clear to both the associations and their data processing customers that the services available are limited to what is permitted by regulation.

Service Corporations

In conjunction with the amendments to § 545.16–1, the Board is amending its regulations pertaining to the permissible data processing activities for service corporations, 12 CFR 545.9–1(c)(2)(ix). At present, service corporations may

perform data processing services primarily for financial institutions. In light of the amendments allowing federal associations to engage in a wider range of data processing activities, these restrictions are no longer appropriate. Accordingly, the Board is amending § 545.9–1(c) to authorize service corporations to engage in data processing activities to the extent that is permissible for federal associations. This is consistent with Board policy and with the intent of Congress (expressed in the conference report on the Garn-St Germain Act) that service corporations may engage in those activities that are permissible for federal associations.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objective, and legal basis underlying the rule.* These elements have been incorporated into the supplementary information accompanying the rule.

2. *Small entities to which the rule will apply.* The rule applies only to savings and loan associations chartered by the Board.

3. *Impact of the rule on small institutions.* The rule grants the same authority to engage in data processing activities to both small and large associations. Any association with adequate resources may conduct data processing activities on its own. Smaller associations are able to do so by participating with others pursuant to § 545.16–1(f). If individual small associations choose not to engage in data processing activities, they may still benefit from the rule by obtaining whatever services they need from another association whose data processing facilities would be tailored to the needs of the thrift industry. The rule does not require specific recordkeeping or other paperwork that might be disproportionately burdensome on small institutions.

4. *Overlapping or conflicting Federal rules.* There are no known federal rules that may duplicate, overlap, or conflict with the rule.

5. *Alternatives to the rules.* The rule allows all federal associations to engage in data processing activities to the extent they are able or desire to do so. There is no alternative that would better enable smaller entities to engage in data processing activities.

One commenter contended that the initial regulatory flexibility analysis accompanying the proposal was inadequate in that it did not assess the competitive and economic impact of the amendments on small data processing firms, pursuant to the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980). The language of the Act and its legislative history indicate that it was intended to eliminate the disparate, and often burdensome, impact of federal regulations on small entities subject to an agency's regulatory authority. There is nothing in either the statute or its history that evinces an intent to include within the required analysis the impact of a proposed regulation on entities not subject to the issuing agency's regulatory jurisdiction. Accordingly, the Board believes that it need not consider what effects, if any, the proposed regulation may have on small data processing organizations and that its initial analysis complied fully with the Act.

List of Subjects in 12 CFR Part 545

Savings and loan associations.

The Board has determined that the delay of the effective date provided by 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary in this instance because the amendments relieve restrictions on the authority to provide data processing services. The Board further believes that it is in the public interest for associations to be able to take immediate advantage of the authorization for home banking services.

Accordingly, the Board hereby amends Part 545, Subchapter C, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

1. Add a new § 545.4–3, as follows:

§ 545.4–3 Home banking services.

A Federal association may utilize any electronic technology to provide its customers with home banking services. Any such services provided under this section are subject to the Electronic Funds Transfer Act (15 U.S.C. 1693 *et seq.*) and Regulation E of the Federal Reserve Board (12 CFR 205) (as construed by Supplement II—Official Staff Interpretation, 2–23). "Home banking services" means the transfer of funds or financial information, or the performance of other transactions initiated by a customer by means of an electronic home terminal, such as a telephone, a home computer terminal, or a television set that is linked to an association's computer by telephone or cable television lines. An association providing services authorized by this section shall adopt security measures adequate to prevent unauthorized access to its records or those of its customers or the use of a home terminal to defraud the association or any of its customers.

2. Revise § 545.16–1 as follows:

§ 545.16–1 Data processing services.

(a) *Authorization.* A Federal association may engage in any permissible activity or service by using data processing equipment or technology, and may provide data processing and data transmission services to others on a for-profit basis as permitted by this section. An association may establish and maintain an office to provide such services to others without observing the application and approval procedures for branch offices set forth in this Part.

(b)(1) *Permissible data.* The data to be processed or transmitted by an association pursuant to paragraph (a) of this section must be financial, economic, or related to thrift, home financing, or the activities of depository institutions.

(2) *Customer restrictions.* An association must provide data processing and transmission services primarily for itself, other depository institutions (including the parent or a subsidiary of either), and persons with whom the association has established a loan or deposit relationship. An association may also provide such services to other persons if the services constitute less than one half of the data processing services provided under paragraphs (a) and (b) of this section.

(3) *Facilities.* In conjunction with providing services pursuant to paragraphs (a) and (b) of this section, an association may supply data processing software, documentation, and operating personnel. Any such facilities, as well as those used by the association, must be designed and operated for the processing or transmission of permissible data.

(c) *By-products and excess capacity.* As an incident to providing data processing and data transmission services pursuant to paragraph (b) of this section, an association may:

(1) Market by-products of such services (including software and compilations of data) to any person, only if the by-products are not designed, created, or substantially enhanced primarily for the purpose of such marketability, and

(2) Market excess capacity of its data processing facilities, provided that the involvement of the association is limited to furnishing access to its facilities and

providing the necessary operating personnel, and that the association has not artificially created excess capacity by acquiring equipment or facilities whose capacity is substantially greater than that necessary to accommodate its present or expected future needs for providing permissible data processing services.

(d) *Controls.* An association providing data processing services or marketing excess capacity to any person under this section shall establish internal and system controls for both hardware and software such that the integrity of its records and those of its depositors and customers are adequately protected. At a minimum, the controls shall be consistent with Generally Accepted Auditing Standards. Any agreement pursuant to which the association provides data processing services shall contain a provision that generally describes the security measures so taken.

(e) *Contract and tying restrictions* Any contract for data processing services authorized by this section shall incorporate the relevant limitations specified herein and state that the association's facilities are to be used only for the processing and transmission of permissible data. An association providing such services under this section shall comply with the anti-tying provisions of 12 U.S.C. 1464(q) (Pub. L. No. 97–320, section 331, 96 Stat. 1469, 1503 (1982)).

(f) An association may participate with others in establishing or maintaining a data processing office: *Provided,* that the association may participate in establishing or maintaining a data processing office controlled by an entity not subject to examination by a Federal agency regulating financial institutions only if such entity has agreed in writing with the Board that it will permit and pay for such examination of the office as the Board deems necessary, and that it will make available for such purposes any records in its possession relating to the operation of the office.

3. Amend § 545.9–1 by revising paragraph (c)(2)(ix), redesignating paragraphs (c)(24) and (c)(25) as paragraphs (c)(25) and (c)(26), respectively, adding a new paragraph (c)(24), and changing the reference to "(c)(1)–(23)" in new paragraph (c)(25) to "(c)(1)–(24)", as follows:

§ 545.9–1 Service corporations.

* * * * *

(c) *Permitted activities.* * * *

(2) * * *

(ix) providing clerical, accounting, and internal auditing services;

* * * * *

(24) Engaging in data processing activities to the extent permissible for a Federal association;

(25) Activities reasonably incident to those listed in subparagraphs (c)(1)–(24) of this section;

(26) Such other activities reasonably related to the activities of Federal associations as the Board may approve.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83–4396 Filed 2–18–83; 8:45 am]

BILLING CODE 6720–01–M

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12 CFR Part 563b

Amendments Relating to Conversion From Mutual to Stock Form

Dated: February 10, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is adopting amendments to its mutual-to-stock conversion regulations which will permit converting insured institutions to use a summary proxy statement in the solicitation of proxies for the meeting of members called to consider the conversion. A full proxy statement, prepared in accordance with the Board's Form PS, would be furnished any member requesting its receipt by returning to the converting insured institution a postage paid postcard atached to the summary proxy statement. The amendment is intended to reduce paperwork and cost burdens on institutions, while providing mutual members with all the information material to their consideration of a decision whether to convert to the stock form of organization.

EFFECTIVE DATE: February 15, 1983

FOR FURTHER INFORMATION CONTACT: Harry M. Zimmerman, Jr., Associate General Counsel and Director, Division of Securities and Corporate Analysis, Office of General Counsel, (202) 377–6459 or J. Larry Fleck, Deputy Director, (202) 377–6413, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: All insured institutions converting from the mutual to the stock form of organization are required to furnish members a proxy statement prepared in accordance with the Board's Form PS. This document, with attachments, ranges in size from approximately 70 to 140 pages. The amendments adopted today will permit converting institutions to use a summary proxy statement of approximately 12 to 16 pages in place of the full proxy, provided that (1) a proxy statement prepared in accordance with Form PS is furnished to any member requesting it, and (2) the meeting of members called to consider the proposed conversion is scheduled in such a manner as to reasonably ensure that the 20-to-45 day meeting notice requirement of the conversion regulations will be met when a member receives the proxy statement prepared in accordance with Form PS in response to a promptly returned request.

The Board believes that the summary proxy statement will provide mutual members with all information material to the decision on whether their institution should proceed to convert to the stock form pursuant to the Board's regulations and the plan of conversion adopted pursuant to those regulations. In that context, the mutual members are solicited to vote on the concept of conversion, not whether they wish to make the investment decision to purchase the conversion stock. Thus, it is not necessary that a member of a mutual association have all of the relevant information that he would need to make that investment decision when he is simply voting on the merits of converting the association from the mutual to stock form. The subsequent investment-decision solicitation will be made pursuant to an offering circular prepared in accordance with the Board's Form OC. Converting institutions using the summary proxy statement will, however, be required to provide a long-form proxy statement prepared in accordance with Form PS to mutual members desiring such supplemental information before they give their proxies.

The Board also is adopting certain conforming and technical amendments. Sections 563b.3(d)(6) and 563b.3(d)(7) have been revised to permit institutions commencing the subscription offering concurrently with the mailing to the voting members or to the non-voting members of the summary proxy statement or notice of conversion to attach to the summary proxy statement or notice of conversion a postage paid postcard or other written communication to request the receipt ot the subscription offering circular. New § 563b.3(14)(i)(c) permits institutions to combine the proxy statement prepared in accordance with Form PS with the

offering circular prepared in accordance with the Form OC. Thus, under the amendments adopted today, a converting institution could mail to its members with a summary proxy statement a postcard that the member may return to receive a proxy statement prepared in accordance with Form PS. If an institution wished to commence the subscription offering concurrently with the mailing of the summary proxy statement, the subscription offering circular prepared in accordance with Form OC could be combined with the proxy statement prepared in accordance with Form PS and mailed to all members who requested its receipt either to make an investment decision on the purchase of stock, or to review supplemental information regarding the conversion prior to the granting of a proxy, or both.

Regulatory Flexibility Act Certification

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (September 19, 1980), the Chairman certifies that the amendment will not have a significant impact on a substantial number of small entities. The regulations provide for the use of a summary proxy statement that will permit converting institutions to convert in a less burdensome and more efficient manner and generally give institutions greater flexibility. The Board believes that the amendments will benefit small institutions by enabling them to reduce the paperwork in a conversion and significantly reduce the cost of a conversion.

Because it is in the public interest to provide as expeditiously as possible for paperwork and other cost savings that will become available by allowing converting institutions the option of reducing the required filings in a conversion, the Board has determined that the notice and comment period and the 30-day delay of effective date following publication of the regulations pursuant to 12 CFR 508.11 and 15 U.S.C. 553(d) is unnecessary.

List of Subjects in 12 CFR Part 563b

Conversions, Savings and Loan Associations.

Accordingly, the Board hereby amends Part 563b of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

1. Amend § 563b.3 by revising paragraphs (d)(6) and (d)(7) thereof and adding new paragraph (d)(14) thereto, as follows:

§ 563b.3 General principles for conversions.

* * * * *

(d) *Optional provisions in plan of conversion.* * * *

(6) That: (i) If the subscription offering is to be commenced concurrently with the mailing to association members pursuant to § 563b.6(c) of this Part of the proxy statement authorized for use by the Corporation, or is to be commenced within 45 days after the meeting of the association members held to vote on the plan of conversion, the proxy soliciting materials distributed to association members pursuant to § 563b.6(c) may include the statement that the converting insured institution is not required to furnish a subscription offering circular to an association member unless the association member returns by a reasonable date certain an attached postage paid postcard or other written communication requesting receipt of the subscription offering circular.

(ii) If the subscription offering is not commenced within 45 days after the meeting of association members, the converting insured institution may transmit, no more than 30 and no fewer than 10 days prior to the commencement of the subscription offering, to each association member who had been furnished with proxy soliciting materials written notice of the commencement of the subscription offering, which notice shall state that the converting insured institution is not required to furnish a subscription offering circular to an association member unless the association member returns by a reasonable date certain a postage prepaid postcard or other written communication requesting receipt of a subscription offering circular.

(7) That: (i) If the subscription offering is to be commenced concurrently with the mailing to association members pursuant to § 563b.6(c) of this Part of the proxy statement authorized for use by the Corporation, or is to be commenced within 45 days after the meeting of the association members held to vote on the plan of conversion, the notice distributed to eligible account holders and supplemental eligible account holders who are not voting members pursuant to § 563b.6(d) of this Part may include the statement that the converting insured institution is not required to furnish a subscription offering circular to an eligible account holder or supplemental eligible account holder who is not a voting member unless the eligible account holder or supplemental eligible account holder returns by a reasonable date certain an attached postage postcard or other written communication requesting receipt of the subscription offering circular.

(ii) If the subscription offering is not commenced within 45 days after the meeting of association members, the converting insured institution may transmit, no more than 30 and no fewer than 10 days prior to the commencement of the subscription offering, to each eligible account holder and supplement account holder who had been furnished with a notice pursuant to § 563b.6(d) written notice of the commencement of the subscription offering, which notice shall state that the converting insured institution is not required to furnish a subscription offering circular to an eligible account holder or supplemental eligible account holder unless the eligible account holder or supplemental account holder returns by a reasonable date certain a postage prepared postcard or other written communication requesting receipt of a subscription offering circular.

* * * * *

(14) *Summary proxy statement.* That: (i) The proxy statement required by § 563b.6(c) may be in summary form, *Provided:*

(*a*) A statement is made in bold-faced type on the notice to members required by § 563b.6(c) that a more detailed description of the proposed transaction may be obtained by returning an attached postage paid postcard or other written communication requesting the receipt of a proxy statement which has been prepared in accordance with the requirements of Form PS.

(*b*) The meeting of account holders called to consider the proposed conversion is scheduled in such a manner as to reasonably ensure that the notice requirement of § 563b.6(c) will be met when a member receives the proxy statement prepared in accordance with Form PS in response to a promptly returned request provided for in paragraph (d)(14)(i)(*a*) of this section.

(*c*) The proxy statement prepared in accordance with Form PS and required to be furnished members by paragraph (d)(14)(i)(*a*) of this section may be combined with Form OC if the subscription offering is commenced concurrently with or during the proxy solicitation period pursuant to paragraph (d)(1) of this section.

(ii) The summary proxy statement shall be prepared in accordance with the following requirements:

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(*a*) All of the requirements of Form PS shall be met, with the exception of the following:

(*1*) *Item 6. Remuneration and Other Transactions with Management and Others.*

(*2*) *Item 7. Business of the Applicant.* Paragraphs (c) through (m), and (o).

(*3*) *Item 15. Financial Statements.*

(*4*) *Item 16. Consents of Experts and Reports.* Paragraph (b).

(*b*) The disclosure requirements of Items 8(j), 9, and 14 of Form PS may be prepared in summary form.

(*c*) The disclosure requirements of Item 5 may be met through disclosure of the names, ages, and present occupations of all directors and executive officers.

(*d*) The plan of conversion shall not be required to be attached to the summary proxy statement under Item 17.

(*e*) Include the statement contained in § 563b.8(u) of this Part.

(Sec. 409, 94 Stat. 160. Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1728, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464) as amended by P.L. 97–320; Reorg. Plan No. 3 of 1947, 12 FR 4891, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83–4362 Filed 2–18–83; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 73

[Airspace Docket No. 82–ASO–55]

Establishment of Temporary Restricted Areas, Camp LeJeune, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates temporary restricted areas in the vicinity of Camp LeJeune, NC, to contain hazardous air activity associated with a major joint military services exercise. Applicable areas are included in the Continental Control Area. This action prohibits unauthorized flight operations by nonparticipating aircraft within the restricted areas during their designated times of use. This action also makes effective associated nonrulemaking action to establish temporary military operations areas (MOA) in support of the exercise.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8777.

SUPPLEMENTARY INFORMATION:

History

On December 20, 1982 (47 FR 56656), and subsequently corrected on January 20, 1983 (48 FR 2549), the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate temporary restricted areas identified as R–5505A through G, Camp LeJeune, NC, to contain hazardous air activity associated with a major joint military services exercise during the period April 17 through May 11, 1983. This exercise will provide necessary training for several military commands operating under the sponsorship of the United States Atlantic Command, Norfolk, VA. The air activities associated with the exercise will be such that simultaneous flight by nonparticipating aircraft cannot be safely conducted within the temporary restricted areas when they are in use by the military. These activities will consist of military helicopters and high performance aircraft engaged in fast tempo air-to-air and air-to-ground air operations where pilots may be restricted from properly clearing themselves from nonparticipating aircraft. This situation creates a hazard and requires designation of temporary restricted areas. Approximately 237 aircraft will be used to conduct approximately 291 fixed wing and 150 helicopter daily sorties. Participating aircraft operating outside the exercise areas will file individual flight plans to the maximum extent practicable. The boundary abutments to existing special use airspace areas are necessary to accommodate inter-area transition into and out of adjacent areas that will also be utilized extensively during the exercise. Also proposed was a nonrulemaking action to establish temporary MOA's in support of the exercise. No comments were received objecting to the MOA proposal. The temporary MOA's are established as proposed, with the addition of the Dare Corridor Temporary MOA from 8,000 feet MSL to but not including FL 180, which is necessary to provide inter-area transition between Warning Area W–110, the Pamlico MOA, and Restricted Area R–5314. The temporary MOA's are described as follows:

1. *Byrd Corridor Temporary MOA, NC:*

Boundaries. Beginning at lat. 35°04′30″ N., long. 76°04′30″ W., to lat. 35°00′30″ N., long. 76°01′20″ W., thence southwest along W–122A and W–122D to lat. 34°43′30″ N., long. 76°22′00″ W., to lat. 34°47′00″ N., long. 76°24′30″ W., to point of beginning.

Altitudes. 3,000 feet MSL to but not including FL 180.

Times of use. Intermittent, April 27 through May 11, 1983.

Controlling agency. FAA, Washington ARTCC.

Using agency. United States Atlantic Command, Norfolk, VA.

2. *LeJeune A Temporary MOA, NC:*

Boundaries. Beginning at lat. 35°19′20″ N., long. 79°07′20″ W.; to lat. 35°19′20″ N., long. 78°37′30″ W.; to lat. 35°16′30″ N., long. 78°12′00″ W.; to lat. 35°11′00″ N., long. 78°00′00″ W.; to lat. 35°05′30″ N., long. 77°17′00″ W.; to lat. 34°55′00″ N., long. 77°28′00″ W.; then counterclockwise along an 8.4 NM radius arc centered at lat. 34°50′00″ N., long. 77°36′30″ W.; to lat. 34°58′00″ N., long. 77°40′00″ W.; to lat. 35°02′55″ N., long. 79°05′40″ W.; thence counterclockwise along the eastern boundary of R–5311 to lat. 35°10′10″ N., long. 79°07′30″ W.; to point of beginning.

Altitudes. 12,000 feet MSL to but not including FL 180.

Times of use. Intermittent, April 27 through May 6, 1983.

Controlling agency. FAA, Washington ARTCC.

Using agency. United States Atlantic Command, Norfolk, VA.

3. *LeJeune B Temporary MOA, NC:*

Boundaries. Beginning at lat. 35°19′10″ N., long. 79°16′45″ W.; to lat. 35°19′10″ N., long. 79°07′30″ W.; to lat. 35°10′10″ N., long. 79°07′30″ W.; thence counterclockwise along the northern boundary of R–5311 to lat. 35°07′05″ N., long. 79°22′50″ W.; to lat. 35°15′30″ N., long. 79°16′45″ W.; to point of beginning.

Altitudes. 100 feet AGL to but not including FL 180.

Times of use. Intermittent April 27 through May 6, 1983.

Controlling agency. FAA, Washington ARTCC.

Using agency. United States Atlantic Command, Norfolk, VA.

4. *LeJeune C Temporary MOA, NC:*

Boundaries. Beginning at lat. 35°02′55″ N., long. 79°05′40″ W.; to lat. 34°55′20″ N., long. 79°08′15″ W.; to lat. 34°55′20″ N., long. 79°20′30″ W.; to lat. 35°07′05″ N., long. 79°22′50″ W.; thence counterclockwise along the southern boundary of R–5311 to point of beginning (excluding that airspace

within a 1½ NM radius of Raeford, NC, and the Raeford, NC, Airport).

Altitudes. 100 feet AGL to but not including FL 180.

Times of use. Intermittent April 27 through May 6, 1983.

Controlling agency. FAA, Washington ARTCC.

Using agency. United States Atlantic Command, Norfolk, VA.

5. *Kingstree Temporary MOA, NC:*

Boundaries. Beginning at lat. 33°30'00" N., long. 78°52'50" W.; thence southwest along the boundary of W–177A to lat. 33°10'00" N., long. 79°06'45" W.; to lat. 33°24'00" N., long. 79°37'00" W.; to lat. 33°25'00" N., long. 79°55'00" W.; to lat. 33°30'00" N., long. 80°09'30" W.; to lat. 33°52'30" N., long. 79°53'30" W.; to lat. 33°49'30" N., long. 79°48'00" W.; to lat. 33°48'30" N., long. 79°38'00" W.; to lat. 33°50'30" N., long. 79°25'00" W.; to lat. 33°49'00" N., long. 79°19'00" W.; to lat. 33°37'50" N., long. 79°07'20" W.; to point of beginning.

Altitudes. 14,000 feet MSL to 17,000 feet MSL.

Times of use. Intermittent April 27 through May 11, 1983.

Controlling agency. FAA, Washington ARTCC.

Using agency. United States Atlantic Command, Norfolk, VA.

6. *Dare Corridor Temporary MOA, NC:*

Boundaries. Beginning at lat. 35°49'30" N., long. 75°45'00" W.; to lat. 35°49'30" N., long. 75°25'45" W.; to lat. 35°39'15" N., long. 75°17'00" W.; to lat. 35°30'00" N., long. 75°25'00" W.; to lat. 35°29'30" N., long. 75°25'00" W.; to lat. 35°48'30" N., long. 75°43'40" W.; to point of beginning.

Altitudes. 8,000 feet MSL to, but not including FL 180.

Times of use. Intermittent April 27–May 11, 1983.

Controlling agency. FAA, Washington ARTCC.

Using agency. United States Atlantic Command, Norfolk, VA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Section 71.151 and § 73.53 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Advisory Circular AC 70–3A dated January 3, 1983.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations designate temporary restricted areas identified as R–5505A through G, Camp LeJeune, NC, to contain hazardous air activity associated with a major joint military services exercise during the period April 27 through May 11, 1983. Applicable areas are included in the Continental Control Area. The proposed temporary restricted areas are designated as joint use to permit utilization of the airspace by the controlling agency for authorized transit by nonparticipating VFR and IFR traffic when military activity permits. The military will provide reasonable access to private or public use land within the proposed temporary restricted areas. Communications equipment will be installed and maintained between appropriate military and FAA facilities to coordinate movement of nonparticipating aircraft through the exercise areas when military activity permits. Additionally, a reverse charge telephone number and VHF radio communications frequency will be established and published for pilots of nonparticipating aircraft to coordinate directly with the military if desired. The United States Atlantic Command, Norfolk, VA, will serve as lead agency for purposes of compliance with the National Environmental Policy Act (NEPA). This action prohibits unauthorized flight operations by nonparticipating aircraft within the restricted areas during their designated times of use.

List of Subjects in 14 CFR Parts 71 and 73

Restricted areas, Continental control area.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, § 71.151 of Part 71 and § 73.53 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) are amended, effective 0901 G.M.T., April 14, 1983, as follows:

1. In § 71.151 by adding:

R-5505A through G, Camp LeJeune, NC

Continuous April 27–May 6, 1983; Intermittent, May 7–11, 1983.

2. In § 73.53 by adding:

R–5505A Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 35°05'30" N., long. 77°17'00" W.; to lat. 34°57'30" N., long. 77°02'30" W.; thence counterclockwise along the boundaries of A–530, R–5306C, R–5306D and R–5306E to lat. 34°30'20" N., long. 77°15'55" W.; thence southwest 3 NM from and parallel to the shoreline to lat. 34°23'30" N., long. 77°30'00" W.; to lat. 34°16'00" N., long. 77°30'00" W.; to lat. 34°27'00" N., long. 77°41'00" W.; to lat. 34°46'00" N., long. 77°17'00" W.; to lat. 34°55'00" N., long. 77°28'00" W.; thence to point of beginning.

Designated altitudes. Surface to but not including FL 180.

Time of designation. Continuous, April 27–May 6, 1983; Intermittent, May 7–11, 1983.

Controlling agency. FAA, Washington ARTCC.

Using agency. United States Atlantic Command, Norfolk, VA.

R–5505B Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 34°51'00" N., long. 77°05'30" W.; to lat. 34°42'00" N., long. 76°54'45" W.; to lat. 34°41'50" N., long. 76°56'20" W.; to lat. 34°37'30" N., long. 76°56'20" W.; thence southwest 3 NM from and parallel to the shoreline to lat. 34°34'30" N., long. 77°09'00" W.; to lat. 34°44'50" N., long. 77°14'40" W.; to lat. 34°49'30" N., long. 77°10'00" W.; thence to point of beginning.

Designated altitudes. Surface to 1,200 feet MSL.

Time of designation. Continuous, April 27–May 6, 1983; Intermittent, May 7–11, 1983

Controlling agency. FAA, Washington ARTCC.

Using agency, United States Atlantic Command, Norfolk, VA.

R–5505C Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 34°57'00" N., long. 77°02'50" W.; to lat. 34°38'45" N., long 76°43'00" W.; thence southwest 3 NM from and parallel to the shoreline to lat. 34°37'00" N., long. 76°56'20" W.; thence counterclockwise along the boundary of R–5306C to lat. 34°49'30" N., long. 77°10'00" W.; thence to point of beginning.

Designated altitudes. 4,000 feet MSL to but not including FL 180.

Time of designation. Continuous, April 27–May 6, 1983; Intermittent, May 7–11, 1983.

Controlling agency. FAA, Washington ARTCC.

Using agency. United States Atlantic Command, Norfolk, VA.

R–5505D Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 35°05'30" N., long. 77°17'00" W.; to lat. 35°43'50" N., long. 76°35'30" W.; thence counterclockwise along the boundaries of R–5314J through B at lat. 35°34'40" N., long. 75°48'20" W.; to lat. 35°27'00" N., long. 75°48'20" W.; to lat 35°27'00" N., long. 75°25'10" W.; thence southwest along the boundary of W–122A at lat. 35°00'30" N., long. 76°01'00" W.; to lat. 35°18'15" N., long. 76°16'40" W.; to lat. 35°23'15" N., long. 76°34'40" W.; thence counterclockwise along the boundary of R–5306A to lat. 34°46'45" N., long. 76°24'45" W.; to lat. 34°43'30" N., long. 76°22'00" W.; thence southwest along the boundary of W–122D to lat. 34°38'45" N., long. 76°43'00" W.; to lat. 34°57'00" N., long. 77°02'30" W.; to point of beginning.

Designated altitudes. 8,000 feet MSL to but not including FL 180.

Time of designation. Continuous, April 27–May 6, 1983; Intermittent, May 7–11, 1983.

Controlling agency. FAA, Washington ARTCC.

Using agency. United States Atlantic Command, Norfolk, VA.

R–5505E Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 35°52'22" N., long. 76°09'53" W.; to lat. 35°40'25" N., long. 76°12'25" W.; to lat. 35°43'50" N., long. 76°35'30" W.; to lat. 35°53'50" N., long. 76°33'10" W.; thence to point of beginning.

Designated altitudes. 6,000 feet MSL to but not including FL 180.

Time of designation. Continuous, April 27–May 6, 1983; Intermittent, May 7–11, 1983.

Controlling agency. FAA, Washington ARTCC.

Using agency. United States Atlantic Command, Norfolk, VA.

R–5505F Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 35°51'52" N., long. 76°02'09" W.; to lat. 35°39'20" N., long. 76°05'00" W.; to lat. 35°40'25" N., long. 76°12'25" W.; to lat. 35°52'22" N., long. 76°09'53" W.; thence to point of beginning.

Designated altitudes. 10,000 feet MSL to but not including FL 180.

Time of designation. Continuous, April 27–May 6, 1983; Intermittent, May 7–11, 1983.

Controlling agency. FAA, Washington ARTCC.

Using agency. United State Atlantic Command, Norfolk, VA.

R–5505G Camp LeJeune, NC [New]

Boundaries. Beginning at lat. 35°51'35" N., long. 75°57'55" W.; to lat. 35°38'55" N., long. 76°01'00" W.; to lat. 35°39'20" N., long. 76°05'00" W.; to lat. 35°51'52" N., long. 76°02'09" W.; thence to point of beginning.

Designated altitudes. 15,000 feet MSL to but not including FL 180.

Time of designation. Continuous, April 27–May 6, 1983; Intermittent, May 7–11, 1983.

Controlling agency. FAA, Washington ARTCC.

Using agency. United States Atlantic Command, Norfolk, VA.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on February 14, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division,

[FR Doc. 83–4334 Filed 2–18–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 75

[Airspace Docket No. 82–ANM–19]

Revision of J–12

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends Jet Route No. 12 from its current beginning at Salt Lake City, UT, to Seattle, WA. This extension provides an arrival route to Seattle via Ephrata, WA, in order to improve traffic flow in the terminal area for aircraft inbound from the east and southeast. This action aids flight planning, reduces en route delays, and decreases controller workload.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On December 16, 1982 (47 FR 56365), the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to extend J–12 from Salt Lake City, UT, to Seattle, WA, via Ephrata, WA. A preferred en route arrival route is required to manage jet aircraft inbound from Salt Lake City to destinations in the Seattle terminal area. The Ephrata VORTAC will be the feeder fix for arrival aircraft from the east and southeast. This action improves traffic flow in the Salt Lake City and Seattle terminal areas, aids flight planning, and reduces controller workload. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Two comments objecting to the proposal were received. The Air Transport Association (ATA) stated some concern about the economic impact that the additional mileage equates to in minutes of added flight time per arrival ($63.72 to $117.00 per B–727–200); and Frontier Airlines also is concerned about the economic impact that the additional 22 miles would have on the airline industry. The FAA considers the comments relating to the economic and energy impact as significant. However, preferred routes to feeder fixes are designed to reduce en route holding delays and enhance the orderly flow of traffic in and out of terminal areas, thereby increasing safety, reducing controller workload, and ultimately saving fuel. Also, jet routes that are aligned with newly developed SID's and STAR's for the Seattle terminal area will eliminate the present crossing traffic situations which cause delays to unrestricted climbs or descents to/from the Seattle terminal area. When traffic permits, aircraft will be issued radar vectors or direct routings in order to expedite traffic and maintain a high degree of safety. The sequencing of arrivals from the east and southeast will be accomplished above Flight Level 240, thereby aiding the pilot in planning the entire flight descent profile, thus providing fuel management not currently possible since the blending of two separate traffic flows now employed by controllers causes pilots to make altitude and speed adjustments below optimum fuel efficient altitudes. Therefore, the FAA concludes that this jet route realignment will result in more orderly flow of traffic that will result in an overall savings to the entire system. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations extends J–12 from its current beginning at Salt Lake City, UT, to Seattle, WA, via a direct route. This action improves traffic flow in both terminal areas, aids flight planning, reduces en route delays, and decreases controller workload.

List of Subjects of 14 CFR Part 75

Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, effective 0901 G.m.t., April 14, 1983, as follows:

J–12 [Revised]

J–12 From Seattle, WA, via Ephrata, WA; McCall, ID; Twin Falls, ID; Salt Lake City, UT; Fairfield, UT; to Grand Junction, CO.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Proocedures (44 FR 11034;

February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 14, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-4330 Filed 2-18-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 82-ASO-27]

Alteration of Jet Routes—J-55, J-75, and J-85

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Jet Route J-55 between Miami, FL, and Jacksonville, FL; Jet Route J-75 between Biscayne Bay, FL, and Taylor, FL; and Jet Route J-85 between Miami, FL, and Taylor, FL. This action provides for more efficient use of the airspace by improving the flow of traffic arriving and departing the Miami, Fort Lauderdale, and West Palm Beach areas.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulation and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On July 29, 1982 (47 FR 32729), the FAA proposed to amend Part 75 of the Federal Aviation Regulation (14 CFR Part 75) to realign J-55, J-75, and J-85 to improve the flow of arriving and departing traffic in Miami, Fort Lauderdale, and West Palm Beach areas. This action will also accommodate the resectorization of the Miami and Jacksonville ARTC Center's airspace, thus providing for more efficient use of this airspace. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Three comments objecting to the proposal were received. The U.S. Navy and the Florida Department of Transportation, Bureau of Aviation, perceived the proposed airway realignment to impact the present military operation and future plans to propose expansion to special use airspace. We advised the U.S. Navy in a letter dated October 29, 1982, that the extension of J-55 would not alter the present traffic flow patterns. These flow patterns have been in use by Jacksonville Center since 1976. The area is near saturation and the extension of J-55 will simply provide ground based navigation assistance, reduce the workload on the controllers, and improve ATC service to the users. We plan to establish a minimum altitude of FL 240 to lessen the impact on the Navy. Delta Airlines perceived the proposed realignment to impact their operations and expressed concern over the lack of coordination prior to initiating the regulatory action. An air traffic users meeting was held on December 8, 1982, at Miami Center to discuss the proposal described in Airspace Docket No. 82-ASO-27, along with other user items of interest. All attendees concurred with this proposal. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The rule

This amendment to Part 75 of the Federal Aviation Regulations realigns J-55 between Miami, FL, and Jacksonville, FL; J-75 between Biscayne Bay, FL, and Taylor, FL; and J-85 between Miami, FL, and Taylor, FL, to accommodate a resectorization of the Miami and Jacksonville ARTC Center's airspace and improve the flow of traffic arriving and departing Miami, Fort Lauderdale, and West Palm Beach areas.

List of Subjects of 14 CFR Part 75

Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., April 14, 1983, as follows:

J-55 [Amended]

By deleting the words "From Jacksonville, FL, via Savannah, GA" and substituting for them the words "From Miami, FL; INT Miami 335° and Jacksonville, FL, 190° radials; Jacksonville; Savannah, GA";

J-75 [Amended]

By deleting the words "From Biscayne Bay, FL, via the Biscayne Bay 301° and the Lakeland, FL, 175° radials; Lakeland, FL;" and substituting for them the words "From Biscayne Bay, FL; Fort Myers, FL; INT Fort Myers 345° and Taylor, FL, 175° radials;"

J-85 [Amended]

By deleting the words "From Biscayne Bay, FL, via INT Biscayne Bay 328° and Lakeland, FL, 140° radials; Lakeland;" and substituting for them the words "From Miami, FL; INT Miami 335° and Gainesville, FL, 149° radials; Gainesville;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 14, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-4329 Filed 2-18-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 291

[Economic Reg. Docket 38904; Reg. ER-1308A]

Domestic Cargo Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of approval of reporting requirements by the Office of Management and Budget.

SUMMARY: The Civil Aeronautics Board set a two-year review period for fitness determinations for nonoperating all-cargo air carriers, in ER-1308 (47 FR 52991, November 24, 1982). The Office of Management and Budget approved the revised reporting requirements contained in this final rule through June 30, 1984, under OMB No. 3024-0022.

DATES: Effective: February 22, 1983. Adopted: February 16, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil

Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–6042.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 291

Air carriers, Antitrust, Freight, Insurance, Reporting requirements.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–4400 Filed 2–18–83; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 302

[Procedural Reg. Amdt. No. 70; Reg. PR–258]

Rules of Practice in Board Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its procedural rules governing answers to motions to dismiss and for summary judgment in enforcement proceedings to require answers to be filed within 7 days after service of the motion.

DATES: Adopted: February 8, 1983. Effective: February 15, 1983.

FOR FURTHER INFORMATION CONTACT: Stephen A. Metoyer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5938.

SUPPLEMENTARY INFORMATION: In PR–157, 41 FR 41909, September 24, 1976, the Board amended its Rules of Practice, 14 CFR Part 302, by adding provisions for filing motions to dismiss and for summary judgment in enforcement proceedings 14 CFR 302.212(b). Rule 212(b) of the Board's Rules of Practice, 14 CFR 302.212(b), states that the procedures to be followed when filing motions to dismiss or for summary judgment shall be in accordance with the Federal Rules of Civil Procedure, Title 28, United States Code, particularly Rules 6(d), 7(b), 12, and 56. In most instances, use of the Federal Rules of Civil Procedure does not conflict with the Board's Rules of Practice. The Federal Rules of Civil Procedure, however, establish a time limitation for the filing of answers to these motions that differs from the board's Rules of Practice, which require answers to these motions to be filed within 7 days after the motion is served.

The Board is amending Rule 212(b) to require answers that are filed to motions for summary judgment or to dismiss in enforcement proceedings be submitted within 7 days from service of the motion, in accordance with the Board's Rules of Practice, 14 CFR 302.18(c). Although answers to these motions have usually been filed in accordance with the Board's Rules of Practice, this change should eliminate any confusion that might exist regarding filing deadlines.

Since this amendment is administrative in nature, affecting agency practice and procedure, the Board finds for good cause that notice and public procedure are unnecessary and that the amendment may become effective upon publication in the **Federal Register.**

List of Subjects in 14 CFR Part 302

Administrative practice and procedures, Air rates and fares, Authority delegations, Postal service.

PART 302—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 302, *Rules of Practice in Board Proceedings,* as follows:

1. The authority for Part 302 is:

Authority: Secs. 101, 203, 204, 401, 402, 403, 404, 406, 412, 901, 1001, 1002, 1005, Pub. L. 85–726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 763, 770, 783, 788, 794; 49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1471, 1481, 1482, 1485; Reorganization Plan No. 3, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91–90, 42 U.S.C. 4321; 84 Stat. 772, 39 U.S.C. 5402.

2. Section 302.212(b) is revised to read:

§ 302.212 Admissions as to facts and documents; motions to dismiss and for summary judgment.

* * * * *

(b) At any time after answer has been filed, any party may file with the administrative law judge a motion to dismiss or a motion for summary judgment, including supporting affidavits. The procedure on such motions shall be in accordance with the Federal Rules of Civil Procedure (28 U.S.C.), particularly Rules 6(d), 7(b), 12, and 56, except that answers and supporting papers to a motion to dismiss or for summary judgment shall be filed within 7 days after service of the motion.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–4399 Filed 2–18–83; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 82N–0378]

D&C Red No. 6 and D&C Red No. 7

Correction

On page 3946 in the issue of Friday, January 28, 1983, a correction document appeared which contained inaccurate information. The last three lines of item 4 should have read as follows:

"'* * * Spectrophotometric Parameters:' should read: 'Spectrophotometer Parameters'."

BILLING CODE 1505–01–M

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21 CFR Part 173

[Docket No. 82F–0098]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Boiler Water Additives

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of poly(acrylic acid-*co*-hypophosphite), sodium salt, as a corrosion control agent in boilers generating steam which will contact food. This action is in response to a petition filed by the Ciba-Geigy Corp.

DATES: Effective February 22, 1983, objections by March 24, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Anthony P. Brunetti, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 23, 1982 (47 FR 17672), FDA announced that a petition (FAP 2A3607) had been filed by Ciba-Geigy Corp., Plastics and Additives Division, Three Skyline Drive, Hawthorne, NY 10532, proposing that § 173.310 (21 CFR 173.310) be amended to provide for the safe use of acrylic acid polymer with sodium phosphinate as a boiler water additive used in the preparation of steam that contacts food. The chemical

is intended to control corrosion in the boilers.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed use is safe, and that § 173.310 should be amended as set forth below. The agency also concludes that the additive is more properly identified as poly(acrylic acid-*co*-hypophosphite), sodium salt. This regulation will list the compound under that name.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will remove from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives, Food processing aids.

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 173 is amended in § 173.310(c) by alphabetically inserting a new item in the list of substances to read as follows:

§ 173.310 Boiler water additives.

* * * * *

(c) * * *

Substances	Limitations
* * * * *	
Poly(acrylic acid-*co*-hypophosphite), sodium salt (CAS Reg. No. 71050-62-9), produced from a 4:1 mixture by weight of acrylic acid and sodium hypophosphite.	Total not to exceed 1.5 parts per million in boiler feed water. Copolymer contains not more than 0.5 percent by weight of acrylic acid monomer (dry weight basis).
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 24, 1983 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective February 22, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: February 11, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-4352 Filed 2-18-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 436 and 442

[Docket No. 82N-0362]

Antibiotic Drugs; Sterile Cefoperazone Sodium; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the document on accepted standards for the new antibiotic drug sterile cefoperazone sodium.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-203 at page 788 in the issue for Friday, January 7, 1983, the following corrections are made:

1. At page 789 in § 436.338 *High-pressure liquid chromatographic assay for cefoperazone:*

a. In paragraph (b) in the first sentence "millileters" is changed to "milliliters".

b. In paragraph (e)(2)(ii) in the second sentence, "single dose" is changed to "single-dose".

c. In paragraph (g)(1), in the entry for "P_s" "microgram" is changed to "micrograms", and in the entry for "m" "Percent moisture content of the sample." is changed from italics to roman type.

d. In paragraph (g)(2) in the formula entry for "A_u", insert an "a" between "at" and "retention".

2. At page 790 in paragraph (b)(6) of § 442.12a *Sterile cefoperazone sodium,* the formula incorrectly showed italicized "t's" as plus-minus symbols. The formula is corrected to read as follows:

"Adjusted retention time of cefoperazone $= t - t_a$

where:

t = Retention time measured from point of injection into the chromatograph until the maximum of the cefoperazone sample or working standard peak appears on the chromatogram; and

t_a = Retention time measured from point of injection into the chromatograph until the maximum of nonretarded solute appears in the chromatogram.

The sample and the cefoperazone working standard should have corresponding adjusted cefoperazone retention times."

Dated: February 15, 1983.

James C. Morrison,

Assistant Director for Regulatory Affairs.

[FR Doc. 83-4355 Filed 2-18-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 436, 452, 455, and 555

[Docket No. 81N-0245]

Microbiological Turbidimetric Assay for Chloramphenicol and Troleandomycin

Correction

In FR Doc. 83-2228 beginning on page 3959 in the issue of Friday, January 28, 1983, make the following corrections:

1. On page 3959, third column, eleven lines from the bottom of the page, "(21 U.S.C. 375," should have read "(21 U.S.C. 357,".

2. In § 455.210(b)(1), page 3961, first column, six lines from the top of the page, "stock of" should have read "stock solution of".

3. In § 555.310e(b)(1), page 3962, first column, in the sixth line of the paragraph, "500 milliliters" should have read "50 milliliters".

BILLING CODE 1505-01-M

21 CFR Part 522

Implantation or Injectable Form New Animal Drugs Not Subject to Certification; Ivermectin Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories, providing for use of Eqvalan® (ivermectin) injection for horses for treating certain nematode and bot infections.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, filed NADA 127-443 providing for deep intramuscular use of Eqvalan® (Ivermectin) injection for horses for the treatment and control of infections of certain internal nematodes and bots. Adequate and well-controlled studies demonstrate the safety and effectiveness of the product for the proposed conditions of use. The NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore, will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii) (*a*) and (*e*)), may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended by adding new § 522.1192 to read as follows:

§ 522.1192 Ivermectin injection.

(a) *Specifications.* Each milliliter of sterile aqueous solution contains 20 milligrams of ivermectin.

(b) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 20 milligrams per 100 kilograms (220 pounds) of bodyweight.

(2) *Indications for use.* It is used in horses for the treatment and control of large strongyles (adult) (*Strongylus vulgaris, Strongylus edentatus, Triodontophorus* spp.), small strongyles (adult and fourth stage larvae) (*Cyathostomum* spp., *Cylicocyclus* spp., *Cylicostephanus* spp.), pinworms (adult and fourth stage larvae) (*Oxyuris equi*), large roundworms (adult) (*Parascaris equorum*), hairworms (adult) (*Trichostrongylus axei*), large mouth stomach worms (adult) (*Habronema muscae*), neck threadworms (microfilariae) (*Onchocerca* spp.), and stomach bots (*Gastrophilus* spp.).

(3) *Limitations.* For intramuscular use only. Do not use intravenously. Not for use in horses intended for food. Effects of this drug on pregnant mares have not been determined. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. February 22, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 14, 1983.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 83-4356 Filed 2-18-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Oxytocin Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Wendt Laboratories, Inc., providing for safe and effective use of oxytocin injection for treatment of horses, cattle, swine, sheep, dogs, and cats.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Wendt Laboratories, Inc., 100 Nancy Dr., Belle Plaine, MN 56011, filed NADA 124-241 providing for use of oxytocin injection (containing 20 USP units of oxytocin per milliliter) in horses, cattle, swine, sheep, dogs, and cats as a uterine contractor and in cattle and swine as a milk-releasing agent.

The product covered by this NADA (124-241) is identical in formulation to the two oxytocin products that are subjects of the National Academy of Sciences/National Research Council (NAS/NRC) notice that published in the **Federal Register** of February 13, 1969 (34 FR 2146). In that publication, FDA concurred with the NAS/NRC conclusion that the products are effective provided certain labeling revisions were made. Section 522.1680 *Oxytocin injection* (21 CFR 522.1680) reflects the revised labeling and specifies those conditions of use for which approval of identical products may require submission of bioequivalency data in lieu of certain types of effectiveness data.

The sponsor was not required to submit in vivo bioequivalence data because the agency has determined that if the drug as manufactured by the sponsor meets United States Pharmacopeia (U.S.P.) standards, it will be bioequivalent to the pioneer drugs. Manufacturing data submitted by the firm confirmed that it is capable of manufacturing the drug to meet the reference standard.

In addition, the results of in vivo potency tests are performed on each batch to demonstrate that the drug is in accordance with U.S.P. standards. The labeling for Wendt's product complies with § 522.1680. Therefore, the NADA is approved on the basis of generic equivalence.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in the environmental impact analysis report (pursuant to 21 CFR 25.1(f)(1)(iii)), may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.1680 by revising paragraph (b), to read as follows:

§ 522.1680 Oxytocin injection.

* * * * *

(b) *Sponsors.* See Nos. 000010, 000381, 000693, 000845, 000856, 010271, 012481, 015562, 015579, and 032420 in § 510.600(c) of this chapter.

* * * * *

Effective date. February 22, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 10, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83–4354 Filed 2–18–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bambermycins

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Quali-Tech Products, Inc., providing for use of 10-gram-per-pound bambermycins premixes to make 0.4- and 2-gram-per-pound bambermycins premixes for making swine feeds and 2-gram-per-pound premixes for turkey feeds, used for increased rate of weight gain and improved feed efficiency.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV–128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: Quali-Tech Products, Inc., 318 Lake Hazeltine Dr., Chaska, MN 55318, is sponsor of NADA 132–705 providing for safe and effective use of 10-gram-per-pound bambermycins premixes to make 0.4- and 2-gram-per-pound bambermycins premixes. The intermediate premixes are used to manufacture finished feed for growing-finishing swine (0.4- and 2-gram-per-pound premixes) and growing turkeys (2 gram-per-pound only) for increased rate of weight gain and improved feed efficiency. The application was filed by American Hoechst Corp., Animal Health Division, on behalf of the sponsor.

Approval of this application is based on safety and effectiveness data contained in American Hoechst's approved NADA 44–759 for Flavomycin (bambermycins). American Hoechst authorized use of the data in NADA 44–759 to support this application. The NADA is approved and the regulations are amended to reflect the approval.

Approval of this NADA does not change the approved use of the drug. Consequently, approval of the NADA poses no increased human risk of exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this approval is equivalent to a Category II supplement which does not require reevaluation of the safety and effectiveness data in parent NADA 44–759.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.95 is amended by revising paragraph (b)(4) to read as follows:

§ 558.95 Bambermycins.

* * * * *

(b) * * *

(4) Premix levels of 0.4 and 2 grams of bambermycins activity per pound for use as in paragraph (e)(2) of this section and 2 grams per pound for use as in paragraph (e)(3) of this section, granted to 016968 and 017274 in § 510.600(c) of this chapter.

* * * * *

Effective date. February 22, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 9, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-4361 Filed 2-18-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 26, 80, 97, and 98

[CGD 83-003]

Regulation Update for Inland Navigation Rules

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This regulation removes from Title 33 of the Code of Federal Regulations the pilot rules for the Great Lakes as well as their interpretive rules and other references that are no longer valid due to the effect of the new Inland Navigation Rules. This action is editorial and does not add or delete any legal requirements on the public.

EFFECTIVE DATE: March 1, 1983.

FOR FURTHER INFORMATION CONTACT: LCDR Kent Kirkpatrick, Project Manager, Office of Navigation, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593; (202) 245-0108.

SUPPLEMENTARY INFORMATION: The Inland Navigational Rules Act of 1980 (Pub. L. 96-591, 33 U.S.C. 2001) established a new set of navigation rules which superseded the old Inland Rules, the Western Rivers Rules, the Great Lakes Rules, the respective regulatory pilot rules and interpretive rules, and parts of the Motorboat Act of 1940. The effective date of the new rules was December 24, 1981, except for the Great Lakes, where the date was established as March 1, 1983. The Inland Navigational Rules Act repealed the old statutory navigation rules and did not contain a savings clause which would have preserved the validity of the regulations that had been issued under the authority of the old statutes. The regulations, however, would remain on the books even though no longer valid, unless removed by administrative action.

Part 26 contains a reference to the Great Lakes navigation rules which must be deleted and reference to the new Inland Navigation Rules must be made.

A reference to the Great Lakes appears in Part 80 of the regulations. This reference is being deleted.

Parts 97 and 98 which contain the old Great Lakes pilot rules and interpretive rules are being removed. Parts 93 through 96, the pilot rules and interpretive rules for Inland Waters and Western Rivers, were removed by notice published in the **Federal Register** on May 6, 1982 (47 FR 19518).

Drafting Information: The principal persons involved in drafting this rulemaking are LCDR Kent Kirkpatrick, Project Manager, Office of Navigation, and Lieutenant Mark Hanlon, Project Attorney, Office of Chief Counsel.

Regulatory Evaluation: This document removes obsolete materials from the Code of Federal Regulations, and does not substantively change existing requirements or responsibilities on either the public or the Coast Guard. As this rulemaking is solely editorial, the Coast Guard for good cause finds that notice and comments are unnecessary. The rulemaking has been determined to be non-major under Executive Order 12291 and non-significant under the provisions of DOT Order 2100.5 of May 1980. Since the rulemaking has no impact, it is certified under 605(b) of the Regulatory Flexibility Act (94 Stat. 1164, 5 U.S.C. 601) that the rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Parts 26, 80, 97, and 98

Navigation (water), Waterways

PART 26—[AMENDED]

Accordingly, Title 33 of the Code of Federal Regulations is amended as follows:

1. In § 26.09 paragraph (b) is revised to read as follows:

§ 26.09 List of exemptions.

* * * * *

(b) Each vessel navigating on the Great Lakes as defined in the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) and to which the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201-1208) applies is exempt from the requirements in 33 U.S.C. 1203, 1204, and 1205 and the regulations under §§ 26.03, 26.04, 26.05, 26.06, and 26.07. Each of these vessels and each person to whom 33 U.S.C. 1208(a) applies must comply with Articles VII, X, XI, XII, XIII, XV, and XVI and Technical Regulations 1-7 of "The Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973."

PART 80—[AMENDED]

§ 80.01 [Amended]

2. In § 80.01, paragraph (c) is removed.

PART 97—[REMOVED]

3. Part 97, Pilot rules for the Great Lakes, is removed.

PART 98—[REMOVED]

4. Part 98, Interpretive rulings, is removed.

(Sec. 3 Pub. L. 96-591, 33 U.S.C. 2071, 49 CFR 1.46(n)(14))

Dated: February 9, 1983.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 83-4163 Filed 2-18-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2F2666/R522; PH-FRL 2309-7]

Tolerances and Exemptions From Tolerances For Pesticide Chemicals in or on Raw Agricultural Commodities; 2,2-Dichloro-N-(1,3-Dioxolan-2-Ylmethyl)-N-2-Propenylacetamide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for the inert ingredient 2,2-dichloro-*N*-(1,3-dioxolan-2-ylmethyl)-*N*-2-propenylacetamide when used as an inert ingredient in formulations of the herbicides *S*-ethyl dipropyl-thiocarbamate and *S*-ethyl diisobutyl thiocarbamate applied to corn fields before corn plants emerge from the soil. This regulation was requested, pursuant to a petition, by the PPG Industries, Inc.

EFFECTIVE DATE: Effective on February 22, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of June 16, 1982 (47 FR 26019), that announced that the PPG Industries, Inc., P.O. Box 31, Barberton, OH 44203, had submitted pesticide petition 2F2666

proposing to amend 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for residues of the herbicide PPG–1292 [2,2-dichloro-*N*-(1,3-dioxolan-2-ylmethyl)-*N*-2-propenyl-acetomide] when used in formulations of the herbicides butylate (*S*-ethyl diisobutylthiocarbamate); EPTC (*S*-ethyl dipropylthiocarbamate) and vernolate (*S*-propyl dipropylthiocarbamate) when applied to corn fields before corn plants emerge from the soil.

The chemical identification as given in the notice of filing published in the **Federal Register** of June 16, 1982 (47 FR 26019) is corrected to read ". . . tolerance for residues of the inert PPG–1292 (2,2-dichloro-*N*-(1,3-dioxolan-2-ylmethyl-*N*-2-propenylacetamide)) when used in formulations of the herbicide *S*-ethyl dipropyl-thiocarbamate (EPTC) and *S*-ethyl diisobutylthiocarbamate (butylate) when . . .".

There were no comments received in response to the notice of filing.

The data submitted in the petition and relevant material have been evaluated. The toxicology data evaluated included several acute studies on the formulations: a 90-day feeding study (rats) with a non-observed-effect level (NOEL) of 300 parts per million (ppm) (15 mg/kg), a 6-month feeding study (dog) with a NOEL of 200 ppm (5 mg/kg), a CHO/NG PRT Mammalian cell Forward Gene Mutation Assay which was negative for mutagenicity, and a Rat Hepatocyte Primary Culture/DNA Repair Test which was negative for mutagenicity.

Desirable data lacking include the submission of supplemental information to resolve deficiencies in the Ames test and a repeat of the micronucleus test. The company has been notified of the deficiencies and has agreed to provide the necessary data to EPA. No previous exemptions have been established for this inert.

No residues are expected in the raw agricultural commodity corn resulting from the use of this inert.

There are no regulatory actions pending against the inert and no Rebuttable Presumption Against Registration (RPAR) criteria have been exceeded. The metabolism of 2,2-dichloro-*N*-(1,3-dioxolan-2-ylmethyl)-*N*-2-propenylacetamide is adequately delineated for the use. Analytical method, gas chromatography using a nitrogen-specific detector, is available for determining residues of PPG–1292. However, regulatory action is not anticipated in the case of the exemption. Since no detectable residues are expected in corn from the use, residues are not expected in meat, milk, poultry, or eggs.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612) the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950). (Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 9, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended by adding § 180.1077 to read as follows:

§ 180.1077 2,2-Dichloro-N-(1,3-dioxolan-2-ylmethyl)-N-2-propenylacetamide; exemption from the requirement of a tolerance.

2,2-Dichloro-*N*-(1,3-dioxolan-2-ylmethyl)-*N*-2-propenylacetamide is exempted from the requirement of a tolerance when used as an inert ingredient in formulations of the herbicides *S*-ethyl dipropyl-thiocarbamate and *S*-ethyl diisobutyl thiocarbamate when applied to corn fields before corn plants emerge from the soil at a maximum rate of 0.5 pound per acre.

[FR Doc. 83–4382 Filed 2–18–83; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Area Health Education Center Programs

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: These regulations set forth requirements for cooperative agreements entered into by the Secretary of Health and Human Services with schools of medicine or osteopathy for the planning, development, and operation of area health education center programs.

The regulations conform provisions in 42 CFR Part 57, Subpart MM—Area Health Education Center Programs to Nurse Training Amendments of 1979 Pub. L. 96–76), the Federal Grant and Cooperative Agreement Act (Pub. L. 95–224), and the Omnibus Reconciliation Act of 1981 (Pub. L. 97–35). Also in response to public comments to the interim final regulations published in the **Federal Register** on November 27, 1978, clarification of several provisions were made to the final regulations.

EFFECTIVE DATES: Changes made solely to conform these regulations to the Federal Grant and Cooperative Agreement Act (Pub. L. 95–224) were effective February 3, 1978; to the Nurse Training Amendments of 1979 (Pub. L. 96–76) were effective September 29, 1979; and to the Omnibus Budget and Reconciliation Act of 1981 (Pub. L. 97–35) were effective August 13, 1981. All other changes are effective March 24, 1983. See Supplementary Information for details.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moritsugu, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 3–22, 3700 East-West Highway, Hyattsville, Maryland 20782 (301–436–6418).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 27, 1978 (43 FR 55242), the Assistant Secretary for Health, Department of Health, Education and Welfare, with the approval of the Secretary, added a new Subpart MM, entitled "Area Health

Education Center Programs," to Part 57 of Title 42 of the Code of Federal Regulations. Section 781 of the Public Health Service Act authorizes the Secretary to enter into contracts with medical and osteopathic schools for projects to assist in the planning, development, and implementation of area health education center programs. The purposes of these programs are to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health service delivery system and to encourage the regionalization of educational responsibilities of health professions schools.

With the enactment of the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484), the Area Health Education Center projects previously funded under section 774(a) of the PHS Act were to come into compliance with the requirements of section 781 within a two-year grace period provided by section 802 of Pub. L. 94–484. Section 802 required that, in order to continue to receive payments, projects must provide assurances by September 30, 1978, that they would be in compliance with the requirements of section 781 of the Act by September 30, 1979. In order to codify these assurances, the regulations implementing these requirements were published as interim-final regulations without benefit of proposed rulemaking procedures. Nevertheless, comments were invited on the regulations and twelve letters were received during the comment period.

These final regulations implement amendments made to section 781 of the Act by the Nurse Training Amendments of 1979 (Pub. L. 96–76), the Federal Grant and Cooperative Agreement Act (Pub. L. 95–224), and the Omnibus Budget and Reconciliation Act of 1981 (Pub. L. 97–35). In addition, the regulations have been revised tc reflect the comments received in response to the invitation in the November 27, 1978 Notice.

It should be noted that these final regulations provide for support for Area Health Education Center (AHEC) Programs in the form of cooperative agreements, rather than contracts. Although the authorizing statute, section 781, provides for the award of contracts, under the Federal Grant and Cooperative Agreement Act of 1977, the Department is required to use the most appropriate instrument for implementing the program, choosing from grant, contract, or cooperative agreement, as defined in that Act, regardless of the terms of the authorizing statute (in this case, section 781). The Secretary has determined that the AHEC program is most appropriately administered through cooperative agreements because it is an assistance type of program which contemplates substantial government involvement during the performance of the project (see section 6 of Pub. L. 95–224), rather than by contract, which is principally a procurement instrument (see section 4 of Pub. L. 95–224), or by grant, which is principally assistance without substantial government involvement (see section 5 of Pub. L. 95–244). Section 57.3810 of these regulations describes how the Department will participate in the operation of AHEC programs.

As a result of Pub. L. 97–35 (The Omnibus Budget Reconciliation Act of 1981), the Secretary is authorized to provide assistance to schools of medicine and osteopathy which had previously received Federal financial assistance for an area health education center program under section 802 of the Health Professions Educational Assistance Act of 1976 in Fiscal Year 1979 for (a) projects that improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system; (b) projects to encourage the regionalization of educational responsibilities of the health professions schools; and (c) projects designed through preceptorships and other programs, to assist individuals subject to service obligation under the National Health Service Corps scholarship program.

Nine schools applied for the funds under this provision in Fiscal Year 1982. The Bureau of Health Professions, which administers the program, notified each of the eleven eligible AHECs of the availability of these funds by letter and in an invitational meeting held on February 3, 1982 in Hyattsville, Maryland. The purpose of the meeting was to inform the eligible applicants of the criteria to be applied in determining funding of requests for these projects. Each eligible AHEC will similarly be given personal notice of available funds in the future.

For clarity, the comments on the November 1978 Notice, the responses to those comments, and revisions in the regulations have been arranged according to the sections of the interim-final regulations to which they pertain.

General Comments

Several respondents expressed concern that the regulations are unduly restrictive and more specific than they ought to be in light of the diverse environments in which the AHEC projects exist.

While it was recognized that many of these features of the regulations are mandated by section 781 of the Act and, therefore, are not subject to administrative change, several respondents urged that the Department propose certain legislative changes to give more flexibility to the projects. Congress enacted some of these changes in Pub. L. 96–76 and Pub. L. 97–35, and these regulations incorporate those changes.

Section 57.3802 Definitions

One respondent stated that the definitions of "area health education center" and "area health education center program" are confusing and need to be clarified. The Department believes that these definitions clearly set forth the organizational structure contemplated by statute by distinguishing between the responsibilities and interrelationships of a "center" and a "school" in jointly comprising a "program." Therefore, no change has been made.

One respondent wanted the definition of "AHEC" modified to include the regional campus model of organization. In light of the separate and distinct responsibilities of the schools and area health education centers and the legislative history of section 781, it is the Department's view that neither a school of medicine or osteopathy, its parent institution, nor any of its subunits (e.g., branch campuses) may serve as an area health education center. Therefore, the Department has not accepted this recommendation.

One respondent suggested that "optometry" be specifically included throughout the regulations to insure that AHECs involve the profession in all geographical areas. The broad definition of "health professional" under this section includes optometrists. The Secretary believes that it would not be appropriate to require the involvement of optometrists in every instance and, therefore, this recommendation has not been accepted.

Section 57.3803 What entities are eligible to submit proposals

Three persons expressed displeasure over the fact that only schools of medicine or osteopathy are eligible to submit proposals. They felt that this requirement is unnecessarily restrictive. Since the statute clearly restricts eligibility to medical or osteopathic schools, this section cannot be revised.

Section 57.3805(d) Requirements for schools of medicine or osteopathy

Two respondents expressed confusion as to whether the requirements for schools of medicine or osteopathy under

§ 57.3805(d) apply only to those schools awarded the prime Federal contract, the schools with which the Secretary enters into cooperative agreements.

Section 781(c) explicity provides that each school of medicine or osteopathy participating in an area health education center program must meet all the applicable requirements of section 781(c). The regulations exempt, from meeting those requirements, schools whose sole function is to provide resources by purchase agreement to a center. Hence, no change has been made.

One respondent suggested that the phrase "medical or osteopathic" be deleted and "medical (M.D. or D.O.)" be substituted both times it appears in § 57.3805(d). The respondent also suggested that "general practice" and "osteopathic principles and practice" be added to the list of clinical education fields in § 57.3805(d)(3).

The Department believes that the suggestions do not improve the clarity of this section. Further, the regulation, as currently written, is broad enough to cover the proposed clinical education. Therefore, the section remains unchanged.

Several respondents expressed confusion concerning the requirements of § 57.3805(d)(4). In accordance with section 781(b)(3) of the Act, this section requires that a participating medical or osteopathic school must be responsible for or conduct a program for the training of either physician assistants or nurse practitioners. The school, not the center, must meet this requirement, and the school needs to conduct or be responsible for only one type of program, not both.

In addition, the Department has revised § 57.3805(d) to reflect the amendment made to section 781(c) of the Act by Pub. L. 96–76, the "Nurse Training Amendments of 1979." The effect of this amendment is to provide that a school of medicine or osteopathy must meet the requirement of § 57.3805(d)(4) only if no other school of medicine or osteopathy participating in the program meets this requirement.

Pub. L. 97–35 allows the Secretary, with written evidence of good cause submitted by applicants, to waive all or part of the requirement of section 781(c)(2) relating to the requirement placed upon the medical schools that ten percent of their students must receive their training in remote sites. The Department has integrated this change in § 57.3804(d)(3).

Concerning the requirement of § 57.3805(d)(4) that the school give special consideration in the enrollment in physician assistant or nurse practitioner programs to individuals who are from, or who plan to practice in, the area served by the center, respondents stated that the admission policies of an academic institution are the prerogative of the institution and not the concern of the Federal Government. The Secretary believes that this requirement does not impinge upon the academic freedom of the institution, since it is not dictating admission policies but only requiring the school to give "special consideration" to these individuals in order to qualify for participation in the program. The Department believes that this requirement is a reasonable means of advancing the intent of the law and, therefore, retains the requirement.

One respondent requested that schools of optometry be included in § 57.3805(d)(5)(i) as required participating schools. Section 57.3805(d)(5)(ii) permits schools of optometry to participate in the educational program. The Department believes that it is inappropriate to require the participation of schools of optometry and, therefore, the section has not been changed.

Section 57.3805(e) Requirements for Area Health Education Centers

A respondent suggested that § 57.3805(e)(1), requiring an AHEC to designate a geographic area or medically-underserved population which it will serve, be rewritten to make it clear that "remote" means "geographically remote." The Department believes that this change is both unnessary and undesirable. "Remote," in its ordinary sense, connotes geographic distance. However, the Department does not want to impose specific geographic distance requirements since the concept of remoteness also includes sociological barriers.

Three respondents felt that § 57.3805(e)(3), pertaining to assessment of area health manpower needs, is in direct conflict with the responsibilities of Health Systems Agencies (HSAs). They suggested that the section be rewritten to state clearly that wherever possible AHECs should use HSA data and be encouraged to cooperate with existing HSA. The Department agrees that the language contained in this section did not clearly express the cooperative relationship between the AHEC and the HSAs. Therefore, the Department has integrated this clarification into the current § 57.3804(e)(3) of the regulations.

Also, Pub. L. 97–35 clarifies medical internships to include specifically osteopathic interns in the fulfillment of the residency training requirement under section 781(d)(2). The Department has integrated this change in the current § 57.3804(e)(4) of the regulations.

With respect to the requirement in § 57.3805(e)(5) that the center provide opportunities for continuing medical education to health professionals practicing within the area served by the center, the Department believes that the assessment of the needs of health professionals in the area should include those of professionals working in Federally-supported health care delivery settings, such as those in migrant health centers supported under section 329 and community health centers supported under section 330.

One respondent suggested that the word "most," as applied to the forms of training required in § 57.3805(e)(5), be changed to "should." Since the section requires these forms of training only as appropriate, the Department did not adopt this suggestion.

One respondent suggested that in § 57.3805(e)(5)(ii), instead of requiring AHECs to distribute announcements to all health professionals, health professionals should be made aware of opportunities through usual and less costly communication channels. The Department recognizes the reasonableness of this suggestion and has revised this provision to allow such flexibility.

Four respondents interpreted § 57.3805(e)(6), which requires the provision of continuing medical education and other support services to the National Health Service Corps, as meaning that the AHEC program should become a health care delivery system rather than an educational and health care service support system. In Pub. L. 97–35, Congress clarified this requirement, as stated in section 781(d)(2)(E) of the Act, to indicate that the "support services" provided by the AHEC to be "educational support services." Therefore, the Department has integrated this clarification into the current § 57.3804(e)(6).

One respondent suggested that § 57.3804(e)(8)(A) be rewritten to insure that the osteopathic general practice program will be eligible for educational opportunities at health facilities in the service area of the center. Although the support of osteopathic general practice programs is not required, these programs are eligible to participate in AHEC-supported activities. Therefore, no change has been made.

One respondent expressed concern that the term "reasonably divided" relating to the advisory board required by § 57.3804(e)(9)(i) might be interpreted

to mean "equally divided" between providers and nonproviders. The same respondent also felt that if an AHEC already has an established board which performs advisory functions, it should not be dismantled, but be allowed to continue. Another respondent suggested that "hospital administrator" be added to the list of health care providers. In addition, one respondent wanted the definition of consumer members broadened to include practitioners receiving continuing education and technical assistance.

It should be stressed that the requirement is that membership on the advisory board be "reasonably divided," not necessarily equally divided, between providers and nonproviders. The Department intends that representation will be fair, based on sound judgment, and generally reflect the population of the area served by the center. If an existing advisory board meets the requirements of § 57.3804(e)(9)(i), that board may continue to serve as the advisory board.

This provision does not preclude participation of practitioners or hospital administrators as members of an advisory board. The Department believes, however, that imposing additional requirements would be unduly burdensome in some instances and that it is preferable to retain flexibility. Therefore, this provision has not been revised.

Section 57.3809 Restrictions on the amount and use of funds

One respondent expressed concern that the requirement of § 57.3809(b), that 75 percent of the funds provided must be spent in the center, would result in too few resources for the administrative staff and participating faculty of the contracting university.

Since the requirement in this section is a stuatutory requirement contained in section 781(e)(1) of the Act, the Department has made no change. However, the Department points out that a well-planned program which uses all available options would not rely solely on Federal funds. The 75 percent requirement pertains only to funds provided by the Secretary, and does not prohibit the recipient institution from using resources from other sources. Further, during the initial planning and development phases for establishing an AHEC program, funds spent by the participating schools for the planning and development of any AHEC may be counted as funds expended in the center.

Finally, several changes of an editorial or technical nature have been made to clarify the regulations.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) does not apply to these rules, since the interim-final rule was published prior to January 1, 1981.

Paperwork Reduction Act

The Department is required to submit to the Office of Management and Budget for review and approval §§ 57.3804, 57.3811 and 57.3812 which include reporting and/recordkeeping requirements, as well as the application forms and instructions which will be used to implement the AHEC cooperative agreements. The recordkeeping and reporting requirements in §§ 57.3804, 57.3811, and 57.3812 and the application forms and instructions for this cooperative agreement program have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. OMB Approval Numbers are 0935–0066 for the continuation application form and 0935–0065 for the competing application form.

Executive Order 12291, Federal Regulation

The Department has determined that this is not a major rule for the purpose of Executive Order 12291, Federal Regulation because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 42 CFR Part 57

Dental health, Education of disadvantaged, Educational facilities, Educational study programs, Emergency medical services, Grant programs—education, Grant programs—health, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Scholarships and fellowships, Student aid.

PART 57—[AMENDED]

Accordingly, Subpart MM of 42 CFR Part 57 is revised as set forth below.

(*Catalog of Federal Domestic Assistance*, No. 13.824, Area Health Education Centers).

Dated: December 8, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: January 10, 1983.

Richard S. Schweiker,

Secretary.

Subpart MM—Area Health Education Center Program

Sec.

57.3801 To what programs do these regulations apply?
57.3802 Definitions.
57.3803 Who is eligible to apply for a cooperative agreement?
57.3804 Project requirements.
57.3805 When do the requirements of 57.3804 apply?
57.3806 How will applications be evaluated?
57.3807 How is the amount of the award determined?
57.3808 How long does support under a cooperative agreement last?
57.3809 For what purposes may cooperative agreement funds be spent?
57.3810 How will the Department participate in a cooperative agreement?
57.3811 What additional Department regulations apply to awardees?
57.3812 What other audit and inspection requirements apply?
57.3813 Additional conditions.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 781 of the Public Health Service Act, 90 Stat. 2312 (42 U.S.C. 295g–1), as amended.

Subpart MM—Area Health Education Center Program

§ 57.3801 To what programs do these regulations apply?

The regulations of this subpart apply to cooperative agreements entered into by the Secretary under section 781 of the Public Health Service Act (42 U.S.C. 295g–1) with schools of medicine or osteopathy for the planning, development, and operation of area health education center programs.

§ 57.3802 Definitions.

"Act" means the Public Health Service Act.

"Allied health personnel" means individuals as defined in 42 CFR 58.502.

"Area health education center" or "center" means a public or nonprofit private entity which has a cooperative arrangement with one or more schools of medicine or osteopathy for the planning, development, and operation of an area health education center program. A center must be an entity which is recognized under the laws of the State in which it is located and which has as one of its principal functions the operation of the area health education center.

"Area health education center program" or "project" means a cooperative program among one or more schools of medicine or osteopathy and one or more area health education centers, which is capable of performing the functions described in sections 781(c) and (d) (2) of the Act and § 57.3804 of these regulations, and which is designed to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system and to encourage the regionalization of educational responsibilities of health professions schools.

"Cooperative agreement" means a legal instrument that reflects an assistance relationship between the Federal Government and the recipient in which substantial programmatic involvement is anticipated between the Federal agency and the recipient during performance of the contemplated activity.

"Clerkship" means supervised clinical training.

"Continuing medical education" or "continuing education" means any education for the purpose of maintaining or enhancing the knowledge, attitudes or abilities of a health professional in his or her field which does not lead to any formal advanced standing in the profession.

"Health professional" means any physician, dentist, optometrist, podiatrist, pharmacist, nurse, nurse practitioner, physician assistant or allied health personnel.

"Nurse practitioner" means an individual as defined in 42 CFR 57.2402.

"Physician assistant" means an individual as defined in 42 CFR 57.802.

"Preceptorship" means an educational experience in which the student works with a designated health professional, the preceptor, who teaches in the student's field of study and personally supervises the student's clinical activity.

"School of medicine, osteopathy, dentistry, optometry, podiatry, pharmacy, public health or veterinary medicine" means a school as defined in section 701(4) of the Act which is accredited as provided in section 772(b) of the Act.

"School of nursing means a collegiate, associate degree or diploma school of nursing as defined in section 853 of the Act.

"Training center for allied health professions" means a training center as defined in 42 CFR 58.402

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

"State" means, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.3803 Who is eligible to apply for a cooperative agreement?

(a) Any public or nonprofit private school of medicine or osteopathy located in a State is eligible to submit a proposal.

(b) More than one accredited school of medicine or osteopathy may submit a joint proposal for the planning, development and operation of an area health education center program. In this case, each school must conduct the activities required by section 781(c) of the Act and § 57.3804(d) of these regulations.

§ 57.3804 Project requirements.

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) Each area health education center program must have a program director who holds a faculty appointment at a medical or osteopathic school participating in the program and who is responsible for the overall direction and coordination of the program.

(b) Each area health education center program must have a program advisory committee to advise the program director on all aspects of the conduct of the program including administration, education and evaluation. This committee must include representatives of schools and programs of health professions which actively participate in the area health education center program under § 57.3804(d)(5) of this subpart and section 781(c)(4) of the Act, individuals with training and experience in the fields of medicine or osteopathy, dentistry, nursing, and an allied health profession, as well as a representative of each of the centers cooperating in the program.

(c) Each area health education center program must annually evaluate its activities to ascertain the extent to which it is meeting the purposes described in section 781(a) of the Act.

(d) *Requirements for schools of medicine or osteopathy.* A school of medicine or osteopathy participating in an area health education program (with the exception of a school whose only function is to provide resources by purchase agreement to a center) must meet the following requirements. However, a school of medicine or osteopathy must fulfill the requirement of § 57.3804(d)(4) only if no other school of medicine or osteopathy participating in the program meets this requirement. Each school of medicine or osteopathy must:

(1) Have a cooperative arrangement with an area health education center, as evidenced by a written agreement. This agreement must provide at a minimum that the schools participating in the program will perform the following functions:

(i) Provide faculty to assist in the conduct of the center's educational activities, as necessary;

(ii) Provide an agreed upon amount of funds to the center to assist the center in meeting the costs of its activities, including those described in section 781(d)(2) of the Act;

(iii) Be responsible for the quality of the education received in the center, including evaluating the quality of the educational programs required by section 781(d)(2) of the Act and the performance of its students while receiving clinical training in the center. The area health education center must agree to conduct the activities described in section 781(d)(2) of the Act and these regulations, and assist the schools participating in the program in meeting the requirements in section 781(c) of the Act and these regulations.

(2) Provide for the active participation in the program by individuals who are associated with the administration of the school, and staff or faculty members of each of the departments (or specialties if the school has no departments) of internal medicine, pediatrics, obstetrics and gynecology, surgery, psychiatry and family medicine. These persons may participate in the program in either the school or center and must perform, among others, the following functions: provide guidance on educational program or curriculum development and operation; instruct students (including residents and other practicing health professionals); perform student or program evaluation; and assist in program administration.

(3) Conduct no less than 10 percent of all undergraduate medical or osteopathic clinical education of the school in one or more centers and in clinical settings which are part of or affiliated with a center and in which the center arranges and supports the clinical education. The school shall assure that, annually, the ratio of student weeks of clinical education received by its undergraduate students in centers to the total number of student weeks of clinical education received by its

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undergraduate students, in any location, is no less than 0.10. For purposes of this paragraph, undergraduate medical or osteopathic clinical education means any clerkships, preceptorships, or other educational activities which are offered in the following fields: family medicine, internal medicine and its subspecialties, pediatrics and its subspecialties, dermatology, obstetrics and gynecology, surgery and its subspecialties, anesthesiology, psychiatry and its subspecialties, neurology, physical medicine and rehabilitation, emergency medicine, nuclear medicine and general preventive medicine, including community medicine. Courses, seminars, and other educational programs which are entirely didactic or laboratory in nature or which are primarily in anatomy, biochemistry, physiology, microbiology, pharmacology, or pathology are not included in this definition.

(i) The Secretary may waive, for good cause shown, all or part of the requirement of this paragraph if another such school participating in the same program meets the requirement.

(ii) To obtain a waiver, a school must submit a written request to the Secretary fully describing and documenting the good cause and stating which school meets the requirement. This request must include the following information:

(A) The extent to which the school for which the waiver has been requested has attempted to meet this requirement. A description of efforts and the reasons why the school cannot meet the requirement must demonstrate that the school has made a good faith effort, but constraints beyond its control have caused these efforts to be unsuccessful.

(B) The length of time for which this waiver is requested, and a plan and timetable for meeting the requirement.

(C) The alternative mechanisms the schools will use to provide clinical experiences in locations removed from the site of the teaching facilities where the major part of the educational program of any participating schools is conducted if the waiver is granted.

(4) Be responsible for, or conduct a program for the training of physician assistants, which meets the requirements of 42 CFR Part 57, Subpart I, or nurse practitioners, which meets the requirements of 42 CFR Part 57, Subpart Y Appendix. If one school which is participating in the area health education center program provides for or conducts a program for the training of physician assistants or nurse practitioners meeting this requirement, other schools participating in the program may, but need not, provide for or conduct a physician assistant or nurse practitioner program. Where the school is responsible for, but does not conduct one of these programs, it must participate in the presentation, review, and evaluation of one of these programs at an affiliated institution so that at least part of the education in the program is provided by faculty of the school. The school must give special consideration to the enrollment in these programs of individuals from or who plan to practice in the area served by the center by either:

(i) Giving preference to applicants whose place of residence has been in the area served by the center at any time prior to application; or

(ii) obtaining a signed statement from applicants, indicating an intent to practice the skills acquired in the program in the areas.

(5) Provide for the active participation of at least two schools or programs of other health professions in the educational program conducted in the area served by the center(s). In meeting this requirement:

(i) One of the participating schools or programs must be a school of dentistry, if there is one affiliated with the university with which the school of medicine or osteopathy is affiliated;

(ii) Only the following schools or programs of other health professions may be included to meet the requirement of this paragraph:

(A) Training centers for the allied health professions;

(B) Schools of nursing;

(C) Schools of optometry;

(D) Schools of pharmacy;

(E) Schools of podiatry; or

(F) Schools of public health.

(iii) Each school or program participating in the area health education center program under this paragraph must have a written agreement with the school(s) of medicine or osteopathy, under which the school or program agrees to assist and participate, as is appropriate, in the activities of each center as required under section 781(d)(2) of the Act.

(iv) Each school or program participating in the area health education center under this paragraph must have a written agreement with each center, under which the school or program agrees to provide some or all of its students with educational experiences in the center or in settings affiliated with the center, and the center agrees to arrange for and support the provision of the educational programs. This agreement may be part of the agreement required by paragraph (d)(1) of this section.

(e) *Requirements for area health education centers.* Each area health education center participating in an area health education center program must:

(1) Designate either a geographic area or medically underserved population which it will serve ("the area served by the center"). This area or population must be in a location remote from the main site of the teaching facilities of the schools which participate in the program. For purposes of this requirement,

(i) A medically underserved population means the population of a geographic area designated as a primary medical personnel shortage area under section 332 of the Act or a population group designated under section 332 of the Act as having a shortage of primary medical care personnel;

(ii) An area or population will meet this requirement if its location is removed from the site of the teaching facilities where the major part of the educational program of any participating school is conducted. The area served by the center must not duplicate, in whole or in part, the area served by any other center.

(2) Provide for or conduct training in health education services, in the area served by the center. This training must consist of courses and programs to train health professionals to instruct the public or patients in medical self-help, disease prevention, accident prevention, nutrition, physical fitness, and other subjects relating to health maintenance, and must include the principles of nutrition, the evaluation of nutritional status, and nutritional counseling. The training must be oriented toward the ethnic and cultural backgrounds of the people in the area.

(3) Assess the health manpower needs of the area served by the center and assist in the planning and development of training programs to meet these needs. In meeting this requirement, the center should work with existing health systems agencies designated for the area served by the center and other appropriate entities by cooperatively developing and sharing data on health personnel needs of the area for the next 10 years and in developing a plan for training programs to meet these needs. In areas where HSAs exist, the planned training programs must be consistent with the health personnel projections developed by the health systems agencies. At a minimum, the center must assess the need for (i) personnel to provide health education and nutrition counseling services; (ii) primary care health personnel including physicians in family practice, general internal

medicine, general pediatrics, and obstetrics and gynecology, physician assistants, and nurse practitioners; (iii) mental health practitioners; (iv) dentists; and (v) nurses. In carrying out its responsibility to assess health personnel needs in the area, the center shall, to the maximum extent practicable, use existing data (including data used for the designation of shortage areas under sections 332 and 836(h) of the Act).

(4) Provide for or conduct a rotating osteopathic internship or medical residency training program in family practice, general internal medicine or general pediatrics, or osteopathy in which no fewer than six persons are enrolled in first-year positions in the program. If one center which is participating in the area health education center program provides for or conducts a medical residency training program meeting this requirement, other centers participating in the program may, but need not, provide for or conduct a medical residency training program in these fields. In meeting this requirement:

(i) A family practice residency for allopathic and osteopathic physicians must meet the requirements of section 786(a) of the Act, and implementing regulations.

(ii) A general internal medicine or general pediatrics residency must meet the requirements of 42 CFR 57.3104, except for the requirements in paragraphs (h) and (i) of that section.

(iii) The center must conduct the medical residency training program at a site which is part of the center or provide for the conduct of this program, by written affiliation agreement with an appropriate entity located in the area served by the center.

(5) Provide opportunities for continuing medical education (including education in disease prevention) to all physicians and other health professionals practicing within the area served by the center.

This continuing medical education must include courses, seminars, lectures, grand rounds, clinical pathological conferences, mini-residencies, library services, or in-house training, as appropriate, for all health professionals in the area. In meeting this requirement:

(i) The center must assess the need for providing continuing medical education taking into consideration the numbers, needs and location of health professionals in the area as well as educational activities available through other entities.

(ii) The center must announce the availability of continuing medical education activities offered in the center, as well as those provided through other entities in the area, through appropriate and usual distribution channels.

(6) Provide continuing medical education and other educational support services to the National Health Service Corps (Corps) members assigned to the area served by the center, after notification of the assignment(s) by the Secretary. In meeting this requirement, the center must:

(i) Establish an organized program which will provide for the assessment of the continuing medical education needs of the members of the Corps and offer to members of the Corps, at a cost not to exceed the cost to any other participant, continuing medical education relevant to these identified needs.

(ii) Assist in identifying resources for and encouraging the provision of:

(A) Consultation services, if needed, including telephone consultation to Corps personnel.

(B) A patient referral system, if necessary, to Corps patients and assistance to these patients in obtaining laboratory and pathological services at accessible locations.

(C) Supervision and consultation for non-physician and non-dentist members of the Corps in the area.

(D) Temporary substitutes for Corps personnel, as needed.

(7) Encourage the utilization of nurse practitioners and physician assistants in the area and the recruitment of individuals for training in these professions at the participating medical or osteopathic schools. In meeting this requirement, the center must:

(i) Inform potential employers in the area regarding the following, among other subjects;

(A) The function and utilization of nurse practitoners and physician assistants;

(B) State laws and regulations governing nurse practitioners and physician assistants; and

(C) Reimbursement and malpractice coverage for services rendered by nurse practitioners and physician assistants.

(ii) Determine employment opportunities for nurse practitioners and physician assistants and participate in referral and recruitment of persons for these positions.

(iii) Distribute information in the area concerning the nurse practitioner or physician assistant training program(s) provided for or conducted by the schools of medicine or osteopathy participating in the program, and participate in recruiting persons in the area for the programs.

(8) Arrange and support educational opportunities for medical and other students at affiliated health facilities, ambulatory care centers, and health agencies throughout the area served by the center. In meeting this requirement, the center must:

(i) Coordinate the conduct of the following programs, including assisting in their planning and development, obtaining the necessary resources and providing administrative support services for:

(A) Clinical education for undergraduate medical or osteopathic students in at least family practice, general internal medicine or general pediatrics;

(B) Education for undergraduate and, as appropriate, graduate students, at a school of dentistry, if one is participating in the program;

(C) Education for students of the other schools or programs participating in the area health education center program under paragraph (d)(5) of this section; and

(D) Orientation for high school and post-high school students in schools in the area to develop awareness of health careers and health opportunities.

(9) Have an advisory board of which at least 75 percent of the members are persons from the area served by the center, including health service providers and consumers. For this purpose, health service providers are individuals who derive more than 10 percent of their annual income from the health care industry. In meeting this requirement:

(i) The advisory board must be reasonably divided between:

(A) Providers of health care, including at least one physician, dentist, nurse, and allied health professional who is actively engaged in the practice of his or her profession in the area served by the center; and

(B) Consumers, including students, who reside in the area and are broadly representative of the population in the area in terms of demographic factors, such as race, ethnic background and sex. The advisory board shall advise the chief administrative official of the center on all major policies concerning the operation of the center, on the establishment of center program priorities and on other issues, as necessary.

§ 57.3805 When do the requirements of § 57.3804 apply?

(a) The period of time in which any entity will have to meet all the requirements or § 57.3804 will be negotiated on a case-by-case basis, depending upon the nature and scope of the planned area health education center program. No cooperative

agreement, however, shall provide funds solely for the planning or development of a program for a period of longer than two years.

(b) Each area health education center program must begin planning for at least one center during the first year of support so that at least one center is fully operational and meets all the applicable requirements of § 57.3804 during the third year of support. Additional centers may be phased in during the first four years of Federal support except that once planning for any center is initiated, it must become fully operational and meet all the applicable requirements of § 57.3804 within three years.

(c) Each school with which the Secretary enters into a cooperative agreement under this subpart must meet all the requirements of § 57.3804 during the first four years of Federal support, except that once planning to add any school is initiated, it must meet all the applicable requirements of § 57.3804 within three years.

§ 57.3806 How will applications be evaluated?

(a) After consulting with the National Advisory Council on Health Professions Education established by section 702 of the Act, the Secretary will award cooperative agreements to applicants whose projects will best promote the purposes of section 781 of the Act and these regulations, taking into consideration among other factors:

(1) The degree to which the proposed project adequately provides for the program requirements set forth in § 57.3804;

(2) The capability of the applicant to carry out the proposed project; and

(3) The extent of the need of the area to be served by the proposed area health education center.

(b) In determining the priority for funding of applications approved under paragraph (a) of this section, the Secretary will consider:

(1) The relative merit of the proposed project;

(2) The relative cost-efficiency of the proposed project; and

(3) Any special factors relating to national needs as the Secretary may from time to time announce in the **Federal Register**, such as the provision of substantial training opportunities in the health professions for disadvantaged persons.

The Secretary will give preference to competing continuation applications over new applications.

§ 57.3807 How is the amount of the award determined?

(a) The amount of the award will be based on the Secretary's estimate of the sum necessary for the approved activity.

(b) The Secretary will not provide in any year under this subpart more than 75 percent of the total operating funds of an area health education center program.

§ 57.3808 How long does support under a cooperative agreement last?

(a) The cooperative agreement will specify the length of time the Secretary intends to support the project without requiring the project to recompete for funds. In addition, the maximum period during which a project may be funded will be specified in each cooperative agreement.

(b) Generally, the project will initially be funded for one year, and subsequent continuation awards will also be for one year at a time. A school which enters into a cooperative agreement must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding levels of these continuation awards will be made after consideration of such factors as the applicant's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the entering into of any cooperative agreement commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

(d) Any balance of Federally obligated funds remaining unobligated by the school at the end of a budget period may be carried forward to the next budget period, for use as prescribed by the Secretary, provided a continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the school for that period, including any unobligated balance carried forward from prior periods, exceeds the school's needs for the period, the Secretary may adjust the amounts awarded by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

§ 57.3809 For what purposes may cooperative agreement funds be spent?

(a) A school which is awarded a cooperative agreement shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the cooperative agreement award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations.

(b) The area health education center program must spend at least 75 percent of the funds provided under this subpart in any year in area health education centers.

(c) Schools which are awarded cooperative agreements may not spend cooperative agreement funds for sectarian instruction or for any religious purpose.

§ 57.3810 How will the Department participate in a cooperative agreement?

The Secretary anticipates substantial Federal involvement in the management of the project supported under the cooperative agreement. This involvement may include, as determined necessary, the following activities, among others:

(a) Reviewing and approving plans, upon which continuation of the cooperative agreement is contingent, to permit appropriate direction and conduct of activities;

(b) Reviewing and approving all contracts between the cooperating school of medicine, other health professions schools, and area health education centers;

(c) Participating with project staff in the development of funding projections;

(d) Developing with project staff data collection systems and procedures; and

(e) Participating with project staff in the design of project evaluation protocols and methodologies.

§ 57.3811 What additional Department regulations apply to awardees?

Several other regulations apply to cooperative agreements under this subpart. These include, but are not limited to:

42 CFR Part 50—PHS grant appeals process.

45 CFR Part 16—Department grant appeals process.

45 CFR Part 46—Protection of human subjects.

45 CFR Part 74—Administration of grants.

45 CFR Part 75—Informal grant appeals procedures (indirect cost rates and other cost allocations).

45 CFR Part 76—Debarment and Suspension from Eligibility for Financial Assistance.

45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance from the Department—Implements Title VI of the Civil Rights Act of 1964.

45 CFR Part 81—Practice and procedure for hearings under Part 80.

45 CFR Part 83—Nondiscrimination on the basis of sex in the admission of individuals to training programs.

45 CFR Part 84—Nondiscrimination on the basis of handicap in Federally-assisted education programs.

45 CFR Part 86—Nondiscrimination on the basis of sex in Federally-assisted programs.

45 CFR Part 91 [1]—Nondiscrimination on the basis of age in Department programs or activities receiving Federal financial assistance.

§ 57.3812 What other audit and inspection requirements apply?

Each school which enters into a cooperative agreement must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act concerning audit and inspection.

§ 57.3813 Additional conditions.

The Secretary may impose additional conditions on any award before or at the time of any award if the Secretary determines that these conditions are necessary to assure or protect the advancement of the approved activity, the continued viability of the school, the interest of the public health, or the conservation of public funds.

[FR Doc. 83-3891 Filed 2-18-83; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[CGD 82-018b]

Ports of Documentation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule revokes the designation of 53 locations as ports of documentation and shifts all services to 15 regional documentation offices.

The regulations will permit the Coast Guard to provide more efficient and effective service to the public by improvements in the documentation program through enhanced uniformity, specialization, and expertise. Regional documentation ports will enable the Coast Guard to operate within budgetary constraints in concert with efforts to reduce the Federal Budget.

Since July 1, 1982, documentation regulations permit most submissions to be made by mail, decreasing the need for applicants to appear in person at documentation offices. Therefore these closings should not result in significant inconvenience to the public.

DATE: This rule is effective July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Commander Michael J. DeWitt (Project Manager), Office of Merchant Marine Safety, Room 2406, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593; (202) 426-1483.

Drafting Information: The principal persons involved in drafting this proposal are Commander Michael J. DeWitt (Project Manager) and Lieutenant Commander William B. Short (Project Attorney), Office of the Chief Counsel.

Discussion of regulation:

Documentation is required for the operation of certain vessels which engage in the fisheries, Great Lakes trade, or coastwise trade. To provide the necessary documentation services to the affected public, the Coast Guard has designated numerous Ports of Documentation throughout the country.

This amendment to the documentation regulations relates solely to the number of designated Ports of Documentation within the internal agency organization and will not reduce the documentation services now afforded. A general notice of proposed rulemaking is not required by 5 U.S.C. 553(6)(3)(A). The rule simply consolidates existing offices and personnel positions into fifteen regional locations to lower overhead costs and to facilitate installation of a computer support system *currently under development.* Consolidation is necessary to accomplish the transition from a decentralized, labor-intensive system to a centralized, capital-intensive system.

This system will improve internal management efficiency and the level of service to the public. The end result, a centralized, automated vessel documentation system coupled with the simplified procedures and mailing services afforded under the Documentation Act of 1980, in effect since 1 July 1982, will offer the following advantages to the public:

a. Reduction and eventual elimination of service backlogs will mean faster and, eventually, immediate service.

b. Full exploitation, through automation, of the advantages offered by simplified forms, processing and mailing procedures.

c. Enhanced uniformity of interpretation and application of vessel documentation laws and regulations.

d. More effective utilization of manpower and greater productivity through task assignments on the basis of specialization and expertise.

e. Reduced Coast Guard Commercial Vessel Safety operating expenses, and thus reduced total cost of the vessel documentation program to the taxpayer.

The only negative effect of these changes upon the public could be reduced ability to conduct business in person in the documentation offices. The mail-in procedures established by the simplification initiative and the advantages noted above will offset this adverse impact for the majority of users. The fifteen regional offices are located in areas of high documentation activity and were selected on the basis of physical co-location with district offices, present workload, and accessibility for the maritime public.

Regionalization of Ports of Documentation will be effected on 1 July 1983, one year from the effective date of the simplified regulation published under the Documentation Act of 1980. This will coincide with the time required to integrate existing documentation records into the new simplified system so that the necessary vessel data base will be in place prior to implementation of the automated system.

Where the home port of a vessel is changed by this amendment, the change will be reflected in the vessel's Certificate of Documentation at the time of renewal, without charge to the public. Further, the amendment does not change the hailing port for any vessel validly documented as of the effective date of these regulations.

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[1] Refer to 45 CFR Part 90 until Part 91 is finalized.

U.S. Coast Guard Districts

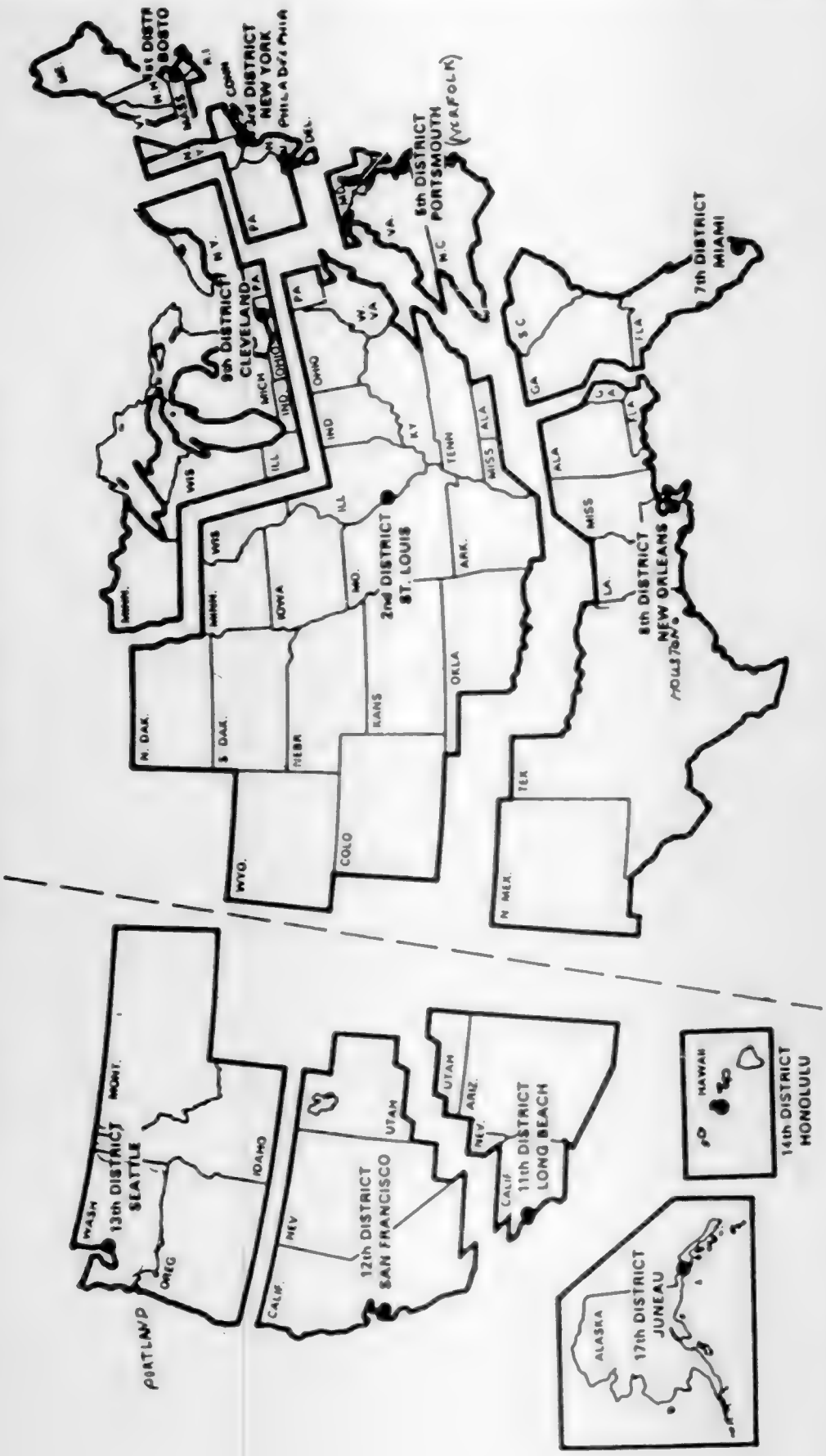

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For the information of the reader the general limits of each district are shown in the diagram reproduced in this notice. In those cases where district particulars are necessary, complete boundaries are set forth in 33 CFR Part 3.

On the effective date of this rule the Coast Guard will:

1. Close the port of documentation offices at: Gloucester, MA; Portland, ME; Rockland, ME; New Bedford, MA; Providence, RI.

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, 447 Commercial Street, Boston, MA 02109;

(b) Designate Boston as the home port of all vessels now having Gloucester, New Bedford, MA, Portland or Rockland, ME, and Providence, RI, as their home port.

2. Close the port of documentation offices at: Cincinnati, OH; Minneapolis, MN; Louisville, KY; Greenville, MS; Memphis, TN; Nashville, TN; Pittsburgh, PA.

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, 210 N. Tucker Blvd., St. Louis, MO 63101;

(b) Designate St. Louis as the home port of all vessels now having Cincinnati, OH, Minneapolis, MN, Louisville, KY, Greenville, MS, Memphis or Nashville, TN, Pittsburgh, PA, as their home port.

3. Close the port of documentation offices at: Bridgeport, CT; New London, CT; Albany, NY.

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, Battery Park Bldg., New York, NY 10004;

(b) Designate New York as the home port of all vessels now having Bridgeport or New London, CT, Albany, NY, as their home port.

4. Close the port of documentation office at Wilmington, DE, and

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, 801 Custom House, Philadelphia, PA 19106;

(b) Designate Philadephia as the home port of all vessels now having Wilmington, DE, as their home port.

5. Close the port of documentation offices at: Elizabeth City, NC; Reedville, VA; Baltimore, MD; Washington, DC; Beaufort-Morehead City, NC; Wilmington, NC.

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, Norfolk Federal Bldg. 200 Granby Mall, Norfolk, VA 23510;

(b) Designate Norfolk as the home port of all vessels now having Elizabeth City, Beaufort-Morehead City, or Wilmington, NC, Reedville, Va, Baltimore, MD, or Washington, DC, as their home port.

6. Close the port of documentation offices at: Key West, FL; Charleston, SC; Jacksonville, FL; San Juan, PR; Savannah, GA; Tampa, FL.

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, 51 S.W. 1st Avenue, Miami, FL 3130;

(b) Designate Miami as the home port of all vessels now having Key West, Jacksonville, or Tampa, FL, Charleston, SC, San Juan, PR, or Savannah, GA, as their home port.

7. Close the port of documentation offices at: Baton Rouge, LA; Houma, LA; Morgan City, LA; Biloxi, MS; Mobile, AL; Pensacola, FL.

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, F. Edward Hebert Bldg., 600 South Street, New Orleans, LA 70130;

(b) Designate New Orleans as the home port of all vessels now having Baton Rouge, Houma, or Morgan City, LA, Biloxi, MS, Mobile, AL, or Pensacola, FL, as their home port.

8. Close the port of documentation offices at: Brownsville, TX; Corpus Christi, TX; Galveston, TX; Port Arthur, TX.

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, 7300 Wingate Street, Houston, TX 77011;

(b) Designate Houston as the home port of all vessels now having Brownsville, Corpus Christi, Galveston, or Port Arthur, TX, as their home port.

9. Close the port of documentation offices at: Detroit, MI; Buffalo, NY; Oswego, NY; Chicago, IL; Ludington, MI; Duluth, MN; Milwaukee, WI.

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, 601 Rockwell Avenue, Rockwell Building, Cleveland, OH 44114;

(b) Designate Cleveland as the home port of all vessels now having Detroit, MI, Chicago, IL, Buffalo or Oswego, NY, Ludington, MI, Duluth, MN, or Milwaukee, WI, as their home port.

10. Close the port of documentation office at San Diego, CA, and

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, 165 North Pico Ave., Los Angeles-Long Beach, CA 90802;

(b) Designate Los Angeles-Long Beach as the home port of all vessels now having San Diego, CA, as their home port.

11. Close the port of documentation office at Eureka, CA, and

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, Bldg. 14, Government Island, Alameda, CA 94501;

(b) Designate San Francisco as the home port of all vessels now having Eureka, CA, as their home port.

12. Close the port of documentation office at: Port Angeles, WA; Tacoma, WA.

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, 1519 Alaskan Way S, Seattle, WA 98134;

(b) Designate Seattle as the home port of all vessels now having Port Angeles or Tacoma, WA, as their home port.

13. Close the port of documentation office at: Astoria, OR; Coos Bay, OR.

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, 6767 N. Basin Avenue, Portland, OR 97217;

(b) Designate Portland as the home port of all vessels now having Astoria or Coos Bay, OR, as their home port.

14. Close the port of documentation offices at: Ketchikan, AK; Anchorage, AK.

(a) Transfer documentation records to the Office of Documentation Officer, U.S. Coast Guard, 612 Willoughby Ave., Juneau, AK 99801;

(b) Designate Juneau as the home port of all vessels now having Ketchikan or Anchorage, AK, as their home port.

15. The amendment to the regulations will also clearly define home port designations.

Where a vessel owner has no domicile in the U.S. or does not have a permanent address, the home port may be any port of documentation. If the vessel is owned by the Federal Government or any agency thereof, the home port will be Norfolk, VA.

For a vessel which is owned by a state, territory, possession, or any agency thereof, the home port will be, except in the Third, Eighth, and Thirteenth Coast Guard Districts, the port of documentation for the Coast Guard District in which the capital of the entity is located.

For vessels owned by the State of New York, New Jersey, or Connecticut, or any agency thereof, the home port will be New York. For vessels owned by the State of Pennsylvania, Delaware, or any agency thereof, the home port will be Philadelphia. For vessels owned by the State of Texas or New Mexico, or any agency thereof, the home port will be Houston. For vessels owned by the State of Louisiana, Mississippi or Alabama, or any agency thereof, the home port will be New Orleans. For vessels owned by the State of Washington or Montana, or any agency thereof, the home port will be Seattle.

For vessels owned by the State of Oregon or Idaho, or any agency thereof, the home port will be Portland.

For a vessel which is owned by a political subdivision of a state, territory, possession, or any agency thereof, the home port will be, except in the Third, Eighth, and Thirteenth Coast Guard Districts, the port of documentation for the Coast Guard District in which the political subdivision is located. For vessels owned by a political subdivision of the State of New York, New Jersey, or Connecticut, or any agency thereof, which subdivision is located in the Third Coast Guard District, the home port will be New York. For vessels owned by a political subdivision of the State of Delaware or Pennsylvania, or any agency thereof, which subdivision is located within the Third Coast Guard District, the home port will be Philadelphia. The home port for a vessel owned by a political subdivision of the State of Texas or New Mexico, or any agency thereof, will be Houston. The home port for vessels owned by a political subdivision of the State or Louisiana, Mississippi, Georgia, Florida, or Alabama, or any agency thereof, which subdivision is located within the Eighth Coast Guard District, will be New Orleans. The home port for a vessel owned by a political subdivision of the State of Washington or Montana, or any agency thereof, will be Seattle. For vessels owned by a political subdivision of the State of Oregon or Idaho, or any agency thereof, the home port will be Portland.

Evaluation and Initial Regulatory Flexibility Analysis

Although Executive Order 12291 does not apply to rules of agency organization, the Coast Guard has nevertheless evaluated the rule and determined that it is not a major rule. In addition, this regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulation (DOT Order 2100.5 of 5–22–80). Further the rule has been evaluated under Pub. L. 96–345 (94 Stat. 1168) and is certified as having no significant economic impact on a substantial number of small entities. The rule simply changes the number of documentation offices to fifteen regional locations and does not have an effect on the total annual number of transactions. There should be little or no economic burden on the public as a result. In the past, many documentation transactions required the applicant or agent to appear in person at a documentation office. With the procedures adopted under the Documentation Act of 1980, all transactions can be conducted by mail.

Environmental Statement

The Coast Guard has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that this action is categorically excluded from further environmental documentation.

List of Subjects in 46 CFR Part 67

Vessels, Documentation.

In consideration of the foregoing, the Coast Guard amends Part 67 of Title 46 of the Code of Federal Regulations to read as follows:

1. By revising Appendix D to Part 67 to read as follows:

Appendix D to 46 CFR Part 67
Ports of Documentation

The following is a list of Coast Guard Districts indicating the ports of documentation offices within each District. With the exception of the Third, Eighth, and Thirteenth Coast Guard Districts, the ports of documentation serve the entire geographic units of the districts in which they are located. In the Third District, Philadelphia is the port of documentation for the Philadelphia Marine Inspection Zone and New York is the port of documentation for the remainder of the district. In the Eighth District, Houston is the port of documentation for the States of Texas and New Mexico. New Orleans is the port of documentation for the remainder of the district. In the Thirteenth District, Seattle is the port of documentation for the States of Washington and Montana. Portland is the port of documentation for the States of Oregon and Idaho. Boundaries for the Coast Guard districts are set forth in 33 CFR Part 3. Boundaries of the Philadelphia Marine Inspection Zone are set forth in 33 CFR 3.15–25.

District	Regional port of documentation offices	Address
1st	Boston, MA	USCG Marine Safety Office, Boston, MA
2d	St. Louis, MO	USCG Marine Safety Office, St. Louis, MO
3d	New York, NY	USCG Marine Inspection Office, New York, NY
	Philadelphia, PA	USCG Marine Inspection Office, Philadelphia, PA
5th	Norfolk, VA	USCG, Hampton Roads Marine Safety Office, Norfolk, VA.
7th	Miami, FL	USCG Marine Safety Office, Miami, FL.
8th	New Orleans, LA	USCG Marine Inspection Office, New Orleans, LA.
	Houston, TX	USCG Marine Safety Office, Houston, TX.
[illegible]	Cleveland, OH	Commander Ninth CG District (mvd), Cleveland, OH
11th	Los Angeles-Long Beach, CA.	USCG Marine Safety Office, Long Beach, CA.
12th	San Francisco, CA	USCG Marine Safety Office, Alameda, CA.
13th	Seattle, WA	USCG Marine Safety Office, Seattle, WA.
	Portland, OR	USCG Marine Safety Office, Portland, OR.
14th	Honolulu, HI	USCG Marine Safety Office, Honolulu, HI.
17th	Juneau, AK	USCG Marine Safety Office, Juneau, AK.

2. In § 67.13–3, paragraphs (b) (1)–(9) are revised to read as follows:

§ 67.13–3 Home port designations.

* * * * *

(b) * * *

(1) Except in the Third, Eighth, and Thirteenth Coast Guard Districts, the home port of a vessel owned by one person must be the port of documentation for the district in which the domicile of the owner is located. Where the domicile of the owner is located in the Philadelphia Marine Inspection Zone, the home port must be Philadelphia. Where the domicile of the owner is any place in the Third Coast Guard district other than one in the Philadelphia Marine Inspection Zone, the home port must be New York. Where the domicile of the owner is in the State of Texas or New Mexico, the home port must be Houston. Where the domicile of the owner is any place in the Eighth Coast Guard District other than a place in the State of Texas or New Mexico, the home port must be New Orleans. Where the domicile of the owner is in the State of Washington or Montana, the home port must be Seattle. Where the domicile of the owner is in the State of Oregon or Idaho, the home port must be Portland.

(2) Where two or more persons with different domiciles own a vessel, the home port is determined according to the rules set forth in paragraph (b)(1) of this section, using the domicile of any one of the owners.

(3) If a vessel is owned by a partnership, the home port is determined according to the rules set forth in paragraph (b)(1) of this section, using the location of the business address of the partnership.

(4) If a vessel is owned by a corporation, the home port is determined according to the rules set forth in paragraph (b)(1) of this section, using the location of either its address within

its state of incorporation or the address of its principal place of business.

(5) Where the vessel is owned in a trust arrangement, the home port is determined in accordance with paragraphs (b) (1), (3), or (4) of this section, as appropriate, using the address of any one of the trustees.

(6) Where the vessel owner has no domicile in the United States or does not have a permanent address in the United States, the home port may be any port of documentation.

(7) Where the vessel is owned by the Federal Government, or any agency thereof, the home port must be Norfork.

(8) Where the vessel is owned by a state, territory, possession, or any agency thereof, the home port must be, except in the Third, Eighth, and Thirteenth Coast Guard Districts, the port of documentation for the Coast Guard District in which the capital is located. The home port of a vessel owned by the State of New York, New Jersey or Connecticut, or any agency thereof, must be New York. The home port of a vessel owned by the State of Pennsylvania or Delaware, or any agency thereof, must be Philadelphia. The home port for a vessel owned by the State of Texas or New Mexico, or any agency thereof, must be Houston. The home port of a vessel owned by the State of Louisiana, Mississippi or Alabama, or any agency thereof, must be New Orleans. The home port for a vessel owned by the State of Washington or Montana, or any agency thereof, must be Seattle. The home port of a vessel owned by the State of Oregon or Idaho, or any agency thereof, must be Portland.

(9) Where the vessel is owned by a political subdivision of a state, territory, possession, or any agency thereof, the home port must be, except in the Third, Eighth, and Thirteenth Coast Guard Districts, the port of documentation for the Coast Guard District in which the political subdivision is located. The home port of a vessel owned by a political subdivision of the State of New York, New Jersey or Connecticut, or any agency thereof, which subdivision is located in the Third Coast Guard District, must be New York. The home port of a vessel owned by a political subdivision of the State of Delaware or Pennsylvania, or any agency thereof, which subdivision is located within the Third Coast Guard District, must be Philadelphia. The home port for a vessel owned by a political subdivision of the State of Texas or New Mexico, or any agency thereof, must be Houston. The home port of a vessel owned by a political subdivision of the State of Louisiana, Mississippi, Florida, Georgia, or Alabama, or any agency thereof, which subdivision is located within the Eighth Coast Guard District, must be New Orleans. The home port for a vessel owned by a political subdivision of the State of Washington or Montana, or any agency thereof, must be Seattle. The home port for a vessel owned by a political subdivision of the State of Oregon or Idaho, or any agency thereof, must be Portland.

* * * * *

3. In § 67.13–7, paragraph (c) is revised to read as follows:

§ 67.13–7 Hailing port designation.

* * * * *

(c) When the home port of a vessel is determined in accordance with § 67.13–3(b)(6), the hailing port must be the home port of the vessel.

* * * * *

(Sec. 103, Pub. L. 96–594, 94 Stat. 3453 (46 U.S.C. 65a), sec. 105, Pub. L. 96–594, 94 Stat. 3454 (46 U.S.C. 65c), sec. 124 Pub. L. 96–594, 94 Stat. 3458 (46 U.S.C. 65v))

Dated: February 14, 1983.

L. N. Hein,

Captain, U.S. Coast Guard. Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 83–4164 Filed 2–18–83; 8:45 am]

BILLING CODE 4910–14–M

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46 CFR Part 80

[CGD 79–180]

Disclosure of Safety Standards and Country of Registry

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulations that apply to the disclosure of safety standards and country of registry for domestic and foreign passenger vessels. Past regulations were misleading and failed to correctly express the intent of Congress. This document clarifies disclosure standards by accurately defining the requirements imposed on the passenger vessel industry when advertising or selling passage aboard vessels of 100 gross tons or over having berth or stateroom accommodations for 50 or more passengers.

EFFECTIVE DATE: This amendment is effective on March 24, 1983.

FOR FURTHER INFORMATION CONTACT: CDR John P. Deleonardis (G–MVI–2/24), Room 2612, U.S. Coast Guard, 2100 Second Street, SW., Washington, D.C. 20593. (Tele. 202–426–2190).

SUPPLEMENTARY INFORMATION: The Coast Guard published a notice of proposed rulemaking (NPRM) concerning these amendments on August 2, 1982 (47 FR 33284). A ninety day comment period was provided. No written comments or requests for a public hearing were received on the proposal. No public hearing is scheduled.

Drafting Information

The principal persons involved in the drafting of these rules are: CDR John P. Deleonardis, Project Manager, Office of Merchant Marine Safety and LT Mark Hanlon, Project Attorney, Office of the Chief Counsel.

Discussion

Subsection 362(b) of Title 46, United States Code, requires owners, operators, agents, or any persons selling passage on subject vessels to disclose the vessels' compliance with certain safety standards. This disclosure requirement applies to passenger vessels, unless otherwise exempted, of 100 gross tons or more, having berth or stateroom accommodations for fifty or more persons Congress did not deem it necessary to apply the disclosure requirements to smaller vessels, such as passenger ferries, day cruisers, etc.

The statute requires direct notification of each prospective passenger embarking on subject vessels from United States ports. In order to prevent circumvention of these passenger notification requirements by vessels embarking passengers at ports outside, rather than within the United States, Congress extended the disclosure requirements to advertisements in the United States for passage on such vessels for ocean voyages anywhere in the world, and also required disclosure of country of registry.

In discussing promotional literature or advertising, the statute speaks to offers of passage or soliciting passengers, rather than the size of vessels covered or persons subject to the requirement. There is an implication that the advertising disclosure requirement applies to the same size vessels as the passenger notification requirement. This has led some to believe that the embarkation of passengers at United States ports is also a prerequisite to applicability of the advertising disclosure requirements. The legislative history of the statute indicates that the advertising disclosure requirement applies to the same size vessels as the passenger notification requirement, and that disclosure must occur in all advertising even though the vessel

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concerned does not embark passengers at U.S. ports.

Past regulations in Part 80 of Title 46, Code of Federal Regulations, were misleading in that the statutory ambiguity was not resolved. The embarkation of passengers at United States ports, as a prerequisite to application of the passenger notification requirement (46 CFR 80.25), was not explicitly stated in § 80.10(a). The advertising disclosure requirement (46 CFR 80.30) was not explicitly made applicable to only subject vessels in § 80.10(b). The statutory language "ocean voyage anywhere in the world" was not defined.

In order to resolve these ambiguities and to reflect actual Coast Guard practice in applying these regulations, these amendments revise the applicability of the regulations to read in terms of persons who are subject thereto. The vessel size description is clearly set out. Applicability is no longer defined in terms of subject vessels and voyages or advertising activities. A definition of "ocean voyage anywhere in the world" is also included to clarify Congressional intent that a seagoing voyage on exposed waters, as opposed to a voyage on inland or protected waters, is contemplated. The definition of the regulated activities therefore are now found in the substantive subparts implementing the statutory passenger notification and advertising disclosure requirements (46 CFR 80.25, as revised by these amendments, and § 80.30, respectively). The amendments more accurately define the scope of the regulations and more effectively implement the intent of Congress.

A final ambiguity requiring clarification concerns the minimum type size of printed country of registry statements. Prior §§ 80.25(b) and 80.30(c)(1) required a minimum type size for prescribed safety information statements, which included country of registry information. Prior § 80.20(b), which required country of registry statements concerning vessels otherwise exempt from safety information statement requirements, failed to specify the minimum type size requirement. That section is now amended to include this requirement. This action follows the Congressional intent that country of registry statements be made in a manner which reasonably discloses that information.

Evaluation

The Coast Guard has determined, in accordance with E.O. 12291 and DOT Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated 5 May, 1980 that these amendments are not major and not significant. These amendments consist of mere editorial changes and a new minimum type size requirement. The minimum type size requirement is the least costly method of implementing the Congressional intent that the country of registry information be reasonably disclosed. Specifying a minimum type size, in order to ensure that the information is clearly disclosed, adds no additional reporting cost. Consequently, no evaluation has been prepared.

Regulatory Flexibility Analysis

The regulations have been evaluated under Pub. L. 96–354 (94 Stat. 1168) and are certified as having no significant economic impact on a substantial number of small entities. A six point American type size requirement to disclose country of registry has no significant economic impact since there will be no increase in the reporting cost. The remaining amendments are purely editorial with no economic impact.

List of Subjects in 46 CFR Part 80

Advertising, Marine safety, Passenger vessels, Penalties, Travel and Foreign trade.

In consideration of the foregoing, Chapter I of Title 46 of the Code of Federal Regulations is amended as follows:

PART 80—DISCLOSURE OF SAFETY STANDARDS AND COUNTRY OF REGISTRY

1. By revising § 80.10 to read as follows:

§ 80.10 Applicability.

Except as exempted in § 80.20, this part applies to—(a) owners, operators, agents, or any persons selling passage on a foreign or domestic vessel of one hundred gross tons or over having berth or stateroom accommodations for fifty or more passengers and embarking passengers at a United States port for a coastwise or an international voyage; and (b) owners, operators, agents, and other persons involved in the publishing and distribution of promotional material in or over any medium of communication within the United States offering passage or soliciting passengers for an ocean voyage anywhere in the world, by a vessel of one hundred gross tons or over having berth or stateroom accommodations for fifty or more passengers, regardless of whether passengers are embarked at United States ports for said voyage.

2. By revising § 80.15 to read as follows:

§ 80.15 Ocean voyage.

An ocean voyage for the purposes of this part means:

A voyage on any body of water seaward of the low water mark such as an ocean or arm thereof, other major bodies of water such as seas, gulfs, and straits, except voyages exclusively within harbors and small coastal indentations.

3. By revising § 80.20(b) to read as follows:

§ 80.20 [Amended]

* * * * *

(b) If the exception in paragraph (a) of this section applies, the country of registry must appear in printed advertising or promotional literature as described in § 80.30(a), in a type no smaller than six points, American point system.

4. By revising § 80.25(a) to read as follows:

§ 80.25 Notification of safety standards.

(a) Each owner, operator, agent, or other person, selling passage for a coastwise or an international voyage embarking passengers at a United States port shall give to a prospective passenger, in writing, at the time of or before passage is booked, separately from any promotional literature or advertising used, a document containing the following information for each vessel concerned—

* * * * *

(R.S. 4400, as amended, Pub. L. 89–777, 80 Stat. 1356; Pub. L. 91–154, 83 Stat. 427 [46 U.S.C. 362]; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: January 25, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83–4380 Filed 2–16–83; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[G.O. 13; Amdt. 14]

Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This document corrects citation references appearing in 46 CFR Part 536, relating to publishing and filing tariffs by common carriers in the foreign commerce of the United States.

DATE: Effective February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, D.C. 20573 (202) 523–5725.

SUPPLEMENTARY INFORMATION: A review of 46 CFR Part 536 reveals certain incorrect citation references which should be amended.

1. Part 536 publishes rules and regulations governing tariffs filed by common carriers in the foreign commerce of the United States. Section 536.5(d)(9), which publishes rules applicable to freight forwarder compensation contains a reference to "§ 510.24(f)." Part 510 was revised by the Commission effective October 1, 1981, at which time § 510.24(f) was revised and redesignated as § 510.33(d). The reference to "§ 510.24(f)" in § 536.5(d)(9) should therefore be amended to read "§ 510.33(d)."

2. The reference to "§ 536.10(c)(6)" in § 536.10(c)(7) is incorrect. The section intended to be referenced is "§ 536.10(c)(5)."

Therefore, pursuant to 5 U.S.C. 553 and section 43 of the Shipping Act, 1916 (46 U.S.C. 841a) Part 536 of Title 46 CFR is amended in the following respects.

§ 536.5 [Amended]

1. In § 536.5 *Tariff Contents,* the reference in paragraph (d)(9) to "§ 510.24(f)" is amended to read "§ 510.33(d)."

§ 536.10 [Amended]

2. In § 536.10 *Amendment to tariffs,* the reference in paragraph (c)(7) to "§ 536.10(c)(6)" is amended to read "§ 536.10(c)(5)."

Notice and opportunity to comment are not necessary for these amendments because they contain no substantive changes.

By the Commission, February 4, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83–4365 Filed 2–18–83; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82–596; RM–4145]

Radio Broadcast Services; TV Broadcast in Crockett, Texas, Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 40 to Crockett, Texas, as its first television assignment, in response to a petition filed by Holt-Robinson Communications.

EFFECTIVE DATE: April 12, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: January 26, 1983.

Released: February 11, 1983.

In the matter of an amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Crockett, Texas); BC Docket No. 82–596, RM–4145; report and order (Proceeding terminated).

1. The Commission herein considers the Notice of Proposed Rule Making, 47 FR 40457, published September 14, 1982, which invited comments on a proposal to assign UHF television Channel 40 to Crockett, Texas, in response to a petition filed by Holt-Robinson Communications ("petitioner"). Petitioner filed comments in support of the proposal and reaffirmed its interest in applying for the channel, if assigned. No opposing comments were received.

2. We believe that the petitioner has adequately demonstrated the need for a first commercial television assignment to Crockett, Texas, and that the public interest would be served by assigning UHF television Channel 40 to that community.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective April 12, 1983, the Television Table of Assignments, § 73.606(b) of the Rules, is amended with respect to the community listed below:

City	Channel No
Crockett, Texas	40

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

(Secs, 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–4340 Filed 2–18–83; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 97

[RM–4122; FCC 83–36]

Amateur Radio Service; Authorization of the Digital Code "AMTOR" for Use by Stations in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Amateur Radio Service Rules to allow amateur radio stations to use the digital radioteleprinter code AMTOR on frequencies below 50 MHz. This amendment is necessary for amateur radio operators for experimentation and reliable communications under marginal propagation conditions. With AMTOR, amateur stations will derive the inherent benefit of reliable, error-free copy at the receiving teleprinter.

EFFECTIVE DATE: February 22, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steven W. Lett, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Adopted: January 27, 1983.

Released: February 8, 1983.

By the Commission: Commissioner Sharp concurring in the result.

In the Matter of Authorization of the digital code "AMTOR" for use by stations in the Amateur Radio Service. RM–4122, Order.

Introduction

1. The Commission has before it a petition for rule making, RM–4122, submitted by the American Radio Relay League, Inc. (the League) and received by the Commission on May 26, 1982. The petition requests "* * * that the Commission amend § 97.69 of its Rules to permit transmission by amateurs of the digital teleprinter code specified in Recommendation No. 476–2 (1978) of the International Radio Consultative Committee (CCIR), known in the Amateur Radio Service as 'AMTOR,' in

the amateur high-frequency bands."[1] The petition describes AMTOR as "* * * an automatic request-repeat radioteleprinter system * * * developed for the commercial maritime service * * *" (and commonly known by the trade name "Sitor" in that service).

2. The League's petition states that AMTOR has the inherent benefit of "* * * reliable, error-free copy at the receiving teleprinter, and the certainty of the sending operator that the data has been received correctly." A station utilizing the AMTOR code "* * * transmits data in blocks of three characters, pausing after each to obtain from the receiving station either an acknowledgement or instructions to re-send." According to the League, "The automatic 'hand-shaking' technique of AMTOR transmissions allows reliable communication even under marginal and fading high-frequency propagation conditions." The two digital codes currently authorized for use in the high frequency bands, Baudot and ASCII,[2] do not support this feature.

Discussion

3. In a recent action in the Commission's proceeding dealing with the use of additional digital codes in the Amateur Radio Service, the use of any code was authorized in all amateur frequency bands above 50 MHz.[3] However, in the Notice of Proposed Rule Making in that proceeding,[4] the Commission did not propose to make such a blanket authorization for the frequencies below 50 MHz in consideration of our international obligations. The Commission, in that Notice, reiterated its concern, expressed in at least one prior proceeding,[5] that the authorization of any and all codes, on frequencies where international propagation of radio signals is unavoidable, could be a violation of Article 41 of the International Telecommunication Union (ITU) Regulations. That article states, in part, that "* * * transmissions between amateur stations of different countries * * * shall be in plain language." The Commission, therefore, is obligated to consider, on a case-by-case basis, whether a particular digital code is standardized sufficiently worldwide in order to be considered "plain language." Such finding was made in the proceeding in Docket 20777 when the use of ASCII was authorized.

4. As the League has carefully pointed out in its petition, AMTOR is an internationally recognized code recommendation for the commercial maritime mobile service. Because of this, we believe that it can clearly be characterized as "plain language." Accordingly, we are authorizing the use of the AMTOR code by amateur radio stations operating in the HF bands.

Conclusion

5. We find that good cause exists to dispense with the prior notice and comment procedure provisions of the Administrative Procedure Act (APA) as unnecessary in this proceeding since it is unlikely that any objections would be received in view of the obvious benefits which are being conferred.[6][7] The APA's effective date requirements are also not applicable to these rule amendments because they either relieve a restriction or are interpretative.[8]

6. Accordingly, IT IS ORDERED that, effective on the date of publication of this Order in the **Federal Register**, Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, IS AMENDED as set forth in the attached Appendix. IT IS FURTHER ORDERED that RM–4122 IS GRANTED. This action is taken pursuant to authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. Further information on this matter may be obtained by contacting: Steve Lett (202) 632–4964, Federal Communications Commission, Private Radio Bureau, Washington, D.C. 20554.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachment: Appendix.

Appendix

PART 97—[AMENDED]

Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, is amended as follows:

In § 97.69, paragraphs (a) and (b) are revised to read as follows:

§ 97.69 Digital communications.

* * * * *

(a) The use of the digital codes specified in paragraph (b) of this section is permitted on any amateur frequency where F1 emission is permitted, subject to the following requirements:

(1) The sending speed shall not exceed the following:

(i) 300 baud on frequencies below 28 MHz;

(ii) 1200 baud on frequencies between 28 and 50 MHz;

(iii) 19.6 kilobaud on frequencies between 50 and 220 MHz;

(iv) 56 kilobaud on frequencies above 220 MHz.

(2) When type A2, F1 or F2 emissions are used, the radio or audio frequency shift (the difference between the frequency for the "mark" signal and that for the "space" signal), as appropriate, shall be less than 900 Hz.

(3) When type A2 or F2 emissions are used, the highest fundamental modulating frequency shall be less than 3000 Hz.

(b) Except as provided for in paragraph (c) of this section, only the following digital codes, as specified, may be used:

(1) The International Telegraph Alphabet Number 2 (commonly known as Baudot); provided that transmission shall consist of a single channel, five unit (start-stop) teleprinter code conforming to the International Telegraph Alphabet Number 2 with respect to all letters and numerals (including the slant sign or fraction bar); however, in the "figures" positions not utilized for numerals, special signals may be employed for the remote control of receiving printers, or for other purposes indicated in this section.

(2) The American Standard Code for Information Interchange (commonly known as ASCII); provided that the code shall conform to the American Standard Code for Information Interchange as defined in American National Standards Institute (ANSI) Standard X3.4–1968.

(3) The International Radio Consultative Committee (CCIR) Recommendation 476–2 (commonly known as AMTOR); provided that the code, baud rate and emission timing

[1] The high frequency (HF) bands are those bands between 3 and 30 MHz.

[2] Baudot is the common name for the International Telegraph Alphabet No. 2. ASCII (American Standard Code for Information Interchange) is defined by the American National Standards Institute (ANSI) Standard X3.4–1968.

[3] See Report and Order in PR Docket No. 81–699, 47 FR 42751, September 29, 1982.

[4] 46 FR 50993, October 16, 1981.

[5] See Third Report and Order in Docket 20777, 45 FR 8990, February 11, 1980.

[6] See 5 U.S.C. 553(b)(3)(B).

[7] Some of the other rule amendments in this action are interpretative and, therefore, exempt from the prior notice and comment provisions of 5 U.S.C. 553(b)(3)(A). These amendments merely codify our longstanding interpretation that stations operating on frequencies where international propagation is unavoidable must not only use codes which are internationally recognizable but also must employ modulation techniques which enable the transmissions to be monitored. In this regard we are explicitly requiring that transmissions of all digital codes specified by the Commission be made with frequency shifts of less than 900 hertz. They also clarify the Commission's requirement that radioteleprinter operation be confined to the frequencies where F1 emissions are authorized.

[8] See 5 U.S.C. 553(d)

shall conform to the specifications of CCIR 476–2 (1978) Mode A or Mode B.

* * * * *

[FR Doc. 83–4341 Filed 2–18–83; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 30214–26]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Technical correction.

SUMMARY: NOAA issues a technical correction to the final regulations for the Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California. This correction will ensure that the recreational fishing seasons off California will begin and end on the appropriate dates.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, (206) 527–6150.

SUPPLEMENTARY INFORMATION: On September 1, 1982, final regulations for the Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California were published in the Federal Register (47 FR 38545). Section 661.21, "Recreational fishing," listed the season in Subareas E and F (California) as beginning on February 13 and ending on November 14. Although those dates were correct for 1982, the regulation should have read and is hereby corrected to read "begins on the Saturday closest to February 15 and ends on the Sunday closest to November 15."

Signed at Washington, D.C., this day of February 1983.

(16 U.S.C. 1801 *et seq.*)

Dated: February 15, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 661—[AMENDED]

50 CFR Part 661 is amended by revising § 661.21(a)(5) to read as follows:

§ 661.21 **Recreational fishing.**

(a) * * *

(5) Subareas E and F (California): The season for all salmon species, including coho, begins on the Saturday closest to February 15 and ends on the Sunday closest to November 15.

* * * * *

[FR Doc. 83–4318 Filed 2–18–83; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 36
Tuesday, February 22, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing regulations to require simultaneous submission of Federal Employees Health Benefit (FEHB) carriers' benefit and rate proposals. These regulations would enhance OPM's ability to manage the FEHB contract negotiation cyle and to assess the impact of benefit and rate proposals on both the Government and enrollees.

DATE: Comments must be received on or before March 24, 1983.

ADDRESS: Written comments may be sent to Jerome D. Julius, Office of Pay and Benefits Policy, Compensation Group, P. O. Box 57, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20044, or delivered to Room 4351.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, 202–632–4634.

SUPPLEMENTARY INFORMATION: In 1982, OPM asked FEHB carriers to submit benefit and rate changes simultaneously for their 1983 contracts. OPM plans to repeat this new procedure and wishes to confirm this practice in these proposed regulations. Regulations which provide for simultaneous submission of benefit and rate proposals would enhance OPM's ability to manage the FEHB negotiation cycle through improved coordination of benefit proposals, rate proposals and the Administration's budget. Specifically, simultaneous submission makes it possible to evaluate the impact of carrier proposals on the budget and on enrollee premiums much earlier than current regulations which require benefit proposals by April 30, but allow rate submissions as late as July 31.

Therefore, these regulations would provide that approximately nine months (March 31) prior to the expiration of the current contract period (calendar year), OPM will invite benefit and/or rate changes for simultaneous submission not less than seven months (May 31) prior to the end of the current contract period, if in the opinion of the Director of OPM, it is deemed beneficial to enrollees and the FEHB Program. The proposed regulations would also permit the Director of OPM discretion to vary the dates for requesting and submitting proposals.

For consistency, the proposed revision to the regulations would also require a new plan desiring entry into the Program to make application to OPM nine months (March 31) before the end of the current contract period and to demonstrate that the plan meets all requirements for approval at least seven months (May 31) before the end of the current contract period. Currently, new plans must submit all evidence required for plan approval at least six months (June 30) before the end of the current contract period.

The Director has determined that the comment period on this proposal will be 30 days because of the desirability of having these proposed regulations in effect before the next FEHB negotiation cycle begins.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that, within the scope of the Regulatory Flexibility Act, this regulation will not have a significant economic impact on a substantial number of small entities because the regulations would simply increase OPM's ability to administer the FEHB Program, and rearrange the timeframe in which health benefit carriers must submit information.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Claims, Government employees, Health insurance, Retirement.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM proposes to amend 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. In § 890.203, the last sentence of paragraph (a)(1) is removed and two sentences are inserted in its place:

§ 890.203 Application for approval of, and proposal of amendments to, health benefit plans.

(a)(1) * * * Participation of an approved plan becomes effective on the first day of the contract period which is (i) at least nine months after OPM receives the application, and (ii) at least seven months after OPM receives benefit and rate proposals and all evidence to demonstrate that the plan has met all requirements for approval. At any time, OPM may make a counterproposal or propose changes on its own motion.

* * * * *

2. In § 890.203, paragraph (b) is revised to read as follows:

§ 890.203 Application for approval of, and proposal of amendments to, health benefit plans.

* * * * *

(b) Changes in rates and benefits for approved health benefits plans shall be considered at the discretion of the Director of OPM. If the Director of OPM determines that it is beneficial to enrollees and the Federal Employees Health Benefits Program to invite health plan benefit and/or rate changes for a given contract period, a "call letter" shall be issued to the carrier approximately 9 months prior to the expiration of the current contract period. Any proposal for change shall be in writing, specifically describe the change proposed, and be signed by an authorized official of the carrier. OPM will review any requested proposal for change and will notify the carrier of its decision to accept or reject the change. OPM may make a counterproposal or at any time propose changes on its own motion. Benefits changes and rate proposals, when requested by OPM, shall be submitted not less than 7 months before the expiration of the then current contract period, unless the Director of OPM determines that a later

date is acceptable. The negotiation period shall begin approximately 7 months before the expiration of the current contract period, and OPM shall seek to complete all benefit and rate negotiations no later than 3 months preceding the contract period to which they will apply.

(5 U.S.C. 8913)

[FR Doc. 83-4402 Filed 2-18-83; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1004, 1007, 1011, and 1046

[Docket No. AO-366-A20 et al.]

Milk in the Georgia and Certain Other Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

7 CFR part	Marketing area	AO Nos.
1007	Georgia	AO-366-A20
1004	Middle Atlantic	AO-160-A60
1011	Tennessee Valley	AO-251-A25.
1046	Louisville-Lexington-Evansville	AO-123-A51.

SUMMARY: This hearing is being held to consider proposals by a cooperative association to amend four Federal milk marketing orders that regulate the handling of milk in the marketing areas listed above. The proposals would provide in each order during March through June 1983 a hauling credit on certain Class II and Class III milk transferred or diverted to unusually distant outlets for surplus disposition. The proponent cooperative has requested that these proposals be adopted on an expedited basis so that the amendments can be made effective for the spring months of 1983. The cooperative claims that the proposed action is needed because of increased production, declining fluid milk sales, and the loss of manufacturing capacity in the area over the past several years.

DATE: The hearing will convene March 1, 1983.

ADDRESS: The hearing will be held at the Holiday Inn Airport North, 1380 Virginia Avenue, Atlanta, Georgia 30320-0773, 404/762-8411, beginning at 9:30 a.m., local time.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202/447-4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn Airport North, 1380 Virginia Avenue, Atlanta, Georgia, beginning at 9:30 a.m., local time, on March 1, 1983, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Georgia; Middle Atlantic; Tennessee Valley; and Louisville-Lexington-Evansville marketing areas. In view of the request for expedited action, the Department has concluded that less than 15 days' notice of the hearing is warranted in this proceeding.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to Proposals Nos. 1 through 4.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to endure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

List of Subjects in 7 CFR Parts 1004, 1007, 1011 and 1046

Milk marketing orders, Milk, Dairy products.

Proposed by Dairymen, Inc.

PART 1007—MILK IN THE GEORGIA MARKETING AREA

Proposal No. 1

In § 1007.60, revise paragraph (g) to read as follows:

§ 1007.60 Handler's value of milk for computing uniform price.

* * * * *

(g) With respect to milk marketed during the period of March through June 1983, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II or Class III milk pursuant to § 1007.42(b)(3) or § 1007.42(d)(2) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 350 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Atlanta, Georgia; the city hall in Augusta, Georgia; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Proposal No. 2

In § 1004.60, revise paragraph (f) to read as follows:

§ 1004.60 Pool obligation of each pool handler.

* * * * *

(f) With respect to milk marketed during the period of March through June 1983, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II milk pursuant to § 1004.42(d) or § 1004.42(e)(3) by a rate for each

truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 200 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Philadelphia, Pennsylvania; the zero milestone in Washington, D.C., the city hall in Baltimore, Maryland; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

Proposal No. 3

In § 1011.60, revise paragraph (b) to read as follows:

§ 1011.60 Handler's value of milk for computing uniform price.

* * * * *

(g) With respect to milk marketed during the period of March through June 1983, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II or Class III milk pursuant to § 1011.42(b)(3) or § 1011.42(d)(2) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 350 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Bristol, Tennessee; the city hall in Knoxville, Tennessee; the city hall in Chattanooga, Tennessee; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

Proposal No. 4

In § 1046.60, revise paragraph (g) to read as follows:

§ 1046.60 Handler's value of milk for computing uniform price.

* * * * *

(g) With respect to milk marketed during the period of March through June 1983, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II or Class III milk pursuant to § 1046.42(b)(3) or § 1046.42(d)(2) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 250 miles (as determined by the market administrator) from the nearest locations: the city hall in Louisville, Kentucky; the city hall in Lexington, Kentucky; the city hall in Evansville, Indiana; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to class I.

PARTS 1007, 1004, 1011, AND 1046—[AMENDED]

Proposed by the Diary Division, Agricultural Marketing Service: Proposal No. 5

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the market administrator of each of the orders for the aforesaid specified marketing areas or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator of each of the orders for the aforesaid specified marketing areas.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on February 15, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-4349 Filed 2-18-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1033 and 1036

[Docket Nos. AO-166-A51, AO-179-A46]

Milk in the Ohio Valley and Eastern Ohio-Western Pennsylvania Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals by Milk Marketing, Inc. (MMI), to amend the Ohio Valley and Eastern Ohio-Western Pennsylvania milk orders. The proposed amendments would reduce the current price for producer milk used to produce butter, dry milk powder and cheese by 40 cents per hundredweight during the months of April-July 1983. MMI has requested that the proposals be adopted on an expedited basis so that amendments can be made effective beginning April 1983. The cooperative claims that the proposed amendments are needed immediately to prevent disorderly marketing, provide a mechanism for clearing these markets of an unusual surge of milk production, and assure more equitable sharing of the burden of handling this surplus milk.

DATE: The hearing will convene March 3, 1983.

ADDRESS: The hearing will be held at the Holiday Inn, 7230 Engle Road (Jct. I-71 & Bagley Road), Middleburg Heights, Ohio

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202/447-6273.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn, 7230, Engle Road (Jct. I–71 and Bagley Road), Middleburg Heights, Ohio, beginning at 9:30 a.m., on March 3, 1983, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Ohio Valley and Eastern Ohio-Western Pennsylvania marketing areas. In view of the request for expedited action, the Department has concluded that less than 15 days' notice of the hearing is warranted in this proceeding.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to Proposals Nos. 1 through 4.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96–354). This act seeks to ensure that within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order programs, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Parts 1033 and 1036

Milk marketing orders, Milk, Dairy products.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Milk Marketing, Inc.

PART 1033—[AMENDED]

Proposal No. 1

Amend § 1033.41 by adding a new paragraph (d) to read as follows:

§ 1033.41 Classes of utilization.

* * * * *

(d) *Class III(A) milk.* Class III(A) milk shall be all producer milk used to produce dry milk powder, cheese (except cottage cheese and cottage cheese curd) and butter during the months of April, May, June and July 1983.

Proposal No. 2

Amend § 1033.51 by adding a new paragraph (d) to read as follows:

§ 1033.51 Class prices.

* * * * *

(d) *Class III(A) price.* The Class III(A) price for the months of April, May, June and July 1983 shall be the basic formula price for the month less 40 cents.

PART 1036—[AMENDED]

Proposal No. 3

Amend § 1036.40 by adding a new paragraph (d) to read as follows:

§ 1036.40 Classes of utilization.

* * * * *

(d) *Class III(A) milk.* Class III(A) milk shall be all producer milk used to produce dry milk powder, cheese (except cottage cheese and cottage cheese curd) and butter during the months of April, May, June and July 1983.

Proposal No. 4

Amend § 1036.50 by adding a new paragraph (d) to read as follows:

§ 1036.50 Class prices.

* * * * *

(d) *Class III(A) price.* The Class III(A) price for the months of April, May, June and July 1983 shall be the basic formula price for the month less 40 cents.

Proposed by the Dairy Division, Agricultural Marketing Service:
Proposal No. 5

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the market administrator, P.O. Box 29226, Columbus, Ohio 43229; market administrator, P.O. Box 30128, Cleveland, Ohio 44130; or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Ohio Valley marketing area
Office of the Market Administrator, Eastern Ohio-Western Pennsylvania marketing area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on February 16, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83–4422 Filed 2–18–83; 8:45 am]
BILLING CODE 3410–02–M

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7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions affecting the regulatory status of milk plants under the Nebraska-Western Iowa milk order. The action was requested by a cooperative association that operates supply plants under the order and which is the principal supplier of milk to other handlers in the market. The proposed action would make inoperative for March through August 1983 the provisions that require a cooperative to deliver at least 51 percent of its member producer milk to pool distributing plants each month to qualify its supply plants as pool plants under the order. The cooperative claims that the action is

needed to avoid inefficient handling and transportation of the milk and to assure that its member dairy farmers who have regularly been associated with the market will continue to share in the market's fluid milk sales.

DATE: Comments are due by the March 1, 1983.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It also has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures and the inclusion of March 1983 in the suspension period if this is found necessary. The initial request for this action was received February 1, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered for March through August 1983:

PART 1065—[AMENDED]

§ 1065.7 [Amended]

In § 1065.7(c), the words "51 percent or more of the".

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include March 1983 in the suspension period.

The comments that are received will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

This proposed action would make inoperative for March through August 1983 the provisions that require a cooperative to deliver at least 51 percent of its member producer milk to pool distributing plants each month to qualify its supply plants as pool plants under the order. The suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that operates supply plants under the order and which is the principal supplier of milk to other handlers in the market.

The cooperative indicated that it had experienced considerable difficulty in meeting the 51 percent delivery requirement during 1982 and that the requirement was suspended for July and August of last year in recognition of its problem. The cooperative also pointed out that in certain other months during 1982 it did not pool the milk of certain dairy farmers or else shifted some producers to other markets in order to maintain pool status for its supply plants.

To the extent possible, the cooperative wants to avoid such costly and inefficient milk handling and hauling practices during the spring and summer months of this year solely for the purpose of pooling its supply plants and the milk of its members producers who regularly have supplied the fluid needs of the market.

Mid-Am indicated that its deliveries to handlers under the order during December 1982 were about 6 percent below its deliveries in the same month a year earlier. Moreover, the cooperative stated that it expects the normal seasonal increase in milk production to begin earlier this year because of the mild winter. The association does not believe its supply-demand situation will improve significantly until schools reopen in the fall. Accordingly, the cooperative has proposed that the delivery requirement be suspended for March through August 1983.

The cooperative contends that unless the suspension is granted, pool status for all of the milk regularly associated with its supply plants could be maintained during March through August 1983 only by shifting the milk of some producers to other markets or by withholding the milk of some dairy farmers from any pool. In the cooperative's view, either of these methods would be disruptive to producers who have been regularly associated with the fluid needs of the market. According to Mid-Am, the requested suspension is needed to avoid the development of such uneconomic and disorderly marketing conditions.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on February 16, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83–3468 Filed 2–18–83; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Clarification of Regulations Respecting Payment of Interest on Deposits Situated Outside of the Continental United States

Correction

In FR Doc. 83–3997 beginning on page 6718 in the issue of Tuesday, February 15, 1983, the comment date should read March 17, 1983.

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

Proposed Advisory Circular; Active Flight Controls

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed Advisory Circular (AC) 25–XX, and request for comments.

SUMMARY: This advisory circular sets forth an acceptable means of compliance with the provisions of Part 25 of the Federal Aviation Regulations (FAR) pertaining to the certification requirements of active flight controls. The procedures set forth apply to load

alleviation systems (LAS), stability augmentation systems (SAS), and flutter suppression systems (FSS).

DATE: Comments must be received on or before April 8, 1983.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Regulations and Policy Office, ANM–110, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Iven Connally, Regulations and Policy Office, at the address above, telephone (206) 764–7053.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by contacting the person named above under **"FOR FURTHER INFORMATION CONTACT."** Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Communications should identify AC 25–XX and be submitted to the address specified above. All communications received on or before the closing date for comments will be considered by the Regulations and Policy Office before issuing the final AC.

Discussion

Stability augmentation systems (SAS) have been successfully used on transport airplanes for several years. The earlier SAS were limited in authority to assure acceptable handling qualities with the system malfunctioning or inoperative. Although the SAS provided some alleviation of flight loads, no credit was given since the SAS effectiveness in relieving loads was not assessed against system reliability.

In recent years, significant developments in active controls technology have advanced the state-of-the-art of active flight control systems in both effectiveness and reliability to the point some alleviation from flight loads can be achieved. Flutter suppression systems (FSS) may also be installed in conjunction with the load alleviation system (LAS) to provide flutter margins.

The procedures set forth in the proposed AC were developed jointly by the FAA and the aerospace industry (Aerospace Industries Association of America (AIA) for use in certification of active controls. Adherence to these criteria will provide a level of safety in airplanes equipped with these systems consistent with the level of safety found in airplanes without them.

Issued In Seattle, Washington, on February 8, 1983.

H. A. Parker,

Acting Manager, Aircraft Certification Division, ANM–100

[FR Doc. 83–4320 Filed 2–18–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–NM–117–AD]

Airworthiness Directives; Short Brothers Limited Model SD3–30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an Airworthiness Directive (AD) that would require inspection and modification of the fuel lines and their protective shrouds on certain Short Brothers Limited Model SD3–30 airplanes. Leaks in fuel lines resulting in fuel vapor leaks into the passenger compartment have been reported in several cases. These conditions create a fire hazard which could lead to the loss of the airplane.

DATE: Comments must be received no later than Apirl 11, 1983.

ADDRESS: Submit comments to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82–NM–117–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

The applicable service information may be obtained from Shorts Aircraft, 1725 Jefferson Davis Highway, Suite 510, Arlington, Virginia 22202 or may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82–NM–117–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion: The Civil Aviation Authority of the United Kingdom (CAA) has classified Short Brothers Limited Service Bulletins SD3–53–47, Revision 1; SD3–28–17; and SD3–28–16, Rev. 1, as mandatory. Nine cases of fuel line pin hole leaks have been reported on the SD–30 airplanes in service. The pin holes are believed caused by corrosion and microorganisms. Also, some existing flexible fuel vapor shrouds have failed pressure tests. The service bulletins prescribe:

A. Modification of the fuel vapor exhaust duct and changes in the installation for testing the seal setup for the fuel vapors;

B. Replacement of the flexible vapor proof shrouds covering fuel lines in the passenger compartment with an improved shroud; and

C. Inspection and replacement, if necessary, of fuel lines and pressure checks for leaks in the fuel line shrouds inside the passenger compartment.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the previously mentioned inspections and modifications.

It is estimated that 50 airplanes will be affected by this AD, that it will take approximately 186 man-hours per airplane to accomplish the required actions, and that the average labor cost will be $35 per man-hour. Repair parts are estimated at $450 per airplane. Based on these figures, the total cost impact of this AD is estimated to be $348,000. For these reasons, the proposed rule is not considered to be a

major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Short Brothers Limited: Applies to all models of the SD3–30 airplane, certificated in all categories, with the serial numbers specified below. To prevent a potential fuel fire hazard, accomplish the following within the next 60 days after the effective date of this AD, unless already accomplished.

A. For aircraft serial numbers SH3002 to SH3091 inclusive, modify the fuel vapor exhaust ducting in accordance with paragraph 2, Accomplishment Instructions, of Shorts Service Bulletin No. SD3–53–47, Revision 1, dated October 5, 1982.

B. For aircraft serial numbers SH3002 tro SH3089 inclusive, replace the existing flexible vapor proof shrouds covering fuel lines in the passenger compartment in accordance with paragraph 2, Accomplishment Instructions, of Shorts Service Bulletin No. SD3–53–17, dated October 5, 1982. Note: The actions of paragraph A must be accomplished before performing all the requirements of paragraph B.

C. For aircraft with serial numbers defined in paragraph 1, Planning Information, of Shorts Service Bulletin No. SD3–28–16, Revision 1, dated September 30, 1982, inspect, replace components if necessary, and pressure check the fuel lines as required in accordance with paragraph 2, Accomplishment Instructions, fo the service bulletin. Note: The actions of paragraphs A. and B. must be accomplished before performing all the requirements of paragraph C.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and procedures (44 FR February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since it involves few, if any, small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Wash., on February 11, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83–4405 Filed 2–18–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–ASO–8]

Proposed Designation of Transition Area, Choctaw, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate the Choctaw, Florida, transition area in the vicinity of Navy Outlying Field (OLF) Choctaw. This action, which will lower the base of controlled airspace from 1,200 to 700 feet above the surface, will provide controlled airspace for Instrument Flight rule (IFR) operations in the vicinity of OLF Choctaw. An instrument approach procedure, predicated on the Santa Rosa TACAN facility, has been developed to serve OLF Choctaw and additional controlled airspace is required for protection of IFR operations.

DATE: Comments must be received on or before: March 30, 1983.

ADDRESSES: Send comments on the proposal in triplicate to:

Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decision on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–ASO–8." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this reulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communication must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will designate the Choctaw, Florida, transition area to provide controlled airspace for protection of IFR operations in the vicinity of OLF Choctaw. If the proposed designation is found acceptable, the operating status of the airfield will be changed from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was

republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Choctaw Outlying Field, FL—New

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of OLF Choctaw (Lat. 30°30'26"N., Long. 86°57'20"W.); excluding that airspace that coincides with the Pensacola and Milton transition areas.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 110.65)

Note—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that the rule, when promulgated, will not have a significant ecomic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on February 7, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83–4331 Filed 2–18–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82–AGL–30]

Proposed Alteration of Transition Area; Superior, Wisconsin

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Superior, Wisconsin, transition area by designating an additional amount of airspace necessary for a new VOR–A instrument approach procedure to serve Sky Harbor Airport, Duluth, Minnesota.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATE: Comments must be received on or before March 24, 1983.

ADDRESSES: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 82–AGL–30, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The airspace involved would be an area within a 5-mile radius of the Sky Harbor Airport, excluding the portion overlying the Duluth, Minnesota, 700' transition area. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedure requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–AGL–30." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedures.

Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Superior, Wisconsin.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Superior, WI

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Richard I. Bong Airport (latitude 46°40'5" N., longitude 92°05'35" W.) within a 5-mile radius of the Sky Harbor Airport

(latitude 46°43'18" N., longitude 92°02'36" W.); excluding those portions within the Duluth, MN, 700' transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routing amendments are necessary to keep them operationally current. Therefore, it is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on January 28, 1983.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 83-4332 Filed 2-16-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-31]

Proposed Alteration of Control Zone; Williston, North Dakota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this federal action is to convert the Williston, North Dakota, control zone from a part-time status to a full-time status. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions on a 24-hour basis.

DATES: Comments must be received on or before March 24, 1983.

ADDRESSES: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 82-AGL-321, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: This action was initiated as a result of notification from Sloulin Field International Airport officials that required weather reporting is currently available on a 24-hour basis. The National Weather Service operates a full-time weather bureau facility located at the Sloulin Field International Airport and observes and disseminates weather 24 hours per day, 7 days per week. The alteration in this case deletes the two sentences "This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will, thereafter, be continuously published in the Airport/Facility Directory.", from the published description for the Williston, ND, control zone.

Aeronautical maps and charts will continue to reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AGL-31." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control of zone near Williston, North Dakota.

Section 71.171 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Williston, ND

Within a 5-mile radiou of the Sloulin International Airport (latitude 48°10'37" N., longitude 103°38'18" W.); within 1.5 miles each side of the Williston VORTAC, and within 2 miles north and 3 miles south of the 126° bearing from the Sloulin International Airport, extending from the 5-mile radius area to 10 miles southeast of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(1) is not a "major rule" under Executive Order 12291; (2)

is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois on January 31, 1983.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 83-4333 Filed 2-18-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. Rm82-32-000]

Limitation on Incentive Prices for High-Cost Gas to Commodity Values

February 10, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to modify the maximum lawful price of high-cost gas designated by the Commission under section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA), to ensure that the ceiling prices do not go above the commodity value of the natural gas. The Commission proposes to establish a ceiling price for this gas at the lesser of (1) an imputed commodity value based on the price of alternative fuels, or (2) the incentive ceiling price which would otherwise apply to that gas.

DATES: Comments must be submitted on or before March 28, 1983. Requests for a public hearing must be made on or before March 3, 1983.

ADDRESSES: All filings should refer to Docket No. RM82-32-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information Room 1000, 825 North Capitol Street, N.E., Washington D.C. 20426, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Fred A. Wolgel, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to modify the maximum lawful price of high-cost gas designated by the Commission under section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA), to ensure that the ceiling prices do not go above the commodity value of the natural gas. Specifically, the Commission proposes to establish a ceiling price for section 107(c)(5) high-cost gas at the lesser of an imputed commodity value calculated with respect to a reference fuel or the otherwise applicable incentive ceiling price for the relevant gas.

II. Background

Under section 107(b) of the NGPA, 15 U.S.C. 3301-3432 (Supp. IV 1980), the Commission has authority to "prescribe a maximum lawful price, applicable to any first sale of any high-cost natural gas, which exceeds the otherwise applicable maximum lawful price to the extent that such special price is necessary to provide reasonable incentives for the production of such high-cost natural gas." The term "high-cost natural gas" is defined in section 107(c)(5) to mean, among other things, gas which is "produced under such other conditions as the Commission determines to present extraordinary risks or costs."

To date, the Commission has designated two categories of natural gas as high-cost natural gas eligible for an incentive price, and has proposed two other categories for designation as section 107 high-cost gas. First, in Order No. 99,[1] the Commission determined that natural gas produced from tight formations is produced under conditions which present extraordinary risks and costs and that an incentive price of up to 200 percent of the section 103 maximum lawful price is necessary to provide reasonable incentives to produce such gas.

Second, in Order No. 107,[2] the Commission established an incentive price for certain intrastate gas produced from wells on which production enhancement work has been performed.

The incentive price established by the Commission for qualified production enhancement gas may go no higher than the section 109 price or the renegotiated contract price, provided that the increase in revenue attributable to the incentive price divided by the incremental production does not exceed 200 percent of the section 103 price (the "incremental cap").[3]

The two additional categories which the Commission has proposed for designation as section 107 high-cost gas eligible for special incentive prices are the following: (1) gas produced from deep water [4] and (2) gas produced from depths between 10,000 and 15,000 feet ("intermediate deep drilling").[5] With respect to deep water gas, the Commission agreed in principle on December 30, 1981, to set the incentive price at 200 percent of the section 103 price. The incentive price for intermediate deep gas was proposed to be set at 150 percent of the section 103 price. The Commission is still considering both rulemakings and no final rule has been issued in either docket.

III. Discussion

A. Proposal to Limit Incentive Prices to Commodity Values

The special incentive ceiling price set by the Commission in Order No. 99 for tight formation gas was determined by using both a cost-related and commodity-related approach. The Commission established a range of prices using both approaches. The commodity-value approach, which set the higher end of the price range, looked at the relationship of the wellhead price of tight formation gas to the delivered price of competing fuels (on an

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[1] 45 FR 56034 (August 22, 1980) (Docket No. RM79-76), FERC Stat. and Regs. Preambles ¶30,183.

[2] 45 FR 77421 (November 24, 1980) (Docket No. RM80-50), FERC Stat. and Regs. Preambles ¶30,210.

[3] For example, assume a well had a section 105 price of $1.00 per Mcf and produced 100 Mcf per day in January 1983. Through the application of a qualified production enhancement technique, the well produced 125 Mcf per day. The maximum lawful price for each of the Mcf would be the section 109 price ($2.254 per Mcf for January 1983) o a lesser price if the additional revenues exceed 200 percent of the section 103 maximum lawful price The incremental cap formula would be calculated a follows. The incremental production of 25 Mcf would be multiplied by 200 percent of the section 103 price for January 1983, or $5.44. This would be added to the revenues permitted under the well's current price structure (100 Mcf × $1.00 per Mcf):

$136 ($5.44 × 25 Mcf)
$100 ($1.00 × 100 Mcf)

$236

This figure would be divided by the total production (125 Mcf) to yield a price ceiling of $1.888 per Mcf for all production. Since the section 109 price is higher ($2.254 per Mcf), the $1.888 figure would be the maximum lawful price.

[4] 45 FR 47863 (July 17, 1980) (Docket No. RM80-38), FERC Stat. and Regs. ¶32,074.

[5] 45 FR 638 (January 6, 1982) (Docket No. RM82-8) FERC Stat. and Regs. ¶32,187.

equivalent Btu basis), such as No. 6 (residual) fuel oil and No. 2 (distillate) fuel oil, after adjusting the prices by subtracting the average costs of transporting and distributing gas to the end user. The Commission sought to provide the greatest possible production incentive for tight formation gas that could be supported by both cost-related and commodity-related concepts, and therefore adopted a price near the high end of the range, *i.e.*, 200 percent of the section 103 price. The Commission also used 200 percent of the section 103 price as a "cap" on the incremental gas production resulting from the application of production enhancement techniques in Order No. 107.[6]

In 1980, at the time the Commission sought to maximize incentives for the production of high-cost gas in Order Nos. 99 and 107, it did so against a backdrop of rising oil prices, a stronger economy and relatively little experience with the effects of the NGPA on gas supplies and pricing. In the two years since that period, oil prices have declined in real terms and the economy has stagnated, resulting in substantially decreased demand for gas and all other fuels. At the same time, gas prices have risen steadily, due both to the pricing mechanisms built into the NGPA and the contracting practices of pipelines and producers.

Currently, as a general matter, demand for natural gas at the end user level is falling, while gas prices have only slowly and reluctantly responded to the decreased demand.[7] The pricing provisions of conventional gas purchase contracts do not permit downward pricing flexibility and market forces have not restrained producers from receiving the full ceiling prices established for high-cost gas under section 107(c)(5) and from receiving even higher prices for deregulated gas. At the same time, the delivered price for gas in many areas is now higher than the delivered price of competing fuels, and many distributors and pipelines claim to have lost industrial customers who can switch to cheaper No. 6 fuel oil. The result is still higher prices to residential and other customers who remain, since the transmission and distribution fixed costs are spread among fewer customers.

It is apparent, therefore, that the average price for gas has reached or exceeded market-clearing levels in some U.S. gas markets. It is also clear that the Commission must now consider whether its own decisions in setting incentive ceilings under NGPA section 107(c)(5) are exacerbating the current gas pricing problems. The Commission believes that a ceiling price in excess of the commodity value of gas, as measured by reference to the prices of competing fuels, is contrary to the public interest. Accordingly, the Commission is proposing to limit the incentive prices for high-cost gas already established by the Commission to the commodity value of the gas for any month in which the applicable incentive ceiling price would otherwise exceed the adjusted price of alternative fuels.[8] In other words, the incentive ceiling price would be "capped" at an imputed commodity value based on the price of alternative fuels. In the case of production enhancement gas, this imputed commodity value would be applied to the incremental cap calculations.

The Commission believes that the same rationale which applies to tight formation gas and production enhancement gas also applies to the two categories currently proposed for designation as high-cost gas. That is, any incentive prices established by the Commission should not exceed the commodity value for such gas, as measured by reference to the prices of competing fuels. Therefore, with respect to deep water and intermediate deep gas, the Commission is also proposing in this rulemaking to make those categories of high-cost gas, including any others which may be proposed for designation as high-cost gas, subject to the "cap" if any final rules are issued.

B. Alternative Methodologies for Computing Commodity Value

The Commission is considering two methodologies for computing a commodity value reference price, but invites other proposals. Both proposed methodologies would impute a wellhead price based on a "rolling three month average" price of a reference fuel.

1. *Fuel Oil Prices.* Under this approach, the Commission would use a rolling three month average retail price of fuel oil as the reference price and subtract average natural gas transportation and distribution costs to impute a commodity value applicable to the wellhead price of high-cost gas. The Commission believes that the price of No. 6 fuel oil is the most appropriate fuel oil to use as a reference, since it more accurately reflects the commodity value of gas than the price of No. 2 fuel oil. While No. 2 fuel oil may be the primary fuel other than natural gas used by residential and commercial consumers, their consumption represents only 40 percent of the total natural gas demand. Approximately 60 percent of the natural gas market is consumed by industrial or electric utilities, the vast majority of which would, or could, rely on No. 6 residual fuel oil as an alternative fuel.[9] Consumers who burn No. 6 fuel oil are more representative of the alternative fuel market because of their dual burning capability; that is, they have the facilities to easily switch from burning one fuel to another. Moreover, consumers who are capable of burning No. 6 fuel oil are likely to abandon the use of natural gas if the price increases, or to consume additional gas if a more plentiful supply reduces the price. Thus, it is more appropriate to establish a "cap" based on the price of No. 6 fuel oil, as it reflects the value of the alternative fuel used by the marginal gas consumers.

There are several methods for calculating a cap based on No. 6 fuel oil as the reference price. The Commission is considering using the most recently available Btu-equivalent delivered price for No. 6 fuel oil to electric utility facilities, as reported by the U.S. Department of Energy's Energy Information Agency (EIA).[10] For example, in setting the cap for February 1983, the Commission would take the delivered price of No. 6 fuel oil to electric utilities for June, July, and August 1982, the three most recent months for which data are available from the EIA, and average these three figures. The Commission would then establish an imputed transportation cost by subtracting the average wellhead price of natural gas from the average delivered price of natural gas to electric utilities, also as reported by the EIA. This imputed figure would be derived for June, July, and August 1982, the three most recent months for which data are available from the EIA, and would be averaged. Using this approach, a commodity value would be computed as set forth below:

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[6] 45 FR 77421 at 77423–24 (November 24, 1980).

[7] *See* Take or Pay Provisions in Gas Purchase Contracts, Statement of Policy, Docket No. PL83–1–000, issued December 16, 1982, 21 FERC ¶61,304.

[8] *See, e.g.*, petition for rulemaking filed by the Citizen/Labor Energy Coalition, Docket No. RM82–33–000, on March 8, 1982, filed as comments in Docket No. RM79–76–000 (Ohio-2).

[9] *See* EIA's "Monthly Energy Review," April 1982, at 19–27

[10] Cost and Quality of Fuels for Electric Utility Plants, Table 24 (DOE/EIA–0075).

	Prices of No. 6 fuel oil per MMBtu [1]	Imputed gas transportation and distribution costs per MMBtu [2]
June 1982	$4.79	$1.16
July 1982	4.68	1.24
August 1982	4.59	1.18
Total	14.06	3.58
3-mo average	4.69	1.19

[1] Cost and Quality of Fuels for Electric Utility Plants, June 1982, July 1982, and August 1982, at Table 24 (EIA)
[2] Monthly Energy Review, December 1982 at p. 89 (EIA) This figure is derived by subtracting the Average Wellhead Value from the Delivered to Electric Plant reported price.

Subtracting the $1.19 average imputed transportation cost from the $4.69 average No. 6 fuel oil price would yield a "cap" for February 1983 equal to $3.50 per MMBtu. To derive the "cap" for March 1983, the June 1982 data would be dropped, and September 1982 data would be added.

In Order No. 99, the Commission considered the Btu-equivalent price of No. 2 fuel oil rather than that of No. 6 fuel oil as the upper limit of commodity values, stating that using the then current deflated prices of residual fuel oil would not provide an adequate incentive. While the Commission believes that the adjusted prices of No. 6 fuel oil more accurately reflect the commodity value of gas, comments are invited as to whether No. 2 fuel oil, or some combination of No. 2 and No. 6 fuel oil prices, should be used as the reference fuel.

If No. 2 fuel oil was used as the alternative fuel, the commodity value would be computed by suing the same methodololgy used for No. 6 fuel oil. However, because No. 2 fuel oil is used primarily for residential heating purposes, the commodity value would be based on the average price of No. 2 fuel oil to residential users, and the imputed transportation and distribution cost would be based on the difference between the average price of natural gas to residential users and the average wellhead price of natural gas, as reported by EIA. The resulting commodity value would be computed as set forth below:

	Prices of No 2 heating oil per MMBtu [1]	Imputed gas transportation and distribution costs per MMBtu [2]
June 1982	$8.39	$3.21
July 1982	8.36	3.14
August 1982	8.36	3.07
Total	25.11	9.43
3-mo average	8.37	3.14

[1] Monthly Energy Review, December 1982 at 81 (EIA). The reported Retail No. 2 Heating Oil Average price, expressed in cents per gallon, was multiplied by 42 to reach a per barrel price, and divided by 5.82 to reach a per MMBtu price. *See* Conversion Factors on the inside rear cover page of the Monthly Energy Review
[2] Monthly Energy Review, December 1982 at 89 (EIA). This figure is derived by subtracting the Average Wellhead Value from the Average Residential Heating reported price.

The $3.14 average imputed transportation cost would be subtracted from the $8.37 average No. 2 fuel oil price to yield a "cap" for February 1983 equal to $5.23 per MMBtu. To derive the "cap" for March 1983, the June 1982 data would be dropped, and September 1982 data would be added.

2. *Crude Oil Prices.* Alternatively, a floating cap could be based on a stated percentage of refiners' crude oil acquisition costs. For example, refiner acquisition costs for crude oil (expressed on a Btu-equivalent basis) for July, August, and September 1982 were $5.47, $5.42, and $5.41, respectively, yielding a three month average of $5.43.[11] This three month average figure could then be multiplied by a percentage figure to yield an appropriate cap. For example, it has been projected that if natural gas prices were deregulated, the average wellhead price of natural gas would rise to roughly 70 percent of the equivalent price of crude oil.[12] If the commodity value were based on the projected relationship between decontrolled prices of crude oil and the hypothetical decontrolled price of natural gas, it would yield a "cap" of $3.80 per MMBtu when applied to the three month average derived above.

Comments are requested as to the appropriate percentage that should be applied and the basis for deriving an appropriate percentage. Is the 70 percent figure estimated by DOE a reasonable approximation of the relationship between an imputed decontrolled price of natural gas and the price of crude oil?

Comments are also invited to suggest alternative methodologies. In addition, comments are also solicited as to whether some adjustments should be made in order to compensate for the "lag time" involved in applying actual EIA data to a current month, *e.g.* using estimated, rather than actual data, in order to compute a "cap". For example, the incremental pricing program under Title II of the NGPA measures the changes in prices reported in Platt's Oilgram as a means of adjusting the EIA data to account for recent price trends. Comments are requested as to whether the Commission should employ a lag adjustment similar to the procedure used in the incremental pricing program.

[11] Monthly Energy Review, December 1982 at 80 (EIA). The monthly reported Composite Refiner Acquisition Cost of Crude Oil was divided by 5.8 to obtain a Btu-equivalent value.

[12] "A Study of Alternatives to the Natural Gas Policy Act of 1978," U.S. Department of Energy, Office of Policy, Planning and Analysis (November 1981) at 19.

C. The Proposed Amendments

With respect to tight formation gas, § 271.703(a) would be amended so that for new tight formation gas, the surface drilling of which commenced after the date of publication of this Notice in the **Federal Register**, the incentive ceiling price would be set at the *lesser* of an imputed commodity value or the otherwise applicable incentive ceiling price for the gas. With respect to recompletion tight formation gas from wells completed for production after date of publication of this Notice in the **Federal Register**, the incentive ceiling price would also be set at the lesser of an imputed commodity value or the otherwise applicable incentive ceiling price for the gas. The purpose of this proposal is to ensure that the price of incentive gas will not exceed its commodity value. A definition of "imputed commodity value" would be added in § 271.703(b). Two alternative definitions are proposed, one for each of the two alternative methodolgies. If the commodity value is based on the price of No. 6 fuel oil or No. 2 fuel oil, "imputed commodity value" would be defined as the average cost of No. 6 fuel oil (or No. 2 fuel oil, as appropriate) to electric utility facilities (or the retail cost of No. 2 heating oil) less the average cost of transporting and distributing natural gas for the three most recent months for which data are available from the Energy Information Administration, as set forth in Table I of § 271.101(a). If the commodity value is based on a percentage of refiners' crude oil acquisition costs, "imputed commodity value" would be defined as 70 percent (or some other percentage determined to be appropriate and adopted by the Commission in the final rule) of the average acquisition cost of crude oil for domestic refiners for the three most recent months for which data are available, as set forth in Table I of § 271.101(a).

With respect to wells on which production enhancement work commenced after the date of publication of this Notice in the **Federal Register**, § 271.704(c)(1)(v) would be amended to provide that the projected increase in revenues, when divided by the projected increase in units of gas production, cannot exceed the lesser of the imputed commodity value for such production or 200 percent of the section 103 price. A definition of "imputed commodity value" would be added in § 271.7804(b) identical to that definition proposed for tight formation gas in § 271.703(b).

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Under each of the two alternatives, the imputed commodity value would be set forth in Table I of § 271.101(a). For any month in which the imputed commodity value is less than 200 percent of the section 103 maximum lawful price (the otherwise applicable incentive ceiling price for tight formation gas), the imputed commodity value would be the applicable ceiling price for tight formations. Likewise, for any such month, the imputed commodity value rather than 200 percent of the section 103 price would be used in the production enhancement calculation.

In addition, whatever regulatory language is adoapted in this proceeding for tight formation and production enhancement gas would also be incorporated into proposed § 271.706 [relating to intermediate deep gas] and proposed § 271.705 (relating to deep water gas), as appropriate, in the event the Commission issues final rules in those two proceedings.

D. Applicability of Proposed Rule

The Commission is proposing to make these amendments applicable only to the following high-cost gas wells: (1) New tight formation gas the surface drilling of which began after the date of publication of this Notice in the **Federal Register**; (2) recompletion tight formation gas from wells which were completed for production after the date of publication of this Notice in the **Federal Register**; and (3) wells on which production enhancement work was commenced after the date of publication of this Notice in the **Federal Register**. This qualifying date also will apply to deep water gas and intermediate deep gas when, and if, those proposed rules go into effect.

However, the Commission is specifically considering expanding the applicability to include future maximum lawful prices for all tight formation, production enhancement, intermediate deep and deep water gas. Under one alternative, the maximum lawful prices for the types of high-cost gas wells described above could be required to float downward to the imputed commodity value for that month if it is less than the otherwise applicable maximum lawful price. A second alternative would set the maximum lawful price in effect for that category of high-cost gas on the date of publication of this Notice in the **Federal Register** as a "floor", so that the commodity value would not be allowed to go below that "floor." The Commission requests comment on whether it has the statutory authority to make this rule applicable to such wells, and on the policy issues raised in connection with the exercise of our authority with respect to such wells. Comments are also specifically requested as to any impacts such a rule would have on production under existing contracts for high-cost gas which may have been premised on receipt of a higher price.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) [13] requires certain statements, descriptions, and analyses of proposed rules that will have "a significant economic impact on a substantial number of small entities." [14] The Commission is not required to make an initial regulatory flexibility analysis if it certifies that a proposed rule will not, if promulgated, have a "significant economic impact on a substantial number of small entities." [15]

There are approximately 10,000 natural gas producers in the United States, many of which would be classified as small entities under the statutory definition. [16] Approximately one to two percent of the nation's total gas supply is from tight formation and production enhancement gas. In addition, assuming conservatively that there are about 600,000 total producing oil and gas wells in the United States, only 2 percent of the nation's total wells may be affected by this rule. Thus, the total volumes of natural gas production and supplies that might be affected by this proposed rule constitutes an insignificant percentage of the nation's total natural gas production and supplies. Accordingly, the Commission certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

V. Comment Procedures

The Commission invites interested persons to submit written comments, data, views and other information concerning the matter set out in this Notice. An original and 14 copies of such comments should be filed with the Commission by 4:30 p.m. E.S.T. March 28, 1983. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM82–32–000.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours.

In addition, an opportunity for a public hearing to receive oral comments will be afforded in accordance with section 502(b) of the NGPA. Any person seeking to appear to give oral comments must file a request to do so with the Secretary by March 3, 1983.

If a public hearing is held, the time will be published in the **Federal Register**.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. IV 1980), Natural Gas Act 15 U.S.C. 717–717W (Supp IV 1980)

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, High-cost gas, Tight formations.

PART 271—[AMENDED]

In consideration of the foregoing, the Commission proposes to amend Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 271.703 is amended by revising paragraph (a)(2) and by adding new paragraphs (a) (3), (a) (4) and (b)(7) to read as follows:

§ 271.703 Tight formations.

(a) *Maximum lawful price for tight formation gas.* * * *

(2) 200 percent of the maximum lawful price specified for Subpart C of Part 271 in Table I of § 271.101(a); or

(3) with respect to new tight formation gas, the surface drilling of which began after February 22, 1983, the imputed commodity value for such gas; or

(4) with respect to recompletion tight formation gas from wells completed for production after February 22, 1983, the imputed commodity value for such gas.

(b) *Definitions.* * * *

(7) "Imputed commodity value" means:

Alternative #1: the average cost of No. 6 fuel oil to electric utility facilities [the average retail price of No. 2 heating oil] less the average cost of transporting and distributing natural gas for the three most recent months for which data are available from the Energy Information Administration, as set forth in Table I of § 271.101(a).

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[13] 5 U.S.C. 601 through 612 (Supp. IV 1980).

[14] *Id.* at 603(a).

[15] *Id.* at 605(b).

[16] *Id.* at 601(3) *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. IV 1980). Section 3 of the Small Business Act defines "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

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Alternative #2: seventy (70) percent of the average acquisition cost of crude oil for domestic refiners for the three most recent months for which data are available from the Energy Information Administration, as set forth in Table I of § 271.101(a).

* * * * *

2. Section 271.704 is amended by adding a new paragraph (b)(5) and by revising paragraph (c) (1) (v) to read as follows:

§ 271.704 Qualified production enhancement gas.

* * * * *

(b) *Definitions.* * * *

(5) "Imputed commodity value" means:

Alternative #1: the average cost of No. 6 fuel oil to electric utility facilities [the average retail price of No. 2 heating oil] less the average cost of transporting and distributing natural gas for the three most recent months for which data are available from the Energy Information Administration, period, as set forth in Table I of § 271.101(a).

Alternative #2: seventy (70) percent of the average acquisition cost of crude oil for domestic refiners for the three most recent months for which data are available from the Energy Information Administration, as set forth in Table I of § 271.101(a).

(c) *Qualified production enhancement gas.* For purposes of this section:

(1) Qualified production enhancement gas is natural gas: * * *

(v) The production of which (as calculated by the seller for a five-year period beginning from the month of application ("test period")), based on estimates filed pursuant to § 274.205(f)(4) will result in a projected increase in revenue which, when divided by the projected increase in units of production, does not exceed:

(A) For wells on which production enhancement work was commenced on or before February 22, 1983, 200 percent of the maximum lawful price specified for Subpart C of Part 271 in Table I § 271.101(a) for the month that the application is filed;

(B) For wells on which production enhancement work was commenced after [the date of publication of this Notice in the **Federal Register**], the lesser of (*1*) the imputed commodity value for the month that the application is filed, or (*2*) 200 percent of the maximum lawful price specified for Subpart C of Part 271 in Table I of § 271.101(a) for the month that the application is filed.

* * * * *

[FR Doc. 83-4404 Filed 2-18-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 78N-0372]

Stearic Acid and Calcium Stearate; Proposed Affirmation of GRAS Status

Correction

In FR Doc. 83-2484, beginning on page 4486, in the issue of Tuesday, February 1, 1983, make the following corrections.

1. On page 4486, third column, second paragraph of "**SUPPLEMENTARY INFORMATION**", first line, "Stearic and acid" should read "Stearic acid".

2. On page 4488, first column, fifth and eighth lines, "NCR" should read "NRC".

BILLING CODE: 1505-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 456]

Fiddletown Viticultural Area

Correction

In FR Doc. 83-4071 beginning on page 6724 in the issue of Tuesday, February 15, 1983, the comment date should read March 17, 1983.

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-160]

Health Standards; Methods of Compliance

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is reviewing its policy relating to the use of engineering controls and respirators for air contaminants. Current OSHA standards require that employers implement feasible engineering controls to maintain air contaminant concentrations in the workplace to within the prescribed permissible exposure limits. The use of respirators is permitted only in those cases where engineering controls are not feasible, are not yet installed or are not adequate. This policy has been criticized as being too inflexible, not cost-effective and often unnecessary for health protection.

OSHA intends to perform a careful review of the relevant issues and to consider, as a first action, the possible revision of two standards, 29 CFR 1910.1000(e) (Air Contaminants) and 29 CFR 1910.134(a)(1) (Respiratory Protection).

DATE: Comments should be submitted by June 22, 1983.

ADDRESSES: Written submissions in response to this notice should be sent to the OSHA Docket Officer, Docket No. H-160, Room S-6212, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, D.C. 20210; telephone 202-523-7894. All submissions will be available for inspection and copying in Room S-6212 at this address.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Information, Room N-3637, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, D.C. 20210; telephone 202-523-8148.

SUPPLEMENTARY INFORMATION: Various OSHA health standards require that employee exposure to toxic materials and harmful physical agents not exceed specified limits. In achieving compliance with these standards employers can use engineering controls, administrative controls, work practice controls and personal protective equipment. Engineering controls are modifications to plant, equipment, processes or materials to reduce an employee's exposure. Administrative controls include scheduling or rotating assignments so as to reduce individual exposures. Work practice controls can reduce exposures by modifying the way in which a task is performed. Personal protective equipment includes devices, such as respirators, that are worn by an employee for protection against a contaminant in the immediate work environment.

It has been OSHA's policy to require that employers use feasible engineering, work practice and administrative controls to prevent employee exposures above permissible limits, and that respirators may be used as an alernative

only when other methods are not adequate, are not feasible, or have not yet been installed. This policy is, in particular, stated in the OSHA Respiratory Protection Standard, 29 CFR 1910.134(a)(1), which applies to all exposures to airborne toxins, and in the Air Contaminant Standard, 29 CFR 1910.1000(e), which applies to exposures to all substances listed in Tables Z–1, Z–2, and Z–3.

The policy was inherent in national consensus standards which were adopted by OSHA in 1971 pursuant to section 6(a) rulemaking provisions of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, *et seq.*). These standards were adopted without rulemaking proceeding under Section 6(b) of the Act with its extensive public record and public input. They are, therefore, appropriate for reconsideration.

Many other health standards also require the same preference for engineering and work practice controls over respirators. Each of these later standards, however, applies only to a specific substance and was developed on the basis of a public record developed through section 6(b) rulemaking proceedings. Although the present proceeding may develop information that would be relevant to a reexamination and revision of these substance-specific standards, OSHA has chosen not to reexamine these standards at this time.

Responses to this notice will be analyzed with respect to drafting proposed revisions to 29 CFR 1910.134(a)(1) and 29 CFR 1910.1000(e).

Reasons For This Proceeding

There are four considerations which motivate this proceeding.

The first is health protection. There is great diversity in the types and sizes of workplaces that are affected by OSHA standards. Because conditions in these workplaces are so variable, it is important to be sure that methods of compliance for each workplace are the most effective in achieving the objective of protection against the particular hazard(s) involved. Such assurance may sometimes be achieved by engineering or administrative controls, but there may be circumstances in which respirators are more effective.

A second consideration is that respirator technology and applications have experienced significant progress since the two standards under review were adopted. New methods and procedures for fit testing have been developed. The concept of protection factors, under which the effectiveness of different types of respirators can be quantified and applied to requirements for particular categories of air contaminants, has been developed. The powered air purifying respirator has been introduced. Numbers of types of respirators and filters have increased substantially, especially types and sizes of inexpensive, disposable respirators. Different size facepieces are now available, thus providing for better fit and more reliable protection.

As a result of many of these advances, the consensus of industry concerning what constitutes a reasonable, effective respirator program has changed, as demonstrated by the recent issuance of the American National Standards Institute (ANSI) Z88.2–1980 standard, entitled "Practices For Respiratory Protection," a revision of the 1969 ANSI standard. All of the foregoing represent improvements which would give respirators a more significant role in air contaminant protection than they have had before.

The third consideration is cost-effectiveness. There may be instances where the expected costs of engineering controls exceed the expected costs of respiratory protection and yet the use of respirators can clearly provide adequate employee protection. Should such instances exist, reasonable allowances for their consideration should be made.

The fourth consideration involves the scope of effect of the current OSHA policy. Places of employment affected range from those with few employees to others with many thousands. They involve exposures to toxic materials which are relatively innocuous, such as the chlorofluorocarbons, and those which are hazardous to life and health, such as parathion. A more flexible policy may be better suited to providing adequate health protection under such disparate circumstances.

For the foregoing reasons, OSHA has concluded that it is timely and appropriate to formally reexamine its policy regrading methods of compliance with the following objectives:

1. To explore whether a revised policy will allow employers to institute more cost-effective compliance strategies.

2. To investigate whether advances in respirator design, technology and applications may permit increased reliance on respirators.

3. To attempt to identify processes, operations and circumstances appropriate for particular compliance stategies.

4. To assess actual workplace conditions and employee health in industries and operations employing different compliance strategies.

Related Information

In an advance notice of proposed rulemaking concerning respiratory protection (Docket No. H-049) that was published on May 14, 1982 (47 FR 20803), OSHA sought data and views on a number of issues regarding the adequacy of respiratory protection programs and equipment. In that notice OSHA solicited general comment from the public concening the existing policy of primary reliance on engineering controls. The present notice discusses these issues in greater detail. Comments submitted in response to the May 14 notice and which address issues set forth here (i.e., answers to questions 30b and 32–34 of the May 14 notice) will be made a part of the record of this proceeding as well.

As indicated in the earlier notice, rational decisions concerning reliance on the use of respirators depend upon detailed knowledge of types and applications of respirators, the effectiveness of programs for their use and specific knowledge of their performance. Similarly, decisions concerning the use of any particular engineering control method must be based on valid information about the level of effectiveness that will result. The rulemaking on the respiratory protection standards will provide this necessary base of information with respect to respirators and respiratory protection programs. OSHA hopes to develop a similar base of data on engineering controls as a result of this notice.

In addition, each of OSHA's substance-specific health standards, as well as the Carcinogen Policy (29 CFR Part 1990), have considered the use of engineering controls and respirators in controlling exposures. To the extent practical, OSHA will abstract from the various rulemaking records of these standards information which may be relevant to this proceeding. Commentors responding to this notice may wish to make specific reference to data contained in other OSHA dockets to avoid resubmitting material already submitted by themselves or others.

Comments

Data, views, and arguments are solicited on all of the issues described below as well as on other relevant issues.

Since this policy affects a wide variety of industries, each commenter should provide as much detail as possible concerning conditions or circumstances used as a basis for the information submitted. To enable OSHA

to group and compare responses, please describe your work operation in terms of the following elements:

a. Job(s), operation(s) and process(es);

b. Toxic material(s) present;

c. Level of exposure without regard to respirators:

d. Frequency and duration of exposure;

e. Type and amount of work or physical labor, including frequency and duration;

f. Medical screening or surveillance already practiced;

g. Applicable environmental conditions—high or low temperatures, high humidity, skin irritants present, indoor or outdoor operation, etc.;

h. Description of work schedule, including breaks and rest periods;

i. Description of engineering controls already in use;

j. Size of facility, both in terms of space and in number of employees; and

k. Age of affected employees and any identifiable health conditions which would affect their ability to use respirators.

Issues

In this notice the Agency is soliciting comments from all interested parties on issues related to its policy with respect to engineering controls and respirators. These issues are presented in the form of questions to assist interested persons in developing their responses. Interested persons, of course, may wish to submit information and views on issues that are not specifically addressed by the questions or to respond only to some of the questions of special interest to themselves. All comments submitted will become part of the public record of any resulting rulemaking proceeding and will be carefully considered in the development of any proposed regulation on these matters. In the questions that follow, *the term engineering controls is intended to include the use of administrative or work practice controls as well.*

1.a. Should OSHA require the use of feasible engineering controls in preference to the use of respirators?

b. What factors indicate that engineering controls in the workplace better protect employee health?

c. What factors indicate that respirators in the workplace provide better protection of employee health?

d. On what basis could one conclude that, in some given situation, engineering controls and respirators provide a degree of protection that is equal or indeterminate?

e. What factors about a particular situation indicate that respirators will give protection at least equal to that provided by feasible engineering controls?

f. Are there reasons to prefer the use of engineering controls over the use of respirators despite analytical determinations that yield indeterminate or equal results concerning the degree of protection afforded?

2. In deciding on the use of engineering controls or respirators for a particular situation, or in general, how should OSHA or the employer take the following factors into account?

a. Number of exposed employees and number of employees with respirator fitting problems;

b. severity of effects of chronic exposure;

c. severity of effects of acute exposure;

d. length of periods of exposure;

e. frequency of periods of exposure;

f. availability and type of biological monitoring;

g. effectiveness of engineering controls;

h. effectiveness of respirators;

i. ability of the employer to measure and to ensure the adequacy of exposure control;

j. work rate (level of exertion) required of employees;

k. temperature and humidity of workplace;

l. reliability of both engineering controls and respirators; and

m. costs of engineering controls and of an effective respirator program.

n. What other factors should be considered?

3. The comparison of engineering controls and respirators can be based on the possible lapse of protection due to defects or malfunctions and on employee acceptance.

a. How are the respective probabilities of protection failure to be assessed?

b. How are the respective consequences of protection failure to be assessed?

c. How are engineering controls and respirators to be compared with respect to the degree of warning conveyed to the affected employees when protection lapses?

d. How can an employer guarantee that respirators are worn for all required periods?

e. How can employers ensure employee acceptance of respirators?

4. Is it practical to compare in general terms the overall effectiveness of engineering controls and respirators?

a. If yes, how is the comparison to be structured and evaluated?

b. If no, why not?

5.a. Can the peformance of engineering controls be predicted accurately at the design stage? Explain.

b. Can the effectiveness of engineering controls be described accurately for large classes or groups of controls or operations and processes controlled? Explain.

6.a. In instituting an employee protection program based on respirators, what sources of indirect or hidden costs are there, in addition to the obvious direct costs?

b. What are these costs on a per employee basis and on a plant wide basis?

c. What economies, either direct or indirect, will be realized from the institution of such a program (other than avoidance of engineering control costs)?

7.a. In instituting an employee protection program based on engineering controls, what sources of indirect or hidden costs are there in addition to the obvious direct costs?

b. What are these costs on a per employee basis and on a plant wide basis?

8. Have there been instances where the installation of engineering controls for industrial hygiene purposes has resulted in lower overall costs due to economy of resources, increased productivity, less employee time spent on the various aspects of a respirator program, or other reasons? If yes, please describe.

9.a. In what situations should engineering controls and respirators be used in combination for the reduction of exposure to the same hazard?

b. On what basis is the relative emphasis between the two to be arrived at?

10. Should OSHA assign a preferred hierarchy to different forms of engineering controls such as:

(i) Material substitution,

(ii) Process change,

(iii) Equipment changes,

(iv) Local exhaust ventilation,

(v) General dilution ventilation,

(vi) Equipment enclosures, and

(vii) Employee enclosures?

a. Is this an appropriate priority list?

b. Is some other priority list preferable?

c. Should employers be required to justify the use of lower priority measures when higher priority measures are feasible? If so, on what basis?

11. If OSHA allows employers to choose compliance strategies, should OSHA also require each employer who relies on respirators to prepare a compliance plan justifying the use of respirators and including such items as:

(i) Exposure level of each affected employee;
(ii) Review of possible consequences of exposure, both acute and chronic;
(iii) Complete schedule of frequency and duration of exposure;
(iv) Potential for emergency exposure situations;
(v) Engineering analysis of least expensive feasible engineering controls;
(vi) Justification for reliance on respirators instead of feasible engineering controls;
(vii) Estimated costs of installing engineering controls;
(viii) Description of appropriate respiratory protection programs;
(ix) Costs of instituting respiratory protection program; and
(x) Comparison of estimated costs to other company financial data?

12. In those cases where respirators have never been relied on and engineering controls have always been used to control toxic material exposure,
a. What property of the toxic material precludes the use of respirators?
b. Is there some specific reason respirators are not used?
c. When were the engineering controls installed, what was the cost, and what percentage is this of the yearly capital budget?
d. To what exposure level are the engineering controls designed to reduce airborne contaminants?

13. If OSHA regulations permitted more extensive reliance on respirators,
a. Would existing engineering controls be shut down or removed. If yes explain reasons.
b. What additional biological monitoring or medical testing, if any, should be instituted?
c. What type of respirator would be used?
d. Would other additional personal protective equipment also be required?
e. Should some exception be made for the pulmonary diseased employee?

14. In those cases where respirators are relied on,
a. How many employees use respirators?
b. What type of respirator is used (e.g. half mask cartridge; full facepieces air line; etc)?
c. What methods are used to determine that the respirator program is effective?
d. To what extent are engineering controls also used?
e. What medical surveillance (urine tests, x-rays, physical exams, etc.) is practiced?
f. Does employee resistance limit greater use of respirators?
g. Do inherent limitations of respirators limit greater use?
h. Does the supervision of employees to ensure proper respirator use pose any difficulties?

15. a. What programmatic or personnel problems have arisen attendant to the use of respirators?
b. How many people were affected?
c. Was the problem with the respirator itself, the fitting, or with the respirator program? Explain.
d. For what specific jobs or operations can respirators not be worn? Why?

16. In those cases where the use of respirators has been partially or completely abandoned in favor of engineering controls,
a. What factor(s) were instrumental in the decision to curtail the use of respirators?
b. What proplems were there with the use of respirators? What percentage of the workers were affected?
c. Was OSHA enforcement activity involved in the decision?
d. Have the engineering controls been effective?
e. Have the engineering controls created any problems?
f. To what exposure level are the engineering controls designed to reduce airborne contaminants?
g. What engineering controls were installed; what was the cost and percentage of yearly capital costs for the facility?

17. In some instances, feasible engineering controls significantly reduce the levels of airborne toxic materials yet fail to achieve full compliance with applicable standards.
a. Should such engineering controls nevertheless be required?
b. Would such controls reduce employee exposure even where respirators are also used?

All comments in response to this notice should be sent by June 22, 1983, to the OSHA Docket Officer, Docket No. H–160, Room S–6212, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, D.C. 20210; telephone 202–523–7894.

List of Subjects in 29 CFR Part 1910

Chemicals, Diving, Electric power, Electronic products, Fire prevention, Gases, Hazardous materials, Health records, Noise control, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, D.C. 20210.

(Sec. 6, Pub. L. 91–596, 84 Stat. 1593 (29 U.S.C. 655), 29 CFR 1911; Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C. this 14th day of February, 1983.

Thorne Auchter,

Assistant Secretary of Labor.

[FR Doc. 83–4130 Filed 2–18–83; 8:45 am]
BILLING CODE 4510–26–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5–83–01]

Drawbridge Operation Regulations; Kent Island Narrows, Md.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Maryland Department of Transportation, the Coast Guard is considering a change in the regulations that govern the operation of the Kent Island Narrows Drawbridge at Grasonville, Maryland which will change the number and times of openings during summer weekend peak traffic periods. This proposal is being made because some summer weekend draw openings have contributed to large traffic backups in the vicinity of the drawbridge. This action is intended to accomodate the needs of vehicular traffic and still provide for the reasonable needs of navigation. The Commander, Fifth Coast Guard District has authorized a public hearing to be held to receive comments on the proposed regulation.

DATES: (a) The hearing will be held on March 24, 1983 at 7:30 p.m. (b) Written comments on this proposal may be submitted on or before April 9, 1983.

ADDRESSES: (a) The location of the hearing will be at Chesapeake College, Routes 50 and 213, Queen Anne's County, Maryland. (b) Written comments on this proposal may be submitted to and will be available for examination from 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, at the office of Commander (oan), Fifth Coast Guard District, Room 609, 431 Crawford Street, Portsmouth, Virginia 23705. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Wayne J. Creed, Bridge Administrator, Aids to Navigation Branch, Fifth Coast Guard District, Portsmouth, Virginia 23705 (804) 398–6222.

SUPPLEMENTARY INFORMATION: The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed regulation, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Contact Officer listed above by March 22, 1983. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public.

Interested persons who are unable to attend this hearing may also participate in the consideration of this proposed regulation by submitting their comments in writing. Each comment should state reasons for support or opposition, suggest any proposed changes to the regulation, and include the name and address of the person or organization submitting the comment. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope. All comments received will be considered before final action is taken on the proposed regulation. After the time set for the submission of comments, the Commander, Fifth Coast Guard District will determine a final course of action. The proposed regulation may be changed in light of comments received.

Drafting Information

The drafters of this notice are Ann B. Deaton, assistant project officer, and Commander David J. Kantor, project attorney.

Discussion of Proposed Regulations

The current regulations for this drawbridge for the period May 1 to October 31 require that it open for the passage of vessel traffic on the hour from 7 a.m. to 7 p.m. everyday, and that the draw need not open from 7 p.m. to 7 a.m. Because of severe traffic congestion, the Maryland Department of Transportation has requested that the drawbridge regulations for the Kent Island Narrows Bridge be changed during the summer months to limit draw openings. The bridge serves as the primary link between the Baltimore, Md. and Washington, D.C. areas and the Maryland-Delaware Eastern Shore and is used by many vacationers, particularly on weekends. According to the Maryland Department of Transportation, drawbridge openings contribute to large traffic back-ups in the vicinity of the drawbridge. To reduce the traffic congestion, the Maryland Department of Transportation requested in 1982 that the drawbridge remain closed to navigation during summer weekend hours when the average one direction traffic volume exceeded 2,000 vehicles. In furtherance of its request, Maryland submitted a proposed schedule based upon data supplied by its State Highway Administration. The proposed schedule would have closed the bridge to navigation for significant periods of time on Fridays, Saturdays, Sundays, and holidays falling on Monday. In response, the Coast Guard felt Maryland's proposal unduly restricted navigation and, instead, developed an alternate schedule which it felt would ease the traffic problem without unduly restricting navigation. This revised schedule was announced to the public in Public Notice 5–514 on April 13, 1982 and the public was invited to submit comments. Numerous written objections were received from maritime interests concerning this proposed change. Because of the public reaction, the Coast Guard's proposal was further modified and trial tested during the summer of 1982. During the trial period, data was collected on both modes of transportation in an attempt to reach an equitable solution. Based on data collected, as well as information gained at meetings with state officials and marine interest groups, it is felt the following proposed rule will best temper the existing traffic problem and yet not unreasonably restrict navigation.

The proposed rule has been carefully reviewed for its potential economic impact, especially on small business entities in the local community. Although there are on file several letters which express a concern based on economic impact, the quantifiable impact relates to the Coast Guard's first proposed schedule which was, as a result of public response, never implemented. The present proposed rule seeks to strike a better balance between vehicular and vessel traffic, but in so doing preserves numerous bridge openings, especially at most of the times where statistics have shown concentrated vessel traffic. In addition, new hours have been added to permit roundtrip passage by a vessel on any one day. While there may be some inconvenience to both the motorist and the mariner as a result of the proposed rule, economic impact should be minimal.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

PART 117—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising § 117.290(b) and (c) to read as follows:

§ 117.290 Kent Island Narrows, Md., Highway bridge at Grasonville, Md.

. . . . . .

(b) From May 1 through October 31:

(1) On Monday (except Monday holidays) through Thursday, the drawbridge shall open for the passage of vessel traffic on the hour from 7 a.m. to 7 p.m., but need not open at any other time.

(2) On Friday, the drawbridge shall open for the passage of vessel traffic on the hour from 6 a.m. to 3 p.m, and at 8 p.m., but need not open at any other time.

(3) On Saturday, the drawbridge shall open for the passage of vessel traffic at 6 a.m., 7 a.m., and 12 noon, and on the hour from 3 p.m. to 8 p.m., but need not open at any other time.

(4) On Sunday and legal holidays falling on Monday, the drawbridge shall open for the passage of vessel traffic on the hour from 6 a.m. to 1 p.m., and at 8 p.m., but need not open at any other time.

(5) The draw shall open at scheduled opening times only if vessels are waiting to pass, and at each opening, the draw shall remain open for a sufficient period of time to allow passage of all waiting vessels.

(6) If a vessel is approaching the drawbridge and cannot reach the draw exactly on the hour the drawtender may delay the hourly opening up to ten minutes past the hour for the passage of the approaching vessel and any other vessels that are waiting to pass.

(c) All public vessels of the United States, and those State or local vessels on public safety missions, shall be passed at any time. The opening signal

from these vessels is five or more blasts of a whistle or horn. The opening signal from all other vessels is one long blast followed by one short blast.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: February 15, 1983.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 83–4381 Filed 2–18–83; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[W–2–FRL 2310–6]

Virgin Islands Department of Conservation and Cultural Affairs; Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the Territory of the Virgin Islands requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is not available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application of the Virgin Islands Department of Conservation and Cultural Affairs to regulate Classes I, II, III, IV and V injection wells.

DATES: Requests to present oral testimony should be filed by March 14, 1983. The Public Hearings will be held on March 21, 1983 and March 22, 1983 at 7:30 p.m. and will continue until the end of the testimony. Written comments must be received by April 4, 1983. EPA reserves the right to cancel the hearing should there be no significant public interest. Those informing EPA of their intention to testify will be notified of the cancellation.

ADDRESSES: Comments and requests to testify should be mailed to Leon Lazarus, Water Supply Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, or Francine Lang, Division of Natural Resources Management, Department of Conservation and Cultural Affairs, P.O. Box 4240, St. Thomas, Virgin Islands 00801. Copies of the application and pertinent material are available at the following locations:

Environmental Protection Agency, Water Supply Branch, Room 824, 26 Federal Plaza, New York, New York 10278; (212) 264–1800, or

Division of Natural Resources Management, Department of Conservation and Cultural Affairs, Demco Building, Second Floor Subbase, St. Thomas, Virgin Islands 00801; (809) 774–6420.

The hearings will be held at 7:30 p.m. on March 21, 1983 at the Legislature Conference Room, #1 Contentment Road, Christiansted, St. Croix, and at 7:30 p.m. on March 22, 1983 at the Legislature Conference Room, Veterans Drive, Charlotte Amalie, St. Thomas.

FOR FURTHER INFORMATION CONTACT: Leon Lazarus, Water Supply Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, telephone (212) 886–6193.

SUPPLEMENTARY INFORMATION: The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/1 of total dissolved solids. At present, the Territory of the Virgin Islands has no known Class I, II, III, or IV injection wells. The latest inventory identified 195 Class V wells. Upon program approval, existing Class V wells will be governed by rule. The Territory of the Virgin Islands does not intend to exempt any aquifers at this time.

Class V wells will be studied to assess whether further regulatory measures are required. In the meantime, existing Territory requirements will continue to be applied.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 123, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—Lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

This application from the Virgin Islands Department of Conservation and Cultural Affairs is for the regulation of all injection wells in the Territory. The application includes a description of the State Underground Injection Control Program, copies of all applicable statutes and rules, a statement of legal authority and a proposed memorandum of agreement between the Virgin Islands Department of Conservation and Cultural Affairs and Region II office of the Environmental Protection Agency.

Dates: February 16, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83–4511 Filed 2–18–83; 8:45 am]

BILLING CODE 6560–50–M

OFFICE OF PERSONNEL MANAGEMENT

41 CFR Part 16–4

Procurement Regulations

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing regulations to require simultaneous submission of Federal Employees Health Benefit (FEHB) carriers' benefit and rate proposals. These regulations would enhance OPM's ability to manage the contract negotiation cycle and to assess the impact of benefit and rate proposals on both the Government and enrollees.

DATE: Comments must be received on or before March 24, 1983.

ADDRESS: Written comments may be sent to Jerome D. Julius, Office of Pay and Benefits Policy, Compensation Group, P.O. Box 57, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20044, or delivered to Room 4351.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, 202–632–4634.

SUPPLEMENTARY INFORMATION: In 1982, OPM asked FEHB carriers to submit benefit and rate changes simultaneously for their 1983 contracts. OPM plans to repeat this new prodecure and wishes to confirm this practice in these proposed regulations. Regulations which provide for simultaneous submission of benefit and rate proposals would enhance OPM's ability to manage the FEHB negotiation cycle through improved coordination of benefit proposals, rate proposals, and the Administration's

budget. Specifically, simultaneous submission makes it possible to evaluate the impact of carrier proposals on the budget and on enrollee premiums much earlier than current regulations which require benefit proposals by April 30, but allow rate submissions as late as July 31.

Therefore, these proposed regulations would provide that approximately nine months (March 31) prior to the expiration of the current contract period (calendar year), OPM will invite benefit and/or rate changes for simultaneous submission not less than seven months (May 31) prior to the end of the current contract period, if in the opinion of the Director of OPM, it is deemed beneficial to enrollees and the FEHB Program. The proposed regulations would also permit the Director of OPM discretion to vary the call and submission dates.

For consistency, the proposed revision to the regulations would also require a new plan desiring entry into the program to make application to OPM nine months (March 31) before the end of the current contract period and to demonstrate that the plan meets all requirements for approval at least seven months (May 31) before the end of the current contract period. Currently, new plans must submit all evidence required for plan approval at least six months (June 30) before the end of the current contract period.

The Director finds that because of the desirability of having these proposed regulations in effect before the next FEHB negotiation cycle begins, good cause exists for setting the comment period on this proposal at 30 days.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that, within the scope of the Regulatory Flexibility Act, this regulation will not have a significant economic impact on a substantial number of small entities because the regulations would simply increase OPM's ability to administer the FEHB Program, and rearrange the time frame in which health benefit carriers must submit information.

List of Subjects in 41 CFR Part 16–4

Administrative practice and procedure; Government contracts; Health insurance.

Office of Personnel Management.

Donald J Devine,

Director.

PART 16–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Accordingly, the Office of Personnel Management is proposing to amend Part 16–4 of Chapter 16, Title 41, Code of Federal Regulations, by revising §§ 16–4.152–3 and 16–4.152–4 to read as follows:

* * * * *

§ 16–4.152–3 Applications to participate in the FEHB Program.

By regulation (5 CFR 890.203), applications from carriers seeking participation in the FEHBP shall be submitted not later than the last day of the tenth month preceding the contract period to which they refer. Benefit and rate proposals for new plans shall be submitted not less than seven months before the expiration of the then current contract period, unless the Director of OPM determines that a later submission date is acceptable. In its solicitation for new plans, OPM shall request detailed information of each carrier expressing interest in participating in the FEHBP. The Office of the Assistant Director for Insurance Programs shall evaluate the information received as set out in 5 U.S.C. Chapter 89, 5 CFR Part 890, and this Chapter 16, and the contracting officer shall notify carriers meeting these requirements of their approval to participate in the FEHBP during the following contract period. Since each application is considered on its own merits, there is no competition between offerors as is the case in other types of procurements. OPM shall seek to complete all benefit and rate negotiations no later than three months preceding the contract year to which they apply.

§ 16–4.152–4 Proposals of existing FEHBP carriers.

Benefit and/or rate changes in health benefit plans will be considered at the discretion of OPM. If the Director of OPM determines that it is beneficial to enrollees and the FEHBP to consider health plan benefit and/or rate changes for a given contract period, a "call letter" shall be issued to the carrier approximately 9 months prior to the expiration of the current contract period. Any proposal for change shall be in writing, specifically describe the change proposed, and be signed by an authorized official of the carrier. OPM will review any requested proposal for change and will notify the carrier of its decision to accept or reject the change. OPM may make a counter-proposal or at any time propose changes on its own motion. Benefit changes and/or rate proposals, when invited by OPM, shall be submitted not less than 7 months before the expiration of the then current contract period unless the Director of OPM determines that a later date is acceptable. The negotiation period shall begin approximately 7 months before the expiration of the current contract period, and OPM shall seek to complete all benefit and rate negotiations no later than 3 months preceding the contract period to which they will apply.

(5 U.S.C. 8913; 40 U.S.C. 486(c))

[FR Doc. 83–4403 Filed 2–18–83; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 201

Grants to States for Public Assistance Programs; Adjustment of Federal Share for Uncashed or for Cancelled Checks

AGENCY: Social Security Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This regulation provides that the Federal share of cancelled (voided) checks must be refunded quarterly to the Federal government since there has been no expenditure made by the State. The proposed regulation will also require States to refund to the Federal government the Federal share of all checks uncashed after 180 days from the date the checks are issued since these will no longer be considered amounts expended. A 1979 report by the General Accounting Office (GAO) recommended that uniform requirements be established for States to credit the Federal Government for its portion of uncashed Aid to Families with Dependent Children assistance (AFDC) checks. This regulation is intended to implement that recommendation.

DATE: We will consider your comments if we receive them on or before April 25, 1983.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Family Assistance, Social Security Administration, Room B–448, Transpoint Building, 2100 Second Street SW., Washington, D.C. 20201, between

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8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: David Siegel, Office of Intergovernmental Communications, Office of Family Assistance, Social Security Administration, 2100 Second Street, SW., Washington, D.C. 20201, telephone (202) 245–2736.

SUPPLEMENTARY INFORMATION: A 1979 report by the General Accounting Office (GAO) recommended that uniform requirements be established for States to credit the Federal government for its portion of uncashed AFDC assistance checks. This regulation is intended to implement that recommendation.

Even though the GAO recommendations focused solely on uncashed AFDC assistance checks under a State's AFDC program, we are extending the scope of this regulation to apply: (1) To uncashed or cancelled (voided) checks to or behalf of AFDC recipients, and (2) to uncashed or cancelled (voided) checks to or on behalf of recipients under titles I, X, XIV, or XVI (AABD) being administered in Guam, Puerto Rico, and the Virgin Islands, and (3) to uncashed or cancelled (voided) checks for administrative costs under titles I, IV–A, X, XVI, or XVI (AABD). Since some States make payments in the form of warrants, the term "check" is defined in the regulation to include them as well.

The proposed regulation will require that the Federal share of checks outstanding for 180 days or more which have not been cancelled and cancelled checks be refunded to the Federal government each quarter. It is generally accepted banking practice to consider 180 days as a reasonable time period for checks to be presented to be cashed and banks often will not accept checks which are presented after that time frame. Moreover, the regulation is consistent with the new statutory provisions for the Supplemental Security Income program (SSI) as contained in section 1631(i) of the Social Security Act which applies a 180 day time period to outstanding SSI checks. Under this provision, the supplementary portion (provided by States) of Federal SSI checks which have not been cashed for 180 days would have to be refunded to the States, although negotiability of the SSI checks could occur thereafter.

Similarly, we are not requiring that AFDC checks be voided 180 days after issuance. To do this could cause unwarranted administrative expense to States. Thus, in the event that a check is homored for payment after the Federal share has been refunded to the Federal government, we are allowing States to submit new claims for Federal matching. The proposed regulations also codify a longstanding policy that the Federal share of a cancelled check must be refunded to the Federal government in the quarter in which the check is cancelled.

Since under current procedures a State, solely as an administrative convenience, may claim Federal financial participation for payments in the form of checks which are not yet cashed, it seems only reasonable for the proper and efficient administration of a State plan that there be this limit on the period of time that Federal funds, for which there has been in fact no State expenditure, may be retained by the State.

Because this requirement is a part of the grants process to States, we are amending 45 CFR 201.5(a)(3) by adding a cross reference to 45 CFR 201.67, the new section where this rule will be set out.

Regulatory Procedures

Executive Order 12291—Under this regulation, which provides for reimbursement of the Federal portion of uncashed or cancelled checks, the Federal government will collect approximately $1 million annually. Therefore, these regulations do not meet the criteria specified in Executive Order 12291 for a major regulation and no regulatory impact analysis is required.

Regulatory Flexibility Act—We certify that this regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities because it affects only the transfer of funds between the Federal government and the States. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act—Sections 45 CFR 201.5, 201.67(c)(2), and 201.67(d)(2) of this proposed rule contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs OMB, New Executive Office Building (Room 3208), Washington, D.C. 20503, ATTN: Desk Officer for HHS.

States will use the Quarterly Statement of Expenditures—SSA–41 in its present format to report adjustments to Federal matching funds granted for past periods for uncashed and cancelled checks. OMB has approved the present format of this report (OMB Number 0960–0294). We anticipate that OMB will approve these new requirements under this same OMB number.

(Secs. 3, 403, 1003, 1102, 1403, 1603 of the Social Security Act, as amended; 49 Stat. 621, as amended; 49 Stat. 628, as amended; 49 Stat. 646 as amended; 49 Stat. 647, as amended; 64 Stat. 556, as amended; 76 Stat 200, as amended; 42 U.S.C. 303, 603, 1203, 1302, 1353, and 1383 (note))

(Catalog of Federal Domestic Assistance Program No. 13.809—Public Assistance—Maintenance Assistance (State Aid))

List of Subjects in 45 CFR Part 201

Aid to Families with Dependent Children, Grant programs—Social programs, Guam, Public assistance programs, Puerto Rico, Virgin Islands.

Dated: November 23, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: Febraury 1, 1983.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 201—[AMENDED]

Chapter II Title 45 of the Code of Federal Regulations is amended as follows:

1. Section 201.5(a)(3) is revised as set forth below:

§ 201.5 Grants.

* * * * *

(a) *Form and manner of submittal.*

* * *

(3) The State agency must also submit a quarterly statement of expenditures for each of the public assistance programs under the Act. This is an accounting statement of the disposition of the Federal funds granted for past periods and provides the basis for making the adjustments necessary when the State's estimate for any prior quarter was greater or less than the amount the State actually expended in that quarter. The statement of expenditures also shows the share of the Federal Government in any recoupment, from whatever source, of expenditures claimed in any prior period, and also in expenditures not properly subject to Federal financial participation which are acknowledged by the State agency, including the share of the Federal Government for uncashed or cancelled

checks as described at 45 CFR 201.67 in this part, or which have been revealed in the course of an audit.

2. A new § 201.67 is added to read as set forth below:

§ 201.67 Treatment of uncashed and cancelled checks.

(a) *Purpose.* This section provides the rules to insure that States refund the Federal portion of uncashed or cancelled (voided) checks under titles I, IV–A, X, XIV, and XVI (AABD).

(b) *Definitions.* As used in this section—

"Cancelled (voided) check" means a check issued by the State agency or local agency which prior to its being cashed is cancelled (voided) by agency action, thus preventing disbursement of funds.

"Check" means a check or warrant that a State uses in order to make a payment.

"Uncashed check" means a check issued by the State agency or local agency which has not been cashed by the payee.

(c) *Refund of Federal financial participation (FFP) for uncashed checks.*—(1) *General provisions.* If a check remains uncashed beyond a period of 180 days from the date it was issued, it will no longer be regarded as an amount expended because no funds have actually been disbursed. If the State has claimed and received FFP for the amount of the uncashed check, it must refund the amount of FFP received.

(2) *Report of refund* At the end of each calendar quarter, the State must identify those checks which have not been cashed within 180 days after issuance. The State must report on the Quarterly Statement of Expenditures for that quarter all FFP received by the State for uncashed checks. Once reported on the Quarterly Statement of Expenditures for a quarter, an uncashed check is not to be reported on a subsequent Quarterly Statement of Expenditures. If an uncashed check is cashed after the refund is made, the State may submit a new claim for FFP.

(d) *Refund of FFP for cancelled (voided) checks.*—(1) *General provisions.* If the State has claimed and received FFP for the amount of a cancelled (voided) check, it must refund the amount of FFP received.

(2) *Report of refund.* At the end of each calendar quarter, the State must identify those checks which the State has cancelled (voided). The State must report on the Quarterly Statement of Expenditures for that quarter all FFP received by the State for these checks. Once reported on the Quarterly Statement of Expenditures for a quarter, a cancelled (voided) check is not to be reported on a subsequent Quarterly Statement of Expenditures.

[FR Doc. 83-4368 Filed 2-18-83; 8:45 am]

BILLING CODE 4910-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket No. 80-584; RM-3304]

Policies Governing the Ownership and Operation of Domestic Satellite Earth Stations in the Bush Communities in Alaska

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of comment/reply periods.

SUMMARY: This action extends time for filing comments in a rulemaking involving Commission policies governing the ownership and operation of domestic satellite earth stations in the Bush communities in Alaska. Extension is granted in order to provide the parties adequate time in which to prepare informative comments which fully address the complex issues in this proceeding.

DATES: Comments must be filed on or before March 7, 1983. Reply comments must be filed on or before April 7, 1983.

ADDRESS: Submit comments and reply comments to the Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Cecily C. Holiday, Common Carrier Bureau, (202) 634–1682.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Comments

Adopted: February 3, 1983.

Released: February 7, 1983.

In the Matter of Policies governing the ownership and operation of domestic satellite earth stations in the Bush communities in Alaska, CC Docket No. 80–584, (10–28–80; 45 FR 71384).

The Commission herein considers the unopposed request of United Utilities, Inc. (United) for a one month extension of time in which to file comments in the above-captioned proceeding. United states that the extension of time is necessary in order to provide informative comments which fully address the complex issues involved in this proceeding.

Accordingly, in order to insure a full and responsive record in this proceeding, and pursuant to Sections 0.291 and 1.46 of the Commission's rules, we hereby extend the time to file comments in the above-captioned proceeding one month or until March 7, 1983. Reply comments must be filed on or before April 7, 1983.

Federal Communications Commission.

Jack D. Smith,

Deputy Bureau Chief (Operations), Common Carrier Bureau.

[FR Doc. 83-4342 Filed 2-18-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-538; RM-3983]

Hours of Operation of Daytime-Only AM Broadcast Stations; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule (Extension of time).

SUMMARY: This action extends the deadline for filing reply comments in this proceeding dealing with extended hours of operation for daytime-only AM stations. This action is taken in response to a request filed on behalf of Bonneville International Corporation.

DATE: Reply comments must be filed on or before March 8, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan David, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Reply Comments

Adopted: February 8, 1983.

Released: February 11, 1983.

In the Matter of Hours of Operation of Daytime-Only AM Broadcast Stations BC Docket No. 82–538 RM–3983, (9–3–82; 47 FR 38937.

1. On August 4, 1982, the Commission inaugurated this proceeding to explore possible relaxation of the restrictions which limit the hours of operation by daytime-only AM stations. Comments were to be filed on November 15, 1982, and reply comments were to be filed on December 15, 1982. At the request of the Clear Channel Broadcasting Service, the Commission granted a 60-day extension of the filing deadlines. Pursuant to this extension, comments were filed on January 14, 1983, and reply comments are due to be filed on February 15, 1983.

2. On February 4, 1983, the Commission received a request for extension of the reply comment deadline filed on behalf of Bonneville International Corporation. Counsel for Bonneville filed timely comments on January 14, 1983, and the day after had to be taken to the hospital. Several days later surgery was performed and he was not released from the hospital until January 27. Since then he has been recouperating. Counsel indicates that he is the only member of the firm familiar with the record and able to work on the preparation of reply comments. Because of his hospitalization he has not been able to complete his study of the extensive filings in the proceeding. Counsel requests a three-week extension so that he can evaluate the comments filed and respond to them in his reply filing.[1]

3. Although the Commission is eager to bring this proceeding to a prompt conclusion, the timing of Bonneville's counsel's unexpected hospitalization precludes timely filing of its reply comments. Under these circumstances we believe an extension is justified.

4. Accordingly, pursuant to authority contained in Section 4(i), and (j) of the Communications Act of 1934, as amended, it is ordered, that the time for filing reply comments in this proceeding is extended to and including March 8, 1983.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division. Mass Media Bureau.

[FR Doc. 83-4336 Filed 2-18-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-87; RM-4251]

FM Broadcast Station in Red Rock, Georgia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 292A to Red Rock, Georgia, in response to a petition filed by Malibu Broadcasting. The proposal could provide a first FM service to that community.

DATES: Comments must be filed on or before April 4, 1983, and reply comments must be filed on or before April 19, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: February 3, 1983.

Released: February 15, 1983.

In the Matter of Amendment of § 73.202(b), Table of Assignments, RM Broadcast Stations. (Red Rock, Georgia), MM Docket No. 83-87 RM-4251.

1. A petition for rule making was filed November 10, 1982, by Malibu Broadcasting ("petitioner"), seeking the assignment of Channel 292A to Red Rock, Georgia, as its first local FM broadcast service. Petitioner submitted information in support of the proposal and expressed an interest in applying for the channel, if assigned.

2. A site restriction of approximately 2.2 miles northwest of Red Rock is required due to Station WOKA in Douglas, Georgia.

3. In view of the fact that the proposed assignment could provide a first FM service to Red Rock, Georgia, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Red Rock, Ga		292A

4. The Commission's authority to institute rule making proceedings, showings requried, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before April 4, 1983, and reply comments on or before April 19, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634:6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly.

[1] The Commission also received an extension request from Clear Channel Broadcasting Service. It seeks a two-week extension to respond to the comments and the engineering studies which accompanied many of them. It points to the fact that 37 other parties filed extensive comments on the complex technical issues raised by the proceeding, and it asserts that more time is needed to responds properly to these issues.

Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-4339 Filed 2-18-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-82; RM-4264]

FM Broadcast Station in Kearney, Nebraska; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 272A to Kearney, Nebraska, in response to a petition filed by The RAM Company. The proposal could provide a third FM service to that community.

DATE: Comments must be filed on or before April 4, 1983, and reply comments on or before April 9, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530

SUPPLEMENTARY INFORMATION.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Released: February 15, 1983.

Adopted: January 31, 1983.

In the Matter of Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Kearney, Nebraska), MM Docket No. 83-82 RM-4264.

1. A petition for rule making was filed December 2, 1982, by The RAM Company ("petitioner") proposing the assignment of Channel 272A to Kearney, Nebraska, as its third FM assignment. Petitioner submitted information in support of the proposal and expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the assignment could provide a third FM service to Kearney, Nebraska, the Commission believes it is appropriate to propose amending the FM Table of Assignments § 73.202(b) of the Commission's Rules) with respect to the following community:

City	Channel No	
	Present	Proposed
Kearney, Nebr	225, 290	255, 272A, and 290

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before April 4, 1983, and reply comments on or before April 19, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Attachment: Appendix.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-4335 Filed 2-18-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-88; RM-4223]

FM Broadcast Station in Jersey Shore, Pennsylvania; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 228A to Jersey Shore, Pennsylvania as its second FM channel in response to a petition filed by Tiadaghton Broadcasting Company.

DATE: Comments must be filed on or before April 4, 1983, and reply comments must be filed on or before April 19, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Jersey Shore, Pennsylvania), MM Docket No. 83-88, RM-4223.

Adopted: February 3, 1983.

Released: February 15, 1983.

1. A petition for rule making was filed October 18, 1982, by Tiadaghton Broadcasting Company ("petitioner") seeking the assignment of Channel 228A to Jersey Shore, Pennsylvania, as its second FM assignment. Petitioner stated that it would apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements. A site restriction of 1.7 miles east is required to avoid short spacing to Station WQYX, Clearfield, Pennsylvania.

2. In view of the provision of the second FM broadcasting service to Jersey Shore, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Jersey Shore, Pa	249A	228A, 249A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before April 4, 1983, and reply comments on or before April 19, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Joel Rosenberg, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Attachment: Appendix.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, §73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-4337 Filed 2-18-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-89; RM-4217]

FM Broadcast Station in San Angelo, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 254 to San Angelo, Texas, in response to a petition filed by Walton A. Foster. The proposal could provide a sixth FM service to that community.

DATES: Comments must be filed on or before April 4, 1983, and reply comments must be filed on or before April 19, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: February 3, 1983.
Released: February 15, 1983.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (San Angelo, Texas), MM Docket No. 83-89, RM-4217.

1. A petition for rule making was filed October 12, 1982, by Walton A. Foster ("petitioner") proposing the assignment of Class C Channel 254 to San Angelo, Texas, as its sixth FM assignment.[1] Petitioner expressed an interest in applying for the channel, if assigned. A site restriction of 7.3 miles east of the city is required due to Station KTYE in Tye, Texas, and a Channel 252A assignment at Big Lake, Texas.

2. Since San Angelo is located within 320 kilometers (199 miles) of the U.S.-Mexican border, the proposed assignment requires concurrence of the Mexican government.

3. In view of the fact that the proposed assignment could provide a sixth broadcast service to San Angelo, Texas, the Commission believes it is appropriate to propose that the FM Table of Assignments, § 73.202(b) of the Commission's Rules, be amended with respect to the following community:

City	Channel No.	
	Present	Proposed
San Angelo, Tex.....	225, 230, 234, 248, and 298	225, 230, 234, 248, 254, and 298

4. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before April 4, 1983, and reply comments on or before April 19, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are

[1] Recently, Channel 298 was assigned to San Angelo, Texas in BC Docket 82-489, adopted January 13, 1983.

prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082, 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Attachment: Appendix.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (i), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making to which this Appendix is attached.*

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(b) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 83-4338 Filed 2-18-83; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 36
Tuesday, February 22, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Gates County Schools, RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Gates County Schools, RC&D Measure, Gates County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755–4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing flooding and for improving drainage on three school grounds. The planned works of improvement include installing catch basins, pipes and subsurface drainage tubing. Grading and shaping will be done to improve surface drainage and to eliminate ponding. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: February 11, 1983.

Coy A. Garrett,

State Conservationist.

[FR Doc. 83–4383 Filed 2–16–83; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Announcement of Approval of Reporting Requirements by the Office of Management and Budget Under the Paperwork Reduction Act (44 U.S.C. 35)

On January 5, 1983, the Office of Management and Budget approved revisions to the following reporting requirements:

"Special Reporting Required for the International Civil Aviation Organization (ICAO)"—approved through March 31, 1984, under OMB No. 3024–0044.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

February 10, 1983.

[FR Doc. 83–4397 Filed 2–16–83; 8:45 am]

BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended February 11, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Feb. 7, 1983	41268	Pan American World Airways, Inc., c/o Richard D. Mathias, Suite 901, 1660 L Street, N.W., Washington, D.C. 20036. Application of Pan American World Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests that the Board issue Pan Am a Certificate of Public Convenience and Necessity (Backup Authority) authorizing Pan Am to provide Miami-Madrid-Tel Aviv service in the event the Board awards primary authority to a carrier in this market and such carrier fails to provide service and further Pan Am requests that if awarded authority, it be coextensive with the authority granted the primary carrier.
Feb. 9, 1983	41282	United Air Carriers, Inc. d/b/a Overseas National Airways, c/o Richard J. Kendall, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C 20036. Application of United Air Carriers, Inc. d/b/a Overseas National Airways, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance or amendment of a certificate of public convenience and necessity for authority to engage in scheduled air transportation of passengers, property and mail, as follows: a. Foreign scheduled air transportation between the United States and France; and/or b. Authority to combine the United States-France, service with service to the transatlantic points listed in ONA's certificate for Route 356F to the extent such operations are consistent with bilateral agreements between the United States and other countries. Conforming Applications, Motions to Modify Scope, and Answers may be filed by March 9, 1983.

Date filed	Docket No	Description
Feb 7, 1983	41151, 41152	Classic Air, Inc., c/o George L. Sellers, 18915 Nordhoff St., Suite 3, Northridge, California 91324. Supplemental Materials required by Order 83-1-2 of Classic Air, Inc. with respect to the Applications for certificates of public convenience and necessity to engage in interstate/overseas and foreign charter air transportation. Answers may be filed by March 7, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-4366 Filed 2-18-83, 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Pennsylvania Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 3:00 p.m. and will end at 5:00 p.m., on March 9, 1983, in the Council Room, on the Fourth Floor, at the I.L.G.W.U. Building, 35 South Fourth Street, Philadelphia, Pennsylvania, 19106. The purpose of this meeting will be to discuss the final report on the Lewisburg Federal Prison; status of the Commission's survey of block grant funding in 7 States; of the draft report on Equal Opportunity Contracting in the Northeast Corridor (Rail) Improvement project; and review of the violence and bigotry report.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Joseph Fisher 35 South 4th Street, Philadelphia, Pennsylvania, 19106, (215) 351-0776 or the Mid-Atlantic Regional Office, 2120 L Street, Northwest, Room 510, Washington, D.C. 20037, (202) 254-6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 15, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-4421 Filed 2-18-83, 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee.

The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various tyes of these devices.

Time and Place: March 9, 1983, at 9:00 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the general Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(c)(1) and properly classified under Executive Order 12356. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: February 15, 1983.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 83-4410 Filed 2-18-83; 8:45 am]

BILLING CODE 3510-25-M

Importers and Retailers' Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: Importers and Retailers' Textile Advisory Committee was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool, and man-made fiber textile agreements.

Time and Place: March 22, 1983 at 10:30 a.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Agenda: (1) Review of import trends (2) Implementation of textile agreements, (3) Report on conditions in the domestic market, and (4) Other business.

Public Participation: The meeting will be open to public participation to the extent time is available. The public may file written statements with the Committee before or after the meeting. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377-3737.

Dated: February 16, 1983.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83-4408 Filed 2-18-83; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

Time and Place: March 8, 1983, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda

General Session

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Letter to OEA based on January 11 comments by Mr. Meeks.
4. OEA responses on:
   a. Procedures on licenses for exhibits.
   b. Acceleration of post-COCOM procedures.
5. U.S. Customs Service: Report on rule making and quick response procedures.
6. Report on review of Distribution License policies.
7. Report on the status of DeLauer proposal for Section 379.
8. OEA work statement for automated license application processing.
9. Industry priority issues on export controls.
10. New Business.

Public Participation: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written Statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: February 16, 1983.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 83-444 Filed 2-18-83; 8:45 am]

BILLING CODE 3510-25-M

Management-Labor Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Managment-Labor Textile Advisory Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

Time and Place: March 23, 1983 at 1:00 p.m. The meeting will take place at the Main Commerce Building, Room 4830, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Agenda: (1) Review of import trends (2) Implementation of textile agreements, (3) Report on conditions in the domestic market, and (4) Other business.

Public Participation: The meeting will be open to public participation to the extent time is available. The public may file written statements with the Committee before or after the meeting. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377-3737.

Dated: February 16, 1983.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83-4409 Filed 2-18-83; 8:45 am]

BILLING CODE 3510-25-M

Sodium Gluconate From the European Communities; Preliminary Results of Administrative Review and Proposed Supplement to Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review and proposed supplement to suspension agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on sodium gluconate from the European Communities. The review covers the period November 30, 1981 through May 31, 1982. As a result of the review, the Department has preliminarily determined that Joh A Benckiser GmbH, a West German exporter of sodium gluconate to the United States, has complied with the terms of the suspension agreement. However, because Benckiser did not account for 85 percent of imports of sodium gluconate into the United States from the European Communities during the review period, other exporters must enter into an agreement in order for the suspension to remain in force. Akzo Chemie Nederland bv, a Dutch exporter of sodium gluconate to the United States, has indicated a willingness to do so. The addition of Akzo will meet the 85 percent required minimum coverage. Interested parties are invited to comment on these preliminary results and proposed supplemental agreement.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Tom Hodge or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On November 30, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 58132) a notice of suspension of countervailing duty investigation regarding sodium gluconate from the European Communities ("the EC"). The Department noted that the suspension agreement between Joh A. Benckiser GmbH ("Benckiser") and the Department met the criteria provided in section 704 (b) and (d) of the Tariff Act of 1930 ("the Tariff Act"). In the notice the Department also announced its intent to conduct an administrative review of the suspension agreement within twelve months, as provided for in section 751 of the Tariff Act. The Department has now conducted that administrative review.

Scope of the Review

Merchandise covered by the review is the chemical sodium gluconate,

currently classifiable under item 437.5250 of the Tariff Schedules of the United States Annotated. The review covers the period November 30, 1981 through May 30, 1982, and the two programs found to constitute subsidies in the preliminary affirmative countervailing duty determination (46 FR 45975, September 16, 1981): production refunds and export restitution payments. Funds for both programs are provided through the Guidance and Guarantee Fund, operated under the Common Agricultural Policy ("the CAP") of the EC. The Netherlands and Germany are member states of the EC.

Analysis of Programs

(1) Production Refunds

The EC provides production refunds to companies involved in the transformation of certain agricultural goods into manufactured products. Dextrose and glucose (ingredients used in the production of sodium gluconate) are manufactured products of corn and potatoes, and hence eligible for production refunds. During the period of review, Benckiser continued to purchase dextrose and glucose through arms length transactions from unrelated firms, thus receiving no production subsidy.

(2) Restitution payments

Restitution payments are fixed on a periodic basis and are granted only when the world price of sodium gluconate is lower than the EC "market" price. During the period of review, exporters of sodium gluconate were eligible for restitution payments of approximately 15 percent of f.o.b. value. Benckiser did not apply for or receive export restitution payments or any equivalent payments from the EC during the period of review.

Compliance With Agreement

In the suspension agreement, Benckiser renounced all existing benefits associated with the manufacture, production, or exportation of sodium gluconate to the United States, and agreed not to accept substitute or equivalent benefits. The suspension of the investigation can remain in effect only so long as shipments covered by exporter agreements are maintained at 85 percent of imports of such merchandise into the United States. We have found that Benckiser did not apply for or receive any benefits under the two CAP subsidy programs nor were substitute or equivalent benefits received by them during the period of review. The Department has found, however, that Benckiser did not account for 85 percent of U.S. imports of sodium gluconate from the EC during the period.

Akzo Chemie Nederland bv ("Akzo"), a Dutch producer of sodium gluconate, is willing to enter into a comparable agreement. If Akzo were to sign an agreement, the two signatories, Akzo and Benckizer, would together account for in excess of 85 percent of all sodium gluconate imports to the United States from the EC. Akzo has agreed to renounce all benefits from the two CAP programs, effective on the date of publication of the final results of this review, and not to apply for or receive benefits under substitute or equivalent programs. We are publishing the proposed Agreement in Annex I of this notice.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the aggregate net subsidy available during the review period for sodium gluconate exports to the U.S. from the EC is approximately 15 percent of the f.o.b. value. We further preliminarily determine that Benckiser did not receive benefits during the period and remains in compliance with the suspension agreement. However, because Benckiser does not account for 85 percent of imports of sodium gluconate into the U.S. from the EC, a supplement to the agreement, as proposed with Akzo, is required in order for the suspension to remain in force.

Interested parties may submit written comments on these preliminary results and proposed supplement within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the adminlstrative review, including the results of its analysis of any issues raised in such written comments or at a hearing, and if appropriate the supplement to the agreement.

This administrative review, proposed supplement to the suspension agreement, and notice are in accordance with section 751(a)(1) of the Tariff act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: February 15, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

Annex I—Supplement to Suspension Agreement Sodium Gluconate From the European Communities

Pursuant to the provisions of section 704 of the Tariff Act of 1930 (the Act) and § 355.31 of the Commerce Regulations, the United States Department of Commerce ("the Department") enters into the following agreement with Akzo Chemie Nederland by., Amerfoort, Netherlands ("Akzo"). On the basis of this agreement, the Commerce Department shall not reopen its countervailing duty investigation with respect to sodium gluconate from the European Communities ("the EC") in accordance with the terms and provisions set forth below.

A. Product Coverage

This suspension agreement is applicable to all sodium gluconate manufactured by Akzo and exported to the United States for consumption therein either directly or through intermediaries and which is exported either directly from the Netherlands or is transshipped through third countries. Sodium gluconate is the sodium salt of gluconic acid and it is currently provided for in item 437.5250 of the Tariff Schedules of the United States Annotated.

B. Basis of Agreement

Akzo hereby voluntarily renounces the right to all export and production refunds on maize used in the sodium gluconate production chain for exportation to the United States provided by the EC under its Common Agricultural Policy ("the CAP"). Since 1979, Akzo's exports of sodium gluconate to the United States have averaged 8 percent of total EC export of sodium gluconate to the United States.

In addition, Akzo agrees that no substitute or equivalent benefits have been or will be received. This renunciation is applicable to all sodium gluconate produced from any basic agricultural product and exported to the United States.

Akzo will under no circumstances alter or terminate this renuciation without notifying the Department of Commerce in writing thirty days prior to such action. Any such alteration or termination of the renuciation will result in the reopening of the investigation in accordance with the provisions of paragraph D of this agreement.

C. Monitoring

Akzo agrees to supply to the Department such information as the Department deems necessary to demonstrate that it is in full complaince with this agreement. Akzo shall notify the Department whenever it: 1) Transships through third countries, 2) alters its mode of manufacture, production or exportation of sodium gluconate, 3) receives directly or indirectly any export or production refunds on any agricultural product used in the sodium gluconate production chain for exportation to the

United States provided by the EC under its CAP.

Furthermore, Akzo will permit such verification and data collection as is requested by the Department in order to monitor this agreement. The Department will request such information and perform such verifications periodically pursuant to reviews conducted under section 751 of the Act.

D. Violation of the Agreement

If the Department determines that the agreement is bieing or has been violated or no longer meets the requirements of sections 704 (b) or (d) of the Act, then the provisions of section 704(i) shall apply.

E. Other Provisions

In entering this agreement, Akzo agrees to be bound by the same terms and conditions as the agreement between Joh A. Benckiser GmbH, Benckiserplatz 1, D–6700 Ludwigshafen/Rehin, Federal Republic of Germany (Benckiser) and the United States Department of Commerce dated November 22, 1981.

It is understood that Akzo is entering this agreement to supplement Benckiser's annual imports, a review of which has revealed, account for less than 85 percent of the sodium gluconate exported to the United States from the EC. The effective date of this suspension agreement is the date of publication in the **Federal Register.**

Signed this ——— day of ——— 1982
Agreed to: Akzo Chemie Nederland bv by

I have determined that the provisions of paragraph B eliminated any subsidy the EC is providing on the manufacture, production, and exportation to the United States of sodium gluconate within the meaning of the countervailing duty law. Further, I have determined that the provisions of pragraph C ensure that this agreement can be monitored effectively pursuant to section 704(d). Therefore, I have determined that this agreement to suspend this investigation meets the requirements of section 704(d) of the Act and is in the public interest as required by section 704(d) of the Act.

United States Department of Commerce.

By:———

[FR Doc. 83-4407 Filed 2-18-83; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1983 services to be provided by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before: March 31, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following services to Procurement List 1983, November 18, 1982 (47 FR 52101):

SIC 0782

Grounds Maintenance (Landscaping and Landscape Maintenance, and Minor Irrigation System Repair and Installation), Naval Weapons Center, China Lake, California

SIC 7349

Janitorial/Custodial Services, Vancouver Army Barracks, Vancouver, Washington

Janitorial Services, Buildings 20 and 34, Naval Air Station Whidbey Island, Oak Harbor, Washington

SIC 9199

Administrative Services, Department of Commerce, Herbert Hoover Building, 14th and Constitution Avenue, NW., Washington, D.C.

C. W. Fletcher,

Executive Director.

[FR Doc. 83-4327 Filed 2-18-83; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1983; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletion from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1983 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: February 22, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On September 17, 1982, October 15, 1982, October 29, 1982, and December 23, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 41154, 47 FR 46126, 47 FR 49066, and 47 FR 57324) of proposed additions to and deletion from Procurement List 1983, November 18, 1982 (47 FR 52101).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and service listed.

c. The actions will result in authorizing small entities to produce or provide commodities and a service procured by the Government.

Accordingly, the following commodities and service are hereby added to Procurement List 1983:

Class 6645

Clock, Wall, 6645–00–530–3342 (For GSA Region 5 only)

Class 8465

Binding, Snowshoe, Universal, 8465–00–965–2175

SIC 0782

Grounds Maintenance, Social Security Administration Complex, 6401 Security Boulevard, Baltimore, Maryland

Deletion

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following service is hereby deleted from Procurement List 1983:

SIC 7699

Rebuilding of Typewriters, GSA Self-Service Stores, Chicago, Illinois

C. W. Fletcher,

Executive Director.

[FR Doc. 83-4328 Filed 2-18-83; 8:45 am]

BILLING CODE 6820-33-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2308-8]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.) requires the Agency to publish in the Federal Register a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Solid Waste Programs

• Title: Hazardous Waste Industry Studies (EPA ID 818).

Abstract: Using various methods, EPA is surveying certain chemical manufacturers in order to establish a data base to support more effective policy-making and regulation of hazardous wastes. The information collected deals with waste constituents, waste management practices, and the types, quantities and properties of waste.

Respondents: Organic chemical manufacturing industry.

Agency Forms Cleared by OMB between January 312 and February 8, 1983

EPA ID 0278, Notice of Supplemental Registration of a Distributor, was cleared on February 8, 1983 (OMB No. 2000-0014).

EPA ID 1008, Labor Standards Provision for federally assisted construction contracts, was cleared on January 31 (OMB #2030-0004).

Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223) 401 M Street, SW., Washington, D.C. 20460

and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: February 15, 1983.

John Warren,

Acting Chief, Statistical Policy Staff.

[FR Doc. 83-4228 Filed 2-18-83; 8:45 am]

BILLING CODE 6560-50-M

[OLEC-FRL 2306-4]

Amended Findings of Administrator With Regard to Steel Industry Compliance Extension Act of 1981; Sharon Steel Corp.

AGENCY: Environmental Protection Agency.

ACTION: Notice of amended findings.

SUMMARY: The Administrator consents to the entry of a modification to the amended consent decree with Sharon Steel Corporation permitting the substitution of suppression technology for a canopy hood system at the blast furnace casthouse and the deletion of the requirement to build a modern steel strapping line at Sharon's Warren, Ohio facility. The Administrator also modifies her final findings of February 4, 1983. [48 FR 6773 (February 15, 1982).]

DATE: Effective on February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Ostrov, Staff Attorney, Office of Enforcement Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (202) 382-2867.

SUPPLEMENTARY INFORMATION: On February 12, 1982, (47 FR 6483), the Administrator announced findings preliminary to the lodging of a consent decree under the Steel Industry Compliance Extension Act of 1981 to extend certain compliance deadlines for the Sharon Steel Corporation's Farrell, Pennsylvania, steel facility. In the announcement the Administrator gave her preliminary consent to the entry of a decree requiring capital expenditures for the installation at Farrell, Pennsylvania of a four-sided evacuated enclosure at the basic oxygen furnace no. 3 and a canopy hood system at the blast furnace casthouse; the construction of a modern steel strapping line at Warren, Ohio and a specialized cylindrical casting of electric arc ingots at Farrell, Pennsylvania.

On February 4, 1983 the Administrator signed final findings consenting to the lodging of an amended consent decree granting Sharon Steel Corporation's extension application. The final findings contained two amendments, one which amended finding 3(i) by requiring only a three-sided evacuated enclosure at the basic oxygen furnace no. 3 instead of a four-sided evacuated enclosure and the second amendment extending the schedules in the "phased program of compliance," finding 4, and schedules of integration of the "qualifying modernization investment" and "phased program of compliance" of finding 5. (See 48 FR 6773).

This notice amends finding 1, extended compliance obligations; finding 2, "qualifying modernization investments"; finding 3, capital expenditures for compliance; finding 4, "phased program of compliance"; and finding 5, the integration of the "phased program of compliance" and the "qualifying modernization investments." These findings are being amended because the proposed amended consent decree permits the Sharon steel Corporation to elect by February 14, 1983 whether or not to use suppression technology instead of a canopy hood evacuation enclosure at the Farrell, Pennsylvania blast frunace casthouse. The suppression technology costs $1 million while the canopy hood system costs $6 million thus reducing the compliance obligations of finding 1 from $8 million to $3 million. The "qualifying modernization investments" of finding 2(c) are amended to delete the requirement to build the steel strapping line at the Warren, Ohio facility, because of the reduced compliance obligations of amended findings 1 and 3.

The Administrator in final finding 1 found that the following compliance obligations to achieve compliance with the applicable provisions of the Pennsylvania State Implementation Plan (hereinafter "SIP") may be extended as indicated:

[In millions of dollars]

Project description	Required expenditure	Final Compliance date
(a) Emission control for blast furnace casthouse shared by both Farrell Works blast furnaces	$6.0	Dec. 31, 1985
(b) Emission control (furnace enclosure project) for BOF Vessel No. 3	$2.0	No later than Dec. 31, 1985

This notice amends finding 1 by substituting the following compliance obligation for (a) above.

Project Description	Required expenditure	Final Compliance date
(a) Emission control for blast furnace casthouse shared by both Farrell Works blast furnaces.	$1.0	Dec. 31, 1985

The Administrator in final finding 2(c) found that the investments set forth below are to be made in communities (Warren, Ohio and Farrell, Pennsylvania) which already contain iron and steel-producing facilities.

QUALIFYING MODERNIZATION INVESTMENTS:

Project

(i) Construction of modern Steel Strapping Line at Sharon's Line at Sharon's Brainard Strapping Division in Warren, Ohio.

(ii) Specialized cylindrical casting of electric furnace ingots at Farrell, Pennsylvania Works.

The Administrator's finding 2 is amended by deleting the Warren, Ohio, "qualifying modernization project:"

(i) Construction of modern Steel Strapping Line at Sharon's Brainard Strapping Division in Warren, Ohio.

The Administrator in final finding 3 found that in order to achieve compliance with the Pennsylvania "SIP" at all sources in its iron and steel producing operation, Sharon will be required to make at least the following capital expenditure:

Source and project	Required expenditure
(i) Blast furnace casthouse emissions. Canopy hood system (or alternate equivalent system) to capture and clean casthouse emissions	$6.0
(ii) BOF vessel No. 3: Three-sided evacuated enclosure to capture and clean furnace emissions	$2.0

The Administrator's finding 3 is amended by substituting suppression technology (required expenditure of $1.0 million) for the canopy hood system at the blast furnace casthouse.

Source and project	Required expenditure
(i) Blast furnace casthouse emissions: Suppression technology to suppress the generation of emissions at the tap hole, trough runners and spouts	$1.0

The Administrator in finding 4 found that the "phased program of compliance" requires Sharon to make pollution control capital expenditures for the projects set forth in finding 3 on the following schedule, commencing with the entry of the amended decree:

Cumulative amount required to be expended	Date by which expenditure required
$4.00	By Mar. 1, 1984
$6.00	By Mar. 1, 1985
$8.00	By Dec. 31, 1985

The Administrator's finding 4 is amended by substituting the following "phased program of compliance."

Cumulative amount required to be expended	Date by which expenditure required
$2.25	By Mar. 1, 1984
$2.50	By Mar. 1, 1985
$3.00	By Dec. 31, 1985

The Administrator in finding 5 found that the integration of the "qualifying modernization investment" and the "phased program of compliance" schedule, when allowing for investments under Section 113(e)(1)(B) of the Act resulted in the following required schedule of capital expenditures:

Cumulative amount required to be expended	Date by which expenditure required
At least $8 million for qualifying modernization investment to improve efficiency and productivity	By July 17, 1983
At least $4 million in pollution control	By Mar. 1, 1984
At least $6 million in pollution control	By Mar. 1, 1985
At least $8 million in pollution control	By Dec. 31, 1985

The Administrator's finding 5 is amended by the following substitutions due to the amended findings 1 and 3.

Cumulative amount required to be expended	Date by which expenditure is required
At least $3 million for qualifying modernization investment to improve efficiency and productivity	July 17, 1983
At least $2.25 million in pollution control	By Mar. 1, 1984
At least $2.50 million in pollution control	By Mar. 1, 1985
At least $3.00 million in pollution control.	By Dec. 31, 1985

Consent: I hereby give notice that the United States of America and Sharon Steel Corporation have successfully negotiated a modification to the proposed amended consent decree complying with the requirements of Section 113(e). I have consented to the entry of a modification which further amends the proposed amended consent decree. The consent decree was originally entered in the United States District Court for the Western District of Pennsylvania on August 26, 1981, Civil Action Nos. 79–1201 J and 80–869–J: *United States* v. *Sharon Steel Corporation*. The modification has been or is to be lodged with the District Court under 28 CFR 50.7 and an appropriate notification of lodging has been or will be published by the Department of Justice at that time. The notice will include an indication of how copies of the amended consent decree may be obtained and where public comment, if any, may be addressed.

Dated: February 10, 1983.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83–4375 Filed 2–18–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–140031; TSH–FRL 2309–6]

Occupational Safety and Health Administration; Disclosure of Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Occupational Safety and Health Administration (OSHA) has requested EPA to provide it with access to certain information reported under the Asbestos Reporting Requirements rule promulgated under section 8(a) of the Toxic Substances Control Act (TSCA) and published in the **Federal Register** of July 30, 1982 (47 FR 33198). The EPA will provide OSHA with access to information reported on occupational exposure to asbestos. OSHA has stated that it requires access to this information in connection with the performance of its duties under the Occupational Safety and Health Act of 1970. Some of the information reported under this rule may be claimed as confidential.

DATES: Access to confidential business information will be provided to OSHA no sooner than March 4, 1983.

FOR FURTHER INFORMATION CONTACT: J. P. McCarthy, Acting Director, Industry Assistance Office (TS–799), Office of the Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800–424–9065). In Washington, D.C.: (554–1404). Outside the USA: (Operator: 202–554–1404).

SUPPLEMENTARY INFORMATION: Under the Occupational Safety and Health Act

of 1970, 29 U.S.C. 651 et seq., OSHA is responsible for assuring, so far as possible, that every working man and woman in the nation has safe and healthful working conditions. OSHA is charged under section 6(a)(5) of that Act with promulgating standards dealing with toxic materials or harmful physical agents in the workplace. OSHA has requested that designated OSHA employees, in connection with their official duties under the Occupational Safety and Health Act, be granted access to certain information submitted to EPA under section 8(a) of TSCA, 15 U.S.C. 2607(a).

Under Authority of section 8(a), EPA issued a final rule on Asbesto Reporting Requirements in the **Federal Register** of July 30, 1982 (47 FR 33198). The rule requires asbestos manufacturers, importers, and processors to report such information as quantities of asbestos used in making products, employee exposure data, waste disposal and pollution control equipment data. The EPA will consider this information in calculating the extent of exposure from asbestos and in determining whether and where exposures present an unreasonable risk.

OSHA has requested access to information reported to EPA under the Asbestos Reporting Requirements rule which concerns occupational exposure to asbestos. Some of the information reported to EPA under the rule may be claimed confidential. The EPA will provide OSHA with access to this confidential business information in accordance with section 14(a)(1) of TSCA and 40 CFR 2.209(c), which applies to information submitted under TSCA through 40 CFR 2.306(h).

As required by 40 CFR 2.209(c), this notice is published to inform submitters that confidential information reported under the section 8(a) Asbestos Reporting Requirements rule will be provided to OSHA no sooner than ten days after publication of this notice. Designated OSHA employees will be cleared for access to confidential business information in accordance with the provisions of the TSCA Confidential Business Information Security Manual and will be required to sign a confidentiality agreement.

Confidential business information will be reviewed by OSHA employees at EPA only, and no information will be permitted to be removed from EPA's premises. OSHA will be notified that this confidential business information was acquired by EPA under authority of TSCA and that any knowing disclosure of the information may subject the officers and employees of OSHA to the penalties in section 14(d) of the Act.

Dated: February 9, 1983.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83-4373 Filed 2-18-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51442A; TSH-FRL 2309-5]

Premanufacture Notice; Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notices (PMN's) 83-129 through 83-235, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review periods will now expire on May 14, 1983.

FOR FURTHER INFORMATION CONTACT: Rachel Diamond, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, D.C. 20460, (202-382-3734).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a PMN to EPA 90 days before manufacture or import begins. Under section 5(c) EPA may, for good cause, extend the notice period for additional periods, not to exceed a total of 180 days from the date of receipt.

On November 16, 1982, EPA received PMN's 83-129 through 83-235 from Union Oil Company of California. Notice of receipt of the PMN's was published in the **Federal Register** of December 2, 1982 (47 FR 54356). The original 90-day review period for each is scheduled to expire on February 13, 1983.

Due to the volume and complexity of information submitted in the premanufacture notices, and due to the recent submission of additional technical data, EPA has not had sufficient time to complete its analysis of these substances. The Agency requires an extension of the review period to complete its investigation of potential risks associated with the manufacture, processing, use, transport, and disposal of these substances. EPA also requires additional time to explore whether regulatory action will be appropriate. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to May 14, 1983.

PMN's 83-129 through 83-235 are available for public inspection in Rm. E-107, at the EPA Headquarters, address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

Dated: February 11, 1983.

D. R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83-4374 Filed 2-18-83; 8:45 am]

BILLING CODE 6560-50-M

[OPRM-FRL 2310-1]

Regulatory Negotiation Project

This Notice announces that the Environmental Protection Agency is beginning a "Regulatory Negotiation" project. Regulatory negotiation may provide an alternative to our traditional adversary rulemaking procedures—an alternative that better conserves time and resources and minimizes costly litigation.

The purpose of the project is to test (1) the utility and value of developing regulations by "negotiation", (2) the types of regulations which are most appropriate candidates for negotiated rulemaking, and (3) the procedures and circumstances which foster the most effective negotiations.

Readers are invited to suggest EPA regulations as candidates for Regulatory Negotiation. In preparing their suggestions, readers should refer to the selection criteria found at end of this announcement. Send your suggestions by (30 days from the date of publication) to: Chris Kirtz, Director, Regulatory Negotiation Project, U.S. Environmental Protection Agency, 401 M Street, SW. (PM-223), Washington, D.C. 20460, (202) 382-7565.

Joseph A. Cannon,

Associate Administrator for Policy and Resource Management.

Regulatory Negotiation Project Description

Introduction: EPA is beginning a demonstration project to test an approach to rulemaking that is frequently referred to as "Regulatory Negotiation". For two selected rules, the project will use face-to-face negotiations among interested parties in place of EPA's usual regulation development process. In each case, the goal of the negotiations will be a Notice of Proposed Rulemaking that reflects a consensus on how to address the environmental problem presented.

The impetus for the project is the hope that there are more efficient ways to regulate than the current adversarial system of rulemaking. The project will

explore whether negotiation at this early stage of rulemaking can produce rules more quickly, less expensively, and with less likelihood of litigation.

Request for Suggestions: We invite interested parties to suggest EPA items for negotiation, using the attached selection criteria to help identify topics that are likely to be negotiable. After considering the suggestions from outside parties together with those from within EPA, we will select two rules to develop by negotiation during the project.

Project Design

Management: The Regulation Management Staff (RMS) designed the project and will administer it on EPA's behalf. RMS is a part of the Office of Standards and Regulations in the Office of Policy and Resource Management and is responsible for managing the regulation development process.

Participants: A person designated by the lead program EPA office with line responsibility for developing the regulation (supported by a small EPA negotiating "team") will actually negotiate as a party-in-interest for EPA. As would any party to a negotiation, EPA representatives will work closely with their management to assure that they accurately represent the Agency.

Parties to a particular negotiation will be a function of the rule selected and the interests affected by the possible results. Parties representing legitimate and definable interests are appropriate to negotiate on behalf of their constituencies. Every effort will be made to identify these parties and bring them to the table.

Procedures: Apart from the procedural rules the parties themselves agree to, the negotiations will be conducted as an Advisory Committee function under the Federal Advisory Committee Act (FACA). An Advisory Committee Charter has been prepared and will be filed with the appropriate bodies. Under the provisions of FACA, certain meetings may be closed to non-members. These provisions will be used where the law allows and the parties agree on the need for confidentiality to carry on the negotiations.

It is important to note that negotiations are a step in the "informal notice and comment" administrative procedures EPA uses presently. Participation by itself does not involve the waiver of a party's right to pursue any alternative to negotiation, including litigation, at any time before or after EPA issues a final rule.

Outside Support: During the first negotiation, a contractor experienced in using third-party intervention techniques to resolve environmental disputes will assist EPA in selecting a topic, identifying the parties, and conducting the negotiation itself. The contractor will work with the Regulation Management Staff to move the demonstration along, and to enable that staff to perform its third-party role for the second negotiation.

Documentation: Documenting this demonstration project is extremely important. The demonstration will produce valuable information both generally on developing regulations by negotiation and more specifically on conducting the negotiations themselves in the context of Federal rulemaking. EPA has engaged the Harvard Negotiation Project to design an information gathering/documentation system that will allow us to capture all this information without disrupting the negotiation process under study.

We anticipate that the project will take a year or so to complete and we then plan to publish and distribute a report summarizing our findings and conclusions.

Selection Criteria: Because negotiation is not suitable for every situation, it is important to screen potential rulemakings to identify where this approach has a high probability of success. A few, simple criteria that predict the existence of a number of preconditions conducive to successful negotiations can be applied when selecting those topics.

These criteria were developed after a thorough review of the considerable literature on the use of negotiation to resolve a wide range of environmental disputes.

About the Regulation

- The proposal requires the resolution of a reasonably limited number of interdependent or related issues. There are several ways in which the issues can be resolved. The relevant legislation accommodates these alternative outcomes. There are no serious obstacles to implementing a negotiated solution.
- There is a legislative or judicially imposed deadline or some other mechanism forcing publication of a rule in the near term, i.e. 8 to 12 months, that would promote a timely resolution, and limit a party's ability to gain from delay.
- Some or all of the parties have common positions on one or more of the issues to be resolved that might serve as a basis for additional agreements during the course of negotiations.
- The costs and benefits are narrowly concentrated on a few entities.

About the Parties

- Those parties interested in or affected by the outcome of the development process are readily identifiable and reasonably few in number (10–15). They have sufficient resources to take an active role in negotiations. They have relatively equal power to affect the outcomes.
- The parties are likely to participate in negotiations as an alternative to litigation. They are more likely to achieve their overall goals using negotiation rather then existing alternatives.

[FR Doc. 83-4376 Filed 2-18-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted To Office of Management and Budget for Review

On February 9, 1983 the Federal Communications Commission submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of these submissions are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632–7513. Comments should be sent to Edward H. Clarke, Office of Management and Budget, OIRA, Room 3201 NEOB, 726 Jackson Place, NW., Washington, D.C. 20503.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License.

Form No.: FCC 314.

Action: Revision

Respondents: AM, FM, or TV Broadcast Station applicants seeking assignment of Construction Permit or License.

Estimated Annual Burden: 435 Responses; 39,500 Hours.

Title: Application for Consent to Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License.

Form No.: FCC 315.

Action: Revision.

Respondents: AM, FM, or TV Broadcast Station applicants seeking transfer of control of Construction Permit or License.

Estimated Annual Burden: 436 Responses; 39,580 Hours.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 83-4326 Filed 2-18-83; 8:45 am]
BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group; Expense Accounts Subcommittee Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of four meetings of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee scheduled to meet on Tuesday, March 8, 1983, Thursday, March 24, 1983, Wednesday, April 13, 1983, and Wednesday, April 27, 1983. Each meeting will begin at 9:00 a.m. and will be open to the public. The meeting locations are as follow:

Tuesday, March 8, 1983

Southern Pacific Communications Commission, Suitè 500, 1828 L Street, NW., Washington, D.C.

Thursday, March 24, 1983

AT&T, Conference Room A, 1120 20th Street, NW., Washington, D.C.

Wednesday, April 13, 1983

GTE Service Corporation, Suite 900, 1120 Connecticut Ave., NW., Washington, D.C.

Wednesday, April 27, 1983

USITA Conference Room, 1801 K Street, NW., Suite 1201, Washington, D.C.
The agenda are as follow:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman John Howes, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Howes (212/393-4029) at least five days prior to the meeting date.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 83-4324 Filed 2-18-83; 8:45 am]
BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group; Plant Accounts Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecomunications Industry Advisory Group (TIAG) Plant Accounts Subcommittee scheduled to meet on Wednesday, March 9, 1983. The meeting will begin at 9:30 a.m. in the offices of MCI Telecommunications Corporation (1st Floor Meeting Room) at 1133 19th Street, NW., Washington, D.C., and will be open to the public. The agenda is a follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Report by Subcommittee Members
IV. Discussion of Reports
V. Further Assignments
VI. Other Business
VII. Presentation of Oral Statements
VIII. Adjournment

With prior approval of Subcommittee Chairman Gyles Norwood, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Norwood (202/887-3266) at least five days prior to the meeting date.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 83-4325 Filed 2-18-83; 8:45 am]
BILLING CODE 6712-01-M

Trefoil Broadcasting Co., Inc., et al.; Hearing Designation Order

In re Applications of; Trefoil Broadcasting Company, Inc., Sacramento, California; MM Docket No. 83-61; File No. BPCT-82064KG, Louis F. Garcia, et al dba Sacramento Television Associates, Ltd.; Sacramento, California; MM Docket No. 83-62; File No. BPCT-820816KG, Capital Hispanic Broadcasters, Inc.; Sacramento, California; MM Docket No. 83-63; File No. BPCT-820824KF, DO Decca Ecktron Corporation; Sacramento, California; MM Docket No. 83-64; File No. BPCT-820824KG, Royce International Broadcasting Company; Citrus Heights, California; [1] MM Docket No. 83-65; File No. BPCT-820824KH, Micheal L. Parker; Sacramento, California; MM Docket No. 83-66; File No. BPCT-820824KJ, Delta Broadcasting Company, Inc.; Sacramento, California; MM Docket No. 83-67; File No. BPCT-820824KK, Ponce-Nicasio Broadcasting, a Limited Partnership; Sacramento, California; MM Docket No. 83-68; File No. BPCT-820824KN, El Dorado Television Company, Sacramento, California; MM Docket No. 83-69; File No. BPCT-820824KP, Alden Communications Corp., Sacramento, California; MM Docket No. 83-70; File No. BPCT-820824KV, Sacramento Entertainment Television Corporation, Sacramento, California; MM Docket No. 83-71; File No. BPCT-820824KW, Channel 29 Investors, A Limited Partnership, Sacramento, California; File No. BPCT-820824KX: designating applications for consolidated hearing on stated issues; for construction permit.

Adopted: January 31, 1983.
Released: February 8, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television broadcast station on Channel 29, Sacramento, California; "Petitions to Return as Unacceptable for Filing" filed against each of the applicants by Koplar Communications of California, Inc.; motions to accept late-filed amendments filed by Micheal L. Parker and Channel 29 Investors; and related pleadings.

2. On July 20, 1982, Koplar Communications of California, Inc. (Koplar), licensee of Station KRBK-TV, Channel 31, Sacramento, California, filed a "Petition to Return Application as Improperly Accepted for Filing" against Trefoil Broadcasting Company, Inc. Koplar Filed a similar petition against all of the other applicants on September 13, 1982. The petitions content that Channel 29 has not been properly allocated for use in Sacramento.

3. In 1980, a Petition for Rulemaking to allocate Channel 29 to Sacramento was filed. Koplar filed comments in opposition to the Petition for Rulemaking. Koplar also opposed the *Notice of Proposed Rulemaking* looking toward the adoption of the proposal to allocate Channel 29 to Sacramento. Nonetheless, by *Report and Order in BC Docket No. 80-755,* (released December 17, 1981), the Table of Assignments was amended to substitute Channel 29 for Channel 15 and the Commission,

[1] Channel 29 is assigned to Sacramento, California. Citrus Heights is located within 15 miles of Sacramento. Accordingly, pursuant to Section 73.607 of the Commission's Rules, Channel 29 is available for use in Citrus Heights.

through the *Report and Order*, made the Channel 29 allocation effective as of February 16, 1982. Koplar filed a "Petition for Certification and Reconsideration" of this action on January 19, 1982.

4. Although Koplar's petition for reconsideration of the allocation is still pending before the Commission, the filing of a petition for reconsideration does not operate to stay the effective date of a Commission action. *KFAB Broadcasting Co.* v. *F.C.C.*, 85 U.S. App. D.C. 160, 177 F 2d. 40 (1949). We do not believe that designation of the pending applications will in any way prejudice the petition for reconsideration. In addition, the parties to this proceeding are put on notice that any final Commission action on the petition for reconsideration may have an effect on this proceeding. Accordingly, Koplar's petition will be denied.

5. The deadline for filing amendments as a matter of right to the above-captioned applications was October 20, 1982 ("B" cut-off date). Micheal L. Parker filed an amendment to his application on October 21, 1982, one day after the time to amend as of right. On October 26, 1982, Mr. Parker filed a "Motion to Accept Amendment Nunc Pro Tunc". We have reviewed the amendment and conclude that good cause exists for accepting it. However, Mr. Parker may not accrue any comparative advantage as a result of our action herein. Accordingly, the amendment will be accepted.

6. As stated above, October 20, 1982, was the deadline for filing amendments as of right. The Commission received a petition for leave to amend from Channel 29 Investors on November 15, 1982. The amendment reports the addition of five new limited partners and the withdrawal of one limited partner.[2] The information is required under Section 1.65 of the Commission's Rules; therefore, the amendment will be accepted.

7. Channel 29 has not filed the information required by Section II, items 3 through 7, FCC Form 301, January 1982, for the limited partners added by amendments of October 20 and November 15, 1982. Channel 29 will be given 30 days from date of the release of this Order to submit the information to the presiding Administrative Law Judge.

8. Trefoil Broadcasting Company, Inc., is a wholly owned subsidiary of Shamrock Broadcasting Company, Inc., which is the sole stockholder of Starr KBOK, Inc. in New Orleans, Louisiana, and Starr KABL, Inc., San Francisco, California. There are now pending before the Equal Employment Opportunity Commission three complants of alleged discrimination; two were filed against Starr WBOK, and one was filed against Starr KABL, Inc. by former employees. Accordingly, a grant of Trefoil's application will be without prejudice to such action as the Commission may deem appropriate as a result of the outcome of the proceedings against Starr WBOK, Inc. and Starr KABL, Inc.

9. Section II, item 10, FCC Form 301, inquires whether documents, instruments, agreements or understandings for the pledge of stock of a corporate applicant, as security for loans or contractual performance, provide that (a) voting rights will remain with the applicant, even in the event of default on the obligation: (b) in the event of default, there will be either a private or public sale of the stock; and (c) prior to the exercise of stockholder rights by the purchaser at such sale, the prior consent of the Commission (pursuant to 47 U.S.C. 310 (d)) will be obtained. A negative response to this question requires a full explanation. Trefoil Broadcasting Company, Inc. and Delta Broadcasting Company, Inc. each answered "no" to item 10; however, neither sumitted the required explanation. Each of these applicants will be required to submit its explanation to the presiding Administrative Law Judge within 30 days of the date of the release of this Order.

10. The materials submitted in the applications filed by Delta Broadcasting Company, Inc. and Sacramento Entertainment Television Corporation do not demonstrate the applicants' financial qualifications.[3] Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications.

Accordingly, each applicant will be given 30 days from the date of the release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If either applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East Louis, Inc.*, BC Docket No. 82-378 (released July 15, 1982).

11. The Federal Aviation Administration (FAA) had determined that the tower heights and locations proposed by Trefoil Broadcasting Company, Inc.; Sacramento Television Associates, Ltd.; Micheal L. Parker; El Dorado Television Company; and Sacramento Entertainment Television Corporation would each constitute a hazard air navigation. In light of FAA's determinations, a question is raised as to whether there is reasonable assurance that the site proposed by each of the aforementioned applicants will be available. Accordingly, an appropriate issue will be specified.

12. No determination has been made that the tower heights and locations specified by Capital Hispanic Broadcasters, Inc; Do Decca Ecktron Corporation; Ponce-Nicasio Broadcasting, a Limited Partnership; Alden Communications Corp.; and Channel 29 Investors, A Limited Partnership, would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.[4]

13. Royce's amendment of October 20, 1982, while containing most of the technical information requested by FCC Form 301 in narrative, did not include Sections VC and VG. Accordingly, the staff could not complete its evaluation on Royce's technical proposal. Royce will be required to submit the required information to the presiding Administrative Law Judge within 30 days after the the release of this order.

14. Channel 29 is allocated to Sacramento, California. Eleven applicants have specified Sacramento as their community of license. However, Royce has proposed Citrus Heights, California, as its community of license. Consequently, it will be necessary to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, whether a new station in Sacramento or Citrus Heights would best provide a fair, efficient and equitable distribution of television service. If the Section 307(b) issue is not determinative (the applicants would serve substantial areas in common), all applicants can be considered under the comparative issue.

15. Section 73.636(a)(1) of the Commission's Rules states that no license for a television broadcast station

[2] The amendment is a minor amendment; the addition of the partners does not constitute a transfer of control.

[3] Delta and Sacramento Entertainment have each indicated that it is presently negotiating financial arrangements.

[4] The Commission is not in receipt of FAA's determinations for Capital Hispanic Broadcasters, Inc.; Do Decca Ecktron Corporation; Ponce-Nicasio Broadcasting and Alden Communication Corp.

shall be granted to any party if such party directly or indirectly controls one or more FM broadcast stations and the grant of such license will result in the Grade A contour of the proposed television station encompassing the entire community of license of the FM station. Edward R. Stolz, II, sole owner of Royce, is the licensee of KWOD(FM) in Sacramento, California. Note 8 to this rule provides, *inter alia*, that applications for UHF television facilities "* * * will be handled on a case-by-case basis in order to determine whether common ownership, operation or control of the stations in question would be in the public interest." Accordingly, an appropriate issue will be specified to determine whether common ownership of Mr. Stolz's FM station and the proposed television station would be consistent with the public interest.

16. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

17. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Trefoil Broadcasting Company, Inc.; Sacramento Television Associates, Ltd.; Micheal L. Parker; El Dorado Television Company; and Sacramento Entertainment Television Corporation, whether there is a reasonable assurance that the transmitter site specified by each will be available.

2. To determine, with respect to Capital Hispanic Broadcasters, Inc.; Do Decca Ecktron Corporation; Ponce-Nicasio Broadcasting, a Limited Partnership; Alden Communications Corp.; and Channel 29 Investors, a Limited Partnership, whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

3. To determine, with respect to Royce International Broadcasting Company, whether common ownership, operation or control of station KWOD(FM), Sacramento, California and the proposed television station would be consistent with the public interest.

4. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

5. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of televisions service.

6. In the event it is concluded from Issue 5, above, that a choice among applicants should not be based solely on considerations relating to Section 307(b), to determine which proposal would, on a comparative basis, best serve the public interest.

7. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

18. It is further ordered, That the Petitions to Return Applications as Unacceptable for Filing, filed by Koplar Communications of California, are denied.

19. It is further ordered, That Micheal L. Parker's amendment of October 21, 1982, is accepted.

20. It is further ordered, That Channel 29 Investors' amendment of November 15, 1982, is accepted.

21. It is further ordered, That Channel 29 Investors' submit the information required by Section II, items 3 through 7, FCC Form 301, January, 1982, for the limited partners added after August 24, 1982, to the presiding Administrative Law Judge within 30 days after the date of the release of this Order.

22. It is further ordered, That Delta Broadcasting Company, Inc. and Sacramento Entertainment Television Corporation shall each submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate, within 30 days after the date of the release of this Order.

23. It is further ordered, That, in the event of a grant of Trefoil Broadcasting Company, Inc.'s application, the construction permit shall be conditioned as follows:

> Grant of this application is without prejudice to such action as the Commission may deem appropriate as a result of the outcome of the proceedings before the Equal Employment Opportunity Commission against Starr WBOK, Inc. and Starr KABL, Inc.

24. It is further ordered, That Trefoil Broadcasting Company, Inc. and Delta Broadcasting Company, Inc. shall each submit its explanation for answering "no" to Section II, item 10, FCC Form 301, January, 1982, to the presiding Administrative Law Judge within 30 days after the date of the release of this Order.

25. It is further ordered, That Royce International Broadcasting Company shall submit the information required by FCC Form 301, Section VC and VG to the presiding Administrative Law Judge within 30 days after the date of the release of this Order.

26. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issues 1 and 2.

27. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

28. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-4323 Filed 2-18-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of the agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on the agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in

§ 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No. 10374–3.

Title: Hapag-Lloyd/ICT/CGM Space Charter Agreement.

Parties: Hapag-Lloyd A. G., Intercontinental Transport (ICT) B. V. and Compagnie Generale Maritime.

Synopsis: Agreement No. 10374–3 modifies the cross-charter agreement among the parties to authorize (pending approval of Agreement No. 10266–4 or another amendment to Agreement No. 10266 to like effect) any joint service operating pursuant to the limitations set out in Article 2 of Agreement No. 10374 to transport cargo moving under intermodal conditions via any ports within the scope of Agreement No. 10374, provided that no such service may transport intermodal cargo moving under bills of lading to/from any port covered by FMC Agreement No. 9902.

Filing agent: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., 1800 Massachusetts Avenue NW., Washington, D.C. 20036.

By Order of the Federal Maritme Commission.

Dated: February 16, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83–4378 Filed 2–18–83; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final FY 1983 Program Announcement/Application Solicitation.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) published the draft Fiscal Year 1983 Program Announcement for the Labor-Management Cooperation Program in the January 13, 1983 issue (48 FR 1539) of the **Federal Register**. Although no written public comments were received, two notable changes have been made. The deadline for application submission has been changed from April 30, 1983 to May 15, 1983, and all applications must provide for an outside or contracted evaluation.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, Director, Labor-Management Grant Programs, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, D.C. 20427.

SUPPLEMENTARY INFORMATION: Individuals needing an application kit are advised to call 202/653–5320 to expedite processing.

Labor-Management Cooperation Program Application Solicitation—FY 1983

A. Introduction

The following is the final announcement for the Fiscal Year 1983 cycle of the Labor-Management Cooperation Program. These guidelines represent the third year of efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978 which was approved in October 1978.

The Act generally authorized FMCS to: Provide assistance in the establishment and operation of plant, area, and industrywide labor and management committees which—

(A) Have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry; and

(B) Are established for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern.

The Act also prohibited FMCS from awarding any grants or contracts under the following three circumstances:

(1) No assistance can be given for plant labor-management committees unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective bargaining agreement;

(2) No assistance can be given for an area or industrywide labor-management committee unless its participants include any labor organizations certified or recognized as the representative of the employees of an employer participating in such a committee. However, employers whose employees are not represented by a labor organization may participate on such area or industrywide committees; and

(3) No assistance can be given to any committee which FMCS finds to have as one of its purposes the discouragement of the exercise of rights contained in section 7 of the National Labor Relations Act (29 U.S.C. 157) or the interference with collective bargaining in any plant or industry.

With respect to item (2) above, applicants for area or industrywide grants should offer committee memberships to every labor organization having a collective bargaining contract with any employer participating on the committee. Any labor organization so desiring may voluntarily elect not to participate on the Committee. Documentation of all this (i.e., the listing of each participating employer and corresponding labor organizations and written declinations by those labor organizations not electing to participate on the committee) should be included as part of the application.

The Program Description and other sections that follow as well as a separately published FMCS Financial and Administrative Grants Manual make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, areawide, or industrywide labor-management committee. Directions for obtaining an application kit may be found in Section F.

B. Program Description

Objectives

The Labor Management Cooperation Act of 1978 identified the following seven general areas for which financial assistance would be appropriate:

(1) To improve communications between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance to the

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formation and operation of labor-management committees.

The primary objective of this program is to provide financial assistance for the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria and conform to the restrictions mentioned in Section A (Introduction). As discussed in the legislation, these committees may be found at either the plant, area, or industry levels. A plant committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multi-county, or statewide jurisdictions. An industry committee generally consists of a collection of agencies or enterprises and related labor unions producing a common product or service in either the private or public sectors on a local, state, regional, or nationwide level. In FY 83, competition will be limited to area, private industry, and public sector committees. Individual plant committees will not be funded.

In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

Required Program Elements

1. *Problem Statement*—The application, which should have numbered pages, must discuss in detail what specific problem(s) face the area or industry and workforce that will be addressed by the committee. Applicants must document the problems using as much relevant data as possible and discuss the full range of impacts these problems could have or are having on the area or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problems. This section basically discusses why the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail what the labor-management committee will accomplish during the life of the grant. While a goal of "improving communication between employers and employees" may suffice as one overall goal of a project, the objectives must, whenever possible, be expressed in measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have on the area or industry. Existing committees should focus on *expansion efforts/results* expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach*—This section of the application specifics how the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all proposed members of the labor-management committee. Be sure to identify the chairperson(s) and the role he/she will play. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (i.e., in existence at least 12 months prior to the submission deadline), a discussion of the past efforts and accomplishments and how they would integrate with the proposed future expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for when they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant. The chart should identify months as "month 1, 2" etc., rather than by name of month as the grant start date will not be determined until all applications are reviewed. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must contract for an external evaluation to assess the project's success in meeting its goals and objectives. Up to $7,000 may be expended for an outside evaluation. In addition, an evaluation plan must be discussed in this section, and an evaluator must be hired within 90 days of the grant start date.

The evaluation plan should discuss what basic questions or issues the proposed evaluator would examine and what baseline data the committee staff would already have/or will gather for the evaluator. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include letters of commitment from all proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and are willing to personally attend scheduled committee meetings.

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels and breakout of annual operating costs;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address;

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application;

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates;

(6) The feasibility and thoroughness of planning on how to best evaluate the project's impacts, including major evaluation topics and necessary data elements;

(7) The cost effectiveness and fiscal soundness of the application's budget request as well as the application's fiscal feasibility vs. its goals and approach; and

(8) The cost value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978.

C. Eligibility

Eligible grantees include State and local units of govenment, private non-profit labor-management committees or a labor or management entity on behalf of a committee that will be created through the grant, and certain third party private non-profit entities.

Third party private non-profit entities which can document that a major purpose or function of their organization has been the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working.

In the event two or more applications are received which compete under the same category from the same jurisdiction (e.g., two areawide applications from the same county), only the higher scoring application will be awarded (if both are ranked acceptable for funding and funds are available).

Applications seeking to continue projects funded by FMCS in Fiscal Year 1981 will be considered ineligible.

D. Allocations

For Fiscal Year 1983, FMCS will operate under a Continuing Resolution which allocates $500,000 for the Labor-Management Cooperation Program. The funding will be distributed as follows: $450,000 will be allocated on a competitive basis for area and industry committee applications; $50,000 will be reserved for the administration of a national labor-management conference in cooperation with the National Association of Area Labor-Management Committees. FMCS reserves the right to reprogram up to 10 percent of the FY83 allocation into these or other categories at its discretion.

E. Dollar Range and Length of Grants and Continuation Policy

Awards to continue and expand existing labor-management committees (i.e., in existence at least 12 months prior to the submission deadline) shall be for a period of 12 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 12 months at double the initial cash match ratio. The total project period will thus normally be no more than 24 months.

Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 12 months prior to the submission deadline), shall be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 18 months at double the initial cash match ratio. The total project period will thus normally be no more than 36 months.

The dollar range of awards is as follows: Up to $75,000 in FMCS funds per annum for existing committees; Up to $100,000 per 18-month period for new committees.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and grantee match, applicants may supplement these funds through voluntary contributions from other sources.

F. Match Requirements and Cost Allowability

In FY83, applicants for new labor-management committees must provide at least 10 percent of the total allowable project costs. Applicants of existing committees must provide at least 25 percent of the total allowable project costs. All matching funds must be in cash rather than in-kind goods or services. Matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by projects as "project income" may not be used for matching purposes. No matching funds are required for the national labor-management conference grant.

It shall also be the policy of this program to reject all requests for indirect or overhead costs. In addition, grant funds must not be used to supplant private or local/state government funds previously made available for these purposes. Also, under no circumstances will management staff or employees participating on a labor-management committee be paid or otherwise compensated out of grant funds for time spent at committee meetings or training sessions.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FMCS Financial and Administrative Grants Manual which will be included in the application kit.

G. Application Submission and Review Process

Applicants for area or industry committees wishing to submit a draft or pre-application for informal review and comment by the grants program staff may submit pre-applications anytime up to February 28, 1983. FMCS staff will provide brief and general comments as to possible application deficiencies. The pages of pre- and final applications should be numbered.

Final applications must be postmarked no later than May 15, 1983. No applications or supplementary materials can be accepted after the deadline. An original application plus three copies should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street, NW., Washington, D.C. 20427.

After the deadline has passed, all eligible applications will be reviewed and scored by an FMCS Grant Review Board. The Director, Labor-Management Grant Programs, will finalize the scoring and place the application in one of the following three categories: (a) Unacceptable for funding, (b) potentially acceptable for funding but funds are unavailable, and (c) recommended for funding.

All FY83 grant awards are expected to be made within 90 days of the application submission deadline. Applications submitted after the deadline dates or that fail to adhere to eligibility or other major requirements will be administratively rejected prior to the convening of the Grant Review Board.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These Kits, as well as additional information or clarification, can be obtained by contacting Peter L. Regner, Federal

Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street, NW., Washington, D.C. 20427, or calling 202/653–5320.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 83–4322 Filed 2–18–83; 8:45 am]

BILLING CODE 6732–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; First Atlanta Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of facts that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Atlanta Corporation,* Atlanta, Georgia; to acquire 100 percent of the voting shares of The First National Bank of Cartersville, Cartersville, Georgia. Comments on this application must be received not later than March 14, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *General Bancshares Corporation,* St. Louis, Missouri; to acquire at least 96 percent of the voting shares or assets of First National Bank of Benld, Benld, Illinois. Comments on this application must be received not later than March 15, 1983.

Board of Governors of the Federal Reserve System, February 15, 1983.

James McAfee

Associate Secretary of the Board.

[FR Doc. 83–4410 Filed 2–18–83; 8:45 am]

BILLING CODE 6210–01–M

Formation of Bank Holding Companies; Penns Woods Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Penns Woods Bancorp, Inc.,* Jersey Shore, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Jersey Shore State Bank, Jersey Shore, Pennsylvania. Comments on this application must be received not later than March 15, 1983.

2. *Sun Bancorp, Inc.,* Selinsgrove, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Snyder County Trust Company, Selinsgrove, Pennsylvania. Comments on this application must be received not later than March 15, 1983.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *TBT Bancshares, Inc.,* Mt. Sterling, Kentucky; to become a bank holding company by acquiring 80 percent or more of the voting shares of Traders Bank and Trust Company, Mt. Sterling, Kentucky. Comments on this application must be received not later than March 15, 1983.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Tennessee Eastern Bancshares, Inc.,* Oak Ridge, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Oak Ridge, Oak Ridge, Tennessee. Comments on this application must be received not later than March 15, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Clark Bancshares, Inc.,* Clarks, Nebraska; to become a bank holding company by acquiring 90.74 percent of the voting shares of Bank of Clarks, Clarks, Nebraska. Comments on this application must be received not later than March 15, 1983.

2. *Gilcrease Hills Bancorp, Inc.,* Tulsa, Oklahoma; to become a bank holding company by acquiring 80 percent or more of the voting shares of Gilcrease Hills Bank, Tulsa, Oklahoma. Comments on this application must be received not later than March 15, 1983.

3. *JC Bankshares, Inc.,* Prairie Village, Kansas; to become a bank holding company by acquiring 96 percent of the voting shares of The Johnson County National Bank and Trust Company, Prairie Village, Kansas. Comments on this application must be received not later than March 15, 1983.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *American Bancshares Holding Corp.,* Shreveport, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of American Bank & Trust Company, Shreveport, Louisiana. Comments on this application must be received not later than March 15, 1983.

2. *Nixon Bancshares, Inc.,* Nixon, Texas; to become a bank holding company by acquiring 81.8 percent of the voting shares of Nixon State Bank, Nixon, Texas. Comments on this application must be received not later than March 15, 1983.

3. *Richmond Bancshares, Inc.,* Richmond, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank—Fort Bend County, Texas, Richmond, Texas. Comments on this application must be received not later than March 15, 1983.

4. *Security Bancshares, Incorporated,* Monroe, Louisiana; to become a bank holding company by aquiring at least 80 percent of the voting shares of Security Bank, Monroe, Louisiana. Comments on this application must be received not later than March 15, 1983.

F. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *D.L. Bancshares, Inc.,* Detroit Lakes, Minnesota, and *D.L. Shares Limited Partnership,* Detroit Lakes, Minnesota;

to become bank holding companies by acquiring 100 percent of the voting shares of First National Bank of Detroit Lakes, Detroit Lakes, Minnesota. The applications may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than March 15, 1983.

2. *First Western Bancshares, Inc.*, Duncanville, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Western Bank, Duncanville, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than March 15, 1983.

Board of Governors of the Federal Reserve System.

James McAfee,

Associate Secretary of the Board.

February 16, 1983.

[FR Doc. 83-4417 Filed 2-18-83, 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Memorandum of Understanding—Honoring of Outstanding Airline Issued Traffic Documents on a Default Airline Carrier

This general notice publicizes a Memorandum of Understanding between the Air Traffic Conference of America and the General Services Administration, on behalf of all Federal agencies, related to the honoring of outstanding airline issued traffic documents of a default airline carrier. The effective date of this Memorandum of Understanding is upon publication in the **Federal Register.**

The text of the Memorandum of Understanding is quoted as follows:

Memorandum of Understanding Regarding Accommodation Offered by Air Traffic Conference of America for and on Behalf of all Members of the Air Traffic Conference of America to all Federal Government Agencies Relating to the Honoring of Outstanding Airline Issued Traffic Documents of a Default Airline Carrier

Whereas, the Air Traffic Conference of America, for and on behalf of all members of the Air Traffic Conference of America, and the General Services Administration, on behalf of Federal Agencies, pursuant to 31 U.S.C. 244, desire to continue to accommodate the interests of each other, the parties hereto understand as follows:

I. Definitions

A. *Participating Carriers.* All Air Traffic Conference of America (ATC) Member Air Carriers.

B. *Default Carriers.* Any Carrier participating in the ATC Agent's Standard Ticket and Area Settlement Plan who shall:

1. Cease scheduled air passenger service operations (excluding cessation by Act of God, civil disturbance, Government mandated aircraft-type groundings or labor disputes), or takes steps looking to cessation of such operations or winding up its scheduled air passenger service operations; or,

2. Default in performance of any material obligation under the ATC Agent's Standard Ticket and Area Settlement Plan (excluding defaults arising from Acts of God, civil disturbance, Government mandated aircraft-type groundings or labor disputes), which shall include any failure to provide funds to cover shortages arising from its participation in the ATC Agent's Standard Ticket and Area Settlement Plan. For this purpose, a participating Carrier will be deemed a default Carrier in the event its shortage is not fully satisfied by bank wire within two business days of notice of such shortage by the Administrator of the ATC Agent's Standard Ticket and Area Settlement Plan, or

3. Default in performance of its financial obligations under the Airlines Clearing House, Inc., or International Air Transport Association (sic) Clearing House, and be excluded, suspended, or terminated from either.

II. Effective Date

This Offer of Accommodation shall become effective upon publication by notice in the **Federal Register** by GSA at the request of ATC.

III. Withdrawal of Accommodation Offer

This Offer of Accommodation may be withdrawn by Director, Military and Government Transportation Services, Air Traffic Conference of America, on behalf of ATC Member Air Carriers, upon publication by notice in the **Federal Register** by GSA at the request of ATC, or upon thirty (30) days written notice to the other party, whichever occurs first. The withdrawal of such offer shall not affect the rights or obligations of either party which shall have arisen hereunder prior to the effective date of such withdrawal.

IV. Implementation of Offer of Alternative Air Transportation

In the event any ATC Member Carrier shall become a default Carrier, as defined herein, this Offer of Accommodation shall become operative.

V. Government Participation

Government participation shall be implemented by notice published in the **Federal Register.**

VI. Acceptance of Alternative Air Transportation

Upon implementation of this Offer of Accommodation, ATC Member Carriers shall honor for transportation on their scheduled services, the then outstanding airline tickets/coupons written by the default Carrier, on its own airline issued tickets/coupons for air transportation service on that default Carrier, and validated on or before the date of implementation; provided, however, that the obligation to honor such tickets/coupons shall be for a period of ninety (90) days from the date the ticket/coupon was validated, and such honoring shall be subject to special reservation conditions which may be established by the individual honoring Carrier. The method of honoring the outstanding airline ticket/coupon of the default Carrier for air transportation over that default Carrier, shall be by presentation of that airline ticket/coupon by the designated Government traveler to the honoring Carrier.

VII. Honoring Carrier Safeguards

A. Although substitute transportation will be provided between the origin and destination shown on the default Carrier ticket/coupon, alternative routings and/or intermediate stops may also be provided upon request of the traveler and with the permission of the honoring Carrier. Under no circumstances, however, shall an honoring Carrier be required to provide additional service, i.e., air transportation service between points not specifically identified on the ticket/coupon, different than that purchased by the Government from the default Carrier unless the additional service is separately purchased by the traveler at the time the ticket/coupon is amended.

B. Honoring Carriers shall determine whether a default Carrier ticket/coupon is subject to this Offer of Accommodation before providing substitute air transportation. This may be done by requiring a default airline ticket/coupon holder to present a Government travel authorization and verifying by inspection that the default ticket/coupon was properly purchased with a GTR, and specifically complies with all other provisions of the Offer of Accommodation.

VIII. Billing Procedures

Honoring Carriers shall submit bills to the Office of Transportation Audit, General Services Administration (BWCA), Washington, D.C. 20405 on Public Voucher for Transportation Charges (SF 1113), supported by priced copies of default Carrier tickets/coupouns "lifted" by the honoring Carrier, for forwarding to the proper "bill charges to" office.

IX. Compensation

The original U.S. Government "bill charges to" office will pay the honoring Carrier for default Carrier tickets/coupons "lifted" by such honoring Carrier performing substitute service at the lesser of either: (1) the honoring Carrier's fare for the service performed; or, (2) the stated fare on the default Carrier ticket/coupon as set forth on that document.

X. Prompt Payment

Due to the extraordinary administrative procedures involved, such bills as are presented to GSA for forwarding for payment under this Offer of Accommodation will not be subject to the interset penalties of the Prompt Payment Act, Pub. L. 97–177 until received by the appropriate "bill charges to" office. However, the Government will make every reasonable effort to transmit such bills expeditiously to the appropriate "bill charges to" office.

For the:

General Services Administration.
By: /s/ Thomas P. Wolf.

Thomas P. Wolf,

Director, Office of Transportation Audits General Services Administration.

For the:

Air Traffic Conference of America.
By: /s/ Aden D. Riggin.

Aden D. Riggin,

Director, Military and Government Transportation Services, Air Transport Association of America.

Dated: December 9, 1982.

Raymond A. Fontaine,

Assistant Administrator, General Services Administration.

November 24, 1982.

[FR Doc. 83–4387 Filed 2–18–83: 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82M–0324]

Amcon, Inc.; Premarket Approval of the Amcon Way Plus

AGENCY: Food and Drug Administration

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application for premarket approval under the Medical Device Amendments of 1976 of the Amcon Way Plus for all soft (hydrophilic) contact lenses, sponsored by Amcon, Inc., Shawnee, KS. The Amcon Way Plus is intended for use in preparing 27.7 milliliters of normal saline (0.9 percent) solution to be used in heat disinfection of all soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 24, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, National Center for Devices and Radiological Health (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On May 12, 1982, Amcon, Inc., Shawnee, KS, submitted to FDA a supplemental application for premarket approval of the Amcon Way Plus for all soft (hydrophilic) contact lenses. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application. On October 5, 1982, FDA approved the application by a letter to the sponsor from the Acting Associate Director for Device Evaluation of the then Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), salt tablets for preparing solutions for use in heat disinfection of soft (hydrophilic) contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such salt tablets are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or the solutions prepared from salt tablets for the above use comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from the office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Amcon Way Plus states that the solution prepared from the salt tablets is designed for use in heat disinfection of all soft (hydrophilic) contact lenses. Sponsors of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solutions at the net printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the

misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Improvement Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new salt tablets that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this supplemental application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 24, 1983, file with the Docket Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 15, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–4353 Filed 2–18–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket Nos. 77N–0230, 77N–0231, 77N–0316, 77N–0317, and 77N–0318]

Penicillin and Tetracycline (Chlortetracycline and Oxytetracycline) in Animal Feeds; Denial of Petitions

Correction

In FR Doc. 83–2644, beginning on page 4554, in the issue of Tuesday, February 1, 1983, make the following corrections.

On page 4555, correct the table—

1. In the "Docket No." column, the fourth, fifth, and sixth entries should read: "77N–0317/CP", "77N–0318/CP", and "77N–0230/CP0002", respectively.

2. In the same table, in the "Date received" column, the seventh entry, reading "Do." should be omitted. The fifth entry from the bottom reading "July 2, 1981" should read "July 20, 1981".

BILLING CODE: 1505–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[W–4471–A, W–4471–B, and W–4471–D]

Wyoming; Proposed Continuation of Public Water Reserves, Amendment

Correction

In the issue of Wednesday, February 2, 1983, on page 4740, middle column, a correction document appeared which contained an inaccurate reference. Item 2 of that correction should have read:

"2. In the second column of the same page, under T. 33 N., R. 96 W., "Sec. 18, NW¼,NE¼" should have read "Sec. 18, NW¼NE¼"."

BILLING CODE 1505–01–M

Nevada; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, and Secretarial Orders 3071 and 3087, the following described lands are hereby revoked as the Silver Peak Known Geothermal Resources Area, effective January 25, 1983:

(28) Nevada, Silver Peak Known Geothermal Resources Area

Mount Diablo Meridian, Nevada

T. 2 S., R. 39 E.,
Secs. 2, 3, 10, 11, 14, 15, 22, and 23.

The revoked area described contains 5,117 acres, more or less.

The subject lands will be made available to the first qualified applicant under regulations appearing in 43 CFR Part 3210 beginning with the first calendar month following the date of this notice.

Dated: February 1, 1983.

Bill R. LaVelle,

Acting Minerals Manager, Western Region.

[FR Doc. 83–4363 Filed 2–18–83; 8:45 am]

BILLING CODE 4310–MR–M

[INT FEIS 83–9]

Final Andrews Grazing Management Environmental Impact Statement; Availability of FEIS

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Final Environmental Impact Statement for the Andrews EIS area. The proposal involves implementing a livestock grazing program on public lands within the Andrews EIS area of the Burns, District in central Oregon.

Public reading copies will be available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, 825 N.E. Multnomah Street, Portland, Oregon
Bureau of Land Management, Burns District Office, 745 Alvord St., Burns Oregon
Library, University of Oregon, Eugene, Oregon
Central Oregon Community College, College Way, Bend, Oregon
Library, Portland State University, 727 S.W. Harrison, Portland, Oregon
Harney County Library, 80 West D, Burns, Oregon
Library, Oregon State University, Corvallis, Oregon.

A limited number of copies are available upon request to the BLM Oregon State Office or the Burns District Office.

Comments for the District Manager's consideration in development of the decision will be accepted until March 30, 1983.

Comments on the final EIS may be sent to: Burns District Office, 74 S. Alvord St., Burns, Oregon 97720.

Dated: February 8, 1983.

Philip C. Hamilton,

Acting Deputy State Director for Lands and Renewable Resources.

[FR Doc. 83-4394 Filed 2-18-83; 8:45 am]

BILLING CODE 4310-84-M

Wilderness Study Revision, Idaho; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of Study Name and Type of Document to be Prepared.

SUMMARY: This document revises and corrects the name and document type of the wilderness study titled "Big Lost/Mackay" that appeared at page 29799 in the **Federal Register** of Thursday, July 8, 1982 (47 FR 29788). This action is necessary following the deletion of Wilderness Study Areas of less than 5,000 acres from further study in this process (47 FR 58372, Thursday December 30, 1982). The Wilderness Study Area in the Mackay Planning Unit is deleted while one WSA in the Pahsimeroi Planning Unit is retained. The new study name will be "Big Lost/Pahsimeroi".

Page 29799 also indicated that an Environmental Impact Statement will be prepared. This is incorrect and should have indicated that an Environmental Assessment is being prepared. Completion dates are correct as printed.

FOR FURTHER INFORMATION CONTACT: David Wolf, Team Leader, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467, (208) 756-2201.

The following corrections are made in 47 FR 29799 appearing Thursday, July 8, 1982:

1. Table II D Line 29 Column 6, "Big Lost/Mackay" is changed to "Big Lost/Pahsimeroi".
2. Table II D line 29 Columns 9 and 10, footnote 4/ added to indicate document type is EA not EIS.
3. Table II D lines 31 and 33 are deleted.
4. Table II D lines 34 and Column 3, correct acreage is 59,800.

Dated: February 8, 1983.

Kenneth G. Walker,

District Manager.

[FR Doc. 83-4388 Filed 2-18-83; 8:45 am]

BILLING CODE 4310-84-M

Utah; Site Specific Call for Expression of Interest for Leasing of Combined Hydrocarbons, Oil Shale and Other Leasable Minerals, Excluding Oil and Gas; Solicitation of Public Comment

AGENCY: Bureau of Land Management, Interior.

ACTION: Solicitation of public comments.

SUMMARY: This notice announces the opportunity for industry to nominate specific tracts of public lands for possible leasing of combined hydrocarbons, oil shale and other leasable minerals (excluding oil and gas) within the Bookcliff Resource Area of the Vernal District. Organizations and private individual citizens are also invited to identify areas for possible protection from mineral leasing.

The information submitted will be used for a planning process (Resource Management Plan (RMP) and Environmental Impact Statement) which will eventually culminate in a multiple use oriented competitive mineral leasing program.

DATE: Responses to this notice will be accepted through May 20, 1983.

ADDRESS:

Responses should be sent to: Bureau of Land Management, Bookcliffs Area Manager, Attn: RMP Team, 170 South 500 East, Vernal, Utah 84078.

Proprietary data should be sent to Donald C. Alvord, District Supervisor for Resource Evaluation, Bureau of Land Management, 1745 West 1700 South, Room 2070, Salt Lake City, Utah 84104.

FOR FURTHER INFORMATION CONTACT: Curtis G. Tucker, RMP Team Leader at the address above. Telelphone (801) 789-1362.

SUPPLEMENTARY INFORMATION: This is to advise all interested parties that the official call for site specific expressions of interest in Federal leasing of minerals (excluding oil and gas), within the Bookcliff Resource Area, is now in effect. Minerals under consideration include, but are not limited to, oil shale, combined hydrocarbons (tar sand) and gilsonite. The Bookcliff Resource Area includes the public lands in Uintah County, Utah that are located to the south and east of the Green River including the Federal mineral estate within the Hill Creek Extension of the Uintah and Ouray Indian Reservation. It also includes public lands in Grand County that are contained with the P.R. Springs special tar sands area. Expressions of interest will be accepted for lands where the Federal Government owns the minerals, including the P.R. Springs, Hill Creek and Raven Ridge-Rimrock special tar sand areas.

Expressions of interest will not be considered for lands that are within Dinosaur National Monument.

Maps which indicate the areas open for expressions of interest may be obtained by contacting Curtis Tucker at the Vernal District Office. This call for expressions of interest is a step in the planning process which will lead to a RMP/EIS to consider site specific tract analysis and cumulative impacts of various leasing alternatives. Following completion of the planning, the Government could potentially hold competitive leasing beginning in December, 1984.

The specific call for expressions of interest allow potential lessee's an opportunity to participate in the planning process by identifying mineral areas which should be considered for future lease sales. They also allow citizens to identify areas which should not be considered for mineral leasing. It is important to note that the availability of data will be an important factor in delineating the areas most likely to receive consideration for leasing.

An expression of leasing interest is not an application. The size and/or location of a proposed area may be modified or changed if there is sufficient reason to do so. Areas may also be prioritized based upon the existence of resource conflicts. Examples of the types of concerns that may make such action necessary include: access needs, mining efficiency, future development potential, resource conservation, State preferences and environmental concerns.

Those wishing to express areas of leasing interest should include the following data:

1. Location—Delineations should be made on a map with a scale not less than ½ inch to the mile and an accompanying narrative description.
2. Extraction Technology—List the primary and alternative technological development preferences on a general basis (not a detailed plan). Type of mine, techniques for mining, type of mineral separation, type of retorting, type of water disposal.
3. Quality and Quantity—Estimates of the quality and quantity of the mineral resource and economic value within the expression area.
4. Projected Production and Markets.
5. Transportation Needs—Include existing and proposed facilities (i.e. pipelines, roads, etc.).
6. Proposed Water Needs and Source.
7. Projected Impacts—Include anticipated environmental and socio-economic impacts and anticipated mitigating measures.
8. Other Pertinent Information.

Data which are considered proprietary should be submitted directly to Minerals Management Service at the Salt Lake City address above and will be held confidential.

For those wishing to express interest in non-development areas, the following information should be included:

1. Location—Delineations should be made on suitable map with a scale not less than ½ inch to the mile accompanied with a narrative description.

2. Reasons for Non-development.

3. Other Pertinent Information.

Expressions of interest will be accepted through May 20, 1983. Any data or other imputs received after that date will be reviewed; however, inclusion of the data into the plan cannot be assured. Other public participation activities will be conducted in accordance with 43 CFR Part 1601. Dates, times and locations will be announced through local media and mailings to interested parties.

Documents relative to the RMP/EIS process may be reviewed at the Vernal District Office during regular office hours.

Dated: February 11, 1983.

Lloyd H. Ferguson,

District Manager.

[FR Doc 83-4386 Filed 2-18-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Availability of a Final Environmental Impact Statement on the proposed Master Plan for the Parker River National Wildlife Refuge, Massachusetts

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This Notice advises the public that the Draft Environmental Impact Statement on the proposed Master Plan is available for public review. Comments and suggestions are requested.

The statement discusses various management and development alternatives for the future management of the Parker River National Wildlife Refuge.

DATES: Written comments are requested by May 2, 1983. A public hearing will be held on March 30, 1983, at 7:30 p.m. at the Rupert A. Nock Middle School, Low Street, Newburyport, Massachusetts.

ADDRESS: Comments should be addressed to: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Parkin, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, (617) 965-5100, extension 278.

Individuals wishing a copy of the DEIS for review should immediately contact the above individual. Copies have been sent to all agencies and organizations who participated in the scoping process and to individuals who have previously requested copies. Copies will be available for examination at:

Headquarters, Parker River National Wildlife Refuge, Northern Boulevard, Plum Island, Newburyport, Massachusetts 01959

Headquarters, Great Meadows National Wildlife Refuge, Weir Hill Road, Sudbury, Massachusetts 01776.

SUPPLEMENTARY INFORMATION: This action is designed to provide a comprehensive land use plan that will set forth long-term objectives for resource management and public use on the refuge over a ten to 20 year period.

The major alternatives that are analyzed and evaluated in the DEIS are:

1. No action—would perpetuate current management practices and levels of public use, including mowing of upland fields, wildlife surveys, banding, waterfowl hunting, surf fishing, fruit picking, and clamming.

2. Proposed Action—the No Action activities would be continued. In addition, refuge impoundments would be rehabilitated through removal of silt, construction of nesting islands and water control structures, and provision of a deep well water supply, if feasible, a Wildlife Interpretive Center will be constructed in the Newburyport area, the refuge road will be paved to Hellcat Swamp, a distance of 3.5 miles, and a seasonal interpretive shuttle for visitors will be operated from the Wildlife Interpretive Center to the refuge. A field office and a shop will be constructed in the general vicinity of subheadquarters. The Service will seek a cooperative management agreement with the Massachusetts Department of Environmental Management for management authority of the Sandy Point State Reservation. Non-program uses will be phased out, if and when practical.

3. Minimum Action—the refuge impoundments will be rehabilitated a visitor contact station constructed at Lot 1, and the refuge road paved to Hellcat Swamp. The present office/shop will be converted to office use only, and all maintenance and shop functions will be relocated to the subheadquarters area where a shop will be constructed.

4. Maximum Action—the refuge impoundments will be rehabilitated, a Wildlife interpretive Center will be constructed in the Newburyport area, and the entire refuge road will be paved. A mass transit shuttle for visitors will be operated from the Wildlife Interpretive Center to the refuge. Existing operational facilities will be relocated to the subheadquarters area where a field office and a shop will be constructed. Additional wetlands and barrier beach would be acquired or protected.

5. Plum Island Refuge Committee—the refuge impoundments will be rehabilitated, a Wildlife Interpretive Center will be constructed in the Newburyport area, and the refuge road resurfaced to Hellcat Swamp. A mass transit shuttle would be operated between Newburyport and the refuge. Operational facilities would be relocated to the east side of the refuge road in the subheadquarters area.

Background on the planning process and the involvement of the public and government agencies was provided in the Notice of Intent, published in the September 22, 1980, **Federal Register.**

Public and agency input on the alternatives was provided at a series of public workshops held in November, 1981, and through written comments.

William C. Ashe,

Deputy Regional Director.

[FR Doc. 83-3790 Filed 2-18-83; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1673, Block 296, Main Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway

Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 14, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–4389 Filed 2–18–83; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a Develpment and Production Plan describing the activities it proposes to conduct on Lease OCS 0548, Block 35, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practives and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties become effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised 1250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 11, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–4390 Filed 2–18–83; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Amoco Production Company (USA) has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4234, Block 1, South Pelto Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendements of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 11, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–4391 Filed 2–18–83; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Texoma Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3196, Block 74, Main Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 827–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 11, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–4392 Filed 2–18–83; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Amoco Production Company (USA) has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3571, Block 300, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978,

that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 11, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–4393 Filed 2–18–83; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Gateway National Recreation Area

AGENCY: National Park Service; Gateway Advisory Commission

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Gateway Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: March 15, 1983, 2 p.m.

ADDRESS: Federal Hall, 26 Wall Street, lower Level, New York, New York.

FOR FURTHER INFORMATION CONTACT: Robert W. McIntosh, Jr., Superintendent, Gateway National Recreation Area, Headquarters Building No. 69, Floyd Bennett Field, Brooklyn, New York 11234, (212) 630–0353.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established by Public Law 92–592, to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway National Recreation Area. The agenda for the meeting will include: (1) Old Business; (2) Sandy Hook—Fort Hancock Development Concept Plan; (3) New Business. The meeting will be open to the public. The facility at which the meeting will be held is considered physically accessible. If interpretive services are requested by deaf or hearing impaired individuals to this agency within five working days before the meeting, it will be provided. Facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the Commission a written statement concerning agenda items to be discussed. The statement should be addressed to the Commission, c/o Gateway National Recreation Area, Building No. 69, Headquarters, Floyd Bennett Field, Brooklyn, New York 11234. Minutes of the meeting will be available for inspection four weeks after the meeting at Gateway National Recreation Area Headquarters Building in Brooklyn, New York.

Dated: February 8, 1983.

John Guthrie,

Acting Superintendent, Gateway National Recreation Area.

[FR Doc. 83–4406 Filed 2–18–83; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 11, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 9, 1983.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Greene County

Paragould, *National Bank of Commerce*, 200 S. Pruett St.

CONNECTICUT

Hartford County

Hartford, *Elizabeth Park*, Asylum Ave.
Hartford, *Pratt Street Historic District*, 31–101 and 32–110 Pratt St.; 196–260 Trumbull St.
Hartford, *Windows' Home*, 1846–1860 N. Main St.
Thompsonville, *Bigelow-Hartford Carpet Mills*, Main and Pleasant Sts.

Litchfield County

Canaan, *Lawrance, Isaac, House*, Elm St.

New Haven County

West Haven, *American Mills Web Shop*, 114–152 Orange Ave.

New London County

Lyme, *Hamburg Bridge Historic District*, Joshuatown Rd. and Old Hamburg Rd

MASSACHUSETTS

Berkshire County

Cheshire, *Hall's Tavern*, 3 North St.
North Adams, *Church Street Historic District*, Roughly E. Main St. from Church to Pleasant St., and Church St. from Summer St. to Elmwood Ave.

Essex County

Essex, *Burnham, David, House*, Pond St.

Middlesex County

Acton, *Acton Centre Historic District*, Main St., Wood and Woodbury Lanes, Newton, Concord, and Nagog Hill Rds.
Framingham, *Concord Square Historic District*, Park, Concord, and Kendall Sts., and Union Ave.
Framingham, *Gibbs, Paul, House*, 1147 Edmands Rd.
Hopkinton, *Hopkinton Supply Co. Building*, 26–28 Main St.
Marlborough, *Temple Building*, 149 Main St.
Marlborough, *Warren Block*, 155 Main St.
Winchester, *Wright, Philemon/Asa Locke Farm*, 78 Ridge St.

Norfolk County

Weymouth, *Fogg Building*, 104–110 Pleasant St. and 6–10 Columbian St.

Worcester County

Gardner, *Garbose Building*, 3 Pleasant St.

MICHIGAN

Washtenaw County

Ann Arbor, *Germania Building Complex*, 119–123 W. Washington St. and 209–211 S. Ashley St.

NEW MEXICO

Cibola County

Grants vicinity, *Candelaria Pueblo*.

OKLAHOMA

Blaine County

Okeene vicinity, *Shinn Family Barn*, SE of Okeene
Watonga, *Wagner, J. H., House*, 521 N. Prouty Ave.

Garvin County

Wynnewood, *Moore-Settle House*, 508 E. Cherokee St.

Harper County

Buffalo vicinity, *Page Soddy*, SE of Buffalo

Ottawa County

Miami vicinity, *Peoria Indian School (Confederated Peoria Indian TR)*, E of Miami
Miami vicinity, *Peoria Tribal Cemetery (Confederated Peoria Indian TR)*, E of Miami

Rogers County

Claremore, *Mendenhall's Bath House*, 601 E. 7th St.

Wagoner County

Wagoner, *First National Bank of Wagoner*, 114 E. Cherokee St.

OREGON

Clackamas County

Oregon City, *Storey, George Lincoln, House*, 910 Pierce St.

Grant County

Dayville, *Dayville Hotel*, Franklin St.

Multnomah County

Portland, *Tanner, Albert H., House*, 2248 NW Johnson St.
Portland, *White, Catherine, House*, 1924 SW 14th Ave.
Portland, *Wickersham Apartments*, 410 NW 18th Ave.

PUERTO RICO

Comerio County

Comerio vicinity, *Cueva La Mora*.

SOUTH CAROLINA

Oconee County

Mountain Rest vicinity, *Russell House*, NW of Mountain Rest on SC 28

Richland County

Columbia, *Historic Resources of Columbia, Supplement VI: West Gervais Street Historic District*, Roughly bounded by Gadsden, Senate, Park, and Lady Sts.

SOUTH DAKOTA

Pennington County

Custer vicinity, *Harney Peak Lookout Tower, Dam, Pumphouse and Stairway*, NE of Custer

TEXAS

Nueces County

Corpus Christi, *Gugenheim, Simon, House*, 1601 N. Chaparral St.
Corpus Christi, *Lichtenstein, S. Julius, House*, 1617 N. Chaparral St.
Corpus Christi, *Sidbury, Charlotte, House*, 1609 N. Chaparral St.

Tarrant County

Fort Worth, *Austin, Stephen F., Elementary School*, 319 Lipscomb St.

VIRGINIA

Botetourt County

Eagle Rock vicinity, *Roaring Run Furnace*, NW of Eagle Rock off VA 621

WISCONSIN

Dodge County

Hustisford, *Hustis, John, House*, N. Ridge St.

Grant County

Fennimore, *Parker, Dwight T., Public Library*, 925 Lincoln Ave.
Lancaster, *Lancaster Municipal Building*, 206 S. Madison St.

WYOMING

Carbon County

Baggs vicinity, *Divide Sheep Camp*, NE of Baggs

Sublette County

Pinedale vicinity, *Redick Lodge (Chambers Lodge)*, N of Pinedale

[FR Doc. 83-4372 Filed 2-18-83; 8:45 am]
BILLING CODE 4310-70-M

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on Tuesday, March 15, 1983 at 7:30 p.m. in Rolfe Hall 1200 at the University of California at Los Angeles, 405 Hilgard Avenue, Los Angeles, California.

The Advisory Commission was established by Pub. L. 95-625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Mr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Peter Ireland
Mr. Bob Lovellette
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace

The major agenda items include the following:

Superintendent's Status Report of the SMMNRA
Resource Management Committee Report and Vote on Recommendations for Draft Natural Resource Management Plan
Staff Report on Scientific Research Questionnaire
Staff Report on Fire Management
Santa Vicente Mountain Park Plan
Other Committee Reports.

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

Minutes of the meeting will be available for public inspection by April 29, 1983 at the above address.

Dated: February 11, 1982.

William Webb,

Acting Superintendent, Santa Monica Mountains National Recreation Area.

[FR Doc. 83-4207 Filed 2-18-83; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Long- and Short-Haul Application for Relief; (Formerly Fourth Section Application)

February 15, 1983.

The following applications for long- and short-haul and aggregate-of-intermediates relief have been granted by the I.C.C.

No. 43987 (Long- and Short-Haul) and No. 43988 (Aggregate-of-Intermediates), Union Pacific Railroad Company (Nos. 145 & 146), reduced rates on boards or sheets, from Baum, OR to Minneapolis, St. Paul and Eagandale, MN, in Supplement 34 to its tariff ICC UP 4491, effective February 16, 1983.

Grounds for relief: Market Competition.

These applications were received by the Commission's Suspension Board on February 9, 1983. This precluded the Board from publishing the requested relief in the **Federal Register** in order to give interested parties an opportunity to protest.

By action of February 15, 1983, the Commission, Suspension Board, Members Fitzgerald, Halvarson, and Hall concluded to grant the requested relief in Long- and Short-Haul Order No. 20702, subject to the proviso that the authority will expire 45 days from February 15, 1983. This notice is to advise that the Commission's Suspension Board will reopen this proceeding on its own motion (if not protested), to consider the expiration date of this authority. Interested parties wishing to object may file their objections with the Suspension Board not later than the 10th day before the expiration date.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4344 Filed 2-18-83; 8:45 am]
BILLING CODE 7035-01-M

[Volume OP1-FE-59]

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975. Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 2, Members Carlton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

Note.—Please direct status inquiries to Team 1, (202) 275–7992.

MC–FC–81115. By decision of February 10, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2 Approved the transfer to All American Moving & Storage Co., of Nicholasville, KY, of Certificate No. MC–46200, issued May 20, 1955, Sub-2, issued August 2, 1945, Sub-4X, issued July 15, 1981, and Sub-5, issued June 16, 1982, to Needles Moving & Storage Co., of St. Louis, MO, authorizing household goods, furniture and fixtures, between points in AL, AR, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NY, OH, OK, PA, TN, TX, WI, CT, RI, VA, WV, and DC. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036.

MC–FC–81171. By decision of February 8, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2 Approved the transfer to Richard T. Tjader, Jr., and Janne L. Carter, of Kent, CT, of Certificate No. MC–146490, issued January 7, 1980, to Orville A. Andrews III, of Kent, CT, authorizing the transportation of passengers and their baggage in the same vehicle with passengers, in special and charter operations, limited to not more then 11 passengers, not including the driver, (1) from Towns of Kent and New Milford, CT, to points in NY, NJ, MA, RI, VT and DC, and (2) from points in NY, NJ, MA, RI, VT and DC, to Towns of Kent and New Milford, CT. Applicant's representative: Grant J. Nelson, P.O. Box 333, Kent, CT 06757.

MC–FC–81193. By decision of February 10, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2 Approved the transfer to Reliable Transport, Inc., of Woburn, MA, of Permits Numbers MC–153990, issued August 25, 1981, and Sub-1F, issued August 10, 1981, to Personal Moving & Storage Service, Inc., of Woburn, MA, authorizing the transportation of general commodities (except Classes A and B explosives), between points in the U.S., under continuing contract(s) with Lechmere Sales, and Boyd Corporation, both of Woburn, MA. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108.

[FR Doc. 83–4345 Filed 2–18–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

In the matter of; Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new

entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note:—All applications are for authority to operate as a motor common carrier in interstate of foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–062

Decided: February 8, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 165803, filed January 20, 1983. Applicant: GREGORY STACHURA, d.b.a. GSA INTERNATIONAL, 6206 Courtland Dr., Canton, MI 48187. Representative: Gregory Stachura, 26300 Van Born Rd., Suite 128, Dearborn Heights, MI 48125, 313–292–3350. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 165822, filed January 21, 1983. Applicant: HACKLEY CORPORATION, d.b.a. J & A COACHES, 2429 S. 46th Ave., Omaha, NE 68106. Representative: Patrick J. O'Malley 935 Mercer Blvd., Omaha, NE 68131, (402) 553–1189. Transporting *passengers,* in charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

Volume No. OP2–065

Decided: February 10, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 172 (Sub-11), filed January 27, 1983. Applicant: WADE TOURS, INC., 251 Burdeck St., Schenectady, NY 12306. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., N.W., Washington, DC 20005, 202–783–3525. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 152212 (Sub-1), filed January 26, 1983. Applicant: SCENIC HYWAY TOURS, INC., P.O. Box 14315, San Francisco, CA 94114. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165933, filed January 27, 1983. Applicant: COMMAND TRANSPORTATION SERVICES, INC., 20 Enterprise Ave., Secaucus, NJ 07094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165942, filed January 26, 1983. Applicant: UNITED SERVICES, INC., P.O. Box 5442, St. Louis, MO 63147. Representative: Robert J. Gallagher, 1000 Connecticuf Avenue NW., Washington, DC 20036, (202) 785–0024. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165953, filed January 28, 1983. Applicant: WILLIAM JOHN WILLIAMS, 13445 West Freeway Drive, Hugo, MN 55038. Representative: William John Williams (same address as applicant), 612–464–2583. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2–068

Decided: February 9, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 81592 (Sub-10), filed January 25, 1983. Applicant: WISCONSIN NORTHERN TRANSPORTATION COMPANY, INC., Washington Heights, Eau Claire, WI 54701. Representative: Yvonne M. Zank (same address as applicant), 715–834–1463 Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded, charter and special transportation.

MC 150443 (Sub-2), filed January 24, 1983. Applicant: GREENWAY TRANSPORTATION, INC., 166–10 Archer Ave., Jamaica, NY 11433. Representative: William H. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036, (202) 296–2900. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 150523 (Sub-2), filed January 24, 1983. Applicant: GRIFFITH TRUCK BROKERAGE, INC., 2705 North Cage, Pharr, TX 78577. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, (501) 521–8121. As a *broker of general* commodities (except household goods), between points in the U.S. (except AK and HI).

MC 156853 (Sub-1), filed January 25, 1983. Applicant: NORTH SHORE BUS COMPANY, INC., 31 Milk St., Room 1111, Boston, MA 02109. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., N.W., Washington, DC 20005, 202–783–3525. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded, charter and special transportation.

MC 163163 (Sub-2), filed January 24, 1983. Applicant: EAGLE BUS, INC., 805 Avenue C, Bayonne, NJ 07002. Representative: Edward F. Bowes, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, 201–992–2200. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165702 (Sub-1), filed January 14, 1983. Applicant: LION, INC., 5210 Ocean Ave., Wildwood, NJ 08260. Representative: Thomas F.X. Foley, P.O. Box F, Colts Neck, NJ 07722, 201–946–2020. Transporting *passengers,* in special and charter operations, beginning and ending at points in Atlantic, Cape May, Cumberland, Salem, Gloucester, Camden and Burlington Counties, NJ, Sussex County, DE and Worcester County, MD, and extending to points in the U.S.

Note.—Applicant seeks to provide privately funded, charter and special transportation.

MC 165873, filed January 25, 1983. Applicant: E.C.M. ENTERPRISES, INC., R.D. #1, 536 Salem Church Rd., Lewisburg, PA 17837. Representative: George E. Campbell, 985 Old Eagle School Rd., Suite 501, Wayne, PA 19087, (215) 293–9220. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner

of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165893, filed January 25, 1983. Applicant: RICHARD AND OLETA BLENDER, d.b.a. BLENDER MOTORCOACHES, P.O. Box 367, Rushville, IL 62681. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, 414–722–2848. Transporting *passengers,* in charter and special operations, beginning and ending at points in McDonough, Knox, Fulton, Cass, Schuyler, Warren, Adams, Hancock, Henderson, Pike, and Brown Counties, IL, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165903, filed January 24, 1983. Applicant: ATLANTA PIGGYBACK EXPRESS, INC., P.O. Box 450431, Atlanta, GA 30345. Representative: Wayne W. West, Jr., 3644 Northlake Dr., Atlanta, GA 30340, 404–938–3537. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 165913, filed January 25, 1983. Applicant: RONALD J. DAVIS AND GLENN SESSIONS d.b.a. CERTIFIED SHIPPING, 603 South Hwy. 67, P.O. Box 476, Duncanville, TX 75116. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–4347 Filed 2–18–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

In the matter of; Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commissioner's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly. Please direct status inquiries to Team One at (202) 275–7992.

Volume No. OP1–57

Decided: February 10, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing.

FF–660, filed January 24, 1983. Applicant: M.F.Z. PUBLIC WAREHOUSE, INC., 2335 N.W. 107th Ave., Miami, FL 33172. Representative: German Leiva (same address as applicant), (305) 591–4300. As a *freight forwarder,* in connection with the transportation of *general commodities* (except classes A and B explosives), between points in the U.S.

MC 28990 (Sub-12), filed January 21, 1983. Applicant: SEYMOUR TRANSFER LINES, INC., 800 E. Factory St., Seymour, WI 54165. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WI, on the one

hand, and, on the other, points in the Upper Peninsula of MI.

MC 82841 (Sub-329), filed January 31, 1983. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" St., Omaha, NE 68127. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392–1220. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI).

MC 119871 (Sub-3), filed January 21, 1983. Applicant: EDWARD F. MADEIRA, INC., 514 Island St., Hamburg, PA 19526. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312, (703) 750–1112. Transporting *chemicals and related products,* between points in the U.S., under continuing contract(s) with Angus Chemical Company, of Northbrook, IL.

MC 133621 (Sub-5), filed January 31, 1983. Applicant: FRONTIER TRANSPORTATION COMPANY, 3600 South Cushman, Fairbanks, AK 99701. Representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501–2028, (402) 475–6761. Transporting *general commodities,* between points in AK, on the one hand, and, on the other, points in the U.S. (except HI). Condition: To the extent that the certificate in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 134401 (Sub-18), filed January 31, 1983. Applicant: MCGILLION TRANSPORT, INC., 141 Healey Rd., P.O. Box 644, Bolton, Ontario, Canada L0P 1AO. Representative: Allan C. Zuckerman, 221 N. LaSalle St., Suite 826, Chicago, IL 60601, (312) 641–5900. Transporting *machinery,* and *such commodities* as are used in the manufacturing of plastic and plastic products, between points in MI and NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 140411 (Sub-4), filed January 31, 1983. Applicant: D. & W. FORWARDERS, INC., 81 Orenda Rd., Brampton, Ontario, Canada L6W 1V7. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167, (313)–349–3980. Transporting *general commodities* (except classes A and B explosives and household goods), between points in NY and MI, on the one hand, and, on the other, points in NY, MI, IN, IL, PA, WI and OH, under continuing contract(s) with Dartcan, Inc. and S.A.N. International Freight Service, Inc., each of Toronto, Ontario, Canada, and Intra Freight Services, limited, of Willodale, Ontario, Canada.

MC 144030 (Sub-16), filed January 27, 1983. Applicant: DRUE CHRISTMAN, INC., P.O. Box 264, US 50 West, Lawrenceburg, IN 47025. Representative: P. J. Snodgrass (same address as applicant), (812)–537–0751. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 146110 (Sub-5), filed January 24, 1983. Applicant: SMALL SHIPMENT EXPRESS OF ILLINOIS, INC., 9623 North Karlov Ave., Skokie, IL 60076. Representative: Allan C. Zuckerman, 221 N. LaSalle St., Suite 826, Chicago, IL 60601, (312)–641–5900. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Bruce M. Brown, of Skokie, IL.

MC 153421 (Sub-4(A)), filed January 24, 1983. Applicant: PRINTCO, INC., P.O. Box 16039, Memphis, TN 38116. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in DE and OH, those points in MD east of the Chesapeake Bay, those in Philadelphia, Delaware, Bucks, and Montgomery Counties, PA, those in Camden, Burlington, and Gloucester Counties, NJ, those points in VA on and west of U.S. Hwy 220, and those points in TN on and east of U.S. Hwy 25E, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant has also requested authority in MC–153421 Sub 4(B) published this same **Federal Register** issue.

MC 155830 (Sub-2), filed January 24, 1983. Applicant: ENERGY TRUCKING CORPORATION, P.O. BOX 30970, Lafayette, LA 70503. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601)–948–8820. Transporting *Mercer commodities,* between points in AL, AR, FL, LA, MS, OK, TN, TX and WY.

MC 156080, filed January 27, 1983. Applicant: TERRY M. ROBERTSON d.b.a. ROBERTSON TRUCKING, 509 Fairview Drive, Bastrop, TX 71220. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103 (817) 332–4718. Transporting *lumber and wood products,* and *pulp, paper and related products,* between points in LA, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, TX and WI.

MC 156390 (Sub-5), filed January 21, 1983. Applicant: PROGRESSIVE PIER DELIVERY, INC., 900 Dell Ave., North Bergen, NJ 07047. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, MA and RI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *lumber and wood products,* between points in the Aroostook County, ME, and those in Merrimack and Hillsborough Counties, NH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 156461 (Sub-1), filed January 21, 1983. Applicant: BURWICK'S, INC., Route 3, Box 159X, Dickinson, ND 58601. Representative: Richard P. Anderson, Federal Square, 112 Roberts St., P.O. Box 2581, Fargo, ND 58108 (701) 235–3300. Transporting (1) *building materials,* between ports of entry on the International Boundary line between the United States and Canada located in ID, MT and ND, on the one hand, and, on the other, points in ID, MN, MT, ND, OR, SD, UT and WA, and (2) *chemicals, salt and salt products,* between points in Weber, Salt Lake, Davies and Tooele Counties, UT, on the one hand, and, on the other, points in CO, IA, ID, MN, OR, SD, WA and WY.

MC 158651 (Sub-7), filed January 24, 1983. Applicant: GRAEBEL VAN LINES, INC., 719 North Third Ave., Wausau, WI 54401. Representative: Roger Will (same address as applicant) (715) 675–9481. Transporting *household goods,* between points in the U.S., under continuing contract(s) with American Hospital Supply Division, of McGaw Park, IL.

MC 159781 (Sub-2), filed January 31, 1983. Applicant: WESTPOINT PEPPERELL TRANSPORTATION COMPANY, P.O. Box 71, Westpoint, GA 31833. Representative: Michael F. Moorone, 1150 17th St., N.W., Suite 1000, Washington, DC 20036 (202) 457–1124. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with National Automotive & Rubber Marketing, Inc., of Huntington, MI, and Intermodal Consolidating Service, Inc., of Bridgewater, NJ, and (2) *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Morco Food Distributors, of Jackson, MS.

MC 164710 (Sub-1), filed January 31, 1983. Applicant: PACIFIC BASIN CONSOLIDATORS, INC., 114 Brush St., Oakland, CA 94607. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108 (415) 986–8696. Transporting *general*

commodities (except classes A and B explosives, household goods and commodities in bulk), between points in CA.

MC 165880, filed January 25, 1983. Applicant: QUAD CITY FREIGHT SERVICES, INC., 432 Second St., Rock Island, IL 61201. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501 (515) 682–8154. Transporting (1) *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, and (2) *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions) for the account of the U.S. Government, between points in the U.S. (except AK and HI).

MC 165890, filed January 25, 1983. Applicant: RAYVO, INC., No. 2 Sherwood, Russellville, AR 72801. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501 (402) 475–6761. Transporting *food and related products,* between points in Crawford, Pope and White Counties, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–063

Decided: February 8, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 16502 (Sub-27), filed January 24, 1983. Applicant: ROBINSON TRUCK LINE, INC., P.O. Box 737, West Point, MS 39774. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210 (703) 525–4050. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Memphis, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 107012 (Sub-788), filed January 21, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant) (219) 429–2110. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Ford Motor Company, of Dearborn, MI.

MC 107012 (Sub-789), filed January 21, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant) (219) 429–2110. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Butler Shoe Corporation, of Atlanta, GA.

MC 108393 (Sub-158), filed January 20, 1983. Applicant: SIGNAL DELIVERY SERVICE, INC., 1101 31st St., Downers Grove, IL 60515. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *packaging materials and supplies,* between points in the U.S. under continuing contract(s) with Plastronic Packaging Co., a subsidiary of Southwest Forest Industry, Inc., of Stevensville, MI.

MC 118832 (Sub-9), filed January 21, 1983. Applicant: WESTOURS MOTOR COACHES, INC., 300 Elliott Ave. West, Seattle, WA 98119. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 20005, 202–783–3525. Transporting over regular routes, *passengers,* between Skagway, AK and ports of entry on the international boundary line between the United States and Canada, over Klondike Hwy 2, serving all intermediate points.

Note: Applicant seeks to provide regular-route service only in interstate or foreign commerce.

MC 138512 (Sub-46), filed January 20, 1983. Applicant: ROLAND'S TRANSPORTATION SERVICES, INC., 100 N. Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: Michael V. Kaney (same as applicant) (312)295–5700. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with American Home Products Corp., of New York, NY.

MC 145773 (Sub-21), filed January 24, 1983. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215 (614) 228–1541. Transporting *electrical component equipment* between points in the U.S. (except AK and HI), under continuing contract(s) with Copeland Electric Corporation, of Humboldt, TN.

MC 147873 (Sub-6), filed January 21, 1983. Applicant: G. BAKER EXPRESS, INC., 1250 Executive Place—Suite 402, Geneva, IL 60134. Representative: Joel H. Steiner, 135 S. LaSalle St.—Suite 2106, Chicago, IL 60603, 312–236–9375. Transporting *plastic products* and *such commodities* as dealt in by supermarkets, between points in the U.S. (except AK and HI).

MC 153752 (Sub-1), filed January 21, 1983. Applicant: MACHADO TRUCKING, INC., Pier D. Berth 34, Long Beach, CA 90802. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA.

MC 154653 (Sub-2), filed January 24, 1983. Applicant: TRI-GAS PROPANE, INC., P.O. Box 465 (Rt. 313 North,) Federalsburg, MD 21632. Representative: Robert E. Blades (same address as applicant), 301–754–8184. Transportating *propane gas*, between points in the U.S., under continuing contract(s) with Eastern Gas & Water Investment Company, of King of Prussia, PA, and its subsidiaries. Condition: This permit shall be limited to a period expiring 5 years from its date of issuance.

MC 161943 (Sub-3), filed January 20, 1983. Applicant: MOTOR CARRIER EXPRESS, INC., 906 Woodland Dr., Cardinal Bldg., Suite 208, Elizabethtown, KY 42701. Representative: Douglas F. Stancell. P.O. Box 440, Hermitage, TN 37076, (502) 769–5611. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163102 (Sub-1), filed January 21, 1983. Applicant: JANET M. JOHNSON, d.b.a. ECONOMY MOVERS, 2016 E. Tyler, Fresno, CA 93701. Representative: Ed Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104, 415–986–5778. Transporting *household goods,* between points in the U.S.

MC 163923 (Correction), filed September 20, 1982, published in the **Federal Register** issue of October 22, 1982, and republished, as corrected, this issue. Applicant: BILL HANSON TRUCKING CO., INC., 1603 E. 3rd St., P.O. Box 1668, Big Spring, TX 79720. Representative: Bill Hanson, 517 Scott Drive, Big Spring, TX 68620, (915) 267–5137. Transporting *machinery, well drilling equipment, pipe and such commodities* as are dealt in or used in the oilfield drilling and production industry, between points in TX, on the one hand, and, on the other, points in NM, OK, LA, AR, KS, CO and WY.

Note.—The purpose of this application is to reflect *common carrier* authority in lieu of *contract carrier* authority, as originally published.

MC 165123, filed January 21, 1983. Applicant: JIMMY DAYLE KING, d.b.a. D & J TRUCKING, 500 East 50th St.,

Lubbock, TX 79452. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205, 601–948–8820. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Belton Industries, Inc., of Belton, SC.

MC 165392, filed December 22, 1982 (correction), previously published in the **Federal Register** issue of February 1, 1983, and republished in this issue. Applicant: SKYWAY TRANSPORTATION INC., 390 St. Paul Ave., Jersey City, NJ 07306. Representative: Ken Wilson, 167 Sylvan Rd., Bloomfield, NJ 07003, 201–338–5753. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between New York, NY and Philadelphia, PA, on the one hand, and, on the other, points in NJ, NY, and those in Fairfield and New Haven Counties, CT.

Note.—This republication is to correct the territory description.

MC 165802, filed January 20, 1983. Applicant: CONTAINER CARRIERS, INC., P.O. Box 50, Provo, UT 84603. Representative: Irene Warr, 311 S. State St. Ste. 280, Salt Lake City, UT 84111, 801–531–1300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 165843, filed January 24, 1983. Applicant: DLM TRANSPORTATION, INC., 3020 Bel Aire Rd., Des Moines, IA 50310. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NE and IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165892, filed January 24, 1983. Applicant: SPECIAL K DISPATCH, INC., 2601 Lakeside Ave., Cleveland, OH 44114. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, MI, NY, OH, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165902, filed January 24, 1983 Applicant: J.A.C.E. TRANSPORTATION, INC., 5 Shelter Rock Rd., Danbury, CT 06810. Representative: Martin A. Rader, Jr., 57 North St., Danbury, CT 06810, 203–792–7980. Transporting *passengers*, in charter and special operations, beginning and ending at points in Fairfield, Litchfield, and New Haven Counties, CT, and extending to points in CT, MA, RI, NY, NJ, VT NH, ME, PA, and DC.

Note. Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

Volume No. OP2-006

Decided: February 10, 1983.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing. (Member Ewing not participating.)

FF 362 (Sub-3), filed January 27, 1983. Applicant: OMNI MOVING & STORAGE OF VIRGINIA, INC., 157 E. Valley Pkwy., Escondido, CA 92025. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, 202–833–8884 As a *freight forwarder* in connection with the transportation of *used household goods, unaccompanied baggage and used automobiles*, between points in AK, on the one hand, and, on the other, points in the U.S.

MC 2202 (Sub-685), filed January 26, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814, 216–384–1717. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except classes AK and HI), under continuing contract(s) with K Mart Corporation, of Troy, MI.

MC 77013 (Sub-10), filed January 26, 1983. Applicant: NIEDERBRACH TRUCK SERVICE, INC., P.O. Box 67, Steeleville, IL 62288. Representative: Floyd W. Hartel (same address as applicant), 618–965–3488. Transporting (1) *lime and lime products*, between points in St Genevieve County, MO, on the one hand, and, on the other points in Jackson County, IL, and (2) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in IL in and south of St. Clair, Clinton, Marion, Clay, Richland and Lawrence Counties, on the one hand, and , on the other, St. Louis, MO.

MC 107012 (Sub-791), filed January 27, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, (same address as applicant), 219–429–2110. Transporting *household goods*, between points in the U.S., under continuing contract(s) with International Playtex, Inc., of Dover, DE.

MC 136843 (Sub-4), filed January 26, 1983. Applicant: JENI TRUCKING, INC., 30 Lancaster Dr., Suffern, NY 10981. Representative: William Ourello, (same address as applicant), 914–423–4229. Transporting *new furniture*, between points in NY, NJ and CT, under continuing contract(s) with J. H. Harvey, Inc., of White Plains, NY.

MC 141232 (Sub-13), filed January 26, 1983. Applicant: STATEWIDE TRUCKING COMPANY, 1801 West Oxford Ave., P.O. Box 1116, Englewood, CO 80150. Representative: Larry J. Schwarz, (same address as applicant), 303–761–0815. Transporting *construction materials, forest products, lumber and wood products, clay, concrete, glass or stone products, metal products, chemicals and related products, machinery, Mercer commodities, pulp, paper and related products, rubber and plastic products and ores and minerals*, between those points in the U.S., in and west of WI, IL, KY, TN, and MS (except AK and HI).

MC 159513 (Sub-1), filed January 27, 1983. Applicant: LOK TRUCKING, INC., Route 2, Box 44B, Frisco, TX 75034. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AZ, AR, CA, GA, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163512, filed January 28, 1983. Applicant: SOULE COMPANY, INC., 3015 N. 36th St., Tampa, FL 33605. Representative: Stephen H. Loeb, Suite 4—2777 Finley Rd., Downers Grove, IL 60515, 312–953–0330. Transporting *general commodities*, (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Oscar G. Carlstedt & Co., Inc., of Jacksonville, FL.

MC 164822, filed January 27, 1983. Applicant: G.N.C. TRANSPORT, INC., 1001 Territorial P.O. Box 604, Benton Harbor, MI 49022. Representative: Bernard Spak, 1 North LaSalle St., Chicago, IL 60602, (312) 372–8703. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contracts with American Motors Corporation, of Kenosha, WI, and Burnette Packing Cooperative, Inc., of Hartford, MI.

MC 164982 (Sub-1), filed January 26, 1983. Applicant: LANE

TRANSPORTATION, INC., P.O. Box 769, Turnersville, NJ 08012. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *rubber and chemicals,* between points in Middlesex County, NJ, on the one hand, and, on the other, points in Philadelphia, Chester, Delaware, Lancaster, Berks, Bucks, Lehigh, Northampton, and Montgomery Counties, PA, and points in DE.

MC 165922, filed January 27, 1983. Applicant: IRON CITY TRUCK SERVICE, INC., 575 Baldridge Ave., North Braddock, PA 15104. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *general commodities* (except classes A and B explosives, and household goods), between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 165932, filed January 27, 1983. Applicant: TARA TRUCKING, INC., 514 West Main St., Monongahela, PA 15063. Representative: John A. Pillar, 1500 Bank Tower 307 4th Ave., Pittsburgh, PA 15222, 412–471–3300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in PA, OH, WV, WV, and VA, on the one hand, and, on the other, those points in the U.S. east of MN, IA, MO, AR, and LA.

MC 165943, filed January 28, 1983. Applicant: E & G OIL CO., 1018 J St., P.O. Box 517, Bedford, IN 47421. Representative: Elsie Gerkin Mullis (same address as applicant), (812) 275–5981. Transporting *gasoline, diesel fuel, and petroleum products,* between points in the U.S., under continuing contract(s) with (a) Hall Oil Co., (b) Mullis Petroleum, both of Bedford, IN, and (c) E & J Truck Stop, of Scottsburg, IN.

MC 165952, filed January 28, 1983. Applicant: SAS TRUCKING, INC., 15528 Sunset Drive, Dolton, IL 60419. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, (312) 263–2306. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP2–067

Decided: February 9, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 39973 (Sub-9), filed January 25, 1983. Applicant: STANDARD TRUCKING COMPANY, 225 East 16th St., Charlotte, NC 28230. Representative: W. D. Snavely (same address as applicant), 704–332–1106. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Belk Stores Services, Inc., of Charlotte, NC.

MC 52793 (Sub-121), filed January 25, 1983. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with K Mart Corporation, of Troy, MI.

MC 107012 (Sub-790), filed January 25, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), (219) 429–2110. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Scientific Atlanta, Inc., of Atlanta, GA.

MC 110683 (Sub-206), filed January 24, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24001. Representative: Robert L. Stover (same address as applicant), 703–248–6231. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with American Hardware Supply Company, of East Butler, PA.

MC 142553 (Sub-2), filed January 25, 1982. Applicant: OSBORNE TRUCKING COMPANY, 11001 Kenwood Rd., Cincinnati, OH 45242. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, IN, KY, MI, PA, TA and WV.

MC 144893 (Sub-9), filed January 24, 1983. Applicant: NORMAN HOWARD, d.b.a. HOWARD TRUCKING OF UTAH, 1755 East 800 North, St. George, UT 84770. Representative: J. Ralph Atkin, 60 North 300 East, P.O. Box 339, St. George, UT 84770, 801–628–2612. Transporting *General commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Interstate Shippers Service, Inc., of Wheatridge, CO.

MC 144893 (Sub-10), filed January 25, 1983. Applicant: NORMAN HOWARD, d.b.a. HOWARD TRUCKING OF UTAH, 1755 East 800 North St. George, UT 84770. Representative: J. Ralph Atkin, 60 N. 300 East, P.O. Box 339, St. George, UT 84770, 801–628–2612. Transporting *waste paper and related materials* used in the recycling and manufacturing of paper products, between points in CO and UT, on the one hand, and, on the other, points in CA.

MC 147842 (Sub-3), filed January 25, 1983. Applicant: COLEMAN BROS. TRUCKING, INC., 1045 Rock Cliff Dr., Potosi, MO 63664. Representative: Stephen G. Newman, P.O. Box 456, Jefferson City, MO 65102, 314–635–7166. Transporting *chemicals and related products,* between points in Bartow County, GA, on the one hand, and, on the other, points in Pottawatomie County, OK.

MC 149002 (Sub-4), filed January 24, 1983. Applicant: CAMPBELL CARTAGE COMPANY, 1109 E. Second St., Maryville, MO 64468. Representative: Herman W. Huber, 101 E. High St., Jefferson City, MO 65101, 314–636–9131. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Andrew, Atchison, Buchanan, Caldwell, Clinton, Daviess, De Kalb, Gentry, Harrison, Holt, Nodaway, and Worth Counties, MO, on the one hand, and on the other, points in AR, IA, IL, IN, KS, KY, MO, NE, OK, and TN.

MC 165153, filed January 24, 1983. Aplicant: ECKEL BAKING COMPANY, division of ECKEL INC., 1771 Sunshine Dr., Clearwater, FL 33515. Representative: John A. Eckel (same address as applicant), 813–443–1116. Transporting *shortening, margerine, cooking oil, and salad oil,* between points in the U.S. (except AK and HI), under continuing contract(s) with Bunge Edible Oil Corporation, of Kankakee, IL.

MC 165872, filed January 25, 1983 Applicant: ANDERSON TRANSPORT, INC., P.O. Box 107, Salina, UT 84654. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. Transporting *commodities in bulk,* between points in NV, CA, UT, and AZ.

MC 165883, filed January 24, 1983. Applicant: CLASSIC MOVING & STORAGE, INC., P.O. Box 731, Hickory, NC 28603. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, 704–372–6730. Transporting *furniture and fixtures,* between points in Catawba and Guilford Counties, NC, on the one hand,

and, on the other, points in FL, GA, SC, VA, MD, and DC.

MC 165923, filed January 25, 1983. Applicant: SPI TRANSPORT SYSTEM, INC., 107 Harris Ave., Middlesex, NJ 08846. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410, 201–791–2270. Transporting *those commodities which because of their size or weight require the use of special handling or equipment,* between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–084

Decided: February 10, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 76 (Sub-29), filed February 4, 1983. Applicant: MAWSON & MAWSON, INC., P.O. Box 248, Langhorne, PA 19047. Representative: John A Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting (1) *metal products,* (2) *building materials,* (3) *electrical equipment,* (4) *machinery,* (5) *lumber and wood products,* and (6) *clay, concrete, glass or stone products,* between points in AL, OK, AR, CT, DE, GA, FL, IA, IL, IN, KY, LA, MA, MD, ME, MI, MN, MS, MO, NC, NH, NJ, OH, PA, RI, SC, TN, TX, VA, VT, WI, WV, and DC.

MC 89557 (Sub-3), filed February 4, 1983. Applicant: BARR & MILES, INC., 2420 S. Prairie Ave., Chicago, IL 60616. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglasville, PA 19518, (215) 385–6086. Transporting *general commodities* (except classes A and B explosives and household goods), between points in IL, IN, IA, MI, MO, OH, and WI.

MC 148257 (Sub-2), filed February 4, 1983. Applicant: GEORGE J. WEBB, JR. and GEORGE J. WEBB III, d.b.a. WEBB TRUCKING, Route 2, McLeansboro, IL 62859. Representative: William Sheridan, P.O. Drawer 5049 Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Mobile Transportation, Inc. of Longview, TX.

MC 150017 (Sub-6), filed February 4, 1983. Applicant: DELICIOUS FOODS CARRIERS, INC., P.O. Box 730, Grand Island, NE 68801. Representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Victor's Iowa Pack, Inc. of Council Bluffs, IA.

MC 165027, filed February 4, 1983. Applicant: DOUG BLAIR, Box 814, Levelland, TX 79336. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706, (713) 898–8066. Transporting *rock, gravel, sand, caliche, dirt and soil,* between points in Reeves, Midland, Ector, Andrews, Gaines, Terry, Yoakum, Cochran, Hockley, Lubbock, Parmer, Castro, Deaf Smith, and Oldham Counties, TX, on the one hand, and, on the other, points in Eddy, Lea, Chaves, Roosevelt, Curry, DeBaca, Quay, Harding, and Union Counties, NM.

[FR Doc. 83–4348 Filed 2–18–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Restriction Removals

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,
Secretary.

Volume No. OP1–60

Decided: February 10, 1983.

For status, please call team 1 at 202–275–7992.

MC 145301 (Sub-19)X, filed December 30, 1982. Applicant: R.E.M. TRANSPORT CO., INC., Building No. 431—Raritan Center, Edison, NJ 08817. Representative: Brian S. Stern, 5411–D Backlick Rd., Springfield, VA 22151. MC–142689 Sub 3 permit and MC–145301 and Subs 2F, 3F, 4F, 5F, 6F, 8F, and 9F certificates: broaden (1) MC–142689 Sub 3: film, sheeting, and chemicals (except in bulk), to "chemicals and related products", (2) MC–145301: flat glass and automotive glass, to "clay concrete, glass or stone products", (3) MC–145301 Sub 2F: tractors (except truck tractors) to "machinery (except electrical)", (4) MC–145301 Sub 3F: glass and glass products, to "clay, concrete, glass or stone products", (5) MC–145301 Sub 4F: (a) acids and chemical, to "chemicals and related products" and (b) plastic materials, to "rubber and plastic products", (6) MC–145301 Sub 5F: chemicals, petroleum products, and plastic materials (except commodites in bulk), to "chemicals and related products, petroleum, natural gas and their products, and rubber and plastic products", (7) MC–145301 Sub 6F: chemicals and plastics, and materials, equipment, and supplies used in the manufacture and distribution of chemicals and plastics (except commodities in bulk), to "such commodities as are dealt in or used by manufacturers and distributors of chemicals and related products and rubber and plastic products", (8) MC–145301 Sub 8F: automotive parts, and materials, equipment and supplies used in the manufacture, production, and assembly of motor vehicles (except in bulk), to "such commodities as are dealt in or used by manufacturers and distributors of transportation equipment", (9) MC–145301 Sub 9F: electric cable, to "metal products", (10) MC–142689 Sub 3: expand to "between points in the U.S. (except AK and HI) under continung contracts with a named shipper", (11) MC–145301: expand Tulsa, OK to "Tulsa, Osage, Rogers, Wagoner, and Creek Counties, OK", (12) MC–145301 Sub 2: expand facilities at Romeo, MI to "Macomb County, MI", (13) MC–145301 Sub 3: expand Crystal City, MO to "Jefferson County, MO", and Mt. Zion, IL to "Macon County, IL", (14) MC–145301 Sub 4: expand facilities at Marcus Hook, PA to "Delaware County, PA", and Orange, TX to "Orange County, TX", (15) MC–145301 Sub 5F: expand Wood River, IL to "Madison County, IL", and Texas City and Chocolate Bayou, TX to "Galveston and Brazoria Counties, TX", (16) MC–145301 Sub 8F: expand Detroit, MI to "Wayne, Oakland, Macomb, Monroe, Washtenaw, St. Clair, and Livingston Counties, MI"; Cleveland, OH to "Cuyahoga, Lake, Lorain, Medina,

Summit, and Geauga Counties, OH"; and Kansas City, MO to Jackson, Cass, Clay, and Platee Counties, MO and Wyandotte, Johnson, and Leavenworth Counties, KS", and (17) MC–145301 Sub 9F: expand Hillside, NJ to "Union County, NJ"; and Portsmouth, RI to "Newport County, RI"; (18) All certificates: expand to radial authority.

Volume No. OP2–064

Decided: February 9, 1983.

For status, please call Team 2 at 202–275–7030.

MC 144842 (Sub-16)X, filed January 25, 1983. Applicant: RIGGINS INCORPORATED, 1004 West Maple, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, 501–521–8121. Subs 1, 3, 7, 8, and 9 certificates: (1) broaden commodity description from steel strapping and accessories for steel strapping to "steel products" in Sub 9; (2) eliminate facilities limitation in Subs 1, 3, and 8; (3) change one-way to radial authority; (4) expand Doylestown to Bucks County, PA; Braddock, to Camden County, NJ; Crisfield to Somerset County, MD; Sunnyvale to Santa Clara County, CA in Sub 1; Belvidere, Branchburgh, and Nutley to Warren, Somerset, and Essex Counties, NJ in Sub 3; Fort Smith to Sebastian County, AR; Louisville and Bardstown to Jefferson and Nelson Counties, KY; Plainfield to Will County, IL in Sub 8; and New Britain to Hartford County, CT; and Pittsburg to Contra Costa County, CA in Sub 9; and (5) remove the restriction (a) except commodities in bulk in Sub 3, and (b) originating at or destined to in Sub 8.

[FR Doc. 83–4346 Filed 2–18–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 83–1049 beginning on page 1836 in issue of Friday, January 14, 1983, make the following corrections:

1. On page 1837, first column, under MC 3151 (Sub-25), Bender & Loudon Motor Freight, Inc., correct lines 10 through 14 to read as follows:

"* * * routes, (1) between Hammond, IN, and Chicago, IL, over Interstate Hwy 90, (2) between Hammond, IN, and Louisville, KY, over Interstate Hwy 65, (3) between Louisville, KY, and junction U.S. Hwys 30 and 31, near Plymouth, IN, over U.S. Hwy 31, (4) between * * *"

2. On the same page, middle column, under MC 115370 (Sub-98), The Mickow Corp. in the 10th line, "Wayne Counties" should have read "Wayne Counties MI,".

BILLING CODE 1505–01–M

Motor Carriers; Decision-Notice; Finance Applications

Correction

In FR Doc. 83–1653 beginning on page 2845 in the issue of Friday, January 21, 1983, make the following corrections:

1. On page 2845, middle column, five lines from the bottom of the page, insert "MC–FC 81118" before the words "By decision * * *" and designate the text as a new paragraph.

2. On the same page, third column, at the beginning of the last paragraph, insert "MC–FC 81143" before the words "By decision * * *".

BILLING CODE 1505–01–M

[No. FF–417; OP4–089]

CF Air Freight, Inc.; Abandonment of Freight Forwarder Service

AGENCY: Interstate Commerce Commission.

ACTION: Notice of the proposed abandonment of service by a freight forwarder affiliated with a motor carrier.

SUMMARY: CF Air Freight, Inc. (CFAF), a freight forwarder, is an affiliate of Consolidated Freightways Corporation of Delaware (CFCD), a motor common carrier. CFAF has petitioned under 49 U.S.C. 10933 for issuance of a certificate allowing abandonment of its service under permit FF–417, and for simultaneous revocation of that permit.

DATE: Comments are due 30 days from publication in the **Federal Register.**

ADDRESSES: Send an original and 6 copies of comments to:

Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

Petitioner's representative, Mark J. Andrews, Suite 1100, 1660 L Street, N.W., Washington, D.C. 20036.

Comments should refer to No. FF–417.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7949.

SUPPLEMENTARY INFORMATION: The permit in question authorizes forwarding of *general commodities* (except classes A and B explosives, household good as defined by the Commission, commodities in bulk, commodities which because of size and weight require the use of special equipment, motor vehicles, and unaccompanied baggage) nonradially between points in the United States (except AK and HI), "restricted to the transportation of shipments having an immediately prior or subsequent movement by air in the air forwarder service of (CFAF), subject to the interpretation made in *Emery Air Freight Corp. Freight Forwarder Applic.*, 339 ICC 17 (1971) * * *"

CFAF argues, generally: (1) That it is primarily an air freight forwarder and will continue such service after the proposed abandonment; (2) that virtually all of its existing surface operations are conducted through motor carriers operating under the "incidental-to-air" exemption of 49 U.S.C. 10526(a)(8)(B), as amended and substantially broadened by the Motor Carrier Act of 1980 (MCA); (3) that the FF–417 permit would be necessary only if CFAF conducted surface operations through *regulated* motor carriers, and therefore has been rendered superfluous by passage of the MCA; and (4) that another CFAF affiliate, CF Forwarding, Inc., is now being activated and would continue to hold unrestricted nationwide general commodity forwarding authority under permit FF–567 after approval of the requested abandonment.

This decision does not appear to have a significant effect on either the human environment or conservation of energy resources. However, comments may be submitted on these issues.

Decided: February 17, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L Mergenovich,

Secretary.

[FR Doc. 83–4479 Filed 2–18–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the

determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 4, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 4, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 14th day of February 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No	Articles produced
J. Schoeneman (ACTWU)	Winchester, VA	2/8/83	2/4/83	TA-W-14,392	Suits and sportcoats—tailored, men's.
Kennecott Minerals Co (workers)	McGill, NV	1/26/83	1/19/83	TA-W-14,393	Copper smelting.
Midland Ross Corp., Grimes Div./Galley Products (workers)	Mansfield, Ohio	2/9/83	2/3/83	TA-W-14,394	Galleys—for commercial airplanes
Mount Vernon Mills, Inc., Tallassee Div (company)	Tallassee, AL	1/26/83	1/21/83	TA-W-14,395	Fabrics—industrial and printcloth
Mushroom Distribution Center (company)	Columbus, Ohio	2/7/83	1/31/83	TA-W-14,396	Warehousing and distribution—mushroom comfort shoes
Barn; of Canal Winchester (company)	Canal Winchester, OH	2/7/83	1/31/83	TA-W-14,397	Soles—mushroom comfort shoes
Pittsburgh Gear Company (workers)	Pittsburgh, PA	2/9/83	2/3/83	TA-W-14,398	Gearing—steel, industrial.
Republic Steel Corp., Research Center (wkrs)	Independence, Ohio	1/26/83	1/21/83	TA-W-14,399	Research.
Republic Steel Corp (USWA)	Chicago, Ill	1/26/83	1/24/83	TA-W-14,400	Tubes—seamless, products
Warner & Swasey Co., Turning Machine Div (IAM&AW)	Solon, Ohio	2/7/83	1/20/83	TA-W-14,401	Machines—cutting, metal, controlled, numerically
Warner & Swasey Co. Turning Machine Div (IAM&AW)	Cleveland, Ohio	2/7/83	1/20/83	TA-W-14,402	Machines—cutting, metal, controlled, numerically
Alco Power, Inc. (USWA)	Auburn, NY	2/7/83	2/1/83	TA-W-14,403	Diesel engines, turbo chargers and related parts.
Anaconda Minerals, Butte Operations (USWA)	Butte, Montana	2/2/83	1/28/83	TA-W-14,404	Copper—mine
Burlington Industries, Posdex Plant (wkrs)	Post, Texas	2/7/83	1/26/83	TA-W-14,405	Muslin sheet and pillow cases
Busby, Inc (workers)	Moses Lake, WA	2/4/83	1/25/83	TA-W-14,406	Marine shipping containers
C.F. Chemicals, Inc (ICWU)	Bartow, FL	1/27/83	1/24/83	TA-W-14,407	Phosphate fertilizer
Cyclops Corp., Detroit Strip Div (USWA)	Hamden, Conn	2/7/83	2/2/83	TA-W-14,408	Carbon steel
Dynamit Nobel-Harte, Inc. (Int'l Leather Goods)	Boundbrook, NJ	1/24/83	12/30/82	TA-W-14,409	Calendar vinyl sheeting, shower curtains, ind. sheeting, above ground swimming pools sheeting.
Lehigh Portland Cement Co (Cement Workers)	Allentown, PA	2/4/83	1/26/83	TA-W-14,410	Cement.
Lehigh Structural Steel Co (wkrs)	Allentown, PA	2/4/83	2/1/83	TA-W-14,411	Fabricated steel buildings and bridges
Max Rubin Industries (company)	Baltimore, MD	2/2/83	1/31/83	TA-W-14,412	Suits, sportcoats, pants—men's
Carteret Novelty Co (ILGWU)	Carteret, NJ	1/27/83	1/24/83	TA-W-14,413	Blouses—ladies.
Carteret Novelty #2 Cutting (ILGWU)	Newark, NJ	1/27/83	1/24/83	TA-W-14,414	Blouses—ladies.
C.F. Industries, inc (workers)	Donaldsonville, LA	2/10/83	1/21/83	TA-W-14,415	Nitrogen fertilizer
Cuddle Teen Frocks, Inc (ILGWU)	Jersey City, NJ	2/9/83	2/2/83	TA-W-14,416	Dresses, childrens'
Elizabeth Undergarment (ILGWU)	Hackettstown, NJ	1/27/83	1/24/83	TA-W-14,417	Undergarments.
Just Sew, Inc. (ILGWU)	Rockaway, NJ	1/27/83	1/24/83	TA-W-14,418	Blouses—ladies
Lake Shore, Inc (USWA)	Marquette, MI	2/2/83	1/27/83	TA-W-14,419	Cargo cranes.
Mar Jo, Inc (ILGWU)	Orange, NJ	1/27/83	1/24/83	TA-W-14,420	Dresses.
Process & Systems, Engineering Co., Inc (workers)	Mobile, AL	2/10/83	2/10/83	TA-W-14,421	Tanks, built-up, erected pressure vessels—built-up, erect-
Reed Tubular Products (USWA)	Sugar Land, Texas	1/31/83	1/27/83	TA-W-14,422	Tool joints.
Republic Steel Corp (workers)	Pittsburgh, PA	2/10/83	2/3/83	TA-W-14,423	Sales office—district.
Western Electric Co. (IBEW)	Kearny, NJ	2/4/83	1/31/83	TA-W-14,424	Communication power equipment, relays, connectors and metal products.

[FR Doc. 83-4413 Filed 2-18-83; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period February 7, 1983–February 11, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-13,639; Atlantic Steel Co., Atlanta, GA and Cartersville, GA

In the following cr e the investigation revealed that criterion had not been met. Increased imports did not contribute importantly to workers separtions at the firm.

TA-W-13,659; Florida Steel Corp., Indiantown, FL

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-13,658; Flat Gap Mining, Inc., Norton, VA

Aggregate U.S. imports of metallurgical coal are negligible.

TA-W-13,656; Clinchfield Coal Co., Dante, VA

Aggregate U.S. imports of coal or coke did not increase as required for certification.

Affirmative Determinations

TA–W–13,515; Richton Headwear Co., Buffalo, NY

A certification was issued covering all workers of the firm separated on or after August 1, 1981.

TA–W–13,179; Allegheny Ludlum Steel Corp., Brackenridge, PA

A certification was issued in response to a petition received on January 12, 1982 covering all workers separated on or after July 1, 1981.

TA–W–13,812; U.S. Steel Corp., Steel Supply Div., Fairless Hills, PA

A certification was issued in response to a petition received on September 16, 1982 covering all workers separated on or after September 10, 1981.

TA–W–13,269 Bethlehem Steel Corp., Bethlehem Plant, Bethlehem, PA

A certification was issued covering all workers of the firm separated on or after February 5, 1981.

TA–W–13,180; Allegheny Ludlum Steel Corp., W. Leechburgh, PA

A certification was issued covering all workers of the firm separated on or after July 1, 1891.

TA–W–13,606; Inverness Mining Co., Cave-In-Rock, IL

A certification was issued covering all workers of the firm separated on or after November 1, 1981.

TA–W–13,643; B.R.M., Inc./Harbour Road Div., Blue Ridge, GA

A certification was issued in response to a petition received on July 10, 1982 covering all workers separated on or after June 24, 1981.

TA–W–13,384; Tecumseh Products Co., Tecumseh Div., Tecumseh, MI

A certification was issued in response to a petition received on March 29, 1982 covering all workers separated on or after March 29, 1981.

I hereby certify that the aforementioned determinations were issued during the period February 7, 1983–February 11, 1983. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW Washington, D.C. 20213 during normal business hours will be mailed to persons who write to the above address.

Dated: February 15, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83–4414 Filed 2–18–83; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

Occupational Safety and Health Administration

Interagency Agreement; Revision Concerning Surface Retorting of Oil Shale

Background and Purpose

The Mine Safety and Health Administration (MSHA), and the Occupational Safety and Health Administration (OSHA), agencies of the U.S. Department of Labor, entered into an agreement, effective March 29, 1979, to delineate certain areas of authority, set forth factors regarding determinations of convenience of administration, provide a procedure for determining general jurisdictional questions, and provide for coordination between MSHA and OSHA in all areas of mutual interest. The agreement appears in the **Federal Register** at 44 FR 22827, April 17, 1979.

The general principle embodied in the agreement is that as to unsafe and unhealthful working conditions on mine sites and in milling operations, the Secretary of Labor will apply the provisions, of the Federal Mine Safety and Health Act of 1977 (Mine Act) and standards promulgated thereunder to eliminate those conditions. Where the Mine Act is determined not to apply to a workplace, the Secretary of Labor will apply the provisions of the Occupational Safety and Health Act of 1970 and standards promulgated thereunder to such working conditions.

In defining "coal or other mine," section 3(h)(1)(C) of the Mine Act (30 U.S.C. 802(h)(1)(C)), provides that the term applies to, among other things, lands, structures, facilities, equipment or other property used in, or to be used in, the milling of minerals. The term "milling" is defined in Appendix A to the MSHA-OSHA agreement as "the art of treating the crude crust of the earth to produce therefrom the primary consumer derivatives." The agreement goes on to state that the essential operation in all mineral milling is separation of one or more valuable desired constituents in the mined material from the undesired contaminants. The agreement elaborates on the definition of milling by listing a number of processes which in general, are considered to be subject to MSHA authority.

Notwithstanding the listing of certain operations as mineral milling, Paragraph B.3 of the agreement acknowledges that there will be areas of uncertainty regarding the application of the Mine Act, especially in operations near the termination of the milling cycle and the beginning of the manufacturing cycle. Paragraph B.4 of the agreement provides that the scope of the term milling under the Mine Act, and accordingly, the scope of MSHA authority, may either be expanded to apply to mineral product manufacturing processes where these processes are related technologically or geographically, to milling; or narrowed to exclude processes listed in Appendix A where the processes are unrelated, technologically, or geographically, to mineral milling. Determinations of the scope of the term milling are to be made by agreements between MSHA and OSHA.

This notice is for the purpose of announcing an agreement by MSHA and OSHA concerning which agency will exercise authority over surface retorting of oil shale.

Development and Characteristics of Surface Retorting of Oil Shale

Oil shale technology has been developing for more than 35 years. From the beginning, the projects involved mining of the shale by traditional mining methods, crushing and sizing of the shale and heating of the shale in surface retorts to a sufficient temperature to extract the solid organic matter, known as kerogen, from inorganic matter consisting of clay and other minerals. Until recently, oil shale development has been experimental in nature, characterized by projects of limited size. This agreement is prompted by recent developments concerning commercial scale oil shale retorting operations. Generally, the commercial oil shale retorting operations currently under construction or being planned are more complex than earlier experimental operations. The nature of these commercial operations requires a continuous, uninterrupted process or flow of oil shale through feed preparation facilities and the retort. Furthermore, since the primary product of all retorting is a heavy, viscous crude shale oil, likely to require some thinning or partial refining prior to transportation, commercial scale operations are expected to include shale oil upgrading and transportation facilities in close physical proximity to the retort. Accordingly, surface oil shale retorting, shale oil upgrading and transportation are closely related technologically and operationally to petroleum refining and are distinguishable from mineral milling.

We note that an alternative method of oil shale retorting, known as the modified in situ (MIS) process, is also under development. This process involves the creation of an underground

chamber through mining methods and blasting of shale to fill the chamber with broken shale, which is then heated (retorted) in order to draw off the kerogen. Since the MIS process involves mining and related operations carried out underground, it falls squarely within the statutory definition of mining and is not affected by this agreement.

Agreement

The purpose of this agreement is to classify surface oil shale retorts and associated feed preparation, upgrading and transportation facilities as other than milling and therefore outside the scope of MSHA authority. The MSHA–OSHA agreement provides at paragraph B.5 that the following factors, among others, shall be considered in making determinations of what constitutes mineral milling under section 3(h)(1)(C) of the Mine Act and accordingly, whether the operation is subject to either MSHA or OSHA authority: (1) The processes conducted at the facility, (2) the relation of all processes at the facility to each other and (3) the expertise and enforcement capability of each agency with respect to the safety and health hazards associated with all the processes conducted at the facility.

The MSHA–OSHA agreement further provides at paragraph B.6.b. that certain operations, including refineries, are included under the authority of OSHA, whether or not located on mine property.

In the case of surface retorting of oil shale, MSHA and OSHA have examined the factors listed in the agreement. Based on the technological aspects of the operations and their expected future development, the appropriateness of the safety and health standards of MSHA and OSHA applicable to the working conditions involved in surface retorting of oil shale and the respective agencies general experience and expertise with similar operations, the agencies have concluded that the workers' safety and health would be better served by OSHA's exercise of authority over the surface retorting operations. This determination will apply to all surface oil shale retorting operations, whether or not located on mine property.

Accordingly, Appendix A of the MSHA–OSHA Interagency Agreement, 44 FR 22830, is revised as follows:

1. The definition of "Retorting" is amended to read as follows:

"Retorting is a process usually performed at certain mine sites, and is accomplished by heating the crushed material in a closed retort to volatilize the metal or material which is then condensed and recovered as upgraded metal or material. For purposes of this agreement surface retorting of oil shale does not constitute milling."

2. The following paragraph is added at the end of the Agreement following the definition of "Refining:"

"Surface Oil Shale Retorting

Commences at the point where oil shale leaves the storage area and enters the continuous flow process which is controlled from the retort."

Period of Agreement

This agreement shall continue in effect until modified or terminated by mutual consent of both parties or terminated by either party upon thirty (30) days advance written notice to the other, or by operation of law.

This agreement will become effective on the date of the last signature.

Dated: January 31, 1983.

Mine Safety and Health Administration.

Ford B. Ford,

Assistant Secretary of Labor for Mine Safety and Health.

Dated February 14, 1983.

Occupational Safety and Health Administration.

Thorne G. Auchter,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 83-4412 Filed 2-18-83; 8:45 am]

BILLING CODE 4510-43-M, 4510-26-M

Office of Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Wednesday, March 16, 1983, in Room S–4215C, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, D.C.

The purpose of the meeting, which will begin at 9:30 a.m., is to consider the items listed below and to invite public comment on any aspect of the administration of ERISA.

1. Installation of New Members.
2. Administrator's Report.
3. Panel Discussion: Role of Fiduciary Liability Insurance.
4. Statements from the Public.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before Tuesday, March 15, 1983, to the Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room S–4522, Third and Constitution Avenue, NW., Washington, D.C. 20216.

Persons desiring to address the Council should notify Edward F. Lysczek, Executive Secretary of the Advisory Council, in care of the above address or by calling (202) 523–8753.

Signed at Washington, D.C., this 15th day of February 1983.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs.

[FR Doc. 83-4360 Filed 2-18-83; 8:45 am]

BILLING CODE 4510-29-M

LIBRARY OF CONGRESS

American Folklife Center; Board of Trustees

In accordance with Pub. L. 94–463, the Board of Trustees of the American Folklife Center announces its meeting to be held on Friday, March 25, 1983, in the Wilson Room of the Library of Congress from 9:30 a.m. to 5:00 p.m. The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Eleanor Sreb, American Folklife Center, (202) 287–6590.

The American Folklife Center was created by the U.S. Congress with passage of Pub. L. 94–201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publication, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done by contract by others. In the brief period of the Center's operation it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife

Raymond L. Dockstader,

Deputy Director, American Folklife Center.

[FR Doc. 83-4384 Filed 2-18-83; 8:45 am]

BILLING CODE 1410-01-M

MERIT SYSTEMS PROTECTION BOARD

Publication of Decisions

AGENCY: Merit Systems Protection Board.

ACTION: Notice of publication of decisions.

SUMMARY: The Merit Systems Protection Board announces the publication of Volumes 5, 6, and 7, Decisions of the United States Merit Systems Protection Board; a multi-part index using the Board's key number system is included in each volume. The volumes are available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; Stock No. 062–000–00011–2; price: $40.

FOR FURTHER INFORMATION CONTACT: Ada R. Kimsey, Chief, Editorial Services Branch, Legal Publications Division, Office of the Secretary, 5205 Leesburg Pike, Suite 1404, Falls Church, VA 22041, 703–756–6388.

SUPPLEMENTARY INFORMATION: These volumes cover the period January 1, 1981 through September 30, 1981. Included are Board final actions and precedential interlocutory decisions.

Also available from the Superintendent of Documents are:

—Volumes 1 and 2 and companion index volume; January 11, 1979—July 22, 1980; $30 for the set: Stock No. 062–000–00002–3.

—Volumes 3 and 4, including multi-part index; July 23, 1980—December 31, 1980; $25 for the set; Stock No. 062–000–00009–1.

Other publications of the Board include:

—The DIGEST, a monthly, which contains summaries and listings of current decisions indexed to the Board's key number system; it may be ordered form the Superintendent of Documents at $19 per year ($23.75 outside the United States), or $3.25 per issue ($4.10 outside the United States); Federal agencies may order by sending a purchase order to the Superintendent of Documents, U.S. Government Printing Office; and

—"Federal Employee Appeals Decisions"—microfiche and indexes of initial decisions—which is available on subscription from the National Technical Information Service at $150 year.

Dated: February 10, 1983.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 83–4418 Filed 2–18–83; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83–17]

Privacy Act of 1974; Amended System of Records

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Amendment to NASA Systems of Records.

SUMMARY: This Notice amends NASA Systems of Records by changing the title of "100MEH&S, System of Occupational Medicine, Environmental Health and Safety Records—NASA," to "10HIMS, Health Information Management System—NASA" and by revising the following paragraphs:

(a) In "System location." add "and" before "Environmental Health Offices," and delete "and Safety Offices."

(b) In "Categories of records in the system:" at the end of the first paragraph delete "and safety records" and at the end of the second paragraph substitute "health hazard" for "safety and."

(c) In "Routine uses of records maintained in the system, including categories of users and the purposes of such uses:" at the end of the first paragraph add "and" before "for determining" and delete "and for Safety purposes" at the end of the sentence. Add a new routine use at the end of the third paragraph "(7) Disclosure to the public of a summary of flight crew information as it relates to mission impact, and limited to name, diagnosis, treatment, and prognosis;" and renumber existing "(7)" as "(8)."

(d) In "Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:" in the paragraph entitled "Storage" and "microfiche," after the word "x-rays," and in the paragraph entitled "Safeguards;" add "and" in the first sentence before "environmental health" and delete "and safety."

(e) In " Retention and disposal" change "CSC" to "Office of Personnel Management."

(f) In "System manager(s) and address:" change "Chief" to "Director."

DATE: Comments must be received in writing on or before March 3, 1983. Unless a notice is published in the **Federal Register** indicating changes to be made, this Amendment will be effective on March 8, 1983.

ADDRESS: Comments should be addressed to the Director, NASA Occupational Health Office (NPG–34), NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Walton L. Jones, M.D., telephone (202) 755–2206.

SUPPLEMENTARY INFORMATION: NASA published its Privacy Act of 1974; Annual Publication of Systems of Records (NASA Notice 82–60) on October 26, 1982 (47 FR 47489–47505). This Amendment revises NASA 100MEH&S of that Notice (47 FR 47497–47498).

Notice 82–60, October 26, 1982, is amended by changing the title of the system to "NASA 10HIMS—Health Information Management Sysetem—NASA," and the text to read as follows:

NASA 10 HIMS

SYSTEM NAME:

Health Information Management System—NASA.

SYSTEM LOCATION:

In Medical Clinics/Units and Environmental Health Offices at locations 1 through 15 inclusive as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NASA Civil Service employees and applicants; other Agency civil service and military employees working at NASA; visitors to field installations; on-site contractor personnel who receive job related examinations, have mishaps or accidents, or come to clinic for emergency or first aid treatment; space flight personnel and their families.

CATEGORIES OF RECORDS IN THE SYSTEM:

General medical records of first aid, emergency treatment, examinations, exposures, and consultations.

Information resulting from physical examinations, laboratory and other tests, and medical history forms; treatment records; screening examination results; immunization records; administration of medications prescribed by private/personal physicians; statistical records; examination schedules; daily log of patients; correspondence; chemical, physical, and radiation exposure records; other environmental health data; alcohol/drug patient information; consultation records; and health hazard and abatement data.

Astronauts and their families—more detailed and complex physical examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101; OMB Circular A-72; Pub. L. 92–255; Pub. L. 79–658.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used within NASA for the following purposes: Reference by examining physicians in conduct of physical examinations; review by physicians in consideration of fitness for duty; evaluation for physical disability retirement; statistical data development; patient recall; in-space medical evaluation for astronauts; exposure data for radiation/toxic exposure limits, compliance and examinations; consultations; evaluation of employees, applicants, and contractor employees for specialized or hazardous duties; and for determining reliability pursuant to the Space Transportation System-Personnel Reliability Program (14 CFR Part 1214 Subpart 1214.5, NASA Management Instruction 8610.3).

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Referral to private physicians designated by the individual when requested in writing; (2) Patient referrals; (3) Referral to OPM, OSHA and other Federal agencies as required in accordance with these special program responsibilities; (4) Referral of information to a non-NASA individual's employer; (5) Evaluation by medical consultants; (6) Disclosure to the employer of non-NASA personnel, information affecting the reliability of such office or employee for purposes of the Space Transportation System, Personnel Reliability Program; (7) Disclosure to the public of a summary of flight crew information as it relates to mission impact, and limited to name, diagnosis, treatment, and prognosis; and (8) Standard routine use 4 as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Records are in file folders, punch cards, electrocardiographic tapes, x-rays, microfiche, and computer discs and tapes. They are handled between NASA installations by telecommunications.

RETRIEVABILITY:

By name, date of birth and social security number.

SAFEGUARDS:

Access limited to concerned medical and environmental health personnel on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR Part 1212.

RETENTION AND DISPOSAL:

In accordance with Office of Personnel Management regulations and NASA Control Schedule II. Records on astronauts are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NASA Occupational Health Office, Location 1. Subsystem Managers: Medical Director or Medical Administrator at Locations 1 through 15 inclusive as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 CFR Part 1212.

RECORD SOURCE CATEGORIES:

Individuals, physicians and previous medical records of individuals.

Walter B. Olstad,

Associate Administrator for Management.

[FR Doc. 83–4361 Filed 2–18–83; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel (Demonstration); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Demonstration) to the National Council on the Arts will be held on March 8–9, 1983 from 9:00 a.m.–5:30 p.m. in Columbia Plaza Office Building, Room 1422, 2401 E Street, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 14, 1983.

[FR Doc. 83–4379 Filed 2–18–83; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or

utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effect in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 9th day of February at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER EXPORTS

Name of applicant, date of application, date received, application No.	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., Jan. 26, 1983, Jan 27, 1983, XSNM01912(01)	3.30 pct enriched uranium	[1]14,101 000	[1]457 033	Amend to increase quantity of material authorized for export, to Ringhals 2	Sweden
Edlow Int'l, Feb. 2, 1983, Feb. 24, 1983, XSNM01997(02)	4.05 pct enriched uranium	[1]75,000.00	[1]3,037.50	3 reloads of fuel for Forsmark Unit 2	Sweden
		65,000.00	2,632.50	3 reloads of fuel for Ringhals Unit 1	[redacted]
Mitsubishi Int'l, Jan. 26, 1983, Feb. 4, 1983, XSNM02017	3.45 pct enriched uranium	19,754	682	Reload fuel for Genkai Unit 2	Japan
Pechiney Ugine Kuhlmann Development, Inc., Feb 3, 1983, Feb. 7, 1983, XSNM02018.	19.75 pct enriched uranium	30.000	5 985	Working inventory for RERTR Program at CERCA	France

[1] Additional

[FR Doc. 83-4287 Filed 2-18-83; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer Who Contributes to a Multiemployer Plan: National Fruit Canning Company/ Oregon Processors Seasonal Employees Pension Trust Fund

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted National Fruit Canning Company an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from this requirement was published on November 16, 1982 (47 FR 51644). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrustion into normal business transactions.

ERISA section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On November 16, 1982 (47 FR 51644), the PBGC published a notice of the pendency of a request from National Fruit Canning Company ("National") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA, in connection with the purchase by National of substantially all of the assets of Seabrook Foods, Inc. ("Seabrook") located at Albany, Oregon. The sale of assets became effective on February 1, 1982. No comments were received in response to the notice.

Seabrook contributed to the Oregon Processors Seasonal Employees Pension Trust Fund (the "Fund"). As of December 31, 1981 Seabrook's potential withdrawal liability to the Fund had been calculated to be $36,127. The amount of the bond or escrow required under section 4204(a)(1)(B) is $10,120 (the average annual contribution required to be made by Seabrook for the three plan years preceding the sale).

According to audited statements for the fiscal year ending on April 30, 1981, National had net assets of approximately $11.6 million, and an average net income after taxes for fiscal years 1978–1981 of about $1.7 million.

Based on the facts of this case and the representations and statements made in connection with the request for exemption, PBGC has determined that an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the plan. Therefore, PBGC hereby grants National's request for an exemption from the bond/escrow requirement. The granting of an

exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, D.C. on this 11th day of February, 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-4357 Filed 2-18-83; 8:45 am]

BILLING CODE 7708-01-M

Pendency of Request for Approval of Special Withdrawal Liability Rules; ILGWU National Retirement Fund

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from the ILGWU National Retirement Fund for approval of a plan amendment providing for special withdrawal liability rules. Under section 4203(f) of the Employee Retirement Income Security Act of 1974, as amended, a plan may establish special withdrawal liability rules if PBGC finds that the rules apply to an industry that has the characteristics that would make use of the special rules appropriate, and that the rules would not pose a significant risk to the PBGC insurance system. The effect of this notice is to advise interested persons of this request for approval of special withdrawal liability rules and to solicit their views on it.

DATE: Comments must be submitted on or before April 8, 1983.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The complete request for approval is available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m. Any comments received will also be made available to the public at the above address at those times.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Under section 4203(a) of Employee Retirement Income Security Act of 1974, as amended ("ERISA") a complete withdrawal is generally defined as the permanent cessation of an employer's obligation to contribute under the plan, or the permanent cessation of all covered operations under the plan. Under section 4205, a partial withdrawal generally occurs when an employer reduces covered operations by seventy percent, or removes a continuing facility or bargaining unit from the plan while continuing to do the previously covered work in the area. Thus, the general rules on complete and partial withdrawal identify those events that normally result in a loss to the plan's contribution base.

However, Congress recognized that, in certain industries and under certain circumstances, a complete or partial cessation of the obligation to contribute by an employer normally does not weaken the plan's contribution base. For that reason, Congress established special withdrawal rules for the construction and entertainment industries.

Under the definition in ERISA section 4203(b)(2), a complete withdrawal occurs only if a construction industry employer ceases to have an obligation to contribute under the plan, and the employer either continues to perform previously covered work in the area of the collective bargaining agreement or resumes such work within five years without renewing the obligation to contribute at the time of resumption. Section 4203(c)(1) applies the same special definition of complete withdrawal to the entertainment industry, except that the pertinent area is the area of the plan rather than the area of the collective bargaining agreement. In contrast, the general definition of complete withdrawal imposes liability regardless of the continued activities of the withdrawn employer (section 4203(a)).

Congress also established special partial withdrawal liability rules for the construction and entertainment industries. In construction, a partial withdrawal occurs "only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required" (ERISA section 4208(d)(1)). The entertainment industry is exempt from partial withdrawal liability "except under the conditions and to the extent prescribed by the corporation by regulation" (section 4208(d)(2)).

ERISA section 4203(f) provides that PBGC may authorize plans in industries other than construction and entertainment to adopt special complete withdrawal liability rules similar to those for the construction and entertainment industries in section 4203(b) and (c). Section 4208(e)(3) provides that PBGC may permit plans to adopt special partial withdrawal liability rules upon a finding by PBGC that the rules are consistent with the purposes of Title IV of ERISA. Under ERISA section 4203(f) and § 2645.4(a) of the PBGC's regulation on procedures for extension of special withdrawal liability rules (47 FR 12622, March 24, 1982), PBGC will approve a plan amendment establishing special withdrawal rules if the PBGC determines that the plan amendment—

(A) Will apply only to an industry that has characteristics that would make use of the special withdrawal rules appropriate; and

(B) Will not pose a significant risk to the insurance system.

In making these determinations, PBGC will conduct a comprehensive analysis of the request, the actuarial data submitted and other relevant information relating to the industry and the plan. PBGC may condition its approval of the special rules on the plan's taking certain additional actions in order to ensure satisfaction of the regulatory standards. For example, PBGC approval may be conditioned on the plan's modification of the rules or a change in the plan's funding practices.

In order for the PBGC to determine whether a special withdrawal rule is appropriate, § 2645.3(d)(7) of the regulation requires that plans provide information on the industry which is the subject of the rule. This includes information on the effects of withdrawals on the plan's contribution base, as well as information sufficient to demonstrate the existence of industry characteristics which would indicate that withdrawals in the industry do not typically have an adverse effect on the plan's contribution base. (These characteristics include the mobility of employees, the intermittent nature of employment, the project-by-project nature of the work, extreme fluctuations in the level of an employer's covered work under the plan, the existence of a consistent pattern of entry and withdrawal by employers, and the local nature of the work performed.)

Under § 2645.2(a) of the regulation, a special partial withdrawal rule must be consistent with the rule the plan has adopted on complete withdrawals. The regulation also requires that a plan indicate how the special rules will operate in the event of a sale of assets by a contributing employer or the withdrawal from the plan of all employers (§ 2645.3(d)(4)). Finally, § 2645.4(b) requires PBGC to publish a notice of the pendency of a request for approval of special withdrawal rules in the **Federal Register**, and to provide interested parties with an oppportunity to comment on the request.

The Request

PBGC has received a request from the ILGWU National Retirement Fund (the "Plan") for approval of a Plan amendment providing for special withdrawal liability rules. In the request, the Plan represents, among other things, that:

The Plan

The Plan is a multiemployer plan, with approximately 8,000 contributing employers that is maintained pursuant to various collective bargaining agreements between the International Ladies' Garment Workers' Union ("ILGWU") and various employer associations and individual employers. The Plan covers worker employed in the apparel manufacturing industry, primarily the women's apparel industry. While the Plan is nation-wide in scope, coverage is heavily concentrated in the northeaster states. Approximately 70 percent of the Plan's active workers are located in New York, Pennsylvania, New Jersey and Massachusetts.

As of January 1, 1981, the Plan covered about 270,000 active workers, and was paying benefits to about 105,000 pensioners and beneficiaries. For the plan year ending December 31, 1980, which is the latest year for which a complete financial report is available, the Plan had assets of $290.2 million, received contributions of $138 million and had other income of $28.6 million. Benefits paid in that year equalled $119.6 million, and expenses were $8.4 million. Thus, for the 1980 plan year, the assets of the Plan were about twice the size of benefits paid, and income exceeded disbursements by about $38 million.

Contributions to the Plan are paid primarily by manufacturers and jobbers, based on a percentage of payroll. Current collective bargaining agreements generally provide for manufacturers and jobbers to contribute to the Plan an amount equal to 8.75 percent of the wages they pay to covered employees. Contractors, which are engaged in the sewing of garments under contract with a manufacturer or jobber, generally do not pay contributions to the Plan.[1] Instead, the manufacturer or jobber for whom a contractor is working generally required to contribute a percentage (currently 6.5625 percent) of all payments made to the contractor. A contribution of 6.5625 percent of all payment to a contractor is equivalent to 8.75 percent of the wages paid by the contractor to its employees. Thus, all contributions to the Plan are tied to wage levels in the industry.

Types of Contributing Employers

Employers contributing to the Plan fall into three general categories: manufacturers, jobbers and contractors. These types of employers are described as follows in the request.

A manufacturer operates its own production facility known as an "inside shop", where garments are made by its own employees from materials furnished. The manufacturer maintains its own showroom and warehouse, and sells the completed garments directly to wholesalers or retailers. If there is more work than be can handled, a manufacturer may send some of the excess to one or more contractors.

A jobber generally has no sewing facilities. A jobber may, however, employ a few "sample hands" to make samples from its designs. A jobber may also employ a small number of "cutters," who cut the jobber's material for shipment to a contractor for completion of the manufacturing process. Jobbers have their own showrooms and warehouses, and sell completed garments to wholesalers or retailers.

A contractor maintains a production facility, where it employs workers to make garments for jobbers and manufacturers on a contract basis. As a rule, the textiles are supplied by the jobbers and manufacturers, who also furnish the necessary designs. The contractor may or may not cut the materials furnished by the jobber or manufacturer.

The Industry Subject to the Rule

The proposed special withdrawal rules will apply to those segments of the apparel industry which are covered by an ILGWU collective bargaining agreement requiring contributions to the Plan. According to the request, the Plan covers the manufacture of all types of women's and children's garments including sportswear and lingerie, blouses, girdles and brassieres, knitted outerwear, snow suits, children's outerwear, rainwear, knitted underwear, accessories, and embroideries.[2] Although women's and children's apparel manufacturing is the principal industry covered by the Plan, other types of apparel activity may also be covered *e.g.*, manufacture of men's and boys' underwear, as well as certain wholesale and retail activities.

Special Characteristics of the Plan and Industry

The request described various special characteristics of the industry and the Plan, which, in the opinion of the request, suggested the appropriateness of special withdrawal liability rules. The following is a presentation of the Plan's statements in that regard.

(a) *Mobile, intermittent and project-by-project nature of employment.* The women's and children's garment industry, according to the request, is unique because of "the pivotal and unpredictable role of fashion." While total output of the industry is generally stable, output of a specific manufacturer or jobber may fluctuate "in response to the success or failure" of current designs and changing fashions. In order to cope with the unpredictable nature of demand for a line, the industry has developed a "unique production and distribution system." The request further states—

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[1] However, the obligation of contractors to directly make contributions to the Plan varies in different parts of the country. In the New York City Area, contractors directly contribute only for work performed for nonsignatory manufacturers and jobbers. In the Midwest, contractors are obligated to contribute for all work but receive a credit for contributions made by manufacturers and jobbers. In other areas, the prevailing arrangement is for contractors to contribute for all work that they perform instead of having the manufacturer or jobber contribute for contract work.

[2] Under the Standard Industrial Classification Manual (SIC), developed by the Office of Management and Budget, the principal manufacturing activities covered by the Plan fall under the following industry codes:

—*SIC 2331:* Women's, Misses', and Juniors' Blouses,

—*SIC 2335:* Women's, Misses', and Juniors' Dresses

—*SIC 2337:* Women's, Misses', and Juniors' Suits, Skirts, and Coats

—*SIC 2339:* Women's, Misses', and Juniors' Outerwear, Not Elsewhere Classified (*e.g.*, aprons, beachwear, uniforms)

—*SIC 2341:* Women's, Misses', and Children's and Infants' Underwear and Nightwear

—*SIC 2342:* Brassieres, Girdles, and Allied Garments

—*SIC 2361:* Girls', Children's and Infants' Dresses, Blouses, Waists, and Shirts

—*SIC 2363:* Girls', Children's and Infants' Coats and Suits

—*SIC 2369:* Girls', Children's, and Infants' Outerwear, not Elsewhere Classified (*e.g.*, bathrobes, beachwear, shorts)

—*SIC 238:* Miscellaneous Apparel and Accessories

Manufacturers and jobbers generally make up samples of their lines, for the purpose of obtaining orders to be filled by later production. The samples are displayed to potential customers in showrooms maintained by the manufacturer, at regional shows in which many manufacturers participate, and on the customer's premises by manufacturers' sales representatives. Thus, for the most part, production is on a projected-by-project basis. If a sample does not sell, that garment is not produced or is produced in very limited quantities. Just as a particular garment may not sell, an entire line may fail to attract significant orders.

In order to fill orders for lines, jobbers, and to some extent, manufacturers, utilize contractors to produce garments according to their specifications and designs. Thus, the request states that employment of a contractor's workers can be irregular and intermittent, since the contractor's level of work is dependent upon the placement of orders by a jobber or manufacturer. If the contractor produces only seasonal garments (*e.g.*, swimwear), the contractor may close-down for part of the year. Almost 60% of covered participants of the Plan are employed by contractors.

In addition, according to the request, a garment employee generally works for many different jobbers, manufacturers, and contractors over his or her career. A survey involving ten percent of the 8,000 applicants for benefits in 1980 suggested that, on the average, an applicant worked for more than five direct employers during his or her period of covered employment. Even a participant who works for only one contractor is very likely to have contributions paid on his or her behalf by a number of jobbers or manufacturers.

(b) *Pattern of employer entry and withdrawal.* According to the request, "the competitive nature of [the] industry and the fluctuations in sales attributable to changes in fashion combine to cause a high attrition rate among employers in the women's and children's garment industry."

To demonstrate the high degree of turnover among apparel manufacturers, the request cites a report prepared by the New York State Department of Labor. That report, which covered apparel manufacturers in New York State, showed that from January 1, 1974 to January 1, 1977, about 2,000 or almost 25% oof the approximately 8,000 apparel firms in New York State went out of business. The report also indicated that, in the same three year period, 1,460 new firms entered the New York apparel industry. The report included all apparel manufacturers in New York State, not just those covered by the Plan or those producing garments of a type covered by the Plan.

As to the employer attrition rates specifically applicable to the Plan, the request states that "within the course of a given year, five to ten percent of the firms whose employees are covered by the [Plan] may go out of business." Business failure in the industry involves large as well as small employers. Three of the 12 largest contributors to the Plan in 1975 had gone out of business by 1980.

(c) *Effect of withdrawals.* According to the request, the Plan's contribution base generally is not impaired by contributing employers who go out of business. The Plan states that, when an employer goes out of business or suffers a decline, its work is normally picked up by an existing or new contributing employer. To demonstrate the absence of adverse impact of employer withdrawals, the Plan cited U.S. government statistics, indicating a stable level of output in the industry, and provided data showing a steady increase in contributions.

According to U.S. Bureau of the Census statistics cited in the request, from January 1, 1974 to January 1, 1980, the "physical volume of *all types* of output in the women's and children's apparel industry was relatively stable, amounting to about $8.36 billion in 1974 and $8.01 billion in 1979, measured in 1967 dollars." (Emph. in request.) The request also noted that in 1980, the Plan covered 261,000 active workers as compared to 298,000 active workers in 1976. Thus, over that five year period, active employment under the Plan declined at an annual compound rate of 3.3 percent.

In addition, the Plan pointed out that, in the period from 1970 to 1981, total Plan contributions increased from $44.3 million to $153.8 million. As previously mentioned, employer contributions under the plan are determined as a percentage of total pay. Since 1970, the percentage has gone from 2.9 percent to 8.25 percent. That increase coupled with higher wages has, as the Plan observed, resulted in contributions tripling over the 1970–1981 period. However, the request also indicated that the total covered payroll increased from $1.5 billion in 1970 to $1.9 billion in 1981, a smaller proportionate increase than the amount in employer contributions during the same period.

(d) *Local nature of the work.* The work covered by the Plan involves significant geographical concentration, *e.g.* the area of New York City. However, as the request indicated, the manufacture of women's and children's apparel is capable of being performed elsewhere. Since the work in this industry like many other manufacturing activities is not local-based, an employer operating in a particular area could relocate its operations without giving up its share of the market. For that reason, continued performance of the same type of work in another geographic area could be harmful to the Plan's contribution base.

However, in response to that potentiality, the Plan's proposed rule would only exempt from withdrawal liability an employer who ceases to be involved in the business of manufacturing or selling garments, which are covered under collective bargaining agreements requiring contributions to the Plan. Thus, if a covered employer ceases women's apparel operations in New York City and commences similar operations in Alabama on a noncontributing basis, the employer would have withdrawal liability. So too, if a covered employer discontinued the direct manufacture of apparel, but contracted the manufacturing work to nonunion contractors or to foreign producers, the employer would have withdrawal liability.

Actuarial Data

As part of its request, the Plan submitted copies of its three most recent actuarial valuation reports. Plan costs are determined under the Frozen Initial Liability (FIL) level percent of pay method. Moreover, as contemplated by ERISA section 1013(d), the unfunded FIL is amortized as a level percent of payroll with a minimum amortization payment set at interest on the unfunded liability.

Prior to 1980, the maximum monthly plan benefit payable at age 65 was $100 and was service based. Following the last collective bargaining cycle, the maximum benefit was increased to $120; an excess pay portion up to a monthly maximum of $30 was also added for participants with final average annual earnings in excess of $15,000. Data submitted with the request show that average covered earnings were $5,582 in 1976 and $6,608 in 1980. Benefits can thus be viewed as remaining essentially unrelated to pay. Plan contributions on the other hand are related to pay and were determined as follows for selected years:

Year	Average contribution percent [1]
1970	2.93
1975	3.79

Year	Average contribution percent [1]
1980	8.0
1981	[illegible]

[1] Average contribution percent of payroll.

The dramatic increase in contribution rates has reversed the negative cash flow trend. In consequence, contributions exceeded benefit payout in 1980, notwithstanding an 8.2 percent decrease in the number of active participants and a 23.8 percent increase in inactive participants. The unfunded actuarial liability increased $214.4 million as a result of the recent plan amendments. It is likely that this was the primary cause for the $236.8 million increase in the unfunded value of vested liability. PBGC notes that plan benefits would be fully guaranteed by PBGC under section 4022A for virtually all plan participants.

The Plan determines costs as a level percent of assumed increasing pay while benefits are service based. Thus this method assumes future contribution increases without taking cognizance of future benefit increases. PBGC notes that this method is prohibited under proposed minimum funding regulations issued by the Department of the Treasury for non-multiemployer plans. When viewed in conjuction with the asset, liability and payout mix presented in the table below, this funding approach leaves little margin for contingencies such as a drop in the contribution base or a decline in actuarial gains from retirements deferred beyond the normal retirement age.

A summary of the three actuarial valuations is set forth below.

SUMMARY OF ACTUARIAL VALUATION RESULTS [1]

	Valuation date		
	Dec. 31, 1980	Dec. 31, 1978	Dec. 31, 1977
A. Participants and benefits			
1. Number of participants:			
a. Active	268,200	294,600	292,200
b. Terminated vested	17,828	10,393	6,958
c. Retirees and beneficiaries	104,592	97,111	91,951
d. a. ÷ c.	2.56	3.03	3.18
2. Active employees:			
a. Average attained age	44.0	44.0	43.6
b. Average past service	9.0	9.6	8.6
3. Monthly benefit at 65	[2]$120	$100	$100
B. Annual Contributions and benefit payout ($000,000)			
1. Employer contributions [3]	$138.0	$107.0	$93.3
2. Benefits paid [3]	119.6	107.0	102.6
3. Assets			
a. Fair market value	290.2	265.2	265.3
b. Investment yield at market (percent)	3.33	2.11	4.92
4. 3.a. ÷ 2.	2.43	2.48	[illegible]
C. Plan liabilities ($000,000)			
1. Normal cost [4]	$25.1	$31.1	$17.0
2. Unfunded value of:			
a. Actuarial liability	$1,301.6	$1,129.0	$1,128.7
b. Assumed annual rate of contribution increase (percent) [5]	5.0	3.0	3.0
c. Liability for vested benefits [6]	1,143.4	925.9	906.6
3. Interest rate used to value liabilities (percent)	6.5	6	[illegible]

[1] Taken from actuarial reports submitted with request.
[2] A small percentage of participants may qualify for an additional monthly normal retirement benefit of $30, accrued on the basis of annual earnings in excess of $15,000.
[3] For year ended on the valuation date.
[4] Entry age normal, frozen initial liability method, with normal cost determined as a level percent of payroll.
[5] As permitted by ERISA section 1013(d), amortization of unfunded past service liability determined as a level percent of payroll, but not less than interest on the unfunded amount.
[6] Assets at market.

Complete Withdrawal Rule

On December 9, 1981, the Plan adopted an amendment prescribing special withdrawal rules to take effect as of April 29, 1980. The amendment was subsequently modified by the Plan. The amendment would apply to any contributing employer under the Plan. Under the amendment, the proposed rule on complete withdrawal from the Plan reads as follows:

"(a) Except as provided in Section 10.2(d), a complete withdrawal occurs only if an employer permanently ceases to have an obligation to contribute under the Plan or permanently ceases all covered operations under the Plan and such employer, or any controlling owner of the employer, directly, or indirectly through a related or affiliated person or entity,

"(1) continues in business and sells at wholesale, distributes at wholesale, or manufactures (or seeks to profit by causing to be so sold at wholesale, or distributed at wholesale or manufactured) garments which are of a type previously covered by any collective bargaining agreement providing for contributions to the Plan, and which are made by workers who are not covered by a collective bargaining agreement that requires contributions to the Plan, or

"(2) engages in activities of the type described in Section 10.2(a)(1) within five (5) years after the date of the event described in Section 10.2(a), and does not thereupon renew an obligation to contribute under the Plan, or

"(3) sells or otherwise transfers its business or shop or all or a substantial portion of its assets to a purchaser or transferee who is involved in the sale at wholesale, distribution at wholesale or manufacture of garments of the type previously covered by any collective bargaining agreement providing for contributions to the Plan, provided that such purchaser or transferee fails to become subject to a collective bargaining agreement that requires contributions to the Plan with respect to such business, shop, or assets, or

"(4) accounts for 10 percent of the total contributions under the Plan in two of the three years preceding the date of the event described in Section 10.2(a) above, or

"(5) ceased to have an obligation to contribute in connection with the withdrawal of every employer from the Plan or the withdrawal of substantially all the employers pursuant to an agreement or arrangement to withdraw from the Plan within the meaning of Section 4219(c)(1)(D) of ERISA.

"(b) Section 10.2(a)(3) shall not apply to a sale or transfer of the title to or lease on the employer's premises to a purchaser or transferee described in Section 10.2(a)(3) under circumstances where no other assets of the business are transferred to the same purchaser or transferee.

"(c) Notwithstanding any other provisions of these rules, a sale of assets which would not constitute a withdrawal by virtue of Section 4204 of ERISA shall not constitute a withdrawal within the meaning of this Section 10.2.

"(d) If an employer that is bankrupt or insolvent permanently ceases to have an obligation to contribute under the Plan or permanently ceases all covered operations under the Plan and such cessation does not constitute a complete withdrawal under Section 10.2(a), then such cessation shall be a complete withdrawal under this Section 10.2(d), but withdrawal liability shall not be a collectible from any related or affiliated persons or entity that is not bankrupt or insolvent."

(*Plan Amendment;* section 10.2.)

Partial Withdrawal Rule

The Plan amendment also provides special partial withdrawal liability rules. Under the amendment, the proposed rule on partial withdrawal from the Plan reads as follows:

"A partial withdrawal occurs only if an employer—

"(a) incurs a partial withdrawal within the meaning of ERISA section 4205(b)(1)(A), and, directly or indirectly through a related or affiliated person or entity, sells at wholesale or distributes at wholesale, or manufactures (or causes to be so sold at wholesale or distributed at wholesale or

manufactured) garments which are of a type previously covered by any collective bargaining agreement providing for contributions to the Plan, and which are made by workers who are not covered by a collective bargaining agreement that requires contributions to the Plan, or

"(b) permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements under which it has been obligated to contribute under the Plan, but

"(1) directly or indirectly through a related or affiliated person or entity, continues within the next five years to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required to be made to the Plan and does not make contributions to the Plan with respect to such work, or

"(2) transfers to another location work of the type for which contributions were previously required to be made to the Plan, and does not make contributions to the Plan with respect to such work, or

"(c) permanently ceases to have an obligation to contribute under the Plan with respect to work performed at one or more but fewer than all of its facilities, but directly or indirectly through a related or affiliated person or entity, continues to perform work at the facility of the type for which the obligation to contribute ceased.

"(d) For purposes of Section 10.3(a), the importing of garments by an employer shall be disregarded, provided that (i) the dollar volume of garments imported by or on behalf of such employer in the third year of the three-year testing period as defined in ERISA section 4205(b)(1)(A) does not exceed the average dollar volume of garments imported by or on behalf of such employer during the two plan years for which the employer's contribution base units were the highest within the five plan years immediately preceding the beginning of the three-year testing period; and (ii) the ratio of the dollar volume of garments imported by or on behalf of such employer in the third year of the three-year testing period to the total dollar volume of all garments produced by such employer during such year does not exceed 25 percent." (*Plan Amendment;* section 10.3)

Other Provisions of Plan Amendment

The Plan amendment contains other provisions, which read as follows:

"Section 10.4 Effective Date. Sections 10.1, 10.2 and 10.3 above shall not be effective until approved by the Pension Benefit Guaranty Corporation but, with such approval, shall be effective as of the effective date of the withdrawal liability provisions of the Multiemployer Pension Plan Amendments Act of 1980. In the event in a Plan Year there is a net increase in unfunded past service liability arising from Plan amendments affecting the benefits payable under the Plan, the provisions of sections 10.1, 10.2 and 10.3 shall cease to be effective as of the date on which such Plan amendments are adopted, and the employers under the Plan shall thereafter be subject to the withdrawal liability rules of Part 1 of Subtitle E of Title IV of ERISA as in effect at that time, unless for the year in which such Plan amendments are adopted and in each subsequent year, the minimum funding obligations applicable to the Plan are satisfied and would be satisfied even if such obligations required any net increase in unfunded past service liability attributable to Plan amendments to be funded by amortization of such net increase in equal annual installments (until fully amortized) over a period of 10 Plan Years.

"Section 10.5 Transactions to Evade or Avoid. In any event, if the Trustees determine that a principal purpose of any transaction is to evade or avoid withdrawal liability, then such liability shall be determined and collected as the Trustees shall determine, without regard to such transaction.

"Section 10.6 Definitions.

"(a) For purposes of Sections 10.2 and 10.3, the term 'related or affiliated person or entity' shall mean a person or entity that has, or would have if both were in existence simultaneously, a relationship with the employer that would cause the employer or his business and the person or entity in question to be considered 'trades or businesses under common control' within the meaning of ERISA section 4001(b).

"(b) For purposes of Section 10.2(a)(1), the term 'sells' shall not include acting as a bona fide employee salesman or independent commission sales representative for a business, person or entity in which such salesman or sales representative has no direct or indirect financial interest.

"(c) For purposes of Article X, the term 'garment' shall include parts thereof and accessories thereto."

Notice

The Plan has given, by first-class mail, notice of the adoption of the Plan amendment and of the request for PBGC approval of the amendment to all employers who have an obligation to contribute under the Plan and to the union representing employees covered under the Plan.

Comments

All interested persons are invited to submit written comments on the pending request to the above address, on or before April 8, 1983. All comments will be made a part of the record. Comments received, as well as the application for approval of the plan amendment, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 11th day of February 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-4358 Filed 2-18-83; 8:45 am]

BILLING CODE 7708-01-M

Pendency of Request for Exemption From Bond Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan; Interstate Brands Corporation

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from the Interstate Brands Corporation for an exemption from the bond/escrow and sale-contract requirements of section 4204(a)(B) and (C) of the Employee Retirement Income Security Act of 1974, as amended in connection with that company's sale of certain of its assets to the American Bakeries Company. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. Two of these conditions are that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale, and that the contract of sale between the seller and the purchaser provide that the seller will be secondarily liable for its withdrawal liability if the purchaser withdraws from the plan within five years after the sale and does not pay its withdrawal liability. The PBGC is authorized to grant exemptions from these requirements. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise

interested persons of this exemption request and to solicit their views on it.

DATES: Comments must be submitted on or before April 8, 1983.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plans years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

The Request

The PBGC has received a request from the seller, Interstate Brands Corporation ("Interstate"), for an exemption from the requirements of section 4204(a)(1) (B) and (C) of ERISA. In the request, Interstate represents, among other things, that:

1. On February 28, 1981, Interstate sold certain of its assets to the American Bakeries Company ("American").

2. American has assumed Interstate's responsibilities under collective bargaining agreements with the following unions: Retail Clerks Union Local No. 775; Retail Clerks Union Local No. 1179; United Food and Commercial Workers Union Local No. 428; and Retail Clerks Union Local No. 870. Those agreements obligated Interstate to contribute to the Northern California Retail Clerks Unions and Food Employers Joint Pension Plan (the "Plan"). According to the Plan, Interstate's potential withdrawal liability to the Plan has been calculated to be $41,763.

3. The amount of the bond or escrow required under section 4204(a)(1)(B) is $10,544.78 (the amount of Interstate's required annual contribution to the Plan for the plan year ending December 31, 1980).

4. American is the parent in a controlled group of corporations. American's audited consolidated financial statements for the two years ending before the date of the sale were submitted. According to those statements, American had an average net income after taxes of $1.8 million for its fiscal years 1980 and 1979 and total net assets as of December 27, 1980 of approximately $52 million.

5. American has indicated its intention that section 4204 should apply to the sale.

6. A complete copy of this request has been sent to the Plan and the collective bargaining representatives of the seller's former employees by certified mail, return receipt requested.

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, on or before April 8, 1983. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 15th day of February 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-4359 Filed 2-18-83; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-83-3]

Petitions for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before March 14, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.———, 800 Independence Avenue, SW., Washington, D.C. 20591.

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FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on February 15, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23459	Aero Union Corp	14 CFR 125.11(b).....	To permit petitioner to advertise Boeing 377MG aircraft for transportation of outsized cargo in Part 125 operations
23453	Hawaiian Airlines.....	14 CFR 108.5(a)(1)	To permit petitioner to utilize its DC-9 aircraft without a security program that meets the requirements. The DC-9 aircraft would be used as a replacement when the DASH-7 aircraft is out of service
17681	Kenmore Air Harbor, Inc	14 CFR 135.203(a)(1).....	To renew Exemption 2528, as amended, to permit petitioner to conduct operations at an altitude below 500 feet over water outside of controlled airspace, subject to certain conditions and limitations.
8429	Northern Air Cargo, Inc (NAC)	14 CFR 91.39 and 121.157	Amendment to and extension of Exemption 7701, which presently permits petitioner to use its C-82 restricted category airplanes to carry only cargo for compensation or hire that is too large, bulky, or heavy to be loaded aboard, unloaded from, or carried by conventional (side fuselage loading) cargo aircraft. The amendment requested would permit NAC to use its C-82 airplanes to carry all types of cargo
11144	American Airlines Flight Academy	14 CFR 121.99 and 121.351(a)	Renewal of Exemption No. 1332, as amended, to permit American Airlines, Inc., to operate its airplanes between Wilmington, NC, and St. Croix and St. Thomas, VI, via Nassau, without maintaining two-way radio communications between each airplane and the dispatch office along the named routes
23513	Air Polynesia, Inc., d.b.a. DHL Cargo.....	14 CFR 21.583(a)(8).....	To permit petitioner to transport dependents of company employees on flights it operates within the State of Hawaii without the dependents being accompanied by the company employee
23503	American Airlines Flight Academy.....	14 CFR 121.333(c)(2).....	To permit petitioner to operate its B-767 aircraft up to and including flight level 430 (43,000 feet) without requiring at least one pilot at the controls to wear and use an oxygen mask.
23509	Sundance Helicopters	14 CFR 43.3(h).....	To permit petitioner's appropriately trained and certificated pilots to remove, check and reinstall magnetic chip detector plugs on its Allison 250 series turbine engines, the transmissions and free-wheeling unit of its Bell Model 206 series helicopter; and the transmissions of its Hughes 500 series helicopter
23497	Eastern Airlines	14 CFR 25.121(b).....	To allow petitioner to operate B-727-225B aircraft at Kennedy International Airport, in LaPaz, Bolivia, on Runway 27L, at a reduced second segment climb gradient of 2.0% in lieu of the 2.7% gradient specified in § 25.121(b) of the FAR

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23420	Gulf Air Transport, Inc	14 CFR 121.307(a), Appendices E and F of Part 121	To permit certain maneuvers and procedures allowable under the nonvisual simulator classification of Part 121, Appendices E and F, to be approved for accomplishment in Simulator Training, Inc.'s, Lockheed Electra L-188 Training Device for petitioner's operators. *Withdrawn Jan. 10, 1983*
22872	Air Transport Assn.	14 CFR 61.157(a), 121.424(a) and (b) Part 61, Appendices A and E	On behalf of petitioner's member airlines and any other qualifying Part 121 certificate holder for a clarification of the term "initial training" as used in Exemption 3653. *Partial grant Jan. 25, 1983*
23385	Gulfstream American Corporation	14 CFR 21.19(b) (1)	To permit petitioner to apply for supplemental type certification of a design change from two Rolls-Royce Spey Mark 511-8 turbofan engines to four Rolls-Royce RS401-07-08 turbofan engines on its Gulfstream III Model G-1159A *Granted Jan. 27, 1983*
21266	Flight Management Company	14 CFR 91.169, 91.181(a)	To extend current Exemption No. 3294, to permit petitioner's clients to operate small civil airplanes and helicopters of U.S. registry under §§ 91.183-91.215 *Granted Jan. 28, 1983*
23431	National Florida Airlines	14 CFR 135.243(a)	To permit Mr. Jeffrey A. DePaolis to act as pilot in command in petitioner's commuter operations although Mr. DePaolis has not reached his 23d Birthday *Denied Jan. 21, 1983*
23331	American International	14 CFR 91.307	To amend petitioner's previous Grant of Exemption, dated Sept. 28, 1982, for relief from the noise level requirements for civil, subsonic planes under Subpart E of Part 91. Petitioner is also deleting *Granted Jan. 31, 1983.*
23063	Tenneco Inc. Aviation	14 CFR 21.181, 91.27, 91.29 and 91.165	To permit petitioner to use a minimum equipment list and a configuration deviation list to meet requirements for flight operation. *Partial grant Jan. 25, 1983*
23341	Israel Aircraft Industries Ltd. ...	14 CFR 25.1305(d) (3)	To permit petitioner to obtain a type certificate for the Westwind Model 1125 without installation of a powerplant instrument to indicate engine rotor system unbalance. *Granted Jan. 20, 1983*
23449	West County Technical High School	14 CFR 147.31(c) (1) (iv).	To permit petitioner to credit students of the classes of 1983 and 1984 with that curriculum taught them between Aug. 25 and Nov. 3, 1982, when the school was in a period of noncertification. *Granted Jan. 31, 1983*
23268	Aero Union Corp	14 CFR 91.27(a) (1) and 91.29(a)	To reconsider Denial of Exemption 3647 to permit petitioner's pilots to ferry its McDonnell Douglas DC-4 and DC-6 aircraft to a maintenance base with one engine inoperative without obtaining a special flight permit. *Granted Feb. 4, 1983*
23291	Central Air Service Inc	14 CFR 91.27(a) (1) 91.29	To permit petitioner to ferry its Douglas C-54 aircraft to a point of maintenance base with one engine inoperative without obtaining a special flight permit. *Denied Feb. 4, 1983*
23417	Air Mananas, Inc	14 CFR 91.200, and 121.311(e) (f)..	To permit petitioner to operate a Martin 404 airplane without meeting the safety belt and shoulder harness requirements at each flight deck station, regardless of the type certification date. *Granted Feb. 2, 1983.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No	Petitioner	Regulations affected	Description of relief sought disposition
23413	Trans World Airlines	14 CFR 121.652(a) and (c)	To permit petitioner's B-767 Captains who have not served 100 hours as pilot in command in Part 121 operations to operate its B-767 aircraft without increasing the landing weather minimums. *Denied Feb. 7, 1983*
23394	Ports of Call Travel Club	14 CFR 91.303	To allow petitioner to operate up to nine noncomplying Boeing 707 aircraft in the U.S. from Jan. 1, 1985, until July 10, 1985, to allow time to bring the airplane into compliance with the operating noise limit requirements. *Denied Feb. 4, 1983*

[FR Doc. 83-4319 Filed 2-18-83; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-83-4]

Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FFA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or ommission of information in the summary is intended to affect the legal status of any petitions or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before March 4, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on February 16, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No	Petitioner	Regulations affected	Description of relief sought
23533	Empire Airlines, Inc.	14 CFR 93.124	Authority to operate 19-passenger Metro II jetprop aircraft in air carrier slots, at Washington National Airport, for a period up to six months beginning April 1, 1983 and continuing through to Sept. 30, 1983

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No	Petitioner	Regulations affected	Description of relief sought—disposition
		None this period	

[FR Doc. 83-4429 Filed 2-18-83; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 1P82-2; Notice 2]

General Mortors Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by General Motors Corp. of Warren, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.120, Motor Vehicle Safety Standard No. 120, *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars*. The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on January 21, 1982, and an opportunity afforded for comment (47 FR 3059).

Paragraph S5.2(a) of Standard No. 120 requires that each rim be marked with a designation indicating the source of the rim's published nominal dimensions, the usual source for American vehicles being the Tire and Rim Association (T&RA) yearbook. GM manufactured almost 2300 1980-81 Chevrolet and GMC K10 Suburban, Blazer, and Jimmy vehicles on which the P215/75R15 tire and 8 inch rim used is not listed as an approved tire/rim combination by the T&RA.

GM argued that this noncompliance is inconsequential as the ratio of the rim width to tire section width of the tire and rim is 86.1%, "slightly" in excess of 85% normal maximum ratio of T&RA approved combinations (in fact, one combination, DR 78-13 tire and 7 inch

rim has a ratio of 85.9%) GM's ratio results in "slightly less than normal curb scuff clearance," but the tire has "successfully passed a curb scuff evaluation test" conducted by GM. Petitioner argued that the performance is equivalent to that of approved combinations and states that it was aware of no in-service problems or complaints about the noncompliance.

Uniroyal, Inc. was the sole commenter on the petition supporting it, and met with NHTSA officials to present its position. As a supplier of original equipment tires to GM, Uniroyal argued that its tests had shown the noncompliance to be inconsequential. Quoting the 1982 Tire and Rim Association Yearbook that standards "may have options of equal status", Uniroyal had determined that the 8-inch rim would be an "option of equal status". The bead unseating test, paragraph S5.2 of Standard No. 109, establishes a minimum requirement of 2500 pounds. Uniroyal tested its P215/75R15 Steeler Steel Belted Radial and derived a value of 2960 pounds using the 8-inch rim, and 3,060 using the 7-inch rim. At its Laredo proving ground, using the same tire, it conducted "J" turn tests at 25 mph, at progressively lower inflation pressures until roll-off occurred. The values derived from those tests were roll-off at 18 psi on the 7 inch rim, 14 psi on the 8 inch rim, and 16 psi on a re-run of the 8 inch rim test. Finally, it conducted a Standard No. 110 blowout test (Paragraph S4.4.1(b)) which requires the rim to retain the deflated tire until the vehicle can be stopped with a controlled application of the brakes. With the 7 inch rim, the stopping distance and elasped time were 315 feet and 7.0 seconds respectively, the outer bead going into the rim wall. On the 8 inch rim, the figures were 320 feet and 7.2 seconds, both beads going into the rim wall. Uniroyal believes these results would have occurred using any other tire brand of the same size, and termed performance on the 8 inch rim "satisfactory" and "adequate".

NHTSA has found the Uniroyal presentation persuasive. The tests conducted are critical measures of the performance of tire/rim combination under these exceptional conditions. NHTSA also learned, during Uniroyal's oral presentation, that the failure of the Tire and Rim Association to list an 8-inch rim is based upon the desire to limit proliferation and to provide standardization, rather than upon safety considerations. Accordingly it is hereby determined that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and General Motor's petition is granted.

The engineer and lawyer primarily responsible for this notice are Art Neill and Taylor Vinson respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 15, 1983.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 83-4370 Filed 2-18-83; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. EX83-2; Notice 1]

Middlekauff, Inc.; Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

Middlekauff, Inc. of Toledo, Ohio ("Middlekauff" herein) has petitioned for a temporary exemption of three years for its trucks from Federal Motor Vehicle Safety Standard No. 301, *Fuel System Integrity*, on grounds of substantial economic hardship.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Petitioner is a final-stage motor vehicle manufacturer whose production in the year prior to filing its petition was 95 units. In finishing incomplete vehicles furnished to it by AM General Corporation, it extends the filler pipe to the gas tank and relocates the filler cap. It believes that it exercises due care in its operations "to the extent of duplicating the hose and clamps used by the original manufacturer, and in many cases utilizing the original gas cap, it is not always possible to recess the gas cap itself." It estimates that the cost to test to compliance would be $10,000 (the cost of each vehicle) which it terms "prohibitive". In the three fiscal years ending September 30, 1981, it had cumulative net losses of $92,000. Thus, testing for compliance would cause it substantial economic hardship.

Petitioner further argues that an exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act

Inasmuch as our method of extending the gas line between the gas tank, supplied by the manufacturer, and the filler cap is to avoid having such gas line or filler cap in any one of the six compartments which comprise the majority of the body, and would, therefore, be subject to leakage or fumes due to the cargo coming in contact, in any way, with the gas system.

Interested persons are invited to submit comments on the petition of Middlekauff, Inc. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. To the extent possible, comments filed after the closing date will also be considered. Docket hours are from 8:00 a.m. to 4:00 p.m., Monday through Friday. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 24, 1983.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 15, 1983.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 83-4371 Filed 2-18-83; 8:45 am]

BILLING CODE 4910-59-M

Rulemaking, Research and Enforcement Programs; Public Meetings

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting on April 13, 1983, to answer questions from the public and industry regarding the Agency's rulemaking, research and enforcement programs. The meeting will begin at 10:30 a.m., and continue as long as may be required. It will be held in Conference Room 2230 of the Department of Transportation Headquarters Building, 400 Seventh Street SW., Washington, D.C.

At the April meeting, representatives of DOT will answer questions received from the industry and the public relating to NHTSA's rulemaking, research and enforcement programs (including defects). The purpose of this is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. (Questions regarding the Agency's fuel economy program will continue to be addressed at the EPA's meeting on vehicle emissions).

Questions for the April 13 meeting should be submitted in writing by March

23 to Courtney M. Price, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW., Washington, D.C. 20590. If sufficient time is available, questions received after the March 23 date may be answered at the meeting. The individual, group, or company submitting a question does not have to be present for the question to be answered.

A consolidated list of the questions submitted by March 23 and the issues to be discussed will be mailed to interested persons on or before April 8, 1983, and will be available at the meeting. This list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon receipt to NHTSA, Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C. on February 15, 1983.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 83-4321 Filed 2-18-83; 8:45 am]

BILLING CODE 4910-59-M

VETERANS ADMINISTRATION

Health Services Research and Development; Scientific Review and Evaluation Board; Availability of Annual Report

Pursuant to the provision of Section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) and OMB Circular A-63 of March 27, 1974, notice is hereby given that the Annual Report of the Veterans Administration Health Services Research and Development Service Scientific Review and Evaluation Board for calendar year 1981 has been issued.

This report summarizes activities of the Board on matters related to the review of health services research and development proposals submitted by VA field staff. It is available for inspection at two locations:

Library of Congress, Serial and Government Publications, Reading Room, Room LM 133, Madison Building, Washington, D.C. 20540

and

Veterans Administration, Office of the Director, Health Services Research and Development Service, Room 650, 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: February 9, 1983.

By Direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-4317 Filed 2-18-83; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Long Range Planning Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) notice is hereby given that the Long Range Planning Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on March 9, 1983, from 9:00 a.m. to 5:00 p.m. at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public

The entire agenda for the meeting will consist of discussions involving Soviet long term manpower, personnel, and naval training trends. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United State Code.

For further information concerning this meeting, contact Commander Donald Pilling, Resources Planner, CNO Executive Panel, 2000 North Beauregard Street, Room 587, Alexander, Virginia 22311. Phone (202) 694-8422.

Dated: February 17, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-4528 Filed 2-18-83; 9:46 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Energy Information Administration

Publication of Alternative Fuel Price Ceiling and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective March 1, 1983. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue, S.W., Room BE-034, Washington, D.C. 20585, Telephone: (202) 252-6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by and Interim Rule issued on March 2, 1981, in Docket No. RM79-21, revised the methodology for calculating the monthly alternative fuel price ceiling for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the aternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III

State	Dollars per million Btu's
Alabama	3.81
Arizona [1]	3.73
Arkansas [1]	3.65
California	3.68
Colorado [1]	3.71
Connecticut [1]	3.94
Delaware [1]	3.84
Florida	3.60
Georgia [1]	3.81
Idaho [1]	3.71
Illinois [1]	3.81
Indiana	3.61
Iowa [1]	3.82
Kansas [1]	3.82
Kentucky [1]	3.81
Louisiana [1]	3.65
Maine	3.93

State	Dollars per million Btu's
Maryland [1]	3.84
Massachusetts	3.87
Michigan	3.61
Minnesota	3.71
Mississippi [1]	3.81
Missouri [1]	3.82
Montana [2]	3.71
Nebraska [1]	3.82
Nevada [1]	3.73
New Hampshire [1]	3.94
New Jersey	3.75
New Mexico	3.27
New York	3.84
North Carolina [1]	3.81
North Dakota [1]	3.82
Ohio	3.81
Oklahoma [1]	3.65
Oregon [1]	3.73
Pennsylvania [1]	3.84
Rhode Island [1]	3.94
South Carolina [1]	3.81
South Dakota [1]	3.82
Tennessee [1]	3.81
Texas [1]	3.65
Utah [2]	3.71
Vermont [1]	3.94
Virginia [1]	3.81
Washington [1]	3.73
West Virginia [1]	3.81
Wisconsin	3.77
Wyoming [2]	3.71

[1] Region based price as required by FERC Interim Rule issued on March 2, 1981, in Docket No. RM79-21

[2] Region based price computed as the weighted average price of Regions E, F, G, and H

Section II.—Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during December 1982 was $39.36 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective March 1, 1983, is $8.82 per million BTU's.

Section III.—Method Used to Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81-28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: For each selling price, the number of gallons sold to large industrial users in the months of October 1982, November 1982, and December 1982.[3] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used To Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective March 1, 1983, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, October 1982, November 1982, and December 1982. Reported prices for sales in October 1982 were adjusted by the percent change in the nationwide volume-weighted average price from October 1982 to December 1982. Prices for November 1982 were similarly adjusted by the percent change in the nationwide volume-weighted average price from November 1982 to December 1982. The volume-weighted 3-month average of the adjusted October 1982 and November 1982, and the reported December 1982 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of October, November, and December 1982. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 sulfur residual fuel oil for the ten trading days ending February 14, 1983, and dividing that price by the corresponding weighted average price computed from prices publised by Platt's for the month of December 1982. A regional lag adjustment factor was similarly

[3] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FFRC to form eight distinct regions as follows:

Region A	*Region B*
Connecticut	Delaware
Maine	Maryland
Massachusetts	New Jersey
New Hampshire	New York
Rhode Island	Pennsylvania
Vermont	
Region C	*Region D*
Alabama	Illinois
Florida	Indiana
Georgia	Kentucky
Mississippi	Michigan
North Carolina	Ohio
South Carolina	West Virginia
Tennessee	Wisconsin
Virginia	
Region E	*Region F*
Iowa	Arkansas
Kansas	Louisiana
Missouri	New Mexico
Minnesota	Oklahoma
Nebraska	Texas
North Dakota	
South Dakota	
Region G	*Region H*
Colorado	Arizona
Idaho	California
Montana	Nevada
Utah	Oregon
Wyoming	Washington

Issued in Washington, D.C., February 18, 1983.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 83-4534 Filed 2-18-83; 10:44 am]

BILLING CODE 6450-01-M

Revision of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Energy Information Administration (EIA) published in the January 21, 1983 **Federal Register** (48 FR 2825) on behalf of the Federal Energy Regulatory Commission, the alternative fuel price ceilings and incremental pricing threshold for high cost natural gas, that were effective February 1, 1983 Subsequent to the publication, the EIA discovered an error in computing the alternative fuel price ceilings. The error discovered was in the data base that was used to compute the 3-month weighted regional standard deviation. After correcting the error in the data base and recomputing the revised prices, only two States are impacted. The following shows the published price and the revised computed price for the impacted States.

State	Published price	Revised price
Florida	$3.83	$3.82
Indiana	3.65	3.61

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue, SW., Room BE-034, Washington, D.C. 20585, Telephone: (202) 252-6136.

Issued in Washington, D.C., February 16, 1983.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 83-4426 Filed 2-17-83; 10:55 am]

BILLING CODE 6450-01-M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Public Meeting

DATE: Thursday, February 24, 1983.

PLACE: Russell Senate Office Building, Room SR253 (old 235), Constitution Avenue and First Street, NE., Washington, D.C. 20510.

TIME: 2:00 p.m.

PURPOSE: The Motor Carrier Act of 1980, Pub. L. 96-296, 94 Stat. 793 (1980), as amended by the Bus Regulatory Reform Act of 1982, Pub. L. 97-261, 96 Stat. 1102 (1982), directs the Motor Carrier Ratemaking Study Commission (Study Commission) to make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers of property and of the need or lack of need for continued antitrust immunity thereof. The Study Commission is specifically directed to estimate the impact of the elimination of such immunity upon the rate levels and rate structures and to describe the impact of such on the Interstate Commerce Commission and its staff. Also, the Study Commission has been directed to give special consideration to the impact of the elimination of such immunity upon rural areas and small communities. The Study Commission shall submit to the President and the Congress its final report including its findings and recommendations.

The purpose of this meeting is to provide the opportunity for the Study Commission to discuss and consider the draft report, findings, and recommendations; to direct issuance of the final document with its findings and recommendations to the Congress and President; and to consider other business as appropriate.

Budget, timing, and scheduling considerations necessitate calling this meeting with less than the customary fifteen day notice to the public. The Study Commission's statutory obligations with respect to ratemaking in trucking must be completed forthwith in order to ensure adequate time and resources to complete additional responsibilities as detailed in the Bus Regulatory Reform Act of 1982. No public preparation or participation is required. Interested parties have been aware for weeks of the likelihood that this meeting would be held at this time.

FOR FURTHER INFORMATION, CONTACT: Gary D. Dunbar, Deputy Executive Director (202) 724-9600.

Submitted this, the 17th day of February, 1983.

Larry F. Darby,

Executive Director.

[FR Doc. 83-4437 Filed 2-18-83; 8:45 am]

BILLING CODE 6820-BD-M

DEPARTMENT OF THE TREASURY

Customs Service

[T. D. 83-33]

Classification of Cigar Tobacco

Correction

In FR Doc. 83-3240, beginning on page 5644, in the issue of Monday, February 7, 1983, the third column, line 4, "not" is corrected to read "now".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY,

Office of the Secretary

[Department Circular, Public Debt Series—No. 6-83]

Treasury Notes of May 15, 1988; Series H-1988

Washington, February 16, 1983.

1. Invitation for Tenders

1.1. The Secretay of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $5,500,000,000 of United States securities, designated Treasury Notes of May 15, 1988, Series H-1988 (CUSIP No. 912827 PF 3). The securities will be sold at auction, with bidding on the basis of yield. Payment

will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Securities will be dated March 1, 1983, and will bear interest from that date, payable on a semiannual basis on November 15, 1983, and each subsequent 6 months on May 15 and November 15 until the principal becomes payable. They will mature May 15, 1988, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000. $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States Securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, February 23, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 22, 1983, and received no later that Tuesday, March 1, 1983.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more that one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of non-competitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, March 1, 1983.

Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, February 25, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

John Kilcoyne,

Assistant Fiscal Assistant Secretary.

[FR Doc. 83-4529 Filed 2-18-83; 9:49 am]

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Sunshine Act Meetings

Federal Register
Vol. 48, No. 36
Tuesday, February 22, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 8:00 p.m. on Monday, February 14, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in United American Bank in Knoxville, Knoxville, Tennessee, which was closed by the Tennessee Commissioner of Banking on Monday, February 14, 1983; (2) accept the bid for the transaction submitted by First Tennessee Bank, Knoxville, Tennessee, Knoxville, Tennessee, an insured State nonmember bank; (3) approve the application of First Tennessee Bank, Knoxville, Tennessee, Knoxville, Tennessee, for consent to purchase the assets of and to assume the liability to pay deposits made in United American Bank in Knoxville, Knoxville, Tennessee; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 16, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–235–83 Filed 2–17–83; 2:07 pm]

BILLING CODE 6714–01–M

2

FEDERAL ELECTION COMMISSION

Federal Register No. 232

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, February 23, 1983, 10 a.m.

CHANGE IN MEETING: The following matter has been added to the closed session for this date:

Certification (continued from the closed session of 2–17–83)

* * * * *

Federal Register No. 232

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, February 24, 1983, 10 a.m.

CHANGE IN MEETING: The following matters have been added to the open session for this date:

Nonpartisan Communications by Corporations or Labor Organizations—11 CFR 114.3 and 114.4—Explanation and Justification and Transmittal to Congress (continued from the open meeting of 2–17–83)

Disclaimer Notices—11 CFR 110.11—Explanation and Justification and Transmittal to Congress (continued from the open meeting of 2–17–83)

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Information Officer; telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–239–83 Filed 2–17–83; 3:43 pm]

BILLING CODE 6715–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION

NOTICE OF MEETING

February 16, 1983.

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: 10 a.m., February 23, 1983.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—765th Meeting, February 23, 1983, Regular Meeting (10 a.m.)

CAP–1. Project No. 6765–000, BMB Enterprises, Inc.
CAP–2. Project No. 3283–001, Gas and Electric Department of the City of Holyoke, Massachusetts
CAP–3. Project No. 5293–000, Hydro Resource Co.; Project No. 5324–000, Capital Development Co., Project No. 5948–001, Public Utility District No. 1 of Lewis County, Washington; Project No. 6086–000, Western Hydro Electric, Inc.; Project No. 609–000, Rainsong Co.
CAP–4. Project No. 4796–001, Niagara Mohawk Power Corp.
CAP–5. Project No. 6097–001, Freemont Water Power
CAP–6. Project Nos. 6190–002 and 003, Mountain Gems Corp.
CAP–7. Project No. 4881–001, Arthur Bloom and Ada County; Project No. 3598–000, Cook Electric Co.
CAP–8. Project No.2780–004, Solano Irrigation District
CAP–9. Project No. 2903–002, Calaveros County Water District

CAP–10. Project Nos. 3610–000 and 001, Banister Development, Ltd.
CAP–11. Project No. 5342–000, Western Power, Inc.; Project No. 5611–000, Town of Skykomish, Washington; Project No. 5758–000, Public Utility District No. 1 of Snohomish County, Washington; Project No. 6301–000, Woods Creek Inc. and Murray-Pacific Corp.
CAP–12. Project No. 4006–001, City of Ogdensburg
CAP–13. Project No. 6661–000, Frontier Technology, Inc.; Project No. 6691–000, Mountain West Hydro, Inc.
CAP–14. Docket Nos. ER82–493–000 and ER82–49–000, Pennsylvania Power & Light Co.
CAP–15. Docket No. ER80–508–002, Boston Edison Co.
CAP–16. Docket No. ER82–701–001, Florida Power Corp.
CAP–17. Docket No. ER83–89–001, Northern States Power Co. (Minnesota)
CAP–18. Omitted
CAP–19. Docket No. ER83–196–001, Missouri Edison Co.
CAP–20. Docket No. ER79–616–004, Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin)
CAP–21 Docket Nos. ER80–315–000 and ER80–450–000, Kansas City Power & Light Co.
CAP–22. Docket Nos. ER80–592–000, et al., ER80–604–000, ER–80–663–001, ER80–664–001, ER80–665–001, ER80–676–001, ER80–677–001 and ER80–732–001, Wisconsin Electric Power Co.
CAP–23. Docket No. ER82–435–000, Central Louisiana Electric Co.
CAP–24. Docket Nos. ER81–560–000, ER82–746–000 and ER83–171–000, Lockhart Power Co.
CAP–25. Docket No. ER82–200–000, Maine Public Service Co.
CAP–26. Docket Nos. EF79–4011–000 and EF82–4011–000, Southwestern Power Administration
CAP–27. Docket No. EF80–5011–004, Western Area Power Administration
CAP–28. Docket No. EF82–3041–000, U.S. Department of Energy—Southeastern Power Administration (Kerr-Philpott Projects)
CAP–Docket Nos. EL82–27–000, ER82–146–006 and EL82–16–000, Commonwealth Edison Co.
CAP–30. Docket No. EL82–19–001, St. Joe Minerals Corp.
CAP–31. Docket No. EL83–1–000, Sacramento Municipal Utility District v. Pacific Gas & Electric Co.
CAP–32. Docket No. ID–1969–001, Keith R. Potter

Consent Miscellaneous Agenda

CAM–1. Docket No. RM77–22–000, Rate of interest on amounts held subject to refund: Oil pipelines
CAM–2. Docket No. RA82–18–000, Placid Oil Co.
CAM–3. Docket No. RA83–4–000, Petraco-Valley Oil & Refining Co.
CAM–4. Docket No. RO83–1–000, Andrew R. Krissovich d.b.a. Crow Canyon Shell; Docket No. RO83–3–000, Richard E. Brooke and Vincent Haavisto; Docket No. RO83–4–000, Walt Freeman d.b.a. Walt Freeman Chevron; Docket No. RO83–5–000, Bob Diciano; Docket No. RO83–6–000, Carl Donahue d.b.a. St. Francis Texaco
CAM–5. Docket No. GP80–9–001, Equitable Gas Co.

Consent Gas Agenda

CAG–1. Docket No. RP83–25–002, Transwestern Pipeline Co.
CAG–2. Docket No. RP83–27–002, Michigan Wisconsin Pipe Line Co.
CAG–3. Docket No. TA83–1–6–002, Sea Robin Pipeline Co.
CAG–4. Docket No. TA83–1–11–001, United Gas Pipe Line Co.
CAG–5. Docket No. RP83–11–001, Transcontinental Gas Pipe Line Corp.
CAG–6. Docket No. TA83–1–32–002 (PGA83–1), Colorado Interstate Gas Co.
CAG–7. Docket No. RP83–45–000, Montana-Dakota Utilities Co.
CAG–8. Docket No. RP83–44–000, Algonquin Gas Transmission Co.
CAG–9. Docket No. No. RP83–49–000, Transcontinental Gas Pipe Line Corp.
CAG–10. Docket No. RP83–39–000, Tennessee Natural Gas Lines, Inc.
CAG–11. Docket No. RP83–46–000, Kentucky West Virginia Gas Co.
CAG–12. Docket No. RP83–47–000, Tennessee Gas Pipline Co.
CAG–13. Omitted
CAG–14. Docket No. TA83–1–28–000 (PGA83–2), Panhandle Eastern Pipe Line Co.
CAG–15. Docket No. TA83–1–26–000 (PGA83–1), Natural Gas Pipeline Co. of America
CAG–16. Docket No. TA83–1–21–000 (PGA83–2), Columbia Gas Transmission Corp.
CAG–17. Docket No. TA83–1–22–000 (PGA83–1), Consolidated Gas Supply Corp.
CAG–18. Omitted
CAG–19. Docket No. TA83–1–20–000 (PGA83–1), Algonquin Gas Transmission Co.
CAG–20. Docket No. TA83–1–4–000 (PGA83–2), Granite State Gas Transmission, Inc.
CAG–21. Docket No. RP83–43–000, Transwestern Pipeline Co.
CAG–22. Docket No. TA83–1–24–000 (PGA83–1), Equitable Gas Co.
CAG–23. Docket No. TA83–1–60–000 (PGA83–2), Locust Ridge Gas Co.
CAG–24. Docket No. RP83–48–000 High Island Offshore Systems
CAG–25. Docket No. TA83–1–25–000 (PGA83–2), Mississippi River Transmission Corp.
CAG–26. Docket Nos. TA83–1–27–000 (PGA83–1) and RP82–132, North Penn Gas Co.
CAG–27. Docket No. RP82–115–002, Consolidated Gas Supply Corp.
CAG–28. Docket No. OR81–5–000, Santa Fe Pipeline Co. and Enterprise Products Co.
CAG–29. Docket No. RP82–46–002, South Georgia Natural Gas Co.
CAG–30. Docket No. CI83–50–001, Diamond Shamrock Corp.
CAG–31. Docket No. G–7004–010, Pennzoil Co.
CAG–32. Docket No. CI75–45–000, CI75–45–004, CI–75–45–005 and CI75–45–006, Tenneco Oil Co. et al.
CAG–33. Omitted
CAG–34. Omitted
CAG–35. Omitted
CAG–36. Docket No. ST83–7–000, Chaparral Transmission, Inc.
CAG–37. Docket Nos. ST81–200–001 and CP82–206–000, Mustang Fuel Corp.
CAG–38. Docket No. ST83–21–000, Seagull Pipeline Corp.
CAG–39. Docket No. ST83–17–000, Pantera Energy
CAG–40. Docket No. ST82–147–000, Louisiana State Gas Corp.
CAG–41. Docket No. CP79–389–005, Transcontinental Gas Pipe Line Corp; Docket No. CP82–23–003, Texas Eastern Transmission Corp.; Docket No. CP82–148–001, Gasdel Pipeline System Inc. and Transcontinental Gas Pipe Line Corp.; Docket No. CP82–504–001, Texas Eastern Transmission Corp.
CAG–42. Docket No. CP82–532–001, Michigan Consolidated Gas Co.
CAG–43. Docket No. CP83–112–000, Valero Interstate Gas Co.
CAG–44. Docket No. CP83–87–000, Consolidated Gas Supply Corp.
CAG–45. Docket No. CP83–57–000, Dome Pipeline Corp.
CAG–46. Docket No. CP79–289–000, Michigan Wisconsin Pipe Line Co.
CAG–47. Docket No. TA83–1–5–002, Midwestern Gas Transmission Co.

I. Licensed Project Matters

P–1 Project No. 2545–000, The Washington Water Power Co.
P–2. Project Nos. 176–012 and 004, Escondido Mutual Water Co.
P–3. Project No. 3179–001, Suncook Power Corp.; Project No. 3185–001, Pembroke Hydro Corp.
P–4. Project Nos. 5312–000 and 001, J. R. Ferguson & Associates, Inc.; Project Nos. 5337–000 and 001, Westfir Energy Co. Inc.
P–5. Project No. 6814–001, Sheep Creek Irrigation Co
P–6. Project No. 4301–000, City of Gridley, Calif.; Project Nos. 4490–000 and 001, Richvale Irrigation District; Project No. 5163–000, California Department of Water Resources
P–7. Omitted

II. Electric Rate Matters

ER–1. Docket No. ER80–573–000, Soutwestern Public Service Co.
ER–2. Docket No. ER78–417–000, Kentucky Utilities Co
ER–3. Docket No. ER81–620–000, Public Service Co of New Hampshire

Miscellaneous Agenda

M–1. Reserved
M–2. Reserved
M–3. Docket No. RM81–18–000, Revision of Part 34—Application for Authorization of the Issuance of Securities or the Assumption of Liabilities
M–4. Docket No. GP82–47–000, review of off-system sales program
M–5. Docket No. RM83–51–000, Discontinuance of FPC Form 334: Reserves Dedication Report

Gas Agenda

I. Pipeline Rate Matters

RP–1. Docket Nos. RP80–72–000 and RP80–72–006, Algonquin Gas Transmission Co.

RP-2. Docket No. RP79-23-003, Distrigas of Massachusetts Corp.; Docket No. RP79-24-002, Distrigas Corp.
RP-3. Omitted

II. Producer Matters

CI-1. (a) Docket No. G-132299-004, FERC gas rate schedule Nos. 414 and 203, Arco Oil and Gas Co., a Division of Atlantic Richfield Co.; (b) Docket No. RI81-7-000, FERC gas rate schedule No. 279, Phillips Petroleum Co.; (c) Docket No. RI81-8-000, FERC gas rate schedule No. 275, 305 and 326, Arco Oil and Gas Co., Division of Atlantic Richfield Co.; (d) Docket No. RI81-1-000, Amoco Production Co.

III. Pipeline Certificate Matters

CP-1. (a) Docket Nos. CP74-138-003, CP74-139-001 and CP74-140-001, Trunkline LNG Co. and Trunkline Gas Co.; Docket No. CP82-517-000, Association of Businesses Advocating Tariff Equity v. Trunkline LNG Co. and Trunkline Gas Co.; Docket No. CP82-519-000, State of Michigan and Michigan Public Service Commission; Docket No. CP82-533-000, Consumers Power Co. v. Trunkline LNG Co. and Trunkline Gas Co.; Docket No. CP82-541-000, Laclede Gas Co. v. Trunkline LNG Co. and Trunkline Gas Co.; Docket No. RP82-127-000, Michigan Consolidated Gas Co. v. Trunkline LNG Co., Trunkline Gas Co., Panhandle Eastern Pipe Line Co. and Sonatrach; (b) Docket No. TA83-1-30-000 (PGA83-2), Trunkline Gas Co.
CP-2. Docket No. CP84-121-000, Farmland Industries, Inc.; Docket No. CI85-700-000, CRA, Inc.

Kenneth F. Plumb,

Secretary.

[S-238-83 Filed 2-17-83; 8:45 am]
BILLING CODE 6717-01-M

4

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 48F6634, Monday, February 14, 1983.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board meeting scheduled Friday, February 18, 1983, at 10 a.m.:

Net Worth Certificates; Regulatory Net Worth
Sale of Branches
FSLIC-guaranteed Advances; Loans to the Federal Savings and Loan Insurance Corporation
Industry Conflicts of Interest; Limitations on Loans to One Borrower (2 documents)
Removals, Suspensions, and Prohibitions Where a Crime Is Charged or Proven
Amendments Relating to Charters of Federal Associations, Mutual Capital Certificates, and Conversion From Mutual to Stock Form

[No. 14, February 17, 1983]

[S-241-83 Filed 2-17-83; 3:51 pm]
BILLING CODE 6720-01-M

5

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: February 18, 1983, 4 p.m.

PLACE: Fourth floor, Conference Room 4G, 1776 G Street, NW., Washington, D.C.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Scott R. Daugherty.

MATTERS TO BE CONSIDERED: Closed meeting:

Minutes of December 14, 1982 Board of Directors' Meetings
President's Report
1982 Annual Financial Statements Minute Entry
Financial Strategy March 1983 Minute Entry
Short-term Debt Resolution
Hedging Contract Limitation Resolution
Pre-Sale Authority for Long-term Debt Issue Planning for 1st Quarter of 1983

Dated: February 16, 1983.

[S-234-83 Filed 2-17-83; 2:06 pm]
BILLING CODE 6720-01-M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., February 18, 1983.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Docket No. 82-58: Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Venezuela Trade—Consideration of the status of the proceeding.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-233-83 Filed 2-16-83; 4:45 pm]
BILLING CODE 6730-01-M

7

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Public Meeting.

DATE: March 14, 1983.

TIME: 9 a.m.-4 p.m.

PLACE: Room 311, Cannon House Office Building.

PURPOSE: To review and consider reports on the guaranteed Student Loan Insurance Premium provision, in-school interest subsidy provision, Special Allowance provision, and to review and consider a report on satisfactory academic progress.

FOR FURTHER INFORMATION CONTACT: Richard T. Jerue, Chief Executive Officer, (202) 472-9023.

This meeting was called by the Commission Chairman, Mr. David R. Jones.

Submitted the 16th day of February 1983.

Richard T. Jerue,

Chief Executive Officer.

[S-240-83 Filed 2-17-83; 3:44 pm]
BILLING CODE 6820-BC-M

8

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Meeting.

TIME AND DATE: 2 p.m., February 23, 1983.

PLACE: Neighborhood Reinvestment Corporation, 1850 K Street, N.W., Suite 400, Washington, DC 20006.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Timothy McCarthy, Associate Director, Communications, 202-653-2705.

AGENDA:

I. Call to Order and Remarks of the Chairman
II. Approval of Minutes, November 22, 1982
III. Report of the Audit Committee
IV. Report of the Budget Committee
V. Executive Director's Report
VI. Treasurer's Report

[No. 26, February 16, 1983]

Donnie L. Bryant,

Secretary.

[S-236-83 Filed 2-17-83; 2:08 pm]
BILLING CODE 0000-00-M

9

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission held the following meeting on Monday, February 14, 1983, at 450 5th Street, N.W., Washington, D.C., at 2:45 p.m. to consider the following item.

Formal order of investigation.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries attended the closed meeting. Certain staff members who are responsible for the calendered matters were present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the item considered at the closed meeting was considered pursuant to one or more of the exemptions set forth in 5 U.S.C.

552b(c),(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans and Longstreth voted to consider the item listed for the closed meeting in closed session.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt (202) 272–2092.

February 16, 1983.

[S–237–83 Filed 2–17–83; 2:08 pm]

BILLING CODE 8010–01–M

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federal register

Tuesday
February 22, 1983

Part II

Department of Labor

Mine Safety and Health Administration

Wire Ropes; Public Hearings

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VOL

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1983

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, 57, 75 and 77

Wire Ropes; Public Hearings

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of public hearings.

SUMMARY: The Mine Safety and Health Administration (MSHA) will hold public hearings on its proposal to revise existing safety standards for the use of wire ropes at coal and metal and nonmetal mines. The hearings will be held in Denver, Colorado; Phoenix, Arizona; Pittsburgh, Pennsylvania; and Birmingham, Alabama. The hearings are being held in response to requests from the public, and will cover the significant issues raised by the comments submitted in response to the proposed rule.

DATES: All requests to make oral presentations for the record should be submitted at least five days prior to each hearing date. Immediately before each hearing, any unallotted time will be made available for late requests to make a presentation.

The public hearings will be held at the following locations on the dates indicated, beginning at 9:00 a.m.:

1. March 15, 1983; Denver, Colorado;
2. March 17, 1983; Phoenix, Arizona;
3. March 22, 1983; Pittsburgh, Pennsylvania; and
4. March 24, 1983; Birmingham, Alabama.

ADDRESSES: The hearings will be held at the following locations:

1. March 15, 1983
   Denver Federal Center, Building 25, Auditorium—Room B–1902, 6th Avenue & Kipling Street, Denver, Colorado 80225.
2. March 17, 1983
   Federal Building and Courthouse, Room 1013, 230 North First Avenue, Phoenix, Arizona 85025.
3. March 22, 1983
   Bureau of Mines Auditorium, 4800 Forbes Avenue, Pittsburgh, Pennsylvania 15213.
4. March 24, 1983
   Holiday Inn Downtown—Medical Center, Birmingham Room—Second Floor, 420 South 20th Street, Birmingham, Alabama 35233.

Send requests to: Mine Safety and Health Administration; Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: On November 16, 1982, MSHA proposed revisions to its existing safety standards for the selection, use, examination and retirement of wire ropes at coal and metal and nonmetal mines (47 FR 51684). The proposed revisions would affect standards in 30 CFR Parts 55, 56, 57, 75 and 77. On January 4, 1983, the Agency published a notice extending the comment period to February 18, 1983 (48 FR 273). In total, the comment period allowed over 90 days for the submission of written comments by the public. In the comments and objections filed to the proposed rule, MSHA received requests for public hearings.

The purpose of the public hearings is to receive relevant comment and respond to questions about the proposed rule. The hearings will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence will not apply, the presiding official may exercise discretion in excluding irrelevant or unduly repetitious material and questions.

Each session will begin with an opening statement from MSHA. The hearing panel will be available to answer relevant questions. The public will then be given an opportunity to present oral testimony. In the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. Time will be made available at the end of the hearing for rebuttal statements. A verbatim transcript of each proceeding will be taken and made an official part of the rulemakiang record. Copies of the hearing transcript will be available for review by the public.

MSHA will also accept additional written comments and other appropriate data from any interested party, including those not presenting oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record. To allow for the submission of any post-hearing comments, the record will remain open until April 8, 1983.

The proposed rule would provide uniform protection for all miners who rely on hoists as personnel conveyances or who work in shafts where they may be endangered by the loads lifted by hoists. The proposed rule includes ten standards for the selection, use, examination and retirement of wire ropes. These ten standards would replace an incorporation by reference of the American National Standards Institute's "American National Standard for Wire Rope for Mines," ANSI M11.1, for coal mines in Subpart O of 30 CFR Parts 75 and 77 and revise existing metal and nonmetal standards for wire ropes in 30 CFR 55.19, 56.19, and 57.19.

Issues

The following section-by-section discussion summarizes many of the issues that have been raised thus far by commenters on the proposed rule.

Sections 55/56/57.19–20 and 75/77.1404 Scope.

These standards would apply to wire rope used for hoisting people or hoisting loads that could endanger the safety of people.

Several commenters believed the proposed scope statement would unduly broaden the scope of existing wire rope standards. They interpreted the scope statement to mean the standards would apply to any type of equipment which uses wire ropes to lift loads. In the January 4, 1983 extension notice (48 FR 273), MSHA clarified that the Agency "does not intend to apply the proposed standards to draglines; elevators equipped with a governor rope; or cranes used to lift materials, other than cranes used in shaft and slope sinking operations where people work below the loads lifted."

In the extension notice, MSHA also requested further comment on the appropriateness of the proposed standards to wire rope used on cranes to hoist people. One commenter responded that infrequent use of large cranes to hoist personnel (one to three times a year) should require only a visual inspection of the wire rope and attachments prior to each use.

Many commenters believed that deleting the term "man" from the existing section headings, "Man hoisting" in §§ 55/56/57.19 would broaden the scope of the standards. The Agency is considering the use of the section heading "Personnel hoisting" for the metal and nonmetal sections.

Sections 55/56/57.19–21 and 75/77.1404–1 Minimum Rope Strength.

These standards contain formulas to assure that the strenth of a wire rope is appropriate for its intended use.

Instead of the proposed safety factor of seven, one commenter stated that a safety factor of six should be adequate for calculation of the minimum rope strength for winding drum ropes less than 3000 feet in length used at surface operations. The commenter cited past experience as a rationale for adopting six.

Several commenters indicated that the proposed safety factor of ten for rotation

resistant ropes would be too stringent. These commenters stated that because of the weight of the rope itself and technological constraints on the production of high strength wire rope, the proposed factor of ten would limit the use of such rope to depths of 5,000 to 6,000 feet. In addition, these commenters stated that the proposed safety factor would necessitate a larger rope diameter that would subject the rope to greater bending and crushing forces, perhaps reducing safety. One commenter requested that MSHA define which wire ropes it considers "rotation resistant."

Sections 55/56/57.19–23 and 75/77.1404–3 Daily and Six Month Examinations.

These standards would require daily visual examination of wire ropes and their end attachments for wear, broken wires, structural damage, corrosion and adequacy of lubrication. In addition, the proposed standards would require wire rope diameter measurements or nondestructive tests at specific locations every six months.

Many commenters in the metal and nonmetal industry who currently conduct monthly examinations of their wire ropes objected to the proposed daily examination for several reasons. They stated that a close daily examination of longer ropes at the speeds necessary to notice unsafe conditions would result in unwarranted down-time. On the other hand, they stated, a more cursory examination at faster speeds would not reveal development of unsafe conditions. Most of the commenters associated with metal and nonmetal mines favored retaining the existing monthly examination requirement for these mines. A few commenters suggested an examination every seven days. One commenter stated that visual inspection of hoist ropes, at any frequency, is of limited value in determining wear.

Several commenters from throughout the mining industry believed that the six month inspection and testing requirements would be to infrequent to properly monitor rope wear. Instead, they suggested that these be performed at bi-monthly or quarterly intervals.

Sections 55/56/57.19–22 and 75/77.1404–2 Initial Operation and Measurement.

These standards would require a newly installed wire rope to be operated for at least ten cycles through its full length prior to placement in service. The cycles would be of increasing load and speed.

Several shaft and slope sinking operators stated that the proposed procedures do not recognize the difference between active mining operations and those undergoing shaft and slope construction. They indicated that it is impossible to operate a newly installed hoist rope to its full length when the shaft or slope depth is continually increasing with excavation. These commenters recommended that shaft and slope sinking operations be exempted from this proposed provision.

Some commenters stated that ten cycles may adjust a rope to working conditions, but that ten cycles would not be sufficient to set the rope for establishment of a baseline diameter. A prematurely measured baseline, they reasoned, would lead to premature retirement of a wire rope. One commenter even suggested that it takes 500 to 1000 cycles to establish a valid baseline diameter.

Another commenter questioned the practicality of increasing load and speed in each of the ten cycles.

Sections 55/56/57.19–24 and 75/77.1404–4 Retirement Criteria.

These standards contain proposed removal criteria for damaged or worn wire rope. Conditions that could necessitate rope retirement include broken wires, diameter reduction, distortion of the rope structure, deterioration from corrosion or heat damage.

Commenters in general stated that the proposed criteria are too subjective, particularly the criteria for corrosion or heat damage. These commenters stated that MSHA needs to clarify the degree of corrosion or deterioration that would lead to removal of a wire rope. Others indicated that wire breaks in the valleys between strands of a wire rope are too difficult to detect for valley breaks to be a meaningful retirement criterion. A few commenters stated that the diameter reduction criteria would not take into account deliberate oversizing of a rope for wear that would require premature retirement of such ropes.

One commenter requested that MSHA set mandatory rope retirement after a specific period of use and prohibit the reuse of any rope after removal.

Sections 55/56/57.19–25 and 75/77.1404–5 Load End Attachment.

These standards would prescribe methods of attaching conveyances to wire ropes for hoisting.

Some commenters stated that Canadian research indicates that the proposed torque values for Crosby or U-bolt clips may be too high, possibly causing severe rope distortion in some instances. These commenters proposed that MSHA investigate an alternative method of attachment using reduced torquing, installation of additional clips and a change in the method of clip installation.

Several commenters questioned the prohibition of swaged fittings. One stated that the prohibition would unnecessarily eliminate the use of wire rope slings using swaged fittings. Another stated that swaged fittings minimize rope stress concentrations.

One commenters stated that MSHA should not prohibit the use of splices on ropes of two inches or less in diameter. The commenters stated that such splices can develop a holding power of at least 80 percent of the nominal strength of the rope. Another commenter recommended that splices be allowed for endless rope applications.

Sections 55/56/57.19–26 and 75/77.1404–6 Drum End Attachment.

These standards include proposed requirements for attaching the wire rope to the drum. Thus far, there have been no significant comments on this aspect of the proposed rule.

Sections 55/56/57.19–27 and 75/77.1404–7 End Attachment Retermination.

These standards would require that damaged wire rope be cut off and the rope refastened at an attachment when there is more then one broken wire, improper installation, evidence of corrosion or indication of slippage at an attachment.

Commenters stated that the proposed criterion for corrosion is too subjective. One commenter stated that the appearance of one broken wire at the attachment point is no more serious than one broken wire at any point along the rope. However, the same commenter recommended retention of the existing periodic cut-off provisions for the metal and nonmetal industry because broken wires on the inside of strands are difficult to detect.

Sections 55/56/57.19–28 and 75/77.1404–8 End Attachment Replacement.

These standards would require the replacement of cracked, deformed or excessively worn wire rope attachments. Thus far, there have been no significant comments on this aspect of the proposed rule.

Sections 55/56/57.19–29 and 75/77.1404–9 Groove Radius.

These standards would require sheave and drum grooves that have a radius less than 0.5125 times the nominal rope diameter to be reconditioned or replaced.

One commenter stated that the proposed criterion is too difficult to judge. Another commenter

recommended deletion of the groove radius requirement, stating that a proper groove radius extends the use of a wire rope, but does not affect safety.

Other Existing Rules Affected

Commenters also raised an issue concerning the proposed revocation of the existing sheave to rope diameter (D/d) requirements in §§ 55/56/57.19–39. One commenter stated that it may be inconsistent for MSHA to propose retention of groove radius requirements and revocation of D/d requirements because both equally important.

Another commenter requested that MSHA not eliminate the bridle chain requirements in §§ 75.1403–3(b) and 77.1907(b) as proposed, but instead establish requirements for the safe installation and location of bridle chains. The same commenter objected to the proposed removal of countersigning (§§ 75.1400–4, 77.1403(b) and 77.1906(c)) and record book provisions (§ 75.1807). In addition, the commenter objected to the proposed removal of the existing rated capacity provisions in §§ 75.1401–2 and 77.1403(d)), stating that the provisions do not duplicate existing sections 75.1401 and 77.1402.

Dated: February 16, 1983.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 83–4377 Filed 2–18–83; 8:45 am]

BILLING CODE 4510–43–M

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federal register

Tuesday
February 22, 1983

Part III

Department of Housing and Urban Development

Office of the Deputy Under Secretary for Field Coordination

Field Reorganization

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Deputy Under Secretary for Field Coordination

[Docket No. R-83-1205]

Authority Delegations; Proposed Filed Reorganization

AGENCY: Office of the Deputy Under Secretary for Field Coordination, HUD.

ACTION: Notice of proposed field reorganization.

SUMMARY: The Department is restructuring its field organization and reducing its field staff to: accommodate reduced resources and programmatic changes, strengthen the role of the Regional Administrators in managing Regional operations, and simplify current organizational structure to reduce overhead, duplication, and overlap. This Notice includes a cost-benefit analysis to be published in the **Federal Register** as required by Section 7(p) of the Department of Housing and Urban Development Act.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon D. Walker, Deputy Under Secretary for Field Coordination (Designate), Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-7426. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In accordance with Section 7(p) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(p), the Department of Housing and Urban Development is hereby publishing a cost-benefit analysis concerning a proposed plan to reduce staff and restructure the manner in which it administers its programs in the field.

A. Introduction and Background

The Department of Housing and Urban Development is restructuring its field organization and reducing its field staff to: accomodate reduced resources and programmatic changes, strengthen the role of the Regional Administrators in managing Regional operations, and simplify current organizational structure to reduce overhead, duplication, and overlap.

The Department is proposing these changes in response to budget constraints and to program initiatives proposed by this Administration, to produce more with fewer resources, and to eliminate waste and mismanagement.

B. Description of Proposed Changes

1. Nine Regional and nine Area Offices will be consolidated in Regional cities (Boston, New York, Philadelphia, Atlanta, Chicago, Fort Worth, Kansas City, San Francisco, and Seattle). HUD's offices in Denver are currently consolidated.

2. With the exception of the Dallas Area Office which will be consolidated with the Fort Worth Regional and Service Offices in one office in Fort Worth, all other existing field offices will remain in the same localities.

3. Existing Regional jurisdictional boundaries will be maintained to complement those of other Federal departments and agencies.

4. Service Office Supervisors will report directly to the Regional Administrators.

5. Valuation and Endorsement Stations will continue to report to their parent Area or Service Office.

6. A second Deputy Regional Administrator position will be established in seven Regions (Boston, New York, Atlanta, Chicago, Fort Worth, San Francisco, and Seattle). The second Deputy will have line operational responsibilities for the present Area Office functions of the consolidated office.

7. Outstationed personnel will be placed under the administrative supervision of the Service Office Supervisor.

8. Dual-track housing operations (where single-family and multifamily operations are currently organized separately) will be eliminated.

9. Separate Offices of Indian Programs will be maintained. However, in the San Francisco Region, the bulk of Indian program operations will be transferred to a new office in Phoenix, reporting to the Regional Administrator. An adequate staff will remain in San Francisco to provide service to Northern California Tribes.

10. A uniform organizational structure for each type of field office as shown in the attached charts will be established (see Appendix A). There are some exceptions to the uniform structure as follows: (1) Community Planning and Development (CPD), Fair Housing and Equal Opportunity (FHEO), and The Economic Market Analysis (EMAD) functions will be regionalized in the Boston Region. Toll-free access telephone lines will be provided for clients in Hartford and Manchester; (2) FHEO operations will be regionalized in the Seattle Region; (3) Labor Relations (for the establishment of Davis-Bacon wage rates) will be regionalized in the Boston, Altlanta, Kansas City, and Seattle Regions; (4) Multifamily Housing operations will be reassigned from the Nashville Service Office to the Knoxville Area Office; and (5) Environmental rehabilitation and relocation functions will be regionalized in the Atlanta Region. Other organization exceptions are shown in Appendix. B.

11. Present field office designations of "Area Office," "Service Office," and "Valuation and Endorsement Station" will be eliminated. These designations have proven to be troublesome to the Department and confusing to the HUD clientele. The title "Regional Office" will continue to be used. In the future, for example, the Buffalo Area Office would be known as the "Buffalo Office, U.S. Department of Housing and Urban Development." The title of the Regional Administrator will be changed to "Regional Administrator—Regional Housing Commissioner." The heads of all other field offices will be designated as "Manager."

12. The field staff will be reduced to reflect budgetary constraints, organization and programmatic changes, and increased efficiency and productivity.

13. Headquarters organization is not affected by this field reorganization.

C. Cost-Benefit Analysis

For purposes of computing the cost-benefit analysis, an implementation date of June 15, 1983, is assumed. However, no changes will be implemented prior to the end of the 90 day notice period. The above changes will result in a reduction of 304 full-time permanent (FTP) postions in HUD field offices from the 9,535 on board on January 22, 1983. This would be a reduction of 627 from the 9,858 estimated for September 30, 1983 in the FY 1983 Budget and would bring in line the Department's field staff to 9,231 FTPs which represents the FY 83 column of the FY 84 budget.

The costs and savings contained in the analysis are estimates based upon the assumptions described below. Actual cost savings will be affected by the current rate of attrition in field office positions and the number of employees remaining on board when, and if, reductions-in-force take place. Based on projected attrition, it is assumed that about 9,307 FTP will be on board June 15, 1983. The combination of RIF and/or attrition will result in staffing inbalances which will need to be addressed, including the filling of critical vacancies essential for the achievement of Departmental objectives in a given office.

The Department estimates that up to 115 employees will have to be separated to reach the target of 9,231 and address staffing inbalances.

1. *Cost to reorganize based on 115 separations ($5.3 million).* The costs have included one-time costs as well as estimated permanent costs for FY 1983 and 1984 (two years).

a. *One-time costs ($5.1 million).*

(1) *Personnel relocation costs ($2.0 million).* The proposed reorganization may result in approximately 200 employees being offered a transfer of function from one commuting area to another. Based on past experience, it is estimated that up to 60% of the 200 would accept offers in the new location. In addition, in the case of Dallas, approximately 180 employees live outside the Fort Worth commuting area and would, therefore be eligible for relocation reimbursement. However, based on past experience, it is estimated that only 20 employees would actually move. Based on recent data, it is estimated that relocation costs would be approximately $14,000 per employee move. Therefore, relocation costs for the 140 employees expected to move will be $2.0 million.

(60% × 200 employees + 20 employees × $14,000 = $2.0 million)

(2) *Severance costs ($1.3 million).* Severance costs were calculated as follows: Based on current experience, lump sum leave payments are expected to average $1,970 per employee. The current average salary for field employees is $27,725. Severance pay at an expected average of 17 weeks will be $9,060 per employee.

(115 employees × ($1,970 + $9,060) = $1.3 million)

(3) *Unemployment compensation payments ($0.2 million).* Unemployment compensation payments by States must be reimbursed by HUD for most employees separated from Federal Service. These payments are estimated at $111 per week for 20 weeks for each employee separated.

(115 employees × $111.00 per week × 20 weeks = $0.2 million)

(4) *Movement of furniture and equipment ($0.2 million).* Based on past experience, movement of furniture and equipment is expected to cost $1 per square foot within metropolitan areas and $2 per square foot where moves extend beyond the metropolitan area.

(273,738 sq. ft. × $1 sq. ft. = $273,738)

(5) *Space alteration costs ($1.4 million).* Consolidation of the Regional and Area Offices will require space alterations and telephone changes to accommodate the new organizational structure. Costs were derived from an estimate that half of the space would need alterations at an average cost of $5/sq. ft.

(273,738 sq. ft. × $5 sq. ft. = $1,368,690)

b. *Permanent increases in operating costs (2 year basis—$0.2 million).*

The only anticipated increase in permanent operating costs is estimated to result from some increase in travel costs related to the regionalization of certain functions. The $100,000 per year figure was arrived at based on estimates provided by each of the affected Regions.

2. *Dollar savings resulting from reorganization (2 year basis—$36.1 million).*

a. *Personnel savings (2 year basis—$34.0 million).* Personnel savings are calculated on the basis of average employment stated in terms of full-time permanent work years. The savings as a result of the reorganization, based on reductions from levels shown in the FY 1983 Budget, would be as follows:

1983: 505 FTP work-years × $30,000 average salary and benefits	= $15.2M
1984: 627 FPT work-years × $30,000 average salary and benefits	= $18.8M
Total	$34.0M

The fiscal year 1983 budget had estimated a utilization of 9,858 FTP work years for the fiscal year. The proposed reorganization and cost-benefit analysis assume that reductions will be accomplished by June 15, 1983, bringing the field office total to 9,231 FTP. This would result in utilization for the fiscal year of 9,353 work years, or a reduction of 505 FTP work years from the budget. Based on current average field office salaries and benefits of $30,000, this would result in savings of $15.2 million for fiscal year 1983.

b. *Space savings (2 year basis—$2.1 million).* The release of excess space will result in substantial space savings to the Department from that currently occupied. The savings were derived as follows:

(627 employees × 160 sq. ft. per employee × $10.60 per sq. ft. × 2 years = $2.1 million)

The amount and cost per square foot of space per employee are current field averages.

3. *Net savings (2 year basis—$30.8 million).* The one-time cost to reorganize and recurring costs for the first two years of $5.3 million are offset by dollar savings resulting from the reorganization and reduced staff over the first two years of $36.1 million, resulting in a net savings of $30.8 million as a result of the proposed reorganization and reduced staff.

4. *Impact on local economies.* The ranges of employment ceilings for HUD offices in the new structure (see Appendix C) are estimates developed for purposes of organizational planning, based on projections of workload and allocations of staff in relation to workload. These estimates will be refined as more detailed budget and personnel planning for the new structure are completed. It is expected, however, that the subsequent refinements will not be of a magnitude that will affect judgments on the impact of the reorganization.

The proposed reorganization will have no measurable impact on any single locality. As Appendix C indicates, the magnitude of movement of staff from location to location in relation to the size of affected communities is insignificant in terms of its possible impact on housing markets, schools, public services, tax bases, employment, and traffic congestion. The impact on localilties as a percentage of total population is small. The largest single impact in terms of number of affected employees is in Dallas, Texas where 237 employees will be transferred to Fort Worth. However, of the employees currently working in the Dallas Area Office, approximately 180 live in the Dallas area and of that number it is not anticipated that more than 20 will move from their current residence as a result of this action.

5. *Impact on the quality of services.* No changes that would impact on clients are being made in 36 percent of the Department's 80 field offices. The impact of the reorganization on the quality and level of service provided to the Department's affected clients will be minimal. In the affected Regional cities, no changes in normal processing are anticipated and appeals should be processed more quickly through the elimination of the Area Manager level.

Service to those localities currently provided through HUD Service Offices will not be affected with respect to normal processing and processing of appeals will be improved through the elimination of the Area Office level.

In the case of Dallas/Fort Worth, relocation of the Dallas Area Office by approximately 35 miles will not significantly affect service to HUD clients.

In the case of moving Indian program staff from San Francisco to Phoenix, service to program clients will not diminish since the bulk of the workload is closer to Phoenix (many of the staff are already located in Phoenix). Service to northern California Indian tribes will not diminish since an adequate staff to

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provide for them will remain in San Francisco.

The regionalization of CPD, FHEO, Labor Relations, and environmental functions in some localities will have a minor impact on clients. With respect to the regionalization of CPD in the Boston Region, any impact in Hartford will be mitigated by the transfer of the small cities program to the State and changes to the existing Community Development Block Grant (CDBG) program will further reduce the need for direct access between localities and HUD CPD staff throughout the Region. Also, some CPD staff will remain outstationed in the Hartford and Manchester Offices.

(Secs. 7(p) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(p))

Dated: February 15, 1983.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

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APPENDIX A

REGIONAL OFFICE CONSOLIDATED

APPENDIX A

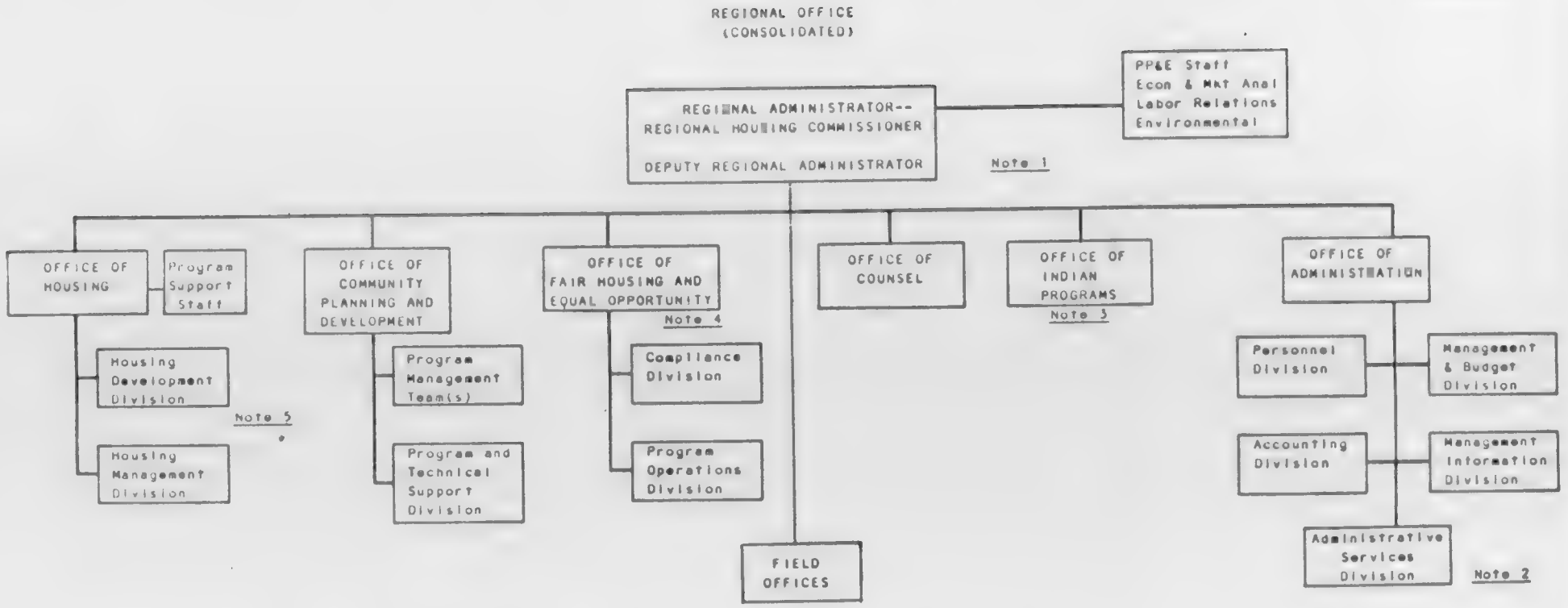

1. The immediate office of the Regional Administrator may be organized at the option of the Regional Administrator subject to approval by Headquarters, and no function may be reassigned to other offices. An additional Deputy Regional Administrator position must be approved by Headquarters. The environmental function may be placed in FHEO at the discretion of the Regional Administrator.
2. Recommended structure shown; variations must be approved by Headquarters.
3. Office of Indian Programs established as a separate office in Regions V, VIII, IX, and X.
4. The management liaison functions continue to be performed by staff in the immediate office of the Director.
5. Recommended branch structure is shown on Chart 2; variations must be approved by Headquarters. No Director position for the Program Support Staff.

CATEGORY A OFFICE
(ALL PROGRAMS)

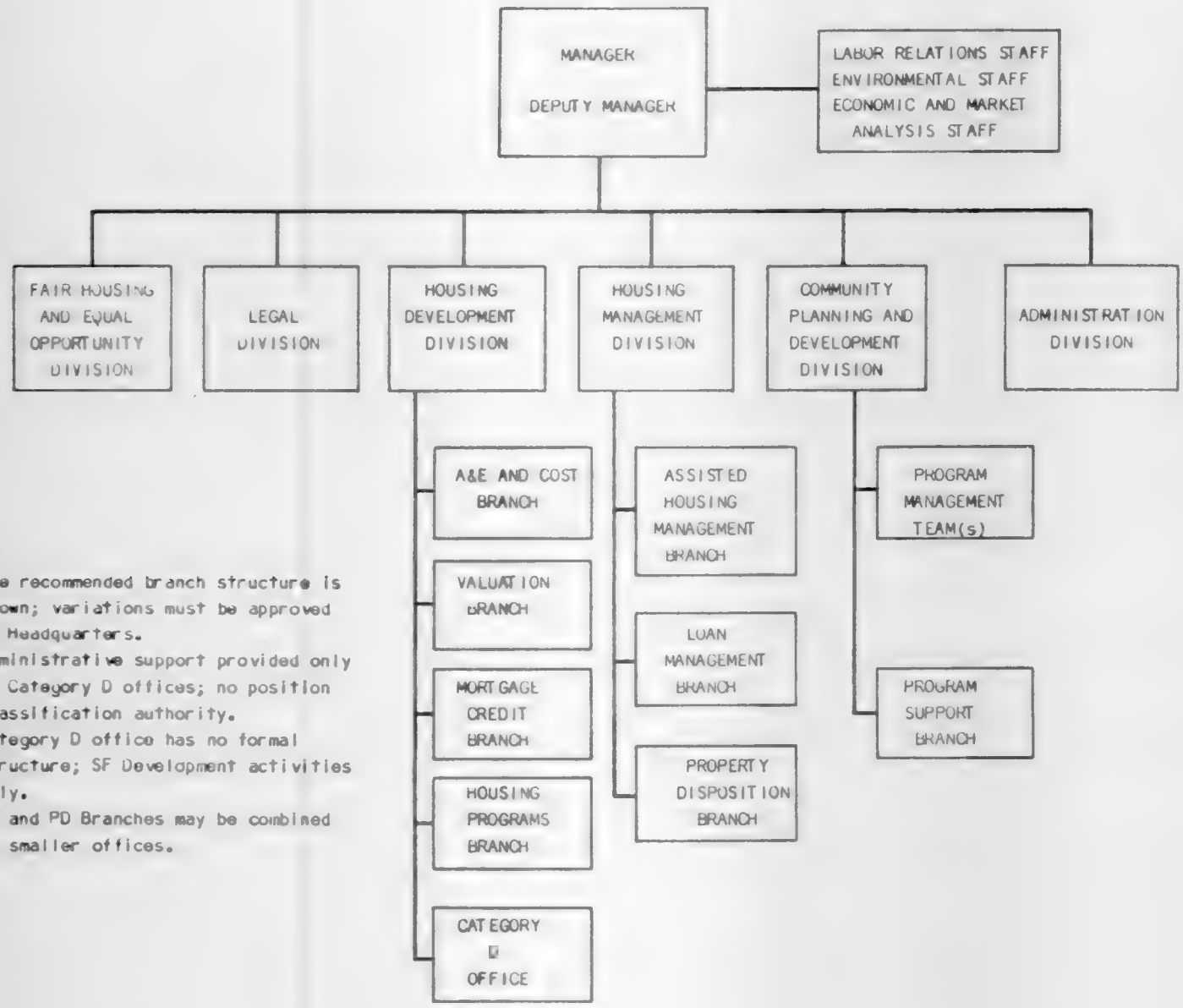

NOTES:

1. The recommended branch structure is shown; variations must be approved by Headquarters.
2. Administrative support provided only to Category D offices; no position classification authority.
3. Category D office has no formal structure; SF Development activities only.
4. LM and PD Branches may be combined in smaller offices.

CATEGORY B OFFICE
(ALL HOUSING PROGRAMS)

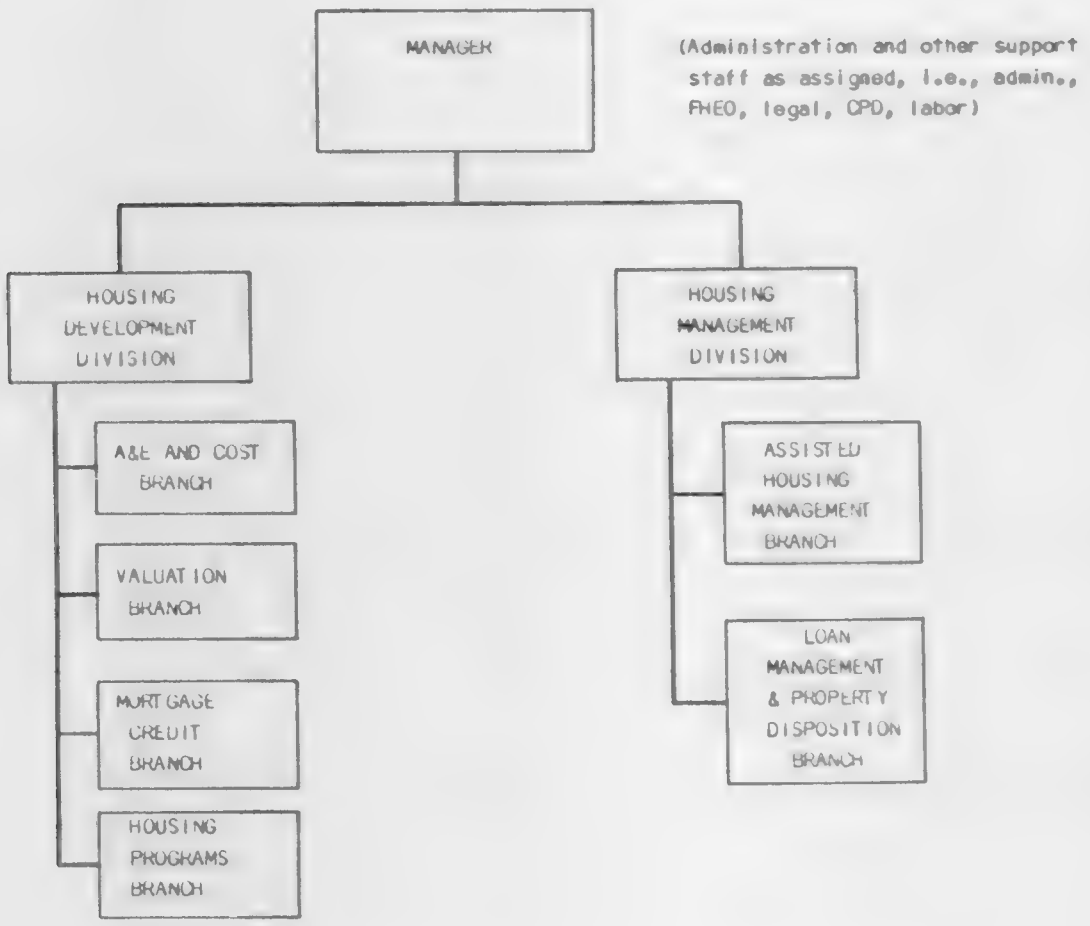

Note 1: The recommended branch structure is shown; variations must be approved by Headquarters.

CATEGORY C OFFICE
(ALL S/F HOUSING PROGRAMS)

Full staffing structure

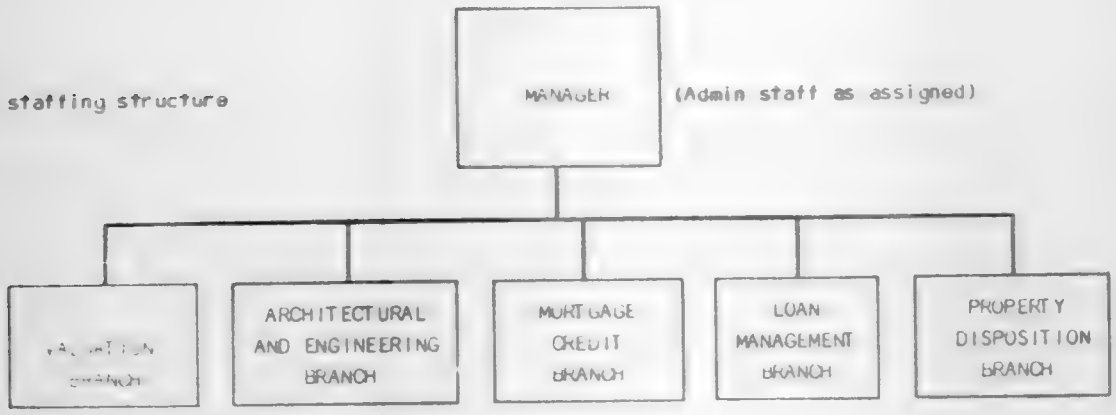

Minimum staffing structure
(Based on criteria in Handbook 1171.1, Area Office Organization)

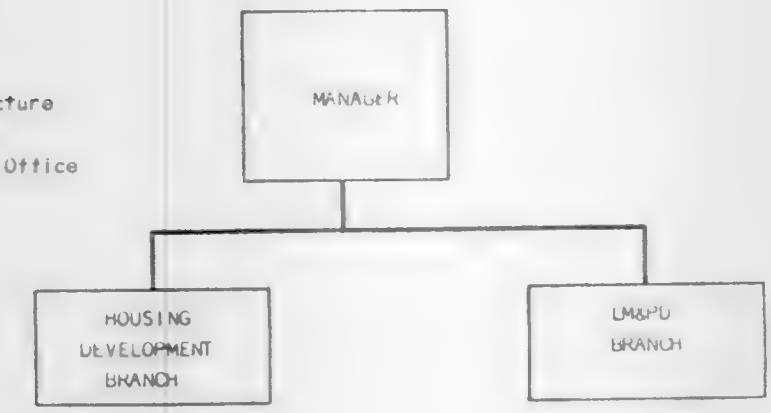

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Appendix B—Summary of Organizational Changes

Region	Type of Change
I. Boston	A second Deputy Regional Administrator is authorized. All programmatic functions of CPD, FHEO, Labor Relations, and EMAD are regionalized, except that a CPD presence may be maintained in Hartford and Manchester. The Manchester and Providence Offices report to the Regional Administrator. The status of the Hartford Office is changed to a Category "B" Office.
II. New York	The dual-track Housing structure in the New York, Newark, and Caribbean Offices is changed to single-track. A second Deputy Regional Administrator is authorized. The Albany and Camden Offices report to the Regional Administrator.
III. Philadelphia	The Office of Administration in the Regional Office consists of a Personnel Division, an Accounting Division with budget functions, and a Management Systems and Services Division. The Charleston Office reports to the Regional Administrator. The dual-track Housing structure in the Philadelphia Office is changed to single-track.
IV. Atlanta	All Labor Relations, Environmental, rehabilitation, and Relocation functions are regionalized. The regionalization of the Labor Relations function is on an experimental, prototype basis to be evaluated at the end of a year. Multifamily Housing functions are reassigned from Nashville to Knoxville. The Coral Gables, Orlando, Tampa, Nashville, and Memphis Offices report to the Regional Administrator. The dual-track Housing structure in the Atlanta Office is changed to single-track. A second Deputy Regional Administrator is authorized. The Office of CPD in the Regional Office consists of a Management and Special Programs Division, an Operations Division, and a Technical Assistance Division.
V. Chicago	A second Deputy Regional Administrator is authorized. The dual-track Housing structure in the Chicago, Detroit, and Minneapolis-St. Paul Offices is changed to single-track. The Cleveland, Cincinnati, Flint, and Grand Rapids Offices report to the Regional Administrator.
VI. Fort Worth	A second Deputy Regional Administrator is authorized. The Dallas and Fort Worth Offices will be consolidated into the Fort Worth Regional Office. The Office of Administration in the Regional Office consists of a Personnel Division, an Administrative Services Division, a Management Information Division, and a Comptroller Division consisting of accounting, management, and budget functions. The Houston, Lubbock, Albuquerque, Shreveport, and Tulsa Offices report to the Regional Administrator.
VII. Kansas City	All Labor Relations functions are regionalized. The Des Moines Office reports to the Regional Administrator.
VIII. Denver	The Helena and Salt Lake City Offices report to the Regional Administrator. The dual-track Housing structure in the Denver Office is changed to single-track. The Office of Administration consists of a Personnel Division, an Administrative Services Division, an Accounting Division, and a Management Division consisting of a management information, management, and budget functions.
IX. San Francisco	A second Deputy Regional Administrator is authorized. The dual-track Housing structure in the Los Angeles, San Francisco, and Sacramento Offices is changed to single-track. The Santa Ana, San Diego, Phoenix, Tucson, Fresno, Las Vegas, Reno, and Sacramento Offices report to the Regional Administrator. The Office of Indian Housing functions of the San Francisco Office will be located in the Phoenix Office except for a staff to service the Northern California tribes.
X. Seattle	A second Deputy Regional Administrator is authorized. All programmatic functions of FHEO and Labor Relations are regionalized, except that a Labor Relations and FHEO presence may be maintained in the Anchorage Office. The Boise and Spokane Offices report to the Regional Administrator.

Appendix C—HUD Staffing Impact on Localities

HUD office	On-board, Jan. 22, 1983	Proposed ceiling	Change	Local population 1980 census
I. Boston Regional Totals	527	515	−12	
Boston Consolidated Office	[illegible]	327	−3	562,994
Hartford AO	110	83	−27	136,392
Manchester SO	[illegible]	[illegible]	+14	90,936
Providence SO	35	[illegible]	+4	156,804
Bangor V&E	2	2		31,643
Burlington V&E	2	[illegible]		37,712
II. New York Regional Totals	1,092	1,056	−36	
New York Consolidated Office	481	478	−3	7,071,030
Buffalo AO	182	169	−13	357,870
Caribbean AO	148	[illegible]	−10	434,849
Newark AO	216	209	−7	[illegible]
Albany SO	18	16	−2	101,727
Camden SO	47	[illegible]	−1	84,910
III. Philadelphia Regional Totals	[illegible]	[illegible]	−49	
Philadelphia Consolidated Office	367	338	−29	1,688,210
Baltimore AO	138	126	−12	786,775
Pittsburgh AO	155	139	−16	[illegible]
Richmond AO	124	123	−1	219,214
Washington, D.C. AO	123	126	+3	637,651
Charleston SO	39	45	+6	[illegible]
Wilmington V&E	3	3		70,195
IV. Atlanta Regional Totals	1,606	1,538	−68	
Atlanta Consolidated Office	404	419	+15	425,022
Birmingham AO	155	143	−12	284,413
Columbia AO	137	120	−17	99,296
Greensboro AO	177	170	−7	155,642
Jackson AO	117	105	−12	202,895
Jacksonville AO	168	162	−6	540,898
Knoxville AO	125	135	+10	183,139
Louisville AO	146	136	−10	298,451
Coral Gables SO	41	40	−1	43,241
Memphis SO	29	25	−4	646,356
Nashville SO	63	24	−39	455,651
Orlando SO	16	19	+3	128,394
Tampa SO	[illegible]	40	+12	271,523
V. Chicago Regional Totals	1,775	1,785	+10	
Chicago Consolidated Office	513	527	+14	3,005,072
Columbus AO	187	179	−8	564,871
Detroit AO	316	307	−9	1,203,339

APPENDIX C—HUD STAFFING IMPACT ON LOCALITIES—Continued

HUD office	On-board, Jan. 22, 1983	Proposed ceiling	Change	Local population 1980 census
Indianapolis AO	181	173	-8	700,807
Milwaukee AO	143	139	-4	636,212
Minn/St. Paul AO	172	176	+4	641,181
Cincinnati SO	71	78	+7	385,457
Cleveland SO	102	116	+14	573,822
Flint SO	13	12	-1	159,611
Grand Rapids SO	71	72	+1	181,843
Springfield V&E	6	6		99,637
VI. Fort Worth Regional Totals	1,043	1,008	-35	
Fort Worth Consolidated Office	143	384	-19	1,289,219
Fort Worth SO	23			
Dallas AO	237			
Little Rock AO	95	97	+2	158,461
New Orleans AO	127	119	-8	557,482
Oklahoma City AO	127	129	+2	403,213
San Antonio AO	122	116	-6	785,410
Albuquerque SO	17	14	-3	331,767
Houston SO	[redacted]	96	+8	1,594,086
Lubbock SO	24	19	-5	173,979
Shreveport SO	20	16	-4	205,815
Tulsa SO	20	18	-2	360,919
VII. Kansas City Regional Totals	587	540	-47	
Kansas City Consolidated Office	275	257	-18	448,159
Omaha AO	118	99	-19	311,681
St. Louis AO	129	119	-10	453,085
Des Moines SO	60	60		191,003
Topeka V&E	5	5		115,266
VIII. Denver Regional Totals	421	395	-26	
Denver Consolidated Office	353	326	-27	491,396
Helena SO	16	16		23,938
Salt Lake City SO	29	29	+1	163,033
Casper V&E	[redacted]	[redacted]		51,016
Fargo V&E	7	7		61,308
Sioux Falls V&E	[redacted]	9		81,343
IX. San Francisco Regional Totals	1,097	1,080	-17	
San Francisco Consolidated Office	456	357	-99	678,974
Honolulu AO	43	39	-4	365,114
Los Angeles AO	295	283	-12	2,966,763
Fresno SO	25	32	+7	218,202
Las Vegas SO	20	34	+14	164,674
Phoenix SO	72	145	+73	764,911
Reno SO	7	[redacted]	+1	100,756
Secramento SO	95	91	-4	275,741
San Diego SO	25	32	+7	875,504
Santa Ana SO	51	45	-6	203,713
Tucson SO	8	14	+6	330,537
X. Seattle Regional Totals	438	414	-24	
Seattle Consolidated Office	242	230	-12	493,846
Anchorage AO	52	48	-4	173,017
Portland AO	114	101	-13	366,383
Boise SO	14	15	+1	102,451
Spokane SO	16	20	+4	171,300
Total field	9,535	9,231	-304	

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Listing of Public Laws

Last Listing February 18, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.J. Res. 60/Pub. L. 98–2 To direct the President to issue a proclamation designating February 16, 1983, as "Lithuanian Independence Day". (Feb. 16, 1983; 97 Stat. 5) Price: $1.75.

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Hazardous Materials
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Housing and Urban Development Department

Marketing Agreements
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Medicaid
Health Care Financing Administration

Old-Age, Survivors and Disability Insurance
Social Security Administration

Public Housing
Housing and Urban Development Department

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Executive Order 12406 of February 18, 1983

President's Commission on Strategic Forces

By the authority vested in me as President by the Constitution and laws of the United States of America, and specifically the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered that Executive Order No. 12400, establishing the President's Commission on Strategic Forces, is amended as follows:

Section 1. Section 2(b) of the Order is amended to provide as follows:

"(b) The Commission shall report to the President no later than April 15, 1983.".

Sec. 2. Section 4(b) of the Order is amended to provide as follows:

"(b) The Commission shall terminate 60 days after it has reported to the President, unless sooner extended.".

Ronald Reagan

THE WHITE HOUSE,
February 18, 1983.

[FR Doc. 83-4710
Filed 2-22-83; 10:12 am]
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 792

[Docket No. CE-RM-82-702]

Loans for Geothermal Reservoir Confirmation Projects; Final Program Provision

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Final rule; technical amendments.

SUMMARY: This document corrects a final rule published at 47 FR 34770, August 11, 1982 relating to loans for geothermal reservoir confirmation projects.

EFFECTIVE DATE: September 10, 1982.

FOR FURTHER INFORMATION CONTACT:

Terri Crane, Office of Conservation and Renewable Energy, Geothermal and Hydropower Technologies Division, 1000 Independence Avenue, SW., Room 5G-030, Washington, DC 20585, (202) 252-8078
Lawrence R. Oliver, Office of General Counsel, GC-44, 1000 Independence Avenue, SW., Room 6F-067, Washington, DC 20585, (202) 252-2440

List of Subjects in 10 CFR Part 792

Classified information, Nuclear materials, Security measures.

Issued in Washington, D.C., February 8, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

In consideration of the foregoing, Title 10 of the Code of Federal Regulations is amended by establishing a new Part 792 as follows:

PART 792—LOANS FOR RESERVOIR CONFIRMATION PROJECTS

Through inadvertence, the regulations entitled "Loans for Reservoir Confirmation Projects", were published at 47 FR 34770, August 11, 1982 as Part 795. Existing Part 795—Safeguarding of Restricted Data published at 41 FR 56785, December 30, 1976, remains in effect. Part 795 as published on August 11, 1982 is renumbered as Part 792 and all the section numbers and cross references are changed accordingly.

[FR Doc. 83-4423 Filed 2-22-83; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 436

Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures

AGENCY: Federal Trade Commission.

ACTION: Temporary partial stay of rules; extension of comment period.

SUMMARY: The period of time for filing comments on the petitions of several automobile companies for an exemption from the requirements of the Franchise Rule regarding disclosure requirements and prohibitions concerning franchising and business opportunity ventures is extended for thirty-eight (38) days to February 28, 1983, due to a request by the National Automobile Dealers Association (NADA).

DATE: Written comments on the petitions for exemption will be accepted until February 28, 1983.

ADDRESS: Written comments may be filed in person or mailed to: FTC/S, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

FTC/PC-B-800-9, Neil J. Blickman, Esq., Federal Trade Commission, 600 E. St., NW., (8th Floor), Washington, D.C. 20580. (202) 376-2805.

SUPPLEMENTARY INFORMATION: Petitions for exemption from the Federal Trade Commission's Regulation Rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" from Volkswagen of America, Inc. and eleven independently owned and operated corporations engaged in the regional distribution of Subaru and Toyota motor vehicles were published in the **Federal Register** on November 22, 1982, 47 FR 52410. The Commission solicited written public comments on the petitions during a sixty (60) day period, until January 21, 1983. On January 21, 1983, the Commission received a comment and a request from the National Automobile Dealers Association (NADA) for an extension of time within which to file additional comments on such petitions, particularly with respect to whether or not Petitioners engage in unfair or deceptive acts or practices in the offer and sale of motor vehicle franchises.

The issues raised by the petitions in this proceeding will critically affect NADA's member-automobile dealers who apparently have not had an opportunity to thoroughly evaluate the exemption petitions; and staff believes that NADA's views could significantly benefit the Commission in making a final decision with respect to the exemption requests. Therefore, to best serve the public interest, notice is hereby given that the Commission has granted a thirty-eight (38) day extension in which all interested parties can file written comments on the automobile company petitions for exemption.

Written comments will be accepted until February 28, 1983. Comments may be filed in person or mailed to: Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580. Comments should be identified as "Auto Industry Franchise Rule Exemption Comment" and, if possible, be submitted with five copies.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 83-4513 Filed 2-22-83; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Determining Disability and Blindness; Eligibility; Experiments and Demonstration Projects Under the Disability Insurance and Supplemental Security Income Programs

AGENCY: Social Security Administration, HHS.

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ACTION: Final rules.

SUMMARY: The Social Security Administration (SSA) is amending its regulations to implement section 505 of the Social Security Disability Amendments of 1980 (Pub. L. 96–265). Section 505(a) requires the Secretary to conduct experiments and demonstration projects to test alternative conditions and limitations for stimulating the return to work of disabled title II beneficiaries and to otherwise improve the administration of the title II disability program. To the extent necessary to thoroughly evaluate these alternative methods, the Secretary may waive compliance with benefit requirements under titles II and XVIII of the Social Security Act. Section 505(b) authorizes the Secretary to waive or add to the requirements, conditions, or limitations in title XVI of the Act to the extent necessary to conduct experimental, pilot, and demonstration projects which are likely to promote the objectives or improve the administration of the SSI program. Section 505(b) also authorizes the Secretary to reimburse States for the non-Federal share of title XIX funds expended to provide medical assistance to title XVI participants in experimental, pilot, or demonstration projects who are not eligible for such medical benefits.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, telephone (301) 594–7414.

SUPPLEMENTARY INFORMATION: We published a notice of proposed rulemaking (NPRM) covering the provisions of experiments and demonstration projects under the disability insurance and supplemental security income programs on April 12, 1982 (47 FR 15602). Section 505 of the Social Security Disability Amendments of 1980 (Pub. L. 96–265) gives authority for demonstration projects in the title II and title XVI programs. Section 505(a) provides that, for the purpose of conducting experiments or demonstration projects in the title II disability program, the Secretary is authorized to waive compliance with the benefit requirements of the title II (cash benefits) and XVIII (Medicare) programs. Section 505(b) authorizes the Secretary to waive any of the requirements, conditions, or limitations of title XVI of impose additional requirements, conditions, or limitations for the purpose of conducting experimental, pilot, or demonstration projects in the title XVI program. Section 505(b) also authorizes the Secretary to reimburse States for the non-Federal share of title XIX funds expended to provide medical assistance to title XVI participants in experimental, pilot or demonstration projects who are not eligible for such medical benefits.

These regulations provide for altering the requirements for title II benefits and SSI benefits for those selected to participate in any experiment or demonstration project under section 505.

The principal objectives of the experiments and demonstrations under section 505(a) will be to determine the relative advantages and disadvantages of various alternative methods of treating work activity and altering other limitations and conditions for title II disabled beneficiaries. The considerations that are to be tested may include lengthening the trial work period, altering the provisions for Medicare entitlement for individuals with severe impairments, reducing benefits based on earnings if a person continues to work after the trial work period, and stimulating new forms of rehabilitation. The goals of these tests are to see whether permanent Trust Fund savings can be achieved by restoring work ability to disabled individuals and to determine to what extent program administration can be improved.

The objectives of experiments under section 505(b) will be to test the advantages of altering the requirements, conditions or limitations of the SSI program and to test different administrative methods that may improve the SSI program.

Title II Work Incentive Experiments and Vocational Rehabilitation Demonstrations

Under the provisions of section 505(a) of Pub. L. 96–265, the Secretary is directed to develop and carry out experiments and demonstration projects designed to determine a more effective way of encouraging disabled beneficiaries to return to work and leave the benefit rolls.

1. *Brief Description of Experiments.* The proposed experiments involve the testing of alternative program requirements and methods of administration. The experiments may include:

(a) Reducing, rather than not paying, benefits because of the amount of earnings in excess of the substantial gainful activity (SGA) amount when a disabled beneficiary is working;

(b) Extending the benefit eligibility period that follows 9 months of trial work, perhaps coupled with benefit reductions related to earnings;

(c) Extending Medicare entitlement for severely impaired beneficiaries who return to work even though they may no longer be entitled to monthly cash benefits;

(d) Altering the initial 24-month waiting period for Medicare entitlement; and

(e) Stimulating new forms of rehabilitation.

2. *Beneficiary Participation.* A probability sample of participants for the experiments will be selected from disability insurance beneficiaries. The work incentive experiments and rehabilitation demonstrations will focus on those beneficiaries who might be able to do substantial work despite continuing severe impairments.

3. *Time Limits and Reports to Congress.* A full description of each experiment or project concerned with work incentives, vocational rehabilitation or improving the administration of the title II disability program will be reported in writing to the Committee on Ways and Means of the House of Representatives and the Committee on finance of the Senate at least 90 days before it becomes operational. The Secretary will also submit progress reports to those committees from time to time. An interim report on the results of work incentive experiments and rehabilitation demonstrations will be submitted to the Congress no later than January 1, 1983. A final report on all experimental projects will be submitted to the Congress no later than June 9, 1985, even though some projects might continue after that date to assure the validity of the research.

4. *Waiver of Benefit Requirements.* These regulations implement the Secretary's authority to waive compliance with entitlement and payment requirements for benefits for some participants in the experimental projects to the extent necessary for a thorough evaluation of the different kinds of requirements being tested. These waivers will not disadvantage participants with respect to requirements which would otherwise apply to them. Benefit requirements will be waived only for those who are selected to participate in an experimental project.

Experimental, Pilot, and Demonstration Projects in the SSI Program

Under the provisions of section 505(b) of Pub. L. 96–265, the Secretary is authorized to develop and carry out experimental, pilot, and demonstration projects to promote the objectives and improve the administration of the SSI program.

1. *Brief Description of Projects.* These experimental, pilot, and demonstration projects may include participants who are aged, blind or disabled. The statute requires that the experiments include (1) projects on the feasibility of treating alcoholics and drug addicts to prevent future permanent disability and (2) to the extent feasible, recipients who are under age 18 as well as adults.

2. *Beneficiary Participation.* Participation in the SSI experimental, pilot, and demonstration projects will be on a voluntary basis. An individual's participation in these projects under title XVI must not result in a substantial reduction of his or her total income and resources. These projects will be designed not to disadvantage any of the participants. The voluntary participation of persons in any project will be obtained through informed written consent. The agreement of participation may be revoked by the person at any time.

3. *Time Limits and Report to Congress.* A final report on all projects will be submitted to the Congress no later than June 9, 1985, even though some projects might continue after that date to assure the validity of the research.

4. *Waiver of Requirements, Limitations and Conditions.* Section 505(b) of Pub. L. 96–265 introduces a new concept to the Supplemental Security Income program. This concept is to temporarily set aside existing requirements, limitations and conditions of the Social Security Act or to impose additional requirements, limitations and conditions to test experimentally the effects of various alternative provisions to promote the objectives and improve the administration of the SSI program.

Comments Received Following Publication of the Notice of Proposed Rulemaking (Published April 12, 1982 (47 FR 15602))

Most of the comments that we received suggested alternative experiments and demonstration projects. They also suggested including experiments and demonstration projects with certain groups of disabled persons. These comments have been referred to the SSA component that will be conducting the experiments and demonstration projects. The two comments that were received regarding the proposed rules are discussed below.

Comment: One commenter stated that while proposed § 416.250(c)(1) offers some limited guarantee that income will not be reduced "substantially", proposed § 404.1599(c)(1) offers no such assurance.

Response: Section 505(b) of Pub. L. 96–265 amended section 1110 of the Social Security Act by adding subsection (b)(2)(A), which ensures that an individual's participation in an experiment or demonstration project under title XVI will not result in a substantial reduction in the individual's total income and resources. Section 505(a) did not contain a similar provision for the work incentive experiments under title II. However, both title II and title XVI participants would generally only be advantaged by participation in the experiments because requirements for benefits are to be waived.

Comment: One commenter stated that the proposed rules made no mention about the effect of benefit requirement waivers on Medicaid eligibility. The proposed rules indicate that title II and title XVI waivers shall not disadvantage project participants. They do not discuss the effect of a title II or XVI waiver upon title XIX benefits. A liberalization of title II or XVI requirements without a change in title XIX requirements may cause ineligibility for Medicaid benefits. Loss of Medicaid benefits due to a liberalization of title II or XVI requirements is an undesirable effect when the purpose of the project is to provide continuous or undiminished support to the participant so that he may become self-sufficient in the future. The commenter suggested that some statement of policy regarding Medicaid be made so that there is no uncertainty.

Response: We are adopting this suggestion in part by adding a policy statement to § 416.250(b) of the final regulations, since section 505(b) or Pub. L. 96–265 specifically authorizes the Secretary to reimburse States for Medicaid expenditures if he requests them to make Medicaid payments to title XVI project participants not otherwise eligible. Section 505(a) does not have similar language and does not authorize extension of Medicaid coverage to title II project participants.

Regulatory Procedures

Executive Order 12291—These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980—These regulations impose no reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act—We certify that these regulations do not have a significant economic impact on small entities because these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13802, Disability Insurance: No 13807, Supplemental Security Income Program)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-age, survivors, and disability insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental security income (SSI).

Dated: November 30, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: February 1, 1983.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart P of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart P of Part 404 reads as follows:

Authority: Secs. 202, 205, 216, 221, 222, 223, 225 and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat 1368, as amended, 68 Stat. 1080, 1081 and 1082, as amended, 70 Stat. 815 and 817, as amended, 49 Stat. 647, as amended; 42 U.S.C 402, 405, 416, 421, 422, 423, 425 and 1302; Sections 505(a) and (c) of Pub. L. 96–265, 94 Stat. 473.

2. Section 404.1599 is added to read as follows:

§ 404.1599 Work incentive experiments and rehabilitation demonstration projects in the disability program.

(a) *Authority and purpose.* Section 505(a) of the Social Security Disability Amendments of 1980, Pub. L. 96–265, directs the Secretary to develop and conduct experiments and demonstration projects designed to provide more cost-effective ways of encouraging disabled beneficiaries to return to work and leave

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benefit rolls. These experiments and demonstration projects will test the advantages and disadvantages of altering certain limitations and conditions that apply to title II disabled beneficiaries. The objective of all work incentive experiments or rehabilitation demonstrations is to determine whether the alternative requirements will save Trust Fund monies or otherwise improve the administration of the disability program established under title II of the Act.

(b) *Altering benefit requirements, limitations or conditions.* Notwithstanding any other provision of this part, the Secretary may waive compliance with the entitlement and payment requirements for disabled beneficiaries to carry our experiments and demonstration projects in the title II disability program. The projects involve altering certain limitations and conditions that currently apply to applicants and beneficiaries to test their effect on the program.

(c) *Applicability and scope.*

(1) *Participants and nonparticipants.* If you are selected to participate in an experiment or demonstration project, we may temporarily set aside one or more of the current benefit entitlement or payment requirements, limitations or conditions and apply alternative provisions to you. We may also modify current methods of administering the Act as part of a project and apply alternative procedures or policies to you. The alternative provisions or methods of administration used in the projects will not disadvantage you in contrast to current provisions, procedures or policies. If you are not selected to participate in the experiments or demonstration projects (or if you are placed in a control group which is not subject to alternative requirements and methods) we will continue to apply to you the current benefit entitlement and payment requirements, limitations and conditions and methods of administration in the title II disability program.

(2) *Alternative provisions or methods of administration.* The alternative provisions or methods of administration that apply to you in an experiment or demonstration project may include (but are not limited to) one or more of the following:

(i) Reducing your benefits (instead of not paying) on the basis of the amount of your earnings in excess of the SGA amount;

(ii) Extending your benefit eligibility period that follows 9 months of trial work, perhaps coupled with benefit reductions related to your earnings;

(iii) Extending your Medicare benefits if you are severely impaired and return to work even though you may not be entitled to monthly cash benefits;

(iv) Altering the 24-month waiting period for Medicare entitlement; and

(v) Stimulating new forms of rehabilitation.

(d) *Selection of participants.* We will select a probability sample of participants for the work incentive experiments and demonstration projects from newly awarded beneficiaries who meet certain pre-selection criteria (for example, individuals who are likely to be able to do substantial work despite continuing severe impairments). These criteria are designed to provide larger subsamples of beneficiaries who are not likely either to recover medically or die. Participants may also be selected from persons who have been receiving DI benefits for 6 months or more at the time of selection.

(e) *Duration of experiments and demonstration projects.* A notice describing each experiment or demonstration project will be published in the **Federal Register** before each experiment or project is placed in operation. The work incentive experiments and rehabilitation demonstrations will be activated in 1982. A final report on the results of the experiments and projects is to be completed and transmitted to Congress by June 9, 1985. However, the authority for the experiments and demonstration projects will not terminate at that time. Some of the alternative provisions or methods of administration may continue to apply to participants in an experiment or demonstration project beyond that date in order to assure the validity of the research. Each experiment and demonstration project will have a termination date (up to 10 years from the start of the experiment or demonstration project).

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart B of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for Subpart B of Part 416 reads as follows:

Authority: Secs. 1102, 1110, 1602, 1611, 1614, and 1631 of the Social Security Act, as amended; 49 Stat. 647, as amended, 94 Stat. 474, 86 Stat. 1465, 1466, 1471 and 1475; 42 U.S.C. 1302, 1310, 1381a, 1382, 1382c, and 1383.

2. Section 416.250 is added to read as follows:

§ 416.250 Experimental, pilot, and demonstration projects in the SSI program.

(a) *Authority and purpose.* Section 1110(b) of the Act authorizes the Secretary to develop and conduct experimental, pilot, and demonstration projects to promote the objectives or improve the administration of the SSI program. These projects will test the advantages of altering certain requirements, conditions, or limitations for recipients and test different administrative methods that apply to title XVI applicants and recipients.

(b) *Altering benefit requirements, limitations or conditions.* Notwithstanding any other provision of this part, the Secretary is authorized to waive any of the requirements, limitations or conditions established under title XVI of the Act and impose additional requirements, limitations or conditions for the purpose of conducting experimental, pilot, or demonstration projects. The projects will alter the provisions that currently apply to applicants and recipients to test their effect on the program. If, as a result of participation in a project under this section, a project participant becomes ineligible for Medicaid benefits, the Secretary shall make arrangements to extend Medicaid coverage to such participant and shall reimburse the States for any additional expenses incurred due to such continued participation.

(c) *Applicability and scope.*

(1) *Participants and nonparticipants.* If you are selected to participate in an experimental, pilot, or demonstration project, we may temporarily set aside one or more current requirements, limitations or conditions of eligibility and apply alternative provisions to you. We may also modify current methods of administering title XVI as part of a project and apply alternative procedures or policies to you. The alternative provisions or methods of administration used in the projects will not substantially reduce your total income or resources as a result of your participation or disadvantage you in comparison to current provisions, policies, or procedures. If you are not selected to participate in the experimental, or pilot, or demonstration projects (or if you are placed in a control group which is not subject to the alternative requirements, limitations, or conditions) we will continue to apply the current requirements, limitations or conditions of eligibility to you.

(2) *Alternative provisions or methods of administration.* The alternative requirements, limitations or conditions that apply to you in an experimental,

pilot, or demonstration project may include any of the factors needed for aged, blind, or disabled persons to be eligible for SSI benefits. Experiments that we conduct will include, to the extent feasible, applicants and recipients who are under age 18 as well as adults and will include projects to ascertain the feasibility of treating drug addicts and alcoholics.

(d) *Selection of participants.* Participation in the SSI project will be on a voluntary basis. The voluntary written consent necessary in order to participate in any experimental, pilot, or demonstration project may be revoked by the participant at any time.

(e) *Duration of experimental, pilot, and demonstration projects.* A notice describing each experimental, pilot, or demonstration project will be published in the **Federal Register** before each project is placed in operation. A final report on the results of the projects is to be completed and transmitted to Congress by June 9, 1985; however, the authority for the experimental, pilot, and demonstration projects will not terminate. Some of the alternative provisions or methods of administration may continue to apply to participants in a project beyond that date in order to assure validity of the research. Each experimental, pilot and demonstration project will have a termination date (up to 10 years from the start of the project).

[FR Doc. 83-4527 Filed 2-22-83; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Approval of Modification of the Tennessee Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Interim final rule.

SUMMARY: OSM is announcing interim final approval of a modification of the Tennessee permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which redesignates the State agency authorized to implement, administer and enforce the approved regulatory program.

By executive order effective February 15, 1983, Governor Lamar Alexander transferred the Division of Surface Mining in the Department of Conservation and its responsibilities and authorities for administration of the Tennessee surface coal mining regulatory program to the Department of Public Health. OSM is approving a modification of the Tennessee permanent program under SMCRA to designate the Department of Public Health as the regulatory authority authorized to implement, administer and enforce the State regulatory program which was approved by the Secretary on August 10, 1982.

DATES: Effective February 15, 1983. Public comment is invited on the action set forth herein. Written comments must be received on or before 4:00 p.m. on March 25, 1983.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. James Curry, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902.

A copy of the Governor's Executive Order and of a letter received by OSM from Tennessee dated January 25, 1983, which notifies OSM of the program modification will be available for review at the OSM Headquarters Office and the OSM Tennessee Field Office, listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1100 "L" Street, NW., Washington, D.C. 20240, or

Office of Surface Mining Reclamation and Enforcement, Knoxville Field Office, 530 Gay Street, S.W., Suite 400, Knoxville, Tennessee 37903, telephone (615) 523-9523.

FOR FURTHER INFORMATION CONTACT: Mr. James Curry, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902.

SUPPLEMENTARY INFORMATION: The Tennessee program under SMCRA was conditionally approved by the Secretary on August 10, 1982 (47 FR 34724-34754). Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Tennessee program can be found in the August 10, 1982 **Federal Register** (47 FR 34724-34754).

By letter dated January 25, 1983, Tennessee notified OSM that Governor Lamar Alexander was expected to issue an Executive Order to take effect February 15, 1982, which would direct a transfer of the Division of Surface Mining in the Department of Conservation and its responsibilities and authorities for administration and enforcement of the Tennessee Surface Coal Mining and Reclamation Program under SMCRA to the Tennessee Department of Public Health.

Findings

Section 723.17(b)(2) of OSM's regulations stipulate that the State shall promptly notify the Director, in writing, of any changes in the authority of the regulatory authority to implement, administer or enforce the approved program. As noted above, in accordance with this provision, Tennessee notified OSM of the impending transfer of the Division of Surface Mining from the Department of Conservation to the Department of Public Health by letter dated January 25, 1983. On February 15, 1983, the State provided OSM with a copy of the Executive Order signed by the Governor on that date which officially authorized the transfer.

After reviewing these documents, OSM has determined that the transfer of the Division of Surface Mining from one agency to another requires that an amendment be made to the approved Tennessee program to designate the Department of Public Health and Environment rather than the Department of Conservation as the regulatory authority authorized to implement, administer and enforce the approved regulatory program under SMCRA. Accordingly, 30 CFR Part 942 is amended as set forth herein to reflect the redesignation of the regulatory authority. The Director has found that this modification of Tennessee's program meets the criteria for approval of State program amendments set forth under 30 CFR 732.17 and 732.15(b). The Executive Order stipulates that the Department of Health shall assume *all* authorities and responsibilities for administration of the regulatory program previously held by the Department of Conservation, including all appropriate State and Federal laws, rules and regulations, investigation and enforcement activities, memorandums of agreement with other agencies and the appropriate requirements outlined in the November 5, 1982, Memorandum of Understanding between the Division of Surface Mining of the Department of Conservation and OSM.

Further, the Division of Surface Mining, which administered the program under the Department of Conservation, has been transferred, intact, to the Department of Health and Environment and will continue to administer the program under that agency. Therefore, the Director has determined that the

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newly designated regulatory authority has the capability to implement, administer and enforce the approved program provisions consistent with 30 CFR 732.15(b).

The approval of this modification to the Tennessee program is effective as of February 15, 1983. This retroactive approval will ensure that there is no lapse in the State's authority to implement and enforce its approved program. To satisfy the public participation requirements for approval or disapproval of State program amendments, the Director is inviting public comment for 30 days on the action set forth herein. Following OSM's review of the comments received, OSM will issue a final rule to announce the Director's final decision on this modification of the Tennessee program.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 942

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 942 is amended as set forth herein.

Dated: February 17, 1983.

J. R. Harris,
Director, Office of Surface Mining.

PART 942—[AMENDED]

1. 30 CFR Part 942.10 is revised to read as follows:

§ 942.10 State regulatory program approval.

The Tennessee State program, as submitted on February 28, 1980, as amended and clarified on June 11, 1980 and June 19, 1980, and revised in material submitted May 13, 1982, was conditionally approved, effective August 1, 1982. Beginning on that date, the Tennessee Department of Conservation was deemed the regulatory authority in Tennessee for all surface coal mining and reclamation operations and all exploration operations on non-federal and non-Indian lands. By executive order effective February 15, 1983, the Governor of Tennessee transferred all authorities and responsibilities for administering the Tennessee State program from the Department of Conservation to the Department of Public Health. Effective February 15, 1983, the Director approved a modification of Tennessee's program to designate the Department of Public Health as the regulatory authority starting on that date. Only surface coal mining and reclamation operations on non-federal and non-Indian lands shall be subject to the provisions of the Tennessee permanent regulatory program. Copies of the approved program, together with copies of the letter of the Department of Conservation agreeing to the conditions of 30 CFR 942.11, are available at:

Administrative Record Room, Office of Surface Mining, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240;
Administrative Record Room, Office of Surface Mining, 530 Gay Street, SW., Suite 500, Knoxville, Tennessee 37902;
Division of Surface Mining, 701 Broadway, Nashville, Tennessee 37203; or
Division of Surface Mining, Dempster Building, 305 West Springdale Avenue, Knoxville, Tennessee 37919.

Appendix [1]

On February 15, 1983, Tennessee transmitted to OSM a copy of Executive Order No. 40 effecting the transfer on February 15, 1983. Following is the full text of the Executive Order:

[1] The text of this appendix will not appear in the Code of Federal Regulations.

An Order Transferring the Division of Surface Mining in the Department of Conservation and Its Functions to the Department of Public Health

Whereas, it is in the interest of a more economical and efficient state service to reduce administrative duplication and to streamline the operation of state government; and

Whereas, it is in the interest of a more economical and efficient state service to combine into one department related service delivery and regulatory programs in order to facilitate the operation of these programs; and

Whereas, the present function of regulating surface mining is located in the Division of Surface Mining and Reclamation of the Department of Conservation in accordance with Tennessee Code Annotated, Sections 59–8–201, *et seq.*, 59–8–301, *et seq.*, and 59–10–101, *et seq.* and relates to the protection of the environment; and

Whereas, the Department of Public Health has the responsibility to administer and coordinate many regulatory programs to protect the environment; and

Whereas, both the Department of Public Health and the Department of Conservation are departments created and established in Tennessee Code Annotated, Section 4–3–101;

Now, therefore, I, Lamar Alexander, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and by Tennessee Code Annotated, Sections 4–4–102 and 4–4–117, do hereby order and direct the following:

1. The Division of Surface Mining and Reclamation in the Department of Conservation be transferred to the Department of Public Health and that from and after February 15, 1983, all functions of the Division of Surface Mining and Reclamation except those functions of the Division of Surface Mining and Reclamation pertaining to the Federal Abandoned Mine Reclamation Fund established by Tennessee Code Annotated, Section 59–8–327 shall be administered by and shall be under the control of the Commissioner of Public Health.

2. From and after the effective date of this transfer, the Commissioner of Public Health shall perform all such duties and shall have the responsibilities heretofore vested in the Division of Surface Mining and Reclamation and the Commissioner of Conservation in accordance with the provisions of Tennessee Code Annotated, Sections 59–8–201, *et seq.*, 59–8–301, *et seq.* and 59–10–101, *et seq.* with the exception of those duties and responsibilities set out in Tennessee Code Annotated, Section 59–8–327. Such responsibilities shall include the administration of the Surface Mining and Reclamation program including all appropriate state and federal laws, rules and regulations, investigation and enforcement activities, memoranda of agreements with other agencies and the appropriate requirements as outlined in the Memorandum of Understanding between the Tennessee Department of Conservation, Division of Surface Mining and the Office of Surface Mining, U.S. Department of Interior,

Tennessee Field Office having an effective date of November 5, 1982.

3. That on or before February 15, 1983, the Department of Conservation and the Department of Public Health, with the assistance and approval of the Department of Personnel, shall cause to be transferred to the Department of Public Health the employees of the Division of Surface Mining and Reclamation and any unfilled, authorized and funded positions assigned to the division together with any employees of or positions of the Department of Conservation assigned primarily to provide support services to the Division of Surface Mining and Reclamation with the exception of those employees and positions which are assigned to the Federal Abandoned Mine Reclamation Fund established by Tennessee Code Annotated, Section 59–8–327.

4. That on or before February 15, 1983, in accordance with Chapter 916, Section 15, Item 3, Public Acts of 1982, the appropriation of the Department of Conservation except for the operation of the Federal Abandoned Mine Reclamation Fund activities, for the remainder of the 1982–1983 fiscal year shall be transferred to the Department of Public Health and that the Department of Finance and Administration shall revise the present budgets as well as all future budgets of the Department of Conservation and the Department of Public Health to reflect the effect of this executive order.

5. That on or before February 15, 1983, all personal property, equipment and other materials made available by the Department of Conservation for use by the Division of Surface Mining and Reclamation shall be transferred to the custody and control of the Department of Public Health with the exception of that property, equipment and material used in performing the responsibilities set out in Tennessee Code Annotated, Section 59–8–327.

6. That all contracts or leases entered into prior to February 15, 1983 by the Department of Conservation with respect to any program or function transferred herein with any entity, corporation, agency, enterprise or person shall continue in full force and effect as to all essential provisions in accordance with the terms and conditions of the contract in existence on February 14, 1983, to the same extent as if such contracts had originally been entered into by and between such entity, corporation, agency, enterprise or person and the Department of Public Health, unless and until such contracts or leases are amended or modified by the parties thereto.

7. That on or after February 15, 1983, the Department of Public Health through its chief executive officer shall have the authority to receive, administer and supervise any and all grants and funds from whatever source, including but not limited to the federal, state, county and municipal governments, with respect to the programs or functions of the Department of Conservation herein transferred to the Department of Public Health.

8. That all rules, regulations, orders and decisions heretofore issued or promulgated by the Department of Conservation shall remain in full force and effect and shall hereafter be administered and enforced by the Department of Public Health. To this end, the Department of Public Health through its chief executive officer shall have the authority, consistent with the statutes and regulations pertaining to the programs and functions transferred herein, to modify and rescind orders or rules and regulations heretofore issued and to adopt, issue or promulgate new orders or rules and regulations as may be necessary for the administration of the program or function herein transferred.

In witness whereof, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 11th day of February, 1983.

Lamar Alexander,

Governor.

Attest:

———— ————,

Secretary of State.

[FR Doc. 83–4821 Filed 2–22–83; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA Docket No. 107–VA–3; A–3–FRL 2280–8]

Designation of Areas for Air Quality Planning Purposes Approval of State Implementation Revision and Section 107; Designation for the Commonwealth of Virginia

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA announces the approval of a revision submitted by the Commonwealth of Virginia redesignating the Roanoke, Peninsula and Southeastern areas and Stafford County as attainment of the National Ambient Air Quality Standard (NAAQS) for Ozone (O_3). All other Section 107 designations for the Commonwealth of Virginia not discussed in this notice remain intact.

EFFECTIVE DATE: March 25, 1983.

ADDRESSES: Copies of the revision and accompanying documents are available during normal business hours at the following offices:

EPA, Public Information Reference Unit, Library Systems Branch, 401 "M" Street SW., Washington, D.C. 20460;

The Office of the Federal Register, Room 8401, 1100 "L" Street NW., Washington, D.C. 20460;

U.S. Environmental Protection Agency, Region III, Air Programs and Energy Branch, Curtis Building, Second Floor, Sixth and Walnut Streets, Philadelphia, PA 19106; Attn: Eileen M. Glen; or

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, VA 23219; Attn: John M. Daniel, Jr.

FOR FURTHER INFORMATION CONTACT: Eileen M. Glen (3AW13) at the EPA, Region III address above or call 215/597–8187.

SUPPLEMENTARY INFORMATION: Section 107(d)(1) of the Clean Air Act (Act) requires the States to submit to the Administrator a list identifying all air quality control areas, or portions thereof, that have not attained the National Ambient Air Quality Standards. The Act further requires that the Administrator promulgate this list, with such modifications as he deems necessary, as required by Section 107(d)(2) of the Act. On March 3, 1978, the Administrator promulgated nonattainment designations for the Commonwealth of Virginia for Ozone (O_3), 44 FR 8962. These designations were effective immediately and public comment was solicited. On September 12, 1978, in response to the comments received, the Administrator revised and amended some of the original designations, 43 FR 40502. The Act also provides that a State, from time to time, may review and revise its designations list and submit these revisions to the Administrator for promulgation (Section 107(d)(5) of the Act). The criteria and policy guidelines governing these revisions and the Administrator's review of them are the same that were used in the original designations and which are summarized in the **Federal Register** on March 3, 1978, 43 FR 8962, September 11, 1978, 43 FR 40412; and September 12, 1978, 43 FR 40502. The Commonwealth of Virginia has revised its designations list and, on December 16, 1981, submitted these revisions to EPA. The monitoring data supporting this redesignation was submitted to EPA's SAROADS system on April 7, 1982.

The Commonwealth of Virginia has revised the O_3 designations for the areas cited below from "Does not meet primary standards" to "Cannot be classified or better than national standards."

Nonattainment area	*Localities included*
Roanoke	Roanoke City, Salem City, Roanoke County.
Stafford County	Stafford County
Peninsula	Hampton City, Newport News City
Southeastern	Chesapeake City, Norfolk City, Portsmouth City, Suffolk City, Virginia Beach City.

EPA reviewed the redesignation, evaluated the supporting data, and, on

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August 31, 1982, published a Proposed Rulemaking at 47 FR. 38364 approving the redesignation. As a result of the **Federal Register** notice, EPA received numerous comments regarding the proposed redesignation for the Peninsula and Southeastern areas. These comments are addressed in detail in the Technical Support Document. The comments dealt primarily with probable incorrect rounding-off techniques of actual 3-digit measurements, SAROADS data, the operation of certain monitors, and the allegation that there were more than three days of violations at certain monitors over the past three years. EPA forwarded all the comments received to the Commonwealth for review and response as well as conducting its own independent evaluation. We found that on several occasions the Commonwealth did not follow established EPA procedures when rounding-off actual measurements. Although the Commonwealth is not in total agreement with EPA's position, they have agreed to revise the SAROADS data to reflect the proper procedures. The only monitor significantly affected by this is Cheriton (95-A) in that the SAROADS data now shows three violations for the three year period 1979 through 1981. This is still within the limits allowed by EPA and does not adversely affect the Commonwealth's requested redesignations.

This issue and others raised during the public comment period are addressed in detail in the Commonwealth's letter of October 25, 1982 and EPA's Technical Support Document. EPA believes all issues have been adequately addressed and that none of the issues raised justify disapproval of the Commonwealth's request for redesignation.

In addition to the above redesignations, the Commonwealth also requested EPA take certain actions with respect to its ozone SIP.

On May 27, 1981 the Commonwealth requested that those portions of the January 11, 1979 revision of Chapter 10 relative to Items 2 through 5 for the Southeastern and Peninsula areas be withdrawn. They do not propose to evaluate, adopt, or implement any future transportation measures.

Now, because two of the areas are able to attain the ambient air quality standard before December 31, 1982 without the implementation of any transportation control measures, EPA can approve the deletions to chapter 10, Transportation Source Measures for the Southeastern and Peninsula areas.

On December 17, 1979, the Commonwealth submitted a revised Part D plan for all nonattainment areas that addressed attainment of the .12 ppm ozone standard. This submittal revised the RACT regulatory language to state that the regulations applied only to sources in those areas listed in Appendix P. Because Appendix P did not list the Roanoke area, previously approved (August 19, 1980, 45 FR 55180), RACT regulations (Round I CTG's) are deleted and the RACT regulations dealing with the Round II CTG's (CTG's published by EPA between January 1978 and January 1979) would not be imposed in the Roanoke area.

EPA did not act on this request when submitted (47 FR 19523, May 6, 1982) because the redesignation action was still under review. Now that EPA has completed its evaluation of the redesignation request, we are approving the December 17, 1979 revision to Chapter 3 of the Roanoke plan and Appendix P.

Conclusion

EPA is today approving the Commonwealth's request to redesignate the Roanoke, Peninsula, and Southeastern areas and Stafford County as "attainment" for the National Ambient Air Quality Standard (NAAQS) for Ozone. All other Section 107 designations for the Commonwealth of Virginia remain intact.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Section 307 (b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's Notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Virginia was approved by the Director of the **Federal Register** on July 1, 1982.

(Sec. 107(d), 110. 172, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410—7642))

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In Section 52.2420, Identification of Plan, paragraph (c) is revised by adding subparagraph (73) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(73) A revision submitted by the Commonwealth of Virginia on December 17, 1979 consisting of revisions to Chapter 3 of the Roanoke Plan and a revised Appendix P.

PART 81—[AMENDED]

Part 81 of Title 40, Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

1. In § 81.347, Virginia, the table entitled "Virginia–O_3" is revised to read as follows:

§ 81.347 Virginia.

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
I. Southwest Virginia—Tennessee Interstate AQCR		X
II Valley of Virginia Intrastate AQCR		X
III Central Virginia Interstate AQCR		X
IV. Northeastern Virginia Interstate AQCR		X
V State Capital Intrastate AQCR		
Richmond City	X	
Henrico County	X	
Chesterfield City	X	
Remainder of AQCR		X
VI. Hampton Roads Interstate AQCR		X
VII. National Capital Interstate AQCR	X	

[FR Doc. 83-4477 Filed 2-22-83; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 48, No. 37
Wednesday, February 23, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

Grapes Grown in Designated Area of Southeastern California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposal which would establish, during the period May 1–August 15, 1983, quality requirements for table grapes grown in southeastern California. Such grapes would be required to meet the minimum grade and size requirements for U.S. No. 1 Table grade, as defined in the U.S. Standards for Grades of Table Grapes (European or Vinifera type), and minimum maturity standards as defined in the Administrative Code of California. Also proposed are the following regulations: container and pack requirements, pack specifications, container markings, the amount of grapes packed in each container, experimental containers, organically-grown grapes, grapes for by-products, and packing holidays. These actions are needed to assure the shipment of ample supplies of grapes of acceptable quality and to promote orderly marketing in the interests of producers and consumers.

DATES: Comments must be submitted on or before March 25, 1983.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, (202) 447–5975.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California desert grape crop for the benefit of producers and consumers, and will not substantially affect costs for the persons directly regulated.

The proposed southeastern California table grape regulation is issued under marketing agreement and Order No. 925 (7 CFR Part 925), regulating the handling of table grapes grown in a designated area of southeastern California. This marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The quality, container, and pack requirements, and other requirements for southeastern California table grapes were recommended by the California Desert Grape Administrative Committee (CDGAC). The committee recommended such requirements following discussion at a public meeting on November 30, 1982.

The proposed regulation would require southeastern California table grapes to meet the minimum grade and size requirements of U.S. No. 1 Table Grade as specified in the U.S. Standards for Grades of Table Grapes (European or Vinifera type). In addition, such grapes would also be required to meet the minimum maturity requirements for table grapes as specified in the California Administrative Code. These requirements are necessary to assure the shipment of ample supplies of acceptable quality table grapes.

The proposed regulation would also require standard pack, container, and container marking requirements in order to facilitate standardized packing practices. Containers to be used are those specified in the California Administrative Code. The regulation also allows the use of experimental containers approved by the committee (CDGAC). Most containers would be required to contain a minimum net weight of grapes of 22 pounds and such containers would also be required to bear the minimum net weight of the grapes contained therein, the name of the grape variety, the name of the shipper, and the lot stamp inspection number on the outside of the container. These requirements are designed to facilitate identification of shipments and promote orderly marketing of these grapes. The proposed packing holidays on Saturdays and Sundays and certain holidays during the regulation period are designed to prevent an accumulation of excessive supplies of table grapes at distribution points during periods of reduced demand or market inactivity. Exemptions from regulation are provided for "organically-grown" table grapes, and table grapes for processing if certain conditions and safeguards are met.

Certain maturity, container, and pack requirements cited in the proposed regulation are specified in the Administrative Code of California (Title 3), and are incorporated by reference. Copies of such requirements are available from William J. Boyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

List of Subjects in 7 CFR Part 925

Marketing agreements and orders, Grapes, California.

PART 925—[AMENDED]

The proposal would add a new § 925.302 to read as follows:

§ 925.302 California Desert Grape Regulation 3.

During the period May 1, 1983, through August 15, 1983, no person shall handle any variety of grapes unless such grapes meet the following requirements: *Provided*, That no person shall pack pack any such grapes on any Saturday or Sunday, or on May 30 or July 4, 1983, unless approved in accordance with paragraph (e)—

(a) *Grade, size, and maturity*. Such grapes shall meet the minimum grade and size requirements specified in § 51.884 for U.S. No. 1 Table Grade, as set forth in the U.S. Standards for Grades of Table Grapes (European or Vinifera type, 7 CFR 51.880 through 51.912), and minimum maturity standards in accordance with applicable sampling and testing procedures specified in sections 1436.3 through 1436.17 of the Administrative Code of California (Title 3).

(b) *Container and Pack*. (1) Such grapes shall be packed in one of the following containers, which are new and clean, and which otherwise meet the requirements of sections 1359 (a), (b), (d), 1380.19, 1436.35, 1436.37, 1436.38 and

1436.40 of the Administrative Code of California (Title 3):

(i) Sawdust pack with inside dimensions of 7¾×14 15/16×18⅝ inches, specified as container 28;

(ii) Polystyrene lug with inside dimensions of 6¾×12½×15⅜ inches, specified as container 38J:

(iii) Standard grape lug with dimensions in inches of 4½ to 8½ (inside) ×13¾ to 14½ (outside) ×16⅝ to 17⅞ (outside); specified as container 38K;

(iv) Polystyrene lug with inside dimensions of 6¼ or 8¼×11⅞×18⅛ inches, specified as container 38Q:

(v) Grape lug with dimensions in inches of 4 to 7 inches (inside) ×15¾ (outside) ×19 1/16 (outside), specified as container 38R;

(vi) Such other types and sizes of containers as may be approved by the committee for experimental or research purposes.

(2) The minimum net weight of grapes in any such containers, except for containers containing grapes packed in sawdust, cork, excelsior or similar packing material, and experimental containers, shall be 22 pounds based on the average net weight of grapes in a representative sample of containers.

(3) Such containers of grapes shall be plainly marked with the minimum net weight of grapes contained therein (with numbers and letters at least one-forth inch in height), the name of the variety of the grapes and the name of the shipper.

(4) Such containers of grapes shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector, except that such requirement shall not apply to containers in the center tier of a lot palletized in a 3 box by á 3 box pallet configuration.

(c) *Organically grown grapes.* Organically grown grapes (defined to mean grapes which have been grown for market as natural grapes by performing all the normal cultural practices, but not using any inorganic fertilizers or agricultural chemicals including insecticides, herbicides, and growth regulators, except sulfur) need not meet the minimum individual berry size requirements of this section if the following conditions and safeguards are met: (10 The handler of such grapes has registered and certified with the committee on a date specified by the committee the location of the vineyard, the acreage and variety of grapes, and such other information as may be needed by the committee to carry out these provisions; (2) each container of organically grown grapes bears the words "organically grown" on one outside end of the container in plain letters in addition to requirements specified under paragraph (b)(3) of this section.

(d) *By-product grapes.* The handling of grapes for processing (raisins, crushing and other by-products) is exempt from requirements specified in paragraphs (a), (b), and (c) of this section if the committee determines that the person handling such grapes has secured the appropriate permit or order from the County Agricultural Commissioner, and the by-product plant or packing plant to which the grapes are shipped has adequate facilities for commercial processing, grading, packing or manufacturing of by-products for resale.

(e) *Suspension of packing holidays.* Upon approval of the committee, the prohibition against packing grapes on any Saturday or Sunday, or on May 30 or July 4, 1983, may be modified or suspended to permit the handling of grapes provided such handling complies with procedures and safeguards specified by the committee.

Dated February 16, 1983.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-4512 Filed 2-22-83; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 812 3079]

Chicago Metropolitan Pontiac Dealer's Association, Inc. and Competitive Edge, Inc.; Proposed Consent Agreements With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreements.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, these consent agreements, accepted subject to final Commission approval, would rquire a Wheaton, Ill. Pontiac dealers' association and an Albuquerque, N.M. advertising agency, among other things, to cease failing to make clear and conspicuous credit disclosures in T.V. advertisements promoting consumer credit. Under the orders, credit terms would be required to be displayed in the video portion of the ad for at least five seconds, and rates of finance charges must be quoted as an "annual percentage rate." Further, the corporations would be prohibited from using certain credit terms in advertisements promoting credit sales unless those advertisements also include statutorily required information in the manner prescribed by the Truth In Lending Act and its implementing Regulation Z.

DATE: Comments must be received on or before April 25, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: George R. Bellack, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, IL 60603. (312) 353–5533.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreements containing consent orders to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Advertising, Consumer credit.

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

[File No. 812 3079]

Agreement Containing Consent Order to Cease and Desist

In the matter of *Chicago Metropolitan Pontiac Dealers' Association, Inc.*, a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Chicago Metropolitan Pontiac Dealers' Association, Inc., a corporation (hereinafter referred to as "proposed respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Chicago Metropolitan Pontiac Dealers' Association, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that any facts (other than jurisdictional facts) which are alleged in the attached draft compliant are true, or that any law has been violated.

2. Proposed respondent Chicago Metropolitan Pontiac Dealers' Association, Inc., is a corporation organized, existing and doing business under and by virtue of the

laws of the State of Illinois, with its office , and principal place of business located at 208 North West Street, in the City of Wheaton, State of Illinois.

3. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review of otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it m ay consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the compliant and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent shall not be deemed to have violated the requirements of the order entered pursuant to this agreement if it shows that any alleged violation was not intentional and resulted from a bona fide error within the meaning of Section 130(c) of the Truth in Lending Act, notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation, provided that on discovering the violation, proposed respondent shall correct it as soon as possible and shall take reasonable steps to avoid its recurrence.

8. Proposed respondent shall not be deemed to have violated the requirements of the order entered pursuant to this agreement by virtue of any independent action of any broadcaster or other independent third party; provided that on discovering the violation, proposed respondent takes reasonable steps to avoid its recurrence.

9. In any proceeding to enforce compliance with the order entered pursuant to this agreement, respondent shall be entitled to all rights granted by Section 23 of the Federal Trade Commission Act. 15 U.S.C. § 57b–4. It shall be a defense for proposed respondent to show that it acted in good faith reliance on any rule, regulation, statement of interpretation or commentary issued by or authorized by the Board of Governors of the Federal Reserve System.

10. The order entered pursuant to this agreement has been entered into based upon the existing provisions of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, as amended, and its implementing Regulation Z, 12 CFR § 226, as amended. In the event any applicable section of the Federal Trade Commission Act or the Truth in Lending Act or Regulation Z is amended or repealed, the provisions of the order shall be modified automatically to conform to such amendment or repeal.

11. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I. It is ordered that respondent Chicago Metropolitan Pontiac Dealers' Association, Inc., its successors and assigns, member dealers, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any television advertisement to promote, directly or indirectly, any extension of consumer credit, as "advertisement" and "consumer credit" are defined in Regulation Z (12 CFR § 226), the implementing regulation of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*,[1] do forthwith cease and desist from:

1. Stating the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, unless the following terms are also stated, as required by Section 226.24(c)(2) of Regulation Z:

(a) The amount or percentage of the downpayment;

(b) The terms of repayment; and

(c) The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact.

The terms which are required by Section 226.24(c)(2) of Regulation Z are subject to the general "clear and conspicuous" standard set forth in Section 226.17(a)(1) of Regulation Z and Section 226.24–1 of the Official Federal Reserve Board Staff Commentary on Regulation Z.

2. Failing to disclose the terms required by Section 226.24(c)(2) of Regulation Z in the video portion of any television advertisement subject to this order for at least five (5) seconds' duration.

3. Failing in an advertisement which states a rate of finance charge to state the rate as an "annual percentage rate," using that term as required by Section 226.24(b) of Regulation Z.

II. It is further ordered that:

1. Respondent shall distribute a copy of this order to each person having decision-making authority to determine all or part of the contents of an advertisement which is subject to this order, and to the president or chief executive officer of each of respondent's members and shall secure from each such person a signed statement acknowledging receipt of said order.

2. Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

3. Respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a written report setting forth in detail the manner and form in which it has compiled with this order.

[File No. 812 3079]

Agreement Containing Consent Order to Cease and Desist

In the matter of *The Competitive Edge, Inc.* a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of The Competitive Edge, Inc., a corporation (hereinafter sometimes referred to as "proposed respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between The Competitive Edge, Inc., by its duly authorized officer, and its attorneys, and counsel for the Federal Trade commission that:

1. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that any facts (other than jurisdictional facts) which are alleged in the attached draft complaint are true, or that any law has been violated.

2. Proposed respondent the Competitive Edge, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Mexico, with its office and principal place of business located at Number 3 American Financial Center, 2400 Louisiana Boulevard, N.E., Albuquerque, New Mexico 87190.

[1] All references to the Truth in Lending Act and Regulation Z contained in this Order shall refer to the Truth in Lending Act as amended to March 31, 1980, and Regulation Z as amended to April 1, 1981

3. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or other wise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so noitify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent shall not be deemed to have violated the requirements of the order entered pursuant to this agreement if it shows that any alleged violation was not intentional and resulted from a bona fide error within the meaning of Section 130(c) of the Truth in Lending Act, notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation, provided that on discovering the violation, proposed respondent shall correct it as soon as possible and shall take reasonable steps to avoid its recurrence.

8. Proposed respondent shall not be deemed to have violated the requirements of the order entered pursuant to this agreement by virtue of any independent action of any broadcaster or other independent third party; provided that on discovering the violation, proposed respondent takes reasonable steps to avoid its recurrence.

9. In any proceeding to enforce compliance with the order entered pursuant to this agreement, respondent shall be entitled to all rights granted by Section 23 of the Federal Trade Commission Act, 15 U.S.C. § 57b–4. It shall be a defense for proposed respondent to show that it acted in good faith reliance on any rule, regulation, statement of interpretation or commentary issued by or authorized by the Board of Governors of the Federal Reserve System.

10. The order entered pursuant to this agreement has been entered into based upon the existing provisions of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, as amended, and its implementing Regulation Z, 12 CFR § 226, as amended. In the event any applicable section of the Federal Trade Commission Act or the Truth in Lending Act or Regulation Z is amended or repealed, the provisions of the order shall be modified automatically to conform to such amendment or repeal.

11. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I. It is ordered that respondent The Competitive Edge, Inc., its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any television advertisement to promote, directly or indirectly, any extension of consumer credit, as "advertisement" and "consumer credit" are defined in Regulation Z (12 C.F.R. § 226), the implementing regulation of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*,[1] do forthwith cease and desist from:

1. Stating the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, unless the following terms are also stated, as required by Section 226.24(c)(2) of Regulation Z:

(a) The amount or percentage of the downpayment;

(b) The terms of repayment; and

(c) The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact.

The terms which are required by Section 226.24(c)(2) of Regulation Z are subject to the general "clear and conspicuous standard set forth in Section 226.17(a)(1) of Regulation Z and Section 226.24–1 of the Official Federal Reserve Board Staff Commentary on Regulation Z.

2. Failing to disclose the terms required by Section 226.24(c)(2) of Regulation Z in the video portion of any television advertisement subject to this order for at least five (5) seconds' duration.

3. Failing in any advertisement which states a rate of finance charge to state the rate as an "annual percentage rate," using that term as required by Section 226.24(b) of Regulation Z.

II. It is further ordered that:

1. Respondent shall distribute a copy of this order to the most senior person employed in each of its operating divisions and to each person having decision-making authority to determine all or part of the contents of an advertisement which is subject to this order, and shall secure from each such person a signed statement acknowledging receipt of said order.

2. Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

3. Respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a written report setting forth in detail the manner and form in which it has complied with this order.

Analysis of Proposed Consent Orders to Aid Public Comment

The Federal Trade Commission has provisionally accepted agreements to proposed consent orders from Chicago Metropolitan Pontiac Dealers' Association, Inc., and The Competitive Edge, Inc.

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

The complaints allege violation of the Truth in Lending Act and of the implementing Federal Reserve Board Regulation Z, in television advertisements designed to promote consumer credit. The advertisements were produced by The Competitive Edge, Inc., and caused to be broadcast by that firm and by the Chicago Metropolitan Pontiac Dealers' Association, Inc., during January and February, 1981. The complaints allege that the advertisements disclosed the required credit terms for an insufficient

[1] All references to the Truth in Lending and Regulation Z contained in this Order shall refer to the Truth in Lending Act as amended to March 31, 1980, and Regulation Z as amended to April 1, 1981.

time for the viewer to read them, thereby detracting from the clarity and conspicuousness of the required disclosures, and that the annual percentage rate was not stated as an "annual percentage rate" using that term. The complaints, therefore, allege that the failure to make clear and conspicuous disclosures and to use the term "annual percentage rate" violated Regulation Z and the Truth in Lending Act.

The orders require that future television advertisements containing credit disclosures state the required credit terms clearly and conspicuously, for at least five (5) seconds' duration in the video portion. If these advertisements state a rate of finance charge, they must also state that rate as an "annual percentage rate", using that term.

These are the first Truth in Lending consent orders provisionally accepted by the Commission since Congress passed the Truth in Lending Simplification and Reform Act. The overriding purpose of this Act was to simplify consumer credit disclosures, facilitating compliance by creditors and improving the dissemination of meaningful information. To implement this purpose, Regulation Z was revised, resulting in fewer required disclosures and requiring these disclosures under fewer circumstances.

Consistent with the purpose of the revised Act and Regulation, these orders limit the circumstances under which disclosures must be made in television advertisements and reduce the number of terms which must be disclosed under these circumstances.

In addition, the orders provide for greater flexibility in the requirement that the credit term disclosures in the television advertisements subject to the order be "clear and conspicuous." In past Truth in Lending orders,[2] the Commission has defined this phrase by requiring certain disclosure formats, type sizes and similar restrictions. While the Commission based its definition of "clear and conspicuous" in these cases on factors set forth in the Commission's Statement of Enforcement Policy, CCH Trade Regulation Reporters, ¶7569.09 (Oct. 21, 1970), which applies to television advertising generally, such precise definition is no longer consistent with the revised Act and Regulation, as applied to credit advertising. Indeed, the Federal Reserve Board, in its Official Staff Commentary on revised Regulation Z, stated that the "clear and conspicuous" standard is to be viewed as a flexible one. Section 226.24–1 of the Commentary, therefore, provides that there are

> no specific rules for the format of the necessary disclosures. The credit terms need not be printed in a certain type size nor need they appear in any particular place in the advertisement.

The Commission believes that, in the context of credit advertisements subject to Regulation Z, it should apply the "clear and conspicuous" disclosure standard articulated in the Official Staff Commentary. Accordingly, the orders simply refer to the Commentary, rather than defining the phrase "clear and conspicuous."

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 83-4484 Filed 2-22-83; 8:45 am]

BILLING CODE 6450-01-M

[2] *E.g. George Irvin Chevrolet Company,* 98 F.T.C. 447 (1981).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 841

[Docket No. R-83-1016]

Public Housing Development, Revision of Requirements

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would prohibit Public Housing Agencies from transfering existing city, county or State-assisted projects to the public housing program under the U.S. Housing Act of 1937, except with the prior written approval of the Assistant Secretary for Housing. The same prohibition would apply to projects funded pursuant to Program Reservations issued prior to October 1, 1980. The Department believes that, as a general matter, the transfer of such projects to the public housing program does not contribute to the goal of providing additional low-income housing units, but instead only provides additional subsidy for projects developed and funded under State law. The effect of the rule will be to control the extent of such transfers by requiring the written approval of the Assistant Secretary for Housing.

DATE: Comment Due Date: April 25, 1983.

ADDRESS: Interested persons are invited to sumbit comments regarding this Rule to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Raymond W. Hamilton, Director, Public Housing Development Division, Office of Public Housing, Office of the Deputy Assistant Secretary for Public and Indian Housing, Room 4232, Department of Housing and Urban Development, Washington, D.C. 20410 (202–426–0938). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Public Housing Development regulations were codified (at 24 CFR Part 841) for the first time in February 1977. An interim rule amending Part 841 was published April 16, 1979 (44 FR 22678), effective May 16, 1979. On September 12, 1980, a complete revision of Part 841 was published as a final rule (45 FR 60836), effective October 1, 1980. The preamble to the final rule provided that projects for which a Program Reservation had been issued before October 1, 1980 would continue to be processed in accordance with the regulations as amended in 1979.

The Department has heretofore provided a mechanism to Public Housing Agencies (PHAs) for HUD approval of the transfer of city, county, or State-assisted PHA-owned projects to the public housing program under the U.S. Housing Act of 1937 in order to obtain operating subsidies and funding for rehabilitation activities. In June and August 1981, the Department suspended processing of such projects which had not reached Annual Contributions Contract execution and requested information from its Field Offices on the extent of this activity. At that time some 65,000 units had been approved or were pending approval in five Field Offices, with an estimated annual requirement for operating subsidy of $108 million (assuming all projects were transferred). The Department has determined as a general matter that the transfer of city, county or State-assisted PHA-owned projects does not contribute to meeting the goals of the Department in providing additional low-income housing units, but only provides additional subsidy for projects developed and funded under

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State law. Therefore, the Department intends to exclude prospectively such types of properties from eligibility under 24 CFR Part 841. This policy is also being made applicable to approximately 10,000 units for which processing had been suspended before receipt of proposed approvals. Appropriate changes will be made to HUD Handbooks 7417.1 and 7417.1 REV–1, to reflect this policy.

In recognition of this policy determination, the Department proposes to provide explicitly in its regulations that proposals for inclusion of city, couty, or State-assisted projects under Annual Contributions Contract require the written approval of the Assistant Secretary for Housing.

This proposed rule does not constitute a "major rule," as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the office of the Rules Docket Clerk at the address set forth above.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. Since these requirements will not result in a change to the existing status of locally assisted projects, the economic impact on PHAs will not be significant.

This rule is listed at 47 FR 48432 as item H–33–82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

(The Catalog of Federal Domestic Assistance number is 14.146, Low-Income Housing-Assistance Program.)

List of Subjects in 24 CFR Part 841

Loan programs, Housing and community development, Public housing, Prototype costs, Cooperation agreements, Turnkey, Conventional.

PART 841—[AMENDED]

Accordingly, it is proposed that 24 CFR Part 841, be amended by revising § 841.206 to read as follows:

§ 841.206 Eligible properties.

(a) *Properties assisted under the Act.* Proposals involving properties already assisted under the Act, or which received assistance within one year of the date the application or proposal is submitted to the Field Office, may not be approved without the prior written approval of the Assistant Secretary for Housing.

(b) *Local or State Properties.* Proposals (including, for purposes of this subsection only, Development Programs pursuant to Program Reservations isssued prior to October 1, 1980) for the transfer of existing PHA-owned, city, county or State-assisted projects to the Federal public housing program under the U.S. Housing Act of 1937 may not be approved, except with the prior written approval of the Assistant Secretary for Housing.

(Sec. 7(d) Department of HUD Act, 42 U.S.C. 3535(d); U.S. Housing Act of 1937 42 U.S.C. 1437.)

Dated: October 22, 1982.

Philip Abrams,

General Deputy Assistant Secretary—Deputy Federal Housing Commissioner.

[FR Doc. 83–4366 Filed 2–22–83; 8:45 am]

[BILLING CODE 4210–27–M

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24 CFR Parts 880, 881, 883, 884, and 885

[Docket No. R–83–1035]

Section 8 Housing Assistance Payments Program for New Construction, Section 8 Housing Assistance Payments Program for Substantial Rehabilitation, Section 8 Housing Assistance Payments Program—State Housing Agencies; Section 8 Housing Assistance Payments Program, New Construction Set-Aside for Section 515 Rural Rental Housing Projects; Section 8 Housing Assistance Payments Program—Special Allocations

AGENCY: Office of Assistance Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend those Section 8 Housing Assistance Payments Program regulations which involve newly constructed or substantially rehabilitated housing. The amendments are needed to comply with Section 325(l) of the Housing and Community Development Amendments of 1981, which requires that each contract to make assistance payments for newly constructed or substantially rehabilitated housing under Section 8 of the U.S. Housing Act of 1937, as amended, provide that during the term of the contract the owner shall make available for occupancy by families which are eligible for assistance, at the time of their initial occupancy, the number of units for which assistance is committed under the contract. The proposed rule would apply also to existing housing assisted under the Part 886 Assistance Program for the Disposition of HUD-Owned Projects and the Part 886 Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages.

DATE: Comment Due Date: April 25, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Program Planning Division, Office of Multifamily Housing Management and Occupancy, Room 6178, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755–5654; or Monica Sussman, State Agency Finance Division, Office of State Agency and Bond Financed Programs, Room 6118, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755–7172. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 325(l) of the Housing and Community Development (HCD) Amendments of 1981 amended Section 8(b)(2) of the U.S. Housing Act of 1937 to require that all contracts to make assistance payments for newly constructed or substantially rehabilitated Section 8 housing entered into after the effective date of Section 325(l) provide that, during the term of

the contract, the owner shall make available for occupancy by families which are eligible for assistance, at the time of their initial occupancy, the number of units for which assistance is committed under the contract. Section 371(b) of the HCD Amendments of 1981 further states that this provision shall apply only with respect to contracts entered into on and after October 1, 1981.

The Department administers six Section 8 programs that involve newly constructed or substantially rehabilitated housing and which are, therefore, affected by Section 325(l) of the HCD Amendemnts of 1981. They are the Section 8 New Construction Program, the Substantial Rehabilitation Program, the State Housing Agencies Program (insofar as it involves new construction and substantial rehabilitation), the New Construction Set-Aside for Section 515 Rural Rental Housing Projects Program, the Section 202 Loans for Housing for the Elderly or Handicapped Program, and the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects (insofar as it involves substantial rehabilitation).

Except for the Section 202 Loans for Housing for the Elderly or Handicapped Program, current regulations permit Section 8 project owners to lease up to 10 percent of the assisted units (up to 20 percent in the Set-Aside Program for Rural Rental Housing Projects) to ineligible families. The proposed rule would amend these regulations to conform with the statutory requirement that, during the term of the Housing Assistance Payments Contract, all assisted units will be made available for occupancy by eligible families.

There currently are no regulations on this matter for the Section 202 Loans for Housing for the Elderly or Handicapped Program. The Department is preparing a regulation amending Part 885 which, among other matters, would incorporate this amendment and other statutory changes to Section 8 programs affected by the HCD Amendments of 1981.

The proposed rule would eliminate the authority of a Section 8 project owner to lease a percentage of assisted units to ineligible families without prior approval of the contract administrator. The authority to lease assisted units to ineligible families with prior approval of the contract administrator would be retained to cover situations in which temporary market conditions prevent leasing all assisted units to eligible families.

The proposed rule would authorize HUD to reduce the number of assisted units if an owner fails to make those units available to eligible families. Approval to lease assisted units to ineligible families would not relieve a Section 8 project owner of the obligation to continue making assisted units which become vacant available for occupancy by eligible families. The proposed rule also would authorize HUD to reduce the number of assisted units notwithstanding its prior approval to lease to ineligible families, if HUD determines that the inability to lease to eligible families is not a temporary problem.

The proposed rule is also intended to make it clear that Section 8 project owners of newly constructed or substantially rehabilitated housing who executed Agreements to Enter into Housing Assistance Payments Contracts on or after the effective date of the HCD Amendments of 1981 are subject to this statutory requirement, notwithstanding the fact that their Contracts may not contain such an express provision, since Section 325(l) constituted law in effect at the time the Agreements were executed. A Section 8 project owner of newly constructed or substantially rehabilitated housing who, prior to the effective date of this rule and consistent with then current regulations, had leased an assisted unit to an ineligible family could continue to lease the unit to that family. However, the Section 8 project owner would be required to make the unit available for occupancy by eligible families whenever the ineligible family vacates the unit.

The Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects (24 CFR Part 886, Subpart C) involves existing housing in addition to substantially rehabilitated housing. The Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages (24 CFR Part 886, Subpart A) involves only existing housing. HUD proposes to extend the rule to owners of existing housing under these Programs because the subsidy is project based and the Programs should be treated similarly to new construction and substantial rehabilitation for the purposes of this proposed rule. However, the proposed rule would apply only to a Section 8 project owner of existing housing who executes a Contract on or after the effective date of this proposed rule, since application of the rule to an owner of existing housing is not mandated by Section 325(l) of the HCD Amendments of 1981.

The proposed rule would not affect the obligations of (1) a Section 8 project owner of newly constructed or substantially rehabilitated housing who entered a Housing Assistance Payments Contract pursuant to an Agreement to Enter a Housing Assistance Payment Contract executed before October 1, 1981 or (2) a Section 8 project owner of existing housing assisted under Part 886 who entered a Contract before the effective date of this rule. Such an owner would be subject to those restrictions on making assisted units available to ineligible families as are in the owner's Contract.

A Finding of No Significant Impact with respect to the environment has been made in accordances with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1 (b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This proposed rule reflects a statutory requirement which applies to all Section 8 newly constructed, or substantially rehabilitated, housing without regard to the size of the entities involved.

This rule was listed at 47 FR 48425 as Item H–138–82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

(The Catalog of Federal Domestic Assistance program number and title is 14.156, Lower Income Housing Assistance Program)

List of Subjects

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies.

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24 CFR Part 881

Grant programs—housing and community development, Rent subsidies, Low and moderate income housing.

24 CFR Part 883

Grant programs—housing and community development, Rent subsidies, New construction and substantial rehabilitation.

24 CFR Part 884

Grant programs—housing and community development, Rent subsidies, Rural area, Low and moderate income housing.

24 CFR Part 886

Grant programs—housing and community development, Low and moderate income housing, Rent subsidies.

Accordingly, the Department proposes to amend 24 CFR Parts 880, 881, 883, 884, and 886 as follows:

PART 880—[AMENDED]

1. Section 880.504 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 880.504 Leasing to eligible families.

(a) *Availability of Units for Occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for ocupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 880.601(a); (2) has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to the contract administrator. If the owner is temporarily unable to lease all these units to eligible families, one or more units may be leased to ineligible families with prior approval of the contract administrator. Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of Number of Units Covered by Contract.* HUD (or the PHA at the direction of HUD, as appropriate) may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) The owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by the contract administrator to lease such units to ineligible families, HUD (or the PHA at the direction of HUD, as appropriate) determines that the inability to lease units to eligible families is not a temporary problem.

* * * * *

(d) *Applicability.* In accordance with Sections 325(l) and 371(b) of the Housing and Community Development Amendments of 1981, paragraphs (a) and (b) of this section apply only to Contracts entered pursuant to Agreements executed on or after October 1, 1981. An owner, who is subject to paragraphs (a) and (b) of this section and who, before [the effective date of this rule] and consistent with regulations in effect at the time, had leased an assisted unit to an ineligible family may continue to lease the unit to that family. The owner must make the unit available for occupancy by eligible families when the ineligible family vacates the unit.

PART 881—[AMENDED]

2. Section 881.504 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 881.504 Leasing to eligible families.

(a) *Availability of Units for Occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for occupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 881.601(a); (2) has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to the contract administrator. If the owner is temporarily unable to lease all these units to eligible families, one or more units may be leased to ineligible families with prior approval of the contract administrator. Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of Number of Units Covered by Contract.* HUD (or the PHA at the direction of HUD, as appropriate) may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) The owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by the contract administrator to lease such units to ineligible families, HUD (or the PHA at the direction of HUD, as appropriate) determines that the inability to lease units to eligible families is not a temporary problem.

* * * * *

(d) *Applicability.* In accordance with sections 325(l) and 371(b) of the Housing and Community Development Amendments of 1981, paragraphs (a) and (b) of this section apply only to Contracts entered pursuant to Agreements executed on or after October 1, 1981. An owner, who is subject to paragraphs (a) and (b) of this section and who, before [the effective date of this rule] and consistent with regulations in effect at the time, had leased an assisted unit to an ineligible family may continue to lease the unit to that family. The owner must make the unit available for occupancy by eligible families when the ineligible family vacates the unit.

PART 883—[AMENDED]

3. Section 883.605 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 883.605 Leasing to eligible families.

(a) *Availability of Units for Occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for occupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 883.702(a); (2) has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to the Agency. If the

owner is temporarily unable to lease all these units to eligible families, one or more units may be leased to ineligible families with prior approval of the Agency. Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of Number of Units Covered by Contract.* HUD and the Agency may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) the owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by the Agency to lease such units to ineligible families, HUD and the Agency determine that the inability to lease units to eligible families is not a temporary problem.

* * * * *

(d) *Applicability.* In accordance with Sections 325(l) and 371(b) of the Housing and Community development Amendments of 1981, paragraphs (a) and (b) of this section apply only to Contracts entered pursuant to Agreements executed on or after October 1, 1981. An owner, who is subject to paragraphs (a) and (b) of this section and who, before [the effective date of this rule] and consistent with regulations in effect at the time, had leased an assisted unit to an ineligible family may continue to lease the unit to that family. The owner must make the unit available for occupancy by eligible families when the ineligible family vacates the unit.

PART 884—[AMENDED]

4. Section 884.223 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 884.223 Leasing to eligible families.

(a) *Availability of Units for Occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for occupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 884.214; (2) has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to HUD (or the PHA at the direction of HUD, as appropriate). If the owner is temporarily unable to lease all these units to eligible families, one or more units may be leased to ineligible families with prior approval of HUD (or the PHA at the direction of HUD, as appropriate). Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of Number of Units Covered by Contract.* HUD (or the PHA at the direction of HUD, as appropriate) may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) The owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by HUD (or the PHA at the direction of HUD, as appropriate) to lease such units to ineligible families, HUD (or the PHA at the direction of HUD, as appropriate) determines that the inability to lease units to eligible families is not a temporary problem.

* * * * *

(d) *Applicability.* In accordance with Sections 325(l) and 371(b) of the Housing and Community Development Amendments of 1981, paragraphs (a) and (b) of this section apply only to Contracts entered pursuant to Agreements executed on or after October 1, 1981. An owner, who is subject to paragraphs(a) and (b) of this section and who, before [the effective date of this rule] and consistent with regulations in effect at the time, had leased an assisted unit to an ineligible family may continue to lease the unit to that family. The owner must make the unit available for occupancy by eligible families when the ineligible family vacates the unit.

PART 886—[AMENDED]

5. Section 886.129 is revised to read as follows:

§ 886.129 Leasing to eligible families.

(a) *Availability of Units for Occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for occupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 886.121; (2) has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to HUD. If the owner is temporarily unable to lease all these units to eligible families, one or more units may be leased to ineligible families with prior approval of HUD. Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of Number of Units Covered by Contract.* HUD may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) The owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by HUD to lease such units to ineligible families, HUD determines that the inability to lease units to eligible families is not a temporary problem.

(c) *Restoration.* HUD may agree to an amendment of the Contract, as appropriate, to provide for subsequent restoration of any reduction made pursuant to paragraph (a) or (b) of this section if HUD determines that the restoration is justified as a result of changes in demand and in the light of the owner's record of compliance with his or her obligations under the Contract and if annual contributions contract and budget authority are available; and HUD may take such steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance.

(d) *Applicability.* In accordance with Sections 325(l) and 371(b) of the Housing and Community Development Amendments of 1981, paragraphs (a) and (b) of this section apply to Contracts executed on or after [the effective date of this rule].

6. Section 886.329 is revised to read as follows:

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§ 886.329 Leasing to eligible families.

(a) *Availability of Units for Occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for occupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 886.321; (2) has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to HUD. If the owner is temporarily unable to lease all these units to eligible families, one or more units may be leased to ineligible families with prior approval of HUD. Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of Number of Units Covered by Contract.* HUD may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) The owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by HUD to lease such units to ineligible families, HUD determines that the inability to lease units to eligible families is not a temporary problem.

(c) *Restoration.* HUD may agree to an amendment of the Contract, as appropriate, to provide for subsequent restoration of any reduction made pursuant to paragraph (a) or (b) of this section if HUD determines that the restoration is justified as a result of changes in demand and in the light of the owner's record of compliance with his or her obligations under the Contract and if annual contributions contract and budget authority are available; and HUD may take such steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance.

(d) *Applicability.* In accordance with sections 325(1) and 371(b) of the Housing and Community Development Amendments of 1981, paragraphs (a) and (b) of this section apply to: (1) Contracts involving Substantial Rehabilitation entered pursuant to Agreements executed on or after October 1, 1981; and (2) all other Contracts executed on or after [the effective date of this rule]. An owner of substantially rehabilitated housing who is subject to paragraphs (a) and (b) of this section and who, before [the effective date of this rule] and consistent with regulations in effect at the time, had leased an assisted unit to an ineligible family may continue to lease the unit to that family. The owner must make the unit available for occupancy by eligible families when the ineligible family vacates the unit.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); Sec. 8(b)(2) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(b)(2)))

Dated: January 20, 1983.

Philip Abrams,

Assistant Secretary of Housing—Federal Housing Commissioner.

[FR Doc. 83-4369 Filed 2-22-83; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Part 892

[Docket No. R-83-1056]

Public Housing Agency Recovery of Section 8 Funds Obtained Through Fraud and Abuse

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: HUD is proposing to implement a provision of the Housing and Community Development Amendments of 1981 that added a requirement that HUD permit Public Housing Agencies to retain a portion of amounts they recovered on judgments for wrongful payment of Section 8 funds as a result of fraud and abuse.

DATE: Comment due date: April 25, 1983.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address and must refer to the docket number indicated in the heading of this rule. A copy of each comment will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Madeline Hastings, Director, Office of Existing Housing and Moderate Rehabilitation, (202) 755-5597, Steven Silvert, Acting Director, Office of State Agency and Bond Financed Programs, (202) 755-8135, or Conrad Egan, Director, Office of Multifamily Housing Management, (202) 755-5216 (for PHA/Private owner projects). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: This new Part would implement Section 326(d)(1) of the Housing and Community Development Amendments of 1981 ("1981 Amendments"), contained in Title III, Subtitle A of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). Section 326(d)(1) states the following:

> (d)(1) The Secretary of Housing and Urban Development shall permit public housing agencies to retain, out of judgments obtained by them in recovering amounts wrongfully paid as a result of fraud and abuse in the housing assistance program under section 8 of the United States Housing Act of 1937, an amount equal to the greater of (A) the legal expenses incurred in obtaining such judgments, or (B) 50 per centum of the amount actually collected on the judgments.

This provision is self-implementing, and PHAs are entitled to retain portions of judgments recovered on or after October 1, 1981, in accordance with the Act. This rule would prescribe the procedures for PHAs to follow in obtaining HUD approval after the effective date of the rule.

HUD's requirements concerning litigation by Public Housing Agencies ("PHAs") are contained in the Litigation Handbook 1530.1 Rev-4. These requirements include a requirement to transmit litigation papers to HUD as well as procedures for PHAs to follow in initiating litigation, settling litigation, and hiring private litigation counsel that require prior HUD approvals. Section 892.201(a) of this proposed rule would require that the procedures stated in the Litigation Handbook be followed in order for a PHA to retain any portion of a recovery for fraud and abuse. These procedures would permit HUD to assure that (1) PHAs not pursue suits that are frivolous or not cost-beneficial; and (2) PHAs not incur unreasonable legal fees and expenses that would otherwise reduce HUD's share of the recovery. Such procedures would also allow HUD to gather the information necessary to fulfill its duty under Section 326(d)(2) of the 1981 Amendments. This provision requires HUD to include in its annual report to Congress a summary of cases brought to its attention by PHAs for prosecution or civil action, as well as a

description of their handling and resolution.

Section 892.202(b) would require that a PHA obtain HUD approval of its retention of part of a recovery for fraud and abuse under this Part. This requirement would allow HUD to assure that the amount to be retained by the PHA is determined properly and that the remainder is applied as directed by HUD.

Section 892.202(c) would require PHAs to furnish HUD with any documentation or certification necessary to approve retention of amounts recovered. We do not now anticipate that this process will involve preparation of special documents for HUD but instead expect it will involve submission of copies of documents giving information about recoveries, such as installment payments on judgments.

The statute authorizes retention of amounts recovered on "judgments." Under the proposed rule, a PHA may retain Section 8 program funds it recovers only if related to a judgment, as defined in Section 892.103, whether in the form of a court order or a settlement. If a PHA revovered an amount fraudulently obtained by means short of litigation, such as demand letter, it would not be authorized by this rule to retain any portion thereof. The Department invites comment on whether to expand the coverage of the rule to include such recoveries.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) have an annual effect on the economy of $100 million or more, (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because the number of recoveries by PHAs on judgments for fraud and abuse is expected to be small and so the number of small PHAs affected will be small. In any event, the effect on small entities is expected to be positive rather than negative.

This rule was listed as Item H–126–82 on page 48424 in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48421) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Domestic Assistance Number is 14.156, Lower Income Housing Assistance Program.

OMB Control Number. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511, U.S.C. 3501, *et seq.*), the reporting provisions included in this rule have been submitted for approval to the Office of Management and Budget.

List of Subjects in 24 CFR Part 892

Low and moderate income housing.

Accordingly, the Department amends Title 24 CFR to add a new Part 892 to read as follows:

PART 892—PUBLIC HOUSING AGENCY RECOVERY OF SECTION 8 FUNDS OBTAINED THROUGH FRAUD AND ABUSE

Subpart A—General Provisions

Sec.

892.101 Purpose.
892.102 Applicability.
892.103 Definitions.

Subpart B—Recovery of Section 8 Funds

892.201 Conduct of litigation.
892.202 PHA retention of litigation proceeds.
892.203 Application of amounts recovered.

Authority: Section 326(d)(1) and (2), Omnibus Budget Reconciliation Act of 1981, 42 U.S.C. 1437f note; Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General Provisions

§ 892.101 Purpose.

The purpose of this Part is to encourage public housing agencies to investigate and pursue instances of fraud and abuse in the operation of the Section 8 housing assistance payments program through legal action to recover Section 8 funds converted to improper use.

§ 892.102 Applicability.

This Part applies to a Public Housing Agency acting as a contract administrator under an Annual Contribution Contract with HUD in any Section 8 housing assistance payments program.

§ 892.103 Definitions.

Fraud and abuse. A single act or pattern of actions that constitute false statement, omission or concealment of a substantive fact, made with intent to deceive or mislead, that results in payment of Section 8 program funds in violation of Section 8 program requirements.

Judgment. Provision for recovery of Section 8 program funds obtained through fraud and abuse, by order of a court in litigation or by a HUD-approved settlement of a claim in litigation, whether or not stated in a court order.

Litigation. A lawsuit brought by a PHA to recover Section 8 program funds obtained as a result of fraud and abuse.

PHA (Public Housing Agency). Any State, county, municipality or other governmental entity or public body acting as Section 8 contract administrator pursuant to an Annual Contributions Contract with HUD.

Subpart B—Recovery of Section 8 Funds

§ 892.201 Conduct of litigation.

(a) Litigation shall be initiated and conducted in accordance with the HUD Litigation Handbook, Handbook 1530.1. The PHA shall furnish to HUD copies of litigation papers and proposals for settlement when and as required by HUD.

(b) The PHA shall not enter into a settlement of the litigation without HUD approval.

(c) In connection with the litigation, the PHA shall not incur legal fees and expenses in excess of a reasonable amount. See Handbook 1530.1. Legal fees for services rendered by counsel for the PHA must be reasonable both (1) in relation to services rendered, and (2) in relation to amounts the PHA is seeking to recover in the litigation.

(d) The PHA shall promptly furnish to HUD a copy of the court order or executed settlement constituting the judgment.

§ 892.202 PHA retention of litigation proceeds.

(a) Where the PHA has complied with the requirements of § 892.201, the PHA may retain, out of amounts recovered on a judgment in litigation, the greater of:

(1) Fifty percent of the amount actually collected on the judgment, or

(2) Reasonable and necessary legal fees and expenses. However, if HUD has incurred costs on behalf of the PHA in obtaining judgment, such costs shall be deducted from the amount to be retained by the PHA.

(b) The PHA must promptly obtain HUD approval for retention, pursuant to paragraph (a) of this section, of amounts recovered on a judgment. HUD shall determine the amount to be retained by the PHA (which shall be subject to modification by HUD from time to time to reflect amounts actually collected by the PHA on the judgment and legal fees and expenses incurred by the PHA).

(c) The PHA shall furnish to HUD any documentation or certification required by HUD to approve retention of amounts recovered.

§ 892.203 Application of amounts recovered.

(a) After HUD has determined the amount of litigation proceeds to be retained by the PHA, the PHA may use that amount for any purpose within the PHA's authority.

(b) Except for the portion of litigation proceeds to be retained by the PHA pursuant to Section 892.202, the balance of such proceeds shall be applied as directed by HUD.

Dated: January 20, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-4364 Filed 2-22-83; 8:45 am]

BILLING CODE 4210-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2E2724/P279; PH-FRL 2307-5]

Ethyl 3-Methyl-4-(Methylthio) Phenyl (1-Methylethyl) Phosphoramidate; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity okra. The proposed regulation to establish a maximum permissible level for residues of the nematocide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before March 25, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192), at the address given above.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2724 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Alabama, Georgia, and Florida.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity okra at 0.3 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were a 2-year dog feeding study with a no-observed-effect level (NOEL) of 0.025 mg/kg/day (1.0 ppm); an 18-month mouse oncogenicity study with a NOEL of 7.5 mg/kg/day (50 ppm); a 2-year rat feeding study with a NOEL of 0.15 mg/kg/day (3 ppm); a 3-generation rat reproduction study with a NOEL of 1.5 mg/kg/day (30 ppm); and teratology studies using rats and rabbits with NOEL's of 0.5 mg/kg and 30 mg/kg, respectively.

The acceptable daily intake (ADI), based on the 2-year dog feeding study (NOEL of 0.025 mg/kg/day) and using a 10-fold safety factor, is calculated to be 0.0025 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.15 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0042 mg/day; the current action will increase the TMRC by 0.00032 mg/day (7.6 percent). Published tolerances utilize 2.79 percent of the ADI; the current action will utilize an additional 0.2 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. Okra is not considered an animal feed item and, therefore, there is no expectation of secondary residues in meat, milk, poultry and eggs. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency the tolerance established by amending 40 CFR 180.349 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP 2E2724/P279]. All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 4, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.349 be revised by reformatting the commodities in an alphabetized columnar listing and alphabetically inserting the commodity okra to read as follows:

§ 180.349 Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate; tolerances for residues.

Tolerances are established for combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the following raw agricultural commodities:

Commodities	Parts per million
Bananas	0.1
Brussels sprouts	0.1
Cabbage	0.1
Cottonseed	0.05
Okra	0.3
Peanuts	0.02
Peanuts, hulls	0.4
Soybeans	[illegible]

[FR Doc. 83-4127 Filed 2-22-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 435

Medicaid Program; Mental Retardation—Definition of "Persons With Related Conditions"

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed Rule.

SUMMARY: We propose to amend the 1978 Medicaid regualtions on intermediate care facility services for the mentally retarded and persons with related conditions to correct the definition of "persons with related conditions". This definition, because of an inadvertent error in 1978, is currently tied to the definition of developmental disability in the Developmental Disabilities Assistance and Bill of Rights Act (DDABRA) as amended in 1978. The DDABRA, as amended, covers the mentally ill. The 1978 regulations intended to make "no substantive change" to prior Medicaid regulations which did not cover the mentally ill. The cross-reference to the DDABRA produced the unintended result of incorporating into Medicaid regulations the revision to the definition of the developmentally disabled created by the 1978 amendments to the DDABRA and may tend to cause confusion about the kind of care that is covered by the Medicaid program, Therefore, a correction of this drafting error is necessary.

To avoid results of this kind in the future, this proposal would establish a Medicaid definition of conditions related to mental retardation that would meet specific needs of the Medicaid program and would be independent of the definition of developmental disability in the DDABRA.

DATE: To assure consideration, comments should be received by March 25, 1983.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, U.S. Department of Health and Human Services, Attention: BPP-106-P, P.O. Box 17073, Baltimore, Maryland 21235.

If you perfer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington D.C. 20201, or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland, 21207.

Comments will be available for public inspection, beginning approximately three weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890)

FOR FURTHER INFORMATION, CONTACT: Bob Wren, (301) 594–9820.

SUPPLEMENTARY INFORMATION:

Background

Section 1905 of the Social Security Act authorizes optional Medicaid coverage for services in intermediate care facilities (ICFs). These are facilities that provide health-related care to individuals who do not need the degree of care commonly provided in hospitals or skilled nursing facilities, but who do require care and services, above the level of room and board, which can only be made available to them through institutional facilities. Section 1905(d) indicates that the term "intermediate care facility services" may include services in a public institution for the mentally retarded or "persons with related conditions" (ICF-MR). This statutory provision is reflected in current reguations at 42 CFR 435.1009 and 440.150.

Fifty States and jurisdictions cover ICF care; 47 of these include ICF/MR care and currently serve nearly 117,000 individuals.

To define the term "persons with related conditions", initial Medicaid regulations published in 1974 used a cross-reference to the definition of developmental disability contained in the Developmental Disabilities Services and Facilities Constriction Act (DDSFCA), Pub. L. 91–517, enacted on October 30, 1970 (now the Developmental Disabilities Assistance and Bill of Rights Act, DDABRA). That defenition of developmental disability employed specific diagnoses which served to limit its scope to impairments closely related to mental retardation. The definition read "* * * a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition of an individual found by the Secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age 18, which has continued or can be expected to continue indefinitely, and which consitutes a substantial handicap to such individual."

Since 1970, the statutory definition of developmental disability contained in the DDABRA has been amended twice. The definition was amended in 975 by Pub. L. 94–103 to:

(1) Add autism to the list of specific conditions. Dyslexia resulting from a disability otherwise specified in the definition was also added;

(2) Expand the reference to "other neurological conditions" to cover any conditions closely related to mental retardation by virtue of a similar impairment or a requirement for similar treatment; and

(3) Relate "substantial handicap to the ability to function normally in society.

On October 1, 1978, an amendment to DDABRA, Pub. L 95–602, revised the definition of developmental disabilities even further to read as follows:

"The term 'development disability' means a severe, chronic disability of a person which—

(1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(2) Is manifested before the person attains age 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of major life activity:

(a) Self-care.

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(b) Receptive and expressive language.
(c) Learning.
(d) Mobility.
(e) Self-direction.
(f) Capacity for independent living.
(g) Economic self-sufficiency.

(5) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

This last amendment changed the focus of the definition from a categorical to a functional one. Thus it no longer employs the specific diagnoses that previously had been used to limit the definition to those impairments closely resembling mental retardation. The definition now encompasses, instead, any person with a mental or physical impairment that limits the person's functional ability in certain activities. Furthermore, the age by which a condition must manifest itself was changed from 18 to 22.

Medicaid Regulations

As mentioned earlier, initial Medicaid regulations published in 1974, in defining the term "persons with related conditions", cross-referred to the definition of developmental disability contained in DDSFCA, Pub. L. 91–517 enacted on October 30, 1970. This cross-reference was adopted when the ICF/MR benefit was included under Medicaid because it was an appropriate and convenient means of defining the term. However, effective October 1, 1978, all existing Medicaid regulations were recodified as part of the Department's initiative to rewrite regulations in a clear, concise, easily understandable format. Although the preamble clearly stated that no substantive changes were made, the rewritten regulations mistakenly included the words "as amended" after the phrase "Pub. L. 91–517 enacted on 10/30/70". The later effect of this change in the recodified Medicaid regulations was inadvertently to incorporate the most recent definition of developmental disability contained in the DDABRA.

The Department drafted the Medicaid recodification regulation during 1977 and early 1978, long before it was published as a technical regulation, without public comment, in the **Federal Register** on September 29, 1978. The Department in drafting the recodification regulations had no intent to propose policy changes. However, they did not anticipate the 1978 amendment to the DDABRA that changed the definition and did not intend to increase the categories of persons eligible to receive Medicaid funded services in ICFs. That clearly would have been a substantive change.

An explained above, since the adoption of the cross-reference to the DDABRA in Medicaid regulations, the definition of developmental disability in the DDABRA has been amended. The most recent amendment in Pub. L. 95–602 included within the definition persons with functional limitations who are mentally impaired. Use of the current DDABRA definition is not only unintended but also tends to cause confusion about the kind of care that is covered by the Medicaid program. Section 1905(a) of the Social Security Act contains explicit language which excludes coverage for services provided to persons between the ages of 21 and 65 who are in institutions for mental diseases (IMDs).

Therefore, we are deleting the incorrect language referencing the definition in the DDABRA "as amended" and proposing to adopt a definition of "persons with related conditions" which utilizes many of the features of the DDABRA definition of developmental disability, but which is specifically tailored to the coverage offered by the Medicaid program. The proposed amendment to the Medicaid definition of "persons with related conditions" would:

(1) Be independent of the DDABRA definition of developmental disability;

(2) Clearly indicate specific diagnoses that, for this purpose, we consider related to mental retardation and thereby exclude mental illness; and

(3) Insure consistency between this provision and other sections of the Medicaid statute and regulations.

Major Provisions

We propose to create a Medicaid definition of "persons with related conditions" that would combine certain elements of the 1975 developmental disability definition in the DDABRA with elements of the 1978 definition. Thus, "persons with related conditions" would be defined as persons who have a severe, chronic disability that meets all of the following conditions:

(1) It is attributable to—

(a) Cerebral palsy, epilepsy, or autism; or

(b) Any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, or requires treatment or services similar to those required for these persons.

(2) It is manifested before the person reaches age 22.

(3) It is likely to continue indefinitely.

(4) It results in substantial functional limitations in three or more of the following areas of major life activity:

(a) Self-care.
(b) Understanding and use of language.
(c) Learning.
(d) Mobility.
(e) Self-direction.
(f) Capacity for independent living.

This definition combines the specific diagnoses from the 1975 amendment (cerebral palsy, epilepsy and autism) with the requirement for functional limitations and other provisions contained in the 1978 amendment to the DDABRA. Thus, the definition includes the major points of each version; it clearly indicates the diagnoses that are considered closely related to mental retardation, while indicating that these conditions must be severe enough to limit the individual's ability to function normally before he or she may be considered disabled to the extent of needing ICF/MR services. The Task Force on the Definition of Developmental Disabilities, established by the Administration on Developmental Disabilities, found that, under the definitions used before 1978, individuals who had one of the listed conditions were being classified automatically as developmentally disabled even though they were able to function independently. By combining the major provisions of the two previous definitions, the proposed wording avoids the vagueness and excessively broad scope of the 1978 approach and also provides a basis for distinguishing among individuals in the specified diagnostic categories in terms of functional disability.

We included in our definition of "related conditions" a provision covering severe chronic disabilities attributable to conditions, "* * * other then mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons * * *". This definition would include individuals with severe physical impairments associated with disorders such as spina bifida and muscular dystrophy, or those with multiple handicaps such as deaf-blindness, or severe learning disabilities. This definition would not preclude individuals who are mentally ill and also have a condition indicated in the definition from receiving ICF/MR

services if the individuals meet the other criteria of the proposed definition.

We have not included dyslexia, previously included in the 1975 definition, in the list of specific conditions. The 1975 definition included dyslexia as a specific category only when it occurred in combination with at least one of the other specified conditions. We therefore believe that it is inappropriate to identify it as a separate category and we do not see any advantage in retaining the cumbersome approach of the 1975 definition.

We decided to accept age 22 as the age limit by which the condition must manifest itself, because important developmental processes continue to take place until age 22, particularly the acquisition of independent living skills. We do not expect that incorporating the age 22 limit will have any significant economic impact on the Medicaid program.

We included in our proposed definition the 1978 DDABRA provision on substantial functional impairments in three or more major life activities. This refines and clarifies the language on "substantial handicap to * * * ability to function normally in society" and thus should facilitate application of the definition. It also reinforces and clarifies the concerpt that individuals with "related conditions" are chronically and substantially disabled by types of disabilities that have a pervasive impact on their ability to function. To include individuals with substantial limitations in less than three areas would have considerably reduced the overall substantiality and pervasiveness of the disability for purposes of coverage and considerably broadened the population included beyond those who are severely handicapped. We did not include economic self-sufficiency as a major life activity because we believe that this category does not constitute a "substantial functional limitation" and could, if used, lead to inappropriate placement.

We have also not included in our proposed definition the final criterion in the 1978 definition, which specifies service needs. We believe that the categorical and functional criteria included in our proposed definition are the critical factors in defining a related condition, and that service needs are a product of these factors, rather than an additional criterion.

Overall, our proposed definition underscores the fact that a "related condition" is a severe, chronic disability which affects several aspects of functioning. This approach, adopted in the 1978 DDABRA definition, may exclude some individuals who had been included under previous definitions by virtue of a diagnosis-specific determination. However, we believe that those individuals who are not functionally limited, regardless of the diagnosis, are not appropriate for placement in an ICF/MR.

Impact Analysis

We have determined that this proposed rule does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this proposed rule would not have an annual effect on the economy of $100 million or more; or result in a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or import markets.

This proposed rule corrects a regulation drafting error which unintentionally has the effect of cross-referencing the 1978 DDABRA definition of developmental disability for use in determining eligibility for Medicaid funding for services received in an ICF. The rule also proposes a new definition of "persons with related conditions". The new definition reflects in regulations the policies States now generally follow in connection with ICF/MR benefits. The rule will, therefore, have little, if any, fiscal impact on program operations and does not meet the criteria for a major rule under Executive Order 12291.

For these reasons, Secretary also certifies, pursuant to section 605(b) of title 5, United States Code, enacted by the Regulatory Flexibility Act (Pub. L. 96–354) that the regulations proposed in this notice of proposed rulemaking will not have a significant economic impact on a substantial number of small entites.

Public Comments

Comments are sought on the detailed provisions of the new definition. We are particularly interested in whether or not it may unintentionally include or exclude substantial numbers of persons as compared to the pre-1978 rule. We do not seek comments on coverage of the institutionalized mentally ill, since the Department did not previously, and does not now, believe that the Medicaid program comtemplates coverage of such persons through the mental retardation (ICF/MR) provisions of the law. Moreover, such coverage poses issues going far beyond the information contained in the proposed rule, and would represent a major policy change requiring careful, in depth analysis of legislative authority and economic impacts.

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the regulations, we will consider all comments and will respond to them in the preamble to that notice.

List of Subjects in 42 CFR Part 435

Aid to Families with Dependent Children, Aliens, Categorically needy, Contracts (Agreements—State Plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 435, Subpart K, is amended as set forth below:

PART 435—[AMENDED]

The authority citation for Part 435 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

1. Section 435.1009 is amended by changing the definition of "Persons with related conditions" to read as follows:

§ 435.1009 Definitions relating to institutional status.

* * * * *

"Persons with related conditions" means individuals who have a severe, chronic disability that meets all of the following conditions:

(a) It is attributable to—

(1) Cerebral palsy, epilepsy, or autism; or

(2) Any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, or requires treatment or services similar to those required for these persons.

(b) It is manifested before the person reaches age 22.

(c) It is likely to continue indefinitely.

(d) It results in substantial functional limitations in three or more of the following areas of major life activity:

(1) Self-care.

(2) Understanding and use of language.

(3) Learning.

(4) Mobility.

(5) Self-direction.

(6) Capacity for independent living.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: November 30, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: February 1, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-4515 Filed 2-22-83; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Docket No. 21499; FCC 83-39]

American Telephone & Telegraph Co.; Offer of Facilities to Other Common Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The American Telephone & Telegraph Company (AT&T) currently provides analog wideband (i.e., bandwidth greater than voice grade) services to the public. These wideband channels are called groups (which have a nominal bandwidth of 48 kHz) and supergroups (which have a nominal bandwidth of 240 kHz). The Commission has ordered AT&T to make these channels available to the public if the customer is willing to pay for the special construction of local facilities to terminate these services. The Commission believes, however, that it might be practical and efficient for AT&T to make these channels available without the need for special construction charges. A number of people have already requested that AT&T make groups and supergroups available because of the flexibility and potential efficiency they offer. The imposition of special construction charges, which can be substantial, might inhibit the public from utilizing group and supergroup facilities.

DATES: Comments must be received from AT&T by April 1, 1983, and Reply Comments must be received on or before May 27, 1983.

ADDRESS: Send all comments to Secretary, Federal Communications Commission, Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kent Nakamura (202) 632-7117.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order And Further Notice of Proposed Rulemaking

Adopted: January 27, 1983.

Released: February 15, 1983.

In the matter of American Telephone & Telegraph Co.; offer of facilities to other common carriers; Docket No. 21499.

1. On January 19, 1981 the Commission released a Notice of Inquiry and Proposed Rulemaking in this proceeding to examine whether the American Telephone & Telegraph Company (AT&T) should be required to offer group and supergroup facilities to other common carriers (OCCs) and to the public.[1] For reasons stated below, we order AT&T to make these facilities available to the OCCs and the public, subject to certain limitations, and seek further comments on related issues.

Background

2. The OCCs and, in some instances, the public, frequently have requirements to transmit bulk communications from one location to another. These bulk communications may be in the form of analog or digital signals or a combination of both, the volume of which may be equivalent to the information carried by several voice grade channels. It is a common practice in the communications industry, where there is a need for a large number of circuits over a common communications path, to employ multiplexing equipment for this purpose. Multiplexing equipment can be of either frequency division (analog) or time division (digital) type (FDM and TDM, respectively). Digital information may be transmitted over analog facilities or vice versa, provided an analog to digital or digital to analog conversion is made. The frequency division multiplex hierarchy in common use (1 multiplex) begins with the combination of twelve voice band channels into a circuit or base group; it occupies 60–108 kHz of spectrum at the first hierarchical step in AT&T's transmission plant. The next step in the hierarchy combines five groups into one supergroup, which occupies a bandwidth of 240 kHz in the transmission plant. The time division multiplex hierarchy in common use (T 1 multiplex) begins with the combination of 24 64 kbps digitized voice channels. Each channel is capable of supporting telephone grade voice communication on a 1.544 Mbps bit stream commonly referred to as the DS–1 rate.[2] The next step in the hierarchy is a combination of 4 DS–1 channels into a 6.3 Mbps bit stream commonly referred to as the T 2 carrier system. *See Engineering and Operations in the Bell System,* Western Electric Co., Indianapolis, Indiana, 1978 at 149–154. AT&T facilities currently employ both analog and digital transmission systems. Local and intracity carrier facilities are predominantly digital, requiring time division multiplexing, whaeras intercity transmission is predominantly analog, using frequency division, but may become increasingly digital, especially as fiber optic systems are added.

3. As we explained in the Notice, the group or base group and the supergroup or basic supergroup are analog channels with nominal bandwidths of 48 kHz and 240 kHz respectively. Each of these channels constitutes a fundamental building block in the FDM channel hierarchy, designed principally to satisfy voice-grade telephone channel requirements. In the ordinary mode of use, a group channel is used to transport bundles of up to twelve (12) nominal 4 kHz voice channels and supergrpups are used for bundles of up to sixty (60) voice channels. In addition to their basic telephone message service roles, we pointed out in the Notice that groups and supergroups have been used in various ways to fulfill private line service requirements. For one, both groups and supergroups are used to provide wideband [3] services operating at data transmission rates of up to 230.4 kbps under AT&T Tariff FCC Nos. 258 and 260. Since these will be discussed in further detail below, suffice for present purposes to say that groups and supergroups comprise the intercity or long-haul transmission vehicle for particular wideband signals. These groups and supergroups are in turn connected to customer-designated locations through the use of existing local distribution plant, with special

[1] American Telephone & Telegraph Company, 84 FCC 2d 1 (1981). Subsequent to the issuance of the Notice and receipt of comments, AT&T by letter to the Commission indicated a willingness to file a tariff providing group and supergroup facilities to the public on a general basis during the second quarter of 1982. *See* letter of W. E. Albert, AT&T, to Secretary, FCC, March 12, 1982. The letter, however, did not address many of the issues raised by the record in this proceeding to date. We therefore think it advisable to go forward so that our order may provide guidance to AT&T in any group and supergroup tariff filing it may make in the future.

[2] We are aware that there are subhierarchies such as the T 1C; the latter operates at a rate of 3.152 Mbps.

[3] The term wideband is used here to describe a service arrangement which employs facilities of the group and supergroup type for the long-haul or intercity transmission of signals requiring greater than analog voice channel capacity. Generally, specialized customer premises and central office station terminal equipment is required to convert and maintain the wideband information into a form suitable for transmission over the existing intercity group or supergroup channels.

conditioning [4] added as required. In such cases, the full 48 kHz or 240 kHz bandwidth used for interoffice transmission is not available at the customer's location, but rather in most cases only the necessary bandwidth required by the specific data set or data modem is made available. In those instances, the data sets and modems, by various internal processing techniques, compensate for bandwidth deficiencies. Where AT&T presently provides wideband services under its tariffs, it in all cases requires the use of AT&T modems and associated data sets.

4. In addition to wideband services, AT&T has variously provided groups and supergroups to common carriers having need for access to the full group or supergroup carrier system bandwidth *i.e.*, 48 kHz or 240 kHz. These latter arrangements, which we will subsequently term full carrier systems offerings,[5] have up to now required specially constructed local distribution channels capable of transporting the full carrier system group or supergroup baseband signal to the customer location. These latter services, typified by the offering to domestic satellite carriers (Domsats) under Tariff 265 and the previous offerings to the Western Union Telegraph Company under contract, can be multiplexed by customers into any combination of subchannels up to the maximum bandwidth or can be used in unsubdivided form to carry wideband signals.

5. In the Notice we recognized that a number of carriers have requested group and supergroup facilities from AT&T. We observed that AT&T's present and past group and supergroup offerings, discussed above, have been limited to particular uses or applications or particular customer groups. Specifically, under Tariff 260 AT&T offers Series 8000 wideband services which use group channels for intercity transport. These wideband services are packaged, as already noted, to require the use of AT&T-provided data terminal equipment and thus, the group channels and associated local distribution channels are not available separately; *i.e.*, in an unbundled form. This same is true for supergroup-based wideband services provided under Tariff 258. Full carrier system group or supergroup services, on the other hand, have been offered only to a limited number of common carriers either under contract *i.e.*, to Western Union and the International Record Carriers (IRCs), or under tariff *i.e.*, to the Domsats under Tariff 265,[6] supra.

6. We then observed that removal of the various restrictions in Tariffs 258, 260 and 265 which limit the present group and supergroup-based offerings could in and of itself result in general availability to all customers of the desired channels. Consistent with previous investigations,[7] we place the burden of justifying these restrictions on AT&T. Thus, the carrier was required to show that such restrictions are necessary to achieve a permissible end; that they accomplish that end in a reasonable manner; and that the restrictions are not so broad as to infringe unduly on protected customer conduct.

7. The impact of removing existing restrictions would essentially result in the unbundling of Tariff 258 and 260 services and deleting the provisions which limit Tariff 265 services to Domsats. As noted above, AT&T, under its present wideband service offerings, is able to use group and supergroup channels in concert with voice-grade local distribution plant, conditioned or modified as may be necessary, for data transmission up to speeds of 230.4 kbps. In so doing, it provides data modems and associated data sets located at both the customer premises and telephone company central offices which serve the various customer premises. The modems located at customer premises operate in tandem, or back-to-back, with the matching central office modems.[8] Through such an arrangement, the local distribution wire pairs, whose electrical characteristics vary from one to another, can be conditioned, or the variations effectively neutralized, so that a uniform set of interface characteristics can be presented to the long haul or intercity transmission plant. By unbundling such wideband service arrangements in Tariffs 258 and 260, each service element—*i.e.*, the local distribution channel, long-haul group or supergroup channel (called interexchange channel in the tariff) and the data set equipment—would be expressed separately in the tariff rather than being grouped together under single charges. In this way, potentially at least, a customer would be able to obtain either the same arrangement as at present or only a part of that arrangement, viz., the local distribution and interexchange channel, without AT&T provided equipment. Since AT&T successfully employs existing local distribution plant to provide wideband group and supergroup-based service, we assumed in the Notice that customers, too, would find such facilities useful without need for special construction of local channels.

8. Given the current limited tariff availability of these channels in the face of expressed demand, we decided to investigate whether the public interest would be served by allowing access to group and supergroup offerings on an unrestricted tariff basis. We decided to include within the scope of the investigation the question of whether other users apart from common carriers have a need for these channel types as well.

9. In addition to AT&T, both carriers and other users of AT&T communication services have responded to the Notice. Every commenter, save AT&T, supports proposals to make groups and supergroups available both to the OCCs and other users. Thus, the Federal Executive Agencies point out that the availability of group and supergroup facilities could "significantly enhance the national security and emergency preparedness posture of the nation."[9] Citicorp asserts that availability of these facilities would ultimately reduce the cost of providing financial services to the consumer.[10] Indeed, many commenters echo the Commission's tentative conclusion that public benefits would result from the ability to obtain

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[4] By the term special contitioning we refer to the modification or special selection of local distributiton channels to meet specified electrical criteria. This can include selection of specially insulated or physically isolated wire pairs, frequency delay equalization, improving the signal to noise performance, or removing loading coils so as to avoid distortion of digital (PCM) signals.

[5] The term "full carrier system" as used here means the amount of carrier system spectrum or the specific bandwidth slot used to carry group or supergroup channels. It does not, therefore, designate an entire carrier system.

[6] Under Tariff 265, AT&T offers supergroup or mastergroup (equivalent to 600 voice channels) facilities to domestic satellite common carriers on a specially constructed basis, with charges listed in the tariff on a case by case basis. These supergroup or mastergroup facilities will upon request be further multiplexed; *e.g.*, into group channels, by AT&T. Since our interest here is limited to groups and supergroups, any discussion of Tariff 265 should not be viewed as affecting the current limited availability of mastergroups.

[7] *See, e.g.*, AT&T Restrictions on Interconnection of Private Line Services, 60 FCC 2d 939 (1978).

[8] The central office modem essentially regenerates the signal originated at the customer premises modem, alleviating many of the problems associated with signal degeneration and noise accumulation. Such regeneration, which effectively cleanses the data signal, would not be possible to accomplish from the customers' premises alone.

[9] *See* Comments of the Federal Executive Agencies at 3. The Executive Agencies assert that an important national security telecommunications principle is to ensure that interconnection take place between all interstate common carrier telecommunictions networks so as to facilitate interoperation in case of any national emergency.

[10] *See* Comments of Citicorp at 2.

groups and supergroups from AT&T on a general basis.[11]

Discussion [12]

10. As explained, we have called upon AT&T to justify the tariff provisions by which existing group and supergroup offerings are restricted in various ways. Under the well-established principles of our *Carterfone* decision, 13 FCC 2d 420 (1968), *recon. den.* 14 FCC 2d 605 (1969) a customer has the right to use his communication service in ways which are privately beneficial but not publicly detrimental. There is little doubt from the record that the availability of groups and supergroups would benefit members of the using public. Thus, the first portion of the *Carterfone* test is unquestionably met.[13] In the Notice we also observed that AT&T had refused requests by some customers for groups and supergroups and decided to consider whether these refusals were justified. Notice at para. 19. Accordingly, we now focus on AT&T's claim that the public interest does not require it to make such facilities available to the public.

Nominal vs. Useful Bandwidth

11. AT&T initially asserts that the Notice was incorrect in its underlying assumption that the unbundling and concomitant elimination of certain tariff restrictions would result in group and supergroup channels being made available to the public.[14] According to AT&T, where 50, 56 and 230.4 kbps services are provided on an analog route, the group and supergroup frequency spectrums are not actually delivered to the customer's premises. Rather, it points out, the frequency spectrum used for 50 and 56 kbps transmission is approximately 1 kHz to 37 kHz, and for a 230.4 kbps signal, approximately 1 kHz to 190 kHz. AT&T notes that the full 48 kHz and 240 kHz signals do not appear at the customer premises nor is any transmission possible in the 60–108 kHz or 312–552 kHz frequency ranges which are used in the long haul carrier systems to transmit groups and supergroups, respectively. Thus, the argument appears to run, because the entire 48 kHz and 240 kHz group and supergroup bandwidths are purportedly unavailable at the customer's premises, they would not be useful to the public.

12. AT&T, however, reads the Notice too narrowly. The Commission did not assume, as AT&T alleges, that the full 48 kHz and 240 kHz baseband multiplex frequencies of group and supergroup channels would in all cases be made available at the customer's premises. In the Notice, rather, we described groups and supergroups as having *nominal* bandwidths of 48 kHz and 240 kHz within the standard meaning of that term. *See* Notice at n.3. The term "nominal", when used with a bandwidth designation, means the entire bandwidth occupied by a channel, and is not necessarily equivalent to the "useful" bandwidth realized at the customer's premises.[15] As noted *supra*, in the case of wideband service, the full carrier system group or supergroup spectrum is generally not delivered to the customer's location, whereas it is in the case of full carrier system services, such as those offered under Tariff 265. We did not, therefore, assume that AT&T would routinely deliver this full carrier system bandwidth to all customers by the simple unbundling of terminal equipment, and our inquiry concerning the desirability of a group and supergroup channel offering does not turn on this issue.

13. However, we recognize that in certain instances, particularly those involving service provided to OCCs, the full group or supergroup carrier bandwidth would be needed at the customer's premises. Put in other terms, the local distribution channel in such cases would have to be capable of carrying the basebands of groups and supergroups *i.e.*, 48 kHz and 240 kHz,[16] respectively, to the customer's premises so that direct access to the intercity carrier systems would be possible. As pointed out in the Notice, AT&T has offered or provided such facilities to the Western Union Telegraph Company and the IRCs pursuant to contract, and to the Domsats pursuant to tariff. (As noted earlier, we refer to this arrangement as a full carrier system service.) In other cases, we envision customer requirements for group and supergroup-based services similar to those now provided under Series 8000 in AT&T Tariff FCC No. 260 and the 230.4 kbps data channels provided under AT&T Tariff FCC No. 258. (As noted, these latter arrangements where the full carrier system spectrum of frequencies does not have to be delivered to the customer's premises are referred to as wideband services.)

14. AT&T appears to assert, however, that provision of the full carrier system 48 kHz and 240 kHz channel services would prove impractical from a technical, financial and economic point of view because of purported difficulties that would be encountered in local distribution of these channels and the development of necessary interface specifications. Thus, it states that the provision of group or supergroup analog carrier facilities to a customer location would involve special construction in almost every case. As for wideband group and supergroup channels, it states that the unbundling of the data set from present group and supergroup based data offerings would result in offerings of wideband channels of 1–37 kHz and 1–190 kHz and that such unbundling would not produce a channel of significant practical value. It proposes instead to make other types of channels available for these purposes. As will be shown, however, there appears to be little support in the record, the literature, or in our experience with current and prior AT&T service offerings that would justify a finding that the offering of

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[11] *See, e.g.*, Comments of Western Union at 3: "As a general matter, wideband analog facilities such as groups and supergroups provide the competing carrier with the greatest flexibility in its development of innovative and/or cost-effective value added offerings to the consuming public. With wideband channels, the competing carrier can meet the challenge of doing it better, cheaper, and/or differently. The availability of innovative modems, multiplexers, data in voice (DIV) units, etc. produced by an ever-growing and creative electronics industry, can be connected to the wideband resource to provide the public with an increasing variety of technological alternatives . . ."

[12] We note preliminarily AT&T's argument that an evidentiary hearing is required given the alleged material factual disputes over the nature of existing services, the extent of need for groups and supergroups, and the technical and economic feasibility of group/supergroup offerings. We disagree. We view this proceeding as essentially similar to the interconnection disputes between AT&T and other common carriers in Bell System Tariff Offerings, 46 FCC 2d 413 (1974) and the Commission's proceedings which decided the validity of AT&T's tariff restrictions on resale and sharing of its private line services. Resale and Shared Use, 60 FCC 2d 261; *recon.* 62 FCC 2d 588 (1977). On appeal from these decisions the courts held that no evidentiary hearing was necessary. *See* Bell Telephone Company of Pennsylvania v. FCC, 503 F.2d 1250 (3d Cir. 1974), *cert. denied* 422 U.S. 1026 (1975), *reh'g denied* 432 U.S. 886 (1975); AT&T v. FCC, 572 F.2d 17 (2d Cir.) *cert. denied* 439 U.S. 875 (1978). *See also* Western Union Telegraph Company v. FCC, 665 F.2d 1126 (D.C. Circuit, 1981), (evidentiary hearing not required before the Commission could order the IRCs to unbundle their telex terminal equipment from their transmission facilities).

[13] *See, e.g.*, Appendix A, which shows the benefits which could be achieved.

[14] AT&T Comments at 4, 9–11.

[15] *See, e.g.*, definitions of "bandwidth, nominal" and "useful bandwidth" in Emerson C. Smith, Glossary of Communications (Chicago: Telephony Publishing Co., 1971) at pp. 28 and 448.

[16] As we noted above, the first step in the Frequency Division Multiplexing (FDM) hierarchy in the Bell System involves a combination of twelve vioce channels into a circuit group, which is the basic building block of that hierarchy. The frequency band occupied by a twelve channel group is 60 to 108 kHz. The next step in the FDM hierarchy is the combination of five groups into a sixty channel supergroup occupying the band from 312 to 552 kHz.

groups and supergroups is generally impractical.

15. That the provision of group and supergroup channels is both possible and practicable is supported by the record. Southern Pacific, for example, notes that AT&T has

> avoided any mention of the Wire Line Entrance Link (WLEL) that today is used to interconnect facilities—both voice and television—at 70 MHz. This is a far higher bandwidth than the 10 kHz that AT&T implies is the highest that it can provide for interconnection. Both AT&T and the OCCs currently use 70 MHz WLEL interconnection technology for cable interconnections up to several miles in length. Additionally, AT&T fails to acknowledge that low capacity microwave systems are available for use as group and supergroup interconnections.[17]

The existence of WLELs and low capacity microwave, then, indicates that there may well be alternatives to special construction for the local distribution of full carrier system group and supergroup services where there is a customer requirement for interconnection with the entire group or supergroup bandwidth.

16. As additional support for our finding that there are means other than special construction which AT&T could use to efficiently accomplish local distribution, we need look no further than the record compiled to date in our ongoing investigation of AT&T's Series 7000 terrestrial television program transmission service.[18] There, AT&T's claimed investment for Series 7000 includes $29.7 million in polyethylene shielded video (PSV) cable pairs that are no longer used for the provision of program transmission service.[19] PSV cable pairs are designed for the local distribution of wideband TV program transmission service. AT&T states that these PSV cable pairs are contained in composite cables with in-service exchange cable pairs and were placed in service by the Bell Operating Companies over the years based on purportedly valid engineering and cost considerations. It further states that "utilization of these presently unneeded facilities for future private line application is being explored."[20] It follows that one alternative use which could be considered for these facilities previously used for the handling of nominal 6 MHz signals is group and supergroup transmission at nominal 48 kHz and 240 kHz, respectively. While it may be that PSV cable pairs are not in every instance available in locations where customers would desire group or supergroup spectrum capacity, we may nevertheless assume from the large amount of investment attributed by AT&T to PSV cable pairs unused for TV transmission service that many shielded high capacity local cable pairs are available for other applications. While we recognize that PSV cable pairs may prove unsuitable for conversion to group or supergroup applications, to date, AT&T has not addressed this matter in its pleadings here. We believe, therefore, that the feasibility of using these existing facilities for other applications should be addressed.

17. Even where such shielded cable pairs are unavailable, however, the engineering literature shows that full carrier system transmission can still be accomplished at a power or energy level which meets inter-channel non-interference standards.[21] Additionally, AT&T might distribute these channels using separate binder groups [22] or low capacity microwave as it now does in the provision of wideband service for the government in Tariff 258. *See* AT&T comments at 7, n. * * *. And in the event these options are not suitable for meeting customer requirements, reasonable special construction charges could be developed. In addition, we note that "a baseband repeater system (local loop) is available which permits [wideband] transmission of the restored polar line signal over ordinary pairs in telephone cable." *See* J.S. Ronne, "Transmission Facilities for General Purpose Wideband Services on Analog Carrier Systems," IEEE Transactions on Communications Technology, Vol. Com. 14, No. 5, October, 1966 at 654. We further note that in order to provide Dataphone® Digital Service (DDS), AT&T must shield or segregate DDS cable pairs in order to overcome potential problems of interference:

> A consideration in providing DDS service is the coordination between DDS and other services that use pairs within the same cable. Certain amounts of segregation are necessary so that undue crosstalk from DDS, particularly at 56 kb/s, is not accumulated in other services. Segregation is achieved by placing susceptible services in adjacent or alternative cable units (splicing groups in the case of layer cable) * * *.

See Bender, *et al.*, Digital Data System: Local Distribution System, The Bell System Technical Journal, Vol. 54, No. 5, May-June 1975, pp. 919, 929. Finally, we would observe that AT&T formerly leased a large number of groups and supergroups to Western Union and had offered to provide such facilities to the IRCs.[23] In short, AT&T has demonstrated the ability to overcome similar technical problems in the local distribution of its other high capacity services including DDS, 230.4 kbps and 1.544 Mbps high speed data channels, audio and video program transmission services and full carrier system services to other carriers. Under these circumstances, we find its pessimism unfounded.

18. *Cost Considerations.* AT&T asserts that to separate group and supergroup channels from mandatory, AT&T-provided terminal equipment would require new construction of cable and interfaces. AT&T considers this a "relatively high cost solution acceptable only for specialized applications."[24] Thus, AT&T claims that special construction would ordinarily be required because "local plant consists generally of wire pairs, which are not suitable for delivering wideband analog signals in the group or supergroup spectra."[25] It also argues that while groups and supergroups are an essential part of the telephone industry's long distance network, they terminate in fewer than 500 of the more than 10,000 wire centers throughout the country.[26] We have already noted above the possibilities open to AT&T to accomplish the local distribution of full carrier system channels. As for wideband services, furthermore, AT&T has given no reason why the mandatory use of AT&T-provided equipment to the exclusion of customer-provided equipment contributes to cost effectiveness. Evidence of AT&T's past pricing practice contradicts its

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[17] Southern Pacific Comments at 7. AT&T itself acknowledges the use of radio facilities to deliver group facilities to the Government's premises. *See* AT&T Comments at 7, n. * * *.

[18] *See* Docket No. 81-351, American Telephone and Telegraph Company, 86 FCC 2d 861 (1981).

[19] *See* AT&T Series 7000 Television Transmission Service, February 13, 1981, Vol. 1 at 2-20-2-21. Briefly, PSV cable pairs or 16 PEVL cable, as it is denominated by AT&T, is shielded, low capacitance (0.052 mFd/mi.) 16 gauge (43.8 ohms/mi.) cable with expanded polyethylene insulation designed for carriage of the 4.5 MHz (nominal bandwidth: 6 MHz) television program signal. Each pair is individually shielded with double sheet-copper shield.

[20] *Id.*

[21] *See* V. K. Prabhu, "On the Performance of Digital Modulation Systems that Expand Bandwidth," Bell System Technical Journal, Vol. 49, No. 6, July-August 1970, at 1033, 1034.

[22] A binder group is a separate concentric bundle of wire pairs in a cable.

[23] *See, e.g.*, Western Union Comments, Appendix A. RCA Comments at 2, App. D.

[24] AT&T Comments at 4.

[25] AT&T Comments at 4, 6. AT&T also incorrectly assumes from the Notice that the Commission's proposed action would have made the full carrier system group and supergroup spectrum available at the customer's premises. As noted above in para. 12, this is not the case. Also, as we discuss in paras. 19 through 20, AT&T itself successfully uses existing local distribution plant to offer useful group and supergroup-based wideband services to the public.

[26] *Id.* at 6.

statements here that group and supergroup facilities are costly. For example, Western Union International, Inc. (WUI) points out

> When AT&T offered this type of facility to the IRCs pursuant to the General Lease Agreement, a discount was applied to group/supergroup facilities. For example, the charge for a voice grade circuit between New York and Etam under the contract was $439. The per-circuit charge for a New York-Etam group facility was $2.3 and $160 for a supergroup facility. These contracts were in force until 1977.

WUI Reply Comments at 7. In any case, AT&T does not explain why the per-circuit rates for groups and supergroups that were cheaper than individual circuit rates prior to 1977 are now more costly. Under these circumstances, we cannot accept AT&T's contention that group and supergroup channels are not practical means for the provision of high capacity services when it was apparently practical and cost-effective for AT&T to have provided these facilities in the past to other carriers. In any event, as will be explained, where AT&T would incur additional costs owing to the need for specially constructed local distribution facilities, such costs would be fully recovered from users.

19. Equally significant, AT&T itself has used and continues to use groups and supergroups to provide high capacity services on a general basis, but it has never suggested that in those instances groups and supergroups were not cost effective for such purposes. The circumstances under which AT&T formerly offered TELPAK, for example, are illustrative. TELPAK private line service, a general offering, was configured at the customer's option as a wideband analog facility. Although AT&T states that "TELPAK was never conceived as an analog bandwidth offering",[27] the TELPAK tariff stated that

> This series provides Base Capacity for transmitting various forms of electrical communication up to the limits specified for the various types as set forth in (1) following
> * * *
> *(1) Base Capacity.*
> Base Capacity denotes the potential for communcations channels and services which can be realized only with the use of service terminals furnished under (2) following. *Base Capacity, with appropriate Terminating Arrangements, is provided for use as a wide-band channel or for use as wide band channels and/or individual channels of lesser capacity* which in total do not exceed the equivalent voice grade capacity for each type.

See AT&T Tariff FCC no. 260, Section 3.2.5(a), (A)(1), 3rd Revised Page 79, effective April 1, 1968 (emphasis supplied). AT&T also provided Type 5751 "service terminals" or "terminating arrangements" allowing use of the "base capacity" as a wideband channel *i.e.* for the provision of 230.4 kbps series. *Id.* at (A)(2), 7th Revised Page 80.1 at (A)(2)(a).[28] Similarly, Series 8000 is available on a nationwide basis. These practices clearly are inconsistent with AT&T's present claim that the use of group and supergroup facilities for the provision of high capacity channel service is a "relatively high cost solution acceptable only for specialized applications."[29]

20. To sum up, AT&T has not persuaded us that the separation in the tariffs of AT&T-provided terminal equipment from its current Series 8000 offering or from its 230.4 kbps high speed data transmission channel in Tariff No. 258 and the resulting wideband channels will not, at least potentially, result in a cost-effective customer alternative which would permit the use of customer-owned or customer-designated equipment. Additionally, from the point of view of our expressed regulatory policies, it is important that AT&T not be allowed to use its market power to foreclose competition in an unreasonable manner. By tying the availability of certain transmission channels to AT&T provided equipment,[30] it effectively closes other vendors out of a portion of the equipment market and inhibits arbitrage of the underlying transmission channel. *See, e.g., Resale and Shared Use*, 60 FCC 2d 261, *recon.* 62 FCC 2d 588 (1976), *aff'd. sub nom. AT&T v. FCC*, 572 F.2d 17 (2d Cir. 1978), *cert. denied* 439 U.S. 875 (1978).

21. With respect to full carrier system offerings, we recognize that notwithstanding the possibilities for local distribution pointed out above, in many cases existing facilities may not permit direct connection to the carrier system baseband group and supergroup bandwiths. Under such circumstances, we think it appropriate that rates for such local distribution channels be developed on a case-by-case basis, with the application of special construction charges. The development and filing of such rates should pose no particular difficulty inasmuch as this is a common practice.[31]

Market Considerations

22. *Market for Groups and Supergroups.* AT&T next argues that at present there is a relatively small market for the existing 50 and 56 kbps and 230.4 kbps services and that outside manufacturers may have little interest in marketing new data sets. On this basis it questions whether unbundling of AT&T-provided terminal equipment would yield price benefits to customers or promote greater innovation in data sets. AT&T Comments at 11. In other words, AT&T assumes that the market for the underlying groups and supergroups would be correspondingly small and therefore that the cost of separating them from AT&T data sets and modems is not outweighed by other advantages.

23. Significantly, though, AT&T offers no evidence to support these assumptions. Furthermore, the record supports the opposite result. All other comments in the record confirm that a demand exists for the underlying channels, and that the existing 56 kbps and 230.4 kbps offerings which tie AT&T-provided terminal equipment to the underlying groups and supergroups will not suffice.[32] RCA's comments, for example, are illuminating:

> RCA's lack of access to group and supergroup bandwidth facilities also contributes to delays in the restoration of high-speed overseas digital circuits (circuits used for data and record transmission at 56 kbps and higher speeds). Because AT&T presently requires that only modems furnished by AT&T at AT&T locations be used to convert the signal from analog to digital, when an overseas circuit fails, requiring service from another overseas facility, a modem must be installed at the alternate facility. This increases the amount of time necessary to effect restoration. If RCA Globcom were permitted to acquire its own group and supergroup bandwidth facilities, we would have the option to provide our own modems and structure our own interoffice network in such a fashion as would minimize

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[27] AT&T Reply Comments at 4, n. * * * *. AT&T also appears to acknowledge that its 230.4 kbps service formerly available under TELPAK and now available under Tariff 258 remains a general offering. *See AT&T Comments at 10, n. *.*

[28] Under the TELPAK tariff, however, the service terminals required to terminate group or supergroup facilities included data modems.

[29] In its comments in Docket No. 79-246, the private line rate structure proceeding, AT&T proposed to offer what it termed High Speed Data Channels to replace the present Series 8000. According to AT&T's proposal, High Speed Data Channels would be provided using a combination of group (48 kHz) channels and data modems.

[30] Where customers are interested in wideband services of the type provided under Series 8000, special construction does not, because of its likely high cost, appear to be a practical substitute for the use of groups and supergroups in conjunction with existing local distribution plant.

[31] *See, e.g.*, AT&T Tariff FCC No. 265, Section 4; AT&T Tariff FCC No. 268, Section 4.3.1.

[32] *See* American Telephone and Telegraph Company, Satellite Television Service, 87 FCC 2d 889 (1981), where the Commission found unlawful AT&T tariff provisions bundling space segment and earth stations which seemed to have been filed for no other reason than to constrain space segment demand.

delays in restoration as well as the cost of obtaining both primary and restoration capacity. Furthermore, in addition to reducing restoration delay and cost, circuit degradation resulting from back-to-back modems could be minimized or eliminated.

RCA Reply Comments at 9–10. Moreover, the Independent Data Communications Manufacturers Association (IDCMA) disputes AT&T's assertion that independent manufacturers are not interested in offering equipment for use with group or supergroup services. They state that:

> Certain IDCMA member companies have equipment that could be used in this marketplace, and would seriously consider entering this market if AT&T's tariff restrictions were lifted.

See IDCMA Reply Comments at 7, n. 16. Thus, we cannot agree with AT&T's implication that no demand exists for group and supergroup facilities without the AT&T provided modem or terminal equipment. In any case, mere speculation that demand would be slight is insufficient reason to deny consumers the choice to obtain transmission channels without AT&T-supplied terminal equipment.

24. *Existence of Substitutes for Groups and Supergroups.* AT&T next asserts that the DS–1 1.544 Mbps channels then under development would constitute a better means of meeting the demand for high capacity services.[33] Although we are generally aware of the advantages of high speed digital channels, AT&T has not demonstrated that the 1.544 Mbps (DS–1) channel should be provided in lieu of groups and supergroups and any special construction required to terminate them. It seems self-evident that AT&T already needs to be familiar with the characteristics of the group and supergroup channels to which it attaches modems and other terminal equipment in order to ensure that its bundled service offerings function reliably. As for full carrier system interconnection, it seems that standards for such interconnection must have existed in the past when AT&T provided groups and supergroups to other carriers.[34] For these reasons, we may infer that interconnection could be readily implemented.

25. AT&T also claims that expensive shielded cable would be required to deliver group or supergroup freqency spectrum to the customer's premises in almost all cases, while only low cost modifications would have to be made for the provision of 1.544 Mbps service. However, the carrier has not specified what these low cost modifications are or how they differ from modifications which could be made to accommodate group and supergroup requirements. Our own experience teaches that such modifications can be extensive. We note, for example, that wire pairs used in connection with existing 56 kbps and 1.544 Mbps services must be segregated from wire pairs used for other services to avoid an intolerable amount of cross-channel interference.[35] We also note that local wire pairs must, as AT&T states,[36] be modified by removing loading coils and bridge taps and by the addition of repeaters to make them suitable for the carriage of digital signals. In addition, 1.544 Mbps service requires the use of as many as three digital loopbacks in order to allow for remote circuit maintenance.[37] Thus, although we have not been presented with any evidence that it would be less costly to adapt local wire pairs for DS–1 than for the provision of groups and supergroups, AT&T in any case will be permitted to recover any additional costs through special construction charges where existing local distribution plant is not suitable. Thus, the customer will be in the position to decide, based on his own needs, which services is most effective.

26. It is also significant that while AT&T views the 1.544 Mbps DS–1 channels as an adequate substitute for groups and supergroups, this view is not shared by many commenters. WUI, for example, notes that it offers alternate voice/data (AVD) service to the public and that a group could be used for 12 or 16 voice channels, 12 or 16 9.6 kbps data channels or a combination of voice and data channels. It states that in order to obtain the same transmission quality and flexibility as that offered by a group facility, it would have to obtain a 1.544 Mbps channel with bandwidth capacity greatly in excess of an analog group facility, and that this would be a very wasteful use of facilities since the excess capacity would lie idle. *See* WUI Comments at 3. WUI also points out that AT&T's DS–1 service would needlessly interpose a digital facility into WUI's end-to-end analog facility plant. Finally, it emphasizes that AT&T itself uses groups, supergroups and mastergroups to transmit communications to the various U.S. Intelsat stations. SBS echoes WUI's comments, and adds that the DS–1 channel offering would not be a complete solution to the needs of other carriers since 1.544 Mbps T-carrier facilities are short haul in nature. SBS also doubts whether long haul 1.544 Mbps capacity is available.[38] Against this record, we cannot agree with AT&T that the parties' acknowledged need for high capacity transmission could be satisfactorily met by other than group or supergroup channels, or that DS–1 channels are necessarily a preferable alternative. Moreover, if the DS–1 offering is as attractive and economical as AT&T asserts, logic dictates that most customers would elect to use DS–1 instead of group and supergroup channels assuming that all were available. In any case, absent some compelling reason to the contrary, we believe the better course is to have the customer rather than AT&T make that choice.

Conclusions and Implementation

Summary

27. We conclude from the record before us that the availability of group and supergroup services under general tariff schedules will benefit the public. As discussed above, AT&T has failed to meet the burden of justifying the limitations it has placed on the availability and use of group and supergroup channels. It is also clear that there is little, if any, public detriment in having group and supergroup channels available to the public while many private benefits would result from such

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[33] This filing was made on July 30, 1982 under Transmittal No. 14065. It was modified and refiled under Transmittal No. 14186 on December 3, 1982 and is now scheduled to become effective March 3, 1983.

[34] SBS notes that the supergroup interface is "extremely commonplace in the telephone network and commercially available from a number of vendors." SBS Reply Comments at 3.

[35] *See* Bender, *supra* at 929.

[36] *Id.* at 928.

[37] *Id.* at 930.

[38] T-carrier has been generally limited by AT&T to hauls of 50 miles presumably because of economic considerations which principally reflect voice channel cost characteristics (where data transmission is concerned, T–1 and digital carrier systems generally would prove economical for longer distances). Long-haul transmission of 1.544 Mbps signals has generally been accomplished over analog cables, satellites, or microwave based carrier systems or on the limited amount of 1ARD or 3ARD digital microwave radio used primarily for Dataphone® Digital Service. *See* Snow, *et al.*, Digital System: System Overview, the Bell System Technical Journal, Vol. 54, N. 5, May–June 1975, pp. 811, 824. The article also states that DS–1 signals may be carried in some cable routes over analog L4 and L5 coaxial cables. *Id.* Since this article was written, the principal change which has taken place is the recent addition of digital fiber optic systems to the long haul transmission plant. Although we recognize the significant potential impact of fiber optic technology in AT&T plant provisioning, for the near term we foresee little change in the manner of handling long-haul digital information. *See* American Telephone and Telegraph Company (Series 9000), Mimeo No. 2364, released February 24, 1982. In particular, we note that AT&T itself has informed the Commission of its plans to offer a 1.544 Mbps service over analog facilities. *See* AT&T Responses to Information Requests, Transmittal No. 14065, August 23, 1982.

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availability. It further appears that AT&T has failed to justify its refusal to provide groups and supergroups to the public upon reasonable request as Section 201(a) requires. As to the manner in which AT&T should make these channels available, we are able at this juncture to conclude that where the intended use is for full carrier system transmission *i.e.*, where the customers require the full 48 kHz and 240 kHz spectra, suitable facilities can be obtained through special construction provisions of the tariffs. This matter is further discussed below. As to the use of these channels for wideband services such as of the types provided by AT&T under Tariffs 258 and 260, previously discussed, we are unable to determine from the present record how and whether these services can be unbundled from AT&T terminal equipment and filed in the tariffs in a manner which will result in useful public offerings.[39] Since we have concluded, however, that substantial public benefits would accrue if customers were free to designate their own modems or data sets rather than being limited to those supplied exclusively by AT&T, it is important that we make further inquiries into the most effective means of achieving such potential benefits.

28. *Provision of Full Carrier System Group and Supergroup Channels.* As noted, AT&T believes that if it is required to offer group and supergroup channels, it should be permitted to do so in an individualized fashion with charges quoted on a case-by-case basis.[40] We have already outlined a number of options which appear to be open to AT&T to provide local distribution of full carrier system group and supergroup services from available facilities without the need for special cable construction. We cannot, however, from the record before us, determine the feasibility of using such facilities as video grade cable for these services or the geographical extent to which such facilities are available. We will, therefore, permit AT&T initially to file its tariff provisions for the full carrier system services conditioned upon the need for special construction of local distribution channels. The interexchange portion of the service, however, should be filed under a general rate schedule applicable to all users, whether involving full carrier system or wideband service, in order to minimize opportunities for discriminatory practices.[41] We will, however, require that within six months of the release of this order, AT&T file with us a statement outlining steps which it has taken to review the feasibility of utilizing existing plant to perform the above-referenced local distribution functions in accordance with our discussion here. Should such use of existing plant even on a limited geographic basis prove feasible, we expect that AT&T will at that time submit a proposal for future tariff revisions. In the meantime, customers having a need to obtain full carrier system group and supergroup channels, including common carriers, will be able to obtain the local distribution portion of such channels pursuant to special construction. Special construction charges will be developed on a case-by-case basis and will, in accordance with standard tariff practice, be filed in the tariffs as the occasion requires.

29. As for technical specifications, we think it self-evident that AT&T is in the best position to initially formulate interconnection, interface and protection standards for group and supergroup channels. We expect that these standards will effectively guard against any potential harm to AT&T's network without unreasonably limiting customer's use of service. Moreover, AT&T has agreed to publish such standards in a technical publication, and we will permit it to do so, subject to further Commission oversight if necessary including any need for modification of Part 68 of the Commission Rules. As a separate matter, we expect that reasonable limits on the availability or time interval before start up of service could be imposed with proper justification.

30. *Provision of Group and Supergroup-Based Wideband Services.* The main question which remains concerns the form which a wideband group or supergroup tariff offering would have to assume in order for it to be a practical and useful service to the public. We have already noted that at present AT&T successfully utilizes these channels in providing end-to-end data transmission services which are tied to the use of AT&T-supplied data station equipment. In so doing, however, as we noted in para. 7 *supra*, AT&T is able to overcome the problems associated with variance in electrical characteristics between different wire pairs though the use of back-to-back modems located at customer premises and telephone company central offices. The matters on which we seek additional comment concern how and whether the unbundled transmission components *i.e.*, the local distribution and interexchange channels, can be used by the public for wideband services using either their equipment, AT&T's, or a combination of the two. If wide variation in electrical characteristics or resultant signal degradation in the distribution plant prove to be significant impediments to the usefulness of groups and supergroups in connection with wideband services, a simple unbundling of existing tariff services may not prove adequate. Should this prove the case, there appear to be a number of potential ways to resolve this problem. Establishment of uniform interface standards, for example, is one way. However, as AT&T intimates in its comments, this might be accomplished only at great expense[42] and might require substantial new plant investment. Another possibility is for AT&T to individually test and grade each local distribution facility in order to ascertain interface criteria on an individual customer basis. Still another would be for AT&T to provide customer compatible devices at central offices.

31. In sum, we conclude that the next appropriate step is to take comment from AT&T on the concerns we have raised above, followed by reply comments by other interested parties. We ask that any comments on the issues we have raised in para. 30 *supra* provide as much technical and engineering information as possible towards resolving the questions of how and whether wideband channels can be unbundled from AT&T terminal equipment to yield practical and useful public offerings.

32. Accordingly, it is ordered, pursuant to Sections 4(i), 4(j), 201–205, 403 and 404 of the Communications Act, that AT&T shall file tariff revisions in conformity with this order within thirty days of its release, such tariff revisions to be made on ninety days' notice. The technical specifications for the group and supergroup channels may, however, be published and made available to the

[39] By unbundling Series 8000 channels, for example, the customer would be provided the same type of local distribution channel currently available on a nationwide basis under the tariff without the need, in the normal case, for special construction. In other words, where AT&T provides bundled wideband services based on group and supergroup channels, it is able to use local distribution plant which exists principally by virtue of standard telephone, or voice-grade plant requirements.

[40] See AT&T Comments at 17

[41] Experience shows that development of rates on an individualized basis lends itself to the potential for unreasonable price discrimination. *See, e.g.*, American Telephone and Telegraph Company Private Line Rate Structure and Volume Discount Practices, 74 FCC 2d 228 (1979).

[42] *See* AT&T Commments at 7: "* * * the interface necessary between an AT&T provided group or supergroup channel and the customer would be relatively coplex and subject to transmission constraints which would limit the range of applications for the channel."

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public at any time before the effective date of the tariff.

33. It is further ordered, That AT&T shall within six months of the release of this order provide to the Commission a list of any locations where existing local distribution facilities can be used or where it appears feasible to modify them for use, in the provision of full carrier system group and supergroup channels.

34. It is further ordered That AT&T shall provide the information in paras. 30–31 by April 1, 1983 and that comments be filed upon this information by May 27, 1983.

Initial Regulatory Flexibility Analysis

Reason for Action and Objective

35. By this order, the Commission has already required AT&T to make available to the public high capacity analog channels of communication called "groups" and "supergroups." These channels have bandwidths of 48 kHz and 240 kHz, respectively. These channels are useful to large users of communications because of the flexibility they afford. Specifically, a user could use these channels for voice, subvoice, or data communication or a combination thereof.

36. AT&T has agreed to make these channels available, but customers would apparently have to pay for the special construction of the local distribution portion of these channels. Such special construction charges could be very substantial. However, AT&T now successfully utilizes groups and supergroups in the provision of high speed data transmission services without having to impose special construction charges on users of those services.

37. This Further Notice of Proposed Rulemaking seeks to determine whether it is feasible for telephone company customers to obtain group or supergroup channels without having to pay special construction charges.

Legal Basis

38. Section 1 of the Act establishes the Commission for the purpose of regulating communications to make available to the public a rapid and efficient communication service with adequate facilities at reasonable charges.

39. Section 201(a) of the Act requires every carrier subject to the Commission's jurisdiction to provide service upon reasonable request, and Section 201(b) requires that all charges, practices, classifications and regulations be reasonable.

40. The Further Notice would examine whether it is reasonable and efficient for AT&T to provide groups and supergroups only when it also imposes special construction charges.

Description, Potential Impact, and Number of Small Entities Affected

41. The members of the public who are likely to use group and supergroups are large users of communications, which include both non-dominant communications common carriers as well as large end users of communications.

42. If groups and supergroups become available without the necessity for special construction, this could afford large users greater flexibility in their use of communication facilities and, by allowing them to use terminal equipment which most efficiently meets individual needs, to minimize their communications expenses.

43. Because the heavy users of communications who are likely to subscribe to these circuits are likely to be large businesses, it is unlikely that many small businesses will be affected.

Reporting, Recordkeeping and Other Compliance Requirements

None.

Federal Rules which Overlap, Duplicate or Conflict

None.

Significant Alternatives Minimizing Impact on Small Entities and Consistent with the Stated Objective

None.

44. It is further ordered, That in reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

45. For purposes of this non-restricted informal rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time of issuance of a notice or proposed rulemaking until the time a draft order proposing a substantive disposition of such proceeding is placed on the Commission's Sunshine Agenda. In general, an *ex parte* presentation is a written or oral communication (other than formal written comments/pleadings and oral arguments) between a person outside the Commission and a Commissioner or a member or the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation discussed above must also state by docket number the proceeding to which it relates. *See* generally Section 1.1231 of the Commission's Rule, 47 CFR 1.1231.

46. It is further ordered, That the Secretary shall cause a copy of this order to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.—Due to the continuing effort to minimize publishing costs, the Appendix of this document, (Public Benefits of the Availability of Groups and Supergroups Reflected in the Record), will not be printed herein. Copies of this document in its entirety may be obtained from the Downtown Copy Center, 1413 K St., NW., Washington, D.C. Also, a copy is available for public inspection in the FCC Dockets Branch, Room 239, and the FCC Library, Rm. 639, 1919 M St., NW., Washington, D.C.

[FR Doc. 83-4462 Filed 2-22-83; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1206

[Docket No. 38915]

Revision to Motor Carrier of Passenger Accounting and Reporting Rules

AGENCY: Interstate Commerce Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission is reviewing the accounting and reporting rules for class I common and contract motor carriers of passengers (49 CFR 1206). The purpose of this review is to identify revisions necessary to make the accounting and reporting system more responsive to the Commission's regulatory information

needs as amended by the "Bus Regulatory Reform Act of 1982," enacted September 20, 1982.

DATE: Written responses should be filed with the Commission by April 11, 1983.

ADDRESS: Responses should be mailed to: Bryan Brown, Jr., Bureau of Accounts, Room 3329, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Charles S. Thomason, (202) 275–7219.

SUPPLEMENTARY INFORMATION: To assist in this review we are requesting carrriers and interested parties to submit their recommendations for revisions, the Uniform System of accounts, used to obtain the most accurate cost and revenue information, enables the Commission to fulfill its regulatory responsibilities in the areas of rate regulation, valuation of transportation property, mergers, acquisition, abandonments and discontinued service. The zone of consideration for this project includes the definitions, instructions, account texts, and annual and periodic reports. In light of the "Bus Regulatory Reform Act of 1982," we are asking respondents to comment on the following specific areas: (1) Consolidation or expansion of account groups, (2) elimination of accounts, (3) addition of new accounts, and (4) consolidation or elimination of report schedules. Respondents may also suggest revisions to the instructions if they are not clear enough or to recommend additional instructions.

This action will not significantly affect either the quality of the environment or conservation of energy resources.

In making recommendations, respondents may wish to comment on any small business impacts they envision as a consequence of this review. Should we proceed with a notice of proposed rulemaking, we will assess our proposal in light of the relevant sections of the Regulatory flexibility Act, 5 U.S.C. 601 ef. seq.

(49 U.S.C. 10321 and 11145, and 5 U.S.C. 553)

List of Subjects in 49 CFR Part 1206

Motor carriers, Uniform system of accounts.

Decided: February 15, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4461 Filed 2-22-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of Bobcats Taken in 1982–83 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. Exports of animals and plants listed in Appendix II of CITES may only occur if a Scientific Authority (SA) has advised a permit-issuing Management Authority (MA) that such exports will not be detrimental to the survival of the species, and if a Management Authority is satisfied that the animals or plants were not obtained in violation of laws for their protection.

This notice announces supplementary proposed findings by Scientific and Management Authorities of the United States on the export of bobcats. These findings incorporate the 1982 Amendments to Section 8A of the Endangered Species Act, which establish standards for findings by the SA on exports of animal species included in CITES Appendix II. The Service requests comments on these proposed findings and information on the species involved.

DATES: The Service will consider information and comments received by March 25, 1983 in making its final findings and rule.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of the Scientific Authority, room 537, 1717 H Street NW., Washington, D.C. or at the Federal Wildlife Permit Office, room 621, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Scientific Authority—Dr. Richard M. Mitchell, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948

Management Authority—Mr. S Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–2418

Export Permits—Ms. Maggie Tieger, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–1903.

SUPPLEMENTARY INFORMATION: This is the third in a series of notices concerning the Service's findings on export of babcats (*Lynx rufus*) taken in the 1982–83 harvest season. In this notice, the Service announces its decisions on the guidelines to be used, which have been revised to incorporate changes in accordance with recent amendments to Section 8A of th Endangered Species Act concerning Export of Appendix II species, and proposes supplementary findings based on these guidelines.

Scientific Authority Advice

1. Background

In the first notice for the 1982–83 season (47 FR 14664; April 5, 1982), the Service invited comments on proposed guidelines and information on the bobcat and certain other Appendix II species. These guidelines were based on a ruling by the U.S. Court of Appeals for the District of Columbia Circuit that bobcat exports should not be permitted under CITES unless the SA findings were based on "reliable estimates of the bobcat population and data showing the total number of bobcats to be killed, in each of the states involved."(Defenders of Wildlife, Inc., vs. Endangered Species Scientific Authority, No. 79–2512, D.C. Cir., February 3, 1981). The Service's second notice (47 FR 34457; August 20, 1982) announced the guidelines being used to develop SA advice on bobcat export and described the proposed state-by-state findings on export of bobcats taken in the 1982–83 season under the judicially-defined, pre-1982 Amendment standards.

2. Need for New Guidelines

Section 4 (a)(1) of the Endangered Species Act Amendments of 1982 added a new paragraph to Section 8A of the Act to overrule the decision of the Court of Appeals. The amendment made it clear that the Secretary of the Interior is "required to base export determinations and advice upon the best available biological information derived from professionally accepted practices used in wildlife management, but is not required to make, nor may he require any state to make, estimates of population size in making such determinations or giving such advice."

This amendment was made effective as of January 1, 1981, in order to diminish as much as possible the

adverse impact of the court ruling on collection of scientific data by state wildlife agencies. On December 23, 1982, the United States District Court for the District of Columbia dismissed the suit brought against the Service by Defenders of Wildlife and vacated the injunction against bobcat export on the basis of this amendment. This decision is being appealed by Defenders of Wildlife. These developments make it necessary for the Service to revise the guidelines of August 20, 1982, for SA advice on bobcat exports.

In the case of the bobcat, as with most other wild animal populations, the resource is monitored by a variety of techniques that yield information used in evaluating the condition of a population. As these data are accumulated over time, they reflect trends and call attention to changes in the population. Habitat information, indices of population size, age and sex structure, and harvest information are all used to evaluate population status. If population estimates are available for a particular species, the Act now requires that they be considered with other data in making export decisions; such information cannot be required, however, as a condition for export.

3. Comments and Information Received

The Service received information based on the 1901–82 season's data from 37 state wildlife conservation agencies and 2 Indian Nations. These data along with previously submitted information have been used in making supplementary proposed findings for the export of bobcats harvested in the 1982-83 season.

Aside from information submitted by state wildlife agencies, the only comments received in response to the August 20 notice were submitted by the law firm of Covington and Burling on behalf of both Defenders of Wildlife and the Humane Society of the United States.

First, Defenders and the Humane Society stated that the Service proposed to make export findings based upon inadequate data. This was in reference to the Service's decision to eliminate requests for data underlying population estimates, number of animals bought by dealers, number of license trappers, and prices paid to trappers for pelts.

In response, the Service believes that it should not be necessary for states to furnish their entire data bases in order for the Service to evaluate population estimates and other measures of bobcat status developed by state agencies. The service is not required under the Act or CITES to independently generate the types of data that already are being collectd by state biologists. However, it is clear that the Service is empowered to make decisions on whether exports should be permitted under CITES, based on its own evaluation of the available information.

Most states already have furnished information on the number of animals bought by dealers, number of licensed trappers, and prices paid to trappers for pelts. The Service has decided to reinstate its request for such information, since it may be useful in assessing harvest pressure on bobcats.

Second, Defenders and the Humane Society stated that the Service denied the public an opportuinity to comment on proposed findings for the 1982–83 season by: (1) Issuing its proposals prior to receipt of data from the states on which final findings will be made, and (2) basing its proposals on "defective" data from last season.

In response, these supplementary findings will give the public an opportunity to comment on proposed findings incorporating the 1982 amendment to the Act, based upon valid, current data. Information submitted by the states is, and always has been, available for public inspection. Defenders has been extended the courtesy of copying all such public information submitted to the Service, and has obtained copies of all material that the Service has received from the states.

Third, Defenders and the Humane Society stated that there was ambiguity in the notice regarding a maximum level of kill for each state. The approach formerly required by the Court of Appeals involved setting an upper limit on the harvest in each state, based on information about the size of the bobcat population.

Most states already set target harvest levels or harvest level objectives each season, without having target levels imposed by the Service. State wildlife agencies are able to regulate harvest by adjusting the timing and length of open seasons, prescribing methods of harvesting, setting bag limits (number to be taken per person), or seasonal limits on the number of animals that may be taken, or limiting the number of licenses authorizing persons to harvest the species. Although such measures may not always guarantee a particular level of harvest, over a period of several years it is possible to predict how the size of an annual harvest will be affected by changes in these controls. If a state wildlife agency finds that its target harvest level was exceeded substantially, it can adjust these harvest controls the following season to compensate for overharvest, or it can terminate taking of bobcats that season.

The SA may require the establishment of target harvest levels to ensure that export will not be detrimental. The Service believes that the establishment of such levels would enhance the effectiveness of CITES with respect to bobcats, although such action is not required of the SA by the Endangered Species Act. The function of target harvest levels is to provide a clear indication to state wildlife agencies of the Service's expectations regarding nondetrimental harvest levels. Given this information, states will be able to modify their management programs as necessary to satisfy Federal export requirements.

Fourth, Defenders and the Humane Society stated that the notice did not adequately explain the rationale for advice on whether export of bobcats should be allowed from particular states. In response, it is impractical for the Service to publish in the **Federal Register** a detailed analysis of the status and management of bobcats in each state. Instead, the Service has prepared documents describing how it made its finding for each state and Indian Nation. These documents are a part of the administrative record, supplied to state agencies, and available to the public upon request. The guidelines and the proposed findings based upon an analysis of the situation in each state in terms of them are described in this notice.

Fifth, Defenders and the Humane Society stated that the proposed findings do not comply with the Service's own guidelines. In response, guidelines announced in this notice have been consistently used to evaluate the bobcat situation in each state and Indian Nation, as set forth below.

Last, Defenders and the Humane Society stated that the tagging program proposed by the MA does not offer adequate assurance that only legally obtained pelts may be exported and that kill limits will be observed. In response, it should be noted that no pelt may be exported without a state tag. Several states now have instituted a dual tagging system where a possession tag is required in order to obtain a permanent export tag. Differences in tagging and harvest regulations from state to state make it difficult to have uniform tagging procedures for every state. The Service will continue to institute changes in the tagging requirements of the export guidelines where it has been deemed to contribute to the efectiveness of the CITES program.

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4. Revised SA Guidelines

As stated above, the Endangered Species Act now requires the Secretary to base SA determinations for the export of bobcats and other Appendix II animals upon the best available biological information as utilized in professionally accepted wildlife management practices.

Accordingly, the Service has determined to use the guidelines that were developed by a working group of wildlife biologists who met on January 23–24, 1978, at the request of the Endangered Species Scientific Authority to formulate suitable export guidelines for bobcat, lynx, and river otter. These guidelines were used by the SA up to the time of the Court of Appeals decision for the export of bobcats, and they represent professionally accepted wildlife management practices. They are listed below, with an additional provision for population estimates to comply with the amendment to the Act.

A. Minimum requirements for biological information:

(1) Information on the condition of the population, including trends (the method of determination to be a matter of state choice), and population estimates where such information is available.

(2) Information on total harvest of the species.

(3) Information on distribution of harvest.

(4) Habitat evaluation.

B. Minimum requirements for a management program:

(1) There should be a controlled harvest, methods and seasons to be a matter of state choice.

(2) All pelts should be registered and marked.

(3) Harvest level objective should be determined annually.

In applying these guidelines, information on the condition of a bobcat population must include: (a) A current estimate (if such information is available) of the total number of animals in the preharvest population derived by extrapolating the number of animals per unit area in each of the major habitat types to obtain an estimate of the total number of animals in the state, where the number of animals per unit area is determined by direct count (e.g., by using radio tracking) or by indirect indications of abundance (e.g., track counts, scented track plots, hunter/trapper surveys, and/or harvest records), or by using population modeling (e.g., calculation population size from data on recruitment, mortality, sex ratio, age composition, or other parameters), (b) a description of any research being conducted to assess the distribution, abundance, or general condition of the species in the state, summarizing results so far obtained, including results of any analyses of age structure or reproductive parameters, and (c) an assessment of long-term population trends of the species in the state, and the relationship of these trends to habitat condition, management practices, harvesting pressure, or other factors.

The change in the Act does not require the states to submit reliable population estimates in order to export bobcats taken on or after January 1, 1981. However, if these data are provided by the states or by other sources, they must and will be considered by the Service in making "no detriment" findings. The Service, therefore, will consider all pertinent information, including indices of population size, and information on age and sex structure, habitat, and harvest in evaluating the condition of bobcat populations; if population estimates are available, they will be considered together with the above data in making SA findings. The Service is conducting an independent assessment of the effect that harvest for export is expected to have on the survival of bobcat populations. It will make decisions on the basis of the best available biological information of the types described above.

Information on harvest is to include: (a) The number of animals (by county or game management unit, if data are available at these local levels) that were: (i) Harvested, (ii) tagged, and (iii) bought by dealers operating in the state during the previous season; (b) that total number of animals that were harvested and tagged in the season before that; (c) the number of licensed trappers in the state, and the number of these trappers setting for the species in question, (d) any available information on harvest per unit effort, and (e) prices paid to harvesters for pelts of the species, including the average price and the range of extremes. The Service will use this information to assess harvest pressure on the species, which is important in making export findings.

The Service will evaluate the harvest level objectives set by the states in relation to information on the condition of the bobcat population. If the best available biological information indicates that the harvest allowed by a state is causing or contributing to a serious decline in the condition of the bobcat population, then the Service will not issue SA advice in favor of export for that state.

Under the 1982 amendments to the Act, the Secretary may require the establishment of target harvest levels and tagging procedures to ensure that the export of bobcats will not be detrimental to the survival of the species. Accordingly, the SA has determined that target harvest levels will be required for the 1982–83 export season. These levels will not exceed 20 percent of the estimated preharvest population submitted by states or reconstructed by the SA. It is reported from literature that the annual recruitment rate into a bobcat population varies between 20 and 33 percent. The SA is using the lower figure as a conservative upper limit for target harvest levels in order to ensure that export will not be detrimental to the survival of the species.

Most states in which bobcats are harvested furnished preharvest population estimates and harvest level objectives for the 1982–83 season. In cases where states used old population figures and/or trend and harvest information indicated that the population estimate given by a particular state was too high, the SA reconstructed its own estimate from harvest and age-class data. This was the case for the following states: Alabama, Florida, Kansas, Louisiana, Michigan, Mississippi, North Carolina, North Dakota, Oregon, South Carolina, Texas, and Virginia.

Although the Service set maximum target harvest levels at no more than 20 percent of the preharvest population, the level for most states was adjusted lower, taking into consideration available habitat, bobcat densities, harvest trend information, hunter/trapper numbers, season length, and management programs for the species.

Several states have in their regulations that if actual harvest levels approach their target harvest level prior to the close of the season, they can restrict further take of bobcats by closure of the season. These states are: Colorado, Georgia, Maine, Massachusetts, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, and South Dakota. Other states limit the number of export tags issued (Arizona and North Carolina) or adjust the season length the following year to compensate for a higher take that anticipated (Kansas, Minnesota, and Nebraska). Still others have quotas and/or bag limits: Klamath Tribe, Massachusetts, Minnesota, New Hampshire, Oklahoma, Oregon (Eastern part), West Virginia, and Wisconsin. The Navajo Nation limits the number of trappers.

All these mechanisms insure that the target harvest level will not be exceeded. If individual states exceed the

target harvest level set by the SA in an amount that is believed to be detrimental to the survival of the species, the state in question will be denied export the following season, unless it takes steps that will reduce the harvest to a level acceptable to the SA in the following season.

The Service finds that current information on population condition, management, and harvest submitted by certain states, as well as that collected by the Service, fully support its supplementary proposed SA findings. The Service has summarized this information in documents that detail the basis for SA advice for each state. Due to their length, details of these documents are not published in the **Federal Register**, but are available for public inspection at the Office of the Scientific Authority (address given above).

Management Authority Findings

Exports of Appendix II species are to be allowed under CITES only if the MA is satisfied that the specimens were not obtained in contravention of laws for the protection of wildlife or plants. The Service, therefore, must be satisfied that bobcat pelts or products were not obtained in violation of state or Federal law, in order to allow export. Evidence of legal taking for bobcat is provided by state tagging systems. For the 1982–83, season, the Service is requiring the use of locking plastic strip tags with embossed legends. The Service has arranged for the manufacturing of such tags for the majority of the states. Other states already use similar tags. Several states were permitted to use state purchased, nonconforming tags for the current season because of tags on hand, or mistakes in their tag orders.

New Hampshire's tag, while different from the recommended style, does satisfy all Management Authority criteria for pelt export tags. The few remaining non-conforming states are being notified that their tags must fully comply with Service requirements for the 1983–84 season or be subject to a nonexport finding for the involved species.

The Service would like to see state programs for CITES-listed animal species mandate both a possession tag for all listed animals harvested and presentation of each possession-tagged pelt to a state management agent for removal of the possession tag and application of a permanent locking tag suitable for export purposes.

The states receiving export approval for the 1982–83 season had to satisfy the following criteria:

(1) Each skin must be marked with a tag that is:

(a) Made of some permanent material in a style recommended by the Service;

(b) Applied within a specific time of taking that is established by the state; and

(c) Permanently attached to each skin by the state, state registered dealer, or taker. (Dealer and taker must be accountable for all tags received).

(2) The tags must show state of origin, year of take, species, and be serially unique.

(3) Report of take and tagging must be required by state law.

(4) A sample of each tag must be received by the Service.

Any deviations from these criteria are being brought to the state's attention along with suggestions for change or improvements for the 1983–84 harvest season.

The Service will propose early in 1983, the following Management Authority export criteria for the 1983–84 taking season:

(1) Current state trapping regulations must be on file with the Service;

(2) Sample 1983–84 season export tag must be on file with the Service;

(3) Export tag must be of a material, color, and style approved by the Service;

(4) Export tag must show state of origin, year of take, species, and must be serially unique;

(5) Reporting and tagging of each skin harvested during the harvest season must be required by state law;

(6) Export tag must be applied within a minimum specified time after take;

(7) Export tag must be permanently attached by state registered dealer, or state licensed taker;

(8) A possession tag must be applied to skin (and parts) at the time of take where state applies permanent export tag; and

(9) State registered dealers or state licensed takers must account for export tags received and must return unused tags to state within a specified time after taking season closes.

Supplementary Proposed Findings

The most recent information available on the status and management of bobcats in each state has been assembled by the Service and used to make determinations in accordance with the guidelines described in this notice. This information and records of the Service's evaluation of it in terms of guidelines described above are available for public inspection at the Service's Office of the Scientific Authority (SA) or Federal Wildlife Permit Office (MA).

The Service proposes to approve exports of bobcats harvested during the 1982–83 season in the following states and Indian Nations on the grounds that both SA and MA guidelines are met: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Klamath Tribe, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Navajo Nation, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

The Service also proposes not to grant general approval for exports of bobcats harvested in North Dakota. The Service presently lacks information that its SA guidelines are met in this state.

For all other states not addressed above, either the taking of bobcats is not allowed by the state, bobcats do not occur in the state, or the Service did not obtain adequate information on which to base SA and MA findings. The Service does ont intend to grant general approval for export of bobcats from such states.

Comments Solicited

The Service requests comments on the supplementary proposed findings and guidelines, Final Findings will take into consideration the comments and any additional information received, and such consideration might lead to final findings that differ from this proposal.

This propoal is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.; 87 Stat. 884 as amended), and was prepared by Dr. Richard M. Mitchell, Office of the Scientific Authority.

Note.—The Department has determined that these proposed findings are not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and, therefore, the preparation of an Environmental Impact Statement is not required. A determination on whether final findings are a major Federal action significantly affecting the quality of the human environment will be made at the time the final findings are published. The Department has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). This rule treats exports on a state-by-state basis and, in most cases, proposes to approve export in accordance with state management programs. Since any effects on small entities are imposed by these state management programs, this rule will have little effect on small entities in and of itself.

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List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants, (agriculture), Treaties.

PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, the Service proposes to amend Part 23 of Title 50, Code of Federal Regulations, as set forth below:

Subpart F—Export of Certain Species

In § 23.52, add new paragraph (f) as follows:

§ 23.52 Bobcat (Lynx rufus)

* * * * *

(f) 1982–83 Harvest: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Klamath Tribe, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Navajo Nation, Nebraska, Nevada, New Hampshire New Mexico, New York, North Carolina, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Condition on export: Each pelt must be clearly identified as to state of origin and season of taking by a permanently attached state tag of a type approved and attached under conditions established by the Service.

Dated: January 27, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–4440 Filed 2–22–83: 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

Western Pacific Fishery Management Council; Western Pacific Spiny Lobster Fisheries; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearing.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a public hearing on a draft environmental assessment and draft amendment to the Spiny Lobster Fishery Management Plan. Comments received at the hearing will be used in the preparation of the final amendment and final environmental assessment.

DATE: Written comments are invited until April 8, 1983. Individuals or organizations wishing to comment may do so at the following public hearing. March 14, 1983—Honolulu, Hawaii.

ADDRESS: Send comments to: Wadsworth Yee, Chairman, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813.

Hearing Location: March 14, 1983, 7:00 p.m., Pagoda Hotel, West Room, 1525 Rycroft Street, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Acting Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813, (808) 523–1368, or Doyle E. Gates, Western Pacific Program Office, Southwest Region, National Marine Fisheries Service (NMFS), P.O. Box 3830, Honolulu, Hawaii 96812, (808) 955–8831. Copies of the draft environmental assessment and draft amendment are available at the Council office as well as the following locations: Honolulu Division of Aquatic Resources, Hawaii Department of Land and Natural Resources, 1151 Punchbowl Street, Honolulu, Hawaii 96813, or Terminal Island, Southwest Region, NMFS, 300 S. Ferry Street, Terminal Island, California 90731.

SUPPLEMENTARY INFORMATION: The proposed amendment recommends a conservation and management program for harvesting spiny lobster in the fishery conservation zone around the main Hawaiian Islands which is the equivalent of the State of Hawaii regulations for the harvesting of spiny lobster in the territorial sea around the main Hawaiian Islands. The proposed conservation and management program is intended to achieve cooperative Federal/State management of spiny lobster stocks throughout their range in the Hawaiian Islands. A complimentary management program has been proposed for consideration and adoption by the State of Hawaii for the spiny lobster fishery in the territorial sea around the Hawaiian Islands.

Dated: February 17, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–4509 Filed 2–22–83: 8:45 am]

BILLING CODE 3510–22–M

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Notices

Federal Register
Vol. 48, No. 37
Wednesday, February 23, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

Background

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Information About This Proposed Collection

Agency Clearance Officer—Richard D. English—202–254–8501. Agency Address: ACTION, 806 Connecticut Ave., NW., Washington, D.C. 20525. Title of Forms: CEP Interview. Office of ACTION Issuing Proposals: Office of Policy and Planning.

Agency official to contact for further information: Melvin E. Beetle, Director, OPP/E 202–254–5198. Type of request: New. Frequency of collection: 1 time per year for 2 years. (1983 and 1984). General description of respondents: Residents of two communities conducting a CEP program. Estimated number of responses: 960 or 480/yr. Estimated hours for all respondents to complete form: 240. Respondent's obligation to reply: Voluntary.

This is not a collection proposal under Sec. 3504(h) of the Paperwork Reduction Act. Person responsible for OMB Review: James L. Thomas, 202–395–6880.

Richard D. English,

Deputy Assistant Director, ACTION.

[FR Doc. 83–4442 Filed 2–22–83: 8:45 am]

BILLING CODE 6060–01–M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: March 10 and 11, 1983.

Time: 9:00 a.m. each day.

Place: State Department Building, Washington, D.C.

Type of Meeting: Closed.

Contact Person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632–5176.

Purpose of Advisory Committee: To advise the Director of U.S. Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.

Agenda: Will include the following discussions and presentations:

March 10

A.M. European Views of the INF Negotiations.

P.M. European Views of the START Negotiations.

March 11

A.M. Discussions of the foregoing and possibly other similar matters.

Reasons for Closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

Authority to Close Meeting: The closing of this meeting is in accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated December 10, 1982, made pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act, as amended.

John E. Grassle,

Committee Management Officer.

[FR Doc. 83–4473 Filed 2–22–83: 8:45 am]

BILLING CODE 6820–32–M

COMMISSION ON CIVIL RIGHTS

Colorado Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Colorado Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 10:00 p.m. on March 16, 1983, in the Sebastian Bach Room, at the Executive Tower Inn, 1405 Curtis Street, Denver, Colorado 80202. The purpose of this meeting will be to discuss programs plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Minoru Yasui, 1150 South Williams, Denver, Colorado 80210, (303) 575–2621 or the Rocky Mountain Regional Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202, (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–4516 Filed 2–22–83: 8:45 am]

BILLING CODE 6335–01–M

Ohio Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 10:00 a.m., and will end at 3:00 p.m., on March 12, 1983, at the Holiday Inn Riverview, 141 Summit Street, Toledo, Ohio 43604. The purpose of this meeting will be to discuss information that has been gathered relating to Hispanics in education and employment, and also to receive a report from the subcommittee for this study.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Marian A. Spencer, 940 Lexington Avenue, Cincinnati, Ohio 45229, (513) 221–5656 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–4518 Filed 2–22–83; 8:45 am]

BILLING CODE 6335–01–M

Rocky Mountain Region Advisory Committees (Colorado, North Dakota, South Dakota, Utah, Montana, and Wyoming); Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of Advisory Committees to the Commission within the Rocky Mountain Region (Colorado, North Dakota, South Dakota, Utah, Montana and Wyoming) will convene at 8:00 p.m. on March 16, 1983, and will adjourn at 1:00 p.m. on March 13, 1983, in the Beethoven III Room, at the Executive Tower Inn, 1405 Curtis Street, Denver, Colorado 80202. The purpose of this meeting will be to conduct a consultation on block grant funding for Indian Reservation programs, and consider program plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the appropriate Chairperson: Minoru Yasui, 1150 South Williams, Denver, Colorado 80202, (303) 575–2621; Angela V. Russell, Box 333, Lodge Grass, Montana 59050, (406) 638–2626; Robert A. Feder, 414 Gate City Building, Post Office Box 1637, Fargo, North Dakota 58102, (701) 235–5515; Marvin Amiotte, Oglala Sioux Tribe, Box 1053, Pine Ridge, South Dakota 57770, (605) 867–5140; Linda M. Dupont-Johnson, State Office Building, Suite 3270, Salt Lake City, Utah 84114, (801) 533–4061; Jamie C. Ring, 520 Parkview Drive, Casper, Wyoming 82601, (307) 268–2269; or the Rocky Mountain Region Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado (303) 337–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–4517 Filed 2–22–83; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Carbon Steel Wire Rod From Brazil; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary antidumping determination.

SUMMARY: The preliminary determination of carbon steel wire rod from Brazil is being postponed, and we intend to issue it not later than April 28, 1983.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230. (202) 377–4929.

SUPPLEMENTARY INFORMATION: On October 26, 1982, we announced our initiation of an antidumping investigation to determine whether carbon steel wire rod from Brazil is being, or is likely to be, sold in the United States at less than fair value within the meaning of the antidumping law (47 FR 47452). The notice stated that we would issue a preliminary determination by March 9, 1983, if the investigation proceeded normally.

As detailed in the notice of initiation of the antidumping investigation, the petition alleges that imports from Brazil of carbon steel wire rod are being, or are likely to be, sold in the United States at less than fair value. Because of the novelty of the issues and the number and complexity of the adjustments to be considered, we believe that this case is extraordinarily complicated in accordance with section 733(c)(1)(B) of the Tariff Act of 1930, as amended, and additional time is necessary to make the preliminary determination. We intend to issue a preliminary determination not later than April 28, 1983.

Critical circumstances have been alleged in this case. We have reviewed currently available data on shipments of the product under investigation to the United States and have found no reason to believe that shipments are surging. We will continue to monitor the imports of the product during the extension period. A determination of critical circumstances will be made in the preliminary determination.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: February 16, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83–4467 Filed 2–22–83; 8:45 am]

BILLING CODE 3510–25–M

Carbon Steel Wire Rod From Trinidad and Tobago; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary antidumping determination.

SUMMARY: The preliminary determination of carbon steel wire rod from Trinidad and Tobago is being postponed, and we intend to issue it not later than April 28, 1983.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Telephone: (202) 377–4929 or 377–1756.

SUPPLEMENTARY INFORMATION: On October 20, 1982, we announced our initiation of an antidumping investigation to determine whether carbon steel wire rod from Trinidad and Tobago is being, or is likely to be, sold in the United States at less than fair value within the meaning of the antidumping law (47 FR 46558). The notice stated that we would issue a preliminary determination by March 9, 1983, if the investigation proceeded normally.

As detailed in the notice of initiation of the antidumping investigation, the petition alleges that imports from Trinidad and Tobago of carbon steel wire rod are being, or are likely to be, sold in the United States at less than fair value. On February 16, 1983, counsel for the petitioners, Atlantic Steel Company, *et al.*, requested that the Department extend the period for the preliminary determination until 210 days after the date of receipt of the petition in accordance with section 733(c)(1)(A) of the Tariff Act of 1930, as amended.

We have determined that additional time is necessary to make the preliminary determination. Accordingly,

the period for determination in this case is hereby extended. We intend to issue a preliminary determination not later than April 28, 1983.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: February 16, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-4468 Filed 2-22-83; 8:45 am]

BILLING CODE 3510-25-M

Certain Textiles and Textile Products From Argentina; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On December 23, 1982 the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on certain textiles and textile products from Argentina, specifically men's and boys' woolen apparel. The review covers the period January 1, 1981 through December 31, 1981. The notice stated that the Department had preliminarily determined the net subsidy to be 5.67 percent *ad valorem*.

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as those presented in the preliminary results.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Larry Hampel, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 23, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 57316) the preliminary results of its administrative review of the countervailing duty order on certain textiles and textile products from Argentina (43 FR 53421, November 18, 1978). The Department has not completed that administrative review.

Scope of the Review

Imports covered by the review are men's and boys' woolen apparel imported from Argentina. Such apparel is currently classifiable under the items of the Tariff Schedules of the United States Annotated ("TSUSA") listed in the Appendix to this notice.

The review covers the period January 1, 1981 through December 31, 1981 and the following programs: (1) The reembolso, a cash rebate of indirect taxes; and (2) a preferential financing program.

Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review.

The Department will instruct the Customs Service to assess countervailing duties in the amount of the net subsidy, 5.67 percent of the f.o.b. invoice price, on all shipments of men's and boys' woolen apparel from Argentina exported on or after January 1, 1981 and on or before December 31, 1981.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties of 5.67 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department intends to conduct the next administrative review by the end of November 1983. The amount of countervailing duties to be imposed on exports made during 1982 will be determined in that review. Consequently, suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after January 1, 1982.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: February 16, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

Appendix

Wearing Apparel

372.0800(b)
372.1020(a)(b)
372.1050(a)(b)
372.2500 (for male infants)
372.3000(b)
372.3500
372.4000(b)
372.4500(b)
373.0500 of wool
373.1500
376.0800(b)
378.3510(b)
378.4000(b)
378.4500(b)
379.1100
379.1300
379.1510 through 379.1530
379.1710 through 379.1750
379.2010
379.2020
379.3520(a)
379.6615(a)
379.6934 through 379.6958(a)
379.7100
379.7240 through 379.7295
379.7400
379.7510
379.7530
379.7605 through 379.7650
379.7810 through 379.7850
379.7900
379.8100
379.8311 through 379.8360
379.8410
379.8420
379.8615(a)
379.8715(a)
379.9815(a)

(a) Wool articles classified under this TSUSA item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, December 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUSA number falls. Where the phrase is not covered by such headnotes, items classified under the TSUSA number which can be used by either sex are covered by this notice. Items under TSUSA numbers identifiable as being intended exclusively for women and/or girls are not covered by this notice.

[FR Doc. 83-4464 Filed 2-22-83; 8:45 am]

BILLING CODE 3510-25-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

Time and place

March 8, 1983, at 1:30 p.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda

General Session

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Industry priority issues on export controls.

(4) Discussion of foreign availability test cases to be submitted to Commerce.

(5) Status of the Department of Commerce foreign availability implementation plan.

(6) Discussion of the agenda for 1983.

Public Participation

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202–377–2583.

Dated: February 16, 1983.

John K. Boidock,

Director, Office of Export Administration

[FR Doc. 83–4465 Filed 2–22–83; 8:45 am]

BILLING CODE 3510–25–M

Computer Systems Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

Time and Place

March 9, 1983, at 1:00 p.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Industry priority issues on export controls.

(4) Report on the current work program of the subcommittees: (a) Foreign Availability; (b) Hardware; and (c) Licensing Procedures.

(5) New business.

Executive Session

(6) Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202–377–2583

Dated: February 16, 1983.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 83–4466 Filed 2–22–83; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council's Shrimp Subpanel; Public Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established a Shrimp Subpanel which will meet to discuss shrimp fishery regulations to make mandatory the existing shrimp statistical reporting system in the Gulf.

DATES: The public meeting will convene on Wednesday, March 16, 1983, at

approximately 1 p.m., and will adjourn at approximately 4 p.m., and will take place at the Texas–C, Hyatt Regency, 208 Barton Springs, Austin, Texas.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: February 17, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–4519 Filed 2–22–83; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization or results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Department of the Air Force

SN 6–436,869 Fabrication of Gallium Arsenide-Germanium Heteroface Junction Device
SN 6–433,561 Stall Elimination and Restart Enhancement Device
SN 6–437,655 A Process for the Epitaxial Deposition of III–V Compounds Utilizing A Continuous In-Situ Hydrogen Chloride Etch
SN 6–431,865 Bandpass Filter Formed by Serial Gratings Operating in a Wood's Anomaly Region
SN 6–439,492 Sector Airflow Variable Geometry Combustor
SN 6–431,434 Nickel-Cadmium Battery Conditioner and Tester Apparatus
SN 6–434,647 Combustion Chamber Floatwall Panel Attachment Arrangement
SN 6–439,471 Total Internal Reflection Modulator/Deflector
SN 6–431,435 Mounting Construction for Turbine Vane Assembly
SN 6–429,939 A Method for the Particle Size Independent Spectrometric Determination of Metal Particles in Lubricating Oils and Hydraulic Fluids
SN 6–433,597 Simple Nonrestrictive Arm Restraint System
SN 6–435,515 Multiple Thermocouple Testing Device
SN 6–434,671 Optical System for Measuring Shadowgraph Data
SN 6–435,522 Imaging Apparatus for Transverse Electro-Optic Tunable Filter
SN 6–206,412 (4,358,949) Argon Purity Tester
SN 6–169,020 (4,358,925) Temperature Sensing Assembly
SN 6–265,719 (4,359,568) Polyaromatic Amides Containing 1,3-Butadiene Units
SN 6–206,415 (4,359,650) High Voltage Driver Amplifier Apparatus
SN 6–176,436 (4,359,261) Fiber Optic Switching Device
SN 6–329,459 (4,359,360) Apparatus for Selectively Jet Etching A Plastic Encapsulating an Article
SN 6–676,442 (4,357,611) Radar Cross Section Augmentation
SN 6–192,163 (4,357,796) Small Gas Turbofan Engine with Regenerating Diffuser
SN 6–307,991 (4,359,567) Thermoxidatively Stable Articulated p-Benzobisoxazole and p-Benozobisthiazole Polymers
SN 6–293,776 (4,359,190) Exact Involute Ply Patterns
SN 6–171,916 (4,360,910) Digital Voice Conferencing Apparatus in Time Division Multiplex Systems
SN 6–144,819 (4,359,259) Holographic Multiplexer/Demultiplexer
SN 6–100,321 (4,359,199) Soft Landing Gear
SN 6–304,126 (4,365,034) Acetylene-Terminated Polyimide Compositions
SN 6–256,881 (4,365,173) Phase Shifter Adjustment Apparatus
SN 6–181,924 (4,359,399) Taggants with Explosive Induced Magnetic Susceptibility

Department of the Army

SN 6–408,316 Finless Gun-Fired Practice Round
SN 6–415,956 Radio Frequency Coupled Differential Sensor Coil for Improved Muzzle Velocity Measurements
SN 6–444,136 Quasi-Optical Millimeter Wave Power Combiner
SN 6–445,341 An Automatic Layout Program For Hybrid Microcircuits (HYPAR)
SN 6–294,106 Composite Resist Structures for Submicron Processing in Electron/Ion Lithography
SN 6–414,690 Shaped Charge Warhead Construction
SN 6–409,750 A Firing Time Selector for Precision Weapon Aiming
SN 6–449,029 Multiplexed Noise Code Generator Utilizing Transposed Codes
SN 6–432,218 Compounds and Method for Detecting Thiols
SN 6–441,718 Radiochromic Leuko Dye Real Time Dosimeter, One Way Optical Waveguide
SN 6–434,792 Roller Bearing Gear System
SN 6–454,806 Method of Frequency Trimming Surface Acoustic Wave Devices
SN 6–449,947 Vehicle Interior Deicing/Defogging System
SN 6–445,799 Dielectric Waveguide Ferrite Modulator/Switch
SN 6–445,800 Interference Cancelling System for a Mobile Subscriber Access Communications System
SN 6–418,325 Apparatus for Measuring Projectile's Transverse Displacement at Gun Muzzle
SN 6–446,922 Radar Target Angle Measuring System
SN 6–429,756 High-Energy-Beam-Hardened Armor Plate
SN 6–408,317 Ballistic Projectile
SN 6–445,333 Multipath Interference Reduction System
SN 6–264,268 (4,369,937) Hinging and Latching Apparatus
SN 6–953,292 (4,369,811) Null Balancing for Fluidic Sensors and Amplifiers
SN 6–221,737 (4,370,655) Combined Side Lobe Canceller and Frequency Selective Limiter
SN 6–224,603 (4,370,597) Thyratron Switch for Narrow Pulses

Department of Agriculture

SN 6–448,675 Modified Starches as Extenders for Absorbent Polymers
SN 6–409,266 Process for Rendering Hollow Textile Fibers Temperature-Adaptable to Various Thermal Environments

Department of Health and Human Services

SN 6–422,304 Trunk Dynamometer

[FR Doc. 83–4431 Filed 2–22–83; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Wool Apparel Products From the Socialist Republic of Romania

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Applying special carryforward amounting to 150 dozen to the level of restraint established for women's, girls', and infants' wool coats and suits in Category 435/444, produced or manufactured in Romania and exported during the agreement year which began on April 1, 1982. The adjusted level will be 8,187 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

SUMMARY: The Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania, provides, among other elements of flexibility, for the borrowing of designated percentages of yardage from the succeeding year's level (carryforward). At the request of the Government of the Socialist Republic of Romania, the United States Government has agreed to grant special carryforward of 150 dozen in Category 435/444, increasing the level for the year which began on April 1, 1982 to 8,187 dozen. This amount will be charged to the applicable level of restraint in the next agreement year.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On April 1, 1982, there was published in the **Federal Register** (47 FR 13856) a letter dated March 25, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established import levels for certain specified categories of wool and man-made fiber textile products, including Category 435/444, produced or manufactured in Romania and exported during the twelve-month period which began on April 1, 1982. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month level of restraint previously established for Category 435/444 to 8,187 dozen.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

February 16, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On March 25, 1982, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption and withdrawal from warehouse for consumption during the twelve-month period which began on April 1, 1982 and extends through March 31, 1983 of wool and man-made fiber textile products in certain specified categories, produced or manufactured in Romania, in excess of designated levels of restraint are subject to adjustment.[1]

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textile done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on February 23, 1983 the twelve-month level of restraint established for Category 435/444 to 8,187 dozen.[2]

The action taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of wool textile products from Romania has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exceptions to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83–4463 Filed 2–20–83; 8:45 am]

BILLING CODE 3510–25–M

[1] The term "adjustment" refers to those provisions of the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania, which provide, in part, that (1) specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the applicable category limit; consultations may be held to adjust levels for categories not subject to specific limits; and (2) administrative arrangements or adjustments may be made to resolve problems arising under these provisions of the bilateral agreement.

[2] The elvel of restraint has not been adjusted to reflect any imports after March 31, 1982.

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a proposed collection of information in the form of a survey to develop a list of state health agencies that provide tests of formaldehye gas levels in homes, with a requested expiration date of March 15, 1983.

The purpose of this survey is to enable the Commission to respond to inquiries from consumers generated by the Commission's ban of ureaformaldehyde foam insulation (UFFI). The ban was issued to eliminate an unreasonable risk of injury from acute and chronic health effects, including cancer, due to exposure of consumers to formaldehyde gas given off by UFFI. As a result of public awareness of the risks associated with UFFI and other formaldehyde-containing products in the home, the Commission continues to receive a large number of inquiries from consumers on how to get the air in their homes tested to determine the formaldehyde level. The information obtained from this survey will enable the Commission to give more complete responses to such inquiries and will facilitate the medical treatment of consumers who may be suffering from symptoms of exposure to formaldehyde. The survey will be conducted by telephone by the Commission's five field offices.

Information about the Proposed Collection of Information:

Agency address: Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Title of information collection: Survey to develop list of state health agencies that provide formaldehyde testing for consumers.

Type of request: Approval of survey.

Frequency of collection: One time.

General description of respondents: State health agencies.

Estimated number of respondents: 60

Estimated average number of hours per response: 0.18

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and

Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone (202) 359–7313. Copies of the proposed collection of information are available from Russell Smith, Office of Budget and Program Implementation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: February 17, 1983.

Sayde E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83–4525 Filed 2–22–83; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board Subcommittee on Disease Control.

Date of meeting: 10 March 1983.

Time: 0900–1500.

Place: Room 4, Building 1, Walter Reed Army Medical Center (old hospital).

Proposed agenda: Policies and procedures for the identification and control of leptospirosis, statistical review of the military services on the frequency and incidence of Japanese encephalitis.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455 Pentagon, Washington, D.C. 20310.

Dated: February 16, 1983.

Robert F. Nikolewski,

Executive Secretary.

[FR Doc. 83–4531 Filed 2–22–83; 8:45 am]

BILLING CODE 3710–92–M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of committee: Armed Forces Epidemiological Board.

Date of meeting: 11 March 1983.

Time: 0830–1600.

Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.

Proposed agenda: Update on the Navy occupational medicine program, Navy preventative medicine follow up report in Lebanon, update on the influenza immunization programs of the military medical services, current status of leptospirosis disease control, select subcommittee and respective military preventative medicine officer reports.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455 Pentagon, Washington, D.C. 20310.

Dated: February 16, 1983.

Robert F. Nikolewski,

Executive Secretary.

[FR Doc. 83–4532 Filed 2–22–83; 8:45 am]

BILLING CODE 3710–92–M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of committee: Armed Forces Epidemiological Board Subcommittee Task Force on Epidemiological Health Care Information Systems.

Date of meeting: 10 March 1983.

Time: 1330–1600.

Place: Room 2H24, Building 2, Walter Reed Army Medical Center (new hospital).

Proposed agenda: Presentations and discussions regarding available epidemiologic information systems within the military medical services to culminate in AFEB recommendations to the respective Surgeons General.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455 Pentagon, Washington, DC 20310.

Dated: February 16, 1983.

Robert F. Nikolewski,

Executive Secretary.

[FR Doc. 83–4533 Filed 2–22–83; 8:45 am]

BILLING CODE 3710–92–M

Department of the Navy

Secretary of the Navy's Advisory Board on Education and Training (SABET); Meeting

Pursuant to Section 10, paragraph (a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Secretary of the Navy's Advisory Board on Education and Training will meet on March 10, 1983, from 8:30 a.m. to 5:45 p.m. The meeting on March 11, 1983, will be from 8:30 a.m. until 11:00 a.m. The Board meeting will be hosted by the Fleet and Mine Warfare Training Center in Charleston, South Carolina. All sessions will be open to the public.

As part of the meeting the Board will examine the concept of lateral entry from national and State perspectives and receive a briefing on the Navy Lateral Entry Accession Project. The Board will tour a DD–963 destroyer, submarine tender, and a nuclear propulsion submarine in addition to the Fleet and Mine Warfare Training Center and the Fleet Ballistic Missile Submarine Training Center.

A follow-on to past SABET recommendations will be covered at the SABET working session on March 11 to include issues related to the Education and Training Management Subspecialty and a Center for Research Application within the Naval Education and Training Command.

Dated: February 17, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83–4530 Filed 2–22–83; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Federal Education Data Acquisition Council

AGENCY: Education Department.

ACTION: Notice of data acquisition involving educational agencies and institutions.

SUMMARY: The Secretary publishes a listing of approved data requests that Federal agencies will use to collect data from the educational agencies and institutions during the school year 1983 and 1984. The paperwork control requirements of section 400A of the General Education Provisions Act, require that a listing of these approved data requests be published in the **Federal Register.** The data acquisition activities covered by the Act have been reviewed and approved by the Secretary

and the Office of Management and Budget (OMB) in accordance with procedures approved by the Federal Education Data Acquisition Council (FEDAC) and OMB.

DATES: Comments should be addressed to Mrs. Margaret B. Webster, Division of Education Information Management, Room 4074, Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 426–7304.

SUPPLEMENTARY INFORMATION: Under the Paperwork Control Amendments of 1978, Section 400A of the General Education Provisions Act, the Secretary of Education is responsible for reviewing and approving collection of information and data acquisition activities of all Federal agencies—

(a) Whenever the respondents are primarily educational agencies or institutions; or

(b) Whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

Another requirement is that "no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the February 15 immediately preceding the beginning of the new school year, unless there is an urgent need for this information or a very unusual circumstance exists regarding it." Finally, the Act requires the Secretary to "publish annually a listing of education data requests, by Federal agency * * *"

The following material constitutes this annual listing. The Federal Education Data Acquisition Council staff and the Office of Management and Budget have approved these data acquisitions. The various agencies plan, at this time, to use these forms in school year 1983–84.

The "Purpose" column contains numerical codes which correspond to the following list that describes Federal use of the information:

1 Application for Benefits
2 Program Evaluation
3 General Purpose Statistics
4 Regulatory or Compliance
5 Program Planning or Management
6 Research

The "Type" column contains numerical codes which correspond to the following list that describes type of respondents:

1 Individuals or Households
2 State or Local Governments
3 Farms
4 Businesses or Other Institutions (Except Farms)

Another column contains a numerical Standard Industrial Classification (SIC) Code. Those codes are also used to describe respondent types. Some of the more common codes are:

821 Elementary and Secondary Schools
822 Colleges and Universities
823 Libraries and Information Centers
824 Correspondence and Vocational Schools
941 Administration of Educational Programs (State and Local Education Agencies)

Note.—These forms are approved for use in FY 1984. They may not be used if the programs are not funded in the fiscal budget for FY 1984.

Burden Reduction

By the beginning of FY 1983 the Department of Education (ED) has reduced its burden hours by 33% from its FY 1980 base. This reduction exceeds the requirement of the Paperwork Reduction Act of 1980 for a 25% reduction by the end of FY 1983. The major portion of this reduction is attributed to the reduction in burden hours on student financial aid recipients, and consolidation of reporting requirements under the Education Consolidation and Improvement Act.

The staff of ED continues to work with respresentatives of respondent groups (Committee on Evaluation and Information Systems of the Council of Chief State School Officers, State Higher Education Executive Officers, and similar organizations) to identify redundancy in data collection and to question the usefulness of proposed data collections.

A primary criterion for approval of any form in ED is that it have a statutory or regulatory basis. Many of the forms listed here reflect the implementation of Education Department General Administrative Regulations, which apply to ED grant programs. These standard regulations have reduced the disparity among reports required by the grant programs, as well as the paperwork burden associated with those reports.

Invitation to Comment

Interested persons are invited to submit comments, suggestions, and recommendations on this notice to the address given at the beginning of this document. All comments will be considered in future reviews of these forms. All comments submitted in response to this notice will be available for public inspection in Room 4074, Switzer Building, 330 C Street, SW, Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except Federal holidays.

Dated: February 14, 1983.

T. H. Bell,

Secretary of Education.

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
International Trade Administration						
Request for Duty Free Entry of Scientific Instruments or Apparatus	0625–0037, ITA 338P	2, 4	2, 4	892, 822, 943, 951, and 966	400	800
Abstract: The responses to the questions on the applications are essential for Commerce and Treasury to determine that there is no comparable instrument manufactured domestically.						
Total number of respondents and hours					400	800
Food and Nutrition Service						
7 CFR Part 215—Special Milk Program for Children—Reporting	0584–0005	2, 4	2, 4	821, 836, and 832	397,194	44,131
Abstract: These regulations set forth policies for the administration of the program by State agencies and by local level organizations, and reporting requirements necessary to retain program funds and notify USDA of the results of program operations.						
Part 210—National School Lunch Program—Reporting Burden	0584–0006	2	2	943	50,066	60,935
Abstract: Provides requirements for determining the method and scope of gathering preference information, and using the format determined to be most appropriate in each State's situation						
7 CFR Part 220—School Breakfast Program—Reporting	0584–0012, FNS 74	2, 4	2, 4	821 and 836	536,512	84,676

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: Form is used to set policies for the administration of the School Breakfast Program by State agencies and for its operation by local school authorities.						
7 CFR Part 245—Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools—Reporting.	0584–0026	2, 4	2, 4	821, 836, and 881	21,182	5,956
Abstract: Sets forth policies and procedures for use by State administering agencies and local program operators in reporting on program operations.						
Cash in Lieu of Commodities—Reporting	0584–0046	2	2	911 and 943	273	546
Abstract: Rules require State agencies to inform FNS of the amount to be received in cash payments by or on behalf of such schools						
Nutrition Education and Training Program Regulations (7 CFR 227) (Reporting)	0584–0062, FNS 42, State Plan.	2	2	821	2,514	98,090
Abstract: FNS 42—Participation report is used to assess program implementation status, monitor program accomplishments, and evaluate States' progress in achieving the goals and objectives outlined in the State plan.						
7 CFR 215—Special Milk Program for Children—Applications and Agreements	0584–0270	2, 4	2, 4	821, 836, and 832	19,757	4,449
Abstract: These regulations set forth policies for the administration of the program by State agencies and by local level organizations, and requirements governing recipient organizations' application for the initiation of program operations and the receipt of program funds.						
7 CFR Part 215—Special Milk Program for Children—Recordkeeping	0584–0272	2, 4	2, 4	821, 836, and 832	3,302,870	452,594
Abstract: These regulations set forth policies for the administration of the program by State agencies and for its operation by local level organizations, and recordkeeping requirements necessary to document program compliance.						
Cash in Lieu of Commodities—Recordkeeping	0584–0273	2, 4	2, 4	911 and 943	60,500	121,000
Abstract: The regulations require State agencies, schools and institutions, in accordance with the provisions of the National School Lunch Act to retain records on the receipt and disbursement of funds						
Part 210—National School Lunch Program (Recordkeeping)	0584–0278	2	2	943	59	177
Abstract: Provides options for determining the method and scope of gathering preference information, and using the format determined to be most appropriate in each State's situation.						
Nutrition Education and Training Program Regulations (7 CFR 227)	0584–0282	2	2	821	114	16,074
Abstract: The compilation of recordkeeping data as specified in Section 19 of the Child Nutrition Act, as amended. State agencies may use their records as internal management tools.						
7 CFR Part 220—School Breakfast Program—Recordkeeping	0584–0310	2, 4	2, 4	821 and 836	19,015,045	5,379,497
Abstract: The regulations set forth policies for the administration of the program by State agencies and for its operation by local school authorities, and recordkeeping requirements necessary to document program compliance.						
7 CFR Part 220—School Breakfast Program—Applications	0584–0311	2, 4	2, 4	821 and 836	11,400	3,165
Abstract: The regulations set forth policies for the administration of the program by State agencies and for its operation by local school authorities, and requirements governing local organizations' application for the initiation of program operations and the receipt of program benefits						
Total respondents and burden hours					23,417,486	6,271,290
Bureau of the Census						
Survey of Local Government Finances (School System)	0607–0165, F–33, 33–1, 33–L1, 33–L3.	2	2	999	450	1,400
Abstract. The F–33 form is used to collect financial data for public school systems						
Total respondents and burden hours					450	1,400
Department of the Air Force						
Advance Payment Transactions and Status	0701–0054	4	4	822	24	384
Abstract: The Air Force requires that all advance payments to universities be monitored to ensure that cash management arrangements by the universities are satisfactory						
Total respondents and burden hours					24	384
Health Services Administration						
Other Reasonable Educational Expense Data Collection Worksheet	0915–0029, HRA 272	2	2	822	900	1,800
Abstract: The data collected will be used by the NHSC and EFN scholarship programs. The information will be used to comply with the other reasonable educational expenses payment stipulation of Pub. L. 97–35						
Borrower Status Form	0915–0033	1, 4	1, 4	602	4,000	2,000
Abstract: Borrowers are requested to submit a borrower status report to their lenders to notify them of their current participation status. When a deferment is authorized, the borrower is required to submit a borrower status form which verifies the activity of the borrower						
Health Education Assistance Loan Program Lender's Manifest	0915–0034	4	4	602	400	
Abstract: This form provides precise information relative to loan disbursement (full and partial), collection of insurance premiums, conversions of in-school notes to pay-out status and paid in full loans						
Health Education Assistance Loan Program Loan Transfer Statement	0915–0035	4	4	602	20	20
Abstract: The purpose is to notify the Federal government of the note transfer between two parties (two eligible lenders). It also constitutes formal agreement that the buyer succeeds to all rights and responsibilities of the seller under the contract of insurance.						
Lender's Application for Insurance Claim on HEAL Loan	0915–0036	4	4	602	400	400
Abstract: This is the default claims instrument and method of obligating funds for the payment of a claim when the borrower refuses to repay his/her loan.						
Lender's Application for Contract of Federal Loan Insurance (HEAL)	0915–0037	4	4	602	20	10

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: This form will be used to provide the basis for issuing contracts of insurance to eligible lending institutions						
Student Application for a Health Education Assistance Loan	0915–0038	1, 4	1, 4	822, and 602	10,000	5,000
Abstract: The application is used to determine student eligibility for a HEAL loan. The form contains information to verify the identity of the applicant, to permit servicing of the loan, and to locate missing borrowers and collect on delinquent or defaulted loans.						
Repayment Schedule and Truth-in-Lending Disclosures for Health Education Assistance Loan Program (Variable Rate) (Fixed Rate).	0915–0043, HSA 502–1, 502–2.	1, 4	1, 4	602	2,000	1,834
Abstract: Provides the commercial lenders with the proper disclosure requirement and a form to develop a repayment schedule for the borrower repaying a HEAL loan.						
Health Professions Student Loan and Nursing Student Loan Programs	0915–0044, PHS 501, HSA 520, HRA 36–10	2, 4	2, 4	822, 808, and 806	41,515	36,515
Abstract: Includes data elements covering borrower's account data and program management and data encompassing the self-audit institutional check list.						
Quarterly Debt Management Report	0915–0046	2, 4	2, 4	822	1,600	9,600
Abstract: This report assists both the institutions and the government by pinpointing debt problems						
Financial Aid Transcript	0915–0047	1, 4	1, 4	822	5,000	1,250
Abstract: This information will be used to assist financial aid institutions in making HPSL Awards to applicants						
Financial Aid Transcript—Nursing Student Loan Program	09155–0048	1, 4	1, 4	822	33,000	8,250
Abstract: This information will be used to assist financial aid officers at participating institutions in making NSL awards to applicants						
Total respondents and burden hours					98,855	57,239
National Institutes of Health						
Biomedical Research Support Grant Application and Annual Progress Report	0925–0008, NIH 147–1, 147–2	4	4	822, and 806	940	8,930
Abstract: The application (NIH 147–1) provides information to determine eligibility and the award amount. The progress report (NIH 147–2) enables staff to evaluate effectiveness and conformance to guidelines.						
National Research Service Award Research Training, Competing and Non-Competing Applications.	0925–0022, PHS 6025–1, 6025–2.	4	4	822, and 806	8,210	41,300
Abstract: These forms are used to apply for support of training of individuals to expand and enhance skills in biomedical and behavioral research						
Audiovisual Evaluation Form	0925–0044	4	4	822, 823, and 806	9,000	450
Abstract: Data provides measure of the approximate use of the film and videotape collections, and provides input to a follow-up study on audiovisual materials in the Health Sciences						
Total respondent and burden hours					18,150	50,680
Office of the Assistant Secretary for Health						
Financial Status Report	0937–0107	1, 2, 4	1, 2, 4	806, 807, 822, 823, and 943	29,800	44,700
Abstract: Grantees are required to use the SF 269 to report the status of funds for each supported project. Awarding offices use the information to monitor funds and for financial planning.						
Total respondents and burden hours					29,800	44,700
Social Security Administration						
Report of Individual with Childhood Impairment	0960–0084, SSA 1323	4	4	801, 806, and 804	75,000	25,000
Abstract: The information elicited by this form is needed to determine if a claimant for childhood disability benefits has an impairment that meets the severity and duration requirements of the law.						
Total respondents and burden hours					75,000	25,000
Bureau of Indian Affairs						
Subchapter E—Education 25 CFR, Parts 31–34, 45 CFR, Part 121	1076–0018	1, 2	1, 2	999	149,595	56,667
Abstract: These forms are necessary to ensure program integrity in the education of Indian and Alaskan children						
Total respondents and burden hours					149,595	56,667
Employment Standards Administration						
Accident Data on Public School Bus Drivers	1215–0045, WH–374	2	2	999	12	24
Abstract: Title 29 CFR 570.52 declares the occupation of motor vehicle drivers hazardous for 16 and 17 year-olds. Upon petition of several States an exemption was provided for school bus drivers. The data provided annually on this report by the applying States are used to evaluate whether an exemption is warranted.						
Work Experience and Career Exploration Program	1215–0121, ESA–WH 570	2	2	821	20	20
Abstract: Wage and hour requirement that State Educational Agencies file an application prior to implementation of programs. Recordkeeping requirement to retain signed training agreement for each enrollee in each school						
Total respondents and burden hours					32	44
Internal Revenue Service						
Annual Certification of Racial Non-Discrimination for a Private School Exempt from Federal Income Tax	1545–0213, 5578	4	4	821, 822, 824, and 829	1,000	736

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: Form 5578 is used by private schools that do not file form 990, Schedule A, to certify that they have a racially non-discriminatory policy toward students, as outlined in revenue procedure 75-50. The service uses the information to help ensure that the school is maintaining a non-discriminatory policy in keeping with its exempt status						
Certification of Youth Participatng in a Qualified Cooperative Education Program	1545-0244, 6199	2, 4	2, 4	919, 833, and 839	64,000	47,424
Abstract: IRC Section 51(D)(8) requires that qualified school cooperative programs must certify their qualified students as youths participating in a qualified cooperative program in order for wages paid to the student by an employer to qualify for the jobs credit. Form 6199 provides for this certification						
Understanding Taxes Film Notice	1545-0439, Notice 617	2, 4	2, 4	821, 822, 823, 824, and 866	38,000	3,165
Abstract: This notice helps IRS schedule the understanding taxes films for teacher use with the program materials. Teachers check the films they need and choice of dates they wish to use them						
Application to Sponsor Student Tax Clinic	1545-0471, P-687	4	4	822	50	25
Abstract: The purpose of the pattern letter is to record the institution's application for clinic sponsorship and agreement to meet IRS requirements to conduct the clinic						
Total respondent and burden hours					103,050	51,350
Environmental Protection Agency						
Friable Asbestos-Containing Materials in Schools: Identification and Notification Rule	2000-0463	2	2	999	129,000	327,400
Abstract: The information to be recorded by schools and school districts is needed in order to inform school users of the presence of potentially hazardous materials in their buildings. The information will also be used by EPA in compliance monitoring						
Total respondents and burden hours					129,000	327,400
Maritime Administration						
U.S. Merchant Marine Academy Application for Admission and Pre-Candidate Questionnaire 1954.	2133-0010, KP2-65, KP3-4	1	1	None	2,000	10,000
Abstract. The application form is used to apply for admission to the U.S. Merchant Marine Academy. The pre-candidate questionnaire is used to establish initial eligibility and to place the candidate into the Department of Defense Medical System						
Total respondents and burden hours					2,000	10,000
Veterans Administration						
School Attendance Report	2900-0057, 21-674B	1	1	None	39,500	3,300
Abstract: This form is used to verify attendance in school or training program where benefits are authorized and to report termination of any program						
Enrollment Certification (Under Chapter 34, or 35 Title 38 U.S.C.)	2900-0073, 22-1999, 22-1993A	4	4	822, and 824	1,000,000	200,000
Abstract. The form certifies enrollment or training data which is used by the VA in determining rate of benefits						
Notice of Change in Student Status—Institutional Courses Only	2900-0156, 22-1999B	2, 4	2, 4	941	1,210,000	100,833
Abstract: This form is used to determine whether benefits should continue to be paid to students						
Title VI Compliance Review Report	VA 2900-0210, 27-8734, 27-8734A.	1, 2, 4	1, 2, 4	822, 823, and 829	616	262
Abstract. Form is necessary to determine equal opportunity compliance status of proprietary institutions and job-training establishments which are approved to train veterans and other eligible beneficiaries, and propretary institutions which are receiving funds through the Department of Education.						
Application for Educational Assistance (Under VEAP)	2900-0263, 22-8821	1	1	None	35,000	26,250
Abstract: The information requested on the form is necessary to determine the applicant's eligibility to educational assistance under Chapter 32, Title 38 U.S.C., or Section 903, P.L. 96-342						
Certification of Delivery of Advance Payment and Enrollment	2900-0325, VA 22-1999V	4	4	822, and 824	126,000	10,500
Abstract: Information on card is used to confirm the student's receipt of advance payment of benefits and confirm enrollment.						
Alternate Full-Time Measurement Requirements for Undergraduate College Courses	2900-0350	4	4	822, 824	225	225
Abstract: Some colleges offer non-traditional courses which do not provide regular weekly class instruction. The VA needs certain information from schools to determine if the requirements for full-time measurement are met						
Application for Participation in the Veterans Administration Health Professional Scholarship Program	2900-0352, 10-0003	1	1	None	3,000	1,500
Abstract: This application would be used to determine the eligibility and suitability of applicants to be awarded scholarships under the provisions of Title II, Pub. L. 96-330						
Certification of Lessons Completed	2900-0353, 22-6553B	1, 2, 4	1, 2, 4	941	66,100	11,333
Abstract: This form is used by students and schools to report on a quarterly basis the number of correspondence lessons completed by the student and serviced by the correspondence school (38 U.S.C. 1780(B), 38 CFR 21.4203(E))						
Verification of Pursuit of Course Leading to a Standard College Degree	2900-0355, 22-6553	2, 4	2, 4	941	600,000	100,000
Abstract: This form is used by schools to certify enrollment information previously submitted to the Veterans Administration.						
Supplemental Information for Change of Program or Re-Enrollment After Unsatisfactory Progress or Conduct.	2900-0358, 22-8873	1	1	None	55,000	18,150
Abstract: This form requests information which will be used to evaluate the suitability of a program of education. The form also requests information concerning previous unsatisfactory progress in training.						
Total respondents and burden hours					3,137,441	472,353

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Equal Employment Opportunity Commission						
Elementary-Secondary Staff Information (EEO–5)	3046–0003, EEOC–168 168B	2	2	941	41,250	206,250
Abstract: EEO–5 data are used by EEOC to investigate charges of employment discrimination against public elementary and secondary school districts. Data are shared with Department of Education's Office for Civil Rights and 23 state and local FEPC agencies.						
Higher Education Staff Information (EEO–6)	3046–0009, EEOC–221	2, 4	2, 4	822, 824, and 829	1,500	6,000
Abstract: The information collected will be used by EEOC for investigations, decisions, and conciliation in its compliance, litigation, and voluntary programs activities.						
Law School Information Form	3046–0029, EEOC–434	2, 4	2, 4	822, and 829	217	108
Abstract: To collect information regarding policies for student volunteer services.						
Paralegal Program Information Form	3046–0030, EEOC–435	2, 4	2, 4	822, and 829	296	146
Abstract: To collect information regarding policies for student volunteer services.						
Total respondents and burden hours					43,263	212,596
National Science Foundation						
Higher Education Panel Surveys	3145–0009, EOO–11	4	4	822	2,400	3,600
Abstract: Panel surveys are designed to be responsive to a variety of policy issues. Topics are not predetermined. Recent individual surveys served policy and program management needs by providing information not available through existing sources.						
Survey of Scientific and Engineering Expenditures at Universities and Colleges, FY 1982 and FY 1983	3145–0015, NSF–411	4	4	822	579	15,054
Abstract: This data system provides the basis for national planning and policy formulation regarding academic science and technology.						
Survey of Earned Doctorates in U.S.	3145–0019, 558	1, 4	1, 4	822	31,000	10,300
Abstract: Information on demographic and educational background and immediate postdoctoral study or employment plans is essential for analyses of supply and demand. These data also provide information on the flow of women and minorities into these fields.						
Nominations for Alan T. Waterman, National Medal of Science, Vannevar Bush Awards.	3145–0035, 1123, 1124	4	4	999	600	1,200
Abstract: To solicit nominations, the form simplifies the review process for the committee, and permits more efficient staff work in less time.						
Survey of Graduate Science Students and Postdoctorates, Fall 1982 and Fall 1983	3145–0062	4	4	822	10,000	7,500
Abstract: The survey is the source of national enrollment and student support statistics in graduate science/engineering programs.						
Survey of Scientific and Engineering Personnel Employed at Universities and Colleges, January 1983 and January 1984	3145–0074, NSF–724	4	4	822	2,200	1,064
Abstract: This data system provides the basis for national planning and policy formulation regarding academic science and technology.						
Total respondents and burden hours					46,779	76,188
Office of Personnel Management						
Initial Certification of Full-time School Attendance	3206–0099, BRI 49-244.1	1	1	None	7,000	2,333
Abstract: Title 5, U.S.C., Section 8341(A)(3)(C) provides survivor benefits to children between the ages of 18 and 22 if they are unmarried full-time students. This form is provided to children who appear to be eligible for benefits when the death claim is initially received.						
Total respondents and burden hours					7,000	2,333
Department of the Army						
Application and Agreement for Establishment of a Junior Reserve Officers' Corps Unit	0702–0021, DA–3126		2	821	400	400
Abstract: The application and agreement form is used to screen secondary institutions desiring to host a junior ROTC unit.						
Application for the U.S. Army Health Professions Scholarship Program	0702–0028	1	1	None	2,000	1,000
Abstract: Applicants must submit information requested so that selection for scholarship is on a competitive basis.						
Enlistment Incentives for College Bound High School Students	0702–0044	6	1	99	6,300	1,650
Abstract: To identify what ranges of education incentives and enlistment bonus offers appeal most to high school students who are eligible to join the army.						
Total respondents and burden hours					8,700	5,550
Department of the Navy						
Inquiry, School of Nursing	0703–0004, BUMED 6550–6	2	2	999	1,000	100
Abstract: To provide medium for submitting an evaluation and other pertinent data on the potential ability of the applicant for direct appointment in the Navy Nurse Corps.						
Personal Information Questionnaire	070–0012, NAVMC 10064	1	1	999	25,000	6,250
Abstract: Form is used as a method of determining the overall eligibility of applicants for all Reserve Officer Candidate Programs.						
Total respondents and burden hours					26,000	6,350

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Department of Defense						
Professional Evaluation	0704-0035, DS 5011	1	1	None	9,000	4,500
Abstract: The information provides an evaluation to the applicants abilities and personal traits which promise success in an overseas teaching assignment with DOD						
Total respondents and burden hours					9,000	4,500
Department of Commerce						
Sea Grant Project Summary	0648-0019, NOAA 90-2	1	2	822	60	240
Abstract: Descriptive data about Sea Grant project proposals, to determine work to be performed under Grant.						
Sea Grant Budget	0648-0034, NOAA 90-4	4	4	822, and 892	450	200
Abstract: Information is needed to determine cost of each project of a multi-project proposal and to determine allowability of matching costs offered. Also, used in negotiating costs and administrative control of expenditures by both grantee grantors						
Total respondents and burden hours					510	440
Department of Education						
OFFICE FOR CIVIL RIGHTS						
Elementary and secondary school civil rights survey	1870-0500, ED-101, ED-102.	4	4	941	29,700	214,500
Abstract: This form is used by the Office of Civil Rights to make determination on compliance with Civil Rights statutes and court orders by public school districts						
Total respondents and burden hours					29,700	214,500
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION						
Standard Application Federal Assistance (non-construction) for Follow-Through Program.	1810-0003, ED 4473	2, 4	2, 4	821, 822, 829, and 941	112	3,360
Abstract: This application form is necessary in order to make annual grants to applications. The information contained in the application is used to determine annual funding levels to grantees In addition, information is extracted from the application which is used to prepare reports for Congress, OMB and GAO						
Sharing Business Success, a Handbook for the Identificals and Validation of Business Practices.	1810-0014, ED580	5	4	941	200	1,680
Abstract: The purpose of the publication is to provide both a set of criteria and a process for evaluating the quality of school business practices						
Application for Grants (Part B) (New and Non-Competing)	1810-0018, DE 267, ED 267-1	1, 4	1, 4	999	210	6,400
Abstract: To improve educational opportunities for Indian students from preschool through the university by supporting programs that provide improved educational support services, increase the numbers of Indians in leadership positions, develop new educational approaches of high quality and contribute to increased control by Indians over the availability and quality of their own education.						
Application for Grants (Part A Non-Competing)	1810-0019, ED 444, ED 444-1	4	4	999	169	1,350
Abstract: Provide support for Indian controlled schools (Non-LEA's) on or near reservations to provide special enrichment programs						
Application for Indian Fellowship	1810-0020, ED 501	4	4	999	1,075	3,225
Abstract: This application is used to enable students to enter professional fields of medicine, law education, business administration, engineering and natural resources, awards made to students, and tuition payments made to universities						
Application for Grants (Part A) Indian Education Act	1810-0021, ED 736-1	2	2	999	1,052	31,560
Abstract: Application enables elementary and secondary schools to develop and implement supplementary programs specially designed to help meet the special education and culturally-related academic needs of indian students						
Application for Grants, Part C Indian ED Act (New and Non-Competing)	1810-0022, ED 737-1	1	4	821, and 941	110	3,300
Abstract: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards						
Nomination for the National Advisory Council on Indian Education	1810-0026, ED 543	2, 4	2, 4	999, 892	80	80
Abstract: The Indian Education Act establishes the National Advisory Council on Indian Education which consist of 15 members who are Indians and Alaska Natives appointed by the President of the United States. Appointments are made by the President from lists of nominees furnished by indian tribes and organizations, and shall represent diverse geographic areas of the country						
Application for Disaster Assistance (Pub. L. 81-874 Sec 7)	1810-0027, ED 423	2	2	941	250	500
Abstract: Data is used to assist in determining eligibility of local education agencies for disaster assistance and the amount and equipment for needed temporary facilities as a result of the public education at the predisaster level						
Title I, ESEA, Sec. 143, Migrant Education Interstate and Intrastate Program	1810-0028, ED 362-2	1	2	941	51	2,040
Abstract: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards						
Application for Federal Assistance (Non-construction programs) Migrant Education Program.	1810-0029, ED 362	2	2	941	51	1,020
Abstract: ESEA Migrant Education Program requires the annual submission of a State Migrant Education Program application. The Department of Education's Migrant Education program office conducts a comprehensive application review and approval process prior to awarding a grant to each State.						
Application for Grants Under Civil Rights Technical	1810-0030, ED 269	2	2	941	341	6,820

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: This application is to be used by State and local education agencies and institutions of higher education in applying for Federal assistance under Title IV of the Civil Rights Act of 1964. Awards are made to help solve problems related to eliminating discrimination on the basis of race, sex and national origin in public elementary and secondary schools throughout the nation.						
Indian Student Enrollment Certification	1810–0031, ED 506	1	1	821, and 941	300,000	75,000
Abstract: Program designed to benefit eligible Indian children by calculating grant awards based on count of correct and valid forms on file with LEA.						
Application for School Assistance in Federally Affected Areas	1810–0036, ED 4019	2	2	941	4,000	34,400
Abstract: Local education agencies use this form in applying for funds for providing free public education to children connected with Federal properties.						
ED–4038—Report to Contract Awarded ED 4038–1 State	1810–0044, ED 4038–1, ED 4038	2	2	821	266	133
Abstract: Data is used to assist the Secretary in determining the State average per pupil cost of constructing minimum school facilities. The per pupil cost, along with other factors, is used to arrive at a cost of constructing minimum school facilities in a school district which has submitted an application for assistance.						
Section 418A, HEA, High School Equivalency Program and College Assistance Migrant Program, Financial Status and Performance Reports.	1810–0051, ED 819–2	4	4	822	19	95
Abstract: The information will be used for future programmatic decisions regarding program size and allowable services.						
Education Consolidation Block Grant Application	1810–053, ED 1000	1	2	821, and 941	57	114
Abstract: This form is used as an annual application to the Secretary as a precondition to receiving the authorized funds.						
Application for Grant Under the High School Equivalency Program (HEP)	1810–0054, ED 819	2, 4	2, 4	822	50	1,000
Abstract: The Secretary must maintain and expand secondary and postsecondary high school equivalency programs and college assistance migrant program projects. In order to meet the responsibility of determining those grantees who will most effectively provide services to the target population, the Secretary must gather data regarding proposed activities. Data will be used to select program grantees.						
Application for Grant Under the College Assistance Migrant Program (CAMP)	1810–0055, ED 819–1	2	2	822	50	1,000
Abstract: The Secretary must maintain and expand secondary and postsecondary high school equivalency programs and college assistance migrant program projects. In order to meet the responsibility of determining those grantees who will most effectively provide services to the target population, the Secretary must gather data regarding proposed activities. Data will be used to select program grantees.						
Annual Survey of Children in Institutions for Neglected or Delinquent Children or in Adult Correctional Institutions.	1810–0060, ED 4376	1	2	941	52	2,000
Abstract: This form is used to provide current information on the location and number of children in institutions for neglected or delinquent children or in correctional institutions.						
Application Package: Women's Educational Equity Act Program	1810–0062, ED 436–1	1, 2, 4	1, 2, 4	821, 822, 823, 824, 841, 892, and 941	600	12,000
Abstract: The WEEA Program analyzes applications to insure that Federal funds are distributed fairly and that projects are cost-effective.						
Financial Status Report for Transition Program for Refugee Children	1810–0500, ED 443	2, 4	2	941	57	1,140
Abstract: Data collected will provide national information on total obligation and unexpended funds.						
Preapplication for Federal Assistance (construction). Pub. L. 81–815 an Application for Federal Assistance.	1810–0502, ED 355, ED 355–1.	2	2	821	38	380
Abstract: Data is used to determine eligibility of school districts for Federal assistance to construct needed school facilities.						
Financial Status and Grant Performance Report	1810–0503, ED 354, ED 354–1.	2, 4	2, 4	999, 892, 941, and 822	1,200	3,600
Abstract: The grantees report on the amount of funds spent. The amount remaining, the number of students who participated in the project, and the extent to which the project achieved objectives are described in the application.						
Total respondents and burden hours					310,090	192,097
Department Management						
Evaluation of the HEA Title VI Program, Foreign Language and Area Studies	1880–0165, ED 856	1	1	821	900	675
Abstract: This form is to identify the supply and demand trends for Ph.D's in discipline and world area specialities and assess the match between graduate training and subsequent employment						
Computer Generated Receipient Report of Expenditures	1880–0172, ED 868–1	5	214	821	28,000	112,000
Abstract: This form is used by receipients to report on expenditures made and Federal funds unexpended for each award and to report the status for each award and the status of Federal cash advanced.						
Computer Generated "Receipient Cash Advanced Request"	1880–0173, ED 874	2, 4	2, 4	821, 822, 823, 824, 829, 841, and 941.	84,000	84,000
Abstract: Form will be used by ED Recipients to obtain funds for grants received from ED.						
Regulations Evaluation Questionnaire—State Education Agencies	1880–0504, ED 904, ED 905	2, 4	2, 4	941, 821, and 822	3,500	1,750
Abstract: This form is used to obtain feedback from the affected public after operating under regulations for one year and to alert and aid the Department in reducing unnecessary burdens and deregulating where feasible.						
Total respondents and burden hours					116,400	198,425
Office of Planning and Budget and Evaluation						
Evaluation of the Special Services for Disadvantaged Students Program: First Follow-up Student Survey.	1875–0001, ED 627–13	1	1	None	5,800	2,900

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: Study will evaluate the effectiveness of special services for disadvantaged students activities. Benefits to students which are examined in the study include educational persistence, progress, and performance, financial aid pattern, educational plans and aspirations, and helpfulness of special services						
A Study of the Developing Institutions Programs	1875–0002, ED 875	4	4	822	50	2,800
Abstract: This study wil evaluate the impact of Federal funding at the institution level. Given scarce resources there is an increasing need to determine more effective and efficient methods of providing for educational opportunities for students attending these institutions						
Total respondents and burden hours					5,850	5,700
OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS						
Application for Participation in Bilingual Education Fellowship Program	1885–0001, ED 4561–2	1	4	822	50	800
Abstract: This form is used by institutions of higher education that seek approval of their graduate programs of study for fellowship awards under the Bilingual Education Fellowship Program to students enrolled in the approved program						
Application for Grants Under Bilingual Vocational Education Programs	1885–0002, ED 791	1	2, 4	941, 822, and 824	20	800
Abstract: Title II, Subpart 3 of the Vocational Education Act of 1976, as amended, authorizes the award of grants to applicants that meet the purposes and requirements of the act and the application requirements and award criteria established in regulations. The proposed data collection informs applicants of the information required under law and regulations						
Application for Grants Under Bilingual Education	1885–0003, ED 4561	1	2, 4	821, and 941	750	30,000
Abstract: This form is used by applicants applying for new awards under Title VII of the Elementary and Secondary Education Act, as amended. Information in the application will be used to determine the technical merit of the grant proposals and the eligibility of the applicant for assistance and also serves as the basis for negotiation of grant awards.						
Application for Continuation Grants Under Bilingual Education	1885–0004, ED 451–1	1	2, 4	821, and 941	520	10,000
Abstract: This form is used by applicants applying for continuation awards under Title VII of the Elementary and Secondary Education Act, as amended.						
Demonstration of Compliance with Terms and Conditions of the Bilingual Education Fellowship Program Contract	1885–0005, ED 4561–3	4	1	None	400	100
Abstract: Recipients of fellowship assistance under the Bilingual Education Fellowship Program will use this form to demonstrate their compliance with the provisions of the Fellowship Contract						
Total respondents and burden hours					1,740	42,100
OFFICE OF POSTSECONDARY EDUCATION						
Verification of Transfer of Credit Under the Three Institutional-Certification Method	1840–0001, ED 1261	2, 4	2, 4	822, and 941	[illegible]	150
Abstract: The Secretary of Education must determine whether unaccredited institutions of Higher Education are eligible for programs authorized by the Higher Education Act of 1965 The Secretary uses this form to determine whether institutions meet the "Three Institutional-Certification Method" as an alternative to accreditation						
Guarantee Agency Quarterly Report	1840–0002, ED 1130	4	2	941	220	245
Abstract: This form is used to provide summary data on agency finances and operations which are funded primarily with Federal dollars						
Application for Fulbright-Hays Training Grants: Faculty Abroad Program (CFDA 84.019) Doctoral Dissertation Research Abroad Program (CFDA 84.022).	1840–0005, ED 7628, 7628–1, 7628–2, and 7628–3	2, 4	2, 4	822	770	13,667
Abstract: This application allows eligible applicants to compete for Fulbright-Hays Funds which are used to promote and develop modern foreign language and area studies in the educational structure of the United States through visits and study of American scholars abroad						
ADS Student Report (Request for Additional Payment)	1840–0008, ED 304–1	1	1	None	99,560	33,750
Abstract: This form is used by students attending institutions that participate in the Pell Grant Program under the Alternate Disbursement System (ADS) in order to request any additional payments, as well as having the Financial Aid Administrator verify that the student is still attending school, is eligible for his/her next payment, and that the previous information was correct						
Basic Grant Program Student Validation Roster	1840–0013, ED 255–4	4	4	823	5,000	[illegible]
Abstract: The Student Validation Roster is the vehicle which end-of-year adjustments to the authorization of Basic Educational Opportunity Grants (BEOG) funds are made. This is based on the number of eligible BEOG recipients at the institution						
Application for Non-Competing Continuation Projects for Specific Programs for Students from Disadvantaged Backgrounds	1840–0017, ED 1251	1	2, 4	821	1,059	15,885
Abstract: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards						
Alternate Disbursement System Validations Roster	1840–0025, ED 579	5	4	821	1,100	1,375
Abstract: This roster will be used to verify data previously submitted by institutions partcipating in basic grants through the Alternative Disbursement System (ADS) and to reconcile accounts for the ADS system.						
Physician's Certification of Borrower's Total and Permanent Disability for Student Loan Program.	1840–0028, ED 1172	1	1	None	7,000	2,167
Abstract: The Guaranteed Student Loan Program's chief objective is to provide a program of student loan insurance for students attending eligible postsecondary schools. This form is used to request cancellation of loan owed. The law provides that the Federal government will cancel the loan if the borrower becomes permanently and totally disabled.						
Lender's Request for Interest and Special Allowance	1840–0034, ED 799	4	4	822, 601, 602, 603, 604, and 605	48,000	63,000
Abstract: This form is used by lenders to request payment of interest and special allowance. This is the only reporting form which permits the Department to determine the government's obligation to lendors in the Guaranteed Student Loan Program.						
Federal Assistance Application Form—Law School Clinical Experience Program	1840–0041, ED 595	4	4	822	85	2,550
Abstract: This information is required of law schools applying for an institutional grant under Title IX–E of the Higher Education Act, as amended. The information will be used in the evaluation process to determine which accreditated law schools should receive funds.						
Biomedical Sciences Performance and Financial Status Report	1840–0043, ED 822	4	4	822, 821, and 824	12	48

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Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: The information from this report will be used to assess and monitor project effectiveness, to determine compliance with program regulations, and to determine if the program is meeting the needs of the target population.						
Upward Bound Financial Status and Performance Report	1840–0045, ED 712, 1197	2, 4	2, 4	822, 821, and 824	446	1,561
Abstract: The information from this report will be used to access individual project accomplishments of program goals and past performance requirements of the regulations						
Performance Report and Financial Status Report for Cooperative Education Program Grantees.	1840–0053, ED 411, 411–1	5	2	821	235	1,293
Abstract: These reports are needed to determine that adequate progress has been made toward achieving the goals of the grants and to monitor grantee expenditures						
Application for Veterans Cost-of-Instruction Payments to Institutions of Higher Education.	1840–0054, ED 269	1	2, 4	821	900	900
Abstract: This form is used by applicants for this program applying for grant awards to determine grant eligibilty and amount of awards						
Pell Grant Program Progress Report	1840–0055, ED 255–3	4	4	824, and 822	15,000	11,250
Abstract: The progress report is the vehicle through which necessary adjustments to the authorization of Pell funds are made, based on the actual demand for funds as reflected by the number of eligible Pell recipients.						
Application for Certification for Participation in Programs Under Title IV of the Higher Education Act of 1965, As Amended.	1840–0056, ED 633	2	2	822	1,900	3,800
Abstract: This form is used by colleges and universities to apply to ED to participate in Title IV Programs.						
Request for Payment of 1982–83 Award (Alternate Disbursement System)	1840–0063, ED 304	1	1	None	81,700	27,600
Abstract: Data from this form is used to obtain benefits by students attending institutions that participate under the ADS system. This instrument is used to verify student enrollment and cost of attendance which is used to determine their Pell Grant Award.						
Application for Non-Competing Continuation Awards Under the Educational Opportunity Centers Program.	1840–0065, ED 343	2, 4	2, 4	821, 822, and 824	32	480
Abstract: This form requests programmatic and budgetary information needed to make funding decisions for continuation applications.						
Standard Application (Non-Construction) for Foreign Language and Area Studies	1840–0068, ED 424–1, 424–2, 424–3.	1	2	821	800	9,000
Abstract: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards.						
Federal Insured Student Loan Application	1840–0070, ED 1154	1	1, 4	None	750,000	562,500
Abstract: These applications are used to determine those students eligible for, and to award, federally insured loans.						
Fiscal-Operations Report/Application to Participate in NDSL, SEOG, and CWS Programs.	1840–0073, ED 646, 646–1	4	4	822, and 824	4,730	182,082
Abstract: The application data will be used to compute the amount of funds needed by each institution during the 1983–84 award period. The Fiscal Operation's Report data will be used to assess program effectiveness and accountability of funds expended during the 1981–82 award period.						
Student Confirmation Report for Guaranteed Student Loan Program, Pub. L. 89–329.	1840–0077, ED 1072	4	4	822, and 824	22,500	22,500
Abstract: Data from this form is used to update the student status field in the computer system. This information is then provided to the lenders on the loan transaction statement indicating if and when a student ceases attendance. The lender then establishes a repayment schedule with the student.						
Call Report—Lender's Annual Report on Guaranteed Student Loans and Parent Loans for Undergraduate Students Outstanding—Pub. L. 329.	1840–0079, ED 799–1	4	4	822, 601, 602, 603, 604, and 605.	22,500	45,000
Abstract: This form is completed by the lender and provides the GSLP updated information of the lender loan portfolio. It is also used to determine the amount that the lender can bill for interest in the next quarter						
Loan Transfer Statement Guaranteed Student Loan Program	1840–0082, ED 1074	4	4	822, 601, 602, 603, 604, and 605.	16,265	32,530
Abstract: This form is used to report the selling and buying of existing loans between lenders.						
National Direct (Defense) Student Loan Assignment Form	1840–0091, ED 553	4	4	822, 824	247,500	111,375
Abstract: This form was designed to provide the maximum efficiency for full reporting of debtor information for both the institution and the Federal Government.						
Lenders Manifest for Federally Insured Student Loans	1840–0093, ED 1151	4	4	822, 601, 602, 603, 604, and 605.	52,000	26,000
Abstract: The lender uses this form to report the amount of disbursements made on loans, conversions and loans paid in full, and insurance premiums to be paid at a later date.						
Loan Application Form Under the College Housing Program	1840–0095, ED 866	4	4	821, and 822	300	9,600
Abstract: This application form will be used to process and award college housing loans under the College Housing Program.						
Request for Institutional Eligibility (For Programs Under the Higher Education Act of 1965, As Amended).	1840–0098, ED 1059	2, 4	2, 4	822, 824, and 829	1,000	1,000
Abstract: The Secretary uses this form to determine whether postsecondary educational institutions meet the statutory and regulatory requirement for eligibility to apply for funding for programs authorized by the Higher Education Act of 1965.						
Application for State Student Incentive Grant Program	1840–0099, ED 1288	2	2	941	57	171
Abstract: Completed application shows State's qualification for Federal funds, specifying matching and maintenance of effort capability, methods of determining student financial need, and extent of institutional eligibility.						
Request for Designation as an Eligible Institution, Title III Higher Education Act of 1965, as Amended.	1840–0103, ED 1049–6	4	4	822	800	800

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: Information requested is used to determine if an eligible institution of Higher Education meets the specific program qualifications to receive Title III funds as provided for in the legislation and regulations governing the Institutional Aid Programs.						
Performance and Financial Status Reports for the Strengthening Developing Institutions Program.	1840-0104, ED 1049-2	4	4	822 and 829	500	4,500
Abstract: Will be used to determine that adequate progress is being made toward achieving the goals of the grants, to monitor the rate of grantee expenditures, and to identify potential budgetary problems.						
Application for Grants Under the Challenge Grant Program	1840-0107, ED 853	2, 4	2, 4	822	25	2,325
Abstract: The application will enable the program to evaluate the needs of the applicants to determine which application should be funded and the total amount of any grant that may be awarded.						
Guarantee Agency Request for Reimbursement for Claims Paid—Request for Reimbursement Under Agreement for Federal Reinsurance—Request for Reimbursement on Death/Disabilty.	1840-0108, ED 1189, 1189-1, 1189-3.	4	4	822, 941 and 892	1,800	3,150
Abstract: ED Form 1189 is used by the guaranteed agency to request reimbursement on claims paid and should always accompany the ED 1189-1 and 1189-3. The 1189-1 is used for reimbursement on death and disability claims prior to December 15, 1968, and for all bankruptcy claims. The 1189-3 is for reimbursement of death and disability claims after December 15, 1968.						
Program Announcement—Minority Institutions Science Improvement Program	1840-0109, ED 0007	4	4	822 and 892	150	5,700
Abstract: This is a grant application for competitive awards						
Application for Federal Student Aid	1840-0110, ED 255	1	1	None	2,000,000	2,200,000
Abstract: This form is needed to collect the data necessary to determine whether the student is eligible for Federal student aid funds, and to calculate a uniform methodology number which financial aid administrators may use to award all other types of financial aid.						
Special Condition Application for Federal Student Aid	1840-0111, ED 255-2	1	1	None	175,000	192,500
Abstract: This form is needed to collect data to determine the amount of the expected family contribution of the application if certain family or financial conditions have changed for the worse, and to calculate a uniform methodology number which financial aid administrators may use to award all other types of financial aid						
Evaluation of Student Financial Assistance Training Program	1840-0112, ED 786-1 thru 786-8.	1	1	None	31,150	7,889
Abstract: This study will determine whether training program participants are learning the curriculum, what participants think of the program, and whether the program is recruiting the people who need training the most.						
Application for Grants Under the Strengthening Program	1840-0113, ED 851	2, 4	2, 4	822	400	36,400
Abstract: The application will enable the program to evaluate the needs of the applicants to determine which applications should be funded and the total amount of any grant that may be awarded.						
Application for Grants Under the Special Needs Program	1840-0114, ED 852	2, 4	2, 4	822	350	31,850
Abstract: The application will enable the program to evaluate the needs of the applicants to determine which application should be funded and the total amount of any grant they may be awarded.						
Program Announcement—Comprehensive Program Final Year Dissemination Competition.	1840-01117, ED 0004	4	4	822	50	400
Abstract: This is a grant application for competitive awards with a limited eligibility requirement.						
Guarantee Agency Report of Recoveries on Claims Paid Under	1840-0118, ED 1189-2	4	4	822, 941 and 892	500	1,000
Abstract: The guarantee agency completes this form indicating recoveries on claims paid and forwards the report with a check to the claims and collections section, guarantees student loan branch.						
Performance Reporting: Minority Institutions Science Improvement Program (MISIP)	1840-0119, ED 0007P	4	4	821	100	300
Abstract: These annual reports cover such matters as progress to date in comparison to project schedule, problems encountered and methods used in solving them, and circumstances which might significantly affect the project.						
Appplication for the Training Program for Special Programs Staff and Leadership Personnel.	1840-0125, ED 883	2, 4	2, 4	822 and 941	40	1,360
Abstract: The form requests programmatic and budgetary information from eligible applicants so that the Department of Education program officers and non-federal reviewers will have adequate, relevant information with which to make funding decisions						
Cooperative Education Program Application Form	1840-0126, ED 1193	2, 4	2, 4	822	400	3,776
Abstract: Application information is used to evaluate proposals and obligate grant funds.						
Application for New Projects Under Special Programs for Students From Disadvantaged Backgrounds.	1840-0127, ED 872	2, 4	2, 4	821, 822, and 824	350	9,800
Abstract: The form requests programmatic and budgetary information from eligible applicants so that the Department of Education program officers and non-federal reviewers will have adequate, relevant information with which to make funding decisions.						
LEEP 6, Statement of LEEP Account LEEP-6A Participants Certification Statement Law Enforcement Education Program (LEEP).	1840-0128, LEEP 6A, LEEP 6.	1	1	None	98,176	9,818
Abstract: This form serves as a bill or a certification of law enforcement employment.						
National Direct Student Loan Program Report of Defaulted Loans as of December 30.	1840-0129, ED 574	4	4	822, and 824	3,200	1,600
Abstract: This report serves to provide information about the capability of the institutions to establish and administer effective collection programs according to regulatory requirements. The data collected may be used to default trends and compare default ratios of various institutions.						
Summary Data Sheet Listing Form (National Direct Student Loan)	1840-0130, ED 1269, 1269-1.	4	4	941	57	1,140

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: This form was designed to provide pertinent information to ED for compliance and statutory provisions governing the National Direct (Defense) Student Loan Program						
Guarantee Agency Reserve Fund Analysis and Projections	1840-0131, ED 878	2	2	821 and 822	23	46
Abstract: The form is to be used to collect the data needed to decide if the agency should be allowed to retain the 422(A) Federal advance funds or if the Secretary should request the return of the funds.						
Student Aid Report (SAR)—Formerly Student Eligibility Report (SER)	1840-0132, ED 255-1	1	1	None	4,626,740	1,157,185
Abstract: The student complete an application from (ED 255) on which he/she provides income and asset information necessary to determine and expected family contributed toward educational expenses.						
Request for Collections Assistance Under Federally Insured Student Loan Program	1840-0133, ED 1249	4	4	822, 602, 603, 604, and 605.	43,000	14,334
Abstract: This form is used by lenders to request skip trace assistance of delinquent student loans where the lender is unable to locate the student borrower.						
Report of the Treasurer—Land-Grant and Supplementary Morrill Funds	1840-0134, ED 1275	2	2	822	73	73
Abstract: Funds distributed under the Morrill Act are to be used for support of instruction in certain curriculum areas. This report is necessary to identify the curriculum fields for which the funds are used and to determine compliance with the statute						
Federal Loan Transaction Statement Federally Insured Student Loan Program	1840-0500, ED 1199	4	4	822, 601, 602, 603, 604, and 605	133,000	133,000
Abstract: This form is used by ED's Guaranteed Student Loan Branch to bill lenders for insurance premiums. It is also used by lenders to report changes in the status of existing loans and to report loans paid in full.						
Fulbright Teacher Exchange Program Application Package.	1840-0501, ED 356, 366-1, 356-2, 356-3	1	1	None	9,900	3,950
Abstract: Form is used by applicants under the Fulbright teacher exchange program which provides opportunities for U.S. teachers to exchange positions for an academic year with foreign counterparts or to attend one of a number of short-term seminars abroad on a variety of topics						
Performance and Financial Report for the Supplemental Funds Program for Cooperative Education.	1840-0503, ED 886-1 886-2	5	4	821	210	210
Abstract: These reports are needed to determine that adequate progress has been made toward achieving the goals of the grants and to monitor grantee expenditures.						
Application for the Supplemental Funds Program for Cooperative Education	1840-0504, ED 886, 886A	4	4	822	376	564
Abstract: Application information is used to reallot unused college work-study funds to colleges and universities to initiate, improve or expand Cooperative Education Programs						
Financial Status and Performance Report, State Student Incentive Grant Program	1840-0505, ED 1288-1, 1288-2.	2	2	941	57	171
Abstract: The collected data is used to provide fiscal information about use of allotments and determine the nature of programs accomplishments. The analyzed data is used for program evaluation, various budget/policy decisions, and to assist States in program development.						
Training Programs for Social Programs Personnel Performance and Financial Status Report.	1840-0507, 883-1, 883-2	2, 4	2, 4	822, 821, and 824	10	10
Abstract: The information will be used to access individual project accomplishments of program goals.						
Application for Grants Under the Graduate and Professional Study Fellowships Program.	1840-0508, ED 591	2, 4	2,4	822	350	7,000
Abstract: This form will be used by institutions of Higher Education to apply for funds.						
Application for Grants Under the Education for Public Service Program	1840-0509, ED 404	1	2, 4	821	120	2,400
Abstract: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of award						
Total respondents and burden hours					8,509,878	5,094,750
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES						
Performance Report for Special Education Programs Discretionary Grant Programs	1820-0002, ED 9037-1	5	2, 4	821, 822, 892, and 941	400	6,000
Abstract: Report is used by the Office of Special Education to determine whether and to what extent progress is being made by grantees toward achieving project goals and objectives						
Report of Vending Facility Programs	1820-0009, ED RSA-15	5	2	944	54	448
Abstract: Indicates the financial health and programmatic impact of the vending facility program in terms of earnings and loss.						
Quarterly Cumulative Caseload Expenditures Report	1820-0013, RSA 113	3, 4, 5	2	944	328	623
Abstract: Information is used to track expenditures and services						
Annual Report on Post Employment Services and Case Reviews	1820-0014, RSA 62	5	2	944	84	84
Abstract: Information is used to track the extent of post employment services.						
Annual Vocational Rehabilitation Program/Cost Report	1820-0017, RSA 2	2	2	944	84	395
Abstract: Data reported on this form is used to set rehabilitation goals for the State, to determine the average cost of rehabilitation services, to determine budget requirements, and to provide a base to analyze and respond to GAO audits.						
RSA Discretionary Grant Application	1820-0018, (ED) RSA-424	1	2, 4	821, 944, and 892	1,170	46,800
Abstract: Serves as the general application for all RSA discretionary grant programs. Used to determine grant eligibility, technicial acceptability of applications submitted, and amount of grant awards.						
Application for Federal Assistance for the National Institute of Handicapped Research.	1820-0027, NIHR 792	1	2, 4	833 822, 892, and 944	300	12,000

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: Information in the application will be used to determine the technical merit of the grant proposal, determine eligibility for funding and serve as a basis for negotiation of final grant awards, including award amounts and terms and conditions.						
Grant Applications under Education for the Handicapped Programs	1820–0028, ED 9037	1	2, 4	821, 822, 892, 941	3,040	92,560
Abstract: The application package provides instructions and information necessary for grantees and potential grantees to submit a request for federal assistance. The information submitted is used by Special Education Programs (SEP) to determine grant eligibility.						
Fiscal year 1984–86 State Plan under Part B of the Education of the Handicapped Act, as amended, Pub. L. 94–124.	1820–0030, ED 9055	1, 4	2	941	58	1,450
Abstract: The State Plan is the application for applying for assistance under Pub. L. 94–142, and is also used for compliance review and enforcement and a determination of technical assistance needs.						
Education for the Handicapped Incentive Grant, Fiscal year 1984–86 Application for Federal Assistance.	1820–0032, ED 9055–1	1	2	941	58	348
Abstract: Application is used to apply for an incentive grant to provide special education and related services to handicapped children aged 3 to 5						
Performance and Reports for Pub. L. 94–142 and Pub L. 89–313	1820–0041 ED 873–2	5	2	941	58	261
Abstract: Performance reports are required annually as a condition of funding. Special Education Programs use the data information in program monitoring/compliance activities and in the Annual Congressional Report.						
Annual Data Report—Part B of EHA and State Agency Programs for Handicapped Children Title 1, ESEA, as amended.	1820–0043, ED 869	1, 5	2	941	58	7,882
Abstract: This data form is used to annually collect child count data for determining grant allotments.						
Three Year State Plan for Vocational Rehabilitation	1820–0500 ED (RSA) SPVR.	1	2	944	82	1,640
Abstract: This form fulfills the requirements for a State Plan as stipulated in the Rehabilitation Act. The plan serves as the basis for flowing monies to the states.						
Total respondents and burden hours					5,774	170,481
OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT						
Salaries, Tenure and Fringe Benefits of Full-time Instructional Faculty in Institutions of Higher Education, 1983–84.	1850–0003, ED (NCES) 2300–3.	4	4	822	3,003	13,200
Abstract: Faculty data are used by institutions to establish salary scales, state agencies to determine budgets for state supported institutions, professional and educational associations and federal agencies to evaluate the extent to which salaries differ between men and women and to develop financial indicators of higher education.						
Application for Library Training Programs	1850–0022, ED 547	2, 4	2, 4	823, and 822	70	840
Abstract: The form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards						
Fall Enrollment and Compliance Report of Institutions of Higher Education, 1983	1850–0035, ED (NCES) 2300 2.3A, and 2.3B.	4	4	822	3,300	8,200
Abstract: College enrollment data are needed by the Department of Education, state, educational researchers, planning and budget offices and individual colleges for use in economic and financial planning and policy formation, forming funding allocation standards, and assessing the manpower flow through college training and development. It is used in compliance enforcement by the Office for Civil Rights.						
State-level Personnel Exchange (Elementary—Secondary)	1850–0038, 2428–1, 2428–2.	2	2	941	32	48
Abstract: Assist state and local educational agencies in improving and automating their statistical and data collection activities as part of its assistance program, NCES interchange of information and expertise among states.						
Vocational Education Data System (VEDS)	1850–0039, ED 2404, 1, 2, 5, 5VA, 7, 2404A, 1 and 7.	1, 2	1, 2	941	347,254	102,224
Abstract: To provide a national reporting system to generate uniform vocational data from the states. Information collected will be used to prepare the annual report to Congress on the status of vocational education.						
Mina Shaughnessy Scholars Program Application	1850–0043, ED 0006	2, 4	2, 4	822, and 941	550	17,500
Abstract: To solicit applications from postsecondary education institutions which propose to designate a Shaughnessy Scholar to improve educational practice through individual projects.						
Application for Grants Under College Library Resources Program	1850–0045, ED 3118	4, 2	4, 2	822, and 823	2,500	7,500
Abstract: Form enables institutions of higher education and private and public nonprofit library institutions to apply annually for resource development grants. To provide the Secretary with sufficient information to determine either adherence to fiscal requirements, or to approve a waiver of such requirements. Also explains anticipated activities if funds are applied to networking activities.						
Application for Federal Assistance (Non-construction) Capability Building for Statistical Activities in SEAs.	1850–0047, 2413	2	2	941	40	1,600
Abstract: The information is needed to evaluate which states are most capable of using grant funds to improve their data system. This is a competitive grant program, and only a few states may receive grants in any one year.						
Degrees and other Formal Awards Conferred Between July 1, 1982 and June 1983.	1850–0053, ED 2300–2.1A, 2300–2.1A–1, 2300–2.1B, 2300–2.1B–1.	4	4	822	3,300	4,950
Abstract: Degree and other formal awards data are needed by the Department of Education, State, Planning and Budget offices and individual colleges for use in economic and financial planning and policy formation. They are used by the Department of Labor in formulating their "Occupational Outlook Handbook" and by the National Occupational Information Coordinating Committee in assessing manpower						
Application for Grant under the Strengthening Research Library Resources Program.	1850–0054, ED 592	1	4	822, and 833	100	1,600

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: This form is needed to enable major research libraries to apply annually on a competitive basis and provide the Secretary with sufficient information to determine adherence to program selection criteria.						
Comprehensive Program Continuation and New Awards (Preliminary and Final)	1850–0058, ED 0001 and ED 0002	2	2, 4	822, and 941	2,200	45,350
Abstract: This is a grant application for competitive awards with a 2-stage application process						
Common Core of Data (CCD)	1850–0067, ED (NCES) 2442, 2443, 2443–1, 2444, 2445, 2446, 2447	2	2	941	57	20,158
Abstract: These data provide information about student membership, graduates, teacher and related staff and finances by source and function. These data are used for sampling, allocation of federal funds for some education grant programs (ESEA Title 1) and in carrying out NCES mandated studies (equity profiles)						
Final Financial Status and Performance Report—Title II–A, II–B (Training) and II–C	1850–0072, ED 606, ED 606–1, 606–2,	4	4	822, and 823	2,600	9,100
Abstract: This consolidated report form is used to determine the utilization of grant funds administered by three discretionary grant programs—(HEA II–A) college library resources, (HEA II–B) library career training, and (HEA II–C) strengthening research library resources. Supplementary maintenance of effort analysis sheet for II–A is necessary to confirm compliance with the fiscal requirement.						
Application for Grants Under the National Diffusion Network	1850–0086, ED 734	2, 4	2, 4	941, 822, and 892	179	2,628
Abstract: For program management in the determination of grant eligibility and in the determination of the amount of the grant award						
State-level Personnel Exchange (Postsecondary)	1850–0095, ED (NCES) 2436–1, 2, 3	2	2	941	60	40
Abstract: To assist state and local education agencies in improving and automating their statistical and data collection activities. As part of its assistance program, NCES has established a state-level personnel exchange to facilitate the interchange of information and expertise among states						
State Expenditures for Post-secondary Education for Fiscal Years Ending 1982 and 1983	1850–0096, ED 2440	2	2	822	57	570
Abstract: This survey for 1982–83 academic year will collect data on programs not reflected in institutional accounts. Such data will make possible more accurate comparisons between states and will enable OMB and the Congressional Budget Office to establish the extent to which states change expenditure patterns in response to changing federal priorities						
Survey of Correspondence Education	1850–0097, ED (NCES) 2390	1	4	824	376	180
Abstract: Comprehensive data on home study, an important segment of American education, has not been collected since 1976. These data are needed to report on the condition of education. Data on enrollment and curricula will be collected from correspondence schools.						
Financial Statistics of Institutions of Higher Education for Fiscal year ending 1982	1850–0502 ED, (NCES) 2300–4.	4	4	822	3,003	7,507
Abstract: College financial statistics are needed by the Department of Education to report on the condition of education to determine eligibility for participation in the Title III program. These are used by the Bureau of the Census to report the finances of state and local governments.						
Survey of Public Libraries, LIBGIS VI	1850–0504, ED 2349–1	4	4	823	1,350	675
Abstract: The purpose of this study is to provide basic data on public libraries. It will also provide specific data to be used in the hearings for the reauthorization of the Library Services and Construction Act (LSCA) by the Office of Libraries and Learning Technologies (OLLT). These data will be used to assess the OLLT library programs for public Libraries						
Basic Student Charges, 1983–82	1850–0507, ED 2300–1C	4	4	822	3,300	550
Abstract: Data are needed to monitor changes in institutional charges made to students in higher education as federal support changes						
Total respondents and burden hours					373,331	244,410
OFFICE OF VOCATIONAL AND ADULT EDUCATION						
State—Administered Vocational Education Program Improvement Contracts	1830–0011, ED 590	5	2	941	912	1,140
Abstract: The National Center for Research in Vocational Education acts as a clearinghouse for contracts made by the states for research, exemplary and innovative programs, and curriculum development						
Application for Vocational Education Direct Grant Programs	1830–0013, ED 3176	1	2	941	67	1,340
Abstract: Grants are awarded to Indian Tribal Organizations to plan, conduct and administer any of the various types of vocational education programs.						
Financial Status and Performance Reports for the Adult Education State Program	1830–0027, ED 365, 365–1	2	2	941	57	570
Abstract: For the purposes of accounting for the expenditure of funds and for assessing the effectiveness of the carrying out of state plans under the Adult Education State Program						
Annual Plan and Accountability Report for Vocational Education	1830–0029, ED 576–3, 576–4	2	2	941	57	18,240
Abstract: State Boards for Vocational Education to submit annual plans and accountability reports in order to receive Federal funds for Vocational Education Programs.						
Annual Evaluation Report of the State Advisory Councils for Vocational Education	1830–0030, ED 576–5	2	2	941	57	21,375
Abstract: The State Advisory Council is to submit an annual report to the Secretary of Education evaluating the Vocational Education Programs conducted in its state.						
Financial Status and Performance Reports for Direct Grant—OVAE	1830–0501, ED 360	5	2	941	30	240
Abstract: These reports are needed to determine that adequate progress has been made toward achieving the goals of the grants and to monitor grantee expenditures						
Total respondents and burden hours					1,180	42,905

[FR Doc. 83–4129 Filed 2–14–83; 3:21 pm]

BILLING CODE 4000–01–M

Bilingual Education Programs; Availability of Materials for Evaluation

AGENCY: Department of Education.

ACTION: Notice of availability of materials for the evaluation of bilingual education programs.

SUMMARY: In response to Sections 731 (d)(2) and (e)(3) of the Elementary and Secondary Education Act of 1965 (ESEA), Pub. L. 89–10, as amended by Pub. L. 95–561, the U.S. Department of Education (ED) has recently completed, as part of its Title VII, Part C Research agenda, a "Project for Developing Program Evaluation and Data Gathering Models for ESEA, Title VII, Bilingual Education" (Contract No. 300–80–0598). The major product of this effort is *A Handbook for Evaluating ESEA, Title VII, Bilingual Education Programs.* The *Handbook* provides technical information and ideas for bilingual educators regarding the evaluation of their programs. While ED feels that the *Handbook* will require further revision and extension, copies of the current document are available for review.

ADDRESS: Requests for copies should be made to: Ms. Ann Nawaz, Department of Education, Office of Planning, Budget and Evaluation, State and Local Grants Division, 400 Maryland Avenue, SW. (Rm. 4037, FOB 6), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Janice Anderson, Telephone: (202) 245–8364.

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: February 16, 1983.

Gary L. Bauer,

Deputy Under Secretary for Planning, Budget, and Evaluation.

[FR Doc. 83–4487 Filed 2–22–83; 8:45 am]

BILLING CODE 4000–01–M

Intergovernmental Advisory Council on Education; Hearing

AGENCY: Intergovernmental Advisory Council on Education.

ACTION: Notice of Hearing.

SUMMARY: This notice sets forth the schedule for a hearing of the Intergovernmental Advisory Council on Education. Notice of this hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: March 17, 1983.

ADDRESS: Department of Education, 101 Marietta Tower Building, Suite 2221, 22nd Floor, Atlanta, Georgia 30323.

FOR FURTHER INFORMATION CONTACT: Laverne Johnson, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, 400 Maryland Avenue SW., Room 3047, Washington, D.C. 20202 (202) 472–6464.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education is established under Section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council is established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education.

The Intergovernmental Advisory Council on Education will conduct a Public Hearing on March 17, 1983. The hearing schedule is as follows:

9:00–10:30 a.m.—Impact of Block Grant Programs
10:30–10:45 a.m.—Break
10:45–12 noon—Federal Role in Education
12:00–1:30 p.m.—Lunch
1:30–3:30 p.m.—Tuition Tax Credits

Individuals, organizations, and associations need to *preregister* for the March 17 hearing. To preregister, due to limited space and time, write Mr. Albert Beatty, Director of Educational Services, Region IV, Department of Education, 101 Marietta Tower Building, Suite 2221, Atlanta, Georgia 30323 (telephone–(404) 221–2502) by March 7. (Commenters will be limited to five (5) minutes. Each commenter must provide written comments. Those wishing to submit comments only may do so by mailing them to Mr. Beatty.)

Records are kept of all Council proceedings and are available for public inspection at the office of the Intergovernmental Advisory Council on Education, 400 Maryland Avenue SW., Room 3047, Washington, D.C.

Signed at Washington, D.C. on February 17, 1983.

Wendy Borcherdt,

Acting Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 83–4476 Filed 2–22–83; 8:45 am]

BILLING CODE 4000–01–M

Strengthening, Special Needs, and Challenge Grant Programs; Transmittal of Requests for Designation as an Eligible Institution for Fiscal Year 1983; Correction

This document corrects a date in the notice of closing date to establish eligibility for participation in the Institutional Aid Programs, authorized by Title III of the Higher Education Act of 1965. The notice was published in the **Federal Register** on Tuesday, February 8, 1983 at 48 FR 5778–5786.

March 29, 1983 is cited as the date the Department will use as a deadline for accepting corrected and updated Pell Grant data in order to make eligibility determinations under the financial aid criteria in 34 CFR 625.2, 626.2, and 627.2.

The March 29 date is incorrect. The Department's policy is to allow two weeks between the closing date for receipt of designation forms (March 28) and the deadline for acceptance of corrected and updated Pell Grant data. Therefore the March 29 date is corrected to read *April 11, 1983.*

FOR FURTHER INFORMATION CONTACT: For further information contact the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024. Telephone (202) 245–2338.

(Catalog of Federal Domestic Assistance Number 84.031 Institutional Aid Programs)

Dated: February 17, 1983.

Daniel Oliver,

General Counsel.

[FR Doc. 83–4485 Filed 2–22–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER83–316–000]

Consolidated Edision Company of New York, Inc.; Filing

February 16, 1983.

Take notice that on February 8, 1983, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing as an initial rate schedule an agreement to provide transmission and distribution service to the Power Authority of the State of New York (the "Authority"). The rate schedule provides for transmission and distribution of hydroelectric power and energy to certain customers of the Authority in Con Edison's service area.

Con Edison requests an effective date of January 1, 1981, and therefore requests waiver of the Commission's notice requirements.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4488 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-310-000]

The Dayton Power and Light Co.; Filing

February 16, 1983.

Take notice that on February 7, 1983, The Dayton Power and Light Company (DP&L) tendered for filing (1) an executed Service Agreement for Partial Requirements And/Or Transmission Wheeling Service to Municipalities for Resale (Service Agreement) between DP&L and the Village of Yellow Springs, Ohio and (2) and executed Service Agreement for Partial Requirements And/Or Transmission Wheeling Service To Municipalities For Resale (Service Agreement) between DP&L and the Village of Jackson Center, Ohio.

The proposed Service Agreements permit the Village of Yellow Springs and the Village of Jackson Center to receive partial requirements and transmission wheeling service from DP&L under its FERC Electric Tariff, Original Volume No. 2. The proposed Service Agreement with the Village of Jackson Center also provides for a change in delivery voltage to 69.000 volts. The previous service agreements between DP&L and the Villages of Yellow Springs and Jackson Center, under which the Villages of Yellow Springs and Jackson Center received service pursuant to DP&L's FERC Electric Tariff Original Volume No. 1, are superseded.

DP&L requests an effective date of February 1, 1983, and therefore requests of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4489 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-73-000]

Kansas Nebraska Natural Gas Co., Inc., Informal Settlement Conference

February 15, 1983.

Take notice that an informal conference will be held in the above-captioned matter on February 25, 1983, at the Offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 at 10:00 a.m.

The purpose of the conference is to discuss the matters at issue in Docket No. CP83-73-000 and to explore the possibility of their resolution by settlement and compromise.

All interested persons are invited to attend but mere attendance at this informal conference will not serve to make any person formally a party to this proceeding.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-4490 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-602-001]

Missouri Public Service Co.; Compliance Filing

February 16, 1983

Take notice that on February 7, 1983, Missouri Public Service Company submitted a compliance filing pursuant to the Commission's order of December 5, 1980

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 3, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4493 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-45-001]

Montana-Dakota Utilities Co.; Tariff Filing

February 15, 1983.

Take notice that on February 8, 1983, Montana-Dakota Utilities Company (MDU), submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 2, the following substitute tariff sheet:

Substitute Seventeenth Revised Sheet No. 10

The proposed effective date is March 1, 1983.

On January 28, 1983, MDU submitted for filing Seventeenth Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 2. The purpose of the filing was to reflect a proposed higher rate for service rendered pursuant to MDU's Rate Schedule X-3.

Following its filing, however, MDU discovered that due to a typographical error, that sheet showed an incorrect current surcharge adjustment under Rate Schedule X-4 of 35.500 cents per Mcf, the correct surcharge adjustment is 35.550 cents per Mcf. In order to correct the error, MDU submits Substitute Seventeenth Revised Sheet No. 10, which shows the correct current surcharge adjustment under Rate Schedule X-4.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4491 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-315-000]

Montana Power Co.; Filing

February 16, 1983

Take notice that the Montana Power Company (Montana) on February 7, 1983, tendered for filing Fourth Revised Sheet No. 9 and Fourth Revised Sheet No. 10 of the FPC Electric Tariff M-1 which has been revised to show the addition of Southern California Edison Company, Pacific Gas and Electric Company, Sierra Pacific Power Company and the City of Riverside, and a Summary of Sales made under the Company's FPC Electric Tariff M-1 during July, August, September, October, November and December, 1982, along with cost justification for the rate charged.

Montana requests an effective date of July 26, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4492 Filed 2-22-83. 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-306-000]

Northern States Power Co.; Filing

February 16, 1983.

Take notice that Northern States Power Company (NSP) on February 4, 1983, tendered for filing the Sherco 3 Outlet Transmission Agreement with United Minnesota Municipal Power Agency.

NSP states that the agreement, dated December 22, 1982, provides for NSP to deliver United Minnesota power and energy to interconnections with United Power Association for delivery to United Minnesota customers on United Power's system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4494 Filed 2-22-83. 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-314-000]

Orange and Rockland Utilities, Inc.; Filing

February 16, 1983.

Take notice that Orange and Rockland Utilities, Inc. (O & R) tendered for filing on February 7, 1983, as a rate schedule an executed agreement dated February 1, 1983 between O & R and Philadelphia Electric Company for the sale of interruptible power and energy by O & R.

O & R states that the rate schedule provides for an economy reservation charge not to exceed $9.00/MWH scheduled and an energy charge equal to O & R's marginal system cost.

O & R requests an effective date of February 1, 1983, and therefore requests waiver of the Commission's notice requirements.

O & R states that a copy of the filing was served on Philadelphia Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4495 Filed 2-22-83. 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-304-000]

Puget Sound Power & Light Co.

February 16, 1983.

Take notice that on February 2, 1983, Puget Sound Power & Light Company (Puget) tendered for filing a notice of cancellation of the City of Ellensburg (City) service agreement with Puget.

Puget requests an effective date of August 4, 1981.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4496-Filed 2-22-83. 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-311-000]

Tucson Electric Power Co.; Filing

February 16, 1983.

Take notice that Tucson Electric Power Company (Tucson) on February 7, 1983, tendered for filing a Power Exchange and Transmission Agreement between Tucson and El Paso Electric Company (El Paso). The primary purpose of this Agreement is to establish the terms and conditions relative to the exchange of capacity and energy between El Paso's share of the Palo Verde Nuclear Generating Station generating units and Tucson's system generation.

Tucson requests an effective date of April 19, 1982, and therefore requests waiver of the Commission's notice requirements.

Tucson states that copies of the filing were served upon El Paso.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4497 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

National Energy Extension Service Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: National Energy Extension Service Advisory Board.

Date and time: Thursday, March 10, 1983—9:00 a.m.–5:00 p.m., Friday, March 11, 1983—9:00 a.m.–3:00 p.m.

Place: Marriott Key Bridge, Potomac Ballroom A, 1401 Lee Highway, Arlington, Virginia 22209/1299.

Contact: William H. H. King, Department of Energy, Forrestal Building—5B137, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: 202-252-8290.

Purpose of committee: The Board was established to carry on a continuing review of the comprehensive Energy Extension Service program and approved plans of the Governors of each State for implementing Energy Extension Service activities.

Tentative Agenda

Thursday, March 10, 1983

- Welcoming by National Energy Extension Service Advisory Board Chairman
- Discussion of Annual Report
- Public Comment (10 minute rule)

Friday, March 11, 1983

- Introductory Remarks by National Energy Extension Service Advisory Board Chairman
- Discussion of Annual Report
- Discussion of Future Events of the National Energy Extension Service Advisory Board
- Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William King at 252-8290. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on February 18, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-4556 Filed 2-22-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 81009B; TSH-FRL 2308-2]

TSCA Chemical Substances Inventory; Removal of Inappropriately Reported Synfuel Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has determined that 12 of the synthetic fuels and related substances currently listed on the Toxic Substances Control Act (TSCA) Inventory were inappropriately reported. The Agency announced in the **Federal Register** of June 10, 1982 (47 FR 25198) its intent to remove these 12 substances from the TSCA Inventory. None of the comments received in response to the June 10, 1982 notice provided EPA with evidence rebutting the Agency's initial finding that all of the 12 substances were inappropriately reported, and that they have not been commercially manufactured, imported, or processed for purposes other than research and development since January 1, 1975. Accordingly, the 12 substances are no longer on the TSCA Inventory as of the date of publication of this notice.

DATE: Effective on February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Chris Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St. SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

EPA announced in the **Federal Register** of June 10, 1982 (47 FR 25198) its intent to remove listings for 12 synthetic fuels (synfuels) and related substances from the Toxic Substances Control Act (TSCA) Chemical Substances Inventory. The proposed removal action was published after the Agency completed a review of the 20 shale oil and solvent-refined coal (SRC) products reported for and listed on the TSCA Inventory. During the review EPA examined whether the 20 substances were eligible for listing on the Inventory. EPA identified 12 of the group as being only in research and development (R and D) at the time the Inventory was compiled and therefore ineligible for listing. In addition, the Agency identified four shale oil substances as having been properly reported to the Inventory but erroneously incorporated into Inventory listings of similar petroleum derived substances. EPA proposed that these four substances be retained on the Inventory, but with new and unique CAS numbers and preferred chemical names.

The **Federal Register** notice of June 10, 1982 solicited comments on the proposed removal and renaming actions and specifically requested information about and documentation of any non-R and D commercial manufacture, import, or processing of the 12 substances by anyone between January 1, 1975 and the publication of the notice.

EPA received 11 comments in response to the June 10 notice. Issues discussed in the comments included EPA's definition of the scope of R and D and the Agency's legal authority to delist substances from the Inventory. None of the commenters provided EPA with new information indicating that any of the 12 substances have as yet been manufactured for other than R and D purposes. No Comments were received on the subject of renaming the four shale oil substances.

II. Purpose of the Inventory

EPA is required by section 8(b) of TSCA to identify, compile, and keep current a list of chemical substances which are manufactured, imported, or processed for commercial purposes in the United States.

The Inventory's primary function is to define what is a "new" chemical substance for purposes of section 5(a)(1)(A) of TSCA. If a chemical substance is not included on the

Inventory, it is considered a "new" substance, and a section 5 notice is required at least 90 days before the commencement of non-R and D commercial manufacture or import of such a substance.

III. EPA's Authority To Delist

To meet the requirements of section 8(b), EPA promulgated the Inventory Reporting Regulations (40 CFR 710), which were published in the **Federal Register** of December 23, 1977 (42 FR 64572). These regulations govern reporting of chemical substances for the Inventory. A "reportable substance," as defined by the regulations, was required to have been manufactured, processed, or imported for commercial, non-R and D purposes between January 1, 1975 and the close of reporting for the Inventory. Substances manufactured solely for R and D purposes were specifically excluded from the Inventory by section 8(b) of TSCA, which was implemented by §710.4(c)(3) of the regulations. Therefore, any substances which were reported for the Inventory while still in R and D were inappropriately reported and were not eligible for listing on the Inventory.

EPA believes that it is the clear intent of TSCA that substances which are found to have been inappropriately reported for the Inventory be removed, or "delisted."The rationale for delisting is consistent with the Inventory's purpose. If substances which are identified as ineligible for listing on the Inventory are allowed to remain there, these "new" chemical substances will in effect be granted an exemption from TSCA's section 5 premanufacture notification requirements and need not undergo EPA review before non-R and D commercial manufacture commences.

EPA views delisting as righting a reporting mistake made at the time the Inventory was compiled and correcting a violation of the Inventory Reporting Regulations. No intent to violate the reporting regulations is necessarily implied by the Agency's decision to delist these inappropriately reported substances. The Agency's authority for delisting is based on the initial ineligibility of the substances for the Inventory, not the motives of the submitter.

Several commenters stated that it is now inappropriate for EPA to remove ineligible listings from the Inventory. They asserted that the proper time to delist would have been during or immediately after the compilation of the Inventory in 1979. Several commenters stated that industry has relied on the listing of these substances on the Inventory and that delisting would prove detrimental to some companies.

EPA's failure to delist these substances earlier was caused by the extremely high volume of reports received for the Inventory. Nearly 100,000 reporting forms were submitted to EPA for almost 60,000 different chemical substances. It was both impossible and impractical for the Agency to analyze and correct all reports initially for anything but apparent mistakes, unless evidence of ineligibility were readily available. Information indicating the possible ineligibility of these synfuel substances did not come to EPA's attention until well after the close of the reporting period.

Though several commenters raised the general issue of detrimental reliance by industry, none provided the Agency with tangible evidence of such reliance in the case of these 12 substances. As discussed below, based on the information available to the Agency, no companies have yet engaged in non-R and D commercial manufacture, import, or processing of these 12 substances. In addition, to EPA's knowledge, no companies have at this time progressed to the stage of development for these synfuel products at which they would be required to report to the Agency pursuant to the premanufacture notification requirements of section 5 of TSCA. If specific information had been submitted to the Agency indicating that a company or companies, relying on the Inventory, had entered into non-R and D commercial production for any of the 12 substances since the publication of the Inventory, the Agency would have considered the significance of the reliance.

Several commenters also asserted that EPA has failed both to publish and follow appropriate procedures for removing listings from the Inventory. EPA believes that the delisting procedures published and followed to this point substantially exceed what is legally required by TSCA or the Administrative Procedure Act and provide sufficient protection to the interests of the companies that are affected by this delisting action. EPA considers delisting to be an administrative action which does not require rulemaking to be put into effect. Although EPA is not necessarily required to do so, the Agency has included in its delisting procedures provisions for a **Federal Register** notice proposing delisting, a 60-day comment period during which affected parties may rebut assertions made by EPA in the proposal, as well as a final notice announcing that the substances have been removed from the Inventory.

IV. Decision to Delist the Twelve Synfuel Substances

As noted above, 20 shale oil and SRC synfuel substances were reported for the Inventory. After the publication of the Initial Inventory, EPA received information suggesting that some of these substances may have been inappropriately reported because they had not been manufactured, imported, or processed for non-R and D commercial purposes since January 1, 1975. As part of its ongoing synfuels program, the Agency began an investigation to determine whether, in fact, any of these substances were still in R and D, as defined by TSCA and § 170.2(y) of the Inventory Reporting Regulations, when reported for the Inventory.

On December 19, 1980, EPA sent letters to the five companies that reported the 20 substances, requesting that the companies provide specific evidence showing that the substances were eligible for inclusion on the Inventory. Following careful analysis of the information received, each of the companies was notified in July 1981 that the agency believed that no case for Inventory eligibility had been made for some of the synfuel substances in question. The companies were asked to submit additional evidence showing that these substances had progressed past R and D. On the basis of these submissions EPA concluded that 12 of the products had been produced for only R and D purposes and were therefore not eligible for the Inventory. The other substances were determined to be appropriately listed on the Inventory.

The Agency has fully considered all the information received from concerned parties in coming to its decision to delist the 12 experimental synfuel products.

Determining whether these synfuel substances have progressed past R and D requires consideration of a number of interrelated factors that are discussed below. Further factors to be considered in determining the point at which other synfuel substances progress beyond R and D are discussed in Unit VII.

1. *Small quantities.* Section 710.2(g) of the Inventory Reporting Regulations defines R and D stage, or "small," production quantities as being those that "are no greater than reasonably necessary for such purposes * * *" EPA considered, but decided against establishing upper limits for small quantities concept must be flexible for various groups of substances depending

upon intended uses and patterns of commercial development.

Some commenters stated that the fact that some of the synfuel substances have been produced in relatively large quantities is, by itself, sufficient to prove that they have progressed past R and D. However, EPA believes that "small quantities" for R and D is a relative concept and that the relatively large production volumes required for synfuels research and development are not enough standing alone to determine that these substances have progressed past R and D. The determination of whether a substance is in R and D, instead depends on whether production has exceeded the level necessary to carry out the R and D purpose of evaluating a substance's physical, chemical, production, or performance characteristics. Development of synfuels has taken place in large pilot plants and relatively large quantities of the experimental substances have been produced. However, EPA has received no evidence indicating that any of the 12 substances have ever intentionally been produced in quantities greater than those reasonably necessary to carry out the purposes of R and D.

2. *Conditions of manufacture and use.* The fact that these substances were produced at pilot plants is indicative, though not determinative, of their being in R and D as opposed to other production stages. Typically, pilot plant activities are designed to (a) arrive at an efficient process for manufacture of a substance, (b) develop the engineering data required to design a large scale facility, and (c) produce enough of the product to evaluate physical, chemical, production, and performance characteristics of a substance. EPA considers these to be R and D activities.

Even more determinative of R and D status are the uses a substance is put to. Quantities produced solely to analyze a substance's physical, chemical, production, or performance characteristics are considered R&D production. If no other uses were intended for the quantities of a substance that have been produced, it was not eligible for reporting for the Inventory. Though some commenters asserted that some of these substances have been produced for commercial purposes, EPA has received no tangible evidence indicating that the substances have been put to commercial uses outside the scope of R and D. The commercial activities described as non-R and D activities by commenters were, in fact, carefully monitored tests of limited quantities of fuel which assessed the performance of the products in utility boilers, stationary engines, and elsewhere. These activities properly fall within the definition of research and development. (See Unit VII).

3. *Sale for commercial purposes.* Sale of a substance does not necessarily remove it from R and D. If the purchaser is solely evaluating the substance's physical, chemical, production, or performance characteristics, on the sale constitutes disposing of excess quantities of a product produced for these evaluative purposes, the substance is still classified as in R and D. EPA believes that any product sales that have taken place to this point for these 12 substances have not exceeded the scope of R and D purposes.

4. *Test marketing.* Substances produced for test marketing purposes are not considered to be in R and D and therefore are eligible for listing on the Inventory. Several commenters contended both that the distinction between test marketing and R and D is, at best, difficult to make under real market conditions and that some of the substances have been test marketed.

EPA recognizes that the distinction between test marketing and R and D is not always clear-cut. However, the Agency does not see major difficulties in applying the two categories to these synfuel substances. Test marketing focuses on how a substance is accepted in a competitive market situation. R and D focuses on analysis of performance and other factors, whether that testing or analysis is done by the producer of the substance or another party. Based on available evidence, EPA believes that all of the 12 substances were, at the time of Inventory reporting, and are still at some stage of performance evaluation and thus in R and D.

V. Impacts of Delisting

As of the publication date of this notice the 12 synthetic fuel and related substances identified in Unit VI of this notice are no longer on the TSCA Chemical Substances Inventory. This delisting action is taken because EPA has determined that the 12 substances were and are only in R and D and therefore not eligible for Inventory listing.

R and D substances are exempted from the PMN reporting requirement by section 5(h)(3) of TSCA. Pursuant to Section 5(a) of the Act, any manufacturer of the 12 delisted substances will be required to file PMNs 90 days prior to the initiation of non-R and D commercial manufacture or import of the substances. If by the date of the publication of this notice non-R and D commercial production has commenced for any of the substances, manufacturers of the substances should contact the Agency to set up a timetable for fulfilling the PMN reporting requirements.

The definition of R and D described in this notice will give developers of synfuel products greater flexibility in conducting R and D than a narrower one which would have allowed these 12 substances to be left on the Inventory. A narrower definition of R and D would move the PMN reporting requirement up to a much earlier point in the development and production cycle and could result in unnecessary, more burdensome, and potentially inconclusive PMN reporting. It could also place some developers of new synfuel substances in present violation of section 5 reporting requirements.

EPA recognizes that some companies may be adversely affected by this delisting action; because of this action some companies may in the future be subject to PMN reporting requirements for some of the 12 substances. However, the Agency believes that these products are legitimately "new" substances for purposes of section 5 of TSCA and congressional intent is clear that such substances undergo PMN review. Furthermore, EPA believes that the benefits to the public and industry of using this definition of R and D for purposes of the Inventory for outweigh any adverse impacts of the delisting action.

VI. Substances That Are Removed From the Inventory

Twelve synthetic fuels and related substances identified in the Federal Register notice of June 10, 1982 are now removed from the TSCA Inventory. The Agency has concluded that the 12 substances have not been manufactured, imported, or processed for non-R and D commercial purposes since January 1, 1975 and thus were not eligible for the Inventory.

BILLING CODE 6720-01-M

The substances are listed below by CAS Registry Numbers accompanied by descriptive names.

64741-76-0	Heavy hydrocracked distillate (shale oil)
64742-14-9	Acid treated heavy hydrocracked naphtha (shale oil)
64742-38-7	Clay treated light hydrocracked distillate (shale oil)
64742-38-7	Clay treated heavy hydrocracked naphtha (shale oil)
64742-13-8	Acid treated light hydrocracked distillate (shale oil)
71060-56-5	Heavy hydrocracked naphtha (shale oil)
68409-94-9	SRC vacuum distillation residues (SRC I solid product)
68911-57-9	SRC middle distillates (SRC II middle distillates)
68410-07-1	SRC heavy distillates (SRC II heavy distillates)
68410-08-2	SRC recycle distillates (SRC I process solvent)
68476-35-7	SRC gas (SRC I and SRC II gas)
68910-58-7	SRC II vacuum residues (SRC II vacuum bottoms)

BILLING CODE 6720-01-C

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Effective February 23, 1983 these 12 substances are no longer included on the Inventory—the presence of the names of these substances in previously published Inventory listings notwithstanding. Any persons wishing to manufacture or import any of these 12 substances must comply with the premanufacture notification requirements of section 5 of TSCA.

VII. Determination of R and D Status

As a result of this action, the 12 delisted synfuel products will be subject to TSCA section 5 reporting requirements before non-and D commercial manufacture. In addition, many other synfuel products may be subject to the reporting requirements of section 5 in the future. These requirements are briefly described in two EPA policy statements, published in the **Federal Register** of May 15, 1979 (44 FR 28564) and November 7, 1980 (45 FR 74378). EPA is now working with industry and public interest groups to clarify the applicability of these requirements to new synfuels. Individual synfuel developers are encouragaed to consult EPA to determine whether they must report under section 5 and what information should be supplied in premanufacture notices.

This unit provides an outline of the factors which should be considered prospectively to determine whether a synfuel product has progressed past R and D and is therefore subject to TSCA section 5 reporting requirements.

As noted above, absolute production quantity alone is not a very determinative criterion of whether a substance is in R and D. Synthetic fuel pilot plant operations are normally considered to be R and D even if such operations are large. Pilot plant operations are designed to produce R and D samples of a material for technical evaluation or to test basic production characteristics. Technical evaluation includes tests of a substance's physical, chemical, production, or performance characteristics. Tests of performance characteristics include monitored tests of a product's performance (in utility boilers, stationary engines, etc.) by a potential user. Tests of production characteristics include pilot plant or refinery runs necessary to define process conditions and equipment performance. However, non-R and D commercial production would occur at a pilot plant if specific products are sold for non-R and D purposes.

Pilot plant activities are considered R and D as long as a material is produced exclusively for product testing and evaluation of process and plant design and equipment. However, in the case of synfuel pilot plants, EPA recognizes that in some instances excess synfuel material may be produced in an R and D operation. Because of the large scale of synfuel pilot plant operations, relatively large amounts of excess materials may be produced. EPA believes that the definition of R and D for the Inventory should allow for reasonable methods of disposal of this material, even if some energy value is recovered in the disposal. These activities would include selling excess quantities for Btu-value or bleeding proportionately very small amounts of synfuel substances into a petroleum refinery stream. While R and D facilities may recover some portion of their product development investment as a result of such commercial uses, EPA believes that these activities are primarily methods of disposal and therefore do not exceed the boundaries of the R and D defintition. However, if excess quantities of test materials are processed to create an article of commerce, for instance when a synfuel substance is processed into other chemical substances which are sold at a competitive price, or when unrestricted sale is made of a synfuel product as asphalt, the scope of R and D is exceeded. Therefore, producers should contact EPA if other disposal methods than those specifically discussed above are employed so that a determination can be made as to whether they come within the scope of R and D.

Dated: February 3, 1983.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83-4480 Filed 2-22-83; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL 2291-6]

Approval of Mississippi's NPDES Program To Regulate Federal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the State of Mississippi's request for authority to administer the National Pollutant Discharge Elimination System (NPDES) program with respect to Federal facilities.

SUMMARY: On January 28, 1983, the Environmental Protection Agency (EPA) approved the State of Mississippi's request to include regulation of Federal facilities under its State water pollution permit program responsibility. Previously the State had been approved to participate in the NPDES program.

FOR FURTHER INFORMATION CONTACT: Allen J. Danzig, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION: In 1977 Congress amended section 313 of the Clean Water Act (33 U.S.C. 1251, et seq.) to authorize States to regulate Federally owned or operated facilities under their water pollution control programs. Prior to the amendments, States including those authorized pursuant to section 402(b) of the Clear Water Act to participate in the NPDES program, were precluded from regulating Federal facilities. Therefore, EPA in approving State programs under section 402(b), reserved the authority to issue NPDES permits to Federal facilities.

With the passage of the 1977 amendments, EPA has been transferring NPDES authority over Federal facilities to approved States. Today's **Federal Register** notice is to announce the approval of the State of Mississippi's request to assume NPDES authority over Federal facilities. EPA did not receive any comments during the public comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Dated: December 15, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. The approval of the Mississippi NPDES permit program to administer Federal facilities merely transfers responsibility for administration of these facilities from the Federal to the State government. No new substantive requirements are established by this action. Therefore, this notice does not have a significant impact on a substantial number of small entities. It does not trigger the requirement of a Regulatory Flexibility Analysis.

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83-4526 Filed 2-22-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Forms Submitted to the Office of Management and Budget

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 USC Chapter 35).

Type: New.

Title: Federal Crime Insurance Program—Policy Change Request.

Abstract: Form allows the Federal Crime Insurance Program to make policy changes by endorsement rather than by return of old policy and submission of new application.

Types of respondents: Individuals, businesses.

Number of respondents: 4,800.

Burden hours: 400.

OMB Desk Officer: Ken Allen (202) 395–3786.

Copies of the above information collection clearance package can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C Street, SW, Washington, DC 20472 and to Ken Allen, Desk Officer, OMB Reports Management Branch, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: February 15, 1983.

Charles M. Girard,

Associate Director.

[FR Doc. 83–4436 Filed 2–22–83; 8:45 am]

BILLING CODE 6718–01–M

[FEMA–677–DR]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA–677–DR), dated February 9, 1983, and related determinations.

DATED: February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice

Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of February 9, 1983, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of California resulting from severe storms, high tides, wave action, mudslides and flooding beginning on January 21, 1983, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to Section 408(b) of Pub. L. 93–288, you are authorized to advance to the State its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Robert L. Vickers of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster.

For Individual Assistance, the Counties of:

Alameda	San Mateo
Colusa	Santa Barbara
Los Angeles	Santa Clara
Marin	Santa Cruz
Orange	Sonoma
San Diego	Ventura

and the adjacent Counties of:

Contra Costa	San Benito
Lake	San Luis Obispo
Mendocino	

(Catalog of Federal Domestic Assistance No. 83–516, Disaster Assistance.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83–4432 Filed 2–22–83; 8:45 am]

BILLING CODE 6718–22–M

[FEMA–677–DR]

California; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA–677–DR) dated February 9, 1983, and related determinations.

DATED: February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice

The notice of a major disaster for the State of California dated February 9, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1983:

For Public Assistance, the Counties of:

Colusa	Trinity
Los Angeles	San Mateo
Marin	Santa Barbara
Mendocino	Sana Cruz
Lake	Solano
Monterey	Sonoma
Orange	San Luis Obispo
San Benito	Ventura
San Diego	

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83–4433 Filed 2–22–83; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–677–DR]

California; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

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SUMMARY: This notice amends the Notice of a major disaster for the State of California (FEMA–677–DR), dated February 9, 1983, and related determinations.

DATED: February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice

The Notice of a major disaster for the State of California dated February 9, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1983: Monterey County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83–4434 Filed 2–22–83; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–675–DR]

Louisiana; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA–675–DR), dated January 11, 1983, and related determinations.

DATED: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice

The notice of a major disaster for the State of Louisiana dated January 11, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 11, 1983: Caldwell Parish for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83–4435 Filed 2–22–83; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–224]

Alpine Federal Savings & Loan Association; Steamboat Springs, Colorado; Final Action; Approval of Conversion Applications

Notice is hereby given that on February 7, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Alpine Federal Savings and Loan Association, Steamboat Springs, Colorado, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agency of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

Dated: February 17, 1983.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83–4508 Filed 2–22–83; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in section 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T–3957–2.

Title: Oakland/Neptune Orient Lines Agreement.

Parties: Port of Oakland (Port)/ Neptune Orient Lines, Ltd. (NOL).

Synopsis: Agreement No. T–3957–2 modifies the basic agreement between the parties, which provides for the preferential assignment by Port to NOL of certain marine terminal facilities in the Port's Outer Harbor Terminal Area. The purpose of the modification is to amend provisions of the agreement relating to secondary-use dockage charges, as well as annual through-put volume and/or vessel call amounts per contract year.

Filing agent: John E. Nolan, Assistant Port Attorney, Port of Oakland, P.O. Box 2064, 66 Jack London Square, Oakland, California 94604.

Agreement No.: T–4087.

Title: Los Angeles/Evergreen Permit.

Parties: City of Los Angeles (City)/ Evergreen Marine Corporation (Taiwan), Ltd. (Evergreen).

Synopsis: Agreement No. T–4087 provides for the assignment by City to Evergreen of 28 acres of terminal property and 1200 feet of wharf on the main channel at the Port of Los Angeles As compensation, Evergreen will pay City a guaranteed annual minimum payment equal to the tariff charges on 400,000 revenue tons of cargo, after which City and Evergreen will share wharfage and dockage revenues equally The term of the agreement is for ten years.

Filing party: Frank Wagner, Deputy City Attorney, Office of the City Attorney, Harbor Division, P O. Box 151, San Pedro, California 90731.

Agreement No: T–4001.

Title: Galveston Wharves/Trans Freight Agreement.

Parties: Board of Trustees of the Galveston Wharves (Galveston)/Trans Freight lines, Inc. (Trans Freight).

Synopsis: Agreement No. T–4091 provided for the preferential assignment of berthing space by Galveston to Trans Freight at Galveston's East End Container Terminal. The agreement also provides for a wharfage sharing plan after the collection of wharfage on the first 200,000 short tons of cargo. The

term of the agreement is for three years with two one-year renewal options.

Filing party: Mr. Carl S. Parker, Jr., Board of Trustees of the Galveston Wharves, P.O Box 328, Galveston, Texas 77553.

Agreement No.: 5200–41.

Title: Pacific Coast European Conference.

Parties: Blue Star Line, Ltd., Compagnie Generale Maritime (French Line), D'Amico Societa de Navigazione Per Azioni, A/S Det Ostasiatiske Kompagni (The East Asiatic Co., Ltd.), Hapag-Lloyd AG, Intercontinental Transport (ICT) B.V., Italia Societa Per Azioni di Navigazione (Italian Line), Johnson Line AB, Scan-Pacific Line, Splosna Plovba (United Yugoslav Line), and Zim Israel Navigation Co., Ltd.

Synopsis: The basic agreement would be amended to expand the scope of the Conference authority to include intermodal service from inland U.S. points, in the states of Alaska, Washington, Oregon, California, Idaho, Wyoming, Montana, Nevada, Utah, Arizona, Colorado, and New Mexico, to destinations.

Filing agent: David C. Nolan, Esq., Graham & James, One Maritime Plaza, Third Floor, San Francisco, California 94111.

Agreement No. 10467.

Title: Latin American Common Carrier Charter Agreement.

Parties: Compania Sud Americana De Vapores; Delta Steamship Lines, Inc.; Lykes Bros. Steamship Co., Inc.; Compania Peruana De Vapores and Transportes Navieros Ecuatorianos.

Synopsis: To authorize the parties to charter space to each other on vessels operated by them on an as-needed-as-available basis.

Filing agent: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York , New York 10005.

By Order of the Federal Maritime Commission.

Dated: February 17, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83–4472 Filed 2–22–83; 8:45 am]

BILLING CODE 6730–01–M

Section 15 Agreements; Cancellation

The Commission has inquired of the parties to a number of seemingly inactive agreements, previously approved under section 15 of the Shipping Act, 1916, asking if the agreements were inactive and should be cancelled. In compliance with the stated wishes of the parties to the agreements, the following agreements between the parties designated are cancelled effective February 14, 1983:

Agreement No.	Parties
9562	Lykes Lines, Deutsche Ost-Afrika/South African Lines Ltd.
9627	Farrell Lines Meyer Line Inc.
9628	Delta Line, Booth Line.
9674	Mexican Line, Gulf-Puerto Rico Line
9734	Farrell Lines, Hapag-Lloyd
9861	South African Manne (Safmanne), Royal Interocean Lines.
9885	Safmarine, Pacena Maritime.
[redacted]	Safmanne, Companhia Colonial de Navegacao.
9887	Safmanne, Empresa de Limpopo
9888	Safmanne, Companhia Nacional de Navegacao
9894	Safmanne, Durban Lines
10091	Lykes Lines, American Export Lines
10134	Farrell Lines, Green R. Line
10260	Columbus Line, Associated Container Transportation (Australia) Ltd., Australia National Line, Farrell Lines, Refrigerated Express Lines (A/Asia) Pty. Ltd., Atlantraffik Express Service
10315	Lykes Lines, Compagnie National Algerienne de Navigation

By Order of the Federal Maritime Commission.

Dated: February 17, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83–4482 Filed 2–22–83; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 83–9]

Prudential Lines, Inc. v. Farrell Lines, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Prudential Lines, Inc. against Farrell Lines, Inc. was served February 9, 1983. Complainant alleges that respondent's filing of its Tariff FMC 136 and intended operations thereunder will be violative of sections 16, 17, and 18 of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83–4469 Filed 2–22–83; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License Applicants; Furnam Shipping & Forwarding, Inc., et al.

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission application for licenses as independent ocean freight forwarders pursuant to section 44(a) of Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Furnam Shipping & Forwarding, Inc., 3433 Trembley Point Road, Linden, NJ 07306

Officers: Pieter van Vliet, President/Director, Richard A. Katz, Secretary/Director/Stockholder, L.B.M. Bracco Gartner, Director

Siamerican International, Inc., 57–10 Flushing Avenue, Maspeth, NY 11378

By the Federal Maritime Commission.

Dated: February 17, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83–4471 Filed 2–22–83; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 1614]

Robert Nako Enterprises, Inc. d.b.a. Yamko Truck Lines; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Robert Nako Enterprises Inc. d.b.a. Yamko Truck Lines, P.O. Box 716, Montebello, CA 90640 was cancelled effective February 3, 1983.

By letter dated January 13, 1983, Robert Nako Enterprises, Inc. d/b/a Yamko Truck Lines was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1614 would be automatically revoked unless a valid surety bond was filed with the Commission.

Robert Nako Enterprises, Inc. d.b.a. Yamko Truck Lines has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1614 be and is hereby revoked effective February 3, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 1614 issued to Robert Nako Enterprises, Inc. d.b.a. Yamko Truck Lines be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Robert Nako Enterprises, Inc. d.b.a. Yamko Truck Lines.

Albert J. Klingel, Jr.,

Director, Bureau of Certification, Licensing.

[FR Doc. 83-4470 Filed 2-22-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Filing of Annual Reports of Federal Advisory Committees

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the Annual Reports for the following Office of the Assistant Secretary for Health Federal Advisory Committees have been filed with the Library of Congress:

Health Services Research and Developmental Grants Review Committee
Health Care Technology Study Section

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephone (202) 245-6791. Copies may be obtained from Mr. Hoke S. Glover, National Center for Health Services Research, Room 1-52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

Dated: February 10, 1983.

John E. Marshall,

Director, National Center for Health Services Research.

[FR Doc. 83-4510 Filed 2-22-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination for Federal Acknowledgement of Narragansett Indian Tribe of Rhode Island

Correction

In FR Doc. 83-3560 beginning on page 6177 in the issue for Thursday, February 10, 1983, the following correction should be made on page 6178: In the middle column, the seventeenth line from the bottom, the word "more" should have read "most".

BILLING CODE 1505-01-M

Bureau of Land Management

[INT DEIS 82-80]

Arizona Strip Wilderness Study Areas; Draft Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Extension of Comment Period of Draft Environmental Impact Statement (draft EIS).

SUMMARY: In response to public requests BLM has granted a 30-day extension for receiving public comments on the Draft EIS, published at 48 FR 744, January 6, 1983. The closing date of March 7, 1983 is changed to April 6, 1983.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, Arizona Strip District Manager, 196 East Tabernacle, P.O. Box 250, St. George, Utah 84770, Telephone (801) 673-3545.

Julian L. Anderson,

Acting District Manager, Arizona Strip District.

[FR Doc. 83-4486 Filed 2-22-83; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

United States World Heritage Nomination; Calendar Year 1983

AGENCY: National Park Service, Interior.

ACTION: Public Notice and Request for Comment.

SUMMARY: The Department of the Interior, through the National Park Service, announces the process that will be used in calendar 1983 to identify possible U.S. nominations to the World Heritage List. This notice lists the properties that are included in the inventory of potential future U.S. World Heritage nominations, and solicits public comments and suggestions on properties that should be considered as potential U.S. World Heritage nominations this year. This notice identifies the requirements that U.S. properties must satisfy to be considered for nomination, and references the rules that the Department of the Interior has adopted to implement the World Heritage Convention. In addition, this notice contains the criteria which cultural or natural properties must satisfy for Wolrd Heritage status, and the 112 properties inscribed on the World Heritage List as of December 13, 1982.

DATE: Comments or suggestions of cultural or natural properties as potential 1983 U.S. World Heritage nominations must be received within 60 days of this notice. Comments should pertain to the merits of properties included on the draft inventory or others which the respondent believes should be considered for nomination to the World Heritage List in 1983. Comments should also specify how the recommended property satisfies one or more of the World Heritage criteria. The Department will decide the issue of nominations for this year and will publish the decision in the Federal Register on or before April 15, 1983, with a request for further public comment in the event that potential nominations are identified for 1983. Comments on potential U.S. nominations which may be listed must be received within 30 days of the April notice. In the event that nominations are favorably identified and received, the Department of Interior will publish in the Federal Register a final list of proposed 1983 U.S. World Heritage nominations on or before July 1, 1983. A detailed nomination document will be prepared for each such proposed nomination. In November 1983, the Federal Interagency Panel for World Heritage will review the accuracy and completeness of draft 1983 U.S. nominations, and will make recommendations to the Department of the Interior. The Assistant Secretary for Fish and Wildlife and Parks will subsequently transmit approved nomination(s) on behalf of the United States to the United Nations Educational, Scientific, and Cultural Organization, though the Department of State, by December 15, 1983, for evaluation by the World Heritage Committee in a process that could lead to inscription on the World Heritage List by fall 1984.

ADDRESS: Written comments or recommendations should be sent to the Director, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Attention: World Heritage Convention-773.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Ritsch, Associate Director, Recreation Resources, National Park Service, U.S. Department of the Interior, Washington, D.C. 20204 (202/343–4462).

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States and 68 other countries, has established a system of international cooperation through which cultural and natural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world. The Convention complements each participating nation's heritage conservation programs, and provides for:

(a) The establishment of an elected 21-member World Heritage Committee assisted by UNESCO to further the goals of the Convention and to approve properties for inclusion on the World Heritage List;

(b) The development and maintenance of a World Heritage List to be comprised of natural and cultural properties of outstanding universal value;

(c) The preparation of a List of World Heritage in Danger;

(d) The establishment of a World Heritage Fund to assist participating countries in identifying, preserving, and protecting World Heritage properties;

(e) The provision of technical assistance to participating countries, upon request; and

(f) The promotion and enhancement of public knowledge and understanding of the importance of heritage conservation at the international level.

Participating nations identify and nominate their sites for inclusion on the World Heritage List. The World Heritage Committee judges all nominations against estalished criteria. Under the Convention, each participating nation assumes responsibility for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, and rehabilitation of World Heritage properties situated within its borders.

In the United States, the Department of the Interior is responsible for directing and coordinating U.S. participation in the World Heritage Convention. The Department implements its responsibilities under the Convintion in accordance with the statutory mandate contained in Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515; 16 U.S.C. 470a–1, a–2). On may 27, 1982, the Interior Department published in the **Federal Register** the policies and procedures which will be used to carry out this legislative mandate (47 FR 23392). The rules contain additional information on the Convention and its implementation in the United States, and identify the specific requirements that U.S. properties must satisfy before they can be nominated for World Heritage status, i.e., the property must have previously been determined to be of national significance, its owner must concur in writing to its nomination, and its nomination must include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment.

The Federal Interagency Panel for World Heritage assists the Department in implementing the Convention by making recommendations on U.S. World Heritage policy, procedures, and nominations. The Panel is chaired by the Assistant Secretary for Fish and Wildlife and Parks, and includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; National Oceanic and Atmospheric Administration, Department of Commerce; and the Department of State.

I. Potential U.S. World Heritage Nominations

The Department encourages any agency, organization, or individual to submit written comments on how one or more properties on the U.S. World Heritage indicative inventory which follows, or other qualified property, relates to and satisfies one or more of the World Heritage criteria (Section II of this notice). In order for a United States property to be considered for nomination to the World Heritage List, it must satisfy the requirements set forth earlier, i.e., (a) it must have previously been determined to be of national significance, (b) its owner must concur in writing to such nomination, and (c) its nomination document must include evidence of such legal protections as may be necessary to preserve the property and its environment. Information provided by interested parties will be used in evaluating the World Heritage potential of a particular cultural or natural property.

The following properties were published in the **Federal Register** on May 6, 1982, as the inventory of potential future U.S. World Heritage nominations (47 FR 19648). The inventory discusses briefly the significance of each site, and identifies the specific World Heritage criteria that the sites appear to satisfy. The properties included on the inventory are as follows:

Natural

Acadia National Park, Maine
Aleutian Islands Unit of the Alaska Maritime National Wildlife Rufuge, Alaska
Arches National Park, Utah
Arctic National Wildlife Refuge, Alaska
Big Bend National Park, Texas
Bryce Canyon National Park, Utah
Canyonlands National Park, Utah
Capitol Reef National Park, Utah
Carlsbad Caverns National Park, New Mexico
Colorado National Monument, Colorado
Crater Lake National Park, Oregon
Death Valley National Monument, California
Denali National Park, Alaska
Gates of the Arctic National Park, Alaska
Glacier Bay National Park, Alaska
Glacier National Park, Montana
Grand Teton National Park, Wyoming
Great Smoky Mountains National Park, Tennessee–North Carolina
Guadalupe Mountains National Park, Texas
Hawaii Volcanoes National Park, Hawaii
Joshau Tree National Mounment, California
Katmai National Park, Alaska
Mount Rainier National Park, Washington
North Cascades National Park, Washington
Okefenokee National Wildlife Refuge, Georgia–Florida
Organ Pipe Cactus National Mounment/Cabeza Prieta National Wildlife Range, Arizona
Point Reyes National Seashore, California
Rainbow Bridge National Mounment, Utah
Rocky Mountain National Park, Colorado
Saguaro National Monument, Arizona
Sequoia/Kings Canyon National Parks, California
Virginia Coast reserve, Virginia
Yosemite National Park, California
Zion National Park, Utah

Cultural

Aleutian Islands Unit of the Alaska Maritme National Wildlife Refuge (Fur Seal Rookeries), Alaska
Auditorium Building, Illinois-Chicago
Bell Telephone Laboratories, New York-New York City
Brooklyn Bridge, Brooklyn, New York
Cape Krusenstern Archaeological District, Kotzebue, Alaska
Carson, Pirie, Scott and Company Store, Chicago, Illinois
Casa Grande National Monument, Coolidge, Arizona
Chaco Culture National Historical Park, New Mexico
Chapel Hall, Gallaudet College, District of Columbia

Eads Bridge, Illinois-Missouri
Fallingwater, Mill Run, Pennsylvania
Frank Lloyd Wright Home and Studio, Oak Park, Illinois
General Electric Research Laboratory, Schenectady, New York
Goddard Rocket Launching Site, Auburn, Massaschusetts
Hohokam Pima National Monument, Arizona
Leiter II Building, Chicago, Illinois
Lindenmeier Site, Colorado
Lowell Observatory, Flagstaff, Arizona
Marquette Building, Chicago, Illinois
McCormick Farm and Workshop, Walnut Grove, Virginia
Monticello, Charlottesville, Virginia
Mound City Group National Monument, Ohio
Moundville Site, Alabama
New Harmony Historic District, New Harmony, Indiana
Ocmulgee National Monument, New Mexico
Poverty Point, Bayou Macon, Louisianna
Prudential (Guaranty) Building, Buffalo, New York
Pupin Physics Laboratories, Columbia University, New York
Reliance Building, Chicago, Illinois
Robie House, Chicago, Illinois
Rookery Building, Chicago, Illinios
San Xavier Del Bac, Tucson, Arizona
Savannah Historic District
South Dearborn Street-Printing House Row North Historic District, Chicago, Illinois
Statue of Liberty National Monument, New Jersey–New York
Taliesin, Spring Green, Wisconsin
Taos Pueblo, Taos, New Mexico
Trinity Site, Bingham, New Mexico
Unity Temple, Oak Park, Illinois
University of Virginia Historic District, Charlottesville, Virginia
Ventana Cave, Arizona
Wainwright Building, St. Louis, Missouri
Warm Springs Historic District, Georgia
Washington Monument, District of Columbia

Additional information on each of the properties listed above may be found in the May 6, 1982, **Federal Register** notice (47 FR 19648), which includes a description of the properties on the U.S. World Heritage inventory. This notice is available from the National Park Service (see addresses). Written comments are welcome on these and other qualified properties.

II. World Heritage Criteria

The following criteria are used by the World Heritage Committee in evaluating the World Heritage potential of cultural and natural properties nominated to it:

A. Criteria for the Inclusion of Cultural Properties on the World Heritage List

(1) A monument, group of buildings or site which is nominated for inclusion on the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria *and* the test of authenticity. Each property nominated should therefore:

(i) Represent a unique artistic achievement, a masterpiece of the creative genius; or

(ii) Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts or townplanning and landscaping; or

(iii) Bear a unique or at least exceptional testimony to a civilization which has disappeared; or

(iv) Be an outstanding example of a type of structure which illustrates a significant stage in history; or

(v) Be an outstanding example of a traditional human settlement which is representative of a culture and which has become vulnerable under the impact of irreversible change; or

(vi) Be directly or tangibly associated with events or with ideas or beliefs of outstanding universal significance. (The Committee considered that this criterion should justify inclusion in the List only in exceptional circumstances or in coonjuntion with other criteria); and In addition, the property must meet the test of authenticity in design, materials, workmanship, or setting.

(2) The following additional factors will be kept in mind by the Committee in deciding on the eligibility of a cultural property for inclusion on the List:

(i) The state of preservation of the property should be evaluated relatively, that is, it should be compared with that of other property of the same type dating from the same period, both inside and outside the country's borders; and

(ii) Nominations of immovable property which is likely to become movable will not be considered.

(B) Critereia for the Inclusion of Natural Properties on the World Heritage List

(1) A natural heritage property which is submitted for inclusion in the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria and fulfills the conditions of integrity set out below. Properties nominated should therefore:

(i) Be outstanding examples representing *the major stages of the earth's evolutionary history.* This category would include sites which represent the major "eras" of geological history such as "the age of reptiles" where the development of the planet's natural diversity can well be demonstrated and such as the "ice age" where early man and his environment underwent major changes; or

(ii) Be outstanding example representing *significant ongoing geological processes, biological evolution, and man's interaction with his natural environment;* as distinct from the periods of the Earth's development, this focuses upon ongoing processes in the development of communities, of plants and animals, landforms, and marine and fresh watere bodies; or

(iii) *Contain superlative natural phenomena, formations or features or areas of exceptional natural beauty,* such as superlative examples of the most important ecosystems, natural features, spectacles presented by great concentrations of animals, sweeping vistas covered by natural vegetation and exceptional combinations of natural and cultural elements; or

(iv) *Contain the foremost natural habitats where threatened species of animals or plants of outstanding universal value* from the point of view of science or conservation still survive.

(2) In addition to the above criteria, the sites should also fulfill the conditions of integrity:

(i) The areas described in (i) above should contain all or most of the key interrelated and interdependent elements in their natural relationships; for example, an "ice age" area would be expected to include the snow field, the glacier itself, and samples of cutting patterns, deposition, and colonization (striations, moraines, pioneer stages of plant succession, etc.).

(ii) The areas described in (ii) above should have sufficient size and contain the necessary elements to demonstrate the key aspects of the process and to be self-perpetuating. For example, an area of "tropical rain forest" may be expected to include some variation in elevation above sea level, changes in topography and soil types, river banks or oxbow lakes, to demonstrate the diversity and complexity of the system.

(iii) The areas described in (iii) above should contain those ecosystem components required for the continuity of the species or of the objects to be conserved. This will vary according to individual cases; for example, the protected area of a waterfall would include all, or as much as possible, of the supporting upstream watershed; or a coral reef area would be provided with control over siltation or pollution through the stream flow or ocean currents which provide its nutrients.

(iv) The area containing threatened species as described in (iv) above should be of sufficient size and contain necessary habitat requirements for the

survival of the species.

(v) In the case of migratory species, seasonal sites necessary for their survival, wherever they are located, should be adequately protected. If such sites are located in other countries, the Committee must receive assurances that the necessary measures be taken to ensure that the species are adequately protected throughout their life cycle. Agreements made in this connection, either through adherence to international conventions or in the form of other multilateral or bilateral arrangements, would provide this assurance.

(3) The property should be evaluated relatively, that is, it should be compared with other properties of the same type, both inside and outside the country's borders, within a biogeographic province, or migratory pattern.

III. World Heritage List

As of December 13, 1982, the World Heritage Committee had approved the following 112 cultural and natural properties for inscription on the World Heritage List. The properties are arranged alphabetically by the country which nominated them:

Algeria: Al Qal'a of Ben Hammad;
Argentina: Los Glaciares;
Australia: Great Barrier Reef; Kakadu National Park; Willandra Lakes Region;
Brazil: Historic Town of Ouro Preto;
Bulgaria: Boyana Church; Madara Rider; Rock-hewn Churches of Ivanovo; Thracian Tomb of Kazanlak;
Canada: Anthony Island; Burgess Shale Site; Dinosaur Provincial Park; Head-Smashed-In Bison Jump; L'Anse aux Meadows; Nahanni National Park;
Cyprus: Paphos;
Ecuador: Galapagos National Park; Historic Center of Quito;
Ethiopia: Aksum; Fasil Ghebbi, Gondar Region; Lower Valley of the Awash; Lower Valley of the Omo; Rock-hewn Churches of Lalibela; Simien National Park; Tiya;
Egypt: Abu Mena; Ancient Thebes with its Necropolis; Islamic Cairo; Memphis and its Necropolis—the Pyramid Fields from Giza to Dahshur; Nubian Monuments from Abu Simbel to Philae;
Federal Republic of Germany: Aachen Cathedral; Speyer Cathedral; Wurzburg Residence with the Court Gardens and Residence Square;
France: Amiens Cathedral; Chartres Cathedral; Chateau and Estate of Chambord; Cistercian Abbey of Fontenay; Decorated Grottoes of the Vezere Valley; Mont St. Michel and its Bay; Palace and Park of Fontainebleu; Palace and Park of Versailles; Roman and Romanesque Monuments of Arles; The Roman Theatre and its Surroundings and the Triumphal Arch of Orange; Vezelay, Church and Hill;
Ghana: Ashante Traditional Buildings; Forts and Castles, Volta Greater Accra.
Guatemala: Antigua; Archeological Park and Ruins of Quirigua; Tikal National Park;
Guinea: Nimba Strict Nature Reserve;
Honduras: Maya Site of Copan;
Iran: Meidan-e Sha, Esfahan; Persepolis; Tchogha Zanbil;
Italy: Church and Dominican Convent of Santa Maria delle Grazie with "The Last Supper" by Leonardo da Vinci; Historic Centre of Rome; Rock Drawings in Valcamonia;
Malta: City of Valetta; Ggantija Temples; Hal Saflieni Hypogeum;
Morocco: Medina of Fez;
Nepal: Kathmandu Valley; Sagarmatha National Park;
Norway: Bryggen; Roros; Urnes Stave Church;
Pakistan: Archeological Ruins at Mohenjodaro; Buddhist Ruins at Takht-i-Bahi and Neighboring City Remains at Sahr-i-Bahlol; Fort and Shalimar Gardens at Lahore; Thatta; Taxila;
Panama: Darien National Park; Fortifications on the Caribbean Side of Panama—Portobelo San Lorenzo;
Poland: Auschwitz Concentration Camp; Bialowieza National Park; Historic Centre of Cracow; Historic Centre of Warsaw; Wieliczka Salt Mines;
Senegal: Djoudj National Bird Sanctuary; Island of Goree; Niokolo-Koba National Park;
Syrian Arab Republic: Ancient City of Bosra; Ancient City of Damascus; Site of Palmyra;
Tanzania: Ngorongoro Conservation Area; Ruins of Kilwa Kisiwani and Ruins of Songa Mnara; Serengeti National Park;
Tunisia: Ampitheatre of El Djem; Archeological Site of Carthage; Ichkeul National Park; Medina of Tunis;
United States of America: Everglades National Park, Grant Canyon National Park; Independence Hall; Mammoth Cave National Park; Mesa Verde National Park; Olympic National Park; Redwood National Park; Yellowstone National Park;
Yugoslavia: Durmitor National Park; Historical Complex of Split with the Palace of Diocletian; Natural and Cultural-Historical Region of Kotor; Ohrid Region with its Cultural and Historical Aspects and its Natural Environment; Old City of Dubrovnik; Plitvice Lakes National Park; Stari Ras and Sopocani;
Zaire: Garamba National Park; Kahuzi-Biega National Park; Virunga National Park;
International:
Canada/U.S.: Kluane National Park-Wrangell/St. Elias National Park, Old City of Jerusalem and Its Walls (Territory in dispute).

Dated: January 31, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-4438 Filed 2-22-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized loan guaranties to the Republic of the Ivory Coast ("Borrower"), in the amount of up to twenty million dollars ($20,000,000), as part of A.I.D.'s development assistance program. The proceeds of the loans will be used to finance shelter projects for low income families residing in the Ivory Coast.

The Borrower is interested in entering into an agreement to borrow the $20,000,000 in two disbursements of approximately $12,000,000 and $8,000,000. By this notice of investment opportunity the Borrower is soliciting expressions of interest from U.S. lenders or investment bankers to (a) arrange financing for the first disbursement of $12,000,000 at a fixed interest rate for thirty (30) years with a ten (10) year grace period on principal repayment and (f) to discuss, in the context of one loan agreement for the total $20,000,000, the optimum way to stucture the second disbursement borrowing of $8,000,000 prior to June 1985. A Representative of the Government of the Ivory Coast will be in New York during the period of March 7–9, 1983 to discuss and review these matters and intends to select an investor by overnight auction at the conclusion of these discussions in accordance with A.I.D. procedures. Interested U.S. lenders or investment bankers should contact the following individuals to establish meetings with the representative:

Prior to March 4, 1983 contact: Mr. N'Golo Coulibaly, Directeur de la Dette Publique, Caisse Autonome D'Amortissement, BP 670, Abidjan, Ivory Coast, Telephone number: 32–06–11, Telex Number: 3798–CAMORC I.

After March 4, 1983 contact: Mr. Daouda Tanon, Ivory Coast Development Office, 521 Fifth Avenue, New York, N.Y. 1007, Telephone Number: 212–355–6975, Telex Number: 620928—Answer back Ivory C.

Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty covering the loans. Disbursements under the loans will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an

implementation agreement between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to the authority of Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S.citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. Housing Guaranty program can be obtained from: Director, Office of Housing and Urban Programs, Agency for International Development, Room 625, SA–12, Washington, D.C. 20523. Telephone: (202) 632–9637.

Dated: February 15, 1983.

John T. Howley,

Deputy Director, Office of Housing and Urban Programs.

[FR Doc. 83–4427 Filed 2–22–83; 8:45 am]

BILLING CODE 4710–02–M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell, (202) 275–7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, Washington, DC 20503, (202) 395–7313.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Quarterly Report of Revenues, Expenses and Income
OMB Form No.: 3120–0027
Agency Form No.: RE and I
Frequency: Quarterly
Respondents: Class I Railroads
No. of Respondents: 35
Total Burden Hrs.: 840
Type of Clearance: New
Bureau/Office: Bureau of Accounts
Title of Form: Classification Index Survey Form for Railroad Companies that do not file an Annual Report with the ICC
OMB Form No.: 3120–0077
Agency Form No.: RCS
Frequency: The form will be filed only when there is a change in classification
Respondents: All Railroads except Class I
No. of Respondents: 500
Total Burden Hrs.: 125
Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report for Class I Railroads and Holding Companies
OMB Form No.: 3120–0029
Agency Form No.: R–1
Frequency: Annually
Respondents: Class I Railroads
No. of Respondents: 44
Total Burden Hrs.: 46,860

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–4450 Filed 2–22–83; 8:45 am]

BILLING CODE 7035–01–M

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: February 17, 1983.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at ther Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) California Canners and Growers.

(2) 3100 Ferry Bldg., San Francisco, CA 94106.

(3) 2150 East Fremont St., Stockton, CA 95205.

(4) Michael Scott, 2150 E. Fremont St., Stockton, CA 95205.

(1) Mid-State Farm Lines.

(2) P.O. Box 1767, 824 South Combee, Eaton Park, FL 33840.

(3) 824 South Combee, Eaton Park, FL 33840.

(4) Richard Cobb, P.O. Box 1652, Lakeland, FL 33802.

Agatha L. Mergenovich,

Secretary

[FR Doc. 83–4454 Filed 2–22–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume OPI–62]

Motor Carriers; Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and

payment to applicant of $10.00, in accordance with 49 CFR 1182.2 (d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decison is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: February 10, 1983.

By the Commission, Review Board No. 2, Members Carlton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

Note—Please direct status inquiries to Team 1, (202) 275–7992.

MC–F–15023, filed February 10, 1983. ROBERT P. SACK (Sack) (445 W. Marie Ave., West St. Paul, MN 55118)—CONTINUANCE IN CONTROL—NORTH STAR TRANSPORT, INC. (North Star) (Route No. 1, Thief River Falls, MN 56701) and UNITED STATES BUS TOURS, INC. (U.S. Bus) (445 W. Marie Ave., West St. Paul, MN 55118). Representative: Robert P. Sack, 445 W. Marie Ave., West St. Paul, MN 44118. Sack seeks to continue in control of North Star and U.S. Bus upon the institution by U.S. Bus of operations, in interstate or foreign commerce, as a motor common carrier of passengers. North Star, a motor common carrier of property, operates pursuant to certificates issued in No. MC–135231 and sub-numbers thereunder. U.S. Bus, by decision of Review Board Number 2 in No. MC–159491, served March 25, 1982, was granted motor common carrier authority to transport (1) passengers and their baggage, in the same vehicle with passengers, and (2) baggage of passengers, in separate vehicles, in charter or special operations, between points in Scott, Carver, Washington, Dakota, Anoka, Hennepin, and Ramsey Counties, MN, on the one hand, and, on the other, points in the United States, conditioned on the filing of an application for approval by the person or persons who appear to be engaged in common control of applicant and another carrier or the submission of an affidavit indicating why such approval is unnecessary.

Note.—U.S. Bus is cautioned not to begin operations in No. MC–159491 until common control has been approved.

[FR Doc. 83-4455 Filed 2-22-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

For status, please call Team 1 at 202–275–7992.

Volume No. OP1-FC-61

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81030. By decision of February 10, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to CLIFTON MOVING & STORAGE, INC., Decatur, IL, of Certificate No. MC–5881 and Sub Nos. 2 and 3 issued August 23, 1965, May 1, 1981, and October 9, 1981, respectively, to UNDERFANGER MOVING & STORAGE, INC., Springfield, IL, authorizing the transportation of household goods and used household goods, over irregular routes, (1) between points in IL, MO, IN, IA, WI, and KY, and (2) between points in IL, MO, IN, IA, WI, and KY, on the one hand, and, on the other, points in CO, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, MS, AL, TN, KY, IN, MI, OH, WV, VA, NC, SC, GA, FL, MA, RI, CT, NY, NJ, PA, DE, MD and DC. Representative: Leslieann G. Maxey, 907 South Fourth St., Springfield, IL 62703. (217) 529–8476.

For status, please call Team 3 at 202–275–5223.

Volume No. OP3-MCFC-59

Decided: February 8, 1983.

By the Commission, Review Board No. 2, Members Carleton, Ewing, and Williams.

MC–FC–81110. By decision of February 8, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181. Review Board Number 2 approved the transfer to DORAN BROTHERS WORLD-WIDE MOVING, INC., Portchester, NY, of Certificate No. MC–108914 Subs 2 and 4, issued May 6, 1974,

and August 5, 1974, respectively, to RUGBY VANS, INC., Brooklyn, NY, authorizing the transportation of (1) *household goods,* between Hartford, elmwood, East Hartford, West Hartford, and Wethersfield, CT, on the one hand, and, on the other, points in MA, NJ, and NY, restricted against services between Hartford, Elmwood, East Hartford, West Hartford, and Wethersfield, CT, on the one hand, and, on the other, points in the New York, NY Commercial Zone as defined by the Commission, and (2) *household goods,* between New York, NY, on the one hand, and, on the other, points in NY, CT, NJ, and PA. Representative: William J. O'Hara, 598 Madison Avenue, New York, NY 10022.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–FC–61

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–81135. By Decision of February 3, 1983 issued under 49 U.S.C. 10962 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to ARCHER-DANIELS-MIDLAND-COMPANY, of Decatur, IL, of Certificate No. MC–116328, issued October 5, 1978, to CROSS & MURRAY, INC., of Minneapolis, MN, authorizing over irregular routes, the transportation of edible corn syrup, liquid sugar, and blends thereof, in bulk, in tank vehicles, from named points in MN to points in MN, points in that part of ND on and east of US Hwy 281, and those in that part of WI north of US Hwy 16 and west of US Hwy 51, including points on the indicated portions of the highways specified, and Mason City, IA. An application of temporary authority has not been filed. Representative: Denise M. O'Brien, 888 Sixteenth Street, N.W., Washington, DC 20006, (202) 835–8095.

Volume No. OP5–FC–62

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC–81119. By decision of February 3, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to COAST TO COAST TRUCKING, INC., Mt. Royal, NJ of Certificate No. MC–154009 Sub 1 issued December 3, 1982, to EAST COAST CONSOLIDATORS, INC., Paulsboro, NJ, authorizing the transportation of *general commodities* (except commodities in bulk, classes A and B explosives, and household goods as defined by the Commission), between points in the U.S. (except AK and HI). Transferee is not a carrier. An application for temporary authority has been filed. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722.

Volume No. OP5–FC–63

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC–FC–81186. By decision of February 8, 1983 issued under 49 U.S.C. 10926, and the transfer rules of 49 CFR Part 1181, Review Board Number 1 approved the transfer to DLM TRANSPORTATION, INC., of Des Moines, IA, of the operating rights of KSS TRANSPORTATION CORP., of North Brunswick, NJ, set forth in Certificate Nos. MC–145468 Sub 17, issued August 15, 1980, and MC–145468 Sub 27, issued March 20, 1981, authorizing the transportation of (1) meats, meat products, meat byproducts, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 anf 766, from Tama, IA, to points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV and DC, restricted to traffic originating at the facilities of Tama Meat Packing Corp., of Tama, IA, and destined to the indicated destinations, and (2) meats, meat products, meat byproducts, and articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers as described in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk and hides), between the facilities of Armour and Company at Mason City, IA, and the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in the U.S. in and east of MT, CO, WY, and NM, restricted to traffic originating at and destined to points in the above-described territory, and No. MC–145468 (Sub No. 46X) issued July 8, 1981, and its underlying authority set forth in Certificate No. MC–145468 Sub 13F issued November 6, 1980, authorizing the transportation of food and related products, between Chicago, IL, on the one hand, and, on the other, points in the U.S. An application for temporary authority has been filed. Representative: Arlyn L. Westergren, Suite 201, 9202 West Dodge Road, Omaha, NE 68114.

[FR Doc. 83–4456 Filed 2–22–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

In the matter of; Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

Within the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the

Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Please direct status inquiries to Team Three at (202) 275–5223.

Volume No. OP 3–55

Decided: February 8, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 675 (Sub-2), filed January 24, 1983. Applicant: A & M TRANSIT LINES, INC., 170 East Prospect Street, Alliance, OH 44601. Representative: Lewis S. Witherspoon, 2455 N. Star Rd., Columbus, OH 43221, 1 (614) 486–0448. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note. Applicant seeks to provide privately funded charter and special transportation.

MC 1255 (Sub-14), filed January 25, 1983. Applicant: MCGINN BUS COMPANY, INC., 31 Milk Street, Room 1111, Boston, MA 02109. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K Street NW., Washington, DC 20005, (202) 783–3525. Transporting *passengers,* in charter and special operatings, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 83134 (Sub-2), filed January 27, 1983. Applicant: FITZGERALD BUS COMPANY, INC., 19 Birchwood Drive, Ansonia, CT 06401. Representative: George R. Blake, Jr., 36 Cedar Street, Ansonia, CT 06401, (203) 734–8162. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 95375 (Sub-1), filed January 28, 1983. Applicant: WEST POINT TOURS, INC., Terminal Bldg., Highland Falls, NY 10928. Representative: Arthur J. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000. Transporting *passengers,* in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 123285 (Sub-16), filed January 18, 1983. Aplicant: CLETEX TRUCKING, INC., P.O. Box 812, Cleburne, TX 76031. Representative: Clayte Binion, 623 So. Henderson, 2nd Fl., Fort Worth, TX 76104, (817) 332–4415. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI) and (2) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 144225 (Sub-6), filed January 28, 1983. Applicant: JADEEL TRUCKING, INC., 8333 W. McNab Rd., Tamarac, FL 33321. Representative: Raymond P. Keigher, 401 E. Jefferson St., Suite 102, Rockville, MD 20850, (301) 424–2420. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 158075 (Sub-1), filed January 31, 1983. Applicant: T & S BUS SERVICE, INC., 5009 Wheeler Rd., Oxon Hill, MD 20754. Representative: Brian L. Troiano, 918–16th St., NW., Washington, DC 20006, (202) 785–3700. Transporting *passengers,* in special and charter operations, between points in the U.S. (except AK and HI)

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165814, filed January 21, 1983. Applicant: O'DONNELL, LTD., 1004 29th St., Sioux City, IA 51104. Representative: Barbara June O'Donnell (same address as applicant), (712) 255–3127. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S., (3) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI) and (4) as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165844, filed January 21, 1983. Applicant: TRANSOCEANIC SHIPPING COMPANY, INC., 2190 North Loop West, Suite 401, Houston, TX 77018. Representative: Erwin B. Melzer (same address as applicant), (713) 681–6885. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 165854, filed January 20, 1983. Applicant: CCCA, INC., P.O. Box 26; Union St., Union City, GA 30291. Representative: R. J. Hall (same address as applicant), (404) 964–0491. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165874, filed January 24, 1983. Applicant: ADRAN COMPANY, Rt. No. 1, Box 86, Dayton, WA 99328. Representative: James F. Korsberg (same address as applicant), (509) 382–2422. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of motor vehicle in such vehicle, between points in the U.S.

MC 165894, filed January 25, 1983. Applicant: BROKERAGE AND TRANSPORTATION SALES, INC., 9534 Williams, Rosemont, IL 60018. Representative: Irwin D. Rozner, 134 North LaSalle St., Chicago, IL 60602, (312) 782–6937. As a broker of *general commodities* (except household goods), between points in the U.S. (except HI).

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MC 165935, filed January 27, 1983. Applicant: CHICAGO MESSENGER SERVICE, INC., 1600 S. Ashland Ave., Chicago, IL 60608. Representative: Forrest M. Tatel, 221 N. LaSalle St., Suite 3010, Chicago, IL 60601, (312) 782–2511. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 165994, filed January 31, 1983. Applicant: YELLOW BOLT EXPRESS, INC., 1604 S. Vineyard, Ontario, CA 91761. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 165995, filed January 28, 1983. Applicant: OLYMPIC LIMOUSINE SERVICE, INC., 5505 Rt. 33 & 34, Farmingdale, NJ 07727. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th St., NW., Washington, D.C. 20004, (202) 737–1030. Transporting *passengers,* in charter and special operation, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166005, filed February 1, 1983. Applicant: NOEL E. LOVE, d.b.a. LOVE'S BRIDGEVIEW CHARTERS, 1234 Military West, Benicia, CA 94510. Representative: (Same as applicant), (707) 745–2078. Transporting *passenger,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–086

Decided: February 15, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 155337 (Sub-1), filed February 3, 1983. Applicant: KENNESAW TRANSPORTATION, INC., 115 Dixie Dr., Woodstock, GA 30188. Representative: Robert M. Hamilton (same address as applicant), (404) 928–0322. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI).

MC 155337 (Sub-2), filed February 3, 1983. Applicant: KENNESAW TRANSPORTATION, INC., 115 Dixie Dr., Woodstock, GA 30188. Representative: Robert M. Hamilton (same address as applicant), (404) 928–0322. As a *broker of general commodities* (except household goods) between points in the U.S. (except HI).

Volume No. OP4–088

Decided: February 15, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 70267 (Sub-28), filed January 27, 1983. Applicant: ECKERT TRUCKING, INC., P.O. Box 1682, York, PA 17405. Representative: David Zimmerman, P.O. Box 1564, York, PA 17405, (717) 854–3138. Transporting *general commodities* (except classes A and B explosives and household goods), between Nine Springs, McFarland, Stroughton, Edgerton, Lyons, Springfield, Elkhorn, Darien, Delavan, Porters, Hematite, Spread Eagle, Bear Creek, and Clintonville, WI, Robert Lee and Skellytown, TX, Ranger and Lewiston, NC, Mount Blanchard, Jenera, Pandora, Vaughnsville, Rimer, Rushmore, Oberlin, Pittsfield, and Edon, OH, Sodus, Eau Claire, Berrien Center, Dollar Bay, Houghton, Chassell, Keweenaw Bay, Baraga, L'Anse, Herman, Summit, Scott Lake, Pentoga, Naults, Stagger, Elmwood, Basswood, Beechwood, Iron River, Stambaugh, Palatka, Lyons, Sheridan, Vickeryville, and Butternut, MI, Cheraw and McClave, CO, Delight, Sheridan, and Belfast, AR, Holcomb, Frisbee, Whiteoak, Hopkins, and Pickering, MO, MacKay, Moore, Leslie, and Darlington, ID, Coalmont, TN, Kent, Bedford, Merle Jct., Lenox, Conway, and Clearfield, IA, Ithaca, Memphis, Prague, Malmo, Avoca, Cushing, Wolbach, Greeley, Elyria, and Burwell, NE, Mays, Sexton, New Lisbon, Milton, Wadesville, Oliver, Springfield, Solitude, Foraker, Benton, Topeka, Eddy, South Milford, Helmer, Hudson, and Hamilton, IN, Agar, Gorman, and Gettysburg, SD, Liverpool, Bryant, Maple Mills, Richmond, Moon, Fisher, Dewey, Tomlinson, and Prospect, IL, Parkdale, OR, Mineral Bluff, GA, Glenwood, Brantley, Dozier, Searight, Gnatt, and Heath, AL, Richton, Tucker, Blodgett, Panther Burn, and Anguilla, MS, Aloha, Carlisle, and Copalis Crossing, WA, Durupt and Clementsville, ND, and Tilford, KY, on the one hand, and, on the other, points in the U.S (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

MC 100737 (Sub-3), filed February 8, 1983. Applicant: BRONX BUS CORPORATION, 188 Mountaindale Rd., Yonkers, NY 10710. Representative: Robert J. Sturtevant, (same address as applicant), (914) Sp9–1025. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 144016 (Sub-1), filed February 4, 1983. Applicant: WIDEMAN CHARTER SERVICE, 804 Burdine Rd., Anderson, SC 29624. Representative: Nathaniel Wideman, Sr. (same address as applicant), (803) 226–7427. Transporting *passengers,* in charter and special operations, beginning and ending at points in SC, GA (except Atlanta), and NC (except Raleigh and Charlotte), and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 149566 (Sub-15), filed February 8, 1983. Applicant: COMMONWEALTH COACH, INC., 88 Hicks Avenue, Medford, MA 02155. Representative: Elliott Bunce, 1600 Wilson Blvd., Suite 1301, Arlington, VA 22209, (703) 522–0900. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 153177 (Sub-1), filed February 7, 1983. Applicant: STEPHAN CORPORATION, d.b.a. SUBURBAN LINES, 196 Fountain St., Framingham, MA 01701. Representative: D. W. Stephan (same address as applicant), (617) 872–4255. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166127, filed February 4, 1983. Applicant: BRIGHTON BUS SERVICE, INC., 626 Sheepshead Bay Rd., New York, NY 11224. Representative: Norman Turk, 225 Broadway, New York, NY 10007, (212) 619–1540. Transporting *passengers,* in charter and special operations, between New York, NY, on the one hand, and, on the other, points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166136, filed February 8, 1983. Applicant: D.W.R. TRANSPORTATION,

INC., 52 Coulter Pine, Mentone, CA 92359. Representative: Robin Coleman, (same address as applicant), (714) 790–1987. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166137, filed February 8, 1983. Applicant: EGOTRIPS, INC., 2022 Spruce St., Philadelphia, PA 19103. Representative: James W. Patterson, 1300 Penn Mutual Tower, 510 Walnut St., Philadelphia, PA 19106, (215) 925–8300. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–65

Decided: February 9, 1983.

By the Commission, review Board No. 1, Members Parker, Chandler, and Fortier.

MC 112699 (Sub-5), filed February 1, 1983. Applicant: TRIANGLE TRANSPORTATION CO., INC., 1611 Central Ave., N.W., East Grand Forks, MN 56721. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, Fargo, ND 58102, 701–235–4487. Transporting *passengers* in charter and special operations, beginning and ending at points in MN, ND, SD and WI, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 115068 (Sub-6), filed February 4, 1983. Applicant: COLUMBIANA COACH LINES, INC., 101 Thomas Street, East Palestine, OH 44413. Representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219, (412) 471–1800. Transporting *passengers*, in charter and special operations, between points in the United States (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 135518 (Sub-33), filed February 1, 1983. Applicant: WESTERN CARRIERS, INC., 3600 Sisk Rd., Suite 3–C, Modesto, CA 95356. Representative: A.J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103, (605) 335–1777. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 159239 (Sub-1), filed January 26, 1983. Applicant: ROYAL CHARTERS, LTD., 724–2 Skinner, Kalamazoo, MI 49001. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517–482–2400. Transporting *passengers* in charter and special operations, beginning and ending at points in MI, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159738 (Sub-1), filed January 27, 1983. Applicant: SUPREME BUS COMPANY, INC., 2609 Evergreen Road, Odenton, MD 21113. Representative: Demosthenes McDow (same address as applicant), 301–261–3086. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165888, filed January 25, 1983. Applicant: R K CORP., 725 Market Street, Wilmington, DE 19801. Representative: David Earl Tinker, 1000 Conneticut Avenue, NW., Suite 1112, Washington, DC 20036–5391, (202) 887–5868. To operate as a *broker* of *general commodities* (except household goods), between points in the United States (except AK and HI).

MC 165889, filed January 25, 1983. Applicant: LES MEIER, P.O. Box 339, Arlington, NE 68002. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, 402–488–4841. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

MC 165959, filed January 28, 1983. Applicant: LA SALLE CORPORATION, 8408 Elliston Drive, Philadelphia, PA 19118. Representative: Gerald P. Nugent, Jr., (same address as applicant), (609) 933–1130. Transporting *passengers*, in charter of special operations, between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, VT, VA, WA, WV, WI, and DC. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of this filing to Team 5, Room 2414.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166008, filed February 1, 1983. Applicant: CHERRY HILL BUS COMPANY, INC. 149 Seventeenth Ave., Elmwood, NJ 07407. Representative: Edward F. Bowes, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166018, filed January 31, 1983. Applicant: B. A. McKENZIE & CO., INC., 813 Pacific Ave., Tacamo, WA 98401. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383–3998. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

[FR Doc. 83–4457 Filed 2–22–83. 8:45 am]

BILLING CODE [illegible]

Motor Carriers; Permanent Authority Decisions

In the matter of; Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR

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1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation At of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 3 at (202) 275–5223.

Volume No. OP3–51

Decided: February 14, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing.

MC 1515 (Sub-329), filed January 24, 1983. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant), (602) 248–5016. Over *regular routes*, transporting *passengers*, (1) between Stroudsburg, PA and Easton, PA: from Stroudsburg, PA over Interstate Hwy 80 to its junction with U.S. Hwy 209, then over U.S. Hwy 209 to its junction with PA Hwy 33, then over PA Hwy 33 to its junction with U.S. Hwy 22, then over U.S. Hwy 22 to Easton, PA; (2) between Gettysburg, PA and York, PA: from Gettysburg, PA over PA Hwy 116, via Hanover, PA to its junction with U.S. Hwy 30, then over U.S. Hwy 30 to York, PA; (3) between Harrisburg, PA and Lancaster, PA: from Harrisburg, PA over Interstate Hwy 83 to its junction with Interstate Hwy 283, then over Interstate Hwy 283 to its junction with PA Hwy 283, then over PA Hwy 283 to its junction with U.S. Hwy 30, then over U.S. Hwy 30 to Lancaster, PA; (4) between Utica, NY and Hamilton, NY: from Utica, NY over NY Hwy 12 to East Hamilton, NY, then over Unnumbered NY Hwy to Hamilton, NY; (5) between Ithaca, NY and Owego, NY: from Ithaca, NY over NY Hwy 96B to its intersection with NY Hwy 96 near Candor, NY, then over NY Hwy 96 to Owego, NY; and (6) between Pulaski, NY and Utica, NY: from Pulaski, NY over NY Hwy 13 to its intersection with NY Hwy 69, then over NY Hwy 69 to Utica, NY.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

Note.—Applicant seeks to tack this authority to its existing authority in MC 1515.

MC 140294 (Sub-32), filed January 19, 1983. Applicant: GENERAL FREIGHTS, INC., P.O. Box 1946, Hagerstown, MD 21740. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–606. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 141324 (Sub-3), filed January 28, 1983. Applicant: CHENANGO VALLEY BUS LINES, INC., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07430. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 148554 (Sub-5), filed January 18, 1983. Applicant: WALD TRANSFER & STORAGE CO., P.O. Box 344, Houston, TX 77001. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 163435, filed January 18, 1983. Applicant: RYSDAM LOGGING COMPANY, Rt. 2 Box 30 AB, Elgin, OR 97827. Representative: Kathleen L. Rysdam, Box 519, Elgin, OR 97827, (503) 437–4205. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in OR, WA, ID, MT, WY, NV, UT, CO, and CA.

MC 164764, filed January 18, 1983. Applicant: WHITEFORD NATIONALEASE, INC. d.b.a. DEDICATED TRUCK SERVICE, 2020 West Sample St., P.O. Box 76, South Bend, IN 46624. Representative: Alki E. Scopelitis, 1301 Merchants Plaza,

Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI), under continuing contract(s) with (1) American Rubber and Plastics Corporation, of LaPorte, IN, (2) Dietrich Industries, Inc., of Hicksville, OH, (3) Figge International, Inc., of Richmond, Va. (4) Howmet Turbine Components Corporation, of Greenwich, CT, and Recticel Foam Corp., of Buffalo, NY.

Note.—The person or persons who appear to be engaged in common control of another regulated carrier has filed a petition of exemption, which is assigned MC–F 15108.

MC 165774, filed January 18, 1983. Applicant: FATHER AND SON MOVING AND STORAGE, INC., 2525 Tilden Ave., Brooklyn, NY 11226. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036. Transporting *household goods,* between points in NY, on the one hand, and, on the other, points in ME, VT, NH, MA, RI, CT, NY, PA, OH, NJ, MD, VA, NC, SC, GA, FL, DE, IN, WV, AL, KY, TN, and DC.

Volume No. OP3–56

Decided: February 8, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 101075 (Sub-125), filed January 28, 1983. Applicant: TRANSPORT, INC., P.O. Box 396, Moorhead, MN 56560. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th Street, Minneapolis, MN 55402, (612) 333–1341. Transporting *commodities in bulk,* between points in CO, on the one hand, and, on the other, points in IL, IN, IA, KS, the Upper Peninsula of MI, MN, MO, MT, NE, ND, SD, WI and WY.

MC 110525 (Sub-1327), filed January 25, 1983. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Lionville, PA 19353. Representative: Paul L. Gausch (same address as applicant), (215) 363–4285. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. under continuing contract(s) with Texaco Chemical Company, a Division of Texaco Inc., of Bellaire, TX.

MC 119634 (Sub-59), filed January 25, 1983. Applicant: DICK IRVIN, INC., Hwy 2 West, P.O. Box F, Shelby, MT 59474. Representative: Mark A. Cole (same address as applicant), (406) 434–5583. Transporting *building materials,* between points in MT, ID, WA and OR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 127505 (Sub-84), filed January 17, 1983. Applicant: R.H. BOELK TRUCK LINES, INC., 1201 14th Ave., Mendota, IL 61342. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting (1) *beer, wine and alcoholic beverages,* between points in IL, on the one hand, and, on the other, points in CO, IN, KY, MI, MN, OH, and WI, (2) *animal and poultry feed, and animal health aids and sanitation products,* between points in the U.S. (except AK and HI), and (3) *metal products,* between points in Bourbon County, KS, on the one hand, and, on the other, points in AR, CO, IL, MO, NE, NM, and TX.

MC 133695 (Sub-5), filed January 26, 1983. Applicant: PIGGYBACK CARTAGE COMPANY, INC., 1518 Garst Avenue, Boone, IA 50036. Representative: Robert L. Cope, Suite 501, 1730 M Street, NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Commerce Express, Inc., of New Brighton, MN.

MC 134645 (Sub-50), filed January 24, 1983. Applicant: LAKE STATE TRANSPORT, INC., P.O. Box 944, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, (612) 452–8770. Transporting *such merchandise* as are dealt in by wholesale and retail food business houses, between points in MN and ND, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142935 (Sub-31), filed January 31, 1983. Applicant: PLASTIC EXPRESS, 2301 E. Francis St., Ontario, CA 91761. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633, (714) 738–3889. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI).

MC 148105 (Sub-5), filed January 19, 1983. Applicant: OVERLAND EXPRESS, INC., P.O. Box 12322, Houston, TX 77017. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 149244 (Sub-10), filed February 14, 1983. Applicant: PEAKE, INC., 2022 Avenue "A", Kearney, NE 68847. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304, (515) 245–2725. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 149295 (Sub-5), filed January 19, 1983. Applicant: H & W HOT SHOT DELIVERY SERVICE, INC., P.O. Box 96503, Houston, TX 77015. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 154555 (Sub-1), filed January 25, 1983. Applicant: RAYMOND M. MYLET d.b.a. RAY MYLET TRUCKING, 628 Landmesser St., West Hazleton, PA 18201. Representative: John W. Frame, P.O. Box 128, Camp Hill, PA 17011, (717) 761–0520. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods) between points in Lawrence, Luzerne and Schuylkill Counties, PA, and Trumbull County, OH, on the one hand, and, on the other, points in CT, DE, ME, MA, MD, NH, NJ, NY, RI, and VT.

MC 155294 (Sub-1), filed January 20, 1983. Applicant: MARK MONTGOMERY, P.O. Box 1084, Searcy, AR 72143. Representative: (Same as above), (501) 268–9290. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160104, filed January 24, 1983. Applicant: GENERAL GENERICS CORPORATION, 2835 Middlebury Street, Elkhart, IN 46514. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg., 421 South Second Street, Elkhart, IN 46516, (219) 293–3597. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) APG, Inc., and its subsidiaries, of Elkhart, IN, (2) Kiwi Polish Company Proprietary Ltd., of Douglassville, PA, and (3) Magic American Chemical Corp., of Cleveland, OH.

MC 161714 (Sub-1), filed January 25, 1983. Applicant: TYGARD EQUIPMENT COMPANY, INC., 101 East Carson Street, Pittsburgh, PA 15219. Representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219, (412) 471–1800. Transporting *metal products,* between points in Allegheny and Washington Counties, PA, on the one hand, and, on the other, points in NY.

MC 164324, filed January 21, 1983. Applicant: MOBILEHOME TOWING SERVICE, INC., 7910 Mulhall Dr., Jacksonville, FL 32216. Representative: Norman Bolinger, Suite 225, 3100 University Blvd., So., Jacksonville, FL 32216, (904) 724–7539. Transporting *mobile homes, mobile office trailers and prefabricated buildings,* between points in FL and GA.

MC 165435 (Sub-1), filed January 20, 1983. Applicant: TELE-TRANSPORT, INC., P.O. Box 11509, Clearwater, FL 33516. Representative: Etta Netherton (same address as applicant), (813) 442–6975. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Bay State National Corp., of Springfield, MA.

MC 165815, filed January 21, 1983. Applicant: PACESETTER TRUCKING INC., P.O. Box 1757, Stockton, CA-95201. Representative: J. R. Fallabel (same address as applicant), (916) 687–6325. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Custom Warehousing, Inc., of Stockton, CA.

MC 165914, filed January 24, 1983. Applicant: ELDON STANLEY MARQUIS & KEITH A. MARQUIS, d.b.a. MARQUIS TRUCKING, P.O. Box 64, Donovan, IL 60931. Representative: Leslieann G. Maxey, 907 South Fourth, P.O. Box 5039, Springfield, IL 62705, (217) 528–8476. Transporting (1) *fertilizer,* between points in Lake, Newton, Montgomery, and White Counties, IN, on the one hand, and, on the other, points in Iroquis County, IL, and (2) *limestone and crushed lime,* between points in Newton County, IN, on the one hand, and, on the other, points in Iroquois, Kankakee, and Vermilion Counties, IL.

MC 165944, filed January 31, 1983. Applicant: LARRY JOHNSON TRUCKING, INC., Rural Route 4, Box 6A, Chadron, NE 69337. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *transportation equipment,* between points in Box Butte County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165955, filed January 28, 1983. Applicant: PULLEN MOVING COMPANY, 8938 Telegraph Rd., Lorton, VA 22079. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282–3809. Transporting *household goods,* between points in MD, VA, and DC, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 166014, filed January 31, 1983. Applicant: ROBER L. ZEIGLER d.b.a. R & K COURIER, 105 Mountain Laurel Dr., Butler, PA 16001. Representative: (Same as applicant), (412) 452–5837. Transporting *machinery and metal products,* between points in PA, on the one hand, and, on the other, points in OH, NY, MD, WV, KY, VA, AL, and UT.

MC 166015, filed January 31, 1983. Applicant: VALLEY TRANSPORTATION, INC., Upton Rd., Uxbridge, MA 01569. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA and RI, on the one hand, and, on the other, points in CT, MA, NH, and RI.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–64

Decided: February 9, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 228 (Sub-84), filed January 23, 1983. Applicant: HUDSON TRANSIT LINES, INC., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675, (201) 666–5111. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 5649 (Sub-33), filed January 31, 1983. Applicant: KULP & GORDON, INC., Pothouse Rd., P.O. Box 628, Phoenixville, PA 19460. Representative: James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut St., Philadelphia, PA 19106, 215–925–8300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in DE and PA.

MC 81779 (Sub-4), filed January 26, 1983. Applicant: PAUL JOHNSON, INCORPORATED, 340 West Adams St., Waterman, IL 60556. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue NW., Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *metal products, machinery, chemicals and related products, lumber and wood products,* and *food and related products,* between Omaha, NE, and points in WI, IL, IN, IA, MI, OH, and NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 108679 (Sub-18), filed January 31, 1983. Applicant: WHEELER FREIGHTWAYS, 3375 S. Polaris Ave., Las Vegas, NV 89102. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701, (702) 882–5649. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–087

Decided: February 15, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 27817 (Sub-179), filed February 7, 1983. Applicant: H. C. GABLER, INC., 1580 Gabler Rd., P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 33037 (Sub-25), filed February 7, 1983. Applicant: STUDER TRUCK LINE, INC., Beattie, KS 66406. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *chemicals and related products,* between points in Sherman County, TX, on the one hand, and, on the other, points in AZ, CA, LA, and UT.

MC 160896 (Sub-2), filed February 7, 1983. Applicant: NICHOLAS TRANSPORT, INC., P.O. Box 568, Marion, IN 46952. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162987 (Sub-1), filed February 8, 1983. Applicant: GOLDEN RING TRUCKING, INC., 1413 West Lincoln Ave., Fergus Falls, MN 56537. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101, (605) 335–1777. Transporting *lumber and wood products, forest products,* and *building materials,* between points in the U.S. (except AK and HI).

MC 165216, filed February 7, 1983. Applicant: STEIL TRUCK LINES INC., 591 Montgomery Rd., Aurora, IL 60538. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in

Lake, Porter and LaPorte Counties, IN, and points in IL, on the one hand, and, on the other, points in IL, IN, OH, MI, WI, NE, KS, TN, MN, KY, IA, and MO.

MC 166146, filed February 8, 1983. Applicant: ALL FREIGHT TRUCKING, INC., P.O. Box 780, Sturbridge, MA 01566. Representative: David M. Marshall, 6th Floor—95 State St., Springfield, MA 01103, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with All Freight Distributors, Inc., of Sunderland, MA.

MC 123179 (Sub-7), filed February 1, 1983. Applicant: ARROW FREIGHT LINES, INC., 80 Progress Ave., West Springfield, MA 01089. Representative: David M. Marshall, Sixth Floor, 95 State St., Springfield, MA 01103, (413) 732–1136. Transporting *such commodities* as are dealt in by a manufacturer or distributor of furniture and related items, between points in the U.S. (except AK and HI), under continuing contract(s) with The Berkline Corporation, of Morristown, TN.

MC 135439 (Sub-3), filed January 31, 1983. Applicant: MICHAEL JOSEPH MANNING, d.b.a. MANNING TRANSFER, 1601 127th Ave., NW.; Coon Rapids, MN 55433. Representative: Michael Joseph Manning (same address as applicant), (612) 757–2848. Transporting (1) *paper and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with International Paper Corporation, of Arden Hills, MN, and (2) *semi-trailers and trailers,* between points in the U.S. (except AK and HI), under continuing contract(s) with Design Space International/Transport International Pool, Divisions of Gelco Corporation, of Minneapolis, MN.

MC 138929 (Sub-6), filed January 28, 1983. Applicant: AIR FREIGHT DELIVERY SERVICE, INC., P.O. Box 2834, Winchester, VA 22601. Representative: Louis H. Foltz (same address as applicant), 703–667–4360. Transporting *such commodities* as are dealt in or use in the manufacture, sale and distribution of automobile parts and accessories, between points in Culpeper, Frederick, and Shenandoah Counties, VA, on the one hand, and, on the other, points in IL, MA, MD, MI, NH, NJ, NY, OH, and PA.

MC 141529 (Sub-2), filed January 10, 1983. Applicant: WAINWRIGHT TRANSFER CORP. OF VIRGINIA, P.O. Box 1854, Quantico, VA 22134. Representative: Paul F. Sullivan, Suite 202, 3408 Wisconsin Avenue NW., Washington, DC 20016, 202–363–1848. Transporting *household goods,* between points in MD, VA and DC., on the one hand, and, on the other, points in VA, NC, SC, MD, PA, DE, NJ, NY, and DC.

MC 148308 (Sub-3), filed January 28, 1983. Applicant: ROTRANSCO, INC., 6516 West 74th Street, Bedford Park, IL 60638. Representative: Edward G. Bazelon, 135 South La Salle Street, Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the United States (except AK and HI), under continuing contract(s) with Jet Age Containers, Inc., and Rose Packaging Corp., both of Bedford Park, IL.

MC 149229 (Sub-4), filed January 31, 1983. Applicant: SOUTHERN CHEMICAL TRUCKING SERVICE, INC., 451 Lower Boundary St., Macon, GA 31202. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, 404–256–4320. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with American Industrial Chemical Corporation of Atlanta, GA.

MC 153258 (Sub-2), filed February 1, 1983. Applicant: DENNIS R. HILKER TRUCKING, INC., 712 West Millard St., New London, WI 54961. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, 414–722–2848. Transporting (1) *food and related products,* between Milwaukee, WI on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *pulp, paper and related products,* between points in Montgomery County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159299 (Sub-1), filed January 31, 1983. Applicant: LEACH BROTHERS BROKERAGE, INC., 683 East Third St., Forest, MS 39074. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. Transporting *machinery* between Mobile, AL, and points in Covington, Forrest, Jasper, Kemper, and Wayne Counties, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159509 (Sub-1), filed January 28, 1983. Applicant: HOWARD NUNN, INC., 2511 Estrella Ave., Loveland, CO 80537. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, (303) 424–1761. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 161009, filed January 27, 1983. Applicant: JAMES WHITE, d.b.a. JAMES WHITE TRUCKING, 11222 Hooper Road, Baton Rouge, LA 70811. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, 601–355–3543. Transporting *asphalt and asphalt products* between points in AL, LA, MS and TX.

MC 161338 (Sub-2), filed January 28, 1983. Applicant: LARRY FRICK, d.b.a. L & S TRUCKING, 3303 East Wausau Ave., Wausau, WI 54401. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *food and related products,* between points in Outagamie County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162769, filed January 31, 1983. Applicant: KANOWSKY FURNITURE, INC., 60 Main St., Sacramento, CA 95813. Representative: Bruce R. Miner (same address as applicant), 916–929–9029. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, KS, MT, NM, NV, OR, TX, UT, WA and WY.

MC 165938, filed January 27, 1983. Applicant: MOULTON TRUCKING CO., INC., 1795 Princess Anne Rd., Virginia Beach, VA 23456. Representative: James T. Darby, 1021 Irving Ave., Colonial Beach, VA 22443, 804–224–0773. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 166028, filed February 1, 1983 Applicant: L & M WEST, 4420 Skye Dr., So. Jordan, UT 84065. Representative: Mike Harrison (same address as applicant), (801) 561–7424. Transporting *general commodities* (except classes A and B explosives and household goods) between points in the U.S. (except AK and HI), under continuing contract(s) with All-Minerals Corporation of Murray, UT.

[FR Doc. 83–4459 Filed 2–22–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These

rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note:—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-239

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 152291 (Sub-1–7TA), filed February 4, 1983. Applicant: ASSEMBLY SQUARE TRANSPORTATION, INC., 20 Sturtevant Street, Somerville, MA 02145. Applicant's Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, hazardous waste, household goods as defined by the Commission, commodities in bulk and those requiring special equipment* between all points in the 48 contiguous U.S. (except AK and HI), under continuing contract(s) with Bos-Taun Consolidating Company, Inc., Somerville, MA. SUPPORTING SHIPPER: Bos-Taun Consolidating Company, Inc., 20 Sturtevant Street, Somerville, MA 02145.

MC 134806 (Sub-1–55TA), filed February 8, 1983. Applicant: B–D–R TRANSPORT, INC., Vernon Drive, P.O Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Woodburning stoves and garden tillers,* between Woodstock, VT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, under continuting contract(s) with Woodstock Soapstone Co., Inc., Woodstock, VT, and Precision Valley Manufacturing Co., Woodstock VT, (affiliated companies). Supporting shipper(S): Woodstock Soapstone Co., Inc., Box 223, Woodstock, VT 05091; Precision Valley Manufacturing Co., Box 223 Woodstock, VT 05091.

MC 138730 (Sub-1–1TA), filed February 9, 1983. Applicant: CARAVAN COACH LINES, INC., R.D. 3, Box 451, Wharton, NJ 07885. Representative: William F. King, Esq., 6121 Lincolnia Road, Suite 304, P.O. Box 11278, Alexandria, VA 22312. *Common carrier:* regular routes: *Passengers* between Paterson, NJ and New York, NY, serving all intermediate points, as follows: From Paterson over Market St. to Madison Ave., then over Madison Ave. to Park Ave., then over Park Ave. to Vreeland Ave., then over Vreeland Ave. to Market St., then over Market St. to Lakeview Ave., then over Lakeview Ave. to Service Rd., then over Service Rd. to Market St., at or near Elmwood Park, NJ, then over Market St. to River Dr., then over River Dr. to U.S. Hwy 46, then over U.S. Hwy 46 to Main St., at or near Little Ferry, NJ, then over Main St. to Liberety St. (Moonachie Rd.), then over Liberty St. (Moonachie Rd) to Washington Ave., then over Washingtion Ave. to Interestate Hwy 495, then over Interstate Hwy 495 to the Lincoln Tunnel, then through the Lincoln Tunnel to New York, NY, and return over the same routes. SUPPORTING SHIPPER(S): There are 57 statements of support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 144826 (Sub-1–2TA), filed February 8, 1983. Applicant: COMET TRUCKING, INC., 6 Stuart Road, Chelmsford, MA 01824. Representative: David Gordon, 6 Stuart Road, Chelmsford, MA 01824. *Contract carrier:* irregular routes: *Textile mill products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Nathan Solomon & Co., Lowell, MA. Supporting Shipper: Nathan Solomon & Co., Foot of John St., Llowell, MA 01852.

MC 161281 (Sub-1–2TA), filed February 9., 1983. Applicant: A. CUPIDO HAULAGE LIMITED, 1035 Howard Road, Burlington, Ontario, CD L7R 3X5. Representative: Stanley J. Collesano, Esq., 580 Elmwood Avenue, Buffalo, NY 14222. *Contract carrier:* irregular routes: *Lime products and limestone,* between the International Boundaries of the U.S. and CD located in Erie and Niagara Counties, NY and Detroit, MI, on the one hand, and, on the other, Millersville, and Woodville, OH, Dearborn, Ecorse, Trenton, and Warren, MI, under continuing contract(s) with Steetley Industries, Ltd., Ontario, CD. Supporting shipper: Steetley Industries, Ltd., Minerals Group, MPO Box 2029, 604 James Street, N., Hamilton, Ontario, CD L8N 3S9.

MC 149059 (Sub-1–1TA), filed February 8, 1983. Applicant: E. W. GRENON & SON, INC., 42 Tosca Drive, Stoughton, MA 02072. Representative: Robert J. Gallager, Esq., 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036. *Household goods as defined by the Commission and General commodities (except Class A & B explosives, and commodities in bulk),* for the U.S. Government, between points in AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, and WY. Supporting shipper(s): Allen Young Mover, Inc., 176 Milton Street, Dedham, MA 02026; Kilroy Bros., Inc., 136 Arlington Street, Hyde Park, MA. 02136; Westways Moving & Storage, 21401 Curtis Street, Hayward, CA 94545; Ocean-Air International, Inc., R.D.#1, Burgettstown, PA 15021.

MC 3252 (Sub-1–6TA), filed February 8, 1983. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, P.O. Box 739, Portland, ME 04104. Representative: Francis E. Barrett, Jr., Esq., 10 Industrial Park Road, Hingham, MA 02043. *Ground limestone, in bulk,* from Florence, VT to Winston-Salem, NC. Supporting shipper: OMYA, Inc., 61 Main Street, Proctor, VT 05765.

MC 127610 (Sub-1–5TA), filed February 8, 1983. Applicant: J. P. NOONAN TRANSPORTATION, INC., 436 West Street, West Bridgewater, MA 02379. Representative: J. Peter Noonan (same as applicant). *Ground limestone, in bulk,* from Florence, VT to Winston-Salem, NC. Supporting shipper: OMYA, Inc., 61 Main Street, Proctor, VT 05765.

MC 151193 (Sub-1–43 TA), filed February 4, 1983. Applicant: PAULS TRUCKING CORPORATION, 286

Homestead Avenue, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *Juices, in cartons, plastics and bottles* from Flemington, NJ, to Salisbury and Hickory, NC, under continuing contract(s) with Apple and Eve, Inc., Great Neck, NY. Supporting shipper: Apple and Eve, Inc., P.O. Box 237, Great Neck, NY 11022.

MC 151193 (Sub-1–44 TA), filed February 4, 1983. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *Liquid paint dryers, chemicals, NOI (except hazardous waste),* from points in NJ, to points in CA, FL, GA, IL, KS, MI, MN, MO, OR and TX, under continuing contract(s) with Interstab Chemicals, Inc., New Brunswick, NJ. Supporting Shipper: Interstab Chemicals, Inc., 500 Jersey Ave., P.O. Box 683, New Brunswick, NJ 08903.

MC 165779 (Sub-1–2 TA), filed February 8, 1983. Applicant: RICHMOND EXPRESS CO., INC., 1201 Corbin Street, Elizabethport, NJ 07201. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities, (except commodities in bulk, household goods and Class A and B explosives) having a prior or subsequent movement by water* between New York, NY Commercial Zone, on the one hand, and, on the other, Philadelphia, PA Commercial Zone. Supporting shipper: Delta Steamship Lines, 1 World Trade Center, New York, NY 10046.

MC 159874 (Sub-1–2 TA), filed February 2, 1983. Applicant: TAPWOOD TRUCKING CO., INC., 3657 Naomi Street, Seaford, L. I., NY 11783. Representative: Derwood A. Fish (same as applicant). *Contract carrier:* irregular routes: *Swimming pools, swimming pool supplies and accessories, to include barbeque grills, small electric appliances, and those related parts,* from points in CO, CT, FL, GA, IL, MA, MI, MO, NJ, NY, OH, TX and VA to the facilities of Island Swimming Sales, Inc., at Carrollton, TX, Nassau and Suffolk County, NY, under continuing contract(s) with Island Swimming Sales, Inc., Farmingdale, NY. Supporting shipper: Island Swimming Sales Inc., 40 Gazza Blvd., Farmingdale, NY 11735.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

This was first published in the **Federal Register** dated January 24, 1983.

MC 2796 (Sub-II–1TA), filed January 4, 1983. Applicant: FULLINGTON AUTO BUS COMPANY, 316 Cherry St., Clearfield, PA 16830. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Common, regular: *Passengers and their baggage,* between Williamsport, PA and State College, PA, over the following route: U.S. Hwy 220 to its intersection with PA Hwy 120 at or near Castanea, PA; then over PA 120 to its intersection with PA 150; then over PA 150 to its intersection with PA 144–PA 150 at or near Milesburg, PA; then over PA 144–PA 150 to Bellefonte, PA; then over PA 550 to its intersection with PA 150; then over PA 150 to its intersection with PA 26; then over PA 26 to State College; and return over the same route. Alternate route: Beginning at the intersection of PA 150 and PA 64 at or near Mill Hall, PA; then over PA 64 to its intersection with PA 26; then over PA 26 to State College, PA and return over the same route in the reverse direction. Applicant intends to tack this authority with its existing regular route authority and its pending application in Sub-11. Applicant also seeks to provide regular service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B). An underlying ETA seeks 120 days authority. Supporting shippers: There are eight supporting statements attached to this application which may be examined at the Phila. Regional Office. The purpose of republishing this application is to show Alternate Route which was not shown on the previous publication.

This was first published in the **Federal Register** dated January 17, 1983.

MC 165319 (Sub-II–2TA), filed December 22, 1982. Applicant: L & L TRANSFER, INC., 56 Wheeler St., Pittsburgh, PA 15205. Representative: Jan C. Swensen, 2208 Lawyers Bldg., Pittsburgh, PA 15219. Contract, irregular: *Household appliances,* between Pittsburgh, PA, on the one hand, and, on the other, points in Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Indiana, Jefferson, Lawrence, Mercer, Somerset, Venango, Warren, Washington and Westmoreland Counties, PA, having a prior movement in interstate commerce. Under continuing contract(s) with General Electric Co. Supporting shipper(s): General Electric Co., Appliance Park, KY. The purpose of republishing this application is to correct the description of the territorial scope.

MC 160698 (Sub-II–2TA), filed January 31, 1983. Applicant: JBM ENTERPRISES, INC., 405 Hansen Ave., Butler, PA 16001. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219. *Such commodities as are dealt in or used by homeproducts manufacturers and distributors of cosmetics, toilet preparations and jewelry,* from Ada, MI to Butler, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Amway Corporation, 7575 East Fulton Rd., Ada, MI 49355.

MC 165002 (Sub-II–1TA), filed February 2, 1983. Applicant: KNIGHT LINES, INC., P.O. Box 896, Moon Township, Pittsburgh, PA 15108. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180. *Contract; Irregular; iron and steel products, and materials, equipment and supplies used in the manufacturing and distribution thereof* between Cannonsburg, PA and Wilmington, DE, on the one hand, and, on the other, points in the U.S. (except AK & HI) under continuing contract with Forbes Steel and Wire Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Forbes Steel and Wire Corporation, P.O. Box 329, Cannonsburg, PA 15317.

MC 165833 (Sub-II–2TA), filed January 27, 1983. Applicant: NORTHEAST VALLEY TRANSPORTATION, INC., 1258 Route 315, Suite B, Wilkes-Barre, PA 18702. Representative: Edward F.V. Pietrowski, 336 Scranton Life Bldg., Scranton, PA 18505. Contract, irregular: *passengers and their baggage,* between White Haven, PA, on the one hand, and, on the other, New York, NY, under continuing contract(s) with Pocono Hershey Resort. An underlying ETA seeks 120 days authority. Supporting shipper(s): Pocono Hershey Resort, White Haven, PA 18661.

MC 143730 (Sub-II–7TA), filed February 3, 1983. Applicant: PENINSULA TRUCKING CO., INC., 705 Morehouse Dr., New Castle, DE 19720. Representative: Richard M. Ochroch, 316 South 16th St., Philadelphia, Pa. 19102. *General commodities (except Classes A and B explosives)* between points in ME, NH, VT, NY, MA, CT, RI, PA, NJ, DE, MD, DC, WV, VA, NC, SC, GA, FL, and AL, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are twelve supporting shippers statements attached to this application which may be examined at the Phila. Regional office.

MC 165926II–1TA, filed January 27, 1983. Applicant: RONALD H. STOCKSTILL, d.b.a. R&D TRANSPORT, 759 Midland Ave., York, PA 17403. Representative: Wilmer B. Hill, Suite

366, 1030 Fifteenth Street, NW., Washington, D.C. 20005. *General commodities (except classes A and B explosives, commodities in bulk, and household goods),* between points in PA, on the one hand, and, on the other, points in DE, GA, MD, NJ, NY, NC, OH, SC, TN, VA, WV, and DC. Supporting shipper(s): There are five supporting shippers statements attached to this application which may be examined at the Phila. Regional office.

MC 113499 (Sub-II–4TA), filed February 3, 1983. Applicant: EDWARD M. RUDE CARRIER CORP., RFD No. 1, Falling Waters, WV 25419. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Automotive and truck tires,* (1) from Charlotte, NC, Waco, TX, Mayfield, KY and Mt. Vernon, IL, to Allentown, Wilkes-Barre and Scranton, PA, Hilton and Buffalo, NY, and points in NJ; and (2) from Ridgefield, NJ to points in GA, IN, KY, MD, NC, OH, SC, TN, TX, VA, and WV. An underlying ETA seeks 120 days authority. Supporting shipper: Englewood Tire Distributors, Inc., P.O. Box 9883, Englewood, NJ 07631.

MC 110683 (Sub-II–19TA), filed January 27, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24001. Representative: Robert L. Stover (same address as applicant). Contract, irregular; *General commodities (except household goods as defined by the Commission, commodities in bulk and Classes A and B explosives);* between points in the U.S. (except AK and HI), under continuing contract(s) with American Hardware Supply Company. An underlying ETA seeks 120 days authority. Supporting shipper(s): American Hardware Supply Company, Grant Street, East Butler, PA 16029.

MC 165850 (Sub-II–1TA), filed February 2, 1983. Applicant: TREK TOURS OF AMERICA CORP., P.O. Box 9023, Lester, PA 19113. Representative: Larry R. McDowell, 1200 Avenue of the Arts Bldg., Philadelphia, PA 19107. *Passengers and their baggage and outdoor equipment,* in special and charter operations, in round-trip personally conducted all-expense camping tours, in vehicles limited to 15 passengers (not including driver and escort), beginning and ending at New York, NY, Miami, FL, Los Angeles, CA, and Seattle, WA, and their commercial zones, and extending to points in the U.S. (including AK, but excluding HI), for 270 days. Supporting shipper: Trekamerica LTD, London, England.

MC 165965 (Sub-II–1TA), filed January 31, 1983. Applicant: UNDERWOOD TRUCKING CO., INC., P.O. Box 649, Grantsville, WV 26147. Representative: John M. Friedman, 2930 Putnam Ave., P.O.B. 426, Hurrican, WV 25526. Contract, irregular: *Natural gasoline and butane* from points in WV to Indianola, PA. An underlying ETA seeks 120 days authority. Under continuing contract(s) with American Refining Group Inc. Supporting shipper(s): American Refining Group, Inc., Rt. 910, Box 33, Indianola, PA 15051.

MC 108631 (Sub-II–9TA), filed February 3, 1983. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Rd. at Industrial Dr., Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Malt beverages* from Eden and Winston-Salem, NC to Somerville, NJ and Reading and Plumsteadville, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: EAGLE DISTRIBUTING COMPANY, 530 Riverfront Dr., Reading, PA 19602. STADLER DISTRIBUTING COMPANY, Route 611, P.O. Box 329, Plumsteadville, PA 18949. WARREN DISTRIBUTING CO., 47 Readington Rd., Somerville, NJ 08876.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 164547 (Sub-3–1TA), filed February 9, 1983. Applicant: M&M TRUCKING, Route 2, Box 94, Caryville, FL 32427. Representative: Jerry D. Miller (Same address as applicant). *Fertilizer and Lime, in bag and bulk, Farm Equipment, Machinery and Supplies* between points in GA, FL, and AL. Supporting shippers: International Minerals & Chemical Corporation, Fourth Avenue North, Hartford, AL 36344. Brennon & Welch Spreader Service, 509 W. Birch, Hartford, AL 36344. Hartford Farmers Cooperative, 316 E. Mill Street, Hartford, AL 36344.

MC 146649 (Sub-3–2TA), filed February 9, 1983. Applicant: JOHNNY'S TRANSFER CO., INC., Rt. 1, Box 105–G, Mt. Holly, NC 28120. Representative: John C. Rogers, President (same address as above). Contract, irregular routes, *chemicals and dyestuffs, in containers,* from Martin, SC to Charlotte, NC and Atlanta, GA, under a continuing contract or contracts with Sandoz, Inc., Martin, SC. Supporting shipper: Sandoz Colors and Chemicals, Highway 102, Martin, SC 29863.

MC 35807 (Sub-3–6 TA), filed February 8, 1983. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, Post Office Box 4313, Atlanta, GA 30302. Representative: David E. Wells, Wells Fargo Armored Service Corporation, Post Office Box 4313, Atlanta, GA 30302. *Currency, coin, securities, food stamps and other articles of unusual value* between points in OH and KY. Supporting shipper: Federal Reserve Bank of Cleveland, 1455 East Sixth Street, Cleveland, OH 44114.

MC 166126 (Sub-3–1 TA), filed February 8, 1983. Applicant: KWIK–WAY–WEST, INC., 925 W. Main St., Rock Hill, S. C. 29730. Representative: C. Jack Pearce, 1000 Connecticut Avenue, NW., Suite 1200, Washington, D.C. 20036. *Contract,* Irregular: *Commodities as are dealt in by retail stores,* between Rock Hill, SC on the one hand, and on the other hand, points in the U.S. except AK and HI, under continuing contract(s) with Smith Enterprises, Inc., Rock Hill Industrial Park, Drawer 12006, Rock Hill, S. C. 29730.

MC 164263 (Sub-3–2 TA), filed February 8, 1983. Applicant: ACME, INC., P.O. Box 2698, Gastonia, NC 28052. Representative: Eric Meierhoefer, 915 Pennsylvania Building, 425 13th Street, NW. Washington, DC 20004. *Contract,* irregular: *petroleum products,* between points in Gaston and Mecklenburg Counties, NC, on the one hand, and, on the other, points in York County, SC, under continuing contract(s) with Acme of South Carolina, Inc., of Gaffney, SC. Supporting shipper: Acme of South Carolina, Inc., P.O. Box 296, Gaffney, SC 29342.

MC 2934 (Sub-3–56 TA), filed February 8, 1983. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract* Carrier: Irregular; *Household Goods* between points in the U.S. (including AK and HI), under continuing contracts with Standard Oil Company (Indiana) and its subsidiaries, 200 East Randolph Drive, Chicago, Illinois, 60680. Supporting shipper: Standard Oil Company (Indiana), 200 East Randolph Drive, Chicago, IL 60680.

MC 163457 (Sub-3–2 TA), filed February 8, 1983. Applicant: JOWIN EXPRESS, INC., 1498 Highway 13 North, Columbia, MS 39429. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205. *Asphalt roofing* from Lauderdale County, MS to points in the states of AL, AR, FL, GA, KY, LA, TN, TX and SC. Supporting shipper: Atlas Roofing Company, P.O. Box 5777, Meridian, MS 39301.

MC 2934 (Sub-3–57TA), filed February 8, 1983. Applicant: AERO MAYFLOWER

TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Electronic equipment and components;* between points in the U.S. (including AK and HI), under continuing contracts with Texas Instruments, Inc., 12501 Research Boulevard, Austin, TX 78759. Supporting shipper: Texas Instruments, Inc., 12501 Research Boulevard, Austin, TX 78759.

MC 96889 (Sub-3–6TA), filed February 8, 1983. Applicant: E–B TRUCKING COMPANY, INCORPORATED, Hwy 301 North—P.O. Box 518, Battleboro, NC 27809. Representative: E. Lisk Everett-President (same as applicant). *Materials, supplies, and equipment (except cellulose and paper products and commodities in bulk, in tank vehicles)* used in the processing, packing, storing, handling and marketing of unmanufactured tobacco between points in FL, GA, KY, NC, SC, TN, and VA. Supporting shipper: Philip Morris U.S.A., P.O. Box 26603, Richmond, VA 23261.

MC 166110 (Sub-3–1TA), filed February 8, 1983. Applicant: J&J TRANSFER, INC., Carters Ridge Rd., Spruce Pine, NC 28777. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Dolomite and Feldspar,* between Mitchell County, NC, Cumberland County, NJ and Wyandot and Wood Counties, OH. Supporting shipper(s): Wheaton Ind., Box 269, Millville, NJ 08332.

MC 165896 (Sub-3–1TA), filed February 8, 1983. Applicant: JAMES W. KING, an individual, 422 West College Street, Kenton, TN 38233. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. *Plastic Articles, Boots and Shoes NOI, Boot and Shoe Factory Supplies, Equipment used in the manufacture of boots and shoes,* between points in TN, AR, IL, MS and MO on the one hand, and on the other, points in IN, KS, MO, OH, NE and PA. Supporting shipper: Brown Shoe Co., 8500 Maryland St., St. Louis, MO 63105.

MC 165761 (Sub-3–1 TA), filed February 8, 1983. Applicant: ROY WILSON TRUCKING CO., 111 Saul Adams Lane, Crystal Springs, MS 39050. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Contract* carrier: irregular: *Expanded clay aggregate,* in dump vehicles, between the facilities of Jackson Ready-Mix, Inc. at Jackson, MS on the one hand, and, on the other, points in LA under continuing contract(s) with Jackson Ready-Mix, Inc. of Jackson, MS. Supporting shipper: Jackson Ready-Mix, Inc., P.O. Box 1292, Jackson, MS 39205.

MC 105636 (Sub-3–1TA), filed February 8, 1983. Applicant: ARMELLINI EXPRESS LINES, INC., P.O. Box 2394, Stuart, FL 33494. Representative: Wilmer B. Hill, Suite 366 1030 Fifteenth Street, NW., Washington, D.C. 20005. *General commodities (except Classes A and B explosives, commodities in bulk, and household goods),* from points in CT, MA, TI, NY, NJ, PA, OH, MI, IL, MO, and WI to points in GA and FL, under continuing contract(s) with Merchants Shipping Association, Jersey City, NJ. Supporting Shipper: Merchants Shipping Association, 141 Provost St., Jersey City, NJ 07302.

MC 145637 (Sub-3–9TA), filed February 7, 1983. Applicant: B&B EXPRESS, INC., P.O. Box 5552, Station B, Greenville, SC 29606. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004. *Synthetic fibers,* from Cartersville, GA to Los Angeles, CA and its commercial zone. Supporting shipper(s): Barnet Southern Corporation, P.O. Box 131, Arcadia, SC 29230.

MC 136291 (Sub-3–6TA), filed February 7, 1983. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82 Avenue, Miami, Florida 33166. Representative: Dale A. Tibbets (same address as applicant) Contract; irregular; *such merchandise as is dealt in by food distributors* from Ann Arbor, MI and Tulsa, OK to points in IN, IL, KY, MI, OH, PA, WI, and WV under continuing contract(s) with Midwest Natural Foods Distributors, Inc. Supporting shipper: Midwest Natural Foods Distributors, Inc., 170 April Drive, Ann Arbor, MI 48103.

MC 166100 (Sub-3–1TA), filed February 7, 1983. Applicant: O. HARVEY GRIGGS, INC., Post Office Box 824, 1015 West Pine Street, Mount Airy, NC 27030. Representative: William E. West, JR., 11 West Fourth Street, Winston-Salem, NC 27101. *Contract:* Irregular: *Fuel Oil and Gasoline* between NC, SC, and VA. Supporting shippers: Proctor Silex, Inc., Post Office Box 511, Hay Street, Mount Airy, NC 27030 and Anderson and Webb Trucking Company, 770 West Lebanon Street, Mount Airy, NC 27030.

MC 136291 (Sub-3–5TA), filed February 7, 1983. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant). *Contract;* irregular; *such commodities as are dealt in by tobacco, candy and food distributors* from Livonia, MI to points in IN, IL, KY, IA, MN, MO, OH, WI and WV under continuing contract(s) with International Tobacco Wholesalers Alliance, Ltd.; Supporting shipper: International Tobacco Wholesalers Alliance, Ltd., 13623, Otterson Court, Livonia, MI 48150.

MC 2934 (Sub-3–61TA), filed February 10, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Household goods,* between points in the U.S. (except AK and HI), under continuing contracts with ARA Services, Inc., Independence Square West, Philadelphia, PA 19106. Supporting shipper: ARA Services, Inc., Independence Square West, Philadelphia, PA 19106.

MC 2934 (Sub-3–60TA), filed February 10, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Household goods and electronic equipment,* between points in the U.S. (excluding AK and HI), under continuing contracts with Applied Technology Ventures and its subsidiaries, 2921 South Daimler Avenue, Santa Ana, CA 92711. Supporting shipper: Applied Technology Ventures, and its subsidiaries, 2921 South Daimler Avenue, Santa Ana, CA 92711.

MC 149229 (Sub-3–1TA), filed February 10, 1983. Applicant: SOUTHERN CHEMICAL TRUCKING SERVICE, INC., 451 Lower Boundry Street, Macon, GA 31202. Representative: Clyde W. Carver, Attorney, P.O. Box 720434, Atlanta, GA 30328. *Contract:* Irregular: *General Commodities* (except household goods, classes A and B explosives, and commodities in bulk) between points in the U.S. (except AK and HI), under the continuing contract(s) with American Industrial Chemical Corporation, P.O. Box 723117, Atlanta, GA 30309.

MC 2934 (Sub-3–58TA), filed February 10, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Household goods,* between points in the US (including AK and HI), under continuing contracts with International Playtex, Inc., P.O. Box 631, Dover, DE 19901. Supporting Shipper: International Playtex, Inc., P.O. Box 631, Dover, DE 19901.

MC 2934 (Sub-3–59TA), filed February 10, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Household goods,* between points in the US (excluding AK and HI), under continuing contracts with H. F. Ahmanson & Co., 3731 Wilshire Boulevard, Los Angeles, CA 90010. Supporting Shipper: H. F. Ahmanson & Co., 3731 Wilshire Boulevard, Los Angeles, CA 90010.

MC 165093 (Sub-3–3 TA), filed February 10, 1983. Applicant: HOLLIS RAINES d.b.a. RAINES TRUCKING, Rt. 1, Box 363, Munford, AL 36268. Representative: Hollis Raines (same address as applicant). *Contract:* Irregular: *Concrete panels,* from Birmingham, AL to Midland, TX under continuing contract with GRC Panels Unlimited, Inc. Supporting shipper: GRC Panels Unlimited, Inc., P.O. Box 6944, Birmingham AL 35210.

MC 164313 (Sub-3–3 TA), filed February 10, 1983. Applicant: QUALITY MULCH COMPANY, INC., Rte. 1, Box 203, Hamlet, NC 28345. Representative: Jack L. Schiller, 111–58 76th Dr., Forest Hills, NY 11375. *Contract,* Irregular: *wood stoves* from the facilities of Cesco Industries, Inc., located at or near Sanford, N.C to points in DE, GA, MD, NJ, NY, OH, PA and TN, under account with Cesco Industries, Inc. of Sanford, NC. Supporting shipper: Cesco Industries, Inc. P.O. Box 2747 Sanford, NC 27330.

MC 78728 (Sub-3–2 TA), filed February 11, 1983. Applicant: EVERETT EXPRESS, INC., Hwy 258, North, Tarboro, NC 27886. Representative: J. D. Dorn, P.O. Box 6274, Chesapeake, VA 23323. *General Commodities, except classes A & B explosives, household goods, and commodities in bulk,* between all points in NC and VA on the one hand, and all points in the state of VT on the other. Supporting shipper: Fulflex of N.C., Inc., 500 E. 7th St., Scotland Neck, NC 27874.

MC 31389 (Sub-3–17 TA), filed February 11, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simmons, P.O. Box 213, Winston-Salem, NC 27154. *Contract Carrier:* Irregular: *Plastic or Rubber Articles* from Streamwood, IL to points in the U.S., under continuing contract or contracts with Duraco Products, Inc., of Streamwood, IL. Supporting shipper: Duraco Products, Inc., 1109 E. Lake Street, Streamwood, IL 60103.

MC 166221 (Sub-3–1 TA), filed February 11, 1983. Applicant: CENTURY FURNITURE COMPANY, P.O. Box 608, Hickory, NC 28603. Representative: Terrell Price, 800 Briar Creek Rd., DD–504, Charlotte, NC 28205. *Contract,* irregular, *paper, resins in bags, clay and crude rubber* from Mosinee, WI; Baton Rouge, LA; Fitchburg, MA; Beaumont, TX; Wrens, GA; and Norfolk, VA to Hickory, and Stony Point, NC under a continuing contract or contracts with Shuford Mills, Hickory, NC. Supporting shipper: Shuford Mills, Inc., 15th and Highland Aves., N.E., Hickory, NC 28601.

MC 166186 (Sub-3–TA), filed February 11, 1983. Applicant: KENTUCKY OIL AND REFINING COMPANY, Route 1, Box 63, Betsy Layne, KY 41065. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Contract carrier,* irregular routes, *petroleum and petroleum products,* between Floyd County, KY, on the one hand, and, on the other, points in KY, IN, OH, TN, NC, VA, and WV, under contract with Sun Refining and Marketing Co., of Philadelphia, PA. Supporting shipper: Sun Refining and Marketing Co., P.O. Box 7399, 2–V–F–5, Philadelphia, PA 19104.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 164651 (Sub-6–2TA), filed February 8, 1983. Applicant: WALTER MOSLEY, JR. d.b.a. MOSLEY'S MOBILE HOME MOVERS, 920 N. Arizona Ave., Apt. 9, Chandler, AZ 85224. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. *Such commodities as are dealt in or used in the manufacture, distribution and installation of mobile homes* between points in AZ, on the one hand, and, on the other, points in CA, for 270 days. Supporting shippers: Golden West Homes 25805 S. Arizona Ave., Chandler, AZ; Ray's Mobile Home Services 5716 Player Pl. Mesa, AZ 85205; Palm Harbor Homes Inc. P.O. Box 3169, Tempe, AZ 85281; and Sko's Mobile Home Sales, Inc. 109 W. 24th St., Yuma, AZ 85364.

MC 160799 (Sub-6–2TA), filed February 3, 1983. Applicant: H. M. SMITH TRANSPORT, LTD., P.O. Box 421, Elrose, Saskatchewan, CD SOL OZO. Representative: Jerome Anderson, P.O. Drawer 849, Billings, MT 59103–0849. *Dry fertilizer* between points of entry on the International Boundary line between the U.S. and CD in MT and ND, on the one hand, and on the other, points in MT, ND, and Caribou County, ID, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Con Agra-Agri Basics, POB 2548, Great Falls, MT 59403.

MC 161914 (Sub-6–1 TA), filed February 4, 1983. Applicant: NORMAN K. SPERRY, P.O.B. 308, Heber City, UT 84032. Representative: (same as applicant). *Contract carrier,* irregular routes, *bakery products, materials, equipment and supplies used in the production of bakery products* from Salt Lake City, UT on the one hand and points in MT, CA, CO, NV, ID and AZ on the other hand, for 270 days, for the account of Bakery Service, Inc. Supporting shipper: Bakery Service, Inc., 6860 South 1346 East, Salt Lake City, UT 84121.

MC 142698 (Sub-6–1 TA), filed February 4, 1983. Applicant: B. A. STRICKLAND, 620 Old Hiway 99 No., Burlington, WA 98233. Representative: (same as applicant). *Contract carrier,* irregular routes, *such commodities as may be dealt in by manufacturers of fiberglas insulation and roofing products* from points in CA to points in Skagit County, WA, for the account of Barrys Insulation Service, and/or Burlington Builders Supply, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Barrys Insulation Service and/or Burlington Builders Supply, 1303 S. Anacortes St., Burlington, WA 98233.

MC 121439 (Sub-6–1 TA), filed February 8, 1983. Applicant: THOMAS TRANSFER, INC., P.O. B. 5623 Denver, CO 80202. Representative: Charles M. Williams, McCullough Building, 1750 Gilpin St., Denver, CO 80218. *General commodities (except commodities in bulk and household goods as defined by the Commission),* between Denver, CO, and its commercial zone, Scottsbluff County, NE and points in WY, restricted to shipments having a prior or subsequent movement by rail, for 270 days. Supporting shipper: Burlington Northern Railroad Co., 1405 Crutis St., Denver, CO 80202.

MC 151878 (Sub-6–9 TA), filed February 4, 1983. Applicant: THREE WAY CORPORATION, 1120 Karlstad Dr., Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th St., NW., Suite 800, Washington, D.C. 20036. *Contract Carrier,* irregular routes, *General commodities (except Classes A and B explosives and commodities in bulk)* between points in the U.S. under continuing contract with Rapicom, Inc., for 270 days. Supporting shipper: Rapicom, Inc., 7 Kingsbridge Rd., Fairfield, NJ 07006.

MC 166072 (Sub-6–1TA), filed February 4, 1983. Applicant: TRAFFIC WEST FREIGHT SYSTEMS, INC., 1225 Sixth St., San Francisco, CA 94107. Representative: Michael Leiden, P.O. Box 421636, San Francisco, CA 94142. *General commodities* (except commodities in bulk, class A and B explosives, and used household goods) between points in CA, for 270 days. Interline privileges requested. Supporting Shipper: Manufacturer's Consolidation Service, Inc., Hwy 64–70 State Rd. 1730, Claremont, NC 28610.

MC 148791 (Sub-6–20TA), filed February 3, 1983. Applicant: TRANSPORT-WEST, INC., 1850 S 1100 W, Woods Cross, UT 84987. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Contract carrier,* Irregular routes: *General commodities* (except household goods, Classes A and B explosives and commodities in bulk), between points in the U.S. (excluding AK and HI) for the account of Aspen Distribution of Salt Lake City, UT for 270 days. Supporting shipper: Aspen Distribution Center, 1765 S 5250 W, Salt Lake City, UT 84104.

MC 158840 (Sub-6–1TA), filed February 3, 1983. Applicant: C.P.K. d.b.a. WESTERN VILLAGE TRUCK STOP AND CASINO, 3700 Grant Dr., Reno, NV 89509. Representative: David L. Mousel, P.O. Box 460, Reno, NV 89504. *Passengers and their baggage* in *special* and *charter operations,* between Mesquite, NV, and St. George, UT, over U.S. Interstate Highway 15, for 270 days. Supporting shipper: There are fifteen (15) shippers. Their statements may be examined at the Regional Office above.

MC 166128 (Sub-6–1TA), filed February 8, 1983. Applicant: RICH LEHMANN d.b.a. RICH LEHMANN TRUCKING, 2205 Rosewyn Lane, Billings, MT 59102. Representative: Charles A. Murray, Jr., 2822 Third Ave. N., Billings, MT 59101. *Dry bulk cement* from Rapid City, SD, to Billings, MT, for 270 days. Supporting shipper: Quality Concrete Company, 2111 Fourth Ave., No., Billings, MT, 59103

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–4460 Filed 2–22–83, 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 23]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by 49 CFR Part 1161 of the Commission's Rules of Practice which provide, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

New York Docket No. T–1976 filed February 9, 1983. Applicant: A. F. D., INC., 300 Factory Ave., Syracuse, NY 13211. Representative: Herbert M. Cantor, Esq., and Benjamin D. Levine, Esq., 305 Montgomery St., Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General Commodities, as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York: Between all points in Albany, Erie, Monroe, Oneida and Onondaga Counties, NY. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–10050, filed February 8, 1983. Applicant: SECURITIES COURIER CORP., 33 Desbrosses Street, New York, NY 10013. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportion of: *General commodities:* Between New York City on the one hand, and, on the other, all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

[FR Doc. 83–4458 Filed 2–22–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 368; Sub-37]

Rail Carriers; State Intrastate Rail Rate Authority, Pub. L. 96–448 (Wyoming)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Discontinuance.

SUMMARY: Pursuant to applicant's written request, the Commission discontinues this proceeding in which the Wyoming Public Service Commission sought certification to regulate intrastate rail rates in Wyoming. Intrastate rates in Wyoming will be regulated by the Interstate Commerce Commission.

DATES: The Commission's decision is effective on February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll-free (800) 424–5403.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–4451 Filed 2–22–83, 8:45 am]

BILLING CODE 7035–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506.

1. Date: March 3–4, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134.
Program: This meeting will review applications submitted for Research Materials: Literature, Music, and Art (RT and RE) Panel, Division of Research Programs, for projects beginning after July 1, 1983.

2. Date: March 4, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 807.

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Program: This meeting will review applications submitted for the Youth Grants Program, Division of General Programs for projects beginning after June 1, 1983.

3. Date: March 10, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 807
Program: This meeting will review applications submitted for Exemplary Projects, Division of Education, for projects beginning after June 1, 1983.

4. Date: March 11, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134.
Program: This meeting will review applications submitted to the Research Materials Program (Research Tools and Editions) in the field of history and social studies Division of Research Programs, for projects beginning after July 1, 1983.

5. Date: March 14, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 807.
Program: This meeting will review applications submitted to the Elementary and Secondary Education Program, for projects beginning after July 1, 1983.

6. Date: March 17–18, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 807.
Program: This meeting will review applications submitted for the Youth Projects Program, Division of General Programs, for projects beginning after June 1, 1983.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Futher information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 724–0367.

Stephen J. McCleary
Advisory Committee, Management Officer.

[FR Doc. 83–4524 Filed 2–22–83; 8:45 am]
BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published January 18, 1983 (48 FR 2237). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the March 1983 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Systematic Evaluation Program (SEP)*, February 23, 1983, Washington, DC. The Subcommittee will review the Yankee Rowe systematic evaluation program.

**Clinch River Breeder Reactor (CRBR)*, February 23 and 24, 1983, Washington, DC—Cancelled.

**CRBR Working Group on Systems Integration and Instrumentation and Control*, February 24, 1983, Washington, DC. The Subcommittee will continue to review the CRBR instrumentation and control and plant protection systems and the CRBR reliability program.

**Catawba*, March 4 and 5, 1983, Charlotte, NC. The Subcommittee will visit the plant and review the application by the Duke Power Company for an operating license.

**Qualification Program for Safety-Related Equipment*, March 8, 1983, Washington, DC. The Subcommittee will discuss "Service Qualification of Equipment for Operating Reactors," Status USI A–46, the NRC research program for plant aging, and the use of seismic experience data for seismic qualification of certain types of equipment.

**Reliability and Probabilistic Assessment*, March 9, 1983, Washington, DC. The Subcommittee will discuss the recent NRC study on "Precursors to Potential Severe Core Damage Accidents: 1969–1979—A Status Report," NUREG/CR–2497, and the peer review of this report.

**CRBR Working Group on Structures and Materials*, March 16 and 17, 1983, Washington, DC. The Subcommittee will continue the review of the CRBR construction permit application.

**Waste Management*, March 18 and 19, 1983 (Tentative), Washington, DC. The Subcommittee will review the Department of Energy's proposed general guidelines for recommendation of high-level waste (HLW) repository sites.

Groupe Permanent/ACRS Meeting, March 24, and 25, 1983, Washington, DC. The Groupe Permanent and the ACRS will exchange views regarding existing and proposed regulatory policies, practices and criteria for the regulation of nuclear facilities.

**Joint Metal Components and Combination of Dynamic Loads*, March 30, 1983, Washington, DC. The Subcommittee will review the reevaluation of double-ended guillotine pipe break design requirements for Westinghouse PWR plants.

**Clinch River Breeder Reactor (CRBR)*, March 31, 1983, (Tentative), Washington, DC. The Subcommittee will continue the review of the CRBR construction permit application.

**Seabrook 1*, March 31 and April 1, 1983, Location to be determined. The Subcommittee will visit the plant and review the application of the Public Service Company of New Hampshire for an operating license.

**Metal Components Working Group*, Date to be determined (March, Tentative), Washington, DC. The Subcommittee will review the status of

the NRC pressurized thermal shock program.

Reactor Operations, April 6, 1983, Washington, DC. The Subcommittee will review the draft final rules, "Immediate Notification Requirements," 10 CFR 50.72, and the revised "Licensee Event Report (LER) Rule," 10 CFR 50.73.

Class-9 Accidents, April 21, 1983 (Tentative), Washington, DC. The Subcommittee will review "Nuclear Power Plant Severe Accident Research Plan," NUREG–0900.

Waste Management, April 21–23, 1983 (Tentative), Washington, DC. The Subcommittee will review and comment on the Department of Energy's Site Characterization Report for the Basalt Waste Isolation Project (Hanford).

Reactor Radiological Effects, April 29, 1983 (Tentative), Washington, DC. The Subcommittee will review the Shippingport Reactor decommissioning.

GE Water Reactors/Westinghouse Water Reactors/Safeguards and Security, Date to be determined (April, Tentative), Washington, DC. The Subcommittee will discuss applications for Final Design Approvals (FDA) by General Electric and preliminary design information for the Westinghouse advanced pressurized water reactor (APWR).

Systematic Evaluation Program (SEP), Date to be determined (April, Tentative), Washington, DC. The Subcommittee will review the Haddam Neck Reactor Systematic evaluation program.

Plant Features Important to Safety, May 11, 1983, Washington, DC. The Subcommittee will discuss program plans on Equipment Qualifications and Classification Systems dealing with both mechanical and electrical components. New initiatives in the quality assurance area will be explored. Items such as a "graded QA" system are of interest.

Midland Plant Units 1 and 2, Date to be determined, Washington, DC. The Subcommittee will review Consumers Power Company's (CPCo) plan for an audit of plant quality at Midland Plant Units 1 and 2. In addition, representatives of CPCo will report on design and construction problems at Midland, their disposition, and the overall effectiveness of the effect to assure appropriate plant quality. The Committee will be briefed on CPCo's Systems Completion Plan.

Human Factors, Date to be determined, Washington, DC. The Subcommittee will meet: (a) To review the question of what qualifications would be desirable for members of a nuclear power plant operating staff; (b) to review the adequacy of the application of the generic safety issue prioritization methodology to human factors related safety issues; (c) to review proposed human factors related modifications to the "General Design Criteria for Nuclear Power Plants," 10 CFR 50 Appendix A; (d) to discuss Dr. G. Salvendy's proposal for training human factors engineers relative to the safe design and operation of nuclear power plants; and (e) to be briefed by the Office of Inspection and Enforcement on recent activities at the NRC's emergency response center.

Metal Components, Date to be determined, Washington, DC. The Subcommittee will discuss the NRC action plant on integrity of bolts.

ACRS Full Committee Meeting

March 10–12, 1983: Items are *tentatively* scheduled.

A. *Clinch River Breeder Reactor (CRBR)*—Proposed facility design (partial review).

B. *Yankee (Rowe) Nuclear Power Plant*—SEP Evaluation (Integrated Reliability Assessment).

C. *Catawba Nuclear Station Units 1 and 2*—Operating License.

D. *Prioritization of Generic Issues*—Application of proposed methodology to specific issues.

E. *Hydraulic Control Unit Line Integrity*—Proposed ACRS comments regarding the integrity of control rod drive hydraulic control lines.

F. *Regulatory Reform*—Discussion of proposed changes in legislation applicable to nuclear power plant licensing and proposed regionalization of NRC staff licensing activities.

G. *Sizewell Technical Exchange*—Briefing by the NRC staff regarding safety-related modifications of the Sizewell Nuclear Plant.

H. *ACRS Subcommittee Activities*—Reports regarding safety-related activities including proposed changes in ECCS evaluation models, decay heat removal systems, and consideration of class-9 accidents.

April 14–16, 1983—Agenda to be announced.

May 12–14, 1983—Agenda to be announced.

Dated: February 17, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–4507 Filed 2–22–83; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Qualification Program for Safety-Related Equipment; Meeting

The ACRS Subcommittee on Qualification program for Safety-Related Equipment will hold a meeting on March 8, 1983, Room 1046, 1717 H Street, NW, Washington, D.C. The Subcommittee will discuss the Status USI A–46, RES Program for plant aging, and using seismic experience data for seismic qualification of certain types of equipment.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday, March 8, 1983—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with respresentatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority

for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: February 16, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-4506 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 will be meeting on March 17, 1983, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania 17101. The meeting will be open for public observation.

At this meeting, the Panel will discuss TMI-2 cleanup activities. Specifically addressed will be the State of Pennsylvania's participation in a regional low level waste compact.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492-7466.

Dated: February 16, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-4498 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for import licenses. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

The table below lists the new major import applications.

Dated this 10th day of February at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, dated of application, date received, application No	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
New York Nuclear Corporation, Feb. 4, 1983, Feb. 8, 1983, ISNM83003	5 pct. enriched uranium	5,000,000	250,000	Use as fuel in various U.S. Nuclear Power Reactors...	From various countries

[FR Doc. 83-4499 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-373 and 50-374]

Commonwealth Edison Co., La Salle County Station, Units 1 and 2; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision which denied the petition and amendment under 10 CFR 2.206 filed by the Attorney General of Illinois, and the petitions filed by the Illinois Friends of the Earth and Citizens Against Nuclear Power. These petitions are related to La Salle County Station Units 1 and 2. In an initial Director's Decision, issued July 19, 1982, the petitions of the Attorney General of Illinois and Illinois Friends of the Earth were denied as they pertained to La Salle Unit 1. For La Salle Unit 2, a decision was deferred pending completion of the NRC staff investigations. The final Director's Decision deals with those deferred items as well as the petition of the Citizens Against Nuclear Power. In its petition, the Citizens Against Nuclear Power reiterated the alleged construction deficiencies cited in the petitions filed by the Attorney General of Illinois and Illinois Friends of the Earth; cited alleged deficiencies in the work of the Zack Company, a subcontractor on heating, ventilating and air conditioning systems; and questioned the competency of the Morrison Construction Company project management.

The reasons for the above conclusions are fully described in the "Director's Decision Under 10 CFR 2.206" dated February 9, 1983, which is available for public inspection in the Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C. 20555, and at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348. A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland, this 9th day of February 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-4500 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operation License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 93 to Facility Operating License No. DPR-57, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which added a license condition and revised Technical Specifications (TSs) for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

The amendment revises the license for

Hatch Unit No. 1 to: (1) Add a condition concerning submittal of plans for inspection of the Recirculation and Reactor Heat Removal Piping Systems during the next refueling outage for Commission review and approval, and (2) change the TSs to augment the leak detection requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 10, 1983, (2) Amendment No. 93 to License No. DPR–57, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 11th day of February 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83–4501 Filed 2–22–83: 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–309]

Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station); Issuance of Director's Decision Under 10 CFR 2.206 (DD–83–3)

By petition dated October 20, 1982, Safe Power for Maine, Emil G. Garrett, John B. Green, and John Jerabek, requested that the Director of Nuclear Reactor Regulation revoke, suspend or modify the license of the Maine Yankee Atomic Power Company to operate the Maine Yankee Atomic Power Station pending demonstration of adequate financial resources to continue operation and to provide for eventual decommissioning. Notice was published in the **Federal Register** on December 8, 1982 (47 FR 55353) that the petition was being considered under 10 CFR 2.206 of the Commission's regulations. For the reasons set forth in a "Director's Decision under 10 CFR 2.206" regarding this matter, the petition has been denied.

Copies of the "Director's Decision under 10 CFR 2.206" are available for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the local public document room at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of the decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), this decision will constitute the Commission's final action 25 days after issuance, unless the Commission on its own motion institutes review of the decision within that time.

Dated at Bethesda, Maryland, this 14th day of February, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83–4502 Filed 2–22–83: 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–387]

Pennsylvania Power & Light Co. and Allegheny Electric Cooperative, Inc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. NPF–14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc., for Susquehanna Steam Electric Station, Unit 1 (the facility) located in Luzerne County, Pennsylvania. This amendment grants changes to Technical Specifications to [redacted]re Zone 1–2B and delete Fire Zone 1–6A from the listing of areas where spray and sprinkler systems shall be operable. This amendment is effective as of the date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for the amendment dated October 19, 1982 (PLA–1351); (2) Amendment No. 10 to License NPF–14 dated February 10, 1983; and (3) the Commission's evaluation dated February 10, 1983. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. 20555, and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 10th day of February 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83–4503 Filed 2–22–83. 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–244]

R. E. Ginna Nuclear Power Plant; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Provisional Operating License No. DPR–18, issued to Rochester Gas and Electric Corporation (the licensee), which revised the Technical Specifications for operation of the R. E. Ginna Plant (facility) located in Wayne County, New York. This amendment is effective as of its date of issuance.

The amendment authorizes technical specification changes to require annual audits of the Emergency and Security Plans.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the

Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment notarized December 1, 1982, and (2) Amendment No. 56 to License No. DPR–18, including the Commission's letter of transmittal which contains its evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A single copy of item (2) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 9th day of February 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83–4504 Filed 2–22–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–395]

Virgil C. Summer Nuclear Station, Unit No. 1; Issuance of Amendment to Facility Operating License No. NPF–12

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. NPF–12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees) for the Virgil C. Summer Nuclear Station, Unit No. 1 (the facility) located in Fairfield County, South Carolina. The amendment authorizes a change in the Technical Specifications related to the engineered safety feature actuation system instrumentation. The amendment is effective as of its date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amemded (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) South Carolina Electric & Gas Company letter, dated January 20, 1983, (2) Amendment No. 10 to Facility Operating License No. NPF–12 with Appendix A Technical Specifications page change, and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180. A copy of Amendment No. 10 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 4th day of February 1983

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83–4505 Filed 2–22–83; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Pay Rate Reports.
(2) Form(s) submitted: UI–1e, UI–1g.
(3) Type of request: Extension.
(4) Frequency of use: On occasion.
(5) Respondents: Railroad Employees and Employers.
(6) Annual responses: 2,600.
(7) Annual reporting hours: 367.
(8) Collection description: Under the RUIA, the daily benefit rate for unemployment and sickness benefits depends on the employee's last daily rate of pay. The reports obtain information from the employee and verification from the employer of the claimed rate of pay for use in determining whether an increase in the benefit rate is due.

(1) Collection title: Employer Service and Compensation.
(2) Form(s) submitted: UI–41, UI–41a.
(3) Type of request: Extension.
(4) Frequency of use: On occasion.
(5) Respondents: Railroad Employers.
(6) Annual responses: 25,000.
(7) Annual reporting hours: 1,833.
(8) Collection description: The reports obtain the employee's service and compensation for a period subsequent to those already on file and the employee's base year compensation. The information is used to determine entitlement to and the amount of benefits payable.

(1) Collection title: Claim For Credit For Military Service (RUI Act).
(2) Form(s) submitted: UI–44.
(3) Type of request: Extension.
(4) Frequency of use: On occasion.
(5) Respondents: Railroad Employers.
(6) Annual responses: 300.
(7) Annual reporting hours: 25.
(8) Collection description: Military service can be used under certain conditions for entitlement to an extended or accelerated unemployment benefit period provided for under section 2(c) of the Railroad Unemployment Insurance Act. The form will obtain information about the applicant's claimed military service.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 83–4430 Filed 2–22–83; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Executive Committee of the Government-Business Forum on Small Business Capital Formation; Meeting

The Small Business Investment Incentive Act of 1980 (Pub. L. No. 96-477, October 21, 1980) requires the Securities and Exchange Commission to conduct an annual Government-Business Forum to review the current status of problems and programs relating to small business capital formation. The Executive Committee, comprised of appointees from several federal agencies and private sector organizations, will meet on February 25, 1983, at 10:00 a.m. for the purpose of planning the Forum which is scheduled for the fall of 1983. The meeting is to be held at the Securities and Exchange Commission, Room 3059, 450 5th Street, NW., Washington, D.C. 20549, and will be open to the public.

FOR FURTHER INFORMATION CONTACT: H. Steven Holtzman at (202) 272-7617.

Shirley E. Hollis,

Assistant Secretary.

February 15, 1983.

[FR Doc. 83-4448 Filed 2-22-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19500; File No. SR-CBOE-82-20]

Self-Regulatory Organization; Proposed Rule Change by Chicago Board Options Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on February 8, 1983, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Rule 24.11 Margins

(a) Unchanged.

(b) For each put or call index option contract carried in a short position in the account, margin must be deposited and maintained equal to at least 100% of the current market value of the contract plus 10% of the current index value times the index multiplier.

In each case, the amount shall be decreased by any excess of the aggregate exercise price of the option over the current index value as multiplied by the index multiplier in the case of a call, or any excess of the current index value as multiplied by the index multiplier over the aggregate exercise price of the option in the case of a put; provided, however, that the minimum margin required on each such option contract shall not be less than the option market value plus 2% of the current index value times the index multiplier.

(c) Unchanged.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organizations Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the amendment is to conform the margin requirements for index options with the requirements for debt options. The proposal provides that the margin for a short put or short call may be reduced by the amount that the option is out-of-the-money, subject to a minimum of the option market value plus the product of 2% of the current index value times the index multiplier. On February 4, 1983 the CBOE 100 current index value was approximately 147 and the minimum required margin would have been the option market value plus $294. This is similar to the premium based regulatory margin scheme for treasury options, which provides for a reduction for short option positions by the out-of-the-money amount, subject to a premium plus a preset minimum per option.

An increase in margin for the in-the-money amount that is similar to the increase required for equity options was provided for in the initial proposal, SR-CBOE-82-20.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed amendment will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed amendment were neither solicited nor received.

The statutory basis for the proposed rules change is Section 6(b)(5) under the Securities Exchange Act of 1934 in that the rules are designed to facilitate transactions in options on stock indices.

III. Date of Effectiveness of the Proposed Rule Change and Timing for the Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section.

Copies of such filing will also be available for inspection and copying at the Principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: February 10, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4447 Filed 2-22-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19503; File No. SR-NSCC-83-2]

Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corporation

February 14, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 14 U.S.C. 78s(b)(1), notice is hereby given that on February 4, 1983, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend NSCC Rule 2, Section 3 to authorize NSCC to reconsider an application for membership subsequent to the approval of that application, but prior to the applicant commencing the use of NSCC's services. Under the proposal, NSCC would be permitted to stay the commencement of use of NSCC's services by an applicant pending reconsideration.

Specifically, NSCC could reconsider an application whenever NSCC becomes aware of a material change in the applicant's financial or operational capability that potentially could impair that applicant's ability to perform as a clearing member. If, as a result of such reconsideration, NSCC determines that the applicant no longer meets NSCC's application and membership guidelines, NSCC, under the proposal, would be able to withdraw its approval of membership or condition approval on the applicant's furnishing further assurances. *See* NSCC Rules 2, sections 3 and 15, section 3. NSCC stated in its filing that it believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act in that the proposed rule change will promote the safeguarding of funds and securities in NSCC 's control by ensuring the financial and operational capabilities of its participants.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-83-2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4445 Filed 2-22-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19497; File No. SR-PSE-83-01]

Self-Regulatory Organizations; Proposed Rule Change by Pacific Stock Exchange Inc. Relating to an Increase in Fees for Exchange Services

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 21, 1983, the Pacific Stock Exchange Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated is instituting rate increases in fees for Exchange services applicable to member organizations, members, specialists and market makers.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B),and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to offset, in part, the increased costs of supplying services provided by the Exchange. These costs include manpower, systems and utilities associated with providing marketplace services. The basis under the Act for the proposed rule change is Section 6(b)(4) permitting the rules of the Exchange to provide for the equitable allocation of reasonable dues, fees and other charges among its members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members. Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 9, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4446 Filed 2-22-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Preferred Lenders Pilot Program

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: The Small Business Administration announces the commencement of a pilot program to test the Preferred Lenders concept. This pilot program will allow the SBA to collect and analyze empirical data. Such information will further assist SBA as we proceed with the development of proposed Rules and Regulations for the Preferred Lenders Program. Lenders participating in this program will be able to guarantee a qualifying small business loan without sending the application package to SBA. They will also be expected to service and liquidate their SBA guaranteed loan portfolio on a unilateral basis to the fullest extent permitted by the Loan Guaranty Agreement. The purpose of this program is to permit small businesses to benefit from government assistance with a minimum of government involvement.

EFFECTIVE DATE: March 1, 1983.

FOR FURTHER INFORMATION CONTACT:

Dan Gibb, Chief, Financial Institutions Branch, (202) 653-6076,

or

Jim Hammersley, Financial Analyst, (202) 653-6268, Small Business Administration, 1441 L Street, NW., Room 720, Washington, D.C. 20416.

SUPPLEMENTARY INFORMATION: Section 114 of Pub. L. 96-302 (94 Stat. 838) amended Section 5(b)(7) of the Small Business Act to allow the Administrator to permit certain lenders to act on his behalf in the processing, servicing and liquidating of SBA guaranteed loans. The purpose of the program is to fully utilize the expertise of a selected group of participating lenders. By relying on the expertise of the private sector lending partners, SBA can improve its service to the small business community without increasing its staff.

Current operating procedures require lenders to submit all applications for guaranteed loans to the local District Office. The District Office reviews the work of the lenders and either approves or denies the request. In 1979, SBA began the Certified Lenders Program (CLP). In CLP, lenders are trained on the proper completion of the SBA loan package. SBA agrees that, if the application package is complete, the Agency will provide the CLP lender a decision and loan document package within three working days. SBA reviews the loan application, rather than thoroughly re-analyzing it. Under CLP, certified lenders are urged to fully utilize the unilateral authorities granted to lenders by the Guarantee Agreements (SBA Forms 750 and 1186).

The Preferred Lenders Program (PLP) is another step in the direction of increasing SBA's reliance upon the most proven of our participating lenders. PLP lenders will be able to guarantee a qualifying small business loan without sending the application package to SBA. These lenders will disburse the loan and then service it, utilizing the unilateral authorities in the loan guarantee agreement to the fullest extent possible. If the loan enters a default status, the lender normally will liquidate the business assets and collateral. Current SBA procedures permit a lender to request payment of the entire guaranteed amount if the loan is in default for 60 days. These procedures also will be applicable to PLP.

Lenders selected for PLP must have been participants in the Certified Lenders Program. They must have demonstrated a commitment to small business lending and must have an excellent relationship with the local SBA office. Formal, specific selection eligibility criteria for PLP status will be developed and implemented once the proposed, PLP "pilot" has been implemented and evaluated.

SBA is proposing a pilot program involving, at least initially, six lenders located in Region II. Four are located in New York, and two are in New Jersey. The participant banks are: Chase Manhattan Bank, Chemical Bank, Citibank, Peconic Bank (Long Island), National Community Bank of Rutherford (New Jersey), and the First National State Bank of New Jersey (Newark). These lenders will be able to issue guarantees on small business loans and will be encouraged to use the full range of PLP authorities in the loan guaranty agreement on their *entire* SBA portfolio (not for just those SBA loans approved under PLP procedures).

For this pilot program, the percentage of a PLP loan guaranteed by SBA shall not exceed seventy-five percent (75%) of the outstanding principal of the loan. In the absence of statutory authority for SBA to guaranty any loan of $100,000 or less at less than ninety percent (90%), the Preferred Lenders Program is restricted to loans of more than $100,000. The New York/New Jersey pilot will last until December 31, 1983, and then will be formally evaluated. It is possible that the PLP's pilot will be expanded to other of SBA's Regions during 1983, perhaps on a staged, quarterly basis.

A detailed, quarterly lender evaluation also will be part of the PLP pilot. Case files will be reviewed and the bank's activity rated by a team of local SBA employees. Deficiencies will be noted and recorded for review during subsequent evaluations. These evaluations will lead either to further possible refinements (and expansions) of the Preferred Lenders Program or to the termination of this effort.

(Catalog of Federal Domestic Assistance Program No. 59.012, Small Business Loans)

Dated: February 16, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-4522 Filed 2-22-83; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VI Advisory Council, located in the geographical area of the Lower Rio Grande Valley of Texas, will hold a public meeting at 2:30 p.m., on Tuesday, March 29, 1983, at the SBA District Office conference room, Harlingen, Texas, to discuss such matters as may be presented by

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members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Rodney W. Martin, District Director, U.S. Small Business Administration, 222 E. Van Buren, Suite 500, Harlingen, Texas—(512) 423–8933.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

February 16, 1983.

[FR Doc. 83–4521 Filed 2–22–83; 8:45 am]

BILLING CODE 8025–01–M

Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Helena, Montana, will hold a public meeting at 9:30 a.m. on Friday, April 1, 1983, at the Federal Office Building, 301 South Park, Room 289, Helena, Montana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John R. Cronholm, District Director, U.S. Small Business Administration, Federal Office Building, 301 South Park, Drawer 10054, Helena, Montana 59626—(406) 449–5381.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

February 16, 1983.

[FR Doc. 83–4520 Filed 2–22–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 5–83]

Series R–1985 Notes; Interest Rate

The Secretary announced on February 16, 1983, that the interest rate on the notes designated Series R–1985, described in Department Circular—Public Debt Series—No. 5–83 dated February 10, 1983, will be 9⅝ percent. Interest on the notes will be payable at the rate of 9⅝ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83–4481 Filed 2–22–83; 8:45 am]

BILLING CODE 4810–40–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 37
Wednesday, February 23, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C 552b(e)(3).

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	Items
Civil Aeronautics Board	1
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1

CIVIL AERONAUTICS BOARD

[M-374; Feb. 17, 1983]

TIME AND DATE: 9:30 a.m. (open), 2 p.m. (closed), February 24, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket 40320, Fees for Indirect Air Carriers (Air Freight Forwarders). (Memo 1702, OGC)
3. Docket 40432, *Bergt-AIA-Western-Wien Acquisition and Control Case.* Air Line Pilots Association's petition that the Board issue an order making clear that any Board approval of continued common control of Western and AIA is subject to the stipulated LPP's. (OGC)
4. Docket 34591, Essential Air Service to Hot Springs, Virginia. (Memo 189–C, BDA, OCCCA, OC)
5. Docket 37236, Danville's essential air service definition and compensation for Mid-South's provision of essential air service (Memo 446–C, BDA, OCCCA, OC)
6. Docket 34774, Rio Airways' petition for reconsideration of Order 82–5–31 selecting Metroflight, Inc. to provide essential air service at McAlester, Oklahoma, and Paris, Texas. (Memo 507–C, BDA, OCCCA)
7. Docket 41091, Certificate Application of Air Logistics of Alaska, Inc., for interstate and overseas scheduled authority. (Memo 1704, BDA)
8. Commuter carrier fitness determination of Nevada County Aviation, Inc. (Memo 1412–B, BDA)
9. Commuter carrier fitness determinations of Montauk Caribbean Airways, Inc. and Ocean Reef Airways, Inc. (BDA)
10. Commuter carrier fitness determination of Chesapeake Transport, Inc. (BDA)
11. Docket 41260, Application of Air International for an exemption from section 204.8 to enable it to retain its 401 authority through September 16, 1983 without the requirement that it file updated fitness data. (BDA)
12. Docket 41045, Application of Alaska Aeronautical Industries for certificate authority to conduct scheduled interstate transportation of persons, property and mail between certain points in Alaska. (Memo 1705, BDA)
13. Docket 40634, Application of United Air Carriers, Inc., d.b.a. Overseas National Airways for section 401 certificate. United Air Lines, Inc. Petition for Reconsideration of Order 82–9–98. (Memo 1402–B, BDA)
14. Employee Protection Program: Applications on behalf of employees of various carriers for determinations of qualifying dislocation: Docket 38885, Aeroamerica; Docket 38418, Airlift International; Docket 40201, Air New England; Docket 38570, American Airlines; Docket 38978, Braniff International Airways; Docket 38720, Continental Airlines; Docket 39700, Delta Air Lines; Docket 38586, Eastern Air Lines; Docket 39783, Mackey International Airlines; Docket 34562, Overseas National Airways; Docket 38883, Pan American World Airways; Docket 38184, Trans World Airlines; and Docket 38571, United Air Lines. (BDA, OGC, OEA)
15. Docket 40828, *Central Zone-Caracas/Maracaibo Venezuela Service Case.* Request for Instructions. (OGC)
16. Docket 40960, Intercarrier agreement on U.S.-Benelux fares covering the period April–October 1983. (BIA)
17. Docket 37294, *Priority and Nonpriority Domestic Service Mail Rates Investigation,* and Docket 37392, *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation.* (BIA)
18. Dockets 38821 and 39879, Applications of TACA International Airlines, S.A., for amendment of its foreign air carrier permit to include authority to conduct scheduled service between San Salvador and Houston, Los Angeles and San Francisco. (BIA, OGC, BALJ)
19. Docket 39018, Application of Aerolineas El Salvador, S.A., (AESA) for an amendment to its foreign air carrier permit to conduct scheduled El Salvador-Miami, Florida, passenger service. (Memo 1700, BIA, OGC, BALJ)
20. Request of OCS America Inc. for registration to operate as a foreign freight forwarder in foreign and interstate air transportation. (Memo 1699, BIA, OGC)
21. Dockets 40994, 40995, Applications of Unicorn Air, Ltd. for a certificate of public convenience and necessity authorizing scheduled interstate, overseas and foreign air transportation. (BIA, OGC, BALJ)
22. Dockets 34136 and 40490, *Chicago/Texas/Southeast Western Mexico Route Proceeding.* (Memo 169–D, BIA, OGC, BALJ)
23. Dockets 41101, 41102, 41103, 41158, 41159, Applications of American and Continental for U.S.-Argentina, U.S.-Colombia, and DFW/San Antonio-Mexico City/Acapulco-beyond Mexico certificate authority; Docket 41157—Joint application of Continental and Texas International for Houston-Mexico City/Acapulco-beyond Mexico certificate authority. (Memo 1707, BIA, OGC, BALJ)
24. Docket 41027, Application of Transamerica Airlines, Inc. for a certificate of public convenience and necessity (Back-up authority U.S.–P.R.C.). (Memo 1696, 1696–A, BIA, OGC, BALJ)
25. Docket 40586, Investigation of Courier Baggage Weight and Free Baggage Allowance. (BIA)
26. Report on Germany. (BIA)
27. Report on ECAC/Scandinavia. (BIA)
28. Report on The Netherlands. (BIA)
29. Negotiations with Netherlands-Antilles. (BIA)
30. Report on Canadian Fuel Tax. (BIA)

STATUS: 1–25 open, 26–30 closed.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–252–83 Filed 2–18–83; 3:51 pm]

BILLING CODE 6320–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, February 25, 1983.

PLACE: 2033 K Street NW., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Briefing

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–249–83 Filed 2–18–83; 3:51 pm]

BILLING CODE 6351–01–M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., February 22, 1983.

PLACE: 2033 K Street, NW., Washington, D.C., Fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Chicago Mercantile Exchange's Standard and Poor's Consumer Staple Index

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–250–83 Filed 2–18–83; 3:51 pm]

BILLING CODE 6351–01–M

4

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

TIME AND DATE: 10 a.m., March 1, 1983.

PLACE: Cash Room, Department of the Treasury (use Pennsylvania Avenue Entrance) Pennsylvania Avenue between 15th Street and East Executive Avenue, Washington, D.C. 20220.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Election of Officers
2. Money Market Deposit Accounts with unlimited transfers for those not eligible to maintain NOW accounts.
3. Accelerating the Deregulation of Rate Ceilings.
4. Simplification of Existing Time Deposit Interest Rate Regulations.

Note.—The meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the DIDC offices at the Department of the Treasury, and copies may be purchased for $5.00 a cassette by calling (202) 566–5152 or by writing to: Depository Institutions Deregulation Committee, Department of the Treasury, Room 1060 MT, Washington, D.C. 20220.

For further information about the DIDC and the March 1, 1983 meeting please call (202) 566–3734.

February 18, 1983.

Gordon Eastburn,

Acting Executive Secretary of the Committee.

[S–251–83 Filed 2–18–83; 3:51 pm]

BILLING CODE 6210–01–M

5

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From February 17th Open Meeting

February 17, 1983.

The following item has been deleted from the list of agenda items scheduled for consideration at the February 17, 1983, Open Meeting and previously listed in the Commission's Notice of February 10, 1983.

Agenda, Item No., and Subject

Video—5—*Title:* License Renewal Application, as supplemented, of WHYY, Inc. for noncommercial educational television Station WHYY–TV, Wilmington, Delaware. *Summary:* The Commission considers a "complaint" filed against WHYY–TV by the Broadcast and Communications Committee of the City Council of Wilmington, Delaware.

Issued: February 17, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–248–83 Filed 2–18–83; 2:25 pm]

BILLING CODE 6712–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:10 p.m. on Wednesday, February 16, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,568—Western Saving Fund Society of Philadelphia, Haverford, Pennsylvania

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), and (c)(9)(B)).

Dated: February 16, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–246–83 Filed 2–18–83; 2:24 pm]

BILLING CODE 6714–01–M

7

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 7347, Friday, February 18, 1983.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The Bank Board meeting previously scheduled for Wednesday, February 23, 1983 at 10 a.m. has been cancelled.

[No. 15, February 18, 1983]

[S–243–83 Filed 2–18–83; 10:55 am]

BILLING CODE 6720–01–M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 16, 1983.

TIME AND DATE: 10 a.m., Wednesday, February 23, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Allied Chemical Corporation, Docket No. WEST 79–165–M. (Issues include whether the judge properly concluded that the operator violated 30 CFR 57.9–2, dealing with correction of equipment defects affecting safety).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–247–83 Filed 2–18–83; 2:25 pm]

BILLING CODE 6735–01–M

9

[USITC SE–83–09]

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Thursday, March 3, 1983.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Petitions and complaints, if necessary:
   a. Certain cookware (Docket No. 911).
2. Investigation 701–TA–152 (Final) (Prestressed Concrete Steel Wire Strand from Brazil)—briefing and vote.
3. Investigation 731–TA–91 (Final) (Sodium Nitrate from Chile)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–244–83 Filed 2–18–83; 2:22 pm]

BILLING CODE 7020–02–M

10

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–08]

TIME AND DATE: 2:30 p.m., Monday, February 28, 1983.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Personal computers (Docket No. 910).
5. Investigation 337–TA–118 (Certain Sneakers with Fabric Uppers and Rubber Soles)—briefing and vote.
6. Investigation 701–TA–87 (Final) (Hot-Rolled Carbon Steel Plate from Brazil)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–245–83 Filed 2–22–83; 2:22 pm]

BILLING CODE 7020–02–M

11

LEGAL SERVICES CORPORATION

Orientation Meeting of the Board of Directors

TIME AND DATE: 9 a.m.–3 p.m., Friday, February 25, 1983.

PLACE: GSA Central Office Auditorium, 18th and F Streets, NW., First floor, Washington, D.C.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Briefings by staff.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Secretary of the Corporation (202) 272–4040.

Dated: February 17, 1983.

Donald P. Bogard,

President.

[S–242–83 Filed 2–18–83; 10:21 am]

BILLING CODE 6820–35–M

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Federal Register

Wednesday
February 23, 1983

Part II

Department of Housing and Urban Development

Office of the Secretary

Intergovernmental Review of HUD Programs and Activities; Proposed Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 50, 52, 570, 590, 720, 841, 870, 880, 881, 883, 885 and 891

[Docket No. R-83-1070]

Intergovernmental Review of the Department of Housing and Urban Development Programs and Activities

AGENCY: Department of Housing and Urban Development, Office of the Secretary.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the Department of Housing and Urban Development. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Mangement and Budget (OMB) Circular A-95. Under the Order, State and local elected officials, not the Federal government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATES: *Comment Closing Date:* Comments must be received on or before April 11, 1983.

ADDRESS: Interested persons should submit comments to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for inspection and copying at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Dr. June Koch, Deputy Under Secretary for Intergovernmental Relations, Room 10140, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755-6480. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between State and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A-95. The system also resulted in review of Federal programs by State and local agencies without regard to the priorities of their elected leadership. The A-95 process became highly bureaucratic, burdensome, and costly. States and localities had too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of State and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, State and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372 Intergovernmental Review of Federal Programs. The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A-95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the the President's policies concerning Federalism and regulatory relief. Under the Order, State and local elected officials will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When State and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to State and local views than Circular A-95 did. In addition, States will have the opportunity to simplify, consolidate, or substitute Federally required State plans.

Across the whole range of Federal programs and activities, the Circular A-95 created a substantial administrative burden. The Executive Order's system of consultation will significantly reduce that burden, and will open opportunities for States to reduce administrative burdens in Federal programs requiring State plans. In contrast to the A-95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected State and local officials.

OMB Guidance to States

In order to assist States as they begin their work in implementing the Order, OMB wrote on or before today to each State concerning the establishment of an official State process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in the State that transmits the result of the State review and coordination with recommendations that differ from the Federal proposal to the Department and other Federal agencies and to which the Department directs official communications (e.g., explanations of nonaccommodation) to the State under the Order. A State may have as few or as many official entities as it chooses to perform review and coordination and to conduct discussions with the Department. However, there should only be one point of contact to officially transmit recommendations for change to Federal agencies under the Order. It is up to the State whether the single point of contact plays a substantive role with respect to the State's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that States are not required to adopt an official State process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing A-95 consultation system will no longer be in effect. Other existing statutory requirements are not affected by the proposed rule. An inventory of these existing requirements will be available.

This Department and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-government parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, this Department and other Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, this Department and other Federal agencies affected by the Order have worked with OMB to make common policy decisions

and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Department's obligations and procedures in response to the views expressed by State and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public in December (47 FR 57369, December 23, 1982). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Department proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rule uses the present tense when describing the Department's obligations. For example, when § 52.7 proposed regulation says that the Secretary "provides the State with a timely explanation," the regulation means that the Secretary is obligated to do so.

Removal of Regulations Implementing OMB Circular A-95

In connection with this proposed rulemaking, the Department is proposing to remove its existing regulations implementing former OMB Circular A-95. The current Part 52 is the basic HUD regulation implementing OMB Circular A-95. Amendatory paragraphs 2 through 25 would remove references to OMB Circular A-95 contained in other HUD regulations. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A-95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983.

Section-by-Section Analysis

Section 52.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Department's internal management of its consultation with State and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Department's action. For example, it is not intended that a State or local government would have the right to sue the Department because the Department failed to explain a nonaccommodation of a State recommendation.

Section 52.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Department" means the Department of Housing and Urban Development. "Order" means Executive Order 12372. "Secretary" means the Secretary of Housing and Urban Development or an official or employee of the Department acting under a delegation of authority from the Secretary. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. An official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "State" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as the 50 States.

Several other terms appearing in the Order are not defined in this section, but are used in the regulatión in a way that makes their operational meaning clear (e.g., accommodate and explain in § 52.7).

Section 52.3 What programs and activities of the Department are subject to these regulations?

The intent of the Order is that State and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. This section provides that the Department will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let States know which of the Department's programs and activities they may choose to cover.

The attachment to this preamble contains a list of those programs and activities that the Department proposes to exclude from coverage, and of those programs and activities that the Department intends to include, under the Order. The reason for each proposed exclusion is also listed. The Department seeks comments on the proposed exclusions. After promulgation of the final rule, if the Department wants to exclude new or additional program or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, States should assume that all the Department's remaining Federal financial assistance programs will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the Department) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, State and local officials would still have an opportunity to have their views considered by the Department. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of State and local goverments. Many of the Department's program statutes have their own consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind. However, the Department is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

If at any time a State believes that any official of the Department has not made appropriate use of the official State process, the State is invited to raise its concerns directly with the Secretary.

Section 52.4 What are the Secretary's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order

12372 into the Department's regulation, emphasizing the Department's obligations under the Order. The mechanisms by which the Department will carry out many of these general obligations are developed further in other sections of the rule.

Paragraph (b)(2) means the Department is obligated to make efforts to ensure that information on proposed actions or decisions of the Department is available to the States in sufficient time to be able to exert meaningful influence on the Department's course of action. For example, the Department would make sure that the State learned of assistance announcements including decision criteria in time to make a meaningful response.

Section 52.5 How does a State choose programs to cover under the Order?

States may choose to consult with the Department through the Order concerning any of the Department's programs and activities that the Department's **Federal Register** notice on or about April 30, 1983 and subsequently lists as subject to the Order. However, these regulations do not require States to consult with the Department concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave States no discretion concerning program selection. Under the Order, each State may choose whether to use the consultation system with respect to any particular program or activity. This gives States increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a State decides that an existing consultation system is adequate, the State might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A State also might want to decline to cover a program which has only minor effects on the State and its people.

The Department emphasizes that the choice of whether to cover a particular program or activity listed in the Department's **Federal Register** notice is entirely up to each State. While the Department will be happy to discuss with States the most effective ways of carrying our consultation concerning its programs and activities, the Department will not attempt to constrain the State's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The State must notify the Secretary of the programs and activities it chooses to cover. When it first establishes its official process, the State can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform the various Federal agencies of the programs and activities of each that the State has chosen to cover. Subsequently, the State should send all program coverage information (additions, deletions, other changes) directly to the Department. This information will enable the Department's personnel who work on a particular program or activity to know which States they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a State has established a process and made its program selections known to the Department, the Department will use the State's process concerning the programs and activities selected by the State as soon as feasible. While the Department will make every effort to use the State's process, there may be situations, on individual programs or projects, where the Department may not be able to do so for a time. The Department will make determinations concerning when to begin using the State's official process on a case-by-case basis and will let the States know when it will start to use a State's official process.

Paragraph (c) provides that a State shall give the Department 45 days notice before the effective date of any changes in the programs the State chooses to cover under the Order. A State may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Department needs this "lead time" to adapt its procedures to the changed circumstances.

Section 52.6 How does the Secretary give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared by the official State process itself, but also to comments formulated by local elected officials to whom the State's consultation role has been delegated in specific instances. Section 3(a) of the Order permits States to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the State process. This means that States may choose not only which programs and activities to cover but also who within the State has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a State could delegate to a single mayor the State's consultation role with respect to a project occurring in his or her city. The State could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are afected by projects under the program. The State could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the State's consultation role is delegated functions as the official State process with respect to the program or activity. For example, the Department's efforts to accommodate the concerns expressed by the local official will be pursued directly with the official, not with the State itself.

The local official to whom the State's consultation role had been delegated would not send his or her comment directly to the Department. Rather, the official would send the comment to the Department through the State single point of contact. The Department would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Department would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the State single point of contact would alert the Department to the fact that the local official's comments should be dealt with under the provisions of the Order and would make unnecessary a separate communication from the State to the Department informing the Department that the comment was an official comment of the State.

Paragraph (b) states that, as a general rule, States choosing to cover a particular program or activity will have 30 days to comment on a proposed action or decision (45 days in the case of interstate situations) before the Department commits itself to a given course of action. The Department, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a

grant decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring States a meaningful opportunity to influence decisions by the Department, the Department has provided in paragraph (c) that it may establish requirements for applicants to submit copies of their applications to the State. The requirements may be set forth in nonregulatory program specific announcements.

Paragraph (d) makes an important point with respect to the way that communications between States and the Department would work. Under the Order, a State may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Department and the official State process flow efficiently, the Department strongly encourages States to establish a "single point of contact" for State communications with Federal agencies. Channeling communications from the States to Federal agencies and from agencies back to the States through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Department to know which communications to treat as official under the provisions of the Order. The Department needs a means of separating the letters from State and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Department to make this necessary administrative distinction.

In the absence of a State process, or with respect to a program that a State has not selected for coverage, the Department will work with the State, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that States send to the Department. However, the Department would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Ofter, the Department is required to make a decision based on certain statutorily established factors. In other cases, the Department, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Department would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the Department's decisions, comments must be relevant to the factors on which the Department bases its decisions. For example, if a Department's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the Department could not accommodate a State comment addressing costs during the technical review.

Second, States can assist the Department's implementation of the Order by clearly specifying the magnitude of the State's concerns. Often, it may be difficult for the Department to tell whether a State is firmly recommending a given course of action, has a mild preference for, or reservation about, the action, or is simply seeking clarification of the Department's position. For example, if a State wants the Department to recognize the State's priorities, or deny a financial assistance application, it would be very helpful if the State identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate State concerns. The Department's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the States.

Third, the Department may not be in a good positions to accommodate State and local concerns unless the State speaks with one voice in its comments. The Department recognizes that different State and local officials and agencies may not always agree among themselves concerning the course of action the Department should follow. To avoid the Department's having to seek clarification concerning which sets of views the State wants the Department to accommodate. The process will work much better if the Department receives a single set of comments.

Section 52.7 How does the Secretary make efforts to accommodate State and local concerns?

Paragraph (a) provides that when a State comments to the Department under the Order, the Department has three choices. The Department can accept the State's comments (i.e., do as the State recommends). Second, it can reach a mutually agreeable solution with the State. This solution can differ from the original State position on the matter. Third, if the Department cannot accept the State's comments or reach a mutually agreeable solution, the Department is obligated to give the State a timely, simple explanation of the Department's reasons for not doing so. While the Department is not required to accept the State's comments or to begin discussions toward another solution, the Department does have an obligation to provide a simple explanation of its decision.

Normally, the nonaccommodation explanation could take any form which adequately communicates the Department's reasons for its decision to the State. A telephone call. a meeting, or a letter would perform this function. The Department had the discretion to choose the most appropriate mode of communicating the nonaccommodation explanation in each case. The nonaccommodation explanation is made by a designee of the Secretary.

There is one exception to the Department's discretion to choose the mode of communicating the nonaccommodation explanation. As paragraph (a)(3)(ii) provided, the Governor of the State may request, either in advance of the time the nonaccommodation explanation is made or after it is communicated to the single point of contact, that a nonaccommodation explanation be made in writing. When it receives such a request from a Governor, the Department's nonaccommodation explanation will be made in a letter.

Paragraph (a)(3)(iii) explains the role of the single point of contact in receiving nonaccommodation explanations from the Department. The Department will direct all nonaccommodation explanations to the single point of contact in each State that has a single point of contact. This is true even when accommodation discussions have occurred between the Department and another party in the State.

Paragraph (b) concerns safeguards to ensure that the interests of States are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that the Department will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit States to respond to the Department in cases of nonaccommodation before the Department has irrevocably carried out the decision. In a case in which the Department has provided a verbal explanation of a decison to the single point of contact, and the Governor

subsequently has requested a written nonaccommodation explanation, the ten-day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which the Department cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Department to wait ten days before implementing its decision. If the Department cannot observe the waiting period, the Secretary or a designee of the Secretary at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Department implements the decision. The nonaccommodation explanation will include the Department's reasons for determining that the ten-day waiting period is not feasible.

Section 52.8 What are the Secretary's obligations in interstate situations?

In some cases, action taken by the Department in Federal financial assistance programs may have an impact on interstate areas. In these situations, the Department has certain additional obligations. First, the Department must identify its Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, the Department must, as provided in paragraph (b), notify the potentially affected States, whether or not they have established an official State process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Department must provide the affected States an opportunity for comment of at least 45 days before the Department commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for States to coordinate among themselves before providing views to the Department.

The Department, obviously, cannot require States to coordinate with each other or proposed Federal assistance having an impact on an interstate area. However, the Department strongly encourages each effected State to share its comments with, and obtain the views of, other affected States, using the other State's single point of contact, if there is one, or an appropriate State official if their is not a single point of contact. The Department encourages States to reconcile differences when they exit, so that the States can present the Department with a unified position. If the affected States provide the Department with conflicting recommendations, the Department will, with respect to States that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 52.7.

Section 52.9 How may a State simplify, consolidate, or substitute State plans?

The Department has reserved this section because it currently has no programs that require the submission of State plans.

Section 52.10 May the Secretary waive any provisions of these regulations?

The section allows the Secretary to waive any provision in these regulations for good cause such as an emergency. The Department expects to use this provision sparingly.

National Environmental Policy Act

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

Executive Order 12291

This proposed rule would not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Semiannual Agenda

This rule was listed at 47 FR 48435 as Item H–124–82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b) (Regulatory Flexibility Act), the undersigned certifies that this rule would not have a significant economic impact on a substantial number of small entities, since the greater flexibility afforded to States and localities to develop their own review procedures and the greater responsiveness to the concerns of State and local officials, under the Order should enure alike to the benefit of both large and small governmental jurisdictions.

Paperwork Reduction Act

This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance program numbers are: 14.146, 14.156, 14.207, 14.218, 14.221 and 14.229.

List of Subjects

24 CFR Part 50

Environmental impact statements.

24 CFR Part 52

Intergovernmental relations.

24 CFR Part 570

Community development block grants, Grant programs: housing and community development, Loan programs: housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

24 CFR Part 590

Government property, Homesteading, Housing, Intergovernmental relations, Loan programs: housing and community development.

24 CFR Part 720

Grant programs: housing and community development, Loan programs: housing and community development, New communities, Technical assistance, Securities, Community development, Housing.

24 CFR Part 841

Loan programs: housing and community development, Public housing, Prototype costs, Cooperative agreements, Turnkey.

24 CFR Part 870

Public housing.

24 CFR Part 880

Grant programs: housing and community development, Rent subsidies, Low and moderate income housing.

24 CFR Part 881

Grant programs: housing and community development, Rent subsidies, Low and moderate income housing.

24 CFR Part 883

Grant programs: housing and community development, Rent subsidies, New construction and substantial rehabilitation.

24 CFR Part 885

Aged, Grant programs: housing and community development, Handicapped, Loan programs: housing and community development, Low and moderate income housing.

24 CFR Part 891

Grant programs: housing and community development, Intergovernmental relations, Housing.

Accordingly, the Department proposes to amend Title 24 of the Code of Federal Regulations as follows:

1. By revising Part 52 to read as follows:

PART 52—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS AND ACTIVITIES

Sec.

52.1 What is the purpose of these regulations?
52.2 What definitions apply to these regulations?
52.3 What programs and activities of the Department are subject to these regulations?
52.4 What are the Secretary's general responsibilities under the Order?
52.5 What procedures apply to a State's choice of programs under the Order?
52.6 How does the Secretary give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?
52.7 How does the Secretary make efforts to accommodate State and local concerns?
52.8 What are the Secretary's obligations in interstate situations?
52.9 [Reserved]
52.10 May the Secretary waive any provision of these regulations?

Authority: Executive Order 12372 (July 14, 1982; 47 FR 30959); sec. 401(b), Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 52.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of the Department. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Department or its officers.

§ 52.2 What definitions apply to these regulations?

"Department" means the U.S. Department of Housing and Urban Development.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Secretary" means the Secretary of the U.S. Department of Housing and Urban Development or an official or employee of the Department acting for the Secretary under a delegation of authority.

"State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 52.3 What programs and activities of the Department are subject to these regulations?

The Secretary publishes in the Federal Register a list of the Department's programs and activities that are subject to the Order and these regulations.

§ 52.4 What are the Secretary's general responsibilities under the Order?

(a) The Secretary provides opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance from the Department.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal development, the Secretary, to the extent permitted by law:

(1) Uses the State process to determine official views of State and local elected officals;

(2) Communicates with State and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the State process;

(4) Seeks the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(5) Supports State and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 52.5 What procedures apply to a State's choice of programs under the Order?

(a) Each State that adopts a process under the Order notifies the Secretary of those Departmental programs identified through the provisions of § 52.3 that the State chooses to cover under the Order.

(b) The Secretary uses a State's process under the Order as soon as feasible, depending on individual programs and projects, after the State notifies the Secretary of its program choices.

(c) A State gives the Secretary 45 days notice of any changes in the programs the State chooses to cover under the Order.

§ 52.6 How does the Secretary give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a State pursuant to an official process it has established under the Order, including comments where the State has delegated to local elected officials the review, coordination and communication with the Department.

(b) Except in unusual circumstances, the Secretary gives States 30 days to comment on any proposed Federal financial assistance (see § 52.8 for comment periods pertaining to interstate situations).

(c) Subject to paragraph (b) of this section, the Secretary may establish

requirements for applicants to submit copies of their application to the States.

(d) The Secretary responds as provided in the Order to all comments from a State that are provided through a State office or official that acts as a single point of contact under the Order between the State and all Federal agencies.

§ 52.7 How does the Secretary make efforts to accommodate State and local concerns?

(a) If a State provides comments to the Department in accordance with § 52.6(d), the Secretary—

(1) Accepts the State's comments;

(2) Reaches a mutually agreeable solution with the State; or

(3)(i) Provides the State with a timely explanation of the basis for the Department's decision.

(ii) If requested by the Governor, the Secretary provides the explanation in writing.

(iii) The Secretary provides any explanation under this paragraph to the office or official that acts as a single point of contact.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the State that:

(1) The Department will not implement its decision for ten days after the State receives the explanation; or

(2) The Secretary has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 52.8 What are the Secretary's obligations in interstate situations?

The Secretary is responsible for:

(a) Identifying proposed Federal financial assistance that has an impact on interstate areas;

(b) Notifying the affected States, including States that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected States an opportunity of at least 45 days to comment.

§ 52.9 [Reserved]

§ 52.10 May the Secretary waive any provision of these regulations?

Upon determination of good cause, the Secretary may waive any provision of this part. Every waiver is in writing and sets forth the facts and reasons upon which the Secretary relies in waiving the provision.

PART 50—PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

§ 50.21 [Amended]

2. In § 50.21, by removing and reserving paragraph (l).

3. In § 50.31, by revising paragraph (g)(1) and (2) to read as follows:

§ 50.31 Environmental impact statement.

* * * * *

(g) * * *

(1) *Draft EIS.* Stage one involves the preparation of a Draft EIS and the summary sheet. The Draft is sent to the EPA (5) copies, circulated to federal agencies whose areas of jurisdiction by law or special expertise are involved, any single point of contact designated by a State participating in intergovernmental review of the particular program involved under Executive Order 12372 and Part 52 of this title, the chief executive and planning agency of the appropriate state and local (county, city or town) government, appropriate local agencies, groups/individuals with special interest in the proposed action, the applicant and made available to the public. Two (2) copies of the Draft Statement and the distribution list shall also be sent to HUD Headquarters Library, Washington, D.C. 20410.

(2) *Final EIS.* The second stage is the Final EIS, which takes into account the response to the comments received as a result of circulating the Draft, and the revised summary sheet. The Final Statement which must include the comments received and HUD's response, is filed with the EPA (5 copies) sent to Federal Agencies and organizations which commented on the Draft, any single point of contact designated by a State participating in intergovernmental review of the particular program involved under Executive Order 12372 and Part 52 of this title, the chief executive and planning agency of the appropriate State and local government, appropriate local agencies, the applicant, and made available to the public. Two (2) copies of the Final Statement shall also be sent to the Assistant Secretary for CPD and one (1) copy shall be sent to HUD Headquarters Library, Washington, D.C. 20410. The Final Statement or summary shall accompany the recommendation of or report on the proposed action through HUD's review and decisionmaking process.

* * * * *

4. In § 50.35, by revising paragraph (b)(2) to read as follows:

§ 50.35 Public participation.

* * * * *

(b) * * *

(2) *Publication and dissemination.* Copies of these Notices shall be sent to the local news media, individuals and groups known to be interested in the proposed project, any single point of contact designated by a State participating in intergovernmental review of the particular program involved under Executive Order 12372 and Part 52 of this title, local, State, and Federal agencies, the appropriate Regional Office of EPA, and others believed appropriate. Actions which result in a Finding of No Significant Impact normally require only notification to the appropriate single point of contact, if any, and to an appropriate State or local agency. All other Notices shall be published at least once in a newspaper of general circulation in the affected community. If such newspaper is of a type specializing in the publication of legal, real estate, commercial or other notices, listings and advertisements and is not of a type subscribed to and read by the general public as a source of news of general public interest, then such notice shall also be published at least once in a newspaper which is a source of news of general public interest or shall be in such other manner deemed most likely to inform residents of the affected community.

* * * * *

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

§§ 570.310, 570.312, 570.400, 570.403 [Amended]

5. In Part 570, by removing and reserving the following: §§ 570.310, 570.312(g), 570.400(d), and 570.403(c)(5).

PART 590—URBAN HOMESTEADING

§ 590.11 [Amended]

6. In § 590.11, by removing and reserving paragraph (c).

PART 720—FINANCING PUBLIC AND PRIVATE NEW COMMUNITY DEVELOPMENT

§ 720.43 [Reserved]

7. In Part 720, by removing and reserving § 720.43.

PART 841—PUBLIC HOUSING DEVELOPMENT

8. In § 841.405, by revising paragraph (b) to read as follows:

§ 841.405 Technical processing and approval.

* * * * *

(b) *Technical Processing.* Upon determining that a proposal is acceptable for technical processing, the field office shall:

(1) Send a notification to the chief executive officer (or designee) of the unit of general local government pursuant to Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439), inviting a response within thirty (30) calendar days from the date of the field office transmittal letter;

(2) Evaluate the proposal to determine compliance with all program requirements and, if applicable, the comments received from the unit of general local government;

(3) Complete an environmental review in accordance with the requirements of the National Environmental Policy Act of 1969; and

(4) Determine the appraised value of the site or property.

* * * * *

PART 870—PHA-OWNED PUBLIC HOUSING PROJECTS—DEMOLITION OF BUILDINGS OR DISPOSITION OF REAL PROPERTY

§ 870.9 [Reserved]

9. In Part 870, removing and reserving § 870.9.

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

10. In § 880.302, by revising paragraph (c) to read as follows:

§ 880.302 Procedures for resumption of processing of proposals and preapproved site requests.

* * * * *

(c) *Section 213 Clearance.* Upon receipt of notification from an owner that he/she wishes processing of a proposal to be resumed, the unit of general local government will be notified under Part 891 of the resumption of processing and asked for comments (1) if the proposal is more than 6 months old or (2) if there has been a substantive change in the local Housing Assistance Plan.

* * * * *

11. In § 880.304 by revising paragraph (e) to read as follows:

§ 880.304 Publication of NOFA and receipt of proposals.

* * * * *

(e) Proposals will be accepted by the field office beginning on the published opening date for submission and may be opened for review immediately. The contents will remain confidential until sent by the field office to the local government for review or, in the case of projects for elderly families, until the deadline date has passed, whichever is earlier.

* * * * *

12. In § 880.306, by revising paragraph (c) to read as follows:

§ 880.306 Preliminary evaluation and technical processing

* * * * *

(c) *Technical Processing.* (1) In accordance with the procedures in 24 CFR Part 891, a description of each proposal placed in technical processing will be sent to the unit of general local government for review and comment.

(2) Technical processing in the field office will include a review of the rents (see paragraph (c)(3) of this section), site, design, experience of the owner and other participants, local government comments, extent of displacement and feasibility of relocation, feasibility of the project as a whole (including financing and marketability) and compliance with all applicable standards and requirements, including a HUD review of consistency with the Housing Assistnace Plan, or for determination of need in areas without a Housing Assistance Plan, pursuant to 24 CFR Part 891. Any deficiencies found will be treated in the same manner as deficiencies found during preliminary evaluation (see paragraph (a)(4) of this section).

* * * * *

13. In § 880.307, by revising paragraphs (b) and (d) to read as follow:

§ 880.307 Selection of proposals and use of remaining or additional contract authority.

* * * * *

(b) If the available contract authority is insufficient to select all proposals found approvable in technical processing, all approvable proposals will be ranked by household type (elderly and non-elderly). If the NOFA indicated that a specific portion of the contract authority may be utilized only for small projects, any proposals for such projects shall be ranked separately and not in competition with other nonelderly proposals. The ranking factors are: rent; site (including minority concentration consideration); design; suitability and potential of property for rehabilitation and adequacy of rehabilitation proposed; previous experience of the owner and other participants in development, marketing and management (particularly of non-elderly family housing); comments from the local government and responsiveness to preferences and priorities of any applicable Housing Assistance Plan and/or Areawide Housing Opportunities Plan; extent of displacement and feasibility of relocation; and feasibility of the project as a whole (including likelihood of financing and marketability). Within the ranking for non-elderly family proposals, preference points will be given to small projects (where no specific amount of contract authority is made available in the NOFA) and partially-assisted projects. Any deviation in the ranking procedures as set forth in this paragraph and the program handbook must be approved by the Assistant Secretary for Housing and included in the developer's packet.

* * * * *

(d) Units of general local government notified under § 880.306(c) will be notified of the field office's decision regarding the proposals within their jurisdiction.

* * * * *

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

14. In § 881.302, by revising paragraph (c) to read as follows.

§ 881.302 Procedures for resumption of processing of proposals and preapproved site requests.

* * * * *

(c) *Section 213 clearance.* Upon receipt of notification from an owner that he/she wishes processing of a proposal to be resumed, the unit of general local government will be notified under Part 891 of the resumption of processing and asked for comments (1) if the proposal is more than 6 months old or (2) if there has been a substantive change in the local Housing Assistance Plan.

* * * * *

15. In § 881.304, by revising paragraph (f) to read as follows:

§ 881.304 Publication of NOFA and receipt of proposals.

* * * * *

(f) Proposals will be accepted by the field office beginning on the published opening date for submission and may be opened for review immediately. The contents will remain confidential until sent by the field office to the local government for review or, in the case of projects for elderly families, until the deadline date has passed, whichever is earlier.

16. In § 881.306, by revising paragraph (c) to read as follows:

§ 881.306 Preliminary evaluation and technical processing.

* * * * *

(c) *Technical processing.* (1) In accordance with the procedures in 24 CFR, Part 891, a description of each proposal placed in technical processing will be sent to the unit of general local government for review and comment.

(2) Technical processing in the field office will include a review of the rents (see paragraph (c)(3) of this section), site, physical condition of the property, its suitability for rehabilitation and whether or not the work proposed is adequate and can be feasibly accomplished; overall design; experience of the owner and other participation, and local government comments, extent of displacement feasibility of relocation, feasibility of the project as a whole (including financing and marketability) and compliance with all applicable standards and requirements, including a HUD review for consistency with the Housing Assistance Plan, or for determination of need in areas without a Housing Assistance Plan, pursuant to 24 CFR, Part 891. Any deficiencies found will be treated in the same manner as deficiencies found during preliminary evaluation (see paragraph (a)(4) of this section).

* * * * *

17. In § 881.307, by revising paragraphs (b) and (d) to read as follows:

§ 881.307 Selection of proposals and use of remaining or additional contract authority.

* * * * *

(b) If the available contract authority is insufficient to select all proposals found approvable in technical processing, all approvable proposals will be ranked by household type (elderly and non-elderly). If the NOFA indicated that a specific portion of the contract authority may be utilized only for small projects, any proposals for such projects shall be ranked separately and not in competition with other nonelderly proposals. the ranking factors are: rent; site (including minority concentration consideration); design; suitability and potential of property for rehabilitation and adequacy of rehabilitation proposed; previous experience of the owner and other participants in development, marketing and management (particularly of non-elderly family housing); comments from the local government and responsiveness to preferences and priorities of any applicable Housing Assistance Plan and/or Areawide Housing Opportunities Plan; extent of displacement and feasibility or relocation; and feasibility of the project as a whole (including likelihood of financing and marketability). Within the ranking for non-elderly family proposals, preference points will be given to small projects (where no specific amount of contract authority is made available in the NOFA) and partially-assisted projects. Any deviation in the ranking procedures as set forth in this paragraph and the program handbook must be approved by the Assistant Secretary for Housing and included in the developer's packet.

* * * * *

(d) Units of general local government notified under § 881.306(c) will be notified of the field office's decision regarding the proposals within their jurisdiction.

* * * * *

§§ 881.704, 881.707 [Amended]

18. In part 881, by removing and reserving the following paragraphs 881.704(b), 881.707 (f) and (j).

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

19. In § 883.403, by revising paragraph (b) to read as follows:

§ 883.403 HFA submission of proposals.

* * * * *

(b) *Previous Participation; Review and Comment by Local Government.* (1) The HFA and the HUD field office may, where feasible, develop procedures by which the previous participation review, and the local government review and comment under Part 891 are initiated prior to Proposal submission. The Proposal may not be approved until the HUD field office has received a copy of the response form the Chief Executive Officer of the unit of general local government where appropriate, pursuant to 24 CFR Part 891.

(2) If special procedures as described in paragraph (b)(1) of this section are not adopted, the HUD field office will conduct its previous participation review or initiate Part 891 review and comment procedures after the Proposal has been submitted.

* * * * *

20. In § 883.405, by revising paragraph (b) to read as follows:

§ 883.405 Notification of acceptability of proposal.

* * * * *

(b) *Notification.* The unit of general local government must be notified by HUD of its final action at the time the HFA is notified.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

21. In § 885.220, by removing paragraph (d)(1), by redesignating paragraphs (d) (2), (3), (4), (5) and (6) as (d) (1), (2), (3), (4) and (5) and by revising paragraphs (d) (2) and (e) to read as follows:

§ 885.220 Review of application for fund reservation.

(d) * * *

(2) The Application will be evaluated by the field office on the basis of those factors which may be necessary to determine the eligibility and acceptability of the Sponsor and Borrower, acceptability of the location (site), acceptability of the design concept, compliance with the Fair Market Rent Limits, and the comments, if any, received during the response period from the appropriate unit of general local government.

* * * * *

(e) For each allocation area, the field office shall rank in order each Application on the basis of its assessment of the Borrower's qualifications, the proposed site, the design concept, and the comments, if any received from the unit of general local government. The field office shall identify for selection the highest ranking Applications in descending order which most reasonably approximate the estimated maximum number of units which can be funded in any allocation area under the allocation of fund authority: *Provided, however,* That in accordance with 24 CFR 891.404(d) priority will be given to acceptable Applications from localities which did not previously receive assistance.

PART 891—REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATIONS OF HOUSING ASSISTANCE FUNDS

22. In § 891.202, by removing and reserving paragraph (b)(7) and by revising the introductory text to paragraph (a) as follows:

§ 981.202 Notification of local government.

(a) The field office shall notify the chief executive officer of the local government having a HAP, no later than ten working days after receipt (or completion of any preliminary review and determination that the application is acceptable for further processing), that an application for housing assistance to be provided in that jurisdiction has been received and is under consideration.

* * * * *

23. In § 891.205, by revising paragraph (b) to read as follows:

§ 891.205 HUD review of application for housing assistance.

* * * * *

(b) *Review process.* The field office finding of consistency or inconsistency shall be based on the information provided in the HAP, the application for housing assistance, and an analysis of the comments of the local government, including comments submitted by the chief executive officer on behalf of the local government.

* * * * *

24. In § 891.303, by removing and reserving paragraph (b)(3) and by revising the introductory text to paragraph (a) as follows:

§ 891.303 Notification of local government.

(a) The field office shall notify the chief executive officer no later than 10 working days after receipt (or completion of any preliminary review and determination that the application is acceptable for further processing) that an application for housing assistance to be provided in that jurisdiction has been received and is under consideration.

* * * * *

25. In § 891.305, by revising paragraph (b) to read as follows:

§ 891.305 HUD review of applications for housing assistance.

* * * * *

(b) In determining whether an application will be approved, the field

LIST OF PROPOSED EXCLUSIONS FROM SCOPE

CFDA No.	Program name	24 CFR Part	Reason(s) for exclusion
14.103	Interest Reduction Payments—Rental and Cooperative Housing for Lower Income Families	236	1
14.105	Interest Reduction—Homes for Lower Income Families	235	1
14.108	Rehabilitation Mortgage Insurance	203	1
14.110	Manufactured (Mobile) Home Insurance—Financing Purchase of Mobile Homes as Principal Residences of Borrowers	201	1
14.112	Mortgage Insurance—Construction or Substantial Rehabilitation of Condominium Projects	234	1
14.115	Mortgage Insurance—Development of Sales Type Cooperative Projects	213	1
14.116	Mortgage Insurance—Group Practice Facilities	244	1
14.117	Mortgage Insurance—Homes	203	1
14.118	Mortgage Insurance—Homes for Certified Veterans	203	1
14.119	Mortgage Insurance—Homes for Disaster Victims	203	1
14.120	Mortgage Insurance—Homes for Low and Moderate Income Families	221	1
14.121	Mortgage Insurance—Homes in Outlying Areas	203	1
14.122	Mortgage Insurance—Homes in Urban Renewal Areas	220	1
14.123	Mortgage Insurance—Housing in Older, Declining Areas	203	1
14.124	Mortgage Insurance—Investor Sponsored Cooperative Housing	213	1
14.125	Mortgage Insurance—Land Development and New Communities	205	1
14.126	Mortgage Insurance—Management Type Cooperative Projects	213	1
14.127	Mortgage Insurance—Manufactured (Mobile) Home Parks	207	1
14.128	Mortgage Insurance—Hospitals	242	1
14.129	Mortgage Insurance—Nursing Homes and Intermediate Care Facilities	232	1
14.130	Mortgage Insurance—Purchase by Homeowners of Fee Simple Title From Lessors	240	1
14.132	Mortgage Insurance—Purchase of Sales-Type Cooperative Housing Units	213	1
14.133	Mortgage Insurance—Purchase of Units in Condominiums	234	1
14.134	Mortgage Insurance—Rental Housing	207	1
14.135	Mortgage Insurance—Rental Housing for Moderate Income Families	221	1
14.137	Mortgage Insurance—Rental and Cooperative Housing for Low and Moderate Income Families, Market Interest Rate	221	1
14.138	Mortgage Insurance—Rental Housing for the Elderly	231	1
14.139	Mortgage Insurance—Rental Housing in Urban Renewal Areas	220	1
14.140	Mortgage Insurance—Special Credit Risks	237	
14.141	Nonprofit Sponsor Assistance Program	271	2
14.142	Property Improvement Loan Insurance for Improving All Existing Structures and Building of New Nonresidential Structures	201	1
14.149	Rent Supplements—Rental Housing for Lower Income Families	215	2
14.151	Supplemental Loan Insurance—Multifamily Rental Housing	241	1
14.152	Mortgage Insurance—Experimental Housing	233	1
14.153	Mortgage Insurance—Experimental Projects Other Than Housing	233	1
14.154	Mortgage Insurance—Experimental Rental Housing	233	1
14.155	Mortgage Insurance for the Purchase or Refinancing of Existing Multifamily Housing Projects	207	1
14.156	Lower Income Housing Assistance Program	[illegible]	3
14.157	Housing for the Elderly or Handicapped	[illegible]	2
14.159	Section 245 Graduated Payment Mortgage Program	203	1
14.161	Single-Family Home Mortgage Coinsurance	204	1
14.162	Mortgage Insurance—Combination and Mobile Home Lot Loans	201	1
14.163	Mortgage Insurance—Cooperative Financing	203	1
14.164	Operating Assistance for Troubled Multifamily Housing Projects	219	2
14.165	Mortgage Insurance—Homes—Military Impacted Areas	203	1
14.166	Mortgage Insurance—Homes for Members of the Armed Services	222	1
14.167	Mortgage Insurance—Two Year Operating Loss Loans, Section 223(d)	207, 221 et.al	1
14.168	Land Sales—Parcels of Subdivided Land	1700–1730	7
14.171	Manufactured Housing—Mobile Home Construction	3280	7
14.207	New Communities—Loan Guarantees	710, 720	1
14.218	Community Development Block Grants/Entitlement Grants	570	4
14.220	Section 312 Rehabilitation Loans	510	4
14.222	Urban Homesteading	590	4
14.228	Community Development Block Grants/State's Program	570	4

office shall consider the comments provided by the local government including comments submitted by the chief executive officer on behalf of the local government. The field office shall make an independent determination as to whether there is a need for housing assistance and whether facilities and services are adequate before approving the application.

* * * * *

Dated: January 17, 1983.

Samuel R. Pierce, Jr.,

Secretary, Housing and Urban Development.

Attachment—List of Proposed Exclusions from Scope and List of Proposed Inclusions.

Attachment

LIST OF PROPOSED EXCLUSIONS FROM SCOPE—Continued

CFDA No	Program name	24 CFR Part	Reason(s) for exclusion
14.229	Community Development Block Grants/Secretary's Discretionary Fund	570	5
14.400	Equal Opportunity in Housing	105–107	7
14.402	Nondiscrimination in Federally-Assisted Programs (On the Basis of Age)	1	7
14.403	Community Housing Resource Board Program	120	2
14.506	General Research and Technology Activity		6

Explanation of Exclusions

No. 1—The multifamily and single family mortgage insurance programs involve essentially private transactions between private mortgagees and mortgagors. HUD merely encourages the development of this housing by reducing the risk of mortgage default to the lender through insurance. Housing developed under these programs are subject to the same local regulation through zoning ordinance and building codes as is conventionally financed housing. With the exception of CFDA No. 14.105 the Section 235 Interest Reduction—Homes for Lower Income Families Program none of these programs by itself is an active production program that provides Federal financial assistance for the benefit or mortgagors or tenants. CFDA No. 14.207 New Communities-Loan Guarantees has the same characteristics as the mortgage insurance programs and is not an active production program.

No. 2—These programs are excluded because they involve the payment of financial assistance to non-governmental entities.

No. 3—The Section 8 Existing Housing Assistance Payments Program—component of CFDA No. 14.156 is excluded because HUD has no authority to approve specific sites and assistance payments are made directly to private owners.

No. 4—These programs are excluded because they involve financial transfers for which HUD has no funding discretion or direct authority to approve specific sites or projects.

No. 5—Over half of the $56 million in FY 1982 funds for CFDA No. 14.229 Community Development Block Grants/ Secretary's Discretionary Fund was used for Indian assistance. Nine percent was for Territories and 38 percent was for Technical Assistance which normally is not site specific.

No. 6—HUD has no research projects which have a unique geographic focus. Rather, the objective of HUD research activity is to improve the operations of the Department's programs. The Department obtains research services through a competitive procurement process; it does not provide financial assistance grants.

No. 7—These programs although listed in the Catalogue of Federal Domestic Assistance are not within the scope of E.O. 12372 because they are not Federal financial assistance programs.

General Exclusion

Any program, even if not otherwise excluded for the reasons stated above, is excluded to the extent that it involves a federally recognized Indian tribe.

LIST OF PROPOSED INCLUSIONS

CFDA No	Program Name	24 CFR Part	Comments
14.146	Low Income Housing—Assistance Program	841	2
14.147	Low Income Housing—Homeownership Opportunities for Low Income Families	804	2
14.156	Lower Income Housing Assistance Program	880, 881, 883, 884 and 886	1, 2
14.158	Public Housing—Comprehensive Improvement Assistance Program	868	
14.169	Housing Counseling Program		
14.170	Manufactured Housing—Mobile Home Construction	3280	
14.211	Surplus Land for Low and Moderate Income Housing		
14.219	Community Development Block Grants/Small Cities Program	570	
14.221	Urban Development Action Grants	570	
14.401	Fair Housing Assistance Program	111	

Comments on Inclusions

No. 1—All programs included under CFDA No 14.156 Lower Income Housing Assistance Program with the exception of the Section 8 Existing Housing Assistance Payments Programs are to be included under the scope of these regulations.

No. 2—These programs are subject to the local review requirements of Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301) as implemented by 24 CFR Part 891, Subparts B and C. States may wish to consider these procedures in determining whether to include or exclude these programs from their process and in developing their process.

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Part III

Department of Health and Human Services

Office of Human Development Services

Developmental Disabilities Program

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Parts 1385, 1386, 1387

Developmental Disabilities Program

AGENCY: Department of Health and Human Services (HHS), Office of Human Development Services (HDS), Administration on Developmental Disabilities (ADD).

ACTION: Second notice of proposed rulemaking.

SUMMARY: The Administration on Developmental Disabilities in the Office of Human Development Services rescinds the Notice of Proposed Rulemaking (NPRM) published May 9, 1980 (45 FR 31006) and proposes new regulations. This second NPRM implements the Developmental Disabilities Assistance and Bill of Rights Act of 1978, as amended.

These proposed rules do not include requirements for the University Affiliated Facilities (UAF) except for the proposal of an assurance regarding the rights of persons with developmental disabilities. The regulations for the UAF program are found at 45 CFR Part 1388.

DATE: Consideration will be given to written comments received by April 25, 1983.

ADDRESS: Address comments to Jean K. Elder, Ph.D., Commissioner, Administration on Developmental Disabilities, Room 336–E, Hubert H. Humphrey Building, Washington, D.C. 20201. Agencies or organizations are requested to submit their comments in duplicate. Comments will be available for public inspection in Room 349–F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, Monday through Friday, 8:30 a.m. to 5:00 p.m., telephone (202) 245–1961.

FOR FURTHER INFORMATION CONTACT: Mrs. Madelyn C. Schultz, Administration on Developmental Disabilities, Washington, D.C. 20201; (202) 245–1961.

SUPPLEMENTARY INFORMATION:

Description of Program

The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.), "the Act," has traditionally served a target population who, by virtue of their severe handicapping conditions, have been underserved or not served at all through existing programs.

Legislation originally enacted in 1963 as the Mental Retardation Facilities and Construction Act (Pub. L. 88–164) authorized planning activities and construction of facilities in which services were to be provided to the mentally retarded. Public Law 88–164 was subsequently amended by the Developmental Disabilities and Facilities Construction Act of 1970 (Pub. L. 91–517) which further expanded the target population to include individuals with cerebral palsy, epilepsy and other neurological disorders. It also created State Planning Councils to advocate for, plan, monitor and evaluate services for the developmentally disabled.

Public Law 91–517 and successive amendments to the Act emphasized that the purpose of the Developmental Disabilities Program was to strengthen, rather than supplant existing services, and to fill gaps in the human service delivery system. Section 101(a)(5) of the Findings and Purpose Section in the Act (42 U.S.C. 6000(a)(5)) explicitly states that "it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care * * *."

Public Law 94–103, the 1975 Amendments, deleted the construction authority, emphasized advocacy, and added a new requirement for States to establish a Protection and Advocacy system (42 U.S.C. 6012). It also introduced Section 111, "Rights of the Developmentally Disabled," (42 U.S.C. 6010) which stated findings with respect to the rights of persons with developmental disabilities.

The 1978 amendments (Pub. L. 95–602) introduced the provision of priority services to assist States in focusing their energies on specific areas needing remediation (42 U.S.C. 6001(8)).

In addition, these amendments added a new definition of developmental disabilities (42 U.S.C. 6001(7)). The term "developmental disability" in the 1978 amendments was defined as "* * * a severe chronic disability of a person which:

(A) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) Is manifested before the person attains age twenty-two;

(C) Is likely to continue indefinitely;

(D) Results in substantial functional limitations in three or more of the following areas of major life activity: (i) Self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living; and (vii) economic self-sufficiency; and

(E) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

This definitional change was arrived at following an extensive study and emphasizes functional deficits rather than clinical conditions. It is estimated that 10 million people in the United States now meet the functional definition of developmental disability.

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) extends the Developmental Disabilities Program through September 30, 1984. It authorizes appropriations for the programs in the Act which include: (1) The basic State grant program (42 U.S.C. 6061–6068); (2) a system for protection and advocacy of individual rights (42 U.S.C. 6012); (3) the university affiliated facilities programs for administration and operation of interdisciplinary training, research and service programs (42 U.S.C. 6031–6033); and (4) special project grants for projects of national significance (42 U.S.C. 6081).

In addition, Section 912 of Pub. L. 97–35 repealed the requirement formerly contained in Section 110 of the Act (42 U.S.C. 6009) for a specific evaluation system for services furnished to persons assisted under the Developmental Disabilities Program.

First Notice of Proposed Rulemaking

The first Notice of Proposed Rulemaking (NPRM), published May 9, 1980 (45 FR 31006), was subject to extensive review. Approximately 150 letters were received during the sixty (60) day comment period resulting in over 800 comments. Commenters included State, public and private agencies, consumers and other interested individuals. In addition, four public meetings were held in various parts of the country. These meetings included representatives of the following: State Developmental Disabilities Councils and Agencies and staff of these entities; protection and advocacy groups; consumer groups such as Associations for Retarded Citizens, United Cerebral Palsy, Epilepsy Foundation, etc; Congressional staff; staff of other Federal agencies; and providers of services to persons with developmental disabilities.

Four major issues were identified in the analyses of comments.

(a) *The implementation of Section 111, "Rights of Persons with Developmental Disabilities" (42 U.S.C. 6010).*

Section 111 contains a list of "Congressional findings" regarding the treatment, services and habilitation for persons with developmental disabilities.

The first NPRM proposed that Section 111 apply only to programs funded under the Act.

Some commentors approved of this policy position while, others objected. (See additional discussion in Section 1385.4 of the preamble).

(b) *Protection of Employees Interests and Benefits (42 U.S.C. 6063 (b)(7)(B)).*

The first NPRM proposed that appropriate State authorities make arrangements to protect the interests and benefits of employees affected by State selection of alternative community living arrangements as a priority service area.

A majority of commenters objected to this provision noting that: (1) The scope and extent of the requirements were too far reaching and too nonflexible to allow States to respond based on their unique situations; and (2) the requirements were not specific enough to protect employees rights in the variety of circumstances across the country.

We are proposing in § 1386.33 of this NPRM certain minimum requirements based on the statute.

(c) *Proposed Definition of Institution.*

The first NPRM defined "institution" broadly as any residential facility in which a developmentally disabled person is housed with non-related persons.

All comments on this issue contained objections to this overly broad definition. In this NPRM we have not defined the term "institution" since it is rarely used in the proposed regulation.

(d) *Protection and Advocacy System* (42 U.S.C. 6012).

The first NPRM required that State Protection and Advocacy systems have access to records of institutionalized developmentally disabled persons declared legally incompetent after giving reasonable notice to guardians of such persons. If the client had not been declared incompetent, the consent of the client was needed.

There were many objections to this proposed requirement based on the belief that the Protection and Advocacy staff would go on a "fishing expedition" by merely notifying a guardian but would not be required to explain their need to see the record.

We have not addressed the issue of access to records in this NPRM but we would welcome comments from the public on this matter.

In addition to the previously described issues, some concerns were expressed regarding the revised definition of "developmental disability" (42 U.S.C. 6001 (7)). These were primarily requests from States for guidance and assistance with the new functional definition, particulary regarding how States could develop State eligibility criteria. Only two States at that time had developed eligibility criteria utilizing the new definition. The Administration on Developmental Disabilities now has available, on request, a document which describes a model approach for implementing the functional definition.

Approach To Writing These Regulations

Based on Executive Order 12291 and the President's commitment to regulatory relief, the Department has established principles to be applied in the development of new regulations. These are to:

- Insure that all regulations are clearly within the authority delegated by law and consistent with Congressional intent.
- Provide maximum flexibility to State and local governments.
- Minimize Federal, State, local and private costs.
- Eliminate regulations not serving a compelling Federal interest or reform those not implemented in the least intrusive means available.

In this second Notice of Proposed Rulemaking (NPRM), we are rescinding the previous proposed rule, dated May 9, 1980, and are proposing a new rule more consistent with the President's Executive Order and the Department's rulemaking principles.

This NPRM references sections of the law where it is appropriate but does not repeat the language of the Act. We have introduced requirements in the regulations only in those areas where we believe clarification or further specificity is needed in order to carry out the intent of the law.

In proposing these rules, we have also made every effort to be sensitive to State practice and to consider all comments received in response to the first NPRM. However, our overall purpose has been to prepare a regulation designed to assist States in the implementation of the statute. Since the proposed rules are intended to supplement rather than repeat the Act, it is recommended that they be reviewed in conjunction with the appropriate sections of the Act. Through the comment process, we hope to identify any additional statutory provisions that should be addressed either in final regulations or in nonbinding program guidance.

Overview of the Regulations

A section-by-section discussion of major provisions follows:

Part 1385

Section 1385.1—General. The provisions contained in this Part are applicable to all programs funded under the Act with one exception discussed in § 1385.4 below. In addition we are directing State attention to deletion of the requirement for certain fiscal control and accounting procedures applicable to all programs. We believe these requirements are adequately covered in 45 CFR Part 74, Subpart H—"Standards for Grantee and Subgrantee Financial Management Systems and Audits", § 74.61 Financial management standards.

Section 1385.3—Definitions. We have proposed to define "Governor" as the Chief Executive Officer of a State or Territory to assure that, whether or not the title of Governor is used, the Chief Executive Officer will function in the same manner regarding this program.

Section 1385.4—Rights of Persons with Developmental Disabilities (Section 111). Section 201 of the 1975 amendments enacted Section 111 of the Act (42 U.S.C. 6010) which contains a series of "findings" with respect to the rights of developmentally disabled persons. At that time authority was not explicitly included in the Act to allow the Department to withhold funds from States on the basis of failure to comply with these findings.

However, the 1978 amendments (Pub. L. 95–602), added a requirement to the basic State grant program in which the State must assure the Secretary that the rights of persons with developmental disabilities will be protected consistent with Section 111 (see Section 133(b)(5)(C) of the Act (42 U.S.C. 6063(b)(5)(C)). Failure to comply with this State plan requirement may result in loss of Federal funds. The Supreme Court opinion in *Pennhurst State School and Hospital, et al.* v. *Halderman, et al.*, 451 U.S. 1, 101 S. Ct. 1531 (1981), found that Section 111 established Federal policy on behalf of the developmentally disabled served under this Act but did not establish enforceable substantive rights for persons served in programs supported with other funds. The Court stated (page 1545) that since Pennhurst received no funds authorized under the Developmental Disabilities Act, it was arguably not subject to the requirements of the Act. "Thus, there may be no obligation on the State under * * * (42 U.S.C. 6011 (Section 111)) to assure the Secretary that each resident of Pennhurst have an habilitation plan, or assure the Secretary under (42 U.S.C. 6063)(b)(5)(C) that Pennhurst residents

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are being provided services consistent with (42 U.S.C. 6010)."

In this NPRM, we have proposed to make Section 111 applicable to the University Affiliated Facilities program and to Projects of National Significance. We believe that these rights can be applied to the discretionary grant program and the university affiliated facility program, as well as to the formula grant program, based on the Secretary's broad authority to condition such discretionary grants.

Section 1385.6—Employment of Handicapped Individuals. This section implements Section 106 of the Act (42 U.S.C. 6005) and requires all grantees receiving Federal funds under the Act to provide an assurance that they will meet the requirements of Section 106 regarding affirmative action for the employment of handicapped individuals.

Section 1385.7—Waiver. Section 107 of the Act (42 U.S.C. 6006) addresses the right of financial recovery by the United States when a facility constructed with Federal funds for the express purpose of serving the developmentally disabled ceases to serve its original purpose. A State may not arbitrarily change the use of a building or allow it to be sold unless the Secretary grants a waiver and concludes that the State has just cause. In its application for a waiver, we propose to require that States address criteria described in this rule and Section 107 of the Act.

Part 1386

Formula Grant Programs

Subpart A—Basic Requirements

Section 1386.1—General. Subpart A contains the requirements applicable to both the Protection and Advocacy System and the State Basic Support Program, with the exception of § 1386.2(c) which addresses costs incurred only by the Protection and Advocacy System. Persons who meet requirements of § 1386.4(b) are also eligible for protection and advocacy services.

The 1978 and 1981 amendments to the Act did not continue the requirement for conformity with the standards for a merit system, Title 5 of the Code of Federal Regulations, Part 900, Subpart F Standards for a Merit System of Personnel Administration. Therefore, we have removed this requirement to provide States with maximum flexibility.

Section 1386.2—Obligation of Funds. In this section we propose to continue to require States to obligate funds within the fiscal year they are received. This section clarifies what constitutes a legal obligation. It permits Protection and Advocacy offices to obligate funds for litigation and administrative proceedings based on an estimate in the year in which the litigation or proceeding began. Prior policies severely curtailed capacity of Protection and Advocacy systems to use funds available in one fiscal year for litigative activities carried over into the next fiscal year unless there were obligating documents such as contracts for witnesses, etc. In order to provide relief in view of Protection and Advocacy budget limitations, we have decided (subject to the provisions of appropriations acts) to permit obligated funds to be carried over to a subsequent year on the basis of an estimate, but only if the Protection and Advocacy system establishes good cause. Good cause is to be demonstrated by showing that consideration has been given to the amount a particular case might cost. Salary expenses of Protection and Advocacy staff are excluded from this exception because they are considered day-to-day expenses to be expended within the applicable fiscal year.

Section 1386.3—Liquidation of Obligations. This section proposes that all obligations made under a grant for a specific Federal fiscal year must be liquidated within one year following the close of the Federal fiscal year in which the grant was awarded. A liquidation requirement is included in this NPRM because unliquidated obligations have remained outstanding in many instances for excessive periods of time.

We believe that good management practice allows not more than one additional year for liquidation of costs resulting from obligations. However, if there are extenuating circumstances as described in this section, the Commissioner of the Administration on Developmental Disabilities may waive the requirement and extend the time period.

Section 1386.4—Eligibility for Services. The 1978 definition of developmental disability contained in 42 U.S.C. 6001(7) can potentially expand the target population since its focus is on functional deficits in major life activities instead of, as in the previous definition, the existence of a discreet disability. An amplification of the definition which provides the framework for a model to determine client eligibility has been prepared for the Administration on Developmental Disabilities (ADD) and is available upon request.

The Administration on Developmental Disabilities undertook a study for Congress to determine if those clients who received services under the previous categorical definition between 1968 and 1978 were still eligible. The study found that those individuals who were mildly handicapped were no longer considered developmentally disabled unless they met the functional definition. We have proposed that in order to continue services for these individuals, their Individual Habilitation Plan (IHPs) must identify a continuing need for the services.

Subpart B—Protection and Advocacy

The basic requirements for the Protection and Advocacy System are found in Section 113 of the Act. We propose the following clarifying or additional requirements in this Subpart.

Section 1386.20—Designated State Protection and Advocacy System. In this Section we propose to require that the Governor designate a State official or State or other agency to be accountable for the conduct of a Protection and Advocacy system. In the event that an entity outside of the State government carries out the program, the Governor must designate a responsible official to receive, on behalf of the State, notices of disallowance and compliance actions, as the State is accountable for the proper and appropriate expenditure of Federal funds.

Some States have proposed to place the Protection and Advocacy office in an agency which also provides guardianship. The Department considers guardianship a service. Since Section 113 (a)(2)(C) (42 U.S.C. 6012(a)(2)(C)) requires that the Protection and Advocacy system be independent of any agency which provides services to persons with developmental disabilities, we believe guardianship and protection and advocacy may not be combined. There is a potential conflict in guardianship cases because guardianship arrangements, especially involving adults, impose limitations on the ward's rights. Our policy will be to assume that a conflict exists any time a reasonable question is raised. This policy is necessary in order to best protect the interests of the individuals and assure the independence of the system from service providers who might have a conflict of interest.

We believe that Protection and Advocacy systems often represent clients in guardianship proceedings in which they seek either to resist the guardianship totally, or to limit the guardianship more than the persons or authority seeking it would like. A conflict arises since guardianship inherently limits an individual's freedom and Protection and Advocacy systems are charged with advocating for expansion of that freedom.

Section 1386.21—Requirements of the Protection and Advocacy System. In order to insure that a client's privacy will be protected we are proposing in Section 1386.21(b) that the Protection and Advocacy System protect the confidentiality of client records. The requirements we have proposed are based on 42 CFR 442.502, the confidentiality requirements in Standards for Intermediate Care Facility Services. However, these requirements do not restrict the Department's access to those records for monitoring purposes.

Section 1386.22—Triennial Report on the State Protection and Advocacy System. In this section, we propose to require the submission of a triennial report from the State P&A System which complies with requirements of Section 113(a)(3) of the Act (42 U.S.C. 6012(a)(3)) and these regulations. The report may be in the format of the State's choice but must address those items of information contained in the outline which the Department plans to issue.

ADD will approve a report or revision which meets these requirements. ADD will not terminate or deny funding for a State P&A System because a report or revision is not in compliance with Federal requirements until the State has received reasonable notice and opportunity for a hearing.

We want to clarify that this report is intended to describe the operation of the P&A System and, as such, it will not include planning documents which are outlines of proposed activities.

Section 1386.23—Periodic Reports. Also based on Section 113 of the Act, this section of the NPRM proposes to require submission of an annual report and quarterly financial status reports. The annual report may be submitted in any format the State selects.

Section 1386.24—Federal Financial Participation: Allowable and Non-Allowable Costs. This Section identifies circumstances under which Federal funds can and cannot be used in relationship to the Protection and Advocacy system. It is important to note that only funds expended on activities related to inappropriate provision of and/or denial of services to the developmentally disabled are allowable costs matchable by Federal funds.

Activities that are common to the general populace, such as drawing up wills, are not allowable costs. The basis for this policy is to avoid funding Protection and Advocacy systems in competition with the private bar where the legal service being sought is not necessarily related to the person's disability. A divorce suit, a personal injury suit, or the preparation of a will are matters that are common to the population as a whole and are not associated with the disability per se. We are proposing to conserve Protection and Advocacy resources so that they will be available for those actions directly related to developmentally disabling conditions.

Subpart C—State Plan for Provision of Services for Persons With Developmental Disabilities

Section 1386.30—State Plan Requirements. Based on Section 133 of the Act (42 U.S.C. 6063), States are required to submit a Triennial State Plan. The State plan is the document which describes the particular way in which each State implements the program. In Section 1386.30, we propose to require that the State submit a plan which meets the requirements of Sections 133 and 137(b) (42 U.S.C. 6067(b)) and which contains an assurance regarding the development of individual habilitation plans required by Section 112 (42 U.S.C. 6011).

Section 133(b) of the Act specifies the content of the State plan and includes indentification of the State Planning Council, necessary assurances, etc. We have not repeated all of these requirements in the NPRM; however, two major State plan requirements in section 133, employee protection and provision of priority services, are addressed separately in § 1386.33 and 1386.34 respectively to highlight their significance.

Due to the importance of the requirement for development of an Individual Habilitation Plan (IHP) to address the multiple needs of the developmentally disabled client, § 1386.30(e)(3) proposes to require that the State plan contain an assurance regarding compliance with IHP requirements in Section 112 of the Act. The IHP is the basic tool which identifies the array of services and treatment needed by the client who is developmentally disabled. It is also used as the basis for evaluating client progress and the effectiveness and efficiency of services.

In § 1386.30(e) we have listed specific assurance requirements which must be in the State plan.

We propose in § 1386.30(c) that the plan must also identify the program unit(s) within the designated State agency or agencies responsible for the administration of the State plan; identify the service priority areas; identify members of the State Planning Council; and identify staff assigned to the Council. We are not addressing policies and procedures for the proper and efficient administration of the plan because we feel the topic is adequately addressed in the cost principles made applicable by 45 CFR 74.171 (OMB Circular A–87, Attachment A, paragraph C.1.a).

In § 1386.30(c)(4) we have proposed that States must assign a Director and such support staff as they deem necessary. We believe the requirement we have proposed is consistent with the scope of the Secretary's responsibility, under the Act, for prescribing minimum staffing requirements (Section 133(b)(1)(A)).

In § 1386.30(d) we have proposed that the State plan must be reviewed every three years. An approved State plan is a prerequisite to Federal funding.

The Department is not specifying a particular format for State plans and has decided to accept whatever format a State chooses as long as all the information and assurances are contained in the plan.

During the development of these regulations, the Department considered whether States should be required to establish a program of public information, i.e., to inform the public of the kinds of services and the location of facilities available. We have chosen not to propose a new requirement in this area. We believe that the State Developmental Disabilities Council typically includes such activities as a part of its advocacy role and encourages councils to inform the public about available services.

A question was raised regarding continued applicability of Section 133(b)(7)(A), (42 U.S.C. 6063(b)(7)(A)), of the statute which requires the State Plan to provide for maximum utilization of all community resources including VISTA and other volunteer programs. If the VISTA program is not operational in a State, the State plan must still provide for maximum utilization of all available community resources. In the event VISTA is a viable State program, those resources should be tapped and described in the plan as mandated by the Act.

Section 1386.31—Plan Submittal and Approval. In this Section, a timeframe is established for State plan submission to allow proper and timely Federal review prior to the beginning of a fiscal year. It also continues the requirement for submission of States' plans to Governors or the Governor's designee for their review.

In § 1386.31(d) we have proposed that amendents must be submitted when there are substantive changes in plan content.

Section 1386.33—Protection of Employees' Interests. This section is proposed to implement Section

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133(b)(7(B) of the Act (42 U.S.C. 6063(b)(7)(B)) to protect the interests of employees who work in institutions when the State has selected the priority service area of alternative community living arrangements causing the return of clients from institutions to the community. We feel that the proposals in this section are consistent with the statute and additionally provide maximum flexibility to the States to carry out their responsibilities to both the employees and the developmentally disabled clients.

We now believe that the performance standards cited in the first NPRM were restrictive and have not proposed them in this NPRM.

Section 1386.34—Provision of Priority Services. Section 133(b)(4), (42 U.S.C. 6063(b)(4)), of the Act requires that priority service areas be identified as the focus of financial and programmatic effort for the time period covered by the State Plan. We believe that the requirement for identifying priority areas in the State plan was included in the Act in order to assist the States to concentrate their efforts and reduce fragmentation. The use of 65% of the State allotment in selected priority areas (as required by Section 133(b)(4)(B) of the Act) should therefore be perceived as a mechanism to assist the State developmental disabilities program in concentrating on planning, coordinating, and capacity building, rather than on purchasing services in a more or less fragmented fashion.

The States must identify in their State plans at least one, but not more than two, priority areas defined in the Act (42 U.S.C. 6063(b)(4)(B)). However, at the State's discretion, the second selection may be in an area not identified in the Act but uniquely important to the individual State. This permits greater State flexibility while retaining concentration of effort. The rationale for allowing selection of a unique State priority is discussed in the Conferees' Report on the 1978 amendment in H.R. Rep. No. 95–1780, 95th Cong., 2nd Sess. 105 f (1978). (This report is also included in the Congressional Record dated October 12, 1978).

States may wish to take advantage of the waiver provision in the Act pertaining to the selection of an additional priority area (42 U.S.C. 6063(b)(4)(C)). The Secretary may permit selection of an additional priority area, upon the application of a State, if he determines that the need for services in initially selected priority areas has reasonably been met.

Section 1386.35—Federal Participation: Allowable and Non-Allowable Costs. This section proposes the conditions under which Federal financial participation in expenditures is allowable. The specified conditions are in addition to the Department's regulations on the administration of grants in 45 CFR Part 74.

Section 1386.36—Final Disapproval of the State Plan. This section proposes steps that must be taken before any State plan is finally disapproved. Its purpose is to ensure that the State's interests are protected while ensuring adherence by the State to the Act and regulations. This section implements Section 135 of the Act (42 U.S.C. 6065).

Subpart D—Practice and Procedure for Hearings Pertaining to States' Conformity and Compliance With Developmental Disabilities Plans, Reports and Federal Requirements

Subpart D contains the requirements regarding the practice and procedure for hearings for States when questions of compliance arise. It also makes these provisions applicable to the Protection and Advocacy system.

The proposed changes in Part 1386, Subpart D, from current regulations, are made to ensure that an appeal of a ruling unfavorable to a State would be to an official that was not involved in the decision at a lower level. In addition, changes proposed in Section 1386.92 relate to use of various locations for hearings so that travel costs for all parties will be minimized.

Part 1387—Special Projects—Projects of National Significance

Section 1387.1—General requirements. Prior to the enactment of Section 913 of Pub. L. 97–35, Section 145 of the Act (42 U.S.C. 6081) provided that at least 25% of awards for special projects were to be used for projects of national significance. However, it is our opinion that Section 913 requires that all special projects funded be projects of national significance.

We propose to delete current Part 1387 and have revised this Part and § 1387.1 to incorporate the changes made by Section 913 of Pub. L. 97–35. We are also proposing to publish all information regarding funding requirements, procedures and priority areas concerning projects of national significance in the **Federal Register.** We believe this information should not be published in regulations but should be issued as a program announcement in the **Federal Register.**

Impact Analysis

These proposed regulations have little economic impact since they closely follow the statute. Further, the regulations primarily affect State agencies, which are not considered small entities under the Regulatory Flexibility Act. Therefore, the Secretary certifies, pursuant to 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act, that this regulation will not have a significant impact on a substantial number of small entities.

For the same reasons, this proposed rule does not meet the threshold requirements contained in Executive Order 12291 and, therefore, does not constitute a major rule.

Recordkeeping and Reporting Requirements

Sections 1386.22 (Triennial Report), 1386.23(a) (Annual Report) and 1386.30–1386.31 and 1386.33–1386.34 (State Plan) of this proposed rule contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, D.C. 20503, ATTN: Desk Officer for HHS.

There will be no specified format for the submittal of the State plan requirements established in §§ 1386.30–1386.31 and 1386.33–1386.34. States may select any format they wish as long as they comply with the requirements in the Act and in these regulations. These regulations reflect the aims of Executive Order 12372 to allow for State Plan simplification.

List of Subjects

45 CFR Part 1385

Grant programs/education, Grant programs/social programs, Handicapped, Reporting and recordkeeping requirements.

45 CFR Part 1386

Administrative practice and procedure, Grant programs/education, Handicapped, Reporting and recordkeeping requirements.

45 CFR Part 1387

Colleges and Universities, Grant programs/education, Grant programs/social programs, Handicapped, Research.

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(Catalog of Federal Domestic Assistance Program, Nos. 13.630 Developmental Disabilities Basic Support; and 13.631 Developmental Disabilities Disabilities—Special Projects)

Dated: December 21, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: January 24, 1983.

Richard S. Schweiker,

Secretary.

For the reasons set forth in the Preamble, Chapter XIII of Title 45 of the Code of Federal Regulations is amended as follows:

1. In Title 45, Chapter XIII, the Subchapter heading for Subchapter I is revised to read as follows:

SUBCHAPTER I—THE ADMINISTRATION ON DEVELOPMENTAL DISABILITIES, DEVELOPMENTAL DISABILITIES PROGRAM

2. Parts 1385, 1386, and 1387 of Chapter XIII of the Code of Federal Regulations are revised as follows:

PART 1385—REQUIREMENTS APPLICABLE TO PARTS 1386, 1387 AND 1388

Sec.

1385.1 General.
1385.2 Purpose of the regulations.
1385.3 Definitions.
1385.4 Rights of persons with developmental disabilities.
1385.6 Employment of handicapped individuals.
1385.7 Waivers.
1385.8 Formula for determining allotments.
1385.9 Grants administration requirements.

Authority: Pub. L. 88–164, 77 Stat. 282, as amended by Pub. L. 90–170, 81 Stat. 527; Pub. L. 91–517, 84 Stat. 1316; Pub. L. 94–103, 89 Stat. 486; Pub. L. 95–602, 92 Stat. 2955; Pub. L. 97–35, 95 Stat. 563, (42 U.S.C. 6001 et seq.)

§ 1385.1 General.

Except as specified in § 1385.4, the requirements in this Part are applicable to programs and projects carried out under Parts 1386, 1387, and 1388:

(a) State Systems for Protection and Advocacy of Individual Rights of Persons with Development Disabilities;

(b) State Basic Program for Planning, Administration and Services on Behalf of Persons with Developmental Disabilities;

(c) Special Projects—Projects of National Significance; and

(d) University Affiliated Programs.

§ 1385.2 Purpose of the regulations.

These regulations implement the Developmental Disabilities Assistance and Bill of Rights Act as amended (42 U.S.C. 6000, et seq.).

§ 1385.3 Definitions.

In addition to the definitions in Section 102 of the Act (42 U.S.C. 6001), the following definitions apply:

Act means the statutory authority for the developmental disabilities programs as enacted in Pub. L. 88–164 and amended by Pub. L. 90–170, Pub. L. 91–517, Pub. L. 94–103, Pub. L. 95–602 and Pub. L. 97–35. It may be cited as the Developmental Disabilities Assistance and Bill of Rights Act.

Commissioner means the Commissioner of the Administration on Development Disabilities, Office of Human Development Services, Department of Health and Human Services or his or her designee.

Department means the U.S. Department of Health and Human Services (HHS).

Fiscal year means the Federal fiscal year unless otherwise specified.

Governor means the chief executive officer of the State or Territory, or his or her designee who has been formally designated to act for the Governor in carrying out the requirements of the Act and these regulations.

Secretary means the Secretary of the Department of Health and Human Services.

§ 1385.4 Rights of persons with developmental disabilities.

(a) Section 111 of the Act, *Rights of Persons with Developmental Disabilities* (42 U.S.C. 6010), is applicable to the programs authorized under the Act, except for the Protection and Advocacy system.

(b) In order to comply with Section 133(b)(5)(C) of the Act (42 U.S.C. 6063(b)(5)(C)), regarding the rights of developmentally disabled persons, the State shall meet the requirements of § 1386.30(e)(4) of these regulations.

(c) Applications from university affiliated facilities or for special project grants must also contain an assurance that the human rights of persons assisted by these programs will be protected consistent with Section 111.

§ 1385.6 Employment of handicapped individuals.

Each grantee who receives Federal funding under this Act shall meet the requirements of Section 106 of the Act (42 U.S.C. 6005) regarding affirmative action. Failure to comply with Section 106 may result in loss of Federal funds under the Act. If a compliance action is taken, the State will be given reasonable notice and an opportunity for a hearing as provided in Subpart D of Part 1386.

§ 1385.7 Waivers.

Applications for a waiver of the provisions of Section 107 of the Act (42 U.S.C. 6008) with respect to alternative use of facilities constructed with funds under the Act may be granted by the Commissioner if the following criteria are met:

(a) The waiver request provides a basis for alternative use or sale of a facility constructed with funds appropriated under the Act.

(b) The clients served in the facility are or will be served in a facility of equal or higher quality.

(c) If the waiver request is for an alternate use, that use must serve some other public purpose.

§ 1385.8 Formula for determining allotments.

The Commissioner will allocate funds appropriated under the Act for the purpose of the basic State program (see Subpart C—State Plan for Provision of Services for Persons with Developmental Disabilities) and the protection and advocacy system (see Subpart B—State System for Protection and Advocacy of Individual Rights) on the following basis:

(a) Two-thirds of the amount appropriated are allotted to each State according to the ratio the population of each State bears to the population of the United States. This ratio is weighted by the relative per capita income for each State. The data used to compute allotments are supplied by the U.S. Department of Commerce, for the three most recent consecutive years for which satisfactory data are available.

(b) One-third of the amount appropriated is allotted to each State on the basis of the relative need for services of persons with developmental disabilities. The relative need is determined by the number of persons receiving benefits under the Childhood Disabilities Beneficiary Program (Section 202(d)(1)(B)(ii) of the Social Security Act), (42 U.S.C. 402(d)(1)(B)(ii)).

§ 1385.9 Grants administration requirements.

(a) The following parts of Title 45 CFR apply to grants funded under Parts 1386, 1387, and 1388 of this chapter.

45 CFR Part 16—Procedures of the Departmental Grant Appeals Board.
45 CFR Part 46—Protection of Human Subjects.
45 CFR Part 74—Administration of Grants.
45 CFR Part 75—Informal Grant Appeals Procedures.
45 CFR Part 80—Nondiscrimination under Programs Receiving Federal Assistance Through the Department of Health and Human Services—Effectuation of Title VI of the Civil Rights Act of 1964.
45 CFR Part 81—Practice and Procedure for Hearings Act under Part 80 of this title.

45 CFR Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.
45 CFR 90—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance.

(b) The Departmental Grant Appeals Board also has jurisdiction over appeals by grantees who have received grants under the University Affiliated program or for a Special Project

The scope of the Board's jurisdiction concerning these appeals is described in 45 CFR Part 16.

(c) The Departmental Grant Appeals also has jurisdiction to decide appeals brought by the States concerning any disallowances taken by the Commissioner with respect to specific expenditures incurred by States or by contractors or subgrantees of States. This jurisdiction relates to funds provided under the two formula grant programs—the Basic State Grant program and the State Protection and Advocacy system. Appeals filed by States shall be decided in accordance with 45 CFR Part 16.

(d) In making audits, examinations, excerpts and transcripts of records of grantees and subgrantees, including the protection and advocacy system, as provided for in 45 CFR Part 74, the Department will keep information about individual clients confidential to the extent permitted by law and regulations.

PART 1386—FORMULA GRANT PROGRAMS

Subpart A—Basic requirements

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Subpart A—Basic Requirements

§ 1386.1 General.

All rules under this subpart are applicable to both the Protection and Advocacy System and State Basic Support Program.

§ 1386.2 Obligation of funds.

(a) Funds which the Federal Government allots under this Part during a Federal fiscal year are available for obligation by States only within the same Federal fiscal year.

(b)(1) A State incurs an obligation for acquisition of personal property or for the performance of work on the date it makes a binding, legally enforceable, written commitment.

(2) A State incurs an obligation for personal services, for services performed by public utilities, for travel or for rental of real or personal property on the date it receives the services, its personnel takes the travel, or it uses the rented property.

(c)(1) Protection and Advocacy offices may elect to treat entry of an appearance in judicial and administrative proceedings on behalf of a person with developmental disabilities as a basis for obligating funds for the litigation costs. The amount of the funds obligated must not exceed a reasonable estimate of the costs, and the way the estimate was calculated must be documented.

(2) For the purpose of this paragraph, litigation costs mean expenses for court costs, depositions, expert witness fees, travel in connection with a case and similar costs, but not for salaries of employees of the Protection and Advocacy system. Funds obligated under this paragraph are subject to the requirement of paragraph (a) of this section. These funds, if deobligated, may be reobligated only within the same fiscal year in which the funds were originally obligated.

§ 1386.3 Liquidation of obligations.

(a) All obligations incurred pursuant to a grant made under the Act for a specific Federal fiscal year, must be liquidated within one year of the close of the Federal fiscal year in which the grant was awarded.

(b) The Commissioner may waive the requirements in paragraph (a) of this section when State law impedes implementation or the amount of obligated funds to be liquidated is in dispute.

(c) Funds attributable to obligations which are not liquidated in accordance with the provisions of this section revert to the Federal Government.

§ 1386.4 Eligibility for services.

(a) All persons who meet all of the criteria of the definition of developmental disability set forth in Section 102 of the Act (42 U.S.C. 6001) are eligible for available and appropriate services.

(b) In addition, a person who met the definition of developmental disability as provided in Pub. L. 94–103 and who was actually receiving one or more services under the Act during the period October 1, 1968 through November 30, 1978, is eligible to continue to receive those same services, provided that person's Individual Habilitation Plan (IHP) . indicates a continuing need for those same services.

Subpart B—State System for Protection and Advocacy of Individual Rights

§ 1386.20 Designated State Protecton and Advocacy Office.

(a) The Governor must designate the State official or public or private agency to be accountable for the proper use of

funds and conduct of the State Protection and Advocacy system.

(b) An agency of the State providing guardianship services may not be designated as a Protection and Advocacy agency.

(c) In the event that an entity outside of the State government is designated to carry out the program, the Governor must designate a responsible State official to receive, on behalf of the State, notices of disallowances and compliance actions as the State is accountable for the proper and appropriate expenditure of Federal funds.

§ 1386.21 Requirements of the Protection and Advocacy System.

(a) In order for a State to receive Federal financial participation for Protection and Advocacy activities under this subpart, as well as the Basic Support Program (subpart C), the Protection and Advocacy system must meet the requirements of Section 113(a) of the Act (42 U.S.C. 6012(a)) and that system must be operational.

(b) The client's record is the property of the Protection and Advocacy system which must protect it from loss, damage, tampering, or use by unauthorized individuals. The Protection and Advocacy system must:

(1) Keep confidential all information contained in a client's records including information contained in an automated data bank; this requirement in no way limits or restricts access by the Department or other authorized Federal officials to the clients records or other records of the protection and advocacy system. It also does not limit access by parents or legal guardians of minors unless prohibited by State law.

(2) Have written policies governing access to duplication of, and release of information from the client's record; and

(3) Obtain written consent from the client, if competent, or his or her guardian, before it releases information to individuals not otherwise authorized to receive it.

§ 1386.22 Triennial report on the State protection and advocacy system.

In order to receive Federal financial assistance for a State's Protection and Advocacy system:

(a) At least once evey three years the Protection and Advocacy office shall submit through the Governor or the Governor's designee to the appropriate Regional Office a report describing the system. The report may be in the format of the State's choice. Unless State law provides differently, the report must be signed by the Governor or the Governor's designee.

(b) The triennial report on the State Protection and Advocacy system must state how requirements of Section 113(a) (1) and (2) of the Act are being met and address those items contained in the request for information outline which the Department plans to issue.

(c) The Department will not terminate or deny funding of the Protection and Advocacy system until it has given the State reasonable notice and opportunity for a hearing in accordance with Subpart D of this Part.

§ 1386.23 Periodic reports.

In addition to the triennial report, States must submit:

(a) An annual report describing the activities carried out under the system and any changes made in the system during the previous year and addressing those items contained in the request for information submitted for approval to OMB. The report may be in the format of the State's choice.

(b) Quarterly financial status reports from either the Governor or the appropriate State financial official, which are due 30 days after the close of each quarter of the Federal fiscal year, except for the final report which is due 90 days following the close of the fiscal year.

§ 1386.24 Federal financial participation: Allowable and nonallowable costs for Protection and Advocacy System.

(a) Federal financial participation is allowable for costs incurred, in accordance with the Act and regulations:

(1) For carrying out activities described in the State's triennial report on the State Protection and Advocacy system (see § 1386.22); and

(2) For providing information and referral services to persons who contact the system for aid whether or not those persons are developmentally disabled.

(b) Federal financial participation is not allowable for:

(1) Costs incurred for activities not included in the triennial report;

(2) Costs incurred for activities on behalf of persons with developmental disabilities to solve problems not directly related to their disabilities and which are faced by the general populace, e.g., drawing wills and initiating or defending divorce actions; and

(3) Costs not allowed under other applicable statutes, Departmental regulations and issuances of the Office of Management and Budget.

Subpart C—State Plan for Provision of Services for Persons with Developmental Disabilities

§ 1386.30 State plan requirements.

(a) In order to receive Federal financial assistance under this Subpart, States must prepare, submit and have in effect a State plan which meets the requirements of Section 133(b) and Section 137(b) of the Act (42 U.S.C. 6063(b) and 6067(b)) and these regulations.

(b) Failure to comply with State plan requirements may result in loss of Federal funds as described in Section 135 of the Act (42 U.S.C. 6065).

(c) The State plan may be submitted in any format the State selects as long as the items contained in the Act are addressed. The plan must:

(1) Identify the program unit(s) responsible for administration of the plan within the designated State agency or agencies;

(2) Identify the priority areas selected by the State in which 65% of Federal allotment will be expended;

(3) Identify the members of the officially appointed State Planning Council; and

(4) Identify the Staff assigned to assist the Council in carrying out its functions and responsibilities identified in the Act. The size of the staff will vary among States; however, each council must have at least a director and such support staff as the State deems necessary.

(d) The State plan must be reviewed at least once every three years.

(e) The State plan must contain assurances that:

(1) The State will comply with all applicable Federal statutes and regulations in effect during the time that the State is receiving formula grant funding;

(2) the State meets the requirements regarding individual habilitation plans as set forth in Section 112 of the Act (42 U.S.C. 6011); and

(3) the human rights of developmentally disabled persons will be protected consistent with Section 111.

§ 1386.31 Plan submittal and approval.

(a) The State plan must be submitted to the appropriate Regional Office 45 days prior to the fiscal year for which it is applicable. Unless State law provides differently, the State plan and amendments or related documents must be approved by the Governor or the Governor's designee as may be required by any applicable Federal issuances.

(b) Failure to submit an approvable State plan or amendment prior to the Federal fiscal years for which it is

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applicable may result in the loss of Federal financial participation. Costs resulting from obligations incurred during the period of the fiscal year for which an approved plan is not in effect are not eligible for Federal financial participation.

(c) The Commissioner must approve any State plan or plan amendment provided it meets the requirements of the Act and these regulations.

(d) Amendments to the State plan are required when substantive changes are contemplated in plan content.

§ 1386.32 Financial reports.

The State shall submit quarterly financial status reports on the programs funded under this part and must be submitted by either the Governor or the appropriate State financial official. These reports are due 30 days following the close of each quarter except for the final report which is due 90 days following the close of the Federal fiscal year.

§ 1386.33 Protection of employee's interests.

(a) Based on Section 133(b)(7) of the Act (42 U.S.C. 6063(b)(7)), the State plan must provide for fair and equitable arrangements to protect the interests of all employees affected by actions under the plan to provide alternative community living arrangements. Specific arrangements for the protection of affected employees must be developed through negotiations between the appropriate State authorities and employees or their representatives. Fair and equitable arrangements must include procedures that provide for the impartial resolution of disputes between the State and an employee concerning the interpretation, application, and enforcement of protection arrangements. The State must inform employees of the State's decision to provide alternative community living arrangements.

(b) To the maximum extent practicable, fair and equitable arrangements must include provisions for:

(1) The preservation of rights and benefits;

(2) Guaranteeing employment to employees affected by action under the plan to provide alternative community living arrangements; and

(3) Employee training and retraining programs.

§ 1386.34 Provision of priority services.

(a) As part of the State plan requirements in Section 133(b)(4)(A) of the Act (42 U.S.C. 6063(b)(4)(A)), a State must identify its selection of at least one, but not more than two priority areas defined in Section 102(8)(B) of the Act (42 U.S.C. 6001(8)(B)), although the second selection may be in an area not identified in the Act but which is of special significance to the individual State.

(b) In order to select more than two priority areas when the appropriation level does not exceed $90,000,000 (See Section 133(b)(4)(B)(ii)(II) of the Act (42 U.S.C. 6063(b)(4)(ii)(II)), the Commissioner, upon written application from the State, may approve a waiver of the priority service limitations described in paragraph (a) of this section and allow for an additional priority area to be designated. (See Section 133(b)(4)(C) of the Act (42 U.S.C. 6063(b)(4)(C)).

§ 1386.35 Allowable and non-allowable costs for basic State grants.

(a) Under this Subpart, Federal financial participation is available in costs resulting from obligations incurred under the approved State plan for the necessary expenses of the approved State plan for the necessary expenses of the State Council, the administration and operation of the State plan, and training of personnel.

(b) Expenditures which are not allowable for Federal financial participation are:

(1) Costs incurred by institutions or other residential or non-residential programs which do not comply with the Congressional findings with respect to the developmentally disabled in Section 111 of the Act (42 U.S.C. 6010);

(2) Costs incurred for activities not provided for in the approved State plan; and

(3) Costs not allowed under other applicable statutes, Departmental regulations or issuances of the Office of Management and Budget.

§ 1386.36 Final disapproval of the State plan amendments or plan amendments.

The Department will disapprove any State plan or plan amendment only after the following procedures have been complied with:

(a) The State plan has been submitted to the appropriate HHS Regional Office, and the Regional Office and State have been unable to resolve their differences.

(b) The Regional Office has prepared a detailed written analysis of its reasons for recommending disapproval and has transmitted its analyses and all other relevant material to the Commissioner, and has provided the State Council and State agency with copies of the material.

(c) The Commissioner, after review of the records and the recommendation of the Regional Office, has determined whether the State plan, in whole or in part, is not approvable. Notice of this determination has been sent to the State and contains appropriate references to the records, provisions of the statute and regulations, and all relevant interpretations of applicable laws and regulations. The notification of the decision must inform the State of its right to appeal in accordance with 45 CFR Part 1386, Subpart D.

(d) The Commissioner's decision has been forwarded to the state council and agency by registered mail with a return receipt requested.

(e) A State has filed its request for a hearing with the Assistant Secretary for Human Development Services (ASHDS) within 21 days of the receipt of the decision. The request for a hearing must be sent by registered mail to the ASHDS. The date of mailing the request is considered the date of filing if it is supported by independent evidence of mailing, otherwise the date of receipt shall be considered the date of filing.

Subpart D—Practice and Procedure for Hearings Pertaining to States' Conformity and Compliance With Developmental Disabilities Plans, Reports, and Federal Requirements

General

§ 1386.80 Definitions.

For purposes of this Subpart:

"Assistant Secretary" means the Assistant Secretary for Human Development Services (HDS) or a presiding officer.

ADD means Administration on Developmental Disabilities, Office of Human Development Services.

Presiding officer means any one appointment by the Assistant Secretarty to conduct any hearing held under this Subpart. The term includes the Assistant Secretary if the Assistant Secretary presides over the hearing.

§ 1386.81 Scope of rules.

(a) The rules of procedure in this Subpart govern the practice for hearings afforded by the Department to States pursuant to Sections 113, 133, and 135 of the Act. (42 USC 6012, 6063 and 6065.)

(b) Nothing in this Part is intended to preclude or limit negotiations between the Department and the State, whether before, during, or after the hearing to resolve the issues which are, or otherwise would be, considered at the hearing. Negotiations and resolution of issues are not part of the hearing, and are not governed by the rules in this Subpart, except as otherwise provided in this Subpart.

§ 1386.82 Records to be public.

All Pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding are subject to public inspection.

§ 1386.83 Use of gender and number.

As used in this Subpart, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing either gender may be applied to the other gender or to organizations.

§ 1386.84 Suspension of rules.

Upon notice to all parties, the Assistant Secretary may modify or waive any rule in this Subpart, unless otherwise expressly provided, upon determination that no party will be unduly prejudiced and justice will be served.

§ 1386.85 Filing and service of papers.

(a) All papers in the proceedings must be filed with the HDS Hearing Clerk in an original and two copies. Only the originals of exhibits and transcripts of testimony need be filed.

(b) Copies of papers in the proceedings must be served on all parties by personal delivery or by mail. Service on the party's designated representative is deemed service upon the party.

Preliminary Matters—Notice and Parties

§ 1386.90 Notice of hearing or opportunity for hearing.

Proceedings are commenced by mailing a notice of hearing or opportunity for hearing from the Assistant Secretary to the State council and the designated State agency, or to the State protection and advocacy office or official. The notice must state the time and place for the hearing, and the issues which will be considered. The notice must be published in the Federal Register.

§ 1386.91 Time of hearing.

The hearing must be scheduled not less than 30 days nor more than 60 days after the date notice of the hearing is mailed to the State.

§ 1386.92 Place.

The hearing must be held at a date, time, and place determined by the Assistant Secretary with due regard for the convenience and necessity of the parties or their representatives.

§ 1386.93 Issues at hearing.

(a) Prior to a hearing, the Assistant Secretary may notify, the State in writing of additional issues which will be considered at the hearing. That notice must be published in the Federal Register. If that notice is mailed to the State less than 20 days before the date of the hearing, the State or any other party, at its request, must be granted a postponement of the hearing to a date 20 days after the notice was mailed, or such later date as may be agreed to by the Assistant Secretary.

(b) If any issue is resolved in whole or in part, but new or modified issues are presented, the hearing must proceed on the new or modified issues.

(c)(1) If at any time, whether prior to, during, or after the hearing, the Assistant Secretary finds that the State has come into compliance with Federal requirements on any issue in whole or in part, he or she must remove the issue from the proceedings in whole or in part as may be appropriate. If all issues are

removed the Assistant Secretary must terminate the hearing.

(2)(i) Prior to the removal of an issue, in whole or in part, from a hearing involving issues relating to the conformity with Federal requirements of State plan or report on the description of the protection and advocacy system with Federal requirements, the Assistant Secretary must provide all parties other than the Department and the State (see § 1386.94(b)) with the Statement of his or her intention to remove an issue from the hearings and the reasons for that decision. A copy of the proposed State plan provision or report on the description of the protection and advocacy system on which the State and the Assistant Secretary have settled must be sent to the parties. The parties must have an opportunity to submit in writing within 15 days their views as to, or any information bearing upon, the merits of the proposed provision and the merits of the reasons for removing the issue from the hearing.

(d) In hearings involving questions of noncompliance of a State's operation of its program with the State plan or system description, or with Federal requirements, the same procedure set forth in paragraph (c) (2) of this Subsection must be followed with respect to any report or evidence resulting in a conclusion by the Assistant Secretary that a State has achieved compliance.

(e) The issues considered at the hearing must be limited to those issues of which the State is notified as provided in § 1386.90 and paragraph (a) of this Section, and new or modified issues described in paragraph (b) of this Section, and may not include issues or parts of issues removed from the proceedings pursuant to paragraph (c) of this Section.

§ 1386.94 Request to participate in hearing.

(a) The Department, the State council, the designated State agency, and the State protection and advocacy office, as appropriate, are parties to the hearing without making a specific request to participate.

(b)(1) Other individuals or groups may be recognized as parties if the issues to be considered at the hearing have caused them injury and their interests are relevant to the issues in the hearing.

(2) Any individual or group wishing to participate as a party must file a petition with the HDS Hearing Clerk within 15 days after notice of the hearing has been published in the **Federal Register**, and must serve a copy on each party of record at that time in accordance with § 1386.85(b). The petition must concisely state (i) petitioner's interest in the proceeding, (ii) who will appear for petitioner, (iii) the issues petitioner wishes to address and (iv) whether petitioner intends to present witnesses.

(3) Any party may file comments within 5 days of receipt of such petition.

(4) The presiding officer must promptly determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interest, the presiding officer may request all of the petitioners to designate a single representative, or he or she may recognize one or more of the petitioners to represent all of them. The presiding officer must give each petitioner written notice of the decision on its petition. If any petition is denied, the presiding officer must briefly state the grounds for denial.

(c)(1) Any interested person or organization wishing to participate as amicus curiae must file a petition with the HDS Hearing Clerk before the commencement of the hearing. The petition must concisely state (i) the petitioner's interest in the hearing (ii) who will represent the petitioner, and (iii) the issues on which petitioner intends to present argument. The presiding officer may grant the petition if he or she finds that the petitioner has a legitimate interest in the proceedings, that such participation will not unduly delay the outcome and may contribute materially to the proper disposition of the issues.

(2) An amicus curiae may present a brief oral statement at the hearing at the point in the proceedings specified by the presiding officer. It may submit a written statement of position to the presiding officer prior to the beginning of a hearing, and must serve a copy on each party. It may also submit a brief or written statement at such time as the parties submit briefs and must serve a copy on each party.

Hearing Procedures

§ 1386.100 Who presides.

(a) The presiding officer at a hearing must be the Assistant Secretary or someone designated by the Assistant Secretary.

(b) The designation of a presiding officer must be in writing. A copy of the designation must be served on all parties and amici curiae.

§ 1386.101 Authority of presiding officer.

(a) The presiding officer has the duty to conduct a fair hearing, avoid delay, maintain order, and make a record of the preceedings. The presiding officer has all powers necessary to accomplish these ends, including, but not limited to, the power to:

(1) Change the date, time, and place of the hearing, upon notice to the parties. This includes the power to continue the hearing in whole or in part;

(2) Hold conferences to settle or simplify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceedings;

(3) Regulate participation of parties and amici curiae and require parties and amici curiae to state their positions with respect to the issues in the proceeding;

(4) Administer oaths and affirmations;

(5) Rule on motions and other procedural items on matters pending before him or her, including issuance of protective orders or other relief to a party against whom discovery is sought;

(6) Regulate the course of the hearing and conduct of counsel therein;

(7) Examine witnesses;

(8) Receive, rule on, exclude, or limit evidence or discovery;

(9) Fix for the time for filing motions, petitions, briefs, or other items in matters pending before him or her;

(10) If the presiding officer is the Assistant Secretary, make a final decision;

(11) If the presiding officer is a person designated by the Assistant Secretary, examiner, certify the entire record, including recommended findings and proposed decision, to the Assistant Secretary;

(12) Take any action authorized by the rules in the Subpart or 5 U.S.C. 551–559; and

(b) The presiding officer does not have authority to compel the production of witnesses, papers, or other evidence by subpoena.

(c) If the presiding officer is a person designated by the Assistant Secretary, examiner, his or her authority is to render a recommended decision with respect to program requirements which are to be considered at the hearing. In case of any noncompliance, he or she shall recommend whether Federal financial participation should be withheld with respect to the entire State plan or the report of the system description, or whether Federal financial participation should be withheld only with respect to those parts of the program affected by such noncompliance.

§ 1386.102 Rights of parties.

All parties may:

(a) Appear by counsel, or other authorized representative, in all hearing proceedings;

(b) Participate in any prehearing conference held by the presiding officer;

(c) Agree to stipulations of facts which will be made a part of the record;

(d) Make opening statements at the hearing;

(e) Present relevant evidence on the issues at the hearing;

(f) Present witnesses who then must be available for cross-examination by all other parties;

(g) Present oral arguments at the hearing;

(h) Submit written briefs, proposed findings of fact, and proposed conclusions of law, after the hearing.

§ 1386.103 Discovery.

The Department and any party named in the Notice issued pursuant to § 1386.90 has the right to conduct discovery (including depositions) against opposing parties as provided by the Federal Rules of Civil Procedure. There is no fixed rule on priority of discovery. Upon written motion, the presiding officer must promptly rule upon any objection to discovery action. The presiding officer also has the power to grant a protective order or relief to any party against whom discovery is sought and to restrict or control discovery so as to prevent undue delay in the conduct of the hearing. Upon the failure of any party to make discovery, the presiding officer may issue any order and impose any sanction other than contempt orders authorized by Rule 37 of the Federal Rules of Civil Procedure.

§ 1386.104 Evidentiary purpose.

The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather, it must be presented in statements, memoranda, or briefs, as directed by the presiding officer. Brief opening statements, which shall be limited to a statement of the party's position and what it intends to prove, may be made at hearings.

§ 1386.105 Evidence.

(a) *Testimony.* Testimony by witnesses at the hearing is given orally under oath or affirmation. Witnesses must be available at the hearing for cross-examination by all parties.

(b) *Stipulations and exhibits.* Two or more parties may agree to stipulations of fact. Such stipulations, or any exhibit proposed by any party, must be exchanged at the prehearing conference or at a different time prior to the hearing if the presiding officer requires it.

(c) *Rules of evidence.* Technical rules of evidence do not apply to hearings conducted pursuant to this subpart, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination are applied where reasonably necessary by the presiding officer. A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his or her direct examination. The presiding officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record is open to examination by the parties and opportunity must be given to refute facts and arguments advance on either side of the issues.

§ 1386.106 Exclusion from hearing for misconduct.

Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at the hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

§ 1386.107 Unsponsored written material.

Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing is placed in the correspondence section of the docket of the proceeding. This material is not deemed part of the evidence or record in the hearing.

§ 1386.108 Official transcript.

The Department will designate the official reporter for all hearings. Te official transcript of testimony taken, together with any stipulations, exhibits, briefs, or memoranda of law filed with them is filed with the Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance. Transcripts must be taken by stenotype machine and not by voice recording devices, unless otherwise agreed by all of the parties and the presiding officer.

§ 1386.109 Record for decision.

The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision, constitute the exclusive record for decision.

Posthearing Procedures, Decisions

§ 1386.110 Posthearing briefs.

The presiding officer must fix the time for filing posthearing briefs. This time may not exceed 30 days after termination of the hearing and receipt of the transcript. Briefs may contain proposed findings of fact and conclusions of law. If permitted, reply briefs may be filed no later than 15 days after filing of the posthearing briefs.

§ 1386.111 Decisions following hearing.

(a) If the Assistant Secretary is the presiding officer, he or she must issue a decision within 60 days after the time for submission of posthearing briefs has expired.

(b)(1) If the presiding officer is a person designated by the Assistant Secretary If a hearing examiner is the presiding officer, he or she must, within 30 days after the time for submission of posthearing briefs has expired, certify the entire record to the Assistant Secretary including recommended findings and proposed decision. The Assistant Secretary must serve a copy of the recommended findings and proposed decision upon all parties and amici.

(2) Any party may, within 20 days, file exceptions to the recommended findings and proposed decision and supporting brief or statement with the Assistant Secretary.

(3) The Assistant Secretary must review the recommended decision and, within 60 days of its issuance, issue his or her own decision.

(c) If the Assistant Secretary concludes:

(1) In the case of a hearing under Sections 113, 133 and 135 of the Act that a State plan or report on the State's protection and advocacy system does not comply with Federal requirements, he or she shall also specify whether the State's total allotment for the fiscal year will not be authorized for the State or whether, in the exercise of his or her discretion, the allotment will be limited to parts of the State plan or the report not affected by the noncompliance.

(2) In the case of a hearing pursuant to Section 135 of the Act that the State is not complying with requirements of the State plan or the report on the description of the State's protection and advocacy system, he or she must also specify whether Federal financial participation will not be made available to the State or whether, in the exercise of his or her discretion, Federal financial participation will be limited to

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categories under the State plan or the report on the description of the State's protection and advocacy system not affected by such noncompliance. The Assistant Secretary may ask the parties for recommendations or briefs or may hold conferences of the parties on these questions.

(d) The decision of the Assistant Secretary under this Section is the final decision of the Secretary and constitutes "final agency action" within the meaning of 5 U.S.C. 704 and the "Secretary's action" within the meaning of Section 138 of the Act. The Assistant Secretary's decision must be promptly served on all parties and amici.

§ 1386.112 Effective date of decision by the Assistant Secretary.

(a) If, in the case of a hearing pursuant to Section 135 of the Act, the Assistant Secretary concludes that a State plan or the report on the description of the State's protection and advocacy system does not comply with Federal requirements, and the decision provides that the allotment will be authorized but limited to parts of the State plan or the report on the description of the State's protection and advocacy system not affected by such noncompliance, the decision must specify the effective date for the authorization of the allotment.

(b) In the case of a hearing pursuant to Section 113, 133 if the Assistant Secretary concludes that the State is not complying with requirements of the State plan or the report on the description of the State's protection and advocacy system, the decision that further payments will not be made to the State, or that payments will be limited to parts of the State plan or the report on the description of the State's protection and advocacy system not affected, must specify the effective date for the withholding of Federal funds.

(c) The effective date may not be earlier than the date of the decision of the Assistant Secretary and may not be later than the first day of the next calendar quarter.

(d) The provisions of this section may not be waived pursuant to § 1386.84.

PART 1387—SPECIAL PROJECTS—PROJECTS OF NATIONAL SIGNIFICANCE

Sec.
1387.1 General requirements.

Authority: Pub. L. 88–164, 77 Stat. 282, as amended by Pub. L. 91–517, 84 Stat. 1316, Pub. L. 94–103, 89 Stat. 486, Pub. L. 95–602, 92 Stat. 2955; Pub. L. 97–35, 95 Stat. 563 (42 U.S.C. 6000 et seq.).

§ 1387.1 General requirements.

(a) All projects funded under this Part must be of national significance to comply with Section 145 of the Act.

(b) The requirements concerning format and content of the application, submittal procedures, eligible applicants and priority areas of services will be published in program announcements in the **Federal Register**.

(c) Projects of national significance must be exemplary models and hold potential for replication.

[FR Doc. 83–4441 Filed 2–22–83; 8:45 am]
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Federal Register

Wednesday
February 23, 1983

Part IV

Environmental Protection Agency

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 2249-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment to rule with request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend its regulations under the Resource Conservation and Recovery Act to change the hazard class under which commercial chemical products containing low concentrations of warfarin and zinc phosphide are listed. Products containing warfarin at concentrations of 0.3% or less will be listed under 40 CFR 261.33(f). Products containing zinc phosphide at concentrations of 10% or less will henceforth be listed under 40 CFR 261.33(f). This change specifically delineates the categorization of waste warfarin and zinc phosphide.

DATES: EPA will accept public comments on this proposed rule until April 25, 1983. Any person may request a hearing on this amendment by filing a request with John P. Lehman, whose address appears below, by March 25, 1983. This change is being made because these lower concentration formulations of warfarin and zinc phosphides do not meet the criteria for actively hazardous waste.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460. Comments should identify the regulatory docket number "Section 3001, 40 CFR 261.33." Requests for hearing should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460.

The public docket for this proposed rule is located in Room S-269C, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact Wanda LeBleu-Biswas, Office of Solid Waste (WH-565B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460, (202) 382-4798.

SUPPLEMENTARY INFORMATION:

I. Background

Under the authority of section 3001 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the Agency promulgated as 40 CFR 261.33 of the regulations a list of commercial chemical products or manufacturing chemical intermediates which are hazardous wastes if they are discarded or intended to be discarded. The phrase "commercial chemical product of manufacturing chemical intermediate" refers to a chemical substance which is manufactured or foumulated for commercial or manufacturing use, and which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. This does not pertain to dilutions or other adulterations of the commercial product. 40 CFR 261.33 also lists as hazardous wastes off-specification variants and the residues and debris from the clean-up of spills of these chemicals, if discarded or intended to be discarded (§ 261.33 (b) and (d)). Finally, § 261.33 lists as hazardous wastes the containers that have held those chemicals listed in § 261.33(e), if they are discarded or intended to be discarded, unless the containers have been decontaminated in an equivalent manner.

A chemical substance is listed in 40 CFR 261.33(e), and is subject to a small quantity generator exclusion limit of 1 kilogram per month, if it meets the criteria of § 261.11(a)(2); that is, it acutely hazardous because it has been shown in animal studies to have an oral LD_{50} (rat) toxicity value of less than 50 milligrams per kilogram, a dermal LD_{50} (rabbit) toxicity value of less than 200 milligrams per kilogram, an inhalation LC_{50} (rat) toxicity value of less than 2 mg/l, or is otherwise capable of causing or otherwise significantly contributing to serious illness.

Chemical substances are listed in § 261.33(f), and are subject to the small quantity generator exclusion limit of 1,000 kilograms per month,[1] if they satisfy § 261.11(a)(1), exhibiting identified characteristics of EP toxicity, reactivity, corrosivity, or ignitability; or § 261.11(a)(3), satisfying the criteria for listing as toxic, *i.e.*, they have been shown in scientific studies to be toxic, mutagenic, teratogenic, or carcinogenic to humans, other mammals or aquatic animals, or to be phytotoxic.

In listing wastes in either § 261.33(e) or (f), the Agency intended to encompass those hazardous chemical products which for various reasons are sometimes thrown away in pure or diluted form. The regulation was intended to dedsignate chemicals themselves as hazardous wastes, if discarded. The reasons for discarding these materials might be that the materials did not meet required specifications, that inventories were being changed or that the product line had changed.

The National Pest Control Association (NPCA), Vienna, VA has petitioned the Agency, pursuant to the provisions in § 260.22,[2] to exclude warfarin and zinc phosphide containing commercial chemical products used for pest control from the list of acute hazardous waste (those chemicals listed in § 261.33(e)). Petitions have also been received from Sterling Drug Company, New York, NY and the Ralston Purina Company, St. Louis, MO, requesting that certain warfarin containing products be excluded.

II. Basis for Original Listing

A. *Warfarin.* The Agency listed warfarin in 40 CFR 261.33(e) based on its oral LD_{50} (rat) toxicity value of 3 mg/kg for the technical grade form (99 percent pure). The Agency includes in the acute hazardous waste category any wastes that have been shown to have an oral LD_{50} (rat) value of less than 50 mg/kg.

B. *Zinc Phosphide.* The agency listed zinc phosphide in 40 CFR 261.33(e) based on its published oral LD_{50} (rat) toxicity value of 27 mg/kg for the technical grade form (94 percent pure). As previously stated, the Agency includes in the acute hazardous waste category any wastes that have been shown to have an oral LD_{50} (rat) value of less than 50 mg/kg.

[1] EPA publicly committed to reexamine the small quantity generator exclusion limit, and these products may be subject to a revised small quantity generator exclusion limit at a later date. In fact, there is an act in the Congress at this time (H.R. 6307) which, if passed, will decrease the small quantity generator exclusion limit to 100 kilograms per month.

[2] Section 260.22 only allows an individual facility to delist their waste if they can show that the waste is fundamentally different from the waste the Agency has listed. Since NPCA requests that zinc phosphide be removed from the acute hazardous waste category and thus seeks relief on a generally applicable basis, their petition is being processed under § 260.20 of the hazardous waste regulations.

III. Reason and Basis for Today's Amendment

A. *Warfarin.* The National Pest Control Association (NPCA), Vienna, VA has petitioned the Agency, pursuant to the provisions in § 260.22, to exclude warfarin from the list of acute hazardous wastes. The NPCA stated in its petition that technical grade warfarin is not readily available to pest control formulators and operators. They further stated that the most commonly used formulations for grain-based rodenticidal baits contain warfarin in concentrations of 0.025–0.05%. They also stated that the low solubility of warfarin precludes the potential for migration through solids to groundwater. The NPCA expressed concern that pest control operators who must discard baits are subject to increased economic burdens and reporting requirements as a result of RCRA regulation. In addition, the Agency has received comments from several pest control operators who requested that warfarin be removed from the acute hazardous waste listing in § 261.33(e), citing the NPCA petition as a basis for their request.

Sterling Drug, Incorporated, New York, NY and the Ralston Purina Company, St. Louis, MO have also petitioned to exclude specific rodenticidal baits containing 0.025%, 0.054% and 0.3% warfarin as the sole active ingredient. Sterling Drug, Inc. submitted oral LD_{50} (rat) toxicity data showing that formulations containing 0.025%, 0.054%, and 0.3% warfarin exhibit acute oral LD_{50} (rat) values of >5000 mg/kg, 2,100 mg/kg, and 2,140 mg/kg respectively.

Ralston Purina, based on calculations, but not actual laboratory data, claimed an acute oral LD_{50} (rat) value of 360,000 mg/kg for their rat and mouse control products. Ralston Purina cited Chemical Week, April 26, 1969 as stating that the acute oral LD_{50} (rat) value for 100 percent warfarin is 90 mg/kg. Ralston used this value to extrapolate acute LD_{50} toxicity for its products. Although there is no scientific basis for the values used in their claim, their products contain concentrations of warfarin within the range of the products described in Sterling Drug's petition, and so can be evaluated on the basis of Sterling's data.

The toxicological data submitted by Sterling indicates that products, manufacturing chemical intermediates, and off-specification chemical products containing warfarin at concentrations of 0.3% or less exhibit acute oral LD_{50} (rat) values of >50 mg/kg, and consequently do not meet the criteria for acute hazardous wastes. In fact, as shown by Sterling's data, the acute toxicity of such formulations is well in excess of 50 mg/kg. However, the Agency has no information to conclude that commercial formulations containing warfarin in concentrations greater than 0.3% are not acutely toxic and, because both the 0.054% formulation and the 0.3% formulation have oral (rat) LD_{50} values of about 2100 mg/kg, the Agency does not believe that linear extrapolations can be used to conclude that such formulations are not acutely toxic.

Based on the foregoing, EPA has concluded that warfarin formulations containing concentrations of 0.3% or less are not acutely hazardous and should not be listed in § 261.33(e). However, the Agency cannot conclude that these formulations present no toxicity potential and should be removed completely from listing under § 261.33. Rather, the Agency believes that these formulations should be listed under § 261.33(f) because of their chronic toxicity.

Warfarin poses a toxicity hazard upon chronic low level exposure and it appears to be a weak teratogen. Warfarin exhibits toxic effects in humans and animals by inhibition of prothrombin (a clotting factor) formation and dilation or engorgement of blood vessels with subsequent fatal internal hemorrhaging. In addition to its anticoagulant action, direct capillary damage has also been attributed to warfarin (Lisella *et al.*, 1971, cited in Doull *et al., Casarett and Doull's Toxicology*, 2nd ed., Macmillan Publishing Co., Inc., New York, 1980). These effects which are the basis of warfarin's effectiveness as a rodenticide, do not contribute to acute toxicity because multiple doses of warfarin are required to maintain prothrombin inhibition until all of the body's prothrombin reseves are depleted. However, they do indicate a potential threat from chronic exposure.

Additionally, an excerpt from the *Warfarin and its Sodium Salt Pesticide Registration Standard* (U.S. EPA, Office of Pesticides and Toxic Substances, Washington, D.C., 1981) indicates that warfarin poses a chronic hazard as well:

> Data also indicate that warfarin is a weak teratogen (1. Sherman, S. and B. D. Hall. Warfarin and fetal abnormality. Lancet. 1:692. 2. Shaul, W. L., H. Emery and J. G. Hall. 1975. Chondrodysplasia punctata and maternal warfarin use during pregnancy. Am. J. Dis. Child. 129:360–362. 3. Holzgreve, W., J. C. Carey and B. D. Hall. 1976. Warfarin induced fetal abnormalities. Lancet. 2:914. 4. Warkany, J. 1976. Warfarin embryopathy. Teratology. 14:205.), and the FDA, therefore, requires the following label warning on products used during pregnancy:
>
> "Pregnancy—COUMADIN passes through the placental barrier, and the danger of hemorrhage to the fetus exists even to the point of fatal hemorrhage in utero even in the accepted therapeutic range of maternal prothrombin level. Close observation and laboratory control are essential. The newborn may be particularly sensitive to sodium warfarin. There have been reports of birth malformations in children born to mothers who have been treated with warfarin during the first trimester of pregnancy. Whether warfarin was in fact the responsible agent has not been established. Therefore, women of childbearing potential who are candidates for anticoagulant therapy should be carefully evaluated and the indications critically reviewed. If COUMADIN must be used during pregnancy, or if the patient becomes pregnant while taking this drug, the patient should be apprised of the potential risks to the fetus, and the possibility of termination of the pregancy should be discussed in light of those risks."
>
> The Agency finds this statement to be a reasonable summary of the scientific data on warfarin's teratogenic potential in humans

In view of this information, and the Agency's lack of comprehensive toxicity data for the commercial products containing warfarin, EPA cannot at the present time justify removing such materials from regulation under § 261.33. Therefore, the Agency is proposing to amend § 261.33(e) to revise the listing for warfarin to include only those products which contain more than 0.3% warfarin, and is also proposing to amend § 261.33(f) to add warfarin when present at concentrations of 0.3% or less (as EPA Hazardous Waste No. U248).

B. *Zinc Phosphide.* The NPCA states in its petition that technical grade zinc phosphide is not readily available to pest control formulators and operators. They state further that zinc phosphide used by pest control operators in vector control is most commonly formulated as a bait of 2% or a tracking powder of 10% zinc phosphide (high value), and it is this product which is disposed of by pest control operators. The NPCA submitted the following toxicity values in their petition and in subsequent data:

acute oral LD_{50} (rat) = 27 mg/kg (94% active Zn_3P_2),
acute oral LD_{50} (rat) = 160–300 mg/kg (10% Zn_3P_2),
acute dermal LD_{50} (rabbit) = 2000–5000 mg/kg (94% Zn_3P_2) and
acute inhalation LC_{50} (rat) < 19.6 mg/1 (10% Zn_3P_2).

The NPCA expressed concern that pest control operators who must dispose of spoiled baits and tracking powders are subject to increased economic burdens and reporting requirements as a result of RCRA regulation.

In the presence of moisture, zinc phosphide evolves phosphine gas (PH_3) which, when inhaled in sufficient quantities, can cause fatal pulmonary

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edema, the probable mode of action of Zn_3P_2. In addition, severe gastrointestinal irritation results from the reaction of Zn_3P_2 with water and HCl in the stomach producing phosphine gas (Lisella *et al.*, 1971, cited in Doull *et al., Casarett and Doull's Toxicology*, 2nd ed., MacMillan Publishing Co., Inc., New York, 1980). It has been reported by Lisella *et al.* (1971) and Marshall (1981) that Zn_3P_2 causes vomiting in dogs and cats, thus reducing the extent of toxic effects through a shorter retention time in the animals' stomachs. However, the emetic qualities of Zn_3P_2 are not sufficient to prevent the possibility of significant harm.

In light of the data submitted by the National Pest Control Association, EPA has concluded that commercial chemical products or manufacturing chemical intermediates or any off-specification chemical product containing zinc phosphide at concentrations of 10% or less are not acutely hazardous since the acute oral LD_{50} (rat) value exceeds 50 mg/kg, and therefore should not be listed in § 261.33(e). However, the same data show that formulations containing concentrations over 10% are quite toxic, and should not be completely removed from regulation under § 261.33. Rather, the Agency believes that formulations containing zinc phosphide at concentrations of 10% or less should be listed under § 261.33(f) because of their toxicity. Therefore, the Agency is proposing to amend § 261.33(e) to revise the listing for zinc phosphide to include only those products which contain more than 10% of the active substance and is also proposing to amend § 261.33(f) to add commercial chemical products, manufacturing chemical intermediates or spill residues containing zinc phosphide at concentrations of 10% or less (as EPA Hazardous Waste No. U240).

IV. Request for Comments

The Agency invites comments on all aspects of this proposed rule and on the issues. In particular, we request information concerning the toxicity of warfarin and zinc phosphide, as well as of formulations where these compounds are the sole active ingredient. Comments will be accepted until April 25, 1983.

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is not major because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. In fact, this regulation will reduce the overall costs and economic impact of EPA's hazardous waste management regulations. There will be no adverse impact on the ability of U.S. based-enterprises to compete with the foreign-based enterprises in domestic or exports markets. Because this amendment is not a major regulation no Regulatory Impact Analysis is being conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments form OMB to EPA and any EPA response to those comments are available for public inspection in Room S–269C at EPA.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small business, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a signficant economic impact on a substantial number of small entities.

This amendment will generally have no adverse economic impact on small entities. Rather, since many small pesticide applicators will not have to dispose of small quantities of certain waste zinc phosphide or warfarin pesticides as hazardous wastes, today's action will result in a savings to small business. Accordingly, I hereby certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: February 9, 1983.

Anne M. Gorsuch,

Administrator.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921 and 6922).

§ 261.33 [Amended]

2. It is proposed to amend § 261.33(e) by revising the listings for warfarin, 3-(alpha-acetonylbenzyl)-4-hydroxycoumarin and zinc phosphide to read as follows:

Hazardous waste No.	Substance
P001	Warfarin, when present at concentrations greater than 0.3%.
P001	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin, when present at concentrations greater than 0.3%
P122	Zinc phosphide, when present at concentrations greater than 10%.

3. It is proposed to amend § 261.33(f) by adding the following waste streams:

Hazardous waste No.	Substance
U248	Warfarin, when present at concentrations of 0.3% or less.
U248	3(alpha-Acetonylbenzyl)-4-hydroxycoumarin, when present at concentrations of 0.3% or less.
U249	Zinc phosphide, when present at concentrations of 10% or less.

[FR Doc. 83–4478 Filed 2–22–83; 8:45 am]

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